UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE 97th CONGRESS
SECOND SESSION

VOLUME 128—PART 21

DEC. 1, 1982 TO DEC. 8, 1982
(PAGES 28157 TO 29544)

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PROCEEDINGS AND DEBATES OF THE 97th CONGRESS, SECOND SESSION

HOUSE OF REPRESENTATIVES—*Wednesday, December 1, 1982*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. WRIGHT).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, D.C., *November 30, 1982.*

I hereby designate the Honorable JIM WRIGHT to act as Speaker pro tempore on Wednesday, December 1, 1982.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Almighty God, in whom we live and move and have our being, grant us Your blessing as we seek to serve this Nation and all people. Give us a sense of fairness in all we do, that Your message of peace and justice will be known in the lives of all citizens. Make us aware of the needy and unfortunate among us who need our concern and care, and seeking to be Your servants, we may truly do the good work You have placed before us. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's preceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

A PROGRAM IS NEEDED TO CREATE JOBS

(Ms. FERRARO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. FERRARO. Mr. Speaker, unemployment is now at 10.4 percent, and is expected to rise again this month. More than 11 million Americans are officially unemployed, and millions more have been out of work so long they have given up looking for jobs.

The Chairman of the President's Council of Economic Advisers says that if we "stay the course," it will take 6 years to bring unemployment down to 7 percent, the level it was when this administration took office.

That is not good enough. We need a program to create jobs now to get our economy moving again. Jobs generate other economic activity, which in turn will generate revenues, which will help bring down the deficit.

And there is plenty of work to be done. The need to repair bridges, roads, water and sewer systems, and other public facilities is second in importance only to reducing unemployment. A major Federal effort to put people to work fixing the infrastructure could go a long way toward solving both problems as well as giving the economy a needed boost.

SECRETARY BLOCK: YOU BETTER BE TOUGH

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, Agriculture Secretary Block is starting trade talks in Paris today. He has got to be tough with them.

While we are working to cut back domestic production to reduce the level of price-depressing carryover stocks, the European Economic Community has pushed full speed ahead with expanded production and massive export subsidies. Their approach is nothing short of cutthroat, and we should not stand for it. Secretary Block needs to drive that point home while he is in Paris. He also needs to make the point that we will not sit idly by if they decide to continue their present policies of pitting their treasuries against our farmers. They need to know that, if they persist, we will fight back and we will win.

IMMIGRATION CONTROL AND REFORM ACT OF 1982

(Mr. FISH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FISH. Mr. Speaker, it is looking increasingly likely that during this postelection session Simpson-Mazzoli, the Immigration Reform and Control Act of 1982, will come before this body. This has been the work product of 2 years of the Select Commission on Immigration and Refugee Policy, review at the Cabinet level by the administration of the Commission's findings and subsequently a year and a half effort by the Senate and House Judiciary Committees. The Senate has already acted on this bill.

While overwhelmingly the American people want action in this area, I am aware that constitutent groups have voiced reservations over certain parts of the bill to my colleagues. These reservations center largely on two areas, the fifth preference, brothers and sisters of U.S. citizens, and on the legalization provisions of Simpson-Mazzoli.

I want to give this assurance to my colleagues that the bill we will be bringing from the House Judiciary Committee makes absolutely no changes in the current preference system and has the full fifth preference embodied in it. Second, that I will protect the rights of members of the subcommittee who wish to bring up an amendment, a motion to strike the entire legalization section of that bill. That will be available for a vote by all Members of this body.

THE FOLLY OF CURRENT MONETARY POLICY

(Mr. PAUL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAUL. Mr. Speaker, the stock market is soaring and so is the money supply. In the last 3 months, checking account and cash money (M_1) rose at a

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

rate of 17.6 percent. The Federal Reserve has assured the market that its restrictive money policy of the past 3 years is a thing of the past. No tears should be shed over dropping the experiment with monetarism, but no joy should be expressed over the return to interest rate manipulation by massive monetary inflation. It is true the economy will feel better for a short while with more inflation, but so does the alcoholic as he returns to drinking after a short period of abstinence. This is not to say that the cure for our economic malaise is prolonged agony with monetarism, but it is important for all of us to realize that these are not the only two options available to us. We will never achieve a sound monetary system by jumping back and forth between concentrating on the money supply one year, and manipulating interest rates the next.

The ultimate solution will only come when we realize that central planning in money is no more efficient than the 5-year plans in Russia for agriculture. We can talk forever about controlling the supply of money and controlling interest rates, but if we continue to ignore the fact that the quality of money is that which instills the trust in money, we will get nowhere. Manipulating monetary aggregates and interest rates is economically identical to the planner's obsession with controlling production, wage rates, prices, and profit levels. It is based on the illusion that politicians and bureaucrats somehow know what only the freely operating marketplace can determine. The monetary policy of today can create a false euphoria, but it is a guarantee that tomorrow's price inflation will return with a vengeance.

It guarantees that on the longrun economic stagnation, high rates of unemployment, soaring interest rates, and the threat of runaway inflation will be with us until we admit the truth—that paper cannot serve as money, and only commodity money such as silver and gold will suffice.

STATES SHOULD BE TREATED EQUALLY IN FINANCING AND REHABILITATION OF NATION'S TRANSPORTATION SYSTEM

(Mr. FAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FAZIO. Mr. Speaker, I fully support the intent of the proposal to finance the rehabilitation of our Nation's transportation system by increasing the gasoline tax and similar user fees.

This legislation is needed urgently to help protect the enormous investment we have already made in a national road and bridge network, a network that has fallen into the depths of decline.

This legislation is also needed for the jobs that it will create, particularly in the greatly depressed construction trades. The bill will create over 170,000 construction-related jobs, jobs that are sorely needed in districts like my own where the unemployment rate among construction workers is well over 20 percent.

But despite my support for the proposal, Mr. Speaker, I have two concerns that I would like to raise. First, the administration's version of the proposal would apparently penalize States, such as California, who have gone to extraordinary lengths to complete their interstate systems on a timely basis, often at the expense of the rest of the highway network. In California, only 56 of the 2,387 miles of interstate roadway approved by the Congress remain incomplete.

Second, it remains uncertain whether the administration intends for money to be made available to help cities and counties repair their own vast network of deteriorating highways and bridges. In California alone, the cost of making repairs to the 100,000 miles of city and county secondary roadways could easily exceed several hundred million dollars.

The 5-cent increase in the gasoline tax is an appropriate response to the decaying conditions of the Nation's transportation system and the nearly unprecedented rate of joblessness; but the revenues generated must be distributed fairly to the States and localities.

A DEPARTMENT OF AGRICULTURE AND RURAL DEVELOPMENT

(Mr. WATKINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WATKINS. Mr. Speaker, I rise today to offer a bill to change the name of the U.S. Department of Agriculture to the Department of Agriculture and Rural Development. The Federal Government has a Department of Housing and Urban Development, but it has forgotten the rural people of America.

My bill will give greater emphasis to the Department's existing responsibility as the lead Federal agency for rural development and point out the critical linkage that exists between agriculture and rural development. The bill leaves agriculture as the dominant force of the department but focuses needed and long-overdue attention on rural development.

The critical linkage between agriculture and rural development is best and most dramatically highlighted by the fact that during 1981 only one-third of the Nation's farm income was derived from the farm while two-thirds came from off-farm jobs. This indicates without question the vital linkage existing between the availability of jobs and the survival of the American farmer.

For at least three decades, rural development has been an objective of the Federal Government, with the Department of Agriculture the lead agency for carrying out Federal programs. The Rural Development Act of 1972 and the Rural Development Policy Act of 1980 made explicit the intent of Congress that the Department exercise leadership responsibility within the executive branch and in conjunction with State and local governments in developing, coordinating and implementing a nationwide rural development program.

Despite the clarity of the 1972 and 1980 laws, assumption of the rural development leadership role by the Department has been sporadic. Federal rural development programs remain uncoordinated and their effectiveness reduced. The current administration has yet to develop the nationwide rural development strategy mandated by the Rural Development Policy Act.

Urban areas have the Department of Housing and Urban Development as their standard-bearer in the Federal Government. If only in the name of basic fairness and equity, there should be a Department of Agriculture and Rural Development for rural America.

It is imperative that we, the Congress, as a matter of fairness and equity, focus attention on the needs and problems of those forgotten citizens of rural America whose economic plight in many areas of the country is far more severe than that of their city cousins in urban America.

My bill, Mr. Speaker, will provide a measure of fairness and a positive and effective focus for the needs of rural America at the Cabinet level in the Federal Government. I urge my colleagues to join with me as cosponsors of this important bill.

JOBS PROGRAM MUST INCLUDE FED

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, virtually all of the discussion about putting unemployed Americans back to work centers around one of several jobs bills being discussed in the U.S. Congress.

A jobs bill is a fine idea if it is properly crafted but it is important for us to understand we are not going to begin to solve this country's economic troubles until we rein in the Federal Reserve Board who masquerades its crushing monetary policies under the term "monetarism" while they "stay

the course" with their recession policies.

The late Wright Patman of Texas spent decades in this House trying to change the Federal Reserve Board. He did not succeed. It is time for all of us in this House to get serious about what the Federal Reserve Board is doing to this country. The Federal Reserve Board's high interest rate policies have been a major cause of recession and high unemployment. This Congress is simply not going to solve our economic troubles until we turn the policies of the Federal Reserve Board back to the people of America, where the Constitution says they should reside.

Talking about jobs bills and ignoring the Federal Reserve Board which has helped bring about the lack of jobs, is a triumph of convenience over logic.

GENERAL LEAVE

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, with tables and charts, on the bill, H.R. 7205.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION AND RELATED AGENCIES APPROPRIATION ACT, 1983

Mr. NATCHER. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7205) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1983, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to 2 hours, the time to be equally divided and controlled by the gentleman from Massachusetts (Mr. CONTE) and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky (Mr. NATCHER).

The motion was agreed to.

The SPEAKER pro tempore. The Chair designates the gentleman from Florida (Mr. FUQUA) as Chairman of the Committee of the Whole and requests the gentleman from Ohio (Mr. HALL) to assume the chair temporarily.

□ 1015

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7205) with Mr. HALL of Ohio (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN pro tempore. Under the unanimous consent agreement, the gentleman from Kentucky (Mr. NATCHER) will be recognized for 1 hour, and the gentleman from Massachusetts (Mr. CONTE) will be recognized for 1 hour.

The Chair recognizes the gentleman from Kentucky (Mr. NATCHER).

Mr. NATCHER. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, today we take up H.R. 7205, the annual appropriations for the Departments of Labor, Health and Human Services, and Education and Related Agencies, one of the largest and most complicated of the 13 regular annual appropriation bills which come before this House each year. As usual, our subcommittee held extensive hearings over a period of 3 months on the President's budget request, in which all of the subcommittee members participated. We took testimony from over 300 administration witnesses, and some 450 other witnesses, including Members of Congress, representatives of private organizations and other interested individuals. Our hearings are published in nine volumes, which have been available for some time. We think we have produced a good bill and we ask the House to support it today. This bill was reported from the Committee on Appropriations on September 29.

The bill and the accompanying report (Rept. No. 97-894) identify amounts for hundreds of separate programs administered by 3 Departments and 11 related agencies of the Federal Government. Primarily, these are grant-in-aid programs—grants to States, cities, counties, and other agencies of local government, as well as grants to public and private organizations such as hospitals or educational institutions and to individuals throughout the United States. The committee develops a great deal of information about these programs in its formal hearings as well as outside of them, and takes this information into consideration in arriving at recommendations. We must also keep in mind the current level of spending for each program, the President's budget request, the amount authorized by law, and the overall targets contained in the budget resolution, as subdivided among subcommittees by the Appropriations Committee. The total budget authority for 1983 provided in the bill is $85,359,030,000. This is $5,322,087,000 more than the President's budget request, and $1,189,994,000 more than the comparable appropriations for fiscal year 1982.

Of the funds provided in the bill, $5,980,130,000, or 7 percent, are for the Department of Labor; $64,213,214,000, or 75 percent, are for the Department of Health and Human Services; $14,287,390,000, or 17 percent, are for the Department of Education; and $878,296,000, or 1 percent, are for the 11 related agencies which are funded in this year's bill.

Although the amounts in the bill are far in excess of the President's budget estimate, this is primarily because the budget proposed to cut back or eliminate so many programs. Congress did not approve these cutbacks in the budget resolution, and the amounts in the bill are consistent with the amounts in the 1983 budget resolution.

I would like to insert in the RECORD at this point a chart which shows a few of the important programs funded in the bill which would be terminated or cut back in the President's 1983 budget request:

The chart follows:

PROGRAMS DELETED OR DRASTICALLY REDUCED IN THE 1983 BUDGET

	1982 appropriation	1983 budget request	H.R. 7205	Increases over budget
Community Service Employment for Older Americans (Title V)	$277,100,000	0	$277,100,000	+$277,100,000
Low Income Energy Assistance	1,875,000,000	$1,300,000,000	1,850,000,000	+550,000,000
Work Incentives	280,760,000	0	280,760,000	+280,760,000
Title I, Elementary and Secondary Education	3,033,969,000	1,942,000,000	3,033,969,000	+1,091,969,000
Follow Through	19,440,000	0	19,440,000	+19,440,000
Impact Aid "B" Payments	72,600,000	0	72,600,000	+72,600,000,000
Impact Aid "A" Payments	345,000,000	275,080,000	362,400,000	+87,320,000
Handicapped Education	1,068,580,000	845,668,000	1,103,680,000	+258,012,000
Vocational Rehabilitation	923,414,000	623,316,000	1,006,474,000	+383,158,000
Vocational Education	648,625,000	500,000,000	734,500,000	+234,500,000
Pell Grants	2,419,040,000	1,400,000,000	2,419,040,000	+1,019,040,000

PROGRAMS DELETED OR DRASTICALLY REDUCED IN THE 1983 BUDGET—Continued

	1982 appropriation	1983 budget request	H.R. 7205	Increases over budget
Supplemental Opportunity Grants	355,400,000	0	355,400,000	+355,400,000
Direct Student Loans	178,560,000	0	178,560,000	+178,560,000
State Student Incentive Grants	73,680,000	0	73,680,000	+73,680,000
Libraries	80,080,000	0	80,080,000	+80,080,000
VISTA	16,000,000	231,000	11,831,000	+11,600,000
Corporation for Public Broadcasting	130,000,000,000	85,000,000	130,000,000	+45,000,000

BUDGET RESOLUTION TARGETS

Section 302(b) of the Budget Act requires the Committee on Appropriations to subdivide among its subcommittees the total allocation of budget authority and outlays assigned to the committee under the budget resolution. The subcommittee targets for 1983 are published in House Report 97-669. The total budget authority in H.R. 7205 falls well within these targets. The numbers are as follows:

[In millions of dollars]

	Mandatory	Discretionary	Total
Section 302(b) target	62,939	27,950	90,789
H.R. 7205 adjusted for advances	57,366	23,867	81,233
Ceiling remaining	5,573	3,983	9,556

While the bill is technically $9,556,000,000 below the 302 targets, we believe that most or all of this amount will be required for future appropriations for programs whose needs are not fully addressed in this bill. We know that many entitlement programs, including medicaid, assistance payments, guaranteed student loans, social services block grants, and advances to the unemployment trust fund, are not adequately funded in the President's budget. We expect to receive supplemental budget requests for these entitlement programs. In the meantime they will be operating on a deficiency basis. We believe that supplemental appropriations of $4.5 to $5.5 billion will be required for these payments which are clearly mandated by existing law. In addition, the bill does not include appropriations for several discretionary programs which had not been reauthorized at the time of subcommittee markup. These include the health planning, refugee, employment and training, and utilization review activities. The President's budget for 1983 includes $3,068,770,000 for these programs. 1982 appropriations for them amounted to $3,969,910,000.

In summary, the bill which we bring to the House today is well within the targets set by the 302(b) report, but when all appropriations actions for 1983 are completed, we expect we will need every penny in budget authority which was allocated to the subcommittee in that report.

DEFERRED ITEMS

The committee has deferred consideration of appropriations for certain programs which lacked authorizing legislation for 1983 when the committee acted on the bill. The deferred programs are employment and training assistance in the Labor Department, and health planning, professional standards review organizations, and refugee and entrant assistance in the Department of Health and Human Services. The 1982 appropriations for these programs amounted to $3,969,910,000. The 1983 budget requests for them total $3,068,770,000. These programs will receive continued funding under the continuing resolution until regular appropriations can be provided for them in supplemental appropriations bills.

ENTITLEMENT PROGRAMS

The great bulk of the appropriations in this bill are for mandatory or entitlement programs. These are programs in which payments are mandated by law, or are fixed by Federal matching formulas. The major programs in this category are:

	Amount in the bill
Federal unemployment benefits and allowances	$35,000,000
Advances to unemployment trust funds and other funds	3,798,000,000
Special benefits	339,600,000
Black lung disability fund	673,544,000
Medical facilities guarantee and loan funds	32,000,000
Retirement pay and medical benefits for commissioned officers	78,861,009
Grants to States for medicaid	18,284,162,000
Payments to health care trust funds	15,576,000,000
Payments to social security trust funds	855,213,000
Special benefits for disabled coal miners	1,102,000,000
Supplemental security income	8,543,616,000
Assistance payments	6,611,838,000
Child support enforcement	397,377,000
Social services block grants	1,974,126,000
Child welfare services	238,251,000
Guaranteed student loans	2,484,631,000
Higher education—interest subsidy grants	20,143,000

Out of the total budget authority of $85,359,030,000 provided in the bill, entitlement programs account for $61,361,686,000 or 72 percent. As a general rule, the committee includes in the bill the amounts which the Congressional Budget Office estimates to be required under the currently prevailing legislation. In cases where the CBO estimate exceeds the budget request, the committee usually provides the amount of the budget request, recognizing that a supplemental appropriation may be necessary at a later date.

The remainder of the bill, or $23,997,344,000, consists of discretionary appropriations which are relatively controllable through the annual appropriations process. Compared with fiscal year 1982, the bill includes a net increase of $827,252,000 for entitlement programs, and a net increase of $362,742,000 in budget authority for discretionary programs. It should be emphasized that spending for entitlement programs can be controlled or limited through changes in basic law but not through the amounts included in annual appropriations bills.

In the absence of bill language which would place a dollar limit on total spending for any one of these entitlements programs, the amount in the bill does not constitute such a limit.

TOTAL BUDGET AUTHORITY

In addition to the amounts appropriated in the bill, very large sums are automatically appropriated each year for Labor, Health, and Human Services, and related programs without consideration by the Congress during the annual appropriations process. The principal components of this category of permanent appropriations are amounts in the social security, unemployment compensation, and railroad retirement trust funds. Passage of H.R. 7205 as reported by the committee would increase total permanent and annual budget authority for these activities from $301,100,595,000 in 1982 to $318,050,376,000 in 1983. When final appropriations are made for deferred items and for appropriated entitlements, the 1983 total is expected to exceed $327 billion, an increase of more than $26 billion. These programs constitute about 42 pecent of the total Federal budget for fiscal year 1983.

DEPARTMENT OF LABOR

For the Deparment of Labor, the committee recommends $5.98 billion for fiscal year 1983. This is a reduction of $502 million from the President's budget request and $872 million below the 1982 appropriation. In addition, the bill includes authorization to expend $2.4 billion from trust funds, an increase of $55 million over the request. The reduction from the budget request results from a lower estimated need for advances to the Unemployment Trust Fund, as reflected in the administration's midsession budget review. It now appears that those estimates may have to be increased considerably because of the severity of the unemployment problem. The bill as reported includes no funds for training programs authorized by the new Job Training Partnership Act. That bill was in conference when this apropriations bill was marked up; con-

sideration of it was deferred pending receipt of a budget request from the administration.

MAJOR PROGRAMS

Older Americans employment: We recommend $277 million, the same as the 1982 level. This provides for continuation of the current level of 54,200 part-time jobs. The budget proposed to eliminate the program. The committee strongly supports this highly successful program.

State employment security agencies: the bill includes $2.4 billion, an increase of $55.7 million over the budget request. The committee added $84.8 million to maintain employment service staffing at the 1982 level and added $42.5 million to finance the administration of the recently enacted unemployment benefit extension. An offsetting reduction was made in contingency funding, pursuant to the administration's midsession budget review estimates.

Black lung trust fund: The bill includes $674.3 million to pay black lung benefits during 1983. The Department estimates that about 190,000 people will be receiving benefits.

Worker safety and health: We recommend a total of $356.1 million, including $202.3 million for OSHA and $153.8 million for MSHA.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

The bill includes $64,213,000,000 for programs administered by the Department of Health and Human Services including $5,920,000,000 in advance appropriations for 1984. This amount is $1,305,000,000 more than requested by the President and $2,346,000,000 more than the comparable amount provided for these activities in fiscal year 1982. The bill does not include funding which will be required for the refugee, health planning, and medicare and medicaid utilization review activities. These programs were not reauthorized at the time of subcommittee markup of the bill and will therefore need to be provided for initially under the continuing resolution. The President's budget requested $534 million in new budget authority for these three programs.

Of the funding recommended for this Department in H.R. 7205, only $13,243,000,000 or 21 percent is controllable through the annual appropriations process. The remaining $50,970,000,000 or 79 percent is for payments mandated by existing law. This includes principally the income maintenance, health insurance, and social services entitlements authorized by titles IV, XVI, XVIII, XIX, and XX of the Social Security Act. The bill includes a variety of increases or decreases from the President's budget or from 1982 spending for programs under control of the committee. The committee has frequently recommended that large reductions proposed by the President for HHS activities not be made and that programs be maintained at as near as possible to their 1982 levels. Examples of major increases over the President's budget recommended by the committee includes the following:

	Million
Community health services	+$29
Maternal and child health block grants	+23
Preventive health services	+19
National Institutes of Health	+255
Alcohol, drug abuse, and mental health	+22
Health professions education	+88
Low income energy assistance	+550
Programs for the aged	+79
Work incentives (WIN)	+281
Community services block grants	+248

Of these programs only the health research activities of the National Institutes of Health are recommended to be funded at a level significantly above 1982. The $4,004 million recommended for NIH is $362 million above last year. Most of the increases over the President's request are to restore activities which the budget proposes to eliminate or drastically reduce.

As discussed earlier the committee expects that substantial additional sums will be required for the entitlement programs administered by the Department of Health and Human Services. The committee bill includes the full amounts requested by the President in his budget. These requests were, however, in many cases based upon legislative proposals which were not enacted by the Congress. Since existing law entitles States or individuals to certain benefits, the additional sums to administer these activities must be appropriated and should be requested by the President in January. The Congressional Budget Office estimates that as much as $4 billion in additional funds may be required in fiscal year 1983 for these activities over the amounts in the bill. The largest affected programs are medicaid, AFDC, social services and foster care. I want to make clear to Members and to others that unless the law is changed, that the States and individuals are entitled to these funds and the Congress will have no alternative but to provide them in the spring supplemental.

The following items are some of the highlights of the recommendations made by the committee for the various agencies of this Department.

HEALTH SERVICES ADMINISTRATION

The bill includes $1,002,997,000 for programs administered by the Health Services Administration. This is $65 million more than requested by the President but $193 million less than 1982 spending for this agency. The reduction from 1982 is due principally to the closure or transfer of the Public Health Service Hospitals last year. Subsequent to subcommittee markup of the bill, the Secretary of Health and Human Services announced a reorganization of this agency merging its activities with those of the Health Resources Administration. A spending plan for this new agency is expected to be submitted within a few weeks. The committee does not, however, expect spending for programs in this account to be substantively changed as a result of the reorganization.

Recommended is $446,217,000 for the community health centers, family planning, migrant health, and black lung program—approximately the same level provided in fiscal year 1982. This is $29 million more than requested in the budget. The President proposed to consolidate these four activities into a single block grant. This change was not approved by the Congress and the committee recommendations follow the current categorical grant format. The committee also recommends that $373 million be appropriated for the maternal and child health block grant—the maximum authorized and an increase of $23 million over the budget.

The bill includes $129,306,000 for the health professions education programs of which $93 million is to support the field program of the National Health Service Corps. The committee has recommended a decrease of $10 million from the amount requested for the Corps. This recommendation is based on greater than expected success in placing Corps members in private practice settings. This procedure reduces cost and increases the likelihood that a professional will permanently locate in a shortage area. While the committee has agreed to the phaseout of new Corps scholarships based on testimony that sufficient personnel can be recruited for the Corps without such aid, we intend to review this matter carefully each year. The committee has, however, not agreed with the President's proposal to terminate exceptional financial need scholarships. This program provides 1 year of assistance to the neediest students and the committee has included the full amount authorized, $6.5 million for this program. Last, the committee has not approved the request to limit through appropriations language the amount of loans available to health professions students under the HEAL program. This matter should be taken up in connection with the authorizing legislation, which sets a limit of $225 million for this program.

PREVENTIVE HEALTH ACTIVITIES

The bill includes $318.4 million for programs administered by the Centers for Disease Control. This is an increase of $18.6 million over the President's budget request and $5.5 million over the 1982 level. The committee recommends increases over the budget for venereal disease control, childhood immunization grants, fluoridation, childhood lead poisoning, tuberculosis

project grants, and occupational safety and health training.

NATIONAL INSTITUTES OF HEALTH

The bill includes a total of $4,004,075,000 for the National Institutes of Health, an increase of $255,304,000 over the 1983 budget and $362,200,000 over the 1982 appropriations. The Institutes are funded through 16 appropriations, the largest of which is the appropriation of $981,441,000 for the National Cancer Institute, followed by $620,947,000 for the National Heart, Lung, and Blood Institute, and $408,508,000 for the National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases. The other major NIH appropriations for 1983 included $80,304,000 for the National Institute of Dental Research, $294,361,000 for the National Institute of Neurological and Communicative Disorders and Stroke, $276,367,000 for the National Institute of Allergy and Infectious Diseases, $367,009,000 for the National Institute of General Medical Sciences, $251,561,000 for the National Institute of Child Health and Human Development, $138,763,000 for the National Eye Institute, $162,695,000 for the National Institute of Environmental Health Sciences, $96,104,000 for the National Institute on Aging, $227,642,000 for the Division of Research Resources, and $46,043,000 for the National Library of Medicine.

The bill provides increases over the 1982 appropriation and over the 1983 budget request for each of the institutes and research divisions. The funds added by the committee will permit the support of additional investigator-initiated research projects, the payment of the full indirect costs approved for each project, continued support of about 10,000 research trainees, initiation of a number of new clinical trials to test new methods of treatment, and provide additional support for technological resources, instrumentation, animal breeding, and clinical facilities. To the extent possible, the committee has followed the general principles adopted in recent years for dealing with the NIH budget, namely to stabilize support for investigator-initiated research projects at about 5,000 new and competing projects per year; to support about 10,000 research trainees per year, and to allocate research funds among the institutes so that all institutes are able to fund research projects of comparable promise as measured by the priority scores awarded to competing applications by study panels. The committee members are concerned about the problem of the rising costs of research, both direct and indirect, but we believe that the budget proposal to make an arbitrary cut of 10 percent in indirect costs is unwise, and we have not approved this proposal.

Progress within the NIH has been reported to the subcommittee on several fronts.

The National Cancer Institute notes the results of a new program instituted in 1973 called the surveillance, epidemiology, and end results program (SEER). This program was instituted to determine survival rates of those stricken with cancer. The NCI, in reporting the results of its 5 year SEER program, gave the subcommittee hopeful information concerning cancer detection and cure rates. As much as a 5-percent increase in the survival rate has been cited. In an effort to expand this percentage, NCI will continue to focus its efforts on early detection and prevention. Beta-carotene and vitamin A derivatives are still being studied as deterrents to the spread of cancer.

The National Heart, Lung, and Blood Institute, in addition to working with NCI on its study of vitamin A, is moving ahead with work on the detection of risk factors in heart attacks and the dissemination of this information to the public. Of several clinical trials being conducted by the Institute, one has shown particular promise. The drug, propranolol, a beta-blocker which aids in preventing additional heart attacks has tested successfully. Another major concern of the Institute continues to be educating the public on the dangers of high blood pressure.

Within the National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases, researchers looking for possible causes of arthritis have come up with data linking arthritis to genetic tendency, viral or bacterial infection, and defects in the immune system. This knowledge is essential in treatment of the disease. In the case of the immune system, there have been several discoveries in the last few years, some of which lend themselves to treatment of arthritis—for example, lymphoid irradiation is used to treat rheumatoid arthritis in cases where standard treatment is not effective. In further developments, hip and joint replacement surgery has advanced to a high state of the art. In diabetes, scientists are questioning whether controlling levels of glucose will effect the severity of the disease. Another development is the production of synthetic human insulin. The Institute has also been working on the disease, epidermolysis bullosa (EB) which is a severe blistering of the skin. They have discovered a possible cause, the enzyme collagenase, and a potential cure, the drug dilantin.

The National Institute on Aging has been working on causes and treatment of Alzheimer's disease, one of the senile dementia illnesses. This disease is a prematurely debilitating disease which can strike as early as the forties. Treatment has been tried with a drug called physostigmine with promising results.

Another of the Institutes, the National Institute of Child Health and Human Development is working on health problems of infants, children, and families which touch upon such areas as fertility, birth defects, nutrition, infant mortality, et cetera, and which effect the general welfare of the entire population.

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

The bill includes $844,611,000 for activities under the Alcohol, Drug Abuse, and Mental Health Administration. This is $39 million more than requested in the budget but $16 million less than appropriated in fiscal year 1982. This amount includes $432 million for the services block grant—the amount requested and the same level as last year. The committee has also included $8 million for the services demonstration program known as CPS, community support program. While no funds were requested in the budget for this ongoing activity, the committee believes that these small grants have been very successful in helping communities improve their services to chronic patients who are discharged from inpatient settings—usually State mental hospitals.

Included is $233,158,000 for research into the cause, prevention, and treatment of these devastating problems. This is an increase of $28 million over 1982. The committee has been encouraged by recent progress in these areas and believes that increased funding will broaden our basic and applied knowledge about alcohol abuse, drug dependency and mental disease. The amount recommended includes $3.9 million not requested to continue payment of 100 percent of the indirect costs associated with research grants under this account.

The committee bill includes $18 million for clinical training. This is $28 million less than appropriated in 1982 but $18 million more than requested by the President. The budget proposed to terminate all support for the training of clinical personnel in these specialties. The executive branch presented convincing evidence of the dramatic increase in the numbers of psychiatrists, psychologists, social workers, and psychiatric nurses which have been trained over the last 15 years. While this evidence supported the proposal to terminate existing general support programs, the committee continues to believe that there is an important Federal responsibility to train certain specialties, to assist disadvantaged students, and to address the problem of geographic maldistribution. The bill therefore includes $18 million to initiate a new targeted training program aimed at these more limited problems.

The bill also includes $76,505,000 for the direct support of St. Elizabeths Hospital. The committee report describes in detail a spending plan for this facility which maintains services but which also begins the process of increasing the share of costs paid by the D.C. government. While 90 percent of the patients seen at the hospital are D.C. residents, the District currently pays less than 20 percent of the costs. In 1983 the D.C. share is expected to increase to $26.5 million from the 1982 level of $22.9 million.

HEALTH RESOURCES

The health resources programs relate to health planning, health facilities, and health professions education, including nurse training. Since the 1983 budget was presented to the committee, the Health Resources Administration has been merged with the Health Services Administration. Since no revised budget has been presented, the 1983 bill continues to reflect the old organization. We expect the 1984 budget presentation to follow the lines of the new organization. The President's budget for 1983 proposed to reduce appropriations for health resources programs from the 1982 level of $292,436,000 to $136,411,000 in 1983, a reduction of $156,025,000, or 53 percent. A major element in this reduction is the proposed phaseout of the existing health planning program, which accounts for $62 million of the reduction. Authorization for health planning programs has expired. The committee has elected to defer consideration of 1983 appropriations for health planning programs until new authorizing legislation is enacted. In the meantime the programs will be funded by the continuing resolution at the 1982 operating level. H.R. 6173, the Health Planning Block Grant Act of 1982, which passed the House on September 24, 1982, authorizes a new health planning block grant to replace the existing program.

The 1983 budget request for the health resources programs considered by the committee was $134,328,000, a reduction of $93,676,000 from the comparable 1982 appropriation of $228,004,000. The bill includes $213,573,000, an increase of $79,245,000 over the budget request, but a decrease of $14,431,000 below the 1982 appropriations. Some of the major elements of the increase over the budget recommended by the committee are: $5,800,000 to assist Morehouse Medical College in Atlanta, Ga., to convert from a 2-year to a 4-year medical education program; $29 million to assist Meharry Medical College in Nashville, Tenn., by paying the outstanding balance of a federally guaranteed loan made in 1968 to finance the construction of a teaching hospital for the school; $4,176,000 for grants to schools of public health; $5,012,000 for training in family medicine; and $4 million for area health education centers. The bill also includes $42,667,000 for nursing programs, an increase of $30,129,000 over the amount budgeted for these programs. The increase maintains 1982 dollar levels for most of the nursing programs, including advanced nurse training, training of nurse practitioners, traineeships, fellowships, and research grants. In general, the committee's action on all of the health resources programs maintains them at current levels to the extent that legislative authorizations are in place in 1983. This requires substantial increases over the 1983 budget request.

INCOME MAINTENANCE ACTIVITIES

A large portion of the funding provided to the Department of Health and Human Services is for cash or in-kind payments to the elderly and the indigent. This includes primarily funds for the assistance payments program (including AFDC), supplemental security income, black lung benefits, refugee assistance, social services programs, and low-income energy assistance. The 1983 bill includes $19,352 million for these programs. When final appropriations are made for fiscal year 1983 this total is expected to exceed $21.7 billion. Many Members have asked about energy assistance programs. The committee bill includes $1,850 million for low-income energy assistance grants. This is $25 million less than appropriated in 1982 but $550 million more than requested by the President. The bill also includes the full amount requested to administer the social security program—$3,408,451,000. These are trust funds that can only be spent as provided in this bill.

HEALTH FINANCING PROGRAMS

In addition to the income maintenance activities, the bill also includes approximately $34 billion in Federal funds for the medicare and medicaid program; $17.9 billion is for the Federal share of State medicaid costs. This amount is substantially below the current estimate of the Congressional Budget Office which indicates that an additional $1.6 billion will be required over the amounts currently requested by the President. These additional amounts will have to be provided in a supplemental which should be requested by the President in January. In addition to funds for medicaid, the bill includes a $15.6 billion subsidy payment for the medicare part B program which is now 74 percent supported by general funds. The committee has deferred consideration of funding for utilization review activities under medicare and medicaid. The PSRO program has recently been repealed and insufficient information is currently available on 1983 costs for the utilization control program which is to replace PSRO's. Interim funding will be provided in the continuing resolution.

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES

For the social services block grant (title XX of the Social Security Act), the bill includes $1,974,126,000, the amount requested in the budget and $425,874,000 below the 1982 appropriation. The committee wants to make clear that in approving the amount requested in the budget it is not endorsing the legislative changes proposed by the administration to lower the Federal expenditure ceiling and to substitute the social services block grant for the work-incentive program. Such changes must be made through the regular legislative process by amending the authorizing legislation. If Congress does not approve any legislative changes in the current authorization for the social services block grant, the committee expects the administration to submit a supplemental budget request to cover the full entitlement cost of the program for fiscal year 1983.

The committee recommends $912 million for the Head Start program. This is the amount requested in the budget, and about the same as the amount for 1982. Under this program, about 1,300 projects are supported throughout the country involving close to 380,000 children.

The bill includes $646,726,000 for programs for the aging, an increase of $78,590,000 over the budget request, and an increase of $10,263,000 over the amount for fiscal year 1982. Within the amount is included $296,749,000 for congregate meals and $59,350,000 for home-delivered meals to elderly persons.

The committee bill includes $410,920,000 for various child welfare programs. This amount includes $233,251,000 in partial funding for foster care activities. This is an entitlement program and appropriations are required to match State costs for the maintenance of AFDC-eligible children who are in foster care situations. The committee expects the administration to submit a supplemental budget request to meet the full entitlement costs of the program.

DEPARTMENT OF EDUCATION

For the Department of Education, the committee bill includes a total of $14,287,390,000, an increase of $4,388,145,000 over the President's budget request. The 1983 budget submitted by the President was based on abolishing the Department of Education and sharply reducing Federal support for education. As Members know, this Department was created by an act of Congress in 1979. The proper way to abolish the Department is through a subsequent act of Congress—not through an appropriation bill. Congress has taken no action to abolish

the Department; therefore, the committee bill is based on continued funding for the Department of Education as currently authorized.

Generally, the committee recommends continued support for education programs at the fiscal year 1982 funding level. However, for certain programs, the committee includes increases over the 1982 amounts, such as education for handicapped children, rehabilitation of the disabled, vocational education, higher education and aid to federally impacted school districts.

For chapter 1 of the Education Consolidation and Improvement Act of 1981—grants for the disadvantaged—the committee recommends a total of $3,033,969,000. This is the same as the 1982 level which includes a one-time appropriation of $148 million to ease the transition in shifting from the 1970 census data to the 1980 census data as the basis for allocations to local educational agencies. Most of these funds go to approximately 14,000 school districts and are used to assist about 6 million educationally disadvantaged children.

For block grants to States for elementary and secondary education, the committee recommends $483,840,000, the same as the comparable amount for 1982, and $50,840,000 over the budget request. This program is authorized by chapter 2 of the Education Consolidation and Improvement Act. Under the provisions of chapter 2, State and local educational agencies establish the purposes for which funds may be used. The three main categories of approved activities are basic skills improvement, educational improvement and support services, and special projects.

In the bill, we include $138,057,000 for bilingual education. This amount is $43,523,000 over the budget request, but is the same as the amount appropriated for fiscal year 1982. About 250,000 children of limited English ability would be assisted through this program.

For the impact aid program, the committee recommends $475 million the full amount authorized for 1983. The distribution of payments for children under category A and category B would follow generally the same pattern as used during fiscal year 1982. Under this procedure, priority is given for category A payments and for category B payments in heavily impacted school districts particularly those with a high proportion of children from military families.

The committee bill includes $1,103,680,000 for educating handicapped children. This figure is $258,012,000 over the President's budget, and $35,100,000 over the 1982 appropriation. Included in this total is $962,428,000 for the State grant program which will help educate about 4 million handicapped children.

For programs directed toward rehabilitating the disabled, we recommend $1,035,227,000, an increase of $385,227,000 over the budget request. Within this total, we include $943,900,000 for basic State grants, the full amount authorized and $80,860,000 over the 1982 appropriation. These funds will help rehabilitate over 1 million disabled persons.

For vocational and adult education, the committee recommends $829,500,000. This amount is $329,500,000 over the President's budget request and $94,475,000 over the 1982 appropriation. Vocational education funds are used to support programs that provide education, training, and basic instruction needed by persons to successfully compete and advance in the labor market. Enrollments in vocational education have increased by more than 85 percent in the last 10 years, with current enrollment totaling 16.5 million secondary, postsecondary, and adult students. The total includes an increase of $8,600,000 over 1982 for adult education to help States provide literacy training for nearly 2,100,000 adults.

The committee bill includes $3,569,480,000 for various college student aid programs. This figure is the same amount as appropriated for 1982 but it is $1,769,480,000 over the President's budget. Within this total we provide $2,419,040,000 for the Pell grant program which will assist about 2,600,000 needy students. The maximum Pell grant would be $1,800, the same as the current year. Supplemental opportunity grants, work study, direct loans, and State incentive grants would also be continued at current funding levels.

The bill includes $2,484,631,000 for the guaranteed student loan program. This is the same as the budget request. Activities carried out under this program enable students and their parents to borrow at low interest rates to help finance the cost of postsecondary education or training at universities, colleges, and vocational schools. This is an entitlement program and appropriations are required to pay interest subsidies, default claims, and other expenses related to guaranteed student loans. There are indications that the amount requested in the budget may be insufficient to cover the full year cost of the program as presently authorized. Since this is an entitlement program a supplemental budget request would have to be submitted as soon as the full year cost can be more accurately determined.

For various programs designed to assist postsecondary institutions, the bill includes $400,990,000. This amount is $129,638,000 over the budget request, and $18,834,000 over the 1982 appropriation. Some of the programs in this grouping are special programs for the disadvantaged (sometimes called TRIO), aid to developing institutions, cooperative education, international education, and graduate training programs.

We include $80,080,000 to continue all library programs at the 1982 appropriation level. The President included no funds for these programs in the budget request. We feel that the budget was wrong in proposing to eliminate assistance to public and college libraries.

RELATED AGENCIES

The bill includes $878.3 million for 11 related agencies, an increase of $131.5 million over the budget requests and $39.7 million over the 1982 level.

ACTION

We recommend $129.1 million for ACTION's volunteer programs, an increase of $11.3 million over the budget request and a reduction of $2.8 million for 1982. Included are $11.8 million for VISTA, $48.4 million for Foster Grandparents, $12 million for the Senior Companion program, and $28.4 millllion for the RSVP program.

PUBLIC BROADCASTING

We recommend $130 million for the Corporation for Public Broadcasting, the full amount authorized by law. This is an advance appropriation for fiscal 1985. The President's budget request was only $85 million.

RAILROAD RETIREMENT BOARD

We provided $430 million for dual benefit payments, the amount required to fully fund them. The budget request was only $350 million. We added $2.3 million to the Board's administrative budget and specified staffing levels in the bill. The committee does not want to see the Board's staff diminished any further.

The CHAIRMAN (Mr. FUQUA). The time of the gentleman from Kentucky has expired.

Mr. NATCHER. Mr. Chairman, I yield myself 2 additional minutes.

Mr. Chairman, this is a good bill. I want the members of the committee to know that it is a distinct honor and a privilege for to work with my friend, the distinguished gentleman from Massachusetts (Mr. CONTE), the ranking minority member on this subcommittee, and the ranking minority member on the full Committee on Appropriations and, Mr. Chairman, one of the able Members of this House. It is a distinct honor and privilege for me to work with the gentleman from Massachusetts (Mr. CONTE) and to work with all the other members of the subcommittee on both sides.

Mr. Chairman, we have very few votes, if any, on this subcommittee when we mark this bill up. We hold hearings that last from 12 to 13½

weeks. We carefully consider all the budget requests. We have hundreds and hundreds of witnesses and when we mark the bill up, as a general rule, Mr. Chairman, we are in agreement.

We have very carefully held this bill under the amounts allocated to us in the section 302 report.

I would like to close by saying that it is a distinct honor and a privilege for me to serve with the chairman of the full Committee on Appropriations, the distinguished gentleman from Mississippi (Mr. WHITTEN). This bill at times becomes right complicated, and at all times we have had the full support of our chairman, the distinguished gentleman from Mississippi. It is only through his effective leadership of the Committee on Appropriations that we are able to bring this bill to the floor today.

Mr. CONTE. Mr. Chairman, I yield myself such time as I may use.

I am pleased to join with the distinguished chairman of the subcommittee, the gentleman from Kentucky (Mr. NATCHER), in bringing to the floor of the House H.R. 7205, making appropriations for the Departments of Labor, Health and Human Services, Education, and related agencies for fiscal year 1983.

This bill has been a long time in the making. It gives the committee's recommendations on a budget request that was presented to Congress on February 8, nearly 10 months ago. It reflects the 302(b) spending targets set on July 22.

These targets were in turn based on the first budget resolution that was not passed until June 22, more than 2 months after its statutory deadline. Then we had reconciliation and the Tax Act in August, and we were finally in a position to mark up this bill.

As unbelievable as it may sound, H.R. 7205 comes to the floor setting funding levels for a fiscal year that started 2 months ago.

We need to act on this bill and the remaining appropriations bills quickly, so that we can get them over to the Senate and to the President. And I think we need to take a hard look at our budget process, which is seriously calling into question our ability to act on funding matters in a timely fashion.

What is contained in this bill is the result of hard work on the part of the subcommittee members, and particularly on the part of the chairman, whose knowledge and fairness are legendary. The committee held 9 weeks of hearings and heard 750 witnesses testify on the budget request. On September 15, the day after the Massachusetts primary, the subcommittee spent over 9 hours marking up this bill. And we came up with a good bill, within our budget targets, that balances the needs of the millions of people reached by the programs in this bill with the requirements of continued fiscal restraint. I can recommend this bill to you as a sound product put together with much care and consideration.

Overall, the bill provides a total of $85,359,030,000 in new budget authority, of which $79.3 billion is current year authority and $6 billion is advance appropriations.

Compared with last year's total, the bill is nearly $5 billion below, in current year authority, mostly in entitlement programs. Compared with the fiscal year 1983 budget request, the bill is a little over $5 billion above, mostly in discretionary programs. But when compared with the 302(b) allocation, it is right on target.

The total 302(b) allocation for Labor, Health and Human Services, and Education is $90.8 billion. In comparable figures, the bill appropriates $81.2 billion, which is $9.6 billion below the target. The committee estimates that further appropriations of $8.5 billion will be required, due to entitlement overruns, as estimated by CBO, and deferral of funding of four discretionary programs pending reauthorization.[1]

After taking accounting of these contingencies, H.R. 7205 is still under its target. The bottom line is that the bill is nearly $1.1 billion below its 302(b) allocation, $789 million below in entitlement, and $286 million below in discretionary authority.

Included in the bill are: $6 billion for the Department of Labor; $58.3 billion in current year authority and $5.9 billion in advance authority for the Department of Health and Human Services; and $14.3 billion for the Department of Education.

In striking the balance between the needs of people and fiscal restraint, the emphasis in this bill is on restraint. Many of the most important programs in this bill, programs that serve the neediest, like mothers and children and the elderly, are funded at exactly the same level as last year. And remember that all of these programs sustained large and absolute decreases in funding last year. Let me give a few examples:

For community health centers, there was $281.2 million appropriated in 1982, and the bill provides $281.2 million for 1983;

For the maternal and child health block grant, $373.8 million was appropriated in 1982, and this bill provides $373 million for 1983;

For child welfare assistance, $156.3 million was appropriated in 1982, and this bill provides the same amount in 1983;

For child abuse, $16.2 million was provided in 1982, and there is $16.2 million in this bill for 1983.

Let me say a word about what level funding means. In one or two of the bills that will be coming up, debate centers on the notion of "real growth." Billions of dollars are accounted for by the phrase "keeping up with inflation." By comparison, none of the programs I mentioned are protected from inflation. In a time of inflation—less severe than in the past, I would add—in a time of rising costs, level funding means a real cut in funding, especially in health, where inflation is still in double digits.

If there is one place that the committee had to do some balancing, it was with respect to the Department of Education. The bill provides $14.3 billion for the Department, an increase of $4.4 billion over the President's request. But if that increase sounds large, it is because the administration's proposed cuts were large, and Congress rejected those cuts in the first budget resolution.

Even with the addition of $4.4 billion to the budget request for education, the bill is more than $300 million below last year's funding level.

In student financial assistance programs, the committee's bill provides $3.6 billion, double the administration's request of $1.8 billion. And do you know where that puts us in comparison with last year's appropriation? It puts us at level funding. And let me tell you what else that increase means. It means that 1,620,000 more grants and scholarship awards will be made than under the President's request. It means that a million students will not be faced with the choice of dropping out of college for lack of resources, a choice that many are faced with as student aid remains level while tuition continues to increase rapidly.

Three programs funded under the Department of Education contain significant increases over last year's level, and when I explain the justification to you, I think you will see how compelling the case is for those increases and how carefully the committee has acted in weighing the balance.

For vocational rehabilitation State grants, the largest Federal program aimed at helping handicapped persons maximize their potential for employment and independent living, the bill provides an increase over 1982 of $80 million, for a total of $943.9 million. That increase was needed because a $120 million rehabilitation program in the Social Security Administration has been terminated. The 148,000 people who formerly received services now rely on this program for services. This

[1] CETA/jobs training, health planning, refugees, and PSRO's $3.699 billion was reserved for these programs, which is based on the first budget resolution funding assumptions for these programs. Jobs training and refugees authorizations have subsequently been enacted. No request for the newly authorized programs have been received from the administration. All these programs are being funded under the continuing resolution at current operating levels.

is in addition to the 1.2 million people already served by it. This new funding is greatly needed to serve these additional people.

For vocational and adult education, the bill provides $94 million over last year, and no one would deny that, at a time when thousands of permanently unemployed workers need retraining, this increase in spending is warranted.

The bill provides an increase of $35 million for handicapped education State grants over last year's level. The education for all Handicapped Children's Act has been responsible for the mainstreaming of thousands of handicapped children into regular classrooms. The act originally contemplated that by this time the Federal Government would be paying 40 percent of the extra cost of educating the handicapped. This increase is enough to maintain the Federal Government's contribution at 10 percent.

These increases are provided for compelling reasons. It gives you a sense of how cautious the committee was in providing any increases at all.

The one other significant increase in this bill is for the National Institutes of Health and Mental Health. For NIH, the bill provides for an increase of $255 million over the request and $362 million over the fiscal year 1982 level, for a total of $4 billion. This is the one program in this bill for which the committee has provided an appropriation meant to keep up with inflation.

For several years, it has been our goal to fund 5,000 research grants and 10,000 research trainees as the minimum necessary to sustain the momentum of biomedical research, which is one of this Nation's greatest accomplishments, in the fight against diseases like cancer, heart disease, and diabetes. Last year we began to slip from those goals, and this year's proposal would have reduced grants to 4,100 and researchers to under 9,000. Without the additions provided by the committee, we are on the verge of letting one of our national treasures slip away. The money we appropriate here is an investment, an investment that pays off handsomely in saved lives and improved health for all Americans. I think it is fully justified.

I could go on and talk about some of the areas we cut over last year's level, like the National Health Service Corps, or clinical training in mental health, alcohol and drug abuse, or health teaching facility grants. I could go on about other areas where we restored funding to last year's levels, like in nursing student programs, where we are experiencing a severe nationwide shortage of nurses.

However, it is more important for me to make the point that we have a good bill here, carefully crafted and meant to make the best decision for each of the more than 300 accounts in this bill.

This is a good bill.

It is both fiscally responsible and humanly responsive.

I believe you can support this bill in good faith and in good conscience.

There are two quick points about the bill and the report that I would like to clarify.

The first is that with respect to title XX social services block grant, funds are to be allocated and distributed to the States based on the full entitlement amount authorized for the program, $2.45 billion.

The second is that with respect to mental health clinical training, I would like to reemphasize the intent of the committee as expressed in the report that funds be distributed with a reasonable balance among the four core disciplines.

The programs in this bill are more important than in any year since the Great Depression. There are more than 11 million unemployed in this country now. More than half have exhausted their unemployment benefits. They have no prospect for a job. They have lost their medical insurance, and are postponing needed medical treatment.

On Monday, in the early segment of the Today Show, there was a report on the closing of a plant in the town of Chester in my district. Chester is a small town, isolated in the hills of western Massachusetts. This plant was the one source of jobs in the community. It had been producing industrial grinding wheels since 1888. The 65 workers had an average of 18 years on the job. And now there is really nowhere for them to turn.

One of the workers, a young man with a wife and two children, was asked how he would make out, with winter coming on. You have to picture the background—the old, white colonial house nestled among the bare trees in the back hills of New England. His answer could have been given by millions of people in this country today. "There is fuel assistance," he said, "but I really am used to providing for my family on my own."

There are many, many people who will be depending on the programs in this bill for the first time in their lives. They will do so with reluctance, but with nowhere else to turn. The Government cannot take care of everyone's problems all of the time, but it can meet some serious needs in the nick of time. We have balanced, we have compromised, we have struggled, in this bill, to do the best job we can with the resources available to us. Our resources are not as free flowing as they once were, that much is clear. And the need to exercise restraint at a time of record Federal deficits is also clear. But as you think about this bill and what it does, there is one thing I would like to leave you with—for every ounce of fiscal restraint in this bill, there is a pound of unmet need.

□ 1030

In closing, I want to compliment my chairman, BILL NATCHER, and all of the other committee members, including my good friend JOE EARLY.

I want to take this opportunity to say, in addition, that we have one of the finest staffs of any committee in this Congress, headed up by Henry Neil, Fred Pfluger, Bob Knisley, Mike Stephens, and over on our side, Jim Kulikowski and Betti Lou Taylor over in the subcommittee room—and we are proud of all of them.

□ 1045

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I will be glad to yield to my good friend from Pennsylvania.

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding to me. There had been some concern expressed that I would like to get clarified about the educational block grant program, that some of the language in the report might tend to make people believe that there were categorical funding streams being created for programs that supposedly had been folded into the block grant.

Can the gentleman give us some assurance that the block grant has not been tampered with in this legislation?

Mr. CONTE. Yes, I can assure the gentleman from Pennsylvania. We have checked that out. I know Secretary Bell has called, me, and he is very concerned about it. It is a new block grant created in 1981, and it should not be tampered with by re-creating the categorical programs it was desiged to replace.

Mr. WALKER. I thank the gentleman.

Mr. NATCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Missouri (Mr. VOLKMER).

Mr. VOLKMER. Mr. Chairman, I would like to engage in a colloquy with the gentleman from Kentucky, but prior to doing so I first wish to commend him and the rest of the committee on this legislation, and on their ability to stay within the purview of the budget.

I understand that in the past some emphasis has been placed on the National Cancer Institute in the establishment of comprehensive cancer centers, designed to serve as a national resource for basic clinical research and multidisciplinary patient treatment. Some concern has also been voiced to the NCI to insure that these cancer centers be geographically balanced throughout the United States enabling all to receive comprehensive

treatment within a reasonable driving distance for all, is this not correct?

Mr. NATCHER. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Kentucky.

Mr. NATCHER. It is.

Mr. VOLKMER. Within the budget justification for the NCI lump-sum appropriation there is an item of two hundred thousand dollars for exploratory grants toward the establishment of such centers. I was wondering if the subcommittee chairman was aware of this and the fact there is a complete lack of cancer centers in the Midwest region.

Mr. NATCHER. I am.

Mr. VOLKMER. Fortunately, there is a high quality cancer facility now existing in Columbia, Mo., the Ellis Fischel State Cancer Center. I have been informed that this State supported hospital may make an application to the NCI for the exploratory grant and because of their existing facilities I believe the application has an excellent chance for a favorable review. This being the case, the absence of a comprehensive care center in the Midwest region and the facilities at Columbia, should the application be favorably reviewed by NCI, would the gentleman support the grant of these moneys listed in the budget justification at the full amount.

Mr. NATCHER. I believe the gentleman has stated the case well and yes I would support the money granted at the full amount should the application be favorably reviewed.

Mr. VOLKMER. Mr. Chairman, I thank the gentleman from Kentucky.

Mr. CONTE. Mr. Chairman, I yield 5 minutes to my good friend, the distinguished gentleman from Louisiana (Mr. LIVINGSTON), a member of the committee.

Mr. LIVINGSTON. Mr. Chairman, I thank my distinguished ranking member of the committee for yielding to me. I first want to say how much of a pleasure it is for me to serve with him and with my distinguished chairman of the committee. Having been here in Congress and served for about 5½ years, I can tell the Members that there are no finer gentlemen than these two, and they do an outstanding job for this body.

First, Mr. Chairman, I think it is important to note that the funding levels approved for the majority of the programs in this bill are right at about 1982 levels. That means that this bill is in line with the general theme of the first concurrent budget resolution, which passed with bipartisan support earlier this year. Second, while this bill's aggregate budget authority for its programs is almost $21 billion over the 1982 levels, $20 billion of that increase comes in the form of trust funds and permanent appropriations which we commonly refer to as "uncontrollables." Therefore, we can do nothing about them unless we actually change the law.

Increases in discretionary programs under their jurisdiction amount to really only about $1.1 billion over the 1982 levels. Now, that does not mean that we have ignored the key social priorities that are encompassed within the jurisdiction of the subcommittee. One only really has to take a look at pages 5 and 6 of the committee report to appreciate the full degree of the dedicated service exhibited by our distinguished chairman, Mr. NATCHER, and our most talented ranking minority member on the committee, Mr. CONTE, and the work that they have put in on the 1983 bill.

I want to also particularly commend Mr. EARLY and the other members of the subcommittee, as well as Chairman NATCHER and Mr. CONTE, for their efforts in funding vocational education programs at practical levels above the administration's original 1982 request and above the fiscal year 1982 levels. It is my firm belief that vocational education programs go hand-in-hand with the President's new job training initiative, and that they are vital in providing practical and alternative job skills for our present and future job hunters.

Now, at this point, Mr. Chairman, I would like to address a couple of questions to the distinguished chairman of the subcommittee, and just reiterate a couple of things I heard him and our distinguished ranking minority member point out.

Mr. Chairman, is it not true that the bill as reported to the House floor is approximately $9.5 billion under the committee's 302(b) allocation level?

Mr. NATCHER. Mr. Chairman, if the gentleman will yield—

Mr. LIVINGSTON. Delighted.

Mr. NATCHER. First, I would like to say to the gentleman from Louisiana that it is a distinct honor and privilege for me to serve with him on this subcommittee. The gentleman is an able member of our subcommittee, and, Mr. Chairman, I would like to say that to the committee.

The gentleman is correct. At this point we are $9,556 million under our allocation. With the additional amounts for the entitlements and unauthorized programs which will have to be provided in a supplemental next year, we will still be approximately $1 billion under our section 302 allocation.

Mr. LIVINGSTON. That is not withstanding any foreseeable supplemental request that might be made by the administration?

Mr. NATCHER. The gentleman is correct, Mr. Chairman.

Mr. LIVINGSTON. I thank the gentleman for his responses, and again I want to commend him for his leadership. It has been an inspiration to me as I served on the committee for the last 2 years. I also want to commend again my ranking minority leader and the distinguished chairman for the sound decisions that they have reached. This has not been an easy bill to address over the extended period of time that we have considered it.

The CHAIRMAN. The time of the gentleman from Louisiana has expired.

Mr. CONTE. Mr. Chairman, I yield 2 additional minutes to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Chairman, I also appreciate the invaluable assistance that both the majority and the minority staff have provided to me and my staff. They have made all the work on this subcommittee not only enjoyable but productive and fruitful.

Mr. Chairman, I also appreciate the gentleman's clarification on the budgetary aspects of this bill. While there are some question I do have about outlays that still concern me, I think it is important that we all realize just where this bill stands in terms of budgetary authority in relation to the first budget resolution that many of us on both sides of the aisle supported earlier this year. In view of that standing, I intend to support the passage of this bill, and I urge both my Republican and Democratic colleagues to do likewise.

Mr. CONTE. Mr. Chairman, I yield 5 minutes to my good friend, the gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. Mr. Chairman, I thank the gentleman from Massachusetts for yielding me the time.

Mr. Chairman, at the time of the last election just finished, we came out with a variety of interpretations about the mandate of that election, but I think that one thing was clear from all the various interpretations, and that is that the American people spoke clearly and said that they want America put back to work, that they want jobs for our citizens. Congress now appears ready to respond to that particular mandate with a variety of job creation proposals. Those proposals range over a wide spectrum as well. Some of them would raise taxes; some of them would increase the deficit; all of them that have been suggested in some way favor increased Government spending.

I, at the appropriate time in the consideration of this bill, will offer an amendment that seeks to create jobs, thousands of jobs, but does none of those things. It does not raise taxes or increase the deficit, and will not increase Government spending. It is a simple statement, and I think it is a statement with which we should all agree, that the activities of the Federal Government should not be denying job opportunities.

We might all agree that the Federal Government should not be actively

preventing people from getting jobs, but in fact it is, and it has been. A compendium of recent studies shows that the policies of the Federal Government may be keeping more than 500,000 people—more than a half million Americans—off the job rolls. At these times of unacceptably high unemployment, at the very least we of the Congress should act to stop the bureaucracy from keeping people from working. We should create a presumption in favor of jobs throughout the Government.

We in the Congress should say clearly that jobs are our highest priority, that no program and no set of regulations is more important to us than Americans going to work.

My amendment will help assure that kind of priority. It says clearly and simply that the funds appropriated in this legislation may not be used to deny job opportunities. I cannot imagine that there would be any controversy about such a provision in these times of economic downturn. I cannot imagine that anyone who has jobs as the highest priority would oppose this amendment.

My language does exactly what nearly all of us said in recent weeks that we want to see done. We want to see jobs provided. My amendment would see to it that the Federal Government does not stand in the way of more jobs in the future. I urge its adoption when it is presented.

Mr. Chairman, I yield back the balance of my time.

Mr. NATCHER. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time on this side.

Mr. CONTE. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. REGULA).

Mr. REGULA. Mr. Chairman, I ask the gentleman to yield for a question and colloquy. As I understand it, presently discretionary programs are $4.269 billion under the 302(b) allocation.

Mr. CONTE. That is my understanding.

Mr. REGULA. And further as I understand it, the subcommittee has reserved a total of approximately $3.854 billion for the three deferred items: Employment and training assistance; refugee and entrants assistance; and the ETA program amendments.

Mr. CONTE. That is what we reserved under this bill.

Mr. REGULA. And if I would understand it correctly, even if you add what is reserved to what the bill provides in discretionary spending, total discretionary programs would still be about $400 million under the 302(b) allocation.

Mr. CONTE. The gentleman from Ohio is exactly right.

Mr. REGULA. Given those numbers on the amount reserved for discretionary programs and recognizing that there will be additional entitlement spending of about $5 billion, it is my understanding that the administration supports the bill at the levels that we have just discussed.

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Mr. CONTE. Mr. Chairman, that is my understanding. There may be some question in regard to the new jobs training bill and what the price tag is going to be on that. Now, I cannot stand here on the floor and say what it is going to be and what it will do to our projections, but that is the only thing about which I am at all hesitant.

Mr. REGULA. But at least at the present anticipated funding levels for the deferred discretionary programs, the resulting bill would be $400 million less than the 302(b) allocation, and we should still be well within the budgeted amount; is that correct?

Mr. CONTE. The gentleman is absolutely right. The committee reserved $3.1 billion in accord with the first budget resolution for jobs training, and I do not think the committee will take any action until the President comes up with a request.

Mr. REGULA. Mr. Chairman, I appreciate the gentleman's responses. I think the committee has done a good job on this, and the bill deserves the support of all the Members.

● Mr. FRENZEL. Mr. Chairman, H.R. 7205, the Labor, Health, and Human Services and Education and related agencies appropriation for fiscal year 1983, is described in a House Budget Committee early warning report for the week of November 29, 1982, as over the budget resolution ceilings by $1.9 billion in discretionary spending outlays.

Except for the objectionable $1.9 billion overage in discretionary outlays, H.R. 7205 gives an appearance of budget conformity. However, appearances are deceiving. Closer examination reveals that within this bill there are hidden instances of substantial underfunding. The inevitable result will be a huge supplemental appropriation next year.

Discretionary programs are underfunded by about $4.6 billion, mainly because moneys for employment training assistance and refugee assistance were not included in the bill. The Committee deferred action on these programs, but their funding requirements will have to be met. According to the early warning report, funding for these programs will exceed the budget resolution by $522 million in outlays.

The worst feature of this bill however, is the funding shortfall for certain entitlements and mandatory programs. Together, underfunding for mandatories and entitlements comes to about $5.5 billion, making the bill's total for underfunding about $10 billion. Supplementals will be needed in the spring for GSL's, Human Services block grants, medicaid, SSI, and AFDC.

It is surely not the intention of the committee to deprive this body. Nonetheless, the underfunding hidden in this bill gives a false image of spending restraint which clearly does not exist.

Budgeting by supplemental is wrong. The passage of a bill without full funding for mandatory and entitlement programs gives the committee a smokescreen behind which discretionary programs can be overspent. The underfunding in this bill results in the bill's total outlays being over the budget resolution outlay targets by approximately $6 billion. That is an overage which cannot be tolerated. This bill should be returned to the committee for rehabilitation, or it should be defeated.●

● Mr. CROCKETT. Mr. Chairman, I rise in strong support for the two amendments being offered today by my colleague TOM FOGLIETTA to the Labor/HHS/Education appropriations bill, H.R. 7205.

Mr. FOGLIETTA, through these amendments, is voicing the frustration and outrage many of us feel at the insufficient funding for domestic programs being passed by this Congress. The amendments, which seek to add funding to the low-income energy assistance program and the social services block grant for meals for the elderly, are vital to meeting the needs of our constituents this winter.

I have been contacted by the State of Michigan, by many public and private agencies, and by concerned groups and individuals in Detroit about the shortfall in Federal funding for the low-income energy assistance program, and about the serious shortfalls in Federal assistance to nutrition and feeding programs for senior citizens.

People are afraid—and rightly so—that the Federal Government has abandoned them to hunger and cold, in the name of more defense spending or a balanced budget.

The increased appropriations being suggested by Mr. FOGLIETTA do not jeopardize in any way the budget totals we have set for ourselves. In both cases—for the low-income energy assistance program and for the social services block grant—the Foglietta amendments would bring the appropriations level up only to the authorization level. This would add $25 million to the low-income energy assistance program, and $49.5 million for meals for senior citizens.

I have taken the floor several times during this Congress to relate to my colleagues the desperate conditions under which many of my constituents in Detroit are forced to exist. Unemployment is 25 percent in the core city,

and much higher among minorities and teenagers. The auto industry is still in decline; unemployment benefits have run out for tens of thousands of men and women. The Federal Government has cut education funding and housing assistance. Health care delivery and training systems have been drastically cut.

I would like to read to my colleagues from just a few of the hundreds of letters my office has received protesting these cuts:

Miss Margaret Waterman writes:

Surely we cannot offer bread for the world if we do not feed the hungry here. Programs like school hot lunches and Women, Children, and Infants have already been cut. I hope you will use your influence to slice a mere half-billion from our overgrown military budget, and use the money where it is needed.

Mr. Ignacio Morales says;

I feel that you spend too much money on bombs when people are so hungry in the street.

Robert and Christine Santoro ask:

Why should our hungry citizens pay the price with misery, hunger, and ill health in their lives just because President Reagan wants to look strong to the Russians? I'm sure he eats good dinners.

And, one of the most poignant letters came from Mr. Norbert Kidd, who says:

As you know, our country has been blessed by God with resources and good farm land. It is a shame to see people going through garbage cans outside Burger King, as I recently have seen. It is a shame to see our elderly going hungry near the end of a month, because their sparse funds have been eaten up by inflation. I am also disturbed to see our budget for bombs, missiles and multiplication of armaments growing and growing. As my Congressman, I ask you to fight for more food, more money for the hungry, the disabled, the elderly. Common decency demands we provide the necessities of life for people, that we allow them to live with the dignity to which they are entitled.

I urge my colleagues to heed these cries of anguish, and to begin reversing the policies which have brought us to this point, by accepting the Foglietta amendments today.●

● Mr. ZEFERETTI. Mr. Chairman, I rise in support of H.R. 7205, the fiscal year 1983 appropriation bill for the Departments of Labor, Health and Human Services and Education, and related agencies. In doing so I want to say a few words, as chairman of the House Select Committee on Narcotics Abuse and Control, about certain items in the bill relating to drug abuse prevention and treatment.

H.R. 7205 includes $61,352,000 for Federal drug abuse programs administered by the National Institute on Drug Abuse (NIDA). It also contains $432 million for the alcohol, drug abuse and mental health (ADM) block grant enacted last year to replace a number of separate, Federal categorical programs. These block grant funds are allocated to the States to support a broad range of prevention, treatment, and rehabilitation services including those for the drug abusers.

Although the combined total of these funds is substantially less than 1 percent of the $85.4 billion recommended for appropriation in this bill, the importance of this relatively small amount cannot be overstated. Drug abuse continues to be one of the Nation's most pervasive and serious public health problems. A recent study conservatively estimates that drug abuse costs our society $16.4 billion each year. This estimate includes the direct costs of treatment and rehabilitation and the indirect costs stemming from reduced economic productivity caused by drug abuse. It does not include the enormous cost of criminal activity associated with drug abuse. Nor does it measure the immense pain, suffering, and family disruption that often accompany drug abuse. Clearly the benefits to be gained by reducing the incidence of drug abuse and its attendant social costs more than justify the small expenditure of funds H.R. 7205 would allow.

For nearly a decade, NIDA has been the agency with lead responsibility for Federal efforts to reduce the demand for drugs. Although the new ADM block grant has shifted primary responsibility for delivery of drug abuse services from NIDA to the States, NIDA continues to be responsible for providing national leadership in the critical areas of research, research, training, data collection and analysis, and information dissemination. Budget cuts enacted in 1982, however, severely weakened NIDA's ability to perform these functions effectively.

The $61.4 million provided for NIDA in H.R. 7205 is slightly more than $1 million for the administration's request for 1983 and $4 million over the 1982 appropriation. Funds for research are increased by more than 15 percent over the 1982 level. This increase will permit NIDA to award 63 new extramural research project grants in 1983 as compared to 26 in 1982 and will enable NIDA to increase research support in two of its highest priority areas, marihuana and cocaine. Even with the increases requested by the administration and the additional amounts approved by the Appropriations Committee, however, the number of new extramural research projects NIDA expects to fund in 1983 is still substantially below the average annual level of 78 awards for all previous years. The amounts provided in the bill will also allow NIDA to support the same number of research trainees in 1983 that were supported in 1982 and will restore data collection and analysis programs and information dissemination activities to 1981 levels. Without the increases approved for these latter two areas, NIDA would have been forced to choose between one or the other. Both functions could not have been continued at the reduced 1982 funding levels. In short, while H.R. 7205 includes significant increases for NIDA, the amounts provided are only adequate to sustain NIDA's activities at a minimally acceptable level.

For 1983, H.R. 7205 freezes funds for the ADM block grant at the 1982 level of $432 million. This amount is 20 percent below the total 1981 appropriations for the predecessor categorical programs that were consolidated in the new block grant.

In a recent report discussing the first year transition to new block grants enacted in 1981, GAO indicates that the full impact of reduced block grant funding levels has yet to be felt by most States. The effects of the cuts have been blunted by a number of mitigating factors including continued Federal outlays from awards made under the superseded categorical programs. The report notes that about 97 percent of previous categorical awards for alcohol, drug abuse, and mental health services extended into 1982. Two thirds of these awards extended into the third quarter of 1982 and many into 1983. As a result, States had drawn only 15 percent of their ADM funds through the first half of fiscal year 1982.

I am greatly concerned that the ADM appropriation in H.R. 7205 is dangerously low. As the pipeline of Federal funds from previous categorical awards dries up during 1983, States will increasingly feel that pinch of reduced block grant funding levels. In the area of drug abuse, this could cause treatment capacity to shrink dramatically and contribute to increased addict crime and human tragedy. I urge the House to monitor carefully the States' ability to meet needs for drug abuse services under the ADM block grant and to be prepared to act quickly to avert any treatment crisis that may develop.●

● Mr. BONER. Mr. Chairman, I wish to rise in support of the pending legislation, H.R. 7205, the Labor, Health and Human Services appropriations for 1983.

Title II of this legislation contains appropriations which enable the Secretary of Health and Human Services to enter into appropriate financial arrangements to repay in full any loan to Meharry Medical College guaranteed under section 726 of the Public Health Service Act.

While we in our budgetary process consider 13 appropriations, I believe that this is the most important one for those of us who have compassion for our fellow man.

An important component of this legislation contained on page 22 deals with Meharry Medical College which is located in my district. Meharry Med-

ical College was founded in 1876 in Nashville, Tenn. Today, it is recognized as one of the leading national institutions dedicated to the training of black physicians and dentists in this country. In fact, almost half of all black physicians and dentists in the United States received their training at Meharry. Currently, about 10 percent of all blacks enrolled at American medical colleges attend school there. On an international level, Meharry has educated more political leaders on the entire continent of Africa than any other institution of higher learning in America.

Over the years, its graduates have established a longstanding record of providing health care to communities that are traditionally underserved. Today, 80 percent of Meharry's graduates are practicing in our rural and inner-city areas. Primary medical care is desperately needed in these communities where there is a great shortage of doctors and a high concentration of minorities. Meharry graduates have consistently met the challenge of providing needed medical attention to our country's most frequently neglected neighborhoods, but the school's ability to maintain its reputation in this field is in a precarious status.

Because of the diminishing State and local support and the fact that most of its students come from disadvantaged backgrounds, the school is now facing complex financial difficulties. This financial instability poses a threat to the college's future medical mission. More importantly, because of its historic role and its outstanding reputation both at home and abroad, the future steadiness of the college has far-reaching national and international consequences.

In June of this year President Reagan established an intergovernmental task force to study the appropriate role for the Government in assisting Meharry achieve self-sufficiency.

On June 25, Secretary Schweiker announced the President's decision to assist Meharry by adopting four recommendations made by the task force. The recommendation that the Department of Health and Human Services arrange to acquire the balance of the $29 million loan made to finance the construction of Meharry's teaching hospital is included in this appropriation.

I have been working diligently to implement the other recommendations made by the task force. In September, I chaired a special oversight hearing of the House Veterans' Affairs Committee in Nashville to investigate the administration's request to expand the affiliation between the Murfreesboro VA Medical Center and Meharry Medical Center. Based on testimony given at that hearing, the Veterans' Affairs Committee authorized the full $17 million needed for construction and renovation at the hospital. The initial money needed for the development of a design and site preparation was contained in the HUD and Independent Agencies Appropriations which passed the House on September 29. The Veterans' Administration has already awarded the architectural contract and the first phase of the construction should be scheduled soon.

Mr. Chairman, the House of Representatives has always taken the lead in the fight to provide adequate resources to Meharry Medical College, I am personally urging the Members of the Senate to accept this House provision in their legislation. It is time that the Federal Government recognized Meharry Medical College as the national resource that it is. By adoption of this legislation, we are taking a step in that direction.

I would like to particularly commend my colleague from Ohio (Mr. STOKES) for his leadership and diligent efforts to achieve this noble goal. And I urge my other colleagues in the House to support this effort.

Thank you, Mr. Chairman.●

● Mr. PERKINS. Mr. Chairman, I just want to say a few words about the great contribution that has been made by my Kentucky friend and neighbor, Congressman WILLIAM H. NATCHER, the distinguished chairman of the Subcommittee on Labor, Health and Human Services Appropriations.

Frankly, I do not know how he has been able to do so well contending with the conflicting interests that were involved in passing the Labor-HHS bill today.

Given the severely limited resources available under the Budget, I think BILL NATCHER and his colleagues have done a monumental job.

We all know of his enormous ability as a legislator, honed and sharpened by 29 years in the House. We have all been impressed by his firmness and fairness as a presiding officer.

I think that even now the country is coming to know him as a statesman of the first rank who is able to consider and balance the forces and counterforces that seek to influence what this Congress does.

He is certainly known as one of the great friends of education in America. Without his leadership, his patience, and his preeminent fairness at a time when some in this Government do not place such value upon fairness, the whole educational system of the country would be suffering.

The appropriation bill he brought to the floor and successfully steered to passage this morning provides basically for level funding for the Federal Government's major education programs. He forcefully fought off the Reagan administration's attempts to inflict severe cutbacks on our Nation's basic education and training programs.

For the title I compensatory education program, there will be an appropriation of $3 billion. For Pell grants an appropriation of $2.4 billion is provided. For supplemental grants $355 million; for work-study $528 million; and for direct loans $193 million.

Mr. NATCHER was even able to provide for some small increases in his bill above current funding. Vocational and adult education is increased from $742.3 million last year to $836.8 million this year. Education for the handicapped is increased from $1,068.6 million to $1,103.7 million. Impact aid is raised from $456.2 million to $475 million.

Mr. Speaker, the House completed its consideration of the Labor-HHS bill so promptly this morning that many members of the Education and Labor Committee, including myself, could not get over to the floor in time to speak on the bill. I especially wanted to congratulate and commend BILL NATCHER for his fine work before the membership of the House. But, unfortunately, our committee was in the midst of a markup session on the foreign labor portions of the new immigration legislation which we had to report today to comply with the rules of the House. Consequently, all of us were not able to be on the floor during the consideration of the appropriations bill.

Therefore, I want to take this opportunity to commend the distinguished Labor-HHS Appropriations Subcomittee chairman, BILL NATCHER, for his fine work with that bill. He is indeed a dedicated and farsighted fighter in behalf of educational opportunity.●

● Mr. BIAGGI. Mr. Chairman, I wish to commend Chairman NATCHER and ranking Republican Member CONTE for their leadership in fashioning this legislation. I am especially pleased that the committee has approved a modest increase of $11.352 million for ACTION agency programs at a level of $129.073 million. As a senior member of the House Education and Labor Committee and an original member of the Select Committee on Aging, I have a special interest in the operation of ACTION's older American volunteer programs. This bill provides a total of $87 million for these programs, an increase of $2.3 million for fiscal year 1982. Specifically it appropriates $27.4 million for the retired senior volunteer program, $48.4 million for the Foster Grandparent program and $12 million for the Senior Companion program.

While I support these funding levels, I wish to raise the concurrent concerns that I have with the way ACTION has been administering these programs, especially the Foster Grandparent program. The Agency, under the aegis of better management practices, has been attempting to decentralize a number of Foster Grandparent pro-

grams which are operated by State agencies and supplemented by State dollars. The net effect of this "decentralization"—while on its face it is supposed to allow programs to be run at the "local level" with community sponsors—would be to reduce or close down a number of FG programs and thus, depriving many of the developmentally disabled children served under this worthy program from services. It would also terminate many of the volunteers who depend upon these programs for a daily opportunity to feel useful and to feel productive. In addition, these volunteers receive a host of related services from State-sponsored programs, such as transportation, and daily meals, that they might otherwise not receive under locally run programs with sponsors who have little experience or resources in this area.

Of personal concern to myself is the imminent crisis facing the New York State Foster Grandparent program, sponsored by the State's office of mental retardation and developmental disabilities. For the past 10 years, this agency has been successfully providing services to more than 1,000 developmentally disabled children through more than 530 Foster Grandparents in 11 counties of the State. ACTION has announced its intention to terminate this grant to OMRDD on February 28, 1983 despite the fact that they have not acquired alternative sponsors to provide the service in the 11 counties. ACTION contends that no current services will be reduced by this move but the fact is that some $2.5 million in State funds would be jeopardized. This is because the State appropriation for this program cannot be transferred under contract to community-based organizations—which is the only way the program could expect to be continued since local units of government would be especially hard pressed to secure the necessary local revenues during fiscal year 1983.

It would be my intention to pursue this issue further if a continuing appropriations measure becomes necessary prior to the adjournment of Congress for this session. I have been advised that ACTION plans to begin decentralization in a number of other States which have State agency sponsors—21 in all—and I believe that we must send a strong message to ACTION now that we will not tolerate this backdoor attempt to cut back on these vital OAV programs which are the lifeblood of 18,000 Foster Grandparents nationwide and the 54,000 children with special needs which they serve.●

● Mr. YOUNG of Florida. Mr. Chairman, included in the Department of Labor appropriations bill we are considering today is $277.1 million to provide full funding through June 30, 1984, for the senior community service employment program.

The threat of elimination of this program earlier in the year created a great deal of anxiety among the 54,200 older Americans throughout our Nation who are employed by this program. The approval of this appropriations bill today will reaffirm our commitment to these workers, their jobs and the communities they serve by assuring full funding for the next 18 months.

The outcry of support for this program earlier this year by senior community service employees and employers from all parts of the United States is testament to the success of the program and the high regard with which it is held. Just as in 1975 and 1976, when the elimination of the program also was recommended, my colleagues and I on the Appropriations Committee were successful in September in adding the needed funds for this program in the proper appropriations bills.

With the senior employment program's future guaranteed by the funding approval today, the employees of this program can now devote their attention to serving their communities without the fear associated with an uncertain future.●

● Mr. PURSELL. Mr. Chairman, I rise today to support the funding recommendations of the House Committee on Appropriations for the Departments of Labor, Health and Human Services, and Education for fiscal year 1983. The funding recommendations fall well within the limitations contained in the fiscal year 1983 budget resolution for these departments making this legislation a well-balanced funding measure. It represents the best attempt possible at fiscal restraint while at the same time providing essential financial support for the bulk of our Government's most necessary responsibilities and commitments. The funding recommendations of this legislation reflect the outstanding leadership of the distinguished chairman of the House Appropriations Subcommittee on Labor, Health and Human Services, and Education, Congressman BILL NATCHER, as well as the unmatched contributions of the committee and subcommittee's ranking Republican, Congressman SILVIO CONTE.

As most Members realize, the appropriations bill provides funding for services and programs ranging from employment and training to public broadcasting. Of particular importance to me are those portions which fund the research and training activities of nurses. Within the Alcohol, Drug Abuse, and Mental Health Administration, the Health Resources Administration and the Health Services Administration are found programs which are as important to the profession of nursing as nursing is to our health care. Much to my regret, Federal financial support for nursing research, training and basic education has fallen at a faster pace and greater percentage than other areas of health care. My experience with the contributions of nurses to health care convinces me that Federal funds spent in this area must be maintained.

I am also interested in the funding recommendations for student financial assistance. No other Federal investment holds as great a promise for America's future as the funds we spend to educate and train America's youth. From title I educational grants to supplemental educational opportunity grants, to financial assistance for higher education and professional training, this legislation will help to insure the education of Americans of all ages. In my estimation, it is an investment in our future that must continue.

I am further encouraged by the bill's recommendations on a number of issues including indirect costs associated with research projects. Although the administration had recommended for the budgets of the National Institutes of Health that only 90 percent of these indirect costs would be borne by the Federal Government, the legislation provides sufficient funds to restore the proposed 10-percent across-the-board reduction in indirect costs on research grants. Passage of this legislation will insure that the Department of Health and Human Services will continue the established practice of paying full indirect costs for research conducted during fiscal year 1983.

Of concern to me are two matters not entirely resolved by the legislation. These involve the formula allocation of title X family planning funds and the issue of State administrative funds for chapter I of the Education Consolidation and Improvement Act. The legislation includes a funding recommendation of $124 million for family planning services, a sum equal to the appropriation for fiscal year 1982. However, Federal family planning assistance decreased significantly from fiscal year 1981 to fiscal year 1982. This funding decrease was accompanied by a temporary change in the formula allocation of the funds. The combined result of these factors was a disproportionate decrease in family planning funds to region V.

There is an unresolved difference of opinion between the Department of Health and Human Services and service providers in region V about the funding reduction absorbed by the region. Unfortunately, meetings with the Department and region V providers have failed to resolve the problem. Language in the report accompanying this legislation requires the Depart-

ment of Health and Human Services to review its system for allocating family planning resources to determine its accuracy and fairness. This report is anxiously awaited by providers in region V and hopefully will be available in the near future. In the meantime, I sincerely hope the Department will continue to devote itself to a resolution of the funding difficulties which occurred during fiscal year 1982.

I was encouraged to hear the colloquy between our distinguished subcommittee chairman, Congressman NATCHER and another distinguished member of the committee, Congressman FAZIO, on the subject of State administration of the Education Consolidation and Improvement Act. To my knowledge, this issue has not been fully resolved. According to section 194(a)(1) of the Elementary and Secondary Education Act, State administration funds should equal 1 percent of the State grant for that year. An inequitable distribution of State administration funds, however, has occurred this year. The administrative portion was calculated on the initial State grants and not on the subsequent supplement allotments. Consequently, one State received as little as 0.79 percent for State administration. This is simply a matter of equity and has considerable importance to many States, including my home State of Michigan. I would hope the Department of Education will seek resolution of this inequity by reprograming needed funds to those States which have not received the required 1 percent.

Mr. Chairman, I urge the adoption of this legislation and again express my admiration for the work of Chairman NATCHER, Congressman CONTE and my colleagues on the Subcommittee on Labor, Health and Human Services, and Education.●

● Mr. GILMAN. Mr. Chairman, I rise to commend the gentleman from New York for his excellent comments on the need for more adequate funding for the impact aid program. I wholeheartedly support his statement and share his concern about the problems faced by our secondary school next to West Point, which has recently become a part of the gentleman's new congressional district. I have been involved in a number of battles over the years to assure sufficient funding for the impact aid program which is such a vital source of assistance to the 4,300 school districts across our Nation whose residents are affected by Federal installations in varying degrees. Up until the recent redistricting in New York, I had the privilege of representing the people living in the town of Highlands and the village of Highland Falls where the U.S. Military Academy at West Point is located.

Of the several school districts in my former congressional district which participated in the impacted area program, the Highland Falls-Fort Montgomery Central School District, containing within its borders the U.S. Military Academy at West Point, has been particularly heavily impacted by reason of the fact that not only does it educate many Federal students but also that its physical, taxable territory is taken up almost entirely (more then 90 percent) by the Academy. Due to funding cuts over the last few years in the Department of Education appropriations for impact aid, this school district is hard pressed to pay its bills to maintain quality education for the children of local families and the families of West Point employees. Because West Point takes up over 90 percent of the land, the property based on which this school district is dependent for the levying of property tax for assuring adequate education has been significantly reduced. Yet the payment of impact aid funds has been substantially cut this year and would be further cut by an additional 10 percent in fiscal year 1983. Needless to say, this has caused the relationship between the townspeople and the Federal employees at West Point to reach a breaking point. The citizens of Highland Falls are honored to have the Academy located there, but we cannot ask these same citizens to shoulder the greater part of the burden of educating the children of the Federal employees attending the public schools there. This considerable reduction in impact aid funding has forced the Highland Falls-Fort Montgomery School District to pursue every avenue over recent months for petitioning for more funds. All doors have been shut, and as a last resort these citizens are considering action to bar West Point families from sending their children to the local high school or as an alternate, charging tuition to the students from West Point.

The cuts have left the school district short some $200,000, with the resulting reductions in staff and programs that such funding shortages bring about. In 1980, the village's impact aid allocation was approximately $621,000. For this year it is approximately $410,000. Accordingly, I urge this body to consider the importance of assuring the best possible education to the children of those who serve our Nation through the military and the equally crucial need for fairness and justice in assisting the local school districts responsible for this task. I also urge my colleagues to support sufficient funding to keep the high school in Highland Falls in operation in any measures we may be able to devise in the next weeks acceptable to the Appropriations Committee, the Department of Education and the Department of Defense. Our U.S. Military Academy and its neighbors deserve our best efforts.●

● Mr. STOKES. Mr. Chairman, I want to express my strong support of H.R. 7205, a bill making fiscal year 1983 appropriations for the Departments of Health and Human Services, Education, Labor, and related agencies.

Mr. Chairman, this bill is one of the largest and most complex appropriations bills that comes before the House each year. In my mind, it is one of the most important because it serves the people of this Nation. The quality of life for many millions of Americans of all ages, races, and creeds is significantly affected by the vital human needs programs which are funded through this legislation.

I want to compliment and commend our subcommittee chairman, BILL NATCHER, for one of the finest jobs he has ever done. He has brought forth a bill which is responsible and responsive, even given the fiscal straitjacket placed upon our subcommittee by budget resolution targets that are too stringent and unrealistic. Our subcommittee really struggled to balance funding for key programs like maternal and child health, biomedical research, low income energy assistance, compensatory aid for poor children, student financial assistance, and so forth, with the harsh realities of the budget contraints facing the subcommittee.

Under the leadership of Chairman NATCHER, however, this bill continues to provide strong Federal support for the programs which are essential to the well-being of millions of American families. While I personally would support much higher funding levels for most of the activities in this bill, I feel confident in knowing that this bill is our best hope of maintaining some measure of compassion and commitment to our Nation's disadvantaged citizens, who have suffered the human tragedy of the Reagan economic program.

I would also mention that this bill is well within the budget targets established under the fiscal year 1983 budget resolution. It is over the President's budget by $5.3 billion, because the budget cuts proposed by President Reagan were simply too drastic and detrimental. Nevertheless, even with the $5.3 billion in restorations made to the President's budget, the total amount provided for in this bill is $85.3 billion, only 1.4 percent more than the $84.2 billion provided in fiscal year 1982. So, in real terms, considering inflation, we are actually spending less for the agencies funded in this measure.

Mr. Chairman, some of the subcommittee's recommendations regarding the special and deserving programs in H.R. 7205 should be highlighted.

The bill includes $277.1 million to maintain 54,000 jobs for our Nation's senior citizens under title V of the

Older Americans Act. The budget request made no provision for this program.

Our subcommittee also recommended funds important for the continuation of health services to disadvantaged mothers and children through the community health center program, the maternal and child health block grant, and the family planning program. Restorations were made to the President's budget in light of the growing need for these services from families which are now unable to receive medicaid benefits and also for the newly unemployed who have lost health benefits.

Our subcommittee recognized the continuing importance of a strong investment in biomedical research, which ultimately leads to reduced health care costs and an increase in human productivity. A total of $40 billion is recommended for the NIH in order to foster new research advances and research training opportunities.

Continued progress in attacking sickness and disease also depends on having an ample and well-qualified care of medical care providers. Reports have documented, most recently from the U.S. Civil Rights Commission, that the black population still enjoys less access to high quality medical care and providers than should be the case. Our committee has recommended funding for several programs, financial distress, construction grants, and disadvantaged assistance, which will assist Meharry Medical College, Morehouse School of Medicine, and several other predominantly minority health professions schools in training professionals who are committed to serving blacks and other people lacking good health care. These schools serve as a national resource and should be provided the financial resources to accomplish national goals.

In the area of education, our subcommittee simply could not accept the detrimental budget reductions proposed by President Reagan. These proposed reductions totaled more than $4 billion in programs providing direct assistance to our Nation's disadvantaged and handicapped school children and to millions of college students. Dozens of witnesses testified as to the devastating effects which would result if reductions of this magnitude were implemented. Indeed, the Department of Education's own justification for cuts in outstanding programs like title 1, education for the handicapped, Pell grants, and TRIO were weak and unsupported by the facts. Consequently, H.R. 7205 maintains fiscal year 1982 levels of spending for most of the Department of Education programs. A few particularly deserving programs, such as education for the handicapped, rehabilitation services, vocational education, TRIO, and the graduate and professional opportunities program were recommended for small increases to help offset the effects of inflation.

Additionally, it is noteworthy that H.R. 7205 maintains fiscal year 1982 funding levels for Head Start, senior citizens nutrition programs, and senior centers, the community services block grant, and keeps the VISTA program intact. Each of these programs plays a vital role in addressing the needs of the children, the elderly, and other special population groups who depend upon their Government in times of need.

Mr. Chairman, the amounts recommended in this bill have been arrived at after much careful deliberation and debate. We have considered the needs of millions of children, youth, families, and the aged in the areas of employment, education, preventive and primary health care, nutrition, and welfare services. I believe that we have struck a careful and sensitive balance between these needs and available resources, so I urge you to support the adoption of the fiscal year 1983 Labor-HHS-Education appropriations bill as reported by the Appropriations Committee.●

● Mr. WEISS. Mr. Chairman, it is with great reservation that I rise in support of the Labor-HHS appropriations bill before us today. Restricted by the parameters of the Republican budget resolution, the appropriations bill provides woefully inadequate funding levels for vital health, education, labor and human services programs. The cuts directed by the budget resolution and codified by reconciliation constitute an unconscionable tearing down of programs that help people, particularly those in need. While money is literally thrown at wasteful and unnecessary military projects, this crucial appropriations bill, and the constraints under which it has been built, will once again ask the weak and the poor, the young and the old, and the disabled and the sick to tighten their belts and to make sacrifices that they can ill afford. The bill largely reflects the will of an administration that chooses to forget that there are real people across our Nation who face real hardships and who very much need the assistance of a compassionate Federal Government.

While this bill falls far short of providing needed funding, it must be stressed that it exceeds the President's request by $5.3 billion and funds many programs that the administration attempted to eliminate or drastically reduce. These important programs include: title V senior employment, work incentives (WIN), women's educational equity program, libraries, supplemental opportunity grants (SEOG), direct student loans (NDSL), Follow Through, Pell grants, title I, and impact aid. For the increased funding, I would like to commend the distinguished chairman from Kentucky and his colleagues on the subcommittee. I fully appreciate the limits under which they had to work and I sympathize with their difficult position.

Most of the discretionary health, education, and human services programs in this bill are funded at approximately last year's reduced levels. However, we can take little comfort in "holding the line" on further budget cuts. Let us not forget that continuing funding at 1982 levels means maintaining cuts of $84 million in maternal and child health, $108 million in alcohol and drug abuse programs, $600 million in title XX, $158 million in community services, $57 million in the new education block grant, $22 million in college work study, $70 million in compensatory education, and $282 million in impact aid from pre-Reagan 1981 levels. Inflation will further erode the services and benefits that these programs are set up to provide. As the recession deepens and unemployment rises, the need for many of these programs increases. These human and social needs do not disappear simply because the administration and the Congress choose to ignore them.

I am also concerned that several of the entitlement programs, including medicaid, AFDC, title XX, and foster care and adoption, are significantly underfunded in this bill. While I understand that the committee intends to provide additional money through a supplemental appropriation for these programs, this process is not guaranteed and leaves the States and cities with tremendous uncertainty about the operation of programs. In particular, title XX will be seriously jeopardized in my own state if funding is not maintained at its current level of $2.4 billion. Under this block grant, New York State funds adoption, day care, family planning, foster care services, protective services for children, and senior citizen centers. Faced with large deficits in its own budget, New York can only plan to fund title XX programs based on the reduced appropriation of $1.9 billion. This 18 percent cut will result in a loss of $33 million to New York and the closing of day care and senior centers throughout the State. In New York City alone, it is projected that 21 senior centers and 46 day care centers would have to be shut down. This unnecessary disruption of services could be avoided by increasing funds for title XX in conference or in the continuing resolution.

Another serious concern with this bill involves the emergency assistance to families program. Although the committee report specifically acknowledges the administration's failure to eliminate the program the bill provides no funding for this program. If funds are not appropriated for EAF, New York State will lose $20 million to

assist needy families with heating fuel costs and emergency shelter costs.

This bill also contains the by now expected prohibitions on Federal funds being used to finance abortion and to bus students for purposes of achieving racial integration in public schools. I strongly believe that these unwarranted and repugnant provisions should be stricken. The abortion provision, in particular, is an inexcusable violation of the rights of individuals. It allows abortions only when the life of the mother is endangered by the prospect of giving birth. Thus, it forbids the financing of abortions for rape and incest victims and for women whose health would be jeopardized by continuing the pregnancy. This provision discriminates against low-income women who rely on medicaid for all health care and poses a fundamental threat to our most basic notions of decency.

Mr. Chairman, this appropriations bill deals a harsh blow to those individuals and families who are most in need. It provides only bare bones funding for programs that help soften the blow of recent economic downturns. It is time that we draw the line and insist that this critical appropriations bill meet the needs of our people rather than the demands of the administration's reckless budget priorities.●

Mr. CONTE. Mr. Chairman, I thank the gentleman from Ohio (Mr. REGULA).

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

Mr. NATCHER (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The CHAIRMAN. Are there any points of order against the bill?

POINT OF ORDER

Mr. WALKER. Mr. Chairman, I have a point of order against a section of the bill.

The portion of the bill to which the point of order relates is as follows:

HIGHER AND CONTINUING EDUCATION

For carrying out titles III; VI, part A; VIII; IX, parts B, D and E; title X; and sections 417, 420, and 734 of the Higher Education Act; section 406A(2) of the General Education Provisions Act (20 U.S.C. 1221e-1b(2)); section 102(b)(6) of the Mutual Educational and Cultural Exchange Act of 1961; title XIII, part H, subparts 1 and 2 of the Education Amendments of 1980; H.R. 3598 as passed the House on November 4, 1981; and title V, section 528(5) of the Omnibus Budget Reconciliation Act of 1981, without regard to section 512(b) of the Omnibus Budget Reconciliation Act of 1981, $400,990,000: *Provided,* That $9,000,000 shall be available in connection with the establishment and construction of the General Daniel James Memorial Education Center at Tuskegee Institute, Tuskegee, Alabama, and such sums shall be used for an aerospace science and engineering center and shall remain available for obligation until September 30, 1988: *Provided further,* That funds made available in Public Law 96-536, section 110 for the Wayne Morse Chair of Law and Politics shall remain available for obligation until September 30, 1985: *Provided further,* That $3,000,000 shall be available until expended for the Carl Albert Congressional Research and Studies Center: *Provided further,* That $25,000,000 made available for interest subsidy grants under section 734 of the Higher Education Act shall remain available until expended: *Provided further,* That sections 922(b)(2) and 922(e)(2) of the Higher Education Act shall not apply to funds in this Act.

The CHAIRMAN. The gentleman will state the point of order.

Mr. WALKER. Mr. Chairman, on page 44, lines 11 through 13, there is a section of the bill which is in violation of rule XXI, clause 2, because there is no authorization legislation that has been passed by the Congress for the funding which is appropriated in the bill, and I make a point of order against that language in the bill.

The CHAIRMAN. Does the gentleman from Kentucky (Mr. NATCHER) desire to be heard on the point of order?

Mr. NATCHER. On the point of order, yes, Mr. Chairman, I would like to be heard, but I would like to have a colloquy at this time, with the permission of the gentleman from Pennsylvania (Mr. WALKER).

The CHAIRMAN. The Chair will permit the gentleman from Pennsylvania to yield to the gentleman from Kentucky although ordinarily the Chair controls debate on a point of order.

Mr. WALKER. I am glad to yield to the gentleman from Kentucky.

Mr. NATCHER. Mr. Chairman, let me say to the gentleman from Pennsylvania that, as he knows, this project has been authorized in the House. As I understand, it is before the committee on the other side. I would hope that the gentleman from Pennsylvania would not insist on his point of order at this time. This facility, as the gentleman knows, is being utilized at the present time in honor of one of the great Members who served in this body, the Honorable Carl Albert from Oklahoma, a distinguished Member of the House for many years, later serving as Speaker of the House before his retirement.

I would hope that the gentleman would not insist on his point of order. As the gentleman knows, this project has not yet been authorized on the other side. It has been authorized on this side. We would hope that the gentleman would not insist on his point of order. Then we would see if it could not be handled quickly on the other side by way of authorization, so that this amount could stay in the 1983 bill and not have to wait until the next appropriation bill.

Mr. WALKER. Mr. Chairman, I thank the gentleman for his explanation, and certainly it would be this gentleman's wish that we could get a proper authorization so we could proceed with the project.

My problem is that in checking with the Members on the other side, it is my understanding that they do not intend to proceed with the authorization, so, therefore, we would be in a position of having appropriated funds without appropriate authorization.

I went through the process of doing that, of checking to make certain that we were not in a situation here where the authorizing legislation would follow within a few days after the appropriation. I am assured that that is not the case, that in fact we would have ended up appropriating money here without authorization, and that is what concerns this gentleman in terms of the procedures of the House.

Mr. NATCHER. Mr. Chairman, will the gentleman be kind enough to yield to the gentleman from Oklahoma, Mr. MCCURDY, on the point of order?

Mr. WALKER. I am glad to yield to the gentleman from Oklahoma.

Mr. McCURDY. Mr. Chairman, let me ask the gentleman from Pennsylvania (Mr. WALKER), it is a fact, though, since there is an authorization, we are concerned here only with the House appropriation at this time? Are we concerned about this body?

Mr. WALKER. Mr. Chairman, I will say to the gentleman that the rules make it quite clear that the authorizations have to completely clear the Congress. We have tried in some cases to operate in an ad hoc way to assure that, where there is a matter of a few days separating the two bodies, we do not prevent proper authorizations from going forward and then not having a funding stream to follow them.

In this case, though, I do not believe we are ever going to get the appropriate authorization, from my understanding, so, therefore, we would be in a position of totally violating the rules of the House by appropriating that which has never been authorized.

Mr. McCURDY. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from Oklahoma.

Mr. McCURDY. Mr. Chairman, let me ask, what if we were to confine it to the House and were able to take it to conference with the Senate and again, having a couple of days, perhaps there could be some more persuasive argument taken to the other body?

Mr. WALKER. Mr. Chairman, I will say to the gentleman that I understand his point, and I certainly understand that he has worked very hard

for this particular bill. I think the House passed the authorization in large part because of the persuasiveness that the gentleman exhibited in this body in this matter.

But we do have a very severe problem in that the Senate does not appear ready to act on the authorization and, of course, we are bound by those Senate decisions as well. That is this gentleman's concerns about the procedures, not only on this sum of money but on further sums of money. I do not believe we can permit the pattern to develop that we in this House are appropriating sums of money that have not been properly authorized as the rules require.

Mr. McCURDY. Mr. Chairman, will the gentleman yield further?

Mr. WALKER. I am glad to yield to the gentleman from Oklahoma.

Mr. McCURDY. Mr. Chairman, does the gentleman have personal problems with the authorization in this body or with the project? Does he understand that this is for matching funds, that this is not a direct appropriation of the amount prescribed in the bill, that this has had broad support from the leadership on both sides of the aisle and certainly the Speaker and former Members of this body, including even former President Ford, who came to Oklahoma and spoke on behalf of the establishment of the Center, and that there is again a wide range of people who have supported it on both sides of the aisle and also in the Senate?

It is true that there is some difficulty in authorization on the Senate side, but I think there is sufficient time to again work with them if we can overcome this first hurdle.

Mr. WALKER. Mr. Chairman, this gentleman certainly has no problem with the specifics of the project if it is properly authorized. I would simply say to the gentleman that in all likelihood we may have to go to a continuing resolution at some point in the near future. There is a good chance that some parts of this appropriation may be included in that continuing resolution.

If there is in fact a chance of getting an authorization through the Senate, I would think that that would give us time between now and the time that that continuing resolution comes before us to work out an authorization so that this point of order would not rest against the continuing resolution when and if that is brought forward. I would say to the gentleman that that seems to me to give him an opportunity to attempt to work it out there.

But insofar as this legislation is concerned, I do feel constrained to see that the rules of the House are upheld and that this particular project not go forward without proper authorization.

Mr. McCURDY. Mr. Chairman, will the gentleman yield further?

Mr. WALKER. I am glad to yield to the gentleman from Oklahoma.

Mr. McCURDY. Perhaps the gentleman and I can discuss the possibility of a continuing resolution and see if we can work something out. I appreciate the gentleman's response.

Mr. WALKER. I will be glad to do that with the gentleman.

The CHAIRMAN. Does the gentleman from Iowa (Mr. SMITH) wish to be heard on the point of order?

Mr. SMITH of Iowa. Not on this point of order, no, Mr. Chairman. I do have a parliamentary inquiry concerning another point of order.

The CHAIRMAN. The Chair will protect the gentleman.

Will the gentleman from Pennsylvania (Mr. WALKER) clarify for the Chair the exact language to which he objects in insisting on his point of order?

Mr. WALKER. Mr. Chairman, the language the gentleman objects to under the point of order is beginning at line 11 on page 44, "That $3,000,000 shall be available until expended for the Carl Albert Congressional Research and Studies Center:" ending with the colon on line 13.

The CHAIRMAN. The appropriation is not yet authorized by law and the Chair sustains the point of order. Are there any other points of order against the bill?

PARLIAMENTARY INQUIRY

Mr. SMITH of Iowa. Mr. Chairman, I have a parliamentary inquiry.

The portion of the bill to which the parliamentary inquiry relates is as follows:

SPECIAL PROGRAMS

For carrying out the consolidated programs and projects authorized under chapter 2 of the Education Consolidation and Improvement Act of 1981; title IX, part C of the Elementary and Secondary Education Act; title IV of the Civil Rights Act of 1964; the Follow Through Act; sections 1524 and 1525 of the Education Amendments of 1978; and Public Law 92-506, $538,920,000: *Provided*, That $454,810,000 to carry out chapter 2 of the Education Consolidation and Improvement Act shall become available for obligation on July 1, 1983, and shall remain available until September 30, 1984: *Provided further*, That $29,030,000 for the purpose of subchapter D of the Education Consolidation and Improvement Act shall become available for obligation on October 1, 1982: *Provided further*, That $3,000,000 of the amount appropriated above shall be for the purpose of Public Law 92-506 of which $1,500,000 shall become available on July 1, 1983, and shall remain available until September 30, 1984.

The CHAIRMAN. The gentleman for Iowa (Mr. SMITH) will state his parliamentary inquiry.

Mr. SMITH of Iowa. Mr. Chairman, is it possible, since the bill is open to amendment to any point, to reserve a point of order and to make it at a later time against certain lines in the bill?

The CHAIRMAN. The Chair will state that the point of order must be made at this time, before amendments are offered.

Mr. SMITH of Iowa. Then, Mr. Chairman, if it is made at this time, would it be possible to replace the language to which I am making a point of order at a later time?

The CHAIRMAN. The Chair will state to the gentleman that a proper amendment could be offered to replace the language.

Mr. SMITH of Iowa. Mr. Chairman, I am constrained to do something there, and it is with regard to the language at page 38, line 23, through line 2 on page 39. It involves the closeup or the Ellender programs.

The problem is this: In the Senate they are objecting to two or three other programs that are in this bill, and they are getting everything they want in these lines, which is in excess of the authorization. They do not even want to go to conference on another bill that includes all these programs. I just have difficulty seeing how the House can protect its position if we let them have everything they want in this bill.

Mr. Chairman, would the chairman of the subcommittee tell me if he can relate to me some way we can protect ourselves without making a point of order here?

Mr. NATCHER. Mr. Chairman, if the gentleman will yield, I would like to say to my friend, the distinguished gentleman from Iowa (Mr. SMITH) who is an able member of this subcommittee, that I would hope that he would not insist upon his point of order at this time. This is a matter that has been before the subcommittee, as the gentleman well knows, for a number of years.

It is true that as far as the amount is concerned, it exceeds the authorization. This bill has contained the Ellender fellowship funds for a number of years.

I would hope that the gentleman would go along with us and see if we can handle it in another manner. I cannot say to the gentleman exactly how it could be handled, but I am going to be on his side and work with him in resolving this matter.

Mr. Chairman, I would hope that the gentleman would not insist on his point of order at this time on this particular project.

Mr. SMITH of Iowa. Mr. Chairman, we are likely to go to a continuing resolution, and in the continuing resolution, if it is the lower of the two Houses and they have in their bill the same as we have in our bill for Ellender, which is over the authorized amount and they do not put in their bill the amounts we have for law-related programs, how are we going to protect ourselves in conference?

Is the gentleman going to insist on our position? I think if he does, it will

be done. Is the gentleman going to insist that we will not permit the continuing resolution to come back to the House until we protect all these programs?

Mr. NATCHER. Mr. Chairman, I will say to the gentleman that I intend to insist and that I will join with the gentleman in conference on the matter that he has in mind.

I think the gentleman is exactly right as to these other programs and these other matters that will come up in the conference on this bill and on the continuing resolution. I will say to the gentleman that I intend to walk right down the road with him.

Mr. SMITH of Iowa. Mr. Chairman, I just want to point out that the House has authorized all of these programs together. The Senate at this time, for some reason, is refusing to even go to conference on the authorization legislation. They are playing hardball, and I just want to make it clear we are just not going to roll over, that we intend to stick with these programs.

Mr. NATCHER. Mr. Chairman, I say that the intention of the gentleman is good. I say that to him at this time.

Mr. SMITH of Iowa. Under those circumstances, Mr. Chairman, I will not make my point of order, but I am serving notice now that if we do not get our way, in this continuing resolution that we expect to pass that goes to March 1 or March 31, I am going to make a point of order before that one expires.

Mr. Chairman, I withdraw my point of order.

The CHAIRMAN. The gentleman from Iowa (Mr. SMITH) withdraws his point of order.

Are there any further points of order?

Mr. NATCHER. Mr. Chairman, I ask unanimous consent that all debate on the bill and all amendments thereto conclude not later than 5 p.m. today.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

□ 1115

Mr. WALKER. Reserving the right to object, Mr. Chairman, I do so simply to ask the gentleman if he has some idea of the number of amendments we are talking about.

Mr. NATCHER. Mr. Chairman, would the gentleman yield at this time?

Mr. WALKER. I am happy to yield to the gentleman from Kentucky.

Mr. NATCHER. Mr. Chairman, we have been advised there will only be two or three amendments that will not consume much time, and I say that to the gentleman frankly.

Mr. WALKER. I thank the gentleman.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, we have five or six amendments. I wish the subcommittee chairman would make that 4 o'clock. I do not think we will even take until 5 o'clock.

Mr. WALKER. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

AMENDMENT OFFERED BY MR. O'BRIEN

Mr. O'BRIEN. Mr. Chairman, I offer an amendment.

The portion of the bill to which the amendment relates is as follows:

SEC. 208. Notwithstanding section 306 of Public Law 96-272 or section 1132 of the Social Security Act, no payment shall be made, in any fiscal year, under this or any other Act to reimburse State or local expenditures made prior to October 1, 1978, under title I, IV, X, XIV, XVI, XIX, or XX of the Social Security Act unless a request for reimbursement had been officially transmitted to the Federal Government by the State within one year after the fiscal year in which the expenditure occurred.

The Clerk read as follows:

Amendment offered by Mr. O'BRIEN: On page 37, strike lines 3 through 11.

Mr. O'BRIEN. Mr. Chairman, this amendment offers a technical way of placing language now in effect in the continuing resolution at the proper place in this appropriation bill. It has been cleared with the chairman and with the ranking member.

Mr. NATCHER. Mr. Chairman, would the gentleman from Illinois yield to me at this time?

Mr. O'BRIEN. I am happy to yield.

Mr. NATCHER. Mr. Chairman, first, before discussing the gentleman's amendment, I would like to say to the gentleman it is a distinct honor and privilege for the gentleman from Massachusetts (Mr. CONTE) and I to serve with you on this subcommittee.

Mr. Chairman, this matter was dealt with in the first continuing resolution (Public Law 97-276) signed on October 2, 1982.

As the gentleman knows, section 136 of the continuing resolution reached a compromise which allows the courts to determine the validity of these old claims based on existing authorizing and appropriation laws.

The following conference report language describes this compromise. On page 24, House Report 97-914, we find in part, Mr. Chairman, the following:

This language agreed to is not intended to prejudice the outcome of this court case either on behalf of the government or for the States. The position of the Congress on this issue has already been amply expressed through its action on the fiscal year 1980, 81 and 82 appropriations bills and related continuing resolutions. The amendment is, however, intended to prohibit payment of any of these claims during fiscal year 1983. If the courts determine that payments must be made, the language agreed to provides a procedure for orderly payment of claims over a 3 year period beginning in fiscal year 1984.

This agreement supersedes the committee's action on H.R. 7205 and makes it unnecessary to include section 208 in the bill.

The majority, therefore, has no objection to this amendment, none whatsoever.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. O'BRIEN. I am happy to yield.

Mr. CONTE. I want to join in what the gentleman from Kentucky (Mr. NATCHER) has said, and also those fine complimentary remarks about my good friend from Illinois (Mr. O'BRIEN). We have no objection to the amendment.

Mr. GREEN. Mr. Chairman, will the gentleman yield?

Mr. O'BRIEN. I am happy to yield.

Mr. GREEN. I thank the gentleman for yielding.

Mr. Chairman, I have been working with the gentleman from Illinois (Mr. O'BRIEN) on this amendment to repay the States for old claims and of course would urge all of my colleagues to support it.

As you may know, with passage of Public Law 96-272, the States were given a 2 year filing limit on claims for reimbursement for various programs under the Social Security Act. However, Public Law 96-272 permitted reimbursement for any claims which were then outstanding and were submitted prior to January 1, 1981. This deadline was subsequently pushed up to May 31, 1981.

The Department subsequently refused to honor the back claims which had been filed in a timely fashion, asserting that the prevailing appropriations bill prevented it from using funds for this purpose. A group of States who had—and still have—outstanding claims filed suit and won. The Connecticut against Schweiker decision declared the United States liable for this cost and held that the claims should be processed and paid.

The continuing resolution under which we are presently operating allows for this payment to be made in an orderly fashion, and essentially puts this matter back in the hands of the court, where it belongs. So this is not a new issue. This language has already been approved by both the House and Senate in their approvals of the conference report on the current continuing resolution. I urge my colleagues to approve this language once again.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinios (Mr. O'BRIEN).

The amendment was agreed to.

Mr. FAZIO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to engage the chairman in a colloquy on some matters relating to State education funding.

Mr. Chairman, it is my understanding that the amounts provided for grants to local school districts under chapter 1 of the Education Consolidation and Improvement Act, known to most of us as title I, include the supplementary funds provided under Public Law 97-257. Is that correct?

Mr. NATCHER. Will the gentleman yield to me at this time?

Mr. FAZIO. I yield to the gentleman.

Mr. NATCHER. The gentleman is correct.

Mr. FAZIO. The amount provided in this bill for State administrative expenses, however, has not been adjusted for the original fiscal year 1982 level. The duties and responsibilities of States to supervise the program have been expanded by the Congress during the last 18 months.

In order to provide the authorized level of 1 percent of grant funds for State administration this account would have to be increased from $30,575,000 to $31,986,931. Is that correct?

Mr. NATCHER. Mr. Chairman, if the gentleman will yield further at this point I would like to say to the gentleman that that is correct.

Mr. FAZIO. I appreciate that response. I note that this limitation on State administrative expenses is contained in the committee's report but not in the bill itself. Would it then be both possible and appropriate for the Secretary of Education to bring this level up by transferring the necessary $1,411,931 from the Evaluation and Studies Account under ECIA chapter 1 to the State administration account?

Mr. NATCHER. If the gentleman would yield further, I would like to say to the gentleman that it would be possible for the Secretary of Education to request approval from the House and Senate Committees on Appropriations to make a transfer such as the gentleman proposes.

Mr. FAZIO. I appreciate the chairman's statement and appreciate his kindness and courtesy in letting me engage in this colloquy with him.

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The clerk read as follows:

Amendment offered by Mr. Walker: on page 60, after line 7, add the following new section:

SEC. 512. No funds appropriated under this Act shall be used to limit legitimate job opportunities for any individual.

Mr. NATCHER. Mr. Chairman, would the gentleman from Pennsylvania yield to me?

Mr. WALKER. I am glad to yield.

Mr. NATCHER. Mr. Chairman, we have had an opportunity on this side to examine the gentleman's amendment. He has been kind enough to present it to us and he presented it also on the other side. We have no objection to the amendment, Mr. Chairman.

Mr. WALKER. I thank the gentleman from Kentucky very much.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Massachusetts.

Mr. CONTE. I have no objection to the amendment. But I would like to have a colloquy with the gentleman.

Mr. WALKER. I will be glad to have a colloquy with the gentleman.

Mr. CONTE. By the gentleman's amendment you are not affecting the Davis-Bacon Act or minimum wage or any other labor law?

Mr. WALKER. It certainly would have no effect of repealing those particular laws. There might be some effect on them, only insofar as what they would be doing would be limiting job opportunities.

I do not think there was ever any intent on the part of the Congress that those should be a job-limitation kind of approach and so if in fact those as well as many other programs in the Government ended up being a job limitation kind of thing then, yes, there could be some minimal impact on them.

But my intent is to simply make certain that regulations and laws of the Federal Government do not end up limiting job opportunities for anyone. I do not think that was the intent of any of the language that Congress adopted in the programs that the gentleman mentions.

Mr. CONTE. As I say, I have no objection at the present time, but we are going to look at this. It came all of a sudden and we will take a close look at it.

If it does limit such things as the right to organize or other types of labor laws, then I do not know whether I could support it in conference or not. But for now let us let it go.

Mr. WALKER. I thank the gentleman and yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. WALKER).

The amendment was agreed to.

Mr. GEPHARDT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to engage in a colloquy with the chairman of the committee.

I would ask the gentleman from Kentucky (Mr. NATCHER) this question: Is it the chairman's and the gentleman from Massachusetts, Mr. CONTE's, understanding that the money appropriated for title VII, part B, could be used in a transitional funding mechanism for those original independent living organizations whose funding was terminated in fiscal 1982, provided that these organizations are able to demonstrate their ability to become self sufficient as well as show support from the communities in which they are centered?

Mr. NATCHER. Mr. Chairman, would the gentleman from Missouri yield to me at this time?

Mr. GEPHARDT. I yield to the gentleman.

Mr. NATCHER. Mr. Chairman, first I would like to say to the committee that it is a pleasure for me to rise at this time to answer the gentleman's question. He has been kind enough to talk with us about this matter. He is one of the able Members of the House.

Mr. Chairman, in answer to the gentleman's question, I agree with the gentleman that the amount in the bill for this program could be used for continuing support of the existing centers, provided they meet the conditions the gentleman has just indicated.

The gentleman is correct.

Mr. GEPHARDT. I thank the gentleman and especially thank the chairman and the ranking member for their understanding and cooperation on this very important issue.

As they well know, we have established over the country a few centers that have made great strides in helping the handicapped be self sufficient and live on their own and not take even greater public funds by being institutionalized.

I deeply appreciate the understanding of both of them.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. GEPHARDT. I am happy to yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman. I commend the gentleman for his interest in this program. It is a good program that provides the services that allow severely handicapped individuals to live independently in community or family settings.

I know the problem the gentleman has run into with respect to continuing the project in his State. I myself was following this situation, with respect to a program in my own State. Programs at the end of their 3-year grant had to enter a competition to obtain renewed funding. The award announcements were not made until the very last days of the 1982 fiscal year. The result was that the four centers that were not renewed had almost no chance to seek alternative funding, before their grants had expired.

I certainly would have no objection to these centers being funded under the appropriation for independent living in this bill. However, I would like to say that the situation is ripe for review. Next year, I understand a significantly larger number of projects

will be up for renewal, and I would not want to set a precedent that would be difficult to follow through on. It is my hope that the authorizing committees will take a close look at what alternatives are open to the centers as their original 3-year grants expire in terms of finding a more permanent funding source.

Mr. GEPHARDT. I thank the gentleman for his excellent comments. I thank both the gentlemen from Kentucky and Massachusetts for their great help in resolving this matter and yield back the balance of my time.

Mr. RATCHFORD. Mr. Chairman, I rise to strike the requisite number of words.

Mr. Chairman, I rise to inquire of the distinguished chairman of the subcommittee about a matter of concern to all of us. That matter is the regulations for the nursing homes in America in which medicare funding is involved.

Mr. Chairman, my question is, and I know what a strong defender you have been for quality of care in America's nursing homes: Is there contained in this legislation the prohibition against the proposed regulations through which the administration sought to cut down the number of inspections of America's nursing homes?

Mr. NATCHER. Mr. Chairman, will the gentleman from Connecticut yield to me at this time?

Mr. RATCHFORD. I yield to the gentleman.

Mr. NATCHER. First I would like to say to the gentleman from Connecticut that it is a distinct honor for me to serve with him on the Appropriations Committee. The provision to which the gentleman refers is contained in section 146 of the continuing resolution, Public Law 97-276.

That is in the continuing resolution and it is now the law. We know of the gentleman's interest in this matter. We want to commend him ever since he has been a member of our committee and long before that time for the interest that he has shown.

Mr. RATCHFORD. I thank the chairman.

To the Members I say I hope this prohibition in the permanent law will continue because what was recommended by the administration several months ago would have cut down the number of inspections of America's nursing homes. It would have provided not more, but less, protection for the frail elderly of America; and was a recommendation from Health and Human Services resisted by this subcommittee, by the Appropriations Committee, by the Committee on Aging.

I commend the chairman for his concern and the committee's concern for the frail elderly of America, and yield back the balance of my time.

AMENDMENT OFFERED BY MR. CRAIG

Mr. CRAIG. Mr. Chairman, I offer an amendment.

The portions of the bill to which the amendment relates are as follows:

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, $202,256,000, including not to exceed $47,625,000, which shall be the maximum amount available for grants to States under section 23(g) of the Occupational Safety and Health Act, which grants shall be no less than fifty percent of the costs of State occupational safety and health programs required to be incurred under plans approved by the Secretary under section 18 of the Occupational Safety and Health Act of 1970: *Provided,* That none of the funds appropriated under this paragraph shall be obligated or expended to enforce or prescribe as a condition for initial, continuing, or final approval of State plans under section 18 of the Occupational Safety and Health Act of 1970, State administrative or enforcement staffing levels which are greater than levels which are determined by the Secretary to be equivalent to Federal staffing levels: *Provided further,* That none of the funds appropriated under this paragraph shall be obligated or expended for the assessment of civil penalties issued for first instance violations of any standard, rule, or regulation promulgated under the Occupational Safety and Health act of 1970 (other than serious, willful, or repeated violations under section 17 of the Act) resulting from the inspection of any establishment or workplace subject to the Act, unless such establishment or workplace is cited, on the basis of such inspection, for ten or more violations: *Provided further,* That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 which is applicable to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees: *Provided further,* That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, order or administrative action under the Occupational Safety and Health Act of 1970 affecting any work activity by reason of recreational hunting, shooting, or fishing: *Provided further,* That no funds appropriated under this paragraph shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 with respect to any employer of ten or fewer employees who is included within a category having an occupational injury lost work day case rate, at the most precise Standard Industrial Classification Code for which such data are published, less than the national average rate as such rates are most recently published by the Secretary, acting through the Bureau of Labor Statistics, in accordance with section 24 of that Act (29 U.S.C. 673), except—

(1) to provide, as authorized by such Act, consultation, technical assistance, educational and training services, and to conduct surveys and studies;

(2) to conduct an inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

(3) to take any action authorized by such Act with respect to imminent dangers;

(4) to take any action authorized by such Act with respect to health hazards;

(5) to take any action authorized by such Act with respect to a report of an employment accident which is fatal to one or more employees or which results in hospitalization of five or more employees, and take any action pursuant to such investigation authorized by such Act;

(6) to take any action authorized by such Act with respect to complaints of discrimination against employees for exercising rights under such Act: *Provided further,* That the foregoing proviso shall not apply to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees: *Provided further,* That none of the funds appropriated under this paragraph shall be obligated or expended for the proposal or assessment of any civil penalties for the violation or alleged violation by an employer of ten or fewer employees of any standard, rule, regulation, or order promulgated under the Occupational Safety and Health Act of 1970 (other than serious, willful or repeated violations and violations which pose imminent danger under section 13 of the Act) if, prior to the inspection which gives rise to the alleged violation, the employer cited has (1) voluntarily requested consultation under a program operated pursuant to section 7(c)(1) or section 18 of the Occupational Safety and Health Act of 1970 or from a private consultative source approved by the Administration and (2) had the consultant examine the condition cited and (3) made or is in the process of making a reasonable good faith effort to eliminate the hazard created by the condition cited as such, which was identified by the aforementioned consultant, unless changing circumstances or workplace conditions render inapplicable the advice obtained from such consultants: *Provided further,* That none of the funds appropriated under this paragraph may be obligated or expended for any State plan monitoring visit by the Secretary of Labor under section 18 of the Occupational Safety and Health Act of 1970, of any factory, plant, establishment, construction site, or other area, workplace or environment where such a workplace or environment has been inspected by an employee of a State acting pursuant to section 18 of such Act within the six months preceding such inspection: *Provided further,* That this limitation does not prohibit the Secretary of Labor from conducting such monitoring visit at the time and place of an inspection by an employee of a State acting pursuant to section 18 of such Act, or in order to investigate a complaint about State program administration including a failure to respond to a worker complaint regarding a violation of such Act, or in order to investigate a discrimination complaint under section 11(c) of such Act, or as part of a special study monitoring program, or to investigate a fatality or catastrophe: *Provided further,* That none of the funds appropriated under this paragraph may be obligated or expended for the inspection, investigation, or enforcement of any activity occurring on the Outer Continental Shelf which exceeds the authority granted to the Occupational Safety and Health Administration by any

provision of the Outer Continental Shelf Lands Act, or the Outer Continental Shelf Lands Act Amendments of 1978: *Provided further*, That none of the funds appropriated under this paragraph shall be used to fund contracts for standards development.

The Clerk read as follows:

Amendment offered by Mr. CRAIG: Page 7, on line 23, strike out "$202,256,000" and insert in lieu thereof "$206,256,000".

Page 12, beginning on line 20, strike out the semicolon and all that follows through line 23, and insert in lieu thereof a period.

Mr. CRAIG. Mr. Chairman, H.R. 7205, as reported by the Appropriations Committee contains a $4 million funding reduction for OSHA and restrictive language prohibiting the expenditure of funds on any contract for OSHA standards development activity. My amendment would restore the funding level and remove the restrictive language.

OSHA uses contract funds for a number of activities associated with the technical and economic analysis of workplace standards. For example, contractors fill a need for short-term projects of a specialized nature that OSHA's own staff cannot address. Contract funds are often used to hire firms with knowledge of particular industries and hazards—a body of expertise that OSHA would need years to develop. Once developed, this expertise would no longer be needed when a specific study is completed. The Agency's current staff cannot assume these functions. Their attention is directed to determining the scientific basis of standards, analyzing the data collected by the contractors, recommending courses of action and writing the regulations. To develop safety and health standards, OSHA must gain access to a wide array of highly technical data—information that is not often available in existing sources. OSHA is also required by its enabling legislation, the Regulatory Flexibility Act, the National Environmental Policy Act, Executive Order 12291, and various Supreme Court decisions to consider the technical, economic, and environmental impacts of its standards as well as their effects upon small business employers.

The Agency often contracts with other Federal agencies, universities and private individuals to perform field evaluations and testing. Interagency agreements with the National Bureau of Standards; for example, East Chicago Highway Ramp Collapse; the National Institute for Occupational Safety and Health (NIOSH); the Department of Agriculture; and the National Academy of Sciences; for example, grain elevator explosions, have all been supported by contract funds in the past. Precluding the use of such resources would constrict the data base used by the agency and virtually prevent OSHA from setting new standards or from reviewing existing standards when required under the "sunset" provisions of the Regulatory Flexibility Act. The quality of the few standards that OSHA could produce would be adversely affected.

The prohibition on contract fund expenditures for standards development and the reduction of funds available to support data collection and impact analysis will reduce OSHA's fiscal year 1983 output of safety standards from a projected level of 12 safety proposals and 4 final safety standards to only 2 proposals and 1 final standard. Health standards output would be reduced from five proposals and eight final rules to only one proposal and two final standards. This is a significant decline in OSHA standards-setting activity at a time when the agency has finally developed a regulatory management system to rationalize its standards-setting process.

I urge my colleagues to support this amendment.

□ 1130

Mr. CONTE. Mr. Chairman, I rise in support of this amendment.

I have here a letter from Thorne G. Auchter, Assistant Secretary for Occupational Safety and Health, U.S. Department of Labor, who says the House Appropriations Committee has reduced the amount requested for OSHA by $4 million from the President's request. The committee added very restrictive language, and he says:

OSHA uses contract funds for a number of activities associated with the technical and economic analysis of workplace standards. Contract funds may be used, for example, to support risk assessment studies and to study the feasibility and cost effectiveness of proposed worker protection measures. OSHA is also required by its enabling legislation, the Regulatory Flexibility Act, the National Environmental Policy Act, Executive Order 12291, and various Supreme Court decisions to consider the technical, economic, and environmental impacts of its standards as well as their effects upon small business employers.

I believe this is a good amendment and it is needed.

Mr. Chairman, the full text of Mr. Auchter's letter is as follows:

U.S. DEPARTMENT OF LABOR,
ASSISTANT SECRETARY FOR
OCCUPATIONAL SAFETY AND HEALTH,
Washington, D.C., November 23, 1982.

Hon. SILVIO O. CONTE,
Ranking Minority, Subcommittee on Labor, Health and Human Services, Education and Related Agencies, Committee on Appropriations, House of Representatives, Washington, D.C.

DEAR CONGRESSMAN CONTE: I am writing to call your attention to a provision in the Fiscal 1983 Appropriations Bill for the Departments of Labor, Health and Human Services, Education and Related Agencies (H.R. 7205) that was reported out by the House Appropriations Committee on September 29, 1982. The Bill contains a funding reduction and restrictive language that would seriously impede the Occupational Safety and Health Administration's (OSHA) ability to protect the American workforce.

The House Appropriations Committee has reduced the amount requested for OSHA from $206,256,000 to $202,256,000, a decrease of $4,000,000 from the President's requested FY 1983 funding level. The Committee also added langage that would prohibit the expenditure of funds on any contract for OSHA standards development activity. This is a harmful action for O3HA and its attempt to reduce on-the-job hazards.

OSHA uses contract funds for a number of activities associated with the technical and economic analysis of workplace standards. Contract funds may be used, for example, to support risk assessment studies and to study the feasibility and cost effectiveness of proposed worker protection measures. OSHA is also required by its enabling legislation, the Regulatory Flexibility Act, the National Environmental Policy Act, Executive Order 12291, and various Supreme Court decisions to consider the technical, economic, and environmental impacts of its standards as well as their effects upon small business employes. Contractors fill a need for short-term projects of a specialized nature that OSHA's own staff cannot address. Contract funds are often used to hire firms with knowledge of particular industries and hazards—a body of expertise that OSHA would need years to develop. Once developed, this expertise would no longer be needed when a specific study was completed. The agency's current staff in its Directorates of Health Standards and Safety Standards cannot assume these functions. Their attention is directed to determining the scientific basis of standards, analyzing the data collected by the contractors, recommending courses of action and writing the regulations.

To develop safety and health standards the agency must gain access to a wide array of highly technical data—information that is not often available in existing sources. OSHA often contracts with other Federal agencies, universities and private individuals to perform field evaluations and testing. Interagency agreements with the National Bureau of Standards (e.g., East Chicago Highway Ramp Collapse), the National Institute for Occupational Safety and Health, the Department of Agriculture, and the National Academy of Sciences (e.g., Grain Elevator Explosions), have all been supported by contract funds in the past. Precluding the use of such resources would construct the data base used by the agency and virtually preclude OSHA from setting new standards or from reviewing existing standards when required under the "sunset" provisions of the Regulatory Flexibility Act. The quality of the few standards that OSHA could produce would be adversely affected.

The prohibition on contract fund expenditures for standards development and the reduction of funds available to support data collection and impact analysis will reduce OSHA's FY 1983 output of safety standards from a projected level of twelve safety proposals and four final safety standards to only two proposals and one final standard. Health standards output would be reduced from five proposals and eight final rules to only one proposal and two final standards. This is a significant decline in OSHA standards-setting activity at a time when the agency has finally developed a Regulatory Management System to rationalize its standards-setting process.

I appreciate your attention in this important matter, and I hope you will reconsider

your proposed language affecting OSHA programs and budget.

Sincerely,

THORNE G. AUCHTER,
Assistant Secretary.

Mr. NATCHER. Mr. Chairman, at this time we ask for a vote on the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Idaho (Mr. CRAIG).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Chairman, I offer an amendment.

The portion of the bill to which the amendment relates is as follows:

CENTERS FOR DISEASE CONTROL

PREVENTIVE HEALTH SERVICES

To carry out titles III, XI, and XIX of the Public Health Service Act, the Federal Mine Safety and Health Act of 1977, and the Occupational Safety and Health Act of 1970; including insurance of official motor vehicles in foreign countries; and purchase, hire, maintenance, and operation of aircraft, $318,439,000, of which $2,050,000 shall remain available until expended and shall be for construction and equipment of facilities of or used by the Centers for Disease Control: *Provided*, That training of employees of private agencies shall be made subject to reimbursement or advances to this appropriation for the full cost of such training.

The Clerk read as follows:

Amendment offered by Mr. ROYBAL: Page 17, line 19, strike out "$318,439,000" and insert in lieu thereof "$321,039,000".

Mr. ROYBAL. Mr. Chairman, this amendment provides an additional $2,600,000 to the Center for Disease Control to respond in a timely way to a recent outbreak of highly fatal infections and cancers resulting from an unexplained acquired immune deficiency—known as AIDS.

This amendment is designed to insure that we maintain CDC's current response to the AIDS problem without CDC having to divert staff and technical resources from other essential disease control and prevention activities. Last fical year, for example, CDC had to divert up to 100 employees at various times to respond to the AIDS problem. Staff resources included laboratory scientists, epidemiologists, statisticians and public health advisors from other program areas. Usually this diverting of resources and funds is not a problem except when the public health emergency continues to persist and, in fact, increase dramatically. AIDS is that kind of problem. Approximately $2,200,000 of the proposed increase would be used to avoid this situation. The remainder of the funds—$400,000—would be available for expanded work in the areas of surveillance, epidemiologic studies and laboratory investigations. All of this work would be done in close collaboration with affected States and localities through cooperative agreements and contracts.

Since the appearance of AIDS in June 1981, CDC has received increasing reports of victims stricken with acquire immune deficiency syndrome.

As of November 26, 1982, CDC has received reports of 775 cases of Kaposi's sarcoma and other life-threatening infections including pneumocystis carinii pneumonia, resulting from acquired immune deficiency. In the last 30 days alone, over 100 cases of AIDS were reported to CDC. Death has occurred in over 40 percent of all reported cases with the actual mortality rate over time expected to exceed 80 percent. The increasing number of cases—over 100 in the past month—indicates an epidemic, resulting in prolonged, debilitating and fatal illnesses and high medical costs. Estimates suggest that hospital costs just for the reported cases will exceed $45,000,000.

It should be recognized that these numbers do not tell the whole story. Some research investigators believe the numbers are significantly higher—in the thousands. CDC agrees that there is probably underreporting due to insufficient diagnostic and laboratory data regarding other suspect cases, and less than complete surveillance in the field. In addition, CDC reporting does not include occurrence of less severe illnesses that share clinical and immunologic traits associated with AIDS.

The fact is we do not know enough about this outbreak. We do not know its causes or mode of transmission. We have not developed any effective treatment regimens or preventive strategies. It is believed that an infectious agent is involved which can be transmitted among various populations, causing immune deficiency and leading to cancer and other fatal opportunistic diseases.

While three-fourths of those reported to be stricken by AIDS are identified as homosexual or bisexual, let me point out that hemophiliacs, including a 10-year-old patient (6); Haitians (45); and intravenous drug abusers (108) are also affected. Thirty States have now reported cases of AIDS, with the concentration of the problem in New York (51 percent) and California (21 percent). New York City, San Francisco, Los Angeles, and Miami are currently the most affected cities.

CDC is also working in cooperation with the National Institutes of Health to look at the longer term research issues involved with AIDS, especially with regard to cancer, infectious disease and blood-borne disease. In addition, the Food and Drug Administration is working with CDC and NIH on the possible transmission of AIDS-caused diseases through blood products. There is concern that not only hemophiliacs are AIDS-susceptible but also individuals with Cooley's anemia and sickle cell anemia.

My amendment represents a reasonable and timely investment against this epidemic.

Mr. NATCHER. Mr. Chairman, will the gentleman yield to me at this point?

Mr. ROYBAL. I yield to the gentleman from Kentucky.

Mr. NATCHER. Mr. Chairman, the gentleman offering this amendment is a member of our subcommittee, he is a member of the full committee, and he is a man who works hard on all of these matters.

Mr. Chairman, the gentleman has been kind enough to present a copy of his amendment to us on this side. I know of the interest of the distinguished gentleman from New York (Mr. GREEN) on the other side, a member of the committee. If it meets with the approval of the gentleman from Massachusetts (Mr. CONTE), we have no objection on this side.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, we have no objection to this amendment, and we ask for its passage.

Mr. GREEN. Mr. Chairman, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman from New York.

Mr. GREEN. I thank the gentleman for yielding.

Mr. Chairman, I am supporting the amendment offered by the gentleman from California (Mr. ROYBAL) seeking to increase funding in the Center for Disease Control for work on the acquired immunological deficiency syndrome.

Recent reports indicate that we have 775 cases of this disease in our Nation, with the number of cases doubling every 6 months. The median age of our victims is 35 years, with 70 percent of them occurring in individuals who are under the age of 40. Although at present death has occurred in roughly 40 percent of the cases, it is quite likely that the mortality rate for this disease will, over time, exceed 80 percent. The disease initially affected homosexuals, but more recently has spread to intravenous drug users, diabetics, and hemophiliacs.

Areas in which incidence of this disease is particularly high are New York, Los Angeles, San Francisco, Houston, Chicago, and Atlanta. Thirty States in all have reported incidence of this disease to the Center for Disease Control. Reports have also indicated that the disease has now been found in children. The tragedy of this misunderstood and relatively new disease is the young age of its victims, the ineffectiveness of available treatments, and the debilitating, expensive nature of the illness.

The New York City Department of Health began receiving reports of the rare tumors and opportunistic infections which are now characteristic of this disease. In simplistic terms, some unknown factor is causing a deficiency in the immune systems of previously healthy persons. The steadily increasing number of cases has been referred to as an epidemic, but because of the uniqueness and the newness of the disease, CDC has been pulling funds out of accounts for work on other diseases to fund its efforts in this area. I believe quite strongly that we should monitor the incidence of this illness and seek to learn more about it, how to treat it and control it. This amendment would give the Center for Disease Control the wherewithal to do so.

Mr. WEISS. Mr. Chairman, I rise in support of the amendment offered by the gentleman from California which raises appropriations for the Center for Disease Control (CDC) by $2.6 million.

This funding is desperately needed to allow the Center for Disease Control to maintain and expand efforts to monitor and research the recent outbreak of acquired immune deficiency syndrome (AIDS). AIDS is a recently identified affliction which causes a breakdown in the body's immune system. Once affected, an individual loses the ability to fight rare tumors and opportunistic infections. In particular, AIDS victims fall prey to such serious and often fatal illnesses as Kaposi's sarcoma cancer and pneumocystis pneumonia. The cause of AIDS is currently unknown.

CDC data indicates that the outbreak of AIDS has reached epidemic proportions. There have been over 700 cases reported, and the numbers are increasing daily. Currently, 50 percent of all reported cases are in New York State.

This epidemic is of grave concern because of its unique characteristics. Forty percent of those afflicted die. No cases of complete recovery have been reported. The disease was first found among homosexual men and has now spread to hemophiliacs, diabetics, Haitians, and the population at large. Tragically, about 70 percent of AIDS victims are under the age of 40.

Thus far, the Center for Disease Control has undertaken an intensive effort to track this epidemic, at the expense of other needed activities. Additional funding is needed in the 1983 appropriation to allow a continuation and expansion of CDC's surveillance activities, laboratory investigations, and collaborative efforts with State and local health departments. The New York City Department of Health has developed an extensive system to research, monitor, and educate the public about the AIDS epidemic. Continued Federal assistance through CDC is critical to our city's ability to meet this devastating public health challenge.

It is my deep hope that this amendment will be adopted and that additional funds for CDC and NIH research on AIDS will be allocated in the future. We cannot afford to turn our backs on this life or death crisis.●

● Mr. PHILLIP BURTON. Mr. Chairman, the issue of providing adequate Federal funding for research into the causes of Kaposi's sarcoma and related immune-deficiency diseases is one which this Congress must address.

The appropriation which we are voting on today must be the beginning of a massive national effort to confront a major health problem.

Like legionnaire's disease and like toxic shock syndrome, the acquired immune deficiency diseases are a public health issue which is the responsibility of the Federal Government.

The medical struggle to understand, and ultimately to defeat, the acquired immune deficiency syndrome (AIDS) is likely not to benefit those who might contract the disease, but also to increase greatly our understanding of the nature of the immune system and of cancer itself.

The issue of adequate, long-term funding for AIDS research, then, is not simply a matter of fulfilling our public health responsibilities to the gay community, which has so far borne the brunt of this epidemic, or to the major metropolitan areas, where this epidemic is now centered—although these responsibilities alone more than justify the funding which we request. What is at stake here also is an opportunity to gain medical knowledge which could greatly enhance our ability to strike a blow at cancer—probably the major health problem of modern times.

This would be of enormous value not only to those who suffer during this epidemic, but to all the people of this country.

I urge my colleagues to join in supporting this appropriation and all future measures needed to respond adequately to the health crisis which we now face.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. ROYBAL).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. FOGLIETTA

Mr. FOGLIETTA. Mr. Chairman, I offer an amendment.

The portion of the bill to which the amendment relates is as follows:

HUMAN DEVELOPMENT SERVICES

For carrying out, except as otherwise provided, the Older Americans Act of 1965, the Child Abuse Prevention and Treatment Act, the Runaway Youth Act, title VIII of the Community Services Act, the Developmental Disabilities Assistance and Bill of Rights Act of 1981, and the Head Start Act of 1981, $1,737,211,000, of which $41,453,000 shall be for grants under part C of the Developmental Disabilities Assistance and Bill of Rights Act, and $7,680,000 shall be for section 113 of such Act.

The Clerk read as follows:

Amendment offered by Mr. FOGLIETTA: Page 30, line 20, strike out "$1,737,211,000" and insert in lieu thereof $1,762,211,000".

Mr. FOGLIETTA. Mr. Chairman, I would like to express at the outset my appreciation and admiration to the chairman of the subcommittee, Mr. NATCHER, and to the ranking minority member, Mr. CONTE, for their fine work on this bill. I think that they have a very fine bill, and I know that it is their hard work that has brought to the floor a bill that this whole House should be able to support. I appreciate having the opportunity to offer this amendment.

Mr. Chairman, my amendment is for our Nation's senior citizens. It is for the hundreds of thousands of them around America who are unable to afford to eat, who rely on the senior nutrition programs funded in this bill for their food. The committee has shown its sensitivity for our older Americans by insuring that no meals would be cut from the program this year. Funding for this program is actually higher this year than last. Unfortunately, the increases provided for in this bill will only keep as many meals on the table, and in the home, as were served last year. And that is not enough to even begin to meet the demand. As things stand now, we are faced with the continuing problem of turning away staggering numbers of our elderly, because the nutrition centers and meal delivery centers do not have the funds to buy the food to feed them.

In my home State of Pennsylvania last year, our nutrition centers had to turn away an estimated 18,000 senior citizens who came to them for food; 18,000 people, who were in a financial situation that prevented them from being able to afford to meet their expenses and have food, were turned away without food.

Mr. Chairman, I am unable to accept the argument that we cannot afford to meet the needs of these people; that we cannot afford to feed our senior citizens, that we cannot help them avoid knowing hunger. In a country who's Government spends $1 million a day simply to store and finance the food that we buy through price supports, I cannot believe that we are unable to afford the $25 million that it would take to fund these programs at the authorized levels.

This amendment does not do anything more than fulfill the wishes of this body. It was this House that authorized spending the money that I am seeking here. We voted to spend some $356 million on nutrition for the elderly. This $25 million addition does

nothing more than that. This will allow us to meet, not exceed, the wishes of the House.

Mr. Chairman, we talk constantly in this body of getting the most for our taxpayers' dollar. I can think of few cases that get more for the money than this one. If we pass this amendment, we realize an extraordinary economy of scale. By agreeing to spend an additional 20 percent for senior nutrition, my home State of Pennsylvania will be able to serve approximately 25 percent more meals. We get 25 percent more meals, feed 25 percent more senior citizens, for a 20-percent increase. Mr. Chairman, it will cost more in 2 months—60 days—to store price-supported surplus food than this amendment will cost for the next year. With its share of this addition, Pennsylvania will be able to serve roughly 2½ million more meals, feed approximately 33,000 more senior citizens. We have 2.3 million senior citizens in Pennsylvania. We served 130,368 people last year. We turned away 18,000 more, and we estimate that as many as 100,000 more senior citizens, in Pennsylvania alone, may need this program.

Mr. Chairman, even if we pass this amendment, we will have only begun to meet the needs of our senior citizens for food. Right now congregate meal funds are being forced to compete for funds with home delivery meals in some States. The state of the economy has made it increasingly difficult for those seniors who are able to work to find jobs. The price of heat is again going through the ceiling, and the old cliche about senior citizens having to choose between heating and eating is no longer a cliche, but a fact.

Mr. Chairman, the cost of this amendment is relatively small. Its worth, all over the Nation, is very great. We have a chance to fulfill the wishes of the House, as expressed by the authorization levels set for senior citizen nutrition. We have a chance to make a dent in the number of senior citizens who have needed our help in the past, but been unable to get it because the funds were not available.

I urge the House to adopt this amendment, and yield back the balance of my time.

Mr. NATCHER. Mr. Chairman, will the gentleman yield?

Mr. FOGLIETTA. I yield to the gentleman from Kentucky.

Mr. NATCHER. Mr. Chairman, I would like to say to the distinguished gentleman from Pennsylvania (Mr. FOGLIETTA) that we know of his interest in this matter. The gentleman has discussed this matter with the members of the subcommittee. He has been kind enough, Mr. Chairman, to give us copies of his amendment. I would like to say on this side that if it meets the approval of the distinguished gentleman from Massachusetts, we have no objection to the gentleman's amendment.

Mr. FOGLIETTA. I thank the chairman of the subcommittee.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. FOGLIETTA. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, I want to take this opportunity to congratulate the gentleman in the well for his foresight and leadership in bringing this amendment to our attention. The chairman, ED ROYBAL, and I have been long time supporters of this program and believe in this program. It is one of the finest programs that we have. We get more value out of this program than just about any other program in the bill. I want to commend the gentleman.

Mr. Chairman, we accept the amendment.

Mr. FOGLIETTA. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. FOGLIETTA).

The amendment was agreed to.

Mr. FISH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, for the past several months, I have been involved in a funding problem for the secondary school adjacent to the U.S. Military Academy at West Point. This situation exists as a direct result of the reductions in the level of funding for the impact aid program as authorized under the Reconciliation Act of 1981. I understand that the Appropriations Committee has provided the full amount authorized, and I appreciate their efforts to address this vital issue. I have decided not to offer any amendments to increase the overall funding level, as this would also require changes in the authorization which are not appropriate in this legislation. However, I take this opportunity to bring up the issue before the House Appropriations Committee.

The U.S. Military Academy and the town of Highlands and the village of Highland Falls have enjoyed a close and mutually beneficial relationship for many years. The town is aware of its dependence on West Point to sustain many of its businesses and services. The Academy knows that continued good relations depend on the Federal Government meeting its commitment to the town and village.

Highland Falls is known as "Hometown, U.S.A." after it opened its arms to the American hostages returning from Iran. The cooperation between the town, the village, and West Point has enabled them to resolve their differences amicably over the years.

This is not the first time that a problem relating to education of the children of West Point families has developed. After World War I, an elementary school was built at West Point due to the inability of the local board of education to tax Federal property and raise enough money to pay for military dependents. As West Point grew in the 1940's, and the number of high school students increased, again the local community was faced with the problem of providing an education for individuals whose families did not pay taxes. Recognizing their obligation to both the Academy and the town, in 1948 and 1949, the Department of Defense provided tuition payments for high school students from West Point. In 1950, a more or less long-term solution was established in the enactment of Public Law 81-874, the Impact Aid Act.

Although many school districts in the country face some of the same problems of the Highlands Falls-Fort Montgomery School District, there is a unique situation here that requires a special solution. Over 93 percent of the taxable land in the school district now belongs to West Point. The Highland Falls School District is the poorest in my new congressional district, and the true property value—the test of financial support from the community—is less than half of the average for New York State. Family income per student is 25 percent less than the State average.

The situation in Highland Falls is unlike that in Annapolis or Boulder. The population is far less, there is no tax base to support industry, and there is no tourism in the town or village. Historically, the town and village have depended on West Point to a greater extent than any other area of the country. West Point controls so much land in the area that the community's entire watershed is on Army property. Nowhere else does a military establishment have such a strong hold on the life of a community.

Since the expansion of West Point property in the 1940's, a serious problem has existed in the education of students of families at the Military Academy. For the past 30 years, impact aid has provided sufficient funds to educate secondary school students from West Point. But following the enactment of the Reconciliation Act last year, the inevitable consequence of the reduction in Federal aid has occurred.

Even though the Federal Government owns over 90 percent of the land, it is reducing its payment in lieu of taxes by 50 percent this fiscal year and by 10 percent in fiscal year 1983. Further, student aid under section 3 of the Impact Aid Act has been reduced by 40 percent in 1982 and another 20 percent in 1983. This has resulted in a shortfall of over $200,000 for the Highland Falls-Fort Montgomery School District.

The effect of these reductions has been so great that in August of this year, the local school board voted unanimously to bar secondary students from West Point from entering the local high school if impact aid equal to the current tuition for each student was not forthcoming for the current school year. This action was to have taken effect on October 5, 1982. The board further voted to charge tuition to West Point students to make up the difference between the shortfall in impact aid and current tuition needs. Now, a complete shutdown of the school system is being seriously considered.

This problem must be resolved. Staff at the high school has been reduced by 20 percent. The quality of education for both the local residents and the West Point children will suffer significantly if the school is closed. Over 100 tuition-paying students from the adjoining Garrison School District across the river from West Point are faced with increased costs to subsidize West Point students, and the school board has threatened to withdraw the Garrison students if the contribution from the Federal Government is not increased immediately.

The Department of Education has refused to provide the $200,000 needed to keep the school open. The view has been expressed that the Department of Defense should consider building its own high school, just as it was forced to build its own elementary school more than 60 years ago. Such a facility would be a complete folly, as the cost would far exceed the modest reimbursement necessary to keep the local high school open. I cannot believe that experts in education would suggest the establishment of a high school at West Point would be a healthy environment for Army students. The Federal Government has an obligation to pay for the land it took to expand West Point and a commitment to its military to give them the best possible living conditions. Cutting off access to the local community would not enhance the quality of life at West Point.

Impact aid is at its lowest level in 10 years in the Highland Falls-Fort Montgomery School District. Payments received for land taken by the Academy are below 1975 levels. The Academy is presently increasing its holdings by another 28 acres, further eroding any potential chances to increase the local tax base. Relations between West Point and the local community will seriously deteriorate if the situation is not improved soon.

I have been working with the Department of Education and the Department of Defense on this matter. The future growth of our Nation's Armed Forces depends on giving military personnel adequate training, housing, and education—both for themselves and their families. West Point is the Nation's oldest military academy. It was an integral part of the defense of colonial forces in the Upper Hudson River during the Revolutionary War. Nearby, for nearly 2 years, was the seat of our Government, and there the war came to an end. West Point has supplied uncounted heroes and leaders to this country.

In his speech to the graduating class at West Point in 1981, President Reagan recognized the importance of a self-reliant, confident military. The President noted that the quality of military life should exist above a bare subsistence level. The President has sought and received increases in pay for the Volunteer Army. He has constantly reiterated his commitment to building up our Armed Forces.

It is difficult to see how one can avoid the conclusion that the unintended effect of the reductions in impact aid has been to erode the self-image and respect of the families at West Point. Being faced with possible tuition charges or the barring of their children at the local high school due to the Federal Government's failure to meet its responsibilities is not the way to insure a continuing commitment to a military life by Army personnel stationed at West Point.

Mr. Chairman, I am not asking for additional funds for the impact aid program or for this Congress to go beyond the budget ceilings established earlier this year. I am requesting that the Appropriations Committee, in conjunction with the Departments of Education and Defense, take a close look at what money might be available as a line item in their budgets to avoid the drastic consequences of the closing of the high school in Highland Falls. Clearly, we can better afford to provide the $200,000 necessary to keep the school open than we can risk the effect on the local community and West Point families by further reducing aid, constructing a high school at West Point, or letting this problem go unresolved.

Mrs. SCHNEIDER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of H.R. 7205, the Labor-HHS-Education Appropriation Subcommittee's recommendation for fiscal year 1983. I commend the committee for offering a balanced and equitable approach to funding the Departments of Labor, Health and Human Services, Education, and related agencies.

In my mind, there is no doubt about the need to reduce the swollen deficit and place tighter reins on Federal spending. In reaching these objectives, however, we must act judiciously and with prudence so as to target programs that truly are excessive or inefficient.

While I respect attempts to scrutinize human service agencies for their cost efficiency, I do not support the efforts underway which allow the brunt of the reductions to be borne by programs that serve our critical human needs. Successful and effective human service programs should not be subject to walk an annual tightrope but rather should be recognized for their value and rewarded for their contribution to society as a whole.

In order to strengthen the social service block grant component of H.R. 7205, I intend to support an amendment offered by my colleague, Representative FOGLIETTA, that will increase the appropriation for vital programs such as elderly congregate and home-delivered meals to a level equal to the original authorization. Effective programs for the elderly most certainly deserve adequate Federal support.

We have all heard through letters or town meetings from constituents who feel that "Congress can't be trusted" or that "Congress is sneaky." This view, although unfortunate, will prevail until we put a stop to the practice of looking the other way when it comes time for our favorite boondoggles to be funded. Your constituents, as well as mine, may be in favor of a strong national defense, but you can bet that they shake their heads in disgust when billions of dollars are doled out for a controversial MX missile or B-1 bomber and yet funds become scarce for notable successes such as ACTION, senior employment and independent living centers for the handicapped.

Again, we must have scrutiny, but only if it is carried out in a fair and equitable manner. Reports that come to our attention such as last year's GAO study that pointed to where taxpayers could have saved $20 million had the Defense Department sent nonpriority messages by mail rather than teletype, lend credence to the argument that savings can be made if we actively look for them.

I am pleased by the committee's foresight in looking ahead to next year's budget. They have made savings when necessary and have availed necessary moneys for preventive health care programs, Head Start, student aid programs, and other education programs that are a sure investment in the Nation's future.

□ 1145

Mr. NATCHER. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. SHARP) having assumed the chair, Mr. FUQUA, Chairman of the Committee of the Whole House on the State of the

Union, reported that that Committee, having had under consideration the bill (H.R. 7205) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1983, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CONTE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 330, nays 70, not voting 33, as follows:

[Roll No. 402]

YEAS—330

Addabbo	Boner	Coughlin
Akaka	Bonior	Courter
Alexander	Bonker	Coyne, James
Anderson	Bouquard	Coyne, William
Andrews	Bowen	Crockett
Annunzio	Brinkley	D'Amours
Anthony	Brodhead	Daniel, Dan
Applegate	Brooks	Daschle
Aspin	Broomfield	Daub
Atkinson	Brown (CA)	Davis
Bafalis	Brown (OH)	Deckard
Bailey (PA)	Burton, John	Dellums
Barnard	Butler	DeNardis
Barnes	Byron	Derrick
Beard	Campbell	Dickinson
Bedell	Chappell	Dicks
Beilenson	Chisholm	Dingell
Benedict	Clausen	Dixon
Bennett	Clay	Donnelly
Bereuter	Clinger	Dorgan
Bethune	Coats	Dougherty
Bevill	Coelho	Dowdy
Biaggi	Coleman	Downey
Bingham	Collins (IL)	Duncan
Blilley	Conte	Dunn
Boggs	Conyers	Dwyer
Boland	Corcoran	Dymally
Dyson	Kastenmeier	Ratchford
Early	Kazen	Regula
Eckart	Kennelly	Reuss
Edgar	Kildee	Rinaldo
Edwards (AL)	Kogovsek	Ritter
Edwards (CA)	LaFalce	Roberts (KS)
Emerson	Lantos	Robinson
Emery	Leach	Rodino
English	Leath	Roe
Erdahl	LeBoutillier	Rogers
Erlenborn	Leland	Rose
Ertel	Lent	Rosenthal
Evans (DE)	Levitas	Rostenkowski
Evans (GA)	Livingston	Roth
Evans (IA)	Long (LA)	Roukema
Evans (IN)	Long (MD)	Roybal
Fary	Lowry (WA)	Rudd
Fascell	Lujan	Russo
Fazio	Luken	Sabo
Fenwick	Lundine	Santini
Ferraro	Madigan	Savage
Fiedler	Marlenee	Sawyer
Findley	Marriott	Scheuer
Fish	Martin (NY)	Schneider
Flippo	Martinez	Schroeder
Florio	Mattox	Schumer
Foglietta	Mavroules	Seiberling
Foley	Mazzoli	Shamansky
Ford (MI)	McClory	Shannon
Ford (TN)	McCurdy	Sharp
Frank	McDade	Simon
Frost	McEwen	Skeen
Fuqua	McGrath	Skelton
Garcia	McHugh	Smith (AL)
Gaydos	McKinney	Smith (IA)
Gejdenson	Mica	Smith (NE)
Gephardt	Michel	Smith (NJ)
Gibbons	Mikulski	Snowe
Gilman	Miller (CA)	Snyder
Gingrich	Mineta	Solarz
Ginn	Minish	St Germain
Glickman	Mitchell (MD)	Stangeland
Gonzalez	Mitchell (NY)	Stark
Goodling	Moakley	Stokes
Gore	Molinari	Stratton
Gradison	Mollohan	Studds
Gray	Montgomery	Swift
Green	Moore	Synar
Guarini	Morrison	Tauzin
Gunderson	Mottl	Traxler
Hall (IN)	Murphy	Trible
Hall (OH)	Murtha	Vander Jagt
Hall, Ralph	Myers	Vento
Hall, Sam	Napier	Volkmer
Hamilton	Natcher	Walgren
Hammerschmidt	Neal	Wampler
Harkin	Nelligan	Watkins
Hatcher	Nelson	Waxman
Hawkins	Nichols	Weaver
Heckler	Nowak	Weber (OH)
Hefner	O'Brien	Weiss
Heftel	Oakar	White
Hendon	Oberstar	Whitehurst
Hertel	Obey	Whitley
Hightower	Ottinger	Whittaker
Hiler	Oxley	Whitten
Hillis	Panetta	Williams (MT)
Holland	Parris	Wilson
Hollenbeck	Patman	Winn
Hopkins	Patterson	Wirth
Horton	Pease	Wolf
Hoyer	Pepper	Wolpe
Huckaby	Perkins	Wortley
Hughes	Petri	Wright
Hutto	Peyser	Wyden
Hyde	Pickle	Wylie
Ireland	Price	Yates
Jacobs	Pritchard	Yatron
Jeffords	Pursell	Young (AK)
Jenkins	Quillen	Young (FL)
Jones (NC)	Rahall	Young (MO)
Jones (OK)	Railsback	Zablocki
Jones (TN)	Rangel	Zeferetti

NAYS—70

Archer	Badham	Broyhill
Ashbrook	Bailey (MO)	Carman
AuCoin	Brown (CO)	Carney
Chappie	Hansen (ID)	Pashayan
Cheney	Hartnett	Paul
Collins (TX)	Holt	Roemer
Conable	Hubbard	Schulze
Craig	Hunter	Sensenbrenner
Crane, Daniel	Jeffries	Shaw
Crane, Philip	Johnston	Shelby
Daniel, R. W.	Kemp	Shumway
Dannemeyer	Kindness	Siljander
Derwinski	Kramer	Smith (OR)
Dornan	Lagomarsino	Solomon
Dreier	Latta	Spence
Edwards (OK)	Lewis	Staton
Fields	Loeffler	Stenholm
Forsythe	Lott	Stump
Frenzel	Lowery (CA)	Tauke
Gramm	Lungren	Taylor
Gregg	Martin (NC)	Thomas
Grisham	McCollum	Walker
Hagedorn	Miller (OH)	
Hance	Moorhead	

NOT VOTING—33

Albosta	Hansen (UT)	Porter
Blanchard	Howard	Rhodes
Bolling	Lee	Roberts (SD)
Breaux	Lehman	Rousselot
Burgener	Markey	Shuster
Burton, Phillip	Marks	Smith (PA)
de la Garza	Martin (IL)	Stanton
Fithian	Matsui	Udall
Fountain	McCloskey	Washington
Fowler	McDonald	Weber (MN)
Goldwater	Moffett	Williams (OH)

□ 1200

The Clerk announced the following pair:

On this vote:

Mr. Breaux for, with Mr. McDonald against.

Mr. ROBERT W. DANIEL, JR., and Mr. MOORHEAD changed their votes from "yea" to "nay."

Mr. GIBBONS changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION TO INSERT TABLE RELATING TO H.R. 7205, DEPARTMENT OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION AND RELATED AGENCIES APPROPRIATION ACT, 1983

Mr. NATCHER. Mr. Speaker, I ask unanimous consent to insert in the RECORD at this point a detailed table showing the amounts in H.R. 7205, just passed, for each of the programs funded in the bill, together with appropriate comparisons.

The SPEAKER pro tempore (Mr. MCCURDY). Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The table is as follows:

H.R. 7205—FISCAL YEAR 1983 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION AND RELATED AGENCIES

	Fiscal year 1982 (comparable)	Fiscal year 1983 budget	Fiscal year 1983 House bill	House bill compared with—	
				Fiscal year 1983 budget	Fiscal year 1982
TITLE I—DEPARTMENT OF LABOR					
EMPLOYMENT AND TRAINING ADMINISTRATION					
Program administration (unauthorized, not considered):					
Federal funds	($101,209,000)	($81,068,000)	Defer	Defer	Defer
Trust funds	(29,438,000)	(41,467,000)	Defer	Defer	Defer
Employment and training assistance (unauthorized, not considered) [1]	(3,031,844,000)	(2,387,000,000)	Defer	Defer	Defer
Community service employemnt for older Americans	277,100,000		$277,100,000	+$277,100,000	
FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES					
Payments; to ex-servicemen	125,000,000	20,000,000	20,000,000		−$105,000,000
Trade adjustment assistance	75,000,000	10,000,000	10,000,000		−65,000,000
Unemployment assistance and payments udner other Federal unemployment programs	106,000,000	5,000,000	5,000,000		−101,000,000
Total, FUBA	306,000,000	35,000,000	35,000,000		−271,000,000
GRANTS TO STATES FOR UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICES					
Unemployment insurance service:					
Federal funds	20,000,000				−20,000,000
Trust funds	(1,027,379,000)	(1,114,924,000)	(1,114,924,000)		(+87,545,000)
Employment services:					
Federal funds	19,272,000	22,200,000	22,200,000		+2,928,000
Trust funds	(657,751,000)	(637,200,000)	(712,200,000)	(+75,000,000)	(+54,449,000)
Subtotal, employment services	677,023,000	659,400,000	734,400,000	+75,000,000	+57,377,000
Contingency fund	(566,544,000)	(571,076,000)	(551,776,000)	(−19,300,000)	(−14,768,000)
Total, grants to States	2,290,946,000	2,345,400,000	2,401,100,000	+55,700,000	+110,154,000
Federal funds	39,272,000	22,200,000	22,200,000		−17,072,000
Trust funds	(2,251,674,000)	(2,323,200,000)	(2,378,900,000)	(+55,700,000)	(+127,226,000)
Advances to unemployment trust fund and other funds	4,318,000,000	4,572,000,000	3,798,000,000	−774,000,000	−520,000,000
Total, Employment and Training Administration	7,192,046,000	6,952,400,000	6,511,200,000	−441,200,000	−680,846,000
Federal funds	4,940,372,000	4,629,200,000	4,132,300,000	−496,900,000	−808,072,000
Trust funds	(2,251,674,000)	(2,323,200,000)	(2,378,900,000)	(+55,700,000)	(+127,226,000)
LABOR-MANAGEMENT SERVICES ADMINISTRATION					
SALARIES AND EXPENSES					
Labor-management relations policy and service	3,291,000	2,843,000	2,843,000		−448,000
Labor-management standards enforcement	18,071,000	22,432,000	18,281,000	−4,151,000	+210,000
Veterans Reemployment rights	2,523,000	2,609,000	2,609,000		+86,000
Pension and welfare benefit programs	26,712,000	27,813,000	27,813,000		+1,101,000
Executive direction, management and support	4,313,000	4,456,000	4,456,000		+143,000
Total, LMSA	54,910,000	60,153,000	56,002,000	−4,151,000	+1,092,000
EMPLOYMENT STANDARDS ADMINISTRATION					
SALARIES AND EXPENSES					
Improving and protecting wages	64,978,000	69,436,000	69,436,000		+4,458,000
Elimination of discrimination in employment	41,415,000	42,614,000	42,614,000		+1,199,000
Workers' compensation	39,413,000	44,651,000	44,651,000		+5,238,000
Trust funds	(360,000)	(347,000)	(347,000)		(−13,000)
Program development and administration	12,103,000	12,595,000	12,595,000		+492,000
Total, salaries and expenses	158,269,000	169,643,000	169,643,000		+11,374,000
Federal funds	157,909,000	169,296,000	169,296,000		+11,387,000
Trust funds	(360,000)	(347,000)	(347,000)		(−13,000)
SPECIAL BENEFITS					
Federal employees compensation act benefits	344,926,000	336,000,000	336,000,000		−8,926,000
Longshore and harbor workers' benefits	3,966,000	3,600,000	3,600,000		−366,000
Total, special benefits	348,892,000	339,600,000	339,600,000		−9,292,000
BLACK LUNG DISABILITY TRUST FUND					
Benefit payments and interest on advances	734,149,000	639,255,000	639,255,000		−94,894,000
Employment Standards Admin., salaries and expenses	23,752,000	21,192,000	21,192,000		−2,560,000
Departmental Management, salaries and expenses	10,793,000	13,097,000	13,097,000		+2,304,000
Total, black lung disability trust fund	768,694,000	673,544,000	673,544,000		−95,150,000
Portion funded from advances account	(264,000,000)	(62,000,000)	(72,000,000)	(+10,000,000)	(−192,000,000)
Treasury administrative costs (indefinite)	756,000	756,000	756,000		
Total, Employment Standards administration	1,276,611,000	1,183,543,000	1,183,543,000		−93,068,000
Federal funds	1,276,251,000	1,183,196,000	1,183,196,000		−93,055,000
Trust funds	(360,000)	(347,000)	(347,000)		(−13,000)
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION					
SALARIES AND EXPENSES					
Safety and health standards	6,802,000	6,841,000	6,841,000	0	+39,000
Enforcement:					
Federal Enforcement	76,005,000	76,004,000	76,004,000		−1,000
State programs	47,238,000	51,481,000	51,481,000		+4,243,000
Technical support	13,678,000	14,207,000	14,207,000	0	+529,000
Compliance assistance	36,812,000	42,693,000	42,693,000		+5,881,000
Safety and health statistics	8,912,000	8,998,000	8,998,000		+86,000
Executive direction and administration	6,018,000	6,032,000	6,032,000		+14,000
Total, OSHA	195,465,000	206,256,000	206,256,000	0	+10,791,000
MINE SAFETY AND HEALTH ADMINISTRATION					
SALARIES AND EXPENSES					
Enforcement:					
Coal	64,634,000	75,025,000	75,025,000		+10,391,000
Metal/nonmetal	27,366,000	29,331,000	29,331,000		+1,965,000
Standards development	1,045,000	1,126,000	1,126,000		+81,000
Assessments	4,545,000	2,705,000	2,705,000		−1,840,000
Technical support	23,237,000	18,932,000	18,932,000		−4,305,000

H.R. 7205—FISCAL YEAR 1983 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION AND RELATED AGENCIES—Continued

	Fiscal year 1982 (comparable)	Fiscal year 1983 budget	Fiscal year 1983 House bill	House bill compared with—	
				Fiscal year 1983 budget	Fiscal year 1982
Program administration	13,580,000	14,099,000	14,099,000		+519,000
Educational policy and development	14,906,000	12,610,000	12,610,000		−2,296,000
Total, Mine Safety and Health Administration	149,313,000	153,828,000	153,828,000		+4,515,000
BUREAU OF LABOR STATISTICS					
SALARIES AND EXPENSES					
Labor force statistics	38,602,000	39,967,000	41,467,000	+1,500,000	+2,865,000
Prices and cost of living	41,913,000	44,117,000	44,117,000		+2,204,000
Wages and industrial relations	13,705,000	14,819,000	15,819,000	+1,000,000	+2,114,000
Productivity and technology	3,630,000	4,036,000	4,036,000		+406,000
Economic growth and employment projections	2,529,000	2,758,000	2,758,000		+229,000
Executive direction and staff services	12,688,000	14,446,000	14,446,000		+1,758,000
Total, Bureau of Labor Statistics	113,067,000	120,143,000	122,643,000	+2,500,000	+9,576,000
DEPARTMENTAL MANAGEMENT					
SALARIES AND EXPENSES					
Executive direction	10,136,000	10,643,000	10,643,000		+507,000
Legal services	35,639,000	34,792,000	34,792,000		−847,000
Trust funds	(221,000)	(217,000)	(217,000)		(−4,000)
International labor affairs	3,292,000	3,346,000	3,346,000		+54,000
Administration and management	23,186,000	25,011,000	25,011,000		+1,825,000
Adjudication	8,274,000	9,920,000	9,920,000		+1,646,000
Promoting employment of the handicapped	1,901,000	1,973,000	1,973,000		+72,000
Women's Bureau	3,624,000	3,594,000	3,594,000		−30,000
Civil rights activities	2,563,000	2,426,000	2,426,000		−137,000
Veterans Employment Service	1,267,000				−1,267,000
Trust funds	(7,137,000)	(8,535,000)	(8,535,000)		(+1,398,000)
Total, salaries and expenses	97,240,000	100,457,000	100,457,000		+3,217,000
Federal Funds	89,882,000	91,705,000	91,705,000		+1,823,000
Trust funds	(7,358,000)	(8,752,000)	(8,752,000)		(+1,394,000)
Special foreign currency program	67,000	200,000	67,000	−133,000	
Total, departmental management	97,307,000	100,657,000	100,524,000	−133,000	+3,217,000
Federal funds	89,949,000	91,905,000	91,722,000	−133,000	+1,823,000
Trust funds	(7,358,000	(8,752,000)	(8,752,000)		(+1,394,000)
OFFICE OF THE INSPECTOR GENERAL					
SALARIES AND EXPENSES					
Office of the Inspector General	32,755,000	38,133,000	38,133,000		+5,378,000
Trust funds	(6,004,000)	(6,835,000)	(6,835,000)		(+831,000)
Total, Labor Department (excl. unauthorized)	9,117,478,000	8,821,948,000	8,378,964,000	−442,984,000	−738,514,000
Federal funds	6,852,082,000	6,482,814,000	5,984,130,000	−498,684,000	−867,952,000
Trust funds	(2,265,396,000)	(2,339,134,000)	(2,394,834,000)	(+55,700,000)	(+129,438,000)
TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES					
HEALTH SERVICES ADMINISTRATION					
HEALTH SERVICES					
Community health services:					
Primary care:					
Expanded block grant		416,760,000		−416,760,000	
Community health centers (existing block) [2]	281,217,000		281,217,000	+281,217,000	
Black lung services [2]	3,240,000		3,000,000	+3,000,000	−240,000
Migrant health [2]	38,208,000		38,000,000	+38,000,000	−208,000
Family planning [2]	124,176,000		124,000,000	+124,000,00	−176,000
Research and demonstration centers	1,920,000				−1,920,000
Subtotal, primary care	448,761,000	416,760,000	446,217,000	+29,457,000	−2,544,000
Maternal and child health block grant [3 4]	373,750,000	350,000,000	373,000,000	+23,000,000	−750,000
Program support	23,879,000	8,979,000	22,000,000	+13,021,000	−1,879,000
Subtotal, community health services	846,390,000	775,739,000	841,217,000	+65,478,000	−5,173,000
Health professions education and services:					
National Health Service Corps:					
NHSC scholarships	36,358,000	11,042,000	11,042,000		−25,316,000
NHSC field	95,078,000	103,438,000	93,000,000	−10,438,000	−2,078,000
Subtotal, NHSC	131,436,000	114,480,000	104,042,000	−10,438,000	−27,394,000
Health professions student assistance:					
Loans	5,640,000		2,000,000	+2,000,000	−3,640,000
Revolving fund (non-add)	(34,680,000)	(29,000,000)	(44,000,000)	(+15,000,000)	(+9,320,000)
Loan repayments	3,100,000				−3,100,000
Exceptional need scholarships	4,700,000		6,500,000	+6,500,000	+1,800,000
Nursing student assistance:					
Loans	6,720,000				−6,720,000
Revolving fund (non-add)	(19,080,000)	(14,500,000)	(18,800,000)	(+4,300,000)	(−280,000)
Loan repayments and cancellations	940,000				−940,000
Program support	17,411,000	16,764,000	16,764,000		−647,000
Subtotal, health professions educ. and serv	169,947,000	131,244,000	129,306,000	−1,938,000	−40,641,000
Patient care and spec. health services:					
PHS hospitals and clinics	145,685,000				−145,685,000
National Hansen's Disease Center (Carville)	15,947,000	17,876,000	17,876,000		+1,929,000
Federal employee health	985,000	974,000	974,000		−11,000
Payments to Hawaii	1,890,000	1,732,000	1,732,000		−158,000
Subtotal	164,507,000	20,582,000	20,582,000		−143,925,000
Buildings and facilities	4,700,000	3,292,000	3,292,000		−1,408,000
Program management, HSA	11,368,000	6,875,000	8,600,000	+1,725,000	−2,768,000
Total, health services	1,196,912,000	937,732,000	1,002,997,000	+65,265,000	−193,915,000
Loan limitations:					
Health professions graduate student loans	(200,000,000)	(80,000,000)	No limit	No limit	No limit
NHSC private practice loans		(1,000,000)	(1,000,000)		(+1,000,000)

H.R. 7205—FISCAL YEAR 1983 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION AND RELATED AGENCIES—Continued

	Fiscal year 1982 (comparable)	Fiscal year 1983 budget	Fiscal year 1983 House bill	House bill compared with—	
				Fiscal year 1983 budget	Fiscal year 1982
CENTERS FOR DISEASE CONTROL					
PREVENTIVE HEALTH SERVICES					
Preventive Health Services block grant [5]	81,600,000	82,600,000	82,600,000		+1,000,000
Risk reduction and health education		1,349,000	1,349,000		+1,349,000
Disease prevention program:					
Venereal diseases:					
Grants	35,419,000	40,000,000	40,000,000		+4,581,000
Direct operations	7,335,000	5,645,000	7,399,000	+1,754,000	+64,000
Immunization:					
Grants [6]	27,817,000	21,928,000	27,928,000	+6,000,000	+111,000
Direct operations	6,770,000	6,946,000	6,946,000		+176,000
Fluoridation (Federal activities)	1,100,000		1,100,000	+1,100,000	
Control of chronic conditions:					
Chronic diseases	20,649,000	19,503,000	19,503,000		−1,146,000
Environmental hazards	4,131,000	3,746,000	4,279,000	+533,000	+148,000
Tuberculosis grants			5,000,000	+5,000,000	+5,000,000
National Institute of Occupational Safety and Health:					
Research	53,486,000	48,436,000	48,436,000		−5,050,000
Training	5,760,000		5,760,000	+5,760,000	
Program support	2,816,000	2,085,000	2,085,000		−731,000
Subtotal, NIOSH	62,062,000	50,521,000	56,281,000	+5,760,000	−5,781,000
Epidemiology services	34,328,000	34,757,000	34,757,000		+429,000
Acquired immune deficiency syndrome	0	0	2,600,000	+2,600,000	+2,600,000
Technology development and application	27,782,000	28,142,000	28,142,000		+360,000
Buildings and facilities	1,440,000	2,050,000	2,050,000		+610,000
Program management	2,516,000	2,605,000	1,105,000	−1,500,000	−1,411,000
Total, Preventive Health Services	312,949,000	299,792,000	321,039,000	+21,247,000	+8,090,000
NATIONAL INSTITUTES OF HEALTH					
National Cancer Institute	943,029,000	955,449,000	981,441,000	+25,992,000	+38,412,000
National Heart, Lung, and Blood Institute	559,637,000	577,143,000	620,947,000	+43,804,000	+61,310,000
National Institute of Dental Research	71,983,000	74,462,000	80,304,000	+5,842,000	+8,321,000
National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases	368,191,000	379,422,000	408,508,000	+29,086,000	+40,317,000
National Institute of Neurological and Communicative Disorders and Stroke	265,901,000	274,505,000	294,361,000	+19,856,000	+28,460,000
National Institute of Allergy and Infectious Diseases	235,895,000	246,043,000	276,367,000	+30,324,000	+40,472,000
National Institute of General Medical Sciences	335,462,000	345,621,000	367,009,000	+21,388,000	+31,547,000
National Institute of Child Health and Human Development	226,309,000	233,575,000	251,561,000	+17,986,000	+25,252,000
National Eye Institute	127,374,000	131,550,000	138,763,000	+7,213,000	+11,389,000
National Institute of Environmental Health Sciences	154,258,000	157,448,000	162,695,000	+5,247,000	+8,437,000
National Institute on Aging	81,903,000	84,556,000	96,104,000	+11,548,000	+14,201,000
Research Resources	184,177,000	191,024,000	227,642,000	+36,618,000	+43,465,000
John E. Fogarty International Center	9,205,000	10,147,000	10,147,000		+942,000
Subtotal	3,563,324,000	3,660,945,000	3,915,849,000	+254,904,000	+352,525,000
National Library of Medicine	45,035,000	46,043,000	46,043,000		+1,008,000
Office of the Director	23,618,000	24,283,000	24,683,000	+400,000	+1,065,000
Buildings and facilities	9,898,000	17,500,000	17,500,000		+7,602,000
Total, National Institutes of Health	3,641,875,000	3,748,771,000	4,004,075,000	+255,304,000	+362,200,000
ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION					
ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH					
Alcohol, drug abuse, and mental health block grant [7]	432,000,000	432,000,000	432,000,000		
Mental health:					
Mental health services demonstrations, CSP	5,760,000		8,000,000	+8,000,000	+2,240,000
Research	141,153,000	149,962,000	152,300,000	+2,338,000	+11,147,000
Research training	15,360,000	14,410,000	14,410,000		−950,000
Clinical training	42,238,000		18,000,000	+18,000,000	−24,238,000
Program support	29,667,000	31,411,000	31,411,000		+1,744,000
Subtotal, mental health	234,178,000	195,783,000	224,121,000	+28,338,000	−10,057,000
Drug abuse:					
Research	41,026,000	46,356,000	47,374,000	+1,018,000	+6,348,000
Research training	816,000	891,000	891,000		+75,000
Clinical training	2,777,000				−2,777,000
Program support	12,727,000	13,087,000	13,087,000		+360,000
Subtotal, drug abuse	57,346,000	60,334,000	61,352,000	+1,018,000	+4,006,000
Alcoholism:					
Research	23,413,000	32,911,000	33,484,000	+573,000	+10,071,000
Research training	1,152,000	1,086,000	1,086,000		−66,000
Clinical training	934,000				−934,000
Program support	9,560,000	9,040,000	9,040,000		−520,000
Subtotal, alcoholism	35,059,000	43,037,000	43,610,000	+573,000	+8,551,000
Buildings and facilities	3,260,000	100,000	100,000		−3,160,000
Program management, ADAMHA [7]	6,194,000	6,923,000	6,923,000		+729,000
Total, alcohol, drug abuse, and mental health	786,037,000	738,177,000	768,106,000	+29,929,000	+69,000
St. Elizabeths Hospital	92,592,000	67,505,000	76,505,000	+9,000,000	−16,087,000
Total, ADAMHA	860,629,000	805,682,000	844,611,000	+38,929,000	−16,018,000
HEALTH RESOURCES ADMINISTRATION					
HEALTH RESOURCES					
Health planning and resources development:					
Health planning (unauthorized, not considered)	(64,432,000)	(2,083,00)	Defer	Defer	Defer
Health Facility financing, compliance and conversion:					
Health teaching facilities:					
Interest subsidies	4,128,000	2,800,000	1,500,000	−1,300,000	−2,628,000
New facility grants	42,790,000		5,000,000	+5,000,000	−37,790,000
Loan repayment			29,000,000	+29,000,000	+29,000,000
Program support	5,175,000	5,813,000	5,568,000	−245,000	+393,000
Health professions education:					
Institutional assistance:					
Financial distress	7,104,000	5,600,000	7,286,000	+1,686,000	+182,000
Startup/Conversion	768,000		800,000	+800,000	+32,000

H.R. 7205—FISCAL YEAR 1983 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION AND RELATED AGENCIES—Continued

	Fiscal year 1982 (comparable)	Fiscal year 1983 budget	Fiscal year 1983 House bill	House bill compared with—	
				Fiscal year 1983 budget	Fiscal year 1982
Public Health and Health Administration:					
Public health capitation	4,176,000		4,176,000	+4,176,000	
Public health traineeships	2,880,000	2,500,000	2,500,000		−380,000
Special projects		2,500,000		−2,500,000	
Health administration grants	1,440,000		1,440,000	+1,440,000	
Health administration traineeships	480,000		480,000	+480,000	
Primary care:					
Family medicine/General dentistry residencies and training [8]	26,880,000	22,500,000	26,880,000	+4,380,000	
Family medicine departments	7,680,000	7,048,000	7,680,000	+632,000	
General internal medicine and pediatrics	16,320,000	11,412,000	11,412,000		−4,908,000
Special manpower initiatives:					
Physician assistants	4,800,000	4,405,000	4,800,000	+395,000	
Area health education centers	18,240,000	13,920,000	17,920,000	+4,000,000	−320,000
Manpower supply and distrib. analysis	2,962,000	3,424,000	2,962,000	−462,000	
Disadvantaged Assistance	16,882,000	17,240,000	17,240,000		+358,000
Preventive medicine residences		1,000,000	1,000,000		+1,000,000
Special health professions initiative		4,405,000		−4,405,000	
Nursing programs:					
Institutional assistance:					
Advanced nurse training	11,520,000	1,145,000	11,520,000	+10,375,000	
Nurse practitioner	11,520,000	5,726,000	11,520,000	+5,794,000	
Special projects	6,175,000	5,667,000	5,667,000		−508,000
Student assistance:					
Traineeships	9,600,000		9,600,000	+9,600,000	
Fellowships	960,000		960,000	+960,000	
Research grants [9]	3,400,000		3,400,000	+3,400,000	
Subtotal, nursing programs	43,175,000	12,538,000	42,667,000	+30,129,000	−508,000
Health professions program support	12,614,000	9,023,000	13,381,000	+4,358,000	+767,000
HRA program management	9,510,000	8,200,000	9,881,000	+1,681,000	+371,000
Total, health resources	228,004,000	134,328,000	213,573,000	+79,245,000	−14,431,000
Medical facilities guarantee and loan fund	22,000,000	32,000,000	32,000,000		+10,000,000
Total, Health Resources Administration	250,004,000	166,328,000	245,573,000	+79,245,000	−4,431,000
OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH					
HEALTH SERVICES MANAGEMENT					
Research, statistics and technology:					
Health services research:					
Research	9,746,000	10,506,000	10,506,000		+760,000
Program support	6,454,000	5,615,000	5,615,000		−839,000
Subtotal	16,200,000	16,121,000	16,121,000		−79,000
Health statistics:					
Program operations	34,820,000	37,254,000	37,254,000		+2,434,000
Program support	3,368,000	3,040,000	3,040,000		−328,000
Subtotal	38,188,000	40,294,000	40,294,000		+2,106,000
Program management	812,000				−812,000
Health maintenance organizations:					
Management training and tech. assistance	480,000	480,000	480,000		
Program support	4,169,000	4,220,000	4,220,000		+51,000
Subtotal, health maintenance organizations	4,649,000	4,700,000	4,700,000		+51,000
Special health initiatives:					
Smoking and health	1,944,000	2,098,000	2,098,000		+154,000
Health promotion	1,170,000	2,326,000	1,326,000	−1,000,000	+156,000
Physical fitness and sports	1,009,000	1,100,000	1,100,000		+91,000
International health	555,000				−555,000
Adolescent family life	11,037,000	16,000,000	16,000,000		+4,963,000
Public Health Service management	18,678,000	17,037,000	17,037,000		−1,641,000
PHS termination costs, salaries and expenses	10,317,000	9,887,000		−9,887,000	−10,317,000
Total, salaries and expenses	104,559,000	109,563,000	98,676,000	−10,887,000	−5,883,000
HMO loan and loan guarantee fund:					
New capital contribution	17,500,000	2,500,000		−2,500,000	−17,500,000
(Limitation on direct loans)	(75,500,000)	(24,500,000)	(24,500,000)		(−51,000,000)
(Limitation on guaranteed loans)	(75,500,000)				(−75,500,000)
Retirement pay and medical benefits for comm. officers:					
Retirement payments	49,146,000	59,943,000	59,943,000		+10,797,000
Survivors benefits	3,105,000	1,862,000	1,862,000		−1,243,000
Dependent's medical care	53,921,000	17,056,000	17,056,000		−36,865,000
Contingency		6,572,000		−6,572,000	
Total, retirement pay and medical benefits	106,172,000	85,433,000	78,861,000	−6,572,000	−27,311,000
Total, Public Health Service	6,490,600,000	6,155,801,000	6,595,832,000	+404,031,000	+105,232,000
HEALTH CARE FINANCING ADMINISTRATION					
GRANTS TO STATES FOR MEDICAID					
Grants to States: [10]					
Benefits	16,684,843,000	17,006,162,000	17,006,162,000		+321,319,000
State and local administration	855,000,000	889,000,000	889,000,000		+34,000,000
Subtotal, appropriations	17,539,843,000	17,895,162,000	17,895,162,000		+355,319,000
Appropriation available from subsequent year	4,081,000,000				−4,081,000,000
Appropriation available in prior year	−4,093,355,000	−4,081,000,000	−4,082,000,000		+12,355,000
Total adjusted appropriation including borrowing	17,527,488,000	13,814,162,000	13,814,162,000		−3,713,326,000
Fiscal year 1984 advance appropriation		4,470,000,000	4,470,000,000		+4,470,000,000
PAYMENTS TO HEALTH CARE TRUST FUNDS					
Military service credits	207,000,000	207,000,000	207,000,000		
Supplemental medical insurance	13,323,000,000	14,480,000,000	14,480,000,000		+1,157,000,000
Hospital insurance for uninsured	808,000,000	889,000,000	889,000,000		+81,000,000
Total, payment to trust funds	14,338,000,000	15,576,000,000	15,576,000,000		+1,238,000,000

H.R. 7205—FISCAL YEAR 1983 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION AND RELATED AGENCIES—Continued

	Fiscal year 1982 (comparable)	Fiscal year 1983 budget	Fiscal year 1983 House bill	House bill compared with—	
				Fiscal year 1983 budget	Fiscal year 1982
PROGRAM MANAGEMENT					
Professional Standards Review Organizations:					
Hospital review [11]	(47,908,000)	(20,000,000)	Defer	Defer	Defer
Nonhospital activities:					
Trust funds	(24,409,000)	(5,000,000)	Defer	Defer	Defer
Total, PSRO program	(72,317,000)	(25,000,000)	Defer	Defer	Defer
Research, demonstration, and evaluation:					
Federal funds	11,500,000	20,000,000	20,000,000		+8,500,000
Trust funds	(18,000,000)	(10,000,000)	(10,000,000)		(−8,000,000)
Subtotal, research and evaluation	29,500,000	30,000,000	30,000,000		+500,000
Medicare contractors (trust funds) [12]	(711,000,000)	(704,000,000)	(755,000,000)	(+51,000,000)	(+44,000,000)
State certification:					
General program support, Federal funds	535,000	535,000	535,000		
Medicare certification, trust funds	(13,591,000)	(18,700,000)	(32,300,000)	(+13,600,000)	(+18,709,000)
Subtotal, State certification	14,126,000	19,235,000	32,835,000	+13,600,000	+18,709,000
End stage renal disease (ESRD) networks (trust funds)	(4,546,000)	(4,546,000)	(4,546,000)		
Federal administration:					
Federal funds	69,742,000	68,870,000	72,370,000	+3,500,000	+2,628,000
Trust funds	(115,287,000)	(113,325,000)	(122,825,000)	(+9,500,000)	(+7,538,000)
Subtotal, Federal administration	185,029,000	182,195,000	195,195,000	+13,000,000	+10,166,000
Total, Program management:					
Federal funds	81,777,000	89,405,000	92,905,000	+3,500,000	+11,128,000
Trust funds	(862,424,000)	(850,571,000)	(924,671,000)	(+74,100,000)	(+62,247,000)
Total, Health Care Financing Administration:					
Federal funds:					
Current year	31,947,265,000	29,479,567,000	29,483,067,000	+3,500,000	−2,464,198,000
1984 advance		4,470,000,000	4,470,000,000		+4,470,000,000
Trust funds	(862,424,000)	(850,571,000)	(924,671,000)	(+74,100,000)	(+62,247,000)
SOCIAL SECURITY ADMINISTRATION					
Payments to social security trust funds	844,698,000	855,213,000	855,213,000		+10,515,000
SPECIAL BENEFITS FOR DISABLED COAL MINERS					
Benefit payments	1,090,865,000	1,095,000,000	1,095,000,000		+4,135,000
Administration	7,900,000	7,000,000	7,000,000		−900,000
Total, black lung	1,098,765,000	1,102,000,000	1,102,000,000		+3,235,000
SUPPLEMENTAL SECURITY INCOME					
Federal benefit payments	6,943,529,000	8,013,133,000	7,665,387,000	−347,746,000	+721,858,000
Hold harmless payments	21,600,000	15,300,000	15,300,000		−6,300,000
Beneficiary services	3,116,000	4,616,000	4,616,000		+1,500,000
Federal fiscal liability	15,600,000	20,737,000	20,737,000		+5,137,000
Administration	788,543,000	865,709,000	865,709,000		+77,166,000
Total, supplemental security income	7,772,388,000	8,919,495,000	8,571,749,000	−347,746,000	+799,361,000
Appropriation available from subsequent year	28,133,000				−28,133,000
Appropriation available in prior year	−2,952,000	−28,133,000	−28,133,000		−25,181,000
Total adjusted appropriation including borrowing	7,797,569,000	8,891,362,000	8,543,616,000	−347,746,000	+746,047,000
ASSISTANCE PAYMENTS					
AFDC benefit payments	6,186,000,000	6,125,659,000	6,125,659,000		−60,341,000
State and local administrations [13]	824,194,000	766,000,000	766,000,000		−58,194,000
Admin. and training, territories	6,406,000	6,716,000	6,716,000		+310,000
Adult categories	13,350,000	13,350,000	13,350,000		
Emergency assistance [14]	55,181,000				−55,181,000
Repatriation	1,653,000	1,801,000	1,801,000		+148,000
Research and evaluation	1,470,000	2,950,000	2,950,000		+1,480,000
Federal administration	27,600,000	32,000,000	32,000,000		+4,400,000
Less fiscal year 1983 funds advanced in fiscal year 1982		−1,663,841,000	−1,663,841,000		−1,663,841,000
Total, assistance payments, appropriation	7,115,854,000	5,284,635,000	5,284,635,000		−1,831,219,000
Appropriation available from subsequent year	728,659,000				−728,659,000
Appropriation available in prior year	−1,938,059,000	−728,659,000	−728,659,000		+1,209,400,000
Advance appropriation 1st quarter fiscal year 1984		1,327,203,000	1,327,203,000		+1,327,203,000
CHILD SUPPORT ENFORCEMENT					
Program level	510,457,000	408,377,000	408,377,000		−102,080,000
Less fiscal year 1983 funds advanced in fiscal year 1982		−123,500,000	−123,500,000		−123,500,000
Current appropriation, child support enforcement	510,457,000	284,877,000	284,877,000		−225,580,000
Appropriation available from prior year	−101,624,000				+101,624,000
Advance appropriation, fiscal year 1984		112,500,000	112,500,000		+112,500,000
LOW INCOME HOME ENERGY ASSISTANCE					
Energy assistance block grant	1,872,000,000	1,297,800,000	1,847,800,000	+550,000,000	−24,200,000
Federal Administration	3,000,000	2,200,000	2,200,000		−800,000
Subtotal, energy assistance	1,875,000,000	1,300,000,000	1,850,000,000	+550,000,000	−25,000,000
OFFICE OF REFUGEE RESETTLEMENT					
Refugee and entrant assistance (unauth., not consid.)	(670,670,000)	(532,152,000)	Defer	Defer	Defer
Limitation on administrative expenses (trust funds)	(3,131,000,000)	(3,408,451,000)	(3,408,451,000)		(+277,451,000)
Total, Social Secutity Administration:					
Federal funds:					
Current year	17,931,319,000	16,989,428,000	17,191,682,000	+202,254,000	−739,637,000
Fiscal year 1984 advance		1,439,703,000	1,439,703,000		+1,439,703,000
Trust funds	(3,131,000,000)	(3,408,451,000)	(3,408,451,000)		(+277,451,000)
ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES					
Social services block grant (title XX) [15]	2,400,000,000	1,974,126,000	1,974,126,000		−425,874,000

H.R. 7205—FISCAL YEAR 1983 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION AND RELATED AGENCIES—Continued

	Fiscal year 1982 (comparable)	Fiscal year 1983 budget	Fiscal year 1983 House bill	House bill compared with—	
				Fiscal year 1983 budget	Fiscal year 1982
HUMAN DEVELOPMENT SERVICES					
Programs for children, youth, and families:					
Head start	911,700,000	912,000,000	912,000,000		+300,000
Child abuse:					
State grants	6,720,000	4,620,000	6,720,000	+2,100,000	
Discretionary activities	9,479,000		9,479,000	+9,479,000	
Runaway youth [16]	10,514,000	6,600,000	10,514,000	+3,914,000	
Subtotal, CY and families	938,413,000	923,220,000	938,713,000	+15,493,000	+300,000
Programs for the aging:					
State agency activities	21,673,000	19,928,000	21,673,000	+1,745,000	
Social services and centers	240,869,000	216,199,000	240,869,000	+24,670,000	
Grants to Indians	5,735,000	5,252,000	5,735,000	+483,000	
Nutrition:					
Congregate meals	286,749,000	258,133,000	319,074,000	+60,941,000	+32,325,000
Home-delivered meals	57,350,000	48,142,000	62,025,000	+13,883,000	+4,675,000
Research, training, and special projects	22,175,000	20,307,000	22,175,000	+1,868,000	
Federal Council on Aging	191,000	175,000	175,000		−16,000
National clearinghouse	1,721,000				−1,721,000
Subtotal	636,463,000	568,136,000	671,726,000	+133,590,000	+35,263,000
Developmental disabilities program:					
Basic grants and advocacy	49,133,000	31,977,000	49,133,000	+17,156,000	
Special projects	2,350,000		2,350,000	+2,350,000	
University affiliated facilities	7,200,000		7,200,000	+7,200,000	
Subtotal, developmental disabilities	58,683,000	31,977,000	58,683,000	+26,706,000	
Native American programs	28,000,000	23,282,000	28,000,000	+4,718,000	
Program direction	65,660,000	65,089,000	65,089,000		−571,000
Total, special populations	1,727,219,000	1,611,704,000	1,762,211,000	+150,507,000	+34,992,000
CHILD WELFARE SERVICES					
Entitlement activities:					
Foster care	300,000,000		233,251,000	+233,251,000	−66,749,000
Adoption assistance	5,000,000		5,000,000	+5,000,000	
Consolidated programs (requires legislation) [17]		250,000,000		−250,000,000	
Discretionary activities:					
Child welfare assistance	156,326,000		156,326,000	+156,326,000	
Adoption opportunities	1,912,000		1,912,000	+1,912,000	
Child welfare training	3,823,000		3,823,000	+3,823,000	
Child welfare research	10,608,000		10,608,000	+10,608,000	
Consolidated program (requires legislation) [17 18]		160,920,000		−160,920,000	
Total, child welfare block grant	477,669,000	410,920,000	410,920,000		−66,749,000
WORK INCENTIVES					
Grants to States	266,760,000		266,760,000	+266,760,000	
Program direction and evaluation	14,000,000		14,000,000	+14,000,000	
Total, work incentives	280,760,000		280,760,000	+280,760,000	
COMMUNITY SERVICES BLOCK GRANT					
Grants to States	348,000,000	100,000,000	348,000,000	+248,000,000	
CSA closeout	18,075,000	6,200,000	6,200,000		−11,875,000
Program support		6,300,000	6,300,000		+6,300,000
Subtotal, program level	366,075,000	112,500,000	360,500,000	+248,000,000	−5,575,000
Less, transfer from rural dev. loan fund		−9,000,000		+9,000,000	
Total, community services appropriation	366,075,000	103,500,000	360,500,000	+257,000,000	−5,575,000
Total, Asst. Sec. for Human Development	5,251,723,000	4,100,250,000	4,763,517,000	+663,267,000	−488,206,000
DEPARTMENTAL MANAGEMENT					
General departmental management:					
Federal funds	146,709,000	158,143,000	158,143,000		+11,434,000
Trust funds	(7,680,000)	(8,000,000)	(8,000,000)		(+320,000)
Total, Departmental management	154,389,000	166,143,000	166,143,000		+11,754,000
Office of the Inspector General:					
Federal activities:					
Federal funds	40,825,000	44,921,000	44,921,000		+4,096,000
Trust funds	(5,760,000)	(6,000,000)	(6,000,000)		(+240,000)
State medicaid fraud units	29,158,000	36,346,000	36,346,000		+7,188,000
Total, Inspector General:					
Federal funds	69,983,000	81,267,000	81,267,000		+11,284,000
Trust funds	(5,760,000)	(6,000,000)	(6,000,000)		(+240,000)
Appropriation available from subsequent year	10,000,000				−10,000,000
Appropriation available in prior year	−11,625,000	−10,000,000	−10,000,000		+1,625,000
Total adjusted appropriation including borrowing	68,358,000	71,267,000	71,267,000		+2,909,000
Fiscal year 1984 advance appropriation		10,000,000	10,000,000		+10,000,000
Office for Civil Rights:					
Federal funds	17,460,000	19,163,000	19,163,000		+1,703,000
Trust funds	(2,256,000)	(2,350,000)	(2,350,000)		(+94,000)
Total, civil rights	19,716,000	21,513,000	21,513,000		+1,797,000
Policy research	13,440,000	14,718,000	13,440,000	−1,278,000	
Total, Departmental management:					
Federal funds	245,967,000	273,291,000	272,013,000	−1,278,000	+26,046,000
Trust funds	(15,696,000)	(16,350,000)	(16,350,000)		(+654,000)
Total, Department of Health and Human Services, Federal funds:					
Current year	61,866,874,000	56,988,337,000	58,321,111,000	+1,332,774,000	−3,545,763,000
1984 advance		5,919,703,000	5,919,703,000		+5,919,703,000
Trust funds	(4,009,120,000)	(4,275,372,000)	(4,349,472,000)	(+74,100,000)	(+340,352,000)

H.R. 7205—FISCAL YEAR 1983 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION AND RELATED AGENCIES—Continued

	Fiscal year 1982 (comparable)	Fiscal year 1983 budget	Fiscal year 1983 House bill	House bill compared with—	
				Fiscal year 1983 budget	Fiscal year 1982
TITLE III—DEPARTMENT OF EDUCATION					
COMPENSATORY EDUCATION FOR THE DISADVANTAGED					
Grants for the disadvantaged (title I):					
Grants to local educational agencies	2,562,754,000	1,726,256,000	2,562,754,000	+836,498,000	
State agency programs:					
Migrants	255,744,000	167,012,000	255,744,000	+88,732,000	
Handicapped	146,520,000		146,520,000	+146,520,000	
Neglected and delinquent	32,616,000	21,886,000	32,616,000	+10,730,000	
State administration	30,575,000	22,100,000	30,575,000	+8,475,000	
Evaluation and studies	5,760,000	4,746,000	5,760,000	+1,014,000	
Total, title I	3,033,969,000	1,942,000,000	3,033,969,000	+1,091,969,000	
Migrant education:					
High school equivalency program	5,851,000		5,851,000	+5,851,000	
College assistance migrant program	1,160,000		1,160,000	+1,160,000	
Total, compensatory education programs	3,040,980,000	1,942,000,000	3,040,980,000	+1,098,980,000	
SPECIAL PROGRAMS					
Block grant:					
State activities	455,616,000	406,080,000	454,810,000	+48,730,000	−806,000
Secretary's discretionary fund:					
Inexpensive book distribution (including RIF)	5,850,000	5,372,000	5,850,000	+478,000	
Arts in education	2,025,000	1,860,000	2,025,000	+165,000	
Alcohol and drug abuse education	2,850,000	2,617,000	2,850,000	+233,000	
National diffusion network	10,000,000		10,700,000	+10,700,000	+700,000
Law related education	960,000		1,000,000	+1,000,000	+40,000
Discretionary projects	6,539,000	16,071,000	6,605,000	−9,466,000	+66,000
Evaluation		1,000,000		−1,000,000	
Subtotal, Secretary's discretionary fund	28,224,000	26,920,000	29,030,000	+2,110,000	+806,000
Subtotal, block grant	483,840,000	433,000,000	483,840,000	+50,840,000	
Training and advisory services (Civil Rights, Title IV)	24,000,000		24,000,000	+24,000,000	
Follow through	19,440,000		19,440,000	+19,440,000	
Territorial teacher training assistance	960,000		960,000	+960,000	
General assistance for the Virgin Islands	1,920,000		1,920,000	+1,920,000	
Ellender fellowships	960,000		3,000,000	+3,000,000	+2,040,000
Women's educational equity	5,760,000		5,760,000	+5,760,000	
Total, special programs	536,880,000	433,000,000	538,920,000	+105,920,000	+2,040,000
BILINGUAL EDUCATION					
Grants to school districts	79,222,000	60,524,000	83,622,000	+23,098,000	+4,400,000
Training grants	28,836,000	25,500,000	28,836,000	+3,336,000	
Support services	18,957,000	8,510,000	14,557,000	+6,047,000	−4,400,000
Bilingual desegregation grants	7,356,000		7,356,000	+7,356,000	
Bilingual vocational training	3,686,000	3,686,000	+3,686,000		
Total	138,057,000	94,534,000	138,057,000	+43,523,000	
SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS					
Maintenance and operations:					
Payments for "a" children	345,000,000	275,080,000	362,400,000	+87,320,000	+17,400,000
Payments for "b" children	72,600,000		72,600,000	+72,600,000	
Special provisions (section 2)	9,600,000	8,800,000	10,000,000	+1,200,000	+400,000
Disaster assistance	9,800,000		10,000,000	+10,000,000	+200,000
Subtotal	437,000,000	283,880,000	455,000,000	+171,120,000	+18,000,000
Construction	19,200,000	3,000,000	20,000,000	+17,000,000	+800,000
Total	456,200,000	286,880,000	475,000,000	+188,120,000	18,800,000
EDUCATION FOR THE HANDICAPPED [19]					
Education for the handicapped:					
Special education block grant		771,685,000		−771,685,000	
Special purpose funds		73,983,000		−73,983,000	
State assistance:					
State grant program	931,008,000		962,428,000	+962,428,000	+31,420,000
Preschool incentive grants	24,000,000		24,000,000	+24,000,000	
Deaf-blind centers	15,360,000		15,360,000	+15,360,000	
Special population programs:					
Severely handicapped projects	2,880,000		2,880,000	+2,880,000	
Early childhood education	16,800,000		16,800,000	+16,800,000	
Regional, vocational, adult and postsecondary programs	2,832,000		2,832,000	+2,832,000	
Innovation and development	10,800,000		12,000,000	+12,000,000	+1,200,000
Media and resource services:					
Media services and captioned films	11,520,000		14,000,000	+14,000,000	+2,480,000
Regional resource centers	2,880,000		2,880,000	+2,880,000	
Recruitment and information	720,000		720,000	+720,000	
Special education personnel development	49,300,000		49,300,000	+49,300,000	
Special studies	480,000		480,000	+480,000	
Total [20]	1,068,580,000	845,668,000	1,103,680,000	+258,012,000	+35,100,000
REHABILITATION SERVICES AND HANDICAPPED RESEARCH					
Rehabilitation services:					
Basic State grants	863,040,000	579,536,000	943,900,000	+364,364,000	+80,860,000
Special purpose funds		43,780,000		−43,780,000	
Service projects	23,894,000		26,094,000	+26,094,000	+2,200,000
Independent living	17,280,000		17,280,000	+17,280,000	
Training	19,200,000		19,200,000	+19,200,000	
Subtotal	923,414,000	623,316,000	1,006,474,000	+383,158,000	+83,060,000
National Institute for Handicapped Research	28,560,000	26,491,000	28,560,000	+2,069,000	
National Council on the Handicapped	197,000	193,000	193,000		−4,000
Total [20]	952,171,000	650,000,000	1,035,227,000	+385,227,000	+83,056,000

H.R. 7205—FISCAL YEAR 1983 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION AND RELATED AGENCIES—Continued

	Fiscal year 1982 (comparable)	Fiscal year 1983 budget	Fiscal year 1983 House bill	House bill compared with—	
				Fiscal year 1983 budget	Fiscal year 1982
VOCATIONAL AND ADULT EDUCATION					
Consolidated (block) grant		500,000,000		−500,000,000	
Vocational education:					
State grants and innovative programs:					
Basic grants	497,280,000		558,155,000	+558,155,000	+60,875,000
Program improvement and supportive services	89,590,000		109,590,000	+109,590,000	+20,000,000
Programs for national significance	8,178,000		8,178,000	+8,178,000	
Special programs for the disadvantaged	14,356,000		14,356,000	+14,356,000	
Consumer and homemaking education	29,133,000		34,133,000	+34,133,000	+5,000,000
State advisory councils	6,500,000		6,500,000	+6,500,000	
State planning	3,588,000		3,588,000	+3,588,000	
Subtotal, vocational education	648,625,000	500,000,000	734,500,000	+234,500,000	+85,875,000
Adult education	86,400,000		95,000,000	+95,000,000	+8,600,000
Total [1]	735,025,000	500,000,000	829,500,000	+329,500,000	+94,475,000
STUDENT FINANCIAL ASSISTANCE					
Pell grants	2,419,040,000	1,400,000,000	2,419,040,000	+1,019,040,000	
Campus based programs:					
Supplemental opportunity grants	355,400,000		355,400,000	+355,400,000	
Work study	528,000,000	397,500,000	528,000,000	+130,500,000	
Direct loans:					
Capital	178,560,000		178,560,000	+178,560,000	
Cancellations	14,800,000	2,500,000	14,800,000	+12,300,000	
Subtotal, direct loans	193,360,000	2,500,000	193,360,000	+190,860,000	
State student incentive grants	73,680,000		73,680,000	+73,680,000	
Total	3,569,480,000	1,800,000,000	3,569,480,000	+1,769,480,000	
GUARANTEED STUDENT LOANS					
Guaranteed student loan program:					
Insurance cost (net)		74,300,000		−74,300,000	
Reinsurance costs (net)		295,300,000		−295,300,000	
Interest subsidies (net)		2,008,231,000		−2,008,231,000	
Other subsidies		106,800,000		−106,800,000	
Undistributed	3,073,846,000		2,484,631,000	+2,484,631,000	−589,215,000
Total	3,073,846,000	2,484,631,000	2,484,631,000		−589,215,000
HIGHER AND CONTINUING EDUCATION					
Student services:					
Special programs for the disadvantaged	150,240,000	82,251,000	159,240,000	+76,989,000	+9,000,000
Veterans cost of instruction	4,800,000		4,800,000	+4,800,000	
Program development:					
Strengthening developing institutions	134,416,000	129,600,000	129,600,000		−4,816,000
Minority institutions science improvement	4,800,000	3,287,000	4,800,000	+1,513,000	
Cooperative education	14,400,000		14,400,000	+14,400,000	
International education and foreign language studies:					
Domestic programs	19,200,000	8,767,000	20,000,000	+11,233,000	+800,000
Overseas programs	4,800,000	1,547,000	5,000,000	+3,453,000	+200,000
Graduate support:					
Graduate/professional educational opportunities	8,640,000		10,000,000	+10,000,000	+1,360,000
Public service grants and fellowships	1,920,000		1,920,000	+1,920,000	
Construction:					
Interest subsidy grants	25,500,000	25,000,000	25,000,000		−500,000
Special endowments:					
General Chappee James Memorial, Tuskegee		9,000,000	9,000,000		+9,000,000
Carl Albert Center			3,000,000	+3,000,000	+3,000,000
Taft Institute			750,000	+750,000	+750,000
Law related education:					
Legal training for disadvantaged	960,000		1,000,000	+1,000,000	+40,000
Law school clinical experience	960,000		960,000	+960,000	
Fund for the Improvement of Postsecondary Education	11,520,000	11,900,000	11,520,000	−380,000	
Total	382,156,000	271,352,000	400,990,000	+129,638,000	+18,834,000
Higher education facilities loans and insurance	11,096,000	20,143,000	20,143,000		+9,047,000
EDUCATIONAL RESEARCH AND STATISTICS					
National Institute of Education	53,389,000	53,645,000	53,389,000	−256,000	
National Center for Educational Statistics	8,589,000	8,747,000	8,589,000	−158,000	
Total	61,978,000	62,392,000	61,978,000	−414,000	
EDUCATIONAL, RESEARCH, AND TRAINING ACTIVITIES OVERSEAS					
Grants to American institutions	960,000	516,000	516,000		−444,000
Total	960,000	516,000	516,000		−444,000
LIBRARIES AND LEARNING RESOURCES					
Public libraries:					
Services	60,000,000		60,000,000	+60,000,000	
Interlibrary cooperation	11,520,000		11,520,000	+11,520,000	
College library resources	1,920,000		1,920,000	+1,920,000	
Training and demonstrations	880,000		880,000	+880,000	
Research libraries	5,760,000		5,760,000	+5,760,000	
Total	80,080,000		80,080,000	+80,080,000	
SPECIAL INSTITUTIONS					
American Printing House for the Blind	5,000,000	4,924,000	5,000,000	+76,000	
National Technical Institute for the Deaf:					
Educational programs	23,300,000	26,297,000	26,300,000	+3,000	+3,000,000
Construction	3,000,000				−3,000,000
Total, National Technical Institute for the Deaf	26,300,000	26,297,000	26,300,000	+3,000	
Gallaudet College:					
College programs	32,310,000	33,910,000	33,910,000		+1,600,000

H.R. 7205—FISCAL YEAR 1983 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION AND RELATED AGENCIES—Continued

	Fiscal year 1982 (comparable)	Fiscal year 1983 budget	Fiscal year 1983 House bill	House bill compared with—	
				Fiscal year 1983 budget	Fiscal year 1982
Model Secondary School for the Deaf	11,700,000	11,700,000	11,700,000		
Kendall Demonstration Elementary School	6,390,000,000	6,390,000	6,390,000		
Construction	1,600,000				−1,600,000
Total	52,000,000	52,000,000	52,000,000		
Howard University:					
Academic program	109,594,000	123,094,000	123,094,000		+13,500,000
Howard University hospital	22,106,000	22,106,000	22,106,000		
Construction	13,500,000				−13,500,000
Total	145,200,000	145,200,000	145,200,000		
OFFICE FOR CIVIL RIGHTS, SALARIES AND EXPENSES					
Office for Civil Rights	45,038,000	44,868,000	44,868,000		−170,000
DEPARTMENTAL MANAGEMENT, SALARIES AND EXPENSES					
Program administration	222,850,000	217,900,000	217,900,000		−4,950,000
Advisory committees	1,750,000	1,750,000	1,750,000		
Program and management evaluation	2,350,000	2,350,000	2,350,000		
Subtotal, Federal funds	226,950,000	222,000,000	222,000,000		−4,950,000
Trust funds	(576,000)		(576,000)	(+576,000)	
OFFICE OF THE INSPECTOR GENERAL, SALARIES AND EXPENSES					
Office of the Inspector General	11,994,000	12,840,000	12,840,000		+846,000
Total, Department of Education	14,612,047,000	9,899,245,000	14,287,966,000	+4,388,721,000	−324,081,000
Federal funds	14,611,471,000	9,899,245,000	14,287,390,000	+4,388,145,000	−324,081,000
Trust funds	(576,000)		(576,000)	(+576,000)	
TITLE IV—RELATED AGENCIES					
Action (domestic programs):					
Volunteers in Service to America:					
VISTA operations	16,000,000	231,000	11,831,000	+11,600,000	−4,169,000
Service learning	1,757,000	1,830,000	1,757,000	−73,000	
Subtotal	17,757,000	2,061,000	13,588,000	+11,527,000	−4,169,000
Older Americans Volunteer programs:					
Foster Grandparents programs	46,079,000	48,400,000	48,400,000		+2,321,000
Senior Companion program	12,170,000	12,016,000	12,016,000		−154,000
Retired Senior Volunteer program	26,388,000	27,445,000	27,445,000		+1,057,000
Subtotal, Older Volunteers	84,637,000	87,861,000	87,861,000		+3,224,000
Citizen participation and volunteer demonstration programs	1,809,000	1,984,000	1,809,000	−175,000	
Program support	27,663,000	25,815,000	25,815,000		−1,848,000
Total, action	131,866,000	117,721,000	129,073,000	+11,352,000	−2,793,000
Corporation for Public Broadcasting:					
Fiscal year 1985 advance (current request) [2]	130,000,000	85,000,000	130,000,000	+45,000,000	
Federal Mediation and Conciliation Service	24,552,000	20,190,000	21,721,000	+1,531,000	−2,831,000
Federal Mine Safety and Health Review Commission	3,544,000	3,686,000	3,686,000		+142,000
National Commission on Libraries and Information Science	674,000		674,000	+674,000	
National Commission on Student Financial Assistance	960,000	345,000	345,000		−615,000
National Labor Relations Board	117,600,000	133,000,000	124,045,000	−8,955,000	+6,445,000
National Mediation Board	4,758,000	3,618,000	5,468,000	+1,850,000	+710,000
Occupational Safety and Health Review Commission	7,092,000	6,316,000	6,316,000		−776,000
President's Commission on Ethical Problems in Medicine	1,749,000				1,749,000
Railroad Retirement Board:					
Dual Benefits Payments Account	390,200,000	350,000,000	430,000,000	+80,000,000	+39,800,000
limitation on administration	(47,032,000)	(44,080,000)	(46,361,000)	(+2,281,000)	(−671,000)
Milwaukee Railroad restructuring, administration	240,000	250,000	250,000		+10,000
Soldier's and Airmen's Home (trust fund appropriation):					
Operation and maintenance	24,421,000	26,718,000	26,718,000		+2,297,000
Capital outlay	953,000				−953,000
Total, Related Agencies:					
Federal funds	838,609,000	746,844,000	878,296,000	+131,452,000	+39,687,000
Current year	708,609,000	661,844,000	748,296,000	+86,452,000	+39,687,000
Fiscal year 1984 advance	130,000,000	85,000,000	130,000,000	+45,000,000	
Trust funds	(47,032,000)	(44,080,000)	(46,361,000)	(+2,281,000)	(−671,000)
SUMMARY					
Title I—Department of Labor:					
Federal funds	6,852,082,000	6,482,814,000	5,984,130,000	−498,684,000	−867,952,000
Trust funds	(2,265,396,000)	(2,339,134,000)	(2,394,834,000)	(+55,700,000)	(+129,438,000)
Title II—Department of Health and Human Services:					
Federal funds	61,866,874,000	62,908,040,000	64,240,814,000	+1,332,774,000	+2,373,940,000
Current year	(61,866,874,000)	(56,988,337,000)	(58,321,111,000)	(1,332,774,000)	(3,545,763,000)
Fiscal year 1984 advance		(5,919,703,000)	(5,919,703,000)		(+5,919,703,000)
Trust funds	(4,009,120,000)	(4,275,372,000)	(4,349,472,000)	(+74,100,000)	(+340,352,000)
Title III—Department of Education:					
Federal funds	14,611,471,000	9,899,245,000	14,287,390,000	+4,388,145,000	−324,081,000
Trust funds	(576,000)		(576,000)	(+576,000)	
Title IV—Related Agencies:					
Federal funds	838,609,000	746,844,000	878,296,000	+131,452,000	+39,687,000
Trust funds	(47,032,000)	(44,080,000)	(46,361,000)	(+2,281,000)	(−671,000)
Total, all titles:					
Federal Funds	84,169,036,000	80,036,943,000	85,390,630,000	+5,353,687,000	+1,221,594,000
Current year	(84,039,036,000)	(74,032,240,000)	(79,340,927,000)	(+5,308,687,000)	(−4,698,109,000)
1984 advance		(5,919,703,000)	(5,919,703,000)		(+5,919,703,000)
1985 advance	(130,000,000)	(85,000,000)	(130,000,000)	(+45,000,000)	
Trust Funds	(6,322,124,000)	(6,658,586,000)	(6,791,243,000)	(+132,657,000)	(+469,119,000)
Unauthorized, not considered	(3,969,910,000)	(3,068,770,000)	Defer	Defer	Defer

[1] Fiscal year 1983 est. proposed for later transmittal.
[2] Budget proposes legislaton to merge these activities into the primary care block grant,
[3] 15 percent set aside for programs of national significance, hemophilia and genetic diseases.
[4] The budget proposed legislation to transfer the Women, Infants and Children program from the Department of Agriculture to the MCH block grant and included an addl. $650 million for this activity. This request has been considered under the fiscal year 1983 Ag. Appn. bill.

[5] $82.6 M for this activity and related admin. costs requested in the President's budget under a new "health block grant" account not approved by the committee.
[6] See Public Law 97–276.
[7] $433 M for this activity and related admin. costs originally requested under a new "health block grant" account not approved by the committee.
[8] See Public Law 97–276.
[9] See Public Law 97–276.
[10] Fund for State and local admin. proposed for transf. to new Combined Welfare Admin. Block Grant in fiscal year 1983 in President's budget not approved by the committee.
[11] Includes medicare and medicaid funds not directly appropriated, but made available for PSRO.
[12] Exlcudes $45 million made available in fiscal year 1983 by Public Law 97–248.
[13] Funds for State and local admin. requested in Combined Welfare Admin. Block grant in fiscal year 1983.
[14] Authority for this proposed to be repealed by the President, but retained by the Congress.
[15] Currently an entitlement for fiscal year 1983 of $2,450,000,000.
[16] See Public Law 97–276.
[17] Single consolidated req. of 380.1 M in budget req.
[18] Also included here is request of $30,800,000 requested in budget under "Human Resources Research and Demonstrations."
[19] Fiscal year 1983 est. proposed for later transmittal.
[20] Fiscal year 1983 est. orig. prop. under A/S for Human Dev., HHS.
[21] Fiscal year 1983 est. proposed for later transmittal.
[22] Fiscal year 1982 appropriation adv. in fiscal year 1980 was $172 million, fiscal year 1983 appropriation adv. in fiscal year 1981 was $137 million, fiscal year 1984 appropriation adv. in fiscal year 1982 is $130 million.

CLARIFICATION OF NIH CYSTIC FIBROSIS PROGRAM IN H.R. 7205

(Mr. SIMON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SIMON. Mr. Speaker, if I could have the attention of my colleague, the gentleman from Kentucky (Mr. NATCHER), my colleague from Kentucky moved so rapidly that we did not get a chance to have a colloquy in here.

I have been concerned that cystic fibrosis research might be cut back, according to rumors, and the Center might be closed.

The National Institutes for Health is our major funding source for basic biomedical research, and for the past few years Congress has sought to maintain this crucial scientific resource despite budgetary pressures. However, as the cost of research has risen, even the increasing funds which have been appropriated can only support a diminishing number of worthwhile projects. I recognize the difficulty of supporting the wide range of important proposals and the problem of allocating funds among proposals. However, in looking for possible cost savings, we must be extremely cautious in order to insure the continuation of long-term activities which have proven themselves by producing significant results. One such effort, which ought to be continued, is research on cystic fibrosis.

Cystic fibrosis is a devastating disease which impairs the exocrine glands, interfering with the proper functioning of the lungs, pancreas, and other organs. It is an inherited disease which is the No. 1 genetic killer of children and young adults in the United States.

Over the years, the National Institutes of Health has supported two types of activities related to cystic fibrosis. Their extramural program has provided funds to biomedical researchers at major universities and medical centers. NIH's second major activity has been the operation of a clinical training and research center in Bethesda, the Cystic Fibrosis Center. The Center has trained many of the top research scientists working on cystic fibrosis today, as well as serving as a focal point for cystic fibrosis research within NIH and around the country. I have learned of this important work through a friend of my family, Rachel Mann, who is an 18-year-old victim of cystic fibrosis.

The long-time Director of the Cystic Fibrosis Center, Dr. Paul di Sant'-Agnese, is retiring, and NIH has proposed that the Center be closed.

I am concerned about the closing of the Center for several reasons. First, we would be losing a valuable research and training resource in the fight against cystic fibrosis. Second, the loss of the Center may mean less coordination among the various cystic fibrosis efforts at NIH and nationally. Finally, closing the Center sends exactly the wrong signal to the medical community about the priority of research on cystic fibrosis.

Because of these concerns, I have introduced an amendment to the Health Research Extension Act requiring that the Center be maintained. I also met recently with Dr. Lester Salans, the Director of the National Institute of Arthritis, Diabetes, Digestive, and Kidney Diseases, which houses the Cystic Fibrosis Center. Dr. Salans assured me that cystic fibrosis research would receive an increased emphasis within NIH. He also told me that, in the near future, NIH would designate an individual to coordinate their cystic fibrosis research.

I am less than fully convinced that these commitments by Dr. Salans will make up for the loss of the Cystic Fibrosis Center if it should be abandoned. Is it the intent of the Appropriations Committee that the NIH support for research in cystic fibrosis move ahead, and that the work of the Cystic Fibrosis Center be maintained?

Mr. NATCHER. Mr. Speaker, will the gentleman yield to me at this point?

Mr. SIMON. I would be pleased to yield to my distinguished colleague.

Mr. NATCHER. Mr. Speaker, I would like to say to the gentleman from Illinois that we have had an opportunity on this side to examine the gentleman's statement and it is the intent of the committee that the NIH continue to support research in cystic fibrosis.

The committee report states explicitly, and I quote:

Cystic fibrosis remains this nation's most prevalent fatal genetic disease. Despite decades of research, half of those born with cystic fibrosis cannot expect to live past the age of 20. Therefore, the Committee urges NIH to maintain and strengthen its cystic fibrosis research programs.

The gentleman is correct. I have just read the language contained in our report and we want to commend the gentleman.

Mr. SIMON. May I ask my colleague further, is it also the intent of the committee that the Cystic Fibrosis Center be maintained at NIH?

Mr. NATCHER. I would say to the gentleman that that statement is correct.

Mr. SIMON. I thank my colleague and I appreciate his assistance.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. SIMON. I am pleased to yield to my colleague, the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, I commend my colleague, the gentleman from illinois, for his statement on the importance of further research and continued momentum in the efforts to make inroads in one of the most intractable diseases affecting children and young adults.

I am proud to say that I have long been a supporter of research in this area and am impressed with the progress that is being made in understanding this disease, which is the first vital step in finding a cure.

My good friend, the gentleman from Ohio (Mr. STOKES) and I sponsored language in this year's report stating that the committee looks forward to the establishment of a long-awaited Cystic Fibrosis Research Center included in the budget request for the National Institute of Arthritis, Diabetes, Digestive and Kidney Diseases.

□ 1215

While that will be a center for extramural research to be located in Ohio, it will make important contributions to this field. In addition, you may be sure that the committee and myself, in particular, will remain vigilant to assure the gentleman from Illinois that NIH continue its intramural research program as well.

I would be happy to work with the gentleman in connection with the hearings on the fiscal year 1984 budget request and to ask questions on the gentleman's behalf on this subject, and I commend my good friend from Illinois for his interest in this area.

Mr. SIMON. I commend my colleague from Massachusetts. This is the No. 1 generic killer of young people in this country. I appreciate the gentleman's leadership.

CLARIFICATION OF PAYMENTS IN LIEU OF TAXES TO STATES FOR INDIAN SCHOOLS

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARLENEE. Mr. Speaker, will the gentleman yield to me?

Mr. CONTE. I yield to the gentleman from Montana.

Mr. MARLENEE. Mr. Speaker, I would like to engage in a colloquy with the ranking member and chairman of the subcommittee.

Mr. Speaker, in the language of the continuing appropriations for HHS, it states that the payments in lieu of taxes to the States for Indian schools would be based on the actual payments received in 1981. Because of the method Montana used in computing their payments since 1964, several heavily impacted districts have been underpaid by about one-third.

Was it the intention of the ranking member and the chairman of the subcommittee that future payments would be based on low entitlement computations in effect in Montana in 1981, the base year on which all subsequent entitlements have been made, or would Montana have an opportunity to correct these computations and receive the rightful amount that they are entitled to?

Mr. CONTE. If there was a miscalculation, Mr. Speaker, then I am sure that the subcommittee would not want Montana to receive a shortfall and would want to rectify that error.

Mr. NATCHER. Mr. Speaker, will the gentleman yield to me?

Mr. CONTE. I would be happy to yield to the gentleman from Kentucky, the chairman of the subcommittee.

Mr. NATCHER. I thank the gentleman for yielding.

Mr. Speaker, I would concur with the statement made by the gentleman from Massachusetts (Mr. CONTE).

Mr. MARLENEE. Mr. Speaker, will the gentleman yield further to me?

Mr. CONTE. I yield to the gentleman from Montana.

Mr. MARLENEE. I thank the gentleman for yielding.

Mr. Speaker, I thank the gentleman for their colloquy and for their consideration.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Saunders, one of his secretaries.

APPOINTMENT OF CONFEREES ON H.R. 5447, FUTURES TRADING ACT OF 1982

Mr. JONES of Tennessee. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5447) to extend the Commodity Exchange Act, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee? The Chair hears none, and, without objection, appoints the following conferees: Messrs. DE LA GARZA, JONES of Tennessee, BEDELL, GLICKMAN, DASCHLE, DORGAN of North Dakota, HARKIN, ENGLISH, PANETTA, WAMPLER, JEFFORDS, COLEMAN, ROBERTS of Kansas, SKEEN, GUNDERSON, and EVANS of Iowa; and

For consideration of title I and section 237 of H.R. 5447 as passed by the House and section 3 of the Senate amendment: Messrs. DINGELL, WIRTH, and BROYHILL.

There was no objection.

PERSONAL EXPLANATION

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, although I cast my vote for the Treasury-Postal Service appropriations bill yesterday, I ask unanimous consent that some reservations that I made be entered into the permanent RECORD immediately prior to the final vote on that legislation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. WEISS. Mr. Speaker, although I am casting my vote for it, I would like to note that the Treasury-Postal appropriations bill that is before us today contains a familiar and unwarranted provision which restricts access to abortion for women covered by Federal employees' health insurance plans.

I strongly believe that this provision has no place in this or any other piece of legislation. It constitutes a fundamental violation of the right of Federal employees to use their earned compensation as they see fit. In addition, it compromises the right of labor organizations to offer comprehensive health plans to their members, the right of all individuals to complete medical care, and the right of a physician and patient to determine appropriate medical treatment.

Certainly, all of us would agree that health insurance benefits are earned by Federal employees and are tantamount to salaried compensation. Not only do employees earn the Federal Government's contribution to their health insurance, but they also directly contribute a hefty portion of the costs of these plans. Consequently, they should be guaranteed the freedom to personally choose a health plan that best accommodates their individual needs. Withdrawal of this guarantee sets a dangerous precedent that may well encourage further attempts to tamper with earned benefits and wages, and with other employees' rights.

This language also interferes with the right of Federal employees' labor organizations to offer comprehensive health plans to their members. It undermines these employees' right to a fair collective bargaining process and is simply an outright denial their contractual rights.

As is the case with other antiabortion provisions, this language jeopardizes the physical and mental health of thousands of women in this country. Legislation which prohibits all abortions except those necessary to save the life of the woman ignores the complexity of decisions that are made between doctor and patient for all kinds of medical care. To fully protect the welfare of these women, abortion must be included in the arena of medical options.

It is time that this Congress act in concert with the American public's overwhelming support of a woman's right to reproductive freedom. We cannot continue to allow the will of a vocal and well-funded minority to regulate the intimate aspects of all of our lives and to dictate moral and religious beliefs to the American public.

PROVIDING FOR CONSIDERATION OF H.R. 6995, FEDERAL TRADE COMMISSION AUTHORIZATION ACT OF 1982

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 587 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 587

Resolved, That upon the adoption of this resolution it shall be in order, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) and clause 2(l)(6) of rule XI to the contrary notwithstanding, to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6995) to amend the Federal Trade Commission Act to extend the authorization of appropriations contained in

such Act, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, and one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Rules, the bill shall be considered as having been read for amendment under the five-minute rule. No amendment to the bill shall be in order except the following amendments, which shall not be subject to amendment except as herein specified, and which shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole: (1) the amendments recommended by the Committee on Rules now printed in the bill, said amendments shall be considered en bloc and shall be debatable for not to exceed one hour, equally divided and controlled by the chairman and ranking minority member of the Committee on Rules; (2) the amendment printed in the Congressional Record of September 15, 1982, by, and if offered by, Representative Luken of Ohio or Representative Lee of New York, and said amendment shall be debatable for not to exceed one hour, equally divided and controlled by the proponent of the amendment and a Member opposed thereto, and said amendment shall be subject to a substitute printed in the Congressional Record of September 15, 1982, by Representative Broyhill of North Carolina, and if offered by Representative Broyhill or Representative Dingell of Michigan, said substitute shall be debatable for not to exceed one hour, equally divided and controlled by Representative Broyhill or Representative Dingell and a Member opposed thereto, and all points of order against said substitute for failure to comply with the provisions of clause 7, rule XVI are hereby waived; (3) the amendment printed in the Congressional Record of September 15, 1982, by, and if offered by Representative Broyhill of North Carolina, and said amendment shall be debatable for not to exceed thirty minutes, equally divided and controlled by Representative Broyhill and a Member opposed thereto; (4) the amendment printed in the Congressional Record of September 15, 1982, by, and if offered by, Representative Dannemeyer of California, and said amendment shall be debatable for not to exceed thirty minutes, equally divided and controlled by Representative Dannemeyer and a Member opposed thereto. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. MOAKLEY) is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Ohio (Mr. LATTA) and pending that, I yield myself such time as I may consume.

Mr. Speaker, the resolution provides for the consideratins of the bill (H.R. 6995). It is a rather complex rule but I am aware of no opposition to the procedure recommended by the Committee on Rules.

The bill is the authorization for the Federal Trade Commission.

Mr. Speaker, the rule provides 1 hour of general debate—divided in the customary manner—to each of the committees responsible for the bill: the Committee on Rules and the Committee on Energy and Commerce.

The rule makes in order four amendments. The Rules Committee amendments propose to strike the legislative veto provisions.

The amendment by the gentleman from California (Mr. DANNEMEYER) would reduce the level of authorizations in the bill.

The rule also provides for an amendment by the gentleman from Ohio (Mr. LUKEN) relating to an exemption for professions and an amendment to that amendment by the gentleman from North Carolina (Mr. BROYHILL), in the nature of a compromise.

Mr. Speaker, I would like to commend the gentleman from New Jersey (Mr. FLORIO) for his leadership on this matter and for the fairness with which he has attempted to reconcile the concerns over reauthorization of the Federal Trade Commission.

On the whole, his bill and the rule requested by the Committee on Energy and Commerce for handling the matter on the floor represent a reasonable approach toward resolving a difficult political matter.

Mr. Speaker, I am aware of no opposition to this procedure and reserve the balance of my time.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I agree with the gentleman's statements just made that there is not any opposition to the rule, but there certainly is some opposition to some of the amendments that will be proposed, and there is some opposition to the bill itself. It is a very important piece of legislation.

I would hope that the Members of the House would pay very close attention to the debate on this bill, especially when the amendmens are offered.

This rule makes in order four amendments and one substitute and I would like to mention them briefly so the Members will know how the debate is structured on these important issues regarding the Federal Trade Commission authorization bill.

The first is a series of Rules Committee amendments to be considered as one amendment. This amendment strikes the legislative veto section from the Energy and Commerce Committee bill.

The second amendment will be offered by Mr. LUKEN or Mr. LEE. The amendment places a moratorium on FTC regulation of the so-called learned professions.

Next, a substitute for the Luken-Lee amendment will be offered by Mr. BROYHILL or Mr. DINGELL. This substitute would permit the FTC to regulate the learned professions with certain restrictions. The amendment prohibits the FTC from acting where State laws deal with training, education, or experience requirements for licensing. It allows the FTC to act when the FTC can prove that a State law mandates or permits a business or commercial practice which is anticompetitive. Finally, it limits the FTC's antitrust authority where the State requires the practice and actively enforces that requirement. This substitute will be debated for 1 hour.

The third amendment is a technical amendment to be offered by Mr. BROYHILL to assure that the new definition of "unfairness" in the bill will not apply automatically to State "mini-FTC" laws that follow Federal standards of consumer protection. This amendment will be debated for 30 minutes.

The fourth amendment will be offered by Mr. DANNEMEYER. This amendment reduces the appropriations authorization for the FTC to the levels requested by the administration. Adoption of this amendment will reduce the FTC authorization by about $40 million over a 3-year period. This amendment will be debated for 30 minutes.

These are the four amendments and one substitute the rule makes in order and there is also one motion to recommit.

Mr. Speaker, this is an unusual rule but it does permit a number of important and controversial issues relating to the Federal Trade Commission to be debated fully and voted on by the Members.

Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Speaker, I appreciate the gentleman from Massachusetts yielding this time to me. I take this time for purposes of clarifying the procedure with respect to the legislative veto motion.

It is my understanding that the bill itself contains provisions providing for a legislative veto on rules issued by the Federal Trade Commission. That is in the bill as reported by the committee. And it is further my understanding that a motion to strike those provisions is now made in order by this rule.

My question is this: First of all, are any other amendments to the legislative veto provisions made in order? Can amendments be offered to those provisions?

Second, how will the time be allocated with respect to the debate on the

motion to strike the provisions as provided by the rule?

Mr. MOAKLEY. Mr. Speaker, will the gentleman yield to me?

Mr. LEVITAS. I yield to the gentleman from Massachusetts.

Mr. MOAKLEY. I thank the gentleman for yielding.

Mr. Speaker, in response to the gentleman from Georgia (Mr. LEVITAS), I would say it is a straight up-and-down vote. Each of the gentlemen, Mr. BOLLING and Mr. QUILLEN, have a half hour on the matter.

Mr. LEVITAS. I thank the gentleman from Massachusetts. I appreciate the answer.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

□ 1230

PROVIDING FOR CONSIDERATION OF H.R. 6329, DEPARTMENT OF ENERGY NATIONAL SECURITY AND MILITARY APPLICATIONS OF NUCLEAR AUTHORIZATION ACT OF 1983

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 567 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 567

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6329) to authorize appropriations for the Department of Energy for national security programs for fiscal year 1983, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services, the bill shall be read for amendment under the five-minute rule by titles instead of by sections. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from South Carolina (Mr. DERRICK) is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Ohio (Mr. LATTA), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 567 provides for the consideration of the bill, H.R. 6329, to authorize appropriations for the Department of Energy for national security programs for fiscal year 1983, and for other purposes.

The rule provides 1 hour of general debate to be equally divided and controlled by the chairman and the ranking minority member of the Committee on Armed Services. This is a straight open rule, allowing any germane amendment to be offered under the 5-minute rule. There are no waivers of points of order. The bill shall be read by titles instead of by sections. One motion to recommit is in order.

Mr. Speaker, H.R. 6329 authorizes $5.74 billion in fiscal year 1983 for DOE national security programs. The committee's recommendation is $8.3 million less than was requested by the President for operating expenses, construction projects, and capital equipment. Included in this recommendation is $109 million for uranium enrichment services for Navy nuclear fuel.

Mr. Speaker, this legislation authorizes funding for DOE programs that are vital for a strong national defense. The bill authorizes funds for such national security matters as research, development, and production in support of the armed services, the production of strategic and critical materials, and the military applications of nuclear energy. I urge my colleagues to adopt House Resolution 567 so that the House may proceed to consider this very important legislation.

Mr. LATTA. Mr. Speaker, the statements just made by the gentleman from South Carolina are absolutely correct, and I have no objection to any of them. I might say that the bill itself was strongly supported by both the majority and minority of the Armed Services Committee in testimony before the Rules Committee. As the gentleman from South Carolina has pointed out, it is an open rule. These are important security programs authorized by the bill.

Title I of H.R. 6329 deals with various national security programs, such as: Naval reactors development, weapons activities, verification and control technology, materials production, defense nuclear waste management, nuclear materials security and safeguards development, and security investigations. Title II outlines general provisions. The following chart summarizes the major provisions of this bill:

[Amounts in millions of dollars]

Item	Fiscal year 1983 request	Committee recommendation	Change from request
Operating expenses	4,524,040	4,524,040	0
Plant construction expenses	871,695	863,395	−8,300
Capital equipment	356,546	356,546	0
Total DOE defense activities	5,752,281	5,743,981	−8,300

I would urge expeditious adoption of the resolution so that we can proceed with the consideration of the legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to recommit was laid on the table.

LEGISLATION INTRODUCED REQUIRING $1 IN WAGES FOR EVERY $1 IN CORPORATE TAX RELIEF

(Mr. BENNETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BENNETT. Mr. Speaker, I just now have introduced a bill to provide that the provisions of the tax bill for corporations in 1981, as far as the future is concerned, shall be contingent upon them paying our $1 in wages for new jobs for every other $1 they accept and receive in tax relief. In other words they would get the whole tax relief first. At least one-half would have to be spent on new jobs. The reason I feel that is a logical thing to do is because that was the President's program to begin with. He wanted to have a tax bill which would encourage the production of jobs.

My bill will mandate production of jobs, which of course will be used by the corporations which would otherwise be spending all that tax money buying other corporations and doing other things which are not the objective of the general thrust of the President.

We are all deeply concerned with our national economy. The current recession has brought the unemployment rate to its highest level since Pearl Harbor. Over 10 million Americans are unemployed and over 5 million are working short hours due to the recession. It is estimated that 1.5 million workers have grown discouraged and have stopped looking for work altogether. One in every five workers, over 21 million Americans experienced some period of unemployment in 1981. The number is expected to top 30 million in fiscal 1982. Clearly, it is time we addressed this problem with more than legislative Band-Aids, and with an approach to funding which does not add to the horrendous deficits we now face.

The 1981 tax bill had a disastrous impact on our economy. The administration said it would reduce personal and corporate taxes to spur investment. What it did was to drastically reduce Government revenues and de-

crease capital investment. Estimates are that some $750 billion in tax revenues will be lost to the Government over the next 5 years. The business tax breaks provided in this act were supposed to turn the economy of this country around and provide more employment. In fact, just the opposite has occurred and unemployment has risen dramatically.

The 1981 tax cut gave corporations a great deal of aid. It allowed them to sell each other tax breaks, thus allowing General Electric, for example, a tax refund of almost $100 million. It allowed 33 corporations with U.S. earnings of over $100 million to pay no income taxes at all in 1981. And, it reduced the proporation of 1982 Federal revenues attributable to the corporate income tax to 18 percent, an all-time low. By comparison, in 1950, corporate income taxes were 40 percent of all Federal taxes.

Businesses under the 1981 Tax Act were to be encouraged into expansion by the liberal depreciation provisions provided for in the act—and the accelerated cost recovery system came into being. It was estimated at that time that businesses would be saved in excess of $142 billion over the next 5 years in Federal income tax expenditures. This amount was to be channeled into capital expenditures that, in turn, would help provide jobs. It did not work as planned.

Within a year of passage of this act, Congress changed the leasing provisions of the act and thus reduced the ACRS tax savings to business by $50 billion, However, this still left $92 billion in tax savings for businesses from the 1981 provisions.

I have just introduced a bill entitled the Employment Recovery Act that would require any business taking advantage of these tax savings to spend 50 cents on the employment of new workers for every dollar of tax savings. If all businesses originally estimated to take advantage of the accelerated cost recovery system do so, my legislation would guarantee that $46 billion would be invested in new employment over the next 5 years. If an average annual wage of $15,000 is assumed, over 3 million new jobs would be created by my bill.

I think it is clear that the President's economic recovery program for businesses has failed. Capital expenditure has not revived as expected, and new employment opportunities have not arisen as expected. My bill would change the President's program to guarantee that new jobs would be created by the tax breaks given to businesses by the overly generous Tax Act of 1981.

PLAN FOR DECREASING FILL RATE OF STRATEGIC PETROLEUM RESERVE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, without objection, referred to the Committee on Energy and Commerce:

(For message, see proceedings of the Senate of today, Wednesday, December 1, 1982.)

STRATEGIC PETROLEUM RESERVE DRAWDOWN PLAN, AMENDMENT NO. 4 AND DRAWDOWN AND DISTRIBUTION REPORT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Energy and Commerce:

(For message, see proceedings of the Senate of today, Wednesday, December 1, 1982.)

DEPARTMENT OF ENERGY NATIONAL SECURITY AND MILITARY APPLICATIONS OF NUCLEAR ENERGY AUTHORIZATION ACT OF 1983

Mr. STRATTON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6329) to authorize appropriations for the Department of Energy for national security programs for fiscal year 1983, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. STRATTON).

The notion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 6329, with Mr. BROWN of California in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from New York (Mr. STRATTON) will be recognized for 30 minutes, and the gentlewoman from Maryland (Mrs. HOLT) will be recognized for 30 minutes.

The Chair recognizes the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 6329 is the annual appropriation authorization bill for the defense programs of the Department of Energy. While the total authorizations contained in the bill are less than 3 percent of the total amount requested for defense in fiscal year 1983, and represent a much smaller percentage of the gross national product, this bill is of tremendous importance to our national defense and security.

Without the annual appropriations authorized by bills such as H.R. 6329, the strategic and tactical nuclear deterrent forces of the United States would soon disappear; important research work would be discontinued; the naval nuclear propulsion program would deteriorate and the radioactive wastes resulting from previous defense efforts could not continue to be effectively managed.

Since the advent of the cold war over 30 years ago, the nuclear arsenal of the United States has been the positive force that has prevented the domination of Western Europe, Japan, and other areas of vital interest to the United States by the Soviet Union and its Warsaw Pact allies. This deterrent is being adversely affected by the aggressiveness of an unparalleled Soviet military buildup. The Soviet Union continues, as it has for more than a decade, assembling ever larger nuclear and conventional military strength on land, in air and space, and on and under the sea. These forces are rapidly being reequipped with modern nuclear armed cruise and ballistic missiles.

The extent of these Soviet forces is many times greater than that necessary for Soviet defense. Let me point out that during the so-called periods of détente and the many years of U.S. restraint—the years we let our forces decay—the Soviets have continued their relentless buildup.

As former Secretary of Defense, Harold Brown said, "We build, they build. We show restraint, they build."

The Congress in the exercise of its constitutional responsibilities to provide for the common defense and to provide for and maintain the Armed Forces, plays a major role in maintaining the U.S. nuclear arsenal. The President's annually approved requirements for new, improved, and upgraded nuclear weapons requires that sufficient funding must be provided for research, development and testing; for the maintenance of weapons now in the inventory; for the production of strategic weapons materials; for the fabrication of new weapons; for the safe containment of wastes; and for the retirement of weapons and the reclamation of valuable materials. All of these activities, not just some of them, must be supported for the United States to maintain a credible, reliable and viable nuclear deterrent

force, one which is so recognized by potential adversaries. It is the Congress which must provide this support on an annual basis.

Another important factor must be understood. The increasingly stringent requirement for rigorous safety standards, security, and the control of weapons information. Additionally, nuclear weapons defense programs are not, per se, exempt from compliance with the rules and standards issued by the EPA, OSHA, and other regulatory agencies. Therefore, the Congress must either provide sufficient funding for compliance with those regulations or provide exemption, in part or in whole, from regulatory requirements.

Let me pursue this question of exemption a bit further. With ever greater frequency, Federal, State, and local governments are attempting to enforce increasingly restrictive environmental and transportation standards. While this Nation may survive without nuclear power, without nuclear medicine, and without luminous dial watches, I truly believe that in today's reality it may not survive without a modern nuclear deterrent force. Courts have interpreted laws such as the Clean Air Act in such a way that Federal defense nuclear facilities would be forced to shut down to comply, or the Congress could be required to appropriate billions, literally to keep a single, hypothetical radionuclide from crossing a nuclear weapons plant boundary. This is Hobson's choice we can live without.

H.R. 6329 represents only an annual increment of a national commitment to rebuild and modernize the defense of the United States. This rebuilding and modernization effort, supported by President Carter, and by President Reagan, follows more than a decade of U.S. restraint. As you know, Mr. Chairman, instead of building and deploying tactical and strategic nuclear weapons systems during the period of restraint, the United States placed heavy reliance upon arms control efforts.

During years of negotiation brought forth several agreements that were advertised as arms control measures, but which did absolutely nothing to control arms. The limited test ban treaty and the threshold test ban treaty were scrupulously observed by the United States and have, in some ways, impacted negatively on our weapons systems developments.

Former Secretary of Defense, Harold Brown, not exactly categorized as a hawk, told the Armed Services Committee on January 29, 1980, almost 3 years ago, and I quote from his testimony:

> In strategic nuclear forces, the Soviets have come from a position of substantial numerical inferiority 15 years ago to one of parity today—a potential for strategic advantage if we fail to respond with adequate programs of our own . . . Of greatest concern, they have deployed highly accurate MIRVed ICBMs with the potential for threatening the survivability of our ICBM silos.

Remember that this was 3 years ago. More than 2 years before that statement, I released a statement during the Christmas recess of 1977 to the same effect.

During his January 1980 testimony, Secretary Brown continued, and I quote:

> In addition to this buildup in their central strategic systems, the Soviets have modernized both their intermediate range and their tactical nuclear forces. The MIRVed and mobile SS-20 ballistic missile and the BACKFIRE bomber are the most disturbing components of this ambitious program.
>
> At the same time, Soviet ground and tactical air forces in Eastern Europe are excessively large and much too offensively oriented to serve primarily as a counterweight to NATO capabilities, let alone as occupation troops.

All of these gains were made while an arms control measure, SALT I, was in force and SALT was being negotiated. Would SALT II provide the necessary impact to cause a reduction in Soviet SS-18 forces, or the SS-17, SS-19, or SS-20 forces while our MX force exists only in the minds of our defense planners?

Since Secretary Brown's departure things have gotten worse.

Does the United States expect to achieve real arms reductions agreements with the Soviet Union? If so, we must enter the negotiation of such agreements under conditions that indicate a national will to achieve and maintain parity at whatever level is agreed to, and to insist on truly effective verification methods that are keyed to such agreements.

Arms control initiatives must be approached within the context of overall national security. Any negotiations are likely to be difficult and protracted. Interruption of our weapons modernization efforts, as some propose, pending the outcome of arms control negotiations would only worsen an unstable nuclear balance and remove incentives for Soviet agreement, let alone concessions.

Mr. Chairman, this fiscal year 1983 authorization bill for the Department of Energy's atomic energy defense program, along with the fiscal year 1983 Defense Authorization Act (Public Law 97-252) will continue the slow and tedious defense recovery effort recommended by Presidents Carter and Reagan.

At this point, I want to commend the ranking minority member of the Subcommittee on Procurement and Military Nuclear Systems for her efforts on H.R. 6329. The bill reported from the subcommittee was voted 13 to 0; true bipartisan support. It cleared the full Armed Services Committee by a vote of 41 to 2.

The committee recommends a total authorization of $5,743.9 million, $8.3 million below the budget request of $5,752.2 million.

Section 101 of the bill would authorize $4.524 billion, the amount requested. The plant and capital equipment request (section 102) was reduced by $8.3 million to $1.22 billion. The reduction was in the plant construction category.

The authorizations are in seven major categories. They are: Naval reactors development; weapons activities; verification and control technology; materials production; defense nuclear waste; nuclear materials security and safeguards development; and security investigations.

The committee recommended no change from the request for four of the categories—naval reactors development, verification and control technology, materials security and safeguards, and security investigations. I will now very briefly discuss the committee's recommended changes.

WEAPONS ACTIVITIES

Weapons activities consist primarily of R&D, testing, production and surveillance, and inertial confinement fusion. The committee recommended the $2.822 billion requested for authorization but proposed that $18 million be allocated from R&D, testing and production surveillance and added to inertial confinement fusion, bringing this program up to $140 million—last year's level of funding.

The Congress has invested more than $1.3 billion in the inertial confinement fusion program over the past 4 years. Three major national laboratory systems are now nearing completion. Until these systems are completed and experiments conducted, there will be no way to measure the contributions that this program can make to the nuclear weapons program or to our future energy supply. Only $122 million was requested for operating expenses for inertial confinement fusion program for fiscal year 1983. This amount is well below what is needed to maintain a reasonable level of effort. The committee recommends that the $18 million be added to the request to permit an orderly, but nevertheless slowed, continuation of the R&D programs on glass and gas lasers and particle beam fusion systems. The committee knows of no reason why these important ongoing programs should not be funded to completion so that full scale experiments can be started. The very minor reductions proposed for the R&D, testing and production surveillance subprograms will have no noticeable effect on projected activities.

With regard to plant construction funding for the weapons program, an overall reduction of $21.3 million was recommended. I would like to mention

two of the proposed reductions. Some $16 million was requested for a new production facility for a future warhead for the low altitude defense (LoAD) system. Since funding for the LoAD missile was deleted in the Fiscal Year 1983 Defense Authorization Act, the committee believes there is no need for a production facility at this time. The second item concerns the proposed development of a nuclear warhead for the Navy's SM-2 missile. The committee agreed that for certain combat conditions a nuclear warhead would be most effective but that the request was premature. An authorization of $1 million was recommended for the examination of several options possible for an SM-2 warhead.

The other recommended changes would add two new projects, add funds for five projects authorized in fiscal year 1982 but not budgeted in fiscal year 1983, and would reduce funding for two projects, in addition to SM-2. No changes were recommended to the capital equipment request.

MATERIALS PRODUCTION

The committee recommended the authorization of the requested $957.2 million for materials production. The committee also recommended that a total of $40 million be reallocated from reactor operations, materials processing and supporting services and be added to special isotope separation or SIS. SIS uses lasers to literally purify plutonium which was produced in the past in the weapons program but which is not suitable for weapons use. The SIS process could save billions of dollars if the process works as predicted.

The other item of special interest in the materials production program is the authorization of $109 million for enriched uranium necessary for the naval nuclear propulsion program. In the past, DOE supplied the material and the Navy reimbursed DOE after the fuel was used and then reprocessed. This year for the first time the OMB wanted those funds to be supplied by the defense authorization bill in the Navy's O&M account. The committee could find no justification for this action and recommended the funding be included with the DOE budget as in the past.

DEFENSE NUCLEAR WASTE MANAGEMENT

The committee recommended the authorization of the requested $288.9 million for waste management, with the proviso that a new category, byproducts beneficial uses, be authorized with $10 million in funding. Of that sum, $7 million is to be derived from amounts requested for the interim waste management program and $3 million from long-term waste management technology program. The byproducts beneficial uses program initially will use cesium from the reprocessing waste stream to irradiate sewage sludge and certain foodstuffs to kill bacteria, in one case, and fruit flies in another. Platinum-family metals are also obtainable from the waste processing stream for such use as catalytic converters in automobiles. Besides the economic value of the extracted materials, the waste processing stream is artificially aged by 750–1,000 years and can be more easily handled in interim storage or final disposition.

Mr. Chairman, there are nine general provisions contained in title II of the bill. These are administrative, or housekeeping, provisions requested by the administration to cover: First, reprograming; second, limits on general plant projects; third, limits on construction projects; fourth, fund transfer authority; fifth, authority for construction design; sixth, authority for emergency construction design; seventh, funds available for all national security programs of DOE; eighth, adjustments for pay increases; and ninth, availability of funds.

That completes my general explanation of the bill, Mr. Chairman. In closing, I believe that the bill, as reported by the committee, is an improvement over the request, since the committee's actions reflect the developments that have occurred during many months since the budget was developed. The several committee initiatives will continue important research work, refurbish or replace deteriorating facilities, and move several research programs into a demonstration phase.

□ 1245

Mrs. HOLT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to commend my subcommittee chairman, Mr. STRATTON, for his leadership in the development of H.R. 6329, and I associate myself with his remarks. As Chairman STRATTON stated, this is a bipartisan bill; it is of much greater importance than the amount of authorizations it carries might indicate.

I also want to commend the members of the Subcommittee on Procurement and Military Nuclear Systems for their faithful attendance and many contributions during the work-up of H.R. 6329. I believe that the bill represents a considerable improvement over the request.

Mr. Chairman, while I commend the Reagan administration for the general thrust of the budget request for DOE defense programs, I agree that there were a few discrepancies. This is particularly true with respect to the inertial confinement fusion research program. I have recently been to all three of the nuclear weapons research laboratories—at Sandia and Los Alamos in New Mexico, and at Livermore, Calif. The inertial fusion research at these laboratories is most impressive, and I believe that it would be the shame of modern times to fail to fund these research efforts adequately. I support the reallocation of $18 million above the request for this program. This addition will do little more than allow the ICF program to say even with inflation. But it will shorten the time until we can hope to see truly useful experiments underway at the laboratories.

As Chairman STRATTON has pointed out, it is this bill that provides the "teeth" for the "tail" contained in the DOD authorization bill. Without the authorization carried by this bill, the MX, Cruise missile, Trident, and other strategic and tactical weapons requested by both Presidents Reagan and Carter would be useless.

Another committee initiative, Mr. Chairman, would encourage the Department of Energy to look into the development of ways to beneficially use radioactive materials that are now classified as wastes. I am sure that we all remember the days when useful products such as sawdust, metal filings, and even used oil, were thrown away as waste products. This is no longer the case.

Useful products are contained in so-called radioactive wastes that can contribute to the economy and welfare. Sewage sludge can be rendered harmless. Fruits and vegetables, meats and other products, can be preserved against insects and bacteria. This bill will make a beginning on these programs while providing the potential of hundreds of millions in savings on the treatment and disposal of defense nuclear wastes.

This year the committee also recommends an increased authorization for the special isotopes separation program to advance the experimental programs at Los Alamos and Lawrence Livermore National Laboratories. Both programs are promising. While the specifics of the special isotopes separation program are classified, I will state that the committee believes that these programs have the potential to save billions of dollars over the years.

In my opinion, Mr. Chairman, H.R. 6329 was carefully drafted to provide appropriate authorization and administrative authority to the Department of Energy to utilize most effectively the $5.7 billion recommended for authorization.

I join the chairman in his recommendation for the passage of this bill without amendment.

Mr. Chairman, I have no requests for time, and I yield back the balance of my time.

Mr. STRATTON. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the bill by titles.

The Clerk read as follows:

H.R. 6329

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1983".

TITLE I—NATIONAL SECURITY PROGRAMS

OPERATING EXPENSES

SEC. 101. Funds are authorized to be appropriated to the Department of Energy for fiscal year 1983 for operating expenses incurred in carrying out national security programs (including scientific research and development in support of the Armed Forces, strategic and critical materials necessary for the common defense, and military applications of nuclear energy and related management and support activities) as follows:

(1) For naval reactors development program, $331,760,000 including $9,660,000 for program management.

(2) For weapons activities, $2,822,091,000 to be allocated as follows:

(A) For research and development, $644,600,000.

(B) For weapons testing, $420,400,000.

(C) For the defense inertial confinement fusion program $140,000,000, of which—

(i) $75,100,000 shall be used for glass laser experiments;

(ii) $41,800,000 shall be used for gas laser experiments;

(iii) $20,000,000 shall be used for pulsed power experiments; and

(iv) $3,100,000 shall be used for supporting research and experiments, except that none of such funds may be used for the research, development, or demonstration of the use of heavy ion devices as drivers for defense inertial confinement fusion experiments and defense inertial confinement fusion systems.

(D) For production and surveillance, $1,565,800,000.

(E) For weapons program management, $51,291,000.

(3) For verification and control technology, $52,400,000 including $1,800,000 for program management.

(4) For defense nuclear materials production, $957,200,000, to be allocated as follows:

(A) For uranium enriching, $109,000,000.

(B) For production reactor operations, $345,460,000.

(C) For processing of defense nuclear materials, $210,600,000.

(D) For special isotope separation research, $63,000,000.

(E) For supporting services, $227,000,000.

(F) For program management, $2,100,000.

(5) For defense nuclear waste, $288,929,000, to be allocated as follows:

(A) For interim waste management, $190,313,000.

(B) For long term waste management technology, $53,861,000.

(C) For terminal waste storage, $14,000,000.

(D) For byproducts beneficial uses, $10,000,000.

(E) For decontamination and decommissioning, $12,655,000.

(F) For transportation research and development, $6,100,000.

(G) For program management, $2,000,000.

(6) For nuclear materials security and safeguards technology development program (defense programs), $43,160,000, including $5,850,000 for program management.

(7) For security investigations, $28,500,000.

PLANT AND CAPITAL EQUIPMENT

SEC. 102. Funds are authorized to be appropriated to the Department of Energy for fiscal year 1983 for plant and capital equipment (including planning, construction, acquisition, and modification of facilities, land acquisition related thereto, and acquisition and fabrication of capital equipment not related to construction) necessary for national security programs as follows:

(1) For naval reactors development:

Project 83-N-101, general plant projects, various locations, $1,500,000.

Project 83-N-102, additions to the radioactive materials laboratory, Knolls Atomic Power Laboratory, Schenectady, New York, $1,500,000.

Project 82-N-111, Materials Facility, Savannah River, South Carolina, $40,000,000, for a total project authorization of $55,000,000.

Project 83-D-101, general plant projects, various locations, $15,800,000.

Project 83-D-122, Los Alamos Airport improvement, Los Alamos National Laboratory, New Mexico, $3,100,000.

Project 83-D-123, general plant projects, various locations, $16,300,000.

Project 83-D-124, standard missile-2 (SM-2) warhead production facilities, various locations, $1,000,000.

Project 83-D-199, buffer land acquisition, various locations, $3,000,000.

Project 82-D-106, weapons assembly facilities, Pantex Plant, Amarillo, Texas, $16,500,000 for a total project authorization of $40,000,000.

Project 82-D-107, utilities and equipment restoration, replacement, and upgrade, phase III, various locations, $151,800,000, for a total project authorization of $239,300,000.

Project 82-D-108, nuclear weapons stockpile improvement, various locations, $15,000,000, for a total project authorization of $30,000,000.

Project 82-D-109, 155-millimeter artillery-fired atomic projectile (AFAP) production facilities, various locations, $30,000,000, for a total project authorization of $65,000,000.

Project 82-D-110, exhaust plenum modifications, Rocky Flats Plant, Colorado, $500,000.

Project 82-D-111, interactive graphics system, various locations, $12,000,000, for a total project authorization of $21,000,000.

Project 82-D-144, simulation technology laboratory, Sandia National Laboratories, New Mexico (AE only), $10,000,000.

Project 82-D-146, weapons production and production support facilities, various locations, $35,000,000, for a total project authorization of $43,000,000.

Project 82-D-150, weapons material research and development facility, Lawrence Livermore National Laboratory, California, $10,000,000.

Project 82-D-152, new detonator facility, Los Alamos National Laboratory, New Mexico, $9,100,000.

Project 82-D-153, tritium facility, Los Alamos National Laboratory, New Mexico, $2,600,000.

Project 81-D-115, MX warhead production facilities, various locations, $55,000,000, for a total project authorization of $95,000,000.

Project 81-D-133, earthquake damage restoration, Lawrence Livermore National Laboratory, Livermore, California, $1,500,000, for a total project authorization of $5,500,000.

Project 81-D-134, earthquake damage restoration, Sandia National Laboratories, Livermore, California, $1,700,000, for a total project authorization of $3,700,000.

Project 79-7-c, proton storage ring, Los Alamos National Laboratory, Los Alamos, New Mexico $2,800,000, for a total project authorization of $21,800,000.

Project 78-17-d, steam plant improvements, Y-12 Plant, Oak Ridge, Tennessee, $1,500,000, for a total project authorization of $27,000,000. (3) For materials production:

Project 83-D-135, general plant projects, various locations, $26,000,000.

Project 83-D-136, plant engineering and design, various locations, $2,000,000.

Project 83-D-138, PUREX canyon and dissolver filter systems improvements, Richland, Washington, $4,250,000.

Project 83-D-142, fuel dissolver off-gas transfer and treatment system, Idaho Fuels Processing Facility, Idaho National Engineering Laboratory, Idaho, $7,600,000.

Project 83-D-146, water pollution control, Feed Materials Production Facility, Fernald, Ohio, $2,500,000.

Project 83-D-147, pollution discharge elimination, Savannah River, South Carolina, $1,000,000.

Project 83-D-148, nonradioactive hazardous waste management, Savannah River, South Carolina, $1,000,000.

Project 83-D-180, facility storage modifications, various locations, $16,300,000.

Project 82-D-124, restoration of production capabilities, phases II and III, various locations, $48,500,000 for a total project authorization of $174,500,000.

Project 82-D-126, reactor safety and reliability, various locations, $18,700,000, for a total project authorization of $61,600,000.

Project 82-D-136, fuel processing facilities upgrade, Idaho Fuels Processing Facility, Idaho National Engineering Laboratory, Idaho, $6,000,000, for a total project authorization of $46,000,000.

Project 82-D-201, special plutonium recovery facilities, F-chemical separations area, Savannah River, South Carolina, $62,000,000, for a total project authorization of $64,000,000.

Project 81-D-142, steam transfer header, Savannah River, South Carolina, $10,400,000, for a total project authorization of $18,400,000.

Project 81-D-143, L-reactor upgrade, Savannah River, South Carolina, $19,000,000, for a total project authorization of $134,000,000.

(4) For defense nuclear waste:

Project 83-D-156, general plant projects, interim waste operations, various locations, $19,145,000.

Project 83-D-157, additional radioactive waste storage facilities, Richland, Washington, $19,000,000.

Project 83-D-159, general plant projects, long-term waste management technology, Savannah River, South Carolina, $500,000.

Project 82-BU-1, byproducts beneficial uses demonstration plants, various locations, $20,000,000.

Project 81-T-104, radioactive waste facilities improvements, Oak Ridge National Laboratory, Tennessee, $1,000,000, for a total project authorization of $21,000,000.

Project 81-T-105, defense waste processing facility, Savannah River, South Carolina, $30,000,000, for a total project authorization of $60,000,000.

Project 77-13-f, waste isolation pilot plant, Delaware Basin, Southeast, New Mexico, $110,800,000, for a total project authorization of $268,400,000.

(5) For nuclear materials security and safeguards development:

Project 83-D-175, general plant project, New Brunswick Laboratory, $500,000.

(6) For capital equipment not related to construction—

(A) for naval reactors development, $11,000,000;

(B) for weapons activities, $201,000,000;

(C) for verification and control technology, $1,500,000;

(D) for materials production, $107,700,000;

(E) for defense nuclear waste, $31,646,000; and

(F) for nuclear materials security and safeguards development, $3,700,000.

Mr. STRATTON (during the reading). Mr. Chairman, I ask unanimous consent that title I be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment.

Mr. STRATTON. Mr. Chairman, I ask unanimous consent that the committee amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The committee amendments are as follows:

Committee amendments: Page 4, line 5, strike out "227,000,000" and insert in lieu thereof "$277,040,000".

Page 7, line 2, strike out "500,000." and insert in lieu thereof "$500,000", for a total project authorization of "$12,500,000.".

Page 7, line 10 strike out "(AE only)".

The CHAIRMAN. The question is on the committee amendments.

The committee amendments were agreed to.

The CHAIRMAN. Are there any other amendments to title I?

If not, the Clerk will report the next title.

The Clerk read as follows:

TITLE II—GENERAL PROVISIONS

REPROGRAMING

SEC. 201. (a) Except as otherwise provided in this Act—

(1) no amount appropriated pursuant to this Act may be used for any program in excess of 105 per centum of the amount authorized for that program by this Act or $10,000,000 more than the amount authorized for that program by this Act, whichever is the lesser, and

(2) no amount appropriated pursuant to this Act may be used for any program which has not been presented to, or requested of, the Congress,

unless a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after receipt by the appropriate committees of Congress of notice from the Secretary of Energy (hereinafter in this title referred to as the "Secretary") containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or unless each such committee before the expiration of such period has transmitted to the Secretary written notice to the effect that such committee has no objection to the proposed action.

(b) In no event may the total amount of funds obligated pursuant to this Act exceed the total amount authorized to be appropriated by this Act.

LIMITS ON GENERAL PLANT PROJECTS

SEC. 202. (a) The Secretary may carry out any construction project under the general plant projects provisions authorized by this Act if the total estimated costs of the construction project does not exceed $1,000,000.

(b) If at any time during the construction of any general plant project authorized by this Act, the estimated cost of the project is revised because of unforeseen costs variations and the revised cost of the project exceeds $1,000,000, the Secretary shall immediately furnish a complete report to the appropriate committees of Congress explaining the reasons for the cost variation.

(c) In no event may the total amount of funds obligated to carry out all general plant projects authorized by this Act exceed the total amount authorized to be appropriated for such projects by this Act.

LIMITS ON CONSTRUCTION PROJECTS

SEC. 203. (a) Whenever the current estimated cost of a construction project which is authorized by section 102 of this Act, or which is in support of national security programs of the Department of Energy and was authorized by any previous Act, exceeds by more than 25 per centum the higher of (1) the amount authorized for the project, or (2) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to Congress, construction may not be started or additional obligations incurred in connection with the project above the total estimated cost, as the case may be, unless a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three days to a day certain) has passed after receipt by the appropriate committees of the Congress of written notice from the Secretary containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of the action, or unless each committee before the expiration of such period has notified the Secretary it has no objection to the proposed action.

(b) Subsection (a) shall not apply to any construction project which has a current estimated cost of less than $5,000,000.

FUND TRANSFER AUTHORITY

SEC. 204. To the extent specified in appropriation Acts, funds appropriated pursuant to this Act may be transferred to other agencies of the Government for the performance of the work for which the funds were appropriated, and funds so transferred may be merged with the appropriations of the agency to which the funds are transferred.

AUTHORITY FOR CONSTRUCTION DESIGN

SEC. 205. (a)(1) Within the amounts authorized by this Act for plant engineering and design, the Secretary may carry out advance planning and construction designs (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such planning and design does not exceed $2,000,000.

(2) In any case in which the total estimated cost for such planning and design exceeds $300,000, the Secretary shall notify the appropriate committees of Congress in writing of the details of such project at least thirty days before any funds are obligated for design services for such project.

(b) In any case in which the total estimated cost for advance planning and construction design in connection with any construction project exceeds $2,000,000, funds for such design must be specifically authorized by law.

AUTHORITY FOR EMERGENCY CONSTRUCTION DESIGN

SEC. 206. In addition to the advance planning and construction design authorized by section 102, the Secretary may perform planning and design utilizing available funds for any Department of Energy defense activity construction project whenever the Secretary determines that the design must proceed expeditiously in order to meet the needs of national defense or to protect property or human life.

FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY

SEC. 207. Subject to the provisions of appropriation Acts, amounts appropriated pursuant to this Act for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

ADJUSTMENT FOR PAY INCREASES

SEC. 208. Appropriations authorized by this Act for salary, pay, retirement, or other benefits for Federal employees may be increased by such amounts as may be necessary for increases in such benefits authorized by law.

AVAILABILITY OF FUNDS

SEC. 209. When so specified in an appropriation Act, amounts appropriated for "Operating expenses" or for "Plant and capital equipment" may remain available until expended.

Mr. STRATTON (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. Are there any amendments to title II?

If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. PEYSER) having assumed the chair, Mr. BROWN of California, Chairman of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6329), to authorize appropriations for the Department of Energy for national security programs for fiscal year 1983, and for other purposes, pursuant to House Resolution 567, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 6329

Mr. STRATTON. Mr. Speaker, I ask unanimous consent that the Clerk may be authorized to make corrections in punctuation, section numbers and cross-references in the engrossment of the bill (H.R. 6329) to authorize appropriations for the Department of Energy for national security programs for fiscal year 1983, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

GENERAL LEAVE

Mr. STRATTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

FEDERAL TRADE COMMISSION AUTHORIZATION ACT OF 1982

Mr. FLORIO. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6995), to amend the Federal Trade Commmission Act to extend the authorization of appropriations contained in such act, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey, Mr. FLORIO.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 6995, with Mr. BROWN of California in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from New Jersey (Mr. FLORIO) will be recognized for 30 minutes, the gentleman from North Carolina (Mr. BROYHILL) will be recognized for 30 minutes, the gentleman from Massachusetts (Mr. MOAKLEY) will be recognized for 30 minutes, and the gentleman from Tennessee (Mr. QUILLEN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. FLORIO).

Mr. FLORIO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 6995 would reauthorize the Federal Trade Commission for 3 years.

In recent years, the FTC has been a controversial agency. This bill is designed to reduce controversy and establish a consensus in support of the Commission so it can devote full time to the job of protecting consumers and free markets.

To establish a consensus in support of the FTC, our committee carefully sifted all the views of a wide range of business and consumer groups.

As Members of the House undoubtedly recall, in 1980 we enacted the FTC Improvements Act, which refined the procedures and protections contained in the FTC Act. This year, because of the number of controversial proposals regarding the FTC, Chairman DINGELL and myself, and the distinguished ranking minority members of the full committee and my subcommittee, Mr. BROYHILL and Mr. LENT, worked all summer to achieve a bipartisan consensus.

Our formula for a consensus in support of the FTC was simply this—to embody in law both fairness for business and fairness for consumers, both fair Government procedures and protection for free and fair markets.

For example, we found that a consensus has emerged among major business groups and the Commission itself on the kinds of conduct that should be subject to the FTC's unfairness jurisdiction. By codifying this understanding in the law, we will enhance the predictability of Commission enforcement.

Likewise, we have included provisions that would enhance the protections afforded private parties subject to investigations or accused of knowing violations of prior FTC orders. And we have insured that Commission rulemaking will not be directed at isolated or insignificant conduct. Finally, we have made permanent the legislative veto enacted in 1980 but due to expire this month.

Let me emphasize, however, that in perfecting the procedures of the FTC, we rejected suggestions that we should create an array of special exemptions for various groups. Fairness and predictability are one thing. Crippling the ability of the FTC to protect the free market and consumers is something else, and something entirely unacceptable.

This bill strikes a judicious balance between enhancing the rights of all parties while not impairing the crucial role of the Commission. This represents a consensus position that the House and the entire Congress can and should readily adopt.

With fair procedures and fair laws, no one has a right to stand above the law.

In a 1969 study of the FTC, the American Bar Association said there is "a general conviction that marketing frauds against consumers are widespread in this country." The ABA noted that "the public is increasingly unwilling to tolerate exploitation."

Our committee was offered no evidence that the need for vigorous protection of competition and of consumer rights has diminished. On the contrary, our hearing record is filled with indications from consumers, business, labor, and State attorneys general, of the need for continued vigorous FTC enforcement.

When we are plagued with high rates of inflation, this is no time to weaken the check of competition on prices.

When we are facing increasingly fierce competition abroad and an influx of quality foreign made products at home, this is no time to weaken the creative ability of free enterprise to innovate and improve quality.

When the public is hard-pressed with the worst economic times in memory, this is no time to weaken protections against fraud and deception. On the contrary, we should reassure the American consumer that the FTC will continue to help the consumer make every dollar count.

For all of these reasons, H.R. 6995 is not just an ordinary reauthorization bill. It is vital to reestablishing a consensus in support of the Federal Trade Commission and to the principles of free and fair markets for which we need protection, now, more than ever.

There is much talk these days about the need to relieve the public of burdensome taxation. The high price of goods or services fixed by a monopoly or a conspiracy is simply a tax imposed by private organizations. The extra money consumers pay when they are hoodwinked into buying products that are not as advertised is likewise a tax imposed by private organizations. These are taxes that should be cut to zero. To do that, we need a vigorous but judicious Federal Trade Commission.

This moderate compromise legislation insures the attainment of that goal.

□ 1300

Mr. BROYHILL. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, I rise in support of H.R. 6995.

This bill does many things. One, of course, it reauthorizes the Federal Trade Commission for 3 years.

It also makes several important changes to the Federal Trade Commission Act.

The activities of the Federal Trade Commission over the last several years have become rather controversial as that Commission had become more active in several areas. Two Congresses ago we passed a number of amendments that addressed some of the allegations, some of the concerns that have been expressed with respect to what the Commission was doing or in some cases what they may not be doing.

Some of the additions that were made at that time included, for example, the addition of a legislative review and veto of Commission rules and regulations, trade rules that they are authorized to write. I think that this is a very important amendment and should be retained.

Unfortunately, in that bill of a couple of Congresses ago the authority for the Congress to review rules and to veto them if they do not agree with them was sunsetted. If we do not pass this reauthorization that authority will expire.

We do extend that authority for the congressional review and veto of Federal Trade Commission rules in this bill and make it a part of permanent law.

I feel that this bill does reflect a bipartisan consensus among a number of members of the Energy and Commerce Committee including the gentleman from Michigan, Chairman DINGELL, the gentleman from New Jersey, Chairman FLORIO, the gentleman from New York, Mr. LENT, the ranking minority member of the subcommittee, and myself and others.

It was reported by the Energy and Commerce Committee by a voice vote.

One of the important provisions in this bill is a definition for the first time of what is an unfair act or practice. This term has been left undefined since the Commission's consumer protection authority was created over a generation ago.

So for the first time this provision will clarify the Commission's authority with respect to issuing cease and desist orders or even in the area of the rulemaking as it clarifies their authority and lends some certainty to those who are subject to the Federal Trade Commission's jurisdiction.

The bill also, as I pointed out, makes permanent the legislative veto that was contained in the FTC Improvements Act of 1980. This provision expired on September 30.

The rule, by the way, provides for an amendment that would provide for complete deletion of this legislative veto provision. I am opposed to that amendment.

I believe that a clear majority of the House is also opposed.

It is critical, in my judgment, that the legislative veto be retained in order to insure that the Commission rules are consistent with congressional intent and consistent with the law.

Another important part of this bill, section 6, extends the limitation, the restrictions on the Commission's authority over agricultural cooperatives. That restriction was contained in section 20 of the Federal Trade Commission Improvements Act of 1980. That provision also was sunsetted and is due to expire unless we act on this bill today.

The agricultural cooperatives limitation recognizes the right of farmers to join together in cooperative marketing arrangements and this right was created under the Capper-Volstead Act to authorize them to form cooperatives without regard to the antitrust restrictions and prosecution by the Federal Trade Commission.

I feel that this restriction to keep the FTC out of these arrangements, to keep them from questioning these arrangements should be a part of the permanent law.

The bill as reported also makes a number of changes in the FTC's rulemaking procedures. Section 4 of the bill requires the Commission to find that a particular act or practice is a prevalent act or practice prior to starting up or initiating a rulemaking proceeding.

This requirement has been put into the bill so as to insure that only those practices that are widespread in an industry will be subject to rulemaking by the Commission.

It is my intention to offer two amendments to this bill. The first would be a substitute that would be offered to an amendment that is going to be offered by the gentleman from Ohio (Mr. LUKEN). The amendment to be offered by the gentleman from Ohio (Mr. LUKEN) I object to. I think it goes too far.

His amendment would completely and fully exempt all professionals including physicians from any jurisdiction of the Federal Trade Commission.

My substitute does preserve what we might say is the traditional place for regulation of professionals by the States.

The gentleman from Ohio (Mr. LUKEN) will argue that that is the proper place for regulation if regulation should take place of professionals. I agree with that. My substitute preserves the traditional place of regulation for professionals, preserves that it be done at the State level and would only enable the FTC to look at any professional conduct which is clearly proven to be anticompetitive.

The second amendment that I would offer so far as I know is not controversial and will be accepted. It is an amendment clarifying the definition of "unfair" which is contained in section 2.

I have already discussed that.

My amendment would merely clarify our intent that this provision will have no effect whatsoever on the individual State mini FTC acts or any State case law.

We want to assure that what we are doing here is not affecting whatever laws or acts have been enacted in the past by the individual States.

Mr. Chairman, I yield back the balance of my 10 minutes and have no other requests for time at this time.

□ 1315

Mr. FLORIO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as I have indicated in my remarks, the chairman of the full Energy and Commerce Committee, the gentleman from Michigan (Mr. DINGELL), has been a very active participant in the discussion process which has resulted in this bill, and he has shared with me some of his thoughts on this matter. He has asked me to make his thoughts known at this point, and I would do so:

Mr. Chairman, today the House, as we have indicated, is considering the bill, H.R. 6995. Our national policy unequivocably favors free and open competition. The public directly benefits from competition, receiving the highest quality of goods and services at the lowest possible cost. Unfortunately, from time to time, individuals, businesses, and professional trade associations have taken actions which have restrained competition in the marketplace, and consumers have suffered in turn from the results of greater concentration, restricted choice and higher costs. The FTC has played a vital role in challenging practices which restrain competition and create unfair or deceptive acts and practices.

There is a clear need for continued vigorous enforcement efforts by the FTC. In times of economic uncertainty and high inflation, we have seen increased anticompetitive behavior and corner cutting, sometimes resulting in consumer fraud. With the world and national economies in their current depressed condition, we need to rely on the strength and resources of the FTC and the free and fair market.

Therefore, we have authorized appropriation levels for the Commission commensurate with the nature of the critical role we expect it to play.

H.R. 6995 makes a number of substantive amendments to the Federal Trade Commission Act, codifying certain current practices of the Commission and providing greater predictability for those subject to the statute. These clarifying amendments, spelled out in detail in the committee's report, are widely supported and represent a

reasonable and responsible bipartisan compromise on these issues.

As you know, this agency's reauthorization has been surrounded by controversy. Many individuals and groups have urged blanket exemptions from FTC scrutiny of their business activities and repeal of broad areas of FTC authority. The committee has not supported these proposals. We believe that there is still a consensus supporting vigorous antitrust enforcement and consumer protection.

Perhaps the most controversial issue has been the issue of FTC antitrust and consumer protection authority over certain professions. On May 11, 1982, the Senate Commerce Committee voted to include a restriction on FTC jurisdiction in the Commission's reauthorization bill. Our bill does not remove FTC's jurisdiction over the professions. Rather, it provides for a more thought-out approach to this problem.

Mr. Chairman, I reserve the balance of my time.

Mr. BROYHILL. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. LENT), the ranking minority member of the subcommittee, who has exercised great leadership and statesmanship in the development of this legislation.

Mr. LENT. Mr. Chairman, I rise in support of H.R. 6995. As a cosponsor of this reauthorizing legislation for the Federal Trade Commission, I recognize the importance of many of its provisions, and I want to commend particularly the chairman of the subcommittee, the gentleman from New Jersey (Mr. FLORIO), with whom I worked very closely in the crafting of this legislation, for his leadership.

H.R. 6995 makes several amendments to the Federal Trade Commission Act. A definition of "unfair acts and practices" is incorporated into the Commission's consumer protection authority. It is our belief that this definition will delineate the statutory authority of the Commission.

This bill also amends procedures used in Commission investigations. Section 5 permits the FTC to use civil investigative demand (CID) procedures under its antitrust authority. CID's are currently used by the FTC in consumer protection investigations and have been successfully used by the Department of Justice pursuant to its antitrust authority.

Another critical provision of the bill clarifies the FTC's authority to seek penalties against persons who violate Commission orders entered against other parties. This procedural change will enable such persons to question the FTC's legal basis for the cease and desist order, assuring them due process of law.

In light of the fact that the legislative veto provision currently in law expired yesterday, I support a permanent extension of legislative veto for Commission rules. The legislative veto is an essential tool for effective oversight of the Federal Trade Commission. For this reason, I will oppose the recommendation of the Rules Committee to delete this provision.

Mr. Chairman, it is my intention to oppose the amendment to be offered by our colleagues, Congressmen LUKEN and LEE, to exempt professionals from FTC jurisdiction. After thoughtful reflection, I have decided to support Congressman BROYHILL's compromise substitute, in lieu of a full exemption. The Luken-Lee amendment raises several serious concerns which the Broyhill substitute does not. In fact, the substitute strikes a sensible balance between preserving the role of the States in regulating professionals and maintaining FTC authority over illegal anticompetitive conduct.

I urge my colleagues to join me in supporting H.R. 6995 and the Broyhill substitute.

Mr. BROYHILL. Mr. Chairman, I have no further requests for time.

Mr. MOAKLEY. Mr. Chairman, the Rules Committee has an adequate allocation of time under the rule to handle its amendments, so I yield back the time provided for general debate.

Mr. FLORIO. Mr. Chairman, I yield back the balance of my time.

Mr. BROYHILL. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Under clause 2, rule XXIII, as adopted by the House of Representatives on January 5, 1981, the Chair, in his discretion, may entertain a point of order that a quorum is not present.

The Chair will entertain the point of no quorum and announces that pursuant to the provisions of clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1330

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The gentleman from Ohio (Mr. LATTA) is recognized for 30 minutes.

Mr. LATTA. Mr. Chairman, I yield myself such time as I may consume.

Let me assure the Chairman I will not use half an hour.

The FTC authorization bill before us today contained a legislative veto provision covering the FTC when it was referred to the Rules Committee. The Rules Committee adopted an amendment to knock out that legislative veto provision.

The gentleman from Tennessee (Mr. QUILLEN), the ranking member of our committee, is very much opposed to the position of the Rules Committee and is for the legislative veto. I just want to make that statement. And he certainly will be opposing it.

Mr. Chairman, I have no requests for time, and I yield back the balance of my time.

The CHAIRMAN. Does the gentleman from North Carolina wish to use additional time, or does he yield back the balance of his time?

Mr. BROYHILL. Mr. Chairman, I am about to do that.

Mr. Chairman, I would like to yield myself 2 minutes in order to talk at this time.

Mr. Chairman, it is my understanding that at a later time an amendment would be offered to delete the provision in this bill that would make permanent the so-called legislative veto and veto procedure.

I just wanted to point out to Members that the Rules Committee under their jurisdiction will be offering this amendment because it does affect the House rules. When the Rules Committee considered this bill they struck that particular part of the Energy and Commerce bill.

However, I wanted to bring that to the attention of the Members, to be on the lookout for that amendment.

This is an issue that had been brought up several times over the last few years, that is the authority of Congress to review agency rules, to have some opportunity to not only review them but to reject them if they feel that they do not either comply with the law or with the intent of Congress.

It is our strong view that we in the Congress have in effect delegated our lawmaking powers to others who are unelected bureaucrats, and when they write rules, they have the force and effect of law. Thus, we should have some responsibility to be not only looking over their shoulder, but to review and to have some say over their final work product.

● Mr. BEDELL. Mr. Chairman, I will take just a few minutes to explain my views regarding the Federal Trade Commission's jurisdiction over the learned professions. A number of my constituents have expressed an interest in this issue and it has received much attention in the news media, so I want to state my opinion for the record.

It is argued by some that regulation of the professions is traditionally a matter left to the States. In particular, it is noted that the States administer relevant tests and license these profes-

sionals. Also, the individual States have established various public and private review processes to oversee professional standards and conduct.

I am sympathetic to those who suggest that the Federal Trade Commission should not be permitted to usurp the role of the States when it comes to establishing and monitoring the professional's ability to perform in a specified trade.

Congressmen GARY LEE and TOM LUKEN have proposed amending the Federal Trade Commission's basic charter to preclude the FTC from regulating the learned professions, and this sounds like the same issue I have just discussed, but it is not.

The Lee-Luken proposal would go beyond the issue of regulating matters of professional training, education, or practice. It would, in fact, bar the FTC from regulating anything having to do with the professions, including business practices such as ratesetting and advertising.

While I join in questioning the wisdom of the FTC being involved in reviewing professional standards, I do not think we should place a blanket prohibition on the FTC's reviewing business practices for their potential anticompetitive effects.

On several occasions, the Supreme Court has been asked to rule on the propriety of the FTC reviewing restrictions on advertising or fee setting which involved one or another of the learned professions. The Court has held that the FTC's actions against these anticompetitive business practices were within that agency's proper jurisdiction.

It appears that the States' law enforcement officers agree. This past July, the National Association of Attorneys General went on record as being opposed to removing the professions from antitrust and consumer protection scrutiny by the Federal Trade Commission.

Mr. Chairman. I believe that Mr. BROYHILL and other senior members of the Energy and Commerce Committee have fashioned a very reasonable substitute for the Lee-Luken legislation. The Broyhill proposal would prohibit the FTC from acting where State laws address training, education or similar requirements for licensure of professionals. Further, it limits the FTC's antitrust authority where the State government actively enforces requirements leading to the alleged anticompetitive behavior.

What the Broyhill substitute does not do, and where it differs from the other proposal, is that it does not preclude the FTC from applying the antitrust laws to the business dealings of professionals. This difference is important to the protection of the interests of American consumers and taxpayers.

Mr. Chairman, I will therefore vote for the Broyhill substitute. In my opinion, it strikes a very sound balance between the various interests that are in conflict over this issue.●

● Mr. CORRADA. Mr. Chairman, I rise in support of H.R. 6995, a bill to amend the Federal Trade Commission Act, to provide for its authorization, appropriation, and for other purposes.

This bill makes very important changes to the Federal Trade Commission Act, improving the Commission's effectiveness to carry out its objectives. It codifies certain current practices of the Commission, makes changes in the FTC procedures improving safeguards available to the parties subject to the Commission's jurisdiction, corrects technical problems in the process of congressional review of Commission Trade Regulation Rules, and authorizes the necessary appropriations in order to continue the Commission's work on a sound basis.

The continuity of the Federal Trade Commission work within an adequate and effective framework is of great importance to Puerto Rico as well as to the Nation. The Commission performs a vital role in preserving our free enterprise system by fostering true competition while protecting the consumers.

This bill reflects a consensus support for the Commission. It will enable it to carry out its purposes in an effective manner. After careful drafting, a compromise was reached which takes into consideration the conflicting views and honest disagreements expressed by different groups with interest in the activities of the FTC.

Certainty and fair procedures are essential for an adequate consumer protection. Business should also acknowledge that the confidence of the consumers in the fairness of the marketplace is indispensable to a round economic environment, particularly at a time when there is increased competition from many quality products manufactured abroad. The need for fair government regulations and for free and fair markets calls for the FTC to perform its vital role in our free enterprise system at its best.

By reauthorizing the FTC and maintaining it financially sound, this bill will assist in reducing inflation by maintaining a competitive marketplace free of unfair and deceptive practices. Dollar for dollar, money spent by the FTC is probably the most productive money spent when it is measured in terms of its effectiveness in fighting inflation.

I urge all my colleagues to join me in favor of H.R. 6995.●

● Mr. MATSUI. Mr. Chairman, I rise in opposition to both amendments which may be considered to modify the Federal Trade Commission's current authority with respect to the regulation of the provision of professional services. My opposition is founded on the belief that one measure may be overinclusive in terms of denying the FTC legitimate authority over the professions while the other may be underinclusive in assuring that the FTC possesses adequate regulatory authority to protect the health and welfare of our citizens.

The proper exercise of Federal regulatory power in the area of professional services is exceedingly complex given the unique nature of the States' police authority in this area. Under our constitutional scheme, the States are delegated the primary role in guarding the public's health and welfare as it relates to the delivery of professional services. This is evidenced by the numerous practice acts which each State has adopted to govern the delivery of professional services within each of its jurisdictions. Federal intervention in this arena therefore must be of a delicate nature so as to respect the balance between State and Federal authority.

Indeed, the provision of adequate and fair professional services historically has been the province of the States. The significant integration between State practice laws and all other forms of State statutory control provide a mutifaceted legislative blueprint that governs on a broad spectrum the activities of professionals. Often these regulatory schemes are not divisible.

I firmly believe that it is the proper function of the Federal Government to prescribe standards where State regulatory agencies have been silent or failed to exercise their powers in a reasonable manner. Such determinations, however, cannot be made by arbitrary legislative measures, but rather only on a case-by-case basis. Therefore, rather than pursue the limitations inherent in both the Luken-Lee and the Broyhill-Dingell-Florio proposals, it would be more appropriate for the FTC to make specific proposals as to the regulation of professional services and then allow affected parties the opportunity and right to demonstrate the adequacy and competency of State regulation in the specific area. This process would provide for the tailoring of Federal intervention to those specific circumstances where the public's health and welfare has been endangered by State neglect. Furthermore, it preserves the essence of our federalist system of government.●

Mr. BROYHILL. Mr. Chairman, at this time I have no other requests for time, and I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read for amendment under the 5-minute rule. No amendments are in order except: First, the amendments en bloc recommended by the Committee on Rules now printed in the bill; second, the amendment printed in the

CONGRESSIONAL RECORD of September 15, 1982, by, and if offered by, Representative LUKEN or Representative LEE which shall be subject to a substitute printed in the CONGRESSIONAL RECORD of September 15, 1982, by Representative BROYHILL and if offered by Representative BROYHILL or Representative DINGELL; third, the amendment printed in the CONGRESSIONAL RECORD of September 15, 1982, by, and if offered by Representative BROYHILL; and fourth, the amendment printed in the CONGRESSIONAL RECORD of September 15, 1982, by and if offered by, Representative DANNEMEYER.

The text of the bill, H.R. 6995 is as follows:

H.R. 6995

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Trade Commission Authorization Act of 1982".

UNFAIR ACTS OR PRACTICES

SEC. 2. Section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C. 45(a)(1)) is amended by adding at the end thereof the following new sentences: "An act or practice in or affecting commerce shall be considered to be an unfair act or practice if—

"(A) such act or practice causes or is likely to cause substantial injury to consumers; and

"(B) such substantial injury (i) is not reasonably avoidable by consumers; and (ii) is not outweighed by countervailing benefits to consumers or to competition which result from such act or practice.

Any determination under the preceding sentence regarding whether an act or practice is an unfair act or practice shall take into account, in addition to other relevant factors, whether such act or practice violates any public policy as established by Federal or State statutes, common law, practices in business or industry, or otherwise.".

REVIEW OF CERTAIN CEASE AND DESIST ORDERS

SEC. 3. Section 5(m)(2) of the Federal Trade Commission Act (15 U.S.C. 45(m)(2)) is amended by adding at the end thereof the following new sentence: "The court in such action against such defendant also shall review, if requested by any party to the action, the determination of law made by the Commission in the proceeding under subsection (b) that the act or practice of the respondent which was the subject of such proceeding constituted a violation of subsection (a).".

PREVALENCE OF UNFAIR OR DECEPTIVE ACTS OR PRACTICES OR FALSE ADVERTISEMENTS

SEC. 4. Section 18(a) of the Federal Trade Commission Act (15 U.S.C. 57a(a)) is amended by adding as the end thereof the following new paragraph:

"(3) The Commission may issue a notice of proposed rulemaking with respect to any unfair or deceptive act or practice or any false advertisement (as defined in section 15(a)(1)) only if—

"(A) the Commission has issued two or more cease and desist orders regarding such unfair or deceptive act or practice, or such false advertisement; or

"(B) any other information available to the Commission provides the Commission with reason to believe that a pattern of such unfair or deceptive acts or practices, or such labor advertisements, exists.".

CIVIL INVESTIGATIVE DEMANDS

SEC. 5. (a) Section 20(a) of the Federal Trade Commission Act (15 U.S.C. 57b-1(a)) is amended—

(1) in paragraph (2) thereof, by striking out "unfair or deceptive acts or practices in or affecting commerce (within the meaning of section 5(a)(1))" and inserting in lieu thereof "act of practice or method of competition declared unlawful by this Act or any other Federal law administered by the Commission";

(2) in paragraph (3) thereof, by striking out "unfair or deceptive acts or practices in or affecting commerce (within the meaning of section 5(a)(1))" and inserting in lieu thereof "any act or practice or method of competition declared unlawful by this Act or any other Federal law administrered by the Commission"; and

(3) in paragraph (7) thereof, by striking out "unfair or deceptive act or practice in or affecting commerce (within the meaning of section 5(a)(1))" and inserting in lieu thereof "act or practice or method of competition declared unlawful by this Act or any other Federal law administered by the Commission".

(b) Section 20(b) of the Federal Trade Commission Act (15 U.S.C. 57b-1(b)) is amended by striking out "unfair or deceptive acts or practices in or affecting commerce (within the meaning of section 5(a)(1))" and inserting in lieu thereof "any act or practice or method of competition declared unlawful by this Act or any other Federal law administered by the Commission".

(b) Section 20(c)(1) of the Federal Trade Commission Act (15 U.S.C. 57b-1(c)) is amended by striking out "unfair or deceptive acts or practices in or affecting commerce (within the meaning of section 5(a)(1))" and inserting in lieu thereof "any act or practice or method of competition declared unlawful by this Act or any other Federal law administered by the Commission".

RESTRICTION OF COMMISSION AUTHORITY RELATING TO AGRICULTURAL COOPERATIVES

SEC. 6. The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended by redesignating section 24 and section 25 as section 26 and section 27, respectively, and by inserting after section 23 the following new section:

"SEC. 24. (a) The Commission shall not have any authority to conduct any study, investigation, or prosecution of any agricultural cooperative for any conduct which, because of the provisions of the Act entitled 'An Act to authorize association of producers of agricultural products', approved February 18, 1922 (7 U.S.C. 291 et seq.), commonly known as the Capper-Volstead Act, is not a violation of any of the antitrust Acts or this Act.

"(b) The Commission shall not have any authority to conduct any study or investigation of any agricultural marketing orders.".

CONGRESSIONAL REVIEW OF RULES

SEC. 7. The Federal Trade Commission Act, as amended in section 6, is further amended by inserting after section 24 the following new section:

"SEC. 25. (a)(1) The Commission, after promulgating a final rule, shall submit such final rule to the Congress for review in accordance with this section. Such final rule shall be delivered to each house of the Congress on the same date and to each House of the Congress while it is in session. Such final rule shall be referred to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House, respectively.

"(2) Any such final rule shall become effective in accordance with its terms unless—

"(A) before the end of the period of 35 calendar days of continuous session after the date such final rule is submitted to the Congress, a concurrent resolution disapproving such final rule is introduced in either House; and

"(B) before the end of the period of 90 calendar days of continuous session after the date such final rule is submitted to the Congress, the Congress adopts a concurrent resolution disapproving such final rule.

"(b)(1) The provisions of this subsection are enacted by the Congress—

"(A) as an exercise of the rulemaking power of the Senate and the House, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of concurrent resolutions which are subject to this section, and such provisions supersede other rules only to the extent that they are inconsistent with such other rules; and

"(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

"(2)(A) Any concurrent resolution disapproving a final rule of the Commission shall, upon introduction, be referred immediately by the presiding officer of the House in which such concurrent resolution is introduced to the Committee on Commerce, Science, and Transportation of the Senate or to the Committee on Energy and Commerce of the House, as the case may be.

"(B) If a committee to which a concurrent resolution is referred under subparagraph (A) does not report such concurrent resolution before the end of the period of 75 calendar days of continuous session of the Congress after such referral, it shall be in order to move to discharge such committee from further consideration of such concurrent resolution.

"(C)(i) A motion to discharge in the Senate may be made only by a Member favoring the concurrent resolution, shall be privileged (except that it may not be made after the committee has reported a concurrent resolution with respect to the same final rule of the Commission), and debate on such motion shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the motion. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other concurrent resolution with respect to the same final rule of the Commission.

"(ii) A motion to discharge in the House may be made by presentation in writing to the Clerk. The motion may be called up only if the motion has been signed by one-fifth of the Members of the House. The motion is highly privileged (except that it may not be made after the committee has

reported a concurrent resolution of disapproval with respect to the same rule). Debate on such motion shall be limited to not more than 1 hour, the time to be divided equally between those favoring and those opposing the motion. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(3)(A) If one House receives from the other House a concurrent resolution disapproving a final rule of the Commission, then the procedure established in this paragraph shall apply.

"(B) If, at the time of such receipt, a committee of the receiving House has reported, or has been discharged from further consideration of, a concurrent resolution disapproving such final rule, then the concurrent resolution received from the other House shall not be referred to any committee. On any vote on final passage of the concurrent resolution of the receiving House, a motion shall be in order to substitute the concurrent resolution received from the other House for the concurrent resolution of the receiving House.

"(C)(i) If, at the time of such receipt, no committee of the receiving House has reported, or has been discharged from further consideration of, a concurrent resolution disapproving such final rule, then the concurrent resolution received from the other House shall be referred to the Committee on Commerce, Science, and Transportation of the Senate or to the Committee on Energy and Commerce of the House, as the case may be.

"(ii) If a committee to which a concurrent resolution is referred under clause (i) does not report such concurrent resolution before the end of the period of 35 calendar days of continuous session of the Congress after such referral, it shall be in order to move to discharge such committee from further consideration of such concurrent resolution. The provisions of paragraph (2)(C), as such provisions apply to the respective Houses, shall apply to any such motion to discharge.

"(4)(A) When a committee has reported, or has been discharged from further consideration of, a concurrent resolution disapproving a final rule of the Commission, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the concurrent resolution. The motion shall be privileged in the Senate and highly privileged in the House, and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

"(B) Debate on the concurrent resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the concurrent resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the concurrent resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which the concurrent resolution was agreed to or disagreed to.

"(5) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House, as the case may be, to the procedure relating to a concurrent resolution disapproving a final rule of the Commission shall be decided without debate.

"(6) Notwithstanding any other provision of this subsection, if a House has approved a concurrent resolution disapproving a final rule of the Commission, then it shall not be in order to consider in such House any other concurrent resolution introduced in such House with respect to the same final rule.

"(c)(1) If a final rule of the Commission is disapproved by the Congress under subsection (a)(2)(B), then the Commission may promulgate a final rule which relates to the same acts or practices as the final rule disapproved by the Congress in accordance with this subsection. Such final rule—

"(A) shall be based upon—

"(i) the rulemaking record of the final rule disapproved by the Congress; or

"(ii) such rulemaking record and the record established in supplemental rulemaking proceedings conducted by the Commission in accordance with section 553 of title 5, United States Code, in any case in which the Commission determines that it is necessary to supplement the existing rulemaking record; and

"(B) may contain such changes as the Commission considers necessary or appropriate.

"(2) The Commission, after promulgating a final rule under this subsection, shall submit the final rule to the Congress in accordance with subsection (a)(1).

"(d) Congressional inaction on, or rejection of, a concurrent resolution disapproving a final rule of the Commission under this section shall not be construed as an expression of approval of such final rule, and shall not be construed to create any presumption of validity with respect to such final rule.

"(e)(1) Any interested party may institute such actions in the appropriate district court of the United States, including actions for declaratory judgment, as may be appropriate to construe the constitutionality of any provision of this section. The district court immediately shall certify all questions of the constitutionality of this section to the United States court of appeals for the circuit involved, which shall hear the matter sitting en banc.

"(2) Notwithstanding any other provision of law, any decision on a matter certified under paragraph (1) shall be reviewable by appeal directly to the Supreme Court of the United States. Such appeal shall be brought not later than 20 days after the decision of the court of appeals.

"(3) It shall be the duty of the court of appeals and of the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter certified under paragraph (1).

"(f)(1) For purposes of this section—

"(A) continuity of session is broken only by an adjournment sine die at the end of the second regular session of a Congress; and

"(B) days on which either House is not in session because of an adjournment of more than 5 days to a day certain are excluded in the computation of the periods specified in subsection (a)(2) and subsection (b).

"(2) If—

"(A) an adjournment sine die of the Congress which breaks the continuity of session (as specified in paragraph (1)(A)) occurs after the Commission has submitted a final rule under subsection (a)(1), but before any action necessary to disapprove the final rule is completed under subsection (a)(2)(B); and

"(B) such adjournment occurs (i) before the end of the period specified in subsection (a)(2)(B), in a case in which a concurrent resolution disapproving such final rule has been introduced in either House before the end of the period specified in subsection (a)(2)(A); or (ii) before the end of the period specified in subsection (a)(2)(A), in a case in which no such concurrent resolution has been introduced before such adjournment;

then the Commission shall resubmit such final rule at the beginning of the first regular session of the next Congress. The periods specified in subsection (a)(2) shall begin on the date of such resubmission.

"(g) For purposes of this section:

"(1) The term 'concurrent resolution' means a concurrent resolution of the two Houses of the Congress the matter after the resolving clause of which is as follows: 'That the Congress disapproves the final rule promulgated by the Federal Trade Commission dealing with the matter of , which final rule was submitted to the Congress on .'. (The blank spaces shall be filled appropriately.)

"(2) The term 'rule' means any rule promulgated by the Commission pursuant to this Act, other than any rule promulgated under section 18(a)(1)(A).".

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. Section 26 of the Federal Trade Commission Act, as so redesignated in section 6, is amended by striking out "and" the last place it appears therein, and by inserting before the period at the end thereof the following: "; not to exceed $66,080,000 for the fiscal year ending September 30, 1983; not to exceed $70,705,000 for the fiscal year ending September 30, 1984; and not to exceed $75,654,000 for the fiscal year ending September 30, 1985".

INTERVENTION BY COMMISSION IN CERTAIN PROCEEDINGS

SEC. 9. (a) The Federal Trade Commission shall not have any authority to use any funds which are authorized to be appropriated to carry out the Federal Trade Commission Act (15 U.S.C. 41 et seq.) for fiscal year 1983, 1984, or 1985, for the purpose of submitting statements to, appearing before, or intervening in the proceedings of, any Federal or State agency unless the Commission advises the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives, at least 60 days before any such proposed action, or, if such advance notice is not practicable, as far in advance of such proposed action as is practicable.

(b) The notice required in subsection (a) shall include the name of the agency involved, the date upon which the Federal Trade Commission will first appear, intervene, or submit comments, a concise statement regarding the nature and purpose of the proposed action of the Commission, and, in any case in which advance notice of 60 days is not practicable, a concise statement of the reasons such notice is not practicable.

EFFECTIVE DATES; APPLICABILITY OF AMENDMENTS

SEC. 10. (a)(1) Except as otherwise provided in this Act, the provisions of this Act, and the amendments made by this Act, shall take effect on the date of the enactment of this Act.

(2) Section 24 of the Federal Trade Commission Act, as added by section 6, shall take effect on October 1, 1982.

(b)(1) The amendment made in section 2 shall apply only to—

(A) cease and desist orders issued by the Federal Trade Commission under section 5 of the Federal Trade Commission Act (15

U.S.C. 45) on or after the date of the enactment of this Act; and

(B) rules for which advance notices of proposed rulemaking are published in the Federal Register by the Commission under section 18(b)(2)(A) of such Act (15 U.S.C. 57a(b)(2)(A)) on or after such date of enactment.

(2) Such amendment shall not be construed to affect in any manner any cease and desist order issued on or after such date of enactment, if such order is issued in accordance with a remand, from a court of appeals of the United States or the Supreme Court of the United States, of any cease and desist order issued by the Commission before such date of enactment.

(c)(1) The amendment made in section 4 shall apply only to rules of the Federal Trade Commission for which advance notices of proposed rulemaking are published in the Federal Register by the Commission under section 18(b)(2(A) of the Federal Trade Commission Act (15 U.S.C. 57a(b)(2)(A)) on or after the date of the enactment of this Act.

(2) In the case of any rule of the Commission which has not become final before such date of enactment, but for which such advance notice has been published before such date of enactment, the Commission shall include with its submission of such rule to the Congress a statement describing the extent of the prevalence of occurrences of the unfair or deceptive act or practice, or the false advertisement, which is the subject of such rule.

(d)(1) The provisions of section 21 of the Federal Trade Commission Improvements Act of 1980 (15 U.S.C. 57a—1) shall apply to any final rule submitted to the Congress by the Federal Trade Commission before January 1, 1983, notwithstanding the provisions of section 21(i) of such Act (15 U.S.C. 57a—1(i)).

(2)(A) Any final rule submitted to the Congress on or after January 1, 1983, shall be subject to the provisions of section 25 of the Federal Trade Commission Act, as added by the amendment made in section 7.

(B) In any case in which—

(i) the Commission submitted a final rule to the Congress under section 21 of the Federal Trade Commission Improvements Act of 1980 (15 U.S.C 57a—1) before January 1, 1983;

(ii) such final rule was disapproved by the Congress under section 21 of such Act (15 U.S.C. 57a—1); and

(iii) the Commission did not submit a final rule relating to the same acts or practices, under section 21(c) of such Act (15 U.S.C. 57a—1(c)), before January 1, 1983;

the Commission may submit a final rule relating to the same acts or practices in accordance with section 25(c) of the Federal Trade Commission Act, as added by the amendment made in section 7.

(C) In any case in which the Commission would have been required to resubmit a final rule under section 21(g)(2) of the Federal Trade Commission Improvements Act of 1980 (15 U.S.C. 57a—1(g)(2)), but for the expiration of such provision in accordance with section 21(i) of such Act (15 U.S.C. 57a—1(i)), as modified by the provisions of paragraph (1), the Commission shall be required to resubmit such final rule in accordance with section 25(f)(2) of the Federal Trade Commission Act, as added by the amendment made in section 7.

The CHAIRMAN. The Chair would entertain first the amendments en bloc recommended by the Committee on Rules not printed in the bill, unless someone requests unanimous consent to proceed otherwise.

Mr. FLORIO. Mr. Chairman, I ask unanimous consent that the gentleman from California (Mr. DANNEMEYER) be authorized at this point to offer the so-called Luken-Lee amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. DANNEMEYER) to offer an amendment.

□ 1345

Mr. FLORIO. Mr. Chairman, I misspoke myself in making my unanimous-consent request. My unanimous-consent request was that the gentleman from North Carolina (Mr. BROYHILL) be authorized to go forward at this point with his technical amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from North Carolina (Mr. BROYHILL).

AMENDMENT OFFERED BY MR. BROYHILL

Mr. BROYHILL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BROYHILL: Page 2, after line 14, insert the following new subsection:

(c) The amendment made in subection (a) shall not have any force or effect, and shall not be taken into account, in connection with the enforcement of any State law which prevents persons, partnerships, or corporations subject to the jurisdiction of the State from engaging in unfair acts or practices.

The CHAIRMAN. Pursuant to House Resolution 587, the gentleman from North Carolina (Mr. BROYHILL) will be recognized for 15 minutes, and a Member opposed to said amendment will be recognized for 15 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL. Mr. Chairman, this is a technical amendment. It has been fully discussed with both sides.

I want to point out again that H.R. 6995 for the first time incorporates an actual definition of what is an unfair act or practice. Up until this time the commission has had general jurisdiction over "unfair acts or practices" and there has not been a definition of that particular term.

What my amendment does is to clarify the intention of the cosponsors as to the effect of this amendment on the individual State mini FTC acts and also with respect to case law that has been developed in the individual States.

This amendment merely clarifies our intent that this is in no way intended to impinge upon these particular mini FTC acts that have been enacted by the States or by State case law.

The amendment that we have in the bill that is before us, the new definition of an unfair act or practice, is:

If such an act or practice causes or is likely to cause substantial injury to consumers and such substantial injury is not reasonably avoidable by consumers and is not outweighed by contravailing benefits to consumers or to competition which results from such act or practice.

It goes on to say that any determination under the preceding sentence regarding whether an act or practice is an unfair act or practice shall take into account in addition to other relevant factors whether such act or practice violates public policy established by Federal or State statute, common law practices in business, industry or otherwise.

But this amendment applies the definition of unfairness only to those actions by the Federal Trade Commission.

We had some expression of concern by some of the States attorneys general that our action could in effect be amending State mini FTC acts. We want to assure with this technical amendment that I am offering that the definition of unfairness is applying only to action by the Federal Trade Commission. In other words, it will not apply to State mini FTC acts or any State court decisions that have been rendered with respect to those acts. We feel that that should be left up to the individual States as to what they might determine is to be done in these cases.

I might point out that the amendment has been discussed with the State attorneys general and that they do support this revision to our unfairness definition and support the technical amendment.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL. I am glad to yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, I thank the gentleman for yielding.

I support Mr. BROYHILL's effort to insure that the provision in H.R. 6995 regarding the Commission's unfairness authority is not read as intended to apply to State laws regarding unfairness.

Section 2 of H.R. 6995 adds a new provision to the FTC Act concerning the authority of the Commission to remedy unfair acts or practices.

In recent years there has been controversy over the appropriate scope of FTC jurisdiction under the broad term, "unfairness." In 1980 the Commission issued a policy statement summarizing past cases and setting forth the principles that would guide its exercise of authority under the unfair-

ness power. A consensus has now developed among business groups and the Commission on the soundness of the principles in the 1980 statement. Accordingly, H.R. 6995 would codify these principles, thereby enhancing certainty and predictability for business.

This improvement is among those in the bill that I have said should establish a consensus supporting the FTC. With this assurance of predictability and fair procedures, the FTC should be encouraged to vigorously carry out its role as the consumer's watchdog. In establishing this balance, we did not intend to affect developments in State law, and I support Mr. BROYHILL's effort to make this clear.

While I was originally apprehensive regarding the need for and utility of codifying the FTC's policy regarding unfairness, I have been persuaded by examination of the 1980 policy statement that the codification will retain the desired flexibility for the Commission. Accordingly, under section 2 of H.R. 6995, consumer injury need not necessarily be subject to quantification, or be limited to monetary harm. For example, unwarranted health and safety risks may support a finding of unfairness. Additionally, the Commission need not necessarily conduct a quantitiative cost-benefit analysis, but should only have to carefully consider and assess, to the extent reasonably possible, the costs of prohibiting particular practices. Another illustration of flexibility under the 1980 statement and therefore embodied in our bill is the fact that public policy considerations may, under some circumstances constitute an independent basis for a Commission finding of unfairness.

With respect to the question of State law, it should be noted that State laws do not require a finding of the elements set out in the standard of H.R. 6995, particularly substantial consumer injury. In addition, by virtue of State statutes and cases, including those developed by reference to Commission case law, most State laws provide that a finding of unethical or unscrupulous conduct is sufficient in itself to support a finding of unfairness. We did not intend to effect State laws modeled on the FTC Act. Because the broad scope of unfair practices as set forth in many State statutes and in State case law does not require the findings set out in H.R. 6995, and the purpose for the enactment of section 2 is not applicable to these State laws, section 2 will have no effect on State law standards of unfairness. To the extent that prior unfairness cases, for example, establish a finding of unfairness can be based upon unethical or unscrupulous conduct alone, this codification will leave unchanged this standard of unfairness for purposes of State law and apply only to the Commission the standards of unfairness articulated in the Commission's 1980 policy statement.

Mr. LUJAN. Mr. Speaker, will the gentleman yield?

Mr. BROYHILL. Yes; I am glad to yield.

Mr. LUJAN. I assume the amendment the gentleman is talking about at this point is that final amendment that is shown on the sheet which says:

Mr. Broyhill will offer an amendment providing clarification that the bill's provisions are not intended to affect or diminish any state law prohibiting business from engaging in unfair competition.

Is that the amendment the gentleman is talking about now?

Mr. BROYHILL. Yes.

Mr. LUJAN. Which one is it as listed?

Mr. BROYHILL. The amendment that I am offering is to clarify that the definition of unfair acts or practices that we include in the bill shall not be taken into account in connection with the enforcement of State laws which prevent persons, partnerships or corporations subject to the jurisdiction of a State from engaging in unfair acts or practices.

I would call the attention of the gentleman to the change in the definition of this term which is included in section 2. The concern was expressed by certain attorneys general that the amendment that we are offering could have some effect, we are not sure that it would, but it could have some effect on whatever State, for example, if the State of New Mexico has a mini FTC bill or the State of New Mexico has developed certain case law with respect to this overall type of law, we are wanting to make sure here that we are amending the Federal law and in no way are touching State laws or case law that has been developed in the State.

Mr. LUJAN. I thank the gentleman for his information. If the gentleman would yield further, this is totally unrelated to the issue of the long arm of the FTC injecting itself into the business of the professionals? It is totally unrelated to that?

Mr. BROYHILL. No; this is not that amendment.

Mr. LUJAN. I understand that. It is totally unrelated?

Mr. BROYHILL. It is unrelated. That amendment will be brought up shortly.

Mr. LUJAN. If the gentleman will yield further, I notice that we had a little time lag here, because apparently there is some misunderstanding about whether that amendment exempting the professionals from the FTC would be issued.

Can the gentleman tell me if someone is prepared to offer that amendment at this point?

Mr. BROYHILL. Yes. I must say, of course, for the record, that we did not know this bill was coming up today. We had originally thought the bill was coming up next week. That is the reason why a number of Members were not here promptly ready not only to engage in debate, but to offer their amendments. It is my understanding that the various parties who have interests in this bill are on hand and that those amendments will be offered in due course.

Mr. LUJAN. I thank the gentleman for that explanation because I was concerned that we were going to be moving along with this bill and that whole question might not ever be raised.

Frankly, I was looking for a little time so that people would get here in order to offer the proper amendments.

● Mr. WAXMAN. Mr. Chairman, no one is arguing that the FTC should be involved in health care decisions. While the story about barbers is funny, it is off the point when it comes to the FTC's role of enforcing the antitrust laws with respect to the professions. This debate is about competition—the use of alternative means to provide services. Such competition is even more important when you are dealing with professions that have an enormous impact upon the use of services, as physicians do. Then it becomes even more important to insure that we do not allow appropriate competition among providers to be stifled.

Mr. Chairman, I do not think that any profession should be permitted to block from the marketplace alternative programs for delivering services at a lower cost. Yet, in the health field, that is exactly what we have seen. Physician groups have attempted to exclude HMO doctors from hospitals and prevent HMO doctors from obtaining malpractice insurance. Coercion has been used to boycott insurance cost-containment programs developed by insurers, industry, and labor to hold down health costs. These are the kinds of restraint of trade which the Luken-Lee amendment would prevent the FTC from continuing to address. It is for this reason that I oppose it and support the Broyhill amendment.●

The CHAIRMAN. Under the rule, a Member opposed to the Broyhill amendment is entitled to be recognized for 15 minutes.

The Chair inquires if any Member desires to exercise that option?

If not, the question is on the amendment offered by the gentleman from North Carolina (Mr. BROYHILL).

The amendment was agreed to.

The CHAIRMAN. Under the rule, the amendments en bloc recommended by the Committee on Rules now printed in the bill are now in order.

The CHAIRMAN. The Clerk will report the Rules Committee amendments.

The Clerk read as follows:

Rules Committee amendments: Page 6, strike out line 4 and all that follows through page 15, line 3 (and redesignate the subsequent sections accordingly).

Page 5, beginning on line 13, strike out "and section 25 as section 26 and section 27, respectively" and insert in lieu thereof "as section 25".

Page 15, line 5, strike out "Section 26" and insert in lieu thereof "Section 25".

Page 18, strike out line 1 and all that follows through page 19, line 11.

Mr. MOAKLEY (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The CHAIRMAN. Pursuant to House Resolution 587, the gentleman from Massachusetts (Mr. MOAKLEY) will be recognized for 30 minutes, and the gentleman from Tennessee (Mr. QUILLEN) will be recognized for 30 minutes.

The Chair now recognizes the gentleman from Massachusetts (Mr. MOAKLEY).

Mr. MOAKLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the issue presented to the House by the report of the Committee on Rules raises issues of fundamental institutional importance.

Mr. Chairman, at the outset I would like to commend the gentleman from New Jersey (Mr. FLORIO) for his leadership on this matter and for the fairness with which he has attempted to reconcile the concerns over reauthorization of the Federal Trade Commission.

On the whole, his bill and the rule requested by the Committee on Energy and Commerce for handling the matter on the floor represent a reasonable approach toward resolving a difficult political matter.

My allocation of time is made, as manager for the Committee on Rules, to handle a committee amendment which strikes a principal component of that compromise. The amendment would strike section 7 of the bill—the extension of the "legislative veto."

As an accommodation to the hard work of the Committee on Energy and Commerce, the committee has structured a floor situation which will enable the House to resolve this matter in any way it may wish.

But the committee is charged with responsibility, under the joint referral, to report to the House recommendations on the subject of legislative veto.

In H.R. 6995, the committee concludes that it is faced with an inescapable constitutional issue. It reaches that conclusion with full respect for the integrity and sincerity of members it is aware have reached a different conclusion.

Although the committee has serious practical concerns with the legislative veto contained in section 7 of the bill, it proposes that the section be stricken in its entirety on the basis that the legislative veto, as embodied in this bill, and indeed in most other contexts, is inconsistent with the most important and fundamental principles of our constitutional system of government.

The committee reaches its determination as an independent conclusion. But it is strongly persuaded by the overwhelming body of constitutional law.

The U.S. Supreme Court has yet to rule on the subject, although a decision is expected in the Court's next term. But, decisions arrived at separately by the U.S. courts of appeals, in two of the Nation's 11 circuits, have found the device unconstitutional.[1] In no circuit, at the appeals level, has a decision ever been reached finding the device constitutional. Since the first use of the device in 1932, Attorneys General for each President, since Franklin Delano Roosevelt, have argued unequivocally against the constitutionality of the legislative veto.

CONSTITUTIONALITY OF THE LEGISLATIVE VETO

Mr. Chairman, the committee's review of the constitutional issues has been thorough and cautious. An attempt has been made to thoroughly review all the issues that have been brought to the committee's attention through a painstaking hearing record developed over a 6-year period.

SEPARATION OF POWERS

The constitutional failings of the legislative veto lie at the center of the most fundamental concern that was before the Constitutional Convention. The authors made a clear decision to erect a system based on the English parliamentary practice, but starkly different in some very important ways.

The most significant difference concerns the doctrine of separation of powers which the Supreme Court has stated to be "at the heart of our Constitution." [2]

The separation is constitutionally defined but, in actual execution, the lines may not always be absolutely clear.

However, the committee is persuaded that the legislative veto is an unconstitutional incursion into executive functions, in that it brings Congress into direct involvement with the "execution" of the laws and usurps the traditional role of the judiciary in passing upon the validity of administrative regulations.

INTRUSION ON JUDICIAL POWER

On its face, the veto provision of the act vests in the two Houses of Congress an extra-legislative power to perform the function reserved by the Constitution to the courts of determining whether a particular executive act is within the limits of authority established by the existing statute. Thus to the extent that an exercise of the veto mechanism is meant to prevent the effectiveness of agency action that is perceived to exceed its statutory authority, it unconstitutionally intrudes upon the exercise of judicial power by the courts.

APPOINTMENT OF OFFICERS

It has been clearly settled that Congress may not appoint any officer to carry out an executive function.[3] Nor may Congress itself seek to exercise any such function.[4]

The legislative veto, in certain contexts, is in doubtful comportment with these principles. As it applies to an independent regulatory commission, in particular, the legislative veto raises significant policy questions of constitutional character. The establishment of such a commission involves a delegation of functions to the agency, subject to certain special limitations. The agency is vested with functions of a mingled executive, legislative, and judicial character. But the functions of no branch of Government are impaired.

Although Congress may not directly supervise the regular functions of the agency, the agency is required to act within the framework of the law Congress has written, in whatever degree of specificity it may have chosen. The Congress can amend that law and may exercise any other proper powers as exist within oversight and appropriations functions.

Although the officers do not serve at the daily pleasure of the President, he makes all appointments as terms expire. And the courts retain the authority to review agency actions as a matter of law.

It is a fragile constitutional scheme, but the courts have recognized the vital importance of this system and both the appropriateness of limitations on Presidential removal power [5] and delegation of quasi-legislative authority [6] conclusively have survived judicial challenge.

The committee is concerned that the intrusion of expanded supervisory powers over the intimate details of regulation, by what is already the stronger of the two branches in relation to independent agencies, leaves

[1] *Consumer Energy Council of America* v. *FERC*, —— U.S. App. D.C. ——, 673 F.2d 425 (D.C. Cir. 1982), *appeal pending*, Nos. 81-2008, et al. (Supreme Court); and *Chada* v. *INS*, 634 F.2d 408 (9th Cir. 1980), *appeal pending*, Nos. 80-1832 et al. (Supreme Court).

[2] *Buckley* v. *Valeo*, 424 U.S. 1, 119 (1976).

[3] *Buckley* v. *Valeo*, 424 U.S. 1, 119 (1976).

[4] *Springer* v. *Government of the Philippine Islands*, 277 U.S. 189 (1928).

[5] *Humphrey's Executor* v. *United States*, 295 U.S. 602 (1935).

[6] *Federal Trade Commission* v. *Gratz*, 253 U.S. 421 (1920).

the appropriateness of this balance open to serious doubt.

In this regard, it is important to note that the courts have upheld a wide variety of such statutes, all of which stretch the constitutional fabric. But the Supreme Court was forced to hold unconstitutional the only effort Congress has made to write such a scheme at variance with the standard structure of this delicate balance, in a decision not unsympathetic to the reasons behind that effort.[7]

PRESENTATION CLAUSE

Although the framers of the Constitution recognized the importance of the doctrine of separation of powers, the record of consideration makes clear their understanding that it could be nothing more than a doctrine unless each branch was provided with adequate tools to protect itself.

As Woodrow Wilson observed, no branch could maintain its independence without "the guaranty of the Constitution that its own domain should be absolutely safe from invasion * * *."[8]

Of these guarantees, the system of checks and balances, the most important is the Presidential veto. Without it, congressional supremacy, would be unavoidable, Madison argued.[9]

That the framers anticipated the devices by which a legislative body might expand, into functions reserved from it, is underscored by the presentation clause which requires that, not only bills but also "every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary" must be presented to the President for veto, subject to congressional override, or for approval. The debate of the convention underscores the intent of the framers to require Congress to follow this process for all actions having the effect of lawmaking.[10]

The committee would concede that the framers could no more have envisioned the present legislative veto than the Federal Register. But the committee believes that the general thrust of the legislative veto is exactly what the framers intended to preclude in clause 3 of section 7 of article I.

EFFECTIVE LAWMAKING

The most persuasive argument in favor of the constitutionality of the legislative veto has related to the assertion that the veto is not actually lawmaking. The general thrust of this argument is that the legislative veto is a form of legislative activity which does not require the concurrence of both Houses since the effect of such language is not to make law but rather to preserve the status quo.

The history of the exercise of the specific veto contained in H.R. 6995 appears to rebut this fundamental assertion by the proponents of the legislative veto.

Recognition of the prevalance of warranty problems with respect to the sale of used cars prompted the Congress in 1974 to include as part of the Magnuson-Moss Warranty Act (Public Law 93-637) a provision (section 109(b)) directing the Federal Trade Commission to "initiate * * * a rulemaking proceeding dealing with warranties and warranty practices in connection with the sale of used motor vehicles; and, to the extent necessary to supplement the protections offered the consumer" by prescribing "rules dealing with such warranty practices."

During the 6 years of development of the rule, in compliance with a statutory requirement, four authorization bills for the Federal Trade Commission were reported and acted on in each House, and two bills were enacted. Congress had ample opportunity to repeal or amend section 109(b) of Magnuson-Moss (15 U.S.C. 2309(b)) which statutorily requires the used car rule. This provision continues to be carried in law and, to the extent it is not effective as the result of the exercise of the legislative veto, that veto is lawmaking in a form that attempts to bypass the constitutionally mandated process of law.

NECESSARY AND PROPER

Other advocates of the legislative veto have relied strongly on the provisions of clause 18 of section 8 of article I which authorize Congress "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers." They have asserted that Congress and the Executive enjoy broad discretion under the "necessary and proper" clause to reach appropriate political accommodations.

This argument has merit. I would note the prior comments which discuss the organic schemes that have produced most independent regulatory agencies. In the delegation of legislative functions and the restrictions on Presidential supervisory powers, these plans strain constitutional limits.

But the constitutionality of these plans has been consistently upheld in the course of repeated challenge throughout this century. Presumably, the courts are prepared to permit some accommodations, which do not overly strain the constitutional fabric, when faced with compelling cause. The important and useful nature of this particular accommodation is noted in the report of the 1949 Hoover Commission:

The independent regulatory commission is a useful and desirable agency where constant adaptation to changing conditions and delegation of wide discretion in administration are essential to effective regulation.

The independent commission provides a means for insulating regulation from partisan influence or favoritism, for obtaining deliberation, expertness and continuity of attention, and for combining adaptability of regulation with consistency of policy so far as practical.[11]

But in this, or any accommodation that strains the fundamental doctrine of separation of powers, the courts must hold Congress to a substantial showing under the "necessary and proper" clause.

The committee would note that it is conceivable that some legislative vetoes may meet this test.[12]

But, in general, the legislative veto does not meet such a standard and the committee perceives the standard as particularly lacking in the case of H.R. 6995.

During the 6 years that the used car rule was in development and the law requiring it remained on the books, unamended, the Congress amended the Federal Trade Act to totally remove all FTC authority over the savings and loan industry and substantially remove its authority over the business of insurance. Amendments were also enacted which overturned ongoing rulemakings, and restricted subsequent activities, in regards to cereal manufacturers, the funeral industry, and children's advertising.

Mr. Chairman, the Federal Trade Commission has been driven, both to and from, virtually every activity of the past decade by shifting congressional directives. No clearer case of congressional direction and supervision, within the proper process of law, exists than the FTC. And, on that basis, the application of a legislative veto to the FTC fails to meet the requisite standard.

SEVERABILITY

The committee is aware that severability provides a method by which the courts can avoid a constitutional determination on a legislative veto which is enacted as a fundamental part of a legislative delegation.

The argument in such a case would be that the legislative history of the delegation was such that it was compellingly clear that the delegation to the agency, and the applicability of congressional review procedures to it, were so inextricably linked that the delegation could not have been enacted without its inclusion.

The committee would assert that its own record, in the handling of title X of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93-344), and that of the

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[7] *Buckley* v. *Valeo*, 424 U.S. 1 (1976).

[8] Woodrow Wilson, "Congressional Government" (Boston: Houghton Mifflin Co., 1885), p. 309.

[9] The Federalist No. 47 (J. Madison) at 324-326 (J. Cooke ed. 1961).

[10] 2 M. Farrand, "The Records of the Federal Convention of 1797," p. 301-5.

[11] Commission on Organization of the Executive Branch of the Government, "Task Force Report on Regulatory Commissions" [Appendix N] (Government Printing Office: 1949), p. viii.

[12] *Pacific Legal foundation* v. *Watt* 529 F.Supp. 982 (D.C. Mont. 1982).

Committee on Foreign Affairs, in the handling of the War Powers Resolution (Public Law 93-148), are compelling examples of such histories of essentiality.

As to the Federal Trade Commission, the adoption of a legislative veto, in the context of a routine 1980 authorization, for an agency established in 1914, does not make such a case.

LEGITIMACY OF THE LEGISLATIVE VETO

Mr. Chairman, if a case could be made for the constitutionality of the legislative veto, it would still fall to the committee to examine the appropriateness of such a proposal. The committee has considered this matter at some length; indeed the issue has constituted the principal work of one of its subcommittees.

In this regard it is important to examine the intent of the separation of powers doctrine. Some of the framers, as discussed previously, were particularly concerned by the tendency of legislative bodies to assume the total functions of Government and sought to prevent such a tendency but erecting a system of checks and balances.[13]

But the committee views as equally compelling the arguments of Thomas Jefferson that enforcement of the separation of powers doctrine, through the Presidential veto, was of equal importance to the viability of the legislative branch and that the separation of legislative and executive function would free Congress from the details involved in the execution of law.[14]

My experience, during the years I have served in Congress, Mr. Chairman, tend to confirm Jefferson's thesis. It has been my consistent experience that Congress has contributed best to the process of rational government when it concentrated on the development of broad policy. And it has been my experience, equally, that attempts by Congress to overly involve itself in detailed implementation of laws actually has tended to weaken the effectiveness of Congress.

□ 1400

Mr. QUILLEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment should be defeated.

Prior law contained a legislative veto provision for the FTC. Unless we act to continue the legislative veto provision in this authorization bill, we will lose it. That is plain and simple.

The FTC authorization bill before us today contained a legislative veto provision covering the FTC when it was referred to the Rules Committee. The Rules Committee adopted an amendment to knock out that legislative veto provision and that is where we are now. I think we should keep it.

Congress has given rulemaking authority to the FTC. FTC rules have the effect of law. The penalties for violating an FTC rule are just as real as the penalties for violating a law. Congress has a responsibility to oversee the actions of the FTC. Congress has too often abdicated its responsibility for oversight of Federal agencies. One result has been a dramatic increase in costly and often nonsensical rules and regulations affecting many businesses and individuals. This increase in bureaucratic regulation has caused a feeling of harassment and intrusion for every citizen and enterprise.

The FTC legislative veto is a necessary step to correct these problems. The fight is not over rulemaking authority itself, but the abuses of that authority which have taken place and will take place so long as the rulemakers are not held accountable for their actions.

The House has indicated its support of the legislative veto over the FTC in a number of different ways. As recently as August 13, the House showed support for legislative veto over FTC regulations. At that time, the House recommitted a rule making in order an appropriations bill which included funds for the FTC primarily because the bill did not contain an extension of the expiring legislative veto authority. On May 26 of this year, the FTC legislative veto mechanism was used in the House to disapprove regulations for used car dealers. The House disapproved the FTC proposed rule by a vote of 286 to 133. Had there been no legislative veto, the overwhelming majority of Congress would have been ignored.

Members have indicated support for the general concept of legislative veto by cosponsoring legislation on the subject introduced by the gentleman from Georgia (Mr. LEVITAS). At the beginning of this week, 254 Members of the House were cosponsors of this legislation, and possibly the number has increased.

If we do not reaffirm the legislative veto provisions, the FTC will no longer be subject to the necessary restraint.

In the past, the House has been unwilling to provide a mechanism to do away with the veto.

I hope that today we defeat this amendment and continue the veto mechanism so that the bureaucrats can be tamed, so to speak, and that congressional control will prevail.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Chairman, I yield 5 minutes to the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Chairman, I would like to express my appreciation to the gentleman from Massachusetts for yielding this time to me, especially since I rise in strong opposition to the amendment proposed by the Rules Committee to strike the legislative veto provisions of the pending bill.

The legislative veto is simply a mechanism through which the elected Representatives of the people of America have the final say-so about those rules and regulations that affect their lives and livelihood.

It is a simple proposition of who makes the laws in this country, the elected officials of the Congress or the unelected bureaucrats. It is a question of accountability to the American people for the rules that affect their lives. That is what the legislative veto is all about.

As Members of Congress viewing this subject, we must remember that administrative rules and regulations are, in effect, laws. They have the same force and effect as laws. If a person violates an act of Congress which is criminal in nature, he is arrested by a Federal official, brought before a Federal court for trial and, if convicted, sentenced by a Federal judge to serve time in prison or to pay a fine. The exact same is true if a citizen violates an administrative rule, written by a bureaucrat who is elected by no one and is responsible only to the agency head. The ultimate test of what something is, is not its name, but its effect. Administrative rules and regulations are laws. We must not forget that fact. The question becomes then: Are we going to continue to let unelected bureaucrats continue to pass laws without effective congressional control?

Our Founding Fathers would be shocked to see us struggling so with laws passed by the executive branch and independent agencies. The principle for which they fought was control over executive and bureaucratic power by the people through their elected representatives. It was no accident that I chose H.R. 1776 as the number under which I introduced my bill to give Congress this veto authority over all agency rules and regulations. H.R. 1776 now has over 250 cosponsors. One of the many grievances enumerated against King George in the Declaration of Independence was, "He has erected a multitude of new Offices, and sent hither swarms of Officers to harass our people, and eat out their substance."

One has only to glance at the daily Federal Register to realize that the executive and independent agencies have evolved into fourth branch of government with hosts of regulations which carry the force of law without legislative consideration. While it may be true that Congress has previously given—or abandoned—to the bureaucracy the power to enact these administrative laws, that does not justify an

[13] "The Federalist" No. 47 (J. Madison), (J. Cooke ed. 1961), p. 324-6.

[14] 4 Jefferson, "The Writings of Thomas Jefferson" (P. Ford ed. 1894), p. 424-25.

unmitigated continuation of this practice.

There is clearly a need to have administrative rules to fill in the gaps between the broad principles embodied in acts of Congress, but this does not mean that Congress should leave it to civil servants or appointed officials to pass thousands upon thousands of far-reaching rules that can put citizens in jeopardy of losing liberty or property without having anyone elected by the people or answerable to them involved in the process.

Remedying legislation can, of course, be introduced, but we know too well that this is a cumbersome and time-consuming process which is not adequate to repeal or change administrative rules. Also, why should the full mechanism of enacting laws be required to reject mere agency rules?

The question of constitutionality is a matter of significant debate. As the gentleman from Massachusetts has pointed out, there are now cases pending which will ultimately be decided by the Supreme Court, hopefully during this term.

It is clear to me, however, that a legislative veto which deals with rules and regulations that are issued only as a result of the delegation by the Congress of its full legislative power clearly can be subject to a legislative veto.

Article I, section 1, of the Constitution provides that all legislative power shall be vested in the Congress. If the Congress chooses to delegate some of that power to an agency of Government for the purpose of making a rule which is, in effect, legislation, then certainly that can be conditioned on the power of the Congress to exercise a rejection or a veto of those rules which may be proposed by an agency.

On the question of separation of powers, there is once again no way that any agency of the Government, an independent agency or an agency of the executive branch of Government can issue a rule unless it is delegated that legislative power by the Congress.

I would like to include at this point in the RECORD an excerpt from a brief filed by Eugene Gressman, the special counsel to the House of Representatives in the Chadha case now pending before the Supreme Court. In brief, Mr. Gressman expounds the fact that there is no violation of the separation of powers doctrine in the case of legislative vetoes.

1. NO CONSTITUTIONAL FUNCTIONS OF THE EXECUTIVE OR THE JUDICIARY ARE IMPLICATED BY SECTION 244(C)(2) OF THE IMMIGRATION ACT

To declare an Act of Congress unconstitutional on any ground is "the gravest and most delicate duty that this Court is called upon to perform." *Blodgett* v. *Holden*, 275 U.S. 142, 148 (1927) (Holmes, J.) And to declare an Act invalid because Congress has therein dealt with a matter "committed by the Constitution to another branch of government," or has therein exceeded "whatever authority has been committed" to Congress, "is itself a delicate exercise in constitutional interpretation." *Baker* v. *Carr*, 369 U.S. 186, 211 (1962; *Powell* v. *McCormack*, 395 U.S. 486, 521 (1969); *United States* v. *Nixon*, 418 U.S. 683, 704 (1974).

But the constitutional adjudication sought in this case is extraordinarily grave and delicate, fraught with dangers to the efficient operation of our modern federal government. It is also unique. The essence of the ruling below, the essence of the claim being pressed by the Executive Branch before this Court, is not that Section 244(c)(2) encroaches upon some specific power vested in the Executive or Judiciary. Rather, in the words of the Ninth Circuit, Section 244(c)(2) is invalid as trenching upon "a power necessarily but implicitly conferred elsewhere by the nature of an institutional government; power such as the executive authority faithfully to execute the laws, U.S. Const., art. II, § 3, and the judicial power to determine cases or controversies, *id.*, art. III, § 2." J.S. App.A, 26a. Section 244(c)(2), in other words, "violates the rule of separation of powers by usurping a necessary power of another branch." *Id.*

This case is unique in the sense that never before has an Act of Congress been invalidated as encroaching on nothing more specific than what the Ninth Circuit calls those powers "necessarily but implicitly conferred elsewhere [than in Article I] by the nature of an institutional government." In the court's own words, there is "no circuit of Supreme Court authority we have found [that] holds that the Legislature has impermissibly invaded the prerogative of the Executive or the Judiciary absent a clause in the Constitution which confers the powers upon another branch with great specificity." J.S. App. A, 25a.[9] That is certainly true as respects invasions of Executive prerogatives. In the few instances where Congress has been found to have invaded such prerogatives, the prerogatives themselves have been constitutionally vested in the Executive with specificity and exclusivity. See *Buckley* v. *Valeo*, 424 U.S. 1, 118 (1976) (encroachment on Executive's specific appointment power, Art. II, § 2, cl. 2); *Myers* v. *United States*, 272 U.S. 52, 164 (1926) (encroachment on Executive's removal power stemming from specific appointment power, Art II, § 2, cl. 2). See also *Springer* v. *Philippine Islands*, 277 U.S. 189, 200-201 (1928).

But what is the nature of the powers that must be kept separate in the eyes of the Ninth Circuit, the powers that are implicitly conferred elsewhere than on Congress "by the nature of an institutional government"? The court finds but two such implicit conferrals: (1) the Executive authority or obligation in Article II, Section 3, to "take Care that the Laws be faithfully executed"; and (2) the vesting in the Supreme Court and in inferior courts of the Article III judicial power over cases and controversies. And to determine if Congress has unconstitutionally encroached upon these implicit conferrals, the Ninth Circuit suggests that we look to the statutory provision at stake, i.e., Section 244(c)(2), to divine if that provision constitutes—

". . . an assumption by one branch [i.e., Congress] of powers that are central or essential to the operation of a coordinate branch [i.e., the Executive obligation to take care that the laws be faithfully executed, and the Judiciary's power to decide cases and controversies], provided also that the assumption disrupts the coordinate branch in the performance of its [aforesaid] duties and is unnecessary to implement a legitimate policy of the Government." See *Nixon* v. *Administrator of Gen. Servs.*, 433 U.S. 425, 433 (1977). [J.S. App. A, 37a.]

This reformulation of the general separation of powers doctrine reads suspiciously like the discredited notion that the separation doctrine means total separation of each of the three great functions of government. The Constitution provides separately for each of the three Branches, and describes each Branch as vested with the respective functions of legislating, executing and judging.[10] But the Constitution does not say that the three great functions shall at all times be kept separate and independent of each other, or that the three functions can never be blended or mixed or delegated as among the three Branches. The notion of total separation of the powers "central or essential" to the operation of the three great departments is an illogical and impractical formulation of the separation doctrine, not a constitutional command.[11]

Time and again this Court has observed "from the provisions of the Constitution itself, and from the Federalist Papers, that the Constitution by no means contemplates total separation of each of these three essential branches of Government." *Buckley* v. *Valeo*, 424 U.S. 1, 121 (1976); and see *United States* v. *Nixon*, 418 U.S. at 707; *Nixon* v. *Administrator of General Services*, 433 U.S. 425, 442-443 (1977). As Madison noted in the Federalist Papers, even the "oracle" of the separation doctrine, Baron de Montesquieu, in writing that the legislative, executive and judicial powers should not be united "in the same person, or body of persons," did not mean "that these departments ought to have no *partial agency* in, or no *control* over the acts of each other."[12] In the more subtle language of Justice Jackson's concurrence in *Youngstown Sheet & Tube Co.* v. *Sawyer*, 343 U.S. 579, 635 (1952),

"While the Constitution diffuses power the better to secure liberty, it also contemplates that practice will integrate the dispersed powers into a workable government. It enjoins upon its branches separateness but interdependence, autonomy but reciprocity."

To which should be added the *Buckley* thought, 424 U.S. at 121, that the Framers "viewed the principle of separation as a vital check against tyranny" but "likewise saw that a hermetic sealing off of the three branches of Government from one another would preclude the establishment of a Nation capable of governing itself effectively."

Thus the modern concept of separation is pragmatic and flexible, reflecting "the contemporary realities of our political system." *Nixon* v. *Administrator of General Services*, *supra*, 441. It is a concept that expresses a "general attitude rather than [an] inexorable table of organization."[13] And it is a concept that recognizes not only that the great functions of government cannot be kept separate but that there is great merit in blending and mixing them in accordance with "common sense and the inherent necessities of the governmental co-ordination." *Hampton & Co.* v. *United States*, 276 U.S. 394, 406 (1928). In a realistic sense, the concept has

Footnotes at end of article.

developed into one of "blending rather than separating the three kinds of powers." [14] See also *Atkins* v. *United States*, 556 F.2d 1028, 1066-1067 (Ct. Cls. 1977), *cert. denied*, 434 U.S. 1009 (1978).

At the core of this "blended" form of government is the legislating body, the Congress of the United States. It is the body that legislates the laws that the Executive must execute faithfully and that the Judiciary must interpret and enforce. And it is the body authorized by the Constitution to blend and mix, in statutory forms, the various powers of government, and to delegate some of its own legislative functions to Executive officers and agencies. This "blending" authority emanates primarily from the Necessary and Proper Clause, Article I, Section 8, Clause 18. Under that affirmative grant of power, Congress is empowered to enact all laws "which shall be necessary and proper for carrying into Execution the foregoing [Article I] Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof."[15]

Viewed against this background of "blended" powers, one who would invalidate an Act of Congress as an encroachment upon powers implicitly conferred elsewhere "by the nature of an institutional government" faces a formidable task. It is one thing to argue that Congress has impermissibly sought to execute a function specifically vested in another Branch by the Constitution. But as Justice Holmes said in his dissent in *Myers* v. *United States*, 272 U.S. at 177, "arguments drawn from the executive power of the President, and from his duty . . . to take care that the laws be faithfully executed, . . . seem to me spider's webs inadequate to control the dominant facts." The gossamer nature of this strand of the separation argument is even more apparent when one reflects on Justice Holmes' additional remark: "The duty of the President to see that the laws be executed is a duty that does not go beyond the laws or require him to achieve more than Congress sees fit to leave within his power." *Id.*

The difficulty here is that the alleged encroachments by Congress involve executive and judicial functions not of constitutional dimensions. The Article II executive functions repecting legislation, including the Section 3 "take Care" function, are merely duties to executive "the laws consistent with the provisions therefor made by Congress." *Myers* v. *United States*, 272 U.S. at 247 (Brandeis, J., dissenting). Indeed, *Youngstown Sheet & Tube Co.* v. *Sawyer*, 343 U.S. 579 (1952), makes it conclusive that these "executive" provisions of Article II primarily empower the President simply to carry out the laws enacted by Congress.[16]

If, as has happened with respect to Section 244(c)(2), Congress has withheld from the Executive some part of the function of executing the whole of a statute, the Executive has no more constitutional authorization to perform what has been withheld than to "execute a law by disobeying it."[17] To conclude otherwise is to create an imperial Executive, possessing absolute and uncontrollable power to execute congressional laws as seen fit. So, too, the Article III judicial function with respect to statutes can rise no higher than the jurisdictional parameters permitted by Congress.[18] See *Tutun* v. *United States*, 270 U.S. 568 (1926); *Ludecke* v. *Watkins*, 335 U.S. 160, 171-172 (1948).

The functions here said to have been invaded by the Congress, in enacting Section 244(c)(2), are thus functions that lie within the power of Congress to grant or withhold in its sole discretion. That fact serves to distinguish this situation from that in *Nixon* v. *Administrator of General Services*, *supra*. There the alleged separation encroachment was "upon the Presidential prerogative to control internal operations of the Presidential office and therefore offends the autonomy of the Executive Branch." 433 U.S. at 439-440. Whatever else may be said about that prerogative, it is not conceptually rooted in congressional legislation; the "internal operations of the Presidential office" would appear to partake primarily of the constitutionally assigned functions of the Executive. See also *United States* v. *Nixon*, 418 U.S. at 706, dealing with "the independence of the Executive Branch within its own sphere."

For that reason, the "proper inquiry" formulated in that case and purportedly pursued by the Ninth Circuit in the instant case, J.S. App. A, 37a, may not be the proper inquiry when dealing with the Executive duty to enforce the laws as Congress enacted them. All that the *Nixon* case held was that, when the "internal operation of the Presidential office" are at stake, the proper inquiry "focuses on the extent to which it [the Act of Congress] prevents the Executive Branch from accomplishing its constitutionally assigned functions." 433 U.S. at 433.[19] But where, as in the instant case, the Executive or Judicial Branch's functions are congressionally rather than constitutionally assigned, a shift in the focus of the inquiry would appear appropriate.

The House suggests that the proper inquiry in the legislative-executive context should begin with Justice Powell's question in his opinion in the *Nixon* v. *Administrator* case, 433 U.S. at 498: "whether, putting to one side other limiting provisions of the Constitution, Congress has acted beyond the scope of its enumerated powers." And as two perceptive commentators have added, the next step in the inquiry should be a balancing of "the need for accountability of congressionally delegated powers with the requirement that the effective exercise of these powers not be unduly hampered." [20] Such focusing on the constitutional source of the enactment in question is fully consistent with the view that the separation of powers concept is not meant to "divide the branches into watertight compartments," *Springer* v. *Philippine Islands*, 277 U.S. at 211 (Holmes, J., dissenting), but rather to permit that degree of intergovernmental cooperation considered "necessary and proper" if the Nation is to have the capacity "of governing itself effectively," *Buckley* v. *Valeo*, 424 U.S. at 121

FOOTNOTES

[9] *United States* v. *Klein*, 13 Wall. (80 U.S.) 128 (1871), affords an early instance of invalidating an Act of Congress because it encroached upon the Article III judicial power. But the Court there found that the Act also impinged upon the Executive's exclusive pardon power, as specified in Article II, Section 2.

Article III, of course, contains no specific grants of judicial power. It merely vests the judicial power of the United States over specific categories of cases and controversies in this Court and in inferior courts established from time to time by Congress.

[10] Chief Justice Marshall first voiced the maxim that "the legislature makes, the executive executes, and the judiciary construes the law." *Wayman* v. *Southard*, 10 Wheat. (23 U.S.) 1, 46 (1825). Chief Justice Taft, among others, referred to this maxim in *Hampton & Co.* v. *United States*, 276 U.S. 394, 406 (1928). But Marshall was quick to add, after stating the maxim, that "the maker of the law [i.e., Congress] may commit something to the discretion of the other departments, and the precise boundary of this power is a subject of delicate and difficult inquiry, into which a Court will not enter unnecessarily."

[11] "The maxim that 'the legislature makes, the executive executes, and the judiciary construes the law' was thought to be a simple, descriptive formula of the separation doctrine. Unfortunately, it is not. Rather, a logical analysis makes it clear that, *strictly speaking*, the powers of and within one and the same state cannot be 'separate' or 'independent' from one another, for neither of them can be confined to 'making' or 'construing' or 'executing' the law." Parker, *The Historic Basis of Administrative Law: Separation of Powers and Judicial Supremacy*, 12 Rutgers L.Rev. 449, 464 (1958).

[12] *The Federalist No. 47*, p. 325 (J. Cooke ed. 1961) (emphasis in original).

[13] L. Jaffe, *Judicial Control of Administrative Action* 29 (1965).

[14] The "blending" phrase is that of Professor Kenneth Culp Davis. 1 K. Davis, *Administrative Law Treatise* 72 (2d ed. 1978). He also writes in elaboration:

"Except for the clear facts that the main legislative power is in Congress, the main executive power in the President, and the main judicial power in the courts, an outstanding characteristic of the American government is the non-separation of the three kinds of power.

"The Constitution itself points the way by explicitly providing for blending. It provides that the President shall participate in the legislative process by approving or vetoing bills and in the judicial process by exercising the power of pardon, that the House shall act executively in impeaching officers, that the Senate shall act judicially in trying impeachments, and that the Senate shall participate in an executive function in advising on and consenting to appointments to public office." *Id.*, 72-73.

[15] See, generally, Van Alstyne, *The Role of Congress in Determining Incidental Powers of the President and the Federal Courts: A Comment on the Horizontal Effect of "The Sweeping Clause,"* 36 Ohio State L. J. 788 (1975).

[16] "The power (again actually expressed as a duty) to take care that the laws be faithfully executed is entirely dependent on the laws." Black, *The Working Balance of the American Political Departments*, 1 Hast. Con. L. Q. 13, 14 (1974).

[17] Winterton, *The Concept of Extra-Constitutional Executive Power in Domestic Affairs*, 7 Hast. Con. L. Q. 1, 35 (1979). See also, Cooper and Cooper, *The Legislative Veto and the Constitution*, 30 Geo. Wash. L. Rev. 467, 480-487 (1962).

[18] Professor Van Alstyne has observed that the second or "horizontal" half of the Necessary and Proper Clause of Article I, Section 8, ". . . assigns to Congress alone the responsibility to say by law what additional authority, if any, the executive and the courts are to have beyond that core of powers that are literally indispensable, rather than merely appropriate or helpful, to the performance of their express duties under articles II and III of the Constitution." Van Alstyne, note 15, *supra*, 799.

[19] The Court added that "Only where the potential for disruption is present must we then determine whether that impact is justified by an overriding need to promote objectives within the constitutional authority of Congress." 433 U.S. at 443.

[20] Miller & Knapp, *The Congressional Veto: Preserving the Constitutional Framework*, 52 Ind. L. J. 367, 391 (1977).

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Clearly the Congress is the source of the power and can conduct that delegation of the legislative act called rulemaking in any way it sees fit. And, in the case of the Federal Trade Commission, the argument is totally specious that there is any invasion of the powers of the executive branch. One cannot argue that a veto over a rule issued by the Federal Trade Commission is an invasion of the power of the executive branch because the Federal Trade Commission is not part of the executive branch of the Government. The Federal Trade Commission is an

independent agency, a creature, if you will, of the Congress. There is no way that one can even make an argument of invasion of the powers of the executive in the case of the Federal Trade Commission or any of the other independent agencies because they are not part of the executive to begin with.

President Reagan apparently agrees with this as evidenced by an article he wrote before becoming President. I would like to submit for the RECORD, the following article written by Ronald Reagan which appeared in the Jewish Press magazine on August 10, 1979:

NAILING THE REGULATOR

The Federal Trade Commission, one of Washington's most aggressive regulatory agencies (some have dubbed it the "national nanny"), may get its ears pinned back by the Senate in the next few days.

It hasn't attracted much press attention, but an amendment to the budget authorization bill for the FTC would give Congress a "legislative veto" over rulings by the regulators.

Specifically, the amendment, sponsored by Senator Harrison Schmitt, R-N.M., would give Congress the authority to intervene in FTC rulings within 60 days after they are announced. If it didn't act within that time, the ruling (on, say, such things as children's television advertising—subject now being debated by the FTC) would stand.

The idea isn't a new one. It began in 1932 when Herbert Hoover was president, in the Legislative Appropriation Act that year, Congress gave Hoover the green light to reorganize the executive branch of the federal government, but with the specifics subject to disapproval by either house.

In the 47 years since, Congress has passed 159 acts containing 214 separate, specific provisions giving itself "legislative veto" review power. More than half of these have been enacted since 1970, so the popularity of the idea is growing.

"Frustration" and the "anti-Big Government" mood of the nation are often given by both advocates and opponents of the legislative veto as major reasons for its popularity. "There is an increasing frustration over the lack of control of these agencies. Everybody has a regulatory horror story to tell," Sen. Schmitt says.

Bureaucrats and their allies among the Ralph Nader network and other self-styled "public interest" groups are in a tizzy over the possibility that the Senate may pass the measure tightening control over the FTC. Having gotten used to having a hand in deciding what's best for us all, they are—well—uncomfortable about losing their clout.

Ironically, opponents of the legislative veto complain that it would "politicize" the regulatory process. One bureaucrat recently said, "The total dynamic of rule-making will suffer. . . . Our process will become a political one as we attempt to build a political record to bring before the Hill."

Funny, but that sounds as if he means the regulations will have to be more sensitive to the mood of the people, just as members of Congress are. Since bureaucrats aren't elected, holding them more accountable than they have been sounds like a pretty good idea in this constitutional republic of ours.

Even if the Senate should defeat the Schmitt amendment (and predictions are that the vote will be close, either way), the legislative veto seems to be an idea which is gathering the momentum of a snowball rolling downhill.

An FTC official has conceded that his agency has written off the House, where Rep. Elliott H. Levitas, D-Ga., has made the subject his "Number 1 priority." He says, "It has finally dawned on most people that government has gone beyond their control. These agency people are actually making laws and they're not accountable to anyone."

Rep. Levitas' ire stems from a 1974 incident when an arrogant FTC bureaucrat informed some Levitas constituents that he wasn't interested in their views, he had already made up his mind.

Throughout our Nation's history the legislative and executive branches of our Government have worked for a constitutionally designed balance of power between the branches. This balance has been accommodated through the ability of our system to adopt constitutionally sound procedures which maintain an appropriate balance of power while at the same time responding to current day demands on Government.

One such procedure which has been enacted and exercised responsibly over the past several decades is the legislative veto. Through this mechanism the Congress, the lawmaking body of our Government, has been able to delegate authority to the executive branch of Government while at the same time retaining its ultimate responsibility for making the laws of this country.

In an excellent article which appeared in the Washington Post on February 21, 1982, the political scientist Louis Fisher addressed the issue of the legislative veto.

Not only does Fisher maintain that the legislative veto is constitutional but he also praises it as good policy which has been wisely and prudently used. Without it, Fisher notes, the power of the executive branch would likely be restricted rather than enhanced. And without it, Congress would have to resort to other mechanisms of control which would be much more burdensome and much more cumbersome than the legislative veto procedures which have been proven to work effectively and efficiently.

In his article, Fisher spells out what it would mean for our Government if the Supreme Court strikes down this procedure. The ability of Congress to oversee executive branch actions and thus the willingness of Congress to delegate power to the executive branch would be dealt a severe blow.

As Fisher notes,

For many issues facing government today, the legislative veto is practical, appropriate and constitutional. Striking it down is not a step to be taken lightly.

At this point I would like to submit for the RECORD the excellent article by Louis Fisher:

[From the Washington Post, Feb. 21, 1982]

CONGRESS CAN'T LOSE ON ITS VETO POWER

(By Louis Fisher)

We are witnessing an ironic turn in the historic struggle between the executive branch and Congress: a court decision which seemingly promises much greater power for the executive but which, if upheld, would likely lead to the opposite effect.

The Jan. 29 ruling, by a three-judge panel of the U.S. Court of Appeals here, gave a rude jolt to the "legislative veto," a device Congress has relied on for at least a half century to control executive actions.

Specifically, the panel struck down a one-house veto used to disapprove a gas-pricing regulation by the Federal Energy Regulatory Commission (FERC). But its language was so broad as to question the constitutionality of legislative vetoes in hundreds of other laws governing arms sales, immigration, war powers, impoundment, endless agency regulations and much else.

The D.C. panel recognized that its finding—that all legislative acts constitutionally require "presentation to the president and passage by both houses of Congress"—"may have far-reaching effects on the operation of the national government." But it may have misunderstood those effects.

Many assume the ruling portends a gain for the executive branch, a victory for orderly government, a blow to congressional interference. Think again. If the Supreme Court upholds the overly broad opinion, the net result will more likely be less power for executive officials, a more convoluted legislative process, and continued congressional involvement in administrative decisions.

Bizarre consequences? Not if you understand why the legislative veto was orginally adopted. Presidents accepted (indeed, often invited) legislative vetoes because they provided a way to get more power. The bargain was clearly understood by both branches. The president essentially told Congress: "Give me more authority than you normally would, and I'll give you a chance to veto my initiatives." If presidents disliked the legislative veto, Congress would withhold authority.

Courts are familiar with this quid pro quo. In 1977 the Fourth Circuit dismissed a suit by a federal employee who protested that the Senate acted unconstitutionally when it disapproved a pay raise recommended by the president. But the legislative history convinced the court that Congress delegated the salary authority only on the condition that it could by a one-house veto, disapprove presidential recommendations. The authority and the condition were inseparable.

The FERC case was different. Here the court decided that the grant of rulemaking authority was not tied explicitly to the one-house veto. But that is the exception, not the rule.

The record shows, for example, that the president could not tell Congress: "Thanks very much for the authority to reorganize the executive branch, but I have no intention of recognizing your right to veto my plans." Executive reorganization power and the legislative veto could not be severed.

Other examples abound. Under the Impoundment Control Act of 1974, the president may defer spending unless one house of Congress disapproves. The president is not at liberty to take the authority and ignore the condition. If the legislative veto is unconstitutional, the president will forfeit the statutory authority to defer spending.

He might claim other authorities (statutory or implied powers under the Constitution), but this would merely trigger the kind of fractious litigation we had in the early 1970s under President Nixon.

The Federal Trade Commission Act of 1980 raises a similar issue. Congress, angered by some FTC regulations, enacted legislation requiring future rules to run the gauntlet of the legislative veto. If the D.C. panel's opinion is upheld, the FTC may lose its authority under the statute to issue regulations.

Uncertainties in this area, as in others, would probably force more issues into the courts, with the preponderance of evidence often on the side of the Congress. In the laws covering arms sales, foreign trade, the sale of nuclear fuel, federal salaries, immigration, impoundment and presidential papers, for some notable examples, the delegated power and the legislative veto seem inseparable.

Congress, of course, could rewrite many of its broad delegations of power, and the executive branch also could well lose some procedural benefits. Where there is a legislative veto, presidential proposals are put on a fast-track system. Other privileges include special procedures to bypass committees, limit debate and prohibit floor amendments. Without the legislative veto, Congress would eliminate these advantages or require the President to gain approval of both houses in a bill or joint resolution. Either approach would undercut the President.

The legislative veto is criticized as a backdoor way of accomplishing what should be done directly through the regular legislative process. But if Congress is denied the legislative veto, no one should underestimate its ingenuity in inventing other devices that will be more cumbersome for the president and just as satisfactory to Congress.

President Eisenhower discovered this unpleasant fact in the 1950s when he objected to "committee vetoes" compelling agencies to obtain advance clearance from congressional panels. Attorney General Herbert Brownell called this an unconstitutional infringement on executive responsibility.

Undaunted, Congress created another procedure that yielded the same control. A bill was drafted to prohibit appropriations for certain real estate transactions unless the Public Works committees first approved the contracts. Eisenhower signed the bill after Brownell concluded that this procedure—based on the authorization appropriation process—was within Congress' power. The form had changed; the committee veto remained.

If the one-house veto over impoundment deferrals is invalid, Congress will have no trouble devising more burdensome procedures for the president. A harbinger of what might be in the works appears in the Transportation Appropriation Act for fiscal 1982, passed last December. Whenever the president proposes to defer appropriations for various rail programs, the funds must be released unless Congress within 45 days completes action on a bill approving all or part of the proposed deferral.

There is no constitutional problem here, since Congress will act through the regular legislative process. Yet in this case, in effect, the president not only ends up with a one-house veto but a more onerous version. Under the Impoundment Control Act, one house must take the initiative to disapprove a deferral. Under the transportation statute one house can succeed through inaction.

There are other anomalies. Opponents of the legislative veto warn about the workload imposed on Congress by having to review administrative actions. But the workload is likely to be far heavier if Congress has to act positively through the regular process. The temptation will be strong for Congress to grant powers for shorter periods, forcing the president to return to Congress for extensions. Of course either house, by inaction, could deny him the authority.

Other mechanisms are also available to protect congressional prerogatives. Under the Trade Act of 1958, the president could implement certain actions for import relief only by obtaining from Congress a concurrent resolution passed by a two-thirds majority in both houses. Courts would likely find this type of concurrent resolution constitutional, since it contains a built-in override of a presidential veto. This would come as little consolation to a president forced to locate an extraordinary majority in each house before acting.

The D.C. court, in its FERC ruling, warned that the legislative veto enables Congress "to expand its role from one of oversight, with an eye to legislative revision, to one of shared administration." This increase in congressional power, according to the court, violates the separation-of-powers doctrine.

But with or without the legislative veto, Congress will remain knee-deep in administrative decisions, and it is inconceivable that any court or any president can prevent this. Call it supervision. intervention, interference or plain meddling. Congress will find a way.

If an agency adopts a regulation that offends Congress, legislators can attach language to an appropriation bill preventing the use of funds to implement the regulation. There is no constitutional question about Congress' right to do this, although riders to appropriations bills are far from ideal ways to make law. They are added without the hearings, careful consideration and substantive knowledge that more likely accompany a legislative veto.

Congress also exercises an extraordinary array of nonstatutory controls. The clearest examples are the understandings between Congress and the agencies for "reprogramming": the shifting of funds from one program to another within the same appropriation account. Major reprogrammings must be approved by the committees (or subcommittees) with jurisdiction over the program.

This is simply one more quid pro quo between the branches. In return for the flexibility of lump-sum appropriations, agencies agree to abide by reprogramming guidelines and committee clearance. No one wants to return to line-item funding. Since this type of control is informal and nonstatutory, it is difficult to conceive of a legal issue that might reach the courts. But the involvement of Congress in "shared administration" is just as real and binding.

Judicial warnings about shared administration seem unrealistic in view of the extensive overlay of statutory and nonstatutory controls. Certainly it is extravagant and hyperbolic for the D.C. Circuit to suggest that legislative vetoes put us on the road to congressional tyranny. If the courts are serious about "untangling" the rights and powers of the three branches, they have their work cut out.

Shall they prohibit the President from making substantive legislation through executive orders and proclamations? Will courts resurrect the 1935 rule requiring Congress to delegate legislative power with clear standards? This would be a revolution in itself. Should we consider placing all independent commissions under the executive departments, thereby tidying up the system of three branches? This has been tried more than once, without success, and for good reason. Can we no longer tolerate adjudication and "quasi-legislation" by the agencies? Should we eliminate "legislative courts" (established under Congress' Article I powers)? For that matter, is it time to ask the courts to pull back from their own involvement in legislation and administration?

It is too glib for courts to tell Congress that if it disagrees with what the president and the agencies are doing, it should act through the regular legislative process. The regular process is subject to a president's veto, creating the need for a two-thirds majority in each house to override the president. Without the legislative veto, Congress is placed in the dilemma of delegating authority by a majority to recapture control. That is why both branches agreed on the legislative veto for reorganization authority.

The legislative veto in the War Powers Resolution of 1973 was meant to extricate Congress from the situation it found itself in under President Nixon: able to attract a majority vote in each house to deny funding for the Vietnam war, but unable to secure a two-thirds vote when Nixon vetoed these restrictions. Critics of the legislative veto have not addressed this problem.

Nor is it enough to advise Congress that legislative vetoes would be unnecessary if it would only delegate with precise standards and clear policy.

Congress has no doubt used the legislative veto to sidestep difficult questions of national policy, it can be a convenient and irresponsible substitute for making legislative decisions. But the veto allows Congress to review specific proposals under circumstances that no one could foresee when the authority was first delegated.

For many issues facing government today, the legislative veto is practical, appropriate and constitutional. Striking it down is not a step to be taken lightly.

Other scholars have eloquently expressed their view that the legislative veto is constitutional and that it is practical. I would like to have placed in the RECORD at this point an article which appeared in the George Washington Law Review by Bernard Schwartz of New York University School of Law, expressing such a view.

[From the George Washington Law Review, March 1978]

THE LEGISLATIVE VETO AND THE CONSTITUTION—A REEXAMINATION [1]

(By Bernard Schwartz, Edwin D. Webb, Professor of Law, New York University School of Law)

"Who is there who has not felt a sudden startled pang at reliving an old experience or feeling an old emotion? *I have done this before. . . .*"[2] Observers of the legal scene all too often have the same feeling of *déjà vu*. A quarter century ago, a provocative article appeared on the constitutionality of congressional control of administrative action by the "legislative veto," [3] a congressional annulment of executive or administrative action by resolution of one or both Houses.[4] The author, Robert W. Ginnane, argued that the legislative veto violates the

Footnotes at end of article.

veto clause of the Constitution [5] by permitting Congress to enact what is in effect veto-proof legislation.[6]

The Ginnane article led to a flurry of articles on legislative review of administrative action.[7] Most writers disagreed with the Ginnane thesis of unconstitutionality.[8] More importantly, Congress has continued to act on the assumption that the legislative veto is constitutional. Congressional use of the legislative veto has increased dramatically. Under President Franklin D. Roosevelt, Congress passed 15 acts containing legislative veto provisions; under Truman, the number was 18. In the quarter century since the Ginnane article, the figures increased to 31 under Eisenhower; 22 under Kennedy; 36 under Johnson; and 115 under Nixon and Ford.[9]

If these statistics do not demonstrate that "Congress fell in love with the device," [10] they do indicate unequivocal congressional rejection of the argument that the legislative veto is unconstitutional. Indeed, the recent congressional trend is towards expanding the legislative veto from a sporadically used device in specific statutes to a general instrument of congressional oversight. A bill introduced in the Ninety-fourth Congress provided for congressional review of all rules and regulations and for disapproval by resolution.[11] Upon favorable action by the House Committee on the Judiciary,[12] the House voted 265 to 135 for the bill.[13] However, the bill failed to pass by two votes because it was brought to a vote under an expedited procedure requiring approval by two-thirds of the voting members.[14]

One would have thought that the consistent congressional practice of over four decades and the lack of authoritative contrary decisions would have settled the constitutional question. But it has not proved that simple. The issue of the constitutionality of the legislative veto has recently been revived—not only in Congress and the law reviews, but also in the courts.[15] It is therefore pertinent to analyze once again the background of the legislative veto and its place in implementation of the power of congressional oversight, the experience with the legislative veto in both Congress and the states, and legal authority on the constitutional question, particularly on the issue of alleged violation of the veto clause.

The importance of the issue overrides the natural reluctance to undertake the seemingly futile task of attempting to lay a ghost that refuses to remain in repose. According to Judge Henry Friendly, "[t]here seems to be a kind of spontaneous generation about the federal constitution; the more questions about it are answered, the more there are to be answered." [16] That may well be true. But does it mean that we must continue to ask and answer constitutional questions which we assumed had already been definitively answered?

OVERSIGHT AND ADMINISTRATION

The increasing use of the legislative veto is a direct reflection of the growing interest in more adequate legislative oversight. Legislative control over the executive has, apart from such indirect legislative pressure as control over appropriations, power over appointments, and exercise of investigative authority, been generally absent from American administrative law. This lack of effective direct legislative supervision constitutes an important lacuna in the system.

The consistent growth of administrative authority is an outstanding feature of contemporary government. The degree of regulatory activity required by modern public opinion can be carried on as a practical matter only by specialized administrative agencies. For officers of such agencies to administer extensive regulatory and social service schemes effectively, they must be vested with significant discretionary authority. The delegation of powers to the executive in a particular field does not, however, relieve the legislative of responsibility. "The Congress does not really get rid of a subject by delegating powers to the Executive."[17] Indeed, the consistent transfer of authority to the executive only increases Congress' difficulties from the point of view of the effectiveness of representative government.

The legislature is, of course, subject to direct control through the electoral process. There is no comparable control when law is made by administrative agencies. Although the famous characterization of federal agencies by the President's Committee on Administrative Management as "a headless 'fourth branch' of the Government, a haphazard deposit of irresponsible agencies and uncoordinated powers"[18] is exaggerated; too many agencies are not responsible for the details of their operations to the executive or legislative branches or to the electorate.

Delegation of lawmaking power is a categorical imperative of modern government. Nevertheless, the people's representatives must retain the primary legislative function, even if they delegate to agencies secondary power to legislate. In a representative system, it is the job of those representatives to make the hard choices necessary to establish meaningful policies. When Congress delegates wholesale powers and confines them only by a vague standard, it abdicates the traditional legislative function of making these choices. If policy decisions are thereby removed from the political process, they are also removed from popular control. To allow the people's representatives to pass the buck on policy choices to administrative experts is a vote for paternalism over democracy.[19]

If the trend toward bureaucratic domination is to be resisted, the legislature must not surrender control as it has delegated power. "Hence, if the Congress is to effectively discharge its full duty," asserted a member of the House of Representatives in 1945, "it must at the very least supervise each grant of power which it makes with great care, and must assume the function not only of passing legislation, but of seeing that that legislation is carried out in accordance with congressional intent.

"In the absence of the exercise of this second function, Congress will be only half effective at best, for no law is better than its administration."[20]

Admittedly, the vast range of modern administrative authority and the innumerable instances in which it is exercised usually make continuing control by a nonexpert legislative body as large as Congress more a matter of form than of substance. Most observers of the federal legislative process would still agree with Woodrow Wilson that "it is quite evident that the means which Congress has of controlling the departments and exercising the searching oversight at which it aims are limited and defective."[21] Nevertheless, it is erroneous to think that, even in administrative law, the legislative role should be confined to the power to enact laws. "The political philosopher of these days of self-government," to quote Woodrow Wilson again, "has . . . something more than a doubt with which to gainsay the usefulness of a sovereign representative body which confines itself to legislation to the exclusion of all other functions. . . . Quite as important as legislation is vigilant oversight of administration; and even more important than legislation is the instruction and guidance in political affairs which the people might receive from a body which kept all national concerns suffused in a broad daylight of discussion. There is no similar legislature in existence which is so shut up to the one business of lawmaking as is our Congress."[22]

Important though the enactment of laws may be, a Congress or Parliament is hardly worthy of its title if it merely grinds out legislation as a sausage maker grinds out sausages.

REORGANIZATION AND THE LEGISLATIVE VETO

Congressional use of the legislative veto begins with the executive reorganization provisions of the Legislative Appropriation Act of 1932.[23] A recent article tracing the history of the device contains the heading: "Blame It All on Hoover?" [24] That is hardly fair. Although the 1932 statute was passed at the request of President Hoover, who sought authority to reorganize executive departments and agencies, it was Congress which inserted the legislative veto provision as a check on the broad powers granted.[25] The statute provided that Congress could disapprove any presidential reorganization plan by resolution of either House.[26]

Since 1932, Congress normally has been willing to delegate reorganization power to the President only on condition that the law contain a legislative veto provision. The Reorganization Acts of 1939, 1945, 1949, and 1977 [27] all provided that presidential reorganization plans were not to become effective for a stated period during which they could be disapproved by Congress—under the Acts of 1939 and 1945 by concurrent resolution of the two Houses [28] and under the Acts of 1949 and 1977, by a resolution passed by a majority of either House.[29]

Congress renewed the presidential reorganization power conferred by the Act of 1949 on eight occasions, most recently in 1971.[30] The authority finally expired on April 1, 1973,[31] when in the heat of the controversy over Watergate and the imperial presidency, Congress refused to renew the reorganization power of President Nixon. The advent of the Carter administration, strongly committed to administrative reform and executive reorganization, changed congressional attitudes toward presidential reorganization power. The Reorganization Act of 1977 [32] gives the new President reorganization authority, subject to disapproval by resolution of either House.[33]

Although the Senate passed the 1977 statute without questioning the legislative veto provision, the Chairman of the House Committee on Government Operations argued that the veto provision was unconstitutional.[34] The Committee, although approving the bill, stated that "the one-house legislative veto provisions of this bill raise serious constitutional questions." [35] Nevertheless, passage of the 1977 statute with the legislative veto provisions, as well as enactment of prior Reorganization Acts containing comparable provisions, indicates congressional rejection of arguments that the legislative veto is unconstitutional.

The rejection is particularly significant in the case of the Reorganization Acts because of the breadth of the powers they delegate. The Acts have enabled Presidents to restructure the Government by abolishing all or a part of an agency's functions.[36] Acting under the 1949 Reorganization Act, Presi-

dent Truman placed the U.S. Maritime Commission within the Department of Commerce and separated its administrative functions from its quasi-judicial regulatory functions.[37] Acting under the 1953 Act, President Eisenhower created a new executive department, the Department of Health, Education, and Welfare.[38]

In the case of reorganization laws, the legislative veto "was insurance to Congress that its always jealously guarded control over the structure of the executive organization would still reside where Congress believed it belonged—in its own hands." [39] The legislative veto provisions of the Reorganization Acts have enabled Congress to exercise much greater control over delegated power than under laws where it confers authority subject only to the indirect controls normally at the disposition of American legislatures. Congress has nullified a significant number of reorganization orders. Twenty of the 93 plans submitted under the 1949 Act and its extensions were disapproved.[40] The most publicized case was the Senate's disapproval in 1950 of President Truman's attempt to abrogate by reorganization the section of the Taft-Hartley Act [41] which provides for separation of functions between the National Labor Relations Board (NLRB) and its independent Office of General Counsel.[42]

The number of reorganization plans disapproved indicates the effectiveness of the legislative veto technique in the Reorganization Acts. Although the legislature has not necessarily been more correct than the President on the merits of individual reorganization proposals, the veto has provided a method by which Congress could exercise continuing control over executive exercises of delegated powers.

The effectiveness of congressional control under the Reorganization Acts is directly related to the importance of the powers delegated. The orders subject to congressional disapproval were issued by the chief executive; they affected the organization of the administration, otherwise prescribed by law; and they could, as in the case of the proposed reorganization of the NLRB, directly alter important statutory provisions and congressional policies. The legislative interest was sufficiently aroused to ensure adequate scrutiny of such significant orders.[43]

OTHER LEGISLATIVE VETO STATUTES

Although employment of the legislative veto began in the reorganization field, Congress soon used it in other areas. According to a 1976 report of the House Committee on the Judiciary, legislative veto provisions "have been included in federal legislation at least 183 times in 126 different acts of Congress in the last 43 years." [44]

It is virtually impossible for an individual without the research resources of the Library of Congress to develop a complete list of the federal statutes which contain legislative veto provisions. The following discussion of federal statutes outside the reorganization field is therefore illustrative rather than exhaustive. Statutes which permit disapproval of the stated executive or administrative action by concurrent resolution of both Houses include:

Department of Defense Appropriation Authorization Act of 1975 (export of goods, technology, or techniques) [45]

Atomic Energy Act Amendments, 1975 (foreign distribution of nuclear materials) [46]

Foreign Military Sales Act Amendments, 1974 (spending of foreign military assistance funds) [47]

Trade Act of 1974 (presidential power to waive freedom of emigration requirements for any country) [48]

Motor Vehicle and Schoolbus Safety Amendments of 1974 (motor vehicle safety standards) [49]

Education Amendments of 1974 (rules and regulations under Act) [50]

War Powers Resolution, 1973 (use of armed forces to engage in hostilities abroad without declaration of war) [51]

Defense Production Act amendments, 1970 (cost accounting standards) [52]

Atomic Energy Act Amendments, 1958 (agreements for atomic energy cooperation with other nations) [53]

Statutes which permit the stated executive or administrative action to be disapproved by resolution of either House include:

Energy Policy and Conservation Act (presidential energy action) [54]

Amtrak Improvement Act of 1975 (national rail proposal) [55]

Military Construction Authorization Act (military construction under Act) [56]

Department of Defense Appropriations Authorization Act (defense contracts under Act) [57]

Presidential Recordings and Materials Preservation Act, 1974 (regulations promulgated under Act) [58]

Federal Election Campaign Act Amendments of 1974 (Federal Election Commission regulations) [59]

Employee Retirement Income Security Act of 1974 (regulations promulgated by Secretary of Labor under Act) [60]

Congressional Budget and Impoundment Control Act of 1974 (presidential proposals to defer expenditures) [61]

Emergency Petroleum Allocation Act of 1973 (amendments to oil allocation regulation) [62]

Regional Rail Reorganization Act of 1973 (rail reorganization plan) [63]

Act of October 19, 1973 (plans distributing funds to Indians in satisfaction of judgments) [64]

Pennsylvania Avenue Development Corporation Act of 1972 (development plan for Washington, D.C. avenue) [65]

Federal Pay Comparability Act of 1970 (federal pay increases) [66]

Arms Control and Disarmament Act (transfer of activities and facilities to Disarmament Administration).[67]

The list reflects the widespread congressional use of the legislative veto. It covers virtually the whole range of executive and administrative actions from presidential employment of the armed forces abroad or impoundment of funds to promulgation of agency regulations or improvement of Pennsylvania Avenue between the White House and the Capitol. Of particular significance is the growing use of the legislative veto technique by recent Congresses. Almost all statutes listed were enacted during the past five years.

These statutes indicate how inaccurate it is to regard the legislative veto as an occasional congressional device, employed primarily in the reorganization field. On the contrary, Congress has been moving toward development of the veto as a major instrument of oversight. Its effort culminated in an attempt to establish a general system of congressional review of rules and regulations.[68]

GENERAL LEGISLATIVE REVIEW OF RULES

Although use of the legislative veto in this country began with the reorganization provisions of the Legislative Appropriation Act of 1932,[69] the technique by that time was well established in English administrative law. During the nineteenth century, Parliament began to control delegated legislation, as administrative rules and regulations are called in the English terminology,[70] through provisions in enabling statutes which required, first, that rules made under them be laid before Parliament, and, second, that rules would be void if, within a stated period, an annulling resolution passed either House.[71] Parliament eventually extended this method of control to all statutes delegating rulemaking power.[72] A 1946 statute standardized the procedure, providing a period of forty days during which rules could be annulled by resolution.[73] Thus, English administrative law has included a general system of legislative review of rules and regulations for many years.

The United States Attorney General's Committee on Administrative Procedure, author of the leading official study of federal administrative law, considered and rejected the use of the English procedure in this country, asserting that "[l]egislative review of administrative regulations, in this particular, has not been effective where tried." [74] Two things should be noted in assessing the Committee's adverse conclusion. First, the Committee gives cavalier treatment to the English experience with legislative vetoes. The report contains only the bare conclusion that the English techniques have been ineffective; it offers no supporting evidence for the statement, with which most observers of the English system would disagree. Second, even if the Committee's conclusion was sound when reached, it no longer reflects the realities of the English system. In 1944, a standing committee of the House of Commons (the Select Committee on Statutory Instruments, usually called the Scrutiny Committee) was formed. The Scrutiny Committee screens all administrative rules laid before the House. The effectiveness of parliamentary review of administrative rules has increased substantially since the Scrutiny Committee's establishment.[75] Any assessment of the English technique which fails to take account of its improved effectiveness since formation of the Scrutiny Committee is hopelessly out of date and unreliable.

Nevertheless, the negative recommendation of the Attorney General's Committee has not dampened efforts to establish American counterparts to the English system of legislative review of rules. Congress has provided increasingly for review by resolution of executive and administrative action during the past quarter century.[76] In addition, a growing number of states has provided for general legislative review of administrative rules and regulations in a manner comparable to the English system.[77] There is strong sentiment in Congress to set up an analogous federal system of legislative review. H.R. 12048, the Administrative Rule Making Reform Act, was introduced in the last Congress. It provided that any agency promulgating a rule must transmit copies to the Secretary of the Senate and Clerk of the House.[78] Rules would not become effective if disapproved by a concurrent resolution of both Houses within ninety days or by a resolution of one House within sixty days which is not disapproved by the other House within thirty days thereafter.[79] Either House could also require that an agency reconsider a rule.[80]

The House Judiciary Committee approved the bill. Although the committee's report acknowledged that the complexity of

modern society made broad delegations of rulemaking power necessary, it also insisted that:

"[T]his very reality requires that Congress have a practical means to disapprove regulations or require their reconsideration in certain instances in a deliberate and reasonable manner. . . . In the judgment of the committee this supervision is the responsibility of elected representatives of the people. [The proposed bill] will provide the Congress with an effective means for supervision of rulemaking activity." [81]

The Committee expressly rejected the claim that the legislative veto was unconstitutional, stating that congressional review of rules and regulations does not invalidly infringe upon the President's veto power or administrative discretion.

"The aim is not to eliminate the executive discretion necessary to carry into effect the policies of the laws enacted by Congress, but it is intended to be a practical means to control such exercise as manifested in rule making to the degree that the agencies be required to submit regulations to the Congress for review and possible disapproval." [82]

H.R. 12048 was voted on in the House on September 21, 1976. The bill narrowly failed to receive the required two-thirds majority.[83]

STATE REVIEW OF RULES

At its annual meeting in August 1977, the National Conference of State Legislatures (NCSL)[84] adopted a number of recommendations on legislative review of administrative regulations. The principal recommendation stated:

"Because of the proliferation of agency regulations and the possibility of promulgation of regulations which violate legislative intent or exceed statutory authority, the committee strongly recommends that legislatures establish procedures for reviewing agency rules and regulations promulgated with the force of law under authority granted by the legislature. These review procedures should be as strong as the constitution of each state allows. In establishing these procedures, legislatures will be reasserting their legislative prerogatives and regaining the basic law-making authority granted to them under state constitutions." [85]

Those who analyze the legislative veto solely in terms of congressional experience [86] erroneously assume that the federal system is the only system of administrative law in this country. Each state has its own body of administrative law and state systems are not mere facsimiles of the federal one. Indeed, the famous comment of Justice Brandeis on the virtues of federalism is particularly pertinent to administrative law: "It is one of the happy incidents of the federal system that a single courageous State may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country." [87]

Several states have served as laboratories for use of the legislative veto. The House Judiciary Committee which approved H.R. 12,048 noted:

"The principle of according the legislature a veto over administrative regulations is a part of the laws of several States, including Alaska, Connecticut, Nebraska, Kansas, Michigan, Oregon, Virginia and Wisconsin. . . . Legislators from the States of Connecticut and Michigan testified concerning the excellent experience of their respective States in following parallel procedures." [88]

Use of the legislative veto technique by state legislatures has grown substantially in recent years. In 1955, six states had specific provisions for legislative review of agency rules and regulations.[89] Currently, provisions for some form of legislative review are part of the statute book in at least twenty-eight states.[90] In nineteen states,[91] special legislative committees (usually joint bipartisan committees whose members are drawn from both Houses)[92] review administrative rules and regulations. These committees are the American counterparts to the English Scrutiny Committee.[93] In nine states,[94] the relevant statutes provide for review of rules and regulations by standing committees of the legislature. In twenty-two states, the committees vested with review jurisdiction are expressly empowered to recommend annulment of rules and regulations to the legislature. In six states, the committees are authorized to suspend rules and regulations pending further action by the legislature. In ten states,[95] the legislature itself itself may exercise the legislative veto. In nine of these states, the annulment may be accomplished by joint or concurrent resolution of both Houses; in Oklahoma, a resolution passed by either House suffices.[96]

The experience in Michigan and Wisconsin with the legislative veto is particularly significant for the present discussion. In both states, opinions of the state Attorney General suggested that legislative veto provisions were unconstitutional.[97] The Michigan legislature subsequently adopted a constitutional amendment expressly authorizing the legislature to establish a committee to review and suspend regulations.[98] A 1970 statute provides that if the committee disapproves a set of rules, the legislature is empowered to pass a concurrent resolution disapproving the rules.[99] In Wisconsin, the legislature repealed the statute providing for legislative annulment of rules and regulations after the Attorney General opinion.[100] In 1970, however, the Wisconsin legislature passed the present provision for legislative review, which provides for a joint committee to review administrative rules, with power to suspend any agency rule while action by the legislature to repeal the suspended rule is pending.[101] Although such committee vetoes (albeit temporary) raise more serious constitutional questions than vetoes by the legislature itself,[102] the Wisconsin committee veto provision demonstrates the clear legislative feeling that some legislative review is needed.[103]

THE CONSTITUTIONAL ISSUE

During the hearings on the 1977 Reorganization Act,[104] a letter from Attorney General Griffin Bell was introduced which stated that the proposed statute was constitutional. The Attorney General limited his opinion to the narrow context of the reorganization statute and did not approve "the constitutionality of the procedure of Congressional disapproval of executive action by the resolution in other statutes." [105] Indeed, the Attorney General stated that "Congressional action outside the check of the Presidential veto should be constitutionally suspect as it carries the potential for shifting the balance of power to Congress and thus permitting the legislative branch to dominate the executive." [106]

Other critics of the legislative veto, however, have not distinguished between its use in the Reorganization Acts and in other statutes.[107] They assert that all applications of the technique of annulment of executive or administrative action by congressional resolution are unconstitutional. Their principal contention is that the legislative veto violates the veto clause of the Constitution,[108] which requires that "Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary," as well as every bill passed by Congress, be presented to the President for his veto before it can become law. They argue that when Congress disapproves executive action such as a reorganization plan or an agency regulation, it exercises legislative power in which the President must participate. As the argument was recently summarized by the Attorney General, "[i]f a statute authorizing control by Congress over executive action by later resolution has the effect of evading the constitutional safeguards of concurrence of both Houses and Presidential veto, then it violates article I, section 7 of the Constitution.[109] Can Congress, by use of the legislative veto, enact what amounts to veto-proof legislation?

Pre-1976 legal authority

A 1976 report to the National Conference of State Legislatures on the constitutionality of the legislative veto states: "The [Legislative Improvement and Modernization] committee has found no case law resolving this issue." [110] This statement that no case law existed was not entirely accurate. Even though there was no contested case before 1977 which decided the merits of the constitutional issue, a 1950 New Hampshire opinion passed on the constitutionality of a state statute [111] patterned on the Federal Reorganization Acts. The statute gave the Governor power to prepare reorganization plans, which were to be submitted to the legislature and take effect within twenty-five days unless disapproved by a concurrent resolution of the state legislature. [112] In an advisory opinion, the New Hampshire Supreme Court ruled that the law violated the state constitutional requirement of participation by the Governor in the legislative process: "[T]he act provides for a reversal of the democratic processes required by the Constitution, for under it the Governor would propose the legislative action, rather than approve or disapprove action taken." [113]

Several attorney general opinions reach a similar conclusion about the veto's constitutionality. In 1932, after delegating reorganization power to President Hoover subject to veto by resolution, Congress considered another bill making tax refunds of over $20,000 subject to prior disapproval by the Joint Committee on Internal Revenue Taxation.[114] In a 1933 opinion,[115] Attorney General William D. Mitchell stated that the portion of the bill providing for committee veto of executive acts was unconstitutional. Mitchell referred disapprovingly to the congressional veto power over executive reorganization plans, asserting that "[t]he attempt to give to either House of Congress, by action which is not legislation, power to disapprove administrative acts, raises a grave question as to the validity of the entire provision in the Reorganization Act of June 30, 1932, for Executive reorganization of governmental functions." [116]

Nevertheless, a memorandum on the Reorganization Act of 1949 submitted to a Senate committee by Attorney General Tom C. Clark pointed out that Attorney General Mitchell's statement on the 1932 reorganization statute "was obiter dictum." [117] Certainly, Mitchell's animadversions did not have practical effect, either upon the operation of the 1932 law or upon subsequent delegations of reorganization

power. President Roosevelt signed the next important Reorganization Act [118] without questioning its congressional veto provisions. Moreover, later Presidents have not questioned more recent reservations of veto power over executive reorganizations.

Two state Attorney Generals have ruled that state legislative veto provisions are unconstitutional. A 1954 opinion of the Wisconsin Attorney General declared invalid a statute authorizing legislative disapproval of any agency rule by joint resolution.[119] The Attorney General stated that the statute violated the Wisconsin constitutional provision that "no law shall be enacted except by bill." [120] The Attorney General found that legislative annulment of administrative rules is tantamount to enacting a change in law, which "action constitutes the making of law." [121]

A contemporaneous opinion of the Michigan Attorney General reached a similar result.[122] The Michigan statute created a legislative committee to scrutinize administrative rules and report its findings to the legislature.[123] The legislature in turn was empowered to annul rules by concurrent resolution.[124] The Attorney General found that the statute violated the state's constitutional prohibition of performance of judicial functions by the legislature, viewing the determination whether to disapprove a regulation as a judicial function.[125]

Of the four opinions finding the legislative veto unconstitutional, Attorney General Mitchell's opinion is most frequently cited. The opinion's general pronouncements on the legislative veto, however, were in the nature of dicta, gratuitously included in an opinion on the constitutionality of a bill giving a congressional committee power to disapprove agency adjudications.[126] Moreover, the Mitchell opinion was repudiated in the 1949 memorandum by Attorney General Clark approving the legislative veto provision of the bill which became the 1949 Reorganization Act.[127]

Disavowing the conclusion of the Mitchell opinion, the Clark memorandum expressly approved statutory provisions for invalidation of reorganization plans by concurrent resolution: "[I]nsofar as it intimated the unconstitutionality of the reorganization provisions of the Act of June 30, 1932, [the Mitchell opinion] was based upon an unsound premise, namely, that the Congress in disapproving a reorganization plan is exercising a legislative function in a nonlegislative manner." [128] The 1949 memorandum strongly affirmed the constitutionality of the legislative veto provision. The key portion of the memorandum stated:

"There would appear to be no reason why the Executive may not be given express statutory authority to communicate to the Congress his intention to perform a given Executive function unless the Congress by some stated means indicates its disapproval. The Reorganization Acts of 1939 and 1945 gave recognition to this principle. The President, in asking Congress to pass the instant reorganization bill, is following the pattern established by those acts, namely by taking the position that if the Congress will delegate to him authority to reorganize the Government, he will undertake to submit all reorganization plans to the Congress and to put no such plan into effect if the Congress indicates its disapproval thereof. In this procedure there is no question involved of the Congress taking legislative action beyond its initial passage of the Reorganization Act. Nor is there any question involved of abdication by the Executive of his Executive functions to the Congress. It is merely a case where the Executive and the Congress act in cooperation for the benefit of the entire Government and the Nation." [129]

Although there is no pre-1977 contested case determining the constitutionality of the legislative veto, a favorable Colorado Supreme Court opinion counterbalances the New Hampshire court's advisory opinion disapproving a law patterned after the Federal Reorganization Act.[130] The Colorado opinion was rendered in a case involving a statute under which certain tax proceeds could be pledged as security for highway bonds, provided "that any such pledge shall first be approved by joint resolution of the Senate and House of Representatives." [131] The court rejected a claim that the provision violated the Governor's veto power under the Colorado State Constitution: [132] "No decision has been called to our attention, nor has an exhaustive search revealed any, which would support the trial court's finding and conclusion that the approval of the General Assembly with which we are here concerned must be by bill as that term is used in our constitution." [133] Absent authority supporting such a result, the court would not strike down the provision for legislative control contained in the challenged statute. The joint resolution for which the statute provided, said the court, was not "legislative" in the sense of a bill or resolution which had to be submitted to the Governor for approval.[134]

The Colorado decision is not direct authority for the validity of the legislative veto, as the statute in question contained a provision for legislative approval, rather than veto, by resolution. Nevertheless, the argument against the Colorado law and the court's answer are pertinent to the debate on the validity of the type of legislative veto provisions contained in the Reorganization Acts.

Election Act cases

Recently, the legislative veto was challenged for the first time in the federal courts.[135] *Buckley v. Valeo* [136] concerned the constitutionality of the legislative veto as a limitation on administrative rulemaking authority. The Federal Election Campaign Act, as amended in 1974,[137] established the Federal Election Commission (FEC) and gave it substantial rulemaking powers. It provided, however, that FEC regulations could be disapproved within thirty days by resolution of either House.[138] The Supreme Court referred to this legislative veto provision as "but the most recent episode in a long tug of war between the Executive and Legislative Branches of the Federal Government respecting the permissible extent of legislative involvement in rulemaking." [139] But it did not reach the merits of the challenge to the legislative veto, holding that the manner of appointment of FEC members was unconstitutional and precluded the Commission from exercising its rulemaking powers.[140]

In a separate and highly significant opinion in *Buckley*, Justice White addressed the merits of the constitutional issue.[141] His opinion is important enough to be quoted extensively:

"I am also of the view that the otherwise valid regulatory power of a properly created independent agency is not rendered constitutionally infirm, as violative of the President's veto power, by a statutory provision subjecting agency regulations to disapproval by either House of Congress. For a bill to become law it must pass both Houses and be signed by the President or be passed over his veto. Also, 'Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary . . .' is likewise subject to the veto power. Under § 438(c) the FEC's regulations are subject to disapproval; but for a regulation to become effective, neither House need approve it, pass it, or take any action at all with respect to it. The regulation becomes effective by nonaction. This no more invades the President's powers than does a regulation not required to be laid before Congress. Congressional influence over the substantive content of agency regulation may be enhanced, but I would not view the power of either House to disapprove as equivalent to legislation or to an order, resolution or vote requiring the concurrence of both Houses. . . .

". . . [I]n the light of history and modern reality, the provision for congressional disapproval of agency regulations does not appear to transgress the constitutional design, at least where the President has agreed to legislation establishing the disapproval procedure or the legislation has been passed over his veto. It would be considerably different if Congress itself purported to adopt and propound regulations by the action of both Houses. But here no action of eigher House is required for the agency rule to go into effect and the veto power of the President does not appear to be implicated." [142]

Justice White's reasoning appears sound. As he points out, it congressional action under the legislative veto technique is legislative in the sense the veto clause anticipates, the same is true of administrative action under the rulemaking power. Indeed, it is unfortunate that the term "veto" has come to be used to describe legislative review of executive or administrative action by resolution. The term has acquired a pejorative connotation, which implies infringement on presidential veto power. Yet, as Justice White indicates, the congressional power to disapprove is not at all equivalent to legislation and hence has nothing to do with the President's veto power.[143]

After the Supreme Court's decision in *Buckley* v. *Valeo*, Congress amended the Federal Election Campaign Act to correct the constitutional defect in the appointment procedure,[144] but left the Act's legislative veto provision unchanged. A subsequent suit challenging the validity of the veto provision was dismissed by the United States Court of Appeals for the District of Columbia Circuit on grounds of standing and ripeness.[145] The Supreme Court affirmed without opinion.[146] Neither tribunal reached the merits of the constitutional claim.

In the court of appeals, however, Judge MacKinnon, dissenting urged the invalidity of the legislative veto provision.[147] Judge MacKinnon stated that "the one-house veto . . . is a completely different method of accomplishing a legislative result by a congressional procedure *not* authorized by the Constitution; *i.e.*, by one house instead of by two houses and the President."[148] The one-House veto, in MacKinnon's view, "clearly violates the constitutional requirement that legislation should be passed by both houses and be signed by the President." [149]

Judge MacKinnon explicitly disagreed with Justice White's opinion in *Buckley*, asserting that White's approach "ignore[s] the actual situation created in Congress" [150] by the Election Act's veto provision. In Judge MacKinnon's view, Congress' failure to veto an FEC regulation was the legislative equivalent for each House of enacting

legislation.[151] To assume with Justice White that a regulation becomes effective without "any [legislative] action at all with respect to it" [152] is, according to Judge MacKinnon, to assume that Congress will act irresponsibly and fail to consider regulations submitted to it pursuant to a legislative veto statute.[153]

The author respectfully believes that Judge MacKinnon misunderstands the actual operation of the legislative veto. Experience in England and the states with general provisions for legislative annulment of regulations demonstrates that the full legislature will not consider every regulation laid before it. Instead, the house concerned directs attention only to regulations questioned by committees or members when resolutions to disapprove are actually filed. Thus, Justice White correctly asserts that "no action of either House is required for the agency rule to go into effect." [154]

Salary Act cases

Another line of legislative veto cases involves federal employees salaries. The Federal Salary Act of 1967 authorized the President to adjust federal employee compensation, subject to annulment by either House of Congress.[155] This legislative veto provision was challenged in two recent cases after Congress disapproved by resolution salary increases recommended by the President. In *McCorkle v. United States,*[156] the district court dismissed the constitutional challenge, stating only, "I think as the single house veto has been provided for here, it is constitutional." The United States Court of Appeals for the Fourth Circuit affirmed without reaching the constitutional issue.[157]

In *Atkins* v. *United States,*[158] 140 federal judges challenged the constitutionality of the Act's legislative veto provision. The majority of the Court of Claims held the provision constitutional.[159] The majority opinion has been characterized as "well written and reasoned" [160] by a recent critic of the legislative veto. The court's reasoning resembles Justice White's view that congressional action pursuant to the legislative veto provision is not legislative action subject to the requirements of the veto clause:

"We reach this decision by virtue of the simple fact that the single House, in voting by a majority to block the otherwise automatic effectiveness of the President's recommendations, is not doing anything for which the Constitution requires the concurrence of both Houses. The single House is certainly not making new law. Plaintiffs seem to think that the House, when it casts its "veto," is attempting to make law, which act they define as one that "repeals, modifies, or amends the law." However, even accepting that definition for the sake of argument, plaintiffs' view is erroneous, for the one-House veto does not alter the existing law in any fashion, but only preserves the legal *status quo.*" [161]

Moreover, the Court of Claims correctly recognized that the need for effective congressional oversight is relevant in determining the constitutionality of the legislative veto:

"[W]hen Congress delegates authority of the kind we have here to a member of the executive branch, the delegation does not convert the authority granted into an irrevocable executive power, because in exercising the delegated functions, the executive officer merely acts as an agent of the legislative branch of the Government . . . To plaintiffs' argument that Congress cannot meddle once it has delegated power, it may be observed that legislation is itself a form of supervision. Congress has two roles: intial formulation of policy and supervision. The only pertinent question is in what manner Congress can oversee. In this case, whether the answer is by full-fledged statute or by one-House veto, there would be neither a violation of the separation-of-powers principle nor an invalid intrusion on executive power." [162]

Though concurred in by three judges, the dissenting opinion in *Atkins* is weakly reasoned. Its quality can be judged from the following key portion of the opinion:

"If it could be assumed *arguendo* that the one-House veto is not legislative in character, then it would have to be a judicial or executive power. Clearly, it is not judicial. If it is neither legislative nor judicial, it is then executive. But neither House nor both Houses nor officials thereof can exercise executive power or functions. . . . It is clear that if the one-House veto is the exercise of executive power or function, it violates the above article of the Constitution, and violates the principle of Separation of Powers of our government." [163]

The dissent's approach is reminiscent of the familiar parlor game: "It is not animal. It is not vegetable. Therefore, it must be mineral." One wonders whether it is a proper way to deal with a difficult problem of separation of powers. When a power does not manifestly belong to one of the three branches, it should, in Justice Holmes' phrase, "fall into the indiscriminate residue of matters within legislative control." [164] This approach, which recognizes the existence of equivocal powers which need not be arbitrarily fitted into a procrustean trichotomy, permits the legislature to determine which branch shall exercise such powers. [165]

CONCLUSION

If, as Holmes' celebrated statement tells us, the life of the law has been experience rather than logic, [166] then (to paraphrase another Holmes aphorism) a page of experience is worth a volume of logic [167]—especially when the logic is as specious as that opposing the constitutionality of the legislative veto. "Clearly, the question of legislative review of Executive and administrative agency actions is a sweeping subject be treated in a gingerly fashion by the courts. Review of various legislative review mechanisms ought at an absolute minimum to be informed by experience and not depend solely on abstract analysis or speculation." [168]

The overriding need for legislative control of delegated powers and increasing attempts to meet that need, at both federal and state levels, through provisions for legislative review of executive and administrative action lend support to the validity of the legislative veto. Experience with the legislative veto under the Reorganization Acts demonstrates its substantial contribution to the effectiveness of legislative oversight.[169] The contention of critics who argue that the provision violates the veto clause [170] is unsupported by authority. Indeed, the recent decisions suggest that the weight of authority, as well as experience, validates the legislative veto.[171] The logic of the claim of unconstitutionality rests upon a perverted construction of the separation-of-powers doctrine. Such a construction is neither desirable nor justified at this late date of our administrative law, when we recognize, in the words of Justice Cardozo, that the separation of powers is not a "doctrinaire concept to be made use of with pedantic rigor." [172]

Moreover, consistent application of the view that the legislature cannot be empowered to disapprove a rule because disapproval is the exercise of a power to make laws would destroy the rulemaking powers of executive and administrative agencies themselves. Executive and administrative agencies are clearly empowered to make law through their rules. Otherwise, how can the legislature be enacting a change in the law through its disapproval power? If that is true, under the rigid separation-of-powers approach, are not delegations of such "lawmaking" powers to the agencies equally invalid? To invoke the separation of powers doctrine against the legislative veto is to return to a time when the maxim against the delegation of powers was inexorably applied.[173] There is no more reason today to invalidate delegation of the annulment power to the legislature on separation of powers grounds than to invalidate delegations of the rulemaking power to agencies on a similar basis.

"If the particular regulation by an executive official or executive-appointed agency reflects delegation of what is in substance legislative power, the question arises why the legislature may not provide instead that when exercising legislative rulemaking power, the agency is 'an agent of the Congress' and the delegation of legislative power is conditioned on at least modest concurrence of the executive-appointed initiator and of the legislative branch. The American Constitution accommodates hybrids that work." [174]

As Justice White[175] and the Court of Claims[176] have noted, legislative disapproval of an executive or administrative act is not to be equated with enacting a law. Legislative approval by failure to pass a resolution of disapproval is merely a condition specified in the enabling statute by which the agency exercise of rulemaking power is governed. It is now beyond dispute that the legislature, in delegating rulemaking authority, can specify contingencies which must occur before delegated power may be exercised.[177] This approach is applicable to the legislative veto: "The failure of Congress to pass such a concurrent resolution is the contingency upon which the reorganizations take effect. Their taking effect is not because the President orders them. That the taking effect of action legislative in character may be made dependent upon conditions or contingencies is well recognized." [178]

It would be most unfortunate if specious construction of a constitutional doctrine should "bar the use of one of the most promising methods of control of executive and administrative action. Congress is in a unique position to supervise administrative authority [179] and the legislative veto is a valuable tool in this task."

The legislature is the one organ of government both responsive to the electorate and independent of the administration. As the source of rulemaking power, it must be able to control the exercise of such power. Nor is it sufficient that improper rules and regulations can be dealt with by statute. As the court in *Atkins* noted, "Congress plainly felt the need for this veto device, instead of relying solely on the power to override presidential recommendations by a full-fledged statute." [180]

The great need in an era of expanding administrative authority is to establish effective safeguards outside the executive branch. Independent control can, in practice, be exercised only by the legislative and

judicial branches. In this country, we have adequately developed control by the courts. Techniques for direct legislative supervision, however, have been neglected. The legislative veto enables American legislatures to assume their rightful place as effective supervisors of delegated powers.

"In the world of reality the mechanism, as we have underscored, was a fair substitute for full bicameral concurrence, did not materially invade the Executive's own sphere, and took due account of the limited presidential participation. It was a permissible accommodation of competing interests, reflecting both an appropriate check by Congress upon the Executive and some check by the Executive upon the action which could be taken by one House alone." [181]

FOOTNOTES

[1] The title derives from Cooper & Cooper, *The Legislative Veto and the Constitution*, 30 GEO. WASH. L. REV. 467 (1962). It is therefore appropriate that this reexamination of the subject appears in this journal.

[2] A. CHRISTIE, CURTAIN 1 (1975).

[3] Apparently the first use of the term was in Millett & Rogers, *The Legislative Veto and the Reorganization Act of 1939*, 1 PUB. AD. REV. 176 (1941).

[4] Ginnane, *The Control of Federal Administration by Congressional Resolutions and Committees*, 66 HARV. L. REV. 569 (1953).

[5] U.S. CONST. art. I. § 7

[6] *See* text accompanying note 109 *infra*.

[7] The present writer contributed an article on the subject. Schwartz, *Legislative Control of Administrative Rules and Regulations; I. The American Experience*, 30 N.Y.U.L. REV. 1031 (1955).

[8] *See, e.g.*, Cooper & Cooper, *supra* note 1, at 515; Newman & Keaton, *Congress and the Faithful Execution of Laws—Should Legislators Supervise Administrators?*, 41 CAL. L. REV. 565, 587 (1953). For a more recent commentary, see Watson, *Congress Steps Out: A Look at Congressional Control of the Exectutive*, 63 CAL. L. REV. 93 (1975).

[9] These figures are taken from Keeffe, *The Legislative Veto: Now You See It, Now You Don't (I)*, 63 A.B.A.J. 1296, 1296 (1977).

[10] *Id.*

[11] H.R. 12,048, 94th Cong., 2d Sess., 122 CONG. REC. H10,666 (daily ed. Sept. 21, 1976); *see* B. SCHWARTZ, ADMINISTRATIVE LAW: A CASEBOOK 291 (1977); notes 78–83 *infra* and accompanying text.

[12] H.R. REP. No. 1014, 94th Cong., 2d Sess. (1976).

[13] 122 CONG. REC. H10,690 (daily ed. Sept. 21, 1976).

[14] *See* id. at H10,718–19.

[15] *See e.g.*, Clark v. Valeo, 559 F.2d 642 (D.C. Cir.), *aff'd mem. sub nom.* Clark v. Kimmit, 431 U.S. 950 (1977); Atkins v. United States, 556 F.2d 1028 (Ct. Cl. 1977), *cert. denied*, 98 S. Ct 718 (1978); State *ex rel.* Wisconsin's Environmental Decade, Inc. v. Joint Comm. for Review of Administrative Rules, 73 Wis. 2d 234, 243 N.W.2d 497 (1976).

[16] Friendly, *The Gap in Lawmaking—Judges Who Can't and Legislators Who Won't*, 63 COLUM. L. REV. 787, 788 (1963) (footnote ommitted).

[17] *Hearings Before the Joint Comm. on the Organization of Congress Pursuant to H. Con. Res. 18*, 79th Cong., 1st sess., pt. 4, at 905 (1945) (statement of Benjamin B. Wallace) [hereinafter cited as *Organization Committee Hearings*].

[18] Report of the President's Committee on Administrative Management 39 (1937).

[19] *See* Wright, *Beyond Discretionary Justice*, 81 YALE L.J. 575, 585 (1972).

[20] *Organization Committee Hearings*, *supra* note 17, at 38 (statement of Rep. Voorhis).

[21] W. WILSON, CONGRESSIONAL GOVERNMENT 270 (10th ed. 1894).

[22] *Id.* at 295, 297.

[23] Act of June 30, 1932, ch. 314, § 407, 47 Stat. 414.

[24] Keeffe, *supra* note 9, at 1296.

[25] *See* H.R. Rep. No. 1036, 72d Cong., 1st Sess. 5–6 (1932).

[26] Act of June 30, 1932, ch. 314, § 407, 47 Stat. 414.

[27] Reorganization Act of 1977, 5 U.S.C.A. §§ 901–912 (West Supp. 1977); Reorganization Act of 1949, ch. 226, 63 Stat. 203; Reorganization Act of 1945, ch. 582, 59 Stat. 613; Reorganization Act of 1939, ch. 36, 53 Stat. 561.

[28] Reorganization Act of 1945, ch. 582, § 6, 59 Stat. 616; Reorganization Act of 1939, ch. 36, § 5, 53 Stat. 562–63.

[29] Reorganization Act of 1977, 5 U.S.C.A. § 906 (West Supp. 1977); Reorganization Act of 1949, ch. 226, § 6, 63 Stat. 203.

[30] Act of Dec. 10, 1971, Pub. L. No. 92-179, 85 Stat. 574; *see* H.R. Rep. No. 105, 95th Cong., 1st Sess. 5, *reprinted in* [1977] U.S. Code Cong. & Ad. News 491, 495.

[31] Act of Dec. 10, 1971, Pub. L. No. 92-179, § 4(b), 85 Stat. 576.

[32] 5 U.S.C.A. §§ 901–912 (West Supp. 1977).

[33] *Id.* §§ 908–912.

[34] H.R. Rep. No. 105, 95th Cong., 1st Sess. 9–10, *reprinted in* [1977] U.S. Code Cong. & Ad. News 491, 499–500.

[35] *Id.* at 3, U.S. Code Cong. & Ad. News at 492–93.

[36] In 1964, however, Congress took away the power of the President to create executive departments through reorganization plans, *id.* at 6, U.S. Code Cong. & Ad. News at 495, and the 1977 Act provides that independent regulatory agencies may not be abolished or their functions wholly transferred, 5 U.S.C.A. § 905(a)(1) (West Supp. 1977). Even with these limitations, the reorganization power remains far-reaching.

[37] Reorg. Plan No. 21 of 1950, 3 C.F.R. § 1012 (1949–1953 Compilation), *reprinted in* 5 U.S.C. app., at 539 (1970) and in 64 Stat. 1273 (1950).

[38] Reorg. Plan No. 1 of 1953, 3 C.F.R. § 1022 (1949–1953 Compilation), *reprinted in* 5 U.S.C. app., at 548 (1970) and in 67 Stat. 631 (1953).

[39] J. HARRIS, CONGRESSIONAL CONTROL OF ADMINISTRATION 204 (1964).

[40] H.R. Rep. No. 105, 95th Cong., 1st Sess. 5, *reprinted in* [1977] U.S. Code Cong. & Ad. News 491, 495.

[41] 29 U.S.C. § 153(d) (1970).

[42] 96 CONG. REC. 6886 (1950).

[43] For a discussion of other reorganization plan rejections, *see* J. HARRIS, *supra* note 39, at 209.

[44] H.R. Rep. No. 1014, 94th Cong., 2d Sess. 14 (1976).

[45] 50 U.S.C. app. § 2403–1(c) (Supp. V 1975).

[46] 42 U.S.C. § 2074(a) (Supp. V 1975).

[47] 22 *id.* § 2443(b)(2).

[48] 19 *id.* § 2432(d).

[49] 15 *id.* § 1410b(d).

[50] 20 *id.* § 1232(d).

[51] 50 *id.* § 1544(c).

[52] 50 U.S.C app. § 2168(h)(3) (1970).

[53] 42 U.S.C. § 2153(d) (1970 & Supp. V 1975).

[54] *Id.* § 6421(c)(1) (Supp. V 1975).

[55] 45 *id.* § 564(c)(3).

[56] Pub. L. No. 93-552, § 613(a)(3), 88 Stat. 1766 (1975).

[57] 50 U.S.C. § 1431 (Supp. V 1975).

[58] Pub. L. No. 93-526, § 104(b)(1), 88 Stat. 1697 (1974), *reprinted at* 44 U.S.C. § 2107 note (Supp. V 1975); *see* Nixon v. Administrator of Gen. Servs., 433 U.S. 425 (1977).

[59] 2 U.S.C. § 438(c)(2) (Supp. V 1975); *see* Buckley v. Valeo, 424 U.S. 1 (1976).

[60] 29 U.S.C. § 1232(d)(1)(B) (Supp. V 1975).

[61] 31 *id.* § 1403(b).

[62] Pub. L. No. 93-159, § 4(g)(2), 87 Stat. 633 (repealed 1975).

[63] 45 U.S.C. § 718(a) (Supp V 1975).

[64] 25 *id.* § 1405(a).

[65] 40 *id.* § 874(d).

[66] 5 *id.* § 5305(c)(2) (1970). *See* also Federal Salary Act of 1967, 2 *id.* § 359(1)(B).

[67] 22 *id.* § 2587(b). *See generally* 28 *id.* § 2076 (Supp. V 1975) (federal rules of evidence subject to disapproval by resolution of either House). For two other recent lists of statutes containing legislative veto provisions, *see* Bonafede, Rapoport, & Haremann, *The President Versus Congress: The Score Since Watergate*, 8 NAT'L J. 730, 745 (1976); Watson, *supra* note 8, at 1089–92.

[68] *See* notes 78–83 *infra* and accompanying text.

[69] *See* note 23 *supra*.

[70] The U.S. Supreme Court has also begun to use the term. *See* Morales v. Turman, 430 U.S. 322, 323 (1977).

[71] *See, e.g.*, Supreme Court of Judicature Act, 1875, 38 & 39 Vict., c. 77, § 25; Common Law Procedure Act, 1852, 15 & 16 Vict., c. 76, § 223.

[72] *See* Carr, *Legislative Control of Administrative Rules and Regulations: II. Parliamentary Supervision in Britain*, 30 N.Y.U.L. REV. 1045, 1046 (1955).

[73] Statutory Instruments Act, 1946, 9 & 10 Geo. 6, c. 36, § 5.

[74] ATTORNEY GENERAL'S COMM. ON ADMINISTRATIVE PROCEDURE, REPORT ON ADMINISTRATIVE PROCEDURE IN GOVERNMENT AGENCIES, S. Doc. No. 8, 77th Cong., 1st Sess. 120 (1941).

[75] *See generally* Carr, *supra* note 72. Even writers not favorable to legislative review concede this. *See, e.g.*, W. GELLHORN & C. BYSE, ADMINISTRATIVE LAW: CASES AND COMMENTS 123 (6th ed. 1974).

[76] *See* text accompanying note 9 *supra*.

[77] *See* notes 84–101 *infra* and accompanying text.

[78] H.R. 12,048, 94th Cong., 2d Sess. § 4 (1976). Under the bill, rules would be referred to the relevant standing committees rather than to a special committee similar to the House of Commons' Scrutiny Committee. *Id.*

[79] *Id.*

[80] *Id.*

[81] H.R. REP. No. 1014, 94th Cong., 2d Sess. 7 (1976).

[82] *Id.* at 11.

[83] *See* notes 13–14 *supra* and accompanying text.

[84] The National Conference of State Legislatures was established in 1975 as a nonpartisan agency, funded by the states, to serve the nation's state legislators and their staffs. Its primary goal is to improve the quality and effectiveness of state legislatures. 21 THE BOOK OF THE STATES 67 (1976–1977).

[85] Legislative Improvement and Modernization Committee, National Conference of State Legislatures, Legislative Review of Administrative Regulations 4 (second draft June 11, 1977). According to an NCSL letter dated October 11, 1977, the recommendations submitted in this report were adopted by the NCSL at its annual meeting on August 5, 1977.

[86] *See, e.g.*, Buff & Gellhorn, *Congressional Control of Administrative Regulation: A Study of Legislative Vetoes*. 90 HARV. L. REV. 1369 (1977).

[87] New State Ice Co. v. Liebmann, 285 U.S. 262, 311 (1932) (Brandeis, J., dissenting).

[88] H.R. REP. No. 1014, 94th Cong., 2d Sess. 9 (1976). As will be seen shortly, the Committee's list is not accurate, since Kansas, Nebraska, Oregon, Virginia, and Wisconsin do not permit legislative annulment of administrative regulations except by bill. Each of these states except Oregon used to provide for annulment by resolution, but the statutes so providing are no longer in effect. *See* 1947 Kan. Sess. Laws, ch. 440, § 6 (repealed 1965); 1945 Neb. Laws, ch 255, § 4 (amended 1974); 1952 Va. Acts, ch. 703 (repealed 1975); 1955 Wis. Laws, ch. 331 (repealed 1955).

[89] Schwartz, *supra* note 7, at 1038. The six states were Connecticut, Kansas, Michigan, Nebraska, Virginia, and Wisconsin.

[90] ALASKA STAT. § 24.20.400–.460 (1976); COLO. REV. STAT. § 24-4-103 (1973); CONN. GEN. STAT. ANN. § 4-170 (West Supp. 1978); FLA. STAT. ANN. §§ 11.60, 120.545 (West Supp. 1977); GA. CODE ANN. § 3A-104 (Supp. 1977); IDAHO CODE §§ 67-5217, -5218 (West Supp. 1977); Pub. Act No. 80-1035, § 7.06, 1977 Ill. Laws 1571 (to be codified at ILL. REV. STAT. ch. 127, § 1007.06); IOWA CODE ANN. § 17A.8 (West Supp. 1978); KAN. STAT. § 77-426 (Supp. 1976); KY. REV. STAT. ANN. § 13.087 (Baldwin Supp. 1977); LA. REV. STAT. ANN. § 49:968 (West Supp. 1977); ME. REV. STAT. tit. 5, § 2504 (Supp. 1977); MD. ANN. CODE art. 40, § 40 (Supp. 1977); MICH. STAT. ANN. § 3.560(145) (1977); MINN. STAT. ANN. § 3.965 (West 1977); MO. ANN. STAT. § 536.037 (Vernon 1978); MONT. REV. CODES ANN. § 82-4203.1 (Supp. 1977); NEB. REV. STAT. § 84-908 (1976); NEV. REV. STAT. §§ 223B.067, .068 (1977); OKLA. STAT. ANN. tit. 75, § 308 (West 1976); OR. REV. STAT. §§ 171.705–.713 (1975); Act No. 176, art. I, § 6, 1977 S.C. Acts 392; S.D. COMPILED LAWS ANN. § 1-26-1.2 (1974); TENN. CODE ANN. § 4-535 (Supp. 1977); TEX. REV. CIV. STAT. ANN. art. 6252-13a, § 5(g) (Vernon Supp. 1978); VT. STAT. ANN. tit. 3, § 817 (Supp. 1977); W. VA. CODE §§ 29A-3-11, -12 (1976); WIS. STAT. ANN. § 13.56 (West Supp. 1978). *See also* ARIZ. REV. STAT. ANN. § 41.511.05(8) (West Supp. 1978) (legislative review of State Parks Board regulations).

The above list is derived from National Conference of State Legislatures, Summary of Legislative Review of Administrative Regulations in the States (1977), which proved invaluable in developing this section.

[91] Alaska, Colorado, Connecticut, Florida, Illinois, Iowa, Kansas, Kentucky, Maryland, Michigan, Minnesota, Missouri, Montana, Nebraska, Oregon, South Dakota, Vermont, West Virginia, Wisconsin. *See* statutes cited at note 90 *supra*.

[92] In Nebraska, there is a special Committee on Administrative Rules and Regulations of the unicameral legislature. NEB. REV. STAT. § 84-908 (1976).

[93] *See* text accompanying note 75 *supra*.

[94] Georgia, Idaho, Louisiana, Maine, Nevada, Oklahoma, South Carolina, Tennessee, Texas. *See* statutes cited at note 90 *supra*.

[95] Alaska, Connecticut, Idaho, Michigan, Montana, Oklahoma, South Carolina, Tennessee, Ver-

mont, West Virginia. *See* statutes cited at note 90 *supra*.

[96] OKLA. STAT. ANN. tit. 75, § 308(d) (West 1976); *see* other statutes cited at note 90 *supra*. *See also* GA. CODE ANN. § 3A-104(f) (Supp. 1977) (annulling resolution must be passed by two-thirds vote or be submitted to Governor for signature or veto).

[97] *See* notes 119-125 *infra* and accompanying text.

[98] MICH. CONST. art. IV, § 37.

[99] MICH. STAT. ANN. § 3.560(145)(4) (1976).

[100] 1955 Wis. Laws, ch. 221, §§ 12, 13; *see* Helstad, *New Law on Administrative Rule-Making*, 1956 WIS. L. REV. 407, 428.

[101] WIS. STAT. ANN. § 13.56(2) (West Supp. 1978).

[102] *See* note 109 *infra*.

[103] *See* text accompanying notes 84-85 *supra*.

[104] *Extension of Reorganization Authority of the President: Hearings on H.R. 5045 Before the Subcomm. on Legislation and National Security of the House Comm. on Government Operations*, 95th Cong., 1st Sess. (1977).

[105] *Id.* at 40.

[106] H.R. REP. No. 105, 95th Cong., 1st Sess. 10, *reprinted in* [1977] U.S. CODE CONG. & AD. NEWS 491, 500.

[107] One who does is J. HARRIS, *supra* note 39, at 241.

[108] U.S. CONST. art. I, § 7.

[109] H.R. Rep. No. 105, 95th Cong., 1st Sess. 10, reprinted in (1977) U.S. Code Cong. & Ad. News 491.500. It should be stressed that this article is concerned with the type of legislative veto contained in the Reorganization Acts, under which executive or administrative action can be annulled by resolution of one or both Houses. The claim that the legislative veto violates the veto clause is based essentially on the separation of powers doctrine. It assumes that all congressional action involves an exercise of legislative power, which must, as such, be subject to the President's veto. This assumption rests upon an outmoded application of constitutional doctrine. See text accompanying note 172 infra. The modern view recognizes that some blending of powers may be permissible. Accordingly, legislative disapproval of an administrative rule or other executive action is not an exercise of the power to enact a law within the meaning of the veto clause but merely a condition which the legislature may attach to delegated powers.

Two variations on the legislative veto found in the Reorganization Acts—statutory termination by resolution and the committee veto—raise different constitutional questions beyond the scope of this article. The Lend-Lease Act of 1941, which provided that powers it delegated would terminate on June 30, 1943, or upon the passage before that date of a concurrent resolution declaring the powers no longer necessary to promote the defense of the United States, is an example of termination by resolution. See Act of Mar. 11, 1941, ch. 11, §3, 55 Stat. 31. Although President Roosevelt signed the lend-lease bill into law, he expressed constitutional reservations in a memorandum to the Attorney General. "It is too clear for argument," Roosevelt asserted, "that action repealing an existing Act itself constitutes an Act of Congress and, therefore, is subject" to the requirement of presentation to the President. Jackson, A Presidential Legal Opinion, 66 Harv. L. Rev. 1353, 1358 (1953).

Roosevelt's approach is sound. To repeal a statute is to perform a legislative act, which should be subject to the veto power. The framers intended that the President's veto power be used to prevent the repeal of laws. See Ginnane, supra note 4, at 586-87. To permit Congress to accomplish the veto-proof repeal of legislation violates this intention. In the words of the one court that has considered the problem: "A concurrent resolution of the legislature is not effective to modify or repeal a statutory enactment. . . . To repeal or modify a statute requires a legislative act of equal dignity and import. Nothing less than another statute will suffice." Moran v. La Guardia, 270 N.Y. 450, 452, 1 N.E. 2d 961, 962 (1936). Compare the famous statement in the Trial of the Seven Bishops, 12 Howell's State Trials 183, 367 (1688), that the power to repeal laws "is as much a part of the legislature, as a power to make laws."

The constitutionality of the committee veto (permitting executive or administrative action to be disapproved by congressional committee) is equally suspect. The Attorney General has characterized the committee veto as a technique which "may well be the most inimical to responsible government," as it "permits mere handfuls of members to speak for a Congress which is given no opportunity to participate as a whole." 41 Op. Att'y Gen. 300, 301 (1957). A different situation exists where legislative committees screen administrative rules and regulations. Such committees raise no constitutional problems because they are vested only with advisory, not substantive, functions.

Another use of the legislative veto is also beyond the immediate scope of this article. Under the annulment-by-resolution technique, Congress may override administrative adjudications. For example, the Alien Registration Act of 1940, ch. 439, § 20(e), 54 Stat. 672, authorized the Attorney General to suspend the deportation of aliens to avoid hardship to resident dependents. Suspensions for more than six months could be set aside by concurrent resolution of the two Houses. This provision was repeated for certain suspensions in the 1952 revision of the immigration laws. Immigration and Nationality Act, ch. 5, § 244(b), 66 Stat. 216 (1952). A later Act authorized the Attorney General to change the status of up to fifty persons from temporary to permanent residence, subject to disapproval by resolution of either House. 8 U.S.C. § 1254(c) (1970). These provisions are discussed in Ginnane, supra note 4, at 582-83, and J. Harris, supra note 39, 210-11.

These provisions for congressional review of administrative adjudicatory decisions are anachronistic revivals of the period when the American Congress, like the British Parliament, exercised both legislative and judicial functions. They are inconsistent with modern theory on proper legislative role and raise serious constitutional questions not present in review of executive and administrative acts that are legislative in nature, such as reorganization plans or administrative rules and regulations.

[110] Legislative Review of Administrative Regulations. A Preliminary Report of the Legislative Improvement and Modernization Committee to the National Conference of State Legislatures Business Meeting 2 (Sept. 3, 1976).

[111] An Act to Provide for a Reorganization Plan for the Departments and Agencies, of the State Government, ch. 43, 1949 N.H. Laws 34.

[112] *Id.* § 4.

[113] Opinion of the Justices, 96 N.H. 517, 522, 83 A.2d 738, 741 (1950). Compare the recent characterization by the chairman of the House Government Operations Committee of the 1977 Reorganization Act's legislative-veto provision as "standing the Constitution on its head." H.R. Rep. No. 105, 95th Cong. 1st Sess. 9, reprinted in [1977] U.S. Code Cong. & Ad. News 491, 499.

[114] H.R. 13, 975, 72d Cong., 2d Sess. (1933).

[115] 37 Op. Att'y Gen. 56 (1933).

[116] *Id.* at 63-64.

[117] S. Rep. No. 232, 81st Cong., 1st Sess. 19 (1949).

[118] Reorganization Act of 1939, ch. 36, 53 Stat. 561.

[119] 43 Op. Att'y Gen. 350 (Wis. 1954) (construing Act of June 26, 1953, ch. 331, § 4, 1953 Wis. Laws 319).

[120] *Id.* at 352 (construing Wis. Const. art. IV, § 17).

[121] *Id.* at 353.

[122] Letter from Michigan Att'y Gen. Frank G. Millard to Hon. Adrain de Boom (Dec. 17, 1953), quoted in part in Schubert, Legislative Adjudication of Administrative Legislation, 7 J. Pub. Law 134, 159 (1958) [hereinafter cited as Michigan Opinion].

[123] Act of Apr. 11, 1947, § 8e, 1947 Mich. Pub. Acts 42 (repealed 1969).

[124] *Id.* § 8c.

[125] See Michigan Opinion, supra note 122.

[126] See text accompanying note 117 supra.

[127] See S. Rep. No. 232, 81st Cong., 1st Sess. 19 (1949).

[128] *Id.* at 20.

[129] *Id.*

[130] Watrous v. Golden Chamber of Commerce, 121 Colo. 521, 218 P.2d 498 (1950).

[131] An Act Authorizing the Construction of Turnpikes, ch. 215, § 2(f), 1949 Colo. Sess. Laws 602.

[132] Colo. Const. art. IV, §§ 11-12.

[133] 1 Colo. at 540, 218, P.2d at 507.

[134] *Id.* at 546-47, 218 P.2d at 510. This appears to be a more reasonable interpretation than the "hardly tenable" one described in Ginnane, supra note 4 at 598.

[135] In Sibbach v. Wilson & Co., 312 U.S. 1 (1941), the Court approved the principle that Congress could require that rules be laid before it, but did not deal with the validity of the legislative veto provision.

[136] 424 U.S. 1 (1976).

[137] 2 U.S.C. §§ 431-456 (Supp. V 1975).

[138] *Id.* § 438(c).

[139] 424 U.S. at 140 n. 176.

[140] *Id.* at 140; see Schwartz, Administrative Law Cases During 1976, 29 Ad. L. Rev. 137, 138-39 (1977).

[141] 424 U.S. at 257-86 (White, J., concurring & dissenting).

[142] *Id.* at 284-86 (White, J., concurring & dissenting).

[143] *Id.* (White, J., concurring & dissenting).

[144] The new statute provides for presidential appointment of all FEC members. 2 U.S.C.A. § 437c(a)(1) (West Cum. Supp. 1977).

[145] Clark v. Valeo, 559 F.2d 642 (D.C. Cir.), *Aff'd mem. sub nom.* Clark v. Kimmett, 431 U.S. 950 (1977).

[146] Clark v. Kimmett, 431 U.S. 950 (1977).

[147] 559 F.2d at 678-95 (MacKinnon, J., dissenting).

[148] *Id.* at 681 n.4 (MacKinnon, J., dissenting).

[149] *Id.* at 683-84 (MacKinnon, J., dissenting).

[150] *Id.* at 685 (MacKinnon, J., dissenting).

[151] *Id.* (MacKinnon, J., dissenting).

[152] Buckley v. Valeo, 424 U.S. 1, 284 (1976) (White, J., concurring & dissenting).

[153] 559 F.2d at 685-86 (MacKinnon, J., dissenting); *see* Keeffe, *The Legislative Veto: Now You See It, Now You Don't (II)*, 63 A.B.A.J. 1474, 1476 (1977).

[154] 424 U.S. at 286 (White, J., concurring & dissenting).

[155] 2 U.S.C. § 359 (1970).

[156] No. 75-317-A (E.D. Va. Mar. 16, 1976), *quoted in* Keeffe, *supra* note 153, at 1475. There was no written opinion by Judge Bryan.

[157] McCorkle v. United States, 559 F.2d 1258, 1262-63 (4th Cir. 1977), *cert. denied*, 98 S. Ct. 724 (1978).

[158] Atkins v. United States, 556 F.2d 1028 (CT. Cl. 1977), *cert. denied*, 98 S. Ct. 718 (1978).

[159] 556 F.2d at 1061. The court upheld the Act even though the Department of Justice conceded the unconstitutionality of the statute's legislative veto provision. *Id.* at 1058. The court ruled that it was not bound by this concession because its independent examination led it to reach a contrary result. *Id.* at 1058 n.15.

[160] Keeffe, *supra* note 153, at 1475.

[161] 556 F.2d at 1065.

[162] *Id.* at 1068.

[163] *Id.* at 1081 (Skelton, J., concurring & dissenting).

[164] Springer v. Philippine Islands, 277 U.S. 189, 212 (1928) (Holmes, J., dissenting).

[165] *See* Wayman v. Southard, 23 U.S. (10 Wheat.) 1, 42 (1825), in which Chief Justice Marshall recognized this issue more than 150 years ago.

[166] O. HOLMES, THE COMMON LAW 1 (1881).

[167] New York Trust Co. v. Eisner, 256 U.S. 345, 349 (1921).

[168] Clark v. Valeo, 559 F.2d at 650 n.10.

[169] *See* notes 23-44 *supra* and accompanying text.

[170] *See* notes 5-6 *supra* and accompanying text

[171] *See* notes 136-165 *supra* and accompanying text.

[172] Panama Ref. Co. v. Ryan, 293 U.S. 388, 440 (1935).

[173] *See* B SCHWARTZ, ADMINISTRATIVE LAW 33 (1976).

[174] Clark v. Valeo, 559 F.2d at 664 n.13.

[175] *See* text accompanying notes 141-143 *supra*.

[176] *See* text accompanying notes 158-162 *supra*.

[177] *See* Schwartz, *supra* note 11, at 85.

[178] H.R. REP. No. 120, 76th Cong., 1st Sess. 6 (1939), *quoted in* Ginnane, *supra* note 4, at 579.

[179] H.R. REP. No. 1014, 94th Cong., 2d Sess. 8 (1976).

[180] Atkins v. United States, 556 F.2d at 1071.

[181] *Id.*

I am personally of the view that the Supreme Court will uphold the constitutionality of the legislative veto. I think it is a "through a looking-glass" approach to suggest that the legislative veto violates the constitutional principle of separation of powers. How can the legislative branch invade executive powers by reviewing legislative decisons simply because they are called regulations instead of laws? If anything, the thousands of rules/laws passed by the bureaucrats in the exec-

utive branch invade the legislative powers of Congress. Certainly, Congress delegates rulemaking authority to the executive branch agencies, but the separation of powers doctrine does not preclude that the delegation be absolute and cannot be conditioned by legislation enacted according to the constitutional design. In short, if Congress has the power to delegate rulemaking authority, it is axiomatic that it can delegate all that power, or it can condition or limit that delegated power by making it subject to a congressional veto. The far more serious question of whether Congress can delegate legislative powers to the executive branch under the Constitution was decided decades ago by the Supreme Court. Conditioning that delegation of power is merely a corollary to a well-established principle.

The legislative veto does not violate the presentment clause or the principle of bicameralism because it is not legislation. It is simply a maintaining of the status quo. It is the same as if a bill were introduced and it did not pass both Houses of Congress, or if an appropriation were recommended and did not get passed. It is not changing the law.

This is explained in the most recent brief filed by the House of Representatives in the Chadha case. I would like to include a portion of the brief in the RECORD at this point, in which the argument is made that the disapproval resolution in question in this case was not a legislative act.

ARGUMENT

1. THE DECISION BELOW REFLECTS A CRITICAL MISUNDERSTANDING OF THE NON-LAWMAKING CHARACTERISTICS OF H. RES. 926

The controlling factor in this case, the factor that dominates all issues, is essentially negative in nature. It involves what Congress did not do, rather than what it did do.

The essentially negative nature of the resolution is borne out by the very terms of H. Res. 926, which states that "the House of Representatives does not approve the granting of permanent residence in the United States" to the alien Jagdish Rai Chadha. J.S. App. 69a, emphasis added. Consider the legal and practical implications of the use of the word "not" in H. Res. 926:

(1) One House of Congress did not approve the granting of permanent residence in the United States to Chadha. That means that Chadha did not acquire the new status of a permanent resident alien.

(2) Because of H. Res. 926, Congress did not undertake an "act of grace," *Jay* v. *Boyd*, U.S. 345, 354 (1956). Only by such a discretionary "act of grace," concurred in by both Houses, could Chadha's deportation proceedings be cancelled and his status changed to that of a permanent resident alien. 8 U.S.C. § 1254(d).

(3) Thus Congress did not so act as to alter the legal status quo respecting the alien Chadha. This status quo at all times has been, and remains, that of a concededly deportable alien. And he is deportable not as a result of the adoption of H. Res. 926, but as a result of having overstayed his student visa in violation of Sections 101(a)(15(J) and 1251(a)(2) of the Act.

(4) It further follows that, by virtue of H. Res. 926, Congress did not enact any of what the Ninth Circuit calls "positive law that alters individuals' substantive rights," 634 F.2d at 434. Congress has done nothing to affect the positive legal rights or interests of Chadha. He asserts no legal or constitutional rights respecting his deportation order. And any entitlement he may have to a Section 244 "act of grace" from Congress, even if he is eligible on "hardship" grounds, "is manifestly not a matter of right under any circumstances." *Jay* v. *Boyd*, 351 U.S. at 354. Thus the House disapproval of Chadha's plea for an adjustment of his deportable status cannot operate to alter any of his personal rights or to effect a change in his legal status quo. Chadha remains a deportable alien. H. Res. 926 accordingly does not qualify as a "positive law" enactment.

The Ninth Circuit, like the parties below, exhibits uncertainty and confusion about the positive lawmaking features of H. Res. 926. The court does say, quite properly, that positive law is that "which alters the substantive legal rights of individuals," 634 F.2d at 435. The court then makes a controversial assumption that the power of Congress under the Necessary and Proper Clause to "make all laws" does not include the power to "alter substantive legal rights of individuals" by doing something less than enacting a plenary statute. That "something less" in this instance is said to be the alteration of individual rights by a "legislative inaction" approval of "a mere executive recommendation"—all done pursuant to the procedures specified in Section 244(c)(2).

There are numerous flaws in that assumption. This case does not involve any of Chadha's "substantive legal rights." And any possible "legislative inaction" approval of the Attorney General's recommendation that Congress give Chadha a discretionary "act of grace" is not an exercise of congressional power under the Necessary and Proper Clause to "make all laws." It is a statutorily authorized involvement by Congress in its uniquely sovereign and political power respecting alien deportation.

But the chief difficulty with the Ninth Circuit's assumption is that, on its own terms, the assumption does not apply to H. Res. 926. That resolution disapproved any possible change in Chadha's deportable status. H. Res. 926 has no positive lawmaking characteristics, even under the Ninth Circuit's definition. The court failed to distinguish between negative and affirmative legislative action under Section 244(c)(2). It therefore addressed what it thought was "an insurmountable formal constitutional problem" stemming from "legislative inaction" approval of a change in Chadha's legal status quo.

The negative legislative judgment rendered by H. Res. 926 presents no insurmountable constitutional problems. In the words of Justice White's separate opinion in *Buckley* v. *Valeo*, 424 U.S. 1, 285 (1976), the power of either House, to disapprove is not the "equivalent to legislation or to an order . . . requiring the concurrence of both Houses. The one-House disapproval device, to repeat, "does not alter the existing law in any fashion, but only preserves the legal status quo." *Atkins* v. *United States*, 556 F.2d 1028, 1963 (Ct. Cls. 1977),[1] *cert. denied* 434 U.S. 1009 (1978).

This curious inability to distinguish between two-House lawmaking and one-House non-lawmaking manifests itself in several other passages in the Ninth Circuit's opinion. Thus there is an ominous reference to "the potential for unfair or discriminatory use of lawmaking [by the disapproval mechanism] directed at named individuals." 634 F.2d at 535. Coupled with the drastic nature of the deportation sanction, says the court, "disapproval as an exercise of legislative power . . . would raise serious bill of attainder and equal protection problems." Id., n. 42.

Suffice it to say that these "problems" are both illusory and non-existent in the context of a one-House disapproval that serves to preserve the legal status quo of a named individual. Chadha, it bears repeating, is not singled out in H. Res. 926 in order to impose on him the deportation sanction. He is not singled out for any kind of discriminatory treatment, and he does not so claim. Chadha concedes he is deportable under the Act, and H. Res. 926 leaves him precisely in that status. He is singled out in the resolution simply because at least one House of Congress deems it inappropriate to grant him, as an illegal alien, "permanent residence in the United States." Congress, as the House has long maintained, has unquestioned power to deny individual aliens such permanent residence. That proposition the Ninth Circuit does not even mention.

The Ninth Circuit also seeks to convert its inability to distinguish between the lawmaking and the non-lawmaking aspects of Section 244 into "a regime under which any presidential proposal on a given subject would become part of the United States Code if no House of Congress objected within, say, sixty days." 634 F.2d at 435. But the instant case does not involve any kind of two-House non-objection being used to permit an executive proposal or act to become part of "the law." Quite the contrary. There has been no law change in and no addition to the United States Code. And to suggest that one instance of non-lawmaking under Section 244 indicates that Congress has embarked on a process of subverting the whole bicameral legislative process is to make applicable this Court's remark in *FCC* v. *Pottsville Broadcasting Co.*, 309 U.S. 134, 146 (1940):

"It is always easy to conjure up extreme and even oppressive possibilities in the exertion of authority. But courts are not charged with general guardianship against all potential mischief in the complicated tasks of government. the present case makes timely the reminder that 'legislatures are ultimate guardians of the liberties and welfare of the people in quite as great a degree as the courts'." *Missouri, K. & T. Ry. Co.* v. *May*, 194 U.S. 267, 270.

The Congress' power is not controlled by what it "might do," but what it has done and the Ninth Circuit's hypothetical posturing can no more serve as a basis for voiding exercise of power over aliens than the positing of hypotheticals about the reckless conduct by President's could serve to limit his powers. *Nixon* v. *Fitzgerald*, 102 S.Ct. 2690 (1982).

Seemingly in an effort to avoid some of the Ninth Circuit's confusion respecting the non-lawmaking nature of H. Res. 926, the Solicitor General's brief in this Court, filed

[1] "Therefore, we can say that when a decision not to change the status quo is involved, either house can speak for Congress." Barber, *The Constitution and the Delegation of Congressional Power* 111 (1975). That is equally true when one House votes down, or refuses to consider, a bill introduced by one of its own members.

on behalf of the INS, falls into even greater confusion and difficulty. The whole brief is premised on the thought that Section 244(c)(2) is unconstitutional because it authorizes a negative one-House resolution to serve as a kind of "positive law." The very first sentence of the argument portion of the brief (p. 15), makes the astounding assertion that Section 244(c)(2) "authorizes one House of Congress, acting alone, to require the Attorney General to deport an alien who otherwise would not be deported under the immigration laws." Section 244(c)(2) says no such thing. When one House disapproves a Section 244 petition for an "act of grace," the Attorney General is required to deport the petitioning alien because the alien's plea for mercy has failed and because he is otherwise deportable under the immigration laws. Certainly that is the way the Attorney General has interpreted and performed his duties under Section 244, at least prior to the *Chadha* litigation.

From the faulty premise that a one-House resolution of disapproval under Section 244(c)(2) "requires" the Attorney General to deport an individual "who otherwise would not be deported," the Solicitor General's brief then attempts a description of this kind of "positive lawmaking." Actually, the Solicitor General presents two versions, which may be most conveniently compared side by side.

The "Summary of Argument" version, P. 10	The "Argument" version, p. 15
The effect of a resolution passed by one House pursuant to that Section therefore is precisely the same as that of a duly enacted law amending the Act to exclude a particular alien from eligibility for relief.	The effect of a resolution passed by one House under that Section is to amend the Act to exclude a particular alien from the relief generally afforded to aliens who are found by the Attorney General, after a hearing, to be eligible for suspension of deportation and permanent resident alien status.

But the Solicitor General offers no clues as to which version of "the law" enacted by H. Res. 926 is the correct one. Does the claimed amendment of the Act relate to excluding Chadha "from eligibility for relief," or does it exclude Chadha "from the relief generally afforded to aliens" found eligible by the Attorney General? The truth is that either version is spurious. Both the temporary "suspension" relief available from the Attorney General and the final "act of grace" relief available from the Congress are given or withheld in large part as discretionary matters. And the fact that Chadha was considered eligible for the temporary relief afforded by the Attorney General has no bearing on whether Congress, in its legislative discretion, desires to confer permanent residence status on an illegal alien.

The attempt to convert a legislative "no" into a legislative "yes" is marked by a not-so-subtle shift in defining the focus of the legislative resolution of disapproval. The shift is from the substantive law of the subject matter of the resolution to the procedures and actions of the officer or agency below. Thus in the instant case, the search for a positive law change focuses not on Chadha's status as a deportable alien or his entitlement to become a permanent resident but on the supposed change in Chadha's eligibility for the relief "generally afforded" aliens found eligible by the Attorney General. In other words, the positive law change is said to be found in the inability of the Attorney General to give Chadha the kind of relief he generally affords other eligible aliens. That argument is without merit. The inability of the Attorney General to give Chadha relief, or his loss of eligibility, stems from the Section 244 scheme.

The *Chadha* court's faulty efforts to transmute a negative into a legislative "yes" has already been seized upon by the D.C. Circuit in *Consumer Energy Council, et al. v. Federal Energy Regulatory Commission*, 673 F.2d 425 (D.C. Cir. 1982), now pending before this Court on appeals and petitions for certiorari (Nos. 81-2208, 81-2020, 81-2151, 81-2171, 82-177 and 82-209). In that case, the House of Representatives voiced its disapproval, by a resolution, of a proposed Commission regulation respecting natural gas pricing. In holding that such one-House disapproval constituted an attempt to legislate a positive law change in violation of the Presentment Clauses, the court held that the disapproval resolution "effectively changed the law by altering the scope of FERC's discretion and preventing an otherwise valid regulation from taking effect." 673 F.2d at 465. That is a perfect illustration of the *Chadha*-like search for a positive law change. The focus of the search is the effect on the agency's discretion—which in any event is the product of the statutory scheme—and not the substantive legal effects on the rights or obligations of affected persons.

The only word so far from the Supreme Court on this issue has come in dicta by Justice White in Buckley against Valeo concerning the Federal Election Commission. The Supreme Court, as you may recall, held the original campaign reform measure unconstitutional because of the manner in which FEC Commissioners were appointed, without addressing the question of the constitutionality of congressional disapproval of FEC regulations. Justice White, however, took up the issue, and in strongly worded dicta, declared that if the Commissioners were constitutionally appointed, the veto device would be constitutional. He said:

I am also of the view that the otherwise valid regulatory power of a properly created independent agency is not rendered infirm as violative of the President's veto power, by a statutory provision subjecting agency regulations to disapproval by either House of Congress.

Justice White also said:

In light of history and modern reality, the provision for congressional disapproval of agency regulations does not appear to transgress the constitutional design, at least where the President has agreed to legislation establishing the disapproval procedure or the legislation has been passed over his veto.

In supporting the constitutionality of the legislative veto, Justice White refers to "modern reality" and uses it as a departure point from which he continues his assertion. Modern reality is what Congress deals with. While I do not mean to imply that the constitutional question is not significant and Congress should not tread cautiously, we also must deal with reality. If we simply dwell on the debating points of the constitutionality of the legislative veto, I suspect that the debate would be called a tie. We should not get caught on the horns of the constitutional dilemma and not deal with the reality of the regulatory morass in which the citizens of this country find themselves. In this instance, it is political soft-shoe to hide behind a constitutional issue that, at this point, is an open question.

Legislative veto of Government regulations deals with this reality. It is good policy because it provides for accountability. It makes Congress responsible for its actions. I frankly do not understand the argument some opponents make that legislative veto of regulations makes it easier for Congress to pass the buck. If we have the ultimate responsibility for the regulations which flow from the laws which we pass through the exercise of legislative veto, how can that be considered passing the buck?

In an article which appeared in the Los Angeles Times, on February 26, 1982, James Sundquist recognizes the legislative veto as workable policy, which is practical and appropriate in establishing the balance of power between the executive and legislative branches of our Government. As Sundquist notes, the legislative veto device has served the country well as a way to break the logjams which occur between the branches.

If the Supreme Court strikes down the legislative veto as unconstitutional, as the administration advocates, Sundquist points out that the impact on our Government will be dramatic, and the executive branch will be the one to lose out. The ability of Congress to oversee executive branch actions and thus the willingness of Congress to delegate power to the executive branch would be dealt a severe blow. To maintain its responsibility for making the laws of this country, Congress would be forced to resort to other more cumbersome and burdensome mechanisms of overseeing the executive branch. The end result would be a great logjam.

At this point, I would like to enter the article by James Sundquist in the RECORD. His analysis of the legislative veto should be considered by all who are interested in good government.

[From the Los Angeles Times, Feb. 26, 1982]

LEGISLATIVE-VETO ISSUE: WILL IT END IN A LOGJAM?

(By James L. Sundquist)

A constitutional dispute a half-century old appears finally headed for resolution by the U.S. Supreme Court, with profound implication for the practical conduct of government. At issue is a device invented in 1932 to enable Congress to delegate power to the President or to agencies of the executive branch, yet reserve the right to veto actions taken under the executive power.

Critics of the legislative veto contend that it permits Congress to meddle in the administration of laws, exerting improper influ-

ence and authority over decisions that should belong exclusively to the executive. They can make a strong case, but it overlooks a practical reality. If Congress is not permitted to veto actions taken under delegated powers, it can simpley refuse to delegate the powers in the first place. It can retain the decision-making authority, to be exercised through statute, but that will further clog the overloaded congressional calendar and result in delays and deadlocks on matters that urgently require action.

The specific case before the court arises from a ruling by the 9th Circuit Court of Appeals in San Francisco a year ago that struck down a legislative-veto provision in the statute regulating the deportation of aliens. Late last month, the Circuit Court for the District of Columbia rendered a much broader decision in a natural-gas-pricing case, appearing to outlaw the legislative veto in all forms and circumstances as a violation of the separation-of-powers doctrine of the Constitution. If the Supreme Court upholds that position, the veto provison in about 200 statutes will be invalid.

The veto came into being as a compromise in 1932, when Congress was unwilling to give President Herbert Hoover a free hand to reorganize government bureaus, yet could not do the job itself. Its solution was to authorize the President to issue reorganization orders provided that the House or the Senate could disapprove any such order within 60 days. Although Hoover signed the bill, his attorney general concluded a few months later that the arrangement was unconstitutional and a bad precedent. The Justice Department has stuck by that position ever since, sometimes (as, notably, in the Carter Administration) while the President was acquiescing in, or even advocating legislative-veto provisions as the way to break legislative logjams.

How will those logjams be broken in the future if the legislative veto is outlawed? Certainly in many cases the executive branch will not gain power but will be the loser. Reorganization of the government is a case in point. Congress will be no more willing to trust President Reagan or any future President to recast the governmental structure on his own than it was willing to trust Hoover. Every reorganization will have to be achieved through a congressional act, and few that are controversial are likely to become law.

In the War Powers Resolution of 1973, the legislative veto was the key to settling an even older and more urgent constitutional issue, over who has the power to involve the United States in war. Congress was again reluctant, and understandably so, to give the President carte blanche to use military forces anywhere in the world solely at his own discretion. Yet it recognized that sometimes the President has to act in crises, immediately and forcefully. The artfully crafted compromise that was adopted—over President Richard M. Nixon's veto—authorized the President to respond to emergencies with military force, but gave Congress the right to reverse the President's decision.

In the Impoundment Control Act of 1974 the President is prohibited from refusing to expend appropriated funds, but is allowed to defer expenditures, subject to a legislative veto. Without such a simplified procedure, every such action would have to go through the full legislative process. The result would inevitably be fewer deferrals—in other words, more spending.

Similarly with regulatory agencies. For Congress to have review veto power over rules and regulations can be pernicious, but without it the legislators can simply withhold authority—telling the Federal Trade Commission, for example, to draft its regulations as proposed bills, to be enacted into law.

The list of cases could go on. But they all add up to this: If the executive branch finally wins its case against the legislative veto, it will live to regret its victory. Tension and conflict will increase within the government, many deadlocks between the branches will prove unbreakable, and problems that demand urgent attention will go unresolved.

The Supreme Court may hold that in interpreting the constitutional language it is not permitted to take practical considerations into account, although there are many occasions when it has done so. But the constitutional separation of powers surely introduces enough difficulties into the operation of the government already, without the addition of a new rigidity that would prevent statesmen from working out on a case-by-case basis the kind of power relationships that so far—on balance—have served the country well.

Congressional veto of administrative rules and regulations is not a startling new proposal. There is ample precedent for such action in both Federal and State law.

In a brief recently filed before the Supreme Court by Michael Davidson, Senate legal counsel, on the Chadha case the history of the legislative veto is set forth. I would like to include that portion of the brief in the RECORD at this point:

THE EVOLUTION OF LEGISLATIVE REVIEW SHOWS THAT ITS FUNCTION HAS BEEN TO PRESERVE THE BALANCE OF THE ELECTED BRANCHES

The evolution of legislative review over the past five decades shows that its most important function has been to avoid or restrain broad delegations of authority to the President or agencies; it has not served to enact legislation outside the constitutional process. In delegating authority to the President or an agency, Congress faces a fundamental dilemma. Delegation of broad authority runs counter to the basic democratic tenets of our system of government. The nondelegation doctrine sums up those basic tenets: broad delegations of power must be controlled so "that the fundamental policy decisions in our society will be made not by an appointed official but by the body immediately responsible to the people." *Arizona* v. *California*, 373 U.S. 546, 626 (1963) (Harlan, J., dissenting in part). When Congress delegates broad powers over reorganization, war, budgets, energy or regulation, the electorate can no longer hold Congress responsible for the exercise of those powers, and it thereby risks unaccountable national policymaking. Accordingly, like this Court,[14] Congress looks on broad delegation with disfavor.

On the other hand, as discussed below, since the 1930's Congress has faced unprecedented national problems, necessitating delegation of broad authority. The evolution of legislative review constitutes a history of those problems, because Congress and the President turned to legislative review to deal with them. Legislative review developed initially in response to the problems of reorganizing the sprawling government structure created in response to the Depression. Such review received its most thorough constitutional consideration by Congress at that time. Subsequently, legislative review was used to respond to the problems of waging World War II, and of postwar national security. Similarly, in the 1970's Congress used legislative review to respond to broad Presidential claims of war, impoundment, and national emergency powers, and to deal with the energy crisis. Finally, Congress has experimented with legislative review to solve the problem of broad delegations of rulemaking authority.

Our analysis of the history of legislative review proceeds through each of the five main historical contexts of such review, looking at three aspects of that history. First, it examines the function of legislative review as the counterpoint to broad authority sought or claimed by the President. Second, it examines the Executive's position, to detemine whether legislative review has resulted from accommodation by the elective branches to practical problems.[15] Third, it examines consideration in Congress of constitutional issues.[16]

A. REORGANIZATION ART

When Congress enacted and the President approved the Reorganization Act of 1939, they established the chief model for legislative review provisions on the basis of extensive consideration of the delegation problem and other constitutional issues. President Hoover requested authority to reorganize the government in 1929. From the outset, President Hoover coupled his request that the "Congress be willing to delegate its authority over the problem (subject to defined principles) to the Executive" with a proposal for legislative review.[17] Congress followed President Hoover's suggestion and authorized reorganization subject to legislative review; this authority, as amended, lapsed in 1935.[18] In 1936, President Roosevelt created a Committee on Administrative Management to study the problems created by the superimposition of newly formed agencies on the pre-existing government structure. That committee concluded that there was "a headless 'fourth branch' of the Government, a haphazard deposit of irresponsible agencies and uncoordinated powers." [19]

To deal with this problem, the Administration requested revival of reorganization authority without legislative review,[20] posing an acute problem of broad delegation. Reorganization authority involved major policy decisions about what agencies should exist and which powers should be coordinated or separated. Congressional opponents attacked the proposed reorganization bill as an unconstitutional delegation of legislative authority to the President which would afford him virtually dictatorial power.[21] Concerns regarding the breadth of delegation were reflected when this Court heard challenges to the prior reorganization authority.[22]

In 1938, after extensive debate on the breadth of the delegation, the House rejected President Roosevelt's request for reorganization authority. The President then dropped his initial resistance to legislative review.[23] In 1939, Congress again debated the constitutional issues implicated by reorganization authority and legislative review. It attempted to apply this Court's decisions on delegation, and considered various constitutional arguments for approval or disapproval of reorganization authority by simple, concurrent, or joint resolution.[24] Ul-

Footnotes at end of article.

timately, Congress found in legislative review the means to make a delegation of power to the President consistent with the responsibility of the Congress for the organization of the government.

Commentators hailed the Reorganization Act's legislative review provision as offering a practical and constitutional alternative to otherwise unduly broad delegation.[25] In the following forty-two years, reorganization authority was renewed by statute numerous times.[26] During that period the provision was used extensively. Presidents submitted 115 reorganization plans to Congress of which 23 were disapproved by Congress pursuant to legislative review provisions. See Appendix A (tabulation of disapproval resolutions). Major plans which were not disapproved and became effective included those creating the Executive Office of the President in 1939, the Department of Health, Education and Welfare in 1953, and the Office of Management and Budget in 1970.[27]

B. WORLD WAR II AND THE POSTWAR PERIOD

Shortly after adoption of the Reorganization Act of 1939, Congress and the President applied the legislative review procedure devised in it to resolve the delegation problem for national security.[28] In 1941, President Roosevelt asked Congress to authorize lending or leasing of war materials to foreign governments, and to extend indefinitely the period of compulsory military service to prepare for the possibility of war.[29] Both of these steps involved the delegation of broad authority, and Members of Congress charged that the delegation sought was excessive.[30] To resolve this problem, Congress enacted both measures with legislative review provisions that allowed Congress to terminate the delegated authority by concurrent resolution.[31]

After the United States entered World War II, Congress enacted over thirty statutes conferring powers on the Executive with similar legislativ review provisions.[32] The Administration submitted draft bills containing such provisions and affirmed their constitutionality in a legal memorandum.[33] Congressional critics charged that the provisions violated the Presentation Clause.[34] Both the critics who challenged such provisions, and the administration, which defended them, agreed that their precedent was in the Reorganization Act; debate focused on the critics' attempts to distinguish these provisions from the Reorganization Act on narrow grounds.[35]

The Administration's legal memorandum justified legislative review provisions as constitutional on two principal grounds. First, it said that "[i]t has never been thought that article I, section 7, is applicable to every kind of action by the two Houses of Congress." *Statement on Constitutionality, supra* note 33, at 983. Second, it noted that the legislative review provision "is submitted to the President at the time the bill is originally passed, and he then has a chance to approve or disapprove. . . . [T]here is no constitutional requirement that the President give his approval more than once in the present situation." *Id.* at 984.

The use of legislative review before and during World War II established it as "a device that both the Congress and the Executive have repeatedly found valuable in reaching their own compromises over the form and content of delegations of authority. And that is the key point: both branches have found the legislative veto a realistic way of resolving practical issues in their relations."[36] President Roosevelt's "acquiescence in the use of concurrent resolutions during the war was continued by President Truman and his successors. . . . and has become fairly common, with only occasional presidential protest."[37]

Over the following quarter of a century after World War II, Presidents continued to accept legislative review as constitutional. After a decade of experience with legislative review, the administration of President Truman endorsed its constitutionality in 1949 with a Justice Department opinion rejecting the argument that legislative review was equivalent to enactment of new legislation.[38] The pattern set by the Truman Administration continued through the administrations of four succeeding Presidents until President Nixon vetoed the War Powers Resolution in 1973.

During the intervening years, Presidents regularly denounced provisions by which Congressional *committees* reviewed Executive activity as an unwarranted intrusion. However, respondents have not cited any instance during those administrations, and we know of none, in which any of the five Presidents formally disputed the constitutionality of legislative review provisions except for committee review provisions.[39] Rather, as the Senate Subcommittee on Separation of Powers found in 1969, "an accommodation was reached years ago on legislative vetoes exercised by the entire Congress or by one House, [while] disputes have continued to arise over the committee form of the veto." S. Rep. No. 549, 91st Cong., 1st Sess. (1969).[40]

In fact, Presidents Kennedy, Johnson, and Nixon actually proposed enactment of statutes with legislative review provisions in such diverse areas as withdrawal of wilderness areas, agricultural programs, taxation, federal grants, and international trade, as well as in reorganization.[41] When the constitutionality of such provisions was questioned, the administration of President Kennedy submitted a memorandum supporting the constitutionality of legislative review.[42] During the administration of President Johnson, the Department of Justice again affirmed the constitutionality of the legislative review provision of the Reorganization Act, as contrasted with provisions for committee review.[43]

Legislative review served two chief functions in this quarter-century period. In the area of national security, legislative review provisions balanced delegations of authority in legislation addressing the Truman Doctrine, the Korean War, the Middle East Crisis of 1957, and the Vietnam War.[44] Also, in areas of novel policy initiatives, legislative review provisions balanced delegations of authority for the space program, international agreements on nuclear energy, tariff arrangements, and adjustment of federal pay rates.[45] This last provision was challenged as unconstitutional and upheld. *Atkins* v. *United States*, 556 F.2d 1028 (Ct. Cl. 1977), *cert. denied*, 434 U.S. 1009 (1978).

C. IMPOUNDMENT, WAR, AND NATIONAL EMERGENCY POWERS

During the 1970's, the President and Congress resolved a series of major constitutional disputes over claims of the President to broad impoundment, war, and national emergency powers. Although each dispute and its resolution evolved separately, all arose from a single dilemma: the President's claim that broad powers were needed to deal with modern problems of budget control and foreign affairs, coupled with the recognition that broad powers must be checked. These confrontations tested the ability of the elective branches to adapt to modern problems within the limits of the Constitution. In seeking to reconcile broad power with accountability, the elective branches turned to legislative review, with its history of acceptance by President and Congress as a solution to similar problems.

The most serious of these constitutional disputes over the reach of the President's power concerned war powers in the wake of the conflict in Vietnam. In 1964, Congress enacted the Tonkin Gulf Resolution authorizing action in Vietnam subject to termination by concurrent resolution.[46] After the Tonkin Gulf Resolution was repealed in 1970, the President claimed inherent authority to continue hostilities, and subsequently he extended military operations to Cambodia and Laos.[47]

Responding to these developments, in the early 1970's Congress deliberated extensively on legislation to govern the exercise of war powers. Congress considered carefully the constitutional issues involved in such legislation.[48] A provision of the key House bill authorized termination by concurrent resolution of use of armed forces in hostilities; its constitutionality was challenged as violating the Presentation Clause and defended as following the precedents of the Reorganization Act and the Tonkin Gulf Resolution.[49]

Subsequently, the constitutional issues were debated on the House floor, and were addressed in memoranda submitted by the House and Senate conferees on their respective chambers' bills.[50] The Constitution provides that "The Congress shall have Power . . . to declare War," Art. I, Sec. 8, cl. 11; it also provides that "The President shall be Commander in Chief of the Army and Navy of the United States. . . ." Art. II, Sec. 2, cl. 1. During the consideration of war powers legislation, Administration spokesmen had emphasized the necessity for Presidents to be able to react immediately to international emergencies by use of armed forces without awaiting a declaration of war; they cited the history of Presidential commitments of armed forces without express legislative authority.[51] Supporters of war powers legislation sought means to implement the constitutional responsibility for the Congress to "declare War" before the nation committed itself to prolonged combat, while not precluding emergency Presidential commitments of armed forces in appropriate circumstances. They focused on two mechanisms for insuring legislative decisions after an emergency commitment: an automatic end to such a commitment after a fixed period of time absent express legislative authorization to continue, and a provision for termination by concurrent resolution.[52]

Regarding such termination, the House conferees' memorandum relied on an opionion submitted by Professor Freund, whose "conclusion [was] that, on the substantive premises of the bill, the provision respecting a concurrent resolution is a valid and appropriate measure, and does not raise constitutional issues of the kind mooted in connection with other categories of legislation."[53] The House provision thus justified was enacted by Congress as section 5(c) of the War Powers Resolution, 50 U.S.C. 1544(c), which provides:

"Notwithstanding subsection (b) of this section, at any time that United States Armed Forces are engaged in hostilities outside the territory of the United States, its possessions and territory without a declaration of war or specific statutory authoriza-

tion, such forces shall be removed by the President if the Congress so directs by concurrent resolution."

After the House and Senate adopted the conference version of the War Powers Resolution, President Nixon vetoed it. The President's veto message contended that two provisions were unconstitutional: the provision that "would automatically cut off certain authorities [to commit armed forces to hostilities] after sixty days," and the provision that "would allow the Congress to eliminate certain authorities merely by the passage of a concurrent resolution—an action which does not normally have the force of law, since it denies the President his constitutional role in approving legislation." [54] President Nixon's veto message was the first time since adoption of the Reorganization Act of 1939 that any President had formally disputed the constitutionality of a legislative review provision other than a provision for committee review. The House and Senate passed the War Powers Resolution over the President's veto, the only time a legislative review provision has ever been enacted over a Presidential challenge to its constitutionality.[55]

The following year, Congress resolved the problem posed by Presidential claims of inherent power to impound appropriations by a similar measure. In the early 1970's, President Nixon impounded appropriated funds totalling over eighteen billion dollars.[56] In response, Congress held hearings on legislation to govern impoundment,[57] and enacted such legislation as part of a general reform of the Congressional budget process. In 1973 and 1974, the Senate passed two bills, the first providing that impoundments could become effective only if both Houses approved, the second forbidding all impoundments.[58] The House adopted a provision allowing impoundments so long as either House could disapprove them.[59] Critics challenged the constitutionality of the House provision, while its supporters defended it as following the Reorganization Act.[60]

In conference, a compromise was achieved under which permanent impoundments, termed "rescissions," would require approval through enactment of legislation. In contrast, temporary impoundments, or "deferrals," would become effective unless disapproved by one House. This compromise provided the President with flexibility, while preserving the constitutional balance. The decision to permanently rescind funds was not delegated to the President, as that would allow him to undo previously enacted decisions on appropriations, a power of "suspension" of legislation denied him by the Framers.[61] Allowing the President to defer expenditures, subject to legislative review, preserved and aided the legislative process, since it provided time for a legislative decision on whether to change previous decisions on appropriations. The provisions were enacted with the President's approval.

The Impoundment Control Act's provision for legislative review has been used extensively. Presidents have submitted hundreds of proposed budget deferrals, of which sixty-five have been disapproved by resolutions of the House or Senate with no protest by the Executive. See Appendix B (tabulating disapprovals of budget deferrals). Even critics of legislative review recognize the soundness of the act's solution to the impoundment problem: President Carter, in his message on legislative vetoes, termed the budget act, like the War Powers Resolution, a "constructive safeguar[d]," and the House Rules Committee, which has opposed other kinds of legislative review provisions, deemed the War Powers Resolution and the impoundment control provisions "compelling examples [of] histories of essentiality." [62]

These statutes were followed by others resolving similar problems: the National Emergencies Act, resolving the longstanding problems with unchecked Executive emergency power;[63] the Arms Export Control Act, resolving the problem of foreign arms sales;[64] and the Nuclear Non-Proliferation Act of 1978, resolving the problem of exports of nuclear capability.[65] Under these provisions, major congressional deliberations over foreign policy have occurred, such as in consideration of President Reagan's 1981 plans to sell sophisticated aircraft to Saudi Arabia.[66]

D. ENERGY

Legislative review has served a crucial function in balancing broad delegations in legislation responding to the energy crisis of the 1970's, as shown in one of the other challenges to legislative review which is now before this Court, *United States Senate* v. *Consumer Energy Council of America, supra* note 1. The origin of this role of legislative review is explained in the legislative history of the proposed Energy Emergency Act of 1973, the progenitor of much of the energy legislation of the past nine years. In late 1973, as a result of the embargo by Arab states on shipment of oil to the United States, "the need to take emergency actions to deal with the situation [was] clearly established." H.R. Rep. No. 710, 93d Cong., 1st Sess. 24 (1973). Within a month after the embargo began, the President sought broad emergency powers from Congress to restrict public and private energy consumption, grant exemptions from environmental laws to allow more coal use, order conversion of powerplants to coal use, initiate production from naval oil reserves, and license temporarily nuclear plants without a public hearing. *Id.* at 24–25.

Congress recognized that the energy crisis raised again a problem that had recurred since "the first declared national emergency in 1933. . . . [¶] Over the course of that forty-year period, the Congress has repeatedly been presented with the problem of finding a means by which a legislative body in [a] democractic republic may extend extraordinary powers for use by the Executive during times of great crisis without imperiling our constitutional balance of liberty and authority." *Id.* at 25. Based on an investigation of the use of emergency authority since 1933,[67] Congress was reluctant to delegate unchecked emergency authority over energy use. Moreover, such a delegation would have raised the central concerns of the nondelegation doctrine, since "[t]he unrestrained power to determine the burden of shortages is the power to make a political decision of the highest order." *Arizona* v. *California, supra* page 9, 373 U.S. at 626 (Harlan, J., disenting in part).

Instead, first the Senate, and then both Houses, turned to legislative review as the solution. The Senate Committee on Interior and Insular Affairs explained the need for legislative review:

"Because of the broad scope of the additional authority granted the executive branch under this act, the committee believes that it is necessary for the Congress to review the manner in which that authority is to be exercised."

S. Rep. No. 498, 93d Cong., 1st Sess. 27 (1973). The conference committee adopted this approach, concluding "that the disapproval mechanism contained in this legislation provides the best opportunity for resolution of this problem." H.R. Rep. No. 763, 93d Cong., 2d Sess. 42 (1974) (conference report on the Energy Emergency Act). Both Houses enacted the conference version of the bill, delegating the Executive authority for mandatory energy conservation, rationing, and conversion of gas- and oil-burning facilities to coal use, subject to legislative review of Executive plans. The President did not object to the provisions for legislative review. Indeed, in December, 1973, less than two months after President Nixon vetoed the War Powers Resolution, the Administration apparently supported a proposal for delegation of broad energy powers subject to legislative review.[68] When emergency legislation emerged from conference, President Nixon vetoed it in March, 1974, based on criticism of its substantive authority, without opposing legislative review provisions.[69]

Subsequently, most of the authority proposed in the bill was enacted or reenacted in other energy legislation with legislative review provisions. Legislative review became the critical component for balancing a host of broad statutory delegations concerning energy rationing, contingency plans, strategic oil reserves, allocation of energy production materials, oil exports, and naval reserve production.[70] While President Carter opposed some legislative review provisions, he accepted others. For example, the House of Representatives passed legislation to authorize adoption of standby gasoline rationing plans subject to legislative review, with President Carter's approval: [71]

"I don't object to the House veto if it's done expeditiously. . . .[¶]I have no objection to [a provision for] the House, within 2 weeks [after submission of a rationing plan], either approving the plan that I have tried to put into being or if either House wants to veto it, they can do that."

One of the energy acts, the Natural Gas Policy Act of 1978 ("NGPA"), is challenged in a legislative review case recently docketed in this Court. See note 72 infra. Congress enacted the NGPA after eighteen months of strenuous effort to solve the enormously divisive and controversial issues raised by President Carter's energy proposals. As part of gradual natural gas price deregulation, Title II of the NGPA establishes a program for "incremental pricing" of natural gas, under which some industrial users of natural gas pay a disproportionate share of price increases for tapping new sources of gas.

Congress was willing to mandate in 1978 that such incremental price increases be paid by low-priority "boiler fuel" users of natural gas. However, it was reluctant to extend such pricing to high-priority industrial gas users, with their important role in the national economy. As a court of appeals has noted, "[t]he incremental pricing scheme Congress adopted in the NGPA was novel and experimental, and viewed with some trepidation by many members who feared it would bring in its wake massive switching to non-gas fuels, regional dislocations of industry, and a bureaucratic orgy." *Ohio Association of Community Action Agencies* v. *Federal Energy Regulatory Commission*, 654 F.2d 811, 820 (D.C. Cir. 1981).

Accordingly, Congress established a procedure for gaining experience with incremental pricing before it was fully implemented. It balanced the delegation of authority to devise incremental pricing regulations for high-priority industrial users with a provisions for legislative review, in light of the regulations' potential for drastically affect-

ing the burden of natural gas pricing.[72] Pursuant to that provision for legislative review, in 1980 the House of Representatives disapproved incremental pricing regulations. Consumer groups challenged the legislative review provision, and a panel of the court of appeals declared the statute unconstitutional, both on separation of powers grounds and on a sweeping view of the Presentation Clause. *Consumer Energy Council of America* v. *FERC*, supra note 1.

E. RULEMAKING

In recent years, Congress has experimented with use of legislative review as a check on broad delegations of rulemaking authority, as shown by the second recent challenge to legislative review which has been appealed to this Court, *Consumers Union of U.S., Inc.* v. *Federal Trade Commission, supra* note 1. Since the power to make rules is, in effect, a delegation of the power to legislate, broad delegations to agencies of such power raise the fundamental concerns underlying the nondelegation doctrine. As delegations of rulemaking authority to independent regulatory commissions, and to Executive Branch agencies, have become broader, they have been criticized for "threaten[ing] the legitimacy of agency action," [73] leading to " a strong and persisting challenge to the basic legitimacy of the administrative process itself." [74]

This Court has expressed serious concern with broad rulemaking delegations. *See Industrial Union Department, AFL-CIO* v. *American Petroleum Institute, supra* note 14. However, there are circumstances when it is impractical or undesirable for Congress to enact narrowly drafted solutions which anticipate all aspects of a national problem.[75] Rulemaking by independent regulatory commissions presents Congress with a special aspect of this problem, because the independent regulatory commissions are not democratically accountable through Presidential responsibility.[76]

In 1975, Congress expressly delegated to the Federal Trade Commission (FTC) broad authority to make rules to prevent businesses from engaging in "unfair or deceptive acts or practices in commerce." [77] After several years' experience with FTC rulemaking, Members of Congress found that under the FTC's "very broad authorities to prohibit conduct which is 'unfair or deceptive' the FTC can regulate virtually every aspect of America's commercial life. . . . The FTC's rules are not merely narrow interpretations of a tightly drawn statute; instead, they are broad policy pronouncements which Congress has an obligation to study and review." (124 Cong. Rec. 5012 (1978) (statement by Representative Broyhill). Legislative review was proposed to constrain that broad delegation.)

Congress gave extensive consideration to the constitutionality of legislative review for FTC rulemaking, examining, most importantly, the Attorney General's 1977 opinion reaffirming the constitutionality of the legislative review provision in the Reorganization Act.[78] After three years of hearings and debate, in 1980 Congress enacted a legislative review provision in its reauthorization of the FTC.[79] In 1982 Congress adopted a concurrent resolution disapproving FTC rules concerning the used car industry. The constitutionality of the legislative review provision was challenged and in October, 1982, the court of appeals declared it unconstitutional in a brief per curiam opinion, based on the court's previous invalidation of the natural gas incremental pricing provision. *Consumers Union of U.S., Inc.* v. *FTC, supra* note 1.

Legislative review for independent agency rulemaking has been before this court once before. In 1976, the legislative review provision for rulemaking by an independent commission, the Federal Election commission, was challenged. *Buckley* v. *Valeo*, 424 U.S. 1 (1976). While the majority opinion did not reach that consititutional challenge, *id.*, 424 U.S. at 140 n.176, Justice White's concurring opinion concluded that legislative review was constitutional, because Congress was not making rules, but only disapproving them.[80] "[I]n the light of history and modern reality, the provision for congressional disapproval of agency regulations does not appear to transgress the constitutional design, at least where the President has agreed to legislation establishing the disapproval procedure. . . ." *Id.* at 285-86 (White, J., concurring in part and dissenting in part). Since then, this court has reviewed Federal Election Commission rules which had been previously reviewed by Congress, and has found the prior legislative review to be an aid in construing the statute. *Federal Election Commission* v. *Democratic Senatorial Campaign Committee*, 454 U.S. 27, 34 (1981).

Besides applying legislative review to rulemaking by independent agencies, Congress has also experimented with legislative review for certain executive agencies. The constitutional dispute over such provisions began with one for education regulations. During the 1960's, Congress enacted a number of narrow grant programs to be administered by the Commissioner of Education. In 1969, President Nixon sought discretion to consolidate fragmented grant programs, while checking the discretion thereby delegated through legislative review:

"The legislation I propose would be patterned in part after procedures used successfully for the past 20 years to reorganize Executive Branch functions. It would give the President power to initiate consolidation of closely related Federal assistance programs, and to place consolidated programs under the jurisdiction of a single agency. However, it would give either House of Congress the right to veto a proposed consolidation within 60 days, and it would establish stringent safeguards against possible abuse."[81]

Congress found subsequently that fragmented and narrow education grant programs "inevitably lead to Executive-Legislative confrontations" because they inappropriately limit the Commissioner of Education's authority; "a Commissioner unwilling to tolerate the delay inherent in proposing new legislation is tempted to 'bend' existing program requirements and to combine different program authorities to secure the base of funding necessary to implement his ideas." S. Rep. No. 763, 93d Cong., 2d Sess. 69 (1974). To solve this problem, in 1974 Congress "eliminate[d] the [grant] categories that now limit[ed] the Commission[er]'s discretion. In their place it substitute[d] a broad authority with minimal strings attached." *Id.*

However, as President Nixon's suggestion of legislative review had reflected, ending the narrow grant categories conferred great discretion. Congress recognized that prior discretion had led to "steady escalation of agency quasi-legislative power, and the corresponding attrition in the ability of the Congress to make the law. For at least four decades now, the agencies of the Executive Branch have increasingly used their rulemaking authority to 'correct' what they feel are the errors and ambiguities of the law." H.R. Rep. No. 805, 93d Cong., 2d Sess. 73 (1974). Accordingly, the statute which consolidated the grants subjected rulemaking by the Commissioner of Education to legislative review.[82]

President Ford signed the bill into law on August 21, 1974, "[a]s the first major legislation to become law during my Administration. . . ." [83] He praised Congress for consolidating narrow categorical grant programs, id., but protested that the review provision constituted an attempt by Congress "to administer Federal programs" which was "questionable on practical as well as constitutional grounds." Id. at 37. Together with President Nixon's veto of the War Powers Resolution, President Ford's protest inaugurated the period of the last nine years during which the Executive Branch has formally disputed most, but not all provisions for legislative review.

Recent Congresses have considered proposals to make legislative review provisions applicable to rulemaking by all federal agencies.[84] In the 95th and 96th Congresses, regulatory reform bills received extensive consideration, but neither House voted on such bills. In the current 97th Congress, a generic legislative review bill passed the Senate, but it has not been voted on in the House. During this period, Congress has given extensive consideration to the constitutional arguments regarding such review. At this time, it has reached no resolution of the legislative issues regarding such review, and its consideration is still evolving.

FOOTNOTES

[14] *See Industrial Union Department, AFL-CIO* v. *American Petroleum Institute*, 448 U.S. 607, 646 (1980) (plurality opinion) (noting danger of statutory construction that delegates sweeping authority); *id.* at 685-87 & nn. 6-7 (Rehnquist, J., concurring) (citing commentary on nondelegation doctrine); *American Textile Manufacturers Institute* v. *Donovan, Inc.*, 452 U.S. 490, 543 (1981) (Rehnquist J., dissenting).

[15] *Compare United States* v. *Midwest Oil Co.*, 236 U.S. 459, 473 (1915) (discussing importance of the history of a practice and acquiescence in it in judging constitutionality), and *Nixon* v. *Administrator of General Services*, 443 U.S. 425, 445 (1977) (reviewing statutory precedent for challenged provision), *with Youngstown Sheet & Tube Co.* v. *Sawyer*, 343 U.S. 579, 611-13 (1952) (Frankfurter, J., concurring) (describing lack of precedent for challenged action).

[16] *See, e.g., Rostker* v. *Goldberg*, 453 U.S. 57, 64 (1981) (importance of prior Congressional consideration of constitutional issue).

[17] He proposed that the Executive "should act upon approval of a joint committee of Congress or with the reservation of power of revision by Congress within some limited period adequate for its consideration." Pub. Papers 432 (1929).

[18] The initial authority was provided in an appropriation act. Act of June 30, 1932, ch. 314, Section 407, 47 Stat. 382, 414. In 1933, the Attorney General issued an opinion on another statute which stated that the legislative review provision for reorganizations was unconstitutional. 37 Op. Att'y Gen. 56 (1933) *cited in* INS Brief at 58 n. 37. Subsequently the Department of Justice disavowed the opinion. See note 38 *infra*.

In 1933, Congress revised the reorganization authority and provided for it to expire in 1935, this time without legislative review. *See* Fisher & Moe, *Delegating with Ambivalence: The Legislative Veto and Reorganization Authority*, in Subcomm. on rules of the House, 96th Cong., 2d Sess., *Studies on the Legislative Veto* 174-82 (Comm. Print 1980).

[19] *Report of the President's Committee on Administrative Management* (1937), *reprinted in* S. Doc. No. 8, 75th Cong., 1st Sess. 67 (1937) (referring to independent regulatory commissions).

[20] In 1937 the committee's draft bill to renew the President's reorganization authority was introduced in the Senate. Fisher & Moe, *supra* note 18, at 186. For descriptions of the legislative develop-

ment of the Reorganization Act, see D.G. Morgan, *Congress and the Constitution: A Study of Responsibility* 184-200 (1966); R. Polenberg, *Reorganizing Roosevelt's Government: The Controversy Over Executive Reorganization, 1936-1939* 125-87 (1966).

[21] *See, e.g.*, 83 Cong. Rec. 4599 (1938) (Rep. Lord). Charges concerning "dictatorship" were so frequent that President Roosevelt prepared a letter which was reprinted in the Congressional Record:

My Dear ——: Many thanks for your letter telling me that you are concerned over the charges in several newspapers that the reorganization bill now before the Congress would make me a dictator.

(1) As you well know I am as much opposed to American dictatorship as you are. . . .

83 Cong. Rec. 4487 (1938).

[22] In two cases the Court avoided ruling on challenges "that Congress was without constitutional power to delegate to the President authority to determine whether the transfer [of certain functions by reorganization] should be effected," *Swayne & Hoyt, Ltd.* v. *United States*, 300 U.S. 297, 301 (1937), on the ground that Congress had ratified the challenged reorganizations by subsequent legislation. *Id.*; *Isbrandtsen-Moller Co.* v. *United States*, 300 U.S. 139, 148 (1937).

[23] Fisher & Moe, *supra* note 18, at 189-92; Polenberg, *supra* note 20, at 185.

[24] *See, e.g.*, 84 Cong. Rec. 2307-08 (1939) (Rep. Taber) (contrasting disapproval by one House with disapproval by two Houses); *id.* at 2310 (Rep. Warren) (discussing 1933 Attorney General opinion that legislative review provision in 1932 reorganization authority was unconstitutional); *id.* at 2385 (Rep. Van Zandt) (contrasting affirmative approval by Congress with disapproval); *id.* at 2411 (Rep. Dirksen) (discussing Attorney General opinion); *id.* at 2477 (Rep. Cox) (discussing Attorney General opinion); *id.* (Rep. Taber) (reciting Presentation Clause); *id.* at 2479 (Rep. Cox) (discussing Supreme Court decision in *Currin* v. *Wallace*, 306 U.S. 1 (1939)). An amendment to substitute disapproval by either House, for disapproval by both Houses, was adopted in the House Committee of the Whole, 176-155, *id.* at 2500, but rejected by the full House, 193-209, *id.* at 2502.

[25] E. S. Corwin, *The President: Office and Powers 1787-1948* 158 (1948); Millett & Rogers, *The Legislative Veto and the Reorganization Act of 1939*, 1 Pub. Admin. Rev. 176, 178 (1941).

[26] Reorganization Act of 1949, Pub. L. No. 81-109, Section 6, 63 Stat. 203, 205; Pub. L. No. 83-3, 67 Stat., 4 (1953); Pub. L. No. 85-286, 71 Stat. 611 (1957); Pub. L. No. 87-18, 75 Stat. 41 (1961), Pub. L. No. 88-351, 78 Stat. 240 (1964); Pub. L. No. 89-43, 79 Stat. 135 (1965); Pub. L. No. 89-554, Sectioin 906, 80 Stat. 378, 396 (1966); Pub. L. No. 91-5, 83 Stat. 6 (1969); Pub. L. No. 92-179, 85 Stat. 574 (1971); Pub. L. No. 95-17, Section 906, 91 Stat. 29, 32 (1977); Pub. L. No. 96-230, 94 Stat. 329 (1980). After 1949, reorganization statutes provided for disapproval of reorganization plans by one House. The Congress has under consideration president Reagan's request for the renewal of reorganization authority. *See Reorganization Act of 1981: Hearing Before the Senate Comm. on Governmental Affairs*, 97th Cong., 1st Sess. on S. 893 at 2-3, 6-7 (1981).

[27] Reorg. Plan No. 1 of 1939, *reprinted in* 53 Stat. 1423 (Executive Office); Reorg. Plan No. 1 of 1953, *reprinted in* 67 Stat. 631 (HEW); Reorg. Plan No. 2 of 1970, *reprinted in* 84 Stat. 2085 (OMB).

[28] "The world turmoil that led to World War II occasioned the need to transfer greater authority to the president in the areas of foreign affairs and national security. The legislative veto was included in statutes conferring additional authority to constrain presidential initiative." B.H. Craig, The Legislative Veto: Its Implications for Administration and the Democratic Process 58 (unpublished University of Connecticut Ph.D. dissertation 1982).

[29] An Act to Promote the Defense of the United States, ch. 11, 55 Stat. 32 (1941); Service Extension Act of 1941, ch. 362, 55 Stat. 626. An earlier statute, the Neutrality Act of 1939, ch. 2, 54 Stat. 4, had authorized either the President, or Congress by concurrent resolution to embargo exports to belligerents.

[30] The Lend-Lease Act was criticized on the ground that the President wanted "and we yield power in his own discretion, on his own terms, and as he may see fit, to conduct undeclared war anywhere in the world." 87 Cong. Rec. 1269 (1941) (Sen. Clark). The authority to extend the military service period was criticized on the ground that "there is no language limiting the maximum time of service. It is then a question—and I think a serious one—as to whether the President, while his authority exists, may not extend the period of service absolutely indefinitely. . . ." 87 Cong. Rec. 6504 (1941) Sen. White).

[31] Section 3(c) of an Act to Promote the Defense of the United States, 55 Stat. 32 (1941); Section 2 of the Service Extension Act of 1941, 55 Stat. 626.

In 1953, Justice Jackson published a memorandum signed by President Roosevelt which stated the President's belief that the termination provision of the Lend-Lease act was unconstitutional. At the time President Roosevelt wrote the memorandum, Justice Jackson was serving as Attorney General and the President committed the private memorandum to his care without communicating his views to the Congress. Justice Jackson wrote:

"But was it unconstitutional? That was a different question, which we discussed over and over. The question on which my doubts were not fully satisfied never bothered the President in the least. It seemed to me to depend on whether the provision was to be considered as a reservation or limitation by which the granted power would expire or terminate on the contingency of a concurrent resolution or was to be regarded as authorizing a repeal by concurrent resolution." (Jackson, *A Presidential Legal Opinion*, 66 Harv. L. Rev. 1353, 1355 (1953).)

[32] *See* Watson, *Congress Steps Out: A Look at Congressional Control of the Executive*, 63 Calif. L. Rev. 983, 1089-90 (1975) (listing statutes). A contemporary political scientist explained the crucial role of legislative review provisions in the debates of this period:

"Termination by concurrent resolution is more likely to be provided in measures whose passage on a preliminary survey, appears doubtful. Without this provision, the Service Extension Act of 1941 would probably not have received even the 203 to 202 vote by which it passed the House." (White, *Executive Responsibility to Congress Via Concurrent Resolution*, 36 Am. Poli. Sci. Rev. 895, 898 (1942) (footnotes omitted).)

[33] White, *supra* note 32, 36 Am. Poli. Sci. Rev. at 895 n. 2 (submission of draft bills); General Counsel to the Office of Price Administration, *Statement on Constitutionality of Concurrent Resolution Provision of Proposed Price Control Bill* (H.R. 5479) *("Statement on Constitutionality")*, *reprinted in Price-Control Bill: Hearings Before the House Comm. on Banking and Currency on H.R. 5479*, 77th Cong., 1st Sess. 983 (1941) *("Price Control Hearings"). See Allen* v. *Grand Central Aircraft Co.*, 347 U.S. 535, 542 n.7 (1954) (quoting provisions of wartime price control act).

[34] *See Price Control Hearings, supra* note 33, at 399, 634 (Presentation Clause quoted by Rep. Patman); 88 Cong. Rec. 781, 784 (1942) (Sen. Murdock) (same).

[35] *Compare* 87 Cong. Rec. 735 (1941) (Rep. Dirksen) (citing Reorganization Act in support of proposal to include legislative review provision in Lend-Lease Act) *with Price Control Hearings, supra* note 33, at 400, 635 (Rep. Wolcott) (distinguishing legislative review functioning under the Reorganization Act as "condition precedent" from wartime legislative review functioning as "condition subsequent") *and* 87 Cong. Rec. 1596 (1941) (Sen. Murdock) (same). The Administration rejected this attempt to distinguish the Reorganization Act. *See Statement on Constitutionality, supra* note 33, at 985.

[36] J. L. Sundquist, *The Decline and Resurgence of Congress* 356 (1981).

[37] Watson, *supra* note 32, 63 Calif. L. Rev. at 1016.

[38] Department of Justice, *Memorandum Re Constitutionality of Provisions in Proposed Reorganization Bills Now Pending in Congress* (S. 526 and H.R. 2361, 81st Cong., 1st Sess.), *reprinted in Reorganization Act of 1949*, S. Rep. No. 232, 81st Cong., 1st Sess. 19-20 (1949). This memorandum disapproved part of the Attorney General's 1933 opinion which had termed legislative review unconstitutional, see note 18 *supra*, as "obiter dictum" which had been "based upon an unsound premise." *Id.* at 19.

[39] The INS Brief, at 57 n.37, asserts that there is a history of presidential opposition to legislative review. It cites Watson, *supra* note 32, 63 Calif. L. Rev. at 988 n.9, who lists sixteen Presidential statements by Presidents from Truman through Nixon, and the INS Jurisdictional Statement in this case, at J.S. 22 n.19, which cites a single statement by each President from Truman through Nixon, each of which is among the sixteen cited by Watson.

Every one of these Presidential statements, until the veto by President Nixon of the War Powers Resolution, concerned bills authorizing *committee* review. President Truman: 97 Cong. Rec. 5374-75 (1951) (review by Armed Services committees); 98 Cong. Rec. 9752 (1952) (Post Office and Civil Service, and Public Works, committees). President Eisenhower: 100 Cong. Rec. 7135 (1954) (Armed Services committees); 101 Cong. Rec. 10459-60 (1955) (Appropriations committees); 102 Cong. Rec. 12959 (1956) (Armed Services committees); Pub. Papers 648-50 (1956) (Interior committees); H.R. Doc. No. 255 Pt. I, 86th Cong., 2d Sess. at M18 (1960) (Armed Services committees). President Kennedy: Pub. Papers 6 (1963) (Appropriations committees). President Johnson: Pub. Papers 861-62 (1964) (Interior committees); Pub. Papers 1249-51 (1964) (Agriculture committees); 1 Weekly Comp. Pres. Doc. 132 (1965) (Armed Services committees); 1 Weekly Comp. Pres. Doc. 432-33 (1965) (Public Works committees); 111 Cong. Rec. 12639-40 (1965) (Public Works committees). President Nixon: 8 Weekly Comp. Pres. Doc. 938 (1972) (Public Works committees); 8 Weekly Comp. Pres. Doc. 1076 (1972) (Public Works committees); 9 Weekly Comp. Pres. Doc. 1285-87 (1973) (War Powers Resolution).

Many of these disputes concerned a particular issue that was successfully resolved in 1972. A number of statutes provided that "no appropriation may be made" for a particular kind of public work until it had been authorized by the proper committees. Various Presidents disputed whether such provisions were part of the internal Congressional process for authorizing appropriations, or were interference with the Executive. In 1972, President Nixon concluded that they were constitutional, ending the dispute. "The Congress regards this 'no appropriation may be made' provision, I understand, as internal Congressional rule-making not affecting the executive branch, and this Administration has acquiesced in that construction." 8 Weekly Comp. Pres. Doc. 938 (1972).

[40] Even Watson, whose article challenges the constitutionality of legislative review, concedes that "[i]n marked contrast to executive acquiescence to the use of resolutions, Presidents since Roosevelt have vigorously opposed use of the committee veto." Watson, *supra* note 32, 63 Calif. L. Rev. at 1017.

[41] *See National Wilderness Preservation Act: Hearings Before the Senate Comm. on Interior and Insular Affairs on S. 4*, 88th Cong., 1st Sess. (1963) (President Kennedy's proposals for legislative review of withdrawal of wilderness areas); Pub. Papers 6 (1961) (President Kennedy's proposals for legislative review of agricultural programs); *President's Message to the Congress Transmitting the Budget for Fiscal Year 1970*, 5 Weekly Comp. Pres. Doc. 70, 73 (Jan. 15, 1969) (President Johnson's proposals for legislative review of taxation); page 36 *infra* (President Nixon's proposals for legislative review of federal grants); *President's Message to the Congress Proposing Enactment of the Trade Reform Act of 1973*, 9 Weekly Comp. Pres. Doc. 343, (1973) (President Nixon's proposals for legislative review of international trade agreements on non-tariff barriers).

[42] *See* General Counsel of the Department of Agriculture, *Constitutionality of Title I of H.R. 6400, 87th Cong., 1st Session* (1961), *reprinted in Legislative Policy of the Bureau of the Budget: Hearing Before the Subcomm. on Conservation and Credit of the House Comm. on Agriculture*, 89th Cong., 2d Sess. 27 (1966).

[43] *See Separation of Powers: Hearings Before the Subcomm. on Separation of Powers of the Senate Comm. on the Judiciary*, 90th Cong., 1st Sess. 206 (1967) (testimony of Frank M. Wozencraft, Assistant Attorney General for the Office of Legal Counsel).

[44] Assistance to Greece and Turkey, Pub. L. No. 80-75, Section 6, 61 Stat. 103, 105 (1947) (Truman Doctrine); Universal Military Training and Service Act, Pub. L. No. 82-51, Section 1(j), 65 Stat. 75, 80 (1951) (conscription during Korean War); Resolution to Promote Peace and Stability in the Middle East, Pub. L. No. 85-7, Section 6, 71 Stat. 5, 6 (1957), 22 U.S.C 1965 (Middle East Crisis of 1957); H.R.J. Res. 1145, 88th Cong., 2d Sess., Pub. L. No. 88-408, Section 3, 78 Stat. 384, 385 (1964) (Tonkin Gulf Resolution), *repealed*, Pub. L. No. 91-672, Section 12, 84 Stat. 2053, 2055 (1971). *See* Buckwalter, *The Congressional Concurrent Resolution: A Search for Foreign Policy Influence*, 14 Midwest J. Poli. Sci. 434 (1970).

[45] National Aeronautics and Space Act of 1958, Pub. L. No. 85-568, Section 302, 72 Stat. 426, 433 (space program); Atomic Energy Act Amendment of 1958, Pub. L. No. 85-479, Section 4, 72 Stat. 276, 277 (cooperative nuclear agreements); Trade Expansion

Act of 1962, Pub. L. No. 87-794, Section 351, 76 Stat. 872, 899, 17 U.S.C. 1981 (tariff recommended by Tariff Commission may be imposed by concurrent resolution of approval); Postal Revenue and Federal Salary Act of 1967, Pub. L. No. 90-206, Section 255(i)(1), 81 Stat. 613, 644.

[46] The resolution provided that its authority "shall expire when the President shall determine that the peace and security of the area is reasonably assured . . . except that it may be terminated earlier by concurrent resolution of the Congress." Section 3 of H.R.J. Res. 1145, 88th Cong., 2d Sess., Pub. L. No. 88-408, 78 Stat. 384, 385 (1964).

[47] See House Comm. on Foreign Affairs, 97th Cong., 1st Sess., *The War Powers Resolution* 26-30, 70-71, 106-10 (Comm. Print 1982) (*"War Powers Resolution"*) (describing Presidential justifications for, and Congressional reactions to, 1970 Cambodia and 1971 Laos incursions, and 1973 Cambodia bombings).

[48] For descriptions of the House and Senate hearings on war powers, see *War Powers Resolution, supra* note 47, at 55-61 (1970 House hearings), 72-77 (1971 Senate hearings), 93-95 (1971 House hearings), 119-21 (1973 House hearings), and 133-34 (1973 Senate hearings). For description of the legislative debate on war powers legislation *see id.* at 43-166.

[49] *War Powers Resolution, supra* note 47, at 123.

[50] *War Powers Resolution, supra* note 47, at 144-45. The House conferees' memorandum had been published during the House debates on passage of the House bill. See 119 Cong. Rec. 21223-25 (1973).

[51] *War Powers Resolution, supra* note 47, at 58, 74, 84-85, 113, 119-20; *see also id.* at 29-30, 38 (Administration positions on war powers stated prior to Congressional consideration of war powers legislation).

[52] The House bill, H.R.J. Res. 542, 93d Cong., 1st Sess., relied on a limit of 120 days after which continued commitment of armed forces would require Congressional approval. It also provided for termination of commitment of armed forces at any time by concurrent resolution. The Senate bill, S. 440, 93d Cong., 1st Sess., imposed a limit of thirty days for commitment of armed forces without Congressional approval, but permitted the President unspecified additional time to remove such forces safely from hostilities. It did not provide for termination by concurrent resolution, but specified in some detail the circumstances when the President could commit armed forces. *War Powers Resolution, supra* note 47, at 142.

As a compromise, the War Powers Resolution provided a statement of the "constitutional powers of the President as Commander-in-Chief to introduce United States Armed Forces into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by the circumstances," section 2(c), 50 U.S.C. 1541(c). However, subsequent sections of the resolution, in which provisions for limiting and terminating commitment of armed forces were set forth, were not made dependent on the authority for the initial commitment. H.R. Rep. No. 547, 93d Cong., 1st Sess. 1-2 (1973). Automatic termination of hostilities in the absence of congressional authorization was to occur after sixty days, with an additional thirty days if the President found "unavoidable military necessity respecting the safety" of the armed forces. Section 5(b), 50 U.S.C. 1544(b). The compromise was completed by a provision for termination by concurrent resolution. Section 5(c), 50 U.S.C. 1544(c).

[53] 119 Cong. Rec. 21224-25 (1973) (reprinting letter of June 12, 1973, from Paul A. Freund to Rep. Pierre S. du Pont).

[54] 9 Weekly Comp. Pres. Doc. 1285-87 (1973).

[55] President Carter later took a different view of the War Powers Resolution, endorsing it as a "constructive safeguar[d]." *President's Message to the Congress on Legislative Vetoes,* Pub. Papers 1146, 1149 (1978).

[56] *See* 119 Cong. Rec. 8295-96 (1973).

[57] *Joint Hearings on Impoundment of Appropriated Funds by the President Before the Ad Hoc Subcomm. on Impoundment of Funds of the Senate Comm. on Government Operations and the Subcomm. on Separation of Powers of the Senate Comm. on the Judiciary,* 93d Cong., 1st Sess. (1973); *Hearings on Executive Impoundment of Appropriated Funds Before the Subcomm. on Separation of Powers of the Senate Comm. on the Judiciary,* 92d Cong., 1st Sess. (1971).

[58] S. 373, 93d Cong., 1st Sess., adopted by the Senate, 119 Cong. Rec. 15255 (1973), allowed the President to impound appropriations for sixty days, at which point the impoundment would cease unless Congress adopted a concurrent resolution of approval. The Senate adopted H.R. 7130, 93d Cong., 2d Sess., after substituting, in place of the House language, the language of S. 1541, 93d Cong., 2d Sess., which prohibited impoundments. 120 Cong. Rec. 7938 (1974).

[59] H.R. 7130, 93d Cong., 1st Sess., adopted by the House, 119 Cong. Rec. 39740 (1973).

[60] *Compare* H.R. Rep. No. 658, 93d Cong., 1st Sess. 42 (1973) (finding "sufficient precedent" in the Reorganization Act) with *id.* at 87 (minority views) (deeming a one-House disapproval resolution to "be of doubtful legal effect"). As the floor manager of the House bill, Representative Bolling, explained, "The formula [of Presidential proposal of impoundments subject to disapproval by either House] has been used for a quarter of a century to enable the President to propose, and Congress to review, plans to reorganize Federal agencies." 119 Cong. Rec. 25546 (1973).

[61] A proposal in the Constitutional Convention "that the national executive have a power to suspend any legislative act for the term of ——" was rejected, after Elbridge Gerry observed "that the power of suspending might do all the mischief dreaded from the negative of useful laws, without answering the salutary purpose of checking unjust or unwise ones." 5 J. Elliott, *supra* note 9, at 154-55. *See Department of Justice Authorization and Oversight, 1981: Hearings Before the Senate Comm. on the Judiciary,* 96th Cong., 2d Sess. 885-94 (1981) (discussing case law and historical underpinnings for lack of Presidential authority to suspend legislation).

[62] *President's Message to the Congress on Legislative Vetoes,* Pub. Papers 1146, 1149 (1978); H.R. Rep. No. 809, 97th Cong., 1st Sess., pt. 2, at 18 (1982).

[63] Pub. L. No. 94-412, 90 Stat. 1255 (1976). Section 202, 50 U.S.C. 1622, provides for termination of national emergencies by concurrent resolution. *See* Note, *The National Emergency Dilemma: Balancing the Executive's Crisis Powers with the Need for Accountability,* 52 S. Cal. L. Rev. 1453 (1979); A. Schlesinger, *The Imperial Presidency* 306-10 (1974); note 67 *infra* (Senate hearings and reports).

International emergencies can also be terminated by concurrent resolution. Act of December 8, 1977, Pub. L. No. 95-223, Section 207(b), 91 Stat. 1625, 1628, 50 U.S.C. 1706(b) (Supp. IV 1980) (concurrent resolution under National Emergencies Act can specify termination of Presidential authority in international emergencies). This Court has recently examined the background of an international emergency in which the President used the authority delegated by this statute. *Dames & Moore, Inc.* v. *Regan,* 453 U.S. 654 (1981).

[64] Pub. L. No. 94-329, 90 Stat. 729 (1976). Section 211, 22 U.S.C. 2776(b), provides for disapprovals of sales of major defense equipment by concurrent resolution. *See* Morrison, *The Arms Export Control Act: An Evaluation of the Role of Congress in Policing Arms Sales,* 14 Stan. J. Int'l Studies 105 (1979).

[65] Pub. L. No. 95-242, Sections 303, 304(a), 306, 307, and 401, 92 Stat. 120, 130, 134, 137, 139, 144-45, 42 U.S.C. 2160(f), 2155(b), 2157(b), 2158, and 2153(d) (Supp. IV 1980), provide for disapproval of various international nuclear arrangements by concurrent resolution.

[66] *See* H.R. Rep. No. 268, 97th Cong., 1st Sess. (1981); S. Rep. No. 249, 97th Cong., 1st Sess. (1981); 127 Cong. Rec. H7236-7308 (Oct. 14, 1981); *id.* at S12237-12452 (Oct. 28, 1981).

[67] *See Emergency Powers Statutes: Provisions of Federal Law Now in Effect Delegating to the Executive Extraordinary Authority in Time of National Emergency,* S. Rep. No. 549, 93d Cong., 1st Sess. (1973) (Report by the Senate Special Committee on the Termination of the National Emergency); *National Emergency: Constitutional Questions Concerning Emergency Powers, Hearings Before the Senate Special Comm. on the Termination of the National Emergency,* 93d Cong., 1st Sess. (1973). In rejecting an unchecked grant of emergency power, the House Committee on Interstate and Foreign Commerce relied on the Special Committee's report. *See* H.R. Rep. No. 710, 93d Cong., 1st Sess. 25 (1973).

[68] President Nixon "sought authority to institute emergency plans immediately, subject only to a congressional veto within 15 days. . . ." *Excess Profits Provision Delays Emergency Energy Bill,* 31 Cong. Q. Weekly Rev. 3335 (1973). The Senate Committee on Interior and Insular Affairs reported out such authority, S. 2589, 93d Cong., 1st Sess, (as reported), based on extensive consultations in closed hearings with administrative representatives. S. Rep. No. 498, 93d Cong., 1st Sess. 15 (1973).

[69] S. Doc. No. 61, 93d Cong., 2d Sess. (1974) (veto message), *reprinted in* 120 Cong. Rec. 5491 (1974).

[70] Naval Petroleum Reserves Production Act of 1976, Pub. L. No. 94-258, Section 201, 90 Stat. 303, 309, 10 U.S.C. 7422(c)(2)(C) (naval reserve production); Energy Policy and Conservation Act, Pub. L. No. 94-163, Sections 159, 201, 401(a), and 455, 89 Stat. 871, 886, 890, 941, and 950 (1975), 42 U.S.C. 6239 and 6261, 15 U.S.C. 757 and 760a (strategic oil reserves, rationing and contingency plans, oil price controls and product allocation); Federal Nonnuclear Energy Research and Development Act of 1974, Pub. L. No. 93-577, Section 12, 88 Stat. 1878, 1892-93, 42 U.S.C. 5911 (allocation of energy production materials); Act of November 16, 1973, Pub. L. No. 93-153, Section 10, 87 Stat. 576, 582, 30 U.S.C. 185(u) (oil exports).

[71] *President's News Conference of July 25, 1979,* 15 Weekly Comp. Pres. Doc. 1303, 1311 (1979). The statute referred to was enacted as the Emergency Energy Conservation Act of 1979, Pub. L. No. 96-102, Section 103, 93 Stat. 749, 753, 42 U.S.C. 6421(c) (Supp. IV 1980).

[72] Natural Gas Policy Act of 1978, Pub. L. No. 95-621, Section 202(c), 92 Stat. 3350, 3372, 15 U.S.C. 3342(c) (Supp. IV 1980). The statutory scheme is further described in *Petition of United States Senate for a Writ of Certiorari, United States Senate v. Consumer Energy Council of America, et al., petition for certiorari filed,* 51 U.S.L.W. 3099 (U.S. August 2, 1982) (No. 82-177). *See also* note 1 *supra.*

[73] Stewart, *The Reformation of American Administrative Law,* 88 Harv. L. Rev. 1669, 1676 (1975). For other discussions of the contemporary delegation problem, *see* Cutler & Johnson, *Regulation and the Political Process,* 84 Yale L.J. 1395 (1975); McGowan, *Congress, Court, and Control of Delegated Power,* 77 Colum. L. Rev. 1119 (1977); Wright, *Beyond Discretionary Justice,* 81 Yale L.J. 575 (1972).

[74] J. O. Freedman, *Crisis and Legitimacy: The Administrative Process and American Government* 10 (1978).

[75] Narrowly specific delegations would be neither feasible nor desirable in many cases. . . . [¶] In many government endeavors it may be impossible in the nature of the subject matter to specify with particularity the course to be followed. . . . [¶] In addition, there appear to be serious institutional constraints on Congress' ability to specify regulatory policy in meaningful detail. (Stewart, *supra* note 73, 88 Harv. L. Rev. at 1695 (footnotes omitted).)

[76] The President does not control independent agency rulemaking because independent agencies are not part of the Executive Branch and their commissioners are not subject to executive removal. *Humphrey's Executor* v. *United States,* 295 U.S. 602 (1935). Accordingly, Executive review of rulemaking has exempted independent agency rulemaking from control. Section 1(d) of Executive Order 12291, 46 Fed. Reg. 13193 (1981) (rulemaking review by the Office of Management and Budget excludes independent agencies), *citing* 44 U.S.C. 3052(10).

[77] In 1973, a court of appeals ruled that the FTC's authority under its 1914 charter allowed it to make substantive rules. *National Petroleum Refiners Assn.* v. *FTC,* 482 F.2d 672 (D.C. Cir. 1973), *cert. denied,* 415 U.S. 951 (1974). In 1975, Congress expressly delegated such authority in the Federal Trade Commission Improvement Act. Pub. L. No. 93-367, Section 202(a), 88 Stat. 2183, 2193 (1975), 15 U.S.C. 57a (Supp. IV 1980) (as amended).

[78] The Attorney General concluded that "[T]he statement in Article I, § 7, of the procedural steps to be followed in the enactment of legislation does not exclude other forms of action by Congress. . . . [¶] The procedures prescribed in Article I, § 7, for congressional action are not exclusive." 43 Op. Att'y Gen., Op. No. 10, at 2-3 (1977). The Deputy Assistant Attorney General for the Office of Legal Counsel was questioned about the Attorney General's opinion during hearings on the FTC provision, and agreed that the opinion "was antedated by statements made by the heads of my office, starting at least as far back as now Justice Rehnquist, and I think going back a number of years beyond that to then Attorney General Clark in 1949." *Oversight of the Federal Trade Commission: Hearings Before the Subcomm. for Consumers of the Senate Comm. on Commerce, Science and Transportation,* 96th Cong., 1st Sess. 236 (1979).

[79] Federal Trade Commission Improvements Act of 1980, Pub. L. No. 96-252, Section 21(a), 94 Stat. 374, 393, 15 U.S.C. 57a-1 (Supp. IV 1980).

[80] "Disapproval nullifies the suggested regulation and prevents the occurrence of any change in the law. The regulation is void. . . . It would be considerably different if Congress itself purported to adopt and propound regulations by the action of both Houses." 424 U.S. at 285 n.30 and 286 (White, J., concurring in part and dissenting in part).

[81] *President's Message to the Congress Proposing Legislation for Improving Administration of Grant-in-Aid Programs*, 5 Weekly Comp. Pres. Doc. 635 (1969).

[82] Title IV of the Education Amendments of 1974, Pub. L. No. 93-380, 88 Stat. 484, 535, consolidated a series of grant programs. Section 509 of the act, now codified at 20 U.S.C. 1232(d)(1) provided that rules for the general education program could be disapproved by concurrent resolution. As in the case of Federal Election Commission regulations, see page 35 *supra*, this Court has reviewed education regulations which have been previously reviewed by Congress under this provision, and has found the prior legislative review to be an aid in construing the statute. *See North Haven Bd. of Education* v. *Bell*, 102 S.Ct. 1912, 1923-24 (1982).

[83] Pub. Papers 35, 37 (1974).

[84] H.R. 12048, 94th Cong., 2d Sess., was voted on under a motion for suspension of the rules, which requires a two-thirds vote to pass. It was rejected on a vote of 265-135, two votes short of the necessary two-thirds. *See* H.R. Rep. No. 1014, 94th Cong., 2d Sess. (1976); 122 Cong. Rec. 31668 (1976).

Mr. Chairman, it seems to me that the people of this country are tired and fed up with having rules imposed upon them by people they do not know and who are not accountable to them. They want the elected Congress to have the power, to be accountable to them for the rules that are issued by these agencies of Government, both in the executive branch and the independent agencies.

The public has a larger voice in the rulemaking process with the legislative veto. Access to Congressmen and Senators is far easier than access to anonymous, faceless bureaucrats. Most Federal administrators are hard-working, dedicated, and talented people who conscientiously do their jobs and serve the public faithfully and well. Some few, however, are zealots who in some elitist way think they—not the people or the elected Congress—run the country. The purpose of congressional veto is to deal with this problem and to see that the public is given an input, through their elected representatives, in the promulgation of administrative rules and regulations. That is why so many organizations and individual citizens support this idea—because it gives them a say-so in the rules that run their lives. It provides a remedy to the citizens of this country for us, as their elected representatives, to say when the bureaucracy has gone too far, perverted the intent of Congress and promulgated arbitrary and oppressive rules.

For these reasons, Mr. Chairman, I urge Members to defeat the amendments offered by the Rules Committee to strike the legislative veto.

Mr. QUILLEN. Mr. Chairman, I yield 4 minutes to the gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL. Mr. Chairman, I urge the rejection of this amendment. As I pointed out in earlier debate, the Committee on Energy and Commerce had voted—I do not recall any opposition, by voice vote—to approve this bill which includes as a part of permanent law the legislative review procedure of FTC rules and regulations. The Rules Committee, under its jurisdiction over, of course, the House rules, had voted by a majority to delete that section.

We are urging a no vote. We feel that it is very important, particularly in this case where the FTC has very broad rulemaking powers, to write rules and regulations which affect entire industries, and that the Congress, which has delegated that lawmaking power to them, should have some responsibility of reviewing that end-work product.

This is the best way that we know of to force the Congress to take a look at the rules that are written by that agency, and if necessary by a vote, and of course after debate, after due consideration, to either affirm or to reject that action of that agency.

Now, I point out again that what we are talking about is substantive rules that have the force and effect of law. The Commission in effect, has been given lawmaking powers, which we in the Congress authorized. It seems to me that this is a proper way for us to retain our oversight over the activities of this particular agency, and the legislative review veto process is an excellent way to do that.

So, I would urge a no vote on this. As I pointed out, if we do not do this, this authority is going to expire. In the FTC Improvement Act of 1980, an amendment was included which provided for the legislative review; however, this veto process was sunsetted, and that authority for the Congress to exercise that authority will expire unless we vote down this amendment, pass the bill, go to conference with the other body, and come up with a conference report that will be acceptable to a majority of both Houses.

● Mr. SCHEUER. Mr. Chairman, I rise in strong support of the amendment offered by our distinguished colleague from Massachusetts (Mr. MOAKLEY).

For the past several years, the legislative veto and the fate of the Federal Trade Commission have been inextricably intertwined. At several points, the agency's funding was literally held hostage until a veto was provided over FTC regulations. Now we are asked to make this provision a permanent part of the Federal Trade Commission Act.

In the last Congress, I served as chairman of the Consumer Protection Subcommittee which had jurisdiction over the FTC. I would like to share with you my observations on the efficacy of the legislative veto with respect to the FTC.

In the spring of 1980, the FTC had not had an authorization bill for 3 years because the House and Senate could not agree on legislative review provisions.

Indeed the House defeated two FTC conference reports in 1978 because they did not include an acceptable legislative veto provision. It was clearly the will of the House that FTC rules be subject to congressional review. Accordingly, as chairman of the House conferees on the FTC authorization bill, I agreed reluctantly to the inclusion of a two-House legislative veto with expediated procedures.

Although I had grave misgivings, I hoped that the veto would provide the procedural framework for a reasoned and fair review of the FTC trade regulations.

As our colleague from Georgia (Mr. LEVITAS)—a major leader in the thrust toward a legislative veto—told us:

> The reforms included in the authorization bill are not designed to restrict proper conduct. They are intended to make the FTC more compatible to Congress and the public and enhance its credibility.

The legislative veto has failed to meet its much heralded objectives.

Indeed, our worst fears were realized in the only matter taken up under the veto mechanism. That matter involved the veto of the pitifully modest used car rule. The original strong consumer protection measure had been diluted after years of used car industry lobbying. The final proposal merely required that the dealer provide the consumer with an accurate statement of warranty coverage, if any, and whether there were any known defects.

However, the industry lobbyists determined that not even these limited facts should be required to be given to used car buyers, and through the procedures designed to prevent "bureaucratic excesses" lobbied to have the used car regulation vetoed. The sorry spectacle of Congress rushing to defend the used car dealer from the onerous standard of being truthful with consumers on whether there was a warranty on the car, and what kind, and whether the car had any known defects needs no further elaboration.

Mr. Chairman, we are seriously deluding ourselves if we believe that the legislative veto provides a reasoned, fair examination of the issues. As the used car matter amply demonstrates, it does not. Our limited experience with the legislative veto clearly does not provide a basis for making this temporary provision a permanent part of the FTC Act.

Indeed, if anything, our experience fully supports the amendment of the gentleman from Massachusetts to strike this provision. I urge my colleagues to join me in voting for this amendment.●

● Mr. LOTT. Mr Chairman, I rise in opposition to the amendment to strike the legislative veto provision from H.R. 6995. This is a provision that was

put in the 1980 FTC Amendments, and the legislative history makes it quite clear that was the price for keeping the FTC in business. It is hard to believe that the proponents of this amendment want to jeopardize the very existence of the Commission, yet that is what they are doing by threatening to strip the Congress of this vital oversight tool.

Mr. Chairman, according to the Rules Committee report on this amendment, the main objection to the legislative veto is that it is unconstitutional. Yet that contradicts a report of a Rules Subcommittee in the last Congress which found the legislative veto to be constitutional. Indeed, at the time the Rules Committee voted to make this amendment an order, it made no finding on the question of constitutionality. The constitutional finding did not emerge until the day after our vote when the report was circulated for the first time.

Mr. Chairman, I do not want to get into a lengthy discussion of the constitutional question during this debate. It has been debated for decades now, with distinguished constitutional scholars and lower courts coming down on both sides of the question. The Supreme Court has yet to rule on this question, despite numerous opportunities to do so. In the meantime, we have enacted nearly 300 legislative veto provisions into law. The constitutional question is not going to be settled by us here today one way or another. That is ultimately a matter the Supreme Court will have to decide under our system of government.

Let me briefly address the main objection to the legislative veto that it violates the so-called presentation clause of the Constitution that says that every vote and resolution requiring the concurrence of the two Houses must be presented to the President for his signature or veto. The constitutional history behind that clause, as Madison makes clear, shows that it was intended to apply to those actions of Congress having the effect of law. But, as our Rules Subcommittee pointed out in the last Congress, congressional disapproval of a proposed regulation does not alter existing law or make new law; it simply preserves the status quo. It therefore cannot be considered as lawmaking in the traditional sense of the term. The Court of Claims in the Atkins case upheld the constitutionality of the legislative veto using that same argument. Indeed, it is the agency promulgating regulations, not the Congress, which is seeking to further amend the law through regulations, that is amending the law. Rulemaking is a delegation of our lawmaking authority. It is therefore only reasonable that the Congress would want to retain some control over this delegation of lawmaking authority to the agencies through this congressional review and disapproval mechanism.

Mr. Chairman, the other arguments being marshaled against the legislative veto are specious at best. It is said that the existence of the veto will be a burden on agencies. And yet, a GAO report on the veto as it applies to the FTC indicates that it has had no measurable impact on that agencies proceedings.

It is further argued that the legislative veto will throw the Congress into chaos. But the existence of nearly 300 veto provisions already in the law has obviously not had that effect. This Congress has considered only 10 such disapproval resolutions, 6 of which where budget deferral disapproval resolutions, and only 2 of which related to regulations.

But the legislative veto, despite its selective and sparing use, remains a very important oversight tool. It forces our committees to keep a close eye on the rulemaking activities of the agencies to insure they are complying with congressional intent. We should be doing that anyway as part of our oversight responsibilities. The veto device simply helps insure that that discipline is there.

To deny ourselves the legislative veto at this point in our efforts to curb costly, excessive, and ill-conceived regulations would be a backward step for this institution and a retreat on our pledge to the American people to bring some regulatory relief and accountability back its our governmental system. The opponents of the legislative veto would have us believe that the Congress is somehow the enemy, that we cannot be trusted with this check over the bureaucracy. That premise turns the Constitution on its head. We have been entrusted to make all the laws—not the unelected bureaucrats. We must retain the ultimate control over those lawmaking powers we have delegated to agencies through rulemaking authority by retaining the legislative veto device.

Mr. QUILLEN. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. MOAKLEY. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The question is on the Rules Committee amendments.

The amendments were rejected.

The CHAIRMAN. Under the rule, the next amendment in order is the amendment printed in the CONGRESSIONAL RECORD of September 15, 1982, if offered by Mr. LUKEN or Mr. LEE.

AMENDMENT OFFERED BY MR. LUKEN

Mr. LUKEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LUKEN:

Page 15, after line 24, insert the following new section (and redesignate the following section accordingly):

MORATORIUM ON COMMISSION REGULATION OF PROFESSIONALS

SEC. 10. (a)(1) The Federal Trade Commission shall not investigate, issue any order concerning, prescribe any rule or regulation with respect to, or take any other action against any State regulated profession until the Congress takes the actions specified in paragraph (2).

(2) The prohibition established in paragraph (1) shall apply until the Congress enacts legislation which expressly provides that—

(A) the Commission has jurisdictional authority with respect to professions; and

(B) the authority of the Commission preempts the authority of States to regulate professions.

(b) Any decision, finding, or other administrative action made or taken by the Commission which—

(1) occurs during the period beginning on May 28, 1981, and ending on the date of the enactment of this Act; and

(2) is based in whole or in part on any activity specified in subsection (a)(1);

shall, upon such date of enactment, be vacated and have no force or effect.

(c) Nothing in this section shall be construed as placing a moratorium upon, or otherwise affecting, the enforcement of any cause of action by the Attorney General of the United States arising under the Sherman Act (15 U.S.C. 1 et seq.) or the Clayton Act (15 U.S.C. 12 et seq.).

(d) For purposes of this section:

(1) The term "Commission" means the Federal Trade Commission.

(2) The term "professions" means organizations, associations, or other categories of professionals.

(3) The term "professional" means any individual engaged in the performance of work—

(A) requiring advanced knowledge in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning (as distinguished from knowledge acquired by a general academic education, from an apprenticeship, or from training in the performance of routine mental, manual, mechanical, or physical activities);

(B) requiring the consistent exercise of discretion and judgment in its performance;

(C) which is predominantly intellectual and varied in character (as distinguished from routine mental, manual, mechanical, or physical work); and

(D) which is of such character that the output produced or the result accomplished by such work cannot be standardized in relation to a given period of time.

(4) The term "State regulated profession" means any profession which is subject to any licensure, certification, or regulation by a State.

Mr. LUKEN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. Pursuant to the rule, the gentleman from Ohio (Mr. LUKEN) will be recognized for 30 minutes, and a Member opposed to the

amendment will be recognized for 30 minutes.

The Chair recognizes the gentleman from Ohio (Mr. LUKEN).

Mr. LUKEN. Mr. Chairman, I yield myself so much time as I may consume.

Mr. Chairman, and Members of the House, this is an extremely important amendment involving the learned professions, which have been defined in the amendment as already adequately and strictly controlled at the State level. If we do not pass this amendment, we will continue the encroachment of the Federal Trade Commission in usurping the powers of State licensing boards in these areas where the State licensing boards are doing an adequate job. The amendment covers only the learned professions that it describes.

The moratorium would have no impact on FTC final orders that are already in effect. It is a moratorium only. It puts a hold on new actions by the FTC.

It is important to remember that the Congress has never granted the FTC specific authority over the State-regulated professions. Congress has never granted such authority over these professions. There has been continual litigation over these issues as the FTC has reached out and attempted to bring the professions under their control, as the FTC has attempted to act as the State licensing boards. Despite the lack of statutory support, the FTC continues to assert authority over these professions. The amendment would halt this activity by the FTC in order to give Congress a chance to resolve the jurisdictional dispute.

□ 1420

This moratorium would last only so long as it takes the Congress to decide what authority, if any, the FTC should have in this area. The Supreme Court has been unable to resolve this jurisdictional question, so it is appropriate that Congress decide the issue ultimately.

While the moratorium is in effect, State-regulated professionals will continue to be subject to the Federal antitrust laws. These statutes are actively enforced by the Justice Department, the States, and private parties. We will discuss later some of the actions by private parties which have actually been bringing about, the results for which the FTC is claiming credit. For example, the prohibition on advertising. If I read the editorials, the newspapers articles, and the claims of our opponents, I would think that the FTC itself lifted the ban on advertising, but actually, it was Bates against Arizona, in 1975. The Supreme Court, acting in a private case, removed that ban based on the first amendment. This case was not won through any grant of authority by this Congress but was based on first amendment rights granting professionals the right to advertise.

No matter how Congress decides the FTC issue, the Federal antitrust laws will continue to apply to professionals. Any allegations of boycotts or price fixing can be handled under these laws.

Third, the amendment applies only to a limited number of professions which I have described. There has been a long history of self-regulation in the public interest by State governments and bar associations, for example. FTC actions against professionals have undermined the traditional State authority, have brought into question that State authority, and have discouraged the professionals from many self-regulatory activities.

Congress created the FTC in 1914 as an agency of limited jurisdiction. From time to time Congress has excluded certain businesses from FTC's purview. These include banks, savings and loans, insurance, and common carriers. A similar exclusion is now being considered for agricultural cooperatives. These actions clearly demonstrate that Congress never intended the FTC to have the broad, unlimited jurisdiction which it has been assuming and which the opponents of this amendment want it to assume. There is ample precedent for Congress to consider the appropriateness of FTC authority over State-regulated professions.

Support for this amendment does not mean any Member has to decide the issue of FTC jurisdiction. The moratorium only provides all sides an opportunity to present their views and give the Congress the time to decide the issue in a reasoned, deliberate manner. Support means only that the Members recognize the importance of this issue and the need for Congress to resolve it in an orderly fashion after hearing all the evidence.

Mr. Chairman, under an agreement with the gentleman from North Carolina (Mr. BROYHILL) and another party to this agreement, I would like to defer to the gentleman from North Carolina (Mr. BROYHILL) to offer his amendment at this time. Perhaps I should defer to the subcommittee chairman first.

Mr. BROYHILL. Yes, Mr. Chairman, the subcommittee chairman, I think, should go first.

Mr. LUKEN. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Ohio (Mr. LUKEN) has consumed 5 minutes.

PARLIAMENTARY INQUIRY

Mr. BROYHILL. Mr. Chairman, I have a parliamentary inquiry with respect to the procedure followed here.

It is my understanding that the gentleman from New Jersey (Mr. FLORIO) will control the time in opposition to the Luken amendment; is that correct?

The CHAIRMAN. If the gentleman is opposed to the amendment.

Mr. FLORIO. I am, Mr. Chairman.

The CHAIRMAN. The gentleman from New Jersey (Mr. FLORIO) will therefore be recognized to control the time in opposition to the amendment offered by the gentleman from Ohio.

Mr. BROYHILL. And thus he will be recognized for that time, and at the proper time I may then be recognized to offer my amendment and would then control the time in support of my amendment?

The CHAIRMAN. The gentleman may offer his amendment at this time or after further debate has transpired on the pending amendment.

Mr. BROYHILL. Mr. Chairman, I would defer to the chairman of the subcommittee to take a few minutes of his time at this time.

The CHAIRMAN. The gentleman from New Jersey (Mr. FLORIO) is recognized.

Mr. FLORIO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to this amendment, notwithstanding my great respect for the gentleman from Ohio (Mr. LUKEN).

I strongly oppose the Luken-Lee professions exemption from FTC jurisdiction.

The Luken amendment would exempt doctors, dentists, lawyers, and scores of other professionals from FTC jurisdiction.

It is difficult to imagine a more objectionable piece of commercial legislation than an attempt to exempt professionals from the FTC.

The Luken amendment would force both businesses and consumers to pay higher prices for all sorts of professional services.

The Luken amendment would fan the flames of health care cost inflation at a time when Americans already spend $287 billion annually, or nearly 10 percent of the GNP on health care.

The Luken amendment would be a burden on the Federal budget, driving up further the cost of medicare and medicaid.

Most ironically, the Luken amendment would not be in the longrun interests of the professions themselves, which would be tarred in the public eye as seeking a special status above the law.

The arguments advanced by the proponents of the exemption amendment are without merit.

The proponents say that protection of competition and of consumers raise issues of quality of service which are best left to the States. This is a false issue. The House should be aware that the vast majority of FTC enforcement activity has nothing whatever to do with the prerogatives of the States. It

is focused on private law breaking, including price fixing, boycotts, and coercion.

What about the limited area where State laws are involved? The States do not agree an exemption is desirable. In a resolution adopted by the chief law enforcement officers of the States, the National Association of Attorneys General opposed any reduction in FTC jurisdiction over the professions.

The proponents of an exemption also contend that the professions are different from other businesses because they deal with quality issues that the FTC cannot evaluate. But the FTC has not pursued such matters. It has dealt with garden variety commercial practices like price fixing and boycotts which no one should be permitted to engage in and which do not raise genuine quality issues.

For example, the FTC has challenged physicians attempting to boycott health maintenance organizations; it has attacked efforts to fix fees through boycotts of Blue Cross; it has helped bring down the price of eye glasses and saved consumers millions by challenging restraints on advertising of eye wear; and it has challenged deceptive advertising by health providers.

It is unthinkable that the public should be left unprotected against such practices. It is offensive that some professional organizations should be fighting to shelter themselves from scrutiny for such conduct. And yet it is this kind of enforcement that has unleashed a display of raw lobbying such as we have not seen in this town for a long time.

Today's professional services simply bulk too large and the stakes in terms of equitable access are simply too high, to permit removal of the means of maintaining public accountability.

We simply cannot enact a statute that makes the question of whether a person is subject to the principles of free and fair markets depend on whether he has gone to graduate school. We work from the premise in this country, that before the law, the attorney is equal to the plumber, the doctor equal to the mechanic.

On grounds of economy, on grounds of fairness, and in the interests of the professions themselves, I urge the House to reject the Luken amendment.

Mr. LUKEN. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Chairman, I support the Luken amendment to H.R. 6995, the FTC reauthorization bill. The FTC and professional groups have been feuding for years now; with the FTC trying to impose restrictions on professional practices, and the professionals rejecting the authority of the FTC to do so. I understand some State medical societies now are involved solely in FTC-related litigation, which is not only tying up financial resources of the local organizations, but also is tying up the courts. Furthermore, legislative remedy has been sought to in more than one session of Congress, resulting in debates among Members such as that occurring today.

My colleague, the distinguished gentleman from Ohio, has proposed to simply place a moratorium on FTC activities with respect to State-regulated professions and professional groups, until Congress can concisely define the extent of FTC jurisdiction in this regard. The Luken bill, H.R. 3722, is still tied up in committee, and I welcome this opportunity to use H.R. 6995 as a vehicle for securing House action on this vital issue. In supporting this amendment, we are not proposing to exempt doctors from FTC jurisdiction and thus create a privileged class above the law, but rather to halt the expansion of FTC powers with respect to State-regulated professionals, until Congress can determine the extent of the FTC's jurisdiction to do so.

Opponents of this amendment argue that removal of the FTC will result in a vacuum of power to regulate these professionals, but I must argue the contrary. The State and local professional societies serve a viable role in monitoring professional practices, providing for peer review, and in the establishment of standards of quality and performance—and the enforcement of those standards. If the Luken amendment is not passed, the overriding issue will more than likely be whether or not FTC regulations have been violated, rather than one of whether or not the patient was well-served. The State boards and local societies have oversight in these cases, and the patient will be the ultimate loser if questionable medical care escapes the criticism and corrective action of their peers.

Another amendment has been offered to H.R. 6995, which proposes to grant FTC the authority to regulate antitrust violations by of professionals. The assumption here seems to be that one can separate quality-of-care from professional ethics. Well, I don't believe that you can. This is just one more attempt to usurp the power already held by the States to regulate and oversee professional practices. I do not think the doctors want to remove themselves from the Government antitrust laws. This task has been handled admirably by the State through its oversight apparatus, and through State and local courts. FTC actions over the years have usurped the jurisdiction of existent offices, and in many cases have superseded State laws which were carefully crafted by State legislatures and State executives.

Mr. Chairman, I wish to include in my remarks a guest viewpoint editorial submitted to my local newspaper by Dr. Ruth Bain, president of the Texas Medical Society. Dr. Bain presents a good case why we should allow the State and local governments to handle this question. The Congress has enough trouble trying to handle pressing problems of a national nature without getting into jurisdictional disputes with our States.

The Chairman of the subcommittee argues that quality care will be weakened, that costs will rise, and competition erased if the Federal Government does not extend its authority over the medical profession. Mr. Chairman, just the opposite is the case. We are doing well now in various States—and we do not need to meddle in local medical jurisdictions. I hope we vote for the Luken amendment.

Dr. Bain's editorial is included as follows:

FTC IS TRYING TO CURE A HEALTHY PATIENT

(By Dr. Ruth M. Bain, M.D.)

When Congress enacts legislation to renew the authority of the Federal Trade Commission, as it is expected to do this month, it will decide on an issue that could have profound consequences on the practice of medicine in Texas and the nation.

Pending in Congress is legislation that would rein in the FTC's desire to regulate professions that already are licensed and regulated by states. These include doctors, lawyers and dentists. The experiences of medical associations throughout the country provide a compelling argument to limit FTC jurisdiction over the professions.

TMA's prime function since its founding in 1883 has been to raise the standards of medical care and to provide access to care for everyone—a goal of the American Medical Association and other state and local societies as well.

Among the most important steps is the establishment of standards of quality and performance and peer review and enforcement of those standards. This function may soon be almost wiped out by the FTC. In many cases, the final issue is not whether the patient was served; it is whether FTC regulatory action might have been violated during the peer review process. The loser in effect is the patient. Individuals who might be guilty of providing questionable medical care escape the criticism and corrective action of their peers.

We feel there must be a way that a professional society can work with its members—including disciplining them to maintain and upgrade the quality of care and cost effectiveness of treatments. Overzealous FTC regulation inhibits us from performing these tasks.

The TMA and other medical associations are not seeking to avoid application of government antitrust laws to the professions. We believe this task has been handled admirably by the state through its state attorney general oversight and its courts and by the federal Justice Department and federal courts.

The remarkable aspect of the FTC's intrusion into the professions over the past seven years is that it has usurped the jurisdiction of those bodies and in many cases superseded state laws that had been carefully crafted by elected state legislatures and executives.

Organizations that disagree with policies or procedures can address these complaints in court. Appeals of FTC action, on the other hand, must be taken to the agency's own hearing officers. While some federal agencies, such as the Food and Drug Administration and the Securities and Exchange Commission, have special expertise to carry to their regulatory function, the FTC has no special insights into the professions and exhibits a lack of understanding in this area.

Taxes physicians must be licensed by the State Board of Medical Examiners. Antitrust laws are enforced in the professions by state and federal law. This has been a healthy system for patients and doctors. The FTC should not try to provide a cure where there is no disease.

□ 1430

Mr. FLORIO. Mr. Chairman, I am pleased to yield 5 minutes to the gentleman from New York (Mr. LENT).

The gentleman from New York has been particularly helpful in fashioning this legislative response.

Mr. LENT. Mr. Chairman, I rise in opposition to the Luken-Lee amendment.

Although I was a cosponsor of H.R. 3722, which is the basis for the Luken-Lee amendment just offered, I intend to support the Broyhill substitute.

Like so many of my colleagues, I was initially persuaded by the proponents of the Luken-Lee amendment, that a moratorium should be placed on FTC activity in this area. As the ranking member of the Commerce, Transportation and Tourism Subcommittee, and listening to the testimony at the committee hearings and after some thoughtful deliberation, I have come to the conclusion that a total moratorium such as provided in this amendment offered by the gentleman from Ohio, would shield professionals from FTC authority for conduct which is otherwise illegal. Price fixing, boycotts, and deceptive advertising by professionals would go unchecked for an unlimited period of time by the FTC under their amendment.

Do not misunderstand me. I support and seek to preserve the traditional role of the States in regulating professionals. I do not believe that the FTC should second guess quality of care determinations made by the States. Questions of licensing, professional education requirements and the scope of duties to be performed by specific professional groups, all would remain under State jurisdiction. There are, however, instances where the FTC has properly pursued anticompetitive behavior. For example, the FTC has in the past examined:

Boycotts of health maintenance organizations (HMO's), which endeavor to contain costs, by physician groups;

Ethical restrictions on advertising used to prevent senior citizens from learning such important information as which doctors in a community will treat medicaid patients and accept medicare payments; and

Advertising restrictions which inevitably drove a physician house call service out of business.

Conduct such as this should not be exempt from the authority of the FTC. A careful balance must be struck which subjects business and commercial practices of professionals to FTC scrutiny, yet preserves State judgments on quality of care. I believe the Broyhill substitute does so.

I should like to point out to my colleagues that not all professional organizations seek this exemption from the law. Several health professional groups are opposed to the Luken-Lee amendment. They include: American Nurses Association; American Chiropractic Association; American Society for Medical Technology; American Psychological Association; American Academy of Physician Assistants; American Dental Hygienists' Association; and National Association of Optometrists and Opticians.

I join these groups in opposition to the Luken-Lee exemption and in strong support of the Broyhill substitute.

Mr. LUKEN. Mr. Chairman, I yield 3 minutes to the gentleman from Tennessee (Mr. QUILLEN).

Mr. QUILLEN. Mr. Chairman, I rise in support of the Luken amendment because I think it is on the right track. It should be adopted.

In the 20 years I have been in the Congress I have supported States rights and State regulation. I believe that they do an excellent job.

□ 1440

I think when you come down to the wire and realize the bureaucracy within the agency involved, that you will not bring these professions under the FTC umbrella. We should let the regulation continue from a State level, which has done an excellent job, particularly in Tennessee, and in the various States of this Nation.

Mr. Chairman, I urge a favorable vote on the Luken amendment.

Mr. LUKEN. Mr. Chairman, I yield 5 minutes to the gentleman from Georgia (Mr. BARNARD).

Mr. BARNARD. Mr. Chairman, we have experienced in Georgia some very interesting activities, as requested by the Federal Trade Commission. As part of an investigation into the medical association of Georgia that they have asked us to develop for them information which has taken more than 1,000 man hours and $2 million in expense, a search of records going back some 20 years. This is the type of harassment that we do not need in the State of Georgia, nor is it needed in the other States—Wisconsin, Minnesota and others that I have in mind.

I am in strong support of the Luken-Lee amendment, exempting FTC from the regulation of professions presently adequately regulated by State agencies.

The professions are not seeking to exempt themselves from Federal and State antitrust laws. The Department of Justice and State enforcement authorities clearly have this jurisdiction.

Also, there is unnecessary, burdensome, and costly regulatory overlap between the States and the FTC.

Complying with these FTC harassing requests are diverting the professions from the various good, positive initiatives that are in the best interest of their communities.

Yes, the physicians are affected, the dentists are affected, the lawyers, and even the veterinarians and other State-regulated professions. Education of the public and of their profession as well as self regulation are very much a part of these professional societies' functions and duties as good citizens.

Mr. Chairman, I hope that the Members will take careful note that this is the time to bring this regulation back into perspective, and I sincerely hope that they will do that by supporting the Luken-Lee amendment.

Mr. LUKEN. Mr. Chairman, I yield 1 minute to the gentleman from Indiana (Mr. HILLIS).

Mr. HILLIS. I thank my colleague for yielding.

Mr. Chairman, I rise in support of the amendment being offered by Congressman LUKEN. As a cosponsor of his bill H.R. 3722 from which his amendment is derived, I congratulate him for his fine work in bringing this matter before us.

The amendment places a moratorium on any activity by the Federal Trade Commission against the State regulated professions, such as law, medicine, dentistry, optometry, and veterinary medicine. This moratorium is in effect until Congress: First, grants to the FTC specific authority over these professions; and second, allows the FTC to preempt State laws regulating the professions.

The amendment would suspend FTC investigative, administrative, and rulemaking activity relative to certain State-regulated professions until specific authority is granted by Congress. It would not exempt any profession from anything since it is only a clarification of existing law relative to FTC jurisdiction and does not affect other antitrust violation enforcement.

Enactment of the Luken amendment would eliminate the dual regulation and conflicting Federal policy problems being generated by FTC's actions. It would also protect the existing jurisdiction of the States to establish and enforce the standards of practice for the professionals whom they license.

The bottom line to this issue is whether the Congress or the FTC is going to decide if professional organi-

zations should be under the regulatory purview of the FTC. To me the answer is clearly that the Congress should make that decision. We are the elected officials whose responsibility it is to make these types of policy decisions.

Another issue involved in this debate is which level of government, Federal, or State, is best equipped to adequately protect consumers from possible abuses by these professional organizations. Again, I think the answer is rather clear. States have for years been regulating the health and legal professions and have done an excellent job. That is not to say that there is no room for improvement, there probably is. However, there certainly is no evidence which indicates that the FTC could do a better job.

In fact, there is some evidence which illustrates that the FTC's recent activities have resulted in a lowering in the quality of medical care available. The American Medical Association argues that FTC activities already have directly damaged quality of care by limiting physicians' and medical societies' ability to enforce professional standards, engage in peer review, and comment on poor performance records in the practice of medicine.

In closing Mr. Chairman, I urge the Members of the House to support the Luken amendment and oppose the Broyhill amendment. If we fail to adopt the Luken amendment we can be assured of continued efforts by the FTC to broaden their purview without the approval of the Congress.

Mr. LUKEN. Mr. Chairman, I reserve the balance of my time.

Mr. FLORIO. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. SCHEUER), a very valuable Member of the full committee.

Mr. SCHEUER. Mr. Chairman, one of the most striking aspects of the proposal to gut the FTC's jurisdiction over professionals is the fact that no one supports it outside of the groups which would directly benefit from their release from the law. I have rarely seen a proposal which has inspired so much condemnation from so many different sources.

The Wall Street Journal and the New York Times join in opposing the amendment. David Stockman and Ralph Nader are joined in opposition. All the assistant attorneys general of Justice's Antitrust Division serving under Lyndon Johnson, Richard Nixon, Gerald Ford, and Jimmy Carter join in opposition. Paul Samuelson and Milton Friedman join in opposition. The State attorneys general—who might be expected to be the most concerned about this purported invasion into States rights—all join in opposition. All four Federal Trade Commissioners agree:

Exempting professions from FTC scrutiny is a bad idea.

I note this is one of the few times when the doctors are not urging us to get a second opinion. The reason for that is simple: No one else agrees with their diagnosis.

The simple fact is that FTC scrutiny over the commercial practices of professionals is good medicine. It is exactly the prescription we need to fight the ills of rampaging health care costs, which are consuming more and more of our incomes, particularly for the elderly citizens of our country.

And this is emphatically not regulation: It is competition, pure and simple. There just is no principled reason for letting doctors or lawyers or veterinarians run their businesses contrary to the rules that apply to any other businesses. Look at the kind of "business behavior" which the FTC has properly challenged in the past and which would be permitted under the Luken-Lee amendment: boycotts, price fixing, and restraints on truthful advertising. Is this the kind of conduct we want to condone?

Why in the world would we want to do this? Already, other special interests groups are lining up for their exemptions from the antitrust statutes. More, undoubtedly, are waiting in the wings. This proposal is a dangerous and foolish precedent that cuts into the very heart of free and fair competition. The recognition of that basic fact is the reason why so many groups and persons, of so many different political persuasions, so strenuously oppose this blatant special interest proposal.

I urge my colleagues to vote against exempting professions from FTC scrutiny.

□ 1450

AMENDMENT OFFERED BY MR. BROYHILL AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. LUKEN

Mr. BROYHILL. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. BROYHILL as a substitute for the amendment offered by Mr. LUKEN: Page 2, after line 23, insert the following new section (and redesignate the following sections accordingly):

STATE ACTION

SEC. 4. Section 5 of the Federal Trade Commission Act (15 U.S.C. 45) is amended by adding at the end thereof the following new subsection:

"(n) The Commission shall not have any authority to find a method of competition to be an unfair method of competition under subsection (a)(1) if, in any action under the Sherman Act, such method of competition would be held to constitute State action.".

Page 5, line 7, strike out "section 26 and section 27" and insert in lieu thereof "section 27 and section 28".

Page 5, after line 19, insert the following new section (and redesignate the following sections accordingly):

COMMISSION JURISDICTION REGARDING PROFESSIONALS

SEC. 8. (a) The Federal Trade Commission Act, as amended in section 7, is further amended by inserting after section 24 the following new section:

"SEC. 25. (a) Except as provided in subsection (b), the commission shall not use its authority under section 5 or section 18 to prohibit unfair acts or practices engaged in by professionals in a particular State if such use of authority would result in the invalidation, in whole or in part, of any State law of such State which establishes—

"(1) training, education, or experience requirements for the licensure of professionals; or

"(2) permissible tasks or duties which may be performed by professionals.

"(b) In any case in which the use of authority under section 5 or section 18 by the Commission to prohibit unfair acts or practices engaged in by professionals in a particular State may result in the invalidation of any State law of such State specified in subsection (a), the Commission may use such authority regardless of whether such use of authority would result in such invalidation if the Commission—

"(1) finds that such State law (A) authorizes or prescribes any commercial or business act or practice; and (B) adversely affects or is likely to adversely affect competition; and

"(2) in determining whether such act or practice is an unfair act or practice under section 5(a)(1), takes into account (in weighing countervailing benefits to consumers or to competition under section 5(a)(1)(B)(ii)) benefits to the public health, safety, and welfare which result from any State law under which such act or practice is authorized or prescribed.

"(c) For purposes of this section:

"(1) The term 'professional' means any person who—

"(A) in the performance of his occupation, is subject to licensure or certification under State law; and

"(B) as a prerequisite for such licensure or certification under State law, has (i) received a degree from an accredited institution of higher learning; or (ii) successfully completed a course of specialized training at an accredited education or training facility for health professions personnel operated as an integral part of a hospital.

"(2) The term 'State law' means a statute of a State, and a rule or regulation duly promulgated by a State agency.".

(b) Section 5(b) of the Federal Trade Commission Act (15 U.S.C. 45(b)) is amended—

(1) by inserting after the third sentence thereof the following new sentences: "In any case which may result in an invalidation of State law under section 25, the State attorney general of any State shall be allowed to intervene and appear in such proceeding if the State attorney general certifies that any State law (as defined in section 25(c)(2)) of the State involved would be subject to such invalidation. For purposes of the preceding sentence, the term 'State attorney general' means the chief legal officer of a State, and includes the Corporation Counsel of the District of Columbia."; and

(2) by inserting after the fifth sentence thereof the following new sentence: "In the case of an order which would result in any invalidation of State law under section 25, such order shall be accompanied by a written statement of the findings made by the

Commission under section 25(b)(1) and of the manner in which the Commission has complied with the requirement established in section 25(b)(2).".

(c)(1) Section 18(b)(1)(D) of the Federal Trade Commission Act (15 U.S.C. 57a(b)(1)(D)) is amended by inserting "(i)" after "with", and by inserting before the period at the end thereof the following: "; and (ii) in the case of a final rule which would result in an invalidation of State law under section 25, a written statement of the findings made by the Commission under section 25(b)(1) and of the manner in which the Commission has complied with the requirement established in section 25(b)(2)".

(2) Section 18(c) of the Federal Trade Commission Act (15 U.S.C. 57a(c)) is amended by adding at the end thereof the following new paragraph:

"(6)(A) In the case of a proposed rulemaking which may result in an invalidation of State law under section 25, the State attorney general of any State shall be considered to be an interested person for purposes of this subsection and subsection (b)(1)(B) if the State attorney general certifies that any State law (as defined in section 25(c)(2)) of the State involved would be subject to such invalidation.

"(B) For purposes of this paragraph, the term 'State attorney general' means the chief legal officer of a State, and includes the Corporation Counsel of the District of Columbia.".

(3) Section 18(e)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(e)(1)(B)) is amended by inserting "the statement required by subsection (b)(1)(D)(ii)," after "purpose,".

Page 5, line 22, strike out "section 6" and insert in lieu thereof "section 7 and section 8".

Page 5, beginning on line 22, strike out "section 24" and insert in lieu thereof "section 25".

Page 5, line 24, strike out "Sec. 25." and insert in lieu thereof "Sec. 26.".

Page 14, line 21, strike out "Section 26" and insert in lieu thereof "Section 27".

Page 14, line 22, strike out "section 6" and insert in lieu thereof "section 7".

Page 16, line 7, strike out "section 6" and insert in lieu thereof "section 7".

Page 16, line 8, strike out "amendment" and insert in lieu thereof "amendments", and insert ", section 4, and section 8" after "section 2".

Page 16, line 13, strike out "and".

Page 16, after line 13, insert the following new

Mr. BROYHILL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. BROYHILL. Mr. Chairman, let me just take a few minutes at the outset to respond to some of the allegations that have been made, not only with respect to the Luken amendment, but also to explain the terms of my amendment as to what it does.

The gentleman from Ohio has made the allegation and has actually stated that his amendment is a moratorium on FTC regulations. This is no moratorium amendment that the gentleman from Ohio (Mr. LUKEN) has offered. The gentleman from Ohio has offered an amendment that would permanently exempt all State licensed professions from FTC law enforcement.

Now, despite the use of the word "moratorium" in the bills by the introducer of this bill and this amendment, the exemption would be just as permanent as any other legislation that is adopted by the Congress.

I want to point out to the Members, and I hope that they are listening back in their offices or wherever they may be, to clarify the number and the types of professions who would be exempted from FTC jurisdiction should this amendment pass.

It may include lawyers, dentists, physicians, engineers, accountants, architects, nurses, chiropractors, pharmacists, actuaries, optometrists, veterinarians, podiatrists, clinical psychologists, surveyors, beauticians, and I could go on and on.

Any profession which is licensed at the State level could conceivably be exempted from the FTC consumer protection laws.

I do not think that is what we want to do.

The amendment that I am offering would also limit the Commission authority. The allegation has been made somehow that the compromise that I am offering would somehow expand FTC authority over jurisdiction. This is not true. It does just the opposite.

It does limit the Federal Trade Commission authority over the professions. I recognize that the States have a very important role in regulating professionals. They currently regulate the educational licensing and quality of care rendered by various professions within their borders. I think that that State regulation is necessary to protect the health, safety and welfare of their citizens. And I do not believe that the Commission should be involved in those matters.

My substitute says that the FTC should not interfere with State laws or regulations that, for example, do this—that set out the qualifications that someone must meet in order to take a professional licensing exam, set standards for the professional school accreditation. It would also say the FTC could not interfere with the determination of the content of licensing examination.

My amendment would also say that the FTC could not interfere with State laws or regulations that have the effect of reviewing incompetent or unethical professionals under peer review programs, or to decide that only certain types of professionals may perform certain procedures.

And also my amendment includes a limitation on FTC's antitrust authority, which again defers to the State role.

Specifically, my amendment, and that is found in the early part of my amendment, which was just read by the Clerk, incorporates what is known as the State action doctrine into the FTC Act. That would insure that States can establish policy within their borders which the FTC could not challenge under its antitrust authority.

This restriction in the law would provide antitrust immunity for professionals from FTC action if the State were to enact for example laws declaring that only certain professionals can perform particular procedures, laws that seek to control costs by regulating professional pricing practices, or laws that protect consumers from incompetent or unethical professionals.

Now, apparently the controversial part of my amendment that is objected to by the gentleman from Ohio and those who are supporting his amendment is the fact that my amendment does preserve FTC authority to challenge a State law that prescribes a business or commercial practice for professionals, and which is anticompetitive.

I will hasten to point out that the Commission, under the terms of my substitute, must meet the burden of proof for both elements before it could proceed either on a case-by-case action or in any rulemaking.

In other words, my amendment would preserve the FTC authority to challenge deceptive acts or practices where it is proved that a business or commercial act or practices have been carried on, and I think that we should preserve that narrow amount of the FTC authority.

There are certain examples of professional conduct that the FTC has challenged. The gentleman from New Jersey has already enumerated some of these. There was a Texas case, for example, where local doctors threatened to boycott a town's hospital emergency room if the hospital recruited a new physician to the town, on terms that the physicians did not like. And there was another case in Florida where the local medical association acted to prohibit truthful advertising by doctors and in effect they were trying to block the physicians from truthfully advertising whether or not they accepted medicare assignments as payment in full, advertising whether they accepted credit cards, or advertising whether the Spanish language was spoken in their office as a second language, or advertising whether or not senior citizens could get a discount. And these are business or commercial practices, they have nothing to do with the quality of care.

But it is that kind of restraint that stifles competition, drives up health care costs. And it is especially injurious to the elderly, to the poor and to the working people.

For that reason, I strongly urge the adoption of my substitute, and rejection of the amendment of the gentleman from Ohio (Mr. LUKEN.)

Mr. LUKEN. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from Ohio.

Mr. LUKEN. I thank the gentleman for yielding.

I think the gentleman has outlined an interesting set of standards and criteria. But the key thing that I believe the gentleman has not covered is that State laws can be invalidated under the gentleman's amendment, as in section 25(B)(a):

> The Commission may use such authority regardless of whether such use of authority would result in invalidation if the Commission finds that such State law authorizes or prescribes any commercial or business act or practice and adversely affects or is likely to adversely affect competition.

□ 1500

I suggest to the gentleman that under this big hole here in the protections that he is trying to establish, the FTC can and has—well, it can assert jurisdiction simply by saying that the practice of the medical profession or the Bar Association or the Veterinarians Association or any association is anticompetitive. That is all the FTC has to do is say that in their opinion, it is anticompetitive or involves any commercial or business act or practice.

Now, I submit to the gentleman that there is not any magic division there. There is no line between commercial acts and business, as the gentleman and the editorials and all these others are trying to establish. When the Bar Association or the Medical Association or the Dental Association sets up standards and says who can practice and who cannot, that is regulating a business. That is regulating competition by definition.

Mr. BROYHILL. I will reclaim my time, Mr. Chairman. Perhaps the gentleman may want to take some of his time to go ahead; but the fact is that the arguments that the gentleman has been using for these many weeks is that the FTC should not be involved because in some strange way it might be involved in determining quality of health care.

Well, we are not discussing that. We are talking about business or commercial practices. For example, there have been cases, as the gentleman knows, where certain professionals have gotten laws passed that say, for example, eyeglasses cannot be dispensed in a commercial store, such as Sears, Roebuck.

Well, I do not think this has anything to do with the quality of care of eyes. This is a device in order to insure that there will not be any competition. It is a law that has been enacted that affects business and commercial practices. It has nothing to do with quality of care.

The only action that the FTC has taken, to my knowledge, that overrides State law up until this time is the eyeglass case and the gentleman, of course, is very familiar with that case which opened up the dispensing of eyeglasses and lowered the cost of eyeglasses to consumers.

I do not think that the gentleman would want, though his amendment does not go back that far, but I do not think the gentleman would want to put anything into the law that would prevent the FTC if such a case would come up in the future, that would prevent the FTC taking action that would have that desirous effect.

Mr. LUKEN. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL. I am glad to yield.

Mr. LUKEN. I am suggesting to the gentleman that his argument compounds the confusion. There simply is no such line of demarcation between what is a business practice or what is not a business practice. That is something that the gentleman has set up and the arguments have set up, which is not in the amendment. The gentleman's amendment says that if the FTC says it is anticompetitive, they are going to stick their nose into it.

Now, may I ask the gentleman this question. If a dentist recommends X-rays, should the Dental Association or the FTC have the authority to determine whether X-rays are required under certain circumstances for dental patients?

Mr. BROYHILL. Well, we provide that that can be regulated under the State by law and by State regulation.

Mr. LUKEN. But the FTC has usurped that authority already and it says it is a trade practice, because it says it is a containment measure. They are saying they are requiring X-rays in order to save money under medicaid or medicare, or whatever. They want to save the Government money. They want to save the consumers money by not requiring patients to go through unnecessary procedures; so that is the point I am making to the gentleman, that there is a trade practice that the FTC complains about, but it is certainly very clearly a matter of quality of care.

There is another dental situation that the FTC has usurped its authority on. I have seen articles that praise the FTC for this because the FTC stepped in and decided that it could decide who prescribes false teeth and that the dental associations and the dental societies and the dental licensing boards did not have the authority to decide who prescribes false teeth.

Mr. BROYHILL. Mr. Chairman, let me reclaim my time.

The gentleman from New Jersey has asked for time. I yield 5 minutes to the gentleman from New Jersey (Mr. FLORIO).

Mr. FLORIO. Mr. Chairman, I strongly oppose the Luken-Lee professions exemption amendment and support the substitute. I have worked with colleagues on the Energy and Commerce Committee (Chairman DINGELL, Mr. BROYHILL, and Mr. LENT) to develop the substitute as a careful alternative to the radical approach of the Luken amendment.

The Luken amendment is bad for consumers, bad for businesses who use professional services, bad for competing professionals, and will stoke the fires of inflation.

By contrast, we have developed a substitute that addresses concerns that have been raised about the FTC and the professions without putting the professions in a privileged status above the law.

Our substitute amendment has been carefully drafted to insure that it would be the States that would continue to have responsibility for the quality of professional services. This includes licensing requirements and specification of the tasks and duties that particular professionals could perform. But business aspects of professional conduct would remain subject to FTC enforcement.

Let us take a look at how our substitute would work when compared to the Luken exemption. Suppose professionals are involved in price fixing or false advertising, without any involvement by any State government. Under the Luken amendment, these lawbreakers would be immune from FTC action even though the States have not sanctioned the conduct. Under our substitute the conduct would not be immune.

Now let us look at a situation where the States are involved, as in determining the qualifications for taking a licensing exam. On such matters the States would have responsibility under our substitute. No one argues that in these areas of traditional State responsibility the result should be otherwise. But the Luken amendment extends this area of consensus in a drastic way to exempt professionals, and to do so far beyond such areas of traditional State concern.

If there is apprehension that currently the law is not clear regarding the proper focus of FTC enforcement regarding professionals, then let us clarify that, as our substitute would. If there is apprehension regarding the general powers and procedures of the FTC, then let us improve them as H.R. 6995 would.

But we cannot make our commitment to free markets for business and fairness for consumers turn on whether a person has a law degree or has gone to medical school.

The substitute would insure by statute that the FTC continues to focus its enforcement efforts on commercial offenses. That is where the FTC belongs, and that is where the public needs it. I urge the House to adopt the substitute.

Mr. LUKEN. Mr. Chairman, will the gentleman yield for one question?

Mr. FLORIO. Yes, certainly.

Mr. LUKEN. I would like to pose the same question to the gentleman that I did to the gentleman from North Carolina. Under the Broyhill amendment, would it be the State licensing boards or the FTC that would have the right to determine which dental patients require X-rays?

The FTC has already in a case said that this is a trade practice and it has investigated it because it said that this was a cost-containment measure.

Mr. FLORIO. If I could reclaim my time, what this whole debate is about——

Mr. LUKEN. Could the gentleman answer the question?

Mr. FLORIO. Yes. What this whole debate is about is the very point that the gentleman is making. We want to have the States with the authority to deal with quality of care and licensing considerations, but we want to have the FTC with the residual authority to go in and perhaps pierce the veil of what appears to be a quality of care mechanism that really is going toward a business practice restraining trade or injuring consumers; so the gentleman's concerns are really addressed in the substitute by the gentleman from North Carolina (Mr. BROYHILL) and the gentleman from Michigan (Mr. DINGELL).

What we are saying is that the primary concern and authority for dealing with licensing and quality care concerns is at the state level, but that the Federal Trade Commission should have the residual authority to go into matters of business practices; so the gentleman should not be concerned and should be supportive of what the gentleman from North Carolina is trying to do.

Mr. LUKEN. The gentleman has not answered the question.

Mr. BROYHILL. Mr. Chairman, will the gentleman yield further?

Mr. FLORIO. Yes, I yield.

Mr. BROYHILL. It is my understanding that the gentleman from Ohio may be putting a different interpretation on a particular case than I have. As I understand that particular case, there were certain dentists who were boycotting various insurers and withholding dental X-rays, when the insurers were asking that the X-rays be submitted to determine the benefits and also they were attempting to implement certain cost-containment measures.

Now, I do not see that that has anything to do with quality of care.

□ 1510

Mr. LUKEN. Mr. Chairman, if the gentleman from North Carolina is helping the gentleman from New Jersey to answer the question, I would pose the question again to the gentleman from North Carolina.

Mr. BROYHILL. Mr. Chairman, I just answered the question.

Mr. LUKEN. Mr. Chairman, I asked the gentleman before and I did not hear the answer. I posed the hypothetical case. He can come in and pose a different one. I dispute that those are the facts, but let us take the facts.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. FLORIO) has expired.

Mr. LUKEN. Mr. Chairman, I yield 3 minutes of my time to the gentleman from New Jersey.

Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from Ohio.

Mr. LUKEN. Mr. Chairman, if the FTC claims jurisdiction under the Broyhill amendment, if it is enacted, and the FTC says it is going to establish a rule or it is conducting an investigation into the practices of the dentists in prescribing X-rays, claiming that the dentists are going into unnecessary—as the gentleman says—pierce the veil, the FTC is going to pierce the veil and it says that this is an unlawful practice, an irregular practice, and that the dentists really are requiring X-rays which are not necessary, just like unnecessary surgery or anything like that which we have had examples of before. If the FTC says it has jurisdiction of that case, does the FTC have it under Broyhill or does it not?

Mr. BROYHILL. Mr. Chairman, will the gentleman yield to me?

Mr. FLORIO. I yield to the gentleman from North Carolina.

Mr. BROYHILL. I thank the gentleman for yielding.

Mr. Chairman, the FTC would have no jurisdiction over the decision of an individual practitioner to recommend X-rays. However, if there is some State law or some concerted effort or collusion on the part of the practitioners to prescribe this particular treatment or this particular thing, then, of course, if that tends to be a business or commercial practice, then the FTC would be involved.

Mr. LUKEN. Mr. Chairman, will the gentleman yield to me?

Mr. FLORIO. I yield to the gentleman from Ohio.

Mr. LUKEN. I thank the gentleman for yielding.

Mr. Chairman, I think the gentleman has just agreed, then, with our point. He has just stated what will happen. All the FTC has to do, if it wants to attack the North Carolina Dental Licensing Board and its practices or its rules, is to simply say that it has found or suspects a joint, concerted action in the area of price fixing and it will substitute itself as the licensing board, as the standard setter, as the quality-of-care setter.

There just is no question about it. These all involve business practices. They all involve mercenary considerations. Any kind of licensing, by its definition, is anticompetitive. It says that certain people are allowed to prescribe certain things, are allowed to go through certain procedures, and the rest of the world is not.

Under the amendment offered by the gentleman from North Carolina, the FTC is just going to move right in, invalidate State laws, do willy-nilly whatever they want.

Mr. FLORIO. Mr. Chairman, I yield back the balance of my time.

Mr. BROYHILL. Mr. Chairman, I yield myself 1 minute.

The CHAIRMAN. The gentleman from North Carolina (Mr. BROYHILL) is recognized for 1 minute.

Mr. BROYHILL. Mr. Chairman, that is not a correct interpretation of the amendment that we are offering. Our amendment includes a limitation on the FTC authority. It defers to the States' role. However, it does retain a very narrow area of authority where they show and they can challenge a State law that prescribes a business or a commercial practice, one which is anticompetitive.

Now, it seems to me that that is only fair. If we have a State law that prescribes a business or commercial practice on the part of professionals which is anticonsumer or which is anticompetitive, it seems to me that we should have an agency taking a look at those examples.

Mr. FLORIO. Mr. Chairman, will the gentleman yield for an observation?

Mr. BROYHILL. I yield to the gentleman from New Jersey.

Mr. FLORIO. I thank the gentleman for yielding.

Mr. Chairman, I just say that the gentleman's substitute in no way grants jurisdiction that is not in the existing law. The courts have confirmed that the existing law allows the FTC to oversee and to review commercial practices of the professions.

The CHAIRMAN. The time of the gentleman from North Carolina (Mr. BROYHILL) has expired.

Mr. LUKEN. Mr. Chairman, I yield 5 minutes to the gentleman from Louisiana (Mr. TAUZIN).

Mr. TAUZIN. Mr. Chairman, I also rise in opposition to the substitute offered by Mr. BROYHILL.

Since the Congress passed the Magnuson-Moss FTC amendment in 1975, we have been trying to deal with an agency that has gone out of control.

The past 7 years has seen the FTC, through creative interpretation of its authorizing statute, embarked on ex-

pensive, and often fruitless initiatives that this body never intended the FTC to get involved in. Because of the creative legislation by the FTC, this body has spent more than its share of time trying to control an agency that has been acting beyong the scope of its authority.

The substitute now being offered would codify the greatest expansion of FTC authorization since the passage of the Magnuson-Moss amendment and goes against the grain of all activity in the Congress to place restraints on the FTC. The substitute would upon the simple assertion of noncompetitiveness allow the FTC to go into the critical areas of professional qualifications and allow preemption of the laws of the States.

In their "Dear Colleague" letter, Messrs. BROYHILL and LENT expressed concern that the adoption of the Luken-Lee amendment to H.R. 6995 would place in jeopardy the continuation of the moratorium on FTC actions related to agricultural co-ops. We all recognize the excesses of the Commission in relation to the agricultural co-ops.

Mr. Speaker, it is the same kind of reckless intervention by the Federal Trade Commission into the area of the professions that the Luken-Lee amendment is designed to address. The Luken-Lee amendment clearly recognizes the authority of the States to protect the public through their licensing boards, their attorneys general, the consumer protection acts, and whatever other initiatives the States feel are necessary to deal with these professional groups.

The public will be appropriately protected by these bodies.

Other opponents of the Luken-Lee amendment have contended that the FTC must have jurisdiction over the professions to insure adequate enforcement of the antitrust laws. They allege that an antitrust enforcement gap would be created during the period of the moratorium.

These charges imply that no one else is enforcing the antitrust laws except the FTC. This is not true. Let me correct the record. Vigorous enforcement of the antitrust laws against professionals is conducted by the Justice Department, the States and by private parties—which is, after all, the most appropriate mechanism for this enforcement.

The Bureau of National Affairs Specialty Law Digest lists 71 reported antitrust cases involving the health professions just since March 1980. This does not include additional cases involving other professional groups. Of the 71 cases, 70 of them were brought by the Justice Department, the States, or by private parties. Only one involved the FTC.

During the last 8 weeks of its recently ended term the Supreme Court decided on four antitrust cases involving professionals. Three were brought by private parties and the fourth—by a State and joined by the Justice Department.

This vigorous activity would be unaffected by adoption of the Luken-Lee amendment—and the public will continue to be protected.

In view of all this activity FTC actions are unnecessary and inappropriate.

I urge that we continue to place appropriate restrictions on the Federal Trade Commission and not make the same mistakes we made in 1975 by expanding its authority.

I urge you to defeat the Broyhill substitute and support the Luken-Lee amendment.

Mr. LUKEN. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. RALPH M. HALL).

□ 1520

Mr. RALPH M. HALL. Mr. Chairman, I rise today in support of the Luken-Lee amendment to H.R. 6995, the Federal Trade Commission authorization bill. The Luken-Lee amendment will restrain the proposed expansion of FTC authority to State-regulated professions, such as engineers, lawyers, physicians, dentists, optometrists, and veterinarians.

In an effort to protect the American public from possibly collusive and anticompetitive professional practices, the FTC is attempting to force additional Federal oversight into the business activities of State-licensed professions. We, in this Congress, have spent a great deal of time and effort to reduce the regulatory role of the Federal Government in just about all phases of the economy, business and the private sector and to ease the costly, time-consuming, intrusive and unnecessary Federal regulation burden for taxpayers.

It is with particular concern to learn that this Federal agency is seeking to expand its regulatory jurisdiction to State-regulated and licensed professions. While I certainly agree that the medical, legal, and technical professions, must be carefully monitored in order to protect the consumer and insure the highest quality of professional service at fair and reasonable costs, I do not believe that an expanded Federal role is either appropriate or necessary.

The FTC, in this controversial proposal, has ignored the well developed and extensive body of Federal and State laws which regulate and govern these professions. The U.S. Department of Justice under the Sherman and Clayton Acts has the direct responsibility to enforce antitrust actions, and State laws permit the awarding of treble damages in private suits for unfair and deceptive business practices.

If the FTC is permitted to extend their regulatory domain to the legal profession in Texas, for example, it would mean that a Federal agency has the ability not only to repeal State law, but to regulate one of the equal branches of State government—the judiciary. This would be the result of our approval of the Broyhill substitute—a situation none of us would want to take place in our State.

The Governor-elect Mark White, attorney general for the State of Texas, summed up this problem in Senate testimony earlier this year:

I am distressed by this development because it indicates either a terrible mistake on the part of the Commission regarding its powers, or the most massive disruption of the traditional balance between the Federal and State governments since the principles of Federalism were included in the U.S. Constitution. And the FTC's threatened action upsets this balance and creates a constitutional problem which we suggest Congress never intended to raise. Congress therefore must act to clarify its legislative intent regarding the FTC's authority to expand its regulatory domain beyond business and private enterprise to include the public functions of the State.

The time has come, Mr. Chairman, to set down firm guidelines for this Federal agency. I urge my colleagues to vote against the Broyhill substitute which represents an expansion of FTC power and to vote for the Luken-Lee amendment and institute a moratorium on FTC actions until we in Congress can determine what role, if any, this agency should have over State-regulated professions.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. RALPH M. HALL. I yield.

Mr. KAZEN. Mr. Chairman, I thank the gentleman for yielding. I rise to associate myself with his remarks and urge support for the Luken amendment.

Mr. BROYHILL. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Chairman and my colleagues, the bipartisan leadership of the Committee on Energy and Commerce has come forward with a substitute amendment to deal with a very tricky subject. How do we deal with restraints on trade where the marketplace is not working, where competition is being discouraged, at the same time not letting a bureaucratic agency interfere in matters that are not legitimately within the concern of that agency? The Broyhill-Dingell-Lent-Florio amendment—and I associate myself with them—calls upon the Congress to adopt a legitimate and very worthwhile compromise.

Let me point out what is really at stake here. Americans spent $247 billion for health care in 1980. In 1981, that figure jumped 16 percent, to $287 billion. Every year we have been seeing an increase in health care costs

that far exceed the rate of inflation in our economy. Today, there was a report that this administration is going to recommend that we cut public health programs by maybe as much as 20 percent. Well, if we do something like that, we are not going to be able to meet public health emergencies that may come about. The Food and Drug Administration may not be able to approve drugs or protect the public safety from drugs that may be dangerous to them.

Every year we are faced with the entitlement programs of medicare and medicaid claiming a larger portion of our Federal dollar. Those who are buying insurance through their employers or some other way are finding the increase in the insurance premium going up and up and up. The reason for the increases in health care costs is that we do not have supply and demand deciding the price of health care services.

What the Luken-Lee amendment would do is to remove the little bit of protection that we have in the law now against monopolies preventing competition to hold down some of the costs. For example, if there was a price-fixing agreement where physicians agreed not to work below the usual rates, no Federal Trade Commission action would be permitted if the Luken-Lee amendment were adopted. If all the doctors got together and said, "We don't want a health maintenance program competing with us and we would use our pressure as physicians with hospital privileges," the Luken-Lee amendment would prevent the Federal Trade Commission from getting involved in that issue. If there were illegal kickbacks involving physicians in a major medical laboratory, the Luken-Lee amendment would prevent that from coming under the Commission's purview. If there are boycotts of cost-containment programs designed by insurers, industry, and labor to hold down medical costs, we would be powerless to deal with it if the Luken-Lee amendment were adopted.

The Luken-Lee amendment should be defeated and the Broyhill amendment should be adopted. The issue will be whether we adopt the Broyhill amendment or not. That is the vote before us. I urge an aye vote on the Broyhill amendment.

We cannot afford to pay these escalating health care costs. While we are trying to bring about more competition in health care, we should not go backward and bring about a situation where there will be even less competition. I know that this is an emotionally charged, highly lobbied bill, but if we do not do something to provide competition in health care, what will be the alternative? The Government will have to come in with enormous bureaucratic restraints, regulations, to keep the controls on the health care system from exploding. Is that what Members of Congress want? Is that what the American people would want? I do not believe so.

I think the only choice we have before us on this question is to adopt the Broyhill amendment. It is one that is backed by the leadership of the committee, that, by the way, is called upon every year to figure out how to hold down costs in the programs for medicare and medicaid. Do not make the job more difficult, and do not make the cost of health care more expensive for the American people.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. LUKEN. Mr. Chairman, I yield 3 additional minutes to the gentleman from California.

Mr. LUKEN. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I will be pleased to yield.

Mr. LUKEN. As I understand the gentleman's point, which has been made in the media, I think, and many of the communications we have received, the gentleman is saying that the Broyhill amendment is a compromise. I assume what the gentleman means is that it will put some constraints on the FTC that are not already there.

Mr. WAXMAN. I believe that is the case, yes.

Mr. LUKEN. The costs are now going up, are they not, with the FTC's unbridled activity, it now has without the Broyhill restrictions?

Mr. WAXMAN. Clearly, we are not asking the FTC to deal with rising health care costs and come up with a solution, but what we are asking the FTC to do in this area as well as others is to let the marketplace work, to allow competition and prevent the restraints on trade when monopolies get together.

I know that some professions would like to get together if they could and see if they can set their prices and restrain competition. Any business group would like to restrain competition because when they do not have competition they can charge a higher price. That is not in the public interest.

Mr. LUKEN. When the medical profession says that it licenses just the licensed doctors to practice medicine, is that not anticompetitive? Do they not eliminate all competition?

Mr. WAXMAN. That is why the Broyhill amendment is such a worthwhile compromise. We do not want the Federal Trade Commission deciding who should or who should not be a physician. I do not believe that is what the Broyhill amendment does. That is an issue that should be decided by a State and by the profession, but I do not believe that is what the Broyhill amendment does.

What the gentleman's amendment would do would be to say that the Federal Trade Commission not only could not look at that which they should not be involved in, but could not look at the other practices which I believe are anticompetitive.

□ 1530

Mr. LUKEN. Mr. Chairman, will the gentleman yield further?

Mr. WAXMAN. Mr. Chairman, I have listened to much discussion. First, let me ask the gentleman how he would deal with the problem.

If there were a boycott of HMO's by physicians, would he not want somebody to say that that is not proper and that we are not going to permit it, if there is price fixing, for instance?

Mr. LUKEN. Mr. Chairman, there are two answers to that. The Attorney General has the jurisdiction.

Along with the gentleman, I agree that there are not any perfect answers. For instance, the gentleman was talking about FTC action saving health care costs, but then when I asked him to substantiate it, he said, "Well, we don't really expect the FTC to save health care costs."

Mr. WAXMAN. But I think the gentleman's proposal is a step backward. It allows more restraint of trade, less competition, and then we are going to find health care costs going up more than now is the case.

Mr. LUKEN. Mr. Chairman, will the gentleman yield further?

Mr. WAXMAN. I yield to the gentleman from Ohio.

Mr. LUKEN. Mr. Chairman, if I may answer the gentleman, somebody has to regulate it. There are overlapping jurisdictions, there is no question about it. I do not want the FTC to practice its brand of quackery in regulating these professions. I would rather have the professionals exempted, just as we do in insurance, just as we do in savings and loans, and just as we do in many instances. We have exempted these businesses, even those businesses that do have trade practices, and we have put them under State regulation. I think we should also put these professions under State regulation.

Mr. WAXMAN. Mr. Chairman, if I may reclaim my time, if we leave it up to the profession, any profession, to decide what the demand for its services is, they are not going to say that there ought to be less of a demand.

I hate to use this example, but the one that is often given is: "Do you ever ask your barber whether you need a haircut?"

Very few barbers will tell you, "No." In fact, they will not even tell me, "No."

Mr. Chairman, I do not think it ought to be up to the profession solely

to decide whether the service is needed.

Mr. LUKEN. There has got to be humor in that line somewhere.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. FLORIO. Mr. Chairman, I yield 5 minutes to the distinguished chairman of the full committee, the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Chairman, this is an issue which should be decided on the basis of cold logic and where the public interest best lies.

There have been a lot of charges made by Members on the other side, and I want to say I repudiate all those charges. I have great respect for my dear friend, the gentleman from Ohio (Mr. LUKEN), the author of the amendment, as he very well knows. I feel the same respect and affection for the gentleman from New Jersey (Mr. FLORIO), the chairman of the subcommittee, and for my good friend, the gentleman from North Carolina (Mr. BROYHILL), with whom I have a long, warm, and friendly association.

It has been cnarged that FTC is in the business of regulating the professions and that that is bad, and that we ought, therefore, to make some changes in the authorization of the FTC to deal with questions of that kind. That, I believe, is a question upon which all Members here might very well come to agreement.

It has been observed, however, that FTC is going well beyond its authority, and that the FTC should not engage itself in questions relative to the behavior of professional men and women and their associations when that behavior constitutes a violation of the antitrust laws, a restraint of trade, or some kind of monopolistic or anticompetitive behavior, restraint on advertisement, or fixing of market areas or prices. I think this House and the Congress should and does repudiate that posture.

Now, let us look at the two proposals which lie before the committee. Let us look at the proposal which is offered by my dear friend, the gentleman from North Carolina (Mr. BROYHILL), and which I, the gentleman from California (Mr. WAXMAN) and the gentleman from New Jersey (Mr. FLORIO) join in support and sponsorship. That proposal simply says that the FTC shall not engage in the regulation of professional individuals and their associations on matters relative to the day-to-day function of that profession or that association, but it preserves intact the power of the FTC to deal with anticompetitive behavior, fixing of prices, restraint of trade, monopolistic behavior, and any of the other anticompetitive actions which this country throughout its history, since the days of Teddy Roosevelt, has found to be offensive and violative of a free marketplace and not in the best interests of our economy.

The amendment offered by my good friend, the gentleman from Ohio (Mr. LUKEN), goes further. It says that the Federal Trade Commission cannot deal at all with anticompetitive practices by individuals who are licensed by the State or by their associations where the action is that of a professional person who is regulated by the State and who has some educational degree.

It goes further really. Its language does not say so, but it nevertheless would permit individuals to engage in anticompetitive practices, restraint of trade, monopolistic practices, fixing of prices, and fixing of markets without control or supervision by the Federal Trade Commission of those anticompetitive acts. It permits the associations to engage in price fixing, monopolistic practices, restraints of trade, delineation of market areas in defiance of antitrust laws, and any of a number of anticompetitive actions outside the reach of the antitrust laws administered by the Federal Trade Commission. Indeed, one trade association, the AMA, has voted to seek legislation exempting the health care field from that vestigial remnant of antitrust law which could be applied to these kinds of associations, that is to eliminate the Department of Justice's controls under the Sherman and Clayton Acts and also State antitrust laws over these kinds of behavior.

Now, if this Nation wants to see to it that the consumer and the economy gets the best possible deal and that everyone receives protection against monopolistic practices, the only sensible approach is that amendment offered by the gentleman from North Carolina (Mr. BROYHILL).

The CHAIRMAN. The time of the gentleman from Michigan (Mr. DINGELL) has expired.

Mr. FLORIO. Mr. Chairman, I yield 2 additional minutes to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Chairman, the amendment offered by my good friend, the gentleman from Ohio (Mr. LUKEN) would permit two trade associations or a group of individuals to gather together to conspire to restrain trade, to fix prices, or to injure persons by anticompetitive actions without antitrust supervision by the Department of Justice and with the most modest and vestigial remnant of antitrust jurisdiction remaining in the Department of Justice and the States. I believe that that is bad. It hurts the consumer, it hurts the profession, it hurts the economy, and it hurts the Nation. It is not in the public interest.

Let us regulate professional behavior where it should be, in the sense of licensing and professional responsibilities through the States, as would the amendment offered by the gentleman from North Carolina (Mr. BROYHILL), but let us see to it that the Federal antitrust laws continue to apply for the protection of all of us and for the protection of the economy, to anticompetitive, monopolistic, unfair trade practices in the fashion that they should through the Federal Trade Commission, which has a long history of sensible, constrained behavior in that particular area.

Mr. Chairman, over the past decade, FTC scrutiny of professionals has led to several rulings and legal actions beneficial to consumers that have saved the public millions of dollars. Among them: A decision to bar the American Medical Association (AMA) and its state affiliates from restricting the ability of members doctors to advertise—recently upheld by the Supreme Court—issuance of consent orders prohibiting medical groups from boycotting health maintenance organizations—the Reagan administration, to curb soaring health costs, advocates greater competition through diverse health plans—complaints against three dental groups alleging agreements to obstruct the cost containment programs of medical insurers through boycotts, a suit against a State medical society for price-fixing arrangements and an investigation of State-imposed and professional association restrictions on professional business practices, such as the advertising of prices of prescription drugs and eyeglasses.

The Federal Trade Commission's "Eyeglasses I" study, for example, resulted in a trade rule regulation permitting the advertising of eyeglass prices and requiring that prescriptions be released to consumers, enabling them to shop comparatively before buying eyeglasses. Subsequent advertising by optical chains not only lowered the price of eyeglasses by $20 to $30, but brought the price of a pair of soft contact lenses down from $300 to $100, as reported in the July 27, 1981 issue of Fortune magazine.

The American Medical Association, the American Dental Association, and the American Optometric Association are trying to get out from under the FTC.

In its efforts to help the medical profession escape the FTC's scrutiny, the AMA has consistently and unequivocally stated that it is not trying to escape antitrust law enforcement, merely the FTC. It has stressed repeatedly that the Sherman and Clayton Acts, as well as State antitrust laws, would still be fully applicable to the AMA and its members.

However, 4 months ago the AMA voted to seek legislation that would amend the Sherman Antitrust Act and State antitrust laws to exempt physicians. If enacted, the proposed legislation would eliminate effective anti-

trust enforcement in the health care sector of the economy.

At the same time, the Joint Commission on Accreditation of Hospitals (JCAH), working hand in glove with the AMA, is seeking to eliminate State and Federal supervision of medicare and medicaid in America's hospitals and substitute their own privately owned commission, totally exempt from all public supervision and accountability, as the only source of accreditation for hospitals receiving Federal funds.

These two proposals could well halt current and future efforts to control spiraling health care costs through increased competition.

Consideration of Luken-Lee comes at a time when annual health care expenditures account for 10 percent of the gross national product. Exemption of the health care professions would strike hardest at consumers, who are now burdened with health care costs which will reach $247 billion in 1982. A staggering $7 billion, for example, will be spent for eye examinations, corrective lenses and frames, much of it by the elderly. Without FTC oversight, those figures might be higher.

The Luken-Lee amendment would be place a moratorium on any FTC actions involving State regulated professions until Congress determines to what extent the FTC should have authority in this area.

Luken-Lee would prohibit the FTC from prosecuting professional persons and organizations for fraudulent and deceptive advertising, price fixing, restrictive professional codes or violation of antitrust laws with boycotts. It is being touted as a deregulation effort, but is opposed by the White House. The administration supports the Broyhill-Dingell amendment which maintains FTC jurisdication over business practices of professionals while eliminating FTC intrusion into matters best reserved to the States.

The Vice President of the United States, the Director of the Executive Office of the President, Office of Management and Budget, and the Secretary of Health and Human Services have all written letters affirming the administration's support of the Broyhill-Dingell amendment.

On September 27 of this year, Vice President GEORGE BUSH wrote to the chairman and ranking majority member of this committee saying:

> Your amendment strikes a sound balance between legitimate State interests and enforcement of Federal antitrust and consumer protection laws. Moreover, your amendment, if enacted, would constitute an important step in our program of regulatory relief to assure fully competitive markets. Finally, your amendment represents sound policy and is consistent with the philosophy of this administration to treat all Americans equally under the law.

FTC Chairman, James C. Miller III says Luken-Lee is "bad law, bad economics and bad politics" that will "cause substantial injury to consumers and to our Nation's economy."

Newspapers with such diverse editorial viewpoints as the Wall Street Journal, the New York Times, Chicago Tribune and the St. Louis Post-Dispatch uniformly oppose the exemption of the professions from FTC oversight.

Most professions oppose a total exemption. A coalition of health, professional, business, consumer, and labor interests, representing 17 million individuals, 33 national organizations and their 800 affiliated organizations all oppose such an exemption, stating in their July 19, 1982 letter:

> An exemption for the professions and their organizations would poorly serve the public interest, would create a privileged class above the law and ultimately would unnecessarily increase the costs of health, legal and other professional services to all Americans.

The coalition opposed to Luken-Lee includes the American Nurses Association, American Psychological Association, American Public Health Association, the National Association of Chain Drug Stores, the UAW, the United Steelworkers of America, the American Association of Retired Persons, and the Washington Business Group on Health, a corporate group worried about the cost of employee health-care and insurance plans.

These views are supported by six former heads of the Justice Department's antitrust division—Sanford M. Litvack, John H. Shenefield, Donald I. Baker, Thomas E. Kauper, Edwin M. Zimmerman and Donald F. Turner—who jointly wrote to FTC Chairman Miller to declare:

> While the professions do have certain unique characteristics, those engaged in the sale of professional services are clearly engaged in commercial activity. We see no reason why Federal laws that protect against restraints of trade and monopolistic or deceptive practices in our free market economy should not apply to the sale of professional services.

What about States rights? The record shows that the States are not able to regulate professional trades. Most State professional boards are made up primarily of members of the respective trades and often prove to be more protectionist than regulatory. Wrote the California District Attorneys Association in a September 13, 1982, letter expressing its opposition to Luken-Lee:

> In an era of sharp budget constraints, State and local prosecutors often lack the resources to mount complex challenges to unlawful business behavior by professional groups. In many cases, an end to FTC jurisdiction over such practices would mean an end to effective law enforcement in those areas.

On July 15, 1982, the National Association of Attorneys General passed a resolution opposing the enactment of any limitations on the ability of the FTC to enforce the FTC Act with respect to professions. This opposition was reconfirmed in a September 20, 1982, letter urging Members of Congress to vote against Luken-Lee.

I, therefore, urge the support of my fellow Members in defeating Luken-Lee. The sole purpose and effect of that amendment is to grant a special exemption, for a single class of professions, from the normal rules of the free market. The consumer will ultimately pay. And Congress will bear the ultimate responsibility.

Mr. Chairman, I submit the correspondence referred to in my remarks for inclusion in the RECORD following my statement as clear evidence of the overwhelming opposition of the leaders of this county and the American people to the Luken-Lee amendment, a piece of legislation which a Chicago Tribune editiorial has labeled "this nasty little measure * * *":

THE VICE PRESIDENT,
Washington, D.C., September 27, 1982.

Hon JAMES T. BROYHILL,
U.S. House of Representatives,
Washington, D.C.

DEAR JIM: I am writing to reaffirm and reemphasize the Administration's support of your compromise "professions" amendment to the Federal Trade Commission Authorization Act, H.R. 6995.

Your amendment strikes a sound balance between legitimate state interests and enforcement of federal antitrust and consumer protection laws. Moreover, your amendment, if enacted, would constitute an important step in our program of regulatory relief to assure fully competitive markets. Finally, your amendment represents sound public policy and is consistent with the philosophy of this Administration to treat all Americans equally under the law.

Best regards.

Sincerely,

GEORGE BUSH.

EXECUTIVE OFFICE
OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., September 21, 1982.

Hon. JAMES T. BROYHILL,
House of Representatives
Washington, D.C.

DEAR JIM: The President has asked me to respond to your letter of September 16, 1982, requesting the Administration's position on your amendment to H.R. 6995, the Federal Trade Commission Authorization Act of 1982.

Our understanding is that your amendment would substantially restrict the FTC's jurisdiction over certain state-licensed professionals, while preserving FTC authority over anticompetitive agreements among professionals. In particular, the amendment prohibits the FTC from using its authority under Sections 5 or 18 of the Federal Trade Commission Act to prohibit unfair acts or practices engaged in by professionals in a particular state, if this will result in the invalidation, in whole or in part, of any law of the state establishing training, education, or experience requirements for the licensure of professionals, or the tasks or duties which may be performed by professionals. This prohibition will not apply if the Commission finds that the law in question authorizes or

prescribes commercial or business acts or practices and adversely affects or is likely to adversely affect competition. A Commission finding in this regard will have to take into account the benefits to public health, safety, and welfare of the state law in question. In addition, the FTC will be prohibited from finding a method of competition to be unfair under its antitrust authority where the method of competition is prescribed by a state according to the State Action Doctrine.

The Administration supports this compromise amendment. We believe it strikes a reasonable balance between total elimination of FTC jurisdiction over business practices of professionals—even practices found to be deceptive or anticompetitive—and current law, which contains no restrictions on the FTC's authority regarding the professions.

Your compromise would be consistent with the Administration's policies of assuring vigorous market competition while eliminating Federal intrusion into matters best reserved to the states.

The Administration appreciates the opportunity to comment on your amendment.

Sincerely,

DAVID A. STOCKMAN,
Director.

COALITION TO SAVE THE JURISDICTION OF THE FEDERAL TRADE COMMISSION OVER THE PROFESSIONS,
JULY 19, 1982.

Hon. JAMES J. FLORIO,
Longworth House Office Building,
Washington, D.C.

DEAR CONGRESSMAN FLORIO: We are writing you on behalf of a coalition of health, professional, business, consumer and labor interests, representing 17 million individuals, 33 national organizations and their 800 affiliated organizations. We are concerned about the exemption of professionals from Federal Trade Commission oversight and we are asking you to oppose any effort to strip the FTC of its authority over professionals or their professional organizations.

The FTC's charge directs it to preserve the integrity of a free and competitive marketplace for all goods and services—including services rendered by professionals. Business practices related to these services provided by professionals or their associations should be subject to the same rules that govern the marketplace behavior of other commercial interests. Boycotts, price-fixing and conspiracies to restrain trade and competition should be condoned no more for professionals or their organizations than for those who market other goods and services. The U.S. Supreme Court has made it quite clear that members of the professions and their professional organizations are not immune from prosecution, if they violate federal antitrust statutes.

We view efforts by certain professional interests to gain an exemption from FTC's authority as simply an effort to avoid the just consequences of any unfair, anticompetitive, or monopolistic practices they may perpetrate. An exemption for the professions and their organizations would poorly serve the public interest, would create a privileged class above the law and ultimately would unnecessarily increase the costs of health, legal and other professional services to all Americans.

In conclusion, we the undersigned organizations ask you to oppose any efforts to strip the Federal Trade Commission of its authority over the professions.

Sincerely,

American Nurses' Association, American Society for Medical Technology, American Association of Pastoral Counselors, American Academy of Physican Assistants, Association for the Advancement of Psychology, American Psychological Association, American Dental Hygienists' Association, American Speech-Language-Hearing Association, American College of Nurse-Midwives, American Public Health Association, International Chiropractors Association, National Association of Optometrists and Opticians, National Association of Chain Drug Stores, American Chiropractic Association, Women's Equity Action League, American Association for Clinical Chemistry, American Medical Technologists, American Association of Bioanalysts, International Society for Clinical Laboratory Technology, American Society of Allied Health Professions, National Rehabilitation Counseling Association, National Women's Health Network, Women and Health Roundtable, American Association of Retired Persons, American Retail Federation, Congresswatch, U.S. Women's Health Coalition, National Consumers League, Consumers Union of America, Consumer Federation of America, American Association of Nurse Anesthetists, United Automobile, Aerospace, and Agricultural Implement Workers of America, United Steelworkers of America.

[From The Chicago Tribune, June 1, 1982]

DOCTORS, LAWYERS AND THE FTC

Over the opposition of Chairman Robert Packwood and four other members, the Senate Commerce Committee has voted to exempt medical, legal and other professional groups from federal fair trade and antitrust laws.

Unfortunately the full Senate is all too likely to pass the measure intact. It would bar the Federal Trade Commission from prosecuting individuals and organizations for fraudulent and deceptive advertising, price fixing and conspiracies to boycott. Some experts predict that enactment of the measure could lead to removal of the health warning on cigarette packages because the FTC would lose its jurisdiction over such health matters.

Instead, it would be left to state governments to regulate these matters, however and if ever they might choose.

This action was not taken as part of the Reagan administration's drive to reform the federal regulatory burden. Mr. Reagan's handpicked FTC chairman, James Miller, hired away from the conservative American Enterprise Institute, vigorously opposes the Senate move. "It is very bad," he said after the committee's 10 to 5 vote, "to establish a privileged class and make it exempt from enforcement that everyone else is subject to."

The argument that state agencies can better perform this regulatory role is nonsense. For one thing, state agencies tend to be weak, underfinanced and dominated by the powerful professional groups they're supposed to regulate.

What's more important, fraudulent advertising and price fixing are problems that are national in scope. That is why the federal fair trade practice and anti-trust statutes were passed in the first place. The exemption from anti-trust laws that doctors, lawyers and other professionals long claimed has been rejected by a number of courts. This trend has been especially pronounced since the government assumed responsibility for medical bills under Medicare and Medicaid, which has helped to push medical costs through the ceiling. In fairness, these professions have no more reason to be exempt from anti-trust laws than from income tax or civil rights laws.

It's easy and no doubt partly accurate to blame the committee vote on the generous campaign contributions made in 1980 by professional associations of doctors or lawyers. Coming so close to the House's veto of an FTC rule tightening the regulations on used car dealers—again after generous campaign contributions from the used car industry—it suggests that Congress can too easily be bought. In fairness to Congress, though, the House was right on the used car vote.

Nor can one always assume that a congressman's position is determined by contributions; more often it's probably the reverse. And sometimes contributions are in vain. Sen. Packwood, for example, was a beneficiary of this largess but stood up for what was right anyway.

If cash or misguidance prove sufficient to get this nasty little measure all the way through Congress, Mr. Reagan will have good reason to use his veto. His policy on this issue is right, and the FTC deserves his support.

Mr. BROYHILL. Mr. Chairman, I yield 4 minutes to the gentleman from Illinois (Mr. MADIGAN).

Mr. MADIGAN. Mr. Chairman, very briefly, I think it is necessary not at this point to discuss the merits of the Broyhill substitute so much as it is to point out that the gentleman from North Carolina (Mr. BROYHILL) is not alone on the Republican side of the aisle here in advocating his approach to this very thorny problem.

The Broyhill substitute has been supported by an overwhelming majority of the members of the Energy and Commerce Committee on the Republican side. It has also been supported by the Director of the Office and Budget, Mr. Stockman. It is supported in a letter to the gentleman from North Carolina (Mr. BROYHILL) from the Vice President of the United States, Mr. Bush, who is the Chairman of the President's Commission on Regulatory Reform.

With that background, I think it is obvious that what we are talking about now with the Broyhill substitute is something that receives widespread support from both Republican and Democratic Members of the House, from the Republican administration, from people of both conservative and liberal persuasions regardless of their political party identification, and from such conservative organs as the Wall Street Journal, which has, I understand, editorially supported the approach taken by the gentleman from North Carolina.

I think there has been a full discussion of what is contained in the Broy-

hill substitute, but I thought it was important to note that the gentleman from North Carolina is not alone among conservatives and not alone among Republicans in advocating that we take the approach suggested in his substitute for the Luken amendment.

□ 1540

Mrs. MARTIN of Illinois. Mr. Chairman, will the gentleman yield?

Mr. MADIGAN. I am happy to yield to the gentlewoman from Illinois.

Mrs. MARTIN of Illinois. I rise to associate myself with the gentleman's remarks and in support of the Broyhill amendment.

Luken-Lee took a first step to trying to take care of a real problem. The Broyhill amendment still takes care of those problems but has the protection we all want for both the consumer and those professionals, indeed, who originally sought relief through Luken-Lee.

It appears a good idea and enjoys the widespread support that the gentleman has thus far explained.

Mr. MADIGAN. I thank the gentlewoman for her comments and yield back the balance of my time.

Mr. FLORIO. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. LENT).

Mr. LENT. Mr. Chairman, I rise in support of the Broyhill substitute which I have cosponsored and to respond to some of the prior colloquy.

This substitute is a true compromise and I want to commend the chairman of the full committee, the gentleman from Michigan, Mr. DINGELL, and the gentleman from North Carolina, ranking minority member of the full committee, Mr. BROYHILL, and the gentleman from New Jersey, chairman of the subcommittee, Mr. FLORIO, for working together so well in its drafting.

Our colleague, the gentleman from Ohio, Mr. LUKEN, earlier asked the rhetorical question whether this substitute puts any protections in place for the professions against the Federal Trade Commission. I would say the answer to that question is "yes."

I agree with the gentleman from Ohio that it is essential to preserve the traditional role of the States in regulating the professionals.

This substitute prevents the commission from second-guessing legitimate State judgment in so-called quality-of-care areas such as licensing, education, and the scope of the duties which may be performed by professional groups.

I say to my good friend and colleague from Ohio, this substitute guarantees the protection of the States' interests in two ways.

First of all it insures the participation of the State attorney general in commission proceedings. Second, it requires the Federal Trade Commission for the first time to take into account the interests of the States in protecting the public health, safety, and welfare.

Under this substitute it is clear the FTC will not be regulating the quality of care rendered by professionals. The substitute carefully delineates the authority of the FTC to pursue anticompetitive professional conduct.

Certain findings must be made. A business or commercial practice must be at issue. This practice must have an anticompetitive effect.

As can be seen, a sensitive balance has been struck between the roles of the State and that of the Federal Trade Commission.

The substitute has the backing of the administration and many professional and business groups. I hope my colleagues will support the Broyhill-Dingell substitute.

● Mr. FRENZEL. Mr. Chairman, of all the agencies of Federal Government, the worst abuser of its authorities and the worst increaser of consumer costs to Americans is the FTC.

Two years ago I called it a rogue agency run amok. Since then some of the personnel have changed. Still, there has been no discernable improvement in FTC deportment. Its record is replete with bungling, inefficiency, waste, and harassment.

The FTC staff seems still to be accountable to no one. The Commissioners seem unwilling to restrain the most ignoble urges of a staff guided by whimsey.

The FTC comes on like a tiger when it attacks small and defenseless groups. But, when confronted by a strong and powerful adversary, it chickens out. It is happy wasting its money attacking silly theories like shared monopoly, but it is absolutely in ecstasy when it can harass small groups who cannot fight back.

Its demands for carloads of information, its outrageous use of subpena power, and its threats and bullying have helped raise medical costs for all the consumers of my area. Fishing expeditions are legendary, but the only fish which are caught are the poor consumers who get stuck with the costs.

In my State, peer review on a voluntary basis has been enormously successful in reducing hospital stays and overall medical costs. Naturally, the FTC thought that was in restrain of trade. No red-blooded FTC person would ever like to see costs lowered to consumers, so it tried to eliminate our peer review. The FTC has harassed one of our small HMO's which was guilty of nothing except trying to give good service at a good price.

Mr. Chairman, it is difficult for me to express my feeling for this institution in strong enough terms. But I hope that this presentation is conveying a rather clear impression that my first choice is to repeal the FTC. I believe it is beyond repair. It was probably redundant when it was first created but if we really want a workable FTC we will have to get rid of what we have got because there are no redeeming characteristics in the present model.

I realize that the worthy goal of repeal is unachievable. Therefore, I have tried to support all amendments that could conceivably restrict the power and restrict the operations of the FTC as much as possible.

To me the Luken-Lee amendment is one which prohibits FTC regulation over an area in which they should never have become involved in the first place, and one which it has loused up in its usual style. The Broyhill amendment which purports to be a compromise still gives the FTC too much authority. You cannot compromise with the FTC. You just have to get them out of there.

And even worse, the Broyhill amendment is more than a compromise. It gives the FTC the ability to override State laws. That feature legitimizes a power it has held only in its wildest dreams, but never in fact. Above all it should not have that power. The two-House veto of FTC regulations will help a great deal. The only thing better would be a one-House veto of the whole agency.

Finally, Mr. Chairman, I hope there will be an amendment to reduce the authorization for the FTC. Naturally, my first choice is to reduce it to zero. However, I will support any decrease because I see our power of the purse as our ultimate control over this dreadful beast.

We should adopt the Luken-Lee amendment, reject the Broyhill compromise, reduce the authorization, and pass the bill. That will get our spirits up for the real dismantling which I hope will occur next year.●

● Mr. RAHALL. Mr. Chairman, as we consider amendments relating to the Federal Trade Commission's activities over State-regulated professions such as those in the medical field, I find myself questioning the need and validity of granting the Commission powers which may conflict or usurp State laws.

In West Virginia, for example, the legislature enacted the Medical Practices Act of 1980. The statute's disciplinary provisions are both tough and extensive and provide every imaginable consumer protection. Under this law, the West Virginia Board of Medicine is given the sole authority for the issuance of licenses to practice medicine and surgery in addition to practicing podiatry. This board may deny an application for a license and may discipline a physician or podiatrist already licensed to practice in the State, under a broad range of criteria. Among them are, and I quote from the statute:

Attempting to obtain, obtaining, renewing or attempting to renew a license to practice medicine and surgery or podiatry by bribery, fraudulent misrepresentation or through known error of the board;

False or deceptive advertising;

Making or filing a report that the person knows to be false . . .

Making a deceptive, untrue or fraudulent representation in the practice of medicine and surgery or podiatry;

Soliciting patients, either personally or by an agent, through the use of fraud, intimidation or undue influence;

Conspiring with any other person to commit an act or committing an act that would tend to coerce, intimidate or preclude another physician or podiatrist from lawfully advertising his services; and

Professional incompetence.

Mr. Chairman, these provisions provide full protection for the consumer in addition to administering a stringent framework under which the medical profession in West Virginia practices. I simply do not see how the FTC could embellish upon this existing State program through Federal regulation. For this reason I support the gentleman from Ohio in his effort to place a moratorium, and I stress the word "moratorium," on FTC activity with respect to the professions.●

Mr. LUKEN. Mr. Chairman, how much time do I have left? I assume there is a good deal of time.

The CHAIRMAN. The gentleman from Ohio has 3 minutes remaining of the time in support of his amendment.

Mr. LUKEN. We are now on the Broyhill substitute.

The CHAIRMAN. We are on both of them, both the gentleman's amendment and the substitute.

Mr. LUKEN. I yield myself the balance of my time.

The CHAIRMAN. The gentleman is recognized for 3 minutes.

Mr. LUKEN. Mr. Chairman, contrary to the description that has been made by the last speaker or two, the Broyhill amendment is not progress. As the gentlewoman from Illinois said, the Luken-Lee amendment does address real problems.

If it were true that Broyhill, in effect, perfected that I would be the first to support it. But Broyhill is a giant step backward because it gives the FTC a new grant of Federal authority to invalidate State laws.

There simply is no magic line of division, of demarcation between trade practices and quality of care issues, so most of the comments that have been made have been beside the point. They do not address the point.

When the licensing boards of the States license they immediately step up what amounts to an anticompetitive practice. That is by definition what they do. There is not that division.

We have demonstrated, talking about the dental issues, we have demonstrated the cases that the FTC has involved itself in which are quality of care issues. Whether the dentist is going to prescribe an X-ray or not, that is a quality of care issue.

But the FTC has gotten involved in it and will get involved in it even more so with a blanket grant of authority under the Broyhill amendment.

We have been talking here about authority. The appeal has been made to authority by the leadership of the Energy and Commerce Committee and all of these people who are for the Broyhill amendment.

Let us see what some of these people have said from time to time in the past.

Mr. Miller, the FTC Chairman, what has he said? He said:

To business, the FTC is a bully and to an increasing number of consumers it is a national nanny, and to Congress it is an agency largely out of control.

Mr. Stockman, who is identified as a proponent, said on February 23, 1981:

If you eliminated the FTC the world would never know the difference.

Mr. BROYHILL said on May 16, 1976, and I think he said it more than once:

In our view the FTC does not have jurisdiction over nonprofit organizations nor should they.

This gives the FTC jurisdiction over nonprofit organizations.

Now Mr. Miller has seen the light. He says we, the FTC, have expertise in this area. Compare the expertise of the FTC with the dental licensing board or the medical licensing board or the bar association. I will take those licensing boards any time.

Mr. Stockman now supports FTC jurisdiction and Mr. BROYHILL, as he said here, he says, "I feel the FTC has a legitimate role."

The real FTC is an organization which has often been out of control and which this Congress has often in recent experience risen up and said this FTC has usurped authority.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. LUKEN. Do I have a minute or two in opposition to the Broyhill amendment?

The CHAIRMAN. The gentleman can be recognized under that allowance if he wishes.

Mr. LUKEN. If I can have 2 more minutes I will wind up.

The CHAIRMAN. The gentleman is recognized for 2 more minutes.

Mr. LUKEN. The real FTC falsely claims credit for progress made by others. The most notable example is a right of professionals, lawyers, doctors, dentists, to advertise. The right to advertise is a first amendment right which was recognized with reference to professionals in Bates against Arizona in 1975 and even since then the FTC has been taking credit for it.

That is the fact and it is a first amendment right.

Now, remember, if the Broyhill substitute is enacted the FTC will continue to claim jurisdiction; in fact it will expand its claims of jurisdiction over State licensing and standards of professionals.

They give this authority in this amendment to roam freely in any case where it claims anticompetitive behavior.

□ 1550

Did you ever hear of the FTC getting into a case where it did not claim anticompetitive behavior? Of course, every case to the FTC involves anticompetitive behavior. And who is going to judge it? We are going to have to go to court to stop it. We are going to have a plethora of cases, or the FTC is going to roam without any restrictions whatsoever.

Finally, in a recent letter from the attorney general of North Carolina, he pointed out that in the eyeglass case that many, quite a number, of Attorneys General of the United States, including the attorney general of North Carolina, opposed the FTC in this matter. And I think there are many, many people who oppose the FTC in this kind of jurisdiction.

We admit that there is overlapping jurisdiction at the present time. But we say there is ample precedent for the Congress to establish the rules and to set forth that the jurisdiction in these cases is where it belongs. It may not be perfect, because these are organizations of men and human beings, and it may not be perfect, but they can do a far better job than the FTC.

So I say that the Broyhill amendment is worse than it was before, if we get the Broyhill amendment. So remember that. Those of us who are opposed to it say to you that the Broyhill amendment is much worse than existing legislation.

Mr. BROYHILL. Mr. Chairman, I yield myself the remaining time.

The CHAIRMAN. The gentleman from North Carolina (Mr. BROYHILL) has 2 minutes remaining.

Mr. BROYHILL. Mr. Chairman, I ask for a yes vote on the substitute that I have offered for the amendment that has been offered by the gentleman from Ohio. I want to reiterate and to repeat again that the substitute that I am offering clearly, for the first time, puts into law, clarifies the right of States to license professions, to regulate the professions. We put into this amendment the so-called State action doctrine, put that into the law, and specifically say that the States have the right to establish training, education, experience requirements for the licensed professions and the permissible tasks or duties which may be performed by professions. This has what all of the professions have been asking for.

But, at the same time, having said that, we reject the arguments that

have been offered by Mr. LUKEN in which he is asking for complete exemption from the Federal Trade Act. We say that the law should retain the authority of the FTC to go after price fixing, to go after boycotts, restraint of trade, and other anticompetitive practices.

A number of my conservative friends wonder why I am in this battle. To me, this is a sound conservative position. I ask for a yes vote on the substitute.

Mr. FLORIO. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from New Jersey (Mr. FLORIO) has 7 minutes remaining.

Mr. FLORIO. Mr. Chairman, I rise in strong support of the substitute offered by the gentleman from North Carolina. I think it has got to be made clear that representations that in some way the Broyhill substitute diminishes the protection that professions have from inappropriate action by the FTC is clearly not the case.

To give but one example: The concept of State action, which limits antitrust action in matters dealing with State law is as of now a somewhat ambiguous doctrine which evolves from case law. What we are doing is to codify and write into the law that concept so that there can be no ambiguity, that the FTC will be held to the measure of the law as we are writing it with the Broyhill substitute.

Likewise, that is the concept inherent in this whole FTC bill. Those people who came forward supporting exemptions for professions and other groups came forward with a list of potential abuses that they concern themselves about, saying that potentially the FTC could do this or that or the other thing; therefore, they wanted to be exempt from the whole law.

The approach that we have taken is to say, "Let us look at the specifics. We will curb the potential for abuse, and then there is no need for a specific exemption."

When they came forward and said that the concept of unfairness is too ambiguous, we are concerned that potentially the FTC could use this ambiguous concept and go off on a hunting expedition and do things that are inappropriate. Accordingly, we have written into the law the unfairness concept so that there is no potential for abuse of that concept.

Prevalency. Some came before us and said, "Well, we are concerned that a rulemaking proceeding may be undertaken on the basis of an isolated event." We said, "That is a legitimate concern; therefore, we are going to write into the law that you cannot go and undertake a rulemaking proceeding on the existence of one isolated or a few isolated events, you have got to have reason to believe that the practice that we are going to try to address is prevalent, that there is a pattern that should be addressed by a rule."

That has been the approach that we have taken in this law and that the gentleman from North Carolina attempts to embody in this amendment, the idea of dealing with specific potentials for abuse, so that no one then can say they should be exempted from the whole thrust of the law. I think that is a wise, cost effective, moderate approach to the FTC, and I would commend the gentleman from North Carolina for going forward in a truly conservative approach, in the best sense of the word, to deal with the preservation of the free market. Therefore, I would very proudly identify with this position.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina (Mr. BROYHILL) as a substitute for the amendment offered by the gentleman from Ohio (Mr. LUKEN).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. LUKEN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 195, noes 208, not voting 30, as follows:

[Roll No. 403]

AYES—195

Addabbo	Dymally	Jeffords
Anderson	Early	Johnston
Annunzio	Eckart	Jones (TN)
Aspin	Edgar	Kastenmeier
AuCoin	Edwards (CA)	Kildee
Bailey (PA)	Erdahl	Kogovsek
Beard	Erlenborn	LaFalce
Bedell	Evans (DE)	Leach
Beilenson	Fary	Leland
Bennett	Fenwick	Lent
Bereuter	Ferraro	Livingston
Bevill	Findley	Long (LA)
Biaggi	Fish	Long (MD)
Bingham	Fithian	Lundine
Boland	Florio	Madigan
Boner	Foglietta	Markey
Bonior	Foley	Martin (IL)
Bonker	Ford (MI)	Mattox
Brodhead	Ford (TN)	Mavroules
Brown (CA)	Frank	Mazzoli
Brown (OH)	Garcia	McClory
Broyhill	Gaydos	McDade
Burton, John	Gejdenson	McGrath
Burton, Phillip	Gephardt	McHugh
Butler	Gibbons	McKinney
Chisholm	Gilman	Mica
Clay	Glickman	Mikulski
Clinger	Goodling	Miller (CA)
Collins (IL)	Gore	Miller (OH)
Conable	Gradison	Minish
Conte	Gramm	Mitchell (MD)
Conyers	Gray	Moakley
Coughlin	Green	Morrison
Coyne, William	Hall (IN)	Mottl
Crockett	Hamilton	Nowak
Daschle	Harkin	Oakar
Dellums	Hawkins	Oberstar
DeNardis	Heftel	Obey
Derwinski	Hertel	Ottinger
Dicks	Hollenbeck	Oxley
Dingell	Hopkins	Panetta
Dixon	Horton	Patterson
Donnelly	Howard	Pease
Dorgan	Hughes	Pepper
Dougherty	Hunter	Petri
Downey	Ireland	Peyser
Dwyer	Jacobs	Price
Pursell	Savage	Studds
Railsback	Scheuer	Swift
Rangel	Schneider	Synar
Ratchford	Schroeder	Traxler
Regula	Schulze	Vento
Reuss	Schumer	Walgren
Rhodes	Seiberling	Waxman
Rinaldo	Shamansky	Weaver
Ritter	Shannon	Weiss
Rodino	Sharp	Williams (MT)
Roe	Simon	Williams (OH)
Roemer	Smith (NJ)	Wirth
Rosenthal	Snowe	Wolpe
Rostenkowski	Solarz	Wortley
Roukema	Solomon	Wyden
Roybal	St Germain	Yates
Russo	Stark	Zablocki
Sabo	Stokes	Zeferetti

NOES—208

Akaka	Gingrich	Napier
Albosta	Ginn	Natcher
Alexander	Gonzalez	Neiligan
Andrews	Gregg	Nelson
Anthony	Grisham	Nichols
Archer	Guarini	O'Brien
Ashbrook	Gunderson	Parris
Atkinson	Hagedorn	Pashayan
Badham	Hall (OH)	Patman
Bafalis	Hall, Ralph	Paul
Bailey (MO)	Hall, Sam	Perkins
Barnard	Hammerschmidt	Pickle
Barnes	Hance	Pritchard
Benedict	Hansen (ID)	Quillen
Bethune	Hansen (UT)	Rahall
Bliley	Hartnett	Roberts (KS)
Boggs	Hatcher	Roberts (SD)
Bouquard	Hefner	Robinson
Brinkley	Hendon	Rogers
Brooks	Hightower	Rose
Broomfield	Hiler	Roth
Brown (CO)	Hillis	Rudd
Byron	Holland	Santini
Campbell	Holt	Sawyer
Carman	Hoyer	Sensenbrenner
Carney	Hubbard	Shaw
Chappell	Huckaby	Shelby
Chappie	Hutto	Shumway
Cheney	Hyde	Siljander
Clausen	Jeffries	Skeen
Coats	Jenkins	Skelton
Coelho	Jones (NC)	Smith (AL)
Coleman	Kazen	Smith (IA)
Collins (TX)	Kemp	Smith (NE)
Corcoran	Kennelly	Smith (OR)
Courter	Kindness	Snyder
Coyne, James	Kramer	Spence
Craig	Lagomarsino	Stangeland
Crane, Daniel	Lantos	Staton
Crane, Philip	Latta	Stenholm
Daniel, Dan	Leath	Stratton
Daniel, R. W.	LeBoutillier	Stump
Dannemeyer	Lee	Tauke
Daub	Levitas	Tauzin
Davis	Lewis	Taylor
Derrick	Loeffler	Thomas
Dornan	Lott	Trible
Dowdy	Lowery (CA)	Vander Jagt
Dreier	Lowry (WA)	Volkmer
Duncan	Lujan	Walker
Dunn	Luken	Wampler
Dyson	Lungren	Watkins
Edwards (AL)	Marlenee	Weber (MN)
Edwards (OK)	Marriott	Weber (OH)
Emerson	Martin (NC)	White
Emery	Matsui	Whitehurst
English	McCollum	Whitley
Evans (IA)	McCurdy	Whittaker
Evans (IN)	McDonald	Whitten
Fascell	McEwen	Wilson
Fazio	Michel	Winn
Fiedler	Mineta	Wolf
Fields	Mitchell (NY)	Wright
Flippo	Molinari	Wylie
Forsythe	Mollohan	Yatron
Fountain	Montgomery	Young (AK)
Fowler	Moore	Young (FL)
Frenzel	Moorhead	Young (MO)
Frost	Murtha	
Fuqua	Myers	

NOT VOTING—30

Applegate	Bowen	D'Amours
Blanchard	Breaux	de la Garza
Bolling	Burgener	Deckard

Dickinson	Marks	Porter
Ertel	Martin (NY)	Rousselot
Evans (GA)	Martinez	Shuster
Goldwater	McCloskey	Smith (PA)
Heckler	Moffett	Stanton
Jones (OK)	Murphy	Udall
Lehman	Neal	Washington

□ 1610

Mr. WHITEHURST, Mr. PARRIS, Mrs. SMITH of Nebraska, and Messrs. ATKINSON, AKAKA, THOMAS, MICHEL, and SMITH of Iowa changed their votes from "aye" to "no."

Messrs. CONABLE, DENARDIS, BONER of Tennessee, and ZEFERETTI changed their votes from "no" to "aye."

So the amendment offered as a substitute for the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1620

PARLIAMENTARY INQUIRY

Mr. BROYHILL. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BROYHILL. I inquire whether any time would be available under the 5-minute rule to further debate the Luken amendment which is pending.

The CHAIRMAN. The Chair will state that additional time would only be available by unanimous consent.

Mr. LUKEN. Mr. Chairman, is the gentleman making a request?

Mr. BROYHILL. No, Mr. Chairman, I have no request at this time, but I wondered about the 5-minute rule.

The CHAIRMAN. The pending business before the Committee is a vote on the Luken amendment.

The question is on the amendment offered by the gentleman from Ohio (Mr. LUKEN).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. LUKEN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 245, noes 155, not voting 33, as follows:

[Roll No. 404]

AYES—245

Addabbo	Bethune	Clausen
Akaka	Bevill	Clinger
Albosta	Bliley	Coats
Alexander	Boggs	Coelho
Anderson	Boner	Coleman
Andrews	Bouquard	Collins (TX)
Anthony	Brinkley	Conable
Applegate	Brooks	Corcoran
Archer	Broomfield	Courter
Ashbrook	Brown (CO)	Coyne, James
Atkinson	Brown (OH)	Craig
Badham	Butler	Crane, Daniel
Bafalis	Byron	Crane, Philip
Bailey (MO)	Campbell	Daniel, Dan
Barnard	Carman	Daniel, R. W.
Beard	Carney	Dannemeyer
Benedict	Chappie	Daub
Bennett	Cheney	Davis
DeNardis	Ireland	Pritchard
Derrick	Jeffries	Quillen
Dornan	Jenkins	Rahall
Dougherty	Johnston	Regula
Dowdy	Jones (NC)	Rhodes
Dreier	Jones (TN)	Ritter
Duncan	Kazen	Roberts (KS)
Dunn	Kemp	Roberts (SD)
Dwyer	Kennelly	Robinson
Dyson	Kindness	Roe
Edwards (AL)	Kramer	Rogers
Edwards (OK)	Lagomarsino	Rose
Emerson	Lantos	Roth
Emery	Latta	Roukema
English	Leath	Rudd
Evans (DE)	LeBoutillier	Santini
Evans (IA)	Lee	Sawyer
Evans (IN)	Lewis	Schulze
Fascell	Livingston	Sensenbrenner
Fazio	Loeffler	Shaw
Fiedler	Long (LA)	Shelby
Fields	Lott	Shumway
Findley	Lowery (CA)	Siljander
Flippo	Lujan	Skeen
Foley	Luken	Skelton
Forsythe	Lungren	Smith (AL)
Fountain	Marlenee	Smith (IA)
Frenzel	Marriott	Smith (NE)
Frost	Martin (NC)	Smith (OR)
Fuqua	Mattox	Snyder
Gaydos	McClory	Spence
Gingrich	McCollum	Stangeland
Ginn	McCurdy	Staton
Goodling	McDade	Stenholm
Gregg	McDonald	Stratton
Grisham	McEwen	Stump
Guarini	McKinney	Tauke
Gunderson	Michel	Tauzin
Hagedorn	Miller (OH)	Taylor
Hall (OH)	Mineta	Thomas
Hall, Ralph	Mitchell (NY)	Trible
Hall, Sam	Molinari	Vander Jagt
Hamilton	Montgomery	Volkmer
Hammerschmidt	Moore	Walker
Hance	Moorhead	Wampler
Hansen (ID)	Morrison	Watkins
Hansen (UT)	Murphy	Weber (MN)
Hartnett	Murtha	Weber (OH)
Hatcher	Myers	White
Hefner	Napier	Whitehurst
Heftel	Natcher	Whitley
Hendon	Nelligan	Whittaker
Hightower	Nelson	Whitten
Hiler	Nichols	Williams (OH)
Hillis	O'Brien	Wilson
Holland	Oxley	Winn
Holt	Parris	Wolf
Hopkins	Pashayan	Wright
Hoyer	Patman	Wylie
Hubbard	Patterson	Yatron
Huckaby	Paul	Young (AK)
Hughes	Perkins	Young (FL)
Hutto	Petri	Young (MO)
Hyde	Pickle	

NOES—155

Annunzio	Dicks	Glickman
Aspin	Dingell	Gonzalez
AuCoin	Dixon	Gore
Bailey (PA)	Donnelly	Gradison
Barnes	Dorgan	Gramm
Bedell	Downey	Gray
Beilenson	Dymally	Green
Bereuter	Early	Hall (IN)
Biaggi	Eckart	Harkin
Bingham	Edgar	Hawkins
Boland	Edwards (CA)	Hertel
Bonior	Erdahl	Hollenbeck
Bonker	Erlenborn	Horton
Brodhead	Ertel	Howard
Brown (CA)	Fary	Hunter
Broyhill	Fenwick	Jacobs
Burton, John	Ferraro	Jeffords
Burton, Phillip	Fish	Kastenmeier
Chappell	Fithian	Kildee
Chisholm	Florio	Kogovsek
Clay	Foglietta	LaFalce
Collins (IL)	Ford (MI)	Leach
Conte	Ford (TN)	Leland
Conyers	Fowler	Lent
Coughlin	Garcia	Levitas
Coyne, William	Gejdenson	Long (MD)
Crockett	Gephardt	Lowry (WA)
Daschle	Gibbons	Lundine
Dellums	Gilman	Madigan
Markey	Pursell	Smith (NJ)
Martin (IL)	Railsback	Snowe
Matsui	Rangel	St Germain
Mavroules	Ratchford	Stark
Mazzoli	Reuss	Stokes
McGrath	Rinaldo	Studds
McHugh	Rodino	Swift
Mikulski	Roemer	Synar
Miller (CA)	Rosenthal	Traxler
Minish	Rostenkowski	Vento
Mitchell (MD)	Roybal	Walgren
Moakley	Russo	Waxman
Mottl	Sabo	Weaver
Nowak	Savage	Weiss
Oakar	Scheuer	Williams (MT)
Oberstar	Schneider	Wirth
Obey	Schroeder	Wolpe
Ottinger	Schumer	Wortley
Panetta	Seiberling	Wyden
Pease	Shamansky	Yates
Pepper	Shannon	Zablocki
Peyser	Sharp	Zeferetti
Price	Simon	

NOT VOTING—33

Blanchard	Frank	Mollohan
Bolling	Goldwater	Neal
Bowen	Heckler	Porter
Breaux	Jones (OK)	Rousselot
Burgener	Lehman	Shuster
D'Amours	Marks	Smith (PA)
de la Garza	Martin (NY)	Solarz
Deckard	Martinez	Solomon
Derwinski	McCloskey	Stanton
Dickinson	Mica	Udall
Evans (GA)	Moffett	Washington

□ 1640

Mr. GOODLING and Mr. WATKINS changed their votes from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. DANNEMEYER

Mr. DANNEMEYER. Mr. Chairman, I offer an amendment that is printed in the RECORD.

The Clerk read as follows:

Amendment offered by Mr. DANNEMEYER: Page 14, line 25, strike out "$66,080,000" and insert in lieu thereof "$60,838,000".

Page 15, line 1, strike out "$70,705,000" and insert in lieu thereof "$55,100,000".

Page 15, line 2, strike out "$75,654,000" and insert in lieu thereof "$54,600,000".

The CHAIRMAN. Under the rule, the gentleman from California (Mr. DANNEMEYER) will be recognized for 15 minutes, and a Member opposed to his amendment will be recognized for 15 minutes.

The Chair recognizes the gentleman from California (Mr. DANNEMEYER).

Mr. DANNEMEYER. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, when the authorization committee considered this reauthorization bill for the FTC we, like every authorization committee, considered the level of funding. One of the processes that has fascinated this Member from California in the 4 years I have been privileged to serve in this House, when serving on an authorization committee, is the process we go through in setting levels of authorization; that is, spending for a fiscal year.

I have served on the Energy and Commerce Committee for 4 years and each time one of those levels of spending is set I listen carefully for the leg-

islative justification for what additional programs will be forthcoming that would justify additional money to be spent.

When we in the committee considered the reauthorization for this bill there was little, in fact there was no evidence as to what they intended to do with the money that we have authorized in this bill beyond what the FTC asked for. That is why this amendment is being offered.

Very simply, in this fiscal year the bill before us provides for $66 million. The amendment would lower that to $60 million. In the next fiscal year the bill provides for $70 million. The amendment would lower it to $55 million. For 1985 the bill provides for $75 million and the amendment lowers it to $54 million, a modest reduction in authorization.

I want to point out to the Members that the level of authorization which this amendment proposes, if adopted, will be consistent with what the FTC asked for. It will be consistent with the budget resolution which we adopted in this House earlier this year. It is consistent with what the other body has adopted for fiscal year 1983, 1984, and 1985. It also happens to be consistent with what the administration asked for.

I think that is a pretty good track record. We are all concerned about the deficits staring all of us in the face and this amendment gives us a chance to reduce the authorization for the FTC in the current fiscal year by $6 million, in the next fiscal year by $15 million, and in the one after that by $21 million.

Again, I say this is consistent with what the FTC itself has asked for. That is all the money they say they need and I think it is a responsible act of stewardship for us to adopt this amendment to the level that is proposed.

I yield back the balance of my time.

Mr. FLORIO. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman is recognized for 15 minutes.

Mr. FLORIO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I must oppose the Dannemeyer amendment and its effort to reduce the level of FTC authorization below the reductions already called for in our committee bill.

The Dannemeyer amendment would return the Federal Trade Commission to funding levels comparable to those which the FTC had in the 1960's when it was criticized for its inactivity and timidity. This is unacceptable. In a time of economic distress, the public needs more protection, not less, from anticompetitive behavior and fraud.

Let us look at the figures.

The Commission is currently operating at a level of $69 million. Our committee bill reduces that by $3 million for fiscal year 1983 and the Dannemeyer amendment is another $5 million below ours, at $61 million. Mr. Dannemeyer says we should adopt the $61 million figure because it is the administration budget figure. But the President's Chairman of the FTC, Mr. Miller, told our committee that he believes, and I quote: "authorized funding levels should accommodate upward flexibility (for example, by 10 percent) * * *." If 10 percent is added to the Dannemeyer figure you have the figure that is in H.R. 6995. So I do not think it can be said that the administration opposes our authorization figure for fiscal year 1983.

After 1983, our bill simply increases the ceiling to account for inflation, without raising the effective level of enforcement at the Commission. The Dannemeyer amendment, however makes further major cuts, which, if inflation is accounted for, would cripple the Federal Trade Commission.

Perhaps the most immediate effect of the Dannemeyer amendment will be the closing of the FTC's regional offices. Congressman ROSENTHAL's Government Operations oversight hearings on this issue last spring reaffirmed that the best law enforcement work the FTC does is in the field. Those offices literally pay for themselves several times over in the consumer redress and civil penalty awards they win from FTC law violators all over the country. Yet the Commission has already determined that if it has only the $60.8 million to spend in fiscal year 1983, as specified in the Dannemeyer amendment, it will be necessary to close 4 of its 10 regional offices—in Boston, Denver, Los Angeles, and Seattle—and reduce the performance of the remaining 6 offices.

A vote for this amendment is a vote against the tens of thousands of consumers and businesses who contact the regional offices every year.

The proponents of the Dannemeyer amendment say that this result is required by budget austerity. That is a false issue. The budget of the FTC is already tiny compared to other agencies. Moreover, money spent for competition enforcement returns itself many times over in bringing to bear competitive forces to check inflation. I question whether the effort to slash the FTC's budget does not reflect a different agenda—the agenda of the special interests who have sought to destroy the Commission and have not been willing to come forward in a straightforward way and attempt to carve out exemptions as has been done here today. I urge the House to reject that agenda and support the committee bill.

□ 1650

Mr. BROYHILL. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from North Carolina.

Mr. BROYHILL. I thank the gentleman for yielding.

Mr. Chairman, it is with a great deal of reluctance that I rise in opposition to the amendment offered by the gentleman from California, the gentleman for whom I have a great deal of respect for the kind of work he has been doing in budgetary matters.

I would point out, however, that in all legislation we must reach accommodation and compromise in order to bring legislation to completion. Certainly these figures fall within that description.

I would point out that the authorization figures that we have in this bill, the $66 million figure for 1983, is considerably lower than the authorization figures that are in present law. Present law calls for an authorization of $80 million for the fiscal year which just ended on September 30, a few weeks ago.

So we have made reductions in the authorization levels that the prior Congresses have provided for.

I might also point out that our figures are within the range of the recommendations that were made by the Chairman of the FTC, Mr. Miller, and that the $66 million figure for fiscal year 1983 I think is a moderate figure.

I would also point out that these are ceilings. We are not mandating these as expenditures. The Appropriations Committee, of course, will be making that final judgment. The Commission, of course, is continuing to operate in a cost-effective way. A number of changes have already been instituted at the Commission to enhance economy, as well as efficiency.

So I would urge that we stick with the compromise figures that we have in the bill, $66 million as being a compromise between that offered by the gentleman from California (Mr. DANNEMEYER) and that which is in present law.

Mr. FLORIO. I thank the gentleman.

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from New York.

Mr. LENT. I thank the gentleman for yielding.

Mr. Chairman, the gentleman referred earlier to the penalties collected by the Federal Trade Commission.

It is my understanding that serious concern has been expressed that excessive penalties have been sought by the FTC and levied by the courts against some individual companies under the FTC Act. It is further my understanding that when the Senate Commerce Committee considered legislation reauthorizing the FTC, their bill, S. 2499, included a provision placing a cap on the total penalties the

Commission may levy against any individual or company who violates an FTC consumer protection order or rule.

I further understand that this committee, during its consideration of the FTC reauthorization bill before us, took note of not only the excessive penalty concern addressed by the Senate committee, but also the concern that some discrepancy has existed in the past in the evaluation of penalties for printed and broadcasted advertising messages which violate FTC rules or orders, such that the advertisements broadcasted to an audience of millions through radio or television have been considered a single violation, whereas each copy of a printed advertisement has also been considered a single violation. Since each violation is subject to a fine of up to $10,000, there is potential liability of millions of dollars if each item in a bulk mailing or each copy of a magazine distributed constituted a separate violation.

But unlike the Senate committee bill, the House committee included no provision in this bill to address these issues.

Mr. FLORIO. If the gentleman will yield, the gentleman is correct that the committee bill includes no provision on this matter, leaving the decision on penalties to the courts, as provided in the current law. But the committee does not recognize the concern that has arisen, and considers it a matter warranting added guidance by the committee. The committee's report takes note of the millions of dollars of potential penalties that bulk mail and magazine publishers could face each if each copy of a print ad were subjected to a maximum penalty.

The committee's report indicates that in seeking and imposing penalties, the commission and courts should consider, among other factors, the seriousness of the violation, the extent of consumer injury, and the size of the receiving audience.

Mr. LENT. What assurance does the gentleman have that the Commission will address the issue of penalties?

Mr. FLORIO. Well, the committee report specifically requests that the Commission take the necessary steps to insure that it follows a policy on penalties consistent with the committee's guidance in this area.

Mr. LENT. I thank the gentleman for his clarification of this matter and trust that the FTC will heed the committee's request in the future.

Mr. DANNEMEYER. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa (Mr. TAUKE).

Mr. TAUKE. I thank the gentleman.

Mr. Chairman, during the time that we considered this legislation in committee, we took the opportunity to review the record that had been established during subcommittee and to review the request from the Federal Trade Commission. The majority of the Federal Trade Commission did not seek the level of authorization that is included in the legislation. They sought the level of authorization that is included in the Dannemeyer amendment.

Moreover, there is nothing that was provided during the course of the hearing record which gave any justification for increasing the authorization beyond the level of that requested.

It occurs to me that the changes that we have made in the Federal Trade Commission, attempting to limit its scope, were changes that were made because we believe the Federal Trade Commission was doing more than it ought to be doing. Because the Federal Trade Commission now recognizes that and because Congress has indeed followed through in limiting the scope of the Federal Trade Commission, it seems to me it is appropriate that we also hold down the authorization level. This is especially important at a time when we have huge deficits at the Federal level.

If we are going to make the budget process work, we have to make it work at every step of the way. This is the first step, the authorization step, and I think we should make it work now by only authorizing those levels which are necessary to carry out the work of the FTC as mandated in this legislation.

So I join with my colleague, the gentleman from California, in urging the Members to adopt the Dannemeyer amendment.

Mr. DANNEMEYER. Mr. Chairman, I yield 1 minute to the gentleman from Virginia (Mr. BLILEY).

Mr. BLILEY. I thank the gentleman for yielding.

Mr. Chairman, I want to commend the gentleman from California for this amendment. It is small; perhaps many would say it is too small even for us to consider. But the principle is involved. Here we are all concerned with budget deficits, budget deficits that are far too high, with crowding out in the interest markets, which is keeping interest rates at too high a level.

Yet appropriation bill after appropriation bill comes in, and it is over the target. Here we have a chance to do what the Commission says is all it needs, and I think we ought to do it. I commend the gentleman from California.

Mr. DANNEMEYER. Mr. Chairman, I yield 4 minutes to the gentleman from Texas (Mr. GRAMM).

Mr. GRAMM. Mr. Chairman, I rise in support of this amendment.

I would like to ask Members this evening to recall back in the spring of this year, when we were all concerned about trying to write a budget that had a deficit that we were proud to take back home to our constitutents. The administration proposed for the Federal Trade Commission budget figures in fiscal year 1983 of $60 million; in 1984, $55 million; in 1985, $54.6 million. The first time around we did not adopt a budget because nobody wanted to vote for a budget that had over a $100 billion deficit. After not having a budget for 3 weeks, we were able to put together a bipartisan compromise that brought the deficit down to a level where we could get a majority vote.

In trying to put together that compromise, we reduced the level of funding for the Federal Trade Commission implicitly in our outline from $60 million down to $46 million and kept it at $46 million for 3 years. Therefore, Mr. Chairman, we are not here today trying to bring spending back into the level of the budget.

□ 1700

We are not, Mr. Chairman, here in this amendment trying to bring the authorization for FTC back in budget. The Dannemeyer amendment will still carry a higher level of funding than we adopted in the bipartisan recovery budget and is now the binding budget on this Congress.

What it does, however, while it does not bring us back into budget it says do not give the Federal Trade Commission more money than they have asked for. If we are serious about controlling spending, it seems to me perfectly reasonable at a time that we are trying to limit the power of the Federal Trade Commission, when this body has just voted to reduce its authority, when the clear mandate of the American people is to force regulatory reform, when we have gone years without authorizing the Federal Trade Commission because we disapproved of what it was doing, I think the time has come now when we are talking about a $150 to $200 billion deficit to take this little step to show that here in the fall we have not forgotten the commitment we made in the spring to try to live within our budget.

And I ask my colleagues, if we are not going to hold the line on spending on the Federal Trade Commission, then where are we going to hold the line on spending?

I think it is imperative that we adopt this amendment and clearly set a principle that we are going to try to live within the budget we adopt, that we do not set out these budgets just to sell them back home, that we set them out to live on them in Washington.

I believe the issue here is that we have people who want to force the Federal Trade Commission to do more regulating, to undertake more studies, and to undertake more intervention than the Congress wants them to undertake or that they have requested to undertake.

So I urge my colleagues to vote for this amendment, not to bring it back into budget, this will not do that, but at least do not force them to spend more than they have asked for, bring it back to the level they requested which I repeat is still substantially above the level which we adopted in the bipartisan recovery budget.

Mr. DANNEMEYER. Mr. Chairman, I yield back the balance of my time.

Mr. FLORIO. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. DANNEMEYER).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. DANNEMEYER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 241, noes 158, not voting 34, as follows:

[Roll No. 405]

AYES—241

Andrews	Dowdy	Hunter
Anthony	Dreier	Hutto
Applegate	Duncan	Hyde
Archer	Dunn	Ireland
Ashbrook	Dyson	Jacobs
Atkinson	Edwards (AL)	Jeffords
Badham	Edwards (OK)	Jeffries
Bafalis	Emerson	Jenkins
Bailey (MO)	Emery	Johnston
Barnard	English	Jones (NC)
Beard	Erdahl	Jones (TN)
Benedict	Erlenborn	Kazen
Bennett	Ertel	Kemp
Bereuter	Evans (DE)	Kindness
Bethune	Evans (IA)	Kogovsek
Bevill	Evans (IN)	Kramer
Bliley	Fiedler	Lagomarsino
Boggs	Fields	Latta
Boner	Findley	Leath
Bouquard	Fish	LeBoutillier
Bowen	Fithian	Lee
Brinkley	Flippo	Lewis
Broomfield	Ford (TN)	Livingston
Brown (CO)	Forsythe	Loeffler
Brown (OH)	Fountain	Long (LA)
Butler	Frenzel	Lott
Byron	Gaydos	Lowery (CA)
Campbell	Ginn	Lujan
Carman	Goodling	Lungren
Carney	Gradison	Madigan
Chappell	Gramm	Marlenee
Chappie	Gregg	Marriott
Cheney	Grisham	Martin (IL)
Clausen	Gunderson	Martin (NC)
Clinger	Hagedorn	McClory
Coats	Hall (OH)	McCollum
Coleman	Hall, Ralph	McCurdy
Collins (TX)	Hall, Sam	McDade
Conable	Hamilton	McDonald
Conte	Hammerschmidt	McEwen
Corcoran	Hance	McGrath
Coughlin	Hansen (UT)	McKinney
Courter	Hartnett	Michel
Coyne, James	Hatcher	Miller (OH)
Craig	Heckler	Mitchell (NY)
Crane, Daniel	Hefner	Molinari
Crane, Philip	Heftel	Montgomery
D'Amours	Hendon	Moore
Daniel, Dan	Hightower	Moorhead
Daniel, R. W.	Hiler	Morrison
Dannemeyer	Hillis	Murtha
Daub	Holland	Myers
Deckard	Holt	Napier
Derrick	Hopkins	Nelligan
Derwinski	Horton	Nichols
Dornan	Hubbard	O'Brien
Dougherty	Huckaby	Oxley
Pashayan	Schneider	Tauzin
Patman	Schroeder	Taylor
Patterson	Schulze	Thomas
Paul	Sensenbrenner	Trible
Petri	Shaw	Vander Jagt
Pickle	Shelby	Walker
Pritchard	Shumway	Wampler
Pursell	Siljander	Watkins
Quillen	Skeen	Weber (MN)
Rahall	Skelton	Weber (OH)
Railsback	Smith (AL)	White
Regula	Smith (NE)	Whitehurst
Ritter	Smith (NJ)	Whitley
Roberts (KS)	Smith (OR)	Whittaker
Roberts (SD)	Snowe	Williams (OH)
Robinson	Snyder	Wilson
Roemer	Solomon	Winn
Rogers	Spence	Wolf
Rose	Stangeland	Wortley
Roth	Staton	Wylie
Roukema	Stenholm	Yatron
Rudd	Stratton	Young (FL)
Santini	Stump	
Sawyer	Tauke	

NOES—158

Addabbo	Fowler	Oberstar
Akaka	Frost	Obey
Albosta	Fuqua	Ottinger
Alexander	Garcia	Panetta
Anderson	Gejdenson	Parris
Annunzio	Gephardt	Pease
Aspin	Gibbons	Pepper
AuCoin	Gilman	Perkins
Bailey (PA)	Glickman	Peyser
Barnes	Gonzalez	Price
Bedell	Gore	Rangel
Beilenson	Gray	Ratchford
Biaggi	Green	Reuss
Bingham	Guarini	Rinaldo
Boland	Hall (IN)	Rodino
Bonior	Harkin	Roe
Bonker	Hawkins	Rosenthal
Brodhead	Hollenbeck	Rostenkowski
Brooks	Howard	Roybal
Brown (CA)	Hoyer	Russo
Broyhill	Hughes	Sabo
Burton, John	Kastenmeier	Savage
Burton, Phillip	Kennelly	Scheuer
Clay	Kildee	Schumer
Coelho	LaFalce	Seiberling
Collins (IL)	Lantos	Shamansky
Conyers	Leach	Shannon
Coyne, William	Leland	Sharp
Crockett	Lent	Simon
Daschle	Levitas	Smith (IA)
Davis	Long (MD)	St Germain
Dellums	Lowry (WA)	Stark
Dicks	Luken	Stokes
Dingell	Lundine	Studds
Dixon	Markey	Swift
Donnelly	Matsui	Synar
Dorgan	Mattox	Traxler
Downey	Mavroules	Vento
Dwyer	Mazzoli	Volkmer
Dymally	McHugh	Walgren
Early	Mica	Waxman
Eckart	Mikulski	Weaver
Edgar	Miller (CA)	Weiss
Edwards (CA)	Mineta	Whitten
Fary	Minish	Williams (MT)
Fascell	Mitchell (MD)	Wirth
Fazio	Moakley	Wolpe
Fenwick	Mollohan	Wright
Ferraro	Mottl	Wyden
Florio	Natcher	Young (AK)
Foglietta	Nelson	Young (MO)
Foley	Nowak	Zablocki
Ford (MI)	Oakar	

NOT VOTING—34

Blanchard	Hansen (ID)	Rhodes
Bolling	Hertel	Rousselot
Breaux	Jones (OK)	Shuster
Burgener	Lehman	Smith (PA)
Chisholm	Marks	Solarz
de la Garza	Martin (NY)	Stanton
DeNardis	Martinez	Udall
Dickinson	McCloskey	Washington
Evans (GA)	Moffett	Yates
Frank	Murphy	Zeferetti
Gingrich	Neal	
Goldwater	Porter	

□ 1710

The Clerk announced the following pair:

On this vote:

Mr. Breaux for, with Mr. Yates against.

Messrs. ANDREWS, DERRICK, and SHELBY changed their votes from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

□ 1720

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BROWN of California, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6995) to amend the Federal Trade Commission Act to extend the authorization of appropriations contained in such act, and for other purposes, pursuant to House Resolution 587, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

INSTRUCTING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 6995, FEDERAL TRADE COMMISSION AUTHORIZATION ACT OF 1982

Mr. FLORIO. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill (H.R. 6995) to amend the Federal Trade Commission Act to extend the authorization of appropriations contained in such act, and for other purposes, the Clerk be instructed to make technical and conforming changes in section numbers, punctuation marks, and cross references.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

GENERAL LEAVE

Mr. FLORIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PERSONAL EXPLANATION

Mr. FOUNTAIN. Mr. Speaker, on rollcall No. 402, the Labor, Health and Human Services appropriation bill, I was unavoidably detained and could not be present. I would like the RECORD to show that had I been present I would have voted "aye."

COMMUNICATION FROM LEO CHARLES INGLESBY, JR.

The SPEAKER pro tempore (Mr. MURTHA) laid before the House the following communication:

SILVER SPRING, MD.,
December 1, 1982.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Please be advised that I have been subpoenaed to testify before a grand jury in the U.S. District Court on December 2, 1982.

Respectfully,
LEO CHARLES INGLESBY, Jr.

SAMURAI ECONOMICS SLICE TIES OF GATT, FREE TRADE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. GAYDOS) is recognized for 60 minutes.

GENERAL LEAVE

Mr. GAYDOS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today, including my remarks concerning members of the Pennsylvania delegation who are concluding their service in the House of Representatives.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. GAYDOS. Mr. Speaker, as this Congress assembles for its last session, we expect to consider ways of creating jobs for Americans put out of work by the recession while day in and day out a trade war kills jobs and companies and contributes to the recession.

A recent dispatch from the Japanese front of the Atlantic and Pacific trade war illustrates how jobs are still-born. And it may have disclosed the real barrier protecting the Japanese market from American-made goods.

This barrier is starkly shown by the words of an important executive of Nippon Telegraph & Telephone, who told the Wall Street Journal that:

> The Japanese are a people that can manufacture a product of uniformity and superior quality because the Japanese are a race of completely pure blood, not a mongrelized race as in the United States.

Mr. Speaker, this is the ultimate nontariff barrier. It cannot be negotiated away. And it does not even violate the general agreement on tariffs and trade (GATT).

The man who said this is Toshio Soejima, the Deputy Director of Engineering for the Government's telephone monopoly. What he believes is important because there is every chance he has a lot to say about what NT&T uses or ignores.

The NT&T market is one U.S. manufacturers long have wanted to crack. Although it is supposed to have been made more open, not much business has been done. In fact, a major American company may have lost ground because of the opening.

The company, Motorola, worked long and hard for a chance to sell pages through NT&T. They eventually won permission. Not long after they began selling there, a brand new Japanese firm entered the market with—guess what?—pagers. They sell in the United States at about 30 percent less than in Japan and at about 50 percent of Motorola's price. They have 10 percent of the U.S. market.

In addition, NT&T is a bulwark of cartel-like government-subsidized research that they are counting on to give them a market-dominating lead in computer technology. Attaining such domination is one of their official government targets. At NT&T their custom has been to buy Japan.

In considering custom and barriers and Mr. Soejima, there are two things to keep in mind. First, Japan's intense competition for good government jobs means there is every chance that he represents their best and brightest. Second, understand that the pressure for conformity there could mean he is only reflecting the unwritting policy of his superiors. So what Mr. Soejima thinks may be of exceeding importance.

Furthermore, his may be only a more outspoken way of saying what their professional negotiators mean when they talk of cultural differences to explain away a closed market; or when they point to a weak import habit; or when they note that Japanese consumers are very demanding.

To me, what Mr. Soejima thinks looks like an extreme manifestation of economic nationalism. In his book, "MITI and the Japanese Miracle," Dr. Chalmers Johnson touched on economic nationalism and its place in Japan's economy during the 50 years it took to make the miracle.

Dr. Johnson rightly assigns MITI—the Ministry of International Trade and Industry, and its predecessor agencies, including the munitions ministry of World War II—the role of economic general staff. MITI built and pointed the Japanese juggernaut and still maintains it.

Around MITI, particularly during the growth years, they worried a lot about what they called—and I quote—"The Invasion of American Capital" and the possibility of an American-owned, or dominated, Japan. They never let it happen. They put barriers in place.

Dr. Johnson reported that, "Japanese analysts usually characterize the basic outlook of MITI officials as 'Nationalistic' * * * they like to use such expressions as joi and iteki." Mr. Speaker, joi is the expulsion of foreigners; iteki is barbarians. One former trade promotion director preferred the even more explicit term keto; keto is a particularly unpleasant foreigner, a hairy Chinese.

Dr. Johnson noted that, "they see their function in life as the protection of Japanese industries from 'foreign pressure.'"

In Japan, the bureaucrats call the shots. The head of MITI during the years they laid the foundation for today was a man revered as—and agains I quote Dr. Johnson quoting the Japanese—a "samurai among samurai, an official who uses force." He was seen as undisputed leader of the "nationalistic faction."

In fact, one postwar Prime Minister felt his economic bureaucrats were—and this is another quote from the Japanese—"dangerously national socialist." You see, industrial development in Japan took as a starting point the German miracle of the 1930's that led to the tragedy of the 1940's. The same old-boy network at MITI that tended prewar industrialization cranked up the same old economic machine after the war. They could not be purged. They worked the miracle. Their heirs still run the show.

At MITI specifically, and around Japan, they saw—and act as if they still see—a lot of sense in the postwar observation that Dr. Johnson attributes to one of the miracle workers.

They say in Japan, "It is much harder to nullify the results of an economic conquest than those of a military conquest."

In Japan, they have a different perspective on economic theory. Dr. Johnson credits them with inventing the concepts of—again, I quote the terms directly—"excessive competition" and "industrial policy." Excessive competition is discouraged and industrial policy encompasses the shielding of strategic industries.

And here, Mr. Speaker, are two key summary observations from Dr. Johnson's book. The book deals with the forging of an economic theory other than that preached by Adam Smith. It deals with what I call samurai economics.

According to Dr. Johnson, "Japan's political economy can be located precisely in the line of descent from the German historical school—sometimes labeled economic nationalism * * * or neomercantilism. This school is not exactly in the mainstream of economic thought in English-speaking countries."

He notes that, "industrial policy is a reflection of economic nationalism * * * giving priority interests to one's own nation * * * a recognition that the global economic system is never to be understood in terms of the free competitive model."

In the name of Adam Smith and other cherished illusions, Mr. Speaker, world trade as seen from Japan is never, never, never to be understood in terms of the free competitive model.

Dr. Johnson's study is thorough and informative. The time available to me now does not allow discussion of even the hundredth part of it. One of his conclusions is that Japan's economy now is fully liberalized and open to competition, that they are much nicer fellows now. I disagree. I think recent events dispute it. And I think I could find executives at Motorola and across industrial America who also would disagree.

Nevertheless, they still cherish this industrial policy and are pursuing it in high technology; and if Samurai economics does not understand free competition, we had better begin to understand Samurai economics. And we had better find some way to deal with it.

Call it modified facism, call it state capitalism, call it a plan-rational economy as Dr. Johnson does, call it what you will, Samurai economics mobilizes the resources of a nation behind barriers and when they are strong unleashes them in ways that lead to economic conquests.

Remember, Mr. Speaker, the term economic conquest is theirs, not mine; it is from their rules of the game. But if you want an example, look at the 2,400-employee plant Ford recently closed in California where imports have about 50 percent of the market. The Japanese cars among them come here with an export tax forgiveness of up to 22.5 percent. This subsidy gives a cutting edge in the market. And it offends GATT no more than Mr. Soejima.

But my reason for speaking today is not a step-by-step discussion of the miracle, or even to attempt an analysis of Japanese attitudes. It is merely to offer some background.

This background is useful in considering the trade war because every developing nation in the world wants to climb the ladder to become an industrial nation; and they are copying Japanese tactics. Why not? There is no disputing their effectiveness.

And the industrial nations that fear falling off the ladder have turned to subsidy and barrier to keep their place.

And all of them—the Europeans, Japan, Asian nations imitating Japan, other developing nations such as Brazil, the third world—focus on the U.S. market and invoke the American responsibility to take their goods.

My point is that virtually no nation of the 88 involved in the GATT ministerial meeting in Europe last week understands the global economic model in terms of free international competition—no nation except the United States.

As one Michigan-based management consultant told the Christian Science Monitor last September, "The U.S. industrial base will be so eroded that the only thing we will be exporting will be free enterprise ideology."

Pursuit of pure ideology is one of our faults. This has been characterized by Gordon Hurlburt of Westinghouse power systems as a "self-destructive virtuousness" that is determined to throw away whatever trade advantage the United States may have.

Mr. Speaker, there is no more demand for free enterprise ideology in international trade today than in Japan; Samurai economics are carrying the market.

"Everybody is trying to export more and import less," said a former U.S. trade official in explaining the difficulties leading to the GATT Conference.

I think no lessons are lost on them. They look at Japan. They look at this market. And they see the part this market played in performing the miracle. And for growth or stability, the goods come washing ashore on waves of subsidy; the same goods our people make, or used to make.

As was noted in a Pittsburgh Post Gazette analysis, reprinted from the National Journal, the GATT Conference was convened to deal with a contradiction: A system of world trade designed in hopes of promoting world economic stability seems to be doing just the opposite.

But samurai economics have turned the system into something other than what the designers had in mind. Designed to promote the free exchange of goods according to the idea of comparative advantage, it has come to be looked on as an international program of income redistribution. Some in the industrial world, some in the developing world, and much of the Third World look on it as entitlement.

Why it is even possible to read of Europeans scolding the United States for not inflating its economy so goods can move; or of others urging America to be more responsible.

As demonstrated by the automobile export subsidy and by Mr. Soejima, GATT is difficult to offend. The Post Gazette analysis looked on it as a set of agreed-to rules without effective enforcement. The existence of the rules was said to have fostered a climate of self-restraint that held together world trade. It was an honor system, a gentlemen's agreement.

But now everybody wants to export more and import less. And the victims in the United States try to enforce the gentlemen's agreement with our trade law, and things are so bad the system is almost overwhelmed.

You see, the precedent setting steel subsidy and dumping cases against the Europeans are not the only complaints that have been made. The International Trade Commission is having the busiest year ever. And the commissioners are faced with allegations of subsidy and dumping in almost every sector of the ecomony.

Meanwhile, our trade experts went to the GATT ministerial last week with the announced goal of averting a trade war.

Mr. Speaker, if the fault of generals is that they always are preparing to fight the last war, America's trade experts have a similar failing: They always are trying to prevent the outbreak of a trade war that is well underway; this is one we are losing. This is true over a long span of time, as one analyst noted, we tend to be idealists.

As for the Conference, the positions leading up to it were as confused as any battleground. The United States and the European Common Market wanted Japan opened—this is the third attempt to get Japan to open up. The United States has agricultural goods it needs to export. The Europeans are subsidizing agricultural exports.

On the agriculture question, the president of the Common Market said, "we will not accept any measures that jeopardize the essential interests of our people." I think he meant they are not going to quit subsidizing.

This is another instance of Europe doing what Europe must do. But I was surprised to hear that the president, a Dane, said it because the sentiment is very French.

But the French Trade Minister had something else to say about GATT; he said, "It is outdated before it starts because all that will be talked about is the philosophy and the trade of our grandfathers." The French wanted to talk about the neo-protectionist Americans and how we are causing them so much trouble with our economy.

France is the chief provocateur of European surliness, which does not offend GATT either.

At this point I would like to amend an observation of Napoleon, who led the French, and say, it seems to be an absolute principle of the French that every blow perceived must be returned—and sometimes they must strike first. So the French are putting up barriers that have a Japanese flair for ingenuity and innovation. For example, imports of some kinds of video consumer electronics have to clear through a town far removed from the ports; and it is the only place they can clear. France is backing the develop-

ment of its own enterprises in some of these goods.

Meanwhile back at GATT, the United States also wanted to talk about removing some barriers to trade in services and investment. Developing nations opposed it. Why? They did not want to be dominated by outsiders. It is not only the Japanese who worry about an invasion of American capital.

By the way, the developing nations wanted to keep their preferences in the U.S. market.

The leader of this faction was Brazil, according to accounts out of Geneva. So it is not unfair to look at how Brazil honors the gentlemen's agreement. Brazil recently closed its borders to imports except things it needs. It wants to export more. Its steel industry was built with U.S. assistance, including Eximbank loans, and yet Brazil was named in the recent subsidy cases. Brazil is one of the countries whose trading tactics are reducing the United States to supplier of the residual world soybean market. Brazil was encouraged and assisted as a soybean producer by Japan to break a dependence on the United States. And it was Brazil last week that ran a full-page ad that cost at least $20,000 in the Washington Post urging Congress to overturn a tariff increase of fuel ethanol.

Napoleon never led the Brazilians, but he described this situation when he said, "If you wish to study men, learn how far their patience can stretch."

The GATT meeting was not a peace conference to avert a trade war. It was an attempt to get a cease-fire in a war going full tilt. It is too early to know what will happen, if anything, as a result of the Conference. It may take years even to get their attention pursuing our traditional idealist tactics. Even commercial diplomacy requires more than a rousing ideological argument and saying please.

Meanwhile, they are calling the industrial Midwest the rustbowl in this recession; it is the successor to the dustbowl of the 1930's Depression.

The Wall Street Journal looked at the rustbowl this month and found that many industrial leaders fear a bad year in 1983 will destroy their companies. Two were quoted anonymously, probably going unidentified to avoid damaging their companies in the market. An executive for a firm that makes transportation products said, "If the the economy does not turn next year, we are not going to be here." And the chairman of a machinery company said, "The truth is, if orders does not pick up soon, we are gone." The executive surveyed for the survey almost universally cited a collapse in orders, and exports.

Respected analysts say that trade barriers and tensions are popping up because the world-wide recession has made everybody sensitive to it.

But equally respected analysts have said that the recession is due in part to trade—to predatory trade, to samurai trade that as a policy of government exports more and imports less.

I agree with the second bunch.

More and more opinion leaders are beginning to agree with the second bunch, even if the Japan lobby here calls them nasty protectionists who are too brutish and greedy to understand more sensitive and vulnerable cultures like Mr. Soejima's.

One clear-seening leader is William L. Givens, the chairman of Twain Braxton International, Inc., of Boston. Considering the international in his firm's name, and its location, you could expect Mr. Givens to have some rather traditional theories on world trade. Mr. Givens said a lot worth reading in his recent essay for Business Week. But his conclusion went right to the point.

He concluded that, "we must recognize that free trade, while a laudable concept, is hopelessly inadequate as a trade policy." The first part of the essay dealt with the goals and tactics and effects of samurai economics.

And now the 97th Congress is here in its last days to consider, among other things, a user tax. We will be asked to impose a 5-cents-a-gallon gasoline tax to finance a program of road and bridge repair and other improvements that may create 320,000 jobs.

The roads and bridges need repair. They are capital investments that will benefit the economy. And such a program would help some basic industries.

But the idea needs lots of study, Mr. Speaker.

First, we may lose more jobs to samurai economics this year than this program would create; and we can pass the bill and then go home and watch unemployment move past the 10.4-percent level at which need gave rise to the idea of having a jobs bill now.

Second, unless we adopt and enforce buy American provisions, somebody is going to swoop in with subsidized or dumped goods and run off with the 5-cents-a-gallon tax our people will be forced to pay. Why, we could face the possibility of seeing Americans taxed in the gas they use in looking for work only to finance jobs in Brazil or France. We should exercise care.

And last, the tax is in the wrong place in the wrong proportions. Family cars do not do the major portion of the damage we are going to repair, but their drivers will contribute the most. If it is a user fee, it ought to be made more commensurate with use—trucks should pay more.

Settling the trade war will do more for employment than jobs bills, but dealing with it will have to be a matter for the 98th Congress and probably the 99th.

But, if we will only reach out, the 97th has an opportunity to do something about jobs and to get a start on neutralizing samurai economics at the same time.

We have not even got their attention yet.

What we could use is a strong vote on the automobile domestic content bill or on a quota bill. They will notice.

And it will show the Soejima's of the world that even mongrels are prepared to bite as well as bark; it will declare our patience is not without limit.

□ 1750

TRIBUTE TO MEMBERS OF THE PENNSYLVANIA CONGRESSIONAL DELEGATION WHO ARE CONCLUDING THEIR SERVICE IN THE HOUSE OF REPRESENTATIVES

Mr. GAYDOS. Mr. Speaker, I would like to conclude my special order with mention of some of our colleagues who are leaving. As the stated dean of the Pennsylvania delegation, it is my very pleasant duty to make some remarks regarding some of our colleagues who are leaving this Congress and to let the record be clear regarding our colleagues and how sincerely we as a delegation are going to miss them.

HON. DON BAILEY, 21ST DISTRICT OF PENNSYLVANIA

One of our colleagues who is leaving after serving here for 4 years is my good friend DON BAILEY, who represents the 21st District of the Commonwealth of Pennsylvania. This district is located near the Pittsburgh area and near the large city of Greensburg, in Westmoreland County. DON BAILEY came here roughly 4 years ago, 37 years of age. At that time he was the most decorated Vietnam war combat veteran in the House of Representatives. When I say that, Mr. Speaker, I say it without reservation. He earned a Silver Star, two Bronze Stars with V for Valor; the Army Commendation Medal with V for Valor; Bronze Star for Meritorious Service; Army Commendation Medal and Air Medal for Combat Assaults. When putting a record together for Vietnam, you will have a lot of difficulty coming close to that record.

DON BAILEY served in this House for two terms. In his first term he served on the Armed Services Committee, and on that committee he was so attentive and so instrumental and so effective. You can tell why: Because of that glorious war record. And sometimes he would speak on the floor with tears in his heart, and we would have our own informal discussions off the floor during which his sincerity would ring true and clear. He asked no quarter and gave no quarter when it came to Vietnam and what they stood for and his support of the Vietnamese concept. That was the DON BAILEY that I got to know so well, because he served also during that first 2-year

period on the Education and Labor Committee. When he was on the Education and Labor Committee he was the most attentive member there, and he regularly attended the committee meetings. He joined in the active questioning of the witnesses, and he made this democratic form of government of ours work through the process of questions and answers and the committee system and the participation of individuals and citizens actively before the committee, where the committee then would be exposed to, yes, the common man's knowledge, and also, yes, the expert's knowledge in whatever subject matter we were dealing with.

So I can say, as chairman of the Subcommittee on Health and Safety of the Committee of Education and Labor that DON BAILEY learned well and performed brilliantly. He was effective. I can say, again without reservation, that I am going to miss him. I have a great respect for this body and I believe that there are superior individuals and others, and I always considered DON BAILEY a superior committee member and a superior Member of this illustrious body.

In his second term, the second 2 years he served on the Ways and Means Committee. That is quite an honor for a young Member. When he was elevated to that committee, I think it was because of his past performance which, in a measureable part, helped him in receiving the respect, support and elevation from his colleagues.

□ 1800

Put him on the Ways and Means Committee, with all of its ramifications, the inherent importance of that committee, the long hours that they work.

I can tell the Members about his actively participating in the Steel Caucus, which is a voluntary group of members who have some direct or indirect interest in the steel problems of this country. DON BAILEY was an active member, and ultimately a member of the executive committee. And his counsel and his persistence in helping us on the floor of the House, in special orders, in general debate, and particularly in formulating in that caucus with our witnesses and with close cooperation of the AISI and unions, and all of their diverse interest in the steel industry, it was DON BAILEY who showed his leadership, probably what he learned in Vietnam, what he developed and nurtured in Vietnam he brought here to these hallowed Halls in this outstanding body and permitted like the Constitution envisioned many, many years ago, a couple of hundred years ago, that this body would perform, asking good solid questions and participating with witnesses.

When he was on the Ways and Means Committee, DON was particularly instrumental in and interested in and helped pass and support and promulgate and helped forge into legislation many particular areas of interest, particularly some of these—I cannot mention them all—some of these are very important.

He worked always on behalf of the veterans, particularly his efforts to insure the recent memorial, opened recently here in Washington, that it would display a decent inscription with the American flag. Do you know it is hard to believe there was great controversy down at the Vietnam Memorial as to whether or not an American flag should be displayed. You wonder about it at times. And you wonder where is the rationale. It was DON that rose to the occasion and led the fight. He said there is going to be a statue down there and an American flag. I am very happy to say, and again in accordance with what he has done in the past, it did come to pass, and it did happen.

He has always been a supporter on behalf of the veterans in seeking VA cooperation on agent orange assistance, which at one time was supposedly considered a fantasy, when we were fighting the Vietnamese conflict, and agent orange was dropped to defoliate the areas, large amounts of it, everybody laughed and said it was a harmless insecticide. But scientific proof later on indicated the viciousness of the element, and the long-standing results from it and the effects from it. And DON never did let that pass.

Another little known effort for which DON was recognized by President Carter, and he has in his possession a Presidential pen from the signing ceremony for his successful efforts on the so-called energy regulations for insuring an extremely high percentage of American content in automobile fleets required to meet American environmental requirements. These provisions have meant thousands of jobs to many Americans and will preserve many jobs in the future.

Perhaps one of the most important achievements of DON's success was in preventing the implementation of a general tariff negotiating authority, which is in section 124 of the 1979 Trade Act, which the steel caucus was so forceful in promoting and he, by his actions, prevented from being used to bargain away minimum requirements needed by American industry to remain competitive in the face of unfair dumping practices from abroad. And that has come into play time and time again, which goes back and indicates his foresight and his intuition.

He was also the sponsor and author of amendments in the Ways and Means Committee to the Caribbean Basin Initiative in which he believed thoroughly and which was passed by the subcommittee and which will insure that act does not interfere with the jobs and needs of Americans, the 350,000 Americans it will affect in this country.

DON was very active in tax changes, in legislation achieving many different changes in the Economic Recovery Tax Act of 1981. These changes represented the single largest basic industry item in the original tax changes enacted 2 years ago. That was in there where he was the leader, where he made his position known and actively pursued and gathered support for that legislation.

An additional part of the recent tax changes and something which was not very well publicized in the news media involved some unemployment competition fund changes that were greatly beneficial, particularly to the needs of Pennsylvania, and all of their problems, in fact saved Pennsylvania taxpayers more than $150 million in taxes in the last 2 years alone.

With the help and direction and cooperation of the chairman, the gentleman from Illinois (Mr. ROSTENKOWSKI), chairman of the Ways and Means Committee, our colleague, DON BAILEY's amendments to the fund were and are written into the law and part of the law today.

The unemployment compensation benefits for ex-service members, recent changes by the administration, had denied benefits to ex-service members who upon reentering the job market found they had nowhere to turn after they had served their country honorably and well and dangerously. Congressman BAILEY's provision recently signed into law by the President provides unemployment compensation benefits to these ex-servicemen.

He was the cosponsor of the Higher Education Assistance Act, and was particularly instrumental in helping to enact those provisions which provided help to senior citizens.

During his service on the Armed Services Committee he was a member of a special subcommittee project on readiness which was responsible for streamlining outdated Department of Defense procedures and making recommendations on readiness which not only will save money but will greatly enhance this country's combat capabilities.

I remember DON BAILEY's service on the Ethics Committee, and all that entails, the long hours—a lot of the Members, my colleagues in this House, do not know a member is forced to put in on the Ethics Committee. And it is a very grueling task, and one that has great emotional connotations, primarily because you are judging your peers, your colleagues, and it is very difficult to do that under certain circumstances. But somebody has to do it. Self-criticism and internal stability in

the House demands it, and it is a very difficult committee to serve on, and he put his time in back there.

Back home in his own district, next to mine, he was responsible for authorizations which insured the continued employment of fossil and nuclear energy projects in the Westinghouse facility. He was instrumental in assuring the approval of the EPA for Wheeling Pittsburgh Steel, virtually made the survival of the company.

We just hope we have enough time to make sure it survives.

He was responsible for bringing a new glass tower up to Jennette. He worked closely with local officials involving problems of that airport up there.

I think I have taken maybe a little more time than I expected. But when you start talking about a colleague, and particularly about a colleague of DON BAILEY's stature, and the closeness as personal friends we enjoyed throughout the last 4 years, sometimes time does run away with you.

I tried to hit the highlights of a very brilliant career, one which would have been an extraordinarily brilliant career had DON continued on in this body. I do not know what DON is going to do but I know he is going to be active on the scene. We expect to see him active in Washington, back home. He tells me he will be practicing law. I hope he will continue. He probably will do that, because he mentions that is what he is considering.

I know one thing, that the legal profession in Alleghany County and the Pennsylvania Bar Association will have an active member and will have a member that is going to enhance the standing of the local bar association. I can tell my colleagues that being a lawyer myself DON has a good legal mind.

One thing I have to say personally about DON BAILEY and this had taken place over the last 4 years on many, many informal occasions, I have to say there is not one vicious bone in his body.

Second, that DON BAILEY never, never compromised an issue, and I never, and I repeat, never ever had a question as to his integrity, his honesty, and dedication to his work. And you can say that about some people as a matter of passing, but I am saying it with the utmost sincerity I can muster. That is the kind of man he was, a good Congressman. I know he is going to be a good citizen, a good professional in whatever he does.

Mr. Chairman, if I may, I would like to mention two other of our colleagues.

□ 1810

HONORABLE ALLEN E. ERTEL, 17TH DISTRICT OF PENNSYLVANIA

Mr. Speaker, if I may, I would like to mention two other of our colleagues. One is ALLEN ERTEL.

ALLEN ERTEL ran for Governor of Pennsylvania. He came within a whisker of winning. When ALLEN ERTEL ran for Governor, it was not the most popular position to seek in the Commonwealth of Pennsylvania because the incumbent Governor at that time was presumed to have a victory in his grasp already and to foresee a victory which would be a runaway victory; but ALLEN took on the challenge. He took on the challenge where he could have won his congressional seat very easily and could have been back here today and this next January; but he did not do it because he had a higher calling. The party called and needed an active campaigner. ALLEN ERTEL, because of the geographical location of his district and where he was born and his past activities as a lawyer and as a very effective district attorney and a good Member of this House for 6 years, all these things dictated that ALLEN ERTEL be the gubernatorial candidate in the Commonwealth of Pennsylvania. He entered it against a well-financed Governor, with a limited number of funds available. He toured the whole State. He brought integrity to the Democratic Party and hope and vision.

ALLEN ERTEL was a good candidate. As the campaign progressed, ALLEN ERTEL turned into an excellent candidate. If he had had a few more weeks and a few more dollars, I think the results might have been different.

But the ALLEN ERTEL that the chairman and I know and worked with was a man again of high integrity, not the fact that he was a former district attorney, but the fact of the ALLEN ERTEL we grew to know.

ALLEN was always forthright in his analyses. He would not attempt to try to color an item of controversy even though it was unpopular. He would not make that attempt. He was very blunt in what he said and how he said it. Maybe in some circles that might have lost him some friends, but I think in the last analysis that is the only way to be—truthful, arm's length, straight from the shoulder, that was the ALLEN ERTEL that we served with in the House.

He was very outspoken at times, very diplomatic at times and very undiplomatic at times; but one thing, ALLEN ERTEL was a man of integrity and an effective legislator. He brought all his experience with him from his past practice as a lawyer and as a district attorney and brought it here to the House.

I say as I said as far as DON BAILEY is concerned, that ALLEN ERTEL's leaving is going to leave a vacuum here in the House as far as the Pennsylvania delegation is concerned.

He moved his family down here. He was part of the Washington scene. He was a real true, accomplished, effective legislator, not a part-time legislator. He could not do business that way. He had to do it full time or not at all. That was proven by the fact that when he was elected originally the first time when he was sent from the central part of Pennsylvania up around the Harrisburg area, the first time in some 35 years that a Democrat of the same party persuasion of mine, the first time that that area sent to this House a Democrat. That is telling you something. It means something. It is important. It shows that a man in a very heavily oriented and registered Republican area can put his character on the line before the public and change all those odds and come down here for three successive terms.

When he ran for Governor, his vote was overwhelming in that area and in many other parts of the State.

So ALLEN ERTEL was an excellent legislator. We are going to miss him here in the House.

Speaking with him today, I told him, "I hope you do not make your presence scarce and that you will come back to visit us and participate some way, somehow, directly or indirectly with the processes of this House which is so important."

HONORABLE JOSEPH J. SMITH, 3RD DISTRICT OF PENNSYLVANIA

We also have with us our good friend, JOE SMITH, who is leaving after serving one term. JOE had experience up in the legislature as a State Senator and a former legislator up in Harrisburg. When he came down to Washington, he brought the bulk of that experience with him, all those years in Harrisburg, the trials and errors and tribulations and the uniqueness that he gained, which he only gained through experience and through the hard knocks of actually casting a yea or nay vote on most controversial issues.

He brought all that ability and experience down from Harrisburg, joined the Pennsylvania delegation of this House and in doing so he moved in a most credible way.

I was proud of JOE SMITH, as I was of the others. He was a team player. He served on a good committee and he was always there for the meetings. He was always there when we had a Pennsylvania delegation meeting, whether it was informal or formal. He was there when we needed him most, when we had to have the votes in a group. We needed him on the Steel Caucus issues, as we did DON BAILEY, who served on the Steel Caucus with JOE SMITH. When we needed him, he was there. He supported us financially.

He came from an area where politics is almost inherent in every man, woman and child. That is Philadelphia. Everybody is a politician one way or another in Philadelphia and that is what JOE brought here to this House—

good integrity, good practical hard-nosed political experience.

So as dean of the delegation, it is my most enjoyable duty and my personal privilege to appear here to say these few remarks about three great men, three good Americans, three effective legislators that are not going to be with us come January.

I want to say from a personal standpoint that it is always a pleasure to work with them. I know I say this on behalf of the chairman that sits here today, that it was a pleasure to work with these gentleman in all respects. They were cooperative. When we had Pennsylvania Day, these three were in the forefront in cooperation, raising money, actively participating in making Pennsylvania Day an effective day among our colleagues here and among the city residents of this great city.

I do not know what our new people are going to be like, our new elected representatives. I am sure they are men of integrity, too. I am just speaking from my own personal knowledge and as the delegation has imparted to me their feelings about these fine gentlemen.

I know there are going to be a lot of nice and truthful things said about these three colleagues of ours by other Members of our delegation.

● Mr. MURTHA. Mr. Speaker, it is unfortunate that the next Congress will not have the services of Congressman DON BAILEY.

Over the last 4 years, DON and I worked side by side on a number of key issues involving western Pennsylvania and concerns we shared. It is unforunate that through political reapportionment we had to run against one another in the primary election this year.

DON was a prime spokesman in Congress for the needs of our veterans, particularly the Vietnam veteran. He introduced innovative legislation in an effort to rebuild the industries of the Northeast. He worked with the Pennsylvania delegation on the Ways and Means Committee to promote ideas and legislation to help the State. He was always conscious of the needs facing the individual worker and the families of western Pennsylvania.

DON always stressed constituent service, and through his workshops and local offices stayed in touch with the citizens of Westmoreland County and served as their advocate in Congress.

Westmoreland County has been fortunate in recent years to be represented by men like JOHN DENT and DON BAILEY. Now that Congressman JOE GAYDOS and myself represent the county, we will have to continue to work hard to live up to the standards of these men.

I know DON will be very successful in his pursuits, and I certainly join in wishing him well.

Certainly Congress will miss Congressman JOE SMITH next year who was unfortunately the victim of reapportionment which required the State to lose legislative seats.

I had the honor of serving with JOE in two different legislative bodies. JOE began a career in the Pennsylvania State Senate while I was still in Harrisburg, and I was most pleased when he joined us in Congress.

JOE has had an admirable career in which he has been a fighter for his constituents and for the city of Philadelphia. As a member of the Armed Services Committee he has been vital to Philadelphia in working for projects affecting the Philadelphia Navy Yard and bringing other Federal funds into the area.

Possibly the element of his career that is most indicative of the kind of person JOE SMITH is, is his ability to work with all sections of the political world in Philadelphia, and to work for all his constituents. He has that ability because JOE SMITH cares about people, cares about helping people, and cares about doing things that are right for the people and area he represents.

JOE SMITH'S service in Congress has been in the highest tradition of this body, and I know he will continue to work for those principles and beliefs, and I certainly join in saying thank you and wishing him well.

In the next Congress I will miss Congressman ALLEN ERTEL as a personal friend, and we will all miss him for the skills he brought to the House of Representatives.

Over the past few years ALLEN and I have worked together on a number of highway projects to help the State of Pennsylvania because of his service on the Public Works and Transportation Committee. This year I was very pleased to join in cosponsoring his innovative legislation in helping with the unfortunate situation created at Three Mile Island. And we also joined forces this year legislatively and administratively to block the proposed increases in natural gas prices.

ALLEN will not be returning to Congress because he made an excellent run for Governor of Pennsylvania. Losing by only a very few votes, ALLEN did an excellent job of articulating the problems and solutions to the economic problems that range throughout Pennsylvania and the Northeast. A great deal of the success the Democratic Party had this November in Pennsylvania is because of the outstanding race ALLEN ERTEL ran.

ALLEN brought a dedication and insight to the legislative process that is in the highest tradition of public service in this country. The constituents he represented, the State of Pennsylvania, Congress, and the Nation benefited from having ALLEN ERTEL in Congress, and he surely deserves our praise and good wishes.●

● Mr. YATRON. Mr. Speaker, I rise today to pay tribute to three of my colleagues from Pennsylvania who will be retiring at the close of the 97th Congress, Congressman DON BAILEY, Congressman ALLEN E. ERTEL, and Congressman JOSEPH F. SMITH. It has been my privilege to work with these distinguished statesmen. They have faithfully served the people of the Commonwealth of Pennsylvania and their voices will be sorely missed by the Members of this body.

Each Member of Congress makes a contribution to the Nation in a unique and special way. Congressman BAILEY, highly decorated for his outstanding service to our country in Vietnam, came to the House of Representatives in 1979. Throughout his service he has dedicated himself to addressing the concerns of the veterans, the elderly, and indeed all the hard-working men and women of his district. He is a man who has never allowed political considerations to overshadow his concern for his constituents and has been a great inspiration to those of us who have been honored to work with him.

Congressman ERTEL, an able and effective district attorney from Lycoming County from 1968 to 1976, brought this spirit of fairness and dedication for the protection of the rights of the American people with him to the House of Representatives in 1977. I know ALLEN as a hard-working, honest and forthright lawmaker, whose service to his district and the Commonwealth of Pennsylvania is unsurpassed.

I have had the honor to get to know and work with Congressman SMITH during his tenure in the 97th Congress. He came to the U.S. House of Representatives with the invaluable experience of having served in the Pennsylvania State Senate. During his service in the House he has steadfastly maintained his devotion to our country, his constituents, and to making our Nation strong and secure. He has made a significant contribution to this body and the Pennsylvania congressional delegation.

I know my colleagues will join me in honoring these three outstanding Members of Congress. I count them as good friends and I wish them every success in their future endeavors. DON, ALLEN, and JOE have never lost faith in the American system and the great opportunities it offers to those who are willing to participate fully in making it work. They have consistently been willing to dedicate themselves to make it work, and it is because of men like them that it does.●

● Mr. RUSSO. Mr. Chairman, I rise to pay tribute to DON BAILEY, my good

friend from Pennsylvania. Over the last several years, because we have served on the Ways and Means Committee, I have had an opportunity to get to know DON, both as a friend and a colleague. There are none better.

Watching DON in action on the Ways and Means Committee has truly been a pleasure. He has always come to the committee fully prepared and eager to participate, whether this has involved directing tough, thoughtful questions to a witness or helping shepherd a complex piece of legislation through markup.

Sometimes, Mr. Speaker, we can grow isolated here in Washington, losing sight of the fact that the actions we take on a daily basis in this city have a real impact on Americans throughout our great country. That has never happened to DON BAILEY. In my conversations with him, in his activities in committee and on the floor, what has always shone through to me is that DON BAILEY really does care. He is going to be missed.

DON, I just want to thank you; both for your friendship and for your contributions during your service in the Congress. I wish you well.●

LEAD BALLOONS: MORTGAGES THAT DON'T FLY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, more Americans will lose their homes this year than in any year since the Depression, and thanks to the recent boom in "balloon mortgages" the situation is likely to get even worse in the future.

At the end of the second quarter of this year, more than 1.5 million American homeowners were at least 30 days behind in their monthly mortgage payments while another 150,000 faced foreclosure. Observers attribute today's recordbreaking statistics to the current recession as many people are either out of work, or just finding it increasingly difficult to make ends meet. Yet many experts warn that nontraditional home financing techniques will be the source of the problem tomorrow.

The term "balloon mortgage" refers to those short-term loans that require a lump-sum payment upon maturity—usually 3 to 5 years. Until then, however, the home buyer usually makes interest-only payments. In most cases, these balloon mortgages are seller-financed at interest rates which are below the going market rates. The size of the loan represents the difference between the sales price and the sum of the downpayment and the assumed first mortgage.

For example, if the sales price of the home was $100,000, the downpayment $25,000, and the value of the first mortgage was $50,000, the balloon mortgage would amount to $25,000. If the loan had a 12-percent interest rate, the buyer would make monthly payments of $250 until maturity when the entire principal of $25,000 would be due.

Most people took out these type of home loans as a stopgap measure: They could not afford a conventional long-term loan for the entire amount they wished to finance so they made up the difference with a balloon mortgage and planned to refinance their homes when the market improved and interest rates went down. They assumed that at least one of the following would happen: Interest rates would go down and money would be available for refinancing; or the property would appreciate in value and could be sold at a profit; or they would have enough additional income to qualify for a new loan.

It is the failure of those assumptions to come to pass that are at the root of the problems many foresee concerning balloon mortgages. The Federal Reserve Board's tight-money policy has led to an alarming shortage of funds. Those funds that are available are beyond the reach of most Americans; in fact, mortgage money is so expensive that almost 95 percent of the people in this country cannot qualify for home loans. Housing prices have gone stagnant, and in some areas have actually declined. In addition, more than 10 million people are out of work—a national unemployment rate of 9.8 percent. People are glad to keep their jobs, let alone get raises. These factors, in combination with the other ill effects of the worst recession in nearly half a century, have destroyed the entire housing industry, and signaled a potential disaster for those people whose short-term loans are coming due.

Experts estimate that 40 percent of all existing home sales in 1980 were facilitated at least in part by short-term, balloon-type loans. In 1981 the figure was 60 percent. In California, where the wave of creative financing began, the numbers are 37 percent in 1980 and 62.4 percent in 1981. Translated into dollars and cents, California observers estimate that this year short-term loans worth a total of $498 million will come due. But the worst is still to come. The figures for 1983-86 have been estimated at $1.8 billion, $2.2 billion, $3.2 billion, and $3.4 billion, respectively—in California alone.

Obviously all of these numbers add up to big money—and a lot of homeowners that must refinance in order to keep their homes. At this point, no one can conclusively say exactly what will happen when all of these loans come due. However, if the recession continues, money remains tight and the unemployment rate stays high, the situation is likely to explode. And record numbers of people will start losing their homes.

One thing is certain. Balloon mortgages are just one more example of what high interest rates are doing to this country for it was the unavailability of affordable mortgage money that led the American home buyer to this financing technique. And it will be high interest rates that cause people to lose their homes when the loans come due. When American citizens start losing their homes as a result of a monetary policy, it is time to abandon that policy. The administration's policies are giving an increasing amount of credence to the old adage about the cure being worse than the illness. The time for a new medicine is long overdue. I certainly hope that the administration recognizes this fact before the patient dies. For if it does not, it will be forced to face the consequences. And that will be no easy task.●

AN ECONOMIC AGENDA FOR THE BANKING COMMITTEE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. ST GERMAIN) is recognized for 15 minutes.

● Mr. ST GERMAIN. Mr. Speaker, with the Nation's economy in shambles, economic issues—particularly those directly related to jobs—are certain to dominate the efforts of the 98th Congress.

While the adoption of formal agendas must await the organization of the committee in the new Congress, it is my intention to push hard for a full utilization of the considerable jurisdiction of the Banking, Finance, and Urban Affairs Committee on economic issues.

A high priority, in my mind, will be for the committee and its various subcommittees to fully explore their areas of jurisdiction to determine what job-producing proposals might be feasible in the new Congress. Clearly, the committee's jurisdiction in the area of housing and community development contains many possibilities in a labor-intensive sector of the economy. The committee's broad economic stabilization jurisdiction offers other areas which should be explored to help stimulate the economy, as well as the committee's jurisdiction in international and trade areas. Certainly, the Federal Reserve's monetary and interest rate policies have a heavy bearing on jobs—and the economy generally—and I hope that the committee will make a strong effort to bring those policies in line with national economic goals. I think the committee's efforts in this area must be ongoing and must go beyond the limited nature of the 6-

month reports now required of the Federal Reserve.

In the 97th Congress, we have done a good job of deregulating much of the financial industry and providing a more rational balance between the various segments of that industry. Financial institutions have been given new powers, new freedoms, and new challenges. None of these mean much, however, unless the benefits flow to the recipients of financial services—consumers, job-producing industries, and communities.

We need to watch closely to see how well this newly unshackled industry meets the credit needs of this economy and how well it performs as a partner in the economic recovery efforts. If interest rates go down—as we fervently hope—this important economic benefit must be passed on to the consumer and the economy and not left to fatten reserves and build unconscionably large profits.

During the 98th Congress, I hope the committees will place an emphasis on some key areas:

First, development of creative new proposals to maximize the job-producing potential of the committee's various jurisdictions;

Second, strong efforts to analyze the causes of unemployment and underutilization of the Nation's productive capacity and to offer long-term remedies for these economic maladies;

Third, renewed efforts to assure a proper flow of credit and financial services at reasonable cost to all sectors of the economy and assurances that the Federal Reserve understands its responsibilities to national economic goals; and

Fourth, strong oversight to assure that the agencies and departments under the committee's jurisdiction are carrying out their responsibilities and programs in the most efficient and effective manner possible. I would hope that no agency under this committee's jurisdiction would escape a thorough examination during the next 2 years.

Clearly, Mr. Speaker, this is not intended as an outline of the committee's entire workload during the 98th Congress. There are a number of legislative musts, investigations, and other issues which will be developed and discussed in the coming weeks and months. But, I am convinced that the Banking, Finance and Urban Affairs Committee must remain close to the issues that directly bear on the economy and efforts to repair the damage that has devastated so many individuals and businesses in recent months.●

THE OREGON WILDERNESS ACT OF 1982

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. AUCOIN) is recognized for 10 minutes.

● Mr. AUCOIN. Mr. Speaker, today Congressman JIM WEAVER and Congressman RON WYDEN join me in introducing legislation—the Oregon Wilderness Act of 1982—which we hope will resolve the longstanding controversy over which remaining national forest roadless areas in the State of Oregon should be added to the National Wilderness Preservation System. Our bill contains many wilderness proposals identical to those included in S. 2031 which was sheparded through the Senate in the 96th Congress by our colleague Senator MARK O. HATFIELD. We have added to his proposals in certain cases and have also proposed additional new wilderness areas which we feel are deserving of permanent protection in their natural state. The acreage designations of the two bills can be compared as follows:

Area	Oregon Wilderness Act of 1982 (Acres)	S. 2031 (Hatfield bill) (Acres)
Columbia Gorge Wilderness	40,900	40,900
Salmon-Huckelberry Wilderness	55,000	8,300
Badger Creek Wilderness	27,000	14,000
Hidden Wilderness	47,000	26,700
Middle Santiam Wilderness	20,000	0
Rock Creek Wilderness	6,500	6,500
Cummins Creek Wilderness	8,800	0
Boulder Creek Wilderness	19,820	19,820
Rogue-Umpqua Divide Wilderness	55,000	0
Grassy Knob Wilderness	22,000	0
Red Buttes Wilderness	26,000	0
Diamond-Thielsen Wilderness	155,000	[1] 55,000
Sky Lakes Wilderness	113,000	113,000
Coleman Run Wilderness	7,825	7,825
Bridge Creek Wilderness	7,100	6,325
Mill Creek Wilderness	14,400	14,400
Ochoco Canyon Wilderness	13,400	13,400
North Fork John Day Wilderness	205,000	65,500
Joseph Canyon Wilderness	31,000	0
Mount Jefferson Additions	13,500	0
Mount Washington Additions	6,000	6,000
Three Sisters Additions	36,000	27,300
Mountain Lakes Additions	3,000	0
Gearhart Mountain Additions	3,730	3,730
Strawberry Mountain Additions	35,100	35,100
Eagle Cap Additions	34,300	34,300
Old Cascades Study Area	40,000	0
Waldo Lake Study Area	65,000	0
Hardesty Mountain Study Area	7,500	0
Cascades National Conservation	0	78,900

[1] Plus natural conservation area.

We would also note that the bill as introduced does not contain a section with so-called release/sufficiency language. It is our understanding that such language will be offered during markup of the legislation using the formula which has already become law in Colorado, New Mexico, and Alaska. This formula will fully protect areas not designated as wilderness from lawsuits seeking to enjoin development on wilderness grounds and will insure that nonwilderness lands may be managed for uses deemed appropriate through the national forest land management planning process.●

NATIONAL HOME HEALTH CARE WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PANETTA) is recognized for 5 minutes.

● Mr. PANETTA. Mr. Speaker, this week has been proclaimed National Home Health Care Week. I am very pleased that the resolution I sponsored along with Representative BARBER CONABLE has been approved by Congress and signed into law by the President.

I firmly believe that the benefits and contributions to the health care field by home care is deserving of the national attention which has been provided by the Congress and the President. Home health care has proven to be an effective and appropriate alternative to the more traditional and institutional form of health care which patients many times are forced to receive. The services provided by home care organizations have provided many older Americans with the opportunity to remain at home and in their communities. It is important that we continue to recognize health care services which emphasize the human dignity and independence of each patient.

Moreover, we all recognize the urgent need to control the growing cost of health care. Home care has proven to be a cost-effective alternative to institutional care, and certainly this form of care should be encouraged as part of any proposal aimed at controlling the growth in the health care budget.

I do hope that the home care community will receive much deserved recognition during this week, and I hope that this attention will help in the further development and growth of this industry. I trust my colleagues will pay tribute to this industry and the valuable and vital services which it renders.●

CODIFYING THE FCC'S FINANCIAL INTEREST AND SYNDICATION RULES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. WAXMAN) is recognized for 5 minutes.

● Mr. WAXMAN. Mr. Speaker, today I am introducing legislation codifying the FCC's financial interest and syndication rules. These rules were adopted by the FCC in 1970 in recognition of the dominant role the three major networks have in broadcast television programing. In effect, the rules prohibit the networks from domestic syndication of television programs, or from the acquisition of a financial interest in the syndication of nonnetwork programs.

Although the financial interest and syndication rules have met their goals of limiting the networks' involvement in the domestic syndication market, the FCC is now considering their repeal. This morning the Energy and Commerce Committee's Subcommittee on Telecommunications, Consumer

Protection, and Finance held a FCC oversight hearing, and I had the opportunity to question FCC Chairman Fowler on the possible repeal. I am satisfied that the FCC has no reasonable basis for considering or taking this action, and am compelled to offer legislation maintaining the rule.

The folly of repeal is clear by just noting the increase in competition that has accompanied the financial interest and syndication rules. Before the rules adoption, the networks held a financial interest in 93 percent of all aired programs. Since adoption, however, the number of independent television stations has doubled, the number of syndication program suppliers increased by almost 51 percent, the number of prime time suppliers increased by 26 percent, and there have been significant successes in the first-run syndication market. Small, independent companies are thriving, and there is more diversity than ever before. And although there is now greater competition, the entire industry is healthier, with the networks reaching an all-time high number of viewers.

Despite these facts, the networks still press on for repeal. They argue for deregulation, but it appears they want a broacast monopoly. Moreover, they claim the financial interest and syndication rules keep them from competing in an era of technological innovation. I do not believe the financial interest and syndication rules are defective. Too often in Washington we fix what is not broken and ignore what needs fixing. The rules are not defective, and if they are repealed there will be less competition and less diversity.

It is important we not impair the effectiveness of the financial interest and syndication rules, and I look forward to working with my colleagues on both sides of the aisle in protecting the public's interest in this matter.●

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. FIELDS) to revise and extend their remarks and include extraneous material:)

Mr. COURTER, for 30 minutes, on December 6.

Mr. COLLINS of Texas, for 30 minutes, on December 6.

Mr. COLLINS of Texas, for 30 minutes, on December 7.

Mr. MOORHEAD, for 60 minutes, on December 8.

Mr. DREIER, for 60 minutes, on December 8.

Mr. BADHAM, for 60 minutes, on December 8.

Mr. THOMAS, for 60 minutes, on December 8.

Mr. CHAPPIE, for 60 minutes, on December 8.

(The following Members (at the request of Mr. DYSON) to revise and extend their remarks and include extraneous material:)

Mr. GONZALEZ, for 30 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. ST GERMAIN, for 15 minutes, today.

Mr. AUCOIN, for 10 minutes, today.

Mr. ECKART, for 60 minutes, December 9.

(The following Members (at the request of Mr. GAYDOS) to revise and extend their remarks and include extraneous material:)

Mr. PANETTA, for 5 minutes, today.

Mr. WAXMAN, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. GRAY, prior to the vote on the Foglietta amendment to H.R. 7205 in the Committee of the Whole today.

Mr. GILMAN, to revise and extend his remarks on impact aid immediately following the remarks of Mr. FISH on H.R. 7205 in the Committee of the Whole today.

Mr. WEISS, following the colloquy on the Roybal amendment regarding CDC on H.R. 7205 in the Committee of the Whole today.

Mr. LOTT, to revise and extend his remarks on the committee amendment offered by Mr. MOAKLEY and the remarks to appear immediately prior to the vote on the committee amendment on H.R. 6995 in the Committee of the Whole today.

Mr. RAHALL, to revise and extend his remarks in support of the Luken amendment to H.R. 6995 and to appear immediately prior to the vote on the Luken amendment in the Committee of the Whole today.

Mr. PASHAYAN, to revise and extend his remarks just before the vote on the Rules Committee amendments to H.R. 6995 in the Committee of the Whole today.

(The following Members (at the request of Mr. FIELDS) and to include extraneous matter:)

Mr. JEFFORDS.

Mr. GILMAN.

Mr. COLLINS of Texas in two instances.

Mr. WORTLEY.

Mr. DERWINSKI.

Mr. GUNDERSON.

Mr. BEREUTER in two instances.

Mr. FIELDS in three instances.

Mr. HOLLENBECK.

Mr. WALKER.

Mr. DORNAN of California in two instances.

Mr. COUGHLIN in two instances.

Mr. PURSELL in two instances.

Mr. EVANS of Delaware.

Mr. SAWYER.

(The following Members (at the request of Mr. DYSON), and to include extraneous matter:)

Mr. MOFFETT in two instances.

Mr. LELAND.

Mr. DOWNEY.

Mr. MINISH.

Mr. MOTTL in two instances.

Mr. STUDDS.

Mr. MONTGOMERY.

Mr. PEYSER.

Mr. GARCIA.

Mr. HAMILTON.

Mr. MINETA.

Mr. GUARINI.

Mr. ALBOSTA.

Mr. NICHOLS.

Mr. FORD of Tennessee.

Mr. MCDONALD in three instances.

Ms. OAKAR.

Mr. APPLEGATE.

Mr. HUBBARD.

(The following Members (at the request of Mr. GAYDOS), and to include extraneous matter:)

Mr. MINETA.

Mr. PANETTA.

Ms. OAKAR.

Mr. GUARINI.

Mr. ALBOSTA.

Mr. MATSUI.

ADJOURNMENT

Mr. GAYDOS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 19 minutes p.m.), the House adjourned until tomorrow, Thursday, December 2, 1982, at 10 a.m.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports of various House committees and delegations traveling under an authorization from the Speaker concerning the foreign currencies and U.S. dollars utilized by them during the second and third quarters of calendar year 1982 in connection with foreign travel pursuant to Public Law 95-384 are as follows:

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON EDUCATION AND LABOR, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1982

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Dorothy Strunk (addendum to 2d quarter report)	6/13	6/24	Switzerland				134.06				134.06

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Reimbursement by State Department for local transportation Aug. 13, 1982.

CARL D. PERKINS, Chairman.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON AGRICULTURE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1982

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Codel E (Kika) de la Garza	8/30	9/03	Germany	955	393.00	106	43.40				436.40
	9/03	9/05	Switzerland	496.80	234.00	92.14	43.40				277.40
	9/05	9/07	France	2,121	303.00						303.00
U.S. commercial airlines							3,587.00				3,587.00
A. Mario Castillo	8/30	9/03	Germany	955	393.00	106	43.40				436.40
	9/03	9/05	Switzerland	496.80	234.00	92.14	43.40				277.40
	9/05	9/07	France	2,121	303.00						303.00
U.S. commercial airlines							3,311.00				3,311.00
Committee total					1,860.00		7,071.60				8,931.60

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

E de la GARZA, Chairman, Oct. 28, 1982.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1982

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Daniel Akaka	8/5	8/10	Austria		485.00		[3] 2,766.00				3,251.00
Hon. Clair Burgener	9/2	9/7	England		525.00		799.75				1,324.75
Transportation (DOD)							1,831.00				1,831.00
Hon. Julian C. Dixon	6/29	6/30	Jamaica		106.00						106.00
	6/30	7/1	Haiti		75.00						75.00
	7/1	7/5	Barbados		520.00		[3] 896.00				1,416.00
Hon. William H. Gray	6/29	6/30	Jamaica		106.00						106.00
	6/30	7/1	Haiti		75.00						75.00
	7/1	7/5	Barbados		520.00		[3] 896.00				1,416.00
Hon. Adam Benjamin, Jr.	7/1	7/11	Japan		1,100.00		1,858.00				2,958.00
Hon. William Lehman	6/28	7/11	Japan		1,582.00		2,220.00				3,802.00
George F. Allen	6/29	6/30	Azores		75.00						75.00
	6/30	7/3	Portugal		240.00						240.00
	7/3	7/5	Spain		154.00						154.00
	7/5	7/9	Morocco		300.00		2,202.00				2,502.00
Gregory Dahlberg	7/1	7/12	Japan		1,100.00		1,972.86				3,072.86
Gregory Dole	7/3	7/11	Japan		1,017.00		2,268.00				3,285.00
Jimmy R. Fairchild	6/29	6/30	Azores		75.00						75.00
	6/30	7/3	Portugal		240.00						240.00
	7/3	7/5	Spain		154.00						154.00
	7/5	7/9	Morocco		300.00		2,202.00				2,502.00
Edwin F. Powers	6/29	6/30	Jamaica		106.00						106.00
	6/30	7/1	Haiti		75.00						75.00
	7/1	7/5	Barbados		520.00		[3] 896.00				1,416.00
William Schuerch	9/3	9/7	Canada		425.00		232.16				657.16
Committee total					9,875.00		21,039.77				30,914.77
Appropriations, Surveys and Investigations Staff:											
C. R. Anderson	9/3	9/11	China		600.00						
	9/11	9/13	Hong Kong		247.50						
	9/13	9/17	Sri Lanka		357.00		2,880.00		27.84		4,112.34
Richard H. Ash	9/4	9/11	Thailand		669.75						
	9/11	9/19	Indonesia		700.50						
	9/19	9/28	Philippines		637.50		2,902.00		23.08		4,932.83
George C. Baird	7/18	7/26	Korea		600.00						
	7/26	7/27	Japan		75.00						
	7/27	7/30	Okinawa		225.00						
	7/30	8/4	Philippines		300.00		2,657.62		44.56		3,902.18
Telford C. Brock	7/20	7/25	Okinawa		375.00						
	7/25	8/1	Japan		370.50						
	8/1	8/4	Philippines		225.00		2,503.66		77.49		3,551.65
Robert E. Carroll	7/19	7/29	Korea		916.50						
	7/29	8/1	Japan		324.00		2,405.77		38.80		3,685.07
Jeffrey S. Clark	9/4	9/11	China		618.75						
	9/11	9/13	Hong Kong		275.00						
	9/13	9/18	Sri Lanka		399.00						
	9/18	9/24	Nepal		450.00						
	9/24	9/28	Thailand		331.50		2,816.00		14.95		4,905.20
David F. Combs	7/19	7/20	Korea		94.00						
	7/20	8/4	Philippines		1,200.00		2,657.62		32.17		3,983.79
Fred P. Fenstermaker	9/4	9/11	Thailand		669.75						
	9/11	9/19	Indonesia		700.50						
	9/19	9/28	Philippines		637.50		2,902.00		161.19		5,070.94

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1982—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Henry J. Flynn	7/20	7/25	Okinawa		390.00						
	7/25	8/1	Japan		370.50						
	8/1	8/4	Philippines		225.00						
	8/4	8/7	Guam		225.00		2,503.66		37.95		3,752.11
Paul T. Grishkat	7/19	7/29	Korea		916.50						
	7/29	8/1	Japan		324.00		2,405.77		44.52		3,690.79
Francis J. King	7/19	7/25	Okinawa		390.00						
	7/25	8/1	Japan		370.50						
	8/1	8/4	Philippines		225.00						
	8/4	8/7	Guam		225.00		2,503.66		81.72		3,795.88
Stuart F. King	7/19	7/20	Korea		94.00						
	7/20	8/4	Philippines		1,200.00		2,657.62		61.97		4,013.59
Timothy B. Klund	7/19	7/29	Korea		916.50						
	7/29	8/1	Japan		324.00		2,405.77		9.95		3,656.22
Frank T. Lyons	9/4	9/11	Thailand		669.75						
	9/11	9/19	Indonesia		700.50						
	9/19	9/28	Philippines		637.50		2,902.00		77.46		4,987.21
Joseph W. Montefiore	9/4	9/11	China		618.75						
	9/11	9/13	Hong Kong		275.00						
	9/13	9/18	Sri Lanka		399.00						
	9/18	9/24	Nepal		450.00						
	9/24	9/28	Thailand		331.50		2,880.00		285.26		5,239.51
Robert C. Quigley	7/19	7/25	Korea		540.50						
	7/25	7/30	Japan		554.25		2,170.00		53.50		3,318.25
Donald B. Sutton	7/19	7/25	Okinawa		390.00						
	7/25	8/1	Japan		370.00						
	8/1	8/4	Philippines		225.00						
	8/4	8/7	Guam		225.00		2,503.66		75.47		3,789.13
Peter B. Symonds	7/19	7/29	Korea		916.50						
	7/29	8/1	Japan		324.00		2,405.77		47.74		3,694.01
R. W. Vandergrift	7/19	7/25	Korea		540.50						
	7/25	7/30	Japan		554.25		2,437.34		45.50		3,577.59
Joseph A. Vignali	9/3	9/11	China		600.00						
	9/11	9/13	Hong Kong		247.50						
	9/13	9/17	Sri Lanka		357.00		2,800.00		19.20		4,103.70
Ben A. Weaver	7/19	7/20	Korea		94.00						
	7/20	8/4	Philippines		1,200.00		2,657.62		10.25		3,961.87
Committee totals					29,415.75		55,037.54		1,270.57		85,723.86

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Travel by military aircraft. Cost shown is equivalent 1st-class commercial rate.

JAMIE L. WHITTEN, Chairman, Oct. 13, 1982.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1982

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Delegation to conduct oversight visit to U.S. and allied military activities, July 2–10, 1982:											
Dickinson, Congressman Wm. L	7/2	7/5	United Kingdom	167.59	289.00					167.59	289.00
	7/5	7/8	Spain		227.00						227.00
	7/8	7/10	Morocco	927.06	75.00					927.06	75.00
Transportation, Department of State (commercial)							3,232.00				3,232.00
Battista, Anthony R	7/2	7/5	United Kingdom	167.59	289.00					167.59	289.00
	7/5	7/8	Spain		227.00						227.00
	7/8	7/10	Morocco	927.06	75.00					927.06	75.00
Transportation, Department of State (commercial)							3,232.00				3,232.00
Chase, Alan C	7/2	7/5	United Kingdom	167.59	289.00					167.59	289.00
	7/5	7/8	Spain		227.00						227.00
	7/8	7/10	Morocco	927.06	75.00					927.06	75.00
Transportation, Department of State (commercial)							3,232.00				3,232.00
Tsompanas, Paul L	7/2	7/5	United Kingdom	167.59	289.00					167.59	289.00
	7/5	7/8	Spain		227.00						227.00
	7/8	7/10	Morocco	927.06	75.00					927.06	75.00
Transportation, Department of State (commercial)							3,232.00				3,232.00
Transportation, Delegation Incountry							18,532.80				18,532.80
Transportation, Delegation United Kingdom							47.20				47.20
Delegation to Iceland, July 23–25, 1982:											
Hopkins, Congressman Larry J	7/23	7/25	Iceland	3,991.45	330.00					3,991.45	330.00
Transportation, Department of the Air Force							6,104.12				6,104.12
Leath, Congressman Marvin	7/23	7/25	Iceland	3,991.45	330.00					3,991.45	330.00
Transportation, Department of the Air Force							6,104.12				6,104.12
Montgomery, Congressman G. V	7/23	7/25	Iceland	3,991.45	330.00					3,991.45	330.00
Transportation, Department of the Air Force							6,104.12				6,104.12
Stump, Congressman Bob	7/23	7/25	Iceland	3,991.45	330.00					3,991.45	330.00
Transportation, Department of the Air Force							6,104.12				6,104.12
White, Congressman Richard C	7/23	7/25	Iceland	3,991.45	330.00					3,991.45	330.00
Transportation, Department of the Air Force							6,104.12				6,104.12
Miscellaneous delegation expenses									113.47		113.47

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1982—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Farnborough Air Show, Sep. 3–12, 1982:											
White, Congressman Richard C.	9/3	9/8	United Kingdom	400.93	689.60					400.93	689.60
Transportation, Department of the Air Force.							2,988.36				2,988.36
Chase, Alan C.	9/4	9/12	United Kingdom	488.08	839.50					488.08	839.50
Transportation, Department of the Air Force.							725.22				725.22
White, Justus P., Jr.	9/4	9/12	United Kingdom	366.06	629.62					366.06	629.62
Transportation, Department of the Air Force.							725.22				725.22
Miscellaneous travel:											
Cofer, Williston B., Jr.	8/3	8/8	Germany	918.75	375.00					918.75	375.00
Transportation, Department of the Army (commercial).							2,930.00				2,930.00
Waters, James C.	8/3	8/8	Germany	918.75	375.00					918.75	375.00
Transportation, Department of the Army (commercial).							2,930.00				2,930.00
Committee total					6,922.72		72,327.40		113.47		79,763.59

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

MELVIN PRICE, Chairman, Sept. 30, 1982.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON BANKING, FINANCE, AND URBAN AFFAIRS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1982

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Walter Fauntroy	6/30	7/2	Haiti		225.00		[3] 381.00				606.00
Dough Barnard, Jr	7/23	7/25	Iceland		330.00		[4] 6,104.12				6,434.12
John LaFalce	9/3	9/7	Canada		425.00		[5] 98.40				523.40
Dave Evans	9/5	9/8	Canada		340.00		[3] 296.80				636.80
J. William Stanton	9/4	9/6	Canada		255.00		[3] 100.83				355.83
Jerry M. Patterson	9/4	9/7	Canada		340.00		[3] 488.90				828.90
Gregory Carman	9/5	9/8	Canada		340.00		[3] 204.00				544.00
James Coyne	9/5	9/7	Canada		255.00		([6])				255.00
Jan Shinpoch	9/4	9/9	Canada		510.00		[3] 272.50				782.50
James Orr	9/4	9/7	Canada		340.00		[5] 348.92				688.92
Committee total					3,360.00		8,295.47				11,655.47

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Commercial air.
[4] Military.
[5] Private car.
[6] Not available, amended report will be filed.

FERNAND J. ST GERMAIN, Chairman, Sept. 30, 1982.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON THE BUDGET, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1982

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Representative James R. Jones	7/1		United Kingdom	58.00	100.34		([3])				100.34
	7/2	7/3	United Kingdom	115.98	201.52		([3])				201.52
Peter M. Storm	9/5	9/9	Canada	524.71	425.00		280.00				705.00
Committee totals					726.86		280.00				1,006.86

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] No cost to Government for transportation.

JAMES R. JONES, Chairman, Oct. 6, 1982.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMISSION ON SECURITY AND COOPERATION IN EUROPE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1982

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Oliver, R. Spencer	8/19	8/20	Switzerland		[3] 75.00		[4] 3,518.00				
	8/21	8/22	Austria		[5] None						
	8/22	8/24	Ankara, Turkey	38,441	225.00						
	8/25	8/28	Istanbul, Turkey	53,429	316.00						
	8/29	9/05	Austria	1,674.20	[5] 97.00						
Sletzinger, Martin	8/19	8/21	Yugoslavia	7,370	150.00		3,516.00				
	8/22	8/24	Ankara, Turkey	38,441	225.00						
	8/25	8/29	Istanbul, Turkey	67,486	395.00						
Oliver, R. Spencer	9/12	9/15	Norway		[3] 300.00		2,665.00				
	9/16	9/19	Denmark		[5] None						
Committee totals					1,783.00		9,699.00				11,482.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Estimate of Per Diem at $75.00/day. Actual costs not known.
[4] Does not include rental costs of car to drive from Zurich to Bern. Will submit costs when received from Department of State on Next Report.
[5] Part of trip spent on personal business.

DANTE FASCELL, Chairman, Oct. 1, 1982.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON EDUCATION AND LABOR, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1982

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Clarence Norman	9/3	9/10	France	2,776.85	395.00		589.00		160.00	2,776.85	1,144.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

CARL D. PERKINS, Chairman, Oct. 18, 1982.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ENERGY AND COMMERCE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1982

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Henry A. Waxman, M.C.	7/1	7/11	England		700.00						700.00
Gustafson, David	9/1	9/4	France		158.00						158.00
Marks, Marc L., M.C.	7/4	7/8	Switzerland		425.00		2,810.00				3,235.00
	7/9	7/10	France		174.00		81.00				255.00
Sieracki, Paul	7/4	7/8	Switzerland		425.00		1,470.00				1,895.00
	7/9	7/10	France		174.00		81.00				255.00
Committee Total					2,056.00		4,442.00				6,498.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JOHN DINGELL, Chairman, Oct. 13, 1982.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON FOREIGN AFFAIRS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1982

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Bruce, T. W	8/15	8/24	Austria		873.00						873.00
	8/24	8/26	France		158.00						158.00
Commercial transportation							1,116.70				1,116.70
Dornan, R. K.	7/23	7/24	Switzerland		170.00		73.50				243.50
	7/30	8/1	France		174.00						174.00
	8/4	8/8	Israel		370.00						370.00
Commercial transportation							1,173.00				1,173.00
	9/2	9/4	United Kingdom		298.00						298.00
Commercial transportation							332.00				332.00
Galey, M. E.	8/17	8/22	Austria		582.00						582.00
Commercial transportation							1,736.00				1,736.00
Goodman, M. G.	9/5	9/7	Canada		209.72						209.72
Commercial transportation							280.00				280.00
Grunberg, C. A.	7/17	7/25	United Kingdom		374.84		13.00				387.84
Commercial transportation							1,850.00				1,850.00
Hamilton, J. M.	9/18	9/25	Austria		582.00		111.00				693.00
	9/25	9/28	Belgium		252.00						252.00
Commercial transportation							1,466.00				1,466.00
Laipson, E.	8/26	9/2	Morocco		525.00						525.00
	9/2	9/3	France								
	9/6	9/8	France		237.00						237.00
	9/3	9/6	Algeria		150.21						150.21
Commercial transportation							3,941.20				3,941.20

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON FOREIGN AFFAIRS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1982—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Newman, P	8/21	8/28	South Africa		525.00		845.55		204.70		1,575.25
	8/28	8/29	Spain		75.00						75.00
	8/29	9/2	Morocco		300.00						300.00
	9/2, 6	9/3, 8	France		237.00						237.00
	9/3	9/6	Algeria		151.50						151.50
Commercial transportation							4,353.00				4,353.00
Peckham, G. G	8/21	8/28	South Africa		525.00		845.55		204.70		1,575.25
	8/28	8/29	Spain		75.00						75.00
	8/29	9/2	Morocco		300.00						300.00
	9/2, 6	9/3, 8	France		237.00						237.00
	9/3	9/6	Algeria		157.96						157.96
Commercial transportation							4,353.00				4,353.00
Pitchford, G	8/21	8/31	South Africa		750.00		845.55		204.70		1,800.25
	8/31	9/1	Namibia		75.00						75.00
	9/1	9/2	South Africa		75.00		231.58				306.58
Commercial transportation							3,956.00				3,956.00
Roberts, A	9/19	9/25	Austria		582.00		111.00				693.00
	9/25	9/28	Belgium		252.00						252.00
Commercial transportation							1,466.00				1,466.00
Solarz, S. J	8/20	8/22	Saudi Arabia		243.00						243.00
	8/23	8/23	Jordan		84.00						84.00
	8/24	8/25	Iraq		186.00						186.00
	8/25	8/25	Jordan		84.00						84.00
	8/26	8/28	Israel		270.00						270.00
	8/29	8/31	Egypt		234.00						234.00
	8/31	9/1	Israel		190.00						190.00
	9/2	9/4	Cyprus		225.00						225.00
	9/5	9/6	Lebanon		150.00						150.00
Commercial transportation							4,245.00				4,245.00
Verstandig, T. G	8/26	9/2	Morocco		525.00						525.00
	9/2	9/3	France		79.00						79.00
	9/3	9/6	Algeria		157.95						157.95
	9/6	9/8	United Kingdom		210.00						210.00
Commercial transportation							4,599.20				4,599.20
Weissman, S	8/21	8/28	South Africa		525.00		845.55		204.70		1,575.25
	8/28	8/29	Spain		75.00						75.00
	8/29	9/2	Morocco		266.17						266.17
	9/2, 6	9/3, 8	France		225.00						225.00
	9/3	9/6	Algeria		102.83						102.83
Commercial transportation							4,353.00				4,353.00
Grant Total 3d quarter											57,426.36

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

CLEMENT J. ZABLOCKI, Chairman, Oct. 29, 1982.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON THE JUDICIARY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1982

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Peter W. Rodino, Jr., MC	8/28	9/3	Dominican Republic		553.00		201.00				754.00
	8/31	8/31	Haiti				24.00				24.00
Commercial transportation							535.35				535.35
Garner J. Cline, Staff	8/28	9/3	Dominican Republic		553.00		201.00				754.00
	8/31	8/31	Haiti				24.00				24.00
Commercial transportation							632.00				632.00
Committee total					1,106.00		1,617.35				2,723.35

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

PETER W. RODINO, JR., Chairman.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON INTERIOR AND INSULAR AFFAIRS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1982

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Ron de Lugo, M.C	6/29	6/30	Jamaica		106.00		[3] 896.00				1,002.00
	6/30	7/1	Haiti		75.00						75.00
	7/1	7/5	Barbados		520.00						520.00
Committee total					701.00		896.00				1,597

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Transportation was by military aircraft. Eqivalent first-class airfare is $896.

MORRIS K. UDALL, Chairman, Oct. 8, 1982.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON POST OFFICE AND CIVIL SERVICE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1982

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Edward J. Derwinski	8/28	8/30	Turkey	26,923.20	158.00					26,923.20	158.00
	8/30	8/31	Greece	6,631.00	95.00					6,631.00	95.00
	8/31	9/3	Cyprus	110.701	225.00					110.701	225.00
	9/3	9/6	Beirut	1,057.50	225.00					1,057.50	225.00
	9/6	9/7	Israel	$90.00	90.00					$90.00	90.00
Transatlantic and intercountry transportation provided by Department of State.							4,025.00				4,025.00
Jonas Bobelis	8/28	8/30	Turkey	26,923.20	158.00					26,923.20	158.00
	8/30	8/31	Greece	6,631.00	95.00					6,631.00	95.00
	8/31	9/3	Cyprus	110.701	225.00					110.701	225.00
	9/3	9/6	Beirut	1,057.50	225.00					1,057.50	225.00
	9/6	9/7	Israel	$90.00	90.00					$90.00	90.00
Transatlantic and intercountry transportation provided by Department of State.							4,025.00				4,025.00
Committee total					1,586.00		8,050.00				9,636.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

WILLIAM D. FORD, Chairman, Oct. 14, 1982.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1982

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Grisham, Wayne	8/5	8/10	Austria	8,434.15	485.00					8,434.15	485.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JAMES J. HOWARD, Chairman, Oct. 30, 1982.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON RULES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1982

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Shirley Chisholm, MC	6/30	7/5	Haiti	2,250	450.00		366.00	550	110.00		926.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

RICHARD BOLLING, Chairman, Nov. 16, 1982.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SCIENCE AND TECHNOLOGY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1982

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Byerly		8/6	United States				1,084.00				1,084.00
	8/7	8/16	Austria	8,434.15	485.00					8,434.15	485.00
	8/16		United States								
Irons		8/6	United States				1,084.00				1,084.00
	8/7	8/16	Austria	8,434.15	485.00					8,434.15	485.00
	8/16		United States								
Flippo		8/5	United States				(3)			8,434.15	485.00
	8/6	8/11	Austria	8,434.15	485.00						
	8/11		United States								
Carney		8/5	United States				(3)			8,434.15	485.00
	8/6	8/11	Austria	8,434.15	485.00						
	8/11		United States								
Fowler		8/6	United States				1,084.00				1,084.00
	8/7	8/16	Austria	8,434.15	485.00					8,434.15	485.00
	8/16		United States								

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Goldwater		9/1	United States								
	9/2	9/6	England								
	9/6		United States								
Scheuer		8/20	United States				4,234.14				4,234.14
	8/21	8/28	Israel		630.00						630.00
	8/28	9/3	Italy	479,196	348.00					479,196	348.00
	9/3		United States								
Hanson		8/6	United States				[3]				
	8/7	8/11	Austria	8,434.15	485.00					8,434.15	485.00
	8/11		United States								
Branscome		8/6	United States				[3]				
	8/7	8/11	Austria	8,434.15	485.00					8,434.15	485.00
	8/11		United States								
Tate		8/6	United States				[3]				
	8/7	8/11	Austria	8,434.15	485.00					8,434.15	485.00
	8/11		United States								
Holmfeld		8/6	United States				[3]				
	8/7	8/11	Austria	8,434.15	485.00					8,434.15	485.00
	8/11		United States								
Kunian		8/20	United States			4,234.14					4,234.14
	8/21	8/27	Israel		630.00						630.00
	8/27	9/3	Italy	928,098	674.00					928,098	674.00
	9/3		United States								
Shacknai		8/20	United States								
	8/21	8/28	Israel		630.00						630.00
	8/28	9/3	Italy	670,599	487.00					670,599	487.00
	9/5		United States								
Kopp		9/28	United States								
	8/29	9/2	Italy	670,599	487.00					670,599	487.00
	9/2	9/5	France								
	9/5		United States								
Palmer		8/28	United States								
	8/29	9/2	Italy	670,599	487.00					670.599	487.00
	9/2	9/5	France								
	9/5		United States								
Committee totals					8,738.00		11,720.28				20,458.14

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] DOD aircraft.

DON FUQUA, Chairman, Oct. 30, 1982.

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SCIENCE AND TECHNOLOGY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1982

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Goldwater, Jr.		9/2	United States								
	9/2	9/4	British Colombia				297.00				297.00
	9/4	9/9	England	359	525.00		[3]			359	525.00
	9/9		United States								
Scheuer		8/20	United States				4,234.14				4,234.14
	8/21	8/28	Israel	12,600	630.00					12,600	630.00
	8/28	9/3	Italy	479,196	348.00			294,018	[4] 209.27	773,214	557.27
	9/3		United States								
McGrath		8/20	United States				4,263.00				4,263.00
	8/21	8/27	Israel	10,800	540.00					10,800	540.00
	8/27		United States								
Kunian		8/20	United States				4,234.14				4,234.14
	8/21	8/27	Israel	12,600	630.00					12,600	630.00
	8/27	9/3	Italy	928,098	674.00					928,098	674.00
	9/3		United States								
Shacknai		8/20	United States				4,234.14				4,234.14
	8/21	8/28	Israel	12,600	630.00					12,600	630.00
	8/28	9/3	Italy	670,599	487.00					670,599	487.00
	9/3		United States								
Kopp		8/28	United States				2,834.00				2,834.00
	8/29	9/2	Italy	670,599	487.00					670,599	487.00
	9/2	9/5	France	833.05	237.00					833.05	237.00
	9/5		United States								
Palmer		8/28	United States				2,834.00				2,834.00
	8/29	9/2	Italy	670,599	487.00					670,599	487.00
	9/2	9/5	France	833.06	237.00					833.06	237.00
	9/5		United States								
Committee total					5,912.00		22,930.42		209.27		29,051.69

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] DOD aircraft.
[4] Delegation overtime charges by Embassy.

DON FUQUA, Chairman, Nov. 22, 1982.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, SELECT COMMITTEE ON AGING, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1982

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Claude Pepper	7/23	7/29	Vienna, Austria	11,566	675.00	50,368.80	2,976.00			61,934.80	3,651.00
Mario Biaggi	7/24	7/28	Vienna, Austria	5,179	306.00	50,368.80	2,976.00			55,547.80	3,282.00
Robert Dornan	7/22	8/8	Vienna, Austria	5,179	306.00	19,853.02	1,173.00			25,032.02	1,479.00
Robert Blancato	7/24	7/28	Vienna, Austria	5,179	306.00	26,961.52	1,593.00			32,140.52	1,899.00
Charles Edwards	7/23	8/10	Vienna, Austria	34,854	2,025.00	40,300.11	2,381.10			75,154.86	4,406.10
Committee total				61,957.75	3,618.00	186,652.25	11,099.10			249,810.00	14,717.10

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

CLAUDE PEPPER, Chairman, Oct. 21, 1982.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1982

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Franklin C. Phifer, Jr	8/23	8/31	Japan	213,465	840.00		1,959.00				2,799.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DAN ROSTENKOWSKI, Chairman, Oct. 6, 1982.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO SYRIA, LEBANON, ISRAEL, JORDAN, CYPRUS, SAUDI ARABIA, AND EGYPT, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 22 AND JULY 31, 1982

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Rahall, N. J., II, Congressman	7/23	7/25	Syria	624	160.00			1,395.22	375.75	2,019.22	535.75
	7/25	7/26	Lebanon			960	188.23	33.75	6.61	993.75	194.84
	7/26	7/27	Israel		90.00						90.00
	7/27	7/29	Egypt	194.590	234.00					194.590	234.00
	7/29	7/30	Jordan	29.775	84.00			2.821	7.97	32.596	91.97
	7/30	7/31	Saudi Arabia	559	164.00	106.63	31.37			665.63	195.37
Military air transportation							17,913.86				17,913.86
Oakar, M. R., Congresswoman	7/23	7/25	Syria	624	160.00			1,395.22	375.75	2,019.22	535.75
	7/25	7/26	Lebanon			960	188.23	33.75	6.61	993.75	194.84
	7/26	7/27	Israel		90.00						90.00
	7/27	7/29	Egypt	194.590	234.00					194.590	234.00
	7/29	7/30	Jordan	29.775	84.00			2.821	7.97	32.596	91.97
	7/30	7/31	Saudi Arabia	559	164.00	106.63	31.37			665.63	195.37
Military air transportation							17,913.86				17,913.86
McCloskey, P. N., Congressman	7/23	7/25	Syria	624	160.00			1,395.22	375.75	2,019.22	535.75
	7/25	7/26	Lebanon	75	14.70	960	188.23	33.75	6.61	1,068.75	209.54
	7/26	7/27	Israel		90.00						90.00
	7/27	7/29	Egypt	194.590	234.00					194.590	234.00
	7/29	7/30	Jordan	29.775	84.00			2.821	7.97	32.596	91.97
	7/30	7/31	Saudi Arabia	559	164.00	106.63	31.37			665.63	195.37
Military air transportation							17,913.86				17,913.86
Dymally, M., Congressman	7/23	7/25	Syria	624	160.00			1,395.22	375.75	2,019.22	535.75
	7/25	7/26	Lebanon	75	14.70	960	188.23	33.75	6.61	1,068.75	209.54
	7/26	7/27	Israel		90.00						90.00
	7/27	7/29	Egypt	194.590	234.00					194.590	234.00
Military air transportation							6,700.09				6,700.09
Commercial air transportation							2,200.58				2,220.58
Levitas, E., Congressman	7/23	7/25	Syria	624	160.00			1,395.22	375.75	2,019.22	535.75
	7/25	7/26	Lebanon	75	14.70	960	188.23	33.75	6.61	1,068.75	209.54
	7/26	7/27	Israel		90.00						90.00
Military air transportation							6,192.14				6,192.14
Commercial air transportation							2,171.00				2,171.00
Donior, D. E., Congressman	7/23	7/25	Syria	624	160.00			1,395.22	375.75	2,019.22	535.75
	7/25	7/26	Lebanon	75	14.70	960	188.23	33.75	6.61	1,068.75	209.54
	7/26	7/27	Israel		90.00						90.00
	7/27	7/29	Egypt	194.590	234.00					194.590	234.00
	7/29	7/30	Cyprus	67.618	139.43			7.192	14.83	74.810	154.26
Commercial air transportation							454.65				454.65
	7/30	7/31	Saudi Arabia	559	164.00	106.63	31.37			665.63	195.37
Military air transportation							13,817.24				13,817.24
Serpe, M. E. (staff)	7/23	7/25	Syria	624	160.00			1,395.22	375.75	2,019.22	535.75
	7/25	7/26	Lebanon	150	29.41	960	188.23	33.75	6.61	1,143.75	224.25
	7/26	7/27	Israel		90.00						90.00
	7/27	7/29	Egypt	194.590	234.00					194.590	234.00
	7/29	7/30	Jordan	29.775	84.00			2.821	7.97	32.596	91.97
	7/30	7/31	Saudi Arabia	559	164.00	106.63	31.37			665.63	195.37
Military air transportation							17,913.86				17,913.86

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Scholtz, A. E. (staff)	7/23	7/25	Syria	624	160.00			1,395.22	375.75	2,019.22	535.75
	7/25	7/26	Lebanon	150	29.41	960	188.23	33.75	6.61	1,143.75	224.25
	7/26	7/27	Israel		90.00						90.00
	7/27	7/29	Egypt	194.590	234.00					194.590	234.00
	7/29	7/30	Jordan	29.775	84.00			2.821	7.97	32.596	91.97
	7/30	7/31	Saudi Arabia	559	164.00	106.63	31.37			665.63	195.37
Military air transportation							17,913.86				17,913.86
McCormick, M. A. (staff)	7/23	7/25	Syria	624	160.00			1,395.22	375.75	2,019.22	535.75
	7/25	7/26	Lebanon			960	188.23	33.75	6.61	993.75	194.84
	7/26	7/27	Israel		90.00						90.00
	7/27	7/29	Egypt	194.590	234.00					194.590	234.00
	7/29	7/30	Jordan	29.775	84.00			2.821	7.97	32.596	91.97
	7/30	7/31	Saudi Arabia	559	164.00	106.63	31.37			665.63	195.37
Military air transportation							17,913.86				17,913.86
Vinicor, M. A. (staff)	7/23	7/25	Syria	624	160.00			1,395.22	375.75	2,019.22	535.75
	7/25	7/26	Lebanon			960.00	188.23	33.75	6.61	993.75	194.84
	7/26	7/27	Israel		90.00						90.00
	7/27	7/29	Egypt	194.590	234.00					194.590	234.00
	7/29	7/30	Jordan	29.775	84.00			2.821	7.97	32.596	91.97
	7/30	7/31	Saudi Arabia	559	164.00	106.63	31.37			665.63	195.37
Military air transportation							17,913.86				17,913.86
Committee total					6763.05		159,065.98		3,894.22		169,723.25

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

NICK RAHALL, Chairman, Aug. 31, 1982.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL'S. ARIEL WEISS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN AUGUST 19 AND SEPT. 6, 1982

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
S. Ariel Weiss			Iraq		93.00						
	8/25	8/26	Jordan		84.00						
	8/27	8/28	Israel		270.00						
	8/29	8/30	Egypt		234.00						
	8/31	9/1	Israel		190.00						
	9/2	9/4	Cyprus		225.00						
	9/5	9/6	Lebanon		150.00						
Commerical transportation							2,618.00				2,618.00
Committee total					1,246.00		2,618.00				2,618.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

S. ARIEL WEISS.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5198. A letter from the Secretary of the Treasury, transmitting a quarterly report for the period ended September 30, 1982, summarizing the activities carried out under the Olympic Commemorative Coin Act of 1982, pursuant to section 11 of such act; to the Committee on Banking, Finance and Urban Affairs.

5199. A letter from the Assistant Secretary, Office of Educational Research and Improvement, transmitting notice of the delay in meeting reporting requirements regarding studies on the financing of public and private elementary and secondary education in the United States as required by section 1203 of the Education Amendments of 1978, and a schedule of when these requirements will be met; to the Committee on Education and Labor.

5200. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the American Institute in Taiwan's intention to offer to sell certain defense articles and services to the Coordination Council for North American Affair, (transmittal No. 83-07), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

5201. A letter from the Secretary of Agriculture, transmitting the semiannual report of the Department's Inspector General covering the period ended September 30, 1982, pursuant to section 5(b) of Public Law 95-452; to the Committee on Government Operations.

5202. A letter from the Secretary of Defense, transmitting the semiannual report of the Department's Inspector General covering the period ended September 30, 1982, pursuant to section 8(a)(1) of Public Law 95-452; to the Committee on Government Operations.

5203. A letter from the Deputy Assistant Secretary of Defense (Comptroller-Administration), transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

5204. A letter from the Adjutant General, United Spanish War Veterans, transmitting the proceedings of the stated convention of the 83d National Encampment, United Spanish War Veterans, Inc., held in Kansas City, Mo., October 3-8, 1981 (H. Doc. No. 97-260); to the Committee on Veterans' Affairs and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. PERKINS: Committee on Education and Labor. H.R. 2500. A bill to establish a select commission to examine the issues associated with voluntary service; with an amendment (Rept. No. 97-939). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee on Education and Labor. H.R. 6514. A bill to revise and reform the Immigration and Nationality Act, and for other purposes; with amendments (Rept. No. 97-890, Pt. II). Ordered to be printed.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X:

The Committee on Agriculture, Energy and Commerce, and Ways and Means discharged from the further consideration of the bill H.R. 6514; H.R. 6514 referred to the Union Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. WEAVER (for himself, Mr. AuCOIN, and Mr. WYDEN):

H.R. 7340. A bill to designate certain National Forest System lands in the State of Oregon for inclusion in the National Wilderness Preservation System and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. BARNARD:

H.R. 7341. A bill to effectuate the congressional directive that accounts established under section 327 of the Garn-St Germain Depository Institutions Act of 1982 be directly equivalent and competitive with money market mutual funds; to the Committee on Banking, Finance and Urban Affairs.

By Mr. GONZALEZ:

H.R. 7342. A bill to authorize the President to award the Medal of Honor posthumously to the family of Armando G. Leal, Jr.; to the Committee on Armed Services.

By Mr. McEWEN:

H.R. 7343. A bill to repeal the withholding of tax from interest and dividends; to the Committee on Ways and Means.

By Mr. MADIGAN:

H.R. 7344. A bill to amend the Federal Food, Drug, and Cosmetic Act to establish Federal preemption for regulations imposing requirements for tamper-resistant packaging and related labeling for nonprescription drugs; to the Committee on Energy and Commerce.

By Mr. MITCHELL of Maryland:

H.R. 7345. A bill to reauthorize the Local Public Works Capital Development and Investment Act of 1976, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. WATKINS:

H.R. 7346. A bill to provide that the Department of Agriculture shall be known as the Department of Agriculture and Rural Development; to the Committee on Agriculture.

By Mr. WAXMAN:

H.R. 7347. A bill to amend the Communications Act of 1934 to establish certain rules relating to the syndication of programing by television networks; to the Committee on Energy and Commerce.

By Mr. WYDEN:

H.J. Res. 626. Joint resolution recommending the Declaration on Prevention of Nuclear War; to the Committee on Foreign Affairs.

By Mrs. KENNELLY:

H. Con. Res. 430. Concurrent resolution expressing the sense of the Congress that a security zone should be established in southern Lebanon; to the Committee on Foreign Affairs.

By Mr. GONZALEZ:

H. Res. 613. Resolution to urge a reaffirmation and a revitalization of the U.S. commitment to the protection of human rights in Latin America and to call upon the President to request the Organization of American States to take certain steps to promote economic progress in the hemisphere and an end to the violence in Latin America; to the Committee on Foreign Affairs.

By Mr. OBERSTAR:

H. Res. 614. Resolution expressing the sense of the House of Representatives that the Secretary of Agriculture should suspend, until April 15, 1983, the imposition of any requirement that amounts be deducted from the proceeds of sales of milk marketed commercially by producers; to the Committee on Agriculture.

By Mr. SHAW:

H. Res. 615. Resolution to amend the Rules of the House of Representatives to require a recorded vote upon final passage of legislation that adjusts the pay of Members, and for other purposes; to the Committee on Rules.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 385: Mr. WHITEHURST.
H.R. 3353: Mr. RITTER.
H.R. 3840: Mr. MARKEY, Mr. ADDABBO, and Ms. FERRARO.
H.R. 3841: Mr. ADDABBO, Ms. FERRARO, and Mr. BRODHEAD.
H.R. 5738: Mr. WASHINGTON.
H.R. 5828: Mr. PANETTA.
H.R. 5920: Mr. RITTER.
H.R. 6433: Mr. PATTERSON.
H.R. 6573: Mr. WASHINGTON.
H.R. 6702: Mr. McCURDY.
H.R. 6751: Mr. DAN DANIEL, Mr. PURSELL, Mr. WAXMAN, Mr. CORRADA, Mr. ADDABBO, Mr. DWYER, Mr. DUNN, Mr. FISH, Mr. CONYERS, Mr. DONNELLY, Mr. MOAKLEY, Mr. MARKEY, Mr. MAVROULES, Mr. FRANK, Mr. SHANNON, Mrs. HECKLER, Mr. HUGHES, Mr. WHITEHURST, Mr. FOGLIETTA, Mr. GUARINI, Mr. MOLLOHAN, Mr. HYDE, Mr. PICKLE, Mr. WINN, Mr. SKELTON, Mrs. SCHNEIDER, Mr. HOLLENBECK, Mr. HOWARD, Mr. FOLEY, Mr. FORSYTHE, and Mr. LEWIS.
H.R. 7181: Mr. JEFFRIES.
H.R. 7182: Mr. JEFFRIES.
H.R. 7220: Mr. FAUNTROY, Mr. BRODHEAD, and Mr. GRAY.
H.R. 7314: Mr. PETRI, Mr. SOLOMON, Mr. ROTH, Mr. SENSENBRENNER, Mr. MARTIN of New York, Mr. McDADE, Mr. CORRADA, Mr. SAM B. HALL, JR., Mr. MITCHELL of New York, and Mrs. SNOWE.
H.J. Res. 81: Mr. WYDEN.
H.J. Res. 460: Mr. MURTHA, Mr. BEARD, Mr. DUNCAN, Mr. QUILLEN, and Mr. STRATTON.
H.J. Res. 524: Mr. PEPPER, Mrs. COLLINS of Illinois, Mr. MINETA, and Mr. TAUZIN.
H.J. Res. 576: Mr. MINETA and Mr. CHAPPIE.
H.J. Res. 591: Mr. DE LA GARZA, Mr. FROST, Mr. McCOLLUM, Mr. McEWEN, Mr. WEBER of Ohio, and Mr. WOLPE.
H.J. Res. 614: Mr. LOEFFLER, Mr. FRENZEL, and Mr. GINGRICH.
H. Con. Res. 392: Mr. FAUNTROY.
H. Con. Res. 411: Mr. DOUGHERTY, Mr. JEFFRIES, Mrs. MARTIN of Illinois, and Mr. WOLF.
H. Res. 606: Mr. FAUNTROY, Mr. BRODHEAD, Mr. YATES, Mr. BARNES, Mr. FOGLIETTA, Mr. KILDEE, Mr. SCHUMER, Mr. WEISS, Mr. RODINO, Mr. SHANNON, Mr. BAILEY of Pennsylvania, Mr. LEHMAN, Mr. CROCKETT, Mrs. CHISHOLM, Mr. DIXON, Mr. DYMALLY, Mr. MITCHELL of Maryland, Mr. FOWLER, Mr. SCHEUER, Mr. CORRADA, Mr. DOWNEY, Mr. STOKES, Mr. SIMON, Mr. BEDELL, Mr. OTTINGER, Mr. MOAKLEY, Mr. McHUGH, Mr. GRAY, Mr. ROSENTHAL, Mr. LOWRY of Washington, Mr. HALL of Ohio, Mr. VENTO, Mr. EDGAR, Mr. WYDEN, Mr. ADDABBO, Mr. OBERSTAR, Mr. WILLIAM J. COYNE, Mr. MINETA, Mr. UDALL, Mr. CONYERS, Mr. LELAND, Mr. PEPPER, Mr. RATCHFORD, Mr. OBEY, and Mr. BROWN of California.

PETITIONS, ETC.

Under clause 1 of rule XXII,

667. The SPEAKER presented a petition of the Western States Land Commissioners Association, Wisconsin, relative to Outer Continental Shelf Revenue Sharing; which was referred jointly to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

SENATE—*Wednesday, December 1, 1982*

(Legislative day of Tuesday, November 30, 1982)

The Senate convened at 10:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Gracious God, sovereign Lord of history and the nations, we pause to express our profound gratitude for the benefits we enjoy in our Republic. Forgive us when we presume upon these inestimable gifts. Help us to realize how rare in the world today and in the history of nations is the freedom we enjoy. Do not let us have to lose it to appreciate it.

Remind us, as our Founding Fathers believed, that liberty is not derived from man's genius in planning and governing, but that it is an endowment of God which governments are instituted to secure; and that when we reject the God who gives human rights, we forfeit the rights which He gives. May we understand that our rights are secure only as we take God seriously.

Father in Heaven, as the pressures of limited time and imminent adjournment compound the stress of legislation, grant to the Senators cool heads, warm hearts, and the ability to complete all they will wish they had done when the 97th Congress is over. In the name of Jesus Christ who finished on a cross the work for which He entered history. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved.

The PRESIDING OFFICER (Mr. DANFORTH). Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I believe there are special orders in favor of the Senator from Pennsylvania (Mr. SPECTER) and the Senator from Virginia (Mr. HARRY F. BYRD, JR.) for not to exceed 15 minutes each. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

ORDER DESIGNATING PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that following on after the execution of the special orders, there be a period for the transaction of routine morning business not to exceed 15 minutes in length in which Senators may speak for not more than 3 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 995

Mr. BAKER. Mr. President, in the course of the day we will continue to debate S. 995, the antitrust bill, on which the committee amendment is pending. The yeas and nays have been ordered.

Cloture motions have been filed which will require votes under the provisions of rule XXII on tomorrow. The motions are against both the bill and the committee amendment, and both votes will occur pursuant to the rule on tomorrow in the sequence in which the motions were filed.

The PRESIDING OFFICER. Unless cloture is invoked on the first vote.

Mr. BAKER. Mr. President, let me say, by the way, that under the previous formulation that the votes would occur seriatim in no way implies that cloture would not occur on the first vote. The second cloture vote would not occur if the first vote produces cloture.

D.C. APPROPRIATIONS

Mr. President, it is my hope that we can take up at least one appropriations bill in the interim. The one that appears to be most appropriate is the D.C. appropriations bill, H.R. 7144, and the companion bill, S. 2917. It may not be possible to do that. I will explore the possibility later today. If it is not possible then, of course, we will proceed with debate for the time being on S. 995.

Mr. President, later in the day I will have a further announcement to make on the date of the convening of the Senate for the 98th Congress, but before I make that announcement I wish to confer further with the minority leader and also have a discussion with the Speaker of the House of Representatives.

Mr. President, I have no further need for my time under the standing order. I see no Senator seeking time at this moment. I will be glad to yield my remaining time to the minority leader, if he has need for it.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The minority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, I thank the majority leader. I have no need for his time remaining under the standing order.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR SPECTER

The PRESIDING OFFICER. Under the previous order, the Senator from Pennsylvania is recognized for not to exceed 15 minutes.

Mr. SPECTER. I thank the Chair.

RAISING THE LEGAL MINIMUM AGE FOR DRINKING AND PURCHASING ALCOHOL

Mr. SPECTER. Mr. President, I rise today to join my distinguished colleague from Pennsylvania, the Honorable WILLIAM GOODLING, Member of the House of Representatives, in introducing a sense-of-the-Senate resolution concerning the legal minimum age for drinking and purchasing alcohol. The essence of this resolution expresses the sense of the Congress that the legal age for drinking should be raised to the age of 21 in those 35 States and the District of Columbia where the drinking age is now less than 21. This resolution follows the recommendation of the National Transportation Safety Board, which has urged that the minimum age for drinking and purchase of liquor be raised uniformly in the United States to 21 years.

The underlying facts are overwhelming. Of the 25,000 persons who die each year in drunk driving accidents, some 5,000 are teenagers. Of the almost 60 percent of fatally injured teenagers in automobile accidents, some 60 percent of those have alcohol

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

in their blood. In the course of the past 75 years, the life expectancy in the United States has increased for every group except one age bracket, and that is in the 15- to 24-year-old category. The leading single cause of death in this group was drunk driving.

The age for drunk driving had generally been 21 until a series of State laws were changed in the 1970's to reduce that age in accordance with general efforts to give full legal rights to those 18 and above. In light of the empirical evidence which we have, there is good reason at this time to reverse that trend and make the legal age 21, as it had been for so long in the past. There was testimony given yesterday by Secretary Richard Schweiker of the Health and Human Services Department, and Secretary Drew Lewis of the Department of Transportation on this subject.

It is my view that it would be most appropriate for the U.S. Senate to enact this resolution to express our sense and join with the House of Representatives in urging that the States which have jurisdiction over this issue raise the legal age for drinking and purchase of alcohol to 21 years of age.

Mr. President, I ask unanimous consent that the full text of the concurrent resolution be printed in the RECORD.

The text of the concurrent resolution follows.

There being no objection, the concurrent resolution was ordered to be printed in the RECORD, as follows:

S. CON. RES. 129

Whereas of the 25,000 persons who die each year in drunk driving accidents, 5,000 are teenagers and almost 35 percent are between the ages of 16 and 24;

Whereas almost 60 percent of fatally injured teenage drivers had alcohol in their blood;

Whereas life expectancy in America has improved over the past 75 years for every age group except one—15 to 24 year olds—and whereas the leading single cause of death for this age group is drunk driving;

Whereas available data shows a direct correlation between minimum drinking age and alcohol-related accidents in the 18-to-21-year-old age group;

Whereas numerous empirical investigations have shown significant increases in motor vehicle crash involvement among young drivers after reductions in the drinking age;

Whereas as the result of this emerging research, a number of States raised the drinking age in the late 1970's and early 1980's; and

Whereas the National Transportation Safety Board has urged that the legal minimum age for drinking and purchasing alcohol be raised to 21 nationwide in an effort to cut the highway death toll from drunken driving; Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the age for drinking and purchasing all alcoholic beverages should be raised to 21 in those 35 States and the District of Columbia where the drinking age is now less than 21.

FLOOD CONTROL ON THE SUSQUEHANNA RIVER

Mr. SPECTER. Mr. President, I rise to introduce three bills today which would authorize flood control projects for Pennsylvania. These are for Wyoming Valley, Luzerne County, Pa.; Harrisburg, Pa.; and Lock Haven, Pa. All three of these projects are on the Susquehanna River; the first two on the main river and the last on the West Branch.

The cities of Wilkes-Barre, Harrisburg, Lock Haven, and numerous nearby communities were devastated by a series of floods in late June 1972 from the heavy rains of tropical storm Agnes and these projects are in response to that widespread flooding and a subsequent flood from Hurricane Eloise, a few years later.

The Board of Engineers for Rivers and Harbors recommended favorable action, concurring in general with the findings and recommendations of the Baltimore District Engineer in the North Atlantic Division Engineer concerning increased flood protection in the existing Wyoming Valley flood control system. The most severe flood of record, tropical storm Agnes, overtopped the existing levee system by 4 to 5 feet. Flood damages in the area were estimated to have been $730 million at June 1972 price levels. Recurrence of a flood the magnitude of Agnes under today's conditions would cause in excess of $1 billion in damages.

The existing Federal flood control system in Wilkes-Barre provides only a 50-year design level of flood protection for what the Corps of Engineers correctly identifies as an "intensively developed major urban area." The corps plan would protect the Wyoming Valley against a flood magnitude equal to that caused by tropical storm Agnes.

The recommended plan will raise the existing levee system in the Wyoming Valley by 5 to 7 feet, provide new closure and drainage structures, construct a new pumping station, and provide new levees and floodwalls to maintain the system's integrity at five communities in the Wyoming Valley. The five communities are: First, Wilkes-Barre/Hanover Township; second, Swoyersville/Forty-Fort; third, Exeter/West Pittston; fourth, Kingston/Edwardsville; and fifth, Plymouth.

Induced flooding from raising the existing levee system will be mitigated at eight communities. Mitigation at five of the communities with existing flood protection projects—Sunbury, Danville, Brookside, Miners Mills, and Duryea—will be by levee or floodwall raising. At two communities—Plainsville and Port Blanchard—nonstructural mitigation measures consisting of a combination of evacuation, floodproofing, relocation, and a ring levee-floodwall system will be employed. At Bloomsburg, the mitigation measure will consist of removal of an abandoned Conrail bridge.

The Harrisburg project was approved by the Board of Engineers for Rivers and Harbors as long ago as April 28, 1978, and the Chief of Engineers on May 16, 1979.

In 1972, the flood of record caused over $85 million of damage at 1972 prices. Flood protection is critically needed for South Harrisburg against recurrent flooding from both the Susquehanna River and Paxton Creek. The corps plan consists of constructing a flood wall, channel improvements, a pumping plant, and a small dam. Total cost would be $117 million.

With respect to Lock Haven, it should be noted that nearly the entire city is subject to flooding both from the West Branch Susquehanna River and Bald Eagle Creek. The city has been flooded 19 times in the last 130 years. As in other areas, the most damaging flood occurred in 1972, when tropical storm Agnes inundated the entire business district and much of the residential areas of the city and adjoining townships.

The corps plan would provide a local flood protection system consisting of levees, flood walls, interior drainage works, highways, and railroad closure structures. Also, removal of structures affected by flooding in communities directly across the river from the city is contemplated.

The total cost is estimated at $69.8 million.

It has been proposed that the cost sharing policies of the past be abandoned and more stringent requirements be placed on State, local, and private interests. I suggest that, while cost sharing may have its merits, some allowance must be made for ability to pay. In any event, this issue will be subject to extended review in the next session of Congress. We need, in the meantime, to authorize these three flood control projects promptly. Pennsylvanians, frankly, wonder why, 10 years after a devastating flood, these three needed projects have not been authorized.

I ask unanimous consent that the full text of the three proposed bills be printed in the RECORD, as follows:

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3055

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Army acting through the Chief of Engineers, is authorized to implement the project for flood damage prevention at Wyoming Valley, Luzerne County, Pennsylvania, substantially in accordance with, and subject to conditions recommended in, the Report of the Divisions Engineer dated February 16, 1982, at an estimated

cost of $207,000,000. Sections 201 and 202 and the last three sentences of the Flood Control Act of 1968 (Public Law 90-483) shall apply to this project.

S. 3056

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Army, acting through the Chief of Engineers, is authorized to implement the project for flood damage prevention at Lock Haven, Pennsylvania, on the West Branch of the Susquehanna River, substantially in accordance with, and subject to conditions recommended in, the Report of the Chief of Engineers dated December 14, 1981, at an estimated cost of $69,800,000. Sections 201 and 202 and the last three sentences in Section 203 of the Flood Control Act of 1968 (Public Law 90-483) shall apply to this project.

S. 3057

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Army acting through the Chief of Engineers, is authorized to implement the project for flood damage prevention at Harrisburg, Pennsylvania, on the Susquehanna River, substantially in accordance with the plans and subject to the conditions recommended by the Chief of Engineers in his Report dated May 16, 1979, at an estimated cost of $117,000,000. Sections 201 and 202 and the last three sentences in Section 203 of the Flood Control Act of 1968 (Public Law 90-483) shall apply to this project.

PRESQUE ISLE PENINSULA BREAKWATER CONSTRUCTION

Mr. SPECTER. Mr. President, I rise to introduce a bill to authorize the construction of a system of breakwaters along the lakeward length of Presque Isle Peninsula on Lake Erie in the northwest corner of Pennsylvania.

In 1956, the Federal Government, in cooperation with the Commonwealth of Pennsylvania, completed a beach erosion control project on Presque Isle Peninsula. As I recently observed when I visited Presque Isle, the project has proven to be inadequate and sand replenishment measures have been required periodically through the 1960's and 1970's and annually since 1975, in order to protect the Federal structures and State park facilities along the neck of the peninsula. Since the sand replenishment requirements have far exceeded the estimated requirements, a more effective method of protection and beach stabilization is desired. The park is a popular recreational area and provides facilities for a wide spectrum of recreational opportunities. The year-round attractiveness of the park is shown by the over 4 million persons which visit the park annually.

The Corps of Engineers recommended plan of improvement provides for construction of a system of rubblemound breakwaters located offshore along the lakeward length of Presque Isle Peninsula, parallel to the shoreline, and positioned in the trough between the first and second offshore sand bars. Each structure will be 150 feet long with a 350-foot gap between structures. In addition, sand fill will be placed along the shoreline in the lee of the breakwaters to provide a recreational beach berm.

The system of offshore breakwaters allows sufficient wave energy to pass through the gap between breakwater segments to generate an alongshore current in the lee of the breakwater system. Therefore, natural shore processes will continue to transport sand in quantities which will preserve the integrity of the natural environment, especially the sensitive and unique portion of the ecological reservation on the east end of the peninsula. An important element of the recommended plan will be the operation of a post-construction monitoring program which would note the presence of any adverse sediment transport impacts. Should adverse impacts arise, the annual replenishment program would be adjusted to provide sand in order to eliminate, minimize, or ameliorate possible adverse environmental impacts.

The project costs would be $24 million.

Mr. President, I ask unanimous consent that the full text of the proposal will be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3058

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Army, acting through the Chief of Engineers, is authorized to implement the project for beach erosion control at Presque Isle Peninsula, Pennsylvania, substantially in accordance with, and subject to conditions recommended in, the Report of the Chief of Engineers dated October 2, 1981, at an estimated cost of $24,000,000.

ORDER OF PROCEDURE

Mr. SPECTER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I understand that the Senator from Virginia (Mr. HARRY F. BYRD, JR.) has a special order and that he is not going to use his time. I ask unanimous consent that that time be applied to me for use at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

AFTER GATT: A CALL FOR A DOMESTIC ECONOMIC AND TRADE SUMMIT

Mr. GRASSLEY. Mr. President, in the face of the current world recession and mounting protectionist pressures, the delegation to the 88-nation General Agreement on Tariffs and Trade came home with what most participants have described somewhere between a "washout" and a "modest achievement."

As a delegate to the GATT ministerial meeting, in which a majority of my time was geared to the impact the European Community (EC) export subsidy on agricultural products is having on our own domestic farmers, I came away extremely disappointed. Although a special committee was established to conduct a 2-year study on the impact of export subsidies, no recommendations will be forthcoming until 1984. And even though this concession required a unanimous endorsement by GATT members, Wilhelm Haferkamp, vice president of the common market's policymaking commission, stated emphatically that endorsement of the document was not a commitment to any new negotiations or obligations in relation to agriculture. Unfortunately, this strong stance does nothing but pave the way for further escalations between the United States and Europe, not only in the area of agriculture but also other nonagricultural related exports.

Twenty years ago, President Kennedy called world trade a rising tide lifting all boats. Unfortunately, today we can no longer view trade in such a light, as globally we face an industrialized recession in most developed nations and a minidepression in some undeveloped countries. As a result, we are all grappling for concessions, places to expand our trade, protection of our domestic industries, and blaming other nations for the high rate of unemployment we are now experiencing. Unfortunately, it is politics and not market forces that are determining the direction and content of trade flows. The American farmer and industrial workers are not competing with European farmers and European industrial workers, but, instead, with agricultural subsidies and export credit financing. The Japanese are using predatory pricing and targeting high-tech advancements, not to mention inundating our ports with Japanese autos.

If there is one overriding issue in world trade today, it seems to me it is the question of the relevance of the General Agreement on Tariffs and Trade. When GATT was established in 1947, the United States was supreme in technology, management skills, and productive capacity. Since that time, the structure of the world economy has changed dramatically, and devel-

oped and developing countries have become stiff competitors for our domestic and export markets. During last week's meeting of GATT in Geneva, it became apparent to me that GATT either cannot or will not handle the difficult and complex areas of nontariff barriers, export subsidies, import licensing, trade in services, investments, and high technology.

The United States represents the biggest import market in the world; and, by and large, we made our marketplace available to our trading partners with relatively few restrictions. On the other hand, market barriers the American producer faces overseas come in many guises. As a result of the outcome of the GATT ministerial meetings, the time has come to let our trading partners know that we are no longer willing to tolerate one-way streets. The stakes are enormous. A drift away from the principles of GATT could close off the longest era of prosperity the world has ever known. Consumers and producers throughout the world have benefited tremendously from the open exchange of goods and services across international boundaries. The lure of protectionism, although tempting, should be approached with caution and rational thinking, during this emotional and heated time. We should focus not only on the markets that we want to penetrate by using the resources available to us, but also the markets we may lose on the trade surplus of our balance sheet if we are overzealous.

The task of our political leadership is to understand the gravity of the position we are in and to begin to shape a trade policy that makes sense for our farmers, our industries, and our trading partners in the 1980's. It must, however, be a policy which the American people can believe and our trading partners can be convinced is in their best interest as well as ours. We must not only establish a trade policy; we have to grapple with Western economic growth as well.

We must address the issues of: First, assurance of fair access to world markets; second, declaration of a truce in export credit wars; third, elimination of agricultural subsidies; fourth, protection of technology transfer through joint ventures or licensing arrangements; fifth, removal of self-imposed restrictions on American producers by our own Government; sixth, control of exchange rate manipulations; seventh, enhancement of the competitiveness and state of our farm sector and our ailing industries; and eighth, development of cabinet-level office to focus on international trade to coordinate the impact and consequences of political and foreign decisions on our overall economic and foreign trade well being.

Since it is apparent that we as a government cannot solve this problem internally, I am writing to the President today to suggest that he immediately call together a bipartisan group of this country's brightest political, business, labor, and farm leaders, along with members of the academic community to set an economic and trade agenda for this Nation in the 1980's. There is talk of dumping our agriculture products on the world market, in retaliation to the EC's resistance to reducing agricultural subsidies as well as other protectionist measures. These are actions which I would support if it comes down to that. But, I believe the President can take an important first step in defusing pressure for unwise executive or legislative action, with possible dire consequences globally, by calling for a domestic economic and trade summit. There is certainly no shortage of challenges that face us in the 1980's however, as in the past when the American people have been put to the task they have shown the world they have no shortage of creative solutions to those challenges.

At this point I call those creative solutions and the minds from whence they will come into action to help us solve this problem.

PREREQUISITES FOR FULL EMPLOYMENT

Mr. GRASSLEY. Mr. President, the U.S. economy currently finds itself in a unique set of historical circumstances. It is undergoing fundamental structural changes. Yesterday, the chairman of the Council of Economic Advisers, Martin Feldstein, predicted that it could take up to 5 or 6 years to get the unemployment rate down to the 6- to 7-percent range from the current 10.4 percent. And to achieve a jobless rate lower than that, new policies would have to be implemented to address the "structural" problems facing the economy.

Mr. President, no public jobs program is going to put 11.6 million Americans back to work. Obsolete remedies such as pump-priming, bailouts, protectionism, and the like will no longer provide for advancement into a future, world economy. I think my colleagues generally recognize this, and are eager to explore new concepts and new solutions for our economy.

We are presently faced with two types of unemployment problems. One is a cyclical problem resulting from 4 consecutive years of productivity stagnation. We are in a recession. A revived economy is the only solution to this problem. The other unemployment problem is a structural one. Old industries are sizing down while new industries are ready to explode. This problem can only be addressed by new and well-thought-out policies.

Training and retraining programs will be a core part of our efforts toward full employment. A new tax structure is needed, a flexible monetary policy, and a modern international trade policy. These are steps we must take if we are to advance our economy to meet the challenges that confront us.

The real key to devising appropriate policy changes is a broad understanding of the current economy and how it is evolving. This will eliminate the fear factor that often accompanies confrontation with change. Undoubtedly the best description of what is occurring in our economy that I have encountered is an article written by James Cook from a recent issue of Forbes magazine. I urge my colleagues to read this article thoroughly in the hope that they might more clearly understand the unique circumstances surrounding the eoconomy.

Mr. President, I ask unanimous consent to have printed in the RECORD the article by Mr. Cook.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE MOLTING OF AMERICA

(By James Cook)

International Harvester was perhaps to be expected: It had been headed for trouble for years. But the massive layoffs at Deere & Co. and Caterpillar? Chrysler, a long-lagging number three, was one thing. But how do you rationalize the losses General Motors was generating on auto production? The entire U.S. car industry running at maybe one-half its peak capacity? Manville Corp. in Chapter 11? Big banks at the brink? You can go on and on. Steel at 38 percent of capacity, lowest since 1938, and operating losses of hemorrhage proportions. Single-family housing starts still lagging despite the declines in interest rates. Oil drilling collapsed. Ten percent unemployment. Little wonder the word "depression" keeps popping up.

But if it is a depression we are undergoing, it is a strange, undesperate kind of depression. There is plenty of worry in the country, but relatively little real suffering. Still working are 99.7 million Americans—only 1.3 million fewer than the alltime peak in 1981. Disposable income this year is at a record high. Movie box-office receipts are the highest in history and so are advertising revenues. In contrast to the Thirties, when the gross national product fell 30 percent the U.S. economy remains at the highest level in history.

Anyone who calls this a depression hasn't the foggiest notion of what a real depression is like. How do you explain an industrial collapse unaccompanied by an overall economic collapse? Where's the symmetry? How can Akron, once the tire capital of the world, remain relatively prosperous though its main industry long ago moved away?

To talk of depression or of the failure of Reaganomics in the face of such confusing evidence is to misunderstand what is really happening. The U.S., indeed the entire industrial world, is profoundly changing the way it uses men and materials, capital and manufacturing processes. We are undergoing what economists call a structural change, touched off by a spurt in energy prices but stemming from even more fundamental causes.

Take the downsizing of American automobiles—an energy-driven phenomenon much

written about but only dimly understood. It began with the need to save gasoline. It is ending with a saving of everything—rubber, steel, glass and above all labor. Though few people realized it at the time, Congress, in legislating fuel-consumption standards for American cars, committed itself to a radically different industrial structure. You downsized the American car to save gas, and you wound up downsizing not only the U.S. auto industry itself but a substantial part of the industrial base that supported it. You saved gasoline. And you destroyed blue-collar jobs.

The U.S. had already had some experience with what the downsizing of U.S. energy consumption could do to the economy. A reduction in the consumption of energy followed the first price shocks of 1973-74. In a decade, 92 nuclear reactors were proposed and canceled, 13 others abandoned after the expenditure of $5.5 billion; nearly 1,800 oil tankers—roughly 90 million tons—sent to the scrap heap; 23 oil refineries in the U.S. shut down in 1981 alone. Some 100,000 gasoline stations permanently closed down. Even the long-term growth of the oil industry finally came to an end. "We're different from most businesses," Exxon Chairman Clifford Garvin concedes. "The demand for our product continues to decrease, and we encourage that."

Downsizing cannot be done without pain. Lots of pain. Thought of in this sense, the current industrial depression has virtually nothing to do with Reaganomics, Volckernomics or Carternomics. Nor will it yield readily to politicians' simplistic cures. The simple fact is: A given standard of living no longer requires the same amount of iron and steel, labor, energy, rubber or glass it once did. So, lots of people get hurt.

Consider what happened with autos. Over the 1977-82 model years, Ford sloughed off over 1,000 pounds of various materials, reducing its average car weight from 3,760 to 2,704 pounds in five years. By 1985, when the federally mandated 27.5 miles-per-gallon standard has to be met, Ford expects to shed another 170 pounds. GM is already halfway through a program to cut vehicle weight in half by 1995. Says Ford's manager of supply development and planning, Mary Anne Wheeler: "We're not just substituting materials and downsizing cars. We're also using all the materials more efficiently. The 1979 Mustang, for example, was larger than the 1978 Mustang it replaced, yet it was 200 pounds lighter." Heating and cooling systems are smaller, tires are smaller and last longer, and so do antifreeze, engine oil, batteries and lubricating oil. "Everything we were doing," says Alex Mair, head of GM's Technical Staffs Group, "had the effect of using less of the earth's natural resources."

To compound the problem, the Japanese and other foreign carmakers steadily increased their share of the auto market—from 18 percent to nearly 30 percent in four years, while the U.S. carmakers themselves began stepping up their use of lower-cost imported components. No wonder the gloom is widespread. Every imported car that's sold, every component that's imported, every gain in the efficiency of materials use comes out of the hide of Detroit's suppliers, the steel industry most of all.

Autos are only the beginning. A similar sort of downsizing has begun in housing and its satellite industries. Consumers have been forced to downsize their expectations in housing just as they had earlier downsized their expectations in autos. Housing starts have dropped to around 1 million, and houses are beginning to get smaller. "We have a structural change in the capital markets," says General Electric's chief economist, Walter Joelson—"a shift from low interest to high, which is forever going to skew the flow of capital away from housing." Meaning: smaller new houses, fewer new houses, a considerably reduced housing industry.

As housing goes, so goes not only the forest products industry, but also a whole range of building materials—from cement to glass to insulation and, perhaps most critically of all, to copper. With the copper industry's number one market in trouble, and its number two market, telecommunications, threatened by technological developments like fiber optics and satellite communications, the prospects for U.S. producers look grim, especially when production levels abroad are dictated less by the demands of the market than by the needs of government-owned foreign producers to sustain employment and generate foreign exchange. Half of the U.S. copper mining industry has shut down; of that, half will be lucky to go back into production.

Steel is perhaps the most glaring casualty. "There is no reason in God's wide world," says GE's Joelson, "that just because we needed so-and-so-much steel in the Fifties, we're going to need that much in 1990." Says Hans Landsberg, a resource expert with Washington's Resources for the Future think tank, "My metals friends say, 'Where will the world be without iron and steel? Everything rests on it like an inverted pyramid.' That's a childish notion. All the steel industry can hope to do is reduce in size, become more efficient and more competitive."

As recently as 1976, the U.S. steel industry shipped nearly a quarter of its total output to the auto industry. By 1981 the figure was 15 percent—15 percent of a much reduced output. And the prospects are not encouraging. Even if Ford should match its 2.9 million-car 1978 output next year, Ford's steel needs would be at least 30 percent less than they were in 1978. This at a time when some of steel's other basic markets are in trouble—containers, for example, where for the first time last year aluminum captured more than 50 percent of the market—and when foreign competition is, if anything, more intense than ever.

There are two basic ways of dealing with these problems of industrial change. There is the Japanese way. Over the past decade or so, the Japanese have been prepared to let the basic industries in which they are losing competitiveness gradually run down, shifting their resources into new industries capable of generating higher real income for their people. They have already let their shipbuilding and textile industries run down. They seem prepared to accept the eventual dispersal of their consumer electronics, steel, aluminum, petrochemicals and even auto industries to places like Korea, Taiwan and Hong Kong. They are concentrating instead on dominating industries that have greater long-term promise—high-technology industries like semiconductors, computers, telecommunications and fiber optics, areas where the U.S. has as commanding a lead as it once had in autos or steel.

In direct contrast to the Japanese, there is the path the British followed prior to Margaret Thatcher. For 30 years Great Britain attempted to preserve most of its dying industries—shipbuilding, autos, steel—through protectionism and subsidies. The result? The progressive stagnation and impoverishment of Britain's people and its economy. The Japanese way surely has more to offer. Yet it is precisely the British model U.S. liberals hope to adopt. Reindustrialization, taken literally, is a nasty joke.

If not in the steel mills and auto plants and housing tracts, where are the needed millions of jobs to be found for the unemployed and for the nation's growing labor force? The answer is easy, but the means of achieving it are neither easy nor very pleasant.

After all, such changes have occurred before. At the outbreak of World War I, one-third of all employed Americans worked at farming. As farming became mechanized, millions of workers poured off the farm and into industry, where they built the cars and refrigerators and other new consumer goods that have done so much to make life easier and better for all but the wealthiest part of the population. And food? Today little more than 3 million farmers grow more food than 12 million did seven decades ago.

A similar change occurred in the railroad industry a few decades later. U.S. railroads came out of World War II with 1.4 million workers; today they haul nearly 25% more freight with only 436,000 workers. Did the unemployed rail workers starve to death? Not al all. They or their wives and children found work in other industries. The U.S. learned to grow more and ship more with fewer workers. Less labor consumed in producing necessities meant more for luxuries, many of which came to be regarded as necessities— cars, indoor plumbing, suburban housing, education.

It is precisely through the shrinking of old industries—learning to make more with less—that new industries become possible and with them a broadening of the horizons of life for most people. The decline of old industries is sad. But it is not a tragedy.

What are the new industries? They are already being born. The $114 billion electronics industry, for one, is gradually coming to play the core role in the U.S. and world economy that autos played in the past. It is a dazzlingly diverse technology encompassing everything from television sets and microwave ovens to electronic computers and missile-control systems. Electronics is rapidly reshaping the world's industries in ways that turn tradition upon its head. In the process it is minimizing most of the elements that have always shaped industry in the past—labor, materials, manufacture. If the old tool industries were an extension of the human hand and back, the new ones are an extension of the human brain and nervous system. The basic thrust of the technology is immaterial, and its productivity potential is enormous. After all, decision making—the conversion of information into action—is probably the only really productive activity there is.

It is a curious thing. In the early days of industrialization there was a preoccupation with giantism, and in the Soviet Union there still is—the biggest this and the biggest that. But the postindustrial age, by contrast, seems bent on scaling down. Some three-quarters of a century ago, Henry Adams wrote about the Virgin and the Dynamo—the unity of religion giving way to the multiplicity of technology. And now the Dynamo gives way to the implosive force of the Chip—but as yet no Henry Adams has poeticized this cataclysmic event.

No more, the bigger the better. Now it is the smaller the better. ENIAC, the first really large electronic computer, was devised 35 years ago. ENIAC was the size of a

room, with 18,000 constantly overheating vacuum tubes, and cost $3 million. A comparable machine today would occupy a space little larger than a typewriter and cost only $300. That has been the pattern of the electronics industry ever since—to downsize, to reduce the use of materials, labor, capital, manufacturing to the barest minimum. And at the same time to reduce the price. The vacuum tube gave way to the transistor, a hundred times smaller; the transistor was absorbed by the integrated circuit, which itself was transformed by the microprocessor. The pattern was a classic of capitalist development. The cost went down, down, down, and the market went up, up, up. Virtually every major electronic consumer product has repeated the pattern: computers, calculators, tape recorders, radios, watches, television sets, you name it.

"By making things smaller, essentially we don't have any negative tradeoffs," says Gordon Moore, chairman of Intel, the U.S.' pioneering microprocessing outfit. "Everything is improved simultaneously—power consumption, performance, production costs. This is an unparalled engineering situation. There is always a threshold somewhere, below which you can't go, but I can see another decade of progress anyway."

The result has been to convert electronics from a heavy industry into a light one—a process that tends to repeat itself in whatever industry electronics touches. In the Fifties, for instance, at Western Electric's Allentown, Penna. plant, rows of white-smocked women assembled vacuum tubes by hand, backed up by metalworking shops and gas fires for working glass. All this has been phased out. The tubes were replaced by semiconductors—silicon transistors, that is—and by integrated circuits. Printed circuits have replaced wired ones, and high-speed automatic equipment bonds the circuits under a single operator. It's a pattern that has been repeated everywhere.

Take the 1977 Apple II computer. According to Frederick L. Zieber, a semiconductor specialist with Cupertino, Calif.'s Dataquest research firm, that 1977 Apple had 105 semiconductor parts with a value of $693. Last year those same parts cost only $97 and, when the Super Apple II comes on the market, those 105 parts will probably be reduced to 10. "The savings showed up in the prices," Zieber says. "The original machine sold for $2,300, vs. $1,700 today, and if you went back to the original $693, you could build a machine that had 8 times the memory and 40 times the computing power."

The old Friden calculator had hundreds of parts and sold for maybe $800. Its electronic version has 50 parts and costs $10. One microprocessor replaced 350 parts in a Singer sewing machine, and a few dozen microchips can replace 80 pounds of switches and wiring in a vending machine.

What made all the difference was the microprocessor—a device that crowded the central element of a computer, its arithmetic and logic circuits, onto the same chip. Until Intel developed it in 1971, electronic computing had relatively limited applications. You don't use a bulldozer to turn over a rose bed, or a stamping machine to turn out cookies, and you wouldn't use an IBM 360 to index your recipes. The big computers are expensive and most efficient when handling large volumes of material. But like the fractional horsepower motor, the microprocessor opened up an enormous and almost unlimited market in small applications. "A few years ago," says Regis McKenna, head of the Palo Alto public relations firm that represents an inordinately large number of Silicon Valley's electronic entrepreneurs, "everything had a fractional horsepower motor to run it. Today everything has an electronic brain. It's a base industry, the semiconductor industry. It's not really a product; it's process oriented, like oil, and other products and industries will live off it for decades."

"The hardware continues to go down in price," says Intel's Gordon Moore. "In some instances, 100,000-fold in 15 or 20 years. And that means that wherever electronics is appropriate, the electronic solution is going to be the one that eventually dominates."

"The exciting thing that's going on," says TRW Chairman Ruben Mettler, "is the use of the new technology in the older and more mature industries. What you can do for a combine, a tractor, a truck or a car with a little electronics is pretty dramatic. It enhances quality, it enhances productivity, it reduces costs and it permits more sophisticated designs." But it also saves on material and requires fewer workers.

What began as a trickle has become a flood. Industry after industry is beginning to turn to microelectronics. And not just in manufacturing. Microelectronics is beginning to handle sophisticated information of all sorts—the sort now handled by trained professionals—in medical diagnosis, architectural design, oil-well analysis, teaching, accounting, stock analysis, journalism. The increments are often small, but the cumulative impact promises to be enormous, conceivably as enormous in driving down the costs of things as energy proved to be in driving them up.

Looked at in this way, the very advance of electronics, of electronic data processing, dooms the older, labor- and capital-intensive heavy industries. They are still needed but are no longer center stage. Here the analogy with the old agriculture holds true: The knowledge industries are replacing the blue-collar industries in the advanced societies as inexorably as the service and blue-collar industries once supplanted agriculture as the principal activity of mankind.

The ramifications are almost endless. Electronic order processing has already begun to transform the wholesale distribution business. Alco Standard, for instance, has built a $2 billion business in paper, health services and auto parts by computerizing its ordering, warehousing and delivery operations—substituting low-cost electronics for high-cost labor. As a result, Alco turns its inventory 7.5 times a year, instead of 6, and cuts its inventory costs accordingly.

When Foremost-McKesson computerized its drug distribution, it cut its warehouse personnel from 140 to 12 and doubled its business. For the drug distribution industry as a whole, computerization helped cut operating costs from 11.4 percent of sales to 8.3 percent. "Labor's initial attitude is: A robot is going to take a person's job," says Alco Chairman Ray Mundt. "But that robot is necessary to keep that company competitive in the marketplace, and if it's not competitive, there aren't going to be any jobs at all. If you can't stay competitive, forget it, you aren't going to be around."

General Electric expects factory automation to be one of its biggest growth businesses. GE is presently spending $38 million to automate its own dishwasher plant in Louisville as a sort of laboratory to discover what it can do for itself and for others. GE figures it could conceivably replace half of its 37,000 assembly workers with robots. At Erie, Penna., it's spending $300 million to expand its locomotive capacity 50 percent an automated operation will turn out a diesel or electric motor frame a day with no operator whatsoever, a procedure that used to take 68 machine operators 16 days.

The Bell System used to account for 4 percent to 5 percent of the U.S. copper consumption. But AT&T is turning from copper to light-guide cable systems, in which lasers blink millions of times over a glass fiber. Light guide will go into a new transoceanic cable, which will have greater capacity than the five other cables combined, and it is also going into the 776-mile communications network AT&T is building between Cambridge, Mass. and Richmond, Va. In a different time, such a system alone would have used 2.5 to 3 million pounds of copper, equal to about 1 percent of the U.S. 1981 copper consumption. But the light-guide cable is lower cost, higher quality and larger volume. In the circumstances, it's not inconceivable that Western Electric could meet its copper needs for the rest of the country by reclaiming the copper it has in place. Good-bye, marginal, high-cost copper mines.

The implication for the traditional materials is awesome. Steel, copper, lead and zinc will lose more and more of their importance, and lighter-weight, more sophisticated and exotic materials will come to the fore. "The knowledge industry," says RFF's Hans Landsberg, "is the enemy of the traditional materials industry."

When the U.S. emerges from the present recession, it may discover that industry has made enormous gains in productivity but that unemployment has not necessarily been reduced. To take the easiest example: Nobody expects Detroit to rehire more than a portion of the 400,000 or so autoworkers that have been laid off. The Bureau of Labor Statistics expects auto employment will recover to no more than 900,000 down from 1978's 1 million. And, as factory automation proceeds in the auto industry, another 200,000 could lose their jobs over the next several years.

"In the last three or four recessions," says Harvey Hamel, an economist with the BLS, "the recovery has never brought unemployment back down to the level where it was prior to the recession. Unemployment has settled down at the higher rate every time."

A Congressional Budget Office study estimates microelectronic technology could cost the U.S. 3 million jobs by the end of the decade—15 percent of the manufacturing work force—and 7 million by the year 2000. Dataquest's Fred Zieber doubts whether many of these job losses can be avoided. "You can say, 'Don't use electronics because electronics is going to cost jobs.' But you can't hold them back anymore than you can hold back Pac-Man. Somebody in some other country will use it, and those jobs are going to be lost anyway."

The cost savings—and the competitive impact—can be so extraordinary that companies and countries have no choice but to adopt the technology if they want to survive. The Japanese success in the microelectronics market was based in part on their ability to produce a lower-cost and higher-quality product using automatic equipment than the U.S. producers could turn out by hand. And the U.S. producers retaliated by turning to automation themselves.

"A country that wants to participate in the world economy can't keep the technology out," Gordon Moore says. "The alternative to not adopting it does not exist, be-

cause you'll lose the jobs completely, you'll not be competitive in the world market." So reindustrialization—the traditional revival of traditional industry—makes as much sense as fighting unemployment by throwing out machinery and building roads with human labor.

Is the U.S., indeed the world, then doomed to suffering massive unemployment? Not necessarily—not in the long run. Look what has been happening in the U.S. in recent years: Total employment in the country has risen from 75 million in 1970 to 99.7 million in 1982. But of the 25 million new jobs, only 2.3 million were in manufacturing. Virtually all the new jobs have come in the service industries: utilities and transportation, wholesale and retail trade, producer and personal services and government. Union spokesmen like to sneer that the new jobs involve serving hamburgers in fast-food restaurants. They forget electronics, data processing, the law and such fancy new opportunities as environmentalism, affirmative action, astronautics and hazardous-waste control.

According to the BLS, employment in the computer and peripheral industries should grow twice as fast as the national average over the next decade, including such jobs as computer-repair technicians, computer-systems analysts, computer operators, office-machine and cash-register service, computer programmers.

But if bank tellers are to become computer operators and machine operators become computer programmers, there's got to be a massive upgrading of skills involved. You don't have to have a college degree to be a programmer. But you do have to have some basic skills. Old dogs—and most people get to be old dogs by the time they're 35—don't want to learn new tricks, and whether they're salaried professionals or assembly-line workers, they don't want to move elsewhere to learn them. But though Luddite visions of unemployed millions cannot be entirely dismissed, there is no reason to think that a nation that has coped with fair success with the problems of the elderly and the disadvantaged, the ill-educated and the unhealthy cannot find ways and means to make even this problem manageable.

Luckily, the U.S. changing demographics will help. Along with the downsizing of U.S. industry, there has also been a downsizing of the U.S. population growth rate. As the Eighties progress, the U.S. will begin to feel the impact of the lower birthrates of the Sixties. There may not be the population stimulus to economic growth there was in the Sixties, but there shouldn't be so much difficulty in generating new jobs either.

The new entrants to the work force, as management philosopher Peter Drucker points out, are likely to be far better educated than those who are leaving it. This means that a labor shortage could conceivably develop in the traditional manufacturing and service occupations, and a labor surplus in the more capital-intensive, high-skill and technology jobs. Blue-collar industrial and service jobs would go begging. Which may justify the transfer of labor-intensive manufacturing to the developing countries—as is happening already. "The standard of living of the developed world," Drucker says, "can be maintained only if it succeeds in mobilizing the labor resources of the developing world." Foreign competition thus plays its part in the dynamics of changing industry. To assure markets for our higher-skilled output, we're going to need to cultivate the labor-intensive economies of the developing world. Thus, job exports ultimately loom as a means of protecting higher-skilled jobs at home.

"As a practical matter," says TRW's Ruben Mettler, "the commodity, lower-technology, more-labor-intensive tasks are going increasingly to the developing and middle-developing countries. The $20 an hour they pay in Detroit can't compete with the $2 or $3 in Mexico or Taiwan. We are part of the world economy. So it's healthy for the U.S. to move to the higher-value-added segment of the world economy."

But isn't half the U.S. semiconductor industry's approximately 500,000-man employment outside the U.S.—partly because of cost, partly because the best process engineers in the world are in Taiwan and Singapore? Yes, but there's nothing irrevocable about the move. Explains Ralph Anavy, vice president of Gnostic Concepts, a Menlo Park, Calif. research firm, "Once you have wiped out almost all direct labor and automated the process, it doesn't make sense to keep manufacturing in Singapore. In semiconductor assembly, the labor-intensive job of bonding the dies to the lead frames used to be done abroad. Now it is done automatically in the U.S." In such circumstances, automation could conceivably enable the U.S. to recover such industries as textiles, long since lost overseas.

Joseph Schumpeter, the great Austrian economist who for three generations was largely eclipsed by Keynes, wrote of the "gales of creative destruction" in economic life. These sweep away the obsolete and the inefficient and make place for the new. These gales have made a wasteland of large parts of the U.S. Middle West. But they are blowing in whole new industries. The dual nature—creative and destructive—of the changes can be seen clearly in a city like Akron.

A large part of the rising affluence of the U.S. in the post-World War II years stemmed from the fact that the real prices of many of the U.S. most vital commodities declined, and often declined sharply—from gasoline to electric power to automobiles. They did so for a variety of reasons—technological change, the abundance of raw materials, multiplying economies of scale—but by the early Seventies most of those forces had begun to run out. The next unit of almost everything cost more than the last, and when the price of oil lurched out of control in 1973, the game was over. Living standards began to decline.

But those dynamics of falling prices are still valid, and these days it is microelectronics that offers the best hope of getting those costs trending downward again—not from deflation, but from real productivity gains. The microprocessor has an insidious capacity for pervading every aspect of the economy—for filling it, reforming it and reshaping it to its image. And it's a dynamic that corporations from GM to Western Electric are working to get moving again.

"The cost of a lot of things isn't going up," says Western Electric's Vice President William B. Marx. "It's coming down—tape recorders, television sets, long distance telephone service." "In the electronics industry," says Ralph Anavy, "the cost of production typically goes down between 20 percent and 30 percent for each doubling of volume."

Tell that to the unemployed auto, steel or machine-shop workers? You can't. Their futures are not bright. For them, adapting to the new world isn't going to be easy. But for the country at large, for the world at large and for the children of the present generation, there is absolutely no reason to despair for the economic future.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. There will now be a period for the transaction of routine morning business.

The Senator from Florida is recognized.

HIGH-RANKING CUBAN OFFICIALS ACCUSED OF ILLEGAL NARCOTICS TRAFFICKING

Mrs. HAWKINS. Mr. President, I am convinced that the United States is faced with a problem of major proportions, a crisis that undermines our Nation and threatens the future of our children. That crisis is the trafficking in illegal narcotics that is overwhelming our enforcement efforts.

Until now U.S. enforcement has assumed that the war against illegal narcotics was being waged primarily against organized crime, street hoods, motorcycle gangs and countries that lacked the resources to prevent illegal narcotics from being produced in their country. But now important new information has come to light demonstrating that a cabal of high-ranking Cuban Government officials have been intimately involved in smuggling narcotics into the United States. On November 15, 1982, four of these officials were indicted on Federal charges of smuggling. I believe that this adds a new and ominous dimension to the war against illegal narcotics. Unfortunately, this also marks an extension of Castro's anti-U.S. policy that already includes placing Cuban combat troops around the world, efforts to destabilize countries in the Caribbean Basin, and the Cuban-inspired Mariel boatlift.

I applaud the Reagan administration for their commitment to the war against illegal narcotics. However, I believe that with this new information, concerning Cuban complicity in the smuggling of illegal narcotics into the United States, new actions are needed. I believe that this calls for a reassessment of our relations with Cuba, and that the administration should let it be known in international fora that high-ranking government officials are engaging in illegal narcotics trafficking. In my view, the Government of Cuba should be condemned from every possible platform for this kind of behavior. I have expressed many of my concerns and suggestions in a letter to President Reagan which I ask unanimous consent be printed in the RECORD following this statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mrs. HAWKINS. Mr. President, I believe that my colleagues share my concern and hope they will let your con-

cerns be known to the President as well.

EXHIBIT 1

U.S. SENATE,
THE U.S. SENATE DRUG
ENFORCEMENT CAUCUS,
Washington, D.C., November 26, 1982.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: On November 15, 1982, four high-ranking officials of the Castro regime were indicted on Federal charges of smuggling narcotics into the United States. The indictment of these officials, two of whom are members of the ruling Central Committee of the Communist Party of Cuba, brings into the open an aspect of Castro's anti-American efforts unknown until recently.

The people of Florida, Mr. President, have been the target of Castro's aggression for many years. This is but the last of a long list of actions by the Cuban dictator, which include the illegal shipment of criminals and mental cases to our shores. As chairman of the Senate Drug Enforcement Caucus, I urge you to mobilize every federal agency in order to finish the job started by the U.S. Attorney for the Southern District of Florida.

Jaime Guillot-Lara, a Colombian shipowner who was indicted at the same time as the Castro officials, is believed to have fled to Europe. Mexican authorities, who had been holding him on an unrelated charge, released him despite U.S. and Colombian efforts to secure extradition. Guillot-Lara could shed new light on the Communist drug conspiracy; I urge you to activate the resources of Interpol and U.S. drug enforcement agencies abroad to locate and incarcerate Guillot-Lara.

Castro's support of the drug traffic is linked to his promotion of terrorism in Latin America because the ships loaded with drugs that stopped in Cuba on their way to Florida were laden on their return trips with weapons and terrorists for the South American mainland.

Your recent visit to our state, Mr. President, as well as the successful efforts of Vice President Bush in coordinating U.S., state and local programs to stop the drug traffic demonstrate your commitment to an early resolution of this serious matter.

Perhaps your Administration might want to bring this violation of international law to the attention of the appropriate international bodies. This new development calls for a reassessment of U.S.-Cuban relations.

On behalf of the people of Florida, I would like to thank you in advance for your efforts.

Sincerely,

PAULA HAWKINS,
U.S. Senator.

THE NATION'S UNEMPLOYED

Mr. LEVIN. Mr. President, over the Thanksgiving Day holiday hundreds of thousands of unemployed people in my State of Michigan and millions of jobless workers nationwide were shocked to learn that the White House was considering a proposal which would further tax their jobless benefits so as to give them incentive to find work.

The fact that the proposal was withdrawn has not tempered my anger—my outrage—at yet another insulting and insensitive slap at our unemployed workers.

The attitude of this administration derides and demeans millions of jobless men and women. This attitude supports the cynical belief that people who cannot find jobs are shirking from work and need to be punished. Instead of blaming unemployment on people who cannot find work, the President should be supporting policies to restore their jobs.

This is not the first time this administration has insulted jobless men and women with insensitivity and lack of compassion. What kind of compassion does the President show when he asks whether it is newsworthy that "some fellow in South Succotash" lost his job?

What kind of compassion does the President show when he holds up newspaper want ads and says there is work to be found? He implies again that if only the jobless would get off their behinds and look for work, they would find it.

Well, I would like the President to look at the want ads in newspapers from cities in my State—like the Flint Journal, a city with a 17.8-percent unemployment rate; or the Saginaw News, a city with a 14.1-percent unemployment rate; or the Escanaba Daily Press, a city with a 19-percent unemployment rate; or the Detroit Free Press and Detroit News, a city with a 15.2-percent unemployment rate.

If the President looked at these newspapers he would realize that there are few jobs to be found—certainly not the number of jobs needed to reduce this devastating rate of unemployment my State is suffering from.

The President has a solution, however. He says let the jobless vote with their feet. Let them move to the South and to the West where jobs presumably abound. But these once prosperous Sunbelt regions are now suffering from the effects of the recession and cannot even employ their own workers, let alone displaced workers from the industrial Midwest and Northeast.

And what kind of compassion does the President show when he suggests that families should uproot themselves from relatives and from neighborhoods where they have lived often for generations?

Michigan is bleeding. Its life blood is being drained by a depression in the automobile and housing industries and a recession in almost every other sphere of our economic life. Indeed, a recent newspaper story reports that unemployed people are literally pouring their life's blood to make ends meet. Two blood plasma firms report that the unemployed in Lansing, Mich., are selling their blood in record numbers. An unemployed man says he sells plasma once and sometimes twice a week. He says, "I've got three kids at home. It helps pay for my babies' milk."

Mr. President, this is the kind of compassion—compassion that a father shows his children by selling his blood to feed them—that we need from the White House. There are 685,000 unemployed workers in Michigan. My State's 16.1 percent seasonally adjusted unemployment rate is the highest in the Nation. We have had a double-digit unemployment rate for 34 consecutive months—almost 3 years of double-digit unemployment. With 11.5 million men and women out of work nationwide, it is time for the White House to stop blaming the jobless of our country for unemployment and strive toward putting them back to work.

I thank the Chair and yield the floor.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MURKOWSKI). Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Time for morning business has expired.

ANTITRUST EQUAL ENFORCEMENT

The PRESIDING OFFICER. The clerk will now report the pending business.

The legislative clerk read as follows:

A bill (S. 995) to provide for the contribution of damages attributable to an agreement by two or more persons to fix, maintain, or stabilize prices under section 4, 4A, or 4C of the Clayton Act.

CLOTURE MOTION

Mr. THURMOND. Mr. President, I sent to the desk a cloture motion.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the committee amendment to S. 995, a bill to provide for contribution of damages attributable to an agreement by two or more persons to fix, maintain, or stabilize prices under section 4, 4A, or 4C of the Clayton Act.

Strom Thurmond, Paul Laxalt, Howell Heflin, Orrin G. Hatch, Mark O. Hatfield, Dennis DeConcini, John Glenn,

Chuck Grassley, Jesse Helms, Don Nickles, Dan Quayle, Jennings Randolph, Alan Simpson, Ted Stevens, James A. McClure, and John Tower.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Mr. President, under the motion just filed and pursuant to provisions of rule XXII, a vote on this question will occur on Friday next, assuming that cloture is not invoked prior to that time 1 hour after convening and after the establishment of a quorum, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. I thank the Chair.

Mr. President, I anticipate that the debate on this measure will continue during the course of the day. It is still my hope that we might be able to take up the D.C. appropriations bill or another appropriations bill. No agreement to that effect, however, has been reached. It is not my intention to displace this measure by motion. Therefore, I assume that, absent agreement, we will be on this for the remainder of this day. I would not expect the day to extend past approximately 6 p.m.

Mr. President, I yield the floor.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, first I wish to thank the majority leader for outlining the proceedings for the day, as well as for tomorrow, Thursday, and to some degree, the votes that will transpire on Friday.

At this point, I would like to read into the RECORD the views of this Senator, Senator DENTON, and Senator DOLE on S. 995. These are the views as contained in the committee report to S. 995.

I think these views very adequately summarize our views and our position on why we are opposed to the bill and very specifically why we are opposed to the bill insofar as it contains provisions on retroactivity.

We strongly support S. 995 as it was introduced by Senators Thurmond, Baucus, Laxalt, Hatch, DeConcini and Heflin. We believe that the contribution and claim reduction principles embodied in S. 995 will make our antitrust laws more just and equitable. Furthermore, we commend the Chairman for his leadership in pursuing this important legislation. However, we do not support the committee amendment which applies the legislation to pending cases. This amendment, which only narrowly passed the Committee, is unsound policy and needlessly jeopardizes the passage of otherwise highly desirable legislation.

If I might parenthetically insert there, Mr. President, we support—that is, Senator DENTON, Senator DOLE, and myself, and I think I can speak for other Senators not only on the committee but on the floor—we do support S. 995 as it was introduced. In fact, Mr. President, I am the primary cosponsor of S. 995. I supported the bill when it was introduced in the prior Congress. Senator Bayh, the former chairman of the Senate Judiciary Committee, introduced the contributions bill. I supported it then and I support it now.

However, I do not support the amendment that was moved by the Senator from South Carolina, Senator THURMOND, which makes the bill retroactive to pending cases. I will enumerate those reasons as follows:

The basic legislation would change the antitrust laws in two respects: First, by creating a new right of contribution permitting defendants in antitrust price-fixing cases to bring into the case other parties who were not sued by plaintiffs but may have been part of the price-fixing conspiracy; and second, by creating a new statutory right of claim reduction, under which any judgment obtained by plantiffs in a price-fixing cases against defendants would have to be reduced by the market shares represented by any defendants had who settled their cases, rather than, as now, by only the dollar amount paid by the settling defendants.

We believe that the contribution and claim reduction principles embodied in S. 995 represent sound policy. They will permit businesses who are convinced of their innocence to litigate without fear of a devastating and disproportionate judgment; they will discourage "sweetheart settlements" and *in terrorem* tactics by plaintiffs; and they will make it more likely that defendants will be liable for their proportionate share of damages in a price-fixing conspiracy. It is for these reasons that we strongly support S.995, as introduced.

During its consideration of this legislation, the Judiciary Committee narrowly accepted an amendment which would apply the principles of S. 995 retroactively to pending cases. We believe this amendment represents bad policy and transformed S. 995 into a highly controversial piece of legislation.

And I might add here, Mr. President, that S. 995, as introduced, was basically a noncontroversial bill. Sure, there were several Senators who were opposed to the bill. It is not uncommon to have several Senators oppose a bill. But, in the main, the bill was noncontroversial. But when the amendment was added to make this apply retroactively, I could say that suddenly the bill became very controversial and so controversial that it jeopardizes the passage of the basic bill.

And I reemphasize here my own personal view that I will undertake every effort possible to prevent the bill from passage as it is now written; that is, if the amendment is not modified or changed. But if it does not include the provision to make the bill apply retroactively to pending cases, then I will be a fervent supporter of S. 995 and I will join the Senator from South Carolina to insure passage of the bill. But, at this point, I cannot.

I will exercise every effort at my command to oppose the bill itself because of the abuse of public policy that will occur if S. 995 is applied retroactively to pending cases.

It is important to remember that when legislation was originally introduced (see S. 1468, 96th Congress) it was to be applied prospectively to cases filed after the date of enactment. That bill passed the Senate Judiciary Committee with little controversy. Similarly, when S. 995 was introduced early in the 97th Congress it included the same prospectivity provision.

There were very few serious concerns raised about the legislation until verdicts were entered in three major price-fixing cases: *Corrugated Containers*, M.D.L. 310, *Plywood*, M.D.L. 159, and *Burlington*, Civ. No. 71-306 (D.S. Car.). After these verdicts were entered, five of the losing defendants realized that S. 995 could provide them with an excellent opportunity to escape the potential judgments they were facing in their price-fixing cases. Since that time, the five companies have aggressively pursued their effort to use S. 995 as a vehicle to cut their liability for price-fixing.

Congress has historically disfavored retroactive legislation because it upsets the expectations of parties who have relied in good faith upon existing law. In the past, when Congress has applied antitrust legislation retroactively, it had a specific justification for remedying an unexpected and inappropriate FTC or court decision (see, Soft Drink Interbrand Competition Act, S. 598, 96th Congress). S. 995 does not present Congress with such a case.

That is, it was not an unexpected or inappropriate agency or court decision.

No one is arguing that the courts have interpreted the antitrust laws concerning joint and several liability in a manner that was inconsistent with Congress' intent or the parties' expectations.

No one is arguing that the bill before us is necessary because for some reason the courts have misinterpreted the prior act of Congress or because the parties have been surprised. That is not the point.

Those are the only two instances when Congress has applied antitrust legislation retroactively. That is when there is surprise, when the litigants are surprised, of a court or agency action, or where a court or an agency has misinterpreted an act of Congress. Those are the only two instances, and no one today here is arguing that either of those two instances apply. No one is making that point.

Again, the solid general rule is not to apply antitrust legislation retroactively because to do so would upset the parties' expectations about what the law is or is not.

In pending antitrust cases, plaintiffs and defendants have based their decision about whether to settle or litigate on the existing law which provides for full recovery in the event of settlements. Judges and juries have similarly relied on this rule in approving settlements and reaching verdicts. To change the rules in the middle of the game, as the retroactivity amendment to S. 995 would do, would be unfair and unjust to all of these parties. To do so solely to enable convicted price-fixers to reduce the damages which they would otherwise have to pay to the innocent businesses which have

been injured by their misconduct is unconscionable.

Mr. President, we are not talking about two parties in a contract action trying to decide what their rights should or should not be under the legislation. We are talking about price fixers who have been found guilty of price fixing. Those defendants have come in here and asked the Congress to be a court of last resort, asking that the Congress change the rules in the middle of the game or change the rules at the end of the game so they can go back and play the game all over again. To do so I think is grossly unfair and certainly reprehensible to the American sense of decency and fair play.

There are additional problems with the retroactivity amendment to S. 995:

First, noted constitutional law experts Charles Alan Wright of the University of Texas Law School and Ernest Gellhorn of the University of Virginia Law School have pointed out that retroactive claim reduction would raise serious due process questions, because it could deny plaintiffs the benefit of damages to which they were entitled under existing law.

Second, enormous disruption will take place in our already overburdened judicial system as litigation multiplies in scores of pending antitrust cases, 900 cases.

Claim reduction, the constitutionality question and the preservation of settlements will be litigated at length, substantially prolonging cases that are already far too costly, complex and slow-moving. The "day in court" which the retroactivity amendment purports to provide will actually add years in court for everyone in order to benefit companies which have already had their day in court, and in that "day in court" were found guilty of price fixing.

Third, Congress would be sending a signal that it can be used as a court-of-last-resort by parties found liable under existing law, undermining the deterrent value of our antitrust laws.

That is an important point, Mr. President. Let me elaborate.

If Congress passes this bill in its present form, it will be telling price fixers, it will be telling all parties, all potential litigants, all Americans, "Do not worry, do not follow the law. If you follow the law and you are found guilty of misconduct, do not worry about it. Just come back to Congress and ask Congress to change the law, change it back and have it applied in your instance even though you relied upon the law in the past and other parties relied upon the law."

In effect, in passing this bill, we are telling the country that the Congress is the court of last resort which will undermine the judiciary and undermine confidence in what the present law actually is, regardless of what that law might actually be.

There is a very important principle here called separation of powers, checks and balances. Our Founding Fathers when they wrote our Constitution set up three distinct, separate branches of Government: the executive to enforce the law, the legislative to make the laws, and the judiciary to interpret the laws.

It is important to maintain those distinctions. It is important that Congres pass laws, not interpret or enforce the laws.

It is important that the judiciary interpret the laws that Congress passes, not pass the laws or enforce the laws.

It is important for the executive to enforce the laws and not also pass the laws and interpret them.

They are three distinct, separate, equal branches of Government. Applying laws retroactively, by Congress saying that laws will be applied retroactively, is to obliterate, to blur, to say the least, the distinction between the legislative and the judicial branches. To apply legislation retroactively, that is, for Congress to be a court of last resort, is to say to American citizens wondering what the law is, "Well, courts are not going to interpret the laws. You need not worry about what the law is. If you do not like what the law is, come back to Congress and have Congress change it not only for the future but also in past cases."

I do not think that is what we want to hear today.

Many settlements entered in pending cases will be potentially threatened since their approval by Federal courts has been expressly premised on the rights of the parties under existing law, which would be overturned by the retroactivity amendment to S. 995.

Let me summarize very briefly, Mr. President.

The portion of the bill we are talking about today, the retroactivity portion, as I said, changes the rules of the game. Here is how it does it: Let us say that the Monday after the Super Bowl football game the National Football League decides that field goals are going to be worth 6 points and touchdowns only worth 3 points, and that the losing team on Monday after the Super Bowl game say, "We want the rules change. We want the extra points to be worth 6 points and the touchdowns to be worth 3 points." Let us say for some reason the National Football League agrees with that. That is fine for future Super Bowl games, but to apply this retroactive principle that we are asked to apply today to this situation, that is, where the rules of the football games are being changed, would be saying to the teams, "OK, we will go back and agree to play yesterday's football game, and when we play the game the touchdowns will be worth 3 points and field goals worth 6 points."

That is not fair. It is effrontery. It is ridiculous to suggest those two teams go back and play the game again. That is exactly what this amendment would do. It would tell the parties in antitrust cases, "Even though you relied on present law and decided whether to litigate or not to litigate, how to handle litigation, that is OK, we are going to go back, adopt new rules, and we are going to play the game all over again."

That is what is at stake here.

As I said, only twice has the Congress ever applied antitrust legislation retroactively. That was in a case of surprise, where the court has come up with a ridiculous decision, or where the court has interpreted laws in unexpected or unanticipated ways. None of those cases are here today.

Again, I strongly urge the Senate not to agree to this provision.

For all of these reasons, objective observers have strongly opposed retroactive application of S. 995. The American Bar Association's antitrust section specifically opposed retroactivity on the ground that it would "upset settlement calculations already in progress, and * * * parties could be prejudiced who had already participated in the conduct of joint defense efforts on an assumption of no contribution."

The American Bar Association opposes retroactive application of S. 995. They do favor prospective application—that is, the main bill—as do I.

Editorial comment has been widespread around the country and virtually unanimous in opposition to retroactivity.

One final point ought to be noted. It could be argued with some justification that defendants in pending cases ought to be permitted to have the advantage of S. 995's provisions, particularly where there has not been extensive reliance upon existing law in terms of settlements, judgments on the merits or jury verdicts. The retroactivity amendment to S. 995 does not accomplish this. It would allow claim reduction to be applied in pending cases even after judgments and jury verdicts have been entered in favor of plaintiffs.

In conclusion, Mr. President, S. 995, as introduced, was a bill we strongly supported. We believe it was a relatively noncontroversial bill that brought more commonsense and fairness to our antitrust laws.

The retroactivity amendment adopted by the Judiciary Committee has made S. 995 a highly controversial bill. It has turned a constructive piece of legislation into what has been referred to as a "bail-out" for price fixers. The retroactivity amendment delayed our committee's reporting of S. 995 for more than 6 months. We believe it will

seriously reduce the bill's chances for enactment by the other House. We hope, and expect, therefore, that the full Senate will reject the retroactivity provision of the committee bill, move this important legislation forward.

Mr. President, I understand the majority leader wishes to have the floor. I therefore yield the floor to him.

CONVENING DATE FOR 98th CONGRESS

Mr. BAKER. Mr. President, earlier today, I announced that after I had talked with the Speaker of the House and conferred further with the minority leader of the Senate (Mr. ROBERT C. BYRD) I would have a further announcement to make on the plans for the convening of the 98th Congress. I have now talked to the Speaker, who indicates to me that he is firm in his decision to ask the Congress to reconvene on January 3 to fulfill certain obligations in respect to the organization of the House of Representatives, then to go out, as he suggests, until the 25th of January.

It is traditional, of course, that Congress does not enact major legislation or perhaps do any business at all prior to the incoming requests in the state of the Union message. The schedule is to accommodate that.

I have also consulted with the minority leader and indicated to him that it will be my intention to ask the Senate to follow the same schedule. Therefore, I announce at this time that the leadership will propose that, when this Congress adjourns sine die, it do so until the constitutional date of January 3, 1983, at 12 noon. It will be the intention of the leadership on this side, and I believe it is perhaps agreeable to the leadership on the otherside, that the only business we shall transact will be the organization of the new Senate. That will include, of course, the administering of the oath of office to newly elected Senators and the appointment to committee vacancies. It is hoped that both party caucuses can supply those names well in advance of the time that the new Senate will act. I fully expect that the Senate will be able to conclude that business during the day on the 3d of January, in which case, we would either go out in recess until the House adjourns or adjourn until January 25.

I repeat, it is the intention of the leadership to ask the Senate, after adjournment sine die of the 97th Congress, to reconvene on January 3, 1983, at 12 noon, to go about the routine business of administering the oath of office to newly elected Senators, to complete the appointment of committees, and then to adjourn until January 25.

Mr. President, I thank the Senator for yielding so that I may make that announcement. I have conveyed that information to the minority leader, who indicated that he did not need to be present on the floor at the time the announcement was made. I am grateful to him for that. I wanted to make the announcement as soon as possible so all Members could make their plans.

Mr. President, I yield the floor.

ANTITRUST EQUAL ENFORCEMENT

The Senate continued with consideration of the bill.

Mr. BAUCUS. Mr. President, I want to make it clear at the outset of this debate that I have absolutely no objection to the underlying substance of S. 995 as that bill was introduced. In fact, I would be anxious to see the bill passed if the retroactivity amendment were dropped and the bill returned to its original prospective form.

However, I am forced to oppose S. 995 in its current form because what was a sound piece of legislation when originally introduced has now been converted into one of the worst special interest bills I have seen in my 8 years in Congress.

What was once a bill to guide the course of the future conduct of parties in price-fixing cases has now been converted into a relief bill for adjudged price-fixers.

What was once a legitimate effort to improve the conduct of future antitrust litigation has now been perverted into a bailout bill for a few large companies trying to avoid judgments lawfully rendered against them.

What was originally intended as a bill to benefit antitrust litigation for all parties has been changed into a blatant effort to give price-fixers a second bite at the apple.

As we shall learn in more detail later, the special-interest nature of S. 995, as amended, has been noted by newspaper editorials from around the country; 28 States have newspapers which have roundly and soundly condemned retroactivity as a special interest bailout. In some States, multiple papers have come to this inescapable conclusion—two in Arizona, three in California, five in Florida, two in Illinois and in Iowa, three in Minnesota, two in Missouri and in New Mexico, six in North Carolina, six in Pennsylvania, two in Tennessee and in Texas, and three in West Virginia.

While many of these editorials will be read to the Senate later, what a few have to say about the special-interest nature of the bill, as it has been amended, is important to note now:

The New York Times in its March 16, 1982, editorial hit the nail on the head. It stated, in pertinent part:

> Price-fixers, who usually conspire in secret, have banded together for a brazen, daylight attempt to rig the federal antitrust laws. Spending money as freely as they collected it from overcharged customers, a few large companies are baldly seeking Congressional rescue from more than $3 billion in court judgments.
>
> The companies are seizing on a bill to change the rules for future litigation; they also want Congress to apply it retroactively. The basic bill would make life harder for lawyers suing alleged price-fixers and easier for the companies they sue. It has wide support in Congress. Its merits are debatable, but retroactivity is not. That part of the proposal is an outrage * * *
>
> The current legal rules that allow * * * divide and conquer tactics would be scrapped for future cases under the pending bill. In the future, a company's price-fixing liability would be limited to its share of the legal profits. What some price-fixers want, however, is to apply that principle to their own cases—after they have gambled on going to trial and then lost, under the existing rules.
>
> It is a repugnant spectacle, especially with so many high-priced lobbyists arguing for retroactivity * * *
>
> To be fair any new law would apply only prospectively * * * If the stakes are clear so is the principle: Congress shouldn't change the rules in the middle of the contest.

That was a New York Times editorial of March 16 of this year on this bill, particularly on the retroactive portions that I find so objectionable.

The Cedar Rapids, Iowa, Gazette on March 6, 1982, likewise drove home the special interest nature of the measure the Senate is now being asked to consider:

> Several companies now facing heavy damage payment to their price-gouged customers and penalty for past offenses (in the Plywood, Corrugated Container, and textile machinery fields) now are trying hard to wiggle out. They hope to wiggle out by getting the new law made retroactive as to past violations. In other words by changing game-rules in mid-game. That isn't fair.

The Hagerstown, Md., Daily Mail has also put the issue directly:

> This is a simple matter of equity. There are laws against price-fixing. There are long-established rules under which price-fixing cases are tried. Now the guilty price-fixers want Congress to change those rules retroactively. They seek nothing less than a bailout. This, however, is an unusual bailout. It would let the price-fixers victimize their victims all over again.

The Huntsville, Ala., Times put the issue cogently:

> No law apportioning damages, or changing procedures ought to be made retroactive. No one made the companies break the law, and no amount of string-pulling by high-paid lawyers and PR men ought to convince the Senate to change the law to benefit a favored few.

To understand how it is we have gotten to the point where the Senate is being asked to consider this special bailout bill, it is important to understand the backgroud that led to our current situation.

For some time, there has been considerable concern among antitrust practitoners and the business community about certain inequities in the antitrust law. Contrary to what has

become the growing practice in tort cases, there is currently no right of contribution among and between defendants in antitrust cases; nor do defendants have any right to bring into an action other parties who may have joined with them to violate the antitrust laws. Thus a plaintiff is permitted to pick and choose among the potentially guilty coconspirators in a price-fixing scheme, and the defendants ultimately sued are bound by the plaintiff's choice and cannot ask parties not named to share their damages.

Any question about whether a right of contribution exists was put to rest by the U.S. Supreme Court on May 26, 1981, in the case of *Texas Industries, Inc.* v. *Radcliff Materials, Inc.*, 101 S. Ct. 1061 (1981) which unanimously held that there does not exist a basis in either Federal statutory law or in the Federal common law for the courts to fashion rules of contribution in antitrust cases. This case simply confirmed what has been understood by the antitrust practitioners for decades.

It was the desire to permit a right of contribution that initially led to the impetus for legislation. The idea behind the original bill was not to reduce the amount a plaintiff-business overcharged by defendant-price fixers could recover, but rather to permit defendants to share any damages they might have caused to a plaintiff's business with others who might be equally culpable.

Thus, one of the purposes of the initial legislation was to create a statutory right of contribution according to the damages attributable to a particular defendant's sales or purchases of goods or services. It was intended that a claim for contribution by a person or persons against whom an antitrust action had been commenced could be asserted by cross-claim, counterclaim, third-party claim, or in a separate action, whether or not an action had been brought or a judgment had been rendered in the antitrust matter against the persons from whom contribution is sought.

In developing this legislation, it was then recognized that, standing alone, this right of contribution might deter settlements. Thus, a defendant might have no incentive to settle if that defendant might still be liable for contribution to other defendants who decided not to settle their cases. Therefore, a second change in the prevailing antitrust laws was made to protect settling defendants against a right of contribution and to create a new right of claim reduction or carve out.

Under this new claim reduction principle, if and when a defendant settled, that defendant's market share—rather than the dollar amount of its settlement—would be carved out of the plaintiff's ultimate recovery against any nonsettling defendants. Put another way, under the law as it now exists, a judgment against a defendant is reduced only by the dollar amount of the settlements entered into by settling defendants. Under the new principle, that verdict would be reduced by the market share represented by the settling defendants.

Thus, claims reduction came in as follows: Permitting a right of contribution seemed just, but it might deter settlements if exercisable against defendants who had settled: This could be taken care of by barring contribution claims against a defendant who settled. However, this solution by itself would leave the nonsettling defendants who could not get contribution against a settling defendant holding the bag for the remainder of the damages. Thus, in an attempt to be fair to them, the new legislation should provide that the settling defendants' market shares would simply be taken out of any ultimate recovery against remaining defendants. Thus, the two features of contribution and claims reduction work hand in hand, each supporting the other.

These two changes were incorporated into S. 1468, introduced by former Senator Birch Bayh of Indiana in 1979.

S. 1468, in subsection (e), was made explicitly applicable only to future cases. Subsection (e) stated as follows:

> This section shall apply only to actions under section 4, 4a, or 4c of this act commenced after the date of enactment of this section.

S. 1468, applying only to future cases, passed the Senate Judiciary Committee in the 96th Congress, but did not reach the Senate floor. Nor was a companion bill reported out of the House Judiciary Committee in that Congress.

The same legislation was reintroduced in the first session of this, the 97th Congress. I was proud to be a cosponsor of that legislation. The new chairman of our committee, Senator STROM THURMOND, of South Carolina, was also a sponsor of that legislation; in fact, the primary sponsor. It was directly patterned after S. 1468 and, like S. 1468, was made applicable only to future cases. When the bill was introduced, subsection (e) of S. 995 contained the same prospective provision, applying the new statutory right to contribution and the new statutory right to claims reduction only to actions commenced after the date of enactment of this section.

Mr. President, I believe that it is clear that if the bill had been left in its original prospective form it would have long since passed the Senate. As introduced, it would have constituted a major improvement in the antitrust laws.

However, toward the very end of last year, 1981, this legislation, which had broad support, began to take on an entirely different complexion. Jury verdicts had been entered in three separate cases against five defendants.

In the textile machinery case, Burlington Industries won a $21 million verdict against Milliken & Co. of South Carolina for fixing prices on royalties for textile machinery which Burlington obtained from Milliken. This case was brought by Burlington alone. That is, Burlington won a $21 million verdict against Milliken of South Carolina for fixing prices on royalties for textile machinery which Burlington obtained from Milliken.

A second case, called the Plywood case, involved a jury verdict against Georgia-Pacific Corp., Weyerhaeuser, and Willamette. That case is now being appealed by those defendants and is before the U.S. Supreme Court. A special master will compute damages on the basis of existing law if the jury verdict is upheld. The jury found in the Plywood cases that the three defendants and their coconspirators had engaged in a price-fixing scheme to increase the price of plywood sold to the plaintiff businesses by charging them with transportation costs from the west coast—even though the plywood supply was not shipped from the west coast but rather from locations in the East, much closer to the location of the plaintiff businesses. Virtually every State has some plaintiff businesses who were overcharged as a result of the price-fixing scheme and whose hard-earned jury verdicts could be substantially reduced under Senator THURMOND'S retroactivity amendment.

In the Milliken case, the amount of the reduction in the verdict would be from $21 million to approximately $8 million if the retroactivity amendment passes. In the Plywood case, there would be a 25- to 30-percent reduction in the verdict if claims reduction is applied.

The third case which gave rise to the retroactivity amendment was the Corrugated Container case in which defendant Mead Corp., was found to have been engaged in a conspiracy with a number of other defendants to fix the prices of boxes sold over a number of years to the plaintiff businesses. The Mead Corp., recently settled its case for an amount almost identical to what would have been their liability if the retroactivity amendment passed. However, had they not settled, they would have been able to obtain a 90-percent reduction in their damage verdict with passage of the retroactivity amendment.

For months, there were rumors that a retroactivity amendment would be offered. Finally, it was introduced by Senator THURMOND. It then took some six markup sessions before the amendment was rammed through the Senate

Judiciary Committee by a highly divided vote.

In effect, these five defendants, found liable by juries in each case for price fixing, have banded together to get Congress to bail them out of their jury verdicts. This amounts to a classic "heads I win, tails you lose" effort. Knowing clearly what the law was and had been for many years—namely, no contribution and no claims reduction—each of these defendants made the decision to go to trial rather than to settle its case. Had they won their jury verdicts or had they been able to upset them on appeal, they would not be here trying to change the rules giving them victory. But now, with appeals pending, they are asking Congress to change the very principles of law under which they and the plaintiffs decided to go to trial and under which jury verdicts were rendered.

Mr. President, this simply constitutes a brazen effort by losing defendants in antitrust cases to have the Congress bail them out of decisions they made knowing the rules of the game.

The retroactivity provision of S. 995 has become one of the most heavily lobbied issues ever to come before the Congress, and it has created a classic situation of the tail wagging the dog. Almost all the attention of the Senate has been focused on the retroactivity amendment rather than the basic legislation, and what was once a relatively noncontroversial bill has now become the center of an enormous controversy.

The lobbying and politics involved with retroactivity are most unfortunate. They have slowed down a bill that otherwise would have been considered and passed long ago. Enormous sums have been expended on lobbying. According to lobbying reports from 1981 through June 30, 1982, the five defendants who are seeking to bail themselves out of these jury verdicts have paid their counsel over $630,000. And these lobbying reports only include direct contacts with the Congress, without reference to all the other work necessary to strenuous lobbying efforts.

Mr. President, at this point I yield the floor. I understand that the Senator from Washington (Mr. GORTON) wishes to make a statement on this bill. I am happy to yield the floor.

The PRESIDING OFFICER (Mr. KASTEN). The Senator from Washington is recognized.

Mr. GORTON. Mr. President, I have listened with care to the presentation by my friend, the Senator from Montana, and have, of course, discussed this subject with him at length in private conversations as well.

I wish to commend him on what I think is a thoughtful, cogent, and persuasive analysis of the controversial aspects of S. 995.

At this point, I wish to echo the views which he has just expressed that S. 995 as prospectively applied has a great deal of merit, and that there are problems in connection with the combination of joint and several liability and treble damages which can under certain circumstances be utilized in a fashion which is unjust.

Therefore, the Committee on the Judiciary and its chairman as well as the Senator from Montana are to be commended for dealing with an issue which is difficult at best.

At the same time, however, I feel constrained to express my agreement with the Senator from Montana about the extremely troubling aspects of the provisions of S. 995 which make it retroactive.

I do that, I must confess, in spite of the fact that a number of my own constituents are significantly affected by those provisions in a way which has caused them to express their strongly favorable views to me.

Nevertheless, any retroactive legislation must be looked at with great care in the interests not only of those who are affected positively by it, but also of those whose justified expectations are negatively impacted by it.

This is not to say that I do not believe that there are no circumstances under which retroactivity may be appropriate in the antitrust field. At the very least, however, the retroactivity provisions of this committee amendment seem to be too broad and too general in scope for this impact easily to be predicted by those of us who are asked to vote on it.

A major reason, of course, for the longstanding congressional aversion to retroactive legislation is that it strongly tends to upset the expectations of parties who have relied in good faith on existing law and on judgments which they have already attained.

Therefore, one starts with a presumption that these retroactivity provisions would be unfair to people who, for better or for worse, have benefited by the present law. To change the rules in the middle of the game is likely to be unfair both to a plaintiff business and to settling defendants in pending cases who clearly relied on existing law in deciding both whether or not to settle and when they made that decision how much to settle for as opposed to going to trial.

There are, Mr. President, a number of other additional problems in connection with these retroactivity provisions which would be likely to encourage massive continued extensive litigation. The penalties of that litigation could easily be imposed on innocent plaintiffs who have already prevailed on the merits in litigation which is very highly complex, and very likely on defendants who have bargained settlements in connection with cases brought against them.

One issue which would be relitigated would be that of the preservation of settlements. The committee amendment purports to protect settlement agreements entered into prior to the date of enactment. A number of scholars and eminent antitrust lawyers believe, however, that due process and public-interest considerations would dictate the reopening of these agreements.

Again many of the settlements were agreed to and approved by courts on the basis of the clear expectation, based on existing law, that the plaintiffs could recover all remaining damages from nonsettling defendants.

Another issue, of course, relates to the constitutionality of the retroactivity provisions of the amendment. I do not stand before this body to assert the unconstitutionality of these proposals, but simply to point out that this also is a matter which is likely to be litigated extensively and all the way to the Supreme Court of the United States.

As a consequence, I do not believe the committee amendment, with its current retroactivity provisions, to be an appropriate balancing of the very real interests on both sides of the controversy which has brought S. 995 here before us. I, therefore, must join with the Senator from Montana in urging my colleagues to vote against the retroactivity provision of this bill, although if they were defeated or modified in such fashion as to make them clearly in the public interest, the bill then would be an appropriate subject for discussion even in this lame-duck session, and an appropriate addition to the antitrust laws of the United States.

I do, Mr. President, have another subject which I wish to discuss, and I am delighted that the most distinguished chairman of the Judiciary Committee is here while I do so.

Together with Senators RUDMAN, DANFORTH, and STAFFORD, many weeks ago I filed an amendment of my own to S. 995, which is printed amendment No. 1893. That amendment would not have changed any of the provisions of this contributions bill as it is reported, but would have substantially improved the bill, the title of which is "Antitrust Equal Enforcement Act," by providing for equitable treatment for the victims of price fixing as well as for those changed with price-fixing violations. It would have added new language that would overturn in part, in a carefully confined manner, a 1977 Supreme Court ruling which has caused severe economic consequences both to the States and to their citizens. The case is *Illinois Brick Co.* v. *Illinois*, which is found at 431 U.S. 720, a 1977 decision.

In that case, the court held that only those who deal directly with an

antitrust violator, that is to say, direct purchasers, are entitled to sue that violator in order to recover damages for price fixing of which they have been the victims.

States and their citizens normally are not direct purchasers. Through the normal business cycle they purchase goods through independent retailers and other intermediaries. Frequently these intermediaries have passed on to the ultimate consumers the higher prices caused by illegal price fixing by the suppliers or the manufacturers from whom those intermediaries purchased their goods.

Not only have the intermediaries not been injured in such case, but they are typically reluctant to bring suit because they are dependent on a good relationship with their suppliers or their manufacturers for future business success.

The States and their citizens, who paid higher prices to the intermediaries for the goods, are the true injured parties; but the Illinois Brick decision unfairly precludes these victims of this particularly blatant and costly form of antitrust violation from any meaningful means of redress. That decision has seriously eroded the fair and effective enforcement of the Nation's antitrust laws. Especially in these difficult economic times, it is essential that States be given the ability to fight price fixing which substantially increases the cost of goods to their citizens, as taxpayers and as consumers.

The Supreme Court, in its Illinois Brick decision, clearly recognized, explicitly recognized, that the decision might conflict with the intent of the Federal antitrust statutes. It, therefore, invited the Congress, if Congress disagreed with the result in the case, to provide "clear directions * * * to the contrary." S. 1874 in the 95th Congress, and S. 300 of the 96th Congress were the Senate Judiciary Committee's responses to the Court's invitation. Although placed on the Calendar, neither bill was considered on the floor of the Senate.

The language of my amendment also would respond to the Supreme Court's invitation. But, unlike the previous expansive and controversial proposals, it would take a more strictly limited approach. It would overturn Illinois Brick in part, but would limit prosecution on behalf of indirect purchasers to the U.S. Attorney General and to the attorneys general of the 50 States. The attorneys general would be able to prosecute on behalf of the States and on behalf of the citizens of their States as parens patriae. In this manner my proposal would permit indirect purchasers their day in court, but by limiting prosecution to a set group of law enforcement officers it would dispel most the fears that reversing Illinois Brick might open the floodgates of private litigation and class actions.

Mr. President, my amendment to S. 995 would also insure that defendants would not suffer multiple liability arising out of actions by both direct and indirect purchasers. Defendants would be allowed to prove as a partial or complete defense that the purchaser passed on additional costs in higher prices to subsequent purchasers. This would permit apportionment of any damage award to victims according to their actual losses. The proposal further would provide for attorneys' fees to defendants in the case of bad faith or vexatious prosecution. It would apply prospectively only.

Mr. President, I believe this new Illinois Brick proposal is a responsible, carefully confined approach to the problem of restoring to our Federal and State governments the opportunity to initiate suit to recover dollars illegally appropriated from their taxpayers and citizens by price fixers and bid riggers. The distinguished chairman of the Judiciary Committee was concerned, however, that S. 995 was already highly controversial and that no Illinois Brick bill has been the subject of hearings during this Congress.

In fact, when he expressed that concern, no Illinois Brick bill had been introduced into the 97th Congress, He, therefore, prefers to have any Illinois Brick legislation considered separately from S. 995.

I must say that I find that desire on the part of the distinguished chairman of the Judiciary Committee to be valid. As important as I feel Illinois Brick legislation to be, it clearly should be the subject of hearings and the opportunity for comment both on behalf of its proponents and opponents before it is considered on the floor of the Senate of the United States. Especially, of course, in a relatively short session such as this, appropriate debate on the floor of the Senate is not possible.

Graciously playing the role of a statesman once again in relationship to this legislation, the distinguished Senator from South Carolina, the chairman of the Judiciary Committee, has told me that if I will take down my Illinois Brick amendment to S. 995 the Senate Judiciary Committee will hold hearings during the first half of 1983 on such bill as may be introduced on the subject into the 98th Congress and will also see to it that the members of the Judiciary Committee have an opportunity to express their will and to report such a bill if a majority desire to do so.

I am assured, in other words, that the will of the majority in this respect will govern and will not be frustrated by any individual member of the committee or by a majority.

Mr. President, I am most grateful for that generous assurance on the part of the Senator from South Carolina. I am most grateful for his customary magnanimous approach to resolve this legitimate but very, very difficult and controversial dispute. I have, therefore, accepted his offer and will not call up amendment No. 1893 at any time during this debate.

I also should like to add to that a strong urging to all of my colleagues interested in passing Illinois Brick legislation to follow the same course of action. I believe that to discuss that subject in this context would hurt the opportunities of such legislation ultimately to be passed. I am firmly convinced that the best chance to pass legislation on the subject of the Illinois Brick decision will now come by waiting until the 98th Congress, pursuant to my agreement with the distinguished Senator from South Carolina, at which time the matter can be thoroughly discussed both in committee and on the floor of the Senate.

For those reasons, Mr. President, while I regret that I cannot agree with the retroactivity provisions of S. 995 as they are presently drafted, I do hope that the debate on this issue will be on S. 995, cn contributions and on retroactivity, so that the Senate's will will be done thereon.

Once again, I do wish to commend the very distinguished Senator from Montana on what I feel to be a brilliant and persuasive statement on this subject.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I wish to thank the Senator from Washington for, as usual, being very thoughtful, cogent, and perceptive, not only this issue but on every other issue which he addresses. Perhaps I say that because we are in agreement on this issue, but, more important, Mr. President, I say that because, even on those issues where we disagree, I find the Senator from Washington to be one of the several best Members of the Senate in terms of intelligence, perseverance, effectiveness, and basic conscientious dedication to the job of a public servant. He is highly regarded in this body.

Mr. METZENBAUM. Mr. President, I send to the desk a number of amendments to the pending measure.

The PRESIDING OFFICER. The amendments will be received and ordered to lie on the table.

Mr. METZENBAUM. I thank the Chair.

Mr. BAUCUS. Mr. President, I was briefly, when I last spoke, referring to editorials of various papers around the country in opposition to the retroactive portion of S. 995. I was also referring to a brief history of the bill; that is, how the bill originally was introduced several years ago to be prospec-

tive in nature only, how that second introduction of the bill in this Congress, in the 97th Congress, was prospective only, but how, because of five defendants in three separate antitrust actions, lost jury verdicts and began to work their way, to wriggle into the Congress, particularly in the Senate, and try to get the bill amended to bail them out, even after they had been found guilty of price fixing; that is, efforts on the part of a few firms to get Congress to change the rules in the middle of the game in order to benefit them personally.

It is at that point, Mr. President, that I would like to go on and address other portions of the bill and also explain in other ways why I am opposed to the retroactive part of the bill.

Mr. President, the business community which endorsed S. 1468 and S. 995 as originally introduced was initially neutral or antagonistic toward retroactivity. That is an important point. When these bills were introduced, the contribution and claim reduction bills, which the Senator from Washington firmly supported, those bills, as introduced, were bills that found either the neutral or the antagonistic attitude of the business community toward retroactivity; that is, the business community was either neutral toward or antagonistic to the retroactivity concept that may or may not be contained in that bill.

Now, however, many businesses and business organizations have been bludgeoned into supporting retroactivity, not because they believe it is right but because they have been told very clearly by the sponsors of the retroactivity amendment that there will be no contribution legislation at all unless it is made retroactive to pending cases.

Mr. President, I believe that to be the fact; that is, that originally most businesses in the business community were either neutral toward or antagonistic to retroactivity application of the claims reduction contribution in this bill. But now many businesses and business organizations have been bludgeoned into supporting retroactivity, not because they believe it is right but because they have been told very clearly by the sponsors of the retroactivity amendment that there will be no contribution legislation at all unless it is made retroactive to pending cases.

I have personally told leaders of the business community of my continued support for the basic legislation. But with retroactivity this bill has become a perversion. The retroactivity provision is a malodorous amendment, as the Charlotte Observer pointed out, for the benefit of adjudged price fixers at the expense of the innocent businesses which for years bore the burden of the price fixing and have fought in court for still more years to recover a part of what they were overcharged by these defendants.

It is indeed an unhappy day when special interest legislation such as this would even be considered by Congress, particularly when so many legitimate issues require our attention, that is, jobs, infrastructure, unemployment, during this lameduck session.

That is what we should be debating today: What is the best jobs bill? What is the best highway bill? How do we best build our roads, our streets, our bridges? How do we best repair them? How do we pay for it? How do we get America back to work again? How do we get America moving?

That is why we should be here today, not taking up valuable time on a special-interest bailout provision.

An example will show why retroactivity in this case is so fundamentally unjust and wrong.

I ask each Senator to consider that he or she is a plaintiff business which has been overcharged due to a price-fixing scheme by defendants A, B, C, and D.

Pretend like you are a business plaintiff. You have been overcharged in a price-fixing scheme by defendants A, B, C, and D. You, the plaintiff business, bring suit and several years after the case is commenced and extensive discovery is conducted, the first three defendants, A, B, and C, settle. They settle their cases with you, the plaintiff, for a sum of $100,000. They represent 50 percent of the market for the price-fixed goods.

The last defendant, defendant D, however, who also has 50 percent of the market, decides not to settle and believes that he can win at trial. That means that you as the plaintiff continue to pursue the matter.

Let us say you win a jury verdict against defendant D, the last defendant, for what the jury finds to be $1 million in damages done to you by a conspiracy between and among defendants A, B, C, and D.

As the law has been for decades in the antitrust field, your recovery as a plaintiff business against defendant D would be $1 million, less the $100,000 settlement you already received from the three defendants. That is a net award of $900,000. That is the present law.

Now let us assume the exact situation, but with the change in the law S. 995 would make. The outcome would be very different.

Again let us assume that you are a plaintiff business and have been the victim of a price-fixing scheme on a product you have been purchasing from defendants A, B, C, and D. Again, you settle for $100,000 with defendants A, B, and C, who again have a 50 percent market share of the product on which the price has been fixed.

Again let us say the last defendant, defendant D, decides not to settle and you as the plaintiff win a jury verdict for $1 million against him.

So far it is just as it was in the first case.

Under the change in the law, however, which S. 995 would bring about, your judgment against price fixer D, the last defendant, would be $1 million less 50 percent of $1 million, or $500,000, since you carve out of the verdict the market share of the settling defendants, not just the amounts of their settlements. That is what S. 995 is all about.

Now, Mr. President, it is one thing for this result to occur to a plaintiff business, the settling defendant, and the defendant who decided not to settle and lost that trial, altering the principles of the law under thich they played. But it is something else to change the law after jury verdicts have already been rendered and after settlements have already been entered.

In that case, the guilty price fixer, defendant D, would be given a $400,000 windfall, the difference between what he would pay under the old law and what he would pay under the change in the law at the expense of the innocent plaintiff who is the victim of the price fixing.

The plaintiff would likely contend that his constitutional rights had been violated because of his property right and due process interest in the verdict he obtained under existing law.

Moreover, he would contend that he would never have accepted the settlement of $100,000 from defendants A, B, and C had he known that their market share would later be taken out of his verdict by a change in the law. Yet this is precisely what we are asked to do by adopting the retroactive amendment.

Under the amendment, a court would be mandated to reduce claims even in pending cases, even after verdicts and judgments, if it would be inequitable not to do so. That is what the bill before us, including the retroactive portion, provides for. Plaintiffs in scores of pending cases, including the Milliken and Plywood cases, would be required to go back into court and spend still more years protecting jury verdicts they have already secured under an established set of legal principles. A cloud would hang over both the settlements they entered and the verdicts they received.

The Mead Corp., has already used the threat of retroactivity to convince the plaintiffs to accept a settlement of $45 million although their potential liability under prevailing law would be in the range of $650–$700 million.

I am personally offended, and I think the entire Senate should be offended, that a few huge corporations want us to give them the chance to force thousands of small businessmen,

who have already been victimized by price-fixing conspiracies, back into the court to defend their verdicts and to risk having those verdicts substantially reduced.

Mr. President, at this point I send some amendments to the desk which I would like to have printed.

The PRESIDING OFFICER. Without objection, the amendments will be printed.

Mr. BAUCUS. I thank the Chair.

Retroactivity, therefore, should be rejected for a number of reasons. First, it undercuts the reliance which innocent plaintiffs, as well as settling defendants, placed on existing law and on the prevailing rule of no contribution and no claim reduction. It smacks of the type of ex post facto law the Constitution prohibits in criminal cases. Even though we are dealing here civil litigation, constitutional scholars such as Prof. Charles Alan Wright of the University of Texas and Prof. Ernest Gellhorn of the University of Virginia have indicated that the change in law made by retroacive application of S. 995, would present serious due process problems that might have to be resolved by the U.S. Supreme Court.

The American Bar Association looked at this issue in 1979. They appointed a special task force to review the issue of whether any legislation was necessary in the area and, if so, whether it should be applied to pending cases. The section on antitrust law of the American Bar Association supported the basic contribution statute but strongly opposed retroactive application because it would upset reliance already placed on existing law. The National Association of Attorneys General strongly opposes retroactivity for the same reason.

There are few precepts more important to American jurisprudence than the stability and reliability of our laws. Americans have always had the assurance that the laws upon which they have relied in taking actions will not be preemptorily changed—and certainly not for the benefit of persons already found guilty of violating those very laws.

The second reason retroactivity should be rejected is that Congress does not traditionally make changes in the antitrust laws retroactive to pending cases. This is shown by the prospectivity of the Hart-Scott-Rodino Antitrust Improvement Act of 1976; by section 4A of the Clayton Act allowing the United States to sue for single damages in its proprietary capacity; the 1980 Antitrust Procedural Improvement Act, giving judicial discretion to award prejudgment interest in antitrust cases; and numerous other changes in antitrust law. That is prospective only.

Congress has spoken on this point. When it does so, it speaks with a prospective voice, not retroactive.

Congress has traditionally respected the right of parties in pending cases to rely on the law as it was when the cause of action arose and when the lawsuit was filed.

Congress has perceived accurately that to intervene in ongoing litigation is to breach the wall between the legislative and judicial branches and to interfere with what is essentially judicial business.

Congress has only acted retroactively in the antitrust area in a few instances like the soft drink bottlers bill and the Newspaper Preservation Act, where it passed curative legislation to correct a misinterpretation by the Federal Trade Commission or the courts of congressional intent behind an antitrust statute. Congress in these limited instances wants no defendant, even in a pending case, to suffer under that same misinterpretation. No one could argue that this is the case here. No court of Federal agency has misinterpreted congressional intent. There is no congressional statute on contribution or claims reduction to begin with, and the law has been clear for more than half a century.

There is no doubt, no question. No one has argued surprise. No one has argued that we need to pass curative legislation. The defendants who have lost their jury verdicts simply want Congress to change the law to reduce the verdicts against them in case they do not succeed in doing so through their appeals in court.

As we shall see in more detail later, Philip A. Lacovara, one of the chief drafters of this retroactive provision, represented the business community's view that the Illinois Brick legislation being considered in the last Congress should not be applied retroactively.

While we shall hear extensively of his views later, it is worthy of mentioning a pertinent part of his testimony:

> Congress historic disinclination to amend the antitrust legislation retroactively is rooted in considerations of fairness and sound regard for the disruption retroactivity causes. This historic course of prudent legislation ought not to be abandoned now.

Those are the words of Philip Lacovara, one of the chief drafters of the retroactivity provision, as he spoke about the Illinois Brick bill; that is, that it should not apply retroactively because to do so would upset sound principles of American jurisprudence.

The business community strongly opposed retroactive application of Illinois Brick. Counsel for the Business Roundtable stated:

> The Committee could limit the adverse impact of the legislation on current litigation by making it prospective only.

The counsel to the National Association of Manufacturers stated:

> There are, of course, significant defects in the proposed legislation not treated—such as its applicability to all internal "pending" litigation.

The late Senator James B. Allen, who had great respect for reliance of parties on existing laws, stated in his additional views on Illinois Brick:

> It is unseemly for the Senate to yield to pressure to rescue unsuccessful litigants by passing what amounts to a private relief bill and retroactively creating rights the Supreme Court has said they do not have.

Mr. President, those are the words of Senator Allen on the issue of retroactivity as it applies to antitrust laws, the changes in antitrust laws. Exactly the case before us. It could not be more precisely the same.

Mr. PERCY. Mr. President, I voted yesterday to proceed to the consideration of S. 995, not because I support it in every respect—I do not—but because I believe there is a need for most of the changes in our antitrust law this legislation would bring about. I hope that the debate over the next few days will illuminate for the general public—and I believe that such public education is a major purpose of extended debate—what I consider to be the major flaw in this measure and one which I will work to have removed and hope can be removed before we pass S. 995. In particular, I object to the applicability of certain proposed changes in the antitrust laws to pending cases—the "retroactivity" provision.

First, plaintiffs and defendants in existing cases relied on the existing law of full recovery and no contribution. The plaintiffs relied by accepting amounts in settlement believing that only those dollar amounts would be taken out of any jury verdict. In addition, they decided to go to trial and won cases for price fixing under current law and would be entitled to recover under current law.

The current law is no surprise to anyone. The companies involved knew the law when they made a decision not to settle and instead to roll the dice and try their cases. Certainly, had they won their jury verdicts they would not be here seeking retroactivity. Now that they have taken their chances under existing law and lost, they want us to change the law to relieve them of the results of decisions they made. They had the opportunity to settle and chose not to. This is certainly their right, but having made that choice and lost the trial, it ill behooves them to come to the Congress and have the Congress undo the decision which they made in full knowledge of the consequences if they lost.

Ex post facto laws have been in disfavor since the time of the Founding Fathers. Indeed, the proscription against ex post facto legislation is written into the Constitution.

Eminent constitutional authorities like Prof. Charles Alan Wright of the University of Texas Law School and Prof. Ernest Gellhorn of Case Western Reserve Law School believe that there are very serious constitutional issues in applying this legislation retroactively, because it takes away from the plaintiffs rights which they earned under prevailing law.

It was concern for this issue of reliance that led the American Bar Association's antitrust division to oppose retroactive application of contribution.

A second reason for which I oppose retroactivity is that Congress does not normally make antitrust changes applicable to pending cases, except in those few instances, such as the Newspaper Preservation Act and the soft drink bottlers bill, when Congress is attempting to correct a misinterpretation of congressional intent by the courts of the FTC in applying congressional statutes. This is clearly not the case here and no one contends that it is. The effort here is not an attempt to correct a misinterpretation but to fundamentally change the law. It is one thing to do this for future cases when everyone knows what the rules of the game will be, but quite another to do it for pending cases when parties have already relied on the existing law in making their decisions on whether and how much to settle for and whether to go to trial.

Third, I believe that there will be procedural havoc if the retroactivity amendment to S. 995 were to pass. At a time when our courts are already overburdened, this would add a substantial additional burden to the Federal courts in some 900 antitrust cases, who would have to attempt to make the tough decisions imposed upon them by this legislation. Settlements will be challenged by plaintiffs if the new rules are applied retroactively, because plaintiffs will justly contend that they would never have accepted the dollar amounts that they did accept had they known that the market share of the settling defendants was going to be taken out of any jury verdict they obtained rather than the dollar amounts of the settlements as is the current law. The issue of "manifest injustice" will have to be litigated in each case where there is a settlement or a judgment. It is simply unprecedented for Congress to, in effect, undo a jury verdict.

Fourth, I am concerned that antitrust deterrence will be hurt if defendants, after a jury verdict, can substantially undo the impact of that jury verdict. It is an open invitation to others convicted of antitrust violations to come to the Congress for another bite at the apple.

This is not our job.

Last, I note the history behind this legislation. It was prospective, that is applicable only to future cases, when it was first introduced in 1979 in the 96th Congress and it was prospective when it passed through the Senate Judiciary Committee. Retroactivity was never an issue. It was also prospective when it was reintroduced in the 97th Congress. Retroactivity became an issue when five companies in three major antitrust cases lost jury verdicts and wanted Congress to undo the results of those jury verdicts for them. I believe this is highly inappropriate.

I hope this matter can be settled in the next few days. I can understand, appreciate, and agree with the individual businesses and organizations who have pointed out the need for most of the changes in antitrust law which S. 995, if passed with prospective application, would achieve. I shall certainly vote to remove from S. 995 any references to its applicability to pending cases and hope that my colleagues will join with me in this effort.

Mr. EAGLETON. Mr. President, to the lay observer the subject of this debate might seem an excruciating combination of bewilderment and technicality. Antitrust law is highly complex. Few lawyers are willing to plumb its murky depths, and even fewer nonlawyers understand its intricacies. So, too, do the constitutional and statutory fine points surrounding retroactive application of laws defy simple, consistent summary.

However, at the risk of sounding oversimplistic, I would submit that the question before this body can be stated rather simply: Should we, as the Judiciary Committee-passed version of S. 995 proposes, change the rules governing liability of price-fixing defendants in the middle of the game?

I do not mean to suggest, Mr. President, that it is never appropriate to change the way our legal system applies to ongoing cases. There may well be a situation where a reform bill seeks to reverse a recent and aberrational decision and restore relative harmony to the legal system. There may be cases in which changes applied to current litigation would not disturb the expectations of the parties and could be accomplished with a minimum of delay and uncertainty. There may well be circumstances in which the equities are so strong on the side of those who would be helped, so meager on the side of those who would be hurt, that they cry out for retroactive reform, and not a moment too soon.

I simply do not believe that S. 995 presents such a case. I oppose the retroactive application of its provisions and urge my colleagues to do the same.

The case for retroactive application of remedial legislation is at its strongest when Congress seeks to clear away in one stroke a recent legal aberration—for example, a court opinion running counter to the established body of law or clearly misconstruing Congress intent in passing a statute. Of course, even in such a situation care must be taken to avoid preempting the option of appellate bodies to reverse the offending case on appeal; among other entities, the judicial system suffers when litigants believe that they can "appeal to Congress" rather than through the normal judicial channels. Still, it is in such a situation that retroactivity can be justified as merely returning all parties to the status quo ante, to the relatively smooth way in which the legal machinery was running before a judicial monkey wrench was thrown into it.

Yet, S. 995 is a response to no single aberrant case or shocking new development. Rather, it is a response that has developed after several years of concern about years long trends in price-fixing litigation, including the availability of new legal tools to challenge price fixing, significant increases in the monetary value of the damages that face potential violators and new plaintiff strategies that can, at the very least, be described as "creative."

Since S. 995 poses a change in the rules of antitrust liability in response to a situation that has developed over time, the case for its retroactive application must be made, I believe, on other policy grounds. Proponents have to demonstrate that retroactive application could be accomplished manageably and certainly and that it would not disrupt the orderly conclusion of pending cases. Proponents would also have to demonstrate that the substantial equities weigh in favor of those who would be helped by this legislation. I believe the proponents can show neither of these.

Any attempt at assessing S. 995's impact on the legal system must begin with the realization that it could change the price-fixing liability in hundreds of pending cases. One estimate by the Administrative Conference of the U.S. Courts puts the number of price-fixing cases currently in the courts in various stages of development at some 900. Obviously, this fact means that retroactive application would not be a discreet remedy for a few isolated cases. Its sweep could be incredibly broad.

I say that S. 995 could change hundreds of cases, rather than would, because of the way in which the retroactive provision has been drafted. Section f(1) of the bill would not grant claim reduction automatically. It would occur "if upon proof by any party subject to liability to damages in (a price-fixing case), the court determines that it would be inequitable in light of all the circumstances" not to grant claim reduction. Now, inequitable is an inherently subjective term, and the lack of guidance in the Judiciary Committee report does not help

matters. The standard would almost certainly encourage defendants in hundreds of cases to claim that they meet it; plaintiffs in hundreds of cases would respond with full vigor that claim reduction is not appropriate. Whatever result a district court reached would almost certainly be appealed all the way up the line. Differing interpretations of the meaning of "inequitable" would no doubt pop up both within judicial circuits and among them. Judicial development of generally applicable and consistent principles could take years.

Thus, delay and uncertainty would be introduced into cases which are already subject to interminable delays, complexities and procedural wrangling. For cases relatively far along the way to completion, S. 995 would amount to nothing less than a reopening of one of the major, if not the major issues in any price-fixing case: amount of damages. Cases already aging, nongracefully, in the Federal courts—including one which dates from 1969—could have years added to their tortuous life in court. And there is some suggestion that, despite the bill's efforts to preserve settlements already reached in pending cases, such settlements could be undermined as plaintiffs scramble to respond to significantly changed circumstances. Even in cases that are relatively new, the change in basic damage-assessment standards would likely cause substantial delay while litigants adjust their strategies and responses.

The chaos that would be imposed by retroactive application of S. 995's claim reduction principle not only belies that it can be discreetly and manageably accomplished, but also has a direct bearing on the weighing of the equities. In essence, S. 995 is justified as a reform for small- and medium-sized businesses which should not be made to bear full treble liability for the price-fixing activities of an entire class of defendants. As this theory has been expressed by the Senate Judiciary Committee reports in two Congresses, the prospect of mammoth liability is unfair to these smaller defendants because it may serve to coerce excessive settlements from them. The reports indicate that such coercion may be felt both by defendants who are guilty, but relatively less so than defendants who got off the hook for less and, worse, by defendants who believe they are truly innocent of wrongdoing, but are unwilling to run the huge monetary risk of a crushing adverse judgment if their attempts to persuade a judge are, for some reason, unsuccessful.

I do not dispute that these abuses occur. Certainly the Judiciary Committee is in the best position to judge. What I would point out is that not all price-fixing defendants who could assert a right to claim reduction are small and innocent. (Indeed, some very large defendants, already adjudged to be guilty of price fixing, have been in the forefront of the fight for retroactive application of S. 995.) And, not all plaintiffs who could have their potential recovery reduced by claim reduction are devious employers of the "whipsaw" method of extorting settlements.

Given the uncertainty of the "inequitable" standard and its judicial evolution, there is simply no guarantee that in practice the claim reduction remedy would be carefully tailored to all of the situations in which it seems justified—and only those. Many defendants in whose name this remedy is pressed might well find after all the judicial wrangling over the concept of "inequitable" that their liability remains huge. To the contrary, it is very likely that, in interpreting S. 995's uncertain standard, some courts would award claim reduction in pending cases to defendants who are less deserving and against plaintiffs who have quite innocently relied on the current standard of damages in proceeding with a case which vindicates the interest of State governments, consumers or our economic system.

In short, it is simply not logical or wise policy to base a claim for retroactive application on substantial equities pointing toward one group of defendants and against one group of plaintiffs and then provide a remedy so uncertain in its potential application.

Finally, I believe that any assessment of the equities involved would be incomplete without a close look at the timing and circumstances of our consideration of this bill. The lameduck session upon which we have embarked is of very limited duration. It is obvious from the controversy this bill has generated and the various amendments that have been proposed or hinted at that we are substantial hours away from concluding action on it. The House Judiciary Committee has not reported a similar bill. Indeed, it is not very far along in its consideration of this complex and controversial question. Nor has there been a clamor among other House Members for Senate action on this bill.

Mr. President, I submit that it is highly unlikely that this bill could be enacted into law before this session of Congress ends—particularly if we take the unwise step of applying its provisions retroactively. If many words on this subject would not a bill produce, only two possibilities remain. Either we are embarking on a robust exercise in futility, or it must serve someone's hidden agenda for the Senate to pass this bill, even if it thereafter falls into a legislative abyss.

Whichever is true, I believe we have far more important issues to deal with—issues on which our deliberations might yield significant results: A response to the crushing and growing burden of unemployment. Hope to millions of people faced with staggering natural gas bills. Even passage of appropriations bills would be a far more important accomplishment.

Surely we have more important business than acting at this late date to change the rules in the middle of the price-fixing enforcement game. I suggest we get on with it.

Mr. DURENBERGER. Mr. President, I admit to harboring some mixed feelings in arguing against this bill, because I agree with its principal objective—establishing a right to contribution in antitrust litigation. The fight for this reform was begun in the 96th Congress by our distinguished former colleague from Indiana, Senator Birch Bayh. It has been ably carried on in the 97th Congress by the distinguished chairman of the Judiciary Committee, Senator THURMOND. Yet as strongly as I believe in the need for reform, I am absolutely opposed to making this change, or any similar change in legal principles, retroactive. Because this bill contains a retroactivity clause, I am rising to oppose it and to put my colleagues on notice that I will support a filibuster effort designed to force removal of the retroactivity clause.

American jurisprudence has traditionally recognized two fundamental premises: That victims of wrongdoing will be compensated to the full extent of their loss, and that perpetrators of wrongdoing will be held liable to the full extent of their participation.

For more than 200 years we have rejected any legal theory that would excuse a wrongdoer from the full consequences of his acts. For the same reasons of fundamental fairness, we have rejected the notion that any defendant should face liability for damages in excess of those inflicted by his own conduct. That is why the principle of contribution has been an essential element in multiparty litigation, both in State and Federal courts, for two centuries. It insures fair results by protecting a plaintiff's right to recover, while making certain that no defendant is assessed more or less than his due.

Antitrust law is one of the few branches of American jurisprudense that lacks some form of contribution. We have all seen the impact of that exception. It has produced a field of the law with penalties so broad that they engulf not only price fixers, but any business—innocent or guilty—unfortunate enough to become a named defendant. The ability to confront every defendant named in a law suit with the prospect of sole liability for the damages suffered by the entire economy gives the suing party an insuperable advantage. The simple pros-

pect of that liability is often enough to cut off a defendant's access to credit. The existence of treble damages, the cost of litigating these complex suits, and the prospect of facing full liability for the injuries inflicted by other parties combine to force costly settlements, often without regard to questions of complicity or noncomplicity. More often than not, the absence of contribution in antitrust law has proven to be an obstacle to fair resolution of the issues raised in these cases. And it has created an unfair system in which the same penalty applies to all, be they a primary conspirator or a party with peripheral or incidental involvement.

Creating a right to contribution will do nothing more than insure that every guilty party faces liability to the full extent of its wrongdoing. The only parties relieved from liability are those who should never have faced liability in the first place. Contribution has worked well in other complex areas of the law, and there is no reason why it should not work equally effectively in antitrust law.

The tragedy of today's debate is that in order to reach certain defendants in the corrugated container antitrust suit and similar pieces of pending legislation, the authors of this bill have made a serious, and perhaps mortal, error by making its provisions retroactive—at the discretion of the court. No matter how any of us might feel about the principles of law under which these and other pending cases were tried, all parties to those cases acted in reliance on that law, and made decisions accordingly. Those who settled—as well as those who did not—factored in the lack of contribution as well as the unsettled state of the law when they priced out their settlement offers. It is impossible to justify changing the rules of the game after the parties have made commitments based on their existence. Congress has traditionally been hesitant to take any action that would change the outcome of pending or past lawsuits. Once we abandon that posture we will open Pandora's box with indefinable consequences.

Giving the courts the discretion to apply the law to certain pending cases begs the question of retroactivity. This discretion can only work one way—in favor of the convicted price fixer. The best any injured party can do is hold on to the status quo, and retain rights already won. That is unfair by any criteria. The discretion clause also creates a virtual guarantee of inconsistent judgments.

I am also unconvinced that the committee's efforts to prevent this legislation from vacating prior settlements will have any effect. Bear in mind that plaintiffs in these actions, relying on existing law, settled with some defendants in the expectation of getting their remaining damages from the defendants who did not settle. The courts approved these settlements in reliance on existing law, thinking this was the case. Retroactive claim reduction destroys both the party's and the courts' expectations.

Legislatively overruling the foundation of these decisions raises constitutional questions. As the well-known constitutional scholar Charles Alan Wright has observed, "The manifest injustice of—reducing plaintiffs' recovery after the fact—is apparent." We can place language in the law purporting to protect existing settlements, as the committee has done. But we cannot guarantee the courts will enforce that language. A Federal court could easily find that denial of plaintiffs' rights in this manner violates due process, and that existing settlements must therefore be reopened as a matter of constitutional right. In the plywood and corrugated class actions alone, this would expose more than 40 parties who thought they had reached valid, arms-length, court-approved settlements to the possibility of continued litigation. The simple fact that this issue could be raised again, and settling parties forced to relitigate their settlements, is reason enough to reject the retroactivity clause in this bill.

The public outcry against the retroactivity clause has been extensive, and should not have escaped any of our notice. One major newspaper after another has taken a stand against that clause by focusing on the degree to which it caters to the special interests of a few parties at the expense of the majority of those involved in the litigation. I want to read into the record just a few examples:

Minneapolis Star and Tribune.—Price fixers don't usually conspire in the open. But some of them are lobbying to change—retroactivity—the laws they broke and the penalties they must pay. Their campaign is shameless, and their proposal to change the rules in the middle of the game is an outrage.

The New York Times.—Price fixers who usually conspire in secret have banded together for a brazen, daylight attempt to rig the Federal antitrust laws. It (the bill) has wide support in Congress. Its merits are debatable, but retroactivity is not. That part of the proposal is an outrage.

Chicago Sun Times.—If it were permissible to change the rules after a game is played . . . the Cubs might be world champions. But you can't do that, you say? Oh, but you can try. Five big corporations convicted of price fixing are tring it right now. At a time when the public wants to get tough with common thieves, there is no compelling reason to go soft on those who happen to wear pinstripes.

San Francisco Chronicle.—Retroactive laws and penalties are generally bad law . . . and dubiously constitutional. This retroactive feature of an otherwise reasonable antitrust reform should therefore be opposed.

Frankly, Mr. President, I find it difficult to believe that with the economic difficulties facing us in this country and the critical items remaining on the Senate calendar, we are consuming hours and possibly days debating antitrust retroactivity. The best solution is to strike this clause immediately, and move onto matters that have a greater bearing on the future of this country. I urge every one of my colleagues to join me in opposing this legislation.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 2 P.M.

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate stand in recess until 2 p.m. today.

There being no objection, the Senate, at 1:09 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. COCHRAN).

SOCIAL SECURITY REFORM

Mr. ARMSTRONG. Mr. President, earlier this week, I sent to each Member of the Senate a "Dear Colleague" letter in which I discussed at some length the options and background information relating to the task of the National Commission on Social Security Reform.

The National Commission is considering a number of ideas, and recently the Commission reached a unanimous consensus on the need to close the gap between projected benefit payments and tax revenues in the OASDI system, approximately $150 to $200 billion in the 1983–89 period and what is termed 1.82 percent of payroll over the longer term, an amount equivalent to $1.6 trillion.

Mr. President, I rise to call the attention of my colleagues to this letter which I have sent to them and to ask unanimous consent to have printed in the RECORD my "Dear Colleague" letter and the associated material, for the benefit of all Senators and others who may read the RECORD.

[The material referred to will appear at the end of today's Senate proceedings.]

ANTITRUST EQUAL ENFORCEMENT

The Senate continued with the consideration of S. 995.

Mr. METZENBAUM. Mr. President, if nobody seeks recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I wish to speak in opposition to this proposal. However, I have just been informed that the Senator from New Hampshire is under the constraint of time and would prefer that he be accorded the privilege of the floor at this point, to make his statement. If that be the case, I am very happy to yield the floor to the Senator, so that he may address himself to the pending issue.

Is the understanding of the Senator from Ohio correct?

Mr. RUDMAN. The Senator from Ohio is correct.

Mr. METZENBAUM. I have no objection, and I yield the floor to the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. Mr. President, first, I thank the Senator from Ohio for his courtesy.

Mr. President, I come before the Senate today to speak in opposition to legislation which would alter, significantly, the enforcement of our antitrust laws. Like many of my colleagues, I am strongly opposed to this bill's inequitable treatment of parties who have already litigated their antitrust claims. I find it repugnant that the Congress would provide relief to price fixers who chose to violate the law and got caught. However, unlike some of my colleagues, I do not support the underlying bill, and will not support it even without the retroactive section.

My opposition to the bill is threefold. First, I believe it will reduce the deterrence that exists in present law which acts to prevent firms from participating in anticompetitive business practices.

Second, I believe that claim reduction will severely reduce the incentive for settlement among parties involved in these suits, despite the fact that society has a deep interest in such settlements.

Third, and partially a consequence of fewer settlements, I think that contribution will foster an immense amount of added litigation, the cost of which will be borne by the innocent victims of price fixing.

Proponents of S. 995 suggest that the current law leads to an unfair apportionment of liability in civil price-fixing cases. They say that it is unfair for guilty defendants in a price-fixing case to pay more than their share of damages. My response to that is simple: Who told them to join the conspiracy? After all, it has been very clear for decades that price fixing is illegal, and it is also clear to each and every guilty defendant that he could be liable for the entire amount of damages. Why then should we heed their calls for assistance, especially at a time when decreased enforcement efforts make it less likely that these activities will be discovered?

The argument against present laws amounts to dissatisfaction with the concept of joint and several liability. I find this to be an interesting reaction to a rule of law which has existed far longer than our antiturst laws.

As is well known, the courts have generally characterized antitrust violations as torts. There are some arguments against such a broad characterization, but generally it is a useful characterization. What many of the proponents do not understand is that even under present tort law there is no basis for contribution. As some legal historians will note, the rule regarding contribution is attributed to an old English case called Merryweather against Nixan. In the case, Lord Kenyon established a rule that contribution would not be allowed "where the former recovery was for a tort." Later, the English courts did permit contribution when the tort was unintentional, or negligent. However, the law was always clear that contribution would not be allowed for intentional torts.

Although American courts for some time did not permit contribution under any circumstances, statutes which later liberalized the law clearly included the distinction that intentional wrongdoers would not be able to seek relief from damages rising out of their own actions.

A very few exceptions do exist, but as William Prosser states in his treatise on the law of torts, the law still tends "to continue the original rule that there is no contribution in favor of those who commit intentional torts." Make no mistake about it. Those who engage in price fixing are involved in a consensual act that is deliberate.

The proponents of S. 995 now suggest that we overturn the centuries old common law rule in favor of relief for intentional violators of our antitrust laws. Price fixers cost American taxpayers and consumers enormous sums of money each year. They steal from the American public, and most of it goes undetected every year. And these acts are intentional. As stated in the bill, they are agreements to fix, maintain, or stabilize prices. Each conspirator fully intends to bilk—and I use that word "bilk"—the American consumer, and every one of them, in their capacity as price fixers, is responsible for the damages, because without any single firm's participation, the conspiracy to fix prices would inevitably fail. With their participation, the conspiracy exists and the damage is done.

As an aside, Mr. President, I find it most interesting to note that the one case in a circuit court where contribution was allowed would not be covered by S. 995. Professional Beauty Supply against National Beauty Supply involved a conspiracy to monopolize and, as such, would not be provided the relief that is offered under the bill for price fixers since contribution would be limited to price fixing only, not attempts to monopolize. I would not support extending the bill to cover such activities, but I do question making price fixers almost a privileged class. I find no reason to support such a privilege. If in fact, a complete review of our antitrust laws is called for, so be it. But let us do it completely, not in this manner, which would benefit only one particular class of violators.

The proponents of S. 995 suggest that S. 995 will offer a greater deterrent effect than the present law provides. I seriously question that argument. In an October 1980 article in the Journal of Law and Economics, three distinguished professors of the University of Chicago Law School—Frank Easterbrook, William Landes, and Richard Posner—found that even if executives were assumed to be neutral to the risk factor, deterrence would be the same with or without contribution. However, I agree with most economists who believe business executives are very cognizant of risk factors. I might add parenthetically since some of them recently have gone to jail. Thus, the far greater deterrence is provided by present law under which firms face the possibility of greater, not lesser, liability.

Reading the committee report on this bill is very interesting. I found that the proponents of the legislation are not really clear on the deterrence question themselves. On page 16 they claim that S. 995 will increase deterrence. However, on page 18, the report states that "the committee is mindful of the damage of overdeterrence raised by a denial of a right of contribution." This seems to be a clear contradiction. On the one hand, they say that S. 995 will increase deterrence, and, on the other hand, they say that the present law is too harsh and the penalties should be reduced. I really do not think it can work both ways. But, if there is a question, I certainly do not advocate lessening deterrence to price fixing, and I believe that is what S. 995 would do.

The second and third arguments I have against the bill are very straight forward, and I see no reason to spend much time on them, although they are certainly important considerations. It seems obvious to me that a change in the law as is suggested in S. 995 would

discourage settlements and prolong litigation. This is simply because under S. 995 not only would defendants risk less going to trial, but of more importance plaintiffs, because of claim reduction based on market share rather than amount of settlement, would have little inclination to settle claims out of court. Market share determination would simply add to litigation issues. These effects would have a detrimental impact on our legal system and reverse the general nature of our legal system in favor of settlements. I think this is a direction we do not wish to take.

Mr. President, as a former attorney general of the State of New Hampshire, I favor strong protection for consumers and taxpayers. The present law offers that protection, and I do not want to see it weakened.

The National Association of Attorneys General representing the attorneys general of each State and territory of this country is in agreement and I wish to read the resolution that was issued by that organization indicating their unanimous opposition to S. 995.

This is dated June 1981. It is entitled "Contribution Among Price Fixers," and it reads as follows:

Whereas, the Congress of the United States is considering legislation, S. 995 and H.R. 1242, to authorize contribution among price fixers; and

Whereas, S. 995 and H.R. 1242 will unnecessarily complicate antitrust damage litigation, will confuse and hinder the settlement process, and will diminish the deterrent effect of the potential treble damage claim; and

Whereas, on May 26, 1981, the Supreme Court ruled in *Texas Industries, Inc.* v. *Radcliff Materials, Inc.*, [1981-1] Trade Reg. Rep. (CCH) ¶ 64,020 (1981) that, absent Congressional action, no right of contribution exists among antitrust defendants; and

Whereas, the impact of such bills on the ability of states to recover damages and punish wrongdoers efficiently and promptly will be severe and immediate;

Now, therefore, be it resolved, that the National Association of Attorneys General:

1. is opposed to legislation authorizing contribution among defendants in antitrust cases, especially S. 995 and H.R. 1242; and

2. the General Counsel is authorized to communicate the views of this Association to the United States Congress and to the Administration.

Mr. President, a letter dated May 3, 1982, to my colleague, the Honorable WILLIAM PROXMIRE, from his State's attorney general, Bronson C. LaFollette, I think is an excellent presentation as to the specific opposition of State attorneys general, who, after all, are out there on the front lines of consumers and their problems.

I ask unanimous consent that that letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF JUSTICE,
Madison, Wis., May 3, 1982.

Re: S. 995 "The Contribution Bill."

Hon. WILLIAM PROXMIRE,
U.S. Senate, Senate Office Building, Washington, D.C.

DEAR SENATOR PROXMIRE: First of all I want to apologize for waiting until the last minute to write to you concerning the above bill, but to be perfectly honest with you, I viewed the bill as so ludicrous that I never thought it would get as far as it has. It is my understanding that it is set for a floor vote within the next few weeks, and therefore, I am taking this opportunity to advise you now of my views concerning this regressive piece of legislation.

As you are aware, S. 995 would amend existing federal antitrust law, specifically the Clayton Act, to eliminate joint and several liability on the part of antitrust violators. Even more curious is the fact that this bill pertains only to those individuals convicted of price fixing, which is uniformly recognized as the most pernicious antitrust violation that one can commit. Since the enactment of the Sherman Act in 1890, individuals and businesses victimized by antitrust price fixing conspiracies have been able to seek full treble damages for the entire conspiracy from any one or more of the conspirators. The courts have consistently refused to recognize a right of contribution amongst non-settling and settling defendants in such cases. This bill is an attempt by a few large corporations, which have violated with impunity the fundamental charter of our economic system—the Sherman Act, to escape their legal responsibility for such violations. I am extremely appalled at the contents of this bill, in general, and am specifically concerned with its proposed retroactive effect, which would let off the hook certain large corporations that are facing substantial money judgments for their felonious conduct.

The enactment of this bill would severely modify the existing method of collecting damages, thereby eliminating the best deterrent against antitrust violations. As one highly experienced and reputable United States district court judge pointed out, settlements would be few and far between since a wrongdoer would prefer to roll the dice and take a chance at trial that culpability will not be assessed. If the price fixer happens to lose, then contribution could be obtained from those wrongdoers who chose to settle out before trial. Furthermore, trials would become even more complex because if contribution is allowed juries will be called upon to assess market percentages of both settling and non-settling defendants so that contribution can be made proportionately. Even in basic tort suits, we see the difficulty which juries have with such a concept. When one adds in the factor of enormous multi-national corporations that are engaging in conspiracies involving hundreds of millions of dollars, it becomes quite apparent what the proponents of this bill are seeking. They are seeking to inflict utter hopelessness and confusion on the part of would-be litigants and juries in the hope of escaping paying the price for their wrongful conduct.

The effectiveness of the lobbying effort that has gone into this bill is best demonstrated by the fact that this bill is to have retroactive effect and will be applicable to presently litigated antitrust actions. Irrespective of the constitutional problems which some legal scholars have pointed out regarding such a provision, it also violates all fundamental concepts of fair play. The best example of this is the Corrugated Container cases in which thirty-six defendants have entered into settlements paying out $321,000,000 in damages relying upon the present law which does not allow for contribution against them. The lone remaining defendent, the Mead Corporation, has elected to litigate this lawsuit, and a jury has rendered a verdict against it. Damages are yet to be assessed. Now after losing in the courts, the Mead Corporation is attempting to overturn this result by the enactment of this bill. The result would be that all of the enactment of this bill. The result would be that all of the companies which engaged in wrongful conduct and were willing to admit their liability by entering into settlements would have the rules changed during the middle of the game and would be liable for contribution to the Mead Corporation.

Quite frankly, I am totally amazed at the receptiveness of Congress to this bill. The bill has been soundly condemned by legal scholars, the judiciary and in editorials from coast to coast in just about every prestigious newspaper on both sides of the policital spectrum. Yet, because of the power that certain major corporations wield, this bill has reached the Senate floor where the chances for passage appear excellent. I strongly urge you to stand up in opposition to this bill in its entirety and, at the very least, fight for a removal of the retroactive effect clause in it. The damage provisions of the federal antitrust laws have remained virtually unchanged for decades. Under these laws, our country, despite certain inevitable difficult periods, has prospered. To now emasculate these laws with the passage of S. 995, which only aids those who commit the most egregious type of antitrust violation, would indeed be a bleak day for the entire nation. I and my staff stand ready to discuss this matter with you at any time.

Sincerely yours,

BRONSON C. LAFOLLETTE,
Attorney General.

Mr. RUDMAN. Finally, Mr. President, and as I alluded to earlier, perhaps our antitrust laws should be reexamined in order to determine whether or not they clearly set forth the criteria by which society will judge anticompetitive practices. If innocent parties are being caught in the trap of litigation and unjust settlements our laws should be changed. However, the change should be to the substantive portion of the law not the penalties for those who have been found to violate it. We should not address the problem of unjust application by the simple expendient of making it cost less to have been unjustly caught.

I thank the Chair, and I yield the floor back, if necessary, then to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, the Senator from Ohio is prepared to speak to this bill, but wants it clearly understood that if others are inclined to seek the floor, I have no problem in yielding to them.

Does the Senator from Montana desire the floor at this time?

Mr. BAUCUS. If the Senator from Ohio will yield the floor, this Senator wishes to have the floor.

Mr. METZENBAUM. In that case I yield the floor to the Senator from Montana.

Mr. BAUCUS. Mr. President, let me first take this opportunity to commend the Senator from New Hampshire for his courageous leadership on this issue. I have found the Senator from new Hampshire to be very forthright, very perceptive and very perspicacious in his views as to the legislation we have before us as to what its implications will be, and I commend the Senator for taking the floor and explaining his point of view, based in part on his experience as a former attorney general of the State of New Hampshire as to what the proper legal remedies should be and what American jurisprudence is and the reasons for the principles contained in American law, and I appreciate the Senator's aid in that regard, particularly the Senator's efforts in opposition to the retroactivity portions of this bill.

Mr. President, I have been deeply troubled by reports in the press that several of us are responsible for holding up this legislation because we are voicing strong opposition to the retroactivity provisions in S. 995. If the record is clear on nothing else, let the record show that this Senator and many other Senators who oppose retroactivity strongly support S. 995 as introduced.

This Senator, the Senator from Montana, supports S. 995 as introduced, that is on contributions, so long as it does not apply to pending cases.

Senator DOLE supports S. 995 as introduced.

Senator DENTON supports S. 995 as introduced.

Senator LONG supports S. 995 as introduced.

Senator ZORINSKY supports S. 995 as introduced.

Senator LEAHY supports S. 995 as introduced.

Senator BENTSEN supports S. 995 as introduced.

We all support S. 995 as introduced.

I might say, Mr. President, I think that the vast majority of the Senators in this body support S. 995, the concept of S. 995, as introduced, but not the retroactive portions of the bill.

We all wish that that bill, S. 995, as introduced was the bill before us here so that we could vote for it and support it. But we are opposed to retroactive application because we believe retroactivity has turned a good bill—let me repeat, a very good bill—into a bailout for price fixers.

The original bill is a good bill because it tries to make the rules of antitrust litigation more fair. It tries to help the business community in a manner that is reasonable.

The retroactivity provision has ruined the bill by trying to help a handful of corporations unfairly.

It is the retroactivity provision that is killing this bill—not those of us who support the bill as it was introduced.

It is the retroactivity provision that is keeping this bill from being enacted. It is the retroactivity provision that is preventing us from reaching a general consensus on a fair piece of legislation.

It is the proponents of retroactivity that are tying up the Senate unnecessarily.

In this lameduck session we should be addressing the issue of jobs, unemployment, the highway tax, highways, roads, bridges, streets, putting America back to work.

In this lameduck session today and in the remaining 2½ weeks we should only be dealing with essential pieces of legislation or legislation on which there exists a broad consensus. S. 995 had that broad consensus until the proponents of retroactivity insisted on turning it into a price fixer's relief act.

I originally supported and continue to support S. 995 because I believe it is a pro-business bill that can help small businesses get a fair shot at litigating the merits of price fixing cases brought against them. The business community, in my judgment, deserves S. 995 as introduced.

But the business community does not deserve the retroactive bill in front of us. In fact, if the truth were known, they would not want it. They have been pushed into it, bludgeoned into it, not because they support retroactive application but because they are told if they do not, there may not be a bill. It is not in the interest of the business community to have convicted price fixers rewarded by special interest legislation such as this bill that is before us today.

It is not in the interest of the business community to have a bailout bill tying up the country's business. It is certainly not in the interest of the business community to run roughshod over the judicial branch.

What is in the interest of the business community, in my view, is to have fair prospective legislation passed by this body in this lameduck session. That is what I have fought for. That is what I will continue to fight for.

But let the record be clear. This Senator is for S. 995 as introduced and as long as a few companies and a few Senators insist on converting it into a bailout—which it was never intended to be—this legislation will never pass and the large majority of the business community will never be able to have the benefit of the fairer rules that it would provide. That is an unfortunate result, but that outcome is due to those who are insisting that the only way this bill can be enacted is if it provides retroactive relief to a handful of price fixers.

Mr. President, I understand the Senator from Ohio wishes to speak on this matter, and I now yield the floor to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I rise to discuss the substance of the legislation pending before us. However, prior to doing do, I want to repeat the point I attempted to make yesterday—that is, that the U.S. Senate should not be using its time in dealing with this kind of legislation.

We were called back by the President for a special session. He actually did not have to call us back. He asked us to come back, and the leadership agreed to do so. Having done so, it was with the understanding that it was for the purpose of dealing with certain appropriations bills. Certainly, those measures have a higher priority than does S. 995. Certainly, the problems of unemployment and the problems of the economy being in a mess are of greater consequence than the issues pertaining to S. 995.

Mr. President, I very much commend the leadership of the Senator from Montana in opposing this legislation, and I understand also his view that with the retroactivity provision out he could find the legislation more acceptable.

I am in strong opposition to the bill with or without the retroactivity provisions because I believe it to be another in the many attempts in this session to weaken our Nation's antitrust laws.

The simple and only purpose of this legislation is to make life easier for price fixers, which it would do in a variety of ways.

Now, I know that many of my colleagues have addressed themselves to the bill's retroactivity provisions, as has my good friend, the Senator from Montana.

That retroactivity provision is particularly egregious because it would enable a small handful of well-heeled firms to escape from adjudged liability for hundreds of millions of dollars in price-fixing overcharges.

In the heat of the retroactivity battle, though, some may have overlooked the fact that the bill itself would do much to destroy the private enforcement of our antitrust laws. And I feel very strongly that the total question of enforcement of our antitrust laws is a matter that more and more is being swept under the table, both from an administrative standpoint as well as from a legislative standpoint.

S. 995 alters price-fixers' exposure to antitrust damages liability in two principal ways. First, it permits defendants to bring into the case, for the purpose of seeking contribution, other parties whom they allege also participated in

the unlawful conspiracy or to file separate legal actions against such parties.

Currently, such joinder of third party defendants is not permitted in any antitrust suit. That is, under current law, whichever firms or individuals are sued for price fixing can be held responsible for all of the injury caused by their conspiracy. And there is nothing radical or unusual about that. If you are a coconspirator, you are held liable for the total damages.

Exposing potential price fixers to such joint and several liability deters their future illegal activity. And is that not the purpose of much of our legislation having to do with punishment, to deter illegal activity?

This legislation, by permitting price fixers to spread their potential liability, would seriously undermine this deterrent effect and make private enforcement vastly more complicated and protracted.

Second, S. 995 provides for mandatory reduction—mandatory reduction—of each defendant's share of the liability by a formula which, in most cases, will be three times the damages attributed to the market share of the firms who have settled prior to judgment. This mandatory claim reduction aspect of S. 995 sharply limits the potential liability of defendants in price-fixing cases, precisely those cases where defendants should be most severely punished for their illegal behavior.

In other words, they have a right to set off three times the amount of the damages that could have been claimed against a defendant when that defendant has already settled its case.

In addition, mandatory claim reduction will clearly discourage settlements. I think, Mr. President, that that is a very significant and disturbing factor about this bill.

Under our current system of joint and several liability there is a substantial deterrent to potential price fixers. A firm making calculations of the risks involved in engaging in illegal price fixing must consider the possibility that it will be liable for all of the injury caused by the conspiracy. Under current law, it may not bring into a case other parties whom it alleges were part of the scheme in order to seek contribution from them. Potential price fixers build this lack of contribution, this total liability for all the damages caused by the conspiracy, into their comparative risk calculation.

S. 995 would change all of this. Under S. 995, potential price fixers would know that they may spread the liability around among many of the parties involved in the conspiracy. This inevitably would change the firm's risk equation and make price fixing less costly.

Contribution would also make actual price fixers who are sued less likely to settle because their maximum exposure from going to trial is reduced by their ability to spread the risk. Yet, early settlement of claims against some defendants is essential to effective private enforcement of the antitrust laws.

In addition, by making pricefixing cases more complex, time consuming and expensive, the bill's contribution provisions will at best make private price-fixing suits less effective deterrents and could actually discourage the filing of such lawsuits in the first place. Permitting contribution will shift control of antitrust suits from the victims to the often huge and well-financed defendants who frequently seem to increase the complexity of the case in the hope that their interests will be served by confusion and delay. The right to contribution is a right to complicate.

In fact, contribution could easily create more litigation than the plaintiffs' suit on the merits, because the number of additional parties brought into the case by the named defendants could be tremendous. Taxpayers would be required to shoulder the burden of this increase in court costs. Victims of price fixing would be seriously burdened by having to litigate against an increased number of well-heeled defendants and by being delayed in receiving their rightful damages. As one senior U.S. district court judge with much experience in handling such cases has said:

> All of these additional management problems fly in the face of the Supreme Court's message in Illinois Brick, that policies must be shaped to eliminate, not to add to, the complexities of antitrust litigation. From my vantage point as a judge who has spent over two decades presiding over such complex litigation, it is clear to me that contribution and claim reduction would add enormous difficulties in managing antitrust cases which would in turn threaten the basic antitrust enforcement mechanisms currently in place.

This final point is a significant one. Not only will the complexities introduced by S. 995's contribution provision increase the burden in cases before the courts, it would likely deter many price-fixing victims from filing suit in the first place. By increasing the time and expense involved in achieving an antitrust remedy, S. 995 would discourage small firms who have suffered price-fixed overcharges from attempting the difficult process of seeing an antitrust suit through to the finish. In this time of budget cuts and limited Government resources, the private enforcement of the antitrust laws is a more important means than ever for assuring a competitive and productive economy. Indeed, in the presence of a Federal enforcement establishment that does not even believe in many of the laws it is supposed to enforce, the need for effective private antitrust enforcement is doubly required.

As if these harmful effects were not enough reason to oppose S. 995, the bill goes on to relieve price fixers of much of the sting of an antitrust judgment by creating a right of "claim reduction." This ghastly provision would be an early Christmas present to price fixers.

Businesses who are victims of a wide-ranging price-fixing conspiracy immediately become aware of several antitrust facts of life. First, litigation of their claims will require much time and expense, diverting corporate resources away from their most useful purpose of producing the firm's goods or services. Second, not all defendants will be equally able to defend the suit or, if found liable, to pay the victims' damages. Finally, these victims will discover that the only efficient means to be made reasonably whole without too much waste of corporate resources will be early settlements with as many of the defendants as possible.

Mandatory claim reduction, however, would sharply discourage settlements by preventing plaintiffs from recovering the entire amount of damages caused by a price-fixing conspiracy. This is because in most cases, nonsettling defendants' liability would be reduced under the bill by three times the settling firms' market shares rather than the actual amount of any settlements. The claim reduction amount will inevitably be larger than the actual settlement amount because there is little incentive for defendants to settle before trial for an amount even approaching their liability after trial.

Not only is such claim reduction unfair to victims of price-fixing conspiracies, it also would destroy the incentive to seek early settlements. This would make the victims' private suits much less manageable and would weaken the value of such suits as enforcement tools against price fixing.

By discouraging settlements, S. 995 would require small business plaintiffs to finance litigation, not out of settlement pools, but out of the funds that will be diverted from more productive endeavors. In addition to having to put up the money to finance the litigation from their own pockets, business plaintiffs would remain deprived of their rightful recovery of price-fixed overcharges for many more years. This would occur while often criminal price fixers reap the benefits of their ill-gotten gain throughout the litigation period. As one court recently described this enherent value of settlements,

> These settlements conferred a further benefit on the plaintiff class by permitting it to reduce the complexity and expense of trial against the remaining nonsettling defendants. Plaintiffs were able to streamline their evidence to focus on the conduct of a

small group of nonsettling defendants. Thus, they not only saved trial expenses by settling but also improved their chances of success in trial against nonsettling defendants and in defending any resulting verdict on appeal . . . most important, these are partial settlements that specifically and explicitly preserved plaintiffs' right to litigate against all remaining defendants for the entire amount of plaintiffs' damages, on the basis of joint and several liability, for all the injury casued by the conspiracy. The court considered this to be a valuable provision supporting the approval of the settlements.

This is the statement of the court in the Corrugated container case in 1981 S. 995's mandatory claim reduction provision does not preserve this right to joint and several liability. It therefore makes settlements much less likely and private enforcement much less effective.

Mr. President, there is a great irony in the argument made by some proponents of this legislation that the bill is designed simply to prevent alleged "unfairness" that results to small businesses that get squeezed by supposed whipsaw tactics into settling. Not only is there no evidence whatsoever that plaintiffs routinely settle with big firms early on in order to coerce the little guy into settlement, it would be obviously against the victims' interest to do so. Why should parties give a break to the deep pockets in order to crush the less well-off firms? This makes no sense.

Even if this counterproductive strategy were adopted, S. 995 would not solve the problem. Would it matter to the small businessman that his potential liability would be reduced from hundreds of millions to merely tens of millions? The only allegedly squeezed small business that testified on behalf of the bill admitted that its passage would not have enabled it to fight the case out to the end. Indeed, the sheer expense of litigation—made much worse by the contribution part of S. 995—would probably be enough to encourage the true small business to settle. Claim reduction would only benefit firms which are large enough to pay high-priced attorneys to slug it out with plaintiffs' lawyers to the bitter end. An end, I might add, which is usually put off for years by defendants' delaying tactics.

A final point in relation to the effect of this bill on small businesses. The irony of claiming that this bill is designed to help small business is driven home, I believe, when one considers that small businesses are on the plaintiff side of Federal antitrust cases 19 times out of 20. This figure is not an idle exaggeration, but rather, comes from a study done for the Justice Department of small business representation in Federal antitrust cases. In fact, the study showed that small businesses collect an astounding 60 times as much in antitrust damages as they pay out. If one has any real interest in helping the beleagured small businessperson in these difficult economic times, one would quickly work to prevent the passage of this highly anti-small-business measure.

In addition to these harmful effects on the direct victims of price fixing, claim reduction would cause great injury to the general public by reducing the deterrent value of private antitrust enforcement. As fewer and fewer private suits are filed, more and more firms will calculate that price fixing is a worthwhile activity. This in turn will mean artificially higher prices throughout our economy.

Some of the proponents have argued that existing criminal penalties are sufficient to deter price fixers. However, this proposition is manifestly incorrect, as the wealth of pending price-fixing cases shows. The burden of having to assemble proof to meet the criminal standard of "beyond a reasonable doubt" is much greater than the civil law test of a preponderance of the evidence. For example, in the Corrugated Cardboard case, several firms were found innocent of criminal charges but were found civilly liable.

To the extent that the threat of treble damages has worked as an effective deterrent to at least some potential antitrust violators in the past, S. 995 would seriously undermine this beneficial effect. If a potential price fixer knows that it may be held liable for three times the entire amount of overcharges resulting from the conspiracy, it will calculate this risk versus the value to it of making illegal profits. However, if the same firm knows that, even if it gets caught, it will only have to pay back its own illegal profits, the calculus tilts greatly toward the profitability of price fixing.

One might argue that this explanation ignores the existing deterrent value of the treble damage penalty itself. That is, that firms would still pay treble some damages even with claim reduction. However, the pressures toward settlement which I have already mentioned mean that plaintiffs rarely recover all of their actual damages through private litigation under existing law, let alone with claim reduction. The settlement process is necessarily a compromise where the plaintiff gives up a larger post-trial recovery in exchange for immediate gains, while the defendant trades risk of large liability for the opportunity to create additional delay. Unless future plaintiffs decide to keep many parties in the case in order to maximize their post S. 995 recovery, the cost of settlement to defendants is likely to be much less in a world with claim reduction, because the risk of total liability is eliminated. With settlements as an even smaller portion of some theoretical treble damage liability, potential defendants armed with the powerful weapon of claims reduction would have little to fear from the threat of treble damages.

The maintenance of the private antitrust suit as a law enforcement mechanism is essential to the health of our free enterprise system. The Federal Government and State attorneys general simply do not have the resources to police all of the possible price fixing in our economy. The law is not designed to allow the Federal enforcers to collect treble damages, and the Illinois Brick case severely hampered the ability of the States to assist in this law enforcement area. Finally, the disgraceful unwillingness of some of our administration's current crop of so-called law enforcers to do their duty by enforcing the laws that we have made, not simply the laws with which they are in philosophical agreement, makes the presence of private deterrent suits that much more crucial. S. 995 would do much to set price fixers free from the burden of having to obey our antitrust laws.

A final flaw in this legislation that may have gone relatively unnoticed is the inherently vague and litigation-producing language of the bill.

S. 995 would require claim reduction by measuring a firm's sales. However, no time frame or other criteria are set out to help determine which sales the drafters have in mind. This is not a simple problem of judicial interpretation. The fight over which market should be considered is often the most protracted part of antitrust suits. To alleviate this problem in the most obviously harmful contexts, the Supreme Court has said that price fixing is within the so-called per se category of antitrust violations. Thus, under existing law, one is spared the agony and expense of this fight over market definition in price-fixing cases.

By injecting a sales test into private price-fixing suits S. 995 would in effect overrule the per se decisions of the Supreme Court. And, even worse, the battle over claim reduction measures would be fought only among parties which all have the incentive to delay, because it would be fought only among the defendants.

We should not allow the de facto repeal of our antitrust laws under the guise of "unfairness." Many persons who are opposed to the retroactive application of claim reduction to pending cases but support a purely prospective bill have said that they believe in antitrust, but are simply trying to cure an alleged defect in the present system. Mr. President, I submit that the only defect in existing laws against price fixing is that they are apparently not strong enough to prevent the billions of dollars in overcharges that have caused this debate in the first place.

We must not allow a handful of price fixers and an army of potential

price fixers to persuade us to swallow medicine that is much worse than any perceived illness. In the post-thanksgiving spirit, I urge my colleagues to put this leftover turkey in the freezer and defeat this legislation.

Mr. President, I repeat, today is Wednesday. We have been here Monday. We have been here Tuesday. We have been here Wednesday. We have not accomplished one single thing. I doubt very much that we will accomplish much on Friday.

The economy is crying for our attention. Unemployment continues to rise. The problems of this Nation are so great that they demand our attention.

This administration today is talking about cutting funding for health services in this country. The problems of social security need our attention, whether we act on the issue or not during this special session.

We have not even taken up one appropriations bill, the very purpose for which we were called back. At least, that made some sense. At least, there was an arguable reason for us to come back. Instead, we are spending our time with tweedledee and tweedledum—S. 995, with or without the retroactive provision.

Where are the people in this country who are asking for this bill? Show me one group other than the special interests that is claiming that they want this legislation.

We have many things on which we could be spending our time which would mean a great deal more to this country. But, no, the lobbyists want this bill. The special interests want this bill. So we spend Monday and Tuesday and Wednesday and probably Thursday and probably Friday fighting over S. 995.

I call upon the leadership of the Senate to take this bill down and let us get to the business for which we were called back here. Let us tell the American people that we are prepared to accept our responsibility, and let us tell them that we are not wasting time, trying to relieve the responsibility of those who have been found guilty of price fixing and that we are not trying to change the antitrust laws of this country so that some future price fixers may be able to get by without being responsible for their damages.

Our actions are not responsible, and I believe that the sooner we take this bill down, the sooner we will gain the respect of the American people.

Mr. LEAHY. Mr. President, S. 995 as introduced in the Senate on April 10, 1981, was a bill that was very much needed to restore a sense of fairness to our antitrust laws. For the last few years plaintiffs in class-action price-fixing suits have had very unfair advantage over their adversaries. By settling the suit with one or two defendants early in the game, other defendants are compelled to settle, irrespective of their guilt or innocence. Under the common law, which has never been changed by Congress, each party to a civil price-fixing conspiracy is jointly and severally liable for the total damages without claim reduction. A settlement with one defendant removes from the total pot of damages only the amount of that settlement, not the amount of total damages represented by that defendant's market share. The result is that a defendant with a 5-percent market share can end up facing the payment of 95 percent of the damages. In addition, there is no right of contribution against codefendants.

Since damages are trebled under the Sherman Act, it is fair to say that most defendants, however innocent they believe they are, cannot risk defending their innocence in court. The advantage the plaintiffs have due to the "ratchet" settlement game is thoroughly unjustified and archaic. Congress and the States have eliminated the common-law joint liability and noncontribution rule in many other areas, and it is high time it was deleted from the antitrust laws.

But as necessary as this bill is to render our antitrust laws fair and equitable, I strenuously object to the bill in its present form, since it would apply to pending cases as well as future cases.

Throughout our history, we have had a strong dislike for ex post facto criminal laws and for retrospective civil statutes.

In Federalist Paper No. 44, James Madison described retroactive laws as "contrary to the first principles of the social compact and to every principle of social legislation." The reason for this aversion to retroactivity is simple but compelling: Citizens should be able to act with reasonable knowledge of legal consequences and expect reasonable stability in the rights and liabilities that attach to their acts or those of others. They should not be exposed to liabilities created after the fact.

Following Madison's principle, it has been the usual practice of Congress when enacting antitrust legislation which creates a new remedy or cause of action to give such legislation prospective effect only. This is particularly true where application of the legislation to pending cases might upset preexisting settlement contracts that were entered into and court rulings that were made, all based upon the law obtaining at the time and upon which the court and parties legitimately relied.

In those few instances where retroactive antitrust legislation has been enacted, it has been done to reverse so-called surprise decisions by courts or the Federal Trade Commission which applied the antitrust laws in ways in which Congress never intended and the parties never expected. This was the case with both the Newspaper Preservation Act and the Soft Drink Interbrand Competition Act. Never has the Congress granted retroactive effect to new antitrust legislation that would affect the rights of the parties in pending cases as profoundly as reported by the Judiciary Committee.

There is no conceivable way for anyone to know how S. 995, if adopted in the form in which it was adopted by the Judiciary Committee, might prejudice the many parties to such actions or how it might otherwise affect these cases. This much is clear, however: For every nonsettling defendant who would be helped by retroactivity, there are many plaintiffs and many settling defendants as well who would be injured by it. Moreover, it is a virtual certainty that already complex litigation will become even more complex, and the duration of these suits, many of which have already been in the courts for years, almost surely will be protracted.

But more is at stake here than judicial disorder and crowded dockets. Despite the attempts of many who have approached Members of this body as would-be scholars, plumbing the reports of the Supreme Court for some hint of a rule that would buttress the argument for applying this bill to pending cases, the stakes and the arguments could not be simpler. The stakes in retroactivity are some $2 billion or more in judgments standing against a number of price-fixing defendants who are coincidentally the very same companies whose monographs on the fairness of retroactive laws are piled on our desks.

These companies in every case have been served by very able trial counsel. They all asserted their innocence in court and had every right to do so. They chose to litigate based on their convictions of innocence, rather than to settle, and they had every right to do so. The ratchet settlement effect which is so unfair in the current law simply did not work against these defendants. In most cases, it is fair to say that these defendants argue their innocence today, but in every case a jury decided otherwise.

As a former State's attorney, I will concede that the jury system is not perfect but it is the system by which these defendants were judged, by their own election. Having lost, they now appear before the U.S. Senate as if it were some appellate tribunal empowered to set aside a judgment, notwithstanding the verdict of the jury. In all of my days as a prosecutor, I never once encountered a defendant convicted in a jury trial who sought to appeal to the Vermont Legislature to have the verdict set aside. To the extent that S. 995 attempts to do this, it is a

serious breach of the principle of separation of powers. Despite the attempts of the draftsman to protect existing settlements, I believe the bill, if adopted, would seriously compromise the due process rights of plaintiffs who have settled with some defendants in fair reliance on existing law and whose further rights against remaining defendants are extinguished by the legislation before us.

It is no answer whatever to argue that, under the committee version of the bill, the judge in each case has the discretion to apply the new law to pending cases or not. A New York Times editorial that appeared last March, after declaring that the merits of the bill were debatable, went on to add—and here I could not agree more—that retroactivity is not debatable. "That part of the proposal," the editorial said, "is an outrage." I would only add, for those who think that this bill is saved by a large dollop of judicial discretion, that there is no way to apply an outrageous law equitably. In its present form, S. 995 changes the rule of law in the middle of the game, and however unfair the so-called ratchet settlement process was, it grew out of longstanding common-law doctrine. While archaic, and I believe unfair, it was not an unconscionable ruse invented by plaintiffs. It is at this very moment the law of the land, though I understand there are still efforts under way to overturn the principle judicially.

Perhaps the most important reason to reject a bill that applies to pending cases is the disrespect for the Congress and for Government in general that will inevitably follow passage of a bill like the one before us. This session of Congress was called to deal with a national economic crisis. The eyes of the Nation are on this body. What will the people see? Are we creating jobs? Are we feeding the hungry? Sadly, we are spending critical days debating the merits of a cynical attempt to use the Congress to reverse the outcome of a decision in another branch of Government. While the country is suffering, we are meddling. By all indications, the Senate could have dealt with the principal goal of this bill—the ratchet settlement syndrome—in a few minutes if there had been no attempt to make it special interest legislation. It is my own view that a prospective S. 995 would have actually strengthened the laws against price fixing, because there would be no incentives for cheap, early settlements. Price fixers would have to contemplate treble-damage judgments that reflected their proper market share. While the roulette principle would have been eliminated—threatening the guilty and innocent alike with horrendously large judgments—gone also would have been the easy escape routes for the worst price fixers.

The point is that a good and necessary bill is getting lost while we battle over an unnecessary and unfair one. S. 995, as introduced, should be enacted immediately, but the committee amendment before us should be soundly defeated. A defeat would send the right message to all of those who would influence legislation that the Senate is a body that takes a long view of the Constitution and a keen view of its own priorities.

Mr. President, I yield to the distinguished Senator from Louisiana.

Mr. LONG. Mr. President, I should like to make a statement on this subject, if the Senator is prepared to yield the floor.

Mr. LEAHY. I yield the floor.

The PRESIDING OFFICER (Mr. CHAFEE). The Senator from Louisiana.

Mr. LONG. Mr. President, I wish to state my objection to having the changes in the antitrust laws made by S. 995 applied retroactively.

Until this year, antitrust contribution bills introduced in the House and Senate in the 96th Congress and then reintroduced in the 97th Congress have always been prospective only. Thus, they have applied only to cases filed after the effective date of the law, when all parties would know what the law was. They have not applied retroactively until after jury verdicts were entered against five big companies in three antitrust cases, the Corrugated Container case, the Plywood case, and the Textile Machinery case. Losing defendants in those cases were found liable by jurors of having fixed prices to plaintiff businesses, have banded together to try to undo the full effect of those jury verdicts. They are trying to get Congress to do for them what they have been unable to achieve in the courts.

Therefore, Mr. President, retroactivity is being sought primarily by a few defendants who elected to go to trial knowing the present rules, were convicted of price fixing, and are now seeking a second bite at the apple. At the same time it will jeopardize the agreements of plaintiffs and defendants who settled in good faith, and prolong and delay litigation for everyone.

Proponents of retroactivity argue that defendants in pending antitrust cases should not be denied the benefits of contribution and claim reduction and that these features ought to go into effect immediately. Whatever the merits of these arguments, it is clear that S. 995 does not provide for application to pending cases in a manner that would be useful to the vast majority of litigants in these cases. Thus, the amendment does not make contribution, the primary objective of the bill, available in pending cases at all.

The creation of a new right of contribution is like the original legislation when it was introduced, applicable only to future cases. The only part of the bill which is made retroactive is the creation of a new right called claims reduction. Under claims reduction a losing defendant in a price-fixing case may have his damages reduced by the full market share of any defendants who have settled their case, rather than simply by the dollar amount of those settlements. Thus, for example, if two defendants were sued by a business for price fixing, both of whom had a 50-percent share of the market, under current principles if defendant A settled for $100,000 and defendant B refused to settle and was found liable for a $1 million price-fixing verdict, the plaintiffs recovery against defendant B pursuant to his jury verdict would be reduced only by the $100,000 settlement he had already gotten. Under the change in the law, however, that recovery would be reduced by 50 percent—the market share of the settling defendant—or by $500,000. Only this provision is made retroactive, for the clear purpose of benefiting those defendants found guilty of price fixing.

While the benefits of S. 995's retroactivity provision are limited, the potential for injustice is great. Judgments and jury verdicts could be overturned. Plaintiffs who has bargained for settlements, in the expectation of full recovery against the remaining defendants, would find their recoveries cut by at last 50 percent.

Parties to scores of price-fixing cases have relied on the long-standing rules governing antitrust cases. Plaintiffs relied on existing law in settling cases and deciding to go to trial, and in obtaining jury verdicts under current law. Settling defendants relied on their right to buy their peace through traditional settlement means. Defendants who decided not to settle and who lost jury verdicts also relied on current law. They knew what the rules were. They were represented by competent counsel. They were under no misapprehension about the state of the law.

Indeed, there is a "heads I win, tails you lose" sense about this whole amendment. Had the few defendants who are pushing for retroactivity won their jury trials they certainly would not be here pushing for a retroactive change in the law. Because they took their chance and lost, they now want Congress to undo the effect of those jury verdicts. This we should not do.

Noted constitutional scholars like Prof. Charles Alan Wright of the University of Texas Law School and Prof. Ernest Gellhorn of Case Western Reserve Law School have found severe constitutional problems with retroactivity in the context of the antitrust contribution bill. They have indicated that basic fairness would be upset and due process rights potentially violated

by retroactivity, since plaintiff businesses would find that settlements and jury verdicts were at risk which they had obtained under existing law.

It is also important to recognize that the American Bar Association's Antitrust Division has opposed retroactivity. They did so out of "a great concern, first that such a rule would upset settlement calculations already in progress, and that second, that parties could be prejudiced who had already participated in the conduct of joint defense efforts on an assumption of no contribution. Accordingly, our statutory proposal would apply only to proceedings initiated after its effective date." This is precisely what we should do. We should not apply the changes in S. 995 retroactively and upset the reliance of parties on the prevailing rules of law. We should apply this only to future cases.

If we apply S. 995 retroactively we would be hurting the very parties the antitrust laws are designed to protect—the businesses who have been victims of the price fixing—and rewarding the very parties the antitrust laws are designed to deter, those companies found guilty of price fixing.

It would send an unfortunate message for retroactivity to pass for precisely this reason. We would be saying that Congress is prepared to do special interest legislation to aid those defendants who have lost jury verdicts for price fixing at the expense of the businesses who have been the victims of price fixing. This is justice turned on its head. It will upset the deterrent effect of the antitrust laws as well and serve as an open invitation to losing defendants in antitrust cases to come seek special relief from the Congress.

The New York Times has editorialized that the retroactivity proposal "is an outrage,"—a view echoed by newspapers across the country. The Congress should not allow itself to be steamrolled by the proponents of retroactivity, and, therefore, I strongly urge that Congress reject the efforts at retroactivity.

Mr. BAUCUS. Mr. President, I first wish to thank the Senator from Louisiana for his position on this bill. He and I both agree that the concept of contribution is due, is needed, and the antitrust law needs to change. He and I also agree that it is unfair to apply the principle back retroactively in pending cases.

I simply wish to applaud the Senator for his help in this regard.

I think it is important for Members of the Senate to know where the Senator from Louisiana stands because the Senator from Louisiana has long experience in this body. He is a student of this body, a student of American law and American jurisprudence, and it means a lot to this Member, as I know it does to other Senators, to know where the Senator from Louisiana stands on this issue.

I personally take my hat off and thank the Senator for his help in this regard.

Mr. LONG. Mr. President, I thank the Senator. I wish to say to the Senator that there may be and I am sure sometimes there are cases where retroactivity is justified. This just does not happen to be one of them. If retroactivity is to be enacted it should be only in exceptional cases where there would be a grave injustice or a grave discrimination or unfair treatment to do otherwise.

I think the Senator from Montana has made the case that there is no basis for that type of special treatment in this instance. I support that case.

Mr. BAUCUS. Mr. President, if the Senator will yield, I think he is precisely on target because I agree there may be cases where retroactivity application would be appropriate and does make sense.

In fact, there are two general categories in antitrust law where Congress has applied a change in antitrust laws retroactively and those two areas are where the Federal agency or a court has made a mistake. It has erred in its interpretation of a statute and it has been incorrect in its interpretation of a statute, and in those cases Congress has come back and said: "You made a mistake. It was unfair to the parties because anyone reading the statute would come up with another conclusion. You made a mistake." In those cases that certainly is an area where we should apply a change in antitrust laws retroactively.

But this is not that case, and no one here today is even suggesting that exception applies. No one is suggesting that it applies.

All parties know the antitrust laws are in areas of claims reduction and contributions. That is where we feel it should not be applied retroactively. I think that is important. As a general rule, there is no retroactivity generally. There may be exceptions, but there is not an exception in this case.

Mr. LONG. Mr. President, I am pleased to support the thinking of the Senator from Montana who is rendering a valuable contribution in making a fight on this issue. I congratulate the Senator.

Mr. BAUCUS. I thank the Senator.

Mr. President, earlier today I was indicating various reasons why I think it would be inappropriate to apply retroactivity to S. 995.

I gave two basic reasons. I now wish to continue to suggest the reasons why we should not apply the principles of claims reduction and contributions retroactively, although it certainly makes sense to apply them prospectively.

Mr. President, the third reason is that it is bad public policy. It would be bad public policy that would cause both procedural and substantive havoc in hundreds of pending antitrust cases, many at very advanced stages, involving some 900 defendants and thousands of plaintiffs. That is not an important point. If we were to amend the present law and apply claims reduction and contributions retroactively that would mean that in over 900 cases, those cases would be reopened. Some 900 defendants and thousands of plaintiffs would have to go back to the courts and say: "Judge, because Congress has applied this principle retroactively we feel we were dealt with unfairly because we have to now ask our settlements to be set aside, reopen our case and have it relitigated because Congress changed the rules."

In addition to other reasons that is upsetting to the usual expectations of the defendants and parties to apply this concept retroactively would mean that some 900 defendants and thousands of plaintiffs would begin to reopen those cases.

The *Miliken* case is on appeal to the circuit court of appeals. The *Plywood* case is now pending before the U.S. Supreme Court. And many other cases, such as a natural gas case in New Mexico; a cement case in Arizona; a crayon case involving several States and many school districts; suits by Delaware, Maryland, Pennsylvania, Virginia, West Virginia, and the District of Columbia against Toyota dealers and distributors involving alleged price fixing; a case in Iowa involving 500 beef producers alleging price fixing by 24 retailers and 4 meat packers in the purchase of beef; and many more cases would all be thrown into confusion. Despite the language in the Thurmond amendment, settlements entered in reliance on the fact that only their dollar amounts would be removed from any verdict would be challenged by plaintiffs if market shares were carved out instead. And defendants would have an open invitation, under the vague standard of "inequitable," to reduce verdicts against them.

The issue of whether there has been an inequity would have to go to higher courts, and the Supreme Court would ultimately have to decide the constitutionality of retroactive claims reduction, after courts throughout the country first decided it on a case-by-case basis.

Five justices of the U.S. Supreme Court—Justices Stevens, Powell, Brennan, White, and Burger—have urged that extraordinary steps be taken to reduce the caseload on the Federal Judiciary.

The amount of additional litigation which the Thurmond amendment would invite, and even assure, is staggering. Years of additional litigation would ensue with resulting uncertainty about the status of cases, some of

which have gone all the way through a jury trial. Courts in case after case would be forced to rehear issues already considered. Federal Judge Hubert L. Will of the Northern District of Illinois has testified eloquently as to the additional burden which retroactivity would bring, and has likewise stated that—

It is basically unfair for litigants to try to use Congress to upset results fairly reached in lawsuits tried under the existing rules when these rules were known to all the parties before they made their litigational settlement decisions.

Let us not as the U.S. Senate act merely to benefit a few private companies when the result will be to create havoc in our already overloaded Federal courts.

The fourth problem with the retroactive application of S. 995 is that it would hurt antitrust deterrence. Defendants who lose jury verdicts would see that under political pressure, the Senate of the United States may be willing to create a vehicle for the reduction of those verdicts. They would feel less compunction about violating the antitrust laws and, if sued, less compunction about settling them since they would feel that they could convince Congress to undo the jury award against them for damages caused to an innocent plaintiff. Mr. President, if S. 995 is passed by the Senate with the retroactivity amendment, it could send a terrible message to the country at large and to potential antitrust violators—namely, that we are willing to bend to the pressures of a few large companies to bail them out of pending judgments, and that we are open to special pleas from those who have lost under one set of rules, to change those rules for the benefit of the losers.

A fifth reason why we should not consider S. 995 with the retroactivity provision is because retroactivity has split the business community, has slowed down the bill, and has made its passage highly unlikely. It is clear that there is great opposition in the Senate to S. 995 with retroactivity in it, and it is equally clear that the House of Representatives is unlikely to pass a bill that is or could be applied retroactively.

Mr. President, we would be guaranteeing the defeat of what would otherwise be sound legislation by insisting on retroactive application. This might doom the legislation, even prospectively, for the future. In these circumstances, it is better not to vote on the bill at all than to have action taken that could prejudice the chances of a "clean" prospective bill passing in the future.

I want to conclude by making clear the special interest nature of S. 995 with the retroactivity amendment on it.

As I have indicated at some length, the history of the retroactivity effort makes it clear that retroactivity only became an issue after these five defendants lost their jury verdicts. Where were the voices for retroactivity when S. 1468, which was specifically prospective, was introduced in the 96th Congress, and passed through the Senate Judiciary Committee—making the very same substantive changes as S. 995 in the antitrust laws? Not one whisper was heard for retroactivity. Not one mention was made of it in the committee report. Not one effort was made to change the specifically prospective nature of S. 1468. Where were the voices for retroactivity when S. 995 was reintroduced in the 97th Congress, again being specifically prospective? There were no such voices because the five defendants in these three cases had not yet gotten together to seek a bailout. It is unmistakable that the motivating force behind retroactivity is the effort by these five defendants to be able to go back into court and retroactively reduce the size of the verdicts entered against them.

A second evidence of the motive behind this retroactivity provision is the structure of the Thurmond amendment. The change creating a right of contribution remains prospective only. This change in the law, which was the initial motivating force behind the whole legislation, still remains applicable under the Thurmond amendment to future cases only, both because of the disruption which would otherwise occur and because of the reliance on existing law by the parties to pending legislation. The only part of this bill that has been made retroactive and applicable to pending cases is the claims reduction or "carve-out" section, which is the very part permitting these five large companies to retroactively reduce the size of their jury verdicts at the expense of the plaintiff businesses who were the victims of their price fixing.

The very structure of the Thurmond amendment therefore reeks of special interest. The sponsors of the amendment want to limit contribution to future cases because of the problems which would otherwise occur for defendants. But they are willing to apply retroactively that section which would hurt innocent plaintiffs who have been the victims of price fixing in pending cases.

A third, clear evidence of special interest was shown in the reaction to an effort suggested by Senator DOLE in the Senate Judiciary Committee that addressed the only conceivable public policy argument there is for retroactivity. The proponents of retroactivity were saying: "All we want to do is assure that defendants in existing cases have the same right as defendants in future cases will have; if the law is good for future cases, it should be good for pending cases."

Senator DOLE tested their sincerity in making this argument by proposing to offer an amendment which would have applied claims reduction and contribution to all pending cases except those pending cases where there are outstanding settlements, jury verdicts, or judgments, indicating the parties had already relied on the existing law. All other cases would be subject to the change in the law. This was flatly turned down by the proponents of retroactivity on S. 995, apparently because it would not permit these five defendants to bail themselves out of their jury verdicts.

Mr. President, for these reasons I simply cannot support S. 995 with the retroactivity provision. If the sponsors of the retroactivity amendment will agree to drop it and return to the original prospective language of S. 995 or to change the law and apply it to pending cases so long as there is no judgment or verdict or substantial settlement, I will be more than happy to support such an effort. Until then, it is important that the full Senate have the opportunity to be educated on precisely what is at stake. This is a complex issue of great importance. Respect for the Senate and respect for our antitrust laws is at stake. I cannot let that respect be tampered with easily.

Mr. President, to pass this retroactive provision would be, to a plaintiff-business, like telling a football team that was ahead 21 to nothing going into the last quarter that the rules of the game have suddenly been changed and that its touchdowns were only worth 1 point, thereby putting the team at risk of losing what it had already achieved. If such a change is not appropriate on a field of play, how can it possibly be appropriate for the Congress or a court of law, particularly as it implies to price fixers found guilty of violating antitrust laws?

Mr. President, opposition to the retroactive application of S. 995 is an issue that crosses party and ideological lines. The Senators who are fighting retroactivity come from both parties and represent the broadest spectrum of political views.

In the Senate Judiciary Committee, retroactive application was opposed not only by me, but also by Senators KENNEDY, LEAHY, and METZENBAUM on the Democratic side and Senators DOLE, DENTON, SPECTER, and EAST of the majority. The views of these Senators, as expressed in the committee's report of S. 995, provide a concise and persuasive summary of the arguments against retroactivity.

At this point, I would like to read the statements of the various Senators on the committee in opposition to S. 995 as it is presently written. First, the supplemental views on S. 995 by Senator SPECTER, of Pennsylvania.

After extensive consideration, it is my conclusion that S. 995 should not be made applicable to pending cases. In my relatively brief tenure in the Senate, I have probably spent more time on this bill than any other single matter, and I have come to the issue with background in the fields of federal court litigation, the antitrust laws and the laws on contribution.

It is undeniable that there are pending cases that involve enormous losses to companies under circumstances which have significant elements of unfairness. The issue before this Committee is whether we should change existing law through this legislation to alter the balance between parties to this pending litigation. In my judgment, we should not.

I say that because these cases involve decisions by sophisticated, experienced, highly-qualified lawyers and businessmen. On all sides of these complex litigation matters, the issues have been researched, studied, and extensively analyzed. Risks were undertaken by all parties to the pending cases with full knowledge of the existing law. That existing balance, in my judgment, should not be disturbed by the Congress with respect to pending cases.

Those are the supplemental views of Senator SPECTER, of Pennsylvania.

Now I would like to give the additional views of Senator EAST on S. 995.

I will not repeat the persuasive arguments supporting prospective legislation allowing contribution and claim reduction in price-fixing cases. These arguments are well expressed and carefully documented in the views of the majority. Defendants should not be faced with liability so awesome that they must forgo an opportunity to prove their innocence before a jury.

Only when we come to the question of applying claim reduction retroactively do I differ with my colleagues and the Report of the majority. As a general rule, retroactive legislation is not favored nor is it customary. The wisdom of this policy is demonstrated by consideration of the effects of the bill, as modified by the amendment providing retroactive application, would have on the thousands of parties to pending cases.

Without question, application of claim reduction to a case in which settlements have already been made would forever bar the plaintiffs from recovering treble their full damages. By reducing the exposure of nonsettling defendants by treble the damages attributable to settling defendants, rather than the amount of the settlements, claim reduction would frustrate the antitrust policy of granting treble damages to injured plaintiffs. A purely prospective application of the bill would avoid this injustice because every party in future litigation would know of the new rule of claim reduction and conduct their settlement negotiations accordingly. There would be no "cheap" settlements to build a litigation war chest.

Years of uncertainty, litigation, and a tangle of legal problems will result if Congress makes claim reduction available retroactively. For example, the bill, as amended, conditions retroactivity upon a finding that it would be "inequitable" not to apply claim reduction. This standard would have to be litigated and ultimately defined by the Supreme Court, thus imposing substantial litigation costs and delays in collection of judgments on innocent plaintiffs.

In addition, the possible effects of retroactive application of claim reduction on existing settlements are troubling. While the bill expressly attempts to protect existing settlements, plaintiffs will surely seek to upset them, for that is the only manner in which they could recover their full treble damages. Some of the settlement agreements consummated in pending cases are conditioned on clauses that expressly preserve plaintiffs' rights to pursue remaining defendants for the entire amount of damages, based on joint and several liability. Litigation as to the validity of section (f)(2) would pull settling defendants back into lengthy litigation.

Serious constitutional questions are also raised by the retroactive legislation. Retroactive legislation must meet a higher due process standard than prospective changes in laws. As the Supreme Court said in *Usery* v. *Turner Elkhorn Mining Co.*, 428 U.S. 1, 16-17 (1976), "The retrospective aspects of legislation, as well as the prospective aspects, must meet the test of due process, and the justifications for the latter may not suffice for the former." Retroactive application of this bill will surely be challenged in the courts.

For the foregoing reasons, I cannot support this bill as amended to have retroactive application. I hope that it can be enacted as originally introduced.

That, Mr. President, is a statement by Senator JOHN EAST providing his supplemental views to the pending bill, S. 995; that is, his views in opposition to the bill in its present form, particularly insofar as it applies to the principle of claim reduction retroactively.

Now, Mr. President, I would like to present the views of Senators METZENBAUM and KENNEDY in their supplemental views on S. 995. I will now go through a portion of their supplemental views.

When this committee first reported out a bill on the subject of antitrust contribution—S. 1468—the legislation was applied only to future cases. In the more than two years since S. 1468 was approved by the committee, there has been an intense effort to make the bill applicable to cases pending in the courts at the time of enactment. This resulted in the addition to S. 995 of the so-called Thurmond-Laxalt-Hatch amendment, which would allow the claim reduction—but not the contribution—provisions of S. 995 to be applied retroactively to pending cases. The most significant portion of the amendment reads:

"(f)(1) The claim reduction principle of subsection (b) of this section shall also apply to actions alleging an agreement to fix, maintain, or stabilize prices under section 4, 4A, or 4C of this act which are pending on the date of enactment of this section, if upon proof by any party subject to liability from damages in such an action, the court determines that it would be inequitable, in light of all the circumstances and notwithstanding subsection (f)(2), not to apply the principle in that action."

Although there are some estimated 900 pending price-fixing cases in Federal courts, the retroactivity provisions of S. 995 are apparently intended to assist nonsettling defendants in three major cases: *Corrugated Containers*, M.D.L. 310, *Plywood*, M.D.L. 159, and *Burlington* Civ. No. 71-306 (D. S.Car.). Nearly all of the witnesses who testified before the committee represented firms involved in one of these cases. All of these cases have been in the courts for many years: The *Burlington* case, for example, was originally filed in 1969. Relying on the rules of joint and several liability, which have been part of the antitrust laws for as long as there has been private antitrust enforcement, attorneys for plaintiffs and some defendants have carefully worked out settlements that offered benefits to both sides of each case.

In the *Corrugated* case, the trial court expressly relied on the joint and several liability standards in approving certain settlements:

"Most important, these are partial settlements that specifically and explicitly preserved plaintiff's right to litigate against all remaining defendants for the *entire* amount of plaintiff's damages, on the basis of joint and several liability, for *all* the injury caused by the conspiracy. The court considered this to be a valuable provision supporting the approval of the settlements. In effect, in each successive settlement, all the plaintiffs gave up was the right to recover that settlement amount against nonsettling defendants."

We are now asked to make it possible for the nonsettling firm—which had many opportunities both prior to and after trial to settle for reasonable amounts—to escape liability which has been expressly found by a jury. We are asked, for example, to make it possible for the nonsettling defendants in the *Corrugated* case to escape the liability which the court expressly found was necessary in order to make the carefully negotiated settlements fair to the more than 200,000 victims of price-fixing who are the plaintiffs in that case. Although under S. 995 as reported the court must first examine the equities of applying claim reduction, to even raise the possibility that existing agreements might be unravelled and plaintiffs and settling defendants might be subjected to more litigation and uncertainty is grossly unfair and is bad public policy as well. Having chosen to litigate and having lost, nonsettling firms in pending cases should be required to obey the rules which they knew existed throughout the years of litigation, and on which both sides have reasonably relied in making their tactical and strategic decisions.

Permitting these nonsettling firms to be relieved of their rightful obligations would be tremendously unfair to the thousands of small businesses who were overcharged for years by the proven price-fixing conspiracies. In the *Corrugated* case, for example, the plaintiff class has negotiated settlements from nearly all of the defendants which reimburse the price-fixing victims for only *15 percent of the actual damages* suffered as a result of the decade long conspiracy. These settlements were, as noted above, approved by the court on the express finding that the remainder of the damages during the statutory period would be recoverable from the nonsettling parties. The retroactivity provision of S. 995 would allow the court to reduce the nonsettling firm's exposure to approximately one-tenth of its expected liability under current law. The victims of the conspiracy would have hundreds of millions of dollars of their rightful reimbursement taken out from under them. The antitrust laws provide for recovery of three times the amount of the actual damages suffered by victims of antitrust violations. The application of S. 995 to pending cases would allow the reduction of plaintiffs' recovery in *Corrugated* and other cases to only a small percentage of their actual

injury. We cannot support the creation of such a gross injustice.

Applying S. 995 to pending cases would also be unfair to settling defendants, as their strenuous and repeated testimony against the retroactivity provisions of the bill shows. Despite the fact that the Thurmond-Laxalt-Hatch amendment purports to remove the courts' ability to modify or rescind existing settlements by the application of claim reduction to pending cases, settling defendants would be required to appear before the court to assist the determination of the amount of claim reduction. The bill requires reduction of claims in a manner related to relative sales by each firm, and settling firms would be required to testify and produce voluminous documents related to their participation in the markets at issue. This retroactive requirement will greatly increase the cost incurred by these firms as part of the litigation, and may well have affected the firms' decisions as to whether to settle or how much settlement would be worth if they had known about this requirement at the time of settlement.

In addition, many of these firms settled on the basis of their knowledge of the existing rules of joint and several liability. If they had known that their liability might be limited to their market share, they certainly would have either settled for less or perhaps not settled at all. S. 995 as reported would allow these firms to rescind their settlements if such an action is consented to by all the parties to the agreement. If this procedure is utilized, the effect of the retroactive application of claim reduction may well be to force plaintiffs and defendants in long-pending cases to go back to square one in negotiating settlements. Not only would this cause great additional expense and delay, it would require victims of price-fixing as well as previously settling firms to wait an indeterminate—but certainly lengthy—period before the issues are finally resolved. It would be unconscionable for the Congress to place this burden on so many firms which have acted in good faith over many years to resolve their disputes under known rules.

C. DOUBTS AS TO THE CONSTITUTIONALITY OF RETROACTIVE CLAIM REDUCTION WOULD CREATE UNNECESSARY LITIGATION

The committee received the testimony of many constitutional law experts concerning the constitutionality of the retroactive application of claim reduction. It is not surprising that these experts reached differing results. While we do not express an opinion on this question, it is clear that the constitutional issues would require significant court attention and concommittent resource expenditure by the parties to pending cases.

Mr. President, as I said, these are the views of Senators METZENBAUM and KENNEDY.

As one attorney representing plaintiffs in a pending case testified,

"Certainly they will have to litigate, and we the plaintiffs in the *Corrugated* case are going to make them litigate because there is too much doubt as to the constitutionality of applying S. 995 retroactively for us to fulfill our fiduciary duties to the class by settling at a small amount."

Mr. President, I see that the Senator from Pennsylvania is now in the Chamber. I am wondering whether at this point he would like to make a statement on S. 995.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank the distinguished Senator from Montana for yielding to me.

After extensive consideration, it is my conclusion that S. 995 should not be made applicable to pending cases. In my relatively brief tenure in the Senate, I have probably spent more time on this bill than any other single matter, and I have come to the issue with background in the fields of Federal court litigation, the antitrust laws and the laws on contribution.

It is undeniable that there are pending cases that involve enormous losses to companies under circumstances which have significant elements of unfairness. The issue before this body is whether we should change existing law through this legislation to alter the balance between parties to this pending litigation. In my judgment, we should not.

I say that because these cases involve dicisions by sophisticated, experienced, highly qualified lawyers and businessmen. On all sides of these complex litigation matters, the issues have been researched, studied, and extensively analyzed. Risks were undertaken by all parties to the pending cases with full knowledge of the existing law. That existing balance, in my judgment, should not be disturbed by the Congress with respect to pending cases.

It is unfortunate, in my judgment, that the focus of this legislation has been on its application to pending cases. The issue of contribution in antitrust cases is a very important one and does require modification. If the provision making this legislation applicable to pending matters could be eliminated, I would like to see this bill moved forward and be enacted. We would then have a more sensible application of the laws of contribution in antitrust cases.

I do not think, however, that this important modification can be accomplished as a part of legislation which is essentially a bailout. Where cases have been litigated, where verdicts have been rendered, where judgments have been entered, or even where settlements have been agreed to, applying this legislation to pending cases would create a change in the fundamental rules by which the parties operated.

I thank the distinguished Senator from Montana for yielding the floor to me. I am prepared to yield the floor.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent tht the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. I thank the Chair.

Mr. President, S. 995 is a significant effort to modify the antitrust laws to assure justice for persons alleged, and I emphasize the word "alleged," to have fixed prices as well as to continue protection for those who claim to have been the victims of such alleged price fixing. Unless we change the law as provided by S. 955, the present inequity will remain. That intolerable injustice results from each defendant alleged to have price fixed being held accountable for three times the damage perpetrated by all defendants, not just three times the increased profits that he or she individually was alleged to have received. For instance, a defendant with a market share of 1 percent and who has received $1 million worth of increased profits out of a total of $100 million of damage to plaintiff would be responsible for up to a $300 million judgment. If another defendant who received 50 percent of the increased profits, $50 million, settles for $100, our 1 percent market share defendant would still be responsible for the full $300 million in damage, less the $100. This type of inequity has terrorized defendants alleged to have price fixed into settling cases that they would have preferred to fight but could not because they cannot afford the risk, a risk so grotesquely out of proportion to the benefits they allegedly received and, in many cases, so immense that the survival of their company itself was the issue.

S. 995 corrects this by allowing defendants in price-fixing cases to bring into court other persons who they claim should share responsibility—that is called contribution—and by applying a principle of claims reduction so that the market share of the settling defendant is deducted from the claim of plaintiffs, instead of just subtracting the amount of the settlement from the trebled damages.

There seems to be substantial sentiment that fundamental fairness requires such a change in the law. That sentiment is less substantial on the issue of whether such change should be applied to pending cases or just to future cases. In the absence of any explicit expression on Congress part in this regard, the courts would decide the issue of application of this new legislation to pending cases and, indeed, it would be best that such decision be left to the courts.

As Charles Renfrew, a former Deputy Attorney General and a former Federal court judge, said:

Congress has on many occasions made numerous antitrust and other statutes applicable to pending cases. Indeed, a basic rule of statutory construction is that newly enacted legislation is to be applied immediately upon its effective date and in pending cases, unless to do so would result in manifest in-

justice or Congress expressly providing otherwise.

Mr. President, the committee having waded into this thicket, it is probable that silence on issues of application to pending cases cannot extricate us because of the legislative history that has already been created and the potential misreadings of congressional silence on the issue of retroactivity, given that the committee had previously adopted an amendment allowing for it. So, I am afraid we must now clearly and explicitly address ourselves to the pending case application issue.

There are many different types of pending cases and balancing the equities is difficult to do at this distance, at least with any certainty. The first group of pending cases might include cases in which there have been no settlements and no verdicts by juries. There would seem to be relatively little injustice in those cases in allowing courts to apply our new fairer claims reduction principle to pending cases, instead of continuing the regime of legal terrorism that we now have against defendants who are alleged to have price fixed. If persons charged with crimes in this society are entitled to justice, it would seem that persons alleged, but not yet found, to have committed civil wrongs should also be justly treated.

A second group of pending cases might be those in which a small percentage of the defendants have settled, presumably for much less than their market share. Let us assume a $100 million price-fixing damage suit with 100 defendants, each with a 1-percent share, and one defendant has settled for $500. The other 99 defendants are still only alleged to have committed the price-fixing act. The argument for allowing a court to apply claims reduction is that 99 defendants should not be unjustly treated just because the case is pending, where they would be justly treated if the case were filed the day after the law were changed. The case against claims reduction argues that since the committee amendment prohibits unraveling the settlement, the plaintiffs could never recover their $100 million, trebled because this is an antitrust case. Plaintiffs would be limited to $99 million times 3 plus the $500 rather than the $100 million times 3 minus $500 that they could otherwise receive. Which is the greater injustice? Is it to plaintiffs alleged to have been injured, or to defendants alleged to have been the cause? I repeat—still only alleged to have been the cause. I do not know for sure, but I do know we are not in a very good position to weigh the equities from this distance, at least with any certainty.

In the next group of cases, a significant number of defendants may have settled. In a further group of cases, the fewest in number, by the way, that is pending cases, a verdict may have been reached by a jury on one or more defendants, with or without the belief that defendant might achieve claims reduction if they found the defendant liable. Even in cases where verdicts have been reached, the defendant may wish to appeal a verdict and be terrorized into dropping the appeal, again because the risk is so horrendously and unfairly high. The injustice of these terrorized settlements, even after a jury verdict, is perhaps seen in a recent instance where a defendant was found liable by a jury and faced the possibility of over $700 million in damages, but was able to settle for $45 million by giving up its desire to have its day in the Court of Appeals. The injustice of the $750 million ruinous prospect was most eloquently dramatized by the fact that plaintiffs took less than 10 percent of that in settlment even though they had a verdict in hand.

The issue before the Senate is whether we should allow a court to apply claims reduction in one or more of all these categories or whether we should prohibit it. It seems clear to me that, once we have jumped the hurdle of saying claims reduction is essential for a just legal regime prospectively, there may be—I emphasize may be—instances where it is appropriate in pending cases. And then the question arises: Is Congress or the courts in a better position to weigh those equities in hundreds of pending cases, most of them where I understand, no verdicts have been reached? My answer is that courts are in a better position and that, historically, that is often where we have left the issue of applying new laws to pending cases.

But the problem with the committee amendment on retroactivity is that it goes too far. It seems to suggest that courts should apply claims reduction retroactively. It is not neutral enough and does not put a sufficient enough burden on persons who seek application of the new rules in pending cases.

Instead of providing, as the committee amendment does, that the claims reduction proposal shall apply to pending actions if the court determines, upon proof by the defendant, that it would be inequitable not to do so, the language should read that the court shall not apply claims reduction to pending actions unless it determines that equity clearly requires it to do so. Such a change in language would preserve the principle that we should allow courts to apply new rules of claims reduction in pending cases without tilting the congressional mandate in favor of a court exercising the discretion we granted.

In other words, while we should permit claims reduction to be applied to pending cases by the courts, as the instrumentality that is in the best position to know what the complex equities are in the cases before it, we should make it clear that there is a burden to be carried by those who would seek application to pending cases, and we should take steps to assure that allowing courts to consider application of new rules to pending cases is not used as a dilatory tactic by defendants filing frivolous petitions.

To achieve this, we should require that interest be paid at prime rate upon judgments that are entered by courts. The prime rate is typically 3 percent higher than the usual rate that is awarded on these judgments.

When and if the Senate considers specific amendments to the legislation, I intend to offer an amendment to achieve both the proper burden in the exercise of court discretion in pending cases and to prevent dilatory tactics by defendants. I intend to offer such an amendment, however, only in the event that other amendments that would strike or more greatly restrict the courts' power to apply retroactive application have been disposed of, because if such amendments were adopted, they would probably undercut the usefulness of my amendment.

I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER (Mr. HAYAKAWA). The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I compliment the distinguished Senator from Michigan on his customary erudite statement.

In the course of it, he has raised an area where I find agreement with him—the application of this legislation to cases which are currently filed but in which there have been no settlements.

The statement I made to the effect that I do not believe S. 995 should be applied to pending cases referred to a controversy that has arisen over some specific cases in which judgments have been entered. If someone were to propose that S. 995 be amended to apply to cases which had been filed and in which no settlements had been reached, no verdicts had been rendered or no judgments had been entered, then I would think it appropriate that S. 995 be so applied.

There arises a more complex area on a hypothesis, as the distinguished Senator from Michigan has proposed, where there are 100 defendants and only one has settled, and that is an issue which could require some further analysis.

As I said earlier, I think it is unfortunate that S. 995 has become embroiled in a consideration of a number of specific cases where judgments have been entered. This has created such an intense and limited focus that other considerations in this legislation have not been fully addressed. But were the Senator from Michigan to propose

that S. 995 be applicable to cases which are pending, to the extent of having been filed and without settlements, that is an issue where I could readily agree. There might in addition be some intermediate ground to allow judicial discretion to be applied in cases such as those where only 1 of 100 defendants has settled. I would, however, oppose expanding such discretion to any case in which a judgment has been entered.

Mr. LEVIN. Mr. President, I thank my friend from Pennsylvania. He has perceived the heart of the matter. He has put his finger on the real issue that should be the debate in the Senate, and that is whether or not we ought to apply the new rules so far as verdict situations are concerned. I think that is a critical issue. Reasonable people could differ on that issue, and I may differ with my friend from Pennsylvania on that issue. I am not certain that we should allow it, although I think perhaps there could be situations in which a court might want to.

My friend has made a very helpful, clarifying statement on this issue, and I thank him for his kind comments on my statement.

Mr. DODD. Mr. President, I strongly oppose passage of S. 995 with the retroactivity amendment that was added at the 11th hour in the Senate Judiciary Committee.

My first concern is the special interest nature of the retroactivity amendment. It is consciously crafted to benefit a few large companies which lost jury verdicts under prevailing law and want the Congress to change the law under which they were found liable for price-fixing. It will permit them, after the fact, to reduce the amount of the recovery to which those plaintiff businesses, who were the victims of the price-fixing scheme, are entitled.

The special interest nature of this legislation is underscored by several factors—the history behind the retroactivity drive on S. 995; the structure of the retroactivity amendment, which so clearly demonstrates its special interest nature; and proposals which were made in the Senate Judiciary Committee but rejected by the proponents of retroactivity.

First, we should turn to the history. S. 995 had its derivation in a bill introduced in the first session of the 96th Congress, S. 1468. That bill was called the Antitrust Equal Enforcement Act, the same name given to S. 995. That bill is virtually identical to S. 995 as it was reintroduced in the 97th Congress. S. 1468 created two new rights. First, it created a right of contribution, permitting defendants in price-fixing cases to share any recovery against them against other conspirators to the price-fixing scheme. Second, it created a right of claims reduction which effectively limited a defendant's responsibility in a price-fixing case to his market share of the damages. As that legislation was passed through the Senate Judiciary Committee in the 96th Congress, it was explicitly prospective, as indicated by subsection (e) which stated as follows: "This section shall apply only to actions under section 4, 4A, or 4C of this act commenced after the date of enactment of this section." The section-by-section analysis in the committee report to S. 1468 made this equally clear, by stating that "subsection (e) provides that application of this act will be prospective from the date of enactment."

The committee report makes it absolutely clear that retroactivity was never raised as an issue by the committee. Indeed, during this time, the American Bar Association set up a special task force under its section on Antitrust Law to look at the issue of contribution and the effective date of any statute. The American Bar Association's section on Antitrust Law concluded, after a lengthy study, that the modifications were sound but should not be applied retroactively because they undercut the reliance of existing parties on the prevailing law.

When S. 1468 failed to pass the 96th Congress, it was reintroduced as S. 995 in the 97th Congress. Again, the bill was introduced as an explicitly prospective piece of legislation. Subsection (e) of S. 995 stated as follows: "This section shall apply only to actions under section 4, 4A, or 4C of this act, commenced after the date of enactment of this section." S. 995 stayed like that, explicitly prospective, until March 31, 1982, when the chairman of the committee, the distinguished Senator from South Carolina, was able to get a retroactivity amendment passed after five separate markups had been scheduled and canceled, by a sharply divided vote in that committee.

Why the sudden shift in position on retroactivity? Why had retroactivity become an issue now when it had never been an issue before, either with S. 1468 or with S. 995 which was introduced, as I mentioned, in this Congress? The answer, Mr. President, is very revealing in terms of the motive behind retroactivity. What had happened was that five losing defendants in three antitrust trials, the Corrugated Container trial, the Plywood trial, and the Textile Machinery trial, lost jury verdicts and got together to ask Congress to change the principles of law under which they were found liable so that they could reduce the costs they now face as a consequence of the jury verdicts. The major business organizations had been either neutral or hostile to retroactivity until they were told that there would be no contribution bill at all unless they supported the retroactive features. It was only in 1982 that any of the business groups switched positions under this threat and supported retroactivity.

Therefore, the history behind the move for retroactivity reveals the special interest nature of this legislation.

Weighed against the special interest benefit to these five companies who have already lost jury verdicts and now want the results reversed is the incalcuable millions of dollars in damage that will be done to the innocent businesses who were the victims of the price-fixing schemes by these defendants to begin with. They stand to lose substantial parts of the jury verdicts that they won after many years of litigation, verdicts which are designed to compensate them for the losses they sustained due to the price-fixing.

An additional cost is the cost to the judicial system which will be burdened with hundreds of additional actions brought by defendants who wish to have claim reduction applied to them. In any pending case which a plaintiff has accepted a settlement, defendants will seek to have claim reduction apply as to those settlements. The amount of additional litigation that will be spawned in the scores of such cases in which these attempts will be made is mind-boggling. In addition, settlements will be threatened. A noted constitutional expert, Charles Alan Wright, professor of law at the University of Texas, has indicated that if a right of claim reduction were passed retroactively so that plaintiffs could no longer collect from losing defendants their full treble damages, as they can under the current law, "plaintiffs would surely be before the court arguing that settlements must be reopened. This is an argument that the courts, which act as a fiduciary for absent members of the class in approving settlements, could not lightly reject."

There is a second factor beyond the history of retroactivity which bears on the motive behind retroactivity. That second factor is the structure of the bill as amended. It is noteworthy that of the two changes made by S. 995, the provision creating a right of contribution among defendants remains prospective, as it had been in the original legislation. Thus, in terms of providing defendants with the right of sharing their damages among other coconspirators, this can only be done for cases filed after the effective date of enactment, rather than for those now pending.

The second of the two changes made by the bill, the creation of a right of claim reduction, is the only part that is made retroactive to pending cases. Of course, that is the very change that permits these few defendants, after their jury verdicts, to reduce damages they would otherwise have to pay.

It is certainly no accident that the only part of the bill that is made retroactive, contrary to the way in which S. 995 and its predecessor were introduced, is that part which harms the innocent businesses who were the victims in price-fixing cases and benefits the parties who have been found liable for price-fixing.

It all demonstrates how the bill benefits a very few defendants.

A third factor which reveals the special interest nature of the retroactivity provision is the defeat of the effort which was made in the Senate Judiciary Committee by Senator DOLE and Senator BAUCUS to offer an alternative to the retroactivity provision which ultimately passed. Senator DOLE took up the only argument which can conceivably be made to conceal the special interest nature of the retroactivity push, namely, that if the changes made by S. 995 are reasonable for cases filed after the date of enactment, these changes should also be applicable to pending cases and existing defendants. The Dole-Baucus proposal tested this thesis by suggesting that S. 995 be applied in full to all pending cases except those pending cases in which the parties had relied on existing law as indicated by settlements, jury verdicts, and judgments already entered. To all other cases where there had been no such reliance and where the expectations of the parties and their actions had not been detrimentally affected by their reliance on existing law, the changes made by S. 995 would apply.

This was rejected; this suggestion, I might add, was rejected, soundly. This reasonable compromise failed because it did not give the losing defendants the opportunity to bail themselves out of their jury verdicts.

The real problem behind retroactivity is that it undercuts the reliance parties placed on existing principles of law. This proposed compromise would have lessened this impact, dealing only with cases where there had been no settlements, jury verdicts, or judgments.

Mr. President, I am very concerned that a bill which had broad support and which would have passed the Senate quite easily, if applied as originally intended only to future cases, has now been bogged down with this pernicious retroactivity amendment. I urge the proponents of retroactivity to drop their effort at retroactivity so that the Senate can get about the business of passing S. 995 as originally introduced, thereby removing the unfairness which would otherwise be created to the businesses which, in fact, have been the victims of price fixing.

Mr. BAUCUS. Mr. President, I see the Senator from Tennessee (Mr. SASSER) in the Chamber. I believe he has a statement to make on this bill before us.

I yield the floor so the Senator from Tennessee may address himself to the issue.

Mr. SASSER. I thank the distinguished Senator from Montana for yielding to me.

Mr. President, I rise to express my strong opposition to the retroactivity provision of S. 995.

When it was first introduced, S. 995 applied only to antitrust cases commenced after the date of its enactment. This explicit provision was in the antitrust contribution legislation, S. 1468, which was reported by the Senate Judiciary Committee in the 96th Congress. Unfortunately, in this Congress, the Senate Judiciary Committee, by a narrow margin, amended S. 995 to provide that the claim reduction portion of the bill would apply to pending cases upon a judge's finding that it would be "inequitable" not to do so.

The arguments against this provision regarding retroactive application of S. 995 are compelling.

As a matter of constitutional principle and congressional policy, retroactive legislation has been consistently disfavored.

Attorney Philip A. Lacovara addressed the constitutional and historical objections to retroactive laws at great length during the Judiciary Committee's consideration of S. 300 in the 96th Congress, he stated:

> Chief Justice John Marshall made this policy manifest in our judicial system. As early as 1801 in *United States* v. *Schooner Peggy*, 5 U.S. (1 Cranch) 103, 110, (1801), he warned courts adjudicating rights between private individuals to "struggle hard against a construction (of a statute) which will, by a retrospective operation, affect the rights of parties . . ." As the Court later put it, the rule of prospectivity is "one of obvious justice" because it "prevents the assigning of a quality or effect to acts or conduct which they did not have or did not contemplate when they were performed," *Union Pacific R.R.* v. *Laramie Stock Yards Co.*, 231 U.S. 190, 199 (1913).
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> This aversion toward legislation that applies retrospectively is well founded, for a person should be able to assess his conduct with reasonable knowledge of its legal consequences. He should also be able to expect stability in the rights or liabilities that attach to his conduct or to the acts of others. In a lawful society each of us plans his future with the expectation that the legal status of arrangements entered into today will not be upset tomorrow by a change in the law that applies to past conduct. Indeed, it is no understatement to say that the ability to plan for the future depends upon respect for stability of past legislative arrangements. . . .
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> In fact, the Supreme Court recently noted that "(t)he earliest instances of nonretroactivity in the decisions of this Court—more than a century ago—came in cases of nonconstitutional, noncriminal state law . . And, in the last few decades, we have recognized the doctrine of nonretroactivity outside the criminal area many times, in both constitutional and nonconstitutional cases." *Chevron Oil Co.* v. *Huson*, 404 U.S. 97, 106 (1971) (citations omitted) . . . .
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> The direct restraint upon the Federal Government's power to enact retroactive civil legislation lies in the due process clause of the fifth amendment. Legislation that, considering its retroactivity, is arbitrary or unreasonable or harsh and oppressive, constitutes a denial of due process. *Railroad Retirement Board* v. *Alton Railroad*, 295, U.S. 330 (1935); see also *United States Trust Co.* v. *New Jersey*. 431 U.S. 1 (1977); *Usery* v. *Turner Elkhorn Mining Co.*, 428 U.S. 1 (1976). Antitrust Enforcement Act of 1979, S. 300; Hearings Before the Senate Committee on Judiciary, 96th Congress, 1st Session 214-15 (1979).

The reasons for the policy against retroactive legislation are clear. Prof. Ernest Gellhorn of the University of Virginia Law School wrote to the Senate Judiciary Committee:

> Adherence to the usual rule of law that statutes should be applied only to future situations serves the interests of reform and reliance, economic efficiency, and fairness and equity.

Conversely, retroactive legislation upsets the legitimate expectations of those who have relied in good faith upon existing law. It changes the rules in the middle of the game, or even after the game has ended.

These considerations are particularly relevant to S. 995. Antitrust plaintiffs and defendants have predicated their actions on the current law which bars contribution and claim reduction. Decisions about whether to settle or contest, how much to settle for, and whether to cooperate with opposing parties were all made based on existing law. Similarly, judges have approved or disapproved settlements and juries reached verdicts based on existing law. As senior U.S. district judge, Hubert Will, wrote to the Senate Judiciary Committee:

> It is basically unfair for litigants to try to use Congress to upset results fairly reached in lawsuits tried under the existing rules when these rules were known to all the parties before they made their litigation or settlement decisions.

Under the retroactivity provision in the committee bill, plaintiffs who had settled would find that their settlements produced totally unexpected consequences. Under current law, they would expect that any moneys they received in settlement would be deducted from the damages they would receive from the remaining defendants, if they are successful at trial. The committee bill would change this by requiring that plaintiffs' damages be cut by the market share of the settling defendants, if claim reduction is applied.

This would mean that settlements entered into years earlier would reduce the value of judgments won years earlier by amounts far greater than the amounts plaintiffs received in settlement. In other words, retroactive application could save adjudged price fixers millions of dollars at the

expense of the very businessmen they cheated in the first place.

It is no wonder that this result would produce grave due process questions under the constitution as has been pointed out by noted constitutional scholar Charles Alan Wright of the University of Texas. According to Professors Gellhorn and Wright, these problems result from denying plaintiffs the complete recovery to which they were entitled under law at the time they entered into settlements.

As it is generally, retroactivity is the exception for antitrust law. When Congress in 1976 added the parens partriae provision to the law, it specifically barred application to injuries "sustained prior to the date of enactment." Similarly, when Congress gave the United States authority to sue for single antitrust damages under section 4A of the Clayton Act, it did so prospectively.

In those bills in which retroactive application was permitted, it was done so intentionally, in order to reverse "Surprise" court or FTC decisions which applied the antitrust laws in ways Congress never intended and the parties never expected. This was the rationale behind the retroactive effect of the Newspaper Preservation Act and the Soft Drink Interbrand Competition Act.

Mr. President, the bill before us involves no surprise court decision, and the law of contribution is well known and settled.

Retroactivity would create injustice in this instance rather than prevent it, and recognizing this, the American Bar Association section on antitrust law specifically rejected its application to pending cases because of, and to quote the ABA,

a great concern, first that such a rule would upset settlement calculations already in progress, and second that parties could be prejudiced who had already participated in the conduct of joint defense efforts on an assumption of no contribution.

While authorities may disagree about whether retroactive application would ultimately be upheld by the courts, there is no question that the serious constitutional issues raised by retroactivity would take years to resolve and could be answered differently in different cases, in addition, the vague and indefinite standard proposed by the committee to determine whether to apply claim reduction retroactivity—whether it would be "inequitable" not to do so—will lead to years of litigation in each case. Retroactive claim reduction will also encourage plaintiffs—newly barred from obtaining full recoveries from nonsettling defendants—to move to overturn settlements premised upon the current law which permits full recovery. While businesses, their attorney, and the courts struggle to resolve these questions, plaintiffs will be denied funds to which they are entitled, defendants will be denied a definitive determination of their liability, and settling parties will have no certainty as to the validity of their settlements. And, of course, defendants already found liable for price fixing will be able to avoid paying any judgment, retaining funds and earning interest, as plaintiffs are forced to litigate whether they will be able to keep damages they have already won.

Because the retroactivity provision of the committee bill is such a clear special interest effort, newsapapers around the Nation have been virtually unanimous in their condemnation.

I would like to commend to my colleagues for their perusal editorials which appeared in the Chattanooga Times, a distinguished morning newspaper in my State, and also the Memphis Press-Scimitar, an equally distinguished afternoon newspaper in my State of Tennessee. I ask unanimous consent that these editorials be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Chattanooga Times, Aug. 11, 1982]

AN ANTITRUST "BAILOUT"?

The Senate is expected to consider, perhaps today or Monday, a bill that is generally regarded as one of the most heavily lobbied pieces of legislation ever to emerge from its Judiciary committee. The bill (S. 995) is designed to correct what its supporters call "serious injustices" in federal antitrust laws. Opponents generally agree the laws need changing, but they oppose an amendment that, they contend, would give retroactive relief to defendants already convicted of price-fixing. Their arguments are persuasive.

The issues are complex. The main purpose of S. 995 is to change the 1914 Clayton Act so that defendants found liable for price-fixing can spread the cost of damages among all those involved according to their share of the price-fixing scheme. That process is known as "contribution." Currently, price fixers are each liable for all damages involved in a price-fixing scheme regardless of each defendant's level of participation. In May 1981 the Supreme Court ruled there was no right of "contribution," and held that it was up to Congress to create one if it wished.

The amendment that caused so much controversy—and so much lobbying—was offered by Sen. Strom Thurmond, R-S.C. It would make the claim-reduction provision applicable to pending cases. Among the chief corporate proponents of that retroactivity are the Mead Corp., Georgia-Pacific Corp., Weyerhaeuser Co., Milliken & Co., and Willamette Industries—each of them defendents in multimillion-dollar antitrust cases. They argue the current law is unfair.

But their opponents have the better case. Plaintiffs in those cases and other companies that have already settled argue that claim reduction should not be applied in pending cases. That bypasses the legal system and amounts to changing the rules in the middle of the game. It may also be unconstitutional.

A lawyer representing plaintiffs in the Mead case argued that the claim reduction "compromise" would "severely injure plaintiffs who agreed to out-of-court settlements with the expectation that they could seek damages due to the entire conspiracy from defendants who elected to stand trial." The Senate should not provide such a legal escape hatch.

Rejection of S. 995 as amended could expose companies already found liable of price-fixing to huge judgments if their appeals are unsuccessful. That's unfortunate. But then no one forced them to fix prices.

[From the Memphis Press-Scimitar, Aug. 31, 1982]

BAD BILL BEFORE SENATE

The U.S. Senate should give a unanimous "no" vote to a bill that would grant special relief privileges to five large firms which have been found liable in civil price-fixing federal trials.

The legislation, which is pushed by defendants in the price-fixing litigation, is scheduled for a vote in the Senate about the middle of September. If it should pass, defendant manufacturers in the plywood, corrugated container and textile machinery industries would be saved from paying an estimated $3 billion in court judgments.

What the defendants seek from the Congress is not only a change in the rules to protect them in the future from price-fixing charges but to make those rules retroactive so as to void or reduce the judgments rendered against them.

It would work to the detriment of the hundreds of plaintiff companies who sued and won judgments against the alleged price fixers. The U.S. Constitution's prohibition against ex post facto laws is limited to criminal penalties—and protects defendants against any law that imposes punishment for an act which was not punishable at the time it was committed. Even though these are civil cases, the ex post facto principle is the same, inasmuch as the proposed bill would excuse offenses previously committed.

Among the plaintiffs are 32 Memphis-area firms which could lose $2.3 million in damages if the bill were to pass; they were awarded judgments in trials concerning corrugated containers. Another 33 Memphis building material supply firms are involved in cases concerning plywood manufacturers. Many other Tennessee firms also stand to lose considerable sums in judgments if Congress permits this bill to become law.

Patently, this is bad legislation. Laws against price-fixing were enacted in the interests of fair competition and for the protection of consumers. Those who have been found guilty of violating those laws should not expect to be relieved of their penalties by the very body that sought to protect the public.

Mr. SASSER. Mr. President, I urge passage of the Baucus amendment to S. 995.

Mr. President, I yield to the distinguished Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. ZORINSKY. Mr. President, amid all the discussion of S. 995 and the provision permitting its application to pending cases, the impression has grown that the subject is extremely complex and best understood by

those who are experts in antitrust and constitutional law. This is not surprising given that the retroactivity fight has enlisted the efforts of at least four former Senators, two former Attorneys General, two former White House aides, and assorted judges, lawyers, and lobbyists. If that group cannot make an issue complex, no one can.

But I think that if we strip away the elaborate legal arguments and simply look at the effect of making the claim reduction provision of S. 995 available to defendents in pending cases, the issue comes quickly into focus and becomes quite clear.

The strongest proponents of retroactive claim reduction are several companies that have been found liable for price fixing. These companies face potentially massive liability, easily in the tens of millions of dollars, to the businesses who purchased price-fixed goods from them—plywood, corrugated paper, or textile machinery in the cases that have become best known to the Senate during this debate. Oh, there have been other companies involved, but the pressure and the hundreds of thousands of dollars in lobbyists' fees have come primarily companies looking in the face of signficant price-fixing verdicts. These companies want to cut the amount of damages they will have to pay after juries have already found them liable and their damages are being computed under prevailing rules of law.

How do they propose to accomplish this? This is where S. 995 comes in.

Under current law, if plaintiffs settle with one member of a price-fixing conspiracy for a certain amount of money, they can recover the remainder of their total damages from the rest of the members of the conspiracy. In this way the settling defendant avoids the expense of trial and the price of a potentially large verdict if he loses, and the plaintiffs can simplify their litigation while still getting the "one full recovery" to which they are entitled, if they can prove their case. In short, plaintiffs settle with some defendants knowing that if they win they can get the rest of their compensation from the rest of the defendants.

Similarly, those defendants who choose not to settle, but go to trial instead, do so in an effort to escape all liability, but with the understanding that if they lose they will have to pay a full measure of damages to the victorious plaintiff businesses who succeed in proving the defendants' unlawful price fixing.

The claim reduction provision of S. 995 would change this long established, well understood principle. It would provide that if plaintiffs settle with some defendants, the amount they may recover from the remaining defendants is reduced not by the actual amount they received in settlement, but by the market share of the settling defendants. Thus, if plaintiffs settle with defendants who represent 25 percent of the market in the affected product or service, they will lose 25 percent of their total potential recovery, even if the actual amount they receive in settlement is considerably less.

It might be argued that this is not an unreasonable principle, if all parties to the litigation know the rule of law at the beginning of the case. It might force plaintiffs to bargain a little harder, knowing that by their settlements they are giving up considerably more than under the previous law. And it might encourage defendants to litigate, for they know the chance that they will be forced to bear a damage judgment far greater than that resulting from their own market share is considerably diminished.

All of these consequences can be evaluated by the parties as they consider whether to settle or litigate, and how much to litigate for.

But what the advocates of retroactivity are seeking is to change the rule of law after the case is over. S. 995 would permit claim reduction to apply retroactively to cases in which some defendants have already settled and other defendants have been found liable by a jury for price fixing. The result in those cases is very different.

The plaintiffs, if S. 995 is passed, will find that settlements they entered into earlier, under the "old rules," have the totally unanticipated consequence of reducing the damages they can receive—damages they have already won—by millions of dollars more than the settlement amounts.

And who gets the benefit of this saving of millions of dollars? The defendants who illegally fixed prices, went to trial knowing the risks and were adjudged liable for their actions.

Note that the plaintiff victims have no chance to adapt their conduct to the law, to change their strategies to take into account changes in the law. For their decisions were made long before the law was changed, and they are locked into settlements and trial strategies all based upon a clear understanding of their right to full recovery.

Reduced to its essentials, therefore, retroactive application of S. 995 would amount to changing the rules after the game has been played in order to benefit adjudged price fixers at the expense of the business which they cheated in the first place. This result is absolutely unconscionable. As former Senator Joseph Tydings, an experienced antitrust litigator, testified to the Judiciary Committee:

> [I]t is difficult, if not impossible, to see how passage of a retroactive amendment in this situation comports with fundamental fairness and due process of law. The [retroactivity] amendments would be special interest legislation of the worst kind. Their proponents are corporate antitrust violators who, after repeatedly rejecting reasonable settlement offers from the plaintiffs (particularly in the light of damages adjudicated by the trial court), forced the plaintiffs into very costly and time-consuming litigation which ended in substantial judgments against them. Now, after having had their day in court, they unscrupulously seek to legislatively overturn those judgments and reduce the amount of plaintiff classes' judgment awards through retroactive application of the claim reduction provision. In other words, having played by the rules of the game and lost, they seek to use their economic power and influence to change the results.

Senator Tydings' point is that not only is retroactive claim reduction unjust, but it is so contrary to "fundamental fairness" that it may well be unconstitutional.

Of course, our constitutional system rejects retroactive laws. The Constitution specifically bars ex post facto laws in the criminal fora and bills of attainder. While not technically such a law, the retroactivity provision of S. 995 would have precisely the same result—to penalize parties, here the plaintiff victims—on the basis of actions they took—entering settlements—when they had no reason to believe that their actions would produce the outcome that resulted under the changed law.

Now, given the transparent injustice of this outcome, its proponents have tried to obscure the issue with a variety of arguments. One is that S. 995 does not mandate claim reduction, but only permits a court to apply it if it would be "inequitable" not to do so. In a sense, this is worse than simple retroactivity. First, its objective is to produce retroactive application, for if the advocates of this prohibition did not want to permit retroactivity, they would not have amended the bill in the first place.

Second, the provision will produce years of litigation over what constitutes "inequity." Of course, the convicted price fixers seeking a bailout, whom this provision is intended to aid, want years of litigation, for as long as they can keep the case in court, they do not have to pay up. They save their money and earn interest, while the plaintiffs' legal fees rise. And if they should succeed in the litigation, whatever they ultimately have to pay will be much less than the judgment they would have faced without claim reduction.

Another argument used to obscure the issue is that the defendants are not seeking to escape liability, but only to have their "day in court." These defendants have had their day in court; they have had hundreds of days in many courts. And the courts have told them they must pay up. Let us not delay that further.

Another claim made is that the legislation is not "retroactive" but only being "applied to pending cases." Retroactive legislation would only apply

to closed cases, they say. This argument is absurd, meaningless, and misleading. Regardless of what you call it, changing the outcome after the fact of decisions properly made in reliance on existing law is wrong and amounts to a retroactive change in the principles of law upon which parties have relied.

One agrument that sounds particularly appealing is that the hundreds of litigants in pending cases ought to have the benefit of S. 995 and that it does not make sense to create an artificial distinction between cases which have been filed and those not yet under way. This argument is likewise without weight as shown by the rejection by proponents of retroactivity of suggestions in the Judiciary Committee to apply the changes in S. 995 to all pending cases except those with settlements, jury verdicts or judgments. Moreover, the retroactivity provision in the committee bill does not achieve this result. The contribution principle, which is the heart of S. 995, is not available at all in pending cases under the committee bill. And since the great majority of pending cases are in their early stages with few or no settlements, the claim reduction provision, which may be available, is irrelevant. Finally, claim reduction is not made available in any simple, explicit fashion. Instead, defendants seeking its protection must go through years of costly and uncertain litigation.

The proponents of retroactivity, finally, claim that Congress normally applies "remedial" legislation to pending cases, and that this is such remedial legislation. In fact, in my experience, we are quite careful when we change the law to avoid disrupting pending cases unless there is a very good reason to do so. This is hardly remedial legislation. It profoundly changes the rights of the parties to pending legislation.

There is no justification for making plaintiffs relitigate damage judgments they have already won. There is no justification for taking up court time and the time of businesses and their attorneys. And most of all, there is no justice in changing the rules in the middle of the game in order to benefit a few adjudged price fixers. I urge my colleagues to reject this unjust, unfair, and probably unconstitutional provision.

Mr. President, I yield to the Senator from Missouri, Senator DANFORTH.

THE PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. DANFORTH. Mr. President, I wish to address several basic issues concerning S. 995, the Antitrust Equal Enforcement Act.

I support prospective application of this measure, which would establish the right of defendants in civil price-fixing cases to seek contribution from others involved in a price-fixing scheme and to proportionately limit their civil liability to their respective market shares of the damages.

To be sure, there are good arguments on both sides with respect to prospective applications of S. 995. Those who oppose this bill argue that it would make antitrust litigation more complex and difficult than it already is. They contend that it would make it easier for defendants to delay and seize control of cases, and that it would make plaintiffs and defendants less inclined to seek settlements.

I share some of these concerns. On balance, however, I believe that there are sufficient reasons to warrant support for prospective application of S. 995. This measure does not diminish the strong and necessary deterrent effect of plaintiff's right to seek treble damages in a civil price-fixing action. Moreover, S. 995 would provide more certainty that guilty parties actually pay their fair share of damages in price-fixing cases. In addition, it would relieve those named as defendants in such cases—especially those with small market shares—of their exposure to uncertain and open-ended liability that leaves them at the mercy of plaintiff attorneys' "whipsaw" tactics and under extreme pressure to settle instead of litigating their defense.

I cannot, however, support the so-called pending cases provision of S. 995, which would apply claim reduction retroactively.

This provision providing for claim reduction in pending cases is an inappropriate use of our legislative process. It is a bailout provision—special interest legislation that really benefits only a handful of defendants in price-fixing cases who have already been found guilty. It is retroactive legislation that would unfairly upset the expectations of settling plaintiffs and defendants in these cases, who have relied on the existing law.

This provision would apply to pending cases in which defendants have been found guilty but final judgment has not yet been entered. It would have the anomalous effect of allowing price fixers the opportunity to reduce their liability, while placing plaintiffs in a position in which they cannot collect full treble damages. It is fundamentally unfair to change the rules in this way and give nonsettling defendants the chance to reduce their liability, while plaintiffs face the possibility of being unable to collect full damages.

It has been the practice of Congress to enact such retroactive legislation only in extremely limited circumstances and when there was a strong public purpose for doing so—such as to overturn a judicial or administrative decision with respect to statutory interpretation that is clearly at odds with legislative intent. Congress has historically disfavored retroactive legislation because it upsets the expectations of those parties who have relied in good faith upon existing law and because it gives rise to constitutional due process questions.

These considerations apply here. The calculations and expectations of both settling plaintiffs and defendants could be upset unfairly by this retroactive change in the rules. Many settlements in pending cases have been expressly conditioned upon the plaintiffs' ability to recover fully from the nonsettling defendants, and it was on this basis that many of these settlements have been approved by the courts. It would be extremely unfair now to change the rules for those plaintiffs who entered into settlements with the expectation that they would be able to recover fully from nonsettling defendants, and who expected full recovery. Likewise, it would be unfair to settling defendants, who agreed to settlement on the basis of a different understanding of what their own exposure to liability would be, and who could now be required to participate in extensive litigation about their settlements and the amount of claim reduction.

Indeed while this retroactive provision may benefit a few defendants, it can only result in additional delay and complication, more litigation and uncertainty for all the parties in pending cases. Although claim reduction would be applied only when the court finds it would be inequitable not to do so, the legal standard to be utilized in making this determination would be the subject of considerable litigation, along with a number of other legal issues.

Both plaintiffs and defendants certainly would seek to overturn settlements if claim reduction is applied in pending cases. It is true that S. 995 purports to protect existing settlements, but this only exacerbates the unfairness for those who relied on the existing law, and, if noting else, there would be considerable litigation as to whether S. 995 can in fact protect existing settlements. Certainly the possibility that existing settlements might be unraveled and settling plaintiffs and defendants might be subjected to more litigation is grossly unfair and bad public policy, as well.

In sum, then, I oppose the retroactive pending cases provision of S. 995 and I support the efforts of my colleague from Montana (Mr. BAUCUS) to delete this provision from the bill, because it is unfair, special interest legislation that would upset the expectations of the parties in pending cases and create the prospect of prolonged, additional litigation.

Mr. President, I would like to add a few words, as well, about another issue related to S. 995. That is the so-called Illinois Brick amendment which I in-

troduced along with Senators GORTON, RUDMAN, and STAFFORD.

The purpose of this amendment is to improve the effectiveness of antitrust enforcement by Federal, State, and local officials. It is intended to assure that S. 995 provides equitable treatment for victims of price-fixing violations, as well as for defendants charged with price fixing. This amendment would provide fairness to consumers and taxpayers victimized by price fixers, just as prospective application of the underlying bill would provide greater fairness in the allocation of damages among defendants.

Our amendment would create no new right of action for individuals in such cases, but it removes a limitation on Government enforcement of the antitrust laws imposed by the Supreme Court's 1977 decision in *Illinois Brick Co.* v. *Illinois*, 431 U.S. 720. In this case, commonly known as the Illinois Brick decision, the Court held that only direct purchasers—those who deal directly with an antitrust violator—can recover damages for price fixing. On its own behalf, the State of Illinois had sued manufacturers of concrete blocks for price fixing; however, the Court held that, because the State had purchased the blocks from middlemen and not directly from the manufacturers, the State could not recover damages.

This holding precludes the Federal Government, as well as State governments, from recovering damages on their own behalf and on behalf of their taxpayers in price-fixing cases where goods have been purchased through an intermediary, and not directly from the price-fixing manufacturer. Moreover, the Illinois Brick decision brings into question the scope of title III of the Antitrust Improvement Act of 1976, which gives State attorneys general the authority to sue as parens patriae on behalf of citizens of their respective States, who have been injured by antitrust violations, including price fixing. Since many consumers are not direct purchasers, the Supreme Court's Illinois Brick ruling has been interpreted as severely limiting the authority of State attorneys general to seek recovery on behalf of consumers—allowing State parens patriae actions only in those few cases where the injured consumers have purchased the goods or services directly from the price-fixing manufacturer.

Our amendment would do away with this direct purchaser limitation on Government action to recover damages in price-fixing suits. It would allow Government actions to recover damages even when the goods or services have been purchased through an intermediary, and it would also clearly authorize State attorneys general to act as parens patriae and secure monetary relief on behalf of injured consumers who have not purchased goods or services directly from a defendant. Thus, our amendment would permit indirect purchasers their day in court, but, by limiting prosecution to a set group of law enforcement officers, it would dispel any fear that this partial reversal of Illinois Brick would open the floodgates of private litigation.

In addition, our amendment addresses the concern with multiple liability that prompted the Supreme Court's decision to preclude State action in the Illinois Brick case. The amendment would insure that defendants would not suffer such duplicative liability arising out of actions by both direct and indirect purchasers, because they would be allowed to prove as a partial or complete defense to any damage claims that the purchaser passed on the additional costs as higher prices to subsequent indirect purchasers. This would permit apportionment of any damage award to victims according to their actual losses. Moreover, this amendment also contains provisions which would give it only prospective application and which allow attorneys fees for prevailing defendants in cases of bad faith or vexatious prosecution.

I believe that this is a responsible approach to the problems arising out of the Illinois Brick decision. Unquestionably, it is unfair to indirect purchasers that they have no redress for damages attributable to price-fixing violations of the antitrust laws. Furthermore, we believe that it is vitally important to permit such actions—limited to Government-initiated lawsuits—in cases where the direct purchaser has passed on most of the illegal overcharges as increased prices for its customers, because in these situations, the only parties with an interest in seeking legal action are indirect purchasers.

Particularly in these difficult economic times, it is essential that we insure effective State action to fight antitrust violations which substantially increase the costs of goods and services—costs that must be borne by the taxpayers and consumers. If Congress is to consider granting the equitable relief which S. 995 would furnish to those charged with price-fixing violations, fairness dictates that we simultaneously provide some small measure of additional relief for the victims of price fixing.

However, in light of the understanding that has been reached with the Senator from South Carolina and outlined earlier today by Senator GORTON, I am in accord with the decision of the Senator from Washington not to go forward with the amendment at this time and to work toward swift enactment of Illinois Brick legislation as soon as possible in the 98th Congress.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER (Mr. COHEN). The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I rise in opposition to the amendment offered by the distinguished Senator from Montana because it would unravel a delicate and important compromise worked out by the members of the Judiciary Committee after much debate and negotiation. Moreover, this amendment could have the effect of preventing some of the worthwhile provisions of this legislation from being applied in many cases where it might be equitable to do so.

Mr. President, adoption of this amendment would mean that none of the provisions of this bill could be applied to price-fixing cases presently pending in the Federal courts. In contrast, S. 995, as reported by the committee, would permit the courts to apply the claim reduction principle to pending cases if the defendants proved that it would be inequitable not to apply claim reduction.

S. 995 does not mandate the application of claim reduction to pending cases. Rather, it allows the presiding judges, who are most familiar with the facts of each individual case, to assess the fairness of claim reduction to all parties concerned. Recent surveys of approximately two-thirds of the Federal district courts have shown that there are more than 900 defendants involved in antitrust price-fixing cases pending in those courts. In many of these cases, it may be entirely appropriate to apply claim reduction. In other cases, it may not be. In any event, the determination of whether claim reduction should apply to a particular pending case is not one that Congress is capable of making. For this reason, S. 995 appropriately places the responsibility for making the determination in the hands of the judges.

The amendment before us now would do away with this very sensible approach. By adopting the amendment, Congress would be making a judgment about the equities involved in hundreds of cases without the benefit of knowing any of the facts. If we conclude that claim reduction is a meritorious principle, which I sincerely believe it is, it would be ironic to decide, in the same breath, that this principle should not be available to the parties in these hundreds of cases.

I am aware, Mr. President, that some opponents of S. 995 argue that the pending cases provision amounts to retroactive legislation and, for that reason, is unconstitutional. Nothing could be further from the truth.

First of all, the use of the term "retroactive" to describe this provision is incorrect. A retroactive law has the effect of reopening a settled matter to modify the final result. On the other

hand, the application of a provision to a matter which has not been finally resolved cannot be termed a retroactive application within any legitimate interpretation of that term. For this reason, there is no basis for arguing that the pending cases provision of S. 995 is retroactive legislation that is constitutionally suspect.

The Judiciary Committee considered at great length the constitutional implications of applying portions of S. 995 to pending cases. No less a constitutional law scholar than the Honorable Sam Ervin, a distinguished Senator from North Carolina, testified that it is perfectly constitutional for Congress to apply the claims reduction principle of this bill to pending cases. According to Senator Ervin:

> Instead of violating the due process clause, applying S. 995 to pending cases will implement in a magnificent way the due process clause which is designed to promote fairness rather than unfairness. In the final analysis, it is simply the right and moral thing to do.

Opponents of S. 995 also assert that the pending cases provision is somehow a departure from the normal way that congressional statutes are applied. Once again, these arguments do not withstand analysis. As long ago as 1801, in the case of United States against Schooner Peggy, the Supreme Court articulated the principle that courts should apply the law that is in existence at the time a case is decided, even though the law changed while the case was pending. This principle has been followed through a long line of cases. In one of its most recent pronouncements on this very subject, the Supreme Court stated that "a court is to apply the law in effect at the time it renders its decision, unless doing so would result in manifest injustice or there is statutory direction or legislative history to the contrary." Thus, contrary to the arguments of some, applying S. 995 to pending cases would not be inconsistent with traditional practice.

Over the years, Congress has passed numerous statutes, including antitrust statutes, which have been applied to pending cases. For example, the Hart-Scott-Rodino Antitrust Improvements Act, the Newspaper Preservation Act, and the Soft Drink Interbrand Competition Act, all have been applied to cases pending at the time the laws were enacted. The applicability to pending cases has also been sanctioned in such diverse legislative areas as the black lung benefits program and prisoner parole. Thus, Mr. President, it simply is not true that Congress does not or cannot pass legislation and apply it to pending cases. Pending case applicability is the norm, and the compromise that is embodied in S. 995 clearly passes constitutional muster.

We also have heard the argument, Mr. President, that permitting the application of claim reduction to pending cases would upset the reliance that some antitrust plaintiffs placed on their ability to collect industrywide damages from one or a few defendants. A close examination of the facts, however, demonstrates that the plaintiffs had no justification for such reliance and, in fact, did not rely to their detriment at all. For at least the last 5 years, the possibility of contribution and claim reduction being adopted either legislatively or judicially has been apparent. Surely, the astute plaintiffs' counsel recognized that such an event could affect the settlement and recovery process. Moreover, due to the uncertainty of any litigation, plaintiffs have no recognizable right to expect recovery of a certain level of damages from any defendant. Therefore, any settlement agreement that a plaintiff reached with some defendants could not possibly have been grounded on a legitimate expectation of recovering full, industrywide damages from the remaining defendants.

Finally, Mr. President, despite the assertion of some opponents, the pending cases provision is not "special legislation" designed for the benefit of a few companies. As I have explained before, the Judiciary Committee has concluded that we have a crisis in antitrust law enforcement which demands a remedy through the adoption of contribution and claim reduction. Once this remedy is adopted, it makes little sense to continue to rely on an inequitable enforcement system until such time as all pending cases wind their way through the judicial system. The remedy is needed now, and it should be put to work as soon as it is available.

The ability to apply claim reduction to pending cases is not designed for a few defendants. Instead, under S. 995, claim reduction will be available to more than 900 defendants, subject to approval by the courts. Thus, every existing defendant has an equal opportunity to utilize the claim reduction principle, and every existing plaintiff has the opportunity to convince the court that the application of claim reduction to a particular case would be inequitable. The burden of proof, of course, is on the defendant seeking to utilize the claim reduction principle.

In conclusion, Mr. President, of this point, S. 995 recognizes that claim reduction is necessary to restore justice and equity to our system of antitrust law enforcement. Given this fact, it would be senseless to insist that any remedies approved by Congress not be applied in the hundreds of cases presently pending in our courts. Such a result would establish a dual system of justice that would operate for many years to come.

The compromise regarding the applicability of claim reduction presently embodied in S. 995 recognizes the legitimate interests of both plaintiffs and defendants. Because this principle has been utilized time and again by Congress and upheld repeatedly by the courts, there is no constitutional impediment to its adoption.

The pending cases provision of S. 995 does not mandate or deny application of claim reduction to any particular case. Indeed, for Congress to do so would be extremely unwise because, as a legislative body, we do not possess the information or the insight to know where the equities in all cases lie. S. 995 places the decision as to applicability exactly where it should be, in the hands of the judges who are familiar with the facts of their respective cases. Accordingly, I urge my colleagues to accept the important compromise that S. 995 contains and to reject this attempt to make Congress the final arbiter of all cases, regardless of the particular merits involved.

Mr. President, while I have the floor allow me to address several other arguments made by the opponents of S. 995.

As to deterrence, I must respectfully disagree with the arguments of my distinguished colleague who asserts that adoption of S. 995 will decrease the deterrent effect on would-be violators of our antitrust laws. In fact, the evidence demonstrates that the exact opposite is true—that is, that passage of S. 995 will improve deterrence by eliminating the ability of some defendants to buy their way out of antitrust suits at amounts far below the benefits they have reaped from their illegal conduct.

It has been argued, Mr. President, that because potential price-fixers know they could be held liable for treble the damages caused by their own misconduct as well as the damages due to the acts of their coconspirators, they will be slower to engage in price-fixing conspiracies.

Mr. President, there is absolutely no evidence that potential defendants engage in this type of risk calculation. This is confirmed by Mr. Robert Joffe, who testified before the Judiciary Committee on behalf of the trade regulation committee of the Association of the Bar of the City of New York. Mr. Joffe stated that his committee "knows of no empirical evidence that businessmen, including the most sophisticated, factor the possibility of liability for an entire industry's actions falling on one firm's shoulders into any decisionmaking process." It is far more logical that, because of the present law which does not allow contribution, potential wrongdoers face less deterrence since they know they have the opportunity to reap enormous profits from their activities and, if caught, settle for much less than the damages they caused and shift the

remainder of the liability to their coconspirators.

This ability under present law to shift liability to other defendants is a fact of life, Mr. President. A recent example is the settlement announced by Mead Corp. in the Corrugated Container litigation. While some of the larger defendants in that case settled for as little as $1 million per market share point, Mead's settlement amounted to almost $18 million per market share point. As my colleagues well know, Mead was forced to settle for this amount because it faced potential liability of $750 million, most of which came from liability shifted to it by earlier settling defendants.

Professor Sullivan, a noted antitrust expert, agrees with the conclusion that contribution will improve deterrence. According to Professor Sullivan, "contribution assures that a larger number of violators are ultimately subject to liability" and "thus maximizes the deterrence goal of certainty of punishment."

Thus, the evidence makes clear that the certainty of punishment which contribution provides, along with the existing criminal penalties and treble damage provisions of the antitrust laws, provide a better deterrence mechanism than the present situation which permits some wrongdoers to escape liability completely or to settle for amounts far below the profits they have earned from the antitrust violations.

Mr. President, let us turn to the issue of the effect on existing settlements. The opponents of S. 995 claim that the claim-reduction provision of the bill will undermine antitrust enforcement by discouraging settlements. It is argued that claim reduction does not preserve plaintiffs' right to litigate against all nonsettling defendants for the entire amount of plaintiffs' damages, on the basis of joint and several liability.

Mr. President, while that argument is correct, it is precisely the reason why claim reduction is needed to bring a much-needed element of fairness to antitrust damage litigation. Under the present state of the law, antitrust plaintiffs can, and often do, settle early with many defendants for much less than their share of damages inflicted on the plaintiff. Frankly, there is no reason not to settle early and cheaply. Under present law, if a defendant who would be liable for $100 million to the plaintiff settles with the plaintiff for $10 million, the other $90 million is shifted to the backs of the remaining nonsettling defendents. Cheap settlements are thus a no-lose proposition: What you do not collect from one defendant, you can collect from other defendants, even though they were not responsible for those particular damages. It does not matter that you settle most of your claims for a fraction of their real value, you can always collect from someone else.

Mr. President, the potential abuses of the present settlement system were clearly demonstrated in testimony received by the committee. On April 22, 1981, Mr. George Kress, chairman of the board of Green Bay Packaging; and Mr. Richard Johnson, chief executive officer of the Menasha Corp., vividly described the experience of the companies in the massive Corrugated Container litigation.

As defendants in the civil damages case, both Mr. Kress and Mr. Johnson found themselves facing a situation in which over 80 percent of the defendants settled early at a cost of approximately $250 million. While this is a large amount of money, both Green Bay and Menasha were nevertheless faced with liability they calculated to be over $1 billion, the vast majority of which was attributable to other defendants who had settled earlier. Both firms reluctantly concluded they had no choice but to settle, regardless of their belief they would be vindicated at the trial.

This is precisely the type of situation S. 995 is designed to address. Among named defendants in an antitrust damages case, the claim reduction provision of S. 995 would assure that, unlike the predicaments of Green Bay and Menasha, nonsettling defendants do not face liability for damages caused by settling defendants' damages left behind because of low settlement amounts.

As to inhibiting settlements, it is undoubtedly true that relatively low settlements may be discouraged, since they would reduce significantly the total liability of all defendants to the plaintiffs. We must ask ourselves, however, whether such low, "sweetheart" settlements would occur in a truly meritorious case.

Assistant Attorney General William Baxter, head of the Antitrust Division at the Justice Department, addressed this issue in testimony before the committee. While Mr. Baxter found that, all in all, claim reduction would be likely to inhibit settlements, he noted:

> A dampening effect on settlement is not entirely without its blessings; to the extent that diminished prospects for a quick settlement discourage the filing of totally nonmeritorious cases, so much the better.
>
> In fact, I suspect that damage cases with merit would continue to be brought under a claim reduction rule, notwithstanding the sorts of problems that we have been discussing.

In drafting S. 995, it was never our intention to impair in any way either the bringing of meritorious antitrust damage lawsuits or create roadblocks for the reasonable and speedy settlement of suits. Rather, claim reduction should guard against the coercion of defendants into unwarranted settlements. As a matter of policy, we must balance the desirability of terminating antitrust cases as rapidly as possible with the right of defendants to utilize the courts to assert their innocence. Antitrust defendants should not be denied the opportunity to present their case because of liability for damages caused by other defendants who have settled.

Mr. President, I suggest that S. 995 restores proper balance to the settlement process in antitrust cases and will have no significant deterrant effect.

As to the impact of S. 995 on small businesses and on antitrust trial complexity, I must respectfully disagree with the statements of my colleagues. I do not believe that it can seriously be maintained that passage of S. 995 will greatly complicate antitrust litigation or will work to the disadvantage of small businesses.

First, we have already seen that the present system creates intolerable burdens on small businesses. We have heard from such companies as Green Bay Packaging, Inc., which, having become involved in the Corrugated Container litigation, was forced to abandon its efforts to prove its innocence through trial and enter into a settlement agreement due, in large part, to the effect which the pending litigation was having on its efforts to obtain necessary financing. In the words of the company's chairman, "loss of borrowing power is the killing factor for a small, privately owned corporation in a capital intensive industry." Another company involved in the same litigation, U.S. Corrugated Fibre Box Co., was compelled to sell one of its plants, with the resulting loss of jobs, in order to pay a settlement of more than $3 million. Neither of these small companies had any alternative except to settle, since, due to the lack of contribution, they faced potential liability in the hundreds of millions of dollars, far more than damages their own alleged wrongdoing could have caused.

We have also heard the argument that S. 995 will harm small business plaintiffs by increasing the complexity of antitrust litigation, thus making small potential plaintiffs more reluctant to seek recovery for their damages.

Mr. President, adoption of S. 995 will not increase the complexity of the litigation or take control of the case away from the plaintiffs. The bill specifically recognizes the continued viability of the concept of joint and several liability. Thus, plaintiffs still will be able to sue only one or a few defendants for their entire damages. Although the defendants may seek to bring their coconspirators into the case, the Federal district judges, through judicious application of rule 42(b) of the Federal Rules of Civil Procedure, may defer the contribution issue to a separate

trial. Thus, plaintiffs will be able to collect their damages from a few defendants and leave the determination of the amount of contribution among the codefendants to a separate trial involving only the codefendants themselves.

Simply stated, Mr. President, the existing system is placing an intolerable burden on small business defendants who are being forced to settle in order to save their businesses from bankruptcy. S. 995 will put a stop to this situation by insuring that no business will face liability for more than three times the amount of damages actually attributable to its own misconduct. And, by maintaining the principle of joint and several liability, and the ability of the courts to order separate trials on contribution issues, S. 995 avoids placing any undue burdens or complications on plaintiffs who sue to enforce their rights under the antitrust laws. On balance, Mr. President, S. 995 is a net benefit to the thousands of small businesses in our society.

Finally, Mr. President, let me spend a few moments to answer the argument that the claim reduction formula is too complicated to work.

Mr. President, I disagree with those of my distinguished colleagues who suggest that the claim reduction formula specified in subsection (b) of S. 995 will be difficult to apply or will lead to additional litigation.

S. 995 provides for claim reduction by the greatest of first, any amount stipulated in a settlement agreement; second, any consideration paid for the settlement agreement; or third, treble the actual damages attributable to the settling persons' sales or purchases of goods or services. Obviously, the first two amounts are simple to ascertain. They can be determined by reference to any settlement agreement that a plaintiff enters into. The third amount, while not specified in any document, is nonetheless quite simple to ascertain. All that is required is to determine a plaintiff's total damages, which a court would have to do anyway, and the percentage of purchases or sales that the plaintiff transacted with a particular defendant during the price-fixing conspiracy. These are concepts with which the Federal courts are very familiar and should have no difficulty ascertaining.

As an alternative to the formula specified in S. 995, some have suggested that we measure claim reduction by some degree of culpability. Under this theory, claim reduction would be less when a plaintiff settled with a less culpable defendant than when he settled with a more guilty one.

Clearly, Mr. President, this approach would be improper and impossible to administer. First, the Supreme Court has held that, regardless of whether a defendant participates in a price-fixing conspiracy actively or passively, the damages to the plaintiff are the same. Moreover, any attempt to weigh relative culpability among defendants would lead the courts into such murky water as scienter, instigation of, and promotion of the conspiracy, and would require judgments which would certainly spawn more litigation and appeals. The far better approach is the one contained in S. 995. The formula is simple, it treats each defendant equally and it follows the holding of the Supreme Court recognizing the equality of active and passive participation in a price-fixing conspiracy.

For these reasons, Mr. President, I urge my colleagues to resist any efforts to change the simple and straightforward claim reduction formula set forth in S. 995.

Mr. President, I would like to take a few minutes to explain in more detail how the committee envisioned its pending case amendment would operate.

During the committee's debate on whether to apply S. 995 to pending cases, two major points became obvious. The first point is that there are numerous pending cases in which S. 995 could be applied. The second fact is that it is impossible to assure a just result in each of these cases by arbitrarily applying or denying S. 995 across the board.

Even though the committee did receive substantial information about several very large pending cases, much more information would be needed to make an informed judgment about even one case, let alone the hundreds of pending cases. Therefore, it was the judgment of the committee to place the decision of whether to apply S. 995 to a pending case in the hands of the trial judge in charge of the case.

Sections (f)(1) and (f)(2) of S. 995 as reported by the committee are the heart of the pending case amendment. As I envision the operation of these sections, they allow a nonsettling defendant to press for claim reduction at the earliest possible point in the litigation process.

For instance, if at the time S. 995 becomes law a particular case has just been filed and no discovery complete or settlements made, the defendants may want to move immediately for a ruling by the court that claim reduction will apply in the case. Such an early ruling would certainly help both plaintiffs and defendants in deciding whether to settle or go to trial, since the degree of exposure faced by various defendants would then be known.

In cases far more advanced, such as those which have already gone to trial, the procedure for the court to follow would be the same even though the factors to consider may be greatly different, given the advanced stage of the litigation.

No matter what the stage of the litigation, it will be up to the nonsettling defendant to convince the court of the fairness in granting claim reduction to that defendant. The plaintiff will, of course, be doing its best to establish the unfairness of granting claim reduction. No one is better equipped to sort out competing claims of fairness and unfairness than the trial judge, who has been in charge of the case since the day it was filed.

In discussing the operation of sections (f)(1) and (f)(2), it is important to note that the committee mandated that settlements already reached in pending cases may not be overturned or disturbed in any way. A settling defendant may not be forced back into further litigation over the adequacy of its settlement or any other related issue, and is fully protected from further liability.

Finally, it is important to note that section (f)(1) requires the court to make special findings of fact when ruling on whether to apply claim reduction in any particular pending case. The committee recognized the great importance of due diligence by the court in making a claim reduction decision under this bill. We therefore required that all the facts and conclusions underlying a decision be set forth in great detail. If a claim reduction ruling is appealed to a higher court, the record must be absolutely clear as to why claim reduction was or was not granted.

Mr. President, I hope this serves to further explain the operation of the committee's amendment to S. 995 regarding pending cases.

Mr. President, the claim reduction portion of the bill is very short and I think that it would be helpful if I would take that up just for a moment. So many of the Senators who have expressed themselves today favor S. 995, they say, in future cases.

Now all we do in applying it to present cases is this, and it is a very short paragraph on page 5 and I would like to take that up because I think it is important.

> The claim reduction principle of subsection (b) of this section shall also apply to actions alleging an agreement to fix, maintain, or stabilize prices under section 4, 4A, or 4C of this Act which are pending on the date of enactment of this section, if upon proof by any party subject to liability for damages in such an action, the court determines

I want to emphasize that—

> the court determines that it would be inequitable, in light of all the circumstances and notwithstanding subsection (f)(2), not to apply the principle in that action.

In other words, Mr. President, the court would only apply claim reduction if it determined that it would be inequitable not to apply it. And who is in a better position to determine that than the trial judge who heard the

case? We in the Congress cannot determine that.

There has been a good deal said here about retroactivity. There is nothing retroactive here. The rules have not been changed. The bill applies to future cases and it provides that in any cases that have not been finally completed, the judge in his discretion can apply claim reduction to those cases if it would be inequitable not to apply it. That is the only way the judge could apply it. In other words, if it promotes justice to apply claim reduction to a case that has not been completed then the judge could do so. And if he did not, in his judgment, see fit to apply it, he would not have to do so. This is left entirely to the judge. And, as I say, who is in a better position to make that determination than the trial judge?

That is all we do. There is no retroactive part of this bill. It is not retroactive, I repeat. It only allows a judge, in cases that have not been completed, to use his good judgment to determine where honesty lies and, after having heard the evidence and heard the case, to determine if it would be inequitable not to apply claim reduction. If he finds that it would be inequitable not to apply it, he can apply it; otherwise, he would not. It is just that simple.

Now, a lot of talk has been going on here about this matter, but what has been said has misunderstood or misconstrued the facts. So I just wanted to make it clear that this is not retroactive. It does not reopen any cases. It does not disturb any settlements that have been reached. We specifically provide in the next paragraph that any settlements are completed and will not be disturbed in any way.

In fact, the next paragraph reads:

> No agreement to settle, compromise, or release a claim under section 4, 4A, or 4C of this act which has been signed by the parties prior to the date of enactment of this section may be rescinded, disapproved, reformed, or modified by the parties or by the court because of the application of the claim reduction principle, except upon the written consent of all the parties thereto.

In other words, settlements cannot be disturbed.

I repeat, this bill is not retroactive. It only applies to cases that have not been completed, and then only when the trial judge feels it would be inequitable not to apply this principle.

Mr. President, the Committee on the Judiciary considered this matter carefully. A lot of work has been done on it to try to see what is just and fair. It is not a bailout for any one company. It is not a bailout for any several companies. There are 900 cases, I believe, which are pending. If it is fair to pass this bill for the future, why is it not fair to apply it to present cases if the judge says that it would be inequitable if he did not do so? That is all this bill does.

We have worked on this wording for a long time, trying to arrive at something that would be just, honest, and fair to all of these people. We feel we have come up with a principle embodied in the committee amendment which we think is fair and just. We hope the Senate will see fit to adopt this amendment.

Mr. METZENBAUM. Mr. President, I send an amendment to the desk to the Judiciary Committee amendment.

The PRESIDING OFFICER. The amendment will be received and printed.

Mr. METZENBAUM. Mr. President, I yield to the junior Senator from Massachusetts.

Mr. TSONGAS. Mr. President, I urge my colleagues to oppose the retroactive provision of S. 995. This provison would bail out a handful of companies that the courts have found guilty of major price-fixing violations. It is special interest legislation of the rankest sort.

S. 995 would change the antitrust laws in two ways. First, it would create a right of contribution to permit defendants found guilty of price fixing to spread the cost of damages among other parties in proportion to their part in the conspiracy. Under current law a price fixer is liable for all damages arising from a price-fixing conspiracy regardless of his level of participation. In 1981, the Supreme Court ruled that there was no right of contribution in existing antitrust laws and that it was up to Congress to create such a right if it wished.

Second, S. 995 would create a statutory right of claim reduction, which would require a judge to subtract from the total damages awarded a plaintiff where he has settled part of his claim with another defendant.

The bill was originally conceived as a remedy for inadequacies in the method of apportioning damages among antitrust defendants.

As originally introduced, the bill applies only to newly filed cases. But during Senate Judiciary Committee consideration of S. 995, the legislation was amended to apply to pending cases. The pressure for this retroactive effect has been coming from a few companies that have violated the antitrust laws. They are now seeking to reduce substantially the verdicts and judgments against them by retroactive application of the new rules S. 995 would establish.

For example, three big plywood manufacturers—Georgia-Pacific, Weyerhauser, and Willamette Industries—seek a 25-percent reduction in damages, which could exceed $1.8 billion. Milliken & Co., held liable for $21 million in a texitle machinery leasing conspiracy, wants a $13 million reduction. The Mead Corp., facing a potential liability of $1 billion for bilking purchasers of shipping boxes, just settled its case for $45 million.

If these companies win in Congress, they will have steamrolled their way to outrageous special interest legislation that can only hurt consumers. Why should the Senate of the United States bail out a few companies that have conspired to fix prices to the detriment of the public? The answer is obvious. It should not.

A basic principle is at stake. It is unfair and inequitable to alter exisitng antitrust laws and apply them retroactively, particularly after the parties and courts have relied upon existing laws. Enactment of S. 995 in its present form will upset existing settlements and impose heavy litigation costs on plaintiffs who have prevailed on the merits under existing law.

The bill is also unsound public policy. It is, in effect, ex post facto legislation contrary to the constitutional bias against retroactive applications of new laws.

The effect of this retroactive provision would be to change the rules in the middle of the game—or even after the game has ended.

It allows parties who lost in court to trun for further relief to a legislative judge—the U.S. Senate. I urge my colleagues to strike the retroactivity provision from this bill.

I would also say, Mr. President, that it should come as no surprise to any of the parties in this issue that there would be Members of the Senate who would stand up and do what they could to make sure that this particular travesty would not occur. I commend the Senator from Montana and the Senator from Ohio for taking the leadership on this issue.

I realize that we are coming upon the Christmas season, today being December 1, but I would hope that Santa Claus, in the body of 100 Members of the Senate, would not see fit to be that expansive in his generosity. If indeed something like this goes through, I have a lot of companies back home that would like an equivalent contribution to their Christmas fund and perhaps we could discuss it, if indeed the bill as presently written were to be enacted.

Mr. BAUCUS. Mr. President, I want to thank the junior Senator from Massachusetts for his forthright remarks on this bill. I appreciate his aid in our behalf.

● Mr. INOUYE. Mr. President, I state my deep objections to the effort to apply S. 995 retroactively to pending cases.

When the predecessor bill to S. 995 was introduced in the 96th Congress, S. 1468, it was introduced and favorably reported by the Senate Judiciary Committee to apply only prospectively. It affected only actions "com-

menced after the date of enactment of this section."

S. 1468 did not come before the full Senate for passage and was reintroduced as S. 995 in the 97th Congress. Again, as with S. 1468, it was made expressly applicable only to actions "commenced after the date of enactment of this section."

The issue of retroactivity has arisen only as a result of the extensive lobbying efforts by a few defendants who have lost jury verdicts in three antitrust cases: the Corrugated Container case; the Plywood case; and the Textile Machinery case involving Burlington Industries against the Milliken Corp.

If we were to adopt this retroactivity provision, Congress would be acting to benefit the few corporations which have been found liable by juries for the most grievous violation of the antitrust laws, namely, price fixing—at the expense of plaintiff businesses which suffered the burden of the price-fixing conspiracy in which these defendants engaged.

Put simply, it would be unfair for the Congress to pass this retroactivity amendment. It would be unfair to those parties, in particular the innocent plaintiff businesses, who have relied on the prevailing law in first, deciding whether or not to settle and how much to settle for; second, determining whether or not to go to trial; and third, obtaining jury verdicts for which they now expect to recover some part of the damages they sustained as a result of the price-fixing conspiracy.

It is simply not right to permit those already found liable of price fixing by juries to force the innocent plaintiff businesses to go back into court to defend jury verdicts which they have already won.

The objections which Congress has generally had to retroactive legislation are as old as our Nation itself. In the Federalist Papers James Madison stated that objection to retroactive legislation was among the most important principles which should be embodied by our new nation. He stated that retroactive legislation is—

> Contary to the first principles of the social compact and to every principle of social legislation * * *. The sober people of America are weary of the fluctuating policy which has directed the public councils. They have seen with regret and indignation that sudden changes in legislative interferences in cases affecting personal rights, become jobs in the hands of enterprising and influential spectators and snares to the more industrious and less informed part of the community. (The Federalist No. 44).

The Supreme Court likewise early in our Nation's history voiced its disinclination toward retroactivity as early as 1801 in *United States* v. *Schooner Peggy,* 5 U.S. (1 Cranch) 103. In *Union Pacific Railroad* v. *Laramie Stockyards Company,* 231 U.S. 190, 199 (1913), the Supreme Court spoke affirmatively of the importance of prospectivity as being a rule of "obvious justice" because it "prevents the assigning of a quality or effect to acts or conduct which they did not have or did not contemplate when they were performed."

In drafting the Constitution, the Founding Fathers incorporated the aversion to retroactive legislation in a number of clauses. For example, article 1, section 9, clause 3, prohibits the Congress from passing any "ex post facto law." The Contract Clause, article 1, section 10, clause 1, forbids States from passing a "law impairing the obligation of contracts." The U.S. Government is prevented from enacting retroactive civil legislation which violates due process by the fifth amendment.

Congress has long been reluctant to apply changes in the antitrust laws retroactively so as to affect pending cases because the parties to those pending cases have guided their actions in accordance with the prevailing law at the time. That is certainly true with respect to the law in the area with which S. 995 deals. The law has long been that a plaintiff business is entitled to a recovery against any defendant for price fixing for the full damage caused by the conspiracy of which that defendant was a part, trebled, less only the dollar amount of any settlement by the settling defendants. In addition, the current law does not permit a defendant named in a price-fixing suit to bring in new defendants not named by the plaintiff for any damages that he may have to pay to the plaintiff.

In most bills amending the antitrust laws, Congress makes it explicitly applicable only to future cases so as not to disturb the rights of parties to pending cases.

The only times in which Congress amends the antitrust laws and makes them retroactive are in the very limited and unusual situations, such as the soft drink bottlers bill and the Newspaper Preservation Act, when Congress is acting to correct and cure a misinterpretation of congressional intent by the court or the Federal Trade Commission. When Congress is surprised by an erroneous interpretation by the court or the FTC, it wants to make sure that no parties, even in pending cases, suffer under the misinterpretation.

However, no one on any side of the argument regarding the contribution bill argues that the purpose of S. 995 is to correct a misinterpretation of congressional intent. Indeed, there is no congressional statute dealing with the issues involving S. 995 which could have been misinterpreted. Quite the contrary. What the few companies who want retroactive application are saying is that the law simply should be changed. This is no attempt to cure a misinterpretation of congressional intent.

Prof. Charles Alan Wright, one of the Nation's most distinguished constitutional experts and a professor of law at the University of Texas, has stated that if S. 995 is enacted retroactively "the public interest that the bill is generally thought to serve would be weakened to the point of nonexistence."

I agree with this assessment. It is for this reason that I am so opposed to retroactive application, for it takes what would otherwise be a sound statute and converts it to a potential windfall for those who have been adjudged by juries to be guilty of price-fixing. It is a perversion of the antitrust laws that those whom the antitrust laws are designed to punish, in order to compensate the businesses whom the price fixers have damaged by their price-fixing scheme, would under the retroactivity amendment be the potential beneficiaries of congressional action. Retroactivity thus amounts to a substantial weakening of laws which I believe are very important to assure that the marketplace is kept free and open for genuine competition.

For the Senate of the United States to permit a "second bite at the apple" to those found guilty of price fixing, would put a cloud over a recovery by an innocent plaintiff business after a jury trial and would turn the whole antitrust law on its head. Professor Wright cites an example to show how unfair retroactive application is with regard to S. 995. Permit me to briefly cite his example:

> Suppose that a class of plaintiffs, P, has suffered $30 million in damages from an arguably illegal price-fixing conspiracy between SD (settling defendant) and NS (nonsettling defendant). SD has two-thirds of the market and NS has one-third. Neither defendant believes it has violated the law. SD, however, settles with P for $25 million preferring to pay that amount rather than being subjected to possible liability for all of P's damages trebled on $90 million. NS chooses to take its chances with a jury, and is found to be liable.
>
> Under existing law, the judgment against NS would be for $90 million less the $25 million he has received in settlement, or $65 million. The result would be strikingly different if, at this point in the litigation, a claim reduction bill should be adopted and should be made applicable to pending suits. It would limit the judgment against NS to $30 million (this is because the $90 million recovery would be reduced not by the $25 million amount SD paid in settlement but by SD's two-thirds marketshare, meaning it would be reduced by $60 million).
>
> The manifest injustice of this is apparent. P has been damaged in the amount of $30 million. A cornerstone of Federal antitrust policy is that an injured person shall recover "three-fold the damages by him sustained". 15 U.S.C. Section 15. Yet P will have obtained only $55 million, $30 million in the judgment against NS and $25 million in the settlement with SD. The purpose of

S. 995 is to change the process by which the allocation of antitrust damages is determined. The bills are not intended to reduce the recovery by those who are victims of an unlawful conspiracy.

This will be a scant comfort to P who has ended up with $35 million less than it otherwise would have had . . . To amend the bill to apply to pending suits such as the one hypothesized is contrary to the public interest in that it gives a $35 million windfall to the convicted price-fixer, NS, at the expense of P, the victim of the conspiracy. The public interest that the bill generally serves is weakened to the point of non-existence, and the result is extremely unfair to P who has relied on the existing law in settling with SD . . . The amount for which P would settle with SD would be greatly different if P could have known that a change of law would defeat this right to collect the balance of his trebled damages from NS.

As the example shows, the result of applying S. 995 to spending suits would be to give $35 million to NS at the expense either of P or, if the settlement would be reopened and SD held liable, of SD.

Mr. President, this example dramatically shows the problem with retroactive application of S. 995.

Applying S. 995 retroactively would not simply be contrary to the whole spirit of our jurisprudence and would not only risk an unconstitutional declaration of due process for innocent plaintiff businesses who had relied on the existing law, but it also would create a horror story for courts.

There are approximately 2,800 antitrust cases pending in the Federal courts. Hundreds of them, involving some 90 defendants, concern price fixing and would thus be directly affected by retroactive application of S. 995. The standard on which a court is to decide claim reduction would have to be determined separately in each case. The retroactive amendment is an invitation for any dissatisfied price fixer to attempt to reduce his damages. The amount of litigation which would be imposed on an already overwhelmed judicial system is staggering. Courts around the country would interpret the retroactive statute differently and ultimately many troublesome issues would have to be decided by the U.S. Supreme Court. In the meantime, years of additional litigation would ensue, all the while leaving innocent plaintiff businesses in the position of not being able to collect on verdicts which they had justly won.

One such case involves 500 beef producers who are alleging price fixing by 24 retailers and 4 meat packers in the purchase of beef. In other similar suits throughout the West and Southwest, hundreds of farmers have made similar claims. The cases have been pending since 1977. It is alleged that farmers lost as much as 10 cents a pound because of the practices of the defendants. The plaintiffs have entered into settlements in those cases relying on the fact that they could recover the balance of their damages, less only the dollar amount of the settlements, from any remaining defendants. That expectation will be completely undercut by application of S. 995 retroactively to pending cases.

In closing, I think it is important for the Senate to understand how unique retroactive application is in instances like this. The leading Law Review article on the issue states, and I quote, "Retroactive statutes have traditionally been regarded as undesirable." Hochman, "The Supreme Court and the Constitutionality of Retroactive Legislation," 73 Harv. L. Rev. 692, (1960).

The very same reason some used in arguing against applying the Illinois Brick legislation retroactively in the 96th Congress applies here. In summarizing those arguments, Philip A. Lacovara argued against retroactive application of the antitrust legislation in words which deserve repetition here:

Congress historic disinclination to amend antitrust legislation retroactively is rooted in considerations of fairness and a sound regard for the disruption that retroactivity causes. This historic course of prudent legislation ought not to be abandoned now.

I agree, Mr. President, with these sentiments. Retroactivity is simply not fair in this instance. It is not fair to change the legitimate expectations of the parties to pending cases. They have a right to rely on what the law was at the time they brought their suits, settled cases, or got jury verdicts and judgments. In the spirit of fairness, I urge the U.S. Senate to reject the retroactive application of S. 995 and pass it as it was originally introduced, namely, applicable only to cases filed after the enactment of the act.●

(Mrs. HAWKINS assumed the chair.)

Mr. STEVENS. Madam President, I inquire whether there is any disposition of any Member to speak further tonight on this subject.

Mr. METZENBAUM. To the best of my knowledge, the answer is no.

TWO-YEAR BUDGET

Mr. FORD. Madam President, in these, the final days of the 97th Congress, we have several important pieces of unfinished business with which to deal. Most notable are the 10 appropriations bills which have yet to be passed, even though the 1983 fiscal year began October 1.

For several years, Congress has failed to complete action on all appropriations bills. We have, consequently, been forced to resort to one continuing resolution after another, simply to keep Government running.

Obviously, something is wrong. Obviously, something must be done to correct this situation. Stopgap funding is not the answer. We simply cannot continue to operate Government with hastily conceived Band-Aid resolutions.

Clearly, there is no way to insure against congressional procrastination, but I do believe that changing to a 2-year budget cycle would substantially reduce the likelihood of delay. The problem in recent years has been that properly covering all of the complex issues that arise in budgeting and appropriating for 12 months takes more time than an annual cycle affords, even if Congress does not procrastinate.

The idea I am suggesting is not a new one.

As I am sure Senators know, Kentucky and 20 other States are already on a 2-year budget cycle, which seems to work quite well for those States and local government. The system will not solve all of our budget problems, but it will give us a more realistic timetable in which to try to deal with those problems.

In the past, when our country was smaller and our problems were fewer and simpler, we succeeded in making all the necessary budget decisions in both the executive and legislative branches of Government on an annual basis. For some time now that has not been possible, and we have had to live with hastily considered annual appropriations bills. All too often, continuing resolutions are passed with virtually no time for careful and thoughtful consideration.

Madam President, in the first session of the 97th Congress I introduced legislation which would switch the Federal Government to a 2-year budget cycle. I have noted with satisfaction that the biennial budget proposal is receiving greater attention in Congress these days. Momentum in support of a 2-year budget is growing. I believe it is because my colleagues and those students of the budgetary process can see the benefits of this proposal. A 2-year budget would—

Enlarge the timetable for consideration of regular budget resolutions and appropriations measures, avoiding the consequences of rushed-through continuing resolutions;

Allow additional time for Congress to conduct more meaningful and effective oversight;

Reduce the uncertainties which confront State and local governments annually over the future of federally funded programs;

Enable more long-range planning for Congress and Federal agencies and reduce the potential misuse of tax dollars by year-end spending sprees; and

Cut in half the budget tasks, saving valuable time, effort, and money.

It has been my experience that our present budget process has become increasingly unrealistic. The annual appropriations process was not working prior to the enactment of the Congressional Budget Act of 1974, and the additional requirements established by

that act have made things worse. Deluding ourselves that it does work has cost us dearly in time, money, and effort, but the greatest cost may be incalculable—the cost of poor decisions, made in haste, with inadequate consideration of the need or the consequences. The time has come for us to accept the realities that in our complex modern society, Government economic planning, budgeting, and appropriations simply cannot be constructively done in a 12-month period.

Madam President, I strongly believe both Congress and the executive branch can do a better job of budgeting by eliminating the pressures and haste of the annual appropriations process.

As has happened so many times in the past, we are several months into a new fiscal year without finishing acting on the various appropriations bills. This year, in fact, 10 of the 13 separate appropriations bills have not become law. Consequently, the Government is forced to operate day to day under a continuing resolution rather than legislative appropriations. This is a sad commentary on the budget process.

MX AND CSB

Mr. CRANSTON. Madam President, today I am cosponsoring Senator HOLLING's amendment to the Department of Defense appropriations bill for fiscal year 1983 which would eliminate all moneys for the production of the MX missile.

I am firmly opposed to any more spending on the MX.

There is no point in proceeding with production of the MX missile now since we have not identified a suitable basing mode for it. The Reagan administration's proposal for a closely spaced basing (CSB) mode will not lessen the vulnerability of our land-based ICBM force—which was a principal rationale for developing a new missile. Putting the highly accurate and lethal MX in a small concentrated area will create an extremely dangerous and tempting target for the Soviets. And the entire CSB scheme relies on extreme extrapolations of untested assumptions. The Pentagon's premises of missile fratricide, nuclear blast effects and silo hardening capabilities involve enormous uncertainties.

Even the administration tacitly acknowledges that its CSB scheme will not make our land-based ICBM force more survivable. President Reagan no longer speaks of closing the "window of vulnerability" which is probably a good thing since many of us never believed that such a window existed. Rather the President and his military advisers, paradoxically, now justify MX in CSB as an important bargaining chip for arms control negotiations. This is a mistake. Either we need a weapon system because it will help defend our national interests or we do not need it.

It is senseless and wrong to spend billions and billions of dollars to produce a weapon on the grounds that we need it to negotiate away at a bargaining table. We have more than enough chips already. Time and again history has shown that the weapons nations produce as bargaining chips are inevitably deployed—like the MIRV missile.

Another major justification the President's military advisers are advancing for the MX/CSB scheme is that the missile is needed to give the United States a hard-target-kill capability against Soviet command and control centers. But this will not improve deterrence; it will move both the United States and the Soviet Union perilously close to adopting a launch-on-warning policy. With the CSB proposal, the Reagan administration is proposing a radical re-definition of deterrence theory to now require the deployment of large numbers of destabilizing first strike weapons.

We do not need the MX to convince the Soviets that we are serious about defending our interests in the world. And we do not need this scheme to convince the Soviets that we are serious about arms control. In fact, the MX based in CSB will not promote arms control efforts. Instead, it will seriously undermine—if not destroy—two decades of work compiled through the SALT, ABM, and other arms control agreements.

The only way to verify the many, many assumptions on which CSB is based would be to resume atmospheric testing on a massive scale—an action that would violate the Limited Test Ban Treaty of 1963.

Leading military and diplomatic experts have stated they believe that MX in CSB would violate the ban in the SALT agreement on any new fixed-site missile launchers. Given the administration's request for funding for vast increases on ballistic missile defense R&D—$2.5 billion over the next 5 years—it is clear that the administration is eager to deploy a new antiballistic missile system. Any ABM system with a hope of even marginal effectiveness would violate the ABM Treaty.

Madam President, we have spent a decade trying to find a place to put this behemoth of a missile. We have put our best engineers in the civilian and military sectors to work on the problem. We have spent billions of dollars. We have gone through more than 30 basing schemes for MX. Each one is a bigger Edsel than the last. We have exhausted every reasonable alternative.

We have reached the point where we must decide whether to proceed with MX at all. We do not have time in this lameduck session to go into the detail that this question requires. But a missile without a basing mode is worse than useless because it drains precious defense resources.

I support the bipartisan effort to stop any further MX production because it is the most sensible step to take now. I hope that early in the next session of Congress we will come to grips with the fact that without a mission, a rationale, or a secure basing scheme, we are better off without MX.

DEPLORABLE CHEMICAL WEAPONS USED BY SOVIETS IN AFGHANISTAN AND IN LAOS AND KAMPUCHEA

Mr. PERCY. Madam President, my colleagues have by now read the press reports on the new evidence accumulated by the Department of State that lethal chemical weapons including mycotoxins are being used by the Soviets in Afghanistan and by Vietnamese and Laotian troops in Kampuchea and in Laos. The newest evidence includes Soviet gas masks from Afghanistan which bore traces of the toxins, and photographs of a 15-year-old Hmong boy who suffered severe effects from a yellow rain attack earlier this year. Mr. President, the evidence is compelling and the Department of State is to be commended for its determined pursuit of the facts in this matter.

Madam President, in the past year, the Wall Street Journal has contributed actively to the effort to bring attention to this issue and to convince skeptics through reports and editorials. Also, the Washington Post concluded today in an editorial that "Soviet chemical warfare goes on." I will ask that this editorial appear in the RECORD.

Deep humanitarian concern leads relief workers in the refugee camps to risk their own health and safety so close to the borders of Afghanistan, Laos, and Kampuchea. One of them, Dr. Amos Townsend, has collected information for the U.S. Embassy in Bangkok while employed by the International Rescue Committee. He recently reported to the United Nations team which spent 2½ weeks investigating the evidence of use of chemical weapons. Because of his long-time familiarity with Khmer, Hmong, and Thai and his medical expertise, I believe Dr. Townsend's report deserves wider coverage and I will ask unanimous consent that his remarks appear in the RECORD at the conclusion of my statement.

Dr. Townsend is convinced that chemical and toxin weapons have been in use in Laos since 1975 and in Kampuchea since 1979. He states that:

> Either the user or the supplier in Laos are using the Hmong to improve their knowledge and techniques of chemical weapons use and delivery.

Further, he predicts that the Vietnamese will attempt to close the Thai-Kampuchean border and "the least expensive mode of accomplishing this would be to use the long acting and more lethal chemical weapons agents that have been used at times in both Afghanistan and Laos." As a result, Dr. Townsend concludes that:

There is increased danger to the refugees and voluntary agency personnel working along the border in this coming dry season.

Dr. Townsend states that there is at present only "minimal concern" in the world about the use of chemical weapons in Southeast Asia and that this provides an "open invitation" to the Hanoi leadership. Therefore, while all nations must deplore the continuing inhuman use of chemical weapons in Southeast Asia and Afghanistan, we must continue to make strenuous efforts to bring attention to these atrocities. Those governments which have additional information on these weapons and their use should take every opportunity to keep the world's attention focused on this continuing tragedy so that soon the use of chemical weapons will cease.

Madam President, I ask that the articles to which I referred be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Dec. 1, 1982]

SOVIET CHEMICAL WAR GOES ON

It has been a long uphill climb for the United States, over two administrations, to draw attention to the Soviet Union's responsibility for chemical warfare violations—in Southeast Asia and in Afghanistan. The interesting question is why the general response has been so slow.

One reason has been the difficulty of assembling evidence to meet the standards required to sustain such charges. The scenes were remote, the victims simple people for whom "yellow rain" was but one of many travails. In the world at large, many people found it hard to believe the Soviet Union would sponsor and practice a barbarous form of warfare it had vowed in two treaties to forgo. Did people dismiss the threat on such disreputable grounds as that it mainly concerned more primitive folk or raised too many disturbing questions about the Soviet Union's worthiness as an American negotiating partner? Governments shied away from lending support to a charge that might be thought to arise from an American Cold War campaign. Nor did this administration help its case, always a difficult one to prove, by the manner in which it initially presented it.

It seems to us now, however, that the administration has proven out the Soviet pattern by a standard that reasonable people would accept. There are the blood and urine samples, there is the anecdotal evidence of refugees and survivors and—the latest—the receipt of toxin-contaminated Soviet gas masks from Afghanistan. As recently as six weeks ago, the State Department reports, Soviet forces were using lethal chemical weapons there. An international public that could weep for Lebanon surely can mourn the evident thousands of victims of Soviet chemicals in Afghanistan, Laos and Cambodia.

Soviet conduct has already had its impact in reinforcing American suspicions of the Kremlin. The impact elsewhere is less evident, notwithstanding the administration's efforts to make the issue more universally acceptable by avoiding presentation of it in stark East-West terms. Still, last Friday the United Nations did agree by a large margin to convene the parties to one of the international treaties Moscow has evidently broken, the biological weapons convention of 1972. Just this week, the General Assembly, acting after a Soviet undersecretary had stymied one investigation, set up another experts' panel that will report directly to the secretary general. The cause needs help. Soviet chemical warfare goes on.

STATEMENT FOR THE UN COMMISSION INVESTIGATING CW ALLEGATIONS

(By Dr. Amos Townsend)

Whereas my initial involvement had been very sporadic with 2½ months of information gathering and physical examinations among the Hmong in Loei and Nong Khai Provinces and a brief foray into Kampuchea to examine alleged CW victims among the Khmer Rouge soldiery (at the permission of my then boss, the Executive Secretary of the CCSDPT, Robert af Klinteberg of Sweden, I have been on full time loan to the US Embassy of Bangkok full time since January 1, 1982. This position has been with the concurrence and permission of IRC authorities. My financial support originates with Ambassador (for Refugees) Douglass and reaches me via IRC. My reporting channel is to both IRC and my two contacts in the Embassy, Lt. Col. Lane and Mr. Don Coleman, the latter replacing Mr. Ed McWilliams this past July 1982.

Since September 1 1982, Mrs. Andrea Crossland, a British Midwife with much experience with both the Hmong and the Khmer, has been working with me thus enabling me to cover more territory with greater facility. With Mrs. Crossland's assistance, it is hoped that not only will we be able to move fresh specimens quicker but we will at last be able to begin studies of an epidemiologic nature on possible chronic long term effects of the various CW agents that are now believed to be in use in SEA, particularly among the Hmong. It is also possible that others may join the effort to expand this work into the area of chronic pathophysiologic effects of these CW agents.

Since 1 January 1982, I have made many visits to the northern camps and to those along the Thai-Kampuchean border, interviewing and examining patients and, when appropriate, obtaining blood, urine and tissue specimens. These specimens are brought to the US Embassy for prompt movement to both USG and private laboratories in the USA. With the inclusion of earth, vegetation and "scraped" specimens as well, there must be well over 100 specimens now within the USA. I do not know the exact number for they also appear there from other sources including from private citizens as well as government employees. Although many of the specimens thus far tested have not shown any positive results, others have to a greater extent than I had ever anticipated. Once they began to look beyond the more traditional agents known up to last year by the USG, we found that a virtual Pandora's Box of information had been opened.

I do not think that it is useful to cover each case worked on by me over the past year, the useful results of which are released by the USG in due time whenever the authorities are fully confident of the results. Therefore, I shall give you my current impressions which you may wish to compare to our preliminary efforts up to November of 1981.

Thus far my impressions include the following:

1. CW agents of lethal and non-lethal varieties have been in use in SEA since at least 1975 in Laos and at least since 1979 in Kampuchea.

2. These CW agents are of a wide variety in effects elicited and lethality with patterns of use that vary with place and time. The level of general health and nutrition further widen the effects of the CW agents used on different peoples.

3. Since 1979, the pattern has been one of aircraft use in a variety of aircraft throughout both the wet and dry seasons. Many villages that are being hit are among those visited routinely by either Pathet Lao or PAVN troops, ie, villages under a degree of Pathet Lao control. Assessments of CW agents effects within those villages is not unusual in the days following their use. It is impossible to escape the impression that, at least in part, the use of CW agents against the Hmong is in the form of basic field experimentation using the "human laboratory animal" in his natural setting.

4. The variety of aircraft used in Laos to drop CW agents and the variety of symptoms described would indicate also or, in the very least, suggest that either the user or the supplier of CW weapons in Laos are using the Hmong to improve their knowledge and techniques of CW use and delivery. Since 1979 the use of aircraft for CW agent delivery has been almost the only form of delivery. Then Hmong are separated from PL or PAVN by distance, as is the case almost exclusively in Laos in contrast to Kampuchea, aircraft delivery provides little danger for the occupying forces.

5. The reports of VietNamese affected by their own CW agents has occurred almost exclusively in Kampuchea where even artillery has been used in a jungle setting where the troops of Khmer and VietNamese are in close proximity to each other. This would also suggest that the PAVN are not overly concerned with the loss of largely South VietNamese conscripts in Kampuchea.

6. With the economic disaster that is VietNam now and with the UN backing for the Coalition government of Kampuchea, as fragile as it might be, it is still obvious that VietNam still is willing to sacrifice their own people to retain ultimate control of Laos and Kampuchea. However, it is quite possible, even probable, that the Hanoi leaders will decide to close off the Thai-Kampuchean border to movement of all Khmer, civilian, refugee or merchant, and the resisting Khmer forces. The least expensive mode of accomplishing this would be to use the long acting and more lethal CW agents that have been used at times in both Afghanistan and Laos. I believe that there is increased danger, therefore, to the refugees and Volag personnel working along the border in this coming dry season.

7. CW agents will continue to be used in profusion in both countries and 'accidentally' in Thailand as well. The present minimal concern about CW use in SEA in the rest of the world is an open invitation to the Hanoi leadership. Even if the UN Commission presently investigating this problem were to conclude that lethal agents were indeed being used, I am quite convinced that the

same agents would still be used. Apathy seems to reign specifically along that segment of the world that most often suffers from CW use over the past 30 years.

8. Only the ability and will to retaliate in kind would stop any potential aggressor considering the use of lethal CW agents.

9. It is my impression that the CW agents used include those riot control and incapacitants . . . and possibly defoliants . . . left behind by the US forces as well as lethal chemicals supplied by the USSR. Whereas it is quite possible that some 'left over' Chinese CW weapon might be still used, I have heard of nothing like that. Some Chinese protective equipment of a ten year vintage has been noted, however.

10. Although Hanoi has more recently described 'normally occurring' episodes of 'yellow rain' like substances that have bothered them 'for centuries', I have yet to find any story, factual or mythological, among the Lao, Hmong, Khmer, Thai or even Viet-Namese from the North or South. It is also interesting to note that over the past 7 years the Hmong have been treated to a variety of explanations by the PL and PAVN. Initially they were told that it was 'only their imagination'. Later this was changed to 'it is the Americans who are dumping the material and trying to discredit the PL regime' . . . even with no 'US' planes being shot down. Later this was changed to the 'natural phenomenom' story over the past 1½ yrs. Most recently some Hmong reported that they were threatened with being shot on the spot if they attempted to pick up any of the CW agent that had been spread over their particular village. It is interesting that the PAVN has not tried to convince the opposing Khmer that the use of CW in Kampuchea was just a natural phenomenon.

11. I am convinced that more lethal CW weapons will soon be used in Kampuchea.

12. Recent pronouncements that have come from Hanoi refer to the placement of Thai troops more in an offensive pattern rather than defensive. This sounds similar to the old Hitler complaint that Polish troops were threatening the German border in 1939. One must wonder if this is also intended as a self-invitation for the invasion of Thailand . . . and not just an attempt to rid the Thai-Kampuchean border of all resisting Khmer.

13. There seems to be a concerted move in segments of the world press as well as from some capitols that would attempt to equate the non-lethal chemicals used prior to 1975 by the Americans with the obviously lethal ones in use now in SEA and Afghanistan. The world public is not very discerning about such matters until they are on the receiving end.

14. I believe that a Soviet made CW weapon containing lethal agent(s) will be obtained within the next 12 months.

WORKFARE—BENEFICIAL TO BOTH RECIPIENTS AND TAXPAYERS

Mr. HELMS. Madam President, I call to the attention of Senators that on November 8 a new program was begun in the food stamp program which I believe has the potential to improve dramatically the program's integrity.

Local governments and States may now begin operating a work-for-benefit program—popularly known as workfare—for able bodied food stamp recipients. Under the program, recipients work in public service jobs in exchange for their food stamps.

This local option workfare was added to the food stamp program as a result of legislation passed last year in the Food Stamp and Commodity Distribution Amendments of 1981 and earlier this year in the Omnibus Budget Reconciliation Act of 1982.

Madam President, I would have preferred to see the workfare program made a national requirement in the food stamp program, but that failing I am pleased to have been the author of the compromise providing for the local option which was enacted last year. It is a positive step in restoring the work ethic in our welfare programs.

Workfare is an excellent concept which benefits both the recipients and the taxpayers. Local governments and private nonprofit organizations receive the value of the public service work performed by workfare participants. The value of this work can be quite considerable to local or State governments and private nonprofit organizations.

The following article from the Wall Street Journal also notes that recipients of public assistance often experience a renewed sense of self-esteem when they participate in workfare programs inasmuch as they are then "earning" their assistance. This has been a common experience reported by many jurisdictions which have operated workfare programs in various public assistance programs. Workfare thereby fosters increased responsibility and self-motivation and an end to the "dependency" philosophy which has pervaded such programs in the past.

Nowhere can we do the able-bodied poor a greater service than to provide incentives for them to be integrated into the working mainstream of American society.

Another beneficial result is that exemplary workfare employees are often hired in full-time work by their employers. Indeed, the exposure to the work environment afforded by workfare can itself be useful preparation for such additional work responsibilities—initiated by the individual.

Many recipients who must work in a workfare system decide to seek full-time employment which they had previously avoided. Workfare's ultimate objective must be to encourage food stamp recipients to find employment. And those able-bodied recipients who refuse to work are removed from the food stamp program.

The Committee on Agriculture, Nutrition, and Forestry has recently published a summary of the new workfare program within the food stamp program that I would be glad to furnish to anyone interested in it.

I ask unanimous consent that the article from the October 28, 1982, Wall Street Journal, entitled "Many Welfare Clients Don't Seem to Mind Being Forced to Work," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

EARNING THE DOLE: MANY WELFARE CLIENTS DON'T SEEM TO MIND BEING FORCED TO WORK

(By Doron P. Levin)

CHARLESTON, W. VA.— Ten months ago, Otis Martin was summoned to an office of West Virginia's Department of Welfare. He was told that his welfare payments would be cut off if he didn't accept a six-day-a-month job at the publicly supported Charleston Animal Hospital—without pay.

So the 40-year-old Mr. Martin, who was laid off three years ago from the local Pontiac dealership, showed up at the animal hospital as ordered. In return for $240 a month in welfare payments, $200 a month in food stamps and Medicaid for himself, his wife of 20 years and two children. Mr. Martin cleans animal cages, pulls weeds and waits on people who come for sick or lost pets.

The job "isn't the kind of work I'd care to do if I had a choice," he says, adding, "I can't see a future in working here." He still hasn't given up hope of once again repairing and painting auto bodies. However, he expresses gratitude that at the animal hospital "they treat me like a regular employee" and not like someone to be despised because he is on the dole. "I'm working right now as hard as I ever worked. I'm doing the best that I can," he says. The hospital's director agrees; he prasies Mr. Martin's work and says he would hire him full time if he could.

UNLIKELY ADVOCATE

Some people say a policy of forcing able-bodied unemployed to do menial jobs in return for public assistance seems cruel. but Mr. Martin himself approves of workfare—labor traded for welfare—because he doesn't like people living off handouts and doesn't want anyone to believe that he lives that way. Workforce, he says without a trace of irony in his voice, "is going to make those people who lie around all day go out and work."

To a surprising extent, workfare is well received by many other welfare clients, too. Other areas of the country also are trying the idea, and it seems to be growing more respectable among social scientists, welfare workers and others who once condemned it as an atavistic, heartless response to poverty.

"A program like this helps people to maintain their work skills without stereotyping them as shirkers or loafers, and it gets some useful things done for the community," says Leon Ginsburg, West Virginia's commissioner of welfare.

Nevertheless, the programs raise some unanswered questions: Does workfare save money by shrinking the welfare rolls or does it cost extra money to run? Are labor unions correct in contending that workfare takes jobs away from their members and depresses wages? Can work requirements be fairly applied to the great majority of those on welfare—single mothers and their children?

EXPANDING PROGRAM

Whatever the answers, West Virginia's welfare department is pushing ahead. Since last January, it has put about 4,000 people to work in about 2,000 different jobs around

the state in government departments or in nonprofit agencies. The workers came from able-bodied, two-parent families receiving federal and state aid, of which there are more than 5,000 cases statewide. (A much larger category, single-parent families with children, accounts for about 20,000 cases. In West Virginia, destitute single people or childless couples can't qualify for welfare.)

West Virginia welfare officials say they have tried to pick the healthiest and most willing welfare clients from those who are eligible, under the assumption that they have the best chance of landing permanent jobs at workfare sites or moving into private industry.

Armed with three years of college, Edward Burgess fit into this category. The 26-year-old Mr. Burgess was laid off from his draftsman's job and applied for public assistance for himself, his wife and young child when he couldn't find another job. For two months, the Burgesses received $164 a month from the state, $184 in food stamps, and Medicaid benefits; in return, Mr. Burgess performed clerical tasks several days a month for the local chapter of the Multiple Sclerosis Foundation.

MEDICAL PROBLEMS

Articulate and tidily dressed, Mr. Burgess concedes that he probably could have found a minimum-wage job—grilling fast food, perhaps—that would pay at least $575 a month before taxes. That still would have left his family below the official poverty level, but he would have made more than his welfare check. He rejected that course, however, because his wife is expecting twins and their Medicaid benefits, which they need for the huge medical bills that are looming, would be withdrawn if he went off welfare.

"Look, I hate the welfare system," Mr. Burgess said, "Using food stamps is a very humbling experience, but... I can't afford to give up my Medicaid card." On nonworkfare days, he continued his search for a job "that pays at least $5 an hour."

Recently, the welfare department required Mr. Burgess to go to an interview for an opening at a shoe store. The store offered him a job at $138 a week plus some medical benefits, a welfare official says. If Mr. Burgess had refused the interview or the job offer, the official adds, he might have lost his public-assistance benefits for up to three months. Mr. Burgess took the job.

Many people on workfare cite its psychological benefits. "I love it," asserts 22-year-old William Lusher as he sorts through a truckload of discarded paper, glass and aluminum cans that belongs to the Citizens' Recycling Council of South Charleston. Mr. Lusher lost his job as a church maintenance man and now supports his wife and three children on $252 monthly from the welfare department and $260 in food stamps.

"Before I got this job, I didn't even want to cash my welfare check. Now that I'm working, I know I earned the money; I can go anywhere, and it doesn't bother me that I'm on welfare," Mr. Lusher says.

Welfare Supervisor Yvonne Stamper explains that "the typical West Virginian's mountain work ethic" and hatred of accepting charity are two important reasons most welfare recipients have been pleased to be assigned workfare.

Requiring work in return for public assistance is a complicated public policy with a long history of problems aside from the issue of whether participants like it. In 19th-century England and later in this country, the destitute sometimes were forced to toil in workhouses, often under abominable conditions, so that public assistance wouldn't seem too attractive. During the 1930s, the New Deal's Works Progress Administration gave the unemployed jobs in public projects, but President Roosevelt's opponents charged that the work being done wasn't necessary and that the wages weren't low enough to keep WPA jobs undesirable.

Except for scattered experiments, most workfare in the U.S. was precluded by law from federal assistance programs until the Budget Reconciliation Act of 1981, which permits states to impose workfare as long as the jobs don't displace workers already on payrolls. Labor unions continue to contend, however, that workfare does supplant their members, especially in government jobs, and drives down wages. In New York, District 37 of the American Federation of State, County and Municipal Employees has sued to get workfare recipients out of city departments.

BUNCH OF 'SCABS'?

"We want to get these people out of our jobs," says Karen Smith, the union's assistant general counsel. "It's a scab labor force, and it's becoming totally entrenched."

But city officials deny that workfare workers are replacing full-time employees, even though budget cutting has reduced the city's payroll at a time when 10,000 workfare recipients work for the city. "If (workfare) went away tomorrow, we wouldn't hire one more extra person to do their work," says Irwin Brooks, a commissioner in the Human Resources Administration.

Joining the public-employee union in its fight against New York's 11-year-old program is the Welfare Grant Increase Coalition, a group that explains legal rights to welfare recipients and lobbies to broaden their benefits. Coalition workers call workfare "institutionalized slavery" and say people forced into the program are being misled because they accept work in the belief that eventually they will be hired full time.

Shirley Portee is one New York aid recipient who considers workfare a failure because it hasn't led to a full-time job. In return for a $90 assistance check every two weeks and $70 a month in food stamps, the 46-year-old Mrs. Portee has to do 22 hours a month of clerical work at a Brooklyn welfare center. She says she prefers workfare to siting at home. "I love working," she says. "The people are very nice." However, she complains about the way job applications are handled. She failed the civil-service test once and will take it again, she says, but she believes that what she has learned on the job—such as operating a computer—should be considered in her efforts to get full-time work.

JOBS USUALLY BRIEF

Welfare officials in New York City say they are willing to hire when they can, and Martin Levine, who oversees workfare assignments, says several hundred nonuninformed employees have moved from workfare to full-time jobs. For the vast majority, though, a workfare assignment doesn't last more than several months. And if a person gets involved in a work-related dispute or refuses undesirable work, the department may cut off assistance, pending a "fair hearing" appeal.

Such disputes aren't unusual, Mrs. Levine says, "especially considering the nature of the population." He adds:

"We process alcoholics, people with drug problems if they aren't currently using, ex-convicts, transvestites. . . . The agencies we send these people to don't have to accept them, and if they're been rejected four or five times, we put them into a holding category so they can keep getting their checks."

Besides teaching job skills "and keeping people sharp," New York's Mr. Brooks says, workfare may save money by stimulating welfare recipients to find full-time jobs while helping the city. "We've never done a dollars-and-cents analysis, although I would guess there's some financial benefit from the cases we are able to close," he says. Other officials in New York hesitate to say whether there is a net gain or loss.

West Virginia's Mr. Ginsburg agrees that workfare is worthwhile, but he is convinced that it costs extra money. The West Virginia department, for example, must pay carfare and lunch money for each worker, which may cost about $25 a month, and employers must pay workmen's-compensation insurance premiums, which can run $400 a year. "Our program costs the state about $60,000—excluding the administrative expenses—and we'd like to add more jobs except we're limited by our budget," Mr. Ginsburg says.

The Reagan administration has proposed a mandatory, state-run workfare system applying to every able-bodied person receiving federal money. But so far, Mr. Reagan has won congressional approval only for changes in the law that allow optional programs. The 33 states with some kind of workfare legislation generally are moving cautiously with test programs covering only limited areas and types of welfare clients. Besides the ideological challenge from groups that view workfare as unjust, some social scientists have doubts about the program's value.

In response to this criticism, the Ford Foundation has just contributed $2 million to Manpower Demonstration Research Corp. to study workfare programs in 10 to 12 locations, including West Virginia, for three years.

An important aspect of the study, says Barbara Blum, Manpower's president, will be to see whether workfare helps "in the era when most women work." Because 80% of the 10.5 million people on welfare are dependent children and their abandoned or divorced mothers, any workfare program should offer child care and take into account the fact that "women want training and skills, too," Mrs. Blum says.

THE MARTYRDOM OF FATHER KOLBE

Mr. PROXMIRE. Madam President, last month a man who sacrificed his life so another could live was proclaimed a Saint of the Roman Catholic Church. Father Kolbe, a Polish priest, founded a monastery near Warsaw which became a haven for refugees during the Second World War. Suspected of being an enemy of the Third Reich, he was imprisoned at Auschwitz with a group of other Poles in 1941. A few months later, a member of the group escaped. Furious, the Nazis chose 10 men at random to die in retribution for their countryman's escape.

One of the men chosen was a 40-year-old peasant, with a wife and children. Father Kolbe stepped forward

and offered to die in place of the peasant, because, he said, the man had a family, and he was single and elderly. He said this despite the fact he was only 6 years older than the man.

Father Kolbe and nine others were condemned to a "hunger bunker," an underground cell where they were to stay until they perished of starvation. Throughout the long days and nights, he led the group in singing and prayer. He consoled the men facing their death with words of encouragement and hope. After 10 days, he and three others remained alive. Because the Nazis wanted to put a new batch of victims in the cell, Father Kolbe and the others were removed and injected with poison.

Pope John II called Father Kolbe "perhaps the brightest and most glittering figure to emerge from the darkness and degradation of the Nazi epoch." Father Kolbe's heroism is indeed remarkable, but he was not alone. Millions endured the same agony that he did during World War II. Pope John Paul urged those attending the ceremony to honor not only Father Kolbe, but all the other victims of hatred and genocide in this century.

Father Kolbe lives on today as a shining symbol of the triumph of the human spirit over horrible circumstances. But how can we insure that others will not endure a similar fate? The first step is to take a solid stand against its cause: genocide. The worst genocide in history occurred only 40 years ago, and this is a scar on our civilization, our century, our conscience. We can begin to heal that scar by ratifying the Genocide Convention, a treaty which makes genocide a crime under international law. In the name of Father Kolbe and the millions who died in a like fashion, I call upon the Senate to ratify the Genocide Convention.

TRENDS IN CONVENTIONAL ARMS TRANSFER TO THE THIRD WORLD BY MAJOR SUPPLIERS 1974-1981

Mr. PROXMIRE. Madam President, recently I discussed part I of a Congressional Research Service study on Trends in Conventional Arms Transfers to the Third World by Richard F. Grimmett. In his introductory remarks, Mr. Grimmett provided a thorough justification of what data should be included in any assessment of arms sales, transfers, and deliveries. He noted that for the purpose of his study, commercial sales and deliveries had been excluded since most of this went to Europe or other developed countries and in view of the lack of accuracy in the statistical base for commercial sales.

Construction sales and deliveries were included, however, since they play an important role in the Middle East—particularly Saudi Arabia. Similarly, military training was deemed important to include since it has a direct relationship to the sale of military hardware.

Today, in part II of this study, Mr. Grimmett examines the actual trends in sales and deliveries during the period of 1974-81. The trends show that U.S. sales agreements remained fairly constant over time while Soviet sales and deliveries indicated an upward growth in the later years. From 1974 to 1981 all the major Western European suppliers made real gains in their share of the conventional arms marketplace, with the French being particularly aggressive.

The growth of the French, British, West Germans, and Italians as major arms shippers signals the international flavor of this problem. Unilateral restraint no longer is the answer to the mushrooming arms sales business. We must have multilateral cooperation if the world is to halt this mammoth growth in arms shipments.

Madam President, I ask unanimous consent that part II of the CRS study be printed in the RECORD along with certain appropriate tables.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TRENDS 1974-81

Table 1 shows the annual current dollar values of arms transfer agreements with Third World countries by major suppliers from 1974 through 1981. As these data indicate, the value of U.S. arms sales agreements in nominal terms remained fairly level throughout this period until the uniquely low year of 1981. In constant dollar terms, taking inflation into account, the sales values actually declined over the eight years. This is true even if the MASF account (Military Assistance Service Fund that supported Asian forces in the South East Asian War Zone) is included for the pertinent years. The inclusion of terminated Iranian contracts also would not alter the validity of this basic generalization.

Tables 1A and 1B indicate that the nominal value of U.S. arms transfers from 1978-1981 averaged about $1.73 billion less than the value for the period from 1974-1977. Factoring inflation into these figures shows that the real value of these U.S. agreements declined.

The trends shown in Tables 1, 1A, and 1B for the Soviet Union indicate that in nominal (unadjusted for inflation) terms it averaged slightly more than $1.8 billion in sales agreements in 1978-1981 period compared to the 1974-1977 period. Even taking inflation into account, the Soviet Union made real market share gains in the eight year period from 1974-1981. However, comparing the U.S. and USSR during the entire 1974-1981 period, the United States made Third World sales in nominal terms that exceeded those of the USSR by about $9.1 billion. Yet in the more recent period, from 1978-1981, the Soviet Union sold about 2.5 billion more to the Third World than the United States did. The extraordinary nature of the Third World sales levels for all major suppliers in 1980 and 1981 suggest that the U.S. and the Soviet Union are probably close in nominal terms in Third World arms sales and that the 1982 data, when available, may very well prove this to be the case.

During the period from 1974-1981, the major Western European suppliers all made nominal and real gains in their shares of the conventional arms market in the Third World. Tables 1, 1A, and 1B show that French arms sales agreements averaged over $1.8 billion more in the 1978-1981 period compared to the 1974-1977 period. Of course, the extraordinary 1980 sales year skews the French totals higher. Nonetheless, the data clearly indicate that France is the major conventional arms seller after the United States and the Soviet Union. The United Kingdom, West Germany and Italy follow the French in descending rank order of sales agreements values in both the 1974-1977, and 1978-1981 periods. But it is clear that as individual sellers (and as an aggregate group) the British, West Germans, and Italians have played an important role in the conventional arms traffic during the years from 1974-1981. While their performance from year to year has not been as consistently high as the French, even taking inflation into account their net share of the arms market has grown in real terms compared to the United States.

TABLE 1—ARMS TRANSFER AGREEMENTS WITH THE THIRD WORLD, BY SUPPLIER [1]

[In millions of current U.S. dollars]

	1974	1975	1976 [2]	1977	1978	1979	1980	1981
Total	20,263	20,550	24,393	25,134	21,416	28,631	43,803	26,728
Non-Communist	13,323	16,120	16,578	14,454	17,526	18,321	27,533	12,828
Of which:								
United States	8,723	9,990	12,468	6,439	7,486	8,901	9,463	4,868
France	2,060	2,630	1,040	3,140	1,950	4,350	8,680	1,215
United Kingdom	750	940	600	1,415	3,860	1,270	2,170	1,460
West Germany	620	630	730	1,200	2,520	900	770	1,150
Italy	410	1,040	360	980	1,390	340	2,870	370
Other free world	760	890	1,380	1,280	320	2,560	3,580	3,765
Communist	6,940	4,430	7,815	10,680	3,890	10,310	16,270	13,900

TABLE 1—ARMS TRANSFER AGREEMENTS WITH THE THIRD WORLD, BY SUPPLIER [1]—Continued

[In millions of current U.S. dollars]

	1974	1975	1976 [2]	1977	1978	1979	1980	1981
Of which U.S.S.R.	5,970	3,670	6,600	9,750	2,920	8,880	14,770	6,630
Other Communist	970	760	1,215	930	970	1,430	1,500	7,270
Dollar inflation index (1974=100) [3]	100	109	117	125	134	144	160	181

[1] U.S. data are for fiscal year given (and cover the period from July 1, 1973 through September 30, 1981). Foreign data are for the calendar year given. Statistics shown for foreign countries are based upon estimated selling prices. All prices given include the values of weapons, spare parts, construction, all associated services, military assistance and training programs. U.S. commercial sales contract values are excluded, as are values of the Military Assistance Service Funded account (MASF) which provided grant funding for South Vietnam, Laos, Philippines, Thailand, and South Korea. MASF for FY 1974 was $840,000,000; for FY 1975 $544,000,000. Related grant transfers to South Korea and Thailand, also excluded, were $11,000,000 in FY 1979; $132,000,000 in FY 1980; and $100,000,000 for FY 1981. All data are current as of January 1, 1982, and reflect termination of all sales contracts. The value of Iranian contracts canceled but not included in the U.S. data above are as follows: FY 1974 ($390,000,000); FY 1975 ($1,157,000,000); FY 1976 and transitional quarter ($236,000,000; FY 1977 ($2,953,000,000); FY 1978 ($1,673,000,000); FY 1979 ($6,000,000); FY 1980 ($0). FY 1981 ($0). Third World category excludes Warsaw Pact nations, NATO nations, Europe, Japan, Australia, New Zealand.

[2] U.S. data for FY 1976 includes the transitional quarter (FY 197T).

[3] Based on Department of Defense Price Deflator (minus pension funds).

Source: U.S. Government.

TABLE 1A.—ARMS TRANSFER AGREEMENTS VALUES AVERAGES, TO THIRD WORLD BY SUPPLIER, 1974–77 [1]

[In millions of current U.S. dollars]

	1974	1975	1976 [2]	1977	Average (1974–77)
Total	20,263	20,550	24,393	25,134	22,585.00
Non-Communist	13,323	16,120	16,578	14,454	15,118.75
Of which:					
United States	8,723	9,990	12,468	6,439	9,405.00
France	2,060	2,630	1,040	3,140	2,217.50
United Kingdom	750	940	600	1,415	926.25
West Germany	620	630	730	1,200	795.00
Italy	410	1,040	360	980	697.50
Other free world	760	890	1,380	1,280	1,077.50
Communist	6,940	4,430	7,815	10,680	7,466.25
Of which: U.S.S.R	5,970	3,670	6,600	9,750	6,497.50
Other Communist	970	760	1,215	930	968.75
Dollar inflation index (1974=100) [3]	100	109	117	125	

[1] U.S. data are for fiscal year given (and cover the period from July 1, 1973 through Sept. 30, 1977). Foreign data are for the calendar year given. Statistics shown for foreign countries are based upon estimated selling prices. All prices given include the values of weapons, spare parts, construction, all associated services, military assistance and training programs. U.S. commercial sales contract values are excluded. as are values of the Military Assistance Service Funded account (MASF) which provided grant funding for South Vietnam, Laos, Philippines, Thailand, and South Korea, MASF for fiscal year 1974 was $840,000,000; for fiscal year 1975 $544,000,000. All data are current as of Jan. 1, 1982, and reflect termination of all sales contracts. The value of Iranian contracts cancelled but not included in the U.S. data above are as follows: Fiscal year 1974 ($390,000,000); fiscal year 1975 ($1,157,000,000); fiscal year 1976 and transitional quarter ($236,000,000); fiscal year 1977 ($2,953,000,000). Third World category excludes Warsaw Pact Nations, NATO nations, Europe, Japan, Australia, New Zealand.

[2] U.S. data for fiscal year 1976 includes the transitional quarter (fiscal year 197T).

[3] Based on Department of Defense Price Deflator (minus pension funds).

Source: U.S. Government.

TABLE 1B.—ARMS TRANSFER AGREEMENTS VALUES AVERAGES, TO THIRD WORLD BY SUPPLIER, 1978–81 [1]

[In millions of current U.S. dollars]

	1978	1979	1980	1981	Average (1978–81)
Total	21,416	28,631	43,803	26,723	30,144.50
Non-Communist	17,526	18,321	27,533	12,828	19,052.00
Of which:					
United States	7,486	8,901	9,463	4,868	7,679.50
France	1,950	4,350	8,680	1,215	4,048.75
United Kingdom	3,860	1,270	2,170	1,460	2,190.00
West Germany	2,520	900	770	1,150	1,335.00
Italy	1,390	340	2,870	370	1,242.50
Other free world	320	2,560	3,580	3,765	2,556.25
Communist	3,890	10,310	16,270	13,900	11,092.50
Of which: U.S.S.R	2,920	8,880	14,770	6,630	8,300.00
Other Communist	970	1,430	1,500	7,270	2,792.50
Dollar inflation index (1974=100) [2]	134	144	160	181	

[1] U.S. data are for fiscal year given (and cover the period from Oct. 1, 1977 through Sept. 30, 1981). Foreign data are for the calendar year given. Statistics shown for foreign countries are based upon estimated selling prices. All prices given include the values of weapons, spare parts, construction, all associated services, military assistance and training programs. U.S. commercial sales contract values are excluded, as are values of the Military Assistance Service Funded account (MASF) which provided grant funding for Thailand, and South Korea. Related grant transfers to South Korea and Thailand, also excluded, were $11,000,000 in fiscal year 1979; $132,000,000 in fiscal year 1980; and $100,000,000 for fiscal year 1981. All data are current as of Jan. 1, 1982, and reflect termination of all sales contracts. The value of Iranian contracts cancelled but not included in the U.S. data above are as follows: Fiscal year 1978 ($1,673,000,000); fiscal year 1979 ($6,000,000); fiscal year 1980 ($0); fiscal year 1981 ($0). Third World category excludes Warsaw Pact Nations, NATO nations, Europe, Japan, Australia, New Zealand.

[2] Based on Department of Defense Price Deflator (minus pension funds).

Source: U.S. Government.

THE CIVIL SERVICE RETIREMENT SYSTEM

Mr. STEVENS. Madam President, Tom Diaz, a columnist with the Washington Times newspaper, recently wrote a five-part series on reforming the civil service retirement system. Not only does he write in a very colorful fashion, but the substance of what he is saying should not go unnoticed. He takes on the very volatile issues of social security, unfunded liabilities and the adequacy of Federal retirement benefits. He also discusses the legislation I introduced to try and remedy some of these problems. I hope these articles will serve to educate us all on these important topics.

I ask unanimous consent that these articles be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington times, Sept. 28, 1982]

FEDERAL RETIREMENTS AND ALL THAT ANGER

(By Tom Diaz)

If you think this column is barely civil, read what L.J. (Lud) Andolsek, president of the National Association of Retired Federal Employees (NARFE) has said publicly about folks who want to tamper with the civil-service retirement system.

Taxpayer movements advocating civil-service retirement reform are "jackals of the forest" who are "feeding editorial writers all sorts of mischief and exaggerations and deceptions," Andolsek told the National Association of Postal Supervisors at their convention in August. (Andolsek characterized this "mischief" as "garbage" at a meeting of the Federal Business Association in Philadelphia last week).

Then we have "the sickening situation in which some editorial writers and some syndicated columnists are lapping up the above mischief and running with it as the gospel truth." The situation is "sickening," Andolsek told the Philadelphia meeting, because he remembers the day when reporters were "skeptical enough to ask themselves: Would you buy a used car from this guy?"

Should I blush and pull at my tie on that one? Do I suffer from tired skepticism? Have I bought any used cars lately?

Andolsek also lashes out regularly at that all-purpose demon of left liberal America, "Big Business," charging—no doubt correctly—that "corporate executives in every board room from Wall Street to San Francisco live in mortal fear of the day when they might have to negotiate cost-of-living adjustment in company pension plans which equal the federal plan . . ."

I purr like a pussy cat compared to Andolsek's snarl. The guy sounds like the ugly in a Sanka Brand Decaffeinated Coffee commerical, (These are merely Andolsek's public utterances. I was his guest at lunch two weeks ago, and in private he is . . . well, a bit saltier.

What has Andolsek and the half million members of NARFE worked up is not too much coffee, but the fact that Congress is going to take on the volatile chore of reforming the civil-service retirement system, perhaps as soon as the lame duck session after the November elections.

The vehicle of reform will be legislation which Republican Senator Ted Stevens, of Alaska has introduced. In a greatly simplified nutshell, that bill will put future civil servants into a three-tier retirement plan, and "grandfather" present employees into the existing plan.

The three tiers of the Stevens plan are a base of Social Security coverage, a second tier in the form of a fully funded government "defined contribution" plan, and an optional "thrift plan" at the third tier.

Andolsek has been pounding the lectern from Las Vegas to the city of Brotherly Love, urging active and retired civil servants to "take off the silken gloves of restraint . . . put on the boxing gloves and fight back."

Well, fill it to the rim with grim, because the next sound you hear will be this running dog of the jackals of the forest lapping up garbage and mischief. I've looked over the used car of the civil-service retirement system, and I think it's time to trade it in on the new one that Stevens is selling.

But don't let my unabashedly biased opinion be the last word. (If it were up to me, there wouldn't be any problem—the civil service would be so small we could fund its retirement system out of the interest on Teddy Kennedy's teeny-teniest trust fund.)

In the best spirit of used car journalism (after all, what if some cretin over at the FTC reads my columns and gets worked up into a lather about balancing the information marketplace). I'm going to park these

two vehicles side by side in the next several columns. Walk around, kick the tires, check the valve pressure and decide for yourself.

The first thing you need to know is that this subject is about as simple as the score to Mahler's Fifth Symphony transcribed for simultaneous play on 12 electronic synthesizers. What follows in these columns is a primer; I will list in the last column on the subject the names and addresses of sources of further information.

Do not call me to argue whether they key shifts to C major or to F sharp in the third measure of the first movement. I will be short tempered and rude with you. Instead, write or call the "expert." I am but a mere running dog.

Let it be sufficient unto today to lay out the basic arguments of the two sides of this epic struggle.

The jackals of the forest say that the civil-service and military retirement systems are bankrupting the country because of massive debt they are piling up, that federal workers' benefit are too rich compared to private workers, that the present system benefits only a few civil servants at the expense of many, and that integrating civil-service retirement into the Social Security system will make both systems more sound.

NARFE, federal unions, and various front groups they have organized say that these arguments are buncombe. They argue that the debt is overstated, retirement benefits are modest compensation for an inadequate pay structure, merging civil service with Social Security would cost more and wreck an essential recruiting inducement, and—besides all that—the government would be breaking its promise to federal workers if it changes the terms of the deal under which they signed up.

Next column: A walk in the forest of these issues. Wear high button leathers. Not only are there jackals out there in the boonies. There may be a few snakes in the grass too.

[From the Washington Times, Sept. 30, 1982]

UNFUNDED LIABILITY . . . A SHELL GAME

(By Tom Diaz)

Gather round the campfire, girls and boys, while your kindly Uncle Tom tosses on another log of truth. The dark night of the taxpayer revolt is closing in around Washington, and the woods are full of jackals, the grass undulating with the massed hiss of snakes.

As promised in my last column, we're out here in the dismal forest to look at the issues involved in the coming fight over reforming the civil service retirement system. For those who missed that column, here is a summary of the arguments being made as Congress prepares to consider Republican Sen. Ted Stevens' reform bill.

Those shining eyes out in the woods on the right side of the fire are various taxpayer organizations—called "jackals" by hizzoner Lud Andolsek, president of the National Association of Retired Federal Employees—who say that the federal civil service and military retirement systems are bankrupting the country because of the massive debt they are piling up.

The gospel according to the jackals is that federal retirement benefits are too rich, the system benefits only a few at the expense of many, costs too much, and integrating it with the Social Security system will make both systems more sound.

The hostile eyes on the other side of the trees are Andolsek's NARFE, federal unions, and their front groups. (For the sake of balance in the animal kingdom, let's call them "teddies.") The teddies get downright nasty abut the "garbage" the jackals are feeding us suckers in the press.

The truth according to the teddies is that the debt is overstated, retirement benefits are modest compensation for a poor pay scale, merging civil service retirement with Social Security would wreck both systems and kill the best recruiting point the government has, and the government would be breaking its promise to federal workers if it changes the deal now.

Don't you just love a good jungle story? Doesn't it make the short hairs on the back of your neck tingle?

Let's venture out beyond the fire.

The jackals say that the present debt, or "unfunded liability" of the civil service retirement system, is more than $450 billion. (The military system is about the same, for a total close to $1 trillion.)

The teddies say 'taint so, citing the system's board of actuaries who put the unfunded liability at "only" $166 billion. If there is any doubt which number is correct, they sniff, the government pays interest on the board of actuaries figure.

What is "unfunded liability?" you're groaning, and who cares? Watch closely, because this is just like the old pea under the shell game.

The first part is fairly easy. As time passes, workers earn rights under a retirement system— the system owes them benefits. But no one can know for certain how much the system owes in advance of any given year's actual experience, because some workers die, quit or become disabled. Also pay scales (upon which annuities are based) and benefits linked to inflation change in more or less unpredictable ways.

Any pension plan's administrators must therefore estimate how much the system owes its present and past employees—the system's liability. When what the retirement fund has on hand and what it expects to take in are less than the estimated liability, the liability is said to be "unfunded."

(Private plans are required by law to "fund," or put aside money, to meet that liability. At the other extreme is the military retirement plan, which is a "pay-as-you-go" system, meaning that it has no funded reserve—the taxpayers just kick in whatever is needed every year to meet the pension payroll.)

Everyone agrees the civil service system has a large unfunded liability. But, how much? Here is where the shells come in.

Actuaries can figure the liability on either a "static" or "dynamic" basis. Static calculations do not consider future pay increases or inflation-linked cost-of-living adjustments. Dynamic calculations do.

The jackals use the dynamic basis, and come up with $450 billion. The teddies whip a quick shell over that number and point out that the official board of actuaries for the civil service system uses a static basis, resulting in the lower figure.

What the teddies don't tell you is that when you lift the third shell, you find that the board uses static assumptions only because it is required to by law. It has urged Congress in its official reports to change over to the dynamic basis, because the static basis results in "an artificially low level of funding."

Static or dynamic, take your pick. You don't have to be bitten by a jackal or a snake in the grass to figure out for yourself which basis is more realistic.

But no matter how you figure it, the unfunded liability has grown by leaps and bounds in recent years, largely because of inflation's impact on COLAs. (The teddies also point out that it was big to begin with because the government did not kick in its share at all in the system's early days).

Why should anyone care about this unfunded liability? Because someone has to come up with the money to meet the liability, and that someone is John Q. Taxpayer.

John Q. cares. John Q. cares a whole lot.

[From the Washington Times, Oct. 5, 1982]

TARZAN TAKES TRIP IN PENSION JUNGLE

(By Tom Diaz)

Last week I began a series on the coming battle over reform of the civil service retirement system, of which this is the third column.

Now I know why Tarzan preferred life on the mountain top, among the Great Apes. Biting, nagging beasties slither and crawl through the underbrush of this subject. Diabolical traps spring down on any statement the commentator with a point of view dares make. Beautiful flowers sting. Vines wiggle to life, and firm ground turns to quicksand.

A more cold-hearted scribe would simply call in a strike of intellectual napalm, go home and pop open a 12-ounce tranquilizer. But the first thing they taught me in chimpanzee school was: "Never let go of the vine while swinging between trees."

So, hang on, Jane. Here we go again.

Is the present civil-service retirement system too generous? That depends on what one compares with what.

For example, one can analyze the question in terms of the dollar amount of civil-service annuities. But which civil-service annuities shall we compare with which private-sector annuities? The tiny taco of the short-service pensioner who retired at a low grade, or the big enchilada of a longer-service and higher-graded retiree?

At one extreme, former Rep. Hastings Keith—co-chairman of the National Committee on Public Employee Pension Systems, a reform action group—waves his combined civil service, Social Security and military pensions of more than $65,000 a year to illustrate his point that the system is too generous.

But this punch lands below the navel. The average annuitant gets nothing like $65,000 a year. According to figures given me by the Office of Personnel Management in August, the average annuity paid retirees in fiscal 1981 was $962 per month. (Some other sources put the figure at $1,036. Take your pick.)

On the other hand, the average civil-service pension is clearly vastly higher than the lowest common denominator of the private sector, Social Security, which awarded an average monthly benefit during 1981 of $386. This is especially so when one considers that most civil-service annuitants arrange to work long enough in the private sector to qualify for Social Security pensions on top of their government annuities.

Even so, only hard-core bureaucrat-bashers argue that the government ought to provide less for its servants' retired years than do reasonably enlightened corporations, which stack a corporate plan on top of the Social Security base. Which brings us to a more cogent comparison: How does the civil-service pension plan stack up next to a good corporate plan?

Too well, say its critics.

They hammer on two points that they say make the government's system too rich: Civil servants may retire at age 55 after 30

years of service, without reduction in their annuities. (Unlike their private sector counterparts, who must give up significant reductions even when allowed to retire so young.) And civil-service annuitants over age 62 enjoy cost-of-living adjustments that are fully indexed to the rate of inflation. (Almost no private plans provide this feature, and Social Security—which does—is in big financial trouble because of it.)

Opponents of reform argue that civil servants cannot really retire with full benefits at age 55. (According to a NARFE fact sheet, an age 55 annuity is figured at 56.25 of the highest three years average salary. It takes 41 years and 10 months of service to qualify for the maximum annuity of 80 percent of salary).

NARFE and others also argue that the "real enemy" is inflation, not the costly COLA's, which inflation triggers.

These are not frivolous points. But it is simply beyond reasonable argument that retirement at age 55 and indexed COLA's have enormous effects on the cost of the system, which the taxpayer ultimately has to bear.

And that leads to Thursday's topic: the taxpayer revolt, Social Security reform and all that.

[From the Washington Times, Oct. 7, 1982]

LION LURKS BEHIND PENSION REFORM

(By Tom Diaz)

For those who just joined the safari, this is the fourth in a series of columns exploring the jungle of issues involved in the fight over reform of the civil-service retirement system.

If you care about these things, you know that pressure has been building to change dramatically the government's pension system. (If you don't care, have patience, friend. I can see the snows of Kilimanjaro through the fringes of my next column, which will be the last on this subject for a while.)

Senate Republican Whip Ted Stevens has introduced legislation that would blanket present government employees into the old system and put new employees under a three-tiered system consisting of basic Social Security coverage, a government-funded "Defined contribution" plan on top of that, and an optional "thrift" plan for those who care enough to save the very most.

But Stevens' plan is a lamb next to the lion that is licking its chops off in the tall grass. That lion is universal Social Security coverage. Now, For all federal employees, present and future. Under terms that might be much harsher than those offered by Alaska's finest.

Civil servants are entitled to scratch their heads and ask, why us, O Lord? In search of the answer to that question let us navigate the swollen waters of that great river of taxes, which courses from the headwaters of John Q. Public's pockets through Babylon-on-Potomac.

That river has two great branches for purposes of today's lesson. The first is general-revenue funding of the civil-service retirement system.

An astonishing number of federal workers believe their retirement system is self-supporting, funded by their contributions and the matching contributions made by their agencies. The rude fact is that it is not. The system is pumped up by large taxpayer contributions out of general revenues.

Proponents and opponents of reform throw fiscal grenades at each other on the exact amount of what should be counted as taxpayer subsidy, as opposed to legitimate employer contributions. It is one of those things that depend on how much you count under which category.

Putting aside the argument over how to label the dollars, the amounts are instructive on their own merits. In 1981—quoting NARFE figures—employees paid $4 billion into the system, the government $18 billion and $6 billion more came into the system in interest payments.

Let us also put aside the equity argument (was it Uncle Sam's fault that we got to this state in the first place, and is it fair to change the rules now?). The point is that this $18 billion payment out of general tax revenues is the source of much of the reform pressure, especially since the share it represents has grown dramatically over the last 20 years, and is projected to rise even more in future years.

The other branch of the river of taxes is the Social Security system. In spite of popular misconception to the contrary, the Social Security system is not funded by some massive and prudently invested trust set aside for workers' golden years. It is for all practical purposes a pay-as-you-go system, which means present workers' payroll taxes come in one door, kiss the books of account and skip out the other door in the form of benefits payments.

The combination of inflation and chronic unemployment has kicked those benefits to such levels (Social Security has inflation-linked COLAs like the civil-service system) that something has to give soon—either changes in benefits (read, "reductions") or tax increases.

A blue-ribbon commission is studying what to do about that unpleasant reality, which brings us to the point at which the two rivers flow together. The temptation to bring government workers into the system will be overwhelming. According to a Senate aide, covering all government workers now would pump $60 billion into Social Security by 1990.

Thus, the lion licking its chops.

[From the Washington Times, Oct. 12, 1982]

THE MAIN EVENT—A DILLY OF A BATTLE

(By Tom Diaz)

Forget Dempsey and Firpo. Don't even mention Ali (nee Clay) and Frazier. The Thrilla' in Manila was a waltz compared with the duke fest coming up over reform of the federal pension system.

This is the last in a series of columns that have previewed the coming year's main event. Today we look over Sen. Ted Stevens' Civil Service Pension Reform Act of 1982. Does it fill the bill?

I say it does. But let me first dispose of one bit of cleverness associated with the Stevens bill. That is the advice being circulated now that the senator will not bring his bill to the floor until he has gained the support of federal employees for his reform.

Come on, Sen. Ted. You and I both know that it's either your bill or nothing for federal workers.

The chances are 999 out of 1,000 that the Social Security Reform Commission will recommend "universal coverage"—that is, bringing federal workers into the Social Security system—when it reports this winter. Not only has every other reform panel made that recommendation—in the past, but universal coverage may well be the only major short-term fix that can get through the Congress.

There is just no way that bringing civil servants into the Social Security system will not be seriously considered when Congress takes up Social Security reform, whether it be in the lame-duck session or in an early session in January.

When the hard bargaining begins, federal workers will either have the Stevens bill on the table or nothing, since their advocates have dug in their heels and failed to come up with anything better (or even different) to offer.

Which is the first point in favor of the Stevens legislation. Senate sources (outside of Stevens office and close to the Social Security reform issue) say that they have never seen a time when it seemed more likely that the Congress will bring civil servants under Social Security. The Stevens plan accepts that fact, uses it as a base and, then builds a total pension plan on top of it.

But there is much more than that pragmatic point to be said for the Stevens bill.

It allows all presently employed civil servants to stay in the old system if they choose, thus preserving the equity of past promises. It also allows them to switch, and some experts I have talked to say that they would expect most workers 45 and under to switch to the Stevens plan because—it is a better investment than the present system for workers in that age range.

Stevens' plan also cuts short the blank check on the Treasury, which the mounting unfunded liability represents, by replacing the present system's uncontrolled cost with a fully funded "defined contribution" plan. This means that the amount the government puts in is defined in advance. The amount of the annuity depends on the return on that investment.

Two more points strongly in favor of the Stevens plan: It will put a substantial part of the government's defined contribution to work in the nation's capital market, instead of simply soaking up capital through taxes. And the three out of four workers who leave the government before retirement age can now take the fully funded portion with them, which will be a healthy chunk of change.

I promised to list sources for further information. Space permits only two. They are as far apart on the issues as you can get: National Association of Retired Federal Employees, 1533 New Hampshire Ave. N.W., Washington, D.C. 20036 and Taxpayers for Federal Pension Reform, P.O. Box 7755, Philadelphia, Pa. 19101.

SENATE CONCURRENT RESOLUTION 128—RELATING TO MONETARY POLICY

COSPONSORS

Mr. ROBERT C. BYRD. Madam President, during yesterday's session I introduced Senate Concurrent Resolution 128, relating to this Nation's monetary policy, for myself and 40 of my colleagues. The names of those cosponsors were inadvertently omitted from the CONGRESSIONAL RECORD and I would now like to include the names of those Senators who have cosponsored this resolution with me: Senators BAUCUS, BENTSEN, BIDEN, BOREN, BRADLEY, BUMPERS, BURDICK, CANNON, CHILES, CRANSTON, DECONCINI, DIXON, DODD, EAGLETON, EXON, FORD, GLENN, HART, HEFLIN, HOLLINGS, HUDDLESTON,

INOUYE, JACKSON, JOHNSTON, KENNEDY, LEAHY, LEVIN, MATSUNAGA, MELCHER, METZENBAUM, MITCHELL, MOYNIHAN, PELL, PRYOR, RANDOLPH, RIEGLE, SARBANES, SASSER, STENNIS, and TSONGAS.

ROUTINE MORNING BUSINESS

(During the day, routine morning business was transacted and additional statements were submitted, as follows:)

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

FILLING THE STRATEGIC PETROLEUM RESERVE—MESSAGE FROM THE PRESIDENT—PM 197

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States; which was referred to the Committee on Energy and Natural Resources:

To the Congress of the United States:

This is to advise the Congress that pursuant to Section 160(c)(1)(B) of the Energy Policy and Conservation Act (Public Law 94-163) as amended by Section 4(a) of the Energy Emergency Preparedness Act of 1982 (Public Law 97-229), I find it would not be in the national interest to fill the Strategic Petroleum Reserve at the rate of 300,000 barrels per day during Fiscal Year 1983.

When my Administration took office 22 months ago, one of my first actions was to direct a rapid acceleration of the pace of oil acquisition for the Strategic Petroleum Reserve. As a result, the fill rate during Fiscal Year 1981 averaged over 290 thousand barrels per day. The fill rate for Fiscal Year 1982 averaged 215 thousand barrels per day. This contrasts sharply with the average fill rate of less than 77 thousand barrels per day achieved during the four years of the prior Administration. Of the 288 million barrels now in the Strategic Petroleum Reserve, 178 million barrels, or 61 percent, were added during my Administration.

This Administration has also entered into long-term purchase commitments that will give greater assurance of maintaining our fill rate objectives over the coming year while lowering the cost of building the reserve.

Another major policy action instituted at the start of this Administration—immediate decontrol of the domestic oil market—has also contributed greatly to our energy security by reducing oil imports and stimulating domestic production. In the 22 months of my Administration, oil imports have declined dramatically. Our dependence on imports from OPEC sources is now only 51 percent of the 1980 level.

As a result of rapidly implementing these policy actions to enhance our energy security, the oil on hand today in the Strategic Petroleum Reserve would provide 130 days of complete replacement for OPEC imports in the event of an embargo. That is nearly six times the level of protection our nation averaged in 1980.

The commitment of this Administration to building and maintaining an adequate Strategic Petroleum Reserve is clearly demonstrated by the record of accomplishment. But we are equally committed to carrying out this program in the most efficient, cost-effective manner. The fill rate at which we plan to operate during 1983 reflects a careful balance between these two objectives. To operate at the 300,000 barrel per day rate would require extensive use of temporary storage facilities, which would significantly increase the cost of the program for very limited incremental benefit.

I must also note that increasing our fill rate objective to 300,000 barrels per day in fiscal year 1983 would force additional expenditures of over $1 billion. In the current economic climate, I believe that this additional expenditure would be harmful to growth and job creation because of the increased Treasury borrowing it would necessitate. Compliance with the increased fill rate would thus be inappropriate due to economic conditions affecting the general welfare.

RONALD REAGAN.

THE WHITE HOUSE, *December 1, 1982.*

STRATEGIC PETROLEUM RESERVE DRAWDOWN PLAN MESSAGE FROM THE PRESIDENT—PM-198

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which was referred to the Committee on Energy and Natural Resources:

To the Congress of the United States:

In accordance with Sections 4(c) and 6(b) of the Energy Emergency Preparedness Act of 1982 (EEPA) (P.L. 97-229), I hereby transmit the Strategic Petroleum Reserve (SPR) Drawdown Plan, Amendment No. 4, and the Strategic Petroleum Reserve Drawdown and Distribution Report.

The purpose of the SPR Plan is to provide new procedures for the drawdown, sale and distribution of SPR oil in the event of a severe energy supply disruption, or to fulfill obligations of the United States under the International Energy Program. The SPR Report focuses on the basic procedures and policies governing the use of the SPR, as required by the EEPA.

RONALD REAGAN

THE WHITE HOUSE, *December 1, 1982.*

MESSAGE FROM THE HOUSE

At 4:34 p.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the bill (S. 3002) to increase the authorization of appropriations for the Allen J. Ellender fellowship program, and for other purposes, with amendments; it insists upon its amendments to the bill, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. PERKINS, Mr. FORD of Michigan, Mr. ANDREWS, Mr. MILLER of California, Mr. CORRADA, Mr. KILDEE, Mr. WILLIAMS of Montana, Mr. HAWKINS, Mr. BIAGGI, Mr. RATCHFORD, Mr. WASHINGTON, Mr. SMITH of Iowa, Mr. GOODLING, Mr. JEFFORDS, Mr. COLEMAN, Mr. ERDAHL, Mr. PETRI, Mrs. ROUKEMA, Mr. DENARDIS, Mr. CRAIG, Mr. ERLENBORN, and Mrs. FENWICK as managers of the conference on the part of the House.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 5447) to extend the Commodity Exchange Act, and for other purposes; asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and that the following be the managers of the conference on the part of the House: Mr. DE LA GARZA, Mr. JONES of Tennessee, Mr. BEDELL, Mr. GLICKMAN, Mr. DASCHLE, Mr. DORGAN, Mr. HARKIN, Mr. ENGLISH, Mr. PANETTA, Mr. WAMPLER, Mr. JEFFORDS, Mr. COLEMAN, Mr. ROBERTS of Kansas, Mr. SKEEN, Mr. GUNDERSON, and Mr. EVANS of Iowa. Mr. DINGELL, Mr. WIRTH, and Mr. BROYHILL, as additional conferees, for consideration of title I and section 237 of H.R. 5447 as passed by the House, and section 3 of the Senate amendment.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate.

H.R. 7158. An act making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain Independent Agencies for the fiscal year ending September 30, 1983, and for other purposes.

HOUSE BILL PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 7158. An act making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain Independent Agencies for the fiscal year ending September 30, 1983, and for other purposes.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-1243. A resolution adopted by the City Council of Berkeley, Calif., supporting the retention and maintenance of the Western Regional Research Center located in Albany, Calif.; to the Committee on Agriculture, Nutrition, and Forestry.

POM-1244. A resolution adopted by the Cuban American Party supporting the endorsement of Mr. Julio Garceran for admission to West Point; to the Committee on Armed Services.

POM-1245. A petition from a citizen of Bandera, Texas urging Congress to make our dollar "good as gold" by supporting Senate bill 6 to return America's currency to the gold standard; to the Committee on Banking, Housing, and Urban Affairs.

POM-1246. A resolution adopted by the Board of Governors of the National Association of Housing and Redevelopment Officials expressing their growing concern over the deteriorated financial circumstances with which their respective agencies are presently confronted; to the Committee on Banking, Housing, and Urban Affairs.

POM-1247. A resolution adopted by the American Association of Port Authorities relating to Federal permitting procedures for port projects; to the Committee on Commerce, Science, and Transportation.

POM-1248. A resolution adopted by the American Association of Port Authorities regarding continuing independence from Government control of port and terminal use and development; to the Committee on Commerce, Science, and Transportation.

POM-1249. A resolution adopted by the 16th Guam Legislature; to the Committee on Energy and Natural Resources.

"RESOLUTION No. 244

"Be it resolved by the Legislature of the Territory of Guam

"Whereas, Section 9-A, Subsection (c), of the Organic Act of Guam, as amended, provides that the Federal Comptroller shall bring to the attention of the Secretary of the Interior and the Governor of Guam all failures to collect amounts due and the use of property and expenditure of funds which are irregular; and

"Whereas, the audit reports submitted by Ben T. Fukutome, U.S. Government Comptroller for Guam, the Trust Territory of the Pacific Islands and the Commonwealth of the Northern Mariana Islands, have all been aimed at improving the efficiency of the government of Guam; and

"Whereas, Fukutome has presented objective, unbiased reports to the officials of the government of Guam; and

"Whereas, a few of the reports submitted by Fukutome are:

"(1) Annual audits of the government of Guam.

"(2) Government of Guam's payroll system (Report No. RG81). This audit stated that the government of Guam's system for time and attendance recording and reporting was not adequate to assure that employees have either worked or are on leave status for the hours reflected on their paychecks. This audit concluded that large sums of money are regularly paid outside the regular biweekly payroll as supplemental special payments without sufficient documentation as to the reason for payment or with proper approval.

"(3) Department of Revenue and Taxation (Report No. RG79-5). The Federal Comptroller's review of the Department of Revenue and Taxation (DRT) operations indicated that improvements were most needed in the management and administration of general taxes and property taxes. Particular attention was directed to tax collection, auditing of tax returns, contrary and safeguarding of tax return information, and assessing property taxes. This audit report revealed that delinquent income and business taxes had increased to over $1.5 Million as of June 30, 1978. The audit concluded that lack of time collection resulted in substantial revenue loss because: (i) businesses became bankrupt; (ii) taxpayers left the island; and (iii) taxes become uncollectible when the status of limitations expired; and

"Whereas, during his recent visit to Guam, Pedro San Juan promised the members of the Sixteenth Guam Legislature that he would be an advocate for the needs and interests of the people of Guam; and

"Whereas, the fuel oil contract between the Guam Power Authority and Coastal/Bermuda Limited is controversial in nature and of questionable validity; and

"Whereas, the members of the Sixteenth Guam Legislature believe that further investigation into the Coastal/Bermuda Limited contract may prove that significant savings could be realized by the people of the territory of Guam who now pay nearly three times the national average for electricity; and

"Whereas, the Governor requested the Government Comptroller to conduct an audit of the fuel oil contract entered into between Guam Power Authority and Coastal/Bermuda Limited, and pursuant to that request, the Government Comptroller instituted such an authority and

"Whereas, while the audit was in progress, Fukutome was personally directed by Pedro San Juan to cease his work on the matter; and

"Whereas, the members of the Sixteenth Guam Legislature has been pleased with Federal Comptroller Fukutome's previous work and the members of the Guam Legislature believe that Fukutome should be authorized to complete the investigation into the Coastal/Bermuda Limited contract; now, therefore, be it

"Resolved, That the members of the Sixteenth Guam Legislature request that Secretary Watt direct Assistant Secretary San Juan to direct Fukutome to complete his investigation on the Coastal-Bermuda Limited fuel oil contract with the Guam Power Authority; and be it further

"Resolved, That the Speaker certify to and the Legislative Secretary attest the adoption hereof and that copies of the same be thereafter transmitted to the President of the United States; to Mr. James G. Watt, Secretary of Interior; to Congressman A. B. Won Pat; to Mr. Pedro San Juan, Assistant Secretary of Interior; to the Comptroller General, General Accounting Office, Washington, D.C.; to the Chairman, Senate Committee on Energy and Natural Resources; to the Chairman, House Committee on Interior and Insular Affairs; to the Chairman of the Board of Directors, Guam Power Authority; and to the Governor of Guam."

Duly and regularly adopted on the 19th day of March 1982.

THOMAS C. CRISOSTOMO,
Legislative Secretary.
THOMAS V. C. TANAKA,
Speaker.

POM-1250. A resolution adopted by the 16th Guam Legislature; to the Committee on Energy and Natural Resources:

"RESOLUTION No. 349

"Be it resolved by the Legislature of the Territory of Guam:

"Whereas, serious questions have been raised about a possible cover-up in the Department of the Interior involving Assistant Secretary for Territorial and International Affairs Pedro Sanjuan and the Governor of Guam; and

"Whereas, Assistant Secretary Sanjuan, who last year pledged to work in the best interest of Guam, has interferred with the affairs of the government of Guam by removing the Government Comptroller during an investigation; and

"Whereas, the Government Comptroller, Ben T. Fukutome, was acting well within the duties of his assignment by investigating allegations that votes for the Primary Election had been "bought" with government funds by employing over 1,000 provisional employees—and Assistant Secretary Sanjuan's recall of Fukutome has clouded the credibility of Guam's electoral process; and

"Whereas, the Executive Branch is still hiring provisional employees; and

"Whereas, it is the sense of the Sixteenth Guam Legislature that it would be in the best interest of the people of Guam, as well as the taxpayers of America, if the Department of Justice were requested to probe this relationship and answer the questions that are being raised; and

"Whereas, it was only six months ago that the Guam Legislature adopted Resolution 244, a copy of which is attached, "Expressing the Guam Legislature's support for Ben T. Fukutome for his objective examination of the fuel oil supply contract between Guam Power Authority and Coastal/Bermuda Limited"; and

"Whereas, the Sixteenth Guam Legislature adopted Resolution 244 as a result of Sanjuan's recall of Fukutome, and his arbitrary assignment of a retired federal comptroller from American Samoa to complete the audit commenced by Fukutome; and

"Whereas, the audit vindicated Fukutome and the Sixteenth Guam Legislature; now, therefore, be it

"Resolved, that Assistant Secretary Sanjuan's latest recall of Fukutome over the provisional hirees, and his withholding of the Supply Management Division audit impels the Sixteenth Guam Legislature to request the President of the United States to direct the Federal Bureau of Investigation to investigate a possible cover-up by Assistant Secretary Sanjuan and the Governor of Guam and the former's involvement in the internal affairs of the government of Guam during an election year; and be it further

"Resolved, that it is the sense of the Sixteenth Guam Legislature for the justice to prevail the federal comptroller must be free to objectively analyze the expenditures of

Guam's public funds, in a timely manner so that honest public servants need not fear the results of audit; and be it further

"Resolved, that the members of the Sixteenth Guam Legislature request that the President of the United States direct the Secretary of the Interior to have the Government Comptroller for Guam immediately complete the audit concerning the provisional hirees; and be it further

"Resolved, that the Sixteenth Guam Legislature, on behalf of the people of Guam, does hereby express support for Fukutome's continuance as the Government Comptroller for Guam; and be it further

"Resolved, that the Speaker certify to and the Legislative Secretary attest the adoption hereof and that copies of the same be thereafter transmitted to the President of the United States; to the Vice President of the United States; to the President Pro tem of the United States Senate; to the Speaker of the United States House of Representatives; to the Secretary of the Interior; to the United States Attorney General; to the Comptroller General, General Accounting Office; to Guam's Delegate to the United States Congress; to the Chairman of the United States Senate Committee on Energy and Natural Resources; to the Chairman of the House Committee on Interior and Insular Affairs; and to the Governor of Guam."

POM-1251. A resolution adopted by the Miller Citizens Corp. of Gary, Ind., concerning a memorial for the late Adam Benjamin, Jr.; to the Committee on Energy and Natural Resources.

POM-1252. A resolution adopted by the city council of Berkeley, Calif., calling for a 1-year moratorium in connection with the Hardin Flat power project; to the Committee on Energy and Natural Resources.

POM-1253. A resolution adopted by the city council of the city of Raleigh, N.C., relating to the Environmental Protection Agency's proposed amendment to "Regulation of Fuels and Fuel Additives"; to the Committee on Environment and Public Works.

POM-1254. A resolution adopted by the Conference of State Sanitary Engineers urging Congress to amend the Clean Water Act (Public Law 92-500) to eliminate the requirements of a national pollutant discharge elimination system permit for water releases from reservoirs; to the Committee on Environment and Public Works.

POM-1255. A resolution adopted by the executive board of the Los Angeles City Council on Aging supporting the resolution on social security which was adopted by the California Senior Legislature at its 1982 session; to the Committee on Finance.

POM-1256. A resolution adopted by the city council of the city of Berkeley, Calif., urging that Federal and California State Legislatures enact enabling legislation which will make the cost of repairs or replacement of building sewer laterals fully deductible from Federal and California income taxes when these repairs or replacement are required by a sewering agency as part of an Environmental Protection Agency-certified infiltration/inflow correction program; to the Committee on Finance.

POM-1257. A resolution adopted by the city council of the city of Monroe, Mich., supporting the general revenue sharing program and urging the present administration and our congressional leaders to reauthorize this act; to the Committee on Finance.

POM-1258. A resolution adopted by the commission of the town of Lake Park, Fla. supporting the reauthorization of the general revenue sharing program after its expiration date; to the Committee on Finance.

POM-1259. A resolution adopted by the municipal council of the city of Paterson. N.J. urging the Congress of the United States of America to immediately initiate and enter into a mutual nuclear weapons freeze with the Soviet Union; to the Committee on Foreign Relations.

POM-1260. A resolution adopted by the Allegheny County Board of Commissioners of Pittsburgh, Pa., urging Congress to propose to the Soviet Union that both Governments immediately agree to a mutually verifiable freeze of all further development, testing, production, and deployment of nuclear warheads, missiles, and delivery systems; to the Committee on Foreign Relations.

POM-1261. A resolution adopted by the voters of the State of Wisconsin urging the Congress to negotiate a mutual nuclear weapons moratorium and reduction, with appropriate verification, with the Soviet Union and other nations; to the Committee on Foreign Relations.

POM-1262. A resolution adopted by a majority vote of the city of Kearney, Nebr., urging the U.S. Congress and the Soviet Union to agree to immediately halt the testing, production, and further deployment of all nuclear weapons, missiles, and delivery systems in a manner that could be checked and verified by both countries; to the Committee on Foreign Relations.

POM-1263. A petition from a citizen of Thousand Oaks, Calif., urging Congress to reject "the Gay Bill of Rights" and reaffirm traditional God-given morality; to the Committee on the Judiciary.

POM-1264. A concurrent resolution adopted by the Legislature of the State of Texas; to the Committee on Labor and Human Resources:

"HOUSE CONCURRENT RESOLUTION

"Whereas, the number of elderly persons in Texas is growing rapidly; the 1980 census reflects more than 1.9 million Texans age 60 and older, and the total is projected to increase to more than 3 million by the year 2000; and

"Whereas, the quality of life of senior citizens is very important, and insofar as possible, the aging should be able to enjoy within their own families and communities a life of fulfillment, health, security, and contentment and should be appreciated as an integral part of society; and

"Whereas, the great majority of these persons are able to live full and useful lives. For some, however, advancing age brings increasing dependence on their families, communities, and governments. Older people in this society should be able to participate in the full continuum of community life in order to enhance their physical and mental health; and

"Whereas, complex issues require a working partnership among individuals, families, communities, volunteers, private enterprise and government to plan for the most efficient and effective use of resources from every sector to meet the needs of our elderly population; and

"Whereas, being party of the work force is conducive to better mental and physical health, and appropriate opportunities for obtaining financial stability, through employment, public, private subsidies, or other forms of assistance pension should be fostered for the elderly; and

"Whereas, senior citizens in Texas have undertaken to help themselves by means of a statewide network of area agencies on aging sponsored by regional councils, local governments, and private nonprofit organizations through programs administered and supported by the Texas Department of Aging; and

"Whereas, improper nutrition is recognized as an acute problem among the elderly, with many older persons being unable to afford quality food for well-balanced diets or lacking mobility or incentive to prepare nutritious meals; and

"Whereas, proper nutrition is an essential component of good health and is essential for people to live productive, meaningful, and independent lives; now, therefore, be it

"Resolved by the Texas House of Representatives, the Senate concurring, That the 67th Legislature, 3rd Called Session, commend all components of the Texas State Aging Network for their outstanding efforts on behalf of the elderly; and, be it further

"Resolved, That the 67th Legislature recommend that meeting the needs of older persons be a continuing legislative commitment; and, be it further

"Resolved, That the Texas Legislature hereby respectfully memorialize the Congress of the United States to give priority consideration to providing adequate funding to maintain and strengthen comprehensive and coordinated services for the elderly citizens of our nation, particularly those services providing adequate and proper nutrition; and, be it further

"Resolved, That a copy of this resolution be prepared and forwarded to the President of the United States, the President of the Senate and the Speaker of the House of Representatives of the United States Congress, and all members of the Texas delegation to the Congress with the request that this resolution be officially entered in the Congressional Record as a memorial to the Congress of the United States of America."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 2631. A bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes (Rept. No. 97-670).

S. 2204. A bill to promote interstate commerce by prohibiting discrimination in the writing and selling of insurance contracts, and for other purposes (with minority views) (Rept. No. 97-671).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SPECTER:

S. 3055. A bill to authorize improved flood protection on the mainstem of the Susquehanna River in Luzerne County, Pa., and environs; to the Committee on Environment and Public Works.

S. 3056. A bill to authorize improved flood protection on portions of the west branch of the Susquehanna River in Lock Haven, Pa., and environs; to the Committee on Environment and Public Works.

S. 3057. A bill to authorize improved flood protection on the mainstem of the Susquehanna River in Harrisburg, Pa., and environs; to the Committee on Environment and Public Works.

S. 3058. A bill to authorize funds for beach erosion at Presque Isle Peninsula, Pa.; to the Committee on Environment and Public Works.

By Mr. HEINZ:

S. 3059. A bill to effectuate the congressional directive that accounts established under section 327 of the Garn-St Germain Depository Institutions Act of 1982 be directly equivalent and competitive with money market mutual funds; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HATFIELD (for himself, Mr. PACKWOOD, Mr. HART, Mr. KASTEN, Mr. HAYAKAWA, Mr. TSONGAS, Mr. LUGAR, Mr. CRANSTON, Mr. BUMPERS, Mr. HEINZ, Mr. PROXMIRE, AND MR. DURENBERGER):

S. 3060. A bill to amend section 7(b) of the Wild and Scenic Rivers Act; to the Committee on Energy and Natural Resources.

By Mr. MOYNIHAN (for himself, Mr. RANDOLPH, Mr. ROBERT C. BYRD, Mr. CRANSTON, Mr. INOUYE, Mr. KENNEDY, Mr. EAGLETON, Mr. RIEGLE, Mr. MATSUNAGA, Mr. MELCHER, Mr. BRADLEY, Mr. DIXON, Mr. HART, Mr. BAUCUS, Mr. LEVIN, Mr. JACKSON, AND MR. TSONGAS):

S. 3061. A bill to repair and rehabilitate Amercia's highways, roads, bridges, mass transit sytems, sewers, and water supply systems; to put Americans back to work carrying out needed public works repairs; and to develop a long-term national public works investment plan; to the Committee on Environment and Public Works.

By Mr. D'AMATO:

S.J. Res. 269. Joint resolution to designate December 11, 1982, as "Fiorello H. La Guardia Day."; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MOYNIHAN (for himself, Mr. STAFFORD and Mr. RANDOLPH):

S. Res. 498. A resolution prohibiting the sale of the U.S. Custom House at Bowling Green in New York City; to the Committee on Environment and Public Works.

By Mr. SPECTER:

S. Con. Res. 129. A concurrent resolution to express the sense of the Congress concerning the legal minimum age for drinking and purchasing alcohol; to the Committee on the Judiciary.

By Mr. SCHMITT (for himself and Mr. NUNN):

S. Con. Res. 130. A concurrent resolution expressing the sense of the Congress that the advancement of science and technology in the communications and electronics industry is vital to the needs of America; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SPECTER:

S. 3055. A bill to authorize improved flood protection on the mainstream of the Susquehanna River in Luzerne County, Pa., and environs; to the Committee on Environment and Public Works.

S. 3056. A bill to authorize improved flood protection on portions of the West Branch of the Susquehanna River in Lock Haven, Pa., and environs; to the Committee on Environment and Public Works.

S. 3057. A bill to authorize improved flood protection on the mainstream of the Susquehanna River in Harrisburg, Pa., and environs; to the Committee on Environment and Public Works.

S. 3058. A bill to authorize funds for beach erosion control at Presque Isle Peninsula, Pa.; to the Committee on Environment and Public Works.

(The remarks of Mr. SPECTER on the legislation appear earlier in today's RECORD.)

By Mr. HEINZ:

S. 3059. A bill to effectuate the Congressional directive that accounts established under section 327 of the Garn-St Germain Depository Institutions Act of 1982 be directly equivalent and competitive with money market mutual funds; to the Committee on Banking, Housing, and Urban Affairs.

LEGISLATION TO ALLOW BANKS TO COMPETE WITH MONEY MARKET FUNDS

● Mr. HEINZ. Mr. President, today I am introducing a bill that is essential to the ability of banks to be able to compete on an equal footing with money market mutual funds. For the past half century America's capital markets have led the world yet until the passage of the Garn-St Germain depository institutions amendments of 1982, the banking sector of these markets has struggled to keep afloat. Banks were shackled by outdated Government regulations that denied them the right to offer interest rates that could compete in today's markets.

Even under the new law banks that offer accounts that compete with money market funds must hold a portion of their customers money as noninterest bearing reserves at the Federal Reserve Banks. This legislation would provide that the Federal Reserve would pay interest to the depository institutions on those reserves. The result is that the money that a customer has in the new accounts that banks will offer beginning December 14 this year will be fully invested in interest bearing assets just as it is with money market mutual funds.

In the depository institutions amendments of 1982, Congress directed the Depository Institutions Deregulation Committee to authorize a deposit account that banks and thrifts could offer that would be "directly equivalent to and competitive with" money market mutual funds. Congress understood that without the ability to truly compete the bank depository base which is essential to homeownership, business prosperity, community development and monetary policy would continue to erode.

Although we have eliminated the shackles of interest ceilings, we will not have accomplished our goal of placing depository institutions on an equal footing with money market funds if we do not provide for the payment of interest on reserves held at the Federal Reserve Banks against the competitive account.

If a bank is to be required by the Federal Reserve Board to hold reserves against these accounts then funds on deposit at a bank when invested in securities identical to those a money market fund uses will result in a lesser rate of return to the customer. For example, if the Federal Reserve requires that a bank place 12 percent of the funds deposited in the competitive account in non-interest-bearing reserves, then the bank can only invest the remaining 88 percent. That will reduce the interest that a bank can earn for its depositors by more than 1¼ percent under current market conditions.

I commend this bill to my colleagues. We intended to set banks free to compete when we passed the Garn-St Germain depository institutions amendments. In keeping with the foresight of that policy I urge its swift approval.●

By Mr. HATFIELD (for himself, Mr. PACKWOOD, Mr. HART, Mr. KASTEN, Mr. HAYAKAWA, Mr. TSONGAS, Mr. LUGAR, Mr. CRANSTON, Mr. BUMPERS, Mr. HEINZ, Mr. PROXMIRE, and Mr. DURENBERGER):

S. 3060. A bill to amend section 7(b) of the Wild and Scenic Rivers Act; to the Committee on Energy and Natural Resources.

AMENDMENT OF WILD AND SCENIC RIVERS ACT

● Mr. HATFIELD. Mr. President, I am introducing today legislation to extend protection on 11 wild and scenic study rivers.

A recent article in American Forests magazine reminded me once again of the plight of our Nation's rivers and, most particularly, our recent inactivity under the National Wild and Scenic Rivers Act. The article states:

. . . expansion of the system has slowed down just as the economy has slowed. Studies have gone begging for funds; land acquisitions have been dropped; management plans for existing rivers in the system have not been developed or implemented; and the mechanisms for adding rivers to the system have been largely ignored.

Back in 1968 this Congress created under law a bold new policy:

That the established national policy of dams and other construction at appropriate sections of the rivers of the United States needs to be complemented by a policy that would preserve other selected rivers or sections thereof in their free-flowing condition to protect the water quality of such rivers

and to fulfill other vital national conservation purposes.

We began with great enthusiasm and considerable success. During the first 12 years of the act, 61 rivers totaling almost 7,000 miles were added to the Wild and Scenic Rivers System; another 88 rivers were designated for study for possible inclusion in the system.

Since 1980, however, we have been at a standstill. River studies have been completed and submitted to Congress, but we have taken no action. Two unique rivers in my home State—the Illinois and the Owyhee—have been recommended as additions to the national system. Their preservation as a part of our national river heritage is important to me, to the citizens of Oregon, and to the whole Nation—and I will work toward this goal.

This legislation takes a first step toward preservation of 11 worthy rivers, by extending the Federal protections that they enjoy as wild and scenic study rivers until Congress has given them full consideration through the hearings process. On those which have been recommended for State preservation, our action will simply allow State and local conservation efforts to progress without threat of Federal projects. The Upper Mississippi in Minnesota stands out as an example where a preservation strategy that involves local governments and citizens would receive a great boost from this bill.

Mr. President, this initiative will help breathe new life into the National Wild and Scenic Rivers System. It will keep the door open for saving the 11 rivers listed below and pave the way for the preservation of one of our great national treasures: Free-flowing rivers. Illinois (OR), Pine Creek (PA), Youghiogheny (PA), Encampment (CO), Housatonic (CT), Wisconsin (WI), Owyhee (OR), Shepaug (CT), Tuolumne (CA), Upper Mississippi (MN), and Kettle (MN).

I am pleased that Senators PACKWOOD, HART, KASTEN, HAYAKAWA, TSONGAS, LUGAR, CRANSTON, BUMPERS, HEINZ, PROXMIRE, and DURENBERGER are joining me in this effort.●

By Mr. MOYNIHAN (for himself, Mr. RANDOLPH, Mr. ROBERT C. BYRD, Mr. CRANSTON, Mr. INOUYE, Mr. KENNEDY, Mr. EAGLETON, Mr. RIEGLE, Mr. MATSUNAGA, Mr. MELCHER, Mr. BRADLEY, Mr. DIXON, Mr. HART, Mr. BAUCUS, Mr. LEVIN, Mr. JACKSON, and Mr. TSONGAS):

S. 3061. A bill to repair and rehabilitate America's highways, roads, bridges, mass transit systems, sewers, and water supply systems; to put Americans back to work carrying out needed public works repairs; and to develop a long-term national public works investment plan; to the Committee on Environment and Public Works.

PUBLIC IMPROVEMENTS REPAIR ACT OF 1982

● Mr. MOYNIHAN. Mr. President, I rise to introduce a bill to put Americans back to work repairing and rehabilitating our highways, bridges, mass transit systems, sewers, and water supply facilities. The bill also requires a long-term national public works investment plan. It is my pleasure to have as cosponsors of this measure so many of my Democratic colleagues. We anticipate that the Senate Democratic Caucus will agree on a package of job-creating public works proposals and other measures to mitigate our tragic unemployment problem. This bill will be one of its principal components, though we are still open to suggested improvements or refinements.

Our bill differs from what we understand the administration and Senate Republicans have thus far proposed. First, spending will be directed to repair and rehabilitation projects, as against new construction. Repair work puts people back on the job faster than new construction. If we spend $6 billion for the accelerated public works repair and rehabilitation effort I propose, we will create an estimated 350,000 to 500,000 jobs, both on-site and off.

The second important difference is that projects to rehabilitate water supply distribution systems and sewer lines are included in the package I propose along with highway, bridge, and mass transit projects. Water systems are critical components of the infrastructure. We neglect them at our peril. Moreover, including water systems in the infrastructure proposal I have set forth addresses what is, perhaps, the largest disagreement of consequence in the encouragingly bipartisan work on a public works proposal. Directing money toward water system repair will both fund those projects of greatest merit and target money to areas of highest unemployment. Deteriorating water systems are, in the main, located in older urban areas that coincide with concentrations of unemployed persons.

In but several weeks, the subject of public works has risen from relative obscurity to an acknowledged first step toward putting some of the Nation's 11.6 million jobless persons back to work; 10 percent of those unemployed work in the construction trades. Accelerating existing programs for repair of essential public facilities is an expeditious and efficient means of providing short-term employment. Employment, we should note, that is neither dead-end nor make-work.

Yet, we will have failed to make a distinctive contribution to the jobs bill now being developed if we fail to bring rationality and long-term planning to public works investment. The need is dramatized, surely, by the fact that during the 1970's, we were disinvesting in our highways, roads, bridges, mass transit, water and sewer networks—and nobody even knew.

Between 1968 and 1977, public works investment in constant dollars declined at an average annual rate of 3.7 percent. By 1980, total public works investment by all levels of government dropped to $26 billion, as against the 1970 level of $38 billion. Though these facts are not in dispute, neither were they contained in any of the budget information provided to Congress. Nowhere are the data on infrastructure investment assembled in a fashion that makes such analysis accessible.

For this reason, I propose a national inventory of our civilian public works needs, and a means of budgeting for these needs over the long term. Most States and municipalities have what are known as "capital budgets" that are set apart from their annual operating budgets; the differences being that the capital budgets are typically financed by borrowing, that is, bonds. That is not our purpose.

What we propose, instead, is that the existing unified budget have a portion that is simply identified as consisting of capital projects. In that way, we can keep track of capital outlays and assemble the budget information and formats that accurately express the level of receipts, expenditures, and investment in our capital goods. In effect, if you will, a capital investment program.

The essentials of this program and the inventory of our needs will be drawn by a national commission staffed by the Army Corps of Engineers and financed from existing Government resources. The commission will address issues related to public works investment as well as coordinating the plan for such investment. We need to understand better, for example, how the Tax Code influences public investment. (One begins to suspect that the huge tax advantages recently given to private investment are going to put public investment at a comparative disadvantage.)

To sum, we should have a proposal that addresses an immediate need—jobs for the unemployed—with a solution of both temporary and long-term benefit—repairing deteriorating public works now and settling the question of how we should do so in the future.

I ask that a copy of the bill, a summary of the bill, and two tables demonstrating the funding provisions be printed in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3061

Be it enacted by the Senate and House of Representatives of the United States of

America in Congress assembled, That the Congress hereby finds and declares that—

(1) America's highways, roads, bridges, mass transit systems, and sewer and water supply systems are in a state of disrepair or deterioration so serious as to impede drastically the nation's economic well-being and capacity for growth;

(2) the nation's unemployment rate is exceptionally and unacceptably high and that among those unemployed are large numbers of workers capable of repairing or rebuilding the deteriorated public improvements impairing the nation's economic well-being;

(3) a program of Federal support for repairing and rebuilding deteriorated public improvements can put Americans back to work rapidly, performing work that is critically needed;

(4) long-term planning must begin now to halt further disinvestment in public improvements, to rebuild seriously deteriorated public improvements, and to lay the foundation for sound future investment in public improvements.

TITLE I—PUBLIC IMPROVEMENTS REPAIR ACT

TITLE

SEC. 101. This Title shall be cited as the "Public Improvements Repair Act of 1982."

GENERAL AUTHORITIES AND ELIGIBILITY CRITERIA

SEC. 102. (a) Funds authorized under this Title are in addition to any funds heretofore or otherwise authorized for fiscal year 1983 under any enactment or resolution of the Congress.

(b) A project to repair, rehabilitate, or replace existing Interstate highways, primary, secondary, or urban roads, bridges, mass transit systems, and sewer and water supply lines, shall be eligible for funding pursuant to this Title, provided: that it meets all requirements of the legal authorities cited herein under which funds are provided, except such provisions of law or regulation as are specifically exempted by the provisions of this Title, and, in addition, that the State, city or other unit of local government applying for funding certifies to the appropriate Federal agency, that—

(1) any required non-Federal share of project funding will be made available prior to the start of actual repair or rebuilding work;

(2) actual repair or rebuilding work will begin within 120 days of notification that Federal funds will be made available for the project; and

(3) the repair or rebuilding work can and will be accomplished within two years of its initiation, barring unforeseeable difficulties.

(c) Federal agencies administering funding pursuant to this Title shall have authority to withdraw funding at any time that they determine that the provisions of this section, or of other applicable Federal authorities, are being violated.

INTERSTATE HIGHWAY REHABILITATION

SEC. 103.(a) The Secretary of Transportation is authorized to make grants to the States for projects for resurfacing, restoring, rehabilitating or reconstructing the Interstate System in accordance with 23 U.S.C. 119. Projects approved under this section shall be limited to those which meet all eligibility criteria set forth in Section 102 of this Act.

(b) Funds authorized by subsection (c) of this section shall be apportioned in accordance with the formula provided in section 104(b) (B) of 23 U.S.C.

(c) There is hereby authorized to be appropriated out of the Highway Trust Fund in addition to any other funds authorized for Interstate System Rehabilitation, not to exceed $1,000,000,000 for the fiscal year ending September 30, 1983 for projects approved by the Secretary of Transportation pursuant to subsection (a) of this section.

(d) Funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under Chapter 1 of Title 23 U.S.C.

PRIMARY, SECONDARY OR URBAN ROAD REHABILITATION

SEC. 104. (a) The Secretary of Transportation is authorized to make grants to the States for projects for repair, resurfacing or rehabilitation of routes on the Federal-aid primary, secondary or urban systems. Projects approved under this section shall be limited to those which meet all the eligibility criteria set forth in Section 102 of this Act.

(b) Funds authorized by subsection (c) of this section shall be apportioned in accordance with the following formula:

one-half in accordance with the formula provided in section 104(b)(1) of Title 23 U.S.C.;

one-fourth in accordance with the formula provided in section 104(b)(2) of Title 23 U.S.C.;

one-fourth in accordance with the formula provided in section 104(b)(6) of Title 23.

(c) There is authorized to be appropriated out of the Highway Trust Fund, not to exceed $2,000,000,000 for the fiscal year ending September 30, 1983 for projects approved by the Secretary of Transportation pursuant to subsection (a) of this section. Funds authorized by this section shall be in addition to those regularly authorized by Federal-aid highway acts for the designated systems.

(d) Funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under Chapter 1 of Title 23 U.S.C.

BRIDGE REHABILITATION

SEC. 106. (a) The Secretary of Transportation is authorized to make grants to the States for replacement or rehabilitation of structurally deficient bridges on the Federal-aid system as provided in 23 U.S.C. 144. Projects approved under this section shall be limited to those which meet all the eligibility criteria set forth in Section 102 of this Act.

(b) Funds authorized by subsection (c) of this section shall be apportioned to the States in accordance with revised Table 1 of Committee Print 95-49 of the Committee on Public Works and Transportation of the House of Representatives.

(c) There is authorized to be appropriated out of the Highway Trust Fund, not to exceed $1,000,000,000 for the fiscal year ending September 30, 1983, for the projects approved by the Secretary of Transportation pursuant to subsection (a) of this section. Funds authorized by this section shall be in addition to those regularly authorized for bridge repair or replacement under Federal-aid highway acts.

(d) Funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under Chapter 1 of Title 23 U.S.C.

MASS TRANSIT REPAIR AND REHABILITATION

SEC. 106. (a) The Secretary of Transportation is authorized to make grants to urbanized areas or parts thereof for mass transit systems pursuant to the provisions of the Urban Mass Transportation Act of 1964, as amended.

(b) There is authorized to be appropriated out of the Highway Trust Fund an amount not to exceed $1,000,000,000 for the fiscal year ending September 30, 1983, to carry out the purpose of subsection (a) of this section.

REHABILITATION OF SEWERS AND WATER MAINS

SEC. 107. (a)(1) The Administrator of the Environmental Protection Agency is authorized to make grants to any municipality, State, or interstate agency for (A) major sewer system rehabilitation or (B) major repair or rehabilitation of municipal water supply delivery systems. All such grants shall be made in accordance with the eligibility criteria set forth in section 102 for this Act.

(2) Any grant for major sewer system rehabilitation shall be made in accordance with the provisions of title II of the Federal Water Pollution Control Act, for a project eligible under that title but not expected to be funded under that title during the fiscal year in which this Act is enacted.

(3) Any grant for major repair or rehabilitation of a municipal water supply delivery system shall be deemed awarded, unless the Administrator, within 60 days of the receipt of an application for such grant adequately describing the proposed project and on the basis of regulations governing such grants issued with 45 days after the enactment of this Act, determines that such grant is not in accordance with this section or section 102 of this Act, or that insufficient money is available for such project and other projects for which timely applications have been received.

(b)(1) There are authorized to be appropriated not to exceed $1,000,000,000 for the fiscal year ending September 30, 1983, to carry out this section.

(2) All sums appropriated under this section shall be allotted pursuant to the provisions of section 106 of the Housing and Community Development Act of 1974.

(c) As used in this section the terms "municipality", "State", and "interstate agency" shall have the meaning given in section 502 of the Federal Water Pollution Control Act, and the term "major sewer system rehabilitation" shall have the meaning as used in title II of the Federal Water Pollution Control Act.

TITLE II—REBUILDING OF AMERICA ACT

SEC. 201. This title shall be cited as the "Rebuilding of America Act of 1982."

FINDINGS

SEC. 202. The Congress finds and declares that—

(a) highways, roads, bridges, mass transit systems and water supply and sewer systems are public improvements vital to national development and prosperity;

(b) public works investment in the United States has declined at an alarming rate over the last decade and has resulted in the poor condition of much of our public improvements;

(c) the national costs of deteriorated public improvements are significantly higher than the costs of repairing, rehabilitating, improving or replacing existing facilities;

(d) the Federal Government is responsible for one-half of all public works investment

in the United States through grants in aid and direct investment;

(e) the Federal Government has no institutional means of formulating a comprehensive national public improvements plan and ordering national priorities; and

(f) direct Federal public works investment has been spread unevenly throughout the regions of the Nation.

POLICY

SEC. 203. It is the policy of the Congress that—

(a) States and local governments shall retain their traditional primacy in decisions affecting the use of land and water within their jurisdictions;

(b) the Federal Government shall adopt practices and procedures that will lead to regionally balanced economic development;

(c) prior Federal involvement in a national public improvement shall be a primary consideration but not a sole determinant in establishing future national priorities; and

(d) disincentives for maintaining, repairing, rehabilitating, and replacing deteriorating national public improvements that now exist in Federal laws and regulations shall be corrected to encourage the most economically efficient pattern of investment in public improvements by the Federal Government.

NATIONAL INVENTORY OF PUBLIC IMPROVEMENTS

SEC. 204. The National Commission on the Rebuilding of America, established pursuant to section 208 and hereinafter referred to as the "Commission", shall conduct an inventory of existing major public improvements by region, State, and major metropolitan area of the United States and by type of facility, surveying especially—

(i) age and condition of the facility;

(ii) trends in the condition of the facility over the last twenty years and the relation of those trends to usage and maintenance schedules;

(iii) means of financing the maintenance, repair, rehabilitation, replacement, and new construction of facilities;

(iv) comparison of condition of public improvements within a region, State, or major metropolitan area and the pattern of economic development over the last twenty years; and

(v) trends in public expenditures for maintenance, repair, rehabilitation, replacement, and new construction of public improvements by region, State, and major metropolitan area and by level of government.

DEVELOPMENT OF A NATIONAL PUBLIC IMPROVEMENTS PLAN

SEC. 205. (a) The Commission shall develop a National Public Improvements Plan, hereinafter referred to as the "Plan," listing in priority order, needed maintenance, repair, rehabilitation, or replacement of public improvements in each region, for the next ten and twenty years, or such other time periods as the Commission may deem appropriate, to sustain regionally balanced national economic development. Priorities shall be listed by type of facility for the Nation as a whole and for each region, and shall further consider the relative priorities among the various types of facilities. The Plan shall include recommended means of financing the needed maintenance, repair, rehabilitation and replacement, taking into account the least-cost life-cycle costs of developing and maintaining national public improvements and the appropriate mix of Federal, State, and local resources to implement the Plan. The Commission shall consider prior Federal involvement, level of prior maintenance, and regional equity in its recommendations on financing the Plan.

(b) As an integral part of the Plan, the Commission shall suggest specific revisions in Federal laws, regulations, and policies and further suggest alterations in the current responsibilities of Federal, State, and local governments that may be necessary to reverse the pattern of disinvestment in national public improvements and sustain economic development. The Commission shall include analyses and recommendations in accordance with policies set forth in section 203 concerning—

(i) the report of the Comptroller General to the Congress, submitted pursuant to section 206 of this Act, on identifying Federal civilian capital investment outlays in the unified Federal budget;

(ii) changes in the imposition or allocation of excise taxes, user fees, other sources of public revenue, and borrowing authorities;

(iii) statutory or regulatory revisions in grants-in-aid, direct construction, or subsidy programs that would eliminate corruption, waste, and delay; that would encourage consideration of least-cost life-cycle costs in developing and maintaining facilities; and that would correct regional imbalances and disincentives for maintenance of facilities in Federal programs; and

(iv) the desirability and feasibility of scheduling public improvements construction and major renovation work in a manner counter to national or regional economic cycles in order to reduce the cost of such work and to dampen economic fluctuations.

REPORT ON IDENTIFYING CIVILIAN CAPITAL INVESTMENT IN THE FEDERAL BUDGET

SEC. 206. (a) Within six months of enactment of this Act, the Comptroller General shall submit to the Committee on Environment and Public Works and the Committee on the Budget of the Senate and to the Committee on Public Works and Transportation and the Committee on the Budget of the House of Representatives, model unified budgets, for the fiscal year in which this Act is enacted and for the immediately preceding fiscal year, that distinguish Federal civilian capital investment outlays from other Federal outlays.

(b) Along with the model unified budgets, the Comptroller General shall submit a report including—

(1) a description of how the model budgets differ from existing Federal budget documents;

(2) an analysis of the usefulness of the model budgets in identifying investment and disinvestment in needed public improvements;

(3) an analysis of the usefulness of the model budgets in identifying appropriate programs and amounts of Federal fiscal support in building, maintaining, and repairing needed public improvements; and

(4) an analysis comparing the usefulness of a separate capital budget with the model unified budgets for the purposes of identifying investment and disinvestment in, and appropriate Federal programs and amounts of Federal fiscal support for needed public improvements.

PROCEDURES

SEC. 207. (a) The Commission shall submit to Congress and the President, not later than one year from the date of enactment of this Act, the national inventory of public improvements required pursuant to section 204.

(b) Not later than eighteen months after enactment of this Act, the Commission shall submit to Congress and the President a draft Plan required pursuant to section 205. For purposes of soliciting and considering public comment, the Commission shall further distribute the draft Plan to affected Federal agencies, all Members of Congress, major public interest groups, the Governors of the States, local officials, and make the report generally available to the public. All affected Federal agencies shall submit written comments to the Commission within thirty days.

(c) Not later than twenty-four months after the enactment of this Act, the Commission shall submit to the Congress and the President the final version of the Plan pursuant to section 205.

(d) Unless the Congress enacts a joint resolution of disapproval of that portion of the Plan required pursuant to subsection 205(a) within one hundred and twenty calendar days of receipt of the final Plan, that portion of the Plan shall be deemed to be approved by the Congress and shall be the policy of the Federal Government: *Provided, however,* That no statute or regulation of the Federal Government, of a State or political subdivision thereof shall be in any way altered by congressional approval of that portion of the Plan pursuant to subsection 205(a).

(e) The Senate Environment and Public Works Committee and House Public Works and Transportation Committee shall hold hearings on the proposed changes in existing law pursuant to section 205 and shall report legislative proposals to the Senate and House of Representatives regarding such changes within one hundred and eighty days of receipt of the Plan to permit full Federal implementation of the Plan.

ESTABLISHMENT OF THE COMMISSION

SEC. 208. (a) There is hereby established a National Commission on the Rebuilding of America which shall assess the condition of the national public works infrastructure, analyse causes of disinvestment in the national public works infrastructure, and evaluate the need to repair, maintain, replace, and expand the national public works infrastructure to support balanced development of the national economy.

(b) The Commission shall be composed of—

(1) the Secretary of the Army, the Secretary of Transportation, and the Secretary of Commerce; in the event the Secretary is unable to attend a meeting of the Commission, he may designate a representative but in no case may the designee be of a rank lower than assistant secretary;

(2) representatives of each of the following organizations: the National Governors Association, the National Conference of State Legislatures, the National League of Cities, United States Conference of Mayors, and the National Association of Counties; and

(3) five individuals from the private sector selected by the President who among them have experience in and knowledge of public investment financing, civil engineering, State and local budgeting practices, and regional planning.

(c) The President shall designate one of the five individuals as Chairman of the Commission. The Chairman shall be an individual of national recognition with experience in both public affairs and private enterprise. The Chairman shall be confirmed by the Senate.

(d) The Secretary of Housing and Urban Development, the Secretary of Labor, the

Secretary of Agriculture, the Secretary of the Interior, and the Administrator of the Environmental Protection Agency or their designees shall attend the meetings of the Commission as nonvoting members.

(e) The Commission shall be convened within thirty days of enactment of this Act.

DEFINITIONS

SEC. 209. For the purposes of this Act—

(a) the term "national public improvement" means the Nation's systems of highways, roads, bridges, mass transit, main water supply and distribution systems, and sewer systems;

(b) the term "facility" means any physical structure such as a highway, road, bridge, transit line, or structure related to a mass transit system, water supply storage, treatment, and distribution system or sewage treatment and collection system which is owned and operated by the Federal Government, a State, municipality, or other public agency or authority organized pursuant to State or local law;

(c) the term "maintenance" means routine and regularly scheduled activities intended to keep the facility operating at its designed specifications;

(d) the term "repair" means the correction of a structural flaw in the facility without adding significantly to the design life of such a facility;

(e) the term "rehabilitation" means the correction of structural flaws in a facility so as to extend the engineered design life of such a facility;

(f) the term "replacement" means the reconstruction of an existing facility;

(g) the term "life-cycle cost" means the total cost of constructing, operating, and maintaining a facility, including the interest on any borrowed funds, over the design engineered life of the facility;

(h) the term "State" means any State of the United States, the District of Columbia, Puerto Rico, Guam, American Samoa, the Northern Marianas Trust Territories, or the Virgin Islands; and

(i) the term "region" means one of the nine geographical groups of States defined by the Bureau of the Census in the Statistical Abstract of the United States.

AUTHORIZATION OF APPROPRIATIONS

SEC. 210. (a) There shall be a staff for the Commission consisting of no more than thirty full-time employees of the Federal Government, who shall be detailed by the various agencies upon request of the Chairman of the Commission: Provided, That nothing in this section shall be construed to permit an increase in the level of total Federal employment.

(b) The Secretary of the Army shall assign an employee of the Army Corps of Engineers as staff director for the Commission, with the concurrence of the Chairman of the Commission, and shall also provide office space, supplies, equipment, and necessary contracting and other support services to the Commission and its staff.

(c) The heads of all Federal agencies are directed to cooperate with the Commission to the maximum extent possible, and to provide, on a timely basis, such information as the Commission may request.

(d) There is hereby authorized to be transferred or reprogramed from appropriations otherwise available to the Army Corps of Engineers, the Department of Transportation, and the Department of Commerce, the total of $5,000,000 to carry out the duties of the Commission during its tenure, said sum to be exclusive of salaries for staff.

(e) The private members of the Commission shall be compensated for their time engaged on Commission business at the daily rate established for employees at grade 18 of the General Schedule.

SUMMARY OF THE PUBLIC IMPROVEMENTS REPAIR ACT OF 1982

Title I authorizes $6 billion for the repair and rehabilitation of Interstate highways; Federal-aid primary, secondary, and urban roads; bridges; mass transit systems; sewers; and water supply facilities. The funds would be distributed to States and cities through existing Federal allocation formulas and programs. The formulas are based primarily on assessments of maintenance and repair needs but, in many cases, they will also direct the additional funds to economically distressed areas.

The use of well-established programs will help speed the distribution of funds and permits the program to get underway immediately, without creating a new Federal bureaucracy or additional red tape. The proposed program would establish only two new limitations on the use of the additional funds:

(1) Construction work on the projects supported with the funds would have to be underway within 120 days of receipt of the funds, and

(2) Construction work on the projects would have to be completed within two years.

These requirements are designed to insure that the program has an immediate, counter-cyclical impact on unemployment and that its funds are not diverted to long-term projects.

The bill would allow States and cities to determine repair priorities and to manage the repair work, just as they do under the pre-existing Federal programs.

The bill allocates the $6 billion as follows:

Highways and Bridges: Through existing formulas administered by the Department of Transportation, $3 billion is provided for the so-called "4R" program (resurfacing, restoring, rehabilitating, or reconstruction) on Interstate and other Federal-aid highways. An additional $1 billion is provided for the replacement or rehabilitation of structurally deficient bridges on the Federal-aid highway system.

Mass Transit: Through existing programs administered by the Department of Transportation, $1 billion is provided for urban mass transit systems.

Sewers and Water supply facilities: Under the auspices of the Environmental Protection Agency, and allocating funds through the Community Development Block Grant formula, $1 billion is provided for the major rehabilitation of sewers, water supply distribution lines, and pumping stations.

THE REBUILDING OF AMERICA ACT OF 1982

Title II establishes a National Commission of Rebuilding American which would:

(1) Conduct an inventory of national public improvements by region, state, and metropolitan area and by type of facility, with attention to the condition of the facilities, their sufficiency to support economic growth, and recent patterns of investment and deterioration, and

(2) Develop a national public improvements plan, setting priorities and detailing the means of financing needed public improvements over the next ten and twenty years and further recommending changes in Federal laws, regulations, and policies that would permanently insure adequate investment, and clarifying the relationship among Federal, state, and local responsibilities for development and maintenance of public improvements.

The 13-member Commission would be composed of five private sector representatives conversant with public improvements needs, one of whom would be Commission chairman, the Secretaries of the Army, Transportation, and Commerce, and representatives of the five major organizations of state and local elected officials.

The Commission would have two years and a budget of five million dollars to complete its work. The $5 million would be drawn from existing appropriations. The Army Corps of Engineers, which spearheaded the development of the Nation's public improvements in the 19th and early 20th centuries, would provide principal administrative support to the Commission. The Commission would be restricted to no more than thirty full-time employees, drawn from and paid by various Federal agencies. No new Federal employees would be hired.

The Commission's recommendations regarding investment priorities would become binding unless disapproved by the Congress within 120 days of their submission. However, no laws or regulations would be altered through this process.

Finally, the bill requires the U.S. General Accounting Office to report to the Congress on the value of revising the annual Federal budget to distinguish capital investment outlays from other Federal expenditures. Capital investment outlays are not separately identified in the Federal budget as it is presently organized.

FUNDING FORMULAS

Bill section	Program	Formula	Amount (millions)
102	Interstate highway rehabilitation (4–R).	Existing law; 23 U.S.C. 104(b)(5)(B).	$1,000
103	Consolidated primary roads.	Existing law; 23 U.S.C. 104(b)(1).	1,000
	Rural secondary roads	Existing law; 23 U.S.C. 104(b)(2).	500
	Urban road system	Existing law; 23 U.S.C. 104(b)(6).	500
104	Highway bridge replacement and rehabilitation.	Existing law; table 1, House Public Works Committee print No. 95–49.	1,000
105	Urban mass transit rehabilitation.	Existing law; section 5 of Urban Mass Transportation Act of 1974, as amended.	1,000
106	Water supply and sewer rehabilitation through EPA construction grant program.	Existing law; community development block grant formula; 42 U.S.C. 5306(a)–(d).	1,000
Total			6,000

COMPARISON OF CURRENT AND PROPOSED FEDERAL SPENDING ON PUBLIC WORKS, REPAIR, AND REHABILITATION FOR FISCAL YEAR 1983

[In billions of dollars]

Bill section	Program	Fiscal year 1983 continuing resolution	Proposed increase	Total
102	Interstate highway rehabilitation (4–R).	1.0	1	2.0
103	Consolidated primary, rural secondary, and urban system.	2.7	2	4.7
104	Highway bridge replacement and rehabilitation.	.9	1	1.9
105	Urban mass transit	1.0	1	2.0
106	Sewer rehabilitation	N.A.		
	Water supply rehabilitation	0	1	1.0
Total		5.6	6	10.6

● Mr. RANDOLPH. Mr. President, I join in the introduction of legislation which funnels additional funds into the repair and rehabilitation of our Nation's highways and other major public works. This bill is designed to meet one of America's pressing problems, unemployment, while at the same time facilitating the repair of our Nation's highways.

Under the measure $4 billion, presumably from the proposed gasoline tax increase, will be available for work on our Interstate System, our primary, secondary, and urban systems and for bridge rehabilitation.

For more than 2 years I have been urging the Congress and the President to consider an increase in the Federal gasoline tax to fund the continuation of our ongoing Federal-aid highway program and to meet growing needs to rehabilitate older segments of the system. During hearings on the nomination of Secretary Lewis, I recommended consideration of increases in revenue for the highway trust fund. President Reagan has now endorsed a proposal to increase highway user charges by the equivalent of a 5 cent gasoline tax. This proposal is long overdue. Highway taxes have not been increased since 1959, while the highway construction industry has experienced a cost increase of over 200 percent.

The public works infrastructure of this country is in serious need of substantial repair. Highways, both Federal-aid and local, have deteriorated in the past 5 years to the point where they are no longer able to meet service levels for which they were designed. Americans are unemployed in both the construction and manufacturing industries in large numbers. If the Government were to fund a jobs program which could begin the necessary rehabilitation of this important segment of our Nation's public works, many unemployed Americans could be put back to work.

I am therefore pleased to join with Senator MOYNIHAN in introducing a measure which uses $4 billion of the money derived from the proposed gasoline tax increase to fund a program to rehabilitate our highways, streets, and bridges. Under this proposal these funds would be targeted to those types of projects which could be obligated in 90 to 120 days and would provide approximately 300,000 direct and indirect jobs.

Increased attention to the highway network is an essential part of the economic recovery that must be stimulated in the United States. Highways are the backbone of our transportation system. The poor condition of our roads has many of our constituents up in arms. I believe that overwhelming support for a program of this nature will be forthcoming from the American citizenry.

I also commend the provisions of the bill which we are introducing today with respect to funding for mass transit capital costs—particularly rehabilitation of transit systems. And the proposal to fund sewer and water system repairs is a necessary part of addressing our deteriorating infrastructure.

The quality of life in this country to a large degree is dependent on our public physical underpinnings. Projects of a public works character are not just make-work projects but are investments in the quality and quantity of life in this Nation.

Americans are unemployed in large numbers and our highways are no longer at the standard which we have every reason to expect. This bill is the first step in rectifying these two unfortunate situations.

Mr. President, I commend this measure to my colleagues and recommend its careful consideration.●

● Mr. HART. Mr. President, I am pleased to join the distinguished Senator from New York in introducing this vital legislation. As we meet for the special session, we face the highest unemployment in 40 years and a seriously deteriorated infrastructure that may severely impede national economic recovery.

Mr. President, simply stated, America is crumbling around us. Streets are cracking, dams are breaking, bridges are collapsing, sewers are overflowing, and water mains are leaking. America's infrastructure—the public stock of roads, bridges, sewers, and water systems that underpins our economy—is deteriorating faster than we can replace it. Many experts estimate we will have to spend between $2.5 and $3 trillion just to maintain our infrastructure in its current condition. The additional improvements necessary will cost billions more. Yet, in real dollars, the Federal Government is investing 35 percent less in public facilities today than it did in 1965. We should not underestimate the enormity of the task before us:

One-fifth of the Nation's bridges require major rehabilitation or reconstruction. The Department of Transportation recently classified 45 percent of them as deficient or obsolete;

The Interstate Highway System requires reconstruction at a rate of nearly 2,000 miles annually;

A Commerce Department survey of 6,870 communities found that 3,000 or 46 percent had wastewater facilities operating at over 80 percent of capacity and thus could not accommodate further industrial expansion;

The Nation's 756 urban areas with populations over 50,000 will need between $75 and $110 billion to maintain their water systems over the next 20 years;

A large number of the Nation's 43,500 dams require additional investment to eliminate hazardous deficiencies. The Army Corps of Engineers found unsafe nearly 3,000 dams in highly populated areas.

Title I of the bill we are introducing today will finance the most urgently needed repair and rehabilitation projects around the country, including roads, highways, bridges, sewer, and water delivery lines. It will enable us to repair public facilities that are costing untold amounts of money in delays, injuries, and loss of potable water. These are projects we can undertake immediately without further design and contracting delays.

Mr. President, this bill will also reduce unemployment around the country. The short-term, high-priority projects funded under title I will insure rapid employment for workers in the construction industry—an industry now reeling from an unemployment rate of nearly 23 percent.

Because those areas with the most seriously deteriorated infrastructure also tend to have high unemployment, this bill should help relieve unemployment in the hardest hit regions of the country. Moreover, as Dr. Alice Rivlin, Director of the Congressional Budget Office testified, a program to rebuild our aging, crumbling infrastructure will promote long-term economic growth and prosperity and, consequently, increase employment in every State and industry in the Nation.

Mr. President, this bill will cost an estimated $6 billion. It assumes enactment of a 5 cent increase in the Federal gasoline tax will provide $5 billion. While I am pleased the Congress appears willing to approve this long overdue increase, this alone will not solve the problem of financing needed repairs to our infrastructure. First, the Federal highway trust fund, which will receive the revenues from the tax, can only spend them on the Nation's roads, highways, and bridges. Yet, other parts of the infrastructure need repair. Consequently, this bill will also finance the repair and rehabilitation of water and sewer systems in communities throughout the country. Continued neglect of these repairs risks the health of communities and their residents.

Second, the Federal gas tax revenues will finance only a small fraction of the $2.5 to $3 trillion in repairs needed simply to maintain our infrastructure in its current condition over the next 10 years.

Because the problem of a deteriorating infrastructure looms so large, we

must look beyond the short-term solution in title I to a national strategy for guiding long-term investments in our public capital. A national investment strategy will insure that we spend taxpayers' money on the most urgently needed projects. Title II of this bill establishes the framework necessary to conduct an inventory of the Nation's public works, set spending priorities, and establish mechanisms to fund public investments.

In September, Senator MOYNIHAN and I introduced this title as a separate bill.

Title II will set the stage for adoption of a Federal capital budget that will begin to reverse years of failed "pork barrel" politics and ad hoc decisionmaking on public works investment. The Federal budget does not currently contain a cross-cutting analysis of public works expenditures or long-term estimates of associated construction, rehabilitation, operating, and maintenance requirements. A Federal capital budget will provide the information necessary for the executive branch and the Congress to allocate scarce resources to capital investments that will yield the greatest benefits for the public.

Capital budgeting is a standard accounting practice. Virtually all major corporations, two-thirds of the States, and most local governments use capital budgets as a basic administrative and policy tool. By placing Federal capital investments on a "pay as you use" basis, a capital budget would add needed rationality to the budget process. We urgently need a Federal capital budget to set our public investment priorities.

I urge the Senate to pass this vital legislation that addresses two of our most serious economic problems, historic unemployment and a decaying national infrastructure.

I commend the distinguished Senator from New York for introducing this bill and setting in motion the forces necessary for long-term economic health and prosperity.●

SENATE RESOLUTION 498—RESOLUTION RELATING TO THE RENOVATION OF THE U.S. CUSTOMS HOUSE AT BOWLING GREEN, N.Y.

Mr. MOYNIHAN submitted the following resolution; which was referred to the Committee on Environment and Public Works:

S. RES. 498

Whereas, the U.S. Custom House at Bowling Green in lower Manhattan in New York City, completed in 1907 to the plans of the noted American architect Cass Gilbert, is one of the most beautiful and significant Beaux-Arts public buildings in the nation, and

Whereas, in 1979, the Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation approved, pursuant to the Public Buildings Act of 1959, the renovation by the U.S. General Services Administration of the Custom House at a cost of $29,274,000, and

Whereas, the renovation of the Custom House is to provide office space for 800 Federal employees currently housed in more expensive leased office space, and

Whereas, the U.S. General Services Administration has procrastinated and failed to date to begin actual renovation work on the project, and

Whereas, because of this inaction, some Federal officials have proposed declaring the Custom House "surplus" to the needs of the Government and offering it for sale to private interests, and

Whereas, to acquiesce in this or any similar action by the Executive Branch would vitiate Congressional authority under the Public Buildings Act to manage the inventory of public buildings, now, therefore, be it

Resolved, That it is the sense of the Senate that the U.S. Custom House at Bowling Green in New York City and every other public building managed by the General Services Administration shall remain the property of the United States, unless and until such time as the Committee on Environment and Public Works by majority vote, should accede to its transfer or sale, and be it further

Resolved, That until such time as the renovation of the U.S. Custom House at Bowling Green is completed, the General Services Administration shall submit a progress report on the renovation to the Committee on Environment and Public Works every thirty days.

● Mr. MOYNIHAN. Mr. President, I was shocked and appalled to learn yesterday that there is a proposal afoot in the executive branch to declare as surplus the U.S. Custom House on Bowling Green in New York City—and to sell it to private interests. The Custom House on Bowling Green is one of the great architectural landmarks of New York City. It was described by the architecture critic of the New York Times as a "subject of awe."

In 1979, the Congress authorized a $29 million renovation of the building. Unfortunatley, the General Services Administration has not been able in all this time, to get the renovation work underway. That is unconscionable and disgraceful. However, it in no way justifies abandoning a project ordered by the Congress.

I have this day written the Administrator of the General Services Administration to express my dismay and to describe the actions I plan to take both to forestall the sale of the building and to expedite the renovation. I ask unanimous consent that a copy of the letter be printed in the RECORD following my statement.

I am submitting a Senate resolution to prohibit the sale of the custom house and to require periodic progress reports on its renovation. I am privileged to be joined in this resolution by the distinguished chairman of the Committee on Environment and Public Works (Mr. STAFFORD) and our beloved ranking minority member (Mr. RANDOLPH). I trust that the administration, and particularly its Property Review Board, which has concocted the idea of relinquishing one of the Government's architectural treasures, will notice.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., December 1, 1982.

Hon. GERALD P. CARMEN,
Administrator, U.S. General Services Administration, Washington, D.C.

DEAR MR. ADMINISTRATOR: It has come to my attention that the Property Review Board established by President Reagan is considering declaring surplus and offering for sale the historic U.S. Custom House at Bowling Green in Lower Manhattan. I urge you to use every means at your disposal to prevent this from happening.

In the summer of 1979, the Senate and House Public Works Committees approved a prospectus for a $29 million renovation of the Custom House, which is not only an architectural landmark, but has space for 800 Federal employees. Because of GSA incompetence, the project has yet to get underway, and the building remains vacant. In December of 1980, in a statement on the floor of the Senate, I decried the GSA's unconscionable delay to that point in hiring a renovation architect. It took the GSA more than a year after that to secure architectural plans.

Now the executive director of the Property Review Board absurdly suggests that one reason the building is considered susceptible to sale is that it has remained vacant for so long. Another reason he cited is a "surplus" of office space for Federal employees in the New York area.

You and I have agreed that it is cheaper in the long run to house Federal employees in Government-owned rather than leased space. I fail to understand, then, why the GSA would continue to request that the Public Works Committees approve lease arrangements in New York, if there is, indeed a surplus of Government office space in the area.

Since I know you agree with me that it would be cheaper to house 800 Federal employees in the Government-owned Custom House than in leased space, I know you will agree with me also that no new leasing should be undertaken in the New York area while the Government-owned space in the Custom House is vacant. I shall see to it that no lease prospectuses for the New York region are approved by the Committee on Environment and Public Works until renovation of the Custom House is complete, and the 800 Federal employees to move into it are identified.

In addition, I am this day introducing a Senate Resolution forbidding any sale or transfer of the Custom House or any other Federal building from Government possesion without the express approval of the Senate.

Sincerely,

DANIEL PATRICK MOYNIHAN.●

ADDITIONAL COSPONSORS

S. 2585

At the request of Mr. CRANSTON, the name of the Senator from Illinois (Mr. PERCY) was added as a cosponsor of S. 2585, a bill to provide that the Armed Forces shall pay benefits to surviving spouses and dependent children of certain members of the Armed Forces who die from service-connected disabilities in the amounts that would have been provided under the Social Security Act for amendments made by the Omnibus Budget Reconciliation Act of 1981.

S. 2737

At the request of Mr. GLENN, the name of the Senator from Arizona (Mr. GOLDWATER) was added as a cosponsor of S. 2737, a bill to authorize an educational assistance program which will provide low cost loans to college students who pursue mathematics and science baccalaureate degrees and enter the precollege mathematics and science teaching profession, and for other purposes.

S. 2738

At the request of Mr. GLENN, the names of the Senator from Rhode Island (Mr. PELL), and the Senator from Arizona (Mr. GOLDWATER) were added as cosponsors of S. 2738, a bill to amend the Internal Revenue Code of 1954 to allow a credit to certain employers for compensation paid to employees with precollege mathematics or science teaching certificates who are employed for the summer months by such employers or who are employees who teach a limited number of hours.

S. 2919

At the request of Mr. LUGAR, the name of the Senator from Illinois (Mr. PERCY) was added as a cosponsor of S. 2919, a bill to help insure the Nation's independent factual knowledge of Soviet bloc countries, to help maintain the national capability for advanced research and training on which that knowledge depends, and to provide partial financial support for national programs to serve both purposes.

S. 2942

At the request of Mr. COHEN, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 2942, a bill to provide that disability benefits under title II of the Social Security Act shall continue to be paid through the end of the administrative appeals process, and that periodic reviews of disability cases shall be carried out only to the extent determined to be appropriate.

S. 3043

At the request of Mr. PRESSLER, his name was added as a cosponsor of S. 3043, a bill to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes.

SENATE JOINT RESOLUTION 213

At the request of Mr. TSONGAS, the name of the Senator from Kentucky (Mr. HUDDLESTON) was added as a cosponsor of Senate Joint Resolution 213, a joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for women.

SENATE JOINT RESOLUTION 216

At the request of Mr. KENNEDY, the names of the Senator from Hawaii (Mr. INOUYE), the Senator from Ohio (Mr. METZENBAUM), the Senator from Maryland (Mr. SARBANES), and the Senator from Massachusetts (Mr. TSONGAS) were added as cosponsors of Senate Joint Resolution 216, a joint resolution prohibiting the Secretary of the Interior from implementing the 5-year Outer Continental Shelf oil and gas leasing plan until the Secretary has taken certain actions to conform the plan to the purposes and requirements of applicable law.

SENATE JOINT RESOLUTION 260

At the request of Mr. HEINZ, the names of the Senator from Illinois (Mr. PERCY), the Senator from Nebraska (Mr. EXON), the Senator from Oklahoma (Mr. BOREN), and the Senator from New Jersey (Mr. BRADLEY) were added as cosponsors of Senate Joint Resolution 260, a joint resolution to designate the period commencing January 1, 1983, and ending December 31, 1983, as the "Tricentennial Anniversary Year of German Settlement in America."

SENATE JOINT RESOLUTION 264

At the request of Mr. HEINZ, the names of the Senator from North Carolina (Mr. HELMS), the Senator from Indiana (Mr. LUGAR), the Senator from Oregon (Mr. HATFIELD), the Senator from Arizona (Mr. GOLDWATER), the Senator from Ohio (Mr. GLENN), the Senator from New York (Mr. MOYNIHAN), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from New Mexico (Mr. DOMENICI) were added as cosponsors of Senate Joint Resolution 264, a joint resolution to designate the week of March 13, 1983, through March 19, 1983, as "National Children and Television Week."

SENATE JOINT RESOLUTION 265

At the request of Mr. DENTON, the name of the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of Senate Joint Resolution 265, a joint resolution to authorize and request the President to proclaim 1983 as the "National Year of Voluntarism."

SENATE CONCURRENT RESOLUTION 121

At the request of Mr. DOLE, the names of the Senator from Connecticut (Mr. DODD), the Senator from Illinois (Mr. PERCY), and the Senator from Tennessee (Mr. SASSER) were added as cosponsors of Senate Concurrent Resolution 121, a concurrent resolution expressing the sense of the Congress that the United States should maintain Federal involvement in, and support for, the child nutrition programs, and for other purposes.

SENATE CONCURRENT RESOLUTION 128

At the request of Mr. ROBERT C. BYRD, the names of the Senator from Montana (Mr. BAUCUS), the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from Oklahoma (Mr. BOREN), the Senator from New Jersey (Mr. BRADLEY), the Senator from Arkansas (Mr. BUMPERS), the Senator from Nevada (Mr. CANNON), the Senator from Florida (Mr. CHILES), the Senator from California (Mr. CRANSTON), the Senator from Arizona (Mr. DECONCINI), the Senator from Illinois (Mr. DIXON), the Senator from Connecticut (Mr. DODD), the Senator from Missouri (Mr. EAGLETON), the Senator from Nebraska (Mr. EXON), the Senator from Kentucky (Mr. FORD), the Senator from Ohio (Mr. GLENN), the Senator from Colorado (Mr. HART), the Senator from Alabama (Mr. HEFLIN), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), the Senator from Louisiana (Mr. JOHNSTON) the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from Michigan (Mr. LEVIN), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Montana (Mr. MELCHER), the Senator from Ohio (Mr. METZENBAUM), the Senator from Maine (Mr. MITCHELL), the Senator from New York (Mr. MOYNIHAN), the Senator from Rhode Island (Mr. PELL), the Senator from Arkansas (Mr. PRYOR), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Michigan (Mr RIEGLE), the Senator from Maryland (Mr. SARBANES), the Senator from Tennessee (Mr. SASSER), the Senator from Mississippi (Mr. STENNIS), the Senator from Massachusetts (Mr. TSONGAS), and the Senator from North Dakota (Mr. BURDICK) were added as cosponsors of Senate Concurrent Resolution 128, a concurrent resolution relating to monetary policy.

AMENDMENTS SUBMITTED FOR PRINTING

ANTITRUST EQUAL ENFORCEMENT

AMENDMENT NOS. 3640 AND 3641

(Ordered to be printed and to lie on the table.)

Mr. SPECTER submitted two amendments intended to be proposed by him to the bill (S. 995) to provide for contribution of damages attributable to an agreement by two or more

persons to fix, maintain, or stabilize prices under section 4, 4A, or 4C of the Clayton Act.

AMENDMENT NOS. 3642 AND 3643

(Ordered to be printed and to lie on the table.)

Mr. SPECTER submitted two amendments intended to be proposed by him to the committee amendment to the bill S. 995, supra.

AMENDMENT NO. 3644

(Ordered to be printed and to lie on the table.)

Mr. THURMOND submitted an amendment intended to be proposed by him to the bill S. 995, supra.

AMENDMENT NOS. 3645 THROUGH 4031

(Ordered to be printed and to lie on the table.)

Mr. METZENBAUM submitted 386 amendments intended to be proposed by him to the bill S. 995, supra.

AMENDMENT NOS. 4032 THROUGH 4240

(Ordered to be printed and to lie on the table.)

Mr. BAUCUS submitted 209 amendments intended to be proposed by him to the bill S. 995, supra.

AMENDMENT NOS. 4241 THROUGH 4600

(Ordered to be printed and to lie on the table.)

Mr. METZENBAUM submitted 344 amendments intended to be proposed by him to the committee amendment to the bill S. 995, supra.

NOTICES OF HEARINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. HELMS. Mr. President, as chairman of the Senate Committee on Agriculture, Nutrition, and Forestry, I wish to announce that a hearing has been scheduled to review the results of the Ministerial Conference of the General Agreement on Tariffs and Trade (GATT). Along with Senator MATTINGLY and other members of the U.S. delegation, I will brief Agriculture Committee members on our meetings at the Conference.

The hearing will be held on Thursday, December 2, beginning at 2 p.m. in room 324, Russell Senate Office Building.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, December 1, in order to receive testimony concerning the following nominations:

Mr. Lawrence S. Margolis, of Maryland, to be a judge of the U.S. Claims Court;

Mr. Reginald W. Gibson, of Illinois, to be a judge of the U.S. Claims Court; and

Mr. Haldane Robert Mayer, of Virginia, to be a judge of the U.S. Claims Court.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Veterans Affairs be authorized to meet during the session of the Senate on Wednesday, December 8, 1982, at 3 p.m., to hold a confirmation hearing on the nomination of Harry Walters to be Administrator of Veterans' Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

STATUS REPORT ON THE BUDGET FOR FISCAL YEAR 1983

● Mr. DOMENICI. Mr. President, I hereby submit to the Senate a status report on the budget for fiscal year 1983 pursuant to section 311 of the Congressional Budget Act. This is the first such report for fiscal year 1983 and reflects action through November 29, 1982.

The report follows:

REPORT TO THE PRESIDENT OF THE U.S. SENATE FROM THE COMMITTEE ON THE BUDGET

STATUS OF THE FISCAL YEAR 1983 CONGRESSIONAL BUDGET ADOPTED IN SENATE CONCURRENT RESOLUTION 92

Report No. 83-1

REFLECTING COMPLETED ACTION AS OF NOVEMBER 29, 1982

[In millions of dollars]

	Budget authority	Outlays	Revenues
Second budget resolution level [1]	822,390	769,818	665,900
Current level	806,948	775,026	663,635
Amount remaining	15,442	0	0

[1] Pursuant to section 7 of Senate Concurrent Resolution 92, the first budget resolution for fiscal year 1983 became the second budget resolution on Oct. 1, 1982.

Budget Authority

Any measure providing budget or entitlement authority which is not included in the current level estimate and which exceeds $15,442 million for fiscal year 1983, if adopted and enacted, would cause the appropriate level of budget authority for that year as set forth in S. Con. Res. 92 to be exceeded.

Outlays

Any measure providing budget or entitlement authority which is not included in the current level estimate and which would result in outlays exceeding $0 million for fiscal year 1983, if adopted and enacted, would cause the appropriate level of outlays for that year as set forth in S. Con. Res. 92 to be exceeded.

Revenues

Any measure that would result in revenue loss exceeding $0 million for fiscal year 1983, if adopted and enacted, would cause revenues to be less than the appropriate level for that year as set forth in S. Con. Res. 92.

SOCIAL SECURITY DISABILITY PROGRAM TERMINATIONS

● Mr. LEVIN. Mr. President, yesterday during a special order, I presented to my colleagues a number of articles describing individual cases of hardship and loss resulting from unjust terminations in the title II social security disability program. Today, I insert another article—one that appeared recently in the Traverse City Michigan Record Eagle—to be printed in full in the RECORD.

The article follows:

[From the Traverse City (Michigan) Record Eagle, Nov. 20, 1982]

TC WOMEN VICTIMS OF AID "CRACKDOWN"

(By Loraine Anderson)

TRAVERSE CITY.—Eve Swanson, a 31-year-old Traverse City amputee, says she is "irked."

It took the federal government just three weeks to decide that she no longer qualified for Social Security disability payments of $525 a month. That was late last year.

Since then, Swanson has required two brain surgeries that impaired her motor abilities and caused a number of other debilitating problems.

But it has taken two appeals, a hearing and 10 months to get her disability benefits back. And it'll be another month or two before she actually begins receiving checks.

In the meantime, Swanson has been living on $145 a month in state General Assistance payments and $75 a month in food stamps while she tries to recuperate and attend college part-time. Her rent is $125 a month, she says, and she takes an anti-depressant medication that costs her $22 a month because it is not covered by Medicaid insurance.

"The reason I'm going to college is that I want to be a useful member of society," she said. "I don't want to be on disability the rest of my life."

Swanson is one small statistic in an ongoing, 18-month attempt by the federal government to review cases and reduce the number of people nationwide who receive Social Security disability payments.

The review program—although it is said to be necessary—has been rife with problems and has met severe criticism from U.S. Sen. Carl Levin of Michigan and other members of Congress for the way the program is being handled.

According to Levin, benefits were discontinued in more than 40 percent of the cases reviewed between March, 1981, and April, 1982. But more than two-thirds of the claimants who appealed were reinstated to the program after hearings before administrative law judges. That leads Levin and other senators to conclude that the benefits never should have been terminated in the first place.

"The real tragedy is the unnecessary and unjustified suffering of severely disabled people and their families whose benefits were stopped for months," Levin said.

Levin said the decisions to terminate benefits often were made with inadequate evidence—for instance, brief medical examinations and no direct contact or interview with the beneficiary.

Swanson agrees with those criticisms of the review program. The decision to terminate her benefits, she said, was based on a five-minute physical check-up by a local

doctor who didn't even look at her amputation scars.

She said she was sent to the doctor by the Disability Determination Office in Traverse City last August, and three weeks later she received notice that her benefits would be stopped in January.

Swanson said what really "irks" her is not the original decision to cut her benefits, but rather the amount of time and trouble it took to get the benefits reinstated after her brain surgery.

A part-time college student working slowly on an art-education degree, Swanson went to the Bureau of Rehabilitation after her benefits were terminated. With the help of rehabilitation counselors, she landed a CETA (Comprehensive Employment and Training Act) job last January at the Good Samaritan Emergency Lodge.

But soon after her checks stopped, she suffered the first of two brain aneurysms (a balloon-like swelling of an artery). She required surgery twice—in January, and May. The operations impaired her motor skills, caused temporary epilepsy, and led to vision problems and depression. She can do many things for herself, but is not expected to live alone.

Swanson, the oldest of six children, said she asked her parents for financial assistance but they were unable to help her. A former typist and clerk at a Chicago stock brokerage, Swanson lost her left arm to cancer at the age of 21. She has lived in Traverse City since 1976.

A Social Security administrative law judge reinstated Swanson's benefits—retroactive to January—following an Oct. 7 hearing, but told her she probably would have to wait 60 to 90 days to get her checks. Swanson said she is happy to be reinstated, but still thinks the "federal government's shenanigans" in the review program should be exposed because she believes thousands of disabled people have been hurt.

"This is one of those cases you honestly cannot believe," said Punky Idema, Traverse City aid for Congressman Donald Albosta, who became involved in Swanson's fight for reinstatement.

"It's a real study in frustration," she said. "Sure, there are some people on disability who shouldn't be, but there are others who are really disabled, and to cut them off, saying, 'You may be able to do some kind of work,' is cruel. And in Eve's case, she was going to college and trying to get off disability."

Bob Warner, financial aid director at Northwestern Michigan College, said he questions whether Swanson's benefits ever should have been dropped in the first place. He described her as determined, friendly and enthusiastic in her desire to become an art therapy teacher in a rehabilitation center.

"She wasn't just sitting there collecting disability," he said. "She was trying to improve herself and she lost her benefits right in the middle of it. It made it very hard for her to continue."

Norman Britten, a Bureau of Rehabilitation counselor, said that what happened to Swanson wasn't as serious as some other cases he has seen.

He said the original benefit termination in Swanson's case was probably correct. The amount of time it took to win back her benefits was unfortunate, he said, but was not an "inordinately long" period of time when compared to other cases.

Britten said another Traverse City case underlines the failure of the review program even more dramatically than Swanson's. In that case, the disability benefits for 27-year-old Nanci Woodcock were terminated following a psychological examination. According to Britten, the woman was slightly retarded, but suffered severe emotional problems. Her retardation showed up in her psychological examination, but not her emotional problems. Britten said Woodcock's benefits were terminated by disability examiners who did not check with the woman's parents or the Bureau of Rehabilitation, which had conducted several tests that showed her emotional problems.

That case also went to the administrative law judge who listened to testimony from Britten and Woodcock's parents. He reversed the decision and reinstated her benefits of $192 a month.

"I feel sorry for someone who doesn't have anybody to go to bat for them," said Woodcock's mother, Arla Woodcock. "Our daughter . . . had her father, me and Mr. Britten."●

ACID RAIN CONTROLS—SUPPORT GROWS

● Mr. STAFFORD. Mr. President, for several years this Senator and a few others have attempted to awaken our colleagues to the extraordinary threat posed to this Nation by acid rain. The task, while not arduous, has been difficult. Those who oppose acid rain control have attempted to confuse the issue with pseudoscientific studies purporting to show that the phenomenon is not real or that its causes are not known or that the costs are out of proportion to the benefits.

The simple and uncontrovertible truth of the matter is that acid rain has already damaged large numbers of lakes and streams in this country and that thousands of lakes, thousands of stream miles, and millions of acres are being threatened by acid rain. It is also a fact that acid rain is caused by pollutants from the smokestacks of powerplants and the tailpipes of automobiles. The vast majority of this pollution originates in the Midwest.

In the past 3 years, the Committee on Environment and Public Works has held 11 days of hearings on the subject of acid rain. Following these hearings, the committee voted 15 to 1 to start a program to control acid rain. Yet even after this overwhelming vote, the polluting industries insist that we should study and study and study, not act. They, and at least a few of my colleagues, remain unconvinced.

But if the committee's educational effort—and that of the many others involved—has failed to persuade some elected officials, the message is reaching the voters. And these are not just the voters of Vermont or other immediately affected States, but voters elsewhere.

Tlhe most recent evidence of this is a poll just released by the National Wildlife Federation of North Carolina citizens. Frankly, the results surprise even me, for they indicate that the public support for acid raid control is both deeper and broader than previously suspected.

What this poll shows is that nearly two-thirds of those surveyed had heard of acid rain and, of this number, more than two-thirds considered it to be a serious or very serious problem.

This indicates support for a control program which is growing rapidly, with a citizenry that is increasingly knowledgeable and sophisticated. I had always thought that eventually the public would become educated to the problem and that pressure for a responsible and stringent control program would grow. But these survey results are surprising and encouraging, for they leave no doubt that time is on the side of those of us who favor tough controls.

Mr. President, if there is no objection I ask that the text of the survey be printed in the RECORD.

The survey follows:

TABLE I.—EVALUATION OF EASTERN STATES' VULNERABILITY TO EFFECTS OF ACID RAIN

State	Average pH of rainfall [1]	Fisheries	Soil	Crop foliage	Masonry (marble, limestone)	Overall ranking
Alabama	4.6	M	M	V	M	M
Connecticut	4.4	E	E	V	M	E
Delaware	4.4	M	M	V	M	M
Florida	4.7	S	S	NV	S	S
Georgia	4.6	M	M	NV	S	M
Illinois	4.3	S	S	V	M	M
Indiana	4.3	S	M	V	M	M
Kentucky	4.4	M	E	V	M	E
Louisiana	4.6	XX	M	XX	S	XX
Maine	4.4	E	E	V	M	E
Maryland	4.3	M	M	V	M	M
Massachusetts	4.1	E	E	V	M	E
Michigan	4.4	E	E	V	M	E

TABLE I.—EVALUATION OF EASTERN STATES' VULNERABILITY TO EFFECTS OF ACID RAIN—Continued

State	Average pH of rainfall [1]	Fisheries	Soil	Crop foliage	Masonry (marble, limestone)	Overall ranking
Mississippi	4.6	M	M	NV	S	M
New Hampshire	4.3	E	E	V	M	E
New Jersey	4.3	E	M	V	M	E
New York	4.2	E	E	V	M	E
North Carolina	4.4	E	E	V	M	E
Ohio	4.2	S	M	V	M	M
Pennsylvania	4.2	E	E	V	M	E
Rhode Island	4.4	E	E	V	M	E
South Carolina	4.6	E	M	V	M	E
Tennessee	4.4	M	M	V	M	M
Vermont	4.3	E	E	V	M	E
Virginia	4.4	M	M	V	M	M
West Virginia	4.3	M	E	V	M	E
Wisconsin	4.5	E	E	V	M	E

[1] The pH is a numerical value used to describe the strength of an acid. On the pH scale, which ranges from a numerical value of 0 to 14, the lower the pH number the greater the acidity. A value of pH 1 is very acid (battery acid), 2.0 is equal to lemon juice, and 3.0 to vinegar. "Pure" rain has a pH of 5.6, pH 7 is neutral (distilled water) and pH 13 is very alkaline (lye). Most fish species die in water with a pH of 4.5 to 5.0.

Note.—E.—Extremely vulnerable to acid rain effects; M.—Moderately vulnerable to acid rain effects; S.—Slightly vulnerable to acid rain effects; V.—Vulnerable to acid rain effects; NV.—Not vulnerable to acid rain effects; and XX.—Insufficient data.

TABLE II.—TOTAL LAKE RESOURCES AND FIRST—AND SECOND—ORDER STREAM RESOURCES AT RISK IN THE ACID-SENSITIVE REGIONS OF THE EASTERN UNITED STATES

Region	Percentage of lakes < 200 ueq/alpha [1] (±10—20 percent)	Calculated Number lakes at risk (±20 percent)	Percentage of stream (±10 percent) 200 ueq/l	Calculated total miles (±20 percent) of	
				1° streams at risk	2° streams at risk
Eastern Maine	[2] (80)	1,140	81	7,868	2,823
Western New England	[2] (80)	1,234	56	8,573	2,559
Adirondacks	80	911	[6] (56)	2,962	1,693
East Pennsylvania/South New England	[2] (80)	1,056	38	3,192	971
West New York/Pennsylvania	[2] (80)	301	61	4,340	1,024
Appalachian Plateau	([5])		[7] (61)	4,484	1,402
Blue Ridge/Great Smoky Mountains			64	6,977	2,173
Coastal Plain			[8] (43)	665	307
Lower Mississippi			[8] (43)	2,311	540
Indiana/Kentucky			[8] (43)	1,206	425
Central Wisconsin	[3] (42)	245	43	1,154	313
Wisconsin/Michigan Highlands	42	2,228	13	655	226
Northeast Minnesota	48	786	[9] (13)	213	62
Central Minnesota	[4] (48)	1,522	[9] (13)	628	329
Total		9,423		45,228	14,847

[1] Micro-equivalents per liter (a measure of "alkalinity" or buffering capacity).
[2] In the absence of other data, alkalinities from the Adirondacks have been used.
[3] In the absence of other data, alkalinities from N. Wisconsin have been used.
[4] In the absence of other data, alkalinities from N. Minnesota have been used.
[5] No estimates is being made for regions with fewer than 250 lakes.
[6] In the absence of other data, alkalinities from W. New England and W. New York/Pennsylvania have been used.
[7] In the absence of other data, alkalinities from W. New York/Pennsylvania have been used.
[8] In the absence of other data, alkalinities from Central Wisconsin have been used.
[9] In the absence of other data, alkalinities from Northern Wisconsin have been used.

Source: Office of Technology Assessment.

APPENDIX: THE NATIONAL WILDLIFE FEDERATION IN BRIEF

The National Wildlife Federation is the nation's largest nonprofit citizen's conservation organization with over 4 million members and supporters. It was founded in 1936, the result of the first North American Wildlife Conference called by the President of the United States to stimulate public interest in proper management of wildlife and other natural resources.

The conservation policies of NWF are set by local leaders elected as delegates to the Federation's annual convention. These delegates represent affiliate organizations in all 50 states as well as Guam, Puerto Rico, and the Virgin Islands. They also elect the volunteer officers of the Federation.

Oversight responsibility for the Federation's budget and administrative operations rests with the elected officers and board members who represent 13 geographical regions in the United States with another 12 members at large.

The Federation's conservation policies are carried out by a Washington staff working with grassroots volunteers through a field staff consisting of 12 regional executives, four regional natural resource centers, and two special wetlands centers in the southeast. Conservation policy is implemented through coordination with other environmental organizations and government agencies, lobbying, dissemination of educational materials, teacher training, wildlife research, and, as a last resort, litigation.

The organization's chief regular publications are the magazines National Wildlife, International Wildlife, and Ranger Rick; a monthly newspaper for affiliate leaders; and Conservation Report. Each state affiliate also produces their own monthly publication.

The Federation's conservation policies represent these guiding principles:

1. Scientific and professional management of wildlife and other natural resources. This includes husbanding scarce natural resources and wise use of those with harvestable surpluses.

2. Preservation of wildlife habitat by preventing indiscriminate destruction.

3. Maintaining optimum numbers and variety of wildlife by designation of suitable areas as wildlife refuges, parks, wild and scenic rivers, trails, and seashores.

4. National and international air quality standards that insure clean air, urban and rural.

5. National and international water quality standards that will insure clean streams, lakes, bays and oceans.

6. Preservation of high quality wilderness and natural areas.

7. Protection of endangered wildlife.

8. Management of toxic wastes to protect human health.

9. Recycling and reuse of natural resources.

10. Developing a national energy strategy aimed at reducing energy growth to the lowest practical level and meeting energy requirements with means which are most efficient and economical and least harmful to the environment.

THE NORTH CAROLINA WILDLIFE FEDERATION

The North Carolina Wildlife Federation was organized in 1945 and is the largest nongovernment conservation and wildlife organization in the State. With a total membership of 21,000, including affiliate club members, sustaining members, patrons and other affiliated organizations, the NCWF has strong ties with most single objective resource agencies in North Carolina. As an affiliate of the National Wildlife Federation, the NCWF is an active part of the over 4 million members whose support we value and many of whose programs are incorporated into our statewide activities at the grass-roots level.

The membership of NCWF is predominantly hunters and fishermen, but successful efforts to broaden our environmental and natural resource policies and interests have altered the balance, permitting a broader and more responsive attitude and an increase in membership while presenting the image of multiple interests and broader educational objectives.

The NCWF has undertaken a strong initiative concerning acid rain by carrying features on the cause and effects in our publications and in mailings to our members.

With a new eight and a half by eleven format, better quality and improved appearance and variety of content, Friend-'O-Wildlife Magazine is meeting our objectives more positively than was previously possible.

Improvement of operations under current management has increased the objectivity of staff and officers and improved communications throughout the State, facilitating direct personal contact with potential affiliate groups and assignments of new duties to area directors.

The last year and a half has seen important wildlife and environmental legislative successes and improved relations with legislators, other state agencies and the officers of other nongovernment organizations.

Cooperative programs with other state, federal and private agencies have increased. A week-long camp program for 1983 will provide 100-plus youths with housing, meals, and intensive training in all aspects of wildlife conservation, hunter-safety certification, hunter ethics, gun use, archery, boating, endangered species and other related outdoor subjects. The agencies involved are NCWF, National Hunters Association, and the 4-H Program.

Officers of NCWF sit on numerous commissions and boards, providing our membership with representation in important decisions, programs and legislation affecting wildlife, land and water, dredge and fill activities and related environmental programs.

Through close cooperation with other sportsmen's groups, the Wildlife Resources Commission and the legislature, a new badly needed fox law for North Carolina and recodification of the hand gun permitting law, providing uniformity in procedures for purchasing hand guns in all counties throughout the State have become law.

Currently, a state-wide essay contest for junior high school students, using the 1983 Wildlife Week theme is being carried on by the NCWF and the Telepohone Pioneers of America.

North Carolina Wildlife Federation policies parallel those of the National Wildlife Federation, adapted to the problems and needs of North Carolinians.

ABOUT THE POLL

The acid rain poll was carried out as part of the Carolina Poll, a twice yearly telephone survey of a representative sample of 500-800 persons of voting age (18 and over) residing in telephone households in North Carolina. The Fall 1982 poll was conducted between October 1-6, 1982 (after pretesting the questionnaire the week before with 100 people to make sure that the questions were understandable) and had a sample size of 584.

Sampling method

Randon digit dialing was used to give every residential telephone in North Carolina an approximately equal chance of being dialed. The number of working residential telephones for each three-digit prefix was estimated by the research department of Knight Publishing Company, Charlotte, North Carolina, on the basis of data supplied by each telephone company operating in the state. Strings of four random digits, confined to working banks where known, were generated by computer to complete the list of random telephone numbers.

Replacement numbers were drawn to substitute for all numbers identified in the interviewing process as either non-working or not belonging to residences. Free replacement was also allowed for eligible respondents who refused to participate. When phones were not answered, two callbacks were made, at least four hours apart, except during the last four hours of the interviewing periods. Replacement numbers were used when callbacks failed to produce willing and eligible respondents.

The sample is a probability sample only at the residential level. Within residences, a loose age and sex quota was set with interviewers instructed to speak to the youngest available adult male, if any, in the household as necessary to obtain an equal number of male and female interviews. This quota is designed to compensate for the difficulty of finding young males at home.

Sampling error

On 95 out of 100 such samples, the results should differ by no more than 4.1 percentage points from what would have been obtained if every telephone number in the state had been dialed.

External validity

The sample matches the 1980 census within predicted margins of error for most combinations of age, race, and sex. Exceptions include a few categories, primarily young black males, who are marginally underrepresented.

Timing

Interviews were conducted from 5:30 to 9:30 p.m. October 1-6 and from 1:30 to 4:30 p.m. on Sunday, October 5.

Interviewers

The Carolina Poll serves as an exercise in precision journalism for students in public affairs reporting classes and as a practical exercise in research design and execution for students in communications research methods classes at the University of North Carolina School of Journalism, Chapel Hill, North Carolina. Graduate and advanced undergraduate students, working under the direction of Professor Jane Delano Brown, handled all phases of the poll design, execution and analysis.

Minimization of bias

The Carolina Poll is a non-profit enterprise. The questions on acid rain represented 5 questions in a 45-question poll (the other questions dealt with a wide variety of social and political issues) and no reference was made to the sponsorship of these questions by the National Wildlife Federation and the North Carolina Wildlife Federation. Interviewees, therefore, can be assumed to be expressing their own opinions uninfluenced by assumptions about the positions of the sponsoring organizations.

NORTH CAROLINA ACID RAIN POLL: PRINCIPAL FINDINGS

1. Although acid rain has not been the dominant issue in the Southeast that it has in the Northeast (particularly New England), public awareness of the problem is widespread among North Carolinians—with nearly 2 out of 3 people familiar with the issue.

2. By a 4-to-1 margin, North Carolinians who said they have heard of the acid rain issue regard acid rain as a serious of very serious problem. This basic pattern varies little with demographics (i.e., holds firm among all segments of society).

3. North Carolinians who consider the acid rain problem serious or very serious are nearly unanimous (by a margin of 26-to-1) in their support for tighter controls on power plant emissions which cause acid rain in the eastern U.S. This pattern also holds among all segments of society.

4. The overwhelming majority (83.3 percent; a margin of better than 7-to-1) of those who support tighter controls on acid raincausing power plant emissions continue to support such controls on power plants that are big polluters even at the cost of a modest increase in their utility bills. This was true even more strongly among registered than non-registered voters, and among Republicans than among Democrats.

5. Of those who said they had heard of acid rain (and had an opinion on how it might influence their vote), fully half of the North Carolina respondents indicated that this issue was important enough to them that it might cause them to vote for or against a congressional candidate. This sentiment was similar among Republicans, Democrats, and Independents.

ROLL RESULTS

Between October 1 and 6, 1982, the Carolina Foll asked a cross section of 584 adults throughout North Carolina by telephone:

HEARD OF ACID RAIN

[1. "Have you ever heard of acid rain?"]

	Yes		No		Don't know	
	Percent	Number	Percent	Number	Percent	Number
Overall	60.2	348	37.4	216	2.4	14
8th grade (0–8)	35.7	25	58.6	41	5.7	4
High school (9–12)	51.0	146	47.4	135	1.4	4
College (13 or more)	79.4	177	17.9	40	2.7	6
Professional-technical	84.1	69	14.6	12	1.2	1
Manager-proprietor	67.9	36	24.5	13	7.5	4
House spouse	59.3	35	39.0	23	1.7	1
Student	88.2	15	5.9	1	5.9	1
Retired	50.0	35	44.3	31	5.7	4
Unemployed	50.0	19	47.4	18	2.6	1
Other	53.5	138	45.7	118	.8	2
Registered voters	63.7	275	33.6	145	2.8	12
Nonregistered voters	49.0	72	49.7	73	1.4	2

HEARD OF ACID RAIN—Continued

[1. "Have you ever heard of acid rain?"]

	Yes		No		Don't know	
	Percent	Number	Percent	Number	Percent	Number
Republican	63.3	88	35.3	49	1.4	2
Democrat	58.4	146	40.0	100	1.6	4
Independent	66.0	101	30.7	47	3.3	5
Other	44.4	4	55.6	5	0	0
Don't know	32.1	9	57.1	16	10.7	3
White	65.7	309	31.5	148	2.8	13
Black	33.3	31	65.6	61	1.1	1
Other	33.3	2	66.7	4	0	0
Refused	0	0	100.0	1	0	0
$10,000 or less	41.0	48	54.7	64	4.3	5
$10,001 to $15,000	47.7	53	50.5	56	1.8	2
$15,001 to $20,000	66.3	69	32.7	34	1.0	1
$20,001 or more	72.9	164	24.4	55	2.7	6
Refused	61.9	13	38.1	8	0	0
Male	69.3	183	29.2	77	1.5	4
Female	52.1	165	44.8	142	3.2	10
18 to 33	62.7	133	35.4	75	1.9	4
34 to 53	62.9	129	35.1	72	2.0	4
54 and older	54.5	85	42.9	67	2.6	4

SERIOUSNESS OF ACID RAIN PROBLEM

[2. (For those who have heard of acid rain:) "How serious a problem do you think acid rain is—would you say it is a very serious problem, a serious problem, or not a very serious problem?"]

	Very serious		Serious		Not very serious		Don't know	
	Percent	Number	Percent	Number	Percent	Number	Percent	Number
Overall	24.6	86	44.0	154	17.4	61	14.0	49
8th grade (0–8)	28.0	7	36.0	9	16.0	4	20.0	5
High school (9–12)	20.4	30	40.8	60	22.4	33	16.3	24
College (13 or more)	27.0	48	48.3	86	13.5	24	11.2	20
Professional-technical	27.1	19	54.3	38	11.4	8	7.1	5
Manager-proprietor	22.2	8	47.2	17	22.2	8	8.3	3
House spouse	31.4	11	45.7	16	14.3	5	8.6	3
Student	20.0	3	33.3	5	40.0	6	6.7	1
Retired	25.7	9	34.4	12	17.1	6	22.9	8
Unemployed	26.3	5	36.8	7	21.1	4	15.8	3
Other	22.3	31	43.4	59	17.7	23	16.6	26
Registered voters	23.6	65	44.6	123	16.7	46	15.2	42
Nonregistered voters	27.4	20	42.5	31	20.5	15	9.6	7
Republican	19.1	17	39.3	35	29.2	26	12.4	11
Democrat	28.1	41	45.9	67	8.2	12	17.8	26
Independent	22.5	23	47.1	48	19.6	20	10.8	11
Other	50.0	2	50.0	2	0	0	0	0
Don't know	33.3	3	22.2	2	33.3	3	11.1	1
White	24.1	75	43.1	134	18.0	56	14.8	46
Black	29.0	9	48.4	15	12.9	4	9.7	3
Other	50.0	1	50.0	1	0	0	0	0
$10,000 or less	22.9	11	45.8	22	22.9	11	8.3	4
$10,001 to $15,000	23.6	13	41.8	23	18.2	10	16.4	9
$15,001 to $20,000	23.2	16	43.5	30	20.3	14	13.0	9
$20,000 or more	26.2	43	45.7	75	14.0	23	14.0	23
Refused	23.1	3	23.1	3	23.1	3	30.8	4
Male	27.7	51	39.7	73	22.3	41	10.3	19
Female	20.5	34	49.4	82	12.0	20	18.1	30
18 to 33	22.4	30	44.8	60	25.4	34	7.5	10
34 to 53	27.7	36	44.6	58	10.0	13	17.7	23
54 and older	23.5	20	41.2	35	16.5	14	18.8	16

NEED FOR MORE CONTROLS ON POWERPLANT EMISSIONS CAUSING ACID RAIN

[3. (For those who believe acid rain is a very serious or a serious problem:) "Do you think powerplant emissions which cause acid rain in the eastern United States should be more tightly controlled?"]

	Yes		No		Don't know	
	Percent	Number	Percent	Number	Percent	Number
Overall	89.3	233	3.4	9	7.3	19
8th grade (0–8)	94.4	17	5.6	1	0	0
High school (9–12)	88.1	89	2.0	2	9.9	10
College (13 or more)	89.4	126	4.3	6	6.4	9
Professional-technical	85.7	54	7.9	5	6.3	4
Manager-proprietor	82.1	23	7.1	2	10.7	3
House spouse	89.7	26	3.4	1	6.9	2
Student	100.0	7	0	0	0	0
Retired	88.0	22	0	0	12.0	3
Unemployed	100.0	11	0	0	0	0
Other	91.8	89	1.0	1	7.2	7
Registered voters	88.4	183	3.9	8	7.7	16
Nonregistered voters	92.5	49	1.9	1	5.7	3
Republican	83.3	50	6.7	4	10.0	6
Democrat	91.2	103	0.9	1	8.0	9
Independent	89.9	71	5.1	4	5.1	4
Other	100.0	4	0	0	0	0
Don't know	100.0	5	0	0	0	0
White	88.6	203	3.9	9	7.4	17
Black	95.8	23	0	0	4.2	1
Other	100.0	2	0	0	0	0
$10,000 or less	91.4	32	2.9	1	5.7	2
$10,001 to $15,000	97.4	37	0	0	2.6	1
$15,001 to 20,000	95.7	45	0	0	4.3	2
$20,000 or more	87.0	114	5.3	7	7.6	10
Refused	44.4	4	11.1	1	44.4	4
Male	89.0	121	2.9	4	8.1	11

NEED FOR MORE CONTROLS ON POWERPLANT EMISSIONS CAUSING ACID RAIN—Continued

[3. (For those who believe acid rain is a very serious or a serious problem:) "Do you think powerplant emissions which cause acid rain in the eastern United States should be more tightly controlled?"]

	Yes		No		Don't know	
	Percent	Number	Percent	Number	Percent	Number
Female	89.5	111	4.0	5	6.5	8
18 to 33	92.4	85	1.1	1	6.5	6
34 to 53	89.4	93	4.8	5	5.8	6
54 and older	87.3	55	3.2	2	9.5	6

SUPPORT MORE POWERPLANT EMISSION CONTROLS EVEN WITH INCREASED UTILITY RATES

[4. (For those who support tighter controls:) "Would you support such controls for companies that are big polluters even if it meant a modest increase in your utility bill?"]

	Yes		No		Don't know	
	Percent	Number	Percent	Number	Percent	Number
Overall	83.3	204	11.4	28	5.3	13
8th grade (0–8)	70.6	12	23.5	4	5.9	1
High School (9–12)	71.4	70	18.4	18	8.2	8
College (13 or more)	92.4	121	4.6	6	3.1	4
Professional-technical	94.8	55	3.4	2	1.7	1
Manager-proprietor	88.0	22	4.0	1	8.0	2
House spouse	84.6	22	11.5	3	3.8	1
Student	100.0	7	0	0	0	0
Retired	70.8	17	20.8	5	8.3	2
Unemployed	72.7	8	27.3	3	0	0
Other	77.4	72	15.1	14	7.5	7
Registered voters	84.4	162	9.9	19	5.7	11
Nonregistered voters	78.8	41	17.3	9	3.8	2
Republican	86.3	44	7.8	4	5.9	3
Democrat	79.8	87	13.8	15	6.4	7
Independent	86.8	66	9.2	7	3.9	3
Other	75.0	3	25.0	1	0	0
Don't know	80.0	4	20.0	1	0	0
White	84.6	181	10.3	22	5.1	11
Black	73.9	17	21.7	5	4.3	1
Other	100.0	2	0	0	0	0
$10,000 or less	69.7	23	27.3	9	3.0	1
$10,001 to $15,000	76.3	29	18.4	7	5.3	2
$15,001 to $20,000	87.2	41	10.6	5	2.1	1
$20,001 or more	89.2	107	5.0	6	5.8	7
Refused	50.0	3	16.7	1	33.3	2
Male	87.3	110	8.7	11	4.5	5
Female	78.8	93	14.4	17	6.8	8
18 to 33	85.4	76	10.1	9	4.5	4
34 to 53	89.6	86	7.3	7	3.1	3
54 and older	71.2	42	20.3	12	8.5	5

IMPACT OF CONGRESSIONAL CANDIDATE'S ACID RAIN POSITION ON YOUR VOTE

[5. (For those who have heard of acid rain:) "Other factors being equal, is a Congressional candidate's position on control of acid rain important enough to you that it might cause you to vote for or against that candidate?"]

	Yes		No		Don't know	
	Percent	Number	Percent	Number	Percent	Number
Overall	44.3	145	39.1	128	16.5	54
8th grade (0–8)	47.8	11	13.0	3	39.1	9
High school (9–12)	40.2	63	35.6	47	16.7	22
College	41.2	70	45.9	78	12.9	22
Professional-technical	37.3	25	49.3	33	13.4	9
Manager-proprietor	48.6	17	45.7	16	5.7	2
House spouse	52.9	18	32.4	11	14.7	5
Student	40.0	6	53.3	8	6.7	1
Retired	40.6	13	31.3	10	28.1	9
Unemployed	56.3	9	18.8	3	25.0	4
Other	44.4	56	36.5	46	19.0	24
Registered voters	42.4	108	40.4	103	17.3	44
Nonregistered voters	50.7	36	35.2	25	14.1	10
Republican	38.3	31	40.7	33	21.0	17
Democrat	44.1	60	36.8	50	19.1	26
Independent	47.4	46	44.3	43	8.2	8
Other	60.0	3	0	0	40.0	2
Don't know	62.5	5	25.0	2	12.5	1
White	45.8	131	39.2	112	15.0	43
Black	36.4	12	33.3	11	30.3	10
Other	33.3	1	33.3	1	33.3	1
$10,000 or less	54.3	25	17.4	8	28.3	13
$10,001 to $15,000	39.2	20	39.2	20	21.6	11
$15,001 to $20,000	48.5	32	43.9	29	7.6	5
$20,001 or more	43.1	66	43.1	66	13.7	21
Refused	20.0	2	40.0	4	40.0	4
Male	44.2	76	43.6	75	12.2	21
Female	44.8	69	34.4	53	20.8	32
18 to 33	39.7	50	49.2	62	11.1	14
34 to 53	44.4	55	40.3	50	15.3	19
54 and older	52.6	40	19.7	15	27.6	21

ANALYSIS OF POLL RESULTS

1. AWARENESS OF ACID RAIN PROBLEM

Nearly two-thirds of the North Carolinians surveyed (60.2 percent) said they had heard of acid rain, with awareness of the issue being greater among registered voters (63.7 percent) than among non-registered voters (49.0 percent), and about the same among Republicans (63.3 percent), Democrats (58.4 percent), and Independent (66.0 percent).

Demographically, the better educated respondents were more likely to have heard of acid rain, with those having a college education more than twice as likely (79.4 percent) to have heard of the phenomenon than those with only a grade school education

(35.7 percent). White-collar workers—professional-technical (84.1 percent) and manager-proprietors (67.9 percent)—and students (88.2 percent) were significantly more likely to have heard of acid rain than unemployed or retired persons (50 percent each), house spouse (59.3 percent), and blue-collar and other workers (53.5 percent).

Whites (65.7 percent), Males (69.3 percent), those aged 18–53 (63 percent), and those earning $15,000 or more (66.3 percent and 72.9 percent) were more likely to have heard of acid rain than Blacks and other minorities likely to have heard of acid rain than Blacks and other minorities (33.3 percent), Females (52.1 percent), those 54 and older (54.5 percent), and those earning less than $15,000 (41.0 percent 47.7 percent.

2. SERIOUSNESS OF ACID RAIN PROBLEM

Of those who said they had heard of acid rain, 68.6 percent regarded the problem as serious or very serious, as against only 17.4 percent who thought the problem was not very serious—a nearly 4 to 1 margin. (Considering the population of North Carolina as a whole—including those who had not heard of acid rain—two people out of every five regard acid rain as a serious or very serious problem).

Among those knowledgeable of the problem, few demographic differences were apparent, particularly in the voter registration, income, sex, and age categories. The only significant differences were that those with a college education (75.8 percent), professional-technical workers (81.4 percent) and house spouses (77.1 percent), and knowledgeable Blacks (77.4 percent) all showed a somewhat enhanced view of the seriousness of the problem in relation to those less well-educated (64 percent and 61.2 percent) (but, surprisingly, only 53.3 percent of the Students surveyed regarded the problem as serious or very serious), and informed Whites (67.2 percent). Curiously, although more Republicans than Democrats had heard of the problem, informed Democrats were more likely (74.0 percent) than informed Republicans (58.4 percent) to regard the problem as serious or very serious.

3. SUPPORT FOR MORE CONTROLS ON POWER PLANT EMISSIONS

Those who consider the acid rain problem serious or very serious overwhelmingly support—by more than 26 to 1—tighter controls on power plant emissions which cause acid rain in the eastern United States. (This still represents nearly 36 percent of all North Carolinians—whether or not they had heard of acid rain, and whether or not they regard the problem as serious.)

The pattern was the same regardless of party affiliation, age, income level, or other demographic factors.

4. SUPPORT FOR MORE CONTROLS ON POWER PLANT EMISSIONS EVEN WITH INCREASED UTILITY RATES

The overwhelming majority (83.3 percent) of those who support tighter controls on acid rain-causing power plant emissions continue to support such controls on power plants that are big polluters even at the cost of a modest increase in their utility bills. Only 11.4 percent were deterred in their support for tighter emission controls by the prospect of higher utility rates.

Perhaps not surprisingly, the largest number of defections from the ranks of emission control supporters because of utility costs were among retired (20.8 percent), and unemployed (27.3 percent) people, those earning $10,000 or less (27.3 percent), Blacks (21.7 percent), and those 54 and older (20.3 percent). However, even if these categories, support for increased controls outweighed opposition by 3- or 4-to-1.

Strongest support for controls notwithstanding cost came from those with college educations (92.4 percent; a 20:1 margin), professional-technical workers (94.8 percent; a 28:1 margin), and students (100 percent).

Interestingly, registered voters showed stronger support for controls notwithstanding costs (94.4 percent; an 8.5:1 margin) than non-registered voters (78.8 percent; a 4.5:1 margin). So did Republicans (86.3 percent; an 11:1 margin) in relation to Democrats (79.8 percent; a nearly 6:1 margin).

5. EFFECT ON VOTE FOR CONGRESSIONAL CANDIDATES

Slightly more than half of those who said they had heard of acid rain and had an opinion (44.3 percent versus 39.1 percent) said that a congressional candidate's position on acid rain control was important enough to them that it might cause them to vote for or against that candidate. (This represents 27 percent—better than one-quarter—of the population.) (This ratio was slightly higher among non-registered voters than among registered voters.) This sentiment was similar among Republicans, Democrats, and Independents.

The categories most inclined to base their vote on a candidate's acid rain position (but also reflecting among the highest levels of uncertainty) were the unemployed (56.3 percent vs. 18.8 percent), those earning less than $10,000 (54.3 percent vs. 17.4 percent), and those 54 and older (52.6 percent vs. 19.7 percent).

ABOUT ACID RAIN

In theory, "pure" rain is mildly acidic with a pH of 5.6 to 5.7. Atmospheric carbon dioxide forms carbonic acid as it achieves an equilibrium with precipitation. This mild acid is easily assimilated by the environment and beneficial in effect; it dissolves and releases nutrients essential to plant and animal life.

In reality, both natural and man-made substances tend to increase or decrease the acidity of rainfall. Samples of glaciers and continental ice sheets, taken as indicators of unpolluted precipitation, have revealed pH values both more and less than the theoretical value for unpolluted rain. Natural influences such as sea salts, earthen and volcanic dusts, ammonia and sulfur compounds from the bacterial decomposition of plant and animal matter, among other things, can all either raise or lower pre-existing rainfall pH values.

Over the last several decades, the burning of fossil fuels by man has significantly increased the acidity of rainfall through emissions of sulfur dioxide (SO_x) and nitrogen oxides (NO_x) to the atmosphere. High in the atmosphere, these chemical agents are transformed into sulfuric and nitric acids, which then fall to the earth as acid rain, snow, fog, and dew, or in a dry particulate form of equal acidifying potential. In excessive amounts, this acidity may cause extensive damage to aquatic life, lakes, forests, crops, building materials, and, potentially, human health.

SOURCES OF ACIDITY

In the eastern United States, man-made SO_2 emissions account for 90 percent of the total atomospheric sulfur input. Twenty-to twenty-five-million tons of SO_2 are emitted by man-made sources each year. About 70 percent of this total originates from utility power plants; industrial boilers and commercial and residential furnaces emit most of the rest. Natural sources contribute only 5 percent or less of the eastern sulfur dioxide emissions. Eastern NO_x emissions total about 16-million tons each year and are on the upswing. Automobiles contribute 40 percent of this pollutant, power plants contribute 30 percent, and industrial boilers contribute most of the remainder.

In the East, SO_2 is responsible for 65 percent of the excess acidity in rainfall, and NO_x is responsible for most of the remaining 35 percent. Because power plants release most of the East's sulfur dioxide emissions, and because these facilities often have tall stacks (which facilitate the long-range transport and conversion of SO_2 into sulfuric acid), power plants have been the target of most proposed acid rain control measures.

In the West, the approximately 7-million tons of NO_x emitted each year play a larger role than in the East as precursors of acid rain. Cars and trucks emit the largest share of this pollutant, but utility power plants and non-ferrous smelters are also major contributors. Western polluters emit about 4-million tons of SO_2 each year. The 14 nonferrous smelters in the West emit at least 1-million of these tons. The remaining 3-million tons of SO_2 are released primarily by power plants in combination with thousands of smaller sources.

EFFECTS

Acid rain threatens a growing number of our lakes and streams. A recent survey found that one-fifth of the waters in the East may be susceptible to the effects of acid rain.

The most productive lakes and streams have pH values that range from about 6.5 to 8.0. They support a rich and diverse community of algae and zooplankton, insects, shrimp, crayfish, salamanders, and fish. But some of these waters have a limited capacity to neutralize (or buffer) acid. The continued onslaught of acid rain and snow, year after year, gradually depletes the buffering ability of these sensitive waters. Then their pH drops dramatically.

When the pH of a body of water falls below 5.8 to 6.0, shrimp, crayfish and salamanders die. At pH 5.5 algae, the base of the food web, are affected, some aquatic insects begin to disappear, and sensitive fish species (smallmouth bass, walleye and turbot) stop reproducing. Below pH 5.5, lake trout reproduction ceases. By the time the pH of a lake or stream falls below 5.0, nearly the entire ecosystem will have been substantially affected. Already, hundreds of lakes and streams in sensitive areas are unproductive and devoid of native life forms (e.g., important game species). Restoring these acidified waters to a productive status on any significant scale is nearly impossible.

Acid rain is believed to threaten long-term forest productivity. Acid rain leaches nutrients from sensitive soils and may increase a tree's susceptibility to insects, drought, and fungal attack. The impact of acid rain on agricultural crops at current average acidity levels is not clear, as agricultural soils are routinely limed—or buffered. But highly acidic rain, which can occur in individual storm events, may damage lettuce and other leafy vegetables, tomatoes, and some root crops.

Currently, acid rain falls on at least 2.5-million acres of farmland and 2-million acres of forests and woodlands in the eastern United States. Maps based on soil chemistry and other parameters show that 26

states in the East and 11 states in the West contain high-sensitivity soils (in the latter, particularly at the high elevations).

Acid rain and its precursors, SO_2 and NO_x, also affect man-made structures such as buildings, automobiles, bridges, and statuary. Concrete, stone, paint, steel, and other building and monument materials are suffering accelerated corrosion and weathering. General Motors owner manuals now carry a warning that paint finishes damaged by fallout of atmospheric pollutants are not covered by warranty. The U.S. Capitol Building and the Statue of Liberty are among the national monuments showing acid rain damage. Scientists estimate that acid rain's damage to materials costs billions of dollars each year.

Acid rain has potentially harmful effects on human health. There is danger that toxic metals, mobilized by the action of acid rain in water bodies and soils, will contaminate water supplies and accumulate in food (e.g., mercury in fish). Acid rain can leach toxic metals from copper pipes and lead solder joints in plumbing systems to contaminate drinking water. Many raw drinking water supplies in New England have little or no capacity to neutralize acid and already exceed the U.S. drinking water standard for acidity. In addition, breathing sulfate pollution, a component of acid rain, has been associated with excess deaths and illness due to heart and circulatory failure.

Overall, according to the National Academy of Sciences, the most readily quantifiable effects of acid rain have been estimated to cause damage to the Nation on the order of $5-billion each year.

VULNERABILITY OF NORTH CAROLINA AND OTHER EASTERN STATES TO ACID RAIN DAMAGE

A National Wildlife Federation study, released last Fall, found that 15 of the 26 states east of the Mississippi River, including North and South Carolina, are "extremely vulnerable" to the harmful effects of acid rain. Another ten states are "moderately vulnerable," according to the study, and one—Florida (viewed overall)—is only "slightly vulnerable" (although parts of the state are highly vulnerable).

The ratings are based on each state's rainfall acidity, geology, soils, and water chemistry, which provided measures of the potential for acid rain damage to fisheries, soils, crop foliage, and marble and limestone structures. The results of the NWF study are summarized in Table I.

Among the study's more striking findings: both the fisheries resources and the soil of eleven states—Connecticut, Maine, Massachusetts, Michigan, New Hampshire, New York, North Carolina, Pennsylvania, Rhode Island, Vermont, and Wisconsin—were found to be extremely vulnerable to acid rain's effects.

Calculations by High/Low Research indicate that the 13 states with "extremely vulnerable" fisheries had 6.8 million paid fishing license holders in 1980 or 24.3 percent of the U.S. total. The 9 states with "moderately vulnerable" fisheries accounted for another 3.9 million license holders or 13.9 percent—for a combined total of 38.2 percent of all fishing license holders in the U.S.

According to an assessment prepared for the congressional Office of Technology Assessment, nearly 23,000 miles of streams and 3,000 lakes in the eastern U.S. are acid-altered. Another 37,000-odd stream miles and 6,400 lakes are at risk. A National Academy of Sciences Report indicates that at current emission rates, the number of acidified streams in the eastern U.S. will more than double by 1990.

The number and percentage of lakes and streams "at risk" from acid rain in 14 sensitive areas of the United States are portrayed in Table II.

GENERAL REVENUE SHARING

● Mr. DURENBERGER. Mr. President, on September 30, 1983, the general revenue sharing program will expire unless it is reauthorized by Congress. I am confident that we will pass some form of revenue sharing before that time, but if the experience of the last reauthorization teaches us anything, we can expect to be here right up until September 29 before getting agreement on the final version. While most would agree that some improvements could be made in the program, negotiating a consensus among all of the affected interests is an arduous process.

This does not mean we should shrink from the effort to improve the program. Indeed, revenue sharing may provide a solid foundation for a broader New Federalism proposal. We should explore this possibility in detail in the coming year. However, any more comprehensive New Federalism proposal will crystallize only after considerable deliberation and negotiation. Taking action on such a major change in the intergovernmental system will be a slow process, not likely to occur within the next 6 months.

Local officials cannot wait 6 months or more to know the fate of general revenue sharing; they must have some certainty regarding the Federal assistance that they can expect in the coming year as they prepare their budgets. It is neither fair nor wise to make them wait until September 29 to know whether they can count on revenue sharing dollars.

Therefore, Mr. President, on the first day of the 98th Congress I intend to introduce a simple reauthorization of general revenue sharing. I hope and expect that such a bill will include a substantial number of my Senate colleagues as cosponsors to demonstrate our staunch support of the revenue sharing concept. It is important to send this message to the White House now as the President prepares his budget for fiscal year 1984.

To this end, I am today circulating a "Dear Colleague" letter on behalf of myself and Senators BAKER, DOMENICI, ROTH, SASSER, and BRADLEY asking for cosponsors and explaining the reasons for supporting such a measure. I hope to gather as many cosponsors as possible over this short session so that on its closing day we can announce a majority of the Senate backing the concept of revenue sharing.

I ask that the "Dear Colleague" letter be printed in the RECORD, along with a recent Washington Post article on the importance of general revenue sharing to our Nation's local government.

The material follows:

UNITED STATES SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, D.C., November 29, 1982.

DEAR COLLEAGUE: The General Revenue Sharing Program expires on September 30, 1983. Twice reauthorized by Congress since its inception in 1972, Revenue Sharing has provided valuable general purpose fiscal assistance to State and local governments. Although a relatively small component of the overall grant-in-aid system (comprising about 5.5 percent in FY 1981), General Revenue Sharing is very important to many local governments.

Over forty percent of all small cities, for example, receive no other Federal aid. According to a recent survey of cities across the nation, 80 percent of those surveyed said they would be forced to cut services next year if the program were reduced or eliminated, and 50 percent felt they would be forced to raise taxes.

On the first day of the 98th Congress we will introduce a bill to reauthorize the General Revenue Sharing Program. It will be a simple reauthorization for three years at the current funding level of $4.6 billion and will employ the same allocation formulas as the present program. The purpose of doing this is simple. A clean reauthorization bill with wide bipartisan support in the Senate would be a signal to both the House and the Administration that the Senate will, at the very least, continue the present program.

As we all know, the existing General Revenue Sharing Program is flawed in some respects. We expect many of the cosponsors of this bill to introduce their own bills making changes in the areas of concern to them or even revamping the program entirely. It is important, though, to find a vehicle early in the next Congress to demonstrate strong Senate support for the concept of revenue sharing. With strong support, this bill will make the point emphatically that the current program, flawed as it is, will be the minimally acceptable alternative to the Senate—a starting place for possible improvement or broadening into a more comprehensive New Federalism program.

We encourage you to join us in cosponsoring a simple reauthorization at this time as a show of support for the concept of general purpose fiscal assistance. If you would like to do so, please have a member of your staff contact Mr. Larry Hunter at 224-4718.

Sincerely,

JIM SASSER.
DAVE DURENBERGER.
PETE V. DOMENICI.
HOWARD H. BAKER, JR.
WILLIAM V. ROTH, JR.
BILL BRADLEY.

CITIES WARN ON REVENUE-SHARING LOSS

(By Howard Kurtz)

Officials from eight of 10 cities say they would have to cut services if federal revenue sharing were reduced next year, and abut half say they would also have to raise taxes, according to a survey released today by the National League of Cities.

Nearly one-third of the cities surveyed also said they would have to lay off municipal workers if revenue-sharing funds were cut. No one relies more on the program than small cities—41 percent of towns with populations between 10,000 and 50,000 said revenue sharing is the only federal aid they receive.

The survey marks the beginning of a lobbying offensive by the league to protect the $4.6 billion program, which must be reauthorized by Congress next year. The league is to focus on the program at its annual meeting this week in Los Angeles.

Most mayors are enthusiastic about the program, which makes up 5 to 10 percent of their city budgets, because they can spend the money any way they want.

Administration budget-cutters have not suggested that the program is a target, and plans to phase it out under President Reagan's "New Federalism" apparently have been dropped. "I know of no plans to reduce general revenue sharing," a spokesman for the Office of Management and Budget said.

The league reported that "revenue sharing has become in many ways the glue that holds the precarious fiscal situation of many cities together."

The program, which began as the Nixon administration's version of New Federalism, is used for everything from downtown revitalization to Meals on Wheels for senior citizens. New Orleans uses its money for street cleaning, Birmingham for storm sewers and Frankfort, Ind., for the town library.

More than half the big cities reported they spend funds on such basic items as police, health care or social services. Albuquerque, N.M., uses the money to pay 80 percent of its firemen. Washington spends its $17 million payment on a crime prevention unit, three fire companies, welfare payments and street lighting.

In Baltimore, officials use most of their $24 million allotment to run the fire department and ambulance service. Another $5 million goes for playgrounds and recreation centers, with $1 million earmarked for trash collection.

"Most of that money would have to be replaced," said Sandy Jordan, a Baltimore budget analyst. "There's no way you cannot fund the fire department. We've already pared all these services back the last few years."

Jordan said Baltimore would have to raise the property tax rate by 60 cents to compensate for the cuts, an increase he termed politically impractical. "We already have a property tax that's twice as high as any other subdivision in Maryland," he said. "If you want to keep your middle- and upper-income taxpayers, you can't tax them out of your jurisdiction."

In similar fashion, the smallest cities in the survey said they would have to raise property taxes 45 percent to make up the difference, while the largest cities predicted increases of 15 percent.●

PROPOSED ARMS SALES

● Mr. PERCY. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive prior notification of proposed arms sales under that act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulated that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with the committee's intention to see that such information is available to the full Senate, I ask to have printed in the RECORD at this point the notifications which have been received. The classified annexes referred to in several of the covering letters are available to Senators in the office of the Foreign Relations Comittee, room 4229, Dirksen Building.

The notifications follow:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., November 29, 1982.
In reply refer to I-03816/82ct.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 83-09 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Navy's proposed Letter of Offer to the United Kingdom for defense articles and services estimated to cost $900 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

PHILIP C. GAST,
Director.

TRANSMITTAL NO. 183-09

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective purchaser: United Kingdom.

(ii) Total estimated value:

	Millions
Major defense equipment [1]	$670
Other	230
Total	900

[1] As defined in section 47(6) of the Arms Export Control Act.

(iii) Description of articles or services offered: Purchase of up to 2,000 AGM-88 High Speed Anti-Radiation Missiles, spare parts, launchers, and the use of United States missile test ranges.

(iv) Military Department: Navy (LCX).

(v) Sales commission, Fee, etc., paid, offered, or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: See Annex under separate cover.

(vii) Section 28 report: Case not included in section 28 report.

(viii) Date report delivered to Congress: November 29, 1982.

POLICY JUSTIFICATION

UNITED KINGDOM—AGM-88 HIGH SPEED ANTI-RADIATION MISSILES

The Government of the United Kingdom has requested the purchase of up to 2,000 High Speed Anti-Radiation Missiles (HARM), spare parts, launchers, and the use of United States missile test ranges at an estimated cost of $900 million.

This sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of the United Kingdom; furthering NATO rationalization, standardization, and interoperability; and enhancing the defense of the Western Alliance.

The United Kingdom's Royal Air Force has a requirement for a defense suppression weapon to combat the missile threat faced by Tornado aircraft. HARM will assist the Royal Air Force in achieving air superiority by enabling Tornado aircraft to reach enemy airfields, accomplish their tactical mission, and survive.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be the Texas Instruments Corporation of Dallas, Texas.

Implementation of this sale will not require the assignment of any additional U.S. Government personnel to the United Kingdom. Approximately 20 U.S. contractor representatives will be required for one year in the United Kingdom to train their United Kingdom counterparts and four U.S. contractor representatives will be required in the United Kingdom to provide logistic and technical post design support for the life of the program (1983-1996).

There will be no adverse impact on U.S. defense readiness as a result of this sale.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., November 29, 1982.
In reply refer to I-03926/82ct.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 83-03 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Navy's proposed Letter of Offer to Colombia for defense articles and services estimated to cost $50 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

PHILIP C. GAST,
Director.

TRANSMITTAL NO. 83-03

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective purchaser: Colombia.

(ii) Total estimated value:

	Millions
Major defense equipment [1]	$46
Other	4
Total	50

[1] As defined in section 47(6) of the Arms Export Control Act.

(iii) Description of articles or services offered: Two hundred forty AIM-7F SPARROW missiles with support.

(iv) Military Department: Navy (ACU).

(v) Sales commission, fee, etc., paid, offered, or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: See Annex under separate cover.

(vii) Section 28 report: Included in report for quarter ending September 30, 1982.

(viii) Date report delivered to Congress: November 29, 1982.

POLICY JUSTIFICATION

COLOMBIA—AIM-7F SPARROW MISSILES

The Government of Colombia has requested the purchase of 240 AIM-7F SPARROW missiles with support at an estimated cost of $50 million.

This sale is consistent with the U.S. policy of assisting other nations to provide for their own defense and security by the transfer of reasonable amounts and types of mili-

tary equipment. As an ally under the Rio Pact, Colombia is important to the United States in maintaining stability in the approaches to the Panama Canal.

Colombia wishes to arm its SKYGUARD air defense system with AIM-7F missiles. The sale would be a major step in modernizing and strengthening the Colombian Army's air defense capability and will contribute toward its ability to meet national defense objectives.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be either the Raytheon Corporation of Lowell, Massachusetts, or the General Dynamics Corporation of Pomona, California.

Implementation of this sale will not require the assignment of any U.S. Government personnel. Contractor representatives will be required to provide approximately three months of training and technical services for approximately two years.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C. November 29, 1982.
In reply refer to I—03816/82ct.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 83-09 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Navy's proposed Letter of Offer to the United Kingdom for defense articles and services estimated to cost $900 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

PHILIP C. GAST,
Director.

TRANSMITTAL NO. 83-09

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective purchaser: United Kingdom.

(ii) Total estimated value:

	Millions
Major defense equipment[1]	$670
Other	230
Total	900

[1] As defined in Section 47(6) of the Arms Export Control Act.

(iii) Description of articles or services offered: Purchase of up to 2,000 AGM-88 High Speed Anti-Radiation Missiles, spare parts, launchers, and the use of United States missile test ranges.

(iv) Military Department: Navy (LCX).

(v) Sales commission, fee, etc., paid, offered, or agreed to be paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: See Annex under separate cover.

(vii) Section 28 report: Case not included in Section 28 report.

(viii) Date report delivered to Congress: 29 Nov. 1982.

POLICY JUSTIFICATION

UNITED KINGDOM—AGM-88 HIGH SPEED ANTI-RADIATION MISSILES

The Government of the United Kingdom has requested the purchase of up to 2,000 High Speed Anti-Radiation Missiles (HARM), spare parts, launchers, and the use of United States missile test ranges at an estimated cost of $900 million.

This sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of the United Kingdom; furthering NATO rationalization, standardization, and interoperability; and enhancing the defense of the Western Alliance.

The United Kingdom's Royal Air Force has a requirement for a defense suppression weapon to combat the missile threat faced by Tornado aircraft. HARM will assist the Royal Air Force in achieving air superiority by enabling Tornado aircraft to reach enemy airfields, accomplish their tactical mission, and survive.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be the Texas Instruments Corporation of Dallas, Texas.

Implementation of this sale will not require the assignment of any additional U.S. Government personnel to the United Kingdom. Approximately 20 U.S. contractor representatives will be required for one year in the United Kingdom to train their United Kingdom counterparts and four U.S. contractor representatives will be required in the United Kingdom to provide logistic and technical post design support for the life of the program (1983-1996).

There will be no adverse impact on U.S. defense readiness as a result of this sale.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., November 30, 1982.
In reply refer to: I.04411/82ct.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 83-01 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Army's proposed Letter of Offer to Lebanon for defense articles and services estimated to cost $32 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

PHILIP C. GAST,
Director.

TRANSMITTAL NO. 83-01

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective Purchaser: Lebanon

(ii) Total Estimated Value:

Major defense equipment[1]	*Millions*
	$24
Other	8
Total	32

[1] As defined in Section 47(6) of the Arms Export Control Act.

(iii) Description of Articles or Services Offered: Thirty-four M48A5 tanks with related ammunition, spare parts, ancillary equipment, and training.

(iv) Military Department: Army (URW, URH, URY, URG, and OAU).

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: See Annex under separate cover.

(vii) Section 28 Report: Case not included in Section 28 report.

(viii) Date Report Delivered to Congress: 30 Nov. 1982.

POLICY JUSTIFICATION

LEBANON—M48A5 TANKS

The Government of Lebanon has requested the purchase of 34 M48A5 tanks with related ammunition, spare parts, ancillary equipment, and training at an estimated cost of $32 million.

This sale will contribute to the foreign policy objectives of the United States by enabling Lebanon to increase its capability to provide for its own security and defense. As the Lebanese Government reasserts itself in the wake of recent hostilities, well equipped and trained armed forces are essential to assuring the nation's sovereignty.

These tanks will be used to equip one battalion of the Lebanese Army. The sale of this equipment and support will not affect the basic military balance in the region.

The M48A5 tanks will come from U.S. Army stocks.

Implementation of this sale will require the assignment of a Mobile Training Team of 12 U.S. Government personnel in-country for 179 days after arrival of the first increment of tanks. No contractor representatives will be required.

There will be minimal impact on U.S. defense readiness as a result of this sale.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., November 30, 1982.
In reply refer to: I-04413/82ct.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 83-02 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Army's proposed Letter of Offer to Pakistan for defense articles and services estimated to cost $40 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

PHILIP C. GAST,
Director.

TRANSMITTAL NO. 83-02

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective Purchaser: Pakistan.

(ii) Total Estimated Value:

	Millions
Major Defense Equipment[1]	$29
Other	11
Total	40

[1] As defined in Section 47(6) of the Arms Control Act.

(iii) Description of Articles or Services Offered: Ten AN/TPQ-36 radar systems with spares, support equipment, technical assistance, and training.

(iv) Military Department: Army (VCK).

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: See Annex under separate cover.

(vii) Section 28 Report: Case not included in Section 28 report.

(viii) Date Report Delivered to Congress: Nov. 30, 1982.

POLICY JUSTIFICATION

PAKISTAN—AN/TPQ-36 RADAR SYSTEMS

The Government of Pakistan has requested the purchase of ten AN/TPQ-31 radar systems with spares, support equipment, technical assistance, and training at an estimated cost of $40 million.

This sale will contribute to the foreign policy objectives of the United States by enabling Pakistan to increase its capability to provide for its own security and defense, particularly in view of the increased threat resulting from the Soviet invasion of Afghanistan.

The Government of Pakistan requires these weapon locating radar systems as a primary means of countering hostile mortar fire. This sale is a part of Pakistan's overall force modernization plan.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be the Hughes Aircraft Corporation of Fullerton, California.

Implementation of this sale will require the assignment of five additional U.S. Government personnel and one contractor representative to Pakistan for four months.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., November 30, 1982.
In reply refer to: I-04697/82.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 83-07, concerning the American Institute in Taiwan's proposed Letter of Offer to the Coordination Council for North American Affairs for defense articles and services estimated to cost $97 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

PHILIP C. GAST,
Director.

TRANSMITTAL No. 83-07

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective Purchaser: Coordination Council for North American Affairs (CCNAA), pursuant to P.L. 96-8.

(ii) Total Estimated Value:

	Millions
Major Defense Equipment[1]	$76
Other	21
Total	97

[1] As defined in Section 47(6) of the Arms Export Control Act.

(iii) Description of Articles or Services Offered: One hundred sixty-four M113A2 armored personnel carriers (to include 24 ambulances), 90 M106A2 mortar carriers, 72M125A2 mortar carriers, and 31 command post vehicles. Ancillary support items are to be provided for all of the vehicles.

(iv) Military Department: Army (XXO).

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: None.

(vii) Section 28 Report: Case not included in Section 28 report.

(viii) Date Report Delivered to Congress: 30 November 1982.

POLICY JUSTIFICATION

COORDINATION COUNCIL FOR NORTH AMERICAN AFFAIRS (CCNAA)—ARMORED PERSONNEL CARRIERS, MORTAR CARRIERS, AND COMMAND POST VEHICLES

This proposed Letter of Offer and Acceptance provides for the sale of 164 M113A2 armored personnel carriers (to include 24 ambulances), 90 M106A2 mortar carriers, 72 M125A2 mortar carriers, and 31 command post vehicles. Ancillary support items are to be provided for all of the vehicles. The estimated cost of this sale is $97 million.

The proposed sale of these vehicles is consistent with United States law and policy, as expressed in Public Law 96-8.

These vehicles will be used by Taiwan to equip armored units. Taiwan is experienced in operating and maintaining these vehicles.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be the FMC of San Jose, California.

It is anticipated that implementation of this sale will require the assignment of four additional contractor representatives to Taiwan for one month.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., November 29, 1982.
In reply refer to: I-03926/82ct.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 83-03 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Navy's proposed Letter of Offer to Colombia for defense articles and services estimated to cost $50 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

PHILIP C. GAST,
Director.

TRANSMITTAL No. 83-03

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective Purchaser: Colombia.

(ii) Total Estimated Value:

	Millions
Major Defense Equipment[1]	$46
Other	4
Total	50

[1] As defined in Section 47(6) of the Arms Export Control Act.

(iii) Description of Articles or Services Offered: Two hundred forty AIM-7F SPARROW missiles with support.

(iv) Military Department: Navy (ACU).

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: See Annex under separate cover.

(vii) Section 28 Report: Included in report for quarter ending 30 September 1982.

(viii) Date Report Delivered to Congress: 29 November 1982.

POLICY JUSTIFICATION

COLOMBIA—AIM-7F SPARROW MISSILES

The Government of Colombia has requested the purchase of 240 AIM-7F SPARROW missiles with support at an estimated cost of $50 million.

This sale is consistent with the U.S. policy of assisting other nations to provide for their own defense and security by the transfer of reasonable amounts and types of military equipment. As an ally under the Rio Pact, Colombia is important to the United States in maintaining stability in the approaches to the Panama Canal.

Colombia wishes to arm its SKYGUARD air defense system with AIM-7F missiles. The sale would be a major step in modernizing and strengthening the Colombian Army's air defense capability and will contribute toward its ability to meet national defense objectives.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be either the Raytheon Corporation of Lowell, Massachusetts, or the General Dynamics Corporation of Pomona, California.

Implementation of this sale will not require the assignment of any U.S. Government personnel. Contractor representatives will be required to provide approximately three months of training and technical services for approximately two years.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., November 29, 1982.
In reply refer to: I-02875/82ct.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 83-05, concerning the Department of the Navy's proposed Letter of Offer to Saudi Arabia for defense articles and services estimated to cost $408 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

PHILIP C. GAST,
Director.

TRANSMITTAL No. 83-05

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective Purchaser: Saudi Arabia.

(ii) Total Estimated Value:

	Millions
Major defense equipment[1]	$0
Other	408
Total	408

[1] As defined in Section 47(6) of the Arms Export Control Act.

(iii) Description of Articles or Services Offered: This case amendment is for the purchase of services, equipment, and materials associated with the software design, development, installation, test, and check-out of a Command, Control, and Communications (C^3) system and related communications system upgrade for the Royal Saudi Naval Forces.

(iv) Military Department: Navy (LAH, Amendment 6).

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: None.

(vii) Section 28 Report: Case not included in Section 28 report.

(viii) Date Report Delivered to Congress: November 29, 1982.

POLICY JUSTIFICATION

SAUDI ARABIA—COMMAND, CONTROL, AND COMMUNICATIONS SYSTEM

The Government of Saudi Arabia has requested amendment of an existing Foreign Military Sales (FMS) agreement for the purchase of services, equipment, and materials associated with the software design, development, installation, test, and check-out of a Command, Control, and Communications (C^3) system and related communications system upgrade for the Royal Saudi Naval Forces at an estimated cost of $408 million. Approval of this request will increase the cost of sales agreements pertaining to communications system equipment and C^3 integration systems to $606 million.

This sale is consistent with the stated U.S. policy of assisting friendly nations to provide for their own defense by allowing the transfer of reasonable amounts of defense articles and services. It will demonstrate the continuing willingness of the United States to support the Saudi Arabian effort to improve the security of the country through modernization of its naval forces. In a regional context, enhancement of the defensive capabilities of Saudi Arabia will also contribute to overall Middle East security.

Saudi Arabia is in the process of enlarging and improving its naval forces through the Saudi Naval Expansion Program (SNEP) with the United States. The SNEP includes the purchase of 29 ships and craft, shore facilities, equipment, logistical support, and training. This FMS case through Amendment 5 has provided a shore-based naval communications system with communications stations at Jidda, Jubail, and Riyadh; two transportable secondary communications and operational control units; vehicular radio communication systems; and design of a command. This sale, amendment 6, will provide for the shore-based communications system and the U.S.-designed C^3 system which are essential for the effective operations and control of Saudi naval forces. This sale will not introduce a new military capability into the region since neighboring countries have C^3 systems with similar capabilities.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be Science Applications, Incorporated of McLean, Virginia.

Implementation of this sale will not require the assignment of any additional U.S. Government or contractor personnel to Saudi Arabia.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., November 29, 1982.

In reply refer to: I-03940/82ct.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 83-04, concerning the Department of the Air Force's proposed Letter of Offer to Saudi Arabia for defense articles and services estimated to cost $113 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

PHILIP C. GAST,
Director.

TRANSMITTAL NO. 83-04

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective Purchaser: Saudi Arabia.

(ii) Total Estimated Value:

	Millions
Major defense equipment	$0
Other	113
Total	113

[1] As defined in Section 47(6) of the Arms Export Control Act.

(iii) Description of Articles or Services Offered: Cooperative logistics supply support arrangement consisting of a blanket order requisition (FMSO II) case for follow-on spares and supplies to support aircraft and other systems and subsystems of U.S. origin being operated by the Saudi armed forces.

(iv) Military Department: Air Force (KBR).

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: None.

(vii) Section 28 Report: Case not included in Section 28 report.

(viii) Date Report Delivered to Congress: 29 November 1982.

POLICY JUSTIFICATION

SAUDI ARABIA—COOPERATIVE LOGISTICS SUPPORT ARRANGEMENT

The Government of Saudi Arabia has requested the purchase of a cooperative logistics supply support arrangement consisting of a blanket order requisition (FMSO II) case for follow-on spares and supplies to support aircraft and other systems and subsystems of U.S. origin from 1 March 1983 through 28 February 1984 at an estimated cost of $113 million.

This sale is consistent with the stated U.S policy of assisting other nations to provide for their own defense by allowing the transfer of reasonable amounts of defense articles and services. It will demonstrate the continuing willingness of the U.S. to support Saudi Arabia which is an important force for moderation in the region.

This cooperative logistics supply support arrangement FMSO II case is necessary to ensure an uninterrupted flow of spare parts to support the Saudi F-5, F-15, and C-130 aircraft and other air force systems and subsystems of U.S. origin. Saudi Arabia will have no difficulty in absorbing the articles.

The sale of this equipment support will not affect the basic military balance in the region.

Procurement of these items will be from the many contractors providing similar items to the U.S. forces.

Implementation of this sale will not require the assignment of any additional U.S. Government or contractor personnel to Saudi Arabia.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., November 29, 1982.

In reply refer to: I-03113/83ct.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 83-08, concerning the Department of the Navy's proposed Letter of Offer to Korea for defense articles and services estimated to cost $59 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

PHILIP C. GAST,
Director.

TRANSMITTAL NO. 83-08

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective Purchaser: Korea.

(ii) Total Estimated Value:

	Millions
Major defense equipment[1]	$54
Other	5
Total	59

[1] As defined in Section 47(6) of the Arms Export Control Act.

(iii) Description of Articles or Services Offered: Forty-two amphibious vehicles (41 LVTP-7A1 and one LVTC-7A1) with initial provisioning.

(iv) Military Department: Navy (SBJ).

(v) Sales Commission, Free, etc., Paid, Offered, or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: None.

(vii) Section 28 Report: Included in report for quarter ending September 30, 1982.

(viii) Date Report Delivered to Congress: November 29, 1982.

POLICY JUSTIFICATION

KOREA—AMPHIBIOUS VEHICLES

The Government of Korea has requested the purchase of 42 amphibious vehicles (41 LVTP-7A1 and one LVTC-7A1) with initial provisioning at an estimated cost of $59 million.

This sale will contribute to the foreign policy objectives of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for modernization and progress in eastern Asia. The sale of this equipment and support will enhance deterrence and contribute to the preservation of peace and stability on the Korean peninsula.

This sale will assist in the modernization and strengthening of the Republic of Korea Navy Marine Force and will contribute toward its capability of meeting its national defense objectives. A modern, well equipped Republic of Korea Navy Marine Force contributes to regional stability in an area of

significant strategic interest for the United States.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be FMC of Chicago, Illinois.

Implementation of this sale will not require the assignment of any additional U.S. Government or contractor personnel to Korea.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., November 29, 1982.
In reply refer to: I-03444/82ct.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 83-06, concerning the Department of the Army's proposed Letter of Offer to Saudi Arabia for design and construction services estimated to cost $700 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

PHILIP C. GAST,
Director.

TRANSMITTAL NO. 83-06

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective Purchaser: Saudi Arabia.

(ii) Total Estimated Value: $700 million.

(iii) Description of Articles or Services Offered: This case is for design and construction services for an airfield to include facilities and furnishings required to provide logistical support to the King Khalid Military City and to support up to one squadron of Royal Saudi Air Force tactical aircraft.

(iv) Military Department: Army (HDS).

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: None.

(vii) Section 28 Report: Case not included in Section 28 report.

(viii) Date Report Delivered to Congress: 29 November 1982.

POLICY JUSTIFICATION

SAUDI ARABIA—AIRFIELD CONSTRUCTION

This case is for design and construction services for an airfield to include facilities and furnishings required to provide logistical support to the King Khalid Military City and to support up to one squadron of Royal Saudi Air Force (RSAF) tactical aircraft at an estimated cost of $700 million.

This effort is a part of the continuing Engineering Assistance Agreement Program by which the U.S. Government, through the U.S. Army Corps of Engineers, is providing advice and assistance in the construction of certain facilities for the Saudi Arabian Ministry of Defense and Aviation.

The primary purpose of the airfield is to facilitate support of King Khalid Military City. A secondary purpose relates to dispersal of RSAF aircraft in the event of heightened military tensions in the area. All maintenance facilities are programmed in the project. They include maintenance facilities to support the aircraft and those required in support of the airfield infrastructure. It is estimated that 100 trained non-U.S. Government sponsored personnel will be employed to provide the required maintenance of the airfield facilities. The Saudi Arabian Government will provide the operations and maintenance support with U.S. Army Corps of Engineers advisory assistance.

The sale of these services will not affect the basic military balance in the region.

There will be no prime contractor for this sale.

It is estimated that one officer and seventy-eight Department of the Army civilian (DAC) employees will be required for on-site construction supervision. This staffing is an average over a three year period. In addition, there will be an equivalent of ten DAC employees that will be required on the U.S. Army Corps of Engineers staff in Saudi Arabia and the U.S. to administer the project. The estimated number of construction contractor personnel required in Saudi Arabia to perform the construction work is 2,500, primarily third country nationals.

There will be no adverse impact on U.S. defense readiness as a result of this sale.●

DEATH OF ROBERT SHORT

● Mr. DURENBERGER. Mr. President, 2 weeks ago the people of Minnesota lost a very special friend. After a prolonged illness, Robert Short died of lung cancer on November 20.

Bob was known by many people for many things all around the country. Bob Short was not always liked—just ask any baseball fan in Washington, D.C.—but he was always respected. He set his goals, then marched full steam ahead to accomplish his objectives. Whether the pursuit was sports teams, hotels, trucking, or politics, Bob went in head first with a vitality and love of life that were unmatched.

There were really two Bob Shorts. The public's Bob Short was a hard-driving businessman who was sometimes gruff, often strident, and always ambitious. The public's Bob Short was the person who started with nothing and through his own hard work, ability, and creativity, built a business empire that enabled him and his family to live comfortably.

But there was another Bob Short who was seen by only a handful of people. Yet, it was this second Bob Short who will long be remembered with affection. This second Bob Short is the person who never forgot his debt to his community, to his church and to his fellow person. The stories of Bob's generosity to those less fortunate than he are legion, yet they only touch the surface of the number of people he helped. Mostly, his contributions were private matters: The helping hand to a family or employee in need; the generous gifts to private colleges without any expectation of public thanks; the soft touch for a person in trouble.

Jim Klobuchar, writing in the Minneapolis Star and Tribune, summed it up this way:

(Bob Short) was large enough in spirit, and sure enough in who and what he was not to seek public approval for those gifts . . .

Life was big and combative and rewarding for him. He lived it at or near full throttle most of the time. Yet he learned something that has eluded others more endeared by the public, that whatever the excitements of life from 8 to 5, none of them mean much in any enduring way beside the trust of those you bring into the world.

Both the public and the private Bob Short made their marks on the world. Bob will be remembered in different ways by different people. He was a good friend. He was a tough opponent in business and in politics. He was a faithful defender of his beliefs. He was a loving father and husband.

But most of all Bob Short was a good and decent man who used his talents to bless those around him. Bob Short will be missed.●

JOINT VENTURE FOR AFFORDABLE HOUSING

● Mr. LUGAR. Mr. President, for some months now, I have been watching a promising new program develop out of the Department of Housing and Urban Development called the Joint Venture for Affordable Housing. The joint venture represents a new level of public/private cooperation to reduce housing costs, and although it is less than a year old, it is already having some positive effects.

The joint venture is the product of a Task Force on Affordable Housing established by Secretary Pierce and chaired by Under Secretary Donald Hovde. The two major conclusions of the task force were that because there is no single cause of high housing costs, there is no single solution; and promoting affordable housing at the local level is primarily an issue of deregulation and streamlining processing.

The specific activities of the joint venture are focused on three things over which State and local officials have almost total control, and which previous HUD demonstrations suggest can reduce the cost of a new house by as much as 25 percent. These three things are: regulations that are not necessary for health and safety; processing procedures that are too long and complex; and the failure to use innovative site design and construction techniques that can save thousands of dollars per house.

The joint venture has already produced some striking success stories. For example, as a result of the affordable housing demonstration program with the National Association of Home Builders (NAHB), local governments in about 30 communities across the country are working closely with builders and developers to construct affordable subdivisions. The first homes were recently sold in Lincoln, Nebr., for $40,000—approximately

$10,000 less than the price of comparable homes in the area. In Grand Junction, Colo., some 17 homes have been sold in the $39,000 to $47,000 price range, approximately $5,000 under the appraised value set by the lending institutions.

The savings in these projects are replicable because they come from changes that result almost entirely from improved communications between local governments, builders, and developers. The HUD role is that of catalyst—to encourage local partnerships, to provide technical assistance, and to document the process. The real innovators are the builders with ideas of how to cut costs, and the local officials willing to make the necessary changes so that these ideas can be used.

I have had some personal experience with the joint venture through Elkhart County in my home State of Indiana. Elkhart won a nationwide competition sponsored by the National Association of Counties (NACo) and HUD to be the site of a countywide affordable housing workshop. The purpose was to bring together the local people who have a stake in housing—elected officials, State and local government representatives, planners, bankers, developers, builders, and citizens—to develop an affordable housing action plan for Elkhart County. I presented the keynote address for this workshop which took place September 2-3. As a result of the meeting, several groups decided on specific follow up activities. For example, a group of local builders has been meeting to develop a strategy for local action to make specific regulatory changes.

The stimulating effects of such a program can be seen in what else has happened in Elkhart County since the workshop. The community became so excited about the possibilities of creating more affordable housing, while at the same time helping to stimulate the local manufactured housing industry, that it succeeded in being selected as a demonstration site in the affordable housing demonstration program. In addition, the community decided on its own to put on a "National Symposium on Affordable Housing" to promote its concept of "The New American Neighborhood."

Elkhart County has received national recognition for these two projects. President Reagan sent a congratulatory letter to the county on the occasion of the opening of the affordable housing demonstration sites, and the Under Secretary of HUD gave the keynote address at the national symposium, November 8-9. Over 400 people—more than twice the number expected—attended the symposium, and toured the just-opened demonstration sites. Through these projects, Elkhart County has demonstrated that housing costs can be reduced without Federal subsidies when local governments cooperate to change subdivision regulations, zoning ordinances, and building codes; and that manufactured housing is compatible with and can be as attractive as custom-built housing, while at the same time retaining the advantages that go with in-plant manufacturing.

The stimulus, information, and assistance provided by the joint venture are helping communities like Elkhart County to use their own powers and ingenuity to solve local problems with local resources. Currently, the joint venture has projects in 26 States. In addition to NAHB and NACo, a number of other national organizations are engaged in specific projects and activities to gather information about affordable housing activities that work, and to share this information widely with their members to make them more aware of the specific role each plays in the housing construction process. They include: the International City Management Association (ICMA); the National Governors' Association (NGA); the National Conference of State Legislatures (NCSL); the Council of State Community Affairs Agencies (COSCAA); and the American Planning Association (APA).

I believe the Joint Venture for Affordable Housing represents an important new direction in Federal support for housing. I encourage you to find out more about the joint venture, and to help stimulate other joint venture projects around the country.

To find out more about the joint venture and to subscribe to it's information bulletin "Affordable Housing Progress" contact: Ms. Cindy Weakland, Rm. 8106, U.S. Department of Housing and Urban Development, Washington, D.C. 20410, 202/755-5544.●

ORDER OF BUSINESS

Mr. STEVENS. Madam President, it is the intention of the leadership to do the routine business that is before the Senate and then to recess the Senate until 12 noon tomorrow, for the information of those who might leave the floor in the meanwhile.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HAWKINS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF COMMODITY EXCHANGE

Mr. STEVENS. Madam President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 5447.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the amendment of the Senate to the bill (H.R. 5447) entitled "An Act to extend the Commodity Exchange Act, and for other purposes", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered. That the following be the managers of the conference on the part of the Houses: Mr. de la Garza, Mr. Jones of Tennessee, Mr. Bedell, Mr. Glickman, Mr. Daschle, Mr. Dorgan, Mr. Harkin, Mr. English, Mr. Panetta, Mr. Wampler, Mr. Jeffords, Mr. Coleman, Mr. Roberts of Kansas, Mr. Skeen, Mr. Gunderson, and Mr. Evans of Iowa. Mr. Dingell, Mr. Wirth, and Mr. Broyhill, as additional conferees, for consideration of title I and section 237 of H.R. 5447 as passed by the House, and section 3 of the Senate amendment.

Mr. STEVENS. Madam President, I move that the Senate insist on its amendment and agree to a conference requested by the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Chair appointed Messrs. HELMS, DOLE, HAWAKAWA, LUGAR, COCHRAN, HUDDLESTON, PRYOR, BOREN, and HEFLIN conferees on the part of the Senate.

MEMBERSHIP IN UNITED NATIONS GENERAL ASSEMBLY

Mr. STEVENS. Madam President, I ask unanimous consent that the Committee on Foreign Relations be discharged from further consideration of House Concurrent Resolution 322, dealing with membership in the United Nations General Assembly, and I ask for its immediate consideration.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 322) regarding membership in the United Nations General Assembly.

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

Mr. FORD. I have no objection.

There being no objection, the concurrent resolution was considered and agreed to.

Mr. STEVENS. Madam President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ADVANCEMENT OF SCIENCE AND TECHNOLOGY—SENATE CONCURRENT RESOLUTION 130

Mr. STEVENS. Madam President, on behalf of Senator SCHMITT and Senator NUNN, I send to the desk a concurrent resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 130) expressing the sense of Congress at the advancement of science and technology in the communications and electronics industry is vital to the needs of the needs of the United States.

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. SCHMITT. Madam President, I am introducting today, on behalf of Senator NUNN and myself, a resolution expressing support for a national Science Center for Communications and Electronics.

In many ways, the national security and the economic and social well-being of the United States will rest on the ability of our country to remain in the forefront of the expanding frontiers of science and technology. Communications and electronics represents one of the most dynamic, expanding, and competitive areas of all the scientific and engineering disciplines and technologies. This Nation is now confronted with a national crises of significant voids and shortages of scientists, engineers, and technicians in communications and electronics. The National Science Center for Communications and Electronics represents a unique response of the long-established teamwork between science, industry, and the military to meet this challenge.

As currently envisioned, the center will utilize new techniques of graphics and electronic media arts, advanced instructional technology and all forms of new computer and communications systems to fulfull its mission. In addition to 33,000 military students annually from the United States and allied nations, the center will be available on a daily basis to young people from elementary school to postgraduate age, as well as the visiting general public.

Financing of this center will be accomplished by private donations. A nonprofit foundation was created in 1980 by leaders of the communications and electronics industry to raise the needed $18 million for construction of the center. It is expected that construction of the center could begin in January 1983, and be completed in December 1987. The Department of the Army has agreed to donate 43 acres of land on Fort Gordon, Ga., to house the center. Upon completion of the center, maintenance and operation of the facility would become the responsibility of the Army which will use the facility for training purposes.

Mr. NUNN. Madam President, I am pleased to be associated with this resolution calling for a National Science Center for Communications and Electronics. Since I first introduced a resolution to this effect early in this Congress, I have been closely following the efforts of the National Science Center Foundation to see this dream become a reality. In addition, I am also a member of the Council of Advisers of the National Science Center.

In many ways the national security and the economic and social well-being of the United States will rest on the ability of our country to remain in the forefront of the expanding frontiers of science and technology. Communications and electronics represents one of the most dynamic, expanding, and competitive areas of all the scientific and engineering disciplines and technologies. This Nation is now confronted with a national crisis of significant voids and shortages of scientists, engineers, and technicians in communications and electronics. The National Science Center for Communications and Electronics represents a unique response of the long-established teamwork between science, industry, and the military to meet this challenge.

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I was greatly pleased when the distinguished Senator from New Mexico, Senator SCHMITT, expressed an interest in this area and led the effort to design an agreeable resolution expressing the strong support of the Senate for these important efforts. This resolution reflects his wise counsel, and I am deeply grateful for his fine efforts.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 130

Whereas the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Energy and Commerce of the House of Representatives, the Federal Communications Commission, and the Congress have long recognized the importance of scientific and technological developments in the United States in meeting its defense, industrial, and other needs;

Whereas such scientific and technological developments in the communications and electronics industry are of particular importance to the United States in meeting its defense, industrial, and other needs;

Whereas the traditional technological superiority enjoyed by the United States in the area of communications and electronics is dwindling due to the disparity in the commitment;

Whereas it is in the best interest of the United States to reverse the trend of declining United States technological superiority and to continue to lead in all areas of communications and electronics;

Whereas it is in the best interest of the United States to support the establishment of a national center dedicated to the advancement of science and technology in communications and electronics; and

Whereas such a national center would promote the interest of the public at large in such advancements in communications and electronics; tie the corporate and governmental worlds together to reach a common goal: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress shall take an active and leading role in making the public, and the corporate and governmental worlds aware of the importance of assuring and maintaining the scientific and technological superiority of the United States in the area of electronics and communications, and to encourage the establishment within the United States of a national center dedicated to communications and electronics.

Mr. STEVENS. Madam President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR RECOGNITION OF CERTAIN SENATORS ON TOMORROW

Mr. STEVENS. Madam President, I ask unanimous consent that special orders be entered for the following Senators on Thursday, December 2, for not to exceed 15 minutes each: The Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Arkansas

(Mr. PRYOR), and the Senator from Maryland (Mr. MATHIAS).

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. STEVENS. Madam President, it is my intention to ask that the Senate stand in recess until 12 noon tomorrow. It is my understanding that a cloture vote is scheduled for tomorrow, to occur automatically after the ascertainment of a quorum, 1 hour past the convening hour. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. Is there any further business to come before the Senate?

Mr. METZENBAUM. I have an inquiry.

Mr. STEVENS. I yield to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Madam President, in view of the fact that there are three special orders, as I understand it, at 12 o'clock when we convene, will the Chair be good enough to advise the Senator from Ohio by what time must amendments be offered tomorrow if they are to be offered?

The PRESIDING OFFICER. The amendments must be offered 1 hour prior to the cloture vote which will occur after the quorum call which will begin at 1 p.m., so the precise time will be ascertained depending upon the time it takes to get a quorum.

Mr. METZENBAUM. Madam President, is the Senator from Ohio correct that if the amendments are offered prior to 12:15 p.m. or even possibly later than that the amendments will be timely?

The PRESIDING OFFICER. If the amendments are brought to the desk prior to that hour, they will be eligible.

Mr. METZENBAUM. I thank the Chair.

I thank the acting majority leader.

Mr. STEVENS. I thank the Senator from Ohio for his questions. I assume that the question of the Senator from Ohio is based on the assumption that the quorum call will take 15 minutes. I think, roughly, the answer is correct.

It is my understanding that the convening hour of 12 noon will automatically cause that quorum to be commenced at 1 p.m. tomorrow. Am I correct?

THE PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. Once again I ask if there is any further business to come before the Senate?

PROGRAM

Mr. STEVENS. Madam President, on behalf of the majority leader, I state to the Senate that tomorrow, Thursday, is the usual late night. There is a possibility that the Senate will remain in session late tomorrow evening. The Senate will also be in session on Friday. There is no contemplation of a Saturday session this week.

It is the hope of the leadership to be able to complete at least one of the appropriation bills that will be available, either the Transportation bill or the District of Columbia bill, before recessing on Friday.

RECESS

Mr. STEVENS. Madam President, if there be no further business to come before the Senate, I ask unanimous consent that the Senate stand in recess until tomorrow at 12 noon.

There being no objection, the Senate, at 6:21 p.m., recessed until Thursday, December 2, 1982, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate December 1, 1982:

FEDERAL LABOR RELATIONS AUTHORITY

John Carl Miller, of Ohio, to be General Counsel of the Federal Labor Relations Authority for a term of 5 years, vice H. Stephan Gordon, resigned.

IN THE NAVY

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be vice admiral

Rear Adm. Thomas R. Kinnebrew, 254-44-6391/1110, U.S. Navy.

MATERIAL SUBMITTED FOR MR. ARMSTRONG'S SPECIAL ORDER ON SOCIAL SECURITY REFORM

[The material referred to earlier in the Record follows:]

There being no objection, the material except for certain charts and graphs which are not reproducible in the RECORD, was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., November 23, 1982.

DEAR COLLEAGUE: A few days ago, the National Commission on Social Security Reform reached unanimous consensus on the need to close the gap between projected benefit payments and tax revenues in the OASDI system . . . approximately $150-200 billion in the 1983-89 period and a long-term deficit of 1.82 percent of payroll, about $1.6 trillion.

This agreement is a very important benchmark. As one newspaper summed up: "The first step toward solving any political problem is to get people to admit the problem exists. The National Commission on Social Security Reform, meeting this week in Washington, has already made a hugh contribution by getting its members of different political persuasions to agree that Social Security's problems are real, urgent and—within reason—measurable."

But now the Commission, and shortly Congress itself, must turn to the even more sensitive task of closing the gap and, in addition, devising a "fail safe" or self-correcting device to keep the trust fund on a sound basis and maintaining public confidence in the event demographic and economic forecasts, which we believe to be reasonable, turn out to be off target. Before the next Commission meeting, I want to report to you and to seek your counsel about possible approaches to the Social Security solvency question.

I hope you and your staff will review the material enclosed that includes various reform options with actuarial cost estimates. But my main purpose is to solicit your comments and suggestions of what would constitute an acceptable legislative package. There are several issues that need to be considered:

1. Legislative Strategy.—Should the Commission recommend one comprehensive solution to the long- and short-range problem? Or should it merely spell out the deficits and a range of options for Congress to consider? My own belief is that we ought to try for a package solution if, but only if, we can put something together that is pre-cleared with the President and Speaker, as well as Senators and other key people. Without their support, any proposal advanced by the Commission would be quickly scuttled, thereby making the ultimate task all the more difficult.

2. General Revenue Financing.—Should we finance the trust fund deficits out of the general fund? I am personally skeptical of this idea for several reasons, not least of which is the awesome size of already projected budget deficits. What do you think?

3. Tax Increases.—How about a payroll tax increase or pushing the scheduled 1990 tax increase forward to 1984? Although vigorously opposed by most business groups and by the American Association of Retired Persons, this idea is surfacing again. I am opposed to telescoping or increasing tax rates because of the probable effect on employment. At a time when unemployment exceeds 10 percent, I see little justification for a measure which economists say would cost between two and four million job years.

4. Universal Coverage.—The Commission is moving toward a recommendation to include all federal, state and local government workers. I agree that federal employees should be covered (starting with new hires or in some other proper manner protecting the interest of persons already working for the federal government), but both the letter and spirit of the Constitution seem to forbid mandatory inclusion of state and local government personnel.

5. COLA Adjustments.—From 1970 to 1981, pre-tax wages went up 122 percent; the CPI increased 136 percent; Social Security benefits rose 205 percent. Obviously, this trend raises serious questions of fairness as well as financial practicality. There seems to be a growing sense that part of the short-term solution should and will result from COLA savings. One formula that appeals to me is a rolling two-month delay which would phase in a six-month COLA delay over a three-year period. This approach would save $40-60 billion between now and 1989. A dozen other formulae are spelled out in the enclosures.

6. Retirement Age.—For the long-term, most advisory panels and experts advocate a gradual increase in retirement age. Several specific options are included in the material attached. I favor Option F-12 which would

increase the "normal" retirement age to 66 in the year 2002, beginning phase-in in 1995, and thereafter, adjusting the age according to changes in longevity. This one change, which is neither abrupt nor drastic, would make up virtually all of the long-term deficit in the OASDI system, according to the actuaries.

Enclosed are numerous other options developed by the National Commission, as well as a substantial amount of background information, charts and clippings prepared by my staff. I hope you will find this material of interest and that you will get back to me with your thoughts as soon as possible.

Sincerely,

WILLIAM L. ARMSTRONG.

P.S. One thing I want to stress—the main issue is shoring up the OASDI funds and restoring public confidence. Although I have certain preferences about how best to do so, I intend to remain as flexible as possible and to go the extra mile in trying to work out a compromise with all Senators and our colleagues in the House and, for that matter, with the interest groups and others who are affected. And I want to urge everyone involved to approach this task in the same manner . . . with a spirit of accommodation. It will be a great disservice if we permit this issue to become further politicized or if we were to fail to enact the needed legislation at the earliest possible time. That's why I am particularly interested in seeking your comments and active participation in the process of working out a bill.

SOCIAL SECURITY . . . OPTIONS FOR REFORM

OVERVIEW

Yes, Congress can guarantee Social Security checks will be paid on time, in full both now and in the future. To do so requires honest appraisal of Social Security . . . to face facts, not fears. Then Congress must enact the gradual changes necessary for a national commitment to a financially secure Social Security.

According to the Congressional Budget Office, Treasury Department and Social Security actuaries, Social Security cash benefit reserves will be depleted by the mid-1980's because total outlays will exceed income. Social Security is in financial trouble. Without change, Social Security will either have to delay checks, or reduce them in proportion to money on hand. Longer term, the situation is as serious, though less definite. Based on current economic projections (intermediate assumption), the present value of the unfunded liability is $1.6 trillion . . . in other words, the amount which would have to be deposited today, at interest, in order to meet the projected shortfall, is $1.6 trillion. These projections were unanimously confirmed by the bipartisan National Commission on Social Security Reform.

No one believes Social Security will go broke. Congress can, and must, enact fair, reasonable changes necessary to insure solvency.

Each tax and benefit component and the sum of all components must be analyzed for their effect on current and future workers and beneficiaries, as well as total national economic policy. Economic, political, and demographic developments that have occurred since each conponent was created must also be considered. Only then can Congress enact reasonable changes in a system on which so many Americans rely for retirement income.

What are the final goals Congress must achieve? Seven basic goals with which no one should disagree:

1. Not a single penny of the current basic level of benefits on which Americans honorably rely should be touched.
2. Permanent solvency must be achieved. Total outgo must not exceed income, and a safe emergency reserve level must be established.
3. The political terrorism—the politics of fear—that has surrounded past Social Security decision-making must end.
4. American confidence in Social Security must be restored.
5. Enacted changes must be gradual, not disruptive.
6. Changes should be rooted in common sense, supported by economic, political and demographic developments.
7. Economic projections should hope for the best, but plan for the worst.

SOCIAL SECURITY

In the beginning

Social Security was created in 1935 to partially replace earnings lost through retirement or death. Initially, only commerce and industry workers (about five out of 10 jobs in America) over age 65 were eligible for benefits.

Benefits were supplemental income . . . about 29 percent of pre-retirement income (known as the "replacement rate" . . . the percent of working income replaced by retirement income).

Payroll taxes financed these benefits on a pay-as-you-go basis. Initial taxes were also small . . . $60 per worker maximum (cost split between employer and employee). In 1980 dollars, this tax equalled $360.

Program expansion

Congress and Presidents dramatically expanded the program through 13 expansionary laws and seven automatic benefit increases (although twice Congress slightly reduced benefits). Today, three separate trust funds pay benefits and collect taxes. Two trust funds—Old Age and Survivors (OASI) and Disability (DI)—pay cash benefits directly to recipients. The third—Hospitalization (HI)—pays costs to medical care provided to the elderly and disabled.

Nine out of 10 jobs in America are included in Social Security. The program now pays retirement, early retirement, widow, children, parent, disability and hospitalization benefits to 35.4 million. Basic benefit rules were expanded, and later made inflation-proof through automatic cost-of-living increases. Generally, eligibility has been liberalized. Cash benefits—not counting the value of hospital care—as a percent of pre-retirement income has increased to 49.3 percent.

Consequently, the tax rate, tax base and number of taxpayers have also increased. Today, the combined employee-employer maximum tax is $4,340. One hundred ten million workers pay taxes; 11 million (mostly government employees) do not. While the number of taxpayers has increased, the worker/recipient ratio has not. In 1940, there were 16 workers supporting each recipient. Today, the ratio is only 3 to 1, and declining.

As part of the Federal budget

Total Social Security outlays comprise about one-quarter of the budget. Including all programs, 27.7 percent of the federal budget is devoted to elderly needs. By 1985, pensions, national defense and interest payments will comprise 75 percent of the U.S. budget. Total Social Security and other senior citizen federal outlays amount to $15,000 per elderly couple.

As part of the national economy

Benefits comprise about 5 percent of the real gross national product, and it's rising. If no changes are made, and if government spending were to be maintained at 20 percent of GNP, then by 1985 other government spending must be cut 13.1 percent.

Since Social Security is a major component of the economy, it is particularly sensitive to economic fluctuation. Each 1 percent of inflation increases costs $1.5 billion annually. Each 1 percent of unemployment reduces revenues by $2 billion. Each 1 percent increase in Social Security taxes increases unemployment by 500,000 workers.

Economic and demographic developments

Since Social Security began, significant changes have reshaped America. Once an economy dominated by manufacturing and agriculture, America is quickly becoming a service based economy. Once men dominated the work force; now half of all jobs are held by women. In 1935, a third of all elderly Americans were impoverished; today less than 15 percent have incomes below the poverty threshold. Forty years ago, less than three marriages in 10 ended in divorce; today six of 10 marriages end in divorce. Family size has declined.

Americans are living longer; on average, men live 15 years past retirement, and women 19 years . . . a lifespan increase of 20 percent over 40 years. Even so, more Americans are opting for early retirement before age 65. Today 90 percent of Americans who retire opt for retirement before age 65.

As part of the lives of recipients

Social Security is a financial lifeline to most recipients. Fifty percent of benefits are paid to elderly single members of households for whom Social Security is their principal income. Median income for all those over 65 is $5,771. Average median income for a retired couple receiving Social Security is $14,300.

Newly eligible retirees—80 percent of whom opt for early retirement—generally are improved financially. Median retirement income is $14,259, of which 42 percent is Social Security. Gross family assets—including personal residences or automobiles—exceed $48,000. Seventy percent of new retirees either outright own their home, or pay less than $200 in monthly mortgage or rent. The average value of a new retiree's home is $54,000.

Most Social Security recipients today will receive far more in benefits than they contributed in taxes . . . by a ratio of 5 to 1. This ratio will decline for future recipients. Social Security benefits are progressive . . . meaning that low-income receive relatively higher benefits than middle- or high-income.

As part of the lives of workers

The maximum Social Security tax a worker and his employer could have paid from 1937 to 1982 is $16,932. This will nearly triple by 1990 when the maximum tax possible rises to $44,600.

For 51 percent of all families—and practically all low-income families—they pay more Social Security taxes than federal income tax. This is also true for employers, particularly the marginally profitable.

Benefits

About $1 trillion will be spent from the Social Security trust funds in the next four years (1983 to 1986), an amount roughly

equal to that spent from 1935 to 1981. Four-year spending and income by trust funds:

[Dollars in billions]

	Outlays	Income
Old age and survivors (OASI)	$705	$617
Disability (DI)	80	128
Hospitalization (HI)	193	200
Total	978	945

Congressional Budget Office,
September 1982.

Monthly Social Security costs exceed $17.9 billion.

Of trust fund outlays, 67 percent go to retirees, their spouses, children or survivors; 9 percent go to the disabled, their spouses, children or survivors; 22 percent pay medical costs.

Cash benefits paid from the OASI and DI trust funds:

	Millions	Average annual benefit
Retired workers	20.3	$4,686
Their spouses	3.0	2,350
Their Children	.5	1,841
Total	23.8	
Survivors:		
Widowed parents	.5	3,372
Widowed spouses	4.4	4,210
Children	.2	3,278
Disabled, widowed spouses	.1	2,760
Parents	.01	3,732
Total	5.21	
Disabled workers:	4.1	4,944
Their spouses	.4	1,452
Their children	1.0	1,428
Total	5.5	
Special Age 72	.1	

The maximum possible benefit for a retired couple with children under 18 is $14,748 annually.

These benefits do not include the value of medical benefits provided through Medicare. Since all benefits are tax free, current benefits are about 60% of after-tax, pre-retirement income.

Taxes

About $1 trillion in taxes has been raised since 1935. If a worker contributed the maximum taxes from 1937 to 1982, he would have contributed $17,000 (an amount matched by his employer). By 1990, this will nearly triple to $44,600.

Today, the total Social Security tax is 13.4% of up to $32,400 of income. This rate will increase to 15.3%, and the base up to $45,600 of income by 1990.

The average tax paid by a worker and his employer annually is about $2,000.

Individual equity and social adequacy

Social Security emphasizes social adequacy, not individual equity. The social adequacy basis is evident through the provision of relatively high minimum benefits, paying proportionately higher benefits to low average wage earners, the imposition of maximum benefits regardless of past earnings, and the payment of derivative benefits at no additional cost to the worker. While there are some elements of individual equity—benefits in relation to earnings—Social Security, over the years, has moved away from individual equity and more toward social adequacy.

As it affects women

Social Security was created when men dominated the work force. Since then, a number of economic and demographic changes involving women affect Social Security and its future. More women work today, are living longer, and the divorce rate is increasing. Since these changes were not contemplated at the time Social Security was created, retirement benefit adequacy for women is a significant concern because a high percentage of the elderly poor are widowed, divorced or were never married. It is also a concern since the current labor force—once male dominated—has a high percent of women wokers who pay Social Security taxes, and expect to receive just benefits.

Problems in providing benefits to women exist in part because benefits are linked to an individual's earnings and work history. Working women frequently have interrupted work histories due to child rearing. Women also have had generally lower career earnings than men. As a result, a large proportion of women fail to qualify for Social Security benefits, qualify for benefits on their lower earnings, or they qualify based on their husband's benefits, and then receive half of these benefits. Some of these concerns have been addressed by changes made in the computatin of spouse benefits, but questions of equity continue to be raised with regard to women, particularly those who work. The National Commission on Social Security Reform identified 12 options that address the issue of making Social Security equitable for women.

And other Federal pension policies

Since Social Security was created, there have been significant developments in federal pension policy. Among them:

1. *Individual Retirement Accounts:* Most workers can contribute up to $2,000 annually tax free into Individual Retirement Accounts, the proceeds of which are invested, and then paid out as retirement income as early as age 59½. Workers with wives who do not work contribute up to $2,275 annually.

2. *Keogh retirement plans:* The self-employed can set aside $15,000 annually to help replace earnings lost through retirement.

3. *Employee Retirement Income Security Act:* Regulates company sponsored, tax-deferred pension plans.

Three out of four workers under age 30 are covered by retirement pensions other than Social Security.

Financial status

Social Security is going broke. High inflation, slow economic growth, rising numbers of beneficiaries, increased benefit levels and an eroding tax base have increased Social Security's costs, and depressed revenues. The retirement and survivors trust fund has run a deficit since the early 1970's. This deficit erased the once large cash reserves . . . to the point where Congress had to enact legislation permitting the OASI trust fund to borrow from the DI and HI trust fund to make full and timely benefits. By mid-1980, however, even these reserves will be exhausted. Technically, Social Security will have no choice but to either reduce all benefits by the amount of income then on hand, or delay checks until enough income is on hand to pay full benefits.

Thus, Congress must achieve two goals in the short-term: Enact legislation that eliminates the future deficits, and achieve adequate reserves so that enough money is on hand to pay two months of benefits.

The National Commission on Social Security Reform unanimously agreed that $150-200 billion is needed this decade to assure Social Security solvency. In addition, the Commission projects that Social Security needs to either increase revenues or reduce spending $1.9 trillion over the next 75 years to guarantee solvency.

SOCIAL SECURITY . . . EXPLAINED

To make changes necessary to insure solvency in Social Security first requires understanding its current benefit and tax structure.

A. *Coverage.*—Originally, Social Security only provided benefits to those age 65 and over working in commercial and industrial employment. Only five out of 10 jobs in America were covered.

Since then, Congress expanded Social Security to cover about nine out of every 10 jobs. Coverage was extended to most self-employed, hired farm and domestic workers, armed forces, and professionals. Optional coverage was provided clergymen. State and local governments and non-profit organizations can opt for Social Security coverage. Both state and local governments and non-profit organizations, if they elect Social Security coverage, can later elect to opt-out of Social Security.

For certain military personnel, the armed forces pays Social Security taxes up to a maximum of $1,200 (representing the cash value of non-taxable income). This contribution is not matched by the servicemen.

Work not covered by Social Security is federal civilian employment, non-covered state and local governments (30% are not covered), and non-covered, non-profit organizations (about 15% are not covered).

B. THE BENEFIT STRUCTURE—RETIREMENT AND SURVIVORS BENEFITS—OASI

Four principal components comprise the Social Security benefit structure . . . eligibility, computing initial benefits, annual benefit increases and types of benefits.

1. *Eligibility.*—To be eligible a worker must be "insured" through earning "quarters of coverage." Some explanation . . .

Becoming "fully insured" means working in a Social Security covered job (and thus paying Social Security taxes) and earning at least $340 in a calendar quarter. Doing so entitles a worker to a quarter of coverage. A worker receives one quarter for each $340 up to a maximum of four quarters. With 31 quarters—as little as eight years work—a worker and his family is entitled to full Social Security benefits based on his earnings. The number of quarters required will increase one quarter for each year until a maximum of 40 quarters is reached.

"Currently insured status" applies only to a worker dying before retirement. A worker becomes currently insured—and thus eligible for benefits—by attaining six quarters in the 13 quarters preceding death.

Of course, a worker does not automatically receive benefits when he becomes insured. A condition for receiving OASI benefits is reaching retirement age or death. Full benefits are paid at age 65; lesser benefits at age 62. Age eligibility varies for other OASI benefits . . . and are described in Part C.

2. *Calculating initial benefit levels.*—Benefit levels for retired and disabled workers, dependents and survivors are generally related to the past earnings of the covered worker, and more directly to a percent of the benefits that the covered worker will receive.

There are four basic steps used in most cases to compute a worker's Social Security benefit:

(a) *"Computation Years"* . . . That is, the years worked in Social Security employment between age 21 and the year of death, disability, or the attainment of age 62, then drop out the five lowest income years.

(b) *"Index Earnings"* . . . The earnings of each year are converted, or indexed, into more recent levels by increasing them to reflect changes in wage levels since the time they were actually earned.

Indexing creates an earnings record that reflects the value of the individual's earnings relative to national average earnings in the indexing year. The indexing year is the second year before the year in which the worker attains age 62 (in other words, age 60), becomes disabled or dies. Earnings after the indexing year are counted at their current value (not indexed).

Earnings are indexed by increasing the actual earnings in each year after 1950 by the percentage increase in national average wages between that year and the indexing year.

(c) *"Average Indexed Monthly Earnings"* (AIME) . . . These indexed earnings are then averaged to a monthly amount . . . known as the AIME. Simply divide total indexed earnings by the number of months in the computation years.

(d) *"Primary Insurance Amount"* (PIA) . . . A percentage formula is applied to the AIME to derive the primary insurance amount, or basic benefit level. The 1982 formula is: 90% of the first $230 of AIME, plus 32% of AIME over $230, but less than $1,388, plus 15% of AIME over $1,388.

An example follows: A worker retires at age 62 in 1982, and had earned $2,900 in 1960. The $2,900 would be multiplied by the ratio of average annual wages in 1980 ($12,513), and divided by average annual wages in 1960 ($4,077): $2,900 × $12,513 divided by $4,077 equals $9,056.

Although the worker's actual earnings for 1960 were $2,900 . . . his wage indexed earnings would be $9,056.

This calculation is applied to each year between 1951 and 1980 (the second year prior to his attaining age 62). Once total indexed earnings are obtained, they are divided by the number of months in the computation years. This monthly amount is the AIME.

Let's assume that after this worker's entire wage record is indexed, his AIME is $420. Let's run this through the PIA benefit formula:

90 percent of the first $230	$207.000
32 percent of amount above $230.	60.80
Total PIA	267.80

His PIA is $267.80. This is the amount he would receive at age 65. Since he opted for early retirement at age 62, he receives 80% of that total . . . or $214.00.

3. *Types of benefits.*—As already mentioned, benefit levels for retired and disabled workers, dependents and survivors are generally related to the past earnings of the covered worker, and more directly to a percent of the benefits—or the primary insurance amount—that the covered worker will receive. Below is a list of benefits provided through OASI, and the percent of PIA each receives:

1. Full retirement: 100% of PIA/eligible at age 65/eligible for reduced benefits at age 62.

2. Widowed spouses: 100% of PIA/eligible at age 65/eligible for reduced benefits at age 60.

3. Spouses: 50% of PIA/eligible at age 65, or younger if caring for a disabled child, or a child under age 16/eligible for reduced benefits at age 62.

4. Divorced spouses: 50% of PIA/same eligibility for spouses, but must have been married at least 10 years.

5. Children: 50% of PIA/eligible until 18 if child of a retired or deceased insured worker, or until 19 if still in high school. College benefits to age 21 will be phased out by 1985.

6. Surviving children: 75% of PIA/eligibility same as 5.

7. Parents: 75% of PIA/eligible if surviving spouse caring for a child under 16 at the time of death.

8. Maximum Family Benefits: 188% of PIA (175% of PIA for high income earners) if total benefits to a family exceed 188% of PIA (or 175%) then all benefits for family members is reduced by an amount to bring all benefits under the 188/175% caps.

9. Lump Sum Death Benefit: Not a percent of PIA . . . just a $255 payment on the death of a worker. Paid to survivors.

10. Transitionally insured benefits: Not a percent of PIA . . . is paid to those over age 65 with insufficient quarters of coverage.

11. Special age 72: Not a percent of PIA . . . paid to those over 82 with insufficient quarters of coverage to qualify for a retired worker benefit and who do not receive public assistance.

12. Special minimum: Not a percent of PIA . . . increases benefits for workers with low average earnings.

13. Retroactive: For persons over age 65, retroactive benefits can be paid up to six months. For disabled beneficiaries, benefits can be paid retroactively up to 12 months.

14. Currently Insured: OASDI benefits paid to survivors of workers not fully insured but who worked at least six of the 13 quarters preceding death.

4. *Annual Cost-of-Living Adjustments.*—All benefit levels are increased each year when the Consumer Price Index exceeds 3 percent increase each year, and when it does, the full CPI increase—not just the amount above 3 percent—is applied to benefit levels automatically without action by Congress.

5. *The Retirement Test.*—Under current law, all benefits are reduced when a beneficiary's earnings record exceeds certain levels. This is called the earnings test, or retirement test, and applies to beneficiaries until they reach age 72 (in 1983 and later, the retirement test will not apply after age 70). The amount of annual earnings permitted in 1982 without causing a benefit reduction is $4,440 for persons under age 65, $6,000 for persons age 65-72. Each $2 of earnings in excess of these amounts reduces annual benefits by $1.

6. *Policy Summary.*—These five sections summarize the mechanics of the benefit and eligibility rules. But what is the overall effect of this formula, and what are the policy implications? Several aspects should be mentioned:

First, only minimum requirements are imposed to become eligible for Social Security. The fact that eligibility is so easy to attain is the reason why there are so many who receive more than one federal pension . . . the so-called "double-dippers" who receive "windfall" benefits.

Second, the entire benefit structure heavily favors those with low average earnings. This does not necessarily mean the low income . . . it means those with sporadic work histories, those who often shift between covered and non-covered Social Security employment, go through periods of unemployment. It achieves this effect through three ways . . . the low minimum eligibility requirements, dropping out of the computation years the five lowest income producing years, and heavily weighting the PIA formula to the low-income.

Third, wage indexing provides retirees with a significant though usually not noticed added benefit: By basing retirement benefits on real wage increases, it permits retirees to share in retirement the overall productivity growth achieved by workers.

Fourth, wage indexing, coupled with dropout years and automatic cost-of-living increases for all benefits, is achieving a remarkable effect. This formula increases real benefits paid to new beneficiaries each year. For example, those who retire in the year 2040 will receive double the current value of benefits paid to those retiring this year.

Fifth, replacement rates—the percent of working income replaced by retirement income—have increased sharply. When Social Security began, the average replacement rate was about 29%. Today, the average is 49% for all beneficiaries. That is for pre-tax income. The replacement rate today for after-tax income is closer to 60% . . . meaning that in retirement a worker will receive 60% of his pre-retirement income. Incredible though it may seem, a worker with low average earnings in his lifetime who retired in 1981 will in retirement earn more in Social Security benefits than he earned while working.

Because of legislation enacted in 1977, these high replacement rates will gradually decline somewhat.

Replacement rates have increased primarily because of legislative and automatic benefit increases. Cost of living increases the past decade have been generous. From 1970 to 1981, pre-tax wages went up 122%; the CPI increased 136%; Social Security benefits have increased 205%.

7. *Program Growth Since Social Security Began.*—Although the number of benefits has vastly increased and the requirements determining insured status have been liberalized, the basic notion of insured status has not changed since Social Security began. In 1940, three requirements had to be met before a worker or his family received benefits: The worker had to be industrially or commercially employed, earning at least $50 ($568 in 1982 dollars) in at least six calendar quarters, and be over age 65.

Since then, almost all age requirements for benefit eligibility have been reduced, types of benefits expanded. Benefits are now increased automatically each year.

C. Benefit Structure—Disability Insurance (DI).

Social Security disability began in 1956, and operates on the same insured status concept used by OASI.

To be eligible for disability, a worker must be both fully insured under OASI, as described in Section II-A, and disability insured. To be disability insured, the worker must have 20 quarters of coverage in the 40 quarters immediately preceding disability. Generally, disability is defined as the inability to engage in gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death, or last at least 12 continuous months. Before benefits can be paid, a waiting period must lapse of at least one month, benefits are paid up to age 65, and then regular full retirement benefits are

paid, and benefits can be paid retroactively up to 12 months.

A worker disabled in the line of work need not file for worker's compensation. Disability benefits are offset by all other disability benefits, with the exception of veterans disability benefits. Currently, Social Security and the states are reviewing all disability cases, and terminating benefits to those who never were or no longer are eligible. Benefits are being denied in about 50% of all cases, but are restored on appeal to administrative law judges about 64% of the time. Appeal takes six months or longer, and benefits are paid for only 60 days during that time.

Five types of benefits are paid:

1. Disabled worker: 100% of PIA/eligible 5 months after disability.

2. Disabled surviving spouse: 100% of PIA/eligible at age 60/eligible for reduced benefits at age 50.

3. Disabled child: 50% of PIA/eligiblity begins at age 18.

4. Disabled surviving child: 75% of PIA/eligibility begins at 18.

5. Retroactive: up to 12 months.

Only benefits for disabled workers (and their dependents) are paid out of the DI trust fund. Benefits #2-#4 are simply the dependents and survivors benefits paid out of the OASI trust fund.

D. The Benefit Structure—Hospitalization Insurance/Medicare (HI).

Created in 1965, Medicare is a national health insurance program for the aged and certain disabled persons. Almost all citizens over age 65 are automatically entitled to Medicare coverage. If they are not, they can purchase the coverage for an annual premium of $1,360.

Medicare has two parts: Part A, hospital insurance, pays hospital, post-hospital and home health services. This program is financed through Social Security payroll taxes. Part B, supplementary medical insurance, is a voluntary program, financed through individual medical premiums, and through general revenues. Elderly beneficiaries pay one-quarter of the costs (about $150 a year with a $75 deductible), the disabled pay one-seventh, and the federal government pays the difference. Services and fees vary between the two programs.

Part A:

During each benefit period—whenever a patient has not been in a hospital for 60 consecutive days, Medicare Part A pays for the following services:

Inpatient Hospital Care: Ninety days of coverage. For the first 60 days, all costs are paid, except for the first $304 deductible. For the last 30 days, Medicare pays for all but $76/daily in covered costs. After that, patients can draw upon a lifetime reserve of 60 hospital days. For reserve days, all costs after the first $152 each day are paid.

Nursing Facility Care: One hundred days of coverage are paid for. The first 20 days of care are free for the patient. After that, all patients pay $38 each day, and the rest of the cost is paid by Medicare.

Home Health Care: Medically necessary home health care visits by nurses, therapists and other health workers are paid for by Medicare.

There is no limit to the number of benefit periods a patient can have.

Institutions are reimbursed for their reasonable costs incurred in providing services to Medicare patients. Reasonable costs are determined by law and regulation. Services and costs are reviewed by Professional Standards Review Organizations. Medicare is administered by the Health Care Financing Administration which, in turn, contracts much of the operational work to private sector intermediaries.

Part B:

During any calendar year, Part B pays 80% of reasonable charges for services rendered by doctors, osteopaths, chiropractors, psychiatrists, independent therapists. Most medical services and outpatient and laboratory services are covered.

E. Administration.

Administration costs in 1981 were $1.7 billion or 1.2% OASDI benefit payments or 1.3% of revenues.

Retirement and survivors insurance is largely administered by the federal government, with disability insurance administered by the states.

F. Taxes.

In 1982, the combined employer-employee tax rate is 13.40% on earnings up to $32,400. The maximum today is $4,342. Self-employed pay 150% of the employee's share of the tax.

In 1977, Congress enacted legislation that significantly increased taxes during the rest of this decade. By 1990, the tax rate will increase three times, to 15.3%, and the tax base seven times. The total maximum tax paid in 1990 will exceed $9,400. The 1977 law will pump another $437 billion in additional taxes into the Social Security Trust Fund.

Under current law, Social Security benefits are tax free.

Social Security only taxes payroll, and no other tax revenues flow into the Social Security trust funds.

G. Social Security Tax, Benefit, Trust Fund, Chronology, Charts, Tables and Graphs.

The following pages contain selected tables highlighting key aspects of Social Security.

IV. REFERENCES/RECOMMENDED READING

Sources: Social Security Administration, General Accounting Office, Congressional Budget Office, Office of Management and Budget, Congressional Research Service, House Ways and Means Committee, Senate Finance Committee, Senate Select Committee on Aging, selected books and publications.

For those interested in further reading, perhaps the four best references about the past, present and future of Social Security are:

Policymaking for Social Security: Martha Derthick, The Brookings Institute.

Developments in Aging: 1981: Volume 1: Senator John Heinz, Chairman, Senate Select Committee on Aging.

Social Security: Robert J. Myers, McCahan Foundation Book Series.

Major Federal Expenditures in Jurisdiction of the Senate Finance Committee: Senator Robert Dole, Chairman, Senate Finance Committee.

IV. SOCIAL SECURITY TRUST FUND STATUS, BENEFIT AND TAX TABLES

The following pages contain selected tables highlighting key aspects of Social Security.

ESTIMATED OPERATIONS OF THE OASI, DI, AND HI TRUST FUNDS UNDER THE PROGRAM AS MODIFIED BY THE TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982, ON THE BASIS OF THE 1982 TRUSTEES REPORT ALTERNATIVE II-B ASSUMPTIONS, CALENDAR YEARS 1981-91

[Amounts in billions]

Calendar year	Income					Outgo				
	OASI	DI	OASDI	HI	Total	OASI	DI	OASDI	HI	Total
1981	$125.4	$17.1	$142.4	$35.7	$178.2	$126.7	$17.7	$144.4	$30.7	$175.1
1982	137.7	16.6	154.3	32.6	187.0	141.9	18.1	160.0	35.6	195.6
1983	136.5	26.1	162.6	44.0	206.6	156.5	19.0	175.5	40.8	216.3
1984	149.2	29.6	178.8	48.4	227.2	173.0	19.9	192.9	46.3	239.2
1985	167.3	37.5	204.8	54.5	259.3	190.9	21.3	212.2	51.9	264.1
1986	180.9	42.0	222.9	63.2	286.1	208.5	22.7	231.2	58.8	290.0
1987	194.5	46.5	241.0	68.5	309.5	226.3	24.2	250.6	66.9	317.5
1988	209.1	51.3	260.4	73.8	334.2	244.5	25.8	270.3	76.0	346.4
1989	223.9	56.5	280.4	78.9	359.3	263.2	27.6	290.8	86.1	376.9
1990	257.0	69.6	326.7	83.8	410.5	282.2	29.4	311.6	96.8	408.4
1991	275.7	76.7	352.4	88.5	440.9	300.8	31.4	332.1	108.7	440.8

	Net increase in funds					Funds at end of year					Assets at beginning of year as a percentage of outgo during year				
	OASI	DI	OASDI	HI	Total	OASI	DI	OASDI	HI	Total	OASI	DI	OASDI	HI	Total
1981	−$1.3	−$0.6	−$1.9	$5.0	$3.1	$21.5	$3.0	$24.5	$18.7	$43.3	18	21	18	45	23
1982	−4.2	−1.5	−5.7	−3.0	−8.6	17.3	1.6	18.9	15.8	34.6	15	17	15	53	22
1983	−20.0	7.1	−12.8	3.2	−9.6	−2.6	8.7	6.1	19.0	25.0	11	8	11	39	16
1984	−23.8	9.7	−14.1	2.1	−12.0	−26.4	18.4	−.0	21.0	13.0	−2	44	3	41	10
1985	−23.6	16.2	−7.4	2.6	−4.8	−50.0	34.6	−15.4	23.6	8.2	−14	86	4	41	5

	Net increase in funds					Funds at end of year					Assets at beginning of year as a percentage of outgo during year				
	OASI	DI	OASDI	HI	Total	OASI	DI	OASDI	HI	Total	OASI	DI	OASDI	HI	Total
1986	−27.6	19.2	−8.4	4.4	−3.9	−77.6	53.8	−23.8	28.0	4.3	−24	152	−7	40	3
1987	−31.8	22.2	−9.6	1.6	−7.9	−109.4	76.1	−33.4	29.7	−3.7	−34	222	−9	42	1
1988	−35.4	25.5	−9.9	−2.3	−12.2	−144.9	101.6	−43.3	27.4	−15.9	−45	294	−12	39	−1
1989	−39.3	28.9	−10.4	−7.2	−17.7	−184.2	130.4	−53.7	20.2	−33.6	−55	368	−15	32	−4
1990	−25.1	40.2	15.1	−13.0	2.1	−209.3	170.6	−38.7	7.2	−31.5	−65	443	−17	21	−8
1991	−25.1	45.4	20.3	−20.2	.1	−234.4	216.0	−18.4	−13.0	−31.4	−70	544	−12	7	−7

Notes: 1. The income figures for 1982, and the end-of-year asset figures for 1982 and later, reflect the transfer of funds from the DI and HI Trust Funds to the OASI Trust Fund under the interfund borrowing authority provided by Public Law 97–123. Under this set of assumptions, a total of $11.6 billion would be transferred to OASI in 1982, $6.2 billion from DI and $5.5 billion from HI.

2. The estimated operations for OASI, OASDI, and OASDI and HI combined in 1983 and later are theoretical since, following the expiration of the present law interfund borrowing authority, the OASI Trust Fund would become depleted in July 1983 when assets would become insufficient to pay benefits when due. Similarly, the HI Trust Fund operations in 1991 are theoretical, since the fund would be depleted in 1991 under this set of assumptions.

OPERATIONS OF THE OASI AND DI TRUST FUNDS, COMBINED, DURING SELECTED CALENDAR YEARS 1960–81 AND ESTIMATED FUTURE OPERATIONS DURING CALENDAR YEARS 1982–86 UNDER THE INTERMEDIATE SETS OF ASSUMPTIONS

[In millions]

Calendar year	Income					Disbursements					Net increase in funds	Funds at end of period
	Total	Contributions, less refunds	Reimbursements from the general fund of Treasury for costs of—		Interest on investments	Total	Benefit payments	Payments for vocational rehabilitation services	Administrative expenses	Transfers to Railroad Retirement Account		
			Noncontributory credits for military service	Payments to noninsured persons aged 72 and over								
Past experience:												
1960	$12,445	$11,876			$569	$11,798	$11,245		$240	$314	$647	$22,613
1965	17,857	17,205			651	19,187	18,311		418	459	−1,331	19,841
1970	36,993	34,737	$94	$371	1,791	33,108	31,863	$20	635	589	3,886	38,068
1975	67,640	64,259	247	268	2,866	69,184	66,923	99	1,152	1,010	−1,544	44,342
1976	75,034	71,595	481	236	2,722	78,242	75,665	95	1,244	1,239	−3,209	41,133
1977	81,982	78,710	513	228	2,531	87,254	84,576	92	1,379	1,208	−5,272	35,861
1978	91,904	88,883	526	230	2,264	96,018	92,865	95	1,439	1,618	−4,115	31,746
1979	105,864	103,034	511	164	2,155	107,320	104,263	96	1,483	1,477	−1,456	30,291
1980	119,712	116,711	521	150	2,330	123,550	120,512	86	1,522	1,430	−3,838	26,453
1981	142,438	139,364	703	140	2,231	144,352	[1] 140,996	([2])	1,742	1,614	−1,914	24,539
Estimated future experience:												
Alternative II–A:												
1982	[3] 152,976	149,528	716	139	1,814	160,287	156,135	167	1,984	2,001	−7,311	17,228
1983	165,754	163,924	727	125	978	174,633	170,175	12	2,232	2,214	−8,879	8,349
1984	178,896	178,195	735	109	−143	188,942	184,268	14	2,276	2,384	−10,046	−1,697
1985	205,535	205,329	743	92	−629	203,146	198,273	12	2,383	2,479	2,389	691
1986	225,099	224,744	521	78	−243	217,743	212,735	10	2,542	2,456	7,357	8,048
Alternative II–B:												
1982	[4] 154,093	146,300	716	139	1,625	160,279	156,127	167	1,984	2,001	−6,186	18,353
1983	163,129	161,969	727	126	308	175,465	170,983	12	2,232	2,238	−12,336	6,017
1984	178,640	178,861	736	108	−1,065	193,282	188,537	14	2,317	2,414	−14,642	−8,624
1985	204,476	205,702	747	92	−2,065	212,518	207,478	12	2,486	2,542	−8,042	−16,667
1986	222,467	224,449	608	78	−2,668	231,387	226,125	10	2,623	2,630	−8,920	−25,587

[1] Adjusted to exclude benefits for December 1981 that were paid on December 31, 1981 rather than January 3, 1982 which was a Sunday. These benefits are included in the 1982 figure so that amounts for 1981 and 1982 each reflect 12 months of benefit payments and are comparable to figures for other calendar years.

[2] Less than $500,000.

[3] Includes $779 million assumed to be borrowed from the HI Trust Fund under the interfund borrowing provisions.

[4] Includes $5,313 million assumed to be borrowed from the HI Trust Fund under the interfund borrowing provisions

Note.—Projections do not reflect the effects of the Tax Equity and Fiscal Responsibility Act of 1982 (Public Law 97–248)—see table 5 for summarized cost estimates including such effects.

Source: Table 24 in 1982 OASDI trustees report.

ESTIMATED COST OF OASDI AND HI SYSTEMS AS PERCENT OF GNP UNDER ALTERNATIVE II–B, 1982–2050

[In percent]

Calendar year	OASDI	HI	OASDI–HI
1982	5.16	1.30	6.46
1985	5.05	1.18	6.23
1990	4.94	1.49	6.43
1995	4.76	1.90	6.66
2000	4.48	2.19	6.67
2005	4.36	2.50	6.86
2010	4.51	2.82	7.33
2015	4.92	3.05	7.97
2020	5.44	3.35	8.79
2025	5.90	3.67	9.57
2030	6.10	3.90	10.00
2035	6.05	3.97	10.02
2040	5.86	3.94	9.80
2045	5.70	3.84	9.54
2050	5.62	3.76	9.38
2055	5.54	3.68	9.22
Averages:			
1982–2006	4.75	1.81	6.56
2007–31	5.30	3.30	8.60
2032–56	5.78	3.85	9.63
1982–2056	5.28	3.04	8.32

Note: These estimates for OASDI do not take into account the effect of the Tax Equity and Fiscal Responsibility Act of 1982 (Public Law 97–248). If this had been done, the figures for the OASDI–HI system would have been slightly lower.
Source: Derived from tables 7A, 7B, and 9A.

ANNUAL BENEFITS TO "AVERAGE" AGE 65 WORKER RETIRING IN VARIOUS YEARS

[In 1967 dollars]

	1967	1972	1975	1977	1980	1981
1967	1,477					
1968	1,571					
1969	1,519					
1970	1,631					
1971	1,726					
1972	1,768	2,052				
1973	1,902	2,208				
1974	1,808	2,098				
1975	1,813	2,104	2,193			
1976	1,837	2,132	2,222			
1977	1,821	2,113	2,203	2,329		
1978	1,807	1,981	2,186	2,313		
1979	1,756	1,925	2,132	2,247		
1980	1,736	1,903	2,101	2,222	2,543	
1981	1,773	1,942	2,145	2,269	2,596	2,640
Initial benefit as a percent of pre-tax earnings	29.9	37.7	42.3	44.8	51.1	54.7
1981 benefit as a percent of pre-tax earnings	35.9	32.3	40.1	42.2	53.2	54.7
Initial benefit as a percent of post-tax earnings	35.0	46.0	51.3	52.8	56.4	61.8
1982 benefit as a percent of post-tax earnings	42.0	43.6	50.2	51.5	57.6	61.8

NEWLY RETIRED WORKERS (65 AND OLDER) AVERAGE ANNUAL BENEFITS AND POVERTY LEVEL

Year	Retired workers annual benefits	Poverty level unrelated individuals	(1) + (2) =	Retired workers and spouse annual benefits	Poverty level head of household	(4) + (5) =
1959	$1,001.76	$1,397	.72	$1,502.64	$1,761	.85
1960	1,006.44	1,418	.71	1,509.66	1,788	.84
1961	977.97	1,433	.68	1,466.95	1,808	.81
1962	1,005.96	1,451	.69	1,508.94	1,828	.83
1963[1]	1,033.08	1,470	.70	1,549.62	1,850	.84
1964	1,051.32	1,488	.71	1,576.98	1,875	.84
1965	1,106.00	1,512	.73	1,659.00	1,906	.87
1966	1,206.84	1,565	.77	1,810.26	1,970	.92
1967	1,159.44	1,600	.72	1,739.16	2,017	.86
1968	1,311.44	1,667	.79	1,967.16	2,102	.94
1969	1,374.12	1,757	.78	2,061.18	2,215	.93
1970	1,607.28	1,861	.86	2,410.92	2,348	1.03
1971	1,801.32	1,940	.93	2,701.98	2,448	1.10
1972	1,952.44	2,005	.97	2,928.66	2,530	1.16
1973	2,223.60	2,130	1.04	3,335.40	2,688	1.24
1974	2,465.54	2,364	1.04	3,698.31	2,982	1.24
1975	2,728.71	2,581	1.06	4,093.07	3,257	1.26
1976	2,876.60	2,730	1.05	4,314.90	3,445	1.25
1977	3,285.40	2,906	1.13	4,928.10	3,666	1.34
1978	3,577.50	3,127	1.14	5,366.25	3,944	1.36
1979	4,029.50	3,479	1.16	6,044.25	4,390	1.38
1980	4,543.10	3,950	1.15	6,814.65	4,980	1.37

[1] Base year.

NEWLY ENTITLED RETIREE FAMILIES' MEAN AND MEDIAN INCOMES, BY SOURCE AND FAMILY TYPE (NOTE A)

	Total reported income		Social security retirement income		All other income (note b)	
	Mean	Median	Mean	Median	Mean	Median
All respondents	$14,259	$11,450	$4,777	$4,754	$9,482	$6,252
Early retirees	14,003	11,428	4,615	4,694	9,388	6,252
Regular retirees	16,411	31,303	6,134	6,681	10,277	6,350
Family type:						
Early retirees:						
Retiree only	13,442	10,548	4,121	4,407	9,321	6,075
Retiree and spouse	17,082	14,521	7,500	7,463	9,582	7,200
Retiree, spouse, and children	16,759	16,200	7,695	8,810	8,794	7,200
Retiree and children	17,652	15,358	6,267	6,242	11,385	8,200
Regular retirees:						
Retiree only	14,999	11,377	5,394	5,776	9,605	5,669
Retiree and spouse	21,165	18,322	8,850	9,008	12,315	8,680
Retiree, spouse, and children	26,884	24,588	10,859	12,181	16,025	13,025
Retiree and children	26,529	22,990	9,694	11,188	16,835	14,188

Table 23 shows: The median social security income ($4,754) accounts for 42 percent of the median total first year income ($11,450) of all retirees. The median first year income of regular retirees with a spouse and children who also received benefits was $24,588. Their median family income was about 50 percent higher than that of early retirees with a spouse and children.

Notes: 1. Children benefits include student benefits, which are scheduled for significant curtailment by 1985. 2. See note 2, Table 19.

a. See note a, Table 19.
b. Includes retiree families who reported no other income.

NEWLY ENTITLED RETIREE FAMILIES' INVESTMENTS AND TOTAL ASSETS, BY MEDIAN AMOUNTS AND FAMILY TYPE [1]

	Percent no response [2]	Investments		Total family assets	
		Median amount [3]	Percent reported no investments	Median amount [3]	Percent reported no assets
All respondents	22.0	$7,598.14	11.21	$48,499.06	4.9
Family type:					
Early retirees	21.5	7,581.52	1.1	48,126.45	4.8
Retiree only	20.8	7,565.21	10.5	45,800.00	5.2
Retiree and spouse	28.2	24,897.20	6.8	59,724.42	6.1
Retiree, spouse, and children	20.6	3,580.35	27.1	46,250.02	2.8
Retiree and children	8.8	3,635.41	25.8	44,350.00	6.6
Regular retirees	26.6	15,028.16	11.9	62,395.59	6.1

NEWLY ENTITLED RETIREE FAMILIES' INVESTMENTS AND TOTAL ASSETS, BY MEDIAN AMOUNTS AND FAMILY TYPE [1]—Continued

	Percent no response [2]	Investments		Total family assets	
		Median amount [3]	Percent reported no investments	Median amount [3]	Percent reported no assets
Retiree only	13.0	14,967.10	13.2	52,975.01	7.3
Retiree and spouse	8.4	25,076.55	7.1	85,012.93	1.6
Retiree, spouse, and children	18.4	25,020.83	7.5	93,000.00	1.8
Retiree and children	7.5	24,912.50	9.4	78,000.00	2.1

[1] Excludes personal residence and automobiles.
[2] No response indicates the percentage of questionnaire respondents who failed to provide complete answers to income-related questions.
[3] Includes our estimate of what the no response group would have reported had they provided complete answers to income-related questions.

Note.—Table 26 shows: For families consisting of a retiree, spouse, and children, the median investment and total assets for early retiree families was $3,580 and $46,250 compared with $25,020 and $93,000 for regular retiree families.

PAST AND FUTURE TAX RATES AND TAXABLE EARNINGS BASES FOR EMPLOYER AND EMPLOYEE COMBINED

Period	Taxable earnings base	Tax rate (percent)—			Maximum employee annual tax
		OASDI [1]	HI	Total	
1937–49	$3,000	2.0		2.0	$30.00
1950	3,000	3.0		3.0	45.00
1951–53	3,600	3.0		3.0	54.00
1954	3,600	4.0		4.0	72.00
1955–56	4,200	4.0		4.0	84.00
1957–58	4,200	4.5(.5)		4.5	94.50
1959	4,800	5.0(.5)		5.0	120.00
19660–61	4,800	6.0(.5)		6.0	144.00
1962	4,800	6.25(.5)		6.25	150.00
1963–65	4,800	7.25(.5)		7.25	174.00
1966	6,600	7.7(.7)	0.7	8.4	277.20
1967	6,600	7.8(.7)	1.0	8.8	290.40
1968	7,800	7.6(.95)	1.2	8.8	343.20
1969	7,800	8.4(.95)	1.2	9.6	374.40
1970	7,800	8.4(1.1)	1.2	9.6	374.40
1971	7,800	9.2(1.1)	1.2	10.4	405.60
1972	9,000	9.2(1.1)	1.2	10.4	468.00
1973	10,800	9.7(1.1)	2.0	11.7	631.80
1974	13,200	9.9(1.15)	1.8	11.7	772.20
1975	14,100	9.9(1.15)	1.8	11.7	824.85
1976	15,300	9.9(1.15)	1.8	11.7	895.05
1977	16,500	9.9(1.15)	1.8	11.7	965.25
1978	17,700	10.1(1.55)	2.0	12.1	1,070.85
1979	22,900	10.16(1.50)	2.1	12.26	1,403.77
1980	25,900	10.16(1.12)	2.1	12.26	1,587.67
1981	29,700	10.7(1.30)	2.6	13.3	1,975.05
1982	32,400	10.8(1.65)	2.6	13.4	2,170.80
1983	[2] 35,100	10.8(1.65)	2.6	13.4	2,351.70
1984	[2] 37,500	10.8(1.65)	2.6	13.4	2,512.50
1985	[2] 40,500	11.4(1.90)	2.7	14.1	2,855.25
1986–89	([2])	11.4(1.90)	2.9	14.3	([2])
1990 and after	([2])	12.4(2.20)	2.9	15.3	([2])

[1] Figures in parentheses are portion of total OASDI tax which is allocated to DI.
[2] Base is subject to automatic adjustment after 1981. Figures for 1983–85 are based on the 1982 Trustees Report (intermediate assumptions—Alternative II–B).

Note: Cumulative employee taxes at maximum wages are $14,765.69 for 1937–81 and $14,330.69 for 1951–81.

PAST AND FUTURE TAX RATES AND TAXABLE EARNINGS BASES FOR SELF-EMPLOYED

Period	Taxable earnings base	Tax rate			Maximum annual tax
		OASDI in percent [1]	HI in percent	Total percent	
1951–53	$3,600	2.25		2.25	$81.00
1954	3,600	3.00		3.00	108.00
1955–56	4,200	3.00		3.00	126.00
1957–58	4,200	3.375	(0.375)	3.375	141.75
1959	4,800	3.75	(.375)	3.75	180.00
1960–61	4,800	4.50	(.375)	4.50	216.00
1962	4,800	4.70	(.375)	4.70	225.60
1963–65	4,800	5.40	(.375)	5.40	259.20
1966	6,600	5.80	(.525)	0.35	6.15	405.90
1967	6,600	5.90	(.525)	.50	6.40	422.40
1968	7,800	5.80	(.7125)	60	6.40	499.20
1969	7,800	6.30	(.7125)	60	6.90	538.20
1970	7,800	6.30	(.825)	60	6.90	538.20
1971	7,800	6.90	(.825)	60	7.50	585.00
1972	9,000	6.90	(.825)	60	7.50	675.00
1973	10,800	7.00	(.795)	1.00	8.00	864.00
1974	13,200	7.00	(.815)	.90	7.90	1,042.80
1975	14,100	7.00	(.815)	.90	7.90	1,113.90
1976	15,300	7.00	(.815)	.90	7.90	1,208.70
1977	16,500	7.00	(.815)	.90	7.90	1,303.50
1978	17,700	7.10	(1.0900)	1.00	8.10	1,433.70
1979	22,900	7.05	(1.0400)	1.05	8.10	1,854.90
1980	25,900	7.05	(.7775)	1.05	8.10	2,097.90
1981	29,700	8.00	(.9750)	1.30	9.30	2,762.10
1982	32,400	8.05	(1.2375)	1.30	9.35	3,029.40
1983	[2] 35,100	8.05	(1.2375)	1.30	9.35	3,281.85
1984	[2] 37,500	8.05	(1.2375)	1.30	9.35	3,506.25
1985	[2] 40,500	8.55	(1.4250)	1.35	9.90	4,009.50
1986–89	([2])	8.55	(1.4250)	1.45	10.00	([2])
1990 and after	([2])	9.30	(1.6500)	1.45	10.75	([2])

[1] Figures in parentheses are portion of total OASDI tax which is allocated to DI.
[2] Base is subject to automatic adjustment after 1981. Figures for 1983–85 are based on 1982 Trustees Report (intermediate assumptions—Alternative (II–B).

Note.—Cumulative self-employed taxes at maximum earnings are $19,847.10 for 1951–8.

SOCIAL SECURITY TAXES PAID BY VARIOUS WORKERS

[1980 dollars]

	$15,000	$25,000	$30,000	$40,000
1980	920	1,533	1,588	1,588
1981	998	1,663	1,791	1,791
1982	1,005	1,675	1,843	1,843
1983	1,005	1,675	1,850	1,850
1984	1,005	1,675	1,840	1,840
1985	1,058	1,763	1,962	1,962
1986	1,073	1,788	2,034	2,034
1987	1,073	1,788	2,060	2,060
1988	1,073	1,788	2,132	2,132
1989	1,073	1,788	2,145	2,164
1990	1,148	1,913	2,295	2,362
Cumulative tax increase 1980–90	1,311	2,186	4,072	4,302
Additional increase from moving tax forward:				
1986–84	98	112	151	151
1990–84	548	862	1,013	1,015

A SOCIAL SECURITY FACT SHEET

[Here, as supplied by the Social Security Administration, are some pertinent facts on social security's recipients, its taxpayers and its financial health.]

	Number of beneficiaries		
	1972	1977	April 1982
Old age and survivors trust fund	25,204,542	29,228,350	31,808,503
Disability trust fund	3,271,486	4,854,206	4,337,195

AVERAGE MONTHLY BENEFIT

	1972	1977	September 1982
Retired worker	$157	$237	$405
Retired worker and aged spouse	273	404	692
Widowed mother, 2 children	383	547	925
Disabled worker	175	266	429
Disabled worker and family	363	538	869

SOCIAL SECURITY PAYROLL TAXES

[The tax rate is for both employers and employees, and the increases shown are already scheduled; the wage base is indexed under the law, and increases assume moderate economic growth.]

	Tax rate (percent)	Wage base	Maximum contribution
1972	5.20	$9,000	$468
1977	5.85	16,500	965
1982	6.70	32,400	2,171
1983	6.70	35,100	2,352
1984	6.70	37,500	2,513
1985	7.05	40,500	2,855
1986	7.15	43,800	3,132
1987	7.15	46,800	3,346
1988	7.15	50,100	3,582
1989	7.15	53,400	3,818
1990	7.65	57,000	4,361

CASH OUTLAYS

[Calendar years, billion of dollars]

	1972	1977	1982 (estimate.)
Old age	38.5	75.3	141.9
Disability	4.7	11.9	18.1

TRUST FUND RESERVES

[Reserve (in billions) are shown for the old age and survivors, disability and hospital insurance funds; fund ratios—money on hand at the beginning of a year as a fraction of the amounts needed for the full year—are for old age and survivors combined with disability, and for all 3 funds combined.]

	Year-end reserves			Fund ratios (percent)	
	OASI	DI	HI	OASI	OASDHI
1972	$35.3	$7.5	.....	93	.....
1977	32.5	3.4	.....	.....	.....
1982	17.3	1.6	$15.8	15	22
1983	−2.6	8.7	19.0	11	16
1984	−26.4	18.4	21.0	3	10

TRUST FUND RESERVES—Continued

[Reserve (in billions) are shown for the old age and survivors, disability and hospital insurance funds; fund ratios—money on hand at the beginning of a year as a fraction of the amounts needed for the full year—are for old age and survivors combined with disability, and for all 3 funds combined.]

	Year-end reserves			Fund ratios (percent)	
	OASI	DI	HI	OASI	OASDHI
1985	−50.0	34.6	23.6	−4	5
1986	−77.6	53.8	28.0	−7	3

TOTAL SOCIAL SECURITY BENEFICIARIES

[In millions]

	Number
1945	1.1
1950	2.9
1955	7.6
1960	14.3
1965	20.2
1970	25.8
1975	31.4
1980	35.1
1981	36.0

TOTAL SOCIAL SECURITY BENEFICIARIES AND PAYMENTS, STATE-BY-STATE (1980) [1]

State	Beneficiaries	Paid
Alabama	0.6	$2.2
Alaska	.02	.1
Arizona	.4	1.6
Arkansas	.4	1.5
California	3.2	12.7
Colorado	.3	1.3
Connecticut	.5	2.0
Delaware	.1	.4
District of Columbia	.1	.3
Florida	2.0	8.0
Georgia	.8	2.6
Hawaii	.1	.4
Idaho	.1	.5
Illinois	1.6	6.7
Indiana	.8	3.3
Iowa	.5	1.9
Kansas	.4	1.5
Kentucky	.6	2.0
Louisiana	.6	2.0
Maine	.2	.7
Maryland	.5	2.0
Massachussetts	.9	4.0
Michigan	1.3	5.7
Minnesota	.6	2.3
Mississippi	.4	1.3
Missouri	.9	3.2
Montana	.1	.5
Nebraska	.3	1.0
Nevada	.1	.4
New Hampshire	.1	.6
New Jersey	1.2	5.0
New Mexico	.2	.6
New York	2.9	12.1
North Carolina	.9	3.1
North Dakota	.1	.3
Ohio	1.6	6.6
Oklahoma	.5	1.7
Oregon	.4	1.7
Pennsylvania	2.1	8.5
Rhode Island	.2	.7
South Carolina	.4	1.5
South Dakota	.1	.4

TOTAL SOCIAL SECURITY BENEFICIARIES AND PAYMENTS, STATE-BY-STATE (1980) [1]—Continued

State	Beneficiaries	Paid
Tennessee	.7	2.5
Texas	1.8	6.5
Utah	.1	.6
Vermont	.1	.3
Virginia	.7	2.6
Washington	.6	2.4
West Virginia	.4	1.3
Wisconsin	.8	3.0
Wyoming	.01	.2
American Somoa	.002	.003
Guam	.003	.008
Puerto Rico	.6	1.2
Virgin Islands	.007	.002
Abroad	.3	1.0

[1] Beneficiaries in millions, dollars in billions.

MAJOR LEGISLATIVE CHANGES IN SOCIAL SECURITY

1935: A system of Federal old age benefits covering workers in commerce and industry is established. Benefits were to be based on cumulative wages and to be payable beginning in 1942 to qualified workers age 65 and over. A payroll tax of 1 percent on employer and employees, each imposed on a wage base of $3,000, was to be collected as of January 1937; the tax would rise to 3 percent by 1949.

1939: The starting date for benefits is advanced to 1940. Benefits for dependents of retired workers and for surviving dependents in case of a worker's death are authorized.

1952: Benefits are increased by 12.5 percent.

1954: Coverage is almost universal except for Federal government employees. The wage base is increased to $4,200, and benefits are increased by 13 percent.

1956: Disability insurance (DI) benefits are added payable at age 50. Women are permitted to retire at age 62 with actuarially reduced benefits.

1958: Benefits are added for dependents of DI recipients, and the DI eligibility standard is liberalized.

1960: The age 50 limitation for DI eligibility is eliminated.

1961: Men may retire at age 62 with an actuarial reduction.

1965: Medicare becomes part of social security. Cash benefits are increased by 7 percent.

1968: Cash benefits are increased by 13 percent. The tax rate is now 4.4 percent and the wage base $7,800.

1969: Cash benefits increased by 15 percent.

1972: Cash benefit increases, which had previously been made in an ad hoc fashion by the Congress, were made automatic as

was the increase in the wage base. The 20 percent benefit increase which occurred this year was made possible by a change in actuarial assumption from a level wage growth path to a dynamic one.

1977: An error in the 1972 automatic indexing at initial benefit determination produced a long-run deficit due to the high rates of inflation between 1972 and 1977. This error was corrected and the current method of wage-indexing both the earnings history and the bend points was decided upon. Automatic cost-of-living adjustments remained intact. The long-run deficit necessitated the largest increase in scheduled tax rates in the system's history, culminating at 7.65 percent on employee and employer in 1990.

1981: A short-run financing problem requires interfund borrowing and some benefit reductions near-term. The long-term actuarial and economic problems are worse. Even the large pending tax increases are inadequate to cover the large increases in real benefits being promised over time under OASDI. The system's grand promises are depressing the Nation's saving and growth rates, jeopardizing its own tax base. There is a burgeoning long-run deficit under HI which dwarfs the OASDI problem. Some politically acceptable alteration in benefit formulas must be found for the long run. This will inevitably involve indexing changes.

Source: Derthick, Martha, "Policymaking for Social Security," The Brookings Institution, 1979, pp. 429-432.

V. PRESS CLIPS

On the following pages are selected articles highlighting the central issues involved in Social Security's financing problems, and options for reform. Below is a list of the articles:

List of clips

"Social Security Reform"—Washington Post, November 13, 1982.

"The Battle to Save Social Security"—U.S. News and World Report, July 20, 1981.

"Social Security Inequity"—The New York Times, August 30, 1982.

"What's in the Wind for Social Security Reform"—U.S. News and World Report,

"How to Save Social Security"—Newsweek, October 27, 1980.

"How to Save Social Security"—Washington Times, November 4, 1982.

"How to Fix Social Security"—Parade Magazine, October 31, 1982.

"The Boiling Mess of Social Security"—Denver Post, November 3, 1982.

"Social Security: Wright or Wrong"—Washington Post, November 9, 1982.

"Social Security: Politicians Play Dodge Ball"—Rocky Mountain News, October 24, 1982.

"Raise Social Security Taxes Now?—Pro-Con Debate"—U.S. News and World Report, October 24, 1982.

"For 25% of Payers, Social Security Tax Exceeds Income Tax"—Washington Post, December 23, 1981.

"Poll Shows Americans Losing Faith in Future of Social Security"—New York Times, July 17, 1981.

"Social Security: The Coming Crash"—The New York Review, December 2, 1982.

[From the Washington Post, Nov. 13, 1982]

SOCIAL SECURITY REFORM

(By James M. Hildreth)

The first step toward solving any political problem is to get people to admit the problem exists. The National Commission on Social Security Reform, meeting this week in Washington, has already made a huge contribution by getting its members of different political persuasions to agree that Social Security's problems are real, urgent and—within reason—measurable.

As the commission sees it, Social Security faces three perils: a shortfall of revenues over the remainder of this decade; a longer-run deficit growing acute after the year 2020; and a continuing vulnerability to downturns in the economic cycle. There is also significant—but not unanimous—agreement among members on what a solution should look like: current beneficiaries should not suffer outright reductions in benefits; those nearing retirement should not face abrupt changes in potential benefits; the burden of putting Social Security on a sound basis should not fall entirely upon the working population.

The size of the long-term deficit is, of course, the most speculative element, depending as it does on assumptions about birthrates, longevity, immigration and economic conditions well into the next century. But enough is known about future population trends to know that trouble is coming. That means that in evaluating short-run measures, preference should be given to those that promise substantial savings in the long term as well.

For the short run, the commission agreed that if slow growth continues through the rest of the decade, the Social Security trust funds may need a boost of more than $150 billion during that period. A deficit that big can't be closed without raising payroll taxes. However, other options—such as covering new federal employees, delaying cost-of-living adjustments and taxing part of Social Security benefits received by the relatively well-to-do—should also be included, both to make the system fairer and to help out with the long-run deficit.

As Commission Chairman Alan Greenspan pointed out, Social Security also needs long-term "fail-safe" mechanisms. These would protect it against the combination of events that are the main source of its current difficulty—slow economic growth with wages lagging behind inflation. This can be done either by adding other taxes to the trust funds in bad times or by temporarily curtailing improvements in benefits.

Early in the next session, Congress must sift through the commission's proposals and reach a bipartisan consensus about which ones to put into law. That task wasn't made easier by the partisan bickering over Social Security during the election campaigns. House Ways and Means Committee Chairman Dan Rostenkowski, however, got the process of compromise off to a good start this week by sending a letter to all House members. "Keep your powder dry," the chairman urged in reminding his colleagues that, whatever sacrifices may be required, the main concern of the public is that the Social Security system be put on safe ground for the foreseeable future.

[From U.S. News & World Report, July 20, 1981]

THE BATTLE TO SAVE SOCIAL SECURITY

The nation's premier pension system is in danger of going broke, warns a bleak new report, spurring Congress to action affecting millions.

The government's multibillion-dollar race to rescue the venerable Social Security system is taking on new—and controversial—urgency.

If action doesn't come soon, Social Security trustees reported July 6, benefit checks for millions may not go out on time starting late next year.

The system, Health and Human Services Secretary Richard Schweiker said, is currently "hemorrhaging" with losses at the rate of $12,300 a minute and is "getting worse, daily." In addition, even bigger troubles are brewing after the turn of the century.

"Social Security is on the line, here and now," says Senator William Armstrong (R-Colo.), chairman of the Senate's Social Security Subcommittee. "Congress has promised benefits that simply cannot be delivered under the present ground rules."

As a result, the House and Senate are laying the foundation for passage this year of changes aimed at guaranteeing solvency of the 149-billion-dollar system. But the process could be rocky.

"Panic" tactics? Democrats already allege that the administration is using "panic" tactics in order to ram larger-than-necessary changes through Congress. Moreover, a coalition of interest groups representing senior citizens promises to turn out 10,000 people on July 21 for a rally on the Capitol steps. Their goal: No reduction in benefits because 9 million persons rely on them as a sole source of support.

New impetus to patch up Social Security was generated when three cabinet officers—the Secretaries of the Treasury, Labor, and Health and Human Services—acting as trustees for the system, issued their annual report.

Unless action is taken, the financial lifeblood of millions of retirees, their dependents and survivors is threatened in the next few years, the trustees said. The system's old-age-and-survivors trust fund will be "effectively bankrupt" by around Thanksgiving of 1982, says Social Security Commissioner John A. Svahn.

Social Security's trio of trust funds—one covering pensions for retirees and their survivors, another for disability benefits and a third for medicare payments—collect money from payroll taxes and make disbursements as necessary. In recent years, high inflation, persistent unemployment and a rising number of retirees have caused the balances in the funds to shrink. If no changes are made, the funds could run so low that they would have to delay mailing checks to retirees, their dependents and survivors, administration officials predict.

The combined old-age and disability funds, the trustees said, paid out 3.8 billion dollars more in benefits last year than they collected in payroll taxes from 115 million workers. The average monthly retirement benefit is now $374. Over the past six years, the cumulative red ink was 19.4 billion dollars. The balance of the two funds at the end of 1980 was 26.5 billion dollars. The trustees project that by the end of December, 1981, the balance will fall to 21.6 billion and head lower.

The third fund, hospital insurance, is on firmer ground. It recorded a 500-million-dollar surplus last year, building its balance to 13.7 billion dollars. However, the solvency of medicare will also be in jeopardy in the 1990s as costs of health care soar.

Officials are also concerned about another Social Security problem that could materialize after the year 2000.

Generation gap possible. As the population of the post-World War II baby boom reaches retirement age, vast numbers of the elderly would be supported by a dwindling work force—2 workers for each retiree, compared with a 16-to-1 ratio in 1950 and a 5-to-

1 ratio in 1960. By 2055, the number of Americans 65 and older will have risen to 69.3 million from 25.9 million in 1980, the trustees estimated. The projected upshot: A generation gap where younger workers would bitterly resent their retired elders because of the financial burden they would represent.

The trustees based their gloomy assessment on a series of assumptions about how the economy will behave in the future. Depending on economic performance, the short-term deficit could range from 10 billion dollars to 111 billion dollars in a six-year period, they said. The midrange series of assumptions would translate into a 50-billion-dollar deficit. If nothing is done, the shortfall could balloon to 1 trillion dollars over the next 75 years, even if the economy goes steadily upward.

A variety of potential remedies are under consideration, but only one has been ruled out by Republicans and Democrats alike: Boosting payroll taxes again. Levies have shot up by 2,011 percent, on average, since 1950, compared with a 490 percent rise in inflation-adjusted wages, according to Senator Armstrong. Social Security taxes will extract a maximum $1,975 per worker this year and are scheduled to take as much as $2,151 in 1982. Another rate increase would be "both unfair to current taxpayers . . . and a serious drag on the economy," says Schweiker.

Capitol Hill insiders expect that actions later this year will include a combination of these proposals:

Reducing the annual cost-of-living adjustment to benefits. Currently, benefits rise each year at the same pace as the government's consumer price index. In the future, the increase may be limited to only 85 percent of the price rises. Savings could be sizable. For the year beginning on Octoer 1, the boost that took effect with checks mailed in July will add 15.4 billion dollars to the Social Security tab.

The inflation adjustment may also be keyed to the annual increase in wages, instead of prices. Wages have advanced at a slower rate recently. In 1980, for example, wages rose 8.5 percent while prices went up 13.5 percent.

Temporary interfund borrowing may be allowed, enabling the largest and least stable of the three Social Security trust funds, old-age and survivors insurance, to receive transfusions from the disability-insurance and medicare funds.

Closer scrutiny over who receives benefits probably will be instituted. Congressional auditors say that the disability fund has a 20 percent "error rate," meaning that in 1 of every 5 cases, money is paid out to persons who should not receive it, at an annual cost to Uncle Sam of some 4 billion dollars.

Another possibility, championed by Representative J. J. Pickle (D-Tex.), chairman of the House Social Security Subcommittee, among others, is a gradual rise in the retirement age from 65 to 68. This move would have no impact on the immediate funding problems, because it would be phased in over a 10-year period, beginning in 1990, but could help cut costs after the turn of the century.

Pickle also proposes transferring money from the medicare trust fund to the combined OAS-DI funds. The general tax revenues would be used to reimburse the shifted health money.

The idea of using general tax dollars to shore up Social Security temporarily, if not for a longer period, has some strong pockets of support in Congress and is not being ruled out. But the administration is opposed. Any such move "would be like robbing Peter to pay Paul," contends Social Security Commissioner John Svahn.

White House plan. The Reagan administration has its own package of remedies: Chopping benefits to people who choose to retire before they turn 65 rather than staying on the job longer, tightening eligibility rules for future recipients of disability payments and altering the formula by which initial benefits are calculated constitute the main changes. Reagan's plan, says the White House, would save 46 billion dollars through 1986. Other trims, including scrapping student benefits for youths age 18 to 22 and elimination of the $122-a-month minimum benefit, already are in the works in Reagan's budget cuts.

The President's most controversial proposal—the lowering of benefits for early retirees—"would be a tragedy and calamity for millions of older and disabled persons [and] break the promise Congress and seven Presidents have made to the contributors," says Wilbur Cohen, a former Health, Education and Welfare Secretary. Administration officials now say they want to phase in those cuts over a number of years, rather than making them effective next January 1, as originally proposed.

Senator Daniel P. Moynihan of New York, the ranking Democrat on the Senate Social Security Subcommittee, sees other motives behind Reagan's package: The administration is practicing "political terrorism," he claims."They say the system is on the verge of going broke, and it is not."

Senator Bill Bradley (D-N.J.) claims the administration is utilizing "two sets of books" that are based on different economic assumptions; A pessimistic economic scenario is used to highlight Social Security woes; a rosier outlook is presented as support for Reagan's individual-income-tax cuts.

The Democrats allege that the administration is running up the warning flags so that it can cut billions in Social Security benefits as a step toward balancing the federal budget.

Despite such debate over the seriousness of Social Security's woes, indications are that Congress will move soon to try to stanch the system's losses, moves sure to affect millions.

[From the New York Times, Aug. 30, 1982]

SOCIAL SECURITY INEQUITY

(By Horace W. Brock)

MENLO PARK, CALIF.—Social Security reform has emerged as the thorniest issue on the domestic political agenda. Ballooning entitlement programs portend swelling Federal deficits, high interest rates and low economic growth for years to come. Yet the response thus far has been paralysis at every level of government—for reform means cuts in benefits, and there is no political will for cuts because most Americans think they would be unfair to the elderly.

Perceptions about equity lie at the heart of the matter and largely determine its politics. Yet precisely because this is so, there is hope. For moral philosophical analysis reveals our understanding of "fairness" to be curiously inverted. True justice calls for a significant reduction in Social Security benefits. And once this becomes appreciated, there should be a groundswell of support for reform.

What is required at the outset is a deeper understanding of what fairness means in the intergenerational context of national retirement planning.

First, our society must redefine "the elderly" to include not only today's retirees but tomorrow's as well. Second, a principle of intergenerational fairness is needed to indicate the proper balance between the needs of both these groups. Moral theory offers only one compelling principle in this regard: that of equal treatment or nondiscrimination between generations.

It is possible to measure how much Social Security discriminates between any two generations by constructing an intergenerational "inequity ratio" as follows: First, compute for each generation its payback or rate of return from Social Security by comparing total contributions with total benefits; next, simply form the ratio of the two resulting numbers.

In a study currently underway, my company has computed the inequity ratio relating the prospects of today's retirees and the "baby-boomers" who will retire after the year 2010. Using the Social Security Trustees' own demographic and economic assumptions, we found that the resulting ratio is 2.5 to 1 in favor of today's retirees—that is, today's elderly have a 250 percent better deal than today's young can expect when they retire.

This ratio, however, in fact understates matters, for it assumes that if baby-boomers are to receive their scheduled benefits, their progeny will bear 40 percent payroll taxes—triple today's 13.4 percent Social Security tax. But since such a tax rate would be politically unsupportable, America could expect to witness successive compromises that would reduce baby-boomers' benefits. For example, the retirement age would be bumped up to 72. When these political realities are factored in, the inequity ratio jumps up to an outrageous 4 to 1 or even 6 to 1 if the economy performs poorly.

These ratios have more meaning if they are translated into "payback period" language. A single worker reaching age 65 this year will receive back from Social Security his lifetime contributions and accrued interest in 3.25 years. If a 5-to-1 inequity ratio prevails, then it will take the equivalent baby-boomer some 16 years to recover his or her contribution. Of course, by this point statistically he or she will be dead.

How would Social Security have to be changed in order to pursue the idealized fairness of a 1-to-1 ratio?

Computations show that today's benefits would have to be slashed by 30 percent, and the entire program would have to be substantially de-indexed—that is, benefits would no longer escalate at the inflation rate.

Any politician proposing such reforms would be branded a moral monster who condemns many elderly people to a diet of cat food. Yet in fact it is today's status quo that will truly stimulate pet-food sales. It will see four baby-boom pensioners on cat food for every one retiree eating such fare today.

If the moral arithmetic adds up to immediate reform, what about the political arithmetic? The clout of some 26 million senior citizens is well known. Less well known is the existence of 81.5 million working Americans under the age of 50 whose interests are increasingly jeopardized by the retirement system. These citizens have been silent until now. But as the unfairness of the current Social Security program becomes recognized, this giant may awake from its political slumber.

Reform should justly be spearheaded by the young who are being so mistreated coming and going: coming, because the retirement system contributes to the high interest rates that diminish their prospects for jobs and homes when young; and going, because their terminal reward will be a postponed retirement in degradation. And all this will have been the legacy of today's politicians who dare to stymie reform in the name of "fairness."

[From U.S. News & World Report, Dec. 28, 1981]

WHAT'S IN THE WIND FOR SOCIAL SECURITY REFORM

(By James M. Hildreth)

Raising the retirement age is only one of the ticklish proposals under active study to shore up the money-losing national pension system.

The broad outlines for a major overhaul of the creaking Social Security system are now taking shape.

Though formal action is probably a year away, these changes in the 176-billion-dollar program are in the wind:

Gradually raising the age for full retirement benefits to older than the traditional 65 years.

Altering the method used to calculate annual cost-of-living hikes, so as to hold down increases.

Changing the formula used to determine initial retirement benefits.

Tightening further the eligibility requirements for enrollment in several auxiliary programs.

The idea throughout is to slow the explosion in Social Security costs and calm fears that the system could run short of money to pay benefits on time.

Even before anything has been accomplished, ideas for shoring up Social Security are generating loud debate, with more to come.

Democrats are blanketing the country with appeals for campaign funds the party says are needed to save Social Security from Republican threats to cut it back. Says House Speaker Thomas P. O'Neill, Jr.: Social Security "is not in the dire, disastrous circumstances the Reagan people would have you believe."

Republicans fire back that they are the ones trying to save people's pensions and have no intention of cutting back further on present benefits. "We can't play Russian roulette with this program any longer," declares Representative Bill Archer (R-Tex.).

Whoever is to blame, worry over the program is spreading among old and young alike. One of the hotest topics at the White House Conference on Aging in early December centered on concern that present or future benefits would be cut. Polls show a waning in confidence among younger workers that adequate pensions will be there when they retire decades from now. "If you can't believe in a long-range pension promise made by the federal government, what can you believe?" asks A. Haeworth Robertson, a former chief actuary of the Social Security Administration.

Behind the moves for overhaul lie official figures pointing up the rickety state of Social Security financing.

OASI IN TROUBLE

The main problem is with the part of the system handling pension payments to the elderly, their dependents and survivors—the Old Age and Survivors Insurance trust fund (OASI). It is running in the red. OASI is the biggest of three Social Security trust funds. The other two distribute disability benefits and the hospital-insurance portion of medicare. Payroll taxes for more than 115 million workers are paid into the trust funds, which send cash benefits to 36 million recipients.

The big danger is that the OASI fund will exhaust the reserves it has built up over the years if it continues to run a deficit much longer. In 1981 alone, the shortfall was an estimated 3.7 billion dollars, cutting reserves to 19.1 billion.

Outlays in 1982 for the three funds combined are now projected to climb to 196.5 billion dollars, a 143 percent increase since 1975. At the same time, the average benefit will surpass $400 a month, nearly double the $207 paid out as recently as 1975.

The ills of the economy make things worse. Steep inflation results in enlarged cost-of-living increases in benefits while rising joblessness translates into less revenues from payroll taxes.

Congress moved on December 16 to ease the short-term pinch by letting the OASI fund temporarily borrow from the other two, which are in better shape. That will stave off bankruptcy in the old-age fund until at least 1984, say authorities, unless the economy performs far worse than now anticipated.

But even greater headaches loom after the year 2000. When the baby-boom generation born in the wake of World War II begins to retire early in the 21st century, projections indicate that under present law benefits will far outrun Social Security tax receipts. In the year 2000 alone, well before the boom hits, the number of Americans 65 years and older is expected to total 35 million—10 million more than today. If reform does not come soon, warns Michael Boskin, a Stanford University economics professor, Social Security will "careen toward a crisis of unmitigated proportions."

CHANGES BY 1983?

In hopes of averting such a crisis, administration officials, members of Congress and other experts are studying a wide range of possible changes. President Reagan has impaneled a 15-member task force on Social Security reform, made up of Republicans and Democrats. It is to propose changes for Congress to act on in 1983.

Foremost among the alterations that are already being discussed behind the scenes: Boosting to beyond 65 the age at which retirees become eligible to collect full benefits. One such proposal given an inside track is championed by Representative J. J. Pickle (D-Tex.), chairman of the House Social Security Subcommittee. The plan would gradually increase the age for full benefits to 66 by the year 2000, the retirement age would rise by approximately one month a year, starting in 1990. Monthly pensions paid to retirees who work until 67 or 68 would be fatter, to discourage early retirement.

A different scenario, backed by the National Commission on Social Security, an independent, bipartisan panel of private citizens, would push the age to 68 by 2012.

Another change under consideration would alter the method used to determine cost-of-living increases. Since 1975, recipients have received yearly increases tied directly to the consumer price index. Critics contend that this measurement vastly overstates the effect of inflation on retirees' pocketbooks, costing Social Security billions of dollars. If the suggested revision is made, future boosts would be linked to either the annual increase in prices or wages, whichever is lower.

Big savings in future costs would come if a technical change is made in the way that the government computes initial benefits for future retirees. Involved is the formula used to adjust beginning pensions to take account of recent increases in wages in general. New retirees would wind up getting less than they would under the present formula, and Social Security would save billions.

Still more tightening of the requirements for enrollment in several smaller Social Security programs is also being discussed. A change in eligibility standards for disability benefits is one possibility. Any moves would be in addition to alterations already enacted. Congress, for example, voted on December 16 to deny the minimum Social Security benefit of $122 a month to anyone retiring after Jan. 1, 1982.

Another action sure to be debated would permit Social Security to borrow general revenues from the Treasury temporarily in case of an emergency. But tapping general revenues rankles many Americans who believe Social Security should remain self-sufficient. "It's like asking an alcoholic if he wants a drink," says Treasury Secretary Donald Regan. "Once you get started on it, you can never go straight again."

Any changes in Social Security would be considered under two significant guidelines, say advisers to the White House and to members of Congress.

First, every effort will be made to avoid touching basic benefits to current retirees. A recent public-opinion poll showed that 92 percent of Americans, young and old alike, oppose benefit reductions for those already receiving them. "Anything that's perceived as zapping somebody who's already retired or just about to will get blown out of the water," says Boskin.

Second, payroll taxes won't be boosted beyond those hikes already scheduled under current law. In 1982, the payroll-tax rate paid by employees and employers alike is 6.7 percent, up from 6.65 percent in 1981. Simultaneously, top earnings upon which taxes are paid rise to $32,400 in 1982 from $29,700. Thus, people earning at the wage base or above will pay $2,170.80. That's $195.75 higher than in 1981 and far above the $30-a-year ceiling paid when Social Security started collecting taxes in 1937. Under changes O.K.'d in 1977, the tax rate will keep rising in steps to 7.65 percent by 1990. The wage base goes up in line with wage inflation.

LESSON LEARNED

Despite pledges all around to avoid undercutting present basic benefits, it won't be easy to hold down future payouts. The administration found that out last May when Reagan hurried to Congress a plan for wide-ranging changes. The proposal was scrapped in the face of criticism.

Largely because of that experience, neither the White House nor Congress wants to repeat the process in 1982, an election year. "None of the members of Congress want to deal with Social Security during their primaries," says Social Security Commissioner John Svahn. Typical is Senator John Danforth (R-Mo.): "I'm running for re-election in 1982. I don't want to face this."

Nevertheless, many lawmakers doubt that Social Security's woes will go away. "It's a disgrace the way we have turned tail and run on Social Security," says Representative Barber Conable of New York, ranking Re-

publican on the House Ways and Means Committee.

"Change is inevitable," says Robertson, the former Social Security official. "It's just a matter of whether it will arise from a clearheaded appraisal of our current system or from the existing state of frustration and bewilderment."

[From Newsweek, Oct. 27, 1980]

HOW TO SAVE SOCIAL SECURITY

(By Victor R. Fuchs)

The social-security system is in trouble. Expenditures and receipts are in uneasy balance and the situation is likely to grow worse in the decades ahead. Young workers are understandably concerned because social-security taxes take a big bite out of their paychecks with no guarantee that the economy will be able to provide them with equivalent benefits when they retire. Retired persons fear that a sudden crisis in funding may force a rollback in their main source of support. The fears are justified, but I believe there is a way out.

The basic problem is that the system is not, and was never intended to be, a "save for retirement" insurance plan. It is a "pay as you go" system. The taxes paid by current employees (and their employers) are not invested in a fund to finance *their* retirement. Instead, current taxes are used to pay benefits to the workers of earlier generations who have already retired. When the number of retired persons is small relative to the number of workers, no problems arise. But when the number of retired persons grows much more rapidly than the number of workers, large increases in taxes and/or decreases in benefits are needed to keep the system in balance.

BIRTH AND DEATH

What is going wrong? In large part the system is the victim of demographic changes that it did not cause, but that it must respond to. Longer life expectancy and declining birthrates are the main factors undermining the financial foundations of the system. Since it was designed in the 1930s, there has been a significant increase in the proportion of the population that reaches retirement age. More recently death rates at post-retirement ages have also decreased appreciably. Between 1968 and 1977 life expectancy at 65 jumped from 12.8 to 13.9 years for men and from 16.3 to 18.3 years for women. Congressional action in 1956 and 1961 that created an early-retirement option at 62 has also increased the retiree-worker ratio. Currently, fewer than half of all workers wait until 65 to begin collecting benefits.

Until now the increasing number of retirees has been offset in part by the rapid growth of female-labor-force participation and by the massive influx of the baby-boom cohorts into the work force. These sources of additional labor will begin to dry up in the years ahead. Although the female-labor-force participation rate is likely to remain high, it is virtually impossible that it will *increase* as rapidly as it has in the past. Even more important, because of the decline in the birthrate, which began many years ago, the number of young people who reach working age during the 1990s will be approximately 7 million less than it was in the 1970s.

What can we do? Politicians are understandably reluctant to reduce benefits or to raise taxes, but unless some action is taken a crisis is likely to develop—one that would set generation against generation and would prove extremely disruptive to the society. Some experts would like to see a change to a fully funded "save for retirement" insurance system. While such a system has some advantages, it is not feasible to make such a radical change. In order to create a funded system while maintaining benefits to those who have already retired, the current generation of workers would have to bear an enormous increase in taxes. From both a political and an economic point of view, that is neither a viable nor necessarily a desirable option.

Fortunately, there is a simple and effective way to put the system back on a sound financial footing without raising taxes or reducing benefits to retired persons. Beginning soon *we should gradually and steadily raise the age at which workers become eligible for retirement benefits.* For instance, legislation passed next year could state that in 1983 the eligibility age for so-called early retirement would be 62 years and two months, eligibility for standard retirement would be 65 years and two months and that these ages would increase by two months every year for the following seventeen years. Thus, by the year 2000 the key eligibility ages would be 65 and 68. This simple gradual change would provide a large financial boost to the social-security system without causing significant disruption to workers, families or firms. In the long run the effect would be comparable to a major increase in social-security taxes because the ratio of workers to retired persons would be much larger than if we allow the eligibility ages to remain as they now are.

ADAPT

Would raising the age of eligibility change retirement patterns? There can be no doubt that it would. Opinions differ regarding exactly how retirement decisions are influenced by ill health, inflation, unemployment and other facts, but the timing of retirement clearly depends upon social-security eligibility. Withdrawal from work is much greater at 62 and 65 than in the years just before or just after those ages. Moreover, once Congress changes the social-security ages, most private-pension plans would probably adapt, thus reinforcing the effect. Mandatory retirement, it should be noted, has already been changed by Congress from 65 to 70.

There is nothing sacred or magical about reaching 62 or 65—Congress picked those ages, and Congress can change them. The use of 65 as a standard retirement age goes back to the nineteenth century when Bismarck chose it for the new German social-security system. This was at a time when most people began work before the age of 15 and most died before ever reaching 65. At present in the United States very few youngsters begin full-time work until finishing high school, and a substantial fraction do not begin until they are well into their 20s. Furthermore, given present trends in life expectancy at older ages, persons retiring at 68 in the year 2000 can probably expect to enjoy as many years in retirement as did the worker who retired at 65 in 1960.

The problem is clear. So is the solution. All that is required is the political courage to act before a crisis is actually upon us.

[From the Washington Times, Nov. 4, 1982]

HOW TO SAVE SOCIAL SECURITY

(By M. Stanton Evans)

The key to understanding the debate on Social Security is to realize that anyone who tries to save this bankrupt program will invariably be accused of trying to destroy it. Conversely, the people who talk the loudest about the integrity of the system and the need to treat its benefits as sacred are the major culprits in bringing about its ruin.

Once these points are grasped, the discussion begins to make a modicum of sense. Consider in this respect the case of Peter Ferrara, a youthful economist on the White House staff who has devised an eminently-sensible proposal for rescuing Social Security from impending doom while not only protecting but increasing benefit levels. Sure enough, for daring to think such constructive thoughts, he is charged with wanting to "dismantle" the program.

As just about everyone knows by now, Social Security is in a heap of trouble. It is running in the red on a daily basis, and over the long-term has roughly $6 trillion in unfunded liabilities. Maximum Social Security taxes have grown tremendously to pay the bills, ballooning up from $288 a year in 1960 to $4,341 today, with a scheduled increase to $8,690 by 1990—an increase of better than 3,500 percent in slightly more than a generation.

Because of the continued yawning deficits, still bigger tax hikes are probably in the offering. A long-term actuarial outlook tells us that Social Security taxes may rise to anywhere from one-quarter to one-half of taxable payrolls, depending on the assumptions used. The program currently costs more than $200 billion annually and this is only the beginning. By 1986, on current estimates, Social Security will absorb 55 percent of the domestic federal budget, and by 1995 will be up to 59 percent.

The reason for these mind-boggling numbers is that Social Security is constructed on a faulty financial premise. It is set up like a pyramid club, with benefits paid out of current taxes on the working population. When the program was launched, this seemed to be a good idea, since there were relatively few retirees compared to workers. Now, however, the balance is tipping the other way. As more and more retirees enter the system, the gigantic tax load simply keeps on growing.

As Ferrara notes in a study for the Heritage Foundation, private retirement systems operate in totally different fashion. They invest the money of their participants in stocks and bonds, where they earn a rate of return as part of the productive economy. Benefits are paid back from these investments and their earnings. Liabilities are fully funded, and the benefits provided are much greater than those paid out by Social Security.

Thus if an employee pays in his Social Security taxes at the average rate throughout his working lifetime, he will wind up with an annual retirement benefit of roughly $15,000. By making the same payments into a private system, he could compound his investment into an estate of almost half a million, or an annuity of roughly $45,000. The private benefit is three times the payout from Social Security—assuming that the latter will get paid at all.

Ferrara suggests that Social Security participants be given the option of switching over a percentage of their payments from the system to Individual Retirement Accounts, phasing in the changeover on a gradual basis. In 1986, wage earners would be allowed to deduct some 20 percent of their payroll taxes for IRA investments. In 1996, this would go up to 40 percent, and in 2004 to 66 percent. By 2014, 100 percent conversion would be permitted.

Such a transition would allow all wage earners covered by Social Security to obtain much higher benefits than they can presently count on, while pumping added billions into the productive economy. Under Ferrara's proposal, Social Security's short-term and transitional financing problems would be covered from general revenues, which would also finance the system's welfare functions.

All in all, one of the most ingenious and hopeful proposals for saving the Social Security system to come down the pike in many moons. So how was it headlined in the Washington Post? Right: "White House Adviser Recommends Dismantling Social Security."

[From Parade Magazine, Oct. 31, 1982]

HOW TO FIX SOCIAL SECURITY

(By Andrew Tobias)

There's a dirty little secret about Social Security, and it isn't that the system's going broke. Everybody knows that. The secret is that there are some simple, fair and relatively painless ways to solve the problem. Almost nobody knows *that*, because our elected representatives—who do know it—would rather make political hay than lead the nation. "Everything has been geared to the first Tuesday of November," House Speaker Tip O'Neill candidly told a reporter this summer.

THE PROBLEM

In 1949, there were 16.5 workers paying into Social Security for every retiree or surviving spouse drawing money out. The maximum tax on wages was $30 a year.

Today, there are just 3.2 workers supporting each retiree, and the maximum annual tax—$174 as recently as 1965—has risen to $2171. Employers pay an equal sum, which they then add to the price of their products. So we wind up paying that $2171, too.

And it gets worse: In 30 years, there may be barely two workers to support each retiree.

In large part, the problem—if you can call it a problem—is that people live longer than they used to. In 1940, a 20-year-old woman was expected to live to be 71; now she can expect to live to 80. That's wonderful, but look what it means: Instead of collecting Social Security for six years, say, she may now collect it for 15.

Longevity was expected to increase a mere six months during the 1970s. Instead, due largely to a decline in fatal heart disease and strokes, it increased 2.8 years! This is surely no one's "fault"—but it does require adjustments to the Social Security system.

The money we pay in Social Security tax is not invested for our retirement, even if some people were gently misled into thinking so. It is paid right back out to the elderly—our parents and grandparents. The young assist the old on the assumption that their young will do likewise. It is a contract between the generations.

The idea was never that this program would provide a full and comfortable retirement—that was the responsibility of the individual. Social Security was designed to assure the bare essentials. Yet, in the last dozen years, the benefits a worker gets upon retirement have jumped from 34 percent to 55 percent of his prior year's wages.

So not only are there far fewer workers to support each retiree—each retiree costs more to support!

People say they could do better saving for retirement themselves than paying into Social Security. Quite true. But who, then, would pay benefits to today's senior citizens? Should they be allowed to starve? Like it or not, we are paying into the system not for our own retirement (our children will do that) but for our elders. And at the rate things are going, the system is going to fall tens of billions of dollars short over the next few years and more than a trillion dollars short early in the next century.

THE SOLUTION

Conceptually, the situation couldn't be simpler. The Social Security system is paying out more than it's taking in. That's all. To fix it, we must either take in more (raise taxes) or pay out less (cut the growth of benefits).

Those who favor raising taxes will be delighted to know that increases are already on the way. The 13.4 percent bite we and our employers pay on wages up to $32,400 is slated to keep rising. But even with those hikes, mammoth deficits are projected. To raise taxes still further seems almost too much to bear. Instead, what most people agree must be done is to slow the growth in benefits. Not cut them, just slow their growth. These three changes would more than suffice:

(1) Raise the retirement age from 65 to 68—gradually, over the next 36 years. One month would be added to the retirement age each year. It would rise to 65-and-one-month in 1983, to 65-and-two-months in 1984, and so forth. Twelve years from now, it would reach 66. (Early retirement, likewise, would have risen by a full year from 62 to 63.) In 36 years, the retirement age would have climbed to 68.

Current recipients would not be affected one whit.

Naturally, it would be nice if we didn't have to do something like this. It would be nice, indeed, if we could lower the retirement age. And double benefits! But we can't afford to.

Indeed, as sacrifices go, perhaps this one—raising the retirement age for today's 30-year-olds, from 65 to 68—is not so great. But its impact on the system would be enormous. People would eventually be paying into the fund for three years longer and withdrawing from it three years less. This one change would go about two-thirds of the way toward solving the problem all by itself.

Yet when House Ways and Means Subcommittee Chairman J. J. Pickle was drafting such a bill, to begin phasing in about 1990, Tip O'Neill told him to stop. According to Time, O'Neill didn't want voters to think the Democrats were tinkering with Social Security.

(2) Subject benefits to federal (but not state or local) income tax. People say, "Now, wait just a damn minute. I paid into that system for 30 years (or my spouse did)—how dare you tamper with what's rightfully mine?!"

Nonsense. In the first place, that money is gone. It went, with at least the tacit consent of us voters, to support prior generations.

But even putting that aside, today's average retiree can expect to collect something like five times what he or she paid into the system (even taking into account the interest that money would have earned). The most anyone retiring in 1987 could possibly have paid into the system since 1937 is $16,937. On average, that will be paid back in just a year or two. The next 20 or 30 years are gravy.

If benefits were taxed, many recipients would have no tax due. Only those with outside income would pay any tax. And why not? Today's 20- and 30-year-olds can be expected to help the elderly who need help. But why should they be taxed to support the elderly who don't need help? If Social Security benefits were taxable, then those with less need would simply "return" some of the money by paying taxes on it. Crediting that money to Social Security would reduce the projected shortfalls dramatically.

Consider a widow whose husband contributed a total of $2,086 to the system over his lifetime. She has been receiving benefits—currently, $5,520 a year—for 25 years. She also has a trust fund and investments that pay her $16,000 a year. She is in no sense rich, but given the nation's economic condition, would it be cruel or unfair to tax her Social Security check? I hope not. She's my grandmother.

Still, to ease its impact, any such change could be applied only to future recipients and to current recipients with incomes in excess of, say, $30,000 a year.

(3) Suspend the automatic cost-of-living adjustment for one year (and one year only). Social Security recipients saw their untaxed benefits rise 40 percent over the last three years, while the wages of workers taxed to pay those benefits rose just 30 percent. A one-year moratorium on the cost-of-living adjustment would have only a small effect on current recipients but would do wonders for the financial health of the system.

Other steps could be taken as well. One would be to return to the fold those who have been exempted from participating in Social Security (government employees, for the most part—funny how well they manage to take care of themselves). But the three proposals above would solve the problem. Indeed, they would more than do the trick, confirms Robert J. Myers, 70, executive director of the National Commission on Social Security Reform (due to make its report to the President by the end of the year).

Yet, so vocal have our representatives been in politicizing the problem rather than dealing with it that two-thirds of Americans under 45 don't believe Social Security will exist when they retire. There's no reason why it shouldn't; benefits might just start a little later. (In the meantime, believers and nonbelievers alike would be smart to join the tens of million who already have set up Individual Retirement Accounts.)

Putting Social Security on firm ground would do something even more important. It would signal the financial markets that ours is a country that can cope with its future. Right now, there is considerable uncertainty among investors here and abroad of our ability to do so. (Or else why would long-term bonds that promise 12 or 14 percent interest go begging?) Uncertainty over the future, together with gargantuan projected deficits, translate into murderously high interest rates. And murderously high interest rates are killing the country.

Editorialized The Wall Street Journal: "The elderly are no different from anyone else in this democracy. They are willing to be fair if the issues are explained honestly. The longer the necessary Social Security decisions are postponed, the worse the problems will become and the more unpalatable the remedies. Everyone, young and old, understands this, except, of course, members of Congress."

If you want to have a real impact, rip out this article and send it to one of your elected representatives. Quick.

[From the Denver Post, Nov. 3, 1982]

THE BOILING MESS OF SOCIAL SECURITY

(By Otis Pike)

Every single minute of every hour of every day, the Social Security system pays out $17,000 more than it takes in . . . $17,000 a minute. In the lamentable campaign just past, none of the candidates was heard offering any solution to this time bomb ticking away in our society. The noble experiment of President Franklin D. Roosevelt's New Deal has fallen into such disarray that a recent poll found that more than two-thirds of U.S. citizens ages 18 to 44 simply don't believe the system will exist when they arrive at retirement age.

Politics created the system, got it into the mess it's in and prevents any rational solution. And when worst comes to worst, politics will save it.

There has been no salvation in the statements candidates have been uttering during recent campaign weeks. All over the U.S., Democrats have accused Republicans of trying to cut the benefits of Social Security recipients. "Balancing the budget on the backs of the elderly" is the most reasonable phrase used.

More rabid campaign oratory has included "insensitive," "cruel" and "despicable" to describe actions taken by the Republicans. Democratic campaign ads warned of unknown and unspeakable horrors the Republicans contemplated for our senior citizens after the election.

Republicans have responded as best they could. A GOP commercial had President Reagan taking credit as a kindly postman delivering a Social Security cost-of-living raise, which Reagan had opposed.

Individual Republican congressmen used ads and speeches expressing their undying love for and commitment to the elderly. The Republican Congressional Campaign Committee hastily withdrew a fund-raising letter that merely gave respondents the opportunity to vote for three options on bailing out the system—one of which was making the system voluntary. This particular option is bad economics, worse social policy (the people who need it most would be most likely to drop out)—and the fund-raising questionnaire was horrible politics. It gave the Democrats another opportunity to charge, in the final days of the campaign, that the Republicans were out to destroy Social Security.

Reagan warned of "demagogic" campaigning on the Social Security issue. The Democrats had a ball.

Now, the party is over, and it's hangover time—$17,000 more has been going out every single minute the party lasted. What do the Democrats propose to do about it? What do the Republicans propose to do about it? So far, it has been the ostrich approach—bury your head in the sand and pretend it isn't there.

There are three separate funds in the Social Security system. The big one is old age and survivors insurance. By July 1983, it will be unable to send checks to 32 million retirees or their survivors.

Hospital insurance pays Medicare for the elderly.

Disability insurance provides benefits for disabled workers.

Since 1980, the big one has been borrowing from the other two. In 1984, assuming Congress allows the borrowing to continue, all three will run out of money.

As always, there are only three options: (1) We can cut benefits. (2) We can raise taxes. (3) We can borrow and add it to the deficit.

There are many variations and details, but all possible solutions require one or more of the above. Every one of them is unpopular, so none of the candidates has advocated any of them.

It's time to pull our heads out of the political sands. All solutions are painful. We got in the mess because paying retirees more was popular and got votes.

The best thing to do is gradually increase the retirement age to adjust for our longer life expectancy. Cost-of-living increases should be geared to the lower of prices or wages.

The worst thing to do, fiscally, is to take the shortage out of general revenues. There are no surplus general revenues, only a very large deficit. This is the worst option fiscally, but probably the best politically. The worst politics would be not having the checks go out.

[From the Washington Post, Nov. 9, 1982]

SOCIAL SECURITY: WRIGHT AND WRONG

Representative Jim Wright of Texas, the House majority leader, offered a few suggestions last weekend for the rescue of Social Security. They illustrate the reasons why most people aren't taking the congressional Democrats' pronouncements on the subject very seriously.

It's true that Mr. Wright offered these thoughts while being interviewed on "Meet the Press," and it's difficult to discern from the context whether he had given any of them more than two minutes' previous thought. They have the air of spur-of-the-moment inspirations, and they would hardly be worth noting if they did not reflect so clearly the same message as much of the Democrats' current commentary on Social Security. The general idea is that a few painless adjustments here and there can set things right. As most Americans have come to realize by this time, it's not going to be quite so easy.

All of Mr. Wright's suggestions have one thing in common. They would mean using general funds—money from all the other tax sources—to supplement that payroll tax that is now insufficient to pay for the present Social Security benefits. One of Mr. Wright's proposals is to subsidize the incomes of people of retirement age, with tax credits up to $2,000 a year, to keep them working and off Social Security. Where does the $2,000 come from? The government is already running dramatically large deficits, and shifting inadequate funds around from one pocket to another is not terribly helpful.

Another (and worse) suggestion is to earmark the revenue from offshore oil leases for Social Security. Offshore revenues bounce up and down with the vicissitudes of the oil business; they are precisely the kind of unstable source that should never be used for pensions. As for new funds. Mr. Wright thought that the American taxpayer might tolerate another 50 cents a gallon on the liquor tax, to be permanently dedicated to the Social Security Trust Fund.

The Social Security shortfall has a simple explanation. Congress greatly increased the benefits in the late 1960s and early 1970s, on the assumption that the rapid economic growth of that period would continue steadily. But that assumption has failed, leaving the prospect of a rapidly widening gap between Social Security taxes coming in and benefits going out. That is the formidable reality with which the special commission headed by Alan Greenspan is now coming to terms. Whether its recommendations next month actually lead to useful legislation depends on the legislators, among whom Mr. Wright is a major figure, and whether they are willing to approach the subject seriously. A sincere smile and another 50 cents on a jug of whiskey won't quite be enough.

[From the Rocky Mountain News, Oct. 24, 1982]

SOCIAL SECURITY: POLITICIANS ARE PLAYING "DODGE BALL" WITH IT

(By Senator ROBERT DOLE)

Politicians are fond of claiming that the "other party" has turned Social Security into a political football and that's the reason why Congress has failed to confront the financing crisis.

I have a different view. I'd say politicians have been playing "dodge ball" with Social Security. The game has to stop.

There is no other government program that affects citizens, private industry and even the federal budget more significantly than Social Security. Spending $200 billion this year—about $1 out of every $4 spent by the federal government—the Social Security system now sends a check to one out of seven Americans. There is no other government program which so vitally influences the standard of living for millions of retirees. Yet, confidence in the survival of the system is at an all-time low.

For too long now, Congress has cold-shouldered the fact that Social Security is going broke. The retirement fund is spending $30,000 more each minute than it is taking in. At this rate, reserves would be completely depleted and benefits would not go out on time beginning in November—at least, that would have been the case if the program had to rely on its own resources.

But Congress took a "heroic" course of action last year which will allow the retirement fund to limp along for a few more months. Congress authorized the three Social Security trust funds—retirement, disability, and Medicare—to temporarily borrow from one another. Actuaries now expect that the retirement program will have to borrow up to $12 billion from the other funds just to keep checks going out on time for the next eight months. Without quick congressional action, however, that means that checks cannot go out on time past next July.

One bleak fact stands out: The Social Security system's income is not likely to cover outgo at any time between now and 1990. This is a staggering prospect when you realize that the Social Security payroll tax will, under current law, be increased in 1985, 1986, and 1990, and that the system will be bringing in some $2.5 trillion by the end of 1990. The Social Security Board of Trustees, the Congressional Budget Office and a wide variety of private actuaries and economists all report the same gloomy outlook—the system's trust funds will be dry in 1984, if not by the end of 1983.

Congress knows all of this and yet is politically paralyzed, especially in this election year. This case of election-year jitters is exactly why I've called for a special session of Congress. As I see it, there is a real opportunity for positive action following Nov. 2 and prior to convening of the new Congress. We will have just received the final report of the President's bipartisan National Commission on Social Security Reform. That report will be a good starting point for our work. Political pressures will be at a minimum and

we would not have lost valuable time waiting for the 98th Congress to be organized.

As an alternative, we could follow the suggestion of the majority leader, Sen. Howard Baker, and convene the 98th Congress early in January to deal only with Social Security. I'm agreeable to that idea as well

What's essential is to act promptly to shore up the system in the short-term and the long-term, and to do so before the fiscal year 1984 budget battles begin. There's no question that the 98th Congress will be faced with the need to enact major new deficit reduction measures. The charge will inevitably be made that Social Security is being manipulated to balance the federal budget. Unless we act before that time, immediately after the National Commission reports, effective reform may once again be impossible—as it was in 1981 and has been during 1982.

The longer Congress delays, the more trouble we can expect. The changes in benefits or taxes that are required to meet the near-term crisis will only become larger and more abrupt in their impact. As for delaying action for the long term, a recent poll indicated 75 percent of men and women between the ages of 18 and 29 doubt Social Security can meet its commitments after the turn of the century. Such attitudes reflect the growing pessimism of younger workers over the survival of the system.

Who can blame them? Imagine a tax rate double the current level of 6.7 percent just to finance Social Security benefits in the year 2035, when today's students are beginning to retire. Already, one-quarter of America's taxpaying households pay more in Social Security taxes than they do for income taxes, and Congress can't even guarantee they'll get any kind of return on their investment.

There will be no easy or painless solutions. But the right step is for Congress to get down to work. As a member of the Social Security Commission, I am confident there are many ways to trim the cost of Social Security and help shore up the system without risk to current benefits.

Social Security spending will amount to $3 trillion in the next 10 years, increasing by a whopping $20 billion or more a year. Not every dollar spent on Social Security goes to the elderly. One-third of all Social Security recipients are under 65. It is a complex system, with many elements that are not generally understood, and many areas for improvement. There is clearly room for belt-tightening without reducing current benefit levels. Repeat: I am not suggesting cutting present benefits.

We need to look at ways to slow the unchecked growth of the program. Eligibility can be tightened, the benefit formula can be modified to reflect more moderate increases, and the cost-of-living adjustments can be modified. However, time is running out and so are the Social Security trust funds.

[From the U.S. News & World Report, Nov. 1, 1982]

PRO AND CON: RAISE SOCIAL SECURITY TAXES NOW?

YES—"BENEFITS ARE WELL WORTH THE CONTRIBUTIONS THAT YOUNGER PEOPLE PAY"

(Interview With Wilbur J. Cohen, Former Secretary of Health, Education and Welfare, 1968-69)

Q. Mr. Cohen, do you favor boosting Social Security payroll-tax rates more quickly than now scheduled in order to meet the system's financial problems?

A. Yes. The most feasible, reasonable alternative for bringing more revenue into the system is to raise the rate to 7.5 percent, starting in 1984. While I prefer in the long run to provide more income from federal general revenues, I recognize that with today's large budget deficit, that's not possible, politically speaking.

Q. Maximum payroll taxes for workers and their employers approached $2,200 this year. Would it be fair to them to boost taxes still higher?

A. Yes, because workers get their money's worth. Let me explain. There are at least three kinds of protection that younger people receive from Social Security even before they retire.

One is that with basic Social Security benefits, they don't have to take care of their parents when they become old. Secondly, they don't have to spend additional general tax funds on welfare for older people. And third, younger people have the advantage of disability insurance if they become disabled, and death benefits for their widows and dependent children if they die prematurely. Moreover, some of their medical-care expenses will be paid by medicare.

In short, the benefits are well worth the contributions that younger people pay. You've got very difficult psychological and educational problems in persuading younger people to make an investment over 40 years for a wide range of human fallibilities.

Q. Wouldn't the tax increase pile extra costs on business, slow down the recovery and discourage firms from hiring?

A. I don't believe that is the primary problem in our economic situation. A slight increase in the Social Security tax wouldn't be a very significant factor in increasing unemployment. To the extent it is a factor, it's the least-worst option we have.

Q. As opposed to what?

A. As opposed to letting the Social Security system go bankrupt or, at this particular moment, increasing the deficit by having the money come out of general revenue. Or of reducing benefits: That is not only politically infeasible, it would be morally wrong.

Q. Another proposal receiving attention would allow the Social Security system to borrow from the general treasury—

A. I favor that for 1983 and 1984.

Q. When would the borrowed funds be repaid?

A. Sometime between 1985 and 1990, using money collected from the accelerated taxes. It would be paid back with full interest. Let me add that for the long run, I favor paying half of the cost of medicare out of general revenues.

Q. Why?

A. In my view, medicare is not a wage or earnings-related benefit. Already, general tax dollars pay some 75 percent of physicians' fees under medicare. I see no reason why half the cost of the hospitalization insurance could not be paid out of general revenues, too. Then more proceeds from the payroll tax could be shifted to the retirement program, which is the one in the most financial difficulty.

Q. Annual cost-of-living increases for retirees have sent benefit costs soaring over the past several years. Should these increases be cut back, as many advocate?

A. I don't see the need for that. Inflation is falling now, so it shouldn't have any big impact by 1984 or 1985. By then, the cost of living should be down below 6 or 5 percent.

Q. How much would it help to gradually increase the retirement age to 67 or 68?

A. That doesn't help the present situation. That's a problem for the year 2015.

Q. But doesn't the system face more-serious problems in the next century?

A. Yes. But we don't know what the solutions are to these problems. We do know that there will be more aged people, but there are also likely to be fewer children. We don't know what the productivity rate is going to be—and that's very important. So I don't see any great need to solve the problems of the year 2015 before we solve the problems of 1984.

You see, it is not desirable to mix up the short-run, intermediate and long-run solutions under the mistaken belief that we've got the knowledge today to solve everything all at once. I'm not that optimistic that we human beings have that capacity.

Another thing I think we ought to do to clear things up is to take Social Security out of the federal unified budget.

Q. Why is that important?

A. Young, middle-aged and older people alike become confused when the administration makes recommendations for changes in Social Security benefits and argues that they would reduce the deficit. People say, "What's the deficit got to do with what I contributed to Social Security?"

I feel we ought to restore the situation to what it was before 1969, when Social Security income and outgo were separate from general revenues. Then we wouldn't have the situation where cutting a dollar out of Social Security reduces the general-fund deficit. It has just resulted in misapprehensions and misunderstanding.

Q. You indicated that many younger people, among others, lack confidence in Social Security. Is there any practical way to shore up the system's credibility?

A. I would favor making it mandatory for members of Congress, their staffs and members of the cabinet to participate. It would have a tremendous psychological impact for the other 95 percent of the working force that contributes to know that these people in positions of power were paying their Social Security taxes, too. That would help answer the difficult question I get around the country: "Why are members of Congress and the cabinet excluded from Social Security? Do they know something that I don't know?"

NO—"INCREASING PAYROLL TAXES IS REALLY PLAYING WITH DYNAMITE"

(Interview with Senator WILLIAM ARMSTRONG, Republican of Colorado)

Q. Senator Armstrong, why do you oppose raising Social Security taxes faster than scheduled?

A. Because it makes absolutely no sense. A payroll-tax increase means more unemployment and might result in postponing the kind of reforms that are ultimately necessary to put the Social Security system on a sound financial footing.

Q. You mean it would be like applying a Band-Aid—

A. Exactly. Since Social Security has come into existence, the maximum payroll-tax payment has gone up 2,011 percent, taking into account higher tax rates as well as the higher wage base on which taxes are figured. In the last 10 years alone, it has quadrupled, and increases of another 196 percent are already scheduled by 1990. So when you start talking about telescoping that payroll-tax increase, you're talking about putting an enormous burden on individuals.

You're also talking about putting an enormous burden on companies that can ill afford it, since employers pay Social Security taxes matching those of their employes.

Even more important, you're putting an enormous drag on employment. Increasing payroll taxes is really playing with dynamite.

Q. What do you mean by that? How would higher payroll taxes injure firms?

A. It would impair their ability to compete, which means less employment. Take the automobile industry, for example. It is having a horrible time competing with overseas manufacturers. In the last five years, the U.S. automobile industry paid about 12.1 billion dollars in Social Security taxes—about twice the industry's five-year profit.

Q. Some advocates of tax increases contend that such a move would be fairer because it would spread the burden of covering Social Security's deficits across the board, instead of limiting benefits—

A. It is important to make this clear: There is absolutely no prospect that we're going to reduce the basic level of benefits now being paid to retirees. Frankly, there is a bunch of politicians in this country who are trying to stampede the elderly by yelling, "Look, they're trying to cut your benefits." Nobody's talking about that, and it shouldn't happen, and it's not going to happen.

Q. If the national commission studying the Social Security problem—of which you are a member—recommends a payroll-tax speedup, how would that fare in Congress?

A. They'd laugh it out of town. If anyone is thinking of that as a viable option, they ought to quit thinking about it, because it just isn't going to work.

Q. How would you get Social Security over its present cash shortage, then, if not by a tax increase—allow the system to borrow from the Treasury?

A. That's a preposterous idea. It's like suggesting that Amtrak, which is losing money, bail out Braniff airlines.

Q. Because of the high federal deficit?

A. Yes. Retirees aren't going to buy that approach for a minute. They know that the one thing that threatens their economic future more than anything else is inflation, caused by the deficits in the general federal budget. To say that we can borrow money from the general fund without having profound adverse economic conseqences is ridiculous.

Q. Then what can be done?

A. Well, a lot of things can be done in the short run that would have a big impact. One is to look into the General Accounting Office reports of fraudulent benefit payments. We're talking about saving billions of dollars. Second, there's the question of Social Security disability payments. Indications are that 2 billion dollars are being paid to people who never were disable or who are no longer disabled. There's also the question of upgrading the Social Security computer system in order to get deceased persons and prisoner off the rolls.

Q. There is talk of saving money by altering the formula by which increases in Social Security benefits are tied to rises in the cost of living. Would that be wise?

A. I'm skeptical of such notions. The essence of the bargain that we want to maintain with retirees is that when you retire we're going to protect your purchasing power. But there are a few changes in operation that could be made.

Q. For instance?

A. For one, there's the question of when the cost-of-living increase is computed. If you go on the Social Security rolls in December, for example, you nonetheless get a full year's cost-of-living increase, even though you were on the rolls for less than a month. Now that is unjust.

Another that's sometimes discussed is the possibility of simply delaying the date for increasing cost-of-living allowances, which is now the first check in July.

Q. For how long would you delay the increase?

A. A few months. That would save a huge amount of money because the system is so big that very minor changes have large dollar implications.

Q. Are there merits to raising the age for receiving full benefits to above 65, as some have suggested?

A. That makes a great deal of sense to me, but it must be done so gradually that nobody would be inconvenienced or threatened by it. One proposal that makes sense is to increase the retirement age one month per year for 36 years so that at the end of the phase-in period, people who are physically and mentally able to perform their jobs would have their normal retirements at 68 rather than 65.

Remember, though, that's a long-range remedy. There is this reality now: Benefits in the next few years simply can't go up as fast as they have in the last few years. I've talked with lots of retired people and others who are about to retire. They're apprehensive, but they also understand the problem. They're willing to bear their share of the burden. They know that there's no such thing as a free lunch.

[From the Washington Post, Dec. 23, 1981]

FOR 25 PERCENT OF PAYERS, SOCIAL SECURITY LEVY EXCEEDS INCOME TAX

(By Thomas B. Edsall and Spencer Rich)

A fourth of taxpaying U.S. households now pay more in Social Security than in income taxes, a new government study says.

Among black households 41 percent now pay more in Social Security than in income taxes; among female-headed households, 37 percent.

A second study shows that Social Security now provides nearly two-fifths of all the income of elderly people in this country, that it provides more than half the income of over two-thirds of the elderly and all the income of about a fourth.

Both studies were published in the most recent edition of the monthly Social Security Bulletin, which is put out by the Social Security Administration.

The figures do not deviate much from findings in previous reports. But they serve to underscore why Social Security has become so explosive a political issue in this era of austerity: an enormous part of the population is fundamentally affected by the giant system.

The tax figures take into account just the employe's half of the Social Security tax, which is paid half by employes, half by employers. Most economists assume that through a process of shifting, employees in effect pay both halves, in that employers look on their half as just another part of their total labor costs and subtract it from wages and benefits they might otherwise pay their employees.

Assume the employee ends up "paying" both halves and more than half of U.S. households pay more in Social Security than income taxes, the study says.

The Social Security tax looms larger for lower-income households than for higher. This is in part because it is a flat percentage, while the income tax is progressive, rising as income does; and in part because it applies on income only up to a specified cutoff point each year. For Social Security purposes, income over that point is tax-free.

In 1979, the study says, Social Security taxes tended to be higher than income taxes for families with incomes up to $9,000 to $10,000; above that point the income tax tended to retain its traditional position as the No. 1 tax.

The income study made these additional points:

Among elderly households in 1978, the year of the data, 90 percent received Social Security benefits. Thirteen percent received other public pensions and only 21 percent received private pension payments.

A fourth of these elderly households still had earning, while 62 percent had income from assets, which was mostly interest income.

On the other hand, this assets income accounted for only 19 percent of the total income of elderly people, indicating many had very little of it—and other studies indicate that most of this assets income goes to a relatively small percentage of the elderly who are the best off.

Earnings produced 23 percent of the income of elderly perople, pensions other than Social Security 16 percent and Social Security 38 percent.

[From the New York Times, July 17, 1981]

POLL SHOWS AMERICANS LOSING FAITH IN FUTURE OF SOCIAL SECURITY SYSTEM

(By Warren Weaver, Jr.)

WASHINGTON, July 16—A majority of the American people, 54 percent, no longer believe that the Social Security system will have the money available to pay them the full benefits they would be entitled to at retirement, the latest New York Times/CBS News Poll shows.

An somewhat larger group, 57 percent, believes that the Government retirement fund will not have enough money available in the future to meet all its overall obligations.

This lack of confidence in Social Security also showed up, although to a lesser degree, among those who are already retired and receiving benefits. Of this group, 37 percent believe the system will not have enough money to cover its obligations generally and 26 percent believe their own benefits will not continue because of a fund shortage.

CONFLICT BETWEEN GENERATIONS

The figures from the quarterly poll, which was conducted in late June, lend some support to predictions of conflict between working and retired generations over the cost of Social Security. In the youngest group polled, those 18 to 29 years old, there was the greatest fear for the solvency of the system, with 70 percent saying they believed the system would probably fail; the older a respondent was, the more likely he was to have the faith in receiving benefits.

Experts in both Congress and the Administration agree that a lack of faith in the future of Social Security is widespread and that this situation tends to support President Reagan's campaign for a long-range multibillion-dollar reform of the retirement system.

The poll's picture of disillusion has been matched in recent reports by members of Congress on their constituents' views. Earlier this week, Senator Harrison Schmitt, Republican of New Mexico, said flatly that, in the eyes of younger voters, the present system "will not serve the needs of the country" into the next century.

Senator Steven D. Symms, Republican of Idaho, compared contributing to Social Se-

curity now to signing and circulating a chain letter. "If you live long enough to get your name at the top of the letter," he said, "you might get something out of it."

A NEW ISSUE IN POLLING

Opinion analysis have measured confidence in the Social Security system only in recent years. The questions in the Times/CBS Poll have not been asked before in the same form, so measuring the decline in faith against previous years is difficult.

Late in 1979, however, Peter D. Hart Research Associates obtained these results from asking how much confidence respondents had that Social Security would provide future benefits: complete confidence, 18 percent; a great deal of confidence, 24 percent; only a little, 31 percent, and none, 17 percent.

In August of 1978, Louis Harris and Associates found that 87 percent of those who were than employed expected to receive Social Security benefits when they retired. But when the pollsters asked how much confidence respondent had that further generations would be willing to pay higher Social Security taxes, the survey found only 12 percent with a great deal of confidence, 41 percent with some and 41 percent with hardly any.

REACTION TO MAJOR PROPOSALS

The Times/CBS Poll showed this reaction to some of the major Social Security proposals:

On the issue of changing the retirement age from 65 to 68 effective 20 years from now, 50 percent favored the move and 42 percent were opposed.

President Reagan's proposal that benefits be reduced for those who choose to retire at 62 was supported by 40 percent and opposed by 55 percent. Some analysts termed this support impressive, considering the widespread protests provoked by the Reagan program.

An even 50 percent of those questioned thought the present cost-of-living adjustment for Social Security benefits, geared to the Consumer Price Index, was "about right." Sixteen percent found it too high and 23 percent too low. The latest yearly adjustment, effective July 1, raised benefits 11.2 percent.

The Times/CBS Poll indicates that if some economy become necessary to preserve Social Security, more people would rather reduce benefits (46 percent). As President Reagan has proposed, than increase the payroll tax that supports the system (26 percent).

However, if a tax increase became "necessary to keep the Social Security system going," 66 percent said they would favor such action and 27 percent opposed it.

Commissioner John Svahn of the Social Security Administration said today that he agreed with these poll findings. He blamed that situation on "the institutions of Government, people in both the executive and legislative branch who have known what's going on but have ducked the issue."

Daniel Patrick Moynihan of New York, the ranking Democrat one the Senate's Social Security subcommittee, agreed that the public has lost confidence, saying he received a "very skeptical response" from constituents to his argument that the financial "crisis" had been exaggerated.

"It's almost impossible to get people to follow you," Senator Moynihan said. "When you talk about a 75-year projection and problems in the second quarter of the next century, their eyes begin to glaze over."

HOW THE POLL WAS CONDUCTED

The latest New York Times/CBS News Poll is based on telephone interviews conducted June 28-July 1 with 1,467 adults around the United States.

The sample of telephone exchanges called was selected by a computer from a complete list of exchanges in the country. The exchanges were chosen to insure that each region was represented in proportion to its population. For each exchange, the telephone numbers were formed by random digits, thus permitting access to both listed and unlisted residential numbers.

The results have been weighted to take account of household size and to adjust for variations in the sample relating to region, race, sex, age and education.

In theory, it can be said that in 95 cases out of 100 the results based on the entire sample differ by no more than 3 percentage points in either direction from what would have been obtained by interviewing all adult Americans. The error for smaller subgroups is larger, depending on the number of sample cases in the subgroup.

The theoretical errors do not take into account a margin of additional error resulting from the various practical difficulties in taking any survey of public opinion.

Assisting The Times in its 1981 survey coverage is Dr. Michael R. Kasay of Princeton University.

SOCIAL SECURITY: THE COMING CRASH

(Peter G. Peterson)

Social Security's troubles are fundamental. Its financial problems are not minor and temporary, as most politicians, at least in election years, feel compelled to insist. Unless the system is reorganized, these problems will become overwhelming. To put the matter bluntly, Social Security is heading for a crash. We cannot permit this to happen, because it would put the nation itself in very serious jeopardy. Though in effect for only two generations, Social Security has become the defining link between citizen and state in modern America. It has such uniform and reverential support that if the system crashes, so almost certainly will civic harmony and the economy itself. The prospects for Social Security and for general prosperity are now inseparable.

The Social Security system has become a high-risk gamble on economic progress and population growth—a bet by today's workers that their children and grandchildren will be rich and numerous enough to foot the bill for another round of generous retirement benefits. Should this hope go even mildly awry, today's workers will retire into a Social Security system running deficits larger than the total benefits it pays out today.

Meanwhile the system—which spent over $190 billion in fiscal 1982—has already grown so colossal as to shape the entire future of the economy. Social Security spending has moved from 1 percent of the entire federal budget in 1950 to 26 percent today. By far the biggest government social program in world history, the system now spends each year more than the combined net investment in plant, equipment, research, and development of all the private companies in the United States.

During the past few years, we have witnessed a revolt against both the burden of rising federal taxes and the binge of spending which has made those taxes necessary. In many ways, Social Security is the prime mover of both. A little-known, but important, fact is that between 1955 and 1980 Social Security taxes more than accounted for the increase in federal revenues as a percent of GNP. The growth in Social Security outlays is responsible for almost all of the increase in federal outlays as a percent of GNP. Thus, were it not for the growth of Social Security, federal revenues as a percent of GNP would have declined and federal outlays would have remained virtually unchanged.[1]

There is of course more to the Social Security puzzle than economics. It raises questions of ethics as well. Is a "contract" between generations fair when it gives today's older people a vastly higher return on their contributed taxes than their children and grandchildren can possibly hope to receive? Is a welfare program that gives almost 30 percent of its tax-free benefits to the 20 percent of the elderly population with highest incomes what we want? (Incidentally, that 20 percent of the elderly population has a family income of $30,000 per year or more, and those over sixty-five who are married to nonworking spouses can expect to receive tax-free benefits that will total about fifty times their lifetime payroll tax contributions.)

Still, if Social Security's financial problems cause the entire economy to fall into perpetual stagnation, robbing our children and grandchildren during their working and retirement years of their rudimentary economic security and indeed of even their Social Security, such ethical dilemmas of the Social Security system will become irrelevant. One of the highest moral obligations facing us is to give our offspring a decent chance at prosperity. If we fail there, the Social Security system itself, and much else, will disappear.

The U.S. economy is suffering from a progressive disease—a spreading paralysis of those activities that raise the standard of living. I am not referring to the current recession. In discussing Social Security and our economy, we must learn to think of decades and generations. Americans, ever impatient, are inclined to mistake short-term cycles for long-term trends. But the economy's worst problem is not in fact today's high unemployment or yesterday's soaring inflation. Rather, it is described in the following comparison:

ANNUAL PRODUCTIVITY GROWTH RATE[2]

1948-1967, 2.5 percent.
1967-1973, 1.6 percent.
1973-1981, 0.1 percent.

As these figures show, America's machinery for creating national wealth is slowing down. The ability of our workers to produce more each year is becoming weaker each year. This slump in the growth of productivity now has little visible effect on daily life. But the cumulative impact will be enormous. Consider the year 2020, when those who are now infants will be at their working prime. If productivity stays roughly the same—if the trend of recent years continues (but does not get worse)—the average worker in 2020 will produce $22,800 in goods and services, just about what he does today.[3] The country, for the first time in its

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[1] Between 1955 and 1980, federal outlays rose from 18.0 to 22.4 percent of GNP while Social Security outlays grew from 1.2 to 5.3 percent of GNP. Social Security payroll taxes rose from 1.3 to 5.4 percent of GNP, more than accounting for the increase in federal revenues from 17.2 to 20.1 percent of GNP.

[2] "Productivity" refers to real domestic income per employed person.

[3] All sums are computed in constant 1980 dollars.

history, will have stood still for a span of forty years. (By contrast, the last forty years have seen real income produced per worker rise from $10,000 to $22,000, or about 120 percent.)

If, on the other hand, productivity were now to start growing again at the 2.5 percent rate which prevailed from 1948 to 1967, the average worker in 2020 would produce $57,700 in goods and services, an increase of about 160 percent. In that case, our grandchildren would look back on us as relative paupers, and would by 2020 be enjoying a buoyant prosperity and widening social opportunites in a nation that was a strong force in the world's economic and political affairs. But we are instead on a course leading to unprecedented stagnation, almost certain social strife, and steadily diminishing international influence.

Why are we heading toward the wrong future? Many managerial and cultural factors are responsible, and their relative importance remains a matter of dispute. But one factor seems prominent in virtually every study that has been made: the productivity of U.S. workers is stagnating largely because they are not being provided with an adequate flow of both new tools—modern plant and equipment, innovative techniques, improved methods of production—and new products.

New tools and ideas are provided by investment—by adding to the stock of capital, physical and intellectual, that will generate income in the future. We have been underinvesting in the future. A comparison with Japan during the Seventies is instructive, and sobering:

Japan invested nearly three times as much in new corporate plant and equipment (9.8 percent of GDP vs. 3.4 percent in the U.S.).[4]

Japan invested over seven times as much in public "infrastructure" such as roads and waterways (5.0 percent vs. 0.7 percent).

Japan invested 20 percent more in civilian research and development, exclusive of R & D for space and defense (1.9 percent vs. 1.6 percent).

The differences between Japanese investment in scientific education for the young and that of the U.S. are huge, if not as precisely measurable.

Instead of investing adequately in such productive activities, we have, to a dangerous extent, been creating huge debts for other purposes, notably private consumption, and particularly Social Security and public pensions. The true levels of national debt are different from what most people assume; the public believes that the federal debt consists of the loudly announced sum of $1 trillion. In fact, the Social Security system has an "unfunded" liability (i.e., the amount by which expected benefits to current participants exceed their scheduled future taxes) of over $6 trillion. The unfunded liabilities of the federal and military pension system approach another trillion dollars. Nothing could be more salutary for the prospects of long-term productive investment and indeed the global financial system than the news that these grotesquely large obligations to pay public retirement benefits were being reduced and brought under control.

Investment requires savings. One reason we are investing too little is that we are using up every year, in current and often imaginative consumption, far too much of the income we are producing. The national pool of savings available for investment is shallow. This is because the flow of personal and business savings into the pool has been inadequate and the federal government's burgeoning deficits have become an enormous drain on the pool. Compared to those of all other industrial countries savings from individuals and families in the U.S. have been a mere trickle. Between 1970 and 1979, for instance, the household sector of the economy saved on average only five cents of each dollar earned. The comparable figure for Japan was about fifteen cents of each dollar earned.

The chief explanation for this difference is very straightforward. The Japanese have consciously designed their entire system of economic incentives to reward savings and investment. We have largely rewarded borrowing and consumption. For example, no other major industrial country permits unlimited tax deductions for interest. In Japan, moreover, personal income derived from capital—i.e., from savings—is taxed either lightly or not at all. In the U.S., such "unearned income" suffered especially high taxes until recently, and still enjoys relatively small tax incentives.

In Japan, buying houses and durable consumer goods on credit is difficult and requires big down payments. In America, the tax laws and the banking system are heavily skewed toward financed consumption—i.e., toward keeping savings at the lowest possible level.

Pensions in Japan—both public and private—are meager, forcing workers to save for their retirement. Social Security in America now seeks to provide every eligible retired person, regardless of need, with a stipend sufficient to cover all or at least most of the basic necessities of life. The need to save is accordingly weakened. As for American corporations, while their flow of savings (so-called "retained earnings") has traditionally been considerable, a sustained binge of corporate borrowing has been dangerously eroding that tradition.[5]

We have thus become a nation of spendthrifts and Japan a nation of savers. But it is an illusion to think that we could quickly or simply change our laws, institutions, habits, and culture so that they will more closely resemble those of Japan. The recent changes in the tax structure to encourage more saving by households and businesses will prove helpful, but further changes in the tax system, though necessary, will require a long and hard effort, and the amount of additional savings they might provide remains uncertain.

Of necessity, we must turn to a surer and more direct strategy for enlarging the pool of savings available for investment: namely to stop the government from draining the savings pool. The government finances its deficits by using up—literally extinguishing—the savings generated by the country's citizens and corporations. This government "dissaving" has taken on new and frightening dimensions over the last several years, and the problem is getting worse.

The recent rhetoric about the evils of deficit spending and the debate over the balanced-budget amendment have partly hidden a distressing reality. The U.S. now faces federal deficits so large, so long-term, and so unprecedented that if or when an economic recovery occurs our shallow pool of savings would be substantially depleted. There would be little left to sustain the indispensable levels of investment we need to restore economic growth and international competitiveness.

In view of widely publicized efforts of the Reagan administration to reduce spending, this may seem surprising. In April 1981, the president stated his aim of reducing both spending and taxes to a bit over 19 percent of the Gross National Product by 1985—admirable goals, but only if they are achieved together. Regrettably, the goals have been pursued separately. Tax revenues have indeed been reduced to 19.1 percent of the GNP by the biggest, and I fear, gaudiest tax cut in history. But spending, meanwhile, is now projected to rise dramatically from 22.4 percent of the GNP in 1980 to an intolerable 24.6 percent of the GNP in 1985 unless something is done.[6] This would amount to a rise from $577 billion to $967 billion, the latter figure being $123 billion above the president's 1985 spending target.

The explanation for this increase is hardly surprising, as the table on this page makes clear. The unprecedented rise in military spending amounts to more than $150 billion. Increases in "non-need-related entitlements"—that is, those, such as Social Security and federal pensions, in which the income of recipients is not a significant factor in their payments—are rising at a rate much faster than tax revenues.

As the table also shows, federal grants to state and local governments and federal operations have actually been cut back. The budget cuts in 1981 and 1982 have reduced projected spending on "need-based" programs nearly twice as much as in the much larger non-need-related programs, which go mainly to middle- and upper-income groups. A lopsided example: projected food-stamp outlays for 1983 were cut by about 20 percent in the 1981 and 1982 Reconciliation Acts, while projected federal employee retirement benefits were reduced by less than 3 percent.

These facts are gradually being recognized. There is a growing if muted agreement in Congress that the projected budgets for defense and for Social Security and federal pensions should not be immune to cuts. But by how much must these deficits be reduced? We have first to define the largest deficit that would be consistent with the minimum net investment needs of the economy. Suppose we wish to have sufficient net savings available to match the rate of private investment—"capital formation"—that prevailed during the 1960's. That would, in my view, be a modest goal. But to achieve it, the deficit must, according to careful estimates,[7] be reduced to less than 1.5 percent

[4] GDP (Gross Domestic Product) differs from GNP only by attributing all production to the country where it is located (i.e., ignoring international income flows). All investment is measured net of depreciation.

[5] Some facts on debt-heavy corporate balance sheets are set forth with admirable clarity in an article by Felix Rohatyn in *"The New York Review of Books,"* November 4, 1982.

[6] The projected budget figures are based on the analysis in "The First Concurrent Resolution and the Budget Outlook," by James Capra, in the *Quarterly Review* of the Federal Reserve Bank of New York, Summer 1982. Some adjustments to reflect congressional action since the publication of the Capra article have been included in the budget estimates.

[7] Assume that the savings incentives in last year's tax bill make it possible for gross private savings (personal, business, and state and local pension fund savings) to rise to 19.3 percent of GNP. Depreciation, or capital consumption allowances, could be expected to absorb 10.5 percent. Assume state and local deficits and net foreign investments have offsetting effects. Thus 8.8 percent is left for financing the federal deficit, residential construction, and

of the GNP if sufficient capital is to be freed for investment. Such a deficit would be about 4 percent of GNP lower than the current projection of the deficit for 1985 and would amount to a reduction of the 1985 deficit by about $160 billion. That would mean cutting 16 percent from total projected government spending in 1985.

A reduction so huge may sound politically impossible. But a deficit of about $220 billion, which is now projected for 1985 if current policies continue unchanged, is simply unworkable. First, it would be more than three times the largest deficit we had before 1982 ($66 billion) and would equal a record 5.5 percent of GNP. Second, deficits would be rising steadily over the next three years. The projected deficits are "structural"—not the result of recession. They would occur at the same time that the economy is supposedly growing at 3 to 4 percent per year. Rising deficits during a prolonged economic recovery are without precedent in this country. (Of course, the financial imbalances that would result from such large deficits call into question whether the economy would in fact sustain 3 to 4 percent growth for the next few years. If the economy is instead flat, the deficits would be much larger.)

Thus we have created a fiscal Frankenstein monster. If and when a strong recovery occurs, that monster would be aroused to devour immense amounts of available savings. One can question whether a normal cyclical recovery from the current recession can occur in the face of this monster. What clearly cannot occur is the necessary revival of investment everyone concedes we need.

Simple arithmetic alone makes it obvious that only a few parts of the budget are, by themselves, large enough to yield the kinds of savings that will be required. I would also hope that a sense of simple equity would not lead us to put the "need-related" programs for the poor under the axe once again. Most federal operations are also unlikely targets: minimum levels of law enforcement, Treasury operations, and government statistical reporting are necessary if the government is to be run efficiently. Further reductions in agricultural subsidies, such as dairy price supports and tobacco and sugar subsidies, may well be desirable. But the amounts involved in these programs, totaling $2 billion, are small relative to the size of the problem. Cuts in grants to state and local governments could result in more decay of our public infrastructure—highways, mass transit, and the dredging of rivers and harbors, to name only a few possible casualties.

What is clear is that, along with net interest payments on government borrowing, defense (28 percent) and non-need-related benefits (39 percent) represent about 80 percent of the total budget. Social Security alone accounts for 26 percent. Most of the deficit reduction should come from these three expenditures.

Before we examine how this can be done, it is useful to look briefly at the question of tax increases. Raising taxes is clearly one way to lower projected deficits—but most emphatically, in my view, not the preferable way. Moreover, tax changes would need to be carefully drafted or they would be self-defeating. It would be irrational to propose the kinds of tax increases that directly or indirectly discourage the very investment that we are trying to promote to this grueling fiscal exercise. Thus consumption taxes in general and energy consumption taxes in particular, e.g., on gasoline, would head my list of any tax increases that might be required.

The case for significant cuts in the defense budget goes well beyond the question of whether we really can spend wisely such unprecedented real increases—nearly 9 percent yearly in overall spending between 1980 and 1985 and over 14 percent yearly for military hardware. Furthermore, the decline in the inflation rate means that we should be able to buy more with the dollars appropriated for defense than was thought possible when the original plan for the buildup was put together in early 1981.

My own negotiating experience with the Soviet Union taught me that they will be far more impressed with a sustained approach to building defenses than by what they will perceive as an approach alternating between feast and famine. The Soviet Union, in any case, can plausibly assume that neither our economy nor our politics can sustain the vast increases now planned—particularly at a time when big cuts are being made in our politically most sensitive programs and when our economy is weak. Indeed it will be politically impossible to obtain cuts in the even larger Social Security and federal pension programs unless defense cuts are a significant part of a balanced "package" to reduce the budget.

But however clear one may feel the rate for reduced military spending, the recent bipartisan budget effort of five former secretaries of the treasury and myself persuades me that it is unlikely that cuts much larger than $25 billion in 1985 can actually be achieved.

This brings us to our central concern—the non-need-related programs of which Social Security is by far the largest. Some experts have testified that the financial deficits facing Social Security during the next few years—$30 billion by 1985—may be only a temporary hurdle. Higher payroll tax rates for Social Security, they point out, have already been legislated for 1985 and 1990; these, along with the rising volume of wage payments to today's baby-boom generation, may push these funds into the black by the late 1980s and 1990s. Only after the boom generation begins to retire, and that's not until 2020 or so, can we be certain that the bottom will fall out of the Social Security system. Why worry today about what you may be able to put off until tomorrow?

The problem with such complacency is that Social Security funds may not be sufficient to meet the system's obligations. Each year the Social Security trustees publish three or four projections of the system's future income and outlays, the so-called "optimistic," "intermediate," and "pessimistic" scenarios. For the period before the year 2000 the variations between these projections depend primarily on assumptions regarding real economic growth. According to the "optimistic" estimate, the Social Security retirement and disability funds will be solvent by the late 1980s and thereafter. But this "optimism" (based in part on the administration's near and medium-term forecasts) assumes an unbelievable rate of sustained growth in productivity—about 3.1 percent to 3.3 percent per year from 1985 to 2005. This far surpasses any comparable period in U.S. history, even the boom years of the 1960s. The "pessimistic" scenario, on the other hand, will plunge our trust funds into deficits from which they will never recover—not in the 1980s, 1990s, or ever. The annual deficit of these two funds would exceed $100 billion by 2005; after which it would explode. And even this pessimistic estimate assumes that productivity will grow at a rate of 1.9 percent—a rate significantly higher than the 1.2 percent rate during the stagnant decade of the 1970s.

These calculations, moreover, consider only the retirement and disability trust funds. They exclude Hospital Insurance (HI, or "Part A" Medicare), the third and most rapidly growing component of the Social Security system. According to even the most favorable projections, HI will dive into the red permanently within the next two or three years. From 1990 on, HI's yearly deficit will deepen rapidly, perhaps drawing on and draining the other trust funds, should they still be solvent. If we add the problems of HI to the calculation, only the most "optimistic" projection can hope to keep Social Security in the black until the year 2000. The "pessimistic" projection—which is in fact plausible—yields a deficit projection for all three funds of a staggering $371 billion in the year 2000.

All of this may seem perplexing. Even though the members of the huge babyboom generation are still entering the labor force or are now moving to the crest of their earning potential, our economy still cannot hope to perform well enough even to keep payroll taxes (at higher rates) on a par with retirement benefits. And it is too late to hope for population growth to do the trick. The "baby bust" that followed the postwar baby boom has ensured that we cannot expect enough growth in the taxpaying labor force to sustain the system during the next twenty years.

Why is this so? The explanation lies in the rapid and relentless growth of benefit outlays. First, Congress raised the initial benefit levels for newly retired persons (as a share of preretirement income) by nearly 50 percent during the past fifteen years. As more workers continue to retire, the aggregate cost of the system must continue to mount as well. Second, Congress has indexed all benefits currently being paid to the overly bouyant Consumer Price Index—whose yearly increases routinely exceed the yearly real-wage increases of tax-paying workers. Third, Hospital Insurance costs are climbing wildly because of the hyperinflation of health-care prices. Fourth, elderly people are living longer. Average life expectancy at age sixty-five is today one third longer than it was when Social Security was first enacted (16.6 years as against 12.3 years) and it is still rising. Finally, and perhaps inevitably, the elderly are leaving the labor force and cashing in on Social Security in greater numbers as they do so. In 1950, 46 percent of all elderly men were part of the labor force; by 1980, this percentage had dropped to 19 percent.

Therefore even if we look ahead only ten years or so, the financial integrity of Social Security is in grave doubt. In fact, it's going broke right away—contrary to all the projections of just a few years ago—and it is facing multibillion-dollar deficits. Whether the system can pull itself into solvency by 1990 depends on a race between more workers and economic growth on the one hand, and climbing benefit costs on the other.

By 2030 or 2050, the situation will surely get worse—much worse. Shortly after the beginning of the next century, the members of the baby-boom generation will begin to

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investment in plant, equipment and structures. If the federal government deficit were cut to 1.5 percent of GNP, the residual left for net new business investment and housing would be slightly large (0.3 percentage points) than the average for the 1960's.

retire, and all the demographic variables that once helped revenues will then come crashing down on the side of costs. Whereas the size of our work force will likely remain virtually stationary at about 140 million (or even decline) after the year 2000, the number of beneficiaries will rise from 43 to 48 million in 2000 to as many as 96 million by the year 2050. By the year 2030, the proportion of elderly in the entire U.S. population will match the current proportion of the elderly in Florida. Today, there are about thirty Social Security beneficiaries for every hundred taxpaying workers. By the year 2050, there may be as many as eighty.

Even the most "optimistic" long-run projection indicates Social Security deficits by the year 2025, a projection that assumes never-ending economic prosperity, a surge in the number of future new workers, and stagnant future life expectancies. The "pessimistic" long-run projection shows that the entire system, already sinking into deficit by the beginning of the century, will simply disappear from sight in a pool of red ink. By 2035, it predicts that the retirement and disability funds alone will need an 11.5 percentage-point boost in the tax rate—consuming 23.9 percent of the taxable payroll—just to break even. Including Hospital Insurance, the system will need to absorb fully 44 percent of each worker's taxable payroll just to break even. Without any tax increases, the annual deficit would be $16.3 trillion, or 10 percent of GNP. By the year 2050, the entire system will need to absorb over one half of each worker's taxable payroll—again, just to break even. If the size of the federal budget remains unchanged as a share of GNP, Social Security in 2050 will comprise over 70 percent of all federal spending.

As we consider long-term possibilities, much depends on demographic trends, which are notoriously hard to predict. Continued low fertility rates among women may achieve zero population growth in the U.S. by early next century (and therefore further reduce the number of taxable wage earners), or they may not. Dramatic advances in biogenetics and in nutrition may continue to extend life expectancies (and therefore increase the costs of the system) or they may not. Again, the long-run "pessimistic" projection is, in fact, a plausible one and could even turn out to underestimate the future crisis. It simply assumes that women will continue to have not many more children than they are having now and that life expectancies will continue to improve along the trend of the last decade or two. The long-term outlook is grim according to the best projections. According to the worst, it is truly dire.

The only alternative to reorganizing Social Security is to sit by while the system collapses, either through an ugly revolt of young taxpaying workers against their elders or through a catastrophic flood of deficits. Maintaining the status quo—which many politicians from both parties have pledged to do—is literally impossible, an utter fantasy. Necessity is a respectable motive for reform. But even if Social Security were able to survive indefinitely, the time would be ripe to re-examine its premises.

The system was the product of the Great Depression years when we feared that pervasive unemployment would be a permanent feature of the economy and that government accordingly had a duty to shrink the labor force by encouraging early retirement. In spite of today's recession, the prospect in the late 1980s and the 1990s is for slowing growth in the labor force and tightening labor markets. As the economy recovers, the nation will find itself needing the working skills and experience of older people.

During the Depression, welfare programs were few and skimpy; social insecurity was a fact of life for millions. In the two generations since, a great many programs have been set up for the poor, the disabled, the unemployed, the sick, and the homeless, of all ages.

During the Depression, the elderly population was 5.5 percent of the total population. In 1980, it was 11.2 percent and growing.

During the 1930s the average sixty-five-year-old had only twelve more years to live, and the retirement benefits seemed both appropriate and compassionate. As we have seen, today's sixty-five-year-old is comparatively young and has an average of 16.6 more years to live. Every study I know of indicates that for most elderly people, during most of these years, continued, active employment is the best insurance against illness and senility.

During the Depression, privately financed pension plans were a novelty, available to very few workers. Today, about half of the work force is covered by some form of private pension, with about 750 billion dollars already set aside.

Finally, the Depression made plausible the new Keynesian theory that government could restore prosperity by discouraging "excess" savings and promoting consumption. Today, we face an economy starved for savings, and capable of vast excesses of consumption. In addition, during the 1930s we did not have the variety of institutions and programs (such as pension plans) that are now engaged in collecting and recycling savings. Today not only can we collect savings more efficiently but, in addition, they are recycled instantaneously.

The basic idea of Social Security—providing pensions for the elderly from taxes assessed on the earnings of their children and grandchildren—answered directly to the peculiar needs of the 1930s. If we were starting fresh today, a different system would deserve serious consideration—one in which each generation of workers, individually and through public taxes and funds, saved amounts that were adequate to support its own needs during retirement. But now the important question is how to rescue what is good in the original conception of Social Security from the foolish optimism of the last decade [*] and from the perverse distortions introduced into the system during the past forty years.

We are constantly told that reforms would violate elementary precepts of common fairness and social justices. Supposedly, such reforms would amount to legalized theft from today's beneficiaries, would unfairly violate a solemn compact between generations, or would strike a cruel blow at the poor. In the next issue, I will deal with these arguments, which are based on fictions, and will suggest concrete reforms to answer the real questions of fairness raised by the Social Security system. A sounder system that will also allow for future prosperity is consistent with a fairer system that does not rob the son to pay the father, or the private worker to pay the government worker, or the poor to pay the rich. Social Security, one of the principal legacies of the New Deal, must be rescued and transformed during the next few years. Otherwise it will visit upon our children the same conditions of economic chaos that attended the system's birth.

[*] President Carter, in 1978, in signing the Social Security tax legislation, said, ". . . from 1980 to 2030 the Social Security system will be sound.

SOCIAL SECURITY—THE NEED FOR ACTION!

(By Robert A. Beck)

This booklet is based on an address by Robert A. Beck, chairman and chief executive officer of the Prudential Insurance Company of America, to the Economic Club of Detroit on March 22, 1982. Since then, he has spoken to many other groups about the Social Security system and the reforms needed to keep it financially sound.

Last December Mr. Beck was appointed by President Reagan to the National Commission on Social Security Reform. The Commission was established by the President and Congress to try to develop recommendations for reforming Social Security that both major political parties will support.

Mr. Beck is chairman of the Business Roundtable's Social Security and Pension Planning Task Force. The Business Roundtable is an organization of nearly 200 chief executive officers of major corporations.

SOCIAL SECURITY—IS IT HERE TO STAY?

There are 36 million people receiving Social Security benefits today. Most of those people depend on these benefits as basic income.

I think everybody recognizes how important the program is. There isn't any question at all—Social Security is here to stay.

Both of our major political parties support the program. Neither the Democrats nor the Republicans in Congress want to see the system fail. But neither party is doing very much right now to put Social Security on a sounder footing.

You'll see why as we go along.

Social Security: Problems are real; Solutions are available; Consequences are not severe; Legislative action needed.

Some politicians say we don't have any real problems with the Social Security system. That's just not true.

The problems are very real. But there are also solutions. And the solutions are not nearly as painful as many people imagine.

We need legislative action to correct the problems, and that will require both political parties to work together. If Social Security becomes a political football—as it did last year—nothing will be enacted, and the problems will get much worse.

Getting our lawmakers to take the actions that are needed is difficult because there's so much misunderstanding about Social Security.

To illustrate what I mean, let me test your knowledge with a few basic questions.

Within what time period will current retirees receive benefits equal to their total contributions?

1. 1½ years
2. 3 years
3. 6 years
4. 10 years

Let's assume we're talking about people who retire at 65, who paid the maximum Social Security taxes right along, and who have no spouses.

The correct answer is 1½ years. And that's the longest repayment period.

Most people think they've paid for the benefits they receive from Social Security. They believe they're just getting back money they put into the program. But they're mistaken.

The average wage earner, with a spouse who doesn't work outside the home, gets back all his contributions within just 11 months after he retires. And since either the husband or wife is likely to live for another 25 years, they can expect to receive Social Security benefits for that long.

In 1950, 16.5 workers supported each Social Security beneficiary. How many workers now support each beneficiary?

1. 15
2. 10
3. 5
5. 3

The last answer is correct. Actually, the number of workers who support each beneficiary today is 3.2

When the program was started, the number of people receiving benefits was relatively small. But we have a lot more older people nowadays. They're becoming a bigger and bigger portion of our population.

When the "baby boom" generation retires, there will only be two workers to pay the benefits of each beneficiary—or even fewer if the birth rate doesn't increase.

During the past three years, average wages increased by 30 percent. During this period, by what percentage did Social Security benefits increase?

1. 10 percent
2. 20 percent
3. 30 percent
4. 40 percent

The correct answer is No. 4. Social Security benefits, which are tax-free, increased by 40 percent during the past three years.

So the question really is this: Should the benefits for people on Social Security go up faster than the wages of those who are paying for the benefits?

If the increase in Social Security benefits has been held to the level of wage increases, the cost of the program this year would be $11 billion less.

In 1940, the life expectancy of a person age 65 was 12.8 years. How many years can a person who is age 65 today expect to live?

1. 10 or less.
2. 12.
3. 14.
4. 16 or more.

The last answer is correct. Today, someone who is 65 can expect to live 16.6 more years.

Life expectancy is increasing, and the rate at which it is increasing has accelerated. In the future, people will no doubt live even longer.

That may be great news, but it's creating a tremendous financial strain on the Social Security system, which must pay benefits for so many years.

The increase in longevity shown above added about $30 billion to the cost of Social Security last year.

In 1981, Social Security payments represented what percentage of the national budget?

1. 10 percent or less.
2. 15 percent.
3. 20 percent.
4. 25 percent or more.

The correct answer is 25 percent or more.

Last year Social Security benefits cost $184 billion. This year the cost will exceed $200 billion. That's more than one-quarter of all federal spending—more than we spend on defense. In 1950—just to show you how much the cost has grown—Social Security accounted for only 1 percent of all federal spending.

The cost of Social Security has gone up so dramatically because many more people are receiving benefits, more benefits are being provided, and the level of benefits is indexed to keep up with inflation. When the Consumer Price Index rises, so do Social Security benefits.

FOUR MAJOR PROBLEMS

Just from the sheer magnitude of the benefits being paid, it's easy to see how important Social Security is.

Now let's take a look at where the problems are. There are four major problems, and we've got to address each of them.

Problem No. 1—Lack of public understanding; Public misinformed; Not a funded insurance program.

The first problem is that most people don't understand how the program actually works.

They've been led to believe that Social Security is a funded insurance program and, when they receive benefits, they're really just getting back money they've contributed.

But as we've seen, that's not what happens. The Social Security taxes collected from workers and their employers are paid out almost immediately to those who are receiving benefits.

Take, for example, someone who has paid the maximum amount of Social Security taxes, who has a spouse who also is 65. They receive an annual social Security retirement benefit of $14,206. The *maximum* amount that any individual paid into Social Security from the beginning of the program in 1937 through 1981 was $14,767.

That's how large Social Security benefits have become—and how quickly an individual's contribution to the program is recovered.

Problem No. 2—Lack of public confidence; Younger workers skeptical; Retirees terrified.

The second major problem is the public's lack of confidence in the Social Security system. It's at an all-time low. People see the headlines about the danger that Social Security will run out of money, and they're worried.

Three out of four persons between the ages of 25 and 44 say they have little or no confidence that the program will be able to pay them benefits when they're ready to retire.

And many older people who are already receiving benefits are terrified. They're afraid their monthly checks will be cut.

Nobody in Washington and no responsible study group has ever recommended the kinds of cutbacks that many of our older people fear. So we must remove their fears and restore their confidence in Social Security. We need the public's support to enact the kinds of changes that are necessary.

Problem No. 3—Short-term financing; Retirement fund bankrupt in 1983; Caused by adverse economic conditions.

Short-term difficulties in financing Social Security are the third major problem.

There are three Social Security trust funds. The largest of the three—the one that pays retirement benefits—is expected to run out of money by the middle of next year.

The primary reason is that retirement benefits paid out have increased more than the amount of Social Security taxes collected. As we saw earlier, benefits, indexed for inflation, went up 40 percent during the last three years while wages went up only 30 percent. That 10 percent differential costs Social Security an additional $11 billion each year.

Another short-term problem is high unemployment. That reduces the amount of money collected in Social Security taxes.

This shows how the balance in the Social Security retirement trust fund has dwindled since 1960. The balance is represented here as a percentage of annual outlays—benefits paid out—in each of the years shown. Many experts say the percentages should equal or exceed 100 percent.

Until the 1970s, the balances were adequate. But since then the program has been living beyond its means. You can see how low the balance is right now.

If the balance drops below 9 percent, there won't be enough assets to cover the checks issued each month.

Problem No. 4—Long-term financing; Caused by demographic changes; Costs double or triple current level.

If we look further ahead, financing difficulties get much worse. That's the fourth major problem area.

When the "baby boom" generation retires, there will be many more people receiving benefits—and proportionately fewer workers paying the taxes. And retired people will be living longer, too.

Unless changes are made in the Social Security program, our children and our grandchildren will face Social Security taxes that are two or three times the rate we're paying today.

Four Major Problems: Lack of public understanding; Lack of public confidence; Short-term financing problems; Long-term financing problems.

So these are the four major problems. The real question is what can we do about them?

For one thing, the public needs a better understanding of how the Social Security program really works. And people need to understand the necessity of making reforms now.

Those who are already receiving Social Security benefits are a very potent political force. Their elected representatives in Washington are very sensitive to their fears about the Social Security program.

We need to reassure people that the program isn't going to fold. We've got to bolster public confidence in the program if we're going to put it on sounder footing.

The solutions aren't that severe or difficult. We have both the time and the ability to solve the problems.

Why do we have these problems? Benefits grew faster than taxes; Program expanded substantially; Demographic trends adverse; Unfavorable economic conditions.

We've seen that Social Security's financial problems have several causes. Benefits over the last few years have grown faster than taxes. The program has been greatly expanded. And demographic trends and economic factors have compounded the problems.

Let's examine some of these causes more closely by reviewing the history of Social Security.

1935: Social Security enacted; Retirement benefits payable at age 65; Covered 60 percent of work force; Tax=1 percent of first $3,000 (until 1950).

Franklin Roosevelt would hardly recognize the Social Security program today. It has evolved way beyond what was originally envisioned or intended.

The bill that he signed in 1935 provided modest cash benefits to workers who retired after age 65. Coverage was limited to workers in industry and commerce—roughly 60 percent of the work force.

Back then, employees and their employers each paid taxes equal to 1 percent of the first $3,000 of earnings. So the maximum amount that an individual paid was only $30 a year.

That maximum didn't change until 1950.

1982: Payments total $200 billion; Program expanded substantially; Tax=6.7 percent of first $32,400; 36 million beneficiaries.

But look at Social Security today.

Total payments now exceed $200 billion a year. There has been substantial expansion in both the types and amounts of benefits paid. The program now covers 90 percent of the work force. Payroll taxes and the wages subject to taxes have soared.

The maximum tax for both the worker and the employer is now $2,171. That's an increase of more than 7,000 percent.

And 36 million people are now receiving benefits.

EXPANSION OF SOCIAL SECURITY

Social Security has been expanded again and again. In the parlance of our lawmakers, it has become a Christmas tree.

Each ball on this tree represents one of the years when there was a major expansion in the types of benefits provided, in benefit levels, or in Social Security taxes.

In the past, benefits could be added without any serious effect on current costs. In those days Social Security was not a mature program, and the costs could be deferred to future generations.

We're just now beginning to feel the effects of some of those deferred costs.

Major Changes in Social Security—1939: Spouse and survivor benefits added; 1956: Disability benefits added; 1961: Early retirement benefits added; 1965: Medicare benefits added.

These are some of the major expansions in the Social Security program.

In 1939—even before the first Social Security benefits were paid—spouse and survivor benefits were added. In 1956, disabled workers became eligible for benefits. Five years later benefits were extended to people retiring early. In 1965, Medicare benefits were established.

And there have been many other smaller but expensive additions that aren't on this list.

Significant Demographic Changes Since 1935: Post-World War II "baby boom"; Improving life expectancies; Increasing percentage of elderly citizens; Trend toward early retirement.

Demographic changes have helped the program in some ways but hurt it in others.

The post-World War II "baby boom" is helpful right now because there are more workers paying taxes into Social Security.

But other changes work against the program. People are living longer, which means benefits are paid for a longer period. Our elderly population has been growing steadily. (In 1935, 6 percent of our total population was over 65; now it's 11 percent.) And people are retiring earlier. Almost two-thirds of our work force now retire before 65.

At Prudential, for example, 87 percent of our people who retired last year were under 65.

Significant Demographic Changes Expected: Post-World War II "baby boom" retires; "Baby bust" generation pays all the bills; Continued increases in life expectancies.

What can we expect for the future?

The "baby boomers" may be helping the program now, but they're going to hurt it seriously when they retire because they're not replacing themselves. The "baby bust" generation will have to pay the bills.

Moreover, life expectancies will probably keep increasing. In the not-too-distant future, the percentage of people over 65 in the country will be greater than the percentage over 65 in the state of Florida today.

Major Myths—(False): The program is funded; Recipients have paid for their own benefits; Solutions require reductions in benefits; General revenues are a painless solution.

These are the major myths about Social Security. They exist because people don't really understand how the program works, what the problems are, or what the solutions involve.

These myths have been used to build support for the program. Social Security has been described with words like "insurance," "trust funds," "accounts" and "contributions." Older people have been led to believe that they paid for—and thus "earned"—their benefits.

The solutions to the problems of Social Security don't require reductions in present benefits. And using general tax revenues, as some people advocate, isn't a painless solution. All you have to do is listen to the debate over the current budget to realize that there aren't any general revenues available.

And increasing the federal deficit still more would only create more inflation. In the end, using general tax revenues would weaken the relationship between benefits and the way they're financed—and lead to still higher taxes.

OPTIONS AVAILABLE—INCREASE TAXES OR CONTROL BENEFITS

Legislation is required to solve Social Security's financing problems. And Congress has two choices—either to increase taxes or control the growth of benefits in the future (or a combination of both).

Let's take a look at those choices.

TAX DEMANDS ON WORKERS FROM 1949 TO 1981

The tax burden on workers has increased tremendously since 1949.

Average wages rose 470 percent, but income taxes increased 570 percent. During the same period, average Social Security taxes shot up almost 3,700 percent. And maximum Social Security taxes soared almost 6,500 percent.

Most economists feel that workers ultimately pay not only their own Social Security taxes but also, in effect, the Social Security taxes paid by their employers.

Someone earning more than $32,400 this year will be responsible—either directly or indirectly—for the transfer of more than $4,300 to people receiving Social Security benefits.

More Tax Increases? Resistance to increased taxes; Four rate increases since 1977; More rate increases scheduled; 1990—Maximum tax $4,636 (est.)

Should we increase Social Security taxes still further?

There's not much support for that. The Social Security legislation enacted in 1977 has already brought four tax increases, with more to come. There has been considerable public resistance to these increases, and they've already proved insufficient.

By 1990, the maximum tax paid by an employee is expected to be more than $4,600. The employer will pay the same amount. So, in effect, workers will be paying—directly and indirectly—more than $9,000 a year in Social Security taxes.

Control Benefits: Gradual changes can be absorbed; No decrease for present qualified beneficiaries.

The other option is to control the growth of future benefits.

We think that's the best solution. And it can be accomplished by gradual changes that will allow people time for planning.

Such changes can and should be made without reducing the benefits of people who are already receiving them or who are planning to retire soon.

SHORT-TERM SOLUTIONS

There are a number of things we can do to solve the short-term financial problems of the Social Security system.

Last year many people had hoped that transfers of money from one Social Security trust fund to another could prevent bankruptcy of the retirement fund—the least solvent of the three trust funds. But all three funds combined are now considered insufficient to permit that.

So there is general agreement that other steps are needed as well.

Limit Benefit Increases: Benefits will still increase; Fair to all; Economic safety valve.

We've got to limit increases in the level of benefits. People must be protected from inflation, but full indexing of Social Security benefits to the Consumer Price Index is overdoing it.

The Consumer Price Index overstates the rate of inflation, and tying benefit increases to it actually contributes to inflation. As we saw earlier, average wages have increased 30 percent over the last three years while Social Security benefits, tied to the Consumer Price Index, have increased 40 percent. That's unfair to workers.

We must consider alternatives such as limiting benefit increases to the average wage increases of all workers. Benefits would still increase, but they wouldn't rise faster than the taxes that pay for them. That would preserve the solvency of Social Security and act as a "safety valve" for the program.

Other Short-term Solutions: Eliminate windfall benefits; Continue retirement earnings test; Disability reform; Three-month deferral of benefit increases; Extend interfund borrowing; Complete correction of faulty indexing procedures.

There are other steps we can take to solve short-term financing problems.

Excessive or "windfall" benefits should be eliminated for public employees who retire on government pensions, then work in other jobs to qualify for Social Security as well.

We should continue the retirement earnings test because it's consistent with the purpose of Social Security—to replace income lost upon retirement. Eliminating the test, as some advocate, would mean paying benefits to many people who continue to earn substantial income.

More changes are needed in the disability program, where high benefit levels may serve as an incentive not to work.

Members of both political parties have recommended deferring cost-of-living increases in Social Security benefits for three months. That would be a small price to pay for bolstering the program's solvency and reducing people's fears and anxieties.

Borrowing between the Social Security trust funds should be extended beyond the end of this year.

And faulty indexing procedures should be corrected. Besides tying future benefit increases to the Consumer Price Index, legislation enacted in 1972 inadvertently caused benefit levels to be adjusted for inflation twice—once for wages and again for prices. That error has been largely corrected, but

benefits were still locked in at higher levels than originally intended.

LONG-TERM SOLUTIONS

What about Social Security's long-term problems? They're more serious, and the solutions require more significant changes.

As we've already seen, when the "baby boom" generation retires, tax rates to support benefits already promised will have to be two or three times what they are now. That's not the kind of legacy we want to leave to our children and grandchildren.

Our promises for future benefits must be realistic. And long-term solutions must be geared to that reality.

Gradually Increase—Retirement Age to 68: Age 62 still acceptable; Reduces deficit; Widespread support; Enact now—permit planning.

One long-term solution is to raise the normal retirement age to 68. Such a change wouldn't be put into effect immediately or all at once, but gradually—beginning sometime between 1990 and the year 2000.

This is a much more modest change than many people think. By the year 2000, people who reach age 74 are likely to have the same life expectancy as people who were 65 in 1940.

Those who want to retire at 62 could still receive reduced benefits. But they would receive 64 percent of full benefits—instead of the current 80 percent—because the amount would be based on a normal retirement age of 68.

Raising the normal retirement age would go a long way toward reducing Social Security's long-term deficit. And there's widespread support for the idea. It's recommended by every major study group, and in a recent *New York Times* poll, the public favored the idea by a margin of 5 to 4.

People who are already close to retirement age wouldn't be affected. Those who would be affected first—if we enact the change soon—would have time to adjust their personal and financial planning. Most are 45 to 50 right now.

Mandate Social Security Participation: Federal, state, municipal and non-profit employees; Protect accrued benefits; Study groups support recommendation.

We also need to require all employees to participate in Social Security.

At present, civilian employees of the federal government—including Congress and the President—aren't covered by Social Security. And participation is elective for state and local government employees and employees of non-profit organizations.

Everyone should be under the program. And there are ways to accomplish this without causing people to lose benefits they've accrued under other retirement programs.

This is another measure that virtually every study group has recommended.

Minimum First Steps: All new federal employees; Eliminate windfall benefits; Eliminate option to elect out.

Achieving universal participation in Social Security won't be easy. Many employers and employees want to remain outside the program.

To be realistic, the first steps should provide for coverage of all new federal employees, eliminate windfall benefits, and remove the option to stay out of the program. After all, those who want to remain outside of Social Security add to its financing problems.

As for windfall benefits, there are two major types—Medicare benefits and disproportionately large retirement benefits. Both need to be addressed, and there are solutions for both problems.

Expand Individual Savings and Pension Plans: Increase IRA limits; Permit tax deferral of mandatory contributions; Favorable pension legislation and regulation.

President Carter's Commission on Pension Policy was right. This country has become far too dependent on Social Security. We must reduce that dependence by encouraging individual savings and the expansion of private pension plans.

The legislation enacted last year to permit millions of additional people to open tax-deferred Individual Retirement Accounts was a big step in the right direction. Now we need to raise the limits on the contributions allowed each year. And taxes on mandatory employee contributions to qualified pension plans also should be deferred.

We should get rid of unnecessary government regulations that interfere with the development of private savings and pension programs. We applaud the Reagan Administration's efforts in this regard. Our government should encourage—not discourage—the expansion of our private pension system.

Long-term Recommendations: Gradually increase retirement age to 68; Mandate Social Security participation; Expand individual savings and pension plans.

So these are the measures I believe must be taken to solve the long-term problems of Social Security.

The long-term problems are more difficult than the short-term problems. So they require more significant changes.

But the solutions are really not that tough. It would be foolish—and unfair—to wait until the "baby boom" generation retires before we address these long-term problems. We must take action now.

A Strong Economy is Essential: Private plans and savings enhance economy; Social Security does not.

Everybody should be able to look forward to a secure retirement. But making that possible requires a strong and productive economy.

Private pension plans and individual savings are an important source of capital formation—the money that's needed to expand business operations and create jobs.

Social Security doesn't provide that capital because it is a transfer system. The money comes in and goes right out again. In fact, Social Security probably causes many people to feel it's unnecessary to save for the future.

So we must reduce our dependence on Social Security and put much more emphasis on private pension plans and individual savings.

National Commission on Social Security Reform: Report due before end of 1982; Bipartisan solutions needed.

I'm deeply honored to be a member of the National Commission on Social Security Reform that has been established by President Reagan and the Congress. Five members were appointed by the President and 10 others by the House and Senate. The Commission includes seven members of Congress.

This is a bipartisan commission, and we are trying to develop recommendations for reforms that both political parties will support. Our recommendations are due by the end of this year.

One of our primary objectives is to remove the emotionalism that surrounds Social Security so that reasonable people—working together—can reach agreement on reasonable solutions.

Now is the Time for Reason and Action: Moderate solutions are available; The public must be reassured; Contact your legislators.

Reasonable solutions are available. The consequences of these solutions are not severe. But if we fail to act now, the consequences will be *very* severe.

We must eliminate the uncertainty and anxiety that exist today and restore public confidence in the Social Security program. We must reassure our older people that the solutions do not require cutting present benefits and that future changes will be gradual.

Last year the legislative process broke down. Congress didn't hear from taxpayers. It didn't hear from the business community. We can't let that happen again.

You can play a critical role. I encourage you to let your elected representatives know how you feel.

Send This Message: Action needed; Reject general revenues; Not time for partisan politics.

I hope the points I've made here will move you to send a message to members of Congress.

Tell them: You want them to solve the problems of Social Security. You want them to solve these problems without resorting to general tax revenues that don't exist. You want them to enact the kinds of changes I have outlined here.

These changes would allow Social Security to serve its vital role not only for this generation but for the generations to come.

We need decisive and intelligent action.

The opportunity is here and the time is right!

OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND HOSPITAL INSURANCE PROGRAMS

ACTUARIAL COST ESTIMATES FOR OASDI AND HI AND FOR VARIOUS POSSIBLE CHANGES IN OASDI AND HISTORICAL DATA FOR OASDI AND HI

INTRODUCTION

This background book has been prepared for the meeting of the National Commission on Social Security Reform on November 11-13, 1982.

It presents actuarial cost estimates for various possible changes in the Old-Age, Survivors, and Disability Insurance program. The changes presented are intended to represent an objective selection which covers all of the major options open for resolving the short-range and long-range financing problems of the OASDI program. Quite naturally, there are many permutations and combinations of the several options—varying by effective dates, benefit percentages, normal retirement ages, etc. However, it is believed that the changes presented are reasonably representative. The effect of different proposals than these can usually be seen from the data presented here.

Also presented are a number of tables which show the past experience of the OASDI and Hospital Insurance programs and their estimated future experience. Attention is particularly directed to Tables 5 and 9, which address the short-range problem, and to Tables 6, 7, and 8, which address the long-range problem.

NOTES

(1) Increased cost is indicated by a plus (+) sign.

(2) Cost reduction is indicated by a minus (−) sign.

(3) All estimates are on the basis of calendar years.

(4) All estimates are for the OASDI Trust Funds only, unless otherwise indicated.

(5) A "0" means that the cost effect for the year is zero, while a ".0" means that it is less than $50 million.

(6) References to "long-term" mean the years 1982-2056.

(7) Long-term estimates are on the basis of the Alternative II-B assumptions of the 1982 OASDI Trustees Report.

(8) When all of the short-term cost figures are zero, no short-term cost table is presented.

SECTION A—COVERAGE

Option number and description	OASDI cost 1983-89 (billions)		Long-term cost (percent)
	II-B	III	
A-1: Cover all Federal, State and local, and nonprofit employees	−$110	−$117	−0.53
A-2: Cover all Federal and nonprofit employees	−62	−68	−.31
A-3: Cover all nonprofit employees and all new Federal employees	−19	−21	−.31
A-4: Cover all new State and local employees	−13	−14	−.24
A-5: Prohibit withdrawal from coverage by State and local governments and by nonprofit organizations by not permitting notices to be filed after 1983	+50	+53	(1)
A-6: Prohibit withdrawal from coverage by State and local governments and by nonprofit organizations by providing that any notice of termination filed after 9/30/82 is invalid	(1)	(1)	(1)
A-7: Eliminate windfall benefits for persons with pensions from noncovered employment	−¼	−¼	−.09

[1] Not available.

Note.—Long-term costs are presented as a percentage of taxable payroll, for OASDI only.

A. *Coverage*

Present law. OASDI coverage now applies to almost all types of employment. The types of employment not covered are the following: (1) employees of nonprofit organizations which have not elected such coverage (about 15% of such employees), (2) permanent civilian employees of the Federal government, and (3) employees of State and local governments which have not elected coverage (about 30% of such employees).

Options. A-1 Extend coverage to all Federal employees, State and local employees, and employees of nonprofit organizations [1], effective in 1984.[2]

COST
[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983-89
II-B, OASDI	0	−14.0	−16.7	−18.0	−19.3	−20.6	−22.0	−110.5
III, OASDI	0	−14.2	−17.0	−18.7	−20.5	−22.4	−24.4	−117.2
II-B, HI	0	−1.6	−2.0	−2.3	−2.5	−2.7	−2.9	−14.2
III, HI	0	−1.6	−2.0	−2.4	−2.6	−2.8	−3.1	−14.5

25-Year Cost, OASDI: −.45% of taxable payroll.
50-Year Cost, OASDI: −.60% of taxable payroll.
Long-Term Cost, OASDI: −.53% of taxable payroll.
25-Year Cost, HI: −.25% of taxable payroll.

[1] Such organizations which have religious principles against any form of government insurance would be permitted to opt out on a permanent basis.
[2] If the effective date were later than 1984, the long-term cost effect would be about the same as shown. The short-term cost effects would be zero, of course, for years before the effective date and about the same as shown for the effective year and thereafter.

A-2 Extend coverage to all Federal employees, and all employees of nonprofit organizations [1], effective in 1984.[2]

COST
[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983-89
II-B, OASDI	0	−8.1	−9.2	−9.9	−10.7	−11.4	−12.2	−61.5
III, OASDI	0	−8.4	−9.8	−10.7	−11.8	−12.9	−14.1	−67.6
II-B, HI	0	−.2	−.3	−.3	−.3	−.3	−.4	−1.8
III, HI	0	−.2	−.3	−.3	−.3	−.4	−.4	−1.9

25-Year Cost, OASDI: −.24% of taxable payroll.
50-Year Cost, OASDI: −.35% of taxable payroll.
Long-Term Cost, OASDI: −.31% of taxable payroll.
25-Year Cost, HI: −.02% of taxable payroll.

[1] Such organizations which have religious principles against any form of government insurance would be permitted to opt out on a permanent basis.
[2] If the effective date were later than 1984, the long-term cost effect would be about the same as shown. The short-term cost effects would be zero, of course, for years before the effective date and about the same as shown for the effective year and thereafter.

A-3 Extend coverage to all employees of nonprofit organizations [1] and all new Federal employees, effective in 1984.[2]

COST
[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983-89
II-B, OASDI	0	−1.2	−2.1	−2.7	−3.4	−4.2	−5.0	−18.6
III, OASDI	0	−1.2	−2.2	−2.9	−3.7	−4.7	−5.8	−20.6
II-B, HI	0	−.2	−.3	−.3	−.3	−.3	−.4	−1.8
III, HI	0	−.2	−.3	−.3	−.3	−.4	−.4	−1.9

25-Year Cost, OASDI: −.26% of taxable payroll.
50-Year Cost, OASDI: −.36% of taxable payroll.
Long-Term Cost, OASDI: −.31% of taxable payroll.
25-Year Cost, HI: −.02% of taxable payroll.

[1] Such organizations which have religious principles against any form of government insurance would be permitted to opt out on a permanent basis.
[2] If the effective date were later than 1984, the long-term cost effect would be about the same as shown. The short-term cost effects would be zero, of course, for years before the effective date and about the same as shown for the effective year and thereafter.

A-4 Extend coverage to all new State and local employees, effective 1984.[1]

COST
[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983–89
II–B, OASDI	0	–.3	–1.1	–1.8	–2.6	–3.3	–4.2	–13.3
III, OASDI	0	–.3	–1.0	–1.8	–2.6	–3.5	–4.5	–13.7
II–B, HI	0	–.1	–.2	–.5	–.7	–.9	–1.1	–3.5
III, HI	0	–.1	–.2	–.5	–.7	–.9	–1.1	–3.5

25-Year Cost, OASDI: –.23% of taxable payroll.
50-Year Cost, OASDI: –.34% of taxable payroll.
Long-Term Cost, OASDI: –.24% of taxable payroll.
25-Year Cost, HI: –.23% of taxable payroll.

[1] If the effective date were later than 1984, the long-term cost effect would be about the same as shown. The short-term cost effects would be zero, of course, for years before the effective date and about the same as shown for the effective year and thereafter.

A-5 Prohibit opting out of coverage of employees of State and local governments and employees of nonprofit organizations by not permitting withdrawal notices to be filed after 1983.

COST
[In billions of dollars] [1]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983–89
II–B, OASDI	0	+.5	+4.0	+9.6	+11.2	+12.1	+13.1	+50.5
III, OASDI	0	+.5	+4.0	+9.8	+11.6	+12.6	+14.1	+52.6

[1] It is estimated that such a provision would result in increased costs over the short run, because the actuarial cost estimates assume that many more entries would feel constrained to withdraw at once, before they would no longer have the opportunity to do so. Long-term cost data are not available, due to the diverse effects possible.

A-6 Prohibit opting out of coverage of employees of State and local governments and employees of nonprofit organizations by providing that any notice of termination filed after September 30, 1982 is invalid.[1]

[1] Cost estimates for the savings involved are not available, because the actuarial cost estimates for the present program assume that no withdrawals will occur. Obviously, this proposal will have significant cost savings if it is enacted.

A-7 Eliminate "windfall" old-age and disability benefits for persons with pensions from noncovered employment, effective for those becoming first eligible after 1983 (in the absence of changes which would result in universal coverage being applicable).

COST
[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983–89
II–B, OASDI	0	–.0	–.0	–.0	–.0	–.1	–.1	–.2
III, OASDI	0	–.0	–.0	–.0	–.0	–.1	–.1	–.2

25-Year Cost, OASDI: –.00% of taxable payroll.
50-Year Cost, OASDI: –.03% of taxable payroll.
Long-Term Costs, OASDI: –.09% of taxable payroll.

SECTION B—COVERAGE

Option number and description	OASDI cost 1983–89 (billions) II–B	OASDI cost 1983–89 (billions) III	Long-term cost (percent)
B–1: Accelerate the 1900 OASDI tax to 1984	–$133	–$135	–0.09
B–2: Accelerate the 1985 OASDI tax to 1984	–10	–10	–.01
B–3: Accelerate the 1985 and 1986 OASDI–HI tax rate to 1984 and assign increase to OASDI	–19	–18	–.02
B–4: Increase the OASDI–HI tax rate for self-employed persons to the combined employer-employee rate	–18	–17	–.20
B–5: Reduce the 1990 OASDI tax rate from 6.2% to 6.0% for 1990–2009	0	0	+.11
B–6: Move the 19085 OASDI tax rate to 1984; for 1985–87, such rate would be mid-way between the 1985 and 1990 tax rates in present law; for 1988 and after, such rate would be the 1990 rate in present law	–86	–89	–.05
B–7: Increase the OASDI tax rate on employers and employees each by 1% in 2020	0	0	–.99
B–8: Increase the OASDI tax rate on employers and employees each by 1.25% in 2030	0	0	–.90
B–9: Remove the taxable earnings base for employers only	–41	–42	–.56
B–10: Set a limit of 25% of total compensation as to the amount of fringe benefits not subject to payroll tax. Tax-exempt fringes in excess of such limit would be subject to OASDI–HI tax on only the employer and would not be counted as creditable wages for benefit purposes	([1])	([1])	([1])
B–11: Maintain a constant OASDI tax rate on total compensation, effective 1990	0	0	–1.61
B–12: Make wages deferred under Section 401(k) (salary reduction plans) be subject to OASDI–HI tax	([1])	([1])	([1])

[1] Not available.

B. *Tax rates*

Present law. **See Table 2 for schedule of OASDI–HI tax rates under present law.**

Options. **B–1 Accelerate the 1990 OASDI tax rate to 1984.[1]**

COST
[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983–89
II–B	0	–25.1	–18.7	–19.7	–21.3	–23.1	–24.9	–132.8
III	0	–24.3	–18.4	–19.8	–21.8	–24.1	–26.4	–134.8

25-Year Cost: –.26% of taxable payroll.
50-Year Cost: –.13% of taxable payroll.
Long-Term Cost: –.09% of taxable payroll.

[1] In conjunction with this proposal, a portion of the OASDI–HI tax could be made deductible for income-tax purposes or a tax credit provided—the portion would be such that the reduction in personal income taxes would equal the additional OASDI–HI taxes paid by workers and employers. Thus, there would be no effect on the overall Federal budget deficit. The loss to the General Fund of the Treasury if % of the OASDI–HI tax were made deductible would be $ billion in 1983–89.

B-2 Accelerate the 1985 OASDI tax rate to 1984.

COST
[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983-89
II-B	0	−9.4	−0.6	0	0	0	0	−10.0
III	0	−9.1	−.6	0	0	0	0	−9.7

25-Year Cost: −.02% of taxable payroll.
50-Year Cost: −.01% of taxable payroll.
Long-Term Cost: −.01% of taxable payroll.

B-3 Accelerate the 1985 and 1986 OASDI-HI tax rates to 1984.[1]

COST
[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983-89
II-B, OASDI	0	−9.4	−0.6	0.0	0	0	0	−10.0
III, OASDI	0	−9.1	−.6	0.0	0	0	0	−9.7
II-B, HI	0	−4.9	−3.8	−.2	0	0	0	−8.8
III, HI	0	−4.7	−3.8	−.2	0	0	0	−8.7

25-Year Cost, OASDI: −.02% of taxable payroll.
50-Year Cost, OASDI: −.01% of taxable payroll.
Long-Term Cost, OASDI: −.01% of taxable payroll.
25-Year Cost, HI: −.02% of taxable payroll.

[1] The figures shown assume that the taxes resulting from the 1986 increase in the HI portion of the tax rate would go into the HI Trust Fund. It would be possible to keep the HI tax rate under the proposal at the same level in 1984-85 as under present law and to reallocate the increase in the OASDI-HI rate entirely to the OASDI Trust Funds; then, the cost effect for the OASDI Trust Funds would be the sum of the figures shown for OASDI and HI.

B-4 Increase the OASDI-HI tax rate for self-employed persons to the combined employer-employee rate, effective in 1984.[1]

COST
[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983-89
II-B, OASDI	0	−0.9	−2.8	−3.1	−3.4	−3.6	−3.8	−17.5
III, OASDI	0	−.8	−2.6	−3.0	−3.3	−3.6	−3.9	−17.3
II-B, HI	0	−.4	−1.3	−1.5	−1.7	−1.8	−2.0	−8.7
III, HI	0	−.4	−1.2	−1.5	−1.7	−1.8	−2.0	−8.6

25-Year Cost, OASDI :−.15% of taxable payroll.
50-Year Cost, OASDI :−.17% of taxable payroll.
Long-Term Cost, OASDI :−.20% of taxable payroll.
25-Year Cost, HI :−.14% of taxable payroll.

[1] In conjunction with this proposal, a tax credit for the self-employed equal to 25% of the self-employment tax could be provided. Alternatively, 50% of the payroll tax paid by the self-employed could be made tax deductible as a business expense.

B-5 Reduce the 1990 OASDI tax rate from 6.2% on the employer and employee, each, to 6.0% for 1990-2009. Return to the 6.2% rate in 2010.

25-Year Cost: +.27% of taxable payroll.
50-Year Cost: +.16% of taxable payroll.
Long-Term Cost: +.11% of taxable payroll.

B-6 Move the 1985 OASDI tax rate to 1984; increase the 1985-87 OASDI tax rate to mid-way between the 1985 and 1990 tax rates in present law; and for 1988 and after, increase the OASDI tax rate to the tax rate for 1990 in present law.

COST
[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983-89
II-B	0	−9.4	−9.1	−9.8	−10.7	−22.5	−24.9	−86.4
III	0	−9.1	−9.0	−9.9	−10.9	−23.4	−26.4	−88.7

25-Year Cost: −.16% of taxable payroll.
50-Year Cost: −.08% of taxable payroll.
Long-Term Cost: −.05% of taxable payroll.

B-7 Increase OASDI tax by 1% on employers and employees each, effective in 2020.
Long-Term Cost: −.99% of taxable payroll.

B-8 Increase OASDI tax rate by 1.25% on employers and employees each, effective in 2030.
Long-Term Cost: −.90% of taxable payroll.

B-9 Remove the taxable earnings base for employers only, effective in 1984.

COST

[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983–89
II–B, OASDI	0	−5.9	−6.7	−6.8	−7.0	−7.2	−7.3	−40.9
III, OASDI	0	−5.8	−6.7	−6.8	−7.2	−7.5	−7.6	−41.6
II–B, HI	0	−1.5	−1.6	−1.8	−1.8	−1.9	−1.9	−10.5
III, HI	0	−1.5	−1.6	−1.8	−1.8	−2.0	−2.0	−10.7

25-Year Cost, OASDI: −.43% of taxable payroll.
50-Year Cost, OASDI: −.50% of taxable payroll.
Long-Term Cost, OASDI: −.56% of taxable payroll.
25-Year Cost, HI:

B-10 Set a limit of 25% of total compensation as the amount of non-taxable fringe-benefit compensation that can be provided without being subject to the payroll tax. Tax-exempt fringes in excess of the 25% limit would become subject to OASDI-HI tax only for the employer and would not be counted as creditable wages for benefit purposes, effective in 1985.

COST

[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983–89
II–B, OASDI								
III, OASDI								
II–B, HI								
III, HI								

25-Year Cost, OASDI:
50-Year Cost, OASDI:
Long-Term Cost, OASDI:
25-Year Cost, HI:

B-11 Maintain, in effect, constant OASDI tax rate on total compensation, effective in 1990. If the "cash earnings plus taxable fringe benefits" portion of total compensation decreases, the tax rate on covered wages would increase so as to maintain a constant tax rate on total compensation.

25-Year Cost: −.28% of taxable payroll.
50-Year Cost: −.91% of taxable payroll.
Long-Term Cost: −1.61% of taxable payroll.

B-12 Make wages deferred under Section 401(k) of the Internal Revenue Code (salary reduction plans) be subject to the OASDI-HI tax.

Long-Term Cost: Cannot be estimated, because no experience data are available. However, the loss of revenues to the OASDI and HI Trust Funds, without this change, may become substantial in future years.

SECTION C—ALTERNATIVE SOURCES OF REVENUES

Option number and description	OASDI cost 1983–89 (billions)		Long-term cost
	II–B	III	
C–1: Reallocate 50 percent of HI tax rate to the OASDI Trust Funds	−$174	−$177	−1.41
C–2: Same as C–1, except that effective date is 1990	0	0	−1.30
C–3: Allow OASDI Trust Funds to borrow from General Fund whenever the combined fund ratio is below 15 percent	[2]75	[2]201	[1]
C–4: Impose a new inheritance tax earmarked for OASI Trust Fund	−22	−22	[1]
C–5: Impose a surtax on gasoline, earmarked for OASI Trust Fund	−23	−23	−.02
C–6: Impose a 5 percent surcharge on individual income tax, earmarked for OASI Trust Fund	−134	−134	−.09
C–7: Increase excise tax on alcohol and tobacco, earmarked for DI or HI Trust Funds	−14	−14	−.01
C–8: Credit OASDI Trust Funds with cost for military-service wage credits based on service before 1957	−6	−6	0
C–9: Credit OASDI Trust Funds with excess of past benefit payments over past reimbursements for military-service wage credits based on service before 1957	−1	−1	0
C–10: Pay OASDI taxes for current military-service gratuitous wage credits	−2	−2	−.01
C–11: Credit OASDI Trust Funds for OASDI checks that have gone uncashed for 1 or more years, effective in 1983	−1	−1	0
C–12: Provide that OASDI administrative expenses be paid from general revenues	−18	−19	−.15
C–13: Provide a general-revenue contribution, in a given month, equal to excess of the unemployment rate over 6 percent, times total OASDI taxes	−16	−30	[1]

[1] Not available.
[2] Amount borrowed from General Fund in period.

C. *Alternative Sources of Revenues*

Present law. **Income to the OASDI and HI Trust Funds comes from the payroll tax which is paid by employers, employees, and the self-employed. (In addition, there are certain payments to the trust funds from the General Fund of the Treasury to cover the cost of certain transitional benefits for closed groups of persons.)**

Options. C-1: **Reallocate 50% of the HI tax rates to the OASDI Trust Funds, and make up this loss to the HI Trust Fund by payments from the General Fund of the Treasury, effective in 1984.**

OASDI COST

[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983–89
II–B	0	−20.4	−24.4	−28.5	−30.9	−33.5	−36.1	−173.8
III	0	−19.7	−24.1	−28.6	−31.7	−34.9	−38.3	−177.3

25-Year Cost: −1.32% of taxable payroll.
50-Year Cost: −1.39% of taxable payroll.
Long-Term Cost: −1.41% of taxable payroll.

C-2: Same as Option C-1, except effective in 1990.

25-Year Cost: —.99% of taxable payroll.
50-Year Cost: —1.22% of taxable payroll.
Long-Term Cost: —1.30% of taxable payroll.

C-3: Allow the OASDI Trust Funds to borrow from the General Fund of the Treasury whenever their combined balance (assuming interfund borrowing between them) is lower than 15% of the next year outgo, effective at the end of 1983. The amounts would be paid back to the General Fund, with interest, when the combined OASDI Trust Fund ratios reach 50%. If necessary, the OASDI tax rate would be increased to assure pay-back.

AMOUNT BORROWED FROM GENERAL FUND IN YEAR [1]

[In billion of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983–89
II–B	22	15	7	8	8	8	7	75
III	26	26	20	25	30	34	40	201

[1] Interest that would be accumulating on the amounts borrowed is not shown.

C-4: Impose a new inheritance tax, which would apply only if there is no surviving spouse. It would include the first $100,000 in the estate. The next $100,000 would be taxed at a 10% rate, and the third $100,000 would be taxed at a 15% rate, effective for 1985. After 1989, the thresholds for taxation would be indexed by the CPI increases. The proceeds of the tax would be earmarked for the OASDI Trust Fund.

COST

[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983–89
Only one estimate is available. It is based on data provided by the Joint Committee on Taxation and the Congressional Budget Office	0	0	—3.6	—3.9	—4.3	—4.7	—5.1	—21.6

Long-Term Cost: Cannot be determined.

C-5: Impose a surcharge of 3 cents a gallon on gasoline, which would be earmarked for the OASDI Trust Fund, effective for 1983-89.

COST

[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983–89
Only one estimate is available. It is based on data provided by the Joint Committee on Taxation and the Congressional Budget Office	—3.3	—3.3	—3.3	—3.3	—3.3	—3.3	—3.3	—23.1

Long-Term Cost: —.02% of taxable payroll.

C-6: Impose a 5% surcharge on individual income taxes in 1983-89, the proceeds from which would be earmarked for the OASDI Trust Fund.

COST

[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983–89
Only one estimate is available. It is based on data provided by the Joint Committee on Taxation and the Congressional Budget Office	—14.9	—15.8	—17.3	—18.8	—20.6	—22.4	—24.4	—134.2

Long-Term Cost: —.09% of taxable payroll.

C-7: Impose increased excise taxes on alcohol and tobacco in 1983-89—increases of 25% over present rates. The proceeds would be earmarked for either the DI or HI Trust Fund.

COST

[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983–89
Only one estimate is available. It is based on data provided by the Joint Committee on Taxation and the Congressional Budget	—2.0	—2.0	—2.0	—2.0	—2.0	—2.0	—2.0	—14.0

Long-Term Cost: —.01% of taxable payroll.

C-8: Credit to the OASDI Trust Funds, as a lump sum, the present value of the additional cost of OASDI benefits for those military-service wage credits based on service before 1957, effective in 1983.

COST

[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983–89
Only one estimate is available. Any such estimate is subject to a wide variation, because it depends greatly on future conditions	—5.8	0	0	0	0	0	0	—5.8

Long-Term Cost: Negligible.

C-9: Credit to the OASDI Trust Funds, as a lump sum, the excess of past benefit payments over past reimbursement payments (including interest) for the cost of additional OASDI benefits for those military-service wage credits based on service before 1957.

COST

[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983–89
II–B	–.9	0	0	0	0	0	0	–.9
III	–.9	0	0	0	0	0	0	–.9

Long-Term Cost: Negligible.

C-10: Pay OASDI taxes for current military-service gratuitous wage credits as the service is rendered, effective in 1984.

COST

[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983–89
II–B	0	–.3	–.3	–.3	–.3	–.3	–.3	–1.6
III	0	–.3	–.3	–.3	–.3	–.3	–.3	–1.6

Long-Term Cost: –.01% of taxable payroll.

C-11: Credit to the OASDI Trust Funds the OASDI checks which have not been cashed for at least 1 year, effective in 1983.

COST

[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983–89
II–B	–.3	–.0	–.0	–.0	–.0	–.0	–.0	–.5
III	–.3	–.0	–.0	–.0	–.0	–.0	–.0	–.5

Long-Term Cost: Negligible.

C-12: Provide that the administrative expenses of the OASDI program be paid from the General Fund of the Treasury.

COST

[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983–89
II–B	–2.2	–2.3	–2.5	–2.6	–2.8	–2.9	–3.1	–18.5
III	–2.2	–2.3	–2.5	–2.7	–2.9	–3.1	–3.3	–18.9

25-Year Cost: –.13% of taxable payroll.
50-Year Cost: –.14% of taxable payroll.
Long-Term Cost: –.15% of taxable payroll.

C-13: Provide a payment from the General Fund of the Treasury equal, for each month, to (a) the excess (if any) of the unemployment rate over 6%, multiplied by (b) the total OASDI tax receipts, effective in 1984.

COST

[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983–89
II–B	0	–2.7	–3.5	–3.2	–2.8	–2.3	–1.3	–15.8
III	0	–5.0	–6.0	–5.5	–5.1	–4.8	–4.1	–30.5

25-Year Cost [1].
50-Year Cost [1].
Long-Term Cost [1].

[1] Long-term cost estimates are not available, because those made do not assume any economic cycles over the long range.

SECTION D—COST-OF-LIVING ADJUSTMENTS

Option Number and description	OASDI cost 1983–89 (billions)		Long-term cost (percent)
	II–B	III	
D–1: Delay COLA by 1 mo per yr for 3 yr	–$20	–$31	–.14
D–2: Delay the effective date for the cost-of-living adjustment for 3 mo	–23	–35	–.14
D–3: Provide for no COLA for 1983. Resume present procedure thereafter	–94	–119	–.13
D–4: Provide guaranteed COLA of 4 percent for 1983 and 1984; thereafter, the COLA would equal the annual increase in wages, minus 1½ percentage points	–100	–180	–.16
D–5: Provide guaranteed benefit increase of 4 percent or $14 (whichever is higher) for 1983 and 1984; Thereafter, the COLA would equal the annual increase in wages, minus 1½ percentage points	–96	–176	–.15
D–6: Provide COLA's equal to 75 percent of what the benefit increases would be under present law	–88	–128	–1.45
D–7: Provide COLA's equal to increase in the CPI, minus 2 percentage points	–103	–113	–2.58
D–8: Provide COLA equal to present-law increase, minus 2 percentage points for 1983 and 1984; thereafter present-law procedure would resume	–66	–72	–.07
D–9: Same as D–8 for 1983 and 1984; thereafter, COLA's would be equal to the annual increase in wages, minus 1½ percentage points	–75	–97	–.10
D–10: Provide COLA's equal to annual percentage increase in wages, minus X percentage points. The value of X could be 1, 1½ or 2	([1])	([1])	([1])
D–11: Provide COLA's based on lesser of increase in wages or prices, with a "catch-up" provision	–1	–60	–([2])
D–12: Provide COLA's based on lesser of increase in wages or prices, with no "catch-up" provision	–4	–66	–.43

[1] Various alternatives are considered (see subsequent pages for details).
[2] None.

D. *Cost-of-living adjustments for benefits in payment status*

Present law. Benefits are increased each year when the annual increase in the Consumer Price Index (CPI) is 3% or more. The amount of the benefit increase is equal to the increase in the CPI from the first quarter of one year to the first quarter of the next year. The benefit increase is effective for June, and is first reflected in the check sent in early July.

Options. D-1 Delay the cost-of-living adjustment by one month per year for 3 years, effective in 1983, so that, in 1985 and after, the benefit increase would be effective at the beginning of the fiscal year.

COST

[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983–89
II–B	−1.0	−2.3	−3.4	−3.3	−3.3	−3.4	−3.5	−20.2
III	−1.2	−2.9	−4.8	−5.1	−5.5	−5.8	−6.1	−31.4

25-Year Cost:—.12% of taxable payroll.
50-Year Cost:—.13% of taxable payroll.
Long-Term Cost:—.14% of taxable payroll.

D-2 Delay the effective date for the cost-of-living adjustment for 3 months, effective in 1983.

COST

[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983–89
II–B	−3.0	−3.4	−3.4	−3.3	−3.3	−3.4	−3.5	−23.3
III	−3.6	−4.4	−4.8	−5.1	−5.5	−5.8	−6.1	−35.3

25-Year Cost:—.12% of taxable payroll.
50-Year Cost:—.13% of taxable payroll.
Long-Term Cost:—.14% of taxable payroll.

D-3 Provide no cost-of-living adjustment for 1983.[1] Resume present-law benefit increases in 1984.

COST

[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983–89
II–B	−6.2	−12.9	−13.8	−14.5	−15.0	−15.4	−15.7	−93.5
III	−7.3	−15.4	−16.8	−18.1	−19.3	−20.5	−21.5	−118.9

Long-Term Cost: −13% of taxable payroll.

[1] A parallel change could be made in the indexing of the bend points in the PIA benefit formula (which is based on wage changes). This would be done so as to prevent "notch" situations from occurring as between persons first becoming eligible in the year of the revised benefit increase and those first becoming eligible in the next year. Such a change would have relatively little cost effect in the short run, but would have a significant effect over the long run.

D-4 Provide a guaranteed benefit increase of 4% for 1983 and 1984, regardless of the change in the CPI.[1] In 1985 and thereafter, the annual benefit increase would equal the annual percentage increase in wages, minus 1½ percentage points.

COST

[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983–89
II–B	−2.9	−9.3	−14.0	−16.2	−18.1	−19.5	−20.4	−100.4
III	−4.0	−13.4	−22.1	−27.8	−32.8	−37.7	−42.3	−180.1

Long-Term Cost: −.16% of taxable payroll.

[1] A parallel change could be made in the indexing of the bend points in the PIA benefit formula (which is based on wage changes). This would be done so as to prevent "notch" situations from occurring as between persons first becoming eligible in the year of the revised benefit increase and those first becoming eligible in the next year. Such a change would have relatively little cost effect in the short run, but would have a significant effect over the long run.

D-5 Same as Option D-4, except that the benefit increase in 1983–84 would not be less than that resulting from an increase of $14 in the PIA.[1]

COST

[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983–89
II–B	−2.7	−8.8	−13.3	−15.5	−17.4	−18.8	−19.7	−96.2
III	−3.8	−12.9	−21.4	−27.1	−32.1	−37.0	−41.5	−175.8

Long-Term Cost: −.15% of taxable payroll.

[1] The $14 increase would not be applicable for very low PIAs, which instead would have a 10% increase be applicable.

D-6 Provide benefit increases equal to 75% of what the benefit increases would be under present law (i.e., 75% of the CPI increase), effective in 1983.[1]

COST

[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983–89
II–B	−1.6	−5.0	−8.7	−12.5	−16.3	−20.1	−24.0	−88.2

III	−1.8	−6.0	−11.2	−17.1	−23.6	−30.5	−38.0	−128.2

Long-Term Cost: −1.45% of taxable payroll.

[1] A parallel change could be made in the indexing of the bend points in the PIA benefit formula (which is based on wage changes). This would be done so as to prevent "notch" situations from occurring as between persons first becoming eligible in the year of the revised benefit increase and those first becoming eligible in the next year. Such a change would have relatively little cost effect in the short run, but would have a significant effect over the long run.

D-7 Provide benefit increases equal to the increase in the CPI, minus 2 percentage points, effective in 1983.[1]

COST

[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983–89
II–B	−1.7	−5.2	−9.3	−13.9	−18.9	−24.2	−30.0	−103.2
III	−1.7	−5.3	−9.6	−14.7	−20.5	−27.1	−34.4	−113.3

Long-Term Cost: −2.58% of taxable payroll.

[1] A parallel change could be made in the indexing of the bend points in the PIA benefit formula (which is based on wage changes). This would be done so as to prevent "notch" situations from occurring as between persons first becoming eligible in the year of the revised benefit increase and those first becoming eligible in the next year. Such a change would have relatively little cost effect in the short run, but would have a significant effect over the long run.

D-8 Same as option D-7, except effective only for 1983–84.[1]

COST

[In billions of dollars]

Estimate	1983	1984	1985	1986	1887	1988	1989	1983–89
II–B	−1.7	−5.2	−9.3	−11.8	−12.3	−12.7	−13.0	−66.1
III	−1.7	−5.3	−9.6	−12.5	−13.4	−14.3	−15.1	−72.0

Long-Term Cost: −.07% of taxable payroll.

[1] A parallel change could be made in the indexing of the bend points in the PIA benefit formula (which is based on wage changes). This would be done so as to prevent "notch" situations from occurring as between persons first becoming eligible in the year of the revised benefit increase and those first becoming eligible in the next year. Such a change would have relatively little cost effect in the short run, but would have a significant effect over the long run.

D-9 Same as Option D-8, except that benefit increases after 1984 would be based on annual percentage increases in wages, minus 1½ percentage points (instead of on annual CPI increases).[1]

COST

[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983–89
II–B	−1.7	−5.2	−9.3	−12.5	−14.3	−15.6	−16.5	−75.2
III	−1.7	−5.3	−9.6	−14.0	−18.2	−22.2	−26.3	−97.3

Long-Term Cost: −.10% of taxable payroll.

[1] A parallel change could be made in the indexing of the bend points in the PIA benefit formula (which is based on wage changes). This would be done so as to prevent "notch" situations from occurring as between persons first becoming eligible in the year of the revised benefit increase and those first becoming eligible in the next year. Such a change would have relatively little cost effect in the short run, but would have a significant effect over the long run.

D-10 Provide benefit increases equal to the annual percentage increase in wages, minus "X" percentage points, beginning in 1983.

COST

[in billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983–89
Based on X being 1%								
II–B	−1.1	−2.8	−3.8	−4.5	−4.8	−4.6	−3.9	−25.5
III	−2.6	−8.3	−13.9	−18.1	−21.3	−24.2	−26.8	−115.2
Long-Term Cost: +.68% of taxable payroll.								
Based on X being 1½%								
II–B	−1.5	−4.1	−6.1	−8.0	−9.6	−10.7	−11.5	−51.5
III	−3.0	−9.6	−16.3	−21.6	−26.2	−30.7	−35.1	−142.5
Long-Term Cost: −.09% of taxable payroll.								
Based on X being 2%								
II–B	−1.9	−5.4	−8.5	−11.4	−14.2	−16.8	−19.0	−77.2
III	−3.4	−10.9	−18.6	−25.1	−31.0	−37.0	−43.1	−169.1
Long-Term Cost: −.80% of taxable payroll.								
Based on X being .3% in 1983–85, 1% in 1986–88 and 1½% thereafter [1]								
II–B	−.5	−.9	−.5	−.4	−.5	−.1	+.1	−2.8
III	−1.9	−6.4	−10.6	−13.9	−16.8	−19.5	−22.6	−91.7
Long-Term Cost: Negligible.								
Based on X being .3% in 1983–85, 1% in 1986–88, 1½% in 1989–2019, and 2% thereafter								
II–B	−.5	−.9	−.5	−.4	−.5	−.1	+.1	−2.8
III	−1.9	−6.4	−10.6	−13.9	−16.8	−19.5	−22.6	−91.7

Long-Term Cost: −.39% of taxable payroll.

[1] These values of "X" approximate the real-wage differentials in the Alternative II–B estimate in the 1982 Trustees Report.

D-11 Provide benefit increases based on the lesser of the annual percentage increase in wages or the annual percentage increase in prices, beginning in 1983. Include a "catch-up" provision, so that in times of a healthy economy (when wages rise faster than prices), benefits will be increased by wages if they had previously been increased by less than the full CPI—until any deficit relative to CPI rises is made up (so as to bring benefit levels up to the point where they are actually keeping up with inflation).[1]

COST
[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983–89
II–B	−.2	−.3	−.0	−.0	−.0	−.0	−.0	−.6
III	−1.7	−5.7	−9.2	−10.9	−11.2	−11.0	−10.2	−59.9

Long-Term Cost: Relatively small cost reduction.

[1] To further stabilize the financing of the program, this proposal could be combined with an automatic-adjustment mechanism for the payroll tax rate and/or payments (or loans) from the General Fund of the Treasury based on either the combined OASDI Trust Fund or the level of unemployment.

D-12 Same as Option D-11, except that there would be no "catch-up" provision.[1]

COST
[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983–89
II–B	−.2	−.5	−.6	−.6	−.6	−.6	−.7	−3.8
III	−1.7	−5.7	−9.2	−11.0	−11.8	−12.6	−13.7	−65.7

Long-Term Cost: −.43% of taxable payroll.

[1] To further stabilize the financing of the program, this proposal could be combined with an automatic-adjustment mechanism for the payroll tax rate and/or payments (or loans) from the General Fund of the Treasury based on either the combined OASDI Trust Fund or the level of unemployment.

SECTION E—LEVEL OF PRIMARY BENEFITS

Option number and description	OASDI cost 1983–89 (billions)		Long-term cost (percent)
	II–B	III	
E–1: Increase "bend points" by 75 percent of the increase in wages until they are 80 percent of what they would have been under 100 percent wage indexing, effective 1984	−$3	−$3	−1.10
E–2: Same as E–1, except effective date is 1987	−¼	−¼	−1.01
E–3: Same as E–1, except effective date is 2000	0	0	−.80
E–4: Same as E–1, except effective date is 2010	0	0	−.60
E–5: Same as E–1, except effective date is 2020	0	0	−.36
E–6: Index "bend points" by 75 percent of increase in wages for 3 yr, beginning 1987	−¼	−¼	−.22
E–7: Change computation point for determining average indexed monthly earnings from age 62 to age 65	−3	−3	−.39
E–8: Reduce percentages in PIA benefit formula gradually over time	−2	−2	−1.1

E. *Level of Primary Benefits*

Present law. The Primary Insurance Amount, which is the benefit payable to a worker retiring at age 65 (and also to a disabled worker) is determined from a formula based on Average Indexed Monthly Earnings. This formula involves three different percentages which are applied to different levels of the AIME (as separated by the "bend points"), so as to give relatively higher benefits to lower-earnings persons than to higher-earnings persons.

Options. E-1 Increase the "bend points" in the PIA benefit formula by 75% of the increase in wages (rather than by 100% as under present law) for "X" years (until such bend points are 80% of what they would have been under 100% wage indexing), effective in 1984.

COST
[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983–89
II–B	0	.0	−.1	−.2	−.5	−.8	−1.3	−2.9
III	0	.0	−.1	−.2	−.6	−.9	−1.4	−3.2

Long-Term Cost: −1.10% of taxable payroll.

E-2 Same as Option E-1, except effective in 1987.

COST
[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983–89
II–B	0	0	0	0	−.0	−.1	−.2	−.3
III	0	0	0	0	−.0	−.1	−.3	−.4

Long-Term Cost: −1.01% of taxable payroll.

E-3 Same as Option E-1, except effective in 2000.

25-Year Cost: —.01% of taxable payroll.
50-Year Cost: —.39% of taxable payroll.
Long-Term Cost: —.80% of taxable payroll.

E-4 Same as Option E-1, except effective in 2010.

25-Year Cost: None.
50-Year Cost: —.17% of taxable payroll.
Long-Term Cost: —.60% of taxable payroll.

E-5 Same as Option E-1, except effective in 2020.

25-Year Cost: None.
50-Year Cost: —.03% of taxable payroll.
Long-Term Cost: —.36% of taxable payroll.

E-6 Index the "bend points" by 75% of the increase in wages for 3 years, effective in 1987.

COST
[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983–89
II–B	0	0	0	0	—.0	—.1	—.2	—.3
III	0	0	0	0	—.0	—.1	—.3	—.4

Long-Term Cost: —.22% of taxable payroll.

E-7 Change computation point for determining Average Indexed Monthly Earnings from age 62 to age 65 (so that, for retirement cases, 3 more computation years would be required in determining the AIME), phased in beginning with workers who attain age 62 in 1984.

COST
[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983–89
II–B	0	.0	—.2	—.4	—.6	—.8	—1.0	—3.0
III	0	.0	—.2	—.4	—.7	—.9	—1.1	—3.3

Long-Term Cost: —.39% of taxable payroll.

E-8 Reduce the percentages in the PIA benefit formula—90%, 32%, and 15%—by 10% relatively, over a 15-year period (1984-98), so that they would ultimately be 81.0%, 28.8%, and 13.5%. This would have the effect ultimately of reducing benefits in all cases (regardless of earnings history) by 10%.

COST
[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983–89
II–B	0	—.0	—.1	—.2	—.4	—.8	—1.2	—1.8
III	0	—.0	—.1	—.2	—.5	—.9	—1.3	—2.1

Long-Term Cost: —1.1% of taxable payroll.

SECTION F—COST-OF-LIVING ADJUSTMENTS

Option number and description	OASDI cost 1983–89 (billions)		Long-term cost (percent)
	II–B	III	
F-1: Increase "normal" retirement age to 66 in 1999, beginning phase-in in 1990	$0	$0	—.52
F-2: Increase "normal" retirement age to 66 in 2014, beginning phase-in in 2005	0	0	—.41
F-3: Increase "normal" retirement age to 66 in 2024, beginning phase-in in 2015	0	0	—.31
F-4: Increase "normal" retirement age to 67 in 2012, beginning phase-in in 2000	0	0	—.86
F-5: Increase "normal" retirement age to 67 in 2022, beginning phase-in in 2010	0	0	—.69
F-6: Increase "normal" retirement age to 67 in 2032, beginning phase-in in 2020	0	0	—.48
F-7: Increase "normal" retirement age to 68 in 2017, beginning phase-in in 2000	0	0	—1.22
F-8: Increase "normal" retirement age to 68 in 2027, beginning phase-in in 2010	0	0	—.95
F-9: Increase "normal" retirement age to 68 in 2037, beginning phase-in in 2020	0	0	—.63
F-10: Increase "normal" retirement age to 69 in 2022, beginning phase-in in 2000	0	0	—1.53
F-11: Increase "normal" retirement age to 69 in 2054, beginning phase-in in 2000	0	0	—.96
F-12: Increase "normal" retirement age to 66 in 2002, beginning phase-in in 1995, and thereafter, adjust according to changes in longevity	0	0	—1.81

F. *Retirement Age*

Present law. Unreduced retirement benefits are available to insured workers, spouses, and widows and widowers at age 65 (the "normal" retirement age). Actuarially reduced benefits are available at age 62 for insured workers and spouses and at age 60 for widows and widowers (age 50 if disabled). For insured workers who delay receipt of benefits beyond age 65, retirement benefits are increased by 3 percent for each year of delay (for persons attaining age 65 after 1981). See table at bottom of this page for actuarial benefit factors under present law and under each option as to normal retirement age.

Options. F-1 Gradually increase the "normal" retirement age to 66 in 1999, beginning the phase-in with those who attain age 62 in 1990.[1]

25-Year Cost: —.14% of taxable payroll.
50-Year Cost: —.38% of taxable payroll.
Long-Term Cost: —.52% of taxable payroll.

F-2 Gradually increase the "normal" retirement age to 66 in 2014, beginning the phase-in with those who attain age 62 in 2005.[1]

25-Year Cost: —.00% of taxable payroll.
50-Year Cost: —.23% of taxable payroll.
Long-Term Cost: —.41% of taxable payroll.

[1] Early-retirement benefits would continue to be available beginning at age 62 for insured workers and spouses and at age 60 for widows and widowers, but the actuarial benefit factors would be made smaller. The minimum age for eligibility for Medicare benefits would continue to be the "normal retirement age for OASDI benefits. Disability benefits would be available to those disabled between age 65 and the increased "normal" retirement age, under the more lenient definition now applicable at ages 60–64.

ACTUARIAL BENEFIT FACTORS

[In percent]

Normal retirement age	Worker, age 62	Spouse, age 62	Widow, age 60	Disabled widow, age 50
65	80.0	75.0	71.5	50.0
66	75.0	70.0	66.5	50.0
67	70.0	65.0	61.5	50.0
68	65.0	60.0	56.5	50.0
69	60.0	55.0	51.5	50.0

F-3 Gradually increase the "normal" retirement age to 66 in 2024, beginning the phase-in with those who attain age 62 in 2015.[1]

25-Year Cost: None.
50-Year Cost: —.12% of taxable payroll.
Long-Term Cost: —.31% of taxable payroll.

F-4 Gradually increase the "normal" retirement age to 67 in 2012, beginning the phase-in with those who attain age 62 in 2000.[1]

25-Year Cost: —.03% of taxable payroll.
50-Year Cost: —.54% of taxable payroll.
Long-Term Cost: —.86% of taxable payroll.

F-5 Gradually increase the "normal" retirement age to 67 in 2022, beginning the phase-in with those who attain age 62 in 2010.[1]

25-Year Cost: None.
50-Year Cost: —.32% of taxable payroll.
Long-Term Cost: —.69% of taxable payroll.

F-6 Gradually increase the "normal" retirement age to 67 in 2032, beginning the phase-in with those who attain age 62 in 2020.[1]

25-Year Cost: None.
50-Year Cost: —.09% of taxable payroll.
Long-Term Cost: —.48% of taxable payroll.

F-7 Gradually increase the "normal" retirement age to 68 in 2017, beginning the phase-in with those who attain age 62 in 2000.[1]

25-Year Cost: —.03% of taxable payroll.
50-Year Cost: —.72% of taxable payroll.
Long-Term Cost: —1.22% of taxable payroll.

F-8 Gradually increase the "normal" retirement age to 68 in 2027, beginning the phase-in with those who attain age 62 in 2010.[1]

25-Year Cost: None.
50-Year Cost: —.40% of taxable payroll.
Long-Term Cost: —.95% of taxable payroll.

F-9 Gradually increase the "normal" retirement age to 68 in 2037, beginning the phase-in with those who attain age 62 in 2020.[1]

25-Year Cost: None.
50-Year Cost: —.09% of taxable payroll.
Long-Term Cost: —.63% of taxable payroll.

F-10 Gradually increase the "normal" retirement age to 69 in 2022, beginning the phase-in with those who attain age 62 in 2000.[1]

25-Year Cost: —.03% of taxable payroll.
50-Year Cost: —.88% of taxable payroll.
Long-Term Cost: —1.53% of taxable payroll.

F-11 Gradually increase the "normal" retirement age to 69 in 2054, beginning the phase-in with those who attain age 62 in 2000.[1]

25-Year Cost: —.01% of taxable payroll.
50-Year Cost: —.36% of taxable payroll.
Long-Term Cost: —.96% of taxable payroll.

F-12 Gradually increase the "normal" retirement age to 66 in 2002, beginning the phase-in with those who attain age 62 in 1995. Beginning with those who attain age 62 in 2002, automatically adjust such age (on a phased-in basis) so that the ration of the retirement-life expectancy to the potential working-lifetime (from age 20 to the "normal" retirement age) remains the same over the years.

Long-Term Cost: —1.81% of taxable payroll.

SECTION G—DISABILITY BENEFITS

Option number and description	OASDI cost 1983–89 (billions)		Long-term Cost (percent)
	II–B	III	
G–1 Use medical-only definition of disability	—$11	—$12	—.06
G–2 Apply disability eligibility criteria under present law for persons aged 60–64, to persons aged 55 and over	+1	+2	+.04
G–3 Increase disability waiting period from 5 months to 6 months	—2	—2	—.03
G–4 Require prognosis of 24 months of disability	—4	—5	—.07
G–5 Change requirement for disability-insured status by increasing recency-of-work test to 30 quarters of coverage in last 40 quarters (rather than 20 out of 40)	—4	—4	—.21
G–6 Change requirement for disability-insured status by eliminating the test of 20 quarters of coverage out of the last 40 quarters	+20	+22	+.24

G. *Disability benefits*

Present law. **Benefits are available to insured workers who meet the statutory definition of disability, with a waiting period of 5 full calendar months before the first month of eligibility.**

Options: **G–1 Establish a medical-only definition of disability (so that non-medical factors—such as age, education, and work experience—would no longer be considered in determining disability), effective for benefits for months after 1983 based on disabilities which begin after June 1983.**

COST
[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983–89
II–B	0	—.2	—1.1	—1.6	—2.2	—2.6	—2.9	—10.6
III	0	—.2	—1.3	—1.8	—2.5	—3.1	—3.5	—12.4

Long-Tern Cost: —.06% of taxable payroll.

G–2 Apply disability eligibility criteria under present law for persons aged 60–64, to persons aged 55 and over, effective in 1985.

COST
[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983–89
II–B	0	0	+.1	+.2	+.3	+.4	+.4	+1.4
III	0	0	+.1	+.2	+.3	+.4	+.5	+1.5

25-Year Cost: +.03% of taxable payroll.
50-Year Cost: +.04% of taxable payroll.
Long-term Cost: +.04% of taxable payroll.

G–3 Increase waiting period to 6 months (instead of 5 months, as at present), effective for benefits for months after 1983 based on disabilities which begin after June 1983.

COST
[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983–89
II–B	0	—.2	—.3	—.3	—.3	—.3	—.3	—1.7
III	0	—.2	—.3	—.4	—.4	—.4	—.4	—2.1

Long-Term Cost: —.03% of taxable payroll.

G-4 Require prognosis of at least 24 months of disability (instead of 12 months, as at present), effective for benefits for months after 1983 based on disabilities which begin after June 1983.

COST

[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983-89
II-B	0	−.1	−.4	−.6	−.8	−.9	−1.0	−3.8
III	0	−.1	−.5	−.7	−1.0	−1.1	−1.2	−4.6

Long-Term Cost: −.07% of taxable payroll.

G-5 Increase requirement for disability-insured status by requiring 30 Quarters of Coverage in the last 40 Quarters (instead of 20 QC out of 40), effective for benefits for months after 1983, based on disabilities which begin after June 1983.

COST

[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983-89
II-B	0	−.1	−.4	−.6	−.8	−.9	−1.0	−3.8
III	0	−.1	−.5	−.7	−.9	−1.0	−1.2	−4.4

Long-Term Cost: −.21% of taxable payroll.

G-6 Change the requirement for disability-insured status by eliminating the test of 20 QC out of the last 40 quarters, effective in 1984.

COST

[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983-89
II-B	0	+2.0	+3.3	+3.5	+3.6	+3.7	+3.9	+20.0
III	0	+2.1	+3.5	+3.8	+4.0	+4.1	+4.3	+21.8

Long-Term Cost: +.24% of taxable payroll.

SECTION H—PROPOSALS AFFECTING PRIMARILY WOMEN

Option number and description	OASDI cost 1983-89 (billion)		Long-term cost (percent)
	II-B	III	
H-1: Divorced and disabled widow(er)'s benefits not to be terminated upon remarriage	[1]	[1]	[1]
H-2: Provide benefits of 71.5% of deceased worker's PIA to disabled widow(er)'s claiming benefits at ages 50-59	+$1	+$1	+ .01
H-3: Provide benefits of 100% of the deceased worker's PIA to disabled widow(er)'s claiming benefits at ages 50-64	+6	+6	+ .03
H-4: Permit widow(er)'s to rescind an early-retirement decision in certain cases by counting the reduction in the widow(er)'s benefit as "repayment" of the early-retirement benefits paid	[1]	[1]	[1]
H-5: Provide indexing of earnings records for purposes of deferred survivor benefits by wages instead of by prices	[1]	[1]	+ .05
H-6: Permit a divorced spouse to receive benefits regardless of whether the insured former spouse has retired	[1]	[1]	+ .01
H-7: Change special-minimum benefit to allow credit for 10 childcare years; increase number of years countable toward the special-minimum benefit from 30 to 35 years	+15	+16	+ .14
H-8: Allow up to 3, 5, or 10 childcare drop-out years in computing the average earnings	[3]	[3]	[2]
H-9: Adopt comprehensive earnings sharing	[3]	[3]	− .06
H-10: Adopt earnings sharing at divorce, and inheritance of earnings credits	[3]	[3]	− .35
H-11: Adopt limited earnings sharing at divorce, and inheritance of earnings credits	[3]	[3]	[2]
H-12: Adopt the HHS development of the recommendations of the 1979 Advisory Council regarding earnings sharing	[3]	[3]	+ .12

[1] Less than $½ billion or less than .005% of payroll (as the case may be).
[2] The costs of each of these alternatives are shown on subsequent pages.
[3] Not available.

H. *Proposals affecting primarily women*

Widow(er)'s benefits: Present law. Benefits for widow(er)s who are divorced spouses and for disabled widow(er)s terminate when the beneficiary remarries.

Option. H-1 Do not terminate such benefits upon remarriage, effective in 1984.

COST

[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983-89
II-B	0	+.0	+.0	+.0	+.0	+.0	+.0	+.1
III	0	+.0	+.0	+.0	+.0	+.0	+.0	+.1

Long-Term Cost: Negligible.

Disabled widow(er)'s benefits: Present law. Reduced benefits for widow(er)s without dependent children are available at ages 60-64 (71½% of PIA at age 60), and 100% of the PIA is available at age 65. Disabled widow(er)s are eligible for reduced benefits at ages 50-59 (50% of PIA at age 50).

Option. H-2 Provide benefit of 71.5% of PIA (same as widow(er)'s benefits at age 60) to disabled widow(er)s claiming benefits at ages 50-59, effective in 1984.

COST

[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983-89
II-B	0	+.2	+.2	+.2	+.2	+.3	+.3	+1.4
III	0	+.2	+.2	+.2	+.2	+.3	+.3	+1.4

Long-Term Cost: +.01% of taxable payroll.

H-3 Provide benefit of 100% of PIA to disabled widow(er)s aged 50-64, effective in 1984.

COST

[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983-89
II-B	0	+.8	+.8	+.9	+1.0	+1.0	+1.1	+5.6
III	0	+.8	+.8	+.9	+1.0	+1.1	+1.2	+5.8

Long-Term Cost: +.03% of taxable payroll.

Limit on widow(er)'s benefits: Present law. There is an over-riding limit which is only applicable when the deceased worker had received early-retirement benefits; then, the widow's benefit cannot exceed the larger of the early-retirement benefit or 82.5% of the PIA. This maximum is applicable only when the widow is at least age 62 and has the most effect when the woman was older than her husband.

Option. H-4 When such limit on widow(er)'s benefits is applicable, and the retired worker dies before age 65, the widow(er) may "rescind" the early-retirement decision by counting the reduction in the widow(er)'s benefit resulting from such limit as "repayment" of the early-retirement benefits paid (including any auxiliary benefits). The period of repayment should be determined from the amounts payable to the beneficiaries who are eligible as of the date of the worker's death.

Long-Term Cost: Negligible.

Computation of deferred widow(er)'s benefits: Present law. If a worker dies before reaching age 62, benefits for the widow(er) are based on the worker's earnings, as indexed to average wage levels in the second year preceding death; the benefit is indexed in and after the year of death to reflect changes in the CPI.

Option. H-5 Index earnings records for purposes of *deferred* survivor benefits (e.g., a woman widowed at age 55 is first eligible for widow's benefits at age 60) through the earlier of (1) the year that the worker would have reached age 60, or (2) two years before the survivor becomes eligible for aged widow's benefits at age 60, effective in 1985.

COST

[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983-89
II-B	0	0	+.0	+.0	+.0	+.1	+.1	+.2
III	0	0	+.0	+.0	+.0	+.1	+.1	+.2

Long-Term Cost: +.05% of taxable payroll.

Divorced persons: Present law. A divorced spouse cannot receive spouse's benefits until the former spouse begins to receive benefits.

Option. H-6 A divorced spouse (divorced at least 3 years) would be able to receive benefits if he or she meets the age requirements for eligibility, regardless of whether or not the insured former spouse, aged 62 or over, has retired (the earnings test would apply to each independently), effective in 1984.[1]

COST

[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983-89
II-B	0	+.0	+.0	+.0	+.0	+.0	+.0	+.1
III	0	+.0	+.0	+.0	+.0	+.0	+.0	+.1

Long-Term Cost: +.01% of taxable payroll.

[1] As an alternative, the option could provide for a 1-year divorce requirement, instead of a 3-year requirement.

Childcare credits: Present law. To compute the Average Indexed Monthly Earnings of retired workers, the 5 lowest years of indexed earnings are dropped from the appropriate averaging period. For workers attaining age 62 in 1991 or later, retirement benefits will be based on the highest 35 years of indexed earnings. Present law also provides a special minimum benefit as an alternative computation based on the worker's "years of coverage," which is designed for long-service workers with earnings at approximately the Federal minimum-wage level.

Options. H-7 Change provisions for special-minimum benefit so as to allow credit for up to 10 childcare years (in which the worker had a child age 6 or under and did not earn enough to gain a year of coverage). Increase the number of years countable toward the special minimum benefit from 30 to 35, effective in 1984.

COST

[In billion of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983–89
II–B	0	+1.8	+2.1	+2.4	+2.6	+2.9	+3.2	+15.0
III	0	+1.8	+2.2	+2.5	+2.8	+3.2	+3.6	+16.1

Long-Term Cost: +.14% of taxable payroll.

H-8 Allow up to (alternatively) 3, 5, or 10 childcare drop-out years in computing Average Indexed Monthly Earnings for the purpose of calculating benefits under the regular benefit formula for each year the worker had a child under age 7 and did not earn more than half of the average wage of all covered workers during the year, effective in 1984.[1]

Long-Term Cost for Allowing up to 3 Years: +.21% of taxable payroll.
Long-Term Cost for Allowing up to 5 Years: +.36% of taxable payroll.
Long-Term Cost for Allowing up to 10 Years: +.60% of taxable payroll.

[1] Cost data for the short-term period are not available, but relatively little increase in cost would be involved during 1983–89.

Earnings sharing proposals: H-9 *Comprehensive "No-Cost" Plan.* the DHEW report, "Social Security and the Changing Roles of Men and Women," presented a comprehensive earnings-sharing proposal, within a "no cost" framework. Under the proposal, a person's Social Security protection would be based on her or his earnings when unmarried and, when married, on one-half of the total earnings credits of the married couple. A couple's annual earnings would be divided equally during years of marriage. The earnings would be split equally on divorce or when one spouse reaches age 62. Such split would not apply under certain conditions: (1) on death of a spouse, 80% of total earnings would be inherited, but not less than 100% of the earnings of the higher earner; (2) for purposes of benefits for young survivors, earnings would not be transferred between spouses with regard to a marriage in effect at time of death; and (3) for purposes of disability benefits, earnings would not be shared with regard to a marriage in effect at time of disability. The proposal did not include any transitional proposals.

Long-Term Cost: −.06% of taxable payroll.

H-10 *1979 Advisory Council Plan for Earnings Sharing at Divorce and Inheritance of Earnings Credits.* Credits earned during years of marriage would be divided equally between spouses at divorce. Benefits for each person would be based upon earnings before and after the marriage, plus half the couple's earnings during the marriage. Earnings would be shared only for years after 1980. If the higher-earner retired or became disabled before the lower-earner, he or she would receive benefits based on the higher-earner's full earnings, rather than half of the couple's combined earnings. Under a transitional provision (phased out by 2020), couples would receive the higher of the benefit calculated under earnings sharing or the benefit calculated under a transitional formula assuring the same purchasing power as under present law. A survivor would inherit the earnings credits of a deceased spouse acquired during the marriage. The survivor would receive 100% of the couple's combined earnings credits, plus any credits which the survivor had earned before or after the marriage.

Long-Term Cost: −.35% of taxable payroll.

H-11 *Inheritance of Earnings Credits at Death of Spouse and Limited Earnings Sharing at Divorce.* A survivor could inherit the earnings credits of a deceased spouse from work that occurred during their marriage. At ages 60–61, reduced widow(er)'s benefits would be calculated only from inherited earnings credits. At age 62, the individual would be eligible for retired worker's benefits based on inherited earnings credits combined with own earnings credits. Inheritance would also eliminate disabled widow(er)'s benefits eligibility for DI could be established through inheritance.

Upon request by either partner in a marriage of at least 10 years that ended in divorce, earnings credits would be split, for purposes of calculating retirement benefits only.

Long-Term Cost: +.06% of taxable payroll, without hold-harmless provision.[1]
+.23% of taxable payroll, with hold-harmless provision for those becoming widowed after 1980.[1]

[1] Hold-harmless provision would provide present benefits for aged and disabled widow(er)s forever, if higher.

H-12 *HHS Development of the Recommendations of the 1979 Advisory Council.* Either partner, at time of divorce, could apply to have earnings credits shared for years during a marriage. Disability benefits would be calculated based on shared earnings, but entitlement to disability could not be gained therefrom. Credits acquired during years of marriage would be credited to the earnings record of the surviving spouse. Inherited credits would substitute for all present-law benefits payable to aged and disabled widow(er)s. Benefits for surviving children, widowed mothers and fathers, and children of retired or disabled workers would not be affected. Under the transition provision, those reaching age 62 before 2010 would be eligible for the new basis, but would continue to be eligible for anxiliary and survivor benefits if higher.

Long-Term cost: +.12% of taxable payroll.

SECTION I—OTHER OPTIONS FOR BENEFIT CHANGES

Option number and description	OASDI cost 1983–89 (billions)		Longterm cost (percent)
	II-B	III	
I–1: Eliminate child's benefits for early-retirement cases	−$2	−$3	−.02
I–2: Eliminate all auxiliary benefits for early-retirement cases	(1)	(1)	−.03
I–3: Apply same Maximum Family Benefit for OASI cases as currently used for DI cases	−4	−4	−.10
I–4: Phase out retirement earnings test for persons aged 65 and over in 1988, with annual exempt amount increasing in 1985–87	+10	+11	+.14
I–5: Maintain age 72 as age at which earnings test does not apply	−5	−5	−.03
I–6: Increase delayed-retirement credit from 3% to 6% for each year that retirement is postponed past age 65	(1)	(1)	+.07
I–7: Provide partial refundable income tax credit at ages 65 and over when benefits are withheld under the earnings test	0	0	0
I–8: Provide 10% benefit increase for beneficiaries when they reach age 80, gradually phased in	+6	+7	+.26

[1] Not available.

I. *Other Options Regarding Benefit Changes*

I-1 Eliminate benefits for children of retired workers who have not attained age 65, effective for persons attaining age 62 in 1984.

COST

[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983–89
II–B	0	−.1	−.2	−.4	−.5	−.6	−.7	−2.5
III	0	−.1	−.2	−.4	−.6	−.7	−.8	−2.8

Long-Term Cost: −.02% of taxable payroll.

I-2 Eliminate all auxiliary benefits for early-retirement cases, effective for persons attaining age 62 in 1984.

COST

[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983–89
II–B	0	(1)	(1)	(1)	(1)	(1)	(1)	(1)
III	0	(1)	(1)	(1)	(1)	(1)	(1)	(1)

Long-Term Cost: −.03% of taxable payroll.

[1] Cost data not now available, but reductions in cost would be substantial in 1983–89 (which would tend to be offset over the long run, because the reductions for "early" claim of benefits would be eliminated in some cases and would be lower in other cases).

I-3 Apply same Maximum Family Benefit for OASI cases as is currently used for DI cases, effective for persons attaining age 62 after 1983 and for deaths before age 62 occurring after 1983. (in DI cases, family benefits are limited to the lesser of 85% of AIME or 150% of PIA, but never less than 100% of PIA.)

COST

[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983–89
II–B	0	−.2	−.4	−.6	−.8	−.9	−1.0	−3.9
III	0	−.2	−.4	−.7	−.9	−1.0	−1.0	−4.5

Long-Term Cost: −.10% of taxable payroll.

I-4 Phase out retirement earnings test for beneficiaries aged 65 and over, with annual exempt amount increasing to $10,000 in 1985, $15,000 in 1986, and $20,000 in 1987, and with elimination of test in 1988.

COST

[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983–89
II–B	0	0	+.6	+1.2	+1.8	+2.9	+3.1	+9.6
III	0	0	+.7	+1.4	+2.1	+3.3	+3.6	+11.1

Long-Term Cost: +.14% of taxable payroll.

I-5 Maintain age 72 as age at which earnings test no longer applies.

COST

[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983–89
II–B	−.6	−.6	−.7	−.7	−.8	−.9	−.9	−5.2
III	−.6	−.6	−.7	−.7	−.8	−.9	−.9	−5.2

25-Year Cost: −.02% of taxable payroll.
50-Year Cost: −.03% of taxable payroll.
Long-Term Cost: −.03% of taxable payroll.

I-6 Increase the delayed-retirement credit from 3% to 6% for each year that receipt of benefits is postponed past age 65 up until age 70, beginning in 1983.

COST

[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983–89
II–B	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
III	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)

25-Year Cost: +.02% of taxable payroll.
50-Year Cost: +.05% of taxable payroll.
Long-Term Cost: +.07% of taxable payroll.

[1] Cost data not now available, but costs would be small in 1983–89.

I-7 Provide a partial refundable income tax credit for persons aged 65 and over who do not receive benefits because of the earnings test (recommendation of 1981 National Commission on Social Security), effective in 1983.

No short-term or long-term cost to trust funds.

I-8 Provide a 10% increase in benefit amounts for beneficiaries when they attain age 80, phased in over a 10-year period (i.e., a 1% increase during 1984, rising to 10% during 1993 and after).

COST

[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983-89
II-B	0	+.2	+.5	+.9	+1.3	+1.6	+2.0	+6.5
III	0	+.2	+.5	+1.0	+1.5	+1.8	+2.3	+7.3

Long-term Cost: +.26% of taxable payroll.

SECTION J—TAXATION OF BENEFITS

Option number	description
J-1	Include 50% of OASDI benefits in adjusted gross income for income-tax purposes, with the proceeds credited to the OASDI Trust Funds.
J-2	Same as Option J-1, except that 100% of OASDI benefits would be included in adjusted gross income.
J-3	Include OASDI benefits in adjusted gross income for purposes of the income tax in the same manner as are unemployment benefits, with the proceeds being credited to the OASDI Trust Funds.
J-4	Include all OASDI benefits in adjusted gross income as soon as such benefits first exceed the total employee OASDI taxes paid, with the proceeds being credited to the OASDI Trust Funds.
J-5	Consider OASDI benefits as "income" for purposes of determining marginal income tax rates applicable to *other* income (OASDI benefits would *not* be taxable), with the proceeds being credited to the OASDI Trust Funds.
J-6	Include 50% of OASDI benefits in adjusted gross income, phased-in over 40 years, with the proceeds being credited to the OASDI Trust Funds. Also, there would be a phased-in exclusion of the employee OASDI taxes from such gross income.
J-7	Same as Option J-6 except that 100% of benefits would be included in adjusted gross income.

Note.—See subsequent pages for cost data, which are not summarized here because of the diverse nature of the estimates for the various proposals.

J. Taxation of benefits[1]

Present law. OASDI benefits are not subject to income tax.

Options. J-1 Include 50% of OASDI benefits in adjusted gross income for Federal income-tax purposes, with the proceeds credited to the OASDI Trust Funds, effective in 1984.

COST

[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983-88
These estimates, which are for fiscal years, are based on data provided by the Office of Tax Analysis, Department of the Treasury	0	−3.0	−8.9	−9.9	−10.6	−11.4	−12.3	−56.1

[1]All proposals in this section assume that the tax credit for persons aged 65 and over is eliminated. Such elimination provides most of the additional revenue in the early years for proposals J-3, J-4, J-6, and J-7.

Long-Term Cost: −.6% of taxable payroll.

J-2 Same as Option J-1, except that 100% of OASDI benefits would be included in adjusted gross income.

COST

[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983-88
These estimates, which are for fiscal years, are based on data provided by the Office of Tax Analysis, Department of the Treasury	0	−6.5	−22.1	−23.8	−25.4	−27.2	−29.3	−134.3

Long-Term Cost: −1.4% of taxable payroll.

J-3 Include 50% of OASDI benefits in adjusted gross income for Federal income-tax purposes in the same manner as unemployment benefits are taxed (namely, if benefits plus other income exceed $12,000 for single persons or $18,000 for married couples, then 50% of such benefits are included in adjusted gross income). The proceeds would be credited to the OASDI Trust Funds, effective in 1984.

COST

[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983-89
These estimates, which are for fiscal years, are based on data provided by the Office of Tax Analysis, Department of the Treasury	0	−3.4	NA	NA	NA	NA	NA	NA

Long-Term Cost: Not available.

J-4 Include all OASDI benefits in adjusted gross income for Federal income-tax purposes as soon as such benefits first exceed the total employee OASDI taxes paid, with the proceeds being credited to the OASDI Trust Funds, effective in 1984.

Short-Term Cost: Little effect in the early years. Ultimately, the effect would be similar to Option J-2.
Long-Term Cost: −1.3% of taxable payroll.

J-5 Consider OASDI benefits as "income" for purposes of determining the marginal Federal income tax rates applicable to other income, but continue to exclude OASDI benefits from such taxation. The additional proceeds resulting from such changed procedure would be credited to the OASDI Trust Funds, effective in 1984.

COST

[In billions of dollars]

Estimate	1983	1984	1985	1986	1987	1988	1989	1983-89
These estimates, which are for fiscal years, are based on data provided by the Office of Tax Analysis, Department of the Treasury	0	−31.1	NA	NA	NA	NA	NA	NA

Long-Term Cost: Not available.

J-6 Include 50% of OASDI benefits in adjusted gross income for Federal income-tax purposes, phased in over 40 years, with the proceeds being credited to the OASDI Trust Funds, effective in 1984. At the same time, there would be a phased-in exclusion of the employee OASDI taxes from such gross income (the resulting loss in tax revenues would not be taken from the OASDI Trust Funds).

Short-Term Cost: Little effect in the early years.
Long-Term Cost: −.4% of taxable payroll.

J-7 Same as Option J-6, except that 100% of OASDI benefits would be included in such adjusted gross income.

Short-Term Cost: Little effect in the early years.
Long-Term Cost: −1.20% of taxable payroll.

SECTION K—OTHER ISSUES

Option No.	*Description*
K-1	Trust-fund investment procedures.
K-2	Social Security and the unified budget.
K-3	Social Security Administration to become an independent agency.
K-4	Benefits to certain overseas beneficiaries.

OTHER ISSUES

K-1. Trust-fund investment procedures

Present law. The OASI, DI, HI, and SMI Trust Funds are invested in U.S. Government obligations, primarily in special issues, but also in publicly available obligations of the Federal government or certain Federal agencies. Maturity dates for the special issues are intended generally to be spread in equal amounts over the next 15 years. The interest rate for new special issues is equal to the average market-yield rate on all marketable government obligations that are not due or callable for at least 4 years.

Option. Revise the investment procedures of the four trust funds in the following manner—(1) in the future, all special issues would be invested on a month-to-month basis, at an interest rate based on the average market rate of all public debt obligations outstanding, exclusive of "flower" bonds; (2) all present special issues would be redeemed; (3) all "flower" bonds would be redeemed at their current market values (not their face or maturity values); and (4) all other current holdings would be held until maturity.

K-2. Social security and the unified budget

Present law. The operations of the OASI, DI, HI, and SMI Trust Funds are included in the Unified Budget.

Option. Remove the operations of the four trust funds from the Unified Budget.

K-3. Social Security Administration to become independent agency

Present law. The Social Security Administration is under the jurisdiction of the Department of Health and Human Services.

Option. Establish an independent Social Security agency, removed from the Department of Health and Human Services, and reporting directly to the President. This agency would be headed by a board, which might consist of three members appointed by the President, with Senate confirmation (e.g., the Chairman would have a term corresponding with that of the President, while the other two members would have to be of different political parties, with 4-year terms expiring at the end of 1986, 1990, etc.)

K-4. Benefits to certain overseas beneficiaries

Present law. OASDI benefits are payable outside of the United States—whether to citizens or non-citizens—on exactly the same basis as in the United States, except when the individual is a non-citizen of a country which does not pay benefits to U.S. citizens under parallel circumstances, or when the individual is residing in a country where there is no reasonable assurance that checks can be cashed at full value.

Option. Prohibit benefit eligibility for auxiliary benefits for spouses and children of beneficiaries living abroad when such auxiliary beneficiary had not resided in the U.S. for at least 5 years and when such auxiliary beneficiary continues to reside abroad.

Long-Term Cost: −.01% of taxable payroll.

LIST OF TABLES

1. Summary of current Social Security information.

2. Past and future OASDI-HI tax rates and taxable earnings bases (Table A—employer and employee, each; Table B—employer and employee combined; Table C—self-employed.

3. Growth of OASDI-HI programs, selected years 1940-81 and estimated future operations during CY 1982-86 under Alternatives II-A and II-B. (Tables A-C refer to OASDI and Table D refers to HI.)

4. Historical trust-fund ratio levels for OASDI, DI, and HI Trust Funds, 1950 to present.

5. Estimated operations of the OASI, DI, and HI Trust Funds in the short range, Alternatives, I, II-A, II-B, and III.

6. Long-range status of OASDI-HI Trust Funds under Alternatives I, II-A, II-B, and III.

7. Estimated cost rates of the OASDI-HI system under Alternatives II-A and II-B and comparison with tax rates, 1982-2060. (Tables A and B.)

8. Estimated OASI and DI Trust Fund ratios under Alternatives I, II-A, II-B, and III, 1982-2060.

9. Estimated cost of OASDI and HI systems as percent of Gross National Product, 1982-2060. (Tables A and B.)

10. Additional resources required under present law in near term to bring OASDI reserves up to certain levels (trust fund ratios of 15%, 25%, 50%, and 75%) under Alternatives II-B and III. (Tables A-D.)

11. Comparison of OASDI beneficiaries and covered workers; includes worker to beneficiary ratios, historical and projected under Alternatives I, II-A, II-B, and III, 1945-2060.

12. Demographic data—historical and assumptions under Alternatives I, II-A, II-B, and III regarding total fertility rate and life expectancy (at birth and at age 65), 1940-2060.

13. Economic data—historical and assumptions under Alternatives I, II-A, II-B, and III, 1960-2060.

14. Comparison of estimated and actual key economic indicators—1972 and 1977 forecasts.

15. Social Security coverage (includes information on percentage of workers covered, percentage of earnings covered and taxable payroll).

16. Social Security taxes paid by workers at Federal minimum, average, and maximum wage levels, 1937-90 (employees and the self-employed).

17. Historical comparison of average wage increases and increase in the CPI to Social Security benefit increases. (Tables A and B.)

TABLE 1.—SUMMARY OF CURRENT SOCIAL SECURITY INFORMATION

1. *Retirement test* (Annual exempt amounts in 1982): Age 65 and over—$6,000; under age 65—$4,440.

2. *SMI premium:* $12.20 per month (eff. 7/82).

3. *SSI payment standard:* $284.30 individual, $426.40 couple (eff. 7/82),

4. *Benefit formulas for 1982 cohort:*

PIA: 90% of first $230 of AIME, plus 32% of AIME over $230 thru $1,388, plus 15% of AIME over $1,388.

Maximum family benefit: 150% of first $294 of PIA, plus 272% of PIA over $294 thru $425, plus 134% of PIA over $425 thru $554 plus 175% of PIA over $554.

5. *Average benefits in current pay status:* [1]

	12/81	5/82	6/82
Retired worker alone	$377	$378	$406
Retired couple	643	647	695
Aged widow or widower	349	351	377
Young survivor family	858	851	914
Disabled worker alone	397	398	428
Disabled worker and family	802	793	851

[1] Office of the Actuary, Social Security Administration.

6. *Benefit examples:*

RETIRED WORKER AGE 65 IN 1983

	1/83 PIA
Federal minimum wage earner	$368.70
Average earner	552.50
Maximum earner	709.50

LONG-RANGE CONSTANT REPLACEMENT RATE UNDER DECOUPLED SYSTEM

	Percent
Federal minimum wage earner	55
Average earner	42
Maximum earner	28

7. *Poverty level:*

	1980 (actual) [1]	1981 (preliminary) [2]	1982 (projected)
Aged individual	$3,949	$4,360	$4,680
Couple, aged head	4,983	5,500	5,900
Family of four	8,414	9,290	9,970

[1] 1982 Trustees Report, Alternative II–B assumptions.
[2] Office of Research and Statistics, Social Security Administration.

TABLE 2A.—PAST AND FUTURE TAX RATES FOR EMPLOYERS, EMPLOYEES, AND SELF-EMPLOYED PERSON

[In percent]

Period	OASDI	HI	OASDI–HI
Employers and employees, each:			
1977	4.95	0.90	5.85
1978	5.05	1.00	6.05
1979–80	5.08	1.05	6.13
1981	5.35	1.30	6.65
1982–84	5.40	1.30	6.70
1985	5.70	1.35	7.05
1986–89	5.70	1.45	7.15
1990 and after	6.20	1.45	7.65
Self-employed persons:			
1977	7.00	0.90	7.90
1978	7.10	1.00	8.10
1979–80	7.05	1.05	8.10
1981	8.00	1.30	9.30
1982–84	8.05	1.30	9.35
1985	8.55	1.35	9.90
1986–89	8.55	1.45	10.00
1990 and after	9.30	1.45	10.75

TABLE 2B.—PAST AND FUTURE TAX RATES AND TAXABLE EARNINGS BASES FOR EMPLOYER AND EMPLOYEE COMBINED

Period	Taxable earnings base	Tax rate (percent) OASDI [1]	HI	Total	Maximum employee annual tax
1937–49	$3,000	2.0	.....	2.0	$30.00
1950	3,000	3.0	.....	3.0	45.00
1951–53	3,600	3.0	.....	3.0	54.00
1954	3,600	4.0	.....	4.0	72.00
1955–56	4,200	4.0	.....	4.0	84.00
1957–58	4,200	4.5(.5)	.....	4.5	94.50
1959	4,800	5.0(.5)	.....	5.0	120.00
1960–61	4,800	6.0(.5)	.....	6.0	144.00
1962	4,800	6.25(.5)	.....	6.25	150.00
1963–65	4,800	7.25(.5)	.....	7.25	174.00
1966	6,600	7.7(.7)	0.7	8.4	277.20
1967	6,600	7.8(.7)	1.0	8.8	290.40
1968	7,800	7.6(.95)	1.2	8.8	343.20
1969	7,800	8.4(.95)	1.2	9.6	374.40
1970	7,800	8.4(1.1)	1.2	9.6	374.40
1971	7,800	9.2(1.1)	1.2	10.4	405.60
1972	9,000	9.2(1.1)	1.2	10.4	468.00
1973	10,800	9.7(1.1)	2.0	11.7	631.80
1974	13,200	9.9(1.15)	1.8	11.7	772.20
1975	14,100	9.9(1.15)	1.8	11.7	824.85
1976	15,300	9.9(1.15)	1.8	11.7	895.05
1977	16,500	9.9(1.15)	1.8	11.7	965.25
1978	17,700	10.1(1.55)	2.0	12.1	1,070.85
1979	22,900	10.16(1.50)	2.1	12.26	1,403.77
1980	25,900	10.16(1.12)	2.1	12.26	1,587.67
1981	29,700	10.7(1.30)	2.6	13.3	1,975.05
1982	32,400	10.8(1.65)	2.6	13.4	2,170.80
1983	[2] 35,100	10.8(1.65)	2.6	13.4	2,351.70
1984	[2] 37,500	10.8(1.65)	2.6	13.4	2,512.50
1985	[2] 40,500	11.4(1.90)	2.7	14.1	2,855.25
1986–89	([2])	11.4(1.90)	2.9	14.3	([2])

TABLE 2B.—PAST AND FUTURE RATES AND TAXABLE EARNINGS BASES FOR EMPLOYER AND EMPLOYEE COMBINED—Continued

Period	Taxable earnings base	Tax rate (percent) OASDI [1]	HI	Total	Maximum employee annual Tax
1990 and after	([2])	12.4(2.20)	2.9	15.3	([2])

[1] Figures in parentheses are portion of total OASDI tax which is allocated to DI.
[2] Base is subject to automatic adjustment after 1981. Figures for 1983–85 are based on the 1982 trustees report (intermediate assumptions—Alternative II–B).

Note.—Cumulative employee taxes at maximum wages are $14,765.69 for 1937–81 and $14,330.69 for 1951–81.

TABLE 2C.—PAST AND FUTURE TAX RATES AND TAXABLE EARNINGS BASES FOR SELF-EMPLOYED

Period	Taxable earnings base	Tax rate (percent) OASDI [1]	HI	Total	Maximum annual tax
1951–53	$3,600	2.25	.....	2.25	$81.00
1954	3,600	3.00	.....	3.00	108.00
1955–56	4,200	3.00	.....	3.00	126.00
1957–58	4,200	3.375(.375)	.....	3.375	141.75
1959	4,800	3.75(.375)	.....	3.75	180.00
1960–61	4,800	4.50(.375)	.....	4.50	216.00
1962	4,800	4.70(.375)	.....	4.70	225.60
1963–65	4,800	5.40(.375)	.....	5.40	259.20
1966	6,600	5.80(.525)	0.35	6.15	405.90
1967	6,600	5.90(.525)	.50	6.40	422.40
1968	7,800	5.80(.7125)	.60	6.40	499.20
1969	7,800	6.30(.7125	.60	6.90	538.20
1970	7,800	6.30(.825)	.60	6.90	538.20
1971	7,800	6.90(.825)	.60	7.50	585.00
1972	9,000	6.90(.825)	.60	7.50	675.00
1973	10,800	7.00(.795)	1.00	8.00	864.00
1974	13,200	7.00(.815)	.90	7.90	1,042.80
1975	14,100	7.00(.815)	.90	7.90	1,113.90
1976	15,300	7.00(.815)	.90	7.90	1,208.70
1977	16,500	7.00(.815)	.90	7.90	1,303.50
1978	17,700	7.10(1.0900)	1.00	8.10	1,433.70
1979	22,900	7.05(1.0400)	1.05	8.10	1,854.90
1980	25,900	7.05(.7775)	1.05	8.10	2,097.90
1981	29,700	8.00(.9750)	1.30	9.30	2,762.10
1982	32,400	8.05(1.2375)	1.30	9.35	3,029.40
1983	[2] 35,100	8.05(1.2375)	1.30	9.35	3,281.85
1984	[2] 37,500	8.05(1.2375)	1.30	9.35	3,506.25
1985	[2] 40,500	8.55(1.4250)	1.35	9.90	4,009.50
1986–89	([2])	8.55(1.4250)	1.45	10.00	([2])
1990 and after	([2])	9.30(1.6500)	1.45	10.75	([2])

[1] Figures in parentheses are portion of total OASDI tax which is allocated to DI.
[2] Base is subject to automatic adjustment after 1981. Figures for 1983–85 are based on 1982 trustees report (intermediate assumptions—Alternative II–B).

Note.—Cumulative self-employed taxes at maximum earnings are $19,847.10 for 1951–81.

TABLE 3A.—OPERATIONS OF THE OASI AND DI TRUST FUNDS, COMBINED, DURING SELECTED CALENDAR YEARS 1960–81 AND ESTIMATED FUTURE OPERATIONS DURING CALENDAR YEARS 1982–86 UNDER THE INTERMEDIATE SETS OF ASSUMPTIONS

[In millions]

Calendar year	Income: Total	Contributions, less refunds	Reimbursements from the general fund of Treasury for costs of—: Noncontributory credits for military service	Payments to noninsured persons aged 72 and over	Interest on investments	Disbursements: Total	Benefit payments	Payments for vocational rehabilitation services	Administrative expenses	Transfers to Railroad Retirement Account	Net increase in funds	Funds at end of period
Past experience:												
1960	$12,445	$11,876	.....	.....	$569	$11,798	$11,245	.....	$240	$314	$647	$22,613
1965	17,857	17,205	.....	.....	651	19,187	18,311	.....	418	459	−1,331	19,841
1970	36,993	34,737	$94	$371	1791	33,108	31,863	$20	635	589	3,886	38,068
1975	67,640	64,259	247	268	2,866	69,184	66,923	99	1,152	1,010	−1,544	44,342
1976	75,034	71,595	481	236	2,722	78,242	75,665	95	1,244	1,239	−3,209	41,133
1977	81,982	78,710	513	228	2,531	87,254	84,576	92	1,379	1,208	−5,272	35,861
1978	91,904	88,883	526	230	2,264	96,018	92,865	95	1,439	1,618	−4,115	31,746
1979	105,864	103,034	511	164	2,155	107,320	104,263	96	1,483	1,477	−1,456	30,291
1980	119,712	116,711	521	150	2,330	123,550	120,512	86	1,522	1,430	−3,838	26,453
1981	142,438	139,364	703	140	2,231	144,352	[1] 140,996	([2])	1,742	1,614	−1,914	24,539

TABLE 3A.—OPERATIONS OF THE OASI AND DI TRUST FUNDS, COMBINED, DURING SELECTED CALENDAR YEARS 1960–81 AND ESTIMATED FUTURE OPERATIONS DURING CALENDAR YEARS 1982–86 UNDER THE INTERMEDIATE SETS OF ASSUMPTIONS—Continued

[In millions]

Calendar year	Income					Disbursements						
	Total	Contributions, less refunds	Reimbursements from the general fund of Treasury for costs of— Noncontributory credits for military service	Reimbursements from the general fund of Treasury for costs of— Payments to noninsured persons aged 72 and over	Interest on investments	Total	Benefit payments	Payments for vocational rehabilitation services	Administrative expenses	Transfers to Railroad Retirement Account	Net increase in funds	Funds at end of period
Estimated future experience:												
Alternative II-A:												
1982	[3] 152,976	149,528	716	139	1,814	160,287	156,135	167	1,984	2,001	−7,311	17,228
1983	165,754	163,924	727	125	978	174,633	170,175	12	2,232	2,214	−8,879	8,349
1984	178,896	178,195	735	109	−143	188,942	184,268	14	2,276	2,384	−10,046	−1,697
1985	205,535	205,329	743	92	−629	203,146	198,273	12	2,384	2,479	2,389	691
1986	225,099	224,744	521	78	−243	217,743	212,735	10	2,542	2,456	7,357	8,048
Alternative II-B:												
1982	[4] 154,093	146,300	716	139	1,625	160,279	156,127	167	1,984	2,001	−6,186	18,353
1983	163,129	161,969	727	126	308	175,465	170,983	12	2,232	2,238	−12,336	6,017
1984	178,640	178,861	736	108	−1,065	193,282	188,537	14	2,317	2,414	−14,642	−8,624
1985	204,476	205,702	747	92	−2,065	212,518	207,478	12	2,486	2,542	−8,042	−16,667
1986	222,467	224,449	608	78	−2,668	231,387	226,125	10	2,623	2,630	−8,920	−25,587

[1] Adjusted to exclude benefits for December 1981 that were paid on December 31, 1981 rather than January 3, 1982 which was a Sunday. These benefits are included in the 1982 figure so that amounts for 1981 and 1982 each reflect 12 months of benefit payments and are comparable to figures for other calendar years.

[2] Less than $500,000.

[3] Includes $779 million assumed to be borrowed from the HI Trust Fund under the interfund borrowing provisions.

[4] Includes $5,313 million assumed to be borrowed from the HI Trust Fund under the interfund borrowing provisions.

Note. Projections do not reflect the effects of the Tax Equity and Fiscal Responsibility Act of 1982 (P.L. 97–248). See Table 5 for summarized cost estimates including such effects.

Source: Table 24 in 1982 OASDI Trustees Report.

TABLE 3B.—OPERATIONS OF THE OASI TRUST FUND DURING SELECTED CALENDAR YEARS 1940–81 AND ESTIMATED FUTURE OPERATIONS DURING CALENDAR YEARS 1982–86 UNDER THE INTERMEDIATE SETS OF ASSUMPTIONS

[In millions]

Calendar year	Income					Disbursements						
	Total	Contributions, less refunds	Reimbursements from the general fund of Treasury for costs of— Noncontributory credits for military service	Reimbursements from the general fund of Treasury for costs of— Payments ot noninsured persons aged 72 and over	Interest on investments	Total	Benefit payments	Payments for vocational rehabilitation services	Administrative expenses	Transfers to Railroad Retirement Account	Net increase in fund	Fund at end of period
Past experience:												
1940	$368	$325	.....	.....	$43	$62	$35	.....	$26	.....	$306	$2,031
1945	1,420	1,285	.....	.....	134	304	274	.....	30	.....	1,116	7,121
1950	2,928	2,667	$4	.....	257	1,022	961	.....	61	.....	1,905	13,721
1955	6,167	5,713	.....	.....	454	5,079	4,968	.....	119	−$7	1,087	21,663
1960	11,382	10,866	.....	.....	516	11,198	10,677	.....	203	318	184	20,324
1965	16,610	16,017	.....	.....	593	17,501	16,737	.....	328	436	−890	18,235
1970	32,220	30,256	78	$371	1,515	29,848	28,796	$2	471	579	2,371	32,454
1975	59,605	56,816	157	268	2,364	60,395	58,509	9	896	982	−790	36,987
1976	66,276	63,362	378	236	2,301	67,876	65,699	6	959	1,212	−1,600	35,388
1977	72,412	69,572	385	228	2,227	75,309	73,113	8	981	1,208	−2,897	32,491
1978	78,094	75,471	384	230	2,008	83,064	80,352	9	1,115	1,589	−4,971	27,520
1979	90,274	87,919	393	164	1,797	93,133	90,556	18	1,113	1,448	−2,860	24,660
1980	105,841	103,456	390	150	1,845	107,678	105,074	8	1,154	1,442	−1,837	22,824
1981	125,361	122,627	534	140	2,060	126,695	[1]123,796	8	1,307	1,585	−1,334	21,490
Estimated future experience:												
Alternative II-A:												
1982	[2]135,956	126,973	542	139	1,266	141,770	138,458	22	1,339	1,951	−5,814	15,676
1983	139,130	138,872	547	125	−414	155,637	151,929	2	1,509	2,197	−16,507	−831
1984	149,173	150,967	551	109	−2,453	169,272	165,354	2	1,542	2,375	−20,099	−20,930
1985	167,606	171,246	554	92	−4,286	182,573	178,491	2	1,614	2,466	−14,967	−35,897
1986	182,173	187,285	363	78	−5,552	196,104	196,903	1	1,723	2,477	−13,931	−49,827
Alternative II-B:												
1982	[2]137,083	124,234	542	139	1,108	141,771	138,459	22	1,339	1,951	−4,688	16,802
1983	137,005	137,216	547	126	−883	156,392	152,663	2	1,509	2,218	−19,386	−2,584
1984	149,144	151,528	551	108	−3,043	173,183	169,210	2	1,569	2,402	−24,039	−26,623
1985	167,147	171,554	556	92	−5,055	191,059	186,847	2	1,684	2,526	−23,913	−50,536
1986	180,669	187,043	454	78	−6,906	208,524	204,104	1	1,777	2,641	−27,855	−78,391

[1] Adjusted to exclude benefits for December 1981 that were paid December 31, 1981 rather than January 3, 1982 which was a Sunday. These benefits are included in the 1982 figure so that amounts for 1981 and 1982 each reflect 12 months of benefit payments and are comparable to figures for other calendar years.

[2] Includes $7,036 million assumed to be borrowed from the DI and HI Trust Funds under the interfund borrowing provisions.

[3] Includes $11,060 million assumed to be borrowed from the DI and HI Trust Funds under the interfund borrowing provisions.

Note: Projections do not reflect the effects of the Tax Equity and Fiscal Responsibility Act of 1982 (P.L. 97–248). See Table 5 for summarized cost estimates including such effects.

Source: Table 20 in OASDI Trusteese Report.

TABLE 3C.—OPERATIONS OF THE DI TRUST FUND DURING SELECTED CALENDAR YEARS 1960–81 AND ESTIMATED FUTURE OPERATIONS DURING CALENDAR YEARS 1982–86 UNDER THE INTERMEDIATE SETS OF ASSUMPTIONS

[In millions]

Calendar year	Income				Disbursements						
	Total	Contributions, less refunds	Reimbursements from the general fund of Treasury for costs of noncontributory credits for military service	Interest on investments	Total	Benefit payments	Payments for vocational rehabilitation services	Administrative expenses	Transfers to Railroad Retirement Account	Net increase in fund	Fund at end of period
Past experience:											
1960	$1,063	$1,010	.....	$53	$600	$568	.....	$36	−$5	$464	$2,289
1965	1,247	1,188	.....	59	1,687	1,573	.....	90	24	−440	1,606
1970	4,774	4,481	$16	277	3,259	3,067	$18	164	10	1,514	5,614
1975	8,035	7,444	90	502	8,790	8,414	91	256	29	−754	7,354
1976	8,757	8,233	103	422	10,366	9,966	89	285	26	−1,609	5,745
1977	9,570	9,138	128	304	11,945	11,463	83	399	(1)	−2,375	3,370
1978	13,810	13,413	142	256	12,954	12,513	86	325	30	856	4,226
1979	15,590	15,114	118	358	14,186	13,708	78	371	30	1,404	5,630
1980	13,871	13,255	130	485	15,872	15,437	78	368	−12	−2,001	3,629
1981	17,078	16,738	168	172	17,658	[2] 17,200	−8	436	29	−580	3,049
Estimated future experience:											
Alternative II-A:											
1982	[3] 17,020	22,555	174	548	18,517	17,677	145	645	50	−1,497	1,552
1983	26,624	25,052	180	1,392	18,996	18,246	10	723	17	7,627	9,180
1984	29,723	27,228	184	2,311	19,670	18,914	12	735	9	10,053	19,232
1985	37,929	34,083	189	3,657	20,573	19,782	10	768	13	17,356	36,588
1986	42,926	37,459	158	5,309	21,639	20,832	8	819	−21	21,287	57,875
Alternative II-B:											
1982	[4] 17,010	22,066	174	517	18,508	17,668	145	645	50	−1,498	1,551
1983	26,124	24,753	180	1,191	19,073	18,320	10	723	20	7,051	8,602
1984	29,496	27,333	185	1,978	20,099	19,327	12	748	12	9,397	17,999
1985	37,329	34,148	191	2,990	21,459	20,631	10	802	16	15,870	33,869
1986	41,799	37,406	154	4,239	22,864	22,020	9	846	−11	18,935	52,804

[1] Less than $500,000 was transferred from the Railroad Retirement Account to the DI Trust Fund.
[2] Adjusted to exclude benefits for December 1981 that were paid on December 31, 1981 rather than January 3, 1982 which was a Sunday. These benefits are included in the 1982 figure so that amounts for 1981 and 1982 each reflect 12 months of benefit payments and are comparable to figures for other calendar years.
[3] Excludes $6,257 million assumed to be loaned to the OASI Trust Fund under the interfund borrowing provisions.
[4] Excludes $5,747 million assumed to be loaned to the OASI Trust Fund under the interfund borrowing provisions.

Note: Projections do not reflect the effects of the Tax Equity and Fiscal Responsibility Act of 1982 (P.L. 97–248). See Table 5 for summarized cost estimates including such effects.

Source: Table 22 in 1982 OASDI Trustees Report.

TABLE 3D.—OPERATIONS OF THE HOSPITAL INSURANCE TRUST FUND DURING CALENDAR YEARS 1966–84

[In millions]

Calendar year	Income								Disbursements				
	Payroll taxes	Transfers from railroad retirement account	Reimbursement for uninsured persons	Premiums from voluntary enrollees	Reimbursement for military wage credits	Reimbursement for PSRO review	Interest on investments	Total income	Benefits payments	Administrative expenses [1]	Total disbursements	Net increase in fund	Fund at end of year
Historical Data:													
1966	$1,858	$16	$26	.....	$11	.....	$32	$1,943	$891	$108	$999	$944	$944
1967	3,152	44	301	.....	11	.....	51	3,559	3,353	77	3,430	129	1,073
1968	4,116	54	1,022	.....	22	.....	74	5,287	4,179	99	4,277	1,010	2,083
1969	4,473	64	617	.....	11	.....	113	5,279	4,739	118	4,857	422	2,505
1970	4,881	66	863	.....	11	.....	158	5,979	5,124	157	5,281	698	3,202
1971	4,921	66	503	.....	48	.....	193	5,732	5,751	150	5,900	−168	3,034
1972	5,731	63	381	.....	48	.....	180	6,403	6,318	185	6,503	−99	2,935
1973	9,944	99	451	$2	48	.....	278	10,821	7,057	232	7,289	3,532	6,467
1974	10,844	132	471	5	48	.....	523	12,024	9,099	272	9,372	2,652	9,119
1975	11,502	138	621	7	48	.....	664	12,980	11,315	266	11,581	1,399	10,517
1976	12,727	143	[2] 0	9	141	.....	746	13,766	13,340	339	13,679	88	10,605
1977	14,114	[3] 0	[2] 803	12	[4] 143	.....	784	15,856	15,737	283	16,019	−163	10,442
1978	17,324	[3] 214	688	13	141	$29	805	19,213	17,682	496	18,178	1,035	11,477
1979	20,768	191	734	16	141	33	942	22,825	20,623	450	21,073	1,751	13,228
1980	23,848	244	697	18	141	33	1,116	26,097	25,064	512	25,577	521	13,749
1981	32,959	276	659	22	207	34	1,569	35,725	30,342	384	30,726	4,999	18,748
Projection:													
Alternative II–A:													
1982	35,474	344	808	27	207	0	2,058	[5] 38,139	35,097	573	35,670	2,469	21,217
1983	38,904	382	889	34	207	0	2,408	42,824	40,439	616	41,055	1,769	22,986
1984	42,285	398	770	40	207	0	2,539	46,239	45,951	657	46,608	−369	22,617
Alternative II–B:													
1982	34,702	344	808	27	207	0	2,022	[5] 32,797	35,097	573	35,670	−2,873	15,875
1983	38,453	375	889	34	207	0	2,269	42,237	40,995	627	41,622	615	16,490
1984	42,476	392	795	40	207	0	2,235	46,145	47,587	685	48,272	−2,127	14,363

[1] Includes costs of experiments and demonstration projects.
[2] No transfer is made in 1976 because of the change in transfer dates from December to March. The 1977 transfer is for benefits and administrative expenses during the 15-month period beginning July 1976 and ending September 1977.
[3] No transfer is made in 1977 because of the change in transfer dates from August to June. The 1978 transfer is for contributions during the five-quarter period covering the transition quarter and fiscal year 1977.
[4] Includes $2 million in reimbursement from general revenues for costs arising from the granting of noncontributory wage credits to persons of Japanese ancestry who were interned during World War II.
[5] Total income for 1982 is reduced by the amounts assumed to be loaned on December 31, 1982, by the HI Trust Fund under the interfund borrowing provisions. These amounts are $779 million and $5,313 million under alternatives II–A and II–B, respectively.

Note: Projections do not reflect the effects of the Tax Equity and Fiscal Responsibility Act of 1982 (P.L. 97–248). See Table 5 for summarized cost estimates including such effects.

Source: Table 6 in 1982 HI Trustees Report.

TABLE 4.—HISTORICAL LEVELS OF TRUST-FUND RATIOS FOR OASI, DI, AND HI TRUST FUNDS; ASSETS AT THE BEGINNING OF THE YEAR AS A PERCENTAGE OF EXPENDITURES DURING THE YEAR, FOR THE OASDI PROGRAM, BY TRUST FUND, FOR SELECTED CALENDAR YEARS 1950–81

Calendar year	OASI and DI Trust Funds, combined	OASI Trust Fund	DI Trust Fund
1950	1,156	1,156	
1955	405	405	
1960	186	180	304
1965	110	109	121
1970	103	101	126
1975	66	63	92
1976	57	54	71
1977	47	47	48
1978	37	39	26
1979	30	30	30
1980	25	23	35
1981	18	18	21

RATIO OF ASSETS IN THE FUND AT THE BEGINNING OF THE YEAR TO DISBURSEMENTS DURING THE YEAR FOR THE HOSPITAL INSURANCE TRUST FUND

[In percent]

	Calendar year—														
	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979	1980	1981
Ratio (percent)	28	25	43	47	54	47	40	69	79	77	66	57	54	52	45

Source: Table 16 in 1982 OASDI Trustees Report and Table 7 in 1982 HI Trustees Report.

TABLE 5A.—ESTIMATED OPERATIONS OF THE OASI, DI, AND HI TRUST FUNDS UNDER THE PROGRAM AS MODIFIED BY THE TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982, ON THE BASIS OF THE 1982 TRUSTEES REPORT ALTERNATIVE II–B ASSUMPTIONS, CALENDAR YEARS 1981–91

[Amounts in billions]

Calendar year	Income					Outgo				
	OASI	DI	OASDI	HI	Total	OASI	DI	OASDI	HI	Total
1981	$125.4	$17.1	$142.4	$35.7	$178.2	$126.7	$17.7	$144.4	$30.7	$175.1
1982	137.7	16.6	154.3	32.6	187.0	141.9	18.1	160.0	35.6	195.6
1983	136.5	26.1	162.6	44.0	206.6	156.5	19.0	175.5	40.8	216.3
1984	149.2	29.6	178.8	48.4	227.2	173.0	19.9	192.9	46.3	239.2
1985	167.3	37.5	204.8	54.5	259.3	190.9	21.3	212.2	51.9	264.1
1986	180.9	42.0	222.9	63.2	286.1	208.5	22.7	231.2	58.8	290.0
1987	194.5	46.5	241.0	68.5	309.5	226.3	24.2	250.6	66.9	317.5
1988	209.1	51.3	260.4	73.8	334.2	244.5	25.8	270.3	76.0	346.4
1989	223.9	56.5	280.4	78.9	359.3	263.2	27.6	290.8	86.1	376.9
1990	257.0	69.6	326.7	83.8	410.5	282.2	29.4	311.6	96.8	408.4
1991	275.7	76.7	352.4	88.5	440.9	300.8	31.4	332.1	108.7	440.8

Calendar year	Net increase in funds					Funds at end of year					Assets at beginning of year as a percentage of outgo during year				
	OASI	DI	OASDI	HI	Total	OASI	DI	OASDI	HI	Total	OASI	DI	OASDI	HI	Total
1981	−$1.3	−$0.6	−$1.9	$5.0	$3.1	$21.5	$3.0	$24.5	$18.7	$43.3	18	21	18	45	23
1982	−4.2	−1.5	−5.7	−3.0	−8.6	17.3	1.6	18.9	15.8	34.6	15	17	15	53	22
1983	−20.0	7.1	−12.8	3.2	−9.6	−2.6	8.7	6.1	19.0	25.0	11	8	11	39	16
1984	−23.8	9.7	−14.1	2.1	−12.0	−26.4	18.4	−8.0	21.0	13.0	−2	44	3	41	10
1985	−23.6	16.2	−7.4	2.6	−4.8	−50.0	34.6	−15.4	23.6	8.2	−14	86	−4	41	5
1986	−27.6	19.2	−8.4	4.4	−3.9	−77.6	53.8	−23.8	28.0	4.3	−24	152	−7	40	3
1987	−31.8	22.2	−9.6	1.6	−7.9	−109.4	76.1	−33.4	29.7	−3.7	−34	222	−9	42	1
1988	−35.4	25.5	−9.9	−2.3	−12.2	−144.9	101.6	−43.3	27.4	−15.9	−45	294	−12	39	−1
1989	−39.3	28.9	−10.4	−7.2	−17.7	−184.2	130.4	−53.7	20.2	−33.6	−55	368	−15	32	−4
1990	−25.1	40.2	−15.1	−13.0	2.1	−209.3	170.6	−38.7	7.2	−31.5	−65	443	−17	21	−8
1991	−25.1	45.4	−20.3	−20.2	.1	−234.4	216.0	−18.4	−13.0	−31.4	−70	544	−12	7	−7

Notes: 1. The income figures for 1982, and the end-of-year asset figures for 1982 and later, reflect the transfer of funds from the DI and HI Trust Funds to the OASI Trust Fund under the interfund borrowing authority provided by Public Law 97–123. Under this set of assumptions, a total of $11.6 billion would be transferred to OASI in 1982, $6.2 billion from DI and $5.5 billion from HI.

2. The estimated operations for OASI, OASDI, and OASDI and HI combined in 1983 and later are theoretical since, following the expiration of the present law interfund borrowing authority, the OASI Trust Fund would become depleted in July 1983 when assets would become insufficient to pay benefits when due. Similarly, the HI Trust Fund operations in 1991 are theoretical, since the fund would be depleted in 1991 under this set of assumptions.

TABLE 5B.—ESTIMATED OPERATIONS OF THE OASI, DI, AND HI TRUST FUNDS UNDER THE PROGRAM AS MODIFIED BY THE TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982, ON THE BASIS OF THE 1982 TRUSTEES REPORT ALTERNATIVE III ASSUMPTIONS, CALENDAR YEARS 1981–91

[Amounts in billions]

Calendar year										
Income	OASI	DI	OASDI	HI	Total	Outgo OASI	DI	OASDI	HI	Total
1981	$125.4	$17.1	$142.4	$35.7	$178.2	$126.7	$17.7	$144.4	$30.7	$175.1
1982	138.4	16.6	155.1	31.8	186.9	141.9	18.1	160.0	35.6	195.6
1983	133.3	25.6	158.9	43.0	201.9	157.7	19.1	176.8	40.8	217.6
1984	142.9	28.7	171.6	47.0	218.6	177.2	20.3	197.5	46.7	244.2
1985	162.3	37.1	199.4	53.7	253.2	199.8	22.2	222.0	54.2	276.3
1986	177.3	42.4	219.7	63.1	282.8	224.0	24.3	248.3	63.7	312.0
1987	192.6	48.0	240.6	69.3	309.9	250.2	26.5	276.6	75.2	351.9
1988	208.8	54.0	262.8	75.3	338.2	277.7	28.9	306.6	88.7	395.3
1989	225.6	60.6	286.2	81.1	367.3	306.8	31.6	338.4	104.2	442.6
1990	262.5	76.1	338.5	86.5	425.0	337.5	34.4	372.0	121.7	493.6
1991	285.0	85.6	370.5	91.5	462.0	369.4	37.6	406.0	142.0	548.9

Calendar year	Net increase in funds					Funds at end of year					Assets at beginning of year as a percentage of outgo during year				
	OASI	DI	OASDI	HI	Total	OASI	DI	OASDI	HI	Total	OASI	DI	OASDI	HI	Total
1981	−$1.3	−$0.6	−$1.9	$5.0	$3.1	$21.5	$3.0	$24.5	$18.7	$43.3	18	21	18	45	23
1982	−3.5	−1.5	−5.0	−3.8	−8.7	18.0	1.6	19.6	15.0	34.5	15	17	15	53	22
1983	−24.4	6.5	−17.9	2.2	−15.6	−6.4	8.1	1.7	17.2	18.9	11	8	11	37	16
1984	−34.3	8.4	−25.9	.2	−25.7	−40.7	16.4	−24.3	17.5	−6.8	−4	40	1	37	8
1985	−37.5	14.9	−22.6	−.5	−23.1	−78.2	31.4	−46.8	17.0	−29.9	−20	74	−11	32	−2
1986	−46.7	18.2	−28.5	−.6	−29.1	−124.9	49.5	−75.4	16.4	−59.0	−35	129	−19	27	−10
1987	−57.6	21.5	−36.1	−5.9	−42.0	−182.5	71.0	−111.4	10.5	−101.0	−50	187	−27	22	−17
1988	−68.9	25.1	−43.8	−13.3	−57.1	−251.3	96.1	−155.2	−2.9	−158.1	−66	246	−36	12	−26
1989	−81.2	29.0	−52.2	−23.1	−75.3	−332.6	125.1	−207.4	−26.0	−233.4	−82	305	−46	−3	−36
1990	−75.1	41.6	−33.5	−35.2	−68.6	−407.6	166.8	−240.9	−61.1	−302.0	−99	363	−56	−21	−47
1991	−84.4	48.0	−36.4	−50.5	−87.0	−492.0	214.8	−277.3	−111.7	−389.0	−110	444	−59	−43	−55

Notes: 1. The income figures for 1982, and the end-of-year asset figures for 1982 and later, reflect the transfer of funds from the DI and HI Trust Funds to the OASI Trust Fund under the interfund borrowing authority provided by Public Law 97–123. Under this set of assumptions, a total of $12.4 billion would be transferred to OASI in 1982, $6.1 billion from DI and $6.3 billion from HI.

2. The estimated operations for OASI, OASDI, and OASDI and HI combined in 1983 and later are theoretical since, following the expiration of the present law interfund borrowing authority, the OASI Trust Fund would become depleted in July 1983 when assets would become insufficient to pay benefits when due. Similarly, the HI Trust Fund operations in 1988 and later are theoretical, since the fund would be depleted in 1988 under this set of assumptions.

TABLE 5C.—ESTIMATED OPERATIONS OF THE OASI AND DI TRUST FUNDS UNDER THE PROGRAM AS MODIFIED BY THE TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982, ON THE BASIS OF THE 1982 TRUSTEES REPORT ALTERNATIVE I ASSUMPTIONS, CALENDAR YEARS 1981–91

[Amounts in billions]

Calendar year	Income			Outgo		
	OASI	DI	OASDI	OASI	DI	OASDI
1981	$125.4	$17.1	$142.4	$126.7	$17.7	$144.4
1982	136.2	16.6	152.9	141.8	18.1	160.0
1983	140.1	26.2	166.7	155.2	18.8	174.1
1984	154.5	30.2	184.8	168.3	19.4	187.6
1985	175.4	38.4	213.8	181.1	20.3	201.4
1986	191.2	43.0	234.2	193.5	21.3	214.7
1987	207.6	47.6	255.2	206.0	22.3	228.4
1988	224.4	52.4	276.8	218.2	23.5	241.7
1989	241.4	57.3	298.7	227.1	24.4	251.5
1990	274.9	69.7	344.6	238.8	25.7	264.6
1991	296.7	76.5	373.2	250.9	27.3	278.2

Calendar year	Net increase in funds			Funds at end of year			Assets at beginning of year as a percentage of outgo during year		
	OASI	DI	OASDI	OASI	DI	OASDI	OASI	DI	OASDI
1981	−$1.3	−$0.6	−1$1.9	$21.5	$3.0	$24.5	18	21	18
1982	−5.6	−1.5	−7.1	15.9	1.6	17.5	15	17	15
1983	−15.1	7.8	−7.3	.8	9.4	10.1	10	8	10
1984	−13.7	10.9	−2.9	−13.0	20.2	7.3	(1)	48	5
1985	−5.7	18.2	12.5	−18.6	38.4	19.8	−7	100	4
1986	−2.2	21.7	19.5	−20.9	60.1	39.2	−10	180	9
1987	1.6	25.3	26.9	−19.3	85.4	66.1	−10	269	17
1988	6.2	28.9	35.0	−13.1	114.2	101.1	−9	363	27
1989	14.3	32.9	47.2	1.2	147.1	148.3	−6	468	40
1990	36.1	44.0	80.0	37.3	191.1	228.4	1	572	56
1991	45.8	49.2	95.0	83.1	240.3	323.4	15	701	82

[1] Between 0.0 percent and 0.5 percent.

Notes: 1. The income figures for 1982, and the end-of-year asset figures for 1982 and later, reflect the transfer of funds from the DI and HI Trust Funds to the OASI Trust Fund under the interfund borrowing authority provided by Public Law 97–123. Under this set of assumptions, a total of $9.6 billion would be transferred to OASI in 1982, $6.2 billion from DI and $3.4 billion from HI.

2. The estimated operations for OASI and OASI and DI conmbined in 1983 and later are theoretical since, following the expiration of the present law interfund borrowing authority, the OASI Trust Fund would become depleted in July 1983 when assets would become insufficient to pay benefits when due.

Note: Health Care Financing Administration was unable to supply HI cost estimates.

TABLE 5D.—ESTIMATED OPERATIONS OF THE OASI AND DI TRUST FUNDS UNDER THE PROGRAM AS MODIFIED BY THE TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982, ON THE BASIS OF THE 1982 TRUSTEES REPORT ALTERNATIVE II–A ASSUMPTIONS, CALENDAR YEARS 1981–91

[Amounts in billions]

Calendar year	Income			Outgo		
	OASI	DI	OASDI	OASI	DI	OASDI
1981	$125.4	$17.1	$142.4	$126.7	$17.7	$144.4
1982	136.6	16.7	153.2	141.9	18.1	160.0
1983	138.3	26.5	164.9	155.7	18.9	174.6
1984	148.9	29.8	178.7	169.1	19.5	188.6
1985	167.4	38.0	205.4	182.4	20.4	202.9
1986	182.0	43.0	225.0	196.1	21.5	217.6
1987	198.0	48.0	246.1	210.6	22.8	233.3
1988	215.2	53.2	268.3	225.6	24.2	249.8
1989	232.4	58.5	290.9	241.2	25.8	267.0
1990	268.3	71.9	340.2	256.8	27.5	284.3
1991	289.0	78.9	367.9	271.9	29.3	301.2

Calendar year	Net increase in funds			Funds at end of year			Assets at beginning of year as a percentage of outgo during year		
	OASI	DI	OASDI	OASI	DI	OASDI	OASI	DI	OASDI
1981	−$1.3	−$0.6	−$1.9	$21.5	$3.0	$24.5	18	21	18
1982	−5.3	−1.5	−6.8	16.2	1.6	17.8	15	17	15
1983	−17.4	7.7	−9.8	−1.2	9.2	8.0	10	8	10
1984	−20.3	10.3	−10.0	−21.5	19.5	−2.0	−1	47	4
1985	−15.1	17.6	2.5	−36.5	37.1	.6	−12	96	−1
1986	−14.1	21.5	7.4	−50.6	58.6	8.0	−19	172	(1)
1987	−12.5	25.3	12.7	−63.2	83.9	20.7	−24	258	3
1988	−10.5	29.0	18.5	−73.6	112.8	39.2	−28	347	8
1989	−8.8	32.7	23.9	−82.4	145.5	63.1	−31	438	15
1990	11.6	44.4	56.0	−70.9	189.9	119.1	−32	529	22
1991	17.1	49.6	66.6	−53.8	239.5	185.7	−26	647	40

[1] Between 0.0 percent and 0.5 percent.

Notes: 1. The income figures for 1982, and the end-of-year asset figures for 1982 and later, reflect the transfer of funds from the DI and HI Trust Funds to the OASI Trust Fund under the interfund borrowing authority provided by Public Law 97–123. Under this set of assumptions, a total of $10.0 billion would be transferred to OASI in 1982, $6.2 billion from DI and $3.7 billion from HI.

2. The estimated operations for OASI and OASI and DI combined in 1983 and later are theoretical since, following the expiration of the present law interfund borrowing authority, the OASI Trust Fund would become depleted in July 1983 when assets would become insufficient to pay benefits when due.

Note: Health Care Financing Administration was unable to supply HI cost estimates.

TABLE 6.—LONG-RANGE STATUS OF OASDI-HI TRUST FUNDS; COMPARISON OF ESTIMATED AVERAGE COST RATE WITH AVERAGE TAX RATE BY ALTERNATIVE AND TRUST FUND

[As percent of taxable payroll]

Calendar years	Average tax rate	Estimated average cost rate by alternative				Difference by alternative			
		I	II–A	II–B	III	I	II–A	II–B	III
OASI:									
1982–2006	9.93	8.64	9.31	10.14	11.37	1.29	0.63	−0.21	−1.44
2007–31	10.20	9.84	11.58	12.43	15.83	.36	−1.38	−2.23	−5.63
2032–56	10.20	10.58	14.11	15.20	23.60	−.38	−3.91	−5.00	−13.40
1982–2056	10.11	9.69	11.66	12.59	16.93	.42	−1.55	−2.48	−6.82
DI:									
1982–2006	2.07	1.11	1.16	1.23	1.36	.97	.92	.85	.72
2007–31	2.20	1.45	1.57	1.65	2.00	.75	.63	.55	.20
2032–56	2.20	1.30	1.54	1.61	2.07	.90	.66	.59	.13
1982–2056	2.16	1.29	1.42	1.50	1.81	.87	.73	.66	.35
Total:									
1982–2006	12.01	9.75	10.46	11.37	12.73	2.26	1.55	.64	−.72
2007–31	12.40	11.30	13.15	14.08	17.84	1.10	−.75	−1.68	−5.44
2032–56	12.40	11.88	15.65	16.81	25.66	.52	−3.25	−4.41	−13.26
1982–2056	12.27	10.98	13.09	14.09	18.74	1.29	−.82	−1.82	−6.47

ACTUARIAL BALANCE OF THE HOSPITAL INSURANCE PROGRAM, UNDER ALTERNATIVE SETS OF ASSUMPTIONS [1]

[As Percent of taxable payroll]

	Alternative			
	I	II–A	II–B	III
Average contribution rate, scheduled under present law [2]	2.86	2.86	2.86	2.86
Average cost of the program, for expenditures and for trust fund maintenance [3]	[1] 3.72	[1] 4.49	[1] 4.93	[1] 6.59
Actuarial balance	−0.86	−1.63	−2.07	−3.73

[1] Does not reflect the effect of the Tax Equity and Fiscal Responsibility Act of 1982 (P.L. 97–248). When the effect of this legislation is taken into account, the average 25-year cost exclusive of trust-fund building and maintenance under Alternative II–B is 4.34% of taxable payroll (as contrasted with the comparable figure of 4.83% before enactment of such legislation).

[2] Average for the 25-year period, 1982–2006.

[3] Average for the 25-year period, 1982–2006, expressed as a percentage of taxable payroll.

Note: Taxable payroll is adjusted to take into account the lower contribution rates on self-employment income, on tips, and on multiple-employer "excess wages" as compared with the combined employer-employee rate.

Source: 1982 OASDI-HI Trustees Reports.

TABLE 7A.—ESTIMATED COST RATES OF THE OASDI SYSTEM UNDER ALTERNATIVES II-A AND II-B AND COMPARISON WITH TAX RATES, CALENDAR YEARS 1982–2060

[As percent of taxable payroll]

Calendar year	Estimated cost rate			Tax rate	Difference [1]
	OASI	DI	Total		
Alternative II–A:					
1982	10.18	1.33	11.51	10.80	−0.71
1983	10.21	1.25	11.46	10.80	−.66
1984	10.22	1.19	11.41	10.80	−.61
1985	10.07	1.13	11.20	11.40	.20
1986	9.91	1.09	11.00	11.40	.40
1987	9.75	1.06	10.81	11.40	.59
1988	9.63	1.03	10.66	11.40	.74
1989	9.53	1.02	10.55	11.40	.85
1990	9.45	1.01	10.47	12.40	1.93
1991	9.38	1.01	10.39	12.40	2.01
1992	9.35	1.03	10.37	12.40	2.03
1993	9.33	1.04	10.37	12.40	2.03
1994	9.29	1.05	10.35	12.40	2.05
1995	9.25	1.07	10.32	12.40	2.08
1996	9.15	1.10	10.25	12.40	2.15
1997	9.07	1.13	10.20	12.40	2.20
1998	9.00	1.16	10.15	12.40	2.25
1999	8.92	1.18	10.10	12.40	2.30
2000	8.82	1.20	10.03	12.40	2.37
2001	8.73	1.23	9.96	12.40	2.44
2002	8.68	1.25	9.93	12.40	2.47
2003	8.66	1.28	9.94	12.40	2.46
2004	8.65	1.32	9.97	12.40	2.43
2005	8.68	1.37	10.06	12.40	2.34
2006	8.72	1.39	10.11	12.40	2.29

TABLE 7A.—ESTIMATED COST RATES OF THE OASDI SYSTEM UNDER ALTERNATIVES II-A AND II-B AND COMPARISON WITH TAX RATES, CALENDAR YEARS 1982–2060—Continued

[As percent of taxable payroll]

Calendar year	Estimated cost rate			Tax rate	Difference [1]
	OASI	DI	Total		
2010	9.17	1.52	10.69	12.40	1.71
2015	10.35	1.61	11.96	12.40	.44
2020	11.88	1.65	13.53	12.40	−1.13
2025	13.36	1.61	14.96	12.40	−2.56
2030	14.22	1.53	15.75	12.40	−3.35
2035	14.39	1.50	15.89	12.40	−3.49
2040	14.12	1.52	15.64	12.40	−3.24
2045	13.93	1.56	15.48	12.40	−3.08
2050	13.98	1.55	15.53	12.40	−3.13
2055	14.10	1.53	15.63	12.40	−3.23
2060	14.12	1.52	15.63	12.40	−3.23
25-year averages:					
1982–2006	9.31	1.16	10.46	12.01	1.55
2007–2031	11.58	1.57	13.15	12.40	−.75
2032–2056	14.11	1.54	15.65	12.40	−3.25
75-year average:					
1982–2056	11.66	1.42	13.09	12.27	−.82
Alternative II–B:					
1982	10.42	1.36	11.78	10.80	−.98
1983	10.38	1.27	11.65	10.80	−.85
1984	10.42	1.21	11.63	10.80	−.83
1985	10.52	1.18	11.70	11.40	−.30
1986	10.55	1.16	11.71	11.40	−.31
1987	10.57	1.14	11.71	11.40	−.31
1988	10.56	1.12	11.68	11.40	−.28
1989	10.55	1.11	11.66	11.40	−.26
1990	10.54	1.10	11.64	12.40	.76
1991	10.49	1.10	11.59	12.40	.81
1992	10.43	1.11	11.54	12.40	.86
1993	10.39	1.12	11.51	12.40	.89
1994	10.33	1.13	11.46	12.40	.94
1995	10.27	1.14	11.42	12.40	.98
1996	10.18	1.17	11.35	12.40	1.05
1997	10.07	1.20	11.27	12.40	1.13
1998	9.96	1.23	11.19	12.40	1.21
1999	9.85	1.25	11.10	12.40	1.30
2000	9.75	1.28	11.03	12.40	1.37
2001	9.66	1.30	10.96	12.40	1.44
2002	9.58	1.32	10.90	12.40	1.50
2003	9.52	1.35	10.87	12.40	1.53
2004	9.48	1.39	10.87	12.40	1.53
2005	9.50	1.44	10.95	12.40	1.45
2006	9.53	1.46	10.99	12.40	1.41
2010	9.94	1.59	11.53	12.40	.87
2015	11.12	1.69	12.82	12.40	−.42
2020	12.72	1.73	14.44	12.40	−2.04
2025	14.29	1.68	15.97	12.40	−3.57
2030	15.23	1.60	16.83	12.40	−4.43
2035	15.45	1.57	17.02	12.40	−4.62
2040	15.20	1.59	16.80	12.40	−4.40
2045	15.03	1.63	16.66	12.40	−4.26
2050	15.09	1.63	16.72	12.40	−4.32
2055	15.21	1.60	16.81	12.40	−4.41
2060	15.22	1.59	16.81	12.40	−4.41
25-year averages:					
1982–2006	10.14	1.23	11.37	12.01	.64
2007–2031	12.43	1.65	14.08	12.40	−1.68
2032–2056	15.20	1.61	16.81	12.40	−4.41
75-year average:					
1982–2056	12.59	1.50	14.09	12.27	−1.82

[1] The tax rate minus the OASDI cost rate. Positive differences are referred to as surpluses, and negative differences, as deficits.

Note.—These estimates do not take into account the effect of the Tax Equity and Fiscal Responsibility Act of 1982 (Public Law 97–248). If this had been done, the cost rates would have been slightly lower.

Source: Table 27 of 1982 OASDI Trustees Report.

TABLE 7B.—ESTIMATED COST RATES OF HI AND OASDI–HI PROGRAMS UNDER ALTERNATIVE II-B AND COMPARISON WITH TAX RATES, 1986–2055

[As percent of taxable payroll]

Calendar year	HI program			OASDI-HI program		
	Cost rate [1]	Tax rate [2]	Difference [3]	Cost rate	Tax rate [2]	Difference [3]
1982	2.97	2.60	−.37	14.75	13.40	−1.35
1985	2.74	2.70	−.04	14.44	14.10	−.34
1990	3.51	2.90	−.61	15.15	15.30	+.15
1995	4.47	2.90	−1.57	15.89	15.30	−.59
2000	5.38	2.90	−2.48	16.41	15.30	−1.11
2005	6.29	2.90	−3.39	17.24	15.30	−1.94
2010	7.20	2.90	−4.30	18.73	15.30	−3.43
2015	7.94	2.90	−5.04	20.76	15.30	−5.46
2020	8.89	2.90	−5.99	23.33	15.30	−8.03
2025	9.93	2.90	−7.03	25.90	15.30	−10.60
2030	10.76	2.90	−7.86	27.59	15.30	−12.29
2035	11.17	2.90	−8.27	28.19	15.30	−12.89
2040	11.29	2.90	−8.39	28.09	15.30	−12.79
2045	11.21	2.90	−8.31	28.87	15.30	−12.57
2050	11.19	2.90	−8.29	27.91	15.30	−12.61
2055	11.17	2.90	−8.27	27.98	15.30	−12.68
Averages:						
1982–2006	4.34	2.86	−1.48	15.71	14.87	−.84
2007–31	8.78	2.90	−5.88	22.86	15.30	−7.56
2032–56	11.19	2.90	−8.29	28.00	15.30	−12.70
1982–2056	8.10	2.89	−5.21	22.19	15.16	−7.03

[1] These cost rates do not include any allowance for building up and maintaining the trust-fund ratio at 50 percent (which would require an additional .10 percent of taxable payroll in 1982–2006).

[2] For employer and employee combined.

[3] Tax rate minus cost rate. Positive differences are referred to as cash-flow surpluses, and negative differences as deficits.

Note.—These estimates for OASDI do not take into account the effect of the Tax Equity and Fiscal Responsibility Act of 1982 (Public Law 97–248), but those for HI do take this legislation into account. If this had been done, the cost rates for OASDI–HI would have been slightly lower.

Source: Table 27 of the 1982 OASDI trustees report and table 8 of the 1982 HI trustees report (extended beyond 2005 by Health Care Financing Administration under assumption that, then, hospital costs rise at the same rate as wages), in all cases reduced to allow for the effect of Public Law 97–248 (a reduction of about 10½ percent in all years after 1982).

TABLE 8.—ESTIMATED TRUST FUND RATIOS BY ALTERNATIVE AND TRUST FUND, CALENDAR YEARS 1982–2060

Calendar year	Alternative I			Alternative II–A			Alternative II–B			Alternative III		
	OASI	DI	Total	OASI	DI	Total	OASI	DI	Total	OASI	DI	Total
1982	15	16	15	15	16	15	15	16	15	15	16	15
1983	10	8	10	10	8	10	11	8	10	11	8	11
1984	1	48	6	(1)	47	4	(2)	43	3	(2)	39	1
1985	−7	98	4	−11	93	(1)	(2)	84	−4	(2)	71	(2)
1986	−10	178	9	−18	169	(3)	(2)	148	−7	(2)	125	(2)
1987	−10	265	17	−24	253	3	(2)	217	−10	(2)	181	(2)
1988	−9	359	27	−28	342	8	(2)	288	−13	(2)	239	(2)
1989	−6	464	40	−30	432	15	(2)	361	−16	(2)	297	(2)
1990	(3)	567	56	−32	524	22	(2)	436	−19	(2)	356	(2)
1991	15	696	82	−26	642	39	(2)	536	−13	(2)	436	(2)
1992	31	811	110	−18	753	58	(2)	631	−7	(2)	509	(2)
1993	47	934	138	−10	859	77	(2)	723	(3)	(2)	577	(2)
1994	65	1,041	167	(1)	961	97	(2)	812	7	(2)	643	(2)
1995	84	1,137	197	8	1,054	116	(2)	895	15	(2)	705	(2)
1996	104	1,208	228	18	1,122	136	(2)	959	23	(2)	755	(2)
1997	127	1,278	260	29	1,187	157	(2)	1,019	32	(2)	799	(2)
1998	150	1,345	293	41	1,247	178	(2)	1,076	42	(2)	837	(2)
1999	175	1,411	326	52	1,317	200	(2)	1,130	53	(2)	871	(2)
2000	202	1,468	362	67	1,369	223	(2)	1,178	64	(2)	900	(2)
2001	232	1,532	400	82	1,421	247	(2)	1,227	76	(2)	927	(2)
2002	262	1,589	438	99	1,467	271	(2)	1,270	89	(2)	951	(2)
2003	293	1,630	474	116	1,502	295	(2)	1,303	102	(2)	967	(2)
2004	324	1,656	510	133	1,526	317	(2)	1,327	115	(2)	977	(2)
2005	354	1,656	542	149	1,531	338	(2)	1,332	128	(2)	976	(2)
2006	384	1,702	576	165	1,568	358	(2)	1,366	140	(2)	991	(2)
2010	485	1,797	684	216	1,645	419	(2)	1,435	177	(2)	1,005	(2)
2015	539	1,967	745	224	1,779	434	(2)	1,549	177	(2)	1,033	(2)
2020	520	2,198	739	168	1,962	387	(2)	1,703	125	(2)	1,076	(2)
2025	457	2,549	698	67	2,240	300	(2)	1,938	31	(2)	1,162	(2)
2030	386	3,000	662	(2)	2,595	196	(2)	2,241	(2)	(2)	1,287	(2)
2035	332	3,410	651	(2)	2,902	89	(2)	2,504	(2)	(2)	1,390	(2)
2040	304	3,735	675	(2)	3,123	(2)	(2)	2,693	(2)	(2)	1,456	(2)
2045	298	4,031	719	(2)	3,295	(2)	(2)	2,837	(2)	(2)	1,515	(2)
2050	301	4,443	766	(2)	3,558	(2)	(2)	3,061	(2)	(2)	1,619	(2)
2055	305	4,942	811	(2)	3,873	(2)	(2)	3,330	(2)	(2)	1,758	(2)
2060	311	5,435	860	(2)	4,168	(2)	(2)	3,582	(2)	(2)	1,910	(2)
Trust fund is projected to be first exhausted in	1983	(4)	1983	1983	(4)	1983	1983	(4)	1983	1983	(4)	1983

[1] Between −0.5 percent and zero.
[2] The fund is projected to be exhausted and not to recover before the end of the projection period.
[3] Between zero and 0.5 percent.
[4] The fund is not projected to be exhausted within the projection period.

Note.—The definitions of alternatives I, II–A, II–B, and III, and trust fund ratio are presented in the text. The ratios shown after the year a given fund is projected to be exhausted are theoretical and are shown for informational purposes only, see the section on "Estimated Operations and Status of the Trust Funds during the Period October 1, 1981 to December 31, 1986" for further discussion. In addition, the ratios for the total of the OASI and DI Trust Funds after 1982 are theoretical, also because under the current law, after 1982, the assets of one fund cannot be borrowed by another fund. The money assumed to be borrowed by the OASI Trust Fund in December 1982 is assumed to be repaid in 1992 under alternative I, in 1998 under alternative II–A, and not at any time in the long-range projection period under alternatives II–B and III.

These estimates do not take into account the effect of the Tax Equity and Fiscal Responsibility Act of 1982 (Public Law 97–248). If this had been done, the fund ratios would have been slightly higher.

Source: Table 32 in 1982 OASDI trustees report.

TABLE 9A.—ESTIMATED COST OF THE OASD SYSTEM AS PERCENT OF GNP BY ALTERNATIVE CALENDAR YEARS 1982–2060

Calendar year	I	II–A	II–B	III
1982	5.07	5.06	5.16	5.19
1983	4.93	4.97	5.05	5.26
1984	4.82	4.87	5.03	5.28
1985	4.72	4.78	5.05	5.28
1986	4.63	4.69	5.04	5.31
1987	4.55	4.62	5.03	5.34
1988	4.48	4.55	5.00	5.37
1989	4.35	4.51	4.97	5.38
1990	4.31	4.47	4.94	5.38
1991	4.27	4.44	4.91	5.38
1992	4.24	4.41	4.87	5.35
1993	4.25	4.39	4.84	5.34
1994	4.21	4.36	4.80	5.32
1995	4.17	4.33	4.76	5.32
1996	4.11	4.29	4.70	5.31
1997	4.07	4.25	4.65	5.27
1998	4.04	4.21	4.59	5.22
1999	4.00	4.17	4.53	5.17
2000	3.94	4.13	4.48	5.15
2001	3.89	4.08	4.44	5.12
2002	3.86	4.06	4.40	5.08
2003	3.84	4.05	4.37	5.07
2004	3.84	4.05	4.35	5.06
2005	3.86	4.08	4.36	5.09
2006	3.86	4.09	4.37	5.11
2010	4.00	4.27	4.51	5.33
2015	4.38	4.71	4.92	5.89
2020	4.83	5.25	5.44	6.63
2025	5.18	5.73	5.90	7.37
2030	5.26	5.94	6.10	7.87
2035	5.10	5.91	6.05	8.13
2040	4.82	5.74	5.86	8.23
2045	4.58	5.60	5.70	8.36
2050	4.45	5.54	5.62	8.52
2055	4.37	5.49	5.54	8.61
2060	4.28	5.42	5.44	8.60
25 year averages:				
1982–2006	4.25	4.40	4.75	5.25
2007–2031	4.67	5.11	5.30	6.50
2032–2056	4.70	5.67	5.78	8.34

TABLE 9A.—ESTIMATED COST OF THE OASD SYSTEM AS PERCENT OF GNP BY ALTERNATIVE CALENDAR YEARS 1982–2060—Continued

Calendar year	I	II–A	II–B	III
75 year average:				
1982–2056	4.54	5.06	5.28	6.70

Source: Table 30 of 1982 trustees report.

TABLE 9B—ESTIMATED COST OF OASDI AND HI SYSTEMS AS PERCENT OF GNP UNDER ALTERNATIVE II–B, 1982–2050

Calendar year	OASDI	HI	OASDI–HI
1982	5.16	1.30	6.46
1985	5.05	1.18	6.23
1990	4.94	1.49	6.43
1995	4.76	1.90	6.66
2000	4.48	2.19	6.67
2005	4.36	2.50	6.86
2010	4.51	2.82	7.33
2015	4.92	3.05	7.97
2020	5.44	3.35	8.79
2025	5.90	3.67	9.57
2030	6.10	3.90	10.00
2035	6.05	3.97	10.02
2040	5.86	3.94	9.80
2045	5.70	3.84	9.54
2050	5.62	3.76	9.38
2055	5.54	3.68	9.22
Averages:			
1982–2006	4.75	1.81	6.56
2007–31	5.30	3.30	8.60
2032–56	5.78	3.85	9.63
1982–2056	5.28	3.04	8.32

Note.—These estimates for OASDI do not take into account the effect of the Tax Equity and Fiscal Responsibility Act of 1982 (Public Law 97–248). If this had been done, the figures for the OASDI–HI system would have been slightly lower.

Source: Derived from Tables 7A, 7B, and 9A.

TABLE 10A.—ESTIMATED TOTAL INCREASE IN SOCIAL SECURITY TAX INCOME REQUIRED DURING CALENDAR YEARS 1983–87 TO REACH ALTERNATIVE TARGET LEVELS OF TRUST FUND ASSETS BY BEGINNING OF 1988, UNDER ALTERNATIVES II–B AND III OF 1982 TRUSTEES REPORT

[In billions of dollars]

Trust fund	Asset goal at beginning of 1988 as percentage of expenditures in 1988			
	15	25	50	75
Alternative II–B:				
OASI	121	140	192	244
DI				
HI			7	23
OASDI	59	81	138	196
OASDI–HI	46	74	150	222
Alternative III:				
OASI	181	204	266	324
DI				
HI	3	11	29	48
OASDI	126	152	217	280
OASDI–HI	133	166	245	328

Notes.—The above estimates are based on the assumption that the target trust fund ratio would be approached in even steps between 1983 and 1988. Other patterns are possible and would lead to somewhat different estimates of the required tax increases.

The effects of the Tax Equity and Fiscal Responsibility Act of 1982 (Public Law 97–248) are reflected in these estimates.

Where no estimate is shown, it indicates that the asset goal is exceeded under present law.

TABLE 10B.—ESTIMATED TOTAL REDUCTION IN SOCIAL SECURITY BENEFITS REQUIRED DURING CALENDAR YEARS 1983–87 TO REACH ALTERNATIVE TARGET LEVELS OF TRUST FUND ASSETS BY THE BEGINNING OF 1988, UNDER ALTERNATIVES II–B AND III OF THE 1982 TRUSTEES REPORT

[In billions of dollars]

Trust fund	Asset goals at beginning of 1988 as percentage of expenditures in 1988 [1]			
	15	25	50	75
Alternative II–B:				
OASI	116	134	175	210
DI				
HI			6	19
OASDI	59	79	128	172
OASDI–HI	44	72	134	190
Alternative III:				
OASI	175	193	234	271
DI				
HI	2	9	24	37
OASDI	123	144	194	239
OASDI–HI	128	154	218	275

[1] Expenditures in 1988 are assumed to be reduced by about the same percentage as in 1983–87; the amount of the 1988 reduction is not included in the total reductions shown for 1983–87.

Notes.—The above estimates are based on the assumption that the target trust fund ratio would be approached in even steps between 1983 and 1988. Other patterns are possible and would lead to somewhat different estimates of the required benefit reductions.

The effects of the Tax Equity and Fiscal Responsibility Act of 1982 (Public Law 97–248) are reflected in these estimates.

Where no estimate is shown, it indicates that the asset goal is exceeded under present law.

TABLE 10C.—ESTIMATED TOTAL INCREASE IN OASDI TAX INCOME REQUIRED DURING 1983–89 TO REACH ALTERNATIVE TARGET LEVELS OF TRUST-FUND RATIOS BY BEGINNING OF 1988, UNDER ALTERNATIVES II-B AND III

[In billions of dollars]

Calendar year	1988 Trust-fund ratio of 15 percent		1988 Trust-fund ratio of 25 percent	
	Alternative II-B assumptions	Alternative III assumptions	Alternative II-B assumptions	Alternative III assumptions
1983	22	26	24	27
1984	15	26	20	32
1985	7	20	11	25
1986	8	25	13	30
1987	8	30	14	39
1988	8	34	8	35
1989	7	40	8	40
1983–89	75	201	98	228

Notes.—The "trust-fund ratio" is the ratio of the balance in the OASDI trust funds on a particular date to the outgo in the next 12 months.
The figures in the table do not include the repayment of the loan from the HI trust fund to the OASI trust fund in 1982 (about $5 billion).
The figures do take into account the effect of the Tax Equity and Fiscal Responsibility Act of 1982 (Public Law 97–248).

TABLE 10D.—ESTIMATED TOTAL REDUCTION IN OASDI BENEFIT OUTGO REQUIRED DURING 1983–89 TO REACH ALTERNATIVE TARGET LEVELS OF TRUST-FUND RATIOS BY BEGINNING OF 1988, UNDER ALTERNATIVES II–B AND III

[In billions of dollars]

Calendar year	1988 Trust-fund ratio of 15 percent		1988 Trust-fund ratio of 25 percent	
	Alternative II–B assumptions	Alternative III assumptions	Alternative II–B assumptions	Alternative III assumptions
1983	20	23	20	23
1984	17	26	20	30
1985	7	22	13	26
1986	8	24	13	29
1987	8	29	14	37
1988	8	34	9	35
1989	9	44	10	46
1983–89	77	202	99	226

Notes.—The "trust-fund ratio" is the ratio of the balance in the OASDI trust funds on a particular date to the outgo in the next 12 months.
The figures in this table do not include the repayment of the loan from the HI trust fund to the OASI trust fund in 1982 (about $5 billion).
The figures do take into account the effect of the Tax Equity and Fiscal Responsibility Act of 1982 (Public Law 97–248).

TABLE 11.—COMPARISON OF OASDI BENEFICIARIES AND COVERED WORKERS BY ALTERNATIVE, CALENDAR YEARS 1945–2060

Calendar year	Covered workers [1] (in thousands)	Beneficiaries [2] (in thousands)			Covered workers per OASDI beneficiary	Beneficiaries per 100 covered workers
		OASI	DI	Total		
1945	46,390	1,106		1,106	41.9	2
1950	48,280	2,930		2,930	16.5	6
1955	65,200	7,563		7,563	8.6	12
1960	72,530	13,740	522	14,262	5.1	20
1965	80,680	18,509	1,648	20,157	4.0	25
1970	93,090	22,618	2,568	25,186	3.6	28
1975	100,200	26,998	4,125	31,123	3.2	31
1980	[3] 114,300	30,384	4,734	35,118	[3] 3.3	[3] 31
Alternative I:						
1982	116,004	31,476	4,370	35,845	3.2	31
1985	126,557	33,028	4,047	37,075	3.4	29
1990	137,093	36,069	4,053	40,122	3.4	29
1995	141,637	37,609	4,249	41,858	3.4	30
2000	146,513	38,585	4,803	43,388	3.4	30
2005	151,749	40,066	5,506	45,572	3.3	30
2010	155,761	43,234	6,140	49,374	3.2	32
2015	158,066	48,449	6,552	55,001	2.9	35
2020	159,891	54,608	6,722	61,330	2.6	38
2025	162,842	60,782	6,612	67,394	2.4	41
2030	167,424	64,647	6,404	71,051	2.4	42
2035	173,020	66,058	6,419	72,477	2.4	42
2040	178,967	65,587	6,679	72,266	2.5	40
2045	184,936	65,452	7,045	72,497	2.6	39
2050	191,223	66,554	7,289	73,843	2.6	39
2055	198,021	68,258	7,451	75,709	2.6	38
2060	205,183	69,974	7,676	77,650	2.6	38
Alternative II–A:						
1982	115,955	31,482	4,375	35,857	3.2	31
1985	124,328	33,106	4,060	37,166	3.3	30
1990	133,921	36,431	4,126	40,557	3.3	30
1995	138,773	38,410	4,487	42,897	3.2	31
2000	144,133	39,823	5,193	45,016	3.2	31
2005	148,771	41,745	6,031	47,776	3.1	32
2010	151,577	45,376	6,753	52,129	2.9	34
2015	152,296	51,070	7,205	58,275	2.6	38
2020	152,100	57,789	7,372	65,161	2.3	43
2025	152,505	64,578	7,218	71,796	2.1	47
2030	154,100	69,188	6,946	76,134	2.0	49
2035	156,276	71,317	6,894	78,211	2.0	50
2040	158,430	71,497	7,073	78,570	2.0	50
2045	160,219	71,893	7,316	79,209	2.0	49
2050	162,023	73,079	7,392	80,471	2.0	50
2055	164,080	74,378	7,377	81,755	2.0	50
2060	166,318	75,258	7,422	82,680	2.0	50
Alternative II–B:						
1982	115,308	31,483	4,374	35,857	3.2	31
1985	123,300	33,106	4,061	37,167	3.3	30
1990	132,410	36,428	4,138	40,566	3.3	31
1995	137,644	38,408	4,486	42,894	3.2	31
2000	142,248	39,814	5,191	45,005	3.2	32
2005	146,798	41,725	6,028	47,753	3.1	33
2010	149,515	45,359	6,748	52,107	2.9	35

TABLE 11.—COMPARISON OF OASDI BENEFICIARIES AND COVERED WORKERS BY ALTERNATIVE, CALENDAR YEARS 1945–2060—Continued

Calendar year	Covered workers [1] (in thousands)	Beneficiaries [2] (in thousands)			Covered workers per OASDI beneficiary	Beneficiaries per 100 covered workers
		OASI	DI	Total		
2015	150,148	51,048	7,198	58,246	2.6	39
2020	149,873	57,753	7,361	65,114	2.3	43
2025	150,205	64,542	7,207	71,749	2.1	48
2030	151,750	69,138	6,934	76,072	2.0	50
2035	153,889	71,277	6,882	78,159	2.0	51
2040	156,015	71,440	7,061	78,501	2.0	50
2045	157,777	71,824	7,304	79,128	2.0	50
2050	159,545	73,034	7,380	80,414	2.0	50
2055	161,573	74,313	7,364	81,677	2.0	51
2060	163,778	75,215	7,410	82,625	2.0	50
Alternative III:						
1982	115,178	31,496	4,376	35,872	3.2	31
1985	121,330	33,255	4,079	37,334	3.2	31
1990	130,300	37,125	4,246	41,371	3.1	32
1995	135,944	40,013	4,714	44,727	3.0	33
2000	140,370	42,415	5,560	47,975	2.9	34
2005	144,254	45,360	6,510	51,870	2.8	36
2010	145,600	50,080	7,293	57,373	2.5	39
2015	144,295	56,934	7,759	64,693	2.2	45
2020	141,475	64,913	7,898	72,811	1.9	51
2025	138,631	73,154	7,683	80,837	1.7	58
2030	136,560	79,327	7,324	86,651	1.6	63
2035	134,724	83,133	7,172	90,305	1.5	67
2040	132,593	84,945	7,214	92,159	1.4	70
2045	129,844	86,866	7,252	94,118	1.4	72
2050	126,971	89,022	7,071	96,093	1.3	76
2055	124,339	90,398	6,796	97,194	1.3	78
2060	121,968	90,672	6,587	97,259	1.3	80

[1] Workers with taxable earnings at some time during the year.
[2] Beneficiaries with monthly benefits in current-payment status as of June 30.
[3] Preliminary.

Note.—The definitions of alternatives I, II–A, II–B, and III are presented in the text. The numbers of beneficiaries do not include certain noninsured persons aged 72 and over with less than 3 quarters of coverage, the costs for whom are reimbursable to the OASI Trust Fund by the general fund of the Treasury. The number of such persons is estimated to be 69,500 as of June 30, 1982, and less than 1,000 by the turn of the century.
Source: Table 28 in 1982 OASDI trustees report.

TABLE 12.—SELECTED DEMOGRAPHIC ASSUMPTIONS BY ALTERNATIVE, CALENDAR YEARS 1940–2060

Calendar year	Total fertility rate [1]	Life expectancy [2]			
		At birth		At age 65	
		Male	Female	Male	Female
Past experience:					
1940	2.23	61.1	65.6	12.0	13.7
1945	2.42	62.7	68.5	12.7	14.7
1950	3.03	65.5	71.2	12.9	15.4
1955	3.50	66.7	73.0	13.2	15.9
1960	3.61	66.7	73.4	13.0	16.1
1965	2.88	66.8	74.1	13.0	16.6
1970	2.43	67.1	74.9	13.2	17.2
1975	1.77	68.7	76.5	13.7	18.1
1976	1.74	69.0	76.7	13.8	18.1
1977	1.79	69.3	77.1	13.9	18.4
1978	1.76	69.5	77.2	14.0	18.4
1979	1.81	69.8	77.7	14.3	18.7
1980	1.84	69.8	77.7	14.3	18.7
Alternative I:					
1981	1.87	70.0	77.9	14.3	18.8
1982	1.89	70.1	78.0	14.4	18.9
1983	1.91	70.2	78.1	14.4	19.0
1984	1.93	70.3	78.2	14.5	19.0
1985	1.96	70.4	78.3	14.5	19.1
1990	2.07	70.9	78.9	14.8	19.4
1995	2.18	71.2	79.2	14.9	19.7
2000	2.29	71.4	79.4	15.0	19.8
2005	2.40	71.5	79.5	15.1	19.9
2010	2.40	71.6	79.6	15.2	20.0
2020	2.40	71.8	79.9	15.3	20.2
2030	2.40	72.0	80.1	15.5	20.4
2040	2.40	72.2	80.3	15.6	20.6
2050	2.40	72.4	80.6	15.7	20.8
2060	2.40	72.6	80.8	15.9	21.0
Alternatives II-A and II-B:					
1981	1.86	70.1	78.0	14.4	18.9
1982	1.87	70.4	78.3	14.5	19.1
1983	1.88	70.6	78.5	14.6	19.3
1984	1.89	70.8	78.7	14.7	19.4
1985	1.90	71.0	78.9	14.8	19.5
1990	1.95	71.9	80.0	15.3	20.3
1995	2.00	72.6	80.8	15.6	20.8
2000	2.05	72.9	81.1	15.8	21.1
2005	2.10	73.2	81.4	16.0	21.4
2010	2.10	73.4	81.6	16.1	21.6
2020	2.10	73.8	82.1	16.4	22.0
2030	2.10	74.2	82.6	16.7	22.4
2040	2.10	74.6	83.1	17.0	22.8
2050	2.10	75.0	83.6	17.3	23.2
2060	2.10	75.4	84.1	17.6	23.6
Alternative III:					
1981	1.84	70.3	78.3	14.5	19.1
1982	1.83	70.8	78.9	14.7	19.5
1983	1.83	71.3	79.4	14.9	19.8
1984	1.82	71.7	79.8	15.1	20.1
1985	1.82	72.1	80.2	15.3	20.4
1990	1.79	74.0	82.5	16.3	22.1
1995	1.76	75.3	84.1	17.0	23.5
2000	1.73	75.9	84.9	17.4	24.2
2005	1.70	76.4	85.5	17.8	24.7

TABLE 12.—SELECTED DEMOGRAPHIC ASSUMPTIONS BY ALTERNATIVE, CALENDAR YEARS 1940–2060—Continued

Calendar year	Total fertility rate [1]	Life expectancy [2]			
		At birth		At age 65	
		Male	Female	Male	Female
2010	1.70	76.8	86.0	18.1	25.1
2020	1.70	77.7	87.2	18.8	26.1
2030	1.70	78.5	88.3	19.5	27.2
2040	1.70	79.4	89.5	20.1	28.2
2050	1.70	80.2	90.6	20.8	29.3
2060	1.70	81.0	91.8	21.5	30.4

[1] The total fertility rate for any year is the average number of children who would be born to a woman in her lifetime if she were to experience the birth rates by age observed in, or assumed for, the selected year, and if she were to survive the entire child-bearing period.

[2] The life expectancy for any year is the average number of years of life remaining to a person if that person were to experience the death rates by age assumed for the selected year.

Source: Table II, 1982 OASDI trustees report, and Office of the Actuary, SSA.

TABLE 13.—SELECTED ECONOMIC ASSUMPTIONS BY ALTERNATIVE, CALENDAR YEARS 1960–2060

Calendar year	Average annual percentage increase in—			Real-wage differential [2] (percent)	Average annual interest rate [3] (percent)	Average annual unemployment rate [4] (percent)
	Real GNP	Average wages in covered employment	Consumer price index			
Past experience:						
1960–64	4.0	3.4	1.3	2.1	3.7	5.7
1965–69	4.4	5.4	3.4	2.0	5.2	3.8
1970	−.2	4.9	5.9	−1.0	7.3	4.9
1971	3.4	4.9	4.3	.6	6.0	5.9
1972	5.7	7.3	3.3	4.0	5.9	5.6
1973	5.8	6.9	6.2	.7	6.6	4.9
1974	−.6	7.4	11.0	−3.6	7.5	5.6
1975	−1.1	6.6	9.1	−2.5	7.4	8.5
1976	5.4	[5] 8.2	5.7	[5] 2.5	7.1	7.7
1977	5.5	[5] 8.0	6.5	[5] 1.5	7.1	7.0
1978	4.8	[5] 8.2	7.6	[5] .6	8.2	6.0
1979	3.2	[5] 8.8	11.4	[5] −2.6	9.1	5.8
1980	−.2	[5] 8.6	13.5	[5] −4.9	11.0	7.1
Alternative I:						
1981	[6] 2.1	8.8	10.3	−1.5	13.3	7.6
1982	1.1	8.2	6.3	1.9	12.7	8.6
1983	5.6	7.3	5.9	1.4	10.3	7.4
1984	5.4	7.5	4.6	2.9	7.8	6.5
1985	5.1	7.0	4.2	2.8	6.6	5.8
1986	4.8	6.7	3.8	2.9	6.0	5.4
1987	4.6	6.4	3.4	3.0	5.7	5.0
1988	4.4	6.1	3.0	3.1	5.6	4.8
1989	4.2	5.7	2.6	3.1	5.4	4.6
1990	4.0	5.2	2.2	3.0	5.3	4.3
1995	3.4	4.5	2.0	2.5	5.1	4.0
2000 & later	[7] 3.5	4.5	2.0	2.5	5.1	4.0
Alternative II–A [8]:						
1981	[6] 1.9	8.8	10.3	−1.5	13.3	7.6
1982	.3	8.6	6.8	1.8	13.4	8.9
1983	5.2	6.3	6.0	.3	12.1	7.9
1984	5.0	5.6	4.6	1.0	10.8	7.1
1985	4.8	7.4	4.8	2.6	9.8	6.4
1986	4.4	7.3	4.6	2.7	8.2	5.8
1987	4.3	7.1	4.5	2.6	6.7	5.3
1988	4.1	7.1	4.3	2.8	6.4	5.2
1989	3.9	6.6	3.9	2.7	6.2	5.1
1990	3.7	6.0	3.5	2.5	6.0	5.0
1995	3.0	5.0	3.0	2.0	5.6	5.0
2000 & later	[7] 3.1	5.0	3.0	2.0	5.6	5.0
Alternative II–B:						
1981	[6] 1.8	8.6	10.3	−1.7	13.3	7.6
1982	−.8	6.6	6.9	−.3	13.0	9.1
1983	4.2	8.1	7.9	.2	11.4	8.5
1984	3.3	8.1	7.4	.7	9.3	8.0
1985	3.0	6.9	6.6	.3	8.0	7.7
1986	3.0	6.8	5.8	1.0	7.1	7.4
1987	3.0	6.6	5.5	1.1	6.8	7.1
1988	3.0	6.6	5.3	1.3	6.6	6.8
1989	3.0	6.4	4.9	1.5	6.5	6.4
1990	3.0	6.0	4.5	1.5	6.4	6.1
1995	2.5	5.5	4.0	1.5	6.1	5.0
2000 & later	[7] 2.6	5.5	4.0	1.5	6.1	5.0
Alternative III:						
1981	[6] 1.8	8.6	10.3	−1.7	13.3	7.6
1982	−1.5	6.3	7.2	−.9	13.1	9.3
1983	.6	7.3	9.6	−2.3	12.3	9.8
1984	2.5	7.8	9.6	−1.8	10.5	9.6
1985	3.8	9.2	9.2	.0	9.4	8.8
1986	2.9	9.1	8.8	.3	8.8	8.4
1987	2.7	8.7	8.4	.3	8.3	8.0
1988	2.7	8.5	8.0	.5	8.1	7.7
1989	2.7	8.3	7.6	.7	7.8	7.3
1990	2.7	8.0	7.2	.8	7.6	6.9
1995	1.8	6.2	5.2	1.0	6.7	6.0
2000 & later	[7] 2.1	6.0	5.0	1.0	6.6	6.0

[1] The real GNP (Gross National Product) is the total output of goods and services expressed in constant dollars.

[2] The difference between the percentage increase in average annual wages in covered employment and the percentage increase in the average annual CPI.

[3] The average of the interest rates determined in each of the 12 months of the year for special public-debt obligations issuable to the trust funds.

[4] The ultimate rates are adjusted by age and sex based on the total labor force aged 16 and over as of July 1, 1970. Rates shown for earlier years are civilian unemployment rates for those years.

[5] Preliminary.

[6] The actual value of the 1981 increase in real GNP was 2.0 percent. This value was not available at the time the cost estimates were prepared; the cost estimates were based on the assumed increases in real GNP shown under the four alternatives.

[7] This value is for the year 2000. The annual percentage increase in real GNP is assumed to continue to change after 2000 under each alternative to reflect the dependence of labor force growth on the size and age-sex distribution of the population. The percentage increases for 2060 are 3.4, 2.5, 2.1, and 1.0 for alternatives I, II–A, II–B, and III, respectively.

[8] The economic assumptions in alternative II–A for 1981–87 are identical to or derived from the assumptions underlying the President's 1983 Budget, with the exception of the assumed 1981 increases in the nominal wage and the real wage as well as the assumed 1982 increases in the real wage and the CPI, all of which have been adjusted to reflect actual experience available since the Budget assumptions were released.

Source: Table 10 in 1982 OASDI trustees report.

TABLE 14.—COMPARISON OF ESTIMATED AND ACTUAL KEY ECONOMIC INDICATORS, 1972–73 FORECASTS [1]

[In percent]

Calendar year	Key economic indicators								
	CPI increase			Real wage differential [2]			Unemployment rate		
	Estimated		Actual	Estimated		Actual	Estimated		Actual
	In 1972	In 1973		In 1972 [3]	In 1973 [3]		In 1972	In 1973	
1972			3.3			4.0			5.6
1973			6.2			0.7			4.9
1974			11.0			−3.5			5.6
1975	2.75	3.3	9.1	2.25	2.9	−2.5	4.2	4.5	8.5
1976			5.8			2.5			7.7
1977		2.75	6.5			0.4			7.0
1978		2.75	7.7		2.25	0.5			6.0
1979		2.75	11.5		2.25	−3.1			5.8
1980		2.75	13.5		2.25	−5.0			7.1

[1] There were a number of legislative changes made to "automatic" provisions between July 1972 and December 1973.
[2] Real wage: Defined as the increase in average nominal wages over prices.
[3] Actually, the long-range trust fund projections had a safety margin of ⅜ of a percent built into the real wage differential. For trust fund projection purposes the average increase in real wages was assumed to be 1⅞ percent per year (reflected by an annual increase in the CPI of 3⅛ percent).

TABLE 14A—COMPARISON OF ESTIMATED AND ACTUAL KEY ECONOMIC INDICATORS, 1977 FORECAST [1]

[In percent]

Calendar year	Key economic indicators					
	CPI increase		Real wage differential		Unemployment rate	
	Estimated	Actual	Estimated	Actual	Estimated	Actual
1977	6.0	6.5	2.4	0.4	7.1	7.0
1978	5.4	7.7	2.7	0.5	6.3	6.0
1979	5.3	11.5	2.5	−3.1	5.7	5.8
1980	4.7	13.5	2.4	−5.0	5.2	7.1
1981	4.1	[2] 11.1	2.3	[2] −0.9	5.0	[2] 7.8

[1] The 1977 forecast was based on the intermediate set of assumptions in the 1977 trustees' report.
[2] Estimates based on the economic assumptions under the II–B path in the 1981 trustees' report.

Note.—In summary, what has occurred with respect to both the 1972–73 and 1977 Trust Fund forecasts is that the higher than projected inflation rate caused benefits to increase far beyond expectations, and aggregate expenditures to do likewise, while lower real wage growth and higher unemployment caused revenues to grow at an inadequate rate.

Source: Staff data and materials related to social security financing, Senate Committee on Finance, September 1981.

TABLE 15.—SOCIAL SECURITY COVERAGE INFORMATION

[Workers covered—estimates for 1980]

Type of employment	Number of persons (millions)		Proportion covered (percent)
	Total [1]	Covered [2]	
Wage and salary	108.9	97.5	89.5
Private sector	88.0	84.5	96.0
Industry and commerce	77.0	76.8	99.7
Farm	2.0	1.5	74.6
Domestic	1.9	.5	28.1
Nonprofit	6.5	5.1	78.8
Railroad	.6	.6	100.0
Public sector	20.9	12.9	62.0
Federal	3.7	.6	15.4
State and local	15.0	10.2	68.2
Military	2.1	2.1	100.0
Self-employment	8.6	6.5	75.5
Total, all employment	117.4	103.9	88.5

[1] Data on total employment are based upon class of worker of longest job as reported by the individual in the current population survey and total employment covers the noninstitutionalized population age 14 and over in the 50 States and the District of Columbia as well as members of the Armed Forces, at home and overseas.
[2] Data on covered employment are based upon class of worker of major job as determined by the highest amount of taxable wages as reported to the Social Security Administration by employers.

Source: Current Population Reports, series P–60, No. 118, series P–25, No. 902, and unpublished data for 1980 based upon March 1981 Current Population Survey; Railroad Retirement Board; Continuous Work History Sample, 1977.

Table 16.—OASDI–HI TAXES PAID BY WORKERS AT FEDERAL MINIMUM, AVERAGE AND MAXIMUM WAGE LEVELS, 1937–90

[Amounts in dollars]

Year	Federal minimum wage		Average wages		Maximum taxable earnings base		
	Earnings	Employee taxes	Earnings	Employee taxes	Earnings	Employee taxes	Self-employed taxes
HISTORICAL							
1937	([1])	([1])	1,137.96	11.38	3,000.00	30.00	([2])
1938	87.00	.87	1,053.24	10.53	3,000.00	30.00	([2])
1939	537.00	5.37	1,142.36	11.42	3,000.00	30.00	([2])
1940	624.00	6.24	1,195.00	11.95	3,000.00	30.00	([2])
1941	624.00	6.24	1,276.04	12.76	3,000.00	30.00	([2])
1942	624.00	6.24	1,454.28	14.54	3,000.00	30.00	([2])
1943	624.00	6.24	1,713.52	17.14	3,000.00	30.00	([2])
1944	624.00	6.24	1,936.32	19.36	3,000.00	30.00	([2])
1945	659.00	6.59	2,021.40	20.21	3,000.00	30.00	([2])
1946	832.00	8.32	1,891.76	18.92	3,000.00	30.00	([2])
1947	832.00	8.32	2,175.32	21.75	3,000.00	30.00	([2])
1948	832.00	8.32	2,361.64	23.62	3,000.00	30.00	([2])
1949	832.00	8.32	2,483.20	24.83	3,000.00	30.00	([2])
1950	1,499.00	22.49	2,543.96	38.16	3,000.00	45.00	([2])

Table 16.—OASDI–HI TAXES PAID BY WORKERS AT FEDERAL MINIMUM, AVERAGE AND MAXIMUM WAGE LEVELS, 1937–90—Continued

[Amounts in dollars]

Year	Federal minimum wage		Average wages		Maximum taxable earnings base		
	Earnings	Employee taxes	Earnings	Employee taxes	Earnings	Employee taxes	Self-employed taxes
1951	1,560.00	23.40	2,799.16	41.99	3,600.00	54.00	81.00
1952	1,560.00	23.40	2,973.32	44.60	3,600.00	54.00	81.00
1953	1,560.00	23.40	3,139.44	47.09	3,600.00	54.00	81.00
1954	1,560.00	31.20	3,155.64	63.11	3,600.00	72.00	108.00
1955	1,560.00	31.20	3,301.44	66.03	4,200.00	84.00	126.00
1956	1,993.00	39.86	3,532.36	70.65	4,200.00	84.00	126.00
1957	2,080.00	46.80	3,641.72	81.94	4,200.00	94.50	141.75
1958	2,080.00	46.80	3,673.80	82.66	4,200.00	94.50	141.75
1959	2,080.00	52.00	3,855.80	96.39	4,800.00	120.00	180.00
1960	2,080.00	62.40	4,007.12	120.21	4,800.00	144.00	216.00
1961	2,184.00	65.52	4,086.76	122.60	4,800.00	144.00	216.00
1962	2,392.00	74.75	4,291.40	134.11	4,800.00	150.00	225.60
1963	2,461.00	89.21	4,396.64	169.38	4,800.00	174.00	259.20
1964	2,600.00	94.25	4,576.32	165.89	4,800.00	174.00	259.20
1965	2,600.00	94.25	4,658.72	168.88	4,800.00	174.00	259.20
1966	2,600.00	109.20	4,938.36	207.41	6,600.00	277.20	405.90
1967	2,886.00	126.98	5,213.44	229.39	6,600.00	290.40	422.40
1968	3,293.00	144.89	5,571.76	245.16	7,800.00	343.20	499.20
1969	3,328.00	159.74	5,893.76	282.90	7,800.00	374.40	538.20
1970	3,328.00	159.74	6,186.24	296.94	7,800.00	374.40	538.20
1971	3,328.00	173.06	6,497.08	337.85	7,800.00	405.60	585.00
1972	3,328.00	173.06	7,133.80	370.96	9,000.00	468.00	675.00
1973	3,328.00	194.69	7,580.16	443.44	10,800.00	631.80	864.00
1974	3,883.00	227.16	8,030.76	469.80	13,200.00	772.20	1,042.80
1975	4,368.00	255.53	8,630.92	504.91	14,100.00	824.85	1,113.90
1976	4,784.00	279.86	9,226.48	539.75	15,300.00	895.05	1,208.70
1977	4,784.00	279.86	9,776.44	572.10	16,500.00	965.25	1,303.50
1978	5,512.00	333.48	10,556.03	638.64	17,700.00	1,070.85	1,433.70
1979	6,032.00	369.76	11,479.46	703.69	22,900.00	1,403.77	1,854.90
1980	6,448.00	395.26	12,513.46	767.08	25,900.00	1,587.67	2,097.90
1981	6,968.00	463.37	13,594.27	904.02	29,700.00	1,975.05	2,762.10
1982	6,968.00	466.86	14,495.68	971.21	32,400.00	2,170.80	3,029.40
CUMULATIVE							
1937–82		5,210.74		10,207.35		16,936.49	[2] 22,876.50
1951–82		5,110.94		9,950.78		16,501.49	22,876.50
FUTURE YEARS [3]							
1983	7,530.00	504.51	15,663.97	1,049.49	35,100.00	2,351.70	3,281.85
1984	8,137.00	545.18	16,926.39	1,134.07	37,500.00	2,512.50	3,506.25
1985	8,700.00	613.35	18,099.11	1,275.99	40,500.00	2,855.25	4,009.50
1986	9,292.00	664.38	19,329.42	1,382.05	43,800.00	3,131.70	4,1380.00
1987	9,907.00	708.35	20,609.56	1,473.58	46,800.00	3,346.20	4,680.00
1988	10,560.00	755.04	21,968.32	1,570.73	50,100.00	3,582.15	5,010.00
1989	11,231.00	803.02	23,363.63	1,670.50	53,400.00	3,818.10	5,340.00
1990	11,906.00	910.81	24,767.80	1,894.74	57,000.00	4,360.50	6,127.50

[1] Federal minimum wage first applicable in 1938.
[2] Self-employed first covered effective 1951.
[3] Earnings amounts after 1982 based on Alternative II–B asumptions used in 1982 OASDI Trustees Report.

TABLE 17A.—COMPARISON OF OASDI GENERAL BENEFIT INCREASES WITH INCREASES IN CONSUMER PRICE INDEX

[Amounts in percent]

Month when first effective	Percentage benefit increase [1]	Increase in CPI from previous effective date	Column (1) minus column (2)
September 1950	[2] 77	[6] 75.5	+1.5
September 1952	[3] 15	9.3	+5.7
September 1954	[3] 13	0.5	+12.5
January 1959	7	7.9	−0.9
January 1965	7	7.9	−0.9
February 1968	13	9.3	+3.7
January 1970	15	10.8	+4.2
January 1971	10	5.2	+4.8
September 1972	20	5.9	+14.1
June 1974	[4] 11	16.4	−5.4
June 1975	[5] 8.0	9.3	−1.3
June 1976	[5] 6.4	5.4	+1.0
June 1977	[5] 5.9	6.9	−1.0
June 1978	[5] 6.5	7.3	−0.8
June 1979	[5] 9.9	11.1	−1.2
June 1980	[5] 14.3	14.2	+0.1
June 1981	[5] 11.2	9.5	+1.7
June 1982	[5] 7.4	6.9	+0.5

[1] All benefit increases, except those for September 1950, 1952, and 1954, were uniform across-the-board percentage increases (at times, although not for 1965 and later, with somewhat larger proportionate increases in the minimum benefit).
[2] Measured from January 1940.
[3] Average increase in benefits for those then on the roll.
[4] Made in 2 steps, with 7 percent being effective for March 1974.
[5] Resulting from automatic-adjustment provisions.
[6] Increase from January 1940.

TABLE 17B.—COMPARISON OF OASDI GENERAL BENEFIT INCREASES WITH INCREASES IN AVERAGE WAGE LEVELS

[Amounts in percent]

Period	OASDI benefit increases [1]	Increase in average wages [2]	Column (1) minus column (2)
January 1940 to September 1950	77	121.8	−44.8
September 1950 to September 1952	15	15.8	−.8
September 1952 to September 1954	13	5.9	+7.1
September 1954 to January 1959	7	18.4	−11.4

TABLE 17B.—COMPARISON OF OASDI GENERAL BENEFIT INCREASES WITH INCREASES IN AVERAGE WAGE LEVELS—Continued

[Amounts in percent]

Period	OASDI benefit increases [1]	Increase in average wages [2]	Column (1) minus column (2)
January 1959 to January 1965	7	22.5	−15.5
January 1965 to February 1968	13	17.7	−4.7
February 1968 to January 1970	15	11.3	+3.7
January 1970 to January 1971	10	5.0	+5.0
January 1971 to September 1972	20	13.7	+6.3
September 1972 to June 1974	11	10.9	+.1
June 1974 to June 1975	8.0	7.4	+.6
June 1975 to June 1976	6.4	6.9	−.5
June 1976 to June 1977	5.9	6.0	−.1
June 1977 to June 1978	6.5	7.9	−1.4
June 1978 to June 1979	9.9	8.7	+1.2
June 1979 to June 1980	14.3	9.0	+5.3
June 1980 to June 1981	11.2	[3] 8.7	+2.5
June 1981 to June 1982	7.4	[3] 6.7	+.7

[1] See Table 17A.

[2] Based on wages in covered employment in first quarter of year for years up through 1977, and based on total nationwide wages (in both covered and noncovered employment) for subsequent years. (Average-wage amounts used are based on the wage-indexing series developed by the Office of the Actuary, Social Security Administration.)

[3] Based on Alternative II–B Assumptions in 1982 Trustees Report.

EXTENSIONS OF REMARKS

THE STRATEGIC BALANCE—FACT AND FICTION

HON. THOMAS J. DOWNEY
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 1, 1982

● Mr. DOWNEY. Mr. Speaker, on November 22, President Reagan took to the airwaves to announce his support for the Densepack MX ICBM system. The merits and demerits of this weapon will be debated in detail during the coming days; it is not my purpose to belabor that point today. But in the process of making his case for Densepack, he described the relative strength of United States and Soviet strategic forces in terms which were misleading and inaccurate on numerous counts.

So that my colleagues may have an explicit factual background on which to evaluate President Reagan's claims, here is a point-by-point discussion of them:

1. THE MEANING OF DETERRENCE

President Reagan: "This nation's military objective has always been . . . deterrence (which) is a matter of others knowing that starting a conflict would be more costly to them than anything they might hope to gain."

Fact: Here Mr. Reagan is precisely correct. If his words and deeds were consonant with this principle, the nation would be well served.

Unfortunately, this has not always been the case. Many of his words, including those in the speech now under discussion, seem to try to tell the Soviet Union that he believes us to be inferior, that he lacks confidence in our own military strength, and that therefore the Soviets can gain from starting a conflict because we will not fight back. To thus denigrate U.S. military strength is both a disservice to truth and a highly risky position for any President to take, in that it encourages Soviet aggression, I am unable to see what Mr. Reagan believes the nation can gain from his creation of this national security risk.

2. THE ARMS RACE

President Reagan: "The truth is that while the Soviet Union has raced, we have not."

Fact: During the 20-year period considered by the President, we have engaged in a massive arms race in which we, not the Soviets, have been continually pressing the leading edge of technology; in almost all cases, the Soviets have merely followed in our footsteps. These are some of the specific steps we have taken in the course of the strategic arms race:

Submarine-launched missiles

(1) Completed deployment of 41 advanced ballistic missile submarines of *George Washington, Ethan Allen,* and *Lafeyette* classes.

(2) Launched four still quieter and more advanced *Ohio* class submarines.

(3) Deployed three versions of the Polaris submarine-launched ballistic missile. This was the world's first underwater-launched ballistic missile. It was also the world's first solid-fuel SLBM, and except for a single ship equipped with their unsuccessful SS-N-17, the Soviets have yet to deploy a solid-fuel SLBM.

(4) Replaced the Polaris missiles with the Poseidon—the world's first multiple-warhead (MIRV) SLBM by a margin of 8 years.

(5) Replaced one third of the Poseidon SLBMs with the larger yield, longer range Trident I.

(6) Begun deployment of the Trident I missile in the Trident ship.

Air-breathing weapons

(7) Completed deployment of the B-52 bomber force. To this day, the B-52 carries a heavier payload over longer range than any operational Soviet bomber.

(8) Completed deployment of the FB-111A strategic bomber. With its fully automatic terrain-following radar and escape capsule, it remains more advanced than any deployed Soviet bomber.

(9) Completed deployment of the Short Range Attack Missile (SRAM), carried by both B-52s and FB-111As. This missile, for which the Soviets have no counterpart, is for practical purposes immune to any known or expected defense. With its very high supersonic speed and very small radar image, it frees our bombers from the need to overfly their targets.

(10) Progressively upgraded and modernized the technology of the B-52 electronics, although not to the limits of today's technology.

(11) Begun deployment of the super-accurate, long range strategic Air Launched Cruise Missile (ALCM), which is many years more advanced than any Soviet cruise missile.

(12) Equipped the B-52s with devices for simultaneous quick engine start.

Intercontinental ballistic missiles (ICBMs)

(13) Completed deployment of the Minuteman I, the world's first solid fuel ICBM. Except for the unsuccessful SS-13, the Soviets have yet to deploy or successfully test a solid-fuel ICBM.

(14) Replaced half the Minuteman Is with more advanced Minuteman IIs.

(15) Replaced the remaining Minuteman Is with Minuteman IIIs. Minuteman III was, by a five year margin, the world's first MIRV ICBM, and is far more resistant to nuclear effects than its predecessors.

(16) Replaced the warheads on a majority of the Minuteman IIIs with the new Mark 12A, which has double the explosive power of its predecessor but retains the same size and weight. The Mark 12A is far superior to any Soviet warhead in terms of explosive power per pound.

(17) Doubled the accuracy of the Minuteman III. Against hard targets, this is equivalent to quadrupling the number of missiles, or to octupling the explosive power of the warheads.

(18) Tripled the hardness of Minuteman silos.

(19) Installed a system for rapid remote retargeting of Minuteman. Under a worst-case situation, this would improve the effectiveness of our missiles hundreds of times, by ensuring that they are directed to the highest-value targets.

Command, control, and strategy

(20) Progressively upgraded our computer capacity to deal with complex wartime problems.

(21) Deployed the E-4A (Boeing 747) airborne command post, for which there is no Soviet equivalent.

(22) Begun deployment of the E-4B, a 747-based airborne command post hardened against nuclear effects.

(23) Continually evolved and improved our nuclear war plans. Unfortunately, security classification prevents specific discussion of this in a public forum. But I urge every Member of Congress to spend a day at SAC headquarters in Omaha and receive the full briefing on United States nuclear war plans. You will find that what we actually plan to do in a war makes a good deal more sense than the drivel we sometimes hear in Washington. I also wish that Mr. Andropov and his colleagues would receive the same briefing. It would leave no doubt in their minds that the consequences of nuclear retaliation by the United States against the Soviet Union would be so dreadful that nothing could possibly justify their starting a nuclear war.

Overview

Even this very superficial examination shows 23 major and significant steps we have taken in the strategic arms race. These 23 steps have given us a strategic force hundreds of times more effective than their predecessors.

It is true that the Soviet Union has also raced, and overall it has made more progress in the last 20 years than we have. But this is because it started from a lower baseline. To whatever extent this sterile comparison has meaning, the Soviet strategic forces were inferior to ours twenty years ago, and remain so today.

3. MILITARY SPENDING

President Reagan: "Our defense spending . . . went downward through much of the 1970s. The defense share of our United States federal budget has gone way down too. In spite of a stagnating Soviet economy, Soviet leaders invest 12 to 14 percent of their country's GNP in military spending, two to three times the level we invest."

Fact: Every American should be appalled to hear any U.S. government official, much less the President, discuss defense spending as if it were a virtue in and of itself. If we want to increase defense spending, we can easily do it by forcing every defense worker to work with one hand tied behind his back. Our costs will go up, but our security will not.

Defense is rationally measured by the security it creates. Good defense management consists of maximum security obtained at highest efficiency and therefore at minimum cost. The Soviet system is notoriously inefficient. By complaining that we are not spending as much as the Soviets, President Reagan is making a virtue of inefficiency and standing basic sound management practice on its head.

I do not say this in partisan criticism of Mr. Reagan. President Carter and Defense Secretary Harold Brown were guilty of the exact same sin. This does not make the sin any the less mortal. I don't need to remind anyone that we, too, are in a stagnating economy and cannot afford to spend for the sake of spending.

I must also point out that, even if we accept the highly anticonservative proposition that defense spending is a virtue, Mr. Reagan's statement is misleading, for the following reasons:

(1) He ignores the contribution of our allies. Correcting for this error alone, we find our military spending to have exceeded that of the other side by over $200 billion over the last decade.

(2) He ignores the fact that the gross national product of the Western alliance is approximately three times that of the Soviet Union.

(3) The dollar comparison is biased, in that it makes the unrealist assumption that we would try to duplicate Soviet forces using our methods—for example, that we would use Soviet manpower levels but our own military pay scales.

(4) The chronological comparison of defense spending as a percent of the government budget is faulty in that the method of counting the federal budget was changed during the Johnson Administration. In 1962, we did not count Social Security as part of the government budget; today we do.

4. MILITARY BALANCE

President Reagan: "Today, in virtually every measure of military power the Soviet Union enjoys a decided advantage."

Fact: This statement is so far from the truth that it seems to have embarrassed the White House spokesmen, who the next day sought to soften and equivocate on it. Very briefly, here is a summary of the military balance:

A. Strategic forces:

(1) Manned bombers: U.S. far superior.

(2) Submarine-launched missiles: U.S. superior.

(3) ICBMs: Soviets superior.

(4) Strategic defense: Soviets superior, but capability on both sides is relatively low.

B. Tactical forces:

(1) Tactical airpower: U.S. substantially superior.

(2) Aerial reconnaissance: U.S. massively superior.

(3) Sea-based airpower: U.S. massively superior.

(4) Surface combatants: Soviets superior in short conflict, U.S. superior in long conflict.

(5) Submarine and anti-submarine warfare: U.S. massively superior.

(6) Airlift: U.S. massively superior.

(7) Land forces: Soviets superior.

(8) Combat resilience: U.S. superior due to Soviet overdependence on centralized control.

(9) Psychological warfare: U.S. far inferior because of inaccurate statements by present and former U.S. government officials which have exaggerated Soviet strength and minimized U.S. strength.

5. NUMBERS OF ICBMS AND BOMBERS

President Reagan: "In 1962 and in 1972, the United States forces remained about the same (in ICBMs and bombers), even dropping some by 1982. In 1962, the Soviet Union could not compare with us. In 1972, we were nearly equal. But in 1982, that red Soviet bar stretching above the blue American bar tells the story."

Fact: Numbers of missiles and bombers is a coarse and sometimes misleading measure of military strength. Using this measure, we would appear to have been far stronger when we built thousands of B-17s in World War Two. We would also appear to now be heading for a period of declining military strength, as we plan to replace B-52 and Minuteman with much smaller numbers of B-1 and MX. In fact, qualitative improvements are far more important than mere gross numbers.

6. NUMBERS OF ICBMS.

President Reagan: "The Soviet Union has deployed a third more land-based intercontinental ballistic missiles than we have."

Fact: This is true, but only because of a major deficiency in Soviet strategic forces. We have a well-balanced three-armed deterrent if ICBMs, submarine-launched missiles, and bombers, each contributing about one third of our strategic striking power. The Soviets, in contrast, have about 75 percent of their strategic striking power, and a much higher proportion of their alert striking power, concentrated in their ICBMs. This places them at a severe disadvantage in that almost all their eggs are in one basket. But of course that basket therefore is larger than the corresponding U.S. basket and can be so cited out of context.

7. U.S. ICBM NUMBERS

President Reagan: "Believe it or not, we froze our number (of ICBMs) in 1965 and have deployed no additional missiles since then."

Fact: This is playing word games. We may have no "additional" missiles, but we have replaced our 1965 missiles and upgraded the replacements several times, with the result that our ICBM force is far more capable than if we had tripled our numbers without qualitative improvements.

8. U.S. STRATEGIC BOMBERS

President Reagan: "For 20 years, the United States has deployed no new strategic bombers."

Fact: Not so. We have deployed 66 FB-111A strategic bombers, which are more modern than any deployed Soviet bomber.

9. AGE OF U.S. BOMBERS

President Reagan: "Many of our B-52 bombers are now older than the pilots who fly them."

Fact: In some cases this is true, as it is with Soviet bombers. If age were the determining factor in a weapon, we wouldn't be now bringing four battleships out of retirement. The question is not the age of a weapon but its ability to perform its mission. The B-52 remains able to do this, although if we fail to conclude a nuclear freeze or otherwise probibit depressed trajectory missiles, the deterrent viability of all U.S. bombers, including the B-1B, will be lost.

10. INTERMEDIATE-RANGE LAND-BASED MISSILES

President Reagan: "The Soviet Union now has 600 of the missiles considered most threatening by both sides—the intermediate range missiles based on land. We have none. The U.S. withdrew its intermediate range land-based missiles from Europe almost 20 years ago."

Fact: Nobody who can do the most basic damage calculations considers these weapons to be of any military significance. An intermediate-range missile is simple an ICBM without intercontinental range. The subtraction of these missiles from the Soviet force would not perceptibly decrease Soviet ability to devastate the nations of the West. Correspondingly, the addition of these weapons has not perceptibly added to this ability. They are political rather than military weapons, and have no effect other than that which U.S. official statements give them.

As for U.S. land-based IRBMs, we withdrew them because we recognized their dubious military utility.

As for our missile submarines, although their deployment rate is almost quadruple that of their Soviet counterparts, none has ever been lost at sea, or disabled, or late returning from patrol. Soviet performance in submarine safety, in contrast, has been horrendous.

11. MISSILE SUBMARINE PROCUREMENT

President Reagan: "The Soviet Union put to sea 60 new ballistic missile submarines in the last 15 years. Until last year we had not commissioned one in that same period."

Fact: True, because the ships we had were more than good enough. Unless bankruptcy is our goal, we don't build weapons for the sake of building them; we build them because we need them, and we didn't need more or newer missile submarines.

The measure of a missile submarine's capability is how well it can remain at sea undetected.

Our submarines remain at sea more than 55 percent of the time. The newer Soviet ships can do no better than 15 percent.

Our ships are far more immune to detection. In fact, consider our ten oldest missile submarines, which have been recently retired because we judged it not worth keeping them up. If you were to take all ten ships and run them side by side, they would make less noise than one of the newest and quietest-Soviet nuclear ballistic missile submarines. More to the point, none of our ships has ever been detected by the Soviets.

The implication of Mr. Reagan's statement is that we don't want weapons that will maintain their effectiveness for the longest possible time, that we should only be happy when we're throwing money at a problem. I find this incomprehensible.

12. READINESS

President Reagan: "When I arrived in this office I learned that in our own forces we had planes that could not fly and ships that could not leave port, mainly for lack of spare parts and crew members."

Fact: We still have them. Every armed force in the world has always had them, and probably always will. This is a problem from which the Soviets suffer more severely than we do.

13. SAFETY OF U.S. EQUIPMENT

President Reagan: "Our deployed nuclear forces were built before the age of microcircuits. It is not right to ask our young men and women in uniform to maintain and operate such antiques. Many have already given their lives in missile explosions and aircraft accidents caused by the old age of their equipment."

Fact: Not so. Much of our strategic force is full of microcircuits, and few if any accidents have been due to age as such.

We have had two recent fatal missile accidents. One, which killed four people, involved a component of the brand new MX ICBM. The other, which killed one person, involved a Titan II ICBM, and was caused not by the age of the missile but by its inherently hazardous liquid fuel design.

I wonder if Mr. Reagan is aware that less than 4 percent of our strategic missiles still use liquid fuel, while more than 95 percent

of Soviet strategic missiles, including some of the very newest, use this dangerous design. The fact is that Soviet solid-fuel technology is far behind our own.

The B-52 is a tried and proven airplane. We fly it a lot, so it inevitably has some accidents. If we procure the B-1B, I hope it will be safer, but nobody knows. We sometimes forget that the introduction of any new airplane is usually marked by a number of accidents before the bugs are worked out. Almost certainly, there will be a period of several years in which fatalities per flight hour will be higher in the B-1 than in the B-52. Newer is not necessarily safer. Some airplanes, such as the B-58, were inherent widow-makers because they pushed available technology beyond the limit. They deserved early retirement for safety reasons. The B-52 is not such a plane; the G and H versions have many safe years left in them. Will the B-1B be a safe airplane? Nobody knows.

14. WILLINGNESS TO NEGOTIATE

President Reagan: "Unless we demonstrate the will to rebuild our strength and restore the military balance, the Soviets, since they are so far ahead, have little incentive to negotiate with us."

Fact: The Soviets are already willing to negotiate. They have indicated willingness to accept a mutual and verifiable freeze on the testing, production, and deployment of nuclear weapons; the Administration has refused. The Soviets have indicated strong interest in the Gore plan for elimination of destabilizing weapons; the Administration has not. The Soviets have signed SALT II and are willing to ratify it; the Administration refuses to do the same.

In no sense do I mean to criticize my own country and praise the Soviet government, which is a vicious authoritarian state under which no rational person would wish to live. I am not now critizing my own country. The public opinion polls, the various freeze referenda, and the 1982 elections demonstrate beyond a shadow of a doubt that we as a nation are determined to have arms control. The problem is not the U.S. as a nation. It is not the American people. It is the Reagan administration which refuses to seriously negotiate strategic arms.

The Soviets are not ahead, nor do they perceive themselves as ahead. On the contrary, they see the Reagan defense program as seeking to create U.S. strategic superiority—whatever that may mean. I have no inside knowledge of Kremlin thought, but all logic and all presently available evidence argues that the Soviet response to the Reagan defense program will not be greater amenability to negotiations but rather an augmented strategic program of their own.

15. ARMS REDUCTION

President Reagan: "We will modernize our military in order to keep the balance for peace, but wouldn't it be better if we both simply reduced our arsenals to a much lower level? Our proposals would eliminate some 4,700 warheads and some 2,250 missiles. I think that would be quite a service to mankind."

Fact: Arms control is a service to mankind to the extent that it reduces the probability of nuclear war, reduces the expense of the arms race, and/or reduces the damage which would occur in a nuclear war. Let us evaluate the Reagan arms control and national security program by these yardsticks:

(1) The probability of nuclear war depends, not upon the balance between the total strategic forces of the two sides, but upon the balance between the first-strike war-initiating forces versus the second-strike war-deterring reataliatory forces in both directions. Under the Reagan plan, the strategic ballistic missile forces of the two sides would be made up of MX and D5 Trident II missiles, which are weapons primarily designed for first strike. The ratio of ICBM warheads to ICBM launchers—a key measure of ICBM vulnerability—would be six to one, which is higher than it is today. Thus, under the Reagan program, the probability of nuclear war would be higher than it is today.

(2) START would not impair the MX, Trident II, B-1, Stealth, or cruise missile programs. Thus, it will not save any of the taxpayers' money.

(3) While START would force reductions in the numbers of deployed ballistic missiles and warheads on them, it would permit an increase in the total destructive power of the world's strategic arsenals. This is because it sets no limit on deployed throw-weight which can be translated into explosive power, and it sets no limit on the payload, aircraft numbers, or warhead numbers of manned bombers. (SALT II does all these things.)

I would like to believe that START is a service for mankind. I would like to hear Mr. Reagan explain precisely why this is so. I would also like to hear him, or somebody in the Administration explain why they feel anything I have said here today is wrong.●

TOUGH CHOICE—PRO BALL OR THE BUSINESS WORLD

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 1, 1982

● Mr. MOTTL. Mr. Speaker, when Robert J. Kane of Parma, Ohio, was a young man, his abilities on the ball diamond were drawing rave notices from major league scouts around the country.

Bob was a good enough amateur shortstop to be offered tryouts by both the Phillies and the Cubs. It was tough for him to turn both offers down, but looking back some 36 years later, Bob Kane has few regrets.

Many of my colleagues in the House know Bob Kane. He is here on almost a weekly basis as vice president of government relations for the Cleveland-Cliff Iron Co. He has been of great help to many of us as we weigh and ponder the issues in his field. We have learned to rely upon his wisdom, integrity, and dedication.

Bob enlisted in the Armed Forces during the height of World War II, after he graduated from high school at age 17. At 18, he was commissioned a second lieutenant in the Army Air Force and he served his country well in that capacity from 1943 through 1945.

Bob went to work for Cleveland-Cliff 32 years ago and has risen through the ranks from buyer and traffic manager to his present lofty position which he assumed in 1975. Along the way, he had found time to raise a family of five children, be a devoted husband to his wife, Grace, and take part in a number of civic affairs in Parma.

He has retained his interest in sports and coached Parma youngsters at the grade school level over the years. He served as Parma Recreation Director from 1952 to 1956.

I ask my colleagues in the House to join with me as we pay tribute to Robert J. Kane, husband, father, government relations professional, coach, athlete, and civic leader.●

TRIBUTE TO HON. EDWARD J. DERWINSKI, HON. PAUL FINDLEY, HON. ROBERT McCLORY, AND HON. TOM RAILSBACK

HON. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1982

● Mr. MONTGOMERY. Mr. Speaker, I was in my hometown of Meridian, Miss., Tuesday night to attend their annual chamber of commerce banquet and thus was forced to miss the special order by Representative BOB MICHEL in honor of four of our colleagues from the State of Illinois who are leaving this Chamber, Representatives ED DERWINSKI, ROBERT MCCLORY, TOM RAILSBACK, and PAUL FINDLEY.

I want to take this space to add my thoughts to the words of a great many of my other colleagues who have served with these outstanding gentlemen.

ED DERWINSKI has walked these Halls for 24 years since being elected to the 86th Congress. He has been a strong voice for the people of the Fourth District of Illinois and for the Republican Party.

ED has been counted on over the years for guidance and leadership, and he has always come through. I know he has the respect of his peers on both sides of the aisle.

Besides working for his constituents, he has contributed his abilities to the Foreign Affairs Committee and he was the ranking minority member of the Post Office and Civil Service Committee.

I want to wish the very best to ED as he moves over to the State Department. I know he will make a great contribution in his new position.

ROBERT MCCLORY'S retirement this year ends a truly distinguished 20-year career in service to the State of Illinois and to this Nation.

Prior to coming to Congress, BOB worked in the Illinois General Assembly for 12 years.

During his most notable career in this Chamber, he brought leadership to the most important Judiciary Com-

mittee, and retires as the ranking minority member on the committee. He also worked hard on the Permanent Select Committee on Intelligence.

I am honored to have served with this distingushed gentleman and I know his presence will be missed on Capitol Hill when the 98th Congress convenes. I am sure the people of Illinois will also miss his abilities and great integrity. He can truly be proud of these past 20 years. The people of his State can also be proud of his accomplishments.

TOM RAILSBACK has given this country and the State of Illinois 16 great years of service. TOM can be most proud of his efforts on the House Judiciary Committee. He was the ranking member of the Judiciary Committee's Subcommittee on Courts, Civil Liberties and the Administration of Justice.

I know he also spent a great amount of time working in the House Select Committee on Narcotics Control and Abuse.

TOM RAILSBACK is a man of high integrity and it has been a pleasure to serve in this Chamber with a man of his character. I know that he will go on to the vice presidency of the Motion Picture Association and make great contributions in that position. We will miss him.

PAUL FINDLEY has been a distinguished Member of the House of Representatives for 22 years. His leadership and expertise, especially in the fields of agriculture and foreign affairs will indeed be missed.

PAUL has become an expert on the problems faced by America's farmers and the agriculture industry. He has been a leader in this area and I know many of my colleagues have looked to his guidance on agricultural matters.

I know also that PAUL is proud of his accomplishments on the Foreign Affairs Committee. His interest in the field of international relations has been a great asset to the committee and to this Nation. His contributions in these areas will indeed be missed in the years to come.●

HON. ROBERT MOLLOHAN

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1982

● Mr. FUQUA. Mr. Speaker, the retirement of ROBERT MOLLOHAN of West Virginia at the end of the 97th Congress marks the end of an illustrious career of public service dating back more than four decades and capped with 18 years of dedicated service in this House spread over 30 years.

During his two separate terms of service in the House, BOB MOLLOHAN was a member of the Armed Services Committee where he has been a strong and effective advocate of American strength of arms.

But even though he may be best known for his work on the Armed Services Committee, his authorship and successful management of the Emergency Medical Services Act of 1973 is a legacy for which generations of Americans can give thanks for years to come.

This legislation has saved countless thousands of lives by establishing the system for effective treatment of emergency medical cases at sites away from the hospital.

While we will all miss BOB MOLLOHAN'S contributions to our deliberations, I take particular pleasure in the knowledge that West Virginia's First District will continue to be represented by Congressman Mollohan, BOB'S son, Alan, who was elected this month to succeed his father.●

THE BEIRUT MASSACRE

HON. HAROLD C. HOLLENBECK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 1, 1982

● Mr. HOLLENBECK. Mr. Speaker, for the benefit of my colleagues, I submit the following article authored by Rabbi Aryeh L. Gotlieb of the Jewish Community Center of Paramus, N.J., to today's CONGRESSIONAL RECORD.

THE BEIRUT MASSACRE

(By Aryeh L. Gotlieb)

At long last, the world has been compelled to witness a scene that has been enacted over and over again in Lebanon during the last decade. For years Israel alone had alerted the world to tragedies like the massacre that occurred last week in West Beirut. But the world had never stopped to care or even listen. Until now.

There is cause for outrage here on more than one account. There was cold-blooded, brutal murder of uncommon barbarity. The murderers were fueled by a hatred so intense as to blind them to the sight of human anguish and deafen them to cries that should have pierced their ears.

But is wasn't the murderers who were denounced. The blood and guilt were instantly put on the hands of Israel. It was Lebanese who were the murderers in the dreadful massacre. To put the blame on Israel directly or indirectly is to imply that the Lebanese are mad dogs on a leash that were set loose upon the Palestinians—mad dogs, not human beings, not adult, responsible men.

Not all the facts are yet known. The truth as to how many unfortunate victims there were may be buried forever with the victims. But Yasir Arafat can say with assurance that more than 1,500 were killed and that Israel is to blame. With this same assurance he had previously announced that the casualties of Israel's Lebanon action came to 10,000 dead and 100,000 wounded—figures that were proved to be grossly inaccurate.

But accuracy is never the intent of the PLO chief. He has an image to sell. To him the killers and the would-be killers are the victims. Their intended victims become murderers, especially if they can and do fight back effectively.

The movement of Israeli troops into West Beirut was in clear violation of the ceasefire agreement to which Israel was a party. But why does no one cite the PLO for violation of the agreement?

It kept back some 2,000 guerrilla fighters in West Beirut when all were directed to leave. The PLO also kept heavy armaments and weapons which it was ordered to surrender according to the signed agreement. On this score there were protests from no one except Israel.

Did the PLO remain in Beirut with peaceful intentions? Its past history makes this doubtful. Its presence constituted a serious threat to the peace of Lebannon and to the security of Israel, for which Israel sacrificed so many of her sons. The unlawful presence of the PLO required action. When the Lebanese army refused to act, the Christian Phalangists were allowed to enter West Beirut to clear out the PLO.

Old hatreds surfaced last week, seeking vengence for Christians massacred in Damur in 1976. The Damur citizens, in turn, had been murdered in retaliation for Palestinians massacred in Tel Zaatar. Massacre for massacre. Festering feuds of long-standing are a way of life there. The world should know and accept this truth.

Native American and European diplomats concoct plans for peace for this feuding society. If Arab brother can kill Arab brother and mount killing sprees against each other, one can well understand Israel's concern for her own security and her insistence on secure boundaries.

Menachem Begin may lack the TV charisma of other government heads. He also carries the label of intransigence. But Mr. Begin is a man of his word. He gave up the Sinai and forcibly removed Israeli citizens from Yamit. Those who witnessed it on TV will long remember that traumatic experience.

The evacuation from the Sinai cost Israel $17 billion. But Mr. Begin kept that commitment to Camp David. So much for his intransigence.

No one, however, has accused Mr. Begin of being a liar. If he says the Israeli government didn't know of the Beirut massacre, on his past record he deserves to be believed.

That there are protests in Israel tells us more than that the protesters want Mr. Begin and Mr. Sharon to resign. It tells us that Israel is a democracy and its people are free to protest. In the Arab dictatorships there are no protests.

Opposition parties in Israel will do almost anything to get in power, but the stormy debates in Israel's parliament also show that Israelis are a people with a highly developed conscience and moral code. They cannot tolerate the thought that they may in some way be responsible for this kind of bloodshed. This causes them greater anguish than even the loss of lives among their own.

What other nation on earth has shown this kind of moral sensitivity to the value of human life, even the life of an enemy sworn to one's own destruction?

Which Arab nation, which Arab individual was ever heard to protest the PLO murder of innocent Israeli men, women, and children? Such protesters would have been swiftly silenced. Many West Bank Arab leaders died violently because they were ready to negotiate with Israel.

In the Lebanon war, Israel suffered heavy casualties because she sought to avoid casualties among Lebanese civilians. Israel sacrificed the element of surprise in the attacks on Sidon, Tyre, and elsewhere. Leaflets were dropped on the population calling on them to leave the cities and be spared.

In the past, Israel hasn't violated international law in the wars she has fought. Israel's past record of humaneness shouldn't be ignored. This much alone is certain: Those who committed the murders are guilty of murder. And no Israeli soldiers took part in the slaughter.

The demand for an investigation has a hypocritical ring. Where were the demands for an investigation during the last eight years, when Christians, Moslems, Syrians, and PLO forces bathed Lebanese soil in the blood of 100,000 murdered citizens? Where was the investigation when Syrians shelled the Christian quarters of East Beirut?

Where was the investigation when Syria bombarded the Christian city of Zahle in 1981 and kept it under seige? Who was outraged when the 150,000 inhabitants of Zahle suffered from shortages of food, water, and medicine? Israel repeatedly called on the world to respond.

An investigation indeed is in order. The U.N., the Vatican, and all freedom-loving people should be investigated. Why have they all been silent until now?●

HON. ROBERT MOLLOHAN

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1982

● Mr. PANETTA. Mr. Speaker, I want to express my gratitude for this opportunity to pay tribute to an outstanding Member of this body who will not be with us in the next Congress, BOB MOLLOHAN. BOB has served with distinction in the House for 18 years, and both we, his colleagues, and his constituents will miss him a great deal. Of course, we are not going to lose sight entirely of the Mollohan family, as BOB's son Alan will replace him in the 98th Congress. We can only hope that he follows the excellent example set by his father.

I know my colleagues join me in wishing BOB MOLLOHAN the best of luck following his retirement. He has served his country and his constituents well.●

DECLARATION ON PREVENTION OF NUCLEAR WAR

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 1, 1982

● Mr. WYDEN. Mr. Speaker, I rise today to join the world's most distinguished scientists in issuing a plea to all nations to save mankind from the devastation that would result from a nuclear war—a devastation from which no nation is immune.

Last September, 67 of the world's leading scientists representing 27 countries met at the Vatican's Pontifical Academy of Science to discuss nuclear weapons and nuclear war. Their meeting was convened by the Pope, and included the president of the U.S. Academy of Scientists and his counterpart in the Soviet Union.

This meeting was the culmination of a series of efforts by these scientists, which began with a meeting convened last February in Vienna by Cardinal Konig of Austria. The scientists then met at the Royal Society in London and again at the Pontifical Academy last June.

Never has such a distinguished group of scientific experts come together to use their creative energy to shed the light of science on a public issue. That they have done so now attests to the unprecedented danger posed to life on our planet by the existence of nuclear weapons.

It also reflects the awakening alarm in millions of citizens around the globe—millions of citizens who have joined together to call for an end to the peril of living on the brink of annihilation.

These scientists came together because they feel a special responsibility to mankind; after all, it is the perversion of their achievements which has resulted in the greatest known threat to mankind.

And after months of careful deliberation and study, they issued a final resolution, which they presented to the Pope. The delegates' inescapable conclusion was that there can be no higher moral or political obligation than to prevent the outbreak of a nuclear war. They recognized that no nation can be secure unless we reduce this threat, and they specified several steps needed to do this.

We cannot afford to let the fruits of this meeting of our greatest minds slip by us. The prevention of a nuclear holocaust will take all of the creativity we can muster—and it must be our most pressing goal.

That is why today I am introducing a joint resolution declaring the prevention of nuclear war a central security goal of the United States. This resolution, already introduced in the Senate by Senator ALAN CRANSTON, also calls on the President to give urgent consideration to the resolution developed by the delegates to the pontifical assembly in Rome.

I urge my colleagues to join me in this effort. As Senator CRANSTON pointed out in introducing this resolution in the Senate, "Whether you and I agree in whole or in part with the statements contained in this declaration (by the scientific community), they are of transcendent importance."

It is my hope that by focusing attention on the findings of this distinguished group, we will all feel the sense of urgency we need to bring mankind back from the brink of nuclear disaster. And it is not a false urgency. As each moment passes, our world, and that of our children, becomes less secure.

Again, I invite my collegues to join me in cosponsoring this joint resolution. We must make the prevention of nuclear war the central security goal of the United States. We must explore with other nations alternative methods of resolving conflict. As long as nuclear weapons exist on our planet, we must make every effort to insure they are never used.

H.J. RES. 626

Whereas leading scientists from more than thirty countries, including presidents of the scientific academies in the United States and many other nations, have met in Rome in an assembly convened by the Pontifical Academy of Sciences to consider the unprecedented threat of nuclear war;

Whereas these leading scientists on September 24, 1982, unanimously issued a Declaration on the Prevention of Nuclear War outlining the overwhelming dangers of nuclear destruction, including the possible annihilation of all civilization;

Whereas this declaration, as the culmination of careful study of the threat facing the world, proposes a succession of steps to curb the development, production, testing and deployment of nuclear weapons systems, and to reduce them to substantially lower levels with the ultimate aim of their complete elimination; and

Whereas the Governments of the United States and the Soviet Union have never joined to make the all-out, determined creative effort that must be undertaken to prevent nuclear war: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress of the United States—

(1) declares and affirms that a central goal of United States international security policy should be to achieve a mutually verifiable agreement for the curbing of the development, production, testing and deployment of nuclear weapons and for their reduction and ultimate elimination so that no such weapon is ever again used on the face of the earth; and

(2) requests the President of the United States to give special and urgent consideration to the facts presented and the specific steps recommended in the Declaration on Prevention of Nuclear War, and by March 1, 1983, to report to the Congress and to the American people whether he accepts, in whole or in part, the findings and recommendations in this Declaration, and, further, to report the reasons for such acceptance or rejection.

DECLARATION ON PREVENTION OF NUCLEAR WAR, SEPTEMBER 24, 1982

(Presented to His Holiness the Pope by an assembly of Presidents of Scientific Academies and other scientists from all over the world convened by the Pontifical Academy of Sciences.)

I. PREAMBLE

Throughout its history, humankind has been confronted with war, but since 1945 the nature of warfare has changed so profoundly that the future of the human race, of generations yet unborn, is imperilled. At

the same time, mutual contacts and means of understanding between peoples of the world have been increasing. This is why the yearning for peace is now stronger than ever. Mankind is confronted today with a threat unprecedented in history, arising from the massive and competitive accumulation of nuclear weapons. The existing arsenals, if employed in a major war, could result in the immediate deaths of many hundreds of millions of people, and of untold millions more later through a variety of aftereffects. For the first time, it is possible to cause damage on such a catastrophic scale as to wipe out a large part of civilization and to endanger its very survival. The large-scale use of such weapons could trigger major and irreversible ecological and genetic changes, whose limits cannot be predicted.

Science can offer the world no real defense against the consequences of nuclear war. There is no prospect of making defenses sufficiently effective to protect cities since even a single penetrating nuclear weapon can cause massive destruction. There is no prospect that the mass of the population could be protected against a major nuclear attack or that devastation of the cultural economic and industrial base of society could be prevented. The breakdown of social organization, and the magnitude of casualties, will be so large that no medical system can be expected to cope with more than a minute fraction of the victims.

There are now some 50,000 nuclear weapons, some of which have yields a thousand times greater than the bomb that destroyed Hiroshima. The total explosive content of these weapons is equivalent to a million Hiroshima bombs, which corresponds to a yield of some three tons of TNT for every person on earth. Yet these stockpiles continue to grow. Moreover, we face the increasing danger that many additional countries will acquire nuclear weapons or develop the capability of producing them.

There is today an almost continuous range of explosive power from the smallest battlefield nuclear weapons to the most destructive megaton warhead. Nuclear weapons are regarded not only as a deterrent, but there are plans for their tactical use and use in a general war under so-called controlled conditions. The immense and increasing stockpiles of nuclear weapons, and their broad dispersal in the armed forces, increase the probability of their being used through accident or miscalculation in times of heightened political or military tension. The risk is very great that any utilization of nuclear weapons, however limited, would escalate to general nuclear war.

The world situation has deteriorated. Mistrust and suspicion between nations have grown. There is a breakdown of serious dialogue between the East and West and between North and South. Serious inequities among nations and within nations, shortsighted national or partisan ambitions, and lust for power are the seeds of conflict which may lead to general and nuclear warfare. The scandal of poverty, hunger, and degradation is in itself becoming an increasing threat to peace. There appears to be a growing fatalistic acceptance that war is inevitable and that wars will be fought with nuclear weapons. In any such war there will be no winners.

Not only the potentialities of nuclear weapons, but also those of chemical, biological and even conventional weapons are increasing by the steady accumulation of new knowledge. It is therefore to be expected that also the means of non-nuclear war, as horrible as they already are, will become more destructive if nothing is done to prevent it. Human wisdom, however, remains comparatively limited, in dramatic contrast with the apparently inexorable growth of the power of destruction. It is the duty of scientists to help prevent the perversion of their achievements and to stress that the future of mankind depends upon the acceptance by all nations of moral principles transcending all other considerations. Recognizing the natural rights of humans to survive and to live in dignity, science must be used to assist humankind towards a life of fulfillment and peace.

Considering these overwhelming dangers that confront all of us, it is the duty of every person of good will to face this threat. All disputes that we are concerned with today, including political, economic, ideological, and religious ones, are small compared to the hazards of nuclear war. It is imperative to reduce distrust and to increase hope and confidence through a succession of steps to curb the development, production, testing, and deployment of nuclear weapons systems, and to reduce them to substantially lower levels with the ultimate hope of their complete elimination.

To avoid wars and achieve a meaningful peace, not only the powers of intelligence are needed, but also the powers of ethics, morality, and conviction.

The catastrophe of nuclear war can and must be prevented. Leaders and governments have a grave responsibility to fulfill in this regard. But it is humankind as a whole which must act for its survival. This is the greatest moral issue that humanity has ever faced, and there is no time to be lost.

II

In view of these threats of global nuclear catastrophe, we declare:

Nuclear weapons are fundamentally different from conventional weapons. They must not be regarded as acceptable instruments of warfare. Nuclear warfare would be a crime against humanity.

It is of utmost importance that there be no armed conflict between nuclear powers because of the danger that nuclear weapons would be used.

The use of force anywhere as a method of settling international conflicts can entail the risk of military confrontation of nuclear powers.

The proliferation of nuclear weapons to additional countries seriously increases the risk of nuclear war and could lead to nuclear terriorism.

The current arms race increases the risk of nuclear war. The race must be stopped, the development of new more destructive weapons must be curbed, and nuclear forces must be reduced, with the ultimate goal of complete nuclear disarmament. The sole purpose of nuclear weapons, as long as they exist, must be to deter nuclear war.

III

Recognizing that excessive conventional forces increase mistrust and could lead to confrontation with the risk of nuclear war, and that all differences and territorial disputes should be resolved by negotiation, arbitration or other peaceful means, we call upon all nations:

Never to be the first to use nuclear weapons;

To seek termination of hostilities immediately in the appalling event that nuclear weapons are ever used;

To abide by the principle that force or the threat of force will not be used against the territorial integrity or political independence of another State:

To renew and increase efforts to reach verifiable agreements curbing the arms race and reducing the numbers of nuclear weapons and delivery systems. These agreements should be monitored by the most effective technical means. Political differences or territorial disputes must not be allowed to interfere with this objective;

To find more effective ways and means to prevent the further proliferation of nuclear weapons. The nuclear powers, and in particular the superpowers, have a special obligation to set an example in reducing armaments and to create a climate conducive to non-proliferation. Moreover, all nations have the duty to prevent the diversion of peaceful uses of nuclear energy to the proliferation of nuclear weapons;

To take all practical measures that reduce the possibility of nuclear war by accident, miscalculation or irrational action.

To continue to observe existing arms limitation agreements while seeking to negotiate broader and more effective agreements.

IV

Finally, we appeal.

1. To national leaders, to take the initiative in seeking to reduce the risk of nuclear war, looking beyond narrow concerns for national advantage; and to reject military conflict as a means of resolving disputes.

2. To scientists, to use their creativity for the betterment of human life, and to apply their ingenuity in exploring means of avoiding nucler war and developing practical methods of arms control.

3. To religious leaders and other custodians of moral principles, to proclaim forcefully and persistently the grave human issues at stake so that these are fully understood and appreciated by society.

4. To people everywhere, to reaffirm their faith in the destiny of humankind, to insist that the avoidance of war is a common responsibility, to combat the belief that nuclear conflict is unavoidable, and to labor unceasingly towards insuring the future of generations to come.

PARTICIPANTS IN CONFERENCE ON NUCLEAR WAR—PONTIFICAL ACADEMY OF SCIENCES, 23-24, SEPTEMBER 1982

E. Amaldi, Italy; I. Badran, Egypt; A Balevski, Bulgaria; A Bekoe, ICSU; F. Benvenuti, Italy; C. Bernhard, Sweden; O. Bikov, USSR; B. Bilinski, Poland; C. Chagas, Brazil; E. De Giorgi, Italy; B. Dinkov, Bulgaria; G. Hambraeus, Sweden; T. Hesburgh, USA; H. Hiatt, USA; D. Hodgkin, PUGWASH; S. Hsieh, Taipei; A. Huxley, England; S Iijima, Japan; S. Isaev, USSR; P. Jacquinot, France; W. Kalweit, GDR; M. Kapi, Pakistan; S. Keeny, USA; K. Komarek, Austria; F. Konig, Austria; J. Labarbe, Belgium; J. Lejeune, France; L. Leprince-Ringuet, France; R. Levi Montalcini, Italy.

M. Lora-Tamayo, Spain; T. Malone, USA; G. Marini-Bettolo, Italy; M. Menon, India; G. Montalenti, Italy; M. Peixoto, Brazil; J. Peters, Belgium; G. Porter, England; F. Press, USA; G. Puppi, Italy; B. Rifai, Indonesia; W. Rosenblith, USA; P. Rossano, Italy; P. Rudomin, Mexico; B. Rysavy, Czechoslovakia; I. Saavedra, Chile; V. Sardi, Venezuela; T. Shin, Korea; E. Simpson, South Africa; J. Sirotkovic, Yugoslavia; L. Sosnovski, Poland; A. Stoppani, Argentina; J. Szentagothai, Hungary; S. Tannegerger,

GDR; C. Townes, USA; E. Velikhov, USSR; W. Watts, Ireland; V. Weisskopf, USA.●

HON. ROBERT H. MOLLOHAN

HON. JOSEPH G. MINISH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1982

● Mr. MINISH. Mr. Speaker, the final adjournment of the 97th Congress will mark the end of the congressional service of our distinguished colleague, BOB MOLLOHAN, of West Virginia. My service with him on the Administration Committee has allowed me many opportunities to observe BOB'S dedication to public service as well as his many amiable personal qualities. His dedication to the public interest and his tireless work on behalf of his constituents in West Virginia make him an asset which the Congress will sorely miss.

BOB retires with the unusual gratification of being succeeded by his own son and namesake, who we hope will carry on in the fine tradition of his father. The younger Mr. Mollohan's election is certainly in some measure a tribute to the esteem his constituents feel for his father, as well as to his own good qualities. This must be a happy time for the Mollohan family, and they certainly deserve this happiness.

I want to extend to my friend my congratulations and hearty best wishes upon his retirement.●

HAIL TO THE BRAVE

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 1, 1982

● Mr. MOTTL. Mr. Speaker, I would like to recognize the proud veterans of the 508th Parachute Infantry Regiment (PIR) of the 82d Airborne Division, 3d Battalion. It was known as the Diablo Regiment.

In October of this year, the 508th PIR Museum was created in Wollanton Hall, just outside Nottingham, England. Wollanton Hall overlooks the exact location of the base camp of the 508th during World War II. From there, the regiment embarked for Normandy and Holland—part of the largest invasion force ever put together.

The 508th also was actively a part of the Ardennes (Battle of the Bulge) and Germany campaigns. The 508th served as part of Gen. Dwight D. Eisenhower's honor guard during the occupation of Germany. The regiment was deactivated in 1946 after distinguishing itself during the course of World War II.

Recently, veterans of the 508th assembled at the Arlington National Cemetery to be honored with a marble monument and a special grove of newly planted blue spruce trees. Special ceremonies then took place at the Tomb of the Unknown Soldier, and the 508th, led by Col. Louis Mendez, C.O. 3d Battalion—retired, presented a plaque honoring our Nation's veterans.

Donald I. Jakeway, staff sergeant—508th from 1942-45 of Johnstown, Ohio, is coordinating efforts to add to the collection of the PIR museum. I hope this museum flourishes in perpetuating the memory of the valiant efforts of the men of the 508th PIR who joined with other American fighters to free Europe and much of the world from the terrifying rule of Nazis and Fascists.●

STUDENT AID AND POLITICS

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 1, 1982

● Mr. PEYSER. Mr. Speaker, I would like to call to the attention of my colleagues a paper on "Student Aid and Politics, The Importance of the Student Vote," written by David K. Trowbridge of Bedford, N.Y. David recently served as a congressional intern and through this experience had an opportunity to view the legislative process first hand.

The paper examines the potential impact students could have in the electoral process. I personally believe that the best way for students to effectively voice their views is through the ballot box.

I commend this paper to my colleagues' attention, and ask that it be inserted at this point in the RECORD.

The material follows:

STUDENT AID AND POLITICS: THE IMPORTANCE OF THE STUDENT VOTE

(By David K. W. Trowbridge)

Ever since the Reagan Administration proposed to cut financial aid to students and universities by more than 25 percent, there has been a strong outcry from the some seven million students who turn to the government for aid. Reductions in these $11 billion programs, which President Reagan intends to either phase out or drastically cut, directly affect the future of these young people. It is therefore imperative that students collectively vote to ensure the safety of these programs. But will they? Since the establishment of the 18 year old voting age students have demonstrated one of the poorest voting percentages.

Not since the Vietnam War (the major reason for allowing 18 year olds to vote) have students had an issue touch their lives so closely. Although there has been a strong vocal resentment against any such cuts students must take stronger actions. They must vote to select candidates who will restore their programs. However, this has not been the case. In the 1980 Presidential election only 35.7 percent of the 18 to 20 year olds voted while 59.2 percent of the overall population voted.

Under the Administration's proposed new budget no student financial aid program would go unscathed. Pell Grants ($2.346 billion appropriations in Fiscal Year 1981) which are based on a student's ability to demonstrate financial need, would be cut by 40 percent. Supplemental Ed. Opp. Grants which are awarded to students with exceptional financial need, would be eliminated altogether. And even the largest program, which affects the most number of students (3.5 million) is planned to be cut 18.8% with an appropriations budget of $2.485 billion. That program is the Guaranteed Student Loan Program (GSL).

The current GSL program entitles families with an income of under $30,000 without regard for need to apply, and families above $30,000 are eligible if they can demonstrate exceptional financial need. Recently Congress raised the maximum loan amount for undergraduates to $2,500 annually and $12,500 cumulatively, while graduate students are now eligible to borrow $5,000 a year and an aggregate amount of $25,000. The increase was to compensate for the substantial growth in tuition fees. After an application has been approved, the student is required to pay 5% of the loan to the lender who transfers it to the federal treasury as an origination fee. This measure reduces the financial burden on the government. The origination fee is the only payment a student makes on the loan until after the grace period of six months after the student graduates or drops below half time status expires and then he must pay monthly installments. There is no specified federal time limit on when the loan must be repaid.

The program allows students to borrow money at low interest rates, currently 9%, from banks, savings and loan associations and credit unions with the obligation of fully repaying these loans. The federal government or a guaranty agency guarantees these loans completely because students are considered such a "high risk". Since thrift institutions still hesitate to make such loans, the government has promulgated two special enticements; the in-school interest subsidy and the Special Allowance. The former refers to the federal government paying any interest compounded on the loan during the students enrollment. The Special Allowance is a bonus paid by the government to the lender based quarterly on a percentage of the total principal still outstanding until the loan is fully repaid. These two enticements have expanded the costs of the program considerably and lead many experts to believe the program to be "uncontrollable." Because it is an entitlement program there is no federal limit on (1) the number of new GSL loans, (2) the total amount of new loan volume, and (3) the interest and the insurance costs.

In order to reduce the GSL program by an estimated $576 million (18.8%) the Reagan Administration has recommended a six point plan to amend certain aspects of the program.

1. Reagan intends to double the origination fee from the present 5% to 10%. This in effect reduces the amount available to the student by 5%.

2. All applicants, including those students with an income of under $30,000, must meet the proposed financial needs test.

3. No graduate students would be eligible to receive GSLs and could borrow only under a separate and new 14% "auxiliary" loan program which would increase the interest rate for graduate students by more than 50%.

4. The Special Allowance interest payments would be eliminated two years after the borrower leaves school. "This would allow lenders to convert the loan to either a new fixed or variable repayment contract with no further federal interest subsidies", but would also deter many potential lenders who depended on the bonus.

5. and 6. The final two amendments refer to the insurance and reinsurance premium for both guaranty agencies as well as direct insurance from the federal government, which would make the loans more restrictive and less attractive to prospective private capital.

If the Administration receives all of these amendments, the GSL program will be appropriated $2.485 billion instead of the current $3.061 billion.

The rationale behind the Administration's FY83 budget for GSLs stems from the same ideology that is the foundation of President Reagan's economic policies. In order to reduce the role of big government in American lives, there must be a reduction in federal domestic spending. This would alleviate the $110 billion deficit and help to stimulate the American economy. Furthermore, the primary responsibility for financing college should originate from the family and not the government. This strategy side steps the policy that the federal government is responsible for providing sufficient funds to permit students of any income to attend any university regardless of the cost. The proposed budget is also an attempt to "reform" the GSL program to be a more cost effective "entitlement" program, thereby reducing federal expenditures. Reagan contends that these cuts still allow the "needy students" access to higher education. "A lot of people have simply been misled," Reagan says. "We haven't cut loans. We've cut the cost to taxpayers of making these loans available." Reagan's point was that "despite budget cuts in the program, the volume of student loans would increase".

"The Administration is advocating abandonment of a 25 year old commitment that college will not be denied to any person because of financial conditions", stated Jack Peltason, President of the American Council of Education. This response was indicative of the negative attitude of the higher education community concerning Reagan's proposed cuts. Many believe as does the President of the National Association of Independent Colleges and Universities "that attrition (of the student body) will increase drastically if the Administration's budget proposals are enacted in large part", and that it will deny many students the opportunity to attend more challenging schools that meet their academic needs. Some opponents strongly suggest that the results of these cuts will lead to a "two tiered system of higher education, offering elite private education for the rich and state or municipal colleges for everyone else". Another argument, fostered by critics, is that it would inhibit the already strained "cash flow" from lenders who consider the auxiliary loans a "poor risk". The auxiliary loans, which would be the exclusive source of GSLs for the 600,000 graduate students, remains a new, untested part of the GSL program. Congressman Peter Peyser advocates that there should be "absolutely no further cuts in the student programs" and that Americans "stay with education as the strongest defense we have to protect this country and its future".

As the Administration's Economic Recovery Act of 1982 begins to take effect and with the threat of further reductions in GSLs, students, universities and states are looking for alternative ways of financing post secondary education. Some states are creating new loan programs to compensate for the federal cuts. Illinois has established an agency which has authority to issue tax free bonds with the proceeds going to private colleges to help lend low interest rate money to students. Massachusetts has also enacted legislation to raise money that will be loaned to students at an interest rate of 10%. Colleges as well are demonstrating innovative ways of financing. Dickerson College provides a ten year loan program at 13% interest rate for students who were excluded from GSLs because of more stringent eligibility requirements. Other schools such as Washington University are allowing parents to pay all four years of tuition in advance so that they can avoid the increases in tuition. Unfortunately some colleges have withdrawn from the policy of "blind admissions", accepting students regardless of their ability to pay. Students are also beginning to participate by once again working their way through college. Johns Hopkins has tentative plans to create a jobs program with the local business community.

Students, however, now have the opportunity to select candidates who will implement legislation beneficial to their needs which was not the case before the 26th Amendment was ratified. In 1970 President Nixon backed a proposal to lower the voting age from 21 to 18, thus initiating the Voting Rights Act of 1970. This legislation passed Congress with a majority vote on June 17. The Supreme Court, however, challenged the legality of the Bill with critics saying that "the Constitution gives voter qualification power to the individual states not to the federal government". In a split 5-4 decision the Court ruled that 12 to 21 year olds could vote in federal elections (Congressional and Presidential) but in another split decision it declared that Congress does not have the right to fix state voting age. After the Court had thus ruled it would require two-thirds of the states to ratify this legislation in order for it to become the 26th Amendment. On June 30, 1970 Ohio was the state that granted any citizen 18 years or older the right to vote.

Students should voice their protest against any "cuts" by going directly to the polls. Still, if they wish to have any impact, there must be an increase in the number of voters. Congressman Peyser announced that "a nationwide campaign is being launched on the college campuses throughout this country to enroll at least one million students who are not presently registered to vote". The campaign consists of a coalition of student organizations that would be campus based with statewide coordinators. Through this network of campuses, these groups will concentrate on close election districts and will conduct seminars to educate students about registration. In a trial run last year the American Democratic Association in conjunction with the Young Democrats registered a "few thousand" students according to Charlie King with Student PAC. In addition a coalition of different student groups is attempting to initiate a resolution in Congress that would make the last week in September "Student Registration Week". This plan has not been brought before any committee and no action has been taken on it in Congress.

"It was not many years ago this Congress passed the legislation enabling the 18 year old to vote. At that time it was said that if these young men were old enough to fight for their country, they were old enough to vote. Today if they are old enough to be in college, certainly they should be smart enough to register to vote and make their voices heard in the 1982 election." (Congressman Peter Peyser, March 31, 1982.)●

MORE INACTION

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 1, 1982

● Mr. BEREUTER. Mr. Speaker, an editorial from the Norfolk Daily News examined the House failure to forward the balanced budget amendment to the States for ratification and pointed out that the action suggest that more than one-third of the Members regard deficits as something either tolerable or incurable.

I would like to include the commentary in the RECORD now for the benefit of my colleagues.

[From the Norfolk Daily News, Oct. 8, 1982]

MORE INACTION

The effort to obtain early ratification of a balanced-budget amendment failed. It was not because a majority in Congress disapproved, but because the two-thirds margin required was missing. The Senate had passed the measure 69-31, but the House 236-187 vote was 46 short of the two-thirds majority necessary to forward the amendment to the states for ratification.

The issue is not dead. It will rise again in the next session of Congress. Sentiment in the Senate is unlikely to change markedly. With a majority in the House willing to have the issue reconsidered, it can be revived by the new cast of characters on Capitol Hill.

They are likely to feel some heat from state legislatures on the issue. Thirty-one out of a needed 34 states have taken the initiative in calling for a constitutional convention to present the budget-balance measure. Some fear that approach to constitutional change as offering an opportunity for unwanted, extraneous issues to be presented. The aim of action by the state legislatures, however, was for consideration of a narrow issue—balanced budgets.

It is preferable that Congress take the initiative and adopt a simple measure—that which is now rejected was appropriate. It allowed for necessary emergency exceptions, while stating clearly that budget-balances are to be the rule. Today, budget imbalances are the rule, balances an exception.

Critics of an amendment on this subject believe it to be the sort of detail which ought no be reflected in the Constitution. Obviously the framers of the document never thought of it. That is because they could not then conceive of successive Congresses and chief executives getting the deficit habit.

For Congress now to oppose change suggest that a little more than one-third of its members, enough to stop action, regard deficits as either something to be tolerated or incurable. So why bother? Deficits are a sinister way to levy taxes, however, and a certain way to eventual ruin of a free economy.●

A TRIBUTE TO EDITOR TRUDI COWAN OF BELLMORE

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 1, 1982

● Mr. LENT. Mr. Speaker, I rise to bring to the attention of my colleagues the career and achievements of a remarkable newspaper woman who had made outstanding contributions to the community of Bellmore, N.Y., in the Fourth Congressional District which I have the honor to represent.

I refer to Trudi Cowan, editor of the Bellmore Life newspaper. Her energy, ability, and dedication have made her professional career a brilliant one, which, by itself, would be worthy of our commendation. But Trudi Cowan has gone far beyond the heavy demands of her position as editor of the Bellmore Life to become deeply involved in the civic activities and projects of her community of Bellmore.

Never is there an activity of interest or concern to the people of Bellmore without Trudi offering her assistance. Whatever might be involved—civic projects, community events, neighborhood programs to promote safety, or other civic activities—Trudi Cowan is always volunteering her services, her stimulating and productive ideas, and her time. She is a true community leader.

Trudi Cowan is also tremendously interested in the history of the Bellmore community. She is currently the president of the Bellmore Historical Society. Her special project is a concerted effort to rekindle interest in the historical events that have involved Bellmore and the people of Bellmore. In this effort, her position as editor of the Bellmore Life gives her a unique platform to stimulate interest in Bellmore's past.

As one who is a regular reader of the Bellmore Life I have great admiration for Trudi Cowan's abilities as a journalist. She never hesitates to take a stand on issues of community interest. She battles fiercely for the public's right to know, including going to court in an effort to uphold the right to publish the names of law violators in the Bellmore area. Her close attention to the problems and the activities of the Bellmore community have made her newspaper must reading for residents of the area. The Bellmore Life is a powerful and respected force for community betterment.

Mr. Speaker, I know that my colleagues in this Chamber join me in saluting the career and achievements of Editor Trudi Cowan, and in offering all good wishes for continued success in the future.●

LAW OF THE SEA TREATY

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 1, 1982

● Mr. FIELDS. Mr. Speaker, I share with my colleagues a recent commentary from the Houston Post concerning the Law of the Sea Treaty. It is so evident to the American people that this so-called treaty is nothing but a sellout of American interests and principles, and it is only supported by a small group of left-leaning elitists and one-world idealists.

I commend the Houston Post for taking interest in this significant and timely issue.

The article follows:

[From the Houston Post, Nov. 7, 1982]

SEABED RIPOFF

The tenet that the oceans are the common heritage of mankind was accepted in a spirit of brotherhood when there was little or no thought of material gain to be had from the depths of international waters. Discovery through modern technology of rich mineral deposits on the seabed has altered that thinking.

The intensity of the scramble to divvy up the undersea mineral wealth continues to be demonstrated as the proposed international Law of the Sea Treaty moves nearer to ratification. The plenary session of the Third United Nations Law of the Sea Conference convened in New York could put the stamp of final approval on the treaty, which contains a seabed mining control provision that is counter to the interests of the United States. It would discourage interests in this country and other industrial nations from conducting offshore mining operations.

Under the proposed provision, rights would be assigned to mine "the seabed and ocean floor and subsoil thereof beyond the limits of national jurisdiction." At stake are rights to known and yet undiscovered deposits of oil, gas, cobalt, manganese, nickel and other strategic minerals. Rights to those minerals occurring in highly concentrated form in nodules on the ocean floor were unimportant when no one had the technology to recover them. That technology is now available in the United States, where millions in private capital have been spent in preparation for the day when seabed mining can begin. The United States has agreed not to allow commercial mining of the seabed before 1988 unless the treaty is ratified sooner. The treaty will become effective a year after it is ratified by at least 60 nations.

So far 130 nations have, by vote, agreed in principle to the treaty's terms. The United States, along with Israel, Turkey and Venezuela, voted against the draft treaty in April. Seventeen other countries, including Britain, West Germany and the Soviet Union, abstained. Significantly, the 21 countries opposing or abstaining in that vote account for 60 percent of the gross national product in the world. The treaty probably would have clear sailing if it were not for the seabed mining provisions, which the United States should continue to oppose as inequitable and counterproductive.

Under the current draft, deep-sea resources would be administered by a Seabed Authority composed of international representatives empowered to set quotas, control marketing and fix prices on a one-nation, one-vote basis with no veto privileges. Most of the backers of the treaty are developing nations and landlocked countries. They would have a strong influence on determining how the seabed wealth is shared, whether or not they participated in the mining or financing. Countries such as Zambia, Zaire, Gabon and the Dominican Republic have vested interests in how production quotas might be set for nickel, cobalt and manganese. They are the world's major sources of those strategic metals.

Further, the United States and other industrial nations whose industries are capable of conducting off-shore mining would be subject to Seabed Authority control, fees and taxes to the extent that they would, in effect, have to share profits with countries that contribute nothing. Also, there is no provision that mining groups, such as U.S. consortiums that have already invested millions of dollars in research and development, will be assured of a license to work areas they have explored. The Seabed Authority system as drafted offers too much risk and too little incentive for ventures by the only ones capable of mining the ocean floors.●

CORRECTIONS OFFICERS DESERVE OUR SUPPORT

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 1, 1982

● Mr. FUQUA. Mr. Speaker, the men and women who serve as corrections officers in prison facilities throughout our Nation deserve to be congratulated for the outstanding work they do. Often theirs is a thankless task. It seems the only time we really stop to consider these people as individuals is when there is trouble in the facility.

I am today including in the RECORD a letter I received from the employees of the Baker Correctional Institution in Olustee, Fla. In paying special attention to Lt. Joseph H. Kennedy, I believe we honor all these fine people for the work they do and the bravery they exhibit.

SEPTEMBER 19, 1982.

DEAR SIR: We the officers at Baker Correctional Institution, would like to take this opportunity to bring to your attention, the admiration and appreciation we feel for Lt. Joseph H. Kennedy, C.S.S.S.I.

On the day of September 14, 1982, at approximately 2:40 PM, a disturbance broke out in the library, in H Building, at Baker Correctional. Sgt. Joseph M. Combs, O.I.C., was notified of the situation and he along with Lt. Kennedy and several other officers responded to the call. Almost simultaneously another incident occurred in the Multipurpose Building, located at the other end of the compound. Between 2:40 PM and 2:50 PM there had been four officers injured (one requiring emergency medical treatment at an outside facility), and several inmates injured (two requiring emergency medical treatment at RMC) and property damage to the Library and East end canteen.

It is our belief that Lt. Kennedy's prompt and precise actions prevented a major disturbance from occurring and limited injury and damage.

At approximately 2:50 PM Lt. Kennedy ordered the Control Room to sound Recall, wait five minutes, sound Recall again and allow the inmates five minutes to clear the compound, and lock down the dorms. This was done! Sir, this one action gave us back the control, that had been slipping away, allowing us to secure the compound and our positions.

Unless you've been in a situation such as this, there is no understanding the respect and admiration we feel for Lt. Kennedy. By knowing his job and being in control of himself, he prevented further injury and damage to his officers, the inmates and the compound, that would certainly have occurred had the situation been allowed to continue.

Often a man in Lt. Kennedy's position comes under fire for their action and impromptu decisions, decisions that can literally mean life and death. We, the officers that work with Lt. Kennedy know him to be a man who stands steadfast in his beliefs, knows the rules and goes by the book. He is, also, a man who cares for his officers and can be counted on to stand by them. With men like this it makes it easy to be a team, and teamwork is what we had. Under his supervision approximately thirty unarmed men (security and administrative) went up against approximately 911 inmates armed with weights, rocks, chairs and broom handles. With teamwork we cleared the compound, locked down the dorms, quelling a possible major disturbance. After the compound was cleared, no other incidents were reported.

A disturbance, major or minor, is certainly every Correctional officer's nightmare. It gives you confidence to know that you have men such as Lt. Kennedy working with you. This is our way of saying thank you, Lt. Kennedy for being there . . .

Sincerely yours,

THE EMPLOYEES AT BAKER CORRECTIONAL.●

TRIBUTE TO ROBERT H. MOLLOHAN

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1982

● Mr. FORD of Michigan. Mr. Speaker, I will miss ROBERT MOLLOHAN as both a friend and colleague when he retires at the end of the 97th Congress. I have had the pleasure of serving with BOB for the past seven Congresses. As a member of the executive committee of the Congressional Steel Caucus, BOB has been instrumental in our attempts to insure that the American steel industry receives equitable treatment in the world markets.

More importantly, BOB has ably represented the interests of West Virginia, without bowing to pressure from special interests. His unwavering commitment to fairness and justice in our society will be greatly missed in the Halls of Congress. I wish BOB all the luck in the world in his endeavors outside of Congress, and I look forward to serving with his son.●

FOREIGN IMPORTS

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 1, 1982

● Mr. APPLEGATE. Mr. Speaker, I want to take this opportunity to share with my colleagues in the House an open letter to President Reagan regarding a problem of increasing severity, that being the adverse impact of foreign imports on the U.S. economy. It is a matter that must be addressed by both the administration and Congress if we are ever to regain the manufacturing superiority that this Nation once enjoyed.

The text of the letter is as follows:

DEAR MR. PRESIDENT: How can you be so insensitive to America's fourteen million unemployed people?

You have within your power the ability to take steps that would slow, if not halt, the current influx of imported goods of all kinds to this country and thus eliminate much of our unemployment problems. I assume, however, that you refuse to do this on the basis of your free trade philosophy. While free trade in its purest form may be proper, to hold the theory now at a time when there is total inequity between the trade laws of this nation and our foreign competition is to deny many of our unemployed the opportunity to return to their jobs. With this philosophy at this time, you are allowing other nations to exercise their control over our economic market. You are permitting these nations to do to us what we seemingly cannot, or would not, do to them.

If you would give careful consideration to this nation's basic industries such as steel, autos, electronics, footwear, pottery and hand and machine tools just to mention a few, it would be obvious that some help is needed from the Federal government to allow these industries to be competitive in the world market. You can provide this help by supporting some type of parity in our existing trade laws. A good start on this road to recovery would be your open endorsement of Senate Bill 2094, a bill to amend the Trade Act of 1974, to ensure reciprocal trade opportunities. This has already passed the Senate and is now pending in the House of Representatives.

Mr. President, how can you refuse to restrict steel and auto imports when you imposed sugar quotas in 1981 to get the votes you needed to pass your economic reform package. Even now, you are threatening those European countries which subsidize their agricultural products by dumping excess dairy products into the world market. These actions are all well and good, not to mention justifiable; however, America's basic industries deserve equal treatment as well. Your free trade principles must apply across the board to all industries, not just a select few that are politically advantageous at a certain time.

Think about it, Mr. President. Care about the people and do something to help them.

Sincerely,

DOUGLAS APPLEGATE,
Member of Congress.●

A DAY OF SORROW

HON. ROBERT S. WALKER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 1, 1982

● Mr. WALKER. Mr. Speaker, I would like to take this opportunity to submit in the RECORD the following statement entitled "A Day of Sorrow" compiled by the Congress of Russian-Americans. I believe my colleagues will find this proclamation concerning the suppression of freedom and basic human rights by the Soviet Government of great interest.

The statement follows:

A DAY OF SORROW

On the 65th anniversary of the "October Revolution", we, as Russian-Americans, wish to remind the Free World that on November 7, 1917 the Bolshevik Communist Party deprived the peoples of Russia of their liberty.

Since that day the Soviet government under the leadership of its Communist Party has continually perpetrated crimes that are an affront to humanity. Among them:

The creation of an Orwellian state founded on a basis of human fear and ignorance and maintained by a ruthless military police;

The "reedification" of the Russian peoples, a policy inaugurated by the heinous murder of the royal family and pursued in the hopes of stripping the Russian peoples of their heritage and thereby creating the ideal human cipher, Homo Sovieticus;

The desecration and destruction of over 50,000 churches and monasteries;

The forcible collectivization of peasants, an act which resulted in the death by starvation of seven million people;

The exploitation of workers and the reduction of peasants to the status of government serfs;

The abandonment of Soviet P.O.W.'s (branded "traitors" by the Soviet regime) in Nazi war camps, resulting in the death of 4,650,000 native sons by starvation and disease;

The forceable repatriation of Soviet citizens remaining in Western European countries after the war and the subsequent imprisonment of these citizens in concentration camps;

The extermination of tens of millions of people in concentration camps and prisons;

The mental and physical torture of countless millions without regard to human rights or dignities;

The military suppression of any popular uprisings within the Soviet Union or any of its satellite nations, particularly Hungary, Czechoslovakia, and Poland;

The creation, through the wanton exploitation of natural resources and environment, of an aggressive military machine which continues to grow at the expense of the people's needs and aspirations;

The suppression of the freedoms of religion, thought, speech, and the press and the persecution of individuals for their religious convictions and their beliefs in basic human rights.

No document can enumerate the countless crimes perpetrated by the Soviet Government against its peoples. Only the tears of an anguished and suffering people can serve

to measure these atrocities. To these tears we direct our hopes, our prayers, and our actions.

The 7th of November, the day of pompous Soviet celebrations, parades and deceitful proclamations about the "struggle for peace" and about the "joyous life" of Soviet citizens, we designate as a Day of Sorrow and Irreconcilability.

This Day of Sorrow and Irreconcilability has been faithfully observed by Russian-Americans and by all Free Russians for the past six decades. Throughout all these years Russians free in mind and spirit have continually attempted to warn the Free World of the threatening Communist danger, but to no avail.

Once again, we appeal to the government of the United States of America to proclaim this day as a Day of Sorrow and Irreconcilability and we invite the citizens of this country to join us in prayers for those who perished at the hands of Communism and for the deliverance of those presently living under the yoke of Communism.●

BOB McCLORY—THE DEDICATED PUBLIC SERVANT

HON. GEORGE M. O'BRIEN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1982

● Mr. O'BRIEN. Mr. Speaker, one of my great pleasures while serving in Congress has been knowing BOB MCCLORY.

He is a fine and dedicated public servant. He is also a true gentleman, the kind of Congressman we all aspire to be!

BOB's crucial role in the Watergate proceedings of a decade ago may well go down as his finest hour, which is just, because BOB did a first-rate job with that very distasteful responsibility.

Mentioning that one episode of his 20-year congressional career should not cause us to overlook another distinction of this 20-year veteran: his involvement in the day-to-day business of his district and committees.

No constituent inquiry has ever been too small, nor any committee matter too insignificant for BOB's full attention. His procedure in all cases—from lost social security checks to the mammoth bills before the Judiciary Committee—has been to make an informed judgment and then get results. There are people from Waukegan to Aurora who can tell you that BOB has done right by them, and there are people from Maine to California who can also make that statement.

In this way BOB has been an exemplary Congressman: Tending to the needs of his district, and ever mindful of the national interest. He has made a great difference in this body, and he will be sorely missed as he retires from public life.●

THE PEOPLE'S PARADISE

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 1, 1982

● Mr. FIELDS. Mr. Speaker, some form of socialism/communism is dominant in many nations and every continent. The idea of socialism is especially attractive to intellectuals who are able to maintain a comfortable distance from actual socialist practices.

Though socialism is a god that fails continuously, and causes more human suffering and tragedy than any idea or practice in history, there are those who stubbornly cling to its high-minded idealism. They religiously close up their eyes to the reality that the Socialist promise of instant utopia brings on the tyranny of a real dystopia.

It is for them that the following glimpse of reality is provided:

[From U.S. News & World Report, Nov. 22, 1982]

A NEW REPORT: SOVIETS' RECORD ON SLAVE LABOR

Russia leads the world—with millions forced to toil on state projects. It's the Kremlin's answer to rising crime and a worker shortage.

Amid allegations that the Soviet Union is using slave labor to build a controversial natural-gas pipeline to Western Europe, the Central Intelligence Agency levels an even graver charge against the Kremlin.

The agency, in a detailed study just released, describes the U.S.S.R. as the world's No. 1 employer of forced labor.

No fewer than 4 million prisoners—including 10,000 political inmates—are compelled to toil at arduous tasks ranging from logging and mining to road building and farming.

Massive as it is, the use of slave labor in the Soviet Union is likely to increase, according to the intelligence study. The reason: The rise of serious crime is sending more and more people to jail at a time when the country faces a worsening labor shortage.

The authorities find it easier and cheaper to coerce prisoners to fill jobs in remote areas than to employ ordinary workers. That is a policy that has been pursued since shortly after the Bolshevik Revolution 65 years ago and that saw as many as 15 million in slave-labor camps under Joseph Stalin in the late 1940s.

While documenting evidence that Stalin's slave-labor policy continues, the CIA is circumspect in dealing with the allegations concerning the Siberia-to-Western Europe pipeline. The intelligence agency says that most of the tasks being done on the project at this stage require skilled workers, jobs that few prisoners can perform.

However, since 100 camps exist along the pipeline route, the agency adds that it is very likely that forced labor was used earlier to prepare the area by clearing swamps, cutting timber and building access roads. In a letter accompanying the CIA report, the State Department says: "We are not claiming to have evidence resembling a 'smoking gun.'"

In its study, prepared at the request of a Senate resolution, the intelligence agency paints this picture of slave labor in Russia today:

An estimated 3 percent of the country's entire work force consists of prisoners compelled to perform jobs for the state. Included in this number are several thousand Vietnamese and Southeast Asians imported to help ease the labor shortage. Wages their labor would earn are deducted from Vietnam's huge debts to the Soviet Union. Information is fragmentary, but officials say there are indications that more Asians may be brought in, while others will be sent to Eastern Europe.

About 2 million of the forced laborers are in prison or at the more than 1,100 prison-like camps near big cities or in frontier areas across the country. An estimated 1.5 million convicted criminals, instead of being sent to jail, have been sentenced to "compulsory involvement in labor"—generally construction work thousands of miles from their homes. An additional half-million people have been paroled but are working off the rest of their jail terms.

The type of work a prisoner is given depends on the severity of the crime. One of 4 persons convicted of a serious crime in the Soviet Union is sentenced for hooliganism—a category that covers a broad range of charges including political disobedience.

DANGEROUS WORK

Prisoners generally labor for six 8-hour days a week, but that does not include the time it takes to get to and from work, which is considered time "donated" to the state. Many tasks are extremely hazardous. Former prisoners report that conditions in most cases violate all normal health and safety practices.

Forced labor, according to the CIA, is used in a wide variety of economic activity, including construction, mining, agriculture, manufacturing and logging. Dams, canals, pipelines, railroads and highways have been built by such workers, as well as the Kama River truck plant, the world's largest. In cities, forced labor has been used in hospitals, apartments, hotels, government buildings and on the Moscow subway.

Entire cities have been built by such labor. Examples: Shevchenko, a showplace on the Caspian Sea, and Navoi, a petrochemical city in Central Asia. One source says he daily saw 40 trucks loaded with 40 prisoners each head off from a camp near Nizhnekamsk to nearby sites where a petrochemical complex, an automotive-repair facility and a concrete-products plant were being built.

While many prisoners are employed producing metal goods and electricial equipment, others make clothing, furniture, clocks and even souvenirs.

SUDDEN BREAKTHROUGH

Until now, the Soviet Union has turned a deaf ear to international complaints. The United Nations International Labor Organization has received protests over Soviet slave labor for 30 years, but got no response until early November. Then, Soviet leaders, apparently stung by the accusations that they were using slave labor on the trans-Siberian pipeline, agreed to discuss the allegations with an ILO representative.

Still, few see any real change in prospect and, in fact, expect the use of forced labor to increase. The CIA report points out that crime is a serious problem in the Soviet Union and that the criminal population is increasing. Juvenile crime reportedly is rising rapidly, and alcoholism, blamed for

much of the illegal activity, has reached epidemic proportions.

At the same time, growth in the regular Soviet labor force in the 1980s is expected to decline to half of what is was in the 1970s. Concludes the CIA: "Forced labor is thus likely to become a more important means of relieving serious manpower shortages, particularly in inhospitable areas. . . . Unconfined forced labor provides a flexible and inexpensive source of labor for hazardous or unhealthy duty or for work in remote locations."●

CIVILITY AND DISSENT

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 1, 1982

● Mr. BEREUTER. Mr. Speaker, an editorial from the Norfolk Daily News took a critical look at the kind of attention that the mass media has tended to give to small and frequently unrepresentative groups of protesters at the appearances of public officials.

This article certainly deserves the consideration of my colleagues.

The article follows:

[From the Norfolk Daily News, Oct. 21, 1982]

CIVILITY AND DISSENT

Americans have more education, more information and more culture available to them today than ever before. No generations have had more opportunities to be literate, learned and informed. None have had greater access to forums which would allow their own opinions to be heard. In brief, the things which are supposed to "civilize" a society have not only been available, but virtually force-fed to increasing numbers of people. Educational institutions, the press and broadcast media leave people in no region without an opportunity to be fully and immediately informed.

With such progress in the delivery of knowledge and growth in the literacy rates, how is it that American society seems to be increasingly afflicted with senseless demonstrations?

The ultimate examples are provided with the announced visits of an American president to any area of the United States. Picket lines are posted outside the arenas where he is to appear; there is usually a chanting chorus with a catchy slogan. A mock "soup line" staged to catch special attention, perhaps. Each such protest is designed to detract from a presidential appearance, to call attention to a special cause.

A free society must tolerate such distractions, though it need not tolerate the boobirds who show up not to picket quietly but to disrupt the utterances of a president or any other speaker.

The days when an administration spokesman, never mind the party, could not appear on a college campus without having to engage in a shouting match or depart without giving a speech may be gone. Fortunately, that and the mass demonstrations characteristic of the Vietnam War era seem a thing of the past. But they seem to have left a legacy of organized and mostly senseless demonstrators who make a profession of picketing.

We are forced to wonder how long they would engage in the practice were it not for the focus of the media. "Balanced" accounts of any presidential appearance these days seem always to include pictures and interviews with the demonstrators. They may number one or 20, when the president addresses a crowd of thousands. His carefully chosen words are countered with a slogan or two about how he makes the rich richer, the poor poorer or is casting the elderly adrift on an Arctic ice flow. To give anything close to equal billing to that sort of opposition is to propagandize voters. There is too much of that being done these days. Indeed, such tactics in a society which is supposed to form its opinions through scholarly and open debate, studiously considered ideas and thoughtful consideration are an insult even to the average intelligence.

To dissent is not only an American right, but a necessity. But it does matter how that is done.●

RIDE THE BUS ON US

HON. GEORGE C. WORTLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 1, 1982

● Mr. WORTLEY. Mr. Speaker, on the day after Thanksgiving, the Merchants National Bank of Syracuse, N.Y., provided free countywide bus service to residents of Onondaga County.

Over 100,000 local residents took advantage of this service, which helped make a traditional big shopping day even more successful.

Public reaction from bus riders and merchants was positive as area residents rode downtown and to the suburbs to begin their holiday shopping. Shopping center managers in the suburbs stated that business was signficantly ahead of last year's. Downtown merchants echoed those sentiments.

Merchants National Bank deserves special recognition for investing in the economy of Onondaga County in such a fruitful way. This innovative concept of a partnership between a lending institution and a public transportation system appears to be the very first of its kind.

I commend both Merchants National Bank and Central New York Centro for demonstrating how cooperation between the public and private sectors benefits us all.●

THE NEED TO POSTPONE VOTING ON H.R. 6514

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 1, 1982

● Mr. GARCIA. Mr. Speaker, my colleague in the other Chamber, the senior Senator from Colorado, published an article in the August 24 edition of the New York Times on H.R. 6514, the Immigration Reform and Control Act of 1982. In that article he made a very strong case on the need to reevaluate the focus of this bill to include foreign policy questions.

Our relations with Latin America have become increasingly important over the past few years, and today is a particularly auspicious day in the development of those relations, and for all the people of this hemisphere. The new Mexican President, Mr. de la Madrid is being inaugurated, and the President of the United States is in Brazil, as part of his first Latin American tour.

Over the past few years Mexico and the United States have begun to build more cordial relations. This is beneficial to both nations. It would be a shame to see this growing friendship stagnate or reverse itself. We have many common interests and common problems, which, if we work on them together, can be resolved to our mutual satisfaction.

There are few, if any, issues more pressing to both of our governments than the question of immigration.

I am not intimating that the United States should tailor its immigration policy to meet the needs of Mexico. I do, however, think it is important that we take into account the concerns, not only of Mexico, but of all Latin American and Caribbean nations, as we decide on what our immigration policy should be.

That is why, I am deeply concerned about the efforts to bring the immigration bill to the floor of the House during this lameduck session. We must refocus H.R. 6514 to account for foreign policy considerations. We must examine our immigration policy further, before passing a new immigration bill.

I submit Senator HART'S article for the perusal of my colleagues.

[From the New York Times, Aug. 24, 1982]

IMMIGRANTS AND THE NEW BILL

(By Gary Hart)

WASHINGTON.—The legislation overhauling United States immigration law that the Senate has approved focuses almost entirely on domestic issues—stricter law-enforcement, lower quotas, regularizing the status of undocumented workers already in this country. But the Senate has not fully addressed the problem that brings thousands of immigrants to our shores each year.

Immigration is not merely a domestic issue. It is also a matter of foreign policy. So even the strictest enforcement of the various elements of the Senate bill, which has been sent to the House, would have little long-term effect. Quite simply, these provisions do nothing to address the root causes of migration and the flow of refugees: economic underdevelopment, social injustice, human rights violations, population growth. Until our immigration debate addresses these serious international issues, we will never develop an adequate immigration policy.

The Haitian refugees detained in United States camps vividly illustrate this point. Although they cannot possibly think they have entered the "golden door" of economic

and social opportunity, they continue to come. Life in the camps, with all its hardships, is obviously preferable to a life where social and economic opportunity are systematically denied.

There are enormous disparities between rich and poor in Haiti. Five percent of the population accumulates 50 percent of the national income. In 1980 (the last year for which data are available), Haiti's average per capita income was $275, the lowest in the Western Hemisphere. On the average, the Haitian Government spends $1 per person per year on education; it spends $18 per person per year on internal security.

According to the Organization of American States, corruption pervades all levels of Haitian government. As a result, domestic revenues and foreign aid are diverted for personal enrichment, rather than being spent on economic development.

Repression has been a fact of life in Haiti since 1957, when François "Papa Doc" Duvalier began his brutal regime. His successor and son, Jean-Claude "Baby Doc" Duvalier, has continued the tradition. The result has been a flood of poor, uneducated "boat people" to the United States.

Haiti is by no means alone in contributing immigrants. From March 1979 to March 1981, the number of Central Americans and South Americans in the United States increased from roughly 840,000 to 1.022 million. In the last 18 months alone, 200,000 Salvadorans have fled to the United States. And in Southeast Asia, intolerable conditions have brought hundreds of thousands of Indochinese to the United States.

It is unrealistic to think that these trends will not continue. Unprecedented population growth has contributed to tension not only in Mexico, the Caribbean basin and Central America, but also in the Middle East and the Far East.

Entrants into the labor force in the nonindustrialized world are expected to grow by at least 700 million in the next 20 years. Moreover, migration from rural areas to already overburdened cities will increase. Add continuing civil and regional wars, famine and repression, and migration flow will become a migration flood.

Limiting our changes in immigration policy to domestic measures will thus have little impact on migration pressures from troubled areas of the world. Ultimately, our immigration problems must be managed with the cooperation and participation of other governments. The immigration factor must become an integral part of the formulation of our foreign policy, particularly as it applies to certain areas of the globe. For example, we need to recognize that our tacit support of the repressive Duvalier regime will be paid for in an influx of "boat people" to this country.

Policies that favor confrontation and military solutions must be avoided in dealing with Central American countries since such policies add to emigration pressures.

Trade and investment incentives for Mexico and the Caribbean basin should take into account their impact on the creation of jobs and demographic movements. For example, Washington might consider providing incentives to United States and Mexican firms willing to locate in northern Mexico in return for Mexican Government assistance in blocking illegal immigration.

Both bilateral and multilateral assistance can, if properly directed, help create jobs and slow population growth in various countries around the world.

Regardless of good-faith legislative efforts to reform domestic immigration procedures, the problems presented by immigration in the 1980's and 1990's will not be solved without a more democratic, imaginative and farsighted foreign policy.●

SCHWEIKER AND HAYES CALL ATTENTION TO RULES ON DRUG PACKAGE TAMPERING

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 1, 1982

● Mr. COUGHLIN. Mr. Speaker, the murder of seven persons in the Chicago area from poison-spiked Tylenol has produced ramifications far beyond the horrifying tragedy of the victims and their families.

In responding to the random and vicious nature of the drug tampering, both the Food and Drug Administration and the pharmaceutical manufacturing industry have acted quickly and responsibly. Despite their best efforts, there remains the elements of doubt among people who long have placed their faith and trust in the patent medicines supplied by retail stores throughout the Nation.

The Honorable Richard Schweiker, Secretary of Health and Human Services, has written letters to Members of Congress in which he asks for help in disseminating a message of reassurance from the Commissioner of FDA. I am pleased that the Secretary has taken this action.

I hope—wherever and whenever possible—my colleagues will assist in bringing this message to the American public. It is important to all segments of our population, especially our elderly citizens, that they know their Government in cooperation with private industry is taking the necessary precautions to insure as much as possible the safety and efficacy of over-the-counter drug products.

The letter from Secretary Schweiker and the public service announcement from Dr. Arthur Hull Hayes, Jr., are submitted for insertion in the CONGRESSIONAL RECORD:

DEAR MR. COUGHLIN: The recent Tylenol tragedy is still very much on the people's minds. For this reason, the enclosed public service announcement—from a tape recording prepared for radio broadcast—by Arthur Hayes, Commissioner of the Food and Drug Administration, should be of interest to you, your staff and your constitutents.

Sincerely,

(Signed) DICK SCHWEIKER.

THE HAYES ANNOUNCEMENT

In recent weeks we have all been shocked by criminal tampering with non-prescription medicines on store shelves. Innocent products like Tylenol—products that are intended to help—have been used to harm consumers.

Government and industry have been working together to provide packaging that will lessen the chance of this happening again—either to the people of Chicago or anywhere else. New government rules requiring tamper-resistant packaging for most non-prescription medicines will soon come into effect. We anticipate that such new packaging will begin to appear on store shelves over the next few months.

But, neither government rules nor tamper-resistant packaging can guarantee protection against everything that a criminal mind might think of. You, the consumer, must help. When you buy medicines—or any product—be sure packages are not opened or damaged. Look at seals or wrappings to make certain they are not torn. And when you get home, check the product inside the package for signs of tampering.

We don't have to do without any of the medicines that make our lives more comfortable. But we should use a litle extra care.●

"REAGAN'S DEFENSE FACTS DON'T FIGURE"

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 1, 1982

● Mr. LaFALCE. Mr. Speaker, last Monday night, President Reagan told the American people that the United States is a second-rate military power when compared with the Soviet Union. In an attempt to convince the American people that we need the MX missile deployed in the Densepack basing mode, the President surrounded himself with graphs and charts depicting our humbled military posture. But what the President failed to tell us is that he left another series of charts and graphs depicting America's military superiority well out of view of the television camera.

As we prepare for the debate on the MX missile and the Densepack basing mode, it is crucial that our colleagues and the American people have all the facts. We must realize that although we trail the Soviets in selected categories of arms, we surpass them in others.

A rough parity exists, Mr. Speaker, one that we can maintain with prudent increases in our defense budget and without deploying weapons of dubious strategic merit that threaten a new escalation in the arms race.

I would like to bring to the attention of our colleagues an article that appeared in the New York Times which paints a more balanced, realistic picture of the Soviet-American strategic balance. It is appropriate for the Congress and the administration to debate the merits of particular weapon systems and the expanding might of the Soviet Union. But it is pure salesmanship to present half the picture when asking the American people for their support and guidance.

The article follows:

[From the New York Times, Nov. 23, 1982]

REAGAN AND MILITARY BALANCE: HIS NUMBERS ARE RIGHT BUT NEARLY IRRELEVANT

(By Leslie H. Gelb)

WASHINGTON, November 23.—In his speech Monday night, President Reagan, restated his belief that "in virtually every measure of military power the Soviet Union enjoys a decided advantage" over the United States.

Hardly any military experts in or out of the Administration deny that the enormous Soviet military buildup over the last two decades has confirmed the Soviet Union as the dominant power on the Eurasian land mass and the equal of the United States in strategic nuclear striking power. Beyond that, there is considerable disagreement among the experts about what that means and whether Moscow has gained military superiority.

William W. Kaufmann of the Massachusetts Institute of Technology, who has worked on estimating the military balance for all Republican and Democratic Secretaries of Defense in the 1960's and 70's, said in an interview: "Mr. Reagan's measuring of the balance by counting numbers of weapons on each side is generally regarded by experts as pure propaganda. Even the Reagan Administration has no plans to duplicate Soviet force levels because we don't need them for our purposes."

"It is the prevailing view of experts in and out of the Administration," he continued, "that the United States has a strong second-strike capability right now and can defend its traditional allies right now."

FACTORS OTHER THAN NUMBERS

He added, "Comparing numbers without looking at purposes, geography, allies and the like is a false comparison."

For example, Mr. Reagan cited the generally agreed estimate that Moscow spends 12 to 14 percent of its estimated gross national product on arms every year. The Office of Management and Budget says the American figure has been 5 to 6 percent for four years. The American gross national product, however, is almost double that of the Soviet Union.

Experts for the most part see such comparisons more as debating points than analytical tools. The Central Intelligence Agency was first asked to make these comparisons in the 1960's as a way of showing that the United States was ahead. In the mid-70's. Defense Secretary James R. Schlesinger used them to show that trends in military development were becoming adverse to the United States.

These comparisons are difficult at best, in part because the Soviet Union does not publish accurate budget figures, and it is particularly difficult to estimate expenditures in areas such as research and development. Also, while manpower consumes almost half of the American military budget, it accounts for less than one-fourth of the Soviet budget.

COMPARISONS SHOW TRENDS

To experts at London's International Institute for Strategic Studies, the Pentagon and the Central Intelligence Agency, the main and perhaps only value of thse overall budget comparisons is to point out trends. By all accounts, these trends show Moscow continuing to outdistance Washington in numbers of weapons produced and closing the gap in the quality of weapons.

Mr. Reagan pointed out that the United States has not increased its number of intercontinental ballistic missiles since 1965. But each Administration since then has elected to increase the number of nuclear warheads on each missile rather than the number of missiles themselves, a choice that American experts say was deliberately made for strategic reasons. There was an even greater addition of missile warheads in the American submarine force in this time.

In 1962, the balance of strategic nuclear warheads and bombs stood at 2,000 for the United States and 200 for the Soviet Union. Today, each side has over 9,000.

Mr. Reagan pointed to the fact that the Soviet Union has added 60 new ballistic-missile-firing submarines to its force in the last 15 years as against one new submarine last year for the United States. There is virtually unanimous expert judgment that American submarines, despite their age, remain decidedly superior in overall performance.

ANOTHER EXAMPLE: BOMBERS

He cited the fact that the Soviet Union has 200 of the new bombers known in the West as Backfires and is building 30 more each year, while much of the American long-range bomber force is 20 years old. But again, the prevailing judgment in the United States Air Force is that the old B-52's are far better long-range bombers than the Backfire or standard Soviet bombers, such as those known in the West as the Bear and the Bison.

With regard to Mr. Reagan's general analysis of the strategic situation and the MX decision in particular, former Defense Secretary Schlesinger said in an interview: "It does not logically scan. If we have become increasingly weak relative to the Soviets, it hardly follows that Mr. Reagan should have decided to cut the Carter Administration plan to deploy MX from 200 missiles to 100."

No one disputes Mr. Reagan's statement about Moscow adding to and modernizing its force of medium-range ballistic missiles targeted on Western Europe. But opinions vary in and out of the Administration on the significance of this. Some experts argue that unless this gap is closed, deterrence in Europe is jeopardized. Others maintain that this gap has existed essentially for 20 years without noticeable harm. But most experts are in favor of closing it.

ALLIES AND QUALITY

Nor does anyone challenge Mr. Reagan's statement that Soviet forces "far exceed us in the number of tanks, artillery pieces, aircraft and ships." But as experts have been quick to point out, this overlooks the abilities of American and Soviet allies and ignores the issue of the quality of weapons.

When allied totals are added, the numbers on each side are much closer. The total number of ships in the Atlantic alliance exceeds the Warsaw Pact total. American ships alone, although less numerous than the Soviet ships, are larger and better.

The general quality of American conventional forces remains superior to the Soviet Union's, although Moscow continues to close the gap. Recent encounters between Syrian forces using frontline Soviet aircraft and surface-to-air missiles and Israeli forces using American equipment were a case in point to experts. The Israelis destroyed some 30 missile batteries and 80 aircraft without a loss. The Israelis also destroyed some new Soviet T-72 tanks, previously considered virtually impenetrable.

Mr. Schlesinger, who like most experts in the field sees rising Soviet military abilities and favors increased American military spending, maintained that there were real penalties associated with Mr. Reagan's approach. "It is unwise for the President to declare that the United States is in an inferior position," he said. "Indeed, in regard to strategic forces particularly, the issue is much too ambiguous at any rate."●

MISTAKES IN EL SALVADOR

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 1, 1982

● Mr. STUDDS. Mr. Speaker, while events in El Salvador have slipped from the front pages of our Nation's newspapers, the spiral of violence and terror in that country has continued unabated. Two recent examples of the inability of the Government to gain control over its security forces were brought to light in a recent editorial in the Cape Cod Times, and I would like to include a copy of this article in the RECORD at this time.

The article follows:

[From the Cape Cod Times, Oct. 22, 1982]

TWO MISTAKES

Officials in El Salvador have committed two important errors in judgment in two weeks, gaffes which could cost the government sympathy where it needs it most—in Washington.

One can be described as boorish and might not unduly affect relations with Congress. It occurred Wednesday when Salvadoran police and uniformed troops stomped into the offices of United Press International, CBS News, ABC News, NBC News and the television service of UPI and, with scarcely a word of explanation and none of apology, started rummaging through desks, reporters' files and photo cabinets, and poking around at radio equipment. The Salvadorans were armed with machine guns, pistols and truncheons—the weaponry one assumes is necessary to keep a pack of journalists at bay.

As his people rooted about as if for truffles, their commander announced that they were looking for "clandestine messages" destined for the rebels. He didn't say why the news organizations were being targeted. He didn't have to—the Salvadorans weren't looking for anything, they were delivering a message.

The more important error in judgment took place last week, compounding one of Oct. 1 and sending tremors through their government. It occurred when a Salvadoran federal judge upheld the earlier opinion of a colleague that there is "insufficient evidence" to proceed with the trial of a well-connected lieutenant accused of engineering the 1981 murder of two Americans, Mark D. Pearlman and Michael Hammer, and a local government agrarian-reform official. The Americans, members of the AFL-CIO's Institute for Free Labor Development, and their Salvadoran companion were gunned down in the restaurant of the Camino Real Hotel in San Salvador. Two noncommissioned officers who confessed to the shooting said the lietenant gave the order to kill.

By standards of American justice, the officer would have been tried. But in El Salvador, threats of violence can make a judge wary, and the extremists of the right have a record of turning their threats into reality.

What worries those in high places there is that the timorous ruling by the two judges might affect the courage of another judge who is to preside over the scheduled trial of those charged with the murders of three Roman Catholic nuns and a lay worker, all Americans.

In turn, this jeopardizes congressional approval of continued aid to the government of right-wing leader Roberto d'Aubisson—proof of significant progress in the cases of the seven murdered Americans is a precondition of further support from Capitol Hill.

The raid on the news offices was harrassment typical of a totalitarian government. It was not so much a raid as a warning to foreigners covering the tragedy of El Salvador. The flutterings among that nation's judiciary could portend something more serious—and news organizations can only complain, but Congress can act. And it should, if there is no resolution of the slaughter of seven U.S. citizens.●

THE PUBLIC WORKS EMPLOYMENT ACT OF 1982

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 1, 1982

● Mr. MITCHELL of Maryland. Mr. Speaker, I certainly share the deep concern of elected officials and constituents about the critical unemployment levels which continue to haunt us. The past acquiescence to the use of widespread unemployment to combat inflation has driven us to the point where we must reassert the Government's duty to confront these grave problems.

Today, I am introducing the Public Works Employment Act of 1982. This initiative provides that the Local Public Works Capital Development and Investment Act of 1976 be reauthorized at a level of $7 billion so that our major public works programs might be continued on behalf of job creation and national economic development. Like the 1977 major public works initiative, which became Public Law 95-28, the measure introduced today will provide that grants will be made available for local public works projects which will be of long-term benefit to out communities. Such projects as flood control, recreation, water management, and others which require construction and related jobs are included.

The elements of this bill are essential as we attempt to rebuild the infrastructures of urban areas which suffer gravely from economic blight and unprecedented unemployment levels. Additionally, such initiatives will lead us one step closer to insuring that these areas can move toward greater independence in addressing the unemployment problems of their immediate community residents. I urge my colleagues to join me in cosponsoring this effort and bringing it to the House floor for expeditious consideration during the current lameduck session.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, December 2, 1982, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

DECEMBER 3

9:30 a.m.
Commerce, Science, and Transportation
To hold joint hearings with the Committee on the Judiciary on H.R. 5949, proposed Cable Copyright Act.
235 Russell Building

Judiciary
To hold joint hearings with the Committee on Commerce, Science, and Transportation on H.R. 5949, proposed Cable Copyright Act.
235 Russell Building

Joint Economic
To hold hearings on the employment/unemployment situation for November.
2128 Rayburn Building

10:30 a.m.
Foreign Relations
To hold hearings on the nomination of John H. Holdridge, of Maryland, to be Ambassador to the Republic of Indonesia.
4221 Dirksen Building

1:30 p.m.
Commerce, Science, and Transportation
To hold hearings on provisions of title IV of S. 3044 (Surface Transportation Act), relating to truck size and funding for highway safety programs.
235 Russell Building

DECEMBER 6

10:00 a.m.
Foreign Relations
To hold hearings on the nomination of Edward L. Peck, of California, to be Ambassador to the Islamic Republic of Mauritania.
4221 Dirksen Building

11:00 a.m.
Foreign Relations
To hold hearings to review those programs administered by the Board for International Broadcasting, to be followed by hearings on the nomination of Kenneth Y. Tomlinson, of New York, to be an Associate Director of the U.S. Information Agency.
4221 Dirksen Building

2:00 p.m.
Foreign Relations
To hold hearings on the nominations of Lev E. Dobriansky, of Virginia, to be Ambassador to The Commonwealth of the Bahamas, Samuel F. Hart, of Virginia, to be Ambassador to Ecuador, and Victor Blanco, of California, to be a Member of the Board of Directors of the Inter-American Foundation.
4221 Dirksen Building

Judiciary
To hold hearings on pending nominations.
2228 Dirksen Building

DECEMBER 7

9:30 a.m.
Labor and Human Resources
To hold hearings on the nomination of Donald L. Dotson, of Pennsylvania, to be a Member of the National Labor Relations Board.
4232 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

Environment and Public Works
Business meeting, to resume consideration of proposed amendments to S. 2432, authorizing funds for fiscal years 1983 and 1984 for programs of the Solid Waste Disposal Act and Resource Conservation and Recovery Act (pending on Senate calendar), and other pending business matters.
4200 Dirksen Building

Finance
Energy and Agricultural Taxation Subcommittee
To hold hearings on S. 1911 and S. 2642, bills providing for the establishment of reserves for surface mining land reclamation expenses and for the deduction of amounts added to such reserves.
2221 Dirksen Building

Foreign Relations
To hold hearings on the nominations of Richard T. Kennedy, of the District of Columbia, to be Ambassador at Large, and Jerome W. Van Gorkom, of Illinois, to be Under Secretary of State for Management.
4221 Dirksen Building

Judiciary
Business meeting, to consider pending calendar business.
2228 Dirksen Building

11:00 a.m.
Foreign Relations
Business meeting, to consider pending calendar business.
4221 Dirksen Building

2:00 p.m.
Select on Indian Affairs
To hold hearings on S. 2998, declaring that the United States holds in trust certain lands in Nevada for the Las Vegas Paiute Indian Tribe, S. 2893, providing for the approval of prior

transfers and extinguishment of claims and aboriginal title, involving the Miccosukee Indian Tribe of Florida, and S. 2931, providing for a claims judgment in favor of the Cowlitz Indian Tribe of Washington.
4232 Dirksen Building

DECEMBER 8

9:00 a.m.
Commerce, Science, and Transportation
Business meeting, to consider pending calendar business.
235 Russell Building

9:30 a.m.
Labor and Human Resources
To hold hearings on the nominations of Betty H. Brake, of Oklahoma, to be Deputy Director of the ACTION Agency, and David L. Slate, of California, to be General Counsel of the Equal Employment Opportunity Commission.
4232 Dirksen Building

10:00 a.m.
Armed Services
To hold open and closed hearings on the MX missile and associated Presidential basing decisions.
1318 Dirksen Building
Commerce, Science, and Transportation
To hold hearings on the nomination of George W. Douglas, of Texas, to be a Federal Trade Commissioner.
235 Russell Building
Rules and Administration
To hold hearings on computer and communication systems for the U.S. Senate.
301 Russell Building
Select on Intelligence
Closed briefing on intelligence matters.
S-407, Capitol

2:00 p.m.
Judiciary
To hold hearings on pending nominations.
2228 Dirksen Building

3:00 p.m.
Veterans' Affairs
To hold hearings on the nomination of Harry N. Walters, of Virginia, to be Administrator of Veterans' Affairs.
412 Russell Building

DECEMBER 9

9:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production, Marketing, and Stabilization of Prices Subcommittee
To hold hearings on proposed revisions to certain farm programs.
324 Russell Building

9:30 a.m.
Labor and Human Resources
To hold hearings on the nominations of Wendy H. Borcherdt, of California, to be Deputy Under Secretary for Intergovernmental and Interagency Affairs, Department of Education; Douglas A. Fenderson, of Minnesota, to be Director of the National Institute of Handicapped Research; Manuel J. Justiz, of New Mexico, to be Director of the National Institute of Education; Edward M. Elmendorf, of Vermont, to be Assistant Secretary for Postsecondary Education, Department of Education; pending nominations for the National Council on Educational Research; and pending nominations for the National Commission on Libraries and Information Science.
4232 Dirksen Building
Rules and Administration
Business meeting, to consider pending legislative and administrative business.
301 Russell Building

10:00 a.m.
Judiciary
Separation of Powers Subcommittee
To hold hearings on judicial leniency.
5110 Dirksen Building
Judiciary
Agency Administration Subcommittee
To hold oversight hearings on the implementation of the Equal Access to Justice Act (Public Law 96-481).
2228 Dirksen Building
Select on Intelligence
Closed briefing on intelligence matters.
S-407, Capitol

DECEMBER 10

10:00 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold oversight hearings on the implementation of the Household Goods Transportation Act (Public Law 95-454).
235 Russell Building
Energy and Natural Resources
Energy and Mineral Resources Subcommittee
To hold hearings on S. 2503, S. 2680, S. 2681, and S. 2824, bills providing for the reinstatement of certain oil and gas leases.
3110 Dirksen Building
Foreign Relations
East Asian and Pacific Affairs Subcommittee
To hold a briefing on the status of the Micronesian negotiations.
4221 Dirksen Building
Judiciary
Juvenile Justice Subcommittee
To hold hearings on S. 2856, increasing the penalties for the sexual exploitation of children.
2228 Dirksen Building

2:00 p.m.
Judiciary
To hold hearings on pending nominations.
2228 Dirksen Building

10:00 a.m.

DECEMBER 13

Governmental Affairs
Energy, Nuclear Proliferation and Government Processes Subcommittee
To hold hearings on Government payments and the potential for fraud.
3302 Dirksen Building
Select on Intelligence
Closed briefing on intelligence matters.
S-407, Capitol

DECEMBER 14

9:30 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the report of banking regulators regarding the Penn Square National Bank in Oklahoma.
5302 Dirksen Building

10:00 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold oversight hearings on the implemenatation of the Motor Carrier Act (Public Law 96-296).
235 Russell Building

DECEMBER 15

9:30 a.m.
Governmental Affairs
Energy, Nuclear Proliferation and Government Processes Subcommittee
To hold hearings on Government debt collection procedures.
5302 Dirksen Building
Governmental Affairs
Oversight of Government Management Subcommittee
To hold oversight hearings on computer matching programs to detect fraud and mismanagement in Government programs.
3302 Dirksen Building

DECEMBER 16

9:30 a.m.
Governmental Affairs
Oversight of Government Management Subcommittee
To continue oversight hearings on computer matching programs to detect fraud and mismanagement in Government programs.
3302 Dirksen Building
Small Business
To hold oversight hearings on the small business investment companies (SBIC) program of the Small Business Administration.
424 Russell Building

10:00 a.m.
Select on Intelligence
Budget Authorization Subcommittee
Closed meeting on budget matters relating to intelligence activities.
S-407, Capitol

JANUARY 12

9:30 a.m.
Labor and Human Resources
Employment and Productivity Subcommittee
To hold hearings to review Federal programs which create certain job opportunities.
4232 Dirksen Building

JANUARY 25

9:30 a.m.
Finance
To hold hearings on the administration's assessment of the meeting of ministers to the General Agreement of Tariffs and Trade (GATT).
2221 Dirksen Building

SENATE—*Thursday, December 2, 1982*

(Legislative day of Tuesday, November 30, 1982)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

The PRESIDENT pro tempore. Our prayer this morning will be offered by the Reverend Hampton Joel Rector, Special Assistant to Senator ROBERT C. BYRD, the minority leader.

PRAYER

The Reverend Hampton Joel Rector, Ph. D., offered the following prayer:

Almighty God our Heavenly Father, in whom we live and move and have our being, we ask Your presence in this Chamber and in our hearts and minds today.

More than two centuries ago, You created our Nation. Again and again throughout our history, You have judged us, guided us, and inspired us. Yet, though You are the Lord of all that is seen and unseen, You have given us the liberty wisely to serve You, or foolishly to neglect Your counsel.

Therefore, incline each of us to heed Your spirit this day. Lend to every Senator and to every staff member a wisdom higher than our own. Give the leaders and Members of this Senate the foresight to see where next to put their feet, the patience to do their duty in even the smallest tasks, the shrewdness to make right decisions, and the satisfaction of doing Your will.

And share Your vision with all of the citizens of this land—especially our President and those who most closely carry out his commands—that we may nurture the justice and peace that You hope for all mankind, that we may fulfill the ideals to which You are always calling us, and that we may reflect Your glory and be a blessing to the world.

We pray these things in the name of Him in whom alone is perfect service, perfect wisdom, and perfect peace. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. I thank the Chair.

REVEREND RECTOR CONGRATULATED ON INSPIRATIONAL PRAYER

Mr. BAKER. Mr. President, first I wish to express my congratulations to the distinguished acting Chaplain today for an inspirational prayer and extend to him all our welcome, I am sure, on behalf of every Senator.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER DESIGNATING PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, on yesterday it was announced that there would be a period for the transaction of routine morning business, I believe, during the course of this day. I ask unanimous consent that, following the recognition of the two leaders under the standing order and the recognition of three Senators on special orders as previously provided for, there be a period for the transaction of routine morning business to last no longer than 1 p.m., today in which Senators may speak for not more than 3 minutes each.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, it should be remembered by Senators that, under the provisions of rule XXII, a vote will occur on cloture in response to a motion filed on the day before yesterday in respect to the committee amendment to S. 995 after first establishing the presence of a quorum under the provisions of that rule. That quorum call will occur, unless modified by unanimous consent, beginning at 1 p.m., also obedient to the provisions of the rule.

There is a second cloture motion, Mr. President, against the bill itself. If cloture is invoked on the committee amendment, then debate and disposition of the committee amendment will proceed until concluded. If it is not invoked on the amendment, then the vote will occur on the motion to invoke cloture against the bill itself thereafter.

Mr. President, the leadership on this side still hopes that we can finally get to an appropriations bill, but I do not see that prospect at this moment. I will confer with the chairman of the Appropriations Committee and have a further announcement to make in that respect, I hope, later today.

Mr. President, I have no further need for my time under the standing order. I see no Senator seeking recognition.

Mr. President, I address the distinguished acting minority leader and ask if he has any need for additional time beyond that under the standing order.

Mr. METZENBAUM. Mr. President, I do not. I would just like to, if I may, in my capacity as a Member of the Senate, send to the desk a number of amendments and ask that they be considered at the appropriate time.

The PRESIDENT pro tempore. The amendments will lie on the table.

Mr. BAKER. Mr. President, I ask of the acting minority leader if he wishes to reserve the time of the minority leader for use any time during the course of the day.

Mr. METZENBAUM. The answer is yes. I think the majority leader knows that the minority leader is engaged in a conference of Democrats at the moment. I am sure he would appreciate it if that time would be reserved for him.

Mr. BAKER. Mr. President, I ask unanimous consent that the time remaining to me and the time remaining to the minority leader under the standing order may be reserved for our use any time during the course of this day.

The PRESIDING OFFICER (Mr. EAST). Without objection, it is so ordered.

RECOGNITION OF SENATOR MATHIAS

Mr. BAKER. Mr. President, there are three special orders which will follow in sequence at this point for Senator HARRY F. BYRD, JR., Senator PRYOR, and Senator MATHIAS. I only see Senator MATHIAS in the Chamber at this time. Is the Senator from Maryland prepared to proceed?

Mr. MATHIAS. Will the majority leader yield?

Mr. BAKER. Yes.

Mr. MATHIAS. Mr. President, I had a communication from Senator HARRY F. BYRD, who indicated that it would be agreeable to him to postpone his special order and I am prepared to go forward.

Mr. BAKER. I thank the Senator.

Mr. President, I ask unanimous consent that the order for presentation of special orders may be reversed and

that the Senator from Maryland may be recognized first.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Maryland is recognized.

THE NUCLEAR ARMS RACE

Mr. MATHIAS. Mr. President, the American people have expressed the desire to limit the expansion of the nuclear arms race and put a cap on the danger of nuclear annihilation of the human race.

Considering the numbers of people who have expressed their determination that something be done to limit the nuclear arms race, even against the advice of the President and the Secretary of Defense that such a policy would damage the security of the United States, we should begin to reexamine the freeze proposal and define it in rational terms. It is important that we do so not only for the formulation of our own policy but also to clarify the perception that our allies and friends—and indeed, our potential adversaries—have of our intentions.

One interpretation of the freeze idea is a massive, comprehensive, bilateral cessation of all nuclear arms activity—production, testing, and deployment of nuclear weapons. It is unrealistic to suggest that a total freeze could be immediate.

A sudden change in our approach probably would only confuse the Soviets as to our ultimate goal in the arms control process—a freeze or reductions? It would not be the first time we or the U.S.S.R. have communicated a confusing message and it would not enhance either of our negotiating positions in Geneva. Negotiations for a mutually acceptable, verifiable freeze could take as long as achieving the reductions now under consideration or longer.

One of the difficulties in attaining a freeze is that there is no adequate way to verify parts of it—a cessation of production, for example.

Some proponents of the freeze concept have said that it should be only momentary, the kind of pause that an ascending elevator makes before it reverses direction. This surely is acceptable but, again, the difficulty of arranging for the complex, extended systems in both the Soviet Union and the United States simultaneously to rise to a peak, stop, and then reverse direction is unlikely, given the diverse power factors in both countries.

What we need to do, if we are talking about freezing in a serious and mature way, is to talk about the various elements that could be frozen. Many of those who speak in behalf of the freeze movement seem to think of it as freezing a huge chunk of icehouse ice, a 100-pound block that would test the strength of the strongest iceman. What we really need to freeze is not unmanageable and impractical hunks of ice, but ice cubes—usable, manageable and a practical size—that gradually will cool the nuclear arms race and bring it to the position where it can be controlled and its direction reversed.

At various times in the past, we have attempted to harness the dizzying spiral of nuclear weapons developments. A world still shaken by the Cuban missile crisis welcomed the Limited Test Ban Treaty of 1963. Reflecting these concerns are the strong position taken by the Catholic bishops in the United States and the positions taken by other influential religious and political groups in the United States and Europe. It seems clear that the time is ripe for a restoration of the national consensus for arms control that dissipated after 1963. The time has come to take the small steps that eventually will make large ones possible.

There were moments in the last decade when it appeared possible that Americans could develop a generally acceptable national security policy that combined the intelligent pursuit of arms control objectives with prudent augmentations of our military force structure. SALT I and the Antiballistic Missile (ABM) Treaty, the Threshold Test Ban (TTB) and Peaceful Nuclear Explosions (PNE) Treaties were accords containing the promise of still greater things to come. Some argued at the time of SALT II that ratification of the treaty, with amendments, together with certain additional defense expenditures, would facilitate the creation of such a national consensus, which would in turn give confidence to our allies that we were capable of sustaining a long-term national security policy spanning administrations. While none of these agreements made dramatic contributions to the control of nuclear weapons, they were important as confidence-building measures. Such small ice cubes were more acceptable to all concerned than one big block of icehouse ice.

The consensus, however, did not develop. Instead, we have allowed this country's strategic policy direction to be altered approximately every 4 years:

We are embarked on still another set of U.S. strategic arms control initiatives, shelving, if not repudiating, the efforts of previous administrations—as, indeed, the Carter administration attempted to do in March 1977;

We continue to allow two painstakingly negotiated documents—the Peaceful Nuclear Explosions and Threshold Test Ban Treaties—to languish unratified in the Senate;

We have discontinued comprehensive test ban (CTB) negotiations;

We are planning a large deployment of sea-launched cruise missiles (SLCM's) and are moving toward the militarization of outer space.

All of this brings into question the ability of this country to sustain an effective, coherent program for arms control and force deployment that retains strong public support. It is time to consider freezing a few more ice cubes.

How should we go about it? There is no simple answer. I do not have a forked peach twig with which to divine our way out of this predicament, but there are some steps that might provide the foundation for eventual progress.

Our first priority must be the development of a bipartisan strategy for defense planning and the conduct of foreign policy. Such a consensus would reduce the growing frustration of the Soviet Union at changes in American negotiating positions and deny the Soviets the excuse for not negotiating or for not concluding negotiations on the ground that Americans are too difficult to deal with.

An integral element of any defense and foreign policy consensus must be agreement on our approach to our relations with the Soviet Union. Following the Soviet intervention in Afghanistan, we were able to muster the resources with which to register our collective disapproval. We should be able equally to muster a collective positive response when the occasion demands it and when it will advance the best interests of the United States and the free world.

We have certain things in common with the Soviet Union. We clearly have the ability to destroy each other as functioning nations. There is, in both capitals, a substantial lack of confidence in the intentions of the other side and, I suspect, even a lack of confidence in being able to perceive what the intentions of the other side may be.

In approaching the relationship between the United States and the Soviet Union, we have to be clear in our definition of terms that often are loosely tossed about. For example, many claim that the Soviet Union promotes instability in the world because it sees in that the greatest opportunities for advancing its own interests and pressing its borders forward. This may be true in social, political, and economic terms. But few would be willing to say that either the United States or the Soviet Union can derive any advantage out of a situation of nuclear weapons instability. The only proven method of doing that, of which we are aware, is to maintain an effective strategic deterrent even in the face of an increasingly powerful and versatile Soviet Union. One of the difficulties in freezing all nuclear weapons systems at one time is that any instability in any part of a system would

be preserved in ice. A freeze on the deployment of all delivery systems would preclude the introduction into our force structure of the Stealth bomber and the deployment of additional Trident submarines, two systems that may be useful for the maintenance of our deterrent capability.

We need to work on those measures that will increase mutual confidence and promote nuclear stability. In this area, some ice trays already are filled with water and ready to pop into the freezer:

As a first step, we must resume comprehensive test ban negotiations. We are obligated, as are the Soviets, by the terms of the Limited Test Ban Treaty to pursue actively a complete halt to nuclear testing. The most recent talks, including the U.S.S.R., the United Kingdom and the United States, were discontinued in 1980 after the invasion of Afghanistan. In July of this year, I introduced a resolution, with Senator KENNEDY and others, that called on the President to resume trilateral negotiations toward conclusion of a verifiable CTB.

A sensible next step would be to ratify the Threshold Test Ban and Peaceful Nuclear Explosions Treaties. The TTBT, signed in 1974 by President Nixon, established a nuclear threshold by outlawing underground tests in excess of 150 kilotons, equal to 150,000 tons of TNT. It was sent to the Senate in 1976 and is still there gathering dust.

The protocol to the TTBT provides for the exchange of geological and geographical data, which is essential for verifying the magnitude of a blast. The protocol also designates specific areas as weapons test sites to assist verification. An agreement to exchange this and other more detailed data would provide as yet unknown levels of cooperation by the United States and the Soviet Union. Never before has there been an understanding whereby the two superpowers would exchange data relating to their nuclear weapons programs.

In preparing the Threshold Test Ban Treaty, the United States and the U.S.S.R. determined that some agreement was needed to regulate underground nuclear tests for peaceful purposes. The PNE Treaty was signed by President Ford in 1976. It, too, is awaiting Senate approval. As with the Threshold Test Ban, the PNE Treaty's verification provisions lift it from the realm of obscurity and make it a valuable confidence-building tool.

Articles IV and V of the PNE Treaty establish the exchange of information and access to sites of explosions. Let me repeat that: Access to sites of explosions. The protocol to the Treaty sets forth provisions for both detailed information and the rights and functions of observers at explosion sites, American observers within the Soviet Union. This is particularly significant because Soviet opposition to onsite inspection of their test sites has been one of the obstacles to effective arms control in the nuclear age. The PNE Treaty, combined with the TTBT, establishes a comprehensive system of regulations that would govern the underground nuclear explosions of the United States and the Soviet Union in a manner consistent with enhanced stability. The Reagan administration has said that it wants to negotiate some changes in verification procedures. However, almost halfway through its term, the administration has not yet developed or submitted those changes to the Soviets.

Other arms control initiatives of practical size, while not yet ready for the freezer, should be addressed before they become unmanageable. We ought to agree with the Soviet Union on limitations on the deployment of sea-launched cruise missiles (SLCM's), even though the United States has an apparent technological lead of several years in this area. Once major deployments of these missiles have occurred, any numerical limits that we are attempting to secure through START will become meaningless. The easily concealable nature of a cruise missile and the difficulty in ascertaining whether it is equipped with a nuclear or conventional device will make United States and Soviet SCLM activity virtually impossible to verify. The United States soon will begin placing nuclear-armed, long-range cruise missiles on our attack submarines. The Soviet Union, with its less accurate and for the most part primitive cruise missiles, is not yet capable of fielding a similar SLCM system against the United States. However, as with any other weapons system of merit ever introduced by the United States, the U.S.S.R., after a certain lag period, eventually will match or at least neutralize our SLCM capability.

But there is a difference with cruise missiles. Once both sides possess equally effective sea-launched cruise missile systems, we will have sacrificed our ability to verify in the race to exploit this technology. A time could come, in the not-too-distant future, when the United States might have to consider every Soviet merchantman or trawler as a potential strategic nuclear delivery vehicle.

An analogous but even more dangerous situation exists in outer space. We are close to making outer space truly accessible; it is our next frontier. This prospect must be something like what Christopher Columbus experienced almost 500 years ago. We are looking across the rim of the world at new oceans and we should resolve that they will be peaceful seas.

Certain outer space activity has contributed to arms control. Satellites have created new verification procedures. But this positive aspect is threatened by a space technology that is rapidly providing the ability to destroy national technical methods of verification. We must negotiate a treaty outlawing war and arms in space or prepare to defend our share of Earth from space warfare.

The official position of the U.S. Government is that there can be no arms race until both sides possess a similar weapon or system. That is like saying the Japanese attack on Pearl Harbor was not a part of World War II because the United States had no planes in the air. An outer space arms race, if not already upon us, is imminent. And the Soviet Union is ahead. The United States does not yet possess an operative antisatellite (ASAT) weapon, while the Soviet Union does.

There are six international treaties that govern the military uses of outer space, but apparently none is adequate for heading off the use of space for the next round of United States-Soviet brinksmanship. If we act now, the devastatingly expensive and lethal programs for the militarization of space could die a relatively clean, uncomplicated death. If we and the Soviets delay, we will be faced with an environment increasingly difficult to control and hostile to human beings a few hundred miles below.

A final ice cube would be to explore the possibility of a freeze on United States and Soviet ICBM flight testing. Much could be made of this component of the comprehensive freeze proposal. Such a ban might ameliorate American fears of a Soviet first strike, which almost certainly would be directed at our ICBM force. In addition to basing problems, our ICBM vulnerability depends on Soviet competence in delivering their ICBM warheads to their targets.

A complete ban on ICBM flight testing might, over time, erode their faith in the reliability of their most important delivery vehicles. A country unsure of the reliabilty of its missiles would be much less likely to employ them in a preemptive strike or hair trigger reaction.

Would the U.S.S.R. buy the idea? That is hard to say. It is conceivable that they would have the same objections to this plan as they have to the START proposals. START, like an ICBM flight test ban, is aimed primarily at United States and Soviet land-based systems. But such a ban, unlike START, also would suspend our MX program. This may not be incentive enough for the Soviets to embrace a flight-testing freeze, but since it would eliminate a major source of concern for the Soviet Union, it is worth proposing.

There is a critical moment in Shakespeare's play, "The Tempest," when Prospero, his strength and magic

power dissipating, is faced with an important and irreversible decision. He must choose to remain in the world he has created for himself and his daughter Miranda or set sail for the country from which he was banished.

Prospero's island world is a place of magical, supernatural constructions. Sprites and witches, once under his absolute command, now conspire against the old Duke. The spells and incantations that earlier served him so well now form an arrogant and incorrigible chorus, ready to renounce his control. His island is swept by foreign forces that Prospero discovers he is too weary to tame.

. . . I have bedimmed
The noontide sun, called forth the mutinous winds
And 'twixt the green sea and the azured vault
Set roaring war; to the dread rattling thunder
Have I given fire and rifted Jove's stout oak
With his own bolt; the strong-based promontory
Have I made shake and by the spurs plucked up
The pine and cedar; graves at my command
Have waked their sleepers, oped, and let'em forth
By my so potent art. . . . (V, I. 41-50)

The ultimate futility, and also the danger of these self-created powers, compel Prospero to leave the island, He must now make peace with his old world.

We too must make peace with our world and with the hostile forces generated by our most creative minds. It is time we recognized the illusory nature of the nuclear spirits we have contrived to protect us. We are literally out of control in the field of nuclear weapons; locked, as it were, together with the Soviet Union, in a kind of technological trance. Controlling these most dangerous demons requires a mutual, sensible, and timely response to our common predicament.

RECOGNITION OF SENATOR HARRY F. BYRD, JR.

Mr. STEVENS. Mr. President, is there another special order scheduled?

The PRESIDING OFFICER. The Senator from Virginia (Mr. HARRY F. BYRD, JR.) is under a special order for 15 minutes. The Senator is now recognized.

THE DEFICIT IS DANGEROUS

Mr. HARRY F. BYRD, JR. Mr. President, I wish to commend today Mr. Martin Feldstein, who is the chairman of the Council of Economic Advisers to the President of the United States. I commend Mr. Feldstein because he, more than most in Washington, recognizes our Nation's unsound financial basis. Mr. Feldstein, in testifying before the Congress this week, said—and I am not quoting him precisely, I am quoting the news account:

A deficit-swelling jobs program or forced cut in interest rates could send inflation spiraling upward again and wreck recovery of an economy still bottoming out.

The chairman of the Council of Economic Advisers went on to say that unemployment can be brought down from its present postdepression high of 10.4 percent, to 6 or 7 percent over the next few years with a steady economic growth of 4 percent. But, he told reporters, that growth will occur only if Congress and the President cut Federal budget deficits.

Mr. President, that is the key, as I see it, the need to cut these huge, gigantic, runaway deficits. The Chairman of the Council of Economic Advisers further states:

I can't see how we can have a healthy recovery unless we get these deficits coming down and coming down sharply. It is vital—

He adds—

To avoid overheating the economy. Interest rates are higher because inflation expectation fears have not yet been put to rest.

The Senator from Virginia feels that the President's Chairman of the Council of Economic Advisers is giving the Congress and the administration good advice. But, during the 4 days that Congress has been back in session after its long recess, I do not find any real evidence that either the Democratic House or the Republican Senate is prepared to take the necessary steps to put this country back on a sound financial basis. The general talk around the Senate and around the House of Representatives is that there is little or nothing we can do in regard to spending. I see no evidence of any real desire to get spending under control.

If we do not get spending under control in this country, my judgment—and that judgment has been confirmed by the Chairman of the President's Council of Economic Advisers—is that we shall be in for very serious consequences.

U.S. News & World Report is one of the best publications, I think, in our country. Its able editor is Marvin Stone. In an editorial this week, he says:

It is growing clearer and clearer, in other words, that big deficits breed bigger deficits. One year's billions in borrowing are added to the next year's debt on which interest must be paid. Giveaways that start small grow larger year by year. Federal borrowings eat up capital needed for business, keep interest rates high, delay recovery, destroy jobs and profits, and erode the sources of revenue. Each year that Congress and President evade the painful steps to reduce the deficit, the labor of balancing becomes harder and less likely of success.

I think Marvin Stone in that editorial in this week's U.S. News & World Report is completely correct. I know that the distinguished occupant of the chair, the distinguished Senator from North Carolina (Mr. EAST) feels the same way; his voice has been raised many times on the floor of the Senate of the need to get a balanced budget, the need to control spending, just as the able Senator from Utah (Mr. HATCH) has been doing through the years that he has been here.

The Washington Post, hardly a conservative publication, hardly one that the Senator from Virginia is in agreement with any frequency, has an excellent editorial yesterday. It discusses the very problem that the Senator from Virginia has been discussing. In a moment I will ask that it be inserted in the RECORD. I will not do it at this point.

It goes on to point out that the Federal deficit is soaring out of sight. So publications of all political persuasions recognize the unsoundness of the Government's financial situation. I think the American people as a whole recognize that. Where it does not seem to be recognized is in the place where something can be done about it, namely, in the Congress of the United States.

How are we going to get an economic recovery going with interest rates as devastatingly high as they are now? How can we get the housing industry going with these high interest rates, or the automobile industry for that matter? Small business is being devastated by these high interest rates. And what does the Congress suggest in order to get interest rates down?

The Democratic leaders in the House are preparing a huge new spending program. The Democratic Caucus in the Senate is preparing a huge new spending program, all of which will tend to increase interest rates. The leadership of the Senate says that the way to get interest rates down is to force the Federal Reserve Board to act. The Federal Reserve Board cannot by itself bring about a sustained lowering of the interest rates. The Congress must face the fiscal problem. The Federal Reserve Board can address the monetary problem, but only the Congress can address the fiscal problem. And that fiscal problem is to get spending under control. If we do not get spending under control, the already huge deficits will be increased.

I have to say that I am somewhat discouraged at the attitude that I find on the part of, I would guess, a majority of my colleagues in the Congress, the attitude being that we are not concerned about the deficits or, if we are concerned about the deficit, we have no plan to reduce those deficits.

Mr. President, I hope that the Chairman of the Council of Economic Advisers will continue to speak out. I hope he will continue to focus attention on the need for Congress to take strong action in order to control spending.

I am not one of those who condemns the Federal Reserve Board and its

Chairman Paul Volcker. I feel the Federal Reserve Board has done what it had to do in a monetary way in order to bring down inflation. Now it is up to the Congress to do its part by getting spending under control so that we can get back on a sound basis.

This country is ready to take off economically, take off like a skyrocket maybe, if—if—the people become convinced that the Congress is willing to tackle the difficult problems in regard to Federal financing. I realize it is not easy. I realize it is more politically palatable to say it is not our responsibility; that the Federal Reserve has to do something.

I have been a politician all my life. I recognize the political niceties of trying to put the burden on somebody else, but the fact is that that cannot be done. I believe the American people recognize that the Congress has a grave responsibility. The longer Congress delays acting, the worse off everyone is going to be.

Mr. President, I ask unanimous consent to have printed in the RECORD the editorial from the U.S. News & World Report by Marvin Stone and also an editorial from the Washington Post of yesterday captioned "The Unconscionable Interest Rates."

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the U.S. News & World Report, Dec. 6, 1982]

IF WE DO NOT HALT DEFICITS

(By Marvin Stone)

Debate on the massive 1984 budget is overheating already, and it reminds us of the recent football strike: All sides are certain to give up something, and the biggest losers will be the people.

More revenues will be found, despite President Reagan's stand against tax raises. Defense spending will be pruned, even over strong presidential objections. These changes are assured not only by the Democrats' new strength in the House but by the intention of Republican heavy hitters in the Senate such as Bob Dole, Pete Domenici and Howard Baker. And, finally, social services will be cut again, although slightly.

Except for the desire to speed up his mammoth tax-rate cut, Mr. Reagan has been drawing his budget strategy basically from an analysis by the new chairman of the President's Council of Economic Advisers, Martin Feldstein. The chairman has deduced that the horrendous federal deficits stem not from increases in defense costs or cuts in taxes, but from quantum jumps in "nondefense spending"—here you must read, mainly, programs of aid to people. (More detail on Feldstein's views in an interview, page 63.)

Feldstein's major service to the country is in his picture of ruinous and almost unstoppable deficits, a demonstration that we have to act quickly and heroically to bring them down: "We now see," Feldstein told a group of businessmen, "that unless there is dramatic action the United States will experience an unprecedented series of deficits during the years ahead. . . . The magnitude of the projected possible deficits is far greater than anything that we have known. The harm that such deficits could do is therefore also beyond our previous experience."

It is growing clearer and clearer, in other words, that big deficits breed bigger deficits. One year's billions in borrowing are added to the next year's debt on which interest must be paid. Giveaways that start small grow larger year by year. Federal borrowings eat up capital needed for business, keep interest rates high, delay recovery, destroy jobs and profits, and erode the sources of revenue. Each year that Congress and President evade the painful steps to reduce the deficit, the labor of balancing becomes harder and less likely of success.

Measures now being advocated fall frighteningly short of getting the deficit under control. President Reagan's willingness to consider an increase in the federal levy on gasoline sales might be read as a small chink in his opposition to revenue-raising moves—if called by the right name. He dubs this one a "user fee." Since its 5.5-billion-dollar annual proceeds would go for road and bridge repair, some contend that it would not alter the budget. But it surely would help the economy.

Those 5.5 billion dollars would be chicken feed, however, in the prospective 185-billion-dollar deficit reportedly foreseen by Budget Director David Stockman if deep new cuts are not made. He apparently is asking at least 25 billion out of domestic spending. Doubtful as this is, it would still leave the deficit 55 to 60 billion above a perilous 100 billion, or nearly 100 billion over the 57.9-billion deficit of 1981, which was shocking in itself.

Senator Domenici has talked of taking 10 billion dollars a year off defense plans. Misty amounts may also be saved if inflation stays down and the economy turns upward in time. Ditching the entire tax-rate cut scheduled for next July would gain 30 billion in 1984. Politically that's a fantasy, but it is hard to see how we can hope to contain the deficit without big increases in revenue and more-drastic surgery on defense. Nor can it be done without cooperation between the political parties, between the houses of Congress and between Congress and the President.

Despite appearances, we can't believe the President is headed for a collision with Congress. We believe that cooperation, in one guise or another, will follow these initial skirmishes. Otherwise, the country is in for another damaging period of uncertainty and stagnation.

[From the Washington Post, Dec. 1, 1982]

THE UNCONSCIONABLE INTEREST RATES

The Government has put Wall Street on notice that it has been selected as the fall guy for the economy's current predicament. Having painted the economy into a very tight corner, neither the administration nor Congress, it seems, can be counted on to help find a way out.

Senate Majority Leader Howard Baker, speaking last Sunday on "Face the Nation," said that he doubts that Congress will be willing to make substantial cuts in either defense or domestic programs. President Reagan, speaking the next day to the National League of Cities, pretty much conceded that was so. Since neither the administration nor Congress wants to raise taxes to pay for these programs—the president is even pushing for more tax cuts—the government will have to borrow money to finance yearly deficits that might exceed $200 billion.

The only way out of this bind that the president or Sen. Baker sees is a long-term economic growth. In other words, the government will continue to buy now and pay later in the hope that sometime in the future it will get a hefty boost in its allowance from its rich relative, the private economy. The trick is to get the rich relative—now pinched by high unemployment, failing companies and falling export markets—back on its feet. This is to be the job of the financial community, which must see to it that there is plenty of inexpensive money to finance business expansion and consumer debt. It would be "unconscionable," Mr. Baker said, "for interest rates to start back up."

Interest rates, however, are notoriously unmoved by this sort of appeal to their moral sense. They are, after all, simply the price of money. If the federal government is out borrowing large sums, there will be less money for private borrowers. Other things being equal, when demand for money goes up, so does its price—the interest rate.

Of course, the Federal Reserve could, as Sen. Baker suggests, try to keep interest rates down by increasing the supply of money to accommodate the federal borrowing. This, however, is the functional equivalent of running the printing presses. If it goes very far, it will rekindle inflation. If lenders—who haven't forgotten what the last inflationary spiral cost them—get the idea that inflation is heading back up, they will start demanding a higher rate of return on long-term loans to protect themselves. And that, in turn, will discourage the business expansion needed for economic growth.

This predicament is a replay, in modified form, of the Carter administration's 1980 dilemma. In the spring, faced with a deficit that now seems modest in retrospect, President Carter persuaded the Federal Reserve to crack down on private credit. That led to a rise in unemployment, also modest by current standards but enough to be worrisome in an election year. When the Fed eased up on money in the fall, however, interest rates shot up, not down.

Of course, inflation was considerably higher then, which made the financial markets very nervous. Now, inflation is down—though still high by historical standards—but the federal deficit is soaring out of sight. If Congress wants to pacify the interest rates, it will take more than pious exhortations.

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. The distinguished Senator from Utah desires to speak.

The PRESIDING OFFICER. Without objection, the Senator is recognized.

ANTITRUST EQUAL ENFORCEMENT—S. 995

Mr. HATCH. Mr. President, the antitrust laws are an essential, practical expression of our concern for democracy. It is their function to prevent any firm or group of firms from so controlling a part of commerce that it is able to substitute that control for the independent, efficient allocation of resources achieved by competitive markets. The primary purpose of these laws is to foster competition; to benefit consumers.

In our national economic policy, we reject the equally offensive notions of giving control of business enterprise either to government or to private cartels. We must also reject the current judicially created rules that permit allocation of damages in the hundreds of millions or billions of dollars to be dictated by members of the private bar.

In massive, nationwide class actions, we are beginning to see cases in which the shape of an industry can be dictated by a small group of private lawyers. As they evolved in recent years several unrelated legal decisions have so distorted antitrust remedies that they can actually be used as a destructive weapon against competition, usually with greater harm to companies with small market shares.

Under existing law private antitrust remedies are ineffective and unfair. Every defendent faces damage exposure in the hundreds of millions of dollars based on industrywide sales. Each company faces huge claims that have nothing to do with their size or behavior. Not surprisingly, the largest and most culpable company is frequently the first to settle. Many who believe in their innocence are the last to settle, but because of the gargantuan exposure, many have no choice but to capitulate rather than exercise their fundamental right to go to trial or take an appeal. Those defendants therefore are denied their basic right of access to the courts.

S. 995 is a good start in correcting this problem. While most agree that contribution and claim reduction legislation is urgently needed, the single issue which has generated the greatest debate, and I submit, far more heat than light as to the underlying equities, is the applicability to pending cases. This issue is not properly resolved by arbitrarily excluding the very cases that precipitated the need for the legislation in the first place. Rather than merely tacking on a delayed effective date that we know would discriminate against hundreds who have been named in cases now before the courts, we have an obligation to legislate, to provide a way that as many as possible will receive the benefits of the legislation in a fair and appropriate manner. I believe that the approach adopted by the Judiciary Committee is the correct one.

I agree with what Deputy Attorney General and Judge Charles B. Renfrew said when he testified before the Judiciary Committee:

> No price fixer should escape liability. And no innocent defendant should be forced to pay tribute, merely because it is named in a broadside complaint that includes virtually every member of an industry. Nor should a defendant be required to pay 30, 40 or 50 times damages, in a case in which Congress intended to require payment of three times damages. Moreover, it is directly contrary to the basic purpose of the antitrust laws to permit early settling companies to cripple their competitors by transferring cumulative liability through privately negotiated settlement agreements. It is a distortion of the antitrust laws to permit them to be used for anti-competitive purposes and by methods which impair, not promote, competition.

The compelling need for this legislation has been dramatically demonstrated to this committee by the facts in a number of pending cases. In the Plywood antitrust cases, it is fundamentally unfair that the plaintiffs can settle with half of the industry for $8 million and then be permitted to seek hundreds of millions of dollars against the three nonsettling defendants. On September 7, 1982, a company involved in the Corrugated litigation announced that it had approved a settlement of the Corrugated case for $45 million plus $19 million in interest to be paid on the unpaid balance over a period of 6 years. This company had a 3-percent market share and had been acquitted after a full trial on the merits in the preceding criminal case. Its potential exposure, however, based on transferred liability from its competitors that had settled, was in the hundreds of millions. This transferred potential liability became too great a burden to carry through lengthy and costly litigations, even though that company maintains to this day that it injured no one.

Submitted with Judge Renfrew's written statement to the Judiciary Committee was a list of over 900 companies involved in over 100 pending antitrust price-fixing cases. The same potential for injustice exists in the health care, cement, steel, construction, aluminum, food, entertainment, petroleum products, liner board, corrugated containers, and dozens of other industries. Because private treble damage actions are so fundamental a part of our basic antitrust policy, I am very concerned that a deferred effective date for this legislation could lead to serious anticompetitive results.

The bill reported by the Judiciary Committee, which I cosponsored, makes a mechanism available to the courts to apply claim reduction on a case-by-case basis. Under S. 995, claim reduction would apply if it is inequitable not to do so. It will place the issue of fairness with the courts, which are knowledgeable of the facts in those cases. The burden of proof is on the defendants and it will be left to the courts to decide whether or not it is fair to apply claim reduction in a particular case. The more than 900 defendants in pending cases will be given an opportunity to prove their innocence without facing enormous damages based on actions of settling defendants.

S. 995 is a proposal that is long overdue and I applaud our distinguished chairman, Senator THURMOND, for his efforts in pushing this bill through the Judiciary Committee. I ask that all my colleagues join in support of this much needed legislation.

ROUTINE MORNING BUSINESS

Mr. STEVENS. Mr. President, what is the situation with regard to special orders? Is there still a special order remaining?

The PRESIDING OFFICER. The Chair advises that one special order remains, for the Senator from Arkansas (Mr. PRYOR).

Mr. STEVENS. Mr. President, in the interest of fairness, I ask unanimous consent that the order be vitiated now.

The PRESIDING OFFICER. Without objection, it is so ordered.

The next order is for morning business.

Mr. STEVENS. Mr. President, I intended to make a statement concerning troop strengths and take 5 or 6 minutes, but I see there is not that much time. I am aware that the distinguished Senator from Montana is on his feet, and I know he wants to make a comment prior to the mandatory quorum call and cloture vote.

If the Senator from Montana will permit me to take a minute or two for a comment, I will then yield so that he may be recognized to finish out the time period.

NATO TROOP STRENGTH

Mr. STEVENS. Mr. President, there is a statement on the United Press wire this morning that indicates that I am attempting to withdraw 20,000 troops from Europe. That is not true. I call the attention of the Senate to the fact that the same item indicates that the NATO Secretary, Joseph Luns, says that the presence of 320,000 American fighting men in Europe was an assurance that the United States would stand by its allies.

I want to be certain that the NATO Secretary understands that no one is attempting to reduce the level of troops down to 320,000. We now have 360,000 troops in Europe, although we funded only 346,000. The problem is whether or not the Department of Defense is going to stay within its budget. The Department requested from us appropriations for 346,000

troops in Europe. There is a new request for fiscal year 1983 for 350,000 troops in Europe, which we have not yet granted. The troop numbers presently exceed that. They have almost 360,000 troops in Europe, depending how you account for the troops.

I hope the State Department, the Defense Department, and the NATO organization start looking at their own records. Our commitment to NATO went up from $78 billion in 1981, in terms of actual spent dollars of the American taxpayer, to $133 billion estimated for 1983. Billions, Mr. President. It is a $55 billion increase in 2 years in the commitment to NATO.

Unless the Senate, unless Congress, unless the American people wake up, our whole modernization concept of our Armed Forces is going to be denied because of this massive commitment to NATO, which is running away because the Defense Department will not live within the constraints of the budget process.

I intend to have more to say about this in the future.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, it is now 4 minutes until 1 o'clock. I remind Senators that at 1 o'clock, under the provisions of rule XXII and pursuant to the cloture motion filed heretofore, there will be a live quorum.

I take this opportunity to urge Senators who hear me to come to the floor at this time, so that we can proceed as promptly as possible and perhaps avoid the necessity of having a rollcall on the motion to instruct the Sergeant at Arms. I hope Senators will come to the floor at this time and be present to answer to their names on the call of the quorum.

ANTITRUST EQUAL ENFORCEMENT

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, before the Senate casts its votes on the pending cloture motion, I should like to describe for my colleagues our current parliamentary situation. Before I do that, I wish to, one more time, articulate my position on the legislation before us. I support S. 995 as introduced. I wish the bill before us was in a form I could support. I oppose the pending amendment because I believe retroactivity has turned a very good bill into a special interest bailout for convicted price fixers.

Given this position, Mr. President, I am unfortunately forced into the position of having to vote against cloture both on the committee amendment and on the bill itself.

The first cloture vote this afternoon will be on the committee amendment. That amendment contains the retroactivity provision. For the reasons I have outlined over the past several days, I urge my colleagues to vote against cloture on the committee amendment.

Assuming that the first cloture vote fails, we will immediately vote upon the cloture motion on the bill itself. It has been argued that Senators like myself who support S. 995 but oppose retroactivity should support cloture on the bill. This argument is based on the assumption that retroactivity will be nongermane if cloture is invoked on the bill. This is not the case.

While the committee amendment will be ruled nongermane, another amendment has been filed which impacts dramatically on our parliamentary situation. Last night, Senator THURMOND filed a retroactivity amendment which is germane and which will be in order after cloture is invoked on the bill.

This new amendment is even worse than the pending committee amendment.

This amendment would permit claim reduction and contribution to be applied retroactively. Furthermore, this amendment does not even attempt to protect settlements.

The point is that the amendment filed by the Senator from South Carolina is even more sweeping in its retroactive application than is the committee amendment.

The parliamentary bottom line is that if cloture is invoked on the bill, we will be facing a more onerous retroactivity provision than the current committee amendment.

The simple fact is that even if cloture is invoked on the bill, that the retroactivity issue will remain before this Senate.

I, therefore, adamantly urge my colleagues to vote against cloture on the bill as well as on the committee amendment.

Let me remind my colleagues that it is the proponents of retroactivity that are killing this bill. It is they who are preventing the large majority of the business community from having the benefits of the fairer rules that this bill would provide. That is an unfortunate result. But, it is due to those who are insisting that we can only enact this bill if it provides retroactive relief to a handful of companies.

If we permit a few companies to come into Congress now and get bailed out from liability imposed upon them by the Federal courts, we are extending an open invitation to every party who is subject to an adverse ruling in a Federal court to come to Congress and try to get bailed out. We must not let that happen.

No one in the Senate is more saddened by the current circumstances surrounding S. 995 than this Senator. I wish I could be supporting it today. But, because it has been converted into a private relief bailout, I must urge my colleagues to vote against cloture on both the committee amendment and the bill.

OPPOSITION TO S. 995 RETROACTIVITY PROVISION

Mr. DIXON. Mr. President, I strongly support S. 995 as it was first introduced by Senators THURMOND, BAUCUS, LAXALT, HATCH, DECONCINI, and HEFLIN, for I believe that the contribution and claim reduction principles embodied in S. 995 will make our antitrust laws more just and equitable. Nevertheless, I strongly oppose the Judiciary Committee amendment that would make S. 995 apply retroactively to pending cases. I believe that this retroactivity amendment is special interest legislation of the worst kind; that it would benefit a very small number of private parties while adversely affecting the position of those injured by violations of the antitrust laws; that it would diminish the effectiveness and demean the integrity of the antitrust enforcement system; in sum, that it is unsound public policy and may well be unconstitutional. I cannot, therefore, support the motions to invoke cloture today on either the committee amendment or the bill.

As introduced, S. 995 would change the antitrust laws in two respects. First, it would create a new right of "contribution" that would permit defendants in antitrust price-fixing cases to bring into the case other parties who were not sued by plaintiffs but may have been part of the price-fixing conspiracy. Second, S. 995 would create a new statutory right of claim reduction, under which any judgment obtained by plaintiffs in a price-fixing case against defendants would have to be reduced by the market represented by any defendants who had settled their cases, rather than, as now, by only the dollar amount paid by the settling defendants.

As originally introduced, Mr. President, S. 995 won the almost universal support of the business community and the bar, and for good reason. The contribution and claim reduction principles embodied in S. 995 represent sound policy. They will permit businesses who are convinced of their innocence to litigate without fear of a devastating and disproportionate judgment.

Despite the acknowledged benefits of contribution and claim reduction, I cannot support S. 995 as reported out by the Judiciary Committee because of the unconscionability of its retroactivity feature. Retroactivity raises a host of complex problems.

Retroactivity would be unworkable administratively, and would greatly disrupt our judicial system. The many legal issues raised by retroactivity would be litigated at length, substan-

tially prolonging cases that already are too complex and time consuming.

Further, the purpose of S. 995 is fundamentally unfair: To deny a select group of successful antitrust plaintiffs their longstanding statutory right of treble damages. Enactment of S. 995 in its present form would signal that lawbreakers may use Congress as a forum of last resort, which obviously would subvert the antitrust enforcement system, and indeed the entire judicial system.

S. 995's retroactivity provision also would endanger the many settlements that have been entered in pending cases. These settlements have been expressly premised on the rights of the parties under existing law, and would be challenged if not overturned should the law be changed retroactively.

Mr. President, while all of the foregoing problems associated with retroactivity are serious, I would like to draw the attention of the Senate to a concern of particular sensitivity and importance: The constitutionality of S. 995's retroactivity provision.

Our constitutional system of government places a premium on the value of fairness and consequently has a tradition of abhorring retroactive legislation. The Founding Fathers were sensitive to the evils of applying new rules to the past conduct of citizens. James Madison in the Federalist Number 44 saw the need to protect the American people from the "fluctuating policy which has directed the public councils." Legislative changes affecting personal rights, he wrote, are "contrary to the first principles of the social compact and to every principle of social legislation."

Madison's comments were derived from the harsh lesson of experience:

> The sober people of America are weary of the fluctuating policy which has directed the public councils. They have seen with regret and indignation that sudden-changed and legislative interferences, in cases affecting personal rights, become jobs in the hands of enterprising and influential spectators, and less informed part of the community.

The principle of prohibiting legislation which retrospectively defines the rights and obligations of citizens was selectively incorporated into the Constitution. Under the contract clause, States are prohibited from enacting legislation "impairing the Obligations of Contracts."

Although this prohibition upon retroactive civil legislation directly controls only State action, the underlying policy has a broader sweep, reflecting the basic principle that legislation should not interfere with vested rights and liabilities or with existing legal relationships.

The Constitution also specifically prohibits Congress from passing ex post facto laws. This prohibition was held to apply directly only to retroactive criminal statutes in Calder against Bull, but here too the underlying principle is surely broader. In fact, in a recent case, Chevron Oil against Huson, the Supreme Court noted that

> (t)he earliest instances of nonretroactivity in the decisions of this Court—more than a century ago—came in cases of nonconstitutional, noncriminal State Law. . . . And, in the last few decades, we have recognized the doctrine of nonretroactivity outside the criminal area many times, in both constitutional and nonconstitutional cases.

A direct restraint upon the Federal Government's power to enact retroactive civil legislation lies in the due process clause of the fifth amendment. Legislation that, considering its retroactivity, is arbitrary or unreasonable or harsh and oppressive, has been held to constitute a denial of due process.

The historical bias against retroactive legislation is manifested in a long line of court decisions involving statutes silent as to the time they are to take effect. Chief Justice John Marshall gave this policy its first judicial expressions. As early as 1801, in United States against Schooner Peggy, he warned courts adjudicating rights between private individuals to "struggle hard against a construction (of a statute) which will, by a retrospective operation, affect the rights of parties. . . ." As the Court later put it, the rule of prospectivity is "one of obvious justice" because it "prevents the assigning of a quality or effect to acts of conduct which they did not have or did not contemplate when they were performed."

Mr. President, this aversion toward legislation that applies retrospectively is well founded, for a person should be able to assess his conduct with reasonable knowledge of its legal consequences. In a lawful society each of us plans his future with the expectation that the legal status of arrangements entered into today will not be upset tomorrow by a change in the law that applies to past conduct. Indeed, it is no understatement to say that the ability to plan for the future depends upon respect for stability of past legislative arrangements.

The Supreme Court's decision in the Schooner Peggy case established a rule of statutory construction recognizing that while retrospective application of civil statutes was permissible if such application was otherwise constitutional, absent a clear expression of legislative intent to the contrary a statute should be presumed to have prospective effect only. Early in this century, the Supreme Court again reaffirmed the presumption of a statute's prospectivity, declaring:

> The rule is one of obvious justice and prevents the assigning of a quality or effect to acts or conduct which they did not have or did not contemplate when they were performed.

Recent Supreme Court pronouncements have abandoned a "presumption" of prospectivity where a statute is silent. In Bradley against School Board of City of Richmond, however, the Supreme Court has incorporated the historical policy against retroactivity in articulating the rule that an appellate court shall apply the law in effect at the time it renders a decision, unless such application would work a "manifest injustice." The Court in Bradley explained that the concerns "relative to the possible working of an injustice center upon (a) the nature of and identity of the parties, (b) the nature of their rights, and (c) the nature of the impact of the change in law upon those rights." Measured by this standard, the retroactive application of S. 995 would be fatally defective.

Mr. President, while there is no express prohibition in the Constitution against retroactive enactment of civil statutes, it is reasonably clear that retroactivity has a higher constitutional hurdle to jump. As the Court stated in Usery against Turner-Elkhorn Mining Co., "the retrospective aspects of legislation, as well as the prospective aspects must meet the test of due process, and the justification for the latter may not suffice for the former."

In spite of the many decisions the Supreme Court has rendered on the subject of retroactive legislation, no single or clear due process standard has emerged. The absence of a definitive standard makes the likelihood of litigation challenging retroactive statutes high and the outcome in those cases uncertain.

Professor Hochman, in an article in the Harvard Law Review that has been cited by the courts, has proposed a general approach which involves weighing three factors in any particular case:

First, the nature and the strength of the public interest served by the statute;

Second, the extent to which the statute modifies or abrogates the asserted preenactment right; and

Third, the nature of the right which the statute alters. The Supreme Court has not formally adopted this approach, but it has employed a somewhat similar standard for purposes of giving meaning to the term "manifest injustice" in the Bradley case referred to before. Because the "manifest injustice" standard is rooted in due process considerations, Professor Hochman's framework is an appropriate test for evaluating the due process question.

Our former colleague, Joseph D. Tydings, in a scholarly statement submitted to the Judiciary Committee, applied the Hochman analysis to S. 995's retroactivity provision. He concluded that S. 995 would be unconstitutional under the Hochman standard, reasoning as follows:

> Under the Hochman approach, the following considerations are significant:

1. The nature of the public interest served by S. 995. It is well settled that Congress is the best judge of whether a particular statute serves the public interest, especially if the statute seeks to adjust the burdens and benefits of economic life within a regulatory scheme such as the antitrust laws. *Usery* v. *Turner Elkhorn Mining Co.*, 428 U.S. 1, 15 (1976). While respectfully deferring to the ultimate judgment of Congress, I submit that retroactive application of S. 995 serves no discernible purpose.

The contribution legislation serves the public purpose of allocating damages in a fairer manner among the parties in a price-fixing scheme. However, retroactive application of S. 995 would clearly defeat such purpose. In the *Corrugated* and *Plywood* cases, settlement agreements—the fairness and adequacy of which were approved by the district courts—have been executed in reliance upon a pro tanto claim reduction formula and a no contribution rule. Retroactive application of proportional claim reduction to these cases will have the result of defeating the plaintiffs' right to claim the balance of full treble damages against non-settling defendants while providing a windfall benefit to the latter.

Regardless of the existence of a public interest attaching to S. 995, it is minimized by the fact that it affects the interests of private cases. The Supreme Court has upheld retroactive statutes affecting the interests of private parties. However, any attempt by the proponents of retroactivity to analogize this situation to the public interest involved in those cases would be embarrassing. A number of cases, for example, arose in the context of emergency legislation enacted during the Depression. See, e.g., *Home Building and Loan Association* v. *Blaisdell*, supra. In more recent cases, the Supreme Court has sustained retroactivity to uphold the claims of plaintiffs whom significant social legislation is designed to protect, e.g., The Black Lung Benefits Act of 1972 (*Usery, supra*). Certainly, the "public interest" in this case is dwarfed by comparison. Moreover, I am not aware of any case upholding retroactive application of parochial legislation such as this for the benefit of adjudicated wrongdoers and I believe that the due process clause would not permit it.

2. The extent of the abrogation of the asserted preenactment right. Ironically, the retroactive amendments would adversely affect only the rights of the class of plaintiffs which the Clayton Act is designed to protect: by retroactively substituting a proportional claim reduction formula for a pro tanto formula, it would reduce the total recovery of treble damages, while the adjudicated price-fixers would be partially relieved of a preenactment obligation.

More importantly, retroactive application of S. 995 would mean that the plaintiff's right of recovery for damages equal to the difference between pre-enactment and post-enactment recovery is permanently extinguished. This is not a situation where the right of recovery has been temporarily suspended. *Ochoa* v. *Hernandes Y. Morales*, 230 U.S. 139 (1913). The dimunition of value in the pre-existing right is substantial enough to warrant striking down the retroactive statute. See, *Pennsylvania Coal Company* v. *Mahon*, 260 U.S. 393 (1922).

When weighed in conjunction with the absense of a substantial public interest in making S. 995 retroactive, the curtailment of plaintiffs' damages in favor of the wrongdoers is substantial.

3. The nature of the right affected by a retroactive statute. The third pattern established by the cases is to strike retroactive statutes which affect the rights that have been "perfected" or vested. The degree to which the plaintiffs have asserted and enforced their rights in the *Corrugated* and *Plywood* cases is substantial and it cannot be said that their claims are speculative. In each case, these rights have been reduced to judgments and in some instances affirmed by the Court of Appeals.

Reduced to a "gut" level, it is difficult, if not impossible, to see how passage of a retroactive amendment in this situation comports with fundamental fairness and due process of law. The amendments would be special interest legislation of the worst kind. Their proponents are corporate antitrust violators who, after repeatedly rejecting reasonable settlement offers from the plaintiffs (particularly, in the light of damages adjudicated by the trial court), forced the plaintiffs into very costly and time-consuming litigation which ended in substantial judgments against them. Now, after having had their day in court, they unscrupulously seek to legislatively overturn those judgments and reduce the amount of plaintiff classes' judgment awards through retroactive application of the claim reduction provision. In other words, having played by the rules of the game and lost, they seek to use their economic power and influence to change the results.

Mr. President, I believe that this statement submitted by our distinguished former colleague succinctly summarizes many of the possible due process objections to S. 995's retroactivity provisions. S. 995 is also constitutionally questionable, however, because it confuses the judicial and legislative functions in violation of the separation of powers principle.

Most retroactivity cases have arisen in the relatively neutral context of deciding whether a new piece of legislation should have an effect on prior conduct or pending litigation in the absence of any expressed congressional intent. The bill now before the Senate, however, poses the issues in a constitutionally more vulnerable setting. It manifests an explicit intention to overturn the substantive rules of law applicable to numerous pending cases under long-established legal principles.

As Marbury against Madison settled, it is the judicial function to decide, finally and authoritatively, what the law has been and is in pending cases. Accordingly, if we enact this proposed legislation, Congress would be encroaching upon the essential function of the judiciary under the doctrine of separation of powers.

Over a century ago, the Supreme Court forcefully enunciated and applied the separation of powers doctrine to condemn an act of Congress that attempted to overrule a Supreme Court decision by prescribing a different rule of law to be followed in pending cases. In *United States* v. *Klein*, 80 U.S. (13 Wall.) 128 (1872), plaintiff's decedent had been the owner of property sold by agents of the Federal Government during the Civil War. Plaintiff sued for the proceeds of the sale in the Court of Claims and recovered under legislation according such a right of action to noncombatant owners upon proof of loyalty, which the Supreme Court previously held could be proved by a Presidential pardon. While the case was on appeal in the Supreme Court, Congress passed an act crucially altering the rights people in the rebellious States. The act provided that in all pending cases no pardon would be admissible to show loyalty and that, to the contrary, a recital in a pardon of participation in the Civil War would constitute conclusive proof of disloyalty.

The Supreme Court ruled that it could not properly give force to the legislative directive. The Court asked rhetorically: "Can we do so without allowing that the legislature may prescribe rules of decision to the Judicial Department of the Government in cases pending before it?" The Court's answer was an emphatic "No." It held the statute unconstitutional on the ground that, by prescribing a rule of decision for pending cases, "Congress has inadvertently passed the limit which separates the legislative from the judicial power."

The Court's denunciation of congressional intrusion on judicial power has particular force in relation to S. 995. Like the statute condemned in Klein, this bill would purposefully overrule existing law and prescribe different rules of substantive law to be followed in pending cases. Thus, like the statute in Klein, it would unconstitutionally encroach upon the exclusive authority of the Federal judiciary.

The authority of the Congress to enact contribution and claim reduction legislation is clear and was so recognized by the Supreme Court in Texas Industries, Inc., against Radcliffe Materials, Inc. There is, however, a fundamental difference between changing a rule of law which applies to future cases and changing a rule of law which applies to pending cases, when the effect is to repudiate a Supreme Court interpretation of the preenactment law. By giving retroactive effect to either the contribution or claim reduction measure in S. 995, the Congress would be restating the prior law in this area, a point to which the Supreme Court has already clearly spoken in Texas Industries.

Mr. President, in our system of government matters concerning the separation of powers of the coordinate branches of government have been among the most sensitive and delicate. As between the Congress and the Judiciary, we have a strong common law tradition that although a court's pronouncements may apply to passed conduct, the Congress' function is to declare law for the future. There have been in the past, and will be in the future, circumstances requiring the

Congress to enact legislation that runs the risk of ultimately being declared violative of the separation of powers doctrine. Special interest legislation such as this, directed solely for the benefit of a small number of private parties, certainly does not warrant upsetting the delicate constitutional relationship between the Congress and the judiciary.

In the final analysis, no one can predict whether or not retroactive application of the contribution bill would be upheld by a court. It is very clear, however, that retroactivity poses serious constitutional issues which could only be resolved through protracted and expensive litigation. As stated by distinguished constitutional scholar Charles Alan Wright, "The due process objection to retroactive application of S. 995 raise(s) a complex and uncertain issue that would certainly produce much litigation."

Mr. President, because of the important public policy and constitutional issues involved, Congress has resisted attempts to legislate retroactively, particularly in the antitrust area.

For example, the Hart-Scott-Rodino Antitrust Improvements Act of 1976, containing the parens patriae provisions, was made not to apply "to any injuries sustained prior to (the) date of enactment." An earlier draft which would have authorized application of the parens patriae provisions to pending actions was rejected. Similarly, by enacting section 4A of the Clayton Act, Congress gave the United States authority to sue, but only prospectively.

During the 96th Congress, attempts to make the so-called Illinois Brick bill retroactive were very controversial. The bill ultimately reported out by the Judiciary, S. 300, would have applied retroactively, but in their minority views published in the accompanying committee report Senators THURMOND, LAXALT, HATCH, COCHRAN, SIMPSON, and HEFLIN condemned this feature of the bill. In a compelling critique of the retroactivity provision of S. 300—which applies with equal force to S. 995—these distinguished Senators wrote as follows:

An especially objectionable feature of S. 300 is its attempt to create some new rights and liabilities arising out of conduct that occurred prior to the effective date of the statute and to abrogate others. As reported, and subject to one narrow exception discussed below, S. 300 would apply to cases which are "pending on the date of enactment of this act or * * * commenced on or after the date of passage of this act." Wholly apart from the merits of the new rules of antitrust liability which are promulgated by the bill, their retroactive application to preenactment conduct is unfair, unwise, and unconstitutional.

There can be no doubt that retroactive application of S. 300 will (1) create new liability for past conduct, (2) destroy the vested rights of most direct purchasers, and (3) complicate hundreds of antitrust cases pending in the federal courts. Each of these results is fundamentally unfair and is constitutionally prohibited * * *.

Retroactive application of S. 300 will also destroy vested rights of direct purchasers in most cases. The line drawn between those claims that would be affected retroactively and those that would not be is irrational * * *.

Proposals for retroactive application of new rules for liability are not strangers to the Congress. Special interests frequently urge the enactment of laws to enrich themselves instantaneously at the expense of others who are unable to turn back the clock and undo history. What is surprising, however, is that these proposals, which Congress consistently rejects as fundamentally unfair, continue to be promoted. For example, in the last major amendments to the antitrust laws, proponents of the parens patriae amendments urged that they be applied to conduct occurring before enactment. This committee's reported version of that legislation would have applied to suits in which "the cause of action occurred before the date of enactment * * *" S. 1284, section 405 94th Congress 2d session as reported May 6, 1976. The full Congress, however, rejected that proposal for ex post facto lawmaking, concluding that it would offend elementary constitutional requirements of fairness and due process of law. Thus, the Act did "not apply to any injury sustained prior to the date of enactment of this act." Public Law 94-435, section 304 (Sept. 30, 1976).

The triumph of expediency over principle is nowhere better reflected than in the Rube Goldberg approach that the Committee has used to carve out a narrow exception from retroactivity to save particularly lawsuits that are viewed with favor by a few supporters * * *.

In spite of continuing criticisms during the two years of deliberations on this legislation, its supporters have stuck tenaciously to its retroactivity features. An untrained observer might think that some great principle accounted for this tenacity. The explanation is a simple one. The most vocal and active support for the bill itself comes from some litigants—and their lawyers—who have pending cases that the Supreme Court has ruled lack a foundation in law. Without retroactivity, their support for the bill would surely evaporate. The Senate should emphatically reject this approach to antitrust legislation.

If Illinois Brick legislation is enacted, more than two years will have lapsed since the Supreme Court's decision. The passage of this much time since the law was declared renders retroactive application of new rules exceedingly ill-conceived. If Congress had chosen to act in the immediate aftermath of the Court's decision, some of the practical ill effects of retroactivity might have been contained. More than two years later, however, these effects are multiplied and magnified.

Few fields of law match the complexity of antitrust, and equally few legislative reforms are more conducive to well-intended mischief than simplistic tinkering with antitrust cases. The notorious complexity of antitrust litigation is manifest to the Congress in Justice Department and Federal Trade Commission budget requests for millions of dollars for individual cases. It is manifest to the courts, which politely complain of overloaded dockets. And it was so manifest that it recently triggered a mammoth Presidential study commission. National Commission for the Review of Antitrust Laws and Procedures, "Report to the President and the Attorney General" (Jan. 22, 1979).

Ignoring the existing crisis of complexity, S. 300's retroactivity provisions will sabotage countless pending lawsuits with a new reign of chaos. Under the bill, the pass-on issue—which has heretofore been excluded form litigation (in large part because of the intractable factual and conceptual complexities it presents)—will be thrust into the heart of pending cases. The consequences of this meddlesome interference with pending law-suits are unfathomable. Regardless of the stage of the litigation, discovery must begin anew with all of the attendant delays. New motions must be made and resolved. Even new trials are likely in cases that are not finally closed. The staggering costs of these prospects have united many plaintiffs and defendants in pending cases to oppose the bill vigorously. With the notable exception carved out for a few direct purchasers, the Committee has ignored the chaos it would inflict on the courts and litigants.

Not only is retroactivity unwise, it is unconstitutional. Even if there were an adequate justification for disregarding the sound objection to this bill on the merits, no justification could sustain its retroactive application. As the Supreme Court has stated: "The retrospective aspects of legislation, as well as the prospective aspects must meet the test of due process, and the justifications for the latter may not suffice for the former." Usery against Turner Elkhorn Mining Co., 428 U.S. 1, 16-17 (1976).

Retroactive legislation that is arbitrary or unreasonable or harsh and oppressive will not survive a due process challenge. Id. Unconstitutionality results if retroactivity inflicts a "manifest injustice" considering "(a) the nature of and identity of the parties, (b) the nature of their rights, and (c) the nature of the impact of the change in law upon those rights." Bradley against Richmond School Board, 416 U.S. 696, 711, 716-21 (1974). These principles condemn the retroactive features of S. 300 for numerous reasons: first, S. 300 is not designed to deal with any emergency; second, S. 300 would create new liability for past conduct and destroy vested rights; third, private parties have acted in reasonable reliance on the Illinois Brick and Hanover Shoe decisions in the periods since they were decided; and fourth, the justification for rearranging rights is weakest when private litigants are involved, far weaker than when relationships between a private citizen and the government are rearranged for a public purpose.

There is a dangerous temptation to which the committee has unfortunately succumbed to set aside principles of fairness when dealing with alleged perpetrators of economic atrocities. We are encouraged to abandon our qualms by the assurance that, after all, these companies are price fixers and deserve no sympathy. Even if this legislation applied only to clearly illegal conduct like price fixing, even if all those who are merely accused of wrongdoing were actually guilty of it, and even if direct purchasers who are stripped of their vested rights were somehow tainted by the overcharges that they passed-on, congressional indignation could not justify the harsh consequences of retroactive punishment. Yet none of these assumptions is true. The constitutional principles that condemn S. 300 cannot be swept aside. * * *

Mr. Philip Lacovara testified:

Congress is, of course, free to change what the law will be in actions based on future conduct. That is the nature of the lawmaking function—to say what the law will be. The effect of the proposed legislation, however, is to replace the Supreme Court's statement of what the law has been and is for pending actions under the 1914 Clayton Act and to substitute the views of a subsequent Congress as to what it feels the law should have been under that statute.

Accordingly, by enacting this proposed amendment, Congress would be encroaching upon the essential function of the judiciary under the doctrine of separation of powers.

Michael Bleckman also voiced the opinion that the retroactive provision of the bill violates the separation of powers.

"I think for the Congress to go and try to, not just change the rule in Illinois Brick but to change the result in that case and the result in pending cases, represents and intrusion into the judicial process which, in my view, distorts the constitutional scheme protected by separation of powers."

During the time period in which constitutional issues are first put before the courts, and finally resolved, it is quite likely that violators will be able to slip past unpunished until the law is once again consistent with the Constitution.

Prof. Milton Handler and Mr. Michael Bleckman stated:

Last year, in connection with the parens patriae statute, the Congress rejected a proposal to make the bill retroactive on the ground that such ex post facto applications would violate "elementary constitutional requirements of fairness and due process of law." We suggest the same considerations require that the present bill be similarly modified to apply solely to future conduct and future cases.

Mr. Philip Lacovara stated:

As it did with the Hart-Scott-Rodino parens patriae legislation, when Congress added section 4A to the Clayton Act authorizing the United States to sue for damages in its proprietary capacity, it gave the new law only prospective effect. Section 4 of the amending legislation ch. 282, 69 stat. 282 (1955), provided that it was to become effective "6 months after its enactment."

Congress' historic disinclination to amend antitrust legislation retroactively is rooted in considerations of fairness and a sound regard for the disruption that retroactivity causes. The historic course of prudent legislation ought not to be abandoned now.

Mr. President, it seems to me that the criticisms made by my distinguished colleagues with respect to the retroactivity provision of the Illinois Brick legislation are directly analogous to S. 995's retroactivity feature. Consequently, I am confused as to why some of those who most ardently support the retroactivity feature of S. 995 also were among those who most strenuously opposed the retroactivity provision of the Illinois Brick legislation.

I believe the arguments made at that time are as sound now as they were then.

I urge my colleagues, therefore, to consider the arguments raised in the minority views on the Illinois Brick legislation, along with the constitutional and policy arguments that I have outlined. I believe that the arguments that I raised, together with the compelling case made by Senator THURMOND and others in the Illinois Brick minority report, combine to make an overwhelming case for dropping the retroactivity features of S. 995. As stated in those minority views, "Wholly apart from the merits of the new rules of antitrust liability which are promulgated by the bill, their retroactive applications to preenactment conduct is unfair, unwise, and unconstitutional." The retroactivity features of S. 995 should be dropped. I hope that the Senate, upon careful consideration, will decide not to include retroactivity in what is otherwise a sound and sensible piece of legislation. I urge the defeat of the retroactivity provisions.

Mr. KENNEDY. Mr. President, today we continue consideration of very controversial legislation. The bill, S. 995, is technically known as the Antitrust Equal Enforcement Act. It is sometimes referred to as the contribution bill. But to those dismayed at this effort to bail out price fixers, the proposal is more correctly known as the Price-Fixers Relief Act of 1982.

Indeed it is ironic that we begin a lameduck session of this Congress—when millions of Americans seek rescue from the disastrous economic policies of the past 2 years by spending this much time, energy, and attention on rescuing price fixers from the claims of their victims.

Others have already discussed the many serious flaws in this legislation—flaws in both the basic concept of the bill, and in the most controversial aspect, which is its retroactive application. Those issues themselves deserve the most careful and full consideration by the Senate. I salute the Senator from Montana, for the steadfast leadership he has shown by insisting that such a full debate be held on this bill. As in many other areas, whether it be the defense or our Government's system of checks and balances, or the defense of consumers against illegal business practices, the Senator has shown a persistent dedication to our Constitution and devotion to the public interest.

But quite apart from the defects of the bill itself, it is important that we put in full perspective the reasons why it is particularly inappropriate to pass S. 995 at this time.

Today, our antitrust laws are under attack. The system of statutes erected on a bipartisan basis over the past century, in order to make the free enterprise system work, has been the target of increasing attempts to find loopholes, provide broad exemptions, or simply repeal the law.

The antiturst laws are an important bulwark for every small business and every family in America because they guarantee the benefits of competition. Yet many of those most often heard to praise the benefits of a truly competitive economy, are among the voices calling for steps to weaken the antitrust laws.

I believe in fair competition and a competitive economy. That is why I fought for deregulation of industries in which the hand of agency regulation had choked off competition instead of preserving it. That also is why I believe that we must keep our antitrust laws strong, and their enforcement vigorous. At a time when we are trying to stimulate economic recovery, without a resumption of price inflation, a competitive economy is more important than ever. Yet today, the prospect for continued strong laws and vigorous enforcement is in doubt.

There is a tendency for some to blame every problem in our economy on the antitrust laws. Proposals to roll back the antitrust laws seem the order of the day.

Of course, no area of legislation is sacrosanct. And we must reexamine any statute which might benefit from fine tuning, or whose impact on the public interest is ripe for reappraisal.

But the American consumers—the husband or wife, father or mother trying to stretch a tight budget to buy shoes, and milk and medicines for their family—have been well served by our antitrust laws.

So have countless honest businessmen trying to compete for business, to serve the public, and to survive in a rough and tumble world of commerce or industry.

Particularly in these times of economic difficulty for all Americans, we should not lightly abandon any of the safeguards upon which the consumer or the businessman depend.

The Price-Fixers Relief Act now before us would seriously undermine a antitrust safeguard: The private treble damage action against illegal price fixing.

Price fixing is a felony for which a violator may be sent to jail. That indicates how serious a crime it is. Even under the best of circumstances, however, criminal enforcement by the Justice Department—or even Government civil suits—can only target a small fraction of the situations where illegal price fixing may be costing the public millions of dollars in rigged high prices.

The other half of antitrust enforcement—and one which is at least as crucial—is private treble damage actions. A group of would be price fixers may be willing to run the risk that the Government will use its limited resources to go after their conspiracy. But when they must also run the risk of their customers finding out, and suing, the stakes are much higher. With respect to damages for those in-

jured, private enforcement is the only available avenue.

In the past 2 years, the role of private antitrust enforcement has become more and more crucial, as the Antitrust Division of the Department of Justice has become more and more unwilling to enforce the law and protect the public.

Instead of leading the charge to stop illegal practices and to preserve competition, Attorney General Smith and Assistant Attorney General Baxter have sounded the call to reaction and retreat in the field of antitrust. Members of Congress from both sides of the aisle, as well as countless State and local public officials, have challenged this abdication of their duty to enforce the law. Yet those calls are blithly ignored.

The press has carried repeated reports quoting businessmen and attorneys who state that signals of weak Government enforcement are a green light to undertake questionable mergers or other dubious practices. For example, the Wall Street Journal reported a warning by Robert Pitofsky, a distinguished private antitrust lawyer and former member of the Federal Trade Commission, as follows:

> Mr. Pitofsky contends that by raising doubts about whether many proscribed practices remain so, the Reagan administration may break down self-regulation by business, tempting it to try a variety of harmful practices.

Of course, every administration shapes its own priorities for enforcement. But when agencies indicate that they will virtually disregard laws with which they may not agree, we have passed beyond the realm of responsible policy discretion, into the land of lawlessness.

At first Mr. Baxter seemed to suggest that the legal precedents he refused to follow had been implicitly overruled by subsequent Supreme Court decisions.

When pressed on this point, however, he switched his emphasis to the argument that the Supreme Court simply misunderstood the law and had not followed the intent of Congress. When we reminded him that the Supreme Court was the final word on interpreting Federal law and that he was duty bound to enforce that law, Mr. Baxter again changed his tune. He claimed that it is simply a matter of allocating inadequate resources and that he would focus on those cases which he determined harmed the public interest—and not waste his resources on prohibitions that he thought were unnecessary.

But recently, even that line of argument has crumbled. While offering the excuse of inadequate resources, Mr. Baxter has now begun to intercede in a number of cases on behalf of defendants. We have the sad spectacle of the Department spending a good deal of its energy asking the courts of the land not to enforce the law, instead of seeking its enforcement.

I know that the theory of antitrust law often seems complex or academic to the average citizen. But the consumers and small businessmen of America clearly appreciate the basic principle of antitrust: When competition is foreclosed, or is unfair, they suffer.

People also understand that the job of the Assistant Attorney General of the United States is to enforce the antitrust laws, not to help defendants evade its safeguards.

The present Justice Department has particularly shown its hostility to the laws prohibiting so-called vertical price fixing, that is, price fixing agreements between a manufacturer and distributors or retail outlets. Mr. Baxter admits that has been outlawed by the present statute, as interpreted by the Supreme Court. He disagrees, so he has not enforced the law.

Now, in response to the outcry over his failure, he is reported to be drafting a blockbuster antitrust bill for the administration. It would make vertical price fixing legal, eliminate treble damages, and repeal a host of other antitrust provisions.

I am confident that when the time comes, a bipartisan coalition in the Congress and across the land will not let this administration gut the antitrust laws.

But in the meantime, it is more clear with each passing day that we cannot rely on this Justice Department to enforce the antitrust laws. Instead, we must make sure that private plaintiffs who have been the victims of illegal action have the tools necessary to defend themselves and to maintain deterrence through their actions.

One glaring loophole in private antitrust enforcement was opended by the Supreme Court's decision 5 years ago in Illinois Brick against Illinois since that decision, those of us in the Congress concerned about strong antitrust laws have worked to overcome that decision by statute, as the Supreme Court explicitly invited Congress to do.

If the Senate is going to act on any antitrust legislation, I believe it is important that we address the problems caused by the Illinois Brick decision. The basic issue involved is a simple one.

Suppose a group of cement manufacturers conspire to fix the price of materials they sell to highway construction contractors, who in turn pass on the higher cost of those illegal prices to State and local government agencies which must pay more for public roads. Under Illinois Brick, the highway construction contractors may sue the cement manufacturers for price fixing. But the State and cities, and the taxpayers who must ultimately foot the bill, are out of luck. Since they are "indirect purchasers," not directly dealing with the price fixing, Illinois Brick bars their suit to recover damages.

Opponents of legislation have argued that the direct purchasers—here the building contractors—will sue, and thereby provide adequate enforcement for deterrence of others. However, in many cases, where it is quite easy to pass on the increased prices to the next purchaser in the chain, direct purchasers will have more to lose by alienating a supplier, than they have to gain by an expensive lawsuit.

The Illinois Brick case is a good example. The builders simply passed on to local governments the overcharges they paid to cement block manufacturers who had fixed prices.

The end result is that price fixing in many cases will go unpunished and the consumers, or the taxpayers, in the case of Government purchases will not be compensated for their loss.

In short, the Illinois Brick decision stands the antitrust law on its head because it prevents recovery by the persons actually injured.

When Congress first passed the Sherman Act, almost 100 years ago, the sponsors made clear that they sought to protect the consumers, who were the real victims because they paid the increased prices passed on by middlemen.

When the Government makes proprietary purchases, it is the "consumer." But the ultimate victim is the taxpayer, who must pay higher taxes or accept fewer services when tight budgets are drained by illegal overcharges.

In the last Congress, these basic facts led the Senate Judiciary Committee to report S. 300, to remedy the Illinois Brick problem. The bill had broad support from consumers, working people, the elderly, Federal and State law enforcement authorities.

The 96th Congress did not act on S. 300 because of the threat of a filibuster and the press of other Senate business. The bill's opponents created a great deal of misinformed confusion about the potential impact of the measure upon the courts, and the specter of unwarranted or unmanageable lawsuits.

Each of those arguments was thoroughly explored and refuted in the committee report on S. 300. Nevertheless, proponents of Illinois Brick legislation realize that there is still ample opportunity for continued confusion and scare tactics with respect to class action suits brought by private parties. Therefore, we are prepared to concentrate on the clearest and most compelling aspect of the Illinois Brick problem—its impact on Government pro-

prietary suits and on the parens patriae provision of the Hart-Scott-Rodino Act.

Last summer the Senator from Washington (Mr. GORTON) introduced just such a limited version as an amendment to S. 995, on behalf of himself, the Senator from New Hampshire (Mr. RUDMAN), the Senator from Missouri (Mr. DANFORTH), and the Senator from Vermont (Mr. STAFFORD). As former State attorneys general, they know well the devastating effect that Illinois Brick has had on the ability of State and local governments to protect themselves and their taxpayers. The Senator from Missouri worked tirelessly and with great effectiveness on behalf of Illinois Brick legislation in the 96th Congress. The Senator from Washington and the Senator from New Hampshire have repeatedly demonstrated their strong commitment to antitrust enforcement in this Congress, even when it meant criticizing the current antitrust policy of the administration. They have continued the bipartisan tradition that has been the hallmark of antitrust policy since its inception.

I indicated to those Senators that I was fully prepared to join them in a fight to add an Illinois Brick amendment to any contributions legislation. So were many of our colleagues who worked for S. 300 years ago.

After a prolonged series of discussions, however, the Senator from Washington and the chairman of the Senate Judiciary Committee have reached an agreement that this limited Illinois Brick bill will be acted upon by the committee promptly next year. It is my understanding that the Senator from South Carolina has agreed to hold hearings and to hold a committee markup on the bill by June of 1983. In return, the Senator from Washington has agreed not to go forward with his amendment at this time.

I respect Senator GORTON's decision to advance the cause of Illinois Brick as he thinks best. I know it is a sincere and well-considered one.

However, I believe Congress should act on antitrust matters in a balanced way. The absence of any action on Illinois Brick at this time only underlines my concern about legislation such as S. 995 which is so one-sided in weakening private antitrust enforcement.

An extensive, persuasive record for the full Illinois Brick bill has been made. But it is important to understand that the proposal by the Senator from Washington substantially narrows the issue and renders irrelevant most of the arguments that we heard from the opposition in the last Congress. As a result of Illinois Brick, States and cities have had to drop or settle suits involving millions of dollars. Since then they have refrained from bringing many others. The issue is still a strong concern to them. This summer a number of Governors and attorneys general urged their Senators to support legislation overcoming Illinois Brick.

All Senators received a letter supporting action on a limited Illinois Brick amendment jointly signed by the National Governors' Association, the National Association of Attorneys General, the National League of Cities, the National Association of Counties, and the National Conference of State Legislatures. They wrote that:

> The amendment would allow States to combat antitrust violations that force taxpayers and government agencies to pay higher prices for goods and services, and would enable State and local governments to retrieve tax dollars taken by price fixers and bid riggers . . . at a time when all government budgets are badly stretched.

A brief review of the Illinois Brick case and its impact will make clear the reason for their deep concern, and the merits of a legislation remedy.

On June 9, 1977, the Supreme Court held in *Illinois Brick Co.* v. *Illinois,* 431 U.S. 720 (1977), that only persons who have dealt directly with an antitrust violator are entitled to sue that violator for antitrust damages. The Court held that "the overcharged direct purchaser, and not others in the chain of manufacture or distribution, is the party 'injured in his business or property' within the meaning of (section 4 of the Clayton Act)." Since most individuals and consumers purchase goods through retailers and other middlemen, that decision effectively precludes consumers (as well as many small businesses, farmers, State governments, and Federal agencies, who also are often indirect purchasers) from seeking redress for antitrust violations. In doing so it impairs significantly both the fair and effective enforcement of this Nation's antitrust laws and the principle of compensating those who are injured by antitrust violations.

In the 87 years prior to the Illinois Brick decision, Congress and the courts had consistently recognized that consumers where the intended beneficiaries of the antitrust laws, and that a private right of action for damages was provided with the express purpose of compensating consumers and others who pay the real costs of illegal conduct. As early as 1890, Senator George described the sense of Congress that:

> The right of action against the persons in the combination is giving to the party damnified. * * * the consumer, therefore paying all the increased price advanced by the middlemen and profits on the same, is the party necessarily damnified or injured.

That express intent of Congress was reaffirmed most recently in the Hart-Scott-Rodino Act adopted by the 94th Congress. That statute permits State attorneys general to commence actions on behalf of consumers under the theory of parens patriae. Such surrogate authority, however, was significantly constricted when the Supreme Court abolished the underlying substantive rights of most consumers by its decision in Illinois Brick.

There is no effective substitute for the vigorous enforcement efforts of consumers, and other indirect purchasers, of Government lawyers acting on their behalf, or of proprietary actions brought by Government agencies which are themselves indirect purchasers. Neither civil actions by direct purchasers, nor criminal enforcement by the Department of Justice, can duplicate the breadth and force of those actions now forbidden by Illinois Brick. As a consequence, millions of dollars illegally exacted because of price fixing and other antitrust violations will go unredeemed, and with them will be lost the single most effective legal deterrent to the commission of such violations.

In the period preceding the Illinois Brick decision, courts awarded indirect purchasers, including consumers, States and Federal Government agencies, millions of dollars in damages for price fixing on the sale of drugs, highway materials, hardware products and many other items purchased through middlemen.

Had Illinois Brick been in force at the time such actions were brought, all of those indirect purchasers would have been denied recovery. Yet in most cases, indirect purchasers are the parties who suffer most because of price fixing, bid rigging, and other antitrust violations. Most direct purchasers are middlemen, who pass on the cost of any overcharge to their own purchasers, who in turn pass it on to consumers or other ultimte purchasers. Illinois Brick denies compensation to those most often injured in fact, and it compounds that unfairness by permitting windfall recoveries by direct purchasers who may not have been injured at all. Thus direct purchasers the profit of overcharges by passing them on to consumers, yet recover civil damages by suing their suppliers for the violation.

The Supreme Court was willing to accept that inequity in order to prevent what it saw as another inequity. The Court had held in 1968, in Hanover Shoe, Inc. against United Shoe Machinery Corp. "That antitrust defendants cannot escape liability by proving that a plaintiff had passed on illegal overcharges to its customers, and thus had not been injured in his business or property under section 4 of the Clayton Act." In light of the assertedly inviolable force of that precedent, the Supreme Court reasoned in Illinois Brick that permitting suit by indirect purchasers would subject a defendant to duplicative liability for the same offense. Middlemen might collect the full amount of an overcharge

even if they had passed it on to consumers, and consumers might then collect again. The Court was willing to permit windfall recoveries by direct purchasers at the expense of consumers, in order to avoid duplicative liability at the expense of antitrust violators.

That result would be unacceptable even if there were no alternative to subjecting defendants to duplicative liability. It is especially unacceptable because there is an obvious alternative: Overruling Hanover Shoe in part, and allowing the apportionment of damages according to the actual injury suffered by the parties to an action. That alternative was rejected by the Supreme Court in Illinois Brick, on the ground that it required overruling of the Hanover Shoe precedent, which the Court thought should be left to Congress.

In the 9-year period between Hanover Shoe and Illinois Brick, Federal courts capably apportioned antitrust damages between direct and indirect purchasers, encountering no unusual problems.

The Illinois Brick legislation has already had 8 days of hearings, involving 55 witnesses, held by the Subcommittee on Antitrust and Monopoly in the 95th Congress, and an additional 4 days of hearings in the 96th Congress. It was supported by a wide range of interested organizations and individuals, including, the National Governors Association, all 50 State attorneys general, the National Association of Homebuilders, the United Mine Workers of America, the Consumer Federation of America, the United Steelworkers of America, and dozens of other groups.

We do not take lightly an effort to overturn a pronouncement by the Supreme Court of the United States. However, even as the Court prescribed its own view of the legislative history of antitrust laws and their underlying purposes, it invited Congress to provide "clear directions * * * to the contrary." The Court added: "Should Congress disagree with this result, it may, of course, amend the (statute) to change it."

The decision in Illinois Brick is a flat rejection of the view taken by all but one of the Federal courts of appeals to face the problem, and contradicts the Supreme Court's previously consistent philosophy in construing section 4 of the Clayton Act. It thus represents a direct departure from almost a century of antitrust enforcement consistent with the clear intent of Congress in passage of the Sherman Act, the Clayton Act, and the parens patriae section of the Hart-Scott-Rodino Act.

An Illinois Brick bill limited to proprietary Government suits and parens patriae actions is vital to effective antitrust enforcement. First, as we pointed out in the committee report on S. 300 in the 96th Congress:

Illinois Brick Substantially Undermines State and Federal Proprietary Actions. By definition, Illinois Brick denies compensation to those indirect dealers already injured by antitrust violations, while providing an opportunity for windfall profits to direct dealers who may have suffered no injury. To the extent that future antitrust violations are not deterred by those enforcement mechanisms surviving Illinois Brick, indirect dealers will continue to suffer the real costs. If the prior cases are any indication, their losses will not be insignificant.

For the Federal and State governments, which purchase most materials through middlemen, the potential losses are enormous. Andrew Buffmire, Utah's assistant attorney general for antitrust, testified that "in excess of 90 percent of our purchases . . . are done so indirectly." Arkansas attorney general, Steven Clark, estimated that Illinois Brick leaves his State with "standing to recover possible overcharges on less than ten percent of its purchases. Most governmental agencies engage in similar practices. In the Liquid Asphalt cases, Arizona alone collected $2.1 million. In Arizona's concrete and ready-mix cases, damage claims could run as high as $60 million. Arkansas stands to lose damages on all but 3 percent of overcharges on $2 million in paper products; Texas $30 million in damages on steel rebar purchases; and Florida $27 million in damages for the same product.

Still other pending cases are threatened by Illinois Brick. Of course the committee means to imply no judgment on the merits of such pending cases. However, the significant level of damages alleged, coupled with the extent of damages actually proved and won in cases already completed, offers a significant indication of the tax dollars currently at stake in passage of S. 300. The damages alleged in such pending cases, however, do not begin to approximate the total dollars at stake, since they cannot measure the actions which would have been undertaken by various States had Illinois Brick not intervened. Arkansas Attorney General Steven Clark described to the committee the effect of Illinois Brick upon Arkansas' antitrust enforcement policy:

"Let me speak briefly about how the implications of Illinois Brick have influenced our own enforcement practices. First, it has forced us to redirect investigations to only those areas where either the State or its consumers are direct purchasers of the products or services involved. In a few instances, this has meant investigations have not been pursued because neither the State nor consumers in general were direct purchasers.

"More generally, Illinois Brick has caused our attention to be focused on only a very narrow segment of the economic distribution chain. In the case of State purchases, it has been distributors and vendors which deal directly with the State. In terms of consumers, we now must concentrate on the retail industry or other final distribution outlets.

"This narrowing of our enforcement range not only restricts the ability of the State to recover damages it or the consumer may suffer. It removes the deterrent value of State governmental action from the most concentrated sectors of the economy."

Chauncey Browning, Attorney General of West Virginia and President of the National Association of Attorneys General, offered the following estimate of potential dollar losses:

"This problem which has been presented to us by the decision in Illinois Brick involves a loss of tax dollars to our State of pending cases, those cases pending prior to June 1977, some before, in the neighborhood of approximately $300 million. That does not take into account the number of cases which might have been brought since June 1977. And in trying to arrive at some approximate figure, I think it is fair to say that we have now lost and are continuing to lose a total somewhere in the neighborhood of $750 million of State tax dollars, taxpayers' money that has been lost as a result of this decision."

Similar analysis applies to Federal proprietary actions, Assistant Attorney General Shenefield testified that if you aggregated all the possible recovery in our cases in court today, the ball park figure was $100 to $200 million. That assessment, however, does not begin to measure the opportunity cost of cases which might have been brought had Illinois Brick not intervened. Nevertheless, even the most conservative estimate would place the loss in Federal and State proprietary recovery at $1 billion or more

I hope my colleagues will consider the need for Illinois Brick reform of the antitrust laws, and the growing importance of private enforcement in the face of the Justice Department's abdication which would only serve to weaken the law. They agree to pass a bill like S. 995.

● Mr. BRADY. Mr. President, I rise in support of S. 995, the Antitrust Equal Enforcement Act. In contrast to current law, S. 995 offers an effective and equitable means of assuring compliance with the antitrust laws. In the opinion of many legal scholars, it will deter price fixers to a greater extent than current law because it will make price fixers responsible for their own share of actual damages. At the same time, it will eliminate a twist in the current law which provides a means for the most culpable price fixers to reach inordinately low settlements.

An important feature of the bill is that it will provide a more equitable atmosphere for the litigation of price fixing cases. Current law forces small businesses to face liability for damages of the entire industry. In contrast, S. 995 assures all parties, particularly small businesses, a right to trial without facing a deck stacked against them in the form of the threat of excessive damages. Rather than partial settlements and piecemeal litigation which are the norm under current law, the bill encourages settlement of the entire antitrust price-fixing case.

I also support the committee amendment to permit the application of the principle of claim reduction to pending cases. It is important to note that the bill does not provide price fixers with an automatic right to claim reduction. Rather the amendment represents a compromise which will allow the judge, who is the most familiar with the facts of the case, and impartial in the matter, to decide whether the principle should apply. Equally important, the clear language of the bill pro-

vides that existing settlements are not to be overturned because of the application of the claim reduction principle, without the consent of all parties to the settlement. It is my belief that this provision will not complicate pending litigation or tax the court system, and is a most fair method of reconciling the competing interests.

For these reasons, I support S. 995 and the committee amendment.●

● Mr. NUNN. Mr. President, I would like to offer my voice in support of the efforts of the distinguished chairman of the Judiciary Committee in bringing to the Senate floor legislation of such timely importance to our Nation's antitrust law enforcement system.

In recent years, the development of massive class action litigation has combined with the absence of a right of contribution among antitrust defendants to produce a situation of intolerable inequities in antitrust enforcement. This situation has permitted culpable antitrust defendants with large market shares to escape from litigation by paying only a fraction of their fair share of the damages resulting from their unlawful conduct. Because of the lack of a right of contribution, the exodus of these defendants from a case has had the effect of shifting their liability to other defendants. As the damages pile up on the remaining nonsettling defendants, they become increasingly susceptible to outrageous settlement demands. Typically, the pressure continues to mount until, faced with the prospect of having to respond for the damages of practically the entire industry, the remaining defendants capitulate and agree to settle for an amount many times greater than the damages they themselves allegedly caused.

Mr. President, the public interest is not served by the situation I have just described, and we in the Senate now have the opportunity to bring to an abrupt halt such an unequitable situation by the passage of S. 995, the Antitrust Equal Enforcement Act. This legislation, which establishes a right of contribution and claim reduction among defendants subject to liability in price-fixing cases, does not come before us today ill considered. It has been the subject of 4 days of hearings before the Judiciary Committee which fully aired the arguments for and against its various provisions. After much deliberation, the committee reported the bill in March of this year, and since that time the debate has continued almost continuously. Simply put, Mr. President, all sides have had an adequate opportunity to present their views, and the issues are now right for resolution.

Previous speakers in support of this legislation have fully documented the historical precedents supporting contributions in price-fixing cases. Likewise, other speakers have dispelled the argument that the provisions of S. 995 would in any way discourage settlements in these antitrust cases or in any way decrease deterrents to price-fixing companies. In fact, Mr. President, I submit the proponents of this legislation have proved that the exact opposite will be true. Because companies which under present law can now shift the vast majority of their potential liability to other defendants will be unable to do so with the passage of S. 995, I am convinced that this legislation will strengthen price-fixing deterrants.

Mr. President, we are all aware that the most hotly contested provision of S. 995 is the one which allows the claim reduction principle to be applied to pending cases. The question of when S. 995 should be effective has become one of the most controversial issues to be debated during this Congress. Both proponents and opponents of applying this legislation to pending cases have advanced compelling and persuasive arguments. The final conclusion which the Judiciary Committee reached was that it would be unfair to arbitrarily either deny or apply the claim reduction provisions of S. 995 to pending cases.

This true compromise—which I strongly support—recognizes the impossibility of examining all the facts of every pending case to determine what would achieve the most fair and equitable result and leaves that decision to the trial judge, the one individual who has knowledge of all particular facts in each case.

The question of whether claim reduction should apply to pending cases cannot be settled justly by a broad approach which attempts to cover every situation. The application of claim reduction to these cases must be based upon a consideration of the equities involved in each and every case. Clearly, with hundreds of price-fixing cases pending before the Federal court system, Congress itself cannot undertake to access these equities. This compromise allows the Federal judges presiding over each case to make the decision as to whether the applicability of claim reduction is equitable and reasonable. The burden to prove the fairness of claim reduction is properly placed on those defendants who would seek its benefits, and the authority to make this decision is properly placed with the trial judge.

In conclusion, Mr. President, I urge my colleagues to join me in voting for passage of S. 995 as reported by the Judiciary Committee. This bill resolves some truly inequitable situations which present law not only permits to exist, but also encourages. This legislation assures that such antitrust price-fixing defendant pays his fair share of the damage he actually caused. This bill is fair and it marks a significant improvement in our current antitrust law enforcement.●

● Mrs. HAWKINS. Mr. President, for the past 3 days the Senate has debated S. 995, the Antitrust Equal Enforcement Act. S. 995, as introduced changes current law in two ways. First, it creates a new right for defendants to insure that other parties not sued by the plaintiff be joined as codefendants when appropriate. Second, and more importantly it creates a new right of claim reduction, under which any judgment obtained by plaintiffs in a price-fixing case would be reduced by the market shares represented by defendants who settled, rather than, as now, only by the dollar amount paid by the settling defendants. When S. 995 was introduced, both claim reduction and contribution applied only to future cases. These changes in antitrust law, applied prospectively, would have corrected certain inequities of existing law.

Unfortunately, the Senate Judiciary Committee amended S. 995 to allow the right of claim reduction to apply to pending cases. The bill as reported out of the Judiciary Committee contains a retroactive clause which could apply claim reduction to pending cases. I cannot support the retroactivity provision because it changes the rules in the middle of the game. This is unfair and unjust to the parties who based their decision about whether to settle or litigate on existing law.

While I strongly oppose the retroactivity provision in S. 995, I did vote for cloture because I believe the Senate should proceed to other important business. With only 3 weeks before the end of the 97th Congress and many critical measures to complete, including 10 appropriation bills, it is our duty to act as expeditiously as possible.●

Mr. THURMOND. Mr. President, will the Senator provide me the last few minutes?

CLOTURE MOTION

The PRESIDING OFFICER. The Chair wishes to assert his prerogative here that under rule XXII, it being 1 hour after the Senate has met, the clerk will report the motion to invoke cloture. Morning business is closed.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the committee amendment to S. 995, a bill to provide for contribution of damages attributable to an agreement by two or more persons to fix, maintain, or stabilize prices under section 4, 4A, or 4C of the Clayton Act.

Strom Thurmond, Paul Laxalt, Howell Heflin, Orrin Hatch, Mark Hatfield, Dennis DeConcini, John Glenn, Chuck Grassley, Jesse Helms, Don Nickles, Dan Quayle, Jennings Randolph,

Steve Symms, Ted Stevens, James A. McClure, and John Tower.

Mr. THURMOND. Mr. President, is the cloture vote in order now?

CALL OF THE ROLL

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair now directs the clerk to call the roll to ascertain the presence of a quorum.

The legislative clerk proceeded to call the roll, and the following Senators entered the Chamber and answered to their names.

[Quorum No. 47]

Baker	East	Melcher
Baucus	Glenn	Pressler
Bentsen	Hatch	Symms
Burdick	Mathias	Thurmond
Dole	Mattingly	Warner

The PRESIDING OFFICER. The Chair wishes to announce that a quorum is not present. The clerk will call the roll of the absentees.

Mr. BAKER. Mr. President, I move that the Sergeant at Arms be instructed to require the attendance of the absent Senators and I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee (Mr. BAKER). The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Colorado (Mr. ARMSTRONG), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Texas (Mr. TOWER), are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Colorado (Mr. HART) and the Senator from South Carolina (Mr. HOLLINGS), are necessarily absent.

The PRESIDING OFFICER (Mr. SYMMS). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 91, nays 3, as follows:

[Rollcall Vote No. 389 Leg.]

YEAS—91

Abdnor	D'Amato	Heinz
Andrews	Danforth	Helms
Baker	DeConcini	Huddleston
Baucus	Denton	Humphrey
Bentsen	Dixon	Inouye
Biden	Dodd	Jackson
Boren	Dole	Jepsen
Boschwitz	Durenberger	Johnston
Bradley	Eagleton	Kassebaum
Brady	East	Kasten
Bumpers	Exon	Kennedy
Burdick	Ford	Laxalt
Byrd, Harry F., Jr.	Garn	Leahy
	Glenn	Levin
Byrd, Robert C.	Gorton	Long
Cannon	Grassley	Lugar
Chafee	Hatch	Mathias
Chiles	Hatfield	Matsunaga
Cochran	Hawkins	Mattingly
Cohen	Hayakawa	McClure
Cranston	Heflin	Melcher
Metzenbaum	Pryor	Stafford
Mitchell	Randolph	Stennis
Moynihan	Riegle	Stevens
Murkowski	Roth	Symms
Nickles	Rudman	Thurmond
Nunn	Sarbanes	Tsongas
Packwood	Sasser	Wallop
Pell	Schmitt	Warner
Percy	Simpson	Zorinsky
Pressler	Specter	

NAYS—3

Proxmire	Quayle	Weicker

NOT VOTING—6

Armstrong	Goldwater	Hollings
Domenici	Hart	Tower

So the motion was agreed to.

The PRESIDING OFFICER (Mr. SYMMS). With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

VOTE

CLOTURE MOTION RELATING TO COMMITTEE AMENDMENT TO S. 995

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the committee amendment to S. 995, a bill to provide for contribution of damages attributable to an agreement by two or more persons to fix, maintain, or stabilize prices under section 4, 4A, or 4C of the Clayton Act, be brought to a close? The yeas and nays are mandatory under the rule. The clerk will call the roll.

Mr. BAKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Mr. President, is this the first cloture motion addressed against the committee amendment?

The PRESIDING OFFICER. It is.

Mr. BAKER. I thank the Chair.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI) and the Senator from Arizona (Mr. GOLDWATER) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Colorado (Mr. HART) and the Senator from South Carolina (Mr. HOLLINGS) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The yeas and nays resulted—yeas 38, nays 58, as follows:

[Rollcall Vote No. 390 Leg.]

YEAS—38

Armstrong	Hatfield	Pressler
Baker	Hawkins	Quayle
Biden	Heflin	Randolph
Brady	Huddleston	Roth
Bumpers	Jepsen	Sarbanes
Byrd, Robert C.	Laxalt	Sasser
Cochran	Lugar	Schmitt
DeConcini	Mathias	Simpson
Ford	Mattingly	Stevens
Garn	Murkowski	Thurmond
Glenn	Nunn	Tower
Grassley	Packwood	Wallop
Hatch	Pell	

NAYS—58

Abdnor	Dole	McClure
Andrews	Durenberger	Melcher
Baucus	Eagleton	Metzenbaum
Bentsen	East	Mitchell
Boren	Exon	Moynihan
Boschwitz	Gorton	Nickles
Bradley	Hayakawa	Percy
Burdick	Heinz	Proxmire
Byrd, Harry F., Jr.	Helms	Pryor
	Humphrey	Riegle
Cannon	Inouye	Rudman
Chafee	Jackson	Specter
Chiles	Johnston	Stafford
Cohen	Kassebaum	Stennis
Cranston	Kasten	Symms
D'Amato	Kennedy	Tsongas
Danforth	Leahy	Warner
Denton	Levin	Weicker
Dixon	Long	Zorinsky
Dodd	Matsunaga	

NOT VOTING—4

Domenici	Hart
Goldwater	Hollings

The PRESIDING OFFICER. On this vote, the yeas are 38, the nays are 58. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the cloture motion is rejected.

CLOTURE MOTION

The PRESIDING OFFICER. Under rule XXII, two cloture motions having been filed on the same day and the first having failed of adoption, the clerk will report the second cloture motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the bill S. 995.

Strom Thurmond, Paul Laxalt, Howell Heflin, Orrin Hatch, Mark Hatfield, Dennis DeConcini, John Glenn, Chuck Grassley, Jesse Helms, Don Nickles, Dan Quayle, Jennings Randolph, Steve Symms, Ted Stevens, James A. McClure, and John Tower.

VOTE

CLOTURE MOTION RELATING TO S. 995

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on S. 995 shall be brought to a close? The yeas and nays are mandatory under the rule. The clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI) and the Senator from Arizona (Mr. GOLDWATER) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Colorado (Mr. HART) and the Senator from South Carolina (Mr. HOLLINGS) are necessarily absent.

The PRESIDING OFFICER (Mr. WALLOP). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 44, nays 51, as follows:

[Rollcall Vote No. 391 Leg.]

YEAS—44

Abdnor	Hatch	Packwood
Armstrong	Hatfield	Pell
Baker	Hawkins	Pressler
Biden	Heflin	Quayle
Brady	Helms	Randolph
Byrd, Harry F., Jr.	Huddleston	Roth
	Jepsen	Sarbanes
Byrd, Robert C.	Kassebaum	Sasser
Cochran	Laxalt	Schmitt
DeConcini	Lugar	Simpson
Durenberger	Mathias	Stevens
Ford	Mattingly	Thurmond
Garn	Murkowski	Tower
Glenn	Nickles	Wallop
Grassley	Nunn	Warner

NAYS—51

Andrews	Dole	McClure
Baucus	Eagleton	Melcher
Bentsen	East	Metzenbaum
Boren	Exon	Mitchell
Boschwitz	Gorton	Moynihan
Bradley	Hayakawa	Percy
Burdick	Heinz	Proxmire
Cannon	Humphrey	Pryor
Chafee	Inouye	Riegle
Chiles	Jackson	Rudman
Cohen	Johnston	Specter
Cranston	Kasten	Stafford
D'Amato	Kennedy	Stennis
Danforth	Leahy	Symms
Denton	Levin	Tsongas
Dixon	Long	Weicker
Dodd	Matsunaga	Zorinsky

NOT VOTING—5

Bumpers	Goldwater	Hollings
Domenici	Hart	

The PRESIDING OFFICER. On this vote, the yeas are 44, the nays are 51. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the cloture motion is rejected.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

AUTHORIZATION OF FUNDS FOR DRUG PROGRAMS

Mr. STEVENS. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 3963.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the amendment of the Senate to the bill (H.R. 3963) entitled "An Act to amend the Contract Services for Drug Dependent Federal Offenders Act of 1978 to extend the periods for which funds are authorized to be appropriated."

Mr. STEVENS. Mr. President, I move that the Senate further insist on its amendment and request a conference with the House on the disagreeing votes of the two Houses and that the Chair appoint the conferees on the part of the Senate.

Mr. MATHIAS. Mr. President, is that motion debatable?

The PRESIDING OFFICER. The motion is debatable.

Mr. MATHIAS. Mr. President, I have to oppose this motion. I oppose it because of my great concern for the fate of the drug aftercare program, which is the vehicle that has been chosen to carry the so-called crime package.

I have no objection to trying to get the crime package in motion. I understand the procedure by which the leadership is trying to move it by the time-tested method of tacking it onto a bill that they think will go. But the problem is that this is the second time at bat. The House has already considered the drug aftercare bill amended with the crime package and has rejected it. And if that happens again, I am very much concerned that it will have the result of killing the drug aftercare program.

Now, drugs are a problem in America. Drugs are a serious problem in this country.

Mr. President, may we have order?

The PRESIDING OFFICER. The Senator's point is well taken. Senators who are conversing, and staff who are conversing, the staff will be seated and Senators conversing, it would be appreciated if they would take their conversations to the cloakroom.

Mr. MATHIAS. I think we ought to understand exactly what we are doing here. We are taking the program which authorizes—not appropriates but authorizes—the drug aftercare program renewal. We are jeopardizing the passage of that measure which is virtually certain, because it is a program that has support in both Houses of the Congress, a program that is thought very highly of by judges, by law enforcement officials, and by drug enforcement officials. We are taking that bill, which would certainly pass, and we are jeopardizing it by adding onto it the very controversial crime package—the budget buster crime package. Then we are probably going to see the defeat of both these measures and the end of the drug aftercare program, a part of the whole drug enforcement package in which the administration has been interested.

Now, I do not want to get into debating the merits of the crime package, but the fact is that the crime package simply cannot be sustained without budget expenditures far beyond anything that we have contemplated in the budget that have been adopted by the Congress. So that is a complicated, controversial bill.

Let us not follow this procedure of killing a valuable drug program by loading it down with a controversial measure that cannot be passed.

I think that is exactly what we are doing. I would like to ask the distinguished chairman of the Judiciary Committee if he does not agree with me in that respect.

Mr. THURMOND. Mr. President, I cannot agree at all.

First, I want to say that we passed this bill 95 to 1. The distinguished Senator from Maryland was the only Senator in the Senate who voted against it.

I would like to alleviate his fears because this drug aftercare program is permanent law under title 18, United States Code, section 4255. It is an ongoing program administered by the Administrative Office of the U.S. Courts. Funds for it are in the continuing resolution, and funds are included in appropriate pending appropriation bills. Mr. RODINO, the chairman of the Judiciary Committee in the House, and Mr. HUGHES, chairman of the House Judiciary Subcommittee on Crime, have sent a letter to the Director of the Administrative Office of the U.S. Courts stating that this drug aftercare program is an ongoing program under current title 18 that continues without interruption so long as funds for it are included in the Administrative Office budget and appropriation. This is such a well-settled matter under the circumstances here, that there is no question about the continuation of this program with adequate funds regardless of action or inaction on H.R. 3963.

All we want is to pass the crime package, as well as the drug aftercare bill. If we send this to conference, I think we can get both passed. I urge the Senate act favorably on this.

I am willing to have a rollcall if there is any question about it. The crime package passed before 95 to 1. The administration strongly favors this bill to strengthen the criminal laws. We need the reforms that are in this crime package, including important drug penalties, bail, and sentencing reform. It does many other good things that I will not go into unless I am requested to do so.

I hope the Senate will see fit to act on the motion made by the distinguished Republican whip to send this matter back to the House, insist on our amendments, and let it go to conference.

Mr. MATHIAS. Let me ask the distinguished chairman of the Judiciary Committee this further question. The bill being amended, the drug aftercare authorization bill, is the authorization; is it not?

Mr. THURMOND. It is true that this is an authorization for appropriation bill for a drug aftercare program. But such a bill is not always necessary to continue a program. In this instance, the statutory authority to conduct this program was enacted by Public Law 95-537 as a part of permanent law—18 U.S.C. 4255. While an authorization bill may be helpful guidance in the budget and appropriation process it is clear that the Congress may appropriate in excess of authorization limits previously passed by the Congress or may appropriate in the absence of an authorization. That is

precisely the situation here. So long as this program is established in permanent law and funded by appropriate acts, it will continue uninterrupted.

Mr. President, I ask that the letter from Congressmen RODINO and HUGHES to the Director of the Administrative Office of the U.S. courts concerning H.R. 3963, a letter from the Comptroller General relevant to the discussion, and a copy of Public Law 95-537 establishing in permanent law the drug aftercare program be inserted in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMITTEE ON THE JUDICIARY,
HOUSE OF REPRESENTATIVES,
Washington, D.C., October 8, 1982.

Mr. WILLIAM E. FOLEY,
Director, Administrative Office of the U.S. Courts, Washington, D.C.

DEAR MR. FOLEY: We have been informed that, effective October 1, 1982, the Contract Services for Drug Dependent Offenders program has been suspended. It is our understanding that you determined that such action was required because H.R. 3963, a bill authored by Mr. Hughes to extend the period for which funds are authorized to be appropriated for this program, has not been enacted.

You are to be commended for your dedication to the rule of law and for your determination that governmental functions, however meritorious, cannot be continued if they are not authorized by law. However, our own analysis of the facts and law concerning the Drug Dependent Offenders Act leads us to a different conclusion than that which you have reached. We offer our review and conclusions for what ever consideration you see fit to give them.

Congress has, in a number of ways, expressed its intent that contract services continue to be made available for supervisory aftercare of drug addicts and drug dependent offenders. Statutory authority for the program is permanent legislation (18 U.S.C. 4255), as is the authority (18 U.S.C. 3651) for courts to require addicts and drug dependent persons to participate in such programs.

Under such circumstances and in the absence of an expression of Congressional intent that the program not be continued, it seems appropriate to continue the activity, so long as funds are available, even after the expiration of authority for new appropriations.

In fact, Congress has not only failed to express an intent that the program be terminated or suspended, but has taken steps to reaffirm its mandate that the aftercare program be carried out.

First, both Houses have passed identical legislation to extend the authorization for appropriations for the aftercare program. But for the fact that the two Houses are in disagreement concerning an unrelated amendment offered by the Senate, H.R. 3963 would have been by now submitted to the President.

Second, and perhaps most importantly, Congress has provided new funding authority for the aftercare program. H.J. Res. 599 (P.L. 97-276), the Continuing Resolution adopted on October 1, appropriates amounts "necessary for continuing projects or activities . . . which were conducted in the fiscal year 1982 and for which appropriations, funds or other authority would be available in the following appropriations Acts" (citation includes the Commerce, Justice, and State, the Juduciary, and Related Agencies, Appropriation Act of 1983, and that Appropriation Act contains, in both the House and the Senate bills, money for the after care program.)

As indicated above, we do not believe that authority to perform the drug aftercare functions has expired; only the authority for new appropriations. However, even if authority for the program itself had expired, decisions of the Comptroller General hold that appropriation of funds, such as took place in H.J. Res. 599, "confer the necessary authority to continue the program during that period of availability, in the absence of contrary intent. A Continuing Resolution has the same 'force and effect' as an appropriation act." 55 Comp. Gen. 289, at 292.

In summary, Congress has established the aftercare program as a part of permanent legislation in title 18, United States Code. Both Houses have approved legislation to provide authority for three more years of appropriations, and money has been appropriated to provide temporary additional funding for the program on the same basis as other programs covered in the Continuing Resolution approved by the Congress and signed by the President last week.

Sincerely,

WILLIAM J. HUGHES,
Chairman,
Subcommittee on Crime.
PETER W. RODINO, JR.,
Chairman,
House Judiciary Committee.

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., June 23, 1976.

Hon. JOHN L. MCCLELLAN,
Chairman, Subcommittee on Criminal Laws and Procedures, Committee on the Judiciary, U.S. Senate.

DEAR MR. CHAIRMAN: We have been informally requested by the Chief Counsel of your Subcommittee to furnish you our views as to whether the Law Enforcement Assistance Administration (LEAA) may continue to carry out the programs provided for by chapter 46 of title 42 of the United States Code after June 30, 1976, in view of the provisions of 42 U.S.C. § 3760. The last cited code provision reads as follows:

"Unless otherwise specified in this chapter, the Administration (LEAA) shall carry out the programs provided for in this chapter during the fiscal year ending June 30, 1974, and the two succeeding fiscal years." Pub, L. 90-351, title I, § 512, June 19, 1968, 82 Stat. 207; Pub. L. 93-83, § 2, August 6, 1973, 87 Stat. 213.

Without more, it would be our view that LEAA would not be authorized to carry out programs provided for in chapter 46 of title 42, after June 30, 1976. However, it is fundamental that one Congress cannot bind a future Congress and that the latest expression of congressional intent generally must control. The Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1976, approved October 21, 1975, Pub. L. 94-121, 89 Stat. 611, 621, under the heading "Law Enforcement Assistance Administration," subheading "Salaries and Expenses," after providing funds for LEAA's operations for fiscal year 1976, provides as follows:

"For 'Salaries and Expenses' for the period July 1, 1976, through September 30, 1976, $204,960,000 to remain available until expended."

We have held that Congress may appropriate funds in excess of a cost limitation contained in an authorization act and that the agency is authorized to continue the programs at the higher level 36 Comp. Gen. 240 (1956).

We have also held that the appropriation of funds for a program whose authorization is due to expire during the period of availability of the funds, confers the necessary authority to continue the program during the period of availability, in the absence of a contrary intent. 55 Comp. Gen. 289 (1975).

The specific inclusion of funds for the transition period (i.e. the period from July 1, 1976 through September 30, 1976) in LEAA's fiscal year 1976 appropriation act is a clear indication of the intent of Congress that the programs involved continue under the transition period appropriation, notwithstanding the provisions of 42 U.S.C. § 3760. Hence, it is our view that LEAA may continue its programs during the transition period, i.e. from July 1, 1976, through September 30, 1976, under the authority of the appropriation made for such period.

Sincerely yours,

R. F. KELLER,
Deputy Comptroller General
of the United States.

PUBLIC LAW 95-537—95TH CONGRESS

An Act to enable the Department of Justice and the Administrative Office of the United States Courts to provide services and special supervision to drug dependent Federal offenders in an efficient and effective manner

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Contract Services for Drug Dependent Federal Offenders Act of 1978".

SEC. 2. Section 3651 of title 18, United States Code, relating to suspension of sentence and probation, is amended by deleting from the second to the last paragraph the colon and everything thereafter, and inserting in lieu thereof a period.

SEC. 3. Section 4255 of title 18, United States Code, relating to supervision in the community of certain convicted offenders, is amended to read as follows:

"An offender who has been conditionally released shall be under the jurisdiction of the United States Parole Commission as if on parole, pursuant to chapter 311 of this title.

"The Director of the Administrative Office of the United States Courts may contract with any appropriate public or private agency or any person for supervisory aftercare of an offender. The Director may negotiate and award such contracts without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).".

SEC. 4. (a) To carry out the purposes of this Act, there are authorized to be appropriated sums not to exceed $3,500,000 for the fiscal year ending September 30, 1980; $3,645,000 for the fiscal year ending September 30, 1981; and $3,750,000 for the fiscal year ending September 30, 1982.

(b) The amendments made by this Act shall take effect on October 1, 1979.

Approved October 27, 1978.

Mr. THURMOND. Mr. President, I would not want to hurt a drug bill. What we want to do is to get both the drug bill and get the broader crime bill. By sending it to conference, I un-

derstand from some House Members that perhaps we can enact some major improvements. I want the distinguished Senator from Maryland on the conference committee. I believe his name has been read out as being on the conference committee.

Mr. MATHIAS. I appreciate the chairman's confidence.

Mr. THURMOND. I am very glad to give that assurance to the Senator.

Mr. MATHIAS. And his making me a member of the conference committee.

But, Mr. President, what puzzles me is this: If the drug aftercare program is a permanent program, why was it necessary to pass the House bill which authorizes its renewal in the first place? Everybody seems to agree that that was necessary. If that is the case, then a continuing resolution for appropriations will not be sufficient to carry the program forward if, in fact, there has been a lapse in the authorization. There seems to be at least some open question on that subject.

Mr. THURMOND. I can understand the Senator's confusion. I have stated the situation as clearly as I can. I might simply recall that the whole Department of Justice has been operating in the absence of an authorization bill for 2 years. Hopefully, this drug aftercare program will also continue without challenge. If you have an appropriation, it has been held that you would not have to have an authorization.

Mr. MATHIAS. I was a member of the Appropriations Committee, and we sometimes in moments of glory had the feeling that once the Appropriations Committee had acted, no other authorization was necessary and that the word of the Appropriations Committee would be final. But I am not sure that that is in fact the law. I think that is the question that I want to raise before the Senate. That is the question that I think we have to consider. If the answer turns out to be that the authorization has lapsed and the renewal will fail because of the procedure that is now before the Senate, then this country is going to lose a valuable tool in the war against drugs.

I can only quote from H.R. 3963, itself. It is an act "To amend the Contract Services for Drug Dependent Federal Offenders Act of 1978 to extend the periods for which funds are authorized to be appropriated."

Without this authorization and extension, I fear that the program will fail. I urge the Senate to vote against pending motion.

Mr. THURMOND. I just want to say if this program had failed, it would have failed at the beginning of the fiscal year. I repeat again, I am informed that this is an ongoing program. It is important for us to pass this crime package now.

We will have to start all over again next year with an important crime package. With all the crime there is in the country today, we ought not to delay. The administration has recommended this. The ranking member of the Judiciary Committee, Senator BIDEN, is strongly for it, Senator DECONCINI, and others.

It is important that we pass this.

Mr. MATHIAS. Mr. President, I ask unanimous consent that a copy of H.R. 3963, which is a very short bill, be printed in the RECORD at this point so that this issue may be clear.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

H.R. 3963

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Contract Services for Drug Dependent Federal Offenders Act Amendment of 1981".

SEC. 2. Section 4(a) of the Contract Services for Drug Dependent Federal Offenders Act of 1978 (18 U.S.C. 4255 note) is amended—

(1) by striking out "1981; and" and inserting in lieu thereof "1981;", and

(2) by inserting before the period at the end thereof the following: "; $4,500,000 for the fiscal year ending September 30, 1983; $5,500,000 for the fiscal year ending September 30, 1984; and $6,500,000 for the fiscal year ending September 30, 1985".

Mr. BAKER. Mr. President, what is the motion before the Senate?

The PRESIDING OFFICER. The motion before the Senate is to further insist on the Senate amendment and request a conference with the House.

Mr. BAKER. I wonder if Senators are ready to vote.

Mr. THURMOND. I am ready to vote.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. BAKER. I move to reconsider the vote by which the motion was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair appoints the following Senators as members of the conference committee: Mr. THURMOND, Mr. MATHIAS, Mr. LAXALT, Mr. HATCH, Mr. DOLE, Mr. BIDEN, Mr. KENNEDY, and Mr. LEAHY.

ANTITRUST EQUAL ENFORCEMENT—S. 995

Mr. BAKER. Mr. President, I cannot help but observe that the two cloture votes were not very close. Indeed, there were almost 60 votes against cloture. I wonder if the distinguished Senator from South Carolina, who has been such an ardent advocate of S. 995, will join me in saying that it appears highly unlikely that cloture is going to be invoked either against the committee amendment or against the bill itself. If indeed that is the case, and that is my view of the situation, I think that no good purpose would be served with the continued effort to invoke cloture and to proceed further with that measure at this time. I am reluctant to suggest that. I wonder what the position of the distinguished Senator from South Carolina might be.

Mr. THURMOND. Mr. President, I wish to thank the able majority leader for his remarks on this subject.

I want to say that this antitrust bill is an extremely important bill. Many small companies have been subjected to tremendous liabilities because bigger companies go in and settle damage claims cheaply. Then the small companies, if they have not settled, if they felt they should not even have been charged, could be vulnerable to not only their own liability but also for the remaining liability of the big companies that settled. Overall, S. 995 is a very just bill and should pass.

There is a question there as to whether it should be applied to pending cases. That was the subject of the amendment that the Judiciary Committee added.

The committee thinks its amendment is just because a judge would make the decision whether to apply claim reduction to pending cases. It would not automatically apply. I do not think the Senate caught this distinction. Our amendment would allow the trial judge to determine whether or not it would be inequitable not to apply claim reduction to the pending cases. If it is good for the future, why should it not apply to pending cases, if the trial judge says that you do not render justice unless you do apply it.

I can understand the Senate in this short session wanting to get through, to move on to other things. I can understand the way they voted today. In view of that, I would have to agree that the chances are not good for getting cloture in this session. In view of the votes today, it appears that we will not be able to get cloture. In view of that, at the request of the majority leader to move on to other important things, I would not resist his request or motion if he desires to do that.

Mr. BAKER. I thank the Senator from South Carolina for his unfailing courtesy and cooperation in this matter at this time.

I point out, Mr. President, that it was my privilege in our caucus today to call to the attention of my colleagues that the Senator from South Carolina will once again be President pro tempore when Congress convenes in January. In those remarks, I pointed out that he has brought dignity and stature to the office of the President pro tempore, and that he has

been unfailingly cooperative and realistic. Indeed, I have said on many occasions that there is no more dedicated and conscientious Member of this body in which we serve than the Senator from South Carolina. So often I have seen him face realistically developments that did not please him and which were contrary to the result he wished to obtain. This, I believe, is one of those cases.

I wonder, then, if the Senator would agree that this would be an appropriate time to vitiate the motions which have been filed on both the bill and the amendment to be voted on tomorrow. I am prepared to make such a motion.

Mr. THURMOND. In view of the votes on the two cloture motions today, Mr. President, I do not perceive it is at all possible to get cloture in this short session and to pursue this bill further. Acknowledging that, I would not be in a position to object to the request of the distinguished majority leader.

I thank him for his kind words about me. I could not object sincerely and conscientiously, as I feel that nothing could be gained by continuing in this short session.

Mr. BAKER. Mr. President, once again, I thank the Senator.

ORDER TO VITIATE VOTE ON CLOTURE MOTION

Mr. BAKER. At this time, Mr. President, I ask unanimous consent that the vote which would occur on tomorrow in response to the cloture motion filed against the committee amendment be vitiated.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I shall shortly move to the consideration of another measure or, in the alternative, seek unanimous consent to proceed to consideration of another measure. The effect of that will be to return S. 995 to the calendar. Before I do so, however, I wish to confer with the minority leader and other Senators who are particularly concerned. It will be my intention to ask the Senate to turn next to one of two appropriation bills, either the Transportation appropriations bill which is here and eligible, or the D.C. appropriations bill. Both must be done, in my opinion. I am prepared to proceed to either one. I have some preliminary indication that it may be desirable to go to the Transportation bill first.

Mr. CANNON. Will the majority leader yield?

Mr. BAKER. Yes; I yield.

Mr. CANNON. Mr. President, if we are going to the Transportation appropriations bill, I have some problems with that unless I can be given assurances that there will not be an amendment offered to attempt to reregulate the air transportation industry.

Mr. BAKER. Mr. President, I do not know quite how to approach that. I can assure the Senator that I have no such intention. I bridle, as a matter of fact, now that the subject has been brought up, upon discovering from newspaper and television ads that I can fly from Washington to Los Angeles for half the price for which I can fly from Washington to Knoxville, Tenn. That bothers me a whole lot, but this is not the time to bring up that issue and I shall not do so.

Obviously, I cannot speak for other Senators except to say that I know of no such intention.

Mr. CANNON. If the Senator will yield further, there is a rumor to the effect that one of the Senators on the majority side of the aisle may have such an intention. Unless I get assurance that that intention is not to be carried out, I shall certainly want to consider long and fully any request on the part of the majority leader for unanimous consent that we move to that appropriation bill.

Mr. BAKER. All right.

Mr. President, I shall certainly consult on this side and see what I can find out. My friend from Nevada knows that, at some point, we simply have to do the appropriation bills. This is Thursday and we are now 4 days into the 15 working days that we have in this lameduck session, so it is necessary for us to go on into these appropriation bills as and when we can.

I hope I never fail to consult with Members on both sides to try to accommodate their convenience in scheduling and to try to take care of their particular concerns. I also hope that the Senator would not object to proceeding to the consideration of that matter, even though I cannot give him ironclad assurance that no such amendment will be offered. At some point, of course, I shall have to move to consideration of that measure. I fully understand such a motion would be debatable. But I hope we can work out something.

Since hope springs eternal, Mr. President, in a moment, I intend to suggest the absence of a quorum in order to create a little time so I may consult with the Senator from Nevada and with the minority leader.

Mr. BAUCUS. Will the Senator yield?

Mr. BAKER. May I yield first to the Senator from Nevada? Then I shall yield to the Senator from Montana.

Mr. CANNON. Mr. President, may I say I have no intention of delaying or attempting to delay the consideration of the appropriations bill, provided it is the consideration of the appropriations bill. I have every intention of attempting to delay and will, so far as I can possibly do so, any consideration of an amendment that might be offered to that, or proposed, to reregulate the air transportation industry. I would think that perhaps a telephone call from the distinguished majority leader might put him in a position to give me the assurances I seek on that point. If I am given those assurances, I have no problem at all, because I certainly do not want to delay the consideration of the appropriation bills.

Mr. BAKER. Will the Senator tell me whom I should call? As I say, I know of no such intention, but maybe I can call somebody on this side if the Senator thinks I should.

Mr. CANNON. What I read in the press as late as today indicates that Senator ANDREWS has such an intention or that he might have such an intention.

Mr. BAKER. I see. Mr. President, I assure the Senator I shall include him in the list of those I consult.

Now I yield to the Senator from Montana.

Mr. BAUCUS. Mr. President, I wonder, as a way of clearing up after the setting aside of 995, if the majority leader will ask unanimous consent to place S. 995 back on the calendar at this point while he is waiting to see whatever other bills might come up.

Mr. BAKER. Mr. President, if the Senator will permit me, I think it would be better if we try to get the other matter out of the way first. I assure him I do not intend to ask the Senate to proceed further on S. 995 until we arrange the sequence of matters. He can depend on that.

Mr. BAUCUS. I appreciate that, Mr. President.

While we have the time, I wish to compliment the Senator from South Carolina on his great and forthright advocacy of S. 995. I think he has done an exceedingly good job in that regard. I regret that we have reached an impasse. I hope we can, at some time, pass S. 995 without the retroactive portions.

During this lameduck session, I shall be working with the senior Senator from South Carolina to see if that is possible. I would appreciate his help.

Mr. THURMOND. Mr. President, will the distinguished Senator yield?

Mr. BAKER. Mr. President, I yield to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I want to say it has been a pleasure to work with Senator METZENBAUM and Senator BAUCUS on this bill. They did an enormous amount of work on it and they have been successful in stopping cloture here. I have to commend them on being successful, although I do not agree with them.

I am confident that this bill, with the committee amendment, is best for the country. If we do not get the bill

with the committee amendment, of course, the bill itself is a good bill. I am hoping that, in the new year, we can take this matter up again and try to work it out, because I think it is for the good of the country that we do it.

I understand about 900 different companies are now being sued in antitrust cases. Just think what this involves. Every day that passes, there are more and more suits being brought and great injustices may be worked in some cases. Something has to be done to relieve that situation.

I am very pleased to hear the distinguished Senator from Montana say that he will at least support the original bill. I am wondering if the Senator from Ohio feels that way.

Mr. BAUCUS. Before the Senator from Ohio answers, Mr. President, I would like to answer the Senator from South Carolina. Not only shall I support it, but I shall support it enthusiastically, because, as the Senator knows, I am the next sponsor on the bill behind the distinguished chairman.

Mr. THURMOND. I recall the distinguished Senator is an original sponsor of the bill.

Mr. METZENBAUM. Mr. President, first let me doff my cap to the distinguished Senator from South Carolina, who, in my opinion, is as able and dedicated an advocate for his position as any Senator I know. At the same time, I doff my hat to the Senator from Montana, who has led the battle against S. 995 with the committee amendment. Certainly, he came in well prepared. He has worked zealously and vigorously to bring about this result. I must say I am particularly pleased that the matter is going to be set aside.

I also want to say to the majority leader, if I could have his attention for a moment, that I am pleased to see that this matter has been set aside. The majority leader, I know, has the responsibility with respect to a number of appropriations matters that are pending and that are, really, the main purpose of our being here today in this special session. I hope that in this time, this body will not be further encumbered by other further diversions which might be somewhat similar to S. 995 or any special-interest bills. I hope we have heard the last of S. 995 for this session.

In specific response to the Senator from South Carolina as to my position in connection with the bill itself, I remain opposed to the bill. I would much prefer to oppose the bill in cooperation with my friend from Montana, but I understand we started off with a different point of view on that subject.

I know the Senator from New Hampshire on the majority side continues to oppose the overall bill. I hope that, whatever further action we have on S. 995, there will be no developments which will occur until after January and we have heard the last of this subject for this year.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, I think now I should consult with the minority leader before we proceed further. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I see that the distinguished Senators principally involved in the airline matter are here, Senators ANDREWS and CANNON. Since Senator ANDREWS may speak on that subject as he wishes, let me yield the floor so that he may respond to the question by the distinguished Senator from Nevada.

Mr. ANDREWS. I thank the majority leader.

Let me assure the distinguished Senator from Nevada that I have no intention of offering any amendment for airfare re-regulation or change in airfare regulation to this bill. There is no amendment at this particular time in the bill. I want to assure the Senator from Nevada of that.

Mr. CANNON. I thank the Senator, and with that assurance I have no objection to the majority leader proceeding to the consideration of that appropriation bill.

Mr. ANDREWS. I appreciate the consideration of the Senator from Nevada.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I see that the distinguished Senators from North Dakota and Florida are here. I believe they are the ones principally involved in this matter. I am advised that the minority leader has indicated his assent to the request that we proceed to the consideration of the transportation appropriation bill.

I inquire of the Senator from North Dakota if he is prepared to proceed?

Mr. ANDREWS. We are prepared to proceed.

Mr. BAKER. Is the Senator from Florida in a position to proceed?

Mr. CHILES. Yes.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, 1983

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 7019, Calendar Order No. 835, making appropriations for the Department of Transportation and related agencies.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The clerk will report.

The Secretary of the Senate read as follows:

A bill (H.R. 7019) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1983, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations with amendments.

S. 995 RETURNED TO CALENDAR

(Later the following occurred.)

Mr. BAKER. Mr. President, I had thought it would perhaps be necessary to move to the consideration of this measure in which case S. 995 would have been automatically displaced and returned to the calendar. But since unanimous consent was generously given to do so, that result was not obtained.

I ask unanimous consent that S. 995 be returned to the calendar as if displaced on a motion to proceed to this item.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Conclusion of later proceedings.)

Mr. ANDREWS. Mr. President, before I provide a description of what is in the committee's recommended fiscal year 1983 transportation and related agencies appropriation bill, I would first like to thank all members of the subcommittee for their hard work in producing what I think is a very fine bill. I would especially like to thank the distinguished Senator from Florida, the ranking minority member of the subcommittee, for his contribution to this effort. His personal attention and that of this staff have been invaluable to the subcommittee.

Mr. President, the professional staff of the Transportation Subcommittee has again done a fine job in this legislation, but especially, Mr. President, I would like to take this opportunity to note that Kitty Ray will soon be retiring from the staff in order to spend more time with her family. Kitty has worked long and diligently on the details of this bill and other transportation matters. We will all sincerely miss her skills, her cooperative, professional attitude, and wish her all of the best in the new path she has chosen.

Mr. President, I recommend this bill for passage as a responsible and comprehensive approach to maintaining and improving the transportation

system we have come to depend upon in this country.

Highlights of the committee's recommended bill include the following: $1.5 billion for Coast Guard operations and $425 million for AC&I of Coast Guard ships and facilities; $2.5 billion for FAA operations; $858 million for facilities, equipment, and research; and $600 million obligation limitation for grants to airports.

Also included is an $8.1 billion highway obligation limitation and a $92.5 million ceiling on highway safety grants to the States.

Mass transit total funding is for $3.4 billion, a reduction of about $90 million over fiscal year 1982 levels.

Funds for Amtrak are included at the fiscal year 1982 level of $735 million.

Other rail activities of the Federal Railroad Administration and related rail activities total $289 million.

Mr. President, we have several general provisions included in the bill which should be highlighted.

We have included a provision to relieve the St. Lawrence Seaway from repayment of its capital construction cost debt, a very important provision for those of us who are interested in the shipment of our grain overseas.

A provision is included which provides that under the 1956 Highway Act funds may not be apportioned to a State with a vehicle width limitation other than 102 inches on certain highways.

Another provision focuses on prompt and fair settlement of disputes over claims for compensation under sections 406 and 419 providing essential air service to small communities. Also included is the termination of the 406 program while we continue to provide payments to air carriers.

Mr. President, this bill is one of compromise. We have tremendous transportation infrastructure needs on the one hand and must be mindful of the need for budgetary restraints on the other. We are $244 million below—I point that out to our colleagues and the press—our 302(b) subcommittee allocation for new budget authority as set forth in the budget resolution.

My colleague and good friend and ranking minority member on this subcommittee, and who in the next Congress will be the ranking minority member overall on the Budget Committee, has cooperated diligently in the way of bringing out an effective bill for the needs of our Nation and still keep within the needed budgetary limitations of our Nation.

If we in the Senate are to maintain control of, and live up to, our responsibilities in the budget process, then the ruling principle must be the budget of our own design and we must follow the subcommittee allocation. Since we are within the budget authority allocation by $244 million and $315 million below the subcommittee's outlay allocation, I am proud to recommend the work of the committee to you today for your approval.

Mr. President, I am glad to yield to the Senator from Florida.

Mr. CHILES. I thank the distinguished chairman.

Mr. President, I rise in support of the statement just made by Senator ANDREWS, chairman of the Appropriations Subcommittee on Transportation. Senator ANDREWS and his staff have worked long and hard on this bill, and their very skillful work is evident throughout the legislation and the accompanying report.

For too long in this country, we have deferred making the necessary investments in our transportation system. The current state of disrepair of our Nation's system of highways and bridges is a fact well known and widely reported by the press. The cost to us as a Nation of deferring these needed investments is beginning to appear in a number of ways, including increased wear and tear on vehicles and an increasing number of accidents. An inadequate transportation system and the ever-increasing downward spiral of deterioration undermines the very commercial fabric of the Nation.

The bill before us attempts to address these problems, and it does so within the limitations imposed by the 1983 Budget Resolution. We have restored funding to the Federal Highway Administration; we have increased funding for mass transit; we have provided increases for the Coast Guard to permit that agency to begin to rebuild its antiquated asset systems; and we have provided the administration with its full request for the Federal Aviation Administration to permit the several airport safety and capacity projects to proceed around the Nation. And we have provided for these essential needs well within our 302(b) spending limitation. In fact, the bill before the members is $243.6 million below our 302(b) allocation.

While I will not attempt to touch on every single item in the bill before us, particularly because Senator ANDREWS, our chairman, has already done that, I would like to mention one particular concern of mine. I know it is a concern of many of our colleagues, not just in the Senate but also in the House. The Coast Guard, which is the fifth branch of the Armed Forces, has been neglected by this and past administrations. It has been plagued by budgetary gamemanship at the departmental level and within OMB. For example, last year when this committee led the effort to provide an adequate level of funding for the Coast Guard to permit it to rebuild its aging fleet of cutters and aircraft, the administration's response was to attempt to force an impoundment of the money. In order to correct this situation, this committee had to lead efforts to seek a GAO investigation and to apply other pressures on the administration to release the money and spend it as was intended by the Congress. It is my hope that we can work together in the future to correct the problems of obsolescence and deterioration that have occurred in the Coast Guard because of years of underinvestment in the agency's asset system. It is also my hope that in that spirit of cooperation the administration will permit Admiral Gracey and other Coast Guard leaders to be forthcoming with Congress in representing and advancing the true needs of the agency.

Mr. President, I urge the Members to support this bill, and I thank the distinguished Chairman for all his courtesies in regard to me and the minority with respect to marking up this bill.

Mr. GORTON. Mr. President, as the distinguished Chairman of the Transportation Appropriations Subcommittee knows, my colleague, the distinguished senior Senator from the State of Washington (Mr. JACKSON), and I are concerned about the $100 million loan guarantee authority under the section 511 Federal Railroad Administration loan guarantee program provided for in the bill. We are concerned that this authority should be equally available to important feeder rail services as well as to larger rail lines. We are especially concerned that small feeder rail services such as, for example, the Seattle and North Coast Railroad, which provides the only rail srvice on the Olympic Peninsula, be able to participate fully in the loan guarantee program. These short-line feeder rail services provide an important contribution to the overall national rail system and to the economy. I am sure the Chairman is fully aware of the need for and contribution of rail services in isolated communities such as those on the Olympic Peninsula. The disruption of this critically needed rail service can have a devastating effect on the people and economy of the communities. Because of the smaller size and large financial needs and requirements, smaller rail carriers may not have access to normal sources of commercial financing. Therefore, they may have a greater need for recourse to the loan guarantee program than many larger carriers. The senior Senator and I want to insure that the loan guarantee appropriations under this bill are intended to aid these essential short-line railroads.

Mr. JACKSON. Mr. President, if the Senator will yield, I should like to concur in the remarks of the distinguished Senator from the State of Washington (Mr. GORTON), about the critical importance of the FRA loan guarantee program for the develop-

ment and rehabilitation of essential small feeder railroads such as the one operating on the Olympic Peninsula in the State of Washington. These services provide significant public benefits by, among other things, decreasing the costs of transportation of consumer products, increasing employment opportunities, attracting new industries, facilitating the development of our Nation's resources, enhancing competition, and providing a vital link for isolated communities to the national rail transportation system.

Mr. ANDREWS. I certainly appreciate and concur in the comments of the distinguished Senators from the State of Washington. I am very aware of the affects of the loss of rail service to local communities and share their concern that such short-line rail services should have full access to the loan guarantee funds that are appropriated under this bill and that are available under section 511.

Mr. FORD. Mr. President, last year, as a result of the air traffic controllers' strike, the Federal Aviation Administration closed 80 control towers at airports across the country. Since that time, approximately 27 towers have been reopened and, last August, Congress passed legislation clarifying the FAA's authority to reopen additional towers. It is my understanding that decisions are expected soon on which additional towers will be opened.

The Owensboro-Daviess County Airport control tower in my State was one of those marked for closure, but the airport managed to remain open after raising funds to lease the tower and hire its own controllers. However, the $100,000 that the Owensboro-Daviess County Airport board raised to operate the tower over the past year is now exhausted.

Federal funding of this airport is vital if it is to remain open. Total operations at the airport are 52,000 flights annually and the closure of the airport would create a major hardship for this community, which is not only the third largest in Kentucky, but a major industrial center as well.

I want to make the distinguished floor manager of this measure aware of this situation. I know that he has both an understanding and an appreciation for the role these medium-size airports play in the Nation's air transportation network, and I hope he shares my sentiments that the FAA will assign a high priority to the reopening of the Owensboro tower, whether it be under a contract or FAA-operated basis.

Mr. ANDREWS. Mr. President, I appreciate the distinquished Senator and his colleague from Kentucky, Mr. HUDDLESTON, bringing this to our attention, and I join him in his assessment that the Owensboro tower should be a high priority.

Mr. HAYAKAWA. Mr. Chairman, I wish to clarify the situation with regard to the acquisition of rights-of-way and relocation for a fixed guideway project in the Guadalup corridor in Santa Clara County, Calif. The preferred alternative has been chosen, the corridor clearly defined, and there is no reason to incure further costly delays of the purchase of the remaining rights-of-way—75 percent of the rights-of-way has already been acquired. Delay in the remaining acquisition would mean escalation of land prices and inflation in the cost of project materials.

There is a further concern regarding a letter of no prejudice for the purchase of rolling stock. Since Santa Clara County has received a preliminary engineering grant, and cleared the draft EIS stage, it is attempting to go ahead with railcare purchase using local money. They have had problems with UMTA but a letter of prejudice would allow them to go ahead and would not necessarily obligate UMTA to make a grant in the future. I wonder if the Senator is aware of these concerns.

Mr. ANDREWS. The Senator from California is correct. I am aware of these concerns and will be working with the Department of Transportation and my colleagues in Congress to address them.

Mr. DOMENICI. Mr. President, H.R. 7019 as reported by the Appropriations Committee on September 16, 1982, provides $11 billion in new budget authority and $7.4 billion in outlays for fiscal year 1983. These amounts exclude highway and transit interstate transfer grants for which full year refunding has already been provided in the continuing resolution, Public Law 97-276.

Mr. President, I support this bill. The reported bill, together with outlays from prior year authority and other action already completed, puts the Transportation Subcommittee over its crosswalk allocation for spending by less than $0.1 billion in budget authority, but is under by $0.3 billion in outlays.

The subcommittee is above the House bill by $0.03 billion in budget authority and $0.1 billion in outlays.

H.R. 7019, as reported, together with other actions already completed, exceed the President's budget request for programs within the sucommittee's jurisdiction by $1.1 billion in budget authority and $0.6 billion in outlays. Part of this overage is due to the fact that the subcommittee recommendation for urban mass transportation programs is $0.3 billion over the President's request. H.R. 7019 provides higher funding levels for mass transit primarily to continue transit operating subsidies, rather than phasing out this program, as the President proposes.

Taking into account the full year appropriation for highway interstate transfer grant program included in the continuing resolution, Public Law 97-276, the subcommittee recommendation for this program exceeds the President's request by $0.4 billion.

The remaining amount by which the subcommittee exceeds the President's request is due to the committee's recommendations of $0.1 billion for Amtrak subsidies and $0.1 billion for Coast Guard's acquisition, construction and improvement (AC&I) programs, above the levels proposed by the President.

With respect to the credit budget, the new direct loan obligations in H.R. 7019 are consistent with the Transportation Subcommittee's crosswalk allocation for credit under the budget resolution. H.R. 7019 brings the Transportation Subcommittee under its crosswalk allocation by $0.2 billion in new primary loan guarantee commitments. The subcommittee will be under the House bill by $0.2 billion in new primary loan guarantee commitments and at the same level for new direct loan obligations. The subcommittee will exceed the President's request for new direct loan obligations by $0.4 billion, and will be under the President's request for new primary loan guarantee commitments by $0.1 billion.

Mr. President, I ask unanimous consent that the two tables showing the relationship of the reported bill to the congressional spending and credit budgets and the President's budget requests be printed in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TRANSPORTATION SUBCOMMITTEE SPENDING TOTALS

[In billions of dollars]

	Fiscal year 1983	
	Budget authority	Outlays
Outlays from prior-year budget authority and other actions completed[1]	0.9	12.5
H.R. 7019 as reported in the Senate[2]	11.0	7.4
Possible later requirements CAB air carrier payments	[3]	[3]
Total for Transportation Subcommittee	11.9	19.8
First budget resolution 302(b) allocation	11.8	20.1
House-passed level[4]	11.6	19.7
President's request	10.7	19.3
Total compared to:		
First budget resolution 302(b) allocation level	+.1	−.3
House-passed level[4]	+.3	+.1
President's request	+1.1	+.6

[1]Adjusted to include $0.9 billion in budget authority and $0.1 billion in outlays to account for full year appropriation of the highway and transit interstate transfer grant programs that are funded for the full year in the continuing resolution, Public Law 97-276.

[2]$0.6 billion in budget authority and $0.1 billion in outlays deducted for highway and transit interstate transfer grant programs that are funded for the full year in the continuing resolution, Public Law 97-276.

[3]Less than $50 million.

[4]Adjusted to include $0.3 billion in budget authority and $0.1 billion in outlays for Federal Aviation Administration (FAA) facilities and equipment; and research, engineering and development as possible later requirements.

Note.—Details may not add to totals due to rounding.

TRANSPORTATION SUBCOMMITTEE CREDIT TOTALS

[In billions of dollars]

	Fiscal year 1983		
	New direct loan obligations	New primary loan guarantee commitments	New secondary loan guarantee commitments
H.R. 7019 as reported in Senate, with direct loan obligations resulting from prior-year commitments and other actions completed	0.5	−0.1	
Total for Transportation Subcommittee	.5	−.1	
First budget resolution 9(b)(2) allocation	.5	.1	(1)
House passed	.5	.1	
President's request	.1	−0.1	
Subcommittee total compared to:			
First budget resolution 9(b)(2)		−.2	(1)
House passed		−.2	
President's request	+.4	−.1	

[1] Less than $50 million.

Mr. ANDREWS. Mr. President, I have several amendments at the desk which I ask unanimous consent be considered en bloc.

The PRESIDING OFFICER. The committee amendments will have to be disposed of first.

Mr. ANDREWS. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc and that the bill as thus amended be considered as original text for the purpose of further amendment, and that no points of order be considered as waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments agreed to en bloc are as follows:

On page 2, line 7, strike "$27,000", and insert "$35,000".

On page 2, line 10, strike "$37,532,000", and insert "$41,700,000".

On page 2, line 11, strike "$2,220,000", and insert "$4,220,000".

On page 2, line 14, strike "unobligated", and insert "unexpended".

On page 3, line 6, strike "$2,000,000", and insert "$7,800,000".

On page 3, after line 15, insert the following:

"HEADQUARTERS ADMINISTRATION

"For necessary expenses, not otherwise provided for, of providing administrative services at the headquarters location of the Coast Guard, including, but not limited to, executive direction; budget, planning and policy; command, control, communication, and operations; financial management; legal; engineering; civil rights; and personnel and health services for the Coast Guard, $72,440,000.".

On page 4, line 6, strike "$1,587,908,000", and insert "$1,518,963,000".

On page 4, line 7, strike ", together", through and including "pay:".

On page 5, line 3, strike "$287,000,000", and insert "$425,000,000".

On page 5, line 8, strike "$12,700,000", and insert "$12,000,000".

On page 5, line 21, after "services", strike through and including line 23, and insert "$54,000,000".

On page 7, after line 6, insert the following:

"NATIONAL RECREATIONAL BOATING SAFETY AND FACILITIES IMPROVEMENT FUND

"For financial assistance for State recreational boating safety programs to be derived from the National Recreational Boating Safety and Facilities Improvement Fund, in accordance with the provisions of the Recreational Boating Safety and Facilities Improvement Act of 1980 (Public Law 96-451), $10,000,000, to remain available until expended.".

On page 7, after line 15, insert the following:

"HEADQUARTERS ADMINISTRATION

"For necessary expenses, not otherwise provided for, of providing administrative services at the headquarters location of the Federal Aviation Administration, including but not limited to accounting, budgeting, personnel, legal, public affairs, and executive direction for the Federal Aviation Administration, $55,574,000.".

On page 8, line 10, strike "$2,456,783,000", and insert "$2,463,220,000".

On page 8, line 11, strike "$1,000,000,000" and insert "$1,464,150,000".

On page 8, line 12, after "Fund", insert the following: "*Provided*, That, in addition, not to exceed $5,000,000 shall remain available until expended to be derived from the Airport and Airway Trust Fund for reimbursement of expenses incurred by certificated air carriers in the security screening of passengers moving in foreign air transportation: *Provided further*,".

On page 8, line 23, after "program", insert the following: "*Provided further*, That the Federal Aviation Administration shall not undertake any reorganization of its regional office structure or begin any studies dealing with such a reorganization without the prior approval of both House and Senate Appropriations Committees.".

On page 9, line 10, after "and", insert "lease or";

On page 9, line 10, strike "$16,200,000", and insert "$20,310,000";

On page 10, line 3, after "the", insert "lease or";

On page 10, line 4, strike "20", and insert "21";

On page 10, line 6, after "1987" strike through and including line 7, and insert $725,000,000: *Provided*,";

On page 10, line 19, strike "$93,000,000", and insert "$113,000,000";

On page 13, line 8, strike "$188,500,000", and insert "$191,562,000";

On page 13, line 13, strike "$33,000,000", and insert "$38,000,000";

On page 13, line 19, strike "$11,600,000", and insert "$11,705,000";

On page 14, after line 7, insert following:

"HIGHWAY BEAUTIFICATION

"For necessary expenses in carrying out section 131 of title 23, U.S.C. and section 104(a)(11) of the Surface Transportation Assistance Act of 1978, $500,000 to remain available until expended.".

On page 15, strike lines 1 through and including line 6.

On page 15, line 23, strike "$500,000,000", and insert "$375,000,000".

On page 16, line 7, strike "$70,000,000", and insert "$78,133,000".

On page 16, line 8, strike "$19,949,000", and insert "$22,794,000".

On page 16, line 10, strike "$25,000,000", and insert "$29,724,000".

On page 16, line 11, strike "$8,374,000", and insert "$9,869,000".

On page 16, line 12, "Fund", strike through and including line 15.

On page 17, line 4, strike "$12,322,000", and insert "$15,241,000".

On page 17, line 8, strike "$23,232,000", and insert "$28,000,000".

On page 17, line 9, strike "$1,000,000", and insert "$4,800,000".

On page 17, line 13, strike "$17,000,000", and insert "$20,000,000".

On page 17, line 21, strike "$30,840,000", and insert "$31,675,000".

On page 18, line 8, strike "PROTECTION", and insert "ASSISTANCE",

On page 18, strike line 9.

On page 18, line 13, after "expended", strike through and including "States", page 19, line 1.

On page 19, line 1, strike strike *"further"*.

On page 19, line 22, strike "$788,000,000", and insert "$735,000,000".

On page 20, line 12, after "665", strike through and including line 18.

On page 20, strike line 21, through and including page 21, line 4, and insert the following:

"For necessary expenses to carry out the commuter rail activities authorized by the Northeast Rail Service Act of 1981, $75,000,000 to remain available until expended, to be derived from the unobligated balances of "Payments for purchase of Conrail securities"."

On page 22, after line 2, insert the following:

"PAYMENTS TO THE ALASKA RAILROAD

"REVOLVING FUND

"For payment to the Alaska Railroad Revolving Fund for capital replacements, improvements, operations and maintenance, $49,575,000, to remain available until expended.".

On page 22, line 22, strike "$770,000,000", and insert "$600,000,000".

On page 22, line 24, strike "$275,000,000", and insert "$100,000,000".

On page 22, after line 25, insert the following:

"REDEEMABLE PREFERENCE SHARES

"The Secretary of Transportation is hereby authorized to expend proceeds from the sale of fund anticipation notes to the Secretary of the Treasury and any other moneys deposited in the Railroad Rehabilitation and Improvement Fund pursuant to sections 502, 505-507, and 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210), as amended, and section 803 of Public Law 95-620, for uses authorized for the Fund, in amounts not to exceed $10,000,000.".

On page 23, line 23, strike "$28,250,000", and insert "$28,081,000".

On page 24, line 16, strike "$1,630,000,000", and insert "$1,621,700,000".

On page 25, line 5, strike "$32,000,000", and insert "$68,500,000".

On page 25, line 7, after "apportioned", and insert "and allocated".

On page 25, line 8, after "using", strike through and including line 9, and insert "data from the 1980 decennial census".

On page 25, line 15, strike "$1,300,000,000", and insert "$1,200,000,000".

On page 25, line 18, after "the", strike through and including "the" line 20.

On page 26, line 4, after "evaluation", strike through and including line 9.

On page 27, line 3, strike "$365,000,000", and insert "$225,000,000".

On page 27, line 7, strike "$230,000,000", and insert "$250,000,000".

On page 28, line 15, strike "$20,022,000", and insert "$21,300,000".

On page 29, line 8, strike "$1,900,000", and insert "$2,020,000".

On page 30, line 1, strike "$5,000", and insert "$4,000".

On page 30, line 2, strike "$24,350,000", and insert "$21,000,000".

On page 30, line 6, strike "section 406 and".

On page 30, line 7, strike "1376 and".

On page 30, line 9, after "expended", strike through and including line 24, "payments", and insert the following: "and such amounts as may be necessary to liquidate obligations incurred prior to September 30, 1982, under 49 U.S.C. 1376 and 1389: *Provided,* That notwithstanding any other provision of law, none of the funds hereafter appropriated by this or any other Act shall be expended under section 406 (49 U.S.C. 1376) for services provided after September 30, 1982: *Provided further,* That, notwithstanding any other provision of law or of the previous provision of this paragraph, payments shall be made from funds appropriated herein and in accordance with the provisions of this paragraph to carriers providing, as of September 30, 1982, services covered by rates fixed under section 406 of the Federal Aviation Act (excluding services covered by payments under section 419(a)(7) and services in the State of Alaska): *Provided further,* That, notwithstanding any other provision of law, such payments shall be based upon rate orders applicable to such carriers as of July 1, 1982, but shall not exceed $13,500,000 in the aggregate: *Provided further,* That, notwithstanding any other provision of law, to the extent necessary to meet this limitation, such payments shall be reduced by a percentage which is the same for all carriers eligible for such payments: *Provided further,* That nothing in this Act shall be deemed to prevent the Board from granting an application under section 419(a)(11)(A) (49 U.S.C. 1389) pertaining to a carrier receiving compensation under this Act, in which event the standards and procedures set forth in section 419(a)(11)(A) shall apply.".

On page 32, line 6, strike "$66,300,000", and insert "$65,600,000".

On page 32, strike line 7, through and including line 12, *"further".*

On page 33, line 2, after "5902", insert the following: "official reception and representation expenses of the Board".

On page 33, line 4, after "administrator", insert the following: "exclusive of wages which shall be an operating expense of the Commission".

On page 33, line 7, after "expenses", insert "of the Administrator".

On page 33, line 16, strike "$392,084,000", and insert "$410,402,000".

On page 33, line 17, after *"Provided",* strike through and including *"further",* page 34, line 18.

On page 35, line 1, after "agencies", insert the following: *"Provided further,* That, to the extent that the resources of the Fund are not adequate to provide the amount of budget authority provided above, the Commission may incur obligations in advance of adequate receipts in the Fund.".

On page 35, line 12, strike "$24,666,000", and insert the following: "for payment of liabilities of the Panama Canal Company and Canal Zone Government that were pending on September 30, 1979, or that have accrued thereafter; to improve facilities of other United States Government agencies in the Republic of Panama and facilities of the Government of the Republic of Panama for Panama Canal Commission use, $29,024,000: Provided,".

On page 35, strike line 19 through and including *"further",* page 36, line 1.

On page 36, strike line 4, through and including line 10.

On page 36, after line 10, insert the following:

"DEPARTMENT OF THE TREASURY

"OFFICE OF THE SECRETARY

"INVESTMENT IN FUND ANTICIPATION NOTES

"For the acquisition, in accordance with section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended, and section 803 of Publc Law 95-620, of fund anticipation notes, $10,000,000.".

On page 36, line 23, strike "$2,000,000", and insert "$2,950,000".

On page 38, line 3, strike "$100,000,000", and insert "$92,500,000".

On page 40, line 19, strike "Law", and insert "Laws 97-125 and ".

On page 40, line 22, strike "$8,000,000,000", and insert "$8,100,000,000".

On page 41, line 10, strike "or allocated".

On page 41, line 13, strike "or allocated".

On page 42, line 1, strike "or allocated".

On page 42, line 10, strike "year", through and including "Code", line 13, and insert "year;".

On page 42, strike line 16, through and including line 19, and insert the following:

SEC. 311. Notwithstanding any other provision of law, any bond issued under section 5 of the Act of May 13, 1954 (68 Stat. 94; 33 U.S.C. 985), is hereby canceled together with the obligation to pay such bond and section 12(b)(5) of such Act is hereby repealed: *Provided,* That paragraphs (10), (11), and (12) of section 4 of the Act of May 13, 1954, are hereby redesignated as paragraphs (11), (12), and (13) respectively and a new paragraph (10) is enacted to read as follows:

" '(10) may retain toll revenues for purposes of eventual reinvestment in the Seaway.'.".

On page 45, after line 17, insert the following:

"SEC. 321. Notwithstanding any other provision of law, no funds authorized to be appropriated for any fiscal year under provisions of the Federal-Aid Highway Act of 1956 shall hereafter be apportioned to any State which imposes a vehicle width limitation of more or less than 102 inches on any segment of the National System of Interstate and Defense Highways, or any other qualifying Federal-aid highways as designated by the Secretary of Transportation, with traffic lanes designed to be a width of twelve feet or more: *Provided,* That notwithstanding any other provision of law, certain safety devices which the Secretary of Transportation determines as necessary for safe and efficient operation of motor vehicles shall not be included in the calculation of width: *Provided further,* That, notwithstanding any other provision of law or of this paragraph, a State may grant special use permits to motor vehicles that exceed 102 inches: *Provided further,* That, notwithstanding any other provision of law, no withholding of apportionment shall be imposed upon a State by virtue of the provisions of this paragraph prior to October 1, 1983.

"SEC. 322. (a) Any air carrier having a claim for compensation under section 406 or 419(a)(7)(B) of the Federal Aviation Act of 1958, may appeal from a decision of the Civil Aeronautics Board (hereinafter referred to as the "Board") to the United States Court of Claims as provided in section 8(g)(1) of the Contract Disputes Act of 1978 with respect to claims which have been decided by an agency board of contract appeals. Failure by the Board to issue a final decision on a final claim within one year after it was filed with the Board, or by the date of enactment of this section, whichever is later, shall be deemed to be a decision by the Board denying the claim, and will authorize an appeal on the claim as provided in this section. This section shall apply to any claim decided, or deemed to have been decided, by the Board after January 1, 1981, including any claim remanded to the Board by a United States court of appeals, irrespective of when the claim was filed with the Board. Any appeal under this section shall be filed within one hundred and twenty days after the claim has been decided or is deemed to have been decided by the Board, or within one hundred and twenty days after the date of enactment of this section, whichever is later. Any petition for review of a decision of the Board with respect to any such claim pending in a United States court of appeals on the date of enactment of this section shall be dismissed without prejudice upon motion of the petitioner.

"(b) Except as provided herein, the following provisions of the Contract Disputes Act of 1978 shall apply with respect to any claim to which this section applies as if such claim were a claim with respect to a contract appealed by a contractor under section 8(g)(1) of such Act and as if the Board were an agency board of contract appeals:

"(1) Section 10(b), relating to scope of review by the Court of Claims.

"(2) Section 10(c), relating to disposition of the case by the Court of Claims.

"(3) Section 12, relating to interest, which shall be payable by decision of the Board or the Court of Claims at the rates provided in such section from the date of the claim was filed with the Board.

"(4) Section 13, relating to the payment of claims and judgments.

"(5) Section 14(i), relating to the jurisdiction of the Court of Claims.

"(c) If an administrative law judge has issued an initial decision in the case before the Board, the court may, in its discretion, give such initial decision the same weight it would give to a decision by a trial judge of the Court of Claims.

"SEC. 323. None of the funds provided in this Act to any department or agency may be expended for the transportation of any officer or employee of such department or agency between his domicile and his place of employment, with the exception of the Secretary of the Department of Transportation, who, under title 5, United States Code, section 101, is exempted from such limitations.

"SEC. 324. No part of any appropriation contained in, or funds made available by this Act, shall be available for any agency to pay to the Administrator of the General Services Administration a higher rate per square foot for rental of space and services (established pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended) than the rate per square foot established for the space and services by the General Services Administration for the current fiscal year and for which appropriations were granted: *Provided,* That no part of any appropriation contained in, or funds made available by

this Act, shall be available for any agency to pay to the Administrator of the General Services Administration a higher rate per square foot for rental of space and services (established pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended) than the rate per square foot established for the space and services by the General Services Administration for the fiscal year 1982.

"SEC. 325. None of the funds provided by this Act shall be used by the Civil Aeronautics Board to substitute aircraft of lesser seating capacity or lesser than necessary pressurized altitude capability, for the type of aircraft now prescribed for essential air transportation to any point in Alaska as set forth in Civil Aeronautics Board Order 80-1-167 without the prior concurrence of the applicable State agency of the State of Alaska.".

On page 49, strike line 19, through and including page 50, line 13.

UP AMENDMENT NO. 1406

(Purpose: Technical amendments to conform to continuing resolution (P.L. 97-276))

Mr. ANDREWS. Mr. President, I have several amendments at the desk which I ask unanimous consent to be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendments will be stated.

The assistant legislative clerk read as follows:

The Senator from North Dakota (Mr. ANDREWS) proposes an unprinted amendment numbered 1406.

Mr. ANDREWS. Mr. President, I ask unanimous consent that reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

On page 15, delete lines 21 through 24.
On page 27, delete lines 1 through 4.
On page 25, strike line 12.

Mr. ANDREWS. Mr. President, these amendments are technical in nature and are necessary to bring this bill into conformance with actions taken on the continuing resolution before the recess.

Specifically, Mr. President, the two amendments delete funding for interstate transfer grants from this bill, because full-year funding for these grants was included in the continuing resolution. Thus the amendments would keep us from funding the same program twice in the same year.

Finally, the third amendment merely corrects a typographical omission.

Mr. President, these are technical amendments necessary to avoid waste and confusion in the aftermath of the continuing resolution, and I ask for their favorable consideration.

The PRESIDING OFFICER. Without objection, the amendments are agreed to en bloc.

Mr. ANDREWS. Mr. President, I am glad to yield to the Senator from New York.

UP AMENDMENT NO. 1407

Mr. D'AMATO. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. D'AMATO) proposes an unprinted amendment numered 1407.

Mr. D'AMATO. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following:

SEC. . No funds appropriated under this Act shall be expended to pay for any travel by the Administrator of the Federal Aviation Administration or his immediate staff as passengers or crew members aboard any Department of Transportation aircraft to any destination served by a regularly scheduled air carrier: *Provided,* That this limitation shall not apply if no regularly scheduled carriers' flight arrives at the destination of the Administrator or member of his immediate staff within six hours local time of the desired time of arrival: *Provided further,* That this limitation shall not apply to costs incurred by any flight certified in writing by the Administrator to be solely for the purpose of inspecting, investigating, or testing the in-flight operation of any aspect of the Federal Aviation Administration system designed to aid and control air traffic: *Provided further,* That such written certifications shall be made readily available to Congress and the general public.

Mr. D'AMATO. Mr. President, on Thursday, September 23, Mr. Donald Horan of the GAO testified before the House Subcommittee on Legislation and National Security of the full Committee on Government Operations. Mr. Horan's testimony dealt with the management of aircraft by Federal civilian agencies, or, I should say, the mismanagement of aircraft by Government agencies.

The amendment I have sent to the desk is designed to address a key abuse of aircraft operations by the Federal Aviation Administration, an agency which figured prominently in the GAO testimony.

Mr. President, the day following the testimony by Mr. Horan, several newspapers carried stories citing some of the abuses which surfaced during the hearing. After reading these accounts, I requested and received an in-depth briefing by the GAO on this matter. I am sorry to report that the newspaper accounts only scratched the surface. Thousands upon thousands of dollars are being wasted by the FAA on passenger flights with absolutely no regard for cost control and prudent management. Most of the trips which were taken by the administrator of the FAA were to locations served by more economical commercial airlines. according to GAO, from October to December of 1981, 181 or 82 percent of the 222 FAA headquarter passenger flights were to destinations readily served by commercial airlines.

The FAA Administrator did not take a single commercial flight within the United States for his official business during his first 8 months in office. Travel records at the FAA indicate that the agency's Lockheed Jetstar and the seven passenger Cessna 550 Citation aircraft were used at a cost of $417,000. Commercial transportation was available for most of these trips and would have cost less than $13,000. Use of these planes alone therefore placed an unnecessary additional $404,000 burden on the American taxpayer.

The GAO, has cited some classic examples of gross mismanagement on the part of the FAA and its Administrator. For example, during 1981, the administrator made two trips to Alaska on the Lockheed Jetstar. On both occasions, the plane was parked in Anchorage and the FAA then used a rented Lear Jet and Cessna to transport the Administrator, his wife, and party within the State. Use of the Jetstar alone on these trips cost $100,000 when the Administrator could have made these trips on commercial airlines for $1,900 or a difference of $98,000.

On November 6, 1981, the FAA Administrator, his wife, and several other individuals flew the Lockheed Jetstar, which costs $3,070 an hour to operate, on a trip from Phoenix, Ariz. to Scottsdale, Ariz., a trip which is approximately 20 miles. The cost to the taxpayers for this short trip which could easily have been made by car was an astounding $2,149. Mr. President, especially in this time of fiscal restraint, the Congress simply cannot condone this type of wasteful extravagance on the part of high governmental officials.

Unfortunately, the litany of abuses does not stop here. On October 20, 1981, the Administrator and his wife flew the Jetstar to Las Vegas with the wife of an Associate Administrator, The Associate Administrator was already in Las Vegas attending an air traffic control conference. The Associate administrator's wife and another official got off the jet in Las Vegas. Within a half-hour, the Jetstar left for Washington, D.C. stopping on the way to Kansas and Missouri. On October 28, the Jetstar left for San Diego with the Administrator and his wife. The next morning, the aircraft left at 7:45 A.M. with the Administrator and his wife who had traveled to San Diego from Las Vegas. The Jetstar returned to Washington, D.C. after a 7-hour stopover in Reno, Nev.

The total cost of the trip was $70,000. Commercial air transporta-

tion would have cost about $2,300 or a difference of $67,700.

Mr. President, the purpose of my amendment is simple. It is to put an end to the wasteful behavior which has been going on at the Federal Aviation Administration. The amendment compels the FAA Administrator and his immediate staff to use commercial transportation when available. When, however, a regularly scheduled commercial carrier cannot get the Administrator and his staff to their destination within 6 hours of the desired time of arrival, this amendment does not apply.

In response to the GAO testimony, an FAA spokesman stated that the Administrator must fly FAA aircraft to "evaluate the safety and integrity of the national airspace system." However, an examination of the travel log of the Jetstar belies the claim made by the FAA. In fiscal year 1981, the Jetstar flew 375 hours at a cost of $1.151 million. FAA records show that 0 hours were devoted to evaluation.

The FAA also uses its aircraft to maintain FAA pilot's flying proficiency. On numerous occasions, the three headquarters Jetstar pilots were precluded from achieving the necessary flight time to remain "current" because the Administrator piloted the Jetstar while they were aboard. In fact, the Administrator piloted the aircraft 127.4 hours of the 141.1 hours he was on board the aircraft. The other three pilots who were on board piloted the aircraft only 13.7 hours. It is no small wonder therefore that 70 percent of the FAA headquarters pilots had not achieved the annual currency requirement.

After evaluating this horrendous situation, I seriously question whether the Administrator needs an aircraft which cost the taxpayers over $1.15 million to operate. As I stated, the aircraft was only in operation some 375 hours during fiscal year 1981. After subtracting that time which would have been spent on commercial flights, the time becomes much less. The Congress should evaluate whether there is even a need for the Jetstar and other FAA aircraft.

I have spoken with the chairman of the Transportation Appropriations Subcommittee, my good friend from North Dakota, who shares my concern with this severe problem. He believes, as do I, that in this time where Americans are being asked to tighten their belts we can expect no less from those entrusted to operate the Government. Likewise, I have cleared this amendment with the senior Senator from Florida, ranking minority on the subcommittee.

Mr. President, these abuses must be stopped.

Mr. ANDREWS. Mr. President, we will not object to this amendment at this time. I share the concern of the Senator from New York over matters of this nature, and I think it is a worthwhile concern which we should take to conference.

The PRESIDING OFFICER. the question is on agreeing to the amendment.

The amendment (UP No. 1407) was agreed to.

Mr. D'AMATO. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ANDREWS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who seeks recognition?

Mr. ANDREWS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ANDREWS. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ANDREWS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAGLETON. Mr. President, I rise in opposition to section 321 of the bill which would mandate an increase in truck width. I shall be very brief on this point before I make my point of order.

Mr. President, as the Members of this body will recall we voted on precisely this issue of wider trucks on October 1 of this year as part of the highway authorization bill. The Senate turned down the amendment to impose a mandatory 102-inch-wide truck standard on all the States. Instead, it agreed to my substitute which made the 102-inch standard permissive but not mandatory or obligatory.

Yet, here we stand again today debating the very same issue when other pressing matters affecting the well-being of this country such as creation of jobs, control of natural gas prices and various appropriations bills stand waiting. Beyond that question of priorities I would note two other circumstances which make this a most inappropriate issue to come before the Senate at this time.

The first is that the matter of truck widths together with truck weights and truck lengths is part of the administration's comprehensive highway jobs bill on which the Finance Committee is holding hearings presumably this very moment. Truck widths will be considered in this lameduck session but only in conjunction with higher user charges to correct what the Department of Transportation says is an unfair sharing of highway maintenance costs. Heavy trucks do not now pay their fair share. Under the administration's highway bill they would be required to pay higher user fees and we should not now be considering dealing with that issue in a piecemeal fashion.

The second circumstance that makes this section inappropriate is that it is clearly legislation in an appropriations bill and contrary to the rules of the Senate. Under normal circumstances, I would be hesitant to make this point of order. I would be willing to allow my colleague from North Dakota to have an up or down vote on the merits. But the fact is we already had an up or down vote on October 1 and the proposed width standard was defeated. The fact is we will have another up or down vote as part of the overall highway package, and my guess is in that context it will be approved. That is the way we should deal with this issue, not separate and apart from everything else as a little section of an appropriations bill, but as one part of a much larger highway issue.

For that reason, Mr. President, I wish to raise a point of order against section 321 of the committee reported bill on grounds that it constitutes legislation in an appropriations bill contrary to Senate rule XVI and ask for the ruling of the Chair.

The PRESIDING OFFICER (Mr. HAYAKAWA). The Senator from North Dakota.

Mr. ANDREWS. Mr. President, this particular provision is not without precedent in the Senate. We have done this any number of times on appropriation bills.

Mr. President, the discussion that was held before was held on another bill, and this is the bill that it was integral to originally.

Mr. President, under the rule I raise the question of germaneness.

The PRESIDING OFFICER. Under rule XVI the Chair submits the question of germaneness to the Senate.

Mr. ANDREWS. Mr. President, I ask for the yeas and nays on the question of germaneness.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is not debatable.

The question is, Is section 321 germane? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Alabama (Mr. DENTON), the Senator from New Mexico (Mr.

DOMENICI), and the Senator from Arizona (Mr. GOLDWATER) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Colorado (Mr. HART), and the Senator from South Carolina (Mr. HOLLINGS) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 67, nays 27, as follows:

[Rollcall Vote No. 392 Leg.]

YEAS—67

Abdnor	Gorton	Mitchell
Andrews	Grassley	Moynihan
Armstrong	Hatch	Murkowski
Baker	Hatfield	Nickles
Baucus	Hawkins	Nunn
Boren	Heflin	Packwood
Boschwitz	Helms	Percy
Burdick	Huddleston	Pressler
Byrd, Harry F., Jr.	Inouye	Quayle
	Jackson	Riegle
Byrd, Robert C.	Jepsen	Sarbanes
Cannon	Johnston	Sasser
Chiles	Kassebaum	Simpson
Cochran	Kasten	Specter
Cohen	Laxalt	Stennis
D'Amato	Levin	Stevens
DeConcini	Long	Symms
Dixon	Lugar	Thurmond
Durenberger	Mathias	Tower
East	Matsunaga	Wallop
Exon	Mattingly	Warner
Ford	McClure	Zorinsky
Glenn	Melcher	

NAYS—27

Bentsen	Eagleton	Proxmire
Biden	Garn	Pryor
Bradley	Hayakawa	Randolph
Brady	Heinz	Roth
Chafee	Humphrey	Rudman
Cranston	Kennedy	Schmitt
Danforth	Leahy	Stafford
Dodd	Metzenbaum	Tsongas
Dole	Pell	Weicker

NOT VOTING—6

Bumpers	Domenici	Hart
Denton	Goldwater	Hollings

The PRESIDING OFFICER. On this vote, there are 67 yeas, 27 nays. Section 321 is germane and the point of order falls.

UP AMENDMENT NO. 1408

Mr. EAGLETON. Mr. President, I have an amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Missouri (Mr. EAGLETON) proposes an unprinted amendment numbered 1408.

"On page 45, beginning with line 18, strike all through line 12 on page 46."

Mr. SCHMITT. Mr. President, I ask unanimous consent that I be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAGLETON. I thank my colleague.

Mr. President, we have just had a vote on a procedural matter, a parliamentary matter. Senator ANDREWS' side carried the day, so we are now on the merits. I shall speak for just a few minutes and perhaps my colleague from New Mexico will, as well, of course, Senator ANDREWS. So I expect another vote on the substance of this issue in the not too distant future.

Let us go directly to the merits. What section 321 of this bill purports to do and will, in fact, do is mandate immediately wider trucks on America's highways. Think of that, Mr. President. It has just been within recent days that the President of the United States and the Secretary of Transportation of the United States, Mr. Drew Lewis, and Governors from practically all the 50 States—people who have spent their lives dealing with roads and highways—all these people from the President on down have been on nationwide television saying the infrastructure of America is crumbling. Our roads and our bridges are in abominable shape. In some areas of the country, they are so dangerous as to threaten life and limb. In some areas of the country, cars and trucks have to slow down to 12 miles per hour because the roads are in such decadent shape.

Everyone around Congress, although they may disagree with a 5-cent gasoline tax or an oil import fee or with some other funding methodology, agree that Drew Lewis is right on his factfinding that America's highways are a shambles.

One of the alternatives being suggested is a 5-cent gas tax to help alleviate, rectify, or ameliorate the problem. Another suggestion is that if we are going to make colossal trucks super duper colossal, they are going to have to pay some user fees for doing that, because they are going to be further ripping up the highways that we are spending these billion of dollars to repair.

So, Mr. Lewis has properly said, if you are going to continue to louse up our highways, you are going to have to pay something for the privilege of so doing. That is what user charges are.

That is not a very happy choice, even on those terms. But what my distinguished colleague from North Dakota proposes to do is get bigger trucks now and they do not pay a dime. Good old USA, Inc. Let those monsters roll down the highways tomorrow. Let them chew them up and do not ask them for a penny, those poor little old boys that just chew up our highways.

Why, what made America great? Big, bigger, and biggest trucks. Poppycock.

If we are going to go along with the Andrews proposal and say, let those "Big Berthas" roll, I think we are just silly not to extract some payment for the abuse that these behemoths are going to inflict on America's highways.

So the vote on the merits on this issue, Mr. President, is on whether you want to hand it to bigger trucks on a silver platter, free of charge, or do you want to wait for another day coming in this lameduck session, when we can at least get something for the misery they are going to inflict?

We used to have a bunch of highway bandits back in the old days. Under these circumstances, I think this proposal gets close to highway robbery. So when we cast our yea or nay vote in a few moments. We should decide whether we want to be a witting or unwitting participant in this form of highway banditry.

I yield the floor.

Mr. DOLE. Will the Senator yield before he relinquishes the floor?

Mr. EAGLETON. Yes.

Mr. DOLE. Mr. President, I commend the distinguished Senator from Missouri because we are right now about ready to go into markup on the gas tax. If you give the truckers all they want today, they will not even want to pay the tax, I assume, by the time we get to the markup.

Mr. EAGLETON. Absolutely. I would not either if I could get it free of charge from Senator ANDREWS.

Mr. DOLE. A free ride.

Mr. EAGLETON. A free ride.

Mr. DOLE. Right, So I just hope, when we vote on this, we understand that there are negotiations going on right now with the truckers and the members of the tax-writing committees and Secretary Lewis and others who have an interest in this. We are not trying to be unduly harsh on the trucking industry. We understand, perhaps, the necessity of the legislation but not unless there is some adjustment in the tax.

I think we have the cart before the horse. If we had the tax bill passed, then this might be appropriate. But it seems to me that if I were in the trucking business, this is perfect; you can have it both ways.

If in fact the highways are in shambles—and they are in shambles; there is total agreement on that—and if in fact the truckers have at least some impact on the destruction of the highway system and the infrastructure, then we ought to be fair and objective in how we approach the so-called user fee. We have not yet made that judgment, so I do not think we should make this judgment.

I appreciate the Senator from Missouri yielding.

Mr. JOHNSTON. Mr. President, will the Senator yield to me 60 seconds and let me set the matter aside to get to an agreed-upon amendment?

Mr. EAGLETON. Surely.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside in order to take up an agreed-upon amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1409

(Purpose: To allocate funds for a study by the National Academy of Sciences for the purpose of studying wind shear and for increasing the number of windshear sensors at Moisant Airport, Kenner, La.)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON) proposes an unprinted amendment numbered 1409.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 9, line 2, insert the following before the period: ": *Provided further,* That not to exceed $500,000 of the total amount available for operation shall be obligated for a contract with the National Academy of Sciences and the FAA Administrator shall enter into an agreement with the National Academy of Sciences to study the state of knowledge, alternative approaches and the consequences of wind shear alert and severe weather condition standards relating to take-off and landing clearances for commercial and general aviation aircraft: *Provided further,* That the Academy shall complete the study within six months after funding arrangements have been made: *Provided further,* That the FAA Administrator shall report to Congress within 30 days regarding the status of the contractural arrangements and the conditions necessary to implement the agreement with the National Academy of Sciences: *Provided further,* That the Department of Transportation shall furnish to the National Academy of Sciences any information which the Academy determines to be necessary for the purpose of conducting the study: *Provided further,* That not to exceed $150,000 of the funds provided to the Federal Aviation Administration in this Act shall be available for doubling the number of windshear sensors at Moisant Airport in Kenner, Louisiana".

Mr. JOHNSTON. Mr. President, what this amendment does is to provide $500,000 for a windshear study to be done by the National Academy of Sciences and the FAA Administrator. It requires the study to be completed within 6 months. It also requires that the FAA Administrator report to the Congress within 30 days regarding the status of the contractual arrangements and conditions necessary to implement the agreement with the National Academy of Sciences.

It further provides $150,000 of the funds provided to the FAA in the act be available for doubling the number of windshear sensors at Moisant Airport in New Orleans.

Of course, what we have, Mr. President, is some attempt to get on with the business of determining the causes of windshear, to determine what should be the best reaction of the Federal Government, particularly the FAA, to windshear which, of course, caused that serious accident in New Orleans, and $150,000 to double the number of windshear sensors at New Orleans.

I thank the distinguished Senator from North Dakota.

Mr. ANDREWS. Mr. President, our colleague from Louisiana has brought up an excellent amendment. The need is certainly there. It is an amendment that we are glad to accept and take to conference to try to work out. I appreciate his bringing it before the Senate.

The amendment (UP No. 1409) was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Missouri.

UP AMENDMENT NO. 1408

Mr. SCHMITT addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. SCHMITT. Mr. President, just very briefly, the Senator from Missouri and I have joined on this issue before. He has expressed the correct position. The Senate took that position in a vote just a few weeks ago. The situation has changed to the extent it was expressed by the Senator from Kansas (Mr. DOLE). This is not an action that should be taken in a vacuum, not an action that should be taken in the absence of Senate consideration of the so-called gas tax.

The fundamental technological fact is that unless the vast majority of the trucks in a particular location or State are at their maximum weight limits, the increase in truck width will increase the average axle loading of trucks now on the highways because more of them will be able to fill with more goods and the rate of deterioration of the highways will increase by power functions, that is, exponentially. It is not a geometric increase, it is an exponential increase.

Until we have in place the mechanism for the rejuvenation of our highway system, we will be going downhill faster rather than actually repairing that system.

I compliment the Senator from Missouri on his initiative. I hope the Senate will once again reaffirm its position as it did just a few weeks ago in opposition to the position taken in the bill sponsored by the Senator from North Dakota.

Mr. STAFFORD. Will the distinguished Senator yield to me very briefly?

Mr. SCHMITT. I will be happy to yield to the distinguished Senator from Vermont.

Mr. STAFFORD. Mr. President, I feel constrained to join with the distinguished Senator from New Mexico and the Senator from Missouri in opposition to the language proposed which would, as I understand it, increase truck widths up to 102 inches on interstate highway systems.

As has been said earlier, this is a subject which should be addressed in connection with the administration's proposal of an increase in the gas tax and consideration at that time of the possibility of increasing the dimensions for trucks traveling upon our highways.

This matter was disposed of on October 1 of this year by the Senate. As I said in the debate at that time and point out again today, in the view of this Senator clearly this action at this time is an invasion of the jurisdiction of the Committee on Environment and Public Works, which I have the privilege of chairing. Therefore, I feel, not only for the jurisdictional grounds of my committee but also because of the pending legislation with respect to a rise in the fuel tax and the consideration of truck dimensions at that time, this is not the time to either invade my committee's jurisidiction or to prematurely address the question of truck widths. I therefore support the amendment of the Senator from Missouri.

I thank the Senator for yielding.

Mr. ANDREWS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. ANDREWS. Mr. President, I rise in opposition to the amendment. I should like to set the record straight. This is a "lameduck" session. It does not mean we have to have a "dumbduck" session. With some of the statements that have been made, one would think we were going to increase the weight limit on these trucks. We are not.

This is not a trucker amendment. This is a consumer amendment. There is a whale of a lot of difference between a trucker amendment and a consumer amendment. I suggest to my colleague from Kansas, who travels from one corner of this country to the other since he is a national legislator, that he should spend a little time stopping in at some of the truckstops and visiting with some of the farmers and some of the food processing companies and find out what problems they have.

The truckers want heavier trucks, sure. The consumers and the grocery manufacturers and the forest products producers and the rest need trucks that are a little wider so they work and function better. They can save $3.5 billion per year to the consumers of food products in this country by this simple expedient of updating the present mandatory language that has been around for more than 20 years that says truck trailers shall be mandated at 96 inches on 22-foot highways.

Mr. President, all we do is update an out-of-date, mandated law by bringing it into this decade, the decade of the

eighties, and saying it is long past due that on our present 24-foot highways we have 102-inch trailers. We now have 102-inch buses. 102-inch trailers are necessary, Mr. President, because of a unique situation.

Truckers got flimflammed by the railroads a long time ago when they set truck widths at 96 inches. Somebody must have been asleep, because 96 inches in exactly the double-pallet size of standard pallets that have been effective in this country since the turn of the century. That is exactly the width of the inside of a railroad boxcar. By mandating it for the outside width of a trailer, pallets cannot be loaded side by side. Truckers do not care: They get paid even if it takes more trucks to haul a given volume.

The people who ship, the farmers who want to get the products of their fields to the consumers of this country, pay through the nose by getting less for their crops because they cannot get two 4-foot-wide pallets into the present-day trailer trucks. That is why this amendment was brought up.

Those of us on the Appropriations Committee continually appropriate dollar after dollar after dollar, and too often I think the people back home think we have our heads in the sand and do not think much about what can be done to update, to make savings, and to make better use of what we have in this country.

This action by the Appropriations Committee, approved by an overwhelming vote—by 17 to 4 in committee—does just that. We take a look at present conditions. We find a saving of $3.5 billion in the food industry and the forest products homebuilding industry, two of the most depressed industries in this country, and we bring it to the floor of the Senate in order for it to be acted on, to give some relief to the general public, the consumers of this country. I think it is necessary and long overdue.

There is not one pound increase in trucking weight in this amendment. That should be left up to the appropriate legislative committees to decide when they want to do that, when they get an addtional fee from the truckers. This is a consumer-type amendment.

Mr. SCHMITT. Mr. President, will the Senator yield?

Mr. ANDREWS. I yield.

Mr. SCHMITT. The Senator has talked about great savings for the consumer, and I agree that at the proper time we should do this, when the roads of the country are ready. But how are you going to achieve those savings without having more goods in each truck? That is where the weight increase comes in.

Mr. ANDREWS. My distinguished friend is one of our noted engineer-astronauts. I am a country guy, but we have to be practical in the country, too.

When we load a truck at a more proper weight, that truck flows over the highway with much less damage to the highway, if the load limits and the weight restrictions are proper, than does an empty truck. Anybody who has driven behind an empty truck on a highway has seen that thing bounce up and down like a triphammer, banging up the concrete or the asphalt.

These trucks cube out before they gross out. If you can get more satisfactory loads on the trucks, there are fewer trucks on the highway, and that saves deterioration of the highways and saves the additional accumulation of more vehicles per given highway mile at one time.

Mr. SCHMITT. If the Senator will yield—and I appreciate his yielding—the engineering facts are that it is the average axle load, not the total weight of the truck, that causes the increased wear and tear; and you are going to increase average axle load by what the Senator has described.

If the Senator can tell me that it is going to take four times less trucks, then he has a case. But I do not think the Senator can tell me it is going to take four times less trucks to move the same amount of goods. That is what exponential increase in road deterioration means.

Mr. ANDREWS. I assure the Senator from New Mexico that they might get 15 to 20 percent more in each truck if you are talking about noodle products, which we produce in North Dakota, or plywood products, which they produce in Montana. They can get additional weight, but that additional weight is going to be under the gross weight limit for that truck, and it means there will be fewer trucks going down the road.

If the Senator is attacking the total gross weight figures as being destructive, that is a different subject, which we are not addressing. We are saying there is no sense having these trucks going back and forth across the highways not properly loaded because we do not have the proper widths in the trailers.

Mr. SCHMITT. The issue is not gross weight. If I recall correctly, 60 percent—anyway, the vast majority of trucks on the highway are not at their gross weight. But if you fill them up, the total weight is going to increase.

The Senator and I obviously have a different perspective on this problem, and I appreciate the discussion.

Mr. ANDREWS. The Senator is correct—we do have a different opinion of this problem.

I point out that there are a lot more industries affected by this measure than just the few that might be readily apparent. When Pan Am lands a 747 cargo plane in New York, that load is in 96-inch-wide pods and has to be transshipped in a truck 150 or 200 miles down the road.

Pan Am, Northwest, Flying Tigers—we have letters from all of them. It costs these airlines—and that is an industry in trouble today—untold millions of dollars because they have to unload these particular pod carriers that fit into their 747's instead of being able to move those pods from the 747 into the truck.

This amendment is long overdue. This language in the bill is for the benefit of consumers. It gives relief now to the food industry, to the building industry, the paper products industry, and the airlines, all of which need all the help they can get. It gives $3.5 billion in savings at no cost to the taxpayer. It mandates a truck width that gives more passing room on the 22-foot highways than the mandated width on the highways when they were mandated 20 years ago.

I hope we agree to this, realizing that down the line they may change the length and weight or down the line even include a truck width amendment.

However, from what I read as to what is happening in the committee of the Senator from Kansas, there is a great deal of doubt about whether that bill will come.

If I heard anything when I went back home in October, it was that the people back home are getting tired of us sitting here talking to each other, beating our breasts, and doing nothing about the problems.

Mr. President, this bill gives us the opportunity to do something about it. It gives us the opportunity to save the consumers $3.5 billion. I hope the amendment to strike it will be turned down.

Mr. EAGLETON. Mr. President, I will sum up in 1 minute.

I wish to underscore what the distinguished chairman of the Senate Finance Committee, Mr. DOLE, said here about 10 minutes ago. At this moment, he is working within his committee, in conjunction with the committee which the distinguished Senator from Vermont (Mr. STAFFORD) chairs, on this very matter of truck width, length, weight, and user fees to accompany any changes therein.

Senator DOLE has strongly implored that we defer this matter until we have adequate time to present his package. I underscore that by repetition.

Finally, Senator ANDREWS, one of the more skillful debaters in the Senate, says this is not really a truck amendment, that this is a consumer amendment.

There is an old story: If it looks like a duck, quacks like a duck, and walks like a duck, maybe it is a duck.

The Senator can call this "consumer." He can say these trucks are going to be lighter not heavier and that there is going to be just as much

passing room on the highways as before. He can use all this mesmerizing language, and it ends up that it looks like a truck, it honks like a truck, it destroys the highways like a truck, and it fills the road like a truck. If the Senator wants to call this "consumer," he can call it anything he wishes. Call it utopia. But it is a truck, and it will be wider and heavier and bigger and more destructive. That is what the vote is all about.

I yield back my time, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment. On this question the yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Alabama (Mr. DENTON), the Senator from New Mexico (Mr. DOMENICI), and the Senator from Arizona (Mr. GOLDWATER) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Colorado (Mr. HART), and the Senator from South Carolina (Mr. HOLLINGS) are necessarily absent.

The PRESIDING OFFICER (Mrs. KASSEBAUM). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 31, nays 62, as follows:

[Rollcall Vote No. 393 Leg.]

YEAS—31

Bentsen	Eagleton	Pell
Biden	Garn	Proxmire
Bradley	Hatch	Pryor
Brady	Hayakawa	Randolph
Byrd, Harry F., Jr.	Heinz	Roth
	Kennedy	Sarbanes
Chafee	Leahy	Schmitt
Cranston	Mathias	Stafford
Danforth	Metzenbaum	Tsongas
DeConcini	Moynihan	Warner
Dole	Nunn	

NAYS—62

Abdnor	Grassley	Mitchell
Andrews	Hatfield	Murkowski
Armstrong	Hawkins	Nickles
Baucus	Heflin	Packwood
Boren	Helms	Percy
Boschwitz	Huddleston	Pressler
Burdick	Humphrey	Quayle
Byrd, Robert C.	Inouye	Riegle
Cannon	Jackson	Rudman
Chiles	Jepsen	Sasser
Cochran	Johnston	Simpson
Cohen	Kassebaum	Specter
D'Amato	Kasten	Stennis
Dixon	Laxalt	Stevens
Dodd	Levin	Symms
Durenberger	Long	Thurmond
East	Lugar	Tower
Exon	Matsunaga	Wallop
Ford	Mattingly	Weicker
Glenn	McClure	Zorinsky
Gorton	Melcher	

NOT VOTING—7

Baker	Domenici	Hollings
Bumpers	Goldwater	
Denton	Hart	

So Mr. EAGLETON's amendment (UP No. 1408) was rejected.

UP AMENDMENT NO. 1410

(Purpose: To change the designation for reasonable needs of navigation on the Columbia Slough)

Mr. ANDREWS. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota (Mr. ANDREWS), on behalf of Mr. HATFIELD, proposes an unprinted amendment numbered 1410.

Mr. ANDREWS. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert the following general provision at the end of the bill:

SEC. . (a) Neither the Secretary of the department in which the Coast Guard is operating nor any other officers or employee of the United States shall approve any project or take any action which would interfere with the reasonable needs of navigation on the Columbia Slough, Oregon.

(b) For purposes of subsection (a) of this section, any bridge which is to be constructed across the Columbia Slough, Oregon, after the date of enactment of this section shall be deemed to provide for the reasonable needs of navigation on the Columbia Slouth, Oregon, if such bridge provides at least 30 feet of vertical clearance Columbia River datum and at least 80 feet of horizontal clearance, as determined by the Secretary of the department in which the Coast Guard is operating.

Mr. ANDREWS. Madam President, the amendment that I am offering today is a very simple one to address a problem that has developed in the State of Oregon. It is intended to clarify a decision made on a local level by the Coast Guard on the proper amount of clearance necessary for bridges over the Columbia Slough.

This action is part of a larger project on the North Portland Peninsula to provide flood control and recreation to that area. It has been under discussion since 1966 and promises to be extremely beneficial to that portion of the State. Federal authorization for a multipurpose flood control project has not been forthcoming within the time frame necessary to develop the Rivergate Industrial District. However, an alternative has been suggested to provide flood protection and accomplish the recreation and fish and wildlife benefits of the original plan.

The original plan called for closure of the Columbia Slough and construction of a railroad crossing of the Columbia Slough. This crossing was to be placed on a structure that would close the slough. The new plan keeps the slough open, but requires that both the railroad and roadway bridges must be built as structures spanning the slough. The Coast Guard standards require that all bridges must provide for the "reasonable needs of navigation." In the past the Coast Guard has based standards for vertical clearance equal to the bridge upstream from the proposed bridge site, which in this case is 39.5 feet.

Extensive research has been conducted by the Port of Portland to determine the appropriate amount of clearance necessary for usual boat traffic. The study by the port determined that all boat traffic, whether it be tugs, barges, or recreation boats would be able to clear a 30-foot bridge on all occasions, except in extreme flood conditions. This study demonstrates that the determination by the Coast Guard was not based on any factfinding, but solely on the recognition that historically log raft tugboats and small pleasue craft had transited the slough.

The importance of this change in the designation of "reasonable needs of navigation" lies in the cost of the construction of the bridges. It has been determined that it would cost approximately $1.1 million to build a 30-foot roadway bridge with that cost increasing by $400,000 for a 39-foot bridge. To construct a 39-foot clearance for a rail bridge, an opening span would be necessary. Cost estimates are $1.7 million for a nonopening 30-foot clearance span as compared to $8.8 million for an opening bridge. Clearly it can be seen that the difference in vertical clearance results in significant cost increases and for no apparent justification.

In closing, I urge my colleagues to adopt this amendment. It insures that the Columbia Slough will remain open to all boat traffic while reducing the cost of construction for both a railroad and roadway bridge over the slough. In addition, this action also protects recreation and fish and wildlife interests.

Madam President, it is obvious I am offering this amendment for a friend and colleague, the senior Senator from the State of Oregon (Mr. HATFIELD), the chairman of our committee, who is over in the Appropriations Committee at this present time. There is no objection to the amendment on either side and I hope that it will be adopted so we can take it to conference.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from North Dakota (Mr. ANDREWS) on behalf of the Senator from Oregon (Mr. HATFIELD).

The amendment (UP No. 1410) was agreed to.

SECTION 16 PROGRAM

Mr. CHILES. Madam President, I rise for the purpose of making a point of clarification with Chairman ANDREWS on the life cycle costing require-

ments as they relate to the section 16 program.

The appropriation for urban formula grants of the Urban Mass Transportation Administration includes language mandating that an evaluation of performance, standardization, and life cycle costs be performed before awarding contracts for the acquisition of transit rolling stock. My concern relates to a very small program which derives its funding from the overall appropriation for urban discretionary grants, namely the section 16 program which provides transportation services for the elderly and handicapped. The type of vehicle typically purchased with these funds is a converted van which has been specifically equipped to transport elderly and handicapped individuals. The private, nonprofit agencies offering these services may purchase only one or two vehicles and generally do not have the expertise to perform a life cycle costing analysis. I would like to ask the chairman of the subcommittee if it was intended that this provision apply to the section 16 program.

Mr. ANDREWS. No, it was never intended that this provision apply to the section 16 program. I thank the gentleman from Florida for raising this matter for clarification. I think the Senator from Florida agrees with me that this exception only relates to transport for elderly and handicapped individuals.

Mr. CHILES. The chairman makes a good point. The life cycle cost requirement for other programs continues, and we expect the letter of the law to be followed.

Mr. BAUCUS. Will the gentleman from North Dakota yield for a point of clarification?

Mr. ANDREWS. I yield.

Mr. BAUCUS. I thank the distinguished subcommittee chairman. The Senator will recall that, pursuant to the supplemental appropriation of last fiscal year, the Interstate Commerce Commission was directed by the Senate to increase the frequency and depth of its audits covering rail holding companies to insure that holding company financial transactions are not detrimental to the continued provision of rail service. This is a matter of considerable concern, particularly to those of us in the West who depend on rail transportation for the stability of our agriculture-based economy. I am wondering if it is the intention of the chairman to continue the effect of this provision into the next fiscal year?

Mr. ANDREWS. The Senator from Montana raises an issue of considerable importance. It is indeed the case that we intend to continue the requirement that ICC press its auditing function so as to insure that the pressures of holding company diversification do not undermine rail service. We will be looking forward to ICC testimony on any findings from these audits as well.

Mr. BAUCUS. I appreciate the response of the Senator from North Dakota and his consistent interest in maintaining essential, high quality rail service. I thank him for that assurance.

Mr. BOREN. Madam President, as you know, the FAA operates its Aircrafts Registry Administration System in Oklahoma City. Recently, the FAA began converting the aircraft title information it has to microfiche. In the past, the FAA operated this title search service manually. The information was made available to the public that day, and sometimes as fast as 4 hours. During the conversion to microfiche, firms are now experiencing delays of several weeks and sometimes longer. The FAA has admitted that this problem exists and it stems from the fact the records are out for being converted to microfiche and that process causes delays. A more substantial portion of the delay is caused by the fact that the FAA does not have enough personnel committed to operate this facility. That fact, combined with the enormous growth of volume of title records, has resulted in the substantial delays now being experienced. The FAA essentially acknowledges this problem, reporting that their new goal for providing title information is to accommodate 75 percent of the requests within 25 days; a giant step backwards. Senator ANDREWS, this is to me a sad situation and one which is costing those who buy and sell aircraft in this country substantial delays, inconveniences, and money lost. Senator ANDREWS, do you believe it would be appropriate for the FAA to provide additional resources to the record system in order to reduce the response time once again to the level previously enjoyed when the system was operated manually?

Mr. ANDREWS. I certainly appreciate the senior Senator from Oklahoma bringing this to our attention. I agree with you completely that the FAA should, within the resource levels made available by this bill, provide additional staff to the records system in Oklahoma City so that it can provide a more timely service to the public. Early next year when we hold our appropriations hearing, I intend to ask Administrator Helms about the progress he has made on this matter and the committee will expect that the situation will be substantially resolved by that time.

UP AMENDMENT NO. 1411

Mr. CHILES. Madam President, on behalf of Senator JOHNSTON, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida (Mr. CHILES) on behalf of Senator JOHNSTON proposes an unprinted amendment numbered 1411.

Mr. CHILES. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill insert: "None of the funds appropriated in this Act may be used to enforce a prohibition against commercial air service between New Orleans and London."

Mr. CHILES. Madam President, the amendment I have sent to the desk on behalf of Senator JOHNSTON would restore commercial air service between New Orleans and London.

British Airways withdrew from the New Orleans to London route, at which point CAB canceled New Orleans to London service entirely. There are other airlines which wish to serve this route. This amendment would prohibit the CAB from canceling the New Orleans to London service.

Mr. ANDREWS. Madam President, it is difficult to ascertain the legal ramifications of this amendment at this point, but it is certainly one that we should accept and take to conference. By the time we get to conference, we will know what the ramifications are. I have no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Florida (Mr. CHILES) on behalf of the Senator from Louisiana (Mr. JOHNSTON).

The amendment (No. 1411) was agreed to.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

UP AMENDMENT NO. 1412

Mr. DIXON. Madam President, I send an amendment to the desk cosponsored by my colleague, Senator PERCY, and myself, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The Senator from Illinois (Mr. DIXON), for himself and Mr. PERCY proposes an unprinted amendment numbered 1412.

Mr. DIXON. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Add the following general provision at the end of the bill:

"Sec. . Notwithstanding any other provision of law, or of this Act, there is appropriated and authorized $3,000,000 to remain available until expended for the acquisition

and rehabilitation of the Bloomer Railroad Line between Normal Junction, Illinois, and Herscher, Illinois, for 90% of the costs of such acquisition and 80% of the costs of such rehabilitation by an entity controlled by a preponderance of the rail users on such line or portion thereof."

Mr. DIXON. Madam President, on behalf of my colleague, Senator PERCY, and myself, I offer this amendment on behalf of a critical agricultural transportation project in central Illinois, the redevelopment of the Bloomer Railroad Line. Although the Interstate Commerce Commission has authorized the abandonment of the line, and rail service has been discontinued for some time, the track structure and right-of-way are still in place, and the shippers have organized to acquire the line with Federal financial assistance.

The rehabilitation of the Bloomer Railroad Line should afford a very substantial increase in employment for track rehabilitation in a major portion of rural McLean, Livingston, Ford, and Kankakee Counties, Ill., and will reestablish this important link in interstate commerce so that the farmers along the line will once again have direct rail access to the international and interstate grain markets.

The communities served by this line include Bloomington/Normal, Barnes, Colfax, Anchor, Cropsey, Chatsworth, Charlotte, Cullom, Kempton, Cabery, Buckingham, and Herscher, all in the Corn Belt of central Illinois.

The amendment provides $3 million for this project, and does not include any operating assistance payments. The rail users on the line have organized into the Bloomer Shippers Railway Redevelopment League, and hope to assure the permanent operation of this line once redeveloped with Federal financial assistance.

Mr. ANDREWS. Madam President, the precise argument that our good friend, the junior Senator from Illinois, has raised is very important. This particular project is one of a number of worthy projects for the State of Illinois that will be subjects of the conference.

Let me assure my colleague that we will do everything we can to accommodate his view and the view of his colleague, Senator PERCY, in the conference.

Mr. DIXON. Madam President, I appreciate that very much.

Madam President, on the basis of the representations made by my good friend from North Dakota, on behalf of my colleague, the senior Senator from Illinois, Senator PERCY, Congressman MADIGAN, Congressman SID YATES, and other interested Members in the House, I am privileged at this time to withdraw the amendment with the assurance of my colleague that this matter will be given every consideration in the conference committee.

Mr. ANDREWS. Let me assure my colleague that if I should, by any reason, happen to forget the most eloquent argument that my colleague made today, a Congressman from the great State of Illinois, SID YATES, a long-time friend of mine and colleague in the House Appropriations Committee, will be sure to remind us as conferees in the most forceful manner. So the Senator from Illinois and his colleague, Senator PERCY, are adequately protected.

Mr. DIXON. I thank my colleague.

BLOOMER RAILROAD LINE

Mr. PERCY. Madam President, I wish to join with my distinquished Illinois colleague, Senator DIXON, in offering this amendment. The amendment would authorize $3 million for the acquisition and rehabilitation of the Bloomer Railroad Line between Normal Junction and Hershel, Ill., and would require that 10 percent of the acquisition costs and 20 percent of the rehabilitation costs be borne by users of the rail line for the funding to be provided. The Bloomer Shippers Railway Rehabilitation League has been formed by the users to acquire, rehabilitate, and operate the line.

This amendment is necessary because the Interstate Commerce Commission has authorized the abandonment of the Bloomer Line, and the $3 million assistance will help assure continued rail service—service which is vital to the central Illinois farm economy.

I am pleased that the Senator (Mr. ANDREWS) has agreed to consider this matter in conference with the House and appreciate his accommodating us. On behalf of Senator DIXON and our House colleague, Mr. MADIGAN, we thank you.

Mr. DIXON. Now, Madam President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment (UP No. 1412) is withdrawn.

Mr. ANDREWS. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ANDREWS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Madam President, a great deal of discussion has been generated in recent weeks about the state of our country's roads and bridges.

In the States of Texas, where we enjoy a strong interstate highway network and an extensive primary and secondary road system, our needs are particularly critical. It has been many years since the original funds were authorized and expended to produce the highway system upon which we have all come to depend. In Texas, given the size of the State and the dependence upon travel by passenger automobile, the highways have been much used, and, naturally, have deterioriated over time.

Although the Federal Highway Administration and the Texas State Department of Highways and Public Transportation have done a superb job of attempting to keep up with the rehabilitation needs of this system, we are nonetheless faced with the critical need for additional attention to this problem.

While highway rehabilitation must demand our attention, I am also concerned about the state of some of the bridges in Texas. The bridge crossing the Neches River, which connects the cities of Ports Arthur and Orange, demands, I believe, our immediate action. This bridge, which is too narrow to be safe, is the major traffic artery between these two major industrial centers of east Texas. The bridge has only a 49.6 sufficiency rating from the Department of Transportation, out of a possible sufficiency scale of 100. In short, this bridge is inadequate under current conditions, and with any expanded traffic flow would create a potentially dangerous situation. Without rehabilitation, and expansion, this inadequacy will seriously hamper the prospects of these two cities to expand their industrial base and will contribute to the continuation of a depressed labor market in this area of the State.

It is for these reasons, Madam President, that I today submit the text of this amendment to H.R. 7019, regarding expansion and rehabilitation of the Neches River Bridge.

The text of the amendment follows:

At the bottom of page 15 add the following:

NECHES RIVER BRIDGE

For the renovation of the existing Neches River Bridge and the construction of a twin span bridge on Texas State Highway 87 across the Neches River, to be derived from the Highway Trust Fund, $46,400,000, to remain available until expended.

Mr. TOWER. Madam President, following consultation with my colleague, Mr. ANDREWS, the chairman of the Subcommittee on Transportation of the Appropriations Committee, I have decided not to seek consideration of my amendment relating to the rehabilitation and expansion of the Neches River Bridge at this time. I will, however, actively pursue this matter with my colleagues on the Environmental and Public Works Committee, and on the Appropriations Committee as funding for the next fiscal year is considered during the 98th Congress.

SECTION 311

Mr. GLENN. Madam President, section 311, dealing with the debt of the St. Lawrence Seaway Development Corporation, is a commendable provi-

sion and I applaud the Committee on Appropriations, but especially the distinguished chairman of the Transportation Subcommittee, the Senator from North Dakota (Mr. ANDREWS), for its inclusion in this legislation. It would achieve a long-sought purpose, provide a measure of equity for America's north coast, foster competition, and facilitate access of the industrial and agricultural output of America's heartland to the channels of world trade.

The purpose of this section is the same as that sought by the bill S. 422, which I introduced early in this Congress and on which hearings were held on March 17, 1982, by the Committee on Foreign Relations. At those hearings, attended by Federal officials, labor, port interests, seaway users, shipping operators, and railway representatives, by far the greatest amount of testimony was in favor of just what the committee proposes in section 311; that is, forgiveness of the remaining portion of the construction debt of the St. Lawrence Seaway Development Corporation.

This provision goes beyond the terms of S. 422—which would level off annual repayments at today's $2 million level, avoiding a burdensome ballooning beginning in 1986—but I fully endorse the committee version. It would remove an inequity which has been imposed on users of the St. Lawrence Seaway system for nearly a quarter century. The seaway is the only waterway in our history which has had to generate revenues to cover both its initial construction costs and its annual operation and maintenance costs.

Through the end of the 1981 shipping season, the Seaway Development Corporation had paid a total of $64.4 million to the Treasury. This included interest payments of $37.6 million through the 1960's, as well as $26.8 million on the principal of the construction debt. And, as I have indicated, the Corporation also has borne all operation and maintenance costs without appropriations from the Congress.

Already, toll increases have had a deleterious effect on seaway traffic. It is estimated, for instance, that toll increases already negotiated and scheduled will increase the delivered price of coal shipped through the seaway by 32 cents a ton. That is, the cost will be jumped 32 cents a ton in but 2 years, 1982 and 1983. With the expected increase in competition between U.S. ports, this increase obviously will have a deleterious effect on the capability of the Great Lakes to serve the people, the industry, and the shippers of mid-America. The provision pertaining to the seaway debt will alleviate this problem somewhat.

Toll will undoubtedly increase as operations and needed maintenance demand. But equity will be served by lifting the debt burden. Under the present schedule of capital payments, the Corporation pays back $2 million per year. That will pertain through 1985, but in 1986 the repayment requirement will jump to $9.5 million. Then it will decrease in gradual steps to $5 million by 1996 and $1 million by the year 2001.

Testimony at our March hearings indicated that the very significant increase of $7.5 million in the repayment schedule in 1986 will cause a toll increase of about 70 percent over the 1983 level, increasing the percentage of overall tolls dedicated to repayment of this unique debt to about 54 percent.

Madam President, the report of the Committee on Appropriations on the transportation and related agencies appropriations bill states the case for this provision very well, pointing out that the Governors of the six Midwestern States with Great Lakes shoreline are in support of this proposal because they, like I, are concerned that the outstanding indebtedness of the Seaway Development Corporation poses a threat to the economic health of the region which is now feeling the effects of the worst economic recession since the Great Depression.

ST. LAWRENCE SEAWAY

Mr. PERCY. Madam President, I chaired a Foreign Relations Committee hearing earlier this year concerning the St. Lawrence Seaway's debt and wish to commend Transportation Appropriations Subcommittee Chairman ANDREWS for the inclusion of section 311 of the bill. This section relieves the seaway of its obligation to repay the outstanding construction debt.

More than a year ago at a Great Lakes Maritime Conference I sponsored in Chicago, Great Lakes port officials, steamship operators, labor representatives, shippers, and carriers unanimously recommended that Congress act to relieve the region of the burden of the St. Lawrence Seaway debt. The seaway is the only Federal waterway with substantial user charges and, for this reason, it casts an unfair burden on Great Lakes ports. The seaway charges tolls to pay for operating and maintenance costs and also to pay back interest on the debt extended to construct it in the 1950's. The debt now stands at approximately $110 million and annual interest charges amount to about $2 million.

The Senators of the Great Lakes region have worked arm in arm in seeking the retirement of the seaway debt and we deeply appreciate the achievement of the Senator from North Dakota in forgiving the debt in this bill. Ms. Grace Crunican of his staff deserves mention for her work on this provision.

Madam President, without this action, seaway tolls could be raised thereby increasing costs to shippers and increasing cargo rates. The future of my State's economy is directly linked to our success in exporting, and this provision will help assure that grain grown near Decatur and that machinery manufactured in Peoria pass through the Port of Chicago, rather than through the Ports of Baltimore and New Orleans.

Mr. ANDREWS. Madam President, I ask for third reading of the bill.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 7019), as amended, was passed.

Mr. JACKSON. Madam President, I move to reconsider the vote by which the bill was passed.

Mr. ANDREWS. Madam President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ANDREWS. Madam President, I move that the Senate insist upon its amendments and request a conference with the House of Representatives on the disagreeing votes thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to and the Presiding Officer appointed Mr. ANDREWS, Mr. COCHRAN, Mr. ABDNOR, Mr. KASTEN, Mr. D'AMATO, Mr. HATFIELD, Mr. CHILES, Mr. STENNIS, Mr. HARRY F. BYRD, JR., Mr. EAGLETON, and Mr. PROXMIRE conferees on the part of the Senate.

Mr. ANDREWS. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KASTEN). Without objection, it is so ordered.

CONTROLLING THE BUDGET

Mr. SYMMS. Mr. President, much attention has and will continue to be directed at the vast array of budget items for which funds are appropriated every year. These include farm-price supports, jobs programs, and a variety of subsidies and pork-barrel

programs too numerous to mention. As with all Federal programs, there is plenty of waste and fraud to be found in them. However, these compose only about 20 percent of the fiscal year 1983 budget. They do not pose the real problem for out-of-control Federal spending, but should be curtailed. A few million here and there add up.

Likewise, the defense budget is not responsible for our budget dilemma. Military spending will be higher in coming fiscal years. The Reagan administration initially requested budgetary authority for fiscal year 1983 at $263 billion, up from $218.9 billion in fiscal year 1982. The initial Reagan budget for 1983 projected real growth in defense outlays of 10.5 percent, and average real increases of about 8 percent for the years 1981–87. In contrast, real defense spending from 1975–81 grew at only 1.8 percent, while the Soviet Union built up a vast war machine. This is not to say that we should not step up efforts to control costs, but I believe the Congress is the largest impediment toward saving defense dollars, not the administration. The Congress prohibits the Defense Department from procuring military equipment efficiently because it does not allow DOD to "buy off the shelf." Congress is the biggest obstacle in shutting down obsolete bases because Members representing congressional districts where those bases are located consistently stop any efforts to close facilities that are no longer needed. The Congress prohibits the Defense Department from planning efficiently because it forces the Defense Department to operate on continuing resolutions—leaving budget planners at DOD totally unable to plan a budget. I would like to know one individual or corporation that could operate efficiently without a budget. Efficiency cannot be attained without a budget, and there is no reason to assume that DOD is any different than any other organization. Furthermore, if the Congress were truly interested in obtaining efficiencies of scale, they would authorize and appropriate on a multiyear basis for DOD. Instead, Congress continually holds programs hostage to the yearly budget cycle, canceling previously authorized programs on a whim or delaying funding for those programs for some politically expedient reason. It is no wonder that the cost of military equipment is expensive since military equipment manufacturers cannot be assured that their contract will not be canceled after having made tremendous capital expenditures to manufacture an initial piece of military equipment. The Congress has also, thus far, refused to address the problem of adequately controlling personnel costs at DOD, which by the way, represent 55 percent of the DOD budget. Congress, if it were serious about controlling DOD expenditures, would reinstate the draft and reform the military retirement system. But despite all of this, defense is not the real culprit in examining just where the budget is out of control.

The real crisis in Federal spending lies in the remainder of the budget, the so-called entitlements area, which includes social welfare and other transfer payment programs that grow annually of their own inner dynamism, since Congress does not appropriate funds for them: Social security, medicare, medicaid, Government pensions, and the like. The rate of growth in spending for these programs, including military pensions, has been nothing less than explosive. From 1965 through 1970, the entitlements portion of total budget outlays grew from 28.4 percent to 33.7 percent. By 1975, entitlements consumed 48.3 percent of Federal outlays. The Reagan budget estimated these programs to devour 50.5 percent of total spending in 1983, and remain above 49 percent through 1987. Social security alone will cost an estimated $173.5 billion in 1983, up 12 percent from 1982.

Interest on the Federal debt for 1983 is projected to be a staggering $115 billion. Off-budget items, which contribute to Federal deficits, could add as much as $20 billion to the deficit next year.

The momentum behind Federal spending is greater than the sum of the costs of every Congressman's pet programs. It is a mindless engine unto itself, that has proved impervious to an endless variety of control mechanisms, including the 1974 Budget Act. Changes in the assignment of budget functions by congressional committees has not worked. Statutory limits have been introduced, but they could easily be subverted or ignored. A constitutional amendment to balance the budget and limit spending to a percent of GNP is being debated but has been stalled by the Democrats in the House of Representatives.

What we need is a vigorous excercise in political will in order to control the uncontrollable growth of Federal spending. The problem still remains to be challenged, and is more serious today than some time ago. The solution to the problem is the same—it just has not been tried yet.

THE UNDERCOVER INVESTIGATION OF ROBERT L. VESCO

Mr. HATCH. Mr. President, the Department of Justice seriously bungled the investigation of fugitive financier Robert L. Vesco's attempts to subvert American foreign policy. The Department has now admitted that it gave false information to a U.S. district judge in connection with that same investigation; it has taken the extraordinary step—given that it occurred after trial and conviction—of moving to dismiss the indictment pending before that Judge. The Judge found "willful prosecutorial misconduct" and unsurprisingly threw out the case.

As a member of the Senate Judiciary Committee, for more than 2 years I carefully examined the Department of Justice's undercover investigation of Vesco's alleged attempts to reverse a State Department ban preventing the export of planes to a terrorist nation, Libya.

The investigation by the Federal Bureau of Investigation began when an FBI informant agreed to arrange a meeting for a target to the investigation with Vesco. The FBI informant did not know Vesco at the outset of the investigation but he spent a great deal of time, 4 months, trying to locate him. If it had not been for the FBI informant, the target would never have met Vesco.

The FBI's target was also under investigation in the southern district of New York, After meeting Vesco, the target told the southern district that he would lure Vesco where the Department could get him and would spend his own money doing this. He asked the southern district to consider conferring immunity if he succeeded. Thus, the FBI helped its target become an informant. for a time, both the FBI and southern district informants investigated each other.

Vesco purportedly sought through various individuals to have John White, then the Democratic national chairman, arrange for Carter administration officials to lift the ban against exporting planes to Libya. Mr. White did contact the Under Secretary of State who negotiated the release of some planes to Libya, did meet with the Libyan Ambassador, and did give the Libyan Ambassador some assurances (according to another target of the investigation).

Although the FBI and the southern district of New York should have been cooperating or coordinating their investigative efforts, instead they were competing. Even after the FBI learned that their target had become a southern district informant, they investigated.

In the midst of this competition, the Department received "specific information" that the White House Chief of Staff and President Carter intended to share the Libyan's bribe with Mr. White. That information triggered the 90-day "preliminary investigation" to determine whether a special prosecutor should be appointed. The FBI informant was excluded from undercover meetings during that 90-day period. The southern district informant was included but he needed funding to attend. The FBI however refused him funding, among other reasons, because he was not an "FBI informant." The

Department thereafter recommended not to appoint a special prosecutor. The press learned, and no one knows how, that Feeney was an informant; that leak ended any hope of continuing the undercover investigation.

Having erected a wall between the case in which the southern district informant cooperated and the one in which he was investigated, the southern district tore down the wall. The informant was prosecuted in New York and in Denver, Colo.

Without funding, the Department lost access to the targets of the investigation. With published stories, secrecy took flight. With the repeated indictment of its informant, the southern district lost the last critical element to prosecute a case, a witness.

On September 15, 1982, I requested that the Judiciary Committee print the staff report of findings and recommendations. The committee printed that report, entitled "The Undercover Investigation of Robert L. Vesco's Alleged Attempts to Reverse a State Department Ban Preventing the Export of Planes to Libya" and a copy was requested by U.S. District Judge Fred Winner in Denver, Colo.; Judge Winner was considering posttrial motions in the prosecution of the southern district informant before sentencing him.

On September 23, 1982, Judge Winner said that the report made it clear to him that he required the testimony of high level Department officials. He said:

> My analysis of this report gives cause for great concern as to whether perjury has or has not been committed in this Court. I think there is grave concern as to whether representations made on behalf of the Department of Justice have been false.

He continued:

> I am very, very troubled as to whether I may not have to dismiss the indictment.

This past Monday, a representative of the Department of Justice beat him to the punch; he admitted that the Department gave "factually erroneous" information to Judge Winner. More than 2 years after the Department sought to indict its own informant and after it had tried and convicted him, the Department belatedly made this confession of error and asked the court to dismiss the case.

U.S. District Judge Winner said that "willful prosecutorial misconduct" had been established in his courtroom and "freely admitted" by the Department. He castigated the Department's undercover investigation of its own informant stating that "competition" between the FBI and southern district was "so bad" that one investigative agency both concealed and "actively" mislead other investigative agencies as to what was happening. "As long as that goes on," he said, "there are going to be injustices."

Judge Winner said that the Department had "openly conceded" that it had deprived the informant of his constitutional rights during the trial although it had "taken a long, long, long time" for the informant to get that concession. Judge Winner said that he was "chagrined that there is not going to be full disclosure of all that took place behind the scenes in this case," that the Department had "successfully stonewalled * * * all the way to the end," and from "that standpoint alone there has been a miscarriage of justice." Judge Winner dismissed the case.

Judge Winner's ruling reaffirmed our report that from beginning to end this undercover investigation was "a shame and a disgrace." I commend Judge Winner for persevering and I commend the staff report's findings and recommendations and Judge Winner's remarks and ruling to the select committee established by Senate Resolution 350 "to conduct and investigation of the activities of components of the Department of Justice in connection with their law enforcement undercover operations."

There is no question that undercover activities are beneficial and necessary to effective law enforcement but they are not to be used without constraint. Sir Thomas More once asked another lawyer, "What would you do? Cut a great road through the law to get after the Devil? Roper, the lawyer, answered, "I'd cut down every law in England to do that."

"Oh?" said More, "And when the last law was down, and the Devil turned around on you—where would you hide, Roper, the laws all being flat?" More continued, "This country's planted thick with laws from coast to coast—man's laws, not God's—and if you cut them down—and you're just the man to do it—do you really think you could stand upright in the winds that would blow then?" More concluded, "Yes, I'd give the Devil benefit of law, for my own safety's sake."

THE DEATH OF FRANK HAMPTON

Mr. THURMOND. Mr. President, it is with great sadness that I rise today to note the death of an outstanding South Carolinian and a good friend, Frank Hampton.

Mr. Hampton, who was chairman of the board of the State-Record Co. in Columbia, S.C., and a former member of the State House of Representatives, died Tuesday at the age of 86.

Mr. President, Frank Hampton was a man of unimpeachable integrity and outstanding character. He was an excellent member of the South Carolina General Assembly, where I had the distinct privilege of serving with him some years ago.

The State of South Carolina has lost an able and dedicated citizen, and I have lost a true friend.

During his life, Mr. Hampton excelled in many fields. To name but a few, he was a former president of the State Fair Association, a skilled athlete and newspaper executive, a member of the South Carolina Agricultural and Mechanical Society, an outstanding breeder of fine race horses, and, of course, an able State legislator.

Above all, Mr. President, Frank Hampton was a true humanitarian. During the Depression, his compassion for his fellowman was especially evident, although he never made a point of mentioning it himself.

It was during that tragic period in our history, when many people lived from hand-to-mouth, that Frank Hampton delivered milk to families even though they had no money to pay him.

Mr. Hampton operated a working dairy at that time, and many families later recalled that he never mentioned past-due bills to them, and kept delivering milk even if months went by without payment.

That is the kind of man Frank Hampton was, and in order to share more about his remarkable life with my colleagues, I ask unanimous consent that an article in the December 1, 1982, edition of the Columbia State newspaper, which details the many accomplishments of Frank Hampton, and an editorial from the December 2 edition of the newspaper be included in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the (Columbia, S.C.) State, Dec. 1, 1982]

FRANK HAMPTON INSTRUMENTAL IN STATE FAIR DEVELOPMENT

Frank Hampton, chairman of the Board of Directors of the State-Record Co., died Tuesday. He was 86.

Mr. Hampton, who represented Richland County in the South Carolina House of Representatives in the 1930's, also was a former president of the State Fair Association and was founding president of the S.C. Thoroughbred Owners and Breeders Association.

Funeral services will be held at 4 p.m. today in Trinity Episocpal Cathedral, conducted by the Very Rev. John E. Banks Jr. Burial will be in the churchyard.

Pallbearers will be Burwell Manning, George McCoy, Theodore DuBose, Gayle O. Averyt, David C. Ellison Sr., Phil Chappell, Ben Morris, Paul Barringer, Henry W. Moore Jr. and W. Hampton Oliver.

The family suggests that those who wish may make memorials to Still Hopes Episcopal Home or to charities of their choice.

Dunbar Funeral Home, Gervais Street Chapel, is in charge.

Born April 20, 1896, Frank Hampton was the last surviving member of his generation of Hamptons, a pioneering family of the

area that became Richland County. He lived all his life on lands owned by his family since shortly after the American Revolution.

The oldest of five children of the late Frank Hampton and Gertrude Ruffini Elliott Gonzales Hampton, Mr. Hampton was born and reared at "Woodlands," a home built by his father. He was educated at Porter Military Academy in Charleston and Randolph-Macon Academy in Virginia before entering the University of South Carolina, where he graduated in 1917 with a degree in civil engineering. At the university, he was an outstanding fullback on the football team and also received a letter in track.

During World War I, Mr. Hampton was in the U.S. Army and served on active duty in France.

Shortly after his marriage in 1920 to the former Mary Fleming Irvine of Evington, Va., Mr. Hampton built a home at "Millwood," behind the front portico columns that still remain from the boyhood home of Wade Hampton III. The original house, burned during the Civil War, had been the home of Col. Wade Hampton II, father of Gen. Wade Hampton—the Confederate war leader, governor and United States Senator. Millwood remained Frank Hampton's beloved home until his death.

Mr. Hampton's mother was a sister of the Gonzales brothers—Ambrose, N. G. and William—who founded *The State* newspaper in 1891. The major responsibility for the newspaper eventually passed to Frank Hampton, his brothers and sisters.

He took an active and supportive interest in the newspaper, serving on its board of directors since 1926. He served as vice president and secretary of the board of the State-Record Co. before becoming its chairman in 1966—a position he held until his death.

The State-Record Co. is the parent corporation for subsidiaries that operate *The State* and *The Columbia Record* as well as newspapers in Myrtle Beach, Conway and Newberry and in Gulfport-Biloxi, Miss.; television stations in Charleston, S.C., Lubbock, Texas, and Roswell, N.M.; and the State Printing Co. of Columbia and Band and White Printing Co., Spartanburg.

For approximately 40 years, Mr. Hampton operated a working dairy farm at Millwood, where he bred registered Guernsey cattle. Until the 1940s, he sold milk under the Millwood name throughout the Columbia area.

During the Depression, Mr. Hampton delivered milk to local families, even when they could not pay. Many of his customers later recalled that he never mentioned due bills and continued bringing the same amount of milk, even if months went by without payment. After World War II, he became associated with Coble Dairies and was active in breeding associations.

Mr. Hampton was a strong supporter of the 4-H program, to which he donated cows and calves. He received a citation from 4-H for his interest and contributions.

Years of active farming led to Mr. Hampton's involvement in the South Carolina Agricultural and Mechanical Society—the official name of the State Fair Association. He was deeply interested in the State Fair and in its services to the people and the economy of the state. In 1953, he was elected vice president of the fair association and from 1965 to 1969 served as its president.

In April of 1966, a fire destroyed the State Fair's main exhibit facility, a massive structure known as the Steel Building. Mr. Hampton spearheaded a drive to rebuild an even better facility, to erect new buildings and generally to improve the arrangement of the fairgrounds. He assumed leadership in the endeavor to raise funds.

Largely through his efforts, five new buildings were erected, including two for general exhibits, a new main exhibit building and a large year-round facility housing a cafeteria and reception rooms. At the 1967 annual meeting of the State Fair Association, members voted to re-name the main exhibit building the Hampton Building, in honor of Frank Hampton and in appreciation of his work in rebuilding the fairgrounds.

After his retirement from its presidency, Mr. Hampton remained as an ex-officio member of the State Fair Association's executive committee.

In a special ceremony in 1980, the State Agricultural and Mechanical Society honored Frank Hampton for his life-long contributions to its work. At that time, the society presented him with an engraved silver plaque.

One of Mr. Hampton's greatest loves was horses, in keeping with a tradition established by preceding generations of his family. Although he said recently that he "never had anything good to ride" when he was a boy, as an adult he kept many horses on his farm and bred thoroughbreds for racing.

The late Max Hirsch, one of the nation's most famous horse trainers and a close friend, trained many of Mr. Hampton's thoroughbreds for the track. Hirsch trained winners of the Kentucky Derby and other great races.

Spanish Cream, bred by Mr. Hampton at Millwood in 1950, was the "highest money winner yet bred by a South Carolinian," according to an article about the horse which appeared in The State Magazine April 26, 1953. Spanish Cream won three major stakes victories at Santa Anita, and her lifetime winning—including races won after Mr. Hampton sold her—exceeded $125,000. Mr. Hampton raced two other horses from the same dam at Belmont Park and bred many others who were winners at major tracks such as Belmont, Aqueduct and Saratoga.

Mr. Hampton revived the Hampton racing colors, which had been retired during the Civil War, and they now are among the oldest racing colors active in the country. The original colors were royal blue and crimson sleeves, and Mr. Hampton put two white hoops on each sleeve. The cap is royal blue and red.

Through his association with racing, Mr. Hampton made friends with the owners of many famous stables, including Robert Kleberg of King Ranch, where he was invited as a houseguest to participate in hunting; Elizabeth Arden, Capt. Harry Guggenheim and many others.

In recent years, Mr. Hampton had been associated with O.H. Weinges and son and their trainer, Red Holman.

While he was serving in the state Legislature, Mr. Hampton advocated the legalization of pari-mutuel betting in the state. He believed this would provide public revenue as well as good sport.

In the state House of Representatives, Mr. Hampton also played an active part in legislation supporting a state forestry program.

Mr. Hampton was an avid hunter, frequently participating in hunting parties which went out for birds or ducks. But, he was most fascinated by the quest for the elusive wild turkey. Many of his all-day and overnight hunting expeditions were to the Congaree Swamp, where he and his brother, the late Harry Hampton, often hunted together.

Since he inherited Oak Lawn Plantation near Adams Run, S.C., from his aunt, Harriott Gonzales, in the 1950s, Mr. Hampton had hunted frequently on the plantation property. He liked to invite groups of friends and relatives to join in trips to Oak Lawn, which, for the past several years, was a favorite destination for expeditions with his great-grandson.

A true animal lover, Mr. Hampton usually kept many dogs at Millwood, in addition to goats, guinea hens, mules and other farm animals. He raised English setters, in particular, and competed in local field trials. A favorite setter was Dagwood, who won many field trial outings.

Like his brothers and sisters, Mr. Hampton was a life-long supporter of historic preservation projects. He applied for a grant to preserve the ruins of the original Millwood and in 1980, the state Legislature approved a $12,615 grant to stabilize and restore the massive columns. There was a matching grant from the state Department of Archives and History. Outbuildings remaining from the plantation also were restored recently at Mr. Hampton's expense. In recognition of Mr. Hampton's endeavors, the Historic Columbia Foundation awarded him a certificate of meritorious achievement at its annual meeting in May.

Mr. Hampton loved to entertain at Millwood, and he was well-known as a genial host and raconteur of colorful and humorous stories. Even after his health failed in recent years, many visitors still dropped by to listen to his jokes and his vivid reminiscences.

In earlier years, his 6-foot-2-inch height and large frame, his jovial manner, hearty laughter and readiness to tease and play games, had made Mr. Hampton an extremely popular personality with the children of family and friends. More than one youngster described him as "better than Santa Claus."

As recently as Oct. 14 of this year, Mr. Hampton was once again honored, when the S.C. State Fair presented a $1,000 art purchase award in his honor. The award-winning artwork was presented to Benedict College, with Mr. Hampton on hand for the presentation.

Mr. Hampton was a member of Trinity Episcopal Cathedral. In addition to the organizations previously named, he also was a member of the Cotillion, the Summit Club, the Palmetto Club, the Pine Tree Hunt Club and had been affiliated with the Quadrille Club, the Columbia Drama Club and others. For many years, Mr. Hampton served on the Board of Trustees of Hammond Academy.

One of Mr. Hampton's sisters, Gertrude Hampton Barringer of Richmond, Va., died in September of this year. Her twin, Lucy Hampton Bostick of Columbia, died in 1968. Both his brothers, Ambrose Gonzales Hampton and Harry Rutledge Elliott Hampton, died in 1980.

Mr. Hampton is survived by his wife, Mary Fleming. Their only daughter, Eva Hampton Willis, died in 1979. He also is survived by his granddaughter, Mary Fleming Willis Finlay of Columbia, wife of Mayor Kirkman Finlay Jr.; and two great-grandchildren, Gwathmey and Kirkman Finlay.

[From the (Columbia, S.C.) State, Dec. 2, 1982]

FRANK HAMPTON BUILT ON FAMILY HERITAGE

Those of us who worked for and with the three Hampton brothers for many years viewed them as true Southern aristocrats in the best sense of the word.

They were propertied people with a long and colorful family tradition that is an important part of the history of South Carolina.

Many of their older employees always addressed them in an old Southern manner. Now all are gone—first, "Mr. Ambrose," the youngest; then "Mr. Harry", and finally, just this week, "Mr, Frank," the elder brother.

With the passing of Frank Hampton, *The State* loses the last direct link with its roots. The Hampton brothers and their two sister, both also deceased, were the children of a sister of the three Gonzales brothers, who founded *The State* in 1891 as a fiesty newspaper opposing Tillmanism, the S.C. political movement of the day. Only grandchildren of the Hampton-Gonzales family now remain.

N.G. Ambrose and William E. Gonzales came by their fighting spirits honestly. Their father, Gen. Ambrose Jose Gonzales, who fought for his native Cuba's freedom in the middle of the 19th Century, later came to this country and served as a Confederate officer in the Civil War.

The Hampton brothers' heritage on their paternal side was equally rich in history. Their grandfather, Frank Hampton, was the brother of Gen. Wade Hampton, the Civil War leader who later served South Carolina as governor and U.S. senator.

The death of Frank Hampton at 86 Tuesday deprived Columbia and South Carolina of a man who built on the family heritage.

He had a policy-making role with *The State,* its parent company and other subsidiaries for more than 55 years. He was chairman of the board at the State-Record Co. at the time of his death.

But he had other passions. One was the S.C. State Fair, which he helped nurture as president and in other roles for many years.

A large man who once played fullback for Carolina, Mr. Hampton loved the great out-of-doors and was an avid hunter. He also continued a family tradition by breeding and racing thoroughbred horses, including stakes winners. This interest brought him into contact with the late trainer Max Hirsch, now a member of racing's Hall of Fame. Mr. Hirsch, who wintered his horses for years on the old track at the State Fairgrounds, loved to hunt and swap stories with Mr. Hampton. He also trained the Hampton horses.

One cause Mr. Hampton fought for during his two terms as a state legislator (1931-34) was the legalization of pari-mutuel gambling on horse races to raise revenue and encourage the development of the thoroughbred industry in the state. That effort failed, but later he was a founder of the S.C. Thoroughbred Owners and Breeders Association.

The ravages of old age did not dim the wit that sprang easily from his tongue nor the sparkle that came to his eyes when he encountered a pretty woman.

Despite his background and accomplishments, Mr. Hampton was an unpretentious man who often drove around town in a battered, old red pickup truck. He was the kind of man who elicited affection as well as respect from his friends and associates.

During the week before his final hospital confinement, "Mr. Frank" touched base with three of his loves. Although in a wheel chair, he presided over a meeting of the State-Record Co. Board of Directors and attended the annual stockholders' luncheon, where he had his usual quip for the ladies. He visited the State-Record Recreation Center as head of the committee that oversees its operation. And he presented an award at the State Fair. It was a fitting wrapup to a long and robust life.

HELPING PRESIDENT REAGAN—COOPERATION IF HE WANTS IT

Mr. MELCHER. Mr. President, President Reagan, as other Presidents before him, needs the cooperation of the Senate as well as the constructive recommendations of Senators and our support on the vital issues affecting the country when he is right. It appears to me that he has had good cooperation from the Senate although his decisions since he became President have not always been right. I believe that he and his Cabinet have avoided from time to time taking adequate consideration of good, sincere advice from individual Senators or groups of Senators.

As one of the Senators reelected on November 2 on the Democratic side, I want to make it clear that I have no ill will toward President Reagan for his support of my Republican opponent and for the two campaign forays of the President and his entourage into Montana during the recent campaign. Indeed, if I could have arranged it I would have encouraged even a third or fourth Montana visit by the President.

The country's economy is in desperate straits and the variety of the country's domestic problems can be easily and quickly observed in Montana, ranging through the crushing conditions of agriculture, the forest products industry, the metals, mining, and production industry, and small business to the problems of the elderly, unemployed workers, and educational opportunities of our youth.

I do not believe that the constraints of the President's campaigning for Republican candidates prior to the election allowed for adequate comprehension of these problems affecting our people.

I, for one, believe the President's call for this "lameduck" session was wise. But why is the President now visiting South and Central American countries at this particular time when the problems here in the United States should be addressed? Surely the President should be advised by all of us that the stark, bleak domestic economy does not warrant more giveaways to our hemispheric neighbors to the south until the U.S. economy recovers.

Surely the President should be advised by all of us that his requests for defense appropriations are unrealistically high and must be cut. Surely the President should be advised by all of us that we can no longer avoid nor delay to implement prompt steps for economic recovery, with our attention focused on problems here in the United States.

There can be no better cooperation with the President than to let him know, in a firm way, that these are the important matters that can no longer await our combined attention.

RECOGNITION OF THE VIETNAM MEMORIAL DEDICATION AND THE NATIONAL SALUTE TO VIETNAM VETERANS

Mr. WARNER. Mr. President, during the week of November 8 of this year, a series of events took place here in Washington which marked the beginning of a long healing process for our Nation and the men and women who fought in a recent, unpopular war.

Those events were a series of recognitions marking the National Salute to Vietnam Veterans. They culminated in the dedication of the Vietnam Veterans Memorial in Constitution Gardens on November 13.

So that all Americans may have an opportunity to reflect on the statements of those who participated in the salute and the dedication, I ask unanimous consent that the Veterans Day message of Defense Secretary Caspar Weinberger, the speeches of all who were a part of the Vietnam Veterans Memorial dedication, and the Sunday, November 14, sermon of the Reverend Theodore H. Evans at the National Cathedral be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REMARKS BY HON. CASPAR W. WEINBERGER, SECRETARY OF DEFENSE, AT VETERANS' DAY CEREMONY, ARLINGTON NATIONAL CEMETERY

We come together today in this sacred place to pay tribute to the brave Americans—soldiers, sailors, airmen, and marines—who have served their nation in her time of need. In placing a wreath upon the tomb of our unknown soldiers, we honor all our veterans, both living and dead, who purchased for us the peace and freedom that we enjoy today.

It is fitting that we have chosen this day to honor the sacrifices of our veterans. For 64 years ago today an armistice was signed ending the Great War—the war that was to end all wars. People on both sides of the Atlantic set aside that day to pay special tribute to those who fought in battle and to rejoice that the world would never again experience the suffering and destruction of war.

Now, over six decades later, we Americans must face the sober lessons of history. We have many more names to add to our list of veterans, and too many battles to add to the list of wars fought since the Great War. Sadly, many Americans living today have seen far too much of war itself in their lifetimes.

The citizens of the United States reject war, not because we are Democrats or Republicans, but because we are Americans

and a civilized people. We reject war as a deliberate instrument of foreign policy because it is repugnant to our national morality. War prevents people from leading the kinds of lives which this country was fashioned to protect and to enhance. As civilized people, we reject war because it kills and maims soldiers and civilians alike and undermines the very fabric of life.

But citizens of the United States also reject tyranny and the repression of freedom, for they too prevent people from leading the kinds of lives they choose. Tyranny breathes fear into the lives of those who live under it, and smothers their individuality. Perhaps we value our freedom even more because we know that today not all peoples in the world enjoy it as we do.

The veterans we remember today know the cost of our liberty. They mustered when America's freedom was threatened; and to restore peace they endured valiantly the hardships of war and the pain of battle.

Speaking of the sacrifice of the warrior, Rudyard Kipling wrote in his poem "Recessional:"

"The tumult and the shouting dies;
The captains and the kings depart;
Still stands their ancient sacrifice."

As a nation, today we recognize the sacrifice of our American heroes who served their country unselfishly. Some gave their most precious possession—their lives. They have found their eternal repose in this hallowed ground. Some are still listed among the missing and will never be forgotten by their countrymen. Others survived, but lived ever after marked with scars of war. With our prayers today we hope to bring them and all our living veterans the comfort that they have earned and deserve.

Today we are at peace—the tumult and the shouting is stilled. But times of peace also have their dangers. Worst of those is that we forget the costs of peace and freedom. For nothing so valuable comes cheaply. Those who we honor today paid dearly for the freedoms that we enjoy today.

Some say that the cost is too great, the sacrifice too painful. But our ceremony today is living testament that America still cherishes the sacrifices of its heroes. To those who would devalue their deeds, we echo the words of King Lear: "Upon such sacrifices, the gods themselves throw incense."

A nation that forgets the sacrifices of its heroes risks its very existence. At this year's Veteran's Day, our nation recalls in a special way the veterans of a painful war that we tried to forget. The veterans returning from Vietnam were not welcomed with speeches and flowers and parades as we rejoiced at the homecoming of the heroes of earlier conflicts. The Vietnam veterans returned to find demonstrations and a nation divided by an unpopular war.

This week in Washington thousands of people from all over the United States have gathered to pay tribute to Vietnam veterans. Their presence serves as a quiet reminder to all Americans that we must not forget the Vietnam veteran. There are few memories more painful than those associated with the Vietnam War; yet there can be nothing more important to the heart of America than that we always remember those who sacrificed so much for our country in that conflict.

But we also learned a terrible lesson from the Vietnam War—a lesson which we must never forget. We learned that we should never again ask our men and women to serve in a war which we do not intend to win. We learned that we should not enter a war unless it is necessary for our national survival. We learned that, if we do enter such a war, we must support our men and women to the fullest extent of our powers.

The national trauma we experienced in the aftermath of that war led us to neglect our defense and ignore the needs of our servicemen and women—just as we had ignored our homecoming veterans. But in 1980 America began to awaken from a decade of pain. We recognized that wars could not be prevented by weakness and we began to rebuild our defenses. We realized the men and women who volunteered to serve their country deserved adequate compensation and the honor and respect of their countrymen. And slowly, we began to remember the Vietnam veteran.

And now, in two days, we will dedicate a Memorial that will ensure that all posterity recalls the sacrifice of all the American veterans who served their country in that faraway land. Built in a quiet place near the shores of the Potomac, it is a beautiful Memorial that conveys an eloquent message of peace and reconciliation. And on its black granite walls are inscribed the names of all who have fallen in Vietnam.

Like the rows of white markers on the hills surrounding us here at Arlington Cemetery, those lists of names will form a silent litany of America's heroes that will reverberate through the ages.

Now it is our duty to do everything in our power to see that the freedom those heroes defended and the peace that they sought were not pursued in vain. We must continue to rebuild the national defenses necessary to protect the peace and to encourage the Soviet Union to join us in seeking genuine arms reductions.

In pausing today to honor our veterans and to remember the debt we owe to them, we must never forget the duty of every American citizen. We must never forget, as Abraham Lincoln said more that 100 years ago, that our duty is "to care for him who shall have borne the battle and for his widow and his orphan, to do all which may achieve and cherish a just and lasting peace among ourselves and with all nations."

We must repay the debt to our veterans by doing these things and by taking the steps necessary to ensure that those who celebrate Veterans' Day in the future can do so in the same spirit as those who originally celebrated this day—that they can honor those men and women who served, and rejoice that mankind has indeed put an end to war. To our veterans, to the American people, and to men and women throughout the free world, we pledge ourselves to work for that sacred goal.

WELCOME BY JOHN P. WHEELER, III, CHAIRMAN, VIETNAM VETERANS MEMORIAL FUND

I am John Wheeler, Chairman of the Board of the Vietnam Veterans Memorial Fund. The Americans who served in the Vietnam War risked all that mortality can give. They offered themselves in allegiance to the freedoms and government of America, and to the freedoms and government of others. Many gave their lives or parts of their bodies. Thank God, America has sons and daughters who answer her call.

There were bonds born on our military service that are never broken. I think that they are not even broken by death. They are bonds of creativity and friendship. It is the tug of these bonds that bands Vietnam veterans together to create this Memorial. And no bond is stronger than our love for the fallen friends.

So, in many ways, this Memorial is another gift from the Americans named on the walls and reflected in the statue. I think the gift says these things: that America affirms the integrity of her fighting forces, without apology or stain; that the veterans who returned from Vietnam have much to offer our country in all walks of life and are already giving much; and that the generation of 60 million Americans who came of age during the Vietnam War can now begin, with wisdom and maturity, to look to all the concerns of our country's future with rekindled understanding.

This is a hopeful day. As you take part, please see if your thoughts are also hopeful. Welcome.

May I pause to salute Americans who worked brilliantly to prepare this gift: our directors, Robert Frank, treasurer of the Memorial Fund; Ronald Gibbs, Sandy Mayo, John Morrison, Richard Radez, John Woods; and our staff, Robert Doubek, head of legislation, head of design, head of construction; Robert Carter, executive vice president; Sandie Fauriol, fund raiser and director of the five day national salute.

And now may I introduce Jan C. Scruggs, President of the Vietnam Veterans Memorial Fund.

JAN C. SCRUGGS, PRESIDENT, VIETNAM VETERANS MEMORIAL FUND

Thank you, Jack, for the kind introduction, and the applause. We are now ready to begin the ceremony, present the State and Territorial flags of the United States.

(The Joint Services Color Guard presents the colors. The Marine Band is playing. The Color Guard, with flags of all 50 states is marching above the V-shaped black granite Memorial, past the reviewing stand. The Color Guard moving on both sides of the Memorial, down into the apex of the Memorial where the nearly 58,000 names of Americans who lost their lives or are missing in Vietnam are engraved on the walls.)

We are now prepared to advance the colors.

Chaplain Hendry will lead us in the invocation.

CHAPLAIN OWEN J. HENDRY, U.S. AIR FORCE

Let us pray. Our Father in Heaven, we praise You and we thank You for who and what you are in our lives.

As we gather today to honor those men and women who served in the Vietnam War, we are so conscious of Your words, oh Lord, that there is an appointed time for everything under the Heavens, a time to be born and a time to die, a time for tears and a time to laugh, a time for war and a time for peace.

Today is a time to remember and a time to pay final tribute to our fallen comrades who have made the ultimate sacrifice and whose names are forever inscribed on these marble walls around us. Your presence is felt in this place as a mighty wind, oh God, echoing again the words once spoken by your prophet, Isaiah. "I have called you by name, you are mine." Keep them all close to you, oh God, in your eternal peace.

Today is a time to remember and to recognize the heroic service and sacrifice of all Vietnam veterans. Heal, oh God, the wounds and ease the pain of those who still suffer in body and mind, in heart and spirit. Pick up the dashed dreams of many and reshape the pieces into new hopes—hopes that give meaning to our lives as we journey towards You.

You have blessed America, this land that we cherish, and its people, in so many ways.

May we have the wisdom to be keenly sensitive to all the unresolved unjustice still in our midst.

And finally, as we stand here today on this hallowed ground, in the shadow of all of these imposing monuments, may we truly listen to Abraham Lincoln, as his words challenge this generation of Americans to bind up the nation's wounds and do all which may achieve and cherish a just and lasting peace among ourselves and with all nations.

Let this truly be, oh Lord, a time of mutual healing and reconciliation. Hear, oh God of our fathers, not only this prayer but every unspoken prayer offered up to you today in the silence of all our hearts.

We pray this in Your Holy Name. Amen.

JAN C. SCRUGGS. Thank you, Chaplain, and we will now post the colors.

(Posting of colors.)

Thank you, and thank you Chaplain Hendry, for the very moving invocation. And our thanks, also, to the United States Marine Band, under the direction of Major Charles P. Irwin. The Marine Band is popular.

Chaplain Hendry served in Vietnam in 1970 and 1971 and was awarded the Bronze Star and the Meritorious Service Medal.

And I extend our thanks to all of you for attending this very historic and significant ceremony dedicating the National Vietnam Veterans Memorial.

Our success is owed to many who are seated here on the stage, or seated nearby, and others such as Bob Hope, First Lady Nancy Reagan, Gerald Ford, George McGovern and many others who have helped us but who are unable to attend.

We owe thanks to many people too numerous to mention. Nonetheless, we of the Vietnam Memorial Fund extend our deepest thanks to all of you.

After graduating from high school, I was among the thousands who volunteered for combat in Vietnam. By the end of my tour, half of the men I served with had been killed or wounded, some while performing incredible acts of heroism. And many are now in wheelchairs or have other disabilities that they would not have had, had they not served their country.

Upon returning home, I, like many others, found that being known as a Vietnam veteran was a vey dubious distinction. But today this situation has changed.

All of us can now say that we are proud to be Vietnam veterans and that we are proud to have helped our country during time of crisis, and I know that our country appreciates our service.

The American people were divided by the Vietnam War and certainly that divisiveness was deep and very bitter. But that bitterness seemed to be directed towards us, the warriors, too often. But now all Americans can agree that Vietnam veterans deserve recognition and appreciation for their sacrifices, and that is why the Vietnam Veterans Memorial stands here today.

This Memorial is a reality because, during the past three years, tens of thousands of Americans have volunteered their time and effort to raise the public awareness and the funds for this impressive tribute. The money to build this Memorial was raised by Vietnam veterans throughout the country, in their local communities. Funds came from school children, from unions, from parents, from patients in VA hospitals, students on college campuses, people across our great country came together. And I speak for all Vietnam veterans when I say, Thank you, America. Thank you finally, for remembering us.

Most of us here have just taken part in one of the largest and certainly one of the finest parades that our Capital has ever seen. We have waited a long time for this kind of a welcome home and we've worked long and hard for this Memorial. And today we see this dream is a reality.

So let this Memorial recognize Vietnam veterans and their service and let it begin the healing process. And forever stand as a symbol of our national unity.

Thank you very much.

Our first speaker today represents America's largest veterans organization, the American Legion. The 2½ million men and women he leads, including 700,000 Vietnam era veterans, contributed over a million dollars to build the Vietnam Memorial. Theirs is the largest single contribution we have received, and they raised it by an unprecedented outpouring of individual concern and generosity.

It is significant to note, I believe, that the Legion's contribution came from individuals who voluntarily and willingly responded to the Legion's call for support, with donations of $5.00, $10.00, even an envelope full of loose change. Wherever they could give, they gave. And the American Legion does take that as proof that the American people's genuine support for the Vietnam Veterans Memorial has taken place, and I agree with that.

Ladies and gentlemen, please welcome the National Commander of the American Legion, a World War II veteran, a former prisoner of war and a true friend of the Vietnam veteran, Mr. Al Keller, Jr.

REMARKS BY AL KELLER, JR., NATIONAL COMMANDER, THE AMERICAN LEGION

Thank you, Jan. Today we dedicate a Memorial to a generation of Americans who fought a lonely battle. We dedicate the Vietnam Veterans Memorial to those who died in that war, yes. But, more than that, we dedicate it to those countless thousands who survived that war, only to face a battle that honor bound them to.

In the jungles and the dusty deltas of Vietnam, our young soldiers stood together and cared for their wounded and their dead. If no other characteristic distinguished the Vietnam veteran, it was his unfaltering devotion to his comrades. They left no wound go untended. They left no dead behind. And they came home expecting the nation to care about their comrades as they did.

But instead, they encountered indifference and a deep desire to have Vietnam, and those who fought there, left behind.

But this generation of veterans would not have it so. For years the wounded spirit festered. And for years the Vietnam veteran tended to himself and did what he could alone. And for years the wounded memory of his comrades cried out to be healed, waiting, hoping, crying out in a hundred tortured ways.

The Vietnam veterans yearned for a way to tend to this last wound of the war. And, finally, they decided, as they had learned in the war itself, that they would have to tend to one another alone.

But today, we know they were wrong. The American people, inspired by the undaunted determination of those men and women, responded in a historic conversion of compassion, caring and generosity. Standing at last before them was the opportunity to express the gratitude and the honor that they longed to give, but knew not how to grant.

There are those who say that the war in Vietnam brought shame on America. There are those who say this Memorial would bring shame on those who fought the war. But there are those, like the men and women that I represent, who say, "Not so." There is no shame in answering the nation's call. There is no shame in serving with honor and courage in difficult times. And there is no shame in enshrining the names of fallen comrades in immutable stone for generations to recall.

There is a legacy left for us from the Vietnam experience, and it was left to the young who fought there to show it to us. And that is the rediscovery of our capacity to care, to give, and to honor. That is no small legacy for a nation to receive.

This Memorial symbolizes, not only the supreme gift of nearly 58,000 young Americans, but also the priceless gift of renewed awareness in our capacity as a people.

With this dedication, we come not to the end of America's commitment to Vietnam veterans, but the beginning of a new awareness of their unparalleled contributions to the nation.

Generations to come will walk before these gleaming walls and, like them, will reflect. They will consider the memories of those who died. They will consider the legacy of the living veterans left. And they will take from this Memorial a promise to be ever true to their American heritage.

My fellow veterans, families and friends, we are here today to honor, to remember and to consecrate forever this piece of America, to insure that coming generations understand how dearly we hold those who served our nation in Vietnam. How painfully we recognize that the debt we owe those listed here can never be paid. And how hopefully we stand together as a nation of peace.

There are some very special people here with us today. They symbolize America's future. They are the children of our nation's Vietnam veterans.

Let us salute this nation's Vietnam veterans this afternoon by joining hands in a silent pledge that together we will care for their children, as we pray that Vietnam was America's war to end all wars.

Thank you.

JAN SCRUGGS. Thank you, Commander Keller, for those very moving words.

Our next speaker today is Mr. Billy Ray Cameron. He's the National Junior Vice Commander-in-Chief of the Veterans of Foreign Wars. Mr. Cameron is the first Vietnam veteran to be selected for a top national leadership office in the organization.

He served with the United States Marine Corps from August 1967 to March 1968, near Da Nang, Vietnam, where he earned the Purple Heart two times for wounds suffered in combat.

The Veterans of Foreign Wars has contributed $2500 to our organization very early on, in November 1979, when this entire project was still a dream. And their support has been key to our efforts.

The Veterans of Foreign Wars, in a nationwide appeal, raised over a quarter of a million dollars for the National Memorial.

The VFW has almost two million members of whom 500,000 served in Southeast Asia.

Mr. Cameron.

REMARKS BY BILLY RAY CAMERON, NATIONAL JUNIOR VICE COMMANDER-IN-CHIEF, VETERANS OF FOREIGN WARS OF THE U.S.A.

Thank you, Jan. My fellow veterans of the Vietnam War, veterans of all wars, and friends.

We are today in a divine presence of 57,939 honored guests. Their names glisten, as did their deeds. As with the brave everywhere, our honored guests have no need of ancestors.

Like many of you, I have friends and comrades here memorialized. My service in Vietnam was in the Marine Corps. I member of my squad, a winner of the Medal of Honor, is remembered here, as are 57,938 of his comrades from all our military services.

To me, this Memorial has served its highest purpose—to reunite this beloved America with the bravest and best from the Vietnam era, the living as well as the dead, and those unreturned from Southeast Asia.

Those that did our Nation's bidding, during our long and bitter struggle in Vietnam, should never be merely pitied. They were so brave that mere pity seems almost an insult.

Speaking for the Veterans of Foreign Wars of the United States and our Ladies Auxiliary, we have always held to the ancient wisdom that says, "Hate the war, yet honor the warrior."

Finally, both honor and remembrance have been accorded to nearly 2.5 million Vietnam veterans, from whom both honor and decent remembrance have been, until today, cruelly withheld.

Jan, you have performed a healing miracle here today. We, the living, may now turn to our honored dead and recall, for them and for us, the lines inscribed on the tomb of the Unknown Soldier in Edinburgh, Scotland. "They shall not grow old, as we that are left grow old. Age shall not worry them, nor years condemn. At the going down of the sun and in the morning we shall remember them."

Thank you fellow Americans.

JAN SCRUGGS. Thank you, Mr. Cameron. Our next speaker today is Mrs. Helen J. Stuber. She's the National President of the American Gold Star Mothers.

On October 11, 1967, her only son, a Marine Lance Corporal, was 23 years old and was killed in action in Quang Tre.

The American Gold Star Mothers has supported us from the very beginning, and the supreme sacrifice made by their sons had gone unrecognized until the Vietnam Veterans Memorial was built. But now Mrs. Stuber's son is honored.

Mrs. Stuber.

REMARKS BY HELEN J. STUBER, NATIONAL PRESIDENT, AMERICAN GOLD STAR MOTHERS

Distinguished guests, Vietnam veterans, Gold Star parents, ladies and gentlemen. It is indeed an honor for me, as the National President of the Gold Star Mothers, to speak to you today in this beautiful setting of the Vietnam Memorial.

I had the privilege of attending the dedication of these grounds for the Memorial to be built in May of 1980. To see the Memorial completed today goes to prove to the world that the Vietnam veterans both served and died with honor.

As a Gold Star Mother, I have faith in our country's leaders. I know that they would not have used the Vietnam conflict at the expense of the lives of some 58,000 young men and women to better a political stand. The only apprehension that I have is, I do not think that our country should ever enter into a conflict, a war or otherwise, without our whole country being behind our servicemen.

I also feel that, should we enter into a war, we should win, endure until we win, and win honorably.

My son, Dan, joined the United States Marines in August of '66. He felt it was his duty as an American citizen to serve his country in the armed forces. I have no feeling of bitterness, for it was his decision and his alone to join the United States Marine Corps.

As his mother, if my son had to be taken, I thank the Good Lord that he stood for our great country and not against it.

I am so grateful, after all of these years, that our country is pausing today, and all these last few days, to honor the Vietnam veterans in our nation's Capital for their welcome home they never received.

I would like to pay a sincere tribute to Jan Scruggs who is a determined Vietnam veteran, determined enough to make his dream of this Memorial become a reality. And Jan Scruggs, we love you.

On September 28, 1982, I had the privilege of coming to the Vietnam Memorial, so beautifully built. I saw then my son's name engraved here. I had a very deep feeling of sadness. At the same time, I had a very deep feeling of gratitude that the Vietnam Memorial had been allowed to be built in memory of the young men and women who have paid the supreme sacrifice. It will always be a constant reminder to our nation, and other nations of this world, that they have not died in vain.

In the hearts of mothers, the hurt will never go away. However, we would rather forget the sad tears and remember the happy memories of our children.

My theme for the year is "friends in harmony." The theme of today's parade was "Marching Together Again." If we, as Americans, comply with both themes, we can become a stronger nation dedicated to peace throughout the world.

In closing, and on behalf of the American Gold Star Mothers, I sincerely salute all Vietnam veterans.

Thank you.

JAN SCRUGGS. Thank you very much, Mrs. Stuber.

I've just received a letter, let me read it. It says: "Two days ago the nation paused to honor all those who served their country. Today the nation again pauses and this time to pay special honor to those who served their country in Vietnam. We honor all our veterans because their effort involves hardship and peril. It requires long time away from their families, and because of some it demands the ultimate sacrifice. But we honor the Vietnam veteran because, even more, your effort was the sum of all these things. The Vietnam veteran served his country in a time when his nation was divided. When your country called, you came. When your country refused you honor, you remained silent. With time our nation's wounds have healed and we have finally come to appreciate your sacrifices and pay you the tributes we so richly reserve. Over a hundred years ago, on the battlefield of Gettysburg, Lincoln said, 'The world wil little note nor long remember what we say here, but it can never forget what they did here.' Today we stand on the shores of the Potomac, honoring those who served on the faraway battlefields in Vietnam. The Memorial is living proof that the world will note and will long remember what you have done. With great respect and gratitude, Caspar Weinberger, Secretary of Defense."

One group of people most affected by the war are the children of those whose names are on these walls. Fortunately, a wonderful organization called "No Greater Love" has cared for their special needs. Today we have five children of men who died or remain missing, to recite the No Greater Love creed. And if we could have the children stand up now. The names of these children are: Heather Schott, a 19 year old daughter of Lieutenant Colonel Richard Schott, United States Army, missing in action since June 30, 1971. She's a graduate of JFK High School in Silver Spring, Maryland. Jeff Smith, 16 year old son of Lieutenant Commander James A. Smith, United States Navy, killed in action October 26, 1966. He's in the 11th grade at Woodson High School in Fairfax. Third, we have Christine Hess, 14 year old daughter of Major Frederick Hess, United States Air Force, a pilot missing in action over Laos, March 29, 1969, and still unaccounted for. She is in the 10th grade at Arlington, Virginia. Also, Alvin Hagerich, 13 year old son of William Hagerich, United States Army, killed in action on patrol February 20, 1970. He's an 8th grader at Eisenhower Junior High School in Laurel, Maryland. And the fifth is Mr. Alton Gibson, Jr., the 18 year old son of Sergeant Alton Gibson, United States Army, killed in action, Vietnam, January 21, 1969, and he's a high school senior.

And now if we could have you read the No Greater Love Creed.

Children from the "no greater love" organization

This Creed is very special for us and we are happy to be able to be here today to share it with you.

For the past nine years, the Creed has been recited at the "No Greater Love" Memorial Day Ceremony at Arlington National Cemetery. This ceremony was the first to honor our fathers and all American servicemen killed or missing in action in Southeast Asia.

"No Greater Love" is a living memorial to our fathers. In 1971, it began providing programs for children of servicemen missing or killed in action. From personal experience, I have always felt that "No Greater Love" has kept the memory of my father alive.

I like to think of the Creed as having been written specifically for those servicemen and their families. I ask you to think of us as we each recite a verse of the Creed.

"We believe that no greater love can be shown that when men and women so live and die that their friends may be free.

"We believe that these dead still live for us, and bid us think of life but not fear of death.

"We believe that they and the flames that burn in their memory call us to nobler deeds to help make gentle the life of this world.

"We believe that the life of freedom is a precious gift to each other and that it must always be kept burning.

"We believe that the flame of freedom reflects the face of God and points toward the sunlight of our destiny, to love and serve all people."

JAN SCRUGGS. I'd like to thank all of the children from "No Greater Love."

Our next speaker today is Brigadier General George Price, retired. General Price was commissioned through R.O.T.C. at South Carolina State College. He has served in both Korea and the Vietnam War.

He was wounded seriously in Korea and evacuated. His decorations include the Legion of Merit, the Bronze Star, Meritorious Service Medal, Air Medal, Army Commendation Medal, Purple Heart, and the Combat Infantryman's Badge with a Star for service in two wars.

General Price is currently special assistant to the President of Unified Industries in Springfield, Virginia. He has tirelessly given

of his time and effort to make this Memorial a reality. And here he is, Brigadier General George Price.

REMARKS BY BRIGADIER GENERAL GEORGE B. PRICE, USA (RET.)

Thank you very much, Jan, and distinguished guests, fellow Vietnam veterans, ladies and gentlemen.

Words can hardly explain the deep emotion that I feel today, sharing with you your coming home party. And certainly I've been deeply honored and privileged to work with some of the most distinguished citizens and legislators that we have in making it a reality.

This has not been an easy task and, as we proceeded through the process, it's identified some areas that we need to keep working with. It showed how easily we can become divided again over a simple issue. It shows that sometimes we don't know how to deal with compromise for the good of the whole and, at other times, we would either do things my way or take my ball and go home.

We, as a nation, cannot survive that attitude at all. Jan Scruggs and his colleagues had a beautiful dream. That dream has become a reality through tireless work, persistence, resiliency and the help of the people. It was served to demonstrate that we, as Americans, collectively and together, can achieve anything that we put our minds to.

This Memorial, this two acre plot, belongs to all Americans. Those of us who were privileged to serve our country deserve special recognition because it is our country. And, as we stand here today and celebrate, there are many of our comrades who will never see this Memorial. They will never be able to afford the trip to Washington. They are serving on the far shores of the world right now, and they will never know about this Memorial except as you describe it to them. And I beg you to please be positive and let then know that their country recognizes their great sevice, that they, at long last, are being rewarded for having served their nation honorably.

And I believe it's important that we single out for special recognition those ladies who served so diligently and so professionally in new ventures in Vietnam, unlike other wars in which our country had been engaged. These ladies saw the devastation of battlefields, they pieced bodies back together, they served in technical specialties that heretofore they had not been privileged to serve in. And they served their country honorably. Their blood bled red on the battlefield. And some of them, too, gave their lives. And I think it's time that our country looked at them dead in the eye and said, "Thank you, we thank you very much."

As Jan Scrugg's dream becomes a reality, I think it challenges us to create in our country an attitude free from all the vestiges of discrimination based on race, color, creed or national origin, where all Americans can aspire to achieve their goals consistent with their ability to work, their willingness to work and their talents. And we must develop special programs to be sure that those veterans who have served their country so honorably can get into the main stream and join those who sat by and watched them march off to war.

As I look at this total Vietnam experience, I have to be moved by the words of James Weldon Johnson, in his poem, "Lift Every Voice and Sing," and I will share it with you, please.

"Stony the road we trod,
Bitter the chastening rod,
Felt in the days when hope unborn had died;
Yet with a steady beat,
Have not our weary feet
Come to the place for which our fathers sighed?
We have come over a way that with tears has been watered,
We have come, treading our path through the blood of the slaughtered,
Out from the gloomy past,
Till now we stand at last
Where the white gleam of our bright star is cast.
God of our weary years,
God of our silent tears,
Thous who has brought us thus far on the way;
Thou who has by Thy might
Led us into the light,
Keep us forever in the path, we pray.
Lest our feet stray from the places, our God, where we met Thee,
Lest, our hearts drunk with the wine of the world, we forget Thee;
Shadowed beneath Thy hand,
May we forever stand.
True to our God,
True to our native land."

Thank you.

JAN SCRUGGS. Now the Deputy Administrator of the Veterans Administration. Prior to his present appointment, he was the Deputy Administrator for the Peace Corps, and he was a naval officer for 20 years, 8½ of them spent as a prisoner of war in North Vietnam. He is a recipient of the Silver Star, two Legion of Merits, two Bronze Stars, the Distinguished Flying Cross, two Purple Hearts, and numerous other awards.

We are indeed honored to present you the new Deputy Administrator of the Veterans Administration, the Honorable Everett Alvarez, Jr.

THE HONORABLE EVERETT ALVAREZ, JR. DEPUTY ADMINISTRATOR, VETERANS ADMINISTRATION

Thank you, ladies and gentleman.

I would like to congratulate Jan Scruggs and the other members of the Memorial Committee for their work in insuring that there would be a Memorial and that this Memorial would be appropriate to the memory of the Vietnam veteran.

The years that have passed since this country ended its involvement in Southeast Asia have been marked by tremendous variations in the mood of the nation. Many Americans today still have a difficult time in dealing with that war, with its effect on our society and with the legacy of those of us sent to fight it.

But no one can debate the service and the sacrifice of those who fell while serving.

It is unfortunate that the circumstance under which the more than two million veterans who returned from Vietnam did not lend itself to the type of welcome given to the veterans of other wars, or even to those of us who were prisoners in Vietnam. But, with this long overdue week of activities, with this parade today, and especially with this dedication, America is saying, "Welcome home."

Here is this great city, where the nation's affairs are conducted in these buildings new and old, that give us both a sense of our history and of our destiny, Washington, also a city of monuments, landmarks of stone and statue, testified to the deeds and acts of those who have shaped the nation that we have become.

But the Vietnam Veterans Memorial is unique. Vastly different from the monuments of independence and emancipation that flank it, it will be a Memorial visible for all time to come to those who make and implement our nation's laws and to those who come to this city to see the symbols of our national strength. No one can doubt that the Vietnam Veterans Memorial will be an eternal touchstone for the conscience of this nation. It will tell us, as no words can, of the awesome responsibility that we have as members of a free and a dedicated society.

This Memorial is a tribute to all who served in Southeast Asia. It vividly enshrines the memory of those who did not return, and it symbolizes the heroic, unselfish acceptance of duty by the millions of Americans who went there.

The words that we speak today are in vivid contrast to the eternal silence of this Memorial. That silence, inspired by the reverence and the respect for those who died and those who served, is in and of itself a tribute.

There was a time, long ago, when words would have mattered more. But at this place, for all time, it is our heart that speaks.

I am proud to have served and I am proud to be with you today, and proud to say, "Welcome home." Thank you.

JAN SCRUGGS. Thank you so much, Mr. Alvarez.

Our next speaker today has been a very special friend of the Vietnam Veterans Memorial Fund. Senator John Warner of Virginia. You know he volunteered to fight in World War II and Korea, and he was Secretary of the Navy during the Vietnam War.

And three years ago, we asked him to volunteer once again, to help us build a national Vietnam Veterans Memorial. And he helped us get the initial funds we needed to begin the Memorial Fund and has continued his active involvement.

All Vietnam veterans owe Senator John Warner some very special thanks, and here he is.

HON. JOHN WARNER, U.S. SENATOR

Thank you very much, Jan Scruggs, Chairman Wheeler, the veterans of Vietnam and their families who have traveled so far, distinguished leaders of veterans organizations, ladies and gentlemen.

I stand here with you today not as a United States Senator, but as a buck private in the rear ranks of the volunteers of Jan Scruggs.

I express, in those two most important words in our language, my heartfelt thanks to each of you. Thank you for coming. You cared enough to be here today. And the pictures of you now being taken will be recorded in posterity, for you, indeed, are a living memorial to this testament that will be here forever after to these brave men and women.

In the history of our nation, never has there gathered in the nation's capital a group of veterans on a more important occasion than this.

We are here today to dedicate a monument—a monument which will stand as a symbol of everlasting hope—hope that the human sacrifice of the service men and women and their families will serve as a check and a balance, far greater than any laws passed by Congress, be it the War Powers Act or others, and impress on future and present leaders of America to pursue every possible solution to resolve international conflict before committing Americans to battle.

The hope that, if this nation ever again must respond to the call to defend freedom, that those at home will realize that victory can only be achieved if we support and follow those we send to fight.

This monument also will serve as a symbol of hope to the Congress of the United States and to the leaders of America, that we indeed have a debt to the men and women who served in Vietnam, a debt as yet to be repaid, particularly for those who need special help.

Ladies and gentlemen, stand as I am, and as you are today, and look, for these names shall forever be embraced, to our right by our first President, George Washington, and to our left by Abraham Lincoln. Indeed, this will always be one of the most hallowed pieces of ground in America.

Some may realize that, just beyond that hill, there is nearing completion a monument to the 56 signers of the Declaration of Independence. They, too, made sacrifices, but let us also remember that the Vietnam veteran made sacrifices no less in the cause of freedom.

I want to share with you a letter that I wrote and posted to the President of the United States just before coming here today.

"November 13, 1982. Dear Mr. President. Today the veterans of Vietnam and their families from all across America are honoring their fellow comrades. This historic moment, this monument, was the dream of many. But one man had the courage, the determination, to lead all in making it come true. On behalf of millions of Americans, Mr. President, it is my privilege to nominate Jan Scruggs, President of the Vietnam Veterans Memorial Foundation for the highest civilian honor this nation can bestow, the Medal of Freedom."

JAN SCRUGGS. Thank you very much, Senator.

I will now ask Chaplain Sullivan to lead us in prayer. Chaplain Max Sullivan was ordained in the Lutheran Church in 1965 and entered the Army as a Chaplain in 1968. He served with the Eleventh Brigade of the Americal Division in 1969 and '70 and received the Silver Star for gallantry, and the Purple Heart.

He is presently the Chaplain of the United States Army Field Station in Augsburg, Germany.

Captain Sullivan.

CHAPLAIN MAX D. SULLIVAN, U.S. ARMY

Let us pray.

Standing before this monument, we see reflected in a dark mirror dimly a time that was. And we remember ourselves, our lovers, our friends, our nation. We remember our enemies, our leaders, our buddies, our families. We remember the dreams we shared, the fear and the terror we endured, the love making, the frivolity, the hate and the anger, the desire for survival and its uncertainty, the desperate need to understand.

Oh Lord, our God, let the outstretched arms of this monument embrace us with tranquility and your compassion.

Standing before this monument, we see reflected in a dark mirror dimly a chance now to let go of the pain, the grief, the resentment, the bitterness, the guilt. To let go of impossible dreams, old realities, lost innocence, the loss of unity, the loss of wholeness.

Oh Lord, God, let the outstretched arms of this monument be your instrument of forgiveness and your peace.

Standing before this monument, we see now a time for honor, a time for tribute, for yet another generation of warriors who answered the call, for yet another generation of patriots who served at home, for yet another generation of families and lovers who endured and sacrificed.

Oh Lord, God, we dedicate this monument yet to another generation who rendered unto Caesar that which is Caesar's. Let it be so, oh Lord God. Amen.

JAN SCRUGGS. Thank you, Chaplain. It's time to present arms.

(The Band plays "The Star Spangled Banner. The flags of the 50 States are being marched out of the Monument area, while the United States Marine Band is playing.)

FINAL REMARKS BY JAN C. SCRUGGS

Now is the time that we've been waiting for. Vietnam veterans have come to Washington, D.C. from all over the United States to take part in this ceremony, to dedicate the Memorial to all who served.

But, as we prepare for the dedication, let us take a moment to remember those who were taken from us. I would like to read a quote written by an Arthur named Phillip Caputo, "is a true story of the death of his best friend in Vietnam." He writes:

"We never left our wounded on the battlefield. We brought them off, out of danger and into safety, even if we had to risk our lives to do it. That was a standard we were expected to uphold. But I know I could not have done what Levy had done. He pulled himself up onto his wounded legs and he tried to save the wounded medic. He did it the way he had done everything, naturally and because he thought it was the right thing to do. There was so much lost with you, Levy, so much talent, so much intelligence and so much decency. You were the first from our class to, there were others, but you were the first, and more, you embodied the best that was in us. You were a part of us and a part of us died with you, a small part that was still young and that had not yet grown cynical and bitter and old with death. Your courage was an example to us and, whatever the rights or wrongs of the Vietnam War, nothing can diminish the rightness of what you tried to do, because you died for the man you tried to save. You were faithful, Levy, but your country was not. Because, as I write these words eleven years after your death, the country for which you died wishes to forget the war in which you died. Its very name, Vietnam, is a course. There are no monuments to its heroes. There are no statues in small town squares. There are no plaques. There are no public wreaths and there are no memorials. For plaques and wreaths and memorials are reminders, and they would make it harder for your country to sink into the amnesia for which it longs."

We will now, all of us together, dedicate the Vietnam Veterans Memorial, after we sing "God Bless America." The band, please.

(Band plays and the audience sings "God Bless America.")

Let us all observe together a moment of silence.

Ladies and gentlemen, the Vietnam Veterans Memorial is now dedicated. How about a hand?

One second now, one second. The ceremony is not finished at this time. Let's hold the crowds back. We'll all have a chance to do what we need to do.

But we'd now like to have a closing prayer and one other thing. This closing prayer will be led by Chaplain Resnicoff who graduated from Dartmouth and entered the Navy as an Ensign. His first assignment was in the Mekong Delta in Vietnam, as part of an operation called "Game Warden." And his ship was the first into Cambodia. He received the Navy Commendation Medal and numerous other awards.

He left the Navy in 1972 to attend the Jewish Theological Seminary of America in New York City and he came back on active duty as a Chaplain.

Ladies and gentlemen, here's the Rabbi.

CHAPLAIN ARNOLD E. RESNICOFF, U.S. NAVY

Some 2,500 years ago, the prophet Jeremiah cried out with words filled with pain and anguish, words of despair, words which might have come out of the mouths of our Vietnam veterans until today.

"Why have we been smitten?" he asked, "and then for us there was no healing. We looked for peace but could find no good. We looked for a time of healing and, behold, we found terror."

Oh Lord, our God and God of generations past, help us, we pray, make this the beginning of the time of healing that we all seek. Help us ease the terror and the pain of all who suffered because of war. And help them and help us find the way to peace.

God, let this monument and this dedication forever remind us that we will come together to mourn our dead. We will come together to reach out to our wounded. We will come together to remember and to honor our brave. Only then may we have the vision to dream our dreams again. May we have the faith to pray our prayers again. May we have the courage to march along together again and, together, help make this the kind of country and the kind of world for which we all pray.

May we all join together and say, Amen.

JAN SCRUGGS. Thank you, Chaplain.

Before we actually retire the colors, I just want to note that the National Park Service volunteer guides are here to assist everyone in finding the names that they want to find on the Vietnam Veterans Memorial. They are wearing yellow hats and we will not open the fence until the ceremony is over and the colors are retired. Let us now retire the colors.

(The band plays as the colors are retired.)

THE REVEREND THEODORE H. EVANS

"They shall not grow old, as we that are left grow old. Age shall not weary them, nor the years condemn. At the going down of the sun, and in the morning, we will remember them."—"For the Fallen," st. 4 by L. Binyon

I take it that our task here this morning is to remember and I want to count on you to help me to do that by adding your remembrances to mine; your thoughts to my thoughts; your prayers to my prayers. I want this to be our remembrance, not only of those who have died, our family members, our friends, but also of those who are left, ourselves, those who were involved in as many ways as there were to be involved in the conflict, the struggle, the pain and sorrow of the war in Vietnam. This is a service of remembrance. Jesus said, "Take, eat, drink in remembrance of me."

About twenty years ago on this Sunday I participated in a similar service in a little church used by the Anglican-Episcopal Congregation of Saigon. We called it St. Christopher's then. I know there are a few people here today who worshipped in that church. It was also a Remembrance Sunday, on the Sunday closest to November 11th.

In this country (because of the difference in time between here and Europe) we are not so keenly aware of the significance of the time for this annual remembrance until

we recall that the announcement of the signing of the Armistice at the end of World War I came in Europe on a Sunday morning, at the eleventh hour of the eleventh day of the eleventh month, 1918. Churches about to begin their worship that day paused to remember their dead. They have done so ever since. We did it that Sunday which seems so long ago. We are doing it here today.

I remember feeling in that service a sense of terrible ambivalence: the ambivalence of remembering the dead (especially on the anniversary of war that was supposed to be the war to end war) at a time and in a place where another war was beginning. I remember the feeling of ambivalence in honoring people who had made sacrifices for their countries, their convictions and their friends while wondering how it could have happened that such terrible sacrifices became necessary. And I remember wondering who it was we were supposed to be remembering. Was it only soldiers? Was it only those on "our side?" Was it everyone whose life was lost or broken or disrupted by a century of wars?

Now it is 20 years later and those questions and feelings of ambivalence remain for me and they are harder to bear because there are so many thousands more to remember. All those thousands named and thousands more un-named and the families of names that go with each one.

I want to talk with you about remembering for a few minutes, to say what I think it means for us to remember, and where our remembering may lead us.

The Bible gives us some clues. Remembering in a Biblical context means something more than we sometimes mean, more than a casual backward glance to something or someone long ago. Remembering for our religious predecessors meant something more like bringing the past into the present. To remember even the name of a person who had died was to remember his very being, and to bring that person into the present with reality, substance and power. To remember means what the word itself suggests; it is to re-member, to put together again, to reconstruct. It is that kind of remembering that we have been doing in this city in the past few days, not passing thoughts but a bringing of the past into the present with power and emotion and caring and love. We have been overcome by our memories, of a time and a place, but mostly memories of people. That is what comes through in so many conversations, not the memories of hardships and battles but of all those people, the ones we knew and with whom we shared and made deep relationships if only briefly.

Remembering is hard work. It means reliving the pain, the alienation, the debate. It means recalling the dehumanizing that is always, tragically, a part of war, when enemies turn each other into something less than human so that they can treat them as less than human.

Remembering Vietnam means something similar to what it may mean for a person who has had some terrible childhood experience that restricts his or her growth. It has to be remembered if she or he is to be whole. For us at this time in our history it means that we have to pull a painful memory from the recesses of our collective memories, to look at it, to understand it, to begin to reconcile it as an important and tragic part of our national life but one with power to heal and make us whole again.

That kind of remembering has always been a part of our religious life too. That is why we read the Bible, to remember the old stories, to relive them in our own way, to recognize ourselves in them, and to discover in ourselves that mixture of good and evil, that we know ourselves to be, people with moments of glory and heroism, and people with moments of horrendous cruelty and stupidity. But in all the stories there is an affirmation that while we remember, there is a God who remembers us, who loves us, who takes and judges our worst and brings it to life. Part of that strange Gospel you heard this morning when Jesus is talking about a terrible time to come when all hell would break loose is saying just that, that even in the darkness of that time God is already there, involved, picking up the pieces, remembering, putting us and our lives and our shattered communities back together. The consistent testimony of Scripture and our own experience is that God is always found where the wounds are, where the agonies are, even where the defeats are. Surely the Vietnam experience no matter what our opinion or part in it, was a kind of apocalyptic, shaking moment, but also one that had and still has the potential to be for us that place where God re-members us; where we can find that God has already joined us with the living and the dead and the wounded and made us whole.

Of course, to discover God in the middle of chaos is no guarantee that we will live happily ever after. The author of the Epistle to the Hebrews reminds us, "It is a fearful thing to fall into the hands of the living God." It seems to mean often that we are called to take extraordinary risks, risks that make us terribly vulnerable. I want to hold up for you on this occasion the incredible risks that the organizers of this memorial time and of the events of these last days have themselves taken: the risk of doing something that everyone else had shied away from. The risk of criticism and humiliation in daring to expose old wounds and old memories, the risk of just being able to say, "This is what we must do to reconcile our people, our nation, our veterans."

Perhaps their risk-taking that has had such a wonderful result can move us to take the next steps: to make certain that the real needs of veterans are met; that their families and survivors, the injured and the wounded are cared for as they should be cared for. It is inconceivable that a nation that is willing to spend nearly a quarter of a trillion dollars on its defense cannot also care for its people and especially those who gave themselves in such tremendous ways.

And perhaps we can also take the steps needed to heal the wounds of racial tensions and injustices and finish the unfinished business from which war and preparation for war have diverted us to ensure that all people enjoy the benefits as well as the responsibilities of our society.

Isn't it also possible that in our remembering of so many sacrifices and so many losses of our most precious resource, the youth of our nation, we will find other ways of solving problems and resolving differences instead of war? As we discover the power of God's reconciling love in Christ's sacrifice, can we take the first steps toward making sure there will never need to be another war? Can we reach out first in acts of reconciliation in a divided nation and a divided world? Can we discover again out of darkness and tragedy a new vision, a new perspective that sees the world as one: one people, one fellowship, joined in God's love for us?

Somewhere over our heads there are some men in a tiny spacecraft. They can see the earth as a lovely, glowing jewel in the vastness and darkness of space; life in all its infinite variety as we have been privileged to know it. They see it whole, its national boundaries erased, its conflicts forgotten. They see with a new perspective. Our remembering can help us to have that kind of perspective. We can be renewed by the sacrifices of those who have given their lives in wars, and we can be renewed by Christ's sacrifice which once looked like defeat. We can become instruments of God's peace. Pray that by our remembering we may become a living memorial, bound in love with the living and the dead as ministers of peace.

A Prayer Attributed to St. Francis

Lord, make us instruments of your peace. Where there is hatred, let us sow love; where there is injury, pardon; where there is discord, union; where there is doubt, faith; where there is despair, hope; where there is darkness, light; where there is sadness, joy. Grant that we may not so much seek to be consoled as to console; to be understood as to understand; to be loved as to love. For it is in giving that we receive; it is in pardoning that we are pardoned; and it is in dying that we are born to eternal life. Amen.

Mr. WARNER. Mr. President, literally hundreds of thousands of our fellow citizens made the Vietnam Veterans Memorial possible. Through their commitment to and support of the dream of one man, Jan Scruggs, America's Vietnam veterans now have a memorial which stands as a lasting tribute to their service and dedication.

Neither space nor time permits me to thank each and every person who contributed time, money and effort to build the memorial, but special recognition is due the members of the Vietnam Veterans Memorial Foundation board of directors and staff: John P. Wheeler III, chairman, and Robert F. Frank, Ronald F. Gibbs, George W. Mayo, Jr., John C. Morrison, Richard E. Radez, and John O. Woods, Jr., and Executive Staff—Jan Scruggs, president; Robert Doubek, project director; Col. Robert A. Carter, USAF, retired, executive vice president; Sandie Fauriol, campaign director and director of the National Salute to Vietnam Veterans; Karen Bigelow, assistant campaign director and deputy director of the National Salute; and Col. Kelvin Hunter, USA, retired, parade coordinator.

And two outstanding volunteers: Gen. Michael S. Davison, USA, retired, and Brig. Gen. George B. Price, USA, retired.

Finally, Mr. President, as I have said so many times before, I close my remarks with one final thought—one final prayer.

Let us pray that if this Nation must ever again send forth its men and women to make sacrifices for the cause of freedom, we at home support and follow those we send to fight.

COL. JOHN G. CAMPBELL RETIRES

Mr. JEPSEN. Mr. President, I feel sure that all my colleagues are aware of the assistance and support provided by the military liaison offices of the Senate.

The Chief of the Army's Senate Liaison Office, Col. John G. Campbell, is retiring from the Army after 22 years of dedicated, outstanding service.

For the last 3 years, Colonel Campbell has assisted us in the U.S. Senate, resolving our soldier constituents' most difficult personal problems; assisting our legislative aides who work on military legislation; and escorting many of us on inspection and factfinding visits within the United States and abroad.

Colonel Campbell is an intellectual with many excellent publications and acadmemic awards to his credit. He has had a distinguished military career and has been highly decorated for meritorious service in peacetime and for conspicuous gallantry and heroic actions in wartime.

We in the Senate and the Nation owe much to Colonel Campbell. It is a privilege to have this opportunity to honor this soldier, so well known to all of us, and to wish him success in his future endeavors.

A VISIT TO CYPRUS

Mr. PERCY. Mr. President, sharing with many a deep and abiding concern for a just and peaceful resolution of the Cyprus problem, I visited Cyprus this past summer to see conditions for myself. I would like to share a few brief observations with my colleagues.

One feels very much at home very quickly in the lovely country of Cyprus, because of the great personal warmth and hospitality for which Cypriots are noted around the world. I was fortunate to be able to visit many major towns and districts of Cyprus and found then intensely interesting, each in its own way. Particularly memorable for us were the open-hearted welcomes accorded us in the villages of Stroumbi and Kouklia, and in the cities of Nicosia and Paphos. We were also greatly impressed by the sense of history one finds everywhere in Cyprus and by the unique archeological sites and artifacts we had the pleasure of studying.

During our visit, we spent a great deal of time discussing various aspects of the Cyprus problem with the leadership of both communities, as well as with representatives of refugee organizations and the Greek Cypriot Missing Persons Committee. These discussions brought home once again the difficulties and complexities of the problem, as well as the depth of human tragedy still being experienced. In these talks, I could sense the deep frustration at the slow pace of progress toward resolution of the Cyprus problem. Nevertheless, it is encouraging that both communities realize that the only path to a lasting settlement lies through direct negotiations between them. I have continued to pursue the problem of the missing persons since my return.

The United States strongly supports the efforts of the United Nations Secretary General, through his special representative, Ambassador Gobbi, to resolve the Cyprus problem in a manner that is equitable and permanent. Shortly after he took office last year, President Reagan informed Congress that a just resolution of the problems of Cyprus will be a priority for his administration. I strongly support a high priority being assigned to resolving the problems of Cyprus.

Congressional interest in the Cyprus problem remains high. Since 1974, congress has appropriated approximately $145 million in relief assistance for Cyprus. We have recently begun earmarking a significant portion of this assistance for scholarships for the children of refugees and other needy persons to study in the United States. I understand that 60 Greek and Turkish Cypriot students are beginning their studies under this program at American universities this month. We enjoy having these wonderful young people here. But I have always wondered what happens to so many young people who leave Cyprus to attend universities in the United States, England, and other countries. I wonder how many stay abroad. How many marry and raise families abroad, rather than returning to Cyprus to marry and help build their own country? These are the best and the brightest of young Cypriots.

In our country, we call it a brain drain. Developing countries, such as Cyprus, cannot afford to lose their most promising young people. Yet there is no university in Cyprus, so college-age young people must be sent abroad to study at increasingly great expense every year; too many, as I have noted, never return to help build the future for Cyprus. Also, Greek and Turkish Cypriots are thereby denied the opportunity of getting to know each other at an early age in an academic environment.

I understand the political difficulties which would complicate any new bicommunal project in Cyprus, but I believe that these difficulties can be solved because I found a commonality of purpose regarding the need for higher education in Cyprus. If the two communities could agree in principle on the establishment of a university in Cyprus fully accessible to all Cypriots, I have pledged to devote my best efforts to help insure that it would have the necessary international academic recognition and financial support. I believe that successful establishment of a university could open channels of communication between the two Cypriot communities and help encourage cooperation in other fields.

I left Cyprus for a brief visit to Lebanon. I note with appreciation the crucial assistance provided by Cyprus to facilitate the successful withdrawal of PLO forces from Beirut. The cooperation of Cyprus may have saved many lives, and it clearly helped to resolve a dangerous crisis.

U.S. TROOPS IN EUROPE

Mr. PERCY. Mr. President, last month, a strong delegation of Senators attended the 28th annual session of the North Atlantic Assembly in London. During the committee and plenary meetings, the question of the unilateral troop reduction proposed by the Appropriations Committee was a central point of discussion and concern among the parliamentarians from NATO's 16 States. As John Nott, the British Defense Secretary, warned in a speech during the plenary session:

> It is well to remember that it is not only numbers, but the perception of change, that is important. Any reduction which was perceived to cast doubt on the strength of the American commitment to Europe would serve only to weaken deterrence. It would be greatly welcomed by the Soviet Union, and that outcome could scarcely be in American interests.

On the final day of the session, the North Atlantic Assembly unanimously adopted a resolution presented by its Military Committee which urges all NATO governments to refrain from unilateral troop reductions. As one who spoke in opposition to the Appropriations Committee proposal during the meetings of the Military Committee, I welcome this forceful statement on the part of NATO's parliamentary organization and commend it to the attention of my colleagues.

On Tuesday, November 30, the Foreign Relations Committee held a hearing with administration witnesses to address the foreign policy, arms control, and security implications of the various NATO-related provisions of S. 2951, the fiscal year 1983 defense appropriations bill. These provisions include the proposal for a 20,000-man troop reduction, matters related to burdensharing and host nation support, and reciprocity in trans-Atlantic defense trade.

During the hearing, Under Secretary of State Lawrence Eagleburger advised the committee that the administration is particularly concerned that the current Appropriations Committee bill, if passed, would "signal a broad U.S. retreat from its responsibilities and its leadership." The Under Secretary concluded his tightly reasoned presentation by reminding the committee that the Atlantic Alliance has provided the West with more than 30 years of peace

and security. In Secretary Eagleburger's words, "The world will be dangerous enough in this decade. It is not in our interest to tamper with North Atlantic security."

At the start of the hearing, I read into the record a statement on these issues sent to me by General Bernard Rogers, Supreme Allied Commander Europe, who could not attend the hearing due to previously scheduled NATO meetings in Europe. He did attend the North Atlantic Assembly and address it, however. Like Under Secretary Eagleburger, General Rogers makes a compelling argument against adoption of the damaging NATO provisions proposed by the Appropriations Committee.

Mr. President, I ask unanimous consent that the text of Under Secretary Eagleburger and General Rogers' statements be printed in the RECORD, followed by the text of the Resolution on Alliance Security adopted by the North Atlantic Assembly.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UNDER SECRETARY EAGLEBURGER'S STATEMENT TO THE SENATE FOREIGN RELATIONS COMMITTEE

I welcome the opportunity to testify today on the American role in NATO. Too often in foreign policy, as elsewhere, we take the most important things for granted. Too rarely do we examine the foundations of our security and our role in the world.

This is an important time for the U.S. to examine and state clearly our policies toward European security:

We are now almost two years into the Reagan Administration.

In the Soviet Union, a new leadership has just taken up the reins of power. While it is unlikely that Mr. Andropov and his associates will veer far from existing Soviet policies, they are undoubtedly now studying the opportunities and constraints they face. They are sizing up our resolve and steadiness, and in particular our ability to maintain a unified Western Alliance.

In Europe, we and our allies are succeeding in putting behind us contentious questions regarding the Siberian gas pipeline and are about to start an effort to shape a coordinated western approach to East-West economic relations for the rest of this decade.

Against this backdrop we are now hearing voices in this country calling for a scaling down of the American role in NATO. Most disturbingly, we are facing specific proposals in the Senate and the House which would, among other things, reduce the level of US forces in Europe and interfere with our ability to meet our commitment to modernize NATO's nuclear forces.

When such views surfaced in the past, the national commitment to a strong Atlantic Alliance prevailed. Having fought two wars to defeat aggression in Europe, the American people know that our interests cannot be insulated from events acros the Atlantic. We decided after the second of those wars—as we should decide again now—that alliance with the other Western democracies is vital to our nation's security and prosperity. If we have learned anything from the history of this century it is that we cannot retreat to a fortress America, nor safely disengage from European affairs.

Europe has become more, not less, important for us over the three decades since the Alliance was formed. The European and North American economies are now so tightly knit together that neither can grow without the other. The allied countries are our main export market. American direct investment in Europe is an important positive factor in our balance of payments and contributes heavily to the profitability of American business.

The U.S. and Western Europe are more than simply trading and political partners, however. Our security is unalterably linked with theirs. Western Europe is quite literally our first line of defense. It is a center of our global competition with the Soviet Union and by far the most alluring object of Soviet ambitions.

NATO's strength and cohesion have protected Western freedom and democracy and kept Europe peaceful for over three decades, despite a menacing Soviet military presence. If we sometimes forget that our European allies stand face to face with Soviet tanks and with Eastern totalitarianism, if the Soviet challenge sometimes seems distant to us, it is because NATO has been effective.

In recent years, Soviet military might has grown more rapidly than ever. Soviet foreign policy has become more assertive and aggressive. The invasion and occupation of Afghanistan is Moscow's first attempt since the end of the second world war to expand by force the area under its direct control. The assault on the people of Poland shows that the Soviet leaders will not permit free institutions in countries where it has military dominion.

The new leadership in Moscow faces basic choices about the Soviet role in the world. If they see an America drawing inward, a demoralized Western Alliance, and our European partners in doubt about the U.S. commitment, their incentive to act with greater restraint will be diminished.

The need for a strong Atlantic Alliance based on unity of purpose and steady American leadership has never been more critical.

The Reagan Administration is particularly concerned, therefore, by the prospect of legislation that would cast doubt on the steadiness of the U.S. commitment to NATO. The current Senate defense appropriations bill, which contains provisions to cut back American participation in NATO defense programs, would, if passed, signal a broad U.S. retreat from its responsibilities and its leadership.

Passage of this legislation would be a fundamental departure from the historical bipartisan post-war U.S. approach to national security. Never has the American role in the defense of Western Europe been reduced through legislation. Never has the U.S. backed away from its NATO commitments. And never have the elected representatives of the American people voted not to stand by our Allies and back up our defense commitments. Are we really ready now to take such a fateful step? Do we really want to greet the new Soviet leadership with a sharp deviation from the policies that have so successfully preserved Western security and American leadership in Europe?

The provisions that have been inserted in the Senate version of the proposed appropriations act that would be most damaging are:

The reduction of 18,900 troops of the American force planned for the end of Fiscal Year 1983;

The elimination of funds to procure heavy equipment for prestocking at two sites provided by Belgium and the Netherlands;

The elimination of the American portion of the funding for 93,000 German reservists who will support our units in wartime under the Host Nation Support program.

Cuts in funding for the Ground Launched Cruise Missile, which would force us to stretch our deployment schedules.

And restrictions on transatlantic defense cooperation and trade.

Let me emphasize one point right away. This Administration, like the Congress, is seriously concerned about the budget. We recognize that a sound economy is the necessary foundation for a successful foreign policy. But the provisions I have just outlined have almost nothing to do with budgetary austerity. The total saving contemplated by these anti-NATO proposals before the Senate is about 150 million dollars, which is less than one tenth of one percent of the total defense budget.

If the political consequences of these measures were as insignificant as the budgetary savings, I would not be here today. But the impact of these measures on our security would be out of all proportion to their budgetary significance.

I am aware that this legislation reflects a concern about the fairness of the distribution of defense burdens within the Alliance. Like you, we want the allies to do more for the common defense. And it is true that U.S. defense spending is now growing faster than that of the allies. But let me remind you that we in the U.S. neglected military programs for nearly a generation and that only today are we repairing the resulting gaps in our forces. We must sprint now because we went so slowly for so many years.

In contrast, the allies have kept up a strikingly steady pace. During the 1970s, their defense spending rose at a rate of 2 percent per year in real terms. Our defense spending declined in real terms by 1 percent per year during the same period. If we had matched the allied growth rate during the 1970s we would not need to accelerate now. Conversely, had the allies failed to maintain their steady effort in those years—had their defense spending decisions been dominated by considerations of what some here in the U.S. now call "equity" rather than need—the Alliance would not be as secure as it is today.

In any case, it would be a tragic mistake to allow concerns about burden-sharing to prevent us from doing what is necessary for our own security. Following that policy would allow those whose defense performance is weakest to set the standard. We are fortunate that the allies did not adopt such an attitude during a time of less-than-adequate U.S. performance.

After all the arguments and counterarguments about burden-sharing have been heard, we must, at the end of the day, ask ourselves one basic question: Will the United States be more or less secure if these provisions are enacted? I believe the answer is clearly "less secure." Let me outline the effects I foresee.

First, the American commitment to NATO would be placed in doubt. I do not see how the advocates of this legislation could dispute this or argue that causing doubts about our commitment would advance our interests. Nothing could weaken the Alliance more than the perception in Europe that the U.S. is not determined to preserve European security. Our allies would take little comfort in the fact that the amount of

money involved is small. They would see passage of these cuts as a statement of U.S. intentions; they would interpret it as the beginning of a more general American retreat from Europe.

The Soviets would undoubtedly try to exploit the inevitable doubts and fears of the Europeans. Dividing us from our allies and pushing us out of Europe are, of course, central goals of Soviet foreign policy. The Administration has, as you know, recently made progress in healing divisions and rebuilding consensus and confidence in the Alliance. This legislation could undo what has been achieved.

Second, reductions, especially reductions in the number of American troops in Europe, would send the worst possible signal to European publics about the importance of a strong defense. NATO and U.S. leaders have been warning Europeans that the Soviet threat is growing. Reducing American forces or abandoning planned improvements would make those warnings sound hollow and undermine European public and Parliamentary support for defense expenditures.

Proponents of this legislation may claim that our doing less would jolt our Allies into doing more. I see no basis for such wishful thinking. U.S. cuts would have the opposite effect. If we do less, the Europeans will do less, and we will all be less secure.

Third, these cuts, while small in dollar amounts, would hit priority, cost-effective programs especially hard. The proposed troop cuts could leave our combat forces undermanned, or force the withdrawal of other essential units. Reductions in funding for prepositioning combat equipment and our share of the host nation support agreement would compound the difficulties and costs of wartime deployment.

We are constantly striving to make our dollars buy more fighting strength. These programs enhance our combat capacity by improving what is sometimes called our "teeth-to-tail" ratio. The proposed cuts would therefore reverse a major effort to improve our forces' effectiveness, while saving very little money. Moreover, they would not simply penalize our Allies but our own forces, by denying them the means to carry out their rapid reinforcement mission.

Fourth, these cuts would damage the very programs in which allied performance has been especially good. The Europeans have joined the host nation support and prepositioning programs with the clear and correct understanding that we would match or supplement them. If we now back down on our side of the bargain, we will not only lose the benefits of these programs but will undermine our credibility for the development of any future cooperative efforts.

In 1978, at a summit meeting in Washington, Alliance leaders agreed to a long term program providing, among other things, for rapid U.S. wartime reinforcement of Europe. Since then, our allies have fulfilled their commitment. For example, Belgium and the Netherlands, both small and densely populated countries, have gone to considerable effort and expense to obtain the land required to store prepositioned U.S. equipment. The Federal Republic of Germany has allocated half the funds for 93,000 additional German reservists to support U.S. deployments. The proposed appropriations bill would threaten both of these programs. Is this a sensible way to respond when the Allies have done just what we proposed they do?

If restrictions on our contributions to the long term defense program stand, the entire program will atrophy. We will turn a notable success into failure. We will cancel out much of what we and the allies have already achieved—and paid for.

Last June in Bonn, President Reagan and his allied counterparts committed themselves in a special summit charter to specific plans for improving NATO's conventional capabilities. This charter called for the achievement of demanding force goals, and identified priority programs. I cannot now guarantee that this charter will be implemented in every detail, though we will work to that end. But I can say with absolute confidence that if these cuts are legislated that charter will not be translated into concrete improvements.

Let me restate unequivocally our agreement that the allies need to do more. This Administration has made that clear at every opportunity, here and abroad, and is working to produce a greater allied contribution to our common defense effort.

Our attempts to foster better coordination of U.S. and European defense spending and to have our allies take greater responsibility for our common defense are bearing fruit. But only if we ourselves keep the commitments that we have made can we count on the Allies to improve their performance.

Finally, a legislated, unilateral U.S. pullback from our military commitments to NATO would damage prospects for arms control. Unilateral U.S. troop withdrawals would remove any incentive for the Soviets to agree to mutual reductions that would lower the threat and ease the military confrontation in the heart of Europe. At the MBFR talks in Vienna we are seeking to negotiate the new Western draft treaty put forward by the President last spring. That treaty would correct the present imbalance between Soviet and Western forces in Central Europe through significant, verifiable reductions to equal levels.

A cut in funding for the Ground Launched Cruise Missile, and the deletion of funds for the deployment of the Pershing II missile, which has been voted in the House, would dash our hopes for a negotiated solution to the problem posed by the Soviet SS-20 intermediate range nuclear missiles. In the INF talks in Geneva, we have proposed a treaty that would ban this whole class of Soviet and U.S. intermediate range nuclear missiles. But only if we and our allies show that we are resolved to deploy U.S. missiles in Europe can we get the Soviets to negotiate seriously.

The advocates of this legislation owe it to us all to explain how it would help arms control and thus contribute to reduction of the threat. Is there any evidence that unilateral limits and cuts can have anything other than a destructive effect on negotiated arms control? Should we not be more concerned about reducing the threat than about reducing our ability to counter it?

Let me conclude with a few basic points. The Atlantic Alliance has provided well for Western security for thirty years. That Alliance is built upon the forces that we and our Allies have deployed in Europe and the conviction that the United States is fully committed to the defense of Europe. When those forces and that conviction are strong, deterrence in Europe is sturdy and we are secure. We weaken them at our peril.

The world will be dangerous enough in this decade. It is not in our interest to tamper with North Atlantic security.

STATEMENT BY GEN. BERNARD W. ROGERS, U.S. ARMY COMMANDER IN CHIEF, U.S. EUROPEAN COMMAND

Mr. Chairman, I appreciate the committee's invitation to testify regarding possible reductions in US troop levels in Europe and other actions proposed by other committees of the Congress. I regret that prior commitments prevent my testifying in person.

I am aware of the budgetary constraints which have played a key role in the reductions that are proposed. However, irrespective of the reasons for these reductions, I wish to highlight their impact from the viewpoint of my international role as SACEUR. In my view, proposals to reduce US troop commitments to Europe are faulty for a number of reasons. First, these proposals would seem not to recognize sufficiently that a free and independent Western Europe is the most important American vital interest outside our borders. Europe is the first line of defense for our nation and the values we treasure. Our defense expenditures for NATO are resources directly applied to our own well-being and security. Second, advocates of troop withdrawal generally underestimate the substantial contributions which Europeans are making to their own defense, such as the human and social costs of relying on conscription to man their forces and the "hidden" economic costs of the use of "free" European real estate for stationing and training allied forces. Third, these proposals seem to ignore that the manpower commitments of several allies and the non-U.S. NATO as a whole have actually increased in recent years. Fourth, the unilateral withdrawal of U.S. troops would have a major adverse impact on our MBFR negotiations; we would withdraw more than currently being negotiated with no quid pro quo from the Warsaw Pact. Such unilateral action, without consultation with Allies, would be viewed by them as ignoring the collective decision-making process which is so much a part of common defense procedures. Finally, US troop withdrawals would undoubtedly provoke a decrease in European defense spending. To be sure, I do argue that the European members of the Alliance can and must support greater defense expenditures. However, the realities of today are such that larger increases would certainly not be supported if these nations perceived that the United States was reducing its commitments to them. Such a move would be counterproductive.

In many respects, American commitments provide the cement holding the Alliance together. Many persons, not fully understanding European attitudes, underestimate the fragility of the Alliance in this regard, despite recent evidence showing the ease with which NATO is suspectible to divisive influences. What they do not seem to realize is that, in Europe today, one of the greatest dangers to deterrence is the potential loss of political will to maintain the sacrifices required for security.

With the U.S. taking the lead, NATO continues to improve its military forces. However, although NATO gets stronger every year, the gap between force capabilities of NATO and the Warsaw Pact gets wider each year, decreasing the credibility of our deterrent. Although the military situation is not yet unmanageable—we are a defensive Alliance and need not match the Pact one for one in any area of force comparison—we must resolve now to improve our conventional capacity before the situation does

grow beyond restoration. The achievement of this objective would be impacted adversely by a reduction in US force commitments to Europe.

Looking at specific proposals, a bill now before the Senate includes four measures which will be perceived by our Allies as reducing US commitments to Europe:

1. To hold US troop strength in Europe to 1980 levels.

2. To delete all funds for POMCUS (Prepositioned Organizational Materiel Configured to Unit Sets) division sets 5 and 6.

3. To cut $63 million from the Ground Launched Cruise Missile (GLCM) program.

4. To eliminate funds for the Host Nation Support agreement with the Federal Republic of Germany.

I will address each of these issues separately.

The bill directs that the European troop ceiling be held to the actual FY 80 level of 331,700 as opposed to the Administration's request of 350,600 for FY 83. The additional personnel requested result from increasing Naval personnel by 13,000 and Air Force personnel by 9,800. The Army and Marine forces were planned to be reduced slightly under the Administration proposal. The large increase in Naval personnel results from added anti-submarine warfare capability in the Atlantic and a greater U.S. presence in the Mediterranean, which at present is more aligned towards Southwest Asia than NATO.

With regard to the Air Force increases, some are for the modernization of our Intermediate-Range Nuclear Forces (INF): about 1,200 personnel are required to introduce Ground Launched Cruise Missiles (GLCM) into the theater. Without these personnel we will be unable to continue the deployments by which NATO plans to remedy the current gap in our spectrum of deterrence and to encourage the Soviets into serious negotiations.

Other Air Force personnel increases are required for us to do better with our currently deployed forces. At present, the programmed combat sortie rate of F15's and F16's is well below optimum due to maintenance procedures and personnel shortages. Just assigning the proper number of people to this current requirement accounts for 4,000 of the increase. Recent and planned deployments of NATO AWACS and TR-1 also account for more than 1,100 other personel increases.

My second concern is the deletion of POMCUS funds for division sets 5 and 6. This item is critical for two reasons. Without those sets, the U.S. cannot hope to achieve its commitment to the goal of having 10 divisions and associated air squadrons in Europe by D-day. That requirement is minimal and is based upon the needs for reinforcement to counter the increasing threat. Without this minimal force the relative capability of the Warsaw Pact in the North German plain would be so overwhelming that we could not defend successfully without early use of nuclear weapons. We simply do not have the sealift or airlift to accomplish that reinforcement mission in the foreseeable future without six division sets in POMCUS. At present, we have aircraft to move the personnel for these units plus individual replacements and fillers. But without additional POMCUS there will be no equipment for these reinforcement to use.

A second reason for retaining these funds is the US national commitment to POMCUS sets 5 and 6. In 1978 President Carter made such a commitment as a part of our Long Term Defense Program. As a direct result, NATO infrastucture funds were committed and the two host nations, Belgium and The Netherlands, purchased the land required and began construction. At present, three of the sites are nearing completion while construction will be initiated at the other three in the next few months.

To go back on our word at this point would undermine our efforts to get these nations to play their proper role. The two governments have committed large sums of money for the land and initial construction. For them to acquire the land in such populous countries was an unpopular issue, only begrudgingly offset by promises of permanent employment for those living near the sites. These sites cannot be simply diverted to other use. They are designed specifically to store and maintain combat equipment for extended periods. The US should not now back away from this important agreement.

I have already briefly mentioned GLCM, the third element of the suggested bill. By cutting $63 million from procurement we can achieve some budget savings, yet still meet our Initial Operational Capability (IOC) date. While that goal and the method are not unique, the outcome of such action in this case would have farreaching consequences. Most seriously, such a cut would appear to undermine the resolve of the US and NATO to close the INF gap in our nuclear spectrum.

The Soviets do not want Pershing II and GLCM's deployed. They have launched a massive campaign using misinformation and tough rhetoric both here and in Europe in an attempt to lessen our will to implement the vital NATO decision of December 1979. Any sign that our resolve is weakening would damage our INF negotiating position and certainly would undermine the resolve of other NATO nations to continue their support for INF modernization.

On the budgetary side this cut will actually cost the U.S. additional procurement dollars in the long run. The current contract calls for 120 missiles, 22 erector/launchers, and 12 launch control vans. A $63 million cut would reduce these buys by nearly 20%. The difficulty is that in order to get the system at the agreed price, the Department of Defense signed a Memorandum of Agreement with General Dynamics for a minimum buy. Should we buy fewer systems each year, added unit costs will be incurred. DOD's estimates are that this $63 million "savings" will ultimately cost the taxpayer $130 million, an increase of over 100%.

My final concern centers on the elimination of the funds for our Host Nation Support (HNS) agreements with the Federal Republic of Germany. In the last ten years we have changed the "tooth to tail" ratio in our European forces. Initially, this was helpful, but we have gone too far. While attempting to increase our combat power within strength ceilings we have reached a point where there is insufficient combat support and combat service support (CS/CSS) in theater to support deployed and deploying forces. Even our National Guard and Reserve units, heavily weighted with CS/CSS, will not be sufficient in the early weeks of a conflict to allow our combat units to sustain themselves. HNS agreements are a step toward correcting this deficiency. The Federal Republic of Germany has agreed to provide 93,000 Reservists (not now included in NATO assigned forces) to handle significant portions of our ammunition, equipment, transportation and security during mobilization and after hostilities commence. This support includes the personnel, trucks, handling equipment, railcars and facilities to offset our shortages. The U.S. part of this bargain is to provide that equipment not currently available in Germany to accomplish this mission for us. The price to fund the units themselves, their people, equipment, and the lift to get them into theater would be far greater than the amount being shared with the FRG.

The provisions of the bill will not cause our allies to increase their defense spending. They will cause the U.S. to lose credibility with other NATO nations at a critical time in their own decision processes for defense. They will reduce our own capability to deter Soviet aggression and risk taking, and they will impact unfavorably upon my ability as SACEUR to accomplish my mission. I am hopeful that some means can be found to provide the end-strength requested and to restore the funds deleted for Division Sets 5 and 6, for the GLCM program and for the U.S. share of the German HNS Agreement.

Mr. Chairman, thank you for allowing me the opportunity to lay this statement before you.

Draft Resolution on Alliance Security Presented by the Military Committee

The Assembly,

Aware that a credible and viable Alliance defence policy must be based upon the support and consensus of Alliance publics;

Concerned over the continuing modernization of Warsaw Pact armed forces, both conventional and nuclear, and the implications of this for the requirements of flexible response, especially in the area of conventional forces;

Noting that the issue of conventional defence has gained widespread attention recently, due largely to the public debate on the role of nuclear weapons in Alliance strategy;

Noting that advances in conventional weapons technology, especially in the areas of guidance and target acquisition, offer the Alliance the potential to perform with conventional weapons many of the tasks previously assigned to nuclear weapons;

Convinced that rationalization of short-range nuclear weapons deployed in Europe is both militarily and politically desirable, and must be accompanied by a corresponding strengthening on conventional defence capabilities;

Recognising, nonetheless, the vitally important deterrent role of nuclear weapons in Alliance strategy, including the option of 'first use' of nuclear weapons;

Convinced that continued modernization and maintenance of non-nuclear defence capability is of the highest priority in Alliance defence planning;

Concerned that at a time of severe budgetary limitations, strong pressures may exist in certain Alliance countries to emphasize particular national requirements at the expense of commitments to a credible conventional defence posture in the Alliance;

urges all member governments:

(1) To examine thoroughly the opportunities afforded the Alliance by new conventional weapons technologies;

(2) To devote the resources necessary to achieve a significant improvement in the conventional capability of the Alliance, while simultaneously attempting to constrain through arms control the threat facing the Alliance;

(3) To refrain from unilateral troop reductions or other actions which would weaken the conventional strength and political cohesion of the Alliance and lessen the prospects for success in current arms control negotiations.

THE PROBLEMS, PROSPECTS, AND OPPORTUNITIES FOR ARMS CONTROL

Mr. PERCY. Mr. President, yesterday, at the Arms Control Association's annual meeting, Senator LARRY PRESSLER delivered a major address on the problems, prospects, and opportunities for arms control. As chairman of the Subcommittee on Arms Control, Oceans, International Operations and Environment, Senator PRESSLER has taken a leading role in highlighting arms control issues over the past 2 years.

I am pleased that he has joined with me in drawing attention to the benefits to be derived from the nuclear testing limitations contained in the threshold test ban and peaceful nuclear explosion treaties. These accords set important arms control precedents in the areas of data exchange and onsite inspection.

Senator PRESSLER has used his first 2 years as subcommittee chairman to explore the dangers inherent in arms control agreements that lack sufficiently strong and clearly defined verification provisions. This problem was given attention through the subcommittee's hearings on "yellow rain," held in November, 1981. He has also used the subcommittee to identify current opportunities for negotiations that are not now being exploited, such as in arms control aimed at preventing the weaponization of outer space.

Senator PRESSLER's speech to the Arms Control Association reviews these and other aspects of the arms control agenda. In the process, he provides a balanced and lucid assessment of this central element of American security. I ask unanimous consent that the speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

ADDRESS BY SENATOR LARRY PRESSLER TO THE ARMS CONTROL ASSOCIATION ANNUAL MEETING

Ladies and gentlemen, it is a distinct privilege and a unique opportunity to address the annual meeting of the Arms Control Association. This Association, including President Herbert ("Pete") Scoville, Chairman of the Board Gerard Smith, and Executive Director William Kincade, has played a leading role in generating public discussion on Arms Control well before it was fashionable to do so. Your journal, Arms Control Today, is widely read on Capitol Hill. I am grateful for this opportunity to join you in your discussions.

Today, I would like to share with you my experience as Chairman of the Arms Control Subcommittee of the Senate Foreign Relations Committee, and the insights that it has offered me about the process of and prospects for arms control. For me, it has been a very full and exciting initiation into the Subcommittee's Chairmanship. When the process began two years ago, arms control negotiations were on the back burner—some would say in deep freeze, which should not be confused wth the nuclear weapons freeze. Since then, attention to arms control issues has returned to the foreground where it rightfully belongs. The growth of the nuclear freeze movement is evidence of this as is the new role being played by the nation's religious leaders in promoting negotiations.

We should not belittle the efforts of officials within the Administration in seeking to advance the arms control process and in finding new approaches to U.S.-Soviet relations. President Reagan's addresses on arms control—particularly those delivered over the past year—are, in my view, a serious effort to come to grips with the difficult problem of dealing with potentially hostile neighbors in a nuclearized world. I hope that the work of the subcommittee has also contributed to sparking the current debate.

Well before the press gave attention to public concerns about the nuclear arms race last spring, the subcommittee traveled beyond the confines of Washington to hold field hearings on the future of arms control. In Sioux Falls, South Dakota, and in Los Angeles and San Francisco, California, public witnesses spoke of their concerns for the risks and high financial costs of the U.S.-Soviet military competition, and of the need to develop negotiated alternatives. These were the first Senate arms control field hearings in over 26 years, and they helped the Foreign Relations Committee judge the nation's mood before the nation's pollsters began to gauge it. I hope to conduct similar hearings in other parts of the country in the next two years to remain in close touch with American taxpayers who will bear the weight of decisions made in Washington.

I believe that the pace and scope of U.S.-Soviet arms competition has gotten out of control. But I also feel that we must be sober in regard to our expectations in arms control negotiations. We must realize that the U.S. cannot produce meaningful accords alone.

Before speaking of the opportunities that do exist for significant agreements, it is important to be aware of the dangers. Agreements that are carefully conceived and executed can increase stability and could reduce the world's defense burden, but accords that are produced in haste or are reached only for agreement's sake can lead to decreased security and may poison the atmosphere for reaching serious agreements. This is particularly true for treaties that lack sufficiently strong verification provisions.

Last year, the subcommittee looked into the alleged use and/or provision of chemical weapons by the Soviet Union in Afghanistan and in Southeast Asia. The use of such agents is outlawed in treaties to which the Soviet Union is a signatory. Unfortunately, verification of these bans is based on trust and the Soviet government has refused to cooperate in efforts to investigate these allegations. In the year since our "Yellow Rain" hearings, the Administration has published a compilation of evidence that has swayed previous skeptics and reports of attacks continue. My information indicates that a yellow rain attack occurred little more than a month ago on October 17 in Cambodia.

If we are to have rapid progress in negotiations, the Soviet Union has an obligation to clear up this situation. In the absence of greater openness and responsiveness on the part of the Soviet leadership with regard to improved verification and other measures that build confidence, there is little hope for meaningful arms control. I have informed the Soviets of their responsibilities for the arms control process in meetings at the Kremlin last June. While I was in Moscow in June of this year, I personally informed Victor Karpov, the Soviets' chief START negotiator, that his government needed to be more cooperative in pursuing arms control goals. I hope that the rise if Yuri V. Andropov to the Soviet Communist Party's chairmanship will bring about improved Soviet attitudes.

This is not to relieve the U.S. of its responsibilities in the process. There are important opportunities for agreement here and now that are not being exploited. Part of the problem lies with a few so-called experts who believe that the U.S. can outspend the Soviets into cooperation or outwit them with fancy and not-so-fancy strategic concepts. In the not-so-fancy category are the ideas of T. K. Jones who believes that given enough dirt and shovels and . . . doors—let's not forget the need for doors—Americans can learn to live with the bomb and survive the holocaust. After hearing this nonsense, the subcommittee called T. K. Jones to explain his theories. After several attempts at evasion and finally the threat of sanctions, Jones appeared before the subcommittee to say that he had been misquoted. We looked into the issue and, to the best of our knowledge, Mr. Jones was quoted accurately.

This hearing served an important function and we will continue to perform that function in the future: letting officials know that the Senate and the public expects a responsible approach to defense and arms control.

There are several areas where opportunities exist for immediate gains in international stability and in U.S.-Soviet cooperation. The ongoing START and INF negotiations, and the Vienna talks on Mutual and Balanced Force Reductions, do represent serious efforts to grapple with the nuclear and conventional inventories of the U.S. and the Soviet Union and of their allies. While the importance of these deliberations must not be understated, I also believe that significant and verifiable reductions are a long-term proposition. A mutual and verifiable nuclear weapons freeze and actual reductions in nuclear arsenals are ideas which deservedly have attracted widespread popular interest. However, because of the problems of verification and of existing imbalances, negotiating a freeze could require the same energies, efforts and time as would be required to reduce nuclear forces. For these reasons, during the first two years of my chairmanship, particularly after the START and INF talks began, I have concentrated my efforts on problems that have so far failed to receive the public and governmental attention they deserve and on modest but valuable opportunities for enhancing security at reduced cost.

The Threshold Ban (TTB) and the Peaceful Nuclear Explosions (PNE) treaties, negotiated and signed by two Republican presidents between 1974 and 1976, fall into this category. These accords which limit underground nuclear explosions have an importance beyond their immediate impact. By setting precedents in the areas of military data exchange and on-site inspection, these accords could provide our negotiators in

Europe with leverage on the kind of cooperative measures that could make deep weapons cuts possible.

The Administration has made progress on data exchange and on intrusive measures of verification a litmus test of Soviet sincerity in arms control. For this reason, I hope that the Administration will begin to endorse ratification of two treaties that meet these conditions.

Many in this audience support the conclusion of a Comprehensive Test Ban (CTB). In my view, those who support a CTB should also endorse ratifying the signed but unratified TTB and PNE treaties. They would provide Washington and Moscow with experience in monitoring a weapons testing agreement and, thereby, the TTB and the PNE would increase our understanding of the requirements for CTB.

My subcommittee has been very active in this area. There have been numerous meetings with senior officials and several closed door consultations. My view has been expressed in both open and closed sessions. In summary, it is this: Let's ratify these accords and get on to new business. Unfortunately, proponents of the resumption of high yield weapons tests appear to be engaged in a rearguard effort to prevent ratification from happening. This has occurred despite the fact that Administration officials—including General David Jones, the former Chairman of the Joint Chiefs of Staff—have assured the committee that all U.S. defense requirements can be met within the constraints of these treaties. Arms Control Agency Director Rostow was right when he publicly identified this situation as a "profound stonewall."

As we move towards clearing up old business on the one hand, and work towards long-term solutions of current military problems on the other, we must not lose sight of current developments that could become problems if ignored. The imminent prospect of weaponizing space is a problem that has not received the attention it deserves. Over the past two years, I have written two resolutions on the danger posed by antisatellite weapons, chaired a hearing on this subject, and have successfully amended the Arms Control and Disarmament Agency's authorization bill to direct ACDA to intensify its research efforts in the space arms control area.

A space arms race is not in the interest of the United States. We, more than the Soviets, are dependent upon satellites and currently deloyed and planned space systems are playing an increasingly vital role in keeping the peace. This includes many important military functions, among which are communications with U.S. forces, early warning of strategic attack, and verification of arms control agreements. In these and other roles, the military has legitimate missions in space. It must be remembered that the so-called "missile gap" of the late 1950s evaporated only after the first reconnaissance satellites gave the U.S. a true picture of the Soviet force structure. Therefore, I am not in accord with those who oppose a military role in space. What I do oppose is "weaponizing" outer space. Killer satellites would undermine our ability to carry out peacekeeping missions and they could discourage commercial uses of space, at a time when they are beginning to make economic sense. In my home state of South Dakota with its agricultural economy, weather satellites play an increasingly vital role in maximizing production. Killer satellites should not be allowed to compromise this development.

It is also important to note that an arms race is perhaps easiest to stop before it is seriously under way. Unless this government acts quickly to start negotiations, American taxpayers will face an enormous space weapons budget and perhaps insurmountable verification problems. It is therefore surprising that since the Soviet invasion of Afghanistan both Democratic and Republican Administrations have given so little attention to the resumption of killer satellite talks. Often verification has been cited as a reason for not proceeding. As I see it, the verification problems will increase in the absence of an early agreement.

In the 98th Congress, I can assure this audience that I will pursue these issues with equal, if not greater, effort. On the TTB and PNE treaties, the subcommittee will make its continued concerns known in a closed door consultation on December 16. With regard to my anti-satellite resolutions, I am currently gaining cosponsors in the Senate and will reintroduce my resolution and hold a hearing this winter.

To conclude, let me suggest that there are other areas that are worthy of attention and they will receive it from me in the 98th Congress. President Reagan's address of last week draws attention to a new area of arms control that deserves greater consideration: Confidence Building Measures (CBMs). President Reagan's proposal marks only a start in developing and exploiting CBMs. Let me suggest several ways of improving the President's offer. Prior notification of weapons tests is a useful step, but so are exchanges of observers at such tests and other military activities. The exchange of military data could be complemented by extensive exchanges of information on weapons production rates. These CBMs would create openness and would, therefore, improve the atmosphere for arms control negotiations. Increased knowledge of military plans and activities would reduce the surprises that make for international tensions and propel the arms race. Finally, these CBMs are quite similar to the arrangements required for verifying deep weapons reductions. They should be welcomed for this reason alone.

For my part, I will continue to highlight these opportunities for building security at reduced risks and costs. By supporting arms control initiatives and by indentifying useful arms control concepts, the Arms Control Association can play an important role in this process.

Thank you.

A RABBI'S VIEW OF THE LEBANON SITUATION

Mr. PERCY. Mr. President, Rabbi Israel Zoberman, the new spiritual leader of the Temple B'rith Sholom in Springfield, Ill., recently wrote a letter to the editor of the Springfield State Journal that deserves wider coverage. His views on the situation in Lebanon are heartfelt, and he makes a commendable call for urgency in "responding creatively to the Palestinian question * * * in a context that does not violate Israel's essential rights and promotes the cause of peace in a turbulent region." In order to share his sentiments with my colleagues, I ask unanimous consent that his letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEAR EDITOR: The yet unresolved, eventful Lebanese crisis has impacted on our core indelibly and painfully. We are stunned and grieved by the murder of President-elect Bashir Gemayel and the shocking massacre of Palestinians by Christian militiamen.

The unprecedented specter of Israeli troops besieging an Arab capital took us by surprise. Whatever one's view is on the total scope of the Israeli Peace for Galilee Operation, acting beyond the declared 25-mile mopping zone, let us ponder the following perspectives: The roots of the magnitude of Israel's response touch the heart of the Israeli-Arab conflict, manifested since the 1967 Six-Day War by the defiantly uncompromising stance of the PLO to seek to eradicate the state of Israel

Was the PLO leadership naive to assume that its countless barbaric acts of terrorism against innocent Israeli civilians, and its turning of Lebanon into a base of its own, a state within a state, acting with callous impunity, not bound to incur Israel's justified wrath?

The tragic loss of civilian life in West Beirut and other spots along with physical devastation is a deeply disturbing aspect of war. While precautions were taken to the point of sacrificing lives of Israeli soldiers, our memory is etched with the massive bombardment of West Beirut. We know well though that the PLO chose to place its positions in the midst of a civil population, recklessly risking the well-being of non-combatants.

Israel paid a high price in irreplaceable human life and valuable economic resources with yet to be fully assessed political consequences. Once again, far too often in the brief history of the young state, has death spread its menacing wings touching the entire people.

I visited Israel at the time and sensed first-hand the trauma of loss and the inevitable cruel interplay of fear and reality. Israel's military might is the outcome of its people's will to live forged in the crucible of history's harshest testing; its warriors are not ordinary professional soldiers as the one who was killed while carrying with him a guide to the flowers of the land.

The searing events in Lebanon indicate beyond doubt the urgency of responding creatively to the Palestinian question. Let the Palestinians fulfill their distinct destiny in a context that does not violate Israel's essential rights and promotes the cause of peace in a turbulent region.

Now is the time to hail the historical peace treaty between Israel and Egypt, signifying a revolutionary breakthrough in the tragic cycle of violence between Arab and Jew, to be fully realized in the matrix of Mideast life. drawing closer also Arab and Arab, Moslem and Christian.

ISRAEL ZOBERMAN,
Rabbi, Temple B'rith Sholom.

HARDIN COUNTY VOTERS TAKE ELECTIONS SERIOUSLY

Mr. PERCY. Mr. President, during the congressional recess, the Chicago Tribune ran a story reporting that Hardin County, Ill., has the highest percentage of voter turnout in the State, 87 percent of registered voters in the 1980 election. At a time when

we are constantly lamenting the fact that fewer and fewer Americans are exercising their constitutional right and responsibility to vote, this is a tremendous tribute to the people who live in Hardin County.

Of course, I am not particularly surprised to see this report. On July 8, of this year, I had the privilege of visiting with many of the citizens and civic leaders during a "community coffee" in Elizabethtown, the county seat. It was quite apparent to me that the citizens of the country are very well informed about the various public issues. They take their citizenship seriously.

Mr. President, I ask unanimous consent that the November 3, Chicago Tribune article entitled "Hardin County Voters Take Elections Seriously" be printed in the RECORD. Hardin County's proud record should serve as an inspiration to all citizens who share our concern about maintaining our representative form of government.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HARDIN COUNTY VOTERS TAKE ELECTIONS SERIOUSLY

(By William Reckienwald)

ELIZABETHTOWN, ILL.—In rural Hardin County in southwestern Illinois, nearly every lawn had a campaign sign.

In the 1980 general election, 87 percent of the registered voters went to the polls, and that makes this the most politically active county in Illinois. Statewide the average was less than 78 percent.

In an era in which voting appears to be on the decline nationally—only 84 percent of eligible voters cast ballots in the last presidential election—they take their politics seriously here.

The candidates take the voters seriously, too.

State Rep. Robert Winchester, 30, the first Hardin County resident elected to the legislature in more than a half-century, said; "Not only are we serious, but it is a form of recreation. We all enjoy it."

Politics is literally the only show around for the 6,400 county residents who live here on the banks of the Ohio River. The closest movie theater is more than 40 miles away.

Hardin County, which boasts that it is the largest fluorspar-producing area in the United States, also has the state's highest unemployment rate, 33.5 percent. Fluorspar, the Illinois state mineral, is used in floridation of water and in steel and aluminum production.

County residents follow local government closely in the Hardin County Independent, a weekly newspaper published by Noel K. Hurford, 55, a lifelong county resident.

"Everybody reads the paper," Hurford said. "We give politics a lot of coverage. We get people all stirred up, they get mad, they write letters. People really get involved here."

Darwyn Daymon had a poem published about his problems, including the fact that the county doesn't take very good care of the road he uses regularly:

Have our gravel roads kept up with our rate of taxes?
On this point, I won't dote,
But would you please get out and vote?

Coverage of the county board meeting includes the smallest details of government.

"I spent some money on car wax and white wall tire cleaner for the squad car. The board asked me about it, and bang, it was on the front page of the paper," said Sheriff Wendell Brownfield, 34, the county's sole law enforcement officer.

And when they vote here, they vote for individuals, not for party labels.

"Voting straight party tickets is something of the past," said Clyde Kaylor, 76, who has served for 40 years as a Republican precinct committeeman in the town of Cave in Rock, population 603.

"Most people split now, they vote for the person, not the party."

In 1980, the 3,295 county voters gave a plurality of 407 to Republican Ronald Reagan in the presidential race and 315 to Democrat Alan Dixon in this race for U.S. senator.

"We are not a big county and people want to be aware of what is happening. They read that paper from cover to cover, they look forward to it coming every week. Folks like to go to political rallies here; it gives them a chance to get out," Brownfield said. "Lots of people are kin to each other here, too."

Recent political rallies received Page 1 attention in the local newspaper.

"We had a free barbecue and 500 people attended," Winchester said.

"C. L. McCormick (Republican state Senate candidate) is an old-time preacher politician. He gives that rip-roaring, Baptist, down-home, hard-core political speech. Then I come and hit them with the facts and figures about the jobs we have brought to the county.

"We just get them all fired up, and we keep them fired up, and they get out and work. They go door to door and, on election day, we have cars in each precinct to drive the people to the polls."

"Everybody knows everybody around here," said Harold Dutton, Democratic candidate for the county board.

"Politics is just a matter of conversation, like talking about your job. It is friends talking about something in common."

"If a person loses an election here with the kind of turnout we have, he don't have cause to complain. If we get out 90 percent of the vote and they beat me, then I'm beat I won't complain."

GOOD WORK BY THE OFFICE EDUCATION ASSOCIATION

Mr. PERCY. Mr. President, during the recess, I had the honor of addressing the Peoria Area Conference of the Office Education Association. The Office Education Association is dedicated to raising interest in our free enterprise system by developing leadership capabilities and competency in office occupations among the Nation's youth.

The focal point of the Office Education Association is an occupational educational activity available at the secondary and post secondary education levels. This cooperative work program requires students to work within the local business community in office positions while receiving formal training in the classroom. In addition, a national conference is held each spring, highlighted by a schedule of competitive events in which members attempt to achieve national recognition through demonstration of superior skills.

The Office Education Association also promotes extracurricular activity by encouraging its membership to participate in community service projects. At the local level, each school chapter pursues it own goals, in addition to contributing to a nationwide campaign for the benefit of the Special Olympics. Last year, the OEA raised $25,000 for the Special Olympics through a variety of fundraising activities. This dedication to community service is applauded by all and is deserving of the highest praise.

The OEA is comprised of 76,000 members nationwide, 5,000 of whom are from Illinois. I was pleased to be able to meet and speak with a number of these ambitious capable young people and I was happy to learn that Illinois has been duly represented at the national, competitive level. I am also very pleased that next year's OEA National Convention will be held in Chicago.

Many of our Nation's largest corporations have shown their appreciation of the OEA's achievements by generously supporting OEA activities. This special relationship between the public and private sector has helped American business retain its high standards of exellence. The OEA helps business help itself by offering advanced training to those young men and women who will one day make up the ranks of the business community.

I strongly support the objectives and methods of the Office Education Association to prepare and educate our youth to take their places in the business world.

ELIMINATION OF FTC JURISDICTION OVER MEDICAL, LEGAL, AND OTHER STATE REGULATED PROFESSIONS

Mr. METZENBAUM. Mr. President, I rise to voice my dismay over the action taken by the House yesterday to eliminate FTC jurisdiction over medical, legal, and other State regulated professions. I state unequivocally that this dreadful proposal should never see the light of day in this session. Just today we finished one special interest bill that tied up the Senate for 3½ days. Let us not repeat that exercise in futility.

There is absolutely no justification for exempting doctors, dentists, and lawyers from FTC scrutiny. There is absolutely no reason why these professions should be above the Nation's antitrust laws.

I am saddened but not terribly surprised by the House action. Doctors and other interested groups spend lots of time and money on Capitol Hill.

Indeed, according to Congress Watch, the political action committees of the AMA and ADA gave Members of the House of Representatives almost $2.5 million in campaign contributions during the past 2 years. More than 70 percent of this money went to the 200-plus supporters of the FTC exemption.

Well, Mr. President, the AMA may have succeeded in the House, but I do not expect their success to be that easy in the Senate.

This issue is far too important to the American people. The Senate must not bow down to the special interests of doctors and dentists. Too much is at stake.

Between 1970 and 1980, the cost of health care in this Nation more than tripled to nearly $250 billion. During the next decade, these costs are expected to triple again.

Over the years, the Federal Trade Commission has found that the lack of competition has contributed to these skyrocketing health-care costs. It is the FTC whose efforts helped to eliminate monopolistic practices in the health care field.

If we strip the FTC's power in this area, we will kill such beneficial activities as:

A proposed rule to curb deceptive claims and high-pressure sales tactics in the hearing aid industry.

Investigations into professional restrictions that keep dentists from working for business firms and prevent nondentists trained to make dentures from offering their services directly to the public.

Investigations into medical associations and groups of doctors for boycotting hospitals that recruited competing physicians or health-insurers that tried to institute cost-containment programs.

These are but a few of the activities we stand to lose if we in the Senate follow the House's lead and roll over for the well-oiled medical lobbying machine.

I say we stand firm. I and several of my colleagues are ready to fight any attempt to grant a special interest exemption to the professions.

I would like at this time to submit a list of some of the groups who support a continued FTC presence in this area. I believe its diverse makeup and length lend credence to the argument that this is far from a one-sided battle.

I ask unanimous consent that the list be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

American Association of Retired Persons.
American Nurses' Association.
American Society for Medical Technology.
Association for the Advancement of Psychology.
American Psychological Association.
American Speech-Language-Hearing Association.
American College of Nurse-Midwives.
American Public Health Association.
National Association of Optometrists and Opticians.
National Association of Chain Drug Stores.
Opticians Association of America.
American Medical Technologists.
International Society for Clinical Laboratory Technology.
American Association for Clincial Chemistry.
American Society of Allied Health Professions.
National Rehabilitation Counseling Association.
National Women's Health Network.
Women and Health Roundtable.
American Retail Federation.
Public Citizen's Congresswatch.
Consumer Federation of America.
American Association of Nurse Anesthetists.
United Automboile, Aerospace, and Agricultural Implement Workers of America.
Retired Officers Association.
Small Business Legislative Council.
American Dental Hygienists' Association.
International Chiropractors Association.
American Chiropractic Association.
Women's Equity Action League.
U.S. Women's Health Coalition.
National Consumers League.
National Association of Community Health Centers.
American Podiatry Association.
American Association of Bio-Analysts.
United Steelworkers of America.
National Association of Social Workers.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. COCHRAN:

S. 3062. A bill for the relief of Thomas Hulmut Hofmann; to the Committee on the Judiciary.

By Mr. RIEGLE (for himself, Mr. LEVIN and Mr. METZENBAUM):

S. 3063. A bill to provide for continuation of health insurance for workers who lose such insurance by reason of unemployment; to the Committee on Finance.

By Mr. ROTH:

S. 3064. A bill to amend the Tax Reform Act of 1976 to extend, for an additional 4 years, the exclusion from gross income of the cancellation of certain student loans; to the Committee on Finance.

By Mr. PRYOR:

S. 3065. A bill to establish in the Department of State the position of Under Secretary of State for Agricultural Affairs; to the Committee on Foreign Relations.

By Mr. GLENN (for himself, Mr. KENNEDY, Mr. ZORINSKY, Mr. LEAHY, Mr. MOYNIHAN, Mr. SARBANES, Mr. TSONGAS, Mr. DODD, Mr. PELL and Mr. BRADLEY):

S. 3066. A bill with regard to Presidential certifications on conditions in El Salvador; to the Committee on Foreign Relations.

By Mr. ABDNOR:

S. 3067. A bill to limit the use of appropriated funds to increase the pay of Members of Congress, and for other purposes; to the Committee on Governmental Affairs.

By Mr. BOSCHWITZ:

S. 3068. A bill to establish a cap on the pay of certain Federal officers and employees for the fiscal year 1983; to the Committee on Governmental Affairs.

By Mr. EAGLETON (for himself and Mr. DANFORTH):

S. 3069. A bill to amend the Natural Gas Policy Act of 1978 to prohibit increases in the wellhead prices of natural gas, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DANFORTH (for himself and Mr. EAGLETON):

S. 3070. A bill to prohibit certain anticompetitive clauses in natural gas contracts, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DANFORTH (for himself and Mr. EAGLETON):

S. 3071. A bill to increase the funding authorization for low-income home energy assistance; to the Committee on Labor and Human Resources.

By Mr. LUGAR (for himself, Mr. GARN, Mr. D'AMATO, Mr. HEINZ, and Mr. TOWER):

S. 3072. A bill to amend the Urban Mass Transportation Act of 1964 to authorize additional appropriations, to establish a formula grant program, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MELCHER:

S. Res. 499. Resolution authorizing supplemental expenditures by the Select Committee on Indian Affairs; to the Select Committee on Indian Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. RIEGLE (for himself, Mr. LEVIN, and Mr. METZENBAUM):

S. 3063. A bill to provide for continuation of health insurance for workers who lose such insurance by reason of unemployment; to the Committee on Finance.

HEALTH INSURANCE FOR UNEMPLOYED WORKERS ACT OF 1982

● Mr. RIEGLE. Mr. President, today I am introducing legislation (for myself and Senators LEVIN and METZENBAUM) which is designed to correct a serious, although often ignored, side effect resulting from the massive unemployment of millions of our Nation's workers. That side effect is the loss of health insurance coverage.

Approximately 80 percent of the nonelderly population in our country is at least partially protected against the possible financially ruinous consequences of ill health. As we all know, all but the most wealthy members of our society would soon be reduced to poverty if they were forced to totally finance adequate health care for themselves and members of their families. To protect themselves against such a possibility, most individuals are insured against such financial disaster

by either earning—as a benefit of employment—or by directly purchasing health insurance protection. The vast majority of individuals who are protected under a health insurance plan become eligible for such protection through their place of employment. Therefore, when the economy is in a slump, which is now the case, and millions of Americans lose their jobs, they also often lose health insurance protection, for themselves and for their families.

Mr. President, millions of hard working Americans have lost their jobs, through no fault of their own, simply due to poor performance of the economy. It's hard enough for these workers to go home and explain to the members of their family that they just received their last paycheck. It's not long thereafter that they soon realize that their health insurance benefits, which provided needed protection for themselves and their family has also been lost along with their job.

In my State of Michigan, and in every State throughout the country, millions of Americans are neglecting professional health care, and are allowing otherwise easily treated and minor conditions to turn into serious and chronic conditions, simply because they can no longer afford the cost of uninsured medical care. Dr. Bailus Walker, the director of the Michigan Department of Public Health, estimates that almost 400,000 workers in Michigan alone have lost health insurance benefits as a consequence of the current recession. That number represents nearly 60 percent of all of the unemployed workers in my State and does not include the thousands of dependents of these workers. Clearly this indicates that we have a serious problem in my State and I am sure this situation is not altogether unique for my State alone.

Mr. President, for these reasons and others I am introducing S. 3063 which is designed to provide protection for individuals who have lost health insurance coverage as a result of being involuntarily severed from the work force. This proposal would insure that most individuals who are currently protected by health insurance secured through their place of employment would continue to receive this protection for at least 1 year after they were laid off or had their job terminated. In addition, S. 3063 contains provisions that would make available, at an affordable cost, health insurance protection to most currently unemployed persons.

Members of my staff over the past few months have been working with representatives of labor and business in crafting this proposal which goes a long way toward providing affordable health care protection to millions of Americans currently without protection and at risk through no fault of their own. With the exception of the temporary emergency program, the major portion of this proposal requires little or no outlays from the Federal Government and creates a permanent mechanism preventing this situation from arising in the future.

UNEMPLOYMENT—THE PROBLEM

Mr. President, we all know that the unemployment rate reached record levels in October and stood at 10.4 percent, the highest percentage of unemployed persons in over 40 years.

Mr. President, I ask unanimous consent that a table comparing the October 1981 and October 1982 unemployment rate be printed in the RECORD at this point.

UNEMPLOYMENT RATE

	Seasonal adjustment	
	October 1981	October 1982
Civilian labor force	109,012,000	110,644,000
Employed	100,343,000	99,093,000
Unemployed	8,669,000	11,551,000
Unemployment rate (percent)	8.0	10.4

What is often not considered when examining the unemployment rate is the extent to which the burden of unemployment falls disproportionately on certain groups in our society. The blue collar unemployment rate is currently 15.9 percent, up a full 5 percent from just 1 year ago. The unemployment rate for black workers is twice as high as for white workers, and as many as 21.7 percent of white teenagers and 46.7 percent of black teenagers are looking for work. In addition, unemployment affects lesser skilled and lower income individuals at a greater rate than the general population. All of this is important when considering that many of these unemployed workers also lose their health insurance along with their jobs.

Mr. President, another critical unemployment statistic that must be considered is the duration of unemployment. For the longer a worker remains unemployed, the more likely it is that the worker will lose his or her health insurance.

Mr. President, I ask unanimous consent that a table showing the duration of unemployment be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

DURATION OF UNEMPLOYMENT

	Seasonal adjustment (October)			
	Number		Percent	
	1981	1982	1981	1982
Total unemployed [1]	8,685,000	11,590,000	100.0	100.0
Less than 5 weeks	3,707,000	3,920,000	42.7	33.8
5 to 14 weeks	2,686,000	3,517,000	30.9	30.3
15 weeks and over	2,292,000	4,153,000	26.4	35.8
Average duration, in weeks	13.6	17.2		
Median duration, in weeks	6.8	9.6		

[1] The number of unemployed differs from the figure reported in Table I–1 due to sampling variability and seasonal adjustment.

Mr. President, as this table indicates, more than one-third of those unemployed in October 1982 were jobless for 15 weeks or more. This is important because some workers health insurance coverage is terminated immediately with employment, while for others it is extended for 30 days. However, a significant number of workers lose their insurance 1 month after termination. Therefore the duration of unemployment is directly related to the number of individuals at risk and without protection.

Of course, all of the figures I have cited above exclude the so-called discouraged workers. As we know, discouraged workers are individuals who report that they want to work but because they are not actively looking for employment they are excluded from our unemployment statistics. However, these individuals are in need of health insurance protection as much, if not more, than all unemployed persons.

Mr. President, I ask unanimous consent that a table indicating the number of discouraged workers be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

DISCOURAGED WORKERS (SEASONALLY ADJUSTED)

	3d quarter	
	1981	1982
Total	1,094,000	1,619,000
Job-market factors [1]	801,000	1,211,000
Personal factors [2]	293,000	408,000
Men	383,000	584,000
Women	711,000	1,035,000
White	744,000	1,067,000
Black and other	351,000	545,000

[1] Job market factors include "could not find job" and "thinks no job available."

[2] Personal factors include "employers think too young or old," "lacks education or training," and "other personal handicaps."

Mr. President, therefore, to the 11.6 million Americans who are unemployed according to the official unemployment rate we must add an additional 1.6 million discouraged workers. As the number of jobless continues to climb, the number of individuals who, out of sheer frustration, stop looking for work also climbs. These millions of additional unemployed workers also need protection against the potentially devastating consequences of unexpected medical bills.

Mr. President, while unemployment is at the highest level in over four decades, all of the economic forecasts I have seen predict the continuation of record levels of unemployment for the next few years. Unfortunately, in all likelihood significant numbers of unemployed workers will be needing essential health care over the next few years, without the means to secure that care. The proposal I am introducing today will permamently solve this problem for unemployed workers

during both good and bad economic times.

HEALTH INSURANCE AND UNEMPLOYMENT

Mr. President, as I have already mentioned, about 80 percent of individuals gain access to health insurance coverage through their place of employment. By being part of a group of employees and by integrating the payment of insurance premiums with an overall package of employment benefits, most workers are able to afford health insurance protection. This situation ceases to exist upon the termination of employment. In a sense, S. 3063 continues the integration of active earnings and health insurance protection during times of inactivity. By setting aside a slightly higher amount of insurance premiums—in dollars or earned benefits—during active employment, workers are able to secure protection during periods of inactivity.

In addition to losing health insurance protection during job layoff or termination, studies have indicated that waiting periods at the onset of employment also result in significant periods of nonprotection. What is sometimes referred to as "entry lag" is the result of waiting periods where new employees are ineligible for health insurance coverage for varying periods of time. One study found waiting periods of 3 months or longer for one-quarter of all new workers. In another study, waiting periods ranged from 4, to as much as 28 weeks depending on the industry and the region. S. 3063 would deal with this problem in part by providing coverage for 2 months for unemployed workers who return to and are ineligible for work-related health insurance protection.

Mr. President, it is true that there is a need to learn more about the impact of unemployment on health insurance protection. It is my hope S. 3063 will serve as the occasion for further inquiry into this matter. We need to know more about the number of unemployed individuals who lack access to affordable coverage. We need to know more about the utilization rate and health care needs of our unemployed citizens. I believe the proposal I am introducing today will assist us in learning more about the health care needs of unemployed persons while simultaneously providing protection for millions of Americans.

PROVISIONS OF S. 3063

Mr. President, under the proposal I am introducing today all individuals who lost health insurance coverage as a result of being involuntarily severed from the work force without cause would be covered for up to a year following job termination. Only individuals who are not eligible for other work related or federally funded insurance coverage would be protected under the new policies made available as a result of this legislation.

S. 3063 has two major parts. The first part, and long-term solution, is aimed at active workers who might lose their jobs in the future. The second part, a temporary and emergency program, is aimed at unemployed workers who have lost their jobs within the 12 months prior to the enactment of the bill.

The long-term proposal is implemented by amending the Internal Revenue Code to alter the conditions under which an employer could deduct the cost of health insurance premiums. The conditions for an employer to continue to utilize the deduction would be to provide for the continuation of health insurance coverage for at least 1 year following an employee's involuntary severance by either directly providing coverage or by participating in a State insurance pool.

Both means for providing coverage would be subject to a specified minimum protection. In no instance could an unemployed person be required to pay more than 20 percent of the health insurance premium. All benefit packages would provide benefits comparable to those offered under medicare including comprehensive medical and hospital protection. The proposal requires the options of annual deductibles of no less than $100 and no more than $500. Each insurance policy would provide coverage for the unemployed worker and his or her family. Coverage would be available for up to 12 months or for 60 days after the unemployed individual becomes gainfully employed. An employed worker would be eligible to participate in this program only if the individual was not eligible for other health insurance protection. Other such policies would include spousal or parental insurance protection as well as Federal health insurance programs such as medicare and medicaid.

The legislation encourages and anticipates that States will establish State insurance pools which would be regulated by the States and not by the Federal Government. There are provisions for the establishment of pools in each State if State governments choose not to endorse this approach. In addition, State and municipal governments would have the option of participating in the insurance pools.

The emergency program would be for individuals who are not eligible for a full year of severance protection under the permanent program and who were involuntarily severed from the work force within the 12 months prior to enactment. All individuals eligible for participation in this program would receive benefits equal to the Federal minimum benefits and would be subject to the same limitation of 20 percent of the insurance premium.

The emergency program would be administered by the Secretary of Health and Human Services who would establish an expedited enrollment procedure for all eligible individuals. Initially this emergency program would be administered in a fashion similar to the medicare program—subject to different premiums and deductibles. As soon as an insurance pool is established within the unemployed person's State, the administration for the emergency program would be shifted to the State pool. As mentioned, the unemployed worker would pay 20 percent of the insurance premium and once the individual is switched to the State pool—unlike the long-term program—the Federal Government would contribute the remaining 80 percent.

Mr. President, under this emergency program, which is temporary and will be phased out as soon as the long-term program is in place, all eligible individuals will be protected for a full year even if they have been unemployed for up to 1 year. Neither the long-term or emergency portions of this proposal would affect current contractual agreements.

Mr. President, it is my hope that S. 3063 will focus attention on the serious problem of the loss of health insurance coverage due to unemployment. In 1975, during an earlier recessionary period, Congress looked at this problem although no legislation was enacted. I believe part of the difficulty encountered during this period related to the proposals under consideration at that time, many of which established vast new Federal programs. S. 3063 utilizes the existing private-sector mechanisms for dealing with this critical problem. Since the long-term program is financed by active employers and employees for a limited population and spread over a large number of companies and workers, I believe the cost to active participants in the work force will be limited and manageable.

As our unemployment rate continues to rise, and people stay unemployed for longer periods of time, we are learning that jobless workers and their families have special health care needs. They suffer more emotional and physical illness and more malnutrition than people who are working. Because these people are unemployed, they are often too worried about mere survival to meet critical health needs. They should not have to be in this situation. I think we are obligated to help them through these tough times by assuring them that adequate health care will be there when they need it. S. 3063 provides that assurance.

Mr. President, I urge all of my colleagues to support this needed legislation.

Mr. President, I ask unanimous consent that an article on health insurance and unemployment from the Sunday, October 31, 1982, New York Times and the text of S. 3063 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 31, 1982]

JOB CUTS CAUSE OVER 16 MILLION TO LOSE THEIR HEALTH COVERAGE

(By Robert Pear)

WASHINGTON, October 30.—More than 16 million Americans have lost health insurance coverage as a result of unemployment, and many appear to be deferring necessary medical care, according to health officials.

The principal source of coverage for most workers is the group health plans offered by employers. For that reason, workers generally lose health insurance when they lose their jobs.

Unemployed workers have special health care needs because they seem to suffer more emotional and physical illness and more malnutrition than people who are employed.

DEPENDENTS ALSO AFFECTED

Federal officials and labor leaders said eight million of the 11.3 million unemployed Americans had lost their coverage, exposing them to the risk of high medical costs. On the average, they said, for each jobless worker who has lost coverage, at least one child or spouse covered under the same policy has also lost protection. Thus, the total is more than 16 million.

At the end of 1979, more than 183 million Americans, representing 85 percent of the civilian population, were protected by one or more forms of private health insurance, according to the latest figures available from the insurance industry.

Unemployed people find it difficult to qualify for Medicaid and Medicare, particularly since the Federal Government restricted eligibility last year as part of President Reagan's overall effort to control Government spending.

A recent study by the Blue Cross and Blue Shield Association concluded, "Exposure to the risk of heavy health care expenses is a serious threat to workers who lose their health care coverage because of unemployment."

In Michigan, Dr. Bailus Walker Jr., Director of Public Health, said 400,000 workers had lost insurance benefits as a result of the current recession. He also said there had been a "disturbing" rise in the state's infant mortality rate, which is often considered to be a reflection of the overall quality of health care, as well as social and economic factors.

Dr. Walker and other health specialists linked the rise to the fact that some jobless workers and members of their families cancel doctors' appointments and fail to enter hospitals when they need medical care.

Dr. Walker said the increase in the state's infant mortality rate was "the first significant increase we've had since World War II." The rate, 12.8 deaths per 1,000 live births in 1980, rose to 13.2 last year, he said.

JOINT STATEMENT OF CONCERN

Spokesmen for the American Medical Association, the American Hospital Association, the A.F.L.-C.I.O., Blue Cross and Blue Shield, the Business Roundtable, representing 200 large corporations, and the Health Insurance Association of America have issued a joint statement expressing concern about the lack of insurance coverage for the unemployed. But they have only begun to improvise solutions.

Prof. John T. Dunlop of Harvard University, a former Secretary of Labor who has studied the problem, said in an interview, "You see a lot of people struggling with this. They are trying to innovate, to experiment. The social costs are really very high."

Under most health insurance plans, benefits end within a month after a person is laid off. Blue Cross and many commercial insurance companies give laid-off workers an opportunity to continue coverage by switching from a group health plan to a policy covering an individual or family.

But the premiums charged are invariably higher, and the benefits are usually more limited. Employers usually pay a substantial part of the cost of their employee's health insurance. For nearly half of all workers with such coverage, the employer pays the entire cost, according to statistics collected by the Federal Government.

Douglas A. Fraser, president of the United Automobile Workers, said the cost of continuing health insurance for a laid-off worker was usually prohibitive because it equaled approximately one-fourth of the worker's unemployment insurance benefits. Nationwide, the average benefit payment is $118 a week, with average weekly payments ranging from $153 in Michigan to $77 in Mississippi. State insurance officials said short-term coverage for a family often costs more than $100 a month.

Unemployed workers need health care at least as much as those who are employed, and perhaps more, according to public health experts.

Prof. M. Harvey Brenner, a sociologist at Johns Hopkins University, said Friday: "A shortening of life span typically follows recessions. With economic loss, unemployment and business failure, you get an increase in mortality from a wide spectum of illnesses, as well as from homicide and suicide. A one percentage point increase in the unemployment rate tends to be associated with an increase of at least 1.9 percent in the mortality rate over a six-year period."

The mortality rate last year was 866 deaths for every 100,000 people in the country.

STRESS CALLED A FACTOR

Mr. Brenner said the increase in mortality apparently resulted from stress related to the loss of income and jobs; from chronic anxiety among workers who felt their jobs threatened, and from the decision of many jobless workers to postpone health care.

Dr. James H. Sammons, executive vice president of the American Medical Association, has urged all state and county medical societies to tend to the needs of people who have lost health benefits because of unemployment or changes in Medicaid eligibility. Doctors in Portland, Ore., Detroit and Aliquippa, Pa., near Pittsburgh, said they were providing services at reduced prices or for no charge. Those places have experienced high unemployment related to the problems of the timber, auto and steel industries, respectively.

In Portland, Brad Davis, executive director of the Multnomah County Medical Society, said 800 needy families had requested care under the society's program.

Dr. M. Harry Jennison, executive director of the American Academy of Pediatrics, and Dr. Monte Malach of Brooklyn, president of the American Society of Internal Medicine, said their members were eager to continue care for people who had lost health insurance because of unemployment. They have held discussions with the A.F.L.-C.I.O. to make formal arrangements for such care.

PREPARING GOVERNMENT PLAN

But some members of Congress contend that Government action is needed. Senator Donald W. Riegle, Jr., Democrat of Michigan, is drafting a proposal that would create a Federal health insurance program like Medicare to pay doctor and hospital bills for people who lost their jobs in the last year. The program would be temporary. The measure would create tax incentives for employers to continue coverage of employees who lose their jobs in the future.

Reagan Administration officials oppose any program that would require additional Federal spending. They say economic recovery will solve the health insurance problems of the unemployed. "If you put people back to work, then the problem goes away," said Dr. Robert J. Rubin, an Assistant Secretary of Health and Human Services.

S. 3063

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Health Insurance for Unemployed Workers Act of 1982".

DEFINITIONS

SEC. 2. (a)(1) The term "employer" means, for any calendar year, any person who employs at least one full-time employee during any week in such calendar year. Such term does not include—

(A) a self-employed individual;

(B) the United States or any instrumentality thereof; or

(C) any State or local government or instrumentality thereof.

(2) Any State or local government or instrumentality thereof may at its option participate in the reinsurance pools established under this Act on the same basis as an employer, and shall be considered to be an employer for purposes of this Act.

(b) The term "full-time employee" means an individual who is employed by an employer for at least 25 hours in a week.

(c) The term "unemployment" or "unemployed" means, with respect to an individual, that such individual—

(1) is not a full-time employee of any employer or other entity, or has been such a full-time employee for less than 60 consecutive days and is not eligible to participate in a group health plan of such employer or entity;

(2) was a full-time employee of an employer within the preceding 12-month period and was a participant in a group health plan of such employer at the time such individual's full-time employment by such employer ceased (as described in paragraph (3)); and

(3) was involuntarily terminated or laid off as an employee of such employer (other than for cause), and as a result of such termination or layoff is no longer eligible to participate in the group health plan at the same rate of contribution as when he was a participant at the time of such termination or layoff.

(d) The term "qualified unemployed individual" means an unemployed individual who—

(1) was a participant in a group health plan at the time his employment ceased (as described in subsection (c) (3)) which was provided by a group health plan provider which is participating in the qualified reinsurance pool in operation in the State in which such individual was so employed;

(2) if eligible for any coverage under a group health plan as a family member, or would be so eligible if his spouse or parent were enrolled in a group health plan in which such spouse or parent is eligible to enroll and is eligible for family coverage, is enrolled in such plan;

(3) if eligible for benefits under part A, or eligible to enroll under part B, of title XVIII of the Social Security Act, has applied for such benefits under part A and has enrolled under part B; and

(4) if eligible for any medical assistance under a State plan approved under title XIX of the Social Security Act, has applied for such aid.

(e) The term "group health plan" means any plan of, or contributed to by, an employer to provide medical care (as defined in section 213 (e) of the Internal Revenue Code of 1954) to his employees or the families of such employees, directly or through insurance, reimbursement, or otherwise.

(f) The term "group health plan provider" means any insurance company, hospital and medical service corporation, health maintenance organization, self-insured employer, multiemployer trust, labor organization multilabor organization trust or any other entity which provides or takes payment for medical care under a group health plan.

(g) The term "family member" with respect to an individual means—

(1) such individual's spouse; and

(2) such individual's natural or adopted child who is—

(A) 18 years of age or under; or

(B) 22 years of age or under and a full-time student at an elementary or secondary school or college or university.

(h) The term "qualified reinsurance pool" means a qualified State reinsurance pool (as determined under section 3), a qualified private reinsurance pool (as determined under section 4 (a)), or a Federal reinsurance pool (described in section 4 (b)).

(i) The term "qualified pool health plan" means a health plan offered by a qualified reinsurance pool which—

(1) provides, directly or through insurance, reimbursement, or otherwise, at least those services and items for which payment may be made under title XVIII of the Social Security Act; and

(2) requires an annual deductible of no less than $100 and nor more than $500.

(j) The term "State" means the 50 States and the District of Columbia.

STATE POOLS

SEC. 3. (a) A qualified State reinsurance pool is an entity established under State law for the purpose of offering three or more qualified pool health plan options in accordance with the provisions of this Act to qualified unemployed individuals previously employed in such State.

(b)(1) The State law establishing a qualified State reinsurance pool must provide that all group health plan providers conducting business in the State shall participate in the pool (except to the extent that participation is waived under section 5 or is not required for purposes of deductibility of premiums under section 162(i)(3) of the Internal Revenue Code of 1954 by reason of section 6(b)(2) of this Act), and that the expenses incurred by the pool and the qualified pool health plans offered by the pool, to the extent such expenses exceed the amount of premium payments collected from unemployed individuals and the amount of Federal payments under section 7(e)(2), shall be borne by each group health plan provider participating in the pool in an amount which bears the same ratio to the total of such expenses as the amount of premimums collected by such provider (other than premiums collected on plans which qualify for a waiver under section 5 or on plans which are exempt from the requirements of section 162(i)(3) of the Internal Revenue Code of 1954 by reason of section 6(b)(2) of this Act) with respect to employees employed in such State bears to the total amount of premiums collected by all group health plans (other than premiums collected on plans which qualify for a waiver under section 5 or on plans which are exempt from the requirements of section 162(i)(3) of the Internal Revenue Code of 1954 by reason of section 6(b)(2) of this Act) doing business in such State with respect to employees employed in such State.

(2) In the case of a self-insured employer or other type of group health plan which does not entail the collection of premiums, the board of directors of the pool shall apportion expenses based upon an estimate of the amount of the premiums which would be collected if such plan were not self-funded.

(3) Any amounts collected as premiums in excess of the expenses incurred by the pool shall be maintained by the pool, and shall be taken into account in determining future premium amounts.

(c)(1) Each qualified State reinsurance pool shall offer three or more qualified pool health plan options to any qualified unemployed individual in such State, or to such individual and his family members if he so chooses, at a premium amount, to be paid on a monthly basis, of not more than 20 percent of the amount equal to 125 percent of the average premium rate in such State for group health plans for groups of less than 25 employees for benefits actuarially equivalent to the benefits provided under the qualified pool health plan.

(2) For purposes of this subsection, an unemployed individual shall be considered to be unemployed in the State in which he was previously employed at the time of his termination or layoff which qualified him for eligibility under this Act under section 2(c)(2).

(3) Subject to the maximum premium amount established under paragraph (1), premium rates may be adjusted to reflect expected claims, administrative expenses, and differences in costs of medical care in various geographic areas.

(d)(1) A qualified State reinsurance pool shall be established as a nonprofit corporation, and shall be governed by a board of directors of not more than nine members. Members of the board shall be elected by the group health plans participating in the pool, with votes weighted in the same proportion as the assessments of pool expenses are made under subsection (b)(1).

(2) The board of directors of each pool shall establish in actuarial committee which shall establish and periodically review the premium rates. Such rates shall be subject to approval by the State insurance commissioner or similar official designated under paragraph (3).

(3) The State insurance commissioner or other official having jurisdiction over group health plans in such State shall be responsible for establishing and overseeing the operation of the pool. Oversight responsibilities shall include approval of qualified health plans and premiums and review of information issued by the pool.

(e)(1) The board of directors of the pool shall establish procedures for advertising the availability of qualified pool health plans and for enrolling unemployed individuals seeking coverage under such plans, managing such plans, and paying claims under such plans.

(2)(A) Coverage under qualified pool health plans shall be marketed under the name of the pool, and may be marketed directly by the pool or on behalf of the pool by the group health plan providers participating in the pool.

(B) In the case of pool coverage marketed by participating providers—

(i) the pool shall pay a reasonable expense allowance to such provider;

(ii) policies or contracts issued for coverage under a pool plan shall clearly indicate that coverage is issued on behalf of the pool;

(iii) full disclosure shall be made to the unemployed individual with respect to coverage under the pool plan; and

(iv) advertising and sale of pool plans shall be subject to rules established by the board of directors to preclude "bait and switch" tactics or similar misuse of pool plans by providers, and such other requirements as the board of directors deems appropriate.

(3) The board of directors shall notify the State and the Secretary of Health and Human Services and the Secretary of the Treasury with respect to the identity of the group health plan providers participating in the pool.

(f) No more than one qualified pool may operate in any State, but States may by mutual agreement establish regional pools for coverage in more than one State by a single pool. Any such regional pool shall be subject to the State laws of the States in which it operates.

(g) The Secretary of Health and Human Services shall certify whether a State pool meets the requirements of a qualified State reinsurance pool, and may decertify such a pool at such time as he determines that the pool fails to meet such requirements.

QUALIFIED PRIVATE POOLS; FEDERAL POOLS

SEC. 4. (a)(1) In the case of any State which does not establish a qualified State reinsurance pool within 180 days after the date of the enactment of this Act, or in the case of a State in which the State pool has been decertified, those group health plan providers which conduct business in such State and would be required to participate in a qualified State reinsurance pool in such State if such a pool was established in accordance with section 3, may petition the Secretary of Health and Human Services to permit such providers to voluntarily organize and operate a qualified private reinsurance pool in such State. Any such private pool must meet all the requirements of section 3, except that the responsibilities of the State insurance commissioner shall be carried out by the Secretary of Health and Human Services.

(2) The Secretary of Health and Human Services shall certify whether a private pool meets the requirements of a qualified private reinsurance pool, and may decertify such a pool at such time as he determines that the pool fails to meet such requirements.

(b) In the case of any State in which no qualified State reinsurance pool has been established within 180 days after the date of the enactment of this Act, and no qualified private reinsurance pool has been established under subsection (a) within 270 days after such date of enactment, or in which no qualified pool exists by reason of the decertification of a qualified State or private pool, the Secretary of Health and Human Services shall establish a Federal pool for such State. Such pool shall meet the same requirements as a qualified private pool under subsection (a).

(c) In any case in which a qualified State reinsurance pool is certified or recertified, any private reinsurance pool or Federal reinsurance pool operating in such State shall cease to be a qualified reinsurance pool.

WAIVER OF PARTICIPATION IN POOLS

SEC. 5. Any group health plan provider who, on and after October 1, 1982, provides extended coverage under a group health plan for employees covered by the plan after involuntary termination or layoff, which extended coverage equals or surpasses the minimum extended coverage required to be provided by a qualified pool health plan (as determined and certified by the Secretary of Health and Human Services based upon duration of coverage and actuarial equivalence of benefits), shall not be required by reason of this Act to participate in or contribute to the expenses of a qualified reinsurance pool with respect to premiums collected for such plan for so long as such plan continues to meet the requirements of this section.

DEDUCTION FOR EMPLOYER CONTRIBUTIONS TO GROUP HEALTH PLANS

SEC. 6. (a) Section 162(i) of the Internal Revenue Code of 1954 (relating to group health plans) is amended by adding at the end thereof the following new paragraph:

"(3) Participation in qualified reinsurance pool.—The expenses paid or incurred by an employer for a group health plan shall not be allowed as a deduction under this section unless—

"(A) the provider of such group health plan (as defined in section 2(e) of the Health Insurance for Unemployed Workers Act of 1982) participates in and contributes to the expenses of qualified reinsurance pools in accordance with the provisions of that Act (except to the extent that such participation is waived in accordance with section 5 of that Act);

"(B) such plan provides that coverage under the plan for any employee and members of his family covered under the plan at the time his employment is terminated or he is laid off shall be continued for a period of at least 30 days after such termination or layoff; and

"(C) such plan provides for a period of open enrollment of at least 30 days immediately after the loss of family member coverage (described in Clause (iii)) for any individual who (i) is eligible to enroll in such plan, (ii) was covered under a group health plan of such individual's spouse or parent, and (iii) loses such coverage as a family member (at the same rate of contribution as employees and their family members) on account of the unemployment of such individual's spouse or parent.".

(b)(1) Except as provided in paragraph (2), the amendment made by subsection (a) shall be effective for taxable years beginning on or after January 1, 1983.

(2) The amendment made by subsection (a) shall not apply to any group health plan, the terms and conditions of which are determined under a contract in effect on the date of the enactment of this Act, until the first taxable year beginning on or after the expiration or renewal date of such contract.

TEMPORARY COVERAGE FOR UNEMPLOYED WORKERS

SEC. 7. (a) Any—

(1) qualified unemployed individual who was unemployed on the date of the enactment of this Act or who became unemployed after such date but is not eligible to purchase a qualified pool health plan because no qualified reinsurance pool has been established in the State in which he was employed,

(2) unemployed individual who would be a qualified unemployed individual but for the fact that the provider of his former group health plan is not a participant in such pool, and

(3) member of the family of an individual described in paragraph (1) or (2) who was covered under such individual's group health plan at the time of such individual's termination of employment or layoff,

shall be eligible to enroll in the hospital insurance program established by part A of title XVIII of the Social Security Act and the supplementary medical insurance program established by part B of such title. Any such individual or family member who wishes to enroll under this section must enroll in both such programs and must pay a monthly premium (in lieu of the premium under section 1839 of the Social Security Act) equal to 20 percent of an amount equal to 125 percent of the average premium rate in the State in which such individual was employed for group health plans for groups of less than 25 individuals for benefits actuarially equivalent to the benefits provided under title XVIII of the Social Security Act (as determined by the Secretary of Health and Human Services).

(b) The Secretary of Health and Human Services shall establish expedited enrollment procedures for individuals eligible to enroll under this section, and enrollment for such individuals shall be open during the 180-day period beginning on the date of the enactment of this Act, and during the 120-day period following the termination of employment or layoff which began such individual's period of unemployment. Coverage shall begin with the month in which the individual and his family members (if any) enroll, and shall end with the earlier of—

(1) the last day of the twelfth month following the termination of employment or layoff which began such individual's period of unemployment, or, if later, the last day of the twelfth month following the date of the enactment of this Act;

(2) the last day of the first month during all of which such individual is no longer unemployed;

(3) the last day of the first month for which such individual does not pay the premium (or in the case of a family member, the last day of the first month for which such family member does not pay such premium); or

(4) the last day of the first month for which a qualified reinsurance pool is established in the State in which such individual was employed.

(c) Payments under title XVIII of the Social Security Act on behalf of individuals enrolled under this section shall be secondary to any coverage of such individual under a group health plan, or under a State plan approved under title XIX of the Social Security Act, in the same manner and subject to the same conditions (other than age and employment) as payments under such title are secondary in the case of older workers under section 1862(b)(3).

(d) There are authorized to be appropriated to the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund from time to time such sums as the Secretary of Health and Human Services deems necessary for any fiscal year, on account of—

(1) payments made or to be made during such fiscal year from such Trust Fund with respect to individuals who are entitled to benefits under title XVIII of the Social Security Act solely by reason of this section,

(2) the additional administrative expenses resulting or expected to result therefrom, and

(3) any loss in interest to such Trust Fund resulting from the payment of those amounts,

in order to place such Trust Fund in the same position at the end of such fiscal year as it would have been in if this section had not been enacted.

(e)(1) Any individual (and his family members) eligible to enroll under title XVIII of the Social Security Act by reason of this section who—

(A) was employed on the date of the enactment of this Act,

(B) became unemployed within 180 days after such date of enactment, or

(C) would be a qualified unemployed individual but for the fact that the provider of his former group health plan is not a participant in the qualified reinsurance pool established in the State in which he was employed,

shall, if he ceases to be eligible to enroll under such title XVIII by reason of the establishment of a qualified reinsurance pool in the State in which such individual was employed, be eligible to purchase a qualified pool health plan from such pool, notwithstanding the provisions of section 2(d)(1).

(2) Any individual described in paragraph (1) who purchases a qualified pool health plan, shall pay to the pool the premium amount established for such plan under section 3(c), and the United States shall pay to such pool for each such individual, on a monthly basis, an amount equal to 80 percent of the amount equal to 125 percent of the average premium rate in such State for group health plans for groups of less than 25 employees for benefits actuarially equivalent to the benefits provided under the qualified pool health plan. Such payments shall be made from the general fund in the Treasury.●

By Mr. ROTH:

S. 3064. A bill to amend the Tax Reform Act of 1976 to extend, for an additional 4 years, the exclusion from gross income of the cancellation of certain student loans; to the Committee on Finance.

EXCLUSION FROM GROSS INCOME OF THE FORGIVENESS OF CERTAIN LOANS

● Mr. ROTH. Mr. President, today I am introducing a bill which would amend the Tax Reform Act of 1976 to extend, for an additional 4 years, the exclusion from gross income the cancellation or forgiveness of certain student loans.

This measure, which simply extends a provision of existing law has assisted primarily public hospitals in the establishment of programs to train nurses. For example, nursing students are provided with loan forgiveness or scholarships in exchange for which they agree to return to a particular hospital and work for a period of time. By virtue of this provision, the amount of the loan forgiven or scholarship granted is not includable in the student's taxable income. If this provision is not extended beyond January 1, 1983, the opposite result will occur with the consequent adverse impact on the ability of hospitals to train nurses and help alleviate the nursing shortage which currently exists nationwide.

Mr. President, the importance of nurses and nursing resources to our health care system is central to the provision of quality health care services in our Nation's hospitals. Over many years, the Federal Government has provided millions of dollars to other worthy nurse training programs designed to address the nursing shortage and other problems. However, the approach taken by this bill allows a cost-effective and cost-efficient nurse training mechanism to remain in place and be available to hospitals experiencing acute nursing shortages.●

By Mr. PRYOR:

S. 3065. A bill to establish in the Department of State the position of Under Secretary of State for Agricultural Affairs.

CREATION OF THE POSITION OF UNDER SECRETARY OF STATE FOR AGRICULTURAL AFFAIRS

Mr. PRYOR. Mr. President, today I am introducing legislation that would create within the Department of State the position of Under Secretary for Agricultural Affairs.

I propose this new senior position because it has become clear that agriculture policy is being made today by those officials who make foreign policy. Time and again, foreign policy decisions are made with little consideration of the effect of the decisions on American farmers.

Because the State Department has assumed a major role in agriculture matters, we need to make certain that the State Department has experts on hand who understand the effects on agriculture of U.S. foreign policy. The foreign service must be made more aware of the domestic consequences of its actions.

The most obvious example of a foreign policy decision's backfiring on our own people is the recent grain embargo directed against the Soviet Union. There are times, such as the 1979 invasion of Afghanistan, when it is necessary to take dramatic steps to counter Soviet aggression, and the U.S. farmer will be the first one to step forward to support appropriate efforts. But the results of the embargo were not what the policymakers had in mind.

The only countries to benefit from the action were Argentina, Australia, and Canada, whose grain exports to the U.S.S.R. soared. The Soviet Union apparently suffered no ill effects at all. So who was hurt by the embargo? Only the American farmer, who saw his grain market sharply reduced, his prices lowered, and his future buyers made suspicious of his reliability as a supplier.

In the past decade, there have been four embargoes of agricultural goods. We must make it convincingly clear to our customers around the world that they should not expect embargoes from the United States. They should expect us to be reliable suppliers. Any uncertainty about the reliability of U.S. food exports will cause our trading partners to make arrangements with other suppliers.

An agriculture specialist understands this. The average diplomat may not. A high-level State Department official attuned to the special consideration of American agricultural policy might have advised against the embargo or at least made sure its effects on farmers were fully considered.

Agricultural products account for 20 percent of all U.S. exports and contribute $26 billion to the balance of trade. Agricultural exports account for $95 billion of our domestic economic activity and provide 1.2 million jobs. Each extra $1 billion in exports creates as many as 35,000 new jobs.

Today, however, depressed farm prices and high production costs are creating an enormous hardship for our farmers. Increased agricultural trade would provide a welcome outlet for farm products and create jobs in food processing industries. The European Community is already seeking to expand its exports to the Third World, and an aggressive role by State Department officials here and abroad will be necessary if we are to maintain our preeminence as a supplier of the world's food.

Aggressive U.S. export policies will expand trading partnerships, especially in the developing nations, and where trade increases, so does U.S. influence.

We must remember that it is not just the Commerce Department and the Agriculture Department that have a responsibility to encourage U.S. exports. The State Department has recognized its role in the promotion of agricultural exports. As former Secretary of State Alexander Haig stressed in a cable to all U.S. ambassadors:

> The effort to promote agricultural exports is one of major importance for the United States. I consider it a major objective of our overseas missions. I know that I can count on you to take a strong personal interest in the achievement of this objective in your country.

The State Department has also been working with the Farm Bureau and labor unions to increase exports of processed foods. Many of the farmers I have spoken with, however, believe that State needs to give a higher priority to, and be much more aggressive with, agricultural exports. This is especially true of the Public Law 480 Food for Peace program.

Before we can see an expansion of U.S. food sales abroad, however, we need to get rid of some of the barriers that stand in the way of fair competition for food customers, particularly the rigid protectionist policies of Japan and the European Community. Not surprisingly, serious trade disputes increase tensions and damage overall relations with the countries involved.

U.S. Foreign Service personnel are in an ideal position to monitor the slightest changes in trade policy around the world, and under the guidance of an Under Secretary for Agricultural Affairs their efforts could help to head off the creation of the sort of trade barriers which the Special Trade Representative is now trying to eliminate.

In the area of trade promotion the Secretary of Agriculture and Special Trade Representative have made commendable efforts but there is a need for an agricultural expert at a high level within the State Department. Moreover, there are many issues which fall under the day-to-day purview of the State Department that require the input of an official who is aware of the domestic importance of U.S. agriculture and be sensitive to its needs.

An extremely sensitive issue has been the matter of Commodity Credit Corporation guarantees of loans to Poland and Romania for the purchase of U.S. farm goods. The foreign policy ramifications of this controversy are varied and difficult to predict, but before this issue is resolved, the American farmer must be considered and consulted.

The Caribbean Basin Initiative is directed not only at the Caribbean region but also at our own producers of certain agricultural products.

As the administrator of the food-for-peace program, promoter of agricultural exchange programs, and monitor of economic trends abroad, the State Department is closely involved with the activities of the U.S. farmers and is in a position to affect the farmer in numerous bilateral and multilateral negotiations.

In testimony before the Senate Agriculture Committee, Assistant Secretary of State for Economic and Business Affairs Robert D. Hormats acknowledged "the State Department's special role in meshing our trade, economic, and foreign policy interests." The creation of an Under Secretary of

State for Agricultural Affairs is a logical step toward improved management of our trade policy, our foreign policy, and our agricultural policy.

More often than not, agriculture and foreign policy objectives coincide, and our farmers will enthusiastically support U.S. foreign policy if only they feel that their own interests are being represented. Today, however, the American farmer has little or no access to the makers of our foreign policy. We need to provide a permanent, specialized conduit for the concerns of the farmer. We need a link between the striped pants in Foggy Bottom and the overalls in our fields that produce so much of the world's food.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3065

SEC. . (a) The Act entitled "An Act to strengthen and improve the organization and administration of the Department of State, and for other purposes", approved May 26, 1949 (22 U.S.C. 2652), is amended—

(1) by inserting in the first section "an Under Secretary of State for Agricultural Affairs," after "Management,"; and

(2) by adding at the end thereof the following:

"SEC. 6. (a) The Under Secretary of State for Agricultural Affairs, referred to in the first section and appointed pursuant to section 2, shall be appointed from among individuals having experience in the international commerce of agricultural commodities.

"(b) The Under Secretary of State for Agricultural Affairs shall be responsible to the Secretary of State for matters pertaining to agricultural affairs, including United States policy toward the export of agricultural commodities.".

(b) The seventh undesignated paragraph of section 5314 of title 5, United States Code, is amended by inserting "and an Under Secretary of State for Agricultural Affairs" after "Management".

By Mr. GLENN (for himself, Mr. KENNEDY, Mr. ZORINSKY, Mr. LEAHY, Mr. MOYNIHAN, Mr. SARBANES, Mr. TSONGAS, Mr. DODD, Mr. PELL, and Mr. BRADLEY):

S. 3066. A bill with regard to Presidential certifications on conditions in El Salvador; to the Committee on Foreign Relations.

PRESIDENTIAL CERTIFICATION OF CONDITIONS IN ·L SALVADOR

Mr. GLENN. Mr. President, today is the second anniversary of the brutal murder of four American churchwomen in El Salvador. Soon we will mark the similar somber anniversary of the murder of two American agricultural experts. Not only are the murders personal tragedies for the family and friends of those killed but also they remain a major issue in U.S. relations with El Salvador.

One year ago today the Senate agreed to a resolution, sponsored by Senator KENNEDY, expressing the deep concern of the Senate over the failure of El Salvador to bring to justice those responsible for the murders of six Americans. Last year Congress conditioned the continuation of U.S. aid to El Salvador on that Government's progress in a number of important areas including progress in the murder investigations. At that time Congress did not include this provision permanently in the certification because we fully expected that justice would have been done long ago.

In July of this year the Senate overwhelmingly approved a resolution which required that the second presidential certification on El Salvador include a determination that good faith efforts are being made by the Government of El Salvador to investigate the murders of the six Americans and bring to justice those responsible. Now 6 months later I again stand before the Senate to seek the inclusion of that same determination in the third Presidential certification due at the end of January 1983 and each succeeding certification for as long as these cases remain unresolved.

I am firmly convinced that U.S. pressure is responsible for any and all progress, albeit frustatingly slow and incomplete, in these cases. I believe we must maintain that pressure and the certification process is the appropriate vehicle for doing so. I trust that the Senate will again send a message to the administration and the Government of El Salvador that progress in the investigations and justice for the memory of six Americans remains a critical concern.

Mr. President, I submit this bill on behalf of myself, Mr. KENNEDY, Mr. ZORINSKY, Mr. LEAHY, Mr. MOYNIHAN, Mr. SARBANES, Mr. TSONGAS, Mr. DODD, Mr. PELL, and Mr. BRADLEY. I send the bill to the desk for appropriate referral.

PRESIDENTIAL CERTIFICATIONS ON CONDITIONS IN EL SALVADOR

Mr. KENNEDY. Mr. President, I am proud to cosponsor today with my friend and colleague from Ohio, Senator GLENN, legislation which requires that any future Presidential certification for aid to El Salvador must include a determination that the Government of El Salvador has made good faith efforts to investigate the murders of six U.S. citizens, to bring to justice all those responsible, and has also taken all reasonable steps to investigate the disappearance of journalist John Sullivan.

Today marks the second anniversary of the murders in El Salvador of Sisters Ita Ford, Maura Clark, Dorothy Kazel, and lay missionary Jean Donovan. It is important that we in the Senate join with the families and friends of these four women to honor their memories, to demonstrate our undiminished concern, and to renew our appeal for justice.

It has now been 2 full years since these murders took place. During these years, the Congress had enacted legislation to press both the administration and the Government of El Salvador to bring to justice those responsible for these brutal acts, and to insure that El Salvador has made significant progress in areas such as human rights and land reform before further U.S. military aid is granted.

One year ago, the Congress passed a resolution which I introduced urging the administration and the Government of El Salvador to proceed with investigations in these four murder cases and the killings of two American labor advisers, Michael Hammer and Mark Pearlman. Last July, I also joined with Senator GLENN in introducing an amendment which required the President to include in his second certification report assurances that the El Salvador Government is pursuing these investigations in good faith. That resolution passed in the Senate with an overwhelming majority of 95 to 2.

Despite strong and continuing public and congressional concern, and despite extensive evidence to the contrary from numerous sources, the administration saw fit to grant certification to El Salvador both last February and last July. In my opinion, these certifications are a travesty. Throughout this period, murders, torture, and kidnapings have continued—and despite recent judicial proceedings, it appears that those responsible for the murders of U.S. citizens may yet escape justice. Out of respect for the memories of Ita Ford, Maura Clark, Dorothy Kazel, and Jean Donovan—as well as Michael Hammer and Mark Pearlman, and the countless others who have been brutally tortured and murdered—we must renew our efforts to demand the restoration of human rights and justice in El Salvador.

Ita Ford, Maura Clark, Dorothy Kazel, and Jean Donovan went to El Salvador to help the poor, lost, and hungry. They were women of God; they were women of peace. Their deaths were brutal, and without cause or reason. It is the duty of the Government of El Salvador to try and punish the murderers and their accomplices, regardless of their rank, position, or power. It is the duty of the U.S. Government to pressure the authorities in El Salvador to so act and to cooperate in full in these investigations. We cannot shirk our responsibility to these women to discover the truth and demand justice. We must not acquiesce in the expanding violence in El Salvador today, nor can we ignore the failure of the Salvadoran courts to

insure that justice is done in their country.

The accounts of gross human rights violations in El Salvador are numerous and detailed. Because of this evident truth, U.S. Ambassador to El Salvador Deane Hinton felt compelled to address the issue publically in San Salvador last October 29. Speaking before the American Chamber of Commerce, Ambassador Hinton plainly described the politically inspired murders and disappearances which mark everyday life in El Salvador, and the judiciary system which has neither the will nor the means to investigate and convict those responsible. Although the rate of killings may have slowed in the last year, recent reports from the U.S. Embassy in El Salvador estimate that political killings of noncombatants in November averaged 30 a week. The Salvadoran Human Rights Commission's records indicate that the number is closer to 100 political murders a week. Based on these findings, I wholeheartedly agree with Ambassador Hinton that "by no stretch of the imagination can current levels be considered acceptable by any civilized person."

On October 1, a Salvadoran magistrate dismissed on the grounds of insufficient evidence the case of an official accused of ordering the murders of Michael Hammer and Mark Pearlman. The comment of our own Embassy, that "we are dismayed and incredulous," describes the surprise and indignation which all Americans felt when this case was dismissed.

Today, the families and friends of the four murdered churchwomen await the proceedings of another court in El Salvador. In November, after 2 years' delay and intense international pressure, five men were indicted for the murders of Ita Ford, Maura Clark, Dorothy Kazel, and Jean Donovan. While I welcome this recent action, far too many questions remain unanswered concerning this case—questions that may never be answered without strong, clear, and consistent expressions of deep concern from our Government and the American people. The executive director of the Lawyers Committee for International Human Rights, Michael Posner, has described how Salvadoran law and the political climate in El Salvador are impeding investigation of high ranking individuals implcated in this case:

We have been told that an anticipated defense of the five guardsmen will be that they were only acting under orders from their superiors. Lawyers have warned us that the only way to guarantee a conviction of the five guardsmen is to refute their claims that others were involved. • • • There is currently no serious investigation of the possible involvement of Salvadoran officers in ordering the killings or covering them up.

In a statement released yesterday, the Washington Office on Latin America explained the families' decision not to hire a Salvadoran lawyer to represent them at the trial:

After long weeks of deliberation, the families of the women have decided not to hire a Salvadoran lawyer to represent them in the upcoming trial. According to a letter sent to the State Department, the families, after weeks of careful study and conversation were "unable to discover any lawyer in El Salvador willing to pursue a vigorous investigation of all leads in this case." They went on to say that this was "in part because lawyers there do not believe that the U.S. Embassy is willing to support such an investigation."

If the five accused are found guilty, then it is fitting that they be punished. But this case cannot be definitively resolved unless evidence against their superiors also is pursued. These murders cannot be lightly dismissed either in San Salvador or here in Washington. Half a trial, half the truth is simply not good enough.

For those who knew them, and for those of us who continue to care, the memories of Ita Ford, Maura Clark, Dorothy Kazel, and Jean Donovan are too precious, their loss too great, and their deaths too painful for us to forget. Let there be no doubt that we will pursue their cause—which is the cause of human rights and decency—until all are satisfied that justice has not been cheated.

Mr. President, I ask that statements made by the Maryknoll Sisters and the Washington Office on Latin America on the occasion of the second anniversary of the churchwomen's tragic deaths be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT FROM THE WASHINGTON OFFICE ON LATIN AMERICA

It is now two years since four North American women were assassinated in El Salvador. The four women, Maryknoll Sisters Maura Clark and Ita Ford, and Ursuline Sister Dorothy Kazel and lay missioner Jean Donovan, both serving with the Cleveland diocesan mission, were shot by members of the Salvadoran armed forces. These women gave their lives in service to the people of El Salvador, and we are concerned today that their deaths not become part of a cover-up masking a policy and continuing practice of human rights abuses against the people they served.

After long weeks of deliberation, the families of the women have decided not to hire a Salvadoran lawyer to represent them in the upcoming trial. According to a letter sent to the State Department, the families, after weeks of careful study and conversation were "unable to discover any lawyer in El Salvador willing to pursue a vigorous investigation of all leads in this case." They went on to say that this was "in part because lawyers there do not believe that the U.S. Embassy is willing to support such an investigation."

Clearly, an incomplete legal proceeding cannot fully serve the cause of justice for these four women, or the other Americans killed or disappeared, not to speak of the thousands of Salvadorans who have died or vanished.

STATEMENT OF THE MARYKNOLL SISTERS

During the two years since the deaths of Maryknoll Sisters Maura Clarke, Ita Ford, Ursuline Sister Dorothy Kazel and Lay Missioner Ms. Jean Donovan, the Maryknoll Sisters have taken every opportunity to pursue the full truth about their murders.

This included meetings with State Department officials, meeting with then Salvadoran President Duarte and Ambassador Hinton, meeting with former U.S. Ambassador White, meetings with numerous Members of Congress as well as taking legal steps to obtain documents related to the case under the Freedom of Information Act. The official investigation conducted by the El Salvadoran Government has focused on five low-ranking National Guardsmen. The probable involvement of higher-ups in ordering the killings or covering them up has never been seriously investigated. The families of these four women and the Maryknoll Sisters have all sought a thorough investigation no matter where that investigation might lead.

To that end we have made a concerted effort to gather as much information as possible about the Salvadoran judicial process and the prospects for effectively using the services of a Salvadoran lawyer to represent the families. We have sent a representative to El Salvador and Mexico, and invited Salvadoran lawyer(s) to the United States—all at the expense of the Lawyers Committee for International Human Rights, the families of the women and the Maryknoll Sisters. Without exception, these lawyers have imposed stringent conditions of confidentiality on us because of the considerable risks to them in even discussing the case. It is our intention to respect these conditions.

On the basis of our findings, we do not believe it is possible to obtain counsel in El Salvador which would independently pursue evidentiary leads—critical to the successful prosecution of all those involved in the murder of these four women.

For Maryknoll, the trial has always been seen as the culmination of a long legal process during which a genuine investigation would be conducted. With the recent announcement of the trial of the five National Guardsmen alone all investigation ceases. We believe that the trial as it is designed to be carried out cannot lead to justice. Prosecuting and perhaps executing five more people does nothing to stop the officers and government officials who are tolerating and fostering the climate of terror and violence in El Salvador that has claimed 35,000 lives in the last three years.

By Mr. BOSCHWITZ:

S. 3068. A bill to establish a cap on the pay of certain Federal officers and employees for the fiscal year 1983; to the Committee on Governmental Affairs.

CONGRESSIONAL PAY RAISE

Mr. BOSCHWITZ. Mr. President, today I am introducing a bill that seeks to stop the congressional pay raise scheduled for us in December and that would automatically give us an approximate 27-percent increase.

It is not easy to give up a pay raise. However, the action is similar to what many workers, corporations, and small businesses have forgone in recent months. Like them, I am doing it, but that does not mean I enjoy it.

Many of the reasons favoring a congressional pay increase are quite valid. One of my colleagues in the Senate said that it may be a mark of our civilization that we pay professional football and basketball players far more than $100,000 and then pay our Nation's leaders little more than half of that. Frankly, I do not disagree with that conclusion that we do not pay some of the Nation's leaders enough.

It is true that many senior level Government officials are lured away by far more lucrative opportunities with higher pay in the private sector. There are reasons that hit even closer to home to Senators and Congressmen. For example, the lifestyle in Congress often requires residences both in Washington and in our home States and a great deal of family travel, as well as other additional expenses.

There many other reasonable and thoughtful arguments that in other times our constituents would have little trouble endorsing and understanding. But, unfortunately, these are not other times. Today's economy simply will not tolerate such action by Congress. Clearly, a pay raise is the wrong signal to send our constituents and the wrong signal to send the country. Our constituents are not receiving pay raises at this time. To ask somebody to cut back for the good of the economy while simultaneously rewarding ourselves with a substantial pay raise is just not right.

In January and February, those of us on the Senate Budget Committee are going to be looking for ways to balance the bugdet. I am afraid this may sound like a broken record, but this year's budget should be viewed in a context of heightened urgency.

Last year at this time the outlook for our economy looked bleak. Inflation was still ravaging our paychecks at a double-digit level. Interest rates were still hovering in the high teens—indeed, at this time last year they were in the very high teens—and threatening to go even higher.

I recall in August of 1981 that interest rates were 21½ percent. Now they are almost half that. Unemployment is finally, I believe, going to top out and begin a downward swing.

So today things look better. Interest rates are dropping, inflation is on the way down, and, if we intend to keep them on their downward trend, it is imperative that we keep the Government out of the financing and borrowing markets.

This year it is more important than ever because we are plagued by the worsening problems of unemployment. If we intend to put our neighbors back to work, we need to give business some hope of survival. This year, too, the Government is going to be in the financing market and financing very large amounts. And, because business has not been good throughout our country, the receipts of Government are low. So it is not a time when we in Congress can reasonably go before the people and say that we are entitled to more.

For all this, balancing the budget, therefore, is still the single most useful economic tool at our disposal. To balance the budget, however, we are going to have to revise the way we look at the whole process. Areas that have been unjustifiably sacrosanct are going to have to undergo strict budget scrutiny.

Of course, this will all require that people pull their belts a little tighter. We are not exempt. If the belts have to be tightened, they have to start being tightened in Washington, as well.

Mr. President, I therefore submit this bill and ask that it be appropriately referred and promptly considered.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

Mr. BOSCHWITZ. Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3068

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) no part of the funds appropriated for the fiscal year ending September 30, 1983, by any Act may be used to pay the salary or pay of any individual in an office or position in the legislative, executive, or judicial branch, or in the government of the District of Columbia, at a rate which exceeds the rate (or maximum rate, if higher) of salary or basic pay payable for such office or position for September 30, 1982, if the rate of salary or basic pay for that office or position is—

(1) fixed at a rate which is equal to or greater than the rate of basic pay for level V of the Executive Schedule under section 5316 of title 5, United States Code, or

(2) limited to a maximum rate which is equal to or greater than the rate of basic pay for such level V (or to a percentage of such a maximum rate) by reason of section 5308 of title 5, United States Code, or any other provision of law or congressional resolution.

(b) For purposes of subsection (a), the rate or maximum rate (as the case may be) of salary or basic pay payable for September 30, 1982, for any office or position which was not in existence on such date shall be deemed to be the rate or maximum rate (as the case may be) of salary or basic pay payable to individuals in comparable offices or positions for such date, as determined under regulations prescribed—

(1) by the President, in the case of any office or position within the executive branch or in the government of the District of Columbia;

(2) jointly by the Speaker of the House of Representatives and the President pro tempore of the Senate, in the case of any office or position within the legislative branch; or

(3) by the Chief Justice of the United States, in the case of any office or position within the judicial branch.

(c) None of the funds appropriated by any Act shall be used by any agency to pay performance awards in fiscal year 1983 under section 5384 of title 5, United States Code, or any comparable personnel system established on or after October 13, 1978, to a number of employees that is more than 20 per centum of the number of Senior Executive Service or comparable personnel system positions in such agency, except that, an agency with less than five such positions may pay a performance award to one employee in such a position.

(d) For purposes of administering any provision of law, rule, or regulation which provides retirement, life insurance, or other employee benefit, which requires any deduction or contribution, or which imposes any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this Act shall be treated as the rate of salary or basic pay.

By Mr. EAGLETON (for himself and Mr. DANFORTH):

S. 3069. A bill to amend the Natural Gas Policy Act of 1978 to prohibit increases in the wellhead prices of natural gas, and for other purposes; to the Committee on Energy and Natural Resources.

NATURAL GAS PRICE FREEZE

Mr. EAGLETON. Mr. President, large parts of our country today are experiencing the steepest natural gas price increases in history. Those runaway prices come at a time when demand for the product is down and there is more supply than anyone knows what to do with.

Mr. President, one does not have to be an economist to know that when prices skyrocket during the period of oversupply something is scandalously wrong. If anyone is in doubt of that I invite them to come to my office to read the thousands of letters I have received from shocked and outraged consumers. If anyone doubts that there is something wrong within that industry, I invite them to spend a few minutes talking with small gas producers who have been driven out of business because the gas they have to sell is too cheap.

Mr. President, this Congress cannot wait for the balmy months of June and July to address this problem. We cannot go home from this lameduck session to settle comfortably before our fireplaces savoring the wonderful job we did. We have a crisis in the country which is growing everyday. We cannot wait another week before taking action.

Mr. President, I am today introducing for myself and Senator DANFORTH a simple bill to freeze gas prices where they are for a period of 2 years or until Congress acts substantively to deal with the problem. It is the absolute minimum response we can make to the pleas of millions of Americans who today are forced to literally choose between heating or eating. I think we should do more and I will be

joining my colleague in sponsoring other bills which give the promise of immediate price relief. But, as I said, a 2-year freeze to keep things from getting worse and assure that Congress, in fact, does take up this matter next year is the minimum action we can take and I intend to push for a vote on the matter before we go home.

One cannot question the need for this type of legislation. Even though there is a glut in the gas market on the order of 2 trillion cubic feet—10 percent of U.S. annual production—residential gas prices will rise well over 40 percent in some areas and 20-25 percent nationally. In fact, prices are increasing so rapidly that an estimated 300,000 households face gas heat shutoff this winter due to an inability to meet payments.

Under my bill, the maximum prices that producers will be able to demand from pipeline companies for most natural gas during the next 2 years will be frozen at the maximum levels existing under the Natural Gas Act [NGPA] on August 31, 1982, price levels mandated by contracts covering such gas. In the case of deregulated natural gas not covered by contract on August 31, 1982, the maximum lawful prices for the next 2 years will be frozen at the average price for gas sold from the three closest, deregulated wells on August 31, 1982.

I must emphasize at this point that my bill does nothing to impair existing contracts setting prices lower than those prices permitted by the NGPA. Nor does it prevent future contracts between producers and pipelines setting prices below the maximum levels set by my bill. I firmly believe that pipelines are under an obligation to bargain for the best prices possible for natural gas.

As you know, the purpose of my bill is to provide some immediate relief to our Nation's gas consumers. The 98th Congress can then take the careful, thorough look at the NGPA which I believe is urgently needed.

We all know that the pricing provisions of the NGPA have devastated poor- and middle-income people and small businesses. We do not know, however, whether all this suffering has simply served to further bloat the corporate coffers of the Nation's natural gas producers. That is why my bill directs the Comptroller General to conduct a study of the profitability of natural gas production. The Comptroller General is to report to Congress by June 1, 1983. This report will provide us with information essential to our reconsideration of the NGPA in the next Congress.

I will also join my colleague, Senator DANFORTH, in sponsoring separate legislation which will eliminate the pernicious take-or-pay contract clauses that is one of the major causes of recent steep price increases and that have forced many small producers out of business.

In addition to these bills, I will also seek to increase funding for the Federal low-income energy assistance program. I feel this is important to further help the poor and needy meet this winter's heating bills.

American consumers are not going to accept the argument that the gas market is too complex to deal with until spring or summer next year. They demand and they must receive action now.

I urge my colleagues to study my proposal and weigh its passage during the lameduck session against the alternative of more scandalous gas price increases and even greater human suffering as a result.

By Mr. DANFORTH (for himself and Mr. EAGLETON):

S. 3070. A bill to prohibit certain anticompetitive clauses in nutural gas contracts, and for other purposes; to the Committee on Energy and Natural Resources.

S. 3071. A bill to increase the funding authorization for low-income home energy assistance; to the Committee on Labor and Human Resources.

NATURAL GAS PRICES

Mr. DANFORTH. Mr. President, I want to bring to my colleagues a message that the people of Missouri gave me in my recent campaign—a message that I continue to receive in the mail every day. The message is simply this: Something must be done about the price of natural gas. Not next year, not in 1985, but now.

Increases in gas prices are hammering away at the people of my State. As winter approaches, they need our help. Gas prices are 20, 30, 50 percent higher than they were a year ago—and even that alarming fact understates the severity of the situation, for last year's increases by themselves caused gas bills to grow beyond people's ability to pay. As a result, literally thousands of households in Kansas City alone have had their gas supplies cut off as the heating season begins.

In the first 3 days of this week, I have received more than 1,000 letters from Missourians who are worried about this problem. These are not form letters or preprinted postcards: They are individual, handwritten letters—some of them angry, some of them sad, some of them heartrendering.

This one comes from a woman in Kansas City:

I am writing you, hoping you can do something about the gas situation soon. I am 78 and on Social Security, a widow, and this gas situation is going to drive me out of my home. People here in Kansas City are cold and hungry because they can't pay these big gas bills. I would rather be hungry as to bed cold. Us old people must stay warm if we survive. I have lived here 30 years and hope to dies here. Please help to bring these utilities down.

Another come from a couple in a smaller community:

We have worked hard all our lives. We are 68 and 73 years old and sit and watch our life savings going out for electric bills and high heat bills, and we are not the only ones.

We have to watch every penny to live half way decent. Born and raised in Missouri and never on welfare, just worked all our lives, I think we deserve more.

These bills are no longer reasonable when you must have heat on about 2 hours a day. Please try and do something for the poor working people of Missouri.

Another woman writes:

We hope you will try, and countless of my friends in the same position are looking to you for help. I paid into Social Security and my husband worked till 67, we both paid.

They predict old people will freeze to death this winter. I've been saving all my life and use coupons and don't buy things when high, but want to live my life out in my home if possible. Please do whatever you can.

And finally, this come from a woman in former President Truman's hometown:

Please do something about the high cost of gas. I am seventy years old on a fixed income. I am cutting down on my driving, groceries, and clothes, I don't see how we older ones are going to make it. Work hard all our lives for this—heat bill to take every thing.

Mr. President, I do not believe that the Congress of the United States should stand by in the face of this kind of adversity. I believe that action is needed, and needed now.

The Natural Gas Policy Act of 1978 has received much of the blame for this situation. The NGPA started us down the road to decontrol of natural gas prices—a course I supported then and continue to support now. But the NGPA was intended to do so gradually. and in that it has failed. To cite but one example, the price of gas to consumers in Kansas City has risen from $1.60 per thousand cubic feet at the time the NGPA was passed to an estimated $5.46 next month—an increase of 241 percent in slightly more than 4 years.

The doubling of oil prices in 1979-80 is one major cause of the failure of the NGPA. This sudden increase in the price of oil made gas seem like a bargain at any price and set off a wave of inflation that caused the price ceilings in the NGPA to skyrocket.

At the same time, natural gas pipeline companies—mindful of recent supply shortages and unaware of the effect that rising prices would have on their markets—entered into foolhardy and exessive long-term contracts for high-priced natural gas.

That is the problem. What is the solution?

I am proposing today a three-part answer. First, I am joining with my

colleague from Missouri, Senator EAGLETON, in calling for 2-year freezing in natural gas prices at the August 31 wellhead level and a 2-year extension of the NGPA. This will provide us with some breathing room—with a pause in the dramatic upward climb of prices.

Second, I am introducing legislation to increase the authorized level of low-income energy assistance from $1.875 billion to $2.5 billion. The existing level was barely adequate—if it was adequate at all—last winter. Clearly, with the price of gas increasing as it is, that amount will not be enough this year. I believe that $2.5 billion—a one-third increase—would be a more appropriate figure.

Lastly, I am proposing legislation to deal with the failure of the natural gas market to respond properly to current conditions of oversupply.

Following the supply shortages of the 1970's, many natural gas pipeline companies entered into take-or-pay contracts for high-cost gas—contracts that would be unthinkable today. The contracts require the pipelines to pay for a large percentage of the gas under contract whether the pipelines have a market for it or not.

When the demand for natural gas shrank—because of the recession and rising prices—pipelines found themselves in the position of having to accept this high-priced gas under their take-or-pay contracts, while shutting off available low-cost gas.

Mr. President, this is an outrageous situation that cannot be permitted to continue. It is bad enough that gas prices have risen as much as they have, but to make consumers pay for bad business decisions made by pipeline companies is intolerable.

If gas prices continue to rise—as they already have in some areas—past the comparable cost of competitive fuels, large industrial customers will switch their fuel source. This in turn will reduce the volume of gas sold, placing fixed costs on a smaller number of consumers and driving the price up yet again.

The basis for the Natural Gas Policy Act of 1978 was a desire to get the free market working again in gas. But the market is not working. There is more gas out there than can be sold. But prices are going up, not coming down. The reason is not that the law of supply and demand has been repealed; the reason is that it is being circumvented.

My legislation attacks this problem by declaring take-or-pay clauses to be contrary to public policy and unenforceable. Such clauses would be allowed to stand only in contracts for section 104 old gas or in certain extremely limited circumstances to be reviewed by the Federal Energy Regulatory Commission. In addition, pipeline companies would have to report quarterly to the Commission on what steps they had taken to obtain the lowest cost mix of natural gas.

Take-or-pay clauses for old gas are excluded because their clauses will work in the public interest and not against it. They will help to insure that the cheapest gas is used first and not last, as is now too often the case.

Producers and pipelines with take-or-pay clauses in existing contracts could ask the Commission to preserve or modify the clauses if the clauses are needed to avoid a loan default. A full evidentiary hearing would be required. This review procedure should put to rest any constitutional concerns about the bill.

This legislation also strikes down indefinite price escalator clauses that tie the price of gas at a particular location to the price of oil or the price of gas at other locations. This sort of artificial pricing mechanism should be avoided and, indeed, was thought likely to cause a widely feared price spike in 1985.

The irony, Mr. President, is that the price spike already has occurred. In a free market with the current glut of natural gas, prices would not be going up; they would at worst be stable and might in fact be falling.

We have no need for cumbersome new regulatory solutions. The answer is simply to get out of the way and let the market take its course—clear away artificial price props like take-or-pay clauses and let the price of gas find its natural level.

When $5 gas is flowing and 85-cent gas is shut in, as is the case in the Kansas natural gas fields right now, something is wrong—dramatically wrong. Some people argue against Band-Aid or quick-fix legislation of this sort, but sometimes a Band-Aid is needed. Sometimes a quick fix is needed. The people of my State are hurting, and it is just not good enough to say, wait until next year.

Mr. President, this legislation does not purport to solve all the problems of the natural gas industry. It may be that further legislation will be needed at a later date. But the people of my State cannot wait. We must act and act now.

Mr. President, I ask unanimous consent that the texts of my legislation appear in the RECORD at the conclusion of my remarks.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 3070

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Natural Gas Competition Act of 1982".

SEC. 2. The purpose of this Act is to enable natural gas pipeline companies to achieve the lowest possible weighted average acquisition cost of natural gas by declaring certain contract clauses unenforceable.

SEC. 3. Subtitle B of title III of the Natural Gas Policy Act of 1978 (15 U.S.C. 3371-3375) is amended by inserting after section 315 the following new section:

"SEC. 316. CLAUSES INVOLVING TAKE-OR-PAY AND INDEFINITE PRICE ESCALATORS.

"(a) UNENFORCEABLE CLAUSES.—any provision of any contract for the first sale of natural gas, including any contracts in existence on the day before the date of enactment of this section, is hereby declared against public policy and unenforceable if such provision includes:

"(1) a take-or-pay clause which commits the purchaser to take delivery of a minimum volume of natural gas; or

"(2) an indefinite price escalator clause as defined in section 105(b)(3)(B) of this Act.

"(b) EXCLUSION.—Paragraph (a)(1) shall not apply to any contract for the first sale of natural gas committed or dedicated to interstate commerce on November 8, 1978, and for which a just and reasonable rate under the Natural Gas Act was in effect on such date.

"(c) COMMISSION REVIEW.—Upon application made by buyer or seller, the Commission may, after notice and evidentiary hearing, by order permit to become and remain effective any contract provision in effect on or before December 1, 1982, to which paragraph (a)(1) applies, or any modification thereof, if the Commission finds—

"(1) that permitting such provision or modification to become or remain effective is necessary to prevent a default by seller under a loan agreement on debt instrument in effect on December 1, 1982; or

"(2) that permitting such provision or modification to become or remain effective is necessary to prevent a taking without fair compensation of seller's property.

"(d) MODIFICATION OF COSTS.—Within 60 days after the date of enactment of this section, and quarterly thereafter, each natural gas pipeline company shall file with the Commission a statement of actions taken to achieve the lowest possible weighted average acquisition cost of natural gas. Such statement shall include actions taken pursuant to the provisions of subsection (a).".

SEC. 4. The table of contents for subtitle B of title III of the Natural Gas Policy Act of 1978 is amended by adding at the end thereof the following new item:

"SEC. 316. Clauses involving take-or pay and indefinite price escalators.".

S. 3071

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2602 (b) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 8621 (b)) is amended by striking out "$1,875,000,000 for each of the fiscal years 1983 and 1984".

Mr. BOSCHWITZ. Mr. President, I just happened to be on the floor here as I heard my colleagues from Missouri introduce their bills. I will look at them with great interest. I certainly have a similar state of mind regarding their objectives. My constituents in our cold-weather State are most upset about the rising natural gas prices, rising, I point out, at a time of surplus in natural gas. One reason they are rising is that the utility companies are getting a very good return on their net worth and now they approach the

Federal Energy Regulatory Commission wanting to be locked into rather extraordinary returns, 18 percent in one instance I noted recently.

No business today is able to lock itself into those kinds of returns.

I expect to be supporting the kind of legislation that I hear Senator EAGLETON and Senator DANFORTH speak about.

Through conservation people are backing themselves into higher gas prices. The gas pipeline companies tell me it is because less natural gas is being used causing the cost of throughput, the cost of transporting a cubic foot of natural gas through the pipelines, goes up because less gas goes through that pipeline. So through conservation people of our country, who feel they are doing something in the national interest, may indeed be conserving themselves into higher gas prices. We cannot allow that to happen.

I look with great interest on the bills that have been introduced by Senator KASSEBAUM and others, and I will look with renewed interest at the bills introduced by my colleagues from Missouri.

By Mr. LUGAR (for himself, Mr. GARN, Mr. D'AMATO, Mr. HEINZ, and Mr. TOWER):

S. 3072. A bill to amend the Urban Mass Transportation Act of 1964 to authorize additional appropriations, to establish a formula grant program, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

FEDERAL PUBLIC TRANSPORTATION ACT OF 1982

● Mr. LUGAR. Mr. President, today I join with Senators GARN, D'AMATO, HEINZ, and TOWER to introduce a mass transit authorization bill which includes a spending program for the mass transit portion of the gas tax proposal and reauthorization of the basic mass transit authorization legislation.

The bill is the result of 2 years of work with the administration, outside groups, Members of Congress, cities and transit operators. It is not entirely satisfactory to each member of the Banking Committee, but I think each member feels that the bill is as close as we can come to a middle ground.

The legislation provides for a 3-year authorization at a funding level of $3.69 billion for 1983 and $4.3 billion for 1984 and 1985. It expands the current formula program into a full-fledged block grant and creates a new discretionary infrastructure program funded with 1 cent of the gas tax.

Although we are introducing this legislation as a separate bill, we intend to offer it as an amendment to the overall gas tax proposal when it is considered by the Senate as a substitute for the administration's mass transit title.

Mr. President, I ask unanimous consent that the bill and a section-by-section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Public Transportation Act of 1982".

AMENDMENTS OF SECTION 3 CAPITAL GRANT PROGRAM

SEC. 2. (a) Section 3(a)(2)(A) of the Urban Mass Transportation Act of 1964 (hereinafter referred to as the "Act") is amended—

(1) by striking out "and" at the end of clause (i);

(2) by striking out the period at the end of clause (ii) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(iii) sufficient capability to maintain the facilities and equipment.".

(b) Section 3(a) of the Act is amended by adding at the end thereof the following:

"(5) The Secretary shall take into account the adverse effect of decreased commuter rail service in considering applications for assistance under this section for the acquisition of rail lines and all related facilities used in providing commuter rail service which are owned by a railroad subject to reorganization under title 11, United States Code."

DIRECT TRANSIT ASSISTANCE FUND

SEC. 3. (a) The section heading of section 4 of the Act is amended to read as follows:

"DIRECT TRANSIT ASSISTANCE FUND"

(b) Section 4(b) of the Act is repealed.

(c) Section 4 of the Act is amended—

(1) by striking the second sentence in subsection (a) and inserting in lieu thereof the following: "The Federal grant for any project to be assisted under section 3 which involves the construction of a new fixed-guideway system or an extension to an existing system (other than an exclusive facility for buses) shall be in an amount equal to 60 per centum of the net project cost. The Federal grant for any other project to be assisted under section 3 shall be in amount equal to 70 per centum of the net project cost. Notwithstanding the preceding two sentences, the Federal share of the total project cost of any project covered by a full funding contract, letter of intent, or letter of commitment in effect on the date of enactment of the Federal Public Transportation Act of 1982, or those projects within the federally agreed upon scope for the Washington, District of Columbia, metropolitan area transit system (as of such date), shall not be altered.";

(2) by redesignating subsection (a) as subsection (b); and

(3) by inserting after "Sec. 4." the following:

"(a)(1) To finance assistance under sections 3, 8, 9, 16(b), and 18 of this Act, and to finance assistance under subsection (e) of this section, there are authorized to be appropriated not to exceed $3,130,000,000 for the fiscal year ending September 30, 1983; $3,130,000,000 for the fiscal year ending September 30, 1984; and $3,130,000,000 for the fiscal year ending September 30, 1985. Amounts appropriated for the purposes of sections 3, 8, 9, 16(b) and 18 of this Act and subsection (e) of this subsection shall remain available until expended.

"(2) Of the amount appropriated pursuant to this subsection, the Secretary shall make available for the purposes of sections 6, 10, and 11 of this Act, and for administrative costs, including salaries and necessary expenses, not to exceed $75,000,000 for the fiscal year ending September 30, 1983, $75,000,000 for the fiscal year ending September 30, 1984, and $75,000,000 for the fiscal year ending September 30, 1985. Amounts appropriated for the purposes of sections 6, 10, and 11 shall remain available until expended.

"(3) Of the remaining amount appropriated pursuant to this subsection, the Secretary shall make available—

"(A) 24 per centum (10 per centum beginning with the fiscal year ending September 30, 1985) for grants and loans under section 3(a) of this Act;

"(B) 67.25 per centum (79.63 per centum beginning with the fiscal year ending September 30, 1985) for grants under section 9(a)(2) of this Act for urbanized areas with populations of two hundred thousand or more;

"(C) 6.5 per centum (7 per centum beginning with the fiscal year ending September 30, 1985) for grants under section 9(a)(3) of this Act for urbanized areas with populations under two hundred thousand; and

"(D) 2.25 per centum (2.67 per centum beginning with the fiscal year ending September 30, 1985) for grants under section 18 of this Act.

"(4) Of the funds available for obligation under section 3 $50,000,000 shall be used for the purposes of section 8 of this Act. Nothing herein shall prevent urbanized areas from using addition funds available under this subsection for planning purposes.".

(d) Subsections (c), (d), (e), and (f) of such section are repealed.

(e) Subsection (g) is redesignated as subsection (c) and is amended by adding at the end thereof the following: "Nothwithstanding the preceding sentence or any other provision of this Act, the total amount authorized to be appropriated under this Act and under Public Law 96-148 may not exceed $3,495,000,000 for the fiscal year ending September 30, 1983; and $3,495,000,000 for the fiscal year ending September 30, 1984.".

(f) Subsection (h) of such section is redesignated as subsection (d).

(g) Subsection (i) of such section is redesignated as subsection (e) and is amended by striking out "available pursuant to section 4(c)(3)(A)" and inserting in lieu thereof "appropriated for the purpose of section 3".

FORMULA CAPITAL AND OPERATING ASSISTANCE PROGRAM

SEC. 4. (a) The Urban Mass Transportation Act of 1964 is amended by inserting immediately after section 8 the following new section:

FORMULA CAPITAL AND OPERATING ASSISTANCE PROGRAM

SEC. 9. (a)(1) Grants under this section shall be available to finance the planning, acquisition, construction, improvement, and operating costs of facilities, equipment, and associated capital maintenance items for use, by operation or lease or otherwise, in mass transportation service. As used in this section, the term 'associated capital maintenance items' means any equipment and materials each of which costs no less than 1 per centum of the current fair market value of rolling stock comparable to the rolling stock for which the equipment and materials are to be used.

"(2) To provide grants to urbanized areas with populations of two hundred thousand or more, the Secretary shall apportion for expenditure for each fiscal year the sums authorized and appropriated pursuant to section 4(a)(3)(B) as follows:

"(A) 68 per centum of such sums shall be apportioned among urbanized areas as follows:

"(i) 75 per centum shall be made available for expenditure in only those urbanized areas or parts thereof with a population of one million or more, and on the basis of a formula under which such urbanized area or parts thereof will be entitled to receive an amount equal to the sum of—

"(I) 50 per centum of the amount available under this paragraph multiplied by the ratio which the total bus revenue vehicle miles operated in or directly serving such urbanized areas or part thereof bears to the total bus revenue vehicle miles in all urbanized areas;

"(II) 25 per centum of such amount multiplied by the ratio which the population of such urbanized area or part thereof, as designated by the Bureau of the Census, bears to the total population of all such urbanized areas as shown by the latest available Federal census; and

"(III) 25 per centum of such amount multiplied by a ratio for that urbanized area determined on the basis of population weighted by a factor of density, as determined by the Secretary; and

"(ii) 25 per centum shall be made available for expenditure in only those urbanized areas or parts thereof with a population of less than one million and on the basis of a formula under which such urbanized areas or parts thereof will be entitled to receive an amount equal to the sum of—

"(I) 50 per centum of the amount available under this paragraph multiplied by the ratio which the total bus revenue vehicle miles operated in or directly serving such urbanized area or part thereof bears to the total bus revenue vehicle miles in all urbanized areas;

"(II) 25 per centum of such amount multiplied by the ratio which the population of such urbanized area or part thereof, as designated by the Bureau of the Census, bears to the total population of all such urbanized areas as shown by the latest available Federal census; and

"(III) 25 per centum of such amount multiplied by a ratio for that urbanized area determined on the basis of population weighted by a factor of density, as determined by the Secretary; and

"(B) 32 per centum of such sums shall be made available for expenditure on the basis of a formula under which such urbanized areas or parts thereof will be entitled to receive an amount equal to the sum of—

"(i) 60 per centum of the total amount so apportioned multiplied by a ratio for that urbanized area determined on the basis of fixed guideway revenue vehicle miles, as determined by the Secretary; and

"(ii) 40 per centum of the total amount so apportioned multiplied by a ratio for that urbanized area determined on the basis of fixed guideway route miles, as determined by the Secretary.

No urbanized area providing commuter rail service and having a population of seven hundred and fifty thousand or more shall receive less than 0.75 per centum of the sums made available under this subparagraph (B). Under this subparagraph, any such fixed guideway revenue vehicle or route miles provided in a State adjacent to the State or States in which such urbanized area is located, and passengers served thereby, shall be attributed to the public body in the adjacent State which contracts, directly or indirectly, for such service as if the public body were an urbanized area with a population of two hundred thousand or more. For the purpose of this subparagraph, the terms 'fixed guideway revenue vehicle miles' and 'fixed guideway route miles' shall include ferry boat operations directly or under contract by the designated recipient.

"(3) To make grants to urbanized areas with populations of less than two hundred thousand, the Secretary shall apportion for expenditure for each fiscal year the sums authorized and appropriated pursuant to section 4(a)(3)(C) as follows:

"(A) 50 per centum of the amount available under this paragraph multiplied by the ratio which the population of such urbanized areas in the State bears to the total population of all such urbanized areas in all States as shown in the latest available Federal census; and

"(B) 50 per centum of such funds multiplied by a ratio for such urbanized areas determined on the basis of population weighted by a factor for the average density for urbanized areas in such State as determined by the Secretary.

"(4)(A) The Federal grant for any construction project under this subsection shall not exceed 80 per centum of the net project cost of such project. The Federal grant for any project for operating expenses shall not exceed 50 per centum of the net project cost of such project. The remainder shall be provided in cash from sources other than Federal funds or revenues from the operation of public mass transportation systems. Any public or private transit system funds so provided shall be solely from undistributed cash surpluses, replacement or depreciation funds or reserves available in cash, or new capital.

"(B) The amount of funds apportioned under this section which may be used for operating assistance shall not exceed 80 per centum of the amount of funds apportioned in fiscal year 1982 under paragraphs (1)(B), (2)(B), and (3)(B) of section 5(a) of this Act to an urbanized area with a population of one million or more, 90 per centum of funds so apportioned to an urbanized area with a population of two hundred thousand or more and less than one million population; and 95 per centum of funds so apportioned to an urbanized area of less than two hundred thousand population. Notwithstanding the preceding sentence, an urbanized area that became an urbanized area for the first time under the 1980 census may use not to exceed 40 per centum of its apportionment under this section for operating assistance.

"(5)(A) Notwithstanding the provisions of paragraph (4)(B), any recipient may, in fiscal years 1983 and 1984, transfer the use for operating assistance a portion of its apportionment under this section that otherwise is available only for capital assistance, except that the recipient's total operating assistance under this section (including any amounts transferred from its capital apportionment) for the fiscal year in which the transfer occurs shall not exceed the amount of Federal funds such recipient was apportioned under sections 5(a)(1)(A), 5(a)(2)(A), and 5(a)(3)(A) of this Act for the fiscal year ending September 30, 1982. The total operating assistance under this section (including any amounts transferred from its capital apportionment) for a recipient in an urbanized area that became an urbanized area for the first time under the 1980 census may not exceed 50 per centum of its apportionment under this section.

"(B) Any recipient that intends to carry out a transfer under this subsection shall, at the time it submits a statement of activities to the Secretary under subsection (b)(1)(B)—

"(i) certify that it has provided public notice of its intent to transfer its capital apportionment (including notice of the funding reductions resulting from utilization of this subsection and other requirements of this subsection) and provided an opportunity for public comment; and

"(ii) certify that it has developed a three-year plan to assure that in the fiscal year ending September 30, 1985, it will not need to use and will not use its capital apportionment for operating assistance.

"(C) Whenever any recipient transfers its capital apportionment for operating assistance in accordance with the requirements of this subsection, two-thirds of the amount transferred shall be available to the recipient for operating assistance and the remaining one-third amount shall be available to the Secretary to make discretionary grants under this section. In making such discretionary grants, first priority shall be given to any urbanized area that is apportioned an amount under this section in fiscal year 1983 which is less than the amount such urbanized area was apportioned under section 5 of this Act for the fiscal year ending September 30, 1982. Any amounts remaining shall be available for discretionary construction grants under this section subject to the second and third sentences of section 4(b).

"(D) The authority of recipients to use the provisions of this paragraph shall terminate on September 30, 1984.

"(6)(A) The Governor, responsible local officials, and publicly owned operators of mass transportation services in accordance with the planning process required under section 8 of this Act shall designate a recipient or recipients to receive and dispense the funds appropriated under this section that are attributable to urbanized areas of two hundred thousand or more population. In any case in which a statewide or regional agency or instrumentality is responsible under State laws for the financing, construction and operation, directly, by lease, contract or otherwise, of public transportation services, such agency or instrumentality shall be the recipient to receive and dispense such funds. As used in this section, the term 'designated recipient' shall refer to the recipient selected according to the procedures required by this section.

"(B) Sums apportioned under this subsection not made available for expenditure by designated recipients in accordance with the terms of subparagraph (A) shall be made available to the Governor for expenditure in urbanized areas or parts thereof with populations of less than two hundred thousand.

"(7) The Governor may transfer an amount of the State's apportionment under paragraph (3) to supplement funds apportioned to the State under section 18(a) of this Act, or to supplement funds apportioned to urbanized areas with populations of 300,000 or less under this subsection. The Governor may make such transfers only after consultation with responsible local officials and publicly owned operators of mass transportation services in each area to which the funding was originally apportioned pursuant to paragraph (3). The Governor may transfer an amount of the State's apportionment under section 18(a) to sup-

plement funds apportioned to the State under paragraph (3). Amounts transferred shall be subject to the capital and operating assistance limitations applicable to the original apportionments of such amounts.

"(8) Sums apportioned under this section shall be available for obligation by the Governor or designated recipient for a period of three years following the close of the fiscal year for which such sums are apportioned. Any amounts so apportioned remaining unobligated at the end of such period shall be added to the amount available for apportionment under this section for the succeeding fiscal year.

"(9) As used in this subsection, the term 'density' means the number of inhabitants per square mile, and the term 'population' means population as designated by the Bureau of the Census as shown by the latest available Federal census.

"(b)(1) To receive a grant under this section for any fiscal year, a recipient—

"(A) shall comply with title VI of the Civil Rights Act of 1964 in the use of funds under this Act, and subsections (e), (f), and (g) of section 3 of this Act, and section 13 of this Act;

"(B) shall, within the time specified by the Secretary, submit a statement of activities to be funded under this section prepared pursuant to subsection (d), a description of its proposed use of funds, and the certifications required by this subsection; and

"(C) shall provide satisfactory assurances, in such manner and form as may be required by the Secretary and in accordance with such terms and conditions as the Secretary may prescribe, that the rates charged elderly and handicapped persons during nonpeak hours for transportation utilizing or involving the facilities and equipment of the project financed with assistance under this subsection will not exceed one-half of the rates generally applicable to other persons at peak hours, whether the operation of such facilities and equipment is by the applicant or is by another entity under lease or otherwise.

"(2) Upon receipt of the statement, description, and certifications required by this section, after finding that a recipient is in compliance with paragraph (1), and after compliance with the National Environmental Policy Act of 1969 using the provisions of subsection (e) or otherwise, the Secretary shall make the amounts determined pursuant to this section available to the recipient.

"(c) To receive a grant under this section, the recipient must certify that the recipient—

"(1) has or will have the legal, financial, and technical capacity to carry out the proposed project;

"(2) has the authority to apply for the grant under this subsection;

"(3) will carry out the project in compliance with the Uniform Relocation Assistance and Land Acquisition Policies Act of 1970 and section 7 of this Act;

"(4) will have satisfactory continuing control, through operation, lease, or otherwise, over the use of the facilities or equipment assisted under this Act and will maintain such facilities and equipment;

"(5) in carrying out procurements under this subsection, will use competitive procurements (as defined or approved by the Secretary), will not use procurements utilizing exclusionary or discriminatory specifications, and will carry out procurements in compliance with section 401 of Public Law 95-599;

"(6) will comply with the National Flood Insurance Act of 1968;

"(7) has complied with the requirements of subsections (d) and (e);

"(8) has available and will provide funds from other than Federal sources as required by section 4 of this Act and has complied with the requirements of sections 8, 16, and 19 of this Act; and

"(9) has a locally developed process to solicit and consider public comment prior to raising fares or implementing a major reduction of transit service.

"(d) Each recipient shall—

"(1) make available to the public information concerning the amount of funds available under this subsection and the range of activities that the recipient proposes to undertake with such funds;

"(2) develop a proposed statement concerning activities to be funded in consultation with interested parties, including private transportation providers;

"(3) publish a proposed statement in such a manner to afford affected citizens, private transportation providers, or as appropriate, local elected officials an opportunity to examine its content and to submit comments on the proposed statement and on the performance of the recipient; and

"(4) hold one or more public hearings to obtain the views of citizens on activities to be funded under this subsection.

In preparing the final statement to be submitted to the Secretary, the recipient shall consider any such comments and views, particularly those of private transportation providers, and shall, if deemed appropriate by the recipient, modify the proposed statement. The final statement shall be made available to the public. Compliance with this paragraph will satisfy the requirements of subsection (d) of section 3.

"(e)(1) In order to assure that the National Environmental Policy Act of 1969, and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary), are effectively implemented in connection with the expenditure of funds under this subsection, and to assure to the public undiminished protection of the environment, the Secretary, in lieu of the environmental protection procedures otherwise applicable, may, under regulations issued by him, provide for the release of funds to recipients who assume all of the responsibilities for environmental review, decisionmaking, and acting pursuant to such Act, and such other provisions of law as the regulations of the Secretary specify, that would apply to the Secretary were he to undertake such projects as Federal projects. The Secretary shall issue regulations to carry out this section only after consultation with the Council on Environmental Quality.

"(2) The Secretary shall approve the release of funds in accordance with the procedures authorized by this subsection only if, at least fifteen days prior to such approval and prior to any commitment of funds, the applicant has submitted to the Secretary a request for such release accompanied by a certification which meets the requirements of paragraph (3). The Secretary's approval of any such certification shall be deemed to satisfy his responsibilities under the National Environmental Policy Act of 1969 and such other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the application and release of funds for projects to be carried out pursuant thereto which are covered by such certification.

"(3) A certification under the procedures authorized by this subsection shall—

"(A) be in a form acceptable to the Secretary;

"(B) be executed by the chief executive officer or other officers of the applicant qualified under regulations of the Secretary;

"(C) specify that the applicant has fully carried out its responsibilities as described under paragraph (1); and

"(D) specify that the certifying officer—

"(i) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 and each provision of law specified in regulations issued by the Secretary to the extent that as the provisions of such Act or other such provisions of law apply pursuant to paragraph (1); and

"(ii) authorizes and consents on behalf of the applicant and himself to accept the jurisdiction of the Federal courts for the purposes of enforcement of his responsibilities as such an official.

"(f) The Secretary shall not approve a grant for a project under this section unless he finds that such project is part of the approved program of projects required by section 8 of this Act.

"(g) As soon as practicable after receiving the submissions required in this section, the Secretary shall enter into an annual projects agreement with the Governor, his designee, or the designated recipient of each urbanized area.

"(h)(1) Each recipient of assistance under this section shall submit to the Secretary annually, at a time determined by the Secretary, a statement concerning the use of funds made available under this section together with an assessment of how such use compares to the statement of activities identified under subsection (d). The Secretary shall, at least on an annual basis, conduct, or require the recipient to have independently conducted, reviews and audits as may be deemed necessary or appropriate by the Secretary to determine whether—

"(A) the recipient has carried out its activities submitted in accordance with subsection (b)(1)(B) in a timely and effective manner and has a continuing capacity to carry out those activities in a timely and effective manner; and

"(B) the recipient has carried out those activities and its certifications and has used its Federal funds in a manner which is consistent with the requirements of this Act and other applicable laws. Audits of the use of Federal funds shall be conducted in accordance with the accounting standards of the General Accounting Office.

"(2) In addition to the reviews and audits described in paragraph (1), the Secretary shall, not less than once every three years, perform a full review and evaluation of the performance of a recipient in carrying out the recipient's program, with specific reference to compliance with statutory and administrative requirements, and consistency of actual program activities with the statement of proposed activities required under subsection (b) of this section and the planning process required under section 8.

"(3) The Secretary may make appropriate adjustments in the amount of annual grants in accordance with the Secretary's findings under this subsection, and may reduce or withdraw such assistance or take other action as appropriate in accordance with the Secretary's review, evaluation, and audits under this subsection.

"(i) The provisions of secton 1001 of title 18, United States Code, apply to any certifi-

cation or submission under this section. In addition, if any false or fraudulent statement or related act within the meaning of section 1001 of title 18, United States Code, is made in connection with a certification or submission under this subsection, the Secretary may terminate and seek appropriate reimbursement of the affected grant or grants directly or by offsetting funds available under this subsection.

"(j) A recipient may request the Secretary to approve its procurement system. If, after consultation with the Office of Federal Procurement Policy, the Secretary finds that such system provides for competitive procurement, the Secretary shall approve such systems for use for all procurements financed under this subsection. Such approval shall be binding until withdrawn. A certification from the recipient under subsection (c)(5) is still required.".

LETTERS OF INTENT

SEC. 5. Section 3(a)(4) of the Act is amended—

(1) by inserting after the first sentence thereof the following: "At least thirty days prior to the issuance of a letter of intent under this paragraph, the Secretary shall notify, in writing, the Committee on Public Works and Transportation of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, of the proposed issuance of such letter of intent.";

(2) by striking out "in section 4(c)" and inserting in lieu thereof the following: "to carry out section 3"; and

(3) by adding at the end thereof the following: "Funding for projects covered by letters of intent or letters of commitment issued, and full funding contracts executed, prior to the date of enactment of the Federal Public Transportation Act of 1982 shall be given priority in making grants under this section after the date of enactment of such Act. None of the terms and conditions of any such letter of intent and full funding contract may be altered unless agreed to by all parties to the contract. The Secretary may not, directly or indirectly, take any action with respect to future available budget authority except as provided by this paragraph.".

AMENDMENTS TO SECTION 5 URBAN MASS TRANSIT PROGRAM

SEC. 6. Section 5 of the Act is amended—

(1) by adding immediately after subsection (c)(4) the following:

"(5) Apportionments for fiscal year 1975 shall be deemed to have lapsed on September 30, 1977, and apportionments for fiscal year 1976 shall be deemed to have lapsed on September 30, 1978."; and

(2) by adding at the end thereof the following new subsection:

"(o) Notwithstanding any other provision of this section, sums authorized, appropriated, and apportioned pursuant to this section shall remain available as initially apportioned to the urbanized areas or parts thereof for expenditure in accordance with the provisions of this section until September 30, 1985.".

AMENDMENTS TO SECTION 12

SEC. 7. (a) Section 12(c)(1) of the Act is amended by inserting before the semicolon the following: ", and such term also means any bus rehabilitation project which extends the economic life of a bus five years or more".

"(b) Section 12(c)(2) of the Act is amended by inserting before the semicolon the following: "and any public transportation facility which utilizes a right-of-way rail usable by other forms of transportation and also means a public transit facility which utilizes a fixed catenary system."

AMENDMENTS TO THE REPORTING SYSTEM

SEC. 8. Section 15(b) of the Act is amended by striking out "section 5" and inserting in lieu thereof "section 5 or 9".

AMENDMENTS TO FORMULA GRANTS FOR NONURBANIZED AREAS

SEC. 9. (a) Section 18(a) of the Act is amended by striking out "section 4(e)" and inserting in lieu thereof "section 4(a)(3)(D)".

(b) Subsection (c) of such section is amended by striking out "three years" in the first sentence and inserting in lieu thereof "two years".

(c) Subsection (c) of such section is amended by inserting after the first sentence thereof the following: "After September 30, 1982, any amounts remaining unobligated at the end of such period or which are deobligated at the end of such period shall be added to the amount available for apportionment under section 4(a)(3)(D).".

AMENDMENTS TO SECTION 16

SEC. 10. Section 16(b) of the Act is amended by striking out "section 4(c)(3) of this Act, 2 per centum" and inserting in lieu thereof "section 4(a)(3)(A) of this Act. 3.5 per centum".

INTERCITY BUS SERVICE TERMINAL DEVELOPMENT PROGRAM

SEC. 11. Section 21 and 22 of the Act are repealed.

WATERBORNE TRANSPORTATION DEMONSTRATION PROJECT

SEC. 12. Section 320(b) of the Surface Transportation Assistance Act of 1978 (Public Law 95-599) is amended by adding at the end thereof the following: "No funds are authorized to be appropriated to carry out the provisions of subsection (a) after September 30, 1982."

REPEAL OF SAFETY AUTHORITY

SEC. 13. Section 107 of the National Mass Transportation Assistance Act of 1974 (Public Law 93-503) is repealed.

TRANSIT CAPITAL INFRASTRUCTURE PROGRAM

SEC. 14. (a) In addition to amounts authorized under section 3(a) of the Urban Mass Transportation Act of 1964, there are authorized to be appropriated from the Transit Account of the Highway Trust Fund not to exceed $550,000,000 for the fiscal year ending September 30, 1983, and $1,100,000,000 per fiscal year for each of the fiscal years ending September 30, 1984, and September 30, 1985. Notwithstanding the preceding sentence, the amount authorized to be appropriated for any fiscal year shall not exceed the amount as estimated annually by the Secretary of the Treasury to be received in the Transit Account of the Highway Trust Fund including interest thereon in such fiscal year from subsections (a) and (b) of section 4041 of the Internal Revenue Code of 1954 and section 4081 of the Internal Revenue Code of 1954.

(b) Using sums available pursuant to subsection (a) the Secretary is authorized to make grants under this section to finance urban transit capital infrastructure projects for fiscal years 1983 and 1984. The Secretary shall award grants under this section to applicants with projects which can begin construction or manufacturing within the shortest possible time. The Secretary may not limit grants under this section for bus purchases if the Secretary finds that qualified bus manufacturers do not have the capacity to meet the requirements of the preceding sentence. To the extent practicable the Secretary shall emphasize projects which are labor intensive.

(c) The Secretary shall, to the extent practicable, assure a fair and equitable distribution of grants to all States so that each receives no less than ½ of 1 per centum of the funds available under this section. In the event that the Secretary determines that a State would not receive a fair and equitable share of funds under this section for transit capital infrastructure projects, the Secretary is authorized ot make grants under this section to such State on behalf of urbanized areas of less than 200,000 in population and directly to designated recipients for area of more than 200,000 population for highway projects authorized under title 23, United States Code. The Secretary shall not approve highway projects without receiving assurances that a sufficient number of qualified transit relateed projects will not be available within that fiscal year within such State. The aggregate amount of such nontransit grants shall not exceed 15 per centum of the total funds available under this section in any fiscal year.

(d) As used in this section, the term "transit capital infrastructure development project" means any project in an urbanized area or portion thereof involving the acquisition, rehabilitation and replacement of rolling stock, the construction, rehabilitation and modernization of commuter rail and fixed guideway systems, the construction, rehabiltation, modernization, and replacement of bus facilities and related equipment, the renovation and improvement of historic transportation facility with related private investment, and intermodal terminals.

(e) The Federal share for projects approved under this section shall be 80 per centum.

(f) The limitations contained in subsections (b), (c), (d), and (e) shall expire on September 30, 1984. After that date funds authorized under subsection (a) shall be available under the requirements of section 3(a) of the Urban Mass Transportation Act of 1964.

(g) Except as otherwise provided by this section, a grant under this section shall be subject to the same terms and conditions as are applicable to grants under section 3 of the Urban Mass Transportation Act of 1964.

SECTION-BY-SECTION ANALYSIS

CHANGES TO SECTION 3 CAPITAL GRANT PROGRAM

Section 4(a) is amended to require a 40 percent local match for new fixed guideway projects or for extensions to an existing system funded with discretionary grant. Other discretionary projects funded by Section 3 will require a 30 percent local match. These higher local matching requirements will allow the more limited Federal discretionary funds to support those projects which have high local priority. However, these changes will not affect previous commitments made prior to this Act including those to the Washington, D.C. system.

In making discretionary grants, the Secretary is required to take into account the adverse effects of decreased commuter rail service resulting from railroad bankruptcy.

AUTHORIZATIONS

A three year comprehensive authorization for the mass transit program is established at $3.13 billion per year for fiscal year 1983, 1984, 1985 which includes funding for all

programs except interstate transfer. From the funds appropriated under this authorization up to seventy-five million dollars is authorized for appropriations for research, development, and administrative expenses. From the remainder of the total amount appropriated:

(a) 24 percent of the funds must be made available for discretionary grants under Section 3 (until 1985 when it shall be 10 percent).

(b) 67.25 percent of the funds must be made available for formula grants for urbanized areas with populations greater than 200,000 (until 1985 when it shall be 79.63 percent).

(c) 6.5 percent of the funds must be made available for formula grants for urbanized areas with populations of less than 200,000 but greater than 50,000 (until 1985 when it shall be 7.7 percent).

(d) 2.25 percent of the funds must be made available for grants to urbanized areas of less than 50,000 in population (until 1985 when it shall be 2.67 percent).

Fifty million dollars will be available for planning grants made under the authority of Section 8. These grants will be funded from the funds available for Section 3. Furthermore, urbanized areas are allowed to decide to use block grant funds for additional planning activities.

An overall authorization of $3.495 billion will cap total appropriations for all transit programs including all titles of this Act, the Interstate Transfer program, and the so-called Stark-Harris funding for the Washington, D.C. Metro System. This amount is the level allowed by the Budget Resolution.

NEW BLOCK GRANT PROGRAM

The legislation authorizes a new block grant program to replace the formula grants now made under Section 5. The new Section 9 provides funds to urbanized areas to finance the planning acquisition, construction, improvement, and operating costs of facilities, equipment, and associated maintenance activities in mass transportation services. The inclusion of associated maintenance activities is the only change in eligible expenses from the current Section 5 program. For purposes of this section, associated maintenance activities means equipment and materials each of which costs at least one percent of the fair market value of the bus or rail car for which the equipment is to be used.

FUND DISTRIBUTION

Grants made to urbanized areas of greater than 200,000 population under Section 9 will be made on the basis of a formula that divides 68 percent of the available funds on the basis of each area's total bus revenue miles, each area's population, and each area's population weighted by a factor of density. The bus revenue mile factor will be used to distribute 50 percent of the funds. The population factor and the density factor will each be used to distribute 25 percent of the funds. Of this 68 percent distributed by bus related factors, three fourths of the funds are for urbanized areas over 1 million population and one fourth is reserved for areas of less than 1 million population.

The remaining 32 percent of the available funds will be distributed to areas that operate fixed guideway rail service. The funds will be distributed on the basis of 60 percent of an area's fixed guideway vehicle miles and 40 percent of an area's fixed guideway route miles. Each urbanized area with at least 750,000 population which provides commuter rail service is guaranteed at least 0.75 percent of the rail funds. Service and route miles provided in a state adjacent to the state or state in which the urbanized area is located and passengers served shall be attributed to the public body which contracts for the service as if the public body was an urbanized area of 200,000 or more. In addition ferry boat operations are included in fixed guideway vehicle miles and route miles.

For urbanized areas of less than 200,000 population that receive a Section 9 grant, the formula will distribute funds on the basis of population and population weighted by density. Each factor will count equally.

The federal share of the cost of any project funded under Section 9 is limited to 80% of the cost of the project for capital projects. The federal share of operating costs is limited to 50% of the cost.

OPERATING SUBSIDIES

With regard to operating subsidies, an area may in general not spend more than 80% of its 1982 operating apportionment if it has a population of more than 1 million, 90% of its 1982 operating apportionment if it has a population of more than 200,000 but less than 1 million, 95% of its 1982 operating apportionment if it has a population of less than 200,000. Where an area first became eligible for an apportionment in 1980, that area cannot use more than 40% of its apportionment for operating costs.

An area may however, transfer funds for operating expenses up to its 1982 operating apportionment if the area:

(a) certifies that it has provided public notice of its intent to use additional operating funds and that it will lose some funds as described in (c) below.

(b) certifies that it has a three year plan which demonstrates how the area will operate its transit system without transferring capital funds in fiscal year 1986.

(c) agrees to forfeit one dollar for every two dollars transferred to operating expense use. (These forfeited amounts are used for discretionary grants made by the Secretary)

The Secretary of Transportation is prohibited from permitting an area to use the transfer option after September 30, 1984.

Funds available for discretionary grants due to a forfeiture under the transfer option shall be made available on a priority basis to areas that did not receive as large a block grant under Section 9 as was received under Section 5 in 1982. Discretionary grants will be available to recipients under the same local matching share requirements for Section 3 grants.

BLOCK GRANT PROCEDURES AND REQUIREMENTS

Sums apportioned under Section 9 for areas of less than 200,000 in population are made available to the Governor for expenditure in accordance with the planning process required under Section 8.

Funds made available to the Governor may be transferred to areas eligible under Section 18 of the Act or to areas with populations of less than 300,000 in population. The Governor may make such transfers only after consulting with local officials.

Funds apportioned under this section shall remain available for three years. Funds which remain unobligated at the end of that period will be reapportioned the following year.

To receive a grant under Section 9 a recipient must comply with Title VI of the Civil Rights Act, subsections (e), (f) and (g) of Section 3 of this Act, as well as Sections 8, 13, 16, and 19 of this Act. The recipient must also submit a statement of activities to be funded and the certifications required by the Act.

The recipient must certify that it has the legal, financial and technical capacity to carry out the proposed projects; has the authority to apply for the grant; will conform to the Uniform Relocation Assistance and Land Acquisition Policies Act of 1970 and Section 7 of this Act; will have continuing control over the equipment purchased and will maintain the facilities and equipment; will use competitive procurement procedures complying with Section 401 of PL 95-599; will comply with National Flood Insurance Act of 1968; has complied with Section 12; will meet the local match requirements of Section 4; and that it has a locally developed process for soliciting and considering public comment prior to raising fares for reducing services.

Each recipient must solicit public comment by making public the amount of funds available, the activities the recipient proposes to undertake with such funds, and publish a proposed statement in a manner which will provide citizens and elelcted officials an opportunity to comment on the proposed program. The program must be developed in consultation with all interested parties including private transportation providers. Recipients will also hold at least one public hearing to receive comment on the proposed program.

The Secretary may issue regulations which permit recipients to assume the responsibilities of compliance with the National Environmental Policy Act. However, these regulations must be developed in consultation with the Council on Environmental Quality. To release funds under this section, the recipient must submit the environmental certification 15 days in advance and the Secretary must accept the certification. The environmental certification by the recipient must be in a form acceptable to the Secretary, be executed by the chief executive officer, specify that the recipient has carried out its responsibilities, and that the certifying officer consents to assume the status of a responsible federal official under NEPA and he consents to accept the jurisdiction of federal courts for the purposes of enforcement of his responsibilities as such an official.

The Secretary shall not approve a grant unless he finds that the project is part of an approved program of projects required by the Section 8 planning process.

The Secretary shall enter into an annual projects agreement with the Governor or the designated recipient of each urbanized area as soon as practicable after the application is submitted.

Each recipient shall submit to the Secretary an annual report concerning the use of the funds and how such use compares to the statement submitted in the original application. The Secretary shall require annual independent reviews and audits as deemed appropriate by the Secretary.

The Secretary shall determine whether the recipient's activities have been carried out in a timely and effective manner and that the recipient has a continuing capacity to carry out those activities. The Secretary shall also determine whether the recipient has carried out its activities and certifications in accordance with this Act and applicable laws.

Not less than every three years the Secretary shall perform a full review and evaluation of the performance of the recipient in carrying out its program. The Secretary shall determine if the local recipient's pro-

gram has been in compliance with statutory and administrative requirements and the extent to which the actual program was consistent with the proposed statement and the Section 8 planning process.

The Secretary may make adjustments in annual grants on the basis of his findings and may reduce or withdraw such assistance or take other appropriate action in accordance with the required reviews and audits.

Section 1001 of Title 18 of the United States Code applies to any submission under this section. If any false or fraudulent statements are made in connection with a submission, the Secretary may terminate and seek reimbursement of the affected grant or grants.

A recipient may request the Secretary to approve its procurement system. If the Secretary approves the local procurement system as consistent with the Act, the Secretary shall approve the use of that system for all procurements financed under this Act.

LETTERS OF INTENT

A requirement is added that the Secretary must inform the Committee on Public Works and Transportation of the House of Representatives and the Committee on Banking, Housing and Urban Affairs of the Senate 30 days prior to the issuance of a letter of intent.

The Secretary shall give priority to grant requests to fund programs included in letters of intent or full funding contracts issued prior to the enactment of this Act. Terms and conditions of such letters of intent and full funding contracts may not be altered unless agreed to by all parties. The Secretary is also prohibited from taking any direct or indirect action regarding future available budget authority except by the letter of intent procedure in the statute. This prevents for example any further use of so-called letters of commitment.

The bill clarifies that apportionments made pursuant to Section 5 for fiscal year 1975 shall be deemed to have lapsed on September 30, 1977 and apportionments for fiscal year 1976 shall be deemed to have lapsed on September 30, 1978. This clarification will avoid any confusion created by the transition quarter. Moveover, sums apportioned pursuant to Section 5 shall remain available as initially apportioned to the urbanized areas for expenditure in accordance with the provisions of this section until September 30, 1985.

The definition of fixed guideway systems is amended to include public transportation facilities which utilize a right-of-way rail usable by other forms of transportation.

The current Section 15 reporting requirements are amended to also include grants under the new Section 9.

Section 18 is amended to conform with the balance of the bill with lapsed funds remaining unobligated after September 30, 1982 reallocated under the requirements of this Act.

The authorization for planning and designing of mass transportation facilities to meet the special needs of the elderly and the handicapped is increased from 2 percent to 3.5 percent of the funds available for discretionary grants under Section 3.

Sections 21 and 22 of the Act are repealed.

The authorization for the Waterborne Transportation Demonstration Act is de-authorized as of September 30, 1982.

The authority for Section 107 is repealed.

TRANSIT CAPITAL INFRASTRUCTURE PROGRAM

A new capital infrastructure program is authorized to be financed by revenues allocated to transit by an additional tax on gasoline. Authorized at a level of $550 million for 1983 and $1.1 billion for 1984 and 1985, the program is a discretionary fund administered by the Secretary of Transportation within the requirements of the Section 3 program.

In addition to the requirements of Section 3, grants under this program will be limited to: The acquisition, rehabilitation, and replacement of rolling stock, the construction, rehabilitation, and modernization of commuter rail and fixed guideway systems, the construction, rehabilitation, modernization, and replacement of bus facilities and related equipment, and other projects.

Although this program is primarily a transit program, if a state will not receive at least .5 percent of the funds available under this title, The Secretary is authorized to make grants for highway projects eligible under Title 23 of the United States Code in that state. However, the Secretary is limited under this provision to 15 percent of the funds available.

The new infrastructure program will expire on September 30, 1984. After that date the proceeds of the gas tax will be used to fund Section 3 of the UMTA Act.●

● Mr. D'AMATO. Mr. President, I am pleased to join my good friend and colleague from Indiana, Senator LUGAR, in introducing today the Federal Public Transportation Act of 1982.

Today this Nation is at a crossroads with regard to Federal policy on the role of mass transportation in our urban and rural areas, on the need to maintain and restore our transportation infrastructure to good operating order, and to address the serious problem of unemployment. The Federal Government to date has provided strong support for funding mass transit programs to meet the mobility needs and economic well being of our urban and rural communities, as well as promote a broad range of national, social, and economic objectives.

The goals of this bill are to protect transit's historic public sector role as well its ability to contribute to local, regional and national infrastructure needs. Without a firm commitment to this Federal role, our urban and rural areas will be facing serious financial and operational strains. The transit industry will again be pushed toward a cycle of fare increases, service, and maintenance cutbacks, ridership declines and rising deficits that led to the demise of private transportation services in the 1950's and 1960's, and to the inability to maintain infrastructure and rolling stock in good operating order.

A major withdrawal of Federal support for operating costs of our Nation's transit systems, will have dire consequences. Such major reductions in Federal support come at a time when the ability of State and local governments to assume a substantially larger share of transit financing is increasingly in doubt. While a formula or block grant program offers many advantages to the transit industry, eliminating the ability to use funds for operating assistance does not provide the flexibility that operators and State and local governments need most in managing today's systems and services.

The formula structure embodied in this bill provides equitable funding to all urbanized areas, large and small, while recognizing the fact that some areas have greater funding needs due to ridership levels and physical facilities that need to be maintained or upgraded. The bill that we are introducing today focuses on how the Federal transit program can be structured to best support the delivery of transit services while fostering infrastructure improvements and employment opportunities.

In summary, it would appear that local governments will not be in a position to greatly increase their funding support to public transit. If the Federal Government truly wishes to maintain a basic service and physical infrastructure that can support the mobility so necessary to economic and social vitality, we must be willing to commit Federal resources to finance a strong mass transit program.●

ADDITIONAL COSPONSORS

S. 2150

At the request of Mr. LEVIN, the name of the Senator from Oklahoma (Mr. BOREN) was added as a cosponsor of S. 2150, a bill to amend the Social Security Act to provide that the amount of any unnegotiated social security check shall be returned to the trust fund from which the check was issued.

S. 2948

At the request of Mr. DOLE, the name of the Senator from Wisconsin (Mr. PROXMIRE) was added as a cosponsor of S. 2948, a bill to promote the development of nonanimal methods of research experimentation, and testing, and to insure humane care of animals used in scientific research, experimentation, and testing.

S. 2987

At the request of Mr. ROTH, the names of the Senator from Florida (Mrs. HAWKINS), the Senator from Nevada (Mr. CANNON), the Senator from Kentucky (Mr. FORD), and the Senator from Tennessee (Mr. SASSER) were added as cosponsors of S. 2987, a bill entitled "The Bloodmobile Act of 1982."

S. 3040

At the request of Mr. ARMSTRONG, the name of the Senator from Rhode Island (Mr. PELL) was added as a cosponsor of S. 3040, a bill establishing a new G.I. Education Program.

S. 3048

At the request of Mr. THURMOND, the name of the Senator from Alabama (Mr. DENTON) was added as a cospon-

sor of S. 3048, a bill to amend title 18, United States Code, to combat, deter, and punish individuals who adulterate or otherwise tamper with food, drug, cosmetic, and other products with intent to cause personal injury, death, or other harm.

S. 3054

At the request of Mrs. KASSEBAUM, the name of the Senator from North Dakota (Mr. ANDREWS) was added as a cosponsor of S. 3054, a bill to amend the Natural Gas Policy Act of 1978, and for other purposes.

SENATE JOINT RESOLUTION 222

At the request of Mr. WEICKER, the name of the Senator from New York (Mr. D'AMATO) was added as a cosponsor of Senate Joint Resolution 222, a joint resolution to designate the week of February 13 through February 19, 1983, as "National Police Athletic League Week."

SENATE JOINT RESOLUTION 240

At the request of Mr. BOREN, the names of the Senator from Montana (Mr. BAUCUS), the Senator from Alabama (Mr. HEFLIN), the Senator from Kentucky (Mr. FORD), the Senator from Oklahoma (Mr. NICKLES), the Senator from Montana (Mr. MELCHER), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Florida (Mr. CHILES), and the Senator from West Virginia (Mr. RANDOLPH) were added as cosponsors of Senate Joint Resolution 240, a joint resolution to authorize and request the President to designate the week of January 16, 1983, through January 22, 1983, as "National Jaycee Week."

SENATE JOINT RESOLUTION 244

At the request of Mr. WARNER, the names of the Senator from New Jersey (Mr. BRADLEY), the Senator from South Carolina (Mr. THURMOND), and the Senator from Rhode Island (Mr. PELL) were added as cosponsors of Senate Joint Resolution 244, a joint resolution designating January 17, 1983, as "Public Employees' Appreciation Day."

SENATE CONCURRENT RESOLUTION 121

At the request of Mr. DOLE, the names of the Senator from Michigan (Mr. LEVIN), and the Senator from West Virginia (Mr. RANDOLPH) were added as cosponsors of Senate Concurrent Resolution 121, a concurrent resolution expressing the sense of the Congress that the United States should maintain Federal involvement in, and support for, the child nutrition programs, and for other purposes.

SENATE RESOLUTION 478

At the request of Mr. DODD, the names of the Senator from Illinois (Mr. PERCY), and the Senator from Hawaii (Mr. MATSUNAGA) were added as cosponsors of Senate Resolution 478, a resolution expressing the sense of the Senate with respect to the need to maintain guidelines which insure equal rights with regard to education opportunity.

SENATE RESOLUTION 499—RESOLUTION AUTHORIZING SUPPLEMENTAL EXPENDITURES BY THE SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. MELCHER submitted the following resolution; which was referred to the Select Committee on Indian Affairs:

S. RES. 499

Resolved, That section 21(b) of Senate Resolution 333, 97th Congress, second session, agreed to March 11, 1982, is amended by striking out "$597,710" and inserting in lieu thereof $627,710".

AMENDMENTS SUBMITTED FOR PRINTING

ANTITRUST EQUAL ENFORCEMENT

AMENDMENT NO. 4601

(Ordered to be printed and to lie on the table.)

Mr. ZORINSKY submitted an amendment intended to be proposed by him to the bill (S. 995) to provide for contribution of damages attributable to an agreement by two or more persons to fix, maintain, or stabilize prices under section 4, 4A, or 4C of the Clayton Act.

AMENDMENT NOS. 4602 THROUGH 4609

(Ordered to be printed and to lie on the table.)

Mr. LEVIN submitted eight amendments intended to be proposed by him to the bill S. 995, supra.

AMENDMENT NOS. 4610 THROUGH 4944

(Ordered to be printed and to lie on the table.)

Mr. METZENBAUM submitted 335 amendments intended to be proposed by him to the bill S. 995, supra.

TELEVISION AND RADIO COVERAGE OF THE SENATE

AMENDMENT NO. 4945

(Ordered to be printed and to lie on the table.)

Mr. RANDOLPH submitted an amendment intended to be proposed by him to the resolution (S. Res. 436) to establish regulations to implement television and radio coverage of proceedings of the Senate.

Mr. RANDOLPH. Mr. President, I submit the following notice in writing:

In accordance with Rule V of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to amend Rule XII of the Standing Rules of the Senate for the purpose of proposing to the resolution (S. Res. 436), providing for the television and radio coverage of proceedings of the Senate, the following amendment:

Viz: At the end of the resolution add the following:

"SEC. 9. Rule XII of the Standing Rules of the Senate is amended by adding at the end thereof the following new paragraph:

"'(5) When yeas and nays are ordered on the floor, each Senator shall vote from the assigned desk of the Senator.'."

SURFACE TRANSPORTATION ACT

AMENDMENT NO. 4946

(Ordered to be printed and referred to the Committee on Finance.)

Mr. METZENBAUM submitted an amendment intended to be proposed by him to the bill (S. 3044) entitled the "Surface Transportation Act of 1982."

● Mr. METZENBAUM. Mr. President, I rise to submit a "buy American steel" amendment to S. 3044, the Surface Transportation Act of 1982. This legislation will require that the steel in all projects funded under this program be made exclusively in the United States. This amendment will guarantee that American workers receive the indirect as well as the direct job-creating benefits of the proposed tax on motor fuels.

The steel industry is in serious trouble.

Nearly 50 percent of the Nation's 450,000 steelworkers are unemployed or on shortened workweeks.

The industry is currently operating at little more than 30 percent capacity.

In the third quarter of this year alone, the steel industry lost more than a billion dollars. For the year, these losses could exceed $3 billion.

And in the first 9 months of this year steel imports accounted for 23 percent of all steel purchased by domestic users. For the comparable period in 1981, the figure was 17 percent.

This strong "buy American" provision which I am today introducing will give our sagging steel industry the shot in the arm it so desperately needs.

I ask unanimous consent that the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

At the appropriate place in the bill insert the following:

BUY AMERICAN STEEL

SEC. (A) Title 23, United States Code, is amended by adding after section 324 the following new section:

"§ 325. Buy American steel.

"Notwithstanding any other provision of this title or any other law, none of the funds authorized to be appropriated for highway construction may be obligated or expended on any project in which steel manufactured outside the United States is used.".

(B) the analysis of chapter 3 of title 23, United States Code, is amended by adding at the end thereof the following:

"325. Buy American steel.".●

NOTICES OF HEARINGS

SUBCOMMITTEE ON AGRICULTURAL PRODUCTION, MARKETING, AND STABILIZATION OF PRICES

Mr. COCHRAN. Mr. President, I wish to announce that hearings on possible revisions in the farm program have been scheduled before the Senate Agriculture Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices.

As chairman of the subcommittee, I have invited witnesses to testify on the payment-in-kind proposals suggested by Secretary Block and on other proposals which have been suggested by Members of Congress and farm organizations.

The hearing will be held on Thursday, December 9, at 9 a.m. in room 324, Russell Building.

Anyone wishing further information should contact Denise Alexander of the Agriculture Committee staff at 224-0014.

COMMITTEE AUTHORITY TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Friday, December 3, at 1:30 p.m., to hold a hearing on title IV of S. 3044, the Surface Transportation Act of 1982.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Thursday, December 2, at 2 p.m., to review the results of the GATT conference.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

BIPARTISAN CRIME BILL

● Mr. BIDEN. Mr. President, it is with great pleasure that I rise to support the chairman's motion to seek Senate passage of the bipartisan crime package. As my colleagues recall this measure passed the Senate on a 95 to 1 vote 2 months ago. It is now necessary to add it to this bill in order to seek House consideration of our bipartisan package.

Although I concede that we have some problems in the House, I think that we will eventually get the House to focus on this most urgent matter.

Crime rates continue to rise. There is clear consensus that organized crime and drugs is at the heart of the current street crime wave. That is why the President is in the midst of a major reorganization of our organized crime effort and why the Attorney General and the President have gone abroad to emphasize narcotics problems to the world's leaders. I firmly believe that much more needs to be done in this area and indeed the whole matter of coordination of all these efforts still remains unresolved if a Cabinet-level drug office is not created.

If in passing this legislation the Senate will not only be doing its duty in terms of strengthening Federal law with respect to organized crime and narcotics, but will be addressing the coordination issue as well through the creation of a Cabinet-level office.

I urge all my colleagues to vote for this again and hope that we will get some favorable signal from the House leadership that some, if not all, elements of this package will receive swift consideration.●

POOR, DISABLED SUFFER BUDGET-CUT HARDSHIPS

● Mr. LEVIN. Mr. President, I submit for the RECORD an article describing the experience of a severely disabled woman in Santa Barbara, Calif., who was terminated as a result of a continuing disability review, from the title II social security disability program.

[From the Santa Barbara News-Press, Oct. 26, 1982]

POOR, DISABLED SUFFER BUDGET-CUT HARDSHIPS

Mary Gorgita limped up to the microphone, tears in her eyes.

"My pain is severe." she said. "Not only in my legs and hips, but on my pride."

Mrs. Gorgita managed to overcome pride Monday to speak at a forum on the impact of budget cuts and the recession on the community because she wanted to make her point: The Reagan administration's toughened stance on social service programs is hurting people.

"I can't begin to tell you the stress I've been going through, the nights I can't sleep," she said, her voice breaking. "Forgive me, but I am damn disgusted and mad."

Mrs. Gorgita, 60, worked most of her life until she succumbed to a degenerative spinal disease and a series of operations left permanent nerve damage.

In January, she received a Social Security notice that she had been determined fit to work, and that her disability payments would end in February, explained Frank Ochoa, who, as executive director of the Legal Aid Foundation represented Mrs. Gorgita in appeal bids. Ochoa was one of several representatives of local agencies to speak at the forum.

Although the disability checks, designed to supplement the amount she received from Social Security's retirement fund, stopped in February, she continued to receive retirement benefits, Ochoa said.

In July, she was informed that she shouldn't have gotten even those checks, and that she owed Social Security more than $1,000.

"If I could work, I wouldn't be here today," she told the sympathetic audience of about 75.

"I've always been able to make my own way. I've always helped when I could. At the beginning of this year, they began cutting me off from everything."

Ochoa said Mrs. Gorgita's plight had more to do with Social Security's efforts to pare down its program than with any wrongdoing on her part.

"Within the last (one-and-a-half) years, there has been a massive purge of the disabled from government rolls," he said, "People who are still disabled are being cut off."

Those receiving disability payments are subject to periodic reviews to determine if they are still unable to work. Ochoa said. He said there were 100,000 such reviews each year nationally, there are now 50,000 every month.

The federal government's goal is to place 800,000 cases under review by 1984, he said, maintaining the review process is time-consuming, expensive and detrimental to seriously disabled individuals who don't know how they'll make ends meet if their funds are cut off.

If recipients don't appeal their cases within two weeks of receiving notice that their cases are under review, their payments are automatically suspended, Ochoa said.

He told of other cases he has handled in recent months: A Vietnam veteran, diagnosed as "schizophrenic with a severe personality disorder" who suffers constant hallucinations, was cut off and forced to live on the beach, where he was beaten and robbed; a man who had four discs removed from his back and suffers "acute and constant pain" was told he could go back to work; a woman who suffers daily seizures was also told to work.

The Legal Aid Foundation's office is filled with requests for assistance, Ochoa said. "It's really a distressing time for me."

Shelley Rouillard, advocacy director for the Community Action Commission, said one of her clients, an elderly man receiving Social Security checks, was forced to move out of his apartment when his landlord decided not to renew his lease. The man's rent was being supplemented under the Section 8 program administered by the housing authority. He couldn't find another apartment that was inexpensive enough to meet the Section 8 requirements, so he gave up his participation in the program and moved into a "regular" apartment.

After paying rent and utilities, he was left with only $10 a month for food and other expenses, but by eating only one meal a day at a senior nutrition site, he managed to get by.

The problem, Ms. Rouillard said, is that her client became ill and needed to be hospitalized. She eventually helped him find a shared-housing situation, but he "worries daily how he will make it if he gets sick again."

Jim Rydingsword, director of county Social Services, said even harder times are in store for the needy, especially in California, because of a national shift in social philosophy that has nothing to do with a fiscal crisis.

"Reagan is firmly committed to removing social services entirely from the federal budget," he said, noting state and local governments will assume administration of many social service programs.

This will be particularly harmful to the needy in California, where public programs have already been cut considerably by "the taxpayer revolution." What it all boils down

to, he said, is that a number of services simply "will not be provided."

Ochoa summed things up in harsher terms: "Clearly, this country has abandoned its commitment to care for those unable to care for themselves."

As opposed to the War on Poverty, launched in the 1960s, the nation has embarked on a "war on the poor," he said.●

PROJECTED DEFICITS

● Mr. BOREN. Mr. President, more figures are beginning to emerge on projected deficits for fiscal 1983 and the outyears. Last year's deficit came in at $110.7 billion, the largest deficit in U.S. history. And projections are that next year's fiscal deficit will be between $170 and $200 billion. The addition of more tax cuts in the next couple of years will raise the fiscal 1984 deficit even further. And administration officials are predicting a "leveling off" of the deficit in fiscal 1985 at approximately $200 billion, with little reduction seen even beyond that.

These kinds of figures are unacceptable. The scenario I have outlined before of large borrowings by the Federal Government, reducing the available supply of credit and thereby driving up the interest rates, cannot be allowed to continue without end. We must pay attention to deficits and their effect on the economic ills of the country.

I applaud the actions of the House of Representatives yesterday in reducing the appropriations bill for the Treasury, Postal Service, and White House. It is a welcome signal that the election results may not presage an increase in spending as some have predicted. There are other moves underway which carry great potential, such as those discussed on the floor yesterday by the distinguished Democratic leader. We must not flag in our efforts in all of these areas.

Mr. President, I ask that an article containing budget deficit figures be placed in the RECORD at the conclusion of these remarks.

The article follows:

[From the Washington Post]

ECONOMIC RECOVERY WON'T BRIDGE WIDENING DEFICIT, OMB SAYS

(By John M. Berry)

Federal budget deficits will continue to grow, even after the long-promised economic recovery is complete, and will top $200 billion a year in the late 1980s unless there are further spending cuts or tax increases, according to estimates from the Office of Management and Budget.

Administration sources yesterday confirmed the estimates, which, they said, assume the economy will grow at more than a 3.5 percent rate during 1983, adjusted for inflation, and at a 4 percent rate for the next five years.

The estimates directly conflict with President Reagan's assertion Monday in a speech at the National League of Cities that the only way to eliminate "the monstrous proportions of our deficit . . . lies in stimulating the economy and increasing productivity." However, the new figures also help explain Reagan's unexpected emphasis on the size of the deficits and the apparent attempt to lay the political groundwork for publicly acknowledging them.

Reagan, to the consternation of some administration officials, also said, in a passage a White House aide said he wrote himself, ". . . there is no way we can eliminate, by budget cuts alone, the structural deficit built into the budget, nor can it be eliminated by raising taxes."

Since a full economic recovery will not close the ever-widening gap between revenues and outlays, the only way the deficit could possibly be reduced would be by trimming spending or raising taxes, the officials said.

Reagan's chief economic adviser, Martin Feldstein, has made a series of speeches in the last three weeks in which he has blamed rising deficits for a range of economic ills and declared that if they are not reduced the tide of red ink will abort the recovery.

Some administration officials are hoping the president will be willing to consider a substantial package of spending cuts and revenue raising measures, including some new energy taxes, to reduce the prospective deficits. But after the president's Monday speech they are more doubtful than ever that he will move very far in that direction.

On the spending side, the new OMB estimates assume continuation of present domestic programs and Reagan's original high track for defense outlays for 1984 and beyond. Congress lowered the defense spending figures when it passed its 1983 budget resolution earlier this year. Shortly after its adoption, however, the president said he did not feel bound by the lower defense numbers except for 1983 even though they were part of an overall budget compromise to which he had agreed.

Similarly, on the revenue side, the estimates assume no changes in taxes except those called for by present law, such as next year's 10 percent cut in most current personal income tax rates.

In the last official budget estimates, released July 30, OMB put the 1983 deficit at $115 billion, up only slightly from the 1982 figure, which later turned out to be $110.7 billion, by far the largest deficit in U.S. history.

With the delay in the long-awaited economic recovery, the fiscal 1983 deficit estimate has now risen to about $170 billion. Deficits in off budget agencies that are financed by direct federal borrowing come to an additional $18 billion.

The deficit for fiscal 1984 is expected to be several billion dollars larger, primarily as a result of additional personal and business tax cuts in 1983 and 1984 and steadily rising military outlays. Together those elements offset the revenue gains and somewhat lower spending, such as for unemployment benefits, flowing from the assumed ecomomic recovery.

By 1985 the deficit jumps to about $195 billion, the administration sources said. After 1985 the deficit figures begin to level off, after topping $200 billion. "They just don't come down," one official said.

Congressional Budget Office officials, who had not been briefed by OMB on any of the new estimates, said the large projected deficits "clearly are possible," especially with the higher defense spending figures.●

SENATOR FORD BELIEVES SYNFUELS PROGRAM SHOULD PROCEED

● Mr. RANDOLPH. Mr. President, last week another major synthetic fuels project was suspended—this time the H-coal plant in Breckinridge County, Ky. I recall when the solvent refined coal facility was shutdown in Morgantown, W. Va., in mid-1981. This action represents another step backward in our attempts to regain energy independence. As we witnessed in 1944, a growing flood of cheap oil from the Mideast and other Third World nations is now, once again, drowning the emphasis on producing alternative fuels from coal.

Senator WENDELL FORD, chairman of the Senate Coal Caucus until 1981, reaffirmed his support for synfuels development in a November 28, article in the Courier-Journal. Our colleague is a member of the Energy and Natural Resources Committee. He has helped redirect the efforts of the current administration to curtail research and development funds. Senator FORD believes in a viable synthetic fuels industry and a vigorous domestic policy for coal utilization.

I commend this thoughtful analysis as another example of why we must not abandon our commitment to synfuels or other elements of the domestic coal strategy we have enacted during the last two sessions of Congress. I ask that the well-reasoned opinion of the able Senator from Kentucky, be placed in the RECORD.

The article follows:

[From the Courier-Journal, Nov. 28, 1982]

SHOULDN'T WE STILL ENCOURAGE A SYNTHETIC FUEL INDUSTRY?

(By Senator Wendell H. Ford)

Has the death knell been sounded for any hope this country ever had of putting a national synthetic-fuels industry in place?

A lot of people are wondering as much after Ashland Oil's decision last week to suspend plans for construction of a commercial H-Coal plant in Breckinridge County, Kentucky. The plant was designed to produce 25,000 barrels a day of synthetic oil from coal and was on the list of projects under active consideration for financial assistance from the Synthetic Fuels Corporation.

By putting this project on the back burner, Ashland became the latest in a growing number of companies to shelve plans for major commercial alternative fuels facilities. Five projects have either been canceled or indefinitely postponed this year. Only 12 applications for assistance are still pending before the Synthetic Fuels Corporation.

I'm not ready yet to throw in the towel as far as a national synthetic-fuels industry is concerned. But I will be the first to admit that the hopes we had with passage of the 1980 Energy Security Act for the production of at least 500,000 barrels of crude-oil equivalent a day in synthetic fuels by 1987 have been dashed.

I cannot fault the logic behind Ashland's decision. Even though the project has proven its potential, it represents a major

investment and financial commitment into an area for which at the present time there is no guaranteed return.

A corporation must first and foremost be motivated by accountability to its board and shareholders. In this context, Ashland's decision is more than understandable. Frankly, Ashland, which has been experimenting with the "H-Coal process" for 10 plus years, has done well to carry the financial load for as long as it has without additional private participation.

Yet, the fact remains that a serious void will exist in terms of the nation's long-term energy strategy because of the reluctance of Ashland and other private corporations to move forward with synthetic fuels.

Government indifference to this trend is a cause for great concern.

In the 2½ years since the Energy Security Act was signed into law, there has been a major shift in government energy policy. There has been a shift from emphasis on government leadership and assistance to a philosophy that says free market forces will work on their own.

That philosophy is just as wrong as it can be.

The marketplace is motivated by profit, not by the need to protect the national interest. Protecting the national interest was, is and always will be the responsibility of government. Nowhere is the national interest more critical than in energy and that is why government must re-establish its leadership in promoting the development of alternative fuels, pending a day when the marketplace is in a position to act on its own.

Without federal involvement, no corporation can afford or will be willing to undertake projects of this magnitude and risk on their own.

It is premature to say that the Energy Security Act of 1980 has failed. It is not premature to say that the act needs a re-examination in light of the changes that have occurred in the country's economic condition since it was enacted.

Congress must right now take another look at the charter of the Synthetic Fuels Corporation to see if its standards are too rigid and if the formula for providing financial assistance for the commercial development of synthetic fuels is inadequate.

In 1980, the formula, which provides for loans, purchase agreements, price guarantees and loan guarantees, might have been sufficient. But now corporate America is reeling from a prolonged recession. It is retreating instead of expanding. Investment capital is scarce. One wrong move and a company could be on the verge of bankruptcy. Caution is the operational watchword.

In such an environment, decisions involving any degree of risk are put aside. The bylaws of the Synthetic Fuels Corporation allow for no flexibility to adapt to these circumstances. The financial-assistance formula might have succeeded under ideal market conditions, but it will attract few takers under today's economic climate.

So, we are at a crossroads. We are either serious about a national synthetic-fuels industry—or we aren't. If we are serious, we must try to find a way to once again attract the interest of the private sector, which is critical to putting such an industry in place.

Frankly, I do not know how important the whole idea of energy security is any more to either the Congress or the country. The crisis has passed for the moment. There is a temporary glut. Interest in energy matters has been overshadowed for the time being by unemployment, cutting federal spending and strengthening the nation's defense.

One member of Congress reacted to Ashland's announcement by boldly proclaiming that "conservation has finally beaten synfuels." What a sad and mistaken conclusion. Conservation and synfuels are not competing strategies. They are both essential elements of a national energy policy.

Conservation savings are a near-term solution; once in place, incremental conservation savings will become ever-increasingly more expensive.

Our energy crisis is far from over. Energy-policy institutions are still operating on the assumption that the world has embarked on a period of permanent shortages and that *all* energy from *all* sources is needed. They still see the day in the not-so-distant future when oil will cost $72 a barrel in constant 1982 dollars. The theory of the nature and cause of the shortages we experienced in the 1970's has not changed—only the realities of today's marketplace.

Somehow government must once again recognize that its obligation to its citizens is not just short-term, but long-term as well. We are looking ahead. We are once again backing ourselves into a position from which we will be forced to react—not act—in the event of another crisis.

Every time we take another step back, something that Sheik Yamani, the Saudi oil minister, was quoted as saying last year comes to mind:

"If we force the West to invest heavily in finding alternative sources of energy, they will. This could reduce the nations' dependence on oil to a point that will jeopardize Saudia Arabia's interest."

Others recognize what a viable synthetic-fuels industry would mean to the security of this country. Do we?●

THE VETO MESSAGE ON S. 2577, THE ENVIRONMENTAL RESEARCH, DEVELOPMENT AND DEMONSTRATION ACT OF 1982

● Mr. BAUCUS. Mr. President, on October 22, 1982, the President vetoed S. 2577, the Environmental Research, Development and Demonstration Act of 1982. This measure provides a 2-year authorization for the environmental research program administered by the Environmental Protection Agency.

I was disturbed by several points contained in the veto message, particularly the suggestion that, in this case, the authorizing process is superfluous and unnecessary.

I would like to address my remarks in turn to several issues raised by the President in returning the bill without his signature.

First, the President states that the veto of S. 2577, "* * * will in no way interfere with the conduct of any one of the research programs of the Environmental Protection Agency," pursuant to the enactment of the appropriations measure which contains the funding for this program. While an expiring authorization does not connote a "program shutdown" unlike a delinquent appropriation, I disagree that the conduct of the research programs will not be affected. S. 2577 contains some very explicit directives with regard to the kinds and quality of research the authorizing committees believe should be carried out. It is not expected nor desirable that the Appropriations Committee assume full legislative responsibility for the various programs, or that an appropriation measure supersede or preempt an authorization.

The second issue I would like to call attention to is the President's reference to a 10-percent increase in funding for EPA research and development contained in the fiscal year 1983 HUD-independent agencies appropriations bill over the fiscal year 1982 measure. This statement is highly misleading. This percentage refers to the difference between the administration's fiscal year 1983 request for this program contrasted to the figure that is actually contained in the fiscal year 1983 appropriations measure. While the appropriation includes $5 million above the administration's request for research and development, the program funding is actually reduced 21 percent compared to fiscal year 1982: $277.9 million is the estimated funding level for research and development in fiscal year 1982 compared to $220.8 million in fiscal year 1983.

The veto message further expresses objections to the Science Advisory Board amendment. The provision contained in S. 2577 is described as a "* * * modern-day version of Lysenkoism."

The criticism of the Science Advisory Board amendment and reference to Lysenkoism would indicate that the provision is interpreted as an effort to undermine scientific credibility and influence the advice and recommendations of the Science Advisory Board. Section 8(b)(2) of S. 2577 requires that, "Each member of the Board and nominee to the Board shall be qualified by education, training, and experience to evaluate scientific and technical information on matters referred to the Board * * *" An affiliation with "States, industry, labor, academia, consumers, and the general public" does not preclude a sound scientific background. Membership from this cross section is intended to foster, not prejudice the objectivity of the Board.

The veto message concludes with a reference to other unacceptable provisions of S. 2577 including a "duplicative" environmental monitoring proposal. To my knowledge, the monitoring provision is a novel one, and prescribes a systematic and useful activity that is not currently being performed.

The provision in S. 2577 requiring a dedication of 20 percent of program funds to long-term research reflects concern that this area is being neglected as resources for the program have been drastically reduced in the past 2 years.

This administration purports to use the research program within the Environmental Protection Agency to effectuate "regulatory reform." Furthermore, it has failed to nominate an Assistant Administrator who can act as a spokesman and provide leadership to the program. Combined, these two factors reflect a lack of regard for the program and fuel the fire of speculation as to its future role or even continue existence under this administration.

I regret that the President has chosen to reject the recommendations of Congress with respect to the direction of EPA's research program. I believe a clear mandate is required to assure that necessary research is being performed to advance our understanding of environmental issues. This effort is essential to guide us in making educated decisions now in the future.●

SECOND ANNIVERSARY OF THE MURDERS OF THE AMERICAN CHURCHWOMEN IN EL SALVADOR

● Mr. PELL. Mr. President, today we mark the second anniversary of the heinous murders of the four American churchwomen in El Salvador. The lives of Ita Ford, Maura Clark, Jean Donovan, and Dorothy Kazel, four bright lights who devoted their lives to work for peace and justice for the Salvadoran people, were snuffed out in a barbaric act perpetrated by members of the security forces of El Salvador. Next month we will be remembering Mike Hammer and Mark Pearlman, the two American land reform specialists who were brutally gunned down in the coffee shop of the Sheraton Hotel in San Salvador. To this date we know nothing of the fate of American journalist John Sullivan who very likely met with foul play. The list is getting longer. Now there is the case of Michael Kline, an American traveler who was killed by Salvadoran soldiers.

As we lament and mourn the deaths of the churchwomen we can take solace in the fact that these dedicated women have not died in vain. Their deaths so incensed and aroused the American people that the administration was forced to modify its earlier policy toward El Salvador and to become more responsive to the concerns raised by the policy.

With the murder of the churchwomen as a major factor, the Congress imposed the requirement that the President must certify that the Government of El Salvador is making progress in human rights, in the areas of land reform and the political reform, and in bringing to justice those responsible for the crimes against the Americans.

As we near the third certification which is due at the end of January, we see that five national guardsmen are due to stand trial in the case of the churchwomen. The families of the women are concerned that the trial will not go far enough in determining the true responsibility for this wanton destruction of human life. I, and many of my colleagues, support the families in that belief. We will be taking a close look at this when the Foreign Relations Committee holds its hearing on the certification.

The memory of these four brave women will stand forever as a symbol of hope that someday their work in El Salvador will be vindicated as peace and justice comes finally to that troubled land and its people.●

JEWS AND POLES

● Mr. LEVIN. Mr. President, I bring to my colleagues' attention an article that appeared in the January 2–9, 1982, issue of America titled, "Jews and Poles: A Relationship Reconsidered."

The article describes the past and present relationship between the Jewish and Polish communities. It also takes a look at what those communities in several American cities, including Detroit, Baltimore, Chicago, Milwaukee, and New York, are doing to improve the relationships.

I submit for the RECORD the text of this article.

JEWS AND POLES: A RELATIONSHIP RECONSIDERED

(By Ronald Modras)

In the spring of 1977, before newscasters learned to pronounce "Wojtyla" or "Walesa," when lampooning anything Polish was still socially acceptable, I was invited to serve on the Sentinel Committee, a defense arm of the Polish American Congress organized in Detroit to combat Polish defamation. Educational advancement and upward mobility had rendered Polish-Americans in Detroit particularly sensitive to derisive stereotyping, and a national effort was mobilized to combat it. But almost from the outset, it became clear to me that another problem besides defamation had to be addressed as well.

A book of anti-Polish jokes—the publisher happened to be Jewish. A line of derogatory gag items in novelty stores—the distributor, Jewish. An offensive story last week on a late night talk show—once again, the comedian, Jewish. Exasperated, someone on the committee finally shouted out: "It's a conspiracy. There is a Jewish conspiracy to defame us," "Not at all," I hastened to explain. "There are all kinds of people from a variety of groups engaging in this sort of thing. It's just that there are more Jews in fields like comedy and gag items."

But fears of anti-Polish plots were not so easily dispelled. My colleagues on the committee began naming titles of novels by Jewish authors in which Poles are depicted as altogether unfeeling of Jewish suffering during the German occupation of Poland. NBC's television novel, "Holocaust," was also indicted for comparing Poles to Nazis and showing Polish soldiers executing Jews in the Warsaw ghetto, a complete distortion of history, since no Poles were allowed to wear army uniforms or carry weapons.

It was painfully apparent that words would not be enough to convince them. These Polish-Americans had had little or no contact with Jews and from a distance easily misjudged the Jewish community as monolithic. The two groups had been in virtual noncommunication since coming to this country. There was no doubt but that bridge-building was sorely needed, if misconceptions were to be corrected.

For some 15 years I had been involved in Catholic-Jewish dialogue, was serving on the National Advisory Board for Catholic-Jewish Relations and enjoyed cordial personal and professional relations with several prominent civic and religious leaders in the Detroit Jewish community. Approaching the Jewish Community Council, an umbrella organization of local Jewish agencies and institutions, I suggested that some meetings between representatives of the Jewish and Polish American communities might be mutually beneficial. Surprised at first by the suggestion, the leadership at the council was open to the idea, and a series of meetings was planned for the following autumn, 1977. So began what has developed into a national effort by Polish-American and Jewish-American activists to come to terms with a relationship that goes back almost a thousand years.

A THOUSAND YEARS

Few peoples have histories as intertwined as Jews and Poles. Jewish travelers and merchants were in Poland even before Christian missionaries arrived in the 10th century. When Western Europe expelled Jews as competition for its rising merchant class or sought scapegoats for recurrent plagues, Poland opened its borders to waves of Jewish immigration, welcoming the commercial skills and crafts of Jewish artisans and tradesmen.

In return, Jews enjoyed autonomy, protection and guarantees of civil and religious freedom unequaled in medieval Europe. It is estimated that by 1772, before Poland's frontiers began to recede, four-fifths of the world's Jewish population lived within them. Aside from their original homeland in Israel, Jews trace a longer continuous history in Poland than in any other country.

Selective portrayals of that history have developed, however. Polish authors tend to highlight the golden age when Poland and its Jewish communities flourished. In the late Middle Ages relations were so amicable that Jewish leaders and Polish bishops alike resorted to drastic measures to counteract the high incidence of intermarriage. With no restrictions as to employment or the amount of property they could acquire, Jewish communities built a network of schools and institutions that made Poland the intellectual and cultural nerve center of world Jewry.

On the other hand, Jewish authors tend to reflect popular Jewish consciousness and concentrate on more recent history, on widely perceived anti-Jewish attitudes and behavior of Poles before and during the Nazi occupation of Poland. Jewish hostility toward Poland and its people obviously cannot be generalized, but neither can it be dismissed as occasional. More than anecdotal evidence points to widespread animosity among Jewish-Americans, covering a spectrum from mild distrust to seething anger. "Never turn your back on a Pole," a Jewish child is warned by his grandfather in a work of children's fiction. In some Jewish circles,

anti-Polish attitudes are almost part of the folklore.

A TIME FOR CANDOR

An honest expression of the problems surfaced early on the agenda of the fledgling dialogue. The first encounters were marked by politeness, tact and friendly jokes about chicken soup. As acquaintance turned to trust and the number of interested participants began to grow, the time seemed right to exchange courtesy for candor. A meeting was arranged at Saint Mary's College, Orchard Lake, in suburban Detroit: officers of Jewish and Polish agencies, academicians, priests and professionals, invited to express their true feelings based on whatever might be their subjective perceptions.

Facts can be ignored and conclusions argued, but feelings claim attention. The Jewish participants spoke first:

There is widespread belief in the American Jewish community that Poles were the leading anti-Semites of Europe.

When Jews think of Poland, they think of anti-Semitism. Hitler put the death-camps in Poland because he knew there would be the least opposition to them there.

The next speaker disagreed with the first two statements. Jews do not regard Poles as more anti-Semitic but simply like all the rest of Eastern Europeans in their hostility. Because so many Jews came from Poland, feelings about Polish anti-Semitism are stronger in terms of sheer numbers.

The Poles did little to aid Jews during the Nazi occupation in Poland. Stories circulate of how, instead of helping the Jews during the uprising of the Warsaw ghetto, Poles came to watch and gloat.

After the Jewish participants had expressed their perceptions, it was the Polish Catholics' turn:

Jewish authors often fill their writings with anti-Polish distortions and detraction. They refer, for example, to "Polish concentration camps" instead of "Nazi concentration camps in Poland."

Yes, there were outbursts, of anti-Jewish feeling in Poland, especially between the two world wars. But, after having been wiped off the map for over a century, Poland was struggling for survival, faced with the challenge of consolidating huge numbers of minorities into a single nation. Poland's situation then was not altogether unlike that of Israel today with respect to its Arab population.

Large numbers of Polish Jews did not assimilate, did not learn the Polish language, and even though they had been in Poland for centuries, Jews were perceived as looking down on Polish culture.

Then Maria spoke, softly, somberly. She was the only one in the group who had actually been born in Poland and lived through the German occupation. She told of how she was not quite 6 years old when on the morning after Good Friday her aunt took her to visit the shrines in several Warsaw churches, a Polish custom. In the distance a red glow in the sky reflected a fire several blocks away. "The ghetto is burning," the woman told the girl. "They have started an uprising. We must go and pray for them." A church-like silence hung over the room as Maria explained how the Nazis did not permit the Poles to congregate anywhere, how no one was allowed near the ghetto. No Poles went to watch the Warsaw ghetto burn. They could not gape any more than they could help. But there were those who prayed.

The accuracy of the attitudes and feelings expressed in this early exchange is borne out by a recent article in The New Yorker (11/9/81) by Lawrence Weschler, "A Reporter in Poland." Mr. Weschler relates how time and again he encountered "sheer hatred" of Poland and its people among Jewish-Americans, "cold fury in reminiscences of the anti-Semitism that, it was claimed, prevaded Polish society in the years before and during the war." He quotes a Jewish émigré from Poland: "I hear stories about the lines and the shortages and the hard times in Warsaw, and I wish I could say I feel compassion, but you know what? It couldn't be happening to a more deserving people."

Mr. Weschler's article brings to its readers a salutary corrective to the conventional stereotype of Poles hostile to Jews. He recounts a conversation with a group of young Polish Jews and the insights he received from them regarding the "incredibly complicated" history of the Jews in Poland, one that "certainly can't be reduced to a statement that Poles are anti-Semitic." The story is the familiar one of victims turning on victims.

A BROKEN ALLIANCE

The size alone of the Jewish population in pre-war Poland belies an accusation of indigenous anti-Jewish attitudes. After centures of relative harmony, Jewish and Polish relations deteriorated as their respective fortunes declined. The onset of that decline was 1648, when Cossacks in the Ukraine rose up against colonial domination with a war cry of "Death to Jews, Jesuits and Polish lords." First against invasion and then against the partitions, Poles and Jews struggled together as allies. On returning to Poland from the United States to fight against Russians for Polish independence, Thaddeus Kosciusko wrote: "There is no better evidence that our ideal is holy and just than the fact that the Jews . . . come to us of their own free will, sacrificing their lives . . . if it comes to human rights, they (the Warsaw Jews) do not spare their blood."

The Polish-Jewish alliance featured prominently in a series of heroic but futile uprisings, until the partitioning powers saw it in their own best interests to begin playing off Catholics against Jews. They had Jewish autonomy on their side. It is estimated that only about 10 percent of Poland's three million Jews were committed to some degree of assimilation into Polish culture. At a time when Polish nationalism held on to dream of a resurrected, independent homeland, most Polish Jews were living in self-contained communities, speaking Yiddish instead of Polish. Despite their long tenure, Poland's Jews came to be seen as aliens, especially by those nationalists who identified Polish with Catholic.

When industrial development early in this century brought increasing numbers of Poles from the land into the cities, they found themselves competing with Jews for jobs in traditionally Jewish commercial and professional occupations. Competition arose as well at universities as Jewish and Catholic students vied for the limited number of seats. When Poland achieved independence after World War I, Marshal Jozef Pilsudski envisioned a pluralist federation like the Poland of old. An opposition party of National Democrats, however stood for a national state in which all minorities were either to acculturate and become Polish or forced to emigrate.

In the midst of a world depression, Pilsudski's death in 1935 became the occasion for an outbreak of anti-Jewish rancor in Poland. Jews came under attack by right-wing students, unemployed workers, hungry peasants and common criminals, provoked by the diatribes of nationalist factions. Ghetto benches were set up to segregate Jewish students at universities. Businesses that had been traditionally Jewish were nationalized. Boycotts were incited against Jewish merchants. At the same time it can be noted that there were also Poles who joined with Jews in sympathy demonstrations. Leading Polish professors refused to honor the ghetto benches, and the Polish mayor of Warsaw made a national plea in defense of Jewish rights.

Anti-Jewish outbursts in Poland, especially in this century, can be properly assessed only if viewed within the context of a political-economic upheaval. Under any circumstances and anywhere, anti-Semitism is ugly; in contrast to the situation in Germany, however, the anti-Jewish nationalist movement in Poland never became a majority party and never came to power. Never were Jewish citizens excluded from elected office or Jewish institutions repressed. Never was anti-Jewish violence legal or the Jewish community reduced to a helpless, intimated minority.

Extremist elements suffered a stunning defeat in the elections of 1938, as Jews and Poles banded together again in coalition against the looming threat of German invasion. When it did come, Jews and Poles shared a nightmare that exceeds numerical calculation as much as it defies the descriptive imagination. Poles likewise speak of six million victims of the Nazi terror: three million Jewish and three million non-Jewish citizens of Poland.

No other groups suffered as much at the hands of the Nazis as the Jews and Poles. The holocaust was the culmination of a series of shared tragedies, the foremost but not the only aspect of a strikingly similar fate. There is an almost uncanny quality about the way the two groups have reflected each other. Poles and Jews were each a people without a state until this century, bound together by their respective religion, language and messianic dreams. Polish nationalism and Zionism grew up side by side on the same soil, each imbued with the same reckless romanticism. The coalescence of religion with national identity and aspiration is distinctive of both groups. It is no coincidence that Menachem Begin comes from Poland nor an insignificant factor for understanding the man.

RECONSIDERATIONS

The story of Jews and Poland seemed to have come to a tragic and abrupt end at Auschwitz. The conventional count has been that only 5,000 to 7,000 Jews were left in Poland and these mostly elderly. But the recent change in political climate has raised the claim that there are still tens of thousands of Jews in Poland, young people born after the war who have yet to come to terms with their Jewish identity. In the United States Jewish and Polish Americans generally gravitated to different parts of the country or to different neighborhoods. Contact between the two groups was minimal, though deep-seated feelings remained. But even at this distance, a thousand-year relationship is difficult to dismiss out of hand.

Detroit is only one locale where Jewish and Polish Americans have begun to confront each other. Meetings have taken place in Baltimore, Chicago, Milwaukee and New York as well. Exchanges have led to a varie-

ty of events with modest but promising results.

At the North American Study Center for Polish Affairs in Baltimore, Stanislaw Bask-Mostwin writes and publishes a variety of materials on the history of Polish-Jewish relations. In Chicago, presentations have been jointly sponsored both on the history of Jews in Poland and on the present political-economic situation there. In Milwaukee, Jewish and Polish organizations have cooperated in opposing neo-Nazi activity. The 40th anniversary of the death of Polish Franciscan Maximillian Kolbe in Auschwitz was marked this past August by the Jewish sponsored Center for Holocaust Studies in St. Louis. In Philadelphia, Polish-American businessman and philanthropist Edward Piszek was singularly instrumental in obtaining a valuable collection of Jewish books and manuscripts from the Polish Government and presented them to the Hasidic Lubavitcher community in this country.

On the national level an on-going liaison has existed since 1979 between the Polish American Congress, under its president, Aloysius Mazewski, the Kosciuszko Foundation, under Albert Juszcak and the American Jewish Committee, represented by George Szabad and Harold Gales. The working relationship led this past autumn to a joint tribute to Polish Nobel laureate Czeslaw Milosz, but, more substantially, to joint efforts that the proposed Holocaust Memorial in Washington, D.C., recognize the Polish and other non-Jewish victims of Nazi atrocities as well as Jewish victims.

Besides cooperating in efforts to counteract anti-Polish defamation, the Anti-Defamation League of B'nai B'rith has joined with several Polish-American organizations in co-sponsoring the Janusz Korczak Literary Competition for books for and about children. The award honors the Jewish and Polish patriot, physician, author and educator, Janusz Korczak, who, together with his Polish assistant, Stefania Wilczynska, went to his death in the concentration camp at Treblinka rather than abandon the children to whom he had dedicated his life.

In Poland efforts are being made by a number of artists and students to preserve Jewish cemeteries and synagogues. Cultural ties are being established with Israel, and an agreement has been struck for archival exchange between the University of Warsaw and the Union of American Hebrew Congregations. More pertinent to the future than to the past, Jews have been conspicuously supportive and active in Solidarity and the current political renewal in Poland.

One of the most critical aspects of this reconsidered relationship is the widespread belief among Jewish-Americans that Poles did little or nothing to save Jewish lives during the Nazi occupation of Poland. That perception runs contrary to the fact that an estimated 50,000 to 100,000 Jews survived the genocide perpetrated by the Nazis in Poland, something hardly possible without a creditable record of assistance to Jews by Poles. Several books have been translated into English chronicling Polish efforts to save Jewish lives: *The Samaritans: Heroes of the Holocaust* and *The Blood Shed United Us* by W. Bartoszewski, and *He Who Saves One Life* by K. Iranek-Osmecki. Without detracting from the courage of people like the Danes, the literature points out that, whereas in other Nazi occupied countries to assist a Jew could mean imprisonment, in Poland alone did the Nazis impose an automatic death penalty on anyone who so much as offered a Jew a piece of bread. In Jerusalem, at the memorial to the victims of the Holocaust, Yad Vashem, the State of Israel honors the memory of Gentiles who helped save Jewish lives. No nation has more names honored among the "righteous Gentiles" than Poland. If these facts are not generally known in the United States, Polish-American educators, as much as anyone else, share in the responsibility.

AGENDA

It would be premature to describe these initial encounters and activities as indicative of a new era in Polish-Jewish relations. Serious problems may yet turn promise into illusion. Sensitive and proud, Poles and Polish-Americans understandably prefer to highlight traditional Polish hospitality and minimize anti-Jewish hostility. They will have to acknowledge the occurrence of anti-Semitism in Poland in this century and examine whatever manifestations of it remain in the Polish-American community. Jews likewise will need to acknowledge the anti-Polish animosity that exists in their communities. Though they have been victims of stereotyping more than most other groups, Jewish and Polish Americans may well examine the extent to which they indulge in that exercise themselves. Leaders in both communities will need to confront their own on behalf of the other.

For Polish-Americans that means recognizing that there were Jewish Poles who made significant contributions to Polish history, life and culture. It means taking into account the Jewish authors who are positive about Poland. It means taking cognizance of the fact that popular opinion in Poland today, contrary to the position of the Communist Party, is genuinely sympathetic to Israel.

Pope John Paul II has been appraised of the efforts being made at Polish-Jewish rapprochement and has given them his encouragement. But Polish-American bishops and priests as a whole have yet to become fully aware of the problems or involved in the solutions. Polish church leaders can take a lead from the Pope in working to dispel whatever anti-Jewish sentiment exists in their parishes. Ecumenists and activists in interreligious affairs can encourage dialogue between the Polish and Jewish communities in their area. Given the large numbers and emergence of Polish-Americans in the American Catholic Church, such a dialogue cannot help but have an impact on broader Catholic-Jewish relations.

At a time of tracing genealogies and rediscovering roots, Jewish-Americans of Polish background may well consider whether concern for Israel means forgetting centuries of Jewish life and history in Poland as an unimportant interlude. How much significance should be attributed to the fact that Poland was a haven for the largest, most unrestricted Jewish community in the world? How much moral weight should be given to the efforts of thousands of Polish Christians, many still living, who risked their lives to save Jews from certain death at the hands of the Nazis?

A dialogue seems appropriate not only between community leaders and activists but also scholars and educators. A conference of scholars from both communities could well undertake a study of the history of Polish-Jewish relations. Within a dialogic format, such a cooperative venture could maintain scholarly objectivity while taking into account the differing perceptions and sensitivities of each group.

The Solidarity Movement has awakened a keener awareness in this country of Poland's historic struggle for social justice and individual liberty. The close cooperation between Catholics and Jews in Solidarity may seem notable to us but is in no way remarkable in Poland. "If it comes to human rights, they do not spare their blood," Kosciuszko said of Warsaw's Jews. Catholics and Jews have shared a longer history and collaboration for human rights in Poland than anywhere else in the world. It is a history and an alliance most Jewish and Polish Americans have yet to learn.●

ANTITRUST EXEMPTIONS FOR EXPORT COMMERCE

● Mr. LUGAR. Mr. President, as the recent passage of foreign trade legislation and the GATT Conference reveals, America's businesses and industries, as well as those of her trade partner, are at a crucial stage. Problems of finance, subsidies, and protectionism are not only relevant to large multinational corporations, but also to the small businesses located in all of our communities.

With our increasing need to find common ground with our trade allies and to expand trade opportunities for goods and services, it is important to recall that we have long struggled with finding an equitable and competitive approach to foreign trade. With that struggle now integral to Western cooperation in this era of frequently frustrated expectations and hopes, a historical perspective is in order.

I wish to share with my colleagues a timely examination of the subject authored by Mr. William Dwyer, founder and president of International Export Trading Co. I ask that his article be printed in the RECORD.

The article follows:

ANTITRUST EXEMPTIONS FOR EXPORT COMMERCE

(By William F. Dwyer II)

(The author is completing his law studies at Southwestern University School of Law in Los Angeles. He is president of International Export Trading Co., Inc., a firm he founded on the strength of the statute this article addresses. He also attended the ceremony held at the Port of Long Beach, Cal. on October 8, 1982 when President Reagan signed the bill into law.)

FOREWORD

Congressional authority to regulate "commercial intercourse between nations . . . in all its branches" was constitutionally certified in the early years of the American Republic. It was so held in 1824 in *Gibbons* v. *Ogden* [1] the Supreme Court's landmark "commerce clause" decision.

Once the existence of that power was established, subsequent legislative and judicial attention turned to its proper exercise.

INTRODUCTION

A set of congressional findings which includes that:

(1) although "tens of thousands of small- and medium-sized United States businesses produce exportable goods or services," few actually exports;

Footnotes at end of article.

(2) intermediaries, such as trading companies, "can achieve economies of scale and acquire expertise" enabling these should-be exporters to profit from foreign sales; and

(3) export trading company development in the United States "has been hampered by business attitudes and by government regulations;"

helped secure enactment of a new federal law, the Export Trading Company Act of 1982 (ETCA).[2]

Among its principal provisions is the increased immunity from antitrust suit that the legislation creates for export trade activities. It prohibits the bringing of either a criminal or civil antitrust action (federal or state) "against a person to whom a certificate of review is issued." [3] Essentially, certification provides a "safe harbor" once the Secretary of Commerce declares that an exporter's plans to fix prices, allocate markets, or commit otherwise actionable antitrust violations will not restrain domestic trade.[4]

The legislative intent behind the certification process is to expand the usage and extend the utility of antitrust exemptions for foreign trade that first were made available 65 years ago in the Webb-Pomerene Export Trade Associations Act.[5] Although that Act's attraction for the business community has produced a "poor showing" [6] through the years, it has been the subject of several court opinions. Thus, the propositions for which it stands form some of the strands in the decisional development of American antitrust law.

With that in mind, this article will focus on the judicial history future courts are likely to consult in interpreting ETCA. At its conclusion, the article also will highlight significant sections of ETCA as they affect and amend the body of statutory antitrust law.

BACKGROUND: THE "SHERMAN" SETTING

In 1916, the Federal Trade Commission (FTC) reported that "American manufacturers and producers were disadvantaged in attempting to enter foreign markets." [7] The causes, according to the report, were strong combinations of foreign sales competitors and organized buyers. The report's recommended response was to allow a "more equal footing" with the foreign combinations by permitting American export effort cooperation free from the fear of antitrust prosecution.

Two years later, Congress enacted the recommendation, and the Webb-Pomerene Act became law when President Woodrow Wilson signed it on April 18, 1918. His approval had been virtually assured 20 months earlier in a message to Congress from the White House, asking for "greater freedom of combination to those engaged in promoting the foreign commerce of the country that is now thought by some to be illegal under the terms of the law against monopoly." [8]

At its heart, the law sets forth an exemption from the Sherman Act [9] for "an association entered into for the sole purpose of engaging in export trade and actually engaged solely in such export trade, or an agreement made or act done in the course of export trade by such association. . . ." [10] It requires, however, that a so-called "Webb" association must not: (1) restrain trade within the United States, (2) restrain the export trade of any domestic competitor of the association, or (3) artificially affect domestic prices of the goods it exports.[11]

To gain a fuller feel of what "Webb-Pomerene" fosters calls for at least a cursory review of what "Sherman" forbids. Typically, those business practices which invite federal antitrust prosecution or given rise to civil suits by either the government or private parties involve agreements in restraint of trade or monopolization of commerce.

However, mere monopoly status is not what the Sherman Act condemns. "The offense of monopoly . . . has two elements: (1) the possession of monopoly power in the relevant market and (2) the willful acquisition or maintenance of that power. . . ." [12]

Competitor collaboration, a so-called "horizontal" restraint, presents a potential for "Sherman" scrutiny since excluded competition produces the power to fix prices. "Price and competition are so intimately entwined that any discussion of theory must treat them as one." [13]

SUBSTANTIVE STANDARDS: THE "PHOSPHATE" CASE

It was a charge of price-fixing, as well as business allocation activity, that triggered one of the Supreme Court's reviews of the Webb-Pomerene Act. *United States* v. *Concentrated Phosphate Export Assn. (CPEA)* [14] concerned five chemical fertilizer producers and their sales to the federal government's foreign aid program for shipment to the Republic of Korea. CPEA was a "Webb" association organized and operated by the domestic manufacturers. At trial, the defendant association members stipulated to their having agreed among themselves on selling prices and sales allocation. But, to allegations of combining to restrain trade, the companies answered that the transactions were exports entitled to statutory immunity from the Sherman Act. The district court accepted the answer and dismissed the government's complaint.[15]

A direct appeal to the Supreme Court brought a reversal. The holding drew a clear boundary across the legal landscape to distinguish "domestic" from "export" commerce. The Court decided that Congress did not intend "its exemption to insulate transactions initiated, controlled, and financed by the American Government, just because a foreign government is the nominal 'purchaser'." [16] Examining the "economic reality of the relevant transactions," Justice Marshall's majority opinion found that "American participation was the overwhelming dominant feature . . . [so that] . . . [t]he burden of non-competitive pricing fell, not on any foreign purchaser, but on the American taxpayer." [17] Treating as dispositive the question of whose nationals would bear the brunt of a trade restraint, *CPEA* recalled the Webb-Pomerene Act's legislative history. The opinion quotes both of the Act's authors during congressional debate. Senator Atlee Pomerene (D-Ohio) and Representative Edwin Webb (D-N.C.) had differentiated between privileges each was eager to extend American consumers and doing all that might be necessary to capture world trade for America.[18] Justice Marshall called congressional intent "clear." His opinion said the statute was passed to "increase American exports by depriving foreigners of the benefits of competition among American firms, without in any significant way injuring American consumers." [19]

Since CPEA was decided, it neither has been advanced nor argued that "Webb-Pomerene" stands for any antagonistic propositions. What has been raised, however, is whether if an "association's actions do not restrain trade or affect the price of exported products within the United States and do not restrain the export trade of any domestic competitor of the association," would there be any violation of antitrust laws absent the "Webb" exemption. This question was posed in a footnote to dissenting opinion by Chief Justice Burger (joined by Justices Powell and Rehnquist) in *Pfizer, Inc. v. Government of India.*[20] *(Pfizer* held that foreign governments are "persons" and, if otherwise entitled to sue in U.S. courts, could maintain antitrust actions for treble damages as any other plaintiff might.) The dissenting Justices cited the Webb-Pomerene Act in contending "congressional concern with the foreign commerce of the United States does not entail . . . a desire to protect foreign nations. . . ." [21] One surmises *Pfizer* embodies a bit of footnote fencing inasmuch as the majority opinion included its own which characterized the Webb-Pomerene Act as a "narrow and carefully limited exception for export activity that would otherwise violate the antitrust laws." [22] It invited inspection of the Act to assess "the precisely-limited exception Congress has established to the general applicability of the antitrust laws to foreign commerce." [23]

An earlier Court of Appeals decision recognized such a limitation. It held that the Sherman Act covered conduct beyond American borders when the parties to an agreement intended to affect commerce with the United States and "performance is shown actually to have had some effect" on imports or exports.[24] Still, the broad reach of "foreign" in construing antitrust law applications falls short of embracing commerce between two points both of which are outside the United States if its American aspects do not show "a definite nexus with significant interests of the United States." [25]

PROCEDURAL STANDARDS: THE "ALKALI" CASE

As much as CPEA gives guidance on the substance of the Webb-Pomerene Act, another Supreme Court decision, *United States Alkali Export Assn. v. United States,*[26] provides procedural instruction. The central issue there was whether the Act conferred primary jurisdiction on the FTC to pass on alleged Sherman Act violations by export associations, thereby excluding U.S. District Court jurisdiction in the first instance. Defendants were alkali producers alleged to have conspired to fix prices, prevent competition by independent domestic producers, and restrict domestic production. There was no assertion of any immunized status; the defendants arguing only that the district court was without jurisdiction.

The trial court's denial of the defendant's dismissal motion was upheld by the Court in an opinion that added judicial definition to the role of the FTC vis-a-vis a "Webb" association. *Alkali* noted the statutory requirement that such an association file an information statement with the Commission as a condition to being qualified for antitrust exemption (administration is transferred to the Department of Commerce under the new law).[27] "But while . . . [Congress] . . . empowered the Commission to investigate, recommend and report [on potential antitrust violations], it gave the Commission no authority to make any order or impose any prohibition or restraint, or make any binding adjudication with respect to these violations." [28] The Court put this position in "marked contrast to the Commission's power to issue cease and desist orders" for violations of the Federal Trade Commission Act [29] and the Clayton Act.[30] Holding that the government could institute suit for alleged violations by an export association in

the absence of FTC action, Chief Justice Stone's opinion stated, "the Commission's authority is to investigate and recommend, not to restrain violations of the antitrust laws . . . [and it] . . . may render a useful service in bringing violations to the attention of the Department of Justice. . . ." [31]

IN THE COURTS BELOW

The foreign trade promotion policy that is the essence of the Webb-Pomerene Act was found not to be served in the case of several American firms which formed an export association to jointly manufacture abroad. Their activity prompted the government to seek an injunction against the manufacturers for an alleged combination in restraint of such trade.

In *United States v. Minnesota Mining & Mfg. Co.*,[32] the court held "[i]t is no excuse for the violations of the Sherman Act that supplying foreign customers from foreign factories is . . ., as defendants argue, 'in the interest of American enterprise'." Judge Wyzanski rejected regard for "fatten[ed] profits of certain stockholders. Congress has preferred to protect American competitors, consumers and workmen." The court's conclusion was that had the defendants not joined in foreign factory operation, their "export trade would have been considerably greater. Congress has not said you may choke commerce here if you nourish it there." Replying to the defendants' attempted exculpation under the terms of the Act, the Wyzanski opinion said that using American capital to extend internal trade of a foreign country "is unlikely to extend our foreign trade . . . [e]xport of capital is not export trade." [33] The holding insisted that nothing in the statute, history, or policy "penumbra" had any bearing on the conduct at issue.

A "Webb" association has been ordered dissolved by a district court. Two defendant manufacturers of electrical equipment had formed an export association to carry out cartel agreements to allocate orders, fix prices, and eliminate sales competition. A Sherman Act prosecution was resolved with the entering of a consent decree. Thereafter, the court in *United States v. Electrical Apparatus Export Assn.*[34] enjoined the defendants from further unlawful conduct and required dissolution of their association.

The Act also has been judicially construed as empowering the FTC to exercise its jurisdiction with respect to deceptive trade practices involving foreign commerce. The case stemmed from a cease and desist order directed at the operations of a Chicago "diploma mill." The business owner contested the FTC's jurisdiction, arguing the study materials he furnished students in Latin America were not "objects of commerce." But, the court ruled otherwise. It cited the Act as authority for permitting the FTC to enforce the "prohibition[s] against 'unfair methods of competition' . . . even though . . . done without the territorial jurisdiction of the United States." [35]

AN "UNDERWHELMING" RESPONSE

One might imagine that an instrument as powerful as freedom from federal antitrust actions would have brought the FTC a stampede of exemption applicants. But, that has not been part of American history arising from the Webb-Pomerene Act.

The FTC published a Golden Anniversary review of "Webb" association activity which said "expectations of the . . . act's proponents have not been realized in the past half century." [36] A decade later, on the Act's 60th anniversary, the Commission's staff updated the earlier report.[37] Comparing results of its 1978 survey to the one used as the basis for the earlier report, the FTC staff concluded that the differences between them did "not appear significant." [38] It reported the existence of 27 active "Webb" associations with membership ranging as high as 67 firms in a single association; however, the most frequently-reported membership size was two.[39]

In an earlier era, 1930–35, these export associations "accounted for approximately 19 percent of total U.S. exports," according to a Senate committee report.[40] But, it said that the share "had dipped to less than two percent" by 1979.[41]

The same report attributed "reasons for this poor showing" to:

(1) insufficient "product-market domination to exert foreign market price control and membership discipline;"

(2) traditional American business "top priority on tapping the vast domestic market . . . much slower to focus on the prospects overseas;"

(3) "ever-expanding U.S. service industries . . . excluded from qualifying" (a situation ETCA remedies); and

(4) business community perception of the Justice Department's "exhibiting a thinly-veiled hostility" to the Act.[42]

The Senate committee labeled the fourth and final point as "perhaps most important." [43] Referring to committee hearings on legislative proposals to create export trading companies, the report stated, "[t]his theme arose frequently . . . as several business witnesses and attorneys commented on the difficulty of obtaining definitive antitrust guidance from the Justice Department and on the uncertainty Justice's ambiguity created. . . ." [44]

This timidity of business soul, however, seems to have been prompted more by prospect than performance; a 1981 treatise reported "Justice has prosecuted only six 'Webb' associations." [45]

Still, the prosecution specter cited by those who had testified for the business and legal community gave rise to congressional concern sufficient to cause statutory changes intended to "provid[e] business with a greater degree of certainty." [46]

THE ETCA APPROACH

The new law deals both with the substance and form of antitrust law (a separate section of the legislation permits banks to take part directly in export trading companies). It does so both through the certification procedure and by amending the Sherman Act and the Federal Trade Commission Act.

The recipient of a certificate issued by the Commerce Department, with the concurrence of the Attorney General, [47] receives a limited form of immunity from "the antitrust laws." [48] ETCA gives that description a broad compass by including what is statutorily defined in the Clayton Act and the Federal Trade Commission Act as well as "any State antitrust or unfair competition law."[49]

An applicant for a certificate is required to establish that proposed export conduct will not:

(1) lessen competition nor restrain trade in the U.S. nor substantially restrain the export trade of a competitor;

(2) unreasonably affect prices in the U.S.;

(3) constitute unfair methods of competition against export competitors; and

(4) reasonably result in domestic consumption or resale of goods or services exported from the U.S. [50]

With one exception, the certificate holder who confines conduct to the scope of an approved application is immunized from antitrust actions. The exception allows civil suit for injunctive relief and single (actual) damages by persons "injured as a result of conduct engaged in under a certificate. . . for failure to comply" with the four standards which condition a certificate.[51] However, this proviso is not so menancing as it might appear on its face, since ETCA also contains a presumption of legality for those certified.[52] Furthermore, a prevailing certificate holder can recover the cost of defending such a suit.[53] Of course, if a certificate holder's conduct exceeds the certificate's scope, it is *ultra vires* and subject to the full panoply of criminal and civil sanctions in existing antitrust law. Moreover, a certificate procured by fraud "shall be void *ab initio*." [54]

The certificate-of-review title of ETCA also sets forth procedures for expedited approval (when an export opportunity might be lost by delay), decision notification, reconsideration requests, certificate amendments, and document return.[55] The applicant and other involved parties also are entitled to judicial review of administrative actions.[56]

The second title of ETCA affecting antitrust area directly amends both the Sherman and Federal Trade Commission Acts by confining their scope. Application of these Acts now requires challenged conduct that has a "direct, substantial, and reasonably foreseeable effect" on commerce in the U.S. or the commerce of a U.S. exporter.[57] This new jurisdictional threshold for antitrust enforcement actions, in large measure, codifies the court interpretations previously recited.

SUPPORTER SENTIMENTS

Benefits for a troubled national economy is the motivating theme voiced by many of those who championed this new legislation. Its sponsors also point out the "wide bipartisan support"[58] it enjoyed on its journey through Congress to the White House.

During the bill's final consideration by the U.S. Senate, Senator John Heinz (R-Pa.), who chaired one of the subcommittees responsible for the measure, noted that a Chase Econometrics study had estimated "this bill will create somewhere between 340,000 and 640,000 jobs over the next 3 to 4 years."[59] He also expressed his belief that the antitrust exemption would allow businesses "to join together and compete internationally as trading companies the way the Germans and Japanese have done so successfully."[60]

At Long Beach, Cal. on October 8, 1982, ETCA became effective when President Reagan signed the bill at an outdoor ceremony alongside a giant container ship. The chief executive said his Administration feels "the bill could increase our exports by up to $11 billion in the next 1 to 3 years."[61] The President also referred to the antitrust provisions. He said they reflect a "determination to ensure our business community a fair shake with their [overseas] competitors."[62]

Similar sentiments have been heard from the U.S. Justice Department. Attorney General William French Smith told a lawyers' group of "serious problems caused by the extraterritorial reach of our antitrust laws." He said when their application is "too mechanical. . . [it] . . . fails adequately to take account of our own commercial interests."[63]

CONCLUSION

A disposition to cabin antitrust sanctions so that anticompetitive behavior is legally cognizable only when it affects domestic commerce is not new in America. It is older, in fact, than the Webb-Pomerene Act. Justice Holmes wrote of it in 1909 in a majority opinion for the Court's erection of a "water's edge" boundary for antitrust law:

[T]he general and almost universal rule is that the character of an act as lawful or unlawful must be determined wholly by the law of the country where the act is done. . . . For another jurisdiction, if it should happen to lay hold of the actor, to treat him according to its notions rather than those of the place where he did the acts, not only would be unjust, but would be an interference with the authority of another sovereign, contrary to the comity of nations which the other state concerned justly might resent.[64]

FOOTNOTES

[1] 22 U.S. (9 Wheat.) 1, 189-90 (1824).
[2] Pub. L. No. 97-280 § 102 (1982) [hereinafter cited as ETCA].
[3] *Id.* § 306(a).
[4] *Id.* §§ 301-312.
[5] 15 U.S.C. §§ 61-65 (1976).
[6] S. Rep. No. 97-27, 97th Cong., 1st Sess. 18 (1981).
[7] *Id.*
[8] *Am. Export Door Corp.* v. *John A. Gauger Co.*, 154 Wash. 701, 283 P. 462, 466-67 (1929) (Holcomb, J., dissenting).
[9] 15 U.S.C. §§ 1-7 (1976).
[10] *Id.* § 62.
[11] *Id.*
[12] *United States* v. *Grinnell Corp.*, 384 U.S. 563, 570-71 (1966).
[13] *United States* v. *E.I. DuPont DeNemours & Co.*, 351 U.S. 377, 392 (1956).
[14] 393 U.S. 199 (1968).
[15] 273 F.Supp. 263 (S.D.N.Y. 1967).
[16] 393 U.S. at 208.
[17] *Id.*
[18] *Id.* at 207-08.
[19] *Id.* at 208.
[20] 434 U.S. 308, 323n.1 (1978).
[21] *Id.* at 323.
[22] *Id.* at 314n.12.
[23] *Id.*
[24] *United States* v. *Aluminum Co. of Amer.*, 148 F.2d 416, 444 (2d Cir. 1945).
[25] *Pac. Seafarers Inc.* v. *Pac. Far East Line, Inc.*, 404 F.2d 804, 816 (D.C.Cir. 1968), *cert. denied*, 393 U.S. 1093 (1969).
[26] 325 U.S. 196 (1945).
[27] ETCA §§ 301-312.
[28] 325 U.S. at 206.
[29] 15 U.S.C. §§ 41-58 (1976).
[30] *Id.* §§ 12-27.
[31] 325 U.S. at 208.
[32] 92 F.Supp. 947 (D.Mass. 1950).
[33] *Id.* at 962.
[34] Trade Reg. Rep. (CCH) ¶57,546 (S.D.N.Y. 1947).
[35] *Branch v. Fed. Trade Comm'n.*, 141 F.2d 31, 35-36 (7th Cir. 1944), citing 15 U.S.C. § 64.
[36] *Economic Report, Webb-Pomerene Ass'ns.: A 50-Year Review* 34 (1967).
[37] *Webb-Pomerene Ass'ns.: Ten Years Later* (1978).
[38] *Id.* at 15.
[39] *Id.* at 5-7.
[40] Report, *supra* note 4, at 18.
[41] *Id.*
[42] *Id.*
[43] *Id.*
[44] *Id.* at 19.
[45] J. Atwood & K. Brewster, *Antitrust & Amer. Business Abroad* 314 (2d. ed. 1981).
[46] Report, *supra* note 4, at 19.
[47] ETCA § 303(b).
[48] *Id.* § 306(a).
[49] *Id.* § 311(6).
[50] *Id.* § 303(a) (1-4).
[51] *Id.* § 306(b)(1).
[52] *Id.* § 306(b)(3).
[53] *Id.* § 306(b)(4).
[54] *Id.* § 303(f).
[55] *Id.* §§ 303(c-e), 304.
[56] *Id.* § 305.
[57] *Id.* §§ 402, 403.
[58] 128 Cong. Rec. S13115 (daily ed. Oct. 1, 1982) (statement of Sen. Riegle).
[59] *Id.* at S13114.
[60] *Id.*
[61] 18 Weekly Comp. Pres. Doc. 1283, 1284 (Oct. 8, 1982).
[62] *Id.*
[63] Speech to 1981 annual meeting, D.C. Bar Ass'n., text reprinted in L.A. Daily Journal, July 14, 1981, at 4, col. 3.
[64] *Amer. Banana Co.* v. *United Fruit Co.*, 213 U.S. 347, 356 (1909).●

KORCZAK ZIOLKOWSKI

● Mr. LEVIN. Mr. President, on October 20, 1982, a monumental American, Korczak Ziolkowski, died in his beloved South Dakota. He was one of those rare people who changed the face of the planet and touched the souls of its inhabitants.

For over 35 years, he blasted away at a mountain to turn it into a monument to Chief Crazy Horse, based on his belief that native American heroes should be memorialized with the same grandeur and in the same spirit as later arriving heroes, such as those chiseled in the stone of Mount Rushmore.

Korczak worked on Mount Rushmore and was already a famous and accomplished sculptor when he decided, upon his return from World War II, to devote his life to transforming Thunderhead Mountain in South Dakota into a monument to Chief Crazy Horse. For 3½ decades, he blasted away millions of tons on the mountain, much of that time working alone. Supporting him below and later on the mountain itself were his extraordinary wife, Ruth, and 10 children, Marinka, Monique, Joel, Mark, Anne, Casimir, Jadwiga, Adam, Dawn, and John. They are determined to complete his work as planned.

A number of years ago, I became fascinated with this wonderful man and came to know him, Ruth, and the children. I urged the U.S. Postal Service to issue a stamp in Crazy Horse's memory so that we could honor both the subject and the sculptor of the Crazy Horse Monument. The Postal Service and the country came through and, on September 6, 1981, we unveiled the design of the permanent 13-cent Crazy Horse stamp at Korczak's Crazy Horse Museum next to his home and looking out on his life's work.

My remarks at that time reflect my feelings about Korczak as well as Crazy Horse and I repeat them now as part of this farewell to Korczak.

America is proud of a native son today. The legacy of Crazy Horse and the Native American heroes he symbolizes will be shared by millions as a result of the stamp and the design we unveil today.

As important as is the Crazy Horse legacy, a dual purpose prompted me to suggest that the Postal Service print this stamp.

The second purpose is the legacy of Korczak Ziolkowski. Oh, I know the rules of the Postal Service and they are right. And I know Korczak's rule—it is Crazy Horse that should be honored, not Korczak's monument to Crazy Horse.

But I know my own feelings, too, and I hope Korczak will understand.

Perhaps never before (and perhaps never again) has there been such a physical and spiritual commitment of artist to subject. So while this stamp will memorialize Crazy Horse, it was inspired by Korczak's monument to Crazy Horse and by the spirituality of Korczak's mountain.

Imbued in that mountain is love and respect and redemption and celebration and proportion and wisdom.

We are ennobled by Crazy Horse's life and Korczak's transcendent vision of it.

We are better people because we remember Crazy Horse today and because Korczak remembered him all these years.

And to Ruth and the family, who have made so much possible, and to Korczak's and Ruth's extraordinary circle of friends: your devotion to Korczak and his ideals is one of the noblest chapters in the story of how a God-like mountain has emerged to watch over this place.

The stamp itself was issued at Crazy Horse in the Black Hills on January 15, 1982. I wrote a poem for the occasion with which I would like to close this tribute.

POEM

The transcendent promise of America both
to her native people and to newcomers,
That we can be one with each other and
with the land
Is being redeemed on Crazy Horse Mountain.
That mountain's sculptor, Korczak, has received two gifts from God,
Creative power and an enduring devotion to
the ideal of brotherhood.
Korczak's gift in return is to we mortals and
to immortality.
The mountain on whose crest a great chief
slowly wakes.
Was lonely witness to the marriage of the
Spirits of Crazy Horse and Korczak,
While Korczak's wife and children brought
succor and in late epochs
Shared in the dynamite's blast.
With each blast's roar we are redeemed.
With each blast's song we are uplifted.
With each blast's hymn the Godlike mountain emerges and our spirits soar.
With each blast, Crazy Horse Mountain,
Korczak's mountain, looks more like it
was envisioned to be,
When, a lifetime ago, Korczak said yes.
Now, a lifetime hence his unstilled yes
Transforms his mountain and our souls.●

SENATOR ERVIN ARGUES RESTORING OF LIMITED GOVERNMENT

● Mr. EAST. Mr. President, the December issue of the American Bar Association Journal features an important article by one of our former colleagues, the Honorable Sam J. Ervin, Jr., that I want to call to the attention of Senators. A principled and informed critic of our "Imperial Judiciary," Senator Ervin argues persuasively that it is incumbent upon the Members of Congress to exercise their constitutional responsibilities under our check and balance system and restore limited government. As Senator Ervin correctly observes, "The constitutional power

of Congress to define, limit, or curtail the jurisdiction of these courts is in reality the only means in the Constitution whereby activist Supreme Court justices can be denied the autocratic power to make themselves America's supreme dictators."

Mr. President, I urge my colleagues to read this cogent article by Senator Ervin and ask that it be printed in the RECORD.

THE CONSTITUTIONAL POWER OF CONGRESS OVER FEDERAL COURTS

The provisions of Articles I and III of the United States Constitution clearly reveal that Congress has the legislative power to define, limit, or curtail the appellate jurisdiction of the Supreme Court and the jurisdiction of the federal courts inferior to it.

The Constitution is the most precious instrument of government ever devised by the experience and wisdom of man. The Founding Fathers drafted and ratified it to secure to Americans the power of self-rule and freedom from governmental tyranny, whether legislative, executive, or judicial.

They realized, however, that men are fallible beings and that none of them can be safely trusted with unlimited power. To this end, they vested in the Supreme Court the power to interpret the Constitution and thereby gave it the power to confine Congress, the president, and the states to their allotted constitutional spheres.

They undertook to make Supreme Court justices faithful to the Constitution by making it the supreme law of the land and by requiring them as well as all other federal and state officers to be "bound by oath or affirmation to support it." They also undertook to make Supreme Court justices independent of all things on earth except the Constitution itself by decreeing in Article III, Section 1, that "the judges, both of the supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office."

Notwithstanding these provisions, two members of the Constitutional Convention of 1787, Elbridge Gerry of Massachusetts and George Mason of Virginia, opposed ratification of the Constitution by the states because it contained no provision sufficient to compel activist Supreme Court justices to obey their oaths or affirmations to support the Constitution or to prevent them from substituting their personal notions for constitutional precepts, while pretending to interpret it.

I do not favor Congress's limiting the jurisdiction of federal courts to adjudicate cases in which they have manifested their devotion to the Constitution. I nevertheless rejoice because the Founding Fathers reposed in Congress the power to define, limit, or curtail the appellate jurisdiction of the Supreme Court and the jurisdiction of the federal courts inferior to it. The reason for my rejoicing is simple. I abhor judicial usurpation and deem tyranny on the bench as reprehensible as tyranny on the throne. The constitutional power of Congress to define, limit, or curtail the jurisdiction of these courts is in reality the only means in the Constitution whereby activist Supreme Court justices can be denied the autocratic power to make themselves America's supreme dictators.

Judicial activists are judges who interpret the Constitution to mean what it would have said if they, instead of the Founding Fathers, had written it. The moral inhibition of their oaths or affirmations to support the Constitution has not sufficed to restrain them. Life tenure and undiminishable compensation do not render them immune to the temptation to make themselves independent of the Constitution.

Alexander Hamilton asserts in the Federalist No.79 that Supreme Court justices "are liable to be impeached for mal-conduct" by Congress and declares in the Federalist No. 81 that "this is alone a complete security" against judicial activism. I express no opinion respecting the validity of Hamilton's view that judicial activism constitutes an impeachable offense. It is to be noted, however, that this possibility, if it exists, has had no deterrent effect on judicial activism. Moreover, impeachment is a cumbersome process and cannot be made effective without the concurrence of two thirds of the members of the Senate.

The constitutional power of Congress to define, limit, or curtail the appellate jurisdiction of the Supreme Court and the jurisdiction of the federal courts inferior to it is exercisable, however, by a bare majority of the houses of Congress. Members of Congress who revere the Constitution are likely to demand that this power be exercised with frequency in the future if activist Supreme Court justices do not stop substituting their personal notions for constitutional precepts, while pretending to interpret the Constitution.

The tragic truth is that judicial activism has run riot among Supreme Court justices during recent years. They have belittled the role of the states in the federal system of government ordained by the Constitution. They have ignored the fact that society and the victims of crime are as much entitled to justice as the accused, and in consequence have impaired the capacity of federal and state courts to protect the people from criminals. They have nullified basic principles of the Constitution and substituted their personal notions for them in cases having racial overtones. And they have arrogated to themselves the autocratic power to prescribe qualifications for voting in elections and to supervise these elections in defiance of provisions of the Constitution that expressly deny them and the federal government this power.

It is high time for activist Supreme Court justices to realize that the Constitution of the United States belongs to the people of America and not to them, and that their supreme obligations to our country is to obey their oaths or affirmations to support the most precious instrument of government ever devised by human experience and wisdom.

—Sam J. Ervin, Jr.●

FAST REACTORS ON SLOW TRACK

● Mr. HUMPHREY. Mr. President, one of the key arguments now being used by the backers of the Clinch River breeder reactor project is that we must build this plant if we are to stay in the international breeder reactor sweepstakes. What this presumes, of course, it that there truly is a major race effort to produce a commercially viable breeder and that it is moving so fast that building Clinch River is our best chance to stay in contention.

The following detailed article by David Dickson of Science suggests that this line of reasoning is in fundamental error, that the race abroad has slowed to a crawl, and that, indeed, in the case of the French program, it may well be the military that will have to pull their effort's financial coals out of the fire.

This article is the most recent and detailed description of European efforts in the breeder field and puts our own breeder effort into perspective. I ask that the entire text be printed into the RECORD.

The article follows:

[From Science, Dec. 10, 1982]

EUROPE'S FAST BREEDERS MOVE TO A SLOW TRACK

(By David Dickson)

PARIS.—Europe's enthusiasm for fast breeder nuclear reactors is rapidly running out of steam, faced with increased costs, decreased projections of electricity needs, and across-the-board delays in the construction of conventional light water reactors on which a commercially viable fast breeder program would depend.

In both Britain and West Germany there is now serious talk, if not of abandoning fast breeder development completely, at least of putting a freeze on expansion plans until future needs can be perceived more clearly. Nigel Lawson, Britain's minister of energy, told Parliament on 29 November that the British government remains committed to the long-term development of fast breeder reactors, but that commercial orders for fast reactors are not expected until after the year 2000.

In France, President François Mitterrand has not so far invoked his preelection call for a temporary halt in the construction of France's technological jewel, the Super-Phénix fast breeder reactor at Creys-Malville in the Rhône valley. This has stimulated concern that pressure to retain the breeder may be coming from the French military, attracted by the high-grade plutonium that will become available from the reactor blanket (see box). However, the government announced earlier this year that it was reducing its future commitment from five to one more fast reactor after Super-Phénix, and there are doubts about whether it will decide to go even this far, at least without considerably more international support.

It is all very different from the heady enthusiasm that existed up to the end of the 1970's. Even 2 years ago, at the time of the International Nuclear Fuel Cycle Evaluation (INFCE) studies, the talk was of having 50 gigawatts of breeder reactor capacity worldwide by the year 2000. Today, many economists claim breeders will not be competitive with light water reactors for the next 50 years. Even the more optimistic, such as Georges Vendreyes, head of industrial applications of nuclear energy at France's Commissariat à l'Energie Atomique (CEA), admit that breeders are not likely to become commercially attractive until the beginning of the next century.

Confidence in the technical potential of fast breeders as an eventual important energy source remains high, particularly in countries that lack access to domestic energy resources and are reluctant to accept the implications of heavy dependence on foreign supplies of uranium.

Political enthusiasm, however, has cooled, for the OPEC-inspired oil price rises have

provoked a steady decline in the rate of growth of electricity demand. This, combined with licensing restrictions imposed by public concern about safety, has caused delays in conventional nuclear programs to such an extent that the date at which they would be able to sustain a viable fast breeder program, based on reprocessed light water reactor spent fuel, is receding further and further into the distance.

Furthermore, the resultant decreased demand for natural uranium is making it increasingly difficult to argue that fast breeders are urgently needed to compensate for an imminent evaporation of uranium supplies. "There now seems to be enough uranium at least until the first decade of the next century, so that the need for the breeder from the supply side is rapidly diminishing," says one analyst with the nuclear energy agency in Paris. "The long-term need for the breeder is still there; but compared to the thinking at the time of INFCE, the prospects have been put back by 20 to 30 years."

The changed economic and political climate has affected European countries in different ways, depending on the stage of their breeder programs. France, still out at the head of the pack with the world's first commercial fast breeder, the 1200-megawatt sodium-cooled Super-Phénix, is in an easier position than some. Completion of Super-Phénix is currently scheduled for 1984, and no decisions about the next step (currently thought of as Super-Phénix II) need be made until at least 1 or 2 years later.

When it comes, however, the decision will not be easy. Until recently, the future of fast breeders in France seemed well assured. The prototype Phénix, a 250-megawatt reactor, has been providing power for the French utility Electricité de France (EDF) since 1973, and most of the technical questions about fast breeder operations seem to have been solved. Furthermore, French politicians have proudly displayed fast breeders as one technology in which the country is well ahead of its international competitors.

Various factors, however, have dampened some of the enthusiasm. After 8 years of "working like clockwork," in the words of Vendreyes, Phénix sprang a leak in April of this year in its cooling system, leading to a fire when the sodium came in contact with the air. The accident put the reactor out of operation for several weeks and stimulated a debate about fast breeder safety.

Furthermore, the cost of Super-Phénix, jointly financed with German and Italian partners, has been rising alarmingly. Estimated 5 years ago to cost 4 billion francs ($550 million at current exchange rates), the latest estimate is that it will cost about 12 billion francs ($1.7 billion). Even allowing for the first-time costs of a new enginering enterprise, this means that a commercial fast breeder based on the Super-Phénix design would cost about twice as much as a conventional light water reactor of the same size.

A third factor, perhaps even less predictable, is politics. During his election campaign in 1980, Mitterand's apparently skeptical stance toward fast breeders helped him secure support not merely from the environmental movement—to whom the whole idea of a plutonium economy remains a can of worms—but also from members of the powerful union the Confédération Française Démocratique de Travailleurs, which has been waging various well-publicized campaigns around nuclear safety issues, such as the safety of working conditions for its members at the La Hague reprocessing plant.

Since his election, Mitterrand has backpedaled on his previous criticisms of the nuclear industry, well aware that for other sectors of the labor movement, it represents an important source of jobs. Work on Super-Phénix has continued virtually uninterrupted; last year, for example, Prime Minister Pierre Mauroy underlined the government commitment to fast breeders by announcing plans to expand La Hague with a facility to produce plutonium for Super-Phénix.

By announcing that no political decision will be made about the future of the French fast breeder program until operating experience has been gained with the Super-Phénix, Mitterrand has been able to keep the lid on what could become a damaging political conflict between different groups of his supporters. But, fueled on the one hand by unfavorable economic conditions and on the other by concerns that breeders could become a principal source of plutonium for France's force de frappe, the tensions are not far beneath the surface.

The situation is more delicate in Germany, which is still struggling to complete construction of its own prototype reactor, the 300-megawatt sodium-cooled test reactor SNR-300 at Kalkar, which started in 1973. This is being built by the consortium Schnell-Brüter-Kernkraftwerksgesellschaft (SBK), headed by Germany's largest utility Rheinisch - Westfalisches - Elektrivitätswerk (RWE). Belgium and the Netherlands are each contributing 15 percent of the cost and Britain's Central Electricity Generating Board 2 percent. Of the German share, electric utilities agreed to absorb 8 percent of the construction costs, the rest being covered by the federal government.

When originally planned, Kalkar was expected to be ready by 1978. It now looks as if completion will not be until at least 1986; and if the German government is unable or unwilling to raise the necessary finance, either from its own resources or from utility and nuclear construction companies, final completion could still be postponed indefinitely.

Various factors have contributed to the delay. For example, the reactor has had to go through a lengthy and detailed series of licensing procedures, which themselves have become increasingly more strict in response to growing public concerns about the safety of nuclear power. In addition, there have been various design changes, some the result of new licensing requirements, others of miscalculations in the original plans.

Each of these factors has helped increase the costs. At the beginning of the 1970's, it was estimated that Kalkar would cost 1.355 billion marks ($550 million at current exchange rates), but this projection rose steadily during the decade. In February 1981 new estimates were made public that the completion of Kalkar would cost 5 billion marks. A lengthy series of negotiations followed, during which the utilities and the nuclear industry agreed to share the extra costs with the government—but only provided that the federal parliament give the full project its approval.

This goal was almost reached earlier this fall. After 3 years of discussions, a special parliamentary commission of inquiry agreed by a narrow majority to recommend to the parliament that the construction of Kalkar should be completed and the reactor be allowed to start operation. A parliamentary debate now scheduled for 3 December had been expected to endorse the commission's recommendations with little difficulty.

Since then, two separate events have raised new doubts. With the change of government in September, the Social Democrats have closed ranks with the critics. On 24 November, the party agreed to endorse the resolution being put before parliament stating that a number of important economic and safety questions still need to be answered before Kalkar is given final approval. To some observers in Bonn, the most significant aspect of this move is that it represents the breakup of the previous all-party coalition on which support for the fast breeder has depended.

Given the extent of both public and private investments, as well as the number of construction jobs at stake, parliamentary criticism in itself is unlikely to be sufficient to halt SNR-300. However, in September, it was announced that the costs had once again been recalculated and that they were now expected to be at least 6.5 billion marks ($2.6 billion). Germany's research and technology minister, Heinz Riesenhüber, was reported last week to have written to the federation of German industrialists saying that the Bonn government does not intend to increase its contributions either to Kalkar or to another controversial nuclear project, the high temperature reactor, which has also encountered major financial problems.

Industrial sponsors of the project remain, at least in public, optimistic that the money will be found somewhere. Critics of the fast breeder, however, suggest that the new cost increases may prove to be the final death blow.

All this casts even more doubt on what was to have been the next stage in Germany's fast breeder program, the construction of a demonstration commercial reactor known as SNR-2. Roughly comparable in size to Super-Phénix, this is officially planned to be jointly financed with French and Italian participants, and the final design has been virtually completed. Even the most optimistic supporters of fast breeders in Germany, however, accept that construction is unlikely to start before the end of the 1980's—"This time, we plan to get the construction license granted before we start building," says one official—and many will not be surprised if, even if Kalkar is completed, SNR-2 is put on the shelf for many years.

In Italy, doubts about current plans for fast breeder development have not taken such a public form. Italy has recently made a substantial increase in its support for all forms of energy research—including fast breeders, which now consume 39 percent of the nation's energy R & D budget—as part of its response to the energy crises of the late 1970's. However, most of Italy's support for fast breeders is going into Super-Phénix. It has agreed with France to shoulder 33 percent of the construction costs (and as a result has received orders for about one-third of the components, and will receive the same proportion of the electricity when it is produced).

Domestically, the delays in Italy's conventional nuclear program—only one full size nuclear reactor has so far been built with one more under construction—means that discussion about the need for commercial fast breeders is not even expected to begin until the mid-1990's. The most Italy is aiming for at present is to keep up with the state of the art through its contribution to Super-Phénix and the construction of its own 120-megawatt experimental fast reactor PEC (Prova Elementi Combustibili), designed to develop Italy's domestic nuclear

capabilities and to study various aspects of fast reactor functioning.

Even this, however, is running into economic problems. Earlier this year, faced with the calculations that, rather than the 650 billion lire ($450 million at current exchange rates) estimated in 1980, PEC was now likely to cost 1400 billion lire ($950 million), the Italian government asked its Comission on Economic Planning to carry out an investigation of the project to determine whether it should still be supported. The commission appointed an advisory panel from the Comitato Nazionale per l'Energia Nucleare e Energie Alternativa (CNENEA), which gave the project a green light on technical grounds, and at the beginning of last week the commission itself approved the project. Officials from the CNENEA estimate that, once allowance is made for inflation, the real cost increase is only about 15 percent. Given a more stable political and economic environment, construction would probably proceed without interruption; but with the current political crisis in Italy, together with growing demands from the international banking community for broad cuts in public spending, the future of the project it still highly uncertain.

Similar uncertainty, though based on different reasons, exists in Britain. Up to now, the United Kingdom has been at the forefront of fast breeder research, with its 250-megawatt reactor in commercial operation at Dounreay in the north of Scotland since 1975, and a current research and development program costing about 110 million pounds ($136 million) a year. Britain is also working on a design for a 1300-megawatt commercial demonstration fast reactor.

In practical terms, the British government is now faced with the question of what to do next. Some observers feel that, faced with the recent weakening of economic arguments in favor of fast breeders, the answer is likely to be "wait and see." The British Conservative government faces the political challenge of bringing to fruition a program to construct ten light water reactors announced by Prime Minister Margaret Thatcher, the first of which, at Sizewell in Suffolk, is due to become the subject of a public inquiry in January. In the circumstances, an earlier government promise of an inquiry into the commercial development of fast breeders now seems a distant prospect.

Certainly, the fast breeder does not lack enthusiastic supporters in Britain (or elsewhere in Europe, for that matter), such as Walter Marshall, until recently head of the United Kingdom Atomic Energy Authority. The main British utility, the Central Electricity Generating Board (which Marshall now heads), however, basing its assessment on economic rather than technical arguments, has always been less enthusiastic. For example, it turned down an invitation to contribute toward the cost of the UKAE-A financed fast breeder at Dounreay, which according to estimates by Colin Sweet of the South Bank Polytechnic in London, has a spotty operating record, reaching only 6.8 percent capacity over its first 8 years of operation.

Britain's medium-term plans for the fast breeder are currently being thrashed out in the U.K. Department of Energy. As noted earlier, substantial investment is likely to be delayed for the next 20 years.

Given the cost escalation, almost all countries agree that there is a strong case—again in principle—for the next step toward a commercial demonstration fast reactor to be taken internationally. The French, for example, have long said that they would welcome more foreign partners in the development of Super-Phenix II, a topic which is said to have been the subject of recent negotiations both the American (a possible substitute for the Clinch River liquid metal fast breeder?) and with Japan.

Again, however, the hurdles to international collaboration are high, ranging from security and legal concern about the control of plutonium, to the equitable distribution of construction contracts. Furthermore, any effort to mount an international project is seen by some critics as an attempt by nuclear supporters to evade domestic criticism. "It looks as if the breeder people are going for another Concorde syndrome, so that if they get an international treaty, it will be impossible to cancel it," says Walter Patterson of Britain's Friends of the Earth.

At the time of the INFCE studies, any decision not to proceed with a commercial program of fast breeder reactors was portrayed as a major political gamble. Today the technology has lost its imperative. As a result, proceeding with the rapid development of fast breeders, given demand uncertainties and the apparent medium-term adequacy of uranium supplies, is coming to be seen in Europe as an economic and political gamble whose outcome is unpredictable—and perhaps equally risky.

BREEDERS AND BOMBS

Questions were raised in the West German Federal Parliament, the Bundestag, last week about whether German funds are being used to help produce plutonium for French nuclear weapons. The questions were prompted by an article in the weekly magazine *Der Spiegel*, which claimed that the Super-Phénix sodium-cooled fast breeder reactor is intended to produce plutonium for the French military, and that customers of the German utility that is providing 16 percent of the funding for Super-Phénix were therefore unwittingly helping to finance the planned buildup of France's nuclear forces.

The questions were quickly dismissed by both the German and the French governments, which pointed out that the whole Super-Phénix project is being overseen by Euratom, and that this should be sufficient to ensure safeguards against the diversion of civilian plutonium to military purposes. But the incident reflects the type of political difficulty that could arise over multilateral cooperation in fast breeder research and development—difficulties that the United States has already encountered in its own nuclear cooperation agreements, most recently in its effort, though the Nuclear Nonproliferation Act, to keep a handle on the plutonium contained in the light water reactor fuel sold to other nations.

The attraction of the fast breeder, from the military point of view, is the high purity of the plutonium that can be extracted from the uranium oxide blanket after it has been bombarded with fast neutrons from the reactor core. One visitor to the United Kingdom's Atomic Energy Authority's fast breeder at Dounreay was told that the purity was as high as 98 percent. There are several cheaper and more convenient ways of producing weapons-grade plutonium; but if fast breeders are built, the temptation to the military to make use of the plutonium in the blanket will be strong.

France has never admitted that it intends to do this. Indeed, at present it has plenty of plutonium from its own military reactors. However, a veil of secrecy is generally drawn over where the country will get the plutonium it needs to fulfill future commitments to building new weapons. Nuclear critics claim they can discern from a few public statements made by those close to the military program a logic that points toward the fast breeder.

In 1973, for example, a report on the military applications of nuclear energy prepared by the Commissariat à l'Energie Atomique (CEA) recommended that the production of military nuclear material should take "advantage . . . of civilian programs . . . in order to limit the costs." In 1978 General Jean Thiry, previously director of France's military centers for nuclear testing, and subsequently an adviser to the head of the CEA, wrote that France was able to make large quantities of nuclear bombs "since fast breeders will provide ample supplies of the necessary plutonium." Most recently, an article in a weekly newsletter L'Energie stated boldly that the future supply of weapons-grade plutonium, currently produced by the aging reactor G-3 in Marcoule, was "assured" by Super-Phénix which would produce enough high quality plutonium to fuel 60 atomic bombs a year. "Super-Phénix is obviously becoming the technical base of the French force de frappe," the author, L. Lammers, an economist with Electricité de France, declared. To some critics, the message is clear. Given the declining economic interest in fast breeders as a source of electric power, they ask, what is the explanation for continued political enthusiasm? "The answer is succinct: the military needs breeders," wrote Yves Lenoire and Michel Genestout in the October issue of the popular French magazine Science et Vie, the source of Der Spiegel's broadside against West German involvement in Super-Phénix. So far, the French authorities have kept a discrete silence on the issue, other than pointing out that although it is not a signatory of the nonproliferation treaty, France is voluntarily obeying International Atomic Energy Authority safeguards on its civilian nuclear installations.

Whether the complaints are, in themselves, sufficient to deter the French, who take strong nationalistic pride in their ability to determine their own nuclear future, from moving in this direction is open to speculation.●

TAIWAN'S AIR DEFENSE NEEDS

(By request of Mr. BAKER, the following statement was ordered to be printed in the RECORD:)

● Mr. GOLDWATER. Mr. President, the debate over United States arms sales to the Republic of China on Taiwan has too often ignored the basic issue: What kinds of arms will give the greatest assurance of the survival of Taiwan as an independent, sovereign political entity? Instead the debate is misdirected to discussions of Communist China's supposed peaceful intentions toward reunification.

The fact is that a real threat to Taiwan's security exists. Communist China possesses massive military force relative to Taiwan. It may use this force to resolve the Taiwan issue, if it is able to do so at an acceptable cost.

Our task, and our commitment, set forth in the Taiwan Relations Act, is

to help Taiwan preserve an adequate defense system, one that will make the use of force by Peking too expensive to employ.

The question of how to achieve this goal is discussed by Col. Angus M. Fraser in the fall 1982 issue of Strategic Review. Colonel Fraser is a recognized authority on Asian affairs, having served 30 years in the U.S. Marine Corps with assignments in the Pacific.

His article argues that the United States must make a realistic assessment of Communist China's capabilities-in-being. He points out that the critical element in any hostilities in the Taiwan Strait is control of the vital airspace over the area.

The numbers are heavily on the Communist side. Peking's inventory of high performance aircraft exceeds 4,000 to 5,000. Taiwan has fewer than 400 fighters.

Because of this numerical imbalance, Colonel Fraser contends that what Taiwan needs "is an air defense package of aircraft, anti-aircraft weapons and electronic gear that will render a major surprise attack from the mainland too risky and too difficult." In contrast, the recently signed joint communique between the United States and Red China is premised on the weak assumption of benign Communist intentions.

In order to focus debate where it should be placed, on Communist capabilities, I ask that Colonel Fraser's paper appear in the RECORD.

The article follows:

WHAT KINDS OF ARMS FOR TAIWAN?

(Col. Angus M. Fraser, USMC (Ret.))

A purposeful ambiguity informs much of the record of U.S. policy and behavior in the relationship with the People's Republic of China since the Shanghai Communique of February 28, 1972. This contrasts with the clear intent stated in the Taiwan Relations Act of January 1, 1979, which asserts that "The U.S. decision to establish diplomatic relations with the People's Republic of China rests on the expectation that the future of Taiwan will be determined by peaceful means." The Act also affirms the U.S. policy "to maintain the capacity to resist any resort to force or other forms of coercion that would jeopardize the security of the social or economic system of the people of Taiwan." This statement follows the simple avowal that it is American policy "to provide Taiwan with arms of a defensive character."

Under the law, the determination of what is to be furnished to the Republic of China is made by the President under certain legislative constraints and then sent to the Congress for concurrence or rejection. The White House has recently forwarded a proposal for selling the ROC some $60 million in parts and supplies. Earlier, a request for new high-performance aircraft had been refused on the grounds that they were not necessary for the defense of Taiwan.

THE CURRENT IMPASSE

Beijing does not accept what it sees as an affront to its sovereignty in U.S. efforts to have the PRC abjure the use of force in resolving the Taiwan question. It has not disavowed the possibility of the use of forceful means, nor could it be expected to. At the same time, Beijing insists that American arms for Taipei must be reduced now and eventually halted. This situation clouds all other aspects of the Sino-American relationship.

Both Chinese sides agree that there is one China, of which Taiwan is a part. Beijing no longer talks of "liberating" the people of Taiwan; rather, the two sides are to be reunited. But let us try to be vicarious with the PRC leadership: what sort of Taiwan would they like to absorb? One can easily imagine some quick answers to this question. For one thing, damage to the people on Taiwan should be as minimal as possible: they are, after all, brothers, and in addition possess knowledge and skills of great value to China's ambitions of modernization. For similar reasons, the advanced industrial infrastructure of the island should be preserved to the extent possible in order to be harnessed to the greater good of Greater China. Old grievances should be forgone—or at least not heightened—to allow as harmonious an integration as practicable. If these are the ideal objectives, but if unification by force were still to be necessary, what sort of military action would best serve those goals?

There are those who contend that the Chinese Communist leaders no longer look at Taiwan through such military binoculars—for one thing because the sheer physical-military problems entailed in an invasion are seen as too prohibitive. It is also held in some quarters that Beijing will stay its hand in deference to world opinion and/or the reactions of other powers. Indeed, the prospects for calm in the Taiwan Strait can be adjudged as reasonably good at the moment. Nevertheless, it would be dangerous for the United States to turn its back to the problem of Taiwan's security completely on such wistful assumptions and expectations.

The underlying purpose of both Chinese sides is the final resolution of a civil war that has persisted in some form since 1927. We must constantly bear in mind the historical record—the fact that the Chinese Communist Party has resorted to arms for much less compelling reasons. A roll call of some of Beijing's military ventures since 1949 is instructive: Kinmen, Hainan, Korea, Taiwan Strait (twice), India, Paracels and Vietnam—not to speak of the subjugation of Tibet and the clashes along the borders with the USSR. In all these cases Beijing opted for military force to maintain territorial principles, moving into territory held by its opponent as deemed necessary to support its basic claims.

The ability of the Republic of China to defend herself militarily, and the role of the United States in maintaining that ability, have become major hubs of controversy in Washington. The political and ideological strains in that controversy are not the subject of this discussion, except to note that these strains are both substantial and time-honored and that decisions to provide the materials of war are seldom taken in consideration of military factors alone.

In any event, the Chinese Communist input into that debate is rising. Beijing is consistent, vocal and adamant in its determination to stop the flow of U.S. military equipment to Taiwan. The vigor of this attack on U.S policy and actions is paying off in ever wider U.S. press coverage of the Chinese position. Thus, for example, in August 1982 the Washington Post reported a story in Beijing's official newspaper that derided American foreign policy in several cases outside the Sino-American context, but saved its strongest language for the issue of arms to Taiwan.

On August 17 the United States and China released a communique in which Washington denied any intention of infringing on Chinese sovereignty or territorial integrity, or interfering in China's internal affairs. The Chinese policy of striving for a peaceful solution of the "Taiwan problem" was cited approvingly. The United States, it declared, does not seek to carry out a long-term policy of arms sales to Taiwan. Sales to Taiwan will not, it said, exceed, either in qualitative or in quantitative terms, the level of those supplied in recent years since the establishment of diplomatic relations between Washington and Beijing. Presumably the F5E aircraft now being produced under license in Taiwan would fall under those ceilings: Taiwan is to produce 248 F5Es by 1983.

In essence, the communique ties the ultimate solution to peaceful negotiations toward that end. Gradual reduction in arms supplied to Taiwan will accompany progress toward a peaceful reunion. The numerous and bitter attacks on the American attempt to link reduction in arms sales to peaceful settlement of the issue suggest that the Chinese leadership is far from content with the American vision of the future.

Vice President Bush, during a visit to Beijing in May 1982, told the Chinese leadership that the United States was actively interested in a peaceful settlement of the "Taiwan question." He carried a letter from President Reagan to Premier Zhao Ziyang, which contained the frank statement: "The differences between us are rooted in the long-standing friendship between the American people and the Chinese people who live on Taiwan." Assuming that this friendship will endure and that the Taiwan Relations Act will not be altered, what should be the approach by the United States to the ROC's security?

MILITARY REALITIES

A comparison of the weapons inventories of the Chinese antagonists can lead to the impression that the position of the Republic of China is hopeless. This could be true if only numbers mattered, but other significant factors affect the balance. There is the eternal problem of getting men and equipment to the point of use: the limits imposed by shortages in combat transport hold down the size of any potential mainland assault force, whether committed by air or sea. The 129 armored and infantry divisions of the People's Liberation Army (PLA) cannot get at the 20-plus divisions on Taiwan except in relatively small packets.

In naval and air forces, however, Beijing commands a massive superiority in numbers and types. Taiwan has no nuclear weapons, tactical or strategic. It is to these conditions that Taiwan must look in its effort to mount a defense posture that is commensurate with the actual threat against it.

It must be assumed that the PRC will enter into any sizable conflict with the ROC only if the former has some assurance that the Soviet Union, Vietnam and/or the United States will not move or intervene. Freed of such constraints, however, the question becomes one of the actual means to be used.

A military planner on the mainland would have to contemplate the fact that the ground defenses of Taiwan offer an impos-

ing barrier to an attack launched from the west of the island. The military geography of Taiwan is characterized by an essentially linear quality, with a high mountain system in which one peak reaches over 13,000 feet. The heights run north and south, separating the east and west coasts except for a small number of passes. The western coastal plain comprises only one fourth of the island, which is about 240 miles long and 60 to 80 miles wide overall. Extensive development work has improved communications and increased industrial activity, but the west side of the island is by far the most important.

The western coast of Taiwan features a series of spurs, which in turn establish a number of terrain compartments. These provide locations for a strong prepared defense and for large numbers of weapons positions. Over time stocks of defense materiel have been built up in these positions to sustain extended periods of combat. The ground permits cross-support between power points. The narrowness of the coastal plain and the necessarily linear lines of communication would limit movement and resupply over the super-highway and railroad that run in front of the position in many places. Reinforcement over the mountains is planned in some contingencies.

PRC OPTIONS OF AMPHIBIOUS OR AIRBORNE INVASION

An amphibious assault by the PRC against the defenses of Taiwan would face imposing problems. There is first of all the factor of the terrain itself. The shore-to-shore distances between the mainland and Taiwan vary between 90 and 120 nautical miles, but the geographical requirements of staging a force on the mainland and of finding suitable landing sites on Taiwan would render the actual distances of movement somewhat longer. The selection of landing points would be constrained by the fact of very flat beach-gradients in many places. At the same time, any thought of an amphibious assault on Taiwan's eastern coast would be dampened by the PRC Navy's lack of training and experience in convoy-type operations.

For any amphibious landing, the PRC would have to muster all available naval ships and craft, and additionally draft into service a large number of non-military vessels. In his FY 1980 posture statement the Chairman of the U.S. Joint Chiefs of Staff offered the following assessment of the PRC's amphibious capabilities:

"The PRC Navy has a sufficient number of conventional amphibious vessels to lift a force of over 30,000 men and equipment in a regional (less than 30 hours transit) amphibious assault. There are no indications that the Navy maintains a force specifically trained and equipped for projecting and supporting ground forces in combat operations on hostile shores."

In the following year the Chairman noted: "Since 1978 several Chinese-designed landing ships have been built. . . ." The FY 1983 report simply attributes to the PRC "poor logistic capabilities for large-scale out-of-country operations."

Indeed, anyone in Beijing charged with planning an amphibious invasion of Taiwan faces a difficult assignment. The operation would require large numbers of miscellaneous vessels. The passage to Taiwan over the rough and shallow strait would be at speeds of no better than 8 knots (an optimistic estimate) and, after at least 12 hours underway, the force would land in the face of powerful defensive positions. Finally, no sizable landing could be undertaken without air superiority, a factor to be discussed below.

A word of caution is in order nonetheless. When a Western analyst considers large-scale amphibious or airborne invasions, his mind tends to turn to Crete, Normandy or Okinawa. The Communist Chinese planner, on the other hand, would remember Hainan, where a sequestered island was reduced by means and techniques of the most primitive sort. While that memory might be sobered by the fact of modern weapons and equipment, nevertheless the tradition of past victory dies hard.

The planner on the mainland of an airborne attack on Taiwan faces similarly serious problems. The PLA is credited with three airborne divisions, but probably no more than one could be moved and sustained by the air transport force available. Drop zones of any size are not plentiful on Taiwan, and those that do exist are heavily defended. Again, control of the air would be the primary variable.

THE OPTION OF A NAVAL BLOCKADE

The physical problems entailed in imposing a naval blockage on Taiwan in order to disrupt its economy might not seem great to Beijing. The 100-plus submarines in the PRC Navy should be more than enough to block traffic attempting to transit the Taiwan Strait and to patrol the access routes to the small number of east coast ports on the island. Beijing's submarines are mainly Romeo and Whiskey types of Soviet parentage, with a few more advanced boats apparently in development and testing. The Chinese diesel-powered, snorkeling vessels may be primitive by U.S. or Soviet standards. Against the ASW capabilities of Taiwan, however, they would be formidable. Taiwan has two U.S. ex-Guppy types for training use, and two operating types are on order from the Netherlands.

There are massive drawbacks, however, to any blockade scheme. First, the interruption of trade and movement would offend other nations. Second, it is difficult to conceive that the United States would not challenge a blockade, and the course of such a response augurs a range and depth that would give Beijing pause. The total political-military dimensions of a blockade scenario would tend to make it undesirable.

Islands in the strait—Kinmen, Matsu and, to a lesser degree, the Pescadores—have figured large in the Chinese conflict in the past. These sites have some limited use for logistics and air warning and control, but their roles in the scenarios suggested here would be modest. Beijing would probably be satisfied to maintain an exchange of artillery fire aimed at suppression of observation, liaison flights and air-warning activities. The forces on the islands would be limited to the same level of activity.

NUCLEAR WEAPONS—A SEPARATE CASE

The PRC has accumulated a significant nuclear weapons arsenal and can deliver them by aircraft or missile to any target on Taiwan. The size of the island, the concentration of targets and the short warning times involved would make the nuclear attack option tempting for the PRC.

But there are substantial obstacles to that temptation. The PRC has unilaterally declared a "no-first-use" policy with respect to nuclear weapons. With or without such a pledge, Beijing, in contemplating a nuclear attack on Taiwan, would have to reckon with incalculable penalties of world opinion and the reactions of other powers. And in this respect some special factors would come into play. The Chinese civil war is often seen as a "brother against brother" conflict. How would the world react to nuclear fratricide?

Moreover, a nuclear devastation of Taiwan, or even parts thereof, would be contrary to all of the PRC's objectives, noted earlier, or acquiring the island's industrial infrastructure and its human resources in as intact a condition as possible. The same applies to the objective of the harmonious integration of its populace into a Greater China: the scars of conventional conflict might heal in time, but could the memories of a nuclear onslaught ever be obliterated?

The PRC has lesser nuclear options: for example, the kind of "nuclear demonstration shot" that, some suggest, the United States should have staged in World War II for the education of the Japanese high command before attacking an actual target. Could such demonstration bring Taipei to the conference table? The level of scientific sophistication makes it certain that nuclear weapons effects are well known. The enterprise would lack credibility, while alarming the world. On balance it seems that Beijing, contemplating the unknown cluster of results that could grow out of any introduction of nuclear weapons, would eschew this tactic in the service of the campaign to secure the return of Taiwan by force.

A LIKELY SCENARIO OF CONFLICT

The critical element in any hostilities in the Taiwan Strait (except for the unlikely introduction of nuclear weapons) is control of the vital air space over the area. Without it, no major undertaking is possible. With it, many of the problems attending airborne or amphibious operations or naval actions become irrelevant: there will be little need for such operations.

The air defenses of Taiwan are based on U.S.-provided aircraft, surface-to-air and air-to-air missiles, conventional A/A guns and radar and communications. A few of these items have been purchased from other suppliers, but that share is not significant in the ROC's inventory.

There are on the mainland on the order of 40 jet-capable airfields from which Taiwan can be reached. On Taiwan there may be five with reciprocal capability. Beijing's inventory of high-performance aircraft comes to something over 5,000; Taiwan's force numbers approximately 400. Taiwan's pilots are better trained and man better aircraft; nevertheless, sheer numbers weigh heavily on the Communist side. This condition clearly suggests a scenario in which the numerical imbalance would be exploited.

A PRC operation could begin with the random circulation of aircraft from field to field on the mainland, accompanied by false starts and feints. This process could go on for as long as needed in order to take the sharp edge off the ROC defense system. Then, perhaps early one morning, Taiwan's air defense system would be flooded with aircraft from the mainland. The primary mission would be to strike airfields and missile sites and to maintain continuous patrols over the small number of fighter airfields on Taiwan. Once established, Chinese Communist air superiority would support a program of incremental damage to selected targets, the pausing of attack and offers to negotiate after each strike, along with the message that attackers and defenders are all Chinese whose fates are interwoven. Under those postulated circumstances, it would be very difficult for Taipei to refuse to enter into serious discussions about reunion.

IMPLICATIONS FOR THE ROC POSTURE

It may be argued that the scenario that has been sketched above is highly improbable—politically, in light of the international risks Beijing would face, and militarily, because of the heavy casualties it would have to contemplate. Nevertheless, such risks have been endemic to the decision to go to war through the ages. It is true that China's tense relations with the Soviet Union and Vietnam would argue for caution with respect to any new military adventures that would leave the PRC vulnerable to her Asian neighbors, but to rely on the permanence of such constraints is to deny history. Indeed, history is littered with the gravemarkers of those who focused on the assumed intentions of, and constraints upon, their opponents at the expense of a realistic assessment of the latter's capabilities-in-being.

The United States bears moral and political commitments to the Republic of China. Its commitment to a peaceful settlement of the China problem is unequivocal. It is further pledged in law to help Taiwan maintain the physical strength to protect against attack. What the ROC needs—and can get only from the United States—is an air-defense package of aircraft, anti-aircraft weapons and electronic gear that will render a major surprise attack from the mainland too risky and too difficult. The determination of Taiwan's military needs should not become entangled in debate over specific items; rather, the components of the system should be geared to the state of the air threat from the mainland—and more generally to a hard definition of PRC capabilities rather than to fragile assumptions about Beijing's intentions and constraints.●

THE OTHER SIDE OF THE STORY

● Mr. KASTEN. Mr. President, some of you no doubt have read recent newspaper reports of Canadian suits filed against Amway Corp. and four of its top executives. This morning's Washington Post carries a statement by Amway Corp. regarding these suits. Canadian authorities allege that Amway has underpaid customs duties, and have filed a criminal information suit against Jay Van Andel and Rich DeVos, the owners of the corporation, in an attempt to expedite collection of duties and penalties. Civil action is pending in Canadian courts in this regard.

The wave of publicity generated by Canadian authorities and the media has made it necessary for Amway and its two owners to present their side of the story. It is my hope that today's Washington Post statement will explain the dispute more clearly and fairly, and that Amway and the Canadian Government will ultimately be able to reach a more satisfactory resolution of the issue.

ORDER TO INDEFINITELY POSTPONE CERTAIN BILLS

Mr. STEVENS. Mr. President, I ask unanimous consent that the following calendar items be indefinitely postponed: Calendar No. 140, S. 1206; Calendar No. 398, S. 1249; Calendar No. 553, S. 2260; Calendar No. 598, S. 1992; Calendar No. 635, S. 2601; Calendar No. 712, S.J. Res. 208; Calendar No. 798, S. 2911; Calendar No. 801, S. 2914; Calendar No. 851, S. 505; and Calendar No. 872, S. 2965.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINT REFERRAL OF S. 3044

Mr. STEVENS. Mr. President, I ask unanimous consent that S. 3044, the Surface Transportation Act of 1982, be jointly referred to the Committee on Finance to consider title I, to Environment and Public Works to consider title II, to Banking, Housing and Urban Affairs to consider title III, and to Commerce, Science, and Transportation to consider title IV.

I ask further that it be agreed that title IV will not be reported with reference to chapter I of title XXIII, United States Code, relating to the jurisdiction of the Committee on Environment and Public Works.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENDING TO THE GRADUATE SCHOOL, U.S. DEPARTMENT OF AGRICULTURE, THE APPRECIATION OF THE CONGRESS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate turn to the consideration of House Concurrent Resolution 412, a concurrent resolution dealing with the graduate school of the Department of Agriculture.

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the concurrent resolution (H. Con. Res. 412) was considered and agreed to.

The preamble was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RECOGNIZING THE OUTSTANDING SERVICE AND PATRIOTISM EXHIBITED BY THE VOLUNTEERS OF THE AMERICAN NATIONAL RED CROSS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of House Concurrent Resolution 376, a resolution honoring American Red Cross volunteers who served our Nation during times of war, and I ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the concurrent resolution (H. Con. Res. 376) was considered and agreed to.

The preamble was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DIPLOMATIC IMMUNITY INVOKED IN SHOOTING INCIDENT IN WASHINGTON, D.C.

Mr. ROBERT C. BYRD. Mr. President, I would expect that my colleagues are familiar with the report which appeared in this morning's press concerning the involvement of the Brazilian Ambassador's adopted son in a shooting in a Washington, D.C. bar, or in the area of a bar, this past Monday night.

According to the District of Columbia police, Antonio Francisco da Silveira, Jr., the adopted son of Brazil's Ambassador to the United States, was asked to leave the bar for disorderly conduct, at which point he reportedly shot an employee of the bar. The victim of the shooting is in the hospital, recovering from at least three gunshot wounds. The assailant was arrested by the District of Columbia police, but he was soon released, and charges against him were dismissed because, under the provisions of international law, he "enjoys" absolute diplomatic immunity from being prosecuted for any crimes he commits while he is in this country.

No Senator can do this, Mr. President. A Senator can be arrested for speeding if he is not on his way to a session or leaving a session to go back home. He can certainly be arrested for a felony.

I think the provisions of the Vienna Convention notwithstanding, this is a tough position to defend or explain to the people of this country. At a time when our citizens are concerned about the intolerable level of violent crime in our society, it seems inconceivable that a violent act of this nature—suppose the person who was shot should die. What then? Can the person be arrested? Can he be put in jail? Can he be sent to the penitentiary through due process? Can he be deported? What can be done?

Mr. STEVENS. What is the age of the Ambassador's son?

Mr. ROBERT C. BYRD. I do not recall the age of the son, Mr. President, but he certainly had no business

carrying a gun, no matter what the age.

Mr. STEVENS. I think it is a strained interpretation of the Convention as I understand it, I say to my good friend. I find it regrettable that such an incident would occur right after the President has gone to such great lengths to help assure the great country of Brazil of the friendship and admiration of the people of this country for the people of that country. It is regrettable.

Mr. ROBERT C. BYRD. I thank the distinguished acting Republican leader.

As I said, in a time when our citizens are concerned about the intolerable level of violent crime in our society, it seems inconceivable that a violent act of this nature will go unpunished merely because the offender is the relative of a foreign dignitary.

If this can happen, they can come in, they can burn down our houses if they want to, they can shoot us on our streets, they can mug us, they can rob us, they can rape, they can murder, and they cannot be arrested.

We have to make clear to the Brazilian Government in the strongest possible terms that this kind of conduct certainly cannot be tolerated in this country.

What about our own citizens in foreign countries? I am sure we have Americans languishing in foreign jails right now, having been charged with crimes; in some jails, perhaps, without being charged with crimes. I do not know.

At a minimum, Brazil should either waive their diplomatic immunity in this case, or require the immediate return to Brazil of young da Silveira. To do any less would be an affront to the people of this country. It should also be in the best interests of Brazil to offer reparations for any and all damages which were caused.

Finally, Mr. President, I believe it is incumbent upon our own Government to aggressively seek these results.

I know nothing about the argument that ensued. I know nothing about who was in the right or who in the wrong. But it seems inconceivable to me that the relative of a diplomat can carry a gun in this country and shoot an American citizen and cannot be arrested, cannot be brought to trial, can just be turned loose on the streets.

Mr. President, I intend to pursue this further. I hope I shall have the support of the majority leader and others on that side of the aisle. This is an intolerable situation.

Mr. STEVENS. I can assure the Senator from West Virginia that for my part, I shall be more than happy to associate myself with his remarks. It so happens that my good friend, Langhorne Motley—Tony Motley—who is an Alaskan, is the Ambassador to Brazil. I shall see to it that he has a copy of the remarks of the distinguished minority leader and advise him of the concern that has been expressed. I assure him I share those feelings.

I really do not believe that the relatives and dependents of those who enjoy diplomatic immunity should have diplomatic immunity to the extent of being permitted to be released following the commission of a violent felony, or at least the allegation of the commission of a violent felony. I believe the matter should be looked into thoroughly.

Mr. ROBERT C. BYRD. Mr. President, if something is not done to redress this kind of incident, is it not possible for relatives of foreign diplomats to come to this country and commit acts of violence against the leaders of our Government? Suppose they commit terrorist activities. Do they have immunity from arrest?

I think we have to have a clarification of this. I for one intend to pursue it, and I hope that we would, as I say, have the assistance of our own Government in aggressively seeking these results.

Article 37 of the excerpts from the Vienna Convention on Diplomatic Immunity states as follows:

> The members of the family of a diplomatic agent forming part of his household shall, if they are not nationals of the receiving State, enjoy the privileges and immunities specified in Articles 29 to 36.

All articles 29 to 36 are not before me, but article 29 reads as follows:

> The person of a diplomatic agent is inviolable. He shall not be liable to any form of arrest or detention.

Article 31 states:

> A diplomatic agent shall enjoy immunity from the criminal jurisdiction of the receiving State.

Article 32 states:

> The immunity from jurisdiction of diplomatic agents and of persons enjoying immunity under Article 37 may be waived by the sending State.

It seems to me that when we entered into that Vienna Convention on Diplomatic Immunity, articles of which said that "members of the family of a diplomatic agent forming part of his household shall, if they are not nationals of the receiving State, enjoy the privileges and immunity specified in articles 29 and 36," one of which is "the person of a diplomatic agent is inviolable. He shall not be liable to any form of arrest or detention," we should have had our heads examined right then and there.

Mr. ROBERT C. BYRD. Mr. President, I have nothing further. I thank my friend.

Mr. STEVENS. Mr. President, I think that the distinguished Senator from West Virginia has performed a service to the Senate and the country by pointing out the defects in this existing international agreement.

I certainly cannot condone the concepts. I assure the Senate that the Ambassador from the United States to Brazil shall be duly notified of the exchange that has taken place on the floor of the Senate this evening.

ORDER FOR STAR PRINT—S. 2925

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. RANDOLPH, I ask unanimous consent that S. 2925, the performing arts labor relations amendments, be star printed showing the corrected language of the bill inasmuch as, unfortunately, it appears that portions of the text were inadvertently omitted.

Mr. STEVENS. There is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR FRIDAY

ORDER FOR RECESS UNTIL TOMORROW AT 10:30 A.M.

Mr. STEVENS. Mr. President, I ask unanimous consent that when the Senate stands in recess, it stand in recess until the hour of 10:30 a.m. on tomorrow, Friday.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE RECOGNITION OF CERTAIN SENATORS ON TOMORROW

Mr. STEVENS. Mr. President, I ask unanimous consent that there be a special order entered for tomorrow, Friday, December 3, for not to exceed 15 minutes, for the Senator from Wisconsin (Mr. PROXMIRE) and the Senator from Michigan (Mr. LEVIN).

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER DESIGNATING PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS ON TOMORROW

Mr. STEVENS. Mr. President, I ask unanimous consent that after the two leaders have been recognized under the standing order and the two special orders have been disposed of, there be a period for the transaction of routine morning business not to exceed the hour of 11:15 a.m., with statements therein limited to 5 minutes each by any Senator seeking recognition.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. STEVENS. Mr. President, I would like to say on behalf of the leadership that we will do everything we possibly can to continue to try and

clear the appropriation bills that are on the calendar and other legislative items. We do anticipate the possibility of votes tomorrow. It will be our intention to try to finish tomorrow at an early hour in the afternoon.

As I indicated yesterday, it is not our intention to ask the Senate to be in session on Saturday.

May I inquire if there is any further business to come before the Senate?

Mr. ROBERT C. BYRD. Yes, if the distinguished acting leader will allow me.

RECESS UNTIL 10:30 A.M. TOMORROW

Mr. STEVENS. Mr. President, is there any further business to come before the Senate? If there is not, I ask unanimous consent that the Senate stand in recess in accordance with the previous order.

There being no objection, the Senate, at 5:59 p.m., recessed until Friday, December 3, 1982, at 10:30 a.m.

HOUSE OF REPRESENTATIVES—*Thursday, December 2, 1982*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We pray, O God, that Your spirit of understanding and love will be with us at all the moments of life. In times of apprehension, grant us serenity, in times of disappointment, guide us with perspective and in times of accomplishment give us appreciation. May the spirit of Thanksgiving ever touch our lives that in all the difficulties and joys of living we may be conscious of the gift of Your spirit that sustains us and gives meaning and purpose to each day. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 322. Concurrent resolution regarding membership in the United Nations General Assembly.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 5447) entitled "An act to extend the Commodity Exchange Act, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HELMS, Mr. DOLE, Mr. HAYAKAWA, Mr. LUGAR, Mr. COCHRAN, Mr. HUDDLESTON, Mr. PRYOR, Mr. BOREN, and Mr. HEFLIN to be the conferees on the part of the Senate.

NUCLEAR WASTE POLICY ACT OF 1982

Mr. UDALL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3809) to provide for repositories for the disposal of high-level radioactive waste, transuranic waste, and spent nuclear fuel, to amend provisions of the Atomic Energy Act of 1954 relating to low- level waste, to modify the Price-Anderson provisions of the Atomic Energy Act of 1954 and certain other provisions pertaining to facility licensing and safety, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Arizona (Mr. UDALL).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. McCLORY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 345, nays 6, not voting 82, as follows:

[Roll No. 406]

YEAS—345

Addabbo	Coughlin	Frenzel
Akaka	Courter	Frost
Albosta	Coyne, James	Fuqua
Alexander	Coyne, William	Gejdenson
Anderson	Craig	Gephardt
Andrews	Crane, Daniel	Gilman
Annunzio	Crockett	Ginn
Anthony	D'Amours	Glickman
Archer	Daniel, R. W.	Gonzalez
Ashbrook	Dannemeyer	Gore
Aspin	Daub	Gradison
Atkinson	Davis	Gramm
AuCoin	Derrick	Gray
Badham	Dickinson	Green
Bafalis	Dicks	Gregg
Bailey (MO)	Dingell	Grisham
Barnard	Dixon	Guarini
Barnes	Donnelly	Gunderson
Beard	Dorgan	Hagedorn
Bedell	Dornan	Hall (OH)
Beilenson	Dowdy	Hall, Ralph
Bennett	Downey	Hall, Sam
Bereuter	Dreier	Hamilton
Bevill	Duncan	Hammerschmidt
Biaggi	Dunn	Hance
Bliley	Dwyer	Hansen (UT)
Boggs	Dyson	Hartnett
Boland	Early	Hatcher
Boner	Eckart	Hefner
Bonior	Edwards (AL)	Heftel
Bonker	Edwards (CA)	Hendon
Bouquard	Edwards (OK)	Hightower
Bowen	Emerson	Hiler
Brinkley	Emery	Hillis
Brodhead	English	Holland
Broomfield	Erdahl	Holt
Brown (CA)	Erlenborn	Hopkins
Brown (CO)	Evans (IA)	Horton
Brown (OH)	Evans (IN)	Howard
Broyhill	Fary	Hoyer
Burgener	Fascell	Hubbard
Campbell	Fazio	Huckaby
Carney	Fenwick	Hughes
Chappell	Ferraro	Hunter
Chappie	Fiedler	Hutto
Clausen	Fields	Hyde
Clinger	Findley	Jacobs
Coats	Fish	Jeffords
Coelho	Fithian	Jenkins
Coleman	Flippo	Jones (TN)
Collins (IL)	Florio	Kastenmeier
Collins (TX)	Foglietta	Kazen
Conable	Ford (MI)	Kemp
Conte	Forsythe	Kennelly
Conyers	Fowler	Kildee
Corcoran	Frank	Kindness
Kogovsek	Nelson	Skeen
Kramer	Nowak	Skelton
LaFalce	O'Brien	Smith (AL)
Lagomarsino	Oakar	Smith (IA)
Lantos	Oberstar	Smith (NE)
Latta	Obey	Smith (NJ)
Leach	Ottinger	Smith (OR)
Leath	Panetta	Snowe
LeBoutillier	Parris	Snyder
Leland	Pashayan	Solarz
Lent	Patman	Solomon
Levitas	Paul	Spence
Lewis	Pease	Stangeland
Livingston	Pepper	Stark
Loeffler	Perkins	Staton
Long (LA)	Petri	Stenholm
Long (MD)	Peyser	Stokes
Lowery (CA)	Pickle	Stratton
Lujan	Price	Studds
Luken	Pritchard	Stump
Lundine	Pursell	Swift
Lungren	Quillen	Synar
Madigan	Rangel	Tauke
Markey	Ratchford	Tauzin
Marlenee	Regula	Taylor
Marriott	Reuss	Thomas
Martin (IL)	Rhodes	Traxler
Martin (NC)	Rinaldo	Trible
Matsui	Ritter	Udall
Mattox	Roberts (KS)	Volkmer
Mavroules	Roberts (SD)	Walgren
Mazzoli	Robinson	Walker
McClory	Rodino	Wampler
McCollum	Roe	Washington
McDade	Rogers	Waxman
McEwen	Rose	Weaver
McGrath	Rostenkowski	Weber (MN)
McHugh	Roth	Weber (OH)
Mica	Roukema	Weiss
Michel	Roybal	White
Mikulski	Rudd	Whitehurst
Miller (CA)	Russo	Whitley
Miller (OH)	Sabo	Whittaker
Mineta	Sawyer	Whitten
Minish	Scheuer	Williams (OH)
Mitchell (NY)	Schneider	Wilson
Moakley	Schroeder	Winn
Molinari	Schulze	Wirth
Montgomery	Schumer	Wolf
Moore	Seiberling	Wolpe
Moorhead	Sensenbrenner	Wyden
Morrison	Shamansky	Wylie
Motti	Shannon	Yates
Murtha	Sharp	Yatron
Myers	Shaw	Young (AK)
Napier	Shelby	Young (FL)
Natcher	Shumway	Young (MO)
Neal	Siljander	Zablocki
Nelligan	Simon	Zeferetti

NAYS—6

Goodling	Hawkins	Mitchell (MD)
Harkin	Lowry (WA)	Roemer

NOT VOTING—82

Applegate	de la Garza	Hansen (ID)
Bailey (PA)	Deckard	Heckler
Benedict	Dellums	Hertel
Bethune	DeNardis	Hollenbeck
Bingham	Derwinski	Ireland
Blanchard	Dougherty	Jeffries
Bolling	Dymally	Johnston
Breaux	Edgar	Jones (NC)
Brooks	Ertel	Jones (OK)
Burton, John	Evans (DE)	Lee
Burton, Phillip	Evans (GA)	Lehman
Butler	Foley	Lott
Byron	Ford (TN)	Marks
Carman	Fountain	Martin (NY)
Cheney	Garcia	Martinez
Chisholm	Gaydos	McCloskey
Clay	Gibbons	McCurdy
Crane, Philip	Gingrich	McDonald
Daniel, Dan	Goldwater	McKinney
Daschle	Hall (IN)	Moffett

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Mollohan	Rosenthal	Vander Jagt
Murphy	Rousselot	Vento
Nichols	Santini	Watkins
Oxley	Savage	Williams (MT)
Patterson	Shuster	Wortley
Porter	Smith (PA)	Wright
Rahall	St Germain	
Railsback	Stanton	

□ 1015

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3809, with Mr. PANETTA in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Tuesday, November 30, 1982, the text of H.R. 7817 was considered as an original bill for the purpose of amendment.

Are there any further amendments which are made in order pursuant to the rule?

Mr. SEIBERLING. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to ask the manager of the bill if he will engage in a colloquy with me?

Mr. Chairman, am I correct that the purpose of the site characterization guidelines in section 112 is to protect the public health and safety and the environment in the siting and development of a permanent repository for the disposal of high-level radioactive waste and spent nuclear fuel?

Mr. UDALL. If the gentleman will yield, the answer is yes. The gentleman has the correct understanding.

Mr. SEIBERLING. Further, as a member of the House Interior Committee, I helped in the drafting of the provisions of this legislation which would essentially designate certain sensitive areas as the last possible choice for development of a nuclear waste repository. The committee also drafted the provisions in this legislation which include an environmental assessment process and a site selection process to identify the conflicts that would arise. Although the bill stresses that our first priority must be public health and safety considerations, is it not also intended that other factors be considered if health and safety criteria can be met by more than one candidate site?

Mr. UDALL. The gentleman is entirely correct.

Mr. SEIBERLING. And further, let me give an example—if one of the identified alternate sites were adjacent to an area legislatively protected because of its high natural values, such as a national park, is it not the intent that it should be designated as a site only as a last resort if none of the other alternative sites satisfy the essential criteria for a permanent repository?

Mr. UDALL. Yes. I would agree with the gentleman.

Mr. SEIBERLING. I have one other question which I believe I should address to the gentleman from Florida (Mr. FUQUA).

Mr. Chairman, I note that the population criteria in section 112 which would apply to title I repositories for disposal of high-level radioactive waste and spent nuclear fuel differs from the population criteria contained in section 213 which guides the development of research, development and demonstration regarding disposal of high-level radioactive waste and spent nuclear fuel. I want to clarify that the bill would require that any research and development facility to be colocated at a selected repository site or a candidate repository site would have to comply with the appropriate siting guidelines provided under section 112. Is that correct?

Mr. FUQUA. Mr. Chairman, if the gentleman will yield, that is my understanding. That is correct and that is the intent.

The CHAIRMAN. Are there any further amendments made in order pursuant to the rule?

AMENDMENT OFFERED BY MR. MARKEY

Mr. MARKEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Chair will inquire of the gentleman, is the amendment made in order under the rule?

Mr. MARKEY. Yes, it is, Mr. Chairman.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. MARKEY: In section 219(a), strike out "75 percent of the expenses incurred by such State or Indian tribe" in the second sentence and insert in lieu thereof the following: "90 percent of the expenses incurred by such State or 100 percent of the expenses incurred by such Indian tribe, as the case may be,".

Mr. MARKEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

Mr. STRATTON. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk concluded the reading of the amendment.

□ 1030

Mr. MARKEY. I thank the chairman very much.

This is a relatively simple amendment and it is one that tries to make sure that there is a uniform treatment of the States and Indian tribes as they are being affected by Federal action in either placing a permanent repository or a test and evaluation facility in a particular location.

Under H.R. 7187, in the event of a decision to place a permanent repository in a State, reimbursement for monitoring or testing of the site, independent of the Department of Energy, would be reimbursed 100 percent to the Indian tribes and 90 percent to the States. However, for a test and evaluation facility which would have very much the same kind of effect upon a State or Indian tribe in terms of the costs that would have to be incurred to insure that there were no adverse health effects, the reimbursement to the State or Indian tribe is only 75 percent. In terms of the overall commitment that has to be made to the resolution of any problems that might arise because of the siting of these facilities, it seems to me that there ought to be some consistency.

So all that I am asking for is for the States and the Indian tribes, whether it be a permanent repository or a test and evaluation facility, to be treated equally in terms of the Federal reimbursement for costs incurred.

In trying to arrive at what I believe would be fair, I have established the same reimbursement figure for the T&E section as that which will be made to a State or Indian tribe in the event of a siting of a permanent repository. That level is 100 percent to the Indian tribes and 90 percent to the States.

That is the import of the amendment, very simply. It just tries to treat the States and the Indian tribes with some equity.

Mr. Chairman, I yield back the balance of my time.

Mr. FUQUA. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, this provision was added in the bill in the Committee on Science and Technology by an amendment offered by the gentleman from New York (Mr. OTTINGER) to reduce the reimbursement levels.

I might point out that this does not involve a permanent repository, but only a test and evaluation facility; that spent fuel will only be there during the time of this test and evaluation, and then it would be moved on to a permanent repository, wherever that might be located.

So I think that, based upon the clear indication of the committee's sentiment, and also the participation by the States and Indian tribes at the level in the bill, funding is sufficient to do that.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I will be happy to yield to the gentleman from New York, the author of the amendment in committee.

Mr. OTTINGER. I thank the gentleman for yielding.

Mr. Chairman, I think the figure, whichever it is, is an arbitrary figure. There is no scientific basis for choosing 90 or 75 percent, but the consequences to the State or Indian tribe from a test and evaluation facility with just temporary use of radioactive materials clearly is not going to be as great as a permanent repository that is going to be there forever.

I felt in the committee that the payment of 90 percent of those costs, or 100 percent in the case of Indian tribes, was excessive. I still feel that way. I do not feel strongly about it, but I think we would be better off leaving things as they are in the bill.

Therefore, I join my chairman in opposition to the amendment.

Mr. MARKEY. Mr. Chairman, will the gentleman yield to me?

Mr. FUQUA. I yield to the gentleman from Massachusetts.

Mr. MARKEY. I thank the gentleman for yielding.

Mr. Chairman, here is the problem that I have with the formulations as they presently exist: We say to the State of Nevada or we say to the State of Louisiana, "We are designating your State for a Federal repository test and evaluation facility, but yet we are going to ask you not only to accept all of the nuclear waste that will now be brought to your State, but we are also going to ask you to pick up 25 percent of the costs of making sure that there have been proper evaluations."

To me, it just seems like taking a guy to an execution in a taxicab and having him pick up 25 percent of the cab fare. The least that we should have the decency to do here is to say to a State, "Look, we are selecting you as the slot, but at least in terms of the reevaluation of the program, we are going to help reimburse you for any costs which have been incurred in the due process of the evaluation of this project."

Otherwise, we have not only made this State or Indian tribe the winner of the queen of spades, but we have also made it pay a premium on top of that. I just do not think that is a fair way to operate.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield to me?

Mr. FUQUA. I yield to the gentleman from New York.

Mr. OTTINGER. I thank the gentleman for yielding.

Mr. Chairman, at the present we have all kinds of defense nuclear facilities located in the States. In fact, we have bomb testing going on in some of the States. We do not provide reimbursement for that.

This being a test and evaluation facility, we are doing something extraordinary by picking up 75 percent of the costs as it is.

Mr. MARKEY. If the gentleman will yield further, I would agree with the gentleman if there was not implicit in his reimbursement for the permanent facility an understanding that some exceptions should be made for this whole concept of taking nuclear waste and putting it in a State because the risk which is run by the environment in a test and evaluation facility really is very little different than what it will be at a permanent repository in the testing stages of that. And we are going to put upward of 100 metric tons of nuclear waste in this test and evaluation facility. I really, genuinely, believe that once we have established the precedent, once we have intellectually decided that there ought to be an exception to whatever past history we have in giving reimbursement to the States, we ought to be consistent in doing it for all the test and evaluation facilities.

Mr. FUQUA. The 100 metric tons is not going to stay there. It will go to the permanent repository site. So it is not a permanent repository of the nuclear wastes at the test and evaluation facility. That is the reason for this language that was suggested by the gentleman from New York in committee.

Mr. MARKEY. Mr. Chairman, will the gentleman yield further to me?

Mr. FUQUA. I will be happy to yield to the gentleman from Massachusetts.

Mr. MARKEY. I thank the gentleman for yielding.

Mr. Chairman, the problem is that we might not be giving back 100 metric tons to the Department of Energy. What we are worried about is that if there is an accident, if there is a leak, if there is some kind of geologic fault that has not been properly anticipated by the Department of Energy.

The CHAIRMAN pro tempore (Mr. PEYSER). The time of the gentleman from Florida (Mr. FUQUA) has expired.

(On request of Mr. OTTINGER and by unanimous consent, Mr. FUQUA was allowed to proceed for 2 additional minutes.)

Mr. FUQUA. Mr. Chairman, let me reclaim my time. This is the very reason for the test and evaluation facility so that we will prevent accidents, leaks, and other types of things. That is its purpose. We are hopeful that these types of things will not happen. That is the reason we feel the reimbursement provisions are adequate.

Mr. Chairman, I would certainly urge defeat of the amendment.

Mr. MARKEY. Mr. Chairman, will the gentleman yield further to me?

Mr. FUQUA. I yield to the gentleman from Massachusetts.

Mr. MARKEY. I thank the gentleman for yielding further.

Mr. Chairman, that is why we have guinea pigs. The guinea pigs die so that the real patients do not have any problems. What we are saying is that there is a greater likelihood that the guinea pig is going to have the accident than the final patient, the final respository.

So, in fact in terms of reimbursement, we are asking the State, actually, or the Indian tribe that is going to be the guinea pig to take the higher risk. As a result of that, if anyone is to be reimbursed, the area in which we give the higher risk should have the higher repayment ratio.

That seems to me to be common decency to the area being asked to run the highest level of risk.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I yield to the gentleman from New Mexico.

Mr. LUJAN. I thank the gentleman for yielding to me.

Mr. Chairman, I want to congratulate the gentleman and join him in opposition. We have been up and down the street on this particular level of paying the States. This is a compromise figure.

I remember in the Committee on Interior and Insular Affairs, the gentleman from Massachusetts struck out for 100 percent for both States and Indian tribes at that time. The committee felt that that was excessive.

The gentleman from New York (Mr. OTTINGER), in the Committee on Science and Technology, moved the other way, feeling that perhaps the percentages were too high.

It is almost like anything. Any time you get a figure in there, it is a matter of compromise. The State or Indian tribe still has $3 million for monitoring, testing, and evaluation, and the purpose of not giving them 100 percent is so that they will also watch their expenditures.

Now, we are in a tough budgetary situation and we cannot just give an open checkbook to anyone. At the least, if someone has to put up a minimum of 10 percent, they are going to watch that expenditure a little bit. If we give them 100 percent, there is no reason for them to watch their expenditures.

The CHAIRMAN pro tempore. The time of the gentleman from Florida (Mr. FUQUA) has expired.

Mr. MARRIOTT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, could I have a colloquy with the chairman of the committee?

Mr. FUQUA. I would be glad to.

Mr. MARRIOTT. I would like to know how much money is involved here, No. 1, and what the States might be using the money to do. If the Government is going to go in and do some test and evaluation, what is it that the State needs the money for, and how much money do we anticipate would be involved.?

Mr. FUQUA. Mr. Chairman, will the gentleman yield to me?

Mr. MARRIOTT. I yield to the gentleman from Florida.

Mr. FUQUA. I thank the gentleman for yielding.

Mr. Chairman, on page 119 of the bill, it says that the amount paid by the Secretary shall not exceed $3 million per year from the date on which the site involved was identified, to the date on which the decontamination and decommission of the facility is complete. Then it cites a statement that the payment may be made to the State in which a potential test and evaluation facility has been identified, and then it cites section 213 and goes on to cite the Indian tribe on whose land the potential site has been identified under the section.

Then it has a limitation following that as to what can be done.

So this would really be for decommission and decontamination.

Mr. MARRIOTT. What does the gentleman anticipate the States would be needing additional funding for?

Mr. FUQUA. I do not anticipate States would need any funding.

Mr. MARRIOTT. It seems to me if we give the States a blank check on the Federal Government, they are going to use it to do things that may not have to be done, and the concern I have is that I want to protect the States but I want to know what the limit to that type of thing is.

Mr. FUQUA. If the gentleman will yield further, the gentleman from New Mexico (Mr. LUJAN) answered the question in a colloquy with the gentleman from Massachusetts: If we give the States a blank check, I am sure they may find some way to utilize that fund in some related activity.

By putting some limit on this, then I think we tend to put some kind of control and make the States be frugal in any expenditures that they may enter into. I do not anticipate that they would incur any costs.

Mr. MARRIOTT. Other than what is in this bill, which is provided by the Federal Government, that is.

Mr. FUQUA. That is correct.

Mr. MARRIOTT. The gentleman does not believe that even with the 75-percent limit that the States are going to incur large amounts of money to do anything.

Mr. FUQUA. They should not, I say to the gentleman.

Mr. MARRIOTT. I thank the chairman.

Mr. MARKEY. Mr. Chairman, will the gentleman yield to me?

Mr. MARRIOTT. I yield to the gentleman from Massachusetts.

Mr. MARKEY. I thank the gentleman for yielding to me.

Mr. Chairman, just so the record is clear as to what this money is reimbursed for, it would be reimbursements for costs incurred in notifying its citizens of the repository siting plans, in monitoring or testing the site independently of the Department of Energy, and of reviewing Department of Energy activities.

This is not a blank check. This is just something that will deal with rudimentary activities that are going to have to be conducted by the State in any circumstance, and it is also subject to oversight by the Department of Energy in insuring that only costs which have been justifiably incurred are reimbursed by the Federal Government.

Mr. MARRIOTT. Will the gentleman answer a question for me?

Mr. MARKEY. I would be glad to, Mr. Chairman.

Mr. MARRIOTT. What expenses would the State have to incur to monitor what the Federal Government is doing? The States have an organization, all types of people on the payroll to do that now in their various commissions. What additional expense? Would they hire an outside public relations firm to do something, or what is it that the States would have to do?

Mr. MARKEY. Well, as you know, there has been no real experience with the siting of nuclear waste facilities in this country. So no State is really going to have on hand the expertise to be able to adequately deal with this problem.

As you remember, back in Lyons, Kans., back in 1970 when the first deep geologic facility was attempted to be sited, what happened was the State was clamoring for additional protections from the Federal Government. When ultimately water, 250,000 gallons of water, was put into the geologic site that had been designated by the Department of Energy, a week later when they came back there was no water left in the repository. It had just leaked out because of a mistake made by the Department of Energy. That had been developed independently by the State of Kansas officials.

My argument here is: Why should we say to a State which has had no experience, because no State has, to force them to rely upon amateur judgment. Here we should give them at least the right to bring in at least expert opinion, perhaps out of State, to give them the basis of countering whatever arguments are made by the Federal Government in terms of their analysis of salt mines, salt formations, any other geologic questions which would have to be resolved.

□ 1045

Mr. MARRIOTT. Could the States hire environmentalist groups to come in and argue against the whole procedure with this money?

Mr. MARKEY. I do not think that probably is within the purview of what this amendment is. That would come under intervenor funding or other sections. This has to do with the State role, not outside groups.

The CHAIRMAN pro tempore. (Mr. PEYSER). The time of the gentleman from Utah has expired.

(By unanimous consent, Mr. MARRIOTT was allowed to proceed for 2 additional minutes.)

Mr. FUQUA. Mr. Chairman, will the gentleman yield?

Mr. MARRIOTT. I would be happy to yield to the chairman.

Mr. FUQUA. Mr. Chairman, let me try to explain a little further what the bill does. As I have mentioned earlier in our colloquy, there is a $3 million limit to be used by the Secretary to pay for the activities of the section. The gentleman from Massachusetts did not raise that figure, but raises the percentage from 75 percent to 90 percent. The $3 million can be used in section 215, which I read to the gentleman earlier in our colloquy, for consultation and costs. That is designed to reimburse the States for these incurred costs that they have—notification, cooperative agreements.

Mr. MARRIOTT. If I understand then, what the gentleman from Massachusetts wants to do, in addition to the $3 million, any dollars the State wants to spend to check up on the Federal Government, we pay up 75 or 90 percent. Is that the bottom line?

Mr. FUQUA. Yes, but the amendment is defective in that it does not carry out the objective because there are no funds provided. The $3 million is still left intact.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. MARRIOTT. I yield.

Mr. OTTINGER. As I understand the gentleman's amendment, the $3 million limitation remains. It is just a question of whether 75 or 90 percent of the cost is assumed.

Mr. MARKEY. That is correct. We are trying to make sure that with the bubbling, boiling cauldron of controversy which will develop over this issue, that the States have been put in a position in which they have been able to advocate most articulately their point of view without feeling that they are going to be put at any economic disadvantage by taking it to its logical conclusion.

Mr. MARRIOTT. That still needs clarification. If I may, let me just ask this question: How much is in the bill now for the States? Is it $3 million? Do the States get $3 million per year to monitor the Federal activities?

The CHAIRMAN pro tempore. The time of the gentleman from Utah has again expired.

(By unanimous consent, Mr. MARRIOTT was allowed to proceed for 3 additional minutes.)

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. MARRIOTT. Yes.

Mr. OTTINGER. The $3 million is a maximum under this section of the bill. There are other provisions without this limitation with respect to a permanent repository. With respect to this provision of the T&E, what we have is a maximum of $3 million that can go to the States.

Mr. MARRIOTT. Per year, for test and evaluation?

Mr. OTTINGER. That is correct. The gentleman inaccurately stated that the States would have to pick up 90 percent. It is the other way around. The Federal Government would pick up 75 percent under the bill and 90 percent under the Markey amendment. So, it is a question whether the States will assume 75 percent or 90 percent.

Mr. MARRIOTT. The question is this: Are the $3 million in the bill per year to the States, do the States get $3 million per site?

Mr. OTTINGER. A maximum of $3 million.

Mr. MARRIOTT. There is only going to be one anyway.

Mr. OTTINGER. They get a maximum of $3 million.

Mr. MARRIOTT. But not to exceed 25 percent of the cost.

Mr. LUJAN. It is just the opposite.

Mr. OTTINGER. The Federal Government would pay, under the bill, 75 percent of the cost. The States will pay 25 percent. The actual cost will be certified by the State to the Secretary. We will pay 75 percent of the actual cost, or under the Markey amendment we would pay 90 percent.

Mr. MARRIOTT. Not to exceed $3 million.

Mr. OTTINGER. Not to exceed $3 million.

Mr. MARKEY. Mr. Chairman, if the gentleman will yield further, just so that we can keep all this in perspective, the permanent repository is going to cost about $3 billion. The test and evaluation facility is going to cost several hundred million dollars anyway, and now we are going to start tossing around extra hundreds of thousands of dollars like they were manhole covers only because the State wants to have a role in trying to make sure their rights are going to be protected against a $3 billion or a $200 or $300 million project. I just do not see where we have got this thing scaled. Let us in proportion to the risk, the investment the Federal Government may be making, give some kind of proper respect for the rights and the economic interests that the States have.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. MARRIOTT. I will be happy to yield.

Mr. UDALL. Mr. Chairman, I think we are spending an awful lot of time on something that really is not all that vital. The fact is, if this T&E facility is located at a site which could become the site of the permanent repository, 90 percent of the State's oversight expense is going to be paid anyway. We ought to be very generous with the States and localities in the location of this permanent facility, but this 75-percent limit deals with the test and evaluation center if it is not at a repository site. We are concerned with the problem of whether it becomes the repository. In that case, the 90 percent applies. I do not think the amendment is necessary. I think the gentleman from Florida has put it in proper perspective.

Mr. MARRIOTT. I thank the Chairman.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Massachusetts (Mr. MARKEY).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. MARKEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 72, noes 321, not voting 40, as follows:

[Roll No. 407]

AYES—72

Aspin	Gejdenson	Rosenthal
AuCoin	Gray	Santini
Beilenson	Hawkins	Schroeder
Bingham	Howard	Schumer
Bonior	Huckaby	Seiberling
Brodhead	Jeffords	Shamansky
Clay	Kastenmeier	Simon
Coelho	Kennelly	Solarz
Collins (IL)	Kildee	Stark
Conyers	Kogovsek	Stokes
Coyne, William	Leland	Studds
Crockett	Long (LA)	Swift
Davis	Lowry (WA)	Tauzin
Dellums	Markey	Vento
Dicks	Mavroules	Walgren
Dixon	Mikulski	Washington
Donnelly	Miller (CA)	Waxman
Dorgan	Mitchell (MD)	Weaver
Downey	Moakley	Weiss
Edwards (CA)	Morrison	Williams (MT)
Evans (GA)	Nowak	Williams (OH)
Foley	Oberstar	Wirth
Frank	Obey	Wyden
Garcia	Rangel	Yates

NOES—321

Addabbo	Boland	Conable
Akaka	Boner	Conte
Albosta	Bonker	Corcoran
Alexander	Bouquard	Coughlin
Anderson	Bowen	Courter
Andrews	Brinkley	Coyne, James
Annunzio	Brooks	Craig
Anthony	Broomfield	Crane, Daniel
Applegate	Brown (CA)	D'Amours
Archer	Brown (CO)	Daniel, Dan
Ashbrook	Brown (OH)	Daniel, R. W.
Badham	Broyhill	Dannemeyer
Bafalis	Burgener	Daub
Bailey (MO)	Butler	Derrick
Bailey (PA)	Byron	Derwinski
Barnard	Campbell	Dickinson
Barnes	Carman	Dingell
Beard	Carney	Dornan
Bedell	Chappell	Dougherty
Benedict	Chappie	Dowdy
Bennett	Cheney	Dreier
Bereuter	Clausen	Duncan
Bevill	Clinger	Dunn
Biaggi	Coats	Dwyer
Bliley	Coleman	Dyson
Boggs	Collins (TX)	Early
Eckart	Kazen	Railsback
Edwards (AL)	Kemp	Ratchford
Edwards (OK)	Kindness	Regula
Emerson	Kramer	Reuss
Emery	LaFalce	Rhodes
English	Lagomarsino	Rinaldo
Erdahl	Lantos	Ritter
Erlenborn	Latta	Roberts (KS)
Evans (DE)	Leach	Roberts (SD)
Evans (IA)	Leath	Robinson
Evans (IN)	LeBoutillier	Rodino
Fary	Lee	Roe
Fascell	Lent	Roemer
Fazio	Levitas	Rogers
Fenwick	Lewis	Rose
Ferraro	Livingston	Rostenkowski
Fiedler	Loeffler	Roth
Fields	Long (MD)	Roukema
Findley	Lott	Roybal
Fish	Lowery (CA)	Rudd
Fithian	Lujan	Russo
Flippo	Luken	Sabo
Florio	Lundine	Sawyer
Foglietta	Lungren	Scheuer
Ford (MI)	Madigan	Schneider
Ford (TN)	Marlenee	Schulze
Forsythe	Marriott	Sensenbrenner
Fowler	Martin (IL)	Shannon
Frenzel	Martin (NC)	Sharp
Frost	Matsui	Shaw
Fuqua	Mattox	Shelby
Gaydos	Mazzoli	Shumway
Gephardt	McClory	Siljander
Gibbons	McCollum	Skeen
Gilman	McCurdy	Skelton
Ginn	McDade	Smith (AL)
Glickman	McDonald	Smith (IA)
Gonzalez	McEwen	Smith (NE)
Gore	McGrath	Smith (NJ)
Gradison	McHugh	Smith (OR)
Gramm	Mica	Smith (PA)
Green	Michel	Snowe
Gregg	Miller (OH)	Snyder
Grisham	Mineta	Solomon
Guarini	Minish	Spence
Gunderson	Mitchell (NY)	Stangeland
Hagedorn	Molinari	Staton
Hall (IN)	Mollohan	Stenholm
Hall, Ralph	Montgomery	Stratton
Hall, Sam	Moore	Stump
Hamilton	Moorhead	Synar
Hammerschmidt	Motti	Tauke
Hance	Murphy	Taylor
Hansen (ID)	Murtha	Thomas
Harkin	Myers	Traxler
Hartnett	Napier	Trible
Hatcher	Natcher	Udall
Hefner	Neal	Vander Jagt
Heftel	Nelligan	Volkmer
Hendon	Nelson	Walker
Hertel	Nichols	Wampler
Hightower	O'Brien	Watkins
Hiler	Oakar	Weber (MN)
Hillis	Ottinger	Weber (OH)
Holland	Oxley	White
Hollenbeck	Panetta	Whitehurst
Holt	Parris	Whitley
Hopkins	Pashayan	Whittaker
Horton	Patman	Whitten
Hoyer	Paul	Wilson
Hubbard	Pease	Winn
Hughes	Pepper	Wolf
Hunter	Perkins	Wolpe
Hutto	Petri	Wortley
Hyde	Peyser	Wylie
Jacobs	Pickle	Yatron
Jeffries	Price	Young (AK)
Johnston	Pritchard	Young (FL)
Jones (NC)	Pursell	Young (MO)
Jones (OK)	Quillen	Zablocki
Jones (TN)	Rahall	Zeferetti

NOT VOTING—40

Atkinson	Edgar	Martinez
Bethune	Ertel	McCloskey
Blanchard	Fountain	McKinney
Bolling	Gingrich	Moffett
Breaux	Goldwater	Patterson
Burton, John	Goodling	Porter
Burton, Phillip	Hall (OH)	Rousselot
Chisholm	Hansen (UT)	Savage
Crane, Philip	Heckler	Shuster
Daschle	Ireland	St Germain
Deckard	Jenkins	Stanton
de la Garza	Lehman	Wright
DeNardis	Marks	
Dymally	Martin (NY)	

□ 1100

Messrs. SHELBY, CONTE, and WYLIE changed their votes from "aye" to "no."

Messers. WAXMAN, TAUZIN, HERTEL, and GRAY changed their votes from "no" to "aye."

Mr. HERTEL changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. RODINO

Mr. RODINO. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Chair will inquire, is the amendment in order under the rule?

Mr. RODINO. It is, Mr. Chairman.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. RODINO: On page 61, line 5, strike out the entire subsection through line 8.

Mr. RODINO. Mr Chairman, this is a very simple and very straightforward amendment. What it does, very simply, is to strike from the bill a provision that requires the courts of appeals to give expedited treatment to actions brought under the Nuclear Waste Disposal Policy Act.

I share the concerns of the committee in including such an amendment. I know that they were highly motivated, but I must suggest its deletion, and I am sure that after my explanation the Members will appreciate the reason for it.

On Monday, September 20, of this year, this House passed by voice vote H.R. 6872, the Federal Court Reform Act of 1982. Title 3 of that bill repealed what were then 85 existing statutory civil priorities which required expedited judicial action on a variety of certain types of cases. This action was taken based on the recommendation of the Judicial Conference of the United States, the American Bar Association, and the administration. We can well appreciate what would occur if we added another at a time when we have already eliminated, and wisely so, the kind of action that would have required that in those 85 particular cases there would have been expedited action.

These kinds of statutes really do not work. They are well-intended, but they only frustrate the courts because, as we know, the courts are already under a mandate to give first priority to criminal cases under the Speedy Trial Act. In addition, under current practice, the courts give expedited treatment to other types of cases involving liberty, such as habeas corpus applications and reviews of recalcitrant witnesses' status and civil contempts.

□ 1115

If we were to adopt this, we would merely be creating an illusion for ourselves that the court was going to act in these particular cases and act in an expedited manner. We would be creating a false impression.

I believe that it is important that we recognize that the action that the House took in September was the wise action and we want to just follow suit and eliminate this provision.

I am sure that the courts, recognizing good cause, would take the kind of action that is necessary in these particular cases.

Mr. BROYHILL. Mr. Chairman, will the gentleman yield?

Mr. RODINO. I yield to the gentleman from North Carolina.

Mr. BROYHILL. I certainly understand the gentleman's concern he has expressed. As he knows, there are those of us who have been supporting this section and, of course, this subsection. I am sure the gentleman understands the reasons why we are concerned.

These cases are complex, they have great controversy, and there is always the potential for undue delay in the consideration of the issues in these cases.

It was for that reason that we put this subsection in.

I can understand the gentleman's concern is that if this finds its way into a number of statutes the courts then find it very difficult as to how to sort this out and where to give priority.

But as the gentleman knows, we do not want, if this would be the section deleted, it would not be our purpose to say that the courts should be giving whatever side would like to have a delay. We would want to make sure that they do give expedituous consideration and priority treatment to these cases.

Mr. RODINO. That is the very reason why I am suggesting the deletion of this, so the courts, recognizing the urgency of the matters that come before it, would take that kind of action and, therefore, would not prejudice any kind of action that might be developing under the Nuclear Waste Policy Act.

Mr. BROYHILL. The gentleman does understand that these cases, being as controversial as they are, if you do not have some type of insistence that we have the potential of years of delay in the courts.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. RODINO) has expired.

(At the request of Mr. BROYHILL and by unanimous consent Mr. RODINO was allowed to proceed for 2 additional minutes.)

Mr. RODINO. I think the gentleman should be assured that there certainly would not be any delay.

However, if this section is not deleted, it would only lead to other actions on the part of other committees that would be seeking the same thing. This would run counter to what the judicial process is all about.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. RODINO. I yield to the gentleman from Illinois.

Mr. RAILSBACK. I want to commend the chairman and say I share, by the way, generally, the concerns and I favor expediting these actions. I want to commend the chairman and simply point out that in the bill we passed there were two provisions. One says that each court of the United States shall determine the order in which civil actions are heard and determined. But it does something additionally. It says that that section also provides that the courts shall expedite any action for temporary or preliminary injunctive relief or any other action if good cause therefor is shown.

I think we would rather not start or embark on another series of statutory priorities which in my opinion would be a terrible mistake.

All of the courts are against this.

But I think we want to make it clear by the colloquy that we are engaging in, and I know others are going to want to engage in, that we expect the courts to take into account the very serious nature of these kinds of actions.

Mr. RODINO. I can assure the gentleman that is my intention.

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield?

Mr. RODINO. I yield to the chairman of the subcommittee that dealt with this question.

Mr. KASTENMEIER. Mr. Chairman, we considered this fact and that is why the language was as the gentleman from Illinois just recited.

Furthermore, not all cases brought under this act would require expedited treatment. So either we start adding No. 1 again for expedited treatment, having wiped all 85 other categories out and therefore start really the precedent all over again, or we accept the gentleman from New Jersey's amendment confirming the House's judgment earlier this year, and I hope we do the latter.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. RODINO) has again expired.

(At the request of Mr. OTTINGER and by unanimous consent Mr. RODINO was allowed to proceed for 3 additional minutes.)

Mr. OTTINGER. Will the gentleman yield?

Mr. RODINO. I yield to the gentleman.

Mr. OTTINGER. We have no objection.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. RODINO. I yield to the gentleman from Arizona.

Mr. UDALL. I wanted to say to the distinguished chairman that I understand his concern and I am sympathetic to it. We have gotten ourselves in difficulty where every committee on every major bill has an expedited judicial section and it turns out that the guy with the latest date of enactment is technically entitled to go to the front of the line.

We have here a bill which is designed to get this country off dead center on nuclear waste policy. I think we are going to be able to do it.

But in this case we have two competing considerations. One is to protect, if you will, judicial review. People who are concerned about this repository need to be assured that they will have a chance to go to court and that they will be able to make their case.

On the other hand, the country needs to know that this is not going to be delayed in the courts forever.

I think with the colloquy we have had and the understanding we have had that the amendment could be accepted and would not do any great damage and would preserve the thing the gentleman has fought for, to stop cluttering up the lawbooks with more and more of these independent, single, expedited judicial review kinds of things.

Mr. RODINO. It is my clear impression that many of the cases that the committee would be concerned with coming under this act would undoubtedly meet the good cause criteria and would warrant this kind of expedited action.

Mr. UDALL. I thank the gentleman.

Mr. BROYHILL. Mr. Chairman, I move to strike the requisite number of words.

Could I have the attention of the gentleman from New Jersey (Mr. RODINO) to continue to engage in a colloquy.

I thank the gentleman for his patience and I will not take but just a minute or two. But to follow along the arguments of the gentleman from New Mexico, I must agree with him. We have, for whatever reasons, delayed the political decision of making a final decison on this matter to put in place a procedure, a process to select a final resting place for these waste materials.

Of course, there is the concern that there could be undue judicial delay.

I would appreciate if the gentleman would address that once again to assure this gentleman that if we do accept this amendment of his assurance of the courts acting in an expeditious way and to assure that there is not going to be the continued years of litigation that are tying up the courts in knots with motions.

I am not a lawyer, but I have seen this happen.

Could the gentleman respond?

Mr. RODINO. Will the gentleman yield?

Mr. BROYHILL. I am glad to yield to the gentleman.

Mr. RODINO. Insofar as this gentleman can give any assurances as to what the courts might do and how they might take action, historically if one reviews the cases and the kinds of actions the court takes and when, the good cause criteria always dictates that action is expedited.

There is no question in my mind that the urgency of the matters that would be related to this particularly important issue would come undoubtedly within that criteria and, therefore, I would see no impediment.

On the other hand, if we were to continue the process that was extant up until September when this House took action, with 85 other priorities mandated in an expedited manner, we would find that committees would continue to do the same thing and the very action the gentleman is looking for would be frustrated.

So I am saying let us leave it to the courts under this criteria and I am certain that this would be the case.

Were it not, I am sure we could always review it once again. But I have no hesitancy in saying that I would not be taking this position unless I felt that it was in the best interest of expedited judgment.

Mr. BROYHILL. I thank the gentleman for his continued explanation.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. RODINO).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. PETRI

Mr. PETRI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PETRI: In section 115, strike out subsection (a) (and redesignate subsection (b) as subsection (a)).

In section 115(a), as so redesignated, strike out "PETITIONS" and insert in lieu thereof "DISAPPROVAL".

In section 115, strike out subsections (c) through (f) (and redesignate subsection (g) as subsection (b)).

In section 135(f)(3)(A), strike out "and subsections (d) through (f) of section 115" in the first sentence.

In section 135(f)(3), strike out subparagraph (B) and insert in lieu thereof the following:

(B)(i) The provisions of this subparagraph are enacted by the Congress—

(I) as an exercise of the rulemaking power of the Senate, and as such they are deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of a resolution under this paragraph, and such provisions supersede other rules of the Senate only to the extent that they are inconsistent with such other rules; and

(II) with full recognition of the constitutional right of the Senate to change the rules (so far as relating to the procedure of the Senate) at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

(ii)(I) Not later than the first day of session following the day on which any notice of disapproval is submitted to the Congress under paragraph (2), a resolution shall be introduced (by request) in the Senate by the chairman of the committee to which such notice of disapproval is referred, or by a Member or Members of the Senate designated by such chairman.

(II) Upon introduction, a resolution shall be referred to the appropriate committee or committees of the Senate by the President of the Senate, and all such resolutions with respect to the same Federal site shall be referred to the same committee or committees. Upon the expiration of 60 calendar days of continuous session after the introduction of the first resolution with respect to any Federal site, each committee to which such resolution was referred shall make its recommendations to the Senate.

(iii) If any committee to which is referred a resolution introduced under clause (ii)(I), or, in the absence of such a resolution, any other resolution with respect to the Federal site involved, has not reported such resolution at the end of 60 days of continuous session of Congress after introduction of such resolution, such committee shall be deemed to be discharged from further consideration of such resolution, and such resolution shall be placed on the appropriate calendar of the Senate.

(iv)(I) When each committee to which a resolution has been referred has reported, or has been deemed to be discharged from further consideration of, a resolution described in clause (iii), it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) for any Member of the Senate to move to proceed to the consideration of such resolution. Such motion shall be highly privileged and shall not be debatable. Such motion shall not be subject to amendment, to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which such motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of such resolution is agreed to, such resolution shall remain the unfinished business of the Senate until disposed of.

(II) Debate on a resolution, and on all debatable motions and appeals in connection with such resolution, shall be limited to not more than 10 hours, which shall be divided equally between Members favoring and Members opposing such resolution. A motion further to limit debate shall be in order and shall not be debatable. Such motion shall not be subject to amendment, to a motion to postpone, or to a motion to proceed to the consideration of other business, and a motion to recommit such resolution shall not be in order. A motion to reconsider the vote by which such resolution is agreed to or disagreed to shall not be in order.

(III) Immediately following the conclusion of the debate on a resolution, and a single quorum call at the conclusion of such debate if requested in accordance with the rules of the Senate, the vote on final approval of such resolution shall occur.

(IV) Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a resolution shall be decided without debate.

(V) If the Senate receives from the House a resolution with respect to any Federal site, then the following procedure shall apply:

(I) The resolution of the House with respect to such site shall not be referred to a committee.

(II) With respect to the resolution of the Senate with respect to such site—

(a) the procedure with respect to that or other resolutions of the Senate with respect to such site shall be the same as if no resolution from the House with respect to such site had been received; but

(b) on any vote on final passage of a resolution of the Senate with respect to such site, a resolution from the House with respect to such site where the text is identical shall be automatically substituted for the resolution of the Senate.

(C)(i) The provisions of this subparagraph are enacted by the Congress—

(I) as an exercise of the rulemaking power of the House of Representatives, and as such they are deemed a part of the rules of the House, but applicable only with respect to the procedure to be followed in the House in the case of resolutions under this paragraph, and such provisions supersede other rules of the House only to the extent that they are inconsistent with such other rules; and

(II) with full recognition of the constitutional right of the House to change the rules (so far as relating to the procedure of the House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

(ii) Resolutions shall, upon introduction, be immediately referred by the Speaker of the House to the appropriate committee or committees of the House. Any such resolution received from the senate shall be held at the Speaker's table.

(iii) Upon the expiration of 60 days of continuous session after the introduction of the first resolution with respect to any Federal site, each committee to which such resolution was referred shall be discharged from further consideration of such resolution, and such resolution shall be referred to the appropriate calendar, unless such resolution or an identical resolution was previously reported by each committee to which it was referred.

(iv) It shall be in order for the Speaker to recognize a Member favoring a resolution to call up a resolution after it has been on the appropriate calendar for 5 legislative days. When any such resolution is called up, the House shall proceed to its immediate consideration and the Speaker shall recognize the Member calling up such resolution and a Member opposed to such resolution for 2 hours of debate in the House, to be equally divided and controlled by such Members. When such time has expired, the previous question shall be considered as ordered on the resolution to adoption without intervening motion, No amendment to any such resolution shall be in order, nor shall it be in order to move to reconsider the vote by which such resolution is agreed to or disagreed to.

(v) If the House receives from the Senate a resolution with respect to any Federal site, then the following procedure shall apply:

(I) The resolution of the Senate with respect to such site shall not be referred to a committee.

(II) With respect to the resolution of the House with respect to such site—

(a) the procedure with respect to that or other resolutions of the House with respect to such site shall be the same as if no resolution from the Senate with respect to such site had been received; but

(b) on any vote on final passage of a resolution of the House with respect to such site, a resolution from the Senate with respect to such site where the text is identical shall be automatically substituted for the resolution of the House.

(D) For purposes of this paragraph—

(i) continuity of session of Congress is broken only by an adjournment sine die; and

(ii) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 90-day period referred to in subparagraph (A) and the 60-day period referred to in subparagraphs (B) and (C).

In section 116(b)(2)(B), insert at the end thereof the following new sentences:

The Secretary may enter into a tentative agreement with any State under this subparagraph at any time following the approval of a candidate site in such State under section 112(c). Any such tentative agreement shall set forth the amount of assistance to be provided to such State under this paragraph if a construction authorization for a repository is granted with respect to the site in such State, and the procedures to be followed in providing such assistance. Any such tentative agreement shall become binding upon the Secretary upon the granting of such construction authorization.

In section 118(b)(2)(B), insert at the end thereof the following new sentences:

The Secretary may enter into a tentative agreement with any Indian tribe under this subparagraph at any time following the approval of a candidate site on the reservation of such Indian tribe under section 112(c). Any such tentative agreement shall set forth the amount of assistance to be provided to such Indian tribe under this paragraph if a construction authorization for a repository is granted with respect to the site on the reservation of such Indian tribe, and the procedures to be followed in providing such assistance. Any such tentative agreement shall become binding upon the Secretary upon the granting of such construction authorization.

Mr. PETRI (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. PETRI. Mr. Chairman, I rise to offer an amendment which would strengthen the State veto provisions of this legislation so that States will have an absolute veto over the placing of nuclear-waste facilities within their borders.

My purpose for offering this amendment is to ameliorate the fears of a State worried about having to accept the site without its consent, moving the focus of the issue to the merits of the site.

In my judgment, the stronger a veto power we give the States the less likely they are to exercise it. Without a strong State veto, the public and local officials simply will not trust the Federal Government, and the Department of Energy in particular, not to try to ram down their throats something potentially injurious to them. With it, they will feel more comfortable about the process all the way along. Knowing that they have some power to block a site, they will be less likely to focus their energies and attention on the tactics of obstructionism and more likely to focus on the merits of a repository.

Thus the absolute State veto is a positive measure, designed to insure that the public and local officials are really consulted during the entire process of site selection, and that they come to a basic acceptance of an eventual site. Without such local acceptance, any decision will be tied up in court challenges and other obstruction for years. Besides, when local people directly affected by a decision are consulted, they can often make suggestions that improve the eventual result.

My amendment would provide for an absolute State veto by striking out the two-House override portion of the bill, section 115. The amendment is designed to affect only repositories and leaves the committee language concerning interim storage sites as is.

I would like to make it clear that this absolute State veto amendment will not prevent Congress from overriding a State veto. Congress and the President will still retain this ability and could override a State veto by simply passing a separate law approving a site, the State veto not withstanding. This amendment would only make the process slightly more difficult, giving the State greater assurance the veto will be upheld.

My amendment also allows the Secretary of Energy to enter into tentative agreement with a State at any time after site characterization for the amount of economic assistance to be provided under paragraph 116(b)(2) in the event the site is approved. This allows the Secretary to enter into agreements earlier than the committee language calls for.

In my mind, the issues of State veto and economic compensation have always been linked, since people will be more likely to accept a truly safe waste site if it is clear that their economic interests will not be harmed.

Unlike the last nuclear waste bill brought before the House in 1980, the current version contains very good provisions for economic compensation. In addition, a repository will create up to 5,000 new construction jobs for 6 years, 1,000 new jobs to operate the site, as well as 1,800 new support jobs and a billion-dollar property tax base. Therefore, it should be possible to gain public acceptance for a safe site, and the absolute veto will help clear the air and further the longrun interests of everyone concerned.

For those Members who are concerned about States rights and would like to see States have a real influence on site location, there is an additional reason why the absolute State veto is needed. The other body has already passed its version of a nuclear waste bill. That legislation contains a very weak State veto provision, similar to the Broyhill amendment which the House narrowly passed on Monday. If the House bill is not changed, there would be no way to increase the strength of the State veto in conference.

However, if the absolute State veto amendment is adopted, our House conferees would have a substantial bargaining chip, allowing them room to compromise on the issue and still settle on provisions calling for a viable State role in the selection process. I am convinced that the absolute State veto is the wisest provision, but at least we need a stronger State role than we will get if my amendment is not adopted.

I have one final thought I would like to leave with my colleagues. If a State actually exercises a State veto, we really ought to give the Secretary of Energy or the President the authority to embargo-nuclear waste exports from the vetoing State or the authority to require that State to make its own arrangements for disposing of any nuclear waste it might generate itself. This idea is not in my amendment today, but I think we should think seriously about it. The State veto should not be merely a license to act irresponsibly. If a State generates waste, it has some responsibility to dispose of it, and it should not be able to simply foist that off on someone else.

□ 1130

Mr. UDALL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, we have tried for 35 years to get a high-level waste policy for the country. We may be on the verge of success and if you adopt this amendment, you have killed the bill. The cold fact is that you are not going to find 1 of the 50 States who will accept a repository. So we are going to have to make a national decision, after very carefully considering the different sites and considering the States concerned, where this repository is going to be.

A fundamental principle of this bill is that we are going to give the States a veto. It is a real burden on the State to say, "On behalf of the other 49 States, you shall be in the site of this repository," and we are only going to do it after we have involved them very early in the process, and given them an opportunity try to stop the project. But at some point in the Federal interest, in the national interest, the country has got to come along and have a right to override that veto.

We now have in the bill a pretty good provision, from the standpoint of the States. It is going to be fairly easy for the States to issue a veto and to make it stick. But to say that the States have an absolute veto is to kill the bill, and I would urge my colleagues to oppose it.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to my friend, the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, I feel the same. I feel the States do deserve very strong protection. Both the gentleman from Arizona and I opposed the Broyhill amendment. We would have given the States the protection of requiring two Houses of Congress to override a State veto rather than requiring one House to sustain the veto that prevailed in the Broyhill amendment. We were unsuccessful by a narrow vote in committee. We may get another chance at that in the House. But to go further and say that there should be an absolute veto I think is going too far and also runs in the face of the action that has already been taken by the committee. So I would urge defeat of the amendment.

[Mr. BROYHILL addressed the committee. His remarks will appear hereafter in the Extensions of Remarks.]

Mr. LUJAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment offered by Mr. PETRI which provides for an absolute State veto of a repository with no provision to protect the national interest. I fully support thorough and adequate State participation in the decisionmaking process leading to the siting and operation of a high-level waste repository. The bill before us, however, already provides for State participation. According the States an absolute veto power intrudes too far on a fundamentally Federal program and is unnecessary from a health and safety standpoint. We must all recognize that, as in other activities under the Atomic Energy Act, the Federal Government will exercise comprehensive and pervasive regulatory control over high-level radioactive waste repositories. This control is designed not only to assure that the environment and the health and safety of the public will be adequately protected, but also that the important Federal policy of developing atomic energy technology will be fulfilled. Under existing law, as interpreted in cases such as Northern States Power Co. against Minnesota,[1] Washington State Building and Construction Trades Council against Spellman,[2] and Illinois against General Electric,[3] States may not upset our fundamental national policies and complicate our comprehensive Federal regulatory framework by attempting to veto or to bar nuclear facilities, including disposal facilities, meeting applicable Federal requirements. I believe that this is a sound approach and that we should support it by opposing the amendment in question.

Mr. MARRIOTT. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to this amendment, although I have sympathy for what the gentleman is trying to do. And I would certainly hope that my good friend (Mr. PETRI) might withdraw this amendment.

Let me just make this commitment to him: I am concerned about the language that is in this bill. I believe the Broyhill amendment is in fact unconstitutional. If it is deemed to be unconstitutional, it will in fact provide no protection for the States whatsoever, and I plan to ask for a separate vote on the Broyhill amendment when the appropriate time comes. I think we have a chance of readdressing this issue on States veto rights and the role of Congress, and I would ask my good friend to withdraw that amendment and support us on the opportunity of getting a separate vote on the other amendment.

Mr. MONTGOMERY. Mr. Chairman, will the gentleman yield?

Mr. MARRIOTT. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Chairman, it seems like the strategy the gentleman has mentioned, if the gentleman from Wisconsin would withdraw his amendment, we do have a chance on a separate vote in the whole House. We only missed by six votes of defeating the Broyhill amendment that did give the States more rights and more considerations. I think we have a much better chance of taking the route that the gentleman from Utah suggested, and I would hope that the gentleman from Wisconsin would withdraw his amendment.

Mr. MARRIOTT. I thank the gentleman.

Mr. Chairman, I would just simply say that we do need to provide adequate protection for the States. The original language of the committee bill was the proper language, and I think we ought to go back and get a separate vote on that. I would leave that decision, though, up to my good friend.

● Mr. GOLDWATER. Mr. Chairman, I oppose the amendment offered by Congressman PETRI. Although I happily support State participation in the

[1] 447 F. 2d 1143 (1971). This ruling was endorsed in Train v. Colorado Public Interest Research Group, 426 U.S. 1, 17 (1976).

[2] 684 F. 2d 627 (9th Cir. 1982).

[3] 683 F. 2d 206 (7th Cir. 1982).

repository decisionmaking process, I believe that giving States an absolute veto power is subject to unacceptable abuse. In particular, it affords an unwarranted opportunity for antinuclear groups to prompt unreasonable delay and turmoil in the ultimate siting, construction, and operation of a high-level waste repository.

Mr. Chairman, we face a special challenge when we deal with atomic energy because of the phobic thinking which characterizes much of the debate on that subject. A phobia is a fear based on an exaggerated, unrealistic danger. One author has called it "a malignant disease of 'what ifs'." He explains that—

> The phobic thinking process is a spiraling chain reaction, to use an atomic energy analogy, of "what ifs" and each "what if" leads to another. Phobic thinking always travels down the worst possible branching of each of the "what ifs" until the person is absolutely overwhelmed with the potentials for disaster.[1]

The fruits of this phobic thinking is nowhere better represented than in perceptions of nuclear power. This is well illustrated in Dr. Upton's recent article in Scientific American entitled "The Biological Effects of Low-Level Ionizing Radiation."[2] Dr Upton graphically demonstrates that various groups in our society perceive nuclear power as many orders of magnitude more hazardous than it in fact is. This misperception is especially applicable to radioactive waste disposal. For example, a recent survey of scientists found that 99 percent felt the risks of nuclear energy were acceptable and the 100 percent felt that enough information was available to solve remaining problems, including nuclear waste disposal. In contrast, journalists, particularly of the electronic media, were heavily of the opposite opinion.[3] Dr. DuPont indicates that the phobic reaction among nonexperts is largely attributable to a failure to place the largely hypothetical risks of atomic energy in perspective with the many actual and much greater hazards which we commonly and ordinarily incur, and, indeed, even in perspective with the many actual and much greater hazards from alternative energy technologies

The misperception of the risks associated with nuclear waste disposal has led to unnecessary delays due to what amounts to overconcern and overregulation. We have got to the point where we worry about the infinitesimal risk that a repository will be hit by a cataclismic meteor or will be the site of a volcanic eruption.[4] This has frustrated attempts to site, construct, and operate waste facilities. It is undercutting our ability to accomplish the fundamental purpose of the Atomic Energy Act of 1954 to develop atomic energy technology and to keep our Nation in the forefront of atomic energy research. I believe that this fundamental purpose of the act is a good one. Nuclear power was and remains a safe, clean, and environmentally preferable means to generate electrical energy. If we do not vigorously pursue the nuclear energy option, we are in the ironic position of relying on less safe and less environmentally sound means of generating our electricity.

Mr. Chairman, I am troubled by legislation the effect of which is to foster the erection of unwarranted impediments to continued development of atomic energy technology. I believe that such legislation is largely a manifestation of a nuclear phobia and plays into the hands of antinuclear groups who will use it to thwart our essential national policies and to inhibit reliance on an environmentally desirable source for our electrical energy to the detriment of the public. We must be alert to striking the proper balance between competing interests so that all legitimate health and safety concerns are taken into account but in a fashion such that antinuclear groups are unable to exploit phobias and irrational fears to undermine the Atomic Energy Act. I fear that veto authority will be exploited by antinuclear groups to delay a vital Federal program and to frustrate essential national interests.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. PETRI).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. PETRI. Mr. Chairman, I demand a recorded vote, and pending that, I made the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1145

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The pending business is the demand of the gentleman from Wisconsin (Mr. PETRI) for a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. MARKEY

Mr. MARKEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MARKEY: Strike out sections 101 and 102 and insert in lieu thereof the following (and conform the table of contents in section 1 accordingly):

APPLICABILITY

SEC. 101. (a) ESTABLISHMENT OF REPOSITORIES.—Any repository required to be licensed under section 202 of the Energy Reorganization Act of 1974 (42 U.S.C. 5842) shall be established in accordance with the procedures set forth in this Act.

(b) AUTHORITY OF COMMISSION.—Nothing in this Act shall be construed to expand or contract the licensing authority of the Nuclear Regulatory Commission with respect to any atomic energy defense activity under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) or the Energy Reorganization Act of 1974 (42 U.S.C. 5801 et seq.). The Commission shall not have any authority over the production or handling of any high-level radioactive waste or spent nuclear fuel resulting from any atomic energy defense activity prior to its delivery to a repository, except as otherwise provided in any other provision of law.

In section 1, after paragraph (15), insert the following new paragraph (and redesignate the following paragraphs accordingly):

(16) The term "person" includes any governmental entity.

In section 111(a)(3), strike out, "civilian".

Mr. MARKEY. Mr. Chairman, now we reach a central question in the nuclear waste deliberations that we are considering here this week. The central question: Should military nuclear waste be included in this legislation? Question: Should 90 percent of all the nuclear waste in this country be included in this bill? Question: The American people, according to a full-page advertisement in the Washington Post this week, put in by the American Nuclear Energy Council, want to see legislation passed to establish a comprehensive—a comprehensive—nuclear waste policy program. According to their advertisement, the public agrees with that point. It says that, according to a recent national opinion survey, 9 out of 10 Americans—92 percent—say the Government should stop procrastinating and resolve this issue once and for all.

Now, when the American people were polled and asked, "Do you think we ought to talk or do you think we ought to resolve the nuclear waste question once and for all?" Do you think in their minds they are excluding 90 percent of all the nuclear waste in this country, which is military waste? I do not think they are.

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[1] Robert L. DuPont, Nuclear Phobia—Phobic Thinking About Nuclear Power (The Media Institute 1980).

[2] Arthur C. Upton, "The Biological Effects of Low-Level Ionizing Radiation," Scientific American (February, 1982).

[3] Wall St. J., p. 32, Nov. 9, 1982.

[4] For example, see Brown and Crouch, "Extreme Scenarios for Nuclear Waste Repositories," Health Physics 43:345 (1982).

I think in their minds they have a hard time differentiating whether nuclear wastes which are put in the permanent repository are civilian or military.

My opinion is that the American people want a solution once and for all to the entire nuclear waste problem in this country. That is what my amendment will do.

It says this: Defense Department, if you want to dispose permanently of your nuclear waste, you do not have to put it in the civilian respository that we are creating in this legislation.

However, if you are going to bury it, then you are going to be bound by the same rules and regulations, by the same process as will the civilian nuclear waste repository program. In terms of giving away military secrets—if you do not want to give your wastes to the civilian repository, you keep it, you dispose of it, and you monitor it for the next 20,000 years. But at least use the same guidelines to protect the citizens as will the domestic utility industry in cooperation with the Department of Energy in disposing of civilian nuclear wastes.

This does not seem like a terribly onerous burden to put on the Department of Defense. DOD has come up with ideas like Densepack. The Department is working on weapons systems that can hit a nickel in the middle of the Kremlin. I do not know why the Defense Department cannot easily conform to the regulations that are incorporated into H.R. 7187 so that a facility can be constructed following the guidelines of this act to in perpetuity take care of the 90 percent by volume of all the defense nuclear waste which has been generated.

So if you represent Utah or Nevada or Louisiana or Washington State, or wherever any of these repositories might be sited, do you think your citizens are saying, we want a lower standard for defense wastes than we have for civilian wastes even though the health effects are exactly the same? Or, do you think they believe that all nuclear wastes are going to be covered by this bill?

My belief is that if we are really going to be honest, and if we are not going to mislead the American people and other Members of Congress, then we are going to have to confront the fact that the waste problem is one that has to be dealt with comprehensively.

We will never return to this subject matter again. Let me repeat that. We will never return to this subject matter again if we do not deal with this bill comprehensively today. We will deal with the 10 percent which is civilian nuclear waste. We will take care of the domestic utility industry problem of disposing of the waste which is onsite at reactor generators today. But we will not come back, not for at least a decade if ever, to look at the issue of the other 90 percent of the nuclear waste which is in those defense facilities.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. MARKEY) has expired.

(At the request of Mr. MONTGOMERY and by unanimous consent Mr. MARKEY was allowed to proceed for 1 additional minute.)

Mr. MONTGOMERY. Mr. Chairman, will the gentleman yield?

Mr. MARKEY. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. I thank the gentleman for yielding.

I am a little confused on the gentleman's amendment. As I understand it, it does eliminate section 102. And the reason I am interested in it is that I offered an amendment in the House Armed Services Committee that would permit States and Indian tribes to participate in action on defense nuclear waste the same as it would on commercial nuclear waste.

It seems to me the gentleman's amendment would completely knock out the amendment that I offered in the Armed Services Committee.

Mr. MARKEY. No; it does not do that.

Mr. MONTGOMERY. Therefore, I have nothing left.

Mr. MARKEY. If I can reclaim my time, as presently written, of the 50 sections in this bill which apply to civilian nuclear waste facilities, only four—only four—will apply to military waste facilities.

□ 1200

What we are trying to do here is to build in the other 46 sections, not take any out, but build in another 46 sections which will give the additional protections to the Indian tribes and to the States, which are not presently in the bill. So if the gentleman is interested in protecting the Indian tribes and the States, not only do I want to see the protections that the gentleman has already put in the bill, but I want to put in the other 46 sections which are in this bill to protect the States and Indian tribes in the event of citing civilian waste facilities and apply them to any defense waste facilities.

Mr. MONTGOMERY. Well, I hate to disagree with the gentleman, but it seems to me that the amendment as offered by the gentleman knocks out what we did in the Armed Services Committee.

The CHAIRMAN. The time of the gentleman from Massachusetts has again expired.

(At the request of Mr. MONTGOMERY, and by unanimous consent, Mr. MARKEY was allowed to proceed for 1 additional minute.)

Mr. MONTGOMERY. Mr. Chairman, if the gentleman will yield further, the leadership in the Armed Services Committee opposed my amendment and the amendment was adopted; but I am really afraid that the gentleman's amendment totally knocks out what we did in the Armed Services Committee to make nuclear wastes in the military coincide with the same thing that is happening commercially.

Mr. MARKEY. To reclaim my time, I am very proud of the fight the gentleman made in the Armed Services Committee in taking on the leadership and the amendment which he included is a very worthy one. It just did not go far enough. I understand the difficulties we have in dealing with people who do not want to see any coverage of military waste, so the incremental progress the gentleman made is very helpful. But again, it is only 1 step in a 50-step journey. We are going to try to take the additional 50 steps right now by making sure that we have got all those additional protections in so that when and if the Defense Department builds a nuclear waste facility, it is bound by the same standards as the civilian waste repository.

Whatever residents live nearby this defense facility will suffer the exact same health consequences if there has been a mistake made in the siting and in the environmental impact statement and the population evaluation as they would suffer living nearby a civilian waste repository.

Mr. LUJAN. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

The gentleman from Massachusetts is correct in saying that commercial waste is 10 percent by volume of the high-level radioactive waste in this country. However, the radioactivity of the commercial wastes is about 90 percent of the total radioactivity of the country's high-level waste inventory. Furthermore by the time a repository is available under this bill, the commercial wastes will represent 97 percent of the total radioactivity. If we were only concerned with the volume of waste to be disposed of, the issues for this bill would be very simple. However, the radioactivity, not the volume, is the key factor in high-level radioactive waste issues. To threaten national security for only 3 percent of the total waste does not make much sense. It especially does not make much sense in view of the long history the Department has had of successfully operating its facilities with adequate protection of public health and safety.

I urge my fellow Members to join me in opposing this amendment.

Mr. GOLDWATER. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. I yield to the gentleman from California.

Mr. GOLDWATER. Mr. Chairman, I thank the gentleman for yielding.

I would only point out that I think the gentleman from Massachusetts is making a problem of a nonproblem, that the Department of Defense has a program in place. They are handling their nuclear waste problem.

The issue that we are addressing here is commercial waste and that is where our attention has been lax. It is here where we need to concentrate our efforts and not confuse the issue by including an additional burden that is being managed quite well at the present time.

I would urge defeat of this amendment.

Mr. MARKEY. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. I think the gentleman from Texas wants his own time.

Mr. MARKEY. Will the gentleman from New Mexico yield on his own time?

Mr. LUJAN. I think in the interest of time I will yield back my time so that the gentleman from Texas may proceed.

Mrs. BOUQUARD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to this amendment because I think it is mischievous with respect to national security. The administration has a well-founded fear that requiring the licensing of any defense repository could be a national security problem in that NRC is required to make most of the licensing-related information it obtains from DOE publicly available. Data that would be publicly available under the Freedom of Information Act could include all sorts of information that may be of benefit to unfriendly nations. This could include information regarding the facility that the particular waste was obtained from, the constituent elements of the waste, including radioisotopic content, and other information regarding the quantity and quality of the waste product. It is conceivable that this information could be used to infer the processes used to obtain that material and the useful products that the Defense Department may be employing. I cannot cite all of the potential uses or misuses of the information that may be available because I simply do not know them. But I can assure you unequivocally that this kind of information can be gleaned from otherwise innocent data.

The present provisions in the bill require the President to evaluate this issue, and if no problem is found, to use the commercial facilities for the disposal of defense waste. If it is a problem, the President will have the opportunity to evaluate the issue and make a determination on it. I think these provisions make sense and they should not be changed. Our Science and Technology bill H.R. 5016 would allow emplacement of defense waste in a civilian repository without any licensing of defense facilities.

I therefore urge that this amendment be soundly rejected.

Mr. OTTINGER. Mr. Chairman, would the gentlewoman yield?

Mrs. BOUQUARD. I yield to the gentleman from New York.

Mr. OTTINGER. I just would like to set the record straight. I think we have achieved the best compromise that we could in this bill with respect to defense waste; but the testimony that we got in our committee was that there are no national security problems with putting the defense waste in a commingled repository, provided that the NRC was not empowered to go back and inquire exactly how the waste got there and the processes; so I do not want the record to be confused on that basis. I supported the gentleman from Massachusetts (Mr. MARKEY) in a similar amendment in our committee. I must reluctantly oppose him today, because the provision we have before us is a compromise agreement of which I am a part.

Mrs. BOUQUARD. That is the statement I just made, it does allow emplacement of defense waste in a civilian repository.

Mr. OTTINGER. That is correct.

Mr. PAUL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to take a moment at this time, if I may, to speak about the bill in general and not directly to this amendment.

I am in opposition to this bill, but I would like to explain my position on this. I find myself voting frequently here on some of these amendments with many individuals who have a strong disagreement and an antagonism toward nuclear power. I have no antagonism toward nuclear power. As a matter of fact, I think nuclear power is going to be the saving grace to this Nation and to the world some day as a source of energy. I am personally strongly in favor of nuclear power.

My reasons are somewhat different in opposing what we are doing here. I have no fear of hysteria associated with nuclear power. I think it is safe and efficient. The problem I have is that I think what we have done since the Second World War is that we have never allowed the marketplace to determine what it should determine, that is whether nuclear power is safe and efficient or not. What we have done is that we have subsidized its research and development. We have subsidized insurance and now we plan to subsidize and support industry in the disposal of nuclear waste. For so long nuclear power as an issue has been dealt with on an emotional level and I think it should be dealt with in terms of free market principles.

I think there is a good defense for nuclear power. We have had nuclear submarines for 30 years and this concern that nuclear generators are somewhat dangerous does not seem to hold much water when you think that many men have been sleeping beside nuclear generators for 30 years and we have had absolutely no ill effect from this.

When you compare nuclear power to coal, all of a sudden we find out that coal is the real culprit. The Office of Technology Assessment, a creature of this Congress, has declared that right now today we have 39,000 deaths per year from coal pollution.

And yet we, with our legislation here in the Congress, have actually encouraged coal production. It is estimated that in 3 years 50,000 people will die from coal pollution.

They also claim there is no insurmountable technical obstacle to safe disposal. I happen to believe that and I happen to think there are a lot of things in industry and in this country today that are more dangerous than nuclear waste and yet the marketplace can handle them.

What we are doing here is assuming the responsibility and the liability for people who make a profit off nuclear power. I think the risk and the danger and the liability of nuclear waste should go to those people who are making the money and that is the utility companies and whoever else uses nuclear power.

We should reject the notion that the Government should continue to fund R&D, the insurance and waste disposal. The liabilities and risks should not be passed on to the taxpayer.

My position is that Government should have a neutral position; that is, they should protect the marketplace, allow it to develop, but put the liability and responsibility on those who are in a position to make some profits off the nuclear industry.

For this reason, I object to the whole idea that the Government should assume this role of waste disposal. I think it is nothing more than a subsidy to big business and instead we should allow the marketplace to operate.

Even though it is my interpretation that nuclear power is good, we truly do not know if nuclear power is efficient and safe. Only the marketplace can determine this and what we are doing today is distorting the marketplace.

Mrs. BOUQUARD. Mr. Chairman, will the gentleman yield?

Mr. PAUL. I yield to the gentlewoman from Tennessee.

Mrs. BOUQUARD. Mr. Chairman, I thank the gentleman for yielding.

I would like to refer the gentleman to section 302(a) under Contracts, which specifically obligates the utilities to pay for the cost of this facility; so this, indeed, is not a cost to the Federal Government.

Mr. PAUL. Well, I know that if there is any reimbursement at all, if this was a true reimbursement and no assumption of liability by the Government, I do not think we would even have the program. We do not have a Government program to deal with sulfuric acid and other dangerous elements; so I think the fact that we are involved means that there will be some indirect subsidy to business.

Mrs. BOUQUARD. Well, I would remind the gentleman from Texas that at the time our industries built the present nuclear plants in place, it was planned that we would have reprocessing plants in place to take care of the waste to be disposed of. Because of the political debate of the past 5 years, we do not have a balanced nuclear energy program that completes the back end of the fuel cycle. The Federal Government in effect has created the problem, by not allowing reprocessing or providing a balanced energy program.

Mr. PAUL. My major point is that we distort the marketplace by not allowing the market to operate. We do not even know for sure, even though in my opinion we should have nuclear power, I think programs like this distort the market and we do not get the right information that we need to decide whether or not nuclear power is really safe; so I do not believe we should be subsidizing this industry.

Mr. STRATTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the gentleman from Massachusetts (Mr. MARKEY) has been setting up a straw man and then trying to knock it down. He has been alleging that there is nothing in here to take care of defense waste; but the gentleman apparently has not looked very carefully at the amendment that was adopted by the committee the other day, offered by myself on behalf of the Armed Services Committee.

Actually, there is no "Department of Defense waste." The waste that is generated that the gentleman takes exception to is Department of Energy waste stemming from the defense activities of the Department of Energy. But I would call the attention of the House—the gentleman from Massachusetts has been offering so many amendments on this bill that he may not have had an opportunity to read this one—but I would point out that in the amendment adopted by the House with regard to defense wastes, in section (b) of that amendment it says:

> Not later than two years after the date of the enactment of this Act, the President shall evaluate the use of disposal capacity at one or more repositories to be developed under subtitle A of title I for the disposal of high-level radioactive waste resulting from atomic energy defense activities.

□ 1215

And again in section 3:

> In the repository for the disposal of high-level radioactive waste resulting from atomic energy defense activities only shall be subject to licensing under section 202 of the Energy Reorganization Act of 1973 and comply with all of the requirements of the Commission, that is, the Nuclear Regulatory Commission, for the siting development, construction and operation of a repository.

So the gentleman from Massachusetts has set up a straw man and is hitting us over the head for something that is already included in this legislation.

The fact of the matter is that there is no "two-track solution" as he is suggesting, one for civilian waste and another for what he has referred to as "the sacred cow of defense security." Incidentally, I wonder where this country would be if it had not been for that so-called sacred cow over the last 30 to 35 years of this Nation? As a matter of fact, as we are debating this bill today, it is the 40th anniversary of the chain reaction in Chicago brought about by the atomic pile created by Enrico Fermi. I think we ought not to try to downgrade and denigrate the achievement that that great refugee from fascism managed to contribute to the safety and security not only of the United States but of the entire free world.

Indeed, if the gentleman from Massachusetts had done his homework, he would have known that the Committee on Armed Services, in making our report, on page 11 says this:

> The Committee on Armed Services amendments are designed to prevent the establishment of storage facilities for civilian-generated nuclear waste at facilities now being operated for national defense purposes. The committee emphasizes that the recommended amendments do not foreclose the disposal of defense-generated radioactive wastes in such repositories as may be established by this legislation.
>
> The amendments do not mean that some parts of the real estate under the control of the Department of Energy may not be used for the interim storage of civilian-generated radioactive wastes. Moreover, the committee amendments do not exempt atomic energy waste defense activities of the United States from any law or regulation that now applies to those activities.

The CHAIRMAN. The time of the gentleman from New York (Mr. STRATTON) has expired.

(By unanimous consent, Mr. STRATTON was allowed to proceed for 2 additional minutes.)

Mr. STRATTON. Mr. Chairman, if the gentleman from Massachusetts had really been concerned about this, he should have realized that just yesterday in the authorization bill for the Department of Energy, which was passed unanimously, we had programs authorizing more than $500 million for defense waste management, research, development, and construction of waste management facilities.

But the gentleman was not even on the floor when this bill was up, so I do not think we can take his amendment very seriously.

The defense activities of the Department of Energy have been pursued with great care and precision. The House Committee on Armed Services has managed them with great skill, and I think the amendment must be rejected.

Mr. MORRISON. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from Washington.

Mr. MORRISON. I thank the gentleman for yielding.

Mr. Chairman, I want to agree with the gentleman's statement. I point out that most of the U.S. military waste is in my district in the State of Washington. The military is acknowledged to be about 5 years ahead of the civilian processing and handling of nuclear waste.

I do not want to see this legislation slow down the excellent progress being made in this particular area, so I suggest we defeat the amendment.

Mr. STRATTON. Mr. Chairman, I think the gentleman is making a very good point: That the Department of Energy has been on the ball in this aspect for many, many years. The civilian waste problem is now finally beginning to be considered in this House, although it is taking us a good deal of time.

The gentleman from Massachusetts is trying to louse up the defense program while the civilian aspect is being considered.

Mrs. HOLT. Mr. Chairman, will the gentleman yield to me?

Mr. STRATTON. I yield to my colleague, the gentlewoman from Maryland.

Mrs. HOLT. I thank the gentleman for yielding to me.

Mr. Chairman, on previous occasions I have stated my support for H.R. 7187. I have also indicated my deep concern over the complicated nature of the bill's provisions. These do not reflect the technical or engineering problems that might arise in selecting a site and constructing an R&D repository or permanent repository. The interim storage provisions are probably more complicated than was the Apollo program plan to put men on the Moon.

This is unfortunate for several reasons. First, it adds years of convoluted political approval paths to what should be engineering decisions. Second, and of greater concern to me, is the constant effort by some to involve atomic energy defense activities in this maze. The amendment offered by the gentleman from Massachusetts is just such an effort. It has no merit and should be defeated.

As defined in section 2 of H.R. 7187, the term "atomic energy defense activity" means any activity of the Secre-

tary of Energy performed in whole or in part in carrying out any of the following functions: Naval reactors development; weapons activities including defense inertial confinement fusion; verification and control technology; defense nuclear materials production; defense nuclear waste and material by-products management; defense nuclear materials security and safeguards and security investigations; and defense research and development.

When the Armed Services Committee considered H.R. 3809, the major effort was to assure that the atomic energy defense activities were excluded from the provisions of the act. This thought was carried over into H.R. 7187 under section 101(a). As mentioned by Chairman STRATTON, he will introduce an amendment to have the "applicability" section removed from title I and incorporated in a new section 8, since the atomic energy defense activities are not logically included in a title on the disposal and storage of waste.

The amendment offered by the gentleman from Massachusetts would also ignore logic and remove the exclusion due atomic energy defense activities. Perhaps that stems from the serious misconception in this House that no one is in charge of our defense nuclear waste program and that at some time in the near future we will be overwhelmed by nuclear waste. It is difficult to trace the origin of such rumors which would be laughable if it were not for the fact that well-meaning but uninformed citizens and House Members, repeat those absolutely incorrect statements.

We do know how to handle nuclear wastes in this country, and so do the experts in many other nations. Safe interim storage has been a fact, not a wish, for 40 years. In that time not one member of the American public has been seriously inconvenienced, let alone harmed by nuclear waste. If any of my colleagues have knowledge to the contrary, I would be interested in hearing it.

The defense waste processing facility will provide the final step in the interim processing of the high-level waste at Savannah River for final disposal. The facility which should be ready for hot operations by 1990, will immobilize the high-level waste sludge, which contains most of the long-lived radionuclides, for storage, transportation to, and disposal in a geologic repository.

The waste isolation pilot plant, located near Carlsbad, N. Mex., will demonstrate closure of the defense nuclear fuel cycle. The WIPP facilities will be capable of routine operations to receive, inspect, package, and emplace pilot plant quantities of remote-handled high-level and transuranic waste and contact-handled waste in an environment typical of a repository. This research and development facility will be sized to handle quantities typical of defense nuclear waste inventories and anticipated generation rates.

We often hear catchy phrases such as: "Nuclear waste; let us have more than a 10-percent solution." This is associated with the rumors predicting total inundation by defense nuclear waste. As a matter of fact, I frequently am told that the waste repository bill before the House is not satisfactory because it does not cover the interim waste storage or other activities of the defense nuclear waste program. That is true. The bill must not cover the defense nuclear waste program or any other atomic energy defense activity. We on Armed Services hope to assure that the smoothly working waste program we support does not become involved with anything like the ponderous and complex practices and procedures to which H.R. 7187 is dedicated.

In less than 10 years the defense waste program will be capable of turning out glass encapsulated high-level waste suitable for repository burial. Those logs will wait for a repository to be built. It will not be the other way around.

I agree to the need of this Nation for a permanent repository for nuclear waste, and temporary storage for spent fuel from commercial power reactors. But we cannot afford the repository and temporary storage if the legislation which provides for such facilities will seriously affect national security.

Mr. Chairman, I support the one-House to sustain version of the bill. While I agree that States should participate in the siting, construction, and operation of high level waste repositories, I believe that we all must recognize that we are dealing with a program of national significance: the development of atomic energy technology. It is contrary to the fundamental purposes of the Atomic Energy Act to give a State veto or quasi-veto authority over a repository, national laboratory, or any other nuclear facility. Moreover, it is contrary to the supremacy clause and interstate commerce clause of our Constitution and to decisions of the Supreme Court. I would also add that a veto or quasi-veto is not required to protect health and safety. Under the Atomic Energy Act, the Federal Government will pervasively and comprehensively regulate for these purposes. State vetos and duplicative or differing requirements are contrary to the well-established Federal regulatory framework. Indeed, the additional State interference may in fact jeopardize health and safety and our national defense as well as result in a waste of taxpayers' and ratepayers' money. Vetos and superfluous regulatory demands are generally not permissible with respect to the federally regulated activities involved. We should not permit them in this context. The Fuqua-Broyhill version of section 115 provides ample room for State participation and is consistent with existing law and our Constitution. I support it and we all should.

Mr. STRATTON. I thank the gentlewoman.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Is there further debate on the amendment?

Mr. FOGLIETTA. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, as a member of the Armed Services Committee, I was part of the debate on whether defense-produced nuclear waste should be subject to the provisions of this bill. I worked closely with my colleague from Mississippi (Mr. MONTGOMERY) and I was glad to see the committee accept his amendment to subject military waste at least to the States rights provisions of the bill.

I was pleased with the Armed Services Committee's actions, however, only in a limited manner. I felt at that time that subjecting defense-produced waste to the States rights provisions of the bill was the best that we could do in the Armed Services Committee. Yet, it was not nearly what I feel is most appropriate.

As we have already heard today, almost 90 percent, by volume, of nuclear waste generated in our Nation is the result of defense production. To pass a national, comprehensive program for disposal that only applies to about 10 percent of our waste makes little sense.

Concerns have been raised that having military nuclear waste come under the provisions of this bill would subject the military to a burdensome and oppressive bureaucracy that could slow down our weapons production systems. I am not convinced that such concerns are valid.

Some of my colleagues have expressed a concern that our Nation's security could be threatened by giving the Nuclear Regulatory Commission responsibility for disposal of nuclear waste produced by our military. They are afraid that the NRC might divulge information about the waste that could be useful in figuring out exactly what the military is producing. I point out that the Energy Reorganization Act of 1974 requires that the NRC license all repositories. Yet, the NRC is not in a position to give out information about the military waste. Access to classified and restricted information is controlled by the originating agency.

Mr. Chairman, we do need a nuclear waste disposal bill. But we need a bill that is truly comprehensive. Excluding

90 percent of our Nation's waste in order to arrive at a bill that has a chance of passing is not a good trade-off. The environmental, health, and safety concerns that surround nuclear waste disposal are every bit as much a factor when disposing of defense-produced waste as with commercial, civilian waste. I strongly support my colleague, Mr. MARKEY's amendment, and I hope that my colleagues will join me.

Thank you.

Mr. STRATTON. Mr. Chairman, will my colleague on the Committee on Armed Services, the gentleman from Pennsylvania, yield to me?

Mr. FOGLIETTA. I yield to the gentleman from New York.

Mr. STRATTON. I thank the gentleman for yielding.

Mr. Chairman, is the gentleman in the well aware that the amendment of the gentleman from Massachusetts (Mr. MARKEY) which he has just said that he is supporting would actually knock out the so-called Montgomery amendment which was adopted with the support of the gentleman from Pennsylvania in the Committee on Armed Services? I do not think he may be aware of that.

Mr. FOGLIETTA. My understanding, Mr. Chairman, and I expressed this to the gentleman from New York, is that this amendment would encompass and would expand that amendment and not knock it out totally.

Mr. STRATTON. If the gentleman will yield further to me, I have just been in consultation with the gentleman from Mississippi, the author of the amendment, and he is bleeding because of the result of the Markey amendment, were it to be adopted. So the gentleman might want to consult with the gentleman from Mississippi (Mr. MONTGOMERY).

Mr. MARKEY. Mr. Chairman, will the gentleman yield to me?

Mr. FOGLIETTA. I thank the gentleman from New York, and I yield to the gentleman from Massachusetts.

Mr. MARKEY. I thank the gentleman for yielding.

Mr. Chairman, I want to assure the gentleman from Pennsylvania (Mr. FOGLIETTA) that the gentleman from Mississippi (Mr. MONTGOMERY) is in fact very pleased that we are strengthening whatever provisions he put in there because he expressed a very strong interest in making sure that the States and Indian tribes have all the protections that are possible.

What this amendment does is to take the Montgomery formulation and put some real flesh on it to make sure those States and Indian tribes are given the protections that will be given to other areas in which civilian nuclear facilities are placed.

So taking the spirit of the Montgomery amendment in the Committee on Armed Services, we have helped to build upon it, to make sure that of those protections he was looking for are included, and we have done so in a specific fashion.

Mr. FOGLIETTA. That was my understanding also. I thank the gentleman from Massachusetts (Mr. MARKEY).

Mr. WEISS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I want to commend the gentleman from Massachusetts for the series of amendments that he has offered. What we are contending with is one of the most serious problems to face the people of this country. Yet there is an attempt in this body, in spite of all the danger signals, all of the near disasters that have befallen the people of this country from nuclear power over these past few years, almost as if God were warning us, to terminate the discussion with the briefest of mention.

So the gentleman from Massachusetts (Mr. MARKEY) is to be commended for insisting that this subject deserves and must be given a thorough airing.

Mr. MARKEY. Mr. Chairman, will the gentleman yield?

Mr. WEISS. I yield to the gentleman from Massachusetts.

Mr. MARKEY. I thank the gentleman for yielding.

Mr. Chairman, I would like to, if I may, clear up a number of misstatements that have been made by opponents of this amendment in this debate.

First, the gentleman from New Mexico says that 97 percent of the radioactivity is in the civilian waste; therefore, only 3 percent of the problem is military, so that does not make it that bad of a problem. He leaves a misimpression, however. Ninety-seven percent of the total radioactivity might be in the civilian waste, but 90 percent of the volume of the waste, is military waste.

Let me just give you an idea of what that means. All the civilian waste in the country is about 104,000 cubic feet, which is about one football field 2 feet deep. Military waste is about 1,130,000 cubic feet, if solidified. However, defense waste is in a very dilute liquid form right now, so in terms of the total amount of nuclear waste, it is many, many times greater on the military side.

The radioactivity is less. That is true. If one is exposed to it, one might die in an hour instead of only the 10 minutes that it might take if you are exposed to civilian waste. But in terms of the civilian population, it is almost impossible for them to be able to differentiate the effect it is going to have on their families.

Now, moving on to the next misstatement, the gentleman from California asked why we should talk about the Defense Department since they are doing such a terrific job taking care of the waste problem; why do we not just leave well enough alone?

Unfortunately, the gentleman from California is totally wrong. The Defense Department does not have a permanent waste program. They store it just the way the civilian program stores it. They do not have the vaguest idea what to do with it any more than we do. So anyone out there who has been misled by any of the people who have gotten up saying, "do not touch the Defense Department; they are doing such a terrific job," believe me, they are wrong. The Department of Defense does not know what to do yet about permanent disposal. They do not want to have a good, tough, strong environmental program in place and they are concerned about being bound by regulations that are going to insure that the public is protected. They do not know what to do about permanent disposal either.

The gentleman from New York says I set up a strawman; the bill already says defense wastes can be put in civilian reactors; so why is the gentleman from Massachusetts so concerned? Of all the arguments that are spurious on the floor of this body, the two that I have always found to be the most interesting are the ones that say it is not needed and that it is already in the bill and it is redundant.

How could one possibly argue against an amendment that is redundant? We ought to just accept it and move on. Why waste the time of the House?

The reason the gentleman knows it is not a strawman and the reason he fights so hard is, in fact, because there is no guarantee that defense waste is going to be covered in H.R. 7187; there is no protection for the environment; there is no guarantee that the States rights are going to be vindicated; or that we are going to have judicial review.

All of those things have to be included and they are not included.

The gentlewoman from Tennessee also made a terrible mistake in misstating the effect of this bill. Let me make it very clear. I specifically drafted the language in the amendment so that we made sure that everyone understood that we were not mandating that defense waste be put in civilian facilities. If defense facilities are built though, they have to be built under the same standards as civilian facilities. They could be kept under defense control, although the Department of Energy would be constructing and monitoring them.

□ 1230

In addition, the language of the amendment states:

The Commission (NRC) shall not have any authority over the production or handling of any high-level radioactive waste or spent nuclear fuel resulting from any atomic energy defense prior to its delivery to a repository * * *

So, the Defense Department does not have to hand over any of this waste, but if it does, it does so only when it is assured that it has disguised any possible Defense secrets that are in the material. Up until that point, the NRC has no authority over defense wastes.

Of all of the arguments which have been made against my amendment, every one of them is totally and completely wrong. They are erroneous.

The CHAIRMAN. The time of the gentleman from New York has expired.

(At the request of Mr. MARKEY and by unanimous consent, Mr. WEISS was allowed to proceed for 1 additional minute.)

Mr. MARKEY. Mr. Chairman, will the gentleman yield?

Mr. WEISS. I will be pleased to yield.

Mr. MARKEY. Let me state as succinctly as I can that national security interests are not jeopardized by my amendment. All of this waste stays under Defense control completely, totally. They do not have to give it up. All I am saying is this: A bill ought to be comprehensive. It ought to include all waste. Defense waste ought to be covered by the same standard as civilian waste, but at the same time the Defense Department, working with the Department of Energy, ought not to be compelled to put this stuff in civilian facilities. If they do build their own permanent geologic repository in the environment of the United States, then they ought to be bound by the same regulations as civilian facilities.

That is it; quite simple; nothing up the sleeve; nothing clandestine; right out front. Let us protect the people; let us protect the States; let us have a comprehensive nuclear waste bill. Let us not fool the American people into believing we have solved the problem when 90 percent of it is unresolved.

Mr. UDALL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this has been one of the most difficult bills I have had to handle in a long time. It was assigned to six different committees. Time was running out, and another 2 years apparently going down the drain. We finally made an agreement among the major committees involved on this vehicle which we are bringing to the floor.

There are things that I do not particularly strongly support that are in the bill, which I am bound by my agreement with my colleagues to support. There are some pretty good arguments made by the gentleman from Massachusetts. We should not have two kinds of facilities. We ought to have a single track, but we have got to this late stage of the session and we have got to put first things first.

We are making in this bill, if we get it passed, this final decision to get ourselves a deep geologic storage facility for high-level nuclear waste. We are going to have a mechanism by which this can be done.

I think it is a very difficult process to go through, to get a program authorized even for the civilian one. I said earlier in the debate that I think the Defense people are going to be coming knocking on the door when we get this thing ready to go in a few years. I hope that we will be ready to take their waste along with the civilian waste. But, I want to emphasize that we come out all right anyway at this point. We come out in pretty good shape, because the President is required to decide within 2 years whether the facility that we are going to get licensed under this bill shall also be used for military waste. I think when people look back and see the difficulty we have gone through simply to get this far, I think the President's decision will be favorable toward uniting the civilian and defense repository programs.

Second and finally, this bill has a lot of baggage already that makes it pretty hard to carry. I would emphasize that the bill, even if the Markey amendment is defeated, will have in it a requirement for licensing. NRC has to license facilities for defense or civilian uses. It will not have the other protections in addition to licensing that Mr. MARKEY has talked about, but it is a pretty good job. It is the best we could do. I am personally going to vote against the amendment, and I hope we can get on with the passage of the bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. MARKEY).

The question was taken; and the chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MARKEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 105, noes 281, not voting 47, as follows:

[Roll No. 408]

AYES—105

Addabbo	Brodhead	Downey
Anderson	Burton, John	Dwyer
Aspin	Clay	Early
AuCoin	Coelho	Eckart
Barnes	Conyers	Edwards (CA)
Bedell	Coyne, William	Fascell
Beilenson	Crockett	Fazio
Biaggi	Deckard	Fithian
Bingham	Dellums	Florio
Boggs	Dicks	Foglietta
Bonior	Donnelly	Fowler
Bonker	Dorgan	Frank
Garcia	McKinney	Schumer
Gejdenson	Mica	Seiberling
Gibbons	Mikulski	Sensenbrenner
Guarini	Miller (CA)	Shamansky
Harkin	Minish	Shannon
Hawkins	Moakley	Solarz
Hertel	Mottl	Stark
Howard	Murphy	Stokes
Hoyer	Nowak	Studds
Jacobs	Oakar	Synar
Jeffords	Oberstar	Traxler
Kastenmeier	Obey	Vento
Kildee	Pease	Walgren
Levitas	Rangel	Washington
Long (MD)	Ratchford	Waxman
Lowry (WA)	Reuss	Weaver
Lundine	Rodino	Weiss
Markey	Roe	Whitten
Martin (IL)	Rosenthal	Williams (MT)
Matsui	Sabo	Wirth
Mattox	Santini	Wolpe
Mazzoli	Scheuer	Wyden
McHugh	Schroeder	Yates

NOES—281

Akaka	Dyson	Jones (TN)
Albosta	Edwards (AL)	Kazen
Alexander	Edwards (OK)	Kemp
Andrews	Emerson	Kennelly
Annunzio	Emery	Kogovsek
Applegate	English	Kramer
Archer	Erdahl	Lagomarsino
Ashbrook	Erlenborn	Lantos
Badham	Ertel	Latta
Bafalis	Evans (IA)	Leach
Bailey (MO)	Fary	Leath
Bailey (PA)	Fenwick	LeBoutillier
Barnard	Ferraro	Lent
Beard	Fiedler	Lewis
Benedict	Fields	Livingston
Bennett	Fish	Loeffler
Bereuter	Flippo	Lott
Bethune	Foley	Lowery (CA)
Bevill	Ford (MI)	Lujan
Bliley	Ford (TN)	Luken
Boland	Forsythe	Lungren
Boner	Fountain	Madigan
Bouquard	Frenzel	Marlenee
Bowen	Frost	Marriott
Brinkley	Fuqua	Martin (NC)
Brooks	Gaydos	Martin (NY)
Broomfield	Gephardt	Mavroules
Brown (CA)	Gilman	McClory
Brown (CO)	Ginn	McCollum
Brown (OH)	Glickman	McCurdy
Broyhill	Goldwater	McDade
Burgener	Gonzalez	McDonald
Butler	Goodling	McEwen
Byron	Gore	McGrath
Campbell	Gradison	Michel
Carman	Gramm	Miller (OH)
Carney	Gray	Mineta
Chappell	Gregg	Mitchell (NY)
Chappie	Grisham	Mollohan
Cheney	Gunderson	Montgomery
Clausen	Hagedorn	Moore
Clinger	Hall (IN)	Moorhead
Coats	Hall (OH)	Morrison
Coleman	Hall, Ralph	Murtha
Collins (TX)	Hall, Sam	Myers
Conable	Hamilton	Napier
Conte	Hammerschmidt	Natcher
Corcoran	Hansen (ID)	Neal
Coughlin	Hansen (UT)	Nelligan
Courter	Hartnett	Nelson
Craig	Hatcher	Nichols
Crane, Daniel	Hefner	O'Brien
Crane, Philip	Heftel	Ottinger
D'Amours	Hendon	Oxley
Daniel, Dan	Hightower	Panetta
Daniel, R. W.	Hiler	Parris
Dannemeyer	Hillis	Pashayan
Daub	Hollenbeck	Patman
Davis	Holt	Paul
DeNardis	Hopkins	Pepper
Derrick	Horton	Perkins
Derwinski	Hubbard	Petri
Dickinson	Huckaby	Peyser
Dingell	Hughes	Pickle
Dornan	Hunter	Price
Dougherty	Hutto	Pritchard
Dowdy	Hyde	Pursell
Dreier	Jeffries	Quillen
Duncan	Jones (NC)	Rahall
Dunn	Jones (OK)	Railsback

Regula	Skeen	Vander Jagt
Rhodes	Skelton	Volkmer
Rinaldo	Smith (AL)	Walker
Ritter	Smith (IA)	Wampler
Roberts (KS)	Smith (NE)	Watkins
Roberts (SD)	Smith (NJ)	Weber (MN)
Robinson	Smith (OR)	Weber (OH)
Roemer	Smith (PA)	White
Rogers	Snowe	Whitehurst
Rose	Snyder	Whitley
Rostenkowski	Solomon	Whittaker
Roth	Spence	Williams (OH)
Roukema	Stangeland	Winn
Roybal	Staton	Wolf
Rudd	Stenholm	Wortley
Russo	Stratton	Wright
Sawyer	Stump	Wylie
Schneider	Swift	Yatron
Schulze	Tauke	Young (AK)
Sharp	Tauzin	Young (FL)
Shaw	Taylor	Young (MO)
Shelby	Thomas	Zablocki
Shumway	Trible	Zeferetti
Siljander	Udall	

NOT VOTING—47

Anthony	Evans (IN)	Marks
Atkinson	Findley	Martinez
Blanchard	Gingrich	McCloskey
Bolling	Green	Mitchell (MD)
Breaux	Hance	Moffett
Burton, Phillip	Heckler	Molinari
Chisholm	Holland	Patterson
Collins (IL)	Ireland	Porter
Coyne, James	Jenkins	Rousselot
Daschle	Johnston	Savage
de la Garza	Kindness	Shuster
Dixon	LaFalce	Simon
Dymally	Lee	St Germain
Edgar	Lehman	Stanton
Evans (DE)	Leland	Wilson
Evans (GA)	Long (LA)	

□ 1245

Mr. VANDER JAGT and Mr. ALBOSTA changed their votes from "aye" to "no."

Mr. SHANNON and Mr. DICKS changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

(By unanimous consent, Mr. LOTT was allowed to proceed out of order.)

LEGISLATIVE PROGRAM

Mr. LOTT. Mr. Chairman, I have asked for this time for the purpose of getting the schedule for the rest of today and tomorrow and, hopefully, for next week, and for that purpose I yield to the gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. Mr. Chairman, I thank the distinguished Republican whip for yielding.

Mr. Chairman, with respect to the question advanced by the gentleman from Mississippi, the distinguished Republican whip, we will continue on the present legislation, the nuclear waste disposal legislation, until completed today, and, time permitting, we will take up the conference report on the Nuclear Regulatory Commission authorization. That will conclude the business of today.

On tomorrow, Friday, the House will meet at 10 o'clock, and we will adjourn no later than 3 o'clock in the afternoon to consider the fiscal 1983 Interior and related agencies appropriation legislation. Members should be advised that votes are expected on that legislation tomorrow.

I am sorry that I cannot accommodate the gentleman from Mississippi on the schedule for next week, but we will be happy to make the announcement on next week's schedule on tomorrow.

Mr. LOTT. The gentleman does expect, though, looking toward next week, that we will be in session on Monday, starting at 10 o'clock, and we can expect to have votes on Monday; is that correct?

Mr. FOLEY. The gentleman is correct. We expect a full schedule next week, Monday through Friday, and it is expected that the surface transportation legislation will be on the floor, among other things, next week. Members should anticipate that votes will be taken on bills on Monday. Meeting hours will be announced later, and may be adjusted to accommodate our respective caucus and conference meetings in the mornings.

Mr. LOTT. Does the distinguished majority whip have an idea at this time of the exact meeting time for this week?

Mr. FOLEY. Well, we shall announce the meeting times later. They may have to be changed because our respective parties will have organizational meetings during the early part of the week.

Mr. LOTT. Mr. Chairman, does the gentleman hope to be able to announce the details of the schedule for next week later on this afternoon? Will that announcement be made today or tomorrow?

Mr. FOLEY. We expect to announce the details of the schedule for next week on tomorrow.

Mr. LOTT. Mr. Chairman, I thank the gentleman.

AMENDMENT OFFERED BY MR. MARKEY

Mr. MARKEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MARKEY: In section 112(b)(1)(A), strike out the fourth and fifth sentences and insert in lieu thereof the following:

"Each recommendation of a candidate site under this subsection shall include a detailed statement of the basis for such recommendation."

In section 112(b)(1), strike out subparagraph (B) and redesignate the subsequent subparagraph accordingly.

In section 112(b)(2), strike out "assessment described in paragraph (1)" in the last sentence and insert in lieu thereof "impact statement".

In section 112(e), strike out "Except as otherwise provided in this subsection, each" and insert in lieu thereof "Each".

In section 113(b)(1), insert the following new subparagraph before subparagraph (A) and redesignate the subsequent subparagraphs accordingly:

(A) an environmental impact statement, prepared in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), of the site characterization activities planned for such candidate site and a discussion of alternative activities relating to site characterization that may be undertaken to avoid any adverse impacts, the issuance of which environmental impact statement shall be considered to be a final agency action subject to judicial review in accordance with the provisions of chapter 7 of title 5, United States Code, and section 119;

In section 113(b)(2), insert "and environmental impact statement" after "plan" each place it appears.

In section 113, strike out subsection (d) and insert in lieu thereof the following:

(d) PRELIMINARY ACTIVITIES.—Except as otherwise provided in this section, (1) each activity of the Secretary under this section that is in compliance with the provisions of subsection (c) shall be considered a preliminary decisionmaking activity; and (2) no such activity shall be considered to be a major Federal action under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or to require any environmental review under subparagraph (E) or (F) of section 102(2) of such Act.

In section 119(a)(1)(E), strike out "112(b)(1) or".

Mr. MARKEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. MARKEY. Mr. Chairman, this amendment is another in a series of amendments that have tried to give full protection to the States in order to insure that they are given adequate safeguards against the abuse of the environment in the State. This deals with the question of environmental assessment and environmental impact statements that will be conducted in the process of site characterization.

What is site characterization? Under this legislation the Secretary of Energy shall recommend to the President five candidate sites. That means five different places in the country that could serve as the permanent repository.

□ 1300

It also requires that not less than two different geologic media be tested among these five sites as the location of the permanent repository.

As the Department of Energy goes out into these different States taking large areas of a State and trying now to decide whether or not it has the proper characteristics for the permanent repository, permanent disposal for 20,000 years of nuclear wastes, clearly there are going to have to be some very serious geologic tests which will be conducted before a final determination can be made as to the appropriateness of one of these five for the permanent site.

We now have to decide what should be the protection given to this State as

these sites are being disturbed, as the environment is being disrupted, as shafts are being drilled.

At what point should there be an environmental assessment, an environmental impact statement, to insure that proper protections are made?

Under the NEPA law, the National Environmental Policy Act, we set up a series of tests which would be undergone to insure that the invironmental protection was guaranteed, no matter what action was taken, Department of Energy, Department of Defense; no matter what activity is conducted in our country NEPA would apply as a standard, as a minimum standard of protection for the environment.

Under the law which is applied to any other project in any other aspect of American life there is a standard. First you have an environmental assessment after an idea is formulated. In this instance the idea is let us drill holes over four or five States' areas and find out which would be the best place to site a permanent repository.

The environmental assessment is limited in scope. It is less scientific and it has less public access but it is reviewable; you can take that decision to a court and you can say "I do not think they did a very good job on that environmental assessment."

Assuming that that then is affirmatively resolved, you can move on to the next stage which is a full environmental impact statement. There you would have more scientific data, more alternative would be considered, a greater scope would be included, and again it would be reviewable by a court of law to insure that the NEPA standards were being upheld.

At that point you would then be able to engage in the activity that you were contemplating. In this instance it would be the beginning of the drilling of shafts, the disruption of the environment, and in some instances the inclusion of some nuclear wastes for testing to see whether or not a site has the proper characteristics to be the permanent repository.

This would go on in four or five facilities.

What does this bill do? This bill eliminates almost all of the protections which were built in for in many instances much minor disruptions of the environment.

We substitute a system that says this: We shall have an environmental assessment. Remember, there is a great difference between an environmental assessment and an environmental impact statement.

An environmental assessment has a much lower burden of proof. It has much of a legalistic aspect to it.

Here is the process that we are now going to engage in: An environmental assessment will be made but the environmental assessment is, as we all know, not an environmental impact statement. It is more legalistic, it is more passing of paper between parties. There really is no indepth scientific analysis as to what the effect of any of these experiments are going to have upon the terrain, upon the environment, in a particular State.

Most importantly, reversing what is the present law under NEPA, we take out judicial review with this process so now after only an environmental assessment, after only a perfunctory exchange of information between parties, the Federal Government now has the right to come in and drill.

No environmental impact statement will be completed before they drill or before DOE puts nuclear wastes in that hole to determine what the effect upon the environment will be.

At this point, after all of the experiments have been conducted, after all of the nuclear wastes have been deposited, after the shafts had been drilled perhaps down as far as 2,000 or 3,000 feet, after all of that has been done, now the President selects one of the five sites to be the final repository.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. MARKEY) has expired.

(By unanimous consent Mr. MARKEY was allowed to proceed for 5 additional minutes.)

Mr. MARKEY. In picking that site the President triggers the mechanism to initiate an environmental impact statement. So after you have drilled the shaft, after you have put down some nuclear wastes to test the site, after a process that has eliminated all judicial review has been completed, at this point, with no real public access, with no real judicial review, now you make a recommendation to the President saying we have found the site which we have totally disrupted and the other four sites, which might have been marred permanently. But at this we will have a process that will require an environmental impact statement.

That is what my amendment does. It puts back into place the NEPA law. It says that NEPA, a law which affects all other environmental or potentially environmentally disrupting activities in this country, that this activity as well shall be guided by that law.

It is a good law. It is a wise law. It is a law that the gentleman from Michigan and many others in this body fought long and hard to put on the books.

My argument is a simple one. It is that we do not know what we are doing. We do not have the vaguest idea what the effect of this legislation is going to be.

We are talking about spending $100 million per site. That is five sites, $100 million apiece, without any environmental impact statement, without a real environmental assessment, and with no judicial review.

So these States are going to be in a position in which there will be a tremendous amount of activity in a State without any real protection for the State.

This amendment then has the intention of just building in those rudimentary protections that have traditionally been a part of the law in this country.

We could go back to Lyons, Kans., back 10 years ago when without adequate protections they dumped a couple of hundred thousand gallons of water in a hole in Lyons, Kans., that had been designated as the site for the permanent repository in this country. What happened? They came back a couple of days later and all of the water had drained out of the geologic repository that was going to be the site.

There was no State participation, no real review, no real ability on the part of the State or the local community to have a real participatory role in any of the decisionmaking processes.

No one wants to block the siting of a premanent repository. We all share a common goal. Let us not in a 15-year process that we have to do the job right sweep out of the way rights and protections which were built into the law over the past couple of decades to insure that when serious potential disruption to the environment occurs that we have at least built in some minor roadblocks that will have to be hurdled by a bureaucracy which is hell bent on getting a solution to political mandate.

If we can at least give the people that kind of check and balance I think we have built a fundamental protection into this law.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. MARKEY. I am glad to yield.

Mr. OTTINGER. I think the gentleman's amendment is an exceedingly important one and I only wish I could support him.

I think an environmental impact statement at this juncture would be entirely appropriate and badly needed. The best we could get in our negotiations to reach an accommodation on this bill, however, was to have an environmental assessment at this juncture with an accelerated judicial review.

I think the gentleman misstated when he spoke and said there would be no judicial review. That being a part of the compromise, I have to support it.

But I think that the considerations and the arguments the gentleman makes ought to be carefully listened to by the House and they are very cogent indeed.

Mr. MARKEY. I thank the gentleman and again restate my hope that the amendment is adopted.

Mr. BROYHILL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the gentleman in his debate I think has tended to confuse Members who were following this debate with some of the statements he has made.

The fact is that we have provided for an environmental assessment at the characterization stage.

The only thing the gentleman has to do is to turn to page 19 and see that that environmental assessment which is issued shall be considered a final agency action subject to judicial review. That is in the law.

I would have to call this amendment the catch-22 amendment because, as we read it, an environmental impact statement would be required before the Secretary could even set foot on the property, on the proposed candidate site.

By inserting a full-blown environmental statement requirement, with full-blown judicial review at this point, I can assure you it is going to have the effect of delaying the siting of a final repository for years to come.

As I pointed out, the bill already fully addressed the environmental concerns at this stage of the siting process. It requires extensive environmental assessment which is judicially reviewable.

That assessment includes some of the following, and I would like to point this out to the Members:

An evaluation of suitability of the site for characterization, and they must use the guidelines that are spelled out in section 112 in that evaluation.

Also an evaluation of the effect of the site characterization on public health and safety and the environment.

Additionally, a reasonable comparative evaluation with other sites.

A description of the decision process by which any candidate site was recommended.

Also an assessment of regional and local impact.

The gentleman has made the implication to Members that no public hearings are required. That is not true. The Secretary shall hold public hearings in the vicintiy of such candidate site to inform residents of the area in which such candidate site is located of the proposed recommendation and to receive their comments.

In addition, the act goes on to require the Secretary to consult and work with the Governors of the legislatures of the States and the governing bodies of any Indian tribes that might be affected.

Also, there is another section that we wrote in here at the request of the Governors to require that upon any written request for information by a Governor or by a legislature or by the governing body of an Indian tribe that the Secretary shall reply in writing to such request within 30 days of the receipt of such request.

If the Secretary fails to respond within that timeframe then the Secretary shall immediately suspend all activities in such State and shall not renew such activities until a written response from the Secretary has been given.

I could go on and I wish I had time here to go on and recite all of the various subsections and sections of this bill that we included to assure consultation and cooperation with the States.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from New Mexico.

Mr. LUJAN. I think the gentleman is correct in what he said. I think that the entire intent here is to be sure that the Secretary goes in and makes the proper assessment, that if we require him to make an environmental impact statement before he steps on the ground, how in the world could we ever get the information in order to make the environmental impact statement?

So the whole idea is to get moving. As long as you are not going to put the repository on a particular site there is not the need for the full-blown environmental impact statement. But we have done environmental assessments before that, so that we can see what problems we are moving into.

It does not make sense that for a site the Secretary might just look at and discard that an environmental impact statement would be necessary.

Mr. BROYHILL. It is very possible in judicial review that a judge could find that the environmental impact statement was not sufficient because the Secretary was not able to go in and do a proper evaluation of the site itself.

□ 1315

Mr. LUJAN. That is correct. And the gentleman correctly defines it as a catch-22 situation, because if you cannot get onto the property you cannot make an environmental impact statement.

Mr. UDALL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the bill now has provisions which basically do the job that our colleague, the gentleman from Massachusetts, wants to do. We have got to keep in mind that our goal in this bill is to put in motion a process which in about 10 or 12 years will give us one specific permanent deep geologic repository. The bill sets up a process that leads us in that direction. It is important that we go as fast as we can, but it is important that we protect the environment, that we have environmental impact statements, that we have judicial review, and I think we have done a fairly good job in all of these areas in the language now in the bill.

The procedure is that five States will be nominated by 1984. With regard to each one of those, we do not make an environmental impact statement but an environmental assessment, which, as a result of specified criteria, is just about as good as an environmental impact statement. Then we drill three of those five, get additional information, and then we pick one of them. And after we have picked the one candidate site as the most likely one, then we do the complete environmental impact statement. Then is when it is needed. Then is when all the questions will have been raised.

So I think we do basically what the gentleman from Massachusetts is trying to do, and I would hope that the amendment would be defeated.

Mr. GOLDWATER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I would suggest to my colleagues that this amendment neither is burdensome and does not really provide any substantial additional environmental protection. I believe that these multiple reviews that would be required under this amendment would, in essence, delay a final repository until after the year 2000.

Now, the committees involved in writing this legislation over the past 2 or 3 years have been greatly concerned about complying with the NEPA regulations, and it has been discussed and debated at great lengths. The language in this bill does represent a compromise, but, at the same time, keeping with the spirit of the National Environmental Policy Act, and also creates the vehicle in which we can realize a repository.

In essence, what the authors of this legislation have provided is a NEPA road map, directions that are specific, so that it will not be challenged or, if it is challenged in the courts, there is specific language and intent which can be referred to.

I would also point out that, in addition to this language, which is very specific in addressing ourselves to the environmental impact, we also must recognize that the States are playing a very specific role in their concern over the environment and the impact upon their areas of jurisdiction. They are concerned, and they will be looking at the impact of such a site selected. In addition to that, in this bill the Nuclear Regulatory Commission is required to monitor and to follow and to look at the whole process, and then to make recommendations as we proceed to refine the whole process.

So I think this amendment is really a lot of smoke because the issue at

hand has been very thoroughly discussed, addressed, and, I think, provisions made that will take care of the great concern that we must and should have over any impact it has on our environment.

Mr. Chairman, I would urge the defeat of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. MARKEY).

The amendment was rejected.

The CHAIRMAN. Are there any further amendments permitted under the rule?

● Mr. OTTINGER. Mr. Chairman, the consensus bill under consideration before the House today will establish the process of finding a permanent solution to the problems associated with nuclear waste. For almost four decades, Government policies have allowed ever-increasing quantities of radioacitve materials to be generated without providing for disposal of these materials in a safe and environmentally sound manner.

Unfortunately, past Federal efforts to establish demonstration repositories have met with serious problems. DOE's history of failures and false assurances to Congress and the public give little cause for confidence. In 1970, DOE assured us that the salt domes at Lyons, Kans., were ideal for a waste repository and that all their geological, hydrological, and other scientific tests confirmed this. DOE proposed legislation which was narrowly defeated in the House providing for permanent storage there. Shortly thereafter it was discovered that the Lyons, Kans., repository leaked. Similar false assurances and problems were encountered at the WIPP site chosen by DOE as a repository for military waste. The past failure to dispose of high-level radioactive materials will require rebuilding public confidence in the ability of the Government to safely dispose of these materials.

The bill before us today is by no means my ideal bill, but nonetheless it comes close enough to establishing a sound policy for the development of a repository that I reluctantly support it. When H.R. 6598 was reported from our committee it was the unwholesome progeny of greed, with wholesale elimination of participation by the public and State and local governments and seriously truncating environmental, NRC, and judicial review. I was discouraged that these extreme industry positions adopted by the narrowest of votes in our committee, threatened the hopes of many that a consensus could be reached on this long overdue policy.

Fortunately, following the actions of the various committees, we were able to fashion a consensus bill. The bill incorporates the provisions, and the legislative history, of H.R. 3809, H.R. 6598, and H.R. 5016. It still includes some provisions that I do not like, but significant changes have been made. And I feel that most importantly, we now have a bill which will give us a start toward disposing of these wastes.

I am pleased that the consensus bill before us provides for a better review of proposed repository sites prior to their being recommended for site characterization. It is important that sites are selected based on geologic suitability rather than on the basis of convenience. I am also pleased that the bill contains no special interest provisions which would absolutely exclude any one site. And I believe it is crucial to the success of the program that the States are given strong participation rights, including the right to disapprove a site unless both Houses of Congress agree that a repository should be located there.

While I still strongly believe there is no need for a Federal interim storage program, I believe the consensus bill has made a number of improvements which will help to insure that the program will be a last resort program, and that it will be run as safely as possible.

I also commend the chairman of the two committees on which I serve—Energy and Commerce and Science and Technology—for fashioning a compromise to blend the R&D activities with the repository program. The consensus bill is designed to insure that the safeguards and protections in the development of a repository contained in the Energy and Commerce and Interior bill will not be undermined by the development of an unlicensed test and evaluation facility.

The original bill, with request to monitored retrievable storage, had impossible deadlines and unprecedented restrictions on NEPA and the NRC licensing process. However, I believe that the Udall amendment has made that provision acceptable.

The Secretary must promulgate guidelines which will be the basis for the selection and subsequent evaluation of site as a potential location for a repository. The geologic condition of the site is stated to be the primary consideration in the selection and evaluation of a site. The fundamental premise of the bill is that, for the first disposal facility, a geologic formation deep in the Earth's core is most likely to provide the greatest amount of protection of the public health and safety for long-term isolation of these highly toxic substances.

The decision to go with deep geologic disposal is based on a belief that, no matter how well crafted, no manmade barrier is likely to last the eons during which the radioactive waste must be contained. We cannot be sure of the integrity of the packaging for decades, much less the thousands of years during which the waste will be active. It is expected that the engineered barrier will be developed to provide the greatest possible degree of containment, but it is not anticipated that the barrier will be used to justify or improve the ability of the host formation to provide the ultimate isolation.

The monitored retrievable storage (MRS) proposal contained in this act provides a necessary backstop in the event the geologic program runs into unexpectedly difficult technical problems. Although this is considered unlikely, the MRS proposal will insure that shorter term engineered containment alternatives receive proper consideration and development.

Under the repository program the Secretary is required to nominate five candidate sites in two different geologic media by July 1984 and at least one additional site in an additional medium by February 1985. Although these sites can be nominated at any time after the site selection guidelines have been published, the purpose of requiring a specific minimum number of sites and media is to encourage the Secretary to consider media other than salt and areas other than those with which the Department is most familiar. It is therefore anticipated that the Secretary will carefully review a range of potential candidate sites before recommending those which he believes most likely to prove to be suitable

Since only three of the six nominated sites need be characterized for environmental review of licensing purposes, it is anticipated that the Secretary will perform ongoing evaluations and reviews which will provide at least two suitable alternatives to the site eventually recommended for the repository.

In the environmental impact statement accompanying the recommendation of the repository site, the Secretary is required to discuss three sites at which a preliminary determination has been made that such sites are suitable for the development of a repository and at which site characterization activities have been completed. While this requirement is not intended to force the Secretary to demonstrate site suitability to the same degree as the recommended site, it is intended to provide the State in which the recommended site is located with assurance that the site selection was based on geologic suitability considerations from among sites which are genuine alternatives. In testimony before the subcommittee, the States expressed their disappointment with the current site identification process, indicating that the Department had selected particular sites without troubling to determine or discover suitable alternatives.

The Secretary is required, with respect to alternative sites, to make a preliminary determination of suitabil-

ity. It is envisioned that this preliminary determination would occur late in the site characterization program. It would make little sense for this determination to be made prior to testing at-depth, and consequently prior to a detailed understanding of the sites' geologic characteristics.

In addition to the preliminary determination of site suitability, there is the requirement that site characterization activities be complete at the three sites. The intent behind this requirement is to once again insure that all sites being characterized are given equal consideration as to their suitability and to prevent the site selection process from becoming a stacked deck for or against a specific site. I sincerely hope that these changes, especially that of a preliminary determination on site suitability, when taken together, will insure the honesty, competence and fairness of a site selection process based primarily on geologic suitability of the location.

The purpose of the public hearings requirement during the site selection and characterization stage is to inform the public and State and local governments or Indian tribes of the activities scheduled for the site and the purpose of such activities and to give them a chance to raise objection and concerns at the earliest possible stage of the site selection process. It is recognized that the hearings wil perform two important functions. One is to insure that the public is fully informed of all activities to be performed at the site. Such information has the potential to reduce public opposition to site development. It is also anticipated that information received at the hearings will improve the DOE's planning and insure consideration of issues important to the public. The hearings are therefore a key component in what is expected to be a continuing process of information sharing and cooperation necessary to build public confidence, and will thereby directly effect the success of the repository development program. As such, the Secretary is expected to make every effort to insure that members of the public desiring to express themselves will be provided with a fair and reasonable opportunity and that all information developed regarding the site will be made fully available to them. The Secretary shall base the recommendation of the site for repository development on the record of the hearings, the results of site characterization and the criteria contained in the guidelines.

The Secretary is required to accompany each recommendation of a candidate site with a detailed environmental assessment. The assessment is subject to judicial review. The assessment is designed to insure that DOE has performed the necessary environmental evaluations of potential sites prior to their recommendation as a candidate site. The Secretary is required to prepare a final environmental impact statement (EIS) to accompany the nomination of a repository site to the President and as part of its application to the Commission for construction authorization. The Commission is authorized to adopt the Secretary's EIS, to the extent practicable, to prevent unnecessary duplication of Federal effort. To the extent the Commission does adopt the EIS, the Commission's responsibility to prepare an EIS under section 102(2)(C) of NEPA is discharged. The Commission may adopt sections or portions of sections of the EIS under this provision, and its responsibility to prepare additional or supplemental reports as it deems necessary is recognized.

The purpose of section 120 is solely to expedite decisions on authorizations which may be granted pursuant to other laws. The language in section 120(a) which states "to the extent permitted by the applicable provisions of law administered by such agency or officer" is included to make clear that section 120(a) in no way affects the discretionary authority of such agency or officer to grant or deny such authorization pursuant to such other law.

Section 121 of the bill is designed to require EPA to establish standards of general applicability to protect the environment from offsite releases of radioactive materials in repositories. The NRC must promulgate requirements for approving or disapproving authorizations for repository construction. The requirement in section 121(b)(1)(B) that the NRC requirements and criteria shall not be inconsistent with comparable EPA standards in no way affects the independent responsibility of the NRC to protect the public health and safety under the Atomic Energy Act of 1954 in the development of such technical requirements. This is consistent with similar statutory language at the end of section 114 that requirements relating to NEPA are also in no way intended to affect the independent responsibilities of the Commission to protect the public health and safety.

If, and only if, the NRC determines after formal hearings that a utility cannot meet its spent fuel storage needs itself and that shortage of storage capacity would interfere with the operation of the reactor, the Secretary is authorized to provide not more than 1,700 metric tons of storage capacity for commercial spent nuclear fuel. The Secretary is provided four options to meet this responsibility. One option is to convert one or more existing Federal facilities, including the modification or expansion of such facilities, to this purpose. Although such conversion and use of a facility for spent nuclear fuel storage would otherwise require a license from the Commission, it is recognized that the data required for such licensing—verification of pipe welds and welder qualifications, manufacturer, and grade of steel used in the holding tanks, for example—would probably no longer be available. In the absence of such information, the NRC would be unable to make a licensing determination in accordance with its regulations. Therefore, the use of Federal facilities for storage of spent fuel, and modification and expansion of those facilities is exempted from NRC licensing to the extent that such licensing would have required documentation which is unavailable.

Although the Commission is not required to license existing Federal facilities used for spent fuel storage, it is required to determine whether such use would adversely affect the public health and safety. In making this determination, the Commission shall consider the environmental assessment or environmental impact statement prepared by the Secretary for the use of such facility or site.

The Secretary is required to provide interim storage capacity only for those utilities desiring such capacity which have demonstrated to the NRC, in a hearing on the record, that without the Federal capacity, the reactor's continued operation is jeopardized and that there is no private alternative which can provide the necessary storage within the time required. These safeguards have been established to insure that the provision of Federal storage capacity is a bona fide last resort of the utility, and limits the Federal responsibility established in this act.

The Commission is required to determine whether a utility has qualified under the "last resort" test for Federal storage capacity. It is anticipated that the Commission will certify only such capacity required prior to the time the utility can provide for its own storage needs or until a permanent repository is available.

The purpose of this subtitle is to prevent interference with reactor operation due to insufficient storage capacity. It is strictly limited to prevent any possibility that interim storage provided by the Federal Government could be used for indefinite storage or undermine the efforts and priorities of the repository development program, or the efforts of the utilities to provide for their own interim storage requirements. With the addition of language excluding the applicability of the act to facilities used in connection with atomic defense activities, combined with language in section 135 subjecting interim storage to that exclusion, the Federal facilities will be extremely limited.

I am particularly pleased that this bill contains no findings or provisions which could preempt State or Federal

laws, judicial decisions, or administrative agencies by a congressional determination that there is reasonable assurance that a safe disposal method currently exists. There is no such determination, and such findings which were originally included in the bill were deleted to insure that there be no preemption.

In conclusion, I am hopeful that we can finally get down to the task of building a repository to dispose of our nuclear wastes. We have developed a program that will start us down the road, while preserving opportunities to carefully explore options. I commend all of those who have worked so diligently on this bill.●

● Mr. LUJAN. Mr. Chairman, it is in the interests of taxpayers, regulated industry, and the public in general to pursue safe, cost effective and cost-justified approaches to ultimate stabilization of bulky low-level radioactive waste from mineral processing operations involving source material regulated by the Commission. Safe onsite stabilization is by far the most cost-effective and cost-justified approach. NRC has recognized this fact in its new low-level repository regulations and in other public statements. Unfortunately, there is a potential obstacle to onsite disposal for such wastes, except in the case of byproduct material; that is uranium or thorium mill tailings. This obstacle arises in that, in contrast to the law with respect to byproduct material, existing law may not provide for ultimate Government ownership of the stabilized tailings from extraction of zirconium, hafnium, or rare earths. This gap raises a concern among some that these tailings may therefore not be adequately assured against unwarranted intrusion or misuse in the future. In addition, the gap is an unwarranted disincentive for onsite stabilization because it subjects owners to the risk of shifting regulatory requirements even after they have completed expensive and good-faith efforts to meet all currently applicable requirements. The amendment proposed by my colleague, the gentleman from West Virginia, and adopted on the floor authorizes a transfer of stabilized material under appropriate conditions so as to pose no cost to the taxpayer, unless the Government is responsible under other law. It thus serves to obviate these problems and permits the Commission more vigorously to pursue onsite disposition of the tailings material in question. I am therefore pleased to support the amendment offered by the gentleman from West Virginia as a logical extension of a sound Commission policy with respect to onsite stabilization.●

● Mr. GOLDWATER. Mr. Chairman, I rise in strong support of H.R. 7187, the Nuclear Waste Policy Act of 1982. This legislation establishes a comprehensive nuclear waste management program which our Nation desperately needs. This program will allow us to move forward with the permanent disposal of high-level radioactive waste.

For many years now, we in Congress have debated the merits of various proposals to dispose of the growing quantities of nuclear wastes. In the summer of 1978, I visited the Hanford Laboratory facilities in the State of Washington to review their nuclear waste management activities. These activities focused on an investigation of basalt geologic formations for nuclear waste disposal. While satisfactory progress had been made, I was disappointed to learn that the permanent repository was still scheduled to begin operation more than 10 years down the road. This schedule was quite different from the pace of earlier activities at Hanford in which entire production reactors were built in just 13 months. This situation led me to seriously question our commitment to solving the nuclear waste problem.

Because I was convinced that the problem was a national concern, I introduced legislation in 1979 which called for the construction of a commercial-scale demonstration repository for nuclear wastes. That legislation, the Nuclear Waste Management Research, Development and Demonstration Act of 1979, required the Department of Energy to undertake an accelerated nuclear waste management program. The Department was directed to build and operate a repository within a specific timeframe. A Nuclear Waste Advisory Committee, composed of public and private sector representatives, was also recommended.

In my opinion, this proposal was necessary to keep nuclear power a viable option in California and other parts of the United States where restrictive laws had banned or slowed needed nuclear development. It was introduced at a time when the California State Legislature had refused to provide an exemption for the proposed, but since canceled, Sun Desert nuclear project from a California law that prohibited the construction of new nuclear powerplants until an adequate waste disposal technology had been demonstrated.

I believed, however, that we would need additional nuclear powerplants to satisfy the future energy requirements of my State. Our current inability to build them, due to the California law, would prove extremely damaging in the long run. Therefore, during the 96th Congress, I again introduced legislation that would have required the Department of Energy to construct a technology demonstration repository for high-level radioactive wastes. This legislation was based on the need to provide for a sound research and development base, including integrated technology demonstration activities, to support the construction of a permanent repository.

The Science and Technology Committee held several days of hearings during the 95th, 96th, and 97th Congresses on my proposal and several other nuclear waste legislative initiatives. During those hearings, there was a review of a seemingly endless series of studies and reports on the subject of nuclear waste. The hearing witnesses made it clear that the nuclear waste disposal issue had been studied to death. Quite frankly, I grew tired of having it delayed. What the Nation needed was a farsighted program to get the job done, and in my mind that included the construction and operation of a repository in a timely manner.

Since we now possess the technology for developing a permanent repository, it is imperative that we proceed expeditiously with a solution to our waste problems if we are to maintain nuclear energy as a viable energy option. In some parts of the country, the construction of new nuclear powerplants has already been affected due to the pressing and nuclear waste problem.

The Nuclear Waste Policy Act of 1982 will help restore public confidence in our Nation's ability to cope with nuclear wastes. It will help us avoid the frightening prospect of an energy shortage by providing for the timely construction of needed facilities to dispose of these wastes. And it will properly guide us in selecting disposal sites consistent with our public health and welfare needs and national security requirements.

Some of the key features of this legislation should be noted. First, the bill outlines an expeditious timeframe for the construction of a permanent waste repository. Second, it provides for an effective State government role in the construction and operation of a nuclear waste repository. Third, appropriate site standards consistent with environmental requirements will be developed. Fourth, and most important, the bill provides for a strong research and development program which, through a test and evaluation facility, should demonstrate the feasibility of a sound nuclear waste management program. The test and evaluation facility is the center piece of the nuclear waste management program. It will resolve technical questions which may otherwise occur during the permanent repository construction authorization or during the issuing of an operating license. It would also allow for the evaluation of the designs for the repository and the packaging, handling, and emplacement of the waste and spent fuel. It may improve the operating capacity of a final repository without excessive radiation exposure to workers. I firmly believe that the other provisions of this legis-

lation are complimentary, but additional to, the test and evaluation facility concept.

Mr. Chairman, the legislation we are now considering will provide our Nation with a firm policy to manage our nuclear waste. It will allow us to fully take advantage of the promise of nuclear energy. I urge my colleagues to support this legislation.●

● Mr. LOWERY of California. Mr. Chairman, although I support participation by States, and, for that matter, the public in general in the decisionmaking process leading to siting and construction of a repository, I believe that State veto or quasi-veto authority is far too extreme. It is unacceptably inconsistent with the basic tenets of the Atomic Energy Act as declared by our courts. It undermines the fundamental purpose of the act to develop atomic energy as an alternative source of energy for our country and it confuses, complicates, and impedes the regulation of nuclear activities by the Federal Government as provided under that statute. I believe that this is detrimental to our national defense and security and to the public health and safety. I accordingly oppose legislation conferring veto authority on States and I support legislation, such as the substitute for section 115 proposed by Congressmen FUQUA and BROYHILL, which is consistent with the Atomic Energy Act. The attached staff analysis summarizes current law:

STAFF MEMORANDUM RE REGULATORY AUTHORITY RELATING TO HIGH LEVEL WASTE REPOSITORIES

The Atomic Energy Act (Act) authorizes comprehensive regulation by the Nuclear Regulatory Commission (NRC) of radiological hazards associated with the nuclear industry and, pursuant to section 274 of the Act, 42 U.S.C. § 2021, by states which are parties to so-called "discontinuance agreements" with the NRC as provided in their agreements. In addition, NRC (or its predecessor) since 1971 has regulated non-radiological hazards associated with atomic energy activities under the National Environmental Policy Act (NEPA), as interpreted in the D.C. Circuit's famous Calvert Cliffs decision.[1]

In the seminal case of *Northern States Power Co.* v. *Minnesota*, 447 F.2d 1143 (1971), the United States Court of Appeals for the Eighth Circuit ruled that the comprehensive and pervasive federal regulation of radiological hazards associated with nuclear power activities as well as the fundamental federal purpose of developing atomic energy technology precluded additional duplicative or conflicting state regulation of those hazards. This ruling was endorsed by the Supreme Court in *Train* v. *Colorado Public Interest Research Group*, 426 U.S. 1, 17 (1976). Other courts have similarly affirmed that state regulation of radiological hazards associated with Atomic Energy Act activities is not permissible except as specifically provided under section 274 of the Act or under other statutes enacted by Congress specifically providing limited exceptions to the general rule. See, e.g., *Washington State Building and Construction Trades Council* v. *Spellman*, 684 F.2d 627 (9th Cir. 1982) (Atomic Energy Act prevents additional state regulation of low level radioactive waste disposal); *Illinois* v. *General Electric*, 683 F.2d 206 (7th Cir. 1982) (Atomic Energy Act prevents state attempt to bar AFR storage facility). Moreover, states can not interfere with the basic purpose of the Atomic Energy Act to develop atomic energy by discriminatory treatment of atomic energy activities under the guise of regulating non-radiological concerns. See, e.g., *Marshall* v. *Consumer Power Co.*, 65 Mich. App. 237, 237 N.W 2d 266, 282 (1975).

As a corollary to the above, under current law, states generally can neither bar high level radioactive waste storage or disposal facilities nor exercise duplicative or conflicting regulatory authority over radiological hazards associated with such facilities because of the pervasive Federal regulatory scheme.[2] In particular, states lack any veto or quasi-veto power over the siting of such facilities or over the construction and ultimate operation of these facilities. The chief state authority under existing law with respect to regulation of radiological hazards associated with high level radioactive waste facilities is the authority to participate (by filing comments and presenting evidence) in federal regulatory and licensing proceedings relating to such facilities. This authority assures that states can raise all legitimate concerns and have these concerns weighted in the decisionmaking process. The states may also seek judicial review and of course may bring their concerns to Congress.●

MODIFICATIONS OF AMENDMENTS

Mr. UDALL. Mr. Chairman, I ask unanimous consent that the following technical corrections be made in the substitute, to reflect the intention of the committee.

The CHAIRMAN. The Clerk will report the modifications.

The Clerk read as follows:

In the amendment offered by Mr. UDALL to section 141(c)(1) change the first sentence to read:

"Preparation and submission to the Congress of the proposal required in this section shall not require the preparation of an environmental impact statement under section 102(2)(c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(c)).".

In the amendment offered by Mr. MARKEY to section 116(a)(3) after the word "Governor" insert "or legislature".

Mr. UDALL (during the reading). Mr. Chairman, I am advised that these are technical amendments, that they are understood, and I ask unanimous consent that they be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The CHAIRMAN. Is there objection to the initial request of the gentleman from Arizona?

There was no objection.

The CHAIRMAN. The modifications are agreed to.

The CHAIRMAN. Are there any further amendments permitted under the rule? If not, the question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore. (Mr. NATCHER) having assumed the chair, Mr. PANETTA, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the Bill (H.R. 3809) to provide for repositories for the disposal of high-level radioactive waste, transuranic waste, and spent nuclear fuel, to amend provisions of the Atomic Energy Act of 1954 relating to low-level waste, to modify the Price-Anderson provisions of the Atomic Energy Act of 1954 and certain other provisions pertaining to facility licensing and safety, and for other purposes, pursuant to House Resolution 601, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment in the nature of a substitute adopted by the Committee of the Whole?

Mr. MARRIOTT. Yes, Mr. Speaker.

Pursuant to the provisions of House Resolution 601, I demand a separate vote on the amendment proposing a new section 115 to the amendment in the nature of a substitute.

The amendment offered by the gentleman from North Carolina (Mr.

[1] *Calvert Cliffs' Coordinating Committee* v. *AEC*, 449 F.2d 1109 (D.C. Cir. 1971) (requires AEC to "take into account" and to "balance" non-radiological concerns pursuant to NEPA). Note, however, that the Supreme Court has subsequently indicated that NEPA is "essentially procedural" in nature. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 558 (1978); *Strycker's Bay Neighborhood Council* v. *Karlen*, 444 U.S. 223, 227 and 228 n. 2 (1980).

[2] States enjoy certain limited regulatory authority over air emissions of radionuclides from high level waste repositories pursuant to sections 116 and 122 of the Clean Air Act Amendments of 1977. However, the Seventh Circuit has perspicaciously indicated that state Clean Air Act authority must be construed in a fashion compatible with the Atomic Energy Act and that the Clean Air Act does not accord states veto authority over radioactive waste storage or disposal facilities. *Illinois* v. *General Electric*, 683 F.2d 206 (7th Cir. 1982). States also may be in a position to attempt to regulate radiological hazards posed by high level waste repositories under the "Underground Injection Control" (UIC) Program of the Safe Drinking Water Act (SDWA), 42 U.S.C. §§ 1421 et seq. (an underground radioactive waste repository may be an "underground injection well" for purposes of EPA's SDWA UIC program). However, such regulation is logically subject to the same constraints recognized in the aforementioned Seventh Circuit decision. Enactment of high level waste legislation providing guidelines and timetables for resolving questions concerning the siting, construction, and operation of high level repositories will further inhibit state initiatives the effect of which is to thwart or to hinder the federal program under the Atomic Energy Act through imposition of duplicative, conflicting or other impeding requirements.

BROYHILL) was adopted in the Committee of the Whole on November 29, and is printed on page H8544 of that RECORD.

The SPEAKER pro tempore. Is a separate vote demanded on any other amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The Clerk will report the amendment on which a separate vote has been demanded.

The Clerk read as follows:

Amendment: Page 35, beginning on line 19, strike out section 115 in its entirety and insert in lieu thereof the following:

REVIEW OF REPOSITORY SITE SELECTION

SEC. 115. (a) IN GENERAL.—The designation of a site as suitable for application for a construction authorization for a repository shall be effective at the end of the 60-day period beginning on the date that the President recommends such site to the Congress under section 114, unless the Governor of the State in which such site is located, or the governing body of an Indian tribe on whose reservation such site is located, as the case may be, submits to the Congress a notice of disapproval under section 116 or 118. If any such notice of disapproval is submitted, the designation of such site shall not be effective except as provided under subsection (b).

(b) CONGRESSIONAL REVIEW OF SITE.—If any notice of disapproval of a repository site designation is submitted to the Congress under section 116 or 118 after a recommendation for approval of such site is made by the President under section 114, the designation of such site as suitable for license application as a repository shall be effective upon the expiration of the first period of 90 calendar days of continuous session of the Congress following the date of the receipt by the Congress of such notice of disapproval unless, during such period, either House of the Congress passes a resolution in accordance with this subsection disapproving such site designation.

(c) DEFINITION.—For purposes of this subsection, the term "resolution under this section" means a resolution of either House of the Congress, the matter after the resolving clause of which is as follows: "That the ——— hereby approves the notice of disapproval submitted by ——— regarding the disapproval of the site at ——— for a repository for the disposal of high-level radioactive waste and spent nuclear fuel.". The first blank space in such resolution shall be filled with the designation of the appropriate House of the Congress; the second blank space in such resolution shall be filled with the designation of the State Governor or Indian tribe governing body submitting the notice of disapproval involved; and the last blank space in such resolution shall be filled with the geographic location of the proposed repository site involved.

(d) PROCEDURES APPLICABLE TO THE SENATE.—(1) The provisions of this subsection are enacted by the Congress—

(A) as an exercise of the rulemaking power of the Senate, and as such they are deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of resolutions under this section, and such provisions supersede other rules of the Senate only to the extent that they are inconsistent with such other rules; and

(B) with full recognition of the constitutional right of the Senate to change the rules (so far as relating to the procedure of the Senate) at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

(2)(A) Not later than the first day of session following the day on which any notice of disapproval of a repository site selection is submitted to the Congress under section 116 or 118, a resolution under this section shall be introduced (by request) in the Senate by the chairman of the committee to which such notice of disapproval is referred, or by a Member or Members of the Senate designated by such chairman.

(B) Upon introduction, a resolution under this section shall be referred to the appropriate committees of the Senate by the President of the Senate, and all such resolutions with respect to the same repository site shall be referred to the same committee or committees. Upon the expiration of 60 calendar days of continuous session after the introduction of the first resolution under this section with respect to any site, each committee to which such resolution was referred shall make its recommendations to the Senate.

(3) If any committee to which is referred a resolution introduced under paragraph (2)(A), or, in the absence of such a resolution, any other resolution under this section introduced with respect to the site involved, has not reported such resolution at the end of 45 days of continuous session of Congress after introduction of such resolution, such committee shall be deemed to be discharged from further consideration of such resolution, and such resolution shall be placed on the appropriate calendar of the Senate.

(4)(A) When each committee to which a resolution under this section has been referred has reported, or has been deemed to be discharged from further consideration of, a resolution described in paragraph (3), it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) for any Member of the Senate to move to proceed to the consideration of such resolution. Such motion shall be highly privileged and shall not be debatable. Such motion shall not be subject to amendment, to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which such motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of such resolution is agreed to, such resolution shall remain the unfinished business of the Senate until disposed of.

(B) Debate on a resolution under this section and on all debatable motions and appeals in connection with such resolution, shall be limited to not more than 10 hours, which shall be divided equally between Members favoring and Members opposing such resolution. A motion further to limit debate shall be in order and shall not be debatable. Such motion shall not be subject to amendment, to a motion to postpone, or to a motion to proceed to the consideration of other business, and a motion to recommit such resolution shall not be in order. A motion to reconsider the vote by which such resolution is agreed to or disagreed to shall not be in order.

(C) Immediately following the conclusion of the debate on a resolution under this section and a single quorum call at the conclusion of such debate if requested in accordance with the rules of the Senate, the vote on final approval of such resolution shall occur.

(D) Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a resolution under this section shall be decided without debate.

(e) PROCEDURES APPLICABLE TO THE HOUSE OF REPRESENTATIVES.—(1) The provisions of this section are enacted by the Congress—

(A) as an exercise of the rulemaking power of the House of Representatives, and as such they are deemed a part of the rules of the House, but applicable only with respect to the procedure to be followed in the House in the case of resolutions under this section and such provisions supersede other rules of the House only to the extent that they are inconsistent with such other rules; and

(B) with full recognition of the constitutional right of the House to change the rules (so far as relating to the procedure of the House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

(2) Resolutions of repository siting approval shall, upon introduction, be immediately referred by the Speaker of the House to the appropriate committee or committees of the House. Any such resolution received from the Senate shall be held at the Speaker's table.

(3) Upon the expiration of 45 days of continuous session after the introduction of the first resolution under this section with respect to any site, each committee to which such resolution was referred shall be discharged from further consideration of such resolution, and such resolution shall be referred to the appropriate calendar, unless such resolution or an identical resolution was previously reported by each committee to which it was referred.

(4) It shall be in order for the Speaker to recognize a Member favoring a resolution to call up a resolution under this section after it has been on the appropriate calendar for 5 legislative days. When any such resolution is called up, the House shall proceed to its immediate consideration and the Speaker shall recognize the Member calling up such resolution and a Member opposed to such resolution for 2 hours of debate in the House, to be equally divided and controlled by such Members. When such time has expired, the previous question shall be considered as ordered on the resolution without intervening motion. No amendment to any such resolution shall be in order, nor shall it be in order to move to reconsider the vote by which such resolution is agreed to or disagreed to.

(f) COMPUTATION OF DAYS.—For purposes of this section—

(1) continuity of session of Congress is broken only by an adjournment sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 90-day period referred to in subsection (c) and the 45-day period referred to in subsections (d) and (e).

(g) INFORMATION PROVIDED TO CONGRESS.—In considering any notice of disapproval submitted to the Congress under section 116 or 118, the Congress may obtain any comments of the Commission with respect to such notice of disapproval. The provision of such comments by the Commission shall not be contrued as binding the Commission with respect to any licensing or authorization action concerning the repository involved.

Page 30, line 17, strike out "and legislature".

Page 44, line 10, strike out "and legislature".

Page 44, line 11, strike out "jointly".

Page 44, line 15, strike out "and legislature".

Page 44, line 19, strike out "and legislature".

Page 44, line 21, strike out "and legislature".

Page 45, line 5, strike out "and legislature".

Page 45, line 7, strike out "and legislature".

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the amendment be dispensed with, and that it be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MARRIOTT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 213, nays 179, not voting 41, as follows:

[Roll No. 409]

YEAS—213

Alexander	Craig	Gramm
Anderson	Crane, Daniel	Gray
Andrews	Crane, Philip	Gregg
Anthony	D'Amours	Grisham
Archer	Daniel, Dan	Guarini
Ashbrook	Daniel, R. W.	Hagedorn
Badham	Dannemeyer	Hall (OH)
Bailey (MO)	Daub	Hamilton
Bailey (PA)	Dickinson	Hammerschmidt
Barnard	Dornan	Hartnett
Beard	Dougherty	Hatcher
Benedict	Dreier	Hefner
Bennett	Duncan	Hendon
Bereuter	Dunn	Hiler
Bethune	Edwards (AL)	Hillis
Bevill	Edwards (OK)	Holland
Bliley	Emerson	Hollenbeck
Boner	Emery	Holt
Bouquard	Erdahl	Hopkins
Brinkley	Erlenborn	Horton
Brooks	Ertel	Hubbard
Broomfield	Evans (DE)	Hunter
Brown (CO)	Evans (GA)	Hutto
Brown (OH)	Evans (IA)	Hyde
Broyhill	Fary	Ireland
Burgener	Fascell	Jeffries
Butler	Fiedler	Jenkins
Byron	Findley	Johnston
Campbell	Flippo	Jones (NC)
Carman	Forsythe	Jones (TN)
Carney	Fowler	Kazen
Chappie	Frenzel	Kemp
Cheney	Frost	Kennelly
Clausen	Fuqua	Kindness
Clinger	Gaydos	Kramer
Coats	Gephardt	Latta
Coleman	Gibbons	Leath
Collins (TX)	Ginn	LeBoutillier
Conable	Goldwater	Lent
Corcoran	Goodling	Levitas
Courter	Gradison	Lewis
Loeffler	Pursell	Solomon
Lowery (CA)	Quillen	Spence
Lungren	Rahall	Stangeland
Marks	Rangel	Stenholm
Martin (NC)	Rhodes	Stratton
Martin (NY)	Rinaldo	Stump
Mattox	Ritter	Synar
McClory	Roberts (KS)	Tauke
McCollum	Roberts (SD)	Taylor
McDade	Robinson	Thomas
McDonald	Roe	Trible
McEwen	Rogers	Vander Jagt
McGrath	Rose	Volkmer
Mica	Rostenkowski	Walker
Michel	Roukema	Wampler
Mineta	Rudd	Weber (OH)
Moorhead	Sawyer	White
Murphy	Schulze	Whitehurst
Murtha	Sharp	Whitley
Myers	Shaw	Whittaker
Napier	Shelby	Williams (OH)
Natcher	Shumway	Winn
Nelligan	Siljander	Wolf
O'Brien	Skeen	Wortley
Oxley	Smith (AL)	Wright
Parris	Smith (NE)	Wylie
Pashayan	Smith (NJ)	Yatron
Pease	Smith (OR)	Young (FL)
Pickle	Snowe	Young (MO)
Price	Snyder	Zeferetti

NAYS—179

Addabbo	Gore	Oberstar
Akaka	Green	Obey
Albosta	Gunderson	Ottinger
Annunzio	Hall (IN)	Panetta
Applegate	Hall, Ralph	Patman
Aspin	Hall, Sam	Paul
AuCoin	Hansen (UT)	Pepper
Barnes	Harkin	Perkins
Bedell	Heftel	Petri
Beilenson	Hertel	Peyser
Biaggi	Hightower	Pritchard
Bingham	Howard	Ratchford
Boggs	Hoyer	Regula
Boland	Huckaby	Reuss
Bonior	Hughes	Rodino
Bonker	Jacobs	Roemer
Bowen	Jeffords	Rosenthal
Brodhead	Jones (OK)	Roth
Brown (CA)	Kastenmeier	Roybal
Burton, John	Kildee	Russo
Clay	Kogovsek	Sabo
Coelho	Lagomarsino	Santini
Conte	Lantos	Savage
Conyers	Leach	Scheuer
Coughlin	Leland	Schneider
Coyne, William	Livingston	Schroeder
Crockett	Long (LA)	Schumer
Deckard	Long (MD)	Seiberling
Dellums	Lott	Sensenbrenner
Derrick	Lowry (WA)	Shamansky
Dicks	Lujan	Shannon
Dingell	Luken	Simon
Donnelly	Lundine	Skelton
Dorgan	Madigan	Smith (IA)
Dowdy	Markey	Smith (PA)
Downey	Marlenee	Solarz
Dwyer	Marriott	Stark
Dyson	Martin (IL)	Staton
Early	Matsui	Stokes
Eckart	Mavroules	Studds
Edwards (CA)	Mazzoli	Swift
English	McCurdy	Tauzin
Fazio	McHugh	Udall
Fenwick	Mikulski	Vento
Ferraro	Miller (CA)	Walgren
Fields	Miller (OH)	Washington
Fish	Minish	Watkins
Fithian	Mitchell (MD)	Waxman
Florio	Mitchell (NY)	Weaver
Foglietta	Moakley	Weber (MN)
Foley	Molinari	Weiss
Ford (MI)	Montgomery	Whitten
Ford (TN)	Moore	Williams (MT)
Fountain	Morrison	Wirth
Frank	Motti	Wolpe
Garcia	Neal	Wyden
Gejdenson	Nelson	Yates
Gilman	Nichols	Young (AK)
Glickman	Nowak	Zablocki
Gonzalez	Oakar	

NOT VOTING—41

Atkinson	Bafalis	Blanchard
Bolling	Dymally	McKinney
Breaux	Edgar	Moffett
Burton, Phillip	Evans (IN)	Mollohan
Chappell	Gingrich	Patterson
Chisholm	Hance	Porter
Collins (IL)	Hansen (ID)	Railsback
Coyne, James	Hawkins	Rousselot
Daschle	Heckler	Shuster
Davis	LaFalce	St Germain
de la Garza	Lee	Stanton
DeNardis	Lehman	Traxler
Derwinski	Martinez	Wilson
Dixon	McCloskey	

□ 1330

Messrs. SCHEUER, MADIGAN, and HUGHES, and Mrs. MARTIN of Illinois changed their votes from "aye" to "no."

Messrs. HOPKINS, WHITE, GAYDOS, BEVILL, BROOKS, and LATTA changed their votes from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

□ 1345

TITLE AMENDMENT OFFERED BY MR. UDALL

Mr. UDALL. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. UDALL: Amend the title of H.R. 3809 so as to read "A bill to provide for the development of repositories for the disposal of high-level radioactive waste and spent nuclear fuel, to establish a program of research, development, and demonstration regarding the disposal of high-level radioactive waste and spent nuclear fuel, and for other purposes."

The title amendment was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT of H.R. 3809, NUCLEAR WASTE POLICY ACT OF 1982

Mr. UDALL. Mr. Speaker, I ask unanimous consent that, in the engrossment of the bill, the Clerk be authorized to correct section numbers, punctuation, and cross references and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the bill, H.R. 3809.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to

revise and extend their remarks in the RECORD on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE PRIVILEGED REPORT ON DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATION, 1983

Mr. YATES. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on the Department of the Interior and related agencies appropriation bill for fiscal year 1983.

Mr. McDADE reserved all points of order on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE PRIVILEGED REPORT ON DEPARTMENT OF DEFENSE APPROPRIATIONS, 1983

Mr. YATES. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on the bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1983, and for other purposes.

Mr. EDWARDS of Alabama reserved all points of order on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

MAKING IN ORDER ON MONDAY, DECEMBER 6, 1982, OR ANY DAY THEREAFTER, CONSIDERATION OF DEPARTMENT OF DEFENSE APPROPRIATION BILL, 1983

Mr. YATES. Mr. Speaker, I ask unanimous consent that it may be in order on Monday, December 6, 1982, or any day thereafter, to consider the Department of Defense appropriation bill for fiscal year 1983.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PERMISSION TO HAVE UNTIL MIDNIGHT, FRIDAY, DECEMBER 3, 1982, TO FILE CONFERENCE REPORT ON H.R. 7072, AGRICULTURE, RURAL DEVELOPMENT, AND RELATED AGENCIES APPROPRIATIONS, 1983

Mr. YATES. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tomorrow, December 3, 1982, to file a conference report on the bill (H.R. 7072) making appropriations for the Department of Agriculture, rural development, and related agencies programs for the fiscal year ending September 30, 1983, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. LONG of Louisiana. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

Mr. LOTT. Reserving the right to object, Mr. Speaker, I do so for the purpose of inquiring what gentleman anticipates would be filed late by the Rules Committee tonight?

Mr. LONG of Louisiana. Mr. Speaker, if the gentleman will yield, the gentleman knows there is going to be a meeting of the Committee on Rules at 3 o'clock this afternoon to take up the appropriation bill for the Department of the Interior. We would hope that a report could be filed on that.

Mr. LOTT. Further reserving the right to object, that is the only issue?

Mr. LONG of Louisiana. That is No. 1.

The second appropriation bill is the Departments of Commerce, Justice and State and the Judiciary and related agencies. The gentleman knows that we have held hearings on that; however, we have had additional requests in the Rules Committee for additional witnesses that want to be heard, and the committee will make a decision at 3 o'clock as to whether or not to hear these additional witnesses.

Mr. LOTT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, I have asked for this time for the purpose of inquiring of the distinguished majority leader the recess schedule or any other pertinent information for the Members that he may be willing to divulge at this time.

Mr. WRIGHT. Mr. Speaker, will the distinguished minority leader yield?

Mr. MICHEL. I am happy to yield.

Mr. WRIGHT. I think the material we are about to recite and thus place in the record is a matter of interest and concern to all Members.

Following is the proposed House Calendar for 1983:

The Congress wil convene on January 3. The oath of office will be administered on that day to all Members. We expect to be in session that full week for the organization of the House.

We plan a district work period from January 10 through January 24.

On January 18, the President would send his budget message and it would be received in the absence of the House and included in the RECORD.

On January 25, the House would reconvene and on that evening, Monday, January 25, it is expected that the President would bring his state of the Union message.

There will be a Washington work period continuing from that point until February 10.

February 11 through 13 is the Lincoln district work period.

February 14 through 17 is a Washington work period.

February 18 through 21 is the George Washington district work period—maybe we had better go back over that.

The first Washington period has nothing to do with George Washington, but Washington, D.C.

February 14 through 17 is a work period here in the city of Washington, and beginning on the 18th and continuing through the 21st, a home district work period in which will be commemorated the birthday of the founder of our country.

Then February 22 through March 24, a Washington, D.C., work period.

March 15, the committees, of course, must submit reports to the Budget Committee on the fiscal year 1984 budget.

March 25 through April 4 will be the Easter district work period.

From April 5 through May 26, we will be here for a Washington work period.

On May 16, we must have completed action on the first budget resolution. That will be the deadline for reporting fiscal year 1984 authorization bills from the standpoint of the authorizing committees as well.

From May 27 through 31, there will be a Memorial Day district work period.

We will be back here in Washington from June 1st through the 30th.

Beginning on July 1 and continuing through the 10th, there will be an Independence Day district work period.

July 11 through August 12 will be a Washington work period.

From August 12 through September 11, an August to Labor Day district work period.

From September 12 through the 15, a Washington work period.

September 16 through 18, a Yom Kippur district work period.

September 19 through October 11, a Washington work period.

October 12 through 16, a Columbus Day district work period.

October 17 through 28, a Washington work period.

October 28 will be our adjournment target.

Now, reference, of course, can be made to this point in the RECORD for our permanent reference.

In addition, I am sure that the majority and minority whips will very soon have the whip cards published in order that Members may carry them on their person and they will be available shortly.

Mr. MICHEL. I thank the gentleman.

I wonder if he might respond to a question along this line: Next week both his party and our party will be organizing for the new Congress with our Members-elect. Since we will be having a session or having sessions next week, that is a very limited timeframe in which to have these organizational meetings, his caucuses and our conference. I would imagine they would be convening at 9 o'clock in the morning. Has there been any thought given to having the House convene at 1 o'clock, rather than noon, so that there could be at least 3½, nearly 4 hours, for a meeting in the morning when we are organizing, as distinguished from the very protracted time it usually takes Members, 15 or 20 minutes, to get here, anyway, and then the time is so short.

Mr. WRIGHT. If the minority leader would yield further, I think the point is extremely well taken. Obviously, there is a lot of work to be done by both the Republican and the Democratic caucuses. It is our expectation, therefore, that on next Monday the House would convene at 2 p.m., thus granting adequate time, and at this point perhaps it would be useful if I should go through the schedule generally for next week.

We would expect to have the Consent Calendar on Monday and take up either the Defense Department appropriation or the Surface Transportation Act, depending upon which of the two may be ready for consideration on the House floor.

On Tuesday, December 7, we expect to meet at 1 p.m., the hour suggested by our distinguished minority leader. It is a day for the Private Calendar.

Then we would take up either the Surface Transportation Act if it has not been taken up the day before or the Defense Department appropriation.

We would expect that for the remainder of the week, Wednesday and the balance of the week continuing through Friday, the House would meet at 2 p.m., on Wednesday and then at 10 a.m. for Thursday and Friday, in order that we might have completed the necessary work in our respective caucuses on Monday, Tuesday, and Wednesday.

□ 1400

On Wednesday, Thursday, and Friday, when the House does convene, we would expect to complete the Defense Department appropriation bill, the Energy and Water appropriations, and State, Justice and the Judiciary appropriations.

Members may expect possible action next week on a continuing appropriation for fiscal year 1983.

Also scheduled for consideration next week, time permitting, is H.R. 5133, Fair Practices in Automotive Products Act, subject to the granting of a rule.

Members should expect late sessions next week. Conference reports, of course, may be brought up at any time.

Any other program in addition to this would be announced later.

Mr. MICHEL. Did the gentleman make clear that tomorrow the House will definitely be in session between the hours of 10 a.m. and 3 p.m.?

Mr. WRIGHT. It is expected that the House will be in session.

Mr. MICHEL. Will the Interior appropriations bill be the order of business?

Mr. WRIGHT. If the Rules Committee completes its action, grants a rule, and if it is eligible for consideration under the rules of the House and is allowed to come up, that would be our expectation.

Mr. LOTT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Mississippi.

Mr. LOTT. I thank the gentleman for yielding.

I would like to address just a couple of brief questions to the distinguished majority leader.

No. 1: Concerning the schedule for next year, I presume it is still tentative and could be subject to minor changes one way or the other. Is that accurate or not?

Mr. WRIGHT. Mr. Speaker, will the gentleman yield to me?

Mr. MICHEL. I yield to the distinguished majority leader.

Mr. WRIGHT. I thank the gentleman for yielding.

Mr. Speaker, of course, if there are reasons for changing it, we can change it. Nothing is ever totally set in concrete. It is just the proposed schedule for the House Calendar for next year, but if there are valid considerations warranting a change, we always can make changes.

Mr. LOTT. If the gentleman will yield further, I would like to make one request or suggestion: Some of us are young enough to have children still in school and we like very much to have some period during the year when we can be with our children. Traditionally we have been out from around August 3 or 4 to September 3 or 4, but for the last couple of years it slipped over to the middle of August, August 13 on this schedule, through September 11.

I would like to urge the leadership to give some consideration to the fact that many of us would have to be back in this city September 3 or 4, or earlier, to get our children in school, and, therefore, we would have less than 2 weeks to spend any time with our children. I would like to make that plea on behalf of some of us who have children.

Mr. WRIGHT. If the gentleman will yield further, the gentleman makes a good and valid point. The gentleman from Texas, chairman of the Committee on Government Operations, young JACK BROOKS, has just made that point to me. Therefore, it seems to me we might take it under advisement.

Mr. SAM B. HALL, JR. Mr. Speaker, will the gentleman yield to me for a question of the majority leader?

Mr. MICHEL. I would be happy to yield to my friend from Texas.

Mr. SAM B. HALL, JR. I thank the gentleman from Illinois, the distinguished minority leader, for yielding to me.

Mr. Speaker, I would like to ask the distinguished majority leader: I understand that on next Thursday the Rules Committee will take up the regulatory reform measure. If a rule comes out on that measure next Thursday, is there a possibility or probability that that bill could come up the beginning of the following week?

Mr. WRIGHT. If the gentleman will yield further, surely, there is a possibility. There are several pieces of legislation which may be considered on a time-permitting basis. The other body, according to the majority leader, Mr. BAKER, expects, I think, to conclude on the 15th, which would be Wednesday, 2 weeks from yesterday.

Now, if the session continues until the latter part of that week, there may be opportunity for certain bills that otherwise would not be eligible for consideration. There are several bills that might be considered. That is one of them.

Time becomes the crucial factor as we near the end of the session, of course.

Mr. SAM B. HALL, JR. I thank the gentleman.

CONFERENCE REPORT ON H.R. 2330, NUCLEAR REGULATORY COMMISSION AUTHORIZATION, 1982 AND 1983

Mr. UDALL. Mr. Speaker, I call up the conference report on the bill (H.R. 2330) to authorize appropriation to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of September 28, 1982.)

POINT OF ORDER

Mr. FRENZEL. Mr. Spaker, I have a point of order against section 23 of the conference report substitute.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. FRENZEL. Mr. Speaker, I make a point of order that the matter contained in section 23 of the conference substitute recommended in the conference report would not be germane to H.R. 2330 under clause 7 of rule XVI if offered in the House and is, therefore, subject to a point of order under clause 4 of rule XXVIII.

The SPEAKER pro tempore. Does the gentleman from Arizona (Mr. UDALL) desire to be heard?

Mr. UDALL. Mr. Speaker, we concede the substance of the point of order the gentleman is making.

The SPEAKER pro tempore (Mr. NATCHER). The point of order is sustained.

MOTION OFFERED BY MR. FRENZEL

Mr. FRENZEL. Mr. Speaker, pursuant to the provisions of clause 4, rule XXVIII, I move that the House reject section 23 of the conference substitute recommended in the conference report.

The SPEAKER pro tempore. The gentleman from Minnesota (Mr. FRENZEL) is recognized for 20 minutes on his motion.

Mr. FRENZEL. Mr. Speaker, I rise in opposition to section 23 which contains an import restriction on uranium. This restriction was not a part of the House bill. It is not germane to the House bill and was one which was forced upon our conferees at the insistence of the Senate.

This provision has not received consideration by either House committee which had jurisdiction over this bill. This is a proposed, in my judgment unfair, trade barrier which comes less than a week after our U.S. Trade Representatives and Members of the House and Senate came back from the GATT ministerial meeting in Geneva, at which time all of us pledged to promote a moratorium on new trade barriers all over the world.

It seems to me there is no reason why we should support this restriction, particularly in light of the fact that it is nongermane and there have been no House hearings on it.

Currently, total uranium imports to the United States are less than 10 percent of the U.S. consumption and those imports come from friendly allies. About three-quarters of them come from Canada and Australia.

Under the current limitations which are scheduled for phaseout this year, imports from 1977 through 1981 were less than half of the allowed maximum. Imports have risen from 5 percent in 1977 to 10 percent in 1981, less than 10 percent, and that is no evidence of a surge in imports.

The national security argument is feeble, too. It is estimated that Government and commercial inventories of uranium could supply the Nation for 12 years. The President, as it is well known, already has the authority under 19 U.S.C. 1562 to limit imports whenever he finds them to be a threat to national security.

The administration opposes this provision very strongly.

The domestic uranium industry's problem is not imports, but a low demand caused by a slowdown in the nuclear powerplant program.

We can likely expect to provide some sort of compensation under our international trade treaties, and that compensation will probably be aimed at U.S. agricultural exports or at high-technology exports. I would guess that this compensation would be in the neighborhood of $200 million.

Further, Mr. Speaker, the cost to consumers of this amendment is staggering. The administration estimates that by 1990 the additional consumer cost would be about $1.6 billion.

The restriction itself is a clumsy one, as one would expect of one that has had no hearings. It triggers when projected levels of imports reach certain levels. Further, it bypasses the injury test required in our law and granted to our trading partners under our international trade agreements.

It is my fervent hope that we will not be the first nation in the world to violate the resolution which our country signed in Geneva last week at the GATT ministerial, at which time the trade ministers of 88 countries pledged to try to resist protectionist measures within their respective countries. I would urge my colleagues to vote against section 23 of this conference report.

□ 1410

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. Is the gentleman from Arizona (Mr. UDALL) opposed to the motion?

Mr. UDALL. I am, Mr. Speaker,

The SPEAKER pro tempore. The gentleman from Arizona (Mr. UDALL) is recognized for 20 minutes.

Mr. UDALL. Mr. Speaker, there is a rising tide of protectionism abroad in our country, and I share the concern the administration and my friend from Minnesota have expressed.

When the conference committee began its prolonged deliberation on the Senate amendment's outright uranium import restrictions, I told my colleagues that I embraced the philosophy that a rising tide raises all boats, and I remain committed to that point of view today. But unfortunately, the tide may be rising too late for our domestic uranium mining and milling industry. Over the past 2½ years, over half the miners have been laid off, exploration has dropped by 66 percent, and the number of operating mines has dropped by over 63 percent. As a result, the very limited relief provided in section 23 of the conference agreement is timely and needed, and I urge my colleagues to support the conference provision.

It is well known that the uranium import issue was the most difficult issue in the conference that we had over several weeks. The provision was the subject of extensive discussion by the conferees. A letter expressing opposition to the Senate amendment was sent to the conferees by the Ways and Means Committee's Subcommittee on Trade. The conferees received other letters expressing concerns from the Special Trade Representative and the Departments of State, Justice, and Energy. There are no easy answers in this situation.

Let me emphasize that we come back here with a much different provision than the one adopted by the Senate. The Senate provision would have restricted imports of uranium from foreign sources at 20 percent of our annual consumption and would have required each licensed nuclear plant to use 80 percent domestic uranium for fuel. The compromise before the House is a true compromise. The conference agreement sets in motion a rational process for ascertaining the viability of our domestic uranium industry and relationship of that industry's health to the national security.

So, let me clear up some misinformation about the conference recommendation on uranium supply. The compromise is not an import quota or restriction. We had to hang tight on this for a number of sessions to make sure that was the case. Under the agreement, when the level of project im-

ports reaches 37.5 percent for 2 consecutive years, a tariff is not triggered, but a study is triggered under existing law into the national security implications of imports. The President can act upon the recommendations of the study or he can take no action.

A 2-year contracting moratorium under the compromise is imposed during the course of the study on the national security implications of imports so as to prevent new contracts for higher levels of imports. No imports already under contract will be restricted in any way. If the study concludes that the level of imports is of concern, then higher levels will have been avoided. The moratorium will be shorter than 2 years if the study is done sooner. The long-term nature of utility uranium contracts—10 to 15 years—and the high level of existing inventories will prevent any shortages for utilities during that time.

Another key distinction between the Senate provision and the conference agreement relates to the expiration date of the provision. Under the Senate bill, a strict limitation on actual uranium imports would be in effect immediately. The conference report, which does not restrict imports, would expire in 1992, 10 years from now.

My colleagues may be interested to know that the Edison Electric Institute has concluded—I emphasize—that:

> The provision as adopted by the conference is primarily a study and we (EEI) do not believe it would actually result in an import limitation during the 1980's or early 1990's because current contracts are in place covering those requirements. Thus, while it would appear that there are potential limitations, we do not view this provision as an actual restriction * * *

My colleagues, the conference agreement on uranium supply enjoys the support of the National Governors Association, the Western Governors Conference and the AFL-CIO.

I strongly encourage my colleagues in the House to adopt the entire conference report, including these supply provisions.

Mr. Speaker, I yield 5 minutes to the gentleman from New Mexico (Mr. LUJAN).

Mr. LUJAN. Mr. Speaker, I thank the gentleman from Arizona for yielding time to me.

Mr. Speaker, Congress has consistently recognized the importance of maintaining a viable domestic uranium industry. Indeed, we supported a priority program to develop such an industry during and after World War II in order to avoid reliance on undependable foreign sources of supply. We adopted section 161(v) of the Atomic Energy Act directing the Atomic Energy Commission, now the Department of Energy, to take such actions in the provision of enrichment services as were necessary to maintain a viable domestic industry. The Department, to my sorrow, has failed to implement this provision. And now our domestic industry is, by the admission of a draft report of the Department, in a condition which can hardly be considered viable.

The uranium supply provision before us makes use of existing law to assure the maintenance of a viable uranium industry. It simply calls for the Department to issue criteria for determining viability and to make a viability determination, based on best available statistics, on an annual basis. This will serve to compel implementation of section 161(v). In addition, the provision makes use of existing trade laws.

Mr. Speaker, I realize that some have expressed concern about the portion of this section providing for a temporary moratorium on new contracts for foreign uranium if the foreign fraction of commitments reach 37½ percent. However, this moratorium is essential if we are to have time to take the actions necessary under existing law to preserve our uranium industry, an industry vital to the national security and essential to our energy independence.

□ 1420

Mr. FRENZEL. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, we have heard the statement by the managers of the bill, including the most recent one, particularly talking about national security aspects.

Obviously any signatory to our international trade agreements does have the option of protecting national security. However, in this case, the President himself and our administration have determined that this particular amendment is not a national security amendment. The administration, which is very concerned with our national security, has asked us to defeat the amendment. The reason the Department of Energy did not act on the suggestion of the study was because the Department of Energy felt that that was a bad policy.

Mr. Speaker, I will place in the RECORD a letter written by Secretary of State, George Shultz to the Speaker of the House of Representatives dated November 22, 1982. I would like to quote from the letter just briefly.

Secretary Shultz writes:

> An import restriction of this kind would be totally inconsistent with the U.S. Government's long-standing commitment to free trade. The proposed 2-year import moratorium . . . triggered by a specific import level, would represent a measure of the very kind we are urging other nations to avoid.

The Secretary goes on to say that such a restriction "would constitute a reversal of U.S. policy without consultation by friends and allies and would be seen by countries as evidence of unreliability of the United States in the nuclear field. The perception of U.S. unreliability and unilateralism would constitute a setback to U.S. nonproliferation efforts."

The Secretary says later in the same letter: The foreign countries most affected by the "restrictions are Canada and Australia. These two allies have provided significant support for U.S. nonproliferation policy. Both countries have strongly urged deletion of this amendment, and Canada has implied that it would challenge it in the GATT."

Mr. Speaker, the full text of the letter is as follows:

THE SECRETARY OF STATE,
Washington, November 22, 1982.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

DEAR MR. SPEAKER: I am writing to express the Department of State's opposition to Section 23 of the NRC authorization bill (HR-2330), as set forth in the Conference Report. Section 23 calls, inter alia, for the imposition of a moratorium on new contracts or options for uranium imports, pending study of the effects of such imports. The Conference Report was approved by the Senate on October 1.

An import restriction of this kind would be totally inconsistent with the U.S. Government's longstanding commitment to free trade. The proposed two-year import moratorium on uranium imports, triggered by a specified import level, would represent a measure of the very kind we are urging other countries to avoid. In addition, if the provision is passed, the U.S. might well face a serious challenge in the GATT, and we might very well expect retaliation from our major trading partners in areas such as agriculture and high technology.

Such an import restriction would constitute a reversal of U.S. policy without consultation with friends and allies and would be seen by many countries as evidence of the unreliability of the United States in the nuclear field. The perception of U.S. unreliability and unilaterialism could cause a setback to U.S. non-proliferation efforts, which are based in part on influencing other countries' activities by performing as a reliable nuclear partner.

The previous embargo on uranium imports, initiated in 1964, was extremely disruptive to the world market. The current phase-out of this embargo is working well. Since total uranium imports now comprise less than 10% of domestic consumption, the current economic difficulties being experienced by the domestic uranium industry cannot fairly be traced to foreign imports. World prices of uranium have been declining due to slowed growth of electricity use and a slowdown in civilian nuclear energy programs in many countries. The major negative foreign policy consequences of highly visible and controversial controls on uranium imports would far outweigh any short-term benefits which could reasonably be expected to flow to the domestic industry.

The foreign countries which would be most seriously affected by the proposed restrictions are Canada and Australia. These two allies have provided significant support for U.S. non-proliferation policy. Both countries have strongly urged deletion of this amendment, and Canada has implied it would challenge it in the GATT.

Passage of Section 23 will have serious consequences on our efforts to promote free trade, as well as on our non-proliferation goals. I strongly urge that you support deletion of this provision from the Conference Report of the NRC authorization bill. The Office of Management and Budget advises that from the standpoint of the President's program there is no objection to the submission of this letter.

Sincerely yours,

GEORGE P. SHULTZ.

Mr. Speaker, I yield 5 minutes to the distinguished chairman of the Subcommittee on Trade, the gentleman from Florida (Mr. GIBBONS).

Mr. GIBBONS. Mr. Speaker, I thank the gentleman from Minnesota (Mr. FRENZEL), and I thank the gentleman from Arizona (Mr. UDALL) for their courtesies in this debate.

Mr. Speaker, let me assure all the Members of the House that we do not seek to wreck the conference report. This has been clearly admitted to be not germane to the conference by the distinguished chairman of the committee, and there is no doubt in my mind that if the House deletes this measure—and it should delete this measure—it will just go back to the Senate and the Senate will accept the conference report.

Let me explain to the Members how this got in the conference report. If this had been introduced in the House, it would have been referred to the appropriate committees; if it had been introduced in the Senate, it would have been referred to the appropriate committees. It was never introduced anyplace. It was one of those notorious Senate amendments on which there was no record vote, and as usual there was nobody on the floor and we ended up in conference with it and our conferees are stuck with an unconscionable negotiating position.

I cannot get mad at anybody who has a mineral industry in their State that is depressed right now. I have the phosphate industry, and it is in much worse condition than the uranium industry. It has had very high unemployment. It is not related to imports, nor is the unemployment in this industry related to imports. It is related to domestic demand, and that is the problem and we should all admit that and face up to it.

No, this is not a quota. This is an embargo. If American prices get too high and people turn to other places for uranium supplies, then there is a 2-year embargo placed upon the contracting, just going out and contracting for the supply. Then immediately domestic prices will jump; immediately consumers will be faced with rate increases all over the United States, and they will be terrific rate increases because uranium is now supplying 50 percent of the power base of New England and other States that will be in the same sort of predicament.

My State which relies very little on uranium will not have that problem, so I have no parochial interest in opposing this.

There are adequate remedies under the present law that have been in existence for a long time, so that uranium industry, if it is impacted as they think it is going to be impacted can go and get relief. In addition to that, there are national security remedies that are available for this problem.

If the national security in this country is in any way affected, the President can immediately override all the trade laws we have and can take appropriate action to protect the domestic industry. So there is no need for us to even be considering this except that it was foisted off on the Senate at a deep and dark hour by a handful of Senators, and it was forced upon our conferees or we get no bill.

Mr. Speaker, it is time to say, "no" to the Senate. They have done this far too many times. It is bad economic policy, it is bad politics, it is bad government, and it should be deleted.

Mr. UDALL. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. Mr. Speaker, I join my colleague, the gentleman from Arizona (Mr. UDALL), as a member of the conference committee in supporting this provision and opposing the motion. I do not think any of us want to see us in a posture of international trade restriction.

The problem is that we were confronted with a very difficult situation in the conference, and I think, under the leadership of the gentleman from Arizona, we were able to get very substantial concessions where there are no longer import quotas or restrictions. There is just a provision for this study and a restriction on future contracts during the 2 years that study is being made. So I think we were very successful in conference in ameliorating the very strict and damaging import restrictions that were in the Senate provision.

Mr. Speaker, I think, in the interest of comity, if there is any kind of accommodation between the two Houses, we ought to acknowledge that the committee did a very good job in conference, and we have come out with an acceptable provision that is not unduly restrictive, and it should be supported by the House.

Mr. UDALL. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I think we are all going to be faced in these next few months and years, day after day and time after time, with industries and groups wanting special protection as this recession becomes a worldwide recession, and I think all of us are going to have to acknowledge that we have difficulties in our own areas and our own districts.

My State is one of the major hard rock mining States in America, and the miners feel very strongly about this legislation. We watered it down from what clearly was a quota situation to a study which, if certain effects are found, will be turned into eventual action, but it will be followed with laws on the books with some kind of protection that will be put in those laws, and I do not see how we could have done a better job or come back with a better result given the situation that faced us in this time of severe economic difficulties.

Mr. Speaker, I yield 2 minutes to the gentleman from New Mexico (Mr. LUJAN).

Mr. LUJAN. Mr. Speaker, I would like to concur with the gentleman and with the gentleman from New York, who made a particular statement that is not a quota restriction. We did start off seeking a 20-percent limitation on imports. As it turned out, we were not able to do that, and I can understand the rationale that was used in the conference.

□ 1530

But what we finally ended up with was that a study should be made of the national security implications of a declining uranium industry and what that would do as far as our national security was concerned.

A mandatory action required is that the Secretary start this 2-year study. If he finds that we are adversely being affected, then the mix of uranium in the enrichment process may be increased, and that increase will be from domestic uranium.

Beyond that, there is the report to the President by the Secretary of Energy. The Secretary reports to the President possible courses of action. One could be a limitation on imports. But the President will choose a course of action and will submit it to the Congress.

So I want to reiterate that this is not necessarily an import restriction, that this is principally a study, and as a matter of fact, we are really asking the Department of Energy to implement the remedy processes that they have under present law.

Mr. UDALL. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL. Mr. Speaker, I rise in reluctant opposition to the amendment offered by the gentleman from Minnesota, my good friend, Mr. FRENZEL, and in support of the conference report.

Unfortunately, the adoption of this amendment would have the effect of the conference report going down and we do not know what might happen if we might adopt the balance of the

conference report with an amendment and send it back over to the other body.

It is doubtful as to whether in these waning hours we could get final action on this bill.

I must agree with the gentleman from New York, it was a difficult conference. Anytime you send your conferees to conference with the other body on a bill where there is a great deal of divergence of issues, it makes for difficult conferences. But our duty is to try to come up with the best compromise that we can.

I would point out there are other parts of this bill that have been supported by a vast majority of this House and that these parts of this bill are not only needed but are vital if we are to continue the development of nuclear power in this country.

I specifically refer to those parts of the bill that relate to the licensing and the startup of nuclear generating facilities.

Many Members know of the difficulties that many nuclear electric generating facilities have had in getting their final licenses approved. We have had a number of cases where the plant has been idle for months, costing utilities consumers millions of dollars while awaiting a final license.

There is a provision in this bill which we can, under certain circumstances, permit a temporary operating license. We hope next year to get into more detail on this subject of licensing procedures themselves. But at least there is a temporary solution to some of the problems in this bill.

I hate to see those amendments go down because of the adoption of the Frenzel amendment.

Mr. FRENZEL. Mr. Speaker, I yield 1 minute to my distinguished colleague, the gentleman from Florida (Mr. GIBBONS).

Mr. GIBBONS. Someone once pointed out that there is no free lunch and you cannot get anything for nothing.

I think we should point out, because this is a trade debate, that the principal loser in this will be two sectors of the American economy and perhaps one of our best trading partners.

The principal victim in the foreign area will be Australia, where they are our biggest import source. In fiscal year 1982, that has just closed—and I wish the gentleman from New York (Mr. OTTINGER) would pay attention to this because this directly affects him, being the biggest supporter of trucks and autos—we sold to Australia $500 million worth of trucks and autos. We also sold to Australia $600-some-million worth of machinery and equipment, some of which was manufactured in New York.

We are going to lose those markets. We are going to increase consumer costs, and we are just hurting ourselves, all because a few willful Senators in the middle of the night stuck this amendment in there and forced it off on our committees.

That is no way to conduct this Government.

Mr. FRENZEL. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. I thank the gentleman for yielding me this time.

This is a very, very tough question. It is a very close question, and I think that people could very logically come down on either side of it, depending upon how you would weigh the equities on the interests that you believe ought to be prevailing ones in a debate of this nature.

I think, however, the gentleman from Minnesota has made a good point and it ought to be sustained. We are setting a bad precedent in section 23. If we use a potentially acceptable, theoretically acceptable loophole in GATT to justify this restriction upon imports of uranium into our country, we may indeed have escaped legal recrimination from these other countries.

But I think we are very likely going to incur trade retaliation regardless.

We are looking here at telling Canada or telling Australia or telling others that we are going to bump your products out of our country and we are going to do so in violation of the spirit of GATT.

I think the trade history in this country shows that you cannot undertake action which is calculated to hurt the industries of other countries without seeing retaliatory action taken in recourse.

So here, for example, I believe there is a very, very great risk that we run that there will be some sectoral retaliation which will take place.

For example, in the United States, uranium is used in our nuclear generating industry, located in the Northeast or other parts of the country. Some of us might be dependent upon nuclear energy, as, for example, we are in New England. But in New England we are now trying to consummate arrangements with Canada with regard to importation of their surplus hydropower. We might see there now a change in the Canadian negotiations posture with us and what they want to charge us for that hydropower for New England.

So while the Senate is trying to take care of Arizona or New Mexico, we up in New England or New York or other parts of the country will pay the price. There is no free lunch. There is no way of believing you can shove free trade with friends in this way and have it not come out another. It will. It invariably will. It inexorably will. It eventually will show up in another form.

I believe we will have harmed because, in addition, we have to talk about whether or not in fact there is a real problem with the domestic uranium industry and what is the source of it.

The primary source of the problem is that when they were opening these mines, when they were projecting what the growth of the uranium industry in this country would be a generation ago, the prospect was that there would be 300, 400, 500 nuclear reactors in our country.

There has not been a new nuclear reactor ordered in the past 5 years and there will not be another one for as long as we live in this country.

So we have a problem. We have an industry that was propped up, that was subsidized, that was put into business by one set of circumstances and now the whole premise upon which this industry was born has changed.

There appears now to be a surplus of uranium which will be available domestically through the coming generations. There is a real serious problem of a uranium glut worldwide.

What we will do is not only misanalyze the cause of the problem but I think we will exacerbate other problems that we have not just with trade, but also in terms of nonproliferation.

If we tell other countries such as Canada and Australia, that look to us as a market as potential purchaser of their uranium—that they no longer are welcome here, I am really afraid that as bad as our nonproliferation policy is, as bad as the Reagan nonproliferation policy is with regard to the sale of uranium or plutonium, dangerous nuclear materials to other countries, that they will feel the pressure. They will feel the domestic economic pressure to find other sources for the sale of this material because they will feel that pressure as well, and I am afraid what we will wind up with in 20 or 30 years in this world is not asking the question who has nuclear bombs but asking the question who does not have nuclear bombs.

□ 1440

So I think we have to be very, very careful as we enter into this very, very dangerous, unchartered terrain. I think it is important for us to have the Ways and Means Committee and subcommittees of jurisdiction to look at our overall trade policy, not just with regard to uranium, but with regard to high tech firms, with regard to our automobiles, to begin to put together a comprehensive policy that we all can rally behind, because I think it is critically important that we do so.

I am saying that at some future point it might not be important for us to take this kind of action against a country which is trying to undermine an industry, but let us do it in a com-

prehensive way, let us do it in an organized way, in a well-thought-out way.

Mr. FRENZEL. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I insert in the RECORD at this point two letters, the first of which was written by Chairman ROSTENKOWSKI of the Ways and Means Committee, and other senior members of that committee, on the subject of this matter, dated September 29, 1982, and another letter of the same date, from the U.S. Trade Representative, the Honorable Bill Brock, to members of the Ways and Means Committee on the same subject:

COMMITTEE ON WAYS AND MEANS,
Washington, D.C., September 29, 1982.

Subject: Conference Report on H.R. 2330, The Nuclear Regulatory Commission Reauthorization Act.

DEAR COLLEAGUE: This week the House will consider the conference report on H.R. 2330, the Nuclear Regulatory Commission Reauthorization Act, which contains a restriction on foreign purchases of uranium by U.S. nuclear power facilities. This provision was adopted by the conferees at the insistence of the Senate. The House bill contained no such restriction and none was ever considered by either Committee responsible for the bill.

We believe this restriction will have a significant adverse effect on our foreign relations. Limitations of this nature are proscribed by Article III of the General Agreement on Tariffs and Trade (GATT) and passage of the bill could lead to disputes with several important trading partners. The President already has discretionary authority to limit imports whenever he finds them to constitute a national security threat and we believe restrictions would be unjustified absent such a finding.

Another troubling problem is the potential effect of this legislation on consumers, who will have to bear the burden of higher energy costs. In some parts of the country nuclear energy provides up to 50 percent of electrical power, yet no credible assessment of the economic impact was offered by the Senate sponsors.

During consideration of the conference report we intend to join other Members in seeking rejection of the foreign purchasing limitation. A provision of such significance to our foreign policy and domestic economy should receive thorough attention from the appropriate committees before it is considered on the floor. We urge your support in opposing this hastily-adopted import restriction.

Sincerely yours,

DAN ROSTENKOWSKI,
Chairman,
Committee on Ways and Means.

SAM H. GIBBONS,
Chairman,
Subcommittee on Trade.

BARBER B. CONABLE, Jr.,
Ranking Minority Member,
Committee on Ways and Means.

GUY VANDER JAGT,
Ranking Minority Member,
Subcommittee on Trade.

BILL FRENZEL,
Member,
Subcommittee on Trade.

THE U.S. TRADE REPRESENTATIVE,
Washington, September 29, 1982.

Hon. BILL FRENZEL,
House of Representatives,
Washington, D.C.

DEAR BILL: I am writing to you once again to express the Administration's continued opposition to Section 23 of the Nuclear Regulatory Commission Authorization bill (H.R. 2330) as set forth in the Conference Report.

Section 23 contains provisions that would trigger an automatic moratorium on contracting for imported uranium upon a projected estimate that future imports might reach a specified level. Inherent in this formula is the assumption that this specified level of imports equates to a threat to the viability of the domestic uranium industry and thus our national security.

The Administration is concerned with the health of the domestic uranium industry, and its role in meeting our national security and energy needs. We also understand that the viability of this industry could be threatened were imports to increase dramatically. The President already has express statutory authority (under 19 U.S.C. 1562) to limit imports whenever he finds them to pose a threat to the national security. However, since total uranium imports comprise less than 10 percent of domestic consumption, the economic difficulties of our domestic industry cannot be fairly blamed on foreign imports.

Therefore, the Administration finds unacceptable any proposal that automatically "triggers" a trade restrictive action absent a finding of injury, consistent with our international obligations. We also oppose any proposal based upon the assumption that a predetermined level of imports constitutes a threat to the domestic industry and the national security. To accept such proposals would be a reversal of this Administration's trade policy, and would counter our efforts to discourage other countries from adopting similar measures.

Enactment of this uranium import restriction will hurt the workers and consumers of this country. This provision unquestionably violates our international obligations. We can expect that the uranium exporting countries, particularly Australia and Canada, will take action to retaliate against U.S. exports. Such retaliation, especially in the area of agriculture and high technology, could well lead to loss of U.S. jobs and work to the disadvantage of U.S. industry as a whole.

Additionally, in some parts of the United States, nuclear energy provides up to 50 percent of electrical power; higher uranium costs will raise energy costs to consumers and businesses. The Department of Energy projects that by 1990, this uranium import restriction would cost U.S. consumers $1.6 billion annually, based on 1981 dollars. Factories that are highly dependent upon nuclear energy will be faced with power cost increases at a time when they can least affort it. This will reduce their competitiveness in the United States and world markets.

We realize that the uranium industry, like many U.S. industries, is facing serious economic difficulties. However, adoption of Section 23, while possibly providing short-term relief to the domestic uranium industry, will have damaging consequences in the short run and the long run, not only for our trade policy, but for other U.S. industries.

I strongly urge you to support efforts on the House floor to eliminate this provision from the NRC Authorization Conference Report. The Office of Management and Budget advises that there is no objection from the standpoint of the President's program to the presentation of these comments.

Very truly yours,

WILLIAM E. BROCK.

Mr. Speaker, I would like everyone in this Chamber to know that I think our committee and our conference managers did a splendid job. I think we have a fine bill here, with the exception of this offending section 23.

I realize that any conference requires compromise, and that a spirit of comity between the two bodies is required to produce laws. Conferences are always difficult.

However, one of the reasons why we have the rule I invoked today was to get our conferees off the hook when nongermane materials are presented and would not otherwise be acceptable in the House. It was designed to help our conferees in supporting the House rules and the House position.

It has also been stated that this provision does not represent a restriction. It is my chore to inform this group that the administration feels it is an enormous restriction and hopes that my motion is sustained and that section 23 is removed.

Chairman ROSTENKOWSKI wrote:

During consideration of the conference report we intend to join other Members in seeking rejection of the foreign purchasing limitation. A provision of such significance to our foreign policy and domestic economy should receive thorough attention from the appropriate committees before it is considered on the floor. We urge your support in opposing this hastily-adopted import restriction.

So do I, Mr. Speaker. I hope my motion is sustained.

Mr. Speaker, I yield such time as he may consume to the gentleman from New Mexico (Mr. SKEEN).

Mr. SKEEN. Mr. Speaker, this Nation has long recognized that a viable domestic uranium industry is not only an integral part of the nuclear fuel cycle but also vital to assure our national defense and security. Unfortunately, the domestic industry's continued viability is being seriously threatened by unnecessary overregulation and by our rapidly increasing dependency on imported uranium.

The domestic uranium industry's ability to compete with foreign producers is seriously jeopardized because of unwarranted and costly regulatory impositions. For example, NRC has adopted onerous radon flux regulations, known as the uranium mill licensing requirements, which will cost the domestic industry a billion or more dollars but which NRC itself admits are unjustified. Indeed, in a recent memorandum, high-level agency staff declared that the risk from radon flux from tailing is "immeasurable and insignificant." The

NRC is now threatening to revoke New Mexico's regulatory jurisdiction because the State, after a lengthy hearing, concluded that NRC staff was correct and the Commission's approach was unsupported and impracticable. It is poor policy and poor government to impose billion-dollar requirements, which the agency admits are not justified, on a critical and already beleaguered industry. The language reported by the conference committee should remedy this problem by requiring EPA and NRC to assure that regulatory burdens are not out of proportion to benefits and that pertinent factors, such as economic costs and the significance of health risks, are properly weighed in setting agency requirements. While this will likely require EPA and NRC to reconsider and reformulate at least some of their actions, uranium mills will remain subject to NRC or agreement State licensing control in the interim while EPA and NRC develop a supportable approach. The public health will thus continue to be fully protected. The conferees have also appropriately clarified that NRC cannot revoke a State program without a hearing and that mill tailings are regulated either by a State under the agreement States program or by NRC, but not by both. In short, there is no dual jurisdiction.

I also wish to emphasize that it obviously makes no sense for the rules to keep changing on operators and DOE. EPA should issue reasonable standards (assuming arguendo that further standards beyond those specified in 10 CFR, part 20 are required) and NRC should not then adopt reasonable requirements. NRC should not first act, then EPA, and then NRC again. I read the language reported by the conferees as consistent with this interpretation. However, a puzzling statement crept into the conference report which makes a confusing attempt to sanctify NRC's precipitous action in issuing standards in advance of EPA standards. I certainly hope that this is not construed as somehow overriding the words of the statute or as giving our imprimatur to bureaucratic turmoil and lack of sound administrative practices.

The conferees have also taken some steps to address our rapidly developing dependence on imported uranium. I realize that some have urged that any action which may favor our domestic industry is contrary to interests in free trade. However, the uranium industry has long been viewed as vital to our national security and energy independence. Moreover, Canada and other uranium exporting countries have well-known policies to support the prices of their uranium through control over export contracts. These policies are intended to subsidize their own producers and consumers at the expense of importing countries, such as the United States. They are enforced in part by laws restricting or penalizing the applicability of American antitrust requirements. Since the price and availability of imported uranium is regulated by foreign governments, it is unfair and unwise not only from the perspective of our domestic producers but also from the perspective of our consumers to allow foreign uranium suppliers to dominate the American market so as to render our domestic industry incapable of servicing our needs. By way of illustration, I ask unanimous consent that a few excerpts from some Canadian and Australian documents suggesting the policies pursued by those countries be included in the RECORD.

Excerpts from statement by the Honorable Donald S. MacDonald, Minister of Energy, Mines and Resources on Canada's Uranium Policy, September 5, 1974:

Under existing uranium export policies, the regulating agencies are required prior to issuing an export license to examine contracts with respect to implications of such matters as international safeguards, *the relationship between contacting parties, price and volumes of sales* to the export market, and reserves and rate of exploitation. * * * While recognizing that considerable time may elapse between negotiating a sale and completing a contract, the Board will require producers to submit, within 90 days of the acceptance of an offer by a purchaser, documentation *giving the base pricing, quantity and delivery conditions.* * * * (Emphasis added.)

Excerpts from notes for an address by the Honorable Marc Lalande, Minister of Energy, Mines and Resources to the Canadian Electrical Association, June 22, 1981:

Here I would like to comment briefly on the federal government's basic export policy, whether it involves electricity or any other source of energy. We are strongly in favour of exporting energy, provided the Canadian market has first been fully and completely served, and provided the short- and medium-term expansion prospects of that market have been accurately established and an adequate safety margin has been retained to cover future needs. Beyond this, we are strongly encouraging producers to export their surplus, as determined by the National Energy Board; they would thus help the United States to further minimize their dependence on oil imported from overseas. *Such exports must, however, be priced high enough so that Canadian producers can realize a profit; such profits should then enable them to keep the prices they charge to Canadian consumers at a reasonable level.* (Emphasis added.)

Excerpts from Australia's Mineral Resources—Development and Policies (1981):

The fundamental objective of [Australian uranium export] controls is to protect the national interest. Among other things, export controls are used *where necessary to ensure fair and reasonable world market prices are achieved;* adequate supplies are available for the domestic market; international and strategic obligations are met; and the Government's nuclear safeguard and physical protection requirements on exports are met. * * * (Emphasis added.)

Although I fully support the provisions in the authorization bill, I believe that more must be done to sustain a domestic uranium industry capable of holding down prices and fulfilling our domestic needs in time of crises. In particular, current DOE approaches to uranium enrichment, such as the fixed tails assay and the split tails policy, must be modified. These DOE policies unfairly depress the demand for uranium and amount to a costly and hidden tax on the domestic uranium industry and its employees for the purpose of subsidizing the DOE enrichment program, including DOE's development of gas centrifuge technology. DOE should abandon these burdensome policies immediately. This would expand the demand for uranium and put some of the thousands of unemployed uranium miners in New Mexico and other States back to work.

● Mr. GORE. Mr. Speaker, I urge my colleagues to support the motion to strike section 23.

This section is an attempt to assist the ailing domestic uranium industry by limiting competition from foreign uranium imports. I do not believe that section 23 could accomplish what its sponsors apparently hope for. It is not addressed to the root causes of the domestic uranium industry's problem.

While it is true that foreign uranium enjoys a natural competitive advantage over domestic uranium, the fundamental reason for the current depressed state of the uranium industry is the decline in demand for electricity. In the past, nuclear plant owners, such as TVA, have been large purchasers of uranium. Faced with declining demand for electricity and the increasingly prohibitive costs of building nuclear plants, TVA and other electric systems have canceled many nuclear plants in the last few years.

In addition, many of these electric systems already had purchased substantial amounts of uranium to fuel these now canceled plants, and simply do not need to purchase more uranium at the present time. For example, in 1973 TVA believed that it would need 86 million pounds of uranium between 1979 and 1990 to fuel its projected 17 nuclear generating units. During the seventies, TVA purchased less than half of that amount, canceled or indefinitely deferred plans to build eight of these units, and now has a uranium inventory and supplies under contract sufficient to last it at least until 1988. Many of the Nation's other electric systems are in a similar position. Section 23 does not address, nor could it provide any remedy for, the overall decline in uranium demand.

To the extent that foreign competition is garnering an increasing share

of the meager domestic uranium market, it is doing so because of its natural competitive advantages. Many foreign uranium ore bodies contain high quality, easily accessible reserves which cost far less to mine than uranium found in this country. For example, a good U.S. mine produces 3 to 4 pounds of uranium concentrate per ton of ore mined, whereas the ore bodies in Saskatchewan average approximately 27 pounds of uranium per ton of ore.

The response proposed by section 23 to this natural competitive advantage is both inequitable and shortsighted. It is inequitable because it will have a disproportionate impact on electricity consumers across the Nation. For the past decade, those consumers have borne the burden of ever-increasing fuel costs and dramatically higher electric rates. Electric systems have a responsibility to turn to the lowest priced uranium available—which may well be low-cost foreign uranium reserves. When section 23 makes it impossible for electric systems to purchase these foreign reserves, their consumers will have to pay the penalty in even higher electric rates.

Further, uranium producers have claimed that the formation of the international uranium cartel in 1972 was encouraged by this kind of domestic industry protection policy. TVA and its electricity consumers were significantly injured by that cartel and have taken the lead in suing its members for their antitrust violations. We do not think that uranium producers should now have section 23 as an excuse to repeat that history.

The approach taken by section 23 also appears shortsighted from a national security standpoint. After all, uranium is not a renewable resource. By forcing electric systems to purchase domestic uranium, section 23 simply would implement a deplete America first policy. In addition, the largest bodies of low-cost foreign uranium resources are heavily concentrated in countries which are our current allies—Australia and Canada. No one can say with certainty, however, what the future will bring after we have used up domestic resources and are forced inevitably to turn to foreign sources for supply. For example, we already have seen Australia's Labor Government preclude development of uranium mining during the midseventies, and Canada has implemented a policy to insure that the needs of its own utilities are met first before uranium is exported. Thus, the United States might well be better protected in the long run without any limitations on current purchases of foreign uranium.

I urge my colleagues to support the action to strike section 23.●

Mr. UDALL. Mr. Speaker, I insert in the RECORD at this point two letters I referred to earlier, one from the Edison Electric Institute, supporting the conference report, and one from the American Federation of Labor and Congress of Industrial Organizations, supporting the conference report:

EDISON ELECTRIC INSTITUTE,
Washington, D.C., September 22, 1982.

Hon. WILLIAM E. BROCK,
U.S. Trade Representative, Washington, D.C.

DEAR BILL: The Edison Electric Institute strongly supports the Nuclear Regulatory Commission Authorization for fiscal years 1982 and 1983 (H.R. 2330). We have recommended that Congress approve the Conference Report as soon as possible and we will urge the President to sign into law this important bill.

EEI supports free trade and is aware of your concerns over a provision which requires a study of the domestic mining industry and which, depending upon the outcome of the study, could be followed by a future limitation on the amount of uranium imported into the United States. However, the provision as adopted by the conference is primarily a study and we do not believe it would actually result in an import limitation during the 1980's or early 1990's because current contracts are in place covering those requirements. Thus, while it would appear that there are potential limitations, we do not view this provision as an actual restriction and the issue pales in comparison to other vital issues addressed in this important bill.

H.R. 2330 includes nuclear power plant licensing reforms crucial to the well-being of the utility industry. One of these is the authority provided NRC to grant a temporary operating license (TOL) to a plant whose construction and safety approval procedures are complete but for which the final public hearing has not been conducted. Granting a TOL to new plants which would otherwise sit idle awaiting the final hearing could save consumers up to $30 million per plant per month. Part of this cost, of course, can be attributed to the imported oil that would otherwise be displaced by new nuclear capacity. The impact, therefore, on the U.S. balance of payments situation is obvious.

Another key provision reverses the so-called *Sholly* decision which requires the Commission to hold a public hearing, if requested by an intervenor, on any routine license amendment. Since a utility applies for hundreds of licensing amendments for operating plants, the *Sholly* decision, if not overturned, could result in hearings prolific enough to devastate the industry.

For these reasons, we ask you to join us in seeking the President's support of the Conference Report.

Sincerely,

FREDERICK L. WEBBER.

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, D.C., September 30, 1982.

I would like to urge your support for the conference report on H.R. 2330, the Nuclear Regulatory Commission Reauthorization Act. This critical piece of legislation deserves congressional attention prior to the recess.

In particular, I would like to urge your support for the uranium supply provisions of the conference report. We would like to make clear that these provisions do not establish a quota on uranium imports.

The U.S. uranium industry is in extremely critical condition. DOE has reported that over 50 percent of uranium industry workers have been laid off. The uranium supply provisions of he conference report will revitalize the industry and put uranium miners back to work.

The uranium supply provisions of the conference report require a Presidential study of the impact of foreign uranium on U.S. national security. In addition, this section requires appropriate studies by the Department of Commerce and International Trade Commission before any limitation on uranium imports can be established. The section will require monitoring by the Department of Energy of contracting for foreign uranium and if contracting exceeds 37.5 percent of U.S. demand, then a brief limitation on further contracting will take place. Article 21 of the General Agreement on Tariffs and Trade specifically provides for adjustments to trade for uranium.

Again, I urge support for the conference report and consideration of this important piece of legislation prior to the recess.

Sincerely,

RAY DENISON,
Director,
Department of Legislation.

Mr. UDALL. Mr. Speaker, I ask for a "no" vote on the pending motion.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota (Mr. FRENZEL).

The question was taken; and the Chair being in doubt, the House divided, and there were—ayes 8, noes 9.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 241, nays 148, not voting 44, as follows:

[Roll No. 410]

YEAS—241

Albosta	Carman	Dwyer
Annunzio	Clausen	Dyson
Anthony	Clinger	Early
Archer	Coats	Edwards (AL)
Ashbrook	Coleman	Edwards (CA)
Atkinson	Collins (TX)	Emerson
AuCoin	Conable	Erdahl
Barnes	Conte	Erlenborn
Bedell	Corcoran	Evans (DE)
Beilenson	Coughlin	Evans (IA)
Benedict	Courter	Fazio
Bennett	Coyne, William	Fenwick
Bereuter	Crane, Daniel	Fiedler
Bethune	Crockett	Fields
Biaggi	D'Amours	Findley
Bingham	Daniel, Dan	Fish
Billey	Daniel, R. W.	Florio
Bonior	Dannemeyer	Foglietta
Bonker	Daub	Ford (TN)
Bowen	Dellums	Forsythe
Brinkley	Derrick	Fowler
Brodhead	Derwinski	Frank
Brooks	Dickinson	Frenzel
Broomfield	Dicks	Garcia
Brown (CA)	Donnelly	Gejdenson
Brown (CO)	Dorgan	Gephardt
Brown (OH)	Dornan	Gibbons
Burgener	Dougherty	Gilman
Burton, John	Downey	Glickman
Butler	Dreier	Gore
Campbell	Dunn	Gradison

Gramm	Martin (NC)	Schneider
Green	Mattox	Schumer
Gregg	Mavroules	Sensenbrenner
Grisham	McClory	Shamansky
Guarini	McCollum	Shannon
Gunderson	McDade	Sharp
Hagedorn	McDonald	Shaw
Hall (IN)	McGrath	Shumway
Hall (OH)	McKinney	Siljander
Hamilton	Mica	Skelton
Hammerschmidt	Michel	Smith (AL)
Harkin	Mikulski	Smith (IA)
Hartnett	Miller (OH)	Smith (NE)
Hertel	Moakley	Smith (NJ)
Hiler	Molinari	Smith (OR)
Holland	Montgomery	Solomon
Horton	Moore	Spence
Huckaby	Mottl	Stangeland
Hutto	Myers	Stark
Hyde	Napier	Staton
Ireland	Neal	Stenholm
Jacobs	Nelson	Stratton
Jeffords	O'Brien	Studds
Jeffries	Oberstar	Swift
Jenkins	Obey	Tauke
Johnston	Oxley	Tauzin
Jones (NC)	Panetta	Thomas
Jones (OK)	Parris	Traxler
Kastenmeier	Pashayan	Trible
Kildee	Patman	Vander Jagt
Kindness	Paul	Volkmer
Lagomarsino	Pease	Walgren
Lantos	Petri	Washington
Latta	Peyser	Waxman
Leach	Pickle	Weber (MN)
Leath	Price	Weber (OH)
Leland	Pritchard	Weiss
Lent	Railsback	Whitehurst
Levitas	Rangel	Whittaker
Lewis	Ratchford	Winn
Loeffler	Reuss	Wolf
Lott	Rinaldo	Wolpe
Lowery (CA)	Ritter	Wortley
Lowry (WA)	Roberts (KS)	Wyden
Lundine	Robinson	Wylie
Lungren	Roemer	Young (FL)
Madigan	Rostenkowski	Young (MO)
Markey	Roukema	Zablocki
Marlenee	Russo	
Martin (IL)	Sawyer	

NAYS—148

Addabbo	Gaydos	Mineta
Akaka	Ginn	Minish
Anderson	Gonzalez	Mitchell (MD)
Andrews	Goodling	Mitchell (NY)
Applegate	Gray	Moorhead
Aspin	Hall, Ralph	Morrison
Bailey (MO)	Hall, Sam	Murphy
Bailey (PA)	Hansen (ID)	Murtha
Barnard	Hansen (UT)	Natcher
Beard	Hatcher	Nelligan
Bevill	Hawkins	Nichols
Boggs	Hefner	Nowak
Boland	Heftel	Oakar
Boner	Hendon	Ottinger
Bouquard	Hightower	Pepper
Breaux	Hillis	Perkins
Broyhill	Hollenbeck	Pursell
Byron	Holt	Quillen
Carney	Hopkins	Rahall
Chappie	Howard	Regula
Cheney	Hoyer	Rhodes
Clay	Hubbard	Roberts (SD)
Coelho	Hughes	Rodino
Collins (IL)	Hunter	Roe
Conyers	Jones (TN)	Rogers
Craig	Kazen	Rose
Dingell	Kennelly	Rosenthal
Dowdy	Kogovsek	Roth
Duncan	Kramer	Rudd
Eckart	LeBoutillier	Sabo
Edwards (OK)	Livingston	Santini
Emery	Long (LA)	Scheuer
English	Long (MD)	Schroeder
Ertel	Lujan	Schulze
Evans (GA)	Luken	Seiberling
Evans (IN)	Marriott	Shelby
Fary	Martin (NY)	Simon
Fascell	Matsui	Skeen
Ferraro	Mazzoli	Smith (PA)
Fithian	McCurdy	Snowe
Flippo	McEwen	Snyder
Ford (MI)	McHugh	Solarz
Fuqua	Miller (CA)	Stokes
Stump	Watkins	Wirth
Synar	Weaver	Wright
Taylor	White	Yates
Udall	Whitley	Yatron
Vento	Whitten	Zeferetti
Walker	Williams (MT)	
Wampler	Wilson	

NOT VOTING—44

Alexander	Dixon	Martinez
Badham	Dymally	McCloskey
Bafalis	Edgar	Moffett
Blanchard	Foley	Mollohan
Bolling	Fountain	Patterson
Burton, Phillip	Frost	Porter
Chappell	Gingrich	Rousselot
Chisholm	Goldwater	Roybal
Coyne, James	Hance	Savage
Crane, Philip	Heckler	Shuster
Daschle	Kemp	St Germain
Davis	LaFalce	Stanton
de la Garza	Lee	Williams (OH)
Deckard	Lehman	Young (AK)
DeNardis	Marks	

□ 1500

Mr. LONG of Maryland, Mr. HUNTER, Mrs. HOLT, Mrs. KENNELLY, and Messrs. LUKEN, MINISH, McEWEN, and WEAVER changed their votes from "yea" to "nay."

Messrs. WOLPE, SMITH of Iowa, MICA, ROEMER, ARCHER, PRICE, and BIAGGI, Mrs. ROUKEMA, and Messrs. PEYSER, LOEFFLER, STENHOLM, VOLKMER, SMITH of Oregon, ANNUNZIO, ROBINSON, WHITEHURST, D'AMOURS, LOWERY of California, MARLENEE, DAN DANIEL, FISH, TRIBLE, and BLILEY changed their votes from "nay" to "yea."

So the motion to reject section 23 of the conference report was agreed to.

The result of the vote was announced as above recorded.

POINT OF ORDER

Mr. STRATTON. Mr. Speaker, I make a point of order that the matter contained in sections 14, 17, and 18 of the substitute for the Senate amendment in the conference report would not be germane to H.R. 2330 if offered in the House and is, therefore, subject to a point of order under the rules of the House.

I make this point of order, Mr. Speaker, because sections 14, 17, and 18 would be permanent changes in law and this bill is a 2-year authorization bill; also, the three sections contain matters that fall within the jurisdiction of the Armed Services Committee.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Speaker, I concede the point of order and wish to be heard in the regular order on the motion.

The SPEAKER pro tempore. The point of order is sustained.

MOTION OFFERED BY MR. STRATTON

Mr. STRATTON. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. STRATTON moves that the House reject sections 14, 17, and 18 of the substitute recommended in the conference report.

The SPEAKER pro tempore. The gentleman from New York (Mr. STRATTON) will be recognized for 20 minutes, and the gentleman from Arizona (Mr. UDALL) will be recognized for 20 minutes.

The Chair now recognizes the gentleman from New York (Mr. STRATTON).

□ 1510

Mr. STRATTON. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I have made a point of order against the consideration of the conference report on H.R. 2330.

As the conference report points out, H.R. 2330 was passed by the House and then amended by the Senate. The conferees adopted numerous Senate amendments, which would be in violation of the provisions of clause 7 of rule XVI if such amendments had been offered as an amendment in the House. In other words, Mr. Speaker, several of the Senate amendments are nongermane since they deal with appropriations and subjects different from that under consideration in the House bill.

Furthermore, the conference report invades the jurisdiction of several committees of the House, since it contains directions and limitations on Government agencies other than the Nuclear Regulatory Commission.

Section 14 of the conference report, for example, is nongermane as an amendment to the House bill authorizing appropriations for the Nuclear Regulatory Commission. Section 14 was a Senate amendment that deals with special nuclear material by amending the Atomic Energy Act of 1954, but special nuclear material is material that is used for the purpose of making nuclear weapons and is, therefore, under the jurisdiction of the Committee on Armed Services.

The language of section 14, as adopted by the conferees, would therefore have been nongermane had such an amendment been offered in the House.

Section 17, which was a Senate amendment to the House bill, is also nongermane since it would revise permanent law through a 2-year authorization. This section would revise a statute dealing with the release of information concerning security measures by the Secretary of Energy, and other matters that involve the nuclear weapons program of the Department of Energy.

Section 18 of the conference report would revise permanent law through a 2-year authorization bill. The Senate amendment is also nongermane because it affects the Department of Energy in general, the Department of Energy defense programs in particu-

lar, and the Environmental Protection Agency, in addition to the Nuclear Regulatory Commission.

Mr. Speaker, this conference report, as the action taken by the gentleman from Minnesota a little while ago and sustained overwhelmingly by the House, is a Christmas tree. It contains a number of provisions that have been tacked onto a simple 2-year appropriation authorization bill for the Nuclear Regulatory Commission, and a good many of those really are not germane in the House or have no bearing on the basic operations of the Nuclear Regulatory Commission.

The appropriate committees of the House have a right to carefully consider these members if they are properly introduced and referred to them. But important changes in existing law should not be forced on the House through backdoor, nongermane Senate amendments, and we should not be forced to have only 40 minutes of debate on subjects that would change a national policy that has existed since the 1940's.

This is particularly the case with respect to section 14. It has been the national policy of the United States that the Federal Government shall have access to all special nuclear materials. This policy was based on the paramount importance of these materials to the national defense, and the Government has always claimed a right to these special nuclear materials no matter where they were located, either in a nuclear power reactor or elsewhere. However, the Senate, in section 14, would reverse that policy in a bill that is intended to authorize appropriations for the Nuclear Regulatory Commission. It would prevent the Government from recovering materials from any licensed facilities in time of war or for pressing needs from any facility licensed under the Atomic Energy Act.

As a matter of fact, Dr. Herman Roser stated the administration's strong position in opposition to this proposal in connection with an amendment added to H.R. 3809. He pointed out that the cost of section 14 could be as much as $15 billion to $30 billion to the taxpayers of the United States.

Section 17 is also another nongermane amendment. The statute which it deals with prohibited the dissemination of certain unclassified information if that information could be reasonably expected to result in having adverse effects on public health and safety.

The purpose of the legislation was to prevent terrorist acts or sabotage at vital Department of Energy defense facilities.

The Committee on Armed Services has found that there have been threats and certain information regarding alarm system layouts, wiring diagrams, and other information that would be helpful to terrorists or saboteurs have been available even to the Soviet Embassy or to the PLO through the Freedom of Information Act.

The Secretary of Energy could not classify this information under our classification arrangements, but now, by a nongermane amendment to this bill, the Senate would require the Secretary of Energy to make this information available freely, which could assist terrorists in making attacks on our nuclear installations.

How silly can we be?

The SPEAKER pro tempore. The time of the gentleman from New York (Mr. STRATTON) has expired.

Mr. STRATTON. Mr. Speaker, I yield myself 2 additional minutes.

Mr. Speaker, the nongermane amendment represented in section 18 of the conference report amends the law dealing with uranium mill tailings. This amendment would put the Nuclear Regulatory Commission in the position of establishing standards for health and safety, rather than the EPA, which now has that authority under the law.

The Committee on Armed Services in recent weeks has held exhaustive hearings on the subject of uranium mill tailings, and dozens of expert witnesses have appeared before the committee and were unable to cite any evidence that mill tailings have or ever will constitute a threat to the public health or safety.

Under the amendment offered in the Senate, the Nuclear Regulatory Commission, which has no authority, would be required to come up with standards which could require costly cleanup operations with regard to a substance which, as I have said, we have been assured has no harmful effect, and this has been so certified by competent witnesses before our committee.

So I think these three nongermane amendments: One of which would cost the Nation some $30 billion in recovering special nuclear materials in time of danger; the amendment that would open up to future terrorists the security procedures in effect in our nuclear installations, and an amendment that would require the expenditure of millions of dollars to cleanup a nonexisting threat, certainly should be voted down.

Mr. Speaker, I urge the House to reject, as they have already done with respect to section 23, sections 14, 17, and 18 of the substitute recommended in the conference report.

Mr. Speaker, I reserve the balance of my time.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the debate and the motion offered by the gentleman from Minnesota (Mr. FRENZEL) and on the series of motions subsequent thereto.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL. Mr. Speaker, I yield 3 minutes to the gentleman from Oregon (Mr. WEAVER).

□ 1520

Mr. WEAVER. Mr. Speaker, I thank the gentleman and my chairman. One of the provisions we are discussing here is the provision that would prohibit the use of nuclear waste materials from being incorporated for military explosive uses. This is similar to an amendment that I offered in the Interior Committee, and was accepted in the Interior Committee, to the nuclear waste bill. I had the opportunity to offer this amendment on the floor to the nuclear waste bill, but I chose not to because of the argument made to me that it was more properly placed in this bill, in this conference report. I accepted that argument, and I argue here therefore that it should remain, the Senate provision prohibiting the use of commercial nuclear materials for nuclear explosive devices, be prohibited.

I feel very strongly, Mr. Speaker, that the Atoms for Peace movement that began in the 1950's would be seriously undermined if we converted Atoms for Peace to commercial Atoms for Peace in war. I think that would tend to destroy the very idea of any peaceful nuclear use if we said, "No, we are going to change Atoms for Peace into Atoms for War."

I think that would be one of the worst things this country could do in leading the world toward more peaceful uses and purposes of the resources and materials we have. If we broadcast to the world, Mr. Speaker, that we were using our Atoms for Peace also for war, it could have a devastating effect on the leadership of the United States in this field.

So, I ask that the Senate provision prohibiting commercial nuclear act or materials from being used for nuclear explosive devices be kept in the bill.

Mr. STRATTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I might simply respond to the distinguished gentleman from Oregon that the Atoms for Peace proposal was a part of the original Atomic Energy Act, and that the capability of the Government to recover atomic energy from spent nuclear fuel provides the nuclear atoms that have been made available for peace that was part of the original ligislation.

The gentleman says he was advised to put his amendment in this particular bill, but I might suggest to him he

would have been better advised to add that amendment to a bill coming out of a committee with jurisdiction over special nuclear materials, to wit the Committee on the Armed Services.

Mr. Speaker, I yield 10 minutes to the gentlewoman from Maryland (Mrs. HOLT).

Mrs. HOLT. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of the motion to strike sections 14, 17, and 18 from the conference report on H.R. 2330.

Those of us who engage in conferences with the Senate are all too aware of the problems caused by nongermane amendments that seem to easily find their way into House bills that are carefully considered by appropriate House committees, that are sensitive to the germaneness rule and to the jurisdiction of other House committees.

A good many of these nongermane amendments are floor amendments that have not been exposed to the hearing process or to debate. Some of these amendments that the House conferees are urged to bring back to the House, in spite of the longstanding rule on germaneness, are pet projects of staff persons or parochial interests that could never be passed if they were in the form of a freestanding bill. Such is the case with the conference report on H.R. 2330.

This bill began as a Nuclear Regulatory Commission Authorization Act for fiscal years 1982 and 1983. The bill, now after the adoption of many nongermane Senate amendments, is simply an omnibus Atomic Energy Act amendments bill. This small, 2-year authorization bill now contains no fewer than 11 substantive and sweeping amendments to current law.

If these amendments were so badly needed, one wonders why the appropriate committees of the other body and of this body did not introduce such legislation, hold hearings, solicit the views of the administration, report a bill, and give the Members of this House an opportunity to debate the merits of these changes to permanent law.

Every legislative reorganization act that I remember has tried to deal with this type of abuse of the legislative process. We now have a mechanism for dealing with this sort of abuse. This is our opportunity to enforce that mechanism and the germaneness rule. This is our opportunity to assist House conferees in the future who spend endless hours being lobbied and harangued to accept amendments that we know that the rules of the House will not permit us to accept.

We now have the mechanism to vote down nongermane and ill-conceived amendments tacked on to House bills. Today, let us enforce the House rules. Let us send out the message that House bills are not the baggage carriers for every pet project that occurs to staff people or to members having parochial interests. Let us preserve the integrity as well as the honesty of the legislative process. Let us vote down these nongermane amendments.

Mr. Speaker, I strongly oppose section 14.

The fact that section 14 makes no sense is easily illustrated if we consider a few questions. Are we to ban military use of food because it is derived from the same farms that produce food for civilian use? Are we to prohibit military consumption of petroleum if that petroluem is taken from the same fields that produce it for civilian uses? Are we to preclude our soldiers, sailors and airmen from consuming Coca-Cola and Pepsi-Cola because the plants which produce our servicemen's beverages are basically civilian in nature? Should electricity from nuclear powerplants not be used for atomic energy defense activities? Are we to forbid chemical plants which produce goods from civilians from ever supplying the military? Obviously we are not and will not. But if we are not doing these ridiculous things, then why are we considering a similar action with respect to plutonium derived from civilian spent nuclear fuel? The answer, I am told, is that we must adopt a law barring military use of spent nuclear fuel because antinuclear groups otherwise will erroneously claim, as they erroneously will anyway, that civilian nuclear powerplants are "bomb factories." Well, I am deeply troubled, and I believe that we all should be, that it has somehow suddenly become ghastly and immoral to contribute to the Nation's defense, even as a "bomb factory." In years past, our bomb factories helped us protect our freedom and helped us to end wars started by totalitarian aggressors by supplying us with the means to defense ourselves. Even as we speak, these now lowly bomb factories continue to protect our liberties keeping this generation's crop of totalitarian aggressors at bay. In sum, this amendment is based on the presumption that our national defense is somehow immoral. This is grounds enough to oppose it. But there are other reasons as well. For one thing, it is illogical and wasteful of taxpayers' money to hinge decisions relating to the national defense on misperceptions and propaganda propounded by antinuclear groups. If it is economically desirable to resort to military use of spent nuclear fuel, why not allow the military to make that use? Why should taxpayers be burdened with the additional billions to produce plutonium for nuclear weapons if the President and the Congress agree that nuclear weapons must be produced and the plutonum could be made available from spent fuel.

Mr. Speaker, I believe that section 14 is flatly detrimental to the Nation's interests and I oppose it. We all should.

Mr. UDALL. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, what we are talking about here is turning every nuclear powerplant in America into a bomb factory. That is what we are talking about. We are saying that, whether you have Diablo Canyon, Three Mile Island, or Seabrook, every time one of our constituents turns on the light, they will also be producing materials that will be used to build nuclear bombs in this country. Is that what you want our civilian nuclear program to be, a generator of nuclear materials for bombs?

Now, we have for the past couple of decades tried to put together a policy in this country. In 1968, we signed the Arms Proliferation Treaty. In 1978, we put together the Non-Proliferation Act. We were trying to tell Pakistan, India, Brazil, and Argentina, "Don't take these civilian reactors with their plutonium or uranium to build nuclear weapons," because that would tear down the curtain that existed between civilian and military uses of the atom. So, we tried to construct a myth—and it is only a myth—but at least put up some walls, some safeguards, to make sure it would be pretty difficult to do it.

But, now former Secretary Edwards and others in the Reagan administration that do not think it really is economical to build more defense facilities to produce plutonium or uranium, they want to use part of the waste of civilian reactors. So, if you want to kill the nuclear industry in this country, if you want to be sure that the nuclear industry will die as sudden a death as any industry has ever, you let every man, woman and child in this country believe that every time they turn on the switch, every time a piece of toast pops up, every time they plug in a toaster, every time they use nuclear electricity, that they are also producing nuclear bombs.

Do you think the nuclear freeze issue is big? Wait until you see the reaction in this country of people who think that they are making bombs every time they are popping up their toast. It will kill the industry. The nuclear industry opposes the position of the gentleman from New York. They want to have a ban on the use of uranium and plutonium in civilian reactor facilities to be used for nuclear weapons. They do not want to see that wall torn down. They do not want to see the example which would be set to spread to other countries, the Third World countries—to the Qadhafi's, the

Galtieri's—to others who really generally do want to convert civilian peaceful programs into military programs.

Yes, there is a myth that exists. The myth is that there is such a thing as a peaceful atom and a war-like atom. No, there is one atom. It can be used either way depending upon whose hands it is in. It is about time we understood that every nuclear powerplant in this country is also potentially a bomb factory. If we want to go from an era in which we think of them as plants that generate electricity, which have this unfortunate byproduct of nuclear waste, into an era in which the generation of nuclear bombs has this wonderful byproduct of electricity, fine, support the gentleman from New York, but I tell you, in supporting him, you will also sound the death knell for the domestic civilian nuclear industry in this country. Never again will we build another plant.

Mr. UDALL. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. Mr. Speaker, let me first address the questions of jurisdiction that were raised by my good colleague and dean from New York. We intentionally established in this country civilian control over the nuclear genie. We took out of the Defense Department the control of nuclear materials. As a matter of fact, even defense-related nuclear materials were put into the Department of Energy. The committees of the House that had to do with energy and the Interior Department were given control over the Nuclear Regulatory Commission and over the Department of Energy's civilian nuclear activities. The motion before us deals with the uses of civilian-produced spent fuel, which is clearly within the jurisdiction of the Interior and Energy and Commerce Committees. Therefore, it is entirely appropriate that we should be concerned and deal with these matters.

Second, perhaps the greatest danger to the world, far greater than the danger that the Russians will drop bombs on us, is the problems of proliferation. We can be reasonably assured that the Russians will not drop bombs on us because they know that if they do so we will destroy them in retaliation.

One of the most shocking proposals in contravention of our antiproliferation efforts that has been made by this administration is the suggestion advanced by my colleague from New York (Mr. STRATTON) contained in his motion—namely, to permit civilian spent fuel in our own country to be used for military purposes.

To do so would set a terrible example. At the present time we are seeking to prevail upon countries like Pakistan, North Korea, South Africa, India, and others, that they should not use their civilian reactors for military purposes, and that they should subject their civilian reactors to international safeguards for assure that there is no diversion of waste to produce bombs. Indeed, those negotiations are going on at the very moment that we are sitting here considering this measure today.

India, of course, set the horrible example. They showed that in spite of the arguments of many nuclear advocates that civilian nuclear reactors could never be used to produce bombs and that spent fuel was the least likely way to make bombs, India in fact used plutonium produced in their research power reactor to construct and detonate a nuclear device.

The conversion of civilian spent fuel to make bombs with the attendant specter of weapons proliferation has been shown to be a very real threat. U.S. conversion of civilian fuel for weapons would undermine our antiproliferation efforts.

It has been argued that the commercial spent fuel may be needed for the weapons program due to the inability of defense facilities to produce sufficient quantities of plutonium.

The SPEAKER pro tempore. The time of the gentleman from New York (Mr. OTTINGER) has expired.

Mr. UDALL. Mr. Speaker, I yield 2 additional minutes to the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. Mr. Speaker, I thank the gentleman from Arizona.

This argument has proceeded despite the lack of documentation of any existing or projected shortfalls in plutonium supplies for weapons purposes. The real reason behind this is that the Department of Energy under Secretary Edwards has a fascination with reprocessing and it wants to get the civilian industry into reprocessing even though it is uneconomic and even though it creates these proliferation dangers. I am sure the Members are well aware of this administration's strong encouragement for reprocessing of commercial spent fuel and the severe technical impediments encountered in our and other countries' attempts to operate a cost-effective reprocessing facility. Since this administration has so far been unsuccessful in its efforts to revive private industry's interest in reprocessing, it appears that it is willing to forge ahead itself into this murky and, to date, unproductive field by allowing reprocessing of our civilian wastes for military purposes despite the lack of need, the diseconomics or the grave proliferation dangers.

Rejection of this provision would send a clear and unmistakable signal to every other nation that the United States is retreating from the fundamental premise and purpose of our nonproliferation policy. To undermine our vital anti-proliferation policy solely to bolster the nuclear industry with taxpayer dollars where private industry itself fears to tread, strikes me as a bad bargain indeed.

Mr. Speaker, I strongly urge the support of the Members for the provision in the conference bill and their rejection of the motion offered by the gentleman from New York (Mr. STRATTON).

The SPEAKER pro tempore. The Chair now recognizes the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Speaker, may I inquire, how much time do I have remaining?

The SPEAKER pro tempore. The gentleman from New York (Mr. STRATTON) has 11 minutes remaining, and the gentleman from Arizona (Mr. UDALL) has 10 minutes remaining.

Mr. STRATTON. Mr. Speaker, I yield myself such time as I may consume.

The gentleman from Massachusetts (Mr. MARKEY), with his usual flair, managed to exaggerate the situation rather considerably when he made the comment a moment ago that this particular proposal would make a bomb factory out of every nuclear powerplant. That, of course, is total absurdity.

The basic law under which we have been operating has been in effect since 1946, and it has been in the hands of the Atomic Energy Commission, and the Joint Committee on Atomic Energy, headed by the chairman of our own Armed Services Committee (Mr. PRICE) which have been monitoring this situation since those years.

The fact of the matter is—and it is no surprise to anyone who is at all knowledgeable in physics—that spent nuclear fuel in a nuclear reactor is capable of yielding, under certain processes, a certain amount of plutonium, which is the material that is used for atomic weapons. I know that it is fashionable these days to deplore atomic weapons, but the fact of the matter is that because of those weapons providing a deterrent, we have had no nuclear world war for some 37 years.

The purpose of allowing spent reactor fuel to be reprocessed in an effort to recover whatever plutonium can be derived from it is a simple emergency provision. The House a few moments ago rejected any limitations on importing uranium into the country, but if for various reasons in time of emergency we were not able to get the uranium that we wanted, this kind of processing would provide us with whatever materials might be required to defend ourselves in an emergency situation. For us to deny ourselves of that capability which has been in the basic law since 1946—not by the deliberation of this House, not by the holding of hearings in either this House or the other body, but simply because of

a nongermane amendment put in on the floor by some Member of the other body and, as the gentleman from Minnesota (Mr. FRENZEL) pointed out in connection with the section that he succeeded in knocking out, with probably no Members on the floor at the time it was discussed—is simply totally irrational and unconscionable.

This is the kind of decision that, if we are going to make it and if that is what we want to do, should be made with deliberation, with the advice of the people knowledgeable in this field, and certainly with the concurrence of the appropriate committees of the House of Representatives, and that is why this kind of thing should be rejected.

The gentleman from New York (Mr. OTTINGER) suggested that somehow there are two different kinds of nuclear fuel, the bad kind and the good kind, just as did the gentleman from Oregon (Mr. WEAVER). But the fact of the matter is that the atoms, whether we put them to work for peace, whether we put them to work in the hospitals with medical isotopes, or whether we use them to irradiate food and preserve it for the hungry masses around the world, are all generated in exactly the same place and by exactly the same process. It is just a matter of where we use them and how we use them. Certainly we have not proliferated the available plutonium capabilities from spent nuclear fuel since that original law went into effect, but it would be a serious mistake for us to deny ourselves, simply because some Senator wanted to get something into the bill, and with very little discussion, if any, and succeeded in getting it in, just as he got in the other section which the House previously eliminated.

Mr. DELLUMS. Mr. Speaker, will the gentleman yield briefly to me for a question?

Mr. STRATTON. I am glad to yield to the gentleman from California.

Mr. DELLUMS. Mr. Speaker, I would like to ask the gentleman the following question:

Given the fact that we have roughly 10,000 strategic weapons and over 20,000 tactical nuclear weapons and we are presently developing additional strategic and tactical nuclear weapons, can the gentleman construct a scenario that would render this country vulnerable in some kind of crisis that would require us within a relatively short period of time to go to civilian nuclear powerplants to develop weapons when we already have over some 30,000 right now? What is the scenario that would put us in the crisis situation?

□ 1540

Mr. STRATTON. As a matter of fact, there has been a substantial suggestion that we ought to be bringing some of the battlefield nuclear weapons that are currently in Europe back from Europe and rely instead on the Pershing II which is a much more effective counterweapon to the threat that the Soviets are posing to NATO with their SS-20's.

If those weapons were brought back on a ship and the ship happened to be sunk, then we would have lost a substantial number of the weapons the gentleman is referring to.

Not only that, but nuclear weapons, just like Members of Congress, get older, get less effective and with less power and vigor, so we are annually retiring hundreds of nuclear weapons from our inventory and replacing them with younger, more alert, more vigorous weapons.

The fact that we might have a particular inventory at one particular moment does not necessarily mean that we ought to deny ourselves a fallback position if, God forbid, we should require it.

Mr. DELLUMS. Would the gentleman yield further?

Mr. STRATTON. Be glad to yield.

Mr. DELLUMS. In responding to the two examples the gentleman gave: First, age and erosion is an evolutionary process which certainly does not communicate urgency and, second, I would think that the gentleman would agree with me that on a scale of 1 to 10 the probability of the sinking of a ship that we have brought back with nuclear weapons is somewhere between zero and 1.

So where is the crisis we are talking about? Where is the urgency and immediacy the gentleman alludes to as the major thrust of his argument against the proposition that was propounded in this conference report?

Mr. STRATTON. The point that we are making here is that these provisions which we are bringing to the attention of the House are nongermane, they are irrelevant to the bill, which is an appropriation bill for the Nuclear Regulatory Commission and they infringe on the authority of the Armed Services Committee. Nuclear Regulatory Commission certainly has no responsibility over the defense activities of the Department of Energy; and the committee chaired by the distinguished gentleman from Arizona (Mr. UDALL) also has no authority over these defense matters as well.

The gentleman from California is a distinguished member of the Committee on Armed Services and that is the committee that has this direct and awesome responsibility. We are trying here to defend the role of the House and not be stampeded by some nongermane amendment presented by one Member of the other body without any real discussion.

Mr. DELLUMS. Will the gentleman yield for a final question?

Mr. STRATTON. Mr. Speaker, I reserve the balance of my time.

Mr. UDALL. Mr. Speaker, I yield myself 6 minutes.

Mr. DELLUMS. Mr. Speaker, will the gentleman yield?

Mr. UDALL. I yield briefly to the gentleman from California.

Mr. DELLUMS. I thank my colleague for yielding.

I simply want to suggest to my distinguished colleague from New York and members of the Armed Services Committee that given his response to my two questions that the major thrust of his argument clearly is not that this country is in some way vulnerable to some crisis but what this argument is really all about is committee jurisdiction and not really the vulnerability of our Nation.

I think if we can put that major straw man aside then we can deal with what the real issue is here. It is certainly not the vulnerability of the United States to some nuclear attack or in some way being vulnerable because we cannot build enough bombs. We have enough bombs to destroy this entire planet.

I thank my colleague for yielding.

Mr. UDALL. Mr. Speaker, we have had a difficult time with our committee being assigned these important and controversial matters. I think everyone understands the difficulty of getting with the other body in a conference and there are procedures where all kinds of nongermane amendments can be attached and we have to deal with them in as realistic a fashion as we can.

I would like to ask my friend from New York (Mr. STRATTON) a question. I enjoy his quick mind and he, like myself, I am sure, tries to be consistent.

Is there an inconsistency between the gentleman's position earlier in the day when it was very important that nuclear wastes be separated, commercial wastes be separated from defense wastes? Now the gentleman appears to be saying in this controversy this afternoon that it is very important that special nuclear materials not be separated, that commercial wastes be used for weapons production, plutonium for weapons production, and it is important that we blend and mingle the two together.

Does the gentleman have some rationale for his difference of opinion on these two situations?

Mr. STRATTON. Will the gentleman yield?

Mr. UDALL. I am happy to yield to the gentleman for an answer.

Mr. STRATTON. The gentleman is aware of the fact, I would assume, and I tried to bring it out in my brief remarks in connection with the gentleman's waste bill, there is a great deal of defense waste which is being proc-

essed, which is being dealt with and handled very effectively by the Department of Energy in its defense activities.

With respect to nuclear spent fuel we have virtually very little of this available and we have in fact not reprocessed very much of it.

The point is not whether there is any inconsistency there. The question is whether we should automatically deny ourselves this capability.

I would point out to the gentleman, the gentleman from California seems to think, as well as the gentleman from Arizona and the gentleman from Oregon, that this is some terrible thing that we in the United States are engaging in under the Department of Energy headed by Secretary Edwards.

Secretary Edwards is back in South Carolina. He is not running the Department. We have another head of the Department.

The fact of the matter is that all of the nuclear weapons states have reprocessing plants used to obtain plutonium for the nuclear weapons program.

Mr. UDALL. I hope the gentleman will forgive me for taking back my time in just a moment but I have very little time left. I had hoped to get a short, comprehensive and concise answer.

Mr. STRATTON. I am pointing out the gentleman that this is not unique to the United States. The United Kingdom has a plant at Windlesham. France has a plant at LeHavre. Belgium has a plant at Mol. The Soviet Union has a plant. All of them signed the nonproliferation treaty.

Mr. UDALL. Mr. Speaker, before my time runs out let me emphasize there are three different matters in the motion made by the gentleman from New York (Mr. STRATTON).

Very quickly, the first one was passed by the other body by a vote of 89 to 9 and this prevents the use, and it is identical to the Weaver amendment, the use of plutonium from spent fuel for the construction of nuclear weapons.

It would seem to me we ought to have the sense to adopt this, that we have enough problems with nuclear. The mere idea that we are going to extract plutonium to make bombs and get that plutonium from commercial reactors serves only to muddy the waters.

I do not want the utilities in the position of having to explain to their customers that it was really all right, that plutonium for bombs was an inevitable byproduct of turning your lights on.

The second matter objected to by the Armed Services Committee in our conference report is, and this provision is identical to a provision in the Senate bill, the original Senate amendment was the Hart-Simpson proposal accepted by the other body without objection, the provision which makes three changes in the existing section 148 regarding the Department of Energy's authority to withhold certain unclassified information.

I would emphasize that we are dealing here only with unclassified information and it does not affect the Department of Energy's authority to withhold classified information.

I think that clearly is a desirable provision.

□ 1550

The third item is in section 18. The amendments to the Uranium Mill Tailings Act do not create any new regulatory requirements or change any Federal jurisdiction. They have been agreed upon in response to a request by uranium-producing States and by the uranium industry. They do these things:

First, they increase the States' flexibility in licensing of tailings disposal;

Second, they straighten out deadlines that cause disruption in implementation of these matters; and

Third, they clarify that EPA will set general standards and NRC will set specific requirements pertaining to control.

The amendments are strongly supported by the mining industry and by the Senators and Representatives of the uranium producing States.

I would hope, Mr. Speaker, that the House would vote against the motion offered by the gentleman from New York.

Mr. Speaker, I include in the RECORD the joint letter signed by myself, Chairman ZABLOCKI and other Members, relating to one of the matters that I just discussed:

HOUSE OF REPRESENTATIVES,
Washington, D.C., November 22, 1982.

DEAR COLLEAGUE: When the House considers the conference report on the Nuclear Regulatory Commission authorization bill for fiscal years 1982 and 1983 (H. Rept. 97-884), a technical point of order may be raised resulting in a separate vote on Section 14. This provision amends the Atomic Energy Act of 1954 to prohibit the use of spent fuel from commercial nuclear power plants as a source of materials with which to manufacture nuclear weapons.

If such a vote is necessary, we ask that you join us in voting to retain Section 14 as part of the conference report.

The effect of Section 14 of the conference agreement would be to deny the President discretion to act without congressional concurrence to begin extraction of plutonium from commercial spent fuel for use in our nuclear weapons program. Such discretion would run counter to the historic distinction our nation has made between the peaceful and military uses of fission energy. Section 14 reiterates this distinction.

In addition, at a time when the United States is trying to discourage reprocessing of power reactor fuel in other countries, it would be imprudent for us to invent new reasons for extracting plutonium from our own domestic commercial reactor fuel. To do so encourages similar thinking in other countries and needlessly undercuts our nonproliferation policy.

We also point out that this conference provision originated in the Senate where it was approved by vote of 88 to 9.

Please join us in support of keeping Section 14 as part of the NRC authorization conference report.

Sincerely,

MORRIS K. UDALL.
CLEMENT J. ZABLOCKI.
JAMES T. BROYHILL.
JOHN D. DINGELL.
RICHARD OTTINGER.
PATRICIA SCHROEDER.
NICHOLAS MAVROULES.

Mr. OTTINGER. Mr. Speaker, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Speaker, I would just like to make the gentleman aware and I will insert in the RECORD a letter from Senators DOMENICI and SIMPSON, indicating that there is a provision in the House Energy and Water Appropriations Act to prohibit the Nuclear Regulatory Commission from implementing or enforcing any portion of the uranium mill licensing requirements promulgated by the Commission as final rules on October 3, 1980. They indicate that if we adopt the more sensible provision contained in this conference report, they would not support the much more drastic provision contained in the Energy and Water Appropriations Act.

COMMITTEE ON ENVIRONMENT
AND PUBLIC WORKS,
Washington, D.C., November 18, 1982.

Hon. MARK O. HATFIELD,
Chairman, Committee on Appropriations, U.S. Senate, Washington, D.C.

DEAR MARK: The Energy and Water Appropriations Act for fiscal year 1982 (P.L. 97-88) included a provision prohibiting the Nuclear Regulatory Commission from implementing or enforcing any portion of the Uranium Mill Licensing Requirements promulgated by the Commission as final rules on October 3, 1980. This provision was adopted, in large part, you recall, because of the Commission's unwillingness to consider and approve State regulatory plans for the regulation of uranium mills and mill tailings if those plans deffered in any way from the Commission's requirements.

On June 16, 1981, the Subcommittee on Nuclear Regulation held hearings on the Uranium Mill Tailings Radiation Control Act of 1978. Based upon these hearings, the Senate, on March 30, 1982, adopted a number of changes designed to correct not only the problem referred to above, but also to correct certain specific problems that had arisen in the implementation of this Act that were identified in this hearing. The changes adopted were included as part of the Nuclear Regulatory Commission Authorization bill for fiscal years 1982 and 1983 (S. 1207), and are set forth in section 206 of that bill. The companion vehicle in the House, H.R. 2330, included no such changes.

Over the course of the past seven months, House and Senate Conferees have been engaged in extensive negotiations in an effort to reconcile the two versions of this bill. Just recently, the Conferees were able to

reach agreement on a compromise. Essentially, this compromise would further clarify the right of States to adopt alternatives to the federal requirements, but only if the NRC determined that such alternatives would achieve a level of stabilization and containment of the sites concerned that is equivalent, to the extent practicable, or more stringent than the level that would be achieved by the Commission's regulations and standards. In addition, the compromise would allow States, in establishing alternative requirements, to consider local or regional conditions, such as geology, topography, hydrology, and meteorology.

On September 28, 1982, the Conference Report, H. Rept. 97-884, was filed. Shortly thereafter, the Senate adopted the Conference Report, and it is presently pending before the House of Representatives.

The compromise agreed upon by the Conferees is, in our judgment, an effective and equitable solution to the problems that were identified in the hearing that we held in 1981 and will, we hope, restore the uranium mill tailings regulatory program to its proper course. More importantly, we are fully satisfied that the compromise agreed upon addresses the concerns of those who supported the earlier amendment to the Energy and Water Appropriations Act for fiscal year 1982. Accordingly, we would like to inform you that, upon enactment of H.R. 2330, we do not believe it necessary or desirable to include, nor would we be in a position to support, a similar provision in the Energy and Water Appropriations Act for fiscal year 1983.

Thank you for your interest in this matter.

Sincerely,

ALAN K. SIMPSON.
PETE V. DOMENICI.

Mr. UDALL. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, I think we have to make the point very clear. Every nuclear powerplant is a bomb factory. Every nuclear powerplant is a bomb factory. In the hands of Qadhafi, a nuclear powerplant is a bomb factory. In the hands of South Africa, in Korea, in Taiwan, many of these plants are being turned into bomb factories. Bomb factories. They make atomic weapons. They were supposed to make electricity. They were supposed to heat the homes or light the homes of the people living in the areas. But they are going to be used to build nuclear weapons. It is very important for us to understand that, because our ability to tell Galtieri or to tell other countries not to sell materials to Qadhafi is very much contingent upon our country not engaging in the very same kind of activity. We cannot tell Caspar Weinberger, "Oh, you have run short of some plutonium; well, just go right over to the Diablo nuclear powerplant, go right over to Three Mile Island, they have got a lot of extra plutonium, use that for nuclear weapons."

What you are going to wind up with is a world in which we are awash with nuclear bombs. That is what will happen to us. And we will be in more situations where people like Menachem Begin have to send airplanes swooping into Baghdad to knock out nuclear powerplants that have been sold to generate electricity but which have been diverted into the construction of nuclear weapons. This is because we do not have a nonproliferation policy and the world does not have a nonproliferation policy, and the only nonproliferation policy will be the selective kind of policy that Begin engaged in, which is, "I am going to have to do it myself." And that is the kind of world we will be living in.

So maybe in many ways we will be better off accepting the amendment of the gentleman from New York, because once and for all we would put the lie to the myth that there is some separation between the peaceful and military atom. There is not. Ronald Reagan should have a strong, comprehensive nonproliferation policy. He does not.

The motion of the gentleman from New York should be defeated.

Mr. STRATTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just point out that these sections we are seeking to strike, are three sections that are nongermane and which go to the heart of the responsibilities of the House of Representatives and its own committees.

In the case of the reprocessing arrangement, the testimony of Dr. Herman Roser, the head of the Department of Energy's defense programs, was that the plutonium contained in these spent fuel cells is valued at from $15 to $18 billion. For us to allow just one nongermane amendment from the Senate to deny us that capability, whatever the scenario might be, and do it without any deliberation on the part of the House, without any hearings, would be foolish in the extreme.

With respect to section 17, we are living at a time when the Armed Services Committee has been concerned about the implications of the fact that some demonstrators were able to get into our nuclear Trident submarine facilities in Groton, Conn., with that kind of threat how can we possibly vote to make public the plans of how to break into classified sites where nuclear materials are being processed or developed? That would be utter insanity.

And finally, with respect to section 18, we are telling the Nuclear Regulatory Commission to spend billions of dollars to prevent a hazardous situation from occurring, which we have been told by the scientific experts poses no damage to health or to limb whatsoever.

We must reject these sections, Mr. Speaker. The legislation is going back to the Senate anyway, because of the other amendment, and I think it is time for the House to reclaim its prerogatives and insist the Senate not interfere with the responsibilities of House committees.

Mr. Speaker, I yield back the balance of my time.

Mr. UDALL. Mr. Speaker, I yield the remainder of my time to the gentleman from New York (Mr. OTTINGER).

The SPEAKER pro tempore. The gentleman from New York (Mr. OTTINGER) is recognized for 2 minutes.

Mr. OTTINGER. I thank the gentleman for yielding.

Mr. Speaker, in conclusion, I would like to point out that it would be a perfectly terrible precedent for this House now to vote for the motion of the gentleman from New York and to say that we condone the use of civilian reactor-produced materials for military purposes. It would undermine all the international antiproliferation efforts that we have always supported and promoted around the world. Regardless of the fact that this prohibition may have arrived on our doorstep in the form of a Senate amendment, it is vital that the principle be sustained.

The prohibition of civilian fuel for military use certainly was not without consideration in the House. It was carefully considered in the Interior Committee and subject to extensive hearing. There, as will be detailed by my friend from Oregon (Mr. WEAVER) to whom I now yield.

Mr. WEAVER. Mr. Speaker, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Oregon who can tell us the details of the hearings and consideration that in fact did take place in his committee.

Mr. WEAVER. I thank the gentleman from New York.

Mr. Speaker, there were extensive questions asked in hearings in the Interior Committee on this issue. I personally asked many. Other Members asked many questions of the various governmental and industry witnesses, and the Interior Committee, the legislative committee with jurisdiction over the NRC, deliberated this issue in committee and passed favorably this amendment in another bill.

Mr. LUJAN. Mr. Speaker, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from New Mexico.

Mr. LUJAN. Mr. Speaker, I ask unanimous consent for permission to revise and extend my remarks.

Mr. Speaker, I strongly support adoption of the conference report on H.R. 2330, the Nuclear Regulatory Commission authorization for fiscal years 1982 and 1983. This report is the culmination of almost 5 months of joint effort with the Senate to develop a compromise. An enormous amount of Members' and staffs' time has gone

into preparation of the conference report, and the compromises reached on the issues are sound and fair.

In addition to setting authorization levels for the Nuclear Regulatory Commission for fiscal years 1982 and 1983, this bill also provides for several other important items of vital need to the nuclear industry and their regulatory agencies. I would like to briefly highlight a few of the most important of these.

First, this legislation grants new temporary authority to the Commission to issue interim operating licenses which will allow new nuclear power reactors to begin operation prior to completion of hearings if certain conditions, including public safety, are satisfied. This temporary authority, which is necessary to help relieve a regulatory logjam resulting in part from the accident at Three Mile Island, will expire on December 31, 1983.

Second, this legislation contains the so-called Sholly provision which grants the Commission new authority to approve and make immediately effective certain amendments to licenses for nuclear power reactors, provided that no significant hazards exist.

Third, and of particular interest to the uranium mining industry in my State of New Mexico, this legislation includes amendments to the Uranium Mill Tailings Radiation Control Act to straighten out problems which have developed over the past few years in implementing this act. All the conferees agreed that the public health and safety is paramount in the regulation of mill tailings. We also agreed, however, that costly regulatory burdens should not be imposed on the uranium industry to address insubstantial risks.

We accordingly incorporated statutory and report language making clear that although full-scale, cost-benefit optimization is not required, the Environmental Protection Agency and the Nuclear Regulatory Commission must issue regulations whose burdens stand in a reasonable relationship to the expected gains. In short, if the risk is small, so should be costs; if the risk is great then the costs may be great. In addition, the conferees' action is intended to lay to rest suggestions, such as those made by EPA officials to mill operators in my State, that the preamble to the Mill Tailings Act represents a congressional predetermination that a significant risk exists from radon from mill tailings or that particular forms of remedial action must be taken.

Instead, we intend that the agencies must independently exercise their best technical judgment, and employ proper measurement data and scientific procedures, to determine the risks involved from tailings and to craft an appropriate set of requirements designed to deal with those risks which are significant. We recognized that some of these issues are under litigation, and our action is not intended either to approve or to disapprove of results thus far reached in that litigation. Our action is instead intended to clarify our views concerning the proper regulatory approach and to get the regulatory process moving again.

I am also pleased to say that the conferees have recognized that the agreement States such as my State, New Mexico, may adopt alternative requirements, as long as they are at least as stringent, which diverge from Federal requirements which the State finds are impracticable within its borders.

A fourth item which this conference report contains, the mechanism for a uranium import restriction, deals with an issue affecting the national security interests of this country; namely, the viability of the domestic uranium mining industry. The conferees have reiterated the importance to the Nation of our domestic uranium industry by adopting a series of provisions to begin developing a program to assure the industry's continued viability. Unfortunately, our national security in the area of uranium supplies is threatened by increasing dependence on foreign sources. Almost all new contractual commitments are with foreign producers. This could pose a serious long-term threat.

Among other things, the conference report requires the Secretary of the Department of Energy to promulgate within 9 months final criteria to determine the viability of the domestic industry. The provision specifies that the Secretary must monitor the industry's viability and report annually to Congress and to the President a determination of the industry's viability. The compromise proposal articulates a number of criteria which the Secretary must assess in determining viability.

Although one of the criteria is whether executed contracts or options will result in importation of greater than 37½ percent of actual or projected domestic uranium requirements for any 2-year period, we do not intend to preclude the Secretary, under appropriate circumstances, from determining that the industry is not viable or that its viability cannot be assured if the foreign market share is some lower amount. If the Secretary finds that imports exceed the 37½-percent criteria, however, then the Secretary must revise the criteria for offering enrichment services in order to enhance the use of domestic uranium in utilization facilities within or under the jurisdiction of the United States.

The conference amendment also provides that if the Secretary determines that uranium imports will exceed 37½ percent for any 2-year period or otherwise threaten to impair the national security, then he shall request the Secretary of Commerce to initiate an investigation under section 232 of the Trade Expansion Act of 1962. We intend that the investigation be completed and appropriate action be taken by the President to adjust importation of uranium within a 2-year period.

In order to protect essential security interests, the conference amendment provides that it shall be unlawful to execute a contract or option resulting in importation of foreign uranium for domestic consumption for up to 2 years or until the President has taken action to adjust importation within that period.

Mr. Speaker, I wish to compliment my good friend, Congressman UDALL, on his able work as chairman of the conference committee. I am happy to commend the conference report for adoption by the House.

Mr. OTTINGER. Mr. Speaker, we have signed a nonproliferation treaty which calls for the continued separation of civilian from military uses of atomic weapons. I think it is critical for our safety and the safety of the world that we maintain this separation and reject a motion of the gentleman from New York.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. STRATTON).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. STRATTON. Mr. Chairman, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 107, nays 281, not voting 45, as follows:

[Roll No. 411]

YEAS—107

Annunzio	Erlenborn	LeBoutillier
Archer	Fary	Lewis
Ashbrook	Fields	Loeffler
Atkinson	Flippo	Lott
Bafalis	Fountain	Marlenee
Barnard	Ginn	Martin (NC)
Bennett	Goldwater	Martin (NY)
Bevill	Gonzalez	Mavroules
Bouquard	Gradison	McClory
Brinkley	Gramm	McDonald
Broomfield	Grisham	McEwen
Butler	Hagedorn	Miller (OH)
Byron	Hammerschmidt	Mitchell (NY)
Campbell	Hartnett	Molinari
Carman	Hendon	Montgomery
Carney	Hightower	Myers
Chappell	Hillis	Napier
Cheney	Holt	Nelligan
Collins (TX)	Horton	Nichols
Crane, Daniel	Hunter	O'Brien
Daniel, Dan	Hutto	Oxley
Daniel, R. W.	Jeffries	Parris
Davis	Kazen	Pashayan
Derwinski	Kemp	Patman
Dornan	Kindness	Pickle
Dougherty	Kramer	Price
Dreier	Latta	Roberts (SD)
Edwards (AL)	Leath	Robinson

Rudd	Stangeland	White
Santini	Stenholm	Whitehurst
Sawyer	Stratton	Whitley
Schulze	Stump	Whitten
Shumway	Taylor	Wilson
Siljander	Trible	Winn
Solomon	Wampler	Wortley
Spence	Weber (OH)	

NAYS—281

Addabbo	Fiedler	McHugh
Akaka	Findley	McKinney
Albosta	Fish	Mica
Alexander	Fithian	Michel
Anderson	Florio	Mikulski
Andrews	Foglietta	Miller (CA)
Anthony	Foley	Mineta
Applegate	Ford (MI)	Minish
Aspin	Ford (TN)	Mitchell (MD)
AuCoin	Fowler	Moakley
Bailey (MO)	Frank	Moore
Bailey (PA)	Frenzel	Moorhead
Barnes	Fuqua	Morrison
Bedell	Garcia	Murphy
Beilenson	Gaydos	Murtha
Benedict	Gejdenson	Natcher
Bereuter	Gephardt	Neal
Bethune	Gibbons	Nelson
Biaggi	Gilman	Oakar
Bingham	Glickman	Oberstar
Bliley	Goodling	Obey
Boggs	Gore	Ottinger
Boland	Gray	Panetta
Boner	Green	Pease
Bonior	Gregg	Pepper
Bonker	Guarini	Perkins
Bowen	Gunderson	Petri
Breaux	Hall (IN)	Peyser
Brodhead	Hall (OH)	Pritchard
Brooks	Hall, Ralph	Pursell
Brown (CA)	Hall, Sam	Quillen
Brown (CO)	Hamilton	Rahall
Brown (OH)	Hansen (ID)	Railsback
Broyhill	Hansen (UT)	Rangel
Burton, John	Harkin	Ratchford
Chappie	Hatcher	Regula
Clausen	Hawkins	Reuss
Clay	Hefner	Rhodes
Clinger	Heftel	Rinaldo
Coats	Hertel	Ritter
Coleman	Hiler	Roberts (KS)
Collins (IL)	Holland	Rodino
Conable	Hollenbeck	Roe
Conte	Hopkins	Roemer
Conyers	Howard	Rogers
Corcoran	Hoyer	Rose
Coughlin	Hubbard	Rosenthal
Courter	Hughes	Rostenkowski
Coyne, William	Hyde	Roth
Craig	Jacobs	Roukema
Crockett	Jeffords	Russo
D'Amours	Jenkins	Sabo
Dannemeyer	Johnston	Savage
Daub	Jones (NC)	Scheuer
Deckard	Jones (OK)	Schneider
Dellums	Jones (TN)	Schroeder
DeNardis	Kastenmeier	Schumer
Derrick	Kennelly	Seiberling
Dickinson	Kildee	Sensenbrenner
Dicks	Kogovsek	Shamansky
Donnelly	Lagomarsino	Shannon
Dorgan	Lantos	Sharp
Dowdy	Leach	Shaw
Downey	Leland	Shelby
Duncan	Lent	Simon
Dunn	Levitas	Skeen
Dwyer	Livingston	Skelton
Dyson	Long (LA)	Smith (AL)
Early	Long (MD)	Smith (IA)
Eckart	Lowery (CA)	Smith (NE)
Edwards (CA)	Lowry (WA)	Smith (NJ)
Edwards (OK)	Lujan	Smith (OR)
Emerson	Luken	Smith (PA)
Emery	Lundine	Snowe
English	Lungren	Snyder
Erdahl	Madigan	Solarz
Ertel	Markey	Stark
Evans (DE)	Marriott	Staton
Evans (GA)	Martin (IL)	Stokes
Evans (IA)	Matsui	Studds
Evans (IN)	Mattox	Swift
Fascell	Mazzoli	Synar
Fazio	McCollum	Tauke
Fenwick	McDade	Tauzin
Ferraro	McGrath	Thomas
Traxler	Weaver	Wright
Udall	Weber (MN)	Wyden
Vander Jagt	Weiss	Wylie
Vento	Whittaker	Yates
Walgren	Williams (MT)	Yatron
Walker	Williams (OH)	Young (AK)
Washington	Wirth	Young (MO)
Watkins	Wolf	Zablocki
Waxman	Wolpe	

NOT VOTING—45

Badham	Edgar	Moffett
Beard	Forsythe	Mollohan
Blanchard	Frost	Mottl
Bolling	Gingrich	Nowak
Burgener	Hance	Patterson
Burton, Phillip	Heckler	Paul
Chisholm	Huckaby	Porter
Coelho	Ireland	Rousselot
Coyne, James	LaFalce	Roybal
Crane, Philip	Lee	Shuster
Daschle	Lehman	St Germain
de la Garza	Marks	Stanton
Dingell	Martinez	Volkmer
Dixon	McCloskey	Young (FL)
Dymally	McCurdy	Zeferetti

□ 1620

Mrs. BOGGS, Mr. SNYDER, Mr. BROWN of Colorado, and Mrs. SMITH of Nebraska changed their votes from "yea" to "nay."

Messrs. ERLENBORN, SILJANDER, PICKLE, and WHITTEN and Mrs. BOUQUARD changed their votes from "nay" to "yea."

So the motion to strike sections 14, 17, and 18 of the conference report was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. NATCHER). Pursuant to clause 4, rule XXVIII, a motion to reject section 23 of the conference report having been adopted, the conference report is considered as rejected and the gentleman from Arizona (Mr. UDALL) is recognized to offer an amendment consisting of the remainder of the conference report.

MOTION OFFERED BY MR. UDALL

Mr. UDALL. Mr. Speaker, pursuant to clause 4, rule XXVIII, and the action of the House, I move that the House recede from its disagreement and concur in the Senate amendment with an amendment which I send to the desk.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. UDALL moves that the House recede and concur in the Senate amendment with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate, insert the following:

AUTHORIZATION OF APPROPRIATIONS

SECTION 1. (a) There are hereby authorized to be appropriated to the Nuclear Regulatory Commission in accordance with the provisions of section 261 of the Atomic Energy Act of 1954 (42 U.S.C. 2017) and section 305 of the Energy Reorganization Act of 1974 (42 U.S.C. 5875), for the fiscal years 1982 and 1983 to remain available until expended, $485,200,000 for fiscal year 1982 and $513,100,000 for fiscal year 1983 to be allocated as follows:

(1) Not more than $80,700,000 for fiscal year 1982 and $77,000,000 for fiscal year 1983 may be used for "Nuclear Reactor Regulation", of which an amount not to exceed $1,000,000 is authorized each such fiscal year to be used to accelerate the effort in gas-cooled thermal reactor preapplication review, and an amount not to exceed $6,000,000 is authorized each such fiscal year to be used for licensing review work for a fast breeder reactor plant project. In the event of a termination of such breeder reactor project, any unused amount appropriated pursuant to this paragraph for licensing review work for such project may be used only for safety technology activities.

(2) Not more than $62,900,000 for fiscal year 1982 and $69,850,000 for fiscal year 1983 may be used for "Inspection and Enforcement".

(3) Not more than $42,000,000 for fiscal year 1982 and $47,059,600 for fiscal year 1983 may be used for "Nuclear Material Safety and Safeguards".

(4) Not more than $240,300,000 for fiscal year 1982 and $257,195,600 for fiscal year 1983 may be used for "Nuclear Regulatory Research", of which—

(A) an amount not to exceed $3,500,000 for fiscal year 1982 and $4,500,000 for fiscal year 1983 is authorized to be used to accelerate the effort in gas-cooled thermal reactor safety research;

(B) an amount not to exceed $18,000,000 is authorized each such fiscal year to be used for fast breeder reactor safety research; and

(C) an amount not to exceed $57,000,000 is authorized for such two fiscal year period to be used for the Loss-of-Fluid Test Facility research program.

In the event of a termination of the fast breeder reactor plant project, any unused amount appropriated pursuant to this paragraph for fast breeder reactor safety research may be used generally for "Nuclear Regulatory Research".

(5) Not more than $21,900,000 for fiscal year 1982 and $20,197,800 for fiscal year 1983 may be used for "Program Technical Support".

(6) Not more than $37,400,000 for fiscal year 1982 and $41,797,000 for fiscal year 1983 may be used for "Program Direction and Administration".

(b) The Nuclear Regulatory Commission may use not more than 1 percent of the amounts authorized to be appropriated under subsection (a)(4) to exercise its authority under section 31 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2051(a)) to enter into grants and cooperative agreements with universities pursuant to such section. Grants made by the Commission shall be made in accordance with the Federal Grant and Cooperative Agreement Act of 1977 (41 U.S.C. 501 et seq.) and other applicable law. In making such grants and entering into such cooperative agreements, the Commission shall endeavor to provide appropriate opportunities for universities in which the student body has historically been predominately comprised of minority groups.

(c) Any amount appropriated for a fiscal year to the Nuclear Regulatory Commission pursuant to any paragraph of subsection (a) for purposes of the program office referred to in such paragraph, or any activity that is within such program office and is specified in such paragraph, may be reallocated by the Commission for use in a program office referred to in any other paragraph of such subsection, or for use in any other activity

within a program office, except that the amount available from appropriations for such fiscal year for use in any program office or specified activity may not, as a result of reallocations made under this subsection, be increased or reduced by more than $500,000 unless—

(1) a period of 30 calendar days (excluding any day in which either House of Congress is not in session because of an adjournment of more than 3 calendar days to a day certain or an adjournment sine die) passes after the receipt, by the Committee on Energy and Commerce and the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Environment and Public Works of the Senate, of notice submitted by the Commission containing a full and complete statement of the reallocation proposed to be made and the facts and circumstances relied upon in support of such proposed reallocation; or

(2) each such committee, before the expiration of such period, transmits to the Commission a written notification that such committee does not object to such proposed reallocation.

AUTHORITY TO RETAIN CERTAIN AMOUNTS RECEIVED

SEC. 2. Moneys received by the Nuclear Regulatory Commission for the cooperative nuclear research program and the material access authorization program may be retained and used for salaries and expenses associated with such programs, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), and shall remain available until expended.

AUTHORITY TO TRANSFER CERTAIN AMOUNTS TO OTHER AGENCIES

SEC. 3. From amounts appropriated to the Nuclear Regulatory Commission pursuant to section 1(a), the Commission may transfer to other agencies of the Federal Government sums for salaries and expenses for the performance by such agencies of activities for which such appropriations of the Commission are made. Any sums so transferred may be merged with the appropriation of the agency to which such sums are transferred.

LIMITATION ON SPENDING AUTHORITY

SEC. 4. Notwithstanding any other provision of this Act, no authority to make payments under this Act shall be effective except to such extent or in such amounts as are provided in advance in appropriation Acts.

AUTHORITY TO ISSUE LICENSES IN ABSENCE OF EMERGENCY PREPAREDNESS PLANS

SEC. 5. Of the amounts authorized to be appropriated under section 1, the Nuclear Regulatory Commission may use such sums as may be necessary, in the absence of a State or local emergency preparedness plan which has been approved by the Federal Emergency Management Agency, to issue an operating license (including a temporary operating license under section 192 of the Atomic Energy Act of 1954, as amended by section 11 of this Act) for a nuclear power reactor, if it determines that there exists a State, local, or utility plan which provides reasonable assurance that public health and safety is not endangered by operation of the facility concerned.

NUCLEAR SAFETY GOALS

SEC. 6. Funds authorized to be appropriated under this Act shall be used by the Nuclear Regulatory Commission to expedite the establishment of safety goals for nuclear reactor regulation. The development of such safety goals, and any accompanying methodologies for the application of such safety goals, should be expedited to the maximum extent practicable to permit establishment of a safety goal by the Commission not later than December 31, 1982.

LOSS-OF-FLUID TEST FACILITY

SEC. 7. Of the amounts authorized to be used for the Loss-of-Fluid Test Facility in accordance with section 1(a)(4) for fiscal years 1982 and 1983, the Commission shall provide funding through contract with the organization responsible for the Loss-of-Fluid Test operations for a detailed technical review and analysis of research results obtained from the Loss-of-Fluid Test Facility research program. The contract shall provide funding for not more than twenty man-years in each of fiscal year 1982 and 1983 to conduct the technical review and analysis.

NUCLEAR DATA LINK

SEC. 8. (a) Of the amounts authorized to be appropriated under this Act for the fiscal years 1982 and 1983, not more than $200,000 is authorized to be used by the Nuclear Regulatory Commission for—

(1) the acquisition (by purchase, lease, or otherwise) and installation of equipment to be used for the "small test prototype nuclear data link" program or for any other program for the collection and transmission to the Commission of data from licensed nuclear reactors during abnormal conditions at such reactors; and

(2) the conduct of a full and complete study and analysis of—

(A) the appropriate role of the Commission during abnormal conditions at a nuclear reactor licensed by the Commission;

(B) the information which should be available to the Commission to enable the Commission to fulfill such role and to carry out other related functions;

(C) various alternative means of assuring that such information is available to the Commission in a timely manner; and

(D) any changes in existing Commission authority necessary to enhance the Commission response to abnormal conditions at a nuclear reactor licensed by the Commission.

The small test prototype referred to in paragraph (1) may be used by the Commission in carrying out the study and analysis under paragraph (2). Such analysis shall include a cost-benefit analysis of each alternative examined under subparagraph (C).

(b)(1) Upon completion of the study and anlaysis required under subsection (a)(2), the Commission shall submit to Congress a detailed report setting forth the results of such study and analysis.

(2) The Commission may not take any action with respect to any alternative described in subsection (a)(2)(C), unless a period of 60 calendar days (excluding any day in which either House of Congress is not in session because of an adjournment of more than 3 calendar days to a day certain or an adjournment sine die) passes after the receipt, by the Committee on Energy and Commerce and the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Environment and Public Works of the Senate, of notice submitted by the Commission containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

INTERIM CONSOLIDATION OF OFFICES

SEC. 9. Of the amounts authorized to be appropriated pursuant to paragraph 6 of section 1(a), such sums as may be necessary shall be available for interim consolidation of Nuclear Regulatory Commission headquarters staff offices.

(b) No amount authorized to be appropriated under this Act may be used, in connection with the interim consolidation of Nuclear Regulatory Commission offices, to relocate the offices of members of the Commission outside the District of Columbia.

THREE MILE ISLAND

SEC. 10. (a) No part of the funds authorized to be appropriated under this Act may be used to provide assistance to the General Public Utilities Corporation for purposes of the decontamination, cleanup, repair, or rehabilitation of facilities at Three Mile Island Unit 2.

(b) The prohibition contained in subsection (a) shall not relate to the responsibilities of the Nuclear Regulatory Commission for monitoring or inspection of the decontamination, cleanup, repair, or rehabilitation activities at Three Mile Island and such prohibition shall not apply to the use of funds by the Nuclear Regulatory Commission to carry out regulatory functions of the Commission under the Atomic Energy Act of 1954 with respect to the facilities at Three Mile Island.

(c) The Nuclear Regulatory Commission shall include in its annual report to the Congress under section 307(c) of the Energy Reorganization Act of 1974 (42 U.S.C. 5877(c)) as a separate chapter a description of the collaborative efforts undertaken, or proposed to be undertaken, by the Commission and the Department of Energy with respect to the decontamination, cleanup, repair, or rehabilitation of facilities at Three Mile Island Unit 2.

(d) No funds authorized to be appropriated under this Act may be used by the Commission to approve any willful release of "accident-generated water", as defined by the Commission in NUREG–0683 ("Final Programmatic Environmental Impact Statement" p. 1–23), from Three Mile Island Unit 2 into the Susquehanna River or its watershed.

TEMPORARY OPERATING LICENSES

SEC. 11. Section 192 of the Atomic Energy Act of 1954 (42 U.S.C. 2242) is amended to read as follows:

"SEC. 192. TEMPORARY OPERATING LICENSE.—

"a. In any proceeding upon an application for an operating license for a utilization facility required to be licensed under section 103 or 104 b. of this Act, in which a hearing is otherwise required pursuant to section 189 a., the applicant may petition the Commission for a temporary operating license for such facility authorizing fuel loading, testing, and operation at a specific power level to be determined by the Commission, pending final action by the Commission on the application. The initial petition for a temporary operating license for each such facility, and any temporary operating license issued for such facility based upon the initial petition, shall be limited to power levels not to exceed 5 percent of rated full thermal power. Following issuance by the Commission of the temporary operating license for each such facility, the licensee may file petitions with the Commission to amend the license to allow facility operation in staged increases at specific power levels, to be determined by the Commission, exceeding 5 percent of rated full thermal power. The initial petition for a temporary operating license for each such facility may be filed at any time after the filing of: (1) the report of

the Advisory Committee on Reactor Safeguards required by section 182 b.; (2) the filing of the initial Safety Evaluation Report by the Nuclear Regulatory Commission staff and the Nuclear Regulatory Commission staff's first supplement to the report prepared in response to the report of the Advisory Committee on Reactor Safeguards for the facility; (3) the Nuclear Regulatory Commission staff's final detailed statement on the environmental impact of the facility prepared pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)); and (4) a State, local, or utility emergency preparedness plan for the facility. Petitions for the issuance of a temporary operating license, or for an amendment to such a license allowing operation at a specific power level greater than that authorized in the initial temporary operating license, shall be accompanied by an affidavit or affidavits setting forth the specific facts upon which the petitioner relies to justify issuance of the temporary operating license or the amendment thereto. The Commission shall publish notice of each such petition in the Federal Register and in such trade or news publications as the Commission deems appropriate to give reasonable notice to persons who might have a potential interest in the grant of such temporary operating license or amendment thereto. Any person may file affidavits or statements in support of, or in opposition to, the petition within thirty days after the publication of such notice in the Federal Register.

"b. With respect to any petition filed pursuant to subsection a. of this section, the Commission may issue a temporary operating license, or amend the license to authorize temporary operation at each specific power level greater than that authorized in the initial temporary operating license, as determined by the Commission, upon finding that—

"(1) in all respects other than the conduct or completion of any required hearing, the requirements of law are met;

"(2) in accordance with such requirements, there is reasonable assurance that operation of the facility during the period of the temporary operating license in accordance with its terms and conditions will provide adequate protection to the public health and safety and the environment during the period of temporary operation; and

"(3) denial of such temporary operating license will result in delay between the date on which construction of the facility is sufficiently completed, in the judgment of the Commission, to permit issuance of the temporary operating license, and the date when such facility would otherwise receive a final operating license pursuant to this Act.

The temporary operating license shall become effective upon issuance and shall contain such terms and conditions as the Commission may deem necessary, including the duration of the license and any provision for the extension thereof. Any final order authorizing the issuance or amendment of any temporary operating license pursuant to this section shall recite with specificity the facts and reasons justifying the findings under this subsection, and shall be transmitted upon such issuance to the Committees on Interior and Insular Affairs and Energy and Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate. The final order of the Commission with respect to the issuance or amendment of a temporary operating license shall be subject to judicial review pursuant to chapter 158 of title 28, United States Code. The requirements of section 189 a. of this Act with respect to the issuance or amendment of facility licenses shall not apply to the issuance or amendment of a temporary operating license under this section.

"c. Any hearing on the application for the final operating license for a facility required pursuant to section 189 a. shall be concluded as promptly as practicable. The Commission shall suspend the temporary operating license if it finds that the applicant is not prosecuting the application for the final operating license with due diligence. Issuance of a temporary operating license under subsection b. of this section shall be without prejudice to the right of any party to raise any issue in a hearing required pursuant to section 189 a.; and failure to assert any ground for denial or limitation of a temporary operating license shall not bar the assertion of such ground in connection with the issuance of a subsequent final operating license. Any party to a hearing required pursuant to section 189 a. on the final operating license for a facility for which a temporary operating license has been issued under subsection b., and any member of the Atomic Safety and Licensing Board conducting such hearing, shall promptly notify the Commission of any information indicating that the terms and conditions of the temporary operating license are not being met, or that such terms and conditions are not sufficient to comply with the provisions of paragraph (2) of subsection b.

"d. The Commission is authorized and directed to adopt such administrative remedies as the Commission deems appropriate to minimize the need for issuance of temporary operating licenses pursuant to this section.

"e. The authority to issue new temporary operating licenses under this section shall expire on December 31, 1983.".

OPERATING LICENSE AMENDMENT HEARINGS

SEC. 12. (a) Section 189 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2239(a)) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2)(A) The Commission may issue and make immediately effective any amendment to an operating license, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person. Such amendment may be issued and made immediately effective in advance of the holding and completion of any required hearing. In determining under this section whether such amendment involves no significant hazards consideration, the Commission shall consult with the State in which the facility involved is located. In all other respects such amendment shall meet the requirements of this Act.

"(B) The Commission shall periodically (but not less frequently than once every thirty days) publish notice of any amendments issued, or proposed to be issued, as provided in subparagraph (A). Each such notice shall include all amendments issued, or proposed to be issued, since the date of publication of the last such periodic notice. Such notice shall, with respect to each amendment or proposed amendment (i) identify the facility involved; and (ii) provide a brief description of such amendment. Nothing in this subsection shall be construed to delay the effective date of any amendment.

"(C) The Commission shall, during the ninety-day period following the effective date of this paragraph, promulgate regulations establishing (i) standards for determining whether any amendment to an operating license involves no significant hazards consideration; (ii) criteria for providing or, in emergency situations, dispensing with prior notice and reasonable opportunity for public comment on any such determination, which criteria shall take into account the exigency of the need for the amendment involved; and (iii) procedures for consultation on any such determination with the State in which the facility involved is located.".

(b) The authority of the Nuclear Regulatory Commission, under the provisions of the amendment made by subsection (a), to issue and to make immediately effective any amendment to an operating license shall take effect upon the promulgation by the Commission of the regulations required in such provisions.

QUALITY ASSURANCE

SEC. 13. (a) The Nuclear Regulatory Commission is authorized and directed to implement and accelerate the resident inspector program so as to assure the assignment of at least one resident inspector by the end of fiscal year 1982 at each site at which a commercial nuclear powerplant is under construction and construction is more than 15 percent complete. At each such site at which construction is not more than 15 percent complete, the Commision shall provide that such inspection personnel as the Commissions deems appropriate shall be physically present at the site at such times following issuance of the construction permit as may be necessary in the judgment of the Commission.

(b) The Commission shall conduct a study of existing and alternative programs for improving quality assurance and quality control in the construction of commercial nuclear powerplants. In conducting the study, the Commission shall obtain the comments of the public, licensees of nuclear powerplants, the Advisory Committee on Reactor Safeguards, and organizations comprised of professionals having expertise in appropriate fields. The study shall include an analysis of the following:

(1) providing a basis for quality assurance and quality control, inspection, and enforcement actions through the adoption of an approach which is more prescriptive than that currently in practice for defining principal architectural and engineering criteria for the construction of commercial nuclear powerplants;

(2) conditioning the issuance of construction permits for commercial nuclear powerplants on a demonstration by the licensee that the licensee is capable of independently managing the effective performance of all quality assurance and quality control responsibilities for the powerplant;

(3) evaluations, inspections, or audits of commercial nuclear powerplant construction by organizations comprised of professionals having expertise in appropriate fields which evaluations, inspections, or audits are more effective than those under current practice;

(4) improvement of the Commission's organization, methods, and programs for quality assurance development, review, and inspection; and

(5) conditioning the issuance of construction permits for commercial nuclear powerplants on the permittee entering into contracts or other arrangements with an independent inspector to audit the quality assurance program to verify quality assurance performance.

For purposes of paragraph (5), the term "independent inspector" means a person or other entity having no responsibility for the design or construction of the plant involved. The study shall also include an analysis of quality assurance and quality control programs at representative sites at which such programs are operating satisfactorily and an assessment of the reasons therefor.

(c) For purposes of—

(1) determining the best means of assuring that commercial nuclear powerplants are constructed in accordance with the applicable safety requirements in effect pursuant to the Atomic Energy Act of 1954; and

(2) assessing the feasibility and benefits of the various means listed in subsection (b);

the Commission shall undertake a pilot program to review and evaluate programs that include one or more of the alternative concepts identified in subsection (b) for the purposes of assessing the feasibility and benefits of their implementation. The pilot program shall include programs that use independent inspectors for auditing quality assurance responsibilities of the licensee for the construction of commercial nuclear powerplants, as described in paragraph (5) of subsection (b). The pilot program shall include at least three sites at which commercial nuclear powerplants are under construction. The Commission shall select at least one site at which quality assurance and quality control programs have operated satisfactorily, and at least two sites with remedial programs underway at which major construction, quality assurance, or quality control deficiencies (or any combination thereof) have been identified in the past. The Commission may require any changes in existing quality assurance and quality control organizations and relationships that may be necessary at the selected sites to implement the pilot program.

(d) Not later than fifteen months after the date of the enactment of this Act, the Commission shall complete the study required under subsection (b) and submit to the United States Senate and House of Representatives a report setting forth the results of the study. The report shall include a brief summary of the information received from the public and from other persons referred to in subsection (b) and a statement of the Commission's response to the significant comments received. The report shall also set forth an analysis of the results of the pilot program required under subsection (c). The report shall be accompanied by the recommendations of the Commission, including any legislative recommendations, and a description of any administrative actions that the Commission has undertaken or intends to undertake, for improving quality assurance and quality control programs that are applicable during the construction of nuclear powerplants.

LIMITATION ON USE OF SPECIAL NUCLEAR MATERIAL

SEC. 14. Section 57 of the Atomic Energy Act of 1954 (42 U.S.C. 2077) is amended by adding at the end thereof the following new subsection:

"e. Special nuclear material, as defined in section 11, produced in facilities licensed under section 103 or 104 may not be transferred, reprocessed, used, or otherwise made available by any instrumentality of the United States or any other person for nuclear explosive purposes.".

RESIDENT INSPECTORS

SEC. 15. Of the amounts authorized to be appropriated under section 1, the Nuclear Regulatory Commission shall use such sums as may be necessary to conduct a study of the financial hardships incurred by resident inspectors as a result of (1) regulations of the Commission requiring resident inspectors to relocate periodically from one duty station to another; and (2) the requirements of the Commission respecting the domicile of resident inspectors and respecting travel between their domicile and duty station in such manner as to avoid the appearance of a conflict of interest. Not later than 90 days after the date of the enactment of this Act, the Commission shall submit to the Congress a report setting forth the findings of the Commission as a result of such study, together with a legislative proposal (including any supporting data or information) relating to any assistance for resident inspectors determined by the Commission to be appropriate.

SABOTAGE OF NUCLEAR FACILITIES OR FUEL

SEC. 16. Section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284) is amended to read as follows:

"SEC. 236. SABOTAGE OF NUCLEAR FACILITIES OR FUEL.—

"a. Any person who intentionally and willfully destroys or causes physical damage to, or who intentionally and willfully attempts to destroy or cause physical damage to—

"(1) any production facility or utilization facility licensed under this Act;

"(2) any nuclear waste storage facility licensed under this Act; or

"(3) any nuclear fuel for such a utilization facility, or any spent nuclear fuel from such a facility;

shall be fined not more than $10,000 or imprisoned for not more than ten years, or both.

"b. Any person who intentionally and willfully causes or attempts to cause an interruption of normal operation of any such facility through the unauthorized use of or tampering with the machinery, components, or controls of any such facility, shall be fined not more than $10,000 or imprisoned for not more than ten years, or both.".

DEPARTMENT OF ENERGY INFORMATION

SEC. 17. (a) Section 148 a. (1) of the Atomic Energy Act of 1954 (42 U.S.C. 2168(a)(1)) is amended by inserting after "('Secretary')" the following: ", with respect to atomic energy defense programs,".

(b) Section 148 of the Atomic Energy Act of 1954 (42 U.S.C. 2168) is amended by adding at the end thereof the following new subsections:

"d. Any determination by the Secretary concerning the applicability of this section shall be subject to judicial review pursuant to section 552(a)(4)(B) of title 5, United States Code.

"e. The Secretary shall prepare on a quarterly basis a report to be made available upon the request of any interested person, detailing the Secretary's application during that period of each regulation or order prescribed or issued under this section. In particular, such report shall—

"(1) identify any information protected from disclosure pursuant to such regulation or order;

"(2) specifically state the Secretary's justification for determining that unauthorized dissemination of the information protected from disclosure under such regulation or order could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of illegal production of nuclear weapons, or theft, diversion, or sabotage of nuclear materials, equipment, or facilities, as specified under subsection a.; and

"(3) provide justification that the Secretary has applied such regulation or order so as to protect from disclosure only the minimum amount of information necessary to protect the health and safety of the public or the common defense and security.".

STANDARDS AND REQUIREMENTS UNDER SECTION 275

SEC. 18. (a) Section 275 of the Atomic Energy Act of 1954 is amended—

(1) by striking in subsection a. "one year after the date of enactment of this section" and substituting "October 1, 1982" and by adding the following at the end thereof: "After October 1, 1982, if the Administrator has not promulgated standards in final form under this subsection, any action of the Secretary of Energy under title I of the Uranium Mill Tailings Radiation Control Act of 1978 which is required to comply with, or be taken in accordance with, standards of the Administrator shall comply with, or be taken in accordance with, the standards proposed by the Administrator under this subsection until such time as the Administrator promulgates such standards in final form.";

(2) by striking in subsection b. (1) "eighteen months after the enactment of this section, the Administrator shall, by rule, promulgate" and inserting in lieu thereof the following: "October 31, 1982, the Administrator shall, by rule, propose, and within 11 months thereafter promulgate in final form,";

(3) by adding the following at the end of subsection b. (1): "If the Administrator fails to promulgate standards in final form under this subsection by October 1, 1983, the authority of the Administrator to promulgate such standards shall terminate, and the Commission may take actions under this Act without regard to any provision of this Act requiring such actions to comply with, or be taken in accordance with, standards promulgated by the Administrator. In any such case, the Commission shall promulgate, and from time to time revise, any such standards of general application which the Commission deems necessary to carry out its responsibilities in the conduct of its licensing activities under this Act. Requirements established by the Commission under this Act with respect to byproduct material as defined in section 11 e. (2) shall conform to such standards. Any requirements adopted by the Commission respecting such byproduct material before promulgation by the Commission of such standards shall be amended as the Commission deems necessary to conform to such standards in the same manner as provided in subsection f. (3). Nothing in this subsection shall be construed to prohibit or suspend the implementation or enforcement by the Commission of any requirement of the Commission respecting byproduct material as defined in section 11 e. (2) pending promulgation by the Commission of any such standard of general application.";

(4) by adding the following new subsection at the end thereof:

"f. (1) Prior to January 1, 1983, the Commission shall not implement or enforce the

provisions of the Uranium Mill Licensing Requirements published as final rules at 45 Federal Register 65521 to 65538 on October 3, 1980 (hereinafter in this subsection referred to as the 'October 3 regulations'). After December 31, 1982, the Commission is authorized to implement and enforce the provisions of such October 3 regulations (and any subsequent modifications or additions to such regulations which may be adopted by the Commission), except as otherwise provided in paragraphs (2) and (3) of this subsection.

"(2) Following the proposal by the Administrator of standards under subsection b., the Commission shall review the October 3 regulations, and, not later than 90 days after the date of such proposal, suspend implementation and enforcement of any provision of such regulations which the Commission determines after notice and opportunity for public comment to require a major action or major commitment by licensees which would be unnecessary if—

(A) the standards proposed by the Administrator are promulgated in final form without modification, and

(B) the Commission's requirements are modified to conform to such standards.

Such suspension shall terminate on the earlier of April 1, 1984 or the date on which the Commission amends the October 3 regulations to conform to final standards promulgated by the Administrator under subsection b. During the period of such suspension, the Commission shall continue to regulate by product material (as defined in section 11 e. (2)) under this Act on a licensee-by-licensee basis as the Commission deems necessary to protect public health, safety, and the environment.

"(3) Not later than 6 months after the date on which the Administrator promulgates final standards pursuant to subsection b. of this section, the Commission shall, after notice and opportunity for public comment, amend the October 3 regulations, and adopt such modifications, as the Commission deems necessary to conform to such final standards of the Administrator.

"(4) Nothing in this subsection may be construed as affecting the authority or responsibility of the Commission under section 84 to promulgate regulations to protect the public health and safety and the environment.".

(b)(1) Section 108(a) of the Uranium Mill Tailings Radiation Control Act of 1978 is amended by adding the following new paragraph at the end thereof:

"(3) Notwithstanding paragraphs (1) and (2) of this subsection, after October 31, 1982, if the Administrator has not promulgated standards under section 275 a. of the Atomic Energy Act of 1954 in final form by such date, remedial action taken by the Secretary under this title shall comply with the standards proposed by the Administrator under such section 275 a. until such time as the Administrator promulgates the standards in final form.".

(2) The second sentence of section 108(a)(2) of the Uranium Mill Tailings Radiation Control Act of 1978 is repealed.

AGREEMENT STATES

SEC. 19. (a) Section 274 o. of the Atomic Energy Act of 1954 is amended by adding the following at the end thereof: "In adopting requirements pursuant to paragraph (2) of this subsection with respect to sites at which ores are processed primarily for their source material content or which are used for the disposal of byproduct material as defined in section 11 e. (2), the State may adopt alternatives (including, where appropriate, site-specific alternatives) to the requirements adopted and enforced by the Commission for the same purpose if, after notice and opportunity for public hearing, the Commission determines that such alternatives will achieve a level of stabilization and containment of the sites concerned, and a level of protection for public health, safety, and the environment from radiological and nonradiological hazards associated with such sites, which is equivalent to, to the extent practicable, or more stringent than the level which would be achieved by standards and requirements adopted and enforced by the Commission for the same purpose and any final standards promulgated by the Administrator of the Environmental Protection Agency in accordance with section 275. Such alternative State requirements may take into account local or regional conditions, including geology, topography, hydrology and meteorology.".

(b) Section 204(h)(3) of the Uranium Mill Tailings Radiation Control Act of 1978 is amended by inserting the following before the period at the end thereof ": Provided, however, That, in the case of a State which has exercised any authority under State law pursuant to an agreement entered into under section 274 of the Atomic Energy Act of 1954, the State authority over such byproduct material may be terminated, and the Commission authority over such material may be exercised, only after compliance by the Commission with the same procedures as are applicable in the case of termination of agreements under section 274 j. of the Atomic Energy Act of 1954.".

AMENDMENT TO SECTION 84

SEC. 20. Section 84 of the Atomic Energy Act of 1954 is amended by adding the following at the end thereof:

"c. In the case of sites at which ores are processed primarily for their source material content or which are used for the disposal of byproduct material as defined in section 11 e. (2), a licensee may propose alternatives to specific requirements adopted and enforced by the Commission under this Act. Such alternative proposals may take into account local or regional conditions, including geology, topography, hydrology and meteorology. The Commission may treat such alternatives as satisfying Commission requirements if the Commission determines that such alternatives will achieve a level of stabilization and containment of the sites concerned, and a level of protection for public health, safety, and the environment from radiological and nonradiological hazards associated with such sites, which is equivalent to, to the extent practicable, or more stringent than the level which would be achieved by standards and requirements adopted and enforced by the Commission for the same purpose and any final standards promulgated by the Administrator of the Environmental Protection Agency in accordance with section 275.".

EDGEMONT

SEC. 21. Section 102(e) of the Uranium Mill Tailings Radiation Control Act of 1978 is amended by adding the following at the end thereof:

"(3) The Secretary shall designate as a processing site within the meaning of section 101(6) any real property, or improvements thereon, in Edgemont, South Dakota that—

"(A) is in the vicinity of the Tennessee Valley Authority uranium mill site at Edgemont (but not including such site), and

"(B) is determined by the Secretary to be contaminated with residual radioactive materials.

In making the designation under this paragraph, the Secretary shall consult with the Administrator, the Commission and the State of South Dakota. The provisions of this title shall apply to the site so designated in the same manner and to the same extent as to the sites designated under subsection (a) except that, in applying such provisions to such site, any reference in this title to the date of the enactment of this Act shall be treated as a reference to the date of the enactment of this paragraph and in determining the State share under section 107 of the costs of remedial action, there shall be credited to the State, expenditures made by the State prior to the date of the enactment of this paragraph which the Secretary determines would have been made by the State or the United States in carrying out the requirements of this title.".

ADDITIONAL AMENDMENTS TO SECTIONS 84 AND 275

SEC. 22. (a) Section 84 a. (1) of the Atomic Energy Act of 1954 is amended by inserting before the comma at the end thereof the following: ", taking into account the risk to the public health, safety, and the environment, with due consideration of the economic costs and such other factors as the Commission determines to be appropriate,".

(b) Section 275 of the Atomic Energy Act of 1954 is amended—

(1) in subsection a., by inserting after the second sentence thereof the following new sentence: "In establishing such standards, the Administrator shall consider the risk to the public health, safety, and the environment, the environmental and economic costs of applying such standards, and such other factors as the Administrator determines to be appropriate."; and

(2) by adding at the end of subsection b. (1) the following new sentence: "In establishing such standards, the Administrator shall consider the risk to the public health, safety, and the environment, the environmental and economic costs of applying such standards, and such other factors as the Administrator determines to be appropriate.".

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The SPEAKER pro tempore. The gentleman from Arizona (Mr. UDALL) is recognized for 30 minutes.

Mr. UDALL. Mr. Speaker, the conference agreement before us today represents a compromise between the House and Senate passed versions of the NRC authorization for 1982 and 1983. I had hoped that the NRC authorization bill we began to consider in early 1981 would have emerged as a clean authorization bill; I had hoped the tough nuclear policy questions would be dealt with in separate legislation. This did not happen, however, and as in previous years the NRC authorization has become the vehicle for legislative change in our nuclear policies.

The conference agreement now before us is the product of many months of hard work by House and Senate conferees. As conference chairman, I can say with some confidence that the agreement reflects a balance of many diverse views. By taking up this conference report, the House is not only fulfilling its responsibility to authorize appropriations for the NRC; we are also acting on a bill which has significant policy implications.

I would like to summarize some of the conference report's major provisions.

FUNDING LEVELS

For the first time, the Conference agreement is a 2-year authorization for the NRC. I believe the 2-year cycle can reduce significantly our congressional legislative workload without impairing our ability to oversee the NRC. The conferees agreed that the total amount authorized to be appropriated for fiscal year 1982 would be $485.2 million. The total is $15.5 million below the Commission's January 1981 request, comparable to the Senate bill and $673,000 less than the House bill. The conference report would authorize $513.1 million in fiscal year 1983. The 1983 total is $26.9 million below the NRC request of January 1981 and the Senate bill. The 1983 total is comparable to that provided for in the House bill.

I want to note that the conference agreement retains the specification that $4.5 million is available in fiscal year 1982 and $5.5 million in fiscal year 1983 for gas cooled reactors. These funds have been earmarked because the conferees agreed that, in comparison to light water reactors, gas reactors are potentially advantageous with respect to safety, uranium requirements, and cooling water needs.

With reluctance, I agreed that some $24 million should be authorized each year for licensing of Clinch River and other fast breeder reactor activities. I believe at this time that breeder related work at the NRC should be put on the back burner. Along with many of our colleagues, I have stated repeatedly that to proceed with Clinch River at this time is unwise. Nevertheless, a majority of Congress until now has gone along with the administration; and in this context, the NRC should be authorized funds for regulatory activities related to breeders. The conferees did agree, however, that if the Clinch River project is terminated, that the breeder related funds shall be used for other purposes in the NRC offices for which they are authorized.

TEMPORARY OPERATING LICENSES (TOL)

I have mixed feelings about the temporary operating license (TOL) provision.

This provision was originally rationalized on the ground that the NRC staff had fallen behind in its licensing schedule as a result of an additional workload resulting from the accident at Three Mile Island. As a result, it was claimed, significant numbers of reactors would be sitting idle because the NRC and its licensing boards had not been able to address them on a timely basis. Since the temporary operating license (TOL) provision was proposed, experience has shown that plants have not been ready to operate on the schedules published by the NRC last year.

I have supported this measure only with the understanding that the Commission itself will devote special scrutiny to any reactor that might be allowed to operate prior to completion of hearings. I intend to closely monitor the Commission's activities in this area.

I hope that both the Commission and utilities anxious to bring their facilities on line will take due note of the concerns of those who believe these provisions have abrogated their right to a full airing of the issues. It will be unfortunate if the price paid for a few months of reactor operation is growth of the belief that the nuclear regulatory process is more concerned with protection of utilities' investments than it is with protection of the public health and safety.

SHOLLY DECISION

The conferees agreed to grant the Commission new authority to approve and make immediately effective certain amendments to licenses for nuclear power reactors. This could be done upon a determination by the Commission that the amendment involved no significant safety hazards consideration.

I have supported this provision with the understanding that it will not be used to circumvent hearing rights or other of the Commission's procedures intended to assure that reactors are operated in a manner to provide the highest practical level of protection to the public health and safety. I expect that the Commission, in exercising its authority under this provision, will take great care to prevent undermining of its intent.

QUALITY ASSURANCE

The bill's provisions on quality assurance stem directly from what is now perceived as an exceedingly severe problem. Over the last year it has come to light that, in spite of extensive resources devoted to inspection of reactors under construction, major breakdowns have occurred in the quality assurance programs required by the Commission's regulations. As a result of these breakdowns, the Commission must now determine whether virtually completed nuclear reactors have been built in accordance with its regulations. There are enormous costs associated with making such a determination long after concrete has been poured and welds are in place. Moreover, I believe the NRC would have great difficulty in confronting a situation where it was economically infeasible to determine that a plant was in compliance with regulations.

I fear that rather that denying a license to a plant constructed with disregard for quality assurance requirements, the Commission will accept rationalizations as to why compliance is unnecessary. I will remind my colleagues of the self-defeating nature of pressures upon the Commission to expedite licensing of plants where there is considerable doubt as to the quality of construction. A serious accident at such a plant would for the foreseeable future end public support for any expansion of the nuclear technology; in such circumstances it would be immaterial whether the proposed expansion were to be in the form of additional powerplants or reprocessing facilities or breeder reactors.

USE OF SPENT FUEL IN NUCLEAR WEAPONS

The conference report contains an exceedingly important provision to prohibit the use in nuclear weapons of plutonium produced in licensed nuclear reactors. It constitutes an expression of congressional intent that we adhere to the historic assumption that a clear distinction can be made between the user of fission for electric production and the use of fission to produce plutonium for bombs.

URANIUM SUPPLY

As is now well known, I have qualms about the conference report provisions that might restrict uranium imports and allow modification of uranium enrichment criteria for purposes of increasing use of domestic uranium. I am fully aware of having to make the painful choice between maintaining a healthy uranium industry and adopting policies that could lead to restrictions upon our exports in other areas. With a view toward the deteriorating employment situation at our uranium mines, I reluctantly came down on the side of providing modest help to the uranium industry.

At the same time I want to call attention to the conferees' statement regarding uranium enrichment policy. This is that changes in enrichment criteria should be made only after due account has been taken of the need to operate our enrichment facilities in an efficient manner. In addition, changes in enrichment criteria should be made only after careful consideration is given to the effects of such changes upon the price paid by utilities for uranium and enrichment services.

I would like to reiterate that in voting on this conference report our primary concern should be the safety and reliability of operating reactors and those under construction. Should this goal be achieved and should the waste problem be resolved and should public confidence be established, the technology will as likely as not play a

more prominent role than what we might now predict. To achieve this end it would be more productive to use our energies to assure light water reactor safety and efficiency rather than in engaging in sterile debate over reprocessing, Clinch River, and nuclear licensing reform.

Mr. Speaker, a number of my colleagues have asked me the status of the debate on this matter this afternoon, and before I yield to some of my colleagues, let me outline the situation.

We have had before us today, Mr. Speaker, the conference report on this important bill. During the course of the proceedings today, an amendment by the gentleman from Minnesota (Mr. FRENZEL) was adopted which struck from the conference report certain matters relating to import restrictions on uranium. For this reason, we now have to go back to the Senate to confer further on this matter.

So this will probably conclude, once we vote on the motion now pending, to go back to the Senate, it will conclude our action on this bill today.

Mr. Speaker, I do have several colloquies between Members who wish to make further points in connection with this legislation.

I do not anticipate a vote on the motion I have just made, but there could be one.

We hope to be able to get out of here in the next 25 or 30 minutes after we have concluded with these colloquies which I have referred to.

Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. DOWNEY).

Mr. DOWNEY. Mr. Speaker, I thank the chairman for yielding this time to me.

I would like to have a colloquy with my colleague, the gentleman from New York (Mr. OTTINGER).

Mr. Speaker, the temporary operating license provision passed last year by the House and contained in the conference report was intended to authorize the Commission in its discretion, to issue a limited operating license to a utility prior to the conduct or completion of any required hearing in order to prevent completed nuclear powerplants from standing idle pending the completion of such hearings. A temporary operating license could not be issued unless, in all other respects, the requirements of law are met, and the Commission determines that there is reasonable assurance that the operation of the reactor will not adversely affect the public health and safety and the environment. Am I correct to conclude, therefore, that there is nothing in this provision which would allow the Commission to short-circuit its required safety review, or, in any way, to require a less stringent safety standard for a reactor which receives a temporary operating license?

Mr. OTTINGER. Mr. Speaker, if the gentleman will yield, that is correct. This bill does not affect the standards and requirements to be applied before a plant goes into operation. The standards the NRC must apply for a plant undergoing temporary operating license review and review for a "regulator" operating license are exactly the same.

Mr. DOWNEY. The Commission currently makes a distinction in its emergency plan requirements based on authorized reactor power levels. Is there any provision in this act which would allow the Commission to make a distinction, for purposes of emergency plan requirements, based on power levels authorized by a temporary operating license and levels authorized by a "regular" operating license?

Mr. OTTINGER. The answer is "No." There is no provision in this act which allows the Commission to make any distinction in requirement for reactor operations authorized by temporary or regular operating licenses.

Mr. DOWNEY. The conference report allows the NRC to issue an operating license if it determines that a State, local or utility plan exists which would provide reasonable assurance that the public health and safety would not be endangered. Is this a change from current regulations?

Mr. OTTINGER. Yes. Currently, the NRC requires an approved State or local government plan. This provision allows the NRC to consider a utility plan only in the absence of a State or local government plan. The reference to a State or local plan is clearly intended to apply only to a plan which has been officially submitted by a State or local government. A utility, therefore, cannot submit a local government plan. NRC consideration of a utility plan is a last resort and is not intended to preempt a State or local plan. This legislation does not in any way affect the authority of the Federal Emergency Management Administration with respect to its authority and requirements regarding emergency management plans.

Mr. DOWNEY. I thank the gentleman.

The SPEAKER pro tempore. The Chair now recognizes the gentleman from New Mexico (Mr. LUJAN) for 30 minutes.

Mr. LUJAN. Mr. Speaker, I reserve my time.

Mr. UDALL. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, I thank the chairman for yielding this time to me.

I would like to engage the chairman of my subcommittee of the Committee on Energy and Commerce in a brief colloquy, if I may.

I note that with respect to section 12 of the bill, the so-called Sholly provision, the statement of managers emphasized that, in determining whether a proposed amendment to a facility operating license involves no significant hazards consideration, the Commission should be sensitive to those license amendments that involve irreversible consequences. As chairman of the subcommittee that originated the Sholly provision in this House, do you understand that statement to mean that the Commission should be especially careful in evaluating, for possible hazards considerations, amendments that involve irreversible consequences?

Mr. OTTINGER. Yes, that is exactly what I understand our intent to have been. Once a license amendment with irreversible consequences has received the Commission's approval and has gone into effect, as a practical matter it will be impossible to correct any errors that may have entered into the Commission's decision. Therefore, we believed that the Commission has an obligation, when assessing the health and safety considerations of amendments having irreversible consequences, to insure that only those amendments that very clearly raise no significant hazards issues will be allowed to take effect before the required hearings can be held.

□ 1630

Mr. LUJAN. Mr. Speaker, will the gentleman yield?

Mr. MARKEY. I yield.

Mr. LUJAN. Mr. Speaker, we have not had an opportunity to review the colloquy. We do not know if we necessarily agree with how the question was phrased or how the answer was phrased. I understand it requires additional hearings depending on the answer that the gentleman gave to the gentleman from Massachusetts, and I am not sure that we want to complicate the matter further.

Mr. SPEAKER pro tempore. The time of the gentleman from Massachusetts has expired.

Mr. UDALL. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. Mr. Speaker, I would like to say to the gentleman from New Mexico that I do not think there is anything in here with which he would disagree. We are just underlining that with respect to our treatment of the Sholly provision, that license amendments having irreversible consequences should be handled with particular care by the Commission. They ought not to be granted unless it is quite clear that there are no significant hazards.

Mr. LUJAN. Mr. Speaker, will the gentleman yield?

Mr. OTTINGER. Yes.

Mr. LUJAN. In answering that, was it clear that no additional hearings are

necessary by the Nuclear Regulatory Commission in determining what a significant hazard might be?

Mr. OTTINGER. This does not change the statute in any way. It just gives guidance to the Commission that they should take particular care when it comes to a matter before them having irreversible consequences.

Mr. LUJAN. Just to make due diligence, but not necessarily to say that we will have more hearings to be absolutely correct in what the gentleman described a particular hazard as being significant or insignificant.

Mr. OTTINGER. The colloquy does not affect the statutory authority in any way as regards hearings.

Mr. LUJAN. I thank the gentleman.

Mr. OTTINGER. Mr. Speaker, I would like the opportunity to clarify the somewhat confusing provisions of the conference report relating to uranium mill tailings. The provisions attempt to restore some order to the uranium mill tailings regulatory program which had been disrupted by the EPA's failure to issue its standards within the time required by the mill tailings statute. The conference determined that a temporary suspension of the NRC's mill tailings regulations is required to achieve this goal. I understand that there were no other considerations which the conferees intended to address by this suspension.

Mr. UDALL. The gentlemen's understanding is correct. The Uranium Mill Tailings Radiation Control Act required the EPA to set standards for active uranium mill sites by 1980, and required the NRC to issue regulations to protect the public health and safety and the environment which conform with the general standards promulgated by the EPA. Although the EPA has not yet issued its standards, the NRC issued its regulations to meet its obligations under that act. The conference suspended these regulations for the sole purpose of eliminating the confusion and possible conflicting requirements which might occur if the EPA now issues regulations for active mills. It is anticipated that the EPA will issue proposed standards by October 31, 1982. NRC regulations are suspended only through January 1, 1983, in order to allow the Commission time to review its regulations for conformance with the EPA proposed standards. However, the NRC may extend the suspension of any regulation which conflicts with the EPA standards and would require a major commitment which would be unnecessary under the EPA standards. This additional suspension shall terminate no later than April 1, 1984.

Although this new schedule appears somewhat complicated, the intent to prevent a waste of Federal and private resources resulting from conflicting regulatory requirements is clear.

Mr. OTTINGER. Thank you for the clarification. I note that the conference report also requires that the NRC and the EPA give due consideration to the environmental and economic costs of the mill tailings regulations. Is it your understanding that this is not intended to impose a new or different basis for the issuance of regulations or for the review of regulations previously issued?

Mr. UDALL. That is my understanding. The agencies have assured the conference that such factors have been duly considered in the development of their mill tailings regulations. If such regulations are feasible, nothing in this provision would require either agency to reformulate or reconsider regulations which have been issued.

Mr. OTTINGER. The statement of managers contains the following language:

The conferees are of the view that the economic and environmental costs associated with standards and requirements established by the agencies should bear a reasonable relationship to the benefits expected to be derived. At all times, the conferees fully intend that EPA and NRC recognize as their paramount responsibility protection of the public health and safety and the environment.

The statement continues by saying that the conferees do not require that the agencies engage in cost-benefit analysis or optimization. Would it be fair to say that this statement does not require a strict accounting of the costs and benefits or a 1-to-1 relationship of the costs and benefits of implementing the mill tailings regulations.

Mr. UDALL. That is certainly my understanding of this provision.

Mr. OTTINGER. In considering this amendment the conferees were careful to make clear that we do not intend and in fact oppose any interpretation of the conference agreement which would undermine the recent judicial determination of sufficiency of prior agency consideration of cost in promulgation of mill tailings regulations.

Mr. UDALL. Yes, I believe the conference agreement is clear on that point. There is one more issue I would like to clarify regarding the exercise of regulatory authority under these amendments. Section 18(a)(3) of the conference report states that if the EPA fails to promulgate final standards for tailings regulation by October 1, 1983, the Administrator's authority to promulgate such standards terminates. At that point, NRC would continue to regulate tailings under the Tailings Act without regard to any requirement involving the EPA standards.

Mr. OTTINGER. Is it correct that the Commission's existing uranium mill tailings licensing requirements would then automatically go into effect, without constraints related to possible inconsistencies with proposed EPA standards?

Mr. UDALL. Yes, that is correct. The applicability of NRC's existing standards in total would not be left in doubt by any provisions of the amendment.

Mr. OTTINGER. Do the amendments require the Commission to provide any new regulatory review, or notice and comment period, prior to implementation of its tailings regulations?

Mr. UDALL. No, the amendments do not require any new notice and comment or rulemaking period in those circumstances. The Commission has already conducted the proper review and public comment activities with regard to its tailings licensing regulations. There would be no cause for new rulemaking activities simply as a result of the termination of EPA authority to promulgate generally applicable standards. The Commission may determine that it should itself promulgate generally applicable standards for tailings control in the absence of EPA standards. The Commission may also determine in its discretion that its existing tailings regulatory requirements require amendment at any time, or prior to promulgation of standards of general applicability by the Commission. If so, any such amendments to its requirements shall be adopted after notice and opportunity for public comment.

Mr. OTTINGER. Thank you. That is consistent with my reading of the language.

Is it your understanding that any NRC hearing, whether a licensing hearing or a special hearing, such as the Indian Point safety hearing, should cover all substantial safety concerns sought to be raised by the public and their representatives and given as full and fair a hearing as possible?

Mr. UDALL. Yes, I agree with the gentleman. We do not intend in any way to limit or restrict access to the Commission by the public nor to limit the kinds of issues the Commission can consider in carrying out its responsibility to protect the public health and safety.

PARLIAMENTARY INQUIRY

Mr. STRATTON. Mr. Speaker, a point of order.

Are the gentleman from New York and the gentleman from Arizona establishing statutory legislation with these colloquies? They are giving to the EPA something that it does not have under the statutory law, or to the Nuclear Regulatory Commission.

The SPEAKER pro tempore. The gentleman from New York fails to state a point of order.

Mr. STRATTON. Well, it is a point of inquiry, Mr. Speaker. I am trying to determine whether this colloquy is

going to go down in the law books as being the law of the land, because it certainly differs to what the legislation at the present time. The Nuclear Regulatory Commission has no authority over mill tailings or has any authority to direct the EPA.

The SPEAKER pro tempore. The Chair is unable to respond to the gentleman's inquiry. The response will have to come from the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Speaker, let me say to the gentleman from New York that obviously we cannot with a colloquy change the law. We cannot change the conference report. We can indicate what it means and how it is interpreted by Members who served on it. If there is any understanding by the gentleman from New Mexico or by the gentleman from New York, we can work it out.

Mr. STRATTON. I would like to reserve my objection on this effort to clarify the law of the land.

Mr. LUJAN. Mr. Speaker, will the gentleman yield?

Mr. OTTINGER. I will be glad to yield.

Mr. LUJAN. Mr. Speaker, let me ask the gentleman in terms of which will be paramount, whether it is safety or the environment or cost. I do not believe that anyone would say that health and safety needs should suffer any, but would it be fair to summarize the entire question of economics as one that would say, if the risk is small, the cost of rehabilitating those fields would be small, and if the risk is great, then of course there would be some reason for the cost being great. Is that a fair summary of the intent of the legislation?

□ 1640

Mr. OTTINGER. I think it is. The conferees spent a great deal of time discussing this when we came out with that resolution. Of course the health and safety considerations ought to be paramount but economic considerations ought to be considered.

Mr. LUJAN. And seriously considered.

Mr. OTTINGER. Where you have very small risks and very large economic consequences we intended that that be taken into account.

Mr. LUJAN. I thank the gentleman.

Mr. UDALL. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. MOORHEAD)

Mr. MOORHEAD. Mr. Speaker, this important bill embodies a broad, bipartisan compromise reached through arduous and long negotiations by the leadership of both authorizing committees. The compromise includes much of the substance of the bipartisan amendments sponsored by Mr. DINGELL, Mr. OTTINGER, Mr. BROYHILL and myself in the Commerce Committee, and adopted by nearly a two-thirds majority in that committee last June.

Additionally, after our committee completed action on the bill, Mr. UDALL and Mr. LUJAN, recommended, on behalf of the Interior Committee, further compromise language very similar to amendments which had been defeated in our committee. For example, we include in this bill language on State consultation similar to that offered by Mr. MOFFETT. We also include language on two-step interim licensing similar to that supported by Mr. MARKEY and Mr. SYNAR.

In short, this bill represents compromise on top of compromise that is really a tribute to the leadership of the two relevant committees. I also would like to commend Mr. BEVILL and Mr. MYERS of the Energy and Water Development Appropriations Subcommittee for focusing attention on the urgent need for licensing reforms at the NRC.

Not only will the licensing reforms adopted in this bill speed the licensing of nuclear powerplants while maintaining public safety and sound environmental protection, but this bill also is decidedly proconsumer and anti-inflation. The licensing reforms contained in this bill will help avoid over $2 billion in higher electric rates and consumer costs due to NRC delays in licensing nuclear plants. Additionally, DOE estimates that these reforms will help reduce U.S. dependence on foreign oil by reducing our comsumption of oil by over 200,000 barrels per day.

If the American economy is going to turn around and expand at the rate we wish to see, we are going to have to utilize every domestic energy source at our disposal. Nuclear power will of necessity be an important component of that energy mix. It is essential that balance be incorporated into the regulatory process, and while we would have liked to have seen stronger and more comprehensive reforms of the NRC licensing logjam, the reforms we do achieve with this legislation go a long way toward restoring some balance in our regulatory process, and thus assuring that nuclear power can remain an option for the American people.

By passing this legislation today, we will be simultaneously helping the beleagered American electricity consumer and dealing a blow to OPEC oil suppliers. I urge my colleagues to support this urgent legislation.

I have just three questions I would like to ask the chairman of the conference, my friend Mr. UDALL, if I may:

First, I would like the distinguished chairman to tell me: Is it not true that where the statement of managers speaks or "irreversibility" in connection with the provisions in the bill relating to the so-called Sholly case, that the conferees intend "irreversibility" to be just one of many factors the Commission may consider in determining whether a license amendment represents a "significant hazard" or "no significant" hazards?"

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. MOORHEAD. I yield to the gentleman from Arizona.

Mr. UDALL. Yes, the gentleman is correct; his statement is true.

Mr. MOORHEAD. My second question is: Is it not true also that the conferees intend that the "significance of the hazard" is far more important in NRC's consideration of a license amendment than "irreversibility"?

Mr. UDALL. Yes, the gentleman is again correct; his statement is true.

Mr. MOORHEAD. Finally, I ask the chairman: Is it not true that the conferees do not intend the Commission to need to show special sensitivity to "irreversibility" in those cases where the Commission determines that "no significant hazards" are involved?

Mr. UDALL. Yes, the gentleman is correct; his statement is true.

Mr. MOORHEAD. I thank the chairman, and I commend his leadership on this bill as well as other bills in which I have been fortunate enough to participate with him.

Mr. UDALL. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. I thank the gentleman from Arizona for yielding me these 3 minutes.

What I wanted to do was to determine what the colloquy between himself and the gentleman from New York (Mr. OTTINGER) was intended to determine.

The basic legislation at the present time provides that none of the money authorized for the EPA shall be spent in dealing with the cleanup of uranium mill tailings. The EPA has established no standards but even if they established the standards there is no money that is going to be available for enforcing them.

I understand the colloquy between the gentleman from Arizona and the gentleman from New York to suggest that the Nuclear Regulatory Commission, pursuant to the section, nongermane section which I took exception to, was now going to be directed to set those standards and to require EPA to enforce them. But there will be no money available even if the NRC directs the EPA to come up with those standards.

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman.

Mr. UDALL. Let me say to the gentleman there is certainly no intention on my part or any willful intent on my part to change the law or the conference report.

I would say to the distinguished gentleman from New York that the NRC is authorized, required to regulate uranium mill tailings by the Atomic Energy Act and the Mill Tailings Act that we passed here a couple of years ago.

The EPA authority is to set general standards to be consistent with these NRC responsibilities.

I think we keep that relationship. I do not think we change it in the conference report. If we do, if the gentleman will point it out, I will try to get it corrected.

We have to go back to the other body, obviously, for other reasons anyhow.

Mr. STRATTON. I want to point out we have a provision in the law at the present time which would deny any money for this undertaking because of the fact that we have not received any competent evidence before our committee that uranium mill tailings have any adverse effect on the national safety or individual health.

Mr. UDALL. I understand the gentleman's position.

Mr. STRATTON. Therefore, in a crucial budget situation such as we are facing, it would be foolish to spend millions of dollars to correct a health hazard that does not exist.

Mr. UDALL. I understand the gentleman's position.

Mr. STRATTON. I hope the gentleman was not amending the law to that extent.

Mr. UDALL. No.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. I was not aware that the Armed Services Committee had special expertise or indeed jurisdiction over health considerations involved. But the fact of the matter is the EPA has failed to issue standards and that is the reason we had to deal with it.

We provided the NRC could go ahead and issue standards on its own if the EPA continued to fail with those standards. That is entirely within our jurisdiction and I think we made the correct resolution.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on H.R. 2330.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL. Mr. Speaker, I have no further requests for time and I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. UDALL).

The motion was agreed to.

□ 1650

IN PURSUANCE OF RESOLUTIONS OF IMPEACHMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 30 minutes.

Mr. GONZALEZ. Mr. Speaker, during this particular point in the session, in the 2d session and waning hours of the 97th Congress, I rise to continue in pursuance of the processes that I initiated earlier in this Congress with respect to two resolutions, one seeking the impeachment of Paul Volcker, the Chairman of the Federal Reserve Board, and the other one having to do with a reform which, as I have said before, is fundamental to any real change in the course of our financial, economic, monetary, and fiscal directions and well being.

At this point I rise to continue with respect to the first resolution. The record will show that I have presented to the House, in the absence of assurance from the Committee on the Judiciary during this Congress that it would give my resolution any consideration, and placed into the RECORD the correspondence between myself and the distinguished chairman of the Committee on the Judiciary, in which he clearly stated that other than referring my resolution to the staff of the proper subcommittee for evaluation—which evaluation has, as far as I know, yet to be made—that there was no possibility that the committee or subcommittee could entertain serious consideration of the matter because of the pendency and the pressure of other matters that the committee had to give priority to.

So I then announced, and it is so recorded, that I would proceed, because I consider this resolution in that class of highly privileged resolutions in the precedent and rules of the House, to make the case to the Assembly, the Congress, the House of Representatives, as if the House would constitute itself then into the committee. And I laid out three general indictable or, in other words, general clauses of impeachment satisfactory to the precedents that have been established thus far by the Congress in the consideration of these matters.

And then I went further, because I felt and feel that it is necessary to be other than general, to be specific, because otherwise there would be no point in laying the case before the House.

As a matter of fact, the resolution itself is couched in general terms because this is exactly why the matters are referred to the specific committees that have jurisdiction: They are staffed, they are funded, in order to pursue these matters in serious purpose, which is all I am seeking.

My intention has not been one of levity. It has not been one of seeking a means of publicity in pursuance of this matter. As I have said repeatedly, if that were my purpose, I think that I have been experienced enough in this matter of political activity to know better, easier and quicker ways to do that.

As a matter of fact, I think the record will show that I have not even made releases when I have presented the specifications of the charges and have become specific.

Now, in the three general categories I have also outlined three specific instances of wrongdoing such as would be envisioned by anybody holding a Federal official accountable under these impeachment provisions of the Constitution.

Unfortunately, there is so much that is not understood or known either by the Members or nonmembers of the Congress—the general public—concerning this proceeding. It is always associated with what has heretofore been the publicity-getting or the attention-getting factors in impeachment resolutions. There have been impeachment resolutions directed against Presidents. Now, very seldom, if at all, outside of those directed against Presidents or members of the judiciary—our third organ of Government—have there been precedents with respect to individuals outside of those two categories, with the exception of during periods of passion subsequent to the Civil War and during the Civil War with respect to a combination of civilian and military. But in a straight category of civilian—Cabinet level, sub-Cabinet level—there is very little precedent. So we have to dig into the history of this, go back to the reasons why the writers of the Constitution included this provision, as reflected in the debate in the Convention, which I have done; and, of course, going back into the history in England, and I guess one of the more dramatic episodes under this type of procedure, and that was the impeachment of Hastings in England which, incidentally, was coincidental with the emergence of our Constitution and our form of government as we have it today.

Now, today I rise in further advancement of some of the doings of not only the Chairman but the colleagues sitting with him, acting as both colleagues and members of the Board, as well as those who sit together with the Board and constitute what is known as the Open Market Committee which, as I have said, was one of the developments that has helped to completely pervert the whole purpose—the congressional intent, the historical reasons why such a thing as the Federal Reserve Act was enacted in 1913.

I have gone into the history of that, so I am not going to repeat it other than to add some specifications or, as I said during the Watergate impeachment hearings, the specificities of the matter.

Now, I have alleged two very timely matters, one that has never arisen since the formation and the acceptance of this Open Market Committee which in effect gives control and the total determination of policy with respect to fiscal as well as budgetary and financial matters of the Government, and the American people as the consequence, the allocation of credit, which is what the whole issue has been since the time that our country emerged first visibly as a Nation under the first two Congresses known as the Continental Congresses and then, of course, the Articles of Confederation, and then, since its inception, the First Congress in 1789, in the processes of giving flesh and blood and bone to this framework we call the Constitution—the utterances of such great Americans as Thomas Jefferson, and subsequent to that, President Jackson, and subsequent to that, almost on the eve of his death, the greatest preoccupation on the mind of Abraham Lincoln was exactly this, which is now an accomplished fact in our Nation. We have lost control of our destiny because economics, the finances, the fiscal and monetary matters of the Nation are the most fundamental of all. What good does it do to have political freedom if the people do not have economic freedom? And we do not. And we are not about to, until the day comes—and I hope it will not come, as I see now that it apparently must be, and that is out of convulsive crisis, which always shows and history reveals is not the best environment with which to act or legislate, much less—and as I see it now, with the specific actions of the leakage of this vital information from what is supposed to be the secret proceedings of the Open Market Committee.

I will, for the record, state that the Open Market Committee consists of five private bankers not answerable to the people, not selected by the Congress, not selected by the President, but five private bankers from the system who then joined the Board in deliberating the basic fate of any administration. Anytime the Open Market Committee wants, it can make or destroy any administration by just simply determining what is going to be the rates on Treasury bills and the like, which it establishes without accountability to anybody except their own fraternity.

□ 1700

You know, of course, we live in a generation and time when most of the kids today do not know what a chicken house is, or much less what a fox looks like. But what we used to say in our day and time is that it is putting the fox in charge of the henhouse. And this is exactly what has been going on.

Now, today I want to add to the first charge in which I raised the allegation. I also presented for the record, it is in the record, the result of a so-called investigation which was not an investigation, and only because some of us raised questions, then within the Banking and Currency Committee, of which I have been a member for 21 years, at the time that the then chairman came before us, and I raised the question to the chairman and finally persuaded the chairman of the committee to direct an inquiry.

So then the Board for the first time went out and was supposed to have appointed a committee—of course all within house—and then they went out and hired a lawyer, the lawyer belonging to one of the firms that does business with the banks, with the principal bank that in effect really is one of the few that is in total, in privacy, in total association, cheek by jowl, with such intimacy that the head of the First City National Bank, Walter Wriston, can demand and get a secret meeting with Chairman Volcker in Florida in order to bail out the speculator, the billionaire, Nelson Bunker Hunt of Texas, who together with a lot of bank resources—over $10, $15 billion—tied up in this ill-begotten venture to try to corner the silver market.

And they can have such power that they can compel or at least he went voluntarily, Mr. Volcker, to a secret meeting in Florida in order to discuss how they could save that situation for the banks and for Nelson Bunker Hunt—in violation of the highest trust that our law sets for those representing the Federal Reserve Board.

After all, as I have brought out, the legal definition of the Federal Reserve Board is that it is the fiscal agent of the Treasury of the United States. I defy anybody to tell me that it acts like an agent. It acts like a master, like the principal, and unaccountable at that, unaccountable to the President who has to beg for an equal secret meeting in the White House, mind you—the only way the President can do anything is to call for a secret meeting with Mr. Volcker in the White House to say, "Hey, Paul, can't you kind of loosen up a little bit right now, I am beginning to get a lot of static on high interest rates."

We do not know what the results of that were, because as I have said before even when these international leaders have summit meetings at least they come out with some communique that says, well, we met and we ate lunch, this, that and the other. We do not even have that to this day from President Reagan and Paul Volcker, after their last two secret meetings, earlier this year.

Now, here they are, ensconced in Florida—that is Nelson Bunker Hunt and Mr. Volcker and Mr. Wriston. They certainly were not down there to look at the dolphins. And they were not there on vacation. And they must have been absolutely, and as has been established exactly what it was they did discuss, because Mr. Wriston, in his smugness, maybe some could say his complacency or arrogance, let the cat out of the bag by not realizing what he was saying. And the enormity of the consequences of interpretation of a meeting of that nature.

Now, what small bank or semismall or semibig in this country having problems can its President call and arrange a meeting with Mr. Volcker? I defy anybody to answer that question affirmatively. There is none.

So it means, then, that this Federal Reserve Board, and since 1923 particularly, has been amenable only to those very same interests that from the beginning, from the inception of our country, have been the ones that have been controlled so as not to take over the mastery of the destinies of a country or its government, and we in our time have failed.

Woodrow Wilson, in 1916, 3 years after the formation of the Federal Reserve Board and the enactment of the Federal Reserve Act, clearly—it is in his writings and speeches—was considering that the number one issue in that he discerned as the rising contest for power, the power today that is before us, the power to determine the fiscal and monetary policies of our people, its government, and whether it is going to be the people or it is going to be Paul Volcker, as it is up to now.

Now, in addition to the secret meetings of Mr. Volcker, there have been subsequent to that others of a similar nature. There have been secret meetings concerning this growing crisis, dramatically illustrated last night by the generous pronouncement to by our President, Ronald Reagan, down in Brazil, in which he said, "Folks, I bring with me $1.2 billion to save the day."

Now, the $1.2 billion matches exactly the 1.2 that Mexico was offered and given just about a month and a week ago.

Now, these are the people who are telling us that that is budget busting, that one-third of that for domestic needs to invest in America is budget busting and inflationary. But here grandiosely we announce through the President $1.2 billion—for whom now, for Brazil. Well, that is the way it read. Like the public announcement for Mexico. But it is not for Mexico, it is not for Brazil, it is to bail out Mr. Rockefeller of the Manhattan Bank, Mr. Walter Wriston of the First City National, and the Hanover Manufac-

turers Trust principally in New York, who are up to their necks in these bad, bad loans, and barely can get the taxpayers of the United States to advance enough to roll over the interest payments, not even on the principle.

This is where we are right now internationally, but with such a direct impact nationally.

This could never have happened if we had not diverted and had not allowed that power and the diversion of power to flow to this sequestered oligarchic powerful group whose ambitions and desire for more will never be satiated. No country in the history of the world—even 7,000 years before Christ, mankind in the ancient writs of Hammurabi, clearly reflects the need to have to curb those appetites. they even had then restrictions on interest rates.

And so today, what I want to bring out is the fact that the leaks continued from the open market credit—the open market committee in which you have had speculation that has redounded to the profit and the advantage and to the detriment of the American taxpayers, and the well being of the American people generally.

□ 1710

The specifics of that I will bring out in the next one. This is one additional subpoint to the second category of the charge that I outlined earlier this year.

On top of that, the fact is the people are not fooled. Let me assure my colleagues that we may deceive ourselves into thinking that this is almost undecipherable, that this an almost esoteric subject matter, that only a few select minds are able to understand. Well, that is a lot of bull. The people back home know what is happening. They have known what has been happening. They are way ahead of us. The only thing they do not understand is why—why it is happening, why the Congress, the only bulwark, does not do anything.

After all, I must remind my colleagues that the Federal Reserve Board is not an independent autonomous body springing forth, as I said, from the brow of Jove, but it is a creature of the Congress.

Interest rates are not an act of God. They are manmade, through manmade actions. Therefore, they are susceptible to control and manmade solutions.

The contest is, who are we going to let rule us, the people or the bankers?

The only place I know where the remedy can be forthcoming is here in the Congress of the United States, which is the birthplace of the entity.

It was the Congress that created the Federal Reserve Board. People do not understand why things are not being done. They understand very well what is going on. Nobody is going to kid them. All these speeches we heard on the floor here, ad infinitum, a few weeks ago, about how inflation has gone down, do you think all the folks back home think or will tell you inflation has gone back down 3 percent or 1 percent?

Are rents going down? Are mortgage rates going down? Are the grocery bills less?

Let me assure you they are not and the people know it and that is just a lot of folderol when we try to bull them into thinking that because inflation is down, therefore, it must mean that that is an excuse for unemployment to be up.

Interest rates, if you think that the average businessmen back home, desperately trying to keep his business alive now is pleased because interest rates are affordable, you are deceiving yourselves.

I have businessmen who have been in a family business for over 80 years going out of business now because of the present rates of interest, not the ones that they were supposed to have come down from a few months ago, 17 percent or 16 percent.

You still cannot get money for much less than that now and if you do not believe me, just go out and talk to your businessmen and ask them what they must pay if they want to get a line of credit from their banker today in order to fund their inventories.

What we are seeing is the throttling of the American way and to sit back and say that nothing can be done as reflected—I want to place into the RECORD two recent newpaper articles in which this, I think, very dramatically is illustrated, when Mr. Volcker is quoted as saying just 3 days ago that there is nothing they can do about changing the policy, that he is going to insist on this policy because—he does not say now that inflation is out of control because that will make him a liar, because they just said that because of their policies inflation went down, but that unemployment which is now at unprecedented rates might be a consequence and now the administration is saying that Americans, healthy, able and willing to work, shall forever be reduced to 7 million, no more and no less, to be permanently unemployed; that at no time will it be possible for our economy, which is still a dynamic economy, a growing economy, none of this is going to straitjacket the American people; but what I am saying is that the consequences of this we are going to have to pay for and before not too long.

In the meanwhile, serious attention ought to be given to what it is that can be done. One of the first things that can be done by the Congress is to go back, pick up the unfinished work after 1916, revise some of the actions that the Congress slipped through very quietly in some of the amendments to the Federal Reserve Act very obliquely that I think are indispensable because at this point I think it is irreversible, in my opinion, until the Congress regains control of its destiny insofar as a national policymaking body with respect to fiscal and monetary matters is concerned, it will not happen.

We are faced with what I consider now to be an irreversible reality, which means chaos and catastrophe and us reacting then and floundering out of desperation, which is not the best way to act.

I think always anticipatory action, anticipatory legislation is wise. For this reason over 15 years ago I first introduced in the company of our distinguished chairman, then Wright Patman, that fellow Texan, legislation that I have been reintroducing and is one of this kit that I speak of today.

Mr. Speaker, I yield back the balance of my time with the promise that I will resume this tomorrow with some of the specifics involving the charges that I have raised against Mr. Volcker.

YALE UNIVERSITY PRESIDENT A. BARTLETT GIAMATTI ADDRESSES NATIONAL ITALIAN AMERICAN FOUNDATION EVENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, the National Italian American Foundation recently gave its Career Achievement Award in Education to A. Bartlett Giamatti, the distinguished president of Yale University, and I rise to call to the attention of my colleagues President Giamatti's address to those in attendance at the Foundation's Fourth Biennial Awards Dinner.

The National Italian American Foundation is dedicated to promulgating the positive contributions and achievements of Italian Americans in our society and the Award to President Giamatti was in recognition for his outstanding accomplishments in the field of educational administration and for his contributions to human knowledge through his personal scholarship in the field of Renaissance literature.

President Giamatti's address follows:

ADDRESS BY A. BARTLETT GIAMATTI

Reverend Clergy, Ambassador and Mrs. Petrignani, Senator Sovinelli, Distinguished leaders of the National American Italian Foundation, Ladies and Gentlemen:

This is an extraordinary honor for me, and I am deeply grateful to receive it. To have it presented by a man of the intelligence, integrity and moral courage of Senator Domenici, whom I, like millions of Americans, admire so much, adds a measure

of pride to this award that I shall cherish the rest of my life. To be in the company of your other recipients is to be humbled; indeed, as Mr. Iacocca has implied, to stand next to Miss Loren in a receiving line is not simply to be humbled. It is to achieve a state of abject inferiority.

My father died six months ago and it is he I think of now—he whose parents came young and penniless, as teenagers, to America from proud, poor villages outside of Naples; my father, who with absolutely no money, and by his own zest, brains and work first went to Yale, then to Harvard, and then spent his life teaching and studying the language and culture of Italy, particularly Dante and the Commedia. I am so glad my wonderful sister can be here, so that she and I can both think of him on a night he would have reveled in—as we do.

From my father I learned many things. But central to what he taught me was the centrality of education to the Italian experience and to the fulfillment of the contribution to America of Italian Americans.

From Italy, we all derive a cultural heritage—woven of strands religious, legal, artistic and humanistic. That cultural inheritance is at the heart of, indeed is the heart of, Western civilization. From the Etruscans and the Romans until today, whatever is central to Western culture has come from or been transmitted to Italy. And education has been the main medium for that transmission: the first universities in the world were Italian—in Bologna, in Salerno—for law, for medicine, for that program of ethical education and renewal that was humanism. That heritage is what we uniquely bear from Italy as Italian Americans.

In America, education has always been the way to become an American. In this open, free, mobile society, education has been the traditional American route to full participation in America. It is historically and currently the way merit and brains and character develop themselves. The route to social access and personal fulfillment through education is viewed as a better system than the older, European model that made judgments about people based on blood or social class or inherited wealth. Americans believe in access, mobility, merit. Italian Americans, with enormous gifts, with deep devotion to their old heritage and to this grand, new country, have brought their energies to education and must continue to do so. There have been barriers. There are still subtle and gross forms of prejudice. But we are not alone in being affected by that vicious meanness of spirit and prejudice is not the whole story. We are too proud to forget our heritage; too strong of character and intellect to be deflected from the opportunity there is; too deeply and enduringly attached to America not to want to do for her and all her people the most we can.

Let no one think that Americans of Italian heritage do not fully understand their cultural heritage of education; let no Italian American think America and all she means is not available to her or him through education. Let all of us glory in the talents it is our obligation to fulfill and to share. Let us remember our children, the young women and men of Italian American heritage, who are essential to America. Their education is our responsibility. Through discharging that responsibility, we continue to enrich America.

It is in this spirit I accept this award. On behalf of us here, and all who are not here. Amici miei, vi ringrazio dal cuore, da un cuore pieno dei sentimenti affetuosi e cordiali.●

A TRIBUTE TO DR. PHILLIP CARRUTHERS BROOKS, SR.

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, I speak today in tribute of my constituent and longtime friend, Dr. Phillip Carruthers Brooks, Sr., who died at age 81 on November 27 in Hopkinsville, Ky.

Dr. Brooks, who was involved in numerous local, State, and national medical activities, founded Brooks Memorial Hospital in Hopkinsville to serve the black community. However, through the years, people of all races were served by his private medical facility. The 30-bed Brooks Hospital was built and maintained solely by the physician with absolutely no financial help from the Federal Government.

Dr. Brooks was an honor graduate of Howard University, Washington, D.C., and he graduated at the head of his class from the Howard Medical School. In 1954, he was named "General Practitioner of the Year" by the black National Medical Association. His community further recognized his contributions to Hopkinsville and Christian County by establishing the Dr. P. C. Brooks scholarship to aid in the financing of medical educations for those students financially unable to attend college.

It was my honor and privilege to participate last year in a "This Is Your Life" program at which a large crowd of admirers paid tribute to Dr. Brooks.

His survivors include two sons, Phillip C. Brooks, Jr., and Cowan Henry Brooks, and two brothers, Garland H. Brooks and Paul D. Brooks, all of Hopkinsville, and four grandchildren.

I extend my sympathy to the survivors and friends of this fine gentleman, who was truly an inspiration to those who knew and respected him. Indeed, we have lost an outstanding person who unselfishly gave of himself to his community.

A TRIBUTE TO HON. JACK BRINKLEY, THIRD DISTRICT OF GEORGIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. BARNARD) is recognized for 60 minutes.

Mr. BARNARD. Mr. Speaker, today I have requested this opportunity for this special order to pay tribute to one of the outstanding Members of Congress who will be very shortly retiring from this body and returning to his native state of Georgia. This Member is the Honorable JACK BRINKLEY, the distinguished member-chairman of the Subcommittee on Military Construction of the Armed Services Committee.

Mr. Speaker, when JACK BRINKLEY leaves Congress, we will lose not only the dean of our Georgia delegation, but a valued colleague. JACK BRINKLEY has done an admirable job in tending to the interests of Georgia, especially in military affairs through his contribution on the Armed Services Committee.

JACK BRINKLEY has been a dedicated and diligent public servant. His attendance record in the House has consistently been in the 90-percent range, and he has taken pains to do his homework on any number of projects important to Georgia and its citizens. His reelection to eight terms of Congress is a testimony to how well he has performed his duties for the people of his district.

Although the work and pressures of Congress demanded much from JACK, he did not neglect the other areas of life. An active churchman, he was an influential member of the congressional prayer breakfast group. Nearly every weekend, he returned to Georgia to renew ties with family and friends.

I recall an old saying on his wall which seems to sum up his attitude toward his job and its many responsibilities. It reads, "Don't ever forget who you are, where you came from, and who sent you."

JACK BRINKLEY was one who remembered the needs of his home State, and did an excellent job of fulfilling them. His presence in the next Congress will indeed be missed.

□ 1720

GENERAL LEAVE

Mr. BARNARD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the life, character, and public service of our colleague, the gentleman from Georiga, JACK BRINKLEY.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. BARNARD. Mr. Speaker, I am now pleased to yield to the Honorable EARL HUTTO, the gentleman from Florida.

Mr. HUTTO. Mr. Speaker, I appreciate the gentleman's yielding to me and I appreciate the fact that the gentleman is taking this special order so that we can honor and pay tribute to our beloved colleague, the gentleman from Georgia, JACK BRINKLEY.

Mr. Speaker, the conclusion of the 97th Congress will bring to an end the illustrious and exemplary congressional career of our colleague, JACK BRINKLEY. I am privileged to join others in honoring this outstanding public servant who has served his Georgia con-

stituents and the people of our great Nation in an absolutely superior manner.

JACK BRINKLEY's 16 years of service in the House of Representatives will probably best be remembered for the tremendous contributions he made to the military capability and defense of our country. As chairman of the Armed Services Subcommittee on Military Installations and Facilities, on which I am privileged to serve, he had a significant hand in providing for necessary facilities modernization and improvement projects for our Armed Forces worldwide. He has served the Nation's military needs in the best traditions of Georgia's legendary Armed Services Committee chairman, Carl Vinson. I consider it a high privilege to have had the opportunity to serve with JACK BRINKLEY.

It is with a great deal of respect and appreciation for JACK, and in praise and thanksgiving for this outstanding American, that I pay tribute and ask God's blessings on him and his family.

Mr. BARNARD. Mr. Speaker, I now yield to the distinguished gentleman from Georgia, the Honorable ED JENKINS.

Mr. JENKINS. I thank my colleague from Georgia for yielding to me.

Mr. Speaker, I, too, am proud to pay tribute to JACK BRINKLEY for his outstanding service to our State of Georgia and to the entire Nation.

During his 16 years in the Congress, JACK has achieved many great goals. I will not attempt to list all of those goals, but he served as the distinguished dean of the Georgia delegation for several years.

During the 96th Congress, JACK offered his leadership as a Democratic zone whip for Georgia and South Carolina.

He has been a dedicated member of the Committee on Armed Services and a productive chairman of the Military Installations and Facilities Subcommittee.

He has provided valuable leadership as a member of the Committee on Veterans' Affairs.

He will be remembered for his active role in the field of civil defense, and for introducing legislation pertaining to benefits for military personnel.

He was able to see to fruition a longstanding dream for a regional cemetery at Fort Mitchell.

My warm friend, JACK BRINKLEY, undertook the task of obtaining funds to renovate and expand the Warm Springs rehabilitation complex, the former residence of our great President Franklin Delano Roosevelt.

Mr. Speaker, I could go on and on in listing the great work that JACK BRINKLEY has done. I have known him for over 30 years. When I was a student at Young Harris College, at the same time he was a student there. Later we went to school at the University of Georgia Law School together. At that time he was a perfect gentleman.

I want to say as a tribute to him that of all the people I know, I know of no other human being who is more decent, a more decent person, than JACK BRINKLEY.

So with all of the things that we could say about his career, I can simply say that I have known him for over 30 years. He has never changed. He is a good person, and that is the best that one can say about any colleague. I am delighted to join in this tribute to a real friend, JACK BRINKLEY, whom all of us will miss in the next Congress.

Mr. BARNARD. Mr. Speaker, I now yield to the distinguished gentleman from Connecticut, the Honorable BILL RATCHFORD.

Mr. RATCHFORD. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I, too, join the gentleman in paying tribute to the man I think is the ultimate gentleman. I am sure there are those who would wonder why someone from Connecticut, someone from a Northern State, would get involved in a tribute to a man from Georgia.

Well, I am prepared on behalf of all of our Members on both sides of the aisle to share with our Members the reasons for doing it.

I think there a number of reasons, but above all, what comes through is the man we talk about as the ultimate gentleman, always, thoughtful, always considerate, always willing to take time for Members, regardless of their point of view.

I can recall in my first term here the debate on an issue relating to a matter of great controversy, and that was the expansion of Fort Carson. There was a variety of views, and there were different expressions of opinion. The man called upon to serve as the ultimate arbiter, or referee, or judge, was the man we honor tonight.

He heard it out. He took the time to listen to the different points of view. He worked it through. Even those who represented a different point of view were left with the overriding feeling that they had been treated fairly because that was the nature of the human being whom we speak about this evening.

He is respected on both sides of the aisle. He is indeed the totally effective lawmaker, and from my point of view, the only way I can frame it is that he is a prince of a human being.

Many of us here, from Speaker O'NEILL to the other Members, pride themselves on their respect for this body, pride themselves for the company they keep, but above all, are proud of those who serve here.

Some of us happen to be sports fans. I am one of those. It is rare in sports or life, and certainly rare in politics, when an individual can go out at the top. I think in terms of sports of a Ted Williams, of a Stan Musial, of a Mickey Mantle. The man we honor today is in that tradition. He is the ultimate champion. he has served in this particular case the people of Georgia and the United States well, and he is going out at the top.

So JACK, from this Connecticut Yankee, on behalf of our delegation, and those on both sides of the aisle: "You go with our blessing, you go with our thanks, and above all, JACK, you go with our total love."

Mr. BARNARD. Mr. Speaker, I now yield to the distinguished chairman of the Committee on Veterans' Affairs and member of the Committee on Armed Services, the Honorable SONNY MONTGOMERY.

Mr. MONTGOMERY. Mr. Speaker, I thank the gentleman in the well for giving me this opportunity to honor JACK BRINKLEY.

□ 1730

Mr. Speaker, I had the privilege of arriving in the 90th Congress in 1967, and that was the class of JACK BRINKLEY, and I have had the privilege of the 16 years, wonderful years, of serving with JACK BRINKLEY.

As the gentleman in the well knows, JACK and I now serve on the House Veterans' Affairs Committee. He was the chairman of the subcommittee at one time, and he is now serving on the Subcommittee on Compensation and Pension in the Veterans' Affairs Committee, and also serving on the Housing Subcommittee of the Veterans' Affairs Committee.

He has been very active, and as someone mentioned earlier, he has taken a strong part in getting a regional cemetery in the Georgia-Alabama area for our veterans. He is now serving, as the gentleman in the well knows, as chairman of the Subcommittee on Military Construction of the House Armed Services Committee, which I also have the privilege of serving on. I serve as the ranking member with JACK BRINKLEY on the House Subcommittee on Construction.

As the gentleman will recall, several months ago when JACK closed out his handling of the construction bill on the floor for the military, that the whole House stood up and applauded JACK BRINKLEY for the wonderful job he had done as chairman of the subcommittee.

He has been active in our prayer breakfast group. I recall this morning he was right there at the regular prayer breakfast group. He served one time as president of the House prayer breakfast group.

I would like to say that I have had the privilege of working and being involved with JACK BRINKLEY almost

every day in the Congress when we have been in session. As someone said earlier, he is a decent man, and we will certainly miss him in this House.

Mr. BARNARD. Mr. Speaker, I would like to yield to the gentleman from Texas (Mr. KAZEN).

Mr. KAZEN. Mr. Speaker, I thank the gentleman for yielding to me. I am just so happy that I came through the Chamber at this particular time, because I had no idea, I had not been notified that this special order had been taken to pay tribute to JACK BRINKLEY.

I too, came at the same time that JACK BRINKLEY came to this Congress, along with my colleague from Mississippi, SONNY MONTGOMERY, and several others. There are few of us left from that class. All during the 16 years that it has been my privilege to serve in the Congress I have worked very closely with JACK BRINKLEY. I know him as a great legislator. I know him as a fine gentleman, and I know him as a fine, patriotic, sincere American who has the interests of this country at heart.

His work on the Armed Services Committee is unexcelled by anyone else. He is the chairman, as has been mentioned earlier, of the Subcommittee on Military Installations and Facilities, and I serve on the subcommittee. Serving on that subcommittee, I have known what this man has been able to do for the military, the security of this country, and our military posture all over the world.

Mr. Speaker, we are going to miss JACK BRINKLEY. He has been a tremendous friend. He has been a great legislator, as I have said before, and a man like that will be sorely missed.

I am highly privileged to have been able to call him my friend, and wish him and his family the very best in the future. JACK, we will miss you.

Mr. BARNARD. Mr. Speaker, I now yield to the distinguished gentleman from Kentucky (Mr. HUBBARD).

Mr. HUBBARD. Mr. Speaker, I thank the gentleman for yielding. I thank him for leading this tribute to our esteemed friend and colleague, JACK BRINKLEY.

We have heard these words thus far: "My friend—a decent man—the ultimate gentleman—a prince of a man" and other correct comments attributed to the person, JACK BRINKLEY. During these 8 years I have served in Congress, I have considered him a dear friend and one in whom I have a lot of confidence, and from whom I have received a lot of good advice.

I will never forget, I say to the gentleman from Georgia, one Sunday about 2 years ago when I spoke on Layman's Day at a Baptist Church in Columbus, Ga. After the service, as I stood in front shaking hands with the members of the church, more than half of the congregation who came by, not knowing if others had, asked me if I knew their Congressman, JACK BRINKLEY. Of course, I said that I did, and they spoke very warmly of him and wanted me to know how highly he was thought of in his hometown, Columbus, Ga. That says a lot about him when he is that highly thought of in his hometown, among those who have known him best.

We wish him well. Thank you, JACK BRINKLEY, for what you have done for this particular Congress and for the years that you have been here. As someone said earlier, we wish you Godspeed.

Mr. BARNARD. Mr. Speaker, I yield to the gentleman from Missouri (Mr. SKELTON).

Mr. SKELTON. Mr. Speaker, I thank the gentleman from Georgia for yielding to me.

It is not an easy task for me stand here today and pay tribute to JACK BRINKLEY. Quite frankly, this serves to remind me that he will soon be ending his distinguished congressional career. I say without equivocation that JACK BRINKLEY will be sorely missed by Member of this body, who will miss his leadership both on the floor and in the committees. In his 16 years of service he has been the distinguished dean of the Georgia congressional delegation. He has served as chairman of the Veterans' Committee subcommittees and distinguished himself in some many ways. We have already heard wonderful words of tribute.

Let me just a mention a couple or three things, because in my work here in this House our paths have crossed many times. On each of those occasions they have been most pleasant and most fruitful. JACK BRINKLEY was and is deeply interested in the subject of civil defense. He has performed an invaluable service to our Nation by emphasizing the dual use of civil defense. His efforts have made people aware of the fact that an effective civil defense program can save lives in the event of natural disasters as well as in the threat of a nuclear disaster. It was through JACK BRINKLEY that my work on civil defense received encouragement and suggestions. I wish to thank him for helping row that boat together with me.

Also, as the gentleman knows, he represents an area in Georgia that three of us in this body hold near and dear. That is a place called Warm Springs, Ga. I am one of those three Members who have spent a portion of our younger lives at a place called the Warms Springs Foundation. JACK BRINKLEY's interest and dedication in trying to see that this is a living memorial to Franklin Roosevelt will long endure.

Last, I am pleased to say that I have had the opportunity to know and be with JACK BRINKLEY on those, yea, those many Thursday morning prayer breakfasts, listened to him and talked with him and drawn inspiration from him. There is a saying that in order to have a friend you have to be one. Well, JACK BRINKLEY is a friend, and that is why he has so many friends wherever he goes.

Thank you for the opportunity to say bon voyage to our friend, JACK BRINKLEY. He is a wonderful person.

Mr. BARNARD. Mr. Speaker, I yield to the distinguished gentleman from Kansas (Mr. WINN).

Mr. WINN. Mr. Speaker, when running for political office, it is easy to make promises.

When JACK BRINKLEY was first campaigning for Congress in 1966, he made one promise. "I promise to remember who I am, where I am from, and who sent me."

I believe those words sum up the kind of service the people of the Third District in Georgia received for 16 years when JACK BRINKLEY was their Congressman. He served with devotion and integrity and achieved a degree of respect from his colleagues in the House that we all strive for. JACK is now retiring which strikes a special note in my heart because JACK entered Congress at the same time I did.

The freshman class of the 90th Congress has contributed a great deal to the House of Representatives. JACK BRINKLEY and I came to Washington from different parts of the country as complete strangers, but in the 16 years that I have known him, we have become good friends. A lot has happened since our swearing-in ceremonies and I believe we have grown together as Members of Congress, better able to serve the people who sent us here.

JACK BRINKLEY achieved three subcommittee chairmanships in his tenure in Washington. He served as chairman of the Military Installations and Facilities Subcommittee; he chaired the Veterans Housing Subcommittee in the 94th, 95th, and 96th Congresses; and headed up a Special Subcommittee on Civil Defense in the 92d Congress. JACK is recognized as an accomplished expert in the crucial field of civil defense and has worked to alert the American public to the needs of civil defense in times of strategic uncertainty. JACK has shown his thanks and compassion to America's veterans, having served as an Air Force pilot during the Korean war. His knowledge of military and defense issues is well regarded and he will be missed on the Armed Services Committee with America working to meet the Soviet threat.

JACK BRINKLEY possesses a reasoned sense of self-importance. I base this on his kindness and compassion which couples with a strong consideration for the people of the Third District in Georgia. In his farewell letter addressed to "Friends and Constituents,"

JACK expressed his deep sense of thanks to his closest admirers:

Since I've been in Congress, I've kept in mind that I don't work for the government; I work for you. Soon, at the end of my term, I will be going back to Georgia for good and I wish to report to you that all is well. Thank you for the privilege of being your man in Washington.

Basically, good men and women serve you in all levels of government. At the Federal level, things can be mighty slow, but that's the system our Founding Fathers intended. Had it been otherwise, a monarchy could have been established and government could move with lightening speed.

But here the people govern. Just as surely as they did in Franklin's day. And after the dust settles and after the smoke clears, we can take stock again and know with assurance that ours is the finest country upon which the sun has ever shone.

The House of Representatives is a better place because of the contributions of JACK BRINKLEY. He will be missed. I wish he and his lovely wife Lois many more wonderful years together.

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Mr. BARNARD. I thank the gentleman for his comments.

Mr. Speaker, I am now pleased to yield to another great Member of the Congress who is retiring from this body and who will be sorely missed, and I refer to the Honorable BO GINN from Georgia.

Mr. GINN. Mr. Speaker, I thank the gentleman from Georgia (Mr. BARNARD) for yielding to me so I might say a few words about our distinguished colleague JACK BRINKLEY.

If I have ever known a man, an individual, who wore the title "Honorable" and who is worthy of being honored it is the gentleman from Georgia, JACK BRINKLEY.

JACK was already in the House when I arrived here as a freshman Member in 1973. He has been of inestimable value to me with the advice which he has freely given me. I must say that that advice has always been sound.

JACK has represented his district, in my judgment, as well as any person ever has who has ever served in this position.

JACK has served with great distinction as chairman of the authorizing subcommittee for the Armed Services Committee for Military Construction. During a portion of that chairmanship I had the great privilege of serving as chairman of the Appropriations Subcommittee for Military Construction. In that capacity JACK BRINKLEY and I had the opportunity to work together closely and to test each other's mettle and to get to know each other extremely well.

I know of no man, Mr. Speaker, no person who has ever served here with greater distinction than JACK BRINKLEY. I can say with great feeling and great belief that while this House of Representatives will always be a better place because JACK BRINKLEY served here, and that is a fact, our State of Georgia is about to become an even better place in which to live and work because our friend, JACK BRINKLEY, will be returning there to live at the local level and all of us will have the benefit of his advice and counsel.

My family and I send JACK and Lois and his sons our love. We send them our great thanks for their service to our State and to this great country and to this House.

We wish our friend JACK BRINKLEY Godspeed and we hope that he will continue to give all of us the benefit of his advice and counsel which he has done so ably in the past.

Mr. BARNARD. Mr. Speaker, these comments this afternoon are comments which are felt by so many Members of this Congress, those serving now and those who have served in the past.

There is an expression that is used quite often in this chamber, and that is that someone is a great American. I think that JACK BRINKLEY epitomizes the qualities of a great American as much as anybody I know.

Today we are delighted that we can have this opportunity to pay tribute to him and wish him well in his future activities, and we certainly hope to lean upon him often for advice and counsel as the occasion does develop.

I am pleased at this time to yield to the gentleman from Colorado (Mr. KRAMER).

Mr. KRAMER. Mr. Speaker, it has been my pleasure to serve with JACK BRINKLEY on the House Armed Services Committee's Subcommittee on Military Installations and Facilities for the past 2 years. I have been honored to serve with him, and I am sorry to see him leave.

Mr. BRINKLEY has chaired his committee with competence and dedication. The construction of military facilities is one of the most important elements of our defense strength. Our soldiers, for example, must be trained, equipped, housed, treated for injury or illness, deployed, and exercised. Their equipment and their weapons must be stored repaired, deployed, and eventually retired or otherwise disposed of. Every one of these activities involves a military installation, building, or training ground that was paid for by the American taxpayer and authorized or considered by his subcommittee. In a very real sense, there are few other committees whose activities get so involved in the lives and careers of our fighting soldiers and contribute so much to their fighting effectiveness.

Mr. BRINKLEY has served our Nation's Armed Forces well. He has recognized the problems in past underinvestment in facilities that need such urgent attention. He has recognized the need to build for the future, to put backbone behind the muscle that our Nation has determined to rebuild.

Mr. BRINKLEY's fairness and even-handedness will be remembered by many of the Members who had the privilege of serving under his chairmanship. He was careful to listen to all sides of an argument, to be judicious in his decisions, and considerate in his handling of sensitive issues. These marks of a statesman were also those that he brought to the floor of this body. He has dignified the Congress by being here, and we will miss him.

As he leaves the Congress, he goes with my best wishes. I know that the qualities that he displayed while he was on congressional service will be put to excellent use in his future career. He is the model of a public servant, and will continue to be an asset not only to the people of Georgia, but also to this great Nation of ours.

I wish him the best in his next career. This body has been well served by having people of his character in its membership.

● Mr. LEVITAS. Mr. Speaker, I am pleased to join in this special order to pay tribute to the service of our respected friend and colleague, JACK BRINKLEY. When thinking of JACK BRINKLEY's service, the words honor, integrity and loyalty come to mind. These qualities are embodied in JACK BRINKLEY and in his record of service in Congress.

He is a quiet, but determined and effective force. He has never sought or expected glory or recognition for his efforts, but those of us why know him well and have worked with him so closely all these years know how much he deserves praise and recognition. Clearly, you can say that JACK BRINKLEY is a workhorse not a showhorse.

In 1966, JACK BRINKLEY was elected to Congress to represent the Third District of Georgia. As a candidate for office, Congressman BRINKLEY said "I promise to remember who I am, where I am from and who sent me." In every sense JACK BRINKLEY has lived up to those words.

JACK BRINKLEY epitomizes the meaning of a public servant. He works for the people and has served his constituents and the Nation with distinction. His contributions are many.

JACK BRINKLEY is a native of Georgia, born on December 22, 1930, in the town of Faceville. His hometown, Columbus, Ga., is in the heart of the Third District. In 1949, JACK BRINKLEY received his B.A. degree from Young Harris College, in Dahlonega, Ga., and in 1959 he received his J.D. from the University of Georgia. He taught in the public schools in Georgia from 1949 to 1951, at which time he began 5 years of service in the U.S. Air Force. Jack went on to practice law in Colum-

bus from 1957 to 1959. He served in the Georgia House of Representatives for one term just before coming to Congress in 1967.

Throughout his 16 years of service, JACK BRINKLEY has maintained an attendance and voting record of better than 95 percent. Since 1981 his voting record has been 99.2 percent and he has been present for quorum calls 100 percent of the time. Congressman BRINKLEY has served his colleagues in many ways. The Georgia delegation is particularly grateful for his leadership as the dean of the Georgia delegation. He also serves as a member of the board of directors of the Sunbelt Research Coalition and has served as the president of the House prayer breakfast group, 1979 to 80, and the Democratic zone whip of region VI for Georgia and South Carolina during the 96th Congress.

As a member of the House Armed Services Committee and the Veterans' Affairs Committee, JACK BRINKLEY has done much for the military needs of our country. During the 94th, 95th, and 96th Congresses he chaired the Veterans' Housing Subcommittee.

Many veterans live in the Third District of Georgia and they can be proud of the service rendered them by JACK BRINKLEY. He succeeded in providing for the establishment of the Fort Mitchell Regional Veterans Cemetery. He sponsored successful legislation in the House which is designed to provide for greater coordination and sharing of medical resources between the Veterans' Administration and the Department of Defense. Thanks to Congressman BRINKLEY's efforts veterans and members of the Armed Forces on active duty will benefit from better health care and the Government will save tax dollars in the process.

He has been a leader in the area of civil defense. In the 92d Congress he chaired the Special Subcommittee on Civil Defense and he has continued his distinguished efforts in this area as chairman of the Military Installations and Facilities Subcommittee in the 97th Congress.

The dual-use civil defense program has become a familiar and respected concept to us all thanks to the efforts of Congressman BRINKLEY. As the champion of this concept, JACK BRINKLEY has successfully promoted a civil defense program which prepares our country not only for attack-related nuclear disasters, but also for the very real and devastating threats of natural disasters. Congressman BRINKLEY realizes that not only do we need to protect our citizens from war-related disasters, but from disasters such as hurricanes, tornados, storms, floods, earthquakes, et cetera. In all of the debates over civil defense, JACK BRINKLEY has been conscious of the structure of the program and a protector of adequate levels of funding.

In other areas, JACK BRINKLEY has spoken out and his colleagues have listened. He has been a strong advocate of funding for cancer research programs. These efforts have had widespread support in his district and throughout the Nation.

JACK BRINKLEY has been vocal on the issue of social security, and has called for a study on, and a resolution to, the notch problem which has resulted in escalated benefits. Congressman BRINKLEY sees the need to make needed corrections in the system to put social security on a sound footing and assure the continuation of adequate benefits.

The work and service of JACK BRINKLEY has been noted by many. He enjoys a 95-percent rating from the American Security Council for the past 10 years in his votes and efforts to provide for our Nation's defense. He received the "Twice a Citizen Award" this year from the Atlanta chapter of the Naval Reserve Association. As a friend of small business, he has received the Guardian of Small Business Award from the National Federation of Independent Business. He is a member of the Golden Age Hall of Fame of the National Alliance of Senior Citizens; a member of the Advisory Council of the Citizens Committee for Decency Through Law; and a member of the Columbus Metro-Urban League. He is a member of the bar of Georgia, the District of Columbia, and the Supreme Court of the United States. He is a Mason and a member of the Baptist church.

JACK BRINKLEY is married to the former Alma Lois Kite, and they have two sons, Jack, Jr., and Fred, both of Columbus.

As you can see JACK BRINKLEY has accomplished many things. He has many friends in Washington who will be sorry to see him go. We will miss his leadership and his wisdom. But JACK BRINKLEY has not forgotten where he came from or who sent him to serve in Congress. He wishes to go back to his home and be with those people. I know they join us in appreciation for his years of dedication as their public servant.●

● Mr. ALEXANDER. Mr. Speaker, I appreciate this opportunity to participate today in this event recognizing the skills and service of our colleague from Georgia, JACK BRINKLEY.

He was a community leader before the people of Georgia elected him to serve them in Congress and I am sure his talents will continue to be used for the benefit of our people. But JACK's voluntary decision to leave the House will mean a loss strongly felt by those of us interested in and concerned with the needs and problems of our veterans and with maintaining a strong defense as a means of achieving and maintaining a peaceful world.

Having shared interest in national defense and in highway transportation issues, I have learned to know and appreciate JACK BRINKLEY's ability to get results on matters of concern in these areas.●

● Mr. FOWLER. Mr. Speaker, JACK BRINKLEY's 16 years of service in this body have been years of excellent service on behalf of his district, the State of Georgia, and the entire Nation.

Georgians and the Nation's veterans in partrcular owe a great debt of gratitude to Congressman BRINKLEY. His service on the Veterans' Affairs Committee was distinguished by his untiring devotion to the legitimate needs and concerns of those who served this Nation in time of war, and he accomplished much in helping the country show its appreciation for their sacrifices.

As a member of the Armed Services Committee, JACK BRINKLEY has been unfailingly attentive to the interests of his own constituency and conscientious in the discharge of his duty to maintain the strength and readiness of the Nation's defenses. Of course he did a superb job for the installation of his own district, Fort Benning, but I want to express my own appreciation and commendation for his vigilance and effectiveness on behalf of Fort McPherson in my area.

He demonstrated once again his ability to be a gentleman in the heat of battle while maintaining his effectiveness in the battle during the debate in this body over the commitment to purchase C-5B military transport planes. JACK BRINKLEY can win friends and influence people in the best tradition of this body, and he put these talents to good and effective use in that successful effort.

As the dean of the Georgia delegation, Congressman BRINKLEY has been both fair and solicitous of all the needs of all our constitutents in that position of leadership.

It has been a high privilege and a great pleasure to serve in the delegation with JACK BRINKLEY, and I can say with all sincerity that we will miss him.●

● Mr. BEVILL. Mr. Speaker, it is a privilege for me to praise the work of my good friend and colleague, JACK BRINKLEY, upon his retirement from Congress.

JACK and I both came to Congress together 16 years ago, and during these many years of working closely on many issues, I have developed a great respect for him. He works hard for the people of the Third District of Georgia. I might also mention that JACK has had the great honor of representing the home district of former President Jimmy Carter.

Since my home State of Alabama borders JACK's State of Georgia, we

shared a great many interests, and I had an opportunity to work with him on matters of importance to both of our States.

I have been most impressed with JACK BRINKLEY's ability to analyze a problem, weigh the merits of proposed solutions, and actively seek the support of his colleagues for the measures which he believes would best solve the problem.

I deeply appreciate the wise advice and counsel which JACK has provided to me on many occasions and I wish him a long and prosperous retirement from Congress. Although this body will greatly miss him, our country is fortunate to have had his unselfish and excellent service in the U.S. House of Representatives.●

● Mr. SAM B. HALL, JR. Mr. Speaker, I hasten to add my praise and heartfelt thanks to our dear friend, JACK BRINKLEY, for the magnificent contribution he has made to this Congress and the Nation.

It has been my distinct privilege to serve with JACK BRINKLEY on the House Veterans' Affairs Committee where he has demonstrated a concern for the Nation's veterans unmatched in its intensity and commitment. Over the years we have worked together on a number of key legislative items affecting the welfare of America's veteran population. I am going to miss his advice and good counsel on the committee, but more important, millions of our veterans will miss his service to their cause.

JACK BRINKLEY represents a great area of this country. His constitutents, like JACK, are very patriotic and have an abiding love of our beloved country. In the great tradition of men like Carl Vinson and Richard Russell, it is good to know that one of their fellow Georgians, JACK BRINKLEY, can fill their shoes as a successful defender and promoter of an adequate national defense.

Many of us in this House have been afforded the honor of visiting Fort Benning, a legendary Army installation vital to the Nation's defense, and located in JACK's district. In fact, I feel certain that there are many in this body who "put in some time" at Fort Benning long before coming to the House. Some of the most outstanding American military leaders of this century are vitally linked to Fort Benning. JACK BRINKLEY is a main reason why Fort Benning continues to be a testing and training ground for our best combat-ready troops.

JACK BRINKLEY has made many friends in this body. His quiet and unassuming manner, perception and understanding the issues, and a keen wit have endeared him to his colleagues. In my judgment he is just too young to retire, but I have a feeling that JACK will continue to put his expertise and experience to good use for his State and Nation.

I have enjoyed my service in the House with JACK BRINKLEY, and I look forward to our continued association and friendship.●

● Mr. GINGRICH. Mr. Speaker, it is with particular regret that I note the retirement of Congressman JACK BRINKLEY. As dean of the Georgia delegation, Congressman BRINKLEY has been a close friend, a teacher and a leader to all of us.

When I was a freshman, before I was even sworn in, I went to Columbus to ask his advice. It was sound advice. He places country above party. He places the national interest above his own. He is committed to speaking for his constituents, rather than for special interests or special causes. Few men in the Congress can match JACK BRINKLEY in his decency, his kindness and his concern for America.

He has been a fine dean of our delegation, and a good Representative for the Third District of Georgia. He played a key role in getting the C-5 contract through. He worked ably and hard on the Armed Services Committee, not just for Fort Benning and Warner Robbins, but to insure that all of America is more effectively defended.

In particular, we will all miss his efforts in civil defense and the statesmanlike position he took in difficult times as he spoke out for programs vital to the survival of this country.

So, with considerable sadness, I say: Have a good retirement and continue to serve Columbus and Muscogee County and the people of Georgia well. We will all miss you.●

● Mr. JONES of North Carolina. Mr. Speaker, it is a pleasure to participate in this special order in honor of my good friend, Congressman JACK BRINKLEY of Georgia. In addition to being an admirer of his legislative skills and ability, I have for many years also had the privilege of being his neighbor in what is generally known as the Methodist Building. Along with many others, I will certainly miss JACK BRINKLEY as he was a dedicated public servant who had the wisdom to attend the sessions and remain silent until he had something to say. Certainly he was the type Representative which all of us admire and his leadership and calm disposition will be missed.

I join with others in wishing he and his family many healthy years and happiness in the days to come.●

● Mr. FORD of Michigan. Mr. Speaker, I have had the pleasure of serving with JACK BRINKLEY for the past eight Congresses and I will miss his presence in the upcoming 98th Congress. As the dean of the Georgia delegation, JACK has ably served his constituents and his Nation in the House of Representatives. The people of the third district have consistently approved of his actions as evidenced by the overwhelming margins of his reelections.

JACK has gained the respect and admiration of the Members of Congress on both sides of the aisle. As an advocate of a strong national defense, JACK has risen to the chairmanship of the Defense Subcommittee on Military Installations and Facilities. JACK has also fought for much deserved benefits for veterans during his tenure in Congress. We will all miss JACK BRINKLEY as he leaves the House of Representatives.●

● Mr. PANETTA. Mr. Speaker, I appreciate this opportunity to pay tribute to JACK BRINKLEY, who is retiring from the House. Working with JACK has been an honor. His commitment to the work of the House and to his constituents has been an example for all of us. JACK's work in the area of national defense has been particularly crucial.

I know I speak for all of my colleagues in wishing JACK the best of luck in the years to come. He has made a great contribution to his constituents and to the country.●

● Mr. HUGHES. Mr. Speaker, I am pleased to join my colleagues in paying tribute to JACK BRINKLEY for his 16 years of dedicated service in the House of Representatives.

Although I never had the privilege of serving with JACK on a legislative committee, I did have the opportunity to become acquainted with him through our congressional prayer breakfasts. On these occasions, I was able to witness the personal warmth, unquestionable integrity, and rare qualities of leadership which have always characterized his work in the House.

Since his election to Congress in 1966, JACK BRINKLEY has represented Georgia's Third District with the highest level of competence and legislative ability, largely through his distinguished service on the Veterans' Affairs and Armed Services Committees. As chairman of the Subcommittee on Military Installations and Facilities, he has served his large military constituency with admirable skill—in the great tradition of his fellow Georgian, Carl Vinson, who retired from his body in 1964.

To all the deliberations of the House, JACK brought a strong sense of personal conviction, honesty, and high moral character which will be sorely missed with his retirement. I am genuinely sorry to see him leave, and wish him much success and happiness in his future endeavors.●

● Mr. MAZZOLI. Mr. Speaker, I wish to add my thanks and appreciation to my friend and colleague, JACK BRINKLEY, the distinguished dean of the Georgia delegation, who is leaving the House after many years of dedicated service.

JACK is a man of high principle and has exhibited tireless effort in his work for the good of his constituents, as well as this Nation. JACK spent many years involved in civic and community affairs before coming to Congress and the ability and skill which he has exhibited here will be greatly missed among the ranks of the House.

I extend to JACK and his family my sincere best wishes for the future as well as my thanks for diligent service in the past.●

●Mr. NICHOLS. Mr. Speaker, I am grateful to our colleague for arranging this special order to honor our distinguished colleague of some 16 years, the Honorable JACK BRINKLEY, who has so ably represented Georgia's Third Congressional District during his tenure in the Congress.

JACK and I came to Congress together. His district joins mine just across the Chattahoochee River from Alabama's Russell County and for some 10 or 12 years now he has been my desk mate on the House Armed Services Committee. I have gotten to know him extremely well. His philosophy and that of my own are quite similar and he has been as close to me as any Member of the Congress, including my own Alabama delegation.

Mr. Speaker, as we gather here this afternoon to express our appreciation for the services rendered by this son of Georgia, there are so many areas I could mention in which JACK has represented his district, his State and his Nation to such good advantage. I would start with the services he has rendered toward strengthening the defense posture of this Nation. JACK has ably represented the Columbus, Ga., area and its No. 1 industry—the Infantry School—housed on what I believe may be the largest military post in the Nation, Fort Benning, Ga. He has left no stone unturned to see that Fort Benning was treated justly in the defense bills passed by this Congress and, through JACK's efforts, this outstanding military post today is a showcase to the armies of the free world.

Then as I reminisce about our friend who is soon to return to practice law in his hometown of Columbus, Ga., I am reminded of the moral fibre and the character which has been an inspiration to us all. JACK has been a regular attender of the Thursday Morning Prayer Breakfast since coming to Congress, and I recall very well the year in which he served as president of this group and presided over the annual President's Prayer Breakfast here in Washington. He ably represented the House of Representatives on this occasion. Finally, Mr. Speaker, a great part of the respect I hold for my colleague stems from his love and his devotion for his family. When Jack served his constituents from his office here in Washington on Monday through Friday, I would venture to say that there were few weekends during these 16 years when the sun began to set across the Potomac that Jack failed to board a flight to Atlanta and back home where he and his family were regular attenders at the Edgewood Baptist Church for Sunday services. His roots remain in the clay hills of the northern portion of his district and in the sandy loam below Upitau Creek and sand hills area of sprawling Fort Benning. Perhaps that is the reason he was so loved by his constituency and why they returned him to Congress year after year with little opposition.

When Jack elected to leave the Congress, he wrote a letter to his constituents in Georgia's Third Congressional District which I believe is worthy of insertion in the RECORD of this special hour. The promise he made to his constituency 16 years ago when he first ran for Congress should be kept in mind by each of the 435 Members of this congressional body.

HOUSE OF REPRESENTATIVES,
Washington, D.C., March 4, 1982.

DEAR FRIENDS AND CONSTITUENTS: Since I've been in Congress, I've kept in mind that I don't work for the government; I work for you. Soon, at the end of my term, I will be going back to Georgia for good and I wish to report to you that all is well. Thank you for the privilege of being your man in Washington.

Basically, good men and women serve you in all levels of government. At the federal level, things can be mighty slow, but that's the system our founding fathers intended. Had it been otherwise, a monarchy could have been established and government could move with lightning speed.

But here the people govern. Just as surely as they did in Franklin's day. And after the dust settles and after the smoke clears, we can take stock again and know with assurance that ours is the finest country upon which the sun has ever shone.

Sincerely yours,

JACK BRINKLEY,
Member of Congress.

THE TIME TO SAIL

I've always remembered a Millard Grimes column when he was leaving the *Enquirer* years ago. Quoting Frost, he spoke of a fork in the road offering a choice of two paths and his decision to take the path less traveled.

I feel about the same way in announcing my withdrawal from public service. For a long time my family and I have considered the happy prospect of a return to private life where family things can come first again. Therefore, after completion of my term in 1982, I shall not be a candidate for public office again.

Let me answer in advance two questions which might naturally be wondered about.

First, my health is fine and I hope for quite a few more happy birthdays.

Also, my political health is fine, and I believe those who "Back Jack" could handle another election, or several other elections, reasonably well, because my relationship with the people back home has always been one of friendship and service. I understand that the opposition party has recently conducted polls across Georgia and I have no idea as to what the results are. But even though they were picking and asking the questions, it would be interesting for that poll to be made public.

ANOTHER TIME AND ANOTHER SEASON

In 1966 one of my most important campaign messages employed the familiar words, "There is a time for every season; a time to speak and a time to be silent." After eight elections to Congress, there is another time and another season for me.

I have been faithful to the Edmund Burke philosophy of putting constituent interest always, ever, before my own;

I have not sought or received improved financial status from public life, but in terms of good will, I have been doubly blessed;

I have built an attendance and voting record which I commend to our future Representatives as a high standard of service and the first line of responsibility.

In summary, after doing my best as a Representative of the people, I welcome the change of season and face it without regret. The time to sail is on the high tide.

This has been my most successful year ever in Congress. As Chairman of the Military Installations and Facilities Subcommittee, major achievements have been attained in both military construction and civil defense law. Also, as a member of the Veterans' Affairs Committee, I have seen the fruition of a long standing dream for a regional cemetery at Fort Mitchell.

The decision is a timely one. Reapportionment has been attended to in a fair and objective manner without the temptation to which our District might have been subjected had there been no incumbent. In my testimony to the Reapportionment Committee last May, I was careful to offer my best judgment "without regard to incumbency." That outcome provides continuity for an excellent, well-rounded, national defense-oriented Third District.

Another factor related to tenure. To delay too long would do myself and my famly the disservice of being put unnecessarily in the 1982 political arena; to announce too early would limit effectiveness within the Congress. Halfway through the term, between the First and Second Session of Congress, seemed to be the best time.

PROUD TO BE A DEMOCRAT

The inspiration of public office is serving people and that's where the exhilaration is, too. There's more satisfaction in giving people a helping hand than having political power. Although I'm proud to be a Democrat, I couldn't be a very good party man because I couldn't vote simply on the party-line basis. To have made a pledge, and to have tried to keep it . . . "to remember who I am, where I'm from, and who sent me," has assured a Third District of Georgia uniqueness and independence, which is reflected in my voting record. I have not been a "yea sayer" for Presidents or groups, but have honestly tried to hear the voices of others and exercise my own independent judgment in casting my ballot. As a product of Georgia, naturally, my votes reflecting my own conviction are more often than not in consonance with those of the people who sent me.

Sometimes it gets lonesome when there is another promise to keep—to go with men of either party in pursuit of right, as you see it, or to go it alone if necessary in opposition to wrong. But not often. I can vouch for the fact that public officials by and large care about people, about fairness and about right.

This leads me to a word about candidates. They are offering to serve, and it seems to me that we should treat each and every one of them with respect and courtesy. To presume the best in others is good practice and reflects credit to ourselves. The candidate himself should stand for something.

MY WIFE

At this point a word about my wife, Lois, seems to be in order. She has been a good soldier in the finest of traditions. She is a veteran of the Washington scene during my early years in Congress. We have lived in Silver Spring, Sleepy Hollow, Vienna, Alexandria, the Methodist Building in D.C. and in McLean. She has displayed immense fortitude, along with our children, who, because of our sojourn, have attended all too many schools and have lived in all too many neighborhoods.

Lois has dealt with a tornado, break-ins, and being alone, but has still managed to treat the role of homemaker as a high calling. She is a high credit to me.

GOODBYE

In conclusion, I wish to sincerely thank all citizens of the 3rd District. Congressional service has been the highest of privileges. But because those "miles to go and promises to keep" have been arduous ones, through long skies and crowded terminals, homecoming looms as a great attraction. My fondest hope is for your welcome and continued goodwill.

It will be a time where I can be at the controls of an airplane again, as I was before; a time where I can experience the drama of a courtroom, or solitude of the Library of Congress, or excitement of the classroom—as I did before; it will be a time when I can put my family first again, as I did before.

There is a time for every season! And for every season one should be glad and give thanks. I am, and I do.

JACK BRINKLEY.

BIOGRAPHICAL

Congressman Jack Brinkley is the first Member of Congress from Columbus, Georgia, to serve in this century.

(a) Rep. Thomas Wingfield Grimes—last served, 1887-1891.

He has served in Congress second longest of any Georgia Third District Representative since the War Between the States.

(a) Speaker Charles Frederick Crisp, 14 years—March 4, 1883-Oct., 1896.

Rep. Stephen Pace, 14 years—Jan. 3, 1937-Jan. 3, 1951.

Rep. Elijah Lewis ("Tic") Forrester, 14 years—Jan. 3, 1951-1965.

Rep. Charles Robert Crisp, a little over 20 years—Dec. 19, 1896-March 3, 1897 and March 4, 1913-Oct. 7, 1932.

Rep. Brinkley is in his 16th year of service, Jan. 3, 1967 to present. He is dean of the Georgia Congressional Delegation. He is a member of the House Armed Services Committee and chairman of the Military Installations and Facilities Subcommittee. He is a member of the board of directors of the Sunbelt Research Coalition, Inc.

Rep. Brinkley's voting record: 1967 through 1980-record votes 96.1% and quorum calls 94.1%; 1981-record votes 99.2% and quorum calls 100%.

Congressman Brinkley has also served as:

President of the House Prayer Breakfast Group, 1979-80; Democratic Zone Whip for Region VI for Georgia and South Carolina during 96th Congress; Chairman, Veterans Housing Subcommittee—94th, 95th and 96th Congresses; and Chairman, Special Subcommittee on Civil Defense—92nd Congress.

Education:

Young Harris College—honor graduate; University of Georgia School of Law—Juris Doctor degree Cum laude.

He is a member of the Bar of Georgia, the District of Columbia and Supreme Court of the United States.

Rep. Brinkley was a USAF pilot during the Korean War and served for 5 years.

He is a Mason, a Baptist, is married to the former Alma Lois Kite, and they have two sons, Jack, Jr. and Fred, both of Columbus.

"I promise to remember who I am, where I'm from, and who sent me."—Jack Brinkley, Candidate for Congress, 1966.

I shall miss JACK BRINKLEY as much as I have missed any Member of this Congress and I want to wish for him and his wife, Lois, who is from my own congressional district on the west side of the river, my best wishes for many happy years as he departs from this legislative body.●

● Mr. COELHO. Mr. Speaker, I am proud to join my colleagues today in paying a very special and well deserved tribute to a man who for 16 years has served this House ably, effectively, and loyally, JACK BRINKLEY. Throughout his tenure, he has exhibited an unquestionable allegiance both to his constituents and to this Nation. For those of the Third District of Georgia, his retirement will deprive them of a representative of loyalty and understanding, who has throughout his eight terms continued to remember the words he proclaimed in his first congressional election in 1966,

I promise to remember who I am, where I'm from and who sent me.

For this Nation, a distinguished and faithful servant who cared for and worked for its future will be sorely missed.

Although, within his 16-year tenure, JACK has numerous accomplishments and achievements that will be remembered for years to come, I would especially like to commend his work as chairman of the Subcommittee on Military Installations and Facilities. In his role as chairman, he displayed a great concern for the security of our Nation and accomplished major achievements in both military construction and civil defense law.

I was privileged to be able to serve with JACK on the Veterans' Committee in the 96th Congress, and would like to give well-earned praise to his many efforts on behalf of our Nation's veterans. He worked extremely hard to assist our veterans in many areas where they required assistance.

Throughout his career, JACK has been a steady, thoughtful, dedicated and thorough legislator who earned and won the respect of all who came to know him.

His well-earned retirement at the end of this term will leave a vacancy among our ranks which will be hard to fill. We cannot, however, but wish him the best in the future, while simultaneously suppressing our regret that he will no longer be among us.●

● Mr. DERWINSKI. Mr. Speaker, it is a pleasure to join with my colleagues in paying a well-deserved tribute to our good friend and colleague, JACK BRINKLEY. After 16 years of distinguished service to the constituents of the Third District of Georgia, JACK will be leaving us at the end of this session.

His effective service on the Armed Services and Veterans' Affairs Committees has shown his deep concern for the national security interests of this country. He has been a leader in guiding legislation to strengthen our Nation's defense capabilities and to revitalize our defense preparedness stature. JACK is a true southern gentleman whose love for his country was reflected in his efforts to improve benefits for our military servicemen and women.

His outstanding record of faithful service and his strength of character have earned him an honored place in the hearts of all of us who had the privilege of knowing and working with him.

As dean of the Georgia delegation, JACK has had a distinguished career in the House of Representatives and has served his constituents in Georgia diligently and conscientiously over the years. He has been an asset to the House, and his influence and presence will be missed. I join my colleagues in extending JACK and his family my very best for their future endeavors.●

● Mr. FUQUA. Mr. Speaker, during the 16 years we have served together in this body I have come to know JACK BRINKLEY not only as a competent and effective colleague but as a true friend.

Though our districts do not join, JACK BRINKLEY and I have had many occasions to work together because the Chattahoochee River, which flows through his district, joins with the Flint at the Florida-Georgia border to form the Apalachicola River, which flows through my district.

While the interest of our constituents sometimes varied on the appropriate management of this tririver system, JACK and I have usually managed to find areas of compromise which have resolved the problems faced by those we represent.

I use this example as a means to underscore one of the qualities that have made JACK BRINKLEY such an honored and respected Member of this House.

He never flinched from facing a difficult issue, always exhibited a willingness to listen to opposing views, and, when possible, compromised to attain the greatest good for the greatest number.

His long and exemplary record of elective service to his fellow man which started as a State legislator

ends at the close of the current session of Congress.

We will all miss his knowledge, his intellect, and his dedication.

But most of all we will miss his presence among us.●

● Mr. ANNUNZIO. Mr. Speaker, I rise in tribute to the Honorable JACK BRINKLEY, who has dedicated his life to public service, and the last 16 years to ably representing the people of the Third District of Georgia in the U.S. House of Representatives. As the senior Member of the Georgia delegation in the House, his tireless efforts on behalf of his constituency, and on behalf of all citizens of the United States are truly commendable.

Before his election to the House of Representatives, JACK taught in the Georgia public school system, served in our country's Air Force as a pilot from 1951–56, and practiced law. He also served in the Georgia House of Representatives from 1965–66, and has served as Georgia State volunteer March of Dimes chairman of the Muscogee County Muscular Dystrophy Association.

Elected to serve in the 90th Congress in 1966, JACK BRINKLEY has been a dedicated Congressman since that time, serving with distinction as chairman of the Subcommittee on Military Installation and Facilities of the House Armed Services Committee, and as a Member of the House Veterans' Affairs Committee. His efforts in these committees have been both fruitful and beneficial to the citizens of this Nation.

JACK is a fine legislator, and a Congressman of compassion, courage, and patriotism, who has provided exemplary service to our beloved country. He will be missed by those of us in the House of Representatives who have had the pleasure of working with him.

I extend to JACK BRINKLEY my best wishes for continued success in devotion to the highest principles.●

● Mr. WATKINS. Mr. Speaker, it is a privilege to rise today to pay tribute to the distinguished gentleman from Georgia, my good friend and colleague, the Honorable JACK BRINKLEY.

During his 16 years in Congress, JACK BRINKLEY has served his State and this Nation well. He is a man of the highest integrity, and has made tremendous contributions to our Nation's well-being. His service as chairman of the Military Installations and Facilities Subcommittee of the House Armed Service Committee has been exemplary, as has his service as a member of the House Veterans' Affairs Committee.

One thing that many people do not know about JACK BRINKLEY is one of the things that I appreciate most about him—every Thursday morning I look across the table at the congressional prayer breakfast, and there sits JACK BRINKLEY. He is a very busy man, yet he finds the time to regularly attend prayer breakfasts with his colleagues. He has, in fact, served as president of the national prayer breakfast. I will always cherish the brotherly love I have been fortunate enough to share with JACK as a result of our prayer breakfasts.

JACK is a gentleman of the highest integrity who has served as a true statesman in the Halls of Congress. I join my colleagues in wishing him every success in the future. He has chosen to retire from the House, but his presence and contributions in the House will not soon be forgotten. To JACK I extend best wishes for success and happiness in whatever new challenges he undertakes.●

● Mr. REUSS. Mr. Speaker, I am pleased to join in this tribute to JACK BRINKLEY. JACK is one of the finest with whom I have been privileged to serve in my 28 years in Congress. This decent, modest, and courteous man is an exemplary model for all public servants.

As an active member and former president of the House prayer breakfast group, JACK has shared with his colleagues the deep religious faith which guides his thoughts and actions.

He has accomplished much as a member of the Armed Services Committee and as chairman of its Subcommittee on Military Facilities and Installations. He has been the primary sponsor of military benefits legislation which has provided millions of deserving veterans and their dependents with essential medical and dental care. He has also worked hard and effectively for veterans' housing benefits.

I have been particularly impressed with JACK's leadership in establishing the Warm Springs Rehabilitation Complex, and in making it a "living memorial" to President Franklin D. Roosevelt, who gained physical and emotional sustenance from his frequent visits there.

I have enjoyed and benefited from my association with this quiet, generous man from Columbus, Ga. When I spoke at a dinner honoring JACK in Columbus last year, and later visited my alma mater at the Infantry School, Fort Benning, I saw at firsthand how beloved JACK is in the eyes of his fellow Georgians.

His colleagues and this institution will miss JACK BRINKLEY greatly.●

● Mr. ADDABBO. Mr. Speaker, it is with some sorrow that I join my colleagues today in paying tribute to our good friend and colleague, JACK BRINKLEY. JACK has decided to leave the public arena and devote his time and energies to his family and personal pursuits. While we all are happy for both JACK and his family, JACK will be sorely missed by this House.

For the past 16 years, JACK has served his constituents, the residents of the Third Congressional District of Georgia, the House of Representatives, and this Nation with dedication, wisdom, and compassion. As chairman of the Military Installations and Facilities Subcommittee of the Armed Services Committee, JACK has sponsored major legislation affecting America's civil defense program, including the authorization of civil defense funds for natural, as well as nuclear disasters. His work in this area won him recognition from the U.S. Civil Defense Council for his fine work. His efforts on the Veterans' Affairs Committee have been no less notable: He authored many pieces of legislation increasing and extending assistance programs for veterans in housing and education.

The job of Representative is often a demanding, rigorous, and trying one, but JACK proved himself worthy of the confidence of his constituents. I would like now to join my colleagues in wishing him the best in his new private life. He will be missed.●

● Mr. LOEFFLER. Mr. Speaker, JACK BRINKLEY, my distinguished friend from Georgia and dean of the delegation from that great State, will be sorely missed in this House. I extend my great appreciation to JACK for his dedicated leadership in behalf of our armed services and our veterans. Our colleague has truly given the best of himself for his Nation and for the people of Georgia.

Thank you, JACK, for your expertise, your hard work, and your friendship. I wish you the very best always.●

● Mr. MATSUI. Mr. Speaker, it is with great pleasure that I join the Members of the Georgia delegation in paying tribute to the Honorable JACK BRINKLEY, who is retiring from this House after 16 years of distinguished service. His constituents in the Third Congressional District of Georgia, the Members of this body, and our Nation will miss his steady leadership and effective advocacy on behalf of Americans, especially veterans.

I had the privilege of working with JACK on many projects of great importance to my constituents in the Sacramento area during his tenure as chairman of the Armed Services Subcommittee on Military Installations and Facilities. Throughout these efforts, he demonstrated his consummate skill as a legislator, and I developed great respect for his intelligence, manner, and ability.

My legislative experiences with JACK were reflective of his basic concern about crafting laws that improved the lives of our citizens, particularly those in the military community. He labored diligently on the behalf of retired and active military personnel by sponsoring legislation to provide them with essential medical and dental care. In addition, JACK's deep interest in the welfare of our Nation's veterans translat-

ed into his successful authorship of numerous measures, one of which insured their access to alternative types of housing.

JACK's impressive record of legislative achievement is one of which he and his constituents should rightly be proud. I admire, and I am certain that this feeling of admiration is shared by every Member of this House. In closing, I extend to my respected colleague, JACK BRINKLEY, my regards and best wishes for his continued success in future endeavors as well as a rewarding retirement.●

EDUCATION REGULATIONS

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. PERKINS. Mr. Speaker, for the past 3 years the Committee on Education and Labor has regularly scrutinized all proposed and final regulations for education programs when they are published in the Federal Register. Our review procedures, instituted during these 3 years, involve word-by-word analysis of the regulations to determine whether they follow the authorizing statutes and congressional intent.

To my knowledge, we are the only congressional committee that conducts these detailed examinations of all regulations as a matter of course. Our efforts are bipartisan and, we hope, objective. We carry out this review under the authority of section 431 of the General Education Provisions Act, which also gives Congress the authority to disapprove education regulations when they are inconsistent with the law.

In the CONGRESSIONAL RECORD last March, I inserted statistics showing the scope of the committee's work on regulations. Since that time, we have built upon this record, and our endeavors have produced results.

In August, Congress exercised the section 431 veto authority when we disapproved the regulations of chapters 1 and 2 of the Education Consolidation and Improvement Act because they contradicted the authorizing statute. As a result of our disapproval, the Department of Education recently published important changes to these regulations which will bring them more in line with the authorizing law and insure the smooth operation of the chapters 1 and 2 programs at the school district level.

I am convinced that without our committee's formal review procedures and attention to these regulations in the proposed stage, we could not have moved this resolution of disapproval through both Chambers so expeditiously and with the support of both sides of the aisle.

I wish to highlight the following statistics showing the extent of our committee's regulation work, as updated through the present time:

From 1979 to the present, the committee has reviewed approximately 2,796 pages of final and proposed regulations published in the Federal Register.

These include 112 sets of final regulations and 73 sets of proposed regulations.

One hundred and twelve letters have been written to the Secretary of Education outlining concerns about education regulations. These letters have, in most instances, resulted in the administration changing the regulations in accordance with the committee's observations.

I have no doubt that this process, arduous and time consuming as it is, has paid off enormously. I believe that we have assisted in eliminating many unnecessary requirements and scores of pages of regulations and that our education regulations are greatly improved as a result of our oversight.●

THE REFUGEE ADMISSIONS PROGRAM FOR FISCAL YEAR 1982 AND THE PRESIDENT'S PROPOSED REFUGEE ADMISSIONS PROGRAM FOR FISCAL YEAR 1983

(Mr. RODINO asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. RODINO. Mr. Speaker, the Refugee Act of 1980 (Public Law 96-212) requires the President to consult with Congress prior to the beginning of each fiscal year on his proposals for refugee admissions for the coming year.

The following letter sent on behalf of the President by Ambassador H. Eugene Douglas, U.S. Coordinator for Refugee Affairs, dated September 14, 1982, initiated the consultative process:

U.S. COORDINATOR FOR REFUGEE AFFAIRS,
Washington, D.C., September 14, 1982.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I am pleased to transmit the information required by the Refugee Act of 1980 in preparation for the consultations on refugee admissions for Fiscal Year 1983. In formulating our recommendations, the Administration has fully considered the effect and consequences which our refugee policies have on states and communities throughout the country. We have carefully sought to weigh the domestic costs against the foreign policy and humanitarian implications of these same refugee policies.

The documents transmitted today include proposed refugee admission levels and allocations among groups of special humanitarian concern to the United States. The Administration's final determination on admission levels and allocations will be made after carefully considering Congressional and other views expressed during the consultation process.

Sincerely,

H. EUGENE DOUGLAS,
Ambassador at Large.

Mr. RODINO. The following is a summary of the report to Congress on refugee admissions and allocations for fiscal year 1982 and the President's proposal for refugee admissions and funding for fiscal year 1983:

BACKGROUND

This is a summary of the Report to the Congress on proposed refugee admissions and allocations for fiscal year 1983 which initiates the "appropriate consultation" set out in Section 207(e) of the Refugee Act of 1980. These consultations provide an opportunity for the Congress and the Administration to focus on the domestic and international concerns which influence the complex decision-making process of determining refugee admissions levels.

The Report reviews the refugee situation, projects the extent of necessary participation of the United States in refugee resettlement, discusses the reasons why the proposed admissions numbers are in the national interest, describes plans for refugee movement and resettlement, and analyzes the impact of refugee admissions. The President's proposal has been developed with regard to the views expressed by state and local governments, private voluntary organizations, public interest groups, U.S. agencies and the international community. After considering the views of the members of the Committees on the Judiciary of the Senate and the House of Representatives, the President will make his final determination on refugee admissions levels and allocations for Fiscal Year 1983.

U.S. REFUGEE POLICY

The United States emphasizes the use of diplomatic means to minimize the underlying causes of refugee flows and supports the principle of international responses to refugee problems by encouraging the broadest possible participation of other countries.

The U.S. response to worldwide refugee problems includes relief and resettlement programs. The basic policy is: (1) to provide emergency relief assistance to refugees in place; (2) to support voluntary repatriation whenever possible; (3) to facilitate resettlement in a country of asylum, in neighboring countries within the region, or in other third countries; and, (4) if necessary to accomplish the humanitarian and foreign policy objectives of the United States, to admit refugees for resettlement in the United States. To carry out this policy, the United States places maximum reliance on appropriate international organizations, including the United Nations High Commissioner for Refugees (UNHCR), the International Committee of the Red Cross (ICRC), the United Nations Relief and Work Agency for Palestine Refugees (UNRWA), and the Intergovernmental Committee for Migration (ICM).

Refugee relief

During fiscal year 1982, U.S. support for international relief programs, which are often more appropriate and less costly than resettlement in the United States, included major relief programs in Southeast Asia, Africa, Latin America, the Near East and South Asia.

TABLE I.—INTERNATIONAL UNITED STATES REFUGEE ASSISTANCE

	Fiscal year 1982 estimate [1]	Fiscal year 1983 appropriation request
United Nations High Commissioner for Refugees (UNHCR):		
Africa	$49,239,300	$61,000,000
East Asia: Indochinese	22,200,000	17,400,000
East Asia: Orderly departure program	350,000	
Latin America	8,200,000	5,000,000
Near East and South Asia: Pakistan	24,150,000	33,000,000
Other	1,000,000	1,000,000
UNHCR subtotal	105,139,300	117,400,000
United Nations Relief and Works Agency for Palestinians in the Near East (UNRWA)	67,000,000	72,000,000
Soviets and Eastern Europeans resettling in Israel	12,500,000	12,500,000
International Committee of the Red Cross (ICRC):		
Ordinary Budget	1,500,000	2,000,000
Political Prisoners	1,500,000	1,750,000
Africa	7,000,000	7,900,000
Latin America: El Salvador	1,800,000	
Near East and South Asia: Pakistan	650,000	
Other	1,420,000	
ICRC subtotal	13,870,000	11,650,000
Other:		
Africa: Resettlement assistance	30,000,000	
Africa: Special projects	9,500,000	8,000,000
East Asia: Khmer relief	16,295,000	12,000,000
Near East: Lebanon relief (AID allocation)	10,000,000	
Near East and South Asia: Pakistan—Special Projects	1,350,000	5,000,000
Intergovernmental Committee for Migration (ICM)	4,500,000	4,700,000
Resettlement Projects	1,000,000	10,000,000
Other subtotal	72,645,000	39,700,000
Subtotal—refugee program	271,154,000	253,250,000
Other assistance: Food for Peace (Public Law-480, title II)	74,800,000	82,600,000
Grand total	345,954,300	335,850,000

[1] As of Sept. 1, 1982.

Voluntary repatriation

In addition to providing humanitarian relief for refugees overseas during FY 1982, the United States participated through international organizations and with other governments to support voluntary repatriation. Large scale repatriation resulted in the return of approximately 85,000 refugees to Chad and 46,000 refugees to Angola. Smaller programs involved repatriation in Latin America and East Asia. A UNHCR effort with the Vietnamese installed regime in Phnom Penh to promote voluntary repatriation of Khmer has not been successful. However, since October 1980, some 25,000 Khmer have voluntarily been relocated from the holding centers to the border.

Resettlement in third countries

The United States encourages the international community to provide resettlement opportunities for refugees. Countries which have resettled significant numbers of Indochinese refugees since 1975 include China, France, Canada, Australia, the Federal Republic of Germany, the United Kingdom and Hong Kong. Countries which have resettled significant numbers of East European and Soviet refugees include Australia, Canada, France, the Federal Republic of Germany, and Israel.[1]

U.S. refugee admissions

The U.S. refuge admissions program strives to ensure that refugees admitted to the United States have appropriate sponsorships, receive adequate services upon arrival, and that Federal resources available for refugee resettlement are effectively utilized.

[1] See Country Reports on the World Refugee Situation.

In fiscal year 1982, the admissions ceiling of 140,000 refugees was authorized. Approximately 99,200 refugees will have been admitted by September 30. The difference between the ceiling and actual admissions numbers reflects inter alia, the increasingly restrictive emigration policies of the Soviet Union, and the unwillingness of certain countries to release political prisoners, and the U.S. Government's decision, to accept less than the allowable numbers of Indochinese as long as first asylum was maintained.

Although a large number of refugee applicants for U.S. admission meet the criteria for admission, there is no entitlement. We have developed a priority system for applicants who meet the criteria for refugee admission, have special ties to the United States, and who are members of groups determined to be of special humanitarian concern.

TABLE II.—FISCAL YEAR 1982 U.S. REFUGEE ADMISSIONS

Projected admissions	Area of origin	Total admissions
Africa	[1] 3,500	3,356
East Asia	[1] 96,000	73,522
Eastern Europe and the Soviet Union	[1] 31,000	[2] 13,536
Latin America and the Caribbean	3,000	579
Near East and South Asia	[1] 6,500	6,304
Total	140,000	97,297

[1] These figures reflect revisions made during the course of fiscal year 1982, following consultations with the Congress. The admissions level for Africa was increased by 500, Eastern Europe by 2,000, and the Near East and South Asia by 1,500. The East Asian admissions level was decreased by 4,000.
[2] Of this amount, 6,647 are Polish refugees.

PROPOSED FISCAL YEAR 1983 ADMISSIONS

In response to domestic and foreign policy concerns and in accordance with humanitarian goals, the President proposes to admit up to 98,000 refugees to the United States during FY 1983 dependent upon the continuing need for refugee resettlement at anticipated levels throughout the twelve-month period.

The projected admissions include 68,000 refugees from East Asia, 17,000 refugees from the Soviet Union and Eastern Europe, 8,000 refugees from the Near East and South Asia, 3,000 refugees from Africa and 2,000 refugees from Latin America and the Caribbean.

In addition, consideration will be given by the Immigration and Naturalization Service to the adjustment to permanent resident alien status of up to 5,000 persons who were previously granted asylum in the United States and have been in the United States as refugees for at least one year, pursuant to Title II, Section 209(b) of the Refugee Act of 1980.

TABLE III.—*Fiscal year 1983 proposed refugee admissions*

Area of origin	*Amount*
Africa	3,000
East Asia	68,000
Eastern Europe and the Soviet Union	17,000
Latin America and the Caribbean	2,000
Near East and South Asia	8,000
Total	98,000

The proposed refugee admissions numbers are ceilings and not goals. To the extent possible, consistent with needs and objectives, the program will be managed to admit fewer than the authorized ceiling. The underlying principle is that refugee admission is an exceptional ex gratia act, provided by the United States in furthering foreign and humanitarian policies. It is not a right of a refugee to be admitted to the United States because a program has authorized spaces available.

Asia

The proposed admissions ceiling for East Asian refugees for fiscal year 1983 is 68,000. Of the proposed admissions, 200 will be reserved for East Asians other than Indochinese.

The situation in Southeast Asia continues to present a major threat to the safety of refugees and the stability of the region. By October 1982, the refugee population in countries of first asylum will be nearly 220,000. At least 44,000 new refugees are expected to appear in first asylum countries during fiscal year 1983, compared with approximately 60,000 in 1982. Countries in the region granting temporary asylum do so in the expectation that their existing refugee populations will continue to decrease and that the world community, with the United States in the lead, will provide resettlement for many of those now in camps and for most new arrivals. An inadequate resettlement effort could signal a change in U.S. refugee policy which could lead to forcible repatriation or push-offs of boats back to sea. There is need to continue a U.S. policy which will maintain the principle of first asylum, save lives and reduce political instability in the region. The proposed admissions program includes within the ceiling, refugees going directly from Vietnam to the United States under the Orderly Departure Program (ODP).

Soviet Union and Eastern Europe

The proposed admissions ceiling for the Soviet Union and Eastern Europe is 17,000. Continuing restrictive Soviet emigration policies are likely to result in low admissions numbers for fiscal year 1983. Eastern European admissions will include refugees from Poland and other Eastern European countries. There is substantial domestic support for the admissions programs from this region for reasons of ethnic and religious ties and as a means of assisting those fleeing oppression under communist regimes.

Near East and South Asia

The proposed admissions ceiling to meet resettlement needs for refugees from the Near East and South Asia is 8,000 and is in response to, but not limited to, situations in Iran, Afghanistan, Syria, and Iraq.

Africa

The proposed admissions number for refugees from Africa is 3,000. This projection is based on a best estimate of the numbers who may qualify for refugee status and require resettlement. Most African refugees have been granted asylum within the region where the United States provides a major portion of funding for care and maintenance through international organizations.

Latin America and the Caribbean

The proposed admissions number for refugees from Latin America and the Caribbean is 3,000. Numbers from this ceiling will be used primarily for political prisoners and their families, persons under life-threatening conditions, and for family reunification. Current and former political prisoners and other cases of special humanitarian concern within their country of nationality or habitual residence will be considered for admission, pursuant to Section 102(a)(42)B of the INA, as amended.

DOMESTIC RESETTLEMENT

The refugee resettlement program historically has enjoyed broad public support in the United States. Involvement on the part

of U.S. citizens, private agencies, ethnic communities, and state and local governments continues. Resettling refugees continues to cause some strain on state, community and private resources, however.

Refugees need some transitional assistance once they arrive in the United States. Owing in large part to the geographic distribution of the new refugee arrivals, combined with prevailing economic conditions, there has been a rise in the use of cash assistance by refugees. Available data, however, show that refugee employment and self-sufficiency increase with the length of time a refugee is in the country.

To reduce welfare dependence, increase job readiness and facilitate adaption to the American way of life before a refugee arrives in the United States the English-as-a-Second Language and Cultural Orientation (ESL/CO) program has been strengthened in the overseas Refugee Processing Centers in Southeast Asia and the Sudan during the last year.

High concentrations of refugees in certain localities have had substantial impacts on community resources. The new placement policy recognizes the importance of improving the quality of initial refugee placement and should reduce the incentives for secondary migration. Refugee resettlement planning among state and local officials, private voluntary resettlement agencies and the Federal agencies, has been strengthened and a monitoring program has been instituted. While problems in resettling large numbers of refugees are genuine, so is the commitment to the American tradition of providing a homeland to those fleeing persecution.

ESTIMATED COST OF REFUGEE MOVEMENT AND RESETTLEMENT

Costs associated with the care and maintenance, processing, transportation, and initial reception and placement of refugees are borne by the Department of State. Once refugees arrive in this country, they are eligible for many of the same services, available to disadvantaged Americans. Costs associated with these services are borne primarily by the Department of Health and Human Services (HHS).

This estimate includes expenditures for programs which directly assist refugees. Expenditures for refugee assistance are also made through job training, programs, public housing activities, and various other federal and state programs which assist refugees as part of a broader population of needy Americans.

ESTIMATED COSTS OF REFUGEE MOVEMENT AND RESETTLEMENT IN THE UNITED STATES—FISCAL YEAR 1982–83

[In millions of dollars]

Agency	1982 program total cost	1983 Arrivals	1983 Prior arrivals	1983 Total
Department of State:				
Voluntary agencies abroad	20.9	23.9	.....	23.9
Transportation	63.4	71.1	.....	71.1
Reception and placement grants	51.1	53.7	.....	53.7
English as a second language	10.8	9.5	.....	9.5
Subtotal	146.2	158.2	.....	158.2
Department of Health and Human Services (Office of Refugee Resettlement):				
State-administered programs	554.7	137.9	334.0	471.0
Voluntary agency programs	9.7	11.0	.....	11.0
Education assistance for children	[1] 45.0	.....	.....	.....
Federal administration	7.0	.....	5.9	5.9
Preventive health	7.0	6.0	.....	6.0
Targeted assistance	.....	.....	20.0	20.0
Subtotal	[2] 623.4	154.9	359.9	514.8
Other HHS:				
Aid to families with dependent children	95.8	14.1	84.6	98.7
Medicaid	54.2	9.6	57.7	67.3
Supplemental security income	15.0	1.7	12.5	14.2
Subtotal	165.0	25.4	154.8	180.2
Department of Agriculture: Food stamps	159.2	52.6	176.7	229.3
Grand total	1,093.8	391.1	691.4	1,082.5

[1] Of this amount, $22.3 million was obligated for the 1981–82 school year and $22.7 million for the 1982–83 school year.

[2] Does not include $20 million appropriated for refugee and Cuban/Haitian entrant assistants in the fiscal year 1982 Urgent Supplemental.

Mr. RODINO. The Committee on the Judiciary, adhering to the two-tier consultation format used in prior years, held a closed meeting between designated consultative Members and cabinet-level administration officials followed by a public hearing before the full committee.

On September 28, 1982, the consultative Members, ranking member of the full committee, ROBERT MCCLORY, subcommittee chairman ROMANO L. MAZZOLI, subcommittee ranking member, HAMILTON FISH, JR., and I met with Acting Secretary of State Kenneth W. Dan, Assistant Attorney General Edward Schmultz, Under Secretary of Health and Human Services David B. Swoap, and U.S. Coordinator for Refugees H. Eugene Douglas.

The President's proposal for fiscal year 1983 as summarized above was presented to the congressional representatives. I stated my deep concern over the continuing problems of refugees, especially regarding the more than $1 billion being spent each year by the Government to implement the program. I expressed my satisfaction with the efforts made by the administrators of the program for living up to its commitment to keep fiscal year 1982 admissions considerably lower than the 120,000 ceiling authorized. In fact, as the table above indicates, total admissions for fiscal year 1982 were held to 97,297. I emphasized the need for further continuous action by the administration to get more countries involved in refugee resettlement activities to relieve the disproportionate share of the responsibility being borne by the United States.

On the same day, following the closed meeting, a public hearing was held by the full Committee on the Judiciary to complete the two-tier procedure. Witnesses before the full committee were Ambassador H. Eugene Douglas, U.S. Coordinator of Refugee Affairs; James N. Purcell, Acting Director, Bureau of Refugee Programs, Department of State; Alan C. Nelson, Commissioner of the Immigration and Naturalization Service, Department of Justice; and Phillip Hawkes, Director, Office of Refugee Resettlement, Department of Health and Human Services.

The consultative Members considered the information received during the formal consultation process, as well as the various materials submitted by the administration.

The following two letters were sent to the President expressing the views of the consultative Members:

COMMITTEE ON THE JUDICIARY,
HOUSE OF REPRESENTATIVES,
Washington, D.C., September 29, 1982.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: We are pleased to advise you that the consultative process mandated by the Refugee Act of 1980 with regard to the FY 1983 refugee program has been completed.

We impose no objections to the numbers and allocations of the 98,000 refugee admissions for FY 1983 in your proposal as submitted by the Coordinator of Refugee Affairs, Ambassador H. Eugene Douglas, on your behalf.

During the year, should you perceive a need for a shift of numbers from one area of origin to another, we would expect to be consulted prior to making any such reallocation.

We would appreciate receiving quarterly progress reports from the Refugee Coordinator during the year on the implementation of this projected FY 1983 program.

Sincerely,

PETER W. RODINO, JR.,
Chairman.

ROBERT MCCLORY,
Ranking Member.

HAMILTON FISH, JR.,
Ranking Member, Subcommittee on Immigration, Refugees and International Law.

COMMITTEE ON THE JUDICIARY,
HOUSE OF REPRESENTATIVES,
Washington, D.C., September 30, 1982.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: The House Committee on the Judiciary has completed its consultation on refugee admissions for Fiscal Year 1983 as required by the Refuge Act of 1980. Chairman Peter W. Rodino, Jr. and the other two House consultative Members are sending you a letter expressing their views. I generally endorse their letter but have elected to send you this separate set of views.

Based on extensive testimony, discussion, and investigative trips conducted by my Subcommittee, I make the following recommendations concerning the refugee admissions program for Fiscal Year 1983:

A total refugee admissions ceiling of 86,000.

Continued emphasis on the domestic effects of refugee resettlement. Funding levels for refugee resettlement programs in the United States must be maintained at levels adequate to move refugees quickly to a position of self-sufficiency.

Closer consultation between federal, state, and local government officials and voluntary agencies. Sponsorships must be tightened and made more professional, business-like, and cost-efficient. The overriding goal of our resettlement program—to place refugees into jobs not onto welfare—must be emphasized at all levels of the program.

Better health screening of refugees and better treatment of their health problems prior to their entry into the United States.

These recommendations are made with a continuing commitment to maintaining America's refugee resettlement program, but with a frank assessment that unless refugee admissions are maintained at the lowest levels necessary to accomplish essential justice and to give the Administration the flexibility it must have to react to emergency situations, the entire refugee program may be undermined.

The total admissions level your refugee advisors have proposed—98,000—I feel, respectfully, is too high. My views are based on careful analysis.

As you may remember, Mr. President, the Administration initially recommend 173,000 admissions for Fiscal Year 1982. I proposed 120,000 admissions. 140,000 was the agreed figure. Actual admissions during Fiscal Year 1982 will total 99,000. I think it is fair to say that my recommendation last year was reasonable. I believe my recommendation for Fiscal Year 1983 is also reasonable.

The request your refugee advisors have proposed for East Asia—68,000—is, I suggest respectfully, high under present condition. Refugee arrivals into countries of first asylum are down dramatically. Though many displaced persons remain in camps in countries of first asylum, many of them are not seeking resettlement or are not eligible either because they are not refugees or are not of special humanitarian concern to the United States.

The request your refugee advisors have proposed for Eastern Europe—17,000—appears also to be too high. I have serious doubts about the continuation of the Rumanian third country processing program (TCP) under which, in essence, our country agrees to accept Rumanians as refugees though these people have never been subject to an examination by an official of the Immigration and Naturalization Service to determine whether they fit the refugee definition and whether they may be excludable. I also believe certain Eastern Europeans, who are well settled in other nations of Western Europe and, thus, disqualified from entering the refugee program, are being allowed into it nonetheless.

Finally, Mr. President, I continue to question the tendency of certain officials in your Administration to view sympathetically applications for refugee or asylee status advanced by those leaving Communist countries but to view unsympathetically the applications for refugee or asylee status advanced by those departing from noncommunist countries.

Not everyone emerging from Southeast Asia is a refugee. Some are economic migrants. And, by the same token, not everyone emerging from Central America or the Caribbean is an economic migrant. Some are refugees and asylees. The Refugee Act requires each such application to be considered objectively on its own merits, regardless of the nature of the government of the country from which the person is fleeing or of its standing with our government. The Refugee Act must be followed in this regard.

Mr. President, you should soon have before you an act reauthorizing the refugee program for one additional year. This bill passed the House overwhelmingly and is now moving through the Senate. It makes needed changes in the domestic resettlement program which should lower the welfare dependency rate among refugees. It will also lessen the financial and social burden on state and local governments, such as those in your home state of California, which have already absorbed so many refugees. I commend this bill to your attention.

In closing, I want to congratulate you and responsible officials in your Administration for taking most seriously the consultative process of the Refugee Act. Many critics feel the consultative process is merely "window-dressing" and to be effective must be replaced by some form of legislative veto.

On the basis of the way the two formal consultations and the numerous private briefings and informal discussions on refugee programs have proceeded during the two years I have served as Chairman of the Subcommittee. I feel the consultations have been seriously engaged in by both the Executive and Legislative Branches and have been effective in restructuring our refugee program.

If the process continues to work in this fashion in the future, I see no need to alter it fundamentally.

All best wishes,

Sincerely,

ROMANO L. MAZZOLI,
Chairman, Subcommittee on Immigration, Refugees, and International Law.

Mr. RODINO. On October 11, 1982, the President informed the U.S. Coordinator of Refugee Affairs, H. Eugene Douglas, of his decision on the fiscal year 1983 refugee ceilings.

The following Presidential determination was published in the Federal Register on October 19, 1982.

[Presidential Determination No. 83-2 of Oct. 11, 1982]

FISCAL YEAR 1983 REFUGEE CEILINGS

Memorandum for the Honorable H. Eugene Douglas, United States Coordinator for Refugee Affairs

Pursuant to Sections 207(a) and 207.1(a)(3) and in accordance with Section 209(b) of the Immigration and Nationality Act (INA), after appropriate consultations with the Congress, I hereby determine that:

The admission of up to 90,000 refugees to the United States during fiscal year 1983 is justified by humanitarian concerns or is otherwise in the national interest;

The 90,000 refugee admission ceiling shall be allocated as 64,000 for East Asia; 15,000 for the Soviet Union/Eastern Europe; 6,000 for the Near East/South Asia; 3,000 for Africa; and 2,000 for Latin America/Caribbean; and

An additional 5,000 refugee admission numbers to be available for the adjustment to permanent residence status of aliens who have been granted asylum in the United States is justified by humanitarian concerns or is otherwise in the national interest.

Pursuant to Section 101(a)(42)(B) of the INA and after appropriate consultations with the Congress, I hereby specify that special circumstances exist such that, for the purposes of admission under the limits established herein, the following persons, if they otherwise qualify for admission, may be considered refugees of special humanitarian concern to the United States even though they are still within their countries of nationality or habitual residence:

Persons in Vietnam with past or present ties to the United States; and

Present and former political prisoners, and persons in imminent danger of loss of life, and their family members, in countries of Latin America and the Caribbean.

You will inform the appropriate committees of the Congress of these determinations.

This memorandum shall be published in the Federal Register.

RONALD REAGAN.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. PHILLIP BURTON (at the request of Mr. WRIGHT) for today on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. BARNARD, for 60 minutes, today.

(The following Members (at the request of Mr. THOMAS) to revise and extend their remarks and include extraneous material:)

Mr. COLLINS of Texas, for 30 minutes, December 8.

Mr. COLLINS of Texas, for 30 minutes, December 9.

Mr. COLLINS of Texas, for 30 minutes, December 10.

Mr. BUTLER, for 10 minutes, today.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. GONZALEZ, for 30 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. FORD of Michigan, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. GOLDWATER, following offering Broyhill substitute for Luken amendment in section 115, H.R. 3809, in the Committee of the Whole on Tuesday, December 1.

Mr. RODINO, to revise and extend his remarks in the RECORD and to include therein extraneous material, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,428.

(The following Members (at the request of Mr. THOMAS) and to include extraneous matter:)

Mr. MCCLORY in two instances.

Mr. DOUGHERTY.

Mr. BEREUTER.

Mr. VANDER JAGT.

Mr. BROOMFIELD.

Mr. GOODLING.
Mr. DORNAN of California.
Mr. SAWYER.
Mr. KINDNESS.
Mr. PURSELL.
Mr. DANNEMEYER.
Mr. DERWINSKI in two instances.
Mr. YOUNG of Florida in 15 instances.
Mr. PHILIP M. CRANE in two instances.
(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)
Mr. WEAVER.
Mr. LANTOS.
Mr. FASCELL in five instances.
Mr. MOFFETT in five instances.
Mr. LEVITAS in two instances.
Mr. HARKIN.
Mr. ROSENTHAL.
Mr. MOTTL in two instances.
Ms. OAKAR.
Mr. BARNARD.
Mr. SIMON in five instances.
Mr. IRELAND.
Mr. LEATH of Texas.
Mr. GARCIA.
Mr. OBEY in three instances.
Mr. SABO in three instances.
Mr. PHILLIP BURTON.
Mr. MINETA.
Mr. BARNES.
Mr. MATSUI.
Mr. BONKER.
Mr. MONTGOMERY.
Mrs. KENNELLY.
Mr. STUDDS.
Mr. LELAND.
Mr. MOAKLEY.

ADJOURNMENT

Mr. BARNARD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 47 minutes p.m.) the House adjourned until tomorrow, Friday, December 3, 1982, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

5205. Under clause 2 of rule XXIV, a letter from the Director, Defense Security Assistance Agency, transmitting addenda to the annual reports on foreign military sales as of September 30, 1982, pursuant to section 36(a) of the Arms Export Control Act, was taken from the Speaker's table and referred to the Committee on Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MOAKLEY: Committee on Rules. House Resolution 616. Resolution providing for the consideration of H.R. 7356, a bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1983, and for other purposes (Rept. No. 97-940). Referred to the House Calendar.

Mr. LONG of Louisiana: Committee on Rules. House Resolution 617. Resolution providing for the consideration of H.R. 6957, a bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1983, and for other purposes (Rept. No. 97-941). Referred to the House Calendar.

Mr. YATES: Committee on Appropriations. H.R. 7356. A bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1983, and for other purposes (Rept. No. 97-942). Referred to the Committee of the Whole House on the State of the Union.

Mr. ADDABBO: Committee on Appropriations. H.R. 7355. A bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1983, and for other purposes (Rept. No. 97-943). Referred to the Committee of the Whole House on the state of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BIAGGI:

H.R. 7348. A bill to amend the Social Security Act to include Fridays among the days on which social security and SSI benefit checks may not be delivered, so as to assure (without postponing the delivery date) that the recipient of any such check will have a reasonable opportunity to cash or deposit it without delay; to the Committee on Ways and Means.

By Mr. BUTLER:

H.R. 7349. A bill to reform the Federal court system, to eliminate diversity jurisdiction, to expand and make permanent the system of U.S. trustees, to establish bankruptcy courts under article III of the Constitution, and for other purposes; to the Committee on the Judiciary.

By Mr. PERKINS:

H.R. 7350. A bill to amend the Foreign Trade Zones Act to exempt bicycle components parts which are not reexported from the exemption from the customs laws otherwise available to merchandise in foreign trade zones; to the Committee on Ways and Means.

By Mr. ROBINSON:

H.R. 7351. A bill to provide for the distribution within the United States of the U.S. Information Agency film entitled "Dumas Malone: A Journey with Mr. Jefferson"; to the Committee on Foreign Affairs.

By Mr. ROSENTHAL:

H.R. 7352. A bill to amend the Securities Exchange Act of 1934 to increase the sanctions against trading in securities while in possession of material nonpublic information; to the Committee on Energy and Commerce.

By Mr. WEBER of Minnesota (for himself and Mr. OBERSTAR):

H.R. 7353. A bill to declare that the United States holds certain lands in trust for the Mille Lacs Band of Chippewa Indians; to the Committee on Interior and Insular Affairs.

By Mr. WHITE:

H.R. 7354. A bill to amend title XVI of the Social Security Act to provide that a blind or disabled child otherwise qualified may be eligible for SSI benefits even though not a resident of the United States, if such child is accompanying a parent who is a member of the Armed Forces serving a tour of duty overseas; to the Committee on Ways and Means.

By Mr. ADDABBO:

H.R. 7355. A bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1983, and for other purposes.

By Mr. YATES:

H.R. 7356. A bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1983, and for other purposes.

By Mr. GOODLING:

H. Con. Res. 431. Concurrent resolution expressing the sense of the Congress that financial institutions should cooperate with the economic recovery plan of the Federal Government by following the lead of the Board of Governors of the Federal Reserve System in setting lower interest rates for consumer loans; to the Committee on Banking, Finance and Urban Affairs.

By Mr. ZABLOCKI (for himself, Mr. ROSTENKOWSKI, Mr. FASCELL, Mr. BROOMFIELD, Mr. DERWINSKI, Mr. BOLAND, Mr. ANNUNZIO, Mr. DINGELL, Mr. MINISH, Ms. MIKULSKI, Mr. FARY, Mr. NOWAK, Mr. BOWEN, and Mr. DAUB):

H. Con. Res. 432. Concurrent resolution expressing the sense of the Congress on the situation in Poland and calling for a determined policy aimed at ending the repression of the Polish people; to the Committee on Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 4657: Mr. SCHEUER.
H.R. 6073: Mr. MCEWEN.
H.R. 6348: Mr. JAMES K. COYNE, Mr. GEPHARDT, Mr. WHITEHURST, Mr. SCHEUER, Mr. BUTLER, Mr. EDWARDS of California, Mrs. BOUQUARD, Mr. DANIEL B. CRANE, Mr. JONES of Tennessee, Mrs. HOLT, and Mr. HYDE.
H.R. 6386: Mr. FAZIO and Mr. SYNAR.
H.R. 6462: Mr. QUILLEN.
H.R. 6829: Mr. BENNETT.
H.R. 6833: Mr. BAILEY of Missouri, Mr. BEARD, and Mr. ROBERTS of South Dakota.
H.R. 7002: Mr. LEE, Mr. LEBOUTILLIER, Mr. CLAUSEN, Mr. HARTNETT, Mr. WINN, Mr. LENT, Mr. MOTTL, Mr. SPENCE, Mr. BEARD, Mr. SOLOMON, Mr. WHITEHURST, Mr. MONTGOMERY, Mr. PICKLE, Mrs. HOLT, Mr. HAMMERSCHMIDT, Mr. WALKER, Mr. MCGRATH, Mr. STANGELAND, Mr. MILLER of Ohio, Mr. SMITH of Alabama, and Mr. HYDE.
H.R. 7053: Mr. MINETA, Mr. DE LUGO, and Mr. HERTEL.
H.R. 7157: Mr. DUNCAN.
H.R. 7251: Mr. NOWAK and Mr. ROBERTS of Kansas.
H.R. 7312: Mr. YATRON, Mr. APPLEGATE, Mr. ECKART, and Mr. DUNCAN.
H.R. 7313: Mr. APPLEGATE, Mr. ECKART, and Mr. DUNCAN.
H.R. 7323: Mr. YATRON, Ms. OAKAR, and Mr. DIXON.
H.R. 7334: Mr. ARCHER.
H.R. 7337: Mr. STANTON of Ohio.
H.J. Res. 591: Mr. FORSYTHE, Mr. GRADISON, Mr. ROBERTS of Kansas, Mr. ROEMER, Mr. VENTO, Mr. WILSON, and Mr. YOUNG of Alaska.
H. Con. Res. 413: Mr. VENTO, Mr. BEVILL, Mr. LOWERY of California, Mr. PORTER, Mr. HUGHES, and Mr. LIVINGSTON.

H. Con. Res. 425: Mr. DE LA GARZA, Mr. DUNCAN, Mr. FROST, Mr. CROCKETT, Mr. FLORIO, Mr. DOWDY, Mr. CLAUSEN, Mr. MARKEY, Mr. WILSON, Mr. BRINKLEY, Mr. FORSYTHE, Mr. BEVILL, Mr. KOGOVSEK, Mr. SOLOMON, Mr. BRODHEAD, Mr. BARNES, Mr. AUCOIN, Mr. HYDE, Mr. GUNDERSON, Mr. FRENZEL, Mr. EDWARDS of California, Mr. VANDER JAGT, Mr. WHITEHURST, Mr. LOWRY of Washington, Mr. WAXMAN, and Mr. MINETA.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5133

By Mr. DANNEMEYER:

(Disclosure of domestic content.)

—In lieu of the matter proposed to be inserted by the amendment in the nature of a substitute insert the following:

SECTION 1. DEFINITIONS.

As used in this Act:

(1) The term "model year" means a vehicle manufacturer's annual production period (as determined by the Secretary) which includes January 1 of a calendar year, or if a vehicle manufacturer does not have an annual production period, the calendar year. A model year shall be designated by the year in which January 1 occurs.

(2) The term "motor vehicle" means any three-wheeled or four-wheeled vehicle propelled by fuel which is manufactured primarily for use on the public streets, roads, and highways (except any vehicle operated exclusively on a rail or rails), and which is rated at ten thousand pounds gross vehicle weight or less. Such term does not include (A) any motorcycle, or (B) any vehicle determined by the Secretary to be an automobile capable of off-highway operation within the meaning of section 501(3) of the Motor Vehicle Information and Cost Savings Act.

(3) The term "Secretary" means the Secretary of Commerce.

(4) The term "vehicle manufacturer" means any person engaged in the business of producing motor vehicles for ultimate retail sale in the United States and includes as one entity all persons who control, are controlled by, or are in common control with, such person. Such term also includes any predecessor or successor of such a vehicle manufacturer.

SEC. 2. DISCLOSURE OF DOMESTIC CONTENT.

Each vehicle manufacturer who sells motor vehicles in the United States shall cause to be maintained, in a prominent place on each such vehicle manufactured in any model year after model year 1982, a label disclosing the value of the labor used by the manufacturer in the United States in the production of such vehicle and parts for such vehicle and the value of any material or part produced in the United States which is used in the manufacture of such motor vehicle.

SEC. 3. RULES.

The Secretary shall prescribe such rules as are necessary or appropriate to carry out this Act.

(1983 domestic content ratio.)

—Page 8, beginning in line 5, strike out "shall not be less than the higher of" and all that follows through line 10 and insert in lieu thereof the following: "shall not be less than the applicable minimum content ratio specified in the following table:".

(Confidentiality.)

—Page 10, strike out lines 14 through 23 and insert in lieu thereof the following:

(3) All information submitted by a vehicle manufacturer to the Secretary in compliance with this Act shall be confidential and shall not be disclosed except when required under court order. The Secretary shall by regulation prescribe such procedures as may be necessary to preserve such confidentiality, except that—

(A) the Secretary may release or make public any such information in any aggregate or summary statistical form which does not directly or indirectly disclose the identity or business operations of the manufacturer who submitted the information; and

(B) the Secretary shall release upon request any such information to the Congress or to any committee of the Congress.

(Auto import agreements or understandings.)

—Page 14, redesignate section 7 as section 8 and insert after line 11 the following new section:

SEC. 7. AUTO IMPORT AGREEMENTS OR UNDERSTANDINGS.

(a) IN GENERAL.—Sections 4 and 5 shall not apply to a manufacturer outside of the United States during any model year in which there is in effect an agreement or understanding between the United States and the government of the country in which the principal office of such manufacturer is located which agreement or understanding was entered into after the date of the enactment of this Act and which limits the importation of motor vehicles into the United States from such country.

(b) NOTICE TO CONGRESS.—The President shall notify the House of Representatives and the Senate of any agreement or understanding entered into after the date of the enactment of this Act under which the importation of motor vehicles into the United States is limited.

Page 15, redesignate section 8 as section 9.

By Mr. GRAMM:

—Page 14, redesignate section 7 as section 8, and insert after line 11 the following new section:

SEC. 7. WAIVER.

Sections 4 and 5 shall not apply to any vehicle manufacturer whose primary production facilities are in a country (other than the United States) which, as determined by the President, has substantially reduced the quotas, tariffs, and other trade barriers applied to products imported in that country from the United States.

Page 15, redesignate section 8 as section 9.

H.R. 6957

By Mr. BROYHILL:

—Page 45, after line 4, insert the following new section (and redesignate the following section accordingly):

SEC. 507. (a)(1) Notwithstanding any other provision of law, any use of funds appropriated in this Act or in any other law for the Federal Trade Commission shall be consistent with the provisions of the Federal Trade Commission Act and the Federal Trade Commission Improvements Act of 1980, as in effect on Spetember 30, 1982.

(2) In the administration of section 21 of the Federal Trade Commission Improvements Act of 1980 pursuant to paragraph (1), those provisions of such section which were enacted as an exercise of the rulemaking power of the Senate and the House of Representatives also shall apply in the case of any use of funds which is subject to such section as a result of paragraph (1).

(b) The provisions of subsection (a) shall apply to any use of funds described in subsection (a) which occurs on or after October 1, 1982.

—Page 45, after line 4, insert the following new section (and redesignate the following section accordingly):

SEC. 507. (a) No funds appropriated in this Act for the Federal Trade Commission may be used for the purpose of conducting any study, investigation, or prosecution of any agricultural cooperative for any conduct which, because of the provisions of the Act entitled "An Act to authorize association of producers of agricultural products", approved February 18, 1922 (7 U.S.C. 291 et seq.), commonly known as the Capper-Volstead Act, is not a violation of any Federal Antitrust Act or the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) No funds appropriated in this Act for the Federal Trade Commission may be used for the purpose of conducting any study or investigation of any agricultural marketing orders.

By Mr. COLLINS of Texas:

—Page 33, after line 24, insert the following new section:

SEC. 303. None of the funds appropriated in this title may be used to pay any contribution for expenses necessary to meet annual obligations of membership in the United Nations or any affiliated agency in excess of 20 percent of the total annual assessment of the United Nations or such agency. This section shall not apply to the International Atomic Energy Agency and to the joint financing program of the International Civil Aviation Organization.

—Page 25, after line 23, add the following new section:

SEC. 203. No part of any sum appropriated by this title shall be used by the Department of Justice to bring any sort of action to require directly or indirectly the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education as a result of being mentally or physically handicapped.

By Mr. LEVITAS:

—Page 45, after line 4, insert the following new section (and redesignate the following section accordingly):

SEC. 507. No funds appropriated in this Act for the Federal Trade Commission shall be used to (1) promulgate any trade regulation rule; or (2) administer or enforce any trade regulation rule which was promulgated before the date of the enactment of this Act but which has not taken effect before such date of enactment.

By Mr. LUKEN:

—H.R. 6957 is amended by adding at the end thereof the following new section to read as follows:

SEC. 508. None of the funds appropriated under this Act may be used by the Federal Trade Commission for the purpose of investigating, issuing any order concerning, promulgating any rule or regulation with respect to, or taking other action (other than one that is already the subject of litigation in the courts of the United States on or before the date of enactment of this Act) against any State licensed and regulated profession (as that term would apply under the definition in 29 U.S.C. 152(12)) or the local, State or national non-profit membership associations thereof.

H.R. 7145

By Mr. PRITCHARD:

—Page 13, line 20, strike out "$158,779,000," and insert in lieu thereof "$158,029,000,".

EXTENSIONS OF REMARKS

INTRODUCTION OF LEGISLATION ON BEHALF OF ARMANDO G. LEAL, JR.

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 1, 1982

● Mr. GONZALEZ. Mr. Speaker, I recently had the honor and privilege of speaking at Veterans' Day services at Leal Middle School in San Antonio. The significance of this occasion is that this school is named after Armando G. Leal, Jr., who was killed in Vietnam in 1967. In his honor and for justice' sake, I am introducing legislation today that would waive the time limitations to authorize the President to award the Congressional Medal of Honor posthumously to the family of this brave man.

At the time, Mr. Leal was serving as a corpsman with the First Marine Division in connection with Operation Swift against enemy aggressor forces in the Republic of Vietnam. The division came under heavy enemy attack and Mr. Leal ran through a fire-swept area to administer first aid to several casualties. Although exposed to heavy enemy fire and wounded himself, Mr. Leal rendered aid for 2 hours to wounded marines who were located between friendly and enemy lines. He refused to be evacuated in order to continue administering aid. While treating his comrades and moving them to safety, Mr. Leal was severely wounded for a second time but continued to administer aid. Since the second wound immobilized him, an attempt was made to move him to safety, but he was shot and mortally wounded by a North Vietnamese soldier firing at a close range from a machinegun.

I feel that we should not deny his memory or his family the recognition he so rightfully deserves, that is to be awarded the Medal of Honor. In fact, the Navy posthumously awarded him the Navy Cross for his courageous actions.

I feel this bill is especially timely since we as a nation have recognized the contributions made by Vietnam veterans to the struggle for freedom as represented by the dedication of the Vietnam Veterans Memorial. The costs of freedom are high, and Armando Leal, Jr., paid that price and more. He deserves to be called a hero, and we should see that he is recognized as such. His noble story will remain forever with us. He did not fail his comrades; let us not fail him.●

MAYOR JANET GRAY HAYES

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 1, 1982

● Mr. MINETA. Mr. Speaker, it is with sincere pleasure that I join the citizens of the city of San Jose today in recognizing and honoring Mayor Janet Gray Hayes, one of the most highly regarded and outstanding public leaders to serve the city.

Janet Gray was the first woman in this country to be elected as the mayor of a major metropolitan city. For 8 years she has presided over the technological capital of the Nation while at the same time being a champion fighter for the rights of all citizens, an innovator of national urban policy, and a hard-working, honest politician.

Mayor Hayes is a grassroots activist who started out committed to making the city of San Jose a better place to live. She has used her organizational experience and expertise to help transform San Jose, a city once characterized by urban sprawl, into one of the top financial, cultural, transportation, and population centers of the region.

Janet Gray has tackled the No. 1 challenge of her political career like a tenacious fighter. Few could have succeeded as well as she in balancing the competing interests of growth, prosperity, and the natural inheritance of the Santa Clara Valley and end up with one of the most technically advanced, yet livable cities in the country. She has earned the respect needed to successfully encourage financial investment and industrial development. San Jose is the 14th largest city in the country, the fastest growing, and the 4th largest in California. The success of this great city is the result of a sensible growth plan which protected wilderness and agriculture. Mayor Hayes made sure there was backbone in that plan.

Janet Gray started her professional career as a psychiatric social worker for the Jewish Family Service Agency in Chicago. She also worked for the Denver Crippled Children's Service and the San Jose Adult and Child Guidance Clinic. She is a past president of the League of Women Voters of the San Francisco Bay Area and the Central Santa Clara Valley. She now serves as chair of the National League of Cities' Energy, Environmental Quality and Natural Resources Steering Committee and Public Technology Inc. as board member and chair of the advisory council. I know firsthand that Janet Gray is especially respected and admired among her colleagues in San Jose, where her accomplishments have been directly felt. In 1975, she received the Woman of Achievement Award from the San Jose Mercury News and in 1975 and 1976 she was selected as the most admired elected official in Santa Clara Valley by two public opinion surveys. In 1980, she received the Santa Clara County Women of Achievement Award and the National Conference of Christians and Jews Community Service Award.

Janet Gray, however, was never content to be the only woman in San Jose's political arena and through her persistent adherence to equal opportunity and human rights, she has led San Jose to the forefront of the women's movement; a city with the highest percentage of women in decisionmaking positions. Today, 3 out of 5 Santa Clara County supervisors, 7 out of 11 San Jose City council members, one superior court judge and the president of San Jose State University are women.

Mayor Hayes is a patron of the arts, an urban leader, an involved parent, and a tough politican. Her accomplishments demonstrate that a working mother who cares about the problems her community faces can make a difference. She is, quite simply, a remarkable woman.

Mr. Speaker, I ask all the members of the House to join me in paying tribute to Janet Gray Hayes. She is a woman who has made an unforgettable impact on our community. Her career gives everyone a great deal of inspiration. Mayor Janet Gray Hayes is an outstanding woman of our time.

Thank you.●

LET US TAKE A VOTE: STUDENT EDITORIAL

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 1, 1982

● Mr. PURSELL. Mr. Speaker, I would like to take this opportunity to read into the CONGRESSIONAL RECORD an editorial by 16-year-old Dane Peterson of Jackson, Mich. Dane's editorial, which appeared last month in the Lumen Christi High School paper, the Titan Times, reminds all of us that we do have more than just a responsibility to vote. I find it refreshing to see that someone so young is already ac-

tively looking for more ways to get his fellow students involved in such an important democratic practice. I proudly present the following editorial to the CONGRESSIONAL RECORD as a tribute to Dane and his fellow students:

The article follows:

LET'S TAKE A VOTE

(By Dane Peterson)

Is voting a moral obligation?

I believe it is. My own interest in politics comes from a heritage handed down in my family. This heritage states that one cannot be a good Christian without being a good citizen. In order to be a good citizen, one must take an active role in the political picture with it being a responsibility to be informed on the issues and the candidates.

Main reason why it is so important is that the government touches the lives of all people and since God has put us in a social structure, in order to be responsible for others and to help others we must do as much as possible to make the government responsive to all people. We can do this by voting and by helping others in any way we can to become more and better informed.

An old proverb says "as the twig bends, so grows the tree." Which means people do as adults what they practice as young people.

We may be a part of the generation who is shying away from our moral obligation of voting. In the recent Homecoming King and Queen election, of the 1,083 students at Lumen Christi only 387 voted, or 36 percent. Voting statistics are based on voting records kept by Student Council.

Senior class led the voting with 56 percent. This is to be expected because they had the privilege of voting for their peers.

One of the problems with not having an underclassman court for Homecoming is that the underclassmen have little interest in the election of the king and queen. One way to get these students involved in the election and voting procedure would be to have an underclassman court involved in the Homecoming festivities.

Many of the reasons students gave for not voting were that it didn't make a difference in their lives, they forgot or they thought of the election as just a popularity contest.

Another aspect of the lack of involvement of the students can be found in the low level of enthusiasm at the Pep Rally and nonparticipation during Titan Week.

Now we don't pretend to have all the answers to these problems. Perhaps a letter to the editor or a suggestion column might be in order. Let us know what you are thinking.

If our experiences at Lumen Christi are to do a complete job of preparing us for the future, we must be more in tune with our world.●

ROBERT BOUCHARD—DEDICATED PUBLIC SERVANT

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 1, 1982

● Mr. PANETTA. Mr. Speaker, I would like to take this opportunity to pay tribute to Robert Bouchard, who is retiring from his post as San Benito County Superintendent of Schools after long and distinguished service in the field of education.

A graduate of Boston University and the University of Arizona, Mr. Bouchard has devoted his entire career to education. He spent many years as a teacher of music, and his perspective was further broadened by his activities as music supervisor and general consultant for the San Benito County Office of Education and as an officer in various State organizations dealing with teaching, education, administration, and curriculum development.

This unique and varied experience enabled Mr. Bouchard to establish an impressive record as county superintendent of schools. His accomplishments in that post have ranged from the construction of elementary school buildings and a community center, to the modernization of administration techniques in the county office of education, to the institution of a mobile library and a county-wide drug abuse prevention program. The dedication, imagination, and competence Mr. Bouchard has brought to his job will be missed not only by the students, parents, teachers, and residents of San Benito County, but also by those of us at all levels of government who have enjoyed the privilege of working with him.

Mr. Speaker, Robert Bouchard exemplifies the finest traditions of public service. I would like to extend my congratulations on his retirement, and wish him success in all his future endeavors.●

DAIRY SUPPLY MANAGEMENT ENDORSED

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 1, 1982

● Mr. GUNDERSON. Mr. Speaker, beginning today, dairy farmers across the United States will receive 50 cents less for every 100 pounds of milk they produce as the most recent solution to the problems of dairy overproduction is implemented.

The solution will not work.

It will only serve to make difficult economic times for most family dairy farmers even more difficult, forcing some out of business.

Many of us, in the last 2 years, have repeatedly said that the dairy problems would not be solved by simply lowering the support price farmers receive. Facts now prove our predictions true. Production has been increasing instead.

The assessment that goes into effect today is just another example of that same ineffective approach. Even the Department of Agriculture now admits the inability of the 50 cents assessment to address the real problem.

With this in mind, I have introduced legislation that would repeal the assessment and maintain the dairy price support level at $13.10 per 100 pounds of milk for the current fiscal year.

It then becomes our responsibility as Members of Congress to work with dairy farmers, the dairy industry, and the Department of Agriculture to unite our efforts in seeking a real solution to the dairy overproduction problems.

Last April I introduced the Milk Marketing Improvement Act which was designed to eliminate the overproduction problems and reduce the cost to the taxpayers while still providing dairy farmers with an adequate price for their product. Although the plan was not approved by Congress, the supply management-base concept embodied in the plan won the approval of many dairy farmers and dairy organizations and still remains the most workable solution today.

In the coming weeks we will work with those concerned about the dairy problems in an effort to achieve a solution that is agreeable to all.

In my home State of Wisconsin that willingness to work together to solve the problem already exists as is reflected in the following editorials from the La Crosse Tribune, the Wisconsin State Journal, and the Capital Times of Madison, and WEAQ and WIAL Radio of Eau Claire:

[From the La Crosse Tribune, Nov. 30, 1982]

DAIRY PLAN MAY GET A COMEBACK

Congressman Steve Gunderson plans once again to take on the prevailing wisdom (such as it is) on dairy prices and production.

We wish him luck.

The first time Gunderson tried to change the administration's misguided dairy policy was with the introduction of a bill to encourage farmers to produce only at 90 percent of their capacity.

In exchange for that moderation, Gunderson's bill would have offered a better price support. Anyone going over 90 percent of capacity would get a lower price support. Overseeing all of this would be a National Dairy Board, made up of appointed farmers, processors, consumers and the secretary of agriculture.

But it was not to be. Gunderson's "Milk Marketing Improvement Act of 1982" was killed in committee. It may yet rise again.

Gunderson now plans to re-introduce the bill next session. In addition, he will sponsor, during the upcoming lame-duck session of Congress, a measure to eliminate the administration's controversial 50-cent tax for every hundred pounds of milk a farmer produces.

Farmers have objected strenuously to the tax, because it would effectively lower the price a farmer would get for milk. And, as Gunderson's staff members argue, every time a farmer gets a lower price he will try to produce more.

In one news story earlier this year a farm wife said she and her husband planned to milk anything that could limp into their barn. Any why not? Farm incomes are hardly grand, and anything that threatens to lower prices will be countered by in-

creases in productivity—in the attempt to keep the income up.

This is a natural economic response—a free-market response, really—that the free-market Reaganites choose to ignore in their dairy policies. By concentrating on what they say is an overly generous support price, Reagan administration officials totally ignore the basic structural problem of overproduction.

Gunderson's National Dairy Board may strike some as being a New Deal-style government intrusion into the marketplace. And it very clearly would introduce another degree of centralized planning to the farm economy—a factor that is only as good as those doing the planning.

But as problematic as central planning may be, there is ample reason to suspect that the current policies will be more harmful. They will hurt farmers by lowering their income and they will contribute to the long-term problems by encouraging the buildup of huge dairy surpluses.

The dairy board idea is clearly the better approach.

[From the Wisconsin State Journal, Nov. 19, 1982]

MILK PLAN SOURS

It's time for Wisconsin dairy farmers and the state's congressional delegation to dust off a plan introduced in Congress earlier this year by Rep. Steve Gunderson, R-Wis.

That plan, authored by Gunderson and Professor Robert Cropp, an agricultural economist at UW-Platteville, calls for price incentives for farmers who cut production during times of dairy surpluses and penalties for those who don't.

Gunderson introduced the plan in Congress last April, but it went nowhere. Instead, Congress voted to assess farmers 50 cents on each 100 pounds of milk they market.

The assessment goes into effect Dec. 1 and may be followed by a second 50-cent assessment on April 1. Wisconsin is expected to be hit harder than other states, with the assessments taking $200 million from the state economy.

Dairy farmers contend the assessment will force them to increase milk production, not decrease it, to pay their bills.

Clearly something must be done to reduce the taxpayers' $2.2 billion yearly expense of buying and storing dairy surpluses.

Part of the solution is more sophisticated marketing and promotion to increase domestic dairy sales. A trade program also should be developed for dairy exports.

The other essential is to decrease production. The 50-cent assessment is a punitive attempt that could backfire.

A worthy proposal being advanced within the National Milk Producers Federation is to ask Congress during its lame-duck session to provide that all assessments be returned to farmers who decrease milk production. That plan takes the incentive approach, and may be all that's immediately achievable.

The Gunderson-Cropp plan is more comprehensive; it can quickly get milk supply and demand into balance and allow a dairy farmer to use his resources most efficiently. It also would reduce support-program costs for taxpayers.

The dairy industry and Wisconsin's other congressmen should join Gunderson in an effort to have the next Congress give serious consideration to the plan.

[From the Capitol Times]

"MILK TAX" A BAD DEAL

Unless John Block suffers an attack of good sense before Dec. 1, the secretary of agriculture on that date will begin assessing dairy farmers 50 cents for every 100 pounds of milk they produce. The plan is designed to cover the costs of a ballooning dairy surplus and discourage the overproduction that caused the surplus.

Washington should forget about the "milk tax" because it will do more harm than good.

Dairy economists estimate the milk tax will cost the average Wisconsin dairy farm family $2,500 a year. Statewide, Wisconsin stands to lose $113 million. No wonder that Gov.-Elect Anthony Earl has commendably lent his voice to the cry against this plan.

There is no doubt but that dairying has an overproduction problem that needs to be resolved. The problem is costing the government a record $2 billion a year. But the milk tax will be difficult to administer and will not get at overproducion.

University of Wisconsin-Extension dairy economists Truman Graf and Robert Cropp predict that dairy farmers will actually add cows to their herds in order to make up for lost income and to recover fixed operating costs.

The 50-cent reduction will not lower consumer prices, because the dairy plants that handle the surplus milk will continue to be paid the standard government support price.

A better measure would be a simple reduction in the support price itself. Although that would also reduce farm income it would lower consumer prices and thereby stimulate more expenditures for dairy products.

Better yet is the kind of supply-management program proposed by U.S. Rep. Steve Gunderson and others—one that rewards the farmers who reduce their production and penalizes those who do not.

The government already has such a program in place for corn growers, providing a direct payment to farmers who take 20 percent of their acreage out of production. Let's do the same thing for dairying.

[From WEAQ and WIAL Radio, Nov. 24, 1982]

Wisconsin dairy farmers are being given a raw deal by Congress. Unless there is a last-minute change of heart, the federal lawmakers will begin assessing farmers fifty cents on each one hundred pounds of milk they put into the market. This is supposed to curtail production and reduce the mounting surplus of dairy products in the country. But many farmers argue that it will do just the opposite. They'll have to increase production to pay the assessment.

Instead of an incentive to cut back on the amount of milk they produce, farmers have to sell more and that means more dairy products will be added to the already huge stockpile being subsidized by the taxpayers.

Earlier this year, third district congressman, Steve Gunderson, had proposed a plan which would have given farmers who voluntarily cut back on production, a better price for their products.

And it would penalize farmers who don't reduce production. Professor Robert Cropp, who is an agricultural economist at the UW-Platteville helped Gunderson develop the plan. He believes once such a system is in place, it will prevent the roller coaster like rise and fall in milk prices.

Of course, there is no simple solution to the dairy surplus problem. Government subsidies, well intended or not, have prevented dairy farmers from achieving a balance between demand and supply for dairy products. We think Gunderson's plan will get the job done.

So far, there aren't enough people in Congress who agree with us. And, until there are, dairy product surpluses will continue to pile up in warehouses all over the country.●

TOM RAILSBACK—A VOTE FOR REASON

HON. GEORGE M. O'BRIEN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1982

● Mr. O'BRIEN. Mr. Speaker, TOM RAILSBACK has been a voice for reason and moderation throughout his 16 years in the Congress.

He was a respected young lawyer in his hometown of Moline when first elected to the Illinois General Assembly in 1962 and to Congress in 1966.

His service on the Judiciary Committee and as ranking Republican on its Subcommittee on Courts, Civil Liberties, and the Administration of Justice have been exemplary.

During the trying days of 1974, when the Judiciary Committee's impeachment proceedings were carried on television, the entire Nation was impressed by TOM RAILSBACK's deep sincerity and probing mind.

His Republican colleagues in the Illinois delegation so admired TOM that we made him our chairman. I consider him one of my closest friends in the House. I have benefited many times by his wiser counsel and look forward to continuing our friendship as he begins his new career with the Motion Picture Association of America.●

SEAGA SAYS JAMAICA ON "ROAD TO RECOVERY"

HON. THOMAS B. EVANS, JR.

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 1, 1982

● Mr. EVANS of Delaware. Mr. Speaker, early last month, the Washington Times published an important interview with Jamaica's Prime Minister Edward Seaga. Prime Minister Seaga's election in 1980 marked a vital turning point for the country of Jamaica, a country that is of extreme strategic importance to our own United States. Because I feel that this interview gives a good indication of the many critical economic, social, and cultural reforms undertaken by Prime Minister Seaga, I respectfully submit it for the RECORD.

[From the Washington Times, Nov. 9, 1982]

SEAGA SAYS JAMAICA ON "ROAD TO RECOVERY"

INTERVIEW—JAMAICAN PRIME MINISTER EDWARD SEAGA ON THE CARIBBEAN'S ECONOMY AND POLITICS

Edward Phillip George Seaga became prime minister of Jamaica on Oct. 30, 1980, when the Jamaica Labor Party, which he has led since 1974, won a landslide election victory over the People's National Party and Prime Minister Michael Manley. The election was hailed as a turn away from socialism and close ties with Cuba's Fidel Castro and toward free enterprise and the United States.

Since assuming office, Seaga, 52, has worked to revitalize the depressed Jamaican economy. By securing loans, opening new trade avenues and initiating training and employment programs, he has managed to turn the corner on what has been described as the world's second-worst economy.

Seaga has been one of Jamaica's pioneers in economic, social and cultural reform. He has made "Change Without Chaos" the motto of his 21-year political vocation. An outstanding example of this creed is his work in transforming a Kingston slum known as "Back-O-Wall" into a vibrant community called "Tivoli Gardens," a model of total development planning.

While in Washington recently for an address at Howard University, Seaga visited with a group of senior editors at The Washington Times. Following is an edited transcript of that interview.

Q: Prime Minister, why are you in Washington? What brings you here?

A: Principally, I came to deliver the Mordecai Johnson Memorial address at Howard University. But, having come for that purpose, I'm also taking advantage of the visit to wrap up some specials with the World Bank on our structural adjustment on the Jamaican economy. I've had the opportunity to see OPIC (Overseas Private Investment Corp.) and run through a number of programs with them.

Q: You've been in office now almost two years. At this juncture, what has pleased you and what has disappointed you in the way things have gone in Jamaica?

A: Well, I'll start with the disappointment. It's really one disappointment and that is the mining sector. It so happens to be the major foreign exchange earner, and therefore it hurts whenever that sector is weak.

Insofar as the recovery program goes, because that's the essential focus of attention, this year is a continuation of last year. There will be further growth. There will be a further surplus on the balance of payments account, which will be a further reduction in unemployment. It's been marginal, but, you know, if you take off one point per annum and you end up taking off five points, you have done something that no other government has ever done in the history of the country.

We have just introduced a new institution which is far-reaching in the extent to which it can pioneer in development strategy. It is aimed, in part, at investment in the informal sector by doing two things, both through training: training for employment and training for self-employment.

Trainging for employment—by converting, over five years, some 90,000 unskilled people, mostly to low-level skills which our projections for the economy show we will require—and training for self-employment because in the rural areas there isn't much employment because there aren't many employers, Everybody's his own employer. So we have to open new avenues and opportunities, and it's a very creative exercise in trying to find the things that you can do that isn't what your father has been doing for decades and others made a living at.

Q: What about tourism, sir? How did your "Come Back to Jamaica" program work for you?

A: Tourism has gone up by 20 percent. This year it will probably repeat and probably do a bit better, but it's on target in terms of a 60 percent growth over three years.

Q: Where will that put you compared with pre-Manley levels?

A: We have now just about exceeded the best year ever. We are now back to our previous best. When we set the target for 20 percent per annum for three years, we did it against a background of a number of uncertainties. It's a very delicate and fragile thing, and coming out of the problems that we had over the last few years any little thing could have triggered a bad reaction.

Fortunately, we've had real stability. Levels of violent crime are down to what you just find in ordinary circumstances, anywhere. The country is really concentrating on the future, and individuals on their own personal problems and making their own headway.

So we've had the right climate and we've had a very good marketing program through the ads, and the combination of that, plus the old PRing of Jamaica in the United States, which was helped by my being invited as the first official head of government to visit with the president. He has mentioned Jamaica several times in speeches, and we have really excellent press here.

Q: What is your level of unemployment right now?

A: It is now 25 percent. When we took over it was 27 percent. As I was indicating, we were targeted by the traditional strategy to drop it one point per annum, which would be unprecedented.

Q: Are those statistics meaningful? You have had a lot of underemployment also. Chaps are selling matches and pieces of soap.

A: Well that happens in all economies of that sort, so we have to compare like with like, so however it has been done over the years, we couldn't deviate from that now. But this new program that I am telling you about, by penetrating the informal economy, is expected at low investment cost—because these are low investment deals—to drop it another point per annum. If that works over five years, we will have reduced unemployment by 10 points, where, I can assure you, when we have an unemployment rate of 15 percent, means that as far as adult males are concerned you have no unemployment. Such unemployment as you have would be among females and some youth. We haven't seen that rate since the '50s, so that would be an achievement.

Q: Where are we now on the Caribbean Basin Initiative? I have the feeling it has run out of gas a little bit politically.

A: Well, if I may say so, the tendency here is when something hits the front burner it's everything. Right now it's Tylenon. CBI is on a back burner. That doesn't mean it won't get on the front burner. It's the major foreign policy thrust of a positive and constructive basis of the whole U.S. government. They can't afford to let it lie on the back burner. I think a critical thing is that it should be passed by this Congress because if it's not, then it turns over to the new Congress, then we have to start again. Now the kind of work that we have to do in terms of lobbying, in terms of helping to frame much of the thoughts that went into working with the administration and with the people who put the packages together, it's really something I don't think we can duplicate again.

Q: Early on President Reagan decided to make Jamaica the showcase of our Caribbean policy, but the world has changed a great deal. Now, we have problems in Mexico and so forth, and other priorities have intruded themselves. Do you think President Reagan remains as devoted personally to the notion as . . .

A: I think he remains as personally devoted to the situation. I would think that is all the more reason Jamaica has to be that showcase. Over the last 10 years, Jamaica had the world's second-worst economy. That's where we are coming from. Now if we can come from there, and in one year turn it around and in years two and three take off in the sense of moving in a forward direction with continuing growth and all indicators pointing in the right direction, this is what causes you to take heart again against the background of Mexico and the others that are collapsing.

We virtually had a civil war. We had eight years of negative growth. We lost all our reserves, they were wiped out, replaced by a mountain of debt. We saw unemployment soar by 50 percent. We saw standards of living fall by 57 percent. We had eight successive devaluations during that period of time. We went through all that and in one year we've turned around and have prospects for continuing that, so that's all the more reason that we need to be made that example, or we need to be given a chance to be that example.

Q: How do you feel about Castro's current position in the Caribbean? Is it stronger now than it was a year ago or weaker?

A: Castro has been weaker ever since the Jamaican elections. He became weaker yet after we severed diplomatic relations. The Carribbean is not responding to the Castro hype, not anymore, with the exception of Grenada, which is very firmly committed to that model, and which has the good fortune of getting assistance from both East and West, and therefore is being put in a position where it will show more advance and development than its small sister islands, who are only getting a measure of assistance from the West.

Q: Do you regard Michael Manley as an agent of Castro?

A: There's no question in my mind that Manley's position, both in terms of the ideological direction he was moving in and the very personal relations that he had struck up with Castro, that, whether he wants to consider himself or not, he was acting as an agent for Castro. Because, it was not just a matter of adopting ideology, or personal friendship, but Jamaica's presentation of Castro's Cuba was as one-sided as you would get in Cuba.

Q: I was going to ask about the Law of the Sea treaty and Jamaica's feelings about that.

A: Well, we're very unhappy that the U.S. administration has not gone along with the formulation on the law of the sea. We ourselves do not understand how the U.S. can benefit from staying out of an international jurisdiction. It would seem to me that the U.S. may very well be excluding itself from the benefits of a regulated use of the sea. There are far more than enough countries

who have already signified their intention to ratify it, to bring it into force. So, I have a feeling that U.S. strategy is going to change, because I don't see an alternative. I don't see a viable alternative.●

PAUL FINDLEY—MAN OF PRINCIPLE

HON. GEORGE M. O'BRIEN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1982

● Mr. O'BRIEN. Mr. Speaker, PAUL FINDLEY has demonstrated by his work that political courage is alive in the 20th century.

Years before anyone thought it was a good idea PAUL FINDLEY called for the normalization of relations with the People's Republic of China. He was roundly criticized * * * and then vindicated.

On numerous other occasions PAUL has had the courage to come out and say the unpopular, and not flinch in the ensuing crossfire.

This dedication to principle over politics makes PAUL FINDLEY a unique public servant, indeed, a unique person.

In our pursuit of good public policy we need to hear the unpopular, the out of step, the inconvenient. That is why PAUL FINDLEY is needed in Congress, and that is why he will be missed by all of his colleagues.●

PRIVATE PENSION PLANS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 1, 1982

● Mr. HAMILTON. Mr. Speaker, I would like to submit my Washington Report for Wednesday, December 1, 1982, for inclusion in the CONGRESSIONAL RECORD:

PRIVATE PENSION PLANS

Public attention today is focused on the ill health of social security, but I am impressed by the growing interest in the condition of private pension plans. Many Hoosiers are worried about their retirement and the soundness of these plans.

In 1974, Congress decided to insure the kind of pension on which most workers rely—the "defined-benefit" pension under which a company promises an employee a retirement income based on both pay and years of service. The "defined-contribution" pension—which gives the retiree an income much like that from a savings account—is not insured since it is, by definition, fully funded. The Pension Benefit Guaranty Corporation (PBGC), a federal agency, now insures the pensions of 36.3 million workers in 92,000 plans. The PBGC is backed by corporate premiums—$2.60 per insured pension plan participant per year—and has an unused $100-million line of federal credit.

The PBGC insures pensions much the same way the Federal Deposit Insurance Corporation insures bank accounts. If a pension plan is terminated for any reason without sufficient assets to cover vested benefits, the PBGC takes over corporate assets totaling up to 30% of the company's net worth and uses those assets and the premiums it collects from other companies to pay the pensions. The maximum payment to a retiree is $1,380 per month, a sum which is annually adjusted for inflation. As things now stand, the PBGC is protecting 71,200 workers and retirees in 659 failed plans. It is paying the retirees $62.3 million per year. Were it not for the PBGC, these workers and retirees might have nothing.

But the PBGC and the private pension system it insures have many problems. Slow economic growth and general business distress have boosted claims against the PBGC by 250% since 1977. It has picked up 130 failed plans in the last eleven months, and it must consider its $3.1-billion liability in the 30 major plans it thinks are candidates for early termination. The sudden termination of two or three very large plans could overwhelm the PBGC and require the intervention of Congress. A second problem is the widespread dissatisfaction with the PBGC among companies whose plans are healthy. It arises in part because premiums are not related to risks. They are the same for all companies no matter how well or poorly their plans are funded. Moreover, abuses are cropping up more often. Businesses with low net worth and high pension liability are ending their plans because current law gives them an incentive to do so. Others are getting rid of subsidiaries with burdensome pension liabilities.

Companies have reacted to these problems in understandable ways. When they consider the needs of their retiring employees, more of them think of defined-contribution plans such as stock option plans, profit-sharing plans, and money purchase plans. Only 29% of the plans introduced last year were defined-benefit. The trend is toward the defined-contribution plan because it reduces costs, solves the problem of unfunded liability, increases the portability of pensions, and puts workers' funds beyond the reach of the employers' creditors. A drawback is that workers bear the risk that their investments will perform poorly.

The long-term health of a plan depends in part on the assets a company sets aside to cover its pension liability. Those assets earn interest which pays benefits far into the future. Thus, an accurate assumption about what interest rates will be is extraordinarily important, yet it is very hard to make when interest rates fluctuate as much as they have recently. Fluctuating interest rates also open up opportunities for abuse. A company can make a sick plan appear healthy by making an optimistic assumption about interest rates.

The other essential ingredient in the long-term health of a plan is an accurate projection of pension liability. This involves calculations about the changing character of the work force. For example, older workers may mean higher pension costs if businesses offer them early retirement to free up positions for younger workers. On the other hand, older workers may mean lower pension costs if they work beyond age 65. Future change in the social security system must be taken into account because nearly 30% of pension plan participants are in plans which are integrated in some way with social security benefits. Pensions would have to be more generous to make up for a cut in the rate of growth of benefits.

The problems of estimating interest rates and penson liabilities are ones which Congress cannot do much to solve. However, Congress should take steps now to help meet the worst of the short-term problems. One step would be a general increase in the corporate premium paid by companies with plans. Such an increase would be quite unpopular, but it may be necessary. Another step would be enactment of a risk-related premium designed to force companies with poorly funded plans to pay more than companies with well funded plans. The chance that such a premium might cause some companies to terminate their plans could be minimized by phasing the new premium in over a period of time. Also needed is reform of the provision giving companies with low net worth and high pension liability an incentive to terminate their plans. Instead of permitting them to terminate by surrendering 30 % of their net worth, the PBGC might require that all pension liability be covered; it would pick up a plan only when the company was in liquidation. Yet another reform would demand that companies which got rid of plans by selling or spinning off subsidiaries be held potentially liable for the plans for 15 years.

I am impressed by the rising number of workers who expect to receive pensions from their employers. However, the complexity and variety of pension plans are causing great confusion among workers. Workers have to understand the benefits and risks of their plans and begin planning for retirement early. The choices that they make today will determine what resources are available to them 20 or 30 years from now. Also, workers should know that many employers, especially small ones, are terminating pension plans and are leaving their workers dependent on social security and personal savings for their retirement.●

THE TRUTH WILL WIN OUT

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 1, 1982

● Mr. DYMALLY. Mr. Speaker, on November 18, 1982, the Associated Press—California—ran a story which I thought might be of interest to the Members of Congress.

The story can be called a case of misuse of media power, or the abuse of the justice system.

The printed article and letter attached are only part of the story; the other part is also interesting.

During the course of my 1978 campaign for reelection as Lieutenant Governor, State of California, I was accused by my opposition as "a criminal who was going to be indicted." As the attached letter and article explain, this false information was leaked to Bill Stout of KNXT-CBS-TV by Deputy Attorney General Michael Franchetti.

The then Attorney General Evelle Younger, Republican candidate for Governor, also predicted that a prominent elected constitutional officer was going to be indicted. When questioned by the editors of the San Diego Union, the attorney general identified that

constitutional officer as me. What was interesting about that statement is the fact that the same attorney general was saying privately to one of his colleagues—a former deputy district attorney and superior court judge—that he had no information of a criminal nature about me.

The upshot of these political accusations was to lead the U.S. Department of Justice and the FBI into an intensive and damaging investigation of me from August 1978 to January 1980 which led to my defeat, only to discover that I was innocent of any wrongdoing.

It should be noted that this episode was not without the involvement of Los Angeles Times Reporter Robert Fairbanks, who sought information about a false rumor from his source in the attorney general's office—Kenneth O'Farrell.

Mr. Franchetti, not satisfied with leaking wrong and damaging information about me, then ordered a raid on my lawyer's office for my files. When no information was forthcoming, he, with the approval of the new Republican Attorney General George Deukmejian, ordered the convening of a grand jury in San Diego County to have me indicted on false charges of accepting a bribe. So ridiculous were the charges that the grand jury refused to act.

To make the matter more comical, his Deputy Attorney General John H. Gordinier, who conducted the grand jury investigation, then volunteered to the San Diego media that I was never a target of his investigation.

Mr. Speaker, it has taken Mr. Hugh Pike 4 years, with full time counsel, to receive an apology from Mr. Franchetti. It took KNXT-CBS-TV 2½ years to apologize to Mr. Pike.

In my case no such apology was forthcoming. After 3 years, KNXT-CBS-TV finally agreed to give me 1-minute rebuttal time after I pointed out to the FCC that the wife of the commentator, Bill Stout, who aired the false charges, was an employee of the attorney general gubernatorial campaign committee, which was responsible also for the leak through Sheldon Lytton, also of the attorney general's office.

Mr. Franchetti's detailed, two-page apology, dated November 4, 1982, was sent to Mr. Pike 2 days after Mr. Franchetti's boss, Attorney General George Deukmejian was elected Governor of California—letter attached.

For this miscarriage of justice, Mr. Michael Franchetti has been rewarded with the highest appointive post in California—the director of finance—by his old and now new boss Governor-elect George Deukmejian.

Mr. Speaker, I bring this matter to the Members' attention to show how vulnerable and defenseless elected officials are to false and damaging charges by the media and unscrupulous law enforcement officials.

Fortunately for me, Mr. Hugh Pike was blessed with the financial resources to retain full time counsel to expose this injustice.

I trust this statement and the attached article and letter will help to put an end to the abuse of power by those who hold responsible positions in the media and the criminal justice system.

STATE OF CALIFORNIA,
DEPARTMENT OF JUSTICE,
Los Angeles, Calif., November 4, 1982.

HUGH G. PIKE,
Sherman Oaks, Calif.

DEAR MR. PIKE: In 1978, during former Attorney General Evelle Younger's last year in office, the department was involved in an investigation into possible instances of political corruption in California. In the course of that effort, a number of investigators in the department accumulated many evidentiary leads, intermingled with unverified rumors. As is customary, the resulting written memoranda became part of the permanent confidential files of the department.

On October 5, 1978, Special Agent Kenneth O'Farrell had an informal conversation with Robert Fairbanks, a Los Angeles Times reporter in Sacramento, who conveyed to O'Farrell a rumor that you and former Lieutenant Governor Mervyn Dymally were about to be indicted by a Federal grand jury. O'Farrell prepared a routine memorandum of that information. In the ordinary course of my duties I was present at a meeting at which that memorandum was discussed.

At that time Mr. Younger was a candidate for Governor, and his campaign organization employed Mr. Sheldon Lytton, who had previously been a special assistant to Mr. Younger in the department. I understood at the time that Mr. Younger needed to be kept abreast of developments within the department and that he used Mr. Lytton as a liaison for that purpose. In response to a routine inquiry from Mr. Lytton of his character, I told him of the rumor our investigator had received and the resulting memorandum.

Subsequent to my conservation with Mr. Lytton, Mr. Lytton contacted me and told me that Bill Stout of KNXT-TV, Los Angeles, had broadcast a news story stating that there was a State Department of Justice report which stated that you and others were about to be indicted by a federal grand jury. Mr. Lytton stated that Mr. Stout had indicated a desire to actually review the memorandum, and inquired as to whether or not I could obtain and forward to Mr. Lytton a copy of the memorandum. I was able to obtain a copy of the memorandum and did give it to Mr. Lytton. It now appears that the memorandum should not have been made available to Mr. Lytton.

With the single exception of the Fairbanks' rumor, this department has never possessed any information alleging criminal wrongdoing on your part. Furthermore, the department to my knowledge has never had any other information that you were a target of any federal, state or local criminal investigation. The passage of more than three years is a strong indication that the originator of the rumor acted out of misinformation.

Following an internal inquiry, Mr. Younger took steps to prevent the recurrence of unauthorized "leakage" of confidential department documents. When he succeeded to the office of Attorney General, Mr. Deukmejian reaffirmed and strengthened these salutary precautions. You may be interested to know that the O'Farrell memorandum of October 5, 1978, now bears the notation that it is not to be examined or circulated in whole or part, inside or outside the department, without the written approval of the Attorney General. A copy of this letter has been attached to that memorandum.

Permit me to express my sincere regret over this matter, and allow me to apologize on behalf of myself and my colleagues who were involved in it for any harm which may have been caused by our conduct.

Sincerely yours,

MICHAEL FRANCHETTI,
Chief Deputy Attorney General.

[From the Torrance (Calif). Daily Breeze, Nov. 18, 1982]

DEUKMEJIAN AIDE ADMITS LEAKING CONFIDENTIAL DOCUMENT ON DYMALLY

LOS ANGELES.—The man Gov.-elect George Deukmejian has selected as state finance director, Michael Franchetti, has admitted leaking a confidential state document in 1978 containing a false rumor that Lt. Gov. Mervyn Dymally was about to be indicted.

The document—which said on its face that it was based only on a rumor—had earlier been the subject of a Los Angeles television news broadcast predicting, a month before the 1978 election, that Dymally would be indicted.

Franchetti, who has been chief deputy attorney general under Deukmejian since 1979, disclosed his actions in a letter of apology to a former Dymally campaign aide, made public Wednesday.

In his letter, Franchetti stated his "sincere regret" for the leak and said he had been wrong to provide a copy of the document to one of Attorney General Evelle Younger's campaign aides, who gave it to a televison reporter. He also said the office never had any evidence of wrongdoing by Dymally or his 1974 finance chairman, Hugh Pike.

In return for the apology, Franchetti was dismissed as a defendant in a libel suit by Pike, who was also described in the leaked document as facing indictment by a federal grand jury. No indictments were ever issued.

Calls to Deukmejian's office were returned by the attorney general's press secretary, Tony Cimarusti, who issued this statement for Deukmejian: "The case is settled and the matter was dismissed, and there isn't any further comment from this office."

But Pike said Wednesday that he wouldn't have agreed to drop Franchetti as a defendant had he known Deukmejian would appoint Franchetti on Nov. 4 as finance director, one of the most powerful positions in state government.

"The people of this state sought to know about the character of the man who was appointed to this job, taking private confidential documents and leaking them to the press for purely political gain," Pike, a Los Angeles businessman, said in an interview.

Franchetti's letter was dated Nov. 4, but Pike said the settlement was reached in August. He didn't explain the delay.

But the Los Angeles Times, quoting unnamed sources, said the letter was delayed so as not to embarrass Deukmejian before the Nov. 2 election, in which he defeated Los Angeles Mayor Tom Bradley.

Publicity about Dymally's supposed legal troubles apparently contributed to his

defeat in 1978 by Republican Mike Curb. Curb predicted shortly before the election that Dymally would be indicted and also said Dymally was guilty of "criminal offenses."

Curb said he based his information in part on a broadcast by Bill Stout, the Los Angeles television reporter who later was the recipient of the document Franchetti leaked.

The principal characters in the 1978 episode were Franchetti, then a legislative assistant to Younger, and Sheldon Lytton, who had left the Attorney General's Office to work in Younger's campaign for governor and later served briefly as Curb's chief of staff.

According to Franchetti's letter, about a month before the November 1978 election, Los Angeles Times reporter Robert Fairbanks called Kenneth O'Farrell, an investigator in Younger's Justice Department, and asked if he had heard a rumor that Dymally and Pike were about to be indicted over a business transaction.

O'Farrell said he hadn't heard of it but made a confidential memorandum about it, in which Fairbanks was described only as a "news source."

Pike's lawyer, Steven Smith, said the memo "said on its face that it was pure rumor or low-grade rumor."

Franchetti said he heard about the memo at a meeting and told Lytton about it soon afterward, "in response to a routine inquiry." He said Lytton kept Younger abreast of developments in the Attorney General's Office during the campaign.

About that time, Stout said on a KNXT news broadcast that the Justice Department had a report predicting indictments of Dymally and Pike. Smith said he doesn't know where Stout got the erroneous information. Pike immediately demanded a retraction.

According to the letter, it was after the broadcast that Lytton asked Franchetti if he could get a copy of the memo to give to Stout.

"I was able to obtain a copy and give it to Mr. Lytton," Franchetti wrote. "It now appears that the memorandum should not have been made available to Mr. Lytton."

Pike said sworn statements given to his lawyer by Franchetti, Lytton and a department investigator describe how Franchetti asked for a copy of the document for his own use, and then mailed it in a personal envelope to Lytton's home.

Smith, Pike's lawyer, said that after the memo was sent, the CBS network refused to retract Stout's statements. But Stout issued an on-the-air apology several years later, and he and CBS were dropped as defendants in Pike's suit.

The remaining defendants are Lytton, Fairbanks and the *Times*.

Pike quoted Lytton as saying in his sworn statement that he called Franchetti after Stout's broadcast because "if, for example, Yvonne Burke became attorney general, I felt it was in our (his and Franchetti's) interest to have a copy of that document." He also said he needed it before the election.

Mrs. Burke, then a congresswoman, was defeated by Deukmejian for attorney general.

Franchetti said in his letter to Pike that "with the single exception of the Fairbanks rumor, this department has never possessed any information alleging criminal wrongdoing on your part."

"Furthermore, the department to my knowledge has never had any other information that you were a target of any federal, state or local criminal investigation. The passage of more than three years is a strong indication that the originator of the rumor acted out of misinformation."●

EXTEND LEGISLATION FOR OUR NATION'S HIGHWAYS

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 1, 1982

● Mr. HUBBARD. Mr. Speaker, I received a letter on November 3 from a good friend of mine and fellow Kentuckian, Harry J. Davis, of Eaton Asphalt Paving Co., Inc., in Covington, Ky. Mr. Davis has written me an excellent letter in which he stresses the urgent need for the Congress to pass a 1-year extension of the highway trust fund and Federal-aid highway program. Indeed, I agree that we cannot allow an abrupt discontinuation of the Federal-aid highway program which will adversely affect the highway construction industry, one that is suffering from an extremely high unemployment rate of 20 percent. I believe my colleagues will be interested in Mr. Davis' comments. His letter follows:

EATON ASPHALT PAVING CO., INC.,
Covington, Ky., October 29, 1982.

Rep. CARROLL HUBBARD,
Rayburn House Office Building,
Washington, D.C.

DEAR CONGRESSMAN HUBBARD: Congress passed a highway bill on October 1, 1982 extending non-Interstate federal-aid highway programs for only 78 days, through December 17, and authorizing $3.225 billion in Interstate construction for the entire new fiscal year, which began on October 1. As soon as the President signs the bill into law, those funds will be apportioned among the states, and will be available for obligation along with $800 million in Interstate 4R funds apportioned previously.

As has been reported, this year it was necessary to extend the Highway Trust Fund as well as pass a one year extension of the Federal-aid Highway Program. The highway bill that Congress passed on October 1 did not contain a trust fund extension because the leadership of the House Public Works Committee refused to go along with the trust fund extension language developed by Ways and Means Committee Chairman Dan Rostenkowski, which would place the Highway Trust Fund in the Internal Revenue Code and would permit Ways and Means to review all future highway legislation before allowing trust fund monies to be released to support programs contained in the legislation.

With no extension of the Highway Trust Fund, the House and Senate Public Works Committees decided to go forward with a "shortened" bill in an effort to at least keep the Federal-aid Highway Program from grinding to a halt on October 1. The result was a bill providing approximately $5 billion in new contract authority with non-Interstate programs authorized only December 17.

We need your aid in seeing to it that Congress passes a simple one year extension of the Highway Trust Fund and Federal-aid Highway Program in the lame-duck session scheduled to begin on November 29.

The following points are pertinent:

One. The Federal-Aid Highway Act of 1982, passed by Congress on October 1, 1982, only extended non-Interstate Federal-aid Highway programs through Dec. 17.

Two. Unless Congress passes a simple one year extension of the Highway Trust Fund in the lame duck session, the only federal aid available after Dec. 17, 1982 for repairing our nations highways will be for the Interstate System. This is not fair to highway users who are paying dollars into the Highway Trust Fund and are conducting 80 percent of their travel off the Interstate System.

Three. An abrupt discontinuation of the Federal-aid Highway Program, which will occur without an extension of the Highway Trust Fund, will disastrously affect the highway construction industry, already suffering a 20 percent unemployment rate, more than twice the national average.

Four. The House Ways and Means and House Public Works and Transportation Committees must be urged to reach agreement on the Highway Trust Fund Extension.

We are all reading the constant flow of articles, editorials, etc., regarding the deteriorating condition of the nations roads and bridges, including the Interstate Highway System which was designed and built as a Defense Transportation Network. Our nation can ill afford to see this system disintegrate as have the railroads.

H.R. 5470 is now ready for a quick conference between Senate Finance Committee members and House Ways and Means Committee members, and final passage by both houses which has to take place in the 15 day lame-duck session.

Respectfully yours,

HARRY J. DAVIS,
Sales Manager.●

DANGEROUS MYTHS ABOUT NUCLEAR ARMS

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 1, 1982

● Mr. McDONALD. Mr. Speaker, in the debate over the so-called nuclear freeze, there are many myths circulating relative to nuclear war. They concern whether or not there is a parity in nuclear arms between the United States and the U.S.S.R.; whether we would really destroy each other in a nuclear war; whether stopping U.S. research and development on nuclear weapons would make the world safer; whether or not a nuclear war would make the planet Earth uninhabitable; whether or not a nuclear war would destroy the ozone layer over the Earth; and lastly, whether having a good civil defense system would help? As a scientist of renown, Dr. Edward Teller, the father of our H-bomb, and the author of this article, has destroyed each myth in a very concise manner. The article from the Reader's Digest of November 1982, follows:

DANGEROUS MYTHS ABOUT NUCLEAR ARMS

(By Edward Teller)

Educating people about the nature and actual perils of nuclear weapons would not be easy under any circumstances. It is almost impossible when elementary facts are guarded by strict regulations of secrecy. Given such conditions, dangerous myths develop and proliferate.

The reality of nuclear weapons is grim enough. Exaggerations about them are apt only to paralyze us. Some of the current myths have grown from misinterpreted scientific studies; others seem to be based on simple wishful thinking. They all have one common characteristic; so long as they are believed, they obstruct an accurate assessment of our problems and will prevent the development of workable plans to preserve peace.

Myth 1: The Soviet and American nuclear stockpiles are close to identical. A nuclear freeze would stop the arms race and offer improved mutual protection.

Neither the United States nor the Soviet Union publishes information on its current arsenals, and secrecy laws prevent me from discussing even the available estimates. There is, however, an officially released fact: between 1966 and 1981 the total megatonnage of the American nuclear arsenal was reduced to less than one-half its former size. The Soviet arsenal has rapidly increased in yield, accuracy and diversity during the same period and currently includes a total nuclear explosive power in excess of what the United States ever had.

The Soviets have built the most powerful single weapons ever constructed. Militarily such weapons have very limited value, but as a blackmail threat against free-world cities, they seem to be quite effective. Weapons of such immense size are the most likely to cause damage to the earth's ozone layer (which acts as a shield against lethal amounts of ultraviolet radiation) and lower the global temperature. A movement that says "freeze the current arsenals as they are" grants acceptability to these extraordinarily destructive Soviet weapons when they should be vigorously opposed.

By comparison with the Soviet Union, we have but a small fraction of the world's existing nuclear megatonnage. We do have sufficient power to create great damage, particularly to the Soviet industrial plant, if our retaliatory forces are safe from a first strike. They are not safe, however, and their deterrent effect has become doubtful.

Myth 2: Each nation has the power to destroy the other totally. Mutual destruction can most surely be avoided by disarming.

Our nuclear defense strategy, Mutually Assured Destruction, has the most appropriate acronym of MAD. The theory: if the Soviet Union and the United States have their urban populations at risk, then neither will attempt a first strike.

The Soviets have never agreed to the ideas on which MAD is based. The landmass of the U.S.S.R. is more than twice that of the United States; its urban concentration proportionately much lower. The Soviets' civil-defense planning may well enable them to lose fewer people in a nuclear conflict than the 20 million or more casualties they suffered in World War II.

Disarmament (as opposed to simple surrender) must be based on openness or trust. The extreme reticence of the Soviets to allow on-site inspections has been a continuing problem since 1958. Our basis for trust has not grown since. Recently declassified information offers an example of our problems. Since silos but not missiles can be counted by aerial surveillance, the SALT treaty limited silos. The obvious objective was to limit the number of deliverable missiles. The American silos are not reloadable. The Soviet silos are. This is not a breach of the treaty. American negotiators, neglecting the possibility that the Soviets might not have an equal urge to disarm, failed to insert an essential clause.

We have negotiated for 25 years, and the results are readily visible. Why would a totalitarian empire that depends on military force to maintain its power voluntarily disarm itself?

Myth 3: Stopping U.S. weapons research and development will help make the world safer from the destructive effects of nuclear weapons.

For more than 25 years the primary purpose of U.S. weapons laboratories has been to make nuclear weapons less indiscriminately destructive. Cleaner bombs (with less fallout), smaller, more military effective weapons, and neutron bombs useful for battlefield defense (with less civilian damage than that created by a conventional artillery barrage) are among the results.

Furthermore, extremely important research is being conducted on systems to defend against incoming nuclear missiles. For example, exploding a very small nuclear bomb near an attack missile as it enters the upper-to-middle atmosphere over our nation would have no effects on the ground and negligible effects on the atmosphere, but could totally disarm the incoming missile without detonating it. Such a system, used to protect our vulnerable missile silos, could be an important first step in improving both our current retaliatory position and directing our policy toward defense. The nuclear-freeze movement would end further work on what could be the best defense systems.

The Soviets have already deployed an antiballistic-missile system around Moscow. We have the right to deploy a similar system but have not done so. The Soviet-American antiballistic-missile treaty is now being reviewed. We should change our policy and emphasize defense rather than retaliation.

Myth 4: If a large number of nuclear weapons were exploded, fallout would pollute food and water supplies, making combatant countries uninhabitable. The spread of radioactive fallout throughout the world would end life on earth.

Fallout is part of many myths, and one of the common misunderstandings has to do with the durability and extent of its effects.

The radioactivity of fallout declines rapidly. For example, if 1000 rems per hour (a lethal dose) were released by a bomb, seven hours later the dose would be 100 rems per hour (far below lethal). In 49 hours radiation from this fallout would be reduced to 10 rems per hour. In 100 days the radiation would be 0.1 rems, comparable to the amount received from a chest X ray.

The amount of radioactivity produced by a bomb, contrary to myth, is finite. Radiation from fallout of the intensity described would be limited to the immediate vicinity of the explosion and the adjacent areas downwind. People in these areas could move to uncontaminated regions. (Decontamination is feasible if we prepare for it.)

Fallout in the vicinity of a nuclear explosion is a visible material, an ash. It can be wiped or washed off cans, wrappers, skin or any other surface. It can be easily filtered out of water. Food exposed to fallout is not harmed by the radiation. In fact, radiation is used commercially for food preservation. The only risk connected with food is if the fallout itself is eaten in the food or through some part of the food chain.

Skin contact with fallout is not necessarily fatal—depending on the intensity of the radiation and the precautions taken. Injuries can be reduced simply by washing off the ash. Through tragic miscalculation, 23 Japanese fisherman were covered with fallout from the multi-megaton test at Bikini Atoll in 1954. The fallout reached their boat three hours after the explosion and continued for an additional 4½ hours. They made no effort to brush or wash off the ash. All suffered skin lesions, most had appetite loss, some experienced nausea and vomiting. One died shortly afterward, and two others died 20 years later of liver disorders that may have been associated with the fallout. The rest have survived. Simple knowledge on how to deal with fallout would practically have eliminated the effects.

There would be numerous dreadful real consequences if a nuclear exchange occurred. Preventing war—in particular, nuclear war—is our single most important task. Should nuclear war occur in spite of every good effort, the number of people killed would be truly terrifying, but many more would survive. Perhaps this is the most frightening thing about our current myths: the misconceptions that exist currently would intensify the fear and suffering of survivors needlessly.

Myth 5: The explosion of nuclear weapons in the atmosphere will bring an end to life on this planet by damaging the ozone layer.

This new doomsday myth is gaining popularity. What we know today about the ozone layer suggests that if weapons larger than half-megaton bombs—such as only the Soviets possess—were exploded in the atmosphere, they would generate considerable amounts of nitrogen oxides at high altitudes. These oxides continue to destroy ozone over a protracted period. If the ozone were depleted, more ultraviolet radiation would reach the earth.

Assuming a worst-case scenario—a nuclear attack in which 5000 weapons, all of 1- to 20-megaton size, were exploded in the atmosphere—there would probably be a 50-percent decrease in the ozone layer over the Northern Hemisphere during the following year. (In the next few years, the ozone layer would return to about 80 percent of normal.) If this occurred, people would suffer rapid sunburn and a significant increase in skin cancer. Some ultraviolet-sensitive species could be extinguished, and some serious ecological changes might follow. However, our survival can be considered certain.

More detailed scientific information about the ozone layer is needed and should be gathered on an international basis. In the meantime, limiting the explosive power of all individual nuclear weapons to 400 kilotons would effectively eliminate the possibility of any significant damage to the ozone layer. Such a limitation should become an important part of disarmament talks.

Myth 6: Civil defense is without value in saving lives and may actually increase the risk of war.

This is perhaps the most dangerous myth of all.

Today some Soviet nuclear missiles may carry an explosive force a thousand times greater than the 15-kiloton Hiroshima bomb. However, while the vertical force of the explosive increases a thousand times,

the horizontal distance over which such bombs produce equal damage increases much more slowly. For example, a one-megaton bomb, while almost 70 times more powerful than the Hiroshima bomb, produces equal damage over only about four times the distance.

Few people realize the following facts about the effects of the Hiroshima and Nagasaki bombings. Earth-covered conventional bomb shelters practically under the airburst atomic bombs were essentailly undamaged even though blast and fire destroyed all other buildings in the area. In Nagasaki, people in caves survived one-third of a mile from ground zero. In Hiroshima, a well-built wood-frame house one mile away from ground zero was badly damaged but stood. The day after the blast, bridges were open to traffic; the second day, trains ran; the third day, streetcars were operating. The people of these cities were without any knowledge of how to protect themselves. Yet 1.6 to 3.1 miles from ground zero, 98 percent of the inhabitants—283,000 people—survived. Among this group in the past 33 years, about 500 more deaths from cancer have occurred than would be predicted in an unexposed similar group of people.

What about predictions of genetic damage? Detailed analyses have been made of about 35,000 children born to atomic-bomb survivors. So far no evidence of genetic damage has been found. This does not mean that none exists. However, genetic damage compared with the other horrors of nuclear war is practically negligible. Radiation during pregnancy—especially in the early stages—is very harmful to the fetus. More than one quarter of the infants born five to nine months after the bombing suffered from retarded growth, including mental retardation. About seven percent of those born in the four months following the bombing also suffered these defects. Yet the myth suggests that all fetuses tragically exposed by nuclear war will suffer developmental malformation. The actual effects of atomic weapons are ghastly enough. Exaggeration discourages reasonable measures to protect those most vulnerable.

Under Soviet civil-defense plans, nonessential city workers would be evacuated if the immediate danger of war (or intent for a Soviet first strike) arose. The evacuees would build crude but effective shelters in the countryside according to well-prepared instructions. (Tests of the Soviet shelter plans at Oak Ridge National Laboratory show them to be excellent). With optimum conditions, these plans would allow the Soviet Union to protect all but about 5 to 10 percent of its people from a full retaliatory strike. Well over 50 percent of the unprepared U.S. population would die, in a nuclear attack. This need not be so. Comparable civil-defense planning in the United States could save 100 million more lives.

War has always been more terrible than words can describe. Nuclear war would create immense suffering. Surely taking out some insurance against increased suffering is neither wasteful nor inhumane. We could accomplish so much for so little were we to spend only one percent of our defense budget on civil defense.

Planning the evacuation of urban residents and stockpiling food already owned by the government in the corresponding evacuation areas is a most important cheap insurance policy. Were the Soviets aware that the American people are able to survive an attack, they would be much less likely to take the risk of initiating a conflict. And can you really believe that civil defense will make the American people or our government more likely to risk nuclear war?

Our first step toward stability, toward improving the prospects for peace and for the security of all people, must be the replacement of myths with knowledge. Only then can we approach the best possible solutions. They will not be perfect. But they will offer the chance for improvement—of changing mutually assured destruction into a decent chance of survival, of maintaining sufficient military strength to coax Soviet leaders toward real détente. If our salvation is to be real, it must be based on fact, not fantasy.●

ED DERWINSKI—MY GOOD FRIEND

HON. GEORGE M. O'BRIEN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1982

● Mr. O'BRIEN. Mr. Speaker, when I came to Congress 10 years ago ED DERWINSKI introduced me to his friends and offered his counsel any time I needed it. I availed myself of that offer many times and, over the years, we grew to be friends.

Fate then played a cruel trick on us. We were placed in the same district by reapportionment. Neither of us wanted the other to leave Congress, and neither of us wanted to leave ourselves. So with the greatest reluctance, we began a campaign against each other.

Now that campaign is well into the past. It is time to look ahead. In doing so, one must credit the Reagan administration for asking ED to come aboard with a high ranking job at the State Department. As Counselor he will influence foreign policy in a totally new way from that of his seat in the House. Also, his familiarity with the workings of Congress will be at the disposal of the Secretary.

No one is more disappointed than I that ED DERWINSKI must leave the House. But all of us can be thankful that his involvement in Government is long from over.●

INVESTIGATION AND PROSECUTION OF MURDERS IN EL SALVADOR

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 1, 1982

● Ms. OAKAR. Mr. Speaker, tomorrow is the second anniversary of the murders of the American missionaries Ita Ford, Jean Donovan, Dorothy Kazel, and Maura Clarke, in El Salvador. Two years have passed during which the families, friends, and religious communities of these four women of peace have passed and pleaded for information and action in the investigation and prosecution of these murders. My efforts, and the good offices of many Members of Congress, have been unrelenting in their support for the families of the churchwomen, and in calling our own Government as well as that of El Salvador to accountability in pursuit of the justice this atrocity deserves.

The accused murderers have been in custody since April 1981. It is now December 1982, and still there has been no trial—more importantly, there has been no systematic and thorough investigation by authorities in El Salvador of others who may have had knowledge of, or may have ordered, condoned, or encouraged these murders.

For this reason, the families and friends of these four courageous women—indeed the American public, and we, their representatives—will mark the passing of two frustrating years tomorrow with a renewed resolve and continued determination to press and pursue this case to a just resolution.

Today I am placing in the CONGRESSIONAL RECORD a recent communication by the families through their attorneys on the Lawyers Committee for International Human Rights. The letter explains their reluctance to hire a private attorney in El Salvador to represent them as next of kin in the anticipated trial. As the letter clearly indicates, the families are reluctant to retain any of the candidates from El Salvador who have been interviewed thus far because of the obvious and explicit intention of these attorneys to exclude any further investigation or fixing of blame beyond the five accused guardsmen.

Moreover, the families of the murdered churchwomen are not satisfied with either the efforts of the government of El Salvador or those of the U.S. State Department and American Embassy in El Salvador. The resolution of this case should not be a legitimation of a corrupt and impotent justice system, nor should it be a whitewash of those who bear responsibility for actions by the security forces of El Salvador.

THE LAWYERS COMMITTEE FOR INTERNATIONAL HUMAN RIGHTS,
New York, N.Y., November 12, 1982.

Mr. L. CRAIG JOHNSTONE,
Director, Office of Central American Affairs, U.S. Department of State, Washington, D.C.

DEAR MR. JOHNSTONE: I am writing to inform you about the decision the families have now reached regarding the effort to hire a Salvadoran lawyer to serve as acusador particular in the case involving the December 1980 murder of four U.S. churchwomen.

I write this letter under some constraint. As you know, during the last three months the Lawyers Committee, acting on behalf of the four families, has taken a number of steps to help secure the services of a Salva-

doran lawyer in this case. Starting with a meeting arranged by the Department of State and including Scott Greathead's visit to San Salvador in August, we have met with a number of Salvadoran lawyers in El Salvador and in the United States. Without exception, these lawyers, whether they were contacted independently by us or through the Department of State, have imposed stringent conditions of confidentiality on us because of the considerable risks to them in even discussing the case. It is our intention to respect these conditions. Accordingly, in this letter I am unable to go into as much detail as I would like about our search process or the various discussions that have led to our decision.

It is sufficient to say that during the past three months, we have made a concerted effort to gather as much information as possible about the judicial process and the prospects for utilizing effectively an acusador particular in this case. In so doing, we have sent a representative to El Salvador and Mexico, and invited Salvadoran lawyer(s) to the United States, all at the expense of the Lawyers Committee and the families.

On the basis of what we have been told, we have reached the following conclusions:

1. There is currently no serious investigation of the possible involvement of Salvadoran officers in ordering the killings or covering them up.

2. With regard to the case itself we have been told that an anticipated defense of the five guardsmen will be that they were only acting under orders from their superiors. Lawyers have warned us that the only way to guarantee a conviction of the five guardsmen is to refute their claims that others were involved. We reject this specious reasoning. The families insist on a thorough investigation of the case, no matter where that investigation leads.

3. All of the lawyers with whom we have spoken have expressed the fear that their lives may be jeopardized if they become involved in this case. Several have stated that elements in the Salvadoran armed forces do not want this or any case against members of the armed forces to be tried.

4. In part, because of the threat to their personal safety, lawyers have told us that it will cost between $30,000 and $100,000 to hire a Salvadoran lawyer as acusador particular.

5. A thorough investigation of the possible involvement of Salvadoran officers ordering the killings or covering them up and prosecution of all those responsible has not been and will not be possible without the full support of the United States Government.

6. Currently, we are unable to discover any lawyer in El Salvador willing to pursue a vigorous investigation of all leads in this case. This is, in part, because lawyers there do not believe that the United States Embassy is willing to support such an investigation.

After carefully weighing all of these factors, the families have decided that they are not, at this time, prepared to hire an acusador particular. While it has been their intention from the beginning to take whatever steps are possible and necessary to encourge a full and fair investigation of this case, they now believe that under the present circumstances, the effective inolvement of any private lawyer has become virtually impossible. This, coupled with the potential danger to any lawyer who would aggressively pursue the case, makes the hiring of an acusador particular imprudent at this juncture.

In making this decision, we remain convinced that a major responsibility for the pursuit of all evidence in this case rests with the United States Department of State and its Embassy in San Salvador. Clearly the Embassy has played a key role in whatever progress has been made to date. For the case to be resolved properly, it is essential that a serious investigation be undertaken into the possible involvement of Salvadoran officers, both in ordering the killing and covering it up. The United States Government has a special responsibilty in seeing to it that such an investigation takes place.

In the past two weeks we have become aware for the first time, of new evidence in the case suggesting that "superiors" ordered the killing. According to one account, on August 1 of this year, a former national guardsman named Julio Cesar Valle Espionza, testified that on December 2, 1980 subsergeant Colindres Aleman, the principal suspect in the current investigation, told him, "We are to pick these women up; we are under superior orders." In this instance, as on a number of occasions in the past, we have learned important information about this case as the result of a newspaper article.

Similarly, since April we have requested, but have never been given, the name and address of, or access to, a retired Salvadoran national guard sergeant who was Colindres Aleman's immediate superior officer. According to information attached to your letter of April 13, 1982, the FBI interviewed this man in the United States in February 1982 at which time he "admitted that Colindres had confessed to the murders." In your letter you go on to say that the sergeant "is still available for further interviewing if necessary."

We have just learned, again from sources other than the State Department, that a retired sergeant named Dagoberto Martinez Martinez has testified in this case, describing a similar admission by Colindres Aleman. According to one account, Sergeant Martinez urged Colindres Aleman to conceal his involvement to protect the honor of the Salvadoran National Guard. We are particularly interested in knowing if this is the same man, and if we can interview him.

After investing substantial time, money and effort over the past several months, the decision not to hire an acusador particular has been a very difficult one for the families. However, despite their deep interest in this case and strong desire to be involved, they do not believe that they can now obtain counsel in El Salvador who can independently pursue these and other evidentiary leads that are critical to the successful prosecution of all who were involved. What the families want, and what we will continue to pursue, is the opportunity to obtain a lawyer who can act effectively on their behalf, with undivided loyalty to them in the manner they choose. As you know, this is the essential interest any client has in dealing with his or her counsel.

This does not mean that the families are ruling out the possibility of future legal representation for them in El Salvador. Moreover, the families intend to remain actively involved in the case in whatever way possible. They would like, for example, to send observers to the public trial, when it occurs, and would appreciate sufficient prior notification to allow us to make appropriate arrangements.

We remain willing and eager to work with the State Department and Salvadoran authorities, in any way possible to assure that a complete investigation takes place and that all of those who are responsible for the execution and cover-up of this heinous crime are brought to justice.

Sincerely,

MICHAEL H. POSNER,
Executive Director.

THE LAWYERS COMMITTEE FOR INTERNATIONAL HUMAN RIGHTS,
New York, N.Y., November 30, 1982.

MR. L. CRAIG JOHNSTONE,
Director, Central American and Panamanian Affairs, U.S. Department of State, Washington, D.C.

DEAR MR. JOHNSTONE: I am writing in response to your November 22 letter regarding the hiring of an acusador particular. I have circulated your letter to each of the four families and subsequently spoken with each of them. In the course of these discussions the families have asked that I respond.

On November 12, I wrote to inform you that the families were not prepared to hire an acusador particular. In your response you note that the State Department is considering "how we might be of help to the families in meeting the expenses of the acusador particular." While we appreciate this offer of assistance, expense is not the issue.

As we have explained previously, the decision not to hire an acusador particular is based principally on the families' inability to identify any lawyer in El Salvador who would be willing and able to pursue a thorough investigation of the case. As you know, during the past six months the Lawyers Committee and members of the four families have devoted substantial time and expense in an effort to identify independent Salvadoran counsel. After meeting with a number of Salvadoran lawyers in New York, Washington and San Salvador, we have concluded that:

1. Lawyers in El Salvador have grave, and probably justified fears that if they become involved in this case their lives may be jeopardized.

2. In part because of these fears, no lawyer appears willing to help conduct a thorough investigation of the possible involvement of higher authorities in ordering the killings or covering them up.

3. A number of these lawyers have stated to us that they do not believe that the U.S. Embassy in San Salvador supports a more thorough investigation of the case.

Until these conditions change, it does not seem possible that, in your words "the concerns and doubts of the family members can be thoroughly explored and, hopefully, put to rest."

Concerning the investigation itself, your letter raises several additional points. You write that the U.S. Government will "continue to pursue any leads, no matter where they will take us" but that "to date, *no* evidence has come to light which would give credibility to allegations of higher level involvement in the crime." Based on the record as we know it, this statement is simply not correct.

As you state, "Colindres Aleman's immediate superior was retired Sergeant Dagoberto Martinez Martinez to whom Colindres Aleman confessed his crime after the fact." According to Sgt. Martinez' statement, taken by the FBI in February of this year, Colindres Alemen confessed to him in December 1980 before Sgt. Martinez retired from the National Guard and left the country. At that time Sgt. Martinez urged Colindres Aleman to conceal the murders. Sgt.

Martinez' conduct was itself a crime, misprision of a felony, of which there has been no investigation and no prosecution.

A second testimony was provided to the court on August 9, 1982 by a national guardsman named Julio Cesar Valle Espinoza. Regarding this testimony, you say "Mr. Valle did state early in his declaration that the Sergeant [Sub-sergeant Colindres Aleman] had mentioned that the guardsmen were detaining the churchwomen's vehicle pursuant to high orders."

Six days after Mr. Valle testified in August, a New York lawyer and member of our Board of Directors, Scott Greathead, went to El Salvador on our behalf to assess the status of the investigation and to meet with lawyers. During his visit, Mr. Greathead met with Benjamin Cestoni, the Salvadoran prosecutor handling this case, and with a representative of the U.S. Embassy. In each meeting Mr. Greathead asked specifically if there was any evidence in the court record suggesting that the five guardsmen were acting under orders. Both the prosecutor and the Embassy representative stated unequivocally that no such evidence had been presented.

In your letter you seek to assure the families that "our government remains committed to seeing that all of those responsible for the murders are brought to justice." While we welcome that commitment, the families are not going to be satisfied until these and other leads are fully explored and a full and fair investigation takes place.

Sincerely,

MICHAEL H. POSNER.●

A MAN FOR ALL SEASONS

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 1, 1982

● Mr. DORNAN of California. Mr. Speaker, it is certainly a pleasure and a great privilege for me to have the opportunity to honor Fred Massimini. Fred's untiring service and selfless dedication to his community and to his church exemplify those shining qualities, seldom noted in our newspapers, that have made our country the most generous in the world. It is certainly no exaggeration to say that Fred's accomplishments read like a "Who's Who in America."

Following distinguished military service in the United States Marine Air Corps in the South Pacific during World War II—for which he received the Purple Heart—Fred returned to North Hollywood and established his own business doing custom cabinetmaking for homes and fine offices. Fred's reputation for excellent work soon spread and his company became increasingly busier. Some of his excellent creations include cabinets for the rectory at St. Charles Catholic Church, which he donated. He and his lovely wife Dolly were active in the affairs of their church—Fred served on the St. Charles Parish Council and Dolly was president of the women's auxiliary in 1958.

As his children grew, Fred developed an interest in youth groups and became manager of the North Hollywood Cardinals Little League team from 1956 to 1961. He also became district chairman of Boy Scouts of America. In addition, Fred was special projects chairman for refurbished Colonia Guerrero Orphanage in Baja, Calif., through the North Hollywood Rotary Club from 1974 through 1977. He also served as major gifts chairman for East Valley YMCA from 1978 through 1981. Supporting educational endeavors, he contributed his time and financial support to the North Hollywood High School band and athletic groups. Fred is a past president of the Patron's Club of Notre Dame High School and chairman of the fund raising committee from 1963 to 1967. Fred was also a founding father of North Hollywood Boys Club in 1969.

Realizing the important role that health care plays in the communities of the San Fernando Valley, Fred served as a member of the executive committee of the advisory board of St. Joseph Medical Center as well as a member of the board of directors from 1976 to 1981. Fred donated $10,000 to St. Joseph's which sponsored one complete private room, including furniture. He currently serves on the executive board of St. Elizabeth Convalescent Hospital of Toluca Lake. Fred is also a member of the fund raising committee for Villa Scalabrini Home for the Retired in Sun Valley and has devoted much time and financial help to the San Fernando Valley Association for the Retarded.

Recognizing the importance of community service organizations, Fred became an active member of the North Hollywood Rotary Club, climaxing in his service as president in 1977–78 and serving on the board of directors from 1967 to 1980. Fred is currently a member of the San Fernando Valley Business and Professional Association, Police Community Council, and Police Activity League. On the social and sports scene, he is a longtime member of the Lakeside Gold Club and on the political side is a member of the Lincoln Club.

Fred Massimini's most outstanding contribution to his community has been his enthusiastic support of the North Hollywood Chamber of Commerce, in particular, his unending participation on many of the chamber's committees such as redevelopment, antigraffiti, industrial, and ways and means. At one time or another, Fred served as either chairman or member of virtually every committee the chamber has had over his span of 33 years' membership.

It has been said that it is better to light one candle than to curse the darkness. Fred Massimini's candle has shown brightly and in the process given warmth and cheer to those about him. Thank you, Fred, and congratulations. We're proud of you.●

BAHA'IS OF IRAN

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 1, 1982

● Mr. DERWINSKI. Mr. Speaker, the Baha'is in Iran have suffered tremendous pressure and persecution at the hands of the Moslem fundamentalist regime in that country. Recently, I joined with other members of the Foreign Affairs Committee in writing to the President to urge his support for maximum humanitarian assistance to those Baha'is fleeing as refugees from Iran and to direct our representatives to appropriate international fora to express our moral outrage over this situation. In addition, I feel that the United Nations should send special representatives to Iran to investigate the persecution of the Baha'is.

An article by Georgie Anne Geyer, which appeared in the November 16 Washington Times, reports on the tragic situation that exists in Iran and on the arrests murders, and religious persecution that suggests a genocidal campaign by the Iranian regime against the members of the Bahai faith. I would like to insert this article as I believe that world attention should be directed to this tragedy:

BAHAIS IN IRAN: MASSACRES GO ON

(Georgie Anne Geyer)

While world attention has recently focused on the courageous Israeli investigation into the Beirut massacres, massacres continue unabated elsewhere. Little people pass unknown and often unmourned into history.

The Ayatollah Khomeini's maniacal Iran, for instance, has been trying, with all its skill at killing, to wipe out a small, tolerant, education-loving religious group, the Bahais. But the human spirit prevails in extraordinary ways.

"The massacres in Lebanon were not a surprise to the Bahais," Yale Professor Firuz Kazemzadeh told me recently. "There have always been massacres in the Middle East. There could be millions more (who will) die."

But he, unlike many Americans, knows why. "Khomeini is totalitarian," he said. "He feels that he is in control of all truth, that he will 'purify' the earth and stop the 'corruption.' If you grant that fundamentalist view, then you remove the leg to cure the body."

"But Americans are not prepared to believe that. How can it be? Something else must be operating."

The siege of the small Bahai faith over the last two years in Iran is classic persecution. First, the entire top leadership was taken away and murdered by Khomeini's people. The leaders who replaced them were then eliminated too. The third group boldly sent Khomeini a list of their names and addresses. So far they have not been touched.

It is eerie to see a picture of the leadership—tolerant, educated men and women, people who talked of love in the world—and to know that every single one has been killed. And the next group, too.

Several hundred Bahais are also still in jail. From 3,000 to 5,000 have been driven out of their homes, and over 10,000 have fled the country, going to "holding pens" in Pakistan and Turkey. Those who stay are deprived of jobs; their children are deprived of school. Perhaps eventually their lives will be forfeit too.

The world today seems to be returning to the period of the great "religious" wars. But one has to be careful about the language. As Kazemzadeh points out, whether "Christian" Phalangists kill "Moslem" Palestinians or "Shiite" Persians kill "Bahais," what these conflicts really amount to is a return to tribalism and clan—with all that means in terms of vengeance and the destruction of whole people and religions.

In Iran, he points out, the zealotry is a harnessing of extreme reactionaries and the exploiting of a mixed rhetoric of nationalism, xenophobia and fear of the unknown.

Ironically, what all of this "religious" fanaticism has brought about is the grouping of the entire intellectual life of the country (what is left of it) around the Tudeh or Communist Party.

The Tudeh, which cooperates strategically with Khomeini and his increasingly mendacious mullahs, now controls about a third of the foreign ministry. It is the only group allowed to publish scholarly articles, so even the non-communists intellectuals use the Tudeh to get their works published.

What is so arresting about this new travail of the Bahais, who believe in the consecutive revelations of God through many prophets, is that it is precisely the Bahais who personify tolerance. They believe in the acceptance of differences, the equality of the races and sexes, the harmony of religion in science, the establishment of a world federation, the maintenance of world peace through collective security and a universal auxiliary language.

It is not too extreme to say that the Bahais represent light in the world; and the Khomeini forces, darkness. But in our "rational" world, we have recently forgotten that darkness always tries to oppress light. As Kazemzadeh, one of the 100,000 American Bahais, put it:

"Tolerance was always present only at the edges of Europe when it became prosperous, or when there existed a stalemate of classes or religion. In the West, our memories are short."

He and the Bahais reluctantly have come to the conclusion that since there are no commissions in inquiry in Iran as there are in Israel, the Bahais' only choice is to publicize the massacres of their own people there. "No matter how much of a murderer you are," he says, "you don't want to do it in the sunlight." Meanwhile, "the Bahais stand on their principles and die." He paused and then added sadly, "And those principles of non-violence and tolerance . . . are the hardest ones to stand for."●

IMMIGRATION REFORM AND CONTROL ACT OF 1982

HON. HAROLD S. SAWYER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 1, 1982

● Mr. SAWYER. Mr. Speaker, the Immigration Reform and Control Act of 1982 is in my opinion very poor legislation. It, among other things, extends immediate legalization or amnesty to all illegal aliens who have been in the United States since January of 1978.

No one knows how many people this involves. The estimates range from a low of 3 million to a high of 12 million. One year is given to the Immigration Service to complete the adjudication on this matter. There are no systems prescribed for adjudication nor any appellate apparatus.

Supposing, for example, that 6 million illegal aliens come forward: Who is going to judge 6 million cases? The Immigration Service cannot handle its present obligation, let alone take on a task of such monumental proportions. And it is not just a question of checking documents. Some are going to say:

I was here illegally—I took all my pay in cash—I didn't have a social security number—I never put anything in my own name, but my friend here will testify that I was here on January 1 of 1978, because we had a beer together. And when he's finished I will then testify that he too was here based on the same beer.

Who is going to undertake the fantastic problem of trying to adjudicate these claims?

This is also then an open invitation for anyone not already here to quickly come and tell the same story with witnesses whom I am sure can be obtained.

In the meantime, nobody knows if this rather watered down employer sanction provision, which is supposed to be the solution to the illegal alien problem, is going to work. Failure to comply does not become a criminal offense until several violations have accrued. Nobody knows if it will work or if it will not. No additional resources are being allocated either to the border patrol, which presently has less officers than the Capitol Police Force, nor to the computerizing of the Immigration Service, which now keeps its visas in shoeboxes and has no idea who among those who come in with visas have in fact left and who are illegally staying here beyond their time as either students or whatever.

I recognize that the huge illegal alien problem has to be addressed. It is not a healthy situation to allow this subculture to go on existing and festering and being exploited. It seems to me, however, that we are going about it the wrong way.

In my opinion, the orderly way to a solution of this problem is as follows:

One. Put into effect employer sanctions and test them for a period of time to see how effectively they curtail the flow of immigrants.

Two. At the same time, devote sufficient assets and resources to greatly expanding the capability and adequacy of the border patrol, the Coast Guard, and the computerization of the Immigration Service.

Three. When satisfied that the border is reasonably secure and that the Immigration Service is in a position to control the coming and going of visaed visitors, we should then move up the registry date. The registry date is a date which is presently fixed at 1948. Any illegal alien under present law, who was here in 1948 can apply to the Attorney General for legalization. This is granted if there is no criminal record and the party is self-supporting. Now we should first move that date, say, to 1970, which makes it a realistic date and instruct the Attorney General to be liberal in his granting of legal status to those who apply and see how many come forward. We should at all times keep control of the situation. When we are then satisfied that we have exhausted that number, move the registry date again to say 1975 and go through the same process. Gradually bringing the date up to the relatively current date.

In this way, we will have tested the adequacy of our deterrence, both by way of employer sanction and Border Patrol, Coast Guard, and a computerized Immigration Service and we will have, in an orderly process, over a period of time, gradually eliminated, without ever losing control of it, the illegal alien problem.

To approach this matter any other way threatens to virtually bankrupt many States or the Federal Government which will be immediately blamed by the States for the drain on revenue available for welfare, medicaid, education, and whatnot. We are literally under the proposed bill, opening Pandora's box, just as the Carter administration did in connection with the Cuban Marielito immigrants, when they suddenly opened the gates and were buried with 125,000 criminals, mentally disturbed people, and whatnot—far more than they were able to handle and far more than they bargained for. It just seems to me that that mistake should be still fresh in our minds and we should get into this situation, recognizing it has be addressed, but in a way that is designed to keep it under control. To get rid of the current reservoir of illegals without inviting all the others waiting to become illegals to come in and without ever losing control of an orderly process for adjudicating the cases involved.●

COMMENDATION FOR RESPONSIBLE STUDENT LOANS

HON. BILL NICHOLS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 1, 1982

● Mr. NICHOLS. Mr. Speaker, in recent years I have expressed my disappointment with the growing rate of defaults of student loans. At the same time, I have also highlighted those institutions of higher learning that exhibited remarkable success in impressing upon their students the necessity in repaying their student loans in a timely and responsible fashion. Tuskegee Institute, located in Alabama's Third Congressional District, is one of the institutions which has repeatedly received high marks for loan repayment.

In today's Wall Street Journal, Tuskegee Institute is finally getting national attention for a job well done.

Not only is Tuskegee Institute's loan default percentage far below the national average, it is one of the lowest in Alabama and even lower than that of Harvard University.

At a time when many in Congress have been critical of the failures found in Federal loan programs, I am proud to represent a university in the Congress which believes that if a debt is incurred, a debt should be repaid.

For the reading of my House colleagues, I submit to the RECORD of this body the article "As Student-Loan Default Rules Tighten, Tuskegee's Success Gets a Lot of Attention." I believe the attention is rightfully deserved.

[From the Wall Street Journal, Dec. 1, 1982]

AS STUDENT-LOAN DEFAULT RULES TIGHTEN, TUSKEGEE'S SUCCESS GETS A LOT OF ATTENTION

(By Sonia L. Nazario)

TUSKEGEE, ALA.—Last summer, the Reagan administration announced it would stop making student loans to any college or university with a loan-default rate of more than 25%. The ruling fell heavily on the nation's historically black institutions, and 47% of them were cut off from new federal lending.

But at Tuskegee Institute, the country's biggest private black college, the ruling caused scarcely a ripple. When it comes to squeezing money out of its former students, the venerable institution, most of whose students are poor, has one of the best collections records anywhere. "We're bullish on collecting," says Napoleon Thomas, Tuskegee's staff loan collector.

About 97% of Tuskegee's students get financial aid of some sort. Two-thirds rely on the government's national Direct Student Loan program, in which default standards have tightened. But Tuskegee's NDSL default rate runs at only 5.7%, far lower than the average for black institutions, less than half the 13% for all federally aided institutions of higher learning and even below Harvard University's 7.5%.

ATTRACTING ATTENTION

That's not bad for a school whose students come from families with average earnings of less than $12,000 a year, half the national average for families of college students. The low delinquency rate at Tuskegee is drawing considerable attention from other institutions with college troubles. Education Secretary Terrel Bell has even cited Tuskegee's collection success as an example of how things ought to work.

Pride and idealism help. So do Tuskegee's steady prodding of debtors and its no-nonsense approach to finance. "The loan collection process begins when you hand out the money," says Walter Sapp, who administers the NDSL loan program at Tuskegee. Mr. Thomas, the bill collector, has had his office moved next to the counter where students pick up their loan checks as a pointed reminder.

The real job starts once the student leaves Tuskegee. Repayments of federal loans are supposed to begin in six months. Deadbeats get personalized bills stamped in "the deepest purplish red I can get," Mr. Thomas says, with slogans as mild as "oops, did you forget?" or as ominous as "further action pending." Lest there arise any misunderstanding, each notice states, "This is a bill."

Mr. Thomas, a rotund, double-chinned man, doesn't shy from subterfuge. He varies the styles of envelopes in which bills get mailed to reduce the possibility that a debtor will spot the bill by the envelope and discard it unopened. He also uses letterheads of the college's attorney to shake up nonpayers. Accounts of the most persistent deadbeats get referred to collection agencies. "This is a job that if you want to be liked," he says, "you don't do."

It's a job done poorly at many other places. "The socioeconomic conditions of blacks are naturally going to make them a higher risk," says Christopher S. Edley, executive director of the United Negro College Fund. He asserts that 65 percent of black college students come from families whose income falls below the poverty level. "There is some correlation between unemployment and paying back these loans," says Elias Blake, president of Clark College in Atlanta. Nearly 22 percent of black college graudates between 20 and 24 are unemployed, almost five times the rate for non-minority graduates of the same age.

Educators say poor black students often lack the conditioning that encourages prompt repayment. "Many of our students come from families that have never had a checkbook," Mr. Edley says.

The pressure to reduce defaults nevertheless appears to have had an effect at some black colleges. "My college has gone down from 40 percent to a 20 percent default rate this year," Mr. Blake says. Although he foresees little additional decline, he says, "We've been talking to places like Tuskegee to see how they're doing it."

Mr. Thomas freely discloses his secrets. It's important to keep good track of debtors' addresses to make sure they get their bills, he says. Even the hometown minister is summoned to divine the whereabouts of a former student. When debtors say they never got their bills, he tells them, "Tuskegee hasn't moved since 1881." Mr. Thomas says he and his superiors have no fear of alienating graduates "by sending the collection agencies after them," but only about 16 percent of the defaulters do have to contend with the agencies. To those who repay, he says, "We send appreciation letters."

Tuskegee starts early inculcating the idea that taking out a loan requires paying it back. "Future generations of students may or may not have an opportunity for educational development depending on how well you pay back your loans," Tuskegee president Benjamin F. Payton said at the commencement address. It means, says senior Melvin L. Bobo III, that repaying his loan will help another needy student, not just a faceless "federal government." He says, "If you don't pay back the loans, someone else may never get here."

"Students see this place as some sort of Mecca," says Julian E. Thomas, professor of biology, and there is a pride in the institute and the town itself, largely governed by blacks, that many wish to share.

HELPING WITH EMPLOYMENT

Recent cuts in federal student aid mean that Tuskegee can now provide only 65% of the financial assistance that students need. The college itself has begun making short-term loans for the remaining 35%. Those loans must be repaid before the beginning of the next semester, or the borrower cannot re-register. That helps condition students to repay loans.

Tuskegee also helps provide employment—the best guarantee of loan repayment of all. Since its founding by Booker T. Washington 100 years ago, the institute has stressed vocational education. And today, says Ruby Robinson, a junior, "Students have a really good chance of getting a job out of here."

Many students and former students seem grateful. "They couldn't have done it without Mother Tuskegee," Professor Thomas says. "If it weren't for Tuskegee helping me, I'd be at home waitressing right now," says Debbie Smith, a junior, both of whose parents were jobless all summer.

"I don't know how many times I ran out of money and packed my bags my freshman year," Dexter Campbell says. "But friends and Tuskegee pulled me through."

In economic terms, says Pearle Bailey, a freshman, "I guess students think they're getting their money's worth. Why would you try to rip them"—Tuskegee—"off?"●

REFORMING PRISON STANDARDS IN TEXAS

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 1, 1982

● Mr. LELAND. Mr. Speaker, I would like to make my colleagues aware of the work of Charles and Pauline Sullivan who have devoted themselves to the reform of Texas prisons. An article which appeared in the Fort Worth Star Telegram describes their tireless dedication to the improvement of the penitentiary system and their emphasis on the need to humanize our approach to the institutionalization of these individuals.

The article follows:

[From the Fort Worth (Tex.) Star Telegram, Sept. 19, 1982]

FORMER NUN, PRIEST DEDICATE LIVES TO REFORMING PRISON STANDARDS

(BY BOB LLOYD)

AUSTIN, TEX.—As lobbyists go, Charles and Pauline Sullivan don't quite fit the mold.

The former Catholic priest and nun have spent the past decade—not in tailored business suits, but in cast-off clothes—fighting for prison reform. They have no car or phone. They live on $350 a month, walk 3 miles to work and represent a group of people who can't even vote.

Yet the guest list to their organization's recent annual conference indicates that the Sullivans and Citizens United for Rehabilitation of Errants (CURE) have earned respect as the major citizen voice for prison reform in Texas.

"They are practically the only voice in prison reform in Texas in a legislative forum," said state Sen. Ray Farabee, D-Wichita Falls.

Although prison and state officials have spoken at CURE workshops before, the guest list had never been so distinguished.

Attorney General Mark White, the Democratic nominee for governor who has been on the opposing side of prison lawsuits, spoke and fielded questions from more than 100 CURE members.

George Strake, the tough law-and-order Republican candidate for lieutenant governor, braved the unfriendly climate and gave his stands about prison issues, some of which sharply conflict with CURE's goals.

John Byrd, executive director of the Board of Pardons and Paroles; S.O. Woods, director of prison records and classification; David Myers, warden of Jester Unit; and Chris Mealy, director of the governor's clemency division, sat through three hours of pointed questions from inmates' relatives about parole and furlough decisions.

"It shows we've come a long way," Sullivan said. "They cannot ignore us now. The issue is one of the top issues in the state."

During the last 10 years, criticism of the troubled Texas prison system has soared as much as the prison population. The Sullivans have been among the most critical.

Some officials believe the Sullivans have been in the right place at the right time and are successful simply because the issue has become heated.

Yet they agree that the Sullivans have made inroads in prison reform, chiefly on their own credibility and dedication.

They operate CURE, which has a membership of 2,000, on less than $11,000 a year.

They rent a duplex in one of Austin's poorer neighborhoods. Most of their clothes are donated, even from sympathetic legislators.

"I always say: 'Whatever Joe (Hernandez, D-San Antonio) is wearing this session, I'll be wearing the next," Sullivan said.

Even those who sometimes disagree with the Sullivans respect them.

"They exemplify one of the most dedicated couples I've seen in a lobbying or advocacy effort," Farabee said. "Tireless efforts. Intense moral commitment.

"They have no money. They don't have a large public following. But I've never heard anyone question their dedication. You don't hear criticism of them as much as the ACLU (American Civil Liberties Union). Even among people who sharply disagree with them, you don't hear slurs."

"I have grown over the past 3½ years to know them," said Harry Whittington, an Austin attorney and member of the prison board. "I would say they are on a different level from most people because of their budget. But they are sincere people and dedicated.

"They do their homework and do their job. . . . They must do a credible job. There are not too many people waiting to replace them because of their budget."

Mealy said: "Though they have a very little budget, those people are responsible almost single-handedly for lobbying efforts for reform."

The Sullivans' efforts are also respected by their friends.

"Charles and Pauline have accomplished more good with less money than any other lobbying group in the history of Texas. And they've done it with just hard work and perseverance," said John Duncan, director of the Texas Civil Liberties Union.

Sullivan says CURE's efforts helped establish two state agencies—the Texas Commission on Jail Standards, in 1975, and the Adult Probation Commission, in 1977.

Sullivan also claimed victory in helping establish the situational furlough program in 1979. The program allows the prison system to give inmates furloughs at any time. The Legislature gave money to halfway houses in 1981—a measure CURE supported—but the Sullivans say they played only a background role in that effort.

"You try to create an atmosphere," Sullivan said. "We've let the facts speak for themselves. The situation is bad enough. We don't need to exaggerate it."

Observers say the Sullivans' persistence has made legislators more aware of prison problems, adding that it is difficult, however, to assess their impact.

"As far as the board itself, we haven't had much opportunity to say this is being done or not being done because of CURE," Whittington said. "Some of the board members are agitated by the positions they take. Some of the board members feel they (board members) are being picked out or singled out.

"CURE does serve a purpose. They represent the viewpoint of people in the penitentiaries who are being treated one way or the other. The manner of their treatment is something they can comment upon."

The Sullivans teamed with inmate David Ruiz, who filed the federal court case that led to recent prison-reform mandates. They say CURE benefited from supporting Ruiz.

"That's symbiotic relationship," Sullivan said. "We kind of fed off of each other."

The Sullivans' interest in prison reform began about 11 years ago, after a friend was arrested in San Antonio.

Sullivan led a demonstration outside the jail, yelling to prisoners on the fifth floor to join a hunger strike.

He was arrested and spent five days in jail, but he and his wife did not begin their push for reform until after they were arrested in a 1972 Washington, D.C., peace demonstration.

They returned to San Antonio and become involved in efforts that would be long-term.

Sullivan ran for Bexar County sheriff in 1972 as a write-in candidate on a jail-reform platform.

They had been told that many families were unable to drive to prisons to see incarcerated relatives. Sullivan organized a trip from San Antonio to Huntsville, and within a week had filled five buses.

"We noticed how many people on the buses were older and retired," he said, "so we thought: 'Hey, let's go up to Austin during the week and lobby.' "

They moved to Austin in 1974 to begin their lobbying.

The Sullivans say that their devotion and ability to subsist on a small salary is because of religious training. They say their satisfaction is derived from helping people adjust to life in prison.

They remain close with several ex-inmates who are trying to stay free. Yet their chief functions are fighting for better conditions in Texas prisons.

Sullivan says he does not particularly respect some legislators with whom he must be friendly, but that to effect change, he has learned to play the lobbying game.

By most accounts, the Sullivans have learned the rules.

"You've got to be on the jury to hang the jury," Sullivan said. "You've got to keep asking yourself: 'Are you hanging the jury?' "●

WASTE IN NORTH DAKOTA

HON. JAMES M. JEFFORDS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 1, 1982

● Mr. JEFFORDS. Mr. Speaker, I urge my colleagues to support efforts to cut funding for the Garrison diversion unit when the energy and water appropriations bill comes up for a vote.

The controversy over this project has taken many twists and turns. I would like to bring my colleagues' attention to a new twist they may not be aware of—that of the suit brought by South Dakota landowners to enjoin construction until the impacts of the Garrison project on the James River are ascertained.

I think it is significant that Garrison has been frought with problems at every turn, and that fact should be a red flag to each of us today. Once again, citizens have banded together to challenge the wisdom of this $1 billion boondoggle. As this ill fated project threatens to enter their backdoor and contaminate their water, South Dakotans have taken action. Add their names to the citizens of Manitoba, Canada, concerned members of many conservation groups, and overburdened taxpayers.

The newest development in the Garrison case was brought about when the Department of the Interior modified the Garrison project, splitting construction into phases. Phase 1, underway now, will irrigate a small portion of the project in southeastern North Dakota. However, run off from phase 1 will enter the James River with unknown consequences. Because this action was never contemplated in the original environmental impact statement, the implications for this modification by the Department of the Interior are anybody's guess. The landowners of South Dakota do not think that is good enough and want some facts before construction continues. I think they have a point.

What unforeseen problems lie ahead? The Canadian issue has not been resolved, mitigation plans are woefully inadequate as they stand now. There is growing public opposi-

tion to Garrison within North Dakota itself. The South Dakotans have entered the frey. How can we in good conscience appropriate money for a project with so many bad turns?

I urge this Congress to cut funding for the Garrison diversion unit and pave the way for serious reconsideration of the project itself. Surely the taxpayers' money is scarce enough without throwing it down this rathole. Surely we owe it to our constituents to look this over carefully, meet these concerns and resolve them before any more financial resources are committed. I hope you will join me in opposing this problem-ridden North Dakota albatross.●

ATTACK ON PEARL HARBOR TO BE REMEMBERED

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 1, 1982

● Mr. GUARINI. Mr. Speaker, December 7 will mark the 41st anniversary of the attack on Pearl Harbor, an attack which catapulted the United States into World War II.

The "day of infamy" proclaimed by the late President Franklin D. Roosevelt will long be remembered in the annals of world history. Two thousand four hundred Americans were killed in action on that day as a result of the sneak attack of the Japanese military machine.

Many men from the State of New Jersey were on military duty in Hawaii on that eventful day, with many casualties.

I am proud to report today that the Jersey City Pearl Harbor Memorial Committee will be holding its sixth annual observance of the anniversary on December 5 at Liberty State Park in Jersey City, in full view of our beloved Statue of Liberty. The annual event has become the biggest of its kind in the United States. The observance's success is strengthened by the dedication and drive of Richard T. Bozzone, Sr., who was recently reelected to head the Jersey City Pearl Harbor Committee, which will have representation from the American Legion, the Veterans of Foreign Wars, Disabled American Veterans, Jewish War Veterans, Catholic War Veterans, Gold Star Mothers, Veterans of World War I, AMVETS, Navy Mothers, and other groups, including outstanding service organizations such as the Jersey City Elks Club.

This year Dick Bozzone has chosen as cochairmen of the event Edward Meehan, the Americanization chairman of the Jersey City-East District Elks; Stanley Stine, a U.S. Navy veteran who served aboard the battleship U.S.S. *Missouri;* Benjamin Fleischman, a veteran of the attack; Dr. John Kopycinski, of the New Jersey College of Medicine and Dentistry and a Polish-American community leader; and George Danko, a U.S. veteran who was at the attack.

It has been my pleasure to participate in this event each year, which has as one of its high points the placing of a commemorative wreath in the waters of the Hudson River as well as bringing a wreath to Bedloe Island, the home of the Statute of Liberty.

America has witnessed many changes since 1941, both at home and in the international arena. From the devastation and horror of World War II emerged technology which has ultimately aided peace and communication. The world is much smaller now due to the development and refinement of aircraft, which received a baptism of fire in this awesome conflict. We have seen in the past 41 years the development of the space age and nuclear weapons, whose production we hope and pray will help us avoid another world conflict. We have overcome the attack on Pearl Harbor and the ensuing 4 years of World War II to begin to develop better understanding among men and women throughout the world.

Although we have had severe problems with racism and human rights, we are working to overcome them, and the rapport which has resulted between the peace-loving people of Japan and our Nation is exemplary. It indeed proves that there is no place for bigotry and hatred. It was Daniel O'Connell who said:

> Bigotry has no head and cannot think, no heart and cannot feel. When she moves it is in wrath; when she pauses it is amid ruin. Her prayers are curses, her God is a demon, her communion is death, her vengeance is eternity, her decalogue written in the blood of her victims, and if she stops for a moment in her infernal flight it is upon a kindred rock to whet her vulture fang for a more sanguinary desolation.

The economic and social adjustments made by both nations involved in the Pearl Harbor attack have become the great hope of mankind, showing that if men of good will join heart and hand, unhappy situations may be corrected.

It was Alan K. Paton who said:

> The tragedy is not that things are broken. The tragedy is that they are not mended again.

I wish to commend Richard Bozzone and his group, and the Fort Hamilton Army unit which annually has sent military personnel and their band to attend the ceremonies.

A special tribute must be paid to the millions of men and women who served in our Armed Forces during World War II and the great sacrifices they made. Thousands upon thousands of them still are in veteran's hospitals throughout the country.

While we appreciate the courage with which men have died, we also must pay tribute to the courage with which many have lived since December 7, 1941.

In closing, I ask my colleagues in the House of Representatives to thank all those in the group which will be at Liberty State Park on December 5, remembering that momentous day of 41 years ago, and especially remembering those who have died.

Ralph G. Ingersoll eloquently puts in proper perspective the tribute we pay to the dead of December 7, 1941, and, indeed, all who have made the supreme sacrifice for freedom in Korea and Vietnam:

> These heroes are dead. They died for liberty—they died for us. They are at rest. They sleep in the land they made free, under the flag they rendered stainless, under the solemn pines, the sad hemlocks, the tearful willows, the embracing vines. They sleep beneath the shadow of the clouds, careless alike of sunshine or storm, each in the windowless palace of rest. Earth may run red with other wars—they are at peace. In the midst of conflicts, they found the serenity of death.

I am asking that Americans all please join me in my salute to the Jersey City Pearl Harbor Memorial Committee for their role in remembering this day. We must remember the past to awaken the future of our Nation, ever mindful that no nation can build its destiny alone. The age of worldwide interdependence is here and now. We must work and pray for a worldwide victory of peace and justice for humanity, for no people who have survived the trials and tribulations of hundreds and thousands of years should be compelled to surrender their traditions, values, aspirations, and cultures—and their existence—now.●

SUPPORT ADEQUATE POSTAL APPROPRIATIONS

HON. DONALD JOSEPH ALBOSTA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 1, 1982

● Mr. ALBOSTA. Mr. Speaker, I want to let it be known that I was unable to be here for the vote on the Treasury-Postal Appropriations bill Tuesday, November 30, but that if I had been here, I would have voted for the bill as a majority of my colleagues did in passing H.R. 7158.

One of the most important things that the Congress did in approving this bill was to approve an appropriation for the Postal Service that is large enough to prevent a drastic increase in postal rates for nonprofit mailers, newspaper and magazine publishers, shippers of books and records, and other mailers that perform public ser-

vices heavily dependent on affordable postage rates.

The bill contains $708 million for the U.S. Postal Service which is $208 more than the administration requested. Although that figure may be reduced somewhat before the bill is finally approved by both Houses, this greater support means direct assistance to the very groups that have been hit hardest by both past budget cuts and the depression we are now in. Churches and charities raise much of their budgets through the mail. Studies by the Urban Institute and others show that the private nonprofits cannot step in and replace all of the lost Government safety-net of services while absorbing skyrocketing mailing costs. In fact, their services have been cut back to meet unexpected rate increases that went far beyond the scheduled changes on which they had relied when making up their budgets. This same pressure is felt by publishers who are particularly important to rural areas such as the 10th district where people rely heavily on the mail.

As a member of the Subcommittee on Postal Operations of the Post Office and Civil Service Committee, I supported a budget, an authorization and an appropriation that would provide postage rates at least as reasonable as those anticipated in the schedule established originally in 1971. There is no reason to break our promise to these mailers and to the American people by forcing these rates up at an ever faster rate.

I expect to continue to support reasonable and reliable rates and oppose efforts to raise them at the expense of those who rely most heavily on America's information and service organizations.●

SOVIET WATCH: SOME ANDROPOV SAYINGS

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 1, 1982

● Mr. FIELDS. Mr. Speaker, I would like to introduce this article on Yuri V. Andropov for the perusal of my colleagues.

(By Albert L. Weeks)

SOME ANDROPOV SAYINGS

Just weeks before the Soviet military invasion of Afghanistan, December 1979, the green-buck-ram volume of speeches and writings of Yuri V. Andropov appeared in Moscow bookstores. Few other top Soviet leaders had had their "works" published—Brezhnev, Kosygin, Suslov, Kirilenko, Ustinov. So, the appearance of Izbranniye Rechi i Stat'i (Selected Speeches and Articles) by Yu. V. Andropov clearly indicated the KGB chief's new-found status among his peers in the Politburo and Secretariat.

Andropov's writing contain some emphases and nuances as as well as outright assertions that give some indication of the new general secretary's political line. The following excerpts are arranged according to a few categories of Soviet concerns, foreign and domestic. A reading of the complete volumes reveals Andropov's positions on such question as civil rights, the Soviet military buildup, labor discipline, foreign policy, Red China, the United States, "national-liberation struggle," world revolution—positions that can scarcely be labeled "liberal."

Moreover, the stands he takes in his speeches and writings are often repeated in his successive writings—a hint that such stands may express themselves in Kremlin policy-making now under his guidance. On civil rights, labor discipline, foreign policy, and the U.S. Andropov is hard-line; on reconciliation with China he is rigid, unyielding; on "poletarian internationalism" (world revolution) he is militant.

United States: "The most reactionary circles in imperialist states, and above all in the United States, try in every way to stop the strengthening of detente (and to) sharpen international tensions . . . Such zigzags in Washington's policies with respect to detente demand that we take corresponding measures to cope with them."—Ibid., p. 292.

"Strengthening mutual understanding and trust today is an important condition for success in securing a lasting peace, scaling down the arms race, disarmament, and improving the international situation. If the ruling circles of the U.S.A. and the other Western countries are ready, as they claim, to help in such efforts, they they should desist in their efforts to aggravate the atmosphere with hostility. This is an obvious truth, and it is important that it be understood quickly in the West."—Ibid., p. 271.

"The ideological struggle (with capitalism) cannot, of course, be suppressed; it is an historical struggle on the merits of the socialist system as opposed to the capitalist, and about the road to be taken to reach the heights of progress. Such a struggle is inevitable and will continue to be in the future."—Ibid., p. 270.

"Meanwhile, subversive centers abroad step up their activities through such means as Radio Liberty and Radio Free Europe. . . . They demand of us, no less, that we place no obstacles in the way of such activity; . . . Such activity is nothing other than evidence of hostile intent violating the principles of detente and the Helsinki agreements."—Ibid., p. 270–1.

World revolution: "Marxism-Leninism is the textbook for achieving socialist world revolution and the building of a new society in every country of the world."—Ibid., p. 73.

"The Communist Party of the Soviet Union is in the vanguard of the world-revolutionary movement. It represents the very highest ideals of contemporary life and organically embodies the reason, honor, and conscience of our epoch."—Ibid., p. 171.

Civil rights: "Our constitution clearly spells out the rights of Soviet citizens to criticize and make suggestions. . . . But among us are individuals who suffer from political and ideological confusion, or from religious fanaticism, nationalistic pride, or psychological instability. . . . With such persons it is necessary to undertake a process of reeducation (and) to apply penal sanctions to the fullest extent."—Ibid., p. 269.

"We cannot shut our eyes to anti-state crimes, anti-Soviet activities and behavior which results from foreign influence. . . . The organs of state security, the KGB, merely carry out the wishes of the Soviet people, who severely condemn criminal activities by cast-offs from socialist society."—Ibid., p. 311.●

KARL MARX OR JESUS CHRIST—THE WORLD COUNCIL OF CHURCHES

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 1, 1982

● Mr. McDONALD. Mr. Speaker, the World Council of Churches has compiled an unbroken record of supporting Communist and leftwing causes all over the world. Never does the World Council ever contribute to an anti-Communist organization or loudly criticize a Soviet action. This activity has embroiled the council in controversy, loss of membership, and money. Therefore, the howls of rage were predictable when the Reader's Digest published an article about this subject in its August 1982 issue. However, to the best of my knowledge, the World Council has not been able to disprove a single claim made in the article. As the saying goes, "If the shoe fits, wear it." The article follows:

[From the Reader's Digest, August 1982]

WHICH MASTER IS THE WORLD COUNCIL OF CHURCHES SERVING—KARL MARX OR JESUS CHRIST?

(Joseph A. Harriss)

Bible-toting Masai tribeswomen, necks ringed with ceremonial beads, bearded Russian Orthodox bishops and sarigowned women from Sri Lanka were among the colorful throng of delegates attending the last Assembly of the World Council of Churches (WCC) in Nairobi, Kenya, in 1975.

Almost half of the delegates who gathered there were from Third World countries, and the speeches reflected a militant anti-Western mood. Michael Manley, then prime minister of Jamaica, was applauded when he called for peoples' democracies to replace capitalist states.

The 18-day conference heartily endorsed the WCC's Program to Combat Racism, which gives money to a variety of political organizations, including revolutionary guerrilla movements. It urged the creation of a program to challenge corporations accused of exploiting the Third World. And it denounced South Africa's intervention in Angola, overlooking the fact that the Soviet Union was engineering the arrival of thousands of Cuban troops in Angola.

All in all, the Geneva-based ecumenical organization made clear its preference for social concerns over purely religious ones. It showed that its approach to solving the world's ills owes almost as much to Marxism as to Christianity.

Still, countless World Council supporters were shocked in August 1978 when the WCC announced that its Program to Combat Racism had given $85,000 to the Patriotic Front, a Marxist guerrilla organization then fighting the white-dominated regime in Rhodesia. At the time of the grant, the Patriotic Front had murdered 207 white civilians and 1712 blacks, and only weeks before had slaughtered nine white missionaries and their children. London's *Daily Express* headlined: "Bloody Money—Rhodesian mission killers get cash aid—courtesy of world's churches." The Salvation Army, a founding member of the WCC, suspended its member-

ship in protest, as did the Irish Presbyterian Church, which called the grant "racism in reverse."

HIGH HOPES

The World Council of Churches, today representing 400 million believers, was founded in 1948 in the hope of uniting the world's fragmented Christian churches. But its increasingly aggressive involvement in politics and its financial support of violence have made it a factor of division rather than unity.

The irony is tragic, for the organization is capable of much good. The World Council has helped millions of victims of wars and natural disasters. More than two million refugees have been resettled thanks to WCC funds.

But the council has been focusing its attention more and more on political matters. This change can be attributed to two main causes:

First, its initial goal of Christian unity withered over the years, as the doctrinal differences among the various churches proved to be unyielding, and the largest Christian church of all, the Roman Catholic, refused to join. The organization then shifted to "secular ecumenism." Church unity, the World Council's leaders argued, would be furthered by overcoming mankind's economic, racial, educational and other social ills and problems.

The second reason for the change is the WCC's altered composition. At the council's founding assembly in Amsterdam, churchmen from the Third World made up only a small percentage of the voting delegates; at Nairobi, they amounted to almost half. Of the 301 member churches, only 28 are American.

The Third World viewpoint is incarnate in General Secretary Philip Potter, a 61-year-old West Indian Methodist clergyman. Potter, who presides over a staff of nearly 300 from some 40 countries, makes no bones about his anti-Western, anti-capitalist attitude in his writings and speeches. He is fond of citing Marxist writers. He also admires black-power advocates like Stokeley Carmichael and Malcolm X.

Predictably, many WCC senior staff officers share Potter's views. Says Uruguayan Emilio Castro, head of the council's Commission on World Mission and Evangelism, "The philosophical basis of capitalism is evil, totally contrary to the Gospel."

A logical result of the WCC's evolution into high-profile social activism is the Program to Combat Racism (PRC), which had a budget of $1 million last year. An official of the PCR is Prexy Nesbitt, an American who came to the WCC from Washington's Institute for Policy Studies, a leftist research organization dedicated to radically changing U.S. political and economic life.

Grants from the PCR's Special Fund, to which donors make specially earmarked contributions, are supposed to be used for humanitarian activities. And, since 1970, the PCR has officially given over $5 million to more than 130 organizations that are ostensibly fighting racism in some 30 countries. But nearly half of that money has gone to guerrillas seeking the violent overthrow of white regimes in southern Africa. That has included the Soviet-backed MPLA of Angola ($78,000), the Marxist FRELIMO in Mozambique ($120,000), and SWAPO in Namibia ($823,000), which is Russian-supplied and Cuban-trained.

BLIND EYE

Africa is not the only area favored with PCR manna to fuel organized social agitation. Special Fund money has gone to Aboriginals in Australia, Eskimos in Canada, Koreans in Japan, Moroccans in France, and to Haitians, Chicanos and farm workers in America.

The WCC seems to be making a special effort in the United States, where, PCR director Anwar Barkat says, "racism is the predominant reality." Nearly 40 American groups have received a total of $572,500. Among the recipients:

The National Conference of Black Lawyers, an affiliate of the International Association of Democratic Lawyers—a group listed by the CIA as an international Soviet-front organization.

The American Indian Movement, which, according to a 1976 Senate Internal Security Subcommittee report, has ties with Cuba, China, the Irish Republican Army, the Palestine Liberation Organization and the U.S. Communist Party.

The Center for National Security Studies, a leftist organization that monitors the CIA and the FBI and advocates further restrictions on American intelligence operations.

Incredibly, not a cent of PCR money goes to dissident groups in the Soviet Union, where the government practices overt repression of ethnic and religious minorities such as Lithuanians, Ukrainians, Moslems and evangelical Christians. Marxist governments in general—and the Soviet Union in particular—get kid-glove treatment by the WCC.

Usually so articulate on human rights, the WCC turns a blind eye to the plight of Ethiopia, where the Marxist government has summarily executed over 10,000 persons for political reasons and closed more than 200 churches. When the WCC Executive Committee got around to mentioning the Soviet invasion of Afghanistan, two months after the fact, it said merely that the move had "heightened tension"; in the same communiqué, it went out of its way to express "serious concern" over the NATO decision to deploy new missiles in Europe.

WCC officials justify the lack of public criticism of Soviet human-rights violations by arguing that, with the Kremlin, private approaches are best. In fact, the few polite inquiries the WCC has sent to Moscow—about trials of Russian religious dissidents, for example—have had no visible effect.

The council also contends that not criticizing the Russians ensures that the Russian Orthodox Church will not resign from the WCC in protest. But being gentle with the Kremlin is a high price to pay for the continuing membership of the Russian Orthodox delegation. As Bernard Smith, head of Britain's Christian Affirmation Campaign, asks, "Is this an admission that the WCC is being blackmailed into silence by the Russians? Or does it mean that the WCC is a willing partner to a private arrangement by which the Russian delegates agree to retain their seats provided there is no criticism of the Soviet Union?" Either way, Russian membership effectively neutralizes WCC criticism of socialist countries.

Even before the Russians were admitted to the WCC in 1961, Martin Niemöller, a leading West German theologian who was involved in the long negotiations, asked, "Is there really a church there or only a propaganda instrument? Is the Russian church a servant of Stalin first or of Christ first?"

After years of delay the Kremlin authorized the admission of the Russian church to the WCC at the height of Khrushchev's determined persecution of Russian Christians, one of the worst in the history of the Soviet Union, when over 10,000 Orthodox churches were forcibly closed. Allowing the Russian church to join the WCC tended to camouflage that action and forestall outside protests. Judging by the results, it was a shrewd move.

SOUL-SEARCHING TIME

The WCC today faces a growing backlash. It began with Protestant laity, who have been voting with their feet and their pocketbooks. The United Presbyterian Church, which gives more per capita than any other American WCC affiliate, has lost nearly one million members in the last decade. As one Presbyterian lay representative has observed, "We hear deep resentment about the World Council from many church members. They simply feel that the WCC is dominated by people with a leftist ideology." Financial support by U.S. congregations for activities like the WCC has dropped drastically, to less than half of what these activities received in the past.

The grass-roots backlash is now gaining the support of theologians and professional churchmen. Lutheran theologian Richard John Neuhaus, for instance, says, "The WCC has almost became an anti-ecumenical organization by using social and political criteria to distinguish good guys from bad guys. This creates much sharper divisions in the church than any of the old denominational and doctrinal problems did." Says West Germany's Peter Beyerhaus, head of the International Christian Network, "If we don't succeed in bringing the WCC back onto a course that represents its true calling, it would be far better to simply dissolve it."

Plans are now being made for the WCC's Sixth General Assembly, scheduled for July 1983, in Vancouver. This, say many church authorities, is the time for the council to search its soul and rediscover its ecumenical purpose. This time, instead of leaving the entrenched WCC bureaucracy free to determine the assembly's results beforehand, member churches need to take the initiative.

The world's Christians today generally agree that the church must be present with its unique witness on the troubled international scene. For the best example of how to do that, however, WCC officials need turn not to Karl Marx but to Jesus Christ.●

ADDITIONAL UNEMPLOYMENT BENEFITS (EXPLANATION OF H.R. 7327)

HON. HAROLD E. FORD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 1, 1982

● Mr. FORD of Tennessee. Mr. Speaker, the unemployment rate is now 10.4 percent and rising. Over 11 million Americans are out of work. Areas of this country are experiencing what can only be described as a depression and no one can predict when the economy will begin to recover.

In response to this alarming rate of unemployment, and the terrible hardship faced by the millions of unemployed, in August the Congress passed a temporary Federal supplemental compensation (FSC) program. (This

program was included in the Tax Equity and Fiscal Responsibility Act of 1982.)

Under the FSC program, which began on September 12 of this year, jobless workers who have exhausted all other State and Federal unemployment benefits may receive additional weeks of federally financed benefits. The number of weeks of FSC benefits that jobless workers may receive depends on (a) the number of weeks of regular State unemployment benefits received by each claimant, and (b) the State in which the claimant lives. Qualified claimants are entitled to receive FSC benefits for one-half of the number of weeks they received regular State unemployment benefits, up to a maximum of 10, 8, or 6 weeks. The maximum is 10 weeks of FSC benefits in States in which Federal/State extended benefits are being paid or have been paid at any time since June 1, 1982.

A maximum of 8 weeks is payable in States in which the insured unemployment rate equals or exceeds 3.5 percent; and up to 6 weeks of FSC can be paid in all other States. As of November 13, the FSC maximum was 10 weeks in 38 States, 8 weeks in 3 States and 6 weeks in 12 States. (A copy of the most recent "FSC trigger status, "which shows the number of weeks of FSC benefits payable in each State as of November 13, is included at the end of this statement).

FSC is a 6-month program that will expire on March 31, 1983. When enacted, it was hoped that strong signs of economic recovery would emerge during the program's 6-month duration creating new employment opportunities. FSC was intended to bridge the gap for jobless workers until new employment became available. Unfortunately, recovery is not eminent and thousands of jobless workers are exhausting FSC benefits without finding new employment. The exhaustion rate will increase over the next few years.

Yesterday, I introduced legislation, H.R. 7327, that will provide additional weeks of FSC benefits. H.R. 7327 would make the following changes in the FSC program:

(1) For jobless workers who first received FSC benefits on or before December 1, 1982 (including those who have already exhausted their FSC benefits) the maximum number of FSC benefits payable in all States would be increased by 5 weeks. In other words, the 10 week States would be increased to 15, 8 week States would be increased to 13, and 6 week States would be increased to 11.

(2) For jobless workers who first receive FSC benefits after December 1, 1982, the maximum number of FSC benefits would be 13 weeks in all States.

The bill does not extend the FSC program beyond the current expiration date of March 31, 1983. The Congressional Budget Office estimates that the additional benefits provided under H.R. 7327 will increase the cost of the FSC program by $650 million.

To deny this help for our Nation's unemployed would be to turn our backs on the pain and suffering caused by this recession. I urge my colleagues to support this vital legislation.

FSC TRIGGER STATUS AS OF NOVEMBER 5, 1982

State	10 Weeks	8 Weeks	5 Weeks	Effective date
Alabama	x			B 10 Week, Sept. 12, 1982.
Alaska	x			B 10 Week, Sept. 12, 1982.
Arizona	x			B 10 Week, Sept. 12, 1982.
Arkansas	x			B 10 Week, Sept. 12, 1982.
California	x			B 10 Week, Sept. 12, 1982.
Colorado			x	B 6 Week, Sept. 12, 1982.
Connecticut			x	B 6 Week, Sept. 12, 1982.
Delaware	x			B 10 Week, Sept. 12, 1982.
District of Columbia		x		B 8 Week, Sept. 12, 1982.
Florida			x	B 6 Week, Sept. 12, 1982.
Georgia			x	B 6 Week, Sept. 12, 1982.
Hawaii			x	B 6 Week, Sept. 12, 1982.
Idaho	x			B 10 Week, Sept. 12, 1982.
Illinois	x			B 10 Week, Sept. 12, 1982.
Indiana	x			B 10 Week, Sept. 12, 1982.
Iowa	x			B 10 Week, Sept. 12, 1982.
Kansas	x			B 10 Week, Sept. 12, 1982.
Kentucky	x			B 10 Week, Sept. 12, 1982.
Louisiana	x			B 10 Week, Sept. 12, 1982.
Maine	x			B 10 Week, Sept. 12, 1982.
Maryland	x			B 10 Week, Sept. 12, 1982.
Massachusetts	x			B 10 Week, Sept. 12, 1982.
Michigan	x			B 10 Week, Sept. 12, 1982.
Minnesota	x			B 10 Week, Sept. 12, 1982.
Mississippi	x			B 10 Week, Sept. 12, 1982.
Missouri	x			B 10 Week, Sept. 12, 1982.
Montana	x			B 10 Week, Sept. 12, 1982.
Nebraska			x	B 6 Week, Sept. 12, 1982.
Nevada	x			B 10 Week, Sept. 12, 1982.
New Hampshire			x	B 6 Week, Sept. 12, 1982.
New Jersey	x			B 10 Week, Sept. 12, 1982.
New Mexico	x			B 10 Week, Sept. 12, 1982.
New York			x	B 6 Week, Nov. 14, 1982.
North Carolina	x			B 10 Week, Sept. 12, 1982.
North Dakota			x	B 6 Week, Sept. 12, 1982.
Ohio	x			B 10 Week, Sept. 12, 1982.
Oklahoma		x		B 8 Week, Nov. 7, 1982.
Oregon	x			B 10 Week, Oct. 3, 1982.
Pennsylvania	x			B 10 Week, Sept. 12, 1982.
Puerto Rico	x			B 10 Week, Sept. 12, 1982.
Rhode Island	x			B 10 Week, Sept. 12, 1982.
South Carolina	x			B 10 Week, Sept. 12, 1982.
South Dakota			x	B 6 Week, Sept. 12, 1982.
Tennessee	x			B 10 Week, Sept. 12, 1982.
Texas			x	B 6 Week, Sept. 12, 1982.
Utah	x			B 10 Week, Sept. 12, 1982.
Vermont	x			B 10 Week, Sept. 12, 1982.
Virginia			x	B 6 Week, Sept. 12, 1982.
Virgin Islands	x			B 10 Week, Sept. 12, 1982.
Washington	x			B 10 Week, Sept. 12, 1982.
West Virginia	x			B 10 Week, Sept. 12, 1982.
Wisconsin	x			B 10 Week, Sept. 12, 1982.
Wyoming		x		B 8 Week, Sept. 12, 1982.
Total	38	3	12	

Source: U.S. Department of Labor, ETA, UIS, Division of Actuarial Services, November 22, 1982.●

TRIBUTE TO CHARLES L. KORYDA

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 1, 1982

● Mr. WOLF. Mr. Speaker, Charles L. Koryda, principal at Hutchison Elementary School in Herndon since 1977 died of a heart attack this past summer. The community he served was deeply saddened by his death—he was a big man with a generous heart who really cared about the school, the employees in it, and his many friends in our area.

Mr. Koryda had an effect on each life he touched. He believed that we could truly effect changes in the lives of children and that working with children was just about the best thing we could ever do.

Charles Dickens once said that we change the world through small acts of generosity. Mr. Koryda felt that working with children involved daily acts of generosity—of spirit, effort, composure, trust, and caring—that reached each person in the school and ultimately had a ripple effect in the community. He encouraged this attitude in each of us and respected and encouraged the individuality of our methods used to create these changes.

Our lives have been truly blessed and enriched because he touched us.●

LEST WE FORGET

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 1, 1982

● Mr. DORNAN of California. Mr. Speaker: During this past July at the annual meeting of the National League of Families, I had the privilege of hearing some very poignant lyrics in honor of our MIA's and POW's written by young Joseph Doyle, son of an MIA hero and president of Operation MIA/POW of Texas Tech University. The lyrics were so moving that I would like to submit them as a tribute to those 2,500 brave men still unaccounted for.

DADDY'S LITTLE PRINCESS

(Joey Doyle)

Daddy's little Princess
He's her favorite hero
Now he's gone to war
And the Princess watched him go
She's the apple of his eye
Daddy's little girl
Waiting for her hero to come home

When the war was ended
The soldier boys came home
But the princess could not find her hero
She asked everyone in a uniform
And watched each returning plane
Everyone remembered her pleading voice
She said, "have you seen my daddy, was my daddy on that plane
Someone please tell me where did my hero go."

Years have past and days get longer
The Princess stands alone
Her tender sweetness bitter now with scorn
But her daddy's not forgotten by her and she knows she's still his girl
It only hurts when she thinks of how he's Forgotten by the world

What will it take to give back to her
The hero that she loves
To reunite the hero and the Princess
Her strength and courage can teach us all a lesson about love
Her tears and broken heart can teach us pain
I wish her determination could motivate our nation
To reunite the Princess with her missing soldier boy
To put her mind at ease about her daddy's unknown fate
Though he's been gone for years it's not too late

There's no ring on her finger
But there's a band around her wrist
That bear's the name of her hero
The father she has missed
It's an old one that has been rusted
By her hundred million tears
Her soldier boy is still missing
He's gone for now ten years.

WHERE DID DADDY GO?

(Joey Doyle)

For ten long years this New Years day
My woman's been alone
I left her with a baby, to raise while I was gone
I said I'd be home in a few short months
But I'm still not home today
And every night when I go to sleep
I can hear my little son say
Mommy what will happen when daddy comes back home
Will I be a big boy then, will I be full grown
Do you think he still loves me like he did so long ago
It's been so long since he's been home mommy,
Where did daddy go.

Was my daddy a brave man, will I ever see him again
Does Jesus love him too mommy and does God know where he's been
Did he have a puppy mommy, like the one that you gave me
I named my puppy Colonel mommy, cause that's what daddy used to be.

I'll bet that he was handsome and as nice as nice can be
Do I look like him mommy, does he look like me
And what it he's hurt or maybe he can't walk
Will you still love him then, and mommy tell me just once more,
Where has daddy gone.

Was my daddy a brave man, will I ever see him again
Does Jesus love him too mommy and does God know where he's been
Will he ride me on his shoulders and play with me in the park
And will he read me a story mommy, when I'm afraid of the dark

What if he don't like me, will he go away again
And what if he don't come home at all, what would happen then
When will I ever meet him mommy, when can I see my dad
Daddy please come home to us so mommy won't be sad.

For ten long years I've been away and lived in agony
Just thinking of my wife and child living without me
Won't someone tell my wife and son, where I'm at and how I am
I'm a missing soldier boy lost in Vietnam.

MY DAD'S AN M.I.A.

(Joey Doyle)

My dad has not come home yet, he's been gone for many years
I haven't seen his face as yet but I've seen mother's tears
I remember how he made me laugh, and made my mother smile
Now mother says he's gone away, he won't be back for awhile
My sister says he went to war, he hasn't come home yet
He fought in Laos and Vietnam but he'll be home I bet

My dad's an M.I.A. sir, my dad's an M.I.A.
He hasn't come home just as yet but I know he will some day
My dad's an M.I.A. sir, my dad's an M.I.A.
He hasn't come home just as yet but I know he will some day

A letter came the other day that said dad wasn't found
He's just like 25 hundred other men lost on foreign ground
The rest of my life will be spent in hope as I live from day to day
Wondering and hoping to hear from dad, a U.S. M.I.A.

DON'T LET THEM BE FORGOTTEN

(Joey Doyle)

Don't let them be forgotten, they never have a nice day
Whatever happened to my son, he's still not home today.
Let them know that we still care, send a letter over there
It's more than any man can bear, join us now and say a prayer.

My little girl asked me the other day, "tell me daddy what's an M.I.A.
I wiped a teardrop from my eye, not wanting her to see me cry
I propped her gently upon my knee, and then I begged her to listen to me.

A missing man in a far away land, fighting someone else's war
Years of praying that he's still alive, does anyone care anymore
They tell me all is over now, but this I can't believe
My boy called out to me today, and it wasn't just a dream.

Tell me sir, where is my son, he hasn't come home like you promised
Uncle Sam, sir, where is Sean and Bill and Dave and Greg and John.
I heard the news I saw the photographs, 2,000 men can't disappear
This Vietnam has got my boy, my only son, my pride and joy
A U.S. soldier's unaccounted for, it's up to you America
To open his door.

Don't let them be forgotten! ●

PERSONAL EXPLANATION

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 1, 1982

● Mr. McDONALD. Mr. Speaker, due to my required presence in Atlanta, Ga., earlier today, I regrettably missed a vote. Therefore, I would like to take this opportunity to explain how I would have voted had I been present.

"No" on rollcall No. 402, passage of H.R. 7204, Labor and Health and Human Services appropriations for fiscal year 1983.●

SHOULD THE UNITED STATES ACT AGAINST ILLEGAL WHALING?

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. BONKER. Mr. Speaker, in the coming months the United States will face a crucial test of our longstanding commitment to whale protection: whether to act against countries which violate International Whaling Commission (IWC) regulations. The challenge will come from Japan, the Soviet Union, Brazil, Iceland, Korea, and Norway as they set out this winter to hunt minke whales with the cold—nonexplosive—harpoon, a weapon whose use the IWC has banned. As chairman of the House Foreign Affairs Subcommittee that oversees the IWC, I believe we must respond strongly and unequivocally to countries that willingly flaunt IWC rules.

The cold harpoon is a particularly cruel weapon. The time from strike to death takes from 3 to 50 minutes in the smaller minke whales—which average 27 feet in length—and can take several hours in larger whales. The nonwhaling states of the IWC have argued simply that the cold harpoon is an inhumane weapon; the whalers, led by Japan, have contended they must continue to use the cold harpoon to kill minke whales because explosive harpoons "damage too much meat."

The IWC first recognized the cold harpoon as an inhumane weapon in 1979. The following year, the annual IWC meeting overwhelmingly adopted an American proposal to ban the use of the cold harpoon for the taking of all whales but minkes. In 1981, the Commission agreed by consensus to extend the ban to include the taking of minke whales. However, Brazil, Iceland, Japan, Norway, and the U.S.S.R. filed objections to this decision, making use of a loophole in the 1946 Whaling Convention to exempt themselves from the ban.

While the IWC itself has no authority to enforce its rules, the United States does have sufficient clout to assure that the whaling nations abide by the cold harpoon ban. Under the 1971 Pelly amendment to the Fishermen's Protective Act and the 1979 Packwood-Magnuson amendment to the Fishery Conservation and Management Act, the Secretary of Commerce, in consultation with the Secretary of State, is required to certify to the President a country which is engaged in activities "in a manner or under circumstances which diminish the effectiveness of the IWC." Upon certification, the offending nation automatically loses 50 percent of its fisheries allocation in the U.S. 200-mile zone. The President then has the discretion to impose a partial or total ban on imports of fisheries products from that country.

Prior to the enactment of the Packwood-Magnuson amendment, the United States successfully used the threat of the Pelly amendment sanctions to persuade the U.S.S.R., Japan, Peru, Chile, Korea, Spain, and Taiwan to comply with various IWC regulations. Now, the United States must reaffirm its intent to invoke these amendments against any whaling nation which chooses to ignore the cold harpoon ban.

Mr. Speaker, I wish to submit for the record the following excerpts from the IWC's 1980 workshop on humane killing techniques for whales. I hope this will broaden our understanding of the need to stand firmly behind the ban on the cold harpoon.

REPORT OF THE WORKSHOP ON HUMANE KILLING TECHNIQUES FOR WHALES, CAMBRIDGE, NOVEMBER 10-14, 1980

The workshop considered the question of its terms of reference, which were defined only so far as indicated in the Introduction above. Discussion of the meaning of the word "humane" brought out the fact that there are a number of factors potentially or actually involved before or beyond any pain caused when the whale is killed. In the case of whales, these include the pursuit and in some cases selection of one individual from a group of whales, resulting in stress and possibly fear and panic both in the target whale and other whales nearby.

These components of the whaling activity need consideration to ensure the fullest possible interpretation of the humaneness of the whaling operations. However, the present group recognised the deficiency of accurate ethological knowledge of the whale. Realising it did not possess the required expertise to deal fully with this aspect of the subject, it confined its own observations to the direct components of the killing operation surrounding the activities whereby the whale is struck in such a way as to induce rapid unconsciousness and death.

It was suggested that this approach would also permit reference to be made to aboriginal whaling and the despatch of stranded cetaceans, in so far as any conclusions on humane and expeditious techniques for killing were relevant to these other subject areas.

As a working definition it was accepted that humane killing of an animal means causing its death without pain, stress or distress perceptible to the animal. That is the ideal.

Any humane killing technique aims first to render an animal insensitive to pain as swiftly as is technically possible. In practice this cannot be instantaneous in the scientific sense.

The group noted that the development of a means of achieving a rapid, painless death would also and incidentally increase the efficiency of the whaling operations and improve the quality of the meat obtained (by reducing the stress caused to the whale). Thus the commercial whaling industry is interested in attaining the same objectives.

SMALL WHALES

In both pelagic and small-type minke whaling, cold (i.e. non-explosive) grenades are used, since the explosive grenade used for larger whales destroys too much meat. The gunner again aims just behind the flipper along the horizontal midline, although in this case the gunner relies on shock waves rather than hemorrhaging to kill or render the animal unconscious. If the whale is not killed instantaneously in the Japanese operations, an electric lance is employed (see Section 3.2).

In 1979, legislation was introduced in Norway requiring each small-type whaling vessel to carry and use a large calibre rifle (minimum calibre 7mm, minimum impact energy 350 Kkgm at 100m) to kill the whale after it has been hit by a harpoon. Initial reports suggest that this method has proved successful in those instances where it has been used.

ELECTRICAL METHODS

An electric lance is used in Japanese pelagic minke whaling when the first harpoon fails to kill the whale. The electrodes are inserted on either side of the heart and an electric shock is applied. Experiments have shown that a 110v AC 60-cycle power source is most effective, with death occurring 4-5 minutes after the shock is first applied.

Research into improving the design of the lances and the power supply is continuing.

OTHER TECHNIQUES TRIED

(a) CO_2 injection.—This method of killing whales has three potential advantages:

(i) Death by embolism should be rapid and, as it is not essential to hit a vital organ, the effective target area is large;

(ii) The injection of gas should ensure that the whale floats when dead;

(iii) The meat should not become tainted as quickly as it does when air is injected for buoyancy, because the body temperature would be lowered and because CO_2 does not support oxidation.

However, several problems emerged when the method was tried circa 1959. Two approaches were developed, one involving a harpoon with a liquid CO_2 cylinder attached and the other employing a lance to inject CO_2 after the whale had been struck by conventional means. In the case of the harpoon/cylinder technique, it was found that the cylinder nozzle became blocked with frozen CO_2 preventing complete release of the gas; that the meat around the cylinder was freeze-burned; and the interaction between blood and CO_2 blackened the meat rendering it unacceptable for human consumption.

It was noted that with respect to point (c) above, whales contain many anaerobic bacteria and that unless processing occurred soon after injection with CO_2, then decom-

position by these bacteria might actually be promoted by CO_2.

Diving animals such as whales are more tolerant to high levels of CO_2 in the blood and the effect of CO_2 injection might therefore be expected to be slower. However, the mechanism by which CO_2 injection would affect the brain is not by CO_2 narcosis but by gas embolism. The subject of gas embolism is further discussed in Section 4.

(b) Explosive bullets.—Explosive bullets (containing 10-15g of black powder) were first used experimentally by Japanese whalers in the Antarctic in 1973/74. However, it was found difficult to shoot accurately in field conditions. The use of explosive bullets was discontinued after the development of the electric lance (see Section 3.2).

(c) Drugs and poisons.—Whalers have experimented with drugs since the 1830s when prussic acid was tried but very quickly stopped due to the subsequent death of whalers who handled poisoned blubber. Other drugs tried included a mixture of strychnine and curare in the 1860s. More recently Japan has carried out ten experiments since 1964 using succinylcholine but has not continued the work for reasons of safety and practicality.

(d) Electrical harpoons.—Electrical harpoons have been tested intermittently since 1852. Generally the technique has been one involving the passing of a current through the whale line to the more or less standard harpoon fixed into the whale. It is reported that large numbers of whales (over 2,000) were killed by this method before World War II, but British, Norwegian and German experiments employing various conductors and currents all encountered technical problems associated with crew safety in the use of electricity at sea, stretchable conductors, and current leakage.

RECOMMENDATIONS

The workshop was very appreciative of the technical expertise which has been brought together by the Japanese authorities in their national group to improve whale killing technology, and which was made available to this meeting. It strongly supports and encourages the research programme which is being pursued, especially the developments and field testing of penthrite explosive.

The workshop also encourages the proposals by the Norwegian authorities to investigate high velocity projectiles for use in its small-type whaling operations.

The workshop endorsed the following specific recommendations for future action:

1. Harpoons using penthrite.—Penthrite explosive harpoons are thought to have an excellent potential for producing rapid and humane death in struck whales. The penthrite produces an explosive force over six times more powerful than the presently used black powder, providing an initial explosion with great concussive force and potential for rupturing blood vessels. In addition, large amounts of CO_2 and other gases are produced by the explosion which could cause emboli preventing blood circulation to the brain.

A series of experiments should be conducted on some cetacean above the dolphin size (e.g. pilot whale or larger) that can be anaesthetised and properly instrumented for recording electroencephalogram, electrocardiogram and blood pressure. Such instrumented, anaesthetised animals could then be struck by penthrite harpoons of varying charge. Strikes should be made in the thorax (simulating an on-target shot), in the abdomen (simulating a slightly off target shot), and in the dorsal musculature (simulating a further off-target shot).

If, for example, 20g of penthrite is effective for a pilot whale the charge could be scaled up for the minke and larger whales. It is believed that the expertise and capability to carry out these experiments are available.

2. High velocity projectiles.—Research into the use of high velocity projectiles in the Norwegian minke whale fishery should be pursued. Projectile size, construction and velocity, and target area need to be investigated.

3. Electrical methods.—Similar controlled studies to those outlined for the penthrite grenade should be undertaken to determine the effect of electrocution (both by a single harpoon and two electrodes) at various places in the body (particularly the brain and the heart) in consultation with electrical engineers. It is particularly important to determine the pathways taken by an electric current through the whole body in salt water.

4. Time to death or unconsciousness.—The Workshop recognized the practical difficulties in determining unconsciousness or death at sea. It recommends that observations on the behaviour of whales during the actual killing process be made. In particular the times taken for the mouth to slacken, the flipper to slacken and all movement to cease should be recorded along with information on the location of the harpoon and the damage caused to the animal.

The observations should also be made on the animals used in the controlled experiments described above in order to evaluate the criteria used to judge unconsciousness and death in the field.

5. Use of drugs.—The use of drugs such as etorphine hydrochloride should be further investigated with respect to stranded animals and animals killed for non-human consumption. In particular, safety problems associated with the use of powerful drugs in the field and the dose required, the action of the drug and any residues should be studied.

Research into the metablolism of carbohydratres is necessary to determine the effect of insulin on cetaceans.

6. Information on the failure of grenades to explode should be obtained. This should include the collection of data on failure rates in different operations, and the reasons for failure.

7. Possible improvements in techniques used to kill large and small whales in aboriginal/subsistence fisheries should be examined as a matter of urgency. This might be done in the context of the *ad hoc* Working Group on Management Principles for Subsistence Whaling to be held in July 1981.

8. Paralysing drugs should not be used for catching or killing cetaceans, since they do not produce loss of consciousness.

9. The IWC should continue to evaluate humane killing methods and their adaptation to the humane killing of whales. It is the opinion of the workshop that an evaluations of the present field studies, research and other observations of killing methods should be carried out by appropriate experts.●

SUPPORT FOR AIDS RESEARCH

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. PHILLIP BURTON. Mr. Speaker, the issue of providing adequate Federal funding for research into the causes of Kaposi sarcoma and related immune-deficiency diseases is one which this Congress must address.

The appropriation which we are voting on today must be the beginning of a massive national effort to confront a major health problem.

Like legionnaire's disease and like toxic shock syndrome, the acquired immune deficiency diseases are a public health issue which is the responsibility of the Federal Government.

The medical struggle to understand, and ultimately to defeat, the acquired immune deficiency syndrome (AIDS) is likely not to benefit those who might contract the disease, but also to increase greatly our understanding of the nature of the immune system and of cancer itself.

The issue of adequate, long-term funding for AIDS research, then, is not simply a matter of fulfilling our public health responsibilities to the gay community, which has so far borne the brunt of this epidemic, or to the major metropolitan areas, where this epidemic is now centered—although these responsibilities alone more than justify the funding which we request. What is at stake here also is an opportunity to gain medical knowledge which could greatly enhance our ability to strike a blow at cancer—probably the major health problem of modern times.

This would be of enormous value not only to those who suffer during this epidemic, but to all the people of this country.

I urge my colleagues to join in supporting this appropriation and all future measures needed to respond adequately to the health crisis which we now face.●

REMARKS DURING INTRODUCTION OF BILL TO BAR SOCIAL SECURITY CHECK DELIVERY ON FRIDAYS

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. BIAGGI. Mr. Speaker, today I am introducing legislation to assist the millions of elderly now receiving social security benefit checks from experiencing unnecessary delays in their delivery. It has been brought to my at-

tention that a number of elderly citizens now receive their checks on Friday, and thus, are often unable to go to the bank and cash them before Monday. Given the fact that social security remains the sole means of support for 26 percent of current recipients and the primary means of support for an added 40 percent, such a change would ease the lives of many of these dependent senior citizens.

Social security checks are now delivered on the third of every month. This date was chosen when the system was first put into place in 1940 at the request of the Post Office because it feared that delivery on the first day of every month would only worsen the normal load of mail that must be delivered on that day. The Social Security Amendments of 1977 went one step further and stipulated that when the third of the month falls on a weekend or holiday, the payment is due to be delivered the preceding, usually a Friday. Obviously, this exacerbates the problem of Friday check delivery.

My bill would address this problem by also prohibiting mail delivery on Fridays, so that recipients would have ample time to go to the bank and cash their checks. It is a simple solution, that could easily be achieved administratively by the Social Security Administration.

There are a number of proponents of the "direct deposit" method of delivering checks who claim that this type of delivery—directly to the recipient's bank—most quickly addresses the problem. Our experience has been that this method is highly unattractive to the same elderly who are frightened by the presence of their check in the home for the duration of the weekend. The direct deposit system could ultimately benefit all social security recipients but will not do so unless it is utilized by all recipients. Under my bill, the fears of all recipients could be allayed.

As an original member of the Select Committee on Aging, I feel that we must continue to seek ways in which to ease the many fears which continue to plague social security beneficiaries today. I am pleased that our distinguished chairman of the Social Security Subcommittee, Mr. PICKLE, will be considering technical amendments to the Social Security Act next week. It would be my hope that my legislation could be incorporated in this bill, H.R. 7326, which makes minor, technical changes in the Social Security Act and does not, in any way, seek to change benefits or address question of finance of the system. The following is the text of my bill:

A bill to amend the Social Security Act to include Fridays among the days on which social security and SSI benefit checks may not be delivered, so as to assure (without postponing the delivery date) that the recipient of any such check will have a reasonable opportunity to cash or deposit it without delay

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 708(a) of the Social Security Act is amended by inserting "Friday," before "Saturday," each place it appears.

SEC. 2. The amendments made by the first section of this Act shall apply with respect to benefits for months after the month in which this Act is enacted.●

STOP GSA FROM CONTRACTING OUT VETERANS' JOBS

HON. MARVIN LEATH

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. LEATH of Texas. Mr. Speaker, yesterday the House approved the Edgar amendment to the Treasury-postal appropriations bill, H.R. 7158, which provides that funds available to the General Services Administration shall not be used to contract for jobs which are presently being performed by individuals as Federal civil service employees.

The Edgar amendment will stop the contracting out of some 13,000 jobs in the GSA during this fiscal year. I am told by representatives of the veterans' organizations and the American Federation of Government Employees that 80 percent of the jobs are held by veterans, under a provision of law which reserves these jobs for veterans so long as veterans are available. I am referring to section 3310 of title 5, United States Code, which was enacted in 1966, to help veterans of the Vietnam era make a successful readjustment to civilian life following their service.

It came as a shock to learn that the contracting out of these jobs has already begun in the GSA and, unless Congress acts promptly, it will be too late. Even more incredible is the fact that this was going on during the very week that the eyes of the Nation were riveted on Washington on Veterans' Day and the dedication of the Vietnam Veterans Memorial in memory of the more than 57,000 individuals who died in Vietnam.

BOB EDGAR's amendment is in line with an amendment that I offered, which has now become law, Public Law 97-306, which prohibits contracting out within the Veterans' Administration's Department of Medicine and Surgery for services which are determined to be direct patient care or incident to direct patient care. The Office of Management and Budget has shown a zealousness to carry out its circular A-76, which if successful, would have seriously impaired the capacity of the Veterans' Administration to provide the quality of medical care that veterans deserve and Congress intended.

In the same vein, BOB EDGAR's amendment will serve notice to the Office of Management and Budget that Congress does not tolerate contracting for civil service jobs which are reserved for veterans. I commend the House for promptly approving the Edgar amendment, and urge the Senate to do likewise. Time is of the essence and the Edgar amendment must be approved without delay.

Mr. Speaker, the message the House is giving the executive branch on the contracting issue is this, where veterans are concerned, there will be no contracting out for services—there will be no loss of jobs. In other words, the message is we are going to protect veterans and the programs that are designed to enhance the lives of those who served in defense of their country.●

U.S. FOREIGN POLICY IN CENTRAL AMERICA

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. SIMON. Mr. Speaker, Richard E. Feinberg, of the Overseas Development Council, had an article in the New York Times which calls for a reappraisal of U.S. foreign policy in Central America.

What he has to say makes eminent good sense, and I urge my colleagues to read it. And I urge the administration to read it and reflect on it.

The article follows:

FOR A NEW CENTRAL AMERICAN POLICY

(By Richard Feinberg)

WASHINGTON.—Why does the Reagan administration believe that its policies are working in Central America when many Central Americans perceive a deteriorating political environment? These different perceptions suggest we should reconsider U.S. interests in the region.

The administration's central objective is to reassert U.S. infuence in our backyard. To achieve this, it is fostering friendly governments, and fighting to keep less pliant leftist forces from power.

Largely through increased economic and military aid, the administration has successfully nurtured client regimes in El Salvador, Honduras and Costa Rica, and has corralled them into a pact with a foreign policy that echoes ours.

The administration believes that the left has been checked. Dominoes have not fallen and the Sandinista regime is less steady.

Many Central Americans see quite a different picture: declining incomes, rising violence, political polarization and spiraling tensions between states.

Foreign and domestic investors have fled political instability. Violence is escalating in

Guatemala, Honduras and, to a lesser degree, even in Costa Rica. The death toll has passed 30,000 in El Salvador. Centrist political parties and liberal institutions are crumbling.

Washington should recast its interests to be more in line with the region's needs—to give more priority to reducing violence, maintaining regional peace and fostering economic development. These objectives are consistent with the global imperative of containing Soviet power. Yet, they do not require that the United States impose its direct influence or ideological preferences.

Violence will be reduced only when regional and civil conflicts are contained or resolved. An appropriately recast U.S. policy would stop dragging Honduras and Costa Rica into confrontation with neighboring Nicaragua. Last week, fortunately, Nicaragua and Honduras opened talks to avoid a full-scale war along their border. There have been continuing accusations that the Honduran military has been allowing right-wing guerrillas to stage raids into Nicaragua from Honduran territory.

Rather than obstructing such talks, the United States should have been working toward an agreement providing security guarantees to both countries. Washington should also pursue talks with all interested parties to end the Salvadoran civil war.

Only when regional tensions are relaxed will capital return to Central America and economic growth resume. Only then could the administration's proposals for a free-trade zone and investment incentives work.

A new definition of our interests would free the United States to settle for a mix of friendly and non-aligned governments in Central America. It would allow us to tolerate leftist forces, provided that they demonstrate independence from the Soviet Union. We would welcome diplomatic initiatives by Mexico, Venezuela and Western Europe, even when they lessen U.S. influence.

A more pragmatic policy would serve U.S. strategic objectives by driving a wedge between socialist-oriented movements and Moscow. For example, a Nicaragua enmeshed in treaties with its neighbors, subject to influence from regional and European powers, and engaged in regional economic projects would be more likely to distance itself from the Soviet Union.

The administration's politics of confrontation may have unleashed forces in Central America that will resist, momentarily, a more flexible policy. But a policy that is more congruent with local interests stands a better chance in the long run.●

TRUCKERS AND TAXES

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. IRELAND. Mr. Speaker, while I support a 5-cent-a-gallon increase in the Federal fuel tax at the refinery, I am not so sure about some of the other parts of the overall highway package just presented to the Congress. We cannot simply accept the myth that heavy trucks are responsible for all our highway damage. We also cannot so simply accept stiffer taxes on big trucks to repair highway damage.

The weather, traffic conditions, construction procedures, and oversight all are factors in the deterioration of a highway. We cannot view this issue in a vacuum. Most of the goods in the Nation move by truck. Higher taxes beyond a fuel increase may well damage an already battered trucking industry and also damage our economy by fueling inflation. We all know these tax increases will be passed on to the American consumer.

It is our duty to closely investigate anything beyond a mere 5-cent-a-gallon fuel increase. Therefore, I recommend to all Members of the Congress the following statement submitted to the House Ways and Means Committee by an independent trucker's group.

MARYLAND INDEPENDENT TRUCKERS AND DRIVERS ASSOCIATION, INC.,
Baltimore, Md., December 1, 1982.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means, House of Representatives, Washington, D.C.

DEAR CHAIRMAN ROSTENKOWSKI: The attached statement is submitted jointly by the Maryland Independent Truckers and Drivers Association, Inc., a group of owner-operators and drivers residing in Eastern Seaboard states, and the Truckers Action Conference, 1109 Plover Drive, Baltimore, Md. 21227, which is a small group of persons from around the country who are associated with the trucking industry either as owner-operators or small fleet owners.

We hope that the Committee will consider our statement along with others submitted orally today in the hearing concerning proposals to raise the highway use taxes.

We thank you for the opportunity to present our views.

Yours truly,

RITA BONTZ,
President, Maryland Independent Truckers and Drivers Association.

THEODORE E. BROOKS, Sr.,
Director, Truckers Action Conference.

Mr. Chairman and Members of the Committee on Ways and Means: The members of the Maryland Independent Truckers and Drivers Association and the Truckers Action Conference are stunned by the proposals to raise the highway use taxes.

These proposals come at a time when our expenses are at an all-time high—when freight rates are being cut far below our cost of operations—and when the amount of available freight is at a low.

We are fighting the most serious battle for survival that we have ever known. The trucking industry is in a tumultuous period as its components strive to adjust and survive the effects of deregulation initiatives that have already taken place.

We recognize that many of the Nation's highways and bridges are sorely in need of repair and replacement. We know that we, as do all highway users, contribute to the deterioration. We are willing to bear our fair share of the cost to repair and replace the highways and bridges.

But we believe that we have not only been paying our fair share over the years; we have been paying more than our share. And now we are being asked to pay astronomical increases in highway user fees and are being told that 20 percent of that money will be parceled out in block grants to states and cities to update and repair urban mass-transit systems.

This nation needs a stable, safe, and efficient trucking industry. And it needs independent truck owner-operators who are such a vital part of that industry. For example, we haul most of the Nation's produce and meat, much of its processed foodstuffs, nearly all of its heavy equipment, steel, a large portion of its manufactured goods, and a significant portion of military shipments.

These proposals will drive many of us out of business—forever. Truckers who have for years provided reliable service at a reasonable cost will disappear. They will be replaced by the inexperienced—those who will be able to survive in the industry only long enough to cause problems.

We are not asking to be excluded from helping to pay for the repairs and replacement of highways and bridges. We are only asking that our payment be a reasonable share.

It is unreasonable, we believe, to expect one group of users to bear such a disproportionate share of the costs. The proposals are being touted as costing the average motorist $30 a year. Not bad if it brings us road repairs and replacement. That's less than the cost of a pair of shock absorbers for the average automobile.

But let's look at what it will cost the average trucker. Most truckers will pay the $2,700 fee—or close to it. If the trucker drives 100,000 miles a year—not an unusual amount—there's an extra $1,000 for 20,000 gallon of fuel (at 5 miles per gallon). Increases in taxes on truck sales, parts, tires, tubes, and so on could add as much as $1,500. How does that compare with the $30 the average motorist pays? Is it in proportion?

This bill is being promoted as a measure to create new jobs. We see it in a different light. Our assessment of this bill can be summed up in three paragraphs.

First, the net gain in jobs will be minimal at best. We predict this bill, if enacted, will be a boondoggle in the truest sense of the word. There will be so many trucking industry people thrown out of work that their numbers may actually equal the projected number of created jobs.

Secondly, we truckers spend twenty, thirty, even forty years of our working lives on the highways. We watched the Interstate System being built. We see the repair work being done. We are out there every day and we can state in all sincerity that the major part of this work is not up to the standards which highway users have been paying for. One instance among hundreds comes immediately to mind. One of the writers of this statement travelled Interstate 80 across Pennsylvania the day it was opened. We saw hundreds of pavement cracks, concrete slabs rocking under the weight of vehicles and shooting muddy water 6 feet in the air, bridges so rough they threatened loss of vehicle control. All of this on the day the road was opened to the public. This is only one of many examples of poor design, poor workmanship, poor supervision, and waste of our money which are repeated over and over from coast to coast.

There is ten times more highway damage caused by poor construction and skimpy material than was ever caused by truck traffic. Truckers pay for this fraud in damage to their equipment, injury to their health, and damage to the goods they haul. Further taxation adds insult to literal injury.

Finally, passage of this bill in its present form would constitute an inflationary quick-fix for the sake of political expediency. It would place cost in varying degrees on those least responsible for the condition of our highway system and in large part on an industry which is least able to pay the grossly unfair and unrealistic share proposed by this measure.

We realize the fuel tax is unchanged over the last 23 years. We accept the 5 cent increase as reasonable and fair. To put this in perspective, the average truck will pay tax on 20,000 gallons of fuel per year, a rate of payment at least 40 times that paid by the average motorist.

We deem totally unacceptable the astronomical proposed increases in user and excise taxes. And we especially reject the concept of diversion of highway taxes into non-highway uses. We consider these sections of the bill to be unfair, unlawful, and confiscatory.

We sincerely hope that Congress will consider the potentially devastating long-term effect of this bill as it is now written. And finally, we hope the Congress will take the steps necessary to ensure that those who provide the funds for the Highway Trust Fund receive fair value for the taxes paid.

Thank you for considering our views.●

THE REAL LESSONS OF VIETNAM

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. DORNAN of California. Mr. Speaker, in the 10 years (Jan. 27, 1983) since the last American soldiers began leaving Vietnam, our involvement in Southeast Asia has been tainted by criticism and remorse. As time rinses away the verbal scales from our eyes, we can begin to acknowledge the reasons for our involvement in Southeast Asia. Mr. Speaker, I am submitting a review by Mr. Jeremy Leggatt because I feel that it testifies to the nobility of the cause for which our young men and women fought.

THE REAL "LESSONS OF VIETNAM"

(A review by Jeremy Leggatt)

In the nearly eight years since South Vietnam collapsed under North Vietnamese invasion, food production in that once self-sufficient land has dropped so catastrophically that the population lives at malnutrition levels. Tens, perhaps hundreds, of thousands of South Vietnamese have been executed or have died in the communists' vast system of "re-education camps." There is no way of estimating the toll in the slave-labor camps established to tame South Vietnam's "new economic zones"—jungle areas notoriously incompatible with human life. Nor is there any way of counting the numbers who have fled, or attempted to flee, the repression.

Americans have shifted their sight from Vietnam to Central America, the Persian Gulf, and concern over the flagging national economy. Our 13-year war in Southeast Asia, and the crippling self-interrogation that accompanied it, are quickly fading in our memories.

One American who refuses to forget is Norman Podhoretz, editor of Commentary magazine and a former critic of U.S. involvement in Vietnam. In Why We Were in Vietnam, Podhoretz recalls, "The United States sent half a million men to fight. . . . More than 50,000 of them lost their lives, and many thousands more were wounded. Billions of dollars were poured into the effort, damaging the American economy to such an extent that the country's competitive position was grievously undermined. Perhaps most destructive of all, millions of Americans growing to maturity during the war developed attitudes of such hostility toward their own country that their willingness to defend it in the future was left in doubt."

Just what was in it for America?

We are still split on the question of Vietnam. In May 1977 President Jimmy Carter spoke of "the intellectual and moral poverty" of the policies that took us into the war. Three years later Ronald Reagan called the war "a noble cause." Reagan's unfashionable contention set off—as Robert W. Kagan wrote in The Wall Street Journal—"titters throughout America's better-educated set." And yet, says Podhoretz, "the story shows that Reagan's remark was closer to the truth than Carter's denigration of an act of imprudent idealism whose moral soundness has been so overwhelmingly vindicated by the hideous consequences of our defeat."

In retelling the painful story of the Vietnam war, Podhoretz bulldozes the ramparts of myth that have obscured the realities and continue to cloud our foreign-policy attitudes today.

CONTAINMENT ON THE CHEAP

One of the most persistent myths is that President John F. Kennedy committed uniformed U.S. forces to South Vietnam against his better judgment. Not so, says Podhoretz. As a Senator, Kennedy stated his position plainly in 1956 (the year North and South Vietnam were scheduled, under the Geneva agreements that terminated French rule, to be unified under a "freely elected" government). "Neither the United States nor Free Vietnam," declared Kennedy, was "ever going to be party to an election obviously stacked and subverted in advance" by the communist North and its agents in the South. Free Vietnam, said Kennedy, was "a proving ground of democracy" and "the cornerstone of the Free World in Southeast Asia."

Kennedy's attitude was consistent with U.S. policy. The Truman Doctrine preached U.S. determination to "contain" totalitarian aggression worldwide. The United States had already demonstrated its military commitment to containment in divided Korea and divided Germany. Thus, when President Kennedy extended the Truman Doctrine to Vietnam, he enjoyed national support. Much of it came from people who would later spearhead the antiwar movement.

Kennedy's successors, Lyndon B. Johnson and (at least initially) Richard M. Nixon, were similarly committed to the containment principle. But all three Presidents, says Podhoretz, made the mistake of trying to meet their goals "on the cheap."

President Kennedy intervened in Vietnam on the military cheap. Ignoring his advisers, he hoped that "going in slow and small" with minimum military force would reduce the domestic political risks that a bigger show of force might trigger.

President Johnson sought to contain the Vietnamese communists on the political cheap. He readily assumed the burden of his predecessor's commitment, but either refused or neglected to build political support for the war within the United States.

Even after the Vietnam war had provoked protest marches and antiwar demonstrations, Johnson rejected advice, as author Guenter Lewy put it, to "provide the American people with a vivid foe." Instead, says Podhoretz, Johnson "confined himself to arguments about military tactics, leaving the moral question of American involvement to the radical opposition, whose wild arguments went almost unanswered." Trying to win on the political cheap lost Johnson not only the war but his office.

His successor, President Nixon, tried to win—or at least save face—on the strategic cheap. Nixon spoke only of how to get out of Vietnam; he saw no point in arguing about why we were there. The effect, once again, was to concede the moral and political arguments to the antiwar forces—who had become, in effect, the enemy within.

The rise of this adversary, says Podhoretz, is "one of the most amazing—and disquieting—aspects of the American experience in Vietnam." Opinion-makers clamoring for immediate American abandonment of an ally accused their own country of "war crimes" and "genocide."

REVERSED ROLES

What caused this turnabout? Partly to blame, says Podhoretz, was the "credibility gap." In the early years of the Vietnam conflict, reporters on the spot quickly noted discrepancies between gung-ho official reports and the reality of a struggle against a resourceful and determined enemy. But their realistic reports were edited back home to conform to the official we-are-winning line.

Exaggeration of battlefield data by the military soon caused all official reports on the war's progress and all government statements of our Vietnam policy to be discounted. By 1965 the unthinkable was commonplace: the President of the United States was being routinely charged with "lying."

Reporters alienated by inflated military claims now overreacted by inflating reports of communist successes. The most destructive example of this was coverage of the communist offensive launched during the 1968 Tet festivals. A coordinated attack by Viet Cong guerrillas on every major city in South Vietnam, it succeeded in places—briefly. As a whole, however, the Tet offensive was a shattering defeat for the Viet Cong. Their losses were huge, nearly 70 percent, according to one estimate: yet, says Podhoretz, Tet was reported as a crushing U.S. defeat. The antiwar movement fully exploited the Tet "disaster" as proof of the need for immediate U.S. withdrawal.

It was but a small step for much of the media to fall in line with those who held that America's mere presence in Vietnam constituted a crime. The notorious My Lai massacre, in which an American unit opened fire on defenseless villagers, was labeled routine. But no evidence ever surfaced to corroborate this. Similarly, reports of U.S. "terror bombing," of civilians butchered through pilot carelessness, of hospitals deliberately attacked, were rife. In reality, so stringent were the limitations placed on targets and attack approaches for American pilots that they were often sitting ducks for North Vietnamese gunners.

HISTORY'S WASTEBASKET

By the early '70's the national consensus was that, however bad communism might be, nothing could be worse than the genocidal war Uncle Sam had unleashed on Southeast Asia. This consensus guaranteed that any U.S. move to defeat the enemy would be

condemned in advance by U.S. public opinion. In the long negotiations between Henry Kissinger and the North Vietnamese, Kissinger's opposite numbers consistently countered his arguments and proposals with references to American public opinion.

Congress, responding to a nationwide mood of war weariness, gradually chipped away at our guarantees to South Vietnam. When North Vietnam finally invaded the South, Congress cut off our former allies without a bullet.

Within months of Hanoi's victory most of the arguments advanced by the American antiwar movement toppled into the wastebasket of history. First to go was the myth that the Vietnam war was a purely South Vietnamese struggle for self-determination. North Vietnamese personnel poured in to fill every top- and middle-rank position in the "liberated" South, while every southerner of leadership caliber was shipped off to "re-education" or worse. Regimentation and hardship became the rule.

The next myth to fall was that communism was preferable to the horrors of war. The most eloquent rebuttal of this came from hundreds of thousands of Vietnamese who sought to escape across jungle frontiers and by sea. That people traditionally bound to the soil where their ancestors are buried should rush to leave is revealing enough. That they should make the attempt by boat—knowing the heavy odds against surviving—is supreme proof that communism has indeed turned out to be worse than war.

RALLYING CALL

Podhoretz concedes that saving South Vietnam from communism was "not only beyond [America's] reasonable military, political and intellectual capabilities but ultimately beyond its moral capabilities as well." But he unequivocally asserts that the United States went into Vietnam "for the sake of an ideal"—in order to save an ally from what events have proved to be a dreadful fate. "One can characterize this impulse as naïve or describe it in terms that give it a subtly self-interested flavor," Podhoretz writes. "But there is no way in which it can be called immoral."

That the ideal was unattainable, says Podhoretz, is a tragedy with disastrous ripple effects. Since our pullout from Vietnam, the communists have felt emboldened to probe weaknesses and destabilize institutions everywhere. Despite this spurt in communist expansion in Afghanistan, Africa and Central America, the veterans of the Vietnam antiwar front have not recanted or accepted the lessons of the past. Indeed, "lessons of Vietnam" has become a potent antiwar rallying call. As politically naïve as any slogan concocted during the Vietnam war, its thrust is to prevent the United States from acting to counter communist aggression.

Podhoretz's essential point cannot be escaped: we were morally right to go in. Muddled, clumsy, ineffective—but right. The story he tells is one that must be heard and pondered—both to redeem the past and buttress the future.●

H.R. 6514—NOT A JOBS BILL

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. GARCIA. Mr. Speaker, I want to call my colleagues attention to an article in today's New York Times about H.R. 6514, the Immigration Reform and Control Act of 1982. The article states that supporters of the bill have said that it will help reduce unemployment.

The only cure for unemployment is to get the economy moving. The primary cause of this problem is not immigration but the faulty economic policies of the present administration. Blaming immigrants is scapegoating. This is not only unfair, it is dangerous.

It is unfair because, as I said, it is scapegoating. It is dangerous because if we erroneously blame immigrants, documented or undocumented, for our excessive unemployment rate, then we are hiding from the real problem—that Reaganomics is not working.

There was another point made in the New York Times article that also disturbs me deeply; that is, that the legalization component of the bill may be eliminated.

I can assure you that the only reason anyone in the Hispanic community would be willing to even consider supporting this bill is because of the legalization program. I believe this program, as included in H.R. 6514, does not go nearly far enough. If it is eliminated, it would be a travesty for all Hispanics.

Legalization is more than a tradeoff to the Hispanic community. It is an opportunity for the United States to wipe its slate clean, and to begin handling its immigration problems from a fresh start. Without a legislation program the underclass of undocumented persons in the United States will continue to become more and more alienated from the mainstream of American society. We do not need to expand our Nation's underclass. We need all people living and working in this country to join together to build for the future.

America was built by immigrants. Let us not scapegoat or chastise the most recent wave of migrants to come to the United States. Let us incorporate their enthusiasm and labor for our benefit.

H.R. 6514 should not be considered during a lameduck session. It is much too important a piece of legislation to be rushed. But if it is considered, the legalization program must not only remain in the bill, it should be expanded.

I submit the article from today's New York Times for the edification of my colleagues.

DRIVE TO REVAMP IMMIGRATION LAW IS GAINING

(By Robert Pear)

WASHINGTON, December 1.—Members of Congress appear increasingly eager to pass a comprehensive immigration bill this year, but there is growing support for efforts to delete a proposed amnesty for illegal aliens.

Since Congress reconvened Monday, supporters of the bill have been telling colleagues that it would help reduce unemployment by making it unlawful for anyone to employ an illegal alien. Thus, they say, the bill would open hundreds of thousands of jobs to United States citizens. Discussions of the bill on Capitol Hill have increasingly emphasized its restrictionist features.

The Reagan Administration still supports legalization as a component of the bill. But Justice Department officials said today, for the first time, that they would be willing to consider deferring legalization until the Government's enforcement capabilities had been strengthened.

House Democrats said the bill could come to the floor for debate as early as next week. Eliminating the amnesty provisions would profoundly alter the nature of the bill, which, its supporters say, represents a delicate balance between tougher enforcement and humanitarian changes.

The Senate and the House Judiciary Committee have approved comprehensive immigration bills that would offer permanent resident status to several million illegal aliens who entered his country before Jan. 1, 1977, and lived here continuously since then. The precise number of people who would qualify is unknown. The bills would offer provisional amnesty to illegal aliens who arrived from Jan. 1, 1977, to Jan 1, 1980. They could become permanent residents after a three-year waiting period. Permanent residents, in turn, can become citizens after five years.

David D. Hiller, a Justice Department official, said: "We were an early proponent of a realistic, properly limited legalization program. That is an appropriate part of an overall bill. However, there is a great deal of sentiment out there for deferring legalization until such time as we are convinced that enforcement measures are in place and effective."

If there was a strong push to delete the amnesty provisions, he said, "the enforcement parts of the bill should go ahead and the issue of legalization could be revisited later, when Congress felt more comfortable with it."

Deletion of the amnesty would cause great concern to Hispanic Americans, who see aggressive enforcement as a possible threat to their civil rights. But with more than 11.5 million Americans out of work, even some liberals in Congress have expressed reservations about granting amnesty.

Representative F. James Sensenbrenner Jr., Republican of Wisconsin, intends to offer an amendment to delete the amnesty provisions, which he described as "the most objectionable features" of the bill. "It seems ludicrous to be granting amnesty to millions of illegal aliens at a time when our country is suffering from such high unemployment," he said.

In a statement filed with the Judiciary Committee report, Mr. Sensenbrenner said that amnesty would set "a bad precedent" and encourage further illegal immigration. In addition, he said, it was "unfair to the hundreds of thousands of immigrant applicants, some of whom have been waiting as long as 10 years to come to this country legally."

Representative William J. Hughes, Democrat of New Jersey, said that Congress should not approve a "mass amnesty program" until it gave the Immigration and Naturalization Service more resources to enforce the law.

In September the House Judiciary Committee rejected, 16 to 12, a bid to delete the amnesty section of the bill.

Representative Romano L. Mazzoli, Democrat of Kentucky, and Senator Alan K. Simpson, Republican of Wyoming, the sponsor of the Senate bill, have repeatedly said that the legislation was "not nativist, not racist and not mean."●

RUBY AND DOUG JACKSON, CAPITOL HILL NEIGHBORS

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. McCLORY. Mr. Speaker, a virtual legend on Capitol Hill where my wife, Doris and I have resided during most of my years of service in the Congress is to be found in the home and in the lives of our close friends and neighbors, Ruby and Doug Jackson.

Ruby Jackson's account of her childhood years on Capitol Hill is a significant part of the history of the area and is a human interest story which I wish to share with my colleagues and with all who glean these pages of the CONGRESSIONAL RECORD.

Ruby and Doug Jackson's neat and well-groomed premises are located just around the corner from our home on Constitution Avenue. Our rear yards abut on the alley adjoining Frederick Douglass Court.

Ruby and Doug Jackson are respected, admired, and well liked in our neighborhood.

My wife, Doris, has transformed Ruby Jackson's account into a bit of Capitol Hill lore which I am attaching to these introductory remarks.

RUBY JACKSON: A "HILL PROFILE"

(By Doris Hibbard McClory)

This is the story of a Capitol Hill that once was—one we all might wish still existed—and one that may yet exist.

Ruby Rice was born in Lauren, South Carolina, population 450. She came to Washington, D.C. when she was two. She was one of nine children, including two sets of twins, of which Ruby was one. The only other living member of the Rice clan is a sister, one of the other set of twins.

Ruby's parents settled at 327 Constitution Avenue, Northeast—and the house is still there although somewhat changed.

Here's the way Ruby tells it: "Ma died when I was eight so my father and oldest sister raised us. Pop was a railroad worker and a strict disciplinarian.

When we were little we didn't even have to lock the doors. To keep cool, we'd leave the front door open—that's how safe we were. We'd sit out on the front porch and the only thing that bothered us was mosquitoes.

There was a grocery store at the corner of 4th and Constitution. The store owner lived upstairs and his name was Dapplebaum. On 4th Street between Maryland and Constitution was a blacksmith shop and nearby a seafood carryout which was really good!

There were frame houses all along Constitution Avenue except for 319 which was brick. At 3rd and A there was a Sanitary Grocery Store. That was a chain and they were all over the District. At 4th and Capitol was a big A & P and another one at C and 3rd. And, at 3rd and Maryland was another grocery store and by the school at 4th and C was a laundromat; it was a restaurant before that. Yup, there was a grocery store at every corner. We didn't have to walk far to buy anything. And it was always safe. My father never had to worry about us.

"Things started changing some in 1950 (her father died in 1946 and she, her sisters and brothers stayed on at 327). We stopped sitting on the porch. We didn't even own porch furniture after that. One day a man walked by as I was coming out of the house and said to me 'I didn't know anyone lived here'."

The house at 327 Constitution was sold along with many others when the speculators came in—and the Hill changed.

Fortunately for Ruby, she met Douglas Jackson, a Navy man, who had relatives on 4th Street who introduced them. In 1956, Ruby and Douglas were married and she and he bought the house at 120 4th Street Northeast, around the corner from her old home. They both liked living on "The Hill" and even though Douglas was from rural Virginia, they both settled here happily.

Back to Ruby: We never had any desire to move away. Everything was right here. It was a good place to live and the people were nice.

I can still remember roller skating and sledding down Pennsylvania Avenue. There weren't too many cars so we were safe. We always played in Stanton Park. They had sand boxes. We used to climb all over Stanton's statue, but one day it fell over in the wind. Thank goodness, we weren't there that day!

I couldn't go to Peabody School because then it was all white. I went to Logan School at 4th and G Northeast—it's still there. We always walked even in bad weather. Then I transferred to Giddlings at 4th and G Southeast. I went to Randall High School in Southwest.

When the speculators started coming in, the Hill started to be more transient. There were rooming houses all along East Capitol and Maryland Avenue. Tourist houses, too. Frederick Douglass Court was used for storing the carts the street cleaners used. The carts were lodged in a large garage. Up over the garage was an upholstery shop. Mr. Greathouse owned it and he lived on 3rd Street. Adjacent Millers' Court still has a lot of the original houses which have been renovated.

Frederick Douglass' nephew lived at 318 A Street, Northeast. We all liked him because he walked around and gave us candy—I can still remember him.

Capitol Hill Hospital—the only thing that's changed is the name. On one side was a stable and when I was 12, I had to have my appendix out. So, Pop and I walked to the hospital and they took me up over the stable and operated on me. Oh, it wasn't still a stable—they'd made it into a hospital by then!

We used to play some in Lincoln Park but then gangs started forming so my parents wouldn't let us play there. We mostly roller skated and rode our bicycles.

In those days, Capitol Hill was an area that extended from the Capitol to 4th Street—that was it!

Grubb's Drug Store (Which happily still exists at East Capitol and 4th) was an ice cream parlor where we sat and had sodas. Of course, the granddaddy of them all is Sherrill's Bakery and Luncheonette and it's still there on Pennsylvania Avenue.

We always played ball on the Capitol grounds. We relaxed on the benches there and that's where the boys and girls met.

The 1968 riots really made the biggest change. I was on the 4th Street bus near Gallaudet College and I couldn't wait to get home. The ice cream store at 7th and Constitution was bombed. It was scary. For three days all we saw was smoke and fire. We traded groceries with our neighbors so we all had enough to eat because nothing was being delivered. Yes—the riots—they made the real change. It was like war. People stopped saying hello to each other—and the Good Humor man didn't come by anymore. People used to keep their front yards nice and clean—and the streets and sidewalks were always neat.

Yes, the Hill has changed. Maryland Avenue which once was a series of boarding houses is now called "millionaires row."

And that is the story of Capitol Hill according to Ruby Rice Jackson. But, would she and Douglas live anywhere else? "Nope!" says Ruby. It's still the best place to live. Where else can I have an organic garden in my backyard and meet my neighbors over the back fence—and still be right in the city? And Princess (the Douglas dog)—she likes it, too! So, that makes it fine by me."

We, her neighbors, all call her "Our Ruby." Why? Because she's a top Hill Booster—an involved and active citizen of the area: Secretary of the Stanton Park Neighborhood Association; and up until recently the sparkplug behind the annual SPNA annual picnic: purveyor of home made ice cream (strawberry) and Douglas' specialty freshly-roasted hot dogs.

The Hill: it's a great place to visit and a great place to live!●

THE MANY WAYS MX IS HYSTERICAL

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. SIMON. Mr. Speaker, many of our colleagues were not in Washington on Sunday, November 21, when Walter Pincus had an exceptionally fine article about the MX and the various deployment systems.

Before we vote $26 billion for the President's latest proposal, Members ought to read this article.

THE MANY WAYS MX IS HYSTERICAL

(By Walter Pincus)

Wanted: An invulnerable, permanent home for at least 100 of the Air Force's gaint, 92-inch wide, 71-foot-tall, new MX intercontinental ballistic missiles. You know—the ones we must have to prevent the Soviet Union from attacking us.

Probably Monday, President Reagan will make his latest contribution to a saga that has now spanned 10 years and four administrations, a saga that would be simply hilarious if it weren't also serious. In each chapter of the saga, the administration of the day is searching for a safe place to put these missiles, whose 1,000 highly accurate warheads, each more than 10 times as powerful as the Hiroshima bomb, are supposed to be the needed answer to the Soviets' missile force.

Reagan's latest attempt to find a home for the MX come 13 months after the same Reagan announced on national television that "after one of the most complex, thorough and carefully conducted processes in memory" he had come up with a program for the MX.

The notions put forward that day in October 1981 for MX basing lasted well into the summer of 1982, but not much longer. The next chapter will unfold under the name of "Dense-Pack."

If there were not serious defense, diplomatic and domestic policy questions involved in this endless saga, the whole process could be seen as a bizarre satire on the Pentagon as a political and economic playground. The stars of the satire have changed with each change of administration, but the show has gone on year after year. The Reagan players don't seem to deserve any more ridicule than any of their predecessors, they just happen to be the current occupants of the major roles.

If you remember (and it would hardly be surprising if you don't), on Oct. 2, 1981, the president, with Secretary of Defense Caspar W. Weinberger by his side, went on national television to announce his plan "to revitalize our strategic forces and maintain America's ability to keep the peace well into the next century." It included building the B-1 bomber and developing a new Trident II submarine-launched missile. But the centerpiece of the program was the president's decision to go ahead with building 100 new MX missiles, placing the first 40 in existing missile silos that would be made much stronger—and thus less vulnerable to Soviet attack—by the addition of huge quantities of concrete and steel.

The administration would study three other schemes for deploying the other 60 MXs, announcing a decision later. So Reagan said last year.

The three options under study, Reagan said then, were deep underground basing, airborne basing or deceptive basing in silos, perhaps protected by a new antiballistic missile system.

What we didn't know at that moment but do know today, thanks to this newspaper's White House correspondent Lou Cannon, and his book "Reagan," is how the president reached that decision. According to Cannon's account, Weinberger had drafted the decision shortly before it was announced.

Weinberger made his decision at the last minute, after rejecting the advice of both his own expert panel and the Joint Chiefs of Staff, apparently in the hope that something better would turn up. The most embarrassing, but perhaps most illustrative, portion of Cannon's history of that moment is that Weinberger sold the nation's commander-in-chief on his proposal, not by explaining it in any detail, but rather by showing the president a cartoon from a newspaper which made fun of former President Jimmy Carter's plan for MX basing. That was the "shell game" idea—building 4,600 shelters for MXs, and shuttling 200 missiles from shelter to shelter to fool Soviet targeters.

The cartoon depicted a Carter-like figure showing three nutshells on a table to a Brezhnev-like figure, asking him to guess where the missiles were hidden. In the next panel the Brezhnev figure crushed all three.

"Reagan chuckled," Cannon writes, after explaining that the president was tired that afternoon, "and approved the Weinberger plan" without any explanation of it.

This certainly was not the first time a president has blindly accepted a defense plan from a trusted cabinet member. What's disturbing about this one is that Weinberger was, as one military man put it recently, "flying on his own." The defense secretary had ruled out the Carter plan and any other multiple basing scheme for political reasons, though he never expressed it just that way.

He clearly didn't want to appear to be adopting any idea with a Carter label on it. Moreover, Weinberger did not want to inflame the Nevada constituents of Reagan's close friend Sen. Paul Laxalt (R-Nev.), who would have to give up a large part of their state to accommodate the MX shelters envisaged in the shell-game scheme. Laxalt spoke for popular sentiment in Nevada when he came out against the shell-game idea.

As Cannon gracefully put it, Reagan's tough stand during the presidential campaign for strengthening the U.S. ICBM force "faded softly into the Nevada sunset."

Within four months of the October 1981 announcement, Reagan's MX decision was in shambles. It became clear there was no way you could satisfactorily "harden" existing silos with concrete and steel, and the three "promising" permanent basing ideas, all of which had been explored by earlier administrations, were found wanting again.

Sometime during the summer, the Air Force, with encouragement from the White House, resurrected the idea of packing MX silos close together on the theory that if the Russians tried to knock out all 100 silos, the radiation, debris, explosive pressure and heat from the first warheads that landed would do as much harm to the remaining incoming warheads as it did to the first few silos that would be hit. In the lingo of the nuclear weapons community, this theory was termed "fratricide"—in other words, the first H-bombs to explode would kill off their brothers raining down subsequently.

The new basing plan was given the name "Dense-Pack" and various studies were undertaken to see if it could be said to work. In the succeeding months, "Dense-Pack" gained a predictable following, led by the Air Force, whose overriding interest is to get the MX.

But Weinberger has had his doubts, as have many of the experts. It is now part of this saga that every new idea produces a new set of critics. Dr. Charles Townes, the chairman of Weinberger's panel of scientific experts, warned that the new plan offered no solution for the long run—if the Soviets build more warheads, "Dense-Pack" will become vulnerable.

One clever opponent came up with a study that showed that at best, "Dense-Pack" could only survive repeated Soviet attacks for four hours, if the Soviets timed their shots carefully. Thus you were spending $20 billion or more for just four hours of security.

Perhaps the final beauty of Dense-Pack for its proponents is that no one can *prove* that it won't work. There is no way you can test what the "fratricide" effect will be when one nuclear warhead explodes on the surface of the earth as another comes down through the sky to explode.

This logic can be taken another step. The rational behind all our nuclear forces is "deterrence"—to make the Soviets believe they can't get away with attacking our missiles without theirs being attacked in return. So the purpose of any MX basing plan is to come up with something that we can tell the Russians will work. Naturally, then, an American government will say the system works. Whether it really will makes no difference.

Confused? Well, you are supposed to be if you are a normal individual and not a nuclear strategy expert. Simple logic has no obvious place in considerations of the MX problem.

More typical is last minute improvisation. In a delightful new book entitled, "Super Weapon, The Making of MX," author John Edwards provides exquisite detail on how the Carter administration decided to place 200 MX missiles among 4,600 horizontal shelters that looked like cement garages.

In 1978, according to Edwards' chronicle, Defense Secretary Harold Brown favored building an MX and basing it in a "shell-game" system. (Brown favored a "vertical shelters" shell game over the later "racetrack" shell game, but that's another story.) Zbigniew Brzexinski proposed putting the missiles on mobile trucks. And President Carter toyed with idea of building no new missile while studying the idea of launching our force of Minuteman missiles when it was clear our force was under attack. (If we've launched them, the Soviets can't blow them up, according to this line of thinking.)

Eventually, all the key players in the Carter administration changed their minds.

Back in 1981, the Air Force put together a wall chart that illustrated 27 different basing ideas that had seriously been explored and rejected for the MX. Among the more original were basing it in mid-ocean, underwater (there was fear someone might steal it); and putting in on a large flying boat—a cousin of Howard Hughes's spruce goose.

Whatever President Reagan announces tomorrow, the MX saga won't end there. Congress retains the last word on the missile's future, and with any luck, Congress will move this debate from the arcane and often irrelevant world of the nuclear strategists into the realm of common sense.

Common sense will lead to the conclusion that we don't need an MX missle. A little history explains why.

Back in 1945, according to Manhattan project archives, when a distinguished group of government officials, scientists and military men (Henry Stimson, Gen. George C. Marshall, J. Robert Oppenheimer, James B. Conant and others) decided on the targets for the first atomic bombs, they selected two Japanese cities where military installations lay close to residential areas. Their reasoning was simple—and brutal.

They considered the atomic bomb a weapon of terror, designed to frighten a country into surrender with the threat of possible extermination. But because these were civilized men, they liked the idea of "targeting" the military installations at Hiroshima and Nagasaki to cloak their uncivilized aim of mass human destruction.

It is too easy to forget that just two small atomic bombs—less than one-tenth the size of each of those 10 hydrogen-bomb warheads on top of just one MX—killed 200,000 Japanese and injured another 130,000.

If we realize that mass destruction is the real mission of these weapons, then it becomes harder to explain why—when we already have 7,500 warheads on land- and sea-based missiles—we really need 1,000 more. The strategist reply that we need them to attack "military targets" like thousands of missile silos on U.S. and Soviet territory. But if "the balloon goes up," to use one of the many horror-disguising euphemisms of the strategists, the first wave of missiles may be aimed at missiles on the other side, but their principal effect will be to kill millions of people.

And if there is a real deterrent that would stop the Soviets from attacking, it is that their cities and people would face destruction, not that their remaining missiles would be threatened. This is the mutual assured destruction theory of Defense Secretary Robert S. McNamara that cutely and disparagingly has been nicknamed MAD.

That was the theory behind the first atomic bomb attacks and dispite the strategists' euphemisms, it would be the theory of any other. Destruction must also be the main fear of any attacker.

Despite all the hundreds of thousands of pages that have been devoted over the past 37 years to describing tactics and strategies for basing and using nuclear weapons, any Russian or American leader who pushes the button will know that the first strike is also going to be the last. The strategists' contrary nonsense has given us thousands of missiles, bombs and other devices, but it has not given us any security.

Nuclear weapons remain what they were in 1945, when they were first used—weapons of terror. And that is how we should talk of them.●

AMWAY CORP.'S TRUTH CAMPAIGN

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. VANDER JAGT. Mr. Speaker, as far as I am concerned, a recent editorial by the WZZM television station in Grand Rapids, Mich., was right on target when George Lyons, president and general manager of the station, opened the editorial comment on "Trade War" by stating:

The current problems between the Canadian Government, the Amway Corporation and its officers, point to one undeniable fact: The United States and Canada are in a trade war and have been for years. The protectionist policies of our friendliest neighbor are not friendly at all.

The U.S. Government has made some attempts to counter the "Canada-first" attitudes up North, but today free trade between the two countries remains little more than an illusion.

As a member of the Subcommittee on Trade of the House Committee on Ways and Means, I and many other Members get a very close look at the treatment U.S. companies doing business in Canada have been receiving from our neighbor. And, of course, we are all mindful in recent months of Canadian firms gaining U.S. business either for the Army's new light armored vehicle or the manufacturing of subway cars for New York City. Yes, these are difficult, highly strained times between our two countries.

And, now it hits home once again as a Canadian provincial prosecutor has filed a criminal information suit against two of my close personal friends, Jay Van Andel and Rich DeVos, chairman and president, respectively, of the Amway Corp. What is the suit about? Allegedly for underpayment by Amway of customs duties.

This is not a new issue really; it goes back for years and really, from everything I have read and heard, simply involves a misguided effort on the part of some Canadian officials to extract large sums of money from the Amway Corp. under the guise that custom duties were underpaid. Civil action is pending in Canadian courts, but now the Canadians have chosen to try to criminalize what is at most a civil tax dispute in an attempt to expedite the collection of very, very disputable duties and penalties.

I am told by Amway officials that after 2 years of trying to work out an agreement in a business-like manner, the Canadians have decided to use more embarrassing tactics. Amway, as you perhaps have seen from their special advertisement in today's Washington Post, has finally decided to tell its side of the story. I hope you will read that advertisement.

I have known Jay Van Andel and Rich DeVos for many years. Their integrity, their character, and their honesty are above reproach. But now, because of this harsh and unfounded action by the Canadian Government, they are engaged in having to prove their honesty, character, and integrity.

They will be vindicated. But, I am concerned about this new development by the Canadian Government impacting on personal and business relationships between individuals and companies of our two countries. This action presents another reason why our Congress and the present administration are on the brink of taking more direct and positive action relative to world trade arrangements and agreements. We have been for free trade—fair trade—and we do not seek a world trade war, but enough is enough. Amway does not intend to be a "fall guy" to the Canadian Government. I applaud them for sticking to their guns. The most sad commentary on the whole situation, however, is the time, the effort, and undoubtedly huge sums of money that now must be expended by Amway in its "truth campaign to prove its innocence and demonstrate the absurdity of the Canadian charges."●

THERE IS HOPE FOR POLAND!

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. BROOMFIELD. Mr. Speaker, I know that many of my colleagues join me in hoping that the Polish Government will continue its recent efforts toward national reconciliation of which the release of Lech Walesa is an example. The authorities should reestablish Solidarity as the legitimate union of Polish workers, and lift martial law. I am also encouraging the President to do everything possible to send this message to the Polish Government.

There are some positive signs that the martial law authorities are moving in the right direction. It is deplorable that the military Government of Poland made the ill-advised decision to ban Solidarity, the officially sanctioned and very effective workers organization. With nationwide support and millions of members, Solidarity played an important role in Polish society. It did much to improve the lot of Polish workers. As all of you know, Communist theory stresses the key role which the proletariat plays in society and the importance of organizing the workingman.

It seems ironic that in Poland the very organization which did so much to promote the common man was officially banned. Although martial law still forbids the conduct of union activity, Lech Walesa, Solidarity's former leader, is now free.

Walesa is a respected world figure who was recently mentioned for the coveted Nobel Peace Prize. The illegal incarceration of this brave union leader and ensuing separation from his family for nearly a year was inexcusable and counterproductive. It is gratifying to see that the martial law authorities saw the futility of continuing the illegal detention of the widely idolized Walesa, and finally freed him.

Although the Polish Government now claims that Walesa is powerless and no longer a threat, that Government undertook a smear campaign against Walesa accusing him of sexual indiscretions and of having made bitter comments regarding the Pope. Would any government take such measures to discredit a really powerless man? It is obvious that the martial law authorities took away Walesa's liberty but not his honor. Although Walesa is now taking his bearings after his long isolation, both he and Solidarity have an important role to play in the Poland of the future.

Let us hope that the Polish authorities keep their promise to lift martial law. It is in the best interest of all parties if the Government continues its dialog with the Roman Catholic Church of Poland, the nation and Lech Walesa. Polish Government sensitivity to the desires of the Polish people will help bring an end to civil unrest and the justified popular dissent in Poland. The continued detention of almost 5,000 Polish citizens under martial law is now ridiculous and purposeless. The recent release of some internees and the possible visit by the Pope to Poland are encouraging conciliatory gestures.

It would be most fitting if Poland's new spirit of reconciliation would be

manifested by the lifting of martial law on December 13, the anniversary of the imposition of that repressive law in Poland.●

GO SLOW ON GAS TAX

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. OBEY. Mr. Speaker, Governor-elect Anthony S. Earl of Wisconsin has made some telling points against the administration's 5-cent gas tax program.

I urge Members to review his comments. A good many States will be significantly shortchanged unless that package is changed.

[From the Washington Post, Dec. 2, 1982]

WHY THE GAS TAX HIKE IS A BAD IDEA

(By Anthony Earl)

As governor-elect of an economically distressed Midwestern state, I have spent the four weeks since the election in transition briefings learning in minute detail about the problems and the policy choices that will confront me in January. Not once so far in the search for answers has anyone jumped up on a briefing and said, "What this country needs is a good 5-cent gas tax increase."

So before Congress constructs a bona fide bandwagon for highway legislation during the lame-duck session, will somebody explain once again why this particular highway legislation is important and why those of us digging out of the economic rubble in the Midwest should be happy to see it?

It is not that the roads and bridges in Wisconsin and the Midwest do not need attention. On the contrary, the amount of investment needed for basic road preservation efforts is staggering, as it is in other parts of the country.

It is not that we feel that enough money is already being devoted to highway needs. Rather, stagnant highway revenues and repeated deferral of necessary revenue increases at all levels have contributed greatly to the current situation.

And it is not the jobs are not needed in the region. New jobs are in desperate demand, especially jobs related to a productive investment in our economic future, like highway jobs.

Yet, on balance, it appears that the legislation likely to be considered by Congress will do more harm than good for Wisconsin and much of the Midwest. Unless the highway legislation that is actually passed makes some significant changes in the traditional federal highway program, passage of highway legislation this session will be one more problem to be overcome by several distressed states.

First, the jobs issue: everyone agrees that the highway legislation being proposed is not a jobs bill, as such. But everyone recognizes that if there were not intense pressure for some federal action to stimulate job creation, this legislation would not have such a high priority.

What seems to be overlooked in the rush for legislation is that the existing federal highway program, with its dedicated user taxes and categorical distribution formulas, is highly redistributive. It taxes all highway users equally, but sends far more back to some states in proportion to their contributions than to others. Thus a dollar of federal highway taxes will result in $1.50 in federal aid in one state, but will produce only 65 cents of federal aid in another.

For the "loser" states, the federal highway program actually exports jobs to other states. A 5-cent federal gas tax increase would cost Wisconsin highway users about $100 million annually, but we would expect to get back only about $70 million under existing formulas. The $30 million difference would be our contribution to highway construction employment in other states, most of which have lower unemployment than ours.

There are even bigger losers under the highway program who can afford their losses even less. Michigan (14.5 percent unemployment) would get back only 67 cents per dollar contributed, and would export about $150 million in FY 83 under the highway legislation under consideration by the House; Ohio (12.3 percent unemployment) would get 76 cents back, and export about $134 million; Indiana (11.4 percent unemployment) would get back only 68 cents, and export about $125 million.

This inequity exists in the current highway program at current tax levels. If the federal gas tax is raised and highway funding increased without changing the pattern of spending, the percentage relationships will remain the same, but the absolute amount of dollar loss from these states will, of course, grow even larger.

Unless the highway legislation expressly recognizes unemployment as a factor for distributing funds, or some realistic minimum level of return on contributions is established, an expanded highway program could actually worsen the relative economic positions of some of the most severely affected states.

The other argument that is most often made in support of immediate action on an expanded federal highway program is that we can no longer ignore our decaying "infrastructure," especially the roads and bridges that serve as the basis arteries of mobility and commerce.

Again, this concern is valid. There is a need for greater resources to be devoted to highway system preservation at all levels.

Most often, rehabilitation of aging Interstate routes and repair or replacement of vital bridges are cited as examples of what increased emphasis on the highway program will accomplish.

But under last year's program, only 22 percent of the federal aid was directed at those two critically important needs. Under the bill to be considered by the House for an expanded program, in FY 83 the proportion of federal aid for these categories would rise only to 29 percent. By contrast, by conservative estimate, probably more than 40 percent of the expenditures from the Highway Trust Fund under the House bill would go for new construction. The remainder would probably be used for resurfacing, rehabilitation and reconstruction of routes not on the Interstate system.

Further, much of the work that is usually associated with road and highway repair is not done with federal aid: pothole repair, joint and shoulder repair, minor bridge repair and resurfacing of many older roads. These are specifically excluded from the federal program because they are defined as maintenance, which is a state or local responsibility, or because the most cost-effective repair or resurfacing alternative did not allow for widening shoulders, grading new sightlines or leveling hills, which is necessary to qualify for federal aid.

Two other factors about a federal gas tax increase and an expanded federal highway program appear to raise red flags at the state level.

First, most states are currently facing a need for increased revenues to fund their own basic preservation efforts. If a federal gas tax is passed along with a federal aid program geared to upgrading and new construction, many states may find it difficult to raise their own taxes next year enough to fund basic state and local preservation programs.

Sedond is the broad consensus that is developing in favor of completely redefining and restructuring federal-state highway relationships.

There is agreement that essentially local needs should be met locally, and that the future federal responsibility should only involve highways of overriding national concern. There is not yet agreement on where the lines of local and national interest should be drawn, on whether responsibilities and fiscal capacity will be passed in tandem to states, or on what the size and scope of the remaining federal programs should be.

Further, as documented by a Congressional Budget Office Study this summer, there is increasing uncertainty regarding whether there exists either the fiscal capacity or the justification to continue blindly to pour money into a pot called "Interstate completion" since only one-quarter of the remaining cost actually represents unbuilt links in the intercity network, the rest being local segments primarily of benefit to commuters in various cities.

Considering the serious, informed questioning of the existing program that is going on, in contrast to the almost universal support that it has historically enjoyed, this does not appear to be the time for Congress routinely to authorize, and in fact to expand, the traditional program for four more years. If such authorization is enacted, it should come only after Congress has had time to examine the alternative approaches that have been proposed. The current session does not appear likely to offer an opportunity for realistic consideration of alternatives.●

I. HARRY CHECCHIO HONORED FOR OUTSTANDING PUBLIC SERVICE

HON. CHARLES F. DOUGHERTY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. DOUGHERTY. Mr. Speaker, I would like to take this opportunity to express sincere congratulations to I. Harry Checchio, Esq., upon whom the rank of knight commander by magisterial grace from the Sovereign Military and Hospitaller Order of St. George in Karinthia will be conferred on December 4, 1982.

The order was founded in 1273 and is dedicated to charitable work in aiding the needy throughout the world. The honor of knight commander is bestowed upon outstanding mem-

bers of the community who have distinguished themselves by their accomplishments in their total life experiences including family, profession, and faith.

Mr. Checchio has been a practicing attorney in Philadelphia County for approximately 33 years. Throughout this time, he has been a dedicated servant of the people in educational, political, civic, and health areas. Among his varied list of achievements, Mr. Checchio founded the Pennsylvania Medical-Legal Institute, was a member of the Pennsylvania House of Representatives, and also serves as a member of the board of trustees of Nazareth Hospital. I. Harry Checchio is indeed well deserving of this honor and I would like you to join me in congratulating him for his many contributions which have served to better our community.●

BEN BURROWS—CIVIC CITIZEN

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. MOTTL. Mr. Speaker, a city is a way of organizing people for the betterment of their way of life. It is much more than a governmental structure; it is dynamic and reflects the views and mannerisms of its inhabitants.

The city of Parma is no exception. The ideas of the people are voiced through the various civic and local groups representing the citizens. At the forefront of many of these groups is Mr. Ben Burrows.

Ben, a leading merchant and the owner of Burrows' Wallpaper and Paint Supply Co., has a strong sense of civic duty and responsibility. His activities prove this. They have led him to devote himself to numerous organizations of widely different interests. In line with his business interests, Ben is president and director of the Parma Businessmen's Association, vice president and director of the Parma Chamber of Commerce, and was a full director of the American National Bank for 15 years.

Ben's concerns do not end here. He has also involved himself in several social and youth-welfare organizations. In addition to holding positions on the finance committees of the YMCA and the Boy Scouts, Ben had been a member of the Parma Kiwanis Club for 34 years; now he is a director. Other directorships include the Southwest Music Association, the Friends of the Library, and the Pine Hills Golf Club.

Ben was active on the original committee which provided financing for the Parma Community Hospital. He was also active in subsequent hospital extension drives.

The city of Parma has recognized Ben's accomplishments. In 1951 the mayor named him chairman of the Police Building Advisory Committee. This committee aided the city of Parma and the police department in selecting a building site for the Parma Police Station. Ben is one of only two people to be named "Honorary Police Chief of Parma," an honor he received in 1974.

Mr. Speaker, fellow Members of the House, please join me in honoring a truly civic-minded individual, Mr. Ben Burrows.●

ADMINISTRATION POLICIES WIDEN INCOME GAP

HON. JAMES J. FLORIOS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. FLORIO. Mr. Speaker, Treasury Department figures released by our colleague HENRY REUSS show that most tax breaks or loopholes are regressive and provide an overwhelming proportion of benefits to the most affluent. According to an analysis of the Treasury figures by the Joint Economic Committee, 71 percent of the revenues lost through 33 tax loopholes, totaling $112 billion, go to the 4.4 percent of taxpayers earning more than $50,000 a year.

The following article reports that the most regressive loophole is the tax-free preference given for interest earned on State and municipal bonds. Ninety-four percent of the exclusion of interest on State and local bonds, which costs the Treasury $4.6 billion, goes to Americans earning $50,000 or more. Stated another way, $4.4 billion goes to taxpayers making more than $50,000; $265 million, or 5.6 percent, goes to taxpayers earning from $20,000 to $50,000; and only $16 million, or 0.3 percent, goes to those making less than $20,000.

The JEC study concludes that only 5 percent of Federal tax breaks provide proportional benefits to all taxpayers and less than a quarter of tax breaks can be described as progressive.

I believe that the Treasury Department figures support the conclusion being reached by an increasing number of Americans; that one of the central consequences of the administration's policies is that income differences between our Nation's rich and poor will increasingly enlarge. While reductions in Government spending will have little effect on persons in the top tax brackets, this group benefits enormously from the administration's tax policies. During the administration's 3-year tax cut program, Americans in the top fifth of the income spectrum will have their Federal income tax liability reduced by 49 percent compared to the income and social security taxes these Americans paid in 1981. By contrast, taxpayers in the bottom fifth receive less than half of the percentage tax reduction enjoyed by all other income categories. While the administration's tax cuts will do little to help the poorest of American families, cutbacks in Government programs will actually leave them poorer and increase the number of Americans below the poverty line, according to studies by the Congressional Budget Office and others.

Mr. Speaker, I would like to share the following article with my colleagues.

[From the Newark Star Ledger, Nov. 21, 1982]

AFFLUENT REAP MOST FROM BOND "BREAKS"

WASHINGTON.—Americans with annual salaries greater than $50,000 get more than 94 per cent of $4.6 billion in federal tax breaks because interest on state and municipal bonds is not taxed, Treasury Department figures released yesterday said.

The break for holders of the tax-free bonds is just one of many tax credits that benefit the affluent under current tax laws, Rep. Henry Reuss (D-Wis.) suggested in releasing the Treasury study.

Reuss, chairman of the Joint Economic Committee, called the analysis "an important contribution" to "the new drive for broad-based income taxation."

The study, Reuss said, shows that some revenue losses resulting from tax breaks provided under existing law "have exceedingly regressive impacts on our tax system."

The Treasury study ranked the exclusion of interest on state and local bonds as the most "regressive" revenue loss because taxpayers with income of over $50,000 a year get 94.1 per cent of the benefits.

According to the study, high-income taxpayers also get more than 63 per cent of the $13.2 billion in taxes lost to the Treasury due to a tax break on long-term capital gains on other than home sales.

While the study indicated that these and certain other tax credits benefit high-income taxpayers more than others, they do not result in the biggest tax losses to the federal government.

The biggest loss, about $24.4 billion, comes from the exclusion of pension contributions and earnings from taxation. Only 26 per cent of the benefits from such tax savings go to high-income taxpayers.

The second biggest loss in tax revenues, $19.6 billion, comes from the deductibility of mortgage interest on owner-occupied homes. The more affluent taxpayers get 30 per cent of the benefits from that tax break, according to the study.

Reuss said the study was the "most current and thorough" analysis of revenue losses resulting from 33 separate exclusions, exemptions, deductions and other tax credits provided for under existing tax law.

It shows, he said, that the "most progressive" tax breaks under current law include the earned income credit, exclusion of disability pay, exclusion of untaxed unemployment benefits and tax credit for the elderly go to those with incomes exceeding $50,000 and that high income taxpayers get no benefits from the other three.

The study indicated that the Treasury loses a total of $156.6 billion a year from all

the tax breaks for which figures are available and that more than 33 per cent of the total benefits go to high-income taxpayers.

Reuss noted, however, that taxpayers with income exceeding $50,000 a year make up only 4.4 per cent of all taxpayers, but pay nearly 33 per cent of all taxes even after taking advantage of various tax credits.●

JOBLESSNESS IN OUR NATION

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. MOFFETT. Mr. Speaker, I rise to bring to your attention, and that of my colleagues here today, testimony submitted to this past September's child welfare forum hosted by St. Joseph College in Connecticut. As you will readily remember, I was joined by my friends Representative GEORGE MILLER and Representative BARBARA KENNELLY in receiving testimony from service providers on the effects of the New Federalism on the children of Connecticut.

The statement that follows was submitted by a young woman named Gladys Santos. I first met Gladys at an informal hearing in Connecticut on the juvenile justice program and its benefits to the community. I was greatly impressed by Gladys' candor, her insightfulness, and her deep concern for fellow urban teenagers striving for "an alternative to hanging out in the streets looking for something to do," to use her own words. What young people need most, says Gladys, is a sense of belonging, of worth, and of dignity. As this lameduck Congress works to fashion a meaningful jobs program to remedy the tragedy of joblessness in our Nation, I sincerely hope that my colleagues will heed the call of Gladys Santos to promote training for jobless youth. This effort, on our part, would demonstrate to Gladys and her generation that we are sincere in our commitment to creating for them a better future.

STATEMENT OF GLADYS SANTOS

My name is Gladys Santos and I would like to give my testimony based on a teenage perspective of how I feel youth counseling centers can help the teenagers of New Britain.

First of all I would like to say the city of New Britain, Connecticut, doesn't offer much to its youth. Young people need a place to go, a place where they can meet with their friends to do things together like take part in different activities or participate in different sports. Most important, they need to get involved in something they can put their energy into. We have to give them something positive to do, an alternative to hanging out in the streets looking for something to do.

During the summer, CETA runs a two month program for teens that offers them jobs where they could learn new job skills and gives them something to do for the summer. But unfortunately, this program is only for two months. So for the next ten months, teenagers have trouble looking for jobs or don't know how to go about finding one. The high unemployment rate isn't making it easier. This only pushes them more and more to drugs and crime. Some teenagers have trouble looking for employment because they have no job skills or they have no diploma. They start to feel rejected when no one will hire them. One way of releasing their anger is to steal what they need. No one will help them get what they need so they take it.

If we could have a youth service that will teach teenagers different job skills then they could feel that they have something to back them up when they go look for a job. Also, if we could have trained staff that could guide these kids and help them decide what they want to do with their lives, what kind of job they would like to have and learn more about themselves.

Teenagers need to learn more about drugs, crime, and peer pressure at a young age. So when they encounter drugs or decide to steal or do something that could hurt themselves they will have the knowledge about these things and can decide for themselves whether or not they want to get into trouble. Or if they have friends that are into drugs they could tell them what they learned. And if their friends want to steal or start trouble, they could tell them what could happen to them. Teenagers can help each other to think about what they are getting themselves into. Just getting teens to stop and think is a step in the right direction.

I know people that are into drugs, gangs, stealing, and I've seen a lot of my friends getting pregnant at thirteen, fourteen, fifteen. And, as I watch these things happen, I see that they have little knowledge of what they are getting into. They want to belong, to feel wanted. Part of something. If they have no one there to educate them, and drugs and sex is where it's at, they will turn in that direction. Why? Because when they are in their groups, they belong.

I know youth counseling centers can help teenagers because I have had some experience.

For the past two summers, I've worked in Sheldon Community Guidance Clinic in New Britain. I've seen from my own personal experience how Sheldon clinic has helped teenagers. Part of Sheldon is the Station Youth Counseling Center that runs a variety of counseling programs for teens. I worked in the peer outreach drama program. Through this program the peer outreach workers learned theatrical skills, and counseling skills. Also, we learned about many teen issues like dating, family relationships, drugs, alcohol, etc. And, we did our performances based on small skits taken from these issues.

Throughout both summers, I have made new friends and seen the changes in these teenagers. They become more open, relaxed, and become more and more interested in learning. One teenager even quit smoking marijuana and quit his gang.

I would also like to mention the two women I worked with. Juliann Wolfarth was the drama director and Marilyn O'Neil was the counseling coordinator. These two women really cared about the kids they worked with. They were not there because it was their profession, but because they cared. They really wanted to help and it showed in the way they worked with us.

Sheldon offers other programs for teens that can help them in many ways. This fall, Marilyn and Julie are helping me decide what I want to do with myself and if I choose to go to college, they will help me to do the best I can. I feel lucky because I've been able to see the help offered and experience it. But there are still so many teenagers that must be reached. The more programs we offer, the better our chances of reaching them. And, that is a definite set in the right direction.●

CIVIL AIR PATROL

HON. THOMAS N. KINDNESS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. KINDNESS. Mr. Speaker, one of the particularly outstanding service organizations in our country is the Civil Air Patrol, which this week celebrates the 41st anniversary of its founding.

A nonprofit, volunteer association committed to humanitarian work, the Civil Air Patrol is also an auxiliary of the U.S. Air Force.

CAP was originally established to offer private aviationists a means to utilize their skills in the defense of the Nation. During World War II these volunteers played a key role in patrolling U.S. coastal areas, and performed so admirably that in 1946 the Congress authorized the official chartering of the organization.

The Civil Air Patrol continues to provide leadership in aerial search and rescue missions, and trains volunteers for that purpose.

I take a great deal of pleasure in paying tribute to the fine people of the Civil Air Patrol, and particular pride in acknowledging the service of Composite Squadron 102 in Butler County, Ohio.●

WE NEED A UNIFIED APPROACH TO THE DRINKING AGE

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. GOODLING. Mr. Speaker, recently two Cabinet Secretaries testified before the President's National Commission on Drunk Driving and endorsed a unified approach to the drinking age. Both Transportation Secretary Drew Lewis and Health and Human Services Secretary Richard S. Schweiker, who were speaking on behalf of their respective Departments said they would favor having the States raise the legal drinking age to 21.

I applaud Secretaries Lewis and Schweiker for having taken this stand on what can only be termed a national epidemic—the rise of alcoholism and

highway fatalities among our Nation's youth.

All of us in Congress and in statehouses across the country lately have been forced to take significant steps to increase penalties for driving under the influence of alcohol. This was due in part to the intense lobbying efforts of groups such as Mothers Against Drunk Driving (MADD), Students Against Drunk Driving (SADD), and Remove Intoxicated Drivers (RID).

But, a related and equally serious matter that has received less attention is the need to raise the legal drinking age in the States that still allow persons under the age of 21 to purchase and consume alcoholic beverages.

The National Transportation Safety Board recognizes this problem, and, on July 23 the Board urged that the legal minimum drinking age for drinking and purchasing alcohol be raised to 21 nationwide in an effort to cut the highway death toll from drunken driving. The Board's recommendation of raising the minimum drinking-purchasing age to 21 was sent to the Governors and State legislatures of the 35 States and to the Mayor and City Council of the District of Columbia where the drinking age is now less than 21. And this idea is also under study as a possible recommendation by the President's Commission on Drunk Driving, which makes its report next April.

Just before we recessed, Congress passed legislation which will reward the States with funds from the Highway Trust Fund to encourage and facilitate the implementation of comprehensive, coordinated, and community-based drunk driving programs. That measure was signed by the President as is now public law.

But this is just one step along the road to addressing the most frequently committed violent crime in the United States today, drunk driving, and specifically, drunk driving among teenage Americans.

National Transportation Safety Board President Jim Burnett recently spoke on this subject before the 70th Annual National Safety Congress and Exposition. Mr. Speaker, I have read his remarks, and was astonished by the Board's findings. I think my fellow Members need to hear them.

Did you know, that, of the 25,000 persons who die each year in drunk driving accidents, 5,000 are teenagers?

Did you know that almost 60 percent of fatally injured teenage drivers had alcohol in their blood?

Did you know that the life expectancy in America has improved over the past 75 years for every age group except one—15- to 24-year-olds—and did you know that the leading single cause of death for this age group was drunk driving?

We in Congress should make our voices heard about this national disgrace. I fell very strongly about the drunk driving problem, and I know that others in this Chamber do as well. That is why I introduced House Concurrent Resolution 429 expressing the sense of Congress that the age for drinking and purchasing all alcoholic beverages should be raised to 21 in those 35 States and the District of Columbia where the drinking age is now less than 21.

Senator ARLEN SPECTER has introduced the companion legislation, Senate Concurrent Resolution 129. National Transportation Safety Board Chairman Jim Burnett has called this resolution a key example of the kind of support needed to end the epidemic of drunken driving accidents which have claimed the lives of 250,000 Americans over the last 10 years. Burnett has said, "I hope Congressman GOODLING'S resolution is a first step that will lead to Congress giving its full support to the concept of raising the drinking age to 21 as an effective way to cut the Nation's highway death toll."

We all know that in the early seventies, many States lowered the drinking age usually from 20 or 21 to 18 or 19 as part of a national trend toward lowering the age of majority.

Numerous empirical investigations were conducted during the debate in public policy and academic areas, and the results generally showed significant increases in alcohol-related motor vehicle crash involvement among young drivers after reductions in the drinking age. As reported in the winter 1981-82 issue of Alcohol Health and Research World an excellent overview of this subject, several studies also found indications of increased alcohol consumption and increased rates of admission to alcohol treatment programs after drinking ages were lowered.

As the result of emerging evidence, a number of States raised the drinking age in the late seventies and early eighties. Research on the effects of this return to higher drinking age has revealed alcohol-crash involvement among young drivers decreased significantly.

Michigan lowered the drinking age to 18 in January 1972 and raised it back to 21 in December 1978. In the first 12 months after the age limit was raised, a study showed a reduction of 31 percent in alcohol-related accidents among drivers aged 18 to 20. In Illinois, a study showed an 8.8-percent decline in single vehicle nighttimer male driver accidents involving drivers 19 and 20 when the drinking age was raised in 1980.

But today, most State laws are a hodge-podge of jurisdictional incongruities. Unification of State laws under a nationwide drinking age would correct these incongruities, and we as U.S. Members of Congress should actively encourage the States to look at the problems associated with these differing drinking ages seriously.

I support the National Transportation Safety Board's recommendation for several reasons.

First, it would reduce the general availability of alcohol to teenagers. The Massachusetts Secondary School Administrator's Association found that, when the drinking age was lowered to 18, there were increases in vandalism and other disciplinary problems. As a former school superintendent and a ranking member of the House Education and Labor Committee, I can sympathize with concerns that the lowered drinking age provided opportunities for younger students—some as young as 13 or 14—to obtain liquor through friends who became 18 their senior year, and I recognize that this was one reason which prompted Massachusetts to bring its drinking age up again.

Second, a unified drinking age would correct an undesirable situation in which access to alcohol by teenagers is only a matter of motoring across the State line. Pennsylvania, which has always been a "21" State, is bordered by New York, New Jersey, Delaware, Maryland, and Ohio—all of which at one time had lower drinking ages. In the 10 New York counties that are contiguous to Pennsylvania, 10 percent of the alcohol-related accidents involving an 18- to 20-year-old driver involved a driver who was licensed in Pennsylvania, according to a 1981 Bureau of Alcohol and Highway Safety Research report.

There will, of course, be arguments that by unifying the drinking age at 21 we are denying a right to our young people. That, if someone is old enough to vote, to get married, to register for the selective service, then it is unfair to deny drinking rights.

I say that purchasing and drinking alcohol was never a constitutionally protected right, but rather, a privilege.

Our forefathers were concerned about the preservation of "life, liberty, and the pursuit of happiness."

Last year, 25,000 people died in alcohol-related highway accidents; 8,484, or about 35 percent, were between the ages of 16 and 24. As these National Transportation Safety Board figures indicate, the death toll among young Americans is grossly disproportionate. It is scandalous.

Let us end this national tragedy. Let us save these young lives.

I urge all of my colleagues to send a message to those States and the District of Columbia where the drinking age is under 21 to take the beginning steps to raise it.

Thank you.●

THE SECOND ANNIVERSARY OF THE MURDERS OF FOUR AMERICAN CHURCHWOMEN IN EL SALVADOR

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Ms. OAKAR. Mr. Speaker, today we remember and pay tribute to the memory of four women of peace who were brutally murdered in El Salvador on December 2, 1980. Ita Ford and Maura Clarke of Maryknoll; Dorothy Kazel, an Ursuline sister; and Jean Donovan, a lay missionary, were known to very few the night they were thrown in a ditch along a dark road in El Salvador. Today they are remembered by millions around the world. In December of 1980 they were simply four dedicated missionaries, sheltering and clothing the homeless, comforting wounded bodies and frightened souls. Today their names are symbols of the awakening of our national conscience.

In December of 1980, the United States and El Salvador pledged their respective Governments to do everything possible to bring those responsible for this atrocity to justice. The accused murderers have, in fact, been in custody since April of 1981. Some have confessed to their crime. Still, there has been no trial, no prosecution. More incredibly, there has been no serious and systematic investigation of the involvement of higher officers or others in encouraging, ordering, or condoning the murders.

Indeed, when the investigation of a similar case involving the American labor representatives revealed clear evidence of the participation of higher officers, the Salvadoran courts dismissed the case. Now, as the possibility of a trial in the churchwomen's case looms on the horizon, observers fear that it will be a "show trial," a legitimation of a corrupt and impotent justice system and a whitewash of those who bear responsibility for actions by the security forces of El Salvador.

Congress also bears a responsibility. Twice in this session of Congress the President of the United States was allowed to certify that "progress" has been made in reducing human rights violations and in promoting a political solution to the strife in El Salvador, in spite of overwhelming evidence to the contrary.

In recent weeks we have witnessed another betrayal of our national honor: the sad spectacle of a U.S. Ambassador, who finally spoke the hard truth to the Salvadoran elite, being publicly rebuked by his Government.

Today we should reflect on what the eclipse of our human rights policy in Latin America has really meant: a license for those who carry our guns, ammunition, and equipment—some of whom have been trained on American soil or by American personnel—to arrest and kill at random, to label innocent people as "subversives," to obliterate all political opposition with bullets rather than the ballot or negotiation, even to undermine and sabotage legitimate governments.

Today is a day for renewing our dedication as public servants to shaping a foreign policy that will end the spreading violence and militarization throughout Central America that has claimed the lives of thousands. Let us remember that Ita and Maura and Dorothy and Jean were not killed with rifles and bullets made in El Salvador. Let us dedicate ourselves to eliminating arms traffic in this hemisphere, including our own. Let us dedicate ourselves to bringing the technologies and arts of peace rather than the engines and arts of war to the torn and ravaged countries of Central America.

The martyrs of El Salvador speak more eloquently, in their silence, of our responsibility than any words we will hear today.●

MR. PARMA HEIGHTS, OHIO

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. MOTTL. Mr. Speaker, more than 25 years ago Paul W. Cassidy was elected mayor of the city of Parma Heights, Ohio, which I represent.

During that time, Mayor Cassidy has taken Parma Heights from a sleepy community to a city of some 23,000 industrious, hard-working residents. The growth and orderly development of Parma Heights has served as a model for other communities.

Mayor Cassidy and his administration have prided themselves—and rightly so—on instigating many public projects without outside help from the State or Washington.

In addition to his many years of public service, Mayor Cassidy has built an enviable record as a practicing attorney and is widely respected among his peers. Despite the demands on his time, Mayor Cassidy still finds time to serve on charitable and civic boards. His accessibility to his constituents is legend.

Mayor Cassidy has but three loves in his life—his wife, Elise, his family, and his city.●

LIBASSI'S GOOD ADVICE ON THE AGED

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. MOFFETT. Mr. Speaker, most of my colleagues remember Peter Libassi for his service at the Department of Health and Human Services under Secretary Joe Califano. He was one of the Department's top advisers in his role as General Counsel.

More recently, Peter has embarked on a distinguished career as senior vice president of the Travelers Insurance Co. He used his Washington experience and political acumen, last summer, with his work on the 1982 tax bill.

During the recess, Peter contributed a fine article on the op-ed page of the Hartford Courant, in which he discussed a terribly important issue: The need to insure that there are ample places among the workforce for our elderly citizens. Peter argues persuasively that it is in our economic interest—as well as a measure of justice in our society—to make such slots available for seniors who are able and interested in employment.

I commend the article to the Members, and I commend Peter Libassi for continuing his efforts on behalf of our society.

[From the Hartford Courant, Nov. 15, 1982]

ALLOWING OLDER PEOPLE TO WORK WOULD HELP THEM AND THE ECONOMY

(By F. Peter Libassi)

The aging of America deeply affects all of us. Today, many of us live longer because of the triumphs of medical progress.

But, even as we acknowledge this progess, we must also recognize there is uncertainty about the future among older people. And we must ask a critical question: Will there be abundant opportunities in the future for older people to be active and productive? Can we assure older citizens that theirs can be a truly independent and good life?

I believe that expanded job opportunities is one important key to resolving this uncertainty about aging. Not only would it help older citizens economically and psychologically, it would be good for business and our national economy.

Today's older people are healthier and better educated than any previous generation. Not only can they work, increasingly they are saying they want to work. For millions, the opportunity to work beyond traditional retirement age or during retirement, means a chance to remain alert, useful, in touch with other people and to earn extra income.

A major expansion of economic opportunity for older citizens would help reassure millions that they need not be uncertain about old age: that, if they chose to supplement their incomes with earnings from employment, they could do so.

What's more, these older workers may be needed. It is projected that the number of new entrants into the labor force—workers age 18 to 24—will drop by 15 percent over

the next 20 years. At the same time, that part of our population over 65 will grow by nearly 30 percent.

It is common sense for business to look for employees where the potential supply is greatest: among older people. Fortunately, this growing cohort of older citizens represents a vast repository of knowledge, experience and potential productivity.

In 1981, a committee of the White House Conference on Aging studied the effects on our economy if older people, instead of continuing to leave the work force in ever-increasing numbers, should remain there at 1970 levels.

The economic analysis of this question showed that the gross national product would grow nearly 4 percent or more by the year 2005 because more people would be working and contributing to our economy. It also showed that this increased employment would create an increase in federal tax revenues of $40 billion by 2005.

Given all these enormous potential benefits, we would expect a strong national trend toward expanded employment of older people. Yet, we have created a structure that severely limits older citizens' choices. We have created a system of economic barriers, public and private, which penalize older people seeking to earn extra income.

The most insidious barrier of all is ageism—ignorance about aging and older people. How often do we hear that older people are slow, inflexible, cranky, unproductive, unhealthy and easily distracted? While some old people certainly are sick and frail, these descriptions do not apply to vast numbers of people over 65.

In my judgment, we can enlist American business in an effort to expand job options for older workers.

Business should begin experimenting, on a much larger scale, with a range of work options for older people: part-time jobs; jobsharing; flextime; phased retirement; job transfers; retraining, and rehiring of retirees. Even working at home.

I'm convinced that, as employers expand job opportunities for older workers, they will find that older people are highly productive. They will discover that helping older workers continue working is profitable. They will find, in short, that it works.●

FIRMING UP SOCIAL SECURITY

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. BEREUTER. Mr. Speaker, I can think of few issues as vital to the future and well-being of our older citizens as the condition of our social security system.

In this connection, I wish to bring to the attention of my colleagues an editorial that appeared in the Lincoln Journal on November 4, 1982.

FIRMING UP SOCIAL SECURITY

The incessantly-talked about crunch in Social Security funds becomes a reality Friday. That is when federal officials must for the first time in the system's history, begin borrowing money to provide checks to beneficiaries.

The first billion-dollar chunk is to be shifted from the system's Disability Insurance Trust Fund to the Old Age and Survivors Insurance Trust Fund. Because revenues from payroll taxes are falling short of projections, and the outgo drain from the largest, basic Social Security fund is constant, as much as $11 billion may be required in transfers before mid-1983.

There's no profit speculating about the soundness of the entire Social Security system if only the country's economy hadn't gone haywire. That doesn't solve the great problems affecting the nation today, or tomorrow.

Very shortly, a presidential commission is to make its recommendations on changes required for restoring the current health and future prospects of Social Security—which is our bedrock public retirement system. One need not be a member of the commission to know the remedial choices are not that extensive.

The Journal's advance judgment, which factors in political realities, is that virtually all proposals for changes in the system ought to be favorably considered for enactment. The exception would be those proposals which might tend to cancel each other out, and thus be counterproductive, wasting time, emotion and money.

Spreading the adjustments across the spectrum so that everybody involved is affected—those who benefit as well as those who finance the system—would seem the least that social justice demands.

What are some of the possible changes? Let's list just a few of them to get the juices flowing:

Gradually extend the age at which full Social Security retirement benefits will be paid, from the current 65 years to 68.

Make Social Security benefits subject to taxation, at least those where beneficiaries' total income exceeds agreed-upon low income minimums.

Revise the current indexing arrangement, at least to the extent that annual benefit adjustments do not exceed the nation's increase in productivity, or Gross National Product or the average level of higher wages paid.

Gradually end the separate federal retirement program for the military and federal officials and workers, bringing all of them into the Social Security system. Presently earned benefits should not be reduced or dropped, however.

Prohibit groups from opting out of the system.

Transfer support of the medical care aspects of Social Security to a dependency upon the nation's general revenues, being subject to congressional appropriations.●

NEW MONEY MARKET DEPOSIT ACCOUNTS

HON. DOUG BARNARD, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. BARNARD. Mr. Speaker, yesterday I introduced legislation to perfect the new money market deposit account that most financial institutions will be offering to their customers as of December 14.

These accounts, which were specifically authorized by the Garn-St Germain Depository Institutions Act of 1982, will allow banks, thrifts, and credit unions to directly compete with the money market mutual funds for the first time. They are, according to the enabling legislation, to be formulated in such a way so that they are "directly equivalent to and competitive with money market mutual funds," and the regulations issued by the Depository Institutions Deregulation Committee have gone a long way toward meeting that goal.

Unfortunately, there are many vital features that the money funds can offer that are still forbidden to depository institutions. As a result, the new account, while a major advance toward equality, will not meet the goal expressed by Congress in October.

Chief among these forbidden features is the ability to offer a competitively priced account that allows third party payments. This is a feature that is essential to attract funds now managed by professional cash managers. Deposits of professional managers make up about two-thirds of the total assets of money market mutual funds, and the ability to compete with them is vital if we are to meet our goal of competitive equality.

It is possible for depository institutions to offer this feature if they can afford to pay the cost of holding 12 percent of the deposits in the form of sterile, noninterest paying reserves with the Federal Reserve System. Unfortunately, this would significantly increase their costs. For example, at 10 percent annual interest, the 12-percent reserves would require the depository institutions to pay 1.36 percent less for personal deposits and 0.30 percent less for nonpersonal deposits. In an industry where profit margins are a few hundredths of a percent, realistically they could not compete.

My legislation would make this competition possible. It would authorize the Federal Reserve to pay interest on these reserves so that the depository institutions can be competitive.

There is a precedent for this. When the Monetary Control Act of 1980 was passed there was a real possibility that the Federal Reserve would be forced to require reserves at a higher rate than would normally be allowed by that legislation in order to control the money supply. In such cases, they are authorized to pay interest on those special reserves at the same rate as their portfolio yield.

Today also, there is a monetary policy consideration that complements the needs for competitive equality. For most of the last 2 years, the Federal Reserve has warned that the $230 billion in money market mutual funds is outside their control and endangers monetary stability. Allowing banks, thrifts, and credit unions to compete for these funds will bring a significant portion of this uncontrolled money back into normal channels.

Finally, there is the question of meeting the financial needs of local communities.

In the last few years, literally billions of dollars that would have been deposited in local financial institutions to meet the needs of local borrowers have been sucked into the money market mutual funds. These funds then placed the money with major money center banks.

Some of this money was lent to local banks, thrifts, or credit unions at higher interest rates, but a great deal of it remained outside the local communities at any price. As a result, local financial needs remained unfilled.

If we allow local financial institutions the ability to compete for all the customers of the mutual funds, they will at least have the chance to keep this money in the community.

My legislation does not seek to give depository institutions any advantages over money market mutual funds, but it does seek to allow them the ability to match their features at a relatively competitive cost. The real beneficiaries will be the consumers who will have a choice.

Mr. Speaker, I ask my colleagues to support my legislation, and I request that further information and the text of my bill follow these remarks.●

A TRIBUTE TO AMWAY AND ITS COMMITMENT TO THE FREE ENTERPRISE SYSTEM

HON. HAROLD S. SAWYER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. SAWYER. Mr. Speaker, I would like to join with my colleague, GUY VANDER JAGT, in his concern over the recent charges filed against Amway Corp. and its two owners by a Canadian provincial prosecutor. Like GUY, I have known Jay Van Andel and Rich DeVos ever since they started Amway 24 years ago. As a friend of theirs and as a Congressman whose district includes Ada, Mich., where their company is headquartered, I can assure you of their personal integrity and that of the company itself. Amway and its two owners are the embodiment of the free enterprise system.

As the former chairman of a corporation that had a distribution system somewhat similar to Amway's in that it went from manufacturer to retailer, I am fully aware of the problems relating to the fair and equitable valuation of goods for customs duties in Canada.

I would also like to call my colleagues' attention to the advertisement in this morning's Washington Post, and applaud Amway for its decision to explain and defend its position to the public. I believe the Congress should watch closely how the Canadian authorities treat American citizens doing business in their country.●

HELP THE VASHCHENKOS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. LANTOS. Mr. Speaker, yesterday's New York Times describes the agony of the Vashchenkos, a Russian Pentacostal family who have taken permanent refuge for 4 years inside the U.S. Embassy in Moscow. The Vashchenkos and their two daughters, both in their twenties, together with Mariya Chmykhalov and her 20-year-old son have lived in the Embassy basement after a futile campaign to emigrate to the United States.

The article tells of Avgustina Vashchenko seeing her two youngest children for the first time in 4½ years through her barred basement window in the Embassy. This emotional reunion witnessed by American reporters and diplomats has once again raised the question, "What can the United States do to assist the Vashchenkos?"

What we can do is outlined in H.R. 2873. This bill would allow the United States to grant a visa and admit the Vashchenko family as permanent residents. H.R. 2873 is now in the Subcommittee on Immigration in the House of Representatives. A parallel bill, S. 312, was passed in July by the Senate.

It has always been in the humanitarian tradition of the United States to assist those who suffer from religious persecution. Giving relief to the Vashchenko family would once more demonstrate to the world the principles upon which this country was founded and which it should continue to uphold.

[From the New York Times, Dec. 1, 1982]

THROUGH BARS, A TEARFUL REUNION OF PENTECOSTALS

(By Serge Schmemann)

Moscow, November 30.—Kneeling on the sill of the barred basement window of the United States Embassy, Avgustina Vashchenko saw her two youngest children today for the first time in four and a half years.

Flanked by two grown daughters and backed by her husband, the Pentecostal struggled with tears and gazed on Avram, 8 years old, and Sarra, 12, who stood silently on the pavement outside with an older sister and a phalanx of American reporters and diplomats and Soviet police.

"Mama, don't cry, don't cry, we'll all be together soon," said Lidiya, the 32-year-old daughter who had accompanied the children.

She had been one of the Pentecostal refugees inside the embassy until she went on a hunger strike last year and was evacuated to a hospital, from which she went home to Siberia.

Mrs. Vashchenko tried to touch Avram through the thick screen and the ornamental ironwork.

LITTLE BOY SEEMS OVERWHELMED

"Avramushka," she said, "you're so big now, you're a man. Have all your teeth fallen out? Show me."

The boy seemed overwhelmed and struggled with a drippy nose. His anxious mother sent her husband, Pyotr, off for some pink tissues, which were stuffed through the grating. Then Mr. Vashchenko tried to catch the boy's interest by showing him the family cat, but the cat took fright and scrambled off.

The emotional rendezvous, which occurred while eight other Vashchenko children were waiting at the Yaroslavl railroad terminal, followed the sort of confused and troubled planning and negotiating that have characterized the life of the Pentecostal refugees ever since they burst into the embassy four years ago after a futile campaign to emigrate.

The Vashchenkos and their two daughters, both in their 20's and Mariya Chmykhalov and her 20-year-old son Timofei have lived ever since in the embassy basement, first in one and then in two rooms. Through the years they have grown bitter at the United States, feeling certain that the Government, if it wanted to, could arrange their departure from the Soviet Union.

RETURN TO HOMETOWN DEMANDED

The Soviet authorities have declined to consider applications for emigration unless the refugees first return to their hometown of Chernogorsk in Siberia, and the Pentecostals fear that this is simply an attempt to pry them out of the embassy.

An embassy spokesman said that originally all the Vashchenko children had wanted to visit their parents and sisters, but the embassy did not want more than two to enter the building at one time. The spokesman declined to explain the conditions, but it seemed intended to prevent more of the Pentecostals from taking permanent refuge.

The elder daughters—Lidiya on the outside and Lyubov inside, both of whom speak for the group—refused the condition, saying, "We want to discuss our future together as a family." After several hours of negotiations, only the two youngest children were brought to the window.

The daughters' rejection of the embassy's conditions was evidently meant in part to dramatize the family's plight. The family made no effort to clear reporters away, and Lidiya Vashchenko said at one point: "Let people see how we are separated."

Mrs. Vashchenko appeared dismayed that she could not meet with all the children from whom she has been separated for so long.

"I though we would have an evening together," she said, "It would have been good if you had all come."

With the glare of television lights and the iron grate between them, the family members seemed at a loss what to say during their encounter. Mrs. Vashchenko fretted about whether Lidiya was warm and pushed cookies and small gifts past the edge of the grate, while Mr. Vashchenko tried to hand a stack of Christmas cards to the children.

At times the mother seemed to differ with her daughters and their bitter countenance.

"There is no room for us here, and no one wants us there," Lidiya said, alluding to the Soviet Union and to the United States.

"There are some very good American people, it's just some of the people here," Mrs. Vashchenko suggested. "We'll all be together soon."

"It would have been good if you had all had come," she continued. "Will you be all right?"

"Don't worry, mama," Lidiya answered. "If they take us away, they'll take us away. If the don't, we'll continue to wait."

The time came to separate, and 12-year-old Sarra politely said, "Thank you, papa and mama." As Lidiya walked off with the two children, the mother and her two daughters inside broke into sobs.

A NIGHT IN THE STATION

Lidiya Vashchenko said she and the 11 children would spend the night at the Yaroslavl station, and in the morning would decide what to do next.

The policemen who witnessed the scene made no atempt to interfere with the sidewalk meeting, although several cars drove up with uniformed and plainclothes reinforcements.

The Pentecostals have posed a continuing problem for the embassy, which has been helpless in arranging emigration and, at the same time, has been unable to convince the Siberians of its impotence.

The refugees have focused attention on efforts by Pentecostals to emigrate. In contrast to other organized religious denominations, the Pentecostals and other Protestant fundamentalist sects have not been officially accepted in the Soviet Union on the ground that their religious precepts and traditional interpretations of the Bible come into conflict with military service and other social obligations incumbent on citizens.●

PEACE IN EL SALVADOR

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. STUDDS. Mr. Speaker, on the second anniversary of the murder of four American religious women in El Salvador, I think it is appropriate for us to pause and reflect on the current status of conditions in that war-torn country. Unfortunately, not only are these murder cases unresolved, but the murders of tens of thousands of Salvadorans have gone unpunished as well, while the abuse of human rights in that country continues. A recent editorial from the Boston Globe highlights several of the most essential elements of the current situation in El Salvador, and I would like to include a copy of this article in the RECORD at this time for the benefit of my colleagues. Among the most important points are the fact that dominant political control of the country continues to rest, not as it should with the civilian leadership, but in the hands of the military council headed by Gen. Jose Guillermo Garcia; that General Garcia does not, as some have claimed, constitute a moderate alternative to rightwing leader Roberto D'Aubuisson; and that U.S. policy is fatally flawed by our continuing refusal to support proposals for dialog to help put an end to the violence. On this special occasion, I think it is important to send a message to El Salvador that the people of the United States stand firmly by our commitment to terminate future supplies of military assistance to El Salvador unless there is a genuine good-faith effort to fully investigate and bring to justice all of those responsible for murdering U.S. citizens in the country.

The editorial follows:

[From the Boston Globe, Nov. 21, 1982]

GRAVEYARD SPIRAL IN EL SALVADOR

A blistering speech delivered recently in El Salvador by US Ambassador Deane R. Hinton caused an uproar there. Hinton told a prominent Chamber of Commerce audience that powerful elements in the Salvadoran establishment are a "mafia. . . . The gorillas of this mafia, every bit as much as the guerrillas in Morazan and Chalatenango [provinces] are destroying El Salvador," he said.

The business leaders lashed back with a newspaper ad calling Hinton's warning an "act of arrogant imperiousness" worthy of "a delegate of ancient imperial Rome. . . ." That retort could be translated roughly as: "The shoe fits and we don't like it."

The White House didn't like the speech either. It was too blunt, too powerful, too true. Hinton may have given momentary cheer to Administration critics because his words suggested greater State Department willingess to acknowledge the grave mistakes inherent in current US policy toward El Salvador. But President Reagan, who prefers "quiet diplomacy" when dealing with those he considers friends, hastened to undercut the ambassador. And so the message to the Salvadoran regime was left as ambiguous and as permissive as ever.

Administration policy toward El Salvador consists of interwoven strands: shoring up the status quo, pretending for home consumption that civilian government holds sway, attaching no serious conditions to American aid, hoping for a military victory in the civil war, spurning repeated guerrilla offers for peace talks—and turning a blind eye to the consequences.

This policy is similar to that of the Carter Administration several years ago in Nicaragua. Carter moved too little and too late to distance the United States from the corrupt, discredited Somoza regime. This accelerated the alienation of the Nicaraguan left and steadily weakened the political center, so that by the time the Sandinistas finally won their military victory, the influence of moderates in their ranks was severaly diminished.

Applied now to El Salvador, this dismal policy is equally shortsighted. But it is also deceptive. The pretense that we are dealing with a legitimate, democratic government masks the reality that the *real* center of power in El Salvador, which should be held accountable for all that happens there, is the military. Specifically, it is the military council headed by the minister of defense, Gen. Jose Guillermo Garcia.

For 50 years the power has been held by the military, who have exercised it for their own benefit and for that of the wealthy, narrow upper crust known as the oligarchy. The president and the constituent assembly, subject of so much attention at last March's election, provide only a facade of democracy. The court system, banks, budgets, death squads—all the instruments of government in El Salvador—are in one way or another controlled by military officers jockeying perpetually and warily for power.

Events such as the Hinton-speech flap or the recent announcement that some suspects in the 1980 killings of four American churchwomen may actually face trial should not obscure the fact that, beneath it all, very little has changed, either in Washington or San Salvador.

Much the same goes for the recent reports of a power struggle between Gen. Garcia and Roberto D'Aubuisson, the irrepressible former national guard intelligence officer who heads a rightwing party in the Constituent Assembly.

D'Aubuisson, who has many friends in the military, has been trying to engineer a coup to dump Garcia. Garcia seems to have thwarted the effort of shuffling several of his subordinates.

Watching such palace coups is good entertainment, but it's a mistake to read too much into them. D'Aubuisson, the designated bad guy, is indeed a dangerous, violent and ambitious man. But if Garcia is the good guy, his most evident attribute is merely that he knows how to hold onto power. Through four presidencies he has survived as minister of defense. Americans are told Garcia is furthering American interests. What results has he, in fact, produced?

The traditional career aim of many Salvadoran officers is to get rich through graft. To do that they must play the game while they rise through the ranks in a highly intricate system of cohorts. For years they cooperate in subordinate roles, knowing that when they get to be colonels, or thereabouts, the money will pour in.

As a result, many Salvadoran field commanders are not really soldiers. Their units fight like campfire girls. An offensive early last summer is reported to have thoroughly discredited Salvadoran troops in the eyes of Honduran counterparts deployed at the border in a "hammer and anvil" strategy to trap the guerrillas. Much had been expected of the troops and officers of the special brigades trained in the United States. But instead of demonstrating the bold new anti-guerrilla tactics they had been taught, small units and night patrols, they reverted to clumsy mass movements and the guerrillas ran circles around them. In image-conscious Central America, the United States was seen as backing a loser.

It's time for U.S. policy to get down to basics. The real source of power in El Salvador is the military. The minister of defense must be held responsible, not for purported good intentions, but for results.

One way or another, Gen. Garcia must stop the killing of the "little people," over 30,000 of whom have died in the past three years. He must punish the killers and their bosses—or drive them into exile if that's easier. And he must not be allowed to purchase a succession of temporary dispensations, for example by allowing a show trial to begin in the case of the slain American nuns. After all, it is the killing of a Salvadoran multitude that is destroying the country.

To pull El Salvador out of its graveyard spiral the Reagan Administration will have to do two things: First, give the military a short deadline for shaping up the country militarily, judicially, politically. And Second, reverse its position on peace talks. Both demands will have to be backed with the threat to end American aid.

Unless the United States insists on a political settlement in El Salvador as the price for continued assistance, the old corrupt system will continue.

With one leg already out of the country, with bank accounts pre-positioned in friendly havens like Miami, oligarchs and military chiefs alike will follow a course of accelerated graft, getting rich as fast as they can as long as they can, conceding nothing to lay the groundwork for a stable future.

The Reagan Administration has not shown the moral compass, political wits and diplomatic backbone to deal with this situation to date. So in January, at the next deadline for "certifying" progress in El Salvador, it will be time for Congress to step in.●

DOMESTIC CONTENT: PUT ANOTHER AMERICAN OUT OF WORK

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. DANNEMEYER. Mr. Speaker, all of us are painfully aware of the tragic situation that exists today with respect to unemployment. The Bureau of Labor Statistics has reported that the unemployment rate in October was 10.4 percent, which translates into fully 11.6 million Americans out of work.

Under these circumstances, it is difficult to resist the temptation to resort to protectionist legislation, but resist it we must. Before the books are closed on the 97th Congress, we may very well be called upon to act on H.R. 5133, the Fair Practices in Automotive Products Act. This measure, commonly known as the domestic content bill, would require a progressively increasing percentage of domestic parts and labor in all vehicles sold in the United States. Proponents of the bill claim that it would save or create jobs in a job-hungry economy.

Unfortunately, nothing could be further from the truth. This is a jobs bill, allright. It is, however, a jobs transfer bill, not a jobs preservation or creation measure. If this bill is enacted into law, Americans whose jobs relate to auto imports, such as longshoremen and import auto dealership employees, will be lost. In its analysis of the direct employment effects of H.R. 5133 as amended by the Energy and Commerce Committee, the Congressional Budget Office stated that, by 1990, some 38,000 auto jobs would be created, but would be offset by the elimination of 104,000 nonauto jobs.

Specifically, those whose jobs are dependent upon exports will be placed in great jeopardy. We may reasonably expect that foreign nations will use our passage of domestic content legislation as grounds for retaliatory action against American exports. In fact, such a step is sanctioned by the General Agreement on Tariffs and Trade (GATT). This retaliatory scenario is described as a "highly probable outcome" by the Congressional Budget Office in its analysis of the original legislation which was prepared at the request of the Ways and Means Subcommittee on Trade.

There are those who have challenged this export effect on the grounds that retaliation will simply not take place. While I strongly disagree with this assertion, I must further note that a negative impact on U.S. employment will occur even without formal or informal foreign retaliation against American exports. This loss of jobs will likely take place as a result of the impact of the legislation on currency exchange rates between the dollar and the foreign currency of the auto exporting nations, such as the yen in the case of Japan.

While we were away for the election period recess, an excellent analysis of this very point was carried on the oped pages of the Washington Post. Economics professor Robert M. Dunn, Jr., of the George Washington University, wrote a thought-provoking commentary that merits our further consideration. The article was printed under the appropriate headline of "Save an Auto Workers' Job, Put Another American Out of Work * * *" Dunn argues that under the present system of floating exchange rates, job gains in Detroit will be offset by job losses in other cities.

Dunn does not stop with a negative approach to domestic content legislation. He goes on to point out that part of the auto import problem stems from the exchange rate between the dollar and other world currencies. The overvaluation of the dollar relative to other currencies has put U.S. firms in a difficult position to compete because U.S. exports are made more expensive while imports from other countries, such as autos, are made less expensive.

The answer, he argues, is not domestic content legislation. Rather, the Congress should look at the fact that a large part of the exchange rate problem stems from the high level of interest rates in the United States. He goes on to note:

> Although interest rates are determined by a number of factors, predictions of huge federal deficits have been a dominant element in maintaining high U.S. yields since early 1981.

Mr. Speaker, as my colleagues are aware, I have been arguing for further restraint in Federal spending increases to combat record deficits and other borrowing-related activities for quite some time. If we are truly serious about dealing with the economic problem of unemployment, as opposed to the short-run perceptual problem of unemployment, we would be seeking to bring interest rates down, thus increasing job opportunities for all Americans. Instead, we are thinking about pursuing a protectionist path with the domestic content bill that will either shift unemployment from one American to another on the basis of political leverage, or shift our unemployment problem to other world economies.

Mr. Speaker, as part of the continuing debate over domestic content legislation, I ask unanimous consent to insert the full text of the article by Professor Dunn at this point in the RECORD:

[From the Washington Post, Oct. 28, 1982]

SAVE AN AUTO WORKER'S JOB, PUT ANOTHER AMERICAN OUT OF WORK

(By Robert M. Dunn, Jr.)

People who support domestic-content (or "local-content") laws for imported automobiles argue that they would reduce unemployment in the United States. They are wrong.

As long as the United States maintains a floating exchange rate, the adoption of protectionist measures to help one industry will merely shift jobs from elsewhere in the economy to the favored sector, with no significant effect on total employment. Changes in the exchange rate for the dollar are the mechanism through which output and jobs are lost in the unprotected industries. Protectionism is never a sensible way to increase domestic employment, but it is wholly self-defeating for a country with a floating exchange rate.

Under fixed exchange rates, it might be possible to view the short-term effects of a tariff solely in terms of impact on the protected industry, because there would be no exchange rate movement to cause undesirable effects elsewhere in the economy. If foreign countries did not retaliate against U.S. restrictions on car imports, for example, employment would increase in Detriot without loss of jobs elsewhere in the United States.

But since the exchange rates began to float in 1973, this in no longer true. A decision to apply domestic-content rules to cars sold in the United States, for example, would greatly reduce imports from Japan, causing a parallel decline in the U.S. demand for yen to pay for those cars. The yen would then depreciate and the dollar would appreciate until the balance in international transactions was restored. As consumers in the United States and abroad responded to this change in relative prices by purchasing fewer U.S. goods and more foreign products, sales and employment would be lost in a range of U.S. industries. The U.S. car industry might gain from the imposition of domestic-content rules, but other domestic industries that must compete in world markets would lose. Total employment in the U.S. economy would not increase.

With fixed exchange rates among currencies, the worldwide employment effects of U.S. protectionism would be a "zero-sum game," in that job gains in the United States would be offset by job losses abroad. Under the existing system of floating exchange rates, the effects of protectionism on employment are a "zero-sum game" within the United States. Job gains in Detroit are matched by job losses in Boston and Seattle, with exchange rate changes imposing the losses on unprotected parts of the U.S. economy.

A statistical study has recently been completed in the Labor Department supporting this argument. It concludes that the original form of the domestic-content bill would

create about 300,000 jobs in automobile manufacturing and related industries, but that about the same number of job would be lost elsewhere in the U.S. economy as the exchange rate for the dollar rose. The study indicates that the apparel and electronic components industries would be particularly injured by the exchange rate change, and that computers and commercial aircraft would also be seriously affected. The study suggests that because the U.S. auto industry uses fewer workers per million dollars in sales than do many other affected industries, the adoption of the domestic-content bill for cars might actually cause a slight net loss of employment in the United States.

It is surprising that industries such as apparel and computers have not realized that protectionism for automobiles would hurt them, and entered the lobbying battle against the domestic content bill. The late harry Johnson of the University of Chicago argued many years ago that floating exchange rates were a good idea precisely because they would destroy the traditional arguments for tariffs and encourage an era of free trade. He optimistically assumed that politicians and lobbyists would understand that protection for one industry was merely a tax on other domestic industries under floating exchange rates. But it doesn't seem to be working out that way. Walter Mondale's conversion to protectionism is a particularly unfortunate example.

If Washington wants to help U.S. industries compete against foreign firms, the first goal must be to reverse the sharp increase in the exchange rate for the dollar that has occurred during the last 18 months. A decline of the dollar to more realistic levels would be expensive for American tourists abroad, but it would greatly help U.S. industries that compete against imports, such as cars and apparel, and those that export, such as computers and aircraft.

Bringing down the exchange rate for the dollar requires a continuing decline in U.S. interest rates. Although interest rates are determined by a number of factors, predictions of huge federal deficits have been a dominant element in maintaining high U.S. yields since early 1981. Gaining permanent control over federal deficits requires decisions that are painful and politically risky. It is far easier for politicians to promise help for U.S. workers and industries through domestic content rules and other protectionist policies. Such an approach will actually produce no increase in employment or any other help for the economy, but that result would be apparent only in the long run. Election results are always in the short run.

IMPACT OF THE NEW FEDERALISM ON HEALTH SERVICES FOR CONNECTICUT CHILDREN

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mrs. KENNELLY. Mr. Speaker, I rise today to call to the attention of my colleagues some compelling testimony delivered at a forum in my district last September, held to discuss the impact of the New Federalism on children in Connecticut. The forum, hosted by St. Joseph College in West Hartford, aired the views of State officials, nonprofit agency heads, and many others. I was very pleased to participate as a panelist along with my good friends Representative TOBY MOFFETT and Representative GEORGE MILLER.

Few among us would quarrel with the need to control Federal spending, yet most of us also would agree that budget cuts should not come at the expense of one of society's most precious—and most vulnerable—resources: our children. Among those offering testimony at September's hearing were Estelle Siker, director of the community health division of the State's department of health services, and Gene Bennion, social policy and human resources director for the League of Women Voters of Connecticut. In commenting on the New Federalism, Mr. Bennion and Ms. Siker voiced deep concern over the impact of budget cuts on programs that promote proper nutrition for low-income mothers, their infants, and young children. As Bennion points out:

Research indicates that without adequate nutrition during pregnancy and early childhood, physical and mental development is impaired.

He and Ms. Siker expressed the view that cutting these nutritional services for short-term savings may very well result in far higher expenses for health care programs and institutional care in the future. As the debate over Federal priorities and fiscal 1983 spending continues, I would like to take the opportunity to share some of this testimony with you.

IMPACT OF THE "NEW FEDERALISM" ON HEALTH SERVICES FOR CONNECTICUT CHILDREN

I am Estelle Siker, Director of the Community Health Division in the State Department of Health Services. I am a board certified pediatrician with a Masters in Public Health. The major responsibility for health programs for mothers and children (Maternal and Child Health) rests in my division.

Our priorities are promotion of good health and prevention of disease and disability. Our efforts are directed to assure that (1) babies are born healthy, (2) that children are provided with ongoing care to promote good health and provide early identification and intervention for potential health problems, especially in the first 6 years of life, (3) that children receive comprehensive rehabilitative care for physical disabilities.

The "New Federalism" with diminished federal dollars in the Maternal and Child Health services block grant, has meant a 25% reduction in funds from fiscal 1981 to fiscal 1983 with an anticipated reduction in services to approximately 9,000 children. This has resulted in reduction of services to handicapped children by elimination of 3 regional clinics, reduction in dental health services, reduction in breadth of services at local MCH primary care clinics funded by our department and reduced technical assistance and monitoring in our child day care licensing program.

The impact of these reduced services is greater on the populations targeted in the MCH services block grant legislation, low income mothers and children and those with limited availability of or access to quality maternal and child health services.

We ask you to consider the capacities of these neglected children, 20 years from now, for independent living, responsible citizenship and even political leadership.

We will be happy to provide additional information.

LEAGUE OF WOMEN VOTERS OF CONNECTICUT TESTIMONY AT CONGRESSIONAL FORUM, ST. JOSEPH'S COLLEGE, HARTFORD, CONN., SEPTEMBER 8, 1982

I am Gene Bennion, social policy and human resources director for the League of Women Voters of Connecticut. We would like to present brief testimony on "New Federalism: Its Impact on Connecticut Children".

Throughout Connecticut one of the unheralded but significant changes is that clinics and agencies are limiting and/or eliminating educational and preventive programs. Lack of funds is forcing a return by agencies and clinics to the traditional fee for service. Neither corporate giving nor giving from the rest of the private sector has grown to cover lost federal funds. Examples of the programs that have been restricted at one agency are the program for child abuse prevention and the emergency service program at the Wheeler Clinic in Plainville, Conn. Present projections are that all funding for the child abuse prevention programming may be gone in one year. The emergency service program (which is an emergency mental health program serving both adults and children) faces shrinking funds and increasing demands. Other agencies and clinics throughout Connecticut have similar needed programs which share bleak chances for survival.

The WIC program, a federally funded nutrition program serving children under five, pregnant women, and nursing mothers and their infants has been cut. Formerly eligibility was based on 195% of poverty level; now for persons to be eligible, their income must not exceed 185% of poverty level. In the Waterbury area this change resulted in 132 being dropped from the WIC program. It is important to note that the change in eligibility requirements has not resulted in a decrease in program participants because of unemployment. Unemployment has increased and unemployed persons are eligible to participate if they meet the WIC guidelines.

Research indicates that without adequate nutrition during pregnancy and early childhood, physical and mental development is impaired. The costs of this preventable damage are higher for society in terms of schooling and other institutional care. WIC is a successful preventive program that should be strengthened.

The programs mentioned in today's testimony help children and their parents. Under new federalism these programs have shrunk. The League of Women Voters of Connecticut does not believe that this is appropriate or wise social policy.

Thank you for your attention.●

RACIAL INJUSTICES INFLICTED ON BLACK AMERICANS

HON. WILLIAM L. CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. CLAY. Mr. Speaker, with the many problems that our great Nation is facing today, we cannot afford to let the continuing struggle of America's minorities be abandoned. Black Americans, for one, have made tremendous gains in the fight for equality. That is why it is imperative that now, more than ever, we must critically examine the policies this administration has advanced toward the minority community.

In a recent editorial written by Carl T. Rowan for the National Leader, Mr. Rowan focuses on the racial injustices the administration's policies have inflicted on black Americans.

I commend this column to my colleagues:

LETTER TO LYNDON

(By Carl T. Rowan)

DEAR PRESIDENT JOHNSON: I hope this letter finds you and President Kennedy in the same precinct, and that you both can brace yourselves on a cool stump, because I'm about to write about how you conned up Black people into thinking that you were our friends, leaving us to find out at this late date that your Great Society programs injured Black people severely.

All these years I've been talking and writing about how Mr. Kennedy made racial justice and integration fashionable in a Washington that had been shamefully Jim Crow, and how you were the nation's greatest civil rights president. I've been praising you for bludgeoning Congress into passing a Public Accommodations Act that ended apartheid in America's hotels, restaurants, buses; for daring to say to a joint session of Congress, on national TV, in those turbulent '60s, "We shall overcome," as you pushed into law a Voting Rights Act that opened the door of democracy to millions of Blacks who had been disenfranchised through violence, intimidation, trickery.

Now comes the terrible revelation that, unwitting or not, you sold Black people into bondage.

Who is the Great Revealer? President Ronald Reagan, the new champion of racial justice—the man who is trying to give tax-exempt status to schools and colleges which practice blatant racism, and who made a futile effort to sabotage your Voting Rights Act.

I hate to suggest, sir, that your reputation, and that of Jack Kennedy, for producing social programs that helped Black families is phony. But that is the word that 10,000 conservative Black Republicans are exhorted to spread across the land (their inflated number).

You understand my dilemma, I hope. I've been telling Americans how Mr. Kennedy and you raised Black family income from a level of 54 percent of white family income in 1961 to where it was 64 percent of white family income in the late 1960s.

Now I ask: How could you hurt Black families this way?

I am inspired to ask that question by Ronald Reagan, who has befriended Black families by imposing policies that have pushed Black family income down to where it is now only 56 percent of white family income.

Before I deliver my ultimate "Shame on you!" I want to deal with education. I've been telling college convocations and educators' conventions that fewer than 750 Black Americans were in college at the turn of the century, and only 274,000 in 1965 when you pushed through the Higher Education Act that made it possible for 1,133,000 Blacks to go to college in 1981.

How could it have taken me so long to learn that this was just another of your "Great Society" tricks to enslave Black people?

Who exposed you on this matter? President Reagan, who has slashed federal funds for education, from kindergarten through graduate school, and who is miffed that a Congress yet unweaned from your wicked ways recently thwarted his attempt to snatch another $365 million away from the education of disadvantaged children and needy teenagers aspiring to a college education.

You ask why I listen to Reagan? Well, he did tell those Black conservatives that Blacks were worse off in 1980 than in 1969—the same thing I've been saying. All this time I've thought that the villains were Richard Nixon and Howard Phillips, the Conservative Caucus honcho that Nixon commissioned to wage war on your War on Poverty.

Now Reagan tells me that *you're* to blame for almost everything—especially the rise in Black unemployment, since Reagan took office, from 14.3 to 18.8 percent, including a jobless rate among Black teenagers of 51.6 percent, Reagan implies that your ghost holds his hand when he jerks food away from hungry kids.

We are sure lucky to have Mr. Reagan to tell us what enemies of Black people you and John Kennedy and FDR and Hubert Humphrey really were.

That's why I wish you were still in the Oval office, so we Blacks could drop in and say exactly what we think about you.

Sincerely,

CARL T. ROWEN.●

THE MURDER OF FOUR AMERICAN CHURCHWOMEN IN EL SALVADOR

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. MOAKLEY. Mr. Speaker, 2 years ago today, four American churchwomen were killed by soldiers of the Government of El Salvador. In today's Washington Post we are informed that the families of these slain Americans are giving up their efforts to participate in the trial of the soldiers charged in the killings. The families have been unable to find a Salvadoran lawyer who is willing to handle their case, because the fear of retribution at the hands of the military is so great. There is reason to believe that these five soldiers were acting under orders, but without a lawyer, the aggrieved families will never see this possibility investigated.

Mr. Speaker, I am outraged that the Reagan administration will be seeking certification for human rights conditions in El Salvador. It takes a rather avid imagination to perceive improvement in the human rights situation in El Salvador. The administration appears to have such an imagination. The same voices which speak with such fervor about totalitarian repression in the Soviet Union are strangely indifferent to the excesses of the Salvadoran army. Are the victims of such terror to find comfort in the fact that their government is only "authoritarian?"

I wonder when the administration will see fit to apply the same standards of conduct to our authoritarian friends as it does to our Communist adversaries. How many people will be killed, tortured, or maimed, before we decide that we can no longer support the Government of El Salvador in good conscience? How much are we willing to sacrifice in the name of anti-Communist paranoia? Are we willing to sacrifice the very ideals of freedom which this country was founded upon, and which form its unique strength?

Two years ago, four American churchwomen were killed and raped by Salvadoran troops. It is difficult to conceive of a more heinous crime. Sadly, conditions in El Salvador have not improved since that time. The land reform program is in a shambles, and the current government has even less respect for human rights than the one which proceeded it. Yet 2 dismal years after these American churchwomen were slain, the Reagan administration is seeking certification for human rights improvements in El Salvador. Such certification would be absurd. If the term "human rights" is to have any meaning whatsoever, then we cannot continue to support the Government of El Salvador.●

JUDICIAL REFORM

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. PHILIP M. CRANE. Mr. Speaker, I have long been concerned with the judiciary system's encroachment upon the legislative branches, constitutionally directed responsibility to make policy. Senator JOHN EAST has introduced a bill that would restore the proper role the court system has ceased to occupy. The bill would also return to the legislative and executive branches the authority that is constitutionally delegated to them. It would reinstate the separation of powers intended by the Founding Fathers which has been disregarded and ignored.

Today, the Federal courts have overstepped their boundaries by focusing on the creation of policy and not on judicial review of errors and injustices that occur in our system. Their constant and broad interpretations of the Constitution and its amendments have led to a proliferation of policy initiatives. The courts have no constitutional jurisdiction in this area. Senator EAST's bill will give Congress the opportunity to reassume our constitutionally defined legislative function of originating, deliberating, debating, and formulating policy.

Mr. Speaker, allow me to call to my colleague's attention a Washington Times lead editorial in today's edition. I commend the paper for bringing the aforementioned problem to the public's attention, and I commend Senator EAST for his comprehensive and necessary proposal. I urge my colleagues to seriously review this important bill that would return our governmental process to the fundamental basis on which it was founded.

The article follows:

[From the Washington Times, Dec. 2, 1982]

RESTORING THE CONSTITUTION

Sen. John East has fired the first resounding shot in what promises to be one of the most important congressional battles of the century. A few days before the election recess he introduced the Judicial Reform Act of 1982. This is no half-hearted attempt to redress this or that example of overreaching by the federal courts. The bill's 12 parts propose nothing less than to return the U.S. Constitution to its original "uninterpreted" state.

The several provisions would strip the federal judiciary of the legislative and executive authority it has usurped from Congress and the executive branch. It addresses every issue raised by the irrepressible judicial activism of the last several decades. The fight will be a glorious one.

The proper role of the federal judiciary has been one of the most intensely debated issues in this nation's history. Where, out of political cowardice, Congress has defaulted on its responsibility to resolve difficult and controversial disputes, federal judges have stepped into the vacuum. The result has been that too much of the most important "legislation" of the 20th century has been written, not by elected representatives, but by appointed judges.

Although some parts of the bill overshoot the mark, the Judicial Reform Act gives Congress the opportunity to reassert its unquestioned, if little-used, powers to shape and control the jurisdiction of the federal courts. Led by the Supreme Court, federal judges have redrawn political boundaries, taken over school boards, directly interfered in prison administration, punished police by excluding completely reliable evidence, taken religion out of the schools, and even told doctors when they may—and may not—perform abortions. It is the premise of the East bill that Congress could—and should—accept its legislative responsibility to debate and decide these issues itself.

But it is not only Congress that will benefit from once again having the constitutional power the bill would retrieve. State governments will find themselves freed of the large and onerous burden of federal judicial second-guessing which has been grafted onto the Constitution by ever-broader interpretations of the 26 amendments. The powers reserved by the Founding Fathers to the states and to the people will be theirs once more.

Sen. East's legislation also includes provisions which would greatly improve congressional oversight of the federal judiciary, which would make the Supreme Court's membership geographically representative—as it was at the beginning, and which would in other ways reduce the tremendous power of the federal courts.

The Senate Judiciary Subcommittee on Separation of Powers, chaired by Sen. East, will schedule hearings after the 98th Congress convenes in January. We'll have more to say before then.●

COMMEMORATING AMERICAN MARTYRS IN CENTRAL AMERICA

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. BONKER. Mr. Speaker, today is the second anniversary of the brutal slayings of four churchwomen in El Salvador. I would like to take this opportunity to express my continued personal concern to the friends and family of Maura Clarke, Ita Ford, Dorothy Kazel, and Jean Donovan, and my support for the dedicated men and women who continue these women's work with the poor and suffering in Central America.

Yesterday the Subcommittee on Human Rights and International Organizations held a hearing on the subject of "Religious Persecution as a Violation of Human Rights in Latin America." I would like to commend to the attention of my distinguished colleagues my opening statement.

The statement follows:

Today's hearing is the eighth in a series on Religious Persecution as a Violation of Human Rights. Over the past year, the Subcommittee on Human Rights and International Organizations has examined many examples of religious persecution, including the Baha'is in Iran, the Christians and Jews in the Soviet Union, the Copts in Egypt, the Falashas in Ethiopia, and the Presbyterians in Korea and Taiwan. This afternoon we will be examining the plight of the Christian Church in Latin America.

The issue of the repression of the Church in Latin America is of particular interest to me because several American priests and nuns have themselves been the victims of murderous repression. Two years ago, four U.S. churchwomen: Maryknoll Sisters Maura Clarke and Ita Ford, Ursuline Sister Dorothy Kazel, and lay missionary Jean Donovan were brutally murdered by Salvadoran soldiers. Over a year ago when the then-President Duarte appeared before the Foreign Affairs Committee, I asked him about the status of the investigation and prosecution of those responsible for the murders. To this day there has been no investigation of the high level officers who may have ordered their murders, and no prosecution and conviction of the soldiers who actually carried out those orders. The tragic assassination of Archbishop Romero illustrates the problems of the Church vividly.

In nearby Guatemala, two American priests were assassinated: Father Stanley Rother in August of 1981 and Brother James Miller in February of 1982. Both of these men worked with indigenous communities in rural Guatemala, and both were gunned down by "death squads". A Mennonite missionary, John Troyer, was also killed by unidentified gunmen. Eight Guatemalan priests and dozens of Catholic catechists were victims of government violence last year.

The Catholic Church has experienced similar repression in Chile and Brazil. In these countries, the Church has emerged as an advocate for the poor, the oppressed, and the tortured.

In Nicaragua, church activities were restricted under the Somoza dictatorship, and priests and nuns were persecuted. I am concerned that church-state relations continue to be tense under the Sandinista government. Prominent clerics have been attacked, the church's access to the media is restricted, and there is an increasing tendency to substitute mob rule for dialogue and discourse. And the Moravian Church, an important advocate for the Meskito Indians who have been subject to relocation by the Nicaraguan authorities, is under increasing pressure.

Because of our close proximity to our Latin American neighbors, relations between U.S. church groups and Catholic and Protestant church workers in Latin America have been particularly close. We are honored to have with us today several distinguished representatives of the U.S. church community who have close ties with their Latin American co-religionists.●

A TRAGIC ANNIVERSARY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. GILMAN. Mr. Speaker, I rise today to remind my colleagues of a tragic anniversary—one which I, and the entire American people wish had never happened. I am referring to the brutal events of December 2, 1980, when, thousands of miles from home, four American churchwomen were massacred by a group of Salvadoran National Guardsmen. These four courageous women, Ita Ford, Maura Clarke, Dorothy Kazel, and Jean Donovan, were in El Salvador because of their convictions in helping the people of El Salvador. Amidst the bloodshed and continuous violence, they tried to alleviate the fear and death surrounding the populace. It is a crime to humanity that these women were murdered, that innocent lives were lost.

Mr. Speaker, this anniversary cries out for recognition—American citizens, blameless but for their humanity to their fellow man, are slain without any regard for their vocation or nationality. We cannot allow this anni-

versary to go forgotten. We must continue to pursue a thorough investigation and trial of the accused. It has been too long. Justice delayed is justice denied. I have proposed, Mr. Speaker, and will continue to insist, that this incident must be a major factor in any consideration of aid by this Government to the country of El Salvador. This case must be a test of the good will of the El Salvadoran Government. The actions taken by the Government of El Salvador can represent their commitment to respecting human rights, individual liberties, and the rule of law. But too few steps have been taken in this direction, and I continue to urge the Salvadoran authorities to leave no stone unturned in efforts to fully uncover the facts of this tragic situation, as well as resolving beyond any reasonable doubt the guilt of all those responsible for these actions.

Mr. Speaker, in recent times I have proposed, and this body adopted, a provision requiring Presidential certification of progress made in El Salvador before aid can be granted. I am, therefore, pleased that H.R. 7323 has already been considered and endorsed by my Subcommittee on Inter-American Affairs. As you know, this bill for "good faith efforts" to investigate the crimes against the four churchwomen and the two labor leaders as a permanent condition of certification. I laud the intent of this bill, and am pleased to be a sponsor.

Yet, we must remember this infamous day, recognizing that it occurred 2 years ago. And that in those 2 years, the guilty have not yet been convicted. This unconscionable act must not go unpunished, nor should we allow any undue delay. In honoring the memory of these brave, dedicated women, we must persist and prod, resolve and remember.●

A CRUEL INVASION OF PRIVACY

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. WYDEN. Mr. Speaker, 2 days ago, women suffered a cruel invasion into their private lives.

I am shocked and alarmed by a provision included in the Treasury and Postal Service appropriations bill that passed the House on Tuesday—a provision that many of us were unaware was included in the bill.

Tucked away in that spending bill was a provision that severely restricts the right of a woman to control her own body. It restricts that right by denying any funds appropriated in the act to be spent on abortions, except where the life of the mother would be in danger.

Mr. Speaker, I am appalled that women who depend on Federal funds have been singled out for this unfair restriction. The decision to terminate a pregnancy should be left to a woman and her physician. At a time when we are attempting to pare down the role of the Federal Government, how can we justify more governmental intrusion into this highly personal matter?

In 1973 the Supreme Court, in Roe against Wade, extended the right of privacy spelled out in the 14th amendment to protect a woman's right to terminate her pregnancy.

Congress has no business undercutting this constitutional right by backdoor ploys to cut funding for abortions. The right to choose should be respected for all women—including those who cannot afford an abortion.

It is my sincere hope that this unfair provision will be deleted when the Treasury and Postal Service appropriations bill goes to conference committee.

Thank you●

TIME FOR ANOTHER SPUTNIK?

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. LaFALCE. Mr. Speaker, during the recent congressional recess, the Nation celebrated a significant anniversary—the 25th anniversary of the launching of Sputnik by the Soviet Union. Few single events in recent decades so shook our Nation's self-confidence. Fewer still proved to be an impetus of such magnitude that we were thrust forward to reach a well-defined national goal.

Twenty-five years ago the United States came face to face with our clear second place position in space exploration. The success of the Soviets defined our own weakness in math, science and technical fields. Of course, the Sputnik launch did more than simply define our weaknesses in the technical fields; it gave us the opportunity to demonstrate our great resourcefulness and ability to establish ourselves as preeminent in vital disciplines.

Following the Sputnik launch, the Nation put together its greatest scientific minds and dedicated its resources toward space exploration and the reestablishment of math and science capabilities. Within months of Sputnik, Congress, at the request of President Eisenhower, passed the National Education Defense Act. Along with the act came not only dollars, but a comprehensive plan for making science, math, and foreign language training a prominent goal for America's economic well-being and national security.

Today we again witness the softness of our technical capabilities. No longer is math and science excellence an established fact that accompanies a diploma. Two articles that appeared recently highlight our serious problems. The first column, by Edward B. Fiske, dramatizes our deficiencies in science and math and notes that the challenge we face is not in the training of our needed technical specialists, but in combating the scientific incompetence of the work force as a whole. The second item, written by Thomas Y. Hobart, Jr., president of the New York State United Teachers, presents sobering statistics on the level of student accomplishments in the technical fields. Mr. Hobart advises us that:

> We are already past the time for exhaustive discussions. . . Action to restore vitality and meaning to science and math education is needed now if we are to halt the withering of those human resources and technological skills which have made our nation a world leader.

Mr. Speaker, bills that have been introduced in recent months to address the math/science/foreign language competency crises lay dormant. As we set our sights on the 98th Congress we must resolve to push forward with these and other measures to insure success. If we do not act quickly, we may find ourselves hopelessly unable to respond to the next Sputnik that our foreign friends or foes may launch.

The articles by Mr. Fiske and Mr. Hobart follow:

[From the New York Times, Oct. 5, 1982]

SPUTNIK RECALLED: SCIENCE AND MATH IN TROUBLE AGAIN

(By Edward B. Fiske)

Twenty-five years ago yesterday, the Soviet Union's launching of the satellite Sputnik not only ushered in the modern space age but shocked Americans into the recognition that Russian science and technology were capable of surpassing their own.

Sputnik was a dramatic and vivid symbol. Americans could go out into their backyards at night and watch the tiny speck move slowly and inexorably across the sky. The Russian accomplishment was to inspire profound changes in many aspects of American life, and in none more than education.

In the next decade, the quality of education at all levels became the center of a national debate and the focus of major Federal programs. High school science education was catapulted in a few short years from the 18th to the 20th century, and schools at all levels discovered foreign languages. Millions of dollars were poured into retraining a generation of science, math and language teachers, and the precedent was set for pervasive Federal involvement in elementary and secondary education.

A decade later, the rush to reconstruct American education ended as abruptly as it had begun. When Neil Armstrong walked on the moon in 1969, it signified that the immediate job of "catching up with the Russians" had been accomplished. The Great Society programs, the war in Vietnam and other changes sent the country looking in other directions.

Today, educators look back on the post-Sputnik decade with some nostalgia. "There was an excitement in education at the time," recalled Ernest L. Boyer, a former United States Commissioner of Education. "The public seemed to turn to education for answers to a critical problem. Teachers and local schools were brought into the action."

They also look back with some sense of irony. There is evidence that, in the face of new kinds of threats—such as economic competition from Japan—the country faces the same urgent need to bolster declining science, math and language skills as it did in the late 1950's, but today there is no vivid symbol like Sputnik to rally national attention.

"What we need is another Sputnik," Mr. Boyer suggested. "Maybe what we should do is get the Japanese to put a Toyota into orbit."

To some, the weaknesses in the American educational system dramatized by Sputnik came as no surprise. The country emerged from World War II knowing that science and technology would play an increasing role in American life. "The development of radar, the atomic bomb, electronic intelligence—all of these gave the country a sense that science and technology were going to improve the quality of life," observed Alphonse Buccino, deputy director of the Office of Scientific Engineering Personnel of the National Science Foundation.

In 1945, Vannevar Bush, director of the Office of Scientific Research and Development, reported to President Truman that in the absence of significant scientific progress "no amount of achievement in other directions can insure our health, prosperity and security as a nation in the modern world." His report led Congress in 1950 to establish the National Science Foundation, which was to develop a national policy to promote basic research and education in science.

Throughout the early 1950's, critics were pointing out flaws in American education. Nicholas DeWitt of Harvard found evidence that the Soviet Union had overtaken the United States in turning out engineers and scientists, and a 1956 study by the Modern Language Association pointed to the low number of people studying foreign languages in a country that had taken on a new role in the world.

In 1957, Elliot L. Richardson, then Assistant Secretary of Health, Education and Welfare, organized a task force on the educational needs of the country, and a subcommittee of the House of Representatives began hearings on what might be done.

So when Sputnik burst across the sky it dramatized problems already identified by academic and political leaders, but pushed them higher on the national agenda. "Nothing really happened until Sputnik made the situation into a crisis event," said Paul D. Hurd, professor emeritus of science education at Stanford.

EISENHOWER'S PLEAS TO CONGRESS

In January 1958, President Eisenhower twice appealed to Congress, stressing the importance of education to national security, and that July Congress passed the National Defense Education Act, identifying math, science and foreign languages as areas in which the nation had a special stake. Financing of educational programs by the National Science Foundation also began to soar.

The net result was a truly remarkable crash program to upgrade the nation's educational resources. By 1973 half a million secondary schoolteachers in math, science, languages and, eventually, other areas, had gone through summer workshops and other federally supported programs to raise their skills. Thousands more had received graduate fellowships.

The next priority was curriculum reform. In the years after Sputnik, the N.S.F. poured more than $100 million into new curriculums that revolutionized the teaching of the sciences. The "new math" and the so-called "alphabet soup" curriculums, such as P.S.S.C., the Physical Science Study Committee, were designed to incorporate the latest findings into the high school textbooks and to break the traditional cycles of reading-lecture-recitation. "High school science curriculums went from Newton to Einstein in little over a decade," recalled Harold Howe 2d, a former United States Commissioner of Education.

Meanwhile, new connections were established between research-oriented scholars and classroom teachers. The language laboratory became a permament fixture in schools at all levels, and the National Defense Education Act set the precedent for Federal involvement in local elementary and high schools.

A REDUCED SENSE OF URGENCY

By the late 1960's, though, these strenuous efforts had begun to run their course. The moderation of the cold war and the success of the space program had reduced the sense of urgency. A back-to-basics movement took root, cutting into school time for science and languages.

Perhaps the most important, President Johnson's Great Society program created a new social agenda that emphasized equal access to education, in contrast to the earlier emphasis on producing high-level specialists. The National Defense Education Act was replaced as the focus of Federal educational efforts at the precollege level by the Elementary and Secondary Education Act of 1965, which supported projects such as Head Start for disadvantaged students.

Reaction also developed against the "alphabet soup" curriculums and the "new math." These had worked well for many teachers and for the most talented students, but many others found them too specialized and abstract, and most high school science teaching has now gone back to the old methods. Enrollment in high school language instruction dropped sharply, largely because, during the revolt of college students against required courses in the 1960's, language requirements were the first to go.

The pendulum continued to swing, and evidence is now plentiful that 25 years after Sputnik the country finds itself debating many of the same issues that it faced then.

The National Assessment of Educational Progress has issued a series of reports on the low level of knowledge of science and math by elementary and high school students, and three years ago a Presidential commission headed by James A. Perkins, the former head of Cornell University, criticized what it called the "scandalous incompetence" of American citizens in foreign languages.

"Nothhing less is at issue," the panel warned, "than the nation's security."

A DIFFERENT KIND OF PROBLEM

There are, however, some significant differences between the situations now and in the 1950's. Today there is no dearth of able science majors in college and none of the manpower shortages in scientific fields that marked the pre-Sputnik era. Instead, the problem revolves around the scientific competence of the population and work force as a whole.

"Sputnik made us realize we were still importing scientists, said F. James Rutherford, chief educational officer of the American Association for the Advancement of Science. "But it did not reach people who are legislators and heads of business enterprises who don't understand enough about science and technology but still have to make decisions involving it."

Gerald Holton, the prominent Harvard physicist, agreed, suggesting, in retrospect, that Sputnik had not been crisis enough. "The reasons the Russians got Sputnik into obrit first was that they put their money on large boosters," he said. "Their electronics was not at all that sophisticated. It only took us six months to get back in the race, and once we'd won it we relaxed."

In doing so, Mr. Holton said, the nation passed up the opportunity to develop a scientifically educated citizenry. "The post-Sputnik era turned out scientists, but the real challenge was to lay the foundation of scientific literacy in the nation as a whole."

Another difference lies in the public perception of the threats faced by the country. "The problem today seems both more pervasive and more ominous," suggested Mr. Boyer of the Carnegie Foundation. "The threat is not just military, but it seems to have found its way into the interior of the economy. Somehow it doesn't have the headline-grabbing, traumatizing explicitness of that little basketball glittering up there 25 years ago.

The political climate is also different. President Reagan, while he has been publicly critical of the level of math and science instruction, is committed to mobilizing the private sector while reducing the Federal role in education, not to enlarging Federal programs under the guns of such threats as Japanese technology. Because the threat is seen in terms of economic rather than military security, many people feel the solution lies outside the political system.

Others, however, reject that approach. "There seems to be a myth that somehow if we let every school district do what it wants without any guidance, the national purpose will somehow be served," said Paul Simon, the Illinois Democrat who heads the House Select Subcommittee on Education, "It will take leadership to provide this, but unfortunately the Reagan Administration is not prepared to do so."

In a broader sense, though, the change is rooted in the way Americans have traditionally approached education. Since the late 19th century the Government has poured billions of dollars into education, but rarely for plainly educational purposes. The Morrill Act of 1862, establishing the land grant colleges, was a means to dispose of excess Federal land. The G.I. Bill was a device to reward veterans and ease their way back into normal life. The Elementary and Secondary Act, pushed by a President who was once a teacher but never had his name on a major educational bill, was essentially a device to combat poverty.

The outpouring of Federal funds into education that followed the launching of Sputnik in October 1957 may have been a response to a military threat, but it also represents one of the rare moments in American history when the core of the educational process—the content of curriculums and textbooks, the skills of teachers and so forth—moved to the center of the national attention.

Perhaps the nostalgia of educators for the post-Sputnik decade lies in the fact that such a fervor for education had rarely occurred before and has not happened since. Like Sputnik itself, the urgency about education as a national priority and the excitement of educational reform passed across the sky and over the horizon.

[From the New York State United Teachers, Nov. 7, 1982]

PRESIDENT'S PERSPECTIVE—MATH, SCIENCE PROGRAMS MUST BE UPGRADED

(By Thomas Y. Hobart, Jr., President)

The space shuttle *Columbia* is being prepared for another journey to space. Each time this remarkable craft blasts off and then returns with a new knowledge about space, Americans are reminded of the preeminent position which our country holds in both science and technology. We are also reminded of the drastic changes which our educational institutions had to make in teaching math and science following the successful launching of Sputnik a quarter century ago.

Americans were rudely awakened by this Soviet success and realized the harsh reality that other countries had made an all-out commitment to science and math education. This commitment had paid handsome dividends to the other countries while America faced the ultimate embarrassment of being beaten to space by the Soviet Union.

It was a credit to our national pride that we rededicated ourselves to the pursuit of scientific knowledge and gained a clear and almost insurmountable edge in the "space race."

Now, however, our position as leader of the world's scientific community is once again clearly in jeopardy. There has not been a single startling event, such as the launching of Sputnik, to demonstrate this slippage. Rather it is best seen in the de-emphasis of science and math in our schools over a long period of time. Once more, however, our national leaders are regrouping and seeking ways to strengthen the science and math curricula in our schools. Already there have been several national conferences called to study this issue, and numerous groups, including the American Federation of Teachers, are preparing policy statements aimed at reversing a shocking and potentially dangerous national condition.

Statistics presented at a national convocation sponsored by the National Academies of Sciences and Engineering point to the seriousness of this problem.

There have been marked declines in math scores for both 13-year-old and 17-year-old students. Each of three successive nationwide assessments has shown a decline in achievement over the preceding test.

The science and math scores on the SAT tests have been dropping steadily for two decades. This decline exists at all levels—from 1967 to 1975 those scoring above 700 declined by 15 percent while those students scoring below 300 on that test increased 38 percent.

The shortage of qualified math and science teachers is becoming critical. In 1980, 28 states reported a shortage of mathematics teachers; by 1981 that figure had increased to 43 states. Similar shortages exist for science teachers.

Science and math programs in other countries, such as Japan, the Soviet Union, East Germany and the People's Republic of China, are thriving. Students in these countries spend approximately three times as much time on science and math as even the most science-oriented American students do.

The seriousness of the problem has been recognized. We must now begin the more difficult task of finding solutions. Some of the important issues which will have to be addressed include:

RAISING STANDARDS

For too long educators have allowed a softening of the curriculum. The norm in many states today is a requirement of only one year of science and one year of mathematics for graduation from high school. Already, there are serious attempts to reverse this pattern. For instance, California is now proposing at least three years of math and two years of science for graduation and a special commission in Florida has recommended a requirement of four years of math and four years of science. Such a stiffening of standards will play an important role in rebuilding math and science programs.

UPGRADING TEACHING STAFF

The current shortage of math and science teachers has aggravated the poor state of science education. There must be wide ranging discussions on ways to attract top candidates into science and math teaching. This discussion must center on ways to provide adequate remuneration, necessary teaching equipment and opportunities to conduct meaningful research programs. In order for these discussions to be fruitful it is essential that the designated representatives of the teaching staff play a key role.

CHANGING NEEDS

Educational curriculum must also be examined to insure that it is meeting the changing technological needs of our society. America is rapidly approaching a critical shortage of skilled workers in high technology fields. Education, government and private industry must work cooperatively to insure that these labor shortages can be corrected.

There will be no single answer to meeting the scientific and technical needs of our country during the remainder of the twentieth century. Debate is already under way. All participants in this debate must recognize one rather harsh fact of life as they go about their work—we are already past the time for exhaustive philosophical discussions. Action to restore vitality and meaning to science and math education is needed now if we are to halt the withering of those human resources and technological skills which have made our nation a world leader. For it is precisely that position in the world which will be in jeopardy if we fail to respond.●

TIME TO CUT FUNDS FOR GARRISON DIVERSION PROJECT

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. CLAY. Mr. Speaker, I rise in support of the amendment to delete funding for the Garrison diversion project in North Dakota.

Many words have been spoken today in an attempt to sway the undecided and perhaps change the minds of others who have voted to continue this project in the past. It is my fervent hope that there will always be Members with open minds who can change their positions, as many noted colleagues have done on this one issue.

With all the many facts and figures and noted champions on the side of Garrison, year after year it rolls on. Congress after Congress continues to appropriate money for it. Each year we come closer to killing this wasteful boondoggle but victory has eluded us. Why? Why do some of us continue to vote for a wasteful and destructive water project of such magnitude that it almost defies description? Why do Members who vote correctly on a whole score of other environmental issues vote for Garrison? Why do Members who otherwise favor good Canadian-United States relations vote for Garrison? And why do Members who categorically vote against high-priced Federal expenditures continue to vote for Garrison?

This country has been coasting along for decades, finding the easiest way to deal with pressures and party lines and problems it to vote money for them. The downhill ride is about to end and I fear a brick wall looms ahead. A wall of economic recession, environmental degradation, and loss of faith with the American people we represent. We must put the brakes on wasteful Government spending now. There is simply no way we can continue to vote for projects like the Garrison diversion unit with equanimity.

I ask that each of you reach down into your conscience and ask a few honest questions: Do we really need this project and it's $1 billion price tag? Might there not be a better way, a cheaper way, to give the people of North Dakota the kinds of benefits they need rather than a project that will only irrigate six-tenths of 1 percent of the land? Is the damage or destruction of 12 congressionally authorized national wildlife refuges not worth considering? And is there any reason we should continue to antagonize our good neighbors in Canada? They are deeply concerned about the intrusion of runoff from this project in North Dakota into the Hudson Bay watershed in Manitoba.

Certainly there are no easy answers to these questions. I only say that we must take our responsibilities as representatives of the people seriously enough to ask them and to come up with an answer of no funding for Garrison until some of the harder questions are put to rest.

I hope you will join me in supporting the Conte amendment to cut funding for Garrison in fiscal year 1983.●

EL SALVADOR

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. BONIOR of Michigan. Mr. Speaker, 2 years ago today, four American churchwomen were brutally murdered in El Salvador. It is the shame of our country that we continue to back with military aid, a government that has failed to bring those responsible for this crime to justice, and whose repressive policies continue the flagrant violation of its own citizens' human rights.

We should not use this anniversary merely to deplore the manner of those brave women's death but to dedicate ourselves to the cause for which they lived—social justice and a lasting peace for the people of El Salvador. I take this occasion to reiterate the plea made last summer by the bishops of El Salvador, a plea for all parties to begin the process of political dialog, and I would now like to insert their statement in the RECORD.

SALVADOREAN BISHOPS CALL FOR DIALOG

Having completed four days of intense work, we, the bishops of the ecclesiastical province of El Salvador, cannot leave without directing a pastoral message to the beloved faithful committed to our care and to all Salvadoreans of good will concerning the dramatic situation in which we live in El Salvador.

Conscious that we are not expert in social, economic or political questions, we seek to be interpreters of our suffering people and, from a pastoral perspective, to express the following:

1. From the depths of our heart as pastors we share the sorrow and the anguish of our people, innocent victims of this uncontained wave of violence which has already exacted too high a price in human lives and material goods, putting thousands of homes into mourning and making daily existence ever more unbearable.

2. As people of faith we believe that there is a solution for this dramatic situation and that the solution has to be sought along the paths of reason and not the sterile way of violence.

3. For this very reason we exhort all the parties involved in the conflict to abandon every obstinate attitude and be open to a dialogue that is sincere, open and true, animated by good will and a spirit of authentic patriotism, placing the unity of the Salvadorean family above individual or group interests. For its part, the Church maintains its readiness to work tirelessly, within its own proper sphere, for peace and for reconciliation among Salvadoreans who have been constrained to become enemies to one another.

4. Finally, we invite everyone to place their hope not in human forces but in Him who said "Peace be with you" and who came to give us the Good News of peace.

May the Divine Saviour, whose feast we are about to celebrate, together with the Queen and Peace, inspire, sustain, and bring to a happy conclusion every effort for peace accomplished among us in order finally to establish that longed for gift.

With our blessing, /S/ Bishops Alvarez, Aparicio, Revelo, Rivera, Rosa, Fr. Delgado San Salvador, July 15, 1982.●

TRAGEDY IN EL SALVADOR: TWO YEARS WITHOUT JUSTICE

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. BARNES. Mr. Speaker, it has been 2 years since four American churchwomen were murdered in El Salvador. On December 2, 1980, Sisters Maura Clark, Ita Ford, Dorothy Kazel, and Lay Missioner Jean Donovan were found in a shallow grave in El Salvador. They had been raped and brutally murdered by members of the Salvadoran Armed Forces.

During these 2 long years, many Members of Congress have shared the grief and sadness that is felt by the members of the families of the women. We have shared the frustration over resistance to investigate the murders, and then to the painful discussion of the details as pressure was brought to bear on officials in Washington and in San Salvador. At each turn of events there have been reassurances that the killers had been found and that they would soon stand trial. To date, there has been no trial and we are all still waiting for justice.

It was only a few weeks ago that U.S. Ambassador to El Salvador Dean Hinton voiced his concern over the breakdown of the Salvadoran justice system and went on to note that over 30,000 Salvadorans have been killed during the civil war. There have been no trials for the murders of Salvadorans or Americans. This is a tragedy. It is a tragedy for the families of the dead, a tragedy for the Salvadoran people, and a tragedy for the American people.

It is time that justice be done for the dead. And it is time that justice be done for those who must deal with the threat of death daily. The civil war in El Salvador must be ended and the killing must stop. I know that the families of the four American churchwomen want justice for their loved ones, but they also want the killing to stop.

As we contemplate the memories of these four brave women, we should also think about U.S. policy toward El Salvador. Neither subject is pleasant but both are important today.●

A TRIBUTE TO THE OBSERVER NEWSPAPERS

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. MATSUI. Mr. Speaker, it is my pleasure to rise today in tribute to one of America's outstanding black journalistic enterprises, the Sacramento Observer, which is celebrating its 20th anniversary under the leadership of its publisher, Dr. William H. Lee.

Recently lauded in a Columbia Journalism Review article as one of the more successful black newspapers in the country, the Observer plays a major role in the life of our city and county, with its influence extending beyond the black community, which it serves so well.

Bill Lee, who I am proud to count as a personal friend, started the Sacramento Observer with his wife and business partner Kathryn to fill what they felt was a void in positive information about the black community.

Our philosophy is to improve the quality of life of the people that read our newspaper and follow its direction.

Dr. Lee said in a recent interview with the Sacramento Bee.

We can't just give them civil rights news and black news; we've got to show them how to survive, how they can buy a house or live happily. In our communities we have acute health problems, acute crime problems and we must provide some of the answers through our papers.

Those comments from Bill Lee provide insight into the success he has achieved with his three newspapers, including the Observer papers he publishes in Stockton and San Francisco as well as Sacramento. He has been successful because he has approached his publication enterprise with an enlightened attitude about the needs of the black community and of our entire Sacramento community.

The future is bright for the Sacramento Observer. Dr. Lee plans to begin construction of a new 20,000-square-foot plant next year, and a 500-page special edition commemorating his paper's two decades of service to Sacramento is slated for publication in February.

Because of Bill and Kathryn Lee and the entire staff of the Sacramento Observer, our community is a better place in which to live.

I am sure that all Members of this House, and particularly my colleagues from the State of California, will join me in an enthusiastic tribute to the Observer Newspapers.●

DAVID POGOLOFF

HON. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. MONTGOMERY. Mr. Speaker, it is my pleasure to recognize today one of the Veterans' Administration's most dedicated and conscientious employees. For 25 years, Dave Pogoloff, chief of the VA's House liaison staff, has executed a difficult job in an out-

standing manner. He has rendered valuable assistance to virtually every congressional office on the Hill, while very ably and quietly assisting untold thousands of veterans and their dependents.

I am very pleased the Administrator has recognized Dave's many years of outstanding service by recently giving him the VA Administrator's Superior Performance Award, which carries with it a cash payment of $3,800. The award is presented when an employee's contribution substantially exceeds performance requirements.

Dave is no less an inspiration to his colleagues and friends for his personal achievements. A combat veteran of World War II, he lost a leg soon after returning to the States as a result of his war injuries. To his great credit, Dave has come to represent the highest ideal of the physically disabled in the work force, an ideal of successful integration and extraordinary contribution of which we, the public, are the real beneficiaries.

I know Dave's many friends on the Hill join me in expressing appreciation for his service and best wishes for many years of continued success.●

PURSUIT OF TRUTH FOR THE MARYKNOLL SISTERS

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. HARKIN. Mr. Speaker, Maryknoll Sisters Ita Ford and Maura Clark, Ursuline Sister Dorothy Kazel, and Jean Donovan disappeared 2 years ago today. Their burnt-out van was found the next day, along the airport road. On the anniversary of their deaths, I want to share some thoughts expressed by the Maryknoll community with regard to the trial of their accused slayers, and the search for justice in El Salvador:

THE SECOND ANNIVERSARY

MARYKNOLL, N.Y.—On December 2nd and 3rd, families and friends of Maura, Ita, Jean and Dorothy will come together at Maryknoll to mourn and to celebrate their deaths and their lives. During these two years we have grown together in our pursuit of truth; we have become more sensitive to the suffering and pain of our sisters and brothers who are poor and powerless; we have come in direct contact with the network of injustice and evil in our world. During these years our hearts have not turned to stone in a spirit of revenge but we have been made strong in our search for justice. Our commitment to justice with forgiving hearts confuses and unsettles many. Our hope is that we may continue to grow in that love which is the source of action for justice in our world; that love which embraces our enemies in truth.

We extend our gratitude to all those who have joined with us in seeking truth and justice so that God's peace may come to our sisters and brothers in El Salvador.

STATEMENT REGARDING TRIAL IN EL SALVADOR

No matter what the outcome of the trial of these five men, we (the Maryknoll Sisters) hold that justice and truth have not been served because the involvement of higher-ups has not been vigorously investigated. Neither Maryknoll nor the families felt it was just to hire a lawyer to prosecute these five enlisted men alone. Prosecuting and perhaps executing these five men does nothing to stop the officers and government officials who are tolerating, permitting and encouraging the climate of terror and violence in El Salvador that has claimed 35,000 lives in the last three years. Therefore, we are not hiring a lawyer to represent us for fear of giving our stamp of approval or seeming to legitimize the trial.

For Maryknoll, the trial has always represented the culmination of a long legal process during which a genuine investigation could be conducted. With the announcement of the trial of the five National Guardsmen alone all investigation ceases.

We regret that seeking justice in the way that we know it here is impossible in El Salvador today. We believe that the trial as it is designed to be carried out cannot lead to justice.

We hope that the Government of the United States will play an active role in the pursuit of truth regarding the death of its citizens in El Salvador. If justice cannot be pursued with the support of the U.S. Government in relation to U.S. citizens, how can we hope that it will be pursued for citizens of El Salvador?

On this day in particular these words hold special meaning, and give us an added purpose and resolve to work for a just solution to El Salvador's problems.●

A COAL MINER'S SON

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. CLAY. Mr. Speaker, I would like to take this opportunity to pay tribute to the late Mr. Harold J. Gibbons, a man who epitomized the virtues of the working citizens of our Nation. The son of a coal miner, Harold Gibbons worked to become one of the most instrumental and respected figures in the American labor movement. His love for humanity and democracy are documented in his service to our society.

In his lifetime, Harold Gibbons was proceeded by his reputation for unmitigated integrity. Long after his death Harold Gibbons will be remembered for the many countless contributions he made to the labor movement. A self-made man and champion for the underdog, his life was an exercise in strength and fortitude. The death of Harold Gibbons is a great loss to our Nation and to the St. Louis community where he was especially loved and admired. I am honored to have known and worked with Harold Gibbons and I would like to share with my colleagues a brief biography of his life.

HAROLD GIBBONS—FROM COAL MINER'S SON TO INTERNATIONAL FIGURE

Harold Joseph Gibbons, longtime St. Louis Teamsters leader, was once thought to be a likely successor to Jimmy Hoffa as head of the 2 million-member union.

Gibbons, 72, had been a vice president of the International Brotherhood of Teamsters—the largest labor union in the free world—since 1957.

The youngest of 23 children, he was the son of a coal miner. Born April 10, 1910, at the mining camp of Archibald Patch, Pa., Gibbons rose to become one of the best-known leaders in the American trade union movement.

He came to St. Louis from Chicago in 1941 as director of the old St. Louis Retail, Wholesale and Department Store Union, CIO.

In his rise to national prominence, he became known as a major intellectual of the labor movement, one of its most articulate leaders and a social activist. Through most of his career, he was a staunch supporter of Hoffa.

He was also known as a political liberal who bucked the union leadership in 1972 to support Democratic U.S. George S. McGovern for president and who harshly criticized the Vietnam War—positions that some observers maintained cost him much power and influence in the Teamsters hierarchy.

During his colorful career, Gibbons was executive assistant to Hoffa, who asked him to be his right-hand man from 1957 to 1964. During that time, Gibbons also headed Teamsters Local 688 in St. Louis, the largest Teamsters local in Missouri, which he helped form in 1949. He also was director of the Central Conference of Teamsters and the union's national airline and warehouse divisions.

Among his many accomplishments, Gibbons pioneered the development of such pacesetting programs as the Labor Health Institute, its Health and Medical Camp in Pevely and a $20 million retirement complex, Council House, 300 S. Grand Blvd.

Gibbons was vitally concerned with civil rights, public housing and health care for the poor.

A community action program started by Local 688 under Gibbons' leadership in 1951 was the subject of considerable national and international attention. The outgrowths of the program today are the Tandy Area Council and the Carondelet Area Council, which give residents the means and skills to voice their interest in community affairs.

He also was the founder and president of the St. Louis Civic Alliance for Housing, a coalition of about 70 community leaders and tenants that brought an end to the lengthy public housing rent strike in St. Louis in 1969.

Gibbons was only 14 when his father died and his family moved to Chicago, where he finished high school and worked at odd jobs to pay for night classes.

He later attended an industrial workers' summer school program at the University of Wisconsin. His tuition was paid by the YMCA after he won a contest.

Gibbons was quoted in an interview several years ago as saying that while in the program—where he participated in a number of socialist discussion groups—he saw "a society divided between those who own and those who work." It was then he developed a desire "to be a trade union man," he said.

He later studied economics and history at the University of Chicago, until he was

forced to quit during the Depression. After leaving school, Gibbons wrote textbooks for the Works Progress Administration in a worker education program.

While working for the WPA, Gibbons organized and became the first president of Local 346 of the American Federation of Teachers. In 1936, he was elected an international vice president and organizer for the AFT.

He also was among the delegates who attended the first convention of the Congress of Industrial Organizations, when United Mine Workers leader John L. Lewis was elected president. The CIO merged in 1955 with the American Federation of Labor to form the AFL-CIO.

In 1937, after leading a strike of Chicago taxi drivers who became members of the Teamsters, he was appointed assistant regional director of the CIO in Chicago. In 1938, he was named Midwest organizer for the Textile Workers Union.

During that year, he met his first wife, the former Ann Colter, at a Socialist-sponsored peace rally. She was chairwoman of the rally and he was a guest speaker. Three months later, they married. She died in 1974.

As the CIO's assistant regional director in Chicago, Gibbons worked with and became a friend of Lewis, he said during an interview several years ago.

Gibbons came to St. Louis in 1941 as director of the St. Louis Retail, Wholesale and Department Store Employees Union, CIO, which affiliated with the then-AFL Teamsters in 1949 and became the powerful Teamsters Local 688.

In 1949, Gibbons engineered the merger of the CIO United Distribution Union's 6,000 members into the ranks of AFL Teamsters Local 688—one of the biggest labor raids in St. Louis labor history and a major step in the Teamsters' drive to double the union's membership to 2 million.

Gibbons emerged as one of the city's top Teamster leaders at the end of an 85-day 1953 building industry strike when he was named trustee of the Teamsters Joint Council and eight Teamster locals here.

That year, he was promoted to lead the 250,000-member national warehousing section of the Teamsters union, establishing a Washington office while maintaining leadership of Local 688 here.

Gibbons was jailed for 43 hours in 1954 for refusing to provide records to a federal grand jury investigating Local 688, although he later agreed to supply the information. An indictment accusing Gibbons and other union officers of making false reports to the U.S. Department of Labor was dismissed in federal court.

As his influence grew locally, Gibbons took stands on such political issues as the lack of cooperation among St. Louis County municipalities and the lack of progress in controlling rats in the city.

He also became more active nationally and internationally, appearing before a congressional committee investigating health care to explain the Labor Health Institute—an employer-financed health program started by Gibbons for his members—and urging support of Israel after a 1955 visit on behalf of the American labor movement.

In 1957, Gibbons was selected an international vice president of the union, giving him a seat on the Teamsters' general executive board, a post he held until his death. He was elected president of Teamsters Joint Council 13 here in 1958 in an election in which his opponent, E. E. "Gene" Walla, former president of Teamsters Local 682, charged vote rigging. Gibbons' election was upheld.

In the same year, Gibbons dedicated Local 688's employer-financed Health and Medical Camp near Pevely, considered the trend-setting concept in union activities and contract bargaining.

During the years he helped guide the union under Hoffa, Gibbons became known as one of the Teamsters' most articulate spokesmen during testimony before U.S Sen. John McClellan's racketeering committee hearings. A member of the committee was then-Sen. John F. Kennedy, D-Mass., and its attorney was Robert F. Kennedy, later to become U.S. attorney general in his brother's administration.

Gibbons once told a reporter about how he enjoyed an almost mischievous delight at "tweaking the nose" of young Robert Kennedy during the hearings.

"During testimony, he asked me in a snub tone, 'Mr. Gibbons, can you tell this committee if you know Anthony Giordano, head of the underworld in St. Louis? And can you, Mr. Gibbons, tell the members of this committee if you know John Vitale, Giordano's right-hand mobster?'" he recalled. "And I answered, 'Yes, I know both of those men. But I also know Cardinal Cody and Archbishop Ritter, too.'"

With that answer, the gallery broke into laughter, Gibbons said.

Gibbons resigned as Hoffa's executive assistant in late 1963 after a falling out with the fiery Hoffa. Gibbons had ordered that the flag on Teamsters headquarters in Washington be lowered to half-staff and the union's offices closed when President Kennedy was assassinated—a gesture strongly opposed by Hoffa, who hated the Kennedys.

Gibbons headed Local 688 until 1973, when he was ousted from nearly all his leadership posts by then-Teamsters General President Frank E. Fitzsimmons. Gibbons, who always maintained his loyalty to Hoffa, often disagreed with Fitzsimmons on union and political matters.

Although several members of Local 688 had started a movement against Gibbons, his Waterloo came in 1972 when he publicly endorsed McGovern, Democratic nominee for president, over Fitzsimmons' choice of the GOP presidential candidate, Richard M. Nixon.

While Gibbons kept his elected office of international vice president, he was stripped of his other posts when he was forced to resign as Local 688's chief executive.

In February 1977, three years after the death of his first wife, Gibbons married longtime friend Toni Stein, who had a modeling agency here.

Gibbons, an idealist, was quietly being pushed in June 1981 to make a run for the union presidency after Fitzsimmons died of cancer one month before the Teamsters convention in Las Vegas. Although there was some support for Gibbons and Canadian Teamsters leader Ed Lawson to seek the union's top two jobs, a groundswell never materialized. Subsequently, Gibbons ran for and was re-elected the union's second vice-president.

He served under Teamsters President Roy L. Williams of Kansas City, who was more generous to Gibbons than Fitzsimmons had been. He gave the aging labor leader responsibilities that Gibbons "a purpose, a feeling of being needed," one close friend said.

In his younger days, Gibbons, had been one of the union's chief strategists, second only to Hoffa, who was kidnapped from suburban Detroit and apparently killed in 1975.

In an interview several months ago, Clayton attorney Gene Zafft, Hoffa's tax lawyer for many years, said Hoffa had told him that one of the greatest mistakes he ever made was naming Fitzsimmons, rather than Gibbons, as his successor.

After his rise through Hoffa to the union's presidency, Fitzsimmons betrayed Hoffa and battled to prevent him from receiving part of his pension after Hoffa resigned from the presidency as part of a probation agreement.

Gibbons was the subject of an entire chapter in the Steven Brill book, "The Teamsters," which both praised and criticized Gibbons.

Gibbons was chairman of the Cervantes Convention Center Commission, a board member of the Gateway National Bank in St. Louis, and a board member of the Cystic Fibrosis Foundation and a number of other charities. He was also a member of the national advisory board to the American Civil Liberties Union. He was recognized as Man of the Year by B'nai B'rith, was a trustee of the Martin Luther King Center and a board member of the All-American Collegiate Golf Foundation.●

THE YEAR OF THE FINNISH AMERICAN ARCHIVES

HON. MARTIN OLAV SABO

OF MINNESSOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. SABO. Mr. Speaker, it is a privilege to rise in honor of over 400,000 Finnish immigrants who have graciously shared with this Nation their cultural traditions and heritage. The preservation of Finnish history has been threatened, however, because of insufficient funds to insure that Finnish historical materials are transferred to microfilm and otherwise protected from deterioration. In an effort to raise funds for this important project, Minneapolis Mayor Don Fraser has declared that 1983 be known as "The Year of the Finnish American Archives." This proclamation reads:

Whereas, three hundred and forty-five years ago the history of Finnish Americans began in a settlement on the Delaware River; and, since the year 1865 over 400,000 Finnish immigrants have given America both the benefit of their labor and the richness of their culture; and

Whereas, their descendants continue to assert their identity as Finnish Americans within the ethnic and cultural diversity that is America; and

Whereas, historical archives at Suomi College in Hancock, Michigan and at the Immigration History Research Center of the University of Minnesota are the source of inspiration and information that make Finnish Americans more conscious of their heritage as well as more visible to America; and

Whereas, these archives are threatened by lack of resources to microfilm and otherwise protect their holdings from deterioration and are unable to further build their collections of historical materials; and

Whereas today public funds alone will not adequately support these archives, and this

responsibility falls on their principal beneficiaries: both Finnish Americans and all other Americans aware of the need to preserve cultural diversity,

Now, therefore, I, Donald M. Fraser, Mayor of the City of Minneapolis do hereby declare 1983 as

The year of the Finnish American Archives in Minneapolis and urge all citizens to join with me in working for the preservation of the rich cultural heritage of our Finnish immigrants.●

WELCOME HOME, GARY ACKER

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. DORNAN of California. Mr. Speaker, words cannot adequately express the joy that I feel for Gary Acker and his wonderful parents now that he has returned safely to his home in Sacramento, Calif., after rotting for nearly 7 years in a Communist prison in Angola. "More things are wrought by prayer than this world dreams of," Tennyson reminds us, and I have no doubt that countless prayers said on Gary's behalf have been instrumental in his release and return home.

Gary Acker can best be described as a volunteer American freedom fighter in whom his fellow countrymen can take great pride. There is not the slightest doubt in my mind that Gary felt that he was being hired by an intelligence arm of the U.S. Government to fight for freedom against Communist forces in Africa. He was funded by our Government in the same manner as was the Lafayette Escadrille fighter squadron in France before our entry into World War I; the way our American volunteer group, the Flying Tigers, were funded to fly and fight in China against the invading Japanese in 1941; and, also, in the exact same manner our young American fighter pilots were supported in 1940 to fly with the RAF Eagle Squadron in England against the Nazi enemy of liberty in those dark days before our entry into World War II. Gary Acker certainly falls within the category of a modern day Flying Tiger, or for that matter, a Lafayette who, at age 23 when he arrived to join George Washington in 1776, was only 2 years older than 21-year-old Acker when he arrived in Angola in 1976. When Gary left for Angola in January 1976 he was firmly committed to rekindling the torch of freedom that had been left barely flickering by the U.S. Congress tragic and shortsighted decision to end all assistance to the forces fighting for Angolan freedom. As soon as Gary learned of the Communist aggression in Angola from a classified Sacramento newspaper ad request for professional assistance, he decided to go to Africa to do what he personally could to prevent millions of people from falling under a Marxist totalitarian dictatorship as had happened only 8 months before in South Vietnam. Of course he expected to get paid, but keep in mind that General Chennault's Flying Tigers personally received $500—in 1940 dollars—for every Japanese aircraft shot down.

But Gary's decision was reached not for reasons of money, glory, or excitement. He went to Angola in the belief that a man must do more than just hold to a set of principles; a man must also live by his principles. A proud American, he was sickened by the retreatist attitude of some of the leadership of this country. Gary was going to make his mission count, the forces of freedom would triumph, and he would play a part in it.

As we know, things did not work out that way. The pro-Western forces never even came close. But it was not due to the likes of men like Gary Acker or his companion freedom fighter Danny Gearhart of Maryland who was executed in Angola on July 10, 1976, after a kangaroo court trial.

Just 4 days after they arrived in Africa, Acker and Gearhart were captured in an ambush by a phalanx of Cuban-armed troops working for MPLA—the Popular Movement for the Liberation of Angola. Gary was subsequently sentenced by a phony court to 16 years in prison. He served nearly 7 of those years—unnecessarily harsh it seems to me—since Gulf Oil Corp., which pays Angola more than $500 million a year for the oil it takes out, could easily have exerted leverage on Gary's behalf years ago. After all, the entire Communist controlled part of Angola is supported almost solely by the oil money Gulf must pay to the Communist dictatorship.

To those who still believe in the principles of freedom, Gary's sacrifice of 7 of the best years of his life was admirable. I wish him well in rebuilding his life. He has a running start—two wonderful, helpful, loyal, loving parents to help him. Joyce and Carl Acker are terrific. They could not have fought harder to keep our U.S. Government working to gain the freedom of their "freedom fighter." God bless them.

And may we never forget our hero Daniel Gearhart or his loving wife and beautiful children. America is lucky to have such a dedicated man.●

LAWYERS COMMITTEE AGAINST U.S. INTERVENTION IN CENTRAL AMERICA

HON. JAMES WEAVER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. WEAVER. Mr. Speaker, I would like to call attention to action on the part of the Oregon State Bar Association, and a group of attorneys making up the Lawyers Committee Against U.S. Intervention in Central America, to denounce the Reagan administration's foreign policy in Central America. As a long-time opponent of foreign military aid, I commend these organizations for their concern and resolve in speaking out against these unconscionable policies.

I only hope that more citizens, organizations, and professional associations around the country will raise their voices against our interventionist foreign policy as these Oregon groups have. I strongly recommend the following letter from Ms. Peggy Nagae of Portland to all my colleagues:

DEAR CONGRESSMAN WEAVER: I am happy to announce that at the last Oregon State Bar Convention, a resolution against United States intervention in Central America was passed. It is very important that lawyers acknowledge the important role they play in U.S. politics and exercise responsibility in that role. By passing this resolution, we feel that fellow members of the Oregon bar made a definite statement about governmental overstepping. The specific resolution was, as follows:

Be it hereby resolved, That the Oregon State Bar supports the following principles based on United States and International Law, including but not limited to U.S. Const. art 1, section 9, cl. 11 and the War Powers Resolution, 40 U.S.C. section 1541 et. seq.:

We oppose any form of covert action or economic pressure by the United States, whether directly or through intermediaries, aimed at de-stabilizing governments in Central America.

Be it further resolved, That copies of this Resolution be sent to the Senators and Representatives in Congress from the State of Oregon, to the President of the United States, to the Secretary of Defense of the United States, to the Secretary of State of the United States, to the Chairman of the Foreign Relations Committee of the United States Senate and the House of Representatives respectively, to the Chairman of all other committees of Congress into whose jurisdiction such matters may fall, and to the Ambassador of the United States to the United Nations.

Presenter: Michael D. Royce●

DOCUMENTARY TELLS OF AMERICAN POWS' EXPERIENCES

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. OBEY. Mr. Speaker, on Sunday, December 5, from 7 to 8 p.m., NBC News will present an hour-long documentary "NBC Reports: Bataan, the Forgotten Hell." The documentary describes the experiences of several American veterans who survived the Death March of Bataan at the beginning of World War II and the tremendous brutality of their Japanese captors during 3½ years of imprisonment.

In the documentary, former POW's describe their terrible experiences in cruel and deadly prison camps where thousands died of starvation, disease, physical abuse, and outright execution.

NBC crews gathered their material in Bataan, Corregidor, and Japan, and survivors are interviewed on the sites of the battles and prison camps in the Philippines where they had been 40 years before.

This important documentary lets Americans know at long last the story of the suffering and sacrifices of those prisoners of war who endured Bataan and afterward. I highly recommend this program to my colleagues.

In Washington, the program will be shown on WRC-TV, Channel 4.●

LET'S TAKE A VOTE: STUDENT EDITORIAL

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. PURSELL. Mr. Speaker, I would like to take this opportunity to read into the CONGRESSIONAL RECORD an editorial by 16 year old Dane Peterson of Jackson, Mich. Dane's editorial, which appeared last month in the Lumen Christi High School paper, the Titan Times, reminds all of us that we do have more that just a responsibility to vote. I find it refreshing to see that someone so young is already actively looking for more ways to get his fellow students involved in such an important democratic practice. I proudly present the following editorial to the CONGRESSIONAL RECORD as a tribute to Dane and his fellow students.

The article follows:

LET'S TAKE A VOTE

(By Dane Peterson)

Is voting a moral obligation?

I believe it is. My own interest in politics comes from a heritage handed down in my family. This heritage states that one cannot be a good Christian without being a good citizen. In order to be a good citizen, one must take an active role in the political picture with it being a responsibility to be informed on the issues and the candidates.

Main reason why it is so important is that the government touches the lives of all people and since God has put us in a social structure, in order to be responsible for others and to help others we must do as much as possible to make the government responsive to all people. We can do this by voting and by helping others in any way we can to become more and better informed.

An old proverb says "as the twig bends, so grows the tree." which means people do as adults what they practice as young people.

We may be a part of the generation who is shying away from our moral obligation of voting. In the recent Homecoming King and Queen election, of the 1,083 students at Lumen Christi only 387 voted, or 36 percent. Voting statistics are based on voting records kept by Student Council.

Senior class led the voting with 56 percent. This is to be expected because they had the privilege of voting for their peers.

One of the problems with not having an underclassman court for Homecoming is that the underclassmen have little interest in the election of the king and queen. One way to get these students involved in the election and voting procedure would be to have an underclassman court involved in the Homecoming festivities.

Many of the reasons students gave for not voting were that it didn't make a difference in their lives, they forgot or they thought of the election as just a popularity contest.

Another aspect of the lack of involvement of the students can be found in the low level of enthusiasm at the Pep Rally and nonparticipation during Titan Week.

Now we don't pretend to have all the answers to these problems. Perhaps letter to editor or a suggestion column might be in order. Let us know what you are thinking.

If our experiences at Lumen Christi are to do a complete job of preparing us for the future, we must be more in tune with our world.●

PROMPT ACTION NEEDED ON THE IMMIGRATION BILL

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. McCLORY. Mr. Speaker, it would be most unfortunate if the 97th Congress adjourns without taking final action on the Immigration Reform and Control Act of 1982. This measure, with which I have been personally involved for the last 2 years as well as during the preceding 2 years as a member of the Commission on Immigration and Refugee Policy, culminates the efforts of virtually every possible political, economic, and social interest in the Nation. If we are to regain control of our national borders and regulate the flow of immigrants and refugees into our country, we must first establish the basic law upon which this control can be based.

Mr. Speaker, a most illuminating article in support of the position which I am endeavoring to advance appeared in the Wednesday, December 1, issue of the Chicago Tribune. The article by the Tribune's staff columnist Joan Beck deserves the thoughtful attention of every Member of this body. I am attaching Joan Beck's article to these remarks and invite your thoughtful attention to the message which she projects.

[From the Chicago Tribune, Dec. 1, 1982]

CAN IMMIGRATION BILL BE SAVED?

(By Joan Beck)

One of the most useful actions Congress can take in its lame duck session is to pass a stiff version of the Immigration Reform and Control Act proposed by Sen. Alan K. Simpson (R., Wyo.) and Rep. Romano L. Mazzoli (D., Ky.).

The Simpson-Mazzoli bill has already been okayed by the Senate and in somewhat different form, by the House Judiciary Committee. But unless Congress finishes work on it this month, three years of hearings, debate and bipartisan effort will be lost. The United States will be left without effective control of its porous borders and the rapidly increasing millions of illegal aliens.

An uncomfortable mix of compassion and guilt makes it hard for Americans to act sensibly in tightening controls on illegal immigration. We are distracted by mental snapshots of malnourished Mexicans trudging through the border desert in hopes of stoop-labor jobs and of helpless sweatshop workers rounded up by Immigration and Naturalization Service officers for deportation.

This is a nation of immigrants' offspring. To shut the golden door even an inch to illegal entrants feels elitist and mean. Besides, who else but undocumented aliens will do the menial chores too demeaning for such a rich people?

But 1880s Statue of Liberty poetry doesn't work as 1980s policy. What was once a legal, orderly, controllable flow of immigrants now includes at least half a million illegals a year. At least 6 million aliens are here unlawfully and the number may be far higher.

Much else is new since the last immigration legislation in 1965. Net immigration was the highest in the nation's history in 1980 and now accounts for half of all U.S. population growth. The economic ills, unemployment and high birth rate of Latin American nations—especially Mexico—spur hundreds of thousands of people to make the easy crossing of our borders illegally every year; many stay here permanently.

It's often argued that illegal aliens do jobs Americans won't and pay more in taxes than they cost in government benefits. But new data show that a big percentage of illegals hold jobs in construction and industry that pay well over minimum wages and millions of Americans take precisely the same jobs as undocumented workers. American unemployment could be cut substantially if the flood of illegal aliens could be abated.

Illegal aliens are also making increased use of state and federal antipoverty programs, in some areas more so than citizens. And the Supreme Court decision last June that children of illegal aliens have a right to public schooling raises the likelihood that further court actions will increase such rights.

Even if illegals were adding more to the economy than they were getting in benefits, it would be reason to change the situation. The moral and political peril of importing and exploiting helpless workers is a lesson this nation should have learned with slavery and its aftermath.

There are, however, problems with the Simpson-Mazzoli bill, most of which can be worked out before passage. It does aim at the right target: employers of illegal aliens. Jobs are the magnet that attracts most immigrants. Making it unlawful to hire those who are here illegally would help stem the tide of undocumented workers.

Unfortunately, this would necessitate some kind of reliable way to identify those who are here legally. The bill would require the President to design a fraud-proof system within three years. The House version mandates considering a telephone verification system similar to that used for checking credit cards; both versions slide over the controversial question of a national ID card which is anathema to many Americans.

Even if the bill eventually results in a national ID card as a price for regaining con-

trol over our borders, we can probably learn to live with it without loss of civil rights—just as we tolerate drivers' licenses and Social Security numbers.

The bill would give permanent resident status to illegal aliens who have been in the United States since before Jan. 1, 1977, and temporary resident status to those here before Jan. 1, 1980. Both groups could eventually become naturalized citizens.

Such a humane action would be expensive. It's estimated that the cost of adding new eligibles to the nation's social programs, even after a proposed three year waiting period, would cost at least $10 billion. But it's the only way to provide legal protections to millions of people already permanently in the United States in second-class limbo.

Such a drastic move can only be justified by reducing the flood of illegal aliens to a small trickle. Since it is impossible to police our long borders adequately or round up those who overstay visas, workable sanctions to stop employers from hiring illegal aliens are essential.

Failure to pass the Simpson-Mazzoli bill would aggravate and perpetuate some of the nation's most worrisome problems, contribute to unemployment and increase pressures for the nation to become more bilingual and bicultural. It would also tell the world we have given up on keeping our immigration the orderly and generous process that has served the nation so well for more than a century.●

HUMAN RIGHTS AND EL SALVADOR

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. AuCOIN. Mr. Speaker, 2 years ago, the brutal murders of four American churchwomen in El Salvador outraged us and brought forth demands for an investigation from people all over the United States. Finally, after months of obfuscation and self-serving excuses on the part of the Salvadoran Government, a Salvadoran court has ordered five former national guardsmen to stand trial for these deaths. A long-awaited example of human rights improvement in El Salvador? Not quite.

The proceedings thus far are most notable for what they exclude. There is no indication that the court will allow introduction of evidence—of which there is no lack—on the role of Government officials in the deaths. To the contrary, it is as though by making an example of the five indicted men, the Salvadoran Government seeks to obscure its role in the murders, avoiding all responsibility.

The Reagan administration is calling this trial a human rights success. It is understandable—for the administration has precious little else to work with in a country where human rights continue to deteriorate. In mid-October, 15 Salvadoran political and union officials were seized in separate incidents. Eight are still being held in military jails, the whereabouts of the others is unknown. Two national guard officials, identified as having given the order to assassinate two U.S. labor representatives and a Salvadoran agriculture official in January of 1981, were recently released by the Salvadoran Government. And the incidence of murders and disappearances within El Salvador marches along at a steady, brutal pace.

By continuing to supply massive amounts of military hardware to El Salvador, the United States undercuts any chance for a negotiated settlement and runs the risk of plunging the entire region into conflict. The American people know this and are calling for an end to U.S. military aid.

On November 2, Multnomah County, Oreg., citizens had the opportunity to vote on an initiative calling for an end to U.S. military assistance to El Salvador; 135,050 people, 61 percent of the voters in Multnomah County, a middle class, mainstream county, voted for the initiative.

Rather than touting the upcoming trial as an example of Salvadoran commitment to human rights, President Reagan should listen to what people across the United States are telling him—that nothing less than real, sustained commitment to human rights justifies our involvement in El Salvador.●

DIFFERING VALUES IN ACADEMIA AND INDUSTRY

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. LaFALCE. Mr. Speaker, more and more, universities and businesses are collaborating on research and development that is so crucial to our scientific advancement. Cooperation between industry and academia blends the best resources that each has to offer, and the results are of mutual benefit to the academic and the business communities and the public at large.

If, in fact, "necessity is the mother of invention," then the academic community's need for financial support has certainly nurtured the assistance that has historically been provided by the business community. As we witness the inevitable closer ties between business and academia, it is important to keep in mind that their goals are not always identical, although they may be joined as partners on a common enterprise. The following editorial from Science magazine reflects the often diverging interests of these partners. I commend it to my colleagues.

[From Science, Sept. 17, 1982]

DIFFERING VALUES IN ACADEMIA AND INDUSTRY

(By Philip H. Abelson)

Many universities are examining searchingly their relations with industry. The basic reason is financial. The academic community is nervous about federal funding of research. Some universities report that they have retained a satisfactory level of support, but half or more have not. Apprehension about federal support has been coupled with other financial problems of the universities brought on by recession and inflation.

In this environment it has become fashionable to look to industry as a possible source of funds. Already a number of universities have entered into contracts involving substantial sums, and additional arrangements will doubtless follow. In general, industry has not been devoting a sufficient sum to basic research within its own laboratories or elsewhere. It was treated to a lesson when a large number of companies were caught flat-footed by academic developments in molecular biology. Other sectors of industry have become concerned about future supplies of personnel trained in computer-related fields.

Despite an apparent basis for close cooperation between academia and industry, the likely outcome is far from a cure-all for the financial ills of the universities. The money spent by industry at universities is unlikely to top 10 percent of the federal funds they now receive. Close cooperation between universities and industry could lead to harmful tensions induced by competing value systems. Universities already have their share of such differences. The humanists look down on the engineers and vice versa; the various science departments usually have little interaction. However, the faculty share common goals in the pursuit of knowledge and in fostering the education of the young. Most of the faculty place these goals above that of attaining personal wealth.

The value system and the mode of conducting research and development in industry are quite different from those of academia. To survive, a company must make a profit. It must evolve with the changing times. And it must be well managed, with a clearly defined chain of command. The bankruptcy courts are very busy these days. Only the strong and nimble remain viable.

In industry, the pressure of the bottom line inevitably dictates policies with respect to R & D. The goal is not pursuit of knowledge; it is the attaining of proprietary advantage. Accordingly, research results obtained at industrial laboratories often go unpublished or are released slowly in the patent literature. In the university, fast publication of scientific findings is eagerly sought. Much of the activity in industry is conducted by interdisciplinary teams whose members are arbitrarily assigned to tasks. Projects may be suddenly terminated. Only a favored few in the typical industrial laboratory have the privilege of personally choosing a research area and sticking with it through discouraging phases of effort. This frenetic tempo is incompatible with the tempo of graduate training in the natural sciences. In their thesis research, it is essential that students pursue a line of inquiry patiently and in depth.

These examples of differing values and procedures make it obvious that close collaboration between academia and industry is likely to create new problems and tensions. That is not to say that cooperation is

undesirable. One time-tested method of cooperation is that of consultation, preferably conducted off-campus. Professors spend at most an average of a day a week at this. They bring their expertise to industry and in turn learn of new developments and new job opportunities for their students.

However, some of the new arrangements between universities and industry come close to inserting an industrial enclave into the campus. It would be unfortunate if such examples were carelessly multiplied. Rather, emphasis should be placed on avoiding relationships that might damage the universities and their ability to carry out well their essential functions of undergraduate and graduate education.●

TENNESSEE-TOMBIGBEE WATERWAY

HON. TOM BEVILL

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. BEVILL. Mr. Speaker, the opponents of the Tennessee-Tombigbee Waterway have consistently disseminated misinformation about this project to the Members of the Congress and the public.

The most vicious and misleading attack was contained in a recent allegation by the Environmental Policy Center that construction of the Tennessee-Tombigbee has not benefited minorities because of flagrant acts of racial discrimination. Nothing would be further from the truth.

My distinguished colleague from Ohio and a leading member of the Black Caucus, Mr. STOKES, was personally maligned by these allegations because of his strong support for completion of the waterway. Mr. STOKES has investigated these charges by the Environmental Policy Center and issued a comprehensive report on his findings. I ask unanimous consent that Mr. STOKES' report be printed in the RECORD and encourage each Member to carefully review his findings.

Recently, the Cleveland Plain Dealer, carried an article written by a Washington Bureau reporter captioned, "Should Stokes Have Backed 'Boondoggle' Canal?" The reporter begins the article with the misleading and dramatic statement that "Rep. Louis Stokes is under fire for persuading some of his Black House colleagues to vote for a controversial deep south canal that never has met federal quotas for minority hiring."

The reporter's assertion that I am under fire is based upon the reporter's knowledge of only one letter written by Brent Blackwelder, Executive Director of the Environmental Policy Center, Washington, D.C. In the article singling me out for special attack, the reporter near the end of the article, reports that Rep. Mary Rose Oakar voted for the project, as I did, but that Reps. Eckart and Mottl opposed it.

One must question how I am singled out for a special story attacking my vote on a project in which two Cuyahoga County representatives vote for it and two vote against it. Additionally, one must question the purpose or reason for singling me out when ten of the twenty-three Members of Congress from Ohio voted in favor of the project, as I did.

In singling me out for attack and utilizing the letter of Brent Blackwelder, the reporter made it look as though I and other members of the Congressional Black Caucus were voting for a project that was not in the best interest of Black people in terms of minority hiring.

I was disappointed that the reporter, who spent an hour in my office interviewing me during which time I provided data justifying my vote, chose to omit such material from the article, thereby depriving the article of both fairness and balance.

Since the reporter chose, for reasons of her own to omit these facts, I hereby resort to this medium to put the facts on the table.

I told the reporter that two years ago, when the bill was on the Floor, a white paper had circulated accusing the Army Corps of Engineers and the Tennessee Tombigbee officials of denying minorities meaningful participation in the multi-million dollar project. I told the reporter that as the top-ranking Black Member of the House Appropriations Committee, I went to Tom Bevill, Chairman of the Subcommittee on this bill and asked him about it. I explained to the writer that he told me that it was absolutely untrue and invited me to come down to tour the site and ascertain the facts for myself. I told the reporter that I accepted that invitation and visited the project. That while there, I took a helicopter trip over the Tennessee, Mississippi and Alabama segments of the project. That I also talked with the Army Corps of Engineers officials, employees and Blacks in a leadership position in those states.

I specifically told the Cleveland Plain Dealer reporter that I also met Mr. Wendell Paris, Executive Director, Minority People's Council, who represented over 4,000 people organized into 15 or more County Chapters bordering the Tennessee Tombigbee.

The reporter was also informed that when Mr. Paris came to Washington to testify in favor of this project that at his request, I accompanied him to the hearing and was permitted to sit in on Chairman Tom Bevill's Subcommittee of which I was not a member. The reporter was provided with a copy of Wendell Paris' testimony in which he stated, "The major goal of our organization is to insure that minorities and poor people receive a fair and proportionate share of all the benefits of this $2 billion federal public works project." While Mr. Paris did criticize the Corps for not complying with all established goals, he stated in his testimony, "The Minority People's Council has consistently supported full federal funding for construction of the Tennessee Tombigbee Waterway, provided that minorities, women and poor people are given an equitable share of the jobs, training contracts, and other benefits of the project."

I also provided that reporter with two letters which she chose not to quote in the article. Both letters were written to the Subcommittee on Energy and Water Development by Dr. Aaron E. Henry, nationally recognized civil rights leader and President, Mississippi State Conference, N.A.A.C.P. In both letters, he urged full funding for this project and in a letter dated March 18, 1982, explicitly stated, "To date, over $35 million of construction work has gone to minority business . . ." In the same letter, this distinguished civil rights leader said, "Tenn-Tom flows through one of the most economically depressed regions in the nation. We respectfully request this Committee and the Congress to continue construction of this project. . ."

Since the article appeared, I have talked again with Mr. Wendell Paris, Chairman of the Minority Council who stated, "All I have tried to say is that we are not satisfied. We have never wanted this project shut down." Dr. Aaron Henry says, "I still vigorously support it because what employment there is is due to Tennessee Tombigbee." He stated that he wants the same thing for Blacks in the Delta that was done for whites in Appalachia.

In the article, the reporter attempts to give the impression that Blacks in the South will not support the project this year. In a letter written since the Plain Dealer article by Ms. Esther M. Harrison, Executive Director, Construction and Business Assistance Center, Inc. to Mr. Brent Blackwelder, she says, "I am writing this letter in a two-fold capacity. First, as the local Branch President of the N.A.A.C.P. and as Director of the Agency that deals with contracting assistance for disadvantaged and minority business." Ms. Harrison then says, "The N.A.A.C.P. has never gone on record opposing the project nor has it made statements that minorities were not benefitting. The State N.A.A.C.P. has always given its full support for continued funding and construction of the project and has made this known to the Congressional Black Caucus."

I am at a complete loss as to why the Plain Dealer reporter did not report that the Corps of Engineers has established a training program in conjunction with this project wherein 101 trainees have graduated from this program. 50.5 percent of the graduates are minorities and 23.8 percent are female. Additionally, over $5 million has been awarded in 8-A sub-contracts and $32 million in sub-contracts to minority firms.

In investigating the circumstances around the reporter's article, I became curious as to what kind of minority hiring record was evidenced by the Environmental Policy Center, whose Executive Director, Brent Blackwelder, is quoted extensively in the article. For instance, in one paragraph, Mr. Blackwelder excoriates the Army Corps of Engineers for setting 30 percent Black employment as a goal. He stated that, "This would be like setting a goal of hiring 30 percent Blacks for a youth jobs program in the District of Columbia. The District's population is about 70 percent Black." The fact is that the Corps of Engineers has consistently maintained a 27-30 percent goal and under their affirmative action plan, the overall percentage minority utilization has averaged in the 23-27 percent range. Now let's look at the minority employment record of the Environmental Policy Center of which Mr. Blackwelder is Executive Director. It consists of two organizations and two policy making Boards of Directors. One Board of Directors has 16 members, none of whom are Black and the other has 9 members none of whom are Black. Additionally, the Environmental Policy Center has 30 employees, only two of whom are Black. One employee is a clerical personal secretary to the President of the Corporation and one is a lobbyist. Ms. Louise Dunlap, President of this Corporation, which has no Blacks making policy and less than 1 percent Black employees also admitted that they have no affirmative action plans or goals in existence. All of this is in Washington, D.C., a city more than 70 percent Black. Ms. Dunlop also advised me that to her knowl-

edge, their record on hiring Blacks, as deplorable as it is, is the best in the environmental field. She is probably correct. The famous Sierra Club in Washington, D.C. admits that of their 14 employees, only one is Black.

In a few days, in this lame duck session of Congress, we will once again be voting on this $1.8 billion jobs project known as the Tenn-Tom Waterway Project. To stop this project would cause the loss of 5,000 jobs, a large number of which would impact heavily upon Black Americans who reside in this tri-state area.

It is the height of callous indifference and arrogance for an environmental group with the record of the Environmental Policy Center to tell the Congressional Black Caucus that they should not be supporting this project because it will perpetuate a pattern of racial discrimination. As for my voting for a so-called boondoggle canal, I am painfully aware that nationwide, Black adults are unemployed at a rate of 20.2 percent and that Black youth are unemployed at a rate of 46.7 percent. Perhaps the environmentalists can afford the luxury of being concerned about the trees in the forests. I have to be concerned about human misery amongst the living.●

U.S. QUERIES EL SALVADOR ON DEATH OF AMERICAN

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. LELAND. Mr. Speaker, today is the second anniversary of the slaughter of four American nuns working in El Salvador. And nearly 2 months since the mysterious death of a young American, Michael Kline.

One can also say this marks the El Salvadoran Government's continued refusal to honor the rights of its citizens. Repeatedly, Congress has called for an end to this blatant and unjust denial of freedom. The perpetual discrepancies between official reports and contrary evidence can no longer be accepted. Cooperation and mutual understanding are always the keys to successful negotiating. However, murder, disappearances and the general disregard for social welfare negate that possibility. To relax our stance against this violent, inhumane existence would make us an accomplice to murder.

One of the requirements for any military aid to El Salvador is certification of continued investigation of the shooting of the American churchwomen in 1980. Instead of resolving these assassinations in order to prevent further brutality another blanket of lies is being thrown over the fire to smother the truth. I want to insert this article describing the vague demise of Michael Kline, an American youth. We cannot allow these deaths to slip into the safe haven of past issues. Nothing has been resolved. The rights as well as the lives of innocent El Salvadorans continue to be pulverized. El Salvador, under its present regime, cannot in all good conscience be supported by the United States of America.

[From the Washington Post, Nov. 19, 1982]

U.S. QUESTIONS SALVADORAN KILLING OF AMERICAN 'DRIFTER'

(By Christopher Dickey)

SAN SALVADOR, Nov. 18—U.S. officials here are investigating the possibility that a young American picked up for questioning by Salvadoran soldiers last month and reportedly killed while trying to escape may have been murdered.

The officials said in interviews this morning that they were concerned about apparent discrepancies between the soldiers' initial account of the Oct. 13 killing of Michael David Kline, 24, and later medical reports that raise the possibility he was summarily shot.

The death of Kline, described as a "drifter," comes as the Reagan administration is already under heavy pressure from Congress to show that the government it backs here is making progress in investigating and prosecuting the murders of four American churchwomen in December 1980 and two U.S. labor advisers a month later.

Members of the Salvadoran military have been implicated in both cases, and the United States has had only limited success in pushing for substantive investigations and prosecutions. This week, a Salvadoran judge ruled that evidence against five National Guard soldiers held in connection with the deaths of the four women was sufficient for trial.

Kline's death has placed the U.S. Embassy here again in the difficult position of pressing for evidence that could damage overall U.S. policy goals in El Salvador by making even more difficult the certification of human rights improvement demanded by Congress.

In a speech last month and later interviews U.S. Ambassador Deane Hinton warned that Washington's economic and military aid, needed by this country's rulers in their fight against leftist insurgents, could be cut off over the human rights issue in general and the American murder cases in particular.

A U.S. diplomat authorized to speak about the case described Kline's death as "sensitive" and said, "The important thing now is how it is resolved by the Salvadoran authorities." A new examination of Kline's body by Salvadoran doctors at the military hospital is under way.

"We are trying to verify the soldiers' story," the diplomat said. "It could be he did try to escape and maybe they dropped him and then came up close to finish him off."

Much about Kline is a mystery, including most details about his background, his motives for traveling to one of the most war-torn provinces in El Salvador, and why he was carrying $500 in traveler's checks but no passport or other documents.

But there is also much about Kline's death that has the ring of the commonplace in this war where it is estimated that more than 35,000 people have died in three years.

The killings of Americans, as one Western diplomat put it, tend to "synthesize the whole problem here" by drawing attention to the conditions in which Salvadorans die.

The picture of Kline put together by U.S. officials is of a young "drifter" born in Tijuana, Mexico, to a German-born mother who has returned to her home near Hamburg and a father who lives in Chicago but who, according to the U.S. account, was said to be uninterested in the case.

A U.S. consular report from West Germany said Kline's mother, Renate Margaret Kline, believed he wanted to be a journalist.

There are spotty records of Kline buying traveler's checks in Alaska earlier this year, leaving Costa Rica in May, and reporting the loss of the checks and a passport in Cancun, Mexico, on Sept. 6, He apparently found them again before traveling to Guatemala later in the month, then crossed into El Salvador on Oct. 11, according to Guatemalan records given U.S. officials. The documents were reportedly gone when he died.

Kline was not positively identified as a U.S. citizen until Monday, when dental records arrived here. It was not until then, U.S. officials said, that they were able to press the investigation.

First word of Kline's death came when the head of El Salvador's Armed Forces Press Committee, Col. Marco Aurelio Gonzales, took the unusual step of calling a press conference here Oct. 15 to tell foreign journalists that a gringo mercenary," possibly an American or Canadian, has been killed by government troops in Morazan province.

The press office reportedly claimed at one point during the conference that Kline had seized one of the soldiers' guns and fired at them before they killed him, but this is nowhere corroborated by the basic account of what happened. This account comes from Army Sgt. Jose Desposorio Lopez, who was directly involved in the incident.

As U.S. officials recount the story from Lopez's affidavit and an interview with him on Oct. 21, Kline was riding a bus that runs from the city of San Miguel to the garrison town of San Francisco Gotera about 100 miles northeast of the capital when was it was stopped by the army at a routine checkpoint.

Lopez found Kline suspicious on the basis of his "long hair, dirty clothes and rubber sandals" and lack of identification papers, he said in his report. Kline was ordered detained.

Kline was taken to the bivouac at the checkpoint and his belongings searched. Initial accounts based on the press conference cited the report that he carried a knapsack, an air mattress, insect repellent, medicine (Alka-Seltzer) and lubricating oil that "could be used for cleaning a weapon" as evidence that he might be a guerrilla.

U.S. officials say that Lopez told them Kline spoke little or no Spanish and did not seem to understand everything he was told. He carried no identification except for the traveler's checks, Lopez reported.

Lopez said he, a solider named Hector Rubina Reyes and another referred to only as "Cristobal" flagged down a pickup truck to take them to headquarters at San Francisco Gotera.

According to Lopez' account the truck slowed about four miles down the road and Kline lunged for one of the soldiers' rifles. When he failed to get it he jumped off and began running uphill.

Lopez told U.S. officials Kline was ordered to stop, but kept running and was shot down at a distance of about 30 feet.

"We have problems with the sergeant's story," said one embassy official. "He reports three shots two in the neck and one in the back, all from the back".

But photographs of the body and the first medical report on the case, written the day after the killing, showed that one of the

shots was in the head, from front to back, according to U.S. officials.

Moreover, the doctor who wrote that report noted that there were no powder burns on the wound in Kline's back, but he did not mention the state of the wound in his head (which has yet to be determined conclusively) and did not mention the third wound in the body at all.

The officials said they are awaiting the new report from the military hospital before deciding what further steps to take in the investigation.

VOLUNTARISM AT WORK IN THE 10TH DISTRICT OF VIRGINIA

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. WOLF. Mr. Speaker, at a time when voluntary efforts are being encouraged nationwide to meet the special needs and demands of our cities and communities, it gives me great pleasure to bring to the attention of my colleagues in the House of Representatives an extraordinary example of voluntarism at its best.

Last spring a group of parents whose children attend Glen Forest Elementary School in the 10th District of Virginia, which I represent, recognized the importance of a recreational facility in the physical and mental development of their children. At that time, the students' only play area was a small, flat and barren field.

These parents organized and coordinated a full scale effort to finance and construct a playground in the schoolyard. The dedication of these parents, who did the manual labor themselves; the faculty, students, staff, and the hundreds of citizens, businesses, and clubs helped make the playground project a successful and fun community event.

The generous contributions of money, time, services and equipment have resulted in a uniquely beautiful playground that will continually challenge the imagination of future classes of children at Glen Forest Elementary School.

I fully appreciate the enthusiasm and involvement it took to make this project successful and I want to take this opportunity to congratulate and thank everyone who participated including:

Bailey's Crossroads Host Lions Club, Fairfax County Park Authority, Arlington Fairfax Elks Lodge No. 2188, Charles E. Smith, Inc., Wild and Wooly Needlecraft, Mr. Thomas M. Davis III, Metro Antenna, Bailey's Crossroads Volunteer Fire Dept., Fairfax County Fire Department, Dunn Loring Station.

Southern Builders, Chapel Valley Nursery, Southern Railroads, Perceptions of Virginia, Inc., Hodges Tractors, Duron Paints, Dyer Brothers Paint, Spring Hill Motor Lodge, Lake Barcroft Women's Club, Arlington Unitarian Cooperative Preschool.

Smith and Sons Equipment Corp., Alwards Garage, Glen Forest Garden Club, Woodson High School/Mr. Simm's Class, Meenahan's Hardware, Fairfax County Dept. of Transportation, Dick Herriman Ford, Metal Distributors, Inc., Anderson Excavating, LRC Printing, Curray Copy Center, Walter Brothers Printing.

Glen Carlyn Baptist Church, Culmore United Methodist Church, Voluntary Action Center/Fairfax Co., Girl Scout Cadet Troupe No. 2387, Honeycutt's Inc., Giant Food, Willston Center, Dr. Richard B. Hicks, VEPCO, C & P Telephone, Sea Galley.

Jeb Stuart High School: Mr. Kobus' classes, Key Club, Keyettes, Civitan, Civinettes; Mr. Joe Gass, Jerry's Sunoco, Spencer Lock Company, S. J. Bell Contractors, KMT Contractors, Southern Office Supply, Advanced Bathroom Design, Carpet Bazaar.

Pizza Hut, Burke Lumber, Chuck E. Cheese Pizza Time Theater, Dino's N.Y. Style Pizza, Dart Drug, Arthur Treacher's Fish and Chips, Hechinger's, Shanghai 4-5-6, Wooten Associates.

Brownie Troop No. 342, Bekins, Natural Foods Supermarket, Culmore Pizza, Donut King, Reston Farm Market, Chesapeake Seafood, McDonalds, Roy Rogers.

Mr. and Mrs. H. Nathan, Mrs. Lillie Mae Harris, Plus Supermarket, Peking Gourmet, Mr. Mike Perez, Magruders, Dr. Alfred C. Griffin, Safeway, Inc., and Fairfax County Public Libraries.

Erol's Color TV, Dr. Jerome Goldfarb, Falls Church Concert Band, Krispy Kreme Doughnuts, Wonder Bread, Tiffany Bakery, Culinary School of Washington, Georgetown Bagelry, Bread and Chocolate, Coca Cola.

Mr. Bill Moran, Northern Virginia Land, Inc., Magnifico's Pizza, Old Chicago Pizzaria, Mrs. Maggie Capozio, Subway Sandwich Shop, Cox Farms, Brownie Troop No. 342, Serafino's, Joe's Place.●

SUMMARY OF EARLY WARNINGS ON SPENDING BILLS

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. ASPIN. Mr. Speaker, the following early warning on the Interior appropriations bill was prepared by the staff of the Budget Committee:

EARLY WARNING

H.R. 7356, INTERIOR AND RELATED AGENCIES APPROPRIATION, FISCAL YEAR 1983

Committee: Appropriations.
Subcommittee: Interior.
Chairman: Mr. Yates (Illinois).
Ranking Minority Member: Mr. McDade (Pennsylvania).
Scheduled: Friday, December 3, 1982.

I. Description of bill

This bill provides $7,604 million in budget authority and $5,179 million in outlays for discretionary programs in the Department of Interior and for related agencies for fiscal year 1983. Such funding has already been provided in the Continuing Appropriations Act (Public Law 97-276). This regular appropriation will supersede and replace funds provided in the continuing resolution. The effect of this bill, therefore, is to provide an incremental change to the current level of spending that is already provided by law.

II. Comparison with budget targets

Now that fiscal year 1983 has started, there are two budget targets to consider. The first is the aggregate ceiling on budget authority and outlays that was specified in the First Budget Resolution for fiscal year 1983. Pursuant to section 7 of that resolution, the aggregates automatically become binding ceilings on October 1. Summary table B, below, shows that while the current level of budget authority, based on enacted law, is substantially under the budget resolution ceiling, the current level of outlays is over the ceiling.

The second target is the 302(b) target provided for this subcommittee when the Appropriations Committee subdivided its share of the First Budget Resolution's budget authority and outlays. These are the targets which the Budget Committee scorekeeping system uses as a measure of spending action. These targets are separated between discretionary spending, over which this subcommittee has control, and mandatory spending, over which it does not. While the overall resolution ceiling has been breached by other bills, Summary table C, below, shows that, with this bill, the subcommittee would remain under the 302(b) targets for discretionary spending that were provided in the first resolution. This bill has no impact on the current level of mandatory spending.

III. Summary tables

[In millions of dollars]

	Budget authority	Outlays
Summary table A.—Comparison of continuing and regular appropriations, discretionary spending: [1]		
1. Continuing appropriations (Public Law 97-276) [2]	7,881	5,352
2. This bill (H.R. 7356)	7,604	5,179
3. Over (+)/Under (−)	−277	−173
Summary table B.—Comparison with current level and ceilings:		
4. Budget resolution ceilings	822,390	769,818
5. Current level	806,948	775,026
6. Over (+)/Under (−)	−15,442	+5,208
7. a. Impact of this bill	−277	−173
b. Scoring adjustment due to this bill [3]	+85	+85
8. Over (+)/Under (−)	−15,634	+5,120
Summary table C.—Comparison with 302(b) subdivisions, discretionary spending: [1]		
9. 302(b) targets	7,650	5,335
10. Current level	7,881	5,352
11. Over (+)/Under (−)	+231	+17
12. Impact of this bill	−277	−173
13. Over (+)/Under (−)	−44	−156

[1] This bill does not affect the current level of mandatory spending.
[2] The scoring for both the continuing and the bill include amounts appropriated for the entire year in Public Law 97-276 for SPRO, Smithsonian construction, and the Native Hawaiian Study Commission.
[3] Enactment of this bill would also affect the scoring of certain proprietary receipts and permanent appropriations not in the jurisdiction of the Appropriations Committee.

IV. Possible future requirements

The Budget Resolution does not assume funding for any additional programs within the jurisdiction of this subcommittee.

V. Credit

The First Budget Resolution for Fiscal Year 1983 also contains targets for credit program amounts. As with budget authority and outlays, the Appropriations Committee is allocated amounts for credit program amounts and subdivides those amounts among subcommittees. The table below shows the additional credit assistance provided by this bill; credit assistance program levels already enacted, including action in the Continuing Appropriations Resolution;

and credit assistance programs not yet acted on. These amounts are then compared to the Appropriations Committee subdivisions.

	Direct loan obligations	Primary guarantee commitments	Secondary guarantee commitments
1. 1983 credit program limits already enacted	15	36	
2. Additional program limits in the bill	+5	−20	
3. Limits assumed in the budget resolution not acted on in the bill and other amounts not subject to annual limits	677	−667	
4. Possible total for subcommittee	697	−651	
5. Credit subdivisions	800	−625	
6. Over (+)/Under (−) Subdivision	−103	−26	

VI. Definitions of terms in the summary tables, section III

Line 1. Continuing appropriations (Public Law 97-276): This is the amount of discretionary budget authority outlays provided by that law, for programs funded by this subcommittee, as estimated on a full-year basis pursuant to congressional scorekeeping rules and GAO interpretation.

Line 2. This bill (H.R. 7356): This is the amount of discretionary budget authority and outlays that will be provided to the agencies in questions if this bill is enacted—in that case it would supersede the continuing appropriations.

Line 3. Over(+)/Under(−): Line 2 minus line 1, which is the net impact on current level of this bill.

Line 4. Budget resolution ceilings: These are the total amounts of budget authority and outlays in the First Budget Resolution for fiscal year 1983.

Line 5. Current level: This is the official estimate of total fiscal year 1983 spending, based only on existing law, including the continuing appropriations Public Law 97-276).

Line 6. Over(+)/Under(−): Line 5 minus line 4.

Line 7a. Impact of this bill: See line 3.

Line 7b. Enactment of this bill would also affect the scoring of certain proprietary receipts and permanent appropriations not in the jurisdiction of the Appropriations Committee.

Line 8. Over(+)/Under(−): Line 6 plus line 7.

Line 9. 302(b) targets: The targets for discretionary spending for this subcommittee, set by the Appropriations Committee pursuant to the Budget Act.

Line 10. Current level: This is the official estimate of total fiscal year 1983 discretionary spending for this subcommittee, based on existing law, i.e., the continuing appropriations (Public Law 97-276).

Line 11. Over(+)/Under(−): Line 10 minus line 9.

Line 12. Impact of this bill: See line 3.

Line 13. Over(+)/Under(−): Line 11 plus line 12. This compares the reported bill (H.R. 7356) with its 302(b) targets.●

THE HARD TRUTHS OF THE BREZHNEV LEGACY

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. DERWINSKI. Mr. Speaker, with the death of Leonid Brezhnev, there has been a great deal of speculation, and a good deal of it wishful thinking, over the future of United States-Soviet relations and of the role of Yuri Andropov. The Heritage Foundation recently released a background paper by W. Bruce Weinrod, director of foreign policy and defense studies of the foundation, on the implications of the Brezhnev legacy. I wish to insert it for the Member's attention:

THE HARD TRUTHS OF THE BREZHNEV LEGACY

(By W. Bruce Weinrod)

The death of Leonid Brezhnev is already producing an assortment of favorable reminiscences, as well as hopeful expectations for the course of future U.S.-Soviet relations: we hear Jimmy Carter fondly recalling Brezhnev's fervent desire for world peace and Cyrus Vance stating that Brezhnev's greatest legacy is his arms control efforts.

Do these and other similar generally sympathetic comments about the Brezhnev era reflect the actual Soviet record under Brezhnev? This question is critical, for how it is answered will influence the U.S. approach to dealing with the U.S.S.R. in the immediate post-Brezhnev era. The U.S. will be ill-served by romanticizing and distorting the Brezhnev legacy.

A pluralistic world was completely unacceptable to Brezhnev. The most dramatic demonstration of this is the "Brezhnev Doctrine" of 1968. Brezhnev used this to justify the Soviet invasion of Czechoslovakia in 1968, the invasion of Afghanistan in 1979 and the suppression of Polish liberties in 1981. This is part of the Brezhnev legacy.

The Brezhnev legacy threatens the security of the free world. Just in the past decade, the Soviets have added 733 nuclear-capable missiles (land, sea and air) and have increased their warhead supply by over 4,000. Since SALT I and the start of the so-called détente era, when the strategic equation was supposed to be stabilized, the Soviets have added, among others: several hundred later model SS-11 rockets, over 800 SS-18s, SS-19s and SS-20s; over 50 nuclear subs with about 2,000 nuclear warheads; and over 150 Backfire intercontinental bombers. Despite the well-publicized "Brezhnev freeze," in which he announced in March 1982 that the Soviets would stop further deployment of SS-20s targeted on Western Europe, deployment has continued.

The Soviets and their Warsaw Pact satellites have continued to increase what already was conventional weapon superiority over the West. In all, Brezhnev's Soviet Union is, at his death, spending roughly 40 percent more on military outlays than is the United States. And Moscow is allocating roughtly 12 percent to 15 percent of its GNP to military spending; the U.S., even with current spending hikes, is only at about 6 percent of GNP. From 1971 to 1981, the U.S.S.R. outspent the United States militarily by around $400 billion. During the past decade, Brezhnev added 10,000 new heavy and medium tanks, 8,000 pieces of artillery and 765 combat aircraft. Just since Reagan took office, the Soviets have added 2,000 tanks, 1,350 fighters and fighter-bombers, and 4,500 fighting vehicles. This is an unavoidable hard truth of the Brezhnev legacy.

Not only did Brezhnev snuff budding liberty and pluralism in Eastern Europe, he also provided substantial aid to terrorists trying to disrupt Turkey's pro-democratic and pro-Western government and has continued attempts to exploit Iran's instability. While Americans were being held hostage, Brezhnev continued to fan anti-American fervor in Iran.

In Asia, the Soviets financed and encouraged the North Vietnamese invasion of the South, in violation of the peace agreement of 1973, and also is financially underwriting the Vietnamese occupation of Cambodia. The Soviets under Brezhnev continued to refuse to discuss the return to Japan of islands seized at the end of World War II; in contrast, the U.S. voluntarily returned Okinawa, won at the cost of bloody fighting, to Japan.

In the Middle East, the Soviets encouraged Nasser's blockade of Israel in 1967, which precipitated the Six-Day War, and subsequently supported the Arabs in the 1973 war. A Soviet-supported coup in 1978 in South Yemen has made that nation a protectorate of the Russians, and the Soviets have transferred large amounts of arms to both sides in the Iran-Iraq war, encouraging instability in that region.

In Africa, the Soviets under Brezhnev have aided the most radical and destabilizing groups, including the African National Congress and SWAPO. Moscow is aiding the Polisario guerrillas fighting against America's ally, Morocco. Further south, the Soviets brought the Cubans into Angola. Closer to the United States, Brezhnev continually sought to violate the understanding ending the Cuban missile crisis by trying to expand the Soviet submarine base at Cienfuegos.

The Brezhnev legacy is pock-marked by Soviet treaty violations. Experts can cite continuing Soviet violations of the SALT I Treaty—supposedly a symbol of Brezhnev's commitment to arms control. Moscow trains and supports terrorists from the PLO to Libya to the attempted assassin of Pope John Paul II. The Brezhnev legacy is filled with unremitting domestic repression as well.

What then are the hard truths of the Brezhnev legacy? The answer: Unremitting efforts to gain advantage at the expense of the United States and the free world and an unyielding hostility to pluralistic societies.

Can the future bring improvements in U.S.-Soviet relations? Perhaps Moscow's new leadership will seek to relax world tensions. U.S. policy, however, cannot be based upon hopes that have often proved illusory in the past.

The hard truths, learned from painful experience, teach that the United States should continue to pressure the Soviets, forcing them to make difficult choices in terms of foreign involvements and the allocation of resources. If Moscow decides to move toward genuine peace, Washington will know it soon enough. Unless and until the Soviets alter their course in a meaningful way, such as allowing independent trade unions in Poland, or permitting a genuinely independent government in Afghanistan, conciliatory gestures from the United States are inappropriate. The fundamental fact is that it is the realities of the Soviet Union

and not the individuals who develop policies which govern U.S. decisions. The burden must be on Moscow's new leaders to prove that they are not the heirs of the Brezhnev legacy.●

NATIONAL PUBLIC RADIO LACKING IN FAIRNESS

HON. THOMAS J. BLILEY, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. BLILEY. Mr. Speaker, each year the American people pay millions of dollars in taxes to support National Public Radio. For that money people expect professionalism, quality, and fairness—most of all: fairness.

I believe that the people of this country may be getting less than their money's worth in the news department of National Public Radio. Although the quality of the programs is normally good, there may be evidence that the news coverage is sadly lacking in professional integrity and in fairness—most of all: fairness.

I submit for the attention of my colleagues the following article from the November-December 1982 issue of the Washington Guide. This article suggests that the American taxpayer and the Congress of the United States should take a closer look at the organization and reporting of our public broadcasting system.

In a time of huge budget deficits and tremendous unemployment, every program must be carefully scrutinized. In light of information such as that in this article, I believe that the public broadcasting budget bears a special burden of proof—of its necessity and its public purpose.

The article follows:

NATIONAL PUBLIC RADIO'S HIDDEN HUSBANDS

Would the American public trust the news department of NPR if they knew about the connections to power that their correspondents have at home?

"All Things Considered" is the National Public Radio (NPR) ninety minute afternoon news program, which is broadcast by more than 250 stations throughout the United States, every afternoon.

Two thirds of NPR's budget of $21 million is provided by the taxpayers of the United States, in whose ranks are millions of conservatives, and millions more who could be categorized as middle-of-the-road. But when asked if there are any conservatives or middle-of-the roaders among the liberal Democrats who abound on the reportorial staff on NPR, the Vice President For News, Barbara Cohen replied:

"I don't know what you're talking about."

Mrs. Cohen is the wife of Washington Post columnist Richard Cohen. But her biographical news release, issued in the NPR press kit, makes no mention of this interesting interlocking of Big Media news people in our nation's capital.

During her brief interview in her office, Mrs. Cohen also told Washington Guide:

"I would describe Walter Mondale as a middle-of-the-roader."

News Director Cohen's ability to categorize the political position of the former Vice President—but not her reporters—came about later in the interview, when she identified one of the commentators on All Things Considered as Martin Kaplan, a former Mondale speechwriter.

Among the other five commentators on general subjects, this government-subsidized program has one (1) conservative, the formerly Rev. John McLaughlin, an ex-Jesuit who married the attractive press secretary of Treasury Secretary Donald Regan.

The other people who (openly) express opinions on NPR include:

Daniel Schorr, who was fired by CBS for having leaked a classified government document to Manhattan's Village Voice.

Bob Kuttner, editor of Boston's liberal weekly, Working Papers.

Tom Noyes and Edwin Yoder, former editorial writers for the Washington Star (whose editorals, in its last years, rarely, if ever differed from the Washington Post.)

Adam Hochstein of Mother Jones magazine, a left wing periodical involved with the similarly left wing Institute For Policy Studies.

When Washington Guide asked if the lineup of reporters and anchormen and women is any more balanced than the stable of all (but one) liberal commentators, Mrs. Cohen retorted:

"We don't hire reporters for their political views. We hire them for their journalistic abilities. And I wouldn't characterize them by any political stripe."

By striking contrast to this inability (or unwillingness) to categorize her reporters, NPR has a list of 77 people, entitled: em "Partial List of 'Conservative' Commentators and Interviewees On NPR News Programs."

Included in this list of "conservatives" are Dr. Henry Kissinger and his aide Helmut Sonnenfeld; Senators John Danforth and Nancy Landon Kassenbaum, Secretary of Defense Casper Weinberger and White House Chief of Staff Jim Baker.

By contrast to this list of "conservatives," Mrs. Cohen's reporters "don't represent political points of view, in my opinion," she said.

No one on her entire staff, she added, represents any viewpoint, liberal or conservative.

So Washington Guide asked: "Why did that extensive and attractive NPR press kit, with all those photographs and biographies, cover up the existence of "so many interesting husbands?"

News Director Cohen frowned and replied: "Your point that there is a coverup and that we are hiding our personal family connections is kind of insulting. To suggest that my views, or my approach to my job is at all influenced by what my husband writes, is quite wrong."

Does Vice President Cohen of NPR believe that it is wrong for civil courts to apply special rules regarding the testimony of a wife in a case concerning her husband, or vice versa?

"I pursue my professional career, and my husband pursues his professional career."

You never discuss anything to do with the news with your husband?

"Of course we do."

So we asked Mrs. Cohen what she supposed was the nature of such familial news discussions between her reporter Linda Wertheimer, and her husband, Fred.

Fred Wetheimer—another very notable NPR husband who is unmentioned in his wife's biographical news release—is the head of the liberal lobby Common Cause. This is a lobby which is involved in a great many current legislative issues on Capitol Hill—from whence his wife broadcasts news reports. (Among other issues, Common Cause has opposed efforts to repeal court ordered busing, and to reform the wide-open-to-criminals, competitors, and spies Freedom of Information Act; has opposed the Reagan Budget, and the constitutional amendment for a balanced budget; favored the Voting Rights Act, the Clean Air Act, the Legal Services Corporation and strict limitations on Political Action Committees.)

In putting Linda Wertheimer on the air, at U.S. Government expense, does NPR ever identify her as the wife of a lobbyist?

Mrs. Cohen appeared slightly shaken by this question, which she answered in an almost funereal tone:

"We take great pains to make sure that Linda is never assigned to cover a subject in which Fred has any interest."

Why doesn't NPR reveal Linda's lobbying connection even in her NPR biographical news release?

"I don't think it's relevant," retorted Cohen. "We conduct our business in a professional, above-board manner. To make something out of who are spouses or parents, I find a very sexist approach."

Washington Guide then asked about the also unmentioned-husband of NPR judicial reporter Nina Tottenberg. For Tottenberg, the scourge of conservatives in the Supreme Court as well as in the U.S. Senate, is in real life Mrs. Floyd Haskell. He is the liberal Democrat who was once U.S. Senator from Colorado.

Washington Guide was able to reach Sen. Haskell by telephone. He explained that while he had left the law firm he joined after losing his bid for re-election, he is now involved with some "Non-profit organizations"—which he refused to identify.

We asked News Director Cohen if she had determined the identity of Sen. Haskell's concealed activities. But in striking contrast to her expressed concern about Linda Wertheimer's never covering anything relating to her husband's lobbying, Cohen said:

"No, I determine how Nina pursues her job."

If you don't know what Nina's husband is doing, how do you know Nina is not covering areas in which her husband is involved?

"Because people here are journalists," replied Cohen. "And they are very leary of getting involved in anything in which they could possibly have a conflict of interest."

We mentioned the current wave of journalisitic liars, such as Janet Cooke of the Washington Post, and similarly fraudulent reporters at the New York Daily News, the Toronto Sun and the Stamford Advocate. But this epidemic of lying reporters apparently has had little or no effect upon News Director Cohen, and her assurance that nobody at NPR could ever by unduly influenced by a husband.

Another one of NPR's hidden husbands is New York Times reporter Steven Roberts, who is the spouse of NPR reporter Cokie Roberts. Cokie might be described as a twofer. For not only is there this New York Times connection, but Cokie is the daughter of the late Congressman Hale Boggs and Congresswoman Lindy Boggs.

Reporter Roberts' relationship with these two Democratic stalwarts in the House of Representatives, as well as the Bid Media identity of her husband, is unmentioned in her NPR biographical news release. And

when Roberts reports from Capitol Hill, NPR does not advise is listeners that her reports are the products of a Daughter of House Democrats.

This appearance of a conflict of interest is at least a conflict of family relationships, similar to a baseball umpire being married to the sister of a team manager. This would be cause for concern in some media organizations, but not at the top level of NPR.

For the President of NPR is the former aide to such strongly liberal Democrats as Senators Robert Kennedy and George McGovern. Frank Manckiewicz had to go through the anguish of being a top campaign aide to one of the most badly beaten Presidential candidates in American history. But Manckiewicz—who was not available for comment—now enjoys the satisfaction of seeing himself in control of the nation's public radio system, where he has been able to load the staff with liberal Democrats, whose salaries are paid by the taxpayers.

Mr. Manckiewicz' Vice President For News, Mrs. Cohen, who considers Fritz Mondale to be middle of the road, has another notable impression, about another of Washington's institutions—her husbands employer:

"I think the editorial page of the Washington Post leans toward the conservative. The Post is a conservative paper.

Since Cohen contended that there is nothing amiss in NPR's not mentioning the very interesting husbands of some of its star reporters, we asked her:

"Would you, as vice president of news, be willing to put on the air a commentary by Dorothy Coble, without ever telling listeners, or ever mentioning it in your press kit, who she is?"

"I don't know who she is," replied Mrs. Cohen.

"Dorothy Coble is Mrs. Jesse Helms," we explained.

The ensuing silence was ear-splitting. Finally Cohen responded: "It would certainly depend on the context of the story. I'm very uncomfortable with getting into these hypothetical hypotheticals."

News Director Cohen may be even more uncomfortable to learn that Mrs. Jesse Helms is an experienced newswoman, with the Raleigh News and Observer.

Will Mrs. Helms be given any opportunity to try to balance the ratio of conservatives to liberals on this government subsidized radio organization? And if that ever takes place, would News Director Cohen fail to inform the listeners and the public that she is really the wife of North Carolina's strongly conservative Senator?●

HOUSE OF REPRESENTATIVES—*Friday, December 3, 1982*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We are conscious, O God, of the ways in which Your love encourages and strengthens people in all the moments of life. We praise Your name that You speak to us in joy and laughter and in hardship and disappointment. Remind us that Your love transcends all the worry and pain of the day, and ever help us to use the time and talents that You have given to us in ways that help our neighbor and bring peace to all people. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment concurrent resolutions of the House of the following titles:

H. Con. Res. 376. Concurrent resolution recognizing the outstanding service and patriotism exhibited by the volunteers of the American National Red Cross during times of war and expressing the gratitude of the Congress for the service of such volunteers; and

H. Con. Res. 412. Concurrent resolution extending to the Graduate School, U.S. Department of Agriculture, the appreciation of the Congress on the sixtieth anniversary of the founding of the school.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 7019. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1983, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 7019) entitled "An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1983, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. ANDREWS, Mr. COCHRAN, Mr. ABDNOR, Mr. KASTEN, Mr. D'AMATO, Mr. HATFIELD, Mr. CHILES, Mr. STENNIS, Mr. ROBERT C. BYRD, Mr. EAGLETON, and Mr. PROXMIRE to be the conferees on the part of the Senate.

The message also announced that the Senate further insists upon its amendment to the bill (H.R. 3963) entitled "An act to amend the Contract Services for Drug Dependent Federal Offenders Act of 1978 to extend the periods for which funds are authorized to be appropriated," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. THURMOND, Mr. MATHIAS, Mr. LAXALT, Mr. HATCH, Mr. DOLE, Mr. BIDEN, Mr. KENNEDY, and Mr. LEAHY to be the conferees on the part of the Senate.

HOURS OF MEETING FOR THE WEEK OF DECEMBER 6, 1982, THROUGH DECEMBER 10, 1982

Mr. WRIGHT. Mr. Speaker, pursuant to a colloquy held on the floor yesterday afternoon in which the distinguished minority leader participated, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 2 p.m. on Monday next;

That when it adjourns on Monday, it adjourn to meet at 1 p.m. on Tuesday next;

That when it adjourns on Tuesday, December 7, it adjourn to meet at 2 p.m. on Wednesday next;

And that on Thursday and Friday it meet at 10 a.m.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair regrets the fact that there will be only one 1-minute today. Because of a personal request of one of the Members, the House had agreed there would be no more.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS, 1983

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 616 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 616

Resolved, That upon the adoption of this resolution it shall be in order, clause 7 of rule XXI to the contrary notwithstanding, to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill reported by the Committee on Appropriations making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1983, and for other purposes. During the consideration of said bill, all points of order against the following paragraphs in said bill for failure to comply with the provisions of clause 2 of rule XXI are hereby waived: Operation of the National Park System under National Park Service; Construction under National Park Service; Surveys, Investigations, and Research under Geological Survey; Office of Water Policy under Departmental Offices; Youth Conservation Corps under Forest Service; SPR Petroleum under Department of Energy; Navajo and Hopi Indian Relocation Commission under Department of Education; Smithsonian Institution; the following paragraphs under the heading National Foundation on the Arts and Humanities: National Endowment for the Arts, salaries and expenses and matching grants; National Endowment for the Humanities, salaries and expenses and matching grants; Institute of Museum Services and administrative provisions. During the consideration of said bill, all points of order against the following paragraphs in said bill for failure to comply with the provisions of clause 6, rule XXI, are hereby waived: Surveys, Investigations, and Research under Geological Survey; State and Private Forestry under Forest Service; and Energy Conservation under Department of Energy.

The SPEAKER. The gentleman from Massachusetts (Mr. MOAKLEY) is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Missouri (Mr. TAYLOR), pending which I yield myself such time as I may consume.

Mr. Speaker, the resolution provides for the consideration of the bill, H.R. 7356. The bill is the appropriation for the Department of the Interior and related agencies.

I am aware of no controversy over the rule. It provides certain waivers of points of order necessary to enable the House to deal promptly with the legislation.

The rule waives clause 7 of rule XXI, the 3-day layover applicable to appropriation bills, to enable the House to handle this matter today. The committee has worked closely with the authorizing committees and the minority to insure that Members are familiar with the legislation. As a result, there is general familiarity with the matter and no objection to the waiver.

The rule also waives points of order under clause 2 of rule XXI for several appropriations contained in the bill. Some of the waivers are purely techni-

cal and accommodate minor items which exceed obsolete authorizations. Some are necessary because action has not yet been completed on authorizing legislation. However, a few of the waivers do permit appropriations which are not authorized.

All of these waivers, however, address appropriations language. The bill contains some provisions of a legislative character but no waivers have been requested or provided for those sections.

The rule also provides waivers of clause 6 of rule XXI for three provisions which reappropriate unexpended balances. I am aware of no controversy over these provisions. Indeed, I would point out that the prohibition on reappropriations derives from the Legislative Reorganization Act of 1946 and probably should be reexamined by the Committee on Rules in light of the Congressional Budget Act. I am not at all sure that the objectives of fiscal discipline and sound management are well served by a rule of the House which prevents Congress from reducing prior appropriations which turn out to be in excess of fiscal requirements.

Mr. Speaker, the items protected by the rule are each specifically designated in the rule. Under leave of the House, I will insert at this point in the RECORD correspondence from the chairman of the Committee on Appropriations which explains the requested waivers in detail and explain the need for each waiver:

COMMITTEE ON APPROPRIATIONS,
Washington, D.C., December 2, 1982.

Hon. RICHARD BOLLING,
Chairman, Committee on Rules,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: The Committee on Appropriations has reported the Department of the Interior and Related Agencies Appropriations Bill for the fiscal year ending September 30, 1983.

The bill includes appropriations for a number of programs in excess of authorizations or for which legislation has not yet been enacted for which a waiver of Clause 2, Rule XXI is requested. There are also several transfers of unexpended balances from one account to another which are reappropriations for which a waiver of Clause 6 of Rule XXI is requested. In addition, since the bill and report will not have been available for three days as required by Clause 7 of Rule XXI, a waiver of that rule is also requested.

1. *National Park Service, Operation of the National Park System.* The Committee has recommended an appropriation of $567,730,000, including $500,000 for the Volunteers in the Park program. Public law 91-357 as amended authorizes $250,000. In times of employment restrictions, volunteers provide a valuable service in the area of interpretative services. The volunteers receive no salaries. The funds will provide uniforms, training, and expenses.

2. *National Park Service, Construction.* The Committee has recommended an appropriation of $161,846,000, including $2,444,000 for restoration of the memorial column at Perry's Victory and International Peach Memorial, Ohio. Only $1,965,000 of that amount is authorized. Legislation (S. 2756) to increase the authorization has been introduced in the Senate, but no action has been taken on that proposal.

3. *Geological Survey, Surveys, Investigations, and Research.* The Committee recommendation of $365,525,000 includes $34,943,000 for the Earthquake Hazards Reduction program. Legislation authorizing this program (S. 2273) is awaiting Senate action on a house amendment to a Senate amendment. The pending legislation authorizes less than the amount included in this appropriation.

4. *Office of Water Policy.* The Committee recommends an appropriation of $7,768,000 for this Office, including $5,000,000 for programs authorized by 42 USC 7816. Legislation authorizing appropriations for this program for FY 1983 has not yet been enacted.

5. *U.S. Forest Service, Youth Conservation Corps.* The Committee recommends an appropriation of $20,000,000 for this program. Section 1407 of Public Law 97-35 (The Omnibus Budget Reconciliation Act of 1981" precludes making appropriations for this act.

6. *Department of Energy, SPR Petroleum Account.* The Committee recommends $2,074,060,000 for acquisition and transportation of petroleum for storage in the National Reserve as an off-budget item as proposed by the Department. The Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35) provided that appropriations and outlays for this purpose should be off-budget for fiscal 1982 but was silent on subsequent years. the Budget Resolution and the President's budget assume its continuation off-budget.

7. *Navajo-Hopi Indian Relocation Commission.* The Committee recommends an appropriation of $9,359,000 which includes $2,603,000 for relocation operations not authorized by law. No action has been taken on HR 7183 which was introduced, at the request of the Administration, on September 23, 1982.

8. *Smithsonian Institution, Salaries and Expenses.* The Committee recommends an appropriation of $147,276,000 which includes $860,000 for the National Museum program. Legislation (S. 2390) authorizing appropriations for fiscal year 1983 passed the Senate on June 9, 1982 and was referred to the House Committee on the Administration which has not yet acted on the measure.

9. *National Foundation on the Arts and Humanities.* The Committee has recommended appropriations of $143,875,000 for the National Endowment for the Arts, $130,560,000 for the National Foundation for the Humanities, and $10,800,000 for the Institute of Museum Services—basically the 1982 program level. The Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35) authorized the following amounts for those programs in fiscal year 1983:

National Endowment for the Arts (Sec. 523)	$119,300,000
National Endowment for the Humanities (Sec. 524)	113,700,000
Institute of Museum Services (Sec. 521)	9,600,000

For items 1 through 9, a waiver of Clause 2 of Rule XXI is requested.

The following accounts include amounts derived by transfer of unexpended balances from prior appropriations. This is held to be a reappropriation. Thus, a waiver of Clause 6 of Rule XXI is requested for these accounts.

10. *Geological Survey, Surveys, Investigations, and Research.* A transfer of $16,200,000 is made from "Exploration of National Petroleum Reserve in Alaska."

11. *U.S. Forest Service, State and Private Forestry.* A transfer of $100,000 from funds avaidabde to the Secretary gf Agricudture is prgposed to gffset the costs gf the Gifford Pifchgt Ifstitute.

12. *Department gf Energy, Energy Conservation.* A trafsfer of $64,000,000 from Fossil Energy Construcction is proposed. These funds had been provided for a Solvent Refined Coal facility. All Federal action in that project will be completed with the balance left in the account from which the transfer is proposed.

The Committee appreciates your continued cooperation.

Sincerely,

JAMIE WHITTEN,
Chairman.

Mr. Speaker, as always, the gentleman from Illinois has managed the bill with great fairness and I am aware of no controversy over the rule. I urge adoption of the resolution to enable the House to deal with this important legislation and I reserve the balance of my time.

□ 1010

Mr. TAYLOR. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, House Resolution 616 is a rule to facilitate consideration of H.R. 7356, the Department of Interior and related agencies appropriations bill for fiscal 1983. The resolution waives points of order that would otherwise lie against specified provisions of the bill for failure to comply with both clause 2 and clause 6 of rule XXI.

In addition, the rule waives a point of order that would otherwise lie against consideration of the bill for failure to comply with clause 7 of rule XXI. This provision of the rules of the House requires printed committee hearings and a committee report to be available for 3 calendar days prior to consideration on the floor.

In this situation, the Committee on Appropriations met and reported this bill only yesterday, and the Committee on Rules met and reported this rule yesterday afternoon. This waiver is necessary because the committee report will not have been available for the required 3 days when it is expected to be called up today.

Clause 2 of rule XXI prohibits appropriations for any expenditure not previously authorized by law as well as prohibiting legislation in an appropriations bill. At the appropriate time, Mr. Speaker, I will ask permission to insert in the RECORD a list supplied by the Committee on Appropriations of the nine items for which this waiver is provided for by the Committee on Rules. These nine items are provisions of the bill which have not yet been authorized by law.

Clause 6 of rule XXI prohibits reappropriating unexpended balances of appropriations from one account to another, and the waiver provided by this rule is made necessary because three items in the bill transfer unexpended balances from prior appropriations. Here again, Mr. Speaker, at the appropriate time I will ask permission to insert this list in the RECORD.

Mr. Speaker, H.R. 7356 provides appropriations of $7.3 billion for fiscal 1983 to the Department of the Interior and its agencies, as well as other departments of the Government and related agencies.

This appropriation is some $801.4 million above the President's budget request for these agencies, and as such is opposed by the administration.

Mr. Speaker, in addition to the $7.3 billion in specific appropriations, the bill provides necessary sums as authorized in permanent law. These amounts total $1.4 billion from Federal funds and $671 million from trust funds, thereby raising the total amount appropriated in the bill to $9.4 billion.

This later figure of $9.4 billion is $113 million higher than the amount of budget authority provided for in 1982.

There was no controversy about this rule in the Committee on Rules, and both the chairman and ranking Republican member of the Interior Appropriations Subcommittee appeared before the committee to make the rule request. In this regard, I do want to compliment both the gentleman from Illinois (Mr. YATES) and the gentleman from Pennsylvania (Mr. MCDADE) for their action on this bill.

Mr. Speaker, there are many of our colleagues in this House who have reputations for being fair-minded in their dealings. We are indeed fortunate that so many fair-minded individuals serve on the Committee on Appropriations, especially the two gentlemen I have mentioned.

Mr. Speaker, I not only urge adoption of this rule, I would also urge the House to keep in mind the necessity for timely passage of the appropriations bill it makes in order.

Mr. Speaker, I include at this point in the RECORD a brief summary of the provisions of the bill for which the specific waivers contained in this resolution are made:

PROVISIONS OF H.R. 7356 FOR WHICH WAIVERS OF POINTS OF ORDER ARE PROVIDED FOR IN H. RES. 616

The bill includes appropriations for a number of programs in excess of authorizations or for which legislation has not yet been enacted for which a waiver of Clause 2, Rule XXI is provided. There are also several transfers of unexpended balances from one account to another which are reappropriations for which a waiver of Clause 6 of Rule XXI is provided. In addition, since the bill and report will not have been available for three days as required by Clause 7 of Rule XXI, a waiver of that rule is also provided.

1. *National Park Service, Operation of the National Park System.*—The Committee has recommended an appropriation of $567,730,000, including $500,000 for the Volunteers in the Park program. Public Law 91-357 as amended authorizes $250,000.

2. *National Park Service, Construction.* The Committee has recommended an appropriation of $161,846,000, including $2,444,000 for restoration of the memorial column at Perry's Victory and International Peach Memorial, Ohio. Only $1,965,000 of that amount is authorized. Legislation (S. 2756) to increase the authorization has been introduced in the Senate, but no action has been taken on that proposal.

3. *Geological Survey, Surveys, Investigations, and Research.*—The Committee recommendation of $365,525,000 includes $34,943,000 for the Earthquake Hazards Reduction program. Legislation authorizing this program (S. 2273) is awaiting Senate action on a House amendment to a Senate amendment. The pending legislation authorizes less than the amount included in this appropriation.

4. *Office of Water Policy.*—The Committee recommends an appropriation of $7,768,000 for this Office, including $5,000,000 for programs authorized by 42 USC 7816. Legislation authorizing appropriations for this program for FY 1983 has not yet been enacted.

5. *U.S. Forest Service, Youth Conservation Corps.*—The Committee recommends an appropriation of $20,000,000 for this program. Section 1407 of Public Law 97-35 (The Omnibus Budget Reconciliation Act of 1981) precludes making appropriations for this act.

6. *Department of Energy, SPR petroleum account.*—The Committee recommends $2,074,060,000 for acquisition and transportation of petroleum for storage in the National Reserve as an off-budget item as proposed by the Department. The Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35) provided that appropriations and outlays for this purpose should be off-budget for fiscal 1982 but was silent on subsequent years. The Budget Resolution and the President's budget assume its continuation off-budget.

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11. *U.S. Forest Service, State and private forestry.*—A transfer of $100,000 from funds available to the Secretary of Agriculture is proposed to offset the costs of the Gifford Pinchot Institute.

12. *Department of Energy, energy conservation.*—A transfer of $64,000,000 from Fossil Energy Construction is proposed. These funds had been provided for a Solvent Refined Coal facility. All Federal action in that project will be completed with the balance left in the account from which the transfer is proposed.

Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding the time. I hope that I will not take the whole 5 minutes, but I do want to caution the Members about some of the waivers that exist in this rule and express my concern about those waivers, a concern that will cause me to have to vote against this particular rule.

The waivers in most instances allow appropriations for measures that have not been properly authorized. In most instances, these waivers cover either authorizations that are not in place or amounts of money which exceed authorizations now in place. For example, in the National Park Service, in the operation of the National Park Service program, there is $500,000 for the volunteers in the park program. The public law authorizing this program allows an expenditure of only $250,000.

In the National Park Service construction, there is $2,444,000 for restoration of a memorial. Of that amount, only about $1.965 million is appropriately authorized.

The committee recommends $365 million in the Geological Survey. The pending authorization authorizes less than that amount for an appropriation.

The Office of Water Policy recommends, there is a recommended appropriation of almost $8 million. The legislation authorizing those appropriations has not yet been enacted.

The U.S. Forest Service and the Youth Conservation Corps, we have a recommended appropriation of $20 million in this bill and yet the Omnibus Reconciliation Act of 1981 precludes—that is right, precludes making appropriations for that particular program. I will not go over all of the problems of a similar nature.

In nearly every instance, though, where there is a waiver in this rule, we have programs that have not been properly authorized or where the amounts of money in the bill exceed authorizations.

I raise this as a concern because I think it is important as we move into the last few days of this session when we may have a number of appropriation bills coming to this floor that we not go through an exercise of having the appropriations actions exceed all the work of the authorizing committees and having appropriations going forward that even violate the principles adopted in the budget reconciliation bills that we passed in this House.

I intend to vote against the rule for the reason that it sets some troubling precedents and I hope that some other people who are also concerned about the budget process may follow me in voting against the rule.

Mr. TAYLOR. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I would like to thank the minority floor manager, the distinguished gentleman from Missouri (Mr. TAYLOR), for his courtesy and assistance in handling this urgent matter.

Mr. Speaker, I also would like to briefly respond to the issues raised by the distinguished gentleman from Pennsylvania (Mr. WALKER) because I do not want to mislead anyone. As I indicated in my previous statement, most of the waivers are minor or technical but, as I also indicated, unquestionably there clearly are substantive waivers.

The Omnibus Reconciliation Act of 1981, for example, prohibited expenditures for the Youth Conservation Corps and the rule does permit the House to vote on whether to reverse that decision. That legislation also sets lower limits on the National Endowments and the rule will permit a slightly higher figure to be voted on.

However, Mr. Speaker, I wish to make clear that the rule simply permits these matters to be placed before the House. Nothing in the rule prevents or disadvantages amendments to reduce any funding in the bill to the authorized level or to strike funding which is not authorized. I would also note, Mr. Speaker, that no protection was sought or provided for any provision of a genuinely legislative character.

Mr. Speaker, I have no further requests for time and I move the previous question on the resolution.

Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 293, nays 29, not voting 111, as follows:

[Roll No. 412]

YEAS—293

Akaka	Emery	Lagomarsino
Albosta	English	Lantos
Alexander	Evans (DE)	Leach
Anderson	Evans (GA)	Leath
Andrews	Evans (IA)	LeBoutillier
Annunzio	Fary	Leland
Anthony	Fascell	Lent
Aspin	Fenwick	Levitas
AuCoin	Ferraro	Lewis
Bafalis	Fiedler	Livingston
Bailey (PA)	Fields	Loeffler
Barnard	Findley	Long (MD)
Barnes	Fish	Lott
Bedell	Fithian	Lowery (CA)
Beilenson	Foglietta	Lowry (WA)
Benedict	Foley	Lujan
Bennett	Forsythe	Luken
Bereuter	Fowler	Lundine
Bevill	Frank	Markey
Bingham	Fuqua	Marlenee
Boggs	Gaydos	Marriott
Boner	Gejdenson	Martin (NC)
Bonior	Gibbons	Martin (NY)
Bonker	Gilman	Matsui
Bouquard	Ginn	Mavroules
Bowen	Glickman	Mazzoli
Breaux	Gonzalez	McClory
Brinkley	Gore	McDade
Brooks	Gradison	McGrath
Broomfield	Gramm	McHugh
Brown (CA)	Gray	McKinney
Brown (OH)	Green	Mica
Broyhill	Gregg	Miller (CA)
Burgener	Guarini	Mineta
Burton, John	Gunderson	Minish
Byron	Hagedorn	Mitchell (MD)
Carman	Hall (IN)	Moakley
Chappell	Hall (OH)	Molinari
Chappie	Hall, Ralph	Montgomery
Cheney	Hall, Sam	Moore
Clausen	Hamilton	Moorhead
Clinger	Hammerschmidt	Morrison
Coats	Hansen (ID)	Murtha
Coelho	Harkin	Napier
Coleman	Hefner	Natcher
Collins (TX)	Heftel	Neal
Conable	Hendon	Nelligan
Conte	Hertel	Nelson
Coughlin	Hillis	Nichols
Courter	Holland	Oakar
Coyne, William	Hollenbeck	Oberstar
D'Amours	Holt	Obey
Daniel, Dan	Hopkins	Ottinger
Daniel, R. W.	Howard	Oxley
Daschle	Hubbard	Panetta
Daub	Huckaby	Parris
Dellums	Hughes	Pashayan
Derrick	Hunter	Patman
Derwinski	Hutto	Pease
Dickinson	Hyde	Pepper
Dicks	Jacobs	Perkins
Dingell	Jeffords	Petri
Dorgan	Jenkins	Peyser
Dornan	Johnston	Pickle
Downey	Jones (NC)	Price
Duncan	Jones (OK)	Pritchard
Dunn	Jones (TN)	Pursell
Dyson	Kastenmeier	Rahall
Eckart	Kazen	Railsback
Edgar	Kennelly	Ratchford
Edwards (AL)	Kildee	Regula
Edwards (CA)	Kogovsek	Reuss
Edwards (OK)	Kramer	Ritter
Roberts (SD)	Skelton	Watkins
Robinson	Smith (AL)	Weaver
Rodino	Smith (IA)	Weber (MN)
Roe	Smith (NE)	Weber (OH)
Rogers	Smith (NJ)	Weiss
Rostenkowski	Snowe	White
Roth	Solarz	Whitehurst
Roukema	Spence	Whitley
Rudd	Stangeland	Whittaker
Russo	Staton	Whitten
Sabo	Stokes	Williams (MT)
Sawyer	Stratton	Williams (OH)
Scheuer	Studds	Winn
Schneider	Swift	Wirth
Schroeder	Synar	Wolf
Schulze	Tauke	Wolpe
Schumer	Tauzin	Wortley
Shamansky	Taylor	Wright
Shannon	Thomas	Wyden
Sharp	Traxler	Wylie
Shaw	Trible	Yates
Shelby	Udall	Young (FL)
Shumway	Vander Jagt	Young (MO)
Siljander	Vento	Zablocki
Simon	Wampler	

NAYS—29

Archer	Dreier	McEwen
Ashbrook	Emerson	Miller (OH)
Bailey (MO)	Frenzel	Roberts (KS)
Bethune	Horton	Roemer
Bliley	Jeffries	Sensenbrenner
Brown (CO)	Kindness	Smith (OR)
Butler	Lee	Solomon
Crane, Daniel	Lungren	Stump
Dannemeyer	McCollum	Walker
Davis	McDonald	

NOT VOTING—111

Addabbo	Flippo	Moffett
Applegate	Florio	Mollohan
Atkinson	Ford (MI)	Motti
Badham	Ford (TN)	Murphy
Beard	Fountain	Myers
Biaggi	Frost	Nowak
Blanchard	Garcia	O'Brien
Boland	Gephardt	Patterson
Bolling	Gingrich	Paul
Brodhead	Goldwater	Porter
Burton, Phillip	Goodling	Quillen
Campbell	Grisham	Rangel
Carney	Hance	Rhodes
Chisholm	Hansen (UT)	Rinaldo
Clay	Hartnett	Rose
Collins (IL)	Hatcher	Rosenthal
Conyers	Hawkins	Rousselot
Corcoran	Heckler	Roybal
Coyne, James	Hightower	Santini
Craig	Hiler	Savage
Crane, Philip	Hoyer	Seiberling
Crockett	Ireland	Shuster
de la Garza	Kemp	Skeen
Deckard	LaFalce	Smith (PA)
DeNardis	Latta	Snyder
Dixon	Lehman	St Germain
Donnelly	Long (LA)	Stanton
Dougherty	Madigan	Stark
Dowdy	Marks	Stenholm
Dwyer	Martin (IL)	Volkmer
Dymally	Martinez	Walgren
Early	Mattox	Washington
Erdahl	McCloskey	Waxman
Erlenborn	McCurdy	Wilson
Ertel	Michel	Yatron
Evans (IN)	Mikulski	Young (AK)
Fazio	Mitchell (NY)	Zeferetti

□ 1030

Mr. ROEMER, Mr. STUMP, and Mrs. ASHBROOK changed their votes from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. YATES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their re-

marks on the bill, H.R. 7356, and that I may be permitted to include tables, charts, and other material.

The SPEAKER pro tempore (Mr. RATCHFORD). Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. YATES. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7356) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1983, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from Pennsylvania (Mr. MCDADE) and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. YATES).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 7356, with Mr. FASCELL in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Under the unanimous-consent agreement, the gentleman from Illinois (Mr. YATES) will be recognized for 30 minutes, and the gentleman from Pennsylvania (Mr. MCDADE) will be recognized for 30 minutes.

The Chair recognized the gentleman from Illinois (Mr. YATES).

□ 1040

Mr. YATES. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I am delighted again to bring the Interior and related agencies appropriation bill for fiscal year 1983 before the committee.

The bill reflects our continuing investment in America and Americans. It supports the national heritage of all Americans, the public lands, the national parks, the national forests, and the cultural and historical preservation of the heritage we want to pass along to our children, our grandchildren, and the generations to come.

It is a good bill, Mr. Chairman. It is a bill on which the committee has worked long and hard. We considered the President's budget originally, and we found the President's budget was woefully inadequate.

Mr. Chairman, we attempt to hold the line in this bill, and that is about all that the funding does. We should have more funds. We should be continuing the funding at levels that will better husband our resources for our children and the generations to come. It will not altogether stop the deterioriation that is taking place because the Government's resources make up a very large establishment. If this establishment were run by private companies, there is no question in my mind that much more would be spent to take care of these resources. The public lands are being overgrazed and being underfertilized, the national parks are aging and will require much increased funding for their rehabilitation, the refuges are in great need of rehabilitation, and pollution is affecting our forests, our streams, and our public lands. They are being bothered, particularly in the Northeast, by increasing acid rain, and I fear that our failure to place more money in this bill to take care of the resources may have a very harmful effect in the years to come.

We found that there was no more money for new acquisitions provided in the budget request for the land and water conservation fund. I cite that specifically at this point because so many Members of Congress asked the committee to place funds in the bill for the land and water conservation fund. The committee has done that. It has placed $260 million in the bill, of which $75 million will be made available to the States.

Indian problems are being underfunded. The education of Indian children has been cut. It was cut by $26 million. We have restored $15 million of that. The health treatment of the Indian people is still underfunded. Tribal resources are underdeveloped. These are some of the gaps where we should be spending more money, and the budget resolution just will not let us do it.

I should point out, too, that this is a bill that is good for the taxpayers of this country. As to the resources of the Federal Government, under the leasing arrangements by the Federal Government, it is estimated that approximately $20 billion will be made available for the Treasury. That will come from receipts from oil leases, from grazing, and from the forest cut. Most of the items will be discussed as the debate progresses.

Mr. Chairman, I want to extend my personal delight over having had the opportunity of working with my very good and able friend, the gentleman from Pennsylvania (Mr. MCDADE), the ranking minority of this committee, who has made enormous contributions to this bill. I also want to pay tribute to other members of the subcommittee, the gentleman from Pennsylvania (Mr. MURTHA), the gentleman from Oregon (Mr. AUCOIN), the gentleman from Washington (Mr. DICKS), and the gentleman from Connecticut (Mr. RATCHFORD) who joined us late in the session but nevertheless made a very excellent contribution. The gentleman from Ohio (Mr. REGULA) and the gentleman from Texas (Mr. LOEFFLER) also did much toward formulating this bill. I am pleased to present the bill to the House, and I have every confidence that the House will accept it.

The bill provides total appropriations of on-budget new budget authority of $7,386,522,000. The continuing resolution also provided annual appropriations of $278,808,000. These two amounts, when compared to the 302 B allocation of $7,714,000,000, leaves a 302 B balance remaining of $48,670,000. In addition the bill includes $2,074,060,000, the budget request, for off-budget scorekeeping for the acquisition and transportation of oil for storage in the national strategic petroleum reserve. Based on a CBO scorekeeping of the bill, we are $172 million under our 302 B allocation in outlays.

The bill includes $3,709,974,000 for programs of the Department of the Interior; $1,485,317,000 for the Forest Service; $926,760,000 for on-budget programs of the Department of Energy; and $1,264,471,000 for Indian health, Indian education, the Smithsonian Institution, the National Endowments for the Arts and Humanities, and the other related agencies of the bill, all of which are described in detail in the report accompanying the bill.

The programs within the jurisdiction of this committee in many ways represent an investment in America itself, and those investments provide significant returns. For example, programs funded in this bill will generate estimated revenues of $20.7 billion in fiscal year 1983. I would like to point out that this estimate includes the OMB's estimate of Outer Continental Shelf receipts of $15.7 billion. The CBO and the committee feel a more realistic estimate of OCS receipts is $11 billion, but even subtracting the $4.7 billion from OCS receipts which I do not believe will be realized, the bill is estimated to produce roughly $16 billion in income. This estimate also does not include the revenue that will accrue to the Nation if and when it becomes necessary to dispose of the oil stored in the strategic petroleum reserve, which has an estimated value at today's prices of about $9.4 billion.

The bill includes funds for several programs that were proposed for termination in the budget for fiscal year 1983. This includes the Youth Conservation Corps, for which $20 million is included in the bill; the historic preservation program, for which $26 million is included in the bill; the low-income weatherization program, for which $147,500,000 is included in the bill; the State assistance program of

the land and water conservation fund, for which $75 million is provided in the bill; and several other programs which your committee and many Members of Congress feel are too important to be terminated.

The committee has continued many programs at the 1982 level rather than at the reduced level as proposed by the administration. I do not want anyone to assume, however, that the committee has rejected every administration proposal to reduce or terminate programs. We have concurred in the proposals to terminate water resource research institutes and mineral research institutes. We have concurred in proposals to reduce the level of support below the 1982 levels for fossil energy research and development, energy regulation, energy information, acquisition of oil for the strategic petroleum reserve, operation of the national forests system, Indian programs, and territorial and international affairs. The committee has continued the payments in lieu of taxes and the National Foundation for the Arts and Humanities programs at the 1982 level. The committee has partially concurred in the administration proposal to close fish hatcheries. The administration proposed closing 31 fish hatcheries with projected ongoing annual savings of $3,676,000. This list reflected continuing hatcheries meeting administration priorities and closing hatcheries which produced fish largely for State and private land, and which had projected high rehabilitation costs. The committee did not object to the identification of specific fish hatcheries principally associated with salmon as being high priority. However, the committee over the years has taken the initiative from the administration in establishing as a priority the reintroduction of fish to the Great Lakes and the reintroduction of the Atlantic Salmon in New England States. Therefore, the committee prepared a list comparable to that proposed by the administration, but which also preserved the legislative priorities as well as administration priorities. The 19 fish hatcheries proposed for closure by the committee will have annual operating savings of $3,513,000. It will also have substantial cost avoidance in that this list too includes hatcheries which have high rehabilitation in future years.

The bill before the committee also includes language to continue the prohibition on development of minerals in wilderness areas that was included in the continuing resolution.

Mr. Chairman, this is a good bill. Although it is over the President's budget request, the President has on many occasions indicated that he will support any bill that is within the congressional budget allocation. This bill meets that test. In energy programs, the program level is $225,000,000 below the 1982 program level.

I want to commend the subcommittee members for their willingness to return the week of November 16 in order to have subcommittee markup so that the bill would be ready for presentation to the full committee today.

The report in considerable detail explains the committee actions represented in the bill.

The following table compares the fiscal year 1983 amounts recommended to the budget request and the fiscal year 1982 appropriation:

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY—INTERIOR APPROPRIATIONS BILL, FISCAL YEAR 1983

	Fiscal year—		Committee recommendation	Bill compared with enacted	Bill compared with estimates
	1982 enacted	1983 budget request			
TITLE I—DEPARTMENT OF THE INTERIOR					
LAND AND WATER RESOURCES					
Bureau of Land Management					
Management of lands and resources	423,638,000	373,527,000	322,963,000	−100,675,000	−50,564,000
Construction and access	2,627,000	2,711,000	2,243,000	−384,000	−468,000
Payments in lieu of taxes	95,520,000	45,000,000	95,520,000		+50,520,000
Land acquisition	3,712,000		468,000	−3,244,000	+468,000
Oregon and California grant lands (indefinite, appropriation of receipts)	52,788,000	52,883,000	46,883,000	−5,905,000	−6,000,000
Range improvements (indefinite, appropriation of receipts)	13,226,000	11,048,000	11,048,000	−2,178,000	
Service charges, deposits, and forfeitures (indefinite, special fund)	9,600,000	10,000,000	10,000,000	+400,000	
Miscellaneous trust funds (indefinite)	100,000	100,000	100,000		
Total, Bureau of Land Management	601,211,000	495,269,000	489,225,000	−111,986,000	−6,044,000
Office of Water Research and Technology					
Salaries and expenses	10,636,000			−10,636,000	
Total, Land and Water Resources	611,847,000	495,269,000	489,225,000	−122,622,000	−6,044,000
FISH AND WILDLIFE AND PARKS					
United States Fish and Wildlife Service					
Resource management	226,722,000	221,876,000	242,778,000	+16,056,000	+20,902,000
Construction and anadromous fish	10,683,000	9,751,000	23,149,000	+12,466,000	+13,398,000
Migratory bird conservation account (definite, repayable advance)	1,200,000		2,000,000	+800,000	+2,000,000
Land acquisition	16,491,000	1,567,000	33,647,000	+17,156,000	+32,080,000
National Wildlife Refuge Fund	5,760,000		5,760,000		+5,760,000
Total, United States Fish and Wildlife Service	260,856,000	233,194,000	307,334,000	+46,478,000	+74,140,000
National Park Service					
Operation of the national park system	521,528,000	539,703,000	567,730,000	+46,202,000	+28,027,000
National recreation and preservation	12,607,000	6,987,000	10,087,000	−2,520,000	+3,100,000
Urban park and recreation fund	7,680,000			−7,680,000	
Land and Water Conservation Fund (indefinite)	−30,000,000			+30,000,000	
Historic preservation fund	25,410,000		26,000,000	+560,000	+26,000,000
Construction	95,852,000	132,721,000	161,846,000	+65,994,000	+29,125,000
Land acquisition and state assistance	133,462,000	59,776,000	172,643,000	+39,181,000	+112,867,000
John F. Kennedy Center for the Performing Arts	4,212,000	4,247,000	4,247,000	+35,000	
Total, National Park Service	770,781,000	743,434,000	942,553,000	+171,772,000	+199,119,000
Total, Fish and Wildlife and Parks	1,031,637,000	976,628,000	1,249,887,000	+218,250,000	+273,259,000
ENERGY AND MINERALS					
Geological Survey					
Surveys, investigations, and research	507,787,000	516,377,000	365,525,000	−142,262,000	−150,852,000
(By transfer)			(16,200,000)	(+16,200,000)	(+16,200,000)
Exploration of national petroleum reserve in Alaska	2,196,000			−2,196,000	
Barrow area gas operation, exploration and development		6,400,000	6,400,000	+6,400,000	
Digital Cartography		3,873,000			−3,873,000
Total, Geological Survey	509,983,000	526,650,000	371,925,000	−138,058,000	−154,725,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY—INTERIOR APPROPRIATIONS BILL, FISCAL YEAR 1983—Continued

	Fiscal year—		Committee recommendation	Bill compared with enacted	Bill compared with estimates
	1982 enacted	1983 budget request			
MINERALS MANAGEMENT SERVICE					
Leasing and royalty management			192,568,000	+192,568,000	+192,568,000
Mineral receipts transfer			−171,790,000	−171,790,000	−171,790,000
Total, Minerals Management Service			20,778,000	+20,778,000	+20,788,000
Bureau of Mines					
Mines and minerals	150,602,000	124,676,000	128,629,000	−21,973,000	+3,953,000
(By transfer)	(991,000)			(−991,000)	
Office of Surface Mining Reclamation and Enforcement					
Regulation and technology	58,515,000	62,173,000	61,313,000	+2,798,000	−860,000
Abandoned mine reclamation fund (definite, trust fund)	115,333,000	97,649,000	126,609,000	+11,276,000	+28,960,000
Total, Office of Surface Mining Reclamation and Enforcement	173,848,000	159,822,000	187,922,000	+14,074,000	+28,100,000
Total, Energy and Minerals	834,433,000	811,148,000	709,254,000	−125,179,000	−101,894,000
INDIAN AFFAIRS					
Bureau of Indian Affairs					
Operation of Indian Programs	828,572,000	849,250,000	850,477,000	+21,905,000	+1,227,000
Construction	94,628,000	106,000,000	73,890,000	−20,738,000	−32,110,000
Road construction	47,160,000	43,585,000	43,705,000	−3,455,000	+120,000
Trust funds (definite)	3,000,000	3,000,000	3,000,000		
Trust funds (indefinite)	50,000,000	50,000,000	50,000,000		
Revolving fund for loans (limitation on direct loans)	(14,770,000)	(19,970,000)	(19,970,000)	(+5,200,000)	
Indian loan guaranty and insurance fund (limitation on guaranteed loans)	(27,630,000)	(15,800,000)	(15,800,000)	(−11,830,000)	
Total, Bureau of Indian Affairs	1,023,360,000	1,051,835,000	1,021,072,000	−2,288,000	−30,763,000
TERRITORIAL AND INTERNATIONAL AFFAIRS					
Administration of territories	90,392,000	58,076,000	70,743,000	−19,649,000	+12,667,000
Limitation on guaranteed loans	(30,000,000)	(8,000,000)		(−30,000,000)	(−8,000,000)
Trust Territory of the Pacific Islands	101,114,000	75,500,000	81,100,000	−20,014,000	+5,600,000
Total, Territorial Affairs	191,506,000	133,576,000	151,843,000	−39,663,000	+18,267,000
DEPARTMENTAL OFFICES					
Office of the Secretary					
Office of the Secretary	40,988,000	44,157,000	40,521,000	−467,000	−3,636,000
Office of Construction Management	3,840,000		1,000,000	−2,840,000	+1,000,000
Office of the Solicitor	17,750,000	19,071,000	17,904,000	+154,000	−1,167,000
Office of the Inspector General	13,369,000	18,900,000	21,500,000	+8,131,000	+2,600,000
Office of Water Policy			7,768,000	+7,768,000	+7,768,000
Youth Conservation Corps	4,200,000			−4,200,000	
Total, Office of the Secretary	80,147,000	82,128,000	88,693,000	+8,546,000	+6,565,000
Total, Departmental Offices	80,147,000	82,128,000	88,693,000	+8,546,000	6,565,000
Total, title I, new budget (obligational) authority, Department of the ge Interior	3,772,930,000	3,550,584,000	3,709,974,000	−62,956,000	+159,390,000
TITLE II—RELATED AGENCIES					
DEPARTMENT OF AGRICULTURE					
Forest Service					
Forest research	112,145,000	97,990,000	106,352,000	−5,793,000	+8,362,000
State and private forestry	64,148,000	47,520,000	58,770,000	−5,378,000	+11,250,000
(By transfer)			(100,000)	(+100,000)	(+100,000)
National forest system	1,050,504,000	1,036,569,000	1,009,093,000	−41,411,000	−27,476,000
Construction	261,095,000	297,505,000	229,756,000	−31,339,000	−67,749,000
Timber receipts transfer to General Fund, 1982	−78,700,000			+78,700,000	
Timber receipts transfer to General Fund, 1983		(−64,514,000)	(−64,514,000)	(−64,514,000)	
Timber purchaser credit	(242,542,000)	(268,834,000)	(218,000,000)	(−24,542,000)	(−50,834,000)
Youth Conservation Corps			20,000,000	+20,000,000	+20,000,000
Land acquisition	26,262,000	7,563,000	54,556,000	+28,294,000	+46,993,000
Acquisition of lands for national forests:					
Special acts (special fund, indefinite)	724,000	753,000	753,000	+29,000	
Acquisition of lands to complete land exchanges (special funds, indefinite)	314,000	147,000	147,000	−167,000	
Range betterment fund (special fund, indefinite)	6,580,000	5,800,000	5,800,000	−780,000	
Miscellaneous trust funds	84,000	90,000	90,000	+6,000	
Total, Forest Service	1,443,156,000	1,493,937,000	1,485,317,000	+42,161,000	−8,620,000
DEPARTMENT OF ENERGY					
Fossil energy research and development	414,112,000	106,900,000	297,064,000	−117,048,000	+190,164,000
Fossil energy construction	3,840,000			+3,840,000	
Naval petroleum and oil shale reserves	213,142,000	232,500,000	222,000,000	+8,858,000	−10,500,000
Energy conservation	145,400,000	21,802,000	317,790,000	+172,390,000	+295,988,000
(By transfer)	(173,008,000)		(64,000,000)	(−109,008,000)	(+64,000,000)
Economic resulation	21,416,000	27,356,000	31,106,000	+9,690,000	+3,750,000
SPR, petroleum account	(3,684,000,000)	(2,074,060,000)	(2,074,060,000)	(−1,609,940,000)	
Energy Information Administration	78,919,000	54,500,000	58,800,000	20,119,000	+4,300,000
Total, Department of Energy [1]	876,829,000	443,058,000	926,760,000	+49,931,000	+483,702,000
DEPARTMENT OF HEALTH AND HUMAN SERVICES					
Health Services Administration					
Indian health services	617,805,000	613,280,000	645,305,000	+27,500,000	+32,025,000
Indian health facilities	58,352,000		37,235,000	−21,117,000	+37,235,000
Total, Indian health	676,157,000	613,280,000	682,540,000	+6,383,000	+69,260,000
DEPARTMENT OF EDUCATION					
Office of Elementary and Secondary Education					
Indian education	77,852,000	51,119,000	65,519,000	−12,333,000	+14,400,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY—INTERIOR APPROPRIATIONS BILL, FISCAL YEAR 1983—Continued

	Fiscal year—		Committee recommendation	Bill compared with enacted	Bill compared with estimates
	1982 enacted	1983 budget request			
NAVAJO AND HOPI INDIAN RELOCATION COMMISSION					
Salaries and expenses	10,062,000	13,403,000	9,359,000	−703,000	−4,044,000
SMITHSONIAN INSTITUTION					
Salaries and expenses	131,170,000	144,110,000	147,276,000	+16,106,000	+3,166,000
Museum programs and related research (special foreign currency program)	4,320,000	2,000,000	2,000,000	−2,320,000	
Construction and improvements, National Zoological Park	1,104,000	1,550,000	1,550,000	+446,000	
Restoration and renovation of buildings	7,680,000	8,450,000	8,450,000	+770,000	
Subtotal [1]	144,274,000	156,110,000	159,276,000	+15,002,000	+3,166,000
Salaries and expenses, National Gallery of Art	29,815,000	32,673,000	34,839,000	+5,024,000	+2,166,000
Salaries and expenses, Woodrow Wilson International Center for Scholars	1,897,000	2,255,000	2,255,000	+358,000	
Total, Smithsonian Institution	175,986,000	191,038,000	196,370,000	+20,384,000	+5,332,000
NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES					
National Endowment for the Arts					
Salaries and expenses	103,330,000	69,756,000	101,675,000	−1,655,000	+31,919,000
Administrative expenses	11,326,000	12,600,000	12,600,000	+1,274,000	
Subtotal	114,656,000	82,356,000	114,275,000	−381,000	+31,919,000
Matching grants (indefinite)	28,800,000	18,519,000	29,600,000	+800,000	+11,081,000
Total, National Endowment for the Arts	143,456,000	100,875,000	143,875,000	+419,000	+43,000,000
National Endowment for the Humanities					
Salaries and expenses	90,432,000	59,000,000	90,432,000		+31,432,000
Administrative expenses	11,328,000	12,200,000	12,200,000	+872,000	
Subtotal	101,760,000	71,200,00	102,632,000	+872,000	+31,432,000
Matching grants (indefinite)	28,800,000	24,800,000	27,928,000	−872,000	+3,128,000
Total, National Endowment for the Humanities	130,560,000	96,000,000	130,560,000		+34,560,000
Institute of Museum Services	11,520,000		10,800,000	−720,000	+10,800,000
Total, National Foundation on the Arts and Humanities	285,536,000	196,875,000	285,235,000	−301,000	+88,360,000
COMMISSION OF FINE ARTS					
Salaries and expenses	303,000	319,000	319,000	+16,000	
ADVISORY COUNCIL ON HISTORIC PRESERVATION					
Salaries and expenses	1,567,000	1,000,000	1,600,000	+33,000	+600,000
NATIONAL CAPITAL PLANNING COMMISSION					
Salaries and expenses	2,373,000	2,202,000	2,279,000	−94,000	+77,000
FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION					
Salaries and expenses	29,000			−29,000	
PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION					
Salaries and expenses	2,294,000	2,250,000	2,350,000	+56,000	+100,000
Land acquisition and development fund (borrowing authority)	2,400,000	1,200,000	1,200,000	−1,200,000	
Public development	13,632,000	8,750,000	8,750,000	−4,882,000	
Total, Pennsylvania Avenue Development Corporation	18,326,000	12,200,000	12,300,000	−5,026,000	+100,000
FEDERAL INSPECTOR FOR THE ALASKA GAS PIPELINE					
Permitting and enforcement	19,425,000	7,125,000	6,125,000	−13,300,000	−1,000,000
HOLOCAUST MEMORIAL COUNCIL					
Holocaust Memorial Council	785,000	820,000	820,000	+35,000	
EXECUTIVE OFFICE OF THE PRESIDENT					
Maintenance of White House grounds			2,005,000	+2,005,000	+2,005,000
Total, title II, new budget, (obligational) authority, related agencies [1]	3,588,386,000	3,026,376,000	3,676,548,000	+88,162,000	+650,172,000
Consisting of:					
Appropriations	3,585,986,000	3,025,176,000	3,675,348,000	+89,362,000	+650,172,000
Borrowing authority	2,400,000	1,200,000	1,200,000	−1,200,000	
RECAPITULATION					
Total, new budget (obligational) authority, all titles	7,361,316,000	6,576,960,000	7,386,522,000	+25,206,000	+809,562,000
Consisting of:					
Appropriations	7,358,916,000	6,575,760,000	7,385,322,000	+26,406,000	+809,562,000
Borrowing authority	2,400,000	1,200,000	1,200,000	−1,200,000	
(Limitation on direct loans)	(14,770,000)	(19,970,000)	(19,970,000)	(+5,200,000)	
(Limitation on guaranteed loans)	(57,630,000)	(23,800,000)	(15,800,000)	(−41,830,000)	(−8,000,000)
By transfer	(173,999,000)	(−64,514,000)	(15,786,000)	(−158,213,000	(+80,300,000)
TITLE I—DEPARTMENT OF THE INTERIOR					
Bureau of Land Management	601,211,000	495,269,000	489,225,000	−111,986,000	−6,044,000
Office of Water Research and Technology	10,636,000			−10,636,000	
United States Fish and Wildlife Service	260,856,000	233,194,000	307,334,000	+46,478,000	+74,140,000
National Park Service	770,781,000	743,434,000	942,553,000	+171,772,000	+199,119,000
Geological Survey	509,983,000	526,650,000	371,925,000	−138,058,000	−154,725,000
Minerals Management Service			20,778,000	+20,778,000	+20,778,000
Bureau of Mines	150,602,000	124,676,000	128,629,000	−21,973,000	+3,953,000
Office of Surface Mining Reclamation and Enforcement	173,848,000	159,822,000	187,922,000	+14,074,000	+28,100,000
Bureau of Indian Affairs	1,023,360,000	1,051,835,000	1,021,072,000	−2,288,000	−30,763,000
Territorial and International Affairs	191,506,000	133,576,000	151,843,000	−39,663,000	+18,267,000
Office of the Secretary	80,147,000	82,128,000	88,693,000	+8,546,000	+6,565,000
Total, Title I—Department of the Interior	3,772,930,000	3,550,584,000	3,709,974,000	−62,956,000	+159,390,000
TITLE II—RELATED AGENCIES					
Forest Service	1,443,156,000	1,493,937,000	1,485,317,000	+42,161,000	−8,620,000
Department of Energy	876,829,000	443,058,000	926,750,000	+49,931,000	+483,702,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY—INTERIOR APPROPRIATIONS BILL, FISCAL YEAR 1983—Continued

	Fiscal year—		Committee recommendation	Bill compared with enacted	Bill compared with estimates
	1982 enacted	1983 budget request			
Indian Health	676,157,000	613,280,000	682,540,000	+6,383,000	+69,260,000
Indian Education	77,852,000	51,119,000	65,519,000	−12,333,000	+14,400,000
Navajo and Hopi Indian Relocation Commission	10,062,000	13,403,000	9,359,000	−703,000	−4,044,000
Smithsonian	144,274,000	156,110,000	159,276,000	+15,002,000	+3,166,000
National Gallery of Art	29,815,000	32,673,000	34,830,000	+5,024,000	+2,166,000
Woodrow Wilson International Center for Scholars	1,897,000	2,255,000	2,255,000	+358,000	
National Endowment for the Arts	143,456,000	100,875,000	143,875,000	+419,000	+43,000,000
National Endowment for the Humanities	130,560,000	96,000,000	130,560,000		+34,560,000
Institute of Museum Services	11,520,000		10,800,000	−720,000	+10,800,000
Commission of Fine Arts	393,000	319,000	319,000	+16,000	
Advisory Council on Historic Preservation	1,567,000	1,000,000	1,600,000	+33,000	+600,000
National Capital Planning Commission	2,373,000	2,202,000	2,279,000	−94,000	+77,000
Franklin Delano Roosevelt Memorial Commission	29,000			−29,000	
Pennsylvania Avenue Development Corporation	18,326,000	12,200,000	12,300,000	−6,026,000	+100,000
Federal Inspector for the Alaska Gas Pipeline	19,425,000	7,125,000	6,125,000	−13,300,000	−1,000,000
Holocaust Memorial Council	785,000	820,000	820,000	+35,000	
Executive Office of the President			2,005,000	+2,005,000	+2,005,000
Total, Title II—Related agencies	3,588,386,000	3,026,376,000	3,676,548,000	+88,162,000	+650,172,000
Grand total	7,361,316,000	6,576,960,000	7,386,522,000	+25,206,000	+809,562,000

[1] Excludes accounts which were funded in PL 97-276, Continuing Appropriations, FY 1983, as follows: (1) Strategic Petroleum Reserve—$242,118,000; (2) Smithsonian Institution, Construction—$36,500,000; (3) Native Hawaiians Study Commission—$190,000.

Mr. Chairman, I reserve the balance of my time.

Mr. McDADE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 7356 making appropriations for the Department of Interior and related agencies for fiscal year 1983 and to urge its approval by the Members of this House.

I want to commend my chairman, the distinguished gentleman from Illinois (Mr. YATES), for the great courtesy and the great skill he has brought to the production of this bill. It is a consensus bill. It bears the imprimatur of all of the members of the subcommittee from both sides of the aisle. It does so because of the evenhanded approach of Chairman YATES.

This bill contains $7.386 billion in new budget authority which when coupled with the $278 million provided in the continuing resolution gives us a total budget recommendation of $7.665 billion. This amount is $49 million below our subcommittee section 302 allocation of $7.714 and $100 million below the Budget Committee's assumptions for these programs as contained in the Budget Act. I also hasten to add we are $156 million below those 302 outlay estimates.

The bill itself is $809 million above the administration's estimates submitted to our committee last January. It is important to note that this $7 billion in budget authority generates $20 billion in projected revenue from the minerals, grazing, timber, and other leasing activities funded in this bill. It is a self-liquidating bill almost three times over.

My friends, this bill is the major investment we will make this year in the Nation's mineral, natural, cultural, and human resources. It creates new jobs. It protects our natural resources. It provides recreational opportunities. It helps us exercise the trust responsibilities we have to Native Americans and to those residents in the trust territories. It makes a major contribution to our energy independence. It is a bill all of us can support with enthusiasm.

The largest items in this bill, nearly $2 billion, are directed to meeting our energy needs. Of this amount $1.2 billion funds the programs of the Department of Energy. Our committee was forced to rewrite the fossil and conservation budget. We did so because bipartisan consensus exists in committee and in Congress that we continue high-risk generic research on fossil energy and investment on effective energy conservative technologies necessary to protect our Nation's security.

The budget submitted to our committee was unable to accomplish that goal. Even administration witnesses conceded that we have saved far more money than we have spent on energy conservation. Testimony also rejected the notion that we can transfer this research effort over to the private sector and hope that it will go forward. In fact it will be abandoned.

The fossil energy budget is the heart of our effort to convert coal to clean burning liquids and gas. We provided $317 million, an increase of $211 million above the budget to advance technologies in surface coal gasification, MHD, fuel cells, and various combustion systems that burn coal directly and cleanly.

In the conservation program we provided a program level of $388.8 million, an increase of $295.9 million. Of this amount the committee had to add $147.5 million for weatherization plus bill language directing the Department not to proceed with regulations reducing the maximum grant to $600 from $950. This would cause great hardships especially to elderly in the North and Midwest.

We added $30 million in State conservation grants to be matched with State funds on a 80-percent Federal, 20-percent State basis. If we are going to have to handle emergency preparedness we are going to have to keep this program alive.

We added $60 million to the schools and hospitals retrofit program. With the Government constantly pressuring health-care agencies and hospitals to control their costs, this program is an effective way to help that effort.

If the Members will notice they will see across the board additions to conservation programs in building systems, industrial conservation, transportation, including funds to go forward with a strong alternative engine program. Testimony from Secretary Edwards before our committee conceded that 5 percent of the total energy savings we have achieved through these programs. If you do the math, and we did, this represents an annual savings to the taxpayers of $3.4 billion. This means that in 1 year alone total savings exceeded total investments since 1973 by over $700 million. Because these are hard, true numbers we have had to reject the budget that does away with these investments.

For the three energy related agencies in the Interior Department we provided $709 million.

We fully funded the States share of the abandoned mine reclamation fund —$78 million—and added additional funds $10 million for emergency Federal projects and $15 million for RAMP. This fund now has roughly $600 million in receipts from coal taxes accumulating, yet we are spending only one-fifth of that money for the purposes for which the tax was levied. The program is a good job creator because it puts the construction industry to work cleaning up abandoned lands.

In the Bureau of Mines we restored funding for health and safety research, research on subsidence prevention, and a new respirable dust initiative. And while we reduced funds for coal leasing programs we still intend that the processing of preferential right leases go forward.

In the Geological Survey we added funds for research on earthquake hazards along with energy and water assessments. We have also, for the first time, consolidated the Department's leasing activities in the new Minerals Management Service.

The Members will note that we provided $186 million for the land and water conservation program of which $75 million restores the State assistance program. All of your States are now without funds because of the 1-year moratorium we took last year. We had to make a decision about whether recreation was going to remain our responsibility or whether we were going to abandon these very successful programs. So we added $75 million. I caution you that this program is authorized at $900 million and once was funded as high as $600 million; $75 million represents the absolute minimum funding we could provide and still keep the program alive. The remaining funds for Federal acquisition are for projects that included hardship acquisitions, legislative takings, and which preserve lands and properties threatened with development for which there was no other alternative.

We have kept the historic preservation program providing funds to the States to help process tax forms and administer the existing program. The committee has kept this program at last year's $26 million level.

You will note that this year the committee was faced with a proposal to close 31 fish hatcheries across the Nation. We carefully reviewed this proposal and modified it to close hatcheries that produced fish for State and local waters and for which we would be faced with staggering rehab costs in the future. This is a difficult task in the best of years and the committee tried to be fair in making these judgments.

Indians and trust territories are budgeted at $1.9 billion. This bill also contains $1.7 of the roughly $2.7 billion which the Federal Government has budgeted to meet our responsibilities to the various Indian tribes. The committee also extensively reviewed the needs of the American citizens who live in the trust territories and met their highest priority needs in areas such as health care, power development, and penal facilities construction.

My colleagues, one additional area where our committee made extensive revisions is in the budget for the Forest Service, a total budget of $1.485 billion is recommended.

We provided $20 million for the YCC program. This is a job-creating initiative that brings in $1.25 worth of conservation work for every $1 invested. It will put about 12,000 young people to work next summer.

We added $8 million for research including $6 million for research to improve eastern hardwood timber stands and a small increase—$350,000—for the gypsy moth research program. We also suggested a reorganization of the entire dormant gypsy moth research effort.

We added $11 million in State and private forestry programs including $6.9 million for gypsy moth suppression to restore the Federal-State match to 53 percent Federal, 47 percent State.

We added $2 million for urban forestry and another $1 million for rural forestry assistance to aid reforestation activities in rural areas.

We added $10 million for our 10-year reforestation and timber stand improvement. These funds will provide us with a 160,000-acre program. This is still almost 100,000 acres below what we accomplished in 1981 and well below our capability.

Acquisitions are set for highest priority access at $20 million. We were able to reduce the construction account by $68 million, $40 million of which results from a reduced timber sales program.

The committee provided funding levels similar to those last year for the very successful programs of the National Endowments for the Arts, Humanities and the Institute for Museum Services. Again here the overwhelming weight of testimony from the private sector and public witnesses was conclusive that there was no basis for the notion that the private sector could assume full responsibility for our Nation's cultural heritage without Federal support.

Mr. Chairman, the report contains language prohibiting funding for the Federal Council for the Arts. I do not concur with that judgment. The recently established Council under the leadership of the First Lady has a vital mission to perform if the arts are to grow and flourish in America. It deserves the support of the Endowment, the Congress, and the American people. I know that will be the judgment of all Members as the Council's efforts proceed.

Mr. Chairman, we believe that our committee accomplished most of, not all, of the goals we set for ourselves when we set out to write this bill. We have been faithful to the guidelines laid down for us in exercising budgetary restraint. We have been faithful to those who look to us to husband the vast natural resources that have made us the envy of mankind. We have looked favorably on the continued need to secure energy independence. We have stimulated chances for new growth and new jobs without threatening the beauty of our Nation's resources.

A vote for this bill is a vote to endorse these goals. We urge your support.

Mr. Chairman, I reserve the balance of my time.

Mr. YATES. Mr. Chairman, I yield 3 minutes to the gentleman from Connecticut (Mr. RATCHFORD).

Mr. RATCHFORD. Mr. Chairman, I rise in support of this bill which represents a fiscally prudent and balanced product. As the newest member of the Interior Subcommittee, I was particularly impressed with the strong bipartisan effort that emerged under the strong leadership of Chairman YATES.

I would particularly like to commend my colleagues on the subcommittee for recognizing the critical need for a national commitment to energy conservation and the search for alternative energy sources. We in New England are acutely aware of this need and are grateful for the resolve of this bill in the face of overwhelming administration opposition.

Let us not forget that only a short time ago the administration submitted to the Congress a budget that virtually terminated every Federal initiative in energy conservation—this despite the results of a recent study conducted by its own Department of Energy that concluded that as much as 50 percent of the energy consumed in the residential sector, for example, could be cost effectively saved. Further, we know that that if Americans were to spend as much to save a Btu of energy as we do in consuming a Btu of energy, we could sustain a healthy rate of growth in our GNP and save literally millions and millions of barrels of petroleum each year.

The bill, Mr. Chairman, provides nearly $388.8 million for energy conservation efforts as compared with the administration's request of only $21.8 million. Importantly, this bill provides increased funding over last year's levels for the low-income weatherization that is so critical to those who could not otherwise afford the cost of improving the shell or heating systems in their homes. Without such a commitment to improving our Nation's energy efficiency, we risk not only a deepening recession but would also place our own security squarely in the hands of the OPEC cartel.

I am also pleased by the continuance of public-private efforts in innovative alternative energy source development provided for in this bill. Just as a strategy of increased energy prices would not lead to meaningful energy conservation, a strategy of leaving fossil energy research and development to industry would not relieve us of our long-term energy problems. In continuing the partnership between the Government and private industry in such areas as liquefaction and gasification of coal, development of a wide range of fuel cell technologies now underway, refinement of alternative power systems, and enhanced oil

recovery and oil shale efforts, we can insure for our children a world of accessible and ample energy supplies.

For years, the Federal Government and private industry both have been hard at work on developing a vast array of alternative energy technologies. While many of these technologies are at or near the point of practical application, most American homeowners, small businesses, community organizations, and local and State governments either lack sufficient information on the availability of these technologies or require technical assistance in selecting and installing an appropriate system.

Therefore, I am pleased that the subcommittee adopted my recommendation for the establishment of a National Appropriate Technology Assistance Service to disseminate information and extend individualized assistance to those wanting to apply small-scale energy technologies. While the Federal Government has invested over $50 million in the development of information on appropriate technologies such as solar power, alcohol fuels, and energy conservation, at present the public has only limited access to this information. Establishment of NATAS remedies this problem by providing individualized technical assistance, and extensive information that is presently only available at prohibitive prices.

Certainly the chairman and the subcommittee are to be praised for the development of this fine bill. However, let there be no doubt as to our sincerity and resolve in seeing to it that adequate personnel are utilized in operation of these programs, and that the full intent of Congress is satisfied. Again, I want to thank the chairman for his willingness to champion and safeguard the programs and objectives set forth in this bill, and call upon my colleagues to act swiftly in passing this measure. Thank you.

□ 1050

Mr. McDADE. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. REGULA), a valued member of the subcommittee.

Mr. REGULA. Mr. Chairman, I rise in support of H.R. 7356, Department of the Interior and related agencies appropriations and urge its adoption by the House. I want to commend the work of our subcommittee's distinguished chairman, Mr. YATES, and the ranking member, Mr. MCDADE, for the excellent job they have done in bringing us a bill which can truly by endorsed by all of us. There is no one in this Nation who does not directly or indirectly benefit from the programs funded in this bill. I often remind school groups that, as U.S. citizens, their share of our great Nation and its natural resources amounts to about 3 acres per person. We all have a stake in this resource.

This bill represents one of the most constructive expenditures we make because we are investing in our Nation's natural resources which represent a major contribution to the wealth of America.

In today's modern world it is all too easy to forget how dependent our economy is on its forests, grasslands, and fisheries. We must not forget that these natural systems provide food, feed, fuel, and a broad array of industrial raw materials. These natural resources must be protected and enhanced to meet present and future needs.

We must invest in and wisely manage our natural resources. Our responsibility becomes even more critical in these years when increasing demands are being placed on our natural resources and funds are scarce. Both economic and political pressures could encourage a short-term focus. But pressures to wring too much out of the land in the short run, without putting enough back into it, can destroy it over the long run. It is critical that careful attention be given and sufficient funds allocated for resource management.

I can assure my colleagues that this bill falls within the 302(b) budget allocations. As it now stands the bill is $48.7 million under the 302(b) allocations.

There is another important budgetary aspect of this bill which is sometimes overlooked. The programs funded under this bill actually generate considerable revenues for the Federal Treasury. In fiscal year 1981, revenues generated through energy and mineral leasing, grazing fees, timber sales, and other revenue-producing activities of the Departments of the Interior and Energy, and the Forest Service totaled $14.4 billion. In fiscal year 1983, these receipts are estimated to rise to $20.7 billion, more than twice the total appropriations recommended in this bill.

Today you have an opportunity to vote for a bill to protect and preserve our natural resources, to continue efforts to develop new energy resources, to promote economic, social, and political development of the territorial areas, to improve education, health, and other social services to the Indian people. We can accomplish all of this and more for $7.7 billion and at the same time generate some $20 billion in revenues. This is a bargain we cannot refuse.

In addition, the committee has included provisions to insure that the funds get to the people, areas, or projects they are designed to serve and not wasted on administrative costs. For example, limitations on administrative expenses were added to several programs, including the State side of the land and water conservation fund and the abandoned mine reclamation fund. These provisions will improve program management and service.

Another example of our committee's efforts to promote savings involves the Youth Conservation Corps. The committee has urged the Agriculture and Interior Departments to focus the program on urban day programs wherever possible in order to reduce the costs associated with housing participants.

Such efforts are indicative of the committee's awareness of budgetary constraints and willingness to hold down costs.

The management of much of our great natural resource base is vested in this Congress. The Nation's land and resources are the basis of economic and national security. If properly managed they will continue to be the basis of our national wealth and strength for generations to come. I urge my colleagues to support this bill.

Mr. McDADE. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas (Mr. LOEFFLER) a member of the subcommittee.

Mr. LOEFFLER. I thank the distinguished gentleman for yielding.

Mr. Chairman, I rise in very strong support of this very well balanced appropriation legislation.

In looking at the costs involved with respect to budget outlays and budget authority, we are one of the few committees and perhaps the only committee within the Committee on Appropriations that has come in not only under 203(b) but also clearly under 302(a) allocations as well.

I thank the distinguished chairman of the subcommittee and the ranking Republican for their courtesies and their fairhandedness as we have made some difficult choices consistent with appropriate and proper fiscal responsibility.

Mr. McDADE. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from New Jersey (Mrs. ROUKEMA).

Mrs. ROUKEMA. Mr. Chairman, I rise to commend the committee for their enlightened and diligent work particularly demonstrated by their continuing support of the pressurized fluidized bed coal conversion pilot plant in Wood-Ridge, N.J.

This project is within months of completion and it represents the state of the art in the technology to safely, cleanly, and efficiently burn coal.

The Interior Subcommittee, ably led by my colleagues from Illinois and Pennsylvania, has recognized the importance of this technology and has provided the funding which was anticipated as needed to finish construction of the pilot plant.

Unfortunately, due to some delays in contract renegotiations which were conducted to enable the contractor, Curtiss-Wright, to take over, with private financing, the demonstration and

commercialization of the technology, there may be a shortfall in funding to complete this construction.

I want to ask my colleagues from Illinois and Pennsylvania if they will work with me to secure the necessary funds through reprograming within the Department of Energy to make up this probable shortfall and thus insure that the facility will remain on schedule and be completed this next year.

Mr. YATES. Will the gentlewoman yield?

Mrs. ROUKEMA. I yield to the gentleman.

Mr. YATES. Let me assure the gentlewoman at such time as the reprograming to which she refers comes before our committee I certainly will be glad to consider it, I really will.

Mrs. ROUKEMA. I thank the chairman.

Mr. McDADE. Mr. Chairman, will the gentlewoman yield?

Mrs. ROUKEMA. Yes, I yield to the gentleman.

Mr. McDADE. I want to commend my colleague for her interest in this program. She has been instrumental in getting it funded and I want to assure her that we will do our very best to accommodate her wishes and see that the project is fully funded.

Mrs. ROUKEMA. I thank the gentleman and appreciate his cooperation. This is a technology with great promise.

Mr. McDADE. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. SHUMWAY).

Mr. SHUMWAY. Mr. Chairman, I rise in opposition to H.R. 7356, the Department of the Interior and related agencies appropriations bill for fiscal year 1983. I have strong objections to this, and any other appropriations bills that would set excessively high Government spending levels in flagrant disregard of the need to reduce the budget deficit. At a time when we are faced with the prospect of annual budget deficits of over $150 billion, it seems ludicrous to make moneys available for various Government agencies far in excess of what they have determined their own needs to be. This bill is $801 million over the administration's request and should be scaled back accordingly.

In stating my opposition to the overall spending levels provided in this bill, I should like to make clear that I am not opposed to one program of particular importance to my district, the Lake Tahoe land acquisition project, Public Law 96-586. This program is designed to help preserve and protect the pristine beauty of Lake Tahoe and its environs. Last May, I appeared before the Appropriations Subcommittee on the Interior to testify in favor of continued funding for this project which is of vital interest to my constituents. I am very pleased that the committee has recommended that this program should continue to be financed.

However, in all fairness, I would support a percentage reduction in the spending levels for the Lake Tahoe project as long as similar reductions are made in all other areas of the appropriations bill. An across-the-board reduction of the committee's recommendations was made last year in order to bring the fiscal year 1982 Interior appropriations bill back in line with the administration's request, and I think it highly appropriate that we follow the same course this year.

Until we can bring the budget deficit under control, this country must continue to make the sacrifices necessary to revitalize our national economy. With this goal in mind, I urge you to oppose this bill in its present form and support lower overall spending levels.

□ 1100

Mr. McDADE. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts (Mr. CONTE), the distinguished ranking minority member of the full committee.

Mr. CONTE. Mr. Chairman, I rise in support of H.R. 7356, a bill making appropriations for the Department of the Interior and related agencies for fiscal year 1983. The two greatest assets of any nation may be said to be its people and its natural resources. Earlier this week we considered and passed the people's bill—the bill making appropriations for the Departments of Labor and Health and Human Services. Today we are considering the bill which deals most directly with the management and preservation of this Nation's vast natural resources—our forests and parks, our fish and wildlife, and our mineral deposits.

We have a tremendous responsibility to ourselves, our children and their children to do our very best to protect, preserve, and to properly manage and develop for the continuing benefit of our own and future generations the resources with which this Nation has been blessed.

The bill before you includes funding for the Department of the Interior, the Forest Service, the fossil energy research and development and energy conservation programs of the Department of Energy as well as for the National Endowments for the Arts and Humanities and the Smithsonian. Total new budget authority recommended in this bill is $7.4 billion. This is $25 million more than the new budget authority enacted in fiscal year 1982 for comparable programs and some $809 million more than the administration's request.

But the amount the committee is recommending is within the section 302(b) allocation to the Interior Subcommittee established by the Appropriations Committee pursuant to the budget resolution adopted earlier this year by the Congress. Also to be considered is the fact that it is estimated that revenues to be generated to the Treasury as a result of activities undertaken through this bill including Forest Service timber receipts and OCS lease sales will total over $20 billion.

The management of our Federal lands involves a wide range of activities from determination of allowable grazing levels on our public lands to land purchases for park and recreation areas. I am pleased with the recommendations of the committee to continue park acquisition efforts in such developmentally threatened but diverse areas as the Appalachian Trail corridor, the Santa Monica Mountains, the Cuyahoga River National Recreation Area in Ohio, the Indiana Dunes, and Lake Tahoe. Additionally the committee has provided $75 million to allow the States to continue their participation in park and recreation efforts as authorized through the land and water conservation fund.

Of equal importance to continuing land acquisition efforts are the funds recommended by the committee for adequate operation, and maintenance, and development, and restoration of our existing parks. I am particularly pleased by the committee's recommendation to include $3.4 million for further development of the Lowell National Historical Park which because of its urban historical character is certainly one of the most unique parks in our national park system.

The committee has paid particular attention this year to the preservation of our wildlife resources and habitat which includes over 88 million acres of land involving 404 refuges, 89 hatcheries, 12 laboratories, and 25 field stations managed by the U.S. Fish and Wildlife Service. Among actions recommended by the committee in protection of our fishery and wildlife resources are restoration of $4.4 million for the cooperative wildlife and fishery research institutes program, $2 million for the migratory bird advance loan fund which together with an estimated $16 million in duck stamps receipts will allow for the purchase of some 33,000 acres of threatened wetlands which serve as irreplaceable migratory bird waterfowl breeding and wintering habitat; $5.5 million to complete acquisition of the Bird Cliffs in the Priboloffs, certainly one of the wildlife wonders of the world; restoration of funding for a number of hatcheries proposed for closing, and an increase of just over $5 million for the endangered species program including section 6 grants and special recovery programs involving the peregrine falcon, the California condor, and the whooping crane.

Just as important as the preservation of our national resources is the preservation and management of our cultural and historical resources. To this end the committee has included $26 million for the historic preservation fund, an additional $15 million for the reconstruction of Wolf Trap as authorized earlier this year by the Congress, and $159 million for the programs, activities, and operation of the Smithsonian. The committee is also recommending that funds for the National Endowments be continued at their fiscal year 1982 levels.

A final critical area of consideration for the committee are various fossil energy research and development programs and energy conservation programs. The committee has chosen to restore funds for a number of promising though as yet technically unproven energy technologies including $31 million for MHD and an additional $22 million for fuel cell development which includes $2.2 million for thermionics development. As submitted, the administration's fiscal year 1983 budget would have gutted our energy conservation programs reducing funding to a level of only $22 million. In view of the importance of energy conservation to our overall efforts to reduce dependence on foreign imports, such a level of funding was totally unacceptable. Therefore, the committee has chosen to restore funding using both new budget authority and funds transferred from the termination of the SRC I project for such programs as weatherization, $147.5 million; schools and hospitals, $60 million; energy extension service, $10 million; and the energy policy and conservation grants, $30 million.

Mr. Chairman, I think this is a good bill which meets the responsibility with which we have been entrusted to care for our wildlife and natural resources and to develop responsibly our oil, gas, and mineral resources for our own energy independence and I urge support for the bill.

In closing, I want to take this opportunity, Mr. Chairman, to commend my good friend, the gentleman from Illinois, SID YATES, and my good friend, the gentleman from Pennsylvania, JOE MCDADE for their leadership on the bill. I want to personally thank the gentleman from Illinois (Mr. YATES) for all he has done in so many areas including the arts and humanities and for cooperating with me in trying to bring back the Atlantic salmon to the Connecticut River, and for providing continued support for the Bethel and Hartsville hatcheries, and all of the hatcheries that we have. It has been through his goodness and kindness that all this has taken place.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Illinois.

Mr. YATES. I thank the gentleman for his acknowledgments and for his encomiums. But the goodness and the kindness that I and the committee expressed were in a great measure attributable to the tenacity, to the knowledge, to the experience and to the good will of the very distinguished gentleman from Massachusetts (Mr. CONTE) and the fact that there are Atlantic salmon swimming in the streams of New England today is the greatest tribute that one can give to the gentleman from Massachusetts.

Mr. CONTE. I thank the gentleman, and the striped bass people thank the gentleman for what he has done for them.

Mr. YATES. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Tennessee (Mrs. BOUQUARD).

Mrs. BOUQUARD. Mr. Chairman, I want to congratulate the subcommittee chairman, Mr. YATES, and the ranking Republican, Mr. MCDADE, for their great efforts in bringing a reasonable fossil energy and conservation R&D appropriations bill to the floor. The administration shortsightedly presented the Congress with a going out of business budget for fossil energy and conservation R&D. Fortunately, these two gentlemen have drafted a bill that recognizes the need for a meaningful coal research program and the national security aspects of a synthetic fuels technology program. I also want to compliment my committee chairman, Mr. FUQUA, for his recommendations to the Appropriations Committee. He has keenly understood the need for the balanced energy R&D program which I feel must be the priority of this Congress.

My own efforts to enhance the levels of fossil energy and conservation R&D funding began in the last session and became very intense during the go-around on the fiscal year 1983 budget resolution. At that time, several of us with an interest in energy policy recognized that the Gramm-Latta level for fiscal year 1983 in the energy function 270 of the budget was much too low to accommodate even ongoing R&D programs no less provide the funds which I was interested in obtaining. I was pleased that most of the Senate and House conferees on the budget responded to our strong recommendations and raised the function 270 funding to the neighborhood of $5 billion in order to accommodate a truly balanced R&D program.

I firmly believe that the fossil energy and Conservation R&D funding provided in this bill is as close to my own recommendations which I made to the Interior Appropriations subcommittee as I could have hoped. In my letter of June 10 to Chairman YATES, and Mr. MCDADE, I outlined the critical need of the DOE to capture lessons learned in coal conversion so as to retain a Federal research and technical base for synthetic fuel development. I also pointed out the critical need to fund materials, component and instrumentation technology for fossil energy programs carried out in several of the national laboratories. I think that this bill represents a good start in those areas and also provides significant funding to support DOE's unique role in environmental technology, particularly in supporting the Synthetic Fuels Corporation. I am also very pleased that key liquefaction and gasification activities are funded as well as the MHD program. I would hope that certain programs such as combustion technology and university coal research can be enhanced even further by the time an Interior appropriations bill is signed into public law.

Mr. Chairman, I congratulate the gentleman from Illinois and the gentleman from Pennsylvania for their greatly constructive efforts in bringing this energy funding bill to the floor.

Mr. YATES. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. DOWNEY).

Mr. DOWNEY. Mr. Chairman, I rise in strong support of this legislation.

As chairman of the Congressional Arts Caucus, I wish to applaud the work of the Appropriations Committee under the leadership of Chairman JAMIE L. WHITTEN and the Interior Subcommittee under the leadership of Chairman SIDNEY R. YATES.

I applaud their work in support of the arts and humanities. They have set and approved funding levels far above levels proposed by the administration.

The committee has approved funding levels for Federal Arts and Humanities programs at over $540 million—$119 million above administration levels.

The members of the Appropriations Committee have demonstrated their support of the arts in no uncertain terms. They have reaffirmed these valuable cultural programs with a strong, bipartisan voice. They have insured that artistic activity will continue to grow across America.

Let us continue that momentum. Let us approve the funding levels on the House floor. Let us keep the arts in America alive.

Mr. YATES. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. WEISS).

Mr. WEISS. Mr. Chairman, I rise to support the fiscal year 1983 appropriations for arts programs in the Interior appropriations bill. I commend subcommittee Chairman SIDNEY YATES for his work in rejecting the serious cutbacks recommended by the administration. The Interior appropriations bill will generally preserve fiscal year

1982 funding levels, making minor increases in certain programs. The National Endowment for the Arts funding level, at $143.875 million shows a slight increase and the National Endowment for the Humanities funding is maintained at $130.56 million.

Budget reductions of any kind in arts and humanities would erode our objectives of creating a climate in which the arts and humanities can flourish and preserving the Nation's diverse cultural heritage. Cut of the magnitude that the President proposed would destroy the very core of Federal arts and humanities programs.

In my district groups dedicated to the arts and humanities have been stunned by the impact of the 1982 budget reductions. Escalating rents and difficulty in securing private sector donations have combined with Federal cuts to threaten the very existence of some theater and arts programs. They are being forced to raise admission prices, reduce staff and services, and sometimes, to rely on more traditional, less experimental productions so as to assure a full house. These efforts to survive tend to restrict the programs to an elite audience and to stifle creativity—the lifeblood of the arts.

Arts groups are meeting with very limited success in their efforts to find private funding to fill the gap created by Federal cuts. Corporations and foundations are reporting their requests for aid have doubled or tripled in the past year. They are unable to respond to the increasing pressures from the nonprofit world.

The administration's contention that the Federal Government plays only a minor role in the arts proves to be less than accurate upon closer examination. Federal grants comprise significant proportions of the budgets of many small nonprofit arts groups. They also represent the stamp of approval by which the private sector recognizes merit—a means to leverage private moneys.

Maintaining support for the arts and humanities makes economic sense, considering their power to produce jobs and revitalize neighborhoods. It makes political sense in view of the growing public interest in the arts. Finally, it makes sense from the viewpoint of national strength, for whatever happens to the arts and humanities affects the spirit of the American public. Approval of this appropriations levels for arts programs will indicate that we recognize the vital role of Federal support for the arts and humanities in the Nation's economic and cultural life.

Mr. McDADE. Mr. Chairman, I yield such time as she may consume to the gentlewoman from California (Ms. FIEDLER).

Ms. FIEDLER. Mr. Chairman, I rise today in support of the Interior appropriations bill that continues funding for land acquisition in the Santa Monica Mountains Park.

Again this year the park has received the highest level of funding of any park acquisition project in the Nation—$15 million. This is another important step in the continuing process of insuring that the Santa Monica mountains remain in their natural state.

The majority of this park is in my district and during the last year I have worked closely with homeowner's groups and interested citizens to help bring us to the point we have reached today.

In the future, I will be working with members of the committee to insure that full funding for this project is achieved. But, as for now, I think Congress should be proud that we have taken the steps to preserve a piece of wilderness in the sprawling metropolis of southern California.

I want to thank the members of the committee for helping preserve the natural beauty of the Santa Monica mountains.

Mr. YATES. Mr. Chairman, I yield such time as he may consume to the gentleman from North Dakota (Mr. DORGAN).

Mr. DORGAN of North Dakota. Mr. Chairman, I rise in support of H.R. 7356, the Interior appropriations bill for fiscal year 1983. In general, the bill strikes a reasonable balance between support for key Indian programs and budgetary restraint.

I commend the Interior Appropriations Subcommittee and, especially, Chairman YATES for supporting such vital Indian services at the Wahpeton Indian School, Indians into medicine (Inmed), community health representatives, social services, law enforcement, and roads maintenance.

The subcommittee and full committee deserve special praise for their continued support of the Wahpeton Indian School, an elementary boarding school in North Dakota. The subcommittee recognized the folly of the Bureau of Indian Affairs' premature plan to close this top-notch facility which provides quality residential education for Indian students with unique problems.

Specifically, the committee provided an additional $1.8 million over the administration's request for school operations in order to keep open the Wahpeton and Concho Indian Schools. In addition, the committee's report details tough standards that the BIA must meet before it can close any off-reservation boarding schools.

The committee directed the BIA to make a complete study of any proposed closures and to review the GAO report now in progress before presenting Congress with any closure plans. In addition, the committee prohibited any school closure unless:

First, the closure proposal was submitted to Congress 1 year in advance as part of the BIA budget; and

Second, both the House and Senate Appropriations Committees agree to the proposed closure as part of the regular appropriations process.

I have worked very closely with Indian tribal councils in North Dakota and with the Wahpeton Indian School Board to see that Indian children can continue to receive the kind of quality education that Wahpeton provides. This fight has taken us into Federal court to stop the BIA's closure plan.

So I take heart that the committee has joined with us in an effort to insure fair treatment and quality education for Indian children.

Similarly, I welcome the committee's prudent action in providing continued funding for Inmed at the University of North Dakota and the community health representatives. Inmed tackles the critical problem of insufficient Indian medical personnel. There are only 257 Indian doctors in the whole country out of an Indian population of 1.4 million—at a time when Indian life expectancy falls far below the national average.

Without adequate funding for Inmed and Indian health scholarships, we would fail in critical effort to train Indian medical personnel. So it pleases me to see that the committee kept Inmed administration funds at the fiscal year 1982 level and increased the overall budget for Indian health manpower by $2 million.

Further committee support for Indian health services came as it restored $23 million for the community health representative program, which the administration proposed to end. CHR's provide vital medical services to Indian people in isolated areas.

This tribal health program works well in preventing illnesses while saving tax dollars at the same time.

While I welcome the committee's support for these needed services, I also question decisions to deeply cut title IV Indian education, tribally controlled community colleges, and the United Tribes Educational Technical Center (UTETC) of Bismarck, N. Dak.

All three of these programs serve native Americans as well.

Title IV offers drug education and cultural studies to Indian students throughout the country, such as those at the Turtle Mountain, Standing Rock, Fort Totten, and Fort Berthold Reservations.

Indian community colleges provide affordable, quality education to Indian students who might not otherwise gain the tools needed for self-sufficiency in today's world. Most of these schools are well on the way toward accreditation, and funding cuts will jeopardize this progress.

UTETC offers a unique program of residential vocational education to Indian students from all over the Nation. UTETC also has a superior placement record for its graduates at a time when Indian unemployment runs as high as 90 percent.

Although the full committee wisely raised title IV funding to a level of $65 million, this still falls far below the fiscal year 1982 mark of $78 million.

I would urge the committee to reconsider these three cuts in conference and maintain the fiscal year 1982 levels for all three programs.

In closing, I repeat my appreciation for the committee's support of most key services to Indian people. Meeting our trust responsibilities to native Americans is not only just policy, it is a wise investment in American future.

Mr. YATES. Mr. Chairman, I yield 1 minute to the gentleman from California, Mr. JOHN L. BURTON.

Mr. JOHN L. BURTON. Mr. Chairman, I too, would like to compliment Chairman YATES and JOE MCDADE, the ranking minority member, for the tremendous insight they have had toward the situation in the district that I have been privileged to represent for 8½ years. They have done great work for the Golden Gate National Recreation Area and the Point Reyes Seashore.

Better than giving you a fair hearing, they always gave you something that would benefit the people of this Nation. I appreciate that, SID and JOE, very much, and the kindness that you have extended to me.

Mr. YATES. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to say that I appreciate very much the kind remarks of the gentleman from California (Mr. JOHN L. BURTON) and to tell him that I am sorry he is leaving the House. I wish him well in any activity which he undertakes in the future.

Thank you very much, JOHN.

● Mrs. SCHNEIDER. Mr. Chairman, as a member of the Congressional Arts Caucus, I am pleased by the Interior appropriation's strong show of support for important art and humanities programs.

I commend both the Interior Subcommittee and the full Appropriations Committee for recommending that adequate funds be allocated for valuable cultural programs. The recommended spending levels, which are well above the administration's request, are necessary to maintain this Nation's wealth of artistic tradition.

I ask that my colleagues join me in providing the necessary Federal commitment to the arts by approving the funding levels requested by the committee. The arts need your support.●

● Mr. FUQUA. Mr. Chairman, I want to extend my congratulations to Chairman YATES, to the ranking minority member, Mr. MCDADE, and their colleagues on the Interior Appropriations Subcommittee. Once again their ability to work together has produced a bill that makes sense. It is fiscally responsible, but more than that it represents the Congress continued commitment to certain energy and natural resource policies and programs. In this, it is a tribute to the subcommittee's courage.

Especially in it action on energy programs has courage and commitment been needed. In the budget request, the administration proposed to destroy virtually every energy program in this bill. For example, at $106.9 million, the fossil energy research and development program was 25 percent of its 1982 levels; at $15.8 million, the conservation R&D programs were 10 percent of their 1982 levels. The conservation grant and outreach programs had been totally eliminated. In sum, the nonnuclear energy technology R&D activities were being extinguished. Beyond that a philosphy was to be implemented, saying: A national policy for energy is not needed—energy is not a problem.

I have major problems with that point of view. First, energy clearly remains a problem for this country. Softening oil prices and the economic recession reduces the pressure but not the uncertainties with respect to our domestic energy production and especially with respect to the political and economic stability of OPEC and other oil exporting nations. Second, the nonnuclear energy R&D programs really only started in 1975; they were only beginning to produce marketable results when the budget reductions began in 1981. On the Science Committee we know that you have to support research for the long haul; the people and the work itself require commitment and time. Finally, the country needs to develop all of its energy resources. As much as I believe that nuclear power is critical to our energy future, I believe just as strongly that our strength will be in diversity. Conservation may be price-induced, but it has yet to be shown that there is any kind of price elasticity for energy R&D. On principle, the Federal Government ought to be in this business; because of our near-term national security, we have got to be in this business.

This appropriations bill maintains an R&D program in fossil energy and conservation technologies that will retain a core of people and technical expertise who can continue much needed work in these areas. The members of the Science Committee have worked closely with the Appropriations Committee on this bill and the bill reflects it. This kind of cooperation between appropriations and authorization committees is critical if the Congress is to make coherent policy when we must also reduce the Federal debt. I congratulate you and look forward to continued cooperation. Thank you, Mr. Chairman.●

● Mr. HOWARD. Mr. Chairman, I rise today to commend the Subcommittee on the Interior and the full Committee on Appropriations for approving $6 million in emergency funds to continue the vital beach renourishment plan at the Sandy Hook unit of the Gateway National Recreation Area. The second phase of this project is essential to effectively address the critical erosion problem facing Sandy Hook.

Just within the last month, the first placement of sand has begun at the critical erosion zone. Thus began a project determined by a committee of scientists as the most realistic and least expensive alternative to save access to a national park which attracts over 2 million visitors each year. There are vital installations at the tip of Sandy Hook, including a Coast Guard station, a Fish and Wildlife marine laboratory, an Army Reserve unit, the oldest lighthouse in the United States, as well as a marine science consortium that serves over 19 colleges and universities—and a host of activities by nongovernmental groups. All may be denied entrance if Sandy Hook is isolated by the sea.

I would also like to commend the Army Corps of Engineers for the cooperation and efficiency they have displayed in bringing about the first phase of the project. They have agreed to continue to make available the sand from their annual maintenance dredging of Ambrose and Sandy Hook Channels for placement on Sandy Hook. I therefore urge my colleagues to support this much-needed appropriation.●

● Mr. SCHEUER. Mr. Chairman, as a member of the executive board of the Congressional Arts Caucus, I would like to take this opportunity to express my appreciation to the members of the Appropriations Committee for their fine work in support of the arts and humanities.

Under the farsighted leadership of Chairman JAMIE L. WHITTEN and Subcommittee Chairman SIDNEY R. YATES, the committee has set and approved funding at substantially higher levels than those recommended by the administration. By approving more than $540 million for Federal arts and humanities programs, the committee has wisely provided $119 million above proposed administration levels.

This strong, bipartisan action by members of the committee has clearly indicated their concern that the growth of artistic and cultural activity throughout the Nation should be continued. This bill is richly deserving of our support.

I urge my colleagues to support funding for the arts at the levels approved by the Appropriations Committee. Only in this way will it be possible

for us to insure that the vitality of these programs will not be diminished and that these valuable cultural activities will continue to enhance our national heritage.●

● Mr. PARRIS. Mr. Chairman, I appreciate this opportunity to express my support for the recommendation of the committee to include $3 million for the acquisition of 355 acres of inholdings adjacent to Mason's Neck National Wildlife Refuge.

Mason's Neck in Fairfax County, home of George Washington and George Mason, is also, appropriately enough, the home of several bald eagles and one of the few nesting areas remaining in the east coast. This sanctuary for our national symbol is now threatened by development on the 355 acres, according to a 1981 assessment of the proposed acquisition by the Fish and Wildlife Service and recent correspondence I have received from the International Association of Fish and Wildlife Agencies.

The U.S. Fish and Wildlife Service began planning the acquisition of the acreage in question 15 years ago, when it first began acquiring the land which currently comprises Mason's Neck National Wildlife Refuge. Since that time, the current landowners have refrained from selling the land for development, in hopes of the eventual acquisition by the Fish and Wildlife Service and at considerable financial sacrifice.

I am extremely grateful to the distinguished chairman and ranking minority member of the subcommittee on Interior Appropriations and the distingushed chairman and ranking minority member of the Appropriations Committee for acting to preserve the rich legacy which Americans will have in Mason's Neck National Wildlife Refuge. Without their foresight, financial pressure on the landowners to sell would prevail after 15 years, and we would lose Mason's Neck as a sanctuary for the bald eagle within a year.

I also express my appreciation to the numerous individuals and groups of concerned citizens in my district who wrote to the subcommittee, worked with me on the project, and made known the overwhelming support in northern Virginia for the completion of this refuge. Their efforts were especially gratifying to me, because when Fairfax County first approved a cooperative effort between the Northern Virginia Regional Park Authority, the Virginia Department of Parks, and the U.S. Fish and Wildlife Service for the acquisition and management of Mason's Neck, I was on the board of supervisors working in support of the plan.●

Mr. YATES. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. The Clerk will read.

The Clerk proceeded to read the bill.

Mr. YATES (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. Are there any points of order against the bill? The Chair hears none.

Are there any amendments?

AMENDMENT OFFERED BY MR. GUNDERSON

Mr. GUNDERSON. Mr. Chairman, I offer an amendment.

The portion of the bill to which the amendment relates is as follows:

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For expenses necessary for scientific and economic studies, conservation, management, investigations, protection, and utilization of sport fishery and wildlife resources, except whales, seals, and sea lions, and for the performance of other authorized functions related to such resources; for the general administration of the Fish and Wildlife Service; for maintenance of the herd of long-horned cattle on the Wichita Mountains Wildlife Refuge, $242,778,000; of which $4,000,000, to carry out the purposes of 16 U.S.C. 1535, shall remain available until expended.

The Clerk read as follows:

Amendment offered by Mr. GUNDERSON: On page 7, line 13, strike "$242,778,000" and insert in lieu thereof "$244,151,000".

On page 7, line 15, after the period add the following new sentence: "No funds appropriated by this Title shall be obligated or expended to close any of the following fish hatcheries prior to March 31, 1983 or the date on which the United States Fish and Wildlife Service determines that the benefit/cost ratio of that fish hatchery is among the eleven lowest benefit/cost ratios of fish hatcheries operated by the United States Fish and Wildlife Service, whichever date is later: Norfolk, Arkansas; Welaka, Florida; Chatahoochee Forest, Georgia; Ennis, Montana; Mescalero, New Mexico; Pisgah Forest, North Carolina; Orangeburg, South Carolina; Jones Hole, Utah; Paint Bank, Virginia, Genoa, Wisconsin, and Saratoga, Wyoming."

Mr. YATES (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. GUNDERSON. Mr. Chairman, first of all, I would like to commend the chairman of the subcommittee, the gentleman from Illinois (Mr. YATES), and the ranking member of the subcommittee, the gentleman from Pennsylvania (Mr. MCDADE), for the thorough and expeditious manner in which this legislation has been brought to the floor.

I am, however, concerned about that section of the bill and the corresponding language in the committee report that would close a number of fish hatcheries operated by the U.S. Fish and Wildlife Service around the country.

As many of us remember, in its budget message the administration requested closing 31 of these fish hatcheries as a means to reduce Federal spending by some $3.7 million.

Following that request, the Fish and Wildlife Service submitted a list of recommended hatchery closings based on two criteria: First, cost of maintenance and rehabilitation for normal output; and second, percentage of fish production that goes for private and State waters without Federal benefit.

After subcommittee review, this list was altered—some hatcheries on the Fish and Wildlife list were spared and 11 different hatcheries were scheduled for closing. One of those hatcheries added to the list by the subcommittee for closing is located in my district in Genoa, Wis.

Mr. Chairman, it would be very easy for every Member who has a fish hatchery in his district scheduled for closing to take the well and argue the importance of that hatchery to his district and the country. We could be here all day and into the weekend if we were to take that approach.

My amendment takes a far simpler and what I believe to be a far more sensible approach to this dilemma. It would provide funding for the 11 hatcheries added to the list of closings by the subcommittee through March 31, 1983.

During this time, the Fish and Wildlife Service is to examine the benefit/cost ratio for these 11 offices and compare it to the benefit/cost ratios of its other hatcheries throughout the country.

If one of these 11 hatcheries has a benefit/cost ratio that is among the 11 lowest in the country, the Fish and Wildlife Service may close the hatchery. If not, it must remain open.

It seems to me that this is the fairest way to proceed—we achieve a budget savings by closing the least cost-effective facilities and insure that the most efficient and effective hatcheries remain in operation for the benefit of our Nation.

I know that I am not alone in my concern about the closing of these hatcheries.

□ 1110

Mr. HENDON. Mr. Chairman, will the gentleman yield?

Mr. GUNDERSON. I yield to the gentleman from North Carolina.

Mr. HENDON. I thank the gentleman for yielding.

My friend has as always very adequately stated his case. It is a strong case, Mr. Chairman, for reconsideration of these critically important facilities.

I commend the importance of these hatcheries to the ranking member, to our distinguished chairman, and to the conferees.

Mr. SKEEN. Mr. Chairman, will the gentleman yield?

Mr. GUNDERSON. I yield to the gentleman from New Mexico.

Mr. SKEEN. I thank the gentleman for yielding.

I, too, want to support the gentleman from Wisconsin and to say even though I am not going to raise the question about the Mescalaro, I understand the intention of the committee, and I respect that very much, is to let the BIA take over the funding of this particular one.

But I do want to make this one point. In this particular case I think that the committee viewed the Mescalaro as one that served only that immediate area on the Indian reservation. This is not true. It does serve a very large resort area in the middle of my district. I would like to make that point. I will try to pursue this further. But I do support the thrust of the gentleman's amendment.

Mr. GUNDERSON. I thank the gentleman for his remarks.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. GUNDERSON. I yield to the gentleman from Illinois.

Mr. YATES. I thank the gentleman for yielding.

I think the gentleman makes a very valid point. The committee received a request from the administration to close a number of hatcheries. We did not comply with the full request of the administration because we know of the importance of the hatcheries.

The question of determining which hatcheries to close was a very difficult one. It troubled the committee in many respects.

I think the gentleman has made a valuable contribution by bringing this matter to the floor and expressing his feelings.

In the interests of time, we just cannot review each of the decisions. I would like to assure the gentleman, as I am sure my friend from Pennsylvania would, that we tried very conscientiously to come to the right conclusion on this. I want to assure him and all the Members who are interested in this that we do intend to review the criteria, the selection process, during the conference with the Senate. We will take advantage of the gentleman's suggestion.

Mr. GUNDERSON. I appreciate the gentleman's remarks.

Mr. McDADE. Mr. Chairman, will the gentleman yield?

Mr. GUNDERSON. I yield to the gentleman from Pennsylvania.

Mr. McDADE. I appreciate my colleague yielding.

I want to say to him I applaud him for raising this issue. It is a very important one. The subcommittee, as the chairman has said, has seriously considered the question of whether or not to close certain hatcheries or to give the States complete jurisdiction in that regard.

As such, our committee has reviewed the proposed closings recommended by the Fish and Wildlife Service and indeed we have made some alterations. Yet we realize that many Members, including the gentleman in the well, have concerns about the criteria used to reach these decisions. Other Members have concerns as well and would like further discussion of the selection process.

Thus on behalf of our side of the aisle, I want to pledge to my colleague and to the other Members who have expressed their concern that the list scheduled for closing and the priorities for evaluation will once again be reviewed as we take this bill to conference with the Senate.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. GUNDERSON) has expired.

(By unanimous consent, Mr. GUNDERSON was allowed to proceed for 1 additional minute.)

Mr. GUNDERSON. Mr. Chairman, I would like to thank both the ranking member and the ranking subcommittee member for their remarks. Based on their assurances it will be reviewed in the conference committee, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

AMENDMENT OFFERED BY MR. WEAVER

Mr. WEAVER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WEAVER: Page 65, after line 23, title III, add a new section:

"Any interest earned by a political subdivision of a State on sums paid to such political subdivision by such State between October 1, 1979 and September 30, 1982, from amounts paid to such State under the provisions of the last paragraph under the head "Forest Service." of the Act of May 23, 1908 (16 U.S.C. 500), and of section 13 of the Act of March 1, 1911 (16 U.S.C. 500), may be expended for any public purpose as such political subdivision prescribed."

Mr. YATES (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. WEAVER. Mr. Chairman, historically, timber recipients have been deemed "grants-in-aid." This was established in a 1923 Supreme Court (U.S.) opinion.

Section 203 of the Intergovernmental Cooperation Act of 1968 provides that "States shall not be accountable for interest earned on grant-in-aid funds, pending their disbursement for program purposes."

In 1973, the Comptroller General of the United States held that this provision of law applies equally to counties as to subgrantees of States.

However, since the 1968 act was not express as to the ability of counties, as well as States, to utilize the interest earned on these payments, and since a Comptroller General's opinion is not binding on State courts, Federal law does not preempt contrary State law.

Last spring an Oregon court ruled that since congressional intent on the issue was not clear, counties in Oregon could not use the interest for their general operations.

The purpose of this amendment is to clarify congressional intent on the issue and to insure that counties and other political subdivisions of States are able to have these interest revenues available for use where they are most urgently needed in these tough economic times, as is consistent with the Comptroller General's interpretation of the 1968 law.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from Illinois.

Mr. YATES. I thank the gentleman for yielding.

I have had an opportunity to review the amendment on this side, and I discussed it with the gentleman from Oregon (Mr. AUCOIN), who also has expressed an interest in this amendment.

Mr. AUCOIN. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from Oregon.

Mr. AUCOIN. I appreciate the gentleman yielding.

I am delighted to hear that the chairman of the subcommittee understands the sensitivity of the problem that the gentleman, my colleague from Oregon, addresses in his amendment. I hope we can quickly dispense with it. It is worthy.

Mr. YATES. Mr. Chairman, I want to assure the gentleman, as far as this side is concerned, we are willing to accept the amendment and take it to conference.

Mr. WEAVER. I thank the chairman very much.

Mr. McDADE. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from Pennsylvania.

Mr. McDADE. Mr. Chairman, I would say to my colleague he brought this to my attention a few moments ago. He is always diligent in looking after these matters.

I have no objection to putting it in the bill at this point.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon (Mr. WEAVER).

The amendment was agreed to.

Mr. FISH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the Interior appropriations bill for fiscal year 1983. In particular, I am in strong support of the portion of this legislation relating to the Department of Energy's fossil and conservation programs. These programs are extremely important in helping our Nation reduce its reliance on foreign oil and to insure our energy security in the future.

As my colleagues are fully aware, budgetary pressures have presented us with many difficult decisions this year. However, I believe that it is vital for our Nation to continue to press forward with the development of promising new energy technologies. Indeed we neglect them as our peril. Few priority programs measure up to the importance of energy research and development.

Against this background, I would like to commend the distinguished chairman of the subcommittee (Mr. YATES) and the gentleman from Pennsylvania (Mr. MCDADE) for the fine piece of legislation that is before us today. They have recommended a well balanced energy program that will help us take advantage of many of our promising energy options. This legislation is consistent with the recommendations of the Energy Development and Applications Subcommittee, on which I am the ranking minority member.

In the fossil area, they have recommended a strong program that will help our Nation development an adequate technology base for developing our coal, oil, and gas reserves. Many important activities stand out, but I would like to mention just a few. Funding is included for the 4.8 megawatt fuel cell demonstration in New York City. Fuel Cells offer a promising electric generator option, with multifuel capabilities and low air emissions. In addition, aggressive heat engine and combustion systems programs are recommended. The magnetohydrodynamics (MHD) program is also funded at a level that will allow us to continue to develop this technology.

In the conservation area, my subcommittee has heard a great deal of testimony indicating that conservation is the most immediate and cost-effective means to reduce our reliance on foreign oil supplies. Most compelling were the findings of a recent report from the prestigious Energy Research Advisory Board. In reviewing Federal energy R&D priorities, this panel concluded that funding for conservation was too low in view of its "potential for energy improvements and the inability of many important energy-consuming sectors to conduct R&D."

The legislation before us today will strongly support our conservation programs. I am especially pleased to see that it maintains our residential, commercial, industrial and transportation R&D programs. According to testimony before our Energy Subcommittee, the potential for new technologies in these areas is extremely promising. We can and should build upon the achievements in residential conservation of recent years. In addition, over $147 million is provided for weatherization.

One area of concern to me has been the urban waste program. This program has been aimed at developing technologies to convert our cities' garbage into useful energy. While I am pleased to see that $3 million is recommended for fiscal year 1983, I would hope that this funding could also be used for some commercial-scale R&D activities. This would help our cities in their efforts to tap the potential of this energy resource. I strongly encourage that we move this program in this direction and to help us utilize the great promise of our "garbage" energy in the near term.

Mr. Chairman, we cannot afford to be lulled into a false sense of security by our current energy situation. The economic impacts of another oil interruption would be staggering. We must continue to plan for our energy future. The legislation before us does just that.

Mr. Chairman, I would like to ask the distinguished chairman (Mr. YATES) about his recommendations on the urban waste program.

I understand that the proposed funding would be used to help solve the problems facing all urban waste processes, such as corrosion problems and emissions control. In this regard, I would like to ask the gentleman from Illinois as to whether it is his intention that this language would also cover conventional municipal waste-to-energy approaches, such as the direct burning techniques that are now in use. Many of these conventional approaches also face problems, whether it be institutional socioeconomic, or whatever. As the chairman may know, Dutchess County, N.Y., is planning to build a first generation urban waste-to-energy system. I would hope that his funding could be used to support innovative projects like the one in Dutchess County in helping them overcome the problems they may face down the line.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentleman from Illinois.

Mr. YATES. I thank the gentleman for yielding.

First, let me commend the gentleman for his knowledge, his expertise, and the fine work that he has done in the general field of energy, and particularly in the field of making fuel from waste materials.

Responding to this specific question, let me say that the urban waste program does offer a potential for making fuel from waste, which would otherwise be discarded and is very important in terms of our future energy needs.

The legislation that we have includes $3 million to support that program.

We intend to support program activities to help solve all the problems which face urban waste energy technologies. We wish that the administration would provide more funding for programs of this kind. And we will include funds for technical institutional problems. But I would like to point out to the gentleman that we cannot assure direct financial support for purely commercial undertakings. I am sure he appreciates that.

□ 1120

Mr. FISH. I do, and I thank the distinguished chairman for his guidance on this program. I believe that the urban waste program shows great promise for helping our Nation reduce its reliance on foreign oil. The legislation before us today will allow us to move forward aggressively in this area.

Mr. ROSE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to bring to the attention of the House the matter of the Indian education funding in title IV of this legislation. The last year appropriation level, the 1982 appropriation level for this very important program was $77 million. The administration recommended that it be cut to $51 million. Through the good work and the efforts of the committee, this has been restored to some $65 million.

I want to thank the chairman and the members of the committee on both sides of the aisle for working out this compromise. While I had hoped that the cut could be totally restored to last year's appropriation level of $77 million, because of the importance of this Indian Education Act funding, I am realistic enough to realize that this is great progress in the face of the position of our administration.

Indian education funding in my congressional district funds some 25 separate projects. It is extremely important to the State of North Carolina and to the many thousands of young children who benefit from this program.

I would like to ask the chairman of the committee, the gentleman from Illinois, who has done such a good job in restoring this funding and to urge him to do all that he possibly can in conference to maintain the level that has been struck at this time.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. ROSE. I am happy to yield.

Mr. YATES. Well, first, I want to commend the gentleman for his outstanding work in the field of Indian education and for his support of this program.

Our committee does support the program. We recognize the great problems that the Indian community has in trying to overcome the lack of Federal funding for educating their young children in primary and secondary schools. These funds are very much needed.

I wish that our section 302 allocation had permitted us under the Budget Act to restore the full funding. We did provide an additional $14 million for that purpose.

I think the administration must believe that the States could take up the slack.

The gentleman from North Carolina and the gentleman from Minnesota (Mr. SABO) both called this matter to the attention of our subcommittee and when I discussed it with the gentleman from Minnesota and suggested the possibility of the State putting into the budget the additional funds that the program should have, he said that Minnesota finds itself with a $375 million deficit at the present time and it has so many needs that it just cannot put the necessary funds into this program.

We have tried to help as we can. I want to assure the gentleman that I will certainly do everything that I can to protect this level and if the Senate decides to put extra money in, we will consider the possibility of putting extra funds in as well.

Mr. ROSE. I thank the gentleman for his assurances.

I had an amendment that I had prepared that would restore the original $77 million level, but because of the chairman's assurances that he has just given to me, I will not offer that amendment. I thank the gentleman for what he has had to say.

Mr. AUCOIN. Mr. Chairman, will the gentleman yield to me?

Mr. ROSE. I yield to the gentleman.

Mr. AUCOIN. Mr. Chairman, I want to thank the gentleman in the well for his interest in this subject, too.

I have sat in on hearings on this matter as a member of the committee. I am struck by the fact that very few people outside the Indian communities themselves care to take the time to find out how very real and how very deep the problems are.

The gentleman in the well obviously does understand and this Member also does. I want him to know to what extent I can be helpful, I certainly intend to do so.

Mr. WILLIAMS of Montana. Mr. Chairman, will the gentleman yield?

Mr. ROSE. I yield to my friend, the gentleman from Montana.

Mr. WILLIAMS of Montana. Mr. Chairman, I, too, want to thank the gentleman for his concern and his leadership on this critical matter.

The American people should know, as we do, that American Indians have the lowest level of education of any people in this country. Everyone knows that 10.4 or 10.5 percent unemployment is an outrage, but the fact is that on many of our Indian reservations the unemployment rate is above 80 percent. We all know that unemployment, joblessness, lack of being able to secure a good job, is due to a lack of education.

The fact is that Indian education is finally beginning to work in this country.

The CHAIRMAN. The time of the gentleman from North Carolina has expired.

(At the request of Mr. WILLIAMS of Montana, and by unanimous consent, Mr. ROSE was allowed to proceed for 2 additional minutes.)

Mr. WILLIAMS of Montana. Mr. Chairman, if the gentleman will yield further, Indian student dropout rates are finally beginning to decrease. The number of Indian youth now attending college is increasing. The number of Indian teachers and Indian lawyers is on the increase. Much of that can be attributed to the genuinely successful focusing of proper education programs for Indians.

So the gentleman raises a matter that is absolutely vital to all the people of America, but particularly the first Americans.

I thank the gentleman for his leadership.

Mr. ROSE. Mr. Chairman, I thank all my colleagues for their comments.

I think the subcommittee does realize that we are very concerned about this program, just as they have expressed their concern.

With their assurance that they will hold the line as best they can on the level of funding that is provided and, if possible, go above that in conference, I will not offer my amendment for the full cut restoration.

AMENDMENT OFFERED BY MR. MARLENEE

Mr. MARLENEE. Mr. Chairman, I offer an amendment.

The portion of the bill to which the amendment relates is as follows:

ADMINISTRATIVE PROVISIONS

Appropriations and funds available to the United States Fish and Wildlife Service shall be available for purchase of not to exceed 124 passenger motor vehicles of which 113 are for replacement only (including 46 for police-type use); purchase of 4 new aircraft as additions; not to exceed $200,000 for payment, at the discretion of the Secretary, for information, rewards, or evidence concerning violations of laws administered by the United States Fish and Wildlife Service and miscellaneous and emergency expenses of enforcement activities, authorized or approved by the Secretary and to be accounted for solely on his certificate; insurance on official motor vehicles, aircraft, and boats operated by the United States Fish and Wildlife Service in Mexico and Canada; repair of damage to public roads within and adjacent to reservation areas caused by operations of the United States Fish and Wildlife Service; options for the purchase of land at not to exceed $1 for each option; facilities incident to such public recreational uses on conservation areas as are not inconsistent with their primary purpose; and the maintenance and improvement of aquaria, buildings, and other facilities under the jurisdiction of the United States Fish and Wildlife Service and to which the United States has title, and which are utilized pursuant to law in connection with management and investigation of fish and wildlife resources: *Provided*, That all refuges within the National Wildlife Refuge System must be managed in accord with the provisions of the National Wildlife Refuge System Act (16 U.S.C. 668dd-668ee): *Provided further*, That no funds may be used to plan for, conduct or supervise hunting on the Bosque del Apache National Wildlife Refuge when whooping cranes are on the refuge: *Provided further*, That the national fish hatchery at Tupelo, Mississippi, shall hereafter be named the "Private John Allen National Fish Hatchery".

The Clerk read as follows:

Amendment offered by Mr. MARLENEE: On Page 9, line 12,

Strike "*Provided*," and all that follows through the colon on line 15.

Mr. MARLENEE. Mr. Chairman, under the title "Fish and Wildlife and Parks," I refer to the section "Administrative Provisions." On page 9, lines 12 through 15, I move to delete beginning with the word "*Provided*" on line 12 and proceeding through the colon on line 15.

I offer this amendment because it would enter and change an ongoing court case that is presently on appeal to the circuit court of appeals in San Francisco involving the Charles M. Russell National Wildlife Refuge in Montana.

I have discussed this amendment with Interior Subcommittee Chairman Mr. YATES and with the ranking minority member, Mr. MCDADE, and would hope they concur since the effect of the language in this bill as presently written would affect this court case. My amendment would remove this language and thus would not interfere in this ongoing litigation.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. MARLENEE. I am happy to yield to the distinguished chairman.

Mr. YATES. Mr. Chairman, this side has had the opportunity to examine the gentleman's amendment. We think it is a worthy amendment and we are willing to accept it.

Mr. McDADE. Mr. Chairman, will the gentleman yield to me?

Mr. MARLENEE. I am happy to yield to the gentleman.

Mr. McDADE. Mr. Chairman, I want to commend my colleague for his diligence in bringing this to our attention.

I agree with the chairman. This is a meritorious amendment. We are delighted to accept it and congratulate the gentleman for the work he has done.

Mr. MARLENEE. I appreciate that and I thank the chairman and the ranking minority Member.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Montana (Mr. MARLENEE).

The amendment was agreed to.

Mr. LAGOMARSINO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to ask the chairman of the subcommittee a question, if I might.

I note that in the bill, there is no provisions for the Channel Islands National Park acquisition, nor is there any mention of it in the committee report.

I understand also that the administration did not make such a request for the fiscal year we are considering.

Am I correct in my understanding that under the bill, that the administration could use funds that are provided in the bill for acquisition of land in the Channel Islands if they decide to do so?

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I will yield.

Mr. YATES. The committee of the Congress provided $3,600,000 in fiscal year 1982 and that money is still available.

In addition to that money, the funds that the committee has placed in this bill for acquisition could be used for the Channel Islands if the administration decided to do so.

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman.

AMENDMENT OFFERED BY MR. COURTER

Mr. COURTER. Mr. Chairman, I offer an amendment.

The portion of the bill to which the amendment relates is as follows:

SEC. 107. No funds provided in this title may be expended by the Department of the Interior for the procurement, leasing, bidding, exploration, or development of lands within the Department of the Interior Central and Northern California Planning Area which lie north of the line between the row of blocks numbered N808 and the row of blocks numbered N809 of the Universal Transverse Mercator Grid System.

The Clerk read as follows:

Amendment offered by Mr. COURTER: Page 33, after line 22, insert:

SEC. 108. No funds provided in this title may be expended by the Department of the Interior for the procurement, leasing, bidding, exploration, or development of the following tracts within the Block, Hudson, Toms, Carteret, Lindenkohl, Spencer, Wilmington, Baltimore, Washington, or Norfolk Canyons of Outer Continental Shelf Lease Sale Numbered 76: Block Canyon, NK 19-10: 945, 946, 989, 990; Hudson Canyon, NJ 18-3: 290, 291, 334, 335, 336, 379, 380, 423-427, 467-471, 513-515, 558, 559; Toms Canyon, NJ 18-3: 815, 859; Lindenkohl Canyon, NJ 18-6: 193-194; Wilmington Canyon, NJ 18-6: 491, 492, 535, 536, 579, 580, 624; Baltimore Canyon, NJ 18-6: 750, 751, 794, 838, 882, 883; Washington Canyon, NJ 18-8: 515, 516, 559, 560, 604; and Norfolk Canyon, NJ 18-8: 907, 908, 909, 951, 952, 953, 997.

And redesignate the following sections accordingly.

Mr. COURTER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. COURTER. Mr. Chairman, I would like to offer an amendment to the Interior appropriations bill which concerns 60 canyon head tracts to be offered for sale as a small part of the Outer Continental lease sale numbered 76 in April 1983. This mid-Atlantic region lease sale includes a total of 4,325 tracts and my amendment is specifically addressing 60 tracts of this sale, only 1.5 percent of the total amount of tracts being offered. Although these canyon head tracts are located within 10 different canyons, my amendment addresses only those tracts in these canyons which are located on canyon heads.

Canyon head tracts are known to be extremely sensitive areas. The New Jersey Department of Environmental Protection has determined that these canyon head tracts are vital to both the economy and the environment of New Jersey's resources. The Department of Interior has included in their draft environmental impact statement on this lease sale an alternative that recommends deletion of these tracts because of their biological importance. In addition, a study is currently being conducted to determine the oceanographic processes at canyon heads.

I prefer to err on the side of caution and conserve prudently offshore fisheries habitat and fishing grounds by taking steps to reduce the potential for adverse effects on these habitats and fishing grounds. My amendment will prohibit funds being expended for the lease, sale, or exploration of these 60 canyon head tracts which will clearly reduce the impacts on these biological resources.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. COURTER. I am happy to yield.

Mr. YATES. I have had an opportunity to examine the gentleman's amendment. I think it is a good amendment and our side is willing to accept it.

Mr. COURTER. I thank the gentleman very much.

Mr. McDADE. Mr. Chairman, will my colleague yield to me?

Mr. COURTER. I yield to the distinguished gentleman.

Mr. McDADE. Mr. Chairman, I congratulate my colleague for his efforts on this amendment. We are willing to accept it, too, and we urge its approval.

Mr. COURTER. I thank the gentleman very much. I appreciate that.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. COURTER).

The amendment was agreed to.

□ 1130

Mrs. BOGGS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to commend the committee for their very, very fine help to all of the national parks of this country and for their protection and promotion of them. I would like especially to commend them for their continued protection and promotion of the Jean LaFitte Park.

We have a situation that has arisen, Mr. Chairman, in the Jean LaFitte Park complex. At the heart of the Jean LaFitte Park is a Barataria unit which contains the only totally contained ecosystem in the whole coastal region of the delta. We have been very, very fortunate that this committee and this Congress has allowed us to have land acquisition and to go forward with the planning of the Barataria unit.

We now have a situation where we need some accelerated work done at the Barataria unit because Louisiana is hosting the 1984 World's Fair, which is dedicated to water as a source of life, and to the great rivers of the world. We feel that the Bartaria unit of the Jean LaFitte Park will have special interest to the fairgoers.

Unfortunately, the Delta Regional Commission, which is an advisory group, and the Park Service and the fair exposition group did not get the request in to us in time to be able to have the request answered in this particular bill that is before us now.

I would like to ask the chairman of the subcommittee, the gentleman from Illinois, Mr. YATES, if he would be agreeable, if there is an amendment which is offered in the Senate, if the amount is contained within the Senate bill for some construction moneys to be spent, where the plans are already finalized and approved, where the environmental impact statements are approved, the Delta Regional Commission has approved them, the National Park Service superintendent has approved them, if we would be able to use $2,100,000 in construction grant money to make the services available to the people who would be coming to the World's Fair in 1984 at the Barataria unit?

Mr. YATES. Mr. Chairman, will the gentlewoman yield?

Mrs. BOGGS. I am happy to yield to the gentleman from Illinois.

Mr. YATES. I thank the gentlewoman for yielding to me.

Mr. Chairman, first let me commend the gentlewoman for her encomiums addressed to this committee; rather, the praise should be accorded to her as one who always takes care of the best interests of Louisiana, and particularly the area surrounding New Orleans.

Let me say that we have not had an opportunity to look into the matter that the gentlewoman has brought to the attention of the committee, but from her summary of what has happened, it seems like a very good purpose and certainly if the money is inserted in the Senate we will give it every consideration.

Mrs. BOGGS. I thank the chairman.

Mr. McDADE. Mr. Chairman, will the gentlewoman yield to me?

Mrs. BOGGS. I yield to the gentleman from Pennsylvania.

Mr. McDADE. I thank the gentlewoman for yielding.

Mr. Chairman, I want to commend my colleague on the Appropriations Committee, the gentlewoman from Louisiana, for her usual attention to detail and assure her that she will receive every consideration from this side of the aisle as well. We are grateful for her input and for her guidance.

Mrs. BOGGS. I thank the gentlemen very much and I invite all of my collegues to come down to the Bartaria unit during the World's Fair.

Mr. Chairman, I move to strike the last word.

Mr. Chairman, I desire at this time to thank my friend, the chairman of the subcommittee, the gentleman from Illinois (Mr. YATES) and the members of this committee for providing funds for the Tupelo fish hatchery which they have named the Pvt. John Allen Fish Hatchery, to be hereby referred to by that name. This fish hatchery, located at Tupelo, Miss., in my district, has been in existence for a long time. It has gone down in history because of the speech "Private John" Allen made in the Congress to obtain funds for the hatchery.

Mr. Allen, perhaps the greatest humorist ever to serve in this body, after referring to Tupelo as the center of the universe, for "you can stand in the court house square and the horizon seems to be equidistant, any direction you look." Actually, he said the Civil War was fought over who would have possession of Tupelo; when Ponce De Leon, he said, in his search for the fountain of youth discovered Florida, he was seeking Tupelo.

Columbus, in persuading Ferdinand and Isabella of Spain to finance his expedition that led to the discovery of America, assured them that an all-wise Creator, creating a world like this, was bound to have made somewhere near its center such a place as Tupelo . . .

He concluded—

Why sir, fish will travel over land for miles to get to the water we have at Tupelo. Thousands and millions of unborn fish are clamoring to this Congress today for an opportunity to be hatched at the Tupelo hatchery.

You may be interested in how Pvt. John Allen got his name.

According to the historian, George Stimpson, "Private John" was the familiar name of John Mills Allen (1846–1917) of Tupelo, Miss., who served throughout the Civil War as a private in the Confederate Army, and who later became a successful lawyer. In 1884 Allen and a former Confederate general named Tucker both sought the Democratic nomination for the seat in Congress that had been occupied since 1877 by Col. Henry Lowndes Muldrow. On one occasion, when the candidates spoke from the same platform, General Tucker wound up his appeal to the voters in words substantially as follows:

Twenty years ago last night, my fellow citizens, after a hard fought battle on yonder hill, I bivouacked under yonder clump of trees. Those of you who remember, as I do, the time that tried men's souls will not, I trust, forget your humble servant on election day.

In reply Allen said:

What General Tucker says to you about having bivouacked in yonder clump of trees on that night is true. It is also true that I was vidette picket and stood guard over him while he slept. Now then, fellow citizens, all of you who were generals and had privates to stand guard over you while you slept, vote for General Tucker, and all of you who were privates and stood guard over the generals while they slept, vote for Private John Allen.

The voters chose Pvt. John Allen and continued to do so until he retired from Congress 16 years later.

Mr. Chairman, again I appreciate the committee's recognition of what this facility does mean to the people. Commercial food fish production has become a great industry in my State as in many others. Truly it is important to continue to support this and other hatcheries.

Mr. YATES. Mr. Chairman, I move to strike the last word.

Mr. LUNDINE. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from New York.

Mr. LUNDINE. I thank the gentleman for yielding.

Mr. Chairman, I would like to call the attention of the chairman to a situation which has arisen rather quickly with respect to the U.S. Forest Service.

They have issued a press release indicating an interest in disposing of what are categorized as surplus Federal land. They indicate that normal procedures and hearings will be followed for all of those lands except a tract in New York, and one in California.

The tract in New York is known as the Hector Grazing Lands and it is serving an important public purpose in the view of most of those people who have been in the area. This is in a region which has been represented by my colleague, the gentleman from New York, GARY LEE, and in the future will be represented by my colleague, FRANK HORTON, and by myself.

We feel that the normal procedures for the disposition of land should apply to the Hector lands, as well as to others, before they are taken out of public ownership and made a part of any such sale.

No formal hearings have been held on this. I would like to inquire of the chairman whether it is the intention of the committee that no funds in this appropriations bill should be spent on advertising and disposing of lands without following the usual procedure, particularly with regard to the Hector lands?

Mr. YATES. The gentleman has brought this problem to the attention of the committee and the committee does believe that the Forest Service should follow a uniform system of disposing and taking care of its units.

Certainly the problem raised by the gentleman from New York is one that will have the attention of the committee and this brings to the attention of the Forest Service that it should follow the uniform and prescribed procedures in that area and all areas.

Mr. HORTON. Mr. Chairman, will the gentleman yield to me?

Mr. YATES. I yield to the gentleman from New York.

Mr. HORTON. I thank the gentleman for yielding.

Mr. Chairman, the Hector land use that has been referred to is not in my present congressional district, but under reapportionment it will be in my new district, the 29th Congressional District of New York, portions of it.

I am meeting with the people in the area. I am deeply concerned also about the matter of the disposition of that land. It is my position that the land should not be disposed of.

The entire New York delegation, and I am the vice chairman of the New York delegation, the bipartisan delegation, has indicated its support for this position in the past, and I feel that it is important that there be some assurances given that this proposed transfer will not be done without the prescribed procedures.

□ 1140

I would also like to ask the ranking minority member on this side of the aisle, the gentleman from Pennsylvania (Mr. McDADE) what his view is with regard to this situation in addition to what has already been said by the chairman of the subcommittee.

Mr. McDADE. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield.

Mr. McDADE. Mr. Chairman, I want to thank my colleagues for bringing this to our attention. I want to assure my colleagues that we are grateful for their interest. We were not aware of the fact that the Forest Service was not following the usual procedure with respect to disposition of public lands. I agree with the chairman completely, that we will exercise full oversight, and that we intend that no funds be spent to engage in practices that do not conform to proper procedures. We will look at it completely and try to bring the Forest Service up for a hearing.

Mr. HORTON. I thank the gentleman.

AMENDMENT OFFERED BY MR. SKEEN

Mr. SKEEN. Mr. Chairman, I offer an amendment.

The portion of the bill to which the amendment relates is as follows:

ADMINSTRATIVE PROVISIONS

Appropriations and funds available to the United States Fish and Wildlife Service shall be available for purchase of not to exceed 124 passenger motor vehicles of which 113 are for replacement only (including 46 for police-type use); purchase of 4 new aircraft as additions; not to exceed $200,000 for payment, at the discretion of the Secretary, for information, rewards, or evidence concerning violations of laws administered by the United States Fish and Wildlife Service and miscellaneous and emergency expenses of enforcement activities, authorized or approved by the Secretary and to be accounted for solely on his certificate; insurance on official motor vehicles, aircraft, and boats operated by the United States Fish and Wildlife Service in Mexico and Canada; repair of damage to public roads within and adjacent to reservation areas caused by operations of the United States Fish and Wildlife Service; options for the purchase of land at not to exceed $1 for each option; facilities incident to such public recreational uses on conservation areas as are not inconsistent with their primary purpose; and the maintenance and improvement of aquaria, buildings, and other facilities under the jurisdiction of the United States Fish and Wildlife Service and to which the United States has title, and which are utilized pursuant to law in connection with management and investigation of fish and wildlife resources: *Provided,* That all refuges within the National Wildlife Refuge System must be managed in accord with the provisions of the National Wildlife Refuge System Act (16 U.S.C. 668dd-668ee): *Provided further,* That no funds may be used to plan for, conduct or supervise hunting on the Bosque del Apache National Wildlife Refuge when whooping cranes are on the refuge: *Provided further,* That the national fish hatchery at Tupelo, Mississippi, shall hereafter be named the "Private John Allen National Fish Hatchery".

The Clerk read as follows:

Amendment offered by Mr. SKEEN: Page 9, line 16, after "no funds may be used to plan for" strike out ", conduct or supervise".

● Mr. SKEEN. Mr. Chairman, New Mexico hunters have enjoyed an annual 16-day (eight weekends) snow goose hunt under a cooperative agreement between the U.S. Fish and Wildlife Service and the new Mexico Game and Fish Commission. The arrangement includes a careful monitoring of the whooping cranes so that all shooting is kept away from the crane's roost area and is ended whenever any crane takes flight. The fiscal year 1983 Interior appropriations bill would have provided that:

No funds may be used to plan for, conduct or supervise hunting on the Bosque del Apache National Wildlife Refuge when whooping cranes on the refuge.

This would have prohibited refuge employees from supervising the activities of hunters on the borders of the refuge and put the whooping crane flock in danger.

The fact is that there has never been a whooping crane goose hunt, but there is no way anyone could have guaranteed this would be the case without close supervision. As things now stand, New Mexican sportmen will be able to continue the orderly harvest of the geese and help protect the feeding grounds of the cranes.

My amendment will allow an annual snow goose hunt to continue at the Bosque del Apache Wildlife Refuge while at the same time protecting the endangered whooping cranes that winter at the refuge.

The original bill would not have ended the goose hunt but would have taken away the protection the whooping cranes now have. We are able to take care of both of those concerns with one amendment.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. SKEEN. I yield.

Mr. YATES. Mr. Chairman, the gentleman was kind enough to discuss the problem of the hunt on the Bosque del Apache National Wildlife Refuge, which is a winter breeding area for whooping cranes. It is a very complex problem, and I want to commend the gentleman for bringing it to our attention and for helping to work it out.

We think he has presented an amendment that will permit us to work it out, and we are willing to accept it on our side.

Mr. SKEEN. I thank the Chairman.

Mr. McDADE. Mr. Chairman, will the gentleman yield?

Mr. SKEEN. I yield to the gentleman.

Mr. McDADE. Mr. Chairman, I would like to join in commending my colleague for bringing this to the attention of our committee. He does so in a very constructive manner, and the amendment expresses to us, I think, his very appropriate and helpful manner. We are delighted on this side to join in recommending its adoption.

Mr. SKEEN. I thank the chairman and ranking minority member of the committee. It is a very delicate problem for us, and I do appreciate the consideration these gentlemen have given to me.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Mexico (Mr. SKEEN).

The amendment was agreed to.

Mrs. SCHROEDER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to commend Chairman YATES for his excellent work on this bill. I want to discuss just one example. On pages 45 and 46 of the committee report, the Appropriations Committee expresses concern about the increased costs and decreased productivity of the Office of Surface Mining following Secretary Watt's politically motivated reorganization announced in May 1981. The committee asks the Department of the Interior for a report on the costs and savings from the reorganization.

I had similar concerns and wrote Secretary Watt on August 5, 1982, requesting information about the effect of the reorganization on the staff of OSM. The Department submitted its final answer on September 30, 1982. After analyzing this information, with the assistance of the Environmental Policy Center, I wrote to Secretary Watt on October 28, 1982. Since the text of my letter is relevant to the points raised in the Appropriations Committee report, I place it into the RECORD at this point. Incidentally, Secretary Watt never responded to this letter.

SUBCOMMITTEE ON CIVIL SERVICE,
Washington, D.C., October 28, 1982.

Hon. JAMES G. WATT,
Secretary of the Interior,
Department of the Interior,
Washington, D.C.

DEAR MR. SECRETARY: Last June, shortly following the announcement of the reorganization plan for the Office of Surface Mining (OSM), the House Subcommittee on Civil Service held a hearing in Denver. At that time, I expressed serious doubts about OSM's claims that this reorganization would save the Federal government millions of tax dollars while at the same time increasing OSM's efficiency and output. Rather, I feared that this ill-conceived plan would waste taxpayers money.

The Subcommittee on Civil Service is presently continuing its analysis of the OSM reorganization, now that the reorganization has been completed. The current information provided to my staff by OSM regarding various personnel levels, locations, and attrition rates have borne out the predictions I made back in June of 1981. The data shows this reorganization program has resulted in more than just a reorganization of personnel and offices. The goals of this program, and the manner in which it was executed, resulted in total agency chaos and employee panic which inevitably forced a majority of experienced OSM personnel to leave the coal field offices. The OSM field offices charged with responsibility of implementing the Surface Mining law were left inexperienced, understaffed, and demoralized.

The data provided by OSM on September 13, 1982, and on September 30, 1982, raises at least three areas of major concern regarding the reorganization.

1. There has been a tremendous reduction both in the number of OSM operating personnel and in the number of experienced personnel. OSM reports that in January, 1981, it had on board 959 employees. In September, 1982, that number had been reduced to 757 employees, or 21% less than 1981. In your June 19, 1981, letter to me, you stated that OSM's mission is changing, and it will take on different responsibilities. With OSM's change in mission, it undoubtedly requires a fully staffed team to implement it. Certainly it wasn't the time to initiate a reorganization program which left the agency 21% below the existing level.

Even more disturbing is the tremendous percentage of experienced personnel who have left OSM. In January, 1981, OSM had on board 948 Federal employees graded GS-1-15. As of June, 1982, 470 of these experienced staff members either were terminated, or chose to resign, retire, or transfer out of the agency. This exodus of employees constitutes a 49% loss of OSM's experience across-the-board. Out of the 470 who have left, only 272 replacements have been hired, 123 just in the last four months. It is the GS-7-13 level employees who constitute the true regulatory and technical heart of OSM. Graded in these levels are OSM's field inspectors, and technical and mine permitting experts. In January, 1981, OSM had on board 565 employees graded GS-7-13. By June, 1982, 228 of these employees were either terminated or chose to separate from the agency. This loss constitutes a 40% drop in OSM's most experienced, and most essential, personnel.

OSM admits in its State Program evaluation reports recently presented to Congress that in many cases OSM failed to meet its required levels of oversight inspections, due to lack of Federal inspectors. In addition, the reports also showed that very few states with primacy were able to meet the requirements to repermit mining operations under the permanent program. In connection with this point, I would like to remind you of your statement to me in a letter dated June 19, 1981, "Such is OSM's mission, and the agency's structure must be changed to reflect its role of assistance. . . This can only be done by working closely with and for the states." How is OSM better assisting the states in their permit review by conducting an agency "reorganization" which has forced 40% of the very people needed to assist the states to leave the service, and has failed to replace the personnel and experience which has been lost? In addition, I would like to remind you of the testimony which I received during the June 5, 1981, hearing in Denver, from David Shelton, Director of the Colorado Mine Land Reclamation Division; Brace Hayden, Administrator for the Reclamation Division of the Montana Department of State Lands; and Walter Ackerman, Administrator of the Land Quality Division of the Wyoming Department of Environmental Quality. These gentlemen testified on how their states have come to rely and depend on OSM's technical expertise. Furthermore, they all voiced their concern that the reorganization would cause many of OSM's most qualified and experienced people to leave. When reviewing the above statistics, it seems ridiculous to argue that these fears have not become reality.

The greatest loss in OSM's ability has come in the West, where there have been 149 separations since January, 1981, out of a total workforce of 170. This is a 88% attrition rate. While some of these employees have been replaced, the Western states have in the meanwhile lost the experienced staff they need to discharge their functions under the Act.

2. OSM's presence has been centralized in Washington at the cost of the coal fields. In January, 1981, the OSM Washington office employed 267 employees graded between GS-1-15. As of September, 1982, the Washington office level had actually grown 11% to a total of 302. However, at the same time, the field and regional offices (now field and tech centers) had shrunk from 681 to 448, a loss of 34%. Even more disturbing is the increase in the number of GS-7-13s in the Washington office. This level has grown from 116 to 142, between January, 1981, and September, 1982, an increase of 18%. Apparently, this increase was at the expense of the field offices which suffered a 28% reduction of GS-7-13s during the same time period (449 to 323). In January, 1981, there were 3.9 field employees in the GS-7-13 range for each one headquarters employee. Today, the ratio has dropped to 2.3 field employees for each one headquarters employee.

Last year, I voiced my concern that the reorganization would increase the Washington staff, at the expense of the field offices, where the work of mine plan review, implementation of cooperative agreements, and oversight of state programs actually takes place. Your reply of June 19, 1981, assured me that reduction "from 271 to 240 employees" would take place in the DC office, not an increase as I predicted. I would also like to remind you of your statement during the July 16, 1981, House Subcommittee on Energy and the Environment's oversight hearing on OSM reorganization, "We are going to put people where the coal is. We are going to put people where the action is, not in artificial locations around where people think the cultural advantages are better than other places, but that is our objective." Based upon those assurances to Congress, how do you explain an increase in the Washington staff? I am not aware of coal mines in the District of Columbia. Is this the true definition of the "new federalism"?

3. The reorganization, and the massive loss of experienced personnel which it caused, wasted taxpayers' money. It is hard to understand how a reorganization of a Federal agency which caused approximately half of its experienced employees to leave its service in just 18 months saved the taxpayer money and increased efficiency. Have you calculated the cost of training all the new employees needed to replace the multitudes of experienced staff members who have left? What was the cost of the unemployment benefits paid to terminated OSM employees? What was the costs of retirement benefits required for OSM employees who have chosen to retire due to the reorganization? How about refund of contributions? How many hours of planning and implementing did the reorganization program take? What about the costs of duplicate office space rental during the period that the Regional offices were being opened? What about the transportation costs required to implement the reorganization as well as the employee moving costs the government is required to spend in transferring Federal employees? Have you calculated the savings that the reorganization has produced in greater agency efficiency, in respect to its causing half of its employees to leave in one and one-half years? What were the costs and benefits of this plan, in dollars and cents?

I am personally appalled by the massive number of Federal employees who have left OSM and the great experience and expertise which has been lost. I cannot help but conclude that many of these non-political civil servants were pressured into leaving, when they could not be legally terminated. After speaking with some of these former employees, I am disturbed at the careless, and often cruel manner in which OSM staff were pressured into leaving. Furthermore, I am saddened that this happened to these civil servants despite the concerns that I voiced to you prior to the reorganization. The reorganization has made a mockery of the civil service system and its employee protection provisions granted by Congress. Could it be that you and the officials at OMS are employing such programs to change policies which you have been unable to alter in Congress or the courts? Whatever the reason for these actions, this misguided endeavor has been executed at a tremendous cost to the taxpayer, the civil servant, and the citizens who live in the coal areas.

I respectfully request your personal reply to the specific points raised in this letter.

Sincerely,

PATRICIA SCHROEDER,
Chairwoman.

Mr. WEAVER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I first would like to commend the diligence and conscienciousness and good will with which the distinguished chairman of the subcommittee, Mr. YATES, and the distinguished minority member, Mr. MCDADE, and all members of this committee have provided in bringing forth this bill. I of course, intend to support the bill.

I do want to call the committee's attention to two issues that we may bear them in mind as we progress in legislation next year. The first deals with the export of logs, and this occurs in the Northwest. We have two problems with the export of logs in the Northwest. One, we do not have that much timber any more and the export of a log is an export of a job. Also, the Chinese, the Peoples Republic of China, have now entered the log market in vast way and have purchased 25 percent of our log exports this year alone, coming from zero a year or so ago. The bidding up of prices of timber by these Japanese and Chinese and other people who buy our timber is such that it actually drives the price beyond the ability of our mills to pay and market their finished products.

I want to export to China; I want to export to Japan, but I want it to be in manufactured wood products. Therefore, this is an issue that I think we should go into next year.

Second, another jobs issue is the fact that presently the Forest Service and the Bureau of Land Management use phenoxy herbicides to clear brush off cutover lands. These herbicides are not only dangerous to the health of the people, but they also have the potential of really weakening the trees we are trying to grow. New studies

show that this could be a serious impediment to the growth of new crops, as well as a danger to human health, to use dioxin-contaminated phenoxy herbicides.

I find the use of these herbicides not only to be detrimental to health, but we could employ thousands of people, putting people to work in the desperately unemployed Northwest, to work clearing this brush manually. We have the people ready to do this, crews ready to do this, at a cheaper overall cost to the Federal Government.

So, Mr. Chairman, I ask the committee to bear in mind these two issues as we progress to next year's legislation. As chairman of the Forestry Subcommittee, I intend also to take up these issues and would like to work with them on it.

Mr. PANETTA. Mr. Chairman, I move to strike the last word.

I commend the chairman of the Interior Subcommittee, Mr. YATES, as well as the full committee chairman, Mr. WHITTEN, for the leadership they have shown in presenting this important legislation. The bill is an important step in the direction of promoting responsible stewardship and preserving our Nation's valuable natural areas, and represents a broad range of interest and support.

Among the numerous provisions of the bill is one which would seek to establish a sound offshore energy development policy along the Pacific coast by excluding the environmentally sensitive and resource-poor northern and central California section of that coast from offshore oil and gas drilling during the next fiscal year.

However, the provision would prevent actual leasing and prelease processes only, and would still permit scientific and seismic study to determine resources within the excluded area. Further, the provision would have no effect upon the significant development occurring offshore Point Arguello. In fact, the Arguello field lies over 37 miles south of the southernmost area affected by the AuCoin provision.

A similar provision in last year's bill prohibited leasing in the four northern basins of OCS lease sale 53. In addition, the southern Santa Maria basin tracts of that sale—tracts which will remain unaffected by the approval of the provision—were estimated by U.S.G.S. to hold roughly 80 percent of the recoverable resources in the basin.

California has supported offshore oil and gas drilling off its coast in the past. However, considering the high economic and environmental risk to the sensitive central and northern coasts, and taking into account the extremely low resource estimates for the northern tracts excluded by this year's provision, the State of California and the U.S. Ninth Circuit Court decided to suspend offshore leasing of the lease sale 53 tracts in that region. Numerous California counties, fishing organizations, Governor Atiyeh of Oregon, and the representatives of the five Western States sitting on the Pacific Marine Fisheries Commission all concur in this opposition to drilling on the resource-poor, environmentally sensitive northern and central coasts.

Again, I commend the chairmen for their foresight in preparing this important and complex legislation, which will seek to insure certain especially sensitive natural areas for the enjoyment and livelihood of all Americans.

Mr. CORCORAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will be very brief. I know the Committee of the Whole is anxious to complete action on this measure, but there is a factor here that is of some concern to me, and I know it is of great concern to the Secretary of Energy, Mr. Hodel.

As I understand it, Mr. Chairman, in this legislation before us, the appropriation bill, there is no involvement of the so-called personnel floors on the Department of Energy. However, Mr. Chairman, if you will recall, in the supplemental bill that we passed before the election recess, we did in a rather unique way impose some personnel floors below which the Secretary of Energy could not go. The problem with that, of course, is that continues on ad infinitum, and my concern is that other continuing resolutions coming up, that there might be some way in which to resolve that before we get to that point.

The senior Republican member of the Energy and Commerce Committee, our good friend Mr. BROYHILL of North Carolina, has written a letter which I would like to insert at this point:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, D.C., November 12, 1982.

Hon. SILVIO O. CONTE,
Ranking Minority Member, Committee on Appropriations, Rayburn House Office Building, Washington, D.C.

DEAR SILVIO: I just had a chance this morning to meet our excellent new Secretary of Energy, Don Hodel, and I am extremely impressed by his enthusiasm for taking over the management of the Department in a cost-effective, efficient way. I believe his management ability will not only provide the Administration with a strong voice in energy policy, but will also give the Department effective leadership in implementing that policy. I hope you will share my opinion of Don Hodel as we develop our working relationship with him up here on the Hill.

One immediate issue of concern to Secretary Hodel is the DOE personnel "floors" which were legislated into H.R. 6863, the FY 1982 General Supplemental Appropriations enacted by Congress before the recess. In particular, these "floors" may hamper Don Hodel's ability to manage the Department in a cost-effective way that will give energy programs a new direction and boost the morale of DOE employees charged with administering those programs.

However, because the language in the General Supplemental bill applies without fiscal year limitation, I understand these "floors" remain in effect unless affirmatively removed by new language in a future bill.

For this reason, I would appreciate a chance to sit down and discuss this issue with you and Joe McDade at your convenience when we return for the lame duck session. Please give me a call to set up a convenient time, or have your staff contact either Chris Warner or Mike Boland of my staff at Extension 5-3641.

Sincerely,

JAMES T. BROYHILL,
Ranking Minority Member.

Mr. BROYHILL would hope, in view of the fact that we have a new Secretary of Energy, a man who has had a considerable amount of management experience, particularly in public service, that before we get to the continuing resolution matter, which expires on December 17, as I recall, that he would be a position where that issue can be resolved, where we give the Secretary of Energy a little more flexibility with respect to that.

□ 1150

Mr. Chairman, at this point I would like to engage the distinguished subcommittee chairman, my good friend, the gentleman from Illinois (Mr. YATES), in a colloquy on that point.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. CORCORAN. I certainly yield to the gentleman at this point for that purpose.

Mr. YATES. Mr. Chairman, I am glad the gentleman from Illinois (Mr. CORCORAN) brought this matter to the attention of the committee.

The reason those levels exist is that the subcommittee was very concerned by the fact that programs which are considered to be very important were allowed to disintegrate because of the amount of personnel that OMB was making available to administer them. We consider them very important, and we had previously sought to persuade OMB of the necessity for maintaining certain levels to administer the programs by making appropriate references to the need in our report. OMB paid no attention to that at all, and that was the reason that we tried the "old mule" trick of hitting them with a 2 by 4.

I can understand why the gentleman is upset by that. We have not done that in this bill. I have had a chance to speak to Mr. Hodel. I have known him as a result of his work in the Department of the Interior. I wish him well as the new Secretary of Energy, and I hope and anticipate that he will do a much better job than his predecessor in that respect, and that the Department will bring itself up from the shambles in which it now finds itself. It really is in very bad condition.

Mr. Hodel has a background of being a good administrator, and we will give him that opportunity.

Mr. Chairman, I am glad that the gentleman brought this to our attention. I think it is a very valid point, and we will not resort to the same kind of limitations we have had in the past, pending Mr. Hodel's actions.

Mr. CORCORAN. Mr. Chairman, I will say to my good friend, the gentleman from Illinois (Mr. YATES), that the problem, of course, is that, with the passage of H.R. 6863, the fiscal year 1982 general supplemental appropriations bill, there is an extension of this restriction on the personnel matter which I would hope, before we get to the continuing resolution, could be resolved.

The reason I take the floor at this time is really twofold, first, to express my support for the management capability of the new Secretary of Energy, and, second, to inquire whether or not there will be an attempt by the committee and some final action on the continuing resolution to resolve this in a way which will not hamstring the new Secretary of Energy.

Mr. YATES. Mr. Chairman, will the gentleman yield further?

Mr. CORCORAN. I am pleased to yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, may I assure the gentleman that we will try to work it out in the interim.

Mr. CORCORAN. Mr. Chairman, I thank the gentleman from Illinois (Mr. YATES) very much.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. CORCORAN. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I thank my friend, the gentleman from Illinois for yielding.

I just want to note in passing that we are funding the National Endowment for the Humanities and the Arts.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. CORCORAN) has expired.

(On request of Mr. HYDE, and by unanimous consent, Mr. CORCORAN was allowed to proceed for 2 minutes.)

Mr. HYDE. Mr. Chairman, will the gentleman yield further?

Mr. CORCORAN. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, we are funding the National Endowment for the Arts at a level of 42.6 percent over the President's request, and we are funding the Humanities at 36 percent over the President's request. So I think I have found a new jobs program here in this report.

I certainly am for dance, dance of all sorts, but this is $8,739,000. Then there is design arts and folk arts. I love folk arts, but this is $2,800,000. I like to subsidize budding opera stars.

But I just suggest that when we are searching with a microscope for places to cut spending, when we are cutting food stamps, when we are looking at entitlements and bleeding internally because we dare not cut them, to continue to fund these wonderful things, and they are wonderful—when there are other sources of funding—is not warranted. And if there are not other sources, there ought to be in this great opulent society. But we have taxpayers and retired people trying to find a home to buy, and we continue to subsidize all of these wonderful things at what I conceive to be excessive sums in the light of our present economic circumstances. In other circumstances they might be modest, but today they are excessive.

I think it is overreaching. I know that I am quickly being categorized as a cultural barbarian for saying this, and I accept the categorization because I just think this is overreaching.

Mr. Chairman, I hope this bill is defeated, if only to get the subsidies for the National Endowment for the Arts and the National Endowment for the Humanities back to a level that we can explain to our constituents and justify why we did this.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. CORCORAN) has again expired.

(By unanimous consent, Mr. CORCORAN was allowed to proceed for 1 additional minute.)

Mr. CORCORAN. Mr. Chairman, let me say that my good friend, the gentleman from Illinois (Mr. HYDE) is not alone in his concern.

Mr. Chairman, I wish to yield for a moment to our good friend, the gentleman from Pennsylvania (Mr. MCDADE) who has, I believe, an equal concern in mind about these equalization floors, and I would appreciate his response.

Mr. MCDADE. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, let me say that I know the Secretary of Energy, Mr. Hodel, and have worked with him on this committee and have great respect for him. I am very hopeful that we will be able to reach an accommodation and have the language withdrawn.

I think Secretary Hodel will be an efficient administrator of the Department. I recognize that it is a two-way street, that there are two ends to Capitol Hill, and that is what it is all about.

Mr. Chairman, I am sure, knowing Mr. Hodel and his background, that both the gentleman from Illinois and I would agree that he is a very able administrator, and I suspect that we will be able to work this problem out.

Mr. CORCORAN. Mr. Chairman, this gentleman from Illinois agrees also, and I thank the gentleman from Pennsylvania (Mr. MCDADE) for his response.

Mr. FRENZEL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, from the committee report one would expect that this appropriation is about $7.4 billion. However, I would like to invite the attention of the Members who may be interested, to the fact that there is about $280 million in budget authority which is not included in this bill and which was contained on a full-year basis in the continuing. That amount includes the strategic petroleum reserve, the Smithsonian construction, and the Native Hawaiian Study Commission.

But in addition to even that figure, there is another $211 million which, in my judgment, should be included in this bill, of which about $129 million comes from the redirection of receipts to finance the amount appropriated for the Minerals Management Service in one instance and, in the second instance, from matching appropriations by redirecting referrals.

So as one analyzes the bill, after trying to look under all the shells, the final result or the last shell under which we hope the pea is hiding comes out with a budget authority of about $167 billion in excess of the 302(b) authority and a little less than that over the budget assumptions.

Mr. Chairman, these are minor amounts. The committee has done a fine job in putting together its bill. Nevertheless, Mr. Chairman, if we are to have some kind of order and discipline in our operations around here, I think we really have to be sure that we dot the i's and cross the t's. As with most of our appropriation bills, there is always some of this sort of thing involved.

Mr. Chairman, until we can produce bills that are actually going to meet the letter and the spirit of budget resolution, which I consider to be a ceiling, not a floor—in fact, I would like to see us exceed the budget resolution in our reductions—I am going to be obliged to vote against this bill, and I hope others will join me.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Are there further amendments?

If not, the Chair recognizes the gentleman from Illinois (Mr. YATES).

Mr. YATES. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. PANETTA) having assumed the chair, Mr. FASCELL, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7356) making appropria-

tions for the Department of the Interior and related agencies for the fiscal year ending September 30, 1983, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

□ 1200

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 275, nays 73, not voting 85, as follows:

[Roll No. 413]

YEAS—275

Akaka	Chappell	Emery
Albosta	Chisholm	English
Alexander	Clausen	Erdahl
Anderson	Clay	Evans (DE)
Andrews	Clinger	Evans (GA)
Annunzio	Coelho	Fary
Anthony	Coleman	Fascell
Aspin	Collins (IL)	Fazio
AuCoin	Conte	Fenwick
Bafalis	Corcoran	Ferraro
Bailey (PA)	Coughlin	Fiedler
Barnard	Courter	Findley
Barnes	Coyne, William	Fish
Bedell	Craig	Fithian
Beilenson	Crockett	Foglietta
Bennett	D'Amours	Foley
Bereuter	Daniel, Dan	Ford (TN)
Bethune	Daschle	Fountain
Bevill	Daub	Fowler
Bingham	Davis	Frank
Bliley	Deckard	Frost
Boggs	Dellums	Gaydos
Boner	Derrick	Gejdenson
Bonior	Derwinski	Gephardt
Bonker	Dickinson	Gibbons
Bowen	Dicks	Gilman
Breaux	Dorgan	Glickman
Brinkley	Dougherty	Gonzalez
Brooks	Downey	Gore
Brown (CA)	Duncan	Gray
Brown (CO)	Dyson	Green
Broyhill	Eckart	Gregg
Burgener	Edgar	Guarini
Burton, John	Edwards (AL)	Gunderson
Butler	Edwards (CA)	Hall (IN)
Byron	Edwards (OK)	Hall (OH)
Campbell	Emerson	Hall, Ralph
Hamilton	McGrath	Santini
Hammerschmidt	McHugh	Sawyer
Hansen (ID)	McKinney	Scheuer
Harkin	Mica	Schneider
Hatcher	Mikulski	Schroeder
Hawkins	Miller (CA)	Schulze
Hefner	Miller (OH)	Schumer
Heftel	Mineta	Seiberling
Hendon	Minish	Shamansky
Hertel	Mitchell (MD)	Shannon
Hillis	Moakley	Sharp
Holland	Molinari	Simon
Hollenbeck	Montgomery	Skeen
Horton	Morrison	Skelton
Howard	Murtha	Smith (IA)
Hoyer	Napier	Smith (NE)
Huckaby	Natcher	Smith (NJ)
Hughes	Neal	Snowe
Hunter	Nelligan	Solarz
Hutto	Nelson	Spence
Ireland	Oakar	Stark
Jacobs	Oberstar	Stokes
Jeffords	Obey	Stratton
Jenkins	Ottinger	Studds
Jones (NC)	Panetta	Swift
Jones (OK)	Parris	Synar
Jones (TN)	Pashayan	Taylor
Kastenmeier	Patman	Udall
Kazen	Pease	Vander Jagt
Kennelly	Pepper	Vento
Kildee	Perkins	Walgren
Kogovsek	Petri	Wampler
Lantos	Peyser	Watkins
Leach	Pickle	Weaver
LeBoutillier	Price	Weiss
Leland	Pritchard	White
Levitas	Pursell	Whitehurst
Livingston	Rahall	Whitley
Loeffler	Railsback	Whitten
Long (LA)	Ratchford	Williams (MT)
Long (MD)	Regula	Williams (OH)
Lowery (CA)	Reuss	Wilson
Lowry (WA)	Rhodes	Wirth
Lujan	Rinaldo	Wolf
Luken	Robinson	Wolpe
Madigan	Rodino	Wortley
Markey	Roe	Wright
Marlenee	Rogers	Wyden
Marriott	Rose	Wylie
Martin (NY)	Rosenthal	Yates
Matsui	Rostenkowski	Young (AK)
Mavroules	Roth	Young (FL)
Mazzoli	Roukema	Young (MO)
McClory	Rudd	Zablocki
McDade	Sabo	

NAYS—73

Archer	Grisham	Oxley
Ashbrook	Hagedorn	Ritter
Atkinson	Hall, Sam	Roberts (KS)
Bailey (MO)	Holt	Roberts (SD)
Benedict	Hopkins	Roemer
Brown (OH)	Hubbard	Sensenbrenner
Carman	Hyde	Shaw
Carney	Jeffries	Shelby
Chappie	Johnston	Shumway
Cheney	Kemp	Siljander
Coats	Kindness	Smith (AL)
Collins (TX)	Kramer	Solomon
Conable	Lagomarsino	Stangeland
Crane, Daniel	Leath	Staton
Daniel, R. W.	Lee	Stump
Dannemeyer	Lewis	Tauke
Donnelly	Lott	Tauzin
Dornan	Lungren	Thomas
Dreier	Martin (NC)	Walker
Evans (IA)	McCollum	Weber (MN)
Fields	McDonald	Weber (OH)
Forsythe	McEwen	Whittaker
Frenzel	Michel	Winn
Goldwater	Moore	
Gramm	Moorhead	

NOT VOTING—85

Addabbo	Burton, Phillip	Dymally
Applegate	Conyers	Early
Badham	Coyne, James	Erlenborn
Beard	Crane, Philip	Ertel
Biaggi	de la Garza	Evans (IN)
Blanchard	DeNardis	Flippo
Boland	Dingell	Florio
Bolling	Dixon	Ford (MI)
Bouquard	Dowdy	Fuqua
Brodhead	Dunn	Garcia
Broomfield	Dwyer	Gingrich
Ginn	McCloskey	Russo
Goodling	McCurdy	Savage
Gradison	Mitchell (NY)	Shuster
Hance	Moffett	Smith (OR)
Hansen (UT)	Mollohan	Smith (PA)
Hartnett	Motti	Snyder
Heckler	Murphy	St Germain
Hightower	Myers	Stanton
Hiler	Nichols	Stenholm
LaFalce	Nowak	Traxler
Latta	O'Brien	Trible
Lehman	Patterson	Volkmer
Lent	Paul	Washington
Lundine	Porter	Waxman
Marks	Quillen	Yatron
Martin (IL)	Rangel	Zeferetti
Martinez	Rousselot	
Mattox	Roybal	

□ 1210

Messrs. LEWIS, LOTT, and TAUKE changed their votes from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON RULES TO FILE PRIVILEGED REPORT

Mr. MOAKLEY. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight, December 3, 1982, to file a privileged report.

The SPEAKER pro tempore (Mr. KILDEE). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. MOAKLEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

CARIBBEAN BASIN INITIATIVE SHOULD BE DEFEATED

(Mr. OBERSTAR asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. OBERSTAR. Mr. Speaker, the enactment of responsible legislation to stimulate employment in the United States must be our priority during these last few days of the 97th Congress.

With only a few legislative days remaining, the House must concentrate on the appropriations bills, and on a package of economic recovery legislation.

It would be unfortunate if the House were to spend precious legislative time

diverted from the critical domestic economic problems we face.

With unemployment at 10.8 percent—12 million people—a 42-year record, I find it extremely unfortunate that the House may be called upon to consider H.R. 5900, the Caribbean Basin Economic Recovery Act, instead of acting upon legislation to create jobs here at home. This legislation creates incentives for U.S. domestic manufacturers to abandon the United States and locate plants in the Caribbean countries with their cheap labor markets. This legislation would encourage further the export of jobs to areas where the workers are unprotected by health and safety laws, or by wage and hour standards. It offers official sanction for multinational corporations to take advantage of labor practices and worker oppression which we in the United States have long abjured.

I am particularly disturbed about the provision of this legislation which would allow multinational corporations to export products to the U.S. tariff free if only 25 percent of the product has originated in the Caribbean Basin. Seventy-five percent could originate anywhere in the world, including the Soviet Union.

Mr. Speaker, I had the opportunity of living in the Caribbean for nearly 4 years in Haiti. The average wage there now is $2.66—a day—let me emphasize: This is a daily, not an hourly wage. This legislation does not mandate minimum labor standards—and I am not talking about standards that we would accept in this country, but standards which might help set the Caribbean on a course of economic progress for all of the Caribbean peoples, not their handful of wealthy and our multinational corporations.

This legislation will not guarantee a higher standard of living for the Caribbean people. It will not insure increased training and education for these people.

It will insure the loss of American jobs. In the last decade, we have already lost 1 million jobs to this very kind of flight of jobs to the world's poorest nations. It is inconceivable to me that this House would consider, let alone pass, this legislation when, in the few days remaining to us in the 97th Congress, we should be considering and passing legislation to stimulate employment and economic recovery in the United States.

Earlier this week, the Members of this House received a persuasive and eloquent letter in opposition to H.R. 5900 from Mr. Ray Denison, director, Department of Legislation, American Federation of Labor and Congress of Industrial Organizations. I ask that Mr. Denison's excellent letter be included in the RECORD at this time.

I urge my colleagues to consider the views of American workers on this subject and, further, to consider just who will benefit from H.R. 5900—it will not be the working people of this country.

If the House passes this bill, it should not do so under the illusion that it will help stimulate economic recovery at home, or that it will relieve the economic and human rights misery of the peoples of the Caribbean basin.

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, D.C., November 29, 1982.

DEAR REPRESENTATIVE: At a time when more than 11 million Americans are jobless and Congress is desperately seeking funds for job creating programs, the AFL-CIO is stunned to learn that the House may give consideration to the Administration's Caribbean Basin Initiative in the lame duck session. House passage of CBI at this time would not only cause the export of much-needed U.S. industry and jobs but would worsen this nation's economic plight and make us less able to help our friends in the Caribbean region. The AFL-CIO is totally opposed to this legislation and urges that it be set aside so that the lame duck session can be devoted to job-creation, not job destruction.

No one can challenge the commitment of the AFL-CIO to our brothers and sisters who live and work in the Caribbean Basin, tragically demonstrated by the January 1981 murder of two AFL-CIO advisors in San Salvador. The AFL-CIO is firmly in support of a strong economic aid program that will help this region meet its massive problems and develop itself domestically.

However, neither the workers in the Caribbean nor the workers in the United States want programs that cost one another jobs and lead to more unemployment. Yet that is the likelihood of H.R. 5900, the Administration's proposal.

During hearings in the House and the Senate earlier this year the AFL-CIO spelled out the failings of this proposal. The measure was unable to generate sufficient support at that time, when joblessness in the U.S. was lower than the present 10.4%. Time has only made the bill even more odorous.

Any economic initiative must consider and protect the existing jobs of workers of all involved nations—including the U.S.—and must consider also the need to create new job opportunities, both skilled and unskilled. This the Administration's proposal does not do.

The CBI proposal, in fact, provides an incentive to U.S. firms to develop tomorrow's industries and products elsewhere. At a time when the U.S. is faced with losing its basic industry, the export of its new and evolving industries is economic suicide.

This proposal creates windfall benefits for non-Caribbean exporting countries, from the Soviet Union to the Far East, who will be able to funnel products to the U.S. through the region, taking advantage of the provision for zero tariffs for 12 years on U.S. imports—a clear violation of the General Agreement on Tariffs and Trade (GATT). For a multinational corporation from any part of the world to receive the benefit of zero tariffs it need only provide that 25 percent of the product originate in the Caribbean Basin region, or in the U.S. insular possessions. This region is already well-provided for in special trade concessions. The Generalized System of Preferences gives thousands of products duty-free entry into the U.S. now. The 807:00 on the tariff code encourages foreign fabrication of U.S. products which this region utilizes. Both of these provisions have brought about a loss of U.S. jobs and industries. America simply cannot continue on this path. The first 9 months of 1982 have shown a huge swing from a trade surplus to a $7.7 billion deficit in imports over exports in manufactured products. Steel, autos and parts, electronics, shoes, textiles, apparel and other basic industries have been seriously hurt by the combined pressures of imports and recession. Also badly hurt are more sophisticated manufactured products, such as machine tools, roller bearings, semi-conductors, aircraft engines and spacecraft parts. Will American workers now be expected to accept a continuous loss of U.S. jobs in each of these products, or parts of products, as well as the more sophisticated manufactured products?

The tax provision of H.R. 5900—rumored to be dropped in order to expedite the zero tariff section of the bill—would extend the U.S. investment tax credit to the region. This and other tax breaks to U.S. companies in the bill would cause a loss to the U.S. Treasury of $800 million in five years. The purpose of the 1981 tax cut legislation was to encourage investment in U.S. industry, not offshore.

The AFL-CIO urges that the Caribbean Basin Initiative be sent back to the drawing board where a more thoughful plan of assistance to the Caribbean region can be drafted—not a blueprint to further pauperize America.

If the Administration's Caribbean Basin Initiative proposal is brought to the House floor in the lame duck session, the AFL-CIO urges that you vote against it. A major goal of the lame duck session of the Congress is to deal with the critical problems of a stricken America: unemployment, foreclosures, plant shutdowns, and human misery. Congress must not add to these problems by adopting their misguided proposal.

Sincerely,

RAY DENISON,
Director,
Department of Legislation.

□ 1220

LEGISLATION TO CORRECT DEFICIENCY IN FEDERAL CRIMINAL LAWS

(Mr. MCCLORY asked and was given permission to revise and extend his remarks.)

Mr. MCCLORY. Mr. Speaker, I am joining today in the introduction of legislation by the gentleman from New Jersey (Mr. HUGHES) and the gentleman from New Jersey (Mr. RODINO), the chairman of the Judiciary Committee, on which I serve as the ranking minority member. This legislation would correct an inadequacy in the Federal criminal law which we discovered following the tragic deaths of citizens of Illinois due to tampering with Extra-Strength Tylenol capsules.

Tampering with consumer products is nothing less than an act of terrorism which should be severely punished. Regrettably, recent events have generated a wave of "copycat" crimes

which can only be deterred by a forceful response from all levels of government. The bill which we are introducing today serves notice on these terrorists that product tampering is not a matter which will be treated lightly by the Federal Government.

Public sentiment in support of Federal legislation is overwhelming, as evidenced by a recent letter to the well-known columist, Ann Landers. A "Concerned Consumer in Chicago" correctly noted that the Tylenol killings have resulted in a loss of public confidence in the safety of consumer products. The reader advocated the adoption of strong Federal penalties to make it "abundantly clear to would-be poisoners that any attempt to perpetrate such terrorist activities would not be tolerated." That recommendation received Ann Landers' wholehearted endorsement and is being endorsed today by my many colleages on both sides of the aisle who have cosponsored this legislation.

This legislation would make it a Federal offense to tamper or attempt to tamper with products affecting interstate or foreign commerce which are produced for human consumption or use where the offender intends to cause bodily injury to, or the death of, an individual or has reason to know that either would be the result of his activity. The penalties for an offense under this section are 20 years imprisonment and/or $20,000. If death or injury results, the maximum term of imprisonment is life.

I believe that the bill which we are introducing today is an admirable first step in fashioning an appropriate Federal response to this unforgivable conduct. I strongly urge the leadership of the Judiciary Committee to facilitate prompt passage of this sorely needed legislation.

● Mr. HUGHES. Mr. Speaker, we are all aware of the tragic events recently occurring in the Chicago area, where bottles of Extra-Strength Tylenol were tampered with, and a lethal substance inserted into the pain killing tablets. Seven people died as a result. Following the events in Chicago, several copycat tampering incidents occurred across the country, involving a number of products used regularly by consumers. Unfortunately, I think the citizens of this country now have a legitimate concern about the rises of buying over-the-counter drugs and food products. Obviously, this is an intolerable situation, and those who attempt such tampering must be dealt with speedily and severely.

While State and local laws will in almost every case cover these situations, the penalties for tampering with consumer products vary from jurisdiction to jurisdiction, as do the resources to combat these incidents. In addition, there is a clear and strong Federal interest in such matters because the products themselves are or have been in interstate or foreign commerce. The transitory nature of the crime and of products that are manufactured in one place and then distributed throughout the Nation make this kind of action appropriate for Federal intervention.

I am, therefore, introducing a bill today that will create Federal jurisdiction over such an offense. It will punish by a fine of $20,000 and a prison term of 20 years any person who tampers with or attempts to tamper with such consumer products with intent to cause bodily injury. If in fact such action causes the death of any individual, the offense is punishable by any term of years, or life in prison.

We all recognize that the jurisdiction of the Federal Government over criminal matters is limited, and that the primary responsibility for law enforcement lies with the States. However, when the case for Federal jurisdiction is made, as it is so clearly here, the Federal Government should not hesitate to step in. This bill is, I believe, an appropriate and effective mechanism to protect all of us as consumers. I urge your support of it.●

A TRIBUTE TO RAY MANCINI

(Mr. WILLIAMS of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILLIAMS of Ohio. Mr. Speaker, I would like to pay tribute to a young man from Youngstown, Ohio, who epitomizes the spirit and determination of the people of Youngstown and the entire Mahoning Valley.

The man is Ray Mancini. Ray is the WBA's lightweight champion of the world. Ray decided as a child to win the lightweight championship for his father, who was denied that chance because of wounds he suffered during World War II. This year, Ray achieved his goal.

Recently, after his second title defense, a tragedy occurred.

Ray pondered his future and wondered if he should give up boxing. But, with an abiding faith in God and at the urging of Kim's mother, who said there could be no greater tribute for her son than for Ray to continue fighting and to become the greatest champion ever, Ray has decided to stick with boxing.

Demonstrating the strength of will that characterizes the people of the entire Mahoning Valley, Ray has faced adversity after adversity without hesitation and without complaint.

I hope you will all join me in honoring Ray Mancini—a first-class person as well as a first-class fighter.

BOOM-BOOM MANCINI

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, it could never be said that I would forgo any opportunity to address this House on the many fine qualities embodied in those of us of Italian descent. We are strong of mind, powerful of body, and fair of looks.

My colleague from Ohio, Mr. WILLIAMS, and I, are presenting all of you with a rare opportunity to meet one of our country's newest stars from the Italian-American firmament, the young scrapper from Youngstown, Boom-Boom Mancini.

Yes, Mr. Speaker, in one corner, we will have the benevolent bantamweight bouffant barber, the champion of small business, and my catcher for the GOP baseball team, the gentleman from Ohio (Mr. WILLIAMS).

And, in another corner, in the blue pinstripe trunks and white bucks, the heavyweight Republican from the Appropriations Committee, and I might add, the humble king of the baseball diamond, the silver fox himself, the gentleman from the First District of Massachusetts.

And, in the center of the ring, the star of the city of steel, the World Boxing Association lightweight champion of the world, Boom-Boom Mancini, gracing our Nation's Capital for a special appearance.

Yes, sports fans, do not miss the action—do not be left on the ropes. Join us Thursday, December 9, from 6 to 8 in 2358 Rayburn.

You will not regret it.

A MEMORABLE FILM—"HAIL COLUMBIA"

(Mr. AKAKA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. AKAKA. Mr. Speaker, I think that all of us will agree that lameduck sessions are not easy for any of us. We have very difficult decisions to make in a very short space of time.

Most of the issues we confront each day require a great deal of explaining and defending—and we find ourselves in the position of arguing a lot among ourselves. There is one thing, however, that we do not have to defend and we do not have to argue about—and that is the success of our Space Shuttle program. It was on April 12, 1981, in the early hours of the morning that the first flight of the Space Shuttle *Columbia* opened the doors to a new era of manned space flight.

The story of that first flight has been documented in a moving film called "Hail Columbia!" "Hail Columbia" is the story of many stories: It is

the story of the men and women who worked on the development of *Columbia*; it is the story of astronauts Young and Crippen; and it is the story of the vehicle itself. In short, "Hail Columbia" is the story of America's triumph in opening the skies to manned space flight.

This remarkable film will be shown at the National Air and Space Museum on Tuesday, December 7 during the course of a reception hosted by NASA, the Smithsonian Museum, and the Air and Space Museum. Every Member of Congress has received an invitation to bring his family to the reception for this special screening. Astronaut Joe Engle will be on hand to meet you and your children and sign pictures. The reception begins at 6:30-9 p.m., with special screenings of the film at 7 and 8 p.m.

I urge each of my colleagues to bring their families to see this memorable film. It is an uplifting experience—and a welcome break from the normal course of our business. Let us gather on December 7 to pay tribute to one of our Nation's finest accomplishments. Let us indeed hail *Columbia* and those who make it happen.

NOTICE OF SPECIAL ORDER

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, I am taking out a special order this afternoon to discuss a war crime that is going on in four different countries across our planet at this very moment, what has come to be called yellow rain, red rain, and now the nerve gas being used by the Soviet Union, blue rain. I know there are many Members interested in this. I will ask during the special order for 5 legislative days for any other material to be added to the special order.

I am researching what kind of debate went on in this distinguished body in the 1930's when Mussolini was using poison gas in the nation of Ethiopia. That is one of those four tragic nations that has been victimized by poison gases of seven different types over the last 3 or 4 years: Laos, Kampuchea, Afghanistan, and, ironically, decades later, Ethiopia. Any Members interested in joining me in this special order tonight, please do so.

WITHDRAWAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3269

Mr. LOWRY of Washington. Mr. Speaker, I ask unanimous consent to withdraw my name as a cosponsor of the bill, H.R. 3269, the beer distribution bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

COMMUNICATION FROM HON. JAMES J. HOWARD

The SPEAKER pro tempore laid before the House the following communication from the Honorable JAMES J. HOWARD:

HOUSE OF REPRESENTATIVES,
Washington, D.C., December 2, 1982.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Pursuant to Rule 50 of the Rules of the House of Representatives, I forward herewith a Subpoena which was delivered Wednesday, December 1 to my office, Room 2245 of the Rayburn House Office Building.

Thank you for your assistance in this matter.

Every best wish.

Most sincerely,

JAMES J. HOWARD,
Member of Congress.

□ 1230

SOVIET USE OF POISON GAS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DORNAN) is recognized for 60 minutes.

Mr. DORNAN of California. Mr. Speaker, the United States of America is the subject on a recurring basis for parades and demonstrations around the world, even in friendly countries such as the Netherlands, for imagined affronts to human dignity around the world. We have gone through a tremendous period of criticism because some of the weaponry used by the nation of Israel in its invasion of Lebanon and in its attempt to stop the constant Soviet rockets pounding into the northern part of the Israeli territory, originated in the United States under our manufacture, cluster bomb units and things of that sort.

If the United States were ever to engage in biochemical warfare on even a miniscule scale compared to what the Soviet Union is doing in Afghanistan and through its Communist puppet agents in Indochina today, through the Vietnamese against Cambodia and Laos, the outcry across the world would probably have seen no equal, and properly so; but this double standard whereby the Soviet Union is able to get away with murder, international killing on a massive scale, and all the nations of the world, particularly the Third World and, tragically, even the nations of the democracies of the free world, including some who are alive with us in NATO, turn their backs on these ongoing war crimes. This is an afront to decency and fairness that knows no parallel since Nazi Germany.

We still hear raging discussions and debates across this country on agent orange, a chemical substance devised to hurt foliage, to uncover jungle overgrowth so as to uncover the guerilla forces in Indochina 10 to 15 years ago. Agent orange was designed to hurt trees and bushes. Yellow rain, red rain, and now a frightening new form of nerve gas called blue rain is used by the Soviet Union or its agents to kill human beings.

This week, Secretary of State George Shultz signed off on a report from the U.S. Department of State called "Chemical Warfare in Southeast Asia and Afghanistan, An Update." There was a major press conference at the State Department where gas masks brought out of Afghanistan used by Soviet soldiers (one of them was taken off a dead Soviet soldier) were found to be contaminated in the collection device at the bottom of the gas mask with mycotoxins, the infamous yellow rain.

This month's issue of Soldier of Fortune magazine has a brilliant article entitled "Red Rain" dedicated to the whole proposition of the Soviet Union getting away with a massive war crime. The title is, "Red Rain—Anybody Ready For Communist Chemicals?" by David C. Isby.

I would like to submit for the RECORD, for the edification of my fellow peers in the House of Representatives and in the U.S. Senate, the entire body of this State Department report on chemical warfare and the entire article, "Red Rain" by David D. Isby from Soldier of Fortune magazine.

Mr. Isby is an excellent legislative assistant working for my California colleague Congresswoman BOBBI FIEDLER:

THE SECRETARY OF STATE,
Washington.

To the Congress of the United States And Member States of the United Nations:

Chemical and toxin weapons are of special concern to mankind. Used against civilian populations, or even against soldiers with protective equipment, they can cause protracted and indiscriminate physical and psychological suffering and, as we witnessed in World War I, widespread death as well. For such reasons, the international community has outlawed the use of these weapons. The 1925 Geneva Protocol, one of the oldest arms control agreements still in force, forbids the use of chemical and biological weapons in war. The 1972 Biological and Toxin Weapons Convention prohibits the mere possession of toxin weapons. In an effort to extend such legal constraints still further, the United States—together with other countries in the Committee on Disarmament at Geneva—is seeking an outright ban on the development, production and stockpiling of chemical weapons.

I regret, then, to report that chemical and toxin weapons are nevertheless being used today in Laos, Kampuchea and Afghanistan by the Soviet Union and its allies. In March of this year, we reported on this subject to the Congress, the United Nations, and to the members of the international community. Our report, which contained a comprehensive and detailed compilation of the evi-

dence available to the United States Government, was designed to bring the issue to the attention of the world community. In presenting it, we invited others to join us in examining the evidence and in confirming the truth.

These efforts have not led the Soviets and their allies to halt their illegal use of chemical and toxin weapons. Instead, they continue to deny the truth about their illegal activities. The world cannot be silent in the face of such human suffering and such cynical disregard for international law and agreements. The use of chemical and toxin weapons must be stopped. Respect for existing agreements must be restored and the agreements themselves strengthened. Respect for the dignity of humanity must be restored. Failure to achieve these goals can only have serious implications for the security of the world community, particularly for the security of smaller nations, like those whose people are being attacked. If such basic elements of human rights can be so fundamentally ignored, how can we believe any pledges to respect human rights?

All who would seek to promote human rights, and all who would seek to maintain the credibility of international agreements, have a duty to call world attention to the continuing use of chemical and toxin weapons, and to seek a halt to their use. It is for this purpose that the United States provides the following report.

Sincerely,

GEORGE P. SHULTZ.

CHEMICAL WARFARE IN SOUTHEAST ASIA AND AFGHANISTAN: AN UPDATE

(Report from Secretary of State George P. Shultz, November 1982)

UPDATED FINDINGS

Based on a thorough analysis of this new information, we are able to conclude the following:

Reports of chemical attacks from February through October 1982 indicate that Soviet forces continue their selective use of chemicals and toxins against the resistance in Afghanistan. Moreover, new evidence collected in 1982 on Soviet and Afghan Government forces' use of chemical weapons from 1979 through 1981 reinforces the previous judgment that lethal chemical agents were used on the Afghan resistance. Physical samples from Afghanistan also provide new evidence of mycotoxin use.

Vietnamese and Lao troops, under direct Soviet supervision, have continued to use lethal and incapacitating chemical agents and toxins against the H'Mong resistance in Laos through at least June 1982.

Vietnamese forces have continued to use lethal and incapacitating chemical agents and toxins against resistance forces in Kampuchea through at least June 1982.

Trichothecene toxins were found in the urine, blood, and tissue of victims of "yellow rain" attacks in Laos and Kampuchea and in samples of residue collected after attacks.

We continue to find that a common factor in the evidence is Soviet involvement in the use of these weapons in all three countries. Continued analysis of prior data and newly acquired information about Soviet mycotoxin research and development, chemical warfare training in Vietnam, the presence of Soviet chemical warfare advisers in Laos and Vietnam, and the presence of the same unusual trichothecene toxins in samples collected from all three countries reinforce our earlier conclusion about the complicity of the Soviet Union and about its extent.

INTRODUCTION

Our March study showed that casualties and deaths resulted from chemical attacks in Southeast Asia and Afghanistan and that trichothecene toxins were used in both Laos and Kampuchea. The new evidence shows that these attacks are continuing in all three countries and that trichothecene toxins have been used in Afghanistan as well.

The same rigorous analytical processes employed in our March study, and outlined in detail there, were followed to arrive at the judgments contained in this update. In light of the widespread publicity given the March report, special efforts were made by U.S. Government analysts to preclude being led astray by any possible false reports that might be generated for propaganda or other purposes and to eliminate the possibility of making erroneous judgments about the chemical or toxin agents involved because of tampering or improper handling. Every report has been carefully checked.

The evidence in the March study was based on a broad range of data, including testimony by physicians, refugee workers, journalists, and others. Although some of the new reports are anecdotal, we have been able to corroborate most of them by other sources and sample analysis. Moreover, personal testimony tends to add credence to other accounts which, taken together, form a coherent picture. The material presented in this report represents only a relatively small amount of the total accumulated evidence. This additional information is examined in greater detail in the annexes. Improved sample collection procedures, a better quality of medical histories and physical examinations, documentation including photographs of lesions and hospital charts from Southeast Asia, and interviews by trained personnel have reinforced our earlier conclusions and led to new discoveries.

As international concern about this subject has increased, based on the development of evidence from many countries, independent analyses have been initiated by foreign chemical warfare experts, physicians, journalists, and independent nongovernmental scientists and laboratories. Analysis in the United States have found this research very helpful both in supporting their own conclusions and, more importantly, in expanding on them.

SUMMARY OF EVIDENCE

Afghanistan

Evidence indicates that the Soviets have continued the selective use of toxic agents in Afghanistan as late as October 1982. For the first time we have obtained convincing evidence of the use of mycotoxins by Soviet forces through analyses of two contaminated Soviet gas masks acquired from Afghanistan. Analysis and quantification of material taken from the outside surface of one mask have shown the presence of trichothecene mycotoxin. Analysis of a hose from a second Soviet mask showed the presence of several mycotoxins. In addition, a vegetation sample from Afghanistan shows preliminary evidence of the presence of mycotoxins. (See Annex A.)

Our suspicions that mycotoxins have been used in Afghanistan have now been confirmed. Reports during 1980 and 1981 described a yellow-brown mist being delivered in attacks which caused blistering, nausea, vomiting, and other symptoms similar to those described by "yellow rain" victims in Southeast Asia. Because of limited access to survivors who still exhibited symptoms, as well as great difficulties in collecting environmental and other physical samples from attack sites, we were unable to conclude with certainty in the March 22 report that mycotoxins were being used in Afghanistan. We have now concluded that trichothecene mycotoxins have been used by Soviet forces in Afghanistan since at least 1980.

A number of reports indicate that chemical attacks are continuing in 1982. While we cannot substantiate every detail, the pieces of evidence in these reports add up to a consistent picture. For example, a physician in a facility treating casualties among the *mujahidin* (resistance fighters) has reported that he treated 15 *mujahidin* for red skin lesions that he said were caused by Soviet chemical attacks in Qandahar Province in May-June 1982. Three *mujahidin* died within 12 hours of one attack in the general area of Maharijat south of Qandahar. The *mujahidin* claimed that Soviet helicopters fired rockets that emitted black, yellow, and white gases on impact. The physician said that the surviving victims failed to respond to conventional medical treatment.

We have received reports that on September 20, 1982, Soviet soldiers poisoned underground waterways in Lowgar Province south of Kabul where the *mujahidin* were hiding. According to a *mujahidin* commander in Pakistan, a similar event occurred in the same province on September 13, 1982, resulting in the deaths of 60 adults and 13 children. These two independent accounts described a Soviet armored vehicle pumping a yellow gas through a hose into the waterways.[1]

According to the accounts of the September 1982 attacks, the victims' bodies decomposed rapidly, and the flesh peeled away when attempts were made to move the bodies. Since 1979, *mujahidin* resistance leaders, refugees, journalists, and Afghan defectors have described chemical attacks causing almost indentical symptoms. Most reports have described the skin as being blue-black after death. Although such symptoms seem bizarre, the large number of reports from a variety of sources since 1979 suggests that they cannot be dismissed (see our March 22 report, p. 16).

In 1982, a Soviet soldier who defected to the *mujahidin* said in an interview with a British journalist that a Soviet toxic agent, termed "100 percent lethal," causes the flesh to become very soft. The Soviet defector stated that the Soviets maintained stores of "picric acid" (probably chloropicrin, a potentially lethal tear gas), the "100 percent lethal" agent, and an incapacitating agent near the cities of Qonduz and Kabul. The defector also reported that:

Unidentified toxic agents had been used in June 1982 on the highway between Termez and the Salang Pass north of Kabul;

The "100 percent lethal" agent was delivered by rockets; and

"Picric acid" and an incapacitating agent were delivered by air-dropped canisters.

The defector stated that the Soviets have been preoccupied with protecting the roads and that chemicals were sprayed by planes along the areas adjacent to highways. Chemical grenades reportedly have been used, but the data are inadequate to allow us to hypothesize about the contents, al-

[1] We know from other sources that Soviet chemical agent delivery methods include this technique, as reported, for example, by a Cuban emigre trained by the Soviets in the use of chemical weapons.

though some symptoms are indicative of mycotoxins.

The reports of rapid skin decomposition as quickly as 1-3 hours after death continue to concern us. There is no recognized class of chemical or biological toxin agents we know of that could affect bodies in such a way. If we assume occasional inaccuracies in reporting by journalists and survivors of attacks, it is possible that phosgene or phosgene oxime could cause such effects after 3-6 hours but with much less softening of tissues than is consistent with stories of "fingers being punched through the skin and limbs falling off." The reported medical effects of other toxic agent attacks are consistent with use of the nerve agent tabun. We have information that both phosgene oxime and tabun are stored by the Soviets in Afghanistan.

The British journalist, who interviewed the Soviet defector, also reported on two attacks described to him by the *mujahidin*, which have not yet been confirmed. One was an attack in the spring of 1982 on Kaiba, where Soviet soldiers reportedly shot victims already rendered unconscious by a gas; the other was in the summer of 1982 near Herat where Soviet troops reportedly loaded the bodies from a gas attack onto a truck and removed them. Reliable information indicates that the Soviets used chemical bombs against *mujahidin* forces in late September 1982 and in early October 1982 in Baghlan Province.

Our earlier findings are reinforced by several reports received this year about earlier attacks not covered in our March report:

According to a former Afghan Army officer, in September 1981 a Soviet helicopter sprayed a yellow mist in Paktia Province (Sheikn Amir) causing 16 deaths. The survivors had bloody noses and tears; extensive bleeding was reported in those who died. The Afghan officer described a similar attack in Nangarhar Province during the same month in which four persons were killed.

In early December 1981, according to interviews with survivors, 15 refugees attempting to escape to Pakistan were attacked by a helicopter using gas; four or five people were killed (the youngest and the eldest), while the rest became unconscious for 5-6 hours. The attack occurred about 60 kilometers northwest of Jalalabad.

According to a Soviet soldier who served in Afghanistan in 1980 and personally observed the use of chemical weapons, the Soviets dispersed chemicals from fighter-bombers and assault helicopters. He said that an aircraft or helicopter first would drop a container and then, on a second run, drop a bomb, resulting in a mixture of two different chemicals that killed everything within the contaminated area. We believe that the soldier may have been describing the delivery of two separate chemical agents, an occurrence described by other eyewitnesses.

An Afghan veterinarian recently has described an incident in May 1979 in which 20 people and a number of sheep were killed near Qandahar. Soviet lab technicians explained that the incident resulted from anthrax, but the doctor knew that the explanation did not fit the effects observed. Local Afghans told the veterinarian that Soviet vehicles had been in the area spraying a yellow/white powder before the incident.

In June 1980, an airport official described seeing 200-300 gas containers painted in greens and browns at Qandahar Airport. The containers averaged 35-40 inches high and 26-30 inches in diameter. A subordinate reported three types of gases in the containers: one causing burning in the throat as well as suffocation; one causing what looked like smallpox and blistering; and one making victims tired and sleepy and unable to run or fight. Further, the subordinate stated that the containers were placed in special casings that were dropped from aircraft and exploded on impact, emitting a large cloud of smoke, usually yellow but sometimes other colors. He said he had heard mujahidin describe these gas attacks and had himself seen animals that had been killed by the gases. We lend credence to this report because we know from other evidence that chemicals are stored at Qandahar Airport, which is an important staging area for Soviet military operations.

Finally, information received this year revealed that a Soviet adviser inspecting sites for housing Soviet troops before the Afghan invasion indicated that Soviet chemical defense forces entering Afghanistan would bring in extensive stores of toxic materials. The adviser indicated that a proposed garrison in Kabul would be inappropriate for the Soviet chemical defense unit because the materials it transported could devastate the city if an accident occurred.

Laos

H'Mong refugees, recounting details of toxic agent attacks and exhibiting severe medical symptoms from exposure to the agents, fled to Thailand every month from January through June 1982. They brought out more samples contaminated by a yellow, sticky substance described as a "yellow rain" dropped by aircraft and helicopters on their villages and crops. We have preliminary reports on attacks as recent as October 1982. We now know that the yellow rain contains trichthecene toxins and other substances that cause victims to experience vomiting, bleeding, blistering, severe skin lesions, and other lingering signs and symptoms observed by qualified physicians. Experts agree that these people were exposed to a toxic agent and that no indigenous natural disease, plant, or chemical caused these unique physical effects.[2]

Laboratory analyses of blood samples from these victims and studies on experimental animals have shown that trichothecene toxins are retained in the body for much longer periods of time than previously thought. Scientific research has shown that the multiple-phase distribution pattern in animals includes a secondary half-life of up to 30 days. We believe that the severe skin lesions observed on victims by doctors are also relevant. Victims whose blood proved on analysis to have high levels of trichothecene mycotoxins exhibit such skin lessions.

Descriptions of the 1982 attacks have not changed significantly from descriptions of earlier attacks. Usually the H'Mong state that aircraft or helicopters spray a yellow rain-like material on their villages and crops. In some reports the symptoms are similar to those described in our March 22 study, and we attribute them to the use of trichothecene toxins. However, in many cases there was no bleeding, only abdominal pains and prolonged illness. These symptoms, described in previous years, suggest that another agent or combination of agents is still being used. The explanation is complicated because different symptoms are ascribed to men, women, children, and animals. It is possible that different agents, lower concentrations of the same agents, or climatic conditions have affected the efficacy of the agents.

Medical personnel in Lao refugee camps in Thailand were much better organized in 1982 to screen victims than in past years. Doctors now routinely use extensive questionnaires and conduct comprehensive medical examinations, including some onsite, preliminary blood analysis. Skilled paramedical personnel oversee preparation of blood and serum samples for proper transport and shipment to the United States or other countries for chemical analysis. Some patients with active symptoms are now being monitored extensively over time.

A number of blood samples have been collected from Laos for analysis in the United States. All biological specimens were drawn by qualified medical personnel, and samples were refrigerated until analyzed in the United States. Analysis of these samples shows that trichothecene mycotoxins continue to be used against H'Mong villages. In addition to blood and urine specimens from victims exposed to chemical warfare, we have collected additional physical samples this year. These physical samples consist of more residue of yellow rain containing mycotoxins from the same attacks that yielded human biological specimens positive for these same toxins. (See Annex A.)

The number of reported attacks in Laos in 1982 did not differ significantly from the frequencies reported for comparable periods in the years 1977 through 1981. Reported fatalities per attack during 1981 and 1983 showed an apparent decrease, suggesting the possibility that less lethal toxic agents, or lower concentrations of the same agents, are now being used. This apparent decrease, however, was not statistically significant and could have been caused by a number of other factors, including the following:

Due to emigration and the high number of fatalities since at least 1976, the H'Mong were living in smaller, more scattered communities.

H'Mong survivors still in Laos were warier and quicker to take cover and to use rediментary protective measures at the first sign of attack.

The H'Mong were not taking time to count victims—this is supported by the existence of very few reports that indicate the precise number of people affected by a toxic agent attack.

As stated in the March report, the Soviet Union maintains in Laos significant numbers of advisers who provide maintenance assistance, technical support, and training in both conventional and chemical warfare. A former Lao transport pilot who defected early this summer has described the aerial movement, under Soviet supervision, of toxic agents within Laos.

Kampuchea

Most reports of toxic attacks in Kampuchea for the period 1978-June 1982 come from Democratic Kampuchean (DK) sources, including interviews with DK military personnel. Evidence from other sources confirmed most of these reports. In 1982, most reported attacks occurred near the Thai border, making it easier to obtain samples and other direct evidence of toxic agent use.

In the first 6 months of 1982, the number of reported toxic agent attacks in Kampuchea was about half the number reported during the same periods in 1980 and 1981.

[2] See Canadian report to the United Nations: "Study of the Possible use of Chemical Warfare Agents in Southeast Asia," Dr. H. B. Shiefer, University of Saskatchewan.

The number of reported deaths per attack also decreased, but data were insufficient to determine if this decrease was statistically significant. We also have preliminary reports on attacks through early November 1982.

In February and March 1982, several attacks occurred just across the Kampuchean border in Thailand. Analysis of samples collected from the attacks was performed in Canada, Thailand, and the United States. Although differing sampling techniques give rise to significant sampling error and lead to slightly different analytical results, both the U.S. and Thai analysts, using different analytical techniques, found trichothecene mycotoxins in their samples.[3] The Canadian team investigating these attacks has published a detailed medical assessment of the victims' symptoms; it concluded that illness had in fact occurred and was caused by a toxic agent, although preliminary tests for trichothecenes proved inconclusive in the Canadian sample.

Blood and urine samples from Kampuchean victims of a toxic agent artillery attack on February 13, 1982, contained trichothecene toxins (Annex A). In addition, post-mortem tissue from a victim of this same attack confirmed the presence of trichothecene toxins (Annex B). Analysis of additional samples showing the presence of trichothecenes taken from other attacks is also found in Annex A.

The Vietnamese conducted toxic agent attacks this year against another resistance group, the Kampuchean People's National Liberation Forces. On several occasions in March-May 1982, the resistance camp at Sokh Sann was hit with toxic artillery shells and bombs. Samples of contaminated vegetation and yellow residue from these attacks are now being analyzed. Attacks occurred in Kampuchea through June 1982, providing new samples; qualitative tests indicate that the presence of trichothecenes is probable. The results of confirmatory analyses are pending.

Several Vietnamese military defectors from Kampuchea have provided valuable information in 1981 and 1982 on chemical weapons use and on the Vietnamese chemical warfare program and have reported that some types of agents are supplied by the Soviet Union. Information from other sources also confirms our earlier view that the Vietnamese possess toxic agent munitions and are equipping their own troops with additional protective equipment.

TABLE 1.—AFGHANISTAN: REPORTED ATTACKS, 1982

Date	Village location	Method of attack	Form of material	Persons killed	Persons taken ill
Early Feb.	North of Shindand	Aircraft	Yellow substance	4	?
Feb. 4, 5	South of Shindand	Helicopter	Yellow substance	0	?
Feb. 19	Badakhshan Province	Aircraft	Yellow crystals	?	?
May–June	Qandahar Province	Helicopter rockets	Black, yellow, white gases	3	15
June	Farah Province	Aircraft bombs	Red, black, white smoke	?	?
June 11	Qandahar Province	Aircraft bombs	?	15	30
June	Baghlan Province	Helicopter	?	?	?
July	Panjsher Valley	Aircraft	Nerve gas	0	0
Sept. 13	Lowgar Province	Pumped from armored vehicle	Gas	73	0
Sept. 20	Lowgar Province	Pumped from armored vehicle	Gas	?	?
September	Lowgar Province	?	?	7	?
Late September/early October	Baghlan Province	Aircraft bombs	?	?	?

? = Undetermined.

TABLE 2.—LAOS: REPORTED ATTACKS, 1982

Date	Village location	Method of attack	Form of material	Persons killed	Persons taken ill
Jan. 3, 6, 11	Phou Bia [1]	Helicopter spray	Yellow rain	0	?
Jan. 4	Phou Bia	Aircraft	Green chemical [2]	?	?
Jan. 9	Phou Bia	Artillery	White/yellow cloud	0	?
Feb. 13	Phou Bia	Aircraft spray	Yellow rain	0	?
Feb. 21, 22	Phou Bia	Helicopter	White powder	0	?
Feb. 28	Phou Bia	Helicopter	White powder	10	30
Mar. 10	Phou Bia	Helicopter, aircraft	Red, yellow/white clouds	([3])	([3])
Mar. 17	Phou Bia	Helicopter spray	Yellow rain [2]	20	?
Mar. 25	Phou Bia	Helicopter spray	Yellow rain [2]	1	([4])
Late March, early April	Phou Bia	Aircraft	Yellow rain [2]	27	([3])
Apr. 1	Phou Bia (3 villages	?	Yellow rain	([3])	4
Apr. 17, 18, 30	Phou Bia	Aircraft	Yellow rain	10	?
April/Mayu	Phou Bia	Aircraft, helicopters	Yellow rain	0	([3])
May 20	Phou Bia	Aircraft	Yellow rain	4	100
May 24	Phou Bia	Aircraft	Yellow rain	9	([3])
May	Phou Bia	Poisoned river	?	0	([3])
June 17	Phou Bia	Aircraft spray	Yellow rain	4	([3])

? = Undermined.
[1] Phou Bia refers to mountain area where H'Mong villages are located.
[2] Samples from this attack contained mycotoxin (see Annex A).
[3] Many.
[4] 40 families.

TABLE 3.—KAMPUCHEA AND THAILAND: REPORTED ATTACKS, 1982

Date	Village location	Method of attack	Form of material	Persons killed	Persons taken ill
Kampuchea:					
Feb. 13	Border near Khao Din	Artillery	? ([1])	([2])1	100
Feb. 23	Border near Pailin	Spread along border	Yellow powder	0	?
May 3	Battambang Province	Artillery	?	0	?
Mar. 5, 7	Pailin area	Aircraft spray artillery	White powder [1]	0	10
Mar. 7–11	Sokh Sann	Artillery ground spray	Yellow substance	0	([3])
Mar. 10	Battambang Province	Aircraft	Toxic substance	25	12
Mar. 10–13	Battambang Province	Aircraft, artillery	Toxic substance	30	?
Mar. 17	Sokh Sann	Artillery	Yellow/white powder	0	([3])
Mar. 24	Battambang Province	Poisoned water	Yellow powder	4	?
Apr. 29	Battambang Province near border	Aircraft spray	Yellow powder	3	7
May 23, 26	Sokh Sann	Aircraft spray	?	0	?
June	Preah Vihear Province	Poisoned food and water	?	2	([3])
June 24	Border near Nong Chan	Mortar	Yellow cloud	0	4

[3] It was thought initially that a harmless yellow powder had been dropped on Thai villages as part of a disinformation campaign attempting to discredit U.S. sample analysis results. Within days of such an attack, the Thai Ministry of Health announced that only ground-up flowers had been found. However, Thai officials later stated that further analysis showed traces of toxin and that the earlier Health Ministry announcement was based on incomplete investigation.

TABLE 3.—KAMPUCHEA AND THAILAND: REPORTED ATTACKS, 1982—Continued

Date	Village location	Method of attack	Form of material	Persons killed	Persons taken ill
Thailand:					
Feb. 19	Pong Nam Ron District	Aircraft spray	Yellow powder [1]	0	([3])
Mar. 3	Southeast of Pong Nam Ron District near border	Aircraft (powder wind-blown over border)	Powder	0	([3])
Mar. 5	Pong Nam Ron District	Mortars	Gray/black smoke	0	18
Mar. 6, 8	Southeast of Pong Nam Ron District near border	Aircraft spray	Yellow powder	0	([3])

? = Undetermined.
[1] Samples from this attack contained mycotoxin (see Annex A).
[2] See Annex B for detailed analysis of autopsy results of the victim.
[3] Many.

ANNEX A

ANALYSIS OF SAMPLES FOR CHEMICAL WARFARE AGENTS AND TOXINS

The identity of the agents and toxins being used in Laos, Kampuchea, and Afghanistan cannot be determined without collection and analysis of at least one of the following: environmental or physical samples contaminated with agent, the munitions used to deliver agents, or biological specimens from attack victims.

The likelihood of detection of chemical agents and toxins in contaminated samples depends on a number of factors. These include the persistency of the agent; the ambient temperature; rainfall; wind conditions; the media on which the toxic agent was deposited; and the time, care, and packaging of the sample from collection to laboratory analysis. Many standard chemical warfare agents and toxins disappear from the environment within a few minutes to several hours after being dispersed. These include, for example, the nerve agents sarin and tabun, the blood agents hydrogen cyanide and cyanogen chloride, the choking agents phosgene and diphosgene, and the urticant phosgene oxime. Other standard agents—such as the nerve agents VX and thickened soman and the blistering agents sulfur mustard, nitrogen mustard, and lewisite—may persist for several days to weeks depending on weather conditions. The trichothecene toxins are stable under laboratory conditions but degrade in field samples due to metabolism by micro-organisms contained in the sample. To maximize the chances of detection, sample collections should be made as rapidly as possible after a toxic agent assault; with many agents this means minutes to hours. Given the situation in Southeast Asia and Afghanistan, this usually has not been possible. Although numerous samples were collected, few held any realistic prospects for yielding results. However, when immediately collected and properly handled and using the advanced technology now available, trichothecenes may be detected in both physical and biological materials up to several months after the attack.

Samples have been collected from Southeast Asia since mid-1979 and from Afghanistan since May 1980. To date, more than 350 individual samples—of greatly varying types and utility for analytical purposes—have been collected and analyzed for the presence of traditional chemical agents. About 100 additional samples are pending completion of analysis. All environmental and nonmedical samples were submitted to the U.S. Army Chemical Systems Laboratory for analysis for traditionally recognized chemical warfare agents and other toxic materials. Tissue specimens and body fluids from attack victims were submitted to the Armed Forces Medical Intelligence Center. Under the sponsorship of that organization, the biomedical specimens were analyzed for the presence of trichothecene mycotoxins and other toxins by Dr. Chester Mirocha, University of Minnesota; Dr. Joseph Rosen, Rutgers University; and Dr. Tim Phillips, Texas A&M University.

To date, biomedical samples (blood, urine, and/or tissue) from 33 alleged victims have been screened. Specimens from 16 of these individuals show the presence of trichothecene mycotoxins. In addition, six environmental samples from alleged attack sites have been analyzed by Dr. Mirocha. Five show the presence of unusually high concentrations and combinations of trichothecene mycotoxins.

EVIDENCE OF CHEMICAL AND TOXIN AGENT USE IN SOUTHEAST ASIA AND AFGHANISTAN, 1982

Sample	Result
Laos:	
Blood	Trichothecene toxin.
Blood (post-mortem).	Trichothecene toxin.
Yellow residue	Trichothecene toxin.
Vegetation	Trichothecene/aflatoxin B1.
Kampuchea/Thailand:	
Blood	Trichothecene toxin.
Urine	Trichothecene toxin.
Tissue (autopsy)	Trichothecene aflatoxin B1.
Yellow residue	Trichothecene toxin.
Vegetation	Trichothecene toxin.
Water	Trichothecene toxin.
Water	Cyanide.
Afghanistan:	
Gas mask (2 sets)	Trichothecene toxin.
Vegetation	Trichothecene toxin.

Details concerning samples analyzed since the March report—including the circumstances of their collection, analysis, and the results—are provided in this annex. Results of analysis of earlier samples were included in our March 22, 1982 report.

POSITIVE SAMPLE RESULTS

Afghanistan

One-quarter of the external surface of a Soviet gas mask, obtained near Kabul in September 1981, was recently processed for analysis, employing techniques not previously used, and showed the presence of T-2 toxin. This analysis has been verified by two other laboratories. Similar analysis of material from the hose connections of another Soviet gas mask removed from a dead Soviet soldier in December 1981 in Afghanistan is indicative of the presence of the trichothecene toxins, T-2, DAS, verricarol, and another type of mycotoxin—zearalenone. It is believed that these protective masks were worn during operations in which a toxin agent was used.

Preliminary analysis of a third sample acquired in February 1982 also indicates the presence of trichothecenes.

Laos

(1) Blood samples were drawn from an ill H'Mong couple on March 21, 1982, by a physician in the Ban Vinai refugee camp. The victims were exposed to toxin agent attacks on November 11, 1981, and January 4, 1982. They remained ill and under treatment on March 21, 1982, when blood samples were obtained. During the November 1981 attack, an aircraft sprayed a yellowish agent. Although no one died in the village, symptoms such as bloody diarrhea were experienced by most of those exposed. In the January 1982 attack, a greenish chemical was sprayed from an airplane. Vomiting with blood, bloody diarrhea, blurred vision, chest pain, eye irritation, and skin rash were reported. Lingering effects included rash, pain in the joints, and fatigue. The blood samples were analyzed for three trichothecene toxins: DAS, T-2 and HT-2. The blood sample from the male was found to contain 13.5 ppb T-2 toxin. The female was negative for all toxins analyzed.

(2) Three blood samples were drawn by a U.S. physician on April 17, 1982, from three H'Mong refugees: Bloc Her, an 8-year-old boy; Tong Her, a 6-year-old boy; and Xia Sue Xiong, a young girl. They were among a group exposed to a toxic agent attack in late March 1982 in Laos. The agent used was described as being yellow to reddish brown. It was sticky and dried to a powder. Bloc Her had been severely ill with bloody diarrhea and coughing of blood. Xia Sue Xiong was suffering from bloody diarrhea and abdominal pain. The blood samples were analyzed for three trichothecene toxins: DAS, T-2, and HT-2.

TRICHOTHECENE TOXIN ANALYSIS

Victim	DAS	T-2	HT-2
Bloc Her	Negative	Negative	Negative
Tong Her	Negative	110 ppb	296 ppb.
Xia Sue Xiong	Negative	46 ppb	Negative.

ppb = parts per billion.

(3) Post-mortem blood samples were taken from a 25-year-old H'Mong refugee who had been admitted earlier to a refugee hospital at Ban Vinai, Thailand. Just before death he had suffered from a massive gastrointestinal hemorrhage. He had claimed exposure to a toxic agent attack sometime earlier in Laos. The blood was drawn in the hospital on April 17, 1982, and analyzed for three trichothecene toxins: DAS, T-2, and HT-2.

TRICHOTHECENE TOXIN ANALYSIS

Specimen type	DAS	T-2	HT-2
Heparinized blood	Negative	15ppb	19 ppb.

(4) Blood was drawn on April 6, 1982, from Neng Xiong, a H'Mong refugee in Thailand. She was suffering from the effects from a

toxic agent attack that occurred in Phou Bia, Laos, on March 25, 1982. The entire population of the village (40 families) suffered from vomiting, fever, backaches, headaches, and chest pain after a helicopter dropped a yellowish agent. Many villagers also developed swollen eyes. It was reported that one woman and several animals died. Neng Xiong's blood was analyzed for three trichothecene toxins: DAS, T-2, and HT-2.

TRICHOTHECENE TOXIN ANALYSIS

Specimen type	DAS	T-2	HT-2
Heparinized blood	Negative	100 ppb	8 ppb.
Nonheparinized blood.	Negative	33 ppb	34 ppb.

(5) A H'Mong refugee reported being subjected to a toxic agent attack on March 17, 1982, in Phou Bia, Laos. The agent, which "looked like yellow rain," was sprayed by a helicopter at low altitude. The sticky yellow spots dried to a powder in 3-4 hours. Immediately after the attack, the victim developed stomach and chest pains and vomited. Vomiting with blood began later and continued over the next 24 hours. Other symptoms included headache, shortness of breath, dizziness, eye irritation, and vision disturbances. The refugee also developed a rash and blisters. Blood samples were drawn by a physician at Ban Vinai refugee hospital in Thailand on March 31, 1982. The samples were anaylzed for three trichothecene toxins: DAS, T-2, and HT-2.

TRICHOTHECENE TOXIN ANALYSIS

Specimen types	DAS	T-2	HT-2
Heparinized blood	Negative	19 ppb	Negative.
Non-Heparinized blood.	Negative	3 ppb	2 ppb.

(6) Results of analysis of two environmental samples from attack sites in Laos were reported in our March 22 report and are not repeated here. An additional set of environmental samples taken from an allegedly contaminated area in Laos near Phu He was obtained for analysis. Although symptoms were manifested in individuals collecting and handling the sample, no trichothecenes were detected upon analysis.

Kampuchea/Thailand

(1) On February 13, 1982, at least 100 Kampuchean soldiers were subjected to an artillery-delivered toxic attack by Vietnamese forces and became ill. The attack took place near the village of Tuol Chrey in an area north of Khao Din, about 300 meters from the Thai-Kampuchean border. One individual subsequently died (see autopsy results, Annex B). Reported symptoms included burning eyes, blurred vision, shortness of breath, chest pains, vomiting, and vertigo. Some victims also trembled and generally felt weak. Blood and urine samples were taken from a number of victims at various times after the attack as well as from a control group of individuals living under similar conditions but not subject to the toxic agent attack. Blood and urine samples from the control group were negative for all analyzed toxic agents, including trichothecene toxins.

On February 14, 1982, 1 day after the attack, blood samples were taken from two victims: Pen Nom and Prek Reth. On February 15, a urine sample was taken from Pen Nom, while on February 16, a urine sample was taken from Prek Reth. Both blood and urine samples were analyzed for the presence of the trichothecene mycotoxins T-2 and HT-2.

TRICHOTHECENE TOXIN ANALYSIS

Victim	Specimen	T-2	HT-2
Prek Reth	Blood	18 ppb	22 ppb negative.
	urine	negative	
Pen Nom	Blood	11 ppb	10 ppb
	urine	trace	18 ppb.

On March 4, 1982, 19 days after the incident, some victims still showed effects of the attack and were being treated in Nong Pru hospital in Kampuchea. Further blood samples were drawn at that time from Prek Reth and five additional victims.

Trichothecene toxin analysis

Victim	T-2 Toxin
Prek Reth	Negative.
Kin Ving	7 ppb.
Mau Sereth	Negative.
Seng Nem	Negative.
Ching Soeum	Negative.
Chem Ron	3 ppb.

Analysis of tissue samples from a victim of the February 13 attack is described in Annex B.

(2) On March 5, 1982, a small Vietnamese aircraft sprayed a white powder in an area near Pailin, Kampuchea. On March 6, 1982, 10 of a group of 15 Kampucheans were unable to continue walking due to illness after passing through the area. Symptoms included nausea, vomiting, shortness of breath, blurred vision, diarrhea, bloody discharge from the nose, and burning sensation in the chest and abdomen. A second attack occurred on March 7, 1982, when some of the same Kampucheans were subjected to Vietnamese toxic artillery shelling. The agent produced nausea, dry mouth, and blurred vision and also caused loss of consciousness and muscle twitching. Despite medical treatment, a number of the victims died.

Samples were taken from three survivors exposed to the contaminated area on March 6 and 7. Blood and urine were taken on March 13, 1982.

TRICHOTHECENE TOXIN ANALYSIS

Victim	Specimen [1]	DAS	T-2	HT-2
Neung Hon	Urine	Negative	5 ppb	2 ppb.
	Blood	Negative	7 ppb	Negative.
Chan Saran	Urine	Negative	4 ppb	1 ppb.
	Blood	Negative	Negative	8 ppb.
Bun Thoeum	Urine	Negative	22 ppb	7 ppb.
	Blood	Negative	Negative	Negative.

[1] Blood samples was heparinized.

(3) A sample of contaminated vegetation was obtained following spraying by a Vietnamese aircraft in Pong Nam Ron District near the Thai-Kampuchean border on February 19, 1982. Analysis of this sample for known chemical agents was negative. However, the trichothecene toxin T-2 was present at a level of 86 ppb. DAS was also present at 30 ppb. The sample was of insufficient size to analyze accurately for the toxins nivalenol and deoxynivalenol.

ANNEX B

AUTOPSY RESULTS OF A CHEMICAL WARFARE ATTACK VICTIM IN KAMPUCHEA

Chan Mann was one of several victims of a February 13, 1982, toxic agent attack in the area of Khao Din. The victim, being treated at Nong Pru Hospital, reportedly made a brief recovery on March 12 and 13, followed by a relapse when he became anuric, feverish, restless, and slightly jaundiced. On March 17, he lapsed into a coma and died. A urinary catheter was inserted approximately 4 hours before death, but only minimal blood-tinged urine was obtained. Shortly before death the victim vomited blood. Kampuchean physicians performed a necropsy. Tissue sections of heart, esophagus/stomach, liver, kidney, and lung were taken and fixed in formaldehyde. Tissue samples were given to both U.S. and Canadian officials for analysis.

The samples delivered to the United States were submitted to several U.S. laboratories for gross, microscopic, histopathological, and chemical-toxicological analysis.

RESULTS OF ANALYSIS OF TISSUE SAMPLES FOR DAS, T-2, AND HT-2TH [1]

Material	Amount (g)	Toxins detected		
		DAS [2]	T-2	HT-2
Heart	7.9		([3])	1 ppm.
Stomach	13.5		25 ppb	4 ppm.
Liver	9.5			
Kidney	10.4	3 ppm [4]	7 ppb	
Lung	4.5		9 ppb	
Intestine	5.3		88 ppb	10 ppb.

[1] DAS (Diacetoxyscirpenol), a trichothecene toxin; T-2, a trichothecene toxin; HT-2, a metabolic product of T-2.

[2] DAS was used as internal standard—i.e., DAS was added to each tissue sample as a standard to check accuracy of analysis. Only the kidney had a concentration of DAS greater than the amount added.

[3] Toxins were not detected. Concentration of DAS was no greater than the added internal standard.

[4] Endogenous DAS in sample detected in concentration greater than the standard.

Note: Tissues were analyzed for trichothecene toxins by Dr. C.J. Mirocha, University of Minnesota. A parallel analysis performed by Dr. J. Rosen, Rutgers University, also revealed the presence of high levels of trichothecene toxins.

A high incidence of natural aflatoxin contamination of food in Southeast Asia has been well documented. Linderfelser and coworkers (1974) have shown that aflatoxin and T-2 toxin in combination have a synergistic effect and, therefore, it was of interest to determine the extent of aflatoxin in tissue of this individual.

RESULTS OF ANALYSIS OF SAMPLES FOR AFLATOXIN

Material	Weight of sample (g)	Sample	
		Actual (ng/g) [1]	Adjusted [2] (ng/g)
Stomach	3.04	19.8	22.5
Liver	3.00	20.2	23.2
Kidney	7.50	15.3	17.4
Intestine	3.02	11.2	12.7

[1] Nanograms per gram.

[2] Values adjusted on basis of 88 percent recovery—that portion of aflatoxin found when a known amount is added to the sample.

Note: Aflatoxin analyses were conducted by Dr. Phillips, Texas A&M University.

Levels of aflatoxin detected in the tissues were so high that it seemed prudent to investigate the possibility that this individual exposure to aflatoxin was not due to a natural contamination but may have been related to the chemical attack. To this end, portions of the sample of yellow rain from Laos previously shown to contain 143 ppm of T-2 toxin and 27 ppm of DAS were submitted to Dr. Mirocha and Dr. Phillips for analysis for aflatoxin B1. Independent thin-layer chromatography and high-performance liquid chromatography analyses were negative for aflatoxin, supporting a hypothesis that this toxin is not always a component of a yellow rain sample and that the victim's exposure

to aflatoxin may have been due to contamination of the food source. It does not, however, rule out the possibility that aflatoxin is a component of some yellow rain attacks. Preliminary analysis of some more recent yellow rain samples indicates the presence of aflatoxin in these tissues is important since the high incidence of exposure to natural outbreaks of aflatoxin contamination in Southeast Asia may induce a greater susceptibility to trichothecenes in this population.

Portions of each tissue sample were submitted to Dr. Charles Stahl, University of Tennessee Medical School, for histopathological examination. A summary of the pathology found included: hemorrhage into the heart tissue with evidence of cell destruction and inflammation, cirrhosis of the liver, hemorrhage and cellular destruction of kidney tubules, hemorrhage in the bronchi, and congestion and destruction of the lung. The details of these results and similar findings by other pathologists are consistent with results and similar findings by other pathologists are consistent with results of analysis of animals exposed to trichothecenes.

No single post-mortem finding proves cause and effect of toxin exposure and death, but these data taken together provide objective evidence that:

Reports from witnesses of yellow rain attacks are valid and that bleeding sometimes occurs in the lung, stomach, intestine, and kidney or bladder.

Persons already debilitated by disease or exposure to other toxins have a greater risk of death from trichothecene toxicosis.

Microscopic examination shows that tissue damage occurs in humans after moderate-to-heavy exposure to trichothecenes. The damage is similar to that found in experimental animals.

Microscopic damage persists for 1 month or longer.

Trichothecenes are known to cause long-term damage to rapidly dividing tissue. These toxins accumulate and persist at least in the organs that were examined.

Aflatoxin found in the tissues may be foodborne and is not necessarily a component of the yellow rain substance. However, aflatoxins and trichothecene toxins act synergistically, and they could be components of a toxic crude extract mixture. Emerging data from several sources lend credibility to such a hypothesis; therefore, investigation seems warranted.

ANNEX C

DISCUSSION OF ANALYTICAL FINDINGS [4]

The finding of T-2 toxin and HT-2 toxin in blood, urine, and tissue samples from yellow rain victims is highly significant in view of the fact that no trichothecenes could be detected in similar samples from the control population who were not exposed to yellow rain. The finding of such high levels of trichothecenes weeks after exposure is surprising and raises questions concerning the distribution, metabolism, and excretion of these toxins as well as their long-term effects.

Only limited research concerned with elimination rates of the trichothecenes has been conducted. Ueno, et al., 1971, reported that orally administered fusarenon-x was rapidly distributed to the tissues and reached peak levels by 3 hours after dosing. The kidney was believed to be the major organ of excretion. Matsumoto, et al., 1978, conducted studies with T-2 toxin which led him to conclude that the liver and biliary system were the major organs of T-2 excretion. Chi, et al., 1978, administered oral doses of T-2 to broiler chickens. Peak tissue levels were reached by 4 hours after dosing, and the liver contained the greatest amount of toxin. By 12 hours after dosing, however, the muscle, skin, and bile contained the highest amounts of detectable toxin. By 48 hours, 82% of the adminstered dose had been excreted. Robinson, et al., 1979, showed that T-2 toxin was excreted into cow milk at levels up to 160 ppb after daily administration of 0.6 mg/kg doses.

Studies concerned with metabolism of the trichothecenes have also been limited in number. Yoshizawa, et al., 1980, reported that in rat liver *in vitro* studies with the S-9 fraction of rat liver homogenates, HT-2 made up 50% of the metabolic products. Other metabolites included TMR-2 (19%), TMR-2 (2%), and T-2 tetraol (4%). In *in vivo* studies, HT-2 was one of the major products eliminated in the excreta of chickens (Yoshizawa, et al., 1980) as well as urine, feces, milk, and blood of dairy cattle (Yoshizawa, et al., 1981).

The finding of T-2 toxin and HT-2 in the blood and tissue of humans weeks after their exposure to the toxins would seem to indicate that enough toxin remains bound in body tissues to allow detection by sensitive instrumentation. Trichothecenes have been shown to bind to ribosomal proteins (Ueno, 1975) and to react with sulfhydryl containing compounds such as glutahione (Foster, et al., 1975) and with proteins such as albumin (Chu, et al., 1979). It would appear that although most of the toxin would normally be expected to be excreted within 48 hours after exposure, small amounts of the toxin and its metabolites remain bound to body tissues for much longer periods. The size of the dose administered and the route of exposure may have a significant effect on the proportion bound, since a sudden, rapidly absorbed, massive dose may overload normal excretion and detoxification mechanisms, resulting in greater tissue binding of the toxin. Similar apparent long-term storage of mycotoxins has been reported previously for aflatoxin B. Although most of the administered dose of aflatoxin is rapidly metabolized, Shank, et al., 1971, demonstrated in studies of monkeys that unmetabolized aflatoxin B could be detected up to 6 days after administration of a sublethal dose.

Additional significant findings lie in the trichothecenes found in the leaf samples (T-2, DON, nivalenol) and yellow powder (T-2, DAS). The concentrations found and their combination are not normally found in nature and it would appear that these mycotoxins found their way into the environment by the intervention of man. The most compelling evidence is the presence of T-2 and DAS in the yellow powder. Both toxins are infrequently found in nature and rarely occur together. In our experience copious producers of T-2 toxin *(F. Tricinctum)* do not produce DAS and, conversely, good producers of DAS *(F. reoseum* 'Gibbosum') do not produce T-2. This is also supported by our experience that a good producer of DON does not produce T-2 or DAS but could produce nivalenol. Thus, we have more than just the quantity of toxins produced to explain, but also the kinds that respective species and their isolates produce. Theoretically, it is possible to genetically manipulate or select an isolate that would produce copious amounts of two or more of these toxicants, but this would require a sophisticated research effort and sophisticated technology based on experience.

It is difficult to explain the presence of trichothecenes on leaf surfaces. Fusarium is not a leaf pathogen, and so we would not expect it to colonize leaves indiscriminately. Fusarium does colonize the roots and vascular tissue (causes wilt diseases) of some plants, and it would have to produce the toxins *in situ* and translocate them to the leaves. This has never been demonstrated in the pathogenesis of Fusarium-infected plants. If a pathogen like *F. oxysporum* f. *lycopersici*, pathogenic to tomatoes, were to produce trichothecenes and translocate them to the leaves, one would not expect such high concentrations and combinations of toxins. Moreover, we are not certain that pathogenic isolates of the latter produce trichothecenes during pathogenesis. It is a well known plant pathological principle that production of toxins by pathogens in laboratory culture does not signify that these toxins also are produced in the host.

Apart from the controversy of the trichothecenes occurring on the leaves, it is difficult to imagine a reasonable explanation for the appearance of T-2 and DAS in the yellow powder. To those who claim that they dropped onto the soil and rocks from overhanging leaves, this is contrary to any known facts about trichothecene occurrence or distribution. The burden of proof remains with those alleging such an unlikely hypothesis.

The finding of T-2 toxin, diacetoxyscirpenol, deoxynivalenol, zearalenone, and *Fusarium* pigments in leaves, water, yellow powder, and fragments originating at sites of yellow rain attacks in Southeast Asia and their absence in background samples (leaves, corn, rice, water, soil) from areas not exposed to yellow rain strongly implicates their use as warfare agents. Moreover, the finding of T-2 toxin and HT-2 toxin (a metabolite of T-2 toxin in animals) in the blood, urine, and tissue of victims of these attacks provides unequivocal evidence of their use as weapons.

Details of the experimental procedures used in these analyses were presented at the Society of Toxicology meeting in Louisville, Kentucky, on August 16, 1982; at an international mycotoxin symposium in Vienna, on September 1, 1982; and at the Association of Analytical Chemistry meeting in Washington, D.C., on October 28, 1982.

Two scientific manuscripts describing those analyses have been submitted for publication in refered journals and other studies pertaining to nongovernmental analyses are in press.

RED RAIN: ANYBODY READY FOR COMMUNIST CHEMICALS?

(By David C. Isby)

Not normally lethal, they are not banned under the 1925 Geneva Accord. The North Vietnamese fired captured CS tear gas at U.S. forces in Vietnam. The Soviets apparently made extensive use of a concentrated version of CN gas in Afghanistan. The North Vietnamese used the same sort of gas in Laos, but with a twist—they dropped it into water supplies. These agents are fatal if swallowed, but normally only irritate if inhaled. They last only a few minutes.

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[4] Based on excerpts from a paper by Dr. C. J. Mirocha and Dr. S. Watson, presented at an international symposium on mycotoxins in Vienna on Sept. 1, 1982.

INCAPACITATING AGENTS

These attack not the body, but the mind. The U.S.-developed BZ gas—basically LSD-25—was a failure. Soviet research and development, however, appears to have yielded a breakthrough in this type of gas. In Laos, Cambodia and Afghanistan, there have been reports of a gas that rapidly causes nausea, vertigo and unconsciousness. Only gas-warfare technology far advanced from that known in the United States could produce such a weapon. Its tactical significance is obvious—it can allow victories without bloodshed. Gas such as this could be used in close proximity to friendly troops or civilians. Non-fatal, it could be used under the provisions of the 1925 Geneva convention.

CHOKING AGENTS

Largely obsolete, these were the most deadly gasses of the First World War. Fatal if inhaled, they can be stopped by most standard gas masks. They are still deadly against unprotected troops. There is strong evidence of Soviet use of phosgene—the most common choking agent—in Laos, Cambodia and Afghanistan.

VOMITING AGENTS

These agents, of which Lewisite is the best known, are also old. They can be used against troops not wearing their gas masks—vomiting would make it hard to put on masks. They persist for several hours. No Soviet use has been reported in recent years, but it is probable that this gas remains in stockpiles.

BLISTER AGENTS

The first persistent gasses, the best-known of which is mutard gas, which blisters and destroys lungs if inhaled. Its fumes can blister skin and blind. Impregnated garments are required for protection. The Soviets may still have stockpiles of this old gas, although it is likely to have been replaced.

BLOOD AGENTS

An old, easily produced, non-persistent gas which must be delivered in quantity to be effective, but then can be deadly. Hydrogen cyanide is the best known. The Soviets have large, active stockpiles.

NERVE AGENTS

These are the main weapons of modern chemical warfare. Invented by the Germans before the Second World War, nerve agents restored a decisiveness to chemical warfare that it had not had since 1915. The starting point for both U.S. and Soviet poison-gas research and development was *Tabun*, a wartime German nerve agent, which, while obsolescent, may remain in Soviet service. The workhorses of the Soviet stockpile appear to be Sarin (GB), Soman (GD, the most common) VR-55 (thickened GD) and VX gasses. They are inhaled or absorbed and a minute amount will cause death within 15 minutes unless treated with an antidote. Persistence varies from hours to weeks, and they must be carefully washed from contaminated personnel and equipment. Extensive evidence exists that the Soviets have used nerve agents in Afghanistan. They have also been used in Laos, Cambodia and Yemen.

While "poison gas" is the generic term for these weapons, it is not a strictly accurate one. Many of them are liquids. The "Yellow Rain" itself is a fine solid, although some particles are reportedly so coarse that they can be heard as they come down. Most agents are deadliest when breathed. Most are also deadly when applied directly to unprotected skin in larger doses—although phosgene and hydrogen cyanide cannot cause casualties this way, all the nerve agents certainly can. All except the nonpersistent gasses, such as phosgene, hydrogen cyanide and some nerve agents such as Sarin can also cause casualties if simply sprayed on the ground. They persist there, active and deadly, waiting to be inhaled or absorbed.

The Soviets believe in chemical weaponry. There are more than 50 plants producing or capable of producing chemical weapons in the Soviet Union, and more than 40 chemical and biological weapons storage depots in Eastern Europe and European Russia alone. The Soviets realize that if chemical weapons are to be decisive, they must be used extensively.

The United States and the Soviet Union both started from the same point in poison-gas technology—with the capture of German Tabun nerve gas in 1945. This gas—aa quantum jump in lethality over earlier gasses—led to more advanced families of nerve gasses which emerged in the 1950s and 1960s. U.S. chemical warfare research and development, however, seemed to move like a minuet—one step forward, one step back, one step to the side—while that of the Soviet Union advanced to a driving tempo. After the widespread slowdown of U.S. chemical warfare capabilities in the early 1970s, the gap can only have widened.

We are now faced with the possible existence of a family of Soviet chemical weapons that have no Western equivalent, simply because no one except the Soviets have expended the time and money to deploy gasses that are not even thought of in the United States. If one nation were to halt its development in any critical field of modern weaponry, such as, say electronic warfare, while its competitor treated it as a high-priority area, it should be to no one's surprise that a tremendous disparity in the quality as well as quantity would result.

This, it appears, is what has happened in chemical warfare. The Soviets have fielded a new range of poison gasses so advanced that we have a difficulty understanding them—let alone devising countermeasures. They are so advanced we do not even know what to look for—which is why it took so many years for the West to determine what Yellow Rain was.

The most chilling, potentially decisive of the new Soviet gasses is called simply "The Flash." Only once has it left hard evidence: a firing line of Afghan guerrillas, peering through the sights of their rifles, cold, stone dead—as if frozen. Reports of other uses of this gas have come out of Afghanistan. An examination of reports from the Yemen War of 1963-67 has also supposedly brought to light an incident that might be a use of this gas. Other, unconfirmed, reports has suggested that it may even have been used against Eritrean guerrillas.

There is no nerve agent known in the unclassified literature that produces symptoms like The Flash. Even the most concentrated nerve agent does not kill instantly, but causes initial convulsions. Tactically, the delivery of nerve gas will usually give time for some countermeasures or, failing that, for the application of antidotes if troops have been exposed. The Flash would apparently give no warning of any sort. Those who died from it, in the words of a State Department official, "just forgot to breathe." We do not know what it is, how it acts, how widespread it is in the Soviet stockpile, or whether any of the U.S. Army's protective equipment is effective against it. The Flash is perhaps the ultimate nightmare weapon, and the nightmare is not made any less frightening by ignorance.

More widely known, but just as hard to explain, is the new Soviet incapacitant, "Blue-X." It has seen relatively widespread use. The State Department has presented clear and convincing evidence of its use in Laos, Cambodia and Afghanistan. Other reports suggest that it was also used during the Sino-Soviet border clashes in 1969.

The tactical value of this gas, which quickly causes unconsciousness, is tremendous. Just imagine, for example, how the U.S. raid on Teheran could have been carried out if supported by this sort of gas—the objective taken with no resistance or bloodshed. Taking prisoners for intelligence-gathering becomes simple, Better still, under the Anglo-American interpretation of the 1925 Geneva Protocol prohibiting use of chemical weapons, Blue-X is not covered because it is not a lethal gas. What could an opponent do against a Soviet force using Blue-X? Escalate to nerve gas? Fire back tear gas? The options are as unpleasant as the gas itself. As with The Flash, the exact nature of Blue-X is unknown.

The third type in the new family of Soviet chemical weapons, tricothecene toxins, is the infamous Yellow Rain. Thanks to the devoted efforts of a few people—State Department officials, journalists (including, I am proud to say, some of my *Soldier of Fortune* colleagues—see "Yellow Rain!" SOF, March '82), Members of Congress and others—the Yellow Rain is fast becoming the symbol of the new Soviet imperialism, made more brutal by the application of a highly advanced technology.

In the words of the Wall Street Journal: "Except on the fringes of opinion, no informed American any longer doubts that Soviet-supplied armies are using 'yellow rain' in Southeast Asia."

The toxins are a simple sort of weapon. Developed from a form of bread mold that has been endemic to the Soviet Union for centuries, they represent a new type of poison gas. They have the potential to be up to 100 times as effective as nerve agents. They are hard to detect—current U.S. Army gas alarms would probably not be adequate. Their small particles allow them to go through most filters. While no official reports have been published as to whether the standard M17 U.S. gas mask can be penetrated, it is not an encouraging situation, especially if the Yellow Rain is used in conjunction with other gasses. Indeed, it appears that most Soviet protective equipment may not be proof against Yellow Rain—which explains why its use in Afghanistan is limited to areas in which no Soviet troops are operating.

Tactically, Yellow Rain is an economy-of-force weapon par excellence. One airstrike can wreak as much havoc and destruction as a large-scale ground operation, without fighting or casualties. In Afghanistan, the Soviets realize that since, as Mao said, the guerrilla moves among the people as a fish moves in the sea, it is necessary to drain the ocean. The Soviets obviously do not want the Afghans to stay at home where they can feed and shelter their countrymen who are fighting the invaders. They want the Afghans to die, or, failing that, to become refugees in Pakistan, further burdening that nation. In some areas, the Soviets do this by moving in with combined-arms ground assaults, destroying the agriculture. The other alternative is the Yellow rain. When the Afghans see people dying in agony, they are not going to wait around for the Soviets to

come back and try again. They are likely to head for Pakistan and safety. Terror is an effective weapon in the hands of those who know how to employ it. To the Soviets, it seems a natural tool.

The Soviet arsenal of overlapping families of chemical weapons allows them to tailor each chemical strike to the specific tactical situation. For example, the U.S. POMCUS equipment parks, pre-positioned in Germany for use by troops flown in from the States, are splendid targets for a persistent nerve agent such as VR-55, delivered by aircraft or long-range missiles. By the time the U.S. Army had decontaminated the hardware, the Soviets could well have arrived to take over what was left. Airfields are also targets for persistent gas—not least because it leaves the runways intact for subsequent Soviet use.

Nonpersistent gas would be used against units holding ground that the Soviets themselves want to occupy, such as an important hilltop. Hydrogen cyanide, delivered by multiple rocket launchers, could well be the weapon of choice in these circumstances. The nonpersistent nerve gas, Sarin, could also be used. Most nerve agents can either be sprayed into the air or used as a ground contaminant. Mustard gas is also primarily a contaminant. Although this makes the gas slower acting and higher doses are needed to kill than when gas is distributed in the air, ground contamination by a persistent agent could allow the Soviets to put an effective barrier to troop movement on a battlefield.

The interaction of gases make each more effective. A strike with hydrogen cyanide will saturate the filters of U.S. gas masks. While the GIs are trying to cope with that the Soviets will hit them with something more lethal. (Unmasked troops might be hit with a vomitifg agent to prevent their donning masks, the felled by a quick follow-up strike gf more deadly gas.) The Soviets believe in the effectiveness of interlocking, complementary systems throughout their armed forces—be they radars, anti-aircraft guns, or poison gas. The whole is much worse than the sum of its parts.

Just about any Soviet weapon at least as large as a 120mm mortar is capable of delivering chemical projectiles. The whole range of soviet artillery—especially the standard 122mm and 152mm towed and self-propelled howitzers—is considered to be capable of using chemical weapons. The standard Soviet artillery units of fire contain no gas shells. When the decision is made to use gas, gas shells that are held, in peacetime, by special caretaker units will be delivered to the guns. Estimates of the total Soviet artillery stockpiles of gas shells vary widely, but the most reliable figures put it at about five percent of the total number of rounds.

The best Soviet weapon for gassing front line troops, however, is the multiple rocket launcher. Advanced versions of the Katyusha "Stalin Organs" of WWII, the most common version is the 40-tube 122mm BM-21 truck-mounted rocket launcher. This rocket also comes in individual, manpacked tube versions, allowing light infantry such as Soviet special forces—or the People's Army of Vietnam—to bring them where the action is. The sound of the "one-two-two" rocket is terrifying. The gas they can carry is a lot quieter, but even more deadly. These rockets are area-fire weapons—they saturate an area, rather than seeking out a pinpoint target.

A battalion of 18 BM-21s in one salvo can create lethal concentrations of gas over an area greater than two square kilometers. This concentration makes them especially effective in using blood agents, which require a high concentration to work and would dissipate if agent density had to be built up slowly. Because the 720 122mm rockets of a BM-21 battalion salvo will arrive on target within a few seconds of each other, they maintain the vital element of surprise for the Soviets, unlike howitzers or mortars, whose first gas shells could alert those on the receiving end. With the rocket launchers, by the time you realize what you've been hit with, it's probably too late. It is estimated that up to one-third of the Soviet rockets stockpiled for multiple rocket launchers are filled with chemicals.

The FROG surface-to-surface rocket is like the old American Honest John. The larger SCUD-A and SCUD-B missiles are similar to the Pershing. All are reported to have chemical warheads. The sheer size of these weapons means that they can produce high concentrations of gas with a single round.

Combat experience, however, has shown that the usual way of delivering Soviet gas is by air. Bombs may be dropped by both aircraft and helicopters. While Aerosol spray systems have so far only been reported on fixed-wing aircraft, there is no reason why they could not also be installed on Soviet helicopters. Just about anything that flies with red stars painted on it is a potential chemical warfare delivery system. One source of grave concern for Western analysts is the many agricultural crop-spraying aircraft run by the governments of potential adversary nations, including the Soviet Union and Cuba. While few of the fixed-wing aircraft could operate in the face of modern air defenses, Aeroflot also uses standard Mi-8 Hip transport helicopters in this role in the USSR. Against people who lack heavy weapons, or in a surprise attack, these crop-dusters have the potential to become horribly effective weapons, since their airframes are already treated against the corrosive effects of chemicals, and their air and ground crews trained in the handling and delivery of toxic substances.

The air-delivered systems have a devastating potential. A *Hind* helicopter gunship could carry four standard Soviet chemical bombs, believed to be 250kg types containing about 100kg of agent. Filled with Sarin, a single bomb could cover half a square kilometer. Standard aerosol spray tanks contain about 400kg of agent. A MiG-27 *Flogger-D*, the standard Soviet-bloc attack aircraft (also used by the Cubans) can carry four of these. Just one tank can cover four square kilometers with Sarin. The thought of a single flight of *Floggers* flying down the front lines of unprotected troops, spray tanks squirting, is not a pleasant one, but it is a reminder that chemical weapons are a powerful "force multiplier." They allow a small force to have far greater effectiveness.

These major systems can be supplemented by a number of smaller ones. The Soviets use a number of chemical-filled land mines. Reports from Afghanistan have mentioned the use of incapacitating agents in hand-held anti-tank rocket launchers. If these reports are true, then every level of Soviet military command, from sergeants leading squads to the old men in the Kremlin, has the capability to deliver chemical weapons.

Defensive preparations are a vital part of the Soviet emphasis on chemical warfare. Because of the weakness of the chemical weapons used by the United States and their absence in the arsenals of other potential Soviet adversaries—in NATO only France has chemical weapons and Chinese capabilities are thought to be limited—the Soviets have really not had to plan against the extensive use of poison gas against them. Yet for many years, despite the lack of credible U.S. chemical-warfare deterrent, Soviet defensive chemical warfare was the finest in the world. It was only in the late 1970s that the U.S. Army started to take defensive chemical warfare seriously, and it still has a long way to go before it is as capable of operating in a chemical environment as the Soviet Army.

Defensive chemical warfare is the responsibility of the *Voenno Khimicheskaya Voiska*—the Military Chemical Forces. Commanded by a Deputy Minister of Defense, the 100,000 men of the Military Chemical Forces serve all of the Soviet armed services, not just the Army. They are specialists in detecting chemical weapons, conducting reconnaissance for their effects, and in decontaminating personnel and equipment. Units of the Chemical Forces are found at all levels of command, with each regiment having a company, each division a battalion, each army (equivalent to a U.S. corps) a reinforced battalion. They train the chemical warfare specialists found in each Soviet company.

But while these specialists devote their full attention to chemical warfare, the defensive capabilities of the average Soviet soldier are not neglected. Unlike his U.S. counterpart, he probably has the benefit of a collective protection system. First-line Soviet BTR-60PB APCs and BMP infantry fighting vehicles all have chemical defenses, as do Soviet tanks. But only the BMP adds a chemical/biological-agent filter to the combination of overpressue and a blower/dust extractor mounted on the other vehicles. These are more effective systems than the largely nonexistent U.S. protective measures but they still do not provide a "shirtsleeve" fighting environment. Only the Czech-designed OT-64 APC, used by non-Soviet Warsaw Pact forces, does that.

Thus, on foot or mounted, the Soviet soldier will have to rely on his personal defensive equipment. Like most of what he uses, it is simple, cheap, poorly engineered, but highly effective. He has an OP-1 protective suit, made out of nonpermeable rubberized fabric. When combined with the required protective undergarments, it is an airtight garment that is hellishly uncomfortable to wear for anything more than minutes. The standard ShM gas mask is also fatiguing to wear, but offers effective protection. Only officers and designated personnel have gas masks with voice emitters.

Everyone else, in true Soviet fashion, is expected to keep quiet and do as he is told. The individual soldier also carries an MSP-18 treatment kit, which includes antidotes for a number of nerve agents and other chemical weapons. (It also includes a roll of "anti-radiation tablets" that are actually placebos.) He also carries an IDP weapons decontamination kit and an IPP personal decontamination kit.

Large-scale decontamination is the responsibility of the Military Chemical Forces, and they have a wide variety of specialized equipment. Most spectacular is the TMS-65. Basically an aircraft turbojet on a truck, it uses heat and decontamination fluid to clean off a tank in one to three minutes. Like most Soviet decontamination equipment, it has nonchemical warfare roles: It can be used as a smoke generator, can melt ice on runways or spray insecticide.

More common is the earlier ARS-12U and ARS-14 tank trucks, used to hose down equipment and troops, which also make an acceptable field shower. The DDA-53, also truck-mounted, provides two steam chambers and a boiler for clothing and equipment decontamination.

A number of systems detect chemical contamination. They range from squadlevel chemical detectors to sophisticated BRDM-2rkh scout cars that use remote robot arms to take soil samples and automatically dispense warning flags if contamination is found.

But more important still is the Soviet training for defensive chemical warfare. Everyone in the army, from private to marshal, is taught to think in terms of nuclear, biological and chemical war. The Soviet soldier wears his protective suit for up to 25 percent of his field training. Of the total training time of a typical Soviet soldier, 12 percent is devoted to NBC training. The Soviet protective suit is worn on peacetime exercises for up to eight hours. Not only field training is undertaken in full protective gear, but jobs such as vehicle maintenance and games such as basketball. Soldiers train the way they fight, and Soviet NBC training is extensive. Diluted versions of actual toxic chemicals are used in some exercises. The resulting casualties are accepted as part of the realism of training—the Soviets consider three-percent losses acceptable on a major exercise.

Soviet chemical-warfare training starts early. It is part of the pre-induction military training that, by law, every Soviet high-school student is supposed to receive. As a result, the Soviet press runs pictures of schoolchildren being taught how to use their gas masks by their smiling teacher. Soviet Civil Defense forces—an important part of their strategic power—are also trained and equipped for defense against chemical weapons.

Perhaps the strongest element of the Soviet defensive chemical warfare effort is its place in the Soviet war effort. It is not a second-rate backwater. The Chemical Troops are a well-placed, well-respected force. All officers of any branch of the Soviet Army are required to know about chemical operations.

However, nothing in the Soviet Union works the way it is supposed to. While the total first-priority treatment given to the armed forces ensures that they are far and away the most effective institution the Soviet Union has ever created, there are still very real gaps between paper and performance. Soviet defensive chemical warfare is no exception. The Soviets complain openly that the rigorous training programs are not followed at unit level. Reports of technicians who do not know their jobs and equipment—forcing the officers to do jobs for them—are frequent.

One key limit to Soviet chemical defenses is that they are not set up to deal with an enemy that will use chemicals against them. Their defensive efforts are aimed at reducing the effects of nuclear weapons or in allowing Soviet units fast and safe passage through areas contaminated by their own chemicals. That is why they have retained their heavy, bulky suit. Although troops do wear it for up to eight hours, in temperate conditions performance begins to deteriorate after 20 to 30 minutes in the suit. The Soviets obviously do not anticipate having to wear the suits for extended periods while waiting for enemy chemical attacks, as the U.S. Army will.

Soviet defensive equipment is old technology and not apparently suited for defense against some of the latest chemical weapons the Soviets have in their own arsenal—which means that the Soviets would not be able to use such weapons in close proximity to their own troops. It is believed that a new generation of defensive chemical equipment will soon be in Soviet service.

The Soviets have professed to have nothing at all to do with biological warfare. They cite their adherence to the 1925 and 1972 conventions and maintain that only the capitalists would use such a horrible weapon. Thus they were able to report an outbreak of an airborne strain of anthrax after a mishap at a suspected biological weapons establishment near the city of Sverdlovsk in 1979 as caused by "bad meat."

Western sources believe that until the 1972 Biological Warfare Convention and probably—given the evidence at Sverdlovsk—after it as well, the Soviets developed a wide range of diseases as well as countermeasures to them. The Soviets are believed to have developed agents that produce plague, cholera, anthrax, tularemia, lassa fever, ebola fever and marburg fever.

The Soviets define biological warfare as being identical with bacteriological warfare. To the Soviets, the trichothecene toxins of Yellow Rain are not biological weapons because, although organic, they do not reproduce.

The Soviets are less likely to use biological weapons than gas, since the biologicals are less predictable in their results and harder to store and deliver. The Sverdlovsk incident shows that a little accident case be very embarrassing.

The Cuban Armed Forces, following their Soviet mentors, are fully trained in both offensive and defensive chemical warfare. Cuban units have chemical defense troops attached. The scale of issue is smaller than in Soviet units and the equipment less lavishly provided, but the principles are the same as those of the Soviet Military Chemical Forces.

There are unconfirmed reports that there is at least one offensive chemical weapons depot in Cuba. Even if this depot is filled only with small amounts of gas for training purposes or nonlethal gas, the Soviets could lift in large quantities of chemical weapons in a crisis. Chemical weapons would give Cuba, even with its existing forces, the capability to inflict immense damage to the United States or Latin America. Its existing MiG-27 force, armed with chemical bombs and spray tanks, could slip under the frayed and tattered U.S. radar curtain (which does not detect most of the drug runners, who do not use electronic contermeasures).

If they were to hit cities or strategic targets along the Gulf coast, the effect would be devastating. Against Latin American targets, the Cubans' large crop-dusting fleet coud do the same thing. Chemical weapons are a potential equalizer, allowing even little Cuba to do tremendous harm to the United States. Should the balloon ever go up, it would be hard to imagine that Fidel Castro—whom the United States once tried to kill with shellfish toxin—would have too many qualms about carrying out such wholesale destruction.

It may be that, in Afghanistan, Southeast Asia, Yemen and possibly Eritrea, we have only glimpsed the sort of horrors that the Soviets have made part of chemical warfare. In yellow Rain, The Flash and The Blue-X incapacitant, we have seen evidence of a sophisticated offensive chemical-warfare technology far beyond what has appeared in the West. There is no reason to assume that the list of new and advanced weaponry stops with these three items. There may well be even more advanced, even more deadly gasses that the Soviets are not willing to test in action, lest the secret eventually reach their opponents. If the Soviets have been willing to invest a tremendous amount of research and development in chemical weapons—as the United States has not—then it may be that they have unlocked a Pandora's box of such weapons. If we do not even know what they are, it is unlikely that we will be able to defend against them.

For many years, the reaction to Soviet chemical warfare has been that of the ostrich—pretend it isn't there and maybe it will go away. Only now is this attitude changing. The U.S. Army is now doing more training under simulated chemical conditions, although both its training and equipment still have a long way to go before they are as effective as those of the British or the West Germans. As the evidence piles up, it has by now become apparent to anyone not wearing the blinders of ideology that the Soviets and their clients have been using chemical weapons (although formal U.S. protests under the 1925 and 1972 Geneva Accords have been conspicuous by their absence). It should also be more apparent that the Soviets have only refrained from using chemical weaponry when their opponents—such as the Germans in 1941-45—possessed both the ability and training to defend themselves and the capability to retaliate in kind. Where these capabilities are lacking, the Russians use chemical and biological weapons to render the battlefield uninhabitable for the unprepared.

That is why the Soviets put a correspondingly heavy emphasis on defensive chemical warfare—it is impossible to wage offensive chemical warfare without it. The lack of a serious retaliatory threat, however, has made the Soviets' task easier. Together with the equipment, there is the training, tactics and thinking that sees fighting under chemical conditions not as an unusual or special case, but something that can happen at any time, anywhere on the modern battlefield.

"We have never rejected terror on principle, nor can we do so. Terror is a form of military operation that may be usefully applied." So wrote V. I. Lenin, laying down guidance his heirs still follow faithfully today. To the Soviets, a just war is not won when fought according to agreements or even the standards of common decency, but one that advances the cause of socialism. If the war does that, then victory can be the only end, and to quail at the means used is simply the soft-headed "bourgeois morality" that Lenin despised. Philosophically as much as militarily, the Soviet use of chemical weapons is a complete, well-thought-out system for war.

Now, just briefly to go over this because it is a late hour and many Members have to catch airplanes, I would like to touch on a few salient points and then implore the membership to not go through the tragedy of the 1930's when Haile Selassie flew from Ethiopia up to the League of Nations. We sent up to Geneva and at those same buildings used by the United Nations at Geneva, he pleaded with the world to do something about a Fascist dictator, Mussolini, killing thousands of his humble

tribespeople with poison gas and he predicted prophetically that if the world turned a deaf ear to the plea of Ethiopia, it would bring about the dissolution of the League of Nations, and it did, and it would probably lead to a greater war, and it did. It took the lives of 55 million people in World War II and ended with the firestorm nightmares in Hamburg and Dresden from incendiary bombing and the holocausts of Nagaski and Hiroshima in Japan.

Now, the Soviets used the poison gas, RCIA, and the defense intelligence agency tells me for three simple reasons:

First. It is very inexpensive.

Second. It is extremely efficient as a form of killing human beings.

Third. And I underscore this one, because this one is really offensive, the world does not give a damn that it is going on.

There are three countries that are exemplary in joining the United States of America in trying to seek the truth of red rain, yellow rain, and now blue rain; our neighbor to the north, a decent, moral country, Canada; our mother country, Great Britain; and Thailand; although they are not mentioned in the government reports, Australia has also done excellent work in trying to ferret out this ugly story.

The Soviets continue their use of chemicals and toxins against the resistance people in Afghanistan and we now have the physical evidence of mycotoxins in these gas masks.

I only regret that the President of the United States had an important trip this week in South America, that he himself was not able to conduct the press conference and that he himself was not able with his great skills as a communicator to hold up this hard evidence and to have in his hand before the cameras and the newspapermen of the world the physical evidence of these Soviet gas masks.

Vietnamese and Laotian troops under Soviet supervision continue to use lethal and incapacitating chemical agents against the H'Mong people. We used to call them, imprecisely, the Mao tribespeople in Laos. These are the indigenous mountain people, similar to what we now call first Americans, Indian Americans in this country. They were there before the Vietnamese, before the Chinese invasions and the incursions over the last 3,000 years. Their roots disappear in the mists of prehistory, and they are being genocided—and that is the exact precise fair word to use—genocided off the face of the Earth because of one thing and one thing only, they befriended the United States in what was called the secret CIA war in Laos for most of the sixties and part of the seventies.

In Afghanistan, the chemical attacks have been documented up through last month. In Cambodia and Laos they have been documented up through November. At this point, I would like to include some other examples.

First in Afghanistan, a Soviet soldier who defected to the Mujahidin in Afghanistan this year said a Soviet toxic agent turned 100 percent lethal, causes flesh to become very soft. The Soviet defecting soldier also said the Soviets maintain stores of Picric acid of potentially lethal tear gas, the 100-percent lethal gas agent, and these incapacitating agents are sometimes used together.

A British journalist has described two unconfirmed attacks, one where Soviet soldiers reportedly shot victims already rendered unconscious by the poison gases and another where Soviet troops reportedly loaded bodies from a gas attack onto a truck and removed them for laboratory chemical analysis.

In September of 1981, in Afghanistan, firsthand reports tell of a Soviet helicopter spraying yellow mist in Paktia Province causing 16 deaths. Survivors had bloody noses and extreme crying and extensive bleeding was reported in those who died.

In December 1981, 15 refugees attempting to escape to Pakistan were attacked by a Soviet helicopter using gas; 4 or 5 people dead, the rest unconscious for 5 to 6 hours.

□ 1240

These may be the nerve gas agents that render people unconscious in great pain, but not necessarily lethal.

According to another report by a Soviet soldier who personally observed the use of chemical weapons, aircraft, or helicopters would first drop a bomb resulting in a mixture of two different chemicals that would kill everything within the contaminated area.

Our State Department says that the soldiers may have been describing the delivery of two separate chemical agents, an occurrence also described by other witnesses.

An Afghanistan veterinarian described an incident in May of 1979 in which 21 people were killed, plus countless sheep. The Soviets blame that incident on the outbreak of anthrax, but the Soviets had been in the area spraying a white powder before the incident. It is interesting that the Soviets would try to blame anthrax as the cause of these deaths, since the Soviet Union, in their chemical experimentations in their own country years ago, had an outbreak of anthrax that may have killed thousands of people in the Siberian area just east of the Urals. So that is a strange cover story for them to use.

In June 1980, an airport official in Afghanistan described 200 to 300 gas containers painted green and brown. At the Qandahar Airport a subordinate described one gas as burning the throat as well as suffocating the victim, one causing what looked like smallpox and blistering, and one making victims tired and sleepy, unable to run or fight.

The likelihood of detection of these chemical agents and toxins depends upon a number of factors: Persistency of the agent, the ambient temperature, the immediacy of rainfall after their use, the wind conditions, the medium upon which the toxic agent was deposited, and then the time and the care and the packaging of the sample from collection to laboratory analysis.

This is one of the many reasons that there has been such difficulty in bringing this case before the world court of public opinion.

Here are other examples from Laos:

H'Mong refugees, recounting details of toxic agent attacks and exhibiting severe medical symptoms, continued to flee to Thailand every month from January through June 1982—brought out more samples contaminated by a yellow sticky substance described as "yellow rain."

Experts agree that these people were exposed to a toxic agent and that no indigenous natural disease, plant, or chemical caused these unique physical effects—vomiting, bleeding, blistering, severe skin lesions.

Laboratory analyses of blood samples from these victims show that trichothecene toxins are retained in the body for much longer periods of time than previously thought.

Description of 1982 attacks:

First, aircraft or helicopters spray a yellow rain-like material on their villages and crops—symptoms are similar to those described in the March 22 study—attributable to trichothecene toxins.

Second, bleeding did not occur in all cases, only abdominal pains and prolonged illness—these symptoms have been described in previous years, which suggest that another agent or combination of agents is still being used.

Medical personnel in Thai refugee camps are better organized in 1982.

First. Doctors use extensive questionnaires and conduct comprehensive medical examinations, including preliminary blood analysis.

Second. Skilled paramedical personnel oversee preparation of blood and serum samples for proper transport and shipment to the United States.

Third. Patients with active symptoms are monitored extensively over time.

Fourth. Biological specimens are drawn by qualified medical personnel and samples refrigerated until analyzed in the United States.

In Laos the Soviet Union maintains significant numbers of advisers who provide maintenance assistance, tech-

nical support and training in both conventional and chemical warfare. A former Lao transport pilot who defected early this summer has described the aerial movement, under Soviet supervision, of toxic agents within Laos.

And examples from Cambodia/Kampuchea:

Most reported attacks in 1982 occurred near the Thai border, making it easier to obtain samples and other direct evidence of toxic agent use.

February and March 1982—several attacks occurred just across the Cambodian border in Thailand—samples taken from the Thai attacks were studied in Thailand, Canada, and the United States—United States and Thai officials found evidence of trichothecene mycotoxins—Canadian team found evidence of a toxic agent but tests for trichothecenes proved inconclusive.

Toxic agent artillery attack on February 13, 1982—blood and urine samples contained trichothecene toxins and post-mortem tissue from a victim confirmed the presence of trichothecene toxins.

Vietnemese conducted toxic agent attacks against the Kampuchean People's National Liberation Forces—samples from this attack are being analyzed.

Now that we have the State Department documentation, now that we have the French Government, through its intelligence sources, on the verge, possibly in March or April, of also going public with this, we simply have to face up to this coverup problem that at the United Nations—and this is what our Committee on Foreign Affairs in the House has unfortunately relied upon—the United Nations body that is given the responsibility for investigating this, is commanded by a high-raking Soviet official of the KGB. Of the 17 people who have commanded this secretariat in the U.N. that has the responsibility for this, 16 of the 17 have been KGB officers of colonel or full general rank, and the only non-KGB officer since 1945 has been a Polish dedicated Communist officer of their intelligence forces. This structure was set up under President Roosevelt and the other early architects of the U.N. to coax the Soviet Union into that world body, similar to the outrageous fact that they are the only nation in the world that has three votes in the General Assembly. They sit there with supposedly three distinct nations, the Ukraine, Byelorussia, or White Russia, and the other 13 so-called Republics of the Soviet Union.

Well, the fact that we gave them three votes in the General Assembly has enabled them to cripple every single investigation of biochemical warfare that has taken place over the last few years.

I will close my formal part of this presentation, other than putting in the Soldier of Fortune magazine "Red Rain" article and the State Department report, with the following observation:

The Soviet Union has now had a new leader assume the reins of power with the 12, soon to be 14, members of the Politburo that controls the world's only other superpower. Andropov, now the principal Communist in the world, commanded the KGB forces of the Soviet Union for 15 of the 18 years that Leonid Brezhnev was head of the Soviet Union. he only resigned from that KGB position last May so as to set himself up for assuming all of the power he has accumulated since then.

All of these instances of biochemical war crimes were authorized, as was the assassination attempt upon the Pope, from the Kremlin during the period that Yuri Andropov was head of the KGB. This new leader of the Soviet Union is as conversant and as fully aware of what is taking place in Afghanistan, Ethiopia, Kampuchea, and Laos as any person in the world today. And if we are approaching a situation where nuclear weapons are going to become the poison gas of World War II, an untouchable weapon, every man or woman of good conscience hopes they will remain untouchable weapons for all of whatever God has left the human race time on this planet.

Would it not be an ironic reversal that the poison gas of World War II, the weapon that even Hitler would not touch except for one ghastly footnote, poison gas, was used against people in concentration camps, particularly 6 million Jews, the Zyklon-B gas, and it was used by Mussolini before warfare started. But Churchill did not unleash the poison gas stocks of Great Britain, which he had said in secret papers now being released he would have done if Nazi Germany had sent the invasion ships across the channel in the summer of 1940. Hitler, even though he was pulling his own people down around him and saying they all deserved to die, still would not touch poison gas, at least on the battlefield.

The United States of America, with a good case for saving lives and preventing the invasion of Japan and costing ourselves 100,000 dead and possibly 1 million or 1½ million dead Japanese, did use poison gas of a type radiation poisoning through the nuclear weapons used on Hiroshima and Nagasaki.

Would it not be ironic if we sealed off the radiation poisoning that the world has developed and then the Soviet Union would have carte blanche to use the biochemical warfare that it has built into a massive advantage over the remaining free nations of the world, and all we would have accomplished is this ugly role reversal of atomic bombs being the untouchable weapon but poison gas being now acceptable. It is being used at this monent in foreign nations. Why would not the Soviet Union, with the nuclear freeze, feel that they were free to use it, since all of their tank-armored units are biochemically sealed, as are their armored personnel carriers? I have seen these biochemically sealed weapons systems in the captured weapons in the intelligence areas in Israel.

Would it not be ironic if they were suddenly to decide they could dictate foreign policy to the world because not only are they three to four times superior in conventional weapons of death, but they have such a superior advantage in biochemical warfare, a weapons system that they feel is more efficient than nuclear weapons, far cheaper, and the world does not give a damn that it is being used to kill humble, simple people in four countries today?

Where would we be in this raging debate that I welcome that is coming up with the Catholic bishops, Protestant bishops, this current administration, and I am sure next year the 98th Congress, both of its bodies, arguing constantly and ferociously about what we are going to do about disarmament while the Soviet Union gets a free ride with biochemical war crimes because the world does not care? What an insane, maddening situation that would be.

Every single Congressman elected to serve and to be sworn in on January 3 of next year, or sometime in January, the 5 new Senators and the 95 returning Senators, will be betraying their constitutional oath to defend this country if they do not make themselves as conversant on the use of biochemical warfare at this moment today in 4 countries as they are on any other agriculture issue, economic issue, budget issue, or other issue in their office. They are failing their constitutional oath and they are a failure as a Congressman of the United States or a Senator of the United States if this is not one of the major issues discussed in this body, coequally discussed with nuclear disarmament, bionuclear freezes, MX missiles, B-1 bombers, or whatever else we decide to spend with the appropriations bill from the people's House, the House of Representatives, with its power of the purse, the money that we decide under the preamble of the Constitution to provide for the common defense.

This should be the burning issue in the streets and demonstrations of Rotterdam, Amsterdam, Brussels, and every other European capital across this world.

All you have to do is travel behind the Iron Curtain, as I have done, and talk with the freedom-loving people in the East-bloc nations or in China or anywhere in the world and ask them

what they think is one of the major crimes of our generation, and they will say red rain. They cannot believe that it is not a major item of discussion here or the Parliaments and Knessets in the remaining democracies of the free world.

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I hope that my colleagues in this House will avail themselves of this special order, read the report, at least from our own State Department, and see if this is not one of the compelling issues of the 1980's.

DR. JAMES PAUL TURNER DESERVING OF HONOR

(Mr. SUNIA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SUNIA. Mr. Speaker, I rise today to place in the CONGRESSIONAL RECORD the name of someone I consider to be fully deserving of that honor, a person I am proud to have known for many years, and a citizen who is a credit to this great country of ours. He is Dr. James Paul Turner.

Dr. Turner celebrated his 80th birthday last week. For the past 15 years of his life—a period when he should have been enjoying retirement with children and friends—he has been serving the people of American Samoa in the field of medicine. Several times during that period, he directed the entire health care program of the territory. He came to American Samoa for a 2-year contract in 1967, fell in love with the people and the territory, and like Robert Louis Stevenson, he stayed to make his home amongst us islanders. Dr. Turner, a widower when he came on island, married Rose Fano Shimasaki of Fagaalu, American Samoa, and they have made a beautiful home on a hillside close to the hospital where he works everyday.

James Paul Turner was born in Harrisburg, Ill., on November 24, 1902. He attended grade school in Little Rock, Ark., high school in Hamburg, Ark., and graduated from Quachita Baptist College in Arkadelphia, Ark., with a bachelor of arts degree in June of 1923. Through cafeteria, supermarket, road paving and hospital jobs, and with the aid of used textbooks, Dr. Turner was able to work his way through the University of Arkansas Medical School graduating in 1927 with an M.D. and a bachelor of science degree.

Followed his internship at the Baptist Memorial Hospital, he was employed by the Santa Fe Railroad Co. to work in their hospital at Topeka, Kans., as assistant surgeon. In 1937, he resigned from the railroad and move to Carizozo, N. Mex., where he established a private practice. He was the only medical doctor in that county. With a staff of two registered nurses and two nurse aides, he operated a private hospital providing general medical and surgical services for the people who otherwise had to travel 90 to 150 miles for treatment.

When he came to American Samoa 30 years later, Dr. Turner had already contributed a major part of his life to the care of Americans in his part of the country. He was ready to retire. But seeing how the Samoans needed his services, he became committed and has served my community with patience, diligence, and a combination of fatherly and friendly approach which has endeared him to the people.

Mr. Speaker, I am proud to be Dr. James Paul Turner's representative in Congress. He is another reason why this is such a great country. And yes, he is another reason why Samoans are proud to be Americans.

REASONS FOR COMING FOR CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. COLLINS of Texas) is recognized for 30 minutes.

Mr. COLLINS of Texas. Mr. Speaker, as I am finishing up eight terms of Congress, I look back with a grateful feeling of appreciation to Texas for giving me the opportunity to serve. And as I look back, I have warm memories of the fine Members with whom I have served.

The other day, this most interesting comment was made. "There are four reasons that motivate people to serve in Congress. They are love, cause, power, and money."

Love is the one that I hope inspires most of us to come up here. We believe that America as a Republic, is the greatest Government that has ever existed in the history of the world. We appreciate our religious freedom to worship God. We appreciate our system of private enterprise which leads to our high standards of living. Yet, love is the greatest need that we have in America today. Love for God, family, and country was the patriotic spirit that built our country. The Golden Rule is the finest message on true love.

The second motivation is cause. There are different causes that have motivated us. In my own case, I believe that America has more government than we want, more regulations than we need, and more taxes than we can afford to pay. In my own heart, I am convinced that unless we can turn this country around, that we are going to lose our Republic. As they said in the days of ancient Greece, "When the populace learns that they can vote themselves the largesse of the government, they will vote for more and more." And we see the liberals today in this country, who work overtime trying to figure out more ways for the Government to give.

The third factor that influences some is power. In all history, men and women have enjoyed the excitement of power. Power means recognition. Power means the opportunity to enjoy special benefits. It also means giving to your friends the privileges and opportunities that you want to bestow. But power is the least desirable of all the characteristics. And yet, constituents and press alike say that many people campaigned for Congress because of their desire for power. They want the special parking, the seat at the Kennedy Center, telephone direct to a leader, naming an appointee.

And the fourth reason is the one that we should never have. It is the desire for money. It has been said that some people come to Congress because they can make more money than they could make in civilian life. I believe that money should never be an incentive to go to Congress. If you want money, go into business. We should be here for service to the country.

Before I ever came to Congress I wanted to be entirely financially independent. It is a wonderful feeling, as I leave Congress, to know that I can support my family. It was with deep satisfaction while I was in Congress, I could turn half of my salary back for taxes and give the other half away to charity. So I never felt beholden to any special interest.

But above all, I think every Member of Congress should always campaign with the feeling that if he lost, his family would be better off in an economic way. When election year comes up, the fear of defeat could be most overbearing for a young Member with children who wonders what would happen to his family if he got beat. His uncertain economic future puts pressure on him.

There is one positive solution for money. Congress should not stay in session as long as it does. I have introduced a bill which I would strongly recommend for future sessions of Congress. In the days when this Republic was established, the Congressmen met and went home. They worked on their farms. They handled their law cases. They ran the store. They were doctors. They were responsive to their constitutents and to the needs of their home States. But what is more, they made a living. They made a living and they were able to meet the basic needs for their family. They would also spend more time with their family while they were back home.

The subject of money for Congressmen was covered so well by Otis G. Pike of New York when he made a speech February 14, 1978, on the House floor, about his decision to not run again after 18 years of service:

There is now abroad in the land the concept that every aspect of my private life should also be public property. Having fought and voted for years against people having their phones tapped, their mail opened, their tax returns publicized, their bank accounts examined, and for their right of privacy, I am expected to give up all of my own. Public servants are people, too. I would rather give up my public life and get out of the fish bowl. So that's another reason.

Last year the Congress was in session 174 days. This means that it was not in session 191 days, more than half the year. Last year the Congress voted a so called "Ethics Bill". Most of the bill I supported, but I opposed as hard as I could the one provision in the bill which said that I could only earn, outside of Congress, a minimal amount. If I take those 191 days when Congress was not in session and go junketing all around the world at your expense, I am ethical. If I go home and work in my law office, I am unethical. There were loopholes for certain professions. If I write a book, I am ethical. If I get a hundred thousand dollars a year sitting on my butt and collecting dividends, interest, rents, and royalities, I am ethical. If I work and earn $10,000, I am unethical. Our new no-work ethic makes no sense to me.

Frankly, there are enough loopholes so that by itself, there is no way that the new ethics can either force a Congressman out of office or even cut his income. Congressmen who control businesses can reduce their salaries, which are deemed unethical; increase their dividends, which are deemed ethical. Lawyers can be quote, bought out, unquote by their partners, instead of earning money. Anyone in business can be paid rent, which is ethical, instead of fees or salary which are not. Wives and children can get money the Congressman used to earn. I decline to play any of those games. My own ethics tell me to get out.

In any event, neither the Democratic party nor the House of Representatives is a comfortable place for a Congressman who believes that people should work when they can, earn what they can, save what they can, pay their bills and balance their budgets. And that nations should, too.

Let me add this thought in closing. If Members went home to earn a dollar, they would be effectively reminded just how hard it is to earn one. There would be less Government spending and we would have a balanced budget.

This morning I read an interesting statement by Congressman DANNEMEYER, of California. He said the Federal Government borrowed $212 billion in 1982 and saved only $213 billion. This means high interest rates as there is no money for the private sector.

In the State of Texas our legislature only meets 5 months every 2 years. And there is an old saying "No one's life or property is safe when the Texas Legislature is in session." But we have a constitutional limit that they must balance the budget.

We meet too much in Congress. The more we meet, the more we spend. Congress needs an amendment requiring a balanced budget.

THE REVISED "OMNIBUS BANKRUPTCY AND COURT IMPROVEMENT ACT"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. BUTLER) is recognized for 60 minutes.

● Mr. BUTLER. Mr. Speaker, the 97th Congress has returned to Washington for a lameduck session expected to last only 3 weeks. The press has been full of stories about the great issues we confront—a highway jobs bill, an acceleration of the tax cut, MX missile spending, regulatory reform, and so on. But I want to raise the consciousness of the Members—and of the media—regarding an issue which in my view has been comparatively ignored. I have in mind of course, the urgent need for the House and Senate to enact a bill conferring article III status on the bankruptcy court before the expiration of the stay of the Supreme Court's order in the Marathon case on December 24. That case held that the system of article I bankruptcy courts created by the Bankruptcy Reform Act of 1978 cannot constitutionally exercise the broad jurisdiction conferred by that act so long as the judges are without protection against salary diminution and without life tenure.

What will happen if Congress fails to act? In a word, disaster. A cascade of hundreds of thousands of bankruptcy cases will pour into the Federal district court system which is grievously ill-equipped by experience or physical resources to handle such an immense burden. I wish all Members would reflect on whether they really wish to see that happen.

I can well appreciate the fact that a massive disinterest in the subject of bankruptcy by the average Member of Congress is but a reflection of the lack of concern expressed by his constituents. But we must act, and we must act before the clock runs out on December 24.

Just before the recess, which enabled the more ambitious of our Members to secure their further employment for the next 2 years, I introduced an omnibus bill, H.R. 7294, which ties together into one package a number of legislative proposals in the areas of general court reform and bankruptcy court and Code improvements, including an article III bill. As I said in my introductory remarks on October 1, I recognize that such a bill will not be completely palatable to anyone, including myself, but it constitutes an honest effort to reconcile the differences and provide something we all can live with.

On Thursday, I introduced a revised version of H.R. 7294, the Omnibus Bankruptcy and Court Improvement Act which is now numbered H.R. 7349. I am hopeful that this will be perceived by Members to be a compromise package which can resolve many matters at once, ranging from article III to bankruptcy code reform, and from abolition of diversity jurisdiction to judicial survivors' annuities benefits. I hope it will gather strength from those attracted to some combination of its merits, if not the whole package. In the other body, Senator DOLE is moving with an omnibus package based in considerable part on H.R. 7294, and if that should pass and come to us, perhaps as an amendment on one or more Senate or House bills, I hope that my revised bill will establish a point of departure and reference for House consideration of the Senate action.

The differences in this bill from the original H.R. 7294 are for the most part in three subtitles. The Bankruptcy Court Act, subtitle A of title II, has been amended to provide that the appointment of 227 article III bankruptcy judges to a bankruptcy division of the district court system will be staggered so that a share will fall to whomever is elected to the White House in 1984. In making this change I bow in the direction of political reality. In the first year, the President will be required to appoint at least one article III judge in each district, and until their successors are appointed the present bankruptcy judges are carried over and will serve on the bankruptcy division of the district court. The bankruptcy court is also given authority to appoint its own clerk, a more important change in the interest of efficient operation than many may realize.

The second group of changes occurs in the consumer credit amendments, subtitle A of title III. In an effort to effect a reasonable compromise with the consumer finance interests which have so strongly promoted reform legislation in this Congress, I have agreed to changes in the definition of what constitutes a reasonable portion of a debtor's debts, the addition of a small amount exception into the preference section, deletion of one of the tests required to be satisfied to dismiss a chapter 7 case, placing a $5,000 cap on the value of property subject to redemption, and a few other changes described in the sectional analysis which follows at the end of my statement. There were a number of amendments which the consumer credit industry wanted, however, which I frankly found myself unable to support.

Finally, I have amended the shopping center bankruptcy amendments, subtitle C of title III, to delete the word "substantially" in section 365(b) to make clear that lease provisions such as the tenant mix and use clauses are to be respected by the trustee.

In broad outline, Mr. Speaker, my bill consists of four titles, as follows:

Title I, court reform, contains in subtitle A the Federal Court Reform Act of 1982, which has already passed the House as H.R. 6872. This provides greater discretion to the Supreme Court in selecting the cases it will review and makes other necessary reforms. Subtitle B abolishes diversity jurisdiction, which has congested Federal courts with cases which have no business being there and would not be there but for the accident of diverse citizenship of the parties. Subtitles C, D, E, and F provide respectively for judicial survivors annuities, for the establishment of a State Justice Institute to improve judicial administration in State courts, for a Federal Courts Study Commission to study current Federal court jurisdiction and other matters and develop long-range plans, and for an intercircuit tribunal of the U.S. court of appeals. Subtitle G places the U.S. trustees system on a permanent, nationwide basis, which it conspicuously deserves.

In title II, judicial powers, subtitle A places the bankruptcy court system on a firm article III constitutional footing by establishing the court as a division of the U.S. district court system and giving the judges lifetime tenure and protection against salary diminution as required by the Marathon Pipeline decision. Subtitle B is the omnibus judgeship bill providing for 45 additional Federal district and appellate court judgeships. This is substantially the same as the Judicial Conference recommendation of March 5, 1981.

Title III, bankruptcy improvements, contains in subtitle A those consumer credit amendments to the 1978 Bankruptcy Code which in my judgment have substantial support and are not excessively favorable to either debtors or creditors. This reflects my conviction that in general the balance which we struck in 1978 was a good one. Subtitle B makes necessary amendments for handling grain elevator bankruptcies, including expedited judicial procedures. Subtitle C contains provisions relating to shopping center bankruptcies, and subtitle D amendments relating to the old bankruptcy referees salary and expense fund previously passed by the House. Finally, title IV contains the House bankruptcy technical amendments bill, introduced as H.R. 3705, which crosses many t's and dots many i's throughout the code but makes no substantive amendments.

Mr. Speaker, the Administrative Office of the U.S. Courts has promulgated a proposed district court local rule to govern the operation of the bankruptcy courts after December 24 if no article III legislation is adopted. The proposed rule assigns to the bankruptcy courts in each district the district court's jurisdiction over "all cases under title 11 and all civil proceedings arising in or related to cases under title 11." (Proposed rule (b)(1).) District courts are authorized to withdraw any reference to a bankruptcy judge, in whole or part, upon the court's own motion or the motion of a party. In addition, the district courts must review de novo any proposed judgment of the bankruptcy court in any proceeding "related to" but not "arising under" a case under title 11 and in any other proceeding where such de novo review is constitutionally required. However, the proposed rule does not define those other cases in which district court de novo review is constitutionally required.

In testimony before the Senate Judiciary Subcommittee on Courts on November 10, the Assistant Attorney General in charge of the Office of Legal Policy, Mr. Jonathan Rose, declared that the Department of Justice was frankly uncertain whether the proposed rule would withstand a judicial challenge. The proposed rule is based on the assumption that the court's decision has left untouched the broad bankruptcy jurisdiction conferred upon the district courts by section 241(a) of the act, in 28 U.S.C. 1471 (a) and (b). In fact, it is unclear whether the Court's holding may be limited in that fashion. See 102 S.Ct. at 2880 n. 40 (plurality opinion); *Id.*, at 2882 (Rehnquist, J., concurring). Furthermore, there are serious questions whether the proposed rule legitimately may assign to the bankruptcy courts significant portions of the district court's broad bankruptcy jurisdiction over the act, since this is precisely what the Court refused to do in holding that the jurisdiction which the bankruptcy court cannot constitutionally exercise could not be severed from the remainder of the jurisdiction conferred on the bankruptcy courts under the 1978 act.

The Department of Justice has no confidence that the proposed rule would be proven an effective interim remedy to the bankruptcy court crisis, thereby enabling Congress to take more time to determine how it wishes to resolve this matter. The permissible scope of district court jurisdiction over bankruptcy matters would, of course, be subject to substantial litigation before it could be firmly settled. Even more extensive and difficult litigation would be required to determine which questions could be safely delegated to the bankruptcy courts and which would have to be heard de novo by the district courts.

The Assistant Attorney General went on to say that if district courts recognize the problems with the rule and withdraw the reference of many bankruptcy matters from the bankruptcy courts or attempt to review de novo large numbers of bankruptcy matters, the resulting delays will severely hinder the operation of the bankruptcy system. The district courts are not at present capable of expeditiously handling both their own large workloads and the enormous volume of bankruptcy matters. Over 700,000 bankruptcy estates—and 100,000 adversary proceedings—currently are pending. New bankruptcy petitions are being filed at the rate of more than 10,000 per week.

On the other hand, if the district courts permit the bankruptcy court to adjudicate a broad range of cases and proceedings pursuant to the local rule there is a substantial risk that these cases and proceedings will have to be relitigated if the local rule is found invalid. Under either alternative, the bankruptcy court system will operate under a cloud of uncertainty. In the light of such jurisdictional uncertainty, it would be especially difficult to proceed with any large commercial bankruptcies or reorganizations, where debtors, creditors, and purchasers of assets must be able to rely on the validity of the bankruptcy court's orders and cannot proceed subject to the risk of judicial invalidation of their acts.

In short, the Department of Justice does not believe that the bankruptcy court system can operate effectively after December 24 in the absence of remedial legislation. Nor do I. The disruption of this system will ultimately result in losses in millions of dollars and thousands of jobs, as reorganizations of our Nation's productive resources are delayed by legal uncertainties. I also agree with the Justice Department's concluding point that we cannot rely on a prospect of a further stay from the Supreme Court. The Court's stay has been extended once, to coincide with the adjournment of this Congress, almost six months after the Court's decision. As a practical matter, the deferral of this issue until the next Congress would make final action by Congress unlikely before late spring of 1983, a delay the Court is hardly likely to countenance.

In addition to the interim rules proposed by the Administrative Office, we have a legislative solution proposed by the Judicial Conference, which has been introduced in this body as H.R. 7132, which would in effect provide for a district court determination of ancillary matters, those matters which caused the court to be called unconstitutional in the first place. This proposal, if anything, is even more inefficient than the pre-1978 summary and plenary jurisdiction system that the 1978 Code sought to eliminate. The Judicial Conference's proposed legislative remedy is really a trifurcated jurisdictional system that would produce endless litigation over which forum would handle an issue. Rather than create judicial unity and clarity and provide constitutional certainty, it would create confusion and judicial dispute. Such an inefficient and costly ap-

proach to bankruptcy administration and adjudication would dilute the assets of an estate, reduce the return of creditors, jeopardize reorganization efforts, and tax the resources of already overburdened district courts, while requiring a massive duplication of effort by bankruptcy judges and magistrates.

In summary, while I always strive to keep an open mind, my present view of the Judicial Conference proposal is somewhat negative.

Mr. Speaker, the bankruptcy law has been one of my abiding interests ever since I came to this body nearly 10 years ago. I am continuing to work on this issue right into the final weeks of my service as a Member of the House of Representatives because of my conviction that our present situation demands that one final effort be made to forge compromise legislation before this Congress passes into history, and I want to contribute whatever I can to that compromise. Toward that end, I am prepared to work with every interested party who shares my concern.

A section-by-section analysis of my bill follows:

OMNIBUS BANKRUPTCY AND COURT REFORM ACT

TITLE I—COURT REFORM

Subtitle A—Federal Court Reform Act

Part I of the Subtitle substantially eliminates the mandatory or obligatory jurisdiction of the Supreme Court. Under current law, certain cases may be appealed directly to the Supreme Court when the Court is obligated to hear and decide those cases, although in most instances they do not involve important issues of federal constitutional law. These amendments convert the method of Supreme Court review to a discretionary, certiorari approach. Part II of this Subtitle makes changes in the law relating to jurors' rights, and Part III eliminates most of the existing civil priorities with the exception of those involving personal liberty (criminal cases and habeas corpus), application for temporary restraining orders and injunctions, and other cases where good cause has been shown.

This Subtitle is idential with H.R. 6872, the Federal Court Reform Act of 1982, which passed the House on September 20, 1982 and is pending in the Senate, except for one technical change. See House Report 97-824, Part I.

Subtitle B—Diversity jurisdiction

This Subtitle abolishes the invocation of federal court jurisdiction based solely on diversity of citizenship.

This Subtitle is identical with H.R. 6816, the Diversity Jurisdiction Reform Act of 1982, which was reported from the House Judiciary Committee on September 15, 1982. See House Report 97-808.

Subtitle C—Judicial Survivors Annuities

This Subtitle makes equitable adjustments in the law dealing with annuities for the families of deceased judges.

This Subtitle is identical with the Judicial Survivors Annuities Act, S. 1874, introduced by Senator Thurmond at the request of the Chief Justice and currently pending in the Senate Judiciary Committee. See Senator Thurmond's introductory remarks, Congressional Record, page S13782, November 19, 1981.

Subtitle D—State Justice Institute

This Subtitle creates a private, non-profit corporation to further the development and adoption of improved judicial administration practices in State courts.

This Subtitle is identical with the State Justice Institute Act, S. 537, which passed the Senate on August 10, 1982 and is now pending in the House Judiciary Committee, except for a conforming amendment, Section 162A.

Subtitle E—Federal Courts Study Commission

This Subtitle establishes a commission to study aspects of federal and State court jurisdiction including problems of substantive law, civil and criminal procedure, workload and caseload of the courts, case processing, and State and federal bars, and to make recommendations for legislative action.

This Subtitle is identical with S. 675, which passed the Senate on October 1, 1982 and is now pending in the House Judiciary Committee, except for minor technical and clarifying changes.

Subtitle F—Intercircuit Tribunal

This Subtitle creates an Intercircuit Tribunal of the United States Court of Appeals to exercise reference jurisdiction from the Supreme Court.

This Subtitle is identical with H.R. 4762, introduced by Representative Kastenmeir on October 15, 1981 and now pending in the House Judiciary Committee, except for a clarifying amendment in 28 U.S.C. 1272 as added by Section 184 and in making the effective date October 1, 1983.

Subtitle G—United States trustee program

This Subtitle creates an Administrative Center of the U.S. Trustees, supervised by a Director and Deputy Director appointed by and subject to removal by the Chief Justice in consultation with the Judicial Conference. An Office of the U.S. Trustee will be established in each judicial district where its creation is recommended by a majority of the bankruptcy judges and the duties of the U.S. Trustee under the provisions of this Subtitle will generally parallel those under the existing pilot program.

The Bankruptcy Reform Act of 1978 created a five-year trial pilot program of United States Trustees to be supervised by an assistant attorney general in the Department of Justice. Ten pilot programs were established in various geographical areas of the country covering 18 judicial districts.

The principal role of the U.S. trustee is to relieve the bankruptcy judges from administrative and supervisory duties, leaving them free to resolve disputes untainted by knowledge of matters unnecessary to a judicial determination, and to provide close supervision of panels of private trustees. One of the primary goals of the 1978 Act was to restore public confidence in the fairness of the bankruptcy court system and remove some real and many perceived abuses in the administration of bankruptcy cases. It was essential that bankruptcy judges, with their expanded judicial powers, be perceived as impartial arbiters, and to accomplish this it was recognized that they must be relieved from their previously active role in managing and administering cases.

Active supervision of bankruptcy cases is necessary because of the public interest in the proper administration of bankruptcy, the many people affected by bankruptcy proceedings, and "the significant potential for fraud, for self-dealing and for diversion of funds." (H. Report 95-595, 1977, p. 88).

The United States Trustees program performs the essential administrative and supervisory functions in bankruptcy proceedings, and generally acts as the watchdog of the bankruptcy system and its participants. Among the duties and responsibilities of the U.S. trustees are overseeing the qualifications and appointments of private trustees in bankruptcy cases and supervising their performance, serving as trustees in no-asset cases where private trustees may be unwilling to serve and as standing trustees in chapter 13 cases where no standing trustee may be willing to serve, investigating misconduct or impropriety, monitoring the hiring of professionals and experts and the reasonableness of their fees and compensation, examining the debtor or presiding at meetings where the creditors examine the debtor, objecting in appropriate cases to the discharge of the debtor, reviewing the adequacy and completeness of financial statements submitted by the debtor, reviewing the final reports on estates that trustees have administered, forming representative creditors' committees, and supervising creditors' committees to ensure that they perform their statutory duties.

Section 224 of title 2 of the House Amendment to H.R. 8200, the 1978 Bankruptcy Reform Act, created nine sections in chapter 39 of title 28 providing the details of the U.S. trustee system. During the pilot period, the Attorney General was directed to appoint a U.S. trustee for each of the ten pilot programs covering 18 judicial districts. The U.S. trustee is appointed for a term of seven years, though if the pilot program were to be terminated after five years, his appointment would also terminate. The U.S. trustee is subject to removal for cause by the Attorney General, and the maximum annual compensation for a U.S. trustee may not exceed the lowest annual rate of basic pay for a GS-16. The U.S. trustee system is patterned after the U.S. attorney system regarding civil service benefits.

The House Judiciary Subcommittee on Monopolies and Commercial Law has been particularly active in monitoring the performance of the U.S. trustee program and at an oversight hearing conducted by that Subcommittee on May 7, 1982, testimony was received which substantiated the previously reported outstanding success of the U.S. trustees program to date in the pilot project offices. The former director of the Executive Office for United States Trustees in the Department of Justice, Mr. Richard L. Levine, testified that the U.S. trustees have won the support of the bankruptcy judges and work very effectively in their courts. He went on to say that the U.S. trustees have established a significant influence over the appointment of creditors' committees in chapter 11 cases, which are complex cases under which business corporations attempt to reorganize themselves and continue their operations. In the U.S. trustee districts there has been an organizational meeting of creditors called in virtually every significant chapter 11 case by the U.S. trustee in order to ensure that the creditors have an opportunity to become organized, select whatever functionaries they wish to select, and to hold the debtor accountable.

Mr. Levine also testified that the U.S. trustees have been instrumental in the operations of efficient first meetings of creditors under Section 341 of the Bankruptcy Code. They have also generally been of assistance

in training trustees to serve effectively on panels of bankruptcy trustees.

In sum, the Monopolies Subcommittee has been told by practitioners, creditors, and academic experts that in the pilot project districts, handling approximately one-fourth of all bankruptcy proceedings in the United States, the U.S. trustees have been essential to the fair, efficient, and effective operation of the bankruptcy courts.

A most serious and continuing problem since the inception of the program, however, has been budget uncertainty. During a period in which the numbers of business and personal bankruptcies has sharply increased, the program has been consistently underfunded, so that not a single office, according to Mr. Levine's testimony, has ever been staffed to the level that it ought to have. The program has never had sufficient advance planning because in no fiscal year has it known how much it would have until it was too late to spend it. This problem has been exacerbated to the point of impossibility by the present disposition of the Administration that it be terminated. These efforts reached a climax in the effort earlier this year to shut down the Chicago office of the U.S. trustee program completely, in violation of the the express mandate of Section 581 of title 28, which requires the Attorney General to carry out the program in ten trustee districts, including the Northern District of Illinois. The Department of Justice has been unable or unwilling to reprogram funds from other activities to meet the needs of the U.S. trustees program, and it has become evident to all concerned that the Department is not an appropriate or hospitable environment for the U.S. trustee program. It was argued in 1978 that placement of this office in the Executive Branch violated the doctrine of separation of powers and that placement specifically in the Department of Justice created a potential conflict of interest in those bankruptcy cases in which the Government was a creditor.

Placing the appointment and supervision of U.S. trustees under the Administrative Office of the U.S. Courts was also carefully considered in 1978 and rejected as inappropriate (see House Report op. cit., pp. 110–115).

In the judgment of those Members of the House and Senate Judiciary Committee who have been most actively involved in bankruptcy code reform and the administration of the bankruptcy court system, the course taken by this legislation of establishing a nationwide U.S. trustees program as an independent establishment in the judicial branch of government is eminently sound. A section-by-section analysis follows.

SECTION-BY-SECTION ANALYSIS—UNITED STATES TRUSTEES PROGRAM

Section 190 states the short title of the subtitle as the "United States Trustee Program Act of 1982."

Section 191 reenacts and redesignates chapter 39 of title 28, United States Code, as chapter 44 of title 28, United States Code, and sections 581 through 589 of title 28, United States Code, as sections 651 through 659 of title 28, United States Code. This redesignation transfers the United States trustees program from Part II (the Department of Justice) to Part III (Court Officers and Employees) of title 28, United States Code, and is consistent with the transfer of the management of the United States trustees program from the Attorney General to the judicial branch of government.

Section 192 amends 28 U.S.C. § 651, as redesignated, to establish an Administrative Center of the United States Trustees in the judicial branch of the government, and to provide for its responsibilites and authority. the Director and Deputy Director of the Administrative Center shall be appointed and removed by the Chief Justice of the United States in consultation with the Judicial Conference of the United States. The Director's salary shall be determined by the Chief Justice of the United States in consultation with the Judicial Conference, but shall not exceed the lowest annual rate of basic pay in effect for Grade GS-18. The section also provides that the Deputy Director's salary, to be determined by the Director, shall not exceed the lowest annual rate of basic pay in effect for Grade GS-16.

The Director shall have the powers necessary to discharge his duties under the subtitle, and may delegate those duties. The Director is required to prepare a proposed annual budget for the Administrative Center, to submit it to the Director of the Administrative Office of the United States Courts and to the Judicial Conference, and to submit the budget as they approve it to the Congress. The Director shall also appoint necessary employees of the Administrative Center.

Section 192 also amends 28 U.S.C. § 651(b), as redesignated, to provide for the establishment of an office of the United States trustee in each judicial district for which such an office is recommended by a majority of the United States district judges assigned to the bankruptcy division of the district court. The United States trustees shall be appointed by the Director in consultation with Judicial Conference of the United States. As under present law, a United States trustee may be assigned to serve more than one judicial district.

Sections 651(b)(3)-(5) are amended to provide for the appointment, removal, and supervision of United States trustees. These provisions essentially continue present law under 28 U.S.C. § 581, except that the Director of the Administrative Center is substituted for the Attorney General.

Section 193 amends 28 U.S.C. §§ 652, 654, 655, 656, 657, 658, and 659, as such sections are redesignated by this subtitle, by striking out "Attorney General" each place it appears and inserting in lieu thereof "Director". These sections detail the stations, vacancies, duties, salaries, expenses, and staff authorizations of United States trustees, and have been changed to reflect the transfer of the management of the United States trustee program from the Attorney General to the Director of the Administrative Center of the United States Trustees.

Section 194(a) amends 28 U.S.C. § 656(a), as redesignated, by adding to the powers of the United States trustees in some respects and by codifying their existing practice in other respects. The basic purpose of these changes is to allow the United States trustee to assume more of the administrative burden of case management and the resolution of uncontested matters, in order to allow the district judges assigned to the bankruptcy division to concentrate on substantive issues and contested matters. The powers and duties are divided into three types.

1. The first type of duty is added to the existing list of duties in 28 U.S.C. § 656(a), as redesignated. These duties, which are framed in mandatory terms, are as follows:

(a) Appointment of a private trustee in chapter 7 cases, if possible, or service as interim trustee. This provision reflects the current practice of United States trustees.

(b) Appointment of a committee of creditors in chapter 11 cases, and additional committees if necessary. This provision is substantially similar to the provision of 11 U.S.C. § 151102.

(c) Conducting examination of the debtor at a meeting of creditors pursuant to 11 U.S.C. § 341. This provision derives from current practice.

(d) Determination of the amount and sufficiency of a bond under 11 U.S.C. § 322(a)(2). This provision also reflects current practice of the United States trustees.

2. A second type of duty, codified in a new subsection (b) to 28 U.S.C. § 656, as redesignated, is phrased in permissive terms to leave discretion to the United States trustee. These permissive duties are as follows:

(a) Service as trustee in certain chapter 11 cases. This provision reflects the current practice of the United States trustees.

(b) Requiring periodic reports on bankrupt estates and the progress of their administration. This provision codifies a rule already found in some districts, and allows the United States trustee to oversee the efficient management of estates without having to invoke the aid of the court.

(c) Aggregating monies from several estates in which the United States trustee serves as trustee, in order to achieve a higher yield. This provision reflects the current discretionary practice of the United States trustees.

3. Finally, a third type of powers, set forth in a new subsection (c) to 28 U.S.C. § 656, as redesignated, may be exercised by the United States trustee only where the parties in interest do not object. This subsection provides that, in the absence of objection the United States trustee may approve any uncontested application or submission, and may grant an uncontested discharge. Granting these powers to the United States trustee will free the district court from having to consider and decide matters that are not in dispute. However, the United States trustee is not required to approve an uncontested application or submission or grant an uncontested discharge; in appropriate cases these matters may be referred to the district court for decision.

Section 195 amends the chapter headings and table of sections of chapter 14 of title 28, United States Code, to reflect the addition of sections 651 through 659 as redesignated. This amendment is consistent with the transfer of the United States trustees program from Part II (the Department of Justice) to Part III (Court Officers and Employees) of title 28, United States Code.

Section 196 amends section 1501 of title 11, United States Code, to reflect the redesignation of 28 U.S.C. § 581 as 28 U.S.C. § 651.

Section 197 contains technical amendments to section 15326 of title 11, United States Code, to reflect the redesignation of 28 U.S.C. § 586 as 28 U.S.C. § 656.

Section 198 repeals section 408 of the Bankruptcy Reform Act of 1978 (92 Stat. 2685), which concerned the Attorney General's supervision and evaluation of the pilot United States trustee program, and provided for the repeal of the pilot program in 1984.

Section 199 provides that the provisions of this subtitle relating to the United States trustee program shall be effective on October 1, 1983, the effective date of the Bankruptcy Division Act of 1982, which is included in Title II of this Act. Section 199 also provides that districts which currently have

United States trustees shall continue to have an office of United States trustee unless a majority of the federal district judges assigned to the bankruptcy division in the district recommend the abolition of the office. Existing United States trustees, assistant United States trustees, and employees of a United States trustee will be transferred to an office of United States trustee in the same district for which they were appointed.

TITLE II—JUDICIAL POWERS AMENDMENTS

Subtitle A—Bankruptcy Court Act

Subtitle A establishes a bankruptcy division of each of the United States district courts to adjudicate bankruptcy cases and civil proceedings arising in or relating to bankruptcy cases. The proposed bankruptcy division would resolve the constitutional crisis now facing the bankruptcy court system as a result of the United States Supreme Court decision in the case of *Northern Pipeline Construction Company* v. *Marathon Pipe Line Company,* U.S. , 102 S. Ct. 2858 (1982). The Supreme Court held in *Northern Pipeline* that the grant of jurisdiction to the bankruptcy courts in section 241(a) of the Bankruptcy Reform Act of 1978 was unconstitutional because the bankruptcy judges are not afforded the protections provided by Article III of the Constitution.

The Court stayed initially its order invalidating the jurisdictional grant to the bankruptcy courts until October 4, 1982, in order to give Congress time to establish a constitutional judicial system for the adjudication of bankruptcy matters. Subsequently, at the request of the Solictor General, the Court extended its stay until December 24, 1982. After that date, the existing bankruptcy courts will no longer have any statutory jurisdiction over bankruptcy matters and will cease functioning. Absent Congressional action to provide a constitutional forum for bankruptcy matters, there is some doubt that such matters can be adjudicated at all. There are presently pending in excess of 700,000 bankruptcy cases—including over 100,000 adversary proceedings—which involve millions of dollars in assets and creditors' claims. Failure of the Congress to act in a timely fashion would, at the very least, result in a chaotic and highly uncertain situation for debtors and creditors alike, as well as considerable delay in the adjudication of bankruptcy matters.

The reasoning expressed by the plurality and concurring opinions in *Northern Pipeline* make clear the practical need for an Article III tribunal to resolve the constitutional problems inherent in the current bankruptcy court system. The plurality found that the constitutional jurisdiction of an Article I court must be limited to the adjudication of "public rights." The Court does not define with precision what constitutes "public rights" but notes generally that they must at a minimum arise "between the government and others." (102 S. Ct. at 2870). By contrast, private rights, which must be adjudicated by Article III courts, are those involving "the liability of one individual to another." (102 S. Ct. at 2870-71). The concurring opinion authored by Justice Rehnquist would have decided the case on narrower grounds, holding that traditional common law claims arising under state law must be decided by Article III judges.

Under either rationale, there is no practical way to construct an effective Article I bankruptcy court which will not be subject to serious and continuing constitutional challenge. There is no reason to assume that even the majority of cases arising under Title II involve solely public rights which could be constitutionally litigated by an Article I court under the rationale advanced by the plurality. For example, the adjudication of a proof of claim generally involves claims by one private party against another which, by their nature, seem clearly matters of "private right." A strong argument may be made that a creditor's claim does not cease to be a private claim merely because the defendant is bankrupt.

Even under the more narrow holding offered by Justice Rehnquist's opinion, it is clear that an Article I bankruptcy court would be subjected to continual and very serious constitutional challenge. Cases arising under Title 11 frequently entail consideration of state law or traditional common law issues in many different contexts. To take the most obvious example once again, proofs of claim offered by a claimant against the bankrupt will generally be predicated on the state laws (of contract, agency, property, etc.).

Finally, even if constitutional jurisdiction over certain aspects of Title 11 proceedings could be defined, any system under which such matters are relegated to Article I courts while other matters involving private rights are referred to Article III courts would result in an inefficient bifurcation of the proceedings. One of the primary purposes of the 1978 Bankruptcy Reform Act was to provide a single forum in which all claims necessary to the expeditious resolution of a bankruptcy proceeding could be consolidated. After the *Northern Pipeline* decision, it is clear that this can only be achieved through an Article III court.

While an Article III solution is dictated to the problems presented by Northern Pipeline, it is clear that the existing district courts could not effectively manage the enormous volume of bankruptcy filings currently handled by the bankruptcy courts. In 1981, 506,829 bankruptcy petitions were filed. This would almost quadruple the civil caseload now handled by the district courts (there are slightly over 180,000 civil cases filed annually). The district courts are in many cases already experiencing substantial case backlogs and will be unable to handle the added burden of bankruptcy cases without considerable delay and disruption in these bankruptcy cases as well as the rest of the civil case calendar. Moreover, concern has often been expressed in the past that district judges who supervise general litigation would not have sufficient expertise in bankruptcy matters to expeditiously handle complex bankruptcy problems.

To avoid the evident problems with the assignment of bankruptcy cases to the existing district courts, H.R. 6978, currently pending before the House of Representatives, would create a new trial court under Article III to handle solely bankruptcy cases and proceedings. This approach, however, creates some difficulties of its own. At present, there is only one federal trial court constituted under Article III, the district courts. H.R. 6978 would continue the present system of a parallel system of trial courts for bankruptcy, which would inevitably result in some duplication and overlap. As the Chairman of the Judiciary Committee proposes to amend the bill on the floor to eliminate "fungibility," there would also be problems resulting from the inflexible assignment of specific numbers of judges to the district court and the bankruptcy court, regardless of the changes in the relative number of bankruptcy cases on one hand and civil and criminal cases on the other. Although some of these problems could be resolved through allowing such mechanisms as the temporary designation of judges of one court to sit as judges of the other, the establishment of an independent, parallel court structure would always present the likelihood of friction and inefficiency.

This bill adopts a somewhat different solution to the problem. The goal is on the one hand to avoid the creation of a separate court structure, yet on the other to achieve the benefits of a more specialized judiciary that can concentrate on bankruptcy matters. The solution is to vest bankruptcy jurisdiction in the district courts, but to expand their size and to assign additional district judges specifically to bankruptcy matters. This scheme will promote bankruptcy expertise among the judges assigned to the bankruptcy division of the district court, and will serve to keep bankruptcy matters separate from the backlog of civil and criminal cases pending before the other district judges.[1] In this way, the litigation of bankruptcy matters can be integrated efficiently into the workload of the district court, while at the same time assuring that bankruptcy cases will be handled promptly and knowledgeably by Article III district judges who specialize in bankruptcy law.

The district judges who are assigned to the bankruptcy division will be United States district judges for all purposes under title 28 of the United States Code. Thus, unless specifically provided to the contrary, such judges would be governed by the existing provisions of law, such as those relating to retirement, law clerks and seniority. The district judges assigned to the bankruptcy division would, however, deal primarily with cases under title 11 and civil proceedings arising under or related to cases under title 11.

The bill provides for the appointment of 227 additional district judges to serve in the bankruptcy division,[2] and directs that all bankruptcy matters before the district court be assigned to that division. This assures that bankruptcy matters will come before judges who have experience in the field, and that there will be district judges specifically assigned to hear such matters. The bill also allows other district or circuit judges to be assigned temporarily to perform the duties of a district judge in the bankruptcy division.

Further, district judges in the bankruptcy division can be assigned to hear non-bankruptcy matters pending before other divisions of the district court, and to sit by designation on other district courts and the courts of appeals on the same basis as other district judges. However, the bill would allow such designation or assignment only to the extent that it would not interfere with the expeditious determination of cases and proceedings pending in the bankruptcy division. This provision will assure that bankruptcy matters will not be unduly delayed because of the assignment of district judges to hear other types of cases, whether civil or criminal.

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[1] The assignment of district judges and bankruptcy cases specifically to the bankruptcy division will assure that cases pending in that division will not be affected by the Speedy Trial Act or other laws creating priorities for certain types of civil or criminal cases.

[2] The bill provides the same number of judges, distributed in the same districts, as provided by H.R. 6978.

Jurisdiction and venue over bankruptcy matters would be the same for the bankruptcy division of the district courts under this bill as was intended for the bankruptcy courts under the Bankruptcy Reform Act of 1978, Public Law 95-598, after the effective date of April 1, 1984.

Each bankruptcy division is authorized to appoint a clerk who is subject to removal by the division. The bankruptcy judges have exercised the power of appointment of supporting personnel since 1946 (Public Law 464, 79th Cong., c. 512, 2d Sess., approved June 28, 1946). In the late 1960s and early 1970s there were experiments with the concept of merging the support personnel of the bankruptcy court with the office of the district court clerk and placing them under the supervision of the district court clerk. This experiment was not inspired by an interest in saving money or improving bankruptcy administration. The experiment failed in most districts and detracted from the orderly administration of bankruptcy cases. Congress intervened and called a halt to the experiment in 1978 by enactment of S. 3107, 95th Cong., 2d Sess., approved September 22, 1978.

It is not feasible for the clerks of the district court to assume responsibility for the separate and much greater volume of work now handled by the offices of clerks of the bankruptcy court. The responsibilities and duties of the clerk of the bankruptcy court are quite different in many respects from those of the district court clerk. The bankruptcy court clerk is responsible for scheduling meetings of creditors and promptly notifying creditors of the filing of the cases and of the meetings. The clerk, or the designee of the clerk, has responsibility for conducting the meetings of creditors, and the personnel of the clerk's office have been selected with these additional duties in mind. The district court clerk cannot assume responsibility for running the office of the bankruptcy court clerk and also continue to perform the duties of his own office in a satisfactory manner. Past experience has demonstrated that the functioning of the district court clerk's office and the bankruptcy court clerk's office will be impaired by such a merger.

An appeal from a final order or judgment of the bankruptcy division of a district court would, as with any final order or judgment of the district court, be taken to the court of appeals for the circuit. However, as provided in the 1978 Act, the judicial council of a circuit, at its option, could establish, for any district, bankruptcy appellate panels composed of three district judges assigned to bankruptcy divisions of districts within the circuit. In any district where such bankruptcy appellate panels are established, an appeal from a bankruptcy division judgment would be taken to the panel, and then from the decision of the panel to the court of appeals, unless the parties agreed to appeal directly to the court of appeals.

The bankruptcy judges who are serving on the date of enactment of the legislation would constitute the bankruptcy courts for the period beginning on the date of enactment and ending on September 30, 1983 (referred to as the "transition period"). During the transition period, such judges would be authorized to exercise jurisdiction over all cases under title 11 of the United States Code and all proceedings arising under title 11 of the United States Code or arising in or related to a case under title 11 of the United States Code. Such judges would be continued at their present salary level.

After the end of the transition period on September 30, 1983, and until the expiration of his term of office, a presently serving bankruptcy judge will serve as a judge of the bankruptcy division of the district court, where he may exercise the jurisdiction and powers conferred by title 28 and title 11 of the United States Code on the bankruptcy division, except for jurisdiction and powers which he was not authorized to exercise before the date of enactment of this subtitle. The term of office of a bankruptcy judge serving on the date of enactment shall expire on September 30, 1985, or on the date such judge's successor is appointed, whichever occurs first. Not more than 75 of the 227 authorized Article III judges may be appointed to the bankruptcy division before March 31, 1984, and not more than 151 before March 31, 1985. An Article III judge must first be appointed for the bankruptcy division of each judicial district. Provision is made for carryover bankruptcy judges to be replaced or reappointed in reverse order of seniority as established by broad classes based on their date of appointment.

Section 202 adds a new section 132A to title 28 of the United States Code, providing for the establishment of a bankruptcy division in each United States District Court. The bankruptcy division shall consist of the active district judges designated and assigned to the division, but other judges may be assigned to sit as judges of the division. The bankruptcy division is not a separate court but an integral part of the district court in each district, and except as otherwise provided, the district judges assigned to the bankruptcy division shall have the same powers and duties of any district judge.

In order to conform the terminology of title 11 and other provisions of law to the district court bankruptcy division system created by the bill, this section (which becomes effective October 1, 1983) also provides that any reference to a bankruptcy court shall be deemed to be a reference to the bankruptcy division of a district court.

Section 203 provides for the appointment by the President, by and with the advice and consent of the Senate, of additional district judges to be assigned to the bankruptcy division of the district courts. The number and allocation of additional judgeships in each judicial district is identical to that provided in H.R. 6978, except that the judges are appointed as additional district judges rather than as bankruptcy judges.

Section 204 amends section 137 of title 28, United States Code, which governs the division of business among the district judges of a district. All bankruptcy cases and civil proceedings arising under or related to cases under title 11 of the United States Code are assigned to the bankruptcy division of the district court. As provided in this section and in section 132A(b) of title 28, United States Code (added by section 2 of this Act), other district judges may be assigned under the district court's rules to hear cases pending in the bankruptcy division if needed. Also, the district judges in the bankruptcy division may be assigned to hear other cases pending in the district court, but only if the assignment will not impair the expeditious determination of cases and proceedings pending in the bankruptcy division. These provisions allow some flexibility in the assignment of the workload of the district, while assuring that the resolution of bankruptcy questions will not be hindered as a result of the assignment of the district judges in the bankruptcy division to hear other cases.

Section 205 amends section 139 of title 28 to provide special rules for the prompt and convenient consideration of bankruptcy cases and proceedings by the bankruptcy division of the district court.

Section 206 amends chapter 5 of title 28 by adding a new section 145, which authorizes the creation and appointment of bankruptcy appellate panels in a district, at the option of the judicial council of the circuit. This provision reenacts the provision of Public Law 95-598, which authorized the use of bankruptcy appellate panels. Appeals are heard by a three-member panel composed of district judges in the bankruptcy divisions of the districts within the circuit, or such other judges as may be designated and assigned under chapter 13 of title 28.

Section 207 amends section 295 of title 28 of the United States Code to preclude the designation and assignment of district judges in the bankruptcy division to sit on other courts if such designation and assignment will impair the expeditious determination of cases pending in the bankruptcy division.

Section 208 amends section 296 of title 28 of the United States Code to make clear that circuit and district judges may be designated and assigned under chapter 13 of title 28 to carry out the duties of a district judge in the bankruptcy division. The duties of a district judge in the bankruptcy division would include, where appropriate, service on a bankruptcy appellate panel constituted under section 145 of title 28.

Section 209 amends the table of sections of chapter 17 of title 28, United States Code, by striking out the item relating to section 375.

Section 210 amends section 376 of title 28 to provide that qualifying present bankruptcy judges who serve as long as they are needed during the transition period may participate in the judicial survivor's annuities system.

Section 211 adds a new section 377 to title 28 to provide improved retirement benefits for qualifying present bankruptcy judges who remain on the bankruptcy court for the complete transition period. Under this section, a former bankruptcy judge, who is not appointed to the district court after September 30, 1983, would be eligible to receive improved retirement benefits after attaining the age of 60 years old, if such judge continues in service until September 30, 1985, or until such judge's successor is appointed, whichever occurs first; had served as a bankruptcy judge for at least ten years; and advises the President in writing of his willingness to accept appointment to the bankruptcy division.

The retirement provisions contained in proposed section 377 constitute an equitable retirement scheme for judges who have performed under an increasingly burdensome workload. Moreover, it is important that there be a smooth and orderly transition to the Article III bankruptcy court. That can only occur, especially under the present workload, if experienced judges remain on the bench during the transition period. Proposed Section 377 provides an incentive for the present bankruptcy judges to remain during the transition period. A qualifiying present bankruptcy judge who does so would receive an annuity calculated in conformity with the provisions governing the annuity of Members of Congress in 5 U.S.C. 8339(c).

Section 212 is a technical amendment to correct errors in designation of paragraphs

in 28 U.S.C. 604(a) and an erroneous cross-reference in 28 U.S.C. 602(b).

Section 213 makes a conforming amendment to 28 U.S.C. 620(b)(3) by deleting a reference to referees.

Section 214 amends 28 U.S.C. 621(a)(2) to provide that four district judges, one of whom is assigned to the bankruptcy division, shall serve on the Board of the Federal Judicial Center.

Section 215 makes a conforming amendment in 28 U.S.C. 631(c) by deleting a reference to referees in bankruptcy.

Section 216 makes a conforming change in 28 U.S.C. 634(a) by deleting a reference to referees in bankruptcy.

Section 217 amends 28 U.S.C. by adding a new chapter relating to the bankruptcy division. Within the new Chapter 50, section 771 authorizes each bankruptcy division to appoint a clerk who shall be subject to removal by the division, and the clerk is authorized to appoint, with the approval of the division, necessary deputies, clerical assistants and other employees as may be approved by the Administrative Office. Such employees are made subject to removal by the clerk with the approval of the division. Other subsections relate to clerk residence requirements, outside compensation, payments of fees into the Treasury, and returns to the Director of the Administrative Office. Section 772 provides for the appointment of other employees by the bankruptcy judges. Section 773 authorizes each bankruptcy division judge to appoint one or more court reporters, the number to be determined by the Judicial Conference, and contains further provisions relating to the qualification and oath taken by such reporters, the appointment of temporary reporters, the combination of duties of reporters with those of any other employee of the division, the recording, transcription and certification of judicial proceedings, supervision of reporters, record keeping, salaries, fees, and contract services. Section 774 provides that whenever a majority of the judges of any bankruptcy division cannot agree upon the appointment of any officer of the division the chief judge shall make such appointment. Section 775 provides for salary comparability with other employees of the district court.

Section 218 adds a new section 1293 of title 28 to provide that the courts of appeals shall have jurisdiction of appeals from all final decisions of the bankruptcy appellate panels established in section 145 of title 28. A court of appeals shall have jurisdiction over an appeal from a final judgment, order, or decree of a bankruptcy appellate panel or, notwithstanding section 1480 of title 28, from a final judgment, order, or decree of the bankruptcy division of a district court of the United States if the parties to such appeal agree to a direct appeal to the court of appeals.

Section 219 amends 28 U.S.C. 1294 to provide that an appeal from a bankruptcy appellate panel lies to the court of appeals for the circuit in which the bankruptcy appellate panel is located.

Section 220 makes certain technical amendments correcting errors in designation, cross-reference, and spelling.

Section 221 repeals 28 U.S.C. 1334, relating to district court jurisdiction of bankrupty cases.

Section 222 makes a technical amendment to 28 U.S.C. 1360(a) relating to the status of Alaska as a territory.

Section 223 adds a new chapter 90 to title 28 entitled "District Courts; Bankruptcy," governing jurisdiction and procedure for bankruptcy matters. Rules of jurisdiction, removal, and venue are the same for the bankruptcy division as provided by Public Law 95-598 for the bankruptcy courts.

Section 224 makes a conforming change to 28 U.S.C. 1827(i) by deleting a reference to referee in bankruptcy.

Section 225 amends 28 U.S.C. 1963 to make applicable to discharges and confirmation orders the registration provisions applicable to district court judgments.

Section 226 makes a conforming change to 28 U.S.C. 2107 relating to time for appeals to courts of appeals. This section only places an outside limitation on the time for appeals.

Section 227 adds a new section 2256 to title 28 relating to habeas corpus in bankruptcy matters.

Section 228 makes conforming and technical amendments to 5 U.S.C. 8331, 8339, 8341, and 8344 relating to certain civil service retirement provisions.

Section 229 makes a conforming amendment to section 402(b) of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 4682) relating to certain effective dates.

Section 230 makes a conforming change to Section 406(a) of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2686) relating to certain studies and surveys required to be made by the Director of the Administrative Office of the United States Courts.

Section 231 makes conforming amendments by repealing sections 404, 405(a), 405(b), 405(c), 409, and 410 of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2683).

Section 232 provides that the offices of bankruptcy judges for which appointments are authorized, by laws in effect immediately preceding the date of the enactment of this Act, to be made in a judicial district shall constitute the bankruptcy court of such judicial district during the period beginning on the date of the enactment of this Act and ending on September 30, 1983 (referred to as the "transition period").

The bankruptcy courts established in this section shall be deemed to be the bankruptcy courts for purposes of this Act; the Acts amended by this Act; title 28 of the United States Code, as amended by this Act, other than sections 133A, 293(b), 294, 295, 331, 372, and 451 of such title; title 11 of the United States Code; and the Acts amended by the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2549).

During the transition period and in addition to cases and proceedings commenced during such period, all cases under title 11 of the United States Code and all proceedings arising under title 11 of the United States Code or arising in or related to a case under title 11 of the United States Code pending on the date of enactment of this Act shall be heard by the bankruptcy courts established in subsection (a) of this section as though such cases and proceedings had been commenced in such courts.

Section 233 provides that the judges of the bankruptcy courts established in section 32(a) of this Act shall have the title United States bankruptcy judges. Section 233(b) provides that until the expiration of his term of office, a United States bankruptcy judge may exercise the jurisdiction and powers conferred by title 28 and title 11 of the United States Code on the bankruptcy division of the district courts, except that such judge may not exercise any jurisdiction or power he was not authorized to exercise before the date of enactment of the subtitle.

Section 233(c) provides that, notwithstanding section 34a of the Bankruptcy Act as in effect on September 30, 1979, and section 404(b) of the Act of November 6, 1978, as in effect before the date of the enactment of this Act, the terms of office of all United States bankruptcy judges who are serving on the date of the enactment of this Act in the bankruptcy courts established in section 232(a) expire on September 30, 1985 or on the date such judge's successor is appointed, whichever occurs first.

Section 233(d) provides that after the transition period and until the expiration of his term a carryover judge shall serve as a judge of the bankruptcy division of the district court for the district for which such judge's bankruptcy court had been established, subject to section 233(b).

Section 233(e) provides that during the transition period and for any subsequent period of service in the bankruptcy division, the levels of salaries of United States bankruptcy judges are continued at the levels in effect on the date of the enactment of this Act, subject to adjustment under section 225 of the Federal Salary Act of 1967 (2 U.S.C. 351-361) and section 461 of title 28, United States Code.

Under Section 233(e), an appeal from a judgment, order, or decree of a United States bankruptcy judge during the transition period shall be:

(a) if the judicial council of the circuit in which the bankruptcy judge sits so orders for the district in which the bankruptcy judge sits, to a panel of three bankruptcy judges appointed in the manner described in section 145 of title 28, United States Code, as added by this Act,

(b) if no panel is appointed under subparagraph (A) for the district in which such bankruptcy judge sits, to the district court for such district, or

(c) if the parties to the appeal agree to a direct appeal to the court of appeals for such circuit, to such court of appeals.

During the transition period the district courts of the United States will have jurisdiction to hear appeals from the judgments, orders, and decrees of bankruptcy courts.

Section 234(a) transfers on October 1, 1983 to the appropriate United States district court—

(1) cases, and matters and proceedings in cases, under the Bankruptcy Act that are pending, at the end of September 30, 1983, in the bankruptcy courts established in section 32(a) of this Act, other than cases, and matters and proceedings in cases under—

(A) section 77 of chapter IX of the Bankruptcy Act, or

(B) chapter X of the Bankruptcy Act in which a general reference under section 117 of the Bankruptcy Act is not in effect, and

(2) cases under title 11 of the United States Code and proceedings arising under title 11 of the United States Code or arising in or related to cases under title 11 of the United States Code, that are pending at the end of September 30, 1983, in the bankruptcy courts established in section 232(a) of this Act.

Section 234(b) transfers on October 1, 1983 to the appropriate bankruptcy appellate panels established in section 145 of title 28, United States Code, appeals from final judgments, orders, and decrees of the bankruptcy courts established in section 32(a) pending at the end of September 30, 1983, in the panels appointed under section 233(e)(1)(A).

Section 234(A)(a) provides that, notwithstanding 28 U.S.C. 133A, as added by Section 202 of the subtitle, no more than 75 of the judgeships there authorized may be filled before March 31, 1984, and not more than 151 before March 31, 1985. No time limit is provided for the appointment of the remainder of the 227 authorized judgeships, but it is anticipated that this will be accomplished to the extent possible prior to September 30, 1985, when the terms of all judges continued in office under Section 233(c) not previously reappointed or replaced must expire.

Section 234(A)(b) provides that there shall first be appointed in each judicial district specified in Section 133A a district judge to be assigned to the bankruptcy division for such district. Such judge shall succeed a bankruptcy judge appointed after December 31, 1975, to the bankruptcy court for the district, or, if no such judge exists, then to succeed the most junior bankruptcy judge in that district. After one bankruptcy judge has been appointed in each judicial district, judges shall be appointed to succeed other bankruptcy judges appointed after December 31, 1975. After every member of that class has been reappointed or replaced, appointments shall be made to succeed bankruptcy judges appointed after December 31, 1967 and before January 1, 1976, and after successors have been appointed for every member of that class, appointments may be made to succeed bankruptcy judges appointed before January 1, 1968. The provisions regarding the order of succession shall not apply, however, to vacancies created by the death or retirement of a bankruptcy judge.

Section 235 authorizes the Supreme Court to issue such additional rules of procedure, consistent with Acts of Congress, as may be necessary for the orderly transfer of functions and records and the orderly transition to the new system of bankruptcy divisions of the district court created by this Act.

Section 236 provides for the selection of United States judges in the bankruptcy division on the basis of merit. Whenever a vacancy occurs in such a judgeship, the President shall appoint persons whose character, experience, ability, and impartiality qualify such person to serve in the Federal judiciary.

Since the quality of justice in our Nation depends on the quality of our judges, it is important that they be chosen on the basis of their qualifications and proven excellence. The criteria listed in this section are good character, experience, ability, impartiality and a record of commitment to equal justice.

Extensive practice in bankruptcy law, while desirable, is not a required qualification under this provision. However, judicial nominees should possess the legal qualifications to effectively preside over cases which call for a knowledge of substantive law, and both federal and bankruptcy rules of procedure.

The criteria set forth in this provision do not impinge on the constitutional prerogative of the President to select judicial nominees.

Section 237(a) provides that, except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of enactment.

Section 237(b) provides that sections 132A and 145 of title 28, United States Code, as added by this Act, shall take effect on October 1, 1983.

Subtitle B—Omnibus judgeships

This Subtitle would create 45 additional judgeships. These include 11 permanent circuit court judgeships; three temporary circuit court judgeships; 24 permanent district court judgeships; and seven temporary district court judgeships. The bill would also convert a temporary judgeship for the Northern District of Ohio into a permanent position.

This Subtitle is substantially the same as the proposal submitted to the Congress by the Judicial Conference on March 5, 1981. The Judicial Conference based its recommendations on a 1980 biennial survey, which in turn was based on the recommendations of the individual courts and a statistical profile developed by the Administrative Office of the United States Courts.

TITLE III—BANKRUPTCY IMPROVEMENTS

Subtitle A—Consumer credit

Subtitle A of title III contains 20 sections referred to as Consumer Credit Amendments. These sections amend title 11 and title 28 of the United States Code to restore equilibrium to the treatment of debtors and creditors in consumer debtor cases under the Bankruptcy Code.

Section 301 contains two amendments that add definitions to the Bankruptcy Code. The definitions are added to facilitate drafting of other consumer credit amendments, including the so-called "threshold test".

Section 301(a)(1) adds a new § 101(3) to title 11 defining "anticipated disposable income". The definition will require an estimate of future income and expenses in order to calculate the defined term.

Section 301(a)(2) adds the definition of "reasonable portion of debts" to § 101 of title 11. The definition requires a calculation determined by taking 50% in amount of the debtor's debts excluding debts secured by an unavoided lien encumbering the debtor's principal residence. As the debtor's debts are liquidated during the course of a case, the calculation under "reasonable portion of debts" will be refined.

Section 302(a) amends § 341(c) of title 11 to clarify that the court will be available to resolve any dispute that might arise during a § 341 meeting.

Section 302(b) amends § 521(1) of title 11 with respect to the debtor's duties to include additional categories of information that the debtor must supply to the court. It is expected that the Rules of Bankruptcy Procedure will specify the time within which the debtor must perform such duties.

Section 303 amends the exemption section of the Code to delete the language exempting the debtor's interest in a tenancy by the entirety or joint tenancy to the extent that the interest was exempt from process under applicable non-bankruptcy law. To the extent the debtor's interest is exempt under non-bankruptcy law, it will be exempt by virtue of the language retained in § 522(b)(2). Thus, § 303 clarifies that the language contained in § 522(b)(2)(B) was not intended to create an additional categgry gf exempt property.

Section 304 clarifies that the lien avoidance powers set forth in § 522(f) shall not apply with respect to liens perfected gr enforceable befgre October 1, 1979& Since § 305(b) deletes the lien avoidance powers with respect to non-purchase money, nonpossessory liens, the effectiveness of this amendment will apply only with respect to judicial liens.

Section 305 contains additional amendments to the exemption provisions of the Code. Specifically, subsection (a) places a $3,000 aggregate limit on items of household furnishings and household goods, etc. that may be exempted under § 522(d)(3) of the federal exemptions. Subsection (b) amends § 522(f) to eliminate the debtor's ability to avoid non-possessory non-purchase money security interests in certain household goods and furnishings, etc. Thus, in conjunction with the amendment made by § 304, the debtor will only be able to avoid judicial liens first perfected and enforceable after October 1, 1979. Subsection (c) amends § 522(m) of the Code to permit joint debtors in a consolidated case to exempt either the federal exemptions or, in the alternative, the state exemptions. Under present law, it has been common in joint cases for one debtor to choose the federal exemptions and other debtor to choose the state exemptions. Note, however, that debtors are free to exempt property of their choice if their case is not a joint case under § 302(b) or their case is a joint case in which the estates have not been substantively consolidated.

Section 306 of title III amends the Bankruptcy Code with respect to the exceptions to discharge. In particular, a consumer debt incurred within 40 days before the date of the filing of the petition is presumed to be non-dischargeable. The presumption is rebuttable and shifts the burden of persuasion to the debtor. In addition, the provision respecting attorneys' fees formerly found in § 523(d) is moved to § 523(e) of title 11 and the standard is changed to permit the court to award attorneys' fees to the debtor if the creditor's motion was not filed or pursued in good faith.

Section 307(a) contains a technical amendment clarifying that liens that are not avoided under title 11 are enforceable after bankruptcy notwithstanding discharge of the underlying debt.

Section 307(b) makes major amendments to the reaffirmation provisions formerly contained in § 524(c) and (d) of title 11. Essentially, the debtor is permitted to reaffirm most kinds of debts without any court review or limitations. The debtor may reaffirm a consumer debt not secured by real property if certain statutory standards are met. Essentially the agreement will be enforceable without a court hearing as long as the debtor is given 60 days to rescind the agreement and the court does not disapprove the agreement on any equitable ground.

Section 308 amends the preference section of the Code to provide a "small amount" exception whereby the trustee may not avoid aggregate transfers of less than $1,000 with respect to a particular creditor.

Section 309 establishes the so-called "threshold test". Traditionally, bankruptcy has been available for use by poor but honest debtors. Recently, however, wealthy and dishonest debtors have availed themselves of the bankruptcy laws. Section 309 creates a basis to dismiss a chapter 7 bankruptcy case to deny bankruptcy relief to those who can afford to repay their debts. Section 309 establishes a new § 707(b) that sets up a three part test to dismiss a chapter 7 case. The case will be dismissed on motion of a party in interest prior to the time of discharge if (1) the debtor is an individual; (2) the debtor's anticipated disposable income for a reasonable period after the commencement of the case would be sufficient to repay a reasonable portion of debts; and (3) dismissal of the case would not impose an undue hardship on the debtor or

his dependents. If such a motion to dismiss is granted, the Code stays the effect of the dismissal order for 20 days and for any additional time during which a request to convert the case is pending. If the case is converted to chapter 11 or chapter 13, then the court is required to vacate the dismissal order. In order to discourage creditors from requesting dismissals under § 707(b), the court may award the debtor costs and attorneys' fees if the court determines that the creditor's motion was not filed or pursued in good faith in instances when dismissal is not ordered.

Section 310 amends the redemption section of the Code. In particular, § 722 is amended to give the debtor a five year period to redeem tangible personal property from a non-purchase money security interest. The liberalized redemption provision compensates for the debtor's loss of the power to avoid such liens formerly contained in § 522(f)(2) of title 11. The debtor may avoid such a security interest to the extent enforcement thereof would impose a hardship on the debtor or his dependents as long as the protected kind of collateral has a value of not more than $5,000.

Section 311 contains a clarifying amendment to § 1103(b) of title 11. In particular, the restriction on representation is limited to professional persons such as attorneys and accountants. Thus, a non-professional person such as a credit manager may serve as secretary to a creditor's committee and continue to represent creditors.

Section 312 contains an amendment to the so-called "co-debtor stay" contained in chapter 13 of the Bankruptcy Code. Under former law, creditors entitled to relief from the co-debtor stay were burdened with obtaining relief from the bankruptcy court by filing a complaint. Section 312 permits a creditor to take action against a co-debtor or guarantor by filing a proposed notice of action and notifying the co-debtor or guarantor of their right to object. If no objection is filed within 10 days, the creditor may take the action against the co-debtor or guarantor without the necessity of a court order, unless the court orders otherwise.

Section 313 amends § 1321 of title 11 with respect to a chapter 13 plan for individuals with regular income. A new subsection (b) establishes a general rule requiring dismissal of the case unless payments under the plan commence within 30 days after the filing of the plan. Any payments must be made to the trustee and retained by the trustee until a plan is confirmed or confirmation is denied. Upon confirmation, the trustee will distribute the funds in accordance with the plan. If confirmation is denied, the funds are returned to the debtor after deducting costs of administration.

Section 314(a) contains amendments regarding the chapter 13 plan for individuals with regular income. In the first part of § 314, which was intended to be designated § 314(a), an amendment is made to § 1322(b)(1) of title 11 with respect to classification in a chapter 13 plan. A great deal of confusion has been generated in cases interpreting the classification requirements applicable to a chapter 13 plan. The amendment made by § 314 clarifies that a plan may designate a separate class or classes for non-dischargeable unsecured claims or claims of co-debtors or guarantors, but the plan may not discriminate unfairly against any class so designated. Presumably, the plan may afford preferential treatment to such class and may discriminate unfairly against general classes of unsecured claims.

Section 314(b) specifies the limits on duration of a chapter 13 plan. In particular, the plan may not provide for payments over a period that is longer than 5 years. As under former law, there is no minimum period over which payments must be made in a chapter 13 plan that can otherwise meet the requirements of confirmation.

Section 315 contains major amendments to the requirements necessary to confirm a chapter 13 plan for the adjustment of debts of individuals with regular income. In particular, the section establishes a new § 1325(b) of title 11 that requires a more stringent standard of confirmation if a party in interest objects to confirmation. Specifically, upon such objection, the court may not approve the plan unless, as of the effective date of the plan, unsecured creditors receive under the plan money or property with a present value equal to the allowed amount of their claims—payment in full—or, the plan provides that all of the debtor's projected disposable income to be received during the course of the plan beginning on the date that the first payment is due under the plan is applied to make payments under the plan.

Section 316 contains modifications to § 1329 of title 11 regarding modification of a chapter 13 plan for the adjustment of debts of debtors with regular income. To the extent the debtor's disposable income changes after confirmation of the plan, the plan may become modified on the request of the trustee or the holder of an allowed unsecured claim. Modification of payments could require the debtor's payments under the plan to increase or decrease depending upon the change in the debtor's projected disposable income.

Section 317 amends § 1326 of title 11 to permit payment of a reasonable attorneys' fee for the debtor's attorney. This amendment is surplusage and clarifies former law which required compensation of administrative claims with priority under § 507(a)(1). By virtue of § 503(b)(2) the administrative claims included the compensation of a debtor's attorney as awarded under § 330(a) of title 11.

Section 318 amends the discharge provisions of chapter 13 to provide that all nondischargeable debts specified in § 523(a) are nondischargeable in a chapter 13 case. This changes prior law which, in some circumstances, only made certain debts for alimony, child support, and long-term debts nondischargeable.

Section 319 of title III contains a technical amendment to § 1329 of title 11.

Section 320 contains an amendment to § 1471 of title 28 by adding what was intended to be this subsection (f) to § 1471. This new subsection solved a problem caused under former law regarding complaints for relief from the automatic stay. Under former law, it was unclear whether parties seeking relief from the automatic stay could file a complaint in a court other than the "home" court. This amendment clarifies that the court in which the case under title 11 is pending has exclusive and original jurisdiction to grant relief from the automatic stay. The amendment also contains a provision specifying that an order or judgment granting, denying, terminating, annulling, modifying or conditioning relief is deemed to be a final decision or order for purposes of appeal. This clarifies some uncertainty in prior case law regarding the status of an order granting or denying relief from the automatic stay as an interlocutory order rather than a final order. The amendment made by this section is not exclusive. Thus, it is intended that the "home" court will have jurisdiction that is exclusive and original with respect to many administrative matters in the bankruptcy case such as objecting to discharge, determining non-dischargeability of a debt, determining the debtor's exemption, and other matters.

Section 321 specifies that the amendments made by title III, subtitle A, apply to cases commenced on or after the date of enactment of H.R. 7294, except that the amendment made by Section 320 is effective on the date of enactment in pending cases as well.

Subtitle B—Grain elevator bankruptcy amendments

Subtitle B contains amendments to the Bankruptcy Code to remedy a perceived problem that occurred in some Midwest states with respect to grain stored in grain elevators. Rather than requesting relief from the automatic stay in the manner provided by law, some state officials took the position that the federal bankruptcy law was subservient to their state regulatory procedures. Predictably, the Federal Court sustained the supremacy of the federal law as required by the United States Constitution. These amendments are enacted in order to make the relief available under federal law clear and unmistakable so that state officials will not be misled in the future and so farmers will be protected in the event of a grain elevator bankruptcy.

Section 341 amends § 546 of title 11 to create a limitation with respect to certain of the trustee's avoiding powers with regard to the right of reclamation of a seller who is a producer of grain sold to a grain storage facility owned or operated by the debtor. Only the rights or powers of the trustee under §§ 544(a), 545, 547, and 549 are limited. In order to be limited, the producer must have demanded written reclamation of the grain before ten days after receipt thereof by the debtor. The court is given the option to deny reclamation and to provide the producer with a claim secured by a lien. The Code does not specify the property with respect to which the producer's claim must be secured.

Section 332 of subtitle B creates a new § 555 of title 11 requiring expedited determination of interests in and disposition of grain. This section applies only in a case concerning a debtor that owns or operates a grain storage facility and only with respect to grain and the proceeds of grain. The court is commanded to expedite procedures for the determination of interests in and the the disposition of grain and proceeds of grain by shortening to the greatest extent feasible time periods that otherwise apply under the code in §§ 362, 363, 365, and 554. Although the time periods established by the court may be modified, in no case may the final disposition of grain or the proceeds of grain occur later than 120 days after the date the petition is filed, except to the extent provided in § 555(f). Section 555(f) permits the court to extend the period for final disposition of grain or proceeds beyond 120 days if the interest of justice so requires in light of the complexity of the case and the interest of those in the grain or the proceeds thereof will not be materially injured by the delay. Section 555 sets forth numerous factors that are to be considered by the court in determining the expedited period. Section 555(e) gives any governmental unit that has regulatory jurisdiction over the operation or liquidation of the debtor or the

debtor's business notice of the expedited hearings and the standing to appear and be heard on any issue relating to the grain or proceeds of grain in a case. Significantly, the governmental unit is not made a party in interest and would not have a right to appeal from any order entered in the bankruptcy case. Nothing would prevent the governmental unit, however, from joining in the appeal made by any other party in the case. Section 555(g) protects dispositions of grain unless the order approving such disposition is stayed pending appeal.

Section 333 of subtitle B amends title 9 of the Bankruptcy Code to specify that the special grain provisions apply in a case concerning a municipality under chapter 9.

Subtitle C—Leasehold management

Under the Bankruptcy Code, courts have afforded debtors in possession and trustees extensive periods of time in which to assume or reject leases. Subtitle C is designed to afford some protection for loadlords and lessors.

Section 342 amends § 365(d) of title 11 by providing a new paragraph (3) to permit the debtor or trustee in a case under chapter 9, 11, or 13 to assume or reject an unexpired lease of the debtor within 120 days after the order for relief. Any unexpired lease of the debtor not assumed within such time is deemed rejected unless the court, within such 120 day period, fixes a different period for cause. In a complicated case, it would not be unusual for the court to grant the debtor 180 days, 270 days, or longer depending upon the nature, extent and complexity of the leases involved. In a case involving one lease, however, the court might shorten the 120 day period. The discretion of the court will be afforded great deference by appellate courts. Significantly, this section applies only to unexpired leases, not to any other category of executory contract.

This subtitle also amends Section 365(b)(3) of the Bankruptcy Code to delete the word "substantially" to make clear that lease provisions such as the use and tenant mix clauses are to be observed by the trustee.

S. 2297, the Shopping Center Protections Improvement Act of 1982, which passed the Senate on October 1, 1982, requires an election to assume or reject a lease within 60 days and deletes the word "substantially" from Section 365(b)(3) of the Code; it also requires the trustee to perform all of the obligations of the tenant under the lease, including the payment of rent and other charges, until the lease is assumed or rejected. See Senate Report No. 97-527.

Subtitle D—Referees Salary and Expense Fund

Legislation similar to this Subtitle was passed by the House on December 16, 1981 as H.R. 5116 and H.R. 4353. See House Report 97-415 and House Report 97-414.

This title makes conforming amendments to § 403(e) of the Bankruptcy Reform Act to place reasonable limits on the fees that can be charged in cases under the Old Bankruptcy Act with respect to the defunct Referees Salary and Expense Fund. In certain cases, fees chargeable by the Referees Salary and Expense Fund have constituted millions of dollars that would otherwise be available for distribution to creditors. A fundamental theme of the Bankruptcy Reform Act was that the bankruptcy system is no longer self supporting and has not been self supporting for quite some time. Under the circumstances, the limits imposed by § 352 of subtitle D are reasonable.

This Subtitle provides for a $200,000 cap on payments made under Chapter VII into the former Bankruptcy Referees Salary and Expense Fund and for a $100,000 cap for similar payments under Chapter XI.

TITLE IV—TECHNICAL BANKRUPTCY AMENDMENTS

Title IV of H.R. 7294 contains approximately 127 sections making amendments to various sections formerly enacted in Public Law 97-598. To a great extent, these amendments are technical in nature, correcting spelling errors, diction errors, and grammar errors. A few of the amendments clarify the intent of the draftsmen and are considered to be declarative of existing law rather than substantive amendments.

Significant technical amendments made by title IV include the following:

Section 401(3) creates a new § 102(8) of title 11 defining "United States" to include the Commonwealth of Puerto Rico and the territories and possessions of the United States. This clarifies the intent of Pub. L. No. 95-598.

Section 418 contains an amendment to § 364(f) of title 11 limiting the exemption given from the requirements of the Trust Indenture Act and any state or local law to debt securities that are not convertible into an equity security. This is a substantive change that represents a departure from prior law and is inconsistent with the plain language of Pub. L. No. 95-598.

Section 420(a) amends § 502(a) of title 11 to indicate that a limited partner in a partnership that is a debtor in a case under chapter 7 is not a party in interest with standing to object to the allowance of claims filed against the partnership. The amendment accomplishes this result by inserting the word "general" before "partner" in § 502(a).

Section 420(b)(6) amends § 502(b)(8) to clarify that the damage limitation applies to the claim of an employee for damages and not to the claim of an employer. This eliminates an ambiguity in prior law.

Section 422 amends § 506(a) to clarify that a creditor who does not have recourse will not be given an unsecured claim to the extent such creditor is undersecured in a chapter 7 or 13 case. *See* § 1111(b) of title 11 for a contrary result in a chapter 11 case.

Section 423(b) redrafts § 507(b) to clarify certain aspects of the so-called "super priority" given to a creditor whose adequate protection turns out to be inadequate. The amendment clarifies that the super priority claim comes ahead of expenses of administration in a superseded chapter 11 or chapter 13 case. This section will apply, however, only if adequate protection is provided by the trustee subject to court approval and not when adequate protection is provided by consent of the parties without notice to parties who might be adversely affected by such super priority agreements.

Section 439 amends § 551 of title 11 to delete restrictive language that was inadvertently inserted in § 551 when enacted by the 95th Congress.

Section 469 clarifies the scope of § 1111(b) of title 11 consistent with the intent of the draftsmen of Pub. L. No. 95-598. Section 1111(b) was drafted late in the 95th Congress and this amendment refines the language originally enacted by the 95th Congress.

Section 473(b) contains clarifying amendments to § 1125(e) of title 11 indicating that the safe harbor should apply to acceptance or rejection of a plan whether or not the plan provides for the offer or sale of securities. Although it is doubtful that the plan itself should ever be construed to constitute the offer or sale of securities, this amendment is designed to provide protection in the unlikely event that a court would decide otherwise.

Section 475(b) deletes language from the preamble of § 1129(b) and transfers the language to § 1141(a) to clarify that a plan may affect the rights of subordinate creditors under an otherwise enforceable subordination agreement.

Sections 519, 520 and 521 permit recordation and enforcement of bankruptcy court judgments. These amendments were inadvertently omitted upon enactment of Pub. L. 95-598.●

IN PURSUANCE OF RESOLUTIONS OF IMPEACHMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, I rise to continue yesterday's resumption of my efforts in behalf of two resolutions and three bills that I have introduced during the course of this Congress.

As I said yesterday, we are at the waning hours of this Congress. We must of a necessity begin anew on January 3 and I wanted to round out what I initiated in the beginning of the first session of this Congress and have followed through as best I could consistently all during this Congress and particularly during the midpoint and up until now.

As I said yesterday, the particular resolution, which type of resolution tends to get lost because it is considered flamboyant, bombastic and not seriously, and that is a resolution seeking the impeachment of Paul Volcker, the Chairman of the Federal Reserve Board. But I also have companion resolutions that direct the same thrust of action towards the Open Market Committee, so-called, of the Feds, which means the board itself, plus the five nonboard private bankers who constitute the Federal Reserve Open Market Committee.

As I also said yesterday, I consider that the events have so caught up with us that the primary intent I had at the time of the introduction of these measures, I was hopeful that at least those committees having prime jurisdiction would have some reactive interest as a result of the initiation of these legislative bills and resolutions because now I feel that the course of events is irreversible, that whatever will be done will be continued to be done under an atmosphere of crisis where we will have the tendency to react in haste, not to slow deliberation at this very intricate matter requires.

On the other hand, when I use the work "intricate" I also succumb to one of the big problems and that is that this subject matter, like mathematics generally, is considered to be a sort of

a hidden science or such an obtuse matter that only a few selected minds can understand.

As a matter of fact, it is not that complicated and what it calls for is not that complicated either. But it calls for, first, an honest confrontation with the knowledge of the times and a desire and an untrammeled intent to do something about it.

□ 1310

As I said yesterday and I repeat today: the remedy perforce lies in this body, the Congress of the United States of America. The Federal Reserve Board, as I keep saying, is not this autonomous, independent body that has no accountability to anybody. As a matter of fact, there are so many of my colleagues and so many of the citizens that I have had a chance to meet and correspond with throughout the country that have been impressed by that remark, more than anything else, because of their impression that the Federal Reserve Board was indeed an autonomous, absolutely unrestrained, independent body, and that they consider it a Federal entity, that is, a branch of the Federal Government. The truth is that it really is not. And the truth is that it is a creature of the Congress of the United States, which gave birth, through the adoption of the Federal Reserve Act of 1913, to this entity we call the Federal Reserve Board.

Now, since our country is structured and historically has developed quite differently from the other industrialized nations, the Federal Reserve Board, since its inception, has since attempted to fill the role as central banker for the country. Every other country has what they call the central bank. We really legally, formally do not. But because it is necessary to have that equivalent, it has posed a problem from the very beginning of our national origins.

As I have said before, it was the one big issue in the First and the Second Continental Congresses during the time of the Articles of Confederation which reflect the first 10 years of national existence, and certainly in the very beginning of the formation of our Government under the Constitution in 1789 and since then.

The fact that every President and every formidable leader has recognized that as the prime problem confronting the Government has been lost sight of. Therefore, I want to point out some of the things that some of these men through history have said, because this is exactly what the issue is today.

The matter of fact is that President Lincoln, for instance, in the middle 1860's shortly, in fact, before his assassination, had that primarily and uppermost in his mind, because it coincided with enactment of the act of 1864 and 1865. The first, the act of 1864, was generally entitled the National Banking Act; the 1865 act is known as the National Currency Act. But there, the same forces that even from the beginning, and particularly in the 20th century, have always attempted to take over control and the power of such a fundamental thing as the allocation of credit and resources for the Nation's economic life and activities. This has always been the big power tussle and struggle.

Now, President Lincoln, on the eve of his assassination said—and this is because of what he saw happening here on the congressional level when they were forging the 1864 act and then what turned out later to be the 1865 act:

> I see in the future a crisis approaching that unnerves me and causes me to tremble for the safety of my country. Corporations have been enthroned. An era of corruption in high places will follow, and the money power of the country will endeavor to prolong its reign by working upon the prejudices of the people, until the wealth is aggregated in a few hands and the Republic destroyed.

But President Wilson, after his hopes were shattered as he saw the reality that was emerging after the adoption of the 1913 Federal Reserve Act—let me say that that was born out of a similar period as that which we are about to have to suffer the consequences from fully. We are just beginning to. If my colleagues think that prosperity is around the corner, like this President says now, and Hoover and the others were saying in 1932, I am afraid that they are in for a very serious deception because we are only beginning. And since, as I say and repeat, there is nothing here being done on any level of consequence, it seems to me that this process is irreversible.

I naturally hope I am dead wrong. But unfortunately I will say when I spoke out, almost singlehandedly 1 year and 10 months ago, at the beginning of the administration, and the utterances of some of the leaders urging the adoption of policies here, that I was pointing out the fallacy of those policies and assumptions, above all, and particularly the assumptions of the Federal Reserve Board Chairman, who triggered off my protest by the utterances he gave us in the committee I belong to, the Banking and Currency Committee, to which I have belonged for 21 years, when he said, in response to questions I asked, "Yes, the standard of living of some Americans will suffer. Of course."

That shocked me. This is not the power and prerogative of the Federal Reserve Board. Policymaking is that of the national legislative or policymaking body, which is the U.S. Congress, not a creature entity of the Congress. And he was saying our policy is not what legally is defined. The true, legal definition of the Federal Reserve Board or its Chairman is that it is the fiscal agent of the U.S. Treasury. That is all. The fiscal agent of the U.S. Treasury. Now, "agent" means "acting in behalf of a principal or a master." What we have now is the agent as the master in the most authoritative and autocratic of exercise of that function of master that this country has ever recorded in any official or any official invested with power.

Remember, President Wilson ran on the promise to put through "monetary reforms that are truly a reform." However, within 3 years of the passage of the Federal Reserve Act, that is, by 1916, President Wilson saw, too late, what was obvious. And here is what he said then:

> A great industrial nation is controlled by its system of credit. Our system of credit is concentrated. The growth of the nation, therefore, and all our activities are in the hands of a few men. We have come to be one of the worst ruled, one of the most completely dominated governments in the civilized world—no longer a government by free opinion, no longer a government by conviction and the vote of the majority, but a government by the opinion and duress of small groups of dominant men.

□ 1320

How much more can the power be concentrated than what confronts our country today? As a matter of fact, it is even progressing to the point of nausea, these giant mergers. And the concomitant cause underlying—my colleague awhile ago from Texas was talking about interest rates and blaming the Government and saying that the single cause was that.

Well, even the Federal Reserve tried to get away with that and offered that big argument. And whenever I would ask, not only the Chairman, but other members of the Board who appeared before the committee, other Congressman, other former Congressman, the leading economists of this country, why it was then that at the height of World War II, so-called, in 1945, over 45.5, about 46.2 percent of the gross national product of our country, total output in production, in services, was being controlled and dominated by the Federal level—that is the Federal Government. Naturally, completely consecrated to the waging and the winning of the war.

But the Government never had to pay anything over 2 percent. In fact, it averaged in the servicing of its debt, paying less than 2 percent. How could that happen? Where we now have the Government paying as high as 14¾ percent, not for short-term bills, notes or what have you, but long term. That is an absolute extortion, and a complete capitulation of a country's destiny to the predatory, selfish, greediest natures that mankind in its history has recorded, with no protection.

There is absolutely no protection that the people of this country have.

Well, now, as I said yesterday, public officials and these great leaders in finance and the like, they like to think that the people—the people—do not understand. They do not know. What do you want to discuss that for, they do not know what you are talking about.

And as I said yesterday, and repeat today, I have news for you. The people are way ahead and have been all along-way ahead of us all. The people are there. They know what is happening. They do not understand why. The only shield between them and being stripped naked of any defense from the most predatory of forces is in responding to that defense. That is what they do not understand. Mechanics, truck drivers, sales people in a produce market asked me, "We thought there was law against this," meaning a law against usury.

It so happens I am speaking out now of course, but it is not that I am a latecomer. I noticed that some of the advocates last year of these assumptions on the economic and fiscal policies they were asking us to adopt have now joined the chorus and are saying we have got to do something about the Feds.

But all along, they went along, including this administration. I did not hear anybody making speeches or asking questions about the nature or the cause or the possible remedies. So that I do not have too much sympathy for those laments now, and what they are advocating including a cross sectional bipartisan group amounts to saying to Mr. Volcker, "Oh, Mr. Volcker, please, please do not be so mean. Please, you have got to reduce interest rates a little bit."

And then they hit him with a powder puff.

Well, shucks, what the times call for is a sledge hammer, not powder puffs. It is too late for that stuff. In fact, it is ridiculous, and it is an insult to the intelligence of those of us who have been working on this, not now, not 5 years ago, not 10 years ago, but more than 15 years ago, and particularly on the history of the Federal Government's role, going back to 1964, and given the reason for the concern expressed by President Abraham Lincoln.

At this point I wish to include in the RECORD an article I wrote for the personal finance law quarterly issue reprinted in the winter of 1965, but actually I wrote it in 1964, entitled, "Bank Interest Rates and the Federal Law."

The article follows:

[Reprint from winter 1965 issue of the Personal Finance Law, Quarterly Report]

BANK INTEREST RATES AND THE FEDERAL LAW

(By Henry B. Gonzalez)

James J. Saxon, Comptroller of the Currency, ruled recently that National Banks may charge interest at the maximum rate permitted by applicable state law to any competing lending institution including small loan companies.[1] The significance of this ruling is seen in the fact that in Texas, under the Regulatory Loan Act of 1963,[2] small loan companies, may charge rates up to 300% on loans of $100 or less. (Ed. Note: On loans above $100 the rate is much less, i.e. on a loan of $1500 the true annual rate would be 21.14%.) Banks were excluded from this law and they may charge no more than 10% interest. The new ruling would permit National Banks to charge the maximum rates permitted under the Regulatory Loan Act of 1963. The State Banks, of course, would still be excluded from that law.

The Comptroller's ruling is based on Section 85 of the Federal Banking laws.[3]

Last August, in his testimony before the House Banking and Currency Committee on the proposed Federal Banking Commission Act,[4] Mr. Saxon submitted for the record written answers to 29 questions which had been propounded to him by the Committee. Answer No. 26 was an explanation of his ruling on interest rates that National Banks may charge. In his answer, Mr. Saxon states that his ruling:

". . . is merely a restatement of relevant court decisions (see, for example, *Rockland National Bank of Boston* v. *Murphy*, 110 N. E. 2d 638, Mass. 1953) and is entirely consistent with the objectives of Congress beginning in 1863 and 1864, as was clearly stated in the legislative history of section 85, as has been uniformly recognized by previous Comptrollers, and as is reflected in the applicable court decisions."

BACKGROUND SKETCH

A brief sketch of the background and development of the current Federal rate of interest provisions (12 USC 95) is helpful to the understanding of the problem created by Mr. Saxon's recent ruling, particularly as it affects Texas. The present law is derived directly from the National Bank Act of 1864,[5] which was in turn based on the Act of 1863.[6] Section 46 of the 1863 Act stated:

". . . every association may take, reserve, receive and charge on any loan, or discount made, or upon any note, bill of exchange, or other evidence of debt, such rate of interest or discount as is for the time the established rate of interest for delay in the payment of money, in the absence of contract between the parties, by the laws of the several States in which the associations are respectively located, and no more . . ."

There was considerable debate in Congress on the proposed changes of this section of the law during the discussion of the National Bank Act of 1864. Obviously, the substance of this debate is of extreme importance in the construction of the law as there is very little else to shed light on the intent of Congress in enacting this provision. Hearings were not then recorded or published. Therefore, almost all we have of what the members of Congress intended is what was printed in the Congressional Globe, a commercial predecessor of the Congressional Record.

The bill setting forth the National Bank Act of 1864 originally provided for a uniform Federal rate of interest in the amount of 7% per annum. The Senate Finance Committee proposed to delete the uniform rate from the bill, and the following amendment was offered on the floor of the senate:

"The rate allowed by the laws of the State or Territory where the bank is located, and no more. And when no rate is fixed by the laws of the State or Territory, the bank may take, receive, reserve, or charge a rate not exceeding 7%." [7]

POINTED DEBATE

The debate which followed was quite pointed. Sen. James Grimes of Iowa spoke first. He said that in Iowa the legal rate of interest was 6%, but for special contracts it could be 10%. Under the proposed language, he said, the State banks would be limited to 6% while the National banks could charge 10%. He thus vigorously opposed the amendment. Sen. John B. Henderson of Missouri took the same position and said succinctly:

"I desire to allow these banks to charge just exactly what other banks of issue in the State charge. I do not want to make any difference between them."

Several other Senators spoke up in agreement, including Sen. John R. Doolittle of Wisconsin who said:

"I can only say, for one, that I will never vote for a bill allowing national banks to go into the States and Territories and charge a rate of interest equal to 10 percent, unless that State or Territory where they are located allows its banking associations to do the same."

The opponents to the amendment remained firm, and no arguments from the other side could explain to their satisfaction why National banks should be given the power to charge higher rates of interest than State banks. This, of course, is precisely the issue raised by Mr. Saxon's ruling. The issue was not immediately resolved when it was taken up in 1864. The amendment first came to the floor on May 5, 1864. The statements I have quoted were all made on that day. Instead of taking a vote, however, the matter was passed over and then taken up again the following Saturday, May 7, 1864. On that day, the following additional language was proposed, to be inserted after the words "no more": "except that where by the laws of any State a different rate is limited for banks of issue organized under State law, the rate so limited shall be allowed for associations organized in any such State under this Act."

This amendment to the amendment was agreed to, and the amendment as amended was passed; all without any debate. The language finally adopted and incorporated into the 1864 Act was therefore:

"Sec. 5197. Any association may take, receive, reserve, and charge on any loan or discount made, or upon any note, bill of exchange, or other evidence of debt, interest at the rate allowed by the laws of the State, Territory or district where the bank is locat-

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[1] Paragraph 7310, *Comptroller's Manual for National Banks.*

[2] Art. 6165b V. A. T. C. S., Texas Regulatory Loan Act of 1963.

[3] 12 U.S.C. 85.

[4] H.R. 107. Also considered at the hearing was H.R. 6885, providing for the transfer of the powers of the Comptroller of the Currency to the Secretary of the Treasury.

[5] 13 Stat. 108, Sec. 5197 (1864).

[6] 12 Stat. 665, Sec. 46 (1863), the National Currency Act. This Act and the National Bank Act of 1864 remained the basis of Federal Banking Legislation until passage of the Federal Reserve Act of 1913. The amendments of 1864 were designed to meet certain objections of State bankers. See, *Banking and Monetary Studies*, Ch. 2, p. 17 (a project of the Comptroller of the Currency).

[7] 38th Congress, 1st Session (1864), Congressional Globe, p. 2123.

ed, and no more, except that where by the laws of any State a different rate is limited for banks of issue organized under State laws, the rate so limited shall be allowed for associations organized or existing in any such State under this Title. When no rate is fixed by the laws of the State or territory or district, the bank may take, receive, reserve, or charge a rate not exceeding seven per centum . . ."

Except for the insertion of a clause bearing on another problem, the 1933 Act carried forward the language of 1864 intact. The present law, 12 U.S.C. 85, is thus almost exactly as it was written in 1864.

DEEP CONCERN

As I read the debate of the 1864 Act, there was deep concern as there is today, that National banks might be given the power to charge higher rates or interest than the State banks. The ojections made on the floor of the Senate May 5, 1864 held up action on this section of the bill until new language could be agreed upon. The crucial language is the wording added on May 7, namely, that where State law limited interest rates for the State banks then the National banks would also be so limited. This language could have been added only to remove the objections of Senators Grimes, Henderson, Doolittle and the others who would "never vote for a bill allowing National banks to go into the States and Territories and charge a rate of interest equal to 10 percent, unless that State or Territory where they are located allows its banking associations to do the same."

The intent of Congress in 1864 was plainly to permit the National banks to charge the same rates of interest as State banks, but no more, regardless of the rates allowed for persons other than banks, as, for example private persons who enter into special contracts. In all the modifications of the banking law over the past 100 years, the law regarding interest rates that National banks may charge has remained the same. So has the intent of Congress.

RULING OPPOSED

I strongly oppose the ruling of the Comptroller of the Currency which would give to the National banks a power they have not had and should not have, that is, the power to charge higher rates of interest than the State banks in a State where higher rates are permitted to small loan companies to the exclusion of the State banks. For the judicial interpretation of Sec. 85 I could quote no case better than the one cited by Mr. Saxon, *Rockland National Bank of Boston* v. *Murphy*. The court stated in that case:

"A national bank in making loans is allowed by the Federal law to take, receive, and charge the same rate of interest, if one is established by the statutes of the State where the bank is located, as may be charged by the State banks. 12 U.S.C. 85. The purpose of this act of Congress is to put national banks on an equality with State banks in competing in the business of lending money. *The lawful rate permitted to State banks is the measure which national banks must adopt in conducting the business of making loans.*" (Emphasis added)

The Murphy case happens to support my views, not Mr. Saxon's. Congress never intended to permit a National bank to charge more interest than a State bank merely because loan companies are permitted to charge more than the maximum rate allowed under State law on small loans. Congress would be particularly opposed to giving the National banks such an advantage where, as in Texas, the State law specifically excludes both the State banks and the National banks from the higher rates.[8] It should also be pointed out that the ruling of an earlier Comptroller of the Currency on which, Mr. Saxon relies, in part, refers to State commercial banks or State industrial banks, not to small loan companies.[9]

Perhaps one benefit that has resulted from this controversy has been the attention focused on the Federal law covering interest rates. I fail to see why, in this day and time, there should be different rates of interest in each State. If there was good reason for permitting higher interest rates in the Western States than in the Eastern States, because of the remoteness of the West and the lack of capital in that underdeveloped area, that reason does not hold true today. The reason for the law allowing higher interest rates in one area than in another has long ceased to exist.

In this regard, the Federal Government follows an obsolete rule of law which undercuts the present policy of eliminating poverty and helping the lower income group. For the sake of uniformity, and to remove those obstacles in the law which militate against the War Against Poverty, Congress should seriously consider legislation establishing a uniform rate of interest for all banks belonging to the Federal Reserve System.

I am not going to burden anybody or consume time in order to bring out the history of that. But let me say that the resulting article was only because we had to do the deepest digging. At that time there were no such things as CONGRESSIONAL RECORDS being published. And we had to go in. And if you think there were not Congressmen, like myself, if I would be presumptuous enough to make that comparison—I am sure there are greater men—not saying the same thing.

I ask my colleagues to read that history of the existing privately published records of the proceedings of the time.

Let me just say that at the time I was raising the issue, the President was a fellow Texan, President Johnson. And I was equally critical then, as I have been successively through those years. I have had the honor and the great experience of working with six different Presidents in the 21 years I have been here. And I will just say this, that at that time the Comptroller of the Currency ruled in such a way that the beginning, the planting of the seeds of the runaway high interest—I tell them extortionate, not only usurious, but criminally extoritionate interest rates, there was the beginning of that ruling that triggered off my interest and the writing of the article. I offer it for the RECORD because I know of no other articles on that subject matter written in any publication that I have been aware of.

I also refer at this time to an article in the most recent, just delivered today, issue of Business Week, December 13, entitled, "The Feds Plan for Economic Recovery." And in the subtitle, "Monetarism Is Dead, Interest Rates Down, but Growth Will be Slow."

Well, now, let us see. Since that announcement there has been little reactive interest in the prime interest rate markets. They are not going down. In fact, there has been an announced increase in some areas. Because the main issue is not have you in a preelection period managed such things as that you can say on paper at least that interest rates have gone down from 16 percent to 12½ or 13 percent. That means nothing. When they say interest rates are down, like all of these folks who are talking about inflation having gone down, they are not persuading any of the people back home or anywhere else that this is so. They are talking about words on paper, based on a statistical evaluation that is not real to life.

I asked yesterday and I repeat today: Is there anybody present hearing or reading this that has recently gone to the grocery store to do the family shopping?

□ 1330

Has inflation gone down? Are you paying less for the necessities of life there? If you are, I would like to know where.

Second, are rents going down for shelter? Are mortgage interest rates really going down or are the gimmickries that have been advanced, as another periodical points out, because of this high interest rate rampage since 1980, particularly.

Mr. Speaker, I refer at this point to an article in the Business Week, "The Fed's Plan for Recovery."

Among other things, there is a little boxed-in note that I think is of tremendous interest because it is the first time that I see it in a paper of general circulation.

It says, "How the Fed Manages Money."

Now, all through these years we have had the Federal Reserve Board members and their Chairman coming and telling us that interest rates are an act of God. Why, if anybody is to blame, it is you, the Congress. You are spenders and you are profligates and your pressures on the markets, if that is the reason, if there is any reason; but we cannot do anything about it. It is like an act of God; but here is what they are saying now, what we have been saying all along:

The Federal Open Market Committee, made up of the Chairman of the Federal Reserve Board, its six Governors, and five presidents of the 12 regional Fed banks.

What does that mean? That is five private bankers who have the biggest stake in what they do for their own gain and profit and lucre. As I have charged in my specifics in the im-

[8] Art. 6165b V.A.T.C.S. Sec. 6(a)(1) and (11).
[9] Paragraph 9510, Digest of Opinions.

peachment resolution, they have violated the trust by leaking out on several occasions information that has redounded to the personal lucre and benefit of only a handful of interests, most of them in the New York area where, incidentally, in a 3-mile radius over 30 percent of the total financial resources of this country are concentrated.

If the Federal Open Market Committee wants to ease credit, it instructs the New York Fed to buy Government securities.

This is why I said yesterday that the Open Market Committee can make or break any administration when it wants to or if it chooses to.

The transaction raises security prices and lowers the interest rate. The yield on the securities is fixed, so a rise in the price means that a security pays a lower interest rate. The insurance company deposits a check in the commercial bank, which gets a credit on its reserve account at the Fed. Banks must keep $1 of reserve for every $8 they hold in checking accounts. The rise in reserves means that the bank can hold more checking deposits and thus boost loans to businesses; that is, creates money, manufactures money. When the Fed wants to tighten credit it reverses the process.

Lo and behold, this must be like a revelation to many, many Americans, who have argued with me that, like the Federal Reserve Chairmen have before their audiences in our committee, that their policies do not control, that there is nothing they can do, that this is determined by these untoward events over which they have no control.

Now, here, I think, is a pretty accurate description of what we have been saying all along.

In connection with that, let me say, they talk about reserves. Now, ever since the last collapse, toward which we are headed now—in fact, we are in the throes of it—the Congress had in reaction to the crisis passed legislation. It set up the Federal Deposit Insurance Corporation.

Well, where are we on that now? Well, the truth is that you have total resources of the Federal Deposit Insurance Corporation of about $12.3 billion.

Then they have as residual on-the-side drawing powers on the Treasury of about an additional $3 billion, meaning that the total amount available for insurance in case of need is about $15.3 billion, to cover what—over $1 trillion of covered deposits; $15 billion to insure $1-plus trillion.

Now, what about the savings and loans? Well, that is even worse. You only have a meager less than $6 billion to cover about three-quarters of a trillion dollars; so you know, is that bad? Is that good? Should anybody not say that for fear that somebody might lose confidence?

Well, I think that process has set in to the point where as late as the day before yesterday, our President has to go all the way to Brazil in order to say: "Hey, boys, if you will just roll over the interest payments to the Chase Manhattan and First City National and Hanover Manufacturers Trust in New York, we are going to let you have $1.3 billion worth of credit from our taxpayers."

Now, a month and a half ago they did that for Mexico. Now, the American people read the headlines and they think we are helping Mexico. We are not. The only reason we are doing it is to bail out our bankers that are worse off in other countries. When you total what there is in bad, bad loans—no small bankers' loan committee would make the loans that these fellows have made in billions and billions of dollars—threatening now, it is so interrelated, not just the U.S. system, and making us vulnerable to other forces.

Even the Arabs, as late as the crisis in Lebanon, we had the Arab Finance Minister calling and saying: "Mr. Reagan, if you don't take off the Israelites, we are going to pull our money out of the New York banks and create a crisis for you."

Well, the rest is history. I think you know the President did react; but unfortunately, I feel it is too late. We are not doing what we ought to do and we have not done what should have been done since 1923 and the emergence of the Open Market Committee, and that is, regain the destiny and the economic well-being and future of our people and country by regaining control to the people from this oligarchic predatory group, a handful of powerful bankers—powerful bankers who finally have succeeded when they could not when Thomas Jefferson was around.

If you think what I say is harsh, well, let me say first, like old Lloyd Garrison said, "I intend to be as harsh as truth and as uncompromising as justice."

This is what is called for now on all levels. I am not casting myself in a heroic role. I am just merely saying that if I were not, I would not have any ability to look myself in the eye.

As I said, it is just a fight that antedates my even coming to the Congress. I fought this fight in the Texas Senate, high interest rates, to the point that by the time I wrote that article in 1964, it was just 3 years after I had led the fight successfully to prevent by filibustering then in the State Senate what was obviously an exponential increase in the allowable usury limits on small loans—mind you, small loans. Always the justification is done in the most charitable and generous terms or framework of reference.

This was to enable the poorest of the poor to be able to go to the corner loan shark and get $5 and have a glorious, glorious opportunity to pay back 1,000 percent before the end of the month. Texas law made it allowable exactly the first month I came up and was sworn into the Congress in a special session they had down there, or the beginning of one, which they had failed when we filibustered even the beginning of the thread of that effort on the Senate level, the House of Representatives and the State legislature had approved, incidentally.

This is where we are today, except a lot worse, because in the meanwhile not only have we allowed, and this with congressional assent—as a matter of fact, on the last night of our session before the recess before the election; if I recall correctly it was October 2 when we broke up, on the last night of the session where we had activity, closer to 11 p.m. or 11:30 than 9—the Congress approved and the House passed the most far-reaching changes in our basic structural financial institutional setups since the 1935 Banking Act with not even a whimper. We were overwhelmed, and all in the name of what—that it was going to save savings and loans by creating a new paper or gimmick.

□ 1340

At this point, I wish to refer to the newsletter—and this is the last that I understand is being published—entitled "Credit and Financial Newsletter." It is published for the members of the National Association of Credit Management. It reflects, without intending to do so, very dramatically what we have done to ourselves, and why it is that, at this time, we on the congressional level have failed in two very important respects: First, to continue to represent the people, where all power rests.

We have gotten away from the basic constitutional thrust of our Government. The most revolutionary words in the world are still those first five words in the preamble to the Constitution. They were revolutionary in 1789 and they certainly are now, where it says, "We the people of the United States, in order to form a more perfect Union," et cetera. It does not say, "We, the Congress," or "I, the President," or "We the courts," or judges; it says, "We the people."

This is sovereignty. This is where the power comes. We have just gotten away from that and do not realize it.

What we are saying is that we developed into sort of an oligarchic control where basic decisions are not being made here in open debate; they are being made in those plush, carpeted offices of big bankers in New York and elsewhere.

There is an interesting paragraph, because they decided that this last issue would comprise what they call the new financial products. They say, "These accounts were all introduced," and incidentally approved by the Congress, "as a result of the high level of

interest rates that emerged during the 1970's, combined with the interest rate ceilings that constrained traditional banks and thrift institution deposits."

Then they list a host of, I call them gimmicks, what they call financial products, gimmicks. They have not worked. They have just postponed a little bit, but they are not saving anybody. They are going out like popcorn in a popper, businesses are going out.

Your hear about how interest rates have gone down. That was before the election. But businesses are still going out. They are going out in my hometown; they are going out throughout the country in record number.

The only reason is that never has history recorded in any country, much less in ours, which is predicated on the type of economy that I call the unique American—as I have said before, and apparently I guess I am believed to be so innocent or dumb that I have seen no adoption of that, but we are predicated on mass production based on mass consumption, and since World War II the other leg of that tripod, mass credit.

I come from a background that exposes me to the type of history that the average American is not exposed to. Therefore, I am quick to sense when things are happening up here and have spoken out accordingly. I have seen the puzzle of some of my colleagues at the time.

In the countries outside of our boundary, particularly south of us, right now interest rates—in the first place, we cannot equate our system at all. You have to make all kinds of allowances. But suppose you wanted to borrow money in Mexico 10 years, 15, 20, 5 years ago. If you could get 16 percent, you were lucky. Right now it is over 50 percent.

But the economy and the structure there is no comparison. There is no use trying to compare. But what is at balance now in this powerful, powerful struggle that, as I said, has been won by these powerful oligarchic and predatory interests. They have done, I am sorry to report—is that what is happening is that in their greed they have not seen that they have played around with this rather sensitive mechanism, and that what you have is the destruction of that apparatus.

How in the world are you going to revive these businesses that are dying? As one case in my district, an 80-year-old family business of the most serious type, nobody could accuse that family or its present directors of being profligate or being poor managers, but there is no way in the world that I know that any ordinary businessman can afford to fund his inventory for floor display or whatever you have at 17, 18, 16, or even 12 or 13 percent interest. There is no way you are going to stay alive, no way, unless you happen to have the resources that, incidentally and ironically, are available only to the multi-billion-dollar giants, gobbling each other up. Exxon and the other giants struggle to further, further consolidate this tremendous control and tremendous power.

One of the articles of impeachment that I have on Paul Volcker is that he has violated his trust as fiscal agent by exposing the American people to being defrauded and cheated and made bankrupt.

Secret meetings in Florida—mind you, not even in the New York Federal Reserve Board building, but in Florida—with Bunker Nelson Hunt, because he was able to tie up all of these allocations of bank credit which the small businessman is dying because he cannot receive. After all, banks are chartered. They are supposed to be chartered for public need and convenience.

Who says that is true any longer? Banks now divert over 50 percent of their resources in gobbling up other banks, in expanding and gobbling more, not to provide the fuel for the engines of industry and commerce and manufacture, but for speculative purposes that do not produce one job but, rather, diminish. They have sold the American birthright, and, of course, for more than a mess of pottage this time.

So I offer that article on credit and finance.

Now, there is also an interesting article that I think echoes this. If this can happen to such a sacred entity as the Vatican, can you imagine why it should not happen to our more human bankers?

I refer to an article, also in Business Week for December 13, on page 39, entitled "The Vatican: Tighter Strings on the Papal Purse."

Their bank got tied in with this horrible scandal which, incidentally, was sort of reminiscent of Wall Street collapsing when bankers were throwing themselves out of the windows. One Italian banker was found hung under a bridge in London. Another was mysteriously killed or died. They still have not discovered which.

□ 1350

I am just going to quote one sentence from this article:

> At the top of a growing list of Vatican embarrassments is the Ambrosiano case. In a complicated affair, Calvi, chairman of the bank, made $1,2 billion worth of unsecured loans to Ambrosiano's Latin American subsidiaries.

What has yet not come out is where, even tangentially, the American banks are also involved and have a few billions to worry with in that scandal, but also reflects that temptation for more, more, more. These interests, the more they have, the more they want. They will never satiate this kind of interest.

Humanity never has, as I said yesterday it has had to guard itself even 7,000 years before Christ in the Court of Hammurabi, where they had antiusury laws even then. All through Roman history, that was a big struggle. In England, that has been a struggle.

It is just impossible to believe when we in successive decades in the Congress, particularly, would have sold, abdicated, this very serious responsibility. As I said, after all, the Congress created the Federal Reserve Board. It was not a constitutional provision set up in the Constitution. It is something that was born out of laws, supposedly debated and passed here, but even then it is an interesting—intensely interesting—history.

The reason why we ended up with the Federal Reserve Act of 1913 was the reaction to the calamitous developments of 1980, in which we had precisely the same thing. That is, except that at that point our country was still burgeoning west, still opening up, but we had the same thing, that struggle to control what? The allocation of vital credit and resources. The struggle essentially is one that has yet to be determined, and that is whether the people under the Constitution will rule again, or the bankers.

INTRODUCTION OF IMMIGRATION BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky (Mr. MAZZOLI) is recognized for 5 minutes.

● Mr. MAZZOLI. Mr. Speaker, I have introduced today a new version of the Immigration Reform and Control Act of 1982. This bill is identical in all respects to the bill reported after full and complete deliberation by the Committee on the Judiciary except one.

In order to avoid what would be a technical violation of the Budget Act, I have added language to the bill which makes the salaries of the Immigration Board subject to available appropriations. This bill is identical in all other respects to the version which the committee ordered reported.

I intend to ask the Rules Committee to make this bill in order so as to avoid a potential problem under the Budget Act. In order to protect the rights of all others concerned, I shall also request that the Rules Committee make in order all amendments reported by other committees to the previous version of the bill, H.R. 6514, in the appropriate place in the new version.

All Members should be advised that the committee intends to request the Rules Committee to require that all amendments which Members intend to offer be printed in the CONGRESSIONAL RECORD in advance. Members who intend to submit such amendments are

advised that they should be drafted as amendments to this new version of the bill.●

TRIBUTE TO RAY MANCINI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. HORTON) is recognized for 5 minutes.

● Mr. HORTON. Mr. Speaker, I want to take this opportunity to say a few words about an outstanding individual and one of the best lightweight boxing champions to ever compete in this sport, Ray "Boom Boom" Mancini. We are all familiar with the tragedy surrounding Ray's recent defense of the WBA lightweight boxing championship title, which he holds. I extend my sympathy to the survivors of Du Koo Kim and also to Ray during this difficult period. It was my pleasure to have met Ray at a White House reception this year, and I know the anguish he must feel at this time.

Ray has faced many adversities in his quest for the lightweight title. But he has faced these adversities with courage and integrity, and he has won the title for which he worked so hard to achieve. Along the way, he has also won the respect and admiration of millions of fans from around the world, myself included among them. I wish him well, and I look forward to his return to the ring.●

THE LAW OF THE SEA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. LEACH) is recognized for 60 minutes.

Mr. LEACH of Iowa. Mr. Speaker, in Jamaica next week representatives of the vast majority of the world's nations will sign one of the most important and far-reaching treaties in the history of multilateral diplomacy—that establishing a law of the sea. The fact that the United States will not be a party to this historic convention marks a shameful blot in this country's diplomatic history.

We have much to lose and little to gain by turning our backs on the world community's efforts to govern access to and exploitation of the oceans and their resources. Not only has our choice to become an international pariah squandered 16 years of arduous negotiations that we largely initiated and produced a treaty that meets 95 percent of our needs—better in fact than we expected when we began the process—it has also removed any credible hope of using the Law of the Sea forum to improve the remaining 5 percent—the portion concerning deep seabed mining—that dissatisfies the affected U.S. interest groups.

It now appears that the administration has under consideration a unilateral declaration establishing an exclusive economic zone in the seas surrounding the United States, under the assumption that such a declaration would continue to have meaning under international law even after the ratification of the Law of the Seas Treaty. Such an action by the United States disregards the history of the treaty process itself. We pushed energetically for a "law of the sea" conference in the first place, precisely because of our desire to forestall the unilateral establishment of conflicting rules for access and exploitation of the oceans and their resources.

The administration now apparently thinks it can conduct "have your cake and eat it too" diplomacy, accepting treaty provisions it likes and ignoring features it does not even though from the beginning it was clear that there would of necessity be a "give and take" approach to the thorny issues involved. This mischievous tactic belies our original intentions and jeopardizes the strategic provisions of the treaty, such as those establishing on a permanent basis the right of passage through various straits, which are so essential to our national interests. It also sets a precedent for other countries to declare unilaterally economic zones and possibly sovereign jurisdiction more ambitious than we are contemplating declaring for ourselves. This U.S. precedent could initiate a series of discussions in precise contradiction to U.S. economic and commercial interests.

In his July 9 statement the President recognized that the vast majority of the provisions in the treaty serve U.S. national interests, but he noted that he made his decision to withdraw from further treaty discussions and not to sign the final documents based on imperfections in the seabed mining provisions. This over emphasis on an area of still unproven value appears to be a mistake of massive proportions, the full legal, political, and strategic ramifications of which could be centuries in unfolding.

The treaty has been opposed primarily by only one industrial group. However, it is conjectural whether any American mining company is likely to mine in international waters without the sort of international guarantee provided by a multilateral treaty. If an American-controlled company attempted to carry out mining operations at its own discretion, the United States could conceivably be challenged at the International Court of Justice—with a strong likelihood that the ICJ would be obligated to determine the United States to be a "pirate country" at the very time when few would deny the import of building up rather than shrinking international law.

Critics of the deep seabed mining provisions of the treaty have many valid points. However, some weaknesses of the treaty may still be modified at the Preparatory Commission.

In retrospect, it is difficult to imagine how we can with confidence refuse to attend Preparatory Commission meetings and refuse even to attempt to play a constructive role in the negotiating process, or how we can assume that the extremely desirable aspects of the bulk of this treaty will endure while we actively undermine the full treaty's legal foundation.

If the mining provisions are as unworkable as critics contend, it should become obvious to the international community, since no mining will take place. Modifications will necessarily be made—but in this case without effective U.S. input. In any case, our goal should be to insure that the 95 percent of the treaty that is vital to our strategic interests as well as the survival interests of mankind will remain in force during the period in which modifications of the mining provisions take place.

It cannot be emphasized enough that history is replete with wars that sprang from conflicts at sea. Our own War of 1812 comes to mind, and of course the resource acquisition traumas of the 1930's helped lead to the Japanese decision to carry out a preemptive attack on Pearl Harbor. The Reagan administation appears to have lost historical perspective on this issue and as a result sent an irascably counterdproductive delegation to attempt to deal with the deficiencies of the treaty. I know of no instance in U.S. diplomatic history in which U.S. interests at a vital negotiation were so ill-represented by a negotiating team as the post-Richardson delegation to law of the sea discussions. The lack of professionalism and the idealogical rigidly characteristic of our negotiators is unprecedented in American history.

Particularly unfortunate is the evidenced failure of the administration to develop a structure for responsible decision making on an issue which, with the exception of arms control, is likely to have as great historical ramifications as any decision this President is likely to make during his term of office.

In retrospect, it can only be described as extraordinary that the position of the United States of America at the first negotiating session in 1981—a session which was intended to be the culmination of a decade of multilateral negotiations—was that we had no position. At United States request, a second negotiating session was then called so that American concerns could be accommodated. Yet, again 5 months later at the second 1981 session, the position of the United States of America was that we had no position. We were still apparently assessing the merits of the treaty. This unprecedented negotiating nonposition

could not exemplify more how intransigent positions foster countervailing intransigence. By compounding ideological biases with a refusal to work forthcomingly with those who shared a differing perspective, the administration's nonnegotiating team forfeited any claim to be other than a saboteur of our broadest national interests.

A review of the U.S. decisionmaking process leads to the uncomfortable conclusion that professionals in the State Department—indeed Secretary Haig himself—had little say in the development of the U.S. position. Mining interests worked assiduously to place sympathetic individuals in key positions at State and Interior and kept a lock on NSC discussions which in turn appear to have been minimal and, particularly at the key early stages of treaty consideration, poorly staffed. As time elapsed and our negotiating techniques failed to achieve satisfactory accommodation on the seabed mining provisions the ideals greatly rigid rhetoric of our negotiators led to the locking in of the United States to a position of dubious viability.

The effort to expand the rule of law over two-thirds of the Earth's surface now appears to be jeopardized, potentially dooming what may well prove to be the most significant peacekeeping agreement of the latter half of the 20th century. For even if we see substantial progress in arms control in the next several decades, the probability remains that a number of countries, including our own, will continue for the foreseeable future to possess arsenals of war of civilization threatening proportions.

Under these circumstances, it is imperative that every effort be made to establish and broaden a regime of international law which makes conflict less likely to occur. This is in the final measure what the Law of the Sea Treaty is all about. Yet narrow ideology and commercial self-interest appears to have blinded us to a pragmatic and proper historical perspective on the issue. It simply becomes impossible not to question the administration's priorities when unrestrained defense spending is embraced but serious negotiations are abandoned. Given the enormous sacrifices the American people are being called upon to make for the sake of protecting national interests through defense spending, they deserve a good faith effort to accomplish the same ends through diplomacy. The refusal to negotiate responsibly under these circumstances was and is unconscionable.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. PHILLIP BURTON (at the request of Mr. WRIGHT), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. PEYSER, for 30 minutes, December 7, 1982.

Mr. GONZALEZ, for 60 minutes, on December 6, 1982.

Mr. GONZALEZ, for 60 minutes, on December 7, 1982.

Mr. GONZALEZ, for 60 minutes, on December 10, 1982.

(The following Members (at the request of Mr. DAUB) to revise and extend their remarks and include extraneous material:)

Mr. LEACH of Iowa, for 60 minutes, today.

Mr. BUTLER, for 60 minutes, today.

(The following Members (at the request of Mr. HOYER) to revise and extend their remarks and include extraneous material:)

Mr. GONZALEZ, for 60 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. WILLIAM J. COYNE, for 5 minutes, today.

Mr. MAZZOLI, for 5 minutes, today.

Mr. PEYSER, for 60 minutes, December 13.

(The following Member (at the request of Mr. COLLINS of Texas) to revise and extend his remarks and include extraneous material:)

Mr. HORTON, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. BUTLER, and to include extraneous matter in the RECORD and include therein extraneous material notwithstanding the fact that it exceeds two pages and is estimated by the Public Printer to cost $3,984.75.

(The following Members (at the request of Mr. DAUB) and to include extraneous matter:)

Mr. YOUNG of Alaska.

Mr. MCCLORY.

Mr. BEREUTER.

Mr. FISH.

Mr. PURSELL.

Mr. HYDE in two instances.

Mr. LAGOMARSINO.

Mr. COLEMAN.

Mrs. ROUKEMA.

Mr. CARMAN in two instances.

(The following Members (at the request of Mr. HOYER) and to include extraneous matter:)

Mr. DE LA GARZA in 10 instances.

Mr. WASHINGTON in two instances.

Mrs. KENNELLY.

Mr. MOFFETT.

Mr. BARNES in two instances.

Mr. BONIOR of Michigan.

Mr. FLORIO.

Mr. LUNDINE.

Mr. RATCHFORD.

Mr. ROE.

Mr. OBERSTAR in two instances.

Mr. DONNELLY.

Mr. SKELTON.

Mr. HUBBARD.

□ 1400

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 2 minutes p.m.), under its previous order, the House adjourned until Monday, December 6, 1982, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5206. A letter from the Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting notice of the proposed conversion to contractor performance of the supply, storage and warehousing, and logistics management office at Harry Diamond Laboratories, pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

5207. A letter from the Principal Deputy Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notice of the proposed conversion to contractor performance of the custodial services function at the Naval Air Rework Facility, Alameda, Calif., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

5208. A letter from the Principal Deputy Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notice of the proposed conversion to contractor performance of the motor vehicle maintenance, refuse collection, and taxi operation functions at the Naval Shipyard, Charleston, S.C., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

5209. A letter from the District of Columbia Auditor, transmitting a report on the "lease of public space under Dupont Circle," pursuant to section 455 of Public Law 93-198; to the Committee on the District of Columbia.

5210. A letter from the General Counsel, Department of Energy, transmitting notice of a meeting relating to the international energy program to be held on December 2 and 3, 1982, London, England; to the Committee on Energy and Commerce.

5211. A letter from the Administrator, Environmental Protection Agency, transmitting the semiannual report of the Agency's Inspector General, covering the period ended September 30, 1982, pursuant to section 5(b) of Public Law 95-452; to the Committee on Government Operations.

5212. A letter from the Secretary of Labor, transmitting the semiannual report of the Department's Inspector General, covering the period ended September 30, 1982, pursuant to section 5(b) of Public Law 95-452; to the Committee on Government Operations.

5213. A letter from the Secretary of Transportation, transmitting the semiannual report of the Department's Inspector

General, covering the period ended September 30, 1982, pursuant to section 5(b) of Public Law 95-452; to the Committee on Government Operations.

5214. A letter from the Clerk of the U.S. Claims Court, transmitting a copy of the court's opinion in Docket No. 363, *Lower Sioux Indian Community in Minnesota, et al* v. *the United States*; to the Committee on Interior and Insular Affairs.

5215. A letter from the Secretary of Transportation and the Chairman of the Interstate Commerce Commission, transmitting a report making recommendations for a more efficient and equitable system of State regulations for interstate motor carriers, pursuant to section 19 of Public Law 96-296; to the Committee on Public Works and Transportation.

5216. A letter from the Chairman, Federal Election Commission, transmitting the Commission's fiscal year 1983 request for a supplement appropriation, pursuant to section 307(d)(1) of the Federal Election Campaign Act, as amended; jointly, to the Committees on Appropriations and House Administration.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. PEPPER: Committee on Rules. House Resolution 620. A resolution providing for the consideration of H.R. 6211, a bill to authorize appropriations for construction of certain highways in accordance with title 23, United States Code, for highway safety, for mass transportation in urban and rural areas, and for other purposes. (Rept. No. 97-944). Referred to the House Calendar.

Mr. PERKINS: Committee on Education and Labor. H.R. 7130. A bill to provide a national policy for engineering, technical, and scientific manpower, to provide for cost sharing by the private sector in training such manpower, to create a national Coordinating Council on Engineering and Scientific Manpower, and for other purposes; with an amendment (Rept. No. 97-933, Pt. II). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. MAZZOLI (for himself and Mr. FISH):

H.R. 7357. A bill to revise and reform the Immigration and Nationality Act, and for other purposes; to the Committee on the Judiciary.

By Mrs. BYRON (for herself, Mrs. HOLT, and Mr. DYSON):

H.R. 7358. A bill to insure that rates charged by natural gas companies are market sensitive; to the Committee on Energy and Commerce.

By Mrs. COLLINS of Illinois:

H.R. 7359. A bill to amend title 18 of the United States Code to make unlawful the adulteration of food, drugs, and cosmetics carried out for the purpose of causing death or injury; to the Committee on the Judiciary.

By Mr. ANDERSON (for himself, Mr. SHUSTER, Mr. HOWARD, and Mr. CLAUSEN):

H.R. 7360. A bill entitled "Surface Transportation Assistance Act of 1982"; to the Committee on Public Works and Transportation.

By Mrs. HOLT:

H.R. 7361. A bill to require the Secretary of the Interior to convey certain land located in the State of Maryland to the Maryland-National Capital Park and Planning Commission; to the Committee on Interior and Insular Affairs.

By Mr. HUGHES (for himself, Mr. RODINO, Mr. MCCLORY, Mr. BROOKS, Mr. SAWYER, Mr. FISH, Mr. HYDE, Mr. MOORHEAD, Mr. CONTE, Mr. MAZZOLI, Mr. MCCOLLUM, and Mr. SHAW):

H.R. 7362. A bill to amend title 18 of the United States Code to provide additional Federal penalties for tampering with certain consumer products, and for other purposes; to the Committee on the Judiciary.

By Mr. LUNDINE:

H.R. 7363. A bill entitled "The Specialty Steel Fair Trade Act of 1982"; to the Committee on Ways and Means.

By Mr. McCOLLUM:

H.R. 7364. A bill to amend title 11 of the United States Code with respect to interests in timeshare premises; to the Committee on the Judiciary.

By Mr. SEIBERLING:

H.R. 7365. A bill to amend title II of the Social Security Act to liberalize the earnings test for postsecondary students who have attained age 18, but who nevertheless continue to qualify for child's insurance benefits under section 202(d) of such act (on a specially reduced basis) despite the general elimination of all benefits for such students in 1981, so that further reductions because of such students' outside earnings will not prevent them from continuing their education; to the Committee on Ways and Means.

By Mr. SKELTON:

H.R. 7366. A bill to establish the Harry S Truman National Historic Site in the State of Missouri, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. ZABLOCKI (for himself, Mr. FASCELL, Mr. BROOMFIELD, and Mr. DERWINSKI) (by request):

H.R. 7367. A bill to amend the Board for International Broadcasting Act of 1973 to authorize additional appropriations for fiscal year 1983; to the Committee on Foreign Affairs.

By Mr. OTTINGER:

H. Res. 618. Resolution to commend St. Paul's Church in Mount Vernon, N.Y., in recognition of its significant role in the development of the bill of rights; to the Committee on Post Office and Civil Service.

By Mr. SOLOMON (for himself, Mr. FIELDS, Mr. WHITEHURST, and Mr. MONTGOMERY):

H. Res. 619. Resolution expressing the sense of the House of Representatives concerning the validity of the current Selective Service Registration System; to the Committee on Armed Services.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1129: Mrs. HOLT.

H.R. 2034: Mr. GOODLING.

H.R. 5531: Mrs. SCHNEIDER and Mrs. HECKLER.

H.R. 6009: Mr. MINETA.

H.R. 7108: Mr. PATMAN, Mr. DANNEMEYER, and Mr. MARKEY.

H.R. 7322: Mr. WEISS, Mr. UDALL, Mr. ROUSSELOT, Mr. LOWRY of Washington, Mr. NEAL, Mr. SEIBERLING, Mr. MARKEY, Mr. CROCKETT, Mr. LAGOMARSINO, Mr. BARNES, Mr. FRENZEL, Mr. HUGHES, and Mr. BROWN of California.

H.J. Res. 539: Mr. ERDAHL, Mr. SIMON, Mr. KEMP, Mr. ASPIN, Mr. ALBOSTA, Mr. GILMAN, Mr. ATKINSON, Mr. SANTINI, Mr. KRAMER, Mr. OBERSTAR, Mr. HANSEN of Idaho, Mr. EMERY, and Mr. SWIFT.

H. Con. Res. 425: Mr. RATCHFORD, Mr. GILMAN, and Mr. GUARINI.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3269: Mr. LOWRY of Washington.

PETITIONS, ETC.

Under clause 1 of rule XXII,

668. The Speaker presented a petition of the Aerospace Lodge 2297, International Association of Machinists & Aerospace Workers, North Carolina, relative to the civil service retirement system; which was referred to the Committee on Post Office and Civil Service.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 6211

By Mr. APPLEGATE:

(To the amendment in the nature of a substitute.)

—Strike out section 401 and insert in lieu thereof the following new section:

SEC. 401. Section 401 of the Surface Transportation Assistance Act of 1978 is amended to read as follows:

"SEC. 401. (a) Notwithstanding any other provision of law, the Secretary of Transportation shall not obligate any funds authorized to be appropriated by this Act or by any Act amended by this Act or, after the date of enactment of this Act, any funds authorized to be appropriated to carry out this Act, title 23, United States Code, or the Urban Mass Transportation Act of 1964 and administered by the Department of Transportation, unless steel, cement, and other manufactured products used in such project are produced in the United States.

"(b) The provisions of subsection (a) of this section shall not apply where the Secretary determines that such products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality.

"(c) As an exception to subsection (a), for the procurement of bus and other rolling stock under the Urban Mass Transportation Act of 1964, the manufactured products which go into the vehicles may be of foreign origin to the extent of 50 percent of the cost of all components of the vehicles. Final assembly of the vehicles must take place in the United States.

"(d) For purposes of this section, in calculating components' costs, labor costs in-

volved in final assembly should not be included in the calculation.

"(e) The Secretary of Transportation shall not impose any limitation or condition on assistance provided under this Act, the Urban Mass Transportation Act of 1964, or title 23, United States Code, which restricts any State from imposing more stringent requirements than this section on the use of articles, materials, and supplies mined, produced, or manufactured in foreign countries in projects carried out with such assistance or restricts any recipient of such assistance from complying with such State imposed requirements.".

By Mr. SHAW:
—Page 33, strike out section 121.
—Page 37, section 121, line 12, strike out "unless" and all that follows through the semicolon on line 15.

H.R. 6957

By Mr. DANNEMEYER:
—Page 14, line 19, strike "$63,638,000" and insert in lieu thereof "$60,838,000".

H.R. 7355

By Mr. GARCIA:
—At the end of title VII (page —, after line —), insert the following new section:

SEC. —. None of the funds appropriated by this Act may be used—

(1) to operate, maintain, or provide personnel support services for the dining room of the Secretary of Defense in the Pentagon;

(2) for the pay of enlisted members of the Armed Forces assigned to duty as personal aides to general and flag officers; or

(3) for the provision of veterinary care for pets of members of the Armed Forces or their dependents.

SENATE—*Friday, December 3, 1982*

(Legislative day of Tuesday, November 30, 1982)

The Senate met at 10:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Happy is he that hath the God of Jacob for his help, whose hope is in the Lord his God, which made Heaven, and Earth, the sea and all that therein is; which keepeth truth for ever, which executeth judgment for the oppressed.—Psalm 146 : 5-7.

Thy word declares, O Lord, that "Rulers are not a terror to good works, but to the evil"—that they are "the ministers of God for good." (Romans 13:3, 4). Let this be true of the Senate, O God, and the leadership of our Nation.

Sovereign Lord, in the confrontation and confusion of conflicting theories and ideologies, lead Thy servants in the way of divine wisdom—in the way of truth and justice and integrity. Help them not to major in minors and play political games that polarize, paralyze and frustrate constructive action. May these fast closing hours of the 97th Congress not be a waste of energy and time and money. In Jesus' name we pray. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

THE JOURNAL

Mr. STEVENS. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SENATE SCHEDULE

Mr. STEVENS. Mr. President, in the absence of the majority leader, I point out to Members of the Senate that, according to our announced goal, the Senate has 10 working days remaining before we would adjourn on December 17. During that time, we have a series of appropriations bills, a series of bills that have been listed as must legislation by many people, and a continuing resolution to complete in order to prevent, once again, the last-minute crisis that comes from the failure to fund the actions of the Government for a full fiscal year.

The leadership requests all Senators to assist in expediting the consideration and the completion of those bills in the appropriations area which we feel can and should be passed before the final consideration of the continuing resolution.

The priority items will be cleared on both sides. We do have an increasing number of Senators who are indicating an unwillingness to recognize the necessity for acting on some of those bills. Again, I point out that the distinguished majority leader has indicated that he is not committed to a December 17 adjournment sine die. There are things that must be done before we go home; and, if necessary, we will stay beyond December 17.

Mr. WARNER assumed the chair.

THE U.S. COMMITMENT TO NATO

Mr. STEVENS. Mr. President, during the month of November, together with Senator JACKSON, Senator MCCLURE, Senator ANDREWS, and Senator MURKOWSKI, I visited several NATO countries. We had the opportunity to address problems of the United States at the meeting of the North Atlantic Assembly.

In particular, I made a statement to the military committee session of the North Atlantic Assembly on the subject of U.S. troops committed to NATO.

For some time now, the Defense Subcommittee of the Appropriations Committee has been looking at the question of U.S. troop levels and the relationship of those troop levels not only to our spiraling Federal deficit but also to the NATO commitments made and kept by other members of NATO. There is no doubt that the trend in the cost of the U.S. commitment to NATO has surged upward.

Mr. President, in 1981, that cost was $78 billion. In the bill we will bring before the Senate next week, the cost of the NATO commitment is $133 billion, a $55 billion increase in 2 years.

We must come to grips with this situation or we will face demands in the not-too-distant future that the troop strengths in Europe be reduced dramatically in order to continue our modernization program. As one who is committed to the modernization program, I fear greatly that one or the other must give, unless we put controls on the ever-expanding troop commitment to Europe.

Some people have accused me of recommending withdrawal of troops from Europe. That is not so, and I do not know how strenuously I can state it to the Senate. The disturbing numbers are that within the last decade, 60,000 additional U.S. troops have been committed to the NATO forces, while at the same time Central European forces of the NATO countries have been reduced by 56,000.

When I was in Britain and met with the British Defense Minister, I was informed, as were the other Senators I mentioned who were there, that the British will withdraw an additional 2,000 of their troops from the Continent in the immediate future, reducing their troop strengths from 57,000 to 55,000. That is being done because their commitment is, in fact, 55,000. They are coming back to the level of their actual commitment to NATO, and no one is disturbed by that, because that is the level of their commitment.

We are trying to make the U.S. Senate and Congress face up to the question of determining what is the level of our troop commitment to NATO. When we look at the entire budget of the United States in 1965, I think the Senate would be surprised to find that in that year, the total budget of the U.S. Government—the total budget—was approximately $133 billion. As I have said, in the fiscal year we are now entering, the commitment of the U.S. Government to NATO alone is $133 billion. Our commitment to NATO in 1983 is equal to the total expenditures of the Federal Government in 1965.

I am a supporter of NATO. I firmly believe in NATO. With the exception of the years I was unable to go because of the accident I was involved in, I have gone to NATO as a representative of the Senate.

I ask the Senate to be realistic. The U.S. per capita defense expenditure is double that of any other NATO country. In 1981, we spent $730 per person, as compared to $442 per person for France and $62 per person for Turkey.

Mr. President, many people are telling me that we cannot afford to take up this question. I say that the Nation cannot afford not to take up the question of the level of our troop commitment to NATO.

I support a strong defense. I want a strong NATO alliance, and I want one that will survive. In order to accomplish those goals, our expenditure of

resources must be rational, reasonable, equitable, and effective. If we do not make the decisions that must be made, future Congresses will have no choice but to make quick decisions as to whether to continue our modernization program or to reduce dramatically our force commitment to NATO at a time when it would be misunderstood. I am asking the Senate to understand.

I ask unanimous consent to have printed in the RECORD—and I urge Members of the Senate to read—the statement I made, as the chairman of the Defense Appropriations Subcommittee, to the NATO parliamentarians in Europe.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY U.S. SENATOR TED STEVENS

There have been comments made about the Senate Appropriations Committee's recommendation to stabilize the growing number of U.S. troops committed to NATO—comments which require clarification.

According to the Defense Department's figures, the cost of the U.S. commitment to NATO in 1981 was $78 billion, and in 1983 it has risen to an estimated $133 billion. This is a staggering increase—particularly when we examine the relative defense burdens per capita of our NATO allies.

Per capita defense expenditures, 1981

	U.S. dollars
United States	730
France	442
United Kingdom	439
Norway	402
Germany	348
Belgium	377
Netherlands	319
Denmark	280
Greece	238
Canada	211
Italy	151
Portugal	84
Turkey	62

As pointed out in Mr. Forrestall's Draft Report, between 1975 and 1982 U.S. forces in Europe have increased by 58,000—but during the same period active duty forces of our European allies decreased by 56,000. Much of the U.S. increase is in support—not combat personnel.

Our problem relates to increased manpower actually in Europe as we increase the deployment of high technology weapon systems to our NATO forces in Europe. In 1971, during the Mansfield resolution debates—resolutions, incidentally, which I and Senator Jackson vociferously opposed and voted against—there were approximately 300,000 U.S. troops in Europe. Today, the Defense Department tells us there are about 355,000, although the end strength ceiling for September 30 was 346,500.

We have to face reality; the trend here in costs of the U.S. commitment and the manpower deployed in Europe have surged upward. Those of us who have supported our NATO commitment, as I have now for 14 years, must take the responsibility for leveling off the costs of that commitment or we will face demands in the Congress that the commitment itself be reduced.

While the Mansfield debates were taking place, so were the mutual balanced force reduction talks. No progress has been made in those talks in the intervening eleven years, but we are still asked to await their outcome. We must maintain our commitment to NATO on the basis of deployments we can afford—but we cannot afford both to modernize our defense systems and continue to increase U.S. military manpower in Europe.

In addition to the costs of the manpower, we now have new requests for NATO military construction costs—a program exceeding $10 billion in four years for the Army alone. It is unrealistic to believe the host nation will pay those costs—costs associated with increased demands for real property, for troop and dependent housing, and modernization of existing facilities.

We are not talking about a costly troop withdrawal. We have recommended adjusting year-end permanent troop levels consistent with the total end strength troop levels Congress has authorized. There will be no cost increases associated with stabilizing U.S. troops in Europe under the Senate Appropriations Committee proposal. Above all, we will not face increased military construction costs in the U.S. of the magnitude of $10 billion in four years.

Our nation now faces a projected $200 billion deficit in 1984. Anyone who believes that we can endure such a deficit—particularly as we struggle to recover from the worst recession since the '30s—is just not facing reality.

I am firmly committed to NATO, and the Senate Appropriations Committee has never faltered in its support for NATO. Those of you who hear and see the debate in your homes on other shores must, I feel, realize that this, as I said in the beginning, is an economic issue, not a military or diplomatic debate. When it occurs, I urge you to realize that U.S. appropriations for defense grew from $85.7 billion in 1975 to $178.4 billion in 1981, and they increased by $35.7 billion in 1982 and are to increase by another $43.4 billion in 1983.

That trend cannot continue, for we in the United States face a compounding national debt. That debt is now over $1.2 trillion with annual interest payments accelerating from $95 billion in 1981 to about $130 billion in 1983.

Common sense requires those of us in the Senate who want a strong defense and particularly want NATO to remain the deterrent to war that it has been for 35 years must take the lead in adjusting our defense spending. If we do not, we will be replaced in Congress by people who come to office dedicated to drastic defense cuts. We will lose the vital public support for a strong defense program, and our United States commitment to NATO will be jeopardized.

The choice as I see it is to manage our defense expenditures widely now—including NATO support—or risk damaging cutbacks in 1984 and succeeding years.

ORDER OF PROCEDURE

Mr. PROXMIRE. Mr. President, the minority leader told me that I could use his time. I also have a special order.

Does the Senator from Virginia wish time?

Mr. HARRY F. BYRD, JR. No.

Mr. PROXMIRE. So I shall proceed as rapidly as I can.

I understand the Senator from Michigan also has a special order which will follow mine.

Mr. STEVENS. May I inquire of the Senator from Wisconsin?

Mr. PROXMIRE. Certainly.

Mr. STEVENS. Mr. President, may I inquire of the Senator from Wisconsin then, is it the Senator's intention to utilize 25 minutes at this time and then yield to the Senator from Michigan? Is that the plan? I have no objection. I just wish to plan my schedule.

Mr. PROXMIRE, Yes. What I wish to do is use my own 15 minutes first and reserve as much of the leader's time as possible for him if he wishes to use it at a later time. I think I can probably finish in 15 minutes and yield to the distinguished Senator from Michigan. I may take a minute or two more.

Mr. METZENBAUM. Mr. President, will the acting majority leader yield for a question?

Mr. STEVENS. If the Senator from Wisconsin will yield to me, yes.

Mr. PROXMIRE. Yes.

Mr. METZENBAUM. Could the acting majority leader perhaps also apprise the Senator of this? Could we be given some indication as to what the intended schedule is for today, or if he cannot do that, can we be placed upon at least 20 minutes or a half hour's notice in the case that the Senator might move to matters that I may have been interested in?

Mr. STEVENS. I might say to the distinguished Senator from Ohio I thought perhaps he and I may be able to get a time limitation to take up the Alaska railroad bill so we would not have to argue that for the next 6 years.

Mr. METZENBAUM. I was just about to commend the Senator from Alaska on his fine speech that he made limiting the number of troops we have in Europe until he got me so upset by this new suggestion of his.

Mr. STEVENS. Perhaps we might make a time agreement on the timber bill or some other bill here. We are trying to get a time agreement on some bills today. I am happy to see the Senator from Ohio here because I think he, above all people, would be in a position to assist us to get some business before the Senate today.

Does the Senator from Ohio have some bill he wishes to take up today?

Mr. METZENBAUM. The Senator from Ohio has no particular bill, nor does he have any objection to the Senate proceeding with normal routine matters in accordance with the President's suggestion that we reconvene.

I wish to be as helpful as possible to the leadership. I only wish to be apprised if there are some matters in which I do have great concern that may be coming to the floor.

Mr. STEVENS. I might say to my good friend we will be pursuing the question of trying to find some busi-

ness today and we will, of course, notify the leadership on the other side if we intend to call up anything. We have several bills that we are looking at now, and we wish to do some business today, but so far we have been frustrated as far as being able to find anything that could be taken up by agreement.

I am trying to reach the majority leader now to see whether we should attempt to move to take up something else under the circumstances. I cannot definitively answer the Senator's question, but I have nothing cleared at this moment to take up other than routine business.

Mr. METZENBAUM. I thank the acting majority leader.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator from Alaska yield?

Mr. STEVENS. I will yield if the Senator from Wisconsin will yield to me?

Mr. PROXMIRE. I am happy to yield.

Mr. HARRY F. BYRD, JR. May I ask the acting majority leader, is there any plan to take up H.R. 5427, which is on page 27 of the calendar, an act to provide for the broadcasting of accurate information to the people of Cuba, Radio Marti?

Mr. STEVENS. I might say to my good friend, although I joined in the letter to the Senate yesterday urging that that be cleared, that matter has not yet been cleared on either side, I am sorry to report.

Mr. HARRY F. BYRD, JR. I thank the Senator.

Mr. STEVENS. Again I inquire of the Senator from Wisconsin, is it his intention than to reserve the leadership time for later and proceed with the special order?

Mr. PROXMIRE. Yes, indeed, I wish to do that, but I will use such part of the leadership time if I have to do that.

Mr. STEVENS. I have no objection to the Senator from Wisconsin using leadership time on any matter he wishes. It is my understanding that following the Senator from Wisconsin the Senator from Michigan will be recognized for 15 minutes and after that time there will be a period for the transaction of routine morning business.

EXTENSION OF ROUTINE MORNING BUSINESS

Mr. President, I now ask unanimous consent that the time for the transaction of routine morning business be extended to not past 11:45 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

WHAT'S WRONG WITH THE 5-CENT GASOLINE TAX

Mr. PROXMIRE. Mr. President, if there has been any simple, clear, and overwhelmingly accepted assumption, it is that the so-called lameduck session of Congress would pass the gasoline tax to fund an expanded highway program.

I am not so sure that is going to happen without considerable change in the program, of course it may happen. Many people assume it is going to happen because the Speaker of the House of Representatives has announced his support as has the majority leader of the Senate. The President of the United States has said he will support it, and the Ways and Means Committee yesterday reported out a 5-cent gasoline tax for this express purpose.

However, Mr. President, there are some who have studied this problem carefully who question whether this is a sensible idea, and I refer especially to the Governor-elect of Wisconsin, elected November 2, Anthony Earl, who has written a letter to the Washington Post expressing why the gas tax idea is a bad idea, a bad idea for our State, a bad idea, I might say, for Michigan, and a bad idea for Ohio, Indiana, and a number of other States that are particularly hard hit by unemployment.

I am going to read this letter into the RECORD and I am going to interpolate observations as I go along because I think it is so important that Members of Congress be aware of a legitimate, intelligent, thoughtful objection to proceeding so rapidly with a program that might be a serious mistake.

Governor-elect Earl writes:

As governor-elect of an economically distressed Midwestern state, I have spent the four weeks since the election in transition briefings learning in minute detail about the problems and the policy choices that will confront me in January. Not once so far in the search for answers has anyone jumped up in a briefing and said, "What this country needs is a good 5-cent gas tax increase."

So before Congress constructs a bona fide bandwagon for highway legislation during the lame-duck session, will somebody explain once again why this particular highway legislation is important and why those of us digging out of the economic rubble in the Midwest should be happy to see it?

It is not that the roads and bridges in Wisconsin and the Midwest do not need attention. On the contrary, the amount of investment needed for basic road preservation efforts is staggering, as it is in other parts of the country.

It is not that we feel that enough money is already being devoted to highway needs. Rather, stagnant highway revenues and repeated deferral of necessary revenue increases at all levels have contributed greatly to the current situation.

And it is not that jobs are not needed in the region. New jobs are in desperate demand, especially jobs related to a productive investment in our economic future, like highway jobs.

Yet, on balance, it appears that the legislation likely to be considered by Congress will do more harm than good for Wisconsin and much of the Midwest. Unless the highway legislation that is actually passed makes some significant changes in the traditional Federal highway program, passage of highway legislation this session will be one more problem to be overcome by several distressed States.

First, the jobs issue: everyone agrees that the highway legislation being proposed is not a jobs bill, as such. But everyone recognizes that if there were not intense pressure for some Federal action to stimulate job creation, this legislation would not have such a high priority.

What seems to be overlooked in the rush for legislation is that the existing Federal highway program, with its dedicated user taxes and categorical distribution formulas, is highly redistributive. It taxes all highway users equally, but sends far more back to some states in proportion to their contributions than to others. Thus a dollar of Federal highway taxes will result in $1.50 in Federal aid in one State, but will produce only 65 cents of Federal aid in another.

For the "loser" States, the Federal highway program actually exports jobs to other States. A 5-cent Federal gas tax increase would cost Wisconsin highway users about $100 million annually, but we would expect to get back only $70 million under existing formulas. The $30 million difference would be our contribution to highway construction employment in other States, most of which have lower unemployment than ours.

There are even bigger losers under the highway program who can afford their losses even less. Michigan (14.5 percent unemployment) would get back only 67 cents per dollar contributed, and would export about $150 million in Fiscal Year 1983 under the highway legislation under consideration by the House; Ohio (12.3 percent unemployment) would get 76 cents back, and export about $134 million; Indiana (11.4 percent unemployment) would get back only 68 cents, and export about $125 million.

Now, Mr. President, I might point out that the unemployment percentages that I give here are already out of date. This morning the Bureau of Labor Statistics reported the newest unemployment figures, unemployment figures for November, and they show a sharp increase, one of the sharpest increases we have had. We now have 12 million people out of work in this country, and the figures I have given here are worse now, particularly worse, in these States, in Michigan, in Indiana, Ohio, and Wisconsin, than they were when Mr. Earl wrote this letter a couple of days ago.

As Governor-elect Earl points out:

This inequity exists in the current highway program at current tax levels. If the federal gas tax is raised and highway funding increased without changing the pattern of spending, the percentage relationships will remain the same, but the absolute amount of dollar loss from these states will, of course, grow even larger.

Unless the highway legislation expressly recognizes unemployment as a factor for distributing funds, or some realistic minimum level of return on contributions is established, an expanded highway program could actually worsen the relative economic

positions of some of the most severely affected states.

This minimum is not as farfetched as some might think. We have a minimum, as we all know, for every State. No State will get less than one-half of 1 percent, which means some States get a far higher return of highway dollars than they contribute in gasoline taxes.

It has been proposed that instead of getting 67 cents, as Michigan now gets, or 70 cents as Wisconsin gets, or something similar as Ohio and Indiana get, the minimum any State gets be 85 percent or 90 percent of what they contribute. Of course, that is politically difficult to achieve because it means some States that get a great deal, in fact get more than $1 for every $1 they pay in taxes, would have to share part of that benefit and would get less.

The other argument that is most often made in support of immediate action on an expanded federal highway program is that we can no longer ignore our decaying "infrastructure," especially the roads and bridges that serve as the basic arteries of mobility and commerce.

Mr. President, I have heard this over and over again, people say that this is not a jobs program, it is a reconstruction program, and we should do it whether or not we had unemployment, we should do it because our roads and highways are falling into bad condition.

Governor Earl meets that issue and he meets it head on, he meets it properly.

This is also not simply a repair program for our highways. It is something else.

Again, this concern is valid. There is a need for greater resources to be devoted to highway system preservation at all levels.

Most often, rehabilitation of aging Interstate routes and repair or replacement of vital bridges are cited as examples of what increased emphasis on the highway program will accomplish.

But under last year's program, only 22 percent of the federal aid was directed at those two critically important needs. Under the bill to be considered by the House for an expanded program, in FY 83 the proportion of federal aid for these categories would rise only to 29 percent. By contrast, by conservative estimate, probably more than 40 percent of the expenditures from the Highway Trust Fund under the House bill would go for new construction.

This is not repairing roads and bridges that are in bad shape. this would go for new construction.

The remainder would probably be used for resurfacing, rehabilitation and reconstruction of routes not on the Interstate system.

Further, much of the work that is usually associated with road and highway repair is not done with federal aid: pothole repair, joint and shoulder repair, minor bridge repair and resurfacing of many older roads. These are specifically excluded from the federal program because they are defined as maintenance, which is a state or local responsibility, or because the most cost-effective repair or resurfacing alternative did not allow for widening shoulders, grading new sightlines or leveling hills, which is necessary to qualify for federal aid.

Two other factors about a federal gas tax increase and an expanded federal highway program appear to raise red flags at the state level.

First, most states are currently facing a need for increased revenues to fund their own basic preservation efforts. If a federal gas tax is passed along with a federal aid program geared to upgrading and new construction, many states may find it difficult to raise their own taxes next year enough to fund basic state and local preservation programs.

Second is the broad consensus that is developing in favor of completely redefining and restructuring federal-state highway relationships.

There is agreement that essentially local needs should be met locally, and that the future federal responsibility should only involve highways of overriding national concern. There is not yet agreement on where the lines of local and national interest should be drawn, on whether responsibilities and fiscal capacity will be passed in tandem to states, or on what the size and scope of the remaining federal programs should be.

Just 2 weeks ago, as a matter of fact, the Governors proposed that the so-called new Federalism embrace a complete assumption or virtually complete assumption by the States for transportation, education, housing, urban development, and that the Federal Government take over among other responsibilities the full cost or welfare programs and health programs, medicaid, and so forth, completely.

This seems to me to be a sensible proposal because the biggest losers in the so-called new Federalism as originally proposed would undoubtedly be the poor for many reasons with which we are all familiar. But in the new trade off the poor would fare far better. It would mean the Federal Government would have full responsibility for those who are poor and have been discriminated against in States, whereas the States have the political incentive that they have always had to take care of these other programs which are within their jurisdiction.

If that were the case and they should take over transportation, of course this program, a 4-year program, could very well interfere with it.

Further, as documented by a Congressional Budget Office study this summer, there is increasing uncertainty regarding whether there exists either the fiscal capacity or the justification to continue blindly to pour money into a pot called "Interstate completion" since only one-quarter of the remaining cost actually represents unbuilt links in the intercity network, the rest being local segments primarily of benefit to commuters in various cities.

Then Governor-elect Earl concludes as follows, and I think this conclusion makes some sense. I realize it is late in the day comparatively as this lame-duck session moves along. We have only a few days left and we have, as I say, the Speaker, the majority leader, the President of the United States, and the Ways and Means Committee all behind the present version of the gas tax highway bill, which means it may be very hard to slow it down, but Governor-elect Earl says this:

Considering the serious, informed questioning of the existing program that is going on, in contrast to the almost universal support that it has historically enjoyed, this does not appear to be the time for Congress routinely to authorize, and in fact to expand, the traditional program for four more years. If such authorization is enacted, it should come only after Congress has had time to examine the alternative approaches that have been proposed. The current session does not appear likely to offer an opportunity for realistic consideration of alternatives.

Mr. President, I do hope Members of Congress will consider this objection by a brilliant new Governor-elect of a State that would be, as he pointed out and he documents this very well, adversely hit by the program that is now pending in the House and that could sweep through the Congress unless we revise it sharply or, as the Governor-elect asks, that we postpone it until we can give it much more adequate consideration.

I also hope that Members of Congress would recognize the fact that at a time when we are greatly reducing the burden of income taxes on our people, a reduction which does sharply decrease taxes for people with high incomes, that we be very careful about increasing a regressive tax, a flat tax, a sales tax, a tax which hits people with modest incomes, those who have to drive long distances to work and may have small pay when they get to work.

HUMAN RIGHTS VIOLATIONS IN UGANDA GIVE A NEW URGENCY FOR THE ADOPTION OF THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, in December 1980 Dr. Milton Obote, the new President of Uganda, pledged in his inaugural address that he would construct a "government of law" that would "work for human compassion, rights, and dignity." These words were received with great joy and relief by a nation that had just experienced 8 years of widespread and wanton violence under Gen. Idi Amin Dada. It seemed then that Uganda had finally been delivered from Amin's genocidal legacy and was set on a course of national consolidation and rejuvenation. Unfortunately, recent testimony reaching the West from within Uganda paints quite a different picture and it now appears that the short period of calm after Amin's fall will prove only a temporary respite from further terrorization.

According to Amnesty International's latest report, "systemic torture of

prisoners and mass arbitrary executions" have reappeared in Uganda and are being conducted largely by official branches of the Government. The report, "Human Rights Violations in Uganda: Extrajudicial Executions, Torture, and Political Imprisonment," documents human rights violations perpetrated by Ugandan security forces and regular army units. The investigation raises serious questions concerning the sincerity of the Obote government in its promise that it would "work for reconciliation" and would insist that no revenge or unlawful violence be taken by its security or military forces. The report cites widespread arbitrary arrests, prison abuse and neglect, disappearances, and other extrajudicial actions carried out by the Government and its agents.

This most discouraging and ominous report comes in the wake of the discovery of two mass graves in Uganda. In mid-May of 1982 the bodies of 50 young men were found in Lake Victoria, the infamous dumping ground during the Amin massacres of the early 1970's. As in many of these earlier cases, all of the corpses bore signs of sexual torture and mutilation.

Yet another mass grave was found in mid-June on wasteland north of Kampala. This grave contained 80 bodies which, like Lake Victoria's victims, were without any indication as to their origin or their crime. However, unlike Lake Victoria, this case had a survivor who has testified that he and the other 80 individuals were prisoners of the Makindye and Latabu military barracks and were taken to the site in trucks at night and shot.

These ugly incidents, and the many others now coming out of Uganda, may foreshadow even worse times yet ahead. The use of Lake Victoria as a mass grave to hide the bodies of prisoners brings back tragic memories and should serve as a warning of the new direction in which Ugandan politics seems to be moving. Today Dr. Obote's inaugural words are being remembered within Uganda more as a subject for sarcasism than for solice.

The rapid deterioration of human rights in Uganda, and other nations like it, bring new urgency for the adoption of the Genocide Convention, a document that has waited 35 years for this body to give its final advise and consent. While no one has yet suggested that the Obote government is guilty of genocide, its behavior in recent months can not help but resurrect the painful images of the Amin period. The tools of genocide are within the grasp of most modern nations and all that is required today in the inclination to match the capability.

LET'S GET SOMETHING FOR THE MX

Mr. PROXMIRE. Mr. President, with the upcoming debate on the MX missile in mind, I was intrigued by a compelling letter written to me by Jeremy J. Stone, director of the Federation of American Scientists.

Dr. Stone's proposal could save Congress billions of dollars, put the MX missile issue to rest forever, reduce the Soviet threat to our national security and strengthen the existing agreement to adhere to SALT II.

First, some history.

The SALT II agreement permits each side only one new land-based ICBM over and above the ones each now have. The MX was to be ours. We do not know the Soviet choice.

With this in mind, Dr. Stone proposes that an appropriate bill be amended to require that no funds be spent to produce or deploy the MX until the President certifies to Congress that the Soviet Union has their new ICBM in the works.

The amendment contains the following language:

No funds shall be spent to produce or deploy operational versions of the one new land-based missile permitted in the United States under the SALT II agreement, whether it be the MX or some other substitute, unless and until the President certifies to the Congress that the Soviet Union is producing or deploying operational versions of the one new land-based ICBM which it is, likewise, permitted.

The proposal, in effect, simply removes the option for the one new ICBM that SALT II permitted both sides.

Can the agreement be monitored? Would the United States know if the Soviets began to seriously test a new ICBM?

Stone says yes, because the SALT II agreement requires both sides to inform the other when they begin testing ICBM's.

I think Dr. Stone's proposal should be seriously considered in the debate about the MX missile. And I am prepared to offer his language as an amendment at that time.

I ask unanimous consent that the letter from Jeremy Stone to me be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

FEDERATION OF AMERICAN SCIENTISTS,
Washington, D.C., December 1, 1982.

Senator WILLIAM PROXMIRE
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR PROXMIRE: Whether or not the MX missile survives impending votes for initial production money in the House of Representatives and in the Senate, its future, and the future of land-based missiles more generally, can only be decided by arms control. If the Soviet Union goes forward with land-based ICBMs of new and different kinds, eventually we will also—whether it be an MX or a single warheaded mobile missile or some other substitute. And vice versa.

Happily, there is at hand a simple and complete solution to this problem which arises out of the SALT II agreement that both sides are now respecting. Recall that the agreement permits each side only one new land-based ICBM over and above the ones each now has. The MX was to be our permitted new ICBM; uncertainty still surrounds the Soviet choice because they have so many different possibilities in development to choose from.

With all this in mind, Congress should amend the appropriations bill to offer this kind of language:

"No funds shall be spent to produce or deploy operational versions of the one new land-based missile permitted the United States under the SALT II agreement, whether it be the MX or some other substitute, unless and until the President certifies to the Congress that the Soviet Union is producing or deploying operational versions of the one new land-based ICBM which it is, likewise, permitted."

If approved, this proposal would have three advantages. First, whether or not production money for MX is defeated in one or both Houses this year, this amendment provides a solution to MX—and to substitutes for it—that can last. In effect, it closes a loophole in the SALT II agreement and simply removes the option for the one new ICBM that SALT II permitted both sides.

Second, for that growing number of observers, whether Congressmen or not, who think that the MX is doomed, this amendment "gets something for it" while saving tens of billions of dollars. In this regard, it follows the path which our Nation followed in 1970 when, seeing that we did not really want to build an anti-ballistic missile system, we proceeded to secure Soviet agreement not to build one either in the ABM agreement of 1972.

Finally, this approach will build on, and hence strengthen, the SALT II regime that we presently adhere to—a baseline and core of those future agreements we are considering whether they be freezes or reductions. Indeed, this agreement improves on SALT II by constraining modernization of ICBMs.

But can the United States live with the present situation without a new missile? It can. The Soviet threat to our existing land-based missiles is highly theoretical and uncertain. Even if the U.S. had nothing other than 1,000 ICBMs, no political figures we can imagine would dare to risk their fate, and their Nations, on untried launches against a force so powerful. A residual ten percent of that force would destroy the 100 largest Soviet cities and devastate that Nation. And we do not have *only* this force, we have also an enourmous deterrent at sea and on bombers carrying a total of another 7,000 warheads at the ready.

Moreover, if we have to live with this situation, so must the Soviets. More than half of their warheads are on about 600 ICBMs. And these could be destroyed by *our* land-based missiles. So even if these theoretical first-strike calculations are assumed, there is no "vulnerability gap"—we can destroy a higher percentage of their overall force than they can of ours.

Can we monitor the agreement set up by this amendment? We can. The SALT II agreement actually requires both sides to inform the other when they begin to test their one new ICBM and both sides are only just beginning two to three years of flight tests which can be monitored and con-

trolled. Indeed, ironically, the history of the negotiations shows that both sides proposed exactly what we are proposing, during the SALT negotiations. The problem was that they proposed it at different times and so never reached agreement. Removing this one-new-missile exception will, in fact, make SALT II easier to verify since we will not have to deal with yet another missile deployment.

In sum, with one stroke, Congress can save tens of billions of dollars, reduce the impending Soviet threat against us, and strengthen—and even improve on—the existing agreement to adhere to SALT II.

With this in mind, we wonder if you would be willing to champion this approach in the Congress?

Respectfully,

JEREMY J. STONE.

Mr. President, I yield the floor and I reserve the remainder of the leader's time, if there is any time, for his purposes later.

RECOGNITION OF SENATOR LEVIN

The PRESIDING OFFICER. The Chair recognizes the Senator from Michigan.

Mr. LEVIN. I thank the Chair.

PROPOSED GASOLINE TAX INCREASE

Mr. LEVIN. Mr. President, first, I commend my friend from Wisconsin for again bringing to the attention of the Senate the inequities of the distribution formulas under the gasoline tax.

As a matter of fact, I had intended to talk today about the proposed gasoline tax increase, but in light of the unemployment figures which have been released this morning I must tell my colleagues that I do not see how we can go home for the holidays in good conscience without doing something real about the problem of unemployment.

Those figures should be seared on every one of our minds; 10.8 percent national unemployment—10.8 percent—up almost half a point in 1 month and in my State of Michigan up over a point, from 16.1 percent to 17.2 percent. And everybody in this Chamber should know what 10.8 means—the highest unemployment rate in this country since the Great Depression.

It is shameful, and there is no other word for it. These are shameful statistics, and the administration should be ashamed of what is happening in this country.

The fact that there is no program to change this is bad enough. What grinds our faces into it even worse is the fact that there is so much callousness and insensitivity that accompanies the pain. We have been told over the last years, "If you don't like where you live, go vote with your feet. Go look for jobs elsewhere." We have been told to read the want ads. We have been told it is not newsworthly if some person is unemployed in South Succotash. We have been told unemployment is part of the cure. Some members of the administration's staff last week even said we maybe ought to tax unemployment benefits to give an incentive to people to get back to work. They do not need any incentive. They need jobs.

I do not see how this Senate or this Congress can, in good conscience, leave for the holidays without doing something significant about jobs and about unemployment benefits. And if we leave, we should be ashamed.

How long do we stay the course? Can we get some guidance from the administration? How long? Eleven percent unemployment, twelve percent unemployment? When will they tell us the course has been run and it is time to try something new?

We need some guidance. We need some hope. January, February, June, next November? How many more months of double-digit unemployment? In my State again, over 17 percent unemployment. How long?

We need some guidance from the White House. We need some hope. We do not need any more insensitivity and callousness and talk about, well, maybe people need incentives to go out and find some work.

Now if this administration is unable or unwilling to act—and apparently they are both—Congress has to fill the vacuum on a bipartisan basis. This is not a partisan issue. It is an issue which affects every American whether Democratic or Republican or whatever. We are all affected by it. There is a vacuum and we have to fill it and we have to fill it on a bipartisan basis and, again, in good conscience.

We should not leave for the holidays without filling that vacuum, without acting on jobs and unemployment benefits.

As I said, I intend to talk today, Mr. President, about the proposed gasoline tax increase. My good friend from Wisconsin has already done a noble job of talking on it and he is right on point, as he usually is, may I say. He has directly put his finger on the problem. Let me be very blunt about it as it affects my home State—and he was right, my home State is one of those donor States. We give a lot more than we receive in the so-called user fees, which is no user fee at all. Because we are paying not for our roads, we are paying for roads elsewhere in disproportionate amounts. We are told by the President we need this gas tax because people who use the roads should pay for the roads, and that sounds great. But that is not what is happening.

Since 1957, when the first allocations were made, my State of Michigan has received back an average 83 cents for every dollar it has contributed to the highway trust fund. The national average for the rate of return for the trust fund over that period of time has been $1.07, with one State receiving over $9 and others receiving well over $2 for every dollar they contribute.

Now on the face of it this is an intolerable inequity. Why should the people of my State, who are now enduring the highest rate of unemployment—and whose roads, by the way, are ranked among the worst, among the worst, in need of repair—why should we dig deeper into our pockets to pay an additional tax for the roads in other States where those roads are on the average in better condition than ours. We are among the States with the roads in the worst condition. Why should we do that, when at the same time the unemployment rate in many of those States which get back more than they give is half of our rate? I cannot see any justification for this.

Now, if the goal of this tax increase is to further inject user concept into both raising the tax and the allocation of its revenues, then it is not only inequitable, but it is downright illogical, as well. The current allocation formulas emphasize such factors as the State's land area, and amount of roads, miles of roads. And it is clear from these formulas that some States are being shortchanged because these formulas do not reflect adequately the actual use of the roads in our States and, therefore, the gas tax contribution and the likely need for the repair of the roads.

Let me give the 1981 example. In 1981, Michigan had 4.29 percent of the total vehicle miles traveled within the United States—4.29 percent. Nevertheless, in the same year, Michigan only received 2.65 percent of the payments for the trust fund. The effects of this are that Michigan ranked seventh in vehicle miles actually traveled but ranked 46th in its rate of return from the highway trust fund. It is hard to imagine a greater disparity between the purpose of this tax and its actual effect.

This being the case with the current law, I will strongly oppose a simple gasoline tax increase because it would only serve to compound this inequity and this illogic. In a State such as Michigan, which is suffering from 17.2 percent unemployment and which has endured double-digit unemployment for now 35 consecutive months, an increase of 5 cents in the price of every gallon of gasoline purchased will add to the hardship already existing for the victims of this deep depression.

The gasoline tax must not pass without significant correction of these inequities. I will vote to correct those inequities, and, if they are corrected, I

will vote for the tax. In the absence of that, however, I will work just as hard to defeat this inequitable tax, as much as we need the road repairs and the spinoff of jobs which will result.

I thank the Chair.

(Mr. MURKOWSKI assumed the chair.)

Mr. PROXMIRE. Will the Senator from Michigan yield?

Mr. LEVIN. I am happy to yield.

Mr. PROXMIRE. I am not a fan of the new Council of Economic Advisers, of Mr. Feldstein. I think he is wrong in the argument that this whole program is going to cost more jobs than it brings in. But is it not true, I ask my good friend from Michigan, that in a State like Michigan or Wisconsin, where you get back 67 cents for every dollar you pay in gasoline taxes, and that dollar you pay in taxes goes out elsewhere, that the net effect on Michigan and Wisconsin would be to cost jobs, because that money taken from your people is money they cannot spend elsewhere in Michigan, money we cannot spend elsewhere in Wisconsin?

It is true that there will be some net stimulus and some net jobs that will come maybe if you keep 85 or 90 cents of the gas tax in the State, but if you keep only 70 cents, or 67 cents as in Michigan, the result in Michigan will be that unemployment will be higher than it otherwise would be and higher in Wisconsin than it otherwise would be.

It will be worse for our States. It will not be the same. It will be worse.

Does the Senator agree with that?

Mr. LEVIN. The Senator is correct. There is no doubt about it that the donor States, the States that get back less than they give up in the gas tax, will be out of jobs, not in with jobs. That is why I say unless the inequities are corrected, with the guarantee of return of gas tax money or some reasonable proportion of what is contributed to the trust fund created by this gas tax, I am going to strongly oppose this gas tax.

It is only if these inequities, these absurdities, that the Senator from Wisconsin pointed out are corrected that I could in good conscience vote for this.

Mr. PROXMIRE. I can see in the Upper Peninsula of Michigan and in Wisconsin, where we attract hundreds of thousands of people every year, that the gasoline tax will be an inhibitor. It will mean that fewer people will come up. These people in business in the northern parts of our States are very conscious of what the increase in the gasoline tax will do to them. I think they are right.

I think there is a tradeoff we can consider in the event we have an opportunity to rebuild our roads and repair our bridges, and so forth, but that tradeoff is obviously so unfair and inequitable.

The Senator gave some very pertinent statistics. He pointed out there was one State that got nine times as much as it contributed and other States that got $2 back for every $1 they contributed. There are a number of States in that category or close to it.

How can the Senator from Michigan and the Senator from Wisconsin permit that to go through? We have an opportunity here in the Senate. I do not like filibusters, and I am sure the Senator from Michigan does not either. We want to avoid them if we can do so. We want this legislation to go through. It has overwhelming support from the President, from the Speaker, from the majority leader, and the Ways and Means Committee. But it seems to me we have an obligation to examine very carefully and consider the advice of Governor-elect Earl, which is when we have something this far reaching and complex in its consequences unless we can get an adjustment, it would be better for us to fight to postpone it until next year when we can have full hearings and see what we are doing, see what the effect that this will have on jobs, as well as the inequities which exist.

Mr. LEVIN. The Senator put it eloquently. This is touted as a user fee. It is not. It is an abuser tax. It abuses those States which put in more than they get back.

The President touted this as a user fee. It is not. As long as you have States that give significantly more than they get out, and they are building highways and repairing highways in other States, that is not a user fee. It is an abuser fee. It is an abuse of people who are purchasing gasoline in the donor States

I will do what I can to stop this tax from being adopted unless those inequities are corrected. I feel very strongly about it. I feel particularly strong on this day and in this economic climate, in this day when we now have a new 10.8 unemployment rate.

Mr. PROXMIRE. Twelve million Americans are out of work—12 million. There has never been anything like that since the terrible Depression of the 1930's.

Mr. LEVIN. Again, this is going to have to be corrected by the Congress on a bipartisan basis because I do not think we are going to get any change from the administration on their determination to stay the course.

I challenge the administration to tell us how long they want us to stay the course, what rate of unemployment they will finally find unacceptable, no longer part of their cure. How long? January? March? November of next year? What rate? We have not heard that.

We need some hope, we need some commonsense. We need a bipartisan solution from this Congress to fill the vacuum that is being left by this administration.

Mr. PROXMIRE. Mr. President, I understand that after the completion of the two orders, we go into morning business. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business, not to extend beyond the hour of 11:45 a.m., with statements therein limited to 5 minutes each.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF TIME FOR MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I have cleared this request with the distinguished majority leader.

I ask unanimous consent that the time for morning business be extended for not to exceed 1 hour and that Senators may be permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. May I say parenthetically, at the beginning, that I am going to make another in my series of speeches on the U.S. Senate, but I am very willing to yield the floor at any time if another Senator wishes to address the body; or, at any time additional legislation is scheduled to be taken up, I will yield the floor.

THE UNITED STATES SENATE FROM 1833 TO 1840: BOOM AND BUST, SLAVERY AND FRANCE

Mr. ROBERT C. BYRD. Mr. President, it is hard to imagine that there could have been issues before the Senate during the Twenty-Third and Twenty-Fourth Congresses as monumental as the censure of President Jackson at the beginning of his second term and the equally dramatic expunging of the censure that I discussed in my last statement on the United States Senate. But a host of other matters engaged the Senate, demanding close attention. Major crises arose during Andrew Jackson's second

Footnotes at end of article.

term, and the four years that followed, under his political heir, Martin Van Buren. They involved troubles with France and Texas, a serious financial panic that sent businessmen and farmers reeling in all sections of the country, and problems with the Treasury, set in motion by the Bank issue. These and the slavery issue would require long and intense Senate sessions.

Giants like Henry Clay of Kentucky, John C. Calhoun of South Carolina, and Daniel Webster of Massachusetts still strode these halls during this period. I have spoken often of these men, and their genius, and their quarrels will infuse today's statement as well. It always helps to make historical figures come alive if we can turn to some of the Senate's fine art work, because, without our even realizing it, these men stare down upon us every day. We have only to step out into the adjacent reception room to feel the presence of all three of these Senate giants, peering at us from their "portholes."

Each time we enter this chamber through the main corridor, we also must pass muster before the keen eyes of this triumvirate. Next time, before opening the swinging doors, glance to the right, in fact, toward the Democratic Leader's office, and you will find that Calhoun, looking every bit the "Iron Man," with his mane of steely hair, Clay, "Harry of the West," looking deceptively benign, and the "Magnificent Daniel" are watching from their frames high on the east wall. Webster, in fact, also stands guard in all his sartorial splendor over the staircase right outside the president's room off this chamber. Calhoun keeps an even closer eye upon us. There he is up there (Calhoun is the last statue on the west wall, right where it joins the north wall), scowling above us, filling his niche by virtue of being a vice president, a most unhappy vice president, under Andrew Jackson. These are just some of the likenesses of the men of this era with which we live every day. Keep in mind their stern gaze as you pass before them. They are our senatorial forefathers and surely they are watching us.

In 1833, these men sparred with one another in the Old Senate Chamber down the hall. In the Senate, the first session of the Twenty-Third Congress was totally absorbed with the bitter effort to censure the president for removing federal deposits from the bank. The House, however, had its own moment of drama, which I mention only because it involved a notable former senator whom we have met before in one or more of my earlier statements. Eccentric John Randolph of Roanoke, once the scourge of the Senate, though wracked by illness, had been elected to the House for the Twenty-Third Congress. He died, however, on May 24, 1833, before the Congress convened. Shortly after the House next met, Randolph's successor, Thomas Bouldin, fifty-two, arose to announce Randolph's death. He had uttered only a few words when, as the *Congressional Globe* reports, Representative Bouldin "swooned, fell, and in a few minutes expired" on the floor of the House. It was almost as if Nature herself was thrown into perturbation by the final disappearance of so great and untrammeled a natural force as John Randolph once had been.[1]

After the drama of the censure debates, the final days of the Twenty-Third Congress were relatively colorless. No Senate session, however, with Thomas Hart Benton still smarting over the censure of his friend, the president, could be entirely lackluster. Earlier in the year, Benton's nemesis, Henry Clay, had demanded from Secretary of the Treasury, Roger Taney (pronounced tawnee), a full report of the nation's finances. At the time, Clay and his pro-Bank cohorts were deluging their Senate colleagues with doleful descriptions of the wrack and ruin brought on by the president's actions, and Clay was certain that the report would back them up. Unfortunately for him, the facts set forth were a startling contrast to the grim picture he and his followers had painted. Even more unfortunately for Clay, the administration decided that this report to the Senate deserved the greatest possible publicity.

Taney and Benton conferred at the Treasury and worked on a speech for Benton to deliver when the report was introduced. As could be expected, the reading of the Secretary's report had not proceeded far when an embarrassed Daniel Webster, the Bank's staunchest friend, arose to move that further reading be dispensed with and the report quietly sent to the Finance Committee. Benton, of course, objected. The report was read. Then the Missourian, at his flamboyant best, arose to give his speech.

"Well, the answer comes," he exclaimed. "It is a report to make the patriot heart rejoice, replete with rich information, pregnant with evidences of national prosperity. How is it received—how received by those who called for it: With downcast looks and wordless tongues. A motion is made to stop the reading." He went on" . . . a pit was dug for Mr. Taney; the diggers of the pit have fallen into it: the fault is not his; and the sooner they clamber out, the better for themselves." Regardless of any embarrassment to the conspirators, Benton declared his determination to let the country know that "never since America had a place among nations was the prosperity of the country equal to what it is this day."[2]

At the end of the first session of the Twenty-Third Congress, President Jackson, with his customary confidence in the people, set off for the Hermitage and a much needed rest. His friends, however, were not so complacent and had given orders to take nothing in the fall elections for granted. Their purpose was twofold—to at least hold the line in the Senate, and to defeat, wherever possible, any senatorial enemies who were candidates for reelection.

These elections in the fall of 1834 were the first in which the Opposition to the Jacksonian Democrats would fight under its new party name of Whig. In an earlier statement, I discussed the birth of this new party, essentially an uneasy alliance of old National Republicans, Southern states' righters, bank supporters like Webster, and disgruntled Westerners, held together by their hatred of "King" Andrew. It was John Forsyth, the caustic senator from Georgia whose services as the administation's floor leader had been of immense value, who said, when he learned of the new party's title, "It is a glorious name, and I have no doubt they will disgrace it."[3]

Let us look at a few of these Senate elections, where the Bank issue still burned, because this was the era of what historian Claude Bowers calls "political hydrophobia," when elections were vicious affairs. The elections in New Jersey and Pennsylvania were held in October, a month before most others, and they brought the Whigs their first shocks. They had rightly expected little success in Pennsylvania but much was expected from New Jersey where Senator Theodore Frelinghuysen was up for reelection. Frelinghuysen had consistently voted on the side of the Bank. When the New Jersey legislature adopted resolutions commending the president's actions and urging its senators to support him, too, Frelinghuysen and his colleague, Samuel Southard, chose to ignore them. Frelinghuysen even boasted that he and Southard had "dared to meet the frowns of their constituents," and would not "bow the knee to these instructions." Now he was before these constituents for reelection. Their verdict was unmistakable. New Jersey swept into the Jackson column with a substantial majority; Frelinghuysen was retired in favor of good Democrat Garrett Wall.[4]

Two of the most bitter Senate fights that fall were waged in Virginia and Mississippi. Virginia was anti-Bank but also anti-Jackson. The Democrats' strategy was to make the most of the unpopularity of Benjamin Leigh, the Whig candidate. Leigh had been widely disliked since his bitter fight in the Constitutional Convention against the extension of the suffrage. He was also as strongly for the Bank as the voters were against it. Every poll and

canvass revealed a majority of the people were against him. But the Whigs pulled off his election in the state legislature reflecting a flagrant disregard of the will of the people. Newspapers were flooded with resolutions and letters protesting Leigh's victory. The battle, from the Democrats' point of view, however, was only half lost, for they were supplied with ammunition proving the Whig's callous disdain for the masses that they would use to drive both of Virginia's anti-Jackson senators, Leigh and John Tyler, from office in little more than a year.[5]

In Mississippi, the Jacksonians were determined to prevent the reelection of Senator George Poindexter, once the idol of the Mississippi Democracy. Poindexter had turned on Jackson with a virulence scarcely equaled in any old-line Federalist, and cast his lot with Clay. With the adjournment of Congress, Poindexter hastened home where the Whigs had planned a series of banquets at which he was to denounce the president. The Democrats, delighted with a slashing and brilliant assault on Poindexter by young lawyer Robert J. Walker, put him up as their candidate. Within a week, Walker was engaged in one of the most spectacular canvasses Mississippi had ever known, stirring up enormous meetings of frenzied Jacksonians wherever he stopped. The outcome was the election of Walker—a victory sweet to Jackson, and all the more so since Poindexter had not only supported Clay on the Bank, but Calhoun on Nullification.[6]

Thus, the elections of 1834 were more than pleasing to the Democrats and the president. Two of Jackson's strongest senatorial foes, Frelinghuysen and Poindexter, had been swept away because of their opposition, and Leigh, who had been saved by an action in clear defiance of the popular will, would not remain in the Senate for long. The administration's forces were clearly strengthened in the Senate. In the House, the Democratic majority was reduced by eight votes, but still held a majority of 46 in that 242-member body.

Webster accepted the verdict of the election as the final statement on the Bank issue and, much to the distress and indignation of Bank president Nicholas Biddle, announced that he was through with it. Clay, whose own political interests had forced Biddle into making early recharter an issue in the first place, was also glad to dump the Bank from his shoulders. Most of their colleagues were ready to join them in abandoning the Bank as dead, but one last unfortunate incident at the very end of the Twenty-Third Congress proved that the issue was still very much alive.

The event was the attempt on the life of President Jackson at the Capitol on January 30, 1885. No other incident so well illustrates the venomous hatreds engendered by the struggles of the preceding years. Senators, editors, and the president himself were sullied in the aftermath.

Jackson had visited the House chamber to attend funeral services for the late Representative Warren R. Davis of South Carolina. The chaplain's sermon spoke to the fact that life is uncertain, particularly for the aged. "There sat the gray-haired president," wrote English visitor Harriet Martineau, "looking scarcely able to go through this ceremonial."[7] The discourse finished, Jackson filed past the casked and descended to the rotunda of the Capitol.

As Jackson entered the Rotunda, a young stranger, his face covered with a thick black beard, stood six feet away. No one noticed him draw a small, bright pistol, or aim it at the president, until they heard the shot ring through the stone chamber. Calmly, the man produced another pistol and fired again. Jackson raised his cane and started for his assailant but an army officer reached him first. The president was unharmed. By some miracle, only the caps of the pistols had exploded, the charges failing to go off.

The assailant was Richard Lawrence, an unemployed house painter, who claimed to be the rightful heir to the British throne and blamed Jackson's opposition to the Bank for his difficulty in finding work. When Lawrence was quickly dispatched to a lunatic asylum, partisans on both sides objected to the undramatic disposition of the case. Frank Blair, the rabidly Jacksonian editor of the Washington *Globe* hinted strongly that Lawrence was the tool of Jackson's enemies, part of a conspiracy. In opposition to that view, Senator John Tyler saw things in an even more sinister light and suggested that the assassination attempt may have been staged for "political effect" by Jackson's own supporters, in an effort to create popular sympathy for the president.[8]

Both sides deeply resented any suggestion of complicity or motive in the near tragedy. None could escape the fact that this was the first time an attempt had been made upon the life of a president, and it was a president who had been intemperately denounced as a tyrant, despot, and wrecker of American institutions and liberties. Soon the capital was further shocked by the linking of the name of Senator Poindexter, about to leave the Senate in defeat, with that of the assailant. On the slimmest of evidence, the idea grew in Jackson's mind that his Mississippi enemy had instigated the assassination attempt, and he spoke of his suspicions to many visitors to the White House.

Hearing of Jackson's charges, Poindexter wrote him that he would discredit the reports unless confirmed by the president, but that a failure to reply would be accepted as a confirmation. Jackson made no response. To understand the bitterness behind this feud, let us look a bit more closely at this departing senator.

George Poindexter was a genius and, before his break with Jackson, the idol of all of Mississippi, the leader of the state's Democrats, and its former governor and representative. One who knew him in his early days noted, "his mind was logical and strong; his conception was quick and acute; his powers of combination and application were astonishing; his wit was pointed and caustic, and his sarcasm overwhelming."[9] All of these qualities made him a awesome stump speaker. He had further endeared himself to Mississippians during the War of 1812 with his patriotic appeals for preparation, and, after he had aroused the people to fever heat, his volunteering as an aide to General Jackson. Along the way, it was inevitable that such a charismatic man should make enemies. So unscrupulous were his speeches, and so bitter his denunciations of his political enemies that at one time a conspiracy was formed to force him into a duel and kill him.

Nowhere in the presidential campaign of 1828 did Jackson receive more ardent support than in Mississippi where his old comrade-at-arms directed his forces. A year after Jackson's inauguration, Poindexter was in the Senate where he was expected to be a loyal supporter. Unfortunately, the feud between the erst-while friends began almost immediately. Jackson wanted to appoint a Tennessean, a neighbor of the Hermitage, to the land office of Mississippi. Poindexter protested that this patronage belonged to him. Jackson refused to yield. Poindexter prevented the confirmation. Jackson made a recess appointment and from then on the old comrades were at swords' points.

Poindexter abandoned not only the president but all the principles he had previously embraced. He stood with the Bank, favored the censure, sided with Clay, and espoused Nullification. Had his personal life been irreproachable, Poindexter might have been immune from the barbs of his new enemies, but his domestic relations had become the scandal of Mississippi. He had divorced his wife, denied the paternity of his children, and plunged into a life of reckless dissipation. His indecent remarks upon the purity of his former wife drove her family, which was rich and powerful, into the hands of his enemies as well. At the time of Lawrence's attack on the president, Poindexter was preparing to leave not only the Senate, but, with his second wife, to leave Mississippi as well.

Despite Poindexter's sullied reputation, no one except Jackson seriously suspected him of conspiring to assassinate the president. In February, only a few days before the expiration of his term and that of the Congress, he asked the Senate to investigate the charges being made in the White House against him. Three days later, a committee exonerated him from suspicion. Webster asked for the yeas and nays on accepting the committee's verdict; every senator voted yea. No matter what his personal reputation, Poindexter left the Senate with this blot on his record corrected.[10]

At the end of the Twenty-Third Congress, in March 1835, a long-simmering dispute with France came to a head and its peaceful resolution marked a major victory for Henry Clay over President Jackson.

On July 4, 1831, a treaty had been signed in Paris by which France had agreed to pay 25 million francs for outrages committed upon American commerce during the Napoleonic wars. The payments were supposed to have begun in 1832, and King Louis Philippe was most anxious to carry out the agreement. Unfortunately, the French Chambers were less than anxious to make the necessary appropriations. President Jackson waited almost two years, his anger mounting all the while, and then he ordered his Secretary of State, John Forsyth, the former senator from Georgia, to call the French minister to the State Department. The minister nervously asked if Forsyth expected a "collision," a diplomatic euphemism for war, over the issue. Forsyth said he wouldn't doubt it. Jackson ordered the Navy to prepare for sea duty and wrote a strong message to Congress on the subject.[11]

Congress received Jackson's message on December 2, 1834. It began calmly enough, restating the history of the case, but then it turned belligerent. The United States, he claimed, should insist upon "prompt execution" of the treaty, and, in case it be refused or longer delayed, "take redress into our own hands." He recommended that provisions be passed authorizing the seizure of French property to the amount of the debt, in case the next session of the Chambers refused once again to pass the appropriation.[12]

Couriers spurred their horses, perspiring firemen piled wood beneath the boilers of locomotives and steamboats to speed the message abroad in the nation. A flurry swept the commercial world. Marine insurance companies refused to assume risks resulting from a rupture with France. France recalled its minister.

Jackson's message was sent to the Senate Foreign Relations Committee of which Clay was the chairman. Clay had not been averse to reprisals against France when he was Secretary of State, but now he viewed the situation with alarm. While political considerations probably influenced him (they were never far from Clay's mind), he seems also to have been sincerely alarmed over the possibility of war. He wrote his son, Henry Jr.:

> The most engrossing subject of the Session is likely to be the President's Message relative to our French affairs. His rashness, in advising a war-like measure, without waiting for the decision of the French chambers . . . seems to be generally condemned . . . Irritation begets irritation, and I should not be surprised if, in the sequel, two gallant nations, hitherto entertaining for each other the greatest respect, shall be found unexpectedly engaged in War.
>
> The Senate has placed me at the head of the Committee of Foreign Affairs—the most responsible situation of the Senate. I shall endeavor to discharge my duty, but I confess I have less heart than ever to exert myself in public business.[13]

Despite this weary disavowal, Clay appears to have been delighted to have a hand in such an important issue. On January 6, 1835, Clay reported the Committee's resolution stating "That it is inexpedient at this time to pass any law vesting in the President authority for making reprisals upon French property . . .," and accompanied it with a report devoid of partisan animus. Clay was gratified that his mild report was accepted without a dissenting vote.[14]

The House was in a far more beligerent mood, however, and went so far as to appropriate three million dollars for the president's use in defending the country. When this came to the Senate, a storm predictably broke out. Webster and Calhoun wanted the Senate to disagree. Leigh averred that to pass such a bill would be the equivalent of saying "that the President should be made Counsul for life, or Emperor of the American people." Wright and James Buchanan of Pennsylvania, on the other hand, painted the horror of a French attack upon our defenseless shores. Calhoun retorted that there was about as much danger of the Capitol being swallowed by an earthquake before Congress met again! Clay counciled against the measure, and it went down to defeat.[15]

In April 1835, the French Chambers finally passed the necessary appropriation, but with a proviso that it not be paid unless some satisfactory explanation could be given for Jackson's harsh language. This only angered Jackson more. He recalled our minister to France, and drew up another bellicose message to Congress. Forsyth and Van Buren succeeded in softening his language a bit and worked in a denial of any intention to menace or insult France. At this juncture, England offered mediation to smooth the path, the French professed themselves satisfied, and the long awaited payments began, with interest, in the spring of 1836.

The crisis was over. And Henry Clay, according to his biographer, Glyndon Van Deusen, felt proud of his unselfish role in averting a costly war. His committee report had been spread abroad in France, where it was taken as evidence that the United States was not bent on a fight, and thus it helped keep open the pathway of negotiation.[16]

From the adjournment of the Twenty-Third Congress in March 1835, until the Twenty-Fourth Congress convened in December, its members were preoccupied with presidential politics. The struggle for position was desperate and unscrupulous. Within the Democratic party, it eventually pitted President Jackson against another former friend, Hugh Lawson White of Tennessee, who had succeeded Jackson to the Senate when he resigned in 1825. Though obscure today, White was familiarly known to his own generation as "the Cato of the Senate." Though he lacked sparkle and magnetism, the purity of his character and his fidelity to duty commanded great respect. His senatorial speeches were noteworthy for their temperate tone—rare in his generation. Always heard with attention, he was attentive to others, and he was frequently the one listener to other senators' routine speeches. No member of the Senate more impressively looked the part. Tall, slender, and well-proportioned, with a broad forehead and deep-set, serious, penetrating blue eyes, he was the embodiment of senatorial dignity. With long gray hair, brushed back from his forehead, and curling at some length on his shoulders, he appeared every inch the patriarch. This was the man who was to give Jackson, in the election of his successor, his only uneasy hours.[17]

From the beginning of Jackson's first administration, when the president, fearing an early death, had expressed a preference for Van Buren as his successor, the latter had been looked upon as the crown prince. By 1834, it was clear to the White House that the most serious challenge to these plans would come from Hugh Lawson White, considered a renegade from the Jackson camp. The once close attachment of the president and his Senate successor had cooled perceptibly in the year following the 1829 inauguration. White had become estranged by his old friend's growing intimacy with the new school of practical politics. First White had drifted into a position as independent supporter of the administration, but, by 1834, his position was one of open hostility.

By the spring of 1834, White had announced his candidacy for the Democratic presidential nomination, throwing down the gauntlet to Jackson and Van Buren in Tennessee, which

became the battleground. Though James K. Polk marshalled the support of his Tennessee newspapers behind Jackson, White did succeed in embarrassing the president by convincing the state legislature to nominate him for the presidency. But this would be the last of his successes. The Van Buren steam-roller would prove too powerful for the renegade White, or any other upstart Democrat for that matter.

When the Twenty-Fourth Congress convened in December 1835, the slavery issue reemerged with renewed vehemence. The establishment, in 1831, of William Lloyd Garrison's *Liberator* in Boston had revived the abolition movement, which got another boost in 1833 when Great Britain emancipated her West Indian slaves. At the opening of the new Congress, its members were apprehensive because of the anti-slavery and anti-abolition riots of the year before. Adding to the turmoil was the American Anti-Slavery Society, which began to deluge the South with abolitionist circulars calculated to arouse the slaves to insurrection.

It was specifically those abolitionist tracts that precipitated the renewed fight in the Senate over slavery in the winter of 1835. In July, the citizens of Charleston, South Carolina raided the post office, stole and burned a sack of the pamphlets, and informed the postmaster in New York not to forward any more to them or they would suffer the same fate. The New York postmaster laid the matter before Amos Kendall, Postmaster-General and Jackson's close friend. Kendall expressed his belief that the federal mails could not carry any matter prohibited by state laws, thus opening the door to the wholesale destruction of the incendiary documents. Though Kendall acted without legal authority, he did act with the president's blessing. In his message to Congress that December, Jackson denounced abolitionists as plotters of a civil war with all its horrors and asked that Kendall's *fait accompli* be legalized by the passage of a law prohibiting the circulation of publications intended to incite slaves to insurrection.

The howls from Northern liberals against this proposal were loud and immediate. But the proposal was even too drastic for Southerners like Calhoun, whose veneration for the Constitution guaranteed his fiery opposition. To those who accused Calhoun of opposing the measure simply because his enemy, Jackson, supported it, he bitterely replied, "I have too little regard for the opinion of General Jackson, and if he were not President of the United States, I would say for his character, to place myself in such a position." [18] Whatever his reasons, Calhoun led the debate that dragged on for months. In the end, the measure went down to defeat, with even Clay and Benton for once voting on the same side.

But the issue of the mails proved to be only the opening trumpet of the slavery issue before this Congress. It was followed by a chorus of dissent on the issue of abolitionist petitions. The question was not new. The usual practice had been to receive the petitions and to table them instantly. But in January 1836, Calhoun decided that he had had enough. When, on January 7, an abolition petition was presented by some Ohio citizens, Calhoun moved that it not be received and supported his motion with such an intemperate speech that even pro-slavery senators were alarmed. "We must meet the enemy on the frontier—on the question of receiving," he thundered. "We must secure that important pass—it is our Thermopylae." [19]

By 1836, Calhoun was far more than merely the aspiring politician who had feuded with Jackson in 1830. Personal ambition was now increasingly submerged in a cold monomania for South Carolina and for slavery. Friends like Harriet Martineau found they could no longer communicate with him. He felt, says historian Arthur Schlesinger, so deeply that he rarely heard argument, so passionately that he never forgot his responsibility. "There is no relaxation with him," cried his devoted friend Representative and later Senator Dixon Lewis of Alabama. He appeared to many to exist in an unimaginable intellectual solitude, his mind committed to his interminable obligation, focusing forever on a single shining point. He was, said Miss Martineau, "the cast-iron man who looks as if he had never been born, and never could be extinguished." [20]

Colleagues and observers testified that Calhoun was still a startling figure when he rose to speak in the Senate, with eyes burning like live coals in his pale face, hair bristling and erect, skin loose over his prominent bones, words pouring out in a closely reasoned flow. His voice was metallic and harsh, his gestures monotonous, yet his commanding eye, grim earnestness, and utter integrity, held the galleries in anxious attention. When standing in the narrow aisle of the Senate, bracing himself against the desks, he averaged perhaps one hundered eighty words a minute of terse and unconquerable argument.

Calhoun was still the supreme intelligence among the statesmen of his day. Clay relied on richness and audacity of feeling, Webster on mellifluous rhetoric, Benton on the sheer weight of facts, and all indulged in shameless orgies of verbiage. But Calhoun's speeches were stripped bare, arguing the facts alone with an iron logic. Nourished on Aristotle, Machiavelli, and Burke, he displayed the uncanny ability to cut quickly through to the substance of the issues before the Senate. [21]

This was the man whose proposal for rejecting abolition petitions still hung fire when, four days later, James Buchanan presented a petition even more odious to him. Buchanan stepped forward to offer a memorial from a group of Quakers in Pennsylvania praying for the abolition of slavery in the District of Columbia—an extremely delicate matter because it lay entirely within the power of the Congress to act in this case. Buchanan made it quite clear that "I entirely dissent from the opinion which they express," but urged that the memorial from his constituents deserved to be received. Calhoun, however, plunged the Senate into a heated two-month debate on whether it should be received at all. [22]

Calhoun ultimately lost again (though the request contained in the petition was rejected), but the intensity of the debate stirred new fears on both sides and widened the gap between supporters and opponents of slavery. Abolition entreaties had flooded the House as well, but there efforts like Calhoun's met with more success. The result was the infamous "gag rule" banning all such petitions and the beginning of the courageous crusade for free speech by sixty-nine-year-old John Quincy Adams, who, two years after his term as president had ended, returned to Washington to represent Massachusetts in the House for the next seventeen years.

I have mentioned James Buchanan several times thus far and I would like to take a closer look at the freshman senator from Pennsylvania. Buchanan arrived in the Senate after serving ten years in the House and two years as Minister to Russia. During his first four terms in the House, Buchanan had been a Federalist, and many of the Jacksonians, whom he joined in 1828, doubted the sincerity of his conversion to the Democratic faith. During the Twenty-Third and Twenty-Fourth Congresses, however, Buchanan proved himself a loyal Democrat by joining Senators Wright of New York, William King of Alabama, and Benton as defenders of the president in the Senate.

At forty-two, Buchanan was a heavy-set bachelor, the only bachelor, in fact, to become president. The story goes that in 1819, while still a struggling young lawyer, Buchanan had become engaged to a belle whose father was one of this country's first millionaires. A combination of the father's objections, gossip that Buchanan was interested chiefly in her fortune, and the young swain's apparent neglect of his fiancee in favor of clients led to a broken engagement, followed by the young lady's sudden death. Buchanan resolved to honor

her memory by remaining a bachelor for the rest of his days.

Buchanan had a large head and pudgy features. He usually wore a high-collared coat to conceal a neck scar. And an eye defect caused him to tilt his head slightly forward and to one side so that he always seemed to be listening intently and with great concern. His oddly cocked head sometimes got him into trouble. As one of his biographers noted, his "mere appearance conveyed so definite an impression of assent and approbation that many people, on early acquaintance, sincerely believed that they had completely captivated James Buchanan and reciprocated by attentions to him which he attributed to traits more complimentary to him than a wry neck." [23]

Still another dimension was added to the increasingly volatile slavery issue in the final days of the Twenty-Fourth Congress. Though the question of Texas would chiefly preoccupy future Congresses, Calhoun used an early reference to the turmoil in the Southwest to further alienate North and South (Texas, under Sam Houston, friend of both Jackson and Benton, had declared its independence from Mexico after the Battle of San Jacinto on April 21.) Calhoun enraged abolitionists and frightened many lukewarm Northerners by calling for the immediate annexation of Texas in order to extend the reach of slavery. Though immediately pounced upon by Benton, and though Calhoun's motion lost, a new and troubling dimension had been added to the festering slavery question.

In the midst of this turmoil, the presidential elections had taken place in the fall of 1836, between the first and second session of the Twenty-Fourth Congress. After all the preelection jockeying, the actual campaign was hardly as exciting as that of 1832. The Whigs were still only a loose coalition and could not choose a single candidate. Instead, various elements put up a number of individuals, such as Senators White and Webster, with strong followings, hoping to throw the election into the House.

None of these candidates had a chance. The Democrats met in Baltimore and unanimously chose Jackson's hand-picked successor, Martin Van Buren. As the results began to come in that fall, it was clear that the "Sly Fox," would accede to the White House.

Van Buren was content with his victory margin of forty-six electoral votes. And Andrew Jackson, whose long reign was now nearly over, was content as well. He finally had the satisfaction of seeing Senator Benton's annual resolution to expunge the 1834 censure vote of the president succeed at last. Clay, Calhoun, and Webster fought against it to the end, as I noted in my last statement, but the tide of Jackson's popularity had finally engulfed even the Senate.

Andrew Jackson left his protégé, Martin Van Buren, and his other followers with a warning: "Of all things, never once take your eyes off Texas, and never let go of fifty-four-forty." [24] Both the South and the Southwest would indeed prove troublesome in the years to come, but Jackson badly misjudged the real and nearest threat to national stability. The nation was then poised on the brink of financial disaster. Unfortunately, Jackson would have to own up to the fact that his real legacies to his friend Van Buren were the makings of the worst depression in the nation's sixty-year history and a hopeless mire of monetary problems.

The financial bubble that burst during the Twenty-Fifth Congress had been building for at least two years. On June 23, 1836, after Nicholas Biddle's Bank of the United States had finally become merely a state bank, the Senate and House had passed the Deposit Act, requiring the Secretary of the Treasury to select one or more banks in each state and territory to receive federal deposits and perform the services previously provided by the Bank of the United States. The stability of the country's economy, however, had been gravely shaken by the disappearance of the old National Bank and, with government money pouring into a wide variety of local banks, an uncontrolled inflation began.

These banks began to issue huge amounts of paper money against the new funds in their vaults, and prices began to skyrocket. Hoping to curb the spiral, Jackson had issued the "Specie Circular," drafted for him by Senator Benton, whose hard-money views were soon to win him the name "Old Bullion Benton." The Specie Circular announced that, from that point on, to curb the "ruinous extension" of paper money, the government would accept only specie—gold or silver—in payment for public lands.

The circular did burst the inflationary bubble but started, in its place, a financial panic. State banks did not have enough specie to cover the paper money; loans could not be covered; land prices plummeted.

All this had happened while Congress was out of session. When it returned in December 1836, the Senate Whigs put forth a resolution demanding repeal of the circular. By March 1, 1837, that measure had passed both houses, but Jackson, with only three days left in office, used a pocket-veto to kill it. Jackson, by the way, was the first president to veto bills of Congress for other than "Constitutional" reasons.

Thus, the stage was set for financial disaster. Eight weeks after Van Buren entered the White House, the Panic of 1837 exploded with full fury. On the morning of May 10, 1837, a card was pinned to the door of a New York bank, reading simply, "Closed Until Further Notice." By afternoon, New York Whig Philip Hone, watching the gathering mob, heard the screams of trampled women and curses against Jackson and Van Buren.

The Panic of 1837 was not a slump of a year's duration. It was the depression of an era. It was not national; it was world wide. Depression in England drastically lowered the price paid for American cotton, for example. It climaxed the dizziest, fastest, richest boom era the young Republic had ever known. Slowly the great, evil flood moved over America. It took almost a year for this tide of woe to spread across the Southern back-country, but when it did, the ruin was complete. It engulfed the Mississippi delta country, leaving behind a trail of empty plantation houses and barns, and crudely lettered signs flapping from trees, "Gone to Texas." It ravaged the country from New Orleans to Cincinnati, where hungry mobs smashed down doors, tore apart furniture, and looted the strong-boxes of banks and brokerage offices. Bankruptcies multiplied, unemployment rose, and interest rates mounted. Eight hundred fifty banks were closed; three hundred forty-three never to reopen again. [25]

The cries of the ruined were not long in reaching Washington. Van Buren reluctantly called Congress into session three months early. Henry Clay, like the other Whigs, was convinced that the distress was the result of the Democrats' policies, and thus, that it was up to the Democrats, not the Whigs, to furnish a program of relief. They expectantly awaited the new president's economic proposals. When the "Sly Fox" sent his message up to the Hill, it attributed the hard times primarily to undue business expansion, distribution of the surplus, and the drain of gold abroad. Van Buren flatly refused to consider reestablishing a National Bank. The main feature of the message was the proposal that the Treasury keep its own money in its own hands—the so-called "Sub-Treasury" or "Independent Treasury" plan. Other than this, Van Buren urged the lawmakers to allow the depression to run its course.

Clay and the Senate Whigs pronounced the program barren. Daniel Webster accused the president of "leaving the people to shift for themselves." While many of Van Buren's measures were essential to staunch the flow of money, the Whigs, in a purely partisan move, refused to support them. They took their main stand against the Sub-Treasury bill and were joined by conservative Democrats such as Nathaniel Tallmadge of Van Buren's own state of New York and

William Rives (pronounced ree-ves) of Virginia. But, since the regular Democrats still controlled the Senate, they were able, under the leadership of party stalwart Silas Wright, New York's other senator, to beat back the forces of Clay and Webster. The House, however, due to a combination of Whigs and conservative Democrats, voted down the bill and a long struggle began.[26]

Van Buren recommended the Sub-Treasury plan again in his December message to Congress, and on January 16, 1838, Silas Wright reported it out of the Finance Committee. Few positions had been altered in the interval. Clay pounced on it immediately, blustering "that all the calamities of war with the most potent power on earth would be a blessing compared with the consequences of this measure." By an amazing feat of mental legerdemain, he even claimed that it was both dangerous because it centralized power, and that it promoted disunion.[27]

On February 19, Clay spoke for four and a half hours against the bill. This speech included a bitter attack on Calhoun, who, to the surprise of friends and foes alike, had come out in favor of the Sub-Treasury bill. The South Carolinian's Whiggery, it seemed, had been based as much upon his hatred of Jackson and his hope of dominating the Whig party as it was on principle. Dominating Jackson had proved impossible and now Calhoun could see that to remain in an uneasy coalition with Clay and Webster would probably mean his own political annihilation. Calhoun's support for the bill signaled his return to the Democratic fold, and the clash between Calhoun and Clay, which followed hard upon Clay's speech, marked the resumption of warfare between the two men.[28]

Despite the vigorous opposition of Clay and Webster, the Sub-Treasury bill again passed the Senate in March 1838, by a vote of 27 to 25. But in the House, it again went down to defeat. Silas Wright was very depressed. Even in January, the bill's chief defender had complained of "an unusual visitation of hypocondria" that he was unable to shake off, and in August, after the session had ended, he wrote, "I have experienced a sort of mental apathy . . . I have been compelled to devote myself so entirely to the questions now at issue before the country for more than a year that they have become sickening almost to disgust and I find it difficult to rouse myself up to the point of attempting to think upon them." Other administration defenders were as tired as Wright. As James Buchanan said during the spring session, the endless debate had worn the subject "thread-bare," and most of the senators left the chamber whenever the Sub-Treasury bill was being discussed.[29]

Reintroduced and fought over each year, the Independent Treasury Act finally became law on July 4, 1840, only to be repealed the next year by a legislature dominated by Whigs, and then reinstated by the Democrats in 1846. The scheme established regional subtreasuries with their own vaults, collecting all federal receipts, disbursing all payments in silver and gold, and serving the financial needs of the different sections of the country. It was retained, essentially unchanged, as the organizational basis of the nation's fiscal system until the passage of the Federal Reserve Act in 1913.[30]

Before moving on to the raucous election of 1840 that brought to a close this period in the Senate's history, I would like to pause, as I have occasionally in previous statements, to look at some of the less monumental, but perhaps no less important, events in the Senate's own internal development during this period. For, while major issues were debated and catastrophes like the Panic of 1837 were dissected, bills and resolutions were introduced and rules were adopted and changed that shaped and directed the day-to-day life of the Senate and affected the lives of our predecessors.

Physically, the Senate was growing. Two new states joined the Union during this period, raising the number of senators from 48 to 52. To preserve the delicate balance established in the wake of the Missouri Compromise, Arkansas, a slave state, had been admitted in 1836, followed by Michigan, a free state, in 1837. All four of the new senators turned out to be faithful Democrats, much to the joy of the administration.

The Senate chamber was filling up not only with senators but with reporters, the predecessors of our observers up in the gallery above. There was a great flurry of activity among the "scribblers" that made its way into the Senate rules. In earlier statements, I have discussed the opening of the Senate chamber to observers and the first admittance of designated reporters into its midst to record the Senate's activities in 1802. During the next few years, these reporters and those who had come to join their ranks were seated in the eastern gallery, above the presiding officer, and this was the arrangement in 1835.

On February 27, 1835, Senator Alexander Porter of Louisiana introduced a motion that a committee of three be appointed to look into "the expediency of so arranging the seats in the Senate chamber as will promote the convenience of members, and facilitate the dispatch of public business." Among the eventual recommendations of that committee was the following, "That the reporters be removed from the eastern gallery, and placed on the floor of the Senate, under the direction of the Secretary." The proposal was approved during the Twenty-Fourth Congress, and thus, for the first time specific provision was made for the press in the Senate's Standing Rules.[31]

This was the situation when the Senate eyed the press in 1838 as it was considering changes in Rule 47, which listed the persons who might be admitted to the Senate floor. Buried in the changes was the following provision permitting ". . . two reporters for each of the daily papers, and one reporter for each tri-weekly paper published in the City of Washington . . ." to be seated in the chamber.[32] The press, both in Washington and the rest of the country, apparently overlooked this change, which was adopted on the last night of the session in the usual close-of-session rush. But not for long. It slowly dawned on them that all but the Washington press were to be excluded from the chamber where, before, many had sat. Rumor had it that the measure had been slipped through by Senator John Niles of Connecticut, who loathed the press.

The out-of-town reporters had mobilized by the second session of the Twenty-Fifth Congress and they convinced new Senator John Norvell of Michigan to present their memorial, protesting that:

> By the rule of the Senate they are deprived of the opportunity and privilege of obtaining information of Congressional proceedings for their respective papers; that the provision of the Senate exclusively furnishing the facilities they ask to city reporters, does not furnish the people of the country with full reports of what takes place until several days after the date of such transactions . . .; and praying that the Senate may assign them such seats on the floor or in the galleries, as may enable them to discharge their duties to those whose agents they are.[33]

In January 1839, the committee to which the memorial was referred proposed that the front seats of the eastern gallery be set apart for the out-of-town reporters as well as the local ones. The report generated a debate that runs for almost four pages of the *Congressional Globe* and elicited some rather violent remarks from Senator Niles:

> He was somewhat surprised at a proposition that the body should sanction, and in some manner endorse, the vile slanders that issue daily from these letter writers by assigning them seats within the chamber. Who were these persons who styled themselves reporters. Why miserable slanderers, hirelings hanging on to the skirts of literature, earning a miserable subsistence from their vile and dirty misrepresentations of the proceedings here, and many of them writing for both sides . . . Perhaps no member of that body had been more misrepresented and caricatured than himself by those venal and profligate scribblers, who were sent here to earn a disreputable living by catering to the depraved appetite of the papers they work for . . .[34]

Apparently, many Senators agreed with Senator Niles. His motion to table the memorial finally passed 20 to 17.

The reporters were not about to take such insults lying down. Niles and the other supporters of their exclusion were excoriated in editorial after editorial. Here is just a sample of their invective:

> The bitter hostility of such men as Niles to a Free Press is easily accounted for as it tears the Lion's Skin from the Jackass, and distinguishes the braying of that stupid beast from the roar of the Noble Monarch of the Wood.
>
> . . . then for Doctor Niles of Connecticut. Nature made him an ostler (stableboy). Chance, and his own roguery made him a United States Senator . . . Never was fellow meaner than this same Niles who with the fancies of a dolt makes pretensions to the intellect of the most talented man in the country. His manners are bad, and his breeding worse . . .
>
> On Saturday last the poor reporters who had petitioned for a separate seat in the eastern gallery of the Senate, were rowed up Salt River by the locofoco (radical Democrats) members, who seemed to be in a terrible fury with the letter writers for not allowing them to have more talent and decency than they possess.[35]

Despite their outrage, here the matter stood at the end of the Twenty-Fifth Congress. For the next 3 years, out-of-town reporters, aided by local journalists, used all sorts of subterfuges to get around this exclusionary rule, but the rule stuck. It was not until 1841, when the Whigs became a majority in the Senate, that the rule would be changed and the doors were once again opened to the reporters.

As the 1840 elections approached, the Senate once again became infused with presidential fever. Both Clay and Webster hoped to receive their party's nomination at the Whig convention in Harrisburg.

Webster was fifty-seven-years-old in 1839, and had begun to take on the appearance of a venerable statesman. The Webster paunch had become as noticeable as the famous dome and the fierce brows. His steps was heavier, his manner even more deliberate. In his customary dress—the black, long-tailed coat with gold buttons and buff-colored vest and pantaloons, he moved through the streets of Washington and Boston like a revolutionary frigate under full sail.

Unlike his rival, Clay, whose feelings were always close to the surface and who was addicted to profane tantrums in times of stress and disappointment, Webster was sanguine, almost glacial, in his ability to accept temporary defeat. As one of his biographers, Irving Bartlett, points out, even before Van Buren's 1837 inauguration, Webster had begun to plan for 1840. In a candid letter to a supporter, he outlined his plans for the next four years. He would leave the Senate for two years. (He did not—agreeing to stay after much imploring by New England businessmen.) During this period he would travel, keep himself before the public, and at the same time get his personal financial difficulties under control so that, upon his return to political life he would not have to divide his efforts between the Senate and his very lucrative law practice. Meanwhile, he reasoned, Van Buren would have revealed enough of the vulnerability of administrative policies to be effectively attacked.[37]

Clay, however, was also busy laying his plans. From the beginning of Van Buren's administration, he too had pictured himself as the "Little Magician's" opponent in 1840. Yearning for the nomination manifested itself in his letters, and as the summer of 1837 wore on, he discovered prospects of being "again forced into the Presidential arena." It didn't take much forcing. Clay's satisfaction over evidences of support was unconcealed.[38]

As the Van Buren administration wore on, the Senate Whigs saw abundant reason to believe that 1840 would be their year. There was certainly no better time to be in the opposition, they believed, than in periods of financial depression. A Whig victory seemed almost inevitable. But it was not clear what role the two sparring Whig senators would take. Their colleagues looked on with interest as they courteously greeted each other day after day.

To their tremendous disappointment, Clay and Webster were bypassed at the Whig convention in Harrisburg. Wanting desperately to win, and fearing that both men were too controversial, the Whigs decided to follow the Democrats' example of selecting a miliatry hero. They nominated Ohio's General William Henry Harrison of the Battle of Tippecanoe and War of 1812 fame, who had served in the Senate from 1825 to 1828. "I am the most unfortunate man in the history of parties," mourned Clay, "Always run . . . when sure to be defeated, and now betrayed for a nomination when I, or any one, would be sure of an election."[39] Both Webster and Clay, their own ambitious thwarted, might have had excuse for sulking in their separate tents, but neither did so. both had dreams of leading a Whig-dominated Senate and, like gallant troupers, toured with the grand Whig bandwagon.

The campaign of 1840 was the most ludicrous of any in American history up to that time. The Whigs presented no platform and carefully hid any views Harrison might have had on the issues. Instead, they whipped up an emotional circus, promoting the myth that Harrison, a man of means whose wealthy father had been a signer of the Declaration of Independence from Virginia, had been born in a frontier log cabin and raised on hard cider. They portrayed him as more a man of the people than the effete little man in the White House. As his partisans sang songs like "Tippecanoe and Tyler Too," (John Tyler, recent senator from Virginia, was Harrison's running mate), Harrison overwhelmed Van Buren and the Democrats.

The election of 1840 brought not only the nation's first Whig president, but also Whig majorities in the Senate and House. It inaugurated a decade of national expansion and of increased sectional tensions. This was to be a decade of political warfare, between the Whigs and the Democrats, between the president and the Congress, and finally between the North and the South. The principal battleground was to be the floor of the United States Senate, as we shall see in my next statement.

Mr. President, I ask unanimous consent that various footnotes be printed in the RECORD.

The PRESIDING OFFICER (Mr. DURENBERGER). Without objection, it is so ordered.

The material follows:

FOOTNOTES

[1] *Register of Debates*, 23rd Congress, 1st sess., pp. 2704-2705.

[2] Thomas Hart Benton. *Thirty Years' View* (New York: Appleton and Company, 1883), Vol. I, pp. 462-469; Claude Bowers. *The Party Battles of the Jackson Period* (Boston: Houghton Mifflin Company, 1922), pp. 350-351; *Congressional Globe*, 23rd Congress, 1st sess., p. 454.

[3] Bowers, p. 357.

[4] *Congressional Globe*, 23rd Congress, 1st sess., p. 318; Bowers, pp. 362-363.

[5] Bowers, pp. 364-365.

[6] Henry Stuart Foote. *A Casket of Reminiscences* (New York: Negro University Press, 1968), pp. 217-218 (reprint of 1874 edition).

[7] Harriet Martineau. *A Retrospect of Western Travel* (London: Saunders and Otley, 1838), Vol. I, p. 161.

[8] Marquis James. *The Life of Andrew Jackson* (New York: The Bobbs-Merrill Company, 1938), Vol. II, pp. 390-391; John Tyler, ed. by Lyon G. Tyler. *Letters and Times of the Tylers* (Richmond: Whitte and Shepperson, 1884), Vol. I, p. 509.

[9] W. H. Sparks. *Memories of Fifty Years* (Philadelphia: Claxton, Remsen, and Haffelfinger, 1882), p. 335.

[10] Sparks, pp. 336-341; Foote, pp. 218-220; Bowers, pp. 381-382.

[11] Glyndon Van Deusen. *The Life of Herny Clay* (Boston: Little, Brown and Company, 1937), pp. 289-290; James, pp. 388-389.

[12] *Register of Debates*, 23rd Congress, 1st sess., pp. 2-8.

[13] Van Deusen, p. 291.

[14] *Register of Debates*, 23rd Congress, 2nd sess., p. 104, App. 208-219.

[15] Benton, Vol. I, pp. 588-600.

[16] Van Deusen, pp. 292-294.

[17] Lunia Gresham, "The Public Career of Hugh Lawson White," Ph. D. dissertation, Vanderbilt University, 1945; Bowers, pp. 427-428; Hugh Lawson White, ed. by Nancy Scott. *Memoir of Hugh Lawson White* (Philadelphia: J. B. Lippincott and Company, 1856).

[18] Margaret Coit. *John C. Calhoun* (Boston: Houghton Mifflin Company, 1950), p. 309; *Congressional Globe*, 24th Congress, 1st sess., p. 347.

[19] Bowers, p. 445; *Congressional Globe*, 24th Congress, 1st sess., pp. 75-81.

[20] Arthur Schlesinger. *The Age of Jackson* (Boston: Little, Brown and Company, 1946), pp. 243-244; Martineau, pp. 243-244.

[21] Schesinger, pp. 242-243.

[22] George Curtis. *The Life of James Buchanan* (New York: Harper and Brothers, 1883), p. 316.

[23] Elbert Smith. *The Presidency of James Buchanan* (Lawrence, Kansas: University Press of Kansas, 1975), chapter 2; Philip Klein. *President James Buchanan* (University Park, Pennsylvania: Pennsylvania State University Press, 1962), p. 21.
[24] Bowers, p. 480.
[25] Coit, pp. 326-327.
[26] John Garraty. *Silas Wright* (New York: AMS Press, 1970), chapter VII.
[27] Van Deusen, pp. 303-304.
[28] *Congressional Globe*, 25th Congress, 2nd sess., pp. 151-152; Van Deusen, p. 304-305.
[29] Garraty, pp. 161-162.
[30] Alvin Josephy. *The Congreess of the United States* (New York: American Heritage, 1975), p. 193.
[31] Frederick Marbut, "The United States Senate and the Press, 1838-1841," *Journalism Quarterly*, Summer, 1951, p. 2.
[32] Ibid.
[33] Ibid., p. 3.
[34] Ibid.
[35] Ibid., pp. 4-5.
[36] Irving Bartlett, *Daniel Webster* (New York: W. W. Norton and Company, Inc., 1978), p. 150.
[37] Ibid., pp. 150-151.
[38] Van Deusen, pp. 320-321.
[39] Josephy, p. 198.

Mr. ROBERT C. BYRD. Mr. President, I believe there is about 3 minutes left in morning business.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HAYAKAWA). Without objection, it is so ordered.

VIRGIN ISLANDS TAX REDUCTION

Mr. STEVENS. Mr. President, I ask that the Chair lay before the Senate Calendar No. 936, H.R. 7093.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Alaska?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, that matter has been cleared with Mr. LONG and others on this side of the aisle, so there is no objection.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 7093) to amend the Internal Revenue Code of 1954 to reduce the rate of certain taxes paid to the Virgin Islands on Virgin Islands-sourced income.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Finance with an amendment, as follows:

On page 4, after line 14, insert the following:

SEC. 2. CONTINUED PAYMENT OF DISABILITY BENEFITS DURING APPEAL.

(a) Section 223 of the Social Security Act is amended by adding at the end thereof the following new subsection: "Continued Payment of Disability Benefits During Appeal

"(g)(1) In any case where—

"(A) an individual is a recipient of disability insurance benefits, or of child's, widow's, or widower's insurance benefits based on disability,

"(B) the physical or mental impairment on the basis of which such benefits are payable is found to have ceased, not to have existed, or to no longer be disabling, and as a consequence such individual is determined not to be entitled to such benefits, and

"(C) a timely request for a hearing under section 221(d), or for an administrative review prior to such hearing, is pending with respect to the determination that he is not so entitled,

such individual may elect (in such manner and form and within such time as the Secretary shall by regulations prescribe) to have the payment of such benefits, and the payment of any other benefits under this Act based on such individual's wages and self-employment income (including benefits under title XVIII), continued for an additional period beginning with the first month beginning after the date of the enactment of this subsection for which (under such determination) such benefits are no longer otherwise payable, and ending with the earlier of (i) the month preceding the month in which a decision is made after such a hearing, (ii) the month preceding the month in which no such request for a hearing or an administrative review is pending, or (iii) June 1983.

"(2)(A) If an individual elects to have the payment of his benefits continued for an additional period under paragraph (1), and the final decision of the Secretary affirms the determination that he is not entitled to such benefits, any benefits paid under this title pursuant to such election (for months in such additional period) shall be considered overpayments for all purposes of this title, except as otherwise provided in subparagraph (B).

"(B) If the Secretary determines that the individual's appeal of his termination of benefits was made in good faith, all of the benefits paid pursuant to such individual's election under paragraph (1) shall be subject to waiver consideration under the provisions of section 204.

"(3) The provisions of paragraphs (1) and (2) shall apply with respect to determinations (that individuals are not entitled to benefits) which are made on or after the date of the enactment of this subsection, or prior to such date but only on the basis of a timely request for a hearing under section 221(d), or for an administrative review prior to such hearing."

SEC. 3. PERIODIC REVIEWS OF DISABILITY CASES.

Section 221(i) of the Social Security Act is amended—

(1) by inserting "(1)" after "(i)";

(2) by inserting ", subject to paragraph (2)" after "at least every 3 years"; and

(3) by adding at the end thereof the following new paragraph:

"(2) The requirement of paragraph (1) that cases be reviewed at least every 3 years shall not apply to the extent that the Secretary determines, on a State-by-State basis, that such requirement should be waived to insure that only the appropriate number of such cases are reviewed. The Secretary shall determine the appropriate number of cases to be reviewed in each State after consultation with the State agency performing such reviews, based upon the backlog of pending reviews, the projected number of new applications for disability insurance benefits, and the current and projected staffing levels of the State agency, but the Secretary shall provide for a waiver of such requirement only in the case of a State which makes a good faith effort to meet proper staffing requirements for the State agency and to process case reviews in a timely fashion. The Secretary shall report annually to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives with respect to the determinations made by the Secretary under the preceding sentence.".

(b) The amendments made by subsection (a) shall become effective on the date of the enactment of this Act.

SEC. 4. MEDICAL EVIDENCE.

(a) Section 221 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(j) In any case of a medical review of the continuing disability of an individual, before making a final determination with respect to any such individual, the Secretary shall make every reasonable effort to seek and obtain all relevant medical evidence from all persons or institutions which have diagnosed or treated such individual with respect to his impairment or impairments within the preceding 12-month period.".

(b) The amendment made by subsection (a) shall become effective on the date of the enactment of this Act.

SEC. 5. REPORT BY SECRETARY.

Section 221(i) of the Social Security Act (as amended by section 3 of this Act) is further amended by adding at the end thereof the following new paragraph:

"(3) The Secretary shall report semiannually to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives with respect to the number of reviews of continuing disability carried out under paragraph (1), the number of such reviews which result in an initial termination of benefits, the number of requests for reconsideration of such initial termination or for a hearing with respect to such termination under subsection (d), or both, and the number of such initial terminations which are overturned as the result of a reconsideration or hearing.".

Mr. STEVENS. Mr. President, I ask unanimous consent that there be a time agreement of 10 minutes equally divided on this bill.

Mr. ROBERT C. BYRD. Will the Senator make that 30 minutes?

Mr. STEVENS. We will make that 30 minutes at the request of the minority leader.

Mr. DOLE. There is an amendment that is going to be accepted.

Mr. STEVENS. And I ask unanimous consent that the time agreement be in the usual form and that the time limit on the amendment be 15 minutes on a side.

Mr. DOLE. All right.

Mr. ROBERT C. BYRD. Only one amendment, one or two?

Mr. STEVENS. How many amendments are there?

Mr. DOLE. One.

Mr. STEVENS. The only amendment to be in order is the amendment agreed to by the Senators from Kansas and Michigan.

Mr. ROBERT C. BYRD. So there will be no surprise amendments that may come in here.

Mr. STEVENS. Mr. President, that will be 15 minutes on each side on an amendment to be offered by the Senator from Kansas and agreed to by the

Senator from Michigan and 30 minute time limit on the bill with no other amendments to be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, on September 28, the Finance Committee approved several disability insurance amendments to H.R. 7093. They deal with two problems in the continuing disability investigation (CDI) process mandated by the Social Security Disability Amendments of 1980—the lack of benefits during the appeals process and the rate at which States must review beneficiaries. There are four provisions in all, two of which were contained in S. 2942, introduced by Senator Cohen and others.

Briefly, the bill would continue disability insurance payments and medicare coverage, at the individual's option, through the hearing decision issued by the administrative law judge (ALJ). Repayment would be required if the ALJ upholds the decision to terminate benefits. This provision would apply to individuals who have appeals pending at the time of enactment and to those who are terminated and appeal before July 1, 1983. However, the committee bill does not allow for any payments to be made under this provision beyond July. I will offer an amendment to improve the way this is sunsetted.

Also, the bill would authorize the Secretary of Health and Human Services to slow the continuing eligibility reviews, taking into consideration State agency workload and processing time. The Secretary would be authorized to grant waivers only to States that demonstrate a good faith effort to meet their staffing needs and process the reviews in a timely fashion.

Two additional provisions are included which would require the Secretary to gather medical evidence over the 12-month period preceding review—a practice recently adopted by the administration—and also require the Secretary to report to Congress semiannually on the number of terminations and appeals requests.

These amendments do not, of course offer a solution to the key structural problems in the disability insurance program—such as the lack of uniformity in decisionmaking between State agencies and ALJ's. Nor do they deal with other substantive issues—such as whether the individual must have experienced medical improvement before he can be terminated from the rolls. However, these amendments do provide an emergency solution to the suffering of families who are temporarily denied benefits pending an ALJ hearing. Among the many options, it seems to be one with broad bipartisan support. Since the provision allowing benefits to be continued past termination is sunsetted, the committee's bill acknowledges that futher substantive legislation will be required.

REASONS FOR ACTION NOW

In the early stages of the periodic review process, States have been terminating benefits in approximately 45 percent of the cases reviewed. Of those cases which appeal, approximately 65 percent have benefits reinstated by an administrative law judge. This wide variation between the decisions made by State agencies and ALJ's is a long recognized problem and stems from a number of factors. For example, the beneficiary can introduce new medical evidence at the ALJ hearing; the ALJ hearing is the first face-to-face contact between the reviewed beneficiary and the decisionmaker; and the standards of disability used by State agencies and ALJ's differ in some important aspects.

The lack of uniformity of decisionmaking is a fundamental problem which must be dealt with administratively and which must be carefully considered when the committee takes up substantive legislation. In the meantime, some emergency relief is clearly warranted for workers who are having benefits terminated by State agencies and then—in more than half the cases appealed—having their benefits reinstated by an ALJ.

The committee's decision to extend benefits during the appeals process should not be considered a judgment that it disagrees with the standards being applied by the State agencies. Likewise, this legislation does not in any way represent a reversal of the 1980 mandate that the Social Security Administration work diligently to remove ineligibles from the benefit rolls. Rather, it is a temporary expedient to help deal with some of the problems incident to the implementation of that mandate.

Another problem addressed by this legislation is the unavoidable difficulty some States are experiencing in implementing the periodic review procedures. The bill authorizes the Secretary to take into account the capabilities and workloads of the State agencies in assigning cases to the States for review. To some extent, actions already implemented administratively may have relieved the situation in some States, but this bill will make clear the Secretary's authority to provide such relief even if this means that the statutory schedule of reviewing one-third of the caseload each year cannot initially be met. We consider it essential, however, that the intent of the 1980 amendments not be violated. The accuracy of the decision granting or terminating DI benefits must be achieved in all States by the prompt implementation of a thorough program of periodic review.

It should be noted that the Secretary of Health and Human Services and the Social Security Administration have already taken a number of important steps to respond to many of the criticisms which have been leveled against the CDI process. I believe these are important steps—particularly the new face-to-face interviews for beneficiaries at their local social security offices. I urge the administration to continue its efforts to improve the quality and the accuracy of the reviews.

BACKGROUND ON THE 1980 AMENDMENTS

I would like to take this opportunity to remind my colleagues why we have a continuing disability investigation review process. During the 1970's, the Congress became alarmed at the rapid growth of the disability rolls and the rising cost of the program. Between 1970 and 1980, the cost of DI rose fivefold, from $3.3 billion to $15.8 billion. Between 1970 and 1977 alone, the number of disabled workers on the rolls almost doubled, from 1.5 million to 2.9 million. Counting spouses and children, the benefit rolls swelled from 2.6 million to 4.8 million people. Almost two-thirds of the people who came on the rolls since the beginning of the program in 1957 came on between 1970 and 1981.

The DI program, as a result, was seriously underfinanced and deficits were reported by the Social Security Board of Trustees on 15 occasions. Furthermore, the Congress learned that the then existing continuing review criteria and procedures were inadequate and resulted in the continued payment of benefits to many persons who had medically or otherwise recovered from their disability.

The Social Security Disability Amendments of 1980 were enacted as a response to this rapid growth in cost and in the number of beneficiaries. The amendments passed the Senate by a vote of 87 to 1 and had the express purpose of weeding out ineligibles and controlling program costs.

A number of significant reforms in the act tightened administrative oversight and control of the DI benefit rolls. The provision of current concern mandated that, effective January 1, 1982, DI beneficiaries must be reexamined at least once every 3 years to determine their continuing eligibility for benefits. This continuing disability investigation requirement specifies a minimum level of review.

SSA accelerated the CDI process in response to SSA quality control studies and also a GAO report which revealed a significant number of ineligibles on the rolls. SSA began the new review in March 1981 rather than waiting until January 1982, using procedures to target reviews on those most likely to be ineligible. It is estimated that the periodic review will save the trust funds $700 million in fiscal year 1983 and $1 billion in fiscal year 1984.

A DIFFICULT SITUATION

Although allowance rates vary widely among States, recent data indicates that only about 54 percent of cases reviewed are found to continue to meet eligibility requirements. In other words, 46 percent of those reviewed are being terminated from the benefit rolls. For those individuals that appeal, administrative law judges are reversing the State agency decisions—and reinstating benefits—in 60 to 65 percent of the cases.

This is clearly a difficult situation: Some States are feeling hard pressed to meet the workload demands of the stepped-up review. People who have been on the rolls for many years—having never been reexamined—are now coming up for review and having benefits terminated. Many people are confused about the process and the importance of providing sound medical evidence on their condition. Significant discrepancies between State agencies—responsible for performing CDI's and determining eligibility—and the ALJ's is causing great concern about the reliability and fairness of the disability determination process.

It is my hope that this emergency legislation will provide us the opportunity to consider carefully the major problems in the disability determination and appeals process in the Finance Committee.

I might point out in closing that there are no easy or obvious solutions to these problems. H.R. 6181, introduced by Representatives PICKLE and ARCHER, was marked up in the House Ways and Means Committee last March and was reported out of the committee on May 26. The bill has not yet made it to the House floor. Opinions vary widely and in all these months a consensus has not been reached. Forging a consensus will take time and cooperation.

Mr. President, before I ask unanimous consent to print in the RECORD a more detailed description of the disability provisions, I would like to express my thanks, and those of Senator ARMSTRONG, chairman of the Social Security Subcommittee, to the dedicated group of Senators who have devoted so much time to working out a consensus on this limited response to the problems created by the new continuing disability investigation process. Senators COHEN and LEVIN, who became interested in the CDI procedure as a result of oversight hearings they held in the Government Affairs Subcommittee last May, approached the problem in a compassionate yet reasonable and constructive manner. They, along with Senators HEINZ and DURENBERGER on the Finance Committee, were instrumental in gaining support for these provisions. Senators METZENBAUM and RIEGLE were also actively involved in the deliberations.

Now, Mr. President, I ask unanimous consent to print in the RECORD a detailed description of the disability provisions in the bill and the amendment.

There being no objection, the material ordered to be printed in the RECORD, as follows:

PROVISIONS RELATING TO SOCIAL SECURITY DISABILITY INSURANCE (DI)

CONTINUATION OF DI BENEFITS TO CERTAIN INDIVIDUALS PURSUING APPEAL

Present law.—A social security disability insurance (DI) beneficiary who is found by the State agency to be no longer eligible for benefits continues to receive benefits for two months after the month in which he ceases to be disabled. (As an administrative practice, individuals are not generally found to be "not disabled" no earlier than month is which the agency makes the termination decision.) The individual may request a reconsideration of the decision and, if the denial is upheld, he may appeal the decision to an Administrative Law Judge (ALJ). The individual is not presently eligible for benefits during the appeals process. However, if the ALJ reverses the initial termination decision, benefits are paid retroactively.

Explanation of provision.—The Committee amendment would continue DI benefits and medicare coverage (at the individual's option) through the month preceding the month of the hearing decision for terminated beneficiaries pursuing an appeal. These additional DI payments would be subject to recovery as overpayments, subject to the same waiver provisions now in current law, if the initial termination decision were upheld.

Effective date.—This provision would be effective for termination decisions occurring between the date of enactment and July 1, 1983, but in no case would payments be made for months after June 1983. Cases now pending an ALJ decision would also be covered by this provision, although lump sum back payments would not be authorized. Individuals terminated before the date of enactment who have not appealed the decision would qualify for continued benefits only if they are still within the allowable period for requesting a review.

SECRETARIAL AUTHORITY TO CONTROL FLOW OF CONTINUING DISABILITY INVESTIGATION REVIEWS

Present law.—As mandated by the Social Security Disability Amendments of 1980, all DI beneficiaries except those with permanent impairments must be reviewed at least once every 3 years to assess their continuing eligibility. Beneficiaries with permanent impairments may be reviewed less frequently. The provision in present law specifies a minimum level of review.

Explanation of provision.—The Committee amendment would provide the Secretary of Health and Human Services the authority to slow—on a State-by-State basis—the flow of cases sent to State agencies for review of continuing eligibility. The Secretary would be instructed to take into consideration State workload and staffing requirements, and would be authorized to slow reviews only in States that demonstrate a good faith effort to meet staffing requirements and process claims in a timely fashion.

Effective date.—This provision would be effective on enactment.

MEDICAL EVIDENCE REQUIREMENT

Present law.—Although current law does not specify a time period for the collection of medical evidence, current procedures, detailed in the guidelines used by State agencies, require the Secretary to seek to obtain all medical evidence from all persons or institutions which have diagnosed or treated the individual within the 12-month period preceding the review of an individual's continuing eligibility.

The adoption of this procedure was announced by the Administration in May, 1982. Previously, any requirements as to the length of the period over which medical evidence should be sought were left up to the States. For some individuals, medical evidence was gathered over more than a 12-month period. For others, medical evidence was gathered over a shorter period.

Explanation of provision.—The Committee amendment would put into law the requirement that the Secretary must attempt to seek and obtain all relevant medical evidence from all persons or institutions which have diagnosed or treated the individual within the 12-month period preceding the review of an individual's continuing eligibility.

Effective date.—This provision would be effective on enactment.

REPORT TO CONGRESS

Present law.—There is no requirement for periodic reporting to the Congress by the Secretary of Health and Human Services with respect to continuing disability investigations.

Explanation of provision.—The Committee amendment would require the Secretary to report to the Senate Finance Committee and the House Ways and Means Committee semiannually on the number of: continuing eligibility reviews, termination decisions, reconsideration requests, and termination decisions which are overturned at the reconsideration or hearing level.

Effective date.—This provision would be effective on enactment.

DOLE AMENDMENT

This amendment would make two changes in the disability provisions of the committee bill, H.R. 7093. It would:

Continue disability payments through the ALJ hearing to terminated beneficiaries pursuing an appeal before October, 1983. This would extend the provision in H.R. 7093 by 3 months. (No payments under this provision would continue beyond June 1984.)

In reviewing an individual's continuing disability, require the Secretary to consider all evidence in the individual's file and require that such evidence be discussed in the denial notices.

CBO COST ESTIMATES

H.R. 7093: $35 million in fiscal year 1983, −$15 million in fiscal year 1984.

H.R. 7093 as amended: $60 million in fiscal year 1983, $60 million in fiscal year 1984.

This amendment would increase the cost of H.R. 7093 by $25 million in fiscal year 1983 and $75 million in fiscal year 1984.

Mr. DOLE. Mr. President, I wish to thank the distinguished Senator from Louisiana, Senator LONG, for his cooperation. Senators METZENBAUM, LEVIN, COHEN, ARMSTRONG, DURENBERGER, and others, including Senator RIEGLE, Senator HEINZ, Senator HATCH, have worked with me to find something we might all agree on in the area of continuing disability investigations. The bill (H.R. 7093) was postponed prior to

the election. Senator LONG wanted to take another look at it. He has now consented to its consideration with an amendment which I shall offer as a part of my amendment to which he has no objection.

This bill is a step in the right direction. I certainly commend my colleagues for their patience. I also commend the Social Security Administrator John A. Svahn, and Secretary Schweiker of the Department of Health and Human Services for their willingness to help us work out some of these very real problems.

Mr. President, I ask unanimous consent that the committee amendment be agreed to and considered as original text.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I thank Senator DOLE for his leadership on this issue and the speed with which he has moved this bill out of his committee. I commend him.

I and several of my colleagues have been working on a legislative solution to the problems in the review process of social security disability for over a year now. The situation has reached a crisis point. My staff has documented at least 32 deaths of persons who were told by SSA that their benefits were being terminated because they were no longer disabled and who then died shortly thereafter of their disabling condition.

Most Senators are by now all too familiar with the frequent stories of truly disabled persons who have been callously and erroneously removed from the social security disability rolls. SSA would have us believe these are isolated instances, but the sheer number belies that possibility.

The tragedy is that while two-thirds of those who appeal their termination decision eventually have their benefits restored by an administrative law judge, they are often left with no other source of income during this long appeal process. Of the 32 deaths, in almost every case a surviving relative, the treating physician, or some other interested person has stated their belief that the wrongful termination decision and resulting loss of benefits was a contributing factor in the person's death.

It is a tragic fact that, in despair at losing their benefits, a number of individuals have committed suicide. Other victims have been forced back into institutional care. Families have had to separate. And for many, these callous and unfair procedures have brought financial ruin.

The bill before us today is a short-term, emergency measure. Much more needs to be done. I understand that the chairman of the Senate Finance Committee agrees that comprehensive reform legislation must be enacted next year. I urge him to act quickly on such legislation.

In the meantime, this measure is desperately needed. Perhaps at least some of those 32 persons who died would be alive today if they had not suffered the stress associated with the loss of benefits. This bill would have allowed them to continue to receive those benefits pending their appeal. Some of those persons were granted their appeals posthumously. We cannot allow this intolerable situation to continue any longer. We must pass this measure immediately.

I do not agree with the July 1, 1983 date for the sunsetting of this provision to extend benefits pending appeal. I believe that this provision should become a permanent part of the social security disability law. This would merely place SSDI recipients in the same position as SSI recipients who already have the right to elect to continue to receive benefits pending their appeal to an administrative law judge. However, the one positive aspect of this July 1 deadline is that it will provide a strong incentive to the Congress to enact more comprehensive legislation to correct the existing problems in the disability program as soon as possible.

I believe that the provision of the bill requiring the Social Security Administration to obtain all relevant medical evidence from treating institutions and individuals will be extremely beneficial to recipients who are subject to continuing disability investigations. At the present time, it is my belief that the Social Security Administration is not, in all instances, making a vigorous enough effort to obtain such evidence. The recipient's treating physician is the person in the best position to provide the most comprehensive and qualified report on the individual's medical condition. The treating physician usually has an historical perspective.

On the individual's condition which is simply not available to a physician performing a consultative examination on behalf of the State disability agency. Such a consultative examination is, at best, a brief, one-time glimpse of that person's condition. In the case of many mental disabilities and some physical disabilities, an individual's outward symptoms of his or her disabling condition may be in remission during particular periods. In a recent report, the General Accounting Office concurred with this view:

> To base a decision on only the recent examination—often a purchased consultative examination—could give a false reading of that person's condition. This is especially true for those impairments subject to fluctuation or periodic remission, such as mental impairments.

The provision of this bill requiring SSA to obtain treating physician evidence is a reaffirmation of the importance of such evidence and is a signal to SSA that more credence should be given to such evidence. It is very possible that with this increased and improved effort to obtain such evidence, there will be much less of a need for consultative examinations, thus saving the Government money as well as improving the quality of decisions. Of course the sponsors of this legislation recognize that in certain circumstances, it will not be possible for SSA to obtain reports from the treating physician despite every reasonable effort. An example of such a circumstance would be the death of the physician, the destruction of past medical records or other similar circumstances.

Finally, I am very pleased about the inclusion of the provision requiring SSA to give consideration to all evidence in the recipient's file, including the medical evidence upon which the original determination that the individual was disabled was based. This provision simply follows a recent GAO recommendation to this effect which GAO has transmitted to SSA and Congress.

Many recipients mistakenly believe that SSA is presently considering all the medical evidence in their file when it undertakes a CDI review. They rely, to their detriment, on the sometimes voluminous medical evidence which they submitted at the time of the initial determination of eligibility. With this provision, SSA must now consider all historical medical evidence and, if SSA determines that the disability has ceased, it must provide the recipient with a statement explaining why this evidence is no longer sufficient. For example, there may be more recent evidence available that the individual's condition has now improved to the point that they no longer meet the definition of disability.

Of course, in some cases, SSA may find that the original decision granting disability benefits was clearly erroneous and not in accordance with the law. In that instance, where the initial decision was incorrect, SSA may terminate benefits even though the individual's medical condition has not improved. This is the reason for the next to the last sentence of the amendment offered by Senator DOLE. This bill in not intended to preclude SSA from reversing clearly erroneous incorrect decisions. However, the bill is not intended to change any current case law on the subject of when a showing of medical improvement is required. It merely clarifies that SSA may terminate benefits where their initial determination was legally incorrect at the time it was made.

UP AMENDMENT NO. 1413

(Purpose: To extend the effective date of continued payment of disability benefits and to require that a complete medical history be obtained prior to making a final determination)

Mr. DOLE. Mr. President, I send an amendment to the desk for myself, Mr. COHEN, Mr. LEVIN, Mr. METZENBAUM, Mr. DURENBERGER, Mr. HEINZ, Mr. RIEGLE, Mr. SASSER, Mr. BIDEN, and Mr. JEPSEN and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE), for himself and others proposes an unprinted amendment numbered 1413.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 5, lines 22 and 23, strike out "June 1982" and insert in lieu thereof "June 1984".

On page 6, strike out lines 12 through 17 and insert in lieu thereof the following:

" '(3) The provisions of paragraphs (1) and (2) shall apply with respect to determinations (that individuals are not entitled to benefits) which are made—

'(A) on or after the date of the enactment of this subsection, or prior to such date but only on the basis of a timely request for a hearing under section 221(d), or for an administrative review prior to such hearing, and

'(B) prior to October 1, 1983.' ".

On page 8, line 8, before the quotation marks insert the following: "In making such final determination the Secretary shall consider all evidence available in such individual's case record relating to such impairment or impairments, including medical evidence used in making the initial determination that the individual was under a disability and medical evidence used in any subsequent review, determination, or judicial review relating to such impairment or impairments. Nothing in the preceding sentence shall be considered to preclude the Secretary from finding an individual to be ineligible on the basis that such individual is not disabled within the meaning of the term disability for purposes of initial determinations under this title even if such individual's medical condition has not improved or otherwise changed since any prior determination of his eligibility. Discussion of such evidence shall be included in the statement of the case required to be provided under section 205(b).".

Mr. DOLE. Mr. President, I shall take a couple of minutes to explain this important amendment.

One of the disability provisions agreed to by the Finance Committee and incorporated in the bill before us now has caused confusion and concern. The problem pertains to the payment of disability benefits through the administrative law judge (ALJ) hearing and, in particular, the sunsetting of the provision in July 1983.

Under the committee bill, no payments will be made under this provision for months after June 1983. In other words, people terminated from the rolls after that date will not be provided any additional payments during the appeals process; instead, existing law will prevail. This was clearly understood.

The amendment has another effect, however, which I believe was unintended. Since no payments can be made past June 1983, this means that even someone terminated today, next month, or any time prior to July, will not be granted payments through their entire appeal—unless their hearing happens to be held before July. Since an ALJ hearing can take up to 6 months to 1 year to receive, many of the people terminated from the rolls in the next 6 to 9 months will not receive payments through the ALJ hearing—only until July.

The amendment I now offer on behalf of myself and Senators COHEN and LEVIN would correct this problem and, since action has been delayed on this bill, extend the date when the provision sunsets by 3 months. In particular, it would insure that people who are terminated from the rolls before October 1, 1983 will be eligible to receive payments through th ALJ hearing, as long as that hearing is held before July 1, 1984. In the event the hearing should take longer, payments would not be continued beyond June 1984.

I believe this amendment is consistent with the committee's desire to sunset the provision while not violating the concept that for a temporary period of time payments should be continued through the ALJ hearing.

This amendment would also put into law a requirement that, in reviewing the continuing eligibility of beneficiaries, all evidence in the individual's record be examined. In the case of a denial decision, such evidence would be discussed in the denial notice.

These are limited changes in the disability provisions of H.R. 7093 and have broad support.

According to the Congressional Budget Office, this amendment would increase the cost of the disability provisions in fiscal year 1983 from $35 million to $60 million.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from Social Security Commissioner Svahn. This letter details steps already taken by the Social Security Administration dealing with many of the concerns raised by Members of this body in connection with the disability program. I commend Commissioner Svahn for taking these administrative steps to improve the disability review process.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMISSIONER OF SOCIAL SECURITY,
Baltimore, Md., September 16, 1982.

Hon. ROBERT J. DOLE,
Chairman, Senate Finance Committee, Washington, D.C.

DEAR MR. CHAIRMAN: As you know, the Administration shares your concern and that of other members of the Finance Committee with regard to the fair and equitable carrying out of the provisions of the 1980 Amendments for better assuring the integrity of the Social Security disability rolls through the periodic review of the continuing disability status of people receiving disability benefits. This process of continuing disability investigations—the so-called CDI process—has been a source of major concern to us, as well as to the Congress and the public generally and we have been moving in both legislative and administrative areas to deal with problems that have arisen in this area.

Secretary Schweiker and I have been strongly supportive of major elements of a Ways and Means Social Security Subcommittee bill, now awaiting action in the House, that would lead to improvements in the quality and fairness of the CDI process. We feel that the House bill—H.R. 6181, with provisions paralleled in several bills pending before the Senate—would provide us with the additional tools necessary to accomplish this.

However, pending completion of action on that legislation, we have given the very highest priority to those actions which we can take administratively—in close concert with the States—to implement a fundamental reform of the CDI program. These reforms will, I believe, go a long way toward solving many of the problems and resolving many of the issues that have led to the current concern about the CDI process.

Indeed, these reforms will take us about as far as we can go toward those ends without substantive legislation along the lines of the provisions in H.R 6181 that we support to correct some of the anomalies in present law and practice which have helped make this program far more complex and controversial than any other administered by this agency.

Twelve major steps SSA is taking to reform the CDI process are as follows:

(1) In March, SSA initiated a policy of determining that, in general, a person's disability ceases as of the time the beneficiary is notified of the cessation. This change reduces situations where the beneficiary is faced with the need to pay back past benefits because of a retroactive determination.

(2) Since May, SSA has mandated that States review all medical evidence available for the past year—a directive which ensures that every State is looking at every piece of evidence that might be pertinent to a case.

(3) SSA has underway, in two States, a study to test the value of obtaining more than one special mental status examination in cases where evidence from the beneficiary's treating source is incomplete or inadequate. This is intended to determine whether a person's mental condition can drastically change from one day to another. One criticism of SSA's practice of getting only one mental status examination is that it gives a misleading "snapshot" of a person.

(4) Since March, SSA has required State agencies to furnish detailed explanations of their decisions in all cases in which a person's disability has ceased.

To insure quality in CDI cases, SSA conducts a quality review of a sample of cases before benefits are stopped. In June 1982,

SSA doubled the number of quality reviews of termination cases. The quality has been holding very high at 97.5 percent. In addition, to demonstrate the importance of quality in the CDI process, SSA established an interim accuracy goal for the State agencies without waiting for publication of regulations.

(6) SSA has consistently monitored State agency resources and workloads closely and adjusts the flow of cases to the individual States to avoid backlogs when problems have arisen in their acquiring adequate resources. The selective moratoriums on new CDI cases that SSA has implemented for August and September (and even earlier in some States) has been easing problems in specific States that have had unusually large backlogs.

(7) Starting in October, SSA will use a new procedure for beginning a CDI review: each beneficiary will have a face-to-face interview with an interviewer in the local Social Security office. The interviewer will explain how the review works and what the beneficiary's rights are, obtain information about the beneficiary's medical care and treatment and current condition, and—in some cases—conclude the reviews process where it is clearly warranted based on the beneficiary's current medical condition.

This will correct the single most glaring anomaly in the CDI process. Recipients whose cases are selected for review under the 1980 Congressional mandate rarely, if ever, come face-to-face with a decisionmaker until and unless the case is pursued to the third level of review and appeal—a process which may drag on as much as 6 months to a year after benefits have been stopped. This one flaw in the program is perhaps more to blame than any other factor for the seemingly senseless "horror stories" we have all seen from time to time of people being dropped from the rolls despite glaringly obvious disabilities.

(8) To improve the quality of determinations in difficult cases where it is necessary to determine a person's capacity to do work-related activities despite a severe impairment, SSA is requiring that the determinations as to remaining capacity be more detailed and explicit so that the basis for the final decision is clear.

(9) SSA has taken many actions to improve the quality of consultative examinations purchased by the Government in cases where medical evidence from a person's physician is unavailable or incomplete.

(10) SSA has been very sensitive to the need for special handling of cases involving psychiatric impairments. SSA has met with mental health groups to obtain their recommendations for improvements and is reevaluating all guidelines for evaluation of mental impairments. SSA has also encouraged the States to increase the number of psychiatrists on their staffs in order to enhance their ability to review cases involving mental impairments. Secretary Schweiker has asked the American Psychiatric Association for assistance in recruiting psychiatrists for the States.

(11) SSA has added more than 140 Administrative Law Judges to what is already perhaps the largest single adjudicative system in the world, bringing their total number to more than 800 and providing them with significantly more support staff to help reduce the backlog of cases that has been a chronic problem in past years.

(12) Based on our findings in the first year of the CDI program, SSA has broadened the definition of the permanently disabled who need not be subject to the every-three-year CDI process mandated under the law. As a result, SSA expects to exempt an additional 165,000 beneficiaries from the CDI process during the next fiscal year—which will mean reducing the total from about 800,000 to about 640,000, a major reduction in workloads for the State agencies.

In summary, we believe that with the implementation of these administrative steps, we can very substantially improve the quality and the fairness of the CDI process, prevent the kinds of mistakes that have lead to true horror stories and given rise to some exaggerated concerns, and move toward guaranteeing the integrity of the disability rolls in a way that is equitable and humane as well as effective and efficient. While we do support legislation—such as the provisions we have sought in H.R. 6181, including face-to-face evidentiary proceedings at the very first level of appeal—to enable us to further improve the process, we believe that with the steps outlined above, substantial progress is now being made.

Sincerely,

JOHN A. SVAHN.

Mr. COHEN. Mr. President, I rise in support of the amendment offered by my distinguished colleague from Kansas (Mr. DOLE) and in support of the bill H.R. 7093.

Mr. President, I ask unanimous consent that a list of cosponsors, including Senator LEVIN and myself be added not only to the bill itself but also to the amendment (UP No. 1413) offered by Senator DOLE.

The PRESIDING OFFICER. Without objection, it is so ordered.

The list of cosponsors follows:

Senator Cohen, Senator Levin, Senator Dole, Senator Armstrong, Senator Metzenbaum, Senator Heinz, Senator Riegle, Senator Durenberger, Senator Chafee, Senator Sasser, Senator Quayle, Senator Cochran, Senator Biden, Senator Boren, Senator Burdick, Senator Thurmond, Senator Cannon, Senator Dixon, Senator Leahy, Senator Cranston, Senator Pell, Senator Stafford, Senator Dodd, Senator Nunn, Senator Gorton, Senator Kennedy, Senator Eagleton, Senator Pryor, Senator Chiles, and Senator D'Amato.

● Mr. BOREN. Mr. President, I am pleased to cosponsor the amendment offered by my distinguished colleagues from Michigan and Maine. This change in the law has been desperately needed as thousands of disabled persons across the country have seen their benefits terminated arbitrarily. My field offices in Oklahoma have been inundated with complaints of unjustified disability terminations. In the past year, I have received over 550 calls from disability recipients from all over the State who are no longer drawing their disability benefits.

The amendment considered by the Senate today will continue disability payments to social security recipients until all appeals are exhausted. This change will allow an individual in the process of appealing a decision concerning his disability certification will continue to receive benefits until an administrative law judge determines he is not disabled.

Cutting off someone's disability benefits before he's had a chance for a full hearing is sort of like declaring someone guilty before they are proven innocent. We should not penalize those with true needs because of bureaucratic backlogs. I am the first one to want to reduce Federal spending, but it is not right to use Government delays to deny funds to those who are truly helpless for physical reasons.●

Mr. COHEN. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. LEVIN. I yield back our time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas.

The amendment (UP No. 1413) was agreed to.

Mr. COHEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COHEN. Mr. President, I rise in support of the disability reform amendments included in H.R. 7093.

Section 2 of this legislation contains amendments that Senator LEVIN and I, along with 28 of our colleagues, have sponsored to provide a short-term solution to the grave problems affecting the Social Security Administration's reviews of individuals receiving disability benefits.

The purpose of our proposal is to provide immediate relief to the thousands of disabled people whose benefits are being erroneously terminated and subsequently restored after a lengthy appeals process has run its course.

The Social Security Administration, in response to a congressional mandate, has been reexamining the eligibility of hundreds of thousands of individuals with nonpermanent disabilities. In my judgment, Congress was correct in mandating periodic reviews to identify those individuals who have recovered sufficiently to be able to resume working. Unless we eliminate from the program those individuals who no longer require assistance, we will limit our ability to provide fully for those who do. The implementation of this law, however, has created chaos and inflicted pain that Congress neither envisioned nor desired when it enacted what was intended to be a sound management tool.

The problem is not with principle of the periodic reviews, but rather with the manner in which they are being conducted. And we in Congress share a large measure of responsibility for failing to establish specific guidelines for selecting the cases and conducting the investigations.

Last May, Senator LEVIN and I held a hearing in our Oversight of Government Management Subcommittee to investigate numerous reports from all over the country that truly disabled people are having their benefits terminated as a result of the new reviews.

What we found was most disturbing. Benefits are being discontinued in more than 40 percent of the cases reviewed—far above the 20-percent rate predicted by the General Accounting Office. In the State of Maine alone, benefits for more than 1,200 people have been ended since the reviews began, despite the fact that in a number of cases the claimants still appear to be severely disabled and unable to work. And about two-thirds of the claimants who appeal are eventually reinstated to the program after a hearing before an administrative law judge.

The situation is both absurd and cruel. It makes no sense to inflict pain, uncertainty, and financial hardship on disabled workers and then tell them, "Sorry, we made a mistake." It makes no sense to overburden the State agencies and further clog the appeals process with cases where the individuals clearly remain disabled.

The tragedy is that, in waiting for reinstatement, these severely disabled persons and their families must go without benefits for months—or even a year or more—due to the tremendous backlog of appeals. One of my constituents, who was reinstated to the program last August, has been without his disability checks for 16 months. Lacking any income and too proud to accept welfare, this desperate man recently attempted to take his own life.

This is not an isolated example. Witnesses at our hearing recounted case after case in which truly disabled individuals lost their benefits and suffered financial hardship and emotional trauma because of an unjust system.

We identified several flaws in the continuing disability investigations:

First. The SSA does not provide the claimants with an adequate notice explaining the gravity of the review and the beneficiaries' responsibilities. Instead, a misleading notice is provided which simply informs the claimant that his case is "under review" to determine if he "continues to meet" the requirements;

Second. No face-to-face interview is held with the claimant until the hearing before an administrative law judge. This absence of personal contact gives the claims examiner an incomplete picture of the claimant's condition and reinforces the beneficiary's feeling of bureaucratic indifference;

Third. Decisionmakers use different and, at times, conflicting standards to determine disability. For example, there is confusion of the proper evaluation of a claimant's pain;

Fourth. In a number of cases, the medical files which the claims examiners rely on are incomplete and lack current medical evidence from the treating physician;

Fifth. No presumption of validity is accorded the initial decision which entitled the claimant to receive benefits. Instead, as the General Accounting Office has said, a system of "zero-based eligibility" is used, in which the claimant must prove all over again that he is entitled to benefits; and

Sixth. In a number of cases, individuals whose medical conditions have actually deteriorated since they started receiving benefits many years ago are having their benefits ended.

In short, our hearing revealed a disturbing pattern of misinformation, incomplete medical examinations, inadequately documented reviews, bureaucratic indifference, erroneous, decisions, financial and emotional hardships, and an overburdened system.

The Social Security Administration has taken some steps, such as improving the notice, to remedy these problems. But rectifying such fundamental deficiencies will require comprehensive legislation. I applaud Senator DOLE for his willingness to thoroughly review the disability program next year. Since it will take time for Congress to consider reforms in the disability program, we must act now to provide short-term relief to disabled individuals whose benefits are being terminated and then reinstated.

Our legislation has three parts: First, it would direct the Secretary of Health and Human Services to determine on a State-by-State basis the appropriate volume of cases so that these investigations may proceed at a more measured pace; second, it would continue disability payments until the administrative law judge stage of the appeals process; and third, it would mandate a more thorough evaluation of the medical evidence pertaining to each case.

Slowing down the number of cases reviewed would help both claimants and the State agencies which conduct the investigations. Currently, case files are literally overflowing out of boxes, and unreasonable burdens have been placed on many State agencies, particularly in those States where personnel freezes have prevented the hiring of needed staff. By directing the Secretary to proceed with the reviews at a pace which recognizes the necessity for careful evaluations and a more even workload, our legislation would improve the quality of the decisions and lessen the huge backlog of cases. It provides the Secretary with the flexibility that he needs to make adjustments in the States' workload after consulting with the State administrators.

In addition, by continuing benefits pending appeal, this legislation would eliminate the needless financial burden now imposed on disabled people who are mistakenly removed from the program, despite being unable to resume work. Currently, claimants who are successful in appealing their termination decisions receive back benefits, but only after months of disruption and delay. Our proposal would prevent the interruption of benefits which these individuals eventually would receive anyway.

To control the cost of this proposal and to discourage frivolous appeals, our bill would require individuals whose terminations are upheld by an administrative law judge to repay the benefits paid pending appeal unless repayment would cause a severe financial hardship.

Again, I emphasize that fundamental reforms in the SSA review procedures are absolutely essential. Senator LEVIN and I, along with several other Senators, have proposed comprehensive legislation to make the system more equitable and efficient. Congress would, however, be remiss in waiting for comprehensive legislation to solve these urgent problems. While we should continue to seek long-term reforms, including a medical improvement standard, we should act immediately to provide protection for the disabled Americans who are the victims of a faulty and unfair system.

Disability benefits are not welfare. A worker earns this insurance through the social security taxes that are deducted each week from his paycheck, and he must have worked a minimum amount of time in order to qualify for those payments. He must also be so disabled that he not only cannot perform the work that he had been doing but cannot engage in any kind of substantial gainful activity which exists anywhere in the country.

Surely when we are dealing with the most disabled workers in our society, we should enact every safeguard to insure that the Government does not add another burden to the ones they already must bear.

I would like to thank Senator DOLE for working with us in fashioning a solution to this problem, and I commend Senator LEVIN for his distinguished leadership and hard work on this issue.

I urge the adoption of the legislation.

I want to take this opportunity to thank Senator DOLE again for the extraordinary courtesy and interest he has shown to all of us who have been working on this matter since early last summer, and as a result of Senator DOLE's participation and meetings and negotiations not only among the members but with the administration, we were able to bring this measure to the floor today.

So I think all of us owe him a measure of gratitude which is really significant.

Mr. HEINZ. Mr. President, I am pleased to add my support for this emergency piece of legislation regarding the social security disability program, and I want to commend Senator DOLE and Senator ARMSTRONG for giving this emergency legislation the priority it deserves.

The four major provisions of this Finance Committee bill—continuation of benefits through the administrative law judge's decision, legal authority for the Secretary to slow down the reviews where it is necessary, the obligation to collect all medical evidence pertaining to the individual's disability, and periodic reports to Congress—are all found in S. 2731, the comprehensive continuing disability investigation (CDI) reform bill which Senator DURENBERGER and I introduced on July 14. Therefore, it is as a cosponsor of the Cohen/Levin bill (S. 2942), a supporter of this bill before us today, and an author of similar provisions, that I must point out to my colleagues that this emergency legislation does not completely solve the problem of the unfair terminations of hundreds of thousands of disabled individuals.

What this bill does is very important, nonetheless. It means that for the immediate future, at least, individuals who have been wrongly terminated will not be financially ruined because they have been deprived of their benefits during a lengthy appeals process. I have seen cases in my own State of Pennsylvania—and elsewhere across the country—where individuals have lost their homes and sustained other financial damages because they were deprived of their benefits during a long appeals process which resulted in a determination that they never should have been kicked off the rolls at all. The continuation of benefits through the administrative law judge's decision is a major, positive step.

The bill also gives the Secretary the discretion to slow down the reviews. I want to be among the first to let the Secretary know in clear and uncertain terms that we expect him to invoke this authority in the coming months. The backlogs which are contributing to hasty processing of disability reviews must be cleared up. I support the selective moratorium which the Social Security Administration announced in August—indeed I would have gone much further and imposed a total moratorium until the end of this year. I also support SSA's reduction in the number of planned reviews for fiscal year 1983—from the 806,000 originally proposed in the President's fiscal year 1983 budget to the current projection of 640,000. But 640,000 is still far in excess of the 506,000 reviews processed in fiscal year 1982—and it is a number which every piece of evidence I have seen suggests cannot be intelligently managed or handled. When the Federal Government starts running 500,000 to 800,000 people per year through a mass reexamination mill, there are bound to be too many instances where individual rights are violated and mistaken judgments rendered.

What we really want to see is better quality in the disability review process. That is why this bill will give the force of the law to the requirement that the Social Security Administration must—at a minimum—seek and obtain all relevant medical information from all medical personnel and institutions which have diagnosed or treated the individual in the past 12 months. And the bill also requires SSA to consider the original medical evidence supporting the disability award, along with all subsequent medical evidence.

Despite the obvious merits of these three provisions, I must point out that we have not given beneficiaries the additional protections they deserve against unfair terminations; namely, before kicking someone off the rolls who was correctly awarded benefits in the past, the Secretary should have the burden of showing that the individual has improved medically or that the individual is the beneficiary of some advance in medical therapy or technology which makes the individual able to work.

Furthermore, this bill does not have any provisions to ease the transition back to work for individuals who are severely disabled, who have been on the rolls for years, and who are now denied benefits because they do not meet the current standards. These people need adjustment benefits and vocational rehabilitation during this transition period.

I want my colleagues to know that we will be taking up these issues early next year. Until we address these issues, comprehensively, we will not have solved the problem of unfair terminations of hundreds of thousands of disability beneficiaries.

In the meantime, I would urge that the Social Security Administration heed this message: Congress is concerned that beneficiaries are not being given the benefit of the doubt; that bureaucrats have become overly zealous in kicking people off the rolls with the thinnest of justifications; and that we want to see a change in the adjudicative climate from one which presumes benefits are erroneously being paid to one which seeks to find out who no longer qualifies for benefits and why.

The goal of reviewing the disability status of beneficiaries is sound and necessary; but entitlement rights of individuals must not be summarily abridged by a process that is often thoughtless and inhumane. I urge the Social Security Administration to use the next few months and prepare itself to come forward to the Congress with some concrete proposals on medical improvement and other provisions which will restore the balance in a review system that now appears to be out of control.

Mr. President, the continuing disability review process is so plagued with problems at this time that emergency relief is crucial. We are, quite literally, putting lives in jeopardy by the haphazard manner in which these reviews are being conducted and decisions reached. Indeed, the Southern Governors' Association recently adopted a resolution condemning the fact that disabled persons are being "unjustly and abruptly removed from the social security disability rolls as a result of a hasty and erroneous review." The Southern Governors' Association, in this resolution which I ask unanimous consent be entered at this point in the RECORD, calls upon Congress "to clarify the disability review process, to provide safeguards that will protect eligible disability benefit recipients, and to provide fair and just treatment for those whose disability benefits are terminated."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SOUTHERN GOVERNORS' ASSOCIATION,
Atlanta, Ga., September 16, 1982.

Hon. H. JOHN HEINZ,
Chairman, Committee on Aging,
Washington, D.C.

DEAR SENATOR HEINZ: Enclosed is a set of the resolutions adopted by the Southern Governors' Association at the conclusion of our 48th annual meeting.

As chairman of the Southern Governors' Association, I am most pleased to transmit these resolutions to you and to urge your support of these policies.

In your position as chairman of the Select Committee on Aging, I urge that you give special attention to the resolution entitled "Clarify Social Security Disability Benefit Review Process" (No. 16).

Yours sincerely,
WILLIAM P. CLEMENTS, Jr.,
Chairman.

SOUTHERN GOVERNORS' ASSOCIATION RESOLUTION—CLARIFY SOCIAL SECURITY DISABILITY BENEFIT REVIEW PROCESS

Whereas the social security disability insurance program provides much needed support for the disabled people in our nation; and

Whereas the Social Security Administration has instituted an accelerated program of review of the existing disability rolls as a part of the Administration's budget incentives for fiscal 1982; and

Whereas the states administer this program under regulations and rules established by the Social Security Administration; and

Whereas this accelerated review program has resulted in an initial termination of benefits to more than 40 percent of the recipients whose cases have been reviewed since March 1981; and

Whereas over two-thirds of those recipients whose benefits were terminated after

initial review have had their benefits reinstated on appeal; and

Whereas severe hardships have resulted to those disabled persons unjustly and abruptly removed from the social security disability rolls as a result of a hasty and erroneous review; and

Whereas the administration of the social security disability benefit program has been made unduly burdensome and chaotic to the states; and

Whereas review of the social security disability rolls should be conducted on a careful, regular and periodic basis and decisions on disability determination should be made in a uniform fashion: Now, therefore, be it

Resolved, That the Southern Governors' Association call upon Congress to clarify the disability review process, to provide safeguards that will protect eligible disability benefit recipients, and to provide fair and just treatment for those whose disability benefits are terminated.

Mr. HEINZ. Similar cries for congressional action have come from State officials in my own State of Pennsylvania, as well as from State officials all across the country.

Congress simply cannot tolerate such capriciousness in a Federal program which affects the lives and the livelihood of the millions of disabled workers and their families who rely on this social security income to survive.

Our action today in passing this emergency legislation would merely be a first step—but a vital one—toward fulfilling the responsibility Congress has to reform the disability program in a comprehensive way. I am pleased to endorse this bill and I urge my colleagues to vote its immediate passage.

Mr. COHEN. Mr. President, I have always believed that the problems plaguing the Social Security Administration's disability reviews required both short-term emergency action and long-term comprehensive reforms. I should like to ask the distinguished chairman of the Finance Committee, who has been so instrumental in expediting the emergency legislation that we are considering today, what his plans are for considering comprehenisve legislation. I know that the Senator from Kansas shares my concern that there are fundamental deficiencies in the system that the Finance Committee will want to examine.

Mr. DOLE. As the Senator from Maine knows, several comprehensive bills to alter the disability insurance program have been referred to the Finance Committee, including legislation introduced by Senator LEVIN and Senator COHEN.

It is my intention that the Finance Committee would consider this legislation early next year and that comprehensive reform legislation would be reported by the committee as soon as possible in the next Congress.

Mr. COHEN. A key component of most of the bills that have been introduced is a medical improvement standard. Such a standard would require the Social Security Administration to show that the beneficiary's medical condition had improved before his eligibility for benefits could be terminated. Of course, exceptions would be made for cases involving fraud or a clear mistake in the original decision entitling the claiment to benefits. Because of the complexity of the medical improvement issue, I believed that it was more appropriate for inclusion in long-term legislation, rather than in a short-term bill. I do hope, however, that the distinguished chairman will be able to provide assurances that the Finance Committee will seriously consider a medical improvement standard during its examination of disability legislation early next year.

Mr. DOLE. I am certain that the medical improvement issue will be fully debated by the Finance Committee. While I cannot predict what action the committee will take on this issue, I can assure the Senator that I realize its importance to him and many other Members.

As the Senator knows, our staffs spent many hours trying to work out langauge on the medical improvement issue, but the complexity of this issue requires hearings and further study. I look forward to working with interested Senators as we seek to resolve this issue next year.

Mr. COHEN. I thank the Senator for his assurances.

● Mr. ARMSTRONG. Mr. President, I urge immediate passage of the pending bill providing emergency benefits for the disabled. Once passed this bill will correct a tragic and terrible flaw responsible for terminating benefits to the Nation's disabled.

Here is the situation we face: Social security disability insurance is the Nation's largest disability-connected cash benefit program. About 4.2 million Americans receive benefits, at a current annual cost of $17 billion. Just 10 years ago, 3 million Americans received $4 billion in benefits. Obviously, there has been explosive program growth.

In response to concerns about rapid increases in costs, poor administration, and work disincentives, President Carter in 1980 signed a law that requires Federal and State officials to review disability rolls, and to end benefits for those no longer eligible. This law required a dramatic increase in the amount of management review and oversight of the program. It was badly needed. Both the General Accounting Office and the Social Security Administration found lax administration, gross inconsistency in awarding benefits, and horrendous fraud. In fact, GAO estimates that as many as 20 percent of those now receiving benefits are clearly ineligible, at an annual taxpayer cost of $2 billion.

Prior to 1980, there were no legislative requirements for periodic determination of disability for or even most persons receiving disability benefits. This oversight was corrected by the 1980 law. Congress required disability beneficiaries to be reexamined at least once every 3 years, unless their conditions were expected to be permanent. The law also required disability determinations to be made according to Federal written regulations. States failing to comply would have their authority to make disability determinations preempted by the Secretary of Health and Human Services.

As a result of the 1980 law, the Social Security Administration has sent 1.6 million disability determination cases to States for review. Of these, 46 percent have had benefits terminated at the initial decision level. In other words, half of those now receiving assistance are being denied further benefits. Colorado is a classic example. In Colorado, 17,106 persons receive social security disability. About half of the cases have been reviewed, and State officials have terminated 40 percent of those cases.

Here is the problem: Both in Colorado and nationwide, many cases are being appealed to administrative law judges. Of cases appealed, more than 60 percent have had their benefits restored. There are a number of reasons for this high reversal rate: shoddy staff work at the time of initial decision; beneficiaries can be represented by legal counsel before administrative law judges; the law judges use a different set of standards in determining disability; and other factors.

In any event, reversals are high, and benefits are being restored to a large number of disabled. Here is the problem: Once a State terminates benefits, and even though the case is appealed to an administrative law judges—and there is a better than 60 percent chance benefits will be restored, and retroactively.

What does all this mean to a person who is initially declared ineligible for benefits, only to have the benefits restored under appeal?

It means havoc through an unnecessary disruption of their life and income. Think about it. Imagine you received disability benefits for 8 years, then receive a notice that your case is being reviewed, then a notice that your benefits are being terminated. Benefits end, you appeal the decision, it takes 6 months for the case to be heard—then the benefits lost during appeal are paid back retroactively. In the meantime, you are behind on mortgage payments, rent, utilities—and the necessities of life.

Hence this legislation now before the Senate. The bill has two major provisions. It pays full benefits while cases are appealed; second, it gives the Secretary authority to slow down case review by States unable to give full

and careful review to each and every case.

These reforms—coupled with a number of administrative changes now underway—will make more responsible the continuing disability review program. I urge immediate passage of this bill providing emergency benefits for the disabled.

Let me conclude with a word of thanks to a number of people responsible for this legislation. Senators COHEN and LEVIN spearheaded the efforts, with the assistance of Senator HEINZ, and others. Senator DOLE ably shepherded the bill through quick Senate Finance Committee passage. In drafting the final bill, I received helpful legislative guidance from the Disabled American Worker Security, a Colorado organization representing the State's disabled.●

● Mr. DOMENICI. Mr. Chairman, I rise in support of the provisions of H.R. 7093 which correct some of the recent problems in the social security disability program.

In 1980 Congress passed legislation requiring the Social Security Administration to review all nonpermanent disabilities once every 3 years. We were concerned about GAO reports that as many as 20 percent of the disability recipients did not meet the eligibility criteria, and that incorrect payments could be as high as $2 billion to $4 billion each year.

The administration shared our concern and made a great effort to implement the congressional mandate. But it has become clear that rushing this process has led to hardship for many disabled recipients. In its efforts to weed out those people who are quite able to work, the disability program has denied benefits to some individuals who clearly are not capable of self-support.

This is the problem we must must solve: How do we administer the program so that we can weed out the clearly ineligible, without harming those recipients who are too disabled to work?

The administration has announced some modifications in the way it handles reviews of disability cases that should substantially improve the situation. By easing the administrative burden and allowing States more time to develop evidence in each case, the disability units will make fewer errors that disadvantage recipients.

The legislation before us provides further protection for the beneficiary. It insures that cases will be developed fully, with adequate evidence, so that the disability recipient will receive the best possible decision.

For those disability recipients who do not agree with the results of the review, this legislation would allow them to continue to receive benefits while they appeal the decision. This provision protects recipients who are later determined to be eligible from an unfair termination of benefits. To help preserve the financial integrity of the social security trust funds, the bill requires that benefits to which a recipient is not entitled be paid back. The provision is also time limited; Congress can deal with the problem if it persists when it considers the solvency of the social security system.

Mr. President, I believe this legislation strikes a critical balance between protecting disability beneficiaries from the abuse of hasty decisions while exercising our responsibility as guardians of the disability trust fund. It allows the administration to carry out the congressional mandate to weed out the many recipients who are able to work. At the same time it insures that no recipients will be unfairly denied disability benefits to which they are entitled.●

Mr. DOLE. Mr. President, I want to thank particularly Senators COHEN and LEVIN for their leadership in this area. I think this has been a constructive effort even though it did not go as far as some had wanted. In my view, however, it will give us time to take a hard look at the problem.

I want to commend all the interested Senators, but particularly Senators COHEN and LEVIN who started working on this early in the year. They led the effort to make what I consider to be appropriate changes in the disability review procedures.

Mr. HEINZ. Mr. President, this emergency piece of legislation is absolutely necessary, and I am pleased to see it come to the Senate floor today. I want to commend both Senator DOLE and Senator ARMSTRONG for their prompt and effective response to the problems with social security disability, which were brought out in great detail at the August 18 hearing of the Finance Committee. I am an original cosponsor of S. 2942, and I note with satisfaction that the basic provisions of this Finance Committee bill are very close to those embodied in S. 2731, the comprehensive continuing disability (CDI) reform legislation that Senator DURENBERGER and I introduced on July 14.

Having said that, I want to point out that this bill has a serious omission: It fails to require that the Social Security Administration—before it may terminate benefits—show that an individual who was correctly awarded disability benefits has either experienced significant medical improvement or else that the individual is the beneficiary of advances in medical or vocational technology which clearly make the individual capable of working, despite the impairment.

Such a provision is absolutely essential to insure that we do not terminate individuals whose medical conditions have not improved—and may even have deteriorated—since that time they were originally awarded disability benefits. A sample study done by the Social Security Administration found that only 51 percent of those removed from the disability rolls had actually improved; and 35 percent were in the same or even worse medical condition.

I remind my colleagues that the statutory definition of disability has not changed since 1967—and yet today, fewer people are being admitted to the disability rolls than ever before. Forty-five percent of the beneficiaries being reexamined are being terminated by the Social Security Administration.

In fact, as the Senator from Kansas knows, I had intended to offer an amendment to the debt ceiling bill on this very subject of medical improvement.

Mr. DOLE. I thank the senior Senator from Pennsylvania for the work he has done to bring the problems relating to the social security disability program to the attention of the Finance Committee and the Congress. I could not support an amendment on medical improvement at this time, however, regardless of the merits of such a proposal. Without a unanimous consent agreement, we could not bring this bill to the floor, and as the Senator from Pennsylvania has pointed out again and again, we need some emergency legislation to alleviate this problem. And time is running out.

Mr. HEINZ. Will the Senator from Kansas work next year with me and other Senators who I know share my concerns to develop medical improvement legislation which makes allowances for advances in medical technology?

Mr. DOLE. I shall certainly want to join you in looking at this issue next year—as part of a comprehensive review of the disability program. As the Senator from Pennsylvania knows, members of the staff of the Finance Committee have been exploring precisely such language, along with Aging Committee staff and the staffs of other interested Senators: ARMSTRONG, COHEN, LEVIN, DURENBERGER, METZENBAUM and RIEGLE. I think a lot of progress has been made in understanding the implications of such legislative language. We are not yet at the point where all the concerns about medical improvement have been resolved. But we certainly haven't ruled it out, not by any means.

Mr. HEINZ. Will the chairman of the Finance Committee agree to hold hearings early in the next session of Congress to deal with the medical improvement issue and the other major unresolved issues in the disability program?

Mr. DOLE. The issue is an important one, and I agree that we should hold hearings on this subject. We will

address the issue early in next year's session.

Mr. HEINZ. I thank the distinguished Senator from Kansas. The continuing disability reviews are so riddled with problems that emergency relief is critical at this juncture. This bill does some of what needs to be done as part of comprehensive legislation. I support the bill as a vital first step to assure at least limited relief to some 640,000 individuals targeted for review in fiscal year 1983. But we cannot consider any CDI procedural reform complete until action is taken reflecting the need for explicit, stringent medical improvement language.

At this time, I ask unanimous consent to enter into the RECORD a letter from the American College of Cardiology in support of my proposed amendment on medical improvement. The endorsement by this prestigious group of medical professionals is certainly compelling testimony that medical improvement is a sound and necessary approach to meaningful CDI reform.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN COLLEGE OF CARDIOLOGY,
Bethesda, Md., September 20, 1982.

Hon. H. JOHN HEINZ III,
Chairman, Special Committee on Aging, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: On behalf of the American College of Cardiology, representing more than 11,500 physicians, scientists and educators, I am pleased to provide you and your committee with our views on an amendment to the Social Security disability program relating to termination of disability benefits.

We support your amendment to the Social Security disability program which is designed to limit or eliminate the termination of disability benefits by the Social Security Administration in the absence of clinical findings of significant medical improvement in an individual's medical condition. The College believes that the persons affected by your amendment should include those with demonstrable medical improvement due to healing, correction of the disabling impairment, absence of symptoms, or application of new and effective therapies.

In addition to the above, we would like to call to your attention the fact that there are some people who, when initially determined to be disabled by accepted medical criteria, never, or very rarely improve medically. Such is the case of heart patients whose conditions are correctable neither surgically nor medically. Therefore, for these patients, assuming proper initial adjudication and determination of disability, periodic review is both inappropriate and unnecessary. It also would not be cost effective. In addition, we believe that a person's mental status must be considered independent of other medical improvement.

Please let me or Roger C. Courtney, J.D., Director of Government Relations for the College know if we can provide you with any additional assistance.

Sincerely,

SUZANNE B. KNOEBEL, M.D.F.A.C.C.,
President.

Mr. LEVIN. Mr. President, the provisions of this bill are to become effective immediately upon passage. I have been asked, and would therefore like to clarify, how this bill will affect those persons who have been terminated, but who are presently in the process of appealing that termination decision. It is the intention of the sponsors, Senator COHEN and myself, that the disability benefits will be recommenced for those persons appealing their termination decision or those persons eligible to appeal their termination, once they file their appeal. We do not intend that benefits be paid retroactively, but that benefits be recommenced as of the date of this act. I would like to ask the chairman of the Finance Committee, the Senator from Kansas, Senator DOLE, if that is his understanding of how this bill will affect persons presently appealing.

Mr. DOLE. That is my understanding, Senator LEVIN. I am glad that we had the opportunity to clarify that for the record.

The PRESIDING OFFICER. Is all time yielded back?

Mr. COHEN. I yield back my time.

Mr. LEVIN. First, let me add my thanks to my friend from Kansas who has played a critical role in this effort to correct an egregious problem. Let me add that Senator LONG has been most helpful, as well.

Senator COHEN and I have been working on this matter now for many, many months. This is the end of a long process. It really started with some hearings before the Subcommittee on Oversight of Government Management that he chairs with such distinction, and of which I am the ranking member.

This legislation will prevent gross injustice to about 200,000 Americans who will be removed from the social security disability rolls who should not be removed. They will be reinstated by an administrative law judge, but that will come after 9 to 12 months of tremendous anxiety and suffering.

This legislation addresses an egregious, urgent problem. Individuals—who have been workers in this country—who have contributed to social security under the expectation that if disabled they will be protected—who subsequently have become totally disabled and therefore eligible for social security disability—are being unfairly and unjustifiably terminated from the program. They are caught in the dragnet of the social security disability review process which was well intended but disasterously enacted. That review process was not intended to kick eligible persons out of the disability program; it was intended to get rid of people who do not belong there.

The program is having the unintended effect of terminating eligible persons, and it is imperative that we do something now to alleviate the pain of this wrongdoing. This legislation will do just that—it will both slow down the number of cases being reviewed and of greater importance continue the payment of benefits until such time as an individual has the opportunity for a hearing before an administrative law judge. This latter provision would be effective only through September 1983, hopefully giving Congress sufficient time to address the underlying substantive problems in the review process.

Let me go into a little of the background of this issue.

Significant structural and managerial failings in the social security disability program have been well documented in critical reports and investigations by the House Ways and Means Committee, the General Accounting Office, and the National Commission on Social Security.

Without going into great detail, the problems in the program include: Unmanageably large caseloads at all levels; unreasonably long delays in processing cases and in scheduling appeals; conflicting standards for making disability determinations at the State and appeals level; inadequate managerial standards and procedures for acquiring and evaluating medical evidence.

When the current Social Security Administration management team assumed responsibility for this program in January 1981, it inherited that list of problems I just outlined and a program which had been managed primarily from crisis to crisis with little recovery between crises. And it also inherited the mandate that there be reviews every 3 years of those cases which had not been previously reviewed.

Rather than waiting until 1982 as the Congress had recommended, the Social Security Administration decided to accelerate the periodic review process. In March 1981, SSA started sending to the States the first of 357,000 cases to be reviewed by the end of the year, although previously the States had only reviewed less than 160,000 cases per year.

The predictable and resulting overload of cases piled onto an inadequate and troubled process, lengthened delays, increased confusion over the standards for reviewing disability, and lead to hundreds of thousands of erroneous and unjust benefit terminations. The outcry from these results has come from all across the Nation.

Even normally dry statistics on what has happened speak with rare clarity and passion. In 1979 and 1980, the Social Security Administration reviewed approximately 160,000 cases for continuing eligibility. In 1981, the number rose abruptly with little warning to State agencies, to 357,000. SSA plans to send 567,000 cases in fiscal

year 1982 to the States for review and, orginally, 840,000 cases in fiscal year 1983. This 1983 figure has recently been reduced by SSA to a projected 640,000. This is coupled with the fact that the SSA has not been staffed sufficiently, nor has it staffed the State agencies sufficiently, to handle the increased workload. Thus, it is no surprise that delays and backlogs have dramatically increased.

What is most striking, however, is the eventual outcome in the cases reviewed under this overburdened system. Between March 1981 and April 1982 SSA reviewed 405,000 cases and nearly half—191,000—were terminated from the program. This rate of termination far exceeds the 10-percent projection of GAO or the 20-percent projection of SSA. The tragedy derives from the fact that 67 percent or two-thirds of the appeals of termination decisions to the administrative law judges result in reversals a year or so later. During that 9 to 12 month appeal period, however, the terminated beneficiary suffers without benefits and without accompanying medical coverage. So, of the 109,000 persons whose benefits were terminated between March 1981 and April 1982, half of those persons will appeal the decision to an administrative law judge and two-thirds will be reinstated. That means 36,000 people will have to go without needed disability income and medical coverage for anywhere from 9 months to a year, when in fact they never should have been terminated in the first place.

If the present volume of reviews continues it will mean that through 1983, the Social Security Administration will have terminated and subsequently reinstated over 200,000 individuals who deserve to remain on disability. That is the real tragedy—the unnecessary and unjustified suffering of 200,000 severely disabled people and their dependent families whose benefits are stopped while they wait reinstatement to a program they never should have been dropped from in the first place.

Mr. President, as much as we do not want people in the disability program who do not belong there, we must, with at least equal fervor, want to keep truly disabled people in this program.

On June 24, Senator COHEN and I introduced a comprehensive reform bill designed to correct the problems and abuses in the disability review process. It would streamline and strengthen the procedures for reviewing cases, establish standards for reviewing eligibility, require uniformity in standards throughout the system, and require a showing of medical improvement or an error in the initial decision before benefits could be terminated.

But it will take some time for that legislation to get enacted. The Senate Finance Committee wants to study the issues carefully and review the various proposals for reform. Such study takes time, and for this Congress, time is running out. Meanwhile, eligible persons are continuing and will continue to be terminated from the disability program. Real substantive reform will have to wait for next year, but we in good conscience cannot let another several months, let alone a year, go by under the present circumstances. We have to provide immediate relief from a system we know to be unjust. We have to give the State disability offices and administrative law judges some breathing room to do competent reviews, and we have to lessen the hardship to those who pursue an appeal to the administrative law judge. We can do this by slowing down the number of reviews and continuing the benefits through the appeals stage.

I urge my colleagues to join us in support of this measure.

Before I close my remarks, I want to make it clear that this amendment, in terms of the standards now applied in disability reviews, does not change current law. It maintains the status quo. We are not, by this amendment, overturning current caselaw. We are merely stating that the language of this amendment itself does not address the question of whether or not there should be a showing of medical improvement.

I also want to take this opportunity to thank the many Senators who have strongly supported Senator COHEN and myself in these efforts, Senator HEINZ, Senator METZENBAUM, Senator RIEGLE, Senator SASSER, and Senator DURENBERGER.

Again let me thank the Senator from Maine for his great effort in this legislation. Since we will be continuing benefits to persons who appeal, I think we can now look at more comprehensive reform next year. We will have stopped the massive injustices while we are taking the necessary time to critically evaluate the social security disability program.

Finally, without long and complex work of the staff of a number of Senators this needed legislation would not have been accomplished. I particularly want to pay tribute to Linda Gustitus and Barbara Savage of my staff for their wonderful effort.

● Mr. PRYOR. Mr. President, I strongly support H.R. 7093, as amended by the Finance Committee. This legislation corrects serious inequities which now exist in the social security disability insurance program.

This needed legislation amends the Social Security Act to provide continued disability insurance and medicare benefits through the hearing and appeal process until a final decision on the case is rendered. It provides authority to the Secretary of Health and Human Services to determine on a State-by-State basis that the mandated review of nonpermanent disability cases every 3 years by the State disability determination offices may be slowed down where it is appropriate to do so. The Secretary will decide the appropriate number of cases to review in each State, based on backlog and staffing considerations. The legislation also addresses the current weakness whereby the State disability determination agencies do not consider complete medical histories of the individuals they review. The legislation instructs the Secretary to make every reasonable effort to seek and obtain all relevant medical evidence which exists within the preceeding 12-month period. The legislation also provides that the Secretary make semiannual reports to Congress with respect to the disposition of continuing reviews.

Each Member of Congress has heard of numerous horror stories involved in recent administrative efforts to weed the disability program of ineligible beneficiaries. No one can argue with a need for continuing reviews of nonpermanent disability recipients. However, when Congress mandated such reviews in 1980, I believe it did not intend the review process to cause so much unnecessary hardship for so many people. Literally, many thousands of individuals have had their benefits taken away although they are still disabled and their benefits are eventually reinstated after a lengthy appeal process.

When I questioned the Social Security Administration at at May 1982 hearing by Governmental Affairs Committee on this issue and in particularly about a case of a Vietnam veteran who had his jaw wired shut and had lost a leg, two fingers, his spleen and parts of both his stomach and buttocks, but who despite these injuries had his benefits terminated. I was told "mistakes do occur." Well, mistakes may occur but they are occuring all too often and they are resulting in horrendous hardships.

Several others who have been denied continued disability benefits have reportedly died shortly after the denial determinations. In September 1982, the Los Angeles Times documented 11 individuals who were cut off from or denied social security disability benefits because they were "well enough" to work and have died this year of the same disability for which they had requested benefits. At least one of these reported deaths occurred in Arkansas. Some of the families of these individuals have plainly stated that it was the denial letter that killed the claiment.

Mr. President, I would like to share some of the findings of the field hearings which I held regarding the social security disability review process that was recently held in Fort Smith, Ark. on November 19. The field hearing

was authorized by the Special Committee on Aging and the Governmental Affairs Subcommittee on Civil Service, Post Office, and General Services. I was particularly interested in holding the hearing in Arkansas because of the unique situation in the State regarding this program. The State of Arkansas has the second highest percentage of individuals age 65 and over—second only in the Nation to Florida. Arkansas has an unemployment rate of 10.6 percent which is the highest rate in region VI and ranks 48th in per capita income level. In addition to these nationwide statistics, 51 out of every 1,000 Arkansans are disabled and receiving social security disability.

Since the Social Security Disability Amendments of 1980, the annual cessation rate in Arkansas has risen to 48.7 percent, higher than the average cessation rate for the entire Dallas region, yet about two-thirds of the approximately 50 percent who appeal are eventually reinstated at some level during the appeals process.

Testimony at the hearing was heard from several witnesses who have had their benefits terminated and eventually reinstated. The lengthy appeals process that these individuals must endure can take anywhere from 6 to 18 months during which the beneficiary may be receiving no income and suffering from great financial, emotional, and physical strain.

Mrs. Anna Lee McNoel from Fort Smith who suffers from acute asthma, spastic colon, colitis, chronic anemia, and has only one arm was heard at the hearing. Her benefits were terminated and subsequently reinstated. She was informed by the Social Security Administration that she could do sedentary work. When Mrs. McNoel asked what that meant the worker replied, "You could be a secretary."

Several other beneficiaries also testified of the hardships, and confusion and stress they experienced while appealing initial denials of their disability benefits.

Other witnesses who testified included several local attorneys and physicians of the beneficiaries, the director of the State of Arkansas Disability Determination Office, and the three administrative law judges from the Office of Hearings and Appeals in Fort Smith. All had very shocking stories to relate regarding the resulting problems of the continued review process. They also endorsed several proposed solutions including much of what is in this legislation.

Although the Social Security Administration was requested to appear at the hearing to present testimony and answer questions, they refused my request.

I was very disappointed by the refusal and I feel that in this instance, they failed to respond adequately to the concerns of Congress and the approximately 2 million disability beneficiaries who are being reviewed over the next few years.

Mr. President, when I concluded the hearing in Fort Smith I pledged my support to make immediate corrections in this unfair system which has caused so much pain and anguish to so many individuals. I, therefore, strongly endorse this emergency measure offered today and I urge my colleague to also support this needed legislation.

Let me also add that I intend to pursue more lasting solutions to this problem in the 98th Congress.

I would also like to commend Senators LEVIN, METZENBAUM, DOLE, COHEN, and others for their work in developing this legislation and bringing it to the floor today.

I ask unanimous consent that a copy of my prepared statement at the Fort Smith field hearing, a relevant newspaper article from the Arkansas Democrat, and an editorial on the same subject from the Southwest Times Record be printed in the RECORD following my remarks.

The material referred to follows:

OPENING STATEMENT OF SENATOR DAVID PRYOR

I am pleased to be here today to hold a joint hearing of the U.S. Senate Special Committee on Aging and the Subcommittee on Post Office, Civil Service and General Services of the Governmental Affairs Committee on "Social Security Disability: The Effects of the Accelerted Review Process." I would like to thank both Senator John Heinz of Pennsylvania, who chairs the Aging Committee, and Senator Ted Stevens of Alaska, Chairman of the Governmental Affairs Subcommittee, for authorizing me to hold this official Senate hearing here in Fort Smith.

I believe it is most appropriate that we have brought this meeting to Arkansas, and particularly to Fort Smith. Our state has the highest disability rate in the nation—approximately 51 out of every 1,000 Arkansans are receiving Social Security disability. And, although Arkansas has the highest number of individuals applying for disability, it has the highest denial rate for initial applications.

With the institution of the continuing disability eligibility reviews which were mandated by the Social Security Disability Amendments for 1980 and which began in March, 1981, about 49 percent of those Arkansans who are being reviewed are being told they are no longer eligible for benefits. About two-thirds of the approximately 50 percent who appeal are eventually reinstated at some level during the appeals process.

These figures alone indicate that there are some serious problems associasted with these continuing disability reviews. But these statistics become even more alarming when viewed as representative of the thousands of individuals who have been erroneously terminated and whose lives are being needlessly and adversely affected.

One case which has received some notoriety wes reported in the Wall Street Journal. It involved a Vietnam veteran who had his jaw wired shut and had lost a leg, two fingers, his spleen and parts of both his stomach and buttocks, who despite these injuries had his benefits terminated. When I questioned a Social Security administrator about this case I was told "Mistakes do occur."

Another case, which was the focus of a recent Governmental Affairs Subcommittee hearing involved a man with acute diabetes who had only limited vision in one eye and suffered from the effects of a stroke, arteriosclerosis and heart disease. This elderly man was suddenly cut from the rolls after seven years. In August of 1981 he began the appeals process. Although the Social Security Administration was quick to terminate, the reinstatement was not so rapid. Finally in February, 1982, they admitted their mistake and agreed to restore benefits retroactive to July, 1981. Unfortunately, the claimant had died the previous November.

Several others who have been denied continued disability benefits have reportedly died shortly after the denial determination. In September 1982 the Los Angeles Times documented eleven individuals who were cut off from or denied Social Security disability benefits because they were "well enough" to work and have died this year of the same disabilities for which they had requested benefits. At least one of these reported deaths occurred in Arkansas. Some of the families of these individuals have plainly stated that it was the denial letter that killed the claimant.

A recent Arkansas Democrat newspaper article gave the details of several Arkansans who have experienced serious financial, mental and physical hardships when their benefits were denied. Mistakes do occur. But they are occurring too often and they are too damaging to the lives they affect. Many times there is no way for the claimant to continue to pay his rent or buy his food during the appeals process. And, in most cases when disability is cut off, so is the Medicare which is so important in paying the ongoing medical bills which many of the claimants continue to incur.

Before we more closely explore the causes of these problems, and, hopefully, some potential solutions, it may help to briefly review the history of the disability program itself, and the application and review process.

The disability insurance program had its beginnings in 1956, when the Congress authorized cash benefits for totally disabled workers 50 or over. Since then, benefits have been expanded to include dependents, the age-50 eligibility requirement for disability has been eliminated, and health benefit coverage through the Medicare program has been added. In addition, action was taken to raise taxes and further define the term "disability".

In 1980 the Congress passed the Social Security Amendments of 1980, which included provisions which sought to make certain management improvements. A cap was placed on total family benefits, benefits for younger disabled workers were reduced, Medicare benefit coverage was expanded and the Secretary of Health and Human Services was given the authority to set up performance standards for the state disability determination agencies to follow.

Another provision, which at the time of passage was considered only a minor change, was a requirement that the Secretary of Health and Human Services conduct reviews of all non-permanently disabled beneficiaries every three years. Permanently disabled individuals were to be reviewed periodically as well, but the length of time between the reviews was up to the discretion of the Secretary. The three-year re-

views came about in response to a General Accounting Office report that estimated that approximately 20 percent of all individuals on Social Security disability were on the rolls erroneously.

It is important to note that although concern over the financial stability of the Social Security system dates back to the late 1970s, the Disability Insurance Trust Fund is the only one of the three Social Security Trust Funds which is considered to be in good financial condition. In fact, this fund is predicted to show a surplus over both the short and long run, even under pessimistic economic assumptions. This may, to some degree, be due to the tightening up of eligibility criteria.

The reviews were originally scheduled to begin in January, 1982, and were expected to net $10 million in savings over fiscal years 1982 through 1985. However, the reviews were begun in March of 1981, and, despite an increase of 400 percent in the number of reviews between 1980 and 1982, staffing levels were increased by only 27 percent nationally. Social Security recently revised their savings estimates, saying that the reviews will produce a net savings of between $2.6 and $3.2 billion between fiscal years 1982 and 1985. I am certainly in favor of achieving government savings by eliminating ineligible recipients, but let us look more closely at what has transpired.

The Social Security Adminstration chooses which cases are to be reviewed on the basis of likelihood of medical improvement or ineligibility. Cases are submitted to the state office. The state office notifies the beneficiary of his upcoming review, and that he should submit evidence of his continued disability. If the claimant is found to be eligible by the state agency, he is notified of his continued benefits.

In the case where a beneficiary is found no longer eligible, he is informed of that fact and told of his right to submit additional medical evidence and reevaluation. If the beneficiary is still considered ineligible, he is notified and told that he has the right to appeal the decision within 60 days to an Administrative Law Judge. This is the first opportunity for the individual to meet face-to-face with a decision-maker. Should the ALJ rule against the claimant, the next step of appeal is through the Appeals Council, a 15-member panel within the Office of Hearings and Appeals which may rule on the ALJs decision. If the claimant is not satisfied with the Appeals Council decision his final appeal would be to the Federal district court.

The fact that so many individuals are being terminated from benefit status only to be reinstated during the appeals process indicates that the accelerated reviews have created some serious problems in the disability program.

Among them are:

The number of cases—in 1980 about 100,000 cases were reviewed; 650,000 will be reviewed in 1983 and thereafter;

Accelerated review—the reviews were instituted 10 months ahead of time, which did not allow enough lead time for staff preparation;

Criteria changes—individuals under review who have not improved medically may still be terminated due to changed criteria; and

Appeal delays—the appeals process may take anywhere from 6 to 12 to 18 months—during which most claimants are not receiving benefits.

These are only a few of the most apparent problems which we will explore today.

There has been widespread Congressional concern over this topic. Earlier this year I attended an oversight hearing of the Senate Governmental Affairs Committee on this topic, and the Senate Aging Committee, of which I am a member, has also explored the issue and has put together a report which outlines many of the problems in the review process.

There have also been some administrative reforms instituted as of October 1982. But I believe the time has come for the Congress to face head-on these many concerns. Just as financing of the Social Security System is one of the very most crucial issues we now face in terms of financial costs, so reform of the current disability review process is critical in terms of real human costs. This will be documented through the testimony we hear today.

I have already pledged my full support to legislation by Senators Cohen and Levin which would extend benefits through the appeals process. This legislation will be a key provision of legislation expected to be considered in the upcoming lame duck session of the Congress.

However, additional, more comprehensive legislation is necessary, and the Congress must address this in 1983. I intend to remain very actively involved in that process.

I look forward to hearing today's testimony.

[From the Arkansas Democrat, Oct. 31, 1982]

MASS DISABILITY CHECK CUTS "CAUSING A LOT OF GRIEF"

(By Carl T. Hall)

Out of every 100 Arkansans who get monthly disability checks from the Social Security Administration, about 49 are being found well enough to go back to work and are having their payments stopped.

Included in that category are people who apparently have no reason to complain. Some are even being investigated for fraud. Others have been ordered by the courts to repay the government, usually because they were receiving disability checks while working on the side.

But about half of those affected by the cutoffs do complain, and about 60 percent of the complainers are being upheld when they take their cases before administrative law judges, who hear appeals. Hundreds of those who lose ultimately sue in federal court.

"It's still too soon to tell how the courts are going to go on this," said James W. Stanley, a North Little Rock lawyer whose firm is handling about 75 pending appeals.

The new wave of scrutiny on disabled Social Security recipients began in early 1981, after the General Accounting Office audited the rolls and found evidence of gigantic waste and abuse.

People who didn't qualify were draining off an estimated $2 billion a year, the study said.

"The necessity of making these reviews was obvious," said Dee O'Neil, program analyst at the Dallas regional office of the Social Security Administration.

Social Security responded to the GAO audit by first conducting some studies of its own which confirmed that something needed to be done and doubled the GAO's estimate of waste. Congress stepped in and directed that all recipients be reviewed at least once every seven years. Many have to be reviewed every three years.

In the year that ended May 28, 5,054 Arkansans were asked to prove they were still disabled by Social Security's standards. Of that number, 2,709, or 54 percent, were judged to be "capable of performing some type of substantial work activity."

For the most recent three-month period, the figure dropped to 48.8 percent in Arkansas, which is still higher than the National average and is second-highest in the five-state region headquartered in Dallas. (Officials said they can't explain the variations.)

Critics complain that the system is unfair and clumsy. They say much of the money being saved on people judged healthy enough to work is being lost on the 30 percent of them who successfuily appeal, a process that can drag on for as long as a year.

But the sharpest criticism, concerns the effect on the honest recipients whose lives are disrupted. Bewildered by the form letters and frightened at the prospect of losing their income, some people say they are being forced into bankruptcy or onto welfare, face foreclosure on or eviction from their homes only to be reinstated to the disability rolls after having fought the system for months.

"I can understand people's feeling," said Herbert R. Louks, Social Security district manager in Little Rock.

That comes as little comfort to people like Hazel Boyer, a 50-year-old North Little Rock woman who hasn't worked since 1977. She sufferes from lower intestinal problems that cause her to lose control of her bowels.

Mrs. Boyer said she got a termination letter in the fall of 1981 from the Social Security office. She continued receiving checks through March 1982 but now has to pay some of them back.

Last Christmas, Mrs. Boyer suffered a heart attack. She said she can't walk more than a half a block now without feeling ill. Social Security was told about the heart attack, but Mrs. Boyer who has only a fifth-grade education, said: "They didn't say nothing—just you'll hear from us."

Right now with a federal suit against Social Security pending, Mrs. Boyer is surviving on $70 a month in food stamps and the help of her family. But she said her crisis has led to two divorces in the family and has strained everyone's resources.

Because of the Social Security Administration's decision, Mrs. Boyer also lost her right to Medicare and faces about $20,000 in unpaid medical bills.

"I can tell you it hasn't been easy . . . I'm always depressed. It was a terrible thing to do at the time they did it," she said.

Joe Bledsoe, 55, of Pettus said he worked at two jobs for about 20 years, putting in 16-hour days regularly as a washroom attendant and working in a packing house. He never finished the third grade.

Suffering already from a heart condition and high blood pressure, Bledsoe underwent surgery for kidney trouble in 1979 and had to stop working. He got his first disability check in November 1979.

His last check was in February. "I get $69 worth of food stamps every month and my wife has a part-time job," he said "But, she has to drive so far, most of it goes back into the gas tank. It's getting hard."

Social Security isn't welfare. All the people being cut from the disability rolls are sidelined workers who, after long absences from the labor market, are expected to find a job during a recession. Some are trying and failing, often hampered by their history

of incapacity. "Every one of these disability cases makes a story in itself," Stanley said.

At the Social Security office in Little Rock, B. J. Hauser, assistant district manager, said these sad stories are also familiar to him and his staff, but he added that is only part of the picture.

"We often think, 'Gosh, it would be nice to do something for this person.' Your heart may bleed for this person, but what can you do? He just doesn't fit into the program," Hauser said.

Administrators at the Little Rock office point with pride to their employees' record of generosity. The local Social Security office was the only federal agency to receive a gold award last year from the Pulaski County United Way Campaign.

"We're not a bunch of cold-hearted people," Louks said.

Lawyers representing the claimants don't necessarily argue with that point. But they say the system itself is wrong and needs changing.

"There is a need for this kind of review," said Anthony Bartels, a Jonesboro lawyer. "But right now, I'd say it's a little cold. They're just wholesale terminating people, and it's causing a lot of grief."

Bartel said he knows of two people, both on disability because of mental illness, who received termination notices and committed suicide soon afterward. However, he said there was no proof the suicides was a direct result of the cutoffs. Regardless, Bartels said, "There are a lot of injustices taking place."

A publication called Social Security Forum, produced by a lawyers' group, reprinted a letter recently from Joseph M. McGuire, a disability case examiner in Texas.

In the letter, McGuire said it was his opinion—based on nine years' experience—that "20 percent of the truly disabled and needy claimants are being victimized" in the rush to get the shirkers off the disabled list.

". . . We are doing irreparable damages to the lives of many of our fellow citizens," McGuire wrote.

Social Security administrators like Bill Shadle, staff assistant in Little Rock, agree that some "horror stories" may have occurred where obviously disabled people were cut off by mistake. But they say steps are being taken to improve the system.

A key change now being implemented will affect the manner in which initial notice of review is given to recipients. Personal letters will be used instead of form letters.

"The real horror stories, like people who were on life support systems and were cut off, will be nipped in the bud," by this change, Shadle said. The idea is not only to save money but to avoid serious mistakes in making disability determinations.

The personal contact also will allow officials to better explain the system to recipients.

Officials say they expect the rate of removal from the rolls to decrease by about 50 percent because, today, mostly people with treatable conditions have been checked. Those whose conditions are not likely to show any improvement with time or treatment, and who are more likely to pass the review, haven't been checked yet.

Standards are also being revised. People with certain types of health problems won't have to worry about losing benefits, O'Neil said, because the list of allowable health problems is being expanded.

Meanwhile, the U.S. District Court at Little Rock, has assigned the job of screening the burgeoning Social Security caseload to a federal magistrate. About 200 cases are pending.

Also, federal officials are investigating 79 cases in Arkansas where people may have deliberately gotten more disability benefits than they deserved.

In June, a Texarkana man convicted of failure to report work activity was ordered to repay $11,348 he had received while supposedly being unable to work.

A year before that, a Hot Springs man was convicted of using false information to obtain another Social Security card so that he could collect benefits and work at the same time. He was ordered to pay back $2,024.40.

"It's kind of hard for me to say I'm proud of what's been done when there's some guy who's been cut off, but the program has done what we expected it to do," said Louks.

A figure on the amount of savings that has been created by the removals isn't available yet, officials said. But O'Neil said the early indications are that the initial estimates will prove accurate.

"We're talking about maybe $4 billion in taxpayers' money here. This is something we had to do, and now that we've had some experience, we expect to be doing it better," O'Neil said.

IT'S "NO DEAL" FOR 75.7 PERCENT IN ARKANSAS

(By Mike Masterson)

James Biggs sat alone on the railroad tracks beside his rural trailer home. Frustrated and despondent over losing his Social Security disability benefits, he could not understand why the system that so willingly helped him for years had now cut him off cold.

Raising a shotgun barrel to his chest, he drew a long, deep breath and asked for forgiveness. His finger gently squeezed the trigger and a muffled explosion sent him reeling sideways onto the tracks. A dozen iron pellets had shredded his heart. He was dead instantly.

Three weeks later, an administrative law judge ruled that Biggs should never have been removed from the disability rolls. He granted the man's back benefits to the widow and family.

Biggs, a mental patient, died last year in Ola, Ark. Those who knew about his condition said he was the victim of a system in this state and nationwide that has cut thousands of persons from the disability rolls.

Records from the latest Commerce Clearing House Unemployment Report show Arkansas leading the nation in the number of people initially denied for disability benefits. Nearly 76 people of every 100 who apply in Arkansas are denied. Only Puerto Rico denies more.

Evidence abounds that many disabled Arkansans also have suffered enormous trauma after being cut from existing rolls during an ongoing review process that has become contradictory and confusing to almost everyone.

In addition Arkansas may be the only state, according to 1981 records, that does not have a state agency to monitor the handling of disability claims and the overall performance of the state's Social Security disability services office.

The absence of such a watchdog agency has been cited as one reason why Arkansas leads the nation in initially denying benefits. Critics charge that the disability office in Little Rock and those in other states exist only as "puppets" of the various federal regional Social Security offices in their quest to cut spending.

In Arkansas, state disability director Ken Patton, who is appointed by the governor, answers directly to regional officials in Dallas. The Dallas officials, in turn, respond to the national Social Security Administration headquarters in Baltimore, Md.

In other states, disability program directors must respond also to state agencies that exist as buffers between the needs of the state and those of the Social Security Administration, one source said.

All of Arkansas' disability claims and those in other states, are currently under review by congressional order. Every claim filed in Arkansas is automatically reviewed and "graded" in Dallas for adherence to the increasingly restrictive Social Security definitions of disability.

Patton said if the Arkansas office grants too many claims that regional federal officials disagree with, his office could be in danger of "being taken over and run by Social Security."

Patton said that while Arkansas may lead all other states in the number of initial claims that it denies, Arkansas also leads the nation in the number of disabled people on the rolls in proportion to population.

"About 51 of every 1,000 people in Arkansas are drawing disability," he said. "If you want to be fair, you'll print that."

He said his office denies so many initial claims because "more people apply for disability in Arkansas than anywhere else. For every 10 who apply in Oklahoma, we have 15 in Arkansas," he said. "Consequently, we have to deny more."

The director blamed the larger number of applicants here on the fact that opportunities for welfare assistance in Arkansas are limited, implying that many who seek disability are not actually disabled by definition. An administrative law judge who has heard hundreds of disability cases and who frequently overrules the claims denials from Patton's office during appeals, disagreed with the director.

"It doesn't matter whether 100 or 1,000 people apply for disability in Arkansas," he said. "When you're measuring our state's performance record, it is based only on the percentage per 100 who apply for benefits. And Arkansas is the best in the country—or the worse, depending on your perspective—for denying people initially."

The judge, who asked not to be identified, said he believed more people apply for disability in Arkansas "because there are a lot more elderly, minority and illiterate people here than in other states. And those people may well be disabled."

Records show that claimants who are denied benefits and who pursue the lengthy appeal process wind up having their benefits reinstated about 60 percent of the time.

Administrative law judges who hear those appeals traditionally have reversed decisions of the Social Security claims examiners in the majority of cases. Claims examiners collaborate with physicians retained by Social Security in making the initial determinations for each case. Their decisions are based on medical records.

Patton said that Arkansas in recent years has had an award winning office with "one of the best records in the nation for processing claims quickly and accurately in the eyes of Social Security.

"We really are not a so-called denying state with disability claims," he said. We actually allow a lot more claims in proportions to our population.

Patton said his Little Rock office denied his own uncle who was suffering with heart disease. "You can imagine how badly I felt a few weeks later when my uncle died of that same heart problem. But we didn't have any choice. He didn't meet the criteria for disability that Social Security has set out for us to follow."

"I wish we could allow everyone who applies, but we can't" he continued. "I know we have problems. But if we don't strictly adhere to the guidelines and definitions that Social Security has given us, they will come in and take over the office. That would mean 161 people out of work."

The situation has led Patton to unlist his phone number for the first time in 16 years. "I could take the abusive calls," he said, "but it was too much when they started on my kids."

In the *Congressional Record* of June 22, 1982, Patton said that a professional organization he belonged to estimated that "at least 20 percent of the recipients whose benefits are being cut in Arkansas are unable to work."

The state office of disability determination will review some 39,000 cases this fiscal year and about 44,000 disability cases next year, according to a recent report issued by Patton's office.

The story of James Biggs' suicide, while painting an extreme picture of how wholesale disability cuts have hurt Arkansans, is not an isolated example of such despair.

A similar thing happened just over a year earlier when Dale M. Barnett, a 58-year-old Baptist minister with a history of serious mental and heart disorders, shot and hanged himself in his Harrison home after losing his benefits.

An administrative law judge found that the claims examiner who decided to drop Barnett from the rolls had not considered all of the available medical evidence, particularly the more recent information about the man's heart ailment.

The judge reinstated the dead man's benefits that were later paid to his family.

Others like Wanda Coleman, 48, of Green Forest (who attended her October disability hearing in Harrison hobbling on a cane from the crippling effect of multiple sclerosis, wearing dark prescription glasses for impaired vision and taking medication to avoid a second heart attack) also cannot understand why they have been purged from the system.

The claims examiner in Little Rock who cut her name from the list of eligible recipients after six years wrote in an opinion that the woman "could sit eight hours a day and perform unskilled work in a clerical position." But the examiner had never seen the woman.

At the hearing before an administrative law judge, her back was hurting so badly that she could only sit for a few minutes at a time in the witness chair. When the judge asked her to pick up papers on a desk, her hands trembled uncontrollably and the papers shook. After a 20-minute interview, her benefits were reinstated by the judge, who said she should never have been cut in the first place.

Ralph Irvan of Fort Smith wasn't as fortunate. He died last year, 18 days after his disability application was denied by the Appeals Council in Arlington, Va. The council reversed the decision of an administrative law judge who, in turn, had overruled the initial state decision to dent Irvan's claim.

In his ruling, the judge said Irvan was so weak at his hearing that he could "barely hold his head up," and said the man had to be force fed by squeezing food down his throat. "Of course he was eligible," said the judge.

An autopsy showed that Irvan's internal organs were filled with malignant tumors.

The situation is such in Arkansas and elsewhere that claim examiners who initially approve or deny the application say they feel "trapped" between the increasingly restrictive Social Security Administration definitions of disability and the people they frequently must reject because of those guidelines.

Whereas up until 1977, people who applied for disability were examined for functional limitations, vocational problems and other such social limitations, today's decisions are based primarily on medical evidence that proves a person cannot work at any job anywhere in the country.

There is no consideration given to the availability of such jobs in a given area, only that a person could perform a type of job "somewhere" in the United States.

Adding to the complications of those cut from the rolls of existing benefits is that Social Security disability payments are also tied to Medicare and Medicaid eligibility. So people losing their disability benefits are also cut from those rolls.

The claims examiners who are forced to adhere strictly to the Social Security definitions of what constitutes a disabled person are also frustrated at being frequently overruled by administrative law judges who routinely apply a more liberal set of criteria to judge a person's condition.

Ironically, there are also some claims examiners who secretly agree with the findings of those judges, according to discussions with several examiners at their national convention in Hot Springs. But none wanted to be identified for fear of political retribution.

"The worse thing about it is that we, the claims examiners, come out looking like the bad guys because we are forced to follow these rigid eligibility guidelines," said one examiner.

If examiners fail to keep up with the large volume of reviews, they face the possibility of losing annual merit raises, one outspoken examiner said. "It makes most of us sick, but who wants to risk losing their raise by taking more time with their reviews?"

Even Patton acknowledged that in some cases he has called some administrative law judges to ask if they would overrule his office's denial decision when the disabled person's appeal reached the judge.

"I'm not proud of it," he said, "but I've done it because I knew that person was disabled, they just didn't meet the precise definitions we have to use."

Richard Simmons, deputy director for the Social Security Administration, said efforts are under way that would force the administrative law judges to use only the Social Security guidelines and definitions in making their decisions.

Observers believe the net effect of that change (while making the decisions more uniform), would tighten down even more on the number of disabled people who are reinstated by the judges.

Recent allowance rates for initial claims and CDI decisions, State-by-State, DI and SSI combined

[In percent]

	Allowance rate
Initial claims: [1]	
Rhode Island	41.5
South Dakota	41.3
Vermont	41.2
Nebraska	40.2
Alaska	39.5
Delaware	38.9
Wisconsin	38.6
District of Columbia	38.5
Minnesota	37.2
Utah	36.6
Arizona	36.5
Iowa	36.1
Hawaii	35.6
Indiana	34.7
Kansas	34.6
Maine	34.3
Connecticut	33.9
North Carolina	33.9
New Jersey	33.7
Missouri	33.0
Ohio	32.8
North Dakota	32.8
Illinois	32.6
Montana	32.5
Pennsylvania	31.9
New Hampshire	31.6
Colorado	31.6
Nevada	31.5
Wyoming	31.1
Virginia	31.0
South Carolina	30.9
Oregon	30.9
Washington	30.8
Florida	30.7
Texas	30.3
Tennessee	30.2
Idaho	29.6
California	28.9
Oklahoma	28.7
Kentucky	28.5
Maryland	28.2
Massachusetts	28.0
Michigan	27.8
Alabama	27.6
Mississippi	27.5
Georgia	26.7
New York	25.4
West Virginia	25.3
Louisiana	25.2
New Mexico	25.1
Arkansas	24.3
Puerto Rico	19.3
Initial CDI decision: [2]	
South Dakota	79.6
Alaska	72.8
New Hampshire	69.8
Hawaii	69.6
Nebraska	69.3
Minnesota	68.3
Vermont	67.6
Wyoming	67.6
Washington	67.0
Delaware	66.1
Maryland	64.5
North Dakota	63.5
Utah	62.6
Iowa	62.6
Colorado	62.2
Montana	61.3
Arizona	60.8
Missouri	60.4
North Carolina	60.2
Mississippi	60.1
Massachusetts	59.9
Oregon	59.7
Virginia	59.4
Connecticut	59.3
Kentucky	58.3
South Carolina	58.0
Ohio	57.9
Maine	57.8
Nevada	57.7
District of Columbia	57.4
Kansas	56.6
Alabama	56.2

West Virginia	55.9
Rhode Island	55.7
Indiana	55.4
Pennsylvania	55.3
Tennessee	54.8
Michigan	54.5
Florida	54.1
Georgia	53.5
Illinois	52.4
California	52.1
Idaho	51.5
Oklahoma	51.5
Wisconsin	49.8
Texas	49.0
Nevada	48.7
Arkansas	48.2
New York	47.5
Louisiana	46.8
New Mexico	38.8
Puerto Rico	29.0

[1] For fiscal year 1981.

[2] For period October 1981 to May 1982. Does not take appellate actions into account and excludes non-medical determinations.

Source: SSA, July 1982.

[From the Fort Smith (Ark.) Southwest Times Record, Nov. 14, 1982]

SOCIAL SECURITY CUTBACKS BORDER ON TERRORIZATION

(By Jack Moseley)

Grabbing away the crutches of a one-legged man and kicking him in the shin is not going to cure the problems of the Social Security System.

That makes about as much sense as trying to fix a blown engine by popping in a new oil filter. It just won't work.

But what a bunch of federal bureaucrats are doing to sick and disabled Americans is even worse than attacking a cripple. In some instances, it borders on terrorizing those least able to defend themselves, stripping them of dignity creating added anxiety for heart and lung patients, forcing them onto welfare rolls and forgetting they even exist. The coldest, cruelest form of man's inhumanity to man must be bureaucratic indifference in a government that is intended to be "of, by and for the people."

I'm talking about the current wave of undeserved cutoffs of Social Security disability benefits here and across the nation. This will be the subject of public hearings in Fort Smith next Friday by Sen. David Pryor. Hopefully, those hearings will be a step toward correcting an awful mess that is inflicting misery on far too many people.

I'm a hard-nose when it comes to disabled and handicapped people. I have quoted John Kennedy that "life itself is not always fair." I have deplored welfare cheats and those who abuse other public benefit programs. I have argued that the taxpayers cannot afford to put elevators in every two-story school house in America for the benefit of those in wheelchairs. But I have never denied a public responsibility for those who cannot work because of physical and mental conditions totally beyond their control, especially for those who paid into the Social Security System the same as most of us.

As I understand it, here is what has happened:

Under the Carter administration, Congress passed a law ordering regular reviews of people drawing disability benefits to eliminate ongoing cash payments to people who had recovered from one disability or another and were still receiving monthly government checks. That made sense. Then under the Reagan administration, this review procedure was accelerated. Meanwhile, Social Security was getting into deep financial trouble, but the Disability Trust Fund was strong and healthy. It was so healthy, in fact, that last week money was borrowed from this fund to meet the financial obligations of Social Security to millions of retirees.

Now, bureaucrats charged with reviewing whether people are entitled to continued disability benefits appear to have worked themselves into a zealous frenzy to see just how many people they can disqualify, regardless of medical evidence to the contrary.

Look at a few local examples:

Under the law, any person with an I.Q. of less than 60 is considered disabled. But that didn't carry much weight for a 47-year-old man with an I.Q. of 43. Cared for by his mother, who happened to be hospitalized when his benefits were cut off, this man appealed to an administrative law judge and won back his benefits. But until the appeal hearing, there was no money coming in for his care.

A local man was sent to a doctor selected by the government. The physician found that his back was 75 percent disabled. But the bureaucrats ruled that he was 75 percent physically fit and chopped off his disability.

A western Arkansas physician was angered that his heart patient was being cut off disability. "How can you stupid bastards even consider that this lady is capable of any type of gainful employment?" he wrote. The lady had a medical history showing her right ventricle is one and a half times normal, her heart pumps at only 40 percent normal, she is physically weak and in constant danger of a heart attack.

Would you believe this? A 23-year-old man, borderline retarded since brain surgery and blind in one eye (limited vision in the other), is confined to a Fort Smith nursing home and has to be told when to eat, bathe and dress. But he had his benefits cut off.

Fortunately, people like this have a way to fight back, even though they and their families find themselves without benefits while they're fighting. They can appeal the bureaucrats' decisions to one of three local administrative law judges who reexamine the evidence. These judges, by the way, usually are the first representatives of the federal government to actually see those appealing their cases face to face in an open, on-the-record hearing. The decisions to cut off benefits have been made by bureaucrats shuffling stacks of government forms that frightened, confused, and threatened the people who tried to fill them out.

Now, even the judges are receiving pressure from Washington to hold down the number of cases in which they reinstate benefits for disabled people. There have been rumors that the Fort Smith appeals office "could be closed" if things don't go more to the whims of Washington. All rulings against the bureaucrats from here now automatically go to Washington for yet another review.

Before anyone gets the idea the local law judges are just a trio of bleeding hearts wildly giving away Social Security dollars, consider a few more facts. Arkansas has the lowest rate of approved disability claims in the country. And it is the fourth lowest among the 50 states in reinstating benefits for those who appeal bureaucratic decisions to halt payments. The local judges do reinstate more disability claims than their counterparts in other Arkansas cities, but U.S. Rep. John Paul Hammerschmidt is the only Arkansas congressman who has a personal representative helping disabled constituents gather and present medical evidence in appeal cases. That means local people frequently have their appeals better organized and feel more confident because they have a member of the congressman's staff sitting next to them at the hearing.

There is no question that the Social Security system is in serious trouble, and the very real problems must be faced. No one is suggesting that people who do not deserve benefits should receive them.

But insanely whacking benefits from people those benefits are intended to help is WRONG. That will not solve Social Security's problems. It makes about as much sense as re-arranging the deck chairs on the Titanic; it will not change the ultimate fate of the ship.

Meanwhile, people right here where we live are hurting and being hurt because someone in Washington is playing games with statistics spit out of computers. Each of those statistics is a human being. Don't they deserve to be treated as such?

● Mr. RIEGLE. Mr. President, I am extremely pleased that finally after 22 months since this administration started reviewing social security beneficiaries, we are beginning to take steps to correct this urgent problem. Many of us in Congress have been fighting for months and months for immediate action, and now, almost 2 years after the onset of the continuing disability investigations, we are taking the first steps toward seriously dealing with this wretched and heartbreaking situation.

I am convinced that all Americans would be outraged if they were fully aware of congressional inaction in the face of the unnecessary suffering and hardship that millions of our disabled citizens have experienced and continue to experience as a result of the way the administration is implementing the disability reviews. I will not rehash the stories of those individuals found no longer disabled by social security who a few days or months later have died from their disabilities. Nor will I relate the numerous stories of disabled persons who, upon learning that their benefits were terminated, committed suicide. I also will not now supply my colleagues with a list of the hundreds of thousands of beneficiaries who, after having their benefits stopped, had these critical funds restored by an administrative law judge after months and months of appeals. The entire process implemented by this administration has been needless and heartless and must be changed.

While H.R. 7093 clearly does not solve the problems in our social security disability program, it does nonetheless provide relief in the form of continuing benefits through the appeals process. It does not adequately address the manner in which the Social Security Administration is implementing the review process and it fails to confront the serious problem of the high reversal rate we are seeing for beneficiaries who chose to appeal their termination decision. However, hopefully,

during the opening weeks of the 98th Congress, we will swiftly move to enact comprehensive legislation that will not simply patch up but will reform the unacceptable practices and procedures that are inflicting serious harm on a group of Americans least able to fight back.

Mr. President, it is important to note that it was not the intent of the section of the amendment to H.R. 7093 dealing with the meaning of disability to alter the standards relating to the determination of when an individual is under a disability. The question relating to the legality of the current standards of determining when an individual is under a disability should be undertaken at the time Congress considers comprehensive legislation during the 98th Congress.

Mr. President, recognizing that H.R. 7093 is simply a first step in dealing with a situation that clearly requires comprehensive reform, I urge all of my colleagues to support this measure.●

SOCIAL SECURITY DISABILITY REVIEWS

Mr. ROBERT C. BYRD. Mr. President, 2 years ago the Congress enacted legislation to phase in periodic and systematic review of social security disability cases. This legislation was intended to improve the administration of the disability program, by insuring the removal of beneficiaries from the disability rolls who had medically recovered and could return to productive employment.

The reviews were to be phased in over time so that State agencies would be able to prepare for greatly increased workloads. However, when the Reagan administration took office, it moved to accelerate the review process. In the past year, hundreds of thousands of diabled individuals have had their disability benefits abruptly terminated, with little advance notice, only to have benefits reinstated after many months of waiting to appeal the termination decision.

Many of those whose benefits were cut have never seen the State examiner, but have had their case decided by a review of their file, which often does not contain recent or pertinent medical information. The waiting period for a review of the termination decision can be as long as a year. And, for many people—who are without other income—this is simply too late. Seriously ill people are forced to sell their homes or take other desperate, irreversible actions. Regrettably, most of us in this body have heard of suicides by individuals, who grew terribly despondent during this waiting period limbo. Other people have actually died from their disability during this time.

I know of one constituent of mine, Mrs. John Carter, whose plight was highlighted by the Charleston Gazette for the people of the State. Mrs. Carter attempted to go back to work when her disability benefits were cut. She worked less than 3 days before she collapsed. Mrs. Carter aggravated her disabilities in her employment attempt and subsequently underwent surgery. It is unclear how permanent the health damage will be. I ask unanimous consent that the August 29 article on disability from the Charleston Gazette be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. A majority of individuals who are being forced to undergo this painful process are truly disabled. Almost two-thirds of those who appeal have their benefits restored.

This legislation will give the Congress time to study the disability review process. More legislation may be needed to insure that Social Security Administration officials do not continue a pattern of cruel benefit terminations in an effort to meet over-zealous cost savings goals.

Mr. President, all social security beneficiaries have worked and paid into the disability trust fund in the same fashion they have paid into the retirement fund. The social security commitment is the same in each case. These people have earned and been promised the right to modest economic assistance in the event they become disabled. They should be secure in this right.

With the Government rolling back on this commitment to disabled Americans, it further undermines confidence in the social security system and leads to distrust of Government by the American public. I hope passage of today's legislation is still another step toward instilling and restoring confidence. Without a doubt, we will be taking others in the not too distant future. I commend Senators LEVIN, METZENBAUM, DOLE, and COHEN for the spirit in which this bipartisan compromise legislation was reached.

(EXHIBIT 1)

[From Outlook, Aug. 29, 1982]

DISABILITY—QUESTION OF BENEFIT ELIGIBILITY LEAVES THOUSANDS IN LIMBO

(By Beth Spence)

Two months after her disability Social Security benefits were cut off, Anna Carter went back to the work she knew best—waitressing.

She lasted less than three days before she collapsed and had to be carried out of the restaurant by her disabled husband, John.

That was in May. Today the 51-year-old Mrs. Carter is in a wheelchair with both her legs in knee-high casts. She has had one operation on her feet and faces further surgery, but she already has been told she probably will never again walk unaided.

"I went back to work because I was thinking we couldn't make it on what John gets a month on his disability," said Mrs. Carter, a serene-looking woman with a hint of Virginia in her Monroe County speech. "We were have a hard enough time with both our checks."

Mrs. Carter's case is not unique. Across the country, thousands of disabled people have been cut from the Social Security rolls during the past year and a half.

Between May 1, 1981, and May 28, 1982, state disability determination boards terminated benefits for 106,862 persons—or more than 44.4 percent of the cases reviewed. In West Virginia, 1,509 people lost their benefits.

A majority of the cases—Social Security officials say 55 percent—eventually are won on appeal, but lawyers representing disabled clients are frustrated with the length of time it is taking to process the appeals.

They also say tremendous pressure to deny claims is being placed on examiners who make the determinations and on administrative law judges who hear the appeals.

Joseph D. Coffman, manager of the Charleston Social Security office, said the reason for the increased number of re-evaluations is 1979 congressional action requiring review of all claims at least once every three years to make sure recipients still qualify for benefits.

Thomas H. Zerbe, managing attorney for the West Virginia Legal Services Plan in Lewisburg, argues that the review is being used as an excuse to terminate benefits for recipients whose conditions have not improved.

"Sometimes this results in a disabled individual being forced to go against his doctor's advice and return to work while his case is pending," Zerbe said. "The consequences can be tragic."

Anna Carter can attest to that. A sickly child, Mrs. Carter can remember that her father had to carry her from room to room when at 9 she developed a condition doctors diagnosed as an inflammation of the bones in her legs.

Through the years, the infection has recurred in different parts of her body. Mrs. Carter says the initial attack left her legs so weak that even as an adult her ankles turn if she steps on something as small as a matchstick.

At 16 she quit school to get married and she and her husband moved to Virginia. By the time she was 19, she was divorced, on her own, and had a child to support.

She took a job waiting tables, but was soon forced to take a second job at a ribbon factory to make ends meet. For six years, she worked 16 hours a day—an 8-hour shift at the restaurant, followed by an 8-hour shift at the factory.

When the ribbon factory closed, she worked for three years at a book-binding factory, standing on her feet 8 hours a day.

During that time her health began to deteriorate. Between 1949 and 1980 Mrs. Carter had 23 operations, including the removal of 16 inches of her intestines, part of her stomach, her gall bladder, a disc from her back and a large gland from her neck.

In addition, she was diagnosed as having angina, for which she takes nitroglycerine, and an aneurysm in her temple.

Mrs. Carter qualified for Social Security disability benefits in 1973, after she had to quit working at the small grocery store she and Carter, her second husband, bought after they were married in 1967.

One of her more severe health problems is dumping syndrome, a condition in which food passes rapidly through the body. She developed the problem after 75 percent of her stomach was removed in 1963.

"When I eat, it goes right through me," she explains, "I got to where I only weighed

98 pounds and the doctor told me to eat six times a day and lie down for an hour after I eat."

By following her doctor's instructions, Mrs. Carter had managed to spend more than a year off the operating table when she was told by Social Security officials to go for an examination early in 1981.

"The doctor told me to move my neck and hands, which I did, and touch my toes, which I couldn't do, and that was the examination," she explained.

In February, examiners determined that Mrs. Carter again could work in a store, and she was told that her checks would be cut off in March and her Medicare benefits would end in April.

"I knew I had to go to work," she said. "I thought I was lucky to find the job I did."

The first day, her heels bothered her, but she thought they would be all right, that she just had sore feet because she wasn't used to standing all day.

"For the three days I worked I never ate a mouthful of food because I knew the owner would let me go if I had to keep going to the bathroom," Mrs. Carter explained.

The second day her feet were worse. "The third day I just couldn't put weight on my heels. John had to come and get me and carry me out. If he couldn't have helped me, I would have had to crawl."

Her doctor said the infection, which has spread through her body since childhood, had been touched off again and she should not bear weight on her feet.

"But you know how it is, sometimes you have to get around," she said. "I let the dog out and she was in heat. A male dog came around and I just forgot about my feet. I took two steps toward the dog and I must have hit the back of my heel on the doorsill. The tendons snapped in both my heels."

Mrs. Carter had to have the tendons wired back to the bones in her ankles. Complications developed in her right leg, which doctors have told her will require further surgery, and a large sore has appeared on her ankle.

"I asked if I would walk and the doctor said he was afraid I'd never walk like I did," she said.

As Mrs. Carter's medical bills mount and her appeal drags on, she and her husband are trying to sell their two-story farmhouse just outside Alderson in Monroe County. They plan to move to Virginia and care for Carter's aging mother in exchange for food and shelter.

"We had planned on this for our retirement home," said Carter, who has had a heart attack and triple bypass surgery. "We've been more contented here than anywhere we ever lived. But we just can't make it."

Social Security officials are convinced that situations like Mrs. Carter's are rare.

"We are concerned that some people have been taken off the rolls who are indeed disabled, although we believe that number is small," said John Trollinger, deputy press officer for the Social Security Administration in Baltimore.

Trollinger said the agency has found an error rate of only 3 percent in monitoring state decisions.

In West Virginia, Social Security disability claims are reviewed by the Disability Determination Section of the state Division of Vocational Rehabilitation.

A. J. Allen, administrator of the DDS, said reviews show that the conditions of a number of individuals have improved, making them no longer eligible for benefits. Others weren't disabled in the first place, he said.

Allen said he believes "far too many claims" denied by examiners are being reversed by administrative law judges.

Asked if the Reagan administration has set a national goal of terminating 25 percent of the cases reviewed, Allen said bruskly, "No. But we'll probably terminate more than that."

Trollinger cited a number of reasons for the high number of reversals by administrative law judges.

"Sometimes the condition may have worsened," he said. "Sometimes medical evidence can be presented that wasn't available when the decision was made to terminate benefits. And when the administrative law judge hears the case, he or she has the ability to look at the person. Sometimes you can tell a lot more when you see someone."

For Janet Friedman, the paralegal in Lewisburg who is handling Mrs. Carter's appeal, the reversals aren't happening quickly or often enough.

"I feel that attitudes are changing," Ms. Friedman said. "I'm just not winning the cases I used to win. One examiner as much as said to me that he wanted to decide the case in favor of the client, but he was afraid it would be kicked back to him.

"It's a waste of time, energy and money," she said. "They hired more people in DDS when they had to start making the decisions, they get rooms at Holiday Inns, hearing assistants are paid. Where's the saving? It seems like the money is being redirected instead of going to recipients."

A case that was decided quickly, according to Ms. Friedman, involved a client whose benefits were cut off in March. His hearing was Aug. 11 and the decision to restore his benefits made on Aug. 19.

But that was "unusually fast," according to Zerbe. More typical is the case of a client who was terminated in March 1981, had a hearing in November and didn't get a decision until the following June.

"So many of these people are being asked to do without benefits for more than a year and, because our funds have been cut, we're having to turn away clients," Zerbe said. "There's not only an injustice here, but peoples' ability to respond legally is being cut off."

Zerbe said examiners and administrative judges have admitted privately they are under a lot of pressure to get people off the disability rolls.

He said decisions in favor of the clients—both by DDS officials and administrative law judges—are being carefully scrutinized, while decisions against clients are not being monitored.

Trollinger said his statistics show more reviews of cases decided against clients. "We have reviewed twice as many reviews that terminated benefits as those that allowed benefits," he said.

Social Security "is such a political football and no one wants to cut old age and survivors off," according to Zerbe. "This seems to be a way that required no congressional action and no one had to take the heat."

No one, that is, except people like Anna and John Carter, who can't hide their bitterness toward the Reagan administration.

Wiping tears from her eyes, Mrs. Carter said, "When I woke up after that last surgery, if President Reagan had been standing at the foot of my bed, I would have told him what I thought. Just think, all of this for 2½ days work."

"This is all on account of Reagan," Carter said. "Because of him, what walking she'll be doing will be on crutches."

● Mrs. HAWKINS. Mr. President, the much-needed benefits of disabled individuals in this country are being unjustly terminated due to the Social Security Administration's continuing disability investigation (CDI) process. To correct this situation, I have cosponsored a measure that imposes a temporary, moratorium on new disability terminations under the program of accelerated CDI's. It is essential at this time to remedy the Social Security Administration's (SSA) procedure for determining continuing disability for those that receive disability benefits. Today we have an opportunity to pass reform legislation on the CDI process.

In 1980 Congress passed the Social Security Disability Amendments of 1980. This legislation mandated the SSA to review the eligibility of current recipients at least once every 3 years unless the disability was permanent. In March 1982 the SSA accelerated the periodic review process. The subsequent increase in the number of cases reviewed nationally is astounding: In 1980 the SSA reviewed 185,000 cases for continuing disability; in 1981 351,000 cases were reviewed; in 1982, 567,000 cases were reviewed; and the estimate for 1983, is 806,000 cases.

The review program was enacted in good faith—to insure that disability benefits were awarded to those truly in need. The effect of the periodic review of disability cases, however, was disastrous. Between March 1981 and April 1982, the SSA reviewed 405,000 cases and 45 percent of those cases had their disability benefits terminated. Of those who appealed their terminations, 67 percent had their benefits reinstated. The irony is that eligible disabled individuals were temporarily deprived of benefits—and waited 9 to 12 months for eventual reinstatement. The only alternative for some was to accept welfare. Worse yet, because of the high volume of CDI's, reviewers no longer have the time to make considered and equitable decisions.

In May the Subcommittee on Oversight of Governmental Management held hearings to determine why benefits were discontinued, only to be reinstated at a later date. Later, in August, the Senate Finance Committee held hearings on the social security disability insurance program. As a result of these hearings, several bills were introduced to correct the inequities caused by the acceleration of CDI's. Senator HEINZ introduced S. 2731, which affects the CDI process in basically three ways: By first, improving the management and administration of CDI's; second, by providing more protection against improper terminations; and finally by helping those legitimately terminated to return to the

labor force more easily. In addition, Senators METZENBAUM, MOYNIHAN, and CHAFEE introduced S. 2739, which makes four basic changes in the current SSA review procedure. First, there could be no termination unless a recipient's medical condition improved or the original determination of disability was clearly erroneous. Second, the SSA must attempt to obtain medical evidence from the treating physician before requiring a consultative examination at the taxpayers' expense. Third, even though disabilities are not listed in the SSA regulations, they shall be considered of equal severity. And finally, benefits will be continued pending the final decision by the administrative law judge. Other valuable proposals have been introduced, too.

However, while these proposed solutions are most constructive, we must provide our disabled with a speedier solution.

I am therefore pleased to support H.R. 7093 today. The provisions contained in H.R. 7093 will give our disabled immediate, temporary relief. This measure does so by: First, continuing payment of disability benefits through appeal; second, permitting the Secretary to slow the CDI process; third, requiring the Secretary to review medical evidence for the 12-month period preceding the CDI, and finally, requiring the Secretary to report semiannually on various aspects of the CDI process. Although this legislation is intended to be only a short-term solution to the CDI problem, I fully support it. It provides badly needed relief to those who receive disability benefits and it gives Congress time to find an acceptable permanent solution to the review procedure.●

The PRESIDING OFFICER. The bill is open to further amendment. If there be further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. Is all time yielded back on the bill?

Mr. COHEN. Yes.

Mr. LEVIN. I yield back the remainder of my time.

Mr. COHEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read a third time, the question is, Shall it pass? The clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Maryland (Mr. MATHIAS), the Senator from Illinois (Mr. PERCY), the Senator from Indiana (Mr. QUAYLE), the Senator from Delaware (Mr. ROTH), the Senator from Vermont (Mr. STAFFORD), the Senator from Idaho (Mr. SYMMS), and the Senator from Wyoming (Mr. WALLOP), are necessarily absent.

I further announce that, if present and voting, the Senator from Illinois (Mr. PERCY), would vote "yea".

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from California (Mr. CRANSTON), the Senator from Illinois (Mr. DIXON), the Senator from Connecticut (Mr. DODD), the Senator from Missouri (Mr. EAGLETON), the Senator from Colorado (Mr. HART), the Senator from Alabama (Mr. HEFLIN), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Maine (Mr. MITCHELL), the Senator from Georgia (Mr. NUNN), the Senator from Rhode Island (Mr. PELL), the Senator from Michigan (Mr. RIEGLE), and the Senator from Massachusetts (Mr. TSONGAS) are necessarily absent.

I further announce that, if present and voting, the Senator from Delaware (Mr. BIDEN), the Senator from Michigan (Mr. RIEGLE), the Senator from Illinois (Mr. DIXON), and the Senator from Rhode Island (Mr. PELL) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 70, nays 4, as follows:

[Rollcall Vote No. 394 Leg.]

YEAS—70

Abdnor	Ford	Melcher
Andrews	Garn	Metzenbaum
Armstrong	Glenn	Moynihan
Baker	Gorton	Murkowski
Baucus	Grassley	Nickles
Boren	Hatch	Packwood
Boschwitz	Hatfield	Pressler
Bradley	Hawkins	Proxmire
Brady	Hayakawa	Pryor
Burdick	Hollings	Randolph
Byrd, Robert C.	Huddleston	Rudman
Cannon	Humphrey	Sarbanes
Chafee	Inouye	Sasser
Chiles	Jackson	Schmitt
Cochran	Jepsen	Simpson
Cohen	Kassebaum	Specter
D'Amato	Kasten	Stennis
Danforth	Kennedy	Stevens
DeConcini	Laxalt	Thurmond
Denton	Leahy	Tower
Dole	Levin	Warner
Durenberger	Lugar	Weicker
East	Mattingly	
Exon	McClure	

NAYS—4

Byrd, Harry F., Jr.	Helms	Zorinsky
	Long	

NOT VOTING—26

Bentsen	Bumpers	Dixon
Biden	Cranston	Dodd
Domenici	Mathias	Riegle
Eagleton	Matsunaga	Roth
Goldwater	Mitchell	Stafford
Hart	Nunn	Symms
Heflin	Pell	Tsongas
Heinz	Percy	Wallop
Johnston	Quayle	

So the bill (H.R. 7093), as amended, was passed.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEVIN. Will the majority leader yield for a moment?

Mr. BAKER. Yes.

Mr. LEVIN. I ask unanimous consent that Senators BOREN, LEAHY, BOSCHWITZ, DECONCINI, and JEPSEN be added as cosponsors of the amendment which we adopted as part of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The title was amended so as to read:

"An Act to amend the Internal Revenue Code of 1954 to reduce the rate of certain taxes paid to the Virgin Islands on Virgin Islands source income, to amend the Social Security Act to provide for a temporary period that payment of disability benefits may continue through the hearing stage of the appeals process, and for other purposes.".

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I have tried for most of this day and a good part of yesterday to identify other pieces of legislative business or executive business that we might be able to take care of today. I have not been able, for a variety of reasons, to find anything that looks as if it would occupy at least the useful attention of the Senate. Therefore, I announce that there will be no further rollcall votes today.

ORDER FOR RECESS TODAY UNTIL MONDAY, DECEMBER 6, 1982, AT 11 A.M.

Mr. BAKER. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in recess until the hour of 11 a.m. on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON MONDAY

Mr. BAKER. Mr. President, I ask unanimous consent that, after the recognition of the two leaders under the standing order and any special order which may be ordered, there be a time for the transaction of routine morning business to extend not past the hour of 12 noon on Monday, in which Sena-

tors may speak for not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, in which Senators may speak for not more than 5 minutes each, to extend not past the hour of 2:30 p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

(Mr. GORTON assumed the chair.)

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MARIHUANA FARMERS

Mr. HAYAKAWA. Mr. President, on September 30 of this year, I chaired a hearing in the Subcommittee on Forestry, Water Resources, and Environment of the Senate Agriculture Committee. The hearing, was the first attempt by Congress to explore this pervasive problem. It was most informative, and, I believe, productive. We heard from several Federal, State, and local law enforcement and land management agencies, as well as a number of concerned citizens.

The subject of the inquiry was the growing of marihuana on Federal lands.

Several very important points were brought out at the hearing, and I would like to highlight three of them. First, the problems associated with the cultivation of marihuana on our public lands, and for that matter our private lands, will only worsen as we are successful in stopping the drug before it reaches our borders. Currently, we are able to locate, at best, 10 percent of the domestically grown marihuana—obviously a low-risk factor for the grower. Second, there is a tremendous need for greater coordination between Federal, State, and local law enforcement officials. In addition, greater financial and manpower resources must be committed to bringing the cultivation under control.

Finally, we must begin immediately to improve our knowledge of where and how much of the plant is being grown in the United States. The paucity of reliable data is appalling. How can we target resources effectively if we do not even know where our target is?

I think we should all be grateful for a recent issue of Newsweek magazine which made a rather intensive study of this matter in an issue 3 or 4 weeks ago.

We have developed technology in our satellites, which we are only beginning to put to work. The time to move is now, before the problems gets any further out of hand.

I shall ask unanimous consent that three articles regarding domestic marihuana cultivation be printed in the RECORD. These are interesting articles and will bring to my colleagues a flavor of just what is going on in the marihuana fields of California.

Let me call attention to the fact that California is only one of the many States in which marihuana is being grown in enormous quantities. Hawaii, Mississippi, Florida, and many other States are involved in this same activity.

These stories are from the San Francisco Examiner, the Bureau of Land Management newsletter known as BLM Newsbeat, and the third story is also from BLM Newsbeat.

Mr. President, I ask unanimous consent to have printed in the RECORD these three articles to which I have made reference.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the San Francisco (Calif.) Examiner, Nov. 7, 1982]

SEARCH AND DESTROY: VIET-STYLE WAR AGAINST POT FARMERS

(By Ivan Sharpe)

GARBERVILLE, HUMBOLDT COUNTY—The white-and-gold Huey helicopter with its tense flak-jacketed and heavily armed occupants zoomed over the ridge with a thumping roar just as it did 20 years ago on Vietnam combat missions.

San Francisco Police Sgt. Richard Cairns, one of the seven men squeezed into the cabin, gripped his M-16 and prepared to jump. He was ready to blast at anyone who took a shot at him.

As a narcotics officer, he'd seen the little drug wars that often erupted on San Francisco street corners. The growers claimed they didn't hurt anybody, but he didn't agree.

He didn't think of himself as a crusader, but he felt a grim satisfaction. He couldn't do anything about heroin in Mexico or cocaine in Colombia, but he was going to enjoy cutting down some of the most highly prized pot in the world right here in Humboldt County.

Here they were, living in their little utopia, he thought, cultivating and harvesting the bright-green sinsimella plants as if they were tomatoes or turnips. Well, the law said growing marijuana was a crime.

And if some hippie decided to make a stand in his pot field, he was ready to defend himself like everybody else in the state Bureau of Narcotics Enforcement's tiny paramilitary task force.

It was a clear day, just after lunch. A KERG-FM talk show in Garberville was being swamped with angry calls from pot growers, who talked excitedly of military-style assaults and helicopters blackening the skies. But there was only one chopper, albeit busy, lent by U.S. Customs to the state.

The shattering whump-whump-whump of the chopper as it cleared the treetops north of Alderpoint and about 20 miles northeast of Garberville paralyzed the small family in the trailer atop the ridge.

Cairns could see a man outside the trailer squinting at the helicopter hovering a few feet above the ground. As he turned and started to run back toward the trailer, Cairns jumped and charged after him up the hill, yelling to him to halt.

In moments, Cairns had the man on the ground with his arms handcuffed behind his back.

The initial assault team had split up after jumping out of the chopper. Two had headed down the hill toward the pot gardens. Two had joined Cairns. They pointed their guns at the trailer and yelled at its occupants, "Police! Come out. We have a search warrant."

Nothing happened. They could see figures moving inside. The tension grew. They imagined guns being aimed at them behind the windows. A state agent banged on the door.

Finally, they came out—cowed and frightened. A 49-year-old woman and her two small children, and two other women.

The dichotomy between growers and cops in southern Humboldt County is curious. Both sides firmly believe with moral certainty that right is on their side. And they are downright paranoid about the other.

The Garberville area is like the Wild West, where long-haired men with guns—former hippies, refugees from the cities and the campuses, adventurers, thieves—and their sometimes scruffy women righteously defend lifestyle and property.

Kent Pollock, publisher of the Star Route newspaper in Redway, is sympathetic to the growers. He believes marijuana should be legalized.

Winner of numerous journalism awards, including a shared Pulitzer Prize when he worked on big newspapers back East, he bought the tiny bimonthly seven months ago and increased circulation to 3,600. A popular feature is a full page of "Marijuana Obituaries," which detail raids in the county (this year deputies seized a record 12,894 plants).

"Part of the problem up here," he explains, "is that both sides don't understand each other. Of course there are some crazy growers who would shoot at planes. And it would be foolish to ignore that. On the other hand, the vast majority of people growing pot in the hills are peaceful families with children.

"What I think is wrong here is that this whole problem is a manifestation of a law that's out of kilter with society. It's that simple. Here we are in an era when a joint is no big deal and yet we have agents in the woods armed and camouflaged as if they were fighting in Vietnam.

"And yet there are thousands up here who used to be on welfare and now grow pot. They don't feel like criminals. They are producing what this country wants. Are these raids worth the real social and mental havoc they create?"

This widely-held view has divided the county's officialdom, chiefly along the lines of how much outside law enforcement help the county should seek and who should control it. But recent violence on the pot farms is hardening opposition to the pot growers.

Eureka businessman Danny Walsh, chairman of the Board of Supervisors, is losing sympathy with the growers. "As long as vio-

lence is involved, they are getting what they deserve," he says.

"These guys are a bunch of phonies," says the outgoing sheriff of Humboldt County, Gene Cox. "They're blowing smoke, buddy. If they are such heroes, how come there are five dead people this past year directly connected to narcotics, mostly in Humboldt? Is this what America wants?

"These guys won't admit they are doing something illegal. And yet they don't want it legalized. There's too much big money in it right now. They're hollering like a wounded eagle right now, because they are getting hurt in the pocketbook."

Pete Mouriski is the field agent in charge of the state's narcotics task force. He doesn't see pot growers as any different from heroin dealers in San Francisco.

"I think they are crooks and that's the way we go about it. I think I'm helping society. I'm anti-dope, I believe weed is evil, and I love doing what I do," he says.

He scoffs at growers' complaints about the helicopter. It can be frightening, he admits, but he sees it as mostly a work-saving device that gets agents to the scene of a raid quicker than by vehicle.

This year's sweep by up to 20 agents and reserve deputies in the extreme northern counties began near the Oregon-California border Oct. 11, and then moved south, not attracting public notice until they made 13 raids in the more populated area around Garberville.

In a Eureka motel room recently, the 38-year-old Mouriski tallied up the results of the sweep: 2,227 growing plants, 1,186 pounds of processed weed, with a total weight of 9,099 pounds. And eight arrests.

It doesn't bother him that he has been accused of running a military-style operation.

"Of course we're fearful. We'd be fools if we weren't," he says. "Everyone has weapons. They are committing a felony and they stand to lose a lot of money. I've no doubt in my mind that given the opportunity, some of them would shoot at law enforcement people."

The mother had been dressing the children for a rare pickup-truck ride to Garberville to buy some animal feed, to be followed by an even rarer treat—dinner in a restaurant.

The 52-year-old man lying in front of her with his face in the dirt was her husband. She yelled "Fascists!" at the grim-faced law enforcement officers.

The mother felt miserable. So this was it, the end—after all those lonely nights with no neighbors to talk to, the cruel winds and the snow, the crummy water system, the flickering television set, the back-breaking toil to establish a home.

They had quit city life 18 months ago. He was a driver and she a teacher. A year or so before, they had been driving around Garberville on vacation. They decided to buy 50 acres, isolated but with an enchanting view.

And, later, when they decided to sell their home, they bought a large, yellow mobile home with three bedrooms, a kitchen and a living room for $50,000 in Eureka, and drove it over the dirt roads to the top of their hill. Here they would start a new life. The feeling of freedom was exhilarating.

Then her husband began to study books on growing marijuana. She wasn't enthusiastic about his new hobby. She knew many of the people in the area were growing the weed. But she was still nervous.

It wasn't the illegality of it that bothered her. She thought the law was silly; the effects of marijuana, she felt, were not any worse than those of alcohol. But she'd heard of the ripoffs and the violence and the occasional police raids. And she didn't even like to smoke pot herself.

But her husband wanted to grow it, and the money the crop fetched would be welcome. So she pushed her fears to the back of her mind and watched, with dwindling unease, as her husband trotted off almost every day down the hill to cultivate his plants.

He was harvesting his first crop of sinsimella when the cops came.

The couple were flown by helicopter to Alderpoint and transported by car to Eureka for booking in the county jail.

The officers set to work cutting down the plants that had been spotted by aerial reconnaissance several days before. There were two small plots in the trees down the hill—80 plants in one and 72 in the other. But the biggest plants were in the greenhouse—20 thriving monsters 18 feet and taller, the sticky THC-loaded resin on the buds twinkling like diamonds.

Inside the trailer, the police found floors and tables covered with drying processed weed. There were bags of it in the closets. There was so much of it around, in fact, the kids couldn't help tripping over it.

Sgt. Cairns gazed at the 1,290-pound haul with satisfaction. The man had said it was all destined for San Francisco. He did a quick calculation. Depending on how much it was sold for, the family could gross up to $300,000. But after passing through the hands of distributors and street peddlers, the stuff could be worth as much as $2.5 million on the streets.

"I was very impressed with the operation," Cairns would say later. He was with the task force as an observer for two days. When he returned, he would recommend to Police Chief Cornelius Murphy that San Francisco cops join state narcotics agents in next year's raids.

[From the U.S. Department of the Interior, Bureau of Land Management, California State Office, October 1982]

BLM Announces Policy to Eradicate Marijuana

The Bureau of Land Management will give full support to cooperative efforts with other federal, state and local agencies to eradicate illegal cultivation of marijuana on public lands in California, according to Ed Hastey, State BLM Director.

Hastey said there has been a growing public awareness of the problem of widespread growing of marijuana on public lands in the state and the public expects a solution.

In a policy statement on the issue, he said the illegal cultivation often has adverse impacts on public resources, public access and the safety of the public and BLM employees.

"Therefore, it is the goal of BLM in California to work cooperatively with other land management and law enforcement agencies to prevent the cultivation of marijuana on the public lands," Hastey said.

"BLM managers and law enforcement personnel will coordinate among themselves and with local law enforcement officials to meet this goal. The local law enforcement officials have the lead responsibility for taking enforcement and legal action," he added.

He said BLM will develop and maintain a law enforcement records system on marijuana cultivation, instruct BLM employees on methods of reducing personal danger to themselves while on field assignments, conduct a public awareness program to keep the public informed about eradication efforts, and provide financial and personnel assistance to law enforcement agencies to help eradicate marijuana on BLM administered land.

In addition to its illegality, Hastey said the cultivation of marijuana on public lands is harmful to the environment because of the use of certain pesticides, herbicides, and other chemicals to protect the crops. He said the illegal use also has an adverse impact on legitimate land and resource users such as miners, ranchers and loggers.

[From the U.S. Department of the Interior, Bureau of Land Management, California State Office, October 1982]

Marijuana Raid Nets Big Haul

(By Tom Evans)

One rendezvous for the marijuana raid was the California Highway Patrol Office in Garberville. Several deputies from the Humboldt County Sheriff's Substation and two BLM Special Agents met there. There also were two drivers with rental trucks parked down on Main Street.

The rest of the task force was assemblying in Eureka and consisted of more deputies, headed by Capt. James Sintic; and U.S. Customs Agents, who were supplying a seven-passenger helicopter and pilots. The fifth agency participating was the California Department of Justice's Narcotics Bureau.

While we were waiting for word to roll, one of the truck drivers came up to the Highway Patrol Building and said he had been approached by a local resident down at the street.

"Going to get the hippies' grass today?" the resident had asked.

"No sir," the driver said, "we're hauling furniture today."

"You go ahead and get the grass," the man said and walked on.

When the driver got out of the truck he noticed a baggy in the gutter and picked it up. The plastic envelope contained about two ounces of dried green marijuana. Street value of that amount is about $150.

Finally the word came to go and the convoy moved north on Highway 101 to Redway, then westward toward Shelter cove in BLM's King Range National Conservation Area, designated by Congress for enjoyment by all people. About an hour later, near Shelter Cove, we turned north and traveled along an extremely dry, dusty road toward the Gitchell Creek drainage. The final rendezvous point was only two miles from BLM's Horse Mountain campground.

In total there would be 36 law enforcement officers participating, more than enough to discourage resistance by illegal growers. The plan was to get an early start but heavy fog had the helicopter grounded at Eureka. There was no choice but to wait for the fog to burn off.

The helicopter was essential because the ocean side of King Range is rugged country. The mountains rise to an elevation of 4,000 feet within a mile of the surf. Much of it usually is considered inaccessible. That's one of the main reasons it's considered ideal for growing marijuana. Slopes with southern exposure and a source of water are the other key requirements.

While we waited, David Howard, Special Agent-in-Charge for the Bureau of Land Management in California, said the Horse Mountain Campground is in an area classi-

fied for primitive recreation but there is little hiking in the area.

"You can't hike anywhere in there now without being afraid of running upon a marijuana plantation," he said.

There also have been reports in the press that growers set booby traps such as sharp steel spikes that can penetrate the soles of boots, explosives activated by trip wires, and fish hooks hung at eye level in the brush.

Finally the loud speaker on top of the Sheriff's car crackled and announced that the helicopter was airborne. Soon afterward it landed in an area that once had been used for loading logging trucks. After a briefing on how to enter and leave the chopper, it was time to move.

First to go was a group of deputies armed with semi-automatic rifles. The second and third groups were the BLM Special Agents and State Narcotics Officers. Because of the extremely steep terrain, the helicopter had to hover in the area of the fields at an elevation of about 10 feet off the ground. The officers had to jump to the ground.

As a field was secured, the total group would help chop down the plants and tie into bundles of four—the weight that a person could lift without difficulty. The bundles later were piled in a cargo net and hoisted by the helicopter for transport to the main landing site. There the bundles were weighted and loaded into the rental trucks.

When it came time for the officers to leave the fields, they climbed up on the skid of the chopper, one at a time, and held on to the co-pilot's hand while climbing into the door. Other hands grabbed their clothing and pulled them inside.

At the end of the two-day operation, three fields had been harvested, yielding a little more than 4,700 pounds, including stalks and stems. Howard estimated the street value of the usuable portions of the plants at $600,000.

He said he field raided on the second day with a smaller force appeared to be an experimental patch, with many plants grafted with shorter, heavier varieties.

"There were varieties from Pakistan, Brazil and Hawaii," he said. A number of the plants were tagged by the grower for identification.

There was only one casualty. One of the BLM Special Agents got tangled up with a nest of yellow jackets and was stung 12 times. First aid was given quickly and he continued to help out.

The yield from both days harvest was taken to a disposal area in Eureka by Sheriff's Deputies and burned.

Mr. HAYAKAWA. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. The time for morning business has expired.

Mr. BAKER. Mr. President, I ask unanimous consent that the time for the transaction of routine morning business be extended until 2:45, in which Senators may speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. BAKER. Mr. President, I have a few items that appear to have been cleared on both sides of the aisle for action routinely. I wonder if the minority leader would be prepared for me to go through that list now and to ascertain his willingness or unwillingness to deal with these matters at this time.

Mr. ROBERT C. BYRD. Yes, I am prepared.

Mr. BAKER. I thank the minority leader. The first is Calendar Order No. 942, S. 1340. If it is agreeable to the minority leader, I would like to proceed to that at this point.

Mr. ROBERT C. BYRD. Mr. President, may I say, for the information of the majority leader, that three measures are cleared on this side, including Calendar Order Nos. 942, 943, and 945, if it will be of help to him.

Mr. BAKER. It is most helpful, and I am very grateful.

USE AND DISTRIBUTION OF CERTAIN INDIAN JUDGMENT FUNDS

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 1340, Calendar Order No. 942.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1340) to provide for the use and distribution of Clallam judgment funds in docket numbered 134 before the Indian Claims Commission, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Select Committee on Indian Affairs with amendments, as follows:

On page 2, line 13, strike "20", and insert "80";

On page 2, line 14, strike "in", through and including "percentum" on line 15;

On page 2, line 15, after "projects", insert the following: "and the balance in an investment program";

On page 2, line 23, strike "20 per centum", and insert "the balance";

On page 3, line 4, after "that", insert "up to";

On page 3, line 6, strike "50 per centum", and insert "the balance";

On page 3, strike line 8, through and including line 20, and insert the following:

SEC. 5(a). The shares of funds apportioned under the first section of this Act shall be advanced to the respective groups within 60 days of this Act: *Provided*, That in the case of the Jamestown Band, a formal organization has been approved by the Secretary. At the time the funds are advanced, the Secretary shall account to the respective groups for all investments made and income received since May 4, 1977.

(b) Except as otherwise provided in this section, funds held and administered by the respective groups which are the subject of this Act, and income derived therefrom, shall be treated in the same fashion as if held in trust by the Secretary of the Interior, *Provided*, That such funds may be invested or expended by the respective groups in accordance with their plans without requirement of prior approval by the Secretary.

(c) Upon advancement of the funds to the respective groups the Secretary shall have no further trust responsibility for the investment, supervision, administration or expenditure or expenditure of such funds, and the United States shall be exempt from any liability for such investment, supervision, administration or expenditure of such funds.

SEC. 6. None of the funds distributed under this Act shall be subject to Federal or State income taxes or be considered as income or resources in determining eligibility for or the amount of assistance under the Social Security Act.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, the funds appropriated by the Act of May 4, 1977 (91 Stat. 61), in satisfaction of a judgment awarded in favor of the Clallam Tribe of Indians of the State of Washington in Indian Claims Commission docket numbered 134, less attorney fees and litigation expenses, and including all interest and investment income accrued, shall be divided by the Secretary of the Interior (hereinafter referred to as the "Secretary"), in shares of one-third to each, as agreed to by the adoption of tribal resolutions cited in sections 2, 3, and 4 of this Act, among the Port Gamble Indian Community, the Lower Elwha Tribal Community, and the Jamestown Band of Clallam Indians.

SEC. 2. The share of the funds apportioned to the Port Gamble Indian Community under the first section of this Act shall be used as provided in tribal resolution numbered 79-A1, dated January 9, 1979, requiring that 80 per centum of such share be used in a revenue supplement fund for community projects and the balance in an investment program.

SEC. 3. The share of the funds apportioned to the Lower Elwha Tribal Community under the first section of this Act shall be used as provided by tribal resolution numbered 8B-78, dated August 27, 1978, requiring that up to 80 per centum of such share be used in a land acquisition program that includes the payment of an outstanding loan on land purchased by the community and the balance in economic development projects for the benefit of all tribal members.

SEC. 4. The share of the funds apportioned to the Jamestown Band of Clallam Indians under the first section of this Act shall be used as provided by resolution numbered 78-1, dated October 1, 1978, requiring that up to 50 per centum of such share be used in a land acquisition program and the balance in a business development program.

SEC. 5 (a). The shares of funds apportioned under the first section of this Act shall be advanced to the respective groups

within 60 days of this Act, *Provided*, That in the case of the Jamestown Band, a formal organization has been approved by the Secretary. At the time the funds are advanced, the Secretary shall account to the respective groups for all investments made and income received since May 4, 1977.

(b) Except as otherwise provided in this section, funds held and administered by the respective groups which are the subject of this Act, and income derived therefrom, shall be treated in the same fashion as if held in trust by the Secretary of the Interior, *Provided*, That such funds may be invested or expended by the respective groups in accordance with their plans without requirement of prior approval by the Secretary.

(c) Upon advancement of the funds to the respective groups the Secretary shall have no further trust responsibility for the investment, supervision, administration or expenditure or expenditure of such funds, and the United States shall be exempt from any liability for such investment, supervision, administration or expenditure of such funds.

SEC. 6. None of the funds distributed under this Act shall be subject to Federal or State income taxes or be considered as income or resources in determining eligibility for or the amount of assistance under the Social Security Act.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PEMBINA CHIPPEWA INDIANS

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 1735, Calendar Order No. 943.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1735) to provide for the use and distribution of funds awarded the Pembina Chippewa Indians in docket numbered 113, 191, 221, and 246 of the Court of Claims.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Select Committee on Indian Affairs with amendments, as follows:

On page 2, line 13, after "Tribe,", insert "the Little Shell Tribe of Chippewa Indians of Montana";

On page 2, line 18, strike "or 6(a)", and insert "6(1) or 7(a);;

On page 2, line 25, strike "plus";

On page 2, line 25, insert the following:

(4) the number of members of the Little Shell Tribe of Chippewa Indians of Montana as described in section 6(1), plus

On page 3, line 4, strike "(4)", and insert "(5);

On page 3, line 5, strike "6(a)", and insert "7(a)";

On page 3, strike line 24, through and including "Indians." on line 3, page 4;

On page 4, strike line 24, through and including line 12, page 5, and insert the following:

(A) economic programs

(B) recreation or

(C) tribal administration

On page 6, after line 20, insert the following:

SEC. 6. The funds allocated by section 2 to the Little Shell Tribe of Chippewa Indians of Montana shall be used and distributed as follows:

(1) Eighty per centum of such funds shall be distributed in the form of per capita payments (in sums as equal as possible) to all enrolled members of the Little Shell Tribe of Chippewa Indians of Montana who are living on the date of enactment of this Act and who meet the enrollment criteria under Sec. 7(a) of this Act.

(2) Twenty per centum of such funds shall be held in trust and invested by the Secretary for the benefit of the members of the Little Shell Tribe of Chippewa Indians of Montana. The governing body of such tribe is authorized to use the interest and investment income accrued on such 20 per centum portion, on an annual budgetary basis subject to the approval of the Secretary, for—

(A) the administration of such tribe, or

(B) social and economic programs;

Provided, That the Secretary shall act on the Tribe's petition for Federal recognition prior to September 30, 1985. In the event that recognition is not approved, the twenty per centum portion shall be distributed in the form of per capita payments (in sums as equal as possible) to those persons who qualify for per capita payments under Sec. 6(1);

Provided further, That if the Secretary fails to act on the recognition petition by September 30, 1985, the Secretary shall make a report to Congress on that date outlining the reasons for his failure to act and shall make no per capita payments under this subsection until action on the petition is final.

SEC. 7. (a) In order to establish eligibility to participate in the distribution of the funds allocated to the nonmember Pembina Chippewa descendants under section 2, the Secretary shall develop a roll of all individuals who—

(1) are of at least one-quarter Pembina Chippewa blood,

(2) are citizens of the United States,

(3) are living on the date of the enactment of this Act,

(4) are not members of the Red Lake Band of Chippewa Indians, the Turtle Mountain Band of Chippewa Indians, the Chippewa Cree Tribe, or the Minnesota Chippewa Tribe, and (5) are—

(A) enrolled, or the descendants of a lineal ancestors enrolled—

(i) as Pembina descendants under the provisions of the Act of July 29, 1971 (85 Stat. 158), for the disposition of the 1863 Pembina Award, or

(ii) on the McCumber roll of Turtle Mountain Indians of 1892, or

(iii) on the Davis role of Turtle Mountain Indians of 1904, or

(iv) as Chippewa on—

(I) the tentative roll of the Rocky Boy Indians of May 30, 1917, or

(II) the McLaughlin census report of the Rocky Boy Indians of July 7 1917, or

(III) the Roe Cloud roll of Landless Indians of Montana, or

(B) able to establish Pembina ancestry on the basis of any other rolls or records acceptable to the Secretary.

(b) The Secretary shall promulgate regulations regarding Pembina enrollment procedures and shall utilize any documents acceptable to the Secretary in establishing eligibility of an individual to receive funds under this section.

(c) Funds allocated to the nonmember Pembina decendants under section 2 shall be distributed on a per capita basis to the individuals enrolled under subsection (a).

SEC. 8. (a) Any payment of a per capita share of funds to which a living, competent adult is entitled under this Act shall be paid directly to such adult.

(b) Any per capita share of funds to which a deceased individual is entitled under this Act shall be paid, and the beneficiaries thereof determined under regulations prescribed by the Secretary.

(c) Any per capita share of funds to which a legally incompetent individual or an individual under eighteen years of age is entitled under this Act shall be paid in accordance with such procedures (including the establishment of trusts) as the Secretary determines to be necessary to protect and preserve the interests of such individual.

On page 10, strike line 11, through and including line 17, and insert the following:

SEC. 9. None of the funds distributed under this Act shall be subject to Federal or State income taxes or be considered income or resources when determining eligibility for, or the amount of, assistance under the Social Security or any Federal or federally-assisted program.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any provision of the Act of October 19, 1973 (87 Stat. 466; 25 U.S.C. 1401, et seq.), or any other law, regulation, or plan promulgated pursuant thereto, any funds appropriated in satisfaction of a judgment awarded to the Pembina Chippewa Indians in dockets numbered 113, 191, 221, and 246 of the Court of Claims shall be used and distributed as provided in this Act.

SEC. 2. All of the funds appropriated with respect to the judgment awarded the Pembina Chippewa Indians in dockets 113, 191, 221, and 246 (less attorney fees and litigation expenses), including all interest and investment income accrued, shall be divided by the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") among the Turtle Mountain Band of Chippewa Indians, the Chippewa Cree Tribe of Rocky Boy's Reservation, the Minnesota Chippewa Tribe, the Little Shell Tribe of Chippewa Indians of Montana and the nonmember Pembian descendants (as a group) so that each is allocated an amount which bears the same relationship to such funds as the number of members of such band, tribe, or group who are described under section 3(1), 4(1), 5(1), 6(1) or 7(a) bears to the sum of—

(1) the number of members of the Turtle Mountain Band of Chippewa Indians described in section 3(1),

(2) the number of members of the Chippewa Cree Tribe of Rocky Boy's Reservation described in section 4(1),

(3) the number of members of the Minnesota Chippewa Tribe described in section 5(1),

(4) the number of members of the Little Shell Tribe of Chippewa Indians of Montana as described in section 6(1), plus

(5) the number of nonmember Pembina Chippewas enrolled by the Secretary under section 7(a).

SEC. 3. The funds allocated by section 2 to the Turtle Mountain Bank of Chippewa Indians shall be used and distributed as follows:

(1) Eighty per centum of such funds shall be distributed in the form of per capita payments (in sums as equal as possible) to all enrolled members of the Turtle Mountain Band of Chippewa Indians who are living on the date of the enactment of this Act.

(2) Twenty per centum of such funds shall be held in trust and invested by the Secretary for the benefit of the members of the Turtle Mountain Band of Chippewa Indians. The governing body of such band is authorized to use the interest and investment income accrued on such 20 per centum portion, on an annual budgetary basis subject to the approval of the Secretary, for—

(A) the administration of such band, or

(B) social and economic programs.

Such 20 per centum portion of the principal shall not be available for per capita payments.

SEC. 4. The funds allocated by section 2 to the Chippewa Cree Tribe of Rocky Boy's Reservation shall be used and distributed as follows:

(1) Eighty per centum of such funds shall be distributed in the form of per capita payments (in sums as equal as possible) to all enrolled members of the Chippewa Cree Tribe of Rocky Boy's Reservation who—

(A) establish Pembina Chippewa ancestry to the satisfaction of the Secretary, and

(B) are living on the date of the enactment of this Act.

(2) Twenty per centum of such funds shall be held in trust and invested by the Secretary for the benefit of the members of the Chippewa Cree Tribe of Rocky Boy's Reservation. The governing body of such tribe is authorized to use the interest and investment income accrued on such 20 per centum portion, on an annual budgetary basis subject to the approval of the Secretary, for—

(A) economic programs

(B) recreation or

(C) tribal administration

Such 20 per centum portion of the principal shall not be available for per capita payments.

SEC. 5. The funds allocated by section 2 to the Minnesota Chippewa Tribe shall be used and distributed as follows:

(1) Eighty per centum of such funds shall be distributed in the form of per capita payments (in sums as equal as possible) to all enrolled members of the Minnesota Chippewa Tribe who—

(A) are designated as Pembina Bank Chippewas on the basis the tribal procedures which are approved by the Secretary, and

(B) are living on the date of the enactment this Act.

(2) Twenty per centum of such funds shall be held in trust and invested by the Secretary for the benefit of the members of the Minnesota Chippewa Tribe. The White Earth Reservation Business Committee, in consultation with the Pembina Program Planning Committee, is authorized to use the interest and investment income accrued on such 20 per centum portion, on an annual budgetary basis subject to the approval of the Secretary, for—

(A) a joint investment and use program for the bans affiliated with the reservation, or

(B) reservation social and economic programs.

Such 20 per centum portion of the principal shall not be available for per capita payments.

SEC. 6. The funds allocated by section 2 to the Little Shell Tribe of Chippewa Indians of Montana shall be used and distributed as follows:

(1) Eight per centum of such funds shall be distributed in the form of per capita payments (in sums as equal as possible) to all enrolled members of the Little Shell Tribe of Chippewa Indians of Montana who are living on the date of enactment of this Act and who meet the enrollment criteria under Sec. 7(a) of this Act.

(2) Twenty per centum of such funds shall be held in trust and invested by the Secretary for the benefit of the members of the Little Shell Tribe of Chippewa Indians of Montana. The governing body of such tribe is authorized to use the interest and investment income accrued on such 20 per centum portion, on an annual budgetary basis subject to the approval of the Secretary, for—

(A) the administration of such tribe, or

(B) social and economic programs;

Provided, That the Secretary shall act on the Tribe's petition for Federal recognition prior to September 30, 1985. In the event that recognition is not approved, the 20 per centum portion shall be distributed in the form of per capita payments (in sums as equal as possible) to those persons who qualify for per capita payments under Sec. 6(1);

Provided further, That if the Secretary fails to act on the recognition petition by September 30, 1985, the Secretary shall make a report to Congress on that date outlining the reasons for his failure to act and shall make no per capita payments under this subsection until action on the petition is final.

SEC. 7. (a) In order to establish eligibility to participate in the distribution of the funds allocated to the nonmember Pembina Chippewa descendants under section 2, the Secretary shall develop a roll of all individuals who—

(1) are of at least one-quarter Pembina Chippewa blood,

(2) are citizens of the United States,

(3) are living on the date of the enactment of this Act,

(4) are not members of the Red Lake Band of Chippewa Indians, the Turtle Mountain Band of Chippewa Indians, the Chippewa Cree Tribe, or the Minnesota Chippewa Tribe, and

(5) are—

(A) enrolled, or the descendants of a lineal ancestors enrolled—

(i) as Pembina descendants under the provisions of the Act of July 29, 1971 (85 Stat. 158), for the disposition of the 1863 Pembina Award, or

(ii) on the McCumber roll of Turtle Mountain Indians of 1892, or

(iii) on the Davis role of Turtle Mountain Indians of 1904, or

(iv) as Chippewa on—

(I) the tentative roll of the Rocky Boy Indians of May 30, 1917, or

(II) the McLaughlin census report of the Rocky Boy Indians of July 7, 1917, or

(III) the Roe Cloud roll of Landless Indians of Montana, or

(B) able to establish Pembina ancestry on the basis of any other rolls or records acceptable to the Secretary.

(b) The Secretary shall promulgate regulations regarding nonmember Pembina enrollment procedures and shall utilize any documents acceptable to the Secretary in establishing eligibility of an individual to receive funds under this section.

(c) Funds allocated to the nonmember Pembina descendants under section 2 shall be distributed on a per capita basis to the individuals enrolled under subsection (a).

SEC. 8. (a) Any payment of a per capita share of funds to which a living, competent adult is entitled under this Act shall be paid directly to such adult.

(b) Any per capita share of funds to which a deceased individual is entitled under this Act shall be paid, and the beneficiaries thereof determined under regulations prescribed by the Secretary.

(c) Any per capita share of funds to which a legally incompetent individual or an individual under eighteen years of age is entitled under this Act shall be paid in accordance with such procedures (including the establishment of trusts) as the Secretary determines to be necessary to protect and preserve the interests of such individual.

SEC. 9. None of the funds distributed under this Act shall be subject to Federal or State income taxes or be considered income or resources when determining eligibility for, or the amount of, assistance under the Social Security or any Federal or federally-assisted program.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CERTAIN LANDS HELD IN TRUST FOR THE PASCUA YAQUI TRIBE OF ARIZONA

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 4364, Calendar Order No. 945.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4364) to declare that the United States holds in trust for the Pascua Yaqui Tribe of Arizona certain land in Pima County, Arizona.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Select Committee on Indian Affairs with amendments, as follows:

On page 2, strike line 3, through and including line 15, and insert the following:

(1) the east half of southeast quarter of section 22;

(2) the northeast quarter of northeast quarter, south half of northeast quarter, north half of southeast quarter, south half of northwest quarter, southwest quarter of section 23;

(3) the southwest quarter of northwest quarter of section 24; and

(4) the southeast quarter of northeast quarter of northwest quarter of section 24.

SEC. 2. Nothing in this Act shall deprive any person or entity of any legal existing right-of-way, legal mining claim, legal grazing permit, legal water right, or other legal right or legal interest which such person or entity may have in land described in section 1.

On page 3, line 6, strike "Sec. 2.", and insert "Sec. 3.".

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I next have three discharge requests dealing with Senate Joint Resolution 244, Senate Joint Resolution 264, and Senate Joint Resolution 258. Would the minority leader advise me as to whether he has any objection to discharging the Judiciary Committee in each of those?

Mr. ROBERT C. BYRD. Mr. President, there is no objection.

PUBLIC EMPLOYEES' APPRECIATION DAY

Mr. BAKER. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 244, a joint resolution designating January 17, 1983, as Public Employees' Appreciation Day, and I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will state the joint resolution by title.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 244) designating January 17, 1983, as "Public Employees' Appreciation Day."

The PRESIDING OFFICER. Without objection, the joint resolution will be considered as having been read the second time at length, and the Senate will proceed to its consideration.

The joint resolution (S.J. Res. 244) was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution with its preamble, reads as follows:

S.J. RES. 244

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That January 17, 1983, is designated "Public Employees' Appreciation Day". The President is authorized and requested to issue a proclamation inviting the Governors of the several States, the chief officials of local governments, and the people of the United States to observe that day with appropriate ceremonies and activities.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL CHILDREN AND TELEVISION WEEK

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of Senate Joint Resolution 264, a joint resolution designating the week of March 13, 1983, as National Children and Television Week and I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 264) to designate the week of March 13, 1983, through March 19, 1983, as "National Children and Television Week".

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration, and, without objection the joint resolution will be considered to have been read the second time at length.

The joint resolution (S.J. Res 264) was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

S.J. RES. 264

Whereas television can create an intellectual and emotional environment which can play a decisive role in shaping individual development and perception;

Whereas parents and other adults should be able to look to television to provide children with true pictures of the world and positive models for behavior;

Whereas many dedicated groups and individuals strive to improve the quality of television programing viewed by children and their families; and

Whereas this Nation has a continuing responsibility to provide appropriate, stimulating programing for children and adolescents: Now therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of March 13, 1983, through March 19, 1983, is designated as "National Children and Television Week" and the President of the United States is authorized and requested to issue a proclamation calling upon all government agencies and the people of the United States to observe the week with appropriate activities supporting television programs which are attentive to the needs and interests of children.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, may I say for the advice of the distinguished minority leader and other Senators that as to Senate Joint Resolution 258, to which the minority leader indicated he could agree to a discharge and immediate consideration, there is one Senator on this side who wishes to be present at the time that matter is dealt with. I am advised he is on his way to the floor at this time, so I will forebear to make that request now.

COMMITTEE DISCHARGED FROM FURTHER CONSIDERATION AND S. 3072 ORDERED PLACED ON THE CALENDAR

Mr. BAKER. Mr. President, there is one other item that is cleared on this side to discharge the committee and place the bill on the calendar. I refer to S. 3072.

I wonder if the minority leader is in a position to entertain a request to that effect.

Mr. ROBERT C. BYRD. Yes, Mr. President, I am advised that the minority on the committee has cleared this request.

Mr. BAKER. I thank the Senator.

Mr. President, in view of the statement of the minority leader, I ask unanimous consent that S. 3072, a bill to amend the Urban Mass Transportation Act of 1964 to authorize additional appropriations, to establish a formula grant program, and for other purposes, which was referred to the Banking Committee, be discharged from that committee and placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, may I ask the distinguished majority leader what his plans are for the rest of the day and for Monday?

Mr. BAKER. Yes, Mr. President.

As I previously announced, there will be no more record votes today and, other than Senate Joint Resolution 258, I know of no other matter that can be dealt with today. There will be no record votes, either on the Calendar of General Orders or on the Executive Calendar. Therefore, I do not expect to transact any further business today.

I might say that on Monday next, December 6, it is hoped that we can deal with the concurrent resolution dealing with Poland, which has been cleared, perhaps, on both sides; a bill, S. 2607, Calendar Order No. 656, relat-

ing to housing, on which they may be a time agreement arrived at but which has not yet been fully completed; and other items which may be available after further negotiations may be dealt with on Monday.

I had hoped that we could do the D.C. appropriations bill on Monday. I am now advised that that is not feasible. Therefore, I would suggest that Members should assume that that appropriations bill will be dealt with on Tuesday, as soon as possible.

There are other items, including nominations on the Executive Calendar and perhaps treaties that are on the calendar, as well, that we are still trying to clear for Monday. I would anticipate that there will be votes on Monday. I have asked for an order for the Senate to convene at 11 a.m. I believe there are no requests for special orders on Monday. There is a time for the transaction of routine morning business provided in that same request to extend not past the hour of 12 noon, in which Senators may speak, as I recall, for not more than 5 minutes each.

I would not anticipate that the Senate will be in session late on Monday. However, Senators should understand that beginning next week late evenings may be anticipated because we will then have only 2 full weeks left of the scheduled lameduck session and we have still a great deal of work to do.

I hope that is a capsule summary at least of what is available on Monday and a little bit of what I see of the prospects on Tuesday.

Mr. ROBERT C. BYRD. I thank the distinguished majority leader.

It is the plan to recess over until Monday?

Mr. BAKER. Yes, there is an order to that effect.

Mr. ROBERT C. BYRD. Does the majority leader have anything he can say with respect to Radio Marti?

Mr. BAKER. Yes, Mr. President, I hope we can take up the Radio Marti measure on Monday. I support that measure. I hope we can do that. It is my hope we can clear it for action on Monday. It has not yet been done. There are certain complications that have developed since I last spoke with the minority leader, but they are not irreconcilable. I would fully expect Radio Marti will be available for Senate consideration on Monday.

Mr. ROBERT C. BYRD. I thank the majority leader.

For the record, may I say that there are no objections on my part to proceeding, though there are some problems on my side of the aisle.

Mr. BAKER. I think there are on both sides. It is my hope that we can get our respective parties together and work something out.

Mr. President, may I say to the minority leader that I do not plan to transact any further business today with the exception of the disposition of Senate Joint Resolution 258.

Mr. ROBERT C. BYRD. I thank the majority leader.

Mr. BAKER. As soon as that is disposed of, it is my intention to ask the Senate to recess over until Monday at 11 a.m. as previously ordered.

Mr. ROBERT C. BYRD. I thank the majority leader.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DESIGNATION OF DECEMBER 1982 AS "NATIONAL CLOSED-CAPTION TELEVISION MONTH"

Mr. BAKER. Mr. President, earlier, the minority leader had indicated that Senate Joint Resolution 258 was cleared on his side of the aisle to discharge the Judiciary Committee and proceed with the immediate consideration of that measure.

I now ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of Senate Joint Resolution 258, a resolution to designate the month of December 1982 as "National Closed-Caption Television Month," and I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the joint resolution by title.

The legislative clerk read as follows:

A Senate Joint Resolution (S.J. Res. 258) to authorize and request the President to designate the month of December 1982 as "National Closed-Caption Television Month".

The PRESIDING OFFICER. Without objection, the joint resolution will be considered as having been read the second time at length, and the Senate will proceed to its consideration.

The Senate proceeded to consider the joint resolution.

Mr. WEICKER. Mr. President, I am pleased to support Senate Joint Resolution 258, designating December 1982 as "National Closed-Caption TV Month."

Communication technology is progressing at an awesome rate, and never have its effects been more impressive than when a large portion of the population can benefit from its application. Closed captioning, for example, has revolutionized the use of TV media for people who are hearing impaired. By being able to read on the screen what they cannot hear, the deaf now have equal access to the wealth of information so abundantly available to the general public.

Openly providing subtitles on TV has sometimes caused distraction to hearing viewers. Closed captioning, however, has been developed, whereby subtitles are invisible until displayed by special decoding equipment. This unique service has been provided since March 1980 by the Closed Captioning Institute, a nonprofit corporation, who reports that in the first year of availability America's hearing-impaired population invested $10 million in decoding services.

Some 16 million people in the United States are affected by hearing loss and the incidence is growing. Thousands of letters already attest to the enrichment these people enjoy in no longer being isolated from major sources of information and enjoyment.

While the full educational impact is probably yet to be seen, it is already being applauded by many thankful parents on behalf of their children.

As 1982 is the year of disabled persons, it is a fitting time to commend the Closed Captioning Institute for the invaluable service it provides through closed-captioned decoding systems. By calling closed captioning TV to the attention of the general public, we celebrate the American committment to promoting equal opportunity to all its citizens.

I urge my colleagues to support this resolution.

Mr. President, I ask unanimous consent that the Senator from South Carolina, the Honorable STROM THURMOND, be added as a cosponsor to Senate Joint Resolution 258, which designated December 1982 as "National Closed-Caption Television Month."

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, as an original sponsor of Federal support for the captioned films program, it is gratifying for me to know that the results of the amendments to this program have reached their zenith this year in a telecommunications breakthrough called closed captioning. Hearing-impaired Americans may now read by subtitles on the television screen what they cannot hear. The National Captioning Institute, a not-for-profit, tax-exempt corporation reports that in the first year of availability alone the hearing impaired of this country invested $10 million in decoding services. The educational, vocation, and social enrichment of this service has brought great benefits to hearing-impaired people from the very deaf child to the hearing-impaired senior citizen. This new communication technology provides opportunities to hearing-impaired Americans to experience more fully the benefits of our hearing world. I commend the National Cap-

tioning Institute for their contribution in advancing this new technology.

I am gratified to cosponsor this resolution by the able Senator from Connecticut (Mr. WEICKER) who chairs the Subcommittee on the Handicapped, to designate the month of December as "National Closed-Captioned Television Month." It will serve to highlight the value of this service to hearing-impaired Americans.

The joint resolution (S.J. Res. 258) was ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The resolution with its preamble, reads as follows:

S.J. RES. 258

Whereas the Congress has officially proclaimed 1982 as the National Year of Disabled persons;

Whereas hearing-handicapped Americans of all ages traditionally have suffered isolation from society and too often have unwilling ended up as burdens to society rather than participating citizens;

Whereas the recent telecommunications breakthrough of "closed captioning" now enables these people to read on the television screen what they cannot hear and thus share—for the first time in history—that wealth of information entertainment and language so abundantly absorbed by the general public;

Whereas the innovative service, provided through the nonprofit and tax-exempt National Captioning Institute (NCI), represents the culmination of almost ten years of technological research and development, market exploration and cooperation between government, industry, and community;

Whereas the nationwide service which began in March 1980 on ABC, NBC, and PBS is already proving to open up new educational horizons and new avenues toward equal opportunity for this severely disadvantaged population, particularly its children and youth;

Whereas hearing-impaired citizens have personally invested over $17,000,000 to date for purchase of decoding devices;

Whereas many Members of the Congress have long been actively supporting development, implementation, and expansion of the closed-captioned television service which is the first of its kind anywhere in the world; and

Whereas President Reagan, referring to the closed captioning of his inaugural ceremonies and televised addresses to the Nation, has stated: "I feel very honored to be the first President in history to have spoken directly to people who had never before experienced this historic tradition": Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to issue a proclamation designating the month of December 1982 as "National Closed-Captioned Television Month" in recognition of this invaluable new service for deaf and hard-of-hearing American citizens, and calling on the people of the United States to observe the month with appropriate programs, ceremonies, and activities.

Mr. BAKER. I move to reconsider the vote by which the resolution was passed.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CUTS IN SCHOOL LUNCH PROGRAM RESULT IN DECREASED PARTICIPATION

Mr. SASSER. Mr. President, the school lunch program has fed meals to millions of American children in its 36 years of operation. Often children would go without a balanced meal if it were not for the school lunch program. Indeed, it has been pointed out that low-income children depend on the school lunch program for one-third to one-half of their daily nutritional needs.

This is a critical fact to remember. There is a very strong link between health and nutrition. Growing children need a nutritious, balanced diet to help insure that they are healthy and fit both in school and in their later years.

Tragically, the value of this lesson seems to be losing importance with many today. We have witnessed major cuts in the school lunch program during the budget trimming process. These cutbacks have taken their toll on the program. I know that in my home State of Tennessee, approximately 68,000 children have dropped out of the program.

The New York Times recently ran an article on the impact of these budget cuts on the program nationwide. I strongly urge my colleagues to read this article and reflect on the decline of this worthwhile program. I ask my colleagues to remember that the health and well-being of our Nation's children is protected by a strong and vital school lunch program. It is our duty to make sure that we maintain the integrity of this worthwhile program.

Mr. President, I ask unanimous consent that the New York Times article dealing with the school lunch program be inserted into the RECORD immediately following my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Nov. 1, 1982]

IN A YEAR 3.2 MILLION STUDENTS AND 2,700 SCHOOLS DROP OUT OF THE NATIONAL LUNCH PROGRAM

(By Robert Pear)

WASHINGTON, Oct. 31—The number of children participating in the national school lunch program declined 3.2 million in the last year, and more than 2,700 schools have dropped out of the program, according to the Department of Agriculture.

One-third of the children who no longer participate are from low-income families, the statistics show.

The figures were made available by the Federal Food and Nutrition Service as a nonprofit law firm, the Food Research and Action Center, issued a report describing the effects of reductions in spending for child nutrition programs.

In 1981, at the request of the Reagan Administration, Congress reduced Federal subsidies for school meals. Schools, in turn, raised their prices, and fewer children bought lunch at school. The number of children in the program dropped 12 percent, to 23.6 million in 1981-82 from 26.8 million in 1980-81.

CENTER CALLS DROP SIGNIFICANT

Lynn Parker, a nutritionist with the Food Research and Action Center, said Friday that the decline was significant because "low-income children depend on the school lunch program for one-third to one-half of their daily nutritional intake."

In questionnaries distributed by the food research group, 26 states, including Connecticut and New Jersey, reported a drop of more than 10 percent in the average number of school lunches served each day.

Agriculture Department officials said the lunch program cost $2.5 billion in the last school year, or $1 billion less than it would have cost under the old law. The savings were achieved through tightening of eligibility criteria, reduction of cash and commodity subsidies and the serving of fewer meals.

School lunch is one of the child nutrition programs that the Federal Government would turn over to the states as part of President Reagan's "new federalism." The House of Representatives, opposing this aspect of the proposal, approved a resolution last month declaring that "the Federal Government should retain primary responsibility for the child nutrition programs." The Senate has not voted on the resolution, although several influential Republican Senators, including Bob Dole of Kansas, support it.

PROGRAM BEGAN IN 1946

The lunch program was created in 1946. It was the first of half a dozen Federal programs designed to improve child nutrition.

David A. Stockman, director of the Office of Management and Budget, said in April 1981 that "middle- and upper-income students will stay in the program" even after lunch prices increased.

Agriculture Department officials were more cautious, saying there might be some decline. However, Mr. Stockman and the other officials said that schools would not drop out of the program. But, according to the department, the number of schools serving subsidized meals fell 3 percent, from 93,982 in 1980-81 to 91,233 in the last school year.

Despite the decline in participation, Edwin L. Dale, Jr., a spokesman for the Budget Office, said, "It certainly looks to me as if we still have a very large school lunch program." He noted that President Reagan had proposed no further reductions for the program in the budget he submitted to Congress last February.

Administration officials said they now saw some merit in the contention that schools might drop out of the program if the Government abolished the subsidy for meals served to children from upper- and middle-income families. Many schools said they could not afford to operate the program without such subsidies.

TUITION LIMIT WAS SET

Some private schools were forced out of the program by a new section of the law that said the Federal Government could not subsidize lunches at schools charging tui-

tion of more than $1,500 a year. The Administration assumed that students at such schools were not needy. Jane E. Mattern, a spokesman for the Food and Nutrition Service, said that at least 500 public schools had also dropped out of the program.

The statistics indicate that there was a decline in the number of students buying lunch at schools that continued to participate.

The Government provides subsidies only for meals that meet nutritional standards set by Federal regulations. Children who do not participate in the program may bring food from home or buy items at school or off campus. Miss Parker said that these children "generally get less nutritious meals—less milk, fruit and vegetables, more snack and 'junk' foods" than those in the school lunch program.

President Reagan retreated from his proposal for further cuts in the program last year after Democrats and others ridiculed the idea of listing ketchup and pickle relish as vegetables. But last month the Food and Nutrition Service, in confidential budget documents, proposed indexing the maximum charge for a reduced-price meal. That would permit the charge to rise with food costs. Congress last year set a limit of 40 cents on the charge to the pupil for such meals.

FISCAL NOTE LAW WILL HELP CONGRESS EVALUATE PENDING HIGHWAY BILL

Mr. SASSER. Mr. President, the administration proposal for a 5-cent-a-gallon gasoline tax in order to finance a nationwide program of transit-related construction and repairs will bring into play the purpose and value of a law passed by the Congress and signed into law last December 23, the State and Local Government Cost Estimate Act of 1981 (Public Law 97-108).

Also known as the State and local government fiscal note law, this measure requires the Congressional Budget Office (CBO) to prepare and submit, for every bill or resolution reported in the House or Senate which has certain specific economic consequences, an estimate of the cost (or "fiscal note") which would be incurred by State and local governments in carrying out or complying with such bill or resolution.

Prior to this law, we in the Congress had established as a part of our budget process a fiscal note requirement for pending legislation as it affects the Federal budget. (See 31 U.S.C. 1353.)

Extension of this procedure so that it covers legislation affecting state and local government made good sense. It makes especially good sense in an environment in which the Reagan administration is pressing forward in its efforts to turn over to State governments more and more governmental programs and responsibilities.

It was my intention and the intention of all of us in both the House and Senate who pushed for the fiscal note law that the procedure be implemented only in the case of significant bills or resolutions. We wanted to prevent the CBO from being inundated with fiscal note requests on matters involving small or slight fiscal consequences.

So, "significant bill or resolution" is defined by the law as "any bill or resolution which in the judgment of the Director of the Congressional Budget Office is likely to result in an annual cost to State and local governments of $200,000,000 or more, or is likely to have exceptional fiscal consequences for a geographic region or a particular level of government.

The combined gas tax and public works proposal of the administration will involve considerably more than the $200,000,000 threshold. Discretionary grants proposed under the bill call for a 50-50 share of the costs between State and local governments. Capital infrastructure funds involve an 80 percent Federal contribution, with a 20 percent share of the cost of the projects in question to be picked up by local governments.

The latter, a $1.1 billion a year program is in itself enough to mandate the preparation of the State and local government fiscal note by the CBO.

When I first introduced the fiscal note law in the Senate in January 1981, I said then that the process was necessary to show the Congress the fiscal consequences ahead when it considers costly legislation.

This is precisely the situation the $5 billion gas tax proposal presents and precisely the situation a State and local government fiscal note is designed to address.

No one seriously disputes the need to attack the infrastructure problems which the proposal is designed to confront. But we ought to know how much it will cost our States and our local governments.

Where will they raise the money required to finance their share of the program. Seven States ran budget deficits for fiscal year 1982, according to the Council of State Governments. The elections last month saw the defeat, by referenda, of a number of State tax proposals. Across the Nation in 1982, State and local governments find their bond ratings dropping because of their diminishing fiscal capability.

So, in order to make their share, will States try to impose gasoline taxes of their own? Will governments float general obligation bonds at higher-than-usual interest rates? In other words, could it be possible that some State lucky enough to be awarded a project grant has to add another 3-, 4-, or 5-cent-a-gallon gasoline tax of its own? Or could it be possible that a city must raise its property tax rate because of increased debt service requirements brought on by the new bond issue designed to pay for its share of this new Federal program?

The administration proposal poses some very serious fiscal questions, questions involving the capabilities of State and local governments at a time of fiscal duress, questions that will be better understood and brought into better focus with a fiscal note procedure.

The law provides that the fiscal note accompany the committee report on the legislation in question, and I plan to see to it that the law is abided.

Mr. President, I ask unanimous consent to have printed in the RECORD the full text of Public Law 97-108.

There being no objection, the text was ordered to be printed in the RECORD, as follows:

STATE AND LOCAL GOVERNMENT COST ESTIMATE ACT OF 1981

An act to amend the Congressional Budget Act of 1974 to require the Congressional Budget Office, for every significant bill or resolution reported in the House or the Senate, to prepare and submit an estimate of the cost which would be incurred by State and local governments in carrying out or complying with such bill or resolution

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "State and Local Government Cost Estimate Act of 1981".

SEC. 2. (a) Section 403 of the Congressional Budget Act of 1974 is amended—

(1) by inserting "(a)" before "The";

(2) by striking out "and" after the semicolon in clause (1) of subsection (a) (as redesignated by clause (1) of this subsection);

(3) by inserting after clause (1) the following new clause:

"(2) an estimate of the cost which would be incurred by State and local governments in carrying out or complying with any significant bill or resolution in the fiscal year in which it is to become effective and in each of the four fiscal years following such fiscal year, together with the basis for each such estimate; and";

(4) by redesignating clause (2) of such subsection as clause (3);

(5) by striking out "(1)" in clause (3) of subsection (a) (as designatd by clauses (1) and (4) of this subsection) and inserting in lieu thereof "(1) and (2)";

(6) by striking out "estimate" each place it appears in clause (3) of subsection (a) and in the last sentence of such subsection, and inserting in lieu thereof "estimates"; and

(7) by inserting at the end thereof the following new subsections:

"(b) For purposes of subsection (a)(2), the term 'local government' has the same meaning as in section 103 of the Intergovernmental Cooperation Act of 1968.

"(c) For purposes of subsection (a)(2), the term 'significant bill or resolution' is defined as any bill or resolution which in the judgment of the Director of the Congressional Budget Office is likely to result in an annual cost to State and local governments of $200,000,000 or more, or is likely to have exceptional fiscal consequences for a geographic region or a particular level of goverment.".

(b) The amendments made by subsection (a) shall apply with respect to bills or resolutions reported by committees of the House of Representatives and the Senate after September 30, 1982.

SEC. 3. There are authorized to be appropriated such sums as may be necessary to carry out this Act.

SEC. 4. The authorization granted under the terms of this Act shall expire on September 30, 1987.

Approved December 23, 1981.

MODIFICATION OF THE DAIRY PRICE SUPPORT PROGRAM

Mr. PRESSLER. Mr. President, I have joined with a number of my colleagues in introducing legislation, S. 3053, to repeal the Secretary of Agriculture's authority to reduce the dairy price support level by 50 cents on December 1, 1982, and April 1, 1983. This authority was granted in the Omnibus Reconciliation Act of 1982.

It is clear that the cost of the dairy price support program must be reduced, but the proposed 50-cent reduction in the support level will not achieve this. The proposed 50-cent reduction in the dairy price support level will do nothing to reduce production or increase consumption. It does not address the real problem. The dairy price support level has been frozen for over 2 years and that has not solved the problem, and a 50-cent reduction will not solve it either. To reduce the cost of the program, we must provide dairy farmers with an incentive to reduce production, control subsidized dairy product imports such as casein, and increase consumption of dairy products. Reducing farmers' incomes and forcing some of them out of business will do none of these things.

Nobody will benefit from the reduction. Consumer prices will not fall because the 50-cent reduction will go to the Commodity Credit Corporation, rather than reduce retail milk prices. Taxpayers may not benefit much since the proposal encourages most dairy farmers to increase production, rather than cut back. Finally, dairy farmers would experience income reduction at a time when the farm economy is already in great economic distress. The 50-cent reduction should not be implemented until a comprehensive program can be established to effectively control dairy production, reduce the cost of the program, and benefit all Americans.

Mr. President, I urge my colleagues to join me in support of this legislation and to work for an effective proposal to increase consumption, control production, and move the present dairy surplus.

EXPORTS

Mr. PRESSLER. Mr. President, it is with extreme disappointment that I have read the reports on the failure of the recent GATT Ministerial Conference to produce any meaningful agreement.

I have long been a staunch supporter of increasing American exports, particularly U.S. agricultural products. In a time of serious economic depression for American farmers, our export markets are more important than ever.

While I realize that worldwide economic problems have colored the perceptions of our foreign trading partners, I'm afraid that their shortsightedness may be the beginning of the end for an open system of international trade.

Currently, the European Community's grain export subsidy program gives European grain exports an unfair advantage on the world market and has allowed them to replace the United States as the chief supplier of grain to several foreign markets. The European Community subsdizes their wheat exports at a rate of $1.77 per bushel, which allows them to underprice other grain exporters. The United States has objected to this policy for years and filed complaints under GATT, but the European Community continues to use these policies.

Japan also uses several policies which unfairly restrict U.S. farm product exports in Japan. The Japanese use a very restrictive beef inspection system, which prohibits most U.S. meatpackers from exporting to Japan and also dramatically increases the retail price of beef, thus sharply limiting demand. These restriction are in addition to Japan's general annual quota. These restrictions and the Japanese price markup more than double the cost of beef to the Japanese consumer. The United States has made numerous attempts to reduce these restrictive trade barriers with little success.

There is already wide support in America for protectionist legislation which would severely curtail the importation of foreign goods.

The loss of American jobs as a result of unfair foreign trade practices will increase the pressure for action in the weeks ahead.

There is reciprocal trade legislation, of which I am a cosponsor, on the Senate calendar which I believe more than ever requires our attention. We should address this important legislation during the lameduck session. It is time that we play hardball with the rest of the world.

INTERNATIONAL FINANCIAL SITUATION

Mr. JACKSON. Mr. President, due to the seriousness of the global financial situation, I would like to bring to the attention of my colleagues my remarks on the crisis delivered during the recent congressional recess.

As great as the world's financial problems are, including the ballooning debt burden of the developing countries, I believe they are manageable if we and the other major financial powers move immediately and act wisely and decisively.

I ask unanimous consent that my remarks to the Washington Council on International Trade in Tacoma, Wash. on October 14, 1982, be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS ON THE INTERNATIONAL FINANCIAL SITUATION

(By Senator Henry M. Jackson)

I am honored to be with you this morning. The Washington Council on International Trade does a superb job in assembling groups like this one to focus on the trading and financial problems facing this country and the world economy. I am delighted to have the opportunity to start off the day's discussions.

I intend this morning to explore some of the implications of the international banking crisis now full upon us. The foundation of our interenational trading structure is, after all, the integrity of the international banking and debt system. If that integrity is called into question, if the vulnerabilities become severe, if confidence is lost, there can be worldwide financial and economic chaos.

Thanks to this country's diligent pursuit of bigger markets, our economy has become increasingly dependent on imports and exports. In 1950, this country was virtually a closed economy, with exports and imports accounting for only 6.8 percent of GNP. Today they account for nearly 16 percent. Since 1950, U.S. direct investment overseas rose from $19 billion to $377 billion, and foreign direct investment in the U.S. rose from $3.4 billion to $41 billion.

Many great American companies in 1980 earned half or more of their profits abroad: for example, IBM, Allied Chemical, International Paper, Mobil, ITT, American Can, Johnson and Johnson, Pfizer, Exxon, Asarco, Xerox, B. F. Goodrich, Goodyear, and Coca Cola.

For the last three years, the Boeing company has derived between 49 to 62 percent of its earnings from foreign sales.

Though many Americans are unaware of it, about one out of every six Americans employed in manufacturing industries are producing goods to be exported abroad. Indeed, about one of every four of Washington State's jobs in manufacturing industries are export related—and that is a statewide percentage surpassed only by Alaska. All of us are aware of the critical importance of the export market for the American farmer, and notably for the economy of Washington State.

In short, over recent years we have witnessed a transformation in our Nation's economic life-style.

Along with it, global financial and banking arrangement have evolved—a loosely operating system of national and private banks, multilateral banking networks, topped off the Bank for International Settlements, the International Monetary Fund, the World Bank.

And it now this international lending and repayment system that is in crisis.

There can be no doubt that the international financial situation is becoming increasingly precarious. The Mexican collapse is only the tip of the iceberg.

All told, the debt burden of developing countries has soared from $100 billion in

1973 to about $540 at the end of the last year. It could reach $640 billion this year. More than half of this debt is owed to commercial banks in the West, the rest is due governments and international lending institutions.

More and more countries in the developing world are finding it impossible to meet interest and principal payments when due. At the same time, renewal of early economic growth in the industrialized countries seems less and less likely to occur.

The policy question is not whether one or the other of us believes that the financial system's problems will remain "manageable." The policy question is, rather, what steps should be taken to assure their manageability?

The queue of countries requiring debt rescheduling is an immediate problem. In fact, the opprobrium which attaches to a single country's inability to meet its debt grows less and less and debt rescheduling becomes more generalized; finance ministers in such an international environment might come to believe that the present opportunity to lighten their debt burdens is a blessing in disguise! Debt rescheduling is clearly becoming a growing and respectable form of enterprise, making our problem of combining prudence in borrowing and lending with continuing economic development politically and economically even more difficult than it normally is.

Meanwhile, the continuing reduction in bank and Euro-currency lending throughout the world which has gone on over the past months threatens to squeeze liquidity and thus debt roll-overs to the point of precipitating the critical situation which we are seeking to avoid. Each bank is obviously seeking to assure its own soundness.

The danger of our present situation is not only a continuing drying up of bank and business liquidity, debt defaults and flat or worse economic performance. A major danger is the possible combination of an unforeseen financial crisis with a simultaneous political crisis in some important country or region. It is this kind of contingency that can set off chain reactions which are difficult or impossible to contain. Manageability of the system must provide maneuverability for the unforeseen. Thus resources and policies in place are important components in persuading financial institutions and the public that effective international financial management can be counted on.

The primary responsibility of public leadership is not to put out fires once they've started, but to anticipate the sparks and insure that they don't erupt into a blaze.

As I see it, the essential task at present should be to put in place—in our own country and collectively with others—a set of policy measures which are likely to persuade the international financial community that the debt situation and the international financial system are manageable.

Let me briefly mention six measures I think should be seriously considered to help achieve this aim.

First: There should be an increase in the resources of the International Monetary Fund (IMF). The first steps toward this goal were taken at the IMF/World Bank meetings in Toronto in September. An increase of 50% in the country quotas would seem to be the minimum step necessary. Perhaps there should be more of an increase. Adding substantially to the $25-30 billion currently available to the IMF would convey to the world an important message by governments of their recognition of the need for adequacy in IMF resources.

Secondly: Since a decision on a quota increase and its magnitude will not be made before April 1983 at the earliest, a more immediate step is also required. The United States proposal for an IMF reserve fund for emergencies—to be subscribed by individual countries—seems to me highly desirable. I would insist that this be in addition to an adequate increase in quotas, not a substitute or an addition to only a minimal quota increase.

Such an emergency reserve fund, if agreed to by Congress, could probably be brought into being before quota increase ratification can take place. Also, it could be available as a supplement, if needed, after the quota increase is completed.

Assistance from the emergency reserve fund should be subject to special disciplinary provisions. For example, it might be made available only to countries which have effectively implemented the IMF's conditionality terms on assistance received from the IMF.

The fact that resources are in place to deal with unforeseen events strikes me as essential to effective containment of possible crises.

In the third place: I think it important for the central banks and finance ministries of the major industrial countries to provide clear policy guidelines to the banks in their respective countries as to the circumstances under which they will come to the assistance of those banks whose liquidity has been seriously eroded by virtue of defaults arising out of loans to foreign borrowers, particularly sovereign borrowers.

Fourthly: There needs to be greater discipline here in this country on behalf of sound bank management. It appears to me that clear policy guidelines on the part of the Federral Reserve and the Treasury as to the circumstances under which assistance to U.S. banks would be available, would be more useful as a tool of discipline than the current policy of uncertainty. For example, whether justified or unjustified, there is a widespread belief that in the interests of sound bank management and discipline, the Federal Reserve may not necessarily come to the assistance of relatively small banks that find themselves in difficulty, but that the authorities would not let a major money center bank go under because of the widespread financial, economic and political ramifications of such an event.

In the fifth place: The industrialized countries need to cooperate far more effectively in monitoring the financial viability of the East European countries with respect to external credits and borrowings. There needs to be greater agreement on the criteria for granting such credits and loans and the terms thereof. In this connection, I suggest thought be given to the optimum role of The Bank for International Settlements where the U.S. is an active participant even though not a member. This institution of central banks has the important assets of experience, personnel and international standing.

Finally, a sixth suggestion: Attention should be directed to getting greater stability of exchange rates. It is now about ten years since the system of fixed exchange rates broke down or was abandoned, and the results have not been particularly encouraging. Whereas a regime of free floating exchange rates was initially envisaged, we have had, instead, a regime of sporadic management by individual central banks of their own currencies, with the consequences of highly volatile exchange rates and distortions of trade. This has been costly to both the private and the public sectors.

It would have been highly constructive, for example, if the heads of government at Versailles in June had invited the Governors of the IMF to focus their attention on this problem and to make an interim report on proposals for reform at the next IMF annual meeting in September 1983. Perhaps this can be done at the next summit effort.

While there seems to be no widespread desire for a return to a fixed exchange rate system á la Bretton Woods, there is strong belief in financial and business circles that more order and stability in the system are necessary. A re-directed focus on this subject would further convince the international community and the public generally that governments are endeavoring to direct events rather than allowing drift to be the only order of the day.

In conclusion, let me add just this:

The immediate danger is a serious slide in confidence in the global financial system. Signs of a slippage in confidence are already evident—bank depositors becoming fearful, precautionary deposit withdrawals being made. Should alarm spread generally throughout international financial markets, the current bankers' crisis centering on the credit worthiness of country borrowers could be compounded by a depositors' crisis centering on the credit worthiness of banks.

The momentum is there. In the absence of prompt leadership by the United States and concerted action by the major financial powers, a first-order global financial crisis may not be avoided.

In one of Sherlock Holmes' famous cases, a vital clue turned out to be a watchdog that failed to bark. At a time of grave disorder in the world's banking system, I believe the Administration in Washington, D.C. is playing the role of the silent dog. It is high time they woke up to the gravity of the problems and got back on their job as watchdog.

As big as the problems are, they are still manageable—if we move now and act wisely and decisively.

THE HOTLINE AND UNITED STATES-SOVIET CONSULTATION

Mr. JACKSON. Mr. President, there is today still no adequate communications safeguard against the outbreak of a nuclear war, started not by deliberate design, but by accident, or mistake, or misunderstanding.

That is why I have been urging that our Government put a high priority on establishing with the Soviets a permanent Soviet-American Joint Consultation Center—a new institution for facilitating immediate information exchanges and consultations between the two countries when events occur that could trigger a nuclear war not intended or desired by either side. During the recent congressional recess, I spelled out this proposal to a university audience in Washington State and to the North Atlantic Assembly in London.

I ask unanimous consent that my October 22, 1982 address to the Washington State University Convocation, and my November 16, 1982 remarks before the Political Committee of the

North Atlantic Assembly be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S.-U.S.S.R CONSULTATION: A NEW PEACE INITIATIVE

(By Senator Henry M. Jackson)

I am delighted to be here this morning to share in this auspicious occasion with members of your University family and with the wider Pullman community.

We come together at a time when those who speculate about what the future holds for Americans have grounds for both hope and concern.

On the good side, those who predicted that scores of millions of Americans would have long since met their end in a nuclear holocaust have been proven wrong. Also wrong have been those who predicted that the Soviet Union would have long since imposed its will upon us. We are today neither dead nor Red; we are very much alive and free.

On the bad side, today's structure of peace rests on foundations that are far from firm. Peace-threatening problems abound—take Afghanistan, or Poland's agony, or the Middle East turmoil, just for starters.

One peace-threatening problem, of course, overshadows all others. This is the problem of preventing a nuclear war. For a long time, most people imagined that if a nuclear war ever broke out, it would begin with a premeditated and carefully planned surprise assault. Today, however, it is more and more being recognized that a nuclear war could break out even though neither side had planned or wanted it. It could break out not by deliberate intent, but by accident or misunderstanding. There could be an accidential missile launch. Or an intelligence-gathering error might lead one side to believe that the other was about to launch a nuclear salvo when in fact it was not. Redeployments of strategic weapons could be misinterpreted. Terrorist groups could detonate a nuclear device and one superpower might think it was the responsibility of the other.

Nobody in this auditorium can lay claim to all the answers to the problems of peacekeeping. But if we are all still learning, we are at least students with a body of prior experience to draw upon and to profit from.

One thing we ought to have learned is that there is no place for bombast and stridency in our discourse with other nations. If other powers fail to heed the rules of civility, so be it. A competition to see who can sound the most threatening and shout the loudest is one contest we need not enter.

History teaches also that our diplomacy must never promise more than we can deliver. A commitment that lacks the resources needed to back it up sooner or later becomes exposed for what it is—a sham. Benjamin Franklin had the words for it: "Promises may get thee friends but non-performance will turn them into enemies."

Past experience further underscores the central role that patience and perseverance must play in any successful diplomacy. There are no quick cures.

The past also teaches that our diplomacy should reflect a mature patriotism that sees our nation for what it is—a country with both strengths and weaknesses, but also a country in which the good much outweighs the bad. If there is no call for jingoistic chest-thumping, neither is there any need for self-flagellation.

And of special importance, history shows how essential it is that governments stay in touch and keep talking with each other—above all when peace-endangering developments threaten.

In this regard, World War I and the Cuban missile crisis present contrasting lessons. In 1914, Europe's statesmen failed to keep talking and consulting with each other in the weeks and days preceding the war's outbreak. They let unfolding events get out of hand. Millions then died in a war that none of the great powers had really wanted. In 1962, American and Soviet leaders did keep talking with each other, when superpower war threatened following the introduction of Soviet missiles into Cuba. The leaders of the two sides thereby kept matters under control. War was averted.

If there were now to be some accident or misunderstanding that could cause either superpower to fear that a nuclear assault against it was imminent, it would be of literally life and death importance that the two sides keep talking with each other. Otherwise, a runaway chain reaction of political-military measures and countermeasures and counter-countermeasures could end in a nuclear holocaust that neither side intended.

The only instrument currently available for direct consultation between the two superpowers is the 20-year-old Washington-Moscow hotline.

But the hotline has important limitations as a peace-keeping institutional mechanism. The heads of state do not actually talk with each other over the hotline. They communicate only through exchanges of teletype messages that must be transcribed, encoded, transmitted, decoded, translated and retranscribed. None of the subtleties of direct give-and-take—so crucial to understanding—can be conveyed by such disembodied messages. As of today, President Reagan and Chairman Brezhnev have yet to lay eyes on each other. They do not know each other. In an emergency, they would be communicating as virtual stangers.

Commendably, the President has suggested that the possibility be explored of technologically updating the hotline to permit voice communication. Certainly this should be done.

Yet, even a modernized hotline is not of much help if a peace-threatening emergency occurs when the heads of state are out of effective touch both with each other and with their key advisers. During 1981, the President was out of Washington for all or most of 106 days, the Secretary of State for 129 days and the Secretary of Defense for 154 days. I would be surprised if the away-from-Moscow figures were greatly different for their Soviet counterparts.

Moreover, there is no way in which Americans or Soviets below the highest government levels can now quickly confer with their counterparts when emergencies arise. Under existing procedures, it could take many days to secure the needed clearances and concurrences, and to work out the required administrative arrangements.

What must now be done seems to me self-evident.

Clearly, we must pursue nuclear arms reduction, with a steady and relentless determination. Nuclear force levels at their present size and balance are manifestly dangerous. We need to win Soviet agreement to deep cuts in our nuclear arsenals to a far lower, less menacing level—and then keep working for the elimination of all nuclear weapons.

Yet, major and mutual arms cuts, vitally needed though they are, won't by themselves assure peace. We must also face up to the shortcomings of the hotline. We must supplement it by building additional institutional mechanisms for keeping Moscow and Washington in close and continuing touch with each other, so that accidents or misunderstandings do not get out of hand.

Specifically, I have been urging that our government negotiate with the Soviet Union the earliest possible creation of a Joint U.S.-USSR Consultation Center—a new institution to facilitate immediate information exchanges and consultations between the two countries when events occur that could trigger a nuclear war not intended or desired by either side.

The Center would be a permanent organization at a location agreeable to both sides. It would have areas where the Soviet and American representatives would meet and consult together, and also areas where they could work and confer in private. The American staff would be linked to Washington by secure American-controlled communication links, and the Soviets would be tied to Moscow through their own communications system. The Center would be open, fully staffed, every hour of the day and every day of the year.

The two staffs should include technical advisers and military representatives knowledgeable about such matters as command, control and surveillance systems, force deployments, readiness testing procedures and the like. However, the center's basic mission would be neither technical nor military. The decisive issues of nuclear war or peace are and always will be political and diplomatic, and the Center's staffing should reflect this fact.

The Center would be instantly alerted when there were any war-threatening developments. It would supplement, and work in tandem with, the modernized hotline. The superpower dialogue in time of crisis could thus become vastly more effective. The two sides at the Center would consult by actually talking with each other face-to-face across the width of a conference table, and each side would report its assessment as quickly as possible to the tops of their governments. As needed, Soviet and American experts on the kind of problem threatening the peace could meet with each other without any bureaucratic delays. The two teams would be known quantities to each other, and this could assist in understanding and in judging the credibility of their counterparts.

The Center could work on crisis prevention as well as crisis resolution. It might draft proposed codes of nuclear conduct for the two superpowers. Each side might agree to refrain from doing things—undertaking certain types of force deployments or readiness exercises, for instance—that might appear threatening to the other side.

The early establishment of a Joint Center would produce still further benefits.

Popular fears over nuclear war are fueled in part by a concern that war might break out by accident just because Moscow and Washington were out of touch and not talking to each other. This permanent Center—in business around the clock—could do much to lessen these apprehensions.

Furthermore, agreement on the Center could help strengthen our relations with our friends and allies, and our European partners in particular. They have as big a stake as we do in preventing an accidental nuclear war. They would surely applaud an American initiative to create an institution making such a conflagration less likely.

And, very important, I believe an early accord on creation of the Joint Center would increase the chances of success in the Geneva Arms Reduction Talks. The road we will have to travel to arrive at peace-serving weapons cuts will almost certainly be difficult and long. But the Center could so clearly serve the interests of both our sides that it should be possible to bring it into being at an early date. A negotiating success in this regard would be reassuring, and it could help build world confidence in the possibilities for stability and peace.

Finally, let me just add this:

The people of the world have created international arrangements and institutions for all sorts of purposes and almost every imaginable human concern. There is even an International Wizard of Oz Club, an International Save the Pun Foundation, the International Old Lacers—IOL for short, an International Barbie Doll Collection Club—with its code name IBDCC, and the International Flat Earth Research Society, better known as the IFERS.

Among all the thousands and thousands of international undertakings and organizations, there is still no adequate institutional safeguard against the accidental outbreak of a nuclear war. I think the time has come to have one.

There are scores of major issues on which we and the Soviets now differ. But there is one issue on which we should not disagree—the need for both of us to do everything within our power to prevent the outbreak of a war neither of us wanted. There would be no winners in a nuclear war—not us, not the Soviets, not any other nation. Everybody would lose.

By making war by mistake less probable, a Joint Consultation Center would make everybody winners. Let us now get about the job of creating it.

CONSULTATION AND THE ATLANTIC ALLIANCE

(By Senator Henry M. Jackson)

Mr. Chairman, this Assembly takes place at a time when those concerned with the future of our Alliance have many reasons to be pleased.

When our partnership came into being in 1949, not a few believed that NATO would before long succumb to threats from without. They thought that the fledgling organization would prove unequal to the task of keeping Soviet power from spilling over the boundaries of the Alliance. But they were wrong.

Others believed that NATO would succumb to problems from within. They questioned whether its members would be willing to subordinate narrowed interests to the interests of the community as a whole. But they too were wrong.

Only a handful of the collective security organizations known to history have matched NATO's record of longevity. And none has surpassed NATO's record of accomplishment. At the age of thirty-four, the Alliance is not just still alive—it is flourishing.

For all our partnership's successes, important problems from time-to-time beset it. Our Rapporteurs report—Alliance Political Developments—discusses many of these problems in great detail. And the report correctly stresses that we have not been doing enough, soon enough, in consulting with each other on critical political issues.

In this connection, let me cite just two examples.

Example one concerns our failure as a community to have moved more quickly than we did to seize the initiative in quest for nuclear peace. Warning signs of impending trouble became apparent some two years ago. In all our countries, increasing numbers of people were questioning the depth of their government's commitment to peace-serving arms cuts. They did not think their governments were doing all they should be doing to occupy the high ground on the issue of mutual and major arms reductions.

Some of us sitting in this committee urged our governments to concert with our NATO partners toward the end of removing any reasonable doubts on this score. We urged consultations aimed at formulating and then advancing arms reductions proposals that would make plain our commuity's devotion to the cause of peace. But the consultations were too long in coming, and we are now paying the price in terms of citizens of our community who are not yet persuaded of our desire to negotiate with the Soviets in good faith at Geneva.

The problem of the Soviet natural gas pipeline provides another example of what can happen when we get caught off guard. On the one hand, none of us are indifferent to the tragic happenings in Poland. And none of us wants to endanger our community's security, either by giving the Soviets militarily-useful technology or by becoming excessively dependent on energy sources outside of our control. On the other hand, nobody wants needlessly to deny equipment sales to our manufacturing companies and their workers. And nobody wants our countries to get reputations as unreliable suppliers.

Given such wide areas of agreement among us, it should have been possible for our community to arrive at an agreed-upon position on the pipeline. But we failed to consult early enough and to search hard enough for a generally acceptable approach. National positions then hardened, and months elapsed before we could solve a problem that need never have arisen in the first place.

Mr. Chairman, our Alliance needs a better early warning system for spotting impending political troubles for the partnership. The system must be one which alerts us to upcoming problems before they reach crisis dimensions.

We now have in being elaborate early warning systems of possible trouble in the military realm. We employ batteries of super-sophisticated intelligence gathering and analytical techniques to flag potentially dangerious military moves on the part of our adversaries. We likewise employ elaborate management control techniques to identify prospective technology development problems which, if uncorrected, could delay the introduction of new weapons systems into the military inventories of our members.

The immenssely successful nuclear submarine construction program offers a prime example of the use of such early warning techniques. The system employed by Admiral Rickover and his key aides included the regular preparation and issuance of so-called critical items lists. These lists drew early attention to management and technological development problems that would slow the building of the submarine fleet unless quick and decisive remedial action was taken.

Our partnership now needs the political equivalent of such critical items lists. Thus, the North Atlantic Council might regularly identify for the Alliance issues just coming over the horizon that have the potential of developing into pipeline-type controversies. The Council might at the same time request the members to report back to it steps being taken to handle and correct them.

I would put high on such a critical list the huge problem of the debt overhanging many East bloc and developing countries, notably Poland and Mexico, and the evident dangers to international financial stability.

At a time when the Alliance faces so many important and intractable challenges to which no ready solution is apparent, we simply cannot afford the luxury of letting troubles get out of hand that should never have been troubles to start with.

If it is essential that we consult in timely fashion with friends and allies, it is just as important that we talk with our adversaries. The Rapporteur of our Committee quite correctly reminds us of a key point of the Bonn Summit communique: As he puts it, "the necessity to keep the lines of communication open—in CSCE, in arms negotiations fora and in personal meetings, such as those pursued by both U.S. Secretaries of State, Messrs. Haig and Shultz, with the Soviet Foreign Minister, Andrei Gromyko."

This need to keep the lines open to the Soviets is dramatically true when war threatens, and nuclear war most of all. Yet there is today still no adequate communications safeguard against the outbreak of a nuclear war, started not by deliberate design, but by accident or error or misunderstanding.

There are scores of major issues about which our partnership has one view while the Soviets have another. But there is surely one issue on which the members of our Alliance should disagree neither with each other nor with the Soviets. This concerns the necessity of everybody doing everything they can to prevent an unwanted war. Nobody would win such a war—not the Soviets, not my country, not the other fifteen members of our Alliance, or not any other nation. Everybody would lose.

As of now, there is only one institutional mechanism for direct consultation between Washington and Moscow when war-threatening developments occur—the 20-year-old hotline. But the hotline is a relatively antiquated teleprinter system that requires a time-consuming process of encoding and transcription. President Reagan has proposed that ways be explored of technologically updating the hotline to permit voice communication, and certainly this should be done. But even if the hotline were thus modernized, it might not serve well when the President and his chief security advisers were scattered on trips and not readily able to confer with one another. Last year, President Reagan was out of Washington for more than 100 days. And so were the Secretary of State and the Secretary of Defense. I would be surprised if the away-from-Moscow figures were much different for Chairman Brezhnev and his top national security advisers.

The moral of the situation is to me obvious. We need additional arrangements for keeping matters from getting out of hand when one side has reason to question the intentions, and especially the nuclear intentions, of the other. This view, I might note, is shared by many of my Senate colleagues, among them Senator Sam Nunn who this year initiated a U.S. Defense Department study of ways to prevent nuclear war by accident.

Toward this end, I would like to see the Soviet Union agree with my government to establish as quickly as possible a Joint U.S.-U.S.S.R. Consultation Center—a new insti-

tution to facilitate immediate information exchange and consultation when things happen that could trigger a nuclear war that nobody had planned or wanted.

The Joint Center would be a permanent organization located at some mutually agreeable place. It would be in operation, fully staffed, every hour of the day, every day of the year. Secure unilaterally-controlled communications systems would link the staffs to their respective capitals. The Center's staffs would include technical experts and military representatives. But as we at this Assembly have particular reason to know, the make-or-break issues of nuclear war or peace are not technical or military—they are political and diplomatic—and the Center's staffing should reflect this fact.

The Center would supplement, and work in tandem with, the hotline. It would be instantly alerted when incidents that could spill over into nuclear war occurred. The staffs would communicate by talking with each other face-to-face, and each side would report its assessment as quickly as possible to the top levels of their governments. The two staffs would be known quantities to each other, and this would assist in understanding and in judging the credibility of their counterparts.

The Center could work on crisis prevention as well as crisis resolution. It might draft codes of conduct under which each side would agree to refrain from actions—certain types of readiness exercises, for instance—that the other side might regard as provacative and threatening.

Furthermore, an early agreement to create a Joint Center should increase the chances of success in the Geneva Arms Reduction Talks. Very probably, it will take long and difficult negotiations to reach an accord on arms reductions of the nature and dimensions the world needs. And along the way there are bound to be setbacks. Some may be tempted to stop trying. But a Joint Consultation Center so clearly serving the interests of both the Soviets and our side should be negotiable at an early date. A success in this regard would fortify our resolve to persevere in the Geneva negotiations for as long as may be necessary to achieve success.

Let me just say this in closing:

The circumstances of 1982 are not the circumstances of 1949. As times change, the Alliance will undergo many changes. It must if it is to serve the interests of its members. But the all-important truth remains: We cannot entrust the fate of our peoples to muddling through and improvisation. There must be political early warning systems, advance plans and preparations. We must have in being before crises occur institutional mechanisms whose job it is to help resolve them. Picture the impossibility of our holding Soviet power in check without the institutional underpinning provided by the North Atlantic Treaty Organization.

Mr. Chairman, it is in this spirit that I welcomed the opportunity to address your Committee today.

RAYMOND WEEKS—A TRUE PATRIOT

Mr. HEFLIN. Mr. President, a few weeks ago, on November 11, National Veterans Day, President Reagan awarded the Presidential Citizens Medal to an Alabamian, Raymond Weeks. I would like to share with my colleagues in the Senate a few details of Raymond's story.

Raymond Weeks has been active in business and civic life in Alabama for more than 50 years. Prior to entering the military service in World War II, he assisted in the organization of several successful war bond campaigns, and was active in the USO, was a director on the State rationing board and the manpower board.

After serving in the military from May 1943 to November 1945, Raymond became active in veterans affairs, and has gone on to serve on many national committees of the various veterans organizations.

In 1947, Weeks went about organizing a celebration in Birmingham to pay tribute to the veterans of all the wars in which the United States has been involved. The date he chose for the celebration was November 11, which was then officially known as Armistice Day. Raymond called the Birmingham ceremonies Veterans Day.

Over the years, the ceremonies in Birmingham, still directed by Raymond Weeks, became a model for other cities and States, which started their own Veterans Day observances. Finally, in 1954, Congress changed the name of Armistice Day to National Veterans Day.

It has become an official national holiday, a fitting tribute to all of American's veterans—those who returned home as well as those who died fighting for our country.

For his efforts in establishing this holiday, Raymond Weeks has become known as the "Father of National Veterans Day."

Besides his activities in veterans organizations, including a year as State Commander of the American Legion, Raymond has been active in numerous civic and community projects. He has served as a member of the Alabama House of Representatives, a member of the State Democratic executive Committee, and as a delegate to three Democratic National Conventions.

He has received Alabama's highest award, the Distinguished Service Medal, for his accomplishments, and has also received the Army's Outstanding Distinguished Civilian Service Medal.

On November 11, Raymond Weeks became only the seventh person to receive the Presidential Citizens Medal, which is awarded American citizens for exemplary service for their country or for their fellow citizens. The award is made at the discretion of the President.

Raymond Weeks is certainly deserving of this tribute, and all of us from Alabama extend him our thanks and congratulations.

Mr. President, I ask unanimous consent that articles from the Birmingham News and the Birmingham Post-Herald be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Birmingham News, Nov. 10, 1982]

WEEKS TO GET CITIZEN MEDAL AT WHITE HOUSE

(By Tom Scarritt)

WASHINGTON.—Raymond Weeks of Birmingham, who is given credit for founding Veterans Day, will receive a special award from President Reagan Thursday at the White House.

The presentation of the Presidential Citizens Medal to Weeks will highlight a Veterans Day observance in the State Dining Room Thursday morning, according to the White House announcement.

Weeks, a White House spokesman said, is the person responsible for changing Nov. 11 from Armistice Day, marking the end of World War I, to Veterans Day, honoring all of America's veterans.

A Navy veteran of World War II, Weeks on Nov. 11, 1947, organized in Birmingham the first program honoring the veterans of all wars. He called it Veterans Day.

In 1954, Congress officially changed the name of the Nov. 11 holiday to Veterans Day.

Birmingham's National Veterans Day continues to be the largest such program in the country, and Weeks continues to serve as its director.

Reared in Birmingham, Weeks attended local public schools and Birmingham-Southern College.

He has served as a Democratic member of the Alabama House of Representatives, a member of the State Democratic Executive Committee and a delegate to the Democratic National Convention.

He has received the Distinguished Service Medal of Alabama and the Army's Outstanding Distinguished Civilian Service Medal.

The Presidential Citizens Medal he will receive on Thursday was established by executive order in 1969 "to recognize citizens who have performed exemplary deeds of service for their country or for their fellow citizens."

It is awarded at the discretion of the President.

[From the Birmingham Post-Herald, Nov. 12, 1982]

BIRMINGHAM VETERAN RECEIVES SPECIAL TRIBUTE

(By Gayle McCracken)

WASHINGTON.—While soldiers marched through Birmingham yesterday in the country's largest annual Veterans Day parade, the founder of the holiday was being honored by President Reagan at the White House.

Raymond Weeks, a World War II veteran and Birmingham resident, became the seventh person to receive the Presidential Citizens Medal for organizing in Birmingham the first program honoring American veterans of all wars.

"He was the driving force behind the Congressional action which was taken in 1954 to establish this holiday," Reagan said during a Veterans Day ceremony in the White House dining room.

Then the president pinned the medal on Week's coat lapel as the veteran's wife watched, "Mr. Weeks, in honoring you, we honor the ideals we hope to live up to,"

Reagan told him. "Your country is mighty grateful to you for what you have done."

Weeks reached for Reagan's hand and said, "Thank you, Mr. President. Thanks on behalf of all veterans."

When Weeks returned from fighting in World War II, he was concerned about the problems and needs of veterans. He began working on national committees of several veterans' organizations and served for two years as state commander of the American Legion.

In 1947, Weeks rallied together Alabama's veterans of all wars in which the U.S. has been involved. A parade and several ceremonies paid tribute to those who returned home, and to those who didn't.

Weeks called that first Nov. 11 celebration Veterans Day. The idea caught on and military units and bands from across the nation poured into Birmingham each year for the memorial activities. Other cities and states started their own, and the holiday became known as Armistice Day.

"Along with Raymond Weeks, I may be one of the few people in this room who remember when Veterans Day was called Armistice Day," Reagan said.

Then in 1954, Congress changed the name to Weeks' choice, National Veterans Day. Now, it is an official national holiday. Government offices and schools close, retailers take advantage of an extra shopping day before Christmas—and for a few hours, special respect is paid to those who have carried their country's flag.

"It is fitting that we pay tribute to Mr. Weeks on this day when we honor those who donned uniforms to protect their country," Reagan said. "Nothing is more important to the soul of America than remembering and honoring those who fought for her."

During the year's Veterans Day celebration, national attention has focused on the black granite monument to be dedicated in the capital tomorrow as a tribute to Vietnam veterans.

The veterans are at last being given the national homecoming they have waited for—one they hope will begin a healing of wounds created by the controversial war.

"For so long Americans have closed their hearts, but the Vietnam veterans will take their rightful places now," Reagan said. "Certainly, mistakes have been made . . . (but) this Saturday, we will put behind us the ingratitude and injustice of the past."

The Presidential Citizens Medal is an award established in 1969 to recognize U.S. citizens for exemplary service to their country and other Americans. The president may bestow the award upon any U.S. citizen at his discretion at any time.

"As founder of the National Veterans Day celebration in Birmingham for the past 36 years, Raymond Weeks, a World War II veteran himself, has devoted his life to serving others: his community, the American veteran, and his nation," Reagan said.

E. L. McGRAW RETIRES

Mr. HEFLIN. Mr. President, Auburn University, and all higher education in the State of Alabama, recently lost the services of a truly fine individual with the retirement of E. L. McGraw, editor and head of the Department of Research Information at Auburn's Agricultural Experiment Station.

McGraw first came to Auburn, then Alabama Polytechnic Institute, in 1941, as assistant extension editor. Except for a brief stint during and immediately after World War II, he has remained at Auburn for the 41 years since.

Through the years, he has moved up through the ranks. After his first position, McGraw has successively served as a subject matter specialist in vocational agriculture, as associate editor at the Agricultural Experiment Station, and, beginning in 1968, as editor, the position from which he retires. His work at Auburn spanned the terms of four university presidents.

Under McGraw's leadership, publications of the Alabama Experiment Station have earned a national reputation for both their professional handling of scientific information and their attractiveness. This, in large part, has been due to McGraw's cooperative work with the research staff in getting scientific information disseminated to users.

McGraw has coauthored two books, and edited another. He has also been very active in the professional organization, Agricultural Communicators in Education, serving as secretary treasurer and national headquarters coordinator for 3 years.

The Auburn community has also benefited from McGraw's involvement. He has been an active member of the Auburn United Methodist Church, and, for 34 years, has been active in the leadership of the Auburn Lions Club.

E. L. McGraw's dedication to his campus and community has been of tremendous benefit to education, agriculture, and Alabama as a whole. This talented individual will be sorely missed by his university and all those who have worked with him.

Mr. President, I ask unanimous consent that an article from the A.U. Report be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the AU Report, Nov. 8, 1982]

McGRAW CLOSES OUT AU CAREER

The Oct. 31 retirement of E. L. McGraw, head of the department of research information, closes out an achievement-filled career that included work in all three divisions of Auburn and service under four university presidents.

McGraw's first Auburn job was assistant Extension editor, during 1941-44, when the then Alabama Polytechnic Institute was headed by President L. N. Duncan. After a brief stint in the U.S. Army and as teacher of vocational agriculture at Town Creek, he returned to Auburn in 1948 as subject matter specialist in vocational agriculture, during the administration of President Ralph Draughon.

The longest period of service, and the one of greatest pride of McGraw, was in the Agricultural Experiment Station, which began in 1957 and included administrations of Presidents Draughon, Harry Philpott, and Hanly Funderburk. He was associate editor until 1968, when he moved up to editor and head of the Department of Research Information.

Contributions by McGraw to Auburn University and to all facets of Alabama agriculture were recognized at a retirement dinner held Oct. 27. More than 200 friends and coworkers paid tribute to McGraw for his professional, community, and church work, the occasion culminating with presentation of tickets for a cruise to the Bahamas for McGraw and his wife, Johnnie.

McGraw's work in his professional organization, Agricultural Communicators in Education, has earned him a national reputation among agricultural college editors. He served as ACE secretary-treasurer and national headquarters coordinator for three years, along with numerous committee assignments, in his 25 years of active membership.

In a presentation that named McGraw Editor Emeritus, Experiment Station Dean and Director Gale A. Buchanan lauded McGraw for the expansion and upgrading of research reporting that has occurred during his tenure.

DR. WILLIAM R. LUCAS HONORED

Mr. HEFLIN. Mr. President, I have long been an ardent supporter of our Nation's space programs, and it is in connection with that program that I rise today to address the Senate.

We in Alabama are very proud, and rightly so, of the Marshall Space Flight Center in Huntsville, and we are also very proud of the Director of the Marshall Center, Dr. William R. Lucas.

Our pride in the achievements of Dr. Lucas can perhaps best be illustrated by the fact that he has recently been chosen by the American Astronautical Society to receive their highest honor—the Space Flight Award. The award is given at the society's annual meeting.

The Space Flight Award is given annually to the person who through his efforts has, in the judgment of the society, contributed the most to the advancement of space flight and exploration.

Dr. Lucas was selected to receive the award because of his distinguished scientific, technical, and managerial leadership associated with the development of the Space Shuttle, according to officials of the American Astronautical Society.

While serving as director at the Marshall Space Flight Center, Dr. Lucas is responsible for managing the development of the Space Shuttle's main engines, solid rocket boosters and external propellant tank, as well as being in charge of development of NASA's new space telescope, and many other diverse research and development projects.

This recognition given Dr. Lucas is certainly well deserved. The outstanding work that he and others at Marshall Space Flight Center have done has been largely responsible for the

safe and successful completion of all the missions of the space shuttle. Dr. Lucas is indeed a true credit to our Nation's vital space program.

A TRIBUTE TO JUDGE RICHARD T. RIVES

Mr. HEFLIN. Mr. President, during the month of October, our country lost one of the true giants of its legal system when retired U.S. Circuit Court of Appeals Judge Richard T. Rives passed away at the age of 87.

I have always thought it crucial for our court system to have honest, capable, and hard-working judges at the State, local, and Federal levels. From my personal experience, I can tell you that Judge Rives was such a judge.

Having served as chief justice of the Alabama State Supreme Court, I can testify to the difficulty of being a judge. Oftentimes, the decisions you make may be unpopular. A good judge, whether the decision is popular or unpopular, must follow the dictates of the law and his own conscience. Without a doubt, Richard T. Rives was a good judge.

More than anything else, Judge Rives became well known for his decisions in the field of civil rights. A native Alabamian, whose family had lived in Montgomery since 1819, these decisions had to be difficult ones for Judge Rives. Despite threats, snubs, and abuses, Judge Rives persevered in doing what he thought was right under the law.

The judge was a true credit to the legal community, both of Alabama and America. President Harry Truman should certainly have been commended for appointing Judge Rives to the bench.

Judge Rives was indeed a giant of the legal community, and will be missed by all whose lives he touched.

Mr. President, I ask unanimous consent that an editorial from the Birmingham Post-Herald be printed in the CONGRESSIONAL RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Birmingham Post-Herald, Oct. 30, 1982]

JUDGE RICHARD T. RIVES

"He has lived to see what he stood for proved right."

These words once spoken by his wife, Martha B. Rives, sum up the career of retired U.S. Circuit Court of Appeals Judge Richard T. Rives, who died this week at 87.

Appointed to the appeals court by President Harry Truman, Judge Rives joined with then U.S. District Judge Frank Johnson to lead this state, often kicking and screaming, out of the swamp of segregation during the 1950s and 1960s.

Although Johnson subsequently was to achieve more fame and be the target of more abuse, Rives was the one whose position on segregation was most resented at first.

After all, Johnson was practically an outsider, being from Winston County—which had even tried to secede from Alabama during the Civil War—far from the heart of Alabama's segregated society. But Rives had been a partner in one of Montgomery's leading law firms before his appointment to the bench. And the Rives family had lived in Montgomery since 1819. Many white Alabamians thought they were being betrayed by one of their own when Rives teamed with Johnson to form the majority of a three-judge panel which declared segreation on Montgomery buses unconstitutional in the mid-1950s.

The bus case was to be only the first in a long series of desegregation cases decided by Rives, Johnson and various third judges. Those landmark decisions changed this state for the better, as most Alabamians now know.

Judge Rives' anti-segregation attitudes no doubt grew stronger during his years on the bench. But they were not a product of his appointment to a lifetime position. In the mid-1940s, while still in private practice, Rives joined with other Alabamians in an attempt to defeat a state constitutional amendment designed to stop blacks from registering to vote. He didn't succeed, but the amendment was subsequently declared unconstitutional in federal court.

Despite the many threats, snubs and other abuse he and his family endured, Rives never lost faith in his fellow Alabamians. In 1964, Time magazine mentioned in an article on the adverse reaction to civil rights rulings that ". . . Rives was honored by his fellow Alabamians—they threw garbage on his son's grave."

Rives rebuked the magazine in a letter for a "serious injustice to my fellow Alabamians . . ., the overwhelming majority of whom are as fine, decent and fair-minded people as can be found anywhere."

This self-educated lawyer followed the dictates of his conscience and the law in doing what had to be done. He left his native state a better place than he found it.

Judge Richard T. Rives deserves to be remembered as a giant among the public figures of his era. We never have enough individuals like him.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KASTEN, from the Committee on Appropriations, without amendment:

S. 3075. An original bill making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1983, and for other purposes (Rept. No. 97-672).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. WARNER (for himself, Mr. HARRY F. BYRD, JR., Mr. GOLDWATER, Mr. JACKSON, and Mr. GARN):

S. 3073. A bill to provide for the distribution within the United States of the U.S. Information Agency film entitled "Dumas Malone: A Journey With Mr. Jefferson"; to the Committee on Foreign Relations.

By Mr. COCHRAN:

S. 3074. A bill entitled the Agricultural Act of 1982; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. KASTEN:

S. 3075. An original bill reported from the Committee on Appropriations making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1983, and for other purposes; placed on the calendar.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HAYAKAWA (for himself, Mr. JACKSON, Mr. GORTON, and Mr. CRANSTON):

S. Res. 500. Resolution commending the Government of Zimbabwe; to the Committee on Foreign Relations.

By Mr. HAYAKAWA (for himself, Mr. MELCHER, Mr. MCCLURE, Mr. THURMOND, Mr. SARBANES, Mr. PELL, Mr. LEAHY, Mr. MATTINGLY, Mr. FORD, Mr. BUMPERS, Mr. COHEN, Mr. LUGAR, Mr. CRANSTON, Mr. DECONCINI, Mr. HOLLINGS, Mr. DOMENICI, Mr. ZORINSKY, Mr. SASSER, Mr. GLENN, Mr. DURENBERGER, Mr. BRADLEY, Mr. PERCY, Mr. STENNIS, Mr. LONG, Mr. RUDMAN, Mr. KENNEDY, Mr. D'AMATO, Mr. RIEGLE, Mr. BRADY, Mr. LEVIN, Mr. INOUYE, Mr. BOSCHWITZ, Mr. LAXALT, Mr. TSONGAS, Mr. HUMPHREY, Mr. MURKOWSKI, Mr. WALLOP, Mr. BIDEN, and Mr. JEPSEN):

S. Con. Res. 131. Concurrent resolution to express the sense of the Congress concerning Americans missing and unaccounted for in Southeast Asia; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WARNER (for himself, Mr. HARRY F. BYRD, JR., Mr. GOLDWATER, Mr. JACKSON, and Mr. GARN):

S. 3073. A bill to provide for the distribution within the United States of the U.S. Information Agency film entitled "Dumas Malone: A Journey With Mr. Jefferson"; to the Committee on Foreign Relations.

DISTRIBUTION OF U.S. INFORMATION AGENCY FILM

Mr. WARNER. Mr. President, today I am introducing legislation allowing domestic release of the USIA-produced video tape recording, "Dumas Malone: A Journey With Mr. Jefferson."

This recording is an interview with Dumas Malone, the renowned biographer of our second President, Thomas Jefferson.

The purpose for seeking congressional consideration on this matter is twofold:

One, the Smithsonian Institution and the Thomas Jefferson Memorial Foundation are planning exhibits of Gilbert Stuart's "Edgehill" portrait of Jefferson both here in Washington, at

the National Portrait Gallery, and at Monticello in Charlottesville early this spring. In conjunction with these exhibits, the Institution and the foundation wish to show the USIA program. Delay or postponement of this legislation until the start of the 98th Congress would surely preclude showing this program with the Stuart exhibition.

Two. The law establishing the U.S. Information Agency prohibits the distribution within the United States of materials the Agency produces. However, from time to time legislation has been enacted exempting specific works and titles from the prohibition. I believe that this bill is in keeping with the history of exemptions and the new procedures for exemptions adopted by the Committee on Foreign Relations and published in the CONGRESSIONAL RECORD on March 31, 1982.

In "Dumas Malone: A Journey With Mr. Jefferson," Professor Malone of the University of Virginia is interviewed by Marc Pachter, Chief Historian of the National Portrait Gallery of the Smithsonian Institution. The 89-year-old Malone, who was the recipient of the Pulitzer Prize for history in 1975 and a Presidential citation in 1979, completed his monumental six-volume work "Jefferson and His Times" in 1981.

Filmed on location at the University of Virginia and Monticello in November 1981, the program concentrates on Jefferson's personality and career. Malone and Pachter discuss Jefferson's life from the Declaration of Independence through his 5 years in France, his two-term Presidency, to his retirement at Monticello.

Malone comments on Jefferson's political philosophy; his relationships with John Adams, Madison, Franklin and Washington; the Louisana Purchase; the Lewis and Clark expedition; and the French Revolution. In addition, Malone reflects on his own role as biographer.

The film was issued for international showing in February 1982.

Release of this work in the United States would enable people all across the country, and especially those viewing the Edgehill exhibit at the Smithsonian and Monticello this spring, to gain richer insights into our second President by the man who knows him best.

As Professor Malone points out in his conversation with Mr. Pachter, the work of more than 50 years and the privilege of reading all of Jefferson's extant correspondence with his family and his contemporaries have created a special understanding of and unique relationship with his subject.

Mr. President, my Virginia colleague in the House of Representatives, J. KENNETH ROBINSON, is introducing an identical bill in an effort to expedite congressional approval. I am joined in sponsoring this measure by Virginia's senior Senator HARRY F. BYRD Jr., and the three Senate Regents on the Smithsonian's Board: Mr. GOLDWATER, Mr. JACKSON, and Mr. GARN. We urge our colleagues to give early and favorable consideration to this legislation.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3073

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding the second sentence of Section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461)—

(1) the Director of the United States Information Agency shall make available to the Administrator of General Services a master copy of the film entitled "Dumas Malone: A Journey with Mr. Jefferson", and

(2) the Administrator shall reinburse the Director for any expenses of the Agency in making that master copy available, shall secure any licenses or other rights required for distribution of that film within the United States, shall deposit that film in the National Archives of the United States, and shall make copies of that film available for purchase and public viewing within the United States.

(b) Any reimbursement to the Director pursuant to this section shall be credited to the applicable appropriation of the United States Information Agency.

By Mr. COCHRAN (for himself and Mr. HUDDLESTON):

S. 3074. A bill entitled the "Agricultural Act of 1982"; to the Committee on Agriculture, Nutrition, and Forestry.

AGRICULTURAL ACT OF 1982

Mr. COCHRAN. Mr. President, I am pleased that Senator HUDDLESTON is joining me in introducing this bill which I believe will help put agriculture on the road to recovery. I would at the outset like to acknowledge the contributions of the distinguished Senator from Kentucky (Mr. HUDDLESTON) in the formulation and drafting of the bill we are introducing today. The bill incorporates several important suggestions made by the distinguished ranking minority member of the Committee on Agriculture, Nutrition, and Forestry.

The farm economy is currently buried under a mound of surplus stocks which has depressed prices to a level where virtually no one farming a major crop can make a profit.

If this situation is allowed to persist we will see a major structural change in American agriculture, away from the traditional family farmer to farms owned by the Government or large corporations. Such a shift will tear at the very fabric upon which this country was built and destroy the system that has allowed our farmers to be the most productive in the world.

Through increased productivity and a wealth of rich farmland American farmers have made agriculture the Nation's largest industry. Its total assets equal about 80 percent of the combined capital assets of all manufacturing corporations in the United States.

Agriculture is also the Nation's largest employer. It is estimated that between 14 and 17 million people work in some phase of agriculture from production to selling at the supermarket. Farming alone uses 3.9 million workers—as many as the payrolls of the transportation, steel and automobile industries combined.

Low farm prices are having a rippling effect throughout our economy. When farm income drops, farmers simply tighten their belts to stay in business. They do not replace their old equipment, and they do not farm with their normal intensive use of resources.

In short, they make do with what they can afford.

This has a depressing effect on suppliers of farm inputs and services, and translates into reduced output in plants and factories and ultimately to higher unemployment.

Thus, a healthy agriculture will go a long way toward bringing about an overall economic recovery.

Before one can identify the road to recovery for agriculture, it is important to first review where we are and how we got here. After all, the wrong road could lead us to short-term relief that creates greater problems later on.

Farmers in this country are the most productive in the world. Through the adoption of new technology, improved plant and animal varieties, and better management, the output per acre has continued to rise.

In fact, the growth in productivity has nearly offset the growth in domestic demand. As a result, most of the increased acreage has been associated with export market development. Take for example the acres required to meet our needs of wheat, corn, soybeans, cotton and rice.

In the early 1970's 105 million acres were necessary to meet domestic consumption compared with 112 million this year. During the same period the acreage devoted to exports for these same commodities increased from 83 million acres to 124 million.

This means that over 85 percent of the growth during the last decade has come from foreign sales. As a result, exports now account for over half of the acreage devoted to these crops.

Farmers have benefitted from this expansion, and our total economy has benefited because of the over $40 billion annually in exports and new jobs resulting from them.

Since growth in productivity will likely keep pace with future increases in domestic demand we must continue

to expand exports to achieve real growth in the farm sector.

There is no doubt that foreign demand for food and fiber will increase in the years ahead. Ten years from now, there will be 700 million more people in the world to feed and clothe. This means that by the 1990's there will be an additional population in the world equivalent to three times the size of the United States.

Thus the prospects for a growing and profitable agriculture are bright. However, there will be times when weather conditions and other factors will cause production and consumption to become out of balance like the situation which exists today.

To get at the root of the problem it is necessary to look at both the supply and demand side of the equation.

Stocks for wheat, corn, soybeans, cotton and rice are in excess of normal carryover by the equivalent of production on 31 million acres or 12 percent of the level harvested this year based on average yields.

There is no way that the current production adjustment programs can encourage farmers to reduce acreage by this magnitude. For example, the acreage reduction programs put in place last winter only resulted in a cut of 2 million acres from the 1981 level.

The critical question is—are we planting too many acres to meet present demand?

Interestingly enough when normal yields are used to calculate the acreage of wheat, corn, soybeans, cotton, and rice necessary to meet current demand it comes out that we need production on 237 million acres. This year we will harvest about 236 million acres. Thus, we do not have a surplus of acres in production. We have surplus stocks caused by combined yields for these five crops which were 6 percent above average in 1981 and 11 percent above in 1982.

It is ironic that we have been blessed with two good crop years in a row and as a result must suffer under low prices.

These low prices will continue as long as excess supplies hang over the market.

Ordinarily one would expect that low prices would result in enough increased consumption to help draw down the excess stocks. However, our export markets, where most of the increase has come from, are suffering more under the current recession than we are. Further, efforts to increase exports are hampered by the strong value of the dollar relative to currencies in importing countries.

On a trade weighted basis the strength of the dollar has added 35 percent to the effective price of U.S. farm exports during the last year. This has more than offset the decline in U.S. prices for many farm products. Thus even with lower U.S. farm prices our foreign customers are paying as much or more of their own currency for a unit of product than they did last year.

Each commodity has a different trade weighted exchange rate, but the direction is the same. For example, soybean prices received by farmers dropped from $6.70 last fall to $5.39 in August. However, because of changes in the exchange rates during the year, soybean prices to foreign buyers in August were equivalent to a farm price of $6.50 per bushel. This in only slightly below year earlier levels even though the farm price dropped $1.31 per bushel.

With most of the world in a recession it is easy to see why exports are not growing as fast as in the past.

So where does this leave us. We have a problem with surplus stocks caused by high yields during the last 2 years combined with a sluggish demand.

Given the magnitude of surplus stocks, it is unlikely that growth in commercial demand will be sufficient to reduce them to a more acceptable level. It is also unlikely that the current acreage reduction programs will decrease production enough to draw stocks down to levels which will result in substantial price increases. Furthermore, I do not believe it is wise to use acreage reduction alone as a means of reducing the surplus since this is a retrenchment policy allowing our competitors to expand production and capture our markets. Therefore, I believe that the problem must be addressed through a combination of acreage controls and efforts to move the surpluses through alternative marketing strategies.

As program changes are implemented to reduce the surplus stocks it is important that the agricultural dilemma be taken into consideration and that is—the price support loans are too low for our farmers and they are too high for the market to clear.

The bill I am introducing today addresses both problems. Specifically, the bill can be summarized as follows:

SUMMARY

1. Supply adjustment:

A. Require an acreage reduction program for 1984.

(1) Minimum reduction for each crop—corn, wheat, cotton and rice of 15 percent, half of which must be in the form of a paid diversion;

(2) The payment rate on the paid diversion shall not be less than the payment rate for the 1983 program.

B. Authority for the Secretary to use stocks owned by the Commodity Credit Corporation as payment-in-kind to encourage farmers to reduce production.

In operating the acreage control programs, USDA shall take special precautions to assure that the economic base of local communities are not eroded, and that adequate measures be taken to protect the interest of tenants and sharecroppers.

2. Support price—Increase the floor loan rates for the 1983-85 crops as follows:

A. Corn from $2.65 to $2.75/bu.

B. Wheat from $3.65 to $3.80/bu.

C. Cotton from $.55 to $.60/lb.

D. Rice from $8.00 to $8.55/cwt.

E. The bill maintains the minimum soybean loan rate at $5.02 per bushel. However, it may be necessary after appropriate review of the program to consider a higher loan rate for soybeans.

Note: The cotton loan for the 1982 crop was 57.1 cents per pound. The formula contained in current law will result in a drop in the cotton loan to the 55 cents per pound floor for the 1983 crop.

The 1982 crop rice loan was $8.14 per hundredweight.

3. Demand expansion:

A. Commercial market bonus plan—Authority for the Secretary to make available to U.S. exporters, U.S. processors and foreign customers bonus stocks from the Commodity Credit Corporation to encourage sales of U.S. farm products. In carrying out this program the Secretary shall:

(1) Use the bonus stocks in areas where additional sales can be attained or where the bonus stocks can offset subsidies provided by competitors.

(2) Assure that the bonus sales do not displace anticipated purchases from the U.S. by the recipient country in future time periods.

(3) Assure that bonus sales are not transshipped into normal commercial markets.

(4) Provide an equivalent subsidy to the domestic industry in cases where imports of products made from commodities associated with the bonus program put the domestic industry in an unfair competitive position.

(5) Limited bonus sales program to countries in the most-favored-nations status.

B. Expansion of the P.L. 480 and donation programs.

(1) Authority for the Secretary to utilize CCC inventories to expand P.L. 480 Titles I and III concessional sales.

In carrying out this program the Secretary shall:

A. Limit the use of the in-kind concessional sales program to those countries that use up their allocation under the appropriated funds of the current program.

B. Make program available for raw products and value added products.

(2) Authority for Secretary to make donations directly from CCC owned stocks.

The combination of higher loan rates for farmers and bonuses on sales addresses the loan rate dilemma.

The loan rate increases provide the much needed higher floor for farm prices.

The bonus program has the effect of reducing the per unit cost to our customers.

For example, the proposed cotton loan under this plan would go from $0.57 to $0.60 per pound—an increase of $0.03. Assuming that the market price is at the loan level, a country purchasing nine units and getting a bonus of one will pay an average price of $0.54 per pound—$0.03 below the current loan rate.

Furthermore, combining this bonus program with a blended credit program already underway will allow us to meet the competition in international markets.

Mr. President, it is clear that changes need to be made on the farm program to reduce the current surpluses in an effort to strengthen farm prices.

The bill I am introducing is a step in that direction, addressing the problem from both the supply and demand side. I urge my colleagues to join me in this effort to get agriculture on the road to recovery.

Mr. HUDDLESTON. Mr. President, I am pleased to join Senator COCHRAN in introducing the Agricultural Act of 1982. I wish to compliment Senator COCHRAN on his initiative, as chairman of the Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices, in developing this legislation to address the critical needs of U.S. farmers. It was a pleasure to work with him in drafting the bill. I am also pleased to note that Senator COCHRAN's subcommittee, on which I am the ranking Democrat will be holding hearings next week on this bill and other proposals to improve the farm situation.

Mr. President, agricultural producers continue to face low market prices caused by supplies far in excess of market demand. The bill will provide improved incentives for financially strapped farmers to participate in programs to limit production and establish programs to reduce burdensome existing stocks of grain.

The bill addresses critical areas that need immediate attention if the farm economy is to be turned around. The bill directs the Secretary of Agriculture to offer paid land diversion programs for the 1984 crops of wheat, feed grains, upland cotton, and rice, along with acreage limitation programs for such commodities.

The bill also establishes more effective minimum loan rates for the 1983 through 1985 crops of these commodities. Stronger loan rates will increase the likelihood of farmers enrolling in programs to limit production.

We seek adoption of these legislative proposals now because, during this period of depressed prices and low farm income, Congress should make every effort to provide farmers a clear statement of the Government's longer term agricultural policy. Hard-pressed American farmers face uncertainty from many quarters—the weather, the markets, and shifts in international conditions that affect export sales—without their Government adding more uncertainty. Enactment of the bill will allow farmers to evaluate upcoming loan and acreage limitation programs prior to the time they must make crucial decisions affecting the operation of their farm enterprises.

The bill will also give the Secretary of Agriculture the specific authority to carry out special payment-in-kind land conservation programs for each of the 1983 through 1985 crops. The programs will attack the problems stemming from excess supply in two ways: First, by encouraging farmers to reduce production, and, second, by using excess Commodity Credit Corporation stocks in compensating farmers for reducing their plantings.

Finally, the bill contains provisions for programs designed to develop export markets for U.S. agricultural commodities, again using Government-held stocks of farm commodities to operate such programs.

LOAN RATES

This bill increases minimum loan rates for the 1983, 1984, and 1985 crops of wheat, feed grains, upland cotton, and rice. These higher loan rates will bolster sagging farm prices and, hopefully, save the Government money in the operation of the farm programs. The more attractive loan rates should increase participation in acreage limitation programs. The acreage limitation programs will, in turn, result in reduced production, higher market prices, and lower Government deficiency and storage payments.

Wheat loans for each of the 1983 through 1985 crops will be not less than $3.80 per bushel. For corn, the minimum loan rate will be $2.75 per bushel for each of the 1983 through 1985 crops. The minimum cotton loan will be 60 cents per pound, and the minimum rice loan will be $8.55 per hundredweight, for these crops.

ACREAGE REDUCTION PROGRAMS FOR 1984 CROPS

The bill will require acreage limitation and paid land diversion programs for the 1984 crops of wheat, feed grains, upland cotton, and rice.

Farmers participating in the 1984 annual programs for any of these commodities will be required to reduce 1984 acreage planted to the commodity involved by at least 15 percent of the acreage base for the farm. The Secretary of Agriculture would have the authority to require additional reductions. Fifty percent of the acreage reduction will be achieved through the acreage limitation program and 50 percent through the paid land diversion program. The diversion payment rates will be not less than $3 per bushel of wheat, $1.50 per bushel of corn, 30 cents per pound of upland cotton, and $3 per hundredweight for rice.

SPECIAL PAYMENT-IN-KIND LAND CONSERVATION PROGRAM

The bill includes specific authority for the Secretary of Agriculture to carry out a special payment-in-kind land conservation program for each of the 1983 through 1985 crops. Wheat, feed grain, upland cotton, and rice producers will be eligible to participate in the program. In addition, the Secretary of Agriculture will be authorized to designate other commodities for inclusion in the program.

The program will enable the Secretary to use the existing excess stocks of agricultural products to encourage farmers to devote farm acreage not needed to meet domestic and foreign demand for agricultural products to conservation uses. Using existing stocks of farm products in this way will serve to limit cash outlays for the farm programs and draw down inventories of grain and cotton to more appropriate levels. By reducing carryover stocks that tend to overhang the market and depress prices, American farmers will receive better prices for their products.

Farmers who participate in the program will receive payments in kind equal to the number of acres diverted from production, multiplied by a percentage of the normal farm yield for the commodity involved that the Secretary of Agriculture determines appropriate to insure adequate participation. Payment will be made by physical delivery of the crop involved, by transfer of negotiable warehouse receipts, or by other methods the Secretary determines to be appropriate to enable the producer to efficiently and expeditiously receive posession of the commodity.

The bill provides that, if the stocks of the commodity involved owned by the Commodity Credit Corporation are not readily available to effect full payment, the Secretary may substitute, fully or partially, cash payments. Cash payments will be made at a rate equal to the basic county loan rate per unit of the commodity involved.

The bill provides that the Secretary must limit the total acreage diverted from production for a particular crop in any county or local community under the program so as not to affect adversely the economy of the county or local community.

EXPORT MARKET EXPANSION

The bill also contains provisions designed to expand international markets for U.S. agricultural products. The bill directs the Secretary to formulate and carry out a program that uses commodities acquired by the Commodity Credit Corporation through its price support activities to encourage additional export sales of U.S. agricultural products. Such products could be tendered at no cost to U.S. exporters to encourage sales in areas of the world where exports can be made in addition to the usual export marketings of the United States. Also, under the program, the agricultural products could be used to encourage sales in markets where the addition of the Commodity Credit Corporation stocks of agricultural products to the quantities already moving in commerce will enable U.S. exporters to be competitive in price with the subsidized exports of other nations. This provision will enable our exporters to meet unfair competition caused by such subsidies.

The bill provides safeguards to insure that normal export sales of U.S. agricultural products are not displaced. Further, the bill provides that U.S. processors of agricultural products could be compensated, using the stocks of commodities owned by the Commodity Credit Corporation, in any case where a U.S. processor is placed at an unfair competitive disadvantage by the use of the bonus CCC commodities by foreign processors who sell their processed products to the United States.

The bill will allow the efficient use of inventories of agricultural commodities that might otherwise prove to be burdensome in future years. The use of these stocks as a bonus for buying American agricultural products will expand export sales and improve the income of our farmers.

The bill also contains provisions designed to use excess stocks of agricultural commodities in the Public Law 480 sales programs. The bill provides that the commodities acquired by the Commodity Credit Corporation can be used to increase the level of agricultural exports shipped under titles I and III of Public Law 480. Using our abundant supplies for the food-for-peace program is far preferable to simply storing the commodities in Government warehouses.

The bill also expands the authority of the Secretary to donate commodities owned by the Commodity Credit Corporation to assist needy persons outside the United States. Such commodities or the products thereof could be donated through foreign governments and public and nonprofit private humanitarian organizations. Under existing law, the Secretary's authority to donate commodities abroad is limited to dairy products. This provision of the bill will eliminate the cost of storing Commodity Credit Corporation stocks and foster good will toward Americans in many foreign nations.

FURTHER NEEDS

The programs established by the bill will do much to improve farm income and provide stimulus to the farm economy ravaged by low prices and weak export markets. However, it may be necessary to do more.

In addition to programs that will enhance market sales of agricultural products, there are other ways in which we can make use of our abundant agricultural production. We could use excess stocks of grain and foodstuffs to aid in domestic food assistance programs and help build a multination food reserve to assist those countries in need of disaster assistance. Such use would improve nutrition at home and abroad without displacing existing markets for our agricultural commodities.

In conjunction with such efforts, we could establish a system for promoting the conversion of existing supplies of basic commodities into higher value processed commodities. Corn can be used for the production of high-protein products—with alcohol fuel for our strategic reserves as a byproduct. Wheat can be converted to flour.

Further, we should consider committing our stocks of Government-owned commodities, which might also include processed products, to begin building the multination food reserve.

Also, the President should explore with members of the European Community, Canada, Australia, and other major agricultural producing nations the feasibility of establishing an international system of food reserves to be used for humanitarian food relief needs.

The United States should not be holding all of the world's food reserves. We should be participating in an international effort to use the abundance from good crop years to see us through poor harvests.

To insure that use of such food reserves does not displace existing sales of agricultural products, we should work closely with appropriate international relief agencies and major exporting nations. By doing so, we will be able to target the use of stocks in excess of those needed for the Public Law 480 program and commercial sales. Too, if a multiyear commitment of reserve stocks can be made, developing nations will be better able to plan for purchases of agricultural products to improve the diets of their citizens.

American farmers are faced with other pressing problems that we may have to address. In particular, the cost and availability of farm credit are still pressing problems.

I recognize and welcome the fact that interest rates have come down in recent months. However, despite these lower interest rates, agricultural credit conditions are likely to be very bleak in 1983. Commercial lenders have indicated that almost 15 percent of present borrowers will not qualify for financing.

In addition, the eroding value of farmland has placed the security for $200 billion in farm debt in jeopardy. Federal credit programs need to be modified to prevent large-scale farm failures and foreclosures.

CONCLUSION

This bill is responsive to the critical needs of American farmers who today face a desperate financial outlook.

Current programs have not been effective in dealing with the severe slide downward in farm prices and income. I reaffirm the statement I made last year during debate on the 1981 farm bill: as ranking Democratic member of the Agriculture Committee, I will make every effort to insure that the Farm Commodity programs meet the objectives of providing stability to, and encouraging the development of, U.S. agriculture.

This bill is designed to meet those objectives, and I urge its enactment.

ADDITIONAL SPONSORS

S. 2859

At the request of Mr. DANFORTH, the names of the Senator from Rhode Island (Mr. CHAFEE), the Senator from North Carolina (Mr. HELMS), and the Senator from North Carolina (Mr. EAST) were added as cosponsors of S. 2859, A bill to amend the tariff schedules of the United States and to correct an anomaly in the rate of duty applicable to textile fabrics, articles and materials coated, filled or laminated with rubber or plastics.

S. 2942

At the request of Mr. COHEN, the name of the Senator from Missouri (Mr. EAGLETON) was added as a cosponsor of S. 2942, A bill to provide that disability benefits under title II of the Social Security Act shall continue to be paid through the end of the administrative appeals process, and that periodic reviews of disability cases shall be carried out only to the extent determined to be appropriate.

S. 3048

At the request of Mr. THURMOND, the names of the Senator from Montana (Mr. BAUCUS), the Senator from Florida (Mrs. HAWKINS), and the Senator from Montana (Mr. MELCHER) were added as cosponsors of S. 3048, A bill to amend Title 18, United States Code, to combat, deter, and punish individuals who adulterate or otherwise tamper with food, drug, cosmetic and other products with intent to cause personal injury, death, or other harm.

S. 3066

At the request of Mr. GLENN, the name of the Senator from Illinois (Mr. DIXON) was added as a cosponsor of S. 3066, A bill with regard to Presidential certifications on conditions in El Salvador.

SENATE JOINT RESOLUTION 240

At the request of Mr. BOREN, the name of the Senator from Louisiana (Mr. JOHNSTON) was added as a cosponsor of Senate Joint Resolution 240, A joint resolution to authorize and request the President to designate the week of January 16, 1983, through January 22, 1983, as "National Jaycee Week."

SENATE JOINT RESOLUTION 258

At the request of Mr. WEICKER, the name of the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of Senate Joint Resolution 258, A joint resolution to authorize and request the President to designate the month of December 1982 as "National Close-Captioned Television Month".

SENATE JOINT RESOLUTION 265

At the request of Mr. DENTON, the name of the Senator from Kentucky (Mr. HUDDLESTON) was withdrawn as a cosponsor of Senate Joint Resolution 265, A joint resolution to authorize and request the President to proclaim 1983 as the "National Year of Voluntarism".

CONCURRENT RESOLUTION CONCERNING AMERICANS MISSING AND UNACCOUNTED FOR IN SOUTHEAST ASIA—CONCURRENT RESOLUTION 131

Mr. HAYAKAWA (for himself, Mr. MELCHER, Mr. MCCLURE, Mr. THURMOND, Mr. SARBANES, Mr. PELL, Mr. LEAHY, Mr. MATTINGLY, Mr. FORD, Mr. BUMPERS, Mr. COHEN, Mr. LUGAR, Mr. CRANSTON, Mr. DECONCINI, Mr. HOLLINGS, Mr. DOMENICI, Mr. ZORINSKY, Mr. SASSER, Mr. GLENN, Mr. DURENBERGER, Mr. BRADLEY, Mr. PERCY, Mr. STENNIS, Mr. LONG, Mr. RUDMAN, Mr. KENNEDY, Mr. D'AMATO, Mr. RIEGLE, Mr. BRADY, Mr. LEVIN, Mr. INOUYE, Mr. BOSCHWITZ, Mr. LAXALT, Mr. TSONGAS, Mr. HUMPHREY, Mr. MURKOWSKI, Mr. WALLOP, Mr. BIDEN, and Mr. JEPSEN) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 131

Whereas locating Americans missing and unaccounted for in Southeast Asia and their return to the United States is, and should be, of primary concern to the Government of the United States and all humane nations and peoples;

Whereas there are currently two thousand four hundred and ninety-three Americans missing and unaccounted for in Southeast Asia, five hundred and fifty-eight of whom are presumed to be located in Laos;

Whereas the Government of Laos has recently indicated, by its reception of a visiting delegation of Americans from the National League of Families of American Prisoners and Missing in Southeast Asia, that the Government of Laos would assist in the humanitarian effort to locate and return Americans missing and unaccounted for in Laos; and

Whereas the United States Government is encouraged by this recent indication of cooperation on the part of the Government of Laos: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) reaffirms its commitment to locating Americans missing and unaccounted for in Southeast Asia and returning them to the United States;

(2) expresses its appreciation to the Government of Laos for its expressed willingness to cooperate in locating and returning those Americans;

(3) supports the President's actions to locate and return Americans missing and unaccounted for in Southeast Asia; and

(4) urges the President to respond, with all dispatch, to the indicated willingness of the Laos Government to cooperate in this humanitarian effort.

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President.

Mr. HAYAKAWA. Mr. President, recently, there has been some indication that the Government of Laos has become more receptive to our efforts to reach a conclusive accounting of Americans missing and unaccounted for in their country. As you know, during my 1981 visit to the ASEAN countries, I was able to enter the Lao People's Democratic Republic, the first such visit by a U.S. Senator in over 5 years. I met with their acting foreign minister to discuss this question and some possible remedies. I handed him the dossiers of five American servicemen and civilians who were known to have been lost in Laos during the Southeast Asian war with the full expectation that these, most likely, would be given little consideration. He accepted the files with the promise that they would be sent to the provincial authorities. We departed Laos very encouraged by the warmth of the visit and the promise of cooperation to help resolve these five cases. Sadly, despite subsequent correspondence, the Laotians have made no real effort to participate in constructive negotiations to determine the fate of the estimated 600 Americans missing in Laos.

I am disappointed and I am saddened by their inaction on this matter. This tragic issue encompass so much more than estimated numbers, case files and crash sites. We want to know about Janet Townley's father, a civilian crew member whose resupply flight disappeared over Laos in 1971. No traces of either the crew or the aircraft were ever discovered, let alone acknowledged. And this is true for the families of Edward Weissenback, Barton Creed, and Charles Shelton, as well as hundreds of brothers, fathers, and husbands who remain open case histories in DOD files.

However, I, once again, am encouraged by recent events which seem to show that the Lao Government accepts the sincerity of our intention to reach an honorable resolution of this matter. In September, a delegation from the National League of Families returned from a trip to Laos with reassurances similar to those I received in 1981 and reported on a new and cooperative attitude demonstrated by Laotian government officials. Not only did the Laotians make travel arrangements and schedule meetings, but, for the first time, permitted a delegation from the United States to inspect several crash sites in the outlying provinces. This, indeed, is a very promising development.

Although we must require more than gestures of gracious hospitality and good faith, I believe this willingness on the part of the Lao government to cooperate, however tentative, should be pursued in the hope that it is a concrete step toward obtaining some real results.

Therefore, I am introducing a concurrent resolution which urges the President to seek cooperation from the Laotians in this humanitarian effort. We must reaffirm our commitment to locating those Americans missing and unaccounted for in Laos and, most importantly, give the Laotians a clear and strong expression of our hopes for this endeavor.

Mr. COHEN. Mr. President, I rise today in support of the resolution which reaffirms this country's commitment to work with the Government of Laos in locating, and returning to the United States, the 558 Americans who are missing or are unaccounted for in that country.

During last month's Veterans' Day services in Washington, the Nation dedicated the first national memorial to those individuals who fought and died in the Vietnam conflict during the years 1959 through 1975. Those ceremonies represented a healing of the tragic differences which divided our country for over a decade.

Mr. President, prior to the dedication of the Vietnam memorial, many Maine veterans described their fear to me that the ceremony would be a token gesture that would signify not only the end of an era but the end of this country's debt to them and to their deceased and missing friends. It is my sincerest hope that this fear is unfounded. We must make sure that the dedication of that memorial marks a renewed commitment on the part of this country and this Congress, not only to the returning veterans, but to the families and friends of those people whose names are not on the memorial and who did not return from Southeast Asia.

Since the end of the Vietnam war, there has been little cooperation from the Governments of Vietnam or Laos in locating those Americans who are missing in their countries and in Cambodia. Within the last year, a Defense Department delegation and a delegation of Vietnam veterans have traveled to Hanoi and have pressed the Vietnamese for the fullest accounting in good faith of the missing Americans. There is hope that increased cooperation will be forthcoming from the Vietnam Government.

During Senator HAYAKAWA's visit to Laos in August of 1981, he secured a meeting with officals of the Laotian Ministry of Foreign Affairs and discussed with them the question of our missing in that country. Regretably, his efforts did not move the Laotian Government toward any meaningful efforts to secure the return of those Americans.

In September, however, a delegation from the National League of Families visited Laos and returned praising the renewed spirit of cooperation exhibited by the Laos Government toward

satisfying the league's efforts in locating loved ones. I believe that this cooperative spirit should not be ignored and that this Government should renew its efforts to work with the Laotian Government in the humanitarian effort to locate and return Americans missing and unaccounted for in Laos.

Mr. President, I am pleased to join Senator HAYAKAWA in supporting this resolution and urge that it be given prompt approval.

Mr. BRADLEY. Mr. President, I am proud to cosponsor this resolution reaffirming our commitment to locating Americans missing and unaccounted for in Southeast Asia and returning them to the United States. Many American families sent sons, daughters, brothers, and sisters, and husbands and fathers to Southeast Asia. Many came back. Some 57,939 did not. Some of those who did not return are missing and unaccounted for. We owe a full accounting to the patriotic families of these men and women.

Last month the Nation dedicated a memorial to those who served in Vietnam. An impressive and moving monument on the Mall near the Lincoln Memorial now stands in tribute to the Vietnam veterans and to the 57,939 who did not return. Their names are carved in the smooth black granite of the monument. Carved beside several of the names there appears a small diamond; this indicates the serviceman is still missing or unaccounted for. In the event the individual is accounted for, the diamond will be carved into a cross. In the event the serviceman returns home alive, the diamond will be carved into a circle.

Mr. President, the resolution we are cosponsoring here today is a reaffirmation of our commitment to carve crosses, perhaps even circles of life into the black granite memorial at the far end of the Mall.

I urge my colleagues to join us in this reaffirmation.

Mr. BIDEN. Mr. President, I am pleased to join in cosponsoring this resolution by the distinguished Senator from California (Mr. HAYAKAWA), and I shall join with him and other colleagues to press for prompt action by the Senate Foreign Relations Committee.

There are still 2,493 Americans missing and unaccounted for in Southeast Asia. Determination of their fate remains an important item of unfinished business in that conflict which troubles our conscience and affects our diplomacy. We cannot rest, nor should we, until the families and loved ones know the truth, and the missing and unaccounted for have been located and returned.

In recent years, this effort has been agonizingly slow, leaving much more to be done and many more questions to be answered. There is a new glimmer of hope, however, in an expression by the Government of Laos of its willingness to assist in the humanitarian effort to locate and return Americans missing in that country.

Since 558 of the missing Americans are presumed to be in Laos, this development opens a new opportunity for cooperation. By this resolution, the Congress would urge the President to respond favorably to the Laos Government so that we can hasten the day when all Americans have been located and returned.

Mr. President, we serve the memory of all who served in Vietnam by continuing to work for a full accounting of those still missing.

RESOLUTION COMMENDING THE GOVERNMENT OF ZIMBABWE—SENATE RESOLUTION 500

Mr. HAYAKAWA (for himself, Mr. JACKSON, Mr. GORTON, and Mr. CRANSTON) submitted the following resolution, which was referred to the Committee on Foreign Relations:

S. RES. 500

Whereas two Americans, two Australians, and two British citizens were kidnapped in Zimbabwe on July 23, 1982;

Whereas the Governments of the United States, Great Britain, and Australia have indicated daily their willingness to provide appropriate assistance to the Government of Zimbabwe to secure the return of the captives;

Whereas the primary responsibility in this matter lies with the Government of Zimbabwe;

Whereas the Government of Zimbabwe, together with ZAPU leader Joshua Nkomo, has urged moderation on the part of the kidnappers and ought to win the assistance of local villagers in locating the kidnappers;

Whereas the Government of Zimbabwe has demonstrated its sincerity by offering a substantial reward for information; and

Whereas these actions are important for ensuring the continued safety and eventual release of all the hostages: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the Government of Zimbabwe is to be commended for its ongoing efforts to protect the lives of the captives and to bring this incident to a positive conclusion; and

(2) the President of the United States should continue to be supportive of the efforts of the Government of Zimbabwe in this matter.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President with the request that he further transmit such copy to the Government of Zimbabwe.

Mr. HAYAKAWA. Mr. President, last July, six people including two Americans, Brett Baldwin of Walnut Creek, Calif., and Kevin Ellis of Bellevue, Wash., were kidnaped off a tourist bus in Zimbabwe. I am submitting today, with Senators CRANSTON, JACKSON, and GORTON, a resolution commending the efforts of the Zimbabwe Government and their continued pursuit for justice in this unfortunate incident.

I was recently in Zimbabwe and the occurrence of this kidnaping does not surprise me. The extent of dissident activity was upsetting especially when you consider its possible effect on Zimbabwe's future. Their Government is trying to bring this kidnaping to a safe conclusion. The country's citizens, and especially the local villagers, are being asked to report any information they have on sightings or the whereabouts of the kidnapers and their victims. Our State Department and local Embassy are keeping in constant communication with Zimbabwe officials to remain abreast of any newly learned information. In turn, the families of the two Americans are being informed of actions being taken to locate their loved ones.

We as a country, and the victims' families in particular, are very pleased with the efforts of the Zimbabwe Government. I am offering this resolution not only to let them know of our gratitude for their endeavors, but to reaffirm our support in this matter.

AMENDMENTS SUBMITTED FOR PRINTING

FEDERAL-AID HIGHWAY IMPROVEMENT ACT OF 1982

AMENDMENT NO. 4947

(Ordered to be printed and referred to the Committee on Finance.)

Mr. KASTEN submitted an amendment intended to be proposed by him to the bill (S. 3043) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes.

Mr. KASTEN. Mr. President, today I am submitting an amendment to S. 3043, The Federal-Aid Highway Improvement Act of 1982, to insure that every State receives a fair share of these highway construction funds.

In the past, the Federal highway trust fund has consistently favored some States at the expense of others by giving them a larger share of the Federal highway allotment. In my home State of Wisconsin, for example, only about 70 cents is being returned to the State for every dollar the State contributes. Under the new highway bill, Wisconsin's share would drop even further.

Mr. President, Wisconsin and the other donor States have sacrificed to see that our Interstate Highway System was constructed as quickly and economically as possible. Now the Interstate System is nearly finished. We can no longer subsidize other States at our own expense.

Wisconsin and many of the other donor States have high levels of unemployment. We badly need the jobs more money for the upkeep of our

roads and bridges will provide. We cannot afford to continue receiving 70 cents, or less, for every dollar we contribute.

My amendment is simple and straightforward. It would guarantee that each State receives a minimum of 85 cents back for every dollar contributed to the highway fund. Such a guarantee would allow every State to keep a fair share of the money distributed and would still allow for flexibility in determining priorities for construction and rehabilitation of our Nation's transportation system.

Mr. President, I ask unanimous consent that the complete text of my amendment be printed in the RECORD at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

At the appropriate place in the bill add the following new section:

SEC. . (a) Section 101 (a) of title 23, United States Code, is amended by adding at the end thereof the following new paragraph:

"The term 'Highway Trust Fund' means the fund established by section 209(a) of the Highway Revenue Act of 1956 (70 Stat. 397).".

(b) The first sentence of subsection (b) of section 104 of such title is amended by inserting "and subject to the limitation in section 158 of this title," after "in paragraphs (4) and (5) of this subsection,".

(c) The second sentence of section 144(e) of such title is amended by striking out "Funds" and inserting in lieu thereof "Subject to the limitation in section 158 of this title, funds".

(d) Chapter 1 of such title is amended by adding at the end thereof the following new section:

"§ 158. Minimum apportionment for States; use of portion specified

"(a)(1) The sum of all amounts apportioned with respect to any State in any fiscal year under sections 104(b) and 144(e) of this title shall not be less than an amount which is determined by multiplying 85 per centum of the amount described in paragraph (2)(B) of this subsection for that State by the ratio which the amount described in paragraph (2)(A) of this subsection bears to the sum described in paragraph (2)(C) of this subsection.

"(2) On the first day of each fiscal year, the Secretary after consulting with the Secretary of the Treasury, shall determine—

"(A) the amount which was appropriated during the preceding fiscal year to the Highway Trust Fund under section 209 (c) of the Highway Revenue Act of 1956 (70 Stat. 397);

"(B) the portion of the amount described in subparagraph (A) which is attributable to the taxes described in section 209 (c) of such Act which was received in the preceding fiscal year from each State; and

"(C) the sum of all amounts which were apportioned to all States during the preceding fiscal year under sections 104 (b) and 144 (e) of this title.

"(3) The Secretary of the Treasury is authorized to consult with the Secretary to carry out the provisions of this subsection.

"(b) The amount, if any, of the minimum amount apportioned with respect to any State in any fiscal year under subsection (a) of this section in excess of the amount which would be apportioned to such State in such fiscal year under sections 104 (b) and 144 (e) of this title without regard to subsection (a) of this section shall be expended for any Federal Aid Highway category.".

(e) The chapter analysis of chapter 1 of such title is amended by adding at the end thereof the following new item: "158. Minimum apportionment for States; use of portion specified.".

RADIO BROADCASTING TO CUBA ACT

AMENDMENTS NOS. 4948 THROUGH 4966

(Ordered to be printed and lie on the table.)

Mr. LEAHY submitted 19 amendments intended to be proposed by him to the bill (H.R. 5427) to authorize support to Radio Broadcasting to Cuba, Incorporated.

NOTICES OF HEARINGS

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. COHEN. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing before the Select Committee on Indian Affairs.

The hearing is scheduled for December 7, 1982, beginning at 2 p.m. in room 4232, Dirksen Senate Office Building. Testimony is invited regarding S. 2998, a bill to declare that the United States holds certain lands in trust for the Las Vegas Paiute Tribe; S. 2893, a bill to settle certain Indian land claims within the State of Florida; and, S. 2931, a bill to provide for the disposition of funds appropriated to pay a judgment in favor of the Cowlitz Tribe of Indians in Indian Claims Commission Docket No. 218.

For further information regarding the hearing you may wish to contact Timothy Woodcock of the committee staff on 224-2251. Those wishing to testify or who wish to submit a written statement for the hearing record should write to the Select Committee on Indian Affairs, U.S. Senate, Washington, D.C.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. McCLURE. Mr. President, I wish to announce for the information of the Senate and the public the scheduling of a public hearing before the Committee on Energy and Natural Resources to review current conditions in the natural gas market, including related proposals for modifications to existing law.

The purpose of this hearing is to explore current market conditions under existing natural gas law and the related regulatory structure to determine the nature and extent of any problems that are occurring, and to begin review of possible solutions to these problems. To that end, this hearing will also review several pending legislative proposals to modify existing law.

During the course of the hearing, the committee expects to receive testimony from a broad spectrum of witnesses, including representatives of gas producers, transmission and distribution companies, and industrial, commercial and residential consumers of natural gas.

The hearing will be held on Monday, December 13, 1982, beginning at 10 a.m. in room 3110 of the Dirksen Senate Office Building. Those wishing to testify or wish to submit written statements for the hearing record should write to the Committee on Energy and Natural Resources, room 3104, Dirksen Senate Office Building. For further information regarding these hearings you may wish to contact Howard Useem or Dave Doane of the committee staff at 224-4971, 224-5205 or 224-7144.

ADDITIONAL STATEMENTS

NASA'S TIMETABLE FOR SPACE TRAVEL ENVISIONS A PRODUCTIVE ERA IN COMMUNICATIONS AND OTHER TECHNICAL ADVANCES

● Mr. RANDOLPH. Mr. President, last month—appropriately beginning on Veterans Day—the National Aeronautics and Space Administration successfully completed its fifth shuttle mission.

It was the first operational flight of the Shuttle and its main objective during the 5-day flight was to deploy two communications satellites. The first commerical payload consisted of the ANIK C-3, built, owned, and operated by Telesat Canada, and the SBS-C, the third of a series of satellites owned by Satellite Business Systems, a private U.S. company.

For the first time the Shuttle carried a crew of four, including two mission specialists. The flight started transforming the Shuttle from a test vehicle into an operational carrier for routinely transporting people, satellites, scientific instruments and even, beginning next year, a scientific laboratory into space.

Five days before the Shuttle Columbia launch, NASA Administrator James M. Beggs spoke at the National Press Club on the future of space flight. In a scholarly and highly interesting discourse, he traced the development of space travel and projected the possibilities of productive space efforts through the end of this century.

In Dr. Beggs' words, the latest mission marks the "beginning for a whole new ball game in space." I ask that excerpts of his remarks be placed in the RECORD. I feel that this timetable for space travel as outlined by NASA is a

valuable guide to the future which should be shared with my colleagues and a much broader public.

The excerpts follow:

ADDRESS BY JAMES M. BEGGS, NASA ADMINISTRATOR

The space arena is no longer a spectator sport we watch from the bleachers. It is a place where soon there will be few spectators, but plenty of players and competitors. And it is a realm offering unlimited opportunities for business and industrial expansion to the end of the century and beyond.

There is intense interest in this mission from people in all walks of life throughout the country. For example, hundreds of county and municipal officials from nearly every state will come to the Shuttle landing on November 16 at their own expense to learn about how the technology developed for the Shuttle and other space age technology is being used and could be used in a practical way to help solve urban problems. Examples are advances in remote sensing satellites which could be used to monitor toxic waste disposal, arson detection sensors, financial processing software and the like.

The commercial use of space is nothing new. Satellites have been revolutionizing world-wide communications since the mid-1960s. COMSAT, developed as a joint government-industry corporation, returned its first dividend to its stockholders in the fourth quarter of 1970, and hasn't stopped paying dividends since. It is now a major player in a multi-billion-dollar industry.

The Space Shuttle, however, should trigger phenomenal growth in satellite services. Because the Shuttle will allow us to assemble, repair, maintain and checkout satellites in low earth and, eventually, in geosychronous orbit, satellites can now be made much larger and more complex and capable of performing more functions than are possible now. Moreover, using the Shuttle, it will be practical to assemble much larger antennas and reflector structures than those now in orbit. For example, in about 10 years personal communications satellites with multibeam antennas could be in orbit, capable of handling up to 25 million users of a wrist radio communications system.

The growth of communications satellite activity has been truly amazing. In 1972 we launched two domestic communications satellites putting a total of 12 transponders into orbit. By the end of this year there will be 357 North American Domestic satellite transponders in geostationary orbit. And we expect that number to grow to 1,250 by 1990 and to 2,500 by the year 2000.

Conservative estimates indicate that as many as 350 commercial communications satellites may be launched to geostationary orbit between now and the year 2000. By then, NASA-sponsored studies project, about one-third of the U.S. launch business, both on the Shuttle and on expendable launch vehicles, will be commercial communications satellites.

Other areas of space industrialization and commercialization are mushrooming from concept to reality at a rapid rate. They will offer greater commercial opportunities in the future as the number of Shuttle flights grows to a projected 55 missions a year by the end of the century.

These areas include processing and manufacturing of selected materials and products in low earth orbit; high resolution of land monitoring for better natural resource management and detection of new resources and high resolution monitoring of oceans for optimizing shipping routes, increasing yields of fishing fleets, and so on.

Space manufacturing and materials processing, though still in its infancy, is the area that may hold the greatest promise of true commercialization of space activity. Studies done for NASA indicate that this activity may account for 20 to 30 per cent of total non-federal commercial space activity by the year 2000.

The basic attraction of space for making products and processing materials is the vacuum and gravity-free environment it offers. In such an environment, heat convection and other gravitational effects normally encountered on earth in processing materials can be avoided. This holds fascinating prospects for metallurgists; for those interested in producing pure crystals for electronics and other purposes; for manufacturers of certain pharmaceuticals and, potentially, for a host of others.

Since the Shuttle started flying 19 months ago NASA has seen industry interest develop in this field in three broad directions.

First we have aerospace companies, who understand space and space transportation. They want to manufacture hardware to supply a service in space, such as a materials processing facility or a free flyer to lease to other companies for experimentation.

Secondly, we have joint venture companies, which have been started to provide other kinds of services to commercial firms. They are interested in processing or integrating satellities or providing launch services themselves.

The third category is composed of non-aerospace companies who are interested in understanding the unique space environment so they can use it on earth to make their products better.

The Soviet Union, the Federal Republic of Germany and Japan have been most active in pursuing these possibilities. It has been reported, for example, that Japan envisions a multi-billion dollar annual market for itself in space products by the 1990s, and that space-processed materials would make up a substantial portion of that market. The Soviet Union has conducted repeated, extensive experiments in space manufacturing on its manned flights over the past decade or so. And two groups of West German companies will conduct materials processing studies beginning next year with the first flight of Spacelab, the European-built laboratory that fits into the Shuttle's cargo bay.

In the United States we have had a fascinating development and one most promising for its commercial possibilities.

Under an agreement with NASA, Johnson and Johnson and McDonnell Douglas have pioneered an ambitious series of experiments in a process that goes by the rather arcane name of continuous flow electrophoresis.

On earth, gravity limits the quantity and quality of material derived from the process. But in gravity-free space, as we discovered on the last Shuttle flight, the process produces purer material and in greater amounts.

As a cooperative venture, NASA flew, free of charge, a small electrophoresis device developed by the commercial team. It operated to perfection, separating albumin into its pure constituent parts—several times purer than those produced on earth—and with a throughput better than 450 times that of operation on earth. Indeed, this was a case where the equipment operated even more efficiently than technicians had predicted using computer modeling.

This holds great promise for such products as Interferon and other drugs that could be used to treat various types of anemia, diabetes, hemophilia, emphysema and other serious, sometimes fatal ailments. Under their agreement with NASA, the partners plan seven more test flights and then hope to go into commercial production. Their goal is to have a small factory in space, perhaps anchored to a platform in orbit. The Shuttle would pay periodic visits to deliver raw materials and retrieve the product.

These companies hope to begin marketing space-produced drugs before the decade is out. On the 11th Shuttle flight. They plan to use the system to separate a sufficient quantity of a candidate drug to cover its entire program of clinical testing. Because the space-based system performed so well, the companies have calculated it will take only five days to separate all the materials needed for testing. On earth, the process would take six months using considerably more equipment.

Under a similar agreement another company, GTI, is producing a furnace for Space Shuttle metallurgical uses. The furnace would allow them to produce metal alloy samples in space to be sold to researchers for experimental purposes. And at least two other American firms plan experimental processing work on upcoming flights.

In his July 4 space policy statement, President Reagan called for "a climate conducive to expanded private-sector investment and involvement in space activities."

NASA is doing several things to fulfill that goal:

We are cooperating with Space Services, Inc. of Houston, Texas, which successfully launched the first privately-funded rocket two months ago by making rocket stages available to them and easing the requirements for SSI's use of government facilities.

We are exploring investment in a Delta class expendable launch vehicle operation.

We are exploring a private sector initiative to develop Atlas/Centaur expendable launches.

We are working with an advisory panel of the National Academy of Public Administration to explore ways to further develop our efforts to commercialize space.

We are looking at a private sector proposal to purchase a fifth Shuttle orbiter, and also encouraging private investment in advanced communications satellite experimental work and other joint endeavors with industry.

We are stepping up our marketing efforts to sell Shuttle services. Ariane captured five customers from us last year, one of which has now been recaptured by us. And by pointing out the unique characteristics of the Shuttle, such as its capabilities to repair, service, and retrieve satellites in orbit, we are making progress in many parts of the world. Mexico, and Australia have just announced they have selected the Shuttle over Ariane for four communications satellite launches in 1985.

NASA is a research and development agency. That is what our Congressional charter tells us to do and that is what we have done superbly over the past 24 years in aeronautics and in space and in partnership with industry and the university community. Indeed, it is this partnership that has made the United States the world's leader in aeronautics and in space technology.

NASA is not an operational agency. That is why we are organizing our marketing efforts to sell Shuttle services and Shuttle operations so that in the future it may be possible for a commercial, or even a semi-public entity to take them over.

And if we could get the resources to build one, by 1990, we would be operating continuously on a permanent space station supplied and serviced by the Shuttle. We would be fast developing an orbiting transfer vehicle to operate from the space station to geosynchronous orbit. And in about 15 years, assuming we had the space station in orbit, we would probably be experimenting with building large structures in space, such as power generators for the station, and, possibly for transmission back to earth.

The challenges ahead are great. But so are the opportunities. Studies we have done with industry project upper limit annual revenues from space industrialization at $68 billion (in FY '83 dollars) by the year 2010. Information services will account for the bulk of those revenues. Some will come from materials processing and space manufacturing. And we even see a small segment coming frm space tourism.

Business will be slow the first 20 years or so, because returns on investment in high technology take a while. But as engineers and scientists, both in government and in industry begin to develop the space infrastructure, the revenue curve will begin to increase at a rapid rate.

Industry is now beginning to come around to making Shuttle-related investments, and to committing dedicated people to Shuttle exploitation. And it is starting to use the Shuttle's advantages in product marketing.

The players are beginning to enter the game. And as Martin Buber once wrote: "Play is the exultation of the possible."

I think the possible is limited only by our resolution and imagination.●

AMERICAN FOOTWEAR INDUSTRY'S TRADE PETITION

● Mr. COHEN. Mr. President, I recently joined many of my colleagues here in Congress in signing a letter to Ambassador Brock regarding a petition filed by the American footwear industry under section 301 of the Trade Act of 1974. I commend the direction taken by the shoe companies in requesting the removal of a variety of foreign trade barriers that prevent our domestic companies from competing in world markets on a fair and equitable basis.

Barriers faced by potential shoe exporters include a tariff of 170 percent on footwear in Brazil, while the markets in Japan, Taiwan, and Korea are virtually impenetrable. At the same time, the United States has the most open market for footwear in the world resulting in a flood of imports, now accounting for 60 percent of the domestic market. Recent figures released by Maine's Department of Labor indicate that employment in leather and leather products declined significantly by 2,500 jobs during the past year, largely due to the effect of competition from foreign imports.

Despite the barriers which exist, many shoe companies throughout the country and in my own State of Maine are still able to export shoes. I am proud of Maine's tradition of producing high-quality shoes, and I am certain that more of these products could be sold abroad if these barriers were removed.

The petition filed by the nonrubber footwear industry provides an opportunity for the administration to show its commitment to the principles of free trade. I urge Ambassador Brock to accept the 301 petition and begin immediate negotiations for the removal of these trade barriers.

I submit for the RECORD the text of a November 26 letter to President Reagan for George Q. Langstaff, president of Footwear Industries of America.

FOOTWEAR INDUSTRIES OF AMERICA,
Arlington, Va., November 26, 1982.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: You may be aware that fifty United States Senators and more than 100 Members of the House of Representatives have signed letters urging Ambassador William E. Brock, the United States Trade Representative, to act on the petition recently filed by the footwear industry against eight countries and the European Community.

The petition, brought under Section 301 of the Trade Act, asks Ambassador Brock to negotiate a free and open world market in nonrubber footwear in order to deal with the massive diversion of these products into the U.S. market caused by the virtually impenetrable trade barriers thrown up by foreign countries.

If ever there was a case ideally suited to prove your newly enunciated free trade policy, and to test the willingness of our trading partners to cooperate in reviving the world economy, the action brought by our industry-labor coalition is certainly that case. Footwear imports are effectively barred from many other countries, including Japan, Korea, Taiwan and Brazil. The trade barriers in Europe divert footwear exports from these and other countries into the United States, while at the same time, American exports are denied access to foreign markets by tariff and non-tarriff barriers.

We sincerely believe that only a free and open world market in nonrubber footwear can correct the situation before this vital American industry is forced to the wall by unfair practices that have made footwear trade a one-way street which funnels global production into our country.

In your radio address on Saturday, November 20, you said: "Either free world countries go forward and sustain the drive toward more open markets or they risk sliding back toward the mistakes of the 1930's and succumbing to the evils of more and more government intervention."

Other countries have already succumbed to government intervention in international trade. We have been experiencing the results of that intervention for many years in our industry. Foreign government subsidies of footwear exports, combined with their barriers to footwear imports, have decimated our American companies and deprived our people of thousands of jobs.

Unemployment in our industry is nearly double the national unemployment rate. But even this frightening statistic does not begin to reflect the overall employment decline in footwear production.

In 1968 there were nearly 240,000 jobs in the American footwear industry, plus 120,000 more in supplier industries, for a total of 360,000 jobs. Today there are 130,000 jobs left in footwear manufacturing and an additional 65,000 in supporting industries. That means we have lost 165,000 jobs in this industry at a time when the nonrubber footwear market in America has remained substantially constant. Almost 20,000 of those jobs were lost in the past year alone.

Moreover, some 400 shoe factories have shut down in the United States since the 1960's and imports have been a primary cause of these plant closings.

As you know, our country is faced with the largest trade deficit in its history. Imports of nonrubber footwear contributed $2.4 billion to the U.S. trade deficit in 1981, a year when import penetration reached 50%. This year the import penetration is soaring past 60%.

In spite of the accelerating invasion of diverted imports, the nonrubber footwear industry in this country remains a viable industry, an important industry, and one well worth preserving. At retail, ours is a $9.5 billion industry. It accounts for more than $1 billion annually in payroll dollars in direct manufacturing alone. And it has some 300 companies operating nearly 700 plants in 38 states.

In addition to making a major contribution to the health of the national economy, our industry is the recognized leader in new manufacturing techniques and in recent years many of our plants have been thoroughly modernized to make them models of state-of-the-art technology.

We are confident you will agree that this industry, and the nearly 200,000 jobs that still depend upon it, should not continue to be savaged by the increasing diversion of world footwear production into our market. The call of our industry-labor coalition for a free and open world market in nonrubber footwear can be used as the spearhead to batter down trade barriers around the world.

Your Administration has a golden opportunity following the recent GATT ministerial meetings to test the efficacy of your newly reinforced free trade policy and to determine whether other nations will or will not cooperate in reducing barriers to trade.

I am confident you will agree, after a careful study of the facts, that the case submitted to Ambassador Brock by our industry-labor coalition would be the strongest and best test of your policy that you could possibly make. We respectfully request that you ask Ambassador Brock to accept our Section 301 petition in its entirety on or before the December 9 deadline and to immediately begin negotiations with the European Community and the eight countries named in the petition so that a free world market in footwear may be achieved at the earliest possible date.

Respectfully,

GEORGE Q. LANGSTAFF,
President.●

FEDERAL ANTITAMPERING

● Mr. EAST. Mr. President, the bipartisan support being given the Federal antitampering bill reflects widespread public concern over the threat of un-

lawful tampering with consumer products in the marketplace.

It is clear that increased penalties are necessary to protect the health and safety of American consumers against such criminal acts.

Conceded, this is a complex problem and there can be no guarantees which would furnish absolute protection against the type of mindless criminal acts that recently occurred in Chicago, but strengthened criminal penalties are a needed step in the direction of deterring and punishing such acts.

At the same time, as was pointed out by Yale economics Professor Paul W. MacAvoy in the November 28, 1982 edition of the New York Times, a rush to FDA regulation of product packaging could raise more questions than it answers. Professor MacAvoy's article titled "FDA Regulation—At What Price?" offers a penetrating analysis of the impact that hasty FDA action has often had and why new regulations in the market place, however well intended, are not the solution to the threat posed by consumer product tampering.

I ask that Professor MacAvoy's article in the New York Times of November 28 be included in the RECORD.

The article follows:

[From the New York Times Nov. 21, 1982]

FDA REGULATION—AT WHAT PRICE?

(By Paul W. MacAvoy)

In response to the Tylenol poisonings, the Food and Drug Administration on Nov. 5 issued new regulations for tamper-resistant packaging for over-the-counter drugs. The regulations followed weeks of investigation by the F.D.A., which established that the greatest danger to consumers comes from tampering with products after they have been placed on the retail shelf. Thus, regulators specified that new packaging should first and foremost alert the consumer that the container has been opened. Now that the alert is on, it is time to alert the consumer to excessive regulation.

Born of haste, in reaction to marketplace panic, the F.D.A. regulations went into effect without the benefit-cost analysis required by the Vice President's Task Force on Regulatory Relief. If the analysis had been undertaken, it would have shown that the new regulations raised more questions than they answered. Therefore, the benefit-cost analysis will be done here, on the back of an envelope.

For the regulations on over-the-counter drugs to benefit consumers, they must provide insurance against tampering with a value greater than its cost. That value is equal to the amount that consumers are willing to pay for increased security, and the cost is equal to the additional capital and material expenses required in changing packaging to meet the new stringent regulations. This insurance value can be estimated, if only very roughly, as follows: Value is equal to the probability of saving a life multiplied by the worth of the consumer's life saved.

Assume that Mr. or Mrs. Consumer considers the remainder of his or her life to be worth $1 million. (This is my most reckless estimate given that almost all the attempts at valuation of lives saved indicate that both consumers and voters act as if they value risk reduction at rates equivalent to $500,000 or less.) Then, with recent experience showing that one in 100 million packages is poisoned the insurance value is $1 million times the probability of one in 100 million. Thus, the value from the regulations at the time of purchase is one cent per package.

But the new requirements on packaging by the F.D.A. will cost from two to 10 times that amount per package.

The F.D.A. expects that drug manufacturing companies responding to the regulations will provide plastic or air-tight foil bottle caps, glued boxes, or plastic bubble packages attached to cardboard backing in which bottles will be contained. There is no specific F.D.A. requirement for any one of these types of packages, except that the manufacturing company bears the burden of proving that they are tamper-resistant.

The regulatory agency estimates that Federal tax and plastic seals will cost several cents per package. In addition; there are going to be costs of removing existing inventories over the three-month transition period, and long-term capital costs of new packaging machinery. Industry sources indicate that all of these costs are likely to be greater than the F.D.A. estimates, and could increase to as much as 10 cents per package. If they are only as much as two cents per package, then the consumer gets one cent of insurance value but pays two cents. And if they are as high as 10 cents, then the consumer gets a penny's worth of regulatory value at the cost of a dime. A dime per package comes to $200 million per annum.

Why, then, the new regulations? The agency implies that they are forced to regulate because of consumer demand for the tamper-resistant packages. But if these demands were insistent to the point that the market would clearly absorb the cost increase, then the manufacturers for the most part would voluntarily provide the heavier packaging. Regulation is not needed to respond to changes in consumer demands.

The fact is that the F.D.A. was spurred on in establishing its regulatory initiative by the trade association of drug manufacturing companies subject to the new regulations. No dragging of the producer out of the field of free enterprise into repressive regulation in this case. The argument was that F.D.A. regulations were required because in their absence state and local regulations would have proliferated and led to even higher costs of meeting different requirements.

This is the "mad dogs" argument known so well to every agency head—if such-and-such regulations are not put into effect, then the mad dogs will be loosed in the state legislatures to require something a lot worse. That wonderful old argument is always true to some extent, but is more often used as an excuse than as a reason for action. In this case, the evidence that eccentric state or local laws were proliferating is limited to Chicago, California and Massachusetts—the second and third noted for their past legislative eccentricities—so that the assertion that exclusive Federal regulation would solve a widespread proliferation problem is unconvincing.

That the regulated companies wanted the regulation is certainly an important reason. They not only prefer to be free of contradictory state regulatory standards, but also free of competition among themselves in responding to new market uncertainties. But eliminating competition in these circumstances is not a very good idea, particularly in working out a response to increased consumer concern about the quality of products.

The more variation in company reaction there is, the more likely that the best long-run combination of protective seals, bubbles and warnings will be found, and the competitive market provides that likelihood where a set of regulations with the specific and uniform time constraint and labeling requirement does not. That the companies wanted to be regulated is a poor reason for undertaking another F.D.A. foray into protective requirements.

There is an explanation but not a reason for these new regulations. Too much, too expensive protection is the long tradition of F.D.A. responses to disasters. This agency, by licensing drugs or prescribing food content, has had a dreary history of identifying more harms than actually exist. The now infamous drug lag by which American markets lack important pharmaceuticals found elsewhere in the world is product of this regulation.

The F.D.A. excessively delays the introduction of new products, or excessively regulates those on the market. This does minimize the risk of a harmful drug, but thereby precluding the development of more new drugs that might do a great deal of good. It protects the agency itself from criticism. New packaging regulations provide F.D.A. Administrator Arthur H. Hayes Jr. with strong testimony before his Congressional Oversight Committee to the effect that the agency reached with vigor, haste and maximum use of its jurisdiction.

What should be done? Nothing. Alternatively, the F.D.A. should require a cheap paper seal over every bottle top that tells the consumer to return that bottle if the seal is broken. Alternatively, Mr. Hayes should stop and view his benefit-cost analysis before responding to each psychotic killer with a new national regulation.●

BRITISH DEFER COMMERCIAL-SCALE BREEDER UNTIL NEXT CENTURY

● Mr. HUMPHREY. Mr. President, yesterday I entered into the RECORD an article describing how various European breeder reactor projects have slowed due to a lack of any urgent need to proceed and because of the technical and financial problems these projects face. We are deceiving ourselves if we think there is a major race to build a commercial breeder and that Clinch River is the best way to keep the United States in contention.

I would like to share with you today a recent U.S. State Department cable to Washington concerning the British program. This cable confirms Great Britain's recent decision to defer plans to construct a full-scale breeder demonstration plant until sometime early in the 21st century. I ask that it be placed in the RECORD.

The cable follows:

[Telegram]

DEPARTMENT OF STATE.

Tags: TNUC, ENRG, SCSA, UK.

Subject: Construction of commercial-scale fast breeder reactor to be deferred.

1. HMG announced the results of its cabinet-level review of the future of the UK's fast breeder program by the device of

having the Secretary of State for Energy, Nigel Lawson, submit a written reply to a question in parliament on November 29.

2. Mr. Lawson announced that the government would continue its development of the FBR but would defer plans for construction of a full-scale plant until early in the 21st century. The decision was taken in light of reduced projections for electric power demand and the low price and relative abundance of uranium on the world market. (Heretofore, UK nuclear authorities had been planning for a public inquiry on the commercial-scale plant to begin as early as the mid-1980's, with construction to start late in the decade or in the early 1990's.)

3. The statement confirmed that the UK had been conducting exploratory discussions with other countries on the possibility of cooperative development of a large-scale reactor, and said that such talks would continue. It also announced that the current manpower level devoted to the FBR would not be reduced through forced redundancies. (This seems to leave open the possibility of manpower reductions through natural attrition.)

4. Lawson's statement was attacked from two diametrically opposite directions. Some MP's decried the decision, saying that it would lead to a brain drain of nuclear personnel who would go to other countries where more vigorous programs were being carried out. Friends of the Earth issued a statement saying, "Mr. Lawson is plunging Britain into a plutonium economy without any public mandate."

5. Comment: The decision puts the UK program plan more in line with that of the U.S. and takes the edge off of reaching an early conclusion on the nature of a cooperative effort with the U.S., France, FRG, and/or Japan. The French may be more disturbed than others by the decision, but this will not be completely clear until negotiations (which had been suspended pending the government decision) resume. Deputy Secretary of Energy Ivor Manley went to Washington on November 29 to brief Deputy Energy Secretary Davis on the decision and presumably to assure the USG that the UK intended to continue negotiations. We have not yet received any feedback from these talks.●

CHEMICAL AND TOXIC WEAPONS

● Mr. QUAYLE. Mr. President, the evidence of Soviet use of chemical and toxic weapons is once again in the headlines. At a news conference early this week, the State Department presented some of the clearest evidence yet produced of direct, continuing gross violations of international law. This new evidence includes a Soviet gas mask from Afghanistan which is contaminated with trichothecene mycotoxin—the same poison used in yellow rain. This can leave no doubt whatsoever of continued Soviet use of chemical and toxic weapons in Afghanistan. The photographs of the young Hmong boy showing clear evidence of the effects of yellow rain are further proof of continued Soviet use in Southeast Asia.

I applaud the State Department for their continuing efforts to ferret out the evidence of these horrid Soviet crimes. However, I continue to be concerned about the unwillingness of the world community to acknowledge the Soviet actions for what they are—crimes.

I want to call the attention of each of my colleagues to the most recent report by the State Department on "Chemical Warfare in Southeast Asia and Afghanistan: An Update." The preface to that report contains a letter from Secretary Shultz which summarizes the horrendous conduct of the Soviet Union in the direct manner so sadly lacking in most of the international community.

Mr. President, I ask that the letter of Secretary Shultz be printed in the RECORD, along with an article from the Wall Street Journal of November 22, 1982, "The U.N.'s Second Year With Yellow Rain"; an editorial from the Wall Street Journal on the same date, "Poisoned Confidence"; and an editorial from the Wall Street Journal of December 1, 1982, "Tiptoe Through the Toxins."

The material follows:

THE SECRETARY OF STATE,
Washington.

To the Congress of the United States and Member States of the United Nations:

Chemical and toxin weapons are of special concern to mankind. Used against civilian populations, or even against soldiers with protective equipment, they can cause protracted and indiscriminate physical and psychological suffering and, as we witnessed in World War I, widespread death as well. For such reasons, the international community has outlawed the use of these weapons. The 1925 Geneva Protocol, one of the oldest arms control agreements still in force, forbids the use of chemical and biological weapons in war. The 1972 Biological and Toxin Weapons Convention prohibits the mere possession of toxin weapons. In an effort to extend such legal constraints still further, the United States—together with other countries in the Committee on Disarmament at Geneva—is seeking an outright ban on the development, production and stockpiling of chemical weapons.

I regret, then, to report that chemical and toxin weapons are nevertheless being used today in Laos, Kampuchea and Afghanistan by the Soviet Union and its allies. In March of this year, we reported on this subject to the Congress, the United Nations, and to the members of the international community. Our report, which contained a comprehensive and detailed compilation of the evidence available to the United States Government, was designed to bring the issue to the attention of the world community. In presenting it, we invited others to join us in examining the evidence and in confirming the truth.

These efforts have not led the Soviets and their allies to halt their illegal use of chemical and toxin weapons. Instead, they continue to deny the truth about their illegal activities. The world cannot be silent in the face of such human suffering and such cynical disregard for international law and agreements. The use of chemical and toxin weapons must be stopped. Respect for existing agreements must be restored and the agreements themselves strengthened. Respect for the dignity of humanity must be restored. Failure to achieve these goals can only have serious implications for the security of the world community, particularly for the security of smaller nations, like those whose people are being attacked. If such basic elements of human rights can be so fundamentally ignored, how can we believe any pledges to respect human rights?

All who would seek to promote human rights, and all who would seek to maintain the credibility of international agreements, have a duty to call world attention to the continuing use of chemical and toxin weapons, and to seek a halt to their use. It is for this purpose that the United States provides the following report.

Sincerely,

GEORGE P. SHULTZ.

[From the Wall Street Journal, Nov. 22, 1982]

THE UNITED NATIONS' SECOND YEAR WITH YELLOW RAIN

(By Barry Wain)

BANGKOK—If you're a Hmong hill tribesman in Laos trying to convince the world that someone persistently is trying to wipe you out with lethal "yellow rain," you know by now you've got almost no hope.

Probably the only certain way to collect "convincing" evidence is to take a direct hit, being careful to sustain serious, distinctive wounds from a yellow-rain attack while retaining enough energy to trek rapidly over the rugged mountains to Thailand before the symptoms disappear. The attack should be timed so that you reach Thai territory to be examined by a United Nations team briefly visiting the country. As you run for it, there's little point in scooping up handfuls of yellow powder from the corpses of your family and friends who didn't survive the attack; it won't be accepted as evidence because outsiders can't tell where you really found it.

That assessment is harsh but realistic, as a U.N. team winds up its second year of inquiries into the alleged use of chemical and biological warfare.

Appointed by the U.N. secretary-general on the invitation of the General Assembly, the experts are investigating U.S. government claims that Soviet-backed regimes in Laos, Cambodia and Afghanistan are using biochemical weapons againt resistance forces. The U.S. says it has found mycotoxins of the trichothecene group, a deadly poison that can cause massive hemorrhaging and vomiting, in several samples from Laos and Cambodia. The mycotoxins can't be produced in Southeast Asia but can be manufactured in Soviet laboratories, the government says.

BUREAUCRATIC TIMIDITY

The report filed by the U.N. group late last year was "unable to reach a final conclusion as to whether or not chemical warfare agents had been used." The General Assembly in effect sent the group back to try again. If this year's report makes much progress, it will be by chance. To almost nobody's surprise, the international bureaucracy is proving too rigid, timid and toothless to come to grips with the matter.

Maj. Gen. Esmat A. Ezz, head of the scientific research branch of the Egyptian armed forces and chairman of the U.N. panel, is fond of saying, "I assure you the group has spared no effort" to fulfill its assignment. In its own way, that's probably true.

But consider the U.N.'s methods. Members interview only those who come to them. For instance, the interviewers arrive at a refu-

gee camp and rely on leaders to summon anyone who has something to say on the subject. Sometimes they ask to see alleged victims and witnesses who have been listed in other reports. Where these persons have been resettled abroad, or aren't in the camp at the time, no effort is made to locate them.

All the accused—the Soviet Union and its dependent states, Vietnam, Laos and Afghanistan—oppose the probe, and none will cooperate with it, and since Vietnamese troops occupy Cambodia, the experts are unable to visit any country where chemical and biological warfare atrocities are thought to be happening.

The possible exception is Cambodia, or at least those narrow strips of it along the Thai border controlled by the Khmer Rouge, who were driven out of the capital, Phnom Penh, by the Vietnamese almost four years ago. The U.N. still recognizes the administration of what is known as Democratic Kampuchea, which is the Khmer Rouge in coalition with two nationalist movements.

The Khmer Rouge claim that Vietnamese forces regularly use toxic chemicals against them in the border zones. U.S. investigators tend to support them; they've found mycotoxin tracts in the blood of Khmer Rouge victims and on leaves and twigs.

Last year, the U.N. specialists didn't have enough time to accept an invitation from Democratic Kampuchea to visit border sanctuaries. It was extended to them again this year, with the suggestion that they arrive in the dry season, starting in October.

"We accepted the invitation in principle," says the U.N.'s Gen. Ezz. "Actually, we scheduled our visit to Thailand during this season . . . to go to Democratic Kampuchea. As a matter of fact, since there are allegations of continuous use, we felt it would be fruitful if we were informed about such attacks as soon as possible so that we could go right away to the site and see for ourselves."

In the meantime, they asked the Khmer Rouge for assurances about security and logistists, among other things. The Khmer Rouge didn't reply. So when the team returned to Thailand late last month, it refused to cross the border.

Local Khmer Rouge officials at Nong Prue, south of the Thai district town of Aranyaprathet, said they knew nothing of the team's request for an itinerary, made through U.N. Secretary General Perez de Cuellar. They urged the U.N. members to cross the foot bridge that spans the stream serving as the boundary, anyway. But the visitors played by the rules and conducted their inquiries—most correctly, but no doubt less productively—on Thai soil.

Gen. Ezz says the group interviewed "dozens" of Hmong who claimed to be victims of chemical attack and "lots" of Cambodians as well as Thai villagers understood to have been exposed to an unidentified spray. Among the samples it collected are leaves thought to contain chemical material and powder said to come from Laos. Potentially most revealing is blood that team members drew from two Hmong alleged to have been attacked by chemicals in their homeland only two weeks earlier.

Some of the samples have been sent for analysis in what Gen. Ezz calls "a neutral country," which he defines as one that "isn't a member of any pact." Although he tries to sidestep the question, he implicitly confirms that only the blood samples can have any direct bearing on the investigation. "It is premature to pass judgment," he says of the others, "but actually we were handed them." That means, as last year's report put it, that "since the group cannot ascertain the actual source of these samples, it cannot base its final conclusions on the results of such analyses."

The group can be considered plain lucky to have encountered, during a mere 15 days in Thailand, Hmong hit so recently—assuming that the two are genuine victims. Investigations over the past couple of years have failed to obtain a single positive reading from the blood of Hmong, presumably because the tribesmen usually take many weeks, even months, to reach Thai sanctuary. [But Amos Townsend, an American doctor, has obtained positive blood samples from Khmer Rouge rebels in Cambodia.]

The U.N. couldn't collect anything in Thailand that might have been used to deliver biochemical agents. Part of the reason could be that government and Vietnamese forces in Laos seem to have stopped using rockets, mortars and artillery rounds for yellow rain raids since early last year. They now drop gas, powder and spray on Hmong opponents almost exclusively from aircraft in what some Western analysts believe could be a disdainful concession to the international community's efforts to expose them. Aircraft leave no trace of the delivery method, making detection difficult.

Contradicting this theory, however, Vietnamese troops in Cambodia continue to use a full array of delivery systems.

In Pakistan, the U.N. collected a gas mask, part of a parachute, a fuse from an alleged chemical bomb, and bullets and a flechette claimed to be toxic. That the group got to Pakistan at all this year and interviewed Afghan rebels and refugees is a step forward. Last year it didn't have time to go there.

Gen. Ezz says it is premature to talk about definitive results when all the material, including outstanding analyses, still has to be evaluated. The group, which left Thailand Nov. 10 to return to New York, again will be hard pressed to complete its inquiries on time. Its final report has to be finished this month and submitted to the General Assembly before the current session closes in December. However, it is clear at this stage that only the Hmong blood samples can possibly achieve a breakthrough.

FINDINGS IN PAKISTAN

The group hasn't said much publicly about its visit to Pakistan Feb. 8-22. But in an internal summary of its proceedings, a copy of which was obtained by The Asian Wall Street Journal, it indicates it uncovered nothing startling.

Regrettably, only two countries have joined the U.S. in making submissions to the U.N. panel. One is Canada, which this year added three reports to the one it filed last year. The other is Democratic Kampuchea (in Cambodia), whose credibility is zero after the atrocities committed by the Khmer Rouge when they were in office during 1975-79.

[From the Wall Street Journal, Nov. 22, 1982]

POISONED CONFIDENCE

In his televised arms control address tonight, President Reagan is expected to propose that the Russians agree to some new "confidence building measures," known around the State Department as "CBMs." We don't know how deeply the president plans to go into this issue but we hope it is far deeper than some of the things that have been suggested, like modernizing the White House-Kremlin "hot-line" and arranging prior notification of missile tests.

As we have said here before, the American experience with arms agreements has left a lot to be desired. The world might be a far safer place today had the United States simply pursued the best available policies for defense of the West and let the Soviets follow their own course as well, which probably wouldn't have been much different from the one followed within the "arms control" context. On the other hand, there are some CBMs that would stand on their own merits. The most important we can think of is for the Soviets to stop testing poison gas on the primitive peoples of Laos and Afghanistan. Aside from simple humanitarian considerations and aside from the fact that this is a gross violation of international treaties, it might ease our worries—at least slightly—that they're planning to try the stuff on us. On that score, we can use all the confidence building we can get.

The Soviets have not shown much interest in this form of confidence building. Not only have their denials been weak and vague but the attacks have continued, the most recent we know of having occurred in Cambodia near the Thai border just a few weeks ago. This was particularly brazen because a U.N. team investigating the attacks was in the area at the time, our sources say.

The U.N. team, which is under the supervision of a Russian member of the secretariat, has shown a distinct lack of enthusiasm for its work and even less enthusiasm for making its findings public (see Mr. Wain's article nearby). Its most substantive report, containing eyewitness testimony on attacks in Afghanistan using "yellow rain" and other deadly substances, was made public on this page last June, the result of a "leak." We now learn that the team has further evidence, also not yet made public, which substantiates such accounts. Some samples of suspected poisons collected in gas attack areas of Southeast Asia last year have tested positive, we understand.

The team has just recently returned from the Cambodian border area where several sources tell us it was in close proximity to a yellow rain attack conducted by Soviet surrogates, most probably Vietnamese. We understand the team brought back blood and urine samples from victims. The U.N. team is due to make an official report on its findings in both Southeast Asia and Afghanistan within the next few weeks. We will be awaiting it with great interest.

Fortunately, it isn't necessary to depend on the U.N. team. The State Department, we're told, has recently obtained a gas mask, Soviet make, that was smuggled out of Afghanistan, presumably by Afghan freedom fighters. It is said to be covered by a yellow substance that has been identified as the fungal poison trichothecene mycotoxin, known as yellow rain when it is dropped from aircraft or released from canisters on the ground. It is extremely unlikely that this material could be manufactured today by anyone other than the Soviet Union.

Moreover, we understand that the U.S. now has blood and urine samples from Afghan freedom fighters exposed to yellow rain which show the presence of toxins. Finally, some tests of human tissues have shown positive indications of trichothecene, although we are not aware of the source of those tissues.

In short, the evidence continues to build and it grows more and more impressive. The use of this weapon is a blatant and persist-

ent violation of two arms control accords, the Geneva Protocol of 1925 banning the use of poisonous gases and the Biological Weapons Convention of 1972. There is no other plausible explanation than that the Soviet military, which is itself well-equipped to withstand poison gas attacks, has insisted on testing poisons as a potential weapon in an East-West conflict. Indeed, the failure to pull back on the use of this weapon once the attacks had been discovered suggests something even more ominous, that the Kremlin doesn't really mind having its potential adversaries know that it is becoming proficient with a new horror weapon.

It should be clear from this that it will take a lot more than a few superficial CBMs to offer much assurance that arms control talks are anything other than a way to lull the West into a false sense of security. It would be nice to be able to come to some other conclusion, but we can't.

[From the Wall Street Journal Dec. 1, 1982]

TIPTOE THROUGH THE TOXINS

The State Department's Monday news conference to present further evidence of Soviet use of poison gas was a clear success. The material was convincing, the reporters were impressed, the story got heavy play in newspapers and on television. But the presentation also betrayed State's ambivalence about giving this issue the foreign policy priority it demands. There remains a struggle within State between those who want to face the implications for arms control of a gross Soviet abuse of solemn treaty and those who do not.

The most striking evidence presented Monday was a Soviet gas mask, obtained near Kabul in September 1981, which was contaminated by a yellowish powder. Testing of the substance, as we revealed last week, showed the presence of trichothecene mycotoxin—the same poison identified earlier in yellow rain samples from Southeast Asia. The toxin was also found in the hose connections of another Soviet gas mask removed from a dead Soviet soldier in December 1981. Trichothecenes were identified in a vegetation sample from a yellow rain attack in Afghanistan in February 1982. The test results of these samples are physical confirmation of eyewitness reports that yellow rain is being used by the Soviet Union in Afghanistan.

Other chemicals besides yellow rain are also being used in Afghanistan. The U.S. continues to get reports of chemical attacks that cause victims' skin to turn blue-black after death, with extremely rapid body decomposition. U.S. scientists still don't have a clue as to what chemical could cause such symptoms.

Evidence of the use of biochemical weapons in Southeast Asia also continues to build. For the first time, analysis of blood samples from Laotian victims has detected T-2 mycotoxin and its metabolite HT-2. Autopsy results of a chemical attack victim in Cambodia also showed traces of the toxins.

A report by a U.N. team that has investigated the attacks is due late this week. It will add further evidence but, if our guess is correct, skirt any conclusion that would demand U.N. action. Nonetheless, U.S. and Canadian diplomats have had some success at the U.N. The General Assembly voted last Friday to call an emergency meeting of the signatories to the 1972 Biological and Toxin Weapons Convention. Its aim is to "establish a flexible, objective and non-discriminating procedure" to ensure compliance with the treaty and to verify complaints of violations. Moreover, the U.N. voted Monday to require the secretary general to establish a permanent investigation procedure, including a list of experts and qualified laboratories, to handle any further complaints after the current ad hoc investigative team disbands later this month.

Secretary Shultz, in a preface to the report the State Department presented to the press Monday, said: "The world cannot be silent in the face of such human suffering and such cynical disregard for international law and agreements. The use of chemical and toxin weapons must be stopped. Respect for existing agreements must be restored and the agreements themselves strengthened."

On the other hand, the low-ranking officer who conducted the news conference refused to acknowledge that the Soviet violations held implications for future arms control agreements. He insisted that the U.S. cannot suspend such negotiations simply because the Soviets have been caught blatantly cheating on a past arms agreement. In the catechism of some at State, the next agreement we reach will have tighter provisions for verification than the ones the Soviets slipped through on poison gas. And presumably, if this undefined verification process caught the Soviets cheating again, State would really do something about it rather than waiting to be prodded into action by private citizens and the press, as has been the case with yellow rain.

We doubt it. State finally has made the case that the Soviet Union is using poison gas. Its interpretation of that evidence still refuses to recognize the obvious.●

CLINCH RIVER BREEDER REACTOR

(By request of Mr. ROBERT C. BYRD, the following statement was ordered printed in the RECORD.)

● Mr. HART. Mr. President, the Senate will likely vote on whether to terminate funding for the Clinch River breeder reactor (CRBR) in the lameduck session. It failed, by a single vote, to kill the project before the recent recess.

I cannot understand why the nuclear industry continues to fall on its sword in support of CRBR. The utilities that originally agreed to share with the Federal Government a portion of the costs are now reluctant to fulfill their $257 million commitment—because breeder reactors make no economic sense.

Moreover, breeder reactors, because they promote the use of plutonium as an alternative to uranium reactor fuel, could seriously harm another important segment of the nuclear industry—the uranium miners and millers. The uranium industry currently suffers from a severe depression. Over 11,000 uranium miners have been thrown out of work, many of them in my own State of Colorado. The price of uranium has plunged to $17 per pound. Yet, environmentally conscious uranium companies, such as Colorado's Rocky Mountain Energy Co., cannot sell uranium for less than $40 per pound if they hope to break even.

Why should the Federal Government subsidize breeder reactors while demand for uranium drops and uranium companies go bankrupt?

This administration has adopted an energy policy supposedly dedicated to free market principles. Nuclear power generally, and breeder reactors in particular, should also have to meet the test of the free market—without massive Federal subsidies. Consistency demands that this administration not support a $10 billion demonstration project for a technology that will not become economically viable until the middle of next century, if at all. If it really wanted to promote nuclear power, the administration would support efforts to improve the safety and uranium fuel efficiency of light-water reactors.

Mr. President, the Wall Street Journal Monday ran an editorial that persuasively argues against continued funding for CRBR. I ask that it be inserted in the RECORD.

The editorial follows:

[From the Wall Street Journal, Nov. 29, 1982]

THE COSTS OF CLINCH RIVER

Senate opponents of the Clinch River breeder reactor may get another chance to scuttle the $8 billion project this week. A vote is expected on whether to delete funds for the reactor from the energy and water development appropriations bill, which will probably come to the floor Thursday. On their last try in September, opponents of Clinch River failed by only one vote to eliminate funding for the project, being built near Oak Ridge, Tenn.

One of the most crucial aspects of the debate has been cost. Since the program was proposed 11 years ago, cost estimates for the reactor have been revised six times and the latest General Accounting Office study, published in September, puts the figure at $8 billion or more, twice the administration's current estimate. Some critics of the program say that the total could rise to more than $10 billion.

Proponents of the project, meanwhile, have been playing fast and loose with their own figures. Senate Majority Leader Howard Baker sent out a "Dear Colleague" letter which stated that "the completion costs . . . will be substantially recovered, even under the most conservative profit and loss assumptions, by the $8 billion revenues from the sale of electricity over the life of the project." The Department of Energy even suggests it might make money.

This is in sharp conflict with analyses by other agencies. In June, the Tennessee Valley Authority reported that even under advantageous conditions, the net value of electricity produced over the 30 years of the project will amount to only $542 million (in 1981 dollars). The Congressional Research Service estimates that net revenues from the project over 30 years will total between $380 million and $1.7 billion (in 1982 dollars). And the GAO figures that the net revenues will be nearer the $380 million total. None of these studies suggests that—after deducting operating costs—the project will ever come close to paying for the cost of its construction.

Industry realizes that breeder technology won't be economical before the year 2030 (or later) and doesn't want to waste its money. That's why the taxpayers are being asked to foot the bill.

Conventional nuclear power technology and the availability of inexpensive sources of uranium are more than enough to meet our energy needs for the foreseeable future (if new construction wasn't so bottlenecked by bureaucracy). Government generally has no business in the energy market. We see no reason to change that assessment in the case of Clinch River.●

50 YEARS OF SEED POTATOES

● Mr. COHEN. Mr. President, at a time when we seem to hear a lot of bad news about the agricultural industry, a story of success is sometimes hard to come by.

In Maine, where agriculture, and especially the growing of seed potatoes is a vital industry, many traditions which were begun long ago are still thriving. More than 50 years ago the first crop of seed potatoes was harvested under a contract program, and today descendants of those farmers are continuing to harvest seed potatoes under the same type of contract. The contract is with Agway, a major farmer cooperative in the United States, whose name is synonymous with the potato industry in Maine.

The following article, from the Agway Cooperator, speaks of this tradition involved in the harvesting of seed potatoes. I think that present generations have much to be gained from the knowledge and experience of our forefathers, and I am pleased to share this excellent example with my colleagues.

The article follows:

50 Years of Seed Potatoes

In September 1933, Eastern States Farmers Exchange issued its first price list for seed potatoes grown in the rolling fields of Aroostook County, Maine. This month, descendants of the handful of farmers who grew those first seed potatoes are harvesting the 50th crop under the same type of contract program, now operated by Agway.

Such names as Barnes, Beckwith, Findlen, Marshall, and Thibeau have been synonymous with the Agway seed potato program for most of those 50 years. Twelve commercial growers—eight of them Agway contract growers for more than 30 years—produce 2,000 acres of seed potatoes near Presque Isle.

The growers themselves have a big voice in how the program is run—although they leave most of the marketing details to Agway. New growers proposed for the group must be approved by the other farmers. "They're proud of their program and don't want it to go downhill," explains John Lagerstrom, seed potato department manager at the Agway operation in Presque Isle.

"You don't become a good seed grower overnight, you grow up in the business," says Gary Richards, seed potato sales manager, pointing out that many of the growers are second and third generation.

Joseph P. Findlen, whose father, George P., was one of the original contract growers for Eastern States, has always been in the seed potato business. Now two of his seven sons are potato growers, getting a start as equal partners in the family business. One of the sons, Joseph H., has gone on to his own acreage, while Michael remains in the family operation.

Findlen says he plans to stay in the business actively "a couple more years, but I don't intend to get too far away after that. I'll stay around to tell them how to raise seed potatoes," he chuckles.

Gerald Barnes also learned the basics of growing good seed potatoes from his father, W. Glen, one of the early Eastern States growers. He is helping his son get a start in the business on some acreage of his own this year.

ONLY COMMERCIAL CROP

Potatoes are the only commercial crop grown during the short growing season in Aroostook County, which is in the northeastern corner of Maine. Planting takes place in late May, the potato fields are in full bloom for the Annual Maine Potato Blossom Festival at Fort Fairfield in early July, and the first frost hits before the end of August in some years. The vines are killed about this time to hold the seed potatoes to the maximum 3¼-inch size.

Everyone works during potato harvest in September to get the potatoes out of the ground before a hard freeze. Schools close as hundreds of people head for the potato fields. Barnes, who has two fulltime helpers year-round, adds 24 to 29 workers to harvest his 200 acres.

Oats, used as a rotation crop, provide a small secondary grain crop. The straw and legume undercrop are plowed under to enrich the soil.

Some growers vary their rotation crops. Dana and Bruce Barnes, operators of Barnes Farmes since their father, Ronald, retired in 1981, grew millet this year.

Howard Giberson is looking for a crop that will give a better financial return than oats, and planted some trial acres of soybeans this year. He is another grower who learned the business from his father. His sons, Eric, 13, and Scott, 12, help in the family fields and may become the second generation of Giberson seed potato growers.

CLEAN AND DISINFECT

Growing disease-free seed potatoes is a highly specialized business that calls for the antiseptic precautions of a clinical laboratory.

Seed from the Porter Superfoundation Seed Farm in Masardis, operated by the Maine Seed Potato Board, is grown by foundation seed growers who must meet rigid requirements in regard to disease and quality control. Their harvests become Generation I Foundation seed that is propagated into Generation II Foundation seed, grown by Agway growers for sale to commercial growers of eating potatoes.

All along the way, there are constant checks and tests for disease. Rougeing or inspection crews screen the fields regularly, looking at each of the 25,000 plants in every acre for virus disease, which can be spotted only by the color and conformation of the plant. Detecting the diseased plants takes a trained eye, a knack taught to new personnel by veterans. Diseased plants and their tubers are removed from the field immediately.

Seed potatoes have no tolerance for insects, so workers check the fields throughout the summer for aphids and recommend spray programs. Fields are sprayed regularly every five to seven days for blight—or more often if necessary.

Evidence of ring rot in even one plant or tuber will disqualify all of the seed potatoes in that seed source for market, since there is zero tolerance for ring rot in Maine seed potatoes. Lagerstrom, who also is a seed potato grower, emphasized that a good farmer routinely takes the same precautions that he would if disease had been found—cleaning and disinfecting every piece of equipment.

"Taking precautions to prevent disease is second nature to seed potato growers," says Richards. "They do the cleaning job once and then a second time to be sure it's really clean."

Contract trucks hired by Agway to haul seed potatoes are thoroughly cleaned and disinfected and marked with a dated notice before loading.

Disease prevention measures apply not only to equipment, but to workers, who walk through a disinfectant solution before entering potato storage areas.

In the 10-week shipping period, from mid-February through May 1, up to 40 truckloads, carrying 50,000 pounds of seed potatoes each, leave Maine every day to deliver seed potatoes to Agway customers all over the eastern United States.

VARIETIES AND ACREAGE

Thirty-five varieties of certified seed potatoes were grown in Maine in 1981 and Agway growers are raising 18 of those this year. How do Agway growers decide what to grow?

People such as Lagerstrom and Richards keep close watch of the markets to see what varieties are in demand—and sometimes do a little crystal ball-gazing to guess what the market will be two and three years ahead. They set the acreage and varieties for the growers.

"I trust Agway to tell me what kind to grow—what kind they feel will be marketable," says Delbert Beckwith, who is growing seven different varieties this year. Beckwith, a second generation grower, started with his father, John, now retired, who is "still at work by 6 A.M. on our busy days, helping where he's needed," says his son. A third generation of Beckwiths is in the business too—Paul has his own acreage and "Chip" is in partnership with his father.

Good farming practices and family ties to growing seed potatoes are also found with the other Agway seed growers, John and Sidney Bradley, Beryl Kenney, A. W. Marshall and Son, and Wayne Thibeau and Sons.

The same attributes apply to Agway growers Marion Sewell and Son, Rodney Sleeper, and John York, who grow Generation I seed for distribution to Agway's commercial seed growers.

Monthly meetings for Agway growers keep them up to date on what's going on in the seed potato business and give them an important voice in a unique partnership that has endured for 50 years.●

OPPOSITION TO ELIMINATION OF TOURISM FUNDING

● Mr. PRESSLER. Mr. President, I have recently learned that OMB has proposed to discontinue funding the U.S. Travel and Tourism Administration for fiscal year 1984. This proposal is absolutely outrageous.

To discontinue funding for the USTTA would in fact increase, rather than reduce, our actual budget deficit.

The USTTA is currently funded at $7.6 million. This is our only Government expenditure in overseas promotion of tourism to the United States. That investment is returned many times over in the form of over $1 billion in tax revenues from foreign tourism trade. Over $12.2 billion was pumped into our economy by foreign tourism trade last year, and the tourism industry directly created over 289,000 jobs.

These figures could be boosted even further if the USTTA is allowed to adequately promote U.S. tourism in foreign countries. Canada spends almost 40 times more than the United States in promoting tourism abroad, on a per capita basis; and the tiny country of Malta spends over 224 times what the United States spends. On the average, the developed countries of the world spend 36 times the amount spent by the United States. Their increasing share of the world tourism market reflects those figures.

Since 1976, the U.S. share of the world tourism market has declined by 2 percent. This decline represents a loss of approximately $2 billion in tourism receipts, and a loss of about 57,000 jobs.

If we are going to regain and increase that market, we must follow the successful examples of other countries in promoting foreign tourism.

Mr. President, I have consistently opposed unnecessary Government spending. I know how harmful the huge deficits are to our economy. I know how devastating our high unemployment rates are. And I know how badly we need to reduce our trade deficit. It is for these very reasons that I strongly oppose this shortsighted proposal to eliminate USTTA funding in the fiscal year 1984 budget. The increase in foreign tourism business that results from USTTA promotions will help reduce our huge budget deficits, create many new jobs, and narrow our ever-widening trade deficit.

In these harsh economic times, we should be taking steps to increase promotion of the U.S. tourism industry rather than accepting the shortsighted proposal of the OMB. Toward this end, I have been working closely with the Travel and Tourism Governmental Affairs Policy Council which represents the unified industry voice on Government issues of common concern.

I urge my distinguished colleagues to join me in opposition to this outrageous proposal.

Tourism has been treated as a second-class industry for too long. It is about time we began to treat it with the kind of respect and support that is worthy of its major contribution to the U.S. economy.●

SOLZHENITSYN SPEAKS TO THE WEST

● Mr. MOYNIHAN. Mr. President, during the congressional recess just ended, while many of us were tending to cares close to home, that first citizen of the free world, Aleksandr Solzhenitsyn, traveled from his present home in Vermont half way around the world to China. There, on October 23, after a private week-long journey around the island of Taiwan, he delivered a major address to the people of the Republic of China. As his message was intended also to be heard by all the free people of the world, I would like to bring it to the attention of the Senate, and the many readers of the CONGRESSIONAL RECORD.

I will not presume to summarize the message of Aleksandr Solzhenitsyn, except to note that he reminds us in powerful and persuasive fashion that the gruesome stories of freedom lost in Poland, in Cambodia, in China, in Cuba, are all chapters of the same story. Standing in that small portion of China that has remained free while most of the Chinese nation has been conquered by the absolute tyranny of the Communist Party, Solzhenitsyn asserts that the fate of the 18 million people on Taiwan is not distinct from the fate of the West. We ought not ignore the warning of Aleksandr Solzhenitsyn. Awarded the Nobel Prize for Peace in 1970, expelled from his native Russia in 1974, Solzhenitsyn came to the United States for the first time in 1975.

I had the good fortune and great honor to be present at his first speech to an American audience, in Washington, D.C., on June 30, 1975. As well as Solzhenitsyn's own remarks, I recall the introduction of the speaker by the late George Meany, who said:

* * * today, in this grave hour in human history, when the forces arrayed against the free spirit of man are more powerful, more brutal and more lethal than ever before, the single figure who has raised highest the flame of liberty heads no state, commands no army, and leads no movement that our eyes can see.

But there is a movement—a hidden movement of human beings who have no offices and have no headquarters, who are not represented in the great halls where nations meet, who every day risk or suffer more for the right to speak, to think and to be themselves than any of us here are likely to risk in our entire lifetime * * *.

But if they remain invisible to us, we can hear them now, for there has come forth from under the rubble of oppression a voice that demands to be heard, a voice that will not be denied.

That voice, Mr. President, is that of Aleksandr Solzhenitsyn, and he has recently raised it again. We would do well to pay it heed.

I ask unanimous consent that the complete text of an address by Aleksandr Solzhenitsyn, as translated from the Russian for the Washington Times, be printed in full at this point in the RECORD.

The material follows:

[From the Washington Times, Oct. 25, 1982]

WEST'S 'FEAR' SEEN A THREAT TO TAIWAN

(Editor's note: Soviet dissident Alexander Solzhenitsyn in a weekend speech in Taipei warned Nationalist China not to rely on the United States for its future.

The Nobel prize winner said that Americans have "succumbed to the general world trend to leave the Republic of China to its perils, to abandon it to its fates."

Taiwan must rely on itself for survival, he said.

In a lecture that was frequently interrupted by applause by an audience made up of mostly academics and students, the 65-year-old author also attacked the United Nations for ousting the Nationalist Chinese government from the world agency.

Solzhenitsyn first challenged the conscience of Americans in a controversial speech at Harvard in 1978, and in his Taipei speech on Saturday he now challenges the conscience of the world to face up to the evils of the communist world.

This is the full text of the lecture, translated from the Russian with the approval of Solzhenitsyn.)

For 33 years, Taiwan, I believe, has attracted, by its specific fate, the attention of many people throughout the world. I myself felt that way long ago. Three score countries have already fallen under the yoke of communism. Scarcely one of them has been fortunate enough to retain even a tiny patch of its independent national territory, where its state authority could continue to develop despite the disruption, and through comparison show the world the difference between itself and communist disorganization. In Russia, such a patch of land could have been Wrangel's Crimea. But lacking any external support and abandoned by its unfaithful former allies, it was soon crushed by the communists. But in China, thanks to a wide strait, a fragment of the former state became the Republic of China on Taiwan, which, for a third of a century, has proved to the world what heights of development could have been reached if the whole of China had not fallen under the yoke of communism. Today, the Republic of China on Taiwan differs from others in its development, its industrial achievements and the well-being of its population, thereby proving how logically the forces of a nation can be guided, if they are not in inimical hands.

It would seem that the population of our planet should clearly perceive such an instructive comparison and should have its eyes opened to see how peoples who escape communism flourish and how those who fall victim to communist tenets perish by the millions. The history of communist destructions in the Soviet Union, Poland and Cambodia are now known to all. The history of the millions destroyed in China, Vietnam or North Korea is yet to be revealed in detail, but many signs allow us to judge this history even now.

But no. It is free China which has had to endure and suffer from the greatest injustices and ignoble attitudes of other countries. The United Nations, long degraded to an irresponsible side show, disgraced itself by expelling from membership the 17 millions of Free China. The majority of countries on our planet treacherously expelled your country from the U.N., whose dele-

gates, adding insult to injury, whistled, jeered and shouted. The majority of Third World countries behaved like madmen who don't know the price of freedom but are themselves waiting for the kick of the boot.

For centuries the Western world has known very well the price of freedom. But with years passing and well-being achieved, it is less and less prepared to pay for it. The western people value their state systems but are less and less inclined to defend them with their own bodies. From decade to decade, the West has become increasingly senile and unable to defend itself. The betrayal of one country after another had already begun before the second world war. Afterward, no scruples were felt in abrogating the whole of Eastern Europe just for the sake of the West's own well-being. How easy it was to betray the government of Mikolaychik, how easy it was to withdraw support from one's ally Chiang Kai-shek. And soon we shall witness how one country will betray another for the price of surviving just a little longer. Should it be surprising that the majority of the frightened western countries are even afraid to sell you weapons for fear of angering Peking. That's how much their drive and concern for freedom is worth. Meanwhile, threatened Europe should understand your position better but is so cowardly that it fails to recognize that the Republic of China and other countries of Asia are themselves endangered. Just recently, the former premier of Japan declared that the arming of Free China would destablize the Far East. What more can be said?

They are all obsessed with the search for self-protection and the quest for a stand-in. So there emerged an attractive myth—that there are "bad" and "good" communisms. And out of such a myth grew the image of Communist China as a good-natured peacemaker. But should that be surprising—when in South Korea, which herself survived a Communist assault, there exists a myth that actually the Soviet Union is not directly hostile to them, not so much an enemy, not like North Korea. The South Koreans have also been doing their utmost to curry favor with Peking. Now they are hesitating about whether to give a defecting Red Chinese aircraft to Free China.

No, it is not out of short sightedness, not out of stupidity, that such myths are believed, but out of despair, out of the loss of spirit.

In a particular relationship to you is the United States of America. Up to this day, the United States provides the only outside guaranty restraining the Communists from attacking your island. But how difficult it becomes for the United States to remain faithful to Taiwan, how much has already been lost on the way. The Americans have also succumbed to the general world trend to leave the Republic of China to its perils, to abandon it to its fate. America moved to abrogate its diplomatic relations with the R.O.C. for what? For what fault of hers? Only to follow the futile western dream of gaining an ally in Communist China. America has restricted its connections with you, curtailed its military support and is denying you much of what you need.

What pressures have been exerted upon American presidents, urging surrender of Taiwan. Not all of them could bear the strain. Here we have a former president, just back from a visit to China, where he flattered his hosts by saying that "A strong Communist China is a guarantee for peace" and that America seems to be interested in a strong Red China. Such people in former years have governed the United States and there is no guarantee that another such person might not succeed President Reagan.

The United States is highly heterogeneous. There are many currents, of which the capitulatory tides are quite powerful. Extremely powerful circles are leaning toward betrayal of a free country in favor of a friendship with a totalitarian one. They gladly picked up the hypocritical offer from Communist China on "peaceful unification." Many American journalists cry from the housetops that Peking is now "bound by promises" to effect unification peacefully. They wanted to forget, and therefore successfully forgot, how many times the communists have already cheated. The experience of "governments in concert with communists" in postwar Eastern Europe has taught no lesson. This helpless experiment now is being conducted in Cambodia. Similarly, according to Kissinger's agreement, North Vietnam was "bound by a ceasefire"—until it set the day for the seizure of South Vietnam. And leading American newsmen reached such heights of stupidity as to write that the United States doesn't make mistakes. If Red China "breaks its promise" and seizes Taiwan by force—then—only then—America would be freed from obligations and could again start to deliver arms . . . to whom, then? . . . Yes, such delirium appears on the pages of leading American newspapers, and they don't realize what they are doing.

And thus the influential circles in the United States want to force Taiwan to accept capitulatory negotiations, to relinquish voluntarily its freedom and power.

What, then, does Communist China want from you? Certainly, it is eager to grab your blossoming economy, to plunder and devour it. After all that has happened in the 20th century, only shortsighted simpletons can trust Peking's promises that it will totally preserve your economic and social system, and even your armed forces along with some elements of freedom. But the main issue is not to take away from wealth, to steal the fruits of your hard work. The main thing is that the communist system does not tolerate any deviation in anything or anywhere. Not even the wealth of your island is important, what matters is the deviation from their system. Communist China hates you for your economic and social superiority. For them it is not permissible that other Chinese should know that there can be a better life without communism. The communist ideology does not tolerate any islets of freedom. And so, with all their might, the communists want to cut off the sale to you even of defensive arms, to try to weaken your defense capability, to disturb your balance of power in the strait—and thus to bring closer the day of intrusion into your island.

In order to nurture the apathy of the United States, Red China plays speculatively on the negotiations between Peking and Moscow on matters of China-Soviet rapprochement. Such rapprochement is not make-believe. It is a very realistic perspective. Both governments have long had common roots, a fact which everybody seems to forget. As far back as 1923, a Soviet agent Grusemberg, alias "Borodin," prepared a communist coup, and it was he who promoted Mao Tse-Tung and Chou En-Lai to the highest positions in the party.

All that I am telling you—because of the deadly danger in which you find yourself—is understood well by many, if not yet by all. The threat is understood better here than in South Korea, where the young generation, the students, have quite forgotten the brief horrors of communist intrusion, so that the present freedom seems to them the present freedom seems to them not enough. But they will remember and revalue their present "nofreedom" when, after a command "hands back," they are driven under armed guards into concentration camps.

It seems to be fashionable in the West: to demand from all who stand in the forefront of defense, under machine-gun fire, to demand the widest democracy, and not just simple but absolute democracy, bordering on total dissoluteness, on state treason, on the right to destroy their own state and country—such freedom as western countries tolerate. Such is the price the West demands from each menaced country, including yours. But it seems that on your island the logical limits are known and will sustain your struggle.

There is another danger stalking you. Your economic successes, your living standards and well-being are of a two fold nature. These are the bright hope of all the Chinese people. But they also can become your weakness. All prosperous people tend to lose the awareness of danger, an addiction of the good living conditions of today, and consequently lose their will for resistance. I hope and I urge you to avoid such a weakening. Don't permit the youth of your country to become soft and placid, to become slaves to material goods, until finally they will prefer captivity and slavery to the struggle for freedom. That for 33 years you lived peacefully does not mean that you might not be attacked in the following three years. You are not a serene, care-free island, you are an army, constantly under the menace of war.

You are 18 millions, about as many as there are Jews in the world and your problem is of the same diminsions. But the Jewish problem attracts the attention of all states and has become one of the central problems of contemporary times. Comparing this with the uniqueness of your position, I don't perceive why the fate of Taiwan should not command the equal attention of the world.

But in today's world betrayal from weakness reigns supreme, and it is only your own strength upon which you can really rely. But there is also one more big and bigger hope: the peoples of the enslaved nations, who will not endure indefinitely but who will rise in one menacing hour—menacing to their communist rulers.

In your books you write that your island is "a bastion of national recovery." So be it. Not only defense, not only self-preservation should be your goal—but help, but the liberation of your compatriots suffering on the mainland, and first of all, free and courageous radio broadcasts.

It may seem, since no one comes to mind, that you have no firm, reliable allies, although they might appear in the hour of destruction. But you have the most formidable ally in the world: One billion Chinese people. Their sympathy is your moral and spiritual support. Just a few days ago, you had an encouraging signal from your compatriots through the act of defection of a Red Chinese air force pilot. Often I think of still anonymous prisoners of the Chinese gulags whose true story might not be told until the 21st century.

All the oppressed people, including the peoples of the Soviet Union, cannot rely on outside help, only on their own strength. At the best, the whole world would watch indif-

ferently, but possibly with a great deal of relief, if the mad rulers of China and the USSR should unleash war among them. I hope that won't happen. But in any case, let us testify here and now to the mutual amicability and trust between the Chinese and Russian peoples, to the absence of contraditions amongst them, even more, let us hope for a union of our long suffering compatriots against both communist governments. Whatever might happen between these two self-interested, anti-national governments, let us preserve mutual understanding, mutual compassion and friendship. Let's not allow them to blind our eyes and deaden our ears through fruitless national hatred.

We don't know how long the plague of communism will affect our world. One hundred and thirty-five years ago, who would have told the leaders of the then great empires that the tiny group of utopists—communists who organized themselves in Europe—would conquer them all with iron and blood and force to their knees their might and pride? They would not even have smiled at such a prophecy. Such forces could not then be seen anywhere. The strength of the communists was based on their drive and their cruelty, the weakness of the West was rooted in the absence of the will to fight.

We don't know what whimsical zigzags human history will follow. I have already expressed a supposition that would communism will outlive both Soviet and Chinese communist regimes and spread over other countries, many of which are still eager to experience communism. But in our two countries national common sense shall finally prevail.

Anyway, both our peoples have suffered too much, lost too much. They are already moving along the way of liberation and recovery.

RECORD OPEN UNTIL 5 P.M.

Mr. BAKER. Mr. President, I know of no other business to be transacted before the Senate. It is now a few minutes before 3 p.m. I believe it might be wise to keep the record open this afternoon for a little while. Therefore, I ask unanimous consent that Senators have until 5 p.m. today in which to introduce bills and resolutions, for the Senate to receive petitions and memorials, or for Senators to be authorized to enter statements in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL MONDAY, DECEMBER 6, 1982, AT 11 A.M.

Mr. BAKER. Mr. President, if no other Senator seeks recognition, and I see none, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 11 a.m., on Monday next.

The motion was agreed to and, at 2:59 p.m., the Senate recessed until Monday, December 6, 1982, at 11 a.m.

EXTENSIONS OF REMARKS

THE POSSIBLE DREAM OF TAIWAN

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 3, 1982

● Mr. McDONALD. Mr. Speaker, the former Governor of New Hampshire, Meldrim Thomson, Jr., addressed the council of the John Birch Society in San Francisco on Saturday, November 13, 1982. He addressed the council on the subject of Taiwan, a country he has visited on numerous occasions, and gave a very stimulating speech. In this speech, the traces the major accomplishments of the Republic of China and the history of the errors of U.S. policy in dealing with her. Governor Thomson's speech clarifies the muddy waters that typify our policy toward Taiwan, and is well worth the time it takes to read it. I commend it to the attention of my colleagues.

THE POSSIBLE DREAM OF TAIWAN

(By Meldrim Thomson, Jr.)

Today's leaders of the Republic of China in Taiwan are a hearty breed of freedom fighters, implacable in their distrust of communism, endowed with the wisdom born of bitter experience, and long-suffering in patience.

Seldom in the history of the world have free people worked with such foresight and industry. Certainly no others have wrought greater material miracles than the people of the Republic of China.

They fashioned impossible dreams for themselves in the late 60's and early 70's. These were called the Ten Major Construction Projects. To the astonishment of the world, they made these dreams come true.

Yet in the November 1st International Issue of Newsweek, the editors did an inaccurate feature derisively referring to the Republic of China as "Troubled Taiwan".

The editors also wrote sarcastically of "the impossible dream of the Republic of China's 'glorious return to the Mainland' ".

A vast majority of the nations of the world would love to have the economic troubles of Taiwan today.

While under the pressure of the worldwide recession, Taiwan's annual increase of 9.4 in its GNP during the past decade has been cut in half, still its economy is growing at almost four times that of the United States.

Unemployment on Taiwan is less than 2 percent compared to our record breaking unemployment of 10.4 percent.

Everywhere around the island, where 18 million people live in an area slightly larger than our state of Maryland, construction is booming. Roads, harbors and nuclear plants are being built and homes, factories, and hotels are springing up like the mushrooms cultivated in vast quantities on Taiwan.

The Republic of China has had a breathtaking vision, purpose and record of achievement during the past three decades.

In the 50's and early 60's this small Republic accomplished the greatest land reform in modern times to the benefit of all of the people.

In the years since then the nation has reduced the disparity in wealth from a ratio of 19 to 1 to 4 to 1, thus bringing the dream of self-sufficiency and personal well-being within the grasp of all of its people.

Many developing nations have had their three, five and ten year economic projects, but not one can point to the results achieved by the Republic of China in fulfilling during the decade of the 70's almost all of the Ten Major Construction Projects at a cost of $7 billion.

To emphasize the enormity of Taiwan's material successes, I would point out that in my state of New Hampshire we began the construction of a two unit nuclear plant of 2,200 megawatts in 1972. We will be lucky if the first unit is finished in 1984 and the second one by 1986.

One of Taiwan's Ten Major Construction Projects for the 70's was to build six nuclear plants. This was changed to four plants with the last two having two units each. Work on the first plant of 600 megawatts began in 1973. The plant was completed in 1976. Four units are now on line and producing 30 percent of the electricity used on Taiwan today. The remaining two are scheduled for completion by 1985.

Thus, the Republic of China will have built six nuclear units with a total capacity of over 5,000 megawatts in two years less time than it will take us in New Hampshire to build one unit of 2,200 megawatts.

In 1974 I visited Kaohsung, Taiwan's second largest city. There the government had just begun building a way for major ship construction and was clearing an adjacent swamp area for a steel mill.

Recently I visited the same site and saw a modern shipyard with 7,000 employees. In 1977 and 78 it delivered the third and fourth largest tankers in the world, each of 445,000 DWT's. In addition, the yard has turned out a number of bulk carriers and cargo vessels of all types. It is said that a number of frigates and other vessels are being produced there for the ROC navy.

The first blast furnace was operational in the nearby steel mill in 1976. Just February of this year a second blast furnace began spewing out molten iron. In the first ten months of 1982, more than a million tons of iron had been produced by this second blast furnace.

Compared to most nations, Taiwan's economy is on a dead run toward the twin goals of maximum productivity and profitability.

Yet none of these giant industrial strides takes into account a brand new program launched for the 80's of twelve new projects which it is estimated will cost when complete $10 billion.

Some scoffers say that the people of the Republic of China find themselves in a time of trouble. The marvel is that this government that dares to dream of a greater future for her people still finds the time to execute its dreams with such efficiency and dispatch.

Some critics suggest that despite her material achievements the Republic of China still feels very much alone—and very vulnerable. Here again, these malfactors of misfortune are wrong.

It is not so much vulnerability that the ROC feels as it is uncertainty about the future actions of those who claim to be her friends and allies.

It is known that the Republic of China now produces large quantities of small but highly efficient weapons. She has produced an excellent cannon capable of firing more than 30 miles, is building small naval vessels and has the capability of producing nuclear weapons.

What ever vulnerability the ROC suffers now is due entirely to the hesitancy of the reagan administration to authorize the coproduction by the ROC government and the Northrop Corporation of F-5G fighter planes recommended more than three years ago by our departments of defense and State to insure the ROC's air superiority over the Taiwan straits.

For four decades the Republic of China has had every right to be disappointed and even shocked over the official conduct of the United States toward her.

Considering the long list of defaults, derilictions and defections by the United States since the Cairo declaration in 1943, it would indeed be strange if today's leaders of the ROC were not deeply concerned as to what interpretation the United States will ultimately apply to the Taiwan relations Act which Congress passed on January 1, 1979.

At Cairo Roosevelt and Churchill pledged to support the return of Manchuria, Taiwan and Pescadores to China, then controlled by the Republic of China.

Roosevelt at that Conference said, "We and the Republic of China are closer than ever before, in deep friendship and unity of purpose". Time and events were to prove how inimical to the well-being of the Republic of China that friendship was.

By 1945, at Yalta, Roosevelt and Churchill offered to let Stalin take vast territorial and property interests in Manchuria in exchange for entering the war against Japan, thus pulling the rug from under the Republic of China.

This set the stage for Stalin's arming of the Chinese Communists with the weapons of war surrendered by an invasion force of more than two million Japanese.

There quickly followed the Hurley and Marshall fiascos in which both tried to force communists co-existence on Generalissimo Chiang. George C. Marshall with Truman's backing brought an effective end of U.S. aid to the Republic of China.

General George C. Marshall once referred to by Senator William Jenner as a man whose entire life had been a living lie, was the primary architect of the defeat of the forces of the Republic of China.

Later, the Republic of China which had been a founding sponsor of the United Nations, was driven from the world organization when America failed to take the same strong stand against ejection of the Republic of China that it did when Israel was similarly and more recently threatened.

The list of perfidies by the United States against the Republic of China is long. The ROC in response to our conduct through the years has been patient and forgiving.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

She deserved far better treatment from our government.

More humiliations and greater disloyalties at the hands of American pro-communist leaders were to beset the Republic of China.

In the midnight hour of history Jimmy Carter unilaterally abrogated our long-standing Mutual Defense Treaty with the Republic of China—an action which millions of Americans still believe was morally and legally wrong.

In its stead the congress quickly passed the Taiwan Relations Act which, among other things, guarantees to provide Taiwan with arms of a defensive character, meaning such defense articles and services as might be necessary for Taiwan to maintain a sufficient defense capability.

The big question now in the long-suffering experience of Taiwan in our mutual relationship is will President Reagan, despite the threats and harassments of Red China, act promptly and generously in fulfillment of the Taiwan Relations Act, the latest American commitment to the Republic of China!

We Americans should remember that if we pursue a course destructive to our allies we will eventually destroy ourselves.

Flimsy though the excuse may be, perhaps a naive America deserves some consideration for its failure to grasp the blunt fact of international life that communism in any form and wherever it exists is poison for the human race.

Long ago and after many patient efforts at co-existence with the Chinese Communists, Chiang Kai-shek learned that co-existence, negotiations and peaceful interludes with communists are the tools the communists cynically use to defeat their adversaries.

This prompted the Generalissimo to write in his book "Soviet Russia in China":

"If I could in any way enhance the vigilance and determination of those who are defending the cause of freedom and democracy, and bring home to them the single message that the 'peaceful co-existence' which the Russian and the Chinese Communists ask of any free nation or people is merely a one-sided proposition.

"They want you to accept their 'peace' that they alone can 'exist'."

In his great address before Congress after Truman had dismissed General Douglas MacArthur for his opposition to fighting a no-win war in Korea, MacArthur warned his fellow Americans—

"The Communist thrust is a global one. You cannot appease or otherwise surrender to communism in Asia without simultaneously undermining our efforts to halt its advance in Europe."

For too long our relations with the freedom loving people of the world have been blackened by the false prophesies of leaders like Nixon and their sycophanting lackies such as Kissinger.

We should never have followed their leadership into a treaty with Red China for the benefit of profit-hungry American businessmen.

How can we ever hope to find honesty and decency amongst the leaders of Red China who in the last generation clawed their way to power over the dead bodies of 70 million of their countrymen?

How can we so hypocritically recognize Red China which according to testimony before the Senate Foreign Relations Committee has today some 7 million souls in its gulags and at the same time sanctimoniously call on other nations to practice human rights?

Any patriotic American must wonder in horror at the truly treasonous acts of Nixon and Kissinger in promoting our recognition of Red China in view of the loss of American lives at the hands of Chinese Communist soldiers in both Korea and Vietnam.

It must be remembered that we are still technically at war with North Korea and presumably her allies in Red China. And Mainland China is reported to have spent $20 billion in support of our enemy, the North Vietnamese.

Again, a true patriot must ask why are we busy building up a communist nation like Red China while giving the back of the hand to our genuine friend and ally, the Republic of China.

For example, the Republic of China has built its tremendous new steel mill in Kaohsung without a cent from U.S. taxpayers, but for Red China, President Reagan found several months ago that it was to our national interest to loan $68 million to Red China for a new steel mill, with interest at below prime rate. Why?

I suggest that in the best interest of America, we—

1. Terminate our relations with Red China at once.

2. Call upon President Reagan to upgrade immediately our relations with the Republic of China as he promised to do in his 1980 campaign.

3. Encourage the establishment of Chinese American Birch Chapters here in the United States in the hope that through education we might encourage Chinese-American citizens to take a more active role in politics that support the Republic of China.

4. Step up our education of the American people to the evils of communism; and

5. Distribute bumper stickers calling on President Reagan to keep his Taiwan promises.

Let us remember that what a nation can dream, a nation can do.

The Republic of China has its great and possible dream of returning freedom to Mainland China. We Americans should enthusiastically help the ROC realize that inspiring dream. After all they have been one of our oldest and most faithful allies.●

CHILD NUTRITION

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, December 3, 1982

● Mr. MOFFETT. Mr. Speaker, I am pleased to present to my colleagues here today the views of two concerned constituents on child nutrition. The first statement, submitted by the Connecticut School Food Service Association, is a thoughtful argument in support of maintaining the Federal leadership role in child nutrition initiatives. The second piece on the child care food program, though brief, is a concise view from a service provider on the importance of the program. I commend to the House of Representatives these insightful comments on child nutrition in my home State of Connecticut:

CONNECTICUT SCHOOL FOOD SERVICE ASSSOCIATION,

September 8, 1982.

I am Marge McMahon, Legislative Chairman for the Connecticut School Food Service Association, which represents 1100 schools responsible for feeding 265,000 students daily.

You are aware that President Reagan proposes, as part of his "New Federalism" to repeal all the federal child nutrition programs (except W.I.C.) as of fiscal year 1988, along with a phase out of the Federalism Trust Fund. States may elect to assume the responsibility for child nutrition as early as FY 1985.

My organization opposes the turnback of these programs for many reasons best expressed in the House Concurrent Resolution 384, expressing the sense of the Congress that the United States should maintain Federal involvement in and support for the Child Nutrition Programs. This resolution is a bi-partisan effort submitted by Rep. Perkins and Rep. Goodling. We urge you, Congressman Moffett and Congressman Miller to add your names to this resolution and to vote for it when it reaches the floor of the House.

The major arguments for keeping child nutrition at the federal level include:

1. The nutritional requirements of our children are uniform. They do not vary from state to state.

2. Over 80% of the federal funds spent on child nutrition go to support free and reduced priced meals to poor children.

3. Like food stamps, the cost of the program is tied to the cost of food.

4. Medical experts agree, the federal programs have worked well, substantially reducing malnutrition.

5. The USDA Commodity program is an important part of the child nutrition program.

6. Considering the cutbacks in Federal funds for various educational programs many states will be hard pressed and, we fear, unwilling to fund child nutrition programs.

At the point in time when Nutrition Education and Training Programs, a relatively recent federal program, were beginning to see results as part of the total educational endeavor, funding has been eliminated.

Last year, due to the Reconciliation Act of 1982, Connecticut saw participation in all three catagories, free, reduced and paid meals, decline by 16% to 18% and some schools dropped out of the program entirely.

Finally, Governor O'Neill has responded to the National Governors Association, his opposition to the turnback of child nutrition programs to the state. His remarks, as well as those of the governors of North Carolina and Colorado are attached.

I thank you for this opportunity to communicate our concerns. Our children are our future.

STATE OF CONNECTICUT

Hartford, Conn., May 26, 1982.

Hon. RICHARD SNELLING,

Chairman, National Governors' Association, State Capitol, Montpelier, Vt.

DEAR GOVERNOR SNELLING: As you know, for the past two years I have been opposed to block grants primarily due to the fact that the funding level is not adequate to carry on the services presently offered to the citizens of this state.

Recently, I have received several letters from individual citizens and organizations

expressing their concern. Please find attached examples of their concern, i.e. a request from the officers of the Connecticut School Food Service Association and a letter from a Connecticut citizen. Their concern is that President Reagan plans to block grant the School Breakfast Program and Child Care Food Program this year and National School Lunch Program next year.

You certainly are aware of the nutritional benefits that the Child Nutrition Programs have offered our children since 1946. The continuation of these programs also has had a tremendous effect on the agricultural consumption within the United States. The plan to drop the Special Milk Program altogether certainly will further reduce the consumption of fresh milk and add to the storage burden of dairy products, such as nonfat dry milk, cheese and butter, placed on the federal government and the individual taxpayer. These products are available and provide good nutrition for the youth of this nation.

I would greatly appreciate your incorporating these suggestions and concerns in your planning with the federal government. If I can be of any assistance to you on this subject, please feel free to contact me immediately.

Sincerely,

WILLIAM A. O'NEILL,
Governor.

STATEMENT OF CARLEEN ZEMBKO, COORDINATOR, NANCY BAXER CHAPTER, CONNECTICUT FAMILY DAY CARE ASSOCIATION

The quality child care food program, in conjunction with the USDA, pre-school nutritious food for children, is being realized here among area day care homes. Providers are attending "workshops" on nutrition, and enjoy the publications provided by quality child care. I feel this program is necessary for our youngsters. When the program first started, it was without limitations. Now, with austerity, it is being trimmed. I pray the program will continue.●

HON. JACK BRINKLEY

HON. DAN MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. MICA. Mr. Speaker, I want to join my colleagues in a tribute to the service in the House of Representatives of Congressman JACK BRINKLEY of Georgia. The senior representative in the Georgia delegation, JACK BRINKLEY will be leaving the Congress this year.

I have come to know JACK BRINKLEY in our capacities as members of the House Committee on Veterans' Affairs. As a member of that committee, he has distinguished himself as an untiring advocate of those who have served in our Nation's military and who have fought our Nation's wars.

JACK BRINKLEY is a senior Member of Congress of stature and accomplishment. I will certainly miss his presence in the House of Representatives in the coming years, and wish him the very best in all of his endeavors.●

SUPERFUND INACTION

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, December 3, 1982

● Mr. FLORIO. Mr. Speaker, 2 years ago this month the $1.6 billion Superfund legislation, designed to begin immediate cleanup actions at the Nation's most dangerous hazardous waste sites, was signed into law.

At that time expectations ran high in the Congress, among environmental groups, and the general public that a serious and thoughtful solution had been advanced to come to grips with this significant public health and environmental problem.

However, rather than taking the action mandated by the Superfund law, the Reagan administration has taken a course characterized by inaction. The result is that our hazardous waste problems have been compounded instead of having been reduced.

The Philadelphia Inquirer published a thoughtful and forceful editorial this week summarizing the administration's failure to implement the Superfund law which I would like to recommend to the attention of my colleagues.

The editorial follows:

[From the Philadelphia Inquirer, Nov. 29, 1982]

EPA PLAYS A CRUEL GAME WITH SUPERFUND DOLLARS

There is $223 million in unobligated money currently sitting in the Superfund, the special account created by Congress to pay for cleaning up the worst hazardous-waste sites around the nation. By next year that amount is expected to grow to $400 million, according to an official of the Environmental Protection Agency, charged with administering the Superfund.

Until a flurry of activity just days before the fiscal year ended Sept. 30, the EPA had spent only $74 million of Superfund dollars for cleanup. Contracts amounting to an additional $51 million were signed as the fiscal year came to a close, but that work will not begin for some time.

Critics charge that the current administration at the EPA has not assigned hazardous-waste cleanup a high priority. Prompt, aggressive activity is vital.

No place is that surrender of public duty more apparent than in Missouri where as many as 25 sites have been heavily contaminated with dioxin—considered the deadliest chemical known to man. There is no "safe" level of dioxin. As little as one part per trillion is toxic, according to experts. Levels of dioxin in the Missouri soil have been measured as high as 0.9 parts per million.

The EPA's own studies show that adults exposed to levels far below those measured in Missouri face sharply increased risks of contracting cancer, as do children who ingest contaminated soil. If diluted in drinking water, for example, one ounce of dioxin could kill a million people, experts contend.

The dioxin was produced by two companies that went out of business in 1972. About 40 pounds have not been accounted for. Some of its was sprayed by a waste-disposal company on horse arenas and roads for dust control. It also was used for fill, in gardens and for road construction.

Federal and state officials have known about the presence of dioxin since 1974, but took no action until October 1979, when they re-examined the earlier data. EPA officials did not notify residents of the high dioxin levels until last month because, they said, they were unaware of the extent of the contamination.

That delay in acting prompted sharp criticism of the EPA by witnesses appearing before a House subcommittee examining the operation of Superfund. That criticism was directed at Rita Lavelle, assistant EPA administrator in charge of the Superfund.

Miss Lavelle thus far has declined to make any Superfund money available to help with the Missouri cleanup, which is estimated to cost $30 million. She has said that not enough information has been gathered to establish that dioxin levels pose a health threat to residents. More studies are needed, she said. Those studies will be completed in January, after which time she will decide whether to spend Superfund dollars on the cleanup.

Citing the EPA's own figures on the increased cancer rates to residents exposed to the dioxin, a toxicologist for the Environmental Defense Fund labeled the EPA's failure to act as "ignorance of almost unbelievable profundity. The question must arise: What does it require to convince this EPA that human health is in immediate danger?" asked Ellen K. Silbergeld of the fund.

In an interview last month, Miss Lavelle told Inquirer reporter Bob Drogin that "the name of the game is to get sites cleaned up." And in that regard, she boasted, "we've got a heck of a track record."

The facts do not bear out Miss Lavelle's assertion that the Superfund work is proceeding on schedule. Mr. Drogin, who carefully examined the EPA's own statistics, found that only four hazardous waste sites out of 400 had been cleaned up with Superfund money. Millions of unallocated Superfund dollars have been used temporarily to reduce the Federal deficit, giving the Federal Government little incentive to spend the money as it was designated.

In this year's budget, Congress cut the Superfund appropriation from $230 million to $210 million because of the huge surplus in the fund. (Most of the Superfund money comes from a surcharge on chemical manufacturers. The Federal Governemnt makes up about 12 percent of the total.)

In one regard, Miss Lavelle is correct. Her agency has compiled "a heck of a track record" on Superfund. That record, however, is so dismal it cannot go unchallenged. As written, the Superfund legislatin provides very little oversight by Congress. Critics of the program have called for a regular reporting requirement so that the EPA can be held accountable by Congress, and the public, for failing to live up to the intent of the law.

That would be a start. But, as Miss Lavelle noted, "the name of the game is to get sites cleaned up." Until that begins in earnest, the Reagan administration is playing a cruel game with the health and well-being of Americans unfortunate enough to be exposed to the deadly chemical wastes.●

SOCIAL RESPONSIBILITY OF DAYTON HUDSON CORPORATION

HON. MARTIN OLAV SABO
OF MINNESOTA
IN THE HOUSE OF REPRESENTATIVES

Friday, December 3, 1982

● Mr. SABO. Mr. Speaker, the American business community has a clear responsibility to contribute to the public good, not only through direct philanthropy, but also through good business practices. Private initiatives that benefit public needs also make good business sense.

The Dayton Hudson Corp., one of the largest and most successful retailing businesses in the country, has long been a leader in the area of corporate social responsibility. For 65 years Dayton Hudson has voluntarily contributed financially to the communities in which it is involved. I can assure you that the Twin Cities, the State of Minnesota, and, in recent years, communities throughout the Nation have benefited from Dayton Hudson's programs.

Dayton Hudson was recently honored as the first recipient of the Lawrence A. Wien Prize in Corporate Responsibility from Columbia University. The distinguished panel who selected Dayton Hudson from a host of candidates noted its strong tradition of 5 percent giving, innovative programs, and the quality of its efforts.

I am proud that Dayton Hudson is based in my district, in Minneapolis. I would like to share with my colleagues in the House the address made by William A. Andres, the chairman and chief executive officer of Dayton Hudson, when he accepted the prize at Columbia University on October 27 of this year.

The address follows:

CORPORATE RESPONSIBILITY: THE MARK OF PROFESSIONALISM

On behalf of Dayton Hudson, I am honored to accept this first Lawrence A. Wien Prize in Corporate Responsibility, and to be invited here to Columbia University to address this prestigious assembly.

On this important occasion, I am honored to represent our management and Board—past as well as present—for a number of reasons.

First, because of the important contribution Lawrence Wien has made to the business community's recognition of its responsibilities. Dayton Hudson and Lawrence Wien have both been involved in a long-standing effort to stimulate increased corporate philanthropy. And we're honored to be the first recipient of a prize bearing his name.

Secondly, we are honored because of the distinguished judges who selected Dayton Hudson from a nation-wide field of candidates. When you get the nod from such high-principled and hard-headed businessmen and women as Juanita Kreps, Irving Shapiro and Harold Williams—believe me, it's a bonus.

Thirdly, and most importantly, we are especially honored because Dayton Hudson was chosen not just because of our record of philanthropy, but because, in the opinion of the judges, our corporate responsibility efforts are well run. And because they are part of a well run and successful company.

Let me quote the judges' statement that was, for us, the frosting on the cake: They said, and I quote, "Dayton Hudson has done extremely well in managing its business . . . an indication that successful managements are sensitive to their social as well as economic constituents."

In saying that, the judges hit upon one of the key factors in our success: Corporate responsibility is more than a side-line at Dayton Hudson. It is an integral part of our business.

Indeed, I think it's impossible for a retailer to separate out where business interests end and where society's interests begin. And that, I submit, is just as true for other businesses, as well.

I know I speak for current management at Dayton Hudson when I say we are tremendously indebted to our management predecessors. They had the foresight to recognize that the health of our business is tied—for better or for worse—to the health of the communities where we operate. Our leadership position today, both in community circles and in business circles, owes a great debt of gratitude to their enlightened vision.

My purpose here today will be to share some of that vision with you, and to place it within the context of our business today, and our fast-changing world.

When I'm finished, I hope you'll conclude, as we have, that a well-integrated and comprehensive program of corporate responsibility is not only good for the "bottom line," it is the "bottom line."

Let's begin, however, with a clarification: When Dayton Hudson and corporate responsibility are mentioned in the same breath, most people think solely in terms of "philanthropy." Despite that fact, our definition of the term is much broader, and I will be talking about corporate responsibility in its broadest sense.

In saying that, I don't mean to downgrade philanthropy in any way. It has been, and will continue to be, an important cornerstone of our corporate public involvement program.

Although it is a legacy from past generations of management, the Five Percent Giving Policy is, I assure you, endorsed wholeheartedly by current management at Dayton Hudson.

It has survived the best of times, and the worst of times. During the economic downturn in 1974, the policy was given special scrutiny by both management and our Board of Directors, and it was re-affirmed as a sound business practice, one that's in the best interest of our shareholders. In fact, our officers, to a person, voted to cut other expenses, before cutting out or reducing our Five Percent Giving Policy.

Today, the policy continues to have management's blessing despite economic pressures, and despite the fact that our record growth puts our giving budget at a record level: Over $12 million dollars this year, including administrative costs.

You may be interested to know, as I was, that from 1966 to 1982 (the period we've been making our financial results public), we've contributed an estimated $72 million dollars to improve the communities where we do business.

And that doesn't count our first 20 years at five percent giving, when Dayton's was privately held, and didn't report its results. Nor does it reflect the first 29 years of the Dayton Foundation, which began in 1917. So our commitment to philanthropy has been at the very core of our existence for some 65 years.

But the point I want to make is this: We believe that even more important than what you give or how long you have given, is how you give, how you leverage those gifts with other resources and other activities, and how your giving program fits into your total business strategy.

Our giving program is part of a comprehensive program of corporate public involvement. And that program is part of a comprehensive effort to do business responsibly—and responsively. We think it's an essential element in a professionally managed operation, and that's certainly just as true of retailing as it is of any other business.

The fact that Dayton Hudson is in the retail business means we're in the business of serving the American consumer through fashion and value-oriented quality merchandise.

The key to success in retailing can best be summed up in one phrase: "Managing change."

As the customer's purchasing agent, the retailer must know, well in advance of the season, what the customer wants, and how those wants are changing. Then we've got to respond more quickly—and more efficiently—than the competition, when it comes to serving those needs.

At Dayton Hudson, we call this trend merchandising. It's a systematic process for testing customer reaction to new merchandise, and then identifying and tracking incoming and outgoing trends.

This isn't the time or the occasion to talk about trend merchandising. But what is relevant about the process is that our success in managing change in the merchandising areas has given Dayton Hudson a base for broadening the concept and applying trend management concepts to all aspects of our business—from trends in management styles, to trends in employee benefits, to trends in the overall strategic positioning of our corporation.

For trend management to work, there are two key ingredients: Awareness of change, and responsiveness to change. And that, ladies and gentlemen, is where a comprehensive program of corporate public involvement plays an important role.

When we're thoroughly involved in our communities—when we're investing not only philanthropic dollars, but the time and talent of our people, as well—it heightens our awareness, not only of what the needs of the communities are, but how those needs are changing.

That, in turn, helps us to meet those needs better, and it plays a significant role in broadening the vision of our professional management team. In short, it helps us manage change.

To illustrate how a comprehensive program in corporate responsibility fits in, strategically, let me describe two examples: B. Dalton's literacy campaign, and our recent Hispanic Symposium.

They are separate, unrelated illustrations. But together they will help describe the Dayton Hudson approach to corporate responsibility.

The first example is an effort that's turning into a full-fledged campaign on behalf

of literacy by B. Dalton, our national bookstore chain.

When B. Dalton management researched the needs of its markets, they found some shocking statistics.

More than 25 million adult Americans are functionally illiterate. In fact, some estimates go as high as 60 million.

Some 800,000 kids drop out of high school each year.

And tens of thousands more graduate without achieving basic skills.

What those figures mean for a bookseller is naturally of concern. But what they mean for society is of even greater concern.

Being functionally illiterate means that a person cannot read and write well enough to function in today's society. A person can't read well enough to complete a job application, or decipher signs, or take a driver's license exam, or shop intelligently.

During a 14-month assessment period, B. Dalton examined the issue of illiteracy and evaluated delivery services available to address the issue on the local, state and national level.

Internally, the people at B. Dalton asked themselves what they could do about this serious issue. They decided their response would be two-fold: To get more heavily involved in adult literacy training, with both volunteer time and money; and to get more heavily involved in programs to encourage young people to read.

In other words, B. Dalton decided to get active not only in trying to solve the problem, but in trying to prevent the problem.

As a result, literacy has become the primary focus of B. Dalton's giving programs. In 1982 alone, nearly a quarter of a million dollars will be invested in:

Literacy organizations in B. Dalton's key market communities around the country.

Model programs, long-range planning and management training . . .

And a national literacy network to stimulate awareness of the problem.

But the most important step B. Dalton has taken has been to identify the key component in delivering services to people who can't read, namely, volunteers.

The've begun an all-out campaign to mobilize B. Dalton employees, nationwide, to become individual tutors and community leaders for literacy in their local communities.

At its headquarters in Minneapolis, B. Dalton offers time off from work for training to be tutors, and they purchase the training materials for any employee who's willing to help those who can't read.

Even though the program is only a few months old, already the response of B. Dalton employees had been overwhelming. At headquarters, there's even a waiting list for the training program.

What's especially heartening, is that B. Dalton people at all levels have become actively involved in the tutoring program and other aspects of the literacy campain.

Everyone from sales clerks, to the maintenance man at corporate headquarters, to regional managers and vice presidents, all the way up to the C.E.O.

What this all adds up to is this: B. Dalton has put together a comprehensive effort that includes some important elements: First, a well-chosen and strategic issue (in a field where they have a special interest, concern and expertise); second, a commitment of financial resources; and third, a commitment of the time, talent and personal resources of their people.

We think it's an excellent example of an effective public involvement program, a program that makes sense for the business—and for society.

Incidentally, I might add that each of our businesses has selected its own areas of concentration—areas that make sense for their business.

Dayton's, our Minneapolis-based department store company, sees women as its major customer, so they focus their contributions and involvement in programs for women and girls.

Mervyn's (our California-based promotional department store chain), and Target (our "upscale" discount chain), both serve young families as their primary customer. So issues of concern to that group are the focus of their attention.

Likewise, each of our companies strives to focus its efforts, to maximize the impact of its giving and its community involvement. It's an approach that makes sense to us, and we think every business should choose its own field in which to invest its money, time and corporate expertise.

The second example I'd like to use today is a very recent one: The Dayton Hudson Hispanic Symposium held last month in San Antonio, Texas.

From the sound of it, you might think this was one of those nice image-building public service conferences—sponsored, perhaps, by an enlightened corporate foundation and attended by people who already know a lot about the subject.

Not so, in this case. This was an internal business conference, conceived for business reasons. It was planned by a corporate-wide task force and coordinated by the corporate development department at Dayton Hudson, which is the department that heads up our on-going strategic planning effort.

The symposium was attended by top executives from key areas in each of our eight operating companies, and corporate staff headquarters. Key people from marketing, advertising, personnel, strategic planning and community relations.

Plans for it grew out of our recognition of two facts: First, that the Hispanic population is growing in significance, especially in the strategic "Sunbelt" areas of the country. And, secondly, that Spanish-speaking citizens have some unique needs, not only as potential customers in our stores, but as potential employees and potential partners in the community at large.

Our awareness of Hispanic cultural differences had been heightened, first of all, because of our on-going commitment to be an affirmative action employer. And that commitment includes increasing the number of Hispanic employees beyond the 5,000 we already have.

But our sensitivities were really raised by the Dayton Hudson Foundation's funding of a Hispanic Leadership development program: a quarter-of-a-million-dollar commitment, over a 3-year period, to assist in developing some 500 Hispanic leaders in California, Texas, and Michigan.

Our involvement in that program heightened our awareness, but the numbers really drove home the significance of this population for our business.

If 1980 census trends continue throughout this decade, by 1990 Spanish-speaking people will represent 35 percent of the population in California, 32 percent in Texas, 22 percent in Arizona, and 50 percent in New Mexico.

Those areas are precisely where several of our operating companies are already doing business, and where almost 80 percent of Dayton Hudson's projected capital commitments for the next five years is targeted to go.

The result of the awareness and the planning was an intensive two-day experience in which some 40 Dayton Hudson executives were the "students," Hispanic leaders were the "teachers" and the San Antonio Hispanic community was the "classroom."

Our people not only listened to Hispanic elected officials and Hispanic community leaders, they toured schools and neighborhoods, as well. They saw for themselves the unique needs and unique traits of this special population.

The participants came away from the meeting with a new understanding of how those needs impact our business, and with a renewed commitment not only to market appropriately to the Hispanic community, but to recruit from there as well.

Apparently, the experience was mutually-beneficial. To illustrate, let me quote from a letter we received after the symposium from Andre Guerrero. He is the director of Ohio's Commission of Spanish Speaking Affairs, who served as a consultant in planning the conference. Even though it was a business conference, paid for as business expense, Mr. Guerrero called the symposium, "a unique gift to the Hispanic Community" because of the extensive involvement of Hispanics in the planning, and because of the openness and receptivity of our people.

"As with all good gifts," he said, "the giver also received from the experience. Dayton Hudson created a working environment with major sectors of the San Antonio community which is usually only developed over a much greater period of time. And the good will and trust established is something that could not have been purchased at any price, however intense a public relations campaign might have been."

My point is this: We gained far more than good will. We gained far more than an entree into the Hispanic community. Our biggest gain was that we broadened the perspective—we broadened the vision—of our management team.

And that, ladies and gentlemen, is absolutely crucial to effectiveness in business. To me, it is the mark of a professional executive, and the hallmark of a throughly professional organization.

Although I don't have any hard data to back me up, my personal observation is that the quality and effectiveness of a management team goes up as it becomes really involved in the community, as its members think more broadly about the world around them, and about the issues of the day; and as the corporation backs up that awareness and personal commitment with philanthropic dollars.

The talents we develop, the skills we develop, the special sensitivities we develop, all carry over to help us meet the business challenges that confront us every day. We think they certainly help us to manage better in this rapidly changing world.

At Dayton Hudson, we are throughly convinced that involved management is more enlightened, that enlightened management is more effective, and that enlightened management and enlightened giving are two sides of the same coin.

Our experiences in the community and in the business world confirm that view. Furthermore, we think it's a view that holds true for other businesses, besides retailing.

Granted, retailers must be espcially sensitive to the total community and to changes in that community. Thus, retailers have a

very real business reason for keeping their finger on the public pulse.

But, in closing, I would also have to ask: Is that not true for any business that depends on the public for its franchise to do business? Is that not true for any business that serves people? When it comes right down to it, is that not true for any industry?

Could it be that some of the problems currently besetting some of this country's major industries (industries now suffering decline)—could it be that some of these problems might have been lessened, had their managements been more involved in their communities, more sensitive to changes in society and more responsive to those changes?

Could some of the unsuccessful efforts to manage change be traced to lack of attention to broader issues, a lack of involvement in addressing the needs of society as a whole, rather than just the business?

Might not many of the changes have been more apparent to management, and management better able to respond, had there been more corporate involvement? More volunteerism, more philanthropy, more strategic planning with an eye toward the changing consumer, and more targeting of corporate resources into solving problems that affect the total society, and thus business?

Based on our experiences at Dayton Hudson, we think the answer to those questions is an unqualified "yes." Our business is healthier because of our efforts to be both responsible and responsive.

And we are extremely pleased that, in awarding us Columbia's first Lawrence Wien Prize in Corporate Responsibility, you have taken note of the connection between the two.

On behalf of the more than 70,000 employees of Dayton Hudson Corporation, on behalf of our management and our board of directors, thank you very much.●

EFFECTS OF INTEREST RATES AT THE GRASSROOTS

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, December 3, 1982

● Mr. HUBBARD. Mr. Speaker, one of my constituents, Rev. Jerry Hopkins, the pastor or Reidland Baptist Church in Paducah, Ky., has written me an excellent letter in which he stresses the adverse effects of soaring interest rates upon persons at the grassroots. Indeed, too many individuals have lost everything due to escalating interest rates—including their businesses, homes, educational opportunities, and much more for which they have worked throughout their lives. I believe my colleagues will be interested in Reverend Hopkins' comments. His letter follows:

REIDLAND BAPTIST CHURCH,
Paducah, Ky., September 17, 1982.

Hon. CARROLL HUBBARD,
Congress of the United States, House of Representatives, Washington, D.C.

DEAR SIR: There is a matter which I would like to bring to your attention having noted that you serve on the Banking, Finance and Urban Affairs Committee. High interest rates are very disturbing to me. Having some knowledge as a result of my graduate work at Eastern and the University of Kentucky of the nature of our economic system I find it contradictory to growth and productivity. We live in a consumer oriented economy and when consumption declines you have a dangerous situation. If people do not have money, they cannot buy products. If people cannot buy products, manufacturers are not going to employ or continue to employ people. If people are unemployed they will not have money with which to buy. This is a simplistic view of our situation, but I believe an accurate one. The automobile and housing industries are examples of this very problem. My question—what is being done to bring down these unreasonable rates?

I do not believe those who are financially secure, even wealthy, understand the plight of those at the bottom of society or near the bottom. I find it hard to take President Reagan's words seriously when I see little "cutting" in the White House regarding extravagance. These are not bitter words, but what I have come to feel from observation and listening to folks at the grassroots. It might be more helpful to give the financially oppressed and neglected a forum at which to speak. There are many sad stories of folks who have lost everything through soaring interest rates—businesses, homes, educational opportunities for children and much more.

Perhaps we might be able to talk at some point in the future about some of these issues. The mood of our time seems to parallel that of the 1920's, let's hope and pray that the conclusion will not be another 1929 and decade like the 1930's.

Sincerely,

JERRY HOPKINS.●

IMPACT OF NEW FEDERALISM

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, December 3, 1982

● Mrs. KENNELLY. Mr. Speaker, I rise today, to call to the attention of my distinguished colleagues some thoughtful testimony presented last September at a forum in West Hartford, Conn., held to discuss the impact of the New Federalism on the children of our State. I was most pleased to join my good friends Representative GEORGE MILLER and Representative TOBY MOFFETT in soliciting a variety of views on this important issue.

State and local officials, service providers, and other interested observers testified at this hearing. Time and again they pointed out the vital importance of caring for this Nation's children. Several of them made another excellent point which is well worth repeating. As we search for ways to slow the growth of the Federal budget, they said, we must be careful to look not only at the bottom line cost of the programs we authorize, but at their structure as well. We must carefully review existing programs to make sure they are structured efficiently. We must review them to make sure they meet the goals we have set for them and the needs of the people we intend them to care for.

I am grateful to St. Joseph College, host of last September's forum, and to the many service providers who took time out to contribute their thoughtful comments.

I include at this point in the RECORD several statements presented at that forum.

STATEMENT OF MONA FRIEDLAND, DIRECTOR OF PROGRAM DEVELOPMENT, WINDHAM AREA COMMUNITY ACTION PROGRAM

The Windham Area Community Action Program, Inc. is a private, non-profit action agency which administers three of the State funded day care centers in Northeast Connecticut.

Day Care budgets have always been tight. Federal funding through Title XX reimbursements to the State have enabled the day care centers to maintain an adequate adult-child ratio. During hiring freezes, which we have experienced several times over the past few years, staff support has been critically low, invariably affecting the quality of care at the centers. Cutbacks to this supplemental funding will force the States to raise additional revenue or reduce the number of day care slots available. Either way the impact will be greatest on those who are on the lower end of the earning scale and therefore have fewer options available to them.

Similarly, cutbacks in the Child Care Food Program in 1982 have resulted in reducing the number of meals which can be claimed and in some cases resulted in an increase of fees to parents.

It has been shown that the CCFP helps to keep the cost of child care down. When providers are reimbursed for the meals they serve, they do not pass this cost on to parents, thereby keeping child care costs at a minimum. For working poor families, particularly single parent families, reasonably priced day care allows them to continue to work and to stay off welfare rolls.

Continued, adequate funding of Federal food programs and Title XX funding will help to maintain quality day care in Connecticut. Please help to keep this vital service working in our communities.

STATEMENT OF ANN HORNE, EXECUTIVE DIRECTOR, THE SAUGATUCK DAY CARE SERVICE, INC.

Thank you for inviting our agency to your forum on September 8, 1982. We learned a lot and appreciated the chance to become more familiar with other Connecticut agencies serving children.

We strongly support Congressman Miller's resolution to create a Select Committee on Children, Youth and Families (H. Res. 421) in the House of Representatives. Children must be defended against the increasing burden of enormous cutbacks in federal programs. The New Federalism appears to have been brought to us courtesy of the nation's children.

In support of your positions and to emphasize the need for the proposed Committee, here are some facts and figures demonstrating the impact of 1981-82 budget cuts on people served by our organization.

We are a private, nonprofit agency serving families in Fairfield and New Haven Counties, through three programs:

(1) Our Family Day Care Network involves fifteen local state-licensed Family Day Care Providers, who earn their living in

their own homes, caring for children. Providers are chosen, continuingly trained and supervised by our staff, which enrolls children in care and offers limited financial assistance, funded by donation, to parents in need. (Working couples and single parents should have Federal financial help toward Family Day Care costs.)

(2) A Child's Place is our professionally staffed, flexible-time center serving children eighteen months through six years of age. The program is designed to meet part-time day care, socialization and cognitive needs of young children in a setting that promotes social, emotional, intellectual and physical growth.

(3) Our Nutrition Program serves about one hundred licensed Family Day Care Providers in our Network and in outlying towns. The USDA Child Care Food Program, through the Connecticut Department of Education, reimburses Providers for healthful food served to children in their care. Our agency enrolls, trains, supervises and gets reimbursement for Providers. It is the Nutrition Program which has been hard hit by budget cutbacks. Here are the figures. Reimbursements are never overly generous. For example, the average payment in 1981–82 was: 48 cents for breakfast, 94 cents for lunch or dinner, and 28 cents for snack.

In 1981–82, two installments of cutbacks affected our program. The first, set in motion September 1, 1981, decreases cents amounts spent to reimburse for each meal or snack. Levels varied slightly through both fiscal years, but the average reimbursement drop from one year to next per child per feeding was: minus 5 cents for breakfast, minus 3 cents for midmorning snack, minus 6 cents for lunch, minus 3 cents for midafternoon snack, and minus 6 cents for supper.

At a time of galloping information in food prices, a Family Day Care Provider is expected to feed each child on 23 cents *less* for a full day's food.

The second cutback was even more devastating to our children's nutrition. Beginning January 1, 1982:

(a) Day Care Providers' own children are no longer paid for unless eligible under the School Lunch Income Guidelines. This cuts off payments for food for one hundred twenty-one children of Providers in our program, which serves about seven hundred children each year.

(b) Providers are reimbursed for only two meals and one snack they serve to day care children, instead of three meals and two snacks, the previous maximum. A child in family day care full-time is assured of nutritious food only three-fifths of the time. This arrangement clearly discriminates against full-time day care children in favor of part-time children. It is in fact the children of working parents who are in family day care full-time; part-time day care is more often used by parents with volunteer or part-time work commitments, who may be assumed to be somewhat less in need of financial assistance in feeding their children.

Thanks for your concern for our children and your efforts to help us help them.

STATEMENT OF FRANCES ROBERTS DIRECTOR, OFFICE OF CHILD DAY CARE, STATE OF CONNECTICUT

I want to commend Barbara Kennelly, George Miller, and Toby Moffett for the excellent forum on children's issues at St. Joseph College last week. Since you indicated that written testimony can be forwarded to you for inclusion in the record, I am sending these comments along for that purpose.

I am Frances T. Roberts, Director of the Office of Child Day Care for the State of Connecticut, and I wish to add to the testimony of witnesses who appeared at the Congressional Forum on "New Federalism: Its Impact on Connecticut Children" held in West Hartford on September 8, 1982. You have heard excellent testimony on the effects which have already been felt and those anticipated of reduced funding for the programs for children which are so vital to their optimum development. My concern is, that as we seek to regain lost ground, we not lose sight of the fact that what we had before needed improvement. Welfare Reform was a recognized need in the 1970's under both Republican and Democratic administrations, and some of the proposals made at that time should be given consideration along with restoring the funding levels.

Specifically, we need to look at the objectives of the AFDC program, and decide whether the program is really designed to support families or to keep women out of the job market. If it is the latter, then we need to increase the flat grant and stop talking about getting these parents back to work, stop trying to design job training programs for them, and accept the fact that children will be raised by mothers with low self esteem, poor job prospects and little hope for the future. If on the other hand, we truly want to help these families get off of welfare and encourage the mothers to get jobs, we need to provide real incentives in place of the disincentives in the present policies; for example, permit working AFDC mothers to keep 50 percent of what they earn rather than the "30 and a third" formula, for example, $30 plus one third of earnings each month.

Second, and this applies to programs other than AFDC as well: establish income eligibilities for support services and then separate eligibility from the source of that income; that is, work or welfare. I am thinking of such supports as day care, medicaid and food stamps which an AFDC mother stands to lose if she is taken off of welfare because she is earning too much; thus she might be motivated to work less or not at all and stay on welfare to keep her benefits.

It seems to me that we have two very serious maladies to combat today. One is the attitude of the current administration in Washington which appears insensitive to the fact that the "safety net" has holes so large that children are falling through it. The other is the despair of the more liberal or progressive sector when it recognizes that the massive social programs of the sixties and seventies did not solve all the problems of poverty, racism, decay of the cities and other societal ills, and has no alternative strategy to offer. This despair must be replaced by a real commitment to reform the system as well as restore it to a humane level. Such a commitment should go beyond the band-aids and prevent the disruption of families and the loss of human potential that are inevitable in the present climate.

A RESOLUTION COMMENDING ST. PAUL'S CHURCH IN MOUNT VERNON, N.Y., FOR ITS ROLE IN THE DEVELOPMENT OF THE BILL OF RIGHTS.

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 3, 1982

● Mr. OTTINGER. Mr. Speaker, today I am introducing a resolution to commend St. Paul's Church in Mount Vernon, N.Y., for its significant role in the development of the Bill of Rights. I urge my colleagues to join me in recognizing St. Paul's, which is noted as the "National Shrine for the Bill of Rights," and is designated as a national historical site, and is part of the National Park System.

The history of St. Paul's parallels the development of our constitutional freedoms. Initially built in 1665, the church and its adjacent village green has been the setting for historical events which have greatly contributed to the development of our Constitution.

The event that made the church most famous, "The Great Election of 1733," led to the establishment of a free press in America.

The 1733 election for Governor of New York was announced by a notice posted on the door to the church. The election was corrupt and unfair, and prompted John Peter Zenger to publish the New York Weekly Journal which ran a full account of the local sheriff's corruption and the misdeeds of other colonial authorities. An attempt was made to suppress Zenger's publication, and the journalist was jailed for 9 months on charges of libel.

The ensuing trial acquitted Zenger and set a precedent in the courts for the establishment of a free press. Indeed, Zenger's trial is considered to be a major impetus for insuring freedom of the press in America.

St. Paul's Church has played other roles in our Nation's history. Ann Hutchinson took refuge in the church from those seeking to persecute her for her religious beliefs. The church served as a hospital for Hessian troops in 1776 and as a courthouse for some of our Nation's most brilliant legal practitioners.

Today St. Paul's Church stands as a living symbol of our freedoms and how they were shaped. I believe Congress should recognize the great contributions that St. Paul's Church has made to our Nation's history, and I urge my colleagues to support the resolution which I am introducing today.

I am including in the RECORD a text of the resolution:

H. RES. 618

Whereas Saint Paul's Church, in Mount Vernon, New York, has, since its founding in

1665, been the setting for historical events that have significantly contributed to the development of the Bill of Rights, including the first amendment guarantees of freedom of religion, separation of church and state, and freedom of the press;

Whereas the election held on the village green adjacent to Saint Paul's Church on October 29, 1733, and the subsequent attempt by the British Governor of New York to suppress the publication by John Peter Zenger of accounts of the corruption involved in such election, resulted in the trial and acquittal of John Peter Zenger and the establishment of a significant precedent for freedom of the press in the Nation:

Whereas Saint Paul's Church has been noted as the "The National Shrine for the Bill of Rights;

Whereas the importance of Saint Paul's Church to the Nation has been recognized by its designation as a National Historic Site in 1943, and its inclusion in the National Park System in 1980; and

Whereas December 15, 1982, the 191st anniversary of the incorporation of the Bill of Rights into the Constitution of the United States, is a particularly appropriate occasion on which to recognize the role of Saint Paul's Church in the development of the Bill of Rights: Now, therefore, be it

Resolved, that the House of Representatives hereby commends Saint Paul's Church, in Mount Vernon, New York, in recognition of its significant role in the development of the Bill of Rights.●

THE DISPOSSESSED

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 3, 1982

● Mr. MAVROULES. Mr. Speaker, in the weeks ahead as we strive to develop an answer to the country's economic crisis, I think it is appropriate that we be reminded of how our actions in this Chamber can affect the lives of millions of Americans.

This article was brought to my attention by a businesswoman from my district, Ann Sheinwald of Rockport, Mass. Ms. Sheinwald was moved by the poignancy of Mr. George Getschow's article in the Wall Street Journal and asked me to share it with my colleagues.

As we debate alternative solutions to the unemployment problem, each of us should consider the suffering of those who cannot find work.

The article follows:

THE DISPOSSESSED: HOMELESS NORTHERNERS UNABLE TO FIND WORK CROWD SUN BELT CITIES

(By George Getschow)

(*"They's movement now. People movin'. We know why and we know how. Movin' cause they got to. That's why folks always movin'. Movin' cause they want somepin better'n what they got. An' that's the on'y way they'll ever get it."*—JOHN STEINBECK, "The Grapes of Wrath." 1939)

HOUSTON.—Some 30 miles from the center of this sprawling Sun Belt city, on the banks of the San Jacinto River, is a community that came into existence some six months ago. It now has about 250 residents, most of whom came from other states, and is continuing to grow week by week.

Its name is found nowhere among real-estate ads, Indeed, it has no official name. Neighbors, however, call it Tramp City U.S.A. because its residents sleep in tents, cook on campfires and collect aluminum cans for a living.

Those who live here deeply resent being called tramps. Most are displaced families from depressed Northern states who have lost their jobs, exhausted their unemployment benefits and trekked south in search of work, only to find such work is no longer available. "We have no job, no money and no place else to go," says William Loveall, whose family drifted to the tent community from Detroit two months ago after their real-estate business collapsed and their savings evaporated.

DIRE STRAITS

Stirring a pot of beans simmering on his campfire, Mr. Loveall surveys the poor and tattered people around him and discusses reports that local merchants and homeowners regard the tenters as a collection of ne'er-do-wells. "A lot of locals think we love it out here," he says. "They don't realize just what a fix we're in."

Across the U.S., tens of thousands of families and individuals are in a similar fix. Not since the mass economic distress of the Great Depression, which drove the nation's destitute into tin-and-tent towns called Hoovervilles, have so many working-class people suddenly found themselves in such dire straits. President Regan has urged the 11.6 million Americans who are officially unemployed to "hang in there" until the economy recovers. But many of the nation's jobless have nothing left to hang onto.

A recent report by the U.S. Conference of Mayors says thousands of families have been evicted from their homes and are living in cars, campgrounds, tents and rescue missions. The report notes that federal welfare programs that would have once kept such families afloat have been sharply cut back and adds that many more of the nation's "new poor" will spill onto the streets after the 26 weeks of their unemployment benefits expire.

It is a situation that is affecting towns and cities across the country. In New York, officials say the city's five public shelters, now jammed with 3,700 people, won't be able to accommodate the 1,500 more expected this winter. In Detroit, a new 45-bed shelter was filled the first night it opened. In Cleveland, Depression-style soup kitchens that once catered to skid-row loners have been revived and expanded to serve whole families.

BITTER HARVEST

But nowhere is the ugly specter of the homeless poor more shocking than here in the Sun Belt, which is reaping the bitter harvest of unemployment from all over the country. "I swear it looks like 'The Grapes of Wrath' around here," says Virginia Cuvillier, director of Houston's Travelers Aid Society. In the last 12 months, the society has seen 22,000 transients, mostly from Indiana, Ohio and Michigan.

Lured by tales of unlimited employment opportunities and the refuge of warmer weather, the jobless are streaming into the "promised land" in groaning jalopies, packed with bedsprings and babies, in numbers that may exceed even the highest estimates of 50,000 a month. But in an ironic twist from the '30s, when tens of thousands of Okies fled their barren farmlands in the dust bowl for fruitless vineyards in the West, today's migrants are mostly Northerners headed for the now-sputtering oil fields of Oklahoma, Texas, Colorado and other states.

In Galesburg, Ill., for example, a city of about 35,000 hard hit by an epidemic of plant closings and layoffs, there are at least 900 vacant homes. "Hundreds of families packed up and headed for the oil fields." says Howard Martin, the director of Galesburg's Salvation Army. "They get there and find that the jobs have dried up, but they can't return because they have no homes or jobs to return to."

"DON'T COME HERE"

Some Sun Belt cities have been trying to put out the message that the area no longer is the land of opportunity they once boasted about. "We now say to the unemployed people from Michigan, Ohio and Indiana, 'Don't come here, we don't have jobs,' " says Clyde Cole, director, of the Tulsa (Okla.) Chamber of Commerce.

But for many, the message doesn't get through. Tulsa now has several thousand transients stranded in campgrounds or under bridges. Downtown Denver has filled up with so many homeless people that they have begun overflowing into the prosperous suburbs of Lakewood and Arvada. And even in a smaller oil town like Abilene, Texas, whose population is about 104,000, there may be 5,000 people living in tents, abandoned buildings and cardboard boxes, says June Benigno, executive director of the Abilene mental-health association.

Outside Houston, the community called Tramp City U.S.A. was organized with the help of the Rev. Ray Meyer, a local preacher, and is located on state property. With assistance form six volunteers, Mr. Meyer retrieves food that has been discarded by grocery stores and vegetable stands, cleans it up and delivers it to the tent people. Residents provide their own tents.

Newcomers to the community are welcomed by Barbara Tolbert, recently appointed "town greeter" by Mr. Meyer because she and her four children have been residents for four months and she knows everyone well. Mrs. Tolbert offers the new arrivals some food, finds them a space to set up housekeeping and even helps them enroll their children in school. She also give them a manual entitled "How to Survive in the Out of Doors," written by Mr. Meyer.

A typical newcomer is Dave Johnson, who lost his job and home in Gary, Ind., after the steel mill that employed nim shut down. He arrived in Texas with his pregnant wife, Donna, two children and high hopes of finding work. "At home, all you ever hear about are all the jobs down here," he tells Barbara Tolbert. She replies: "I hate to disillusion you, but"—she points to a parking area filled with out-of-state license plates—"that's what everybody else here heard, too."

The problems facing these homeless legions in the Sun Belt grow apace with their numbers. Not the least of those problems is the frontier philosophy pervading much of the region that "you take care of yourself and your own," says John Hansan, executive director of the Washingtron, D.C.-based National Conference on Social Welfare. Because of that attitude and because the Sun Belt hasn't faced widespread unemployment and poverty before, Mr. Hansan says, public and private philanthropic agencies to help the poor and needy are in desperately short supply in many Sun Belt cities.

And the supply is getting shorter; some cities in the region are closing down private shelters, hoping the homeless will go away.

Phoenix, Ariz., for example, in the past year has condemned three shelters and several soup kitchens and has passed a slew of ordinances that, among other things, make it a crime to sleep in the parks at night or lie down on the sidewalks during the day. The reason for those actions was to make room for downtown renewal projects and to insure that "panhandlers and derelicts," as many citizens call them, wouldn't spoil the success of those projects.

The Arizona Republic, Phoenix's morning daily, and many of its readers supported the city's actions. "We Didn't Tolerate Prostitutes, Why Tolerate Bums?" the newspaper asked in an editorial headline. A letter to the editor from a reader made this observation: "If a stray dog is found wandering the streets, it is picked up and put to sleep. Unfortunately, we cannot put these 'human animals' to sleep, but we surely should not support and encourage their way of life."

According to Louisa Stark, a Phoenix anthropologist, the city's cold shoulder has been to push many of the city's 3,300 homeless out of private shelters and public parks into jails or "cardboard camps" outside the city. Wallace Vegors, assistant park manager of Lake Pleasant Regional Park, a county facility about 30 miles from downtown Phoenix, says that "lots" of people "are permanently camping" in the park and in the surrounding desert.

Others have settled on federal land near the city of Mesa, 17 miles from Phoenix. James Forrest, assistant director of the Mesa Chamber of Commerce, says the city has asked the federal rangers to get the homeless campers to move out, "but they chase them out one day and they come back the next." He adds: "As long as they don't bother anybody, we don't do too much about them."

The problem will doubtless worsen as Phoenix pushes ahead with its downtown redevelopment, Louisa Stark says. As new offices and shops replace cheap hotels and apartments, she says, "more and more people are becoming homeless because they can't find anything else they can afford."

Ambitious urban-renewal projects in southern California are also shrinking the supply of cheap housing. "Lots of longtime indigents are landing on the streets, but so are a whole new class of people—families from Michigan and Ohio that are flooding into the area," says Michael Elias, who operates a family shelter in Orange County.

There is little public sympathy for the county's 15,000 homeless, Mr. Elias says. The city of Irvine, for example, recently voted to build a $3.5 million animal shelter for stray pets. "But the city won't donate a dime for the homeless," Mr. Elias says, "because they see them sleeping under bridges and assume they must be bums."

LITTLE COMPASSION

Even in Houston, a relatively prosperous city in the heart of the Bible Belt, there is little compassion for the growing horde of economic refugees pouring in from out of state. Kay White, a social worker who has been criticized within her own church for using church funds to aid destitute transients, says: "A lot of churches will help their own people, but as far as the Yankees go, they aren't welcome."

Joseph Williams, a laid-off landscaper from New York's Long Island, knows the feeling. Stranded on the steps of the Catholic Charities relief agency with his wife, Cornelia, and their four young children, Mr. Williams, a Catholic, says the family has no shelter for the night. "The agency," he says, "told us if we were foreign refugees they could help us; otherwise we'd have to go someplace else. But where can we go? We don't have a car or money to pay for a hotel room. There's no work, and there's no family shelter here." (There is one free shelter for men; but most nights, it's so crowded that it has to turn away as many people as it can take in. The other shelters charge as much as $5 a night, an impossible sum for many.)

So after dark, when the downtown has been deserted by those more fortunate than they, the homeless drift in, filling the parks and fighting for space in abandoned buildings. One dilapidated downtown building is so full, in fact, that its tenants have hung home-made doors with padlocks to protect their occupancy.

The increasing presence of these ragged vagrants panhandling on the streets and loitering in the library (where they go to clean up and read their hometown newspapers), has aroused fear and anger among downtown shoppers and office workers. But the police say there is very little they can do about the situation. "How can you control it?" asks Patrolman Thomas Joyner. "The city is overflowing with these people, and it's getting worse every day. Besides, it's kind of hard to crack down on them when all they're trying to do is survive."

Patrolman Joyner adds that "there's been an upswing in petty crime in the downtown area," such as stealing food from grocery stores and breaking into vending machines. "If someone doesn't have a job or any money, and they've got families to feed," he says, "they're going to steal if they have to to feed them."

The problem is particularly acute here and in other Texas cities because what welfare assistance there is in the state is limited to "unemployables"—and most homeless adults, regardless of their circumstances, are considered employable. Furthermore, the homeless can't even get food stamps because they don't have a local address. "It's a horrible Catch-22," says David Austin, a professor of social work at the University of Texas. "Many of these homeless people are half-starved, yet they aren't eligible for stamps."

One such "employable" is Ronald Larson, a 30-year-old plumber from Chicago who a few months ago lost his job, his car, his savings and, finally, his home. His family moved in with relatives, and he hopped freight trains looking for work. Now he finds himself standing in a church-sponsored soup line in Houston with 200 other homeless men, women and children, suffering from hunger and depression and starting into a future that he sees as hopeless. "If it weren't for my family," he says, "I probably would have pulled the trigger long ago."

Some of Houston's homeless survive by scavenging garbage bins in the back of fast-food chains. Others sell their blood at prices of about $7 to $10 a pint. Two such donors are Kenneth Harris, a 48-year-old laid-off hotel manager from Portland, Ore., and his wife, Mary. "We can't find work. We don't qualify for any assistance. So what else can we do?" asks Mr. Harris as he stands in a waiting room with at least 300 other donors. To survive, he says, he has sold his car and even his wife's wedding ring. He adds: "My blood is all I got left."

The plight of the homeless has caused some to turn their children over to county welfare agencies. "It really pulls at your heart to see these parents give up their kids in order to provide a better life for them," says Carl Boaz, who runs Harris County's Child Welfare Emergency Shelter.

VIOLENT BEHAVIOR

Others turn to alcohol, violent behavior and even suicide. "They see new skyscrapers and shopping centers going up, and they think there's plenty of work here," says the Rev. George Grant, a minister from nearby Humble who has dealt with five suicides in a local tent community. When the homeless don't find work, Mr. Grant says, they react like a little child who has planned a magnificent birthday party but no one shows up. "It just blows them away," the minister says.

Another source of anxiety for the homeless is the threat of local vigilante groups who chase them off with shotguns and sirens. With local unemployment rising, Mr. Grant says, the vigilantes fear that they too might come to share the fate of their tent neighbors.

In "Tramp City U.S.A.," residents constantly feel the disdain of the local population. Some children refuse to go to school, having been called "river rats" by their more prosperous peers. Many of the families have also refused to go to church after one family in the community was turned away at a local parish for wearing dirty clothes.

The Rev. Ray Meyer tries to bring the Gospel to the homeless. But it isn't easy, he says, explaining: "These tent people are mostly middle-class people who've suddenly lost everything they've worked for, and they're angry at God." So rather than preaching, he sings songs, accompanying himself on his guitar. "Trouble has tossed you here and there, so now you don't even care," he sings. "You look for help at every place, but now there isn't anywhere else to go. Ah . . . but it seems like you're living in so much hell."●

VOTE NO ON GARRISON

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 3, 1982

● Mr. OBERSTAR. Mr. Speaker, the House will very shortly take up the fiscal year 1983 energy and water appropriations bill. At that time, we will have a clear-cut opportunity to demonstrate our willingness to cut unnecessary and wasteful spending. As we all know, there are many items and projects funded by the energy and water appropriations bill which are worthwhile and important expenditures. And, there are other items in that bill which are simply a waste of the taxpayer's dollar.

One of those unnecessary and wasteful items is the Garrison diversion project in North Dakota. Garrison, as you undoubtedly recall, is a Bureau of Reclamation project, designed primarily for irrigation purposes. Since we first authorized that project nearly 20 years ago, a number of serious, unanticipated problems have come to light.

We know now, for example, that the project will have a disastrous environmental impact on Canada. The Government of Canada and its citizens have been—and remain to this day—clearly opposed to construction of Garrison.

And since Garrison was authorized in 1965, we have learned that the environmental impacts—particularly the impacts on wildlife—will be profound and devastating. North Dakota, as we all know, has a rich and varied wildlife and waterfowl population. The State's special system of shallow lakes and wetlands provides critical breeding grounds for birds. I understand that North Dakota produces more ducks each year than any State except Alaska. And North Dakota provides a critical and ideal stopover for migratory birds. But much of the area the wildlife depends on could be destroyed or harmed if the Garrison project is built as authorized.

Mr. Speaker, we know that Garrison is a destructive project. We know it will cause great harm to the environment here and in Canada. We know it will cost the American taxpayer $1 billion—and probably a lot more than that—to build. Knowing what we know, there is absolutely no reason at all to proceed with construction. Garrison is only 15 percent complete. If we stop funding now, we can limit the amount of destruction and harm to the environment. Moreover, we can save the taxpayer a substantial sum of money.

I am not opposed to looking at alternatives to the authorized project. We may well find an alternative which is environmentally and internationally acceptable. I think we should look for one and while we do, we should not spend another dime on construction of any features of the Garrison project. We all know that these water projects sometimes gain a life of their own and that construction momentum precludes modifications or honest discussion of alternatives. This is not the case with Garrison—yet. Construction has begun again in North Dakota. This year we must act to alter the course of events for we may not have the same opportunity again.

I am going to vote to delete funding for fiscal year 1983 for Garrison. I urge my colleagues to do the same.●

CHALLENGES FACING POSTSECONDARY EDUCATION

HON. E. THOMAS COLEMAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, December 3, 1982

● Mr. COLEMAN. Mr. Speaker, in order to meet the challenges facing higher education in the 1980's, the Congress needs a clear understanding of the demographic, social, and economic trends which will affect our colleges and universities. Last month, the distinguished gentleman from Illinois, Mr. ERLENBORN, delivered a speech addressing those factors.

Mr. ERLENBORN's speech reflects the deep understanding he has developed of the problems and challenges facing higher education. We are indeed fortunate to have Mr. ERLENBORN as a member of the Postsecondary Education Subcommittee and as the ranking Republican of the full committee.

Mr. ERLENBORN's speech to the Association of American Publishers follows:

I am happy to be here today to discuss the factors affecting postsecondary education policymaking in Congress. These factors have placed Federal postsecondary policymaking in a new context and have created new challenges for the postsecondary education community to address.

Let me outline briefly what I consider to be the major economic factors. Then, after discussing each of these factors, I will give an assessment of the direction I feel Congress' response should go.

The first economic factor is the continuing need to reduce the Federal budget deficit. As we meet here today the Congressional Budget Office projects a deficit of $155 billion for fiscal year 1983. The size of this deficit means that even assuming a sharp upturn in the economy and other deficit reducing actions on the part of the Congress, pressure to reduce or freeze the cost of Federal programs will continue. This pressure is particularly important to consider in that other economic factors suggest that there may be a need for an expansion of Federal support for postsecondary education to address certain other economy-related needs, such as science and technology education.

The second economic factor is the increase in the cost of education. For the 1982-832 academic year, the average cost of a college education has risen by 11 percent. For community colleges, the increase has been 10.4 percent.

It now costs an average of $7,475 to attend a 4-year private institution, $4,388 to attend a 4-year public institution and $3,562 to attend a typical 2-year public institution. As these increases have occurred, Federal student financial aid has either been frozen or reduced.

Preliminary indications for the 1982-83 academic year suggest that minority and low-income enrollment will be below projected levels. Similarly, a shift in enrollment from 4-year to 2-year institutions also seems to be occurring.

The American Association of Community and Junior Colleges is projecting a 4-percent enrollment increase for the academic year just begun. The commonly offered explanation for this increase is that tuition hikes and cuts in student financial aid are leading many students to pursue relatively inexpensive credit hours at community colleges before transferring to complete their degrees at 4-year institutions.

Such a response to tuition increases is often unfortunate because the actual availability of student aid continues to be high. Harvard University, for example, reported a sharp drop in minority applications last year despite the fact that it continues to be able to admit all students regardless of financial need.

One obvious response to this trend of declining minority enrollment would be to reopen the floodgates of Federal spending for student financial aid. In increasing the aid available to all students, aid to needy students would be assured. Unfortunately, we can no longer afford such a blanket approach. Instead, Congress must target aid to meet specific objectives.

The first objective of Federal student aid must be to assure basic access to low-income and minority students. For these students grant aid in the form of Pell grants, supplemental educational opportunity grants and State student incentive grants has been of prime importance. The college work study program, which provides a Federal subsidy to institutions providing campus jobs for students, has also assisted these students. In fact, Census Bureau statistics show that the percentage of black high school graduates enrolling in colleges increased by a full 5 percent between 1967 and 1980.

Much of this progress is directly attributable to the creation of Federal loan and grant programs to assist students. In recent years, however, Congress has either frozen or reduced spending for grant programs for low-income students despite the fact that educational costs were escalating rapidly.

Coinciding with this no-growth policy for grant programs, was a literal explosion in Federal appropriations for student loans. The guaranteed student loan program, for example, received $945 million in appropriations in fiscal year 1979. By fiscal year 1982, the bill had risen to $3.07 billion. The effect of this situation, which reflects the greater political popularity of student loans over grants, is that the Federal commitment to promote choice among middle-income students apparently became a higher priority than promoting basic access among low-income students.

These facts suggest a direct linkage between the guaranteed student loan program and appropriations for grant aid. Clearly, Congress must continue to seek savings in the GSL program in order to provide greater support to low-income students.

The 1981 amendments to the GSL program, which require all students with adjusted family incomes above $30,000 to undergo a need analysis to qualify for a loan, was a much needed step in the right direction. These relatively minor changes saved the government over $500 million in the fiscal year just ended. This fiscal year, approximately $900 million more will be saved. I believe that additional savings proposals should now be investigated to reduce the growing annual cost of the loan program.

In approaching amendments to the guaranteed student loan program, Congress must be cautious. Legislative changes must be structured so as not to discourage students needing assistance for applying for loans. Similarly, any changes made affecting the repayment burden students must bear should be sensitive to the problem of unintentionally encouraging defaults.

A third economic factor is the likelihood of a reduced ability on the part of States to provide direct assistance to public institutions. Across the Nation, State funding for higher ecucation as a percent of State budgets is decreasing. The Wisconsin State University system, for example, received about one-quarter of all State generated revenues a decade ago. Today, the system receives only 18 percent.

The trend of static or shrinking State budgets is nationwide. The National Association of State Budget Officers reports

that 16 States have already revised their initial 1982-83 budgets by enacting across-the-board cuts ranging from 4 to 10 percent. An additional five States may make similar reductions in the next few weeks.

It is obvious that postsecondary institutions are going to experience continuing strains on their budgets for the next few years. How severe the pressure of institutions will be will depend in large measure on increases in utilities and other physical plan costs, the need to purchase new laboratory and computer equipment, and rising faculty salaries.

In several States, schools have had to look to tuition increases to meet these expenses. In Pennsylvania, an 18-percent tuition increase was announced for the 1982-83 academic year after a State court ordered a salary increase for faculty. The University of Missouri system has enacted a 11.2 percent tuition and fee surcharge for each student next semester to offset State budget cuts. Other States are attempting to develop greater pools of institutional grant and loan funds to help low-income students meet tuition costs.

The significance of these trends is that tuition costs are likely to continue to rise at a rate at least equal to inflation. With State funding limited revenue sources such as alumni giving will become increasingly important. In fact, gifts to colleges reached an all time high of $4.2 billion in 1980-81. While this report is encouraging, this record level is less than 6 percent of the total cost of postsecondary education in the United States.

A fourth factor influencing the future of higher education is the changing nature of the student body. The projected decline in the number of youth aged 18 to 24 over the next decade has been well publicized. This demographic change means that there will be 4.3 million fewer potential students in this age category, a drop of 15 percent. The National Center for Education Statistics estimates that the result could be a drop in college enrollment of 1.1 million in 1990.

Partially offsetting this decrease in traditional students are the changing characteristics of students attending college. Institutions are reporting an increasing number of so-called nontraditional students. These students are likely to attend 2- and 4-year public institutions and average 30 to 40 years in age. A large number of these students are married and are supporting families of their own. A large percentage is enrolled in less than full-time courses of study.

Many of these nontraditional students are pursuing additional education in response to disappointments in the job market. The education pursued ranges from programs to establish basic literacy to advanced courses in data processing. This education is job oriented and is ultimately beneficial both to the individual and to society as a whole. The students involved, however, often have very low incomes and a resulting high dependence on student aid. A recent study by Dr. Jacob Stampen of the University of Wisconsin indicates that over two-thirds of self-supporting or independent students have incomes below $6,000 and 94 percent have annual incomes below $12,000.

From a Federal policy perspective, Congress must assess the likelihood of two possible developments resulting from these last two economic factors. First, as tuition costs increase and the total number of students decrease, will some institutions be unable to survive? That is, will many small, mostly private institutions be forced to close as the decreased pool of students seek out higher quality or less expensive educations? Second, will public institutions, faced with less State money and greater student resistance to tuition increases, be forced to reduce the quality of their programs?

I believe both of these developments will become increasing Federal concerns in the next few years. What responses Congress will be able to make will be determined in large part by the shape of the overall Federal budget.

A fifth economic factor relates not so much to the monetary effect of the economy on higher education but to how higher education can help spur economic growth.

The current high rates of unemployment in the economy are overshadowing a fact that will become readily apparent once the economy recovers. This fact is that the nature of job skills called for by employers in our economy is changing. Even today a severe shortage of engineers, scientists, and technicians exists. This shortage could impede economic growth in those industries where we are currently most able to compete, such as aerospace technology and computers.

Consider the following statistics:

The number of Ph D's awarded in 1980 in physics and astronomy was 985—almost identical to the number awarded in 1965 and only 57 percent of the 1,740 awarded in 1971.

The number of Ph D's employed in the United States who actually practice physics in 1977 was 18,000, down by 10 percent from the 1970 peak.

Of the 2,379 Ph D's awarded in engineering in 1980, a full 49 percent were awarded to foreign citizens. Similar statistics would also apply to the fields of chemistry, math, and physics.

In sum, these figures suggest that the educational system is failing to provide the human resources needed to maintain or enhance the ability of U.S. business to compete in the world of technology. A similar situation exists in what is fast becoming a fundamental skill in international business—foreign language skills.

In order to maintain our position in the world economy we must match the existing efforts of our competitors in product quality and innovation as well as marketing abilities. To achieve this goal, our educational institutions on all levels must begin addressing the task of improving science, math, and language education.

In accomplishing this task many States may benefit from a Federal leadership role in the form of a new Federal program. Such a program may include direct assistance to State and local educational agencies and increased assistance to postsecondary students pursuing degrees in selected fields.

Meeting the challenge of improving science, math, and language will cost money. When combined with the existing education budget of over $14.6 billion, the increased strain on the Federal budget that would be created by a new program is obvious. There is no doubt in my mind that we must reexamine some existing programs before we embark on any new program such as I have just described.

In summarizing the five major economic factors affecting higher education over the next 5 years, it is obvious that the debt over the proper Federal role in education is likely to continue. The economy is making higher education both more expensive and more necessary.

As a nation, we will have to determine how best to help our postsecondary educational institutions meet the challenges there factors have created. In our Congress, a wide range of legislative responses will no doubt be offered. In reviewing these possible options, I believe the following principles should be followed.

First, the Federal commitment to assist students and their families meet the cost of obtaining a college education should be continued.

Second, because of the unprecedented pressures on the Federal budget, existing student aid and other Federal higher education programs should be reviewed for possible amendment to increase their efficiency and effectiveness.

Third, any policy decisions taken should be sensitive to the need to maintain the existing diversity among postsecondary institutions. New national programs should not be prededicated on federally mandated curriculum or other similarly restrictive requirements.

Fourth, to the largest extent possible, the private sector should be encouraged both to support postsecondary institutions directly and to assist them in developing educational programs suitable to address the employment needs of the 1980's and 1990's.

Thank you. I would be happy to respond to any questions.●

DOMESTIC SPECIALTY STEEL INDUSTRY

HON. STAN LUNDINE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 3, 1982

● Mr. LUNDINE. Mr. Speaker, today I am introducing legislation in the House, which has previously been introduced in the Senate by Senator JOHN HEINZ, to address the serious problems being encountered by specialty steel firms in our country as they try to deal with unfair trade practices being utilized by foreign specialty steel producers to capture larger and larger shares of our domestic market.

Our domestic specialty steel industry is fighting for its very survival. This is in spite of the fact that the Office of Technology Assessment has confirmed that our domestic specialty steel industry is modern, competitive, and efficient. This year, several major specialty steel producers in our country have been forced to stop producing specialty steel; others have been forced into bankruptcy. Unemployment in the specialty steel industry is as high as 50 percent in some areas.

The specialty steel industry has provided ample and convincing documentation that a good part of its current problem is being created by unfair trade practices on the part of its international competitors. The industry has diligently and in good faith sought redress through our international trade laws, but the bureaucratic red-tape and the political complexities of our troubled international trading system have thus far failed to give way

to any serious attempt to retaliate for the damage done to domestic specialty steel firms from unfair trading practices.

In recent weeks, however, we have seen an encouraging sign that some action from the administration may finally be forthcoming to address the needs and concerns of our specialty steel industry. On November 16, President Reagan announced that he has asked the Office of the U.S. Trade Representative to oversee an expedited investigation by the International Trade Commission under section 201 of the Trade Act of 1974 to determine the extent of injury caused to domestic specialty steel producers from unfair trade practices, to initate talks between the United States and Europeans aimed at eliminating unfair trade practices that are causing that injury, and to carefully monitor specialty steel imports. In taking these actions, the President also indicated that if specialty steel imports continued to undermine the health of our domestic specialty steel industry, he would use authority to restrict these imports.

This Presidential declaration is indeed welcome by specialty steel producers. At the same time, it is critically important that effective and timely actions be taken to implement these intentions. It is therefore important that everyone recognize that our specialty steel industry cannot tolerate additional delays or ineffective policy actions to address the concerns of our domestic producers. To delay effective action any longer is to insure the demise of this critical industry in the United States.

The legislation I am introducing today, which is already pending in the Senate, hopefully will not be needed by virtue of swift and effective action pursuant to the President's announcement of November 16. It establishes firm quotas on specialty steel products and requires that the Secretary of Commerce announce these quotas at the beginning of each fiscal year for 6 months and then again in January for the remaining 6 months of the fiscal year. These quotas would be based on strict market shares for categories of specialty steel. The act would remain effective until Congress acts to modify or revoke the import limitations.

In the past, I have not adhered to a protectionist trade philosophy. But, I believe we must acknowledge that while the United States has continued to practice what we preach in terms of free trade, we have lost many, many markets to our international trading competitors who are utilizing specific strategies to advance the interests of their own domestic industries in the world marketplace. Many times these strategies have involved unfair and protectionist trading practices.

The United States cannot sit idly by while industries such as specialty steel which are so important to a strong industrial base and an adequate defense capability are slowly destroyed by unfair competition and foreign industrial strategies. We must begin to develop our own strategies for counteracting efforts to undermine our competitive capability.

Because we currently lack the resolve and commitment to the development of an industrial strategy for our country, and because I am convinced that we must allow our specialty industry to disappear by virtue of an ineffective response to unfair trading practices, I will diligently pursue congressional action to assist specialty steel in the remainder of the 97th and throughout the 98th Congress. If an effective program is not forthcoming in the very near future from this administration to address the needs and very legitimate concerns of our specialty steel producers this Congress must act to approve legislation I am introducing today.●

UNEMPLOYMENT DEMANDS IMMEDIATE ACTION

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, December 3, 1982

● Mr. BONKER. Mr. Speaker, the national unemployment figures released today represent a human tragedy of enormous proportions. Twelve million Americans are now out of work, and that does not even include the millions who have simply given up looking for work or have been forced to work only part time.

In the Pacific Northwest, we are particularly hard-hit, due to our traditional dependence upon the timber and wood products industries. Unemployment in the construction industry is well above 20 percent nationwide, with disastrous consequences for our local logging industry and lumber mills. Without immediate action, analysts predict Washington State's unemployment rate this winter may exceed even last February's record level.

It is a cruel joke for the administration to claim its economic policies are working when unemployment continues to worsen and there is no real recovery in sight.

Certainly inflation and unemployment have come down somewhat, but almost all of these so-called gains are attributable to the prolonged downturn in the economy. The severity of this recession has created enormous distortions in our economy, and we will feel the effects for years to come.

With the administration unwilling to address the problem, Congress must make unemployment and economic recovery its top priority. The Democratic House leadership has outlined a comprehensive and cost-effective program to stimulate the economy and get people back to work. The leadership's plan calls for building and repairing our Nation's vital infrastructure, a short-term public works program to get people on the job immediately, and a housing stimulus program that would be a real boost to the Northwest.

I think this sort of comprehensive program is long overdue.

In addition, we must take steps now to bring about a strong and lasting recovery. That means reducing the Federal deficit and holding interest rates down. Unless the White House is willing to compromise on its enormous Pentagon budget increases and modify last year's loaded-down tax package, there is no way we are going to sustain a strong recovery.●

A SAD ANNIVERSARY IN EL SALVADOR

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, December 3, 1982

● Mr. HALL of Ohio. Mr. Speaker, today marks the second anniversary of the murders of the four North American churchwomen who worked among the refugees in El Salvador. This sad occasion provides us with an opportunity to reflect upon the current situation in El Salvador.

Unfortunately, violence continues to be a way of life in El Salvador. It is estimated that there have been over 30,000 noncombatant deaths in El Salvador since 1979. Particularly alarming has been the pattern of violence directed against the church in that country. This violence has included repeated threats to church workers, the disappearance of others, and the murder of several priests and lay religious workers. These attacks have come at a time when the church has made repeated appeals for dialog among the warring factions in El Salvador in the search for a nonviolent solution to the conflict.

The case of the four murdered North American churchwomen whom we remember today is a reflection of the tragic, pervasive violence that engulfs the people of El Salvador. While five former National Guardsmen have been detained by Salvadoran authorities in connection with the murder of our citizens, the prospects for investigating the possible involvement of high level officials in the crime are not encouraging. The origins of the systematic terror in El Salvador remain impenetrable.

For the Government of El Salvador to receive U.S. military assistance the administration will have to certify in

January that the human rights situation is improving. At this time, the facts simply do not support such a certification. It is my hope that the administration will carefully and honestly appraise what is really going on in El Salvador when it considers certification.

For the benefit of my colleagues, two recent articles which appeared in the New York Times follow. The first is an opinion editorial by John B. Oakes and the second is a Timcs editorial concerning the present situation in El Salvador:

[From the New York Times, Nov. 26, 1982]

CENTRAL AMERICAN FOLLY

(By John B. Oakes)

"Pay no attention to the rhetoric; just pay attention to the deeds," pleaded a State Department official defending the Administration's Central American policy the other day. The remark was exquisitely if unintentionally ironic. In Central America, more than anywhere else, this Administration's confrontational actions are totally consistent with its militant rhetoric.

The policy did not, of course, begin with President Reagan. Its roots go back a half-century or more, when United States Marines fought the Nicaraguan nationalist hero Augusto César Sandino and paved the way for the Somoza regime. But President Reagan and his former Secretary of State, Alexander M. Haig Jr., raised it to new heights of doctrinal folly. There is reason to hope that Secretary George P. Shultz will modify both words and deeds when he gets around to it—but by then it may be too late.

The dangerous bankruptcy of Mr. Reagan's rhetoric and action in Central America is becoming clearer every day:

1. In El Salvador—a "no win" situation reminiscent of Vietnam—Washington is committed to a military-controlled Government attempting to suppress an indigenous revolution growing out of social, political and economic chaos.

2. In Nicaragua, the United States is endeavoring to subvert a radical Goverment with which we refuse to negotiate except on our terms. In the best Soviet style, we are now encouraging a potential armed invasion from Florida and Honduras in order to overthrow it.

3. In Guatemala, we are edging toward support of another right-wing military dictator, who is unable or unwilling to stop the endemic massacres of Indian peasants.

4. In Honduras, the United States is building a military machine as our surrogate in the effort to overthrow the left-wing Sandinists of neighboring Nicaragua. We thereby run the risk of embroiling these and other countries (if not ourselves) in an unwanted, unnecessary and unconscionable war.

In stubborn adherence to his Central American policy of sterile anti-Communism, Mr. Reagan spares no effort to hoodwink Congress and the public.

The recent rhetorical flap over El Salvador's system of "justice" is a case in point. It was good theater when Ambassador Deane R. Hinton suddenly denounced in public—for the first time—the right-wing death squads and the "rotten" judicial system under which they have been operating with impunity.

It was good theater when the White House immediately threw a damper over his harsh words without repudiating them.

It was good theater when five national guardsmen, arrested several months ago for the vicious murder of four churchwomen from the United States, were instantaneously dredged up for a speedy trial and, doubtless, a speedier conviction.

It will be even better theater when Mr. Reagan and Mr. Hinton are able to point to this trial in the nick of time to certify (in January) that the human rights record of the Salvadoran Government really is improving enough to qualify it for continued military aid.

Yet there is still no evidence that Salvadoran courts dare proceed against the political and military higher-ups allegedly involved in daily murders in the streets and alleys. How could they when, as one State Department official has noted, "the night before a decision, someone tells a judge that we know your children and they're dead at noon if you act against a defendant." Will a carefully timed show trial of five low-ranking national guardsmen in January, with no effort to follow leads to higher authority, demonstrate respect for human rights?

"There is currently no serious investigation of the possible involvement of Salvadoran officers in ordering the killings or covering them up," says the New York-based Lawyers Commitee for International Human Rights in a letter sent this month to the State Department. The committee, which has meticulously followed the case of the four murdered churchwomen from its beginning in December 1980, recently uncovered new evidence suggesting that "superiors" ordered the killing.

"We are unable to discover any lawyer in El Salvador willing to pursue a vigorous investigation of all leads in this case. This is, in part, because lawyers there do not believe that the United States Embassy is willig to support such an investigation," writes the committee. No answer as yet—not even a rhetorical one—from Washington.

Meanwhile, things go on much as before—though at a slower tempo (2,427 murdered so far this year compared to 5,331 in all of 1981). Late last month, it was reported that 15 more leaders of the political opposition had disappeared from Salvadoran streets. Eight have turned up in the hands of the military, charged with terrorism. The other seven—if there were seven—are unaccounted for.

[From the New York Times, Nov. 18, 1982]

PROGRESS, OF SORTS, IN EL SALVADOR

It says a lot about El Salvador that a decision to try anyone for murder is news. Nearly two years have passed since four American churchwomen were raped, murdered and buried in a makeshift grave; five accused killers—all former National Guardsmen—are soon to stand trial. The question is whether this constitutes enough progress on human rights to pass muster in January, when it again comes time for Congress to ratify El Salvador's eligibility for aid.

It is pretty meager progress. The guardsmen contend they were acting under orders, but inquiry into that proposition is being actively discouraged by their superiors. Indeed, the victims' relatives say they have been warned by Salvadoran lawyers that the only way to guarantee conviction of the accused is "to refute the claim that others were involved." To all appearances, the five are sacrificial offerings.

But even this semblance of progress required a vocal American threat, an overt charge by Deane Hinton, the United States Ambassador, that Salvadoran justice hardly exists. He called attention to the unpunished slaughter of 30,000 civilians. The Ambassador was rebuked by unnamed White House sources, but he was left at his post, a powerful witness when Congress next inquires into Salvadoran rights.

Real progress will come only when an immune officer caste is finally held accountable for its part in the killings. The Reagan Administration cannot plausibly certify Salvador's eligibility for aid under American law if its courts do nothing about the higher-ups who ordered the murder of two American land reform advisers and a peasant leader in 1981. It was the release of a key suspect, a crony of Assembly President Roberto D'Aubuisson, that broke Mr. Hinton's patience.

More than American moralism is at stake. In a bitter civil war, many crimes will go unpunished. But when a government proves incapable of curbing the worst excesses of its own forces it converts its own population to the guerrilla cause. For El Salvador's sake, no less than ours, progress on human rights is a valid touchstone for aid.●

HON. JACK BRINKLEY

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. ANDERSON. Mr. Speaker, I am honored to rise today to say a few words on behalf of one of the most distinguished Members in the House of Representatives, my friend and colleague, JACK BRINKLEY.

It has been my pleasure to serve the last 14 years with JACK. During that time he has proven to be a brilliant and dedicated legislator. His work on the Armed Services Committee, where he has chaired the Subcommittee on Military Installations and Facilities, and on the Veterans' Affairs Committee has been exceptional and he has driven himself to produce legislation of lasting benefit not only to his constituency but the entire Nation.

I know how much time and effort JACK devoted to the American people through his untiring efforts in fulfilling his committee responsibilities. He has been forthright and forceful when stating his positions. All those who understand the workings of Congress will agree the JACK is one who truly represented his constituents and got things done.

Through my position as chairman of the Subcommittee on Surface Transportation, I have a personal knowledge of the good job JACK has done for the people of Georgia. Of particular notoriety has been JACK'S continued involvment in the development of Corridor-Z in Georgia. This highway, which was designated as a priority primary road and thus became eligible for Federal aid in 1981, stretches approximately 250 miles from the city of Columbus to the city of Brunswick—which is situated on the Atlantic Ocean. It has been

JACK who has kept a close eye on Corridor-Z all these years and has shepherded its development. The project has become a great asset to the State of Georgia and its residents—thanks to JACK BRINKLEY.

When the 98th Congress convenes in January, you can be sure that JACK's presence and friendly disposition will be greatly missed by all of us who have had the pleasure of serving with him. JACK has been a good friend of ours through the years and he has shown enormous wisdom in understanding the needs which face the people in the State of Georgia as well as the other 49 States.

My wife, Lee, joins me in saying farewell to JACK, and we wish him and his wife, Alma, and their two children, Jack, Jr., and Fred, all the best in their future endeavors.●

RUSSIANS ARE READY, AMERICANS ARE NOT

HON. LARRY McDONALD
OF GEORGIA
IN THE HOUSE OF REPRESENTATIVES

Friday, December 3, 1982

● Mr. McDONALD. Mr. Speaker, the new national newspaper, USA Today, conducted an interview with Dr. Edward Teller, the father of the H-bomb, which appeared in its November 3, 1982, issue. In response to questions, Dr. Teller discussed the need for more defensive weapons for the United States, such as a better civil defense, and weapons to defend against attack by nuclear missiles. These are life and death matters for the United States. We need to stop throwing up our hands and saying nothing can be done. As he points out, we avoid war by deterring it, not by disarming.

The interview from USA Today follows:

[From USA Today, Nov. 3, 1982]

RUSSIANS ARE READY, AMERICANS ARE NOT

(Edward Teller, 74, is known as the principal architect of the hydrogen bomb. Teller, who studied with Neils Bohr, worked on the Manhattan Project in 1949 at the Los Alamos Laboratory, which developed the atomic bomb. He coauthored The Constructive Uses of Nuclear Explosives. Teller was interviewed by USA Today's Wallace Terry)

USA TODAY. Do you really think mankind is stupid enough to start a nuclear war?

TELLER. There is nothing in the world that is as clever or as stupid as people.

USA TODAY. Why do you believe the Russians would win a nuclear war if one occurred today?

TELLER. Because they are prepared, and we are not.

USA TODAY. How do we stop other nations from developing nuclear weapons? Isn't the world becoming more dangerous with that kind of proliferation?

TELLER. I have tried to emphasize that the best way to avoid war and create peace is not by control of the instruments of war, but by the control of the cause of war.

USA TODAY. What is your basic objection to the bilateral freeze approach to arms control?

TELLER. It makes no sense. It talks about a purely imaginary situation. It makes just as much sense as praying for rain.

USA TODAY. Do you think the public can and should effectively participate in the nuclear arms debate?

TELLER. The public should participate in every important debate. But the public should also be informed. As long as the information is not available under the rules of secrecy, participation by the public will do much more harm than good.

USA TODAY. With enough nuclear weapons in the U.S. arsenal alone to destoy the world, why do you advocate a stronger arsenal to protect us against the Russians?

TELLER. You say there are enough weapons in our arsenal to destroy the world? That is a myth. I am advocating more defensive nuclear weapons. And defensive nuclear weapons so far, practically, do not even exist in our arsenal. The distinction between weapons of destruction and weapons for defense, between weapons of crude power and weapons that are sophisticated—this is an exceedingly important distinction we should make.

USA TODAY. If we have more nuclear weapons and greater accuracy in delivering them than the Russians do, then why aren't we in better shape than they are?

TELLER. I don't know that we are better able to deliver.

USA TODAY. You have spoken of a new secret weapon in early stages of development which can prevent a successful Soviet attack. Doesn't that kind of development simply encourage the Russians to scramble for more weapons?

TELLER. I have spoken of several new defensive weapons, which can prevent a Soviet attack. It might encourage more Russians development. And they may even succeed in countering ours, provided they spend 10 times as much on offensive weapons as we are spending on defensive weapons. But they won't be able to afford to do that.

USA TODAY. You have urged the CIA to release information about Soviet civil defense systems. If it did, what would we learn, what would we do as a result?

TELLER. We would understand why the Soviets have spent more than $1 billion every year on civil defense, and why the Soviet people are safer than the American people. We should be able to evacuate our cities when we see that the Soviets have started to evacuate theirs. I don't believe the Soviets will dare attack us without evacuating part of their population. But we have a strong economy. We certainly have many more cars. If we are organized, then we can start the evacuation later and finish it earlier than the Soviets. If we don't have this system of counter evacuation, then the Soviets may evacuate and attack. If we do have it, the Soviets will not try.

USA TODAY. If, as you say, the cobalt bomb is a figment of the imagination, can there be a weapon more powerful than the H-bomb?

TELLER. The cobalt bomb is not supposed to be more powerful. It is designed to increase the radiation hazard—not for a military purpose, but for the specific purpose of maximum, lasting death. In its very conception, the cobalt bomb is an absurdity. Only people who are trying to make nuclear weapons appear absurd even talk about the cobalt bomb.

USA TODAY. How do you make a nuclear war safe?

TELLER. By avoiding it. And I avoid it partly by agreement with the pastoral letter not to start it, and partly by urging the kind of defenses which will dissuade the Soviets from starting it.

USA TODAY. The anti-nuclear lobby always dwells on the enormous destruction that nuclear war would mean, beyond the impact of the explosions.

TELLER. That is an exaggeration of a terrible damage. They paint pictures of the end of the human race, or even the end of life on Earth. Now there is something in most grownups that makes us listen to horror stories. Many of the old fairy tales bear witness to that. The horror movies do. It is to these instincts that the anti-nuclear crowd caters. I don't think it is realistic to frighten Americans away from war.

USA TODAY. But they say that life would be unbearable after a nuclear war. Could you live in such a world?

TELLER. One of the basic laws of life is that it wants to continue. You and I have the choice of ending our lives, and we don't. Everybody has gone through periods of despair and survived. If the Soviets were to win, I may not want to live. But I prefer to think that even under those circumstances, I would like to find a way to stay alive and work for the future.

USA TODAY. What is your idea of a safe world?

TELLER. I know how an unsafe world looks, because I am from a part of Europe caught between the Nazis and the Communists. For me a safe world, relatively speaking, is the United States. But anything like absolute safety does not exist. I cannot imagine it.

USA TODAY. When the first bomb was tested, Robert Oppenheimer recalled that a few people laughed, a few cried, most were silent. How did you react?

TELLER. I was impressed.

USA TODAY. In Oppenheimer's mind there floated these words from the Bhagavad-Gita in which Krishna says, "I am become death, the shatterer of worlds." Do you consider yourself one of the creators of our destroyer?

TELLER. Robert Oppenheimer and I were certainly very different kinds of people.

USA TODAY. In 1954, you opposed granting Oppenheimer security clearance during a hearing before the Atomic Energy Commission. That caused him great damage and you great hurt because many of your colleagues shunned you. Later you supported his nomination for the Fermi Award, but he didn't recover his full reputation before his death. Should more be done to restore it?

TELLER. Oppenheimer did a wonderful job as director of Los Alamos, a job which I have never seen equaled. What he did after the war, I disagreed with. It is far beyond my understanding why he would have done such things. He was so complicated as a person that I did not understand him. And where I cannot understand, I have to stop talking.

USA Today. Have you fully recovered from the controversy, physically and mentally?

TELLER. Whether I have recovered, I don't know. And it doesn't matter. I believe the United States has not recovered. The Oppenheimer case introduced a deep division among scientists: the majority which will not work on military problems, and the minority—to which I belong—who do.

USA Today. Why do you object to being called the father of the H-bomb?

TELLER. I don't care what I am called. But the H-bomb has never sent me a Father's

Day card. To mix biological metaphors with the serious questions of war and peace is not only inappropriate, but in horribly bad taste.

USA Today. Dr. Teller, here are two last questions.

TELLER. I am objecting to two last questions. There seems to be a problem there in mathematics and logic.

USA Today. Agreed. What would you like to be remembered for?

TELLER. I am not interested in being remembered.

USA Today. This is the last, last question. What would you insert into a capsule to be sent into space so that life elsewhere could understand our civilization? A book? A work of art? A piece of music? An invention?

TELLER. I will give you an answer I haven't given you yet: I don't know. You are asking me how to talk to some entity, which might possibly exist, which probably exists, but of which I don't have the slightest conception. You are talking of things of which science fiction is made. As a very young man I played with the idea of writing science fiction. I found that science is so much more interesting than fiction. Rather than thinking about your space capsule, I'd rather think about the real problems of science and other fields. And that doesn't leave me any free time at all.●

MY COLLEAGUE—ED DERWINSKI

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1982

● Mr. McCLORY. Mr. Speaker, I would be less than candid if I did not acknowledge the outstanding talents which my colleague from Illinois, Congressman ED DERWINSKI, has brought to this great legislative body. As the ranking member on the Post Office and Civil Service Committee and as a prominent minority member of the House Foreign Affairs Committee, Congressman DERWINSKI has made major contributions to the legislative product and the policy decisions of our Nation during his 24 years of exemplary service. ED DERWINSKI's colorful debate on the floor of the House of Representatives has always commanded the attention of his colleagues as he exploited his special talent for interspersing good humor and inoffensive sarcasm in the arguments which he advanced. The results were generally consistent with the position which he held and I was normally one of those who followed ED DERWINSKI's lead.

The partisan and unjust congressional redistricting which is the principal reason for ED DERWINSKI's and my demise from futher congressional service involved some unfortunate disagreements. While there is some chance that the Illinois General Assembly might adopt a congressional redistricting plan which would supersede the map developed individually by the Democratic leader of the Illinois House, it appears that ED DERWINSKI and I have come to the end of our long service in this body.

Mr. Speaker, I wish my colleague ED DERWINSKI every success in his new and important role as Counselor of the Department of State. His services, particularly on the Foreign Affairs Committee and as the leading Member of our Congress in the affairs of the Interparliamentary Union where he and I have served for many years, combine to provide ED DERWINSKI with exceptional experience, wisdom, international contacts and other qualities which can enable him to continue his public service in behalf of our Nation.

Mr. Speaker, I wish also to take note that ED DERWINSKI and his wife, Pat, as well as my wife, Doris, and I have had cordial social relations during our years together in the Congress and particularly as we have participated in the numerous Interparliamentary Union conferences in various national capitals around the world. Congressman ED DERWINSKI's service is deserving of high commendation and appreciation as he transfers his talents and energies from this House to the Department of State.●

A NEW ROLE FOR COMMUNITY COLLEGES

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, December 3, 1982

● Mr. PURSELL. Mr. Speaker, I would like to take this opportunity to read into the CONGRESSIONAL RECORD an editorial by C. Nelson Grote, district president of Washington Community College District 17 in Spokane, Washington. In his editorial, published in the Community and Junior College Journal this month, Dr. Grote points out that this Nation's community colleges could play a significant role in developing a Federal policy for disseminating Federal technological research and development. I have known Dr. Grote for numerous years, and know that when he was president of Schoolcraft College in Livonia, Mich., his opinions were highly regarded. I proudly present the following editorial to the CONGRESSIONAL RECORD in hopes that my colleagues will give serious consideration to Dr. Grote's ideas.

The article follows:

TECHNOLOGY TRANSFER EXTENSION SERVICE

Billions of dollars are being spent annually in federally sponsored research and development. Just as in higher education, dissemination of research results is often ineffective. Technology transfer (the transfer of the technology resulting from research) has the potential of increasing our productivity as a nation, yet it is difficult to disseminate the technology to local users, especially small business. While federal R&D can and should affect the business and industrial community at the grass-roots level, the R&D community is not responsive to local needs. It is focused in Washington, D.C., because of funding sources. What is needed is a delivery system that interfaces the R&D community with people and problems at the local level. Such an interaction has the potential of making a substantial contribution to our sagging economy, putting America back to work, and repositioning the United States in the field of technology.

Most of us are familiar with the Morrill Act of 1862 that established land-grant colleges in America—the beginning of the agricultural and mechanical arts in higher education. The need for agricultural research in the new country where agriculture was dominant became increasingly apparent in the nineteenth century. The pressure grew until Congress again responded in 1887 with passage of the Hatch Act. This act authorized the establishment of an agriculture experiment station in connection with one of the colleges in each state established under the Morrill Act of 1862. Many programs were developed involving the federal government, state government, and local groups and agencies. Out of this period of 1887 into the early 1900's grew a concept the was formalized with passage of the Smith-Lever Act of 1914, which authorized cooperative extension work. The purpose of the act states, in part: ". . . provide educational and technical assistance to 1) farmers, producers and marketing firms on *how to apply new technical developments emanating from agricultural research;* . . ." (italics added for emphasis). The name "Cooperative Extension Service" was derived from a tripartite arrangement of cost-sharing by federal, state, and local units of government. The term "Cooperative" is used to describe the special relationship between the Department of Agriculture and land-grant universities that was further enhanced by the passage of the Smith-Lever Act of 1914. The term "Extension" denotes the process of extending educational resources of the United States Department of Agriculture and the land-grant universities to all citizens in the United States. The term "Service" has come to connote the educational role. It is interesting to note, even in the enabling legislation of 1887 (Hatch Act), the term "diffusing" was used in the following manner: ". . . in order to aid in acquiring and *diffusing* among the people of the United States *useful and practical information on subjects connected with agriculture. . .*" (italics added for emphasis).

There is a lack of societal balance in the federally sponsored R&D enterprise and a concomitant imbalance in the redistribution of the "knowledge of technology"—the application of technology in local business and industry. The same situation was true of agricultural research prior to the passage of the Smith-Lever Act. Therefore, the act talked in terms of ". . . successfully communicating relevant research findings to the people in all walks of life." While the land-grant university was both the source of research and the "broker" of research through the experiment station and the extension services, the transfer of technology also required a broker.

COMMUNITY COLLEGE DELIVERY SYSTEM

A potential "broker" for a national delivery system of technology transfer is already in place, with some variations among the states. There is no need to create a new system—another potential bureaucracy. Instead of the Cooperative Extension Service

based at a land-grant college with counties as its substructure, a cooperative technology extension service based at community colleges, using college districts as its governmental units, has already been created. Just as the Cooperative Extension Service is a grass-roots operation, the community colleges are community-based. We are already providing programs and services to meet the unique needs of local business, industry, and government. Community college resources, both material and human, are already made available and accessible to local business and industry. It would be only natural for the community colleges to become more involved in technology transfer.

It is important to point out that the delivery system should not just serve as an "agent" but as a "catalyst." In other words, not only is it essential that federally funded technology be "looped" back into the free enterprise system but that problems of business and industry, especially small business, be identified as a target area for future research. One of the great strengths of the Cooperative Extension Service was not only to establish the relationship between services and research, which provided channels for the new knowledge, but also to allow human needs and problems to be transmitted to the scientists.

CONGRESSIONAL ACTION NEEDED

It is appropriate and timely that the leadership within the community college movement enter into meaningful dialogue with representatives from Congress and representives from the many federal agencies to share in the development of a cooperative technology extension service. It is hoped that an agreement can be reached that it is in the best interests of this nation that federally funded research and development be brought to bear on the problems of business and industry on an equitable basis and at a minimal cost. Just as the Hatch Act was the way Congress responded to an agricultural economy, Congress needs to recognize the need for industrial research in a technological society by passing a new act, almost 100 years later.

Because states differ, a national system of technology transfer will need to recognize those unique characteristics of the states. While some states have community colleges, others have senior colleges and universities with branch campuses. Highly structured state systems of higher education exist side by side with "non-systems." Some states have a system of area vocational-technical schools while others combine state-operated postsecondary institutions—local and regional colleges within a single state. However, all states have postsecondary institutions, both public and private, which serve major population centers if not the majority of an entire state. Therefore, the common denominator is the availability of postsecondary educational institutions.

It is clear that a cooperative techology extension service must be educationally based. It is also clear that States that have comprehensive community colleges already have a potential delivery system—a structure into the grass roots of their respective service areas and communities that could be used immediately. Just as the National Association of State Universities and Land-Grant Colleges has provided the vehicle for State land-grant institutions to work with one another and with the Department of Agriculture, the American Association of Community and Junior Colleges not only has the ability to bring together the more than 1,200 community colleges throughout the nation, but could also serve as the liaison with appropriate Federal agencies in Washington, D.C.

The responsibility for technology transfer could not only serve as our challenge in the eighties, but could enhance our relationships with the business and industrial community and contribute to the economic development of our respective States as well as the Nation. In addition, this could be another way for community colleges to play an important role in high technology.●

NUCLEAR ARMS RACE—A THREAT TO HUMANITY

HON. HAROLD WASHINGTON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 3, 1982

● Mr. WASHINGTON. Mr. Speaker, I call to the attention of my colleagues a petition signed by 3,300 college and university faculty in the Chicago area, protesting the continuation of the nuclear arms race.

These thoughtful men and women were quick to understand the dangers inherent in an unrestrained arms race. They have recognized the threat posed to densely populated areas such as Chicago, which are likely to be among the first targets in any nuclear exchange. And they are equally mindful of the drain that unrestrained military spending places on the civilian economy.

I was very pleased to accept their petition, which reads as follows:

We, members of the higher education and research community, believe this is the time to take action.

Our work of teaching and research is directed to the future, but the mounting risk of nuclear holocaust puts the future in doubt.

Nuclear weapons offer no solution to the political, economic, and ideological conflicts between the United States and the Soviet Union.

Spearheaded by the nuclear arms race, world military expenditures now total $550 billion per year, while global economic, social and environmental problems go unremedied.

Therefore, we call on all members of the higher education and research community in the United States and other nations to press all governments for an immediate and complete freeze on all further testing, development, production and deployment of nuclear weapons:

And, as Americans, we call on our Congress and President to propose to the Soviet Union and all other governments an immediate and complete freeze on the nuclear arms race.

Following are excerpts from my remarks to the Council of the Chicago Area Faculty for a freeze on the nuclear arms race (CAFF) made after receiving the petition from Dr. Ronald Williams, president of Northeastern Illinois University:

President Williams, I am happy to receive from you these petitions to the Congress, signed by 3,300 faculty members of the Chicago area higher education community, that call for a mutual freeze on the U.S.-Soviet nuclear arms race. I also want to thank Professor Truman Morrison of the McCormick Theological Seminary and chairperson of C.A.F.F., for inviting me to speak before this concerned and responsible group of educators.

What you have done is most impressive as well as reassuring for our common future. Starting in January, you have already gained more than 700 faculty members and brought the nuclear freeze campaign to 40 college and university campuses in the Chicago area. During my years in Congress, I have been a wholehearted supporter of efforts to slow down and completely halt the further building of nuclear weapons by the nations of the earth. I can report to you that the movement which has caught fire this spring throughout the country has also caught fire in Congress—we are no longer a small and lonely band.

But the forces that propel the nuclear race are still very formidable, and the pioneer work you have started in higher education must continue and grow if we are to overcome these forces. I know that you are as fully aware as I am that a mutual halt to nuclear weapons building will not only enhance our chances for survival but will also free up billions of dollars to meet such vital needs as education, health, housing, mass transportation, and environmental protection, among others.

I urge you to continue your efforts; the vigorous and expressed support for the freeze proposal by the American academic community can have a marked influence on many Members of Congress.●

HON. ROBERT H. MOLLOHAN

HON. DAN DANIEL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1982

● Mr. DAN DANIEL. Mr. Speaker, most of us, had the choice been ours, would not be here on this particular day. Given a say in the matter, we would not have returned to Washington until the beginning of the 98th Congress.

But we are here. And in one respect, at least, it is a good thing, for it provides us an opportunity to recognize publicly those of our number who will not return.

Today we are saying publicly what most of us have said privately for years now regarding our valued colleague, the Honorable ROBERT MOLLOHAN.

BOB MOLLOHAN is a man for whom the adjectives of virtue were invented. He is a wise man, never pushing his views on you, but always willing to share his good judgment. He is a conscientious man, as reflected by his able service in the Congress, on the Armed Services Committee, and in a number of public capacities over a lifetime.

Congressman MOLLOHAN's advice and counsel has been invaluable to me, and I, like all who have known him these

past 14 and more years, will miss him when we convene again.●

TRIBUTE TO MEMBERS OF THE PENNSYLVANIA CONGRESSIONAL DELEGATION WHO ARE CONCLUDING THEIR SERVICE IN THE HOUSE OF REPRESENTATIVES

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 1, 1982

● Mr. WILLIAM J. COYNE. Mr. Speaker, when the 98th Congress convenes in January, three able Representatives from the Commonwealth of Pennsylvania will not be among its number. Their contribution to this Congress, and others before it, was such that we most surely will feel their absence.

Representative ALLEN ERTEL made his mark as district attorney in Lycoming County before he came to Congress in 1977. Elected as a Democrat, against great odds, in Pennsylvania's 17th Congressional District, he courageously took up his party's standard in an uphill race for Governor in 1982. Again, against great odds, he did extremely well. ALLEN was always willing to assist new Members of Congress, including myself, in learning the ways of the House of Representatives. His public service, I know, is not yet at an end.

Representative DON BAILEY of the 21st District is typical of western Pennsylvania residents. An excellent football player at the University of Michigan, DON is also a veteran of the Vietnam war. He has made the needs of veterans of that conflict among his top priorities since coming to Congress in 1979. Well-liked by his colleagues, he has made a major contribution to this body.

Congressional redistricting contributed to Congressman BAILEY's leaving the House. It also eliminated a congressional seat on the eastern side of our State, depriving us of the service of Representative JOE SMITH. JOE's past elected positions in Pennsylvania government made him very effective during the all too short period of time he served in the Congress. A real gentleman who knows well the governmental and political process, and acts accordingly, JOE will be missed.

Each of these men added to the dignity and knowledge of this body. They will contribute in like manner in whatever endeavor each chooses. Their colleagues in that work will be, as we have been, the better for their association with Representatives ALLEN ERTEL, DON BAILEY, and JOE SMITH of Pennsylvania.●

TRIBUTE TO HON. EDWARD J. DERWINSKI, HON. PAUL FINDLEY, HON. ROBERT McCLORY, AND HON. TOM RAILSBACK

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1982

● Mr. CONTE. Mr. Speaker, I would like to take this time to acknowledge the achievements of four of my fellow Republican Congressmen who will be leaving us at the end of the 97th Congress. On small consolation we other Republicans can take in our loss of these four fine Members from Illinois is that the two sponsors of this special order, Mr. MICHEL and Mr. ERLENBORN, will be contining their fine work in the 98th Congress.

ED DERWINSKI and I entered the Congress together in 1958. Since that time, ED has done a fine job representing the people of Illinois' Fourth Congressional District and, unfortunately, the redistricting of Illinois have cost us one of our most compassionate and knowledgeable Members. A high-ranking member of the Foreign Affairs Committee, ED has been the most outspoken advocate for human rights for those behind the Iron Curtain. The people of this Nation whose families were able to flee Soviet oppression owe ED great debt of gratitude for having served as a watchdog of russification efforts by the Soviet Union in Eastern Europe. As the ranking minority member of the Committee on Post Office and Civil Service, ED has worked diligently to insure the existence of an efficient, competent Federal work force, and a national mail service second to none in the world. ED's many talents, as well as his affable nature, will be sorely missed in the next Congress.

Fellow Congressman PAUL FINDLEY has been a man of strong convictions who has faithfully served the 20th District of Illinois and the Nation since 1960. His work on the Agriculture and Foreign Affairs Committees has been diligent and sensitive, and the expertise he has developed over the past 22 years will not be easily replaced. I wish him all good fortune in whatever endeavors he chooses to pursue.

Retiring after 20 years of service to Illinois' Third District, is my colleague BOB MCCLORY. During his tenure in the House, BOB rose to the position of ranking minority member of the House Judiciary Committee, and played an important role in that committee's Presidential impeachment hearings in 1974. He has also served with distinction on the Select Committee on Intelligence, where his integrity and fairmindedness have been exemplary.

At this time, I would also like to laud the accomplishments of the Congressman from the 19th Illinois District, TOM RAILSBACK. TOM joined our ranks in the election of 1966, and for many years was a stalwart of my Republican baseball team. His concern for maintaining the integrity of this body manifested itself in the formulation of the Obey-Railsback bill, which would have gone far to reduce the influence of special interest groups in the Congress. His expertise in this field will be greatly missed, as the cost of campaigns climbs ever higher. I hope that TOM knows he is welcome back on my bench at any time.●

H.R. 6514

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, December 3, 1982

● Mrs. SCHROEDER. Mr. Speaker, H.R. 6514, the Immigration Reform and Control Act of 1982, has been called a balanced and fair approach to immigration reform. I do not believe that H.R. 6514 is either balanced or fair. I appreciate the hard work that the authors have dedicated to this bill. However, the bill is not balanced and can not be fair until it includes provisions considering foreign policy aspects of immigration reform. It would be potentially disastrous for the United States to restrict itself blindly to the domestic results of immigration. U.S. domestic and foreign policies have become intertwined.

The newly installed president of Mexico, Miguel de la Madrid Hurato, has called the economic state in Mexico an "intolerable * * * emergency situation." There exists a delicate economic relationship between the United States and our Latin American and Caribbean neighbors. We must be responsible and not ignore the basic causes that drive people to leave their families and homes and emigrate to America.

Editorial boards across the Nation have inferred that H.R. 6514 is a legislative compromise that enjoys universal support. This is not true. H.R. 6514 barely survivied a vote in the House Judiciary Committee to recommit the bill for further consideration. And groups across the country have urgently called for revisions to the Simpson-Mazzoli bill.

I submit below a paper by the National Council of the Churches of Christ in the United States. The council represents churches and religious leaders from all parts of the United States. H.R. 6514 does not have the support of the Council of the Churches of Christ. H.R. 6514 does not hold the support of many of the American people. I hope my colleagues read the

points made in the paper. And then, together, we can act responsibly and refine H.R. 6514 to acknowledge the great importance that foreign policy holds in immigration reform.

NATIONAL COUNCIL
OF THE CHURCHES OF CHRIST,
Washington, D.C.

DEAR REPRESENTATIVE: Since Congress began debating H.R. 6514, we in the religious community have maintained certain reservations:

(1) The bill will not accomplish its stated objectives of protecting the rights of American workers;

(2) It does not adequately solve the problem of illegal immigration;

(3) The bill does not protect the rights of minority communities in the United States.

While much in the Simpson/Mazzoli revision is to be commended—implementing a legalization program, improving the asylum procedures by creating an independent Immigration Board—we strongly feel that our reservations have not been well considered and that should this bill become law the result will damage the interests of the American worker and of American foreign policy.

We appeal for a more generous legalization. While we are pleased that the bill provides a legalization program for some undocumented aliens already in this country, this bill falls significantly short of addressing the situation comprehensively and fairly. We encourage consideration of the following:

(1) The 1980 cutoff date leaves exploitable a group of hundreds of thousands of undocumented workers who arrived after 1980;

(2) Elimination of the "Temporary Residence" status, giving all aliens the status of "Permanent Resident". A two-tiered approach complicates an already difficult program and at the same time creates a subculture of "second-class" residents;

(3) Full rights and privileges as granted by current law to Permanent Residents should be retained for all those legalized. H.R. 6514 limits significantly the eligibility for federal benefits to those legalized as both permanent and temporary residents. It is important to note, as did Representative Rodino, that undocumented aliens have been contributing to the federal benefit programs through their taxes for years.

(4) Persons eligible must be granted one year from the actual start of the program to apply for legalization.

In sum, the legalization program in its present form will not accomplish the desired results. Both illegal immigration and the wider community of citizens will be harmed by maintaining a large number of illegal aliens who are easily victims of exploitation.

Our organizations oppose the employer sanctions provisions in H.R. 6514 and we urge adoption of the Schroeder amendment as a complete substitute for the current provisions. The sanctions as drafted in H.R. 6514 will result in discriminatory hiring and recruiting practices. The Schroeder substitute targets only those employers with a pattern and practice of hiring undocumented workers, thereby:

(1) Eliminating an unnecessary burden for the vast majority of innocent employers;

(2) Reducing the incentive for ethnic discrimination among employers;

(3) Permitting closer supervision of employment practices by the Attorney General since a smaller number of employers are covered.

We oppose the proposed changes in the H-2 Temporary Foreign Worker Program. A temporary worker program must respect the rights of U.S. citizens and permanent residents. The H-2 program does not show that fairness. Enlargement of the H-2 program permitting up to 300,000 foreign workers to take jobs in the U.S. at a time when unemployment is at a post-war high of 10.4 percent is clearly unfair to the 11 million unemployed workers in this country. The temporary worker program is equally unfair to migrant workers who have struggled for many years to achieve more humane living quarters and better wages.

We strongly support the House Judiciary Committee's proposal for the creation of an independent and Presidentially-appointed U.S. immigration Board to serve as the appellate administrative body and to be responsible for the appointment of the newly authorized "administrative law judges" and their specialized training to hear asylum cases. We further agree with the Committee that "exceptional protections are in order in asylum cases since they quite literally involve matters of life and death." For that reason, we believe that other measures of the bill, intended to speed the hearing process, must be reviewed against this consideration.

Specifically we fear that:

(1) The non-adversarial, summary exclusion provisions (Sec. 121) do not adequately take into consideration the fact that bona fide refugees are usually unable or unwilling to articulate the specific fears of persecution necessary to trigger the asylum process and its accompanying due process protections. It is imperative that they be uniformly informed of both the rights to counsel and of the rights to request asylum prior to exclusion proceedings. Frivolous claims would fail at a hearing on lack of evidence.

(2) By precluding the possibility of bringing class actions before the district courts to challenge widespread errors, the asylum process will result in unnecessary delay and expense as hundreds or even thousands of cases are first processed individually through all administrative remedies, after which, circuit courts could require a complete re-hearing.

CONCLUSION

The religious community is fully aware of the need to revise the current immigration laws and we support efforts to do that. We are concerned, however, that the Simpson/Mazzoli bill ignores international and U.S. foreign policy considerations. Immigration cannot be viewed in isolation. Rather it must be analyzed in a global context, with appreciation given to the conditions of poverty, political repression, and economic deprivation which force people to leave their homes. Long-term immigration policy planning should have as its goal not only the immediate U.S. domestic response, but also U.S. international interests in an increasingly unstable world. Failure to do just this will lead us into crisis situations for which we have no response.

On behalf of:

Mary Anderson Cooper, Associate Director, National Council of Churches.

Dale de Haan, Director, Church World Service.

William L. Weiler, Director, Episcopal Church.

James Schultz, Associate Director, Jesuit Social Ministries.

Ingrid Walter, Director, Lutheran Immigration and Refugee Service.

Robert Tiller, Director, America Baptist Church.

Edward R. Killackey, Director, Maryknoll Fathers and Brothers.

Ralph Watkins, Legislative Associate, Church of the Brethren.

Robert Z. Alpern, Director, Unitarian Universalist Association.

Ms. Joyce V. Hamlin, Executive Secretary for Public Policy, Women's Division, United Methodist Church.

Alfonso Roman, Chairperson, United Church of Christ Immigration Working Group.

Harold Penner, Director, U.S. Program for the Mennonite Central Committee.

Mary Jane Patterson, Director, United Presbyterian Church in the U.S.A.●

MONTGOMERY COUNTY HISPANIC SENIOR CITIZENS

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, December 3, 1982

● Mr. BARNES. Mr. Speaker, the Montgomery County government has honored 12 Hispanics for their outstanding service on behalf of Hispanic senior citizens. They are: Roberto Anson, Maria Theresa Arias, Irene Bailey, Mary Berkey, Vicente Guerra, Rafael Hakim, Emilio Perche Rivas, Elsa Pimental, Pedro A. Porro, Miryam Posada, Rogelio Quincoses, and Inez Williams. I want to share with my colleagues the following article from the Montgomery Journal newspaper on this event:

[From the Montgomery Journal, Sept. 22, 1982]

HISPANIC SENIOR CITIZENS HAVE THEIR OWN SPECIAL PROBLEMS

(By Roberto Anson)

The popular picture of the Hispanic family is: mother, father, children and grandparents, all living under the same roof. Therefore, why should public and private agencies serve the Spanish speaking elderly since most of them are cared for by relatives?

This is a myth, and it is the most pervasive barrier to serving the special needs of this underserved segment of the county. The Census Bureau reports that only 9.7 percent of Hispanic elders live in an extended family situation and fully 60 percent live in husband-wife arrangements and another 30 percent live alone.

Hispanic and minority elders are widely recognized as exposed to multiple jeopardy due to age, race, ethnic origin, cultural and language differences, discrimination and widespread stereotyping. Hispanic elders are characterized by diversity, rapid growth, Spanish language dominance, low income and poorer health.

Older Hispanics are more than twice as likey to live in poverty as other aged members of our population. The average life expectancy for Americans in 1900 was also 47. The life span of Hispanic elders is between 55 and 59, contrasting with that of 73 years for the average person today.

In contrast to most Hispanics nationwide who are Mexican-American, those living in Montgomery County and in the surrounding region are primarily Central and South

American with large concentrations of Cubans and Puerto Ricans.

Data on Hispanic elders is scarcer than water in a desert, which perhaps mirrors the attitude of the rest of society toward this group. The precise number of Hispanic elders living here is unknown, but their size can be estimated by recognizing the fact that elderly Hispanics 55 and over nationwide more than doubled from 4 percent in 1970 to 9.8 percent following the 1980 census. During this same period the Hispanic community swelled by 60 percent nationwide and 37 percent in the northeast. Maryland's Hispanic elders 65 and over number over 3,000. About 60 percent of Maryland's Hispanic community lives in Montgomery and Prince George's Counties with Montgomery having the largest Hispanic concentration with almost 23,000 by government sources or 30,000 by other estimates.

The demographic growth of the Hispanic presence is beginning to evoke a response. For example, an awards ceremony honoring the outstanding contributions of Hispanic elders to the community was scheduled to take place today at the Holiday Park Multiservice Senior Center in Wheaton (3950 Ferrara Dr.) from 1-2:30 p.m. This appears to be the first government organized recognition of Hispanic elders and as such seems to represent a new awareness by local officials.

The increase in the Hispanic community and in the senior population must be matched by an equally vigorous approach to addressing their needs and problems. Some solutions to serving our Hispanic elders include funding Hispanic agencies to serve the minority elderly, public and private groups engaging in aggressive outreach services using bilingual-bicultural staff, establishing linkages with Catholic and religious institutions as well as maintaining contact with stores and events frequented by the Spanish elderly. The only Spanish radio station in the metro area is Radio Mundo (AM) in Wheaton, which is another effective method for reaching the Hispanic community.

Rogelio Quincoses, a tireless worker who helps the Hispanic elderly by volunteering his time with the Spanish Speaking Community of Maryland based in Silver Spring and who serves on the County Commission on Aging, believes that one way to improve the quality of life for the Hispanic elderly is for service providers to seek out and inform the elderly of available services. Elsa Pimental, a respected civic activist and a worker at the TESS Center in Takoma Park, states that "the most urgent need is to supplement the meager income of Hispanic elders and to better meet their health, housing and transportation needs."

Hispanic elders struggle to survive under triple jeopardy: they are old, poor and they are members of a minority group. The elderly symbolize our future selves. Hispanic elders, like all of us, desire to become managers of their own destiny.

The central question remains whether we Hispanics, young and old alike, will continue to grow in number but not in prosperity. The answer depends on the humane and ongoing response of the community.●

WHEN WILL JUSTICE BE SERVED FOR FOUR AMERICANS MURDERED IN EL SALVADOR

HON. WILLIAM R. RATCHFORD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, December 3, 1982

● Mr. RATCHFORD. Mr. Speaker, it was 2 years ago today that four American religious workers were abducted and murdered after leaving the airport near San Salvador to return to their work in the countryside. In the 2 years that have followed this tragedy, the families of the four murdered women have kept alive the hope that those involved in this crime would be brought to justice. Regrettably, their hopes have been dashed, and their sorrow has been compounded with bitterness toward the treatment they have received not only from Salvadoran authorities, but from officials of our Government as well.

Two years later, the families have little more than a promise that five underlings who may have taken part in the executions may be brought to trial early next year. Two years later, their pleas for an investigation into upper level involvement in the murders have fallen on deaf ears. Two years later, instead of getting answers to the questions they have asked our Government, they have been shunned, lied to, and threatened.

The fact that there have been no answers—that justice has not been served for these crimes—should give us pause when considering whether to send El Salvador further military assistance. The picture becomes even worse, however, when the story behind the delays in the investigation is brought to light.

Mr. Speaker, I have the privilege of representing Michael Donovan of my hometown of Danbury, Conn. Michael Donovan's sister, Jean, was one of the religious workers slain 2 years ago. The Donovan family's story—and it's a story shared by the kin of the three other murdered women—since the murder of their loved one makes her death even more tragic.

After the deaths of the four women, the families asked the U.S. State Department to launch a full investigation into the murders. The Salvadoran Ambassador at the time expressed concern that more was involved in the slayings than met the eye. Tragically, the question of involvement of higher officials was at best ignored by Salvadoran and American officials when new faces took over here in early 1981. The questions raised by the families put large holes in the contention that only the five accused Salvadoran national guardsmen were involved. Those questions, however, have largely been ignored or answered with distortions by our own Government officials.

Mr. Speaker, it is a tragedy that 2 years after the deaths of Jean Donovan, Ita Ford, Maura Clarke, and Dorothy Kazel, we can stand in this Chamber and say that justice has not been served in this case, and that the murder of four Americans in El Salvador has been ignored for the sake of political considerations. There is no way we can ever restore for the families the loss they have all experienced over the last 2 years. There is a time, however, to say "enough is enough." I think we are well past that point. It is high time to rethink our support for a government that has no concern for our own people.●

NUCLEAR POWER IS NOT SCARY, THESE REACTORS ARE

HON. STEPHEN L. NEAL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 3, 1982

● Mr. NEAL. Mr. Speaker. I would like to bring to the attention of my colleagues a refreshingly candid article about the U.S. nuclear energy industry which appeared in the Washington Post last Sunday. The author, Mr. S. David Freeman, Managing Director of the Tennessee Valley Authority, is singularly qualified to speak on the subject. TVA is the single largest user of nuclear power in the United States.

Mr. Freeman contends that nuclear energy critics should not be blamed if the nuclear industry collapses. Rather, its demise would be the fault of the industry itself, which has stubbornly clung to a fundamentally flawed technology. Lightwater reactors, which provide almost all nuclear power in this country, according to Freeman, are unreliable, inefficient, and dangerous. The American public's fears about nuclear energy, says Freeman, are well-founded.

Although severely critical of the nuclear industry, Mr. Freeman still believes we should not "throw out the baby with the bathwater." Rather than simply scrapping nuclear power, safer and more efficient nuclear technologies should be pursued. The Swiss PIUS concept and the high temperature gas-cooled reactor are but two examples of promising technologies. Mr. Freeman argues they should be given more serious consideration by the U.S. nuclear industry and the Federal Government.

Mr. Speaker, for too long we have depended on the "experts" in the nuclear industry to guide our national nuclear energy policy. It is time that we admitted we got bad advice and took a fresh look at this source of energy and the Federal role in promoting it. There are many who believe nuclear energy should be abandoned and

many who would have us forge ahead on our present course. Mr. Freeman offers a balanced alternative. I urge my colleagues to seriously consider his proposal.

The article follows:

WE IN THE INDUSTRY AND OUR CRITICS HAVE BOTH BEEN WRONG

(By S. David Freeman)

As the last militant neutral on the subject of nuclear power, and as a managing director of the nuclear industry's best customer—the Tennessee Valley Authority—I want to tell the industry's advocates that their basic argument these days is wrong.

Both the industry and its critics agree that the nuclear option is in serious trouble. Where the industry goes awry is in the cause of its demise. What's killing it is not the Nuclear Regulatory Commission or the media or Ralph Nader or Jane Fonda. It is their product itself. The nuclear industry is stonewalling the hard evidence that they need to change the design of their reactors.

The litany of nuclear reactor cancellations throughout the United States is a long one. Between October 1980 and June 1982, plans for 21 were abandoned—more than one a month. When I joined the TVA in 1977, 14 large ones were under construction, the nation's most ambitious nuclear power program. Over the past four years, we completed two reactors, but halted work on eight others because the cost of making them safe was simply going to be too much.

The nuclear industry will lose credibility altogether if it persists in trying to blame its problems on an emotional public and a regulatory process overracting to ill-founded fears.

It's time to confess that we went too far too fast in deploying large-scale designs of a reactor type we knew too little about. Right now, we are in the midst of a de facto moratorium on new reactor orders induced by energy conservation, a stagnant economy and the skyrocketing and unpredictable cost of nuclear power.

This period should not be used simply to apply more Band-Aids to existing designs that seem incapable of meeting safety concerns at a price electric consumers are willing to pay.

The last three nuclear units TVA halted were going to produce electricity estimated to cost about 13 cents per kilowatt-hour, more than triple our present average cost of about 4 cents per kilowatt-hour. Furthermore, the number of changes required appears open-ended, since many safety issues are still not really solved. Indeed, in a sense TVA has not really "completed" any of its nuclear plants. At our Browns Ferry nuclear plant in northern Alabama, which has been commercial for years, we still have more than 600 people at work making backfitting changes.

In short, the cost of a new nuclear plant isn't just high, it's unpredictable. No sane capitalist is going to build something for which he can't derive a cost/benefit ratio because the cost in unknowable. That's why the nuclear industry is in the doldrums.

Therefore, what we should be doing is fundamentally reexamining the nuclear option. The central question is: Is there an inherently better technical option than the apparently "unforgiving" reactor design we have today? I believe the answer may very well be yes.

A lot of people, of course, would say why bother? Conservation can substitute for nuclear power and solar can be expanded in the future.

We at the TVA are second to none in our commitment to conservation and alternative energy sources. Since I joined the TVA in 1977, we have conducted energy conservation surveys of more than 600,000 living units. We've issued low-interest loans for insulation, weatherization, heat pumps, solar, and wood heaters for more than 300,000 living units. We estimate that we've recently passed the 1 billion-kilowatt mark in energy saved each year as a result.

But despite—or maybe because of—our extensive experience with these technologies, I am convinced that they are not the whole answer to our energy problems.

For the next few decades, I don't see any realistic way that less nuclear power will mean anything other than more oil and coal. And the marginal dangers of more nuclear plants of a safer design seem to me less of a threat than the added risk and economic ruin from greater reliance on imported oil, not to mention the problems of acid rain and the global threat of carbon monoxide build-up in the atmosphere associated with coal.

So let's acknowledge a few things about our present nuclear reactor designs and move on.

No matter how much we rebuild and retrofit these light-water reactors, the Three Mile Island accident has revealed that the then-existing nuclear technology was capable of self-destructing. The problems that NRC regulations are attempting to correct were real. The doubling and tripling of construction lead-times only reflect the chaotic state of nuclear plant design as the industry scrambles to retrofit safeguards that experience has shown to be necessary.

An improved standardized version of these current light-water reactors would still be overly dependent on the skill of operators. The exposed piping would still be subject to leaks and, consequently, to loss-of-coolant accidents.

While risks to the public can be and are being reduced as a result of all these retrofits and design changes, we cannot be sure that accidents wouldn't result in a meltdown and a destructive release of radioactivity.

Of course, the reactor itself could be crippled, causing the kind of disaster that has, in fact, already cost over $1 billion in immobilized equipment and necessary cleanup. Obviously, that kind of risk is just unacceptably high—not only for the public, but for the utilities and the financial institutions that provide the capital to build the things.

A recent Swedish modification of the basic light-water reactor design addresses this problem in an imaginative way. The Swedes, paying homage to the American penchant for acronyms, call the concept PIUS (Process Inherent Ultimate Safety). This design puts all of the major components, along with the piping that connects them, inside a single, large, pre-stressed concrete vessel. The long-term cooling for the nuclear fuel is provided in a fashion that is not dependent on switches and pumps. Instead, the cooling comes from natural circulation of a large pool of water contained inside the concrete vessel itself.

This "passive" approach eliminates the need for conventional electrical and mechanical "active" safety systems and the reliance on operators to prevent an accident. It can provide cooling for about one week without external emergency cooling systems, without the use of electricity, and without operator action.

Based on its design concept, the plant should be able to tolerate operator error and multiple failures of almost all the active systems. The American experts who have examined this concept can find no basis for challenging the designers' claim that it is incapable of having a melt-down.

No technology can be absolutely safe. But clearly a design that has the potential of being melt-down-proof deserves the necessary funding to be pursued in a thorough research and development effort.

However, neither the nuclear industry nor its critics seem interested. The industry has too much invested in the current technology, and the nuclear critics don't want to face up to the risks of expanded use of coal and imported oil in the pre-solar era.

Another alternate reactor concept is called the High Temperature Gas-cooled Reactor (HTGR). It also holds promise of greater safety and efficiency. It is far less likely to melt down because it has far greater ability to withstand and hold heat. This is made possible by the use of helium as the coolant. Unlike water, helium is already a gas. Therefore, it cannot turn into explosive steam.

This reactor is also aided by the use of graphite in the manufacturing of the reactor itself. Graphite has excellent characteristics for withstanding high heat, even if an accident were to cause the heat to head way above normal.

Helium also has fewer impurities than water, which means it doesn't corrode the pipes. And it has a lower tendency to become radioactive. As a result, an HTGR would have lower in-plant radiation levels, making maintenance easier, less hazardous and less expensive.

Finally, this reactor design uses uranium more efficiently than our present reactors do, and it could be designed to use thorium, a very abundant fuel.

The problem with HGTRs is that 10 years ago, when everybody thought light-water reactors would be commercially successful, HGTR development was halted. The Ft. St. Vrain plant in Colorado is the only operating, high-temperature, gas-cooled reactor in the country. Granted, like all other pioneering efforts, it encountered problems.

But the biggest problem is that while a number of improved designs exist on paper, there is no program, either from the federal government or from industry, for research, development, and a demonstration plant that could determine the real worth of this obviously promising approach.

The issue is whether we need a much better nuclear product or whether the current designs are adequate.

Is the problem with nuclear power an hysterical public and a weak-kneed Nuclear Regulatory Commission? Or is the problem that we should be looking for alternatives to the very product itself, when we are not?

My own opinion is that the fears of the public—now that we have seen a nuclear reactor self-destruct—are very real. They are not going to go away. We have a stalement. The industry is trying in vain to prove that the fears of the public are unfounded. As we say in East Tennessee, "That dog won't hunt."

We ought to realize that with nuclear power, we are still experimenting. We are still developing a very complex technology. We stopped the research and development effort much too soon.

But we can't allow ourselves to be locked into the errors of the past. The nuclear critics—who say that no nuclear plants can work—and vested business interest—who refuse to consider changing a fundamental-

ly flawed product—may both be wrong. Obviously, therefore, we should not and cannot let either of them totally control our future nuclear policy for us.

The existing technology is just not good enough. But the national interest will be harmed if, in the pre-solar era, we become inextricably tied to imported oil or polluting coal.

Therefore, the nuclear option must not be allowed to die. If the administration is indeed as pro-nuclear as it claims to be, it must make the necessary investments in exploring different systems and new technical advances.

And if the nuclear industry does not support such an effort, then it—and not the nuclear critics—must bear the ultimate responsibility for the death of nuclear power.●

FIRST LADY BESS TRUMAN

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, December 3, 1982

● Mr. SKELTON. Mr. Speaker, our Nation has been bequeathed a special gift by our former First Lady Bess Truman who passed away on Monday, October 18, 1982 at the age of 97. Mrs. Truman was one of the most loved and respected First Ladies in our Nation's history, and she left as her legacy to the American people the home and grounds of former President Harry S. Truman.

Today, I am introducing legislation to facilitate the transfer of the Truman home from the estate to the administration of the United States Park Service. Once this is accomplished, the American people will be able to explore the character of Missouri's most distinguished citizen, Harry S. Truman, in the very personal setting of his own home.

This historic site is most certainly a valuable and treasured national asset, and I urge my colleagues to join me in seeking expedient passage of this legislation.●

STRIKING A BALANCE: THE ECONOMY AND DEFENSE

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, December 3, 1982

● Mrs. ROUKEMA. Mr. Speaker, next week, the House is scheduled to take under consideration the fiscal year 1982 DOD appropriations bill. In this bill, we will have before us incalculable sets of numbers, but during our consideration we must not lose sight of another number—a triple-digit deficit in fiscal year 1983 that will probably exceed $150 billion. It is with that number in mind that we must then consider another pair of numbers: 7 percent real growth over 5 years in defense spending, totaling $1.6 trillion.

This 7-percent real growth target was actually agreed upon (without much dissent) 2 years ago, at a time when we thought we would achieve a balance budget in a few short years. We now realize that goal will take much longer to reach and, if we do not reconsider that $1.6 trillion commitment, we may never bring the deficit down to economically manageable proportions.

This 7 percent represents a target in defense growth that was arrived at without first determining, on a line-by-line basis, what exactly we should be spending our money on. The net effect is that, like the failed great society programs of a previous era, we are throwing money at the problem, without considering the economic ramifications or applying sound military doctrine consistent with our economic interests and stringent management policies. This has the effect of not only increasing the deficit, but actually encouraging waste on the part of the Defense Department.

In addition to the damage to the economy, the American people have become increasingly wary of huge defense increases combined with out-of-control deficits. If quick action is not taken, the resulting backlash could bring in dangerously sharp reductions in defense spending at the expense of manpower, training, ammunition and other essential components of our readiness capability.

Murray Weidenbaum has recently made the point as follows:

> There seems to be little justification offered of the economic feasibility of this sharply upward movement . . . intensive analysis should be given to the military budget, comparable to the tough-minded attitude quite properly taken toward many civilian spending activities of the Federal Government.

The fact is our present economy simply cannot sustain this projected growth in the defense budget. We cannot lose sight of the fact that a strong defense demands a healthy economy. Meanwhile, most would agree that neglect of basic conventional defense capabilities and the requirements of modernization of weapons systems will not allow us to return to the 3 percent real growth rate that was utilized by previous Congresses.

Consequently, we must strictly order priorities to allow for growth within fiscally responsible limits. I believe the necessary balance can be achieved by establishing a limit of 5 percent real growth and this should be done immediately, with the bill before us next week. Therefore, I plan to offer an amendment which will bring total spending in the committee bill—which allows for about 6.7 percent real growth—down to 5 percent by reducing spending in the fastest growing account in the bill—procurement.

An examination of the data is persuasive: In fiscal year 1980, procurement constituted 25 percent of all defense spending. In fiscal year 1981, it was increased by 35 percent—24.4 percent in real terms—and was 26 percent of all defense spending. In fiscal year 1982, procurement was increased by another 36 percent—27.3 percent in real terms—and it became 29 percent of the defense budget. The committee bill allows a further 24 percent increase in procurement—15.6 percent in real terms, bringing it to about 33 percent of overall defense spending. It bears noting that 61 percent of the overall growth in defense spending under the bill is dedicated to increases in procurement.

This is particularly disturbing when you consider that operations and maintenance—which makes up the very center of our deterrence capability: Our daily readiness effort—is only increasing by 7 percent—a real growth of a mere 1.8 percent, absorbing only 16 percent of the overall increase. Funding for personnel is only increasing by 5 percent, representing 9 percent of the overall increase.

The growth which has already occurred in the procurement account must also be viewed in light of the staggering increases in procurement spending which have been projected for future years. This is primarily because, once new weapons systems are initiated, they take on a life of their own by forcing expenditures in future years which cannot be controlled, becoming similar in form to the entitlement programs appearing elsewhere in the Federal budget. The Congressional Budget Office has recently estimated that, as a result of these commitments, the procurement account will have grown from 26 percent of the Pentagon budget in 1981 to 38 percent in 1987.

There is a compelling case that we can and should protect the readiness components of our conventional deterrent capability while slowing the growth in procurement. We can bring overall defense spending down to 5 percent this year and still achieve significant growth. First of all, the real growth of 12 percent that has thus far been achieved in defense spending over the past 2 years cannot be ignored. Furthermore, the 25 percent real growth that has already occurred in procurement over the same time frame must be recognized. My amendment would still allow 10.3 percent real growth in procurement. This is a clear indication to our adversaries that we remain committed to a strong defense.

I urge my colleagues to support my amendment so that we can achieve the necessary balance between a strong defense and the needs of our economy.●

NATIONAL PTA OPPOSES CHILD LABOR PLAN

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 3, 1982

● Mr. MILLER of California. Mr. Speaker, when the Secretary of Labor proposed in July of this year to revise the regulations dealing with child labor, to permit employment of 14- and 15-year-old children in occupations previously determined to be hazardous, and to extend the number of hours in which these children could be employed, there was an immediate outcry from a broad spectrum of individuals and organizations concerned with the education, the health and the welfare of children. Among the most articulate and forceful of the statements received by my Subcommittee on Labor Standards at our hearings on the proposal was that of Ms. Manya Ungar, vice president for legislative activities of the National Parent-Teachers' Association (PTA).

The PTA was founded, nearly 90 years ago, to fight the abuse of child labor, and has, through its history, been aggressive and tireless in promoting the education, the sound development, and the welfare of children. At our hearings, the PTA questioned the wisdom of stimulating the employment of young children. It was concerned about their educational progress, their health, their ability to concentrate on their studies while engaged in long hours of employment, and the effect of such working hours on family life and adolescent development.

The National PTA Board of Directors has very recently reviewed its longstanding position on the question of child labor and has rearticulated its views. The PTA encourages meaningful work/study programs and vocational education which help young people to develop skills and prepare themselves for working life. But the PTA understands that such programs are different from simply expanding unsupervised employment of schoolchildren in a manner which encourages them to reduce their attention to their studies, which interferes with their growth and development, and which permits their exploitation. It is clear that the PTA remains as committed as ever to the health, well-being, and education of our youth, who are, of course, our future.

I ask would like that the position statement of the National PTA on child labor be reprinted, at this point, in the RECORD.

POSITION STATEMENT OF THE NATIONAL PTA ON CHILD LABOR PROTECTIONS

(Adopted, August 6, 1982)

As early as 1900, the National PTA was in the forefront of those seeking to protect the health, welfare and safety of children through strong child labor laws. This commitment was based on three fundmental standards:

1. A basic minimum age of 16 for employment;
2. A higher minimum age in identified hazardous occupations; and
3. A provision that the minimum wage for minors be the same as that established as the federal minimum wage standard.

The opportunity to work, to relate work to learning experience and to instill good work habits in vitally important to the development of young people and the economic future of our country. Meaningful life employment, however, is dependent on quality education, effective study habits, and positive school experience. The national PTA has forcefully supported supervised work/study programs, fostered career education, and defended vocational education. In addition, the National PTA has encouraged schools and businesses to work cooperatively in establishing productive work, training and career opportunities for children.

The National PTA has also a legitimate concern that children, especially those below the age of 16, not be tempted to spend more time in the work place and less in school and on homework, that adequate protections for children related to minimum hours, minimum wages, appropriate work supervision and identified hazardous occupations be maintained, and that the National PTA continue to monitor child labor practices which would endanger the safety, health or welfare of children.

Children should have a sufficient time for their schooling, their healthful development and their recreation. To the extent that the workplace can enhance and supplement the healthful development of children, it should be supported. To the extent that the workplace would affect the healthful development of children, exploit an unprotected and more vulnerable segment of our society, or interfere with the educational process, it must be resisted. The ever-changing labor market and newly developing occupations require that the National PTA continue to monitor new laws or regulations that reflect those changes and be continually diligent in recommending only those which will protect children in the work force and work place.●

FARMINGDALE HIGH FOOTBALL TEAM TAKES CONFERENCE TITLE

HON. GREGORY W. CARMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 3, 1982

● Mr. CARMAN. Mr. Speaker, it is always a pleasure to note an accomplishment by one's very own high school. On November 13, Farmingdale High School's varsity football team of Farmingdale, N.Y., took the American League Conference title (division A of conference 1 of Nassau County) with an 8-0 record. Under the direction of Mr. Don Snyder, head varsity coach, and Assistant Coaches Mr. Bob Mulligan and Mr. Irv Apgar, the "Dalers" hold an undefeated record this season in league competition. Perhaps, even more important than the remarkable skills of the Farmingdale football team is the outstanding demonstration of sportsmanship displayed by the players and coaching staff.

Varsity team players include: Mike Ihm, Jim Carman, Rick Van Wickler, Bob Schellhorn, Joe Rzempoluch, Ed McMahon, Vin Parella, Mike Wildes, Drew DeTroia, Mike Freshour, Andy Donovan, Phil Bellia, Glenn Keith, Joe Panariella, Ron Pimental, Greg Gorddard, Mike Erickson, Bob Heuskin, Mike Travis, Andre Gomez, Paul Zarodkiewicz, Chet Levitt, Carl Curriera, Jim DeTommaso, Brian Contarino, Bob Burgan, Tom Sacco, Tom Kirk, Billy Recce, Frank Soldano, Mauro DeBenedetto, Ed Theal, Jim Valenti, Jerry Romanelli, Mike Ross, Jerry O'Sullivan, Mike Carbonaro, Neal O'Sullivan, Rich Raymond, Mike Hill, John Campbell.

And, without the support of managers Chris Masone, Sheri Barlow, Patti Pasquariello, and Russ Gulotta; Statisticians Lynda Heller, Terry Volberg, Ann Volberg, and Len Moore; Cheerleaders Ellen Berkowitz, Janet Cast, Elise Gannon, Paula Guidice, Debbie Lang, Pan Perratto, Jeanne Pucciarlli, Maureen Rooney, Margaret Studdert, Maureen O'Connor, Karen Scheel, Corinne Barret, Debbie Klenozich, Patti Rooney, Linda Cardito, Stephanie Emde, and Liz Flynn under the squad's director, Ms. Rosalie Lebinich, this victory would not have been possible. And special recognition is in order for the Farmingdale Hawk program and for Junior Varsity Coaches Mr. John Corio and Mr. Pete Cerrone and Junior High Coaches Mr. Ed Balboni and Mr. Bob Guarino who have all played a role in training the "Dalers." My heartiest congratulations to all of you for a fine job and a well deserved conference title.●

DAD OF SLAIN MARINE WRITES LETTER TO PRESIDENT REAGAN

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 3, 1982

● Mr. DONNELLY. Mr. Speaker, last month Frank and Rosina Staniszewski came to Washington to attend the dedication of the Vietnam Veterans Memorial. The monument bears the name of their eldest son, Wladyslaw, who was killed in action in Vietnam while serving with the U.S. Marine Corps.

Wladyslaw Staniszewski emigrated to the United States just 18 months before he was inducted into the service. He died before he could fulfill the residency requirement for naturalization as a citizen of this country. Yet certainly by his service in the Marine Corps and by his death on the battle-

field, he demonstrated his full devotion to this country. His family asks only one thing in return for such a great sacrifice, that he be recognized by our Government posthumously as a citizen of the United States.

I strongly urge my colleagues to read the following article published in the Enterprise of Brockton, Mass., and to join me in working to see that their modest and reasonable request is granted.

DAD OF SLAIN MARINE WRITES LETTER TO REAGAN, CONGRESS

(By Kent S. Jones)

BROCKTON.—Frank Staniszewski struggled for nearly eight hours last week in his Drew Avenue home to put his feelings into words. The letter he composed to President Ronald Reagan and the Congress of the United States expresses his simple wish that his son be granted citizenship—nearly 16 years after he was killed in Vietnam.

His son, Wlasyslaw, born in Scotland, was a British subject when he enlisted in the U.S. Marine Corps in 1966. He turned 20 on June 22, 1967, two weeks before he died in action in Vietnam.

Because Scotty, as he was known to his family and friends, had been in the United States for only 18 months when he enlisted, he was not eligible for citizenship.

Now, U.S. Rep. Brian Donnelly has filed legislation in Congress to grant posthumous citizenship to Scotty, but the bill has been stalled in a subcommittee. Frank and his wife, Rosina, would not receive any money or benefits if the legislation were passed.

"We only want our son to become a citizen of the country he died for. We do not want anything for ourselves," said Mrs. Staniszewski.

Frank Staniszewski, a native of Poland and a naturalized American citizen, sat in the living room of their modest single-family home and read the letter he has written to President Reagan and Congress:

"The flag raising, marching and unveiling of the memorial to Vietnam veterans in Washington, D.C., was emotionally inspiring and satisfying for many Americans including us.

"Mothers, fathers, relatives forgot for a moment their sorrow until they returned home and discovered that really nothing has changed. Memories of sons, brothers, fathers still linger on now as ever. But for my family, there is double the sorrow.

"My wife, my daughter and my youngest son became American citizens in 1970. My oldest son, Wladyslaw could not achieve his goal because he was drafted into the service in 1966 and was killed in 1967 at the age of 20. He was in the United States for only 18 months and, according to law, you must be a resident of the United States for five years to become a citizen.

"Our son, Corporal Wladyslaw Staniszewski, U.S.M.C., who fought and died for America is still a British subject and a foreigner. We, as his family, cannot understand why.

"We have had many inquiries and letters from people asking what they can do to help us obtain posthumous citizenship for my son. I thank all of them with all my heart. Cong. Donnelly had introduced the bill in Congress, H.R. 4086, more than a year ago, but as usual some Congressmen are for it and some are against it and my son's citizenship has become a political yo-yo.

"When our son was killed in Vietnam, we received many letters from the White House, the Senate and Congress and from the military. To them it was their duty but for all those families and us it is a deep sorrow and pain we will feel until we die.

"We believe the country must be strong and must be defended at all times. But those men, who fulfilled their duty to their country, should not be forgotten and forced to crawl on their knees and beg for scraps.

"A country which prides itself for humanitarian rights and laws should recognize this misunderstanding and correct it. We believe strongly, as Americans, that our son, Corporal Wladyslaw Staniszewski, U.S.M.C., is entitled to his posthumous American citizenship because he was killed in the line of duty for his country on the highest executive order. Only the highest executive order can resolve all the complications.

"Mr. President. You hold the highest elected office in our country. All my family pleads with you to be gracious and grant our son his last wish. We, as parents, do not want, and are declining all money and benefits. We do not want anything except the recognition for our son and nothing else.

"President Teddy Roosevelt, said, 'Any man who is good enough to shed his blood for his country is good enough to be given a square deal afterwards. Less than that, no man shall have.' "

In his letter to the president and the Congress, Mr. Staniszewski expressed his appreciation to Brockton Veterans Agent James I. Malone, Congressman Donnelly and The Enterprise for helping his family seek citizenship for their son.

Frank and Rosina Staniszewski were among the thousands of parents from around the nation who journeyed to Washington Nov. 20 to attend the dedication ceremonies of the Vietnam-era Veterans Memorial for the veterans killed in Vietnam.

They were able to share their grief and painful memories with other families, but the couple felt an added burden because their son was the only member of the American armed forces killed in Vietnam who was not a United States citizen.

Scotty joined the Marines in 1966 after he learned he was eligible for the draft although he was still a British subject. He could have left the country and returned to Scotland, but he decided instead to enlist.

When he left for service, Scotty told his mother, "Mum, a country worth living in is a country worth fighting for."

"For us to see the Memorial was just stunning. For a minute or so you just couldn't talk," said Mrs. Staniszewski, "It took my breath away. You know there are close to 60,000 men who died in Vietnam but when you see their names all in rows . . ." Her voice trailed off for a moment.

"It was so hushed. Everyone was looking for a name," she continued. "We could get up close and touch the memorial. Everyone was just crying and looking for their own. When you look at the memorial, it is just unbelievable.

"It was almost like it was his grave, even though I knew it wasn't actually. But near him were the names of the men he knew and died with in Vietnam.

"On the ride back, everyone was quiet for awhile. As we got closer to home, the tension began to ease and we started up singing. We sang through all the old songs. We sang a few Christmas songs, too. It is like when you come home from a funeral and everyone goes home. It really hits you again.

"It was the realization there were all these young men with their lives cut off. They did not know the thrill of being married and having children and all the problems of life which go along with it," said Mrs. Staniszewski.●

EXPORT TRADING COMPANY ACT OF 1982

HON. SILVIO CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 3, 1982

● Mr. CONTE. Mr. Speaker, as a cosponsor of the "Export Trading Company Act of 1982," I am pleased that on October 8, 1982, the President signed this important job-creating legislation. During this period of high unemployment—when the jobless rate has reached an all time postwar high at 10.4 percent annually—legislation such as the Export Trading Company Act is a concrete step toward economic recovery.

The Commerce Department estimated that over 30,000 jobs are created for every $1 billion of export sales. In addition, one out of every eight jobs in the manufacturing sector is related to export sales while in the agriculture sector one in every three jobs is connected with American exporting. At the same time, Mr. Speaker, a U.S. Commerce Department survey concluded that about 20,000 U.S. manufacturers and agriculture producers offer goods and services which could be highly competitive abroad—even though only 10 percent of U.S. manufacturing entities, slightly over 30,000 firms, participate in exporting products. It is also generally accepted that the great untapped export resource is small- and medium-sized businesses. The Export Trading Company legislation will promote this unused potential.

Mr. Speaker, the new law addresses two areas that have previously discouraged U.S. firms from exporting: financing and antitrust regulations. Title I allows bank holding companies to invest directly in export trading companies. Local banking resources can now be used to finance exports, thereby increasing American competiveness with our foreign trading partners. Title III and title IV of the new law addresses the antitrust issue associated with small firm exporting. This provision will allow, in certain regulated cases as supervised by the Department of Commerce, several firms to pool their resources for the purposes of exporting. This feature is crucial to encourage the participation of small and medium sized businesses.

Mr. Speaker, the impact of the Export Trading Company Act is not completely measurable at this early date, but the initial estimates look promising. In 1980, the value of New England exports was $11.5 billion an-

nually. Massachusetts produced 39 percent of New England's exporting business. This translates into 52,000 jobs in Massachusetts—people directly employed as a result of exports, not including the "ripple" effect associated with exporting.

Given the tradition of Massachusetts exporting—and exporting potential, the New England Congressional Institute estimated that the recently enacted Export Trading Company Act will result in the creation of almost 4,000 jobs. For a bill that expends no additional funds—just easing regulations—4,000 in a period of 10.4 percent unemployment is a good deal. The export Trading Company Act is not a panecea for the problems faced as a result of the current recession. but this export promotion law will help ease this distressing situation. It's surely a step in the right direction.●

ADDITION TO HOPKINS FAMILY

HON. JAMES A. COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, December 3, 1982

● Mr. COURTER. Mr. Speaker, just before the recent election, I dropped by the Sixth Congressional District of Kentucky to visit my good friend and colleague, LARRY J. HOPKINS. At the airport, I happened to glance through one of the local Lexington papers when a bold headline caught my eye. It said: "Vote for Grandpa, He's Too Old To Work." I knew immediately this referred to our own Mr. HOPKINS.

But, there was greater significance in the headline for, just days before, LARRY HOPKINS had become the very, very proud grandfather of Haley Hopkins Martin. This second granddaughter was born to Shae and Jim Martin on October 3, at 4:14 p.m., at Central Baptist Hospital in Lexington.

At this time, though a little belatedly, I would like to, in particular, congratulate Congressman HOPKINS, his charming daughter and her husband on the arrival of this beautiful addition to their family. I would also like to put in a good word for the physician, Dr. Randall S. Jones, who not only safely delivered Haley, but who also made certain the grandfather survived the waiting room.●

NUCLEAR FREEZE AND DETERRENCE

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 3, 1982

● Mr. HYDE. Mr. Speaker, no issue is more important than preserving the peace and currently a furious debate is underway on how best this can be accomplished.

A significant contribution to this debate has been made by John Gofman and Egan O'Connor in the November 29 issue of the Washington Times, and I herewith share it with my colleagues:

[From the Washington Times, Nov. 29, 1982]

NUCLEAR FREEZE AS "MORAL BLACKMAIL"

(By John Gofman and Egan O'Connor)

Americans are experiencing "moral blackmail," as the Catholic bishops and other advocates of the nuclear freeze say in essence:

1. All good people want to prevent nuclear war.

2. The only way to do so is to halt and then reverse the nuclear arms race.

3. Therefore, if you are a good person, you must support the nuclear freeze.

Statement No. 2 is false and dangerous. The only way to prevent both nuclear holocaust and nuclear blackmail is the way we have done it successfully for 20 years already: by keeping the Soviet rulers convinced they will pay an unacceptable price for either attack or blackmail against us. The nuclear-freeze campaigns encourage both nuclear holocaust and nuclear blackmail by undermining all four essentials of America's deterrent against them.

1. An emphatic "fight-back" policy is essential to deterrence at any level of weapons (reduced or increased, nuclear or non-nuclear). Weapons have no power to deter war or to preserve freedom if aggressors think their intended victims would never use them. Does the freeze movement call for fighting back? No. It claims that fighting back would be immoral, or sure suicide. This makes it a movement for unilateral nuclear disarmament, for a nation is unilaterally disarmed, no matter how many nuclear weapons it still possesses, if it is unwilling to use them.

2. Successful deterrence requires the Soviet rulers to know that the United States would have enough *surviving* retaliatory weapons under any conceivable circumstances to inflict unacceptable damage. The freeze movement is deceiving the public by pretending that our 30,000 nuclear warheads represent "overkill," instead of explaining that what matters in the number *after* the United States has suffered an attack. Today that number is about 3,000; they are concentrated on about 20 survivable submarines. Just 20 objects stand between us and holocaust or enslavement. This is as close to "underkill" as we can imagine, since the Soviets are working on anti-submarine warfare techniques (not banned by a freeze).

The first principle of military prudence is never to put all your eggs in one basket." We need a *variety*, of survivable retaliatory systems so even if the Soviets invent ways to cripple some systems, we will still have a fearsome retaliatory capability. Variety prevents the dreaded launch-on-warning and "hair-trigger" situations. Variety creates stability. Instead of explaining this simple principle, freeze leaders and the bishops support measures which would prohibit the United States from restoring the survivability of its retaliatory traid.

3. Successful deterrence could be vastly stabilized by *defensive* weapons, including anti-ballistic missile systems. Freeze leaders deceive the public by calling ABM "destabilizing" when, in fact, the ability to stop 50 percent (or perhaps 95 percent), of Soviet intercontinental missiles "on route" would virtually guarantee that no Soviet rulers would ever dare launch them in the first place. And ABM would fortify deterrence (the true goal) in another way: by making it clear that it would *not* be sure suicide for Americans to resist enslavement.

It seems both cruel and hypocritical for freeze leaders to terrify American children by saying that nuclear missiles are likely to vaporize them before they reach adulthood, while consistently opposing any defenses against those missiles.

4. Successful deterrence requires constant upgrading of our weapons with new systems, as old ones become useless. For instance, our retaliatory bombers were rendered nearly useless as a deterrent when the Soviets built an in-depth anti-aircraft defense, but our invention of Cruise Missiles and Stealth Bombers can restore our bombers as fearsome retaliatory weapons. The freeze would *deprive* us of these valuable deterrents, and also destroy one of America's most precious resources: its teams of dedicated and experienced weaponeers.

No top talent would stay in, or seek, a dead-end career in weapons research and development (R&D) *in the United States* after a freeze. Yet after a freeze, Soviet weaponeers might be given greater incentives than ever to succeed with their antisubmarine, anti-missile, and anti-satellite research. By crippling our weapons R&D but not Soviet R&D, a freeze almost guarantees our eventual enslavement.

Since the campaign against America's nuclear weapons leads straight to holocaust, surrender, or both, "all good people" will *reject* the freeze and its underlying moral bankruptcy. The price of freedom is neither immoral nor too high, for deterrence has worked and there is every reason for confidence that it will continue working *provided* Americans start campaigning in favor of the four defense essentials.

In the eternal choice between yielding to oppression or resisting it, the moral high-ground still belongs, as it always has, to those who take realistic actions to resist oppression *successfully*.●

IMMIGRATION REFORM NEEDS FURTHER CONSIDERATION

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 3, 1982

● Mr. GARCIA. Mr. Speaker, in yesterday's Wall Street Journal, there was an article on potential labor opposition to H.R. 6514, the Immigration Reform and Control Act of 1982. The thrust of the opposition centers around bringing temporary workers into the United States.

The AFL-CIO is seeking restrictions on the H-2 program, as the temporary workers program is called, that requires certification by employers that they could not find U.S. workers for jobs to be filled by the H-2 laborers. The union also supports guarantees that H-2 workers would have adequate wages and working conditions while in the States.

I applaud the AFL-CIO's position on this issue. As I have said before, how can we complain about immigrants taking jobs from U.S. citizens, and at the same time try to expand our pool of temporary workers? This is an obvious paradox.

The article also mentions the opposition of church groups to the elimination of the legalization program for undocumented persons already residing in the United States. I also applaud this action by these organizations. The legalization program is crucial to the Hispanic community.

What seems to be unraveling is that H.R. 6514 is not ready to be considered by the House. Establishing a new, realistic, and effective immigration policy is one of the most important issues to be considered by this Congress.

It is certainly too important an issue to be taken up during a "lameduck" session. We need a new immigration policy. H.R. 6514 is a start, but let us consider the issue further, ironing out all real and potential problems, before deciding on what our new immigration policy should be.

I submit the Wall Street Journal article for the RECORD.

[From the Wall Street Journal, Dec. 2, 1982]

BILL TO TIGHTEN IMMIGRATION LAW SET BACK BY LABOR PUSH FOR CURB ON FOREIGN HIRES

WASHINGTON.—Organized labor struck a blow at the prospects of a major immigration bill only two days after support from a House leader appeared to give the measure a good chance of becoming law this year.

Ray Denison, chief lobbyist for the AFL-CIO, disclosed that the labor federation will oppose the bill unless it's assured that the Reagan administration and a majority of the House endorse proposed restrictions on U.S. hiring of foreigners as temporary workers.

On Monday, House Speaker Thomas P. O'Neill (D., Mass.) told backers of the bill that he intends to bring it to the House floor for a vote. Several supporters and opponents of the bill contended that the move made passage of some version of the bill probable during the current lame-duck session of Congress.

But the AFL-CIO long has been the prime backer of the bill's main element, which would make the hiring of illegal aliens by U.S. employers a federal offense.

The restrictions sought by the AFL-CIO on temporary workers were approved yesterday by the House Education and Labor Committee on a series of close, party-line votes won by Democrats. But opponents of those limits said they thought they could easily defeat them on the floor.

Peter Allstrom, an AFL-CIO lobbyist, said the labor group will oppose even bringing the bill to the House floor unless the Reagan administration guarantees that the restrictions will win approval there. This would put the AFL-CIO against Speaker O'Neill, usually one of its strongest allies.

Backers of the bill say that it would provide jobs for unemployed Americans by denying them to illegal immigrants. But the AFL-CIO fears that the Labor Department's "H-2" program, designed to import workers might be expanded under the pending legislation to as many as 300,000 jobs from about 15,000, according to Mr. Allstrom. "It's the one section (of the bill) where jobs are most seriously jeopardized," Mr. Allstrom said.

If the AFL-CIO sticks by this position, it could kill the legislation for this year. David Hiller, the Reagan administration's chief lobbyist in its drive for passage of the bill, was surprised to hear of organized labor's switch. "That's a real stunt," he said. "We can never speak of a majority of the House members; we can't even have a majority of the House," he said. "It seems like an extraordinary request."

Rep. Romano Mazzoli (D., Tenn.), chief House sponsor of the bill, said the legislation must at least be scheduled for House consideration by the end of next week to have a good chance to pass before the session expires. "Asking for all this when the time is ebbing away makes it very difficult to get a bill," he said. But he added: "I don't know if it is a fatal thing."

Other groups also have been splitting from the coalition that has supported the bill. Growers of fruits and vegetables in he southwestern U.S. bitterly oppose the AFL-CIO's restrictions on the H-2 program, and are working against the bill.

Several church groups also have defected into opposition, largely because the House is expected to limit, or eliminate, the pending bill's amnesty for millions of illegal aliens who have lived in the U.S. for years. The AFL-CIO also is opposed to any narrowing of the bill's amnesty provision, in part because legal workers are much easier to organize then illegal ones.

The AFL-CIO seeks restrictions on the H-2 program that would make it more difficult and time-consuming for employers to receive certification that they couldn't find qualified U.S. workers. Such certification is a precondition for hiring foreigners.

The labor federation also wants administration of the program kept in the Labor Department, eliminating a role given the more pro-employer Agriculture Department in versions approved by the full Senate and the House Judiciary Committee.

And the AFL-CIO would add new wage and working-condition protections for the imported workers, and would bar any expansion of the program unless the administration certified that it could be fully enforced.●

TRIBUTE TO AMBASSADOR RICHARD LOUIS WALKER

HON. GREGORY W. CARMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 3, 1982

● Mr. CARMAN. Mr. Speaker, I wish to give special commendation to Ambassador Richard Louis Walker, an exceptional member of the U.S. Foreign Service. Ambassador Walker acted as my host during a special fact-finding mission on behalf of the U.S. House of Representatives Banking Committee to promote international trade.

I was very impressed by the organization of the American Embassy in the Republic of Korea. Through Ambassador Walker's efforts, my meetings with trade officials in the public and private sector in the Republic of Korea were very successful.

Sharing with you a little of the Ambassador's history is my pleasure. Mr. Walker was born on April 13, 1922, in Bellefonte, Pa. He holds degrees from Drew University, the University of Pennsylvania, and Yale University. Mr. Walker has served as an adviser and consultant for many educational and professional organizations. He presently serves as a member of the academic advisory council of the Center for Strategic Studies and on the board of directors of Research Consultants for the Institute for Foreign Policy Analysis. Mr. Walker presently serves as the U.S. Ambassador to the Republic of Korea.

Mr. Walker's exceptional efforts bring credit to himself, the American Embassy in the Republic of Korea, and to the United States. We are truly fortunate to have Ambassador Richard Louis Walker as a member of the U.S. Foreign Service.●

THE IMMIGRATION REFORM AND CONTROL ACT OF 1982

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 3, 1982

● Mr. FISH. Mr. Speaker, the Immigration Reform and Control Act of 1982 is based upon the work product of the Select Committee on Immigration and Refugee Policy, the findings of three successive administrations, and extensive hearings by both the House and Senate Judiciary Committees.

The bill represents the most comprehensive reform of U.S. immigration laws in three decades. It seeks to curb illegal immigration, improve the immigration adjudication process, and legalize the status of some illegal aliens with ties to the United States. I believe this bill represents a realistic and just approach to controlling immigration.

I would like to share a New York Times editorial of December 3, 1982. The editorial recognizes the essential balance between enforcement and legalization in the Immigration Reform and Control Act of 1982.

WHY BREAK THE IMMIGRATION CLOCK?

There's a bargain built into the immigration reform bill inching through the House. On the one hand, the bill would make it much harder for illegal workers to enter the country. On the other, it would provide limited amnesty for those already here, living with a fear of discovery that subjects them to exploitation. It's a humane bargain—and also a practical one. The Simpson-Mazzoli reform bill, as delicately balanced as a clock, could never have gotten so far without it.

But now, within sight of triumph, the bargain and thus the bill are suddenly in jeopardy. Speaker O'Neill, to his credit, has promised to bring up the bill during this lame-duck session. Meanwhile, some House

members, by wanting things both ways, threaten to break the clock. Though happy to have tougher enforcement, they want to strip amnesty out of the bill. The effort dishonors the implicit immigration bargain and misunderstands what amnesty would accomplish.

Hundreds of thousands of illegal workers would probably seek amnesty. To some nervous members, amnesty sounds like blanket legalization for a flood of "crooks, Commies and welfare cheats," as one House staff member says ironically. But the reform bill would provide no blanket legalization; it requires case-by-case treatment. Aliens have to have been here for three years to win temporary status, six for permanent status. Undersirables are excluded. Eligibility for welfare is denied or delayed.

More important than exaggerated fears are the benefits, which is why the Reagan Administration vigorously supports the entire package. Amnesty for old aliens would enable the Immigration Service to focus its threadbare enforcement efforts on keeping out new ones. And it would eliminate a fearful, servile underclass.

How can it be good for a democratic society when employers or landlords or merchants prey on illegal aliens' fear of deportation? How can it be good for illegal aliens to shrink from ever going to the police, or to be taxed unfairly? Tolerating such an underclass is cruel to them and unhealthy for the rest of us. The immigration reform bargain—tough enforcement coupled with sensible amnesty—deserves to be honored.●

THE JUDICIAL REFORM ACT OF 1982

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 3, 1982

● Mr. HYDE. Mr. Speaker, one of the most thoughtful and effective Members of Congress is the junior Senator from North Carolina, JOHN EAST.

He has just introduced the Judicial Reform Act of 1982 which is well described in the following editorial from the November 2, 1982 edition of the Washington Times. Because this bill is of such great importance I urge its close study by my colleagues:

RESTORING THE CONSTITUTION

Sen. John East has fired the first resounding shot in what promises to be one of the most important congressional battles of the century. A few days before the election recess he introduced the Judicial Reform Act of 1982. This is no half-hearted attempt to redress this or that example of overreaching by the federal courts. The bill's 12 parts propose nothing less than to return the U.S. Constitution to its original "uninterpreted" state.

The several provisions would strip the federal judiciary of the legislative and executive authority it has usurped from Congress and the executive branch. It addresses every issue raised by the irrepressible judicial activism of the last several decades. The fight will be a glorious one.

The proper role of the federal judiciary has been one of the most intensely debated issues in this nation's history. Where, out of political cowardice, Congress has defaulted on its responsibility to resolve difficult and controversial disputes, federal judges have stepped into the vacuum. The result has been that too much of the most important "legislation" of the 20th century has been written, not by elected representatives, but by appointed judges.

Although some parts of the bill overshoot the mark, the Judicial Reform Act gives Congress the opportunity to reassert its unquestioned, if little-used, powers to shape and control the jurisdiction of the federal courts, Led by the Supreme Court, federal judges have redrawn political boundaries, taken over school boards, directly interfered in prison administration, punished police by excluding completely reliable evidence, taken religion out of the schools, and even told doctors when they may—and may not—perform abortions. It is the premise of the East bill that Congress could—and should—accept its legislative responsibility to debate and decide these issues itself.

But it is not only Congress that will benefit from once again having the constitutional power the bill would retrieve. State governments will find themselves freed of the large and onerous burden of federal judical second-guessing which has been grafted into the Constitution by every-broader interpretations of the 26 amendments. The powers reserved by the Founding Fathters to the states and to the people will be theirs once more.

Sen. East legislation also includes provisions which would greatly improve congressional oversight of the federal judiciary, which would make the Supreme Court's membership geographically representative—as it was at the beginning, and which would in other ways reduce the tremendous power of the federal courts.

The State Judiciary Subcommittee on Separation of Powers, chaired by Sen. East, will schedule hearings after the 98th Congress convenes in January. We'll have more to say before then.●

WATCH JAMAICA

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 3, 1982

● Mr. LAGOMARSINO. Mr. Speaker, on June 22, 1982, I submitted an extension of remarks into the RECORD title "High Hopes for the Caribbean" and complimented the Jamaican private sector group for their fine work in presenting the Caribbean Basin Initiative to the Congress. Now I am pleased to note that the American Friends of Jamaica, at their annual ball in New York City this coming Saturday, will not only honor Prime Minister Edward Seaga but also the Jamaican delegation who so effectively worked with the Congress on this critical issue.

Hopefully, Mr. Speaker, we will have a chance to vote on the trade provisions of the CBI in this special session. The importance of this legislation to the entire Caribbean and Central American region cannot be underestimated.

Prime Minister Seaga recently chaired the Caricom Conference which was held in Ocho Rios, Jamaica, November 14-19. Caricom is actually a Caribbean common market group interested in promoting trade to improve the economies and stabilize the governments of this region. Fortunately, we have a distinguished and able leader in the Prime Minister of Jamaica, Edward P. G. Seaga.

At this point, I include an article, "Watch Jamaica," from the November issue of Reader's Digest.

"WATCH JAMAICA!"

(By Smith Hempstone)

After a disastrous decade of socialism, Jamaica is betting everything—including a hefty stack of U.S. chips—on free enterprise.

"Jamaica—a native word meaning "land of wool and water"—conjures up images of reggae and limbo, of sunburned tourists and Rastafarian cultists with braided hair, of gilded resorts and backwoods settlements where Maroons, descendants of runaway or freed slaves, still follow many tribal customs of their African ancestors.

But the sun-drenched island—the Caribbean's most populous English-speaking nation—is much more than this: Jamaica is the proving ground for democracy and free enterprise in the Caribbean. If the country can solve its pressing economic and political problems, it will show other nations in the region that there is a middle way between the reactionary authoritarianism of a Guatemala and the drab totalitarianism of Castro's Cuba.

Discovered by Columbus in 1494, Jamaica was ruled by Spain until an English fleet sailed into Kingston harbor in 1655 and took over. English planters dabbled in cocoa, indigo, coffee, bananas and spices, but sugar was the economy's mainstay before the island's vast reserves of bauxite, the source of aluminum, were first tapped in the 1950's. Today, Jamaica is the world's third-largest producer of bauxite and the United States largest supplier.

Jamaica's first decade after achieving independence in 1962 was relatively uneventful. But in 1972 socialist Michael Manley was elected prime minister, and Jamaica's economy was soon a shambles. Manley slapped a 700-percent tax increase on bauxite exports. The levy contributed to a drop in Jamaica's share of the world market from 21 percent to 15 percent.

Then the Manley government acquired eight of the country's sugar factories, and in three years production dropped 34 percent. Bad weather, blight and mismanagement led to a stunning 60-percent fall in banana production. Of 24,000 private trading outlets in rural areas, 11,000 went out of business under the Manley reign.

To make matters worse, in 1975 Manley initiated a costly friendship with Cuba's Fidel Castro. Cuban doctors, engineers and security experts poured into Jamaica, while some 1400 Jamaican youths were sent to Cuba for political indoctrination and paramilitary training. On their return, the *brigadistas* became Manley loyalists, employing strong-arm tactics for him and his party. The Cuban embassy, under Ambassador Ulises Estrada, the former deputy chief of Castro's American Department and a key figure in the Marxist takeover of Nicaragua, quickly became Kingston's major center of communist intelligence operations.

Investor confidence collapsed, and economic conditions worsened. Unable to

obtain hard currency to buy raw materials, Jamaican factories closed. Unemployment shot up to 33 percent, prices climbed 78 percent between 1977 and 1980, and the standard of living dropped precipitously. Crime and violence caused the once-lucrative tourist trade to fall by more than a third in two years. A $1.6 billion foreign debt drained the treasury, and state-owned enterprises ran up huge deficits.

With the approach of the 1980 election race between the pro-Cuban Manley and pro-American Edward Seaga, political violence flared. More than 850 Jamaicans were murdered that year alone. Even as Jamaica went to the polls, the bipartisan electoral-commission staff was pinned down by gunfire in its offices.

Despite the violence, an astounding 86 percent of the electorate voted—and when the ballots were counted, Edward Seaga had won 59 percent of the popular vote, and his Jamaica Labor Party had captured 51 of 60 house seats, the most lopsided political victory in Jamaica's history. Commenting on Manley's defeat, Radio Moscow mourned the loss of "a valuable ally."

Before President Reagan's inauguration, Seaga made two visits to the United States to confer with Secretary of State-designate Alexander Haig and Reagan aides Edwin Meese and James Baker. Seaga's message: Jamaica understands it must work, not just borrow, its way out of its economic difficulties. But Jamaica will need help, particularly from the American private sector, in getting back on its feet.

Reagan was well aware that Seaga's victory represented a significant reversal of the pro-Castro, anti-American tide that had been flowing throughout the Caribbean since the Marxist takeover of Nicaragua in 1979. And it did not go unnoticed in the region that Seaga was the first national leader invited to the White House after the new President took office.

The aloof, intellectual Seaga seems an unlikely political leader for a country noted for its mellow attitudes. The prime minister, who is of mixed Lebanese, Scottish, French and African descent, is Boston-born and Harvard-educated. He is married—to a former Miss Jamaica—and has three children. In 1962 he was elected to the Jamaican House of Representatives from West Kingston, a poor and tough district that had never reelected anyone; Seaga has now represented it for 20 years.

When Seaga took office, Jamaica was in trouble. "The country was without funds." recall Arnold Foote, chairman of Kingston's *Daily News*, and without hope." Hours before Seaga's election the Jamaican government literally spent its last dollar, and Seaga—who serves as his own finance minister—faced a foreign-exchange gap of $96 million.

Seaga's first priority was to float emergency loans totaling $86 million from commerecia banks and the American and British governments. The new prime minister also held discussions with the North American bauxite companies, dissolved the sugar cooperatives, restructured the debt-ridden banana marketing corporation and announced his intention of selling or leasing many enterprises (including eight luxury hotels) taken over by the Manley government. In addition, he created incentives for domestic and foreign investors, removed some restrictions on imports and encouraged exports to earn desperately needed foreign exchange.

Problems persist. Bureaucratic bottlenecks, exacerbated by the departure of many technicians during the Manley years, still frustrate local and foreign investors. Shortages of raw materials, uncertain power supplies and labor disputes still are distressingly frequent. Unemployment, which stood at 27.9 percent when Seaga took office, has dropped only one percent, and 290,000 workers still lack jobs.

But Seaga's first two years in office have included some notable successes. He has improved Jamaica's credit rating. The rate of inflation, 23.2 percent for the first nine months of 1980, was down to 4.9 percent last year. Violent crime has decreased dramatically. In 1981 Jamaica's economy registered a 2-percent advance—the first in eight years. Tourism has also rebounded. "People have hope now," observes journalist Hector Wynter. "So their attitude toward each other and toward foreigners is much more positive."

Jamaica's efforts to attract new investment have enjoyed a degree of success as well. Among the American corporation betting on Seaga to succeed are Control Data, which has established a joint venture with a Jamaican company for training services for small and medium-sized Jamaican businesses, and United Brands, which is investing in new agricultural projects.

What Seaga is trying to do—by deregulating economic activity, reducing government ownership, increasing competition, emphasizing exports—is give free enterprise a chance. If he succeeds, the Caribbean will have an alternative role model to Fidel Castro.

In a December 1981 survey of 30 key American business leaders, 16 rated Jamaica the most promising area for investment in the Caribbean Basin. And when President Reagan met last year with Prime Minister Trudeau of Canada and President López Portillo of Mexico, he summed up a vital aspect of his Latin American policy in two words: "Watch Jamaica!" Now the nations of the Caribbean are doing just that.●

BON VOYAGE, JACK BRINKLEY

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 3, 1982

● Mr. McDONALD. Mr. Speaker, JACK BRINKLEY of Columbus, Ga. will depart our ranks with the ending of this Congress. He will be especially missed by those of us in the Georgia delegation, and in particular, by myself, since he and I have served together on the House Armed Services Committee where JACK has been chairman of the Subcommittee on Military Installations and Facilities so successfully. On the full committee, JACK has been a very senior member and a tower of strength for national defense. I have greatly appreciated his wise and patient counsel in that regard. JACK was certainly a key mover and shaker in successfully beating back the recent attack on the C-5 aircraft procurement, and in that respect, he will be sorely missed.

One thing should be particularly noted, and that is the fact that JACK was an Air Force pilot during the Korean war. There was a time when nearly every Member of Congress had performed some military service and could bring this background to bear on defense matters. This is no longer true and the number of Members who have so served, is getting smaller with each Congress. Therefore, the benefit of JACK's advice will be even more sorely missed in House Armed Services Committee work during the next Congress.

JACK has had a full career as a lawyer, State representative, Air Force Pilot, teacher, and Member of Congress. These careers need not be redescribed now, but what needs to be restated is how much we will all miss his wisdom and quiet smile. A friendlier and more patient person cannot be found in these Halls, and I will miss him. Goodbye, and good luck to you in the future, JACK, and come back often.●

TRIBUTE TO THE CINDY SMALLWOOD FOUNDATION AND DR. CARLTON GOODLET

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 3, 1982

● Mr. DELLUMS. Mr. Speaker, I am pleased to call to the attention of my colleagues the work of the Cindy Smallwood Foundation, an important institution devoted to improving the quality of life of residents in the bay area community of California. The foundation was founded in 1973 upon the untimely death of a young black teenage woman, Cindy Smallwood. Cindy's short life was committed to the alleviation of human suffering and inequalities. It was upon this humanitarian basis that the Cindy Smallwood Foundation was founded.

The Cindy Smallwood Foundation promotes community and individual health care through medical education and counseling. It is particularly interested in the problems of trauma resulting from aging, terminal illness and death, and has a unique program which provides grief counseling to those in need. In addition, the foundation provides direct financial aid to low income and minority students seeking a medical education, with its priority being assistance to minority women.

It is fitting that an organization of this stature is presenting its special award at its fundraising dinner December 3, 1982, to Dr. Carlton Goodlet, champion of human rights, justice and world peace. Dr. Goodlet was born in Chipley, Fla., July 23, 1914. He attended Howard University, the Meharry Medical School and the University of California where he received a Ph. D. in psychology. Currently, Dr. Goodlet is president of the National Black United Fund, a member of the

board of trustees of Talladega College, a trustee of the historic Third Baptist Church in San Francisco, and a member of numerous prestigious boards of directors. He has been the editor and publisher of the Sun Reporter newspaper since 1948. Dr. Goodlet has been a practicing physician since 1945, resides in San Francisco and is the father of one child, Dr. Gary Goodlet, Jr.

Dr. Goodlet is a man of national and international reputation in the area of publishing, education, quality health care and world peace. He has been a front runner in civil rights and international affairs. I commend the Cindy Smallwood Foundation for having the vision to present this year's award to a human being of such significant involvement and commitment.

Mr. Speaker, the Cindy Smallwood Foundation continues to reflect in its philosophy and programs the humanitarian efforts of the young person for whom it was named. I am honored to have had the opportunity to bring the work of this institution to the attention of my colleagues in the House of Representatives, and will continue to support it in its noble efforts.●

JOBS PROGRAM NEEDED IN THIS SESSION

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 3, 1982

● Mr. OBERSTAR. Mr. Speaker, Thanksgiving is not end for all turkeys. In fact, this Thanksgiving gave birth to a great turkey of an idea—the proposal once, and apparently briefly, under consideration by the Reagan administration that we increase the tax burden on unemployment compensation in order to reduce unemployment. Perhaps we should fight crime by punishing its victims; they are easier to locate.

The proposal to fight joblessness by increasing the tax burden on those who experience unemployment was absurd.

Unemployment stands at a 42-year record. I ask the President to identify the jobs by which 11 million unemployed Americans may cast off the joys and carefree existence of unemployment. I urge my colleagues to join with me in the serious business of enacting a program to create jobs, and not engage in schemes to punish the jobless.●

SOCIAL SECURITY IS FACING SURE CHANGE

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 3, 1982

● Mr. BEREUTER. Mr. Speaker, I wish to bring to the attention of the House an editorial which appeared in the November 6 edition of the Lincoln Star. The commentary reveals a good understanding of the problems facing the social security system and of the politicizing of this issue.

I commend its wisdom to my colleagues.

[From the Lincoln Star, Nov. 6, 1982]

SOCIAL SECURITY IS FACING SURE CHANGE

We have no faith at all in Democratic congressional claims that the Reagan administration is planning some kind of clandestine attack upon the nation's Social Security system. But we do believe that the system will very possibly be changed in the 1983 session of Congress.

In saying this, we anticipate little basis for fear on the part of the elderly or for pessimism on the part of younger peole. What we think will happen is much along the lines discussed in Lincoln this week by Robert A. Beck, chairman and chief executive officer of Prudential Insurance Co. of America, who delievered the fourth annual E. J. Faulkner lecture at the University of Nebraska-Lincoln.

We saw nothing in Beck's reported remarks about benefit reductions for anyone currently receiving Social Security. We saw nothing in his remarks about drastic changes for those who will be receiving Social Security in the coming five to 10 years.

He did make the point, however, that the rate of improvement in Social Security benefits needs to be modified, and we agree. It is absolutely essential that the integrity of the system be established, once and for all, regardless of the level of benefits.

This is what we urge Congress to do and what we hope will be the position of this state's congressional delegation. The Social Security system absolutely must become a bird in the hand, not in the bush.

We cannot go on with a system as vital as this one is with the skepticism of the young and the terror of the elderly as talked about by Beck. Today's young working people are entitled to have a firm idea of about what the level of their benefits will be when they become eligible and the elderly desperately need to know, for sure, that their benefits are not going to be reduced.

Beck talked about simply changing the criteria for increasing benefits to a more realistic basis such as increases in wage levels rather than the faulty cost-of-living index. He talked about the entire work force, including the federal government, being brought under Social Security and advancing the age for retirement at full benefit from 65 to 68.

The latter change would, perhaps, need careful thought given to surviving spouse benefits and, for the sake of equity, would need a graduated implementation, but it is certainly a practical notion in view of constantly improving longevity figures. None of these things would have to be done to affect current recipients or those soon to be eligible for benefits.

But a new benefit schedule could be devised to apply on a graduated basis back from some arbitrary current age level to a much younger age. In other words, the benefit schedule could be very little changed for those now 60 years of age, curtailed a little for those around 55, a little more for those down to 40 and so on to an age of around 35 or so.

This would not destroy the planned financial security of those now at an age where they could not make up for the reversal and would give younger members of the work force a clear and dependable picture of what their benefits would be and what else they might need to do for the sake of their security in later life.

We simply cannot conceive of this system in total collapse, as some skeptics like to believe, but we do think it needs intelligent and bipartisan analysis and refinement. Further, we believe it can be done and the system put on a permanently reliable basis with relative ease if Congress and the administration forego their posturing on the subject.●

HEALTH PROGRAM CLARIFICATION

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 3, 1982

● Mr. YOUNG of Alaska. Mr. Speaker, I rise to bring to the attention of my colleagues a matter crucial to health care in the Native villages of Alaska. In requesting funding for the Indian Health Service, the Appropriations Committee has wrongly assumed that the community health aid program is the same as the community health representative program and has cut out money for our community health representatives in Alaska.

The language reads:

Because the community health aide program is still in operation and adequate funding is provided for it under the clinics and hospitals line item, none of the community health representative funding should be allocated to Alaska.

This is not the case—they are not provided for in this way. To eliminate the field or community based health efforts and leave the resources entirely to the direct provision of medical services I am sure is not the intent of the committee. However, a misunderstanding of these separate programs has caused this situation to occur. I expect the matter to be remedied in the Senate but wished to make this known for the record.●

HELPING STUDENTS HELP THEMSELVES

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, December 3, 1982

● Mr. SEIBERLING. Mr. Speaker, today I am introducing legislation which would help those remaining students who continue to receive social security student benefits to earn the money they need to continue their education.

As you know, last year in the Omnibus Reconciliation Act, the Congress heeded the administration request to eliminate the social security student benefit. Prior to that action, students enrolled in colleges or universities, whose families were eligible for social security because of retirement, death, or disability of the primary wage earner, received a student benefit until they reached the age of 22. The Omnibus Reconciliation Act included a provision to phase out this benefit. The last class of eligible students enrolled in a college or university in September 1981. Summer benefits were eliminated, and this year, beginning in September, all students receiving social security student benefit experienced a 25-percent reduction of the benefit they receive.

In addition, new regulations of the Pell grant program require school financial aid officers to consider social security student benefits for the purposes of determining eligibility for this form of financial aid. The natural result is that students who formerly relied on the social security student benefits to help finance their educations have had to earn more money through work.

However, students are subject to the same earnings limitation which is applied to retirees under social security. For every dollar over $4,400 which a student earns toward his or her tuition, he or she experiences a 50-cent reduction in social security student benefits. Since the accounting of earnings takes place at the end of the year, many hundreds of students around the country will have to repay social security for any benefits they received in excess of the earnings limitation provision. If the student has to borrow from the next semester's tuition savings to refund overpayments to social security, that student may be forced to defer education plans.

I think this is a serious problem. For that reason, I am introducing legislation which will raise the earnings limitation for students to $10,000, to be effective this year. This new earnings limitation, which would apply only to students, would help working students to earn the money they need to continue their schooling.

Mr. Speaker, eliminating the earnings limitation entirely would cost the social security trust funds $30 million over 4 years. This provision would not have the same price tag, but it would really get at the problem these students are experiencing in financing their education. I think it is the least we can do to further the educational opportunities of the remaining students who are receiving social security student benefits, and I hope the Congress will give this bill prompt attention.●

TRIBUTE TO THOMAS R. REYNDERS

HON. GREGORY W. CARMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 3, 1982

● Mr. CARMAN. Mr. Speaker, I wish to give special commendation to Mr. Thomas R. Reynders, an exceptional member of the U.S. Embassy in Paris. Mr. Reynders recently assisted me during a special factfinding mission on behalf of the U.S. House of Representatives Banking Committee to promote international trade.

I was very impressed by the organization of the U.S. Embassy in Paris. Through Mr. Reynder's efforts, my meetings with trade officials in the public and private sectors in Paris were successful.

Sharing with you a little of Mr. Thomas R. Reynders' history is my pleasure. He was born on April 27, 1937, in Worcester, Mass. Mr. Reynders holds degrees from Princeton University and Harvard Law School. He has served as a member of the NATO Defense College in Rome, as a senior watch officer for the U.S. Department of State, and as a lieutenant of the U.S. Army. Mr. Reynders presently holds the post of Chief General for Economic Policy at the American Embassy in Paris, France.

Mr. Reynders' exceptional efforts bring credit to himself, the American Embassy in Paris, and to the United States. We are truly fortunate to have Mr. Thomas R. Reynders as a member of the U.S. Foreign Service.●

SENATE—*Monday, December 6, 1982*

(Legislative day of Tuesday, November 30, 1982)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

The Lord is my shepherd; I shall not want.

He maketh me to lie down in green pastures: he leadeth me beside the still waters.

He restoreth my soul: he leadeth me in the paths of righteousness for his name's sake.

Yea, though I walk through the valley of the shadow of death, I will fear no evil: for thou art with me; thy rod and thy staff they comfort me.

Thou preparest a table before me in the presence of mine enemies: thou anointest my head with oil; my cup runneth over.

Surely goodness and mercy shall follow me all the days of my life: and I will dwell in the house of the Lord for ever.—Psalm 23.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. I thank the Chair.

SENATE SCHEDULE

Mr. BAKER. Mr. President, I shall now attempt to outline the schedule of the Senate as I see it for this week and next week. I have discussed this schedule with the distinguished minority leader, who is necessarily absent from the floor attending a committee meeting.

I see the acting minority leader is present, and I can assure him that I have attempted to apprise the minority leader of the details of this plan.

Mr. President, we are now in the process of trying to wind up the second session of the 97th Congress. The Speaker and I have previously announced that it is our hope that we can adjourn this session of the Congress on December 15, or no later than December 17. That leaves us very little time to do what should be done in the remainder of this session.

So, Mr. President, Senators should be on notice, from this day forward, that there is the distinct possibility of sessions beyond the usual adjournment or recess hour of 6 p.m. Indeed, late sessions should be anticipated for any evening between now and sine die adjournment.

SATURDAY SESSION

Mr. President, after I go over the list of items that I hope we can do in this session, most Senators will agree that my announcement in respect to a Saturday session is essential, and I do wish to announce now, with reluctance, that Members should anticipate that the Senate will be in session on this coming Saturday.

Generally speaking, this week will be devoted to legislative and executive calendar work exclusive of the continuing resolution. It is possible that we will be able to do many things other than those which I am about to list, but let me outline a plan and a proposal for this week.

MONDAY, DECEMBER 6

Today, Mr. President, I hope that the Senate might agree to proceed to the consideration of Radio Marti, H.R. 5427, which is Calendar Order No. 797. I understand there are serious problems with that measure by some Senators perhaps on both sides of the aisle. However, it is an important measure, and it is my intention to try to move to that matter today, if possible. I will cooperate with Senators to try to work out their difficulties. I especially understand that the Senators from Iowa have problems with a matter of frequency allocation for Radio Marti, and I urge that that be resolved by the administration so that we can dispose of that problem.

In that connection, Mr. President, I should have said at the outset that in these final 2 weeks, or what I hope is the final 2 weeks of this session, holds will be honored only sparingly and under the most urgent circumstances. Senators are aware, of course, that holds on both calendars, the calendar of general orders and the calendar of executive business, are matters of courtesy by the leadership on both sides of the aisle and are not part of the standing rules of the Senate. Therefore, Members should be on notice that in these closing hours of this session, as indeed was the case last year and I believe the year before, holds will become distinctly perishable.

Mr. President, in addition to Radio Marti, it is my hope that we might today do the neighborhood development bill, S. 2607, and the energy OCS bill, S. 2305.

There may be other matters that can be brought up today. Of course, I would be pleased to move any worthwhile legislation that can be brought to the attention of the joint leadership.

TUESDAY, DECEMBER 7

Tomorrow, Mr. President, the first order of business, after a time for the transaction of routine morning business, should be the D.C. appropriations bill, which I understand is available. It is not practical to try to deal with it today, but it is my intention to ask the Senate to consider it on tomorrow as the first order of business, that is, H.R. 7144, Calendar Order No. 951.

In addition to the D.C. appropriations bill, I hope that the Senate will turn to the consideration of S. 2000, the bankruptcy bill, Calendar Order No. 632. In addition to the bankruptcy bill, it is my hope that we can consider the California utility bill, H.R. 1524, Calendar Order No. 933.

WEDNESDAY, DECEMBER 8

As I announced earlier, Wednesday will be executive calendar day, and it is the intention of the leadership on this side to try to move as many nominations on the executive calendar as possible during the day on Wednesday. I fully recognize and understand that many Members, once again perhaps on both sides of the aisle but surely on this side of the aisle, have objections to certain nominees on that calendar and have placed holds on the calendar, but they should be aware that many of those nominees will be presented if the Senate agrees to proceed to the consideration of their items.

So if Senators have objections to particular nominations on the calendar, I urge that they be present during the day on Wednesday or else we are going to work through that list as best we can.

THURSDAY, DECEMBER 9

Mr. President, Thursday I hope that we can go to the highway/jobs bill. That is a good place for it. I am not sure what shape we will have it in, that is to say, whether we will have a House-passed bill or whether we will have a bill from one or more of the committees of the Senate. But in any event, Senators should be on notice that Thursday is the day on which I hope we will proceed to the consideration of a highway/jobs/gas tax bill.

I hope it is not unduly optimistic, Mr. President, to say that on Thursday is my hope that we might also do the energy water appropriations bill,

H.R. 7145, if it is available and if time permits.

FRIDAY, DECEMBER 10

On Friday, Mr. President, it is anticipated that we should try to do H.R. 3809, the nuclear waste bill, if it is received from the House, as I anticipate, and the shipping bill, perhaps an Alaska railroad bill, and Senate Resolution 436, which is the resolution carrying the rules and regulations for televising the proceedings in the Senate.

SATURDAY, DECEMBER 11

On Saturday, I anticipate that we would continue debating the TV resolution in the Senate, if that is necessary, and other matters as they may be necessary or desirable on either of the two calendars.

Mr. President, as I said earlier, other matters may come up. I have assured the minority leader that I will consult with him as often and as throughly as the circumstances will permit me, meaning that as soon as I have information in addition to this list or to be deleted from this list I intend to convey that information to the other side so that no one is taken by surprise.

WEEK OF DECEMBER 13

Mr. President, it is possible that next week would not be consumed entirely with debate and action on the continuing resolution, but I would not bet on it. Some of these matters have a habit of taking on a life of their own. So the leadership on this side has suggested that we commit the entire time next week and prior to adjournment sine die to the consideration of the continuing resolution. That does not rule out other matters. It certainly does not rule out conference reports and other priviledged matters that may come before the Senate.

Members should also be on notice that they should expect late night sessions next week on any day and that we will stay as long as necessary to pass the needful and urgent legislation before the Senate. I believe we can do that before the 15th of December. It will require extensive cooperation by Members on both sides and, no doubt, difficult negotiations in some cases. But we have done it before, and we can do it again. We owe it to ourselves, to Congress, and to the country to transact this business before we adjourn sine die.

(Mr. HUMPHREY assumed the chair.)

BIRTHDAY GREETINGS TO SENATOR STROM THURMOND

Mr. BAKER. Mr. President, I am afraid I may have overstayed my welcome in terms of the standing order, but I cannot pass the opportunity to observe the presence of my friend and colleague, the President pro tempore of the Senate, STROM THURMOND, in the Chamber, following his duties which he performs with great diligence in opening the Senate each morning.

I wish to extend—with all my colleagues, I am sure—a very special message to our colleague Senator THURMOND. On behalf of the entire Senate, STROM, happy birthday to you.

I must say, in all candor, that I am of course delighted by this event, but also somewhat alarmed. I keep finding myself astonished less by Senator THURMOND'S energy at that young age than by the disparity in energy and enthusiasm between Senator THURMOND and some of us who serve with him in the Senate who have not yet attained 80 years.

He is a tough act to follow and an even tougher one to keep up with. He is and always will be a Senate legend.

In honor of his birthday, Mr. President, this week's poem is written by a young and talented Southern poet, Joanie Whitebird. The poem is entitled "Star," and I ask unanimous consent that it be printed in the RECORD in tribute to Senator THURMOND on his 80th birthday.

There being no objection, the poem was ordered to be printed in the RECORD, as follows:

STAR

Out of Chaos
came a man walking,
unsteadily at first
but walking all the same

a woman
looked out
saw him walking
and loved him for it
(because
from where she was
Inside
he looked like
a star
shining alone
at sun rise)

and she too
came out of Chaos,
timid and unsure
but walking all the same

when the man
looked back at her,
he knew
but he kept walking

they walked a long way
in the clean and precise
New World
gaining strength
and certitude
in their new selves
before he spoke to her

"as children
we dreamed
lovers to be inseparable—
as stars, we learn
only the limitless
can support
our polarity"
he kissed her once
and began to move away
turning and spinning
into the distance
where he touched her
one tear fell
then

came a great rushing
of wind and lights;
the known universe fell away
completely

and time and space
became a frozen blue
in the distance
shone one star
that kept her immobile
hypnotized

and she began to sing
the song of his light,
and she sang
until it became
her light also

slowly,
after cycles
and more cycles
had passed,
a third light came
then a fourth
a fifth

after eons
there appeared
walking and holding hands,
two children,
bathed in stars

Mr. THURMOND. Mr. President, will the majority leader yield?

Mr. BAKER. I yield.

Mr. THURMOND. Mr. President, I am very grateful to have the opportunity to serve in the Senate. This is my 28th year in the Senate, and I am very grateful to the people of South Carolina who have kept me here that long.

I also am grateful that we have such an able majority leader, who is thoughtful of others and who does an outstanding job. I wish to express my deep appreciation to him and the entire Senate for their courtesy and unfailing kindness to me. I assure them that it is always a pleasure to cooperate in every way I can, for the good of my State and for the Nation.

Mr. BAKER. Mr. President, I thank the Senator. He indeed stands as an example for all of us on both sides of the aisle.

STROM, we are proud of you.

Mr. THURMOND. I thank the Senator.

Mr. BAKER. Mr. President, I apologize to the acting minority leader for extending beyond my time, but I offer him a corresponding amount of time if the Senate will agree by unanimous consent.

Mr. PROXMIRE. I thank the majority leader.

Speaking for the minority leader, I think there will be no necessity to take more than the time allotted to the minority leader, and I will not take all of it.

Mr. President, I do join my good friend from Tennessee in congratulating our President pro tempore on his birthday.

Did the Senator say it was his 50th birthday? That is about how old he looks.

Mr. BAKER. About 40.

Mr. PROXMIRE. About 40, that is right. I know he is in magnificent con-

dition, as a weight lifter and jogger, and he is a great example to our country.

If more people were to do what Senator THURMOND does, we would have far less costly medicaid and medicare programs.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, is there an order for the transaction of routine morning business?

The PRESIDING OFFICER. There is.

Mr. BAKER. And it would occur automatically, I believe, under the order entered, at the conclusion of the time allocated now to the minority leader. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. BAKER. I thank the Chair.

DUBIOUS BENEFITS OF THE GASOLINE TAX AND ROAD BILL

Mr. PROXMIRE. Mr. President, as the distinguished majority leader has pointed out, we are going to take up the so-called gasoline tax and road bill on Thursday.

Frankly, I approach that with far less enthusiasm than other Members of the Senate. All indications are that this will not provide many jobs, if at all.

The Chairman of the Council of Economic Advisers, Mr. Feldstein, has given that as an opinion.

Just the other day, an article by Robert Pear in the New York Times states the following, and I will read the first paragraph:

> The road repair and construction bill being considered by Congress would provide hardly any special assistance to those industries and regions with the worst unemployment, economists said today.
>
> In addition, they said that the legislation, designed to create 320,000 jobs, would do nothing to help most of the nation's nearly 12 million unemployed workers.

A number of eminent economists are quoted. Donald Straszheim, vice president of Wharton Econometric Forecasting Associates, is one. Sar Levitan is another.

Mr. Straszheim said that after incorporating the gasoline tax increase and the highway program into this economic model, the Wharton team found only a trivial effect on the unemployment rate.

Mr. President, the article goes on to say that the Wharton forecasters see unemployment averaging 10.3 percent next year.

Similarly, Sar Levitan, a very capable economist—he has appeared many times before the Joint Economic Committee and is recognized as one of the outstanding economists in our Government, a man of solid reputation—says that the effect on the jobless rate would be "extremely little or nil."

He says:

> The gasoline tax is basically a regressive tax. Whether you make $100,000 or $10,000, you pay the same nickle on a gallon of gas. As a result, people have less money to spend on consumer goods.

Mr. President, I bring all this up particularly because, as the distinguished Senator from Michigan and I pointed out on Friday, our States are suffering much more severe unemployment than the rest of the country. We would be loser States under this legislation.

In other words, we would contribute far more in gas taxes than we would get back in spending on highways. We would get back only 70 cents on the dollar in Wisconsin and 60 cents in Michigan.

Ohio, Indiana, Michigan, and Wisconsin are States where unemployment is far higher than elsewhere, and there is no question that we would have fewer jobs if this is put into effect than if it is not put into effect, under present circumstances.

The bill may be modified and changed, and I hope so. No State will get back less than 85 or 90 cents on a dollar, but it will still be a marginal program. It will not do the job adequately.

Mr. President, I ask unanimous consent that the article by Mr. Robert Pear in the New York Times of Saturday be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Dec. 4, 1982]

ROAD BILL BENEFITS VIEWED AS NARROW

ECONOMISTS ASSERT IT WILL GIVE LITTLE HELP TO AREAS HAVING HIGHEST UNEMPLOYMENT

(by Robert Pear)

WASHINGTON, Dec. 3.—The road repair and construction bill being considered by Congress would provide hardly any special assistance to those industries and regions with the worst unemployment, economists said today.

In addition, they said that the legislation, designed to create 320,000 jobs, would do nothing to help most of the nation's nearly 12 million unemployed workers.

The monthly employment report from the Bureau of Labor Statistics today documented much deeper, more pervasive problems than could be solved by the "highway jobs" bill, the economists said.

Donald H. Straszheim, vice president of Wharton Econometric Forecasting Associates in Philadelphia, observed that employment levels were still declining in most industries.

AN AID TO CONSTRUCTION

A major question being asked in Congess is whether the highway bill would funnel money into those industries and regions with the worst unemployment. It would help construction workers, who have a very high rate of unemployment because of a severe slump in housing. But, aside from that, there seems to be no reason to think the bill would specially help the most afflicted regions or industries, the economists said.

The unemployment rate for construction workers dropped slightly, from 23 percent in October to 21.9 percent in November. This probably reflects the recent decline in mortgage rates and an increase in home construction, economists said.

Sar A. Levitan, labor economist at George Washington University, said that the highway bill would assist some of the nation's better-paid hourly workers. Construction workers earned an average of $11.69 an hour in November, as against an average of $7.80 an hour for all production workers in private industry, the bureau reported.

On Thursday the House Ways and Means Committee approved a bill to increase the gasoline tax by 5 cents a gallon, raising it to 9 cents. The new revenue would provide $5.5 billion a year to finance President Reagan's proposal for a nationwide program to improve highways and mass transit systems.

Transportation Department officials said that the money would be distributed according to standard formulas established by statutes over the last 65 years. The formulas take account of such factors as a state's population, land area, postal route mileage and traffic load, the cost of completing its interstate highway system and the number of square feet of deficient bridges within the state.

The highway money will not be concentrated in any region, the officials said. A state's unemployment rate is not a factor in any of the formulas. But since population is a factor, the distribution of money will help states with large population and large urban areas, where unemployment is often a serious problem.

Reagan Administration officials have estimated that the highway program would create 320,000 jobs, directly and indirectly. There are now 111 million people in the civilian labor force. So for every 111,000 people who gain jobs, the unemployment rate declines by one-tenth of 1 percentage point. If the Administration estimate is correct, the highway program would reduce the unemployment rate, now 10.8 percent by a maximum of three-tenths of one percentage point.

Mr. Straszheim said that after incorporating the gasoline tax increase and the highway program into its economic model, the Wharton team found only a "trivial" effect on the unemployment rate. The Wharton forecasters see unemployment averaging 10.3 percent next year.

CALLS IT A REGRESSIVE TAX

Similarly, Mr. Levitan said that the effect of the legislation on the jobless rate would be "extremely little or nil."

"The gasoline tax," he said, "is basically a regressive tax. Whether you make $100,000 or $10,000, you pay the same nickel on a gallon of gas. As a result people have less money to spend on consumer goods."

At a news conference this afternoon, Lane Kirkland, president of the American Federation of Labor and Congress of Industrial Organizations, was asked whether he thought the highway program would reduce the unemployment rate. "It will be helpful to a degree," he said. "There is a case for it irrespective of the jobs issue. But we don't think it's adequate in terms of the dimensions of the problem that we have, the urgent necessity of attacking the economic distress this country is facing at its roots."

At a caucus next Tuesday, Senate Democrats plan to discuss proposals for a larger package of public works and road repair projects. These proposals, explicitly designed to reduce unemployment and stimulate the economy, could increase the cost of

the total program to $10 billion next year from $5.5 billion.

Unemployment rates were already high and rose further last month for several large occupational groups. The jobless rate for blue-collar workers rose to 16.5 percent from 15.9 percent. For workers in durable goods manufacturing, the rate rose to 17.1 percent from 16 percent. For automobile workers, the rate rose to 24.1 percent from 22 percent. For metal workers, primarily steelworkers, the rate rose to 26 percent from 23 percent.

Labor Department officials said that the hardship was cushioned for some households by the fact that there were two wage earners present. Among families with one person unemployed, 71 percent had at least one member who was still employed.

THE WAR OVER PENTAGON SPENDING

Mr. PROXMIRE. Mr. President, yesterday's New York Times carried an analysis of military spending by Rudolph Penner, one of the four eminent economists who write regularly in the Sunday Times about national economic policy. Mr. Penner is particularly recognized as a man with a strong sense of responsibility, as well as great economic judgment and training.

I think all of us appreciate—the present occupant of the chair (Mr. HUMPHREY) appreciates it perhaps more than many others—how important it is for us to get our fiscal policy back in order and how devastating for any kind of stable economy is a situation in which the deficits are expected to be $150 billion next year—I should say in the present fiscal year that began October 1—and perhaps as much as $200 billion, certainly very high, in 1984.

This is just a prescription for inflation with high interest rates for an economy that reels into unemployment and serious recession with heartbreaking bankruptcies.

We simply have to do this. It is going to be hard to do.

What Mr. Penner does is, without debating the wisdom of increased military spending he points out we have to have the courage if we are going to go ahead with military spending to match any increases in military spending with increases in taxes, that if we do not do that we are certainly going to have deficits which will be unacceptable, that we are going to have inflation that is going to be too high and in periods of recovery interest rates that will choke off that recovery, and we are going to have periods of very painful unemployment that are going to be very similar to what we have gone through over the last year or so.

Mr. President, the mammoth deficits facing this country over the next few years constitute an absolutely unacceptable prescription for inflation, high interest rates and an economy that reels from the deep unemployment that now plagues us to the devastating inflation that hit us so hard a couple of years ago and will certainly return unless we summon the will to take the tough medicine of bringing our Federal budget under control.

In this article, Dr. Penner rightly contends what most of us in the Senate must recognize to wit, that military spending is specially hard to control because of two elements. In the first place, the procurement constitutes a kind of public works program for the States where weapons systems are researched, developed, and produced. The programs bring jobs that push Congressmen and Senators into a full court press for congressional approval, regardless of the merit of the military program or its value to the taxpayer. Second, as Penner points out, the procurement takes a long time to show up in the budget. So the reward for cutting the budget and eliminating the expensive weapons system does not show up for some time, long after the commitment has been firmly locked up. We cannot improve the 1983 or 1984 oncoming budget significantly by knocking out the $7 billion we will have to spend for the two new aircraft carriers. They will not show up big in the budget for a couple of years and then they will plague us until the 1990's. Finally, Mr. Penner argues that we must spend what we have to spend for our military security and that will undoubtedly impose a heavier cost than we now sustain from the military. As Penner says, if there is no other responsible decision but to commit ourselves to a higher tax burden in the longer run unless nondefense programs are cut more than seems likely, then we must increase taxes. In the words of Penner: "The debate over weapons procurement in the 1983 and 1984 budget is really a debate over appropriate tax policy in the 1985-90 period."

Mr. President, I ask unanimous consent that the article to which I have referred in the Sunday New York Times be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE WAR OVER PENTAGON SPENDING
(Rudolph G. Penner)

As a nation, we are waging a war among ourselves over our ability to wage war.

On Nov. 22, the President fired off a salvo with one of his typically effective television speeches. He spoke of the need to spend more on defense so we can cajole the Russians into mutual reductions in defense spending in the future. In opposition, others argue that the Russians will not be impressed with increases in United States defense spending if they are inefficient and that there is no way that the huge increases sought by the President can be implemented efficiently. Still others—though a notable minority—do not see the Russians as much of a threat at all.

The higher levels of defense spending desired by the President are impressive. Between the fiscal years 1981 and 1987, outlays would grow almost 15 percent a year. The increase in the fiscal year 1983 alone will be almost $34 billion. For perspective, this far exceeds the entire amount of the President's originally recommended 1983 spending levels for housing assistance ($8.9 billion), food stamps ($10.3 billion), and Aid to Families with Dependent Children ($6.9 billion).

It is next to impossible for the layman—or the experts, for that matter—to judge the value of our defense effort. The effectiveness of any new weapons system depends on how potential adversaries respond by changing their policies. We, therefore have to forecast their response, judge its importance and then go on to design our response to their response, and so on.

Because the key issues are so difficult to analyze, we tend to ignore them and public discussions focus on peculiar rules of thumb and tangential issues. For example, there is much argument over the appropriate rate of growth of real defense spending and whether it should be 8 percent, 5 percent or 3 percent a year. But there is little discussion of what degree of protection is bought by different rates of growth.

There is also concern that the high growth rates of spending will distort economic efficiency, causing bottlenecks and perhaps an acceleration of inflation. I think this concern under-estimates the ability of our market system to respond to shocks and the Pentagon's flexibility to change the timing and composition of its purchases. But even if the distortion of our economy were a threat, the real issue is whether such distortions are worth it to gain greater security. In World War II, we completely rearranged our economy and few asked whether it was worth it.

Another argument raging within the Administration is whether the surprising decline in inflation should permit a reduction in the dollar amount for defense. Over all, prices may be as much as 5 percent lower in the fiscal year 1986 than projected as recently as last July, and that change alone would seem to warrant a $17 billion reduction in currently scheduled 1986 defense outlays.

But the Pentagon argues that the prices it has to pay have not been affected significantly by the drop in inflation. And it is not an easy argument to analyze. The pentagon's prices will be largely determined by the demands imposed on the economy by the growth in spending. Faster growth will almost inevitably be reflected in higher prices for defense-related goods and services.

Moreover, the Pentagon exerts considerable direct control over the prices it pays. Officials spend time negotiating over prices, and in the case of contracts with a clause that permits added costs, they even negotiate over key items such as the pay of workers in defense industries. While it seems reasonable to believe that lower inflation should result in lower defense prices, it is difficult for an outsider to get the relevant information to make the case since so much of the evidence is generated within the Pentagon.

My own conclusion is that such tangential arguments are not worth pursuing very far and that we cannot avoid the hard question: Are all of those expenditures worthwhile?

Military experts have convinced me that we have been deficient in defense spending relating to readiness—personnel, operations, maintenance and training—primarily be-

cause those expenditures are the easier to cut politically.

The more controversial expenditures involve weapons procurement. And there the military has given us considerable cause to be dubious about the efficiency of the decisions. We have an MX missile that cannot find an uncontroversial home; an F-18 plane that cannot fly very far; an Aegis cruiser that may be top-heavy, and a multitude of other questionable weapons systems.

There are two difficult political problems with cutting procurements. First, the production of a weapons system has a pork-barrel element. It is an effective jobs program in certain Congressional districts. Second, it takes a long time for a procurement cut to show up in budget outlays. Consequently, the reward for cutting the budget does not appear for a long time, while the complaints from affected districts show up immediately. For example, a Congressional Budget Office option to modify naval strategy and to dispense with two very expensive nuclear carriers—that had not been scheduled to be deployed until the early 1990's—saves $7 billion in budget appropriations immediately, but has its main impact on budget outlays in the second half of the 1980's. While the two nuclear carriers represent an extreme case, the same principle applies to almost all major weapons systems. A commitment to buy a system now commits us to a stream of outlays lasting years.

Somehow we must change the terms of the defense debate. If we focus on 1984 outlays, we are almost certain to make inefficient decisions—probably cutting the things that we need the most. Thus, it is essential to take a longer-term view of both defense outlays and the overall budget deficit.

While the high deficits projected for 1984 and 1985 represent a severe problem, I believe that the financial markets would take a more saguine view of them if the long-term growth of defense spending and the major domestic entitlement programs were slowed so that the deficit is put on a sharp downward path in the late 1980's.

And if after a reasonable debate, it appears that it would not be wise to slow defense spending growth significantly, then there is no other responsible decision but to commit ourselves to a higher tax burden in the longer run unless nondefense programs are cut more than seems likely.

Put another way, the debate over weapons procurement in the 1983 and 1984 budgets is really a debate over appropriate tax policy in the 1985-90 period. That point should be emhasized again and again until it is seared into our consciousness.

PLIGHT OF KURDS REMINDS US OF POTENTIAL FOR GENOCIDE

Mr. PROXMIRE. Mr. President, on October 24, 1982, the New York Times published a letter to the editor describing the terrible plight of the Kurdish people. The letter was written in response to Vincent Canby's October 6, 1982, review of "Yol," a movie which tells the story of a young Kurd who goes home on leave from prison to discover that his village is being terrorized by Turkish anti-Kurdish forces. The author of the letter, Vera Beaudin Saeedpour, commends the director, Yilmaz Guney, both for sharing a glimpse of Kurdish culture with the West, and for portraying the tools of oppression in Turkey today.

In her letter, the author also describes the efforts of the Turkish Government to eradicate the identity of the Kurdish people. She says that the Turks do not acknowledge the 8 to 10 million Kurdish people living in their country. The author includes a report from Amnesty International saying that a Turkish sociologist was imprisoned for 10 years for calling the Kurds a separate ethnic group.

In addition, the writer points out that Turkey is not the only country which oppresses Kurdish people living within its borders. She says: "Turkey is a terrible place to be Kurdish, but so is Iran, and so is Iraq, and so is Syria." Even abroad, many Kurds live in silence because they fear retaliation against their families at home.

Mr. President, this letter reminds us that terrible ethnic persecution takes place all around the globe. Sadly, it also reminds us that the potential for genocide still exists in the world today. And, although Americans detest such oppression, our Nation has not done all that it could to end this heinous practice.

Mr. President, since 1967 I have daily urged the Senate to ratify the convention for the Prevention and Punishment of Genocide. While it has remained in legislative limbo in our Senate, over 80 other nations have ratified it.

By neglecting to ratify the treaty, the United States falls short of its duty as a leader in the area of international human rights. No human right is more fundamental to all racial, religious, and ethnic groups than the right to exist. While the United States abstains from ratifying the treaty, thousands fear ethnic obliteration. We cannot afford to wait any longer—I urge the Senate to act now.

TRENDS IN CONVENTIONAL ARMS TRANSFERS TO THE THIRD WORLD BY MAJOR SUPPLIERS 1974-81

Mr. PROXMIRE. Mr. President, there have been some very interesting trends in conventional arms transfers to the Third World by major suppliers.

Mr. President, while it is important to pay attention to arms sales agreements, as was emphasized in the analysis by the Congressional Research Service I commented on earlier, in many ways the more timely statistics relate to actual deliveries, the culmination of prior sales agreements.

When looking at the statistics on actual deliveries, several distinct trends stand out. The first is that deliveries by all the major suppliers, the United States, U.S.S.R., Britain, France, and West Germany, have increased in real terms from 1974 to 1981.

I think many Members of the Senate have not been aware of the terrific increase of arms deliveries in real terms from this country, West Germany, France, Britain, and especially the Soviet Union.

Second, the most startling growth pattern has been that of the Soviet Union. They have almost doubled their deliveries in the 1977-81 time period compared to the 1974-77 years.

In terms of specific weapons delivered, the Soviets specialize in tanks, self-propelled guns, artillery, supersonic combat aircraft, and surface-to-air missiles. In fact during the 1978-81 period, the Soviet Union had significantly more deliveries than the United States in just about every major category.

Other trends worth noting are the emphasis by the United States are deliveries to East Asia and Pacific region Third World countries while the U.S.S.R. has concentrated heavily in the Near East/South Asia region.

In the meantime, the Western European suppliers have been busy lining up contracts and supplying hardware to Latin America. In some cases they have displaced the United States as the major supplier of weaponry there.

That did not use to be the case. We used to be the arms pusher. We still are selling arms and giving arms abroad at an enormously rapid rate and more rapidly than ever before, but the Soviet Union has surpassed even that.

Mr. President, this whole process of arming the world, particularly the underdeveloped nations, is completely counterproductive. It promotes war in these countries. It impoverishes these countries as they have to spend so much of their energy, efforts, manpower, and painfully limited resources in sterile military activity when they should be helping their economies recover so that people could live decent lives.

I do hope that we not only recognize this but begin to exercise the kind of positive efforts that Secretary of State Shultz has suggested in which we designate certain areas of the world as arms free, including South America and Central America, and do all we possibly can in every way constantly to remind our other nations that they should stay out with their arms sales and if they do we will.

Some kind of specific and constructive activity like that is essential if we are going to live in a better world and if we are going to have the kind of progress that we need for these underdeveloped countries to have any kind of an economic future.

Mr. President, I ask unanimous consent that part III of the CRS study be

printed in the RECORD along with the accompanying tables.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CRS STUDY

The data in table 2, 2A and 2B reflect the fact that values of deliveries by the United States, the USSR and the major Western suppliers have increased in both nominal and real terms from 1974–1981. The most notable increase in the delivery values has been that of the Soviet Union, which more than doubled the average value of its deliveries during 1977–1981 compared to 1974–1977. The data for the other major suppliers reflects a more steady growth in nominal terms and a more modest growth in real terms, when adjustments for inflation are made.

Table 3 shows the number of specific classes of weapons delivered to the Third World by the major suppliers from 1974–1977, 1978–1981 and 1974–1981. This table (and its regional counterparts) adds a qualitative dimension to this presentation by indicating the types and amounts of weapons the major suppliers transferred during these time periods, and which suppliers were most responsible for deliveries of the classes of weapons listed to Third World recipients.

The data in table 3 shows that the United States during the period from 1974–1977 led in four of the twelve categories of weapons deliveries, while the Soviets led in five. The four major West European suppliers led in three categories. During the period from 1978–1981, the United States led in no categories, the Soviets led in nine, while the major West Europeans again led in three. For the entire period from 1974–1981, the United States led in four categories, the Soviets in five and the major West Europeans in three. Overall these data indicate that in the most recent four years, the West Europeans are maintaining notable shares of the Third World markets in helicopters, other aircraft and naval craft—both in minor surface combatants and submarines. The Europeans are also gaining a greater share of the guided missile boat market, otherwise dominated by the Soviet Union. The United States does not manufacture and export a naval craft in this category. The Soviets lead over the eight year period has been consistently in four categories—tanks and self-propelled guns, artillery, supersonic combat aircraft and surface-to-air missiles.

When the Third World weapons delivery data is broken down into the major regions of the Third World, it becomes evident who are the major suppliers and who has and is now dominating the given region in deliveries of specific classes of weapons. Table 4 clearly indicates the dominance of the United States in weapons deliveries to the East Asia and the Pacific region from 1974–1977. The U.S. led in ten out of eleven categories of items actually delivered. The area became more competitive from 1978–1981, with the United States still leading in seven categories to four for the Soviet Union and one for the major Western European suppliers.

Table 5 shows that in the Near East South Asia region the Soviet Union dominated deliveries, ranking first in six categories from 1974–1977 compared to three each for the United States and the major Western European suppliers. In the period from 1978–1981 the Soviet Union led in deliveries of 10 weapons categories compared to two for the major Western Europeans and none for the United States.

Table 6 shows the increasing importance of the major Western European suppliers in arms transfers to Latin America. In the period from 1974–1977 the United States led in deliveries of six weapons categories and was tied in one with the major Western European suppliers. The Soviets led in three categories, the major Western Europeans in two. However, for the period from 1978–1981, the major Western European suppliers led deliveries in five categories compared to four for the Soviet Union and three for the United States.

The United States has not been the leading supplier of any category of major weapons to Sub-Saharan Africa during either the 1974–1977 or 1978–1981 periods as Table 7 indicates. The major arms supplier to this region in both the 1974–1977 and 1978–1981 periods has been the Soviet Union. In 1974–1977 the Soviets led deliveries in 7 categories to 3 for the major Western European suppliers, with a tie in one category. From 1978–1981, the Soviet Union led in 9 delivery categories to two for the major Western European suppliers.

In summary, these regional weapons delivery data collectively show that the Soviet Union has become the leading arms supplier to the Third World of several major classes of conventional weaponary from 1977–1981. The United States has also transferred substantial quantities of these same categories of weapons, but has not matched the Soviets in terms of sheer numbers delivered in the recent four year period. It is also clear that the major Western European suppliers have become, in the recent period, serious competitors for arms markets in every region of the Third World, especially in Latin America.

Despite these trends a note of caution is warranted. These aggregate data on weapons categories delivered by the major suppliers do not provide indicies of the quality, or level of sophistication of the weapons actually delivered by a given supplier to a particular region. As the history of conventional conflicts in the 1970s suggests, quality and/or sophistication of weaponry can offset a quantitative disadvantage. The fact that the United States may not "lead" in quantities of weapons delivered to a region does not necessarily mean that the weapons it has transferred cannot compensate, to an important degree, for larger quantities of less capable weapons systems delivered by the Soviet Union or others.

In addition, these data do not provide any indication of the capabilities of the recipient nations to use effectively the weapons actually delivered to them. Superior training—coupled with quality equipment—may, in the end, prove to be a more important factor in a nation's ability to successfully wage conventional war than the sheer magnitude of conventional weapons it may have in its inventory.

TABLE 2.—ARMS DELIVERIES TO THE THIRD WORLD, BY SUPPLIER [1]

[In millions of current U.S. dollars]

	1974	1975	1976 [2]	1977	1978	1979	1980	1981
Total	7,263	8,044	11,916	15,392	18,912	21,923	21,179	23,414
Non-Communist	4,343	5,014	7,666	9,652	11,702	11,733	12,379	14,234
Of which:								
United States	2,793	3,084	4,646	5,932	6,382	6,463	5,079	6,144
France	480	480	960	1,010	1,700	1,360	2,780	3,670
United Kingdom	450	400	530	725	1,030	770	1,600	1,200
West Germany	180	270	520	620	660	740	960	910
Italy	130	190	190	350	700	615	600	800
Other free world	310	590	820	1,015	1,230	1,785	1,360	1,510
Communist	2,920	3,030	4,250	5,740	7,210	10,190	8,800	9,180
Of Which: U.S.S.R	2,530	2,400	3,400	5,000	6,230	9,180	7,480	7,160
Other Communist	390	630	850	740	980	1,010	1,320	2,020
Dollar inflation index [3] (1974-100)	100	109	117	125	134	144	160	181

[1] U.S. data are for fiscal year given (and cover the period from July 1, 1973 through Sept. 30, 1981). Foreign data are for the calendar year given. Statistics shown for foreign countries are based upon estimated selling prices. All prices given include the values of weapons, spare parts, construction, all associated services, military assistance and training programs. U.S. commercial sales contract values are excluded, as are values of the Military Assistance Service Funded account (MASF) which provided grant funding for South Vietnam, Laos, Philippines, Thailand, and South Korea. MASF deliveries values for fiscal year 1974 were $1,159,000,000; for fiscal year 1975 $1,125,000,000. Related grant transfers to South Korea and Thailand, also excluded, were $11,000,000 in fiscal year 1979; $10,000,000 in fiscal year 1980 and $100,000,000 in fiscal year 1981. All data are current as of Jan. 1, 1982. Third World category excludes Warsaw Pact nations, NATO nations, Europe, Japan, Australia, New Zealand.

[2] United States data for fiscal year 1976 include the transitional quarter (fiscal year 197T).

[3] Based on Department of Defense Price Deflator (minus pension funds).

Source: U.S. Government.

TABLE 2A.—ARMS DELIVERIES VALUES AVERAGES TO THIRD WORLD BY SUPPLIER, 1974–77 [1]

[In millions of current U.S. dollars]

	1974	1975	1976 [2]	1977	Average (1974–77)
Total	7,263	8,044	11,916	15,392	10,653.75
Non-Communist	4,343	5,014	7,666	9,652	6,668.75
Of which:					
United States	2,793	3,084	4,646	5,932	4,113.75
France	480	480	960	1,010	732.50
United Kingdom	450	400	530	725	526.25
West Germany	180	270	520	620	397.50
Italy	130	190	190	350	215.00
Other free world	310	590	820	1,015	683.75
Communist	2,920	3,030	4,250	5,740	3,985.00
Of which:					
U.S.S.R	2,530	2,400	3,400	5,000	3,332.50
Other Communist	390	630	850	740	652.50
Dollar inflation index [3] (1974=100)	100	109	117	125	

[1] U.S. data are for fiscal year given (and cover the period from July 1, 1973 through Sept. 30, 1977). Foreign data are for the calendar year given. Statistics shown for foreign countries are based upon estimated selling prices. All prices given include the values of weapons, spare parts, construction, all associated services, military assistance and training programs. U.S. commericial sales contract values are excluded, as are values of the Military Assistance Service Funded account (MASF) which provided grant funding for South Vietnam, Laos, Philippines, Thailand, and South Korea. MASF for fiscal year 1974 was $840,000,000; for fiscal year 1975 $544,000,000. All data are current as of Jan. 1, 1982, and reflect termination of all sales contracts. Third World category excludes Warsaw Pact Nations, NATO nations, Europe, Japan, Australia, New Zealand.

[2] U.S. data for fiscal year 1976 includes the transitional quarter fiscal year 197T).

[3] Based on Department of Defense Price Deflator (minus pension funds)

Source: U.S. Government.

TABLE 2B.—ARMS DELIVERIES VALUES AVERAGES TO THIRD WORLD BY SUPPLIER, 1978–81 [1]

[In millions of current U.S. dollars]

	1978	1979	1980	1981	Average (1978–81)
Total	18,912	21,923	21,179	23,414	21,357.00
Non-Communist	11,702	11,733	12,379	14,234	12,512.00
Of which:					
United States	6,382	6,463	5,079	6,144	6,017.00
France	1,700	1,360	2,780	3,670	2,377.50
United Kingdom	1,030	770	1,600	1,200	1,150.00
West Germany	660	740	960	910	817.50
Italy	700	615	600	800	678.75
Other free world	1,230	1,785	1,360	1,510	1,471.25
Communist	7,210	10,190	8,800	9,180	8,845.00
Of which:					
U.S.S.R	6,230	9,180	7,480	7,160	7,512.50
Other Communist	980	1,010	1,320	2,020	1,332.50
Dollar inflation index [2] (1974=100)	134	144	160	181	

[1] U.S. data are for fiscal year given (and cover the period from Oct. 1, 1977 through Sept. 30, 1981). Foreign data are for the calendar year given. Statistics shown for foreign countries are based upon estimated selling prices. All prices given include the values of weapons, spare parts, construction, all associated services, military assistance and training programs. U.S. commercial sales contract values are excluded, as are values of the Military Assistance Service Funded account (MASF) which provided grant funding for Thailand, and South Korea. Related grant transfers to South Korea and Thailand, also excluded, were $11,000,000 in fiscal year 1979; $132,000,000 in fiscal year 1980; and $100,000,000 for fiscal year 1981. All data are current as of Jan. 1, 1982, and reflect termination of all sales contracts. Third World category excludes Warsaw Pact Nations, NATO nations, Europe, Japan, Australia, New Zealand.

[2] Based on Department of Defense Price Deflator (minus pension funds).

Source: U.S. Government.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business not to extend beyond the hour of 12 noon with statements limited to 5 minutes each.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The Senate is in morning business.

TORNADOES AND FLASH FLOODS DEVASTATE ARKANSAS

Mr. BUMPERS. Mr. President, I want to speak for just a few moments about a relatively unknown—that is nationwide—tragedy that has just stricken my State. I had a remarkable experience Thursday afternoon as I flew into the Little Rock Airport headed south: I looked to the west and saw two tornadoes. I had not been there so I did not know there were tornado warnings out. But I knew that the humidity and the temperature and all of those things that those of us who have grown up with tornadoes watch so carefully were all ripe for a tornado. Yet, it is very unusual for it to happen in December. We consider the tornado season to begin about March and end in May. But there they were, two tornadoes about 8 miles off to the right of the airplane.

When I got inside of the terminal I realized that, in fact, tornadoes were hitting all over the State at that very moment.

Fifteen lives were lost in my State on Thursday and Friday and maybe one on Saturday. Those are terrible human tragedies. Some of those deaths were caused by tornadoes and some were caused by flooding. There were literally dozens of injuries that occurred as a result of the tornadoes. But the rainfall—all of which fell very heavily in a short period of time—caused flash flooding in a whole host of areas across the State.

In short, when the damage toll is taken in dollars, those tornadoes and that flash flooding, some of which still continues—if you watched the "Today Show" this morning you saw them still evacuating people, 5,000 people homeless—when it is all said and done, in economic terms, Thursday and Friday and Saturday will be the most devastating natural act ever to hit the State of Arkansas.

I have written to the President asking him to honor the request of our Governor that the entire State be declared a disaster area. I know that he just returned from South America and perhaps this is not on the front burner with him. But I wanted to do two things: I wanted to publicly urge the President to promptly declare all of those areas—Arkansas, Illinois, and Missouri—disaster areas and to simply make the point for the record that in our State, like every State where unemployment is very high and people are already having a tough time, we have had this terrible, terrible burden put on us.

In the little town of Clinton, about 1,250 people—one of the most beautiful little communities anybody could ever want to see—the water was up to the awnings on the businesses. One lawyer being evacuated from his office had water up to his chin when they finally got him out. It happened so quickly and so unbelievably. And this has just been repeated in Portia and East Camden and several other areas in the State.

And while we sit here in the dryness and the comfort of the Senate Chamber, or as we go out and get the morning paper and take it to the kitchen while we drink coffee and see what happened the day before, it is impossible to understand the human misery—people who have lost every single thing they own; businessmen whose businesses were absolutely, utterly, totally destroyed—it is hard for us to understand what a grave responsibility we who are in official positions in this country have for those people, to try to help them get back on their feet, relocate, if necessary, and give them all the assistance that a magnanimous government ought to give people at times like that.

So, Mr. President, I just wanted to put those few comments into the RECORD to alert everybody to the fact that there has been a terrible, terrible disaster which has received not a great deal of notoriety.

Mr. President, I suggest the absenbce of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The majority leader is recognized.

EXTENSION OF TIME FOR ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, it would appear that the clearance process as a matter of courtesy to all Senators has not yet run its course on some of the

items that I identified this morning as possible measures to be disposed of or to be dealt with by the Senate today.

Therefore, in order to provide Senators with an opportunity to speak and transact other matters that are appropriate at this time, and to gain additional time to attempt to work out certain difficulties, I ask unanimous consent that the time for the transaction of routine morning business be extended until not later than 1 p.m. under the same terms and conditions.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HAYAKAWA). Without objection, it is so ordered.

A DAY OF SORROW

Mr. GORTON. Mr. President, the Washington State Chapter of the Congress of Russian-Americans, through its president, John Kovtunovich, has provided the following statement titled, "A Day of Sorrow," for me to include in the CONGRESSIONAL RECORD. The bulk of this statement details some of the many misfortunes to befall the Russian people since the Bolshevik Revolution some 65 years ago; and it is particularly important to consider as we come upon the first anniversary of the imposition of martial law by Moscow's puppet regime in Poland.

"A Day of Sorrow" ends by appealing to Americans to join "in prayers for those who perished at the hands of Communism and for the deliverance of those presently living under the yoke of Communism." This is an appeal Americans should heed.

I ask unanimous consent that the statement of the Congress of Russian-Americans be printed in the RECORD.

There being no objetion, the Statement was ordered to be printed in the RECORD, as follows:

A DAY OF SORROW

On the 65th anniversary of the "October Revolution", we, as Russian-Americans, wish to remind the Free World that on November 7, 1917 the Bolshevik Communist Party deprived the peoples of Russia of their liberty.

Since that day the Soviet government under the leadership of its Communist Party has continually perpetrated crimes that are an affront to humanity. Among them:

The creation of an Orwellian state founded on a basis of human fear and ignorance and maintained by a ruthless military police;

The "reedification" of the Russian peoples, a policy inaugurated by the heinous murder of the royal family and pursued in the hopes of stripping the Russian peoples of their heritage and thereby creating the ideal human cipher, Homo Sovieticus;

The desecration and destruction of over 50,000 churches and monasteries;

The forcible collectivization of peasants, an act which resulted in the death by starvation of seven million people;

The exploitation of workers and the reduction of peasants to the status of government serfs;

The abandonment of Soviet P.O.W.'s (branded "traitors" by the Soviet regime) in Nazi war camps, resulting in the death of 4,650,000 native sons by starvation and disease;

The forceable repatriation of Soviet citizens remaining in Western European countries after the war and the subsequent imprisonment of these citizens in concentration camps;

The extermination of tens of millions of people in concentration camps and prisons;

The mental and physical torture of countless millions without regard to human rights or dignities;

The military suppression of any popular uprisings within the Soviet Union or any of its satellite nations, particularly Hungary, Czechoslvakia, and Poland;

The creation, through the wanton exploitation of natural resources and environment, of an aggressive military machine which continues to grow at the expense of the people's needs and aspirations;

The suppression of the freedoms of religion, thought, speech and the press and the persecution of individuals for their religious convictions and their beliefs in basic human rights.

No document can enumerate the countless crimes perpetrated by the Soviet government against its peoples. Only the tears of an anguished and suffering people can serve to measure these atrocities. To these tears we direct our hopes, our prayers, and our actions.

The 7th of November, the day of pompous Soviet celebrations, parades and deceitful proclamations about the "struggle for peace" and about the "joyous life" of Soviet citizens, we designate as a Day of Sorrow and Irreconcilability.

This Day of Sorrow and Irreconcilability has been faithfully observed by Russian-Americans and by all Free Russians for the past six decades. Throughout all these years Russians free in mind and spirit have continually attempted to warn the Free World of the threatening Communist danger, but to no avail.

Once again, we appeal to the government of the United States of America to proclaim this day as a Day of Sorrow and Irreconcilability and we invite the citizens of this country to join us in prayers for those who perished at the hands of Communism and for the deliverance of those presently living under the yoke of Communism.

Mr. GORTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RADIO MARTI

Mr. HARRY F. BYRD, JR. Mr. President, I understand that there is an order that the legislation in regard to Radio Marti will be called up sometime today.

The PRESIDING OFFICER. There is no order to that effect. It was stated in an announcement.

Mr. HARRY F. BYRD, JR. I will change that to state that it is my understanding that the majority leader intends to call up that legislation today. My only purpose in rising at this point is that I have a very important engagement in Richmond, Va., this evening and it may not be possible for me to be present if this legislation is called up late this afternoon.

I rise to support the legislation. The Cuban people are wonderful people. Cuba is a wonderful island. I spent much time there in 1959, the year that Fidel Castro took over; thus, it will be 24 years on the first day of next month—January 1 of 1983—that Castro took over that island. That was a tragic day in the history of Cuba. Castro has turned Cuba into a Marxist dictatorship, yet Cuba is only 90 miles from the shores of the United States of America.

The purpose of the legislation, which presumably will be called up later today, is to attempt to bring to the Cuban people information which it is impossible for them to get through the state-controlled, Government-controlled, Castro-controlled news media in Cuba.

The Cuban-American community is one with which I have close ties and kept in close touch with for nearly 24 years now. The Cuban-American community is very much interested in this legislation.

As I mentioned earlier, I spent much time in Cuba in 1959. I want to go to Cuba again. I want to go to Cuba at the first opportunity, but I shall not go to Cuba so long as Fidel Castro maintains his Marxist dictatorship there.

I hope that before too many months pass, there will be some change in Cuba. I hope that at the earliest possible date those Cuban immigrants, most of whom live in the State of Florida, will have the opportunity to go back to their homeland and find their homeland free of dictatorship by Fidel Castro.

If a vote is taken in this session on Radio Marti, I ask that the record show that if this Senator from Virginia were present, this Senator would vote in the affirmative.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COCHRAN). Without objection, it is so ordered.

HOW WORLD WAR III WAS LOST

Mr. ARMSTRONG. Mr. President, as Congress considers various proposals to further reduce President Reagan's defense budget, I urge my colleagues to also consider Herb Stein's recent article in the Wall Street Journal, "How World War III Was Lost." It is a sobering message.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Dec. 3, 1982]

HOW WORLD WAR III WAS LOST

(By Herbert Stein)

There were people who never accepted the term World War III. George Will, a respected columnist of the Carter-Reagan period called it "The War Against the Totalitarians, 1939- ." The implication, of course, was that it was all one war, first against the Nazis and then against the communists. Today, if he were still writing, Mr. Will would be able to complete the dates, making it 1939-1987. For, whatever the war was called, by 1987 the democracies had lost it.

Not a shot had been fired, and no articles of surrender had been signed. But the defeat was clear to all when the U.S. agreed to a United Nations resolution establishing a committee to monitor the world press, television and radio to prevent the dissemination of anti-peace-anti-people statements, the committee to be composed of delegates from Bulgaria, Cuba, Nicaragua, Angola and Cambodia. The Wall Street Journal and Commentary magazine were closed.

There had been other signs of course. In 1983 the OECD had agreed to an economic arrangement with the Soviet bloc under which the West would extent credit to the bloc at a fixed interest rate of 5%. In 1984 the convention of the Democratic Party had ruled the candidacy of Senator SAM NUNN for the presidential nomination out of order after the Stockholm International Peace Research Institute denounced him as a militarist.

In the same year the Republicans refused to renominate Ronald Reagan, choosing instead Senator CHAMBERLAIN, who had just returned from Moscow with a letter from Comrade Andropov offering to buy one million American automobiles a year on long-term, low interest credit. The leaders of an effort to establish a Freedom Party disappeared.

But the beginnings of this defeat came earlier, when the U.S. decided that it wouldn't pay the cost of defending the Free World or itself. For a time it had looked as if the U.S. had made the contrary decision, and would turn to rearming itself adequately after a decade of somnolence. America's humiliation in Iran and the invasion of Afghanistan had awakened even President Carter to the need for strengthening the armed forces.

Ronald Reagan ran for the presidency, and was overwhelming elected, on a platform of rebuilding military strength. He proposed a substantial increase in the defense budget. This would have raised real defense expenditures by 9% per annum, raising them as a share of GNP from about 5.5% to 7%, which was still less than the 10% spent in the Eisenhower-Kennedy years. There were some experts, such as the Committee on the Present Danger, who thought the Reagan defense budget was inadequate. Still, the Reagan program was a significant movement toward a stronger military posture. And it was adopted without much dissent by the Congress, Democrats as well as Republicans.

CUTS IN DEFENSE SPENDING

But in the winter of 1981-82 and the spring of 1982 things began to change. The president had to agree to some cuts in his defense budget. On June 10, 1982, the Republicans and conservative Democrats in the House adopted a budget which cut the president's proposed 9% annual increase in defense spending to 7%—a cut of more than 20%. That was regarded as a triumph. Even people devoted to defense agreed that it was the best the president could get. But it clear then that the rebuilding of America's military strength was bogged down in a morass of special interests and that the U.S. would not pay the costs.

This became even clearer after the 1982 election, when Congress returned with a determination to cut the defense budget. This attitude was a reflex to the high rate of unemployment, though no one had shown that cutting defense was a way to increase jobs. So in a special session of Congress in December 1982 the defense budget was cut a further 10%.

In a cliche expression of those days, this action "sent a signal." As the Committee on the Present Danger had said: "Any budgetary revision by the Congress cutting the projected levels of defense funding or deferring or stretching out the proposed five-year program, against the will of the president, would give a dangerous signal to the Soviet Union and to our Allies."

The Soviets got the signal that they did not have to worry about America's rearmament. The U.S. strategy of confronting the Soviet Union with a choice between arms limitation and an arms race was defeated because the threat of an arms race was seen not to be credible.

The Western Europeans also got the signal. They saw that they could no longer count on defense by the U.S. and therefore felt it necessary to cozy up to the Soviet Union. That accounted for the European drive, to which the U.S. acceded, for larger economic relations with the Soviet Union, even if on concessionary terms from the West.

And that gave the U.S. a signal back. With the Soviet Union increasingly adamant and Western Europe decreasingly cooperative with us, the value of what remained of the U.S. military buildup was increasingly in doubt. More and more it appeared that the choices for the U.S. were conciliation or suicide. And this led to a whittling down of the military program to a point at which the Soviets could simply instruct the U.S. not to seek military parity or survivability.

Those months between October 1981 when the Reagan defense program seemed invincible and December 1982 when it was clearly impossible are crucial for the history of the loss of World War III. What happened then?

Of course, there had always been people who opposed the program, either because they thought the Soviets were weak, or because they thought they were peace-loving or because they didn't mind adapting to the Soviet way of life. These people were quiet during the year following Mr. Reagan's election, which was the period of his maximum popularity and power. The country was all conservatives, nationalists and hawks then, and the few doves had no desire to expose themselves to ridicule.

But as the year wore on Mr. Reagan began to suffer the fate of other presidents. Overexposure, trivial mistakes, and inevitably controversial policies cut him down to a size that made attack at least feasible. When that happened the anti-defense "propeace" chorus in the country rose. This was undoubtedly reinforced by the worldwide "peace" movement which was, in part, a Soviet reaction to the fear of Western rearmament after the invasion of Afghanistan. (See "The Peace Movement and the Soviet Union," Vladimir Bukovsky, Commentary, May 1982.)

But the rising resistance of the peaceniks wouldn't by itself have been sufficient to turn the tide. What ended the Reagan rearmament effort was the disaffection or weakening of people who considered themselves, and were, supporters of a strong defense program. They had registered their support in 1980 by electing Mr. Reagan and again in 1981 by backing his defense budget. But they had done that when they thought that the defense program was free—that they wouldn't have to give anything up for it. The magic wand of economic growth would provide for everything.

As 1982 progressed it became clear to many of those people that defense was not free. And when that happened they discovered that while defense was important it wasn't the most important thing.

SACRIFICING NATIONAL SECURITY

For some, a defense expansion of the Reagan magnitude was less important than maintaining the growth of nondefense programs, mainly social programs. For others defense expansion was less important than preventing the budget deficit from exceeding a certain magnitude, which for some unclear reason turned out to be $150 billion. For others, defense expansion was less important than holding down taxes.

None of these people thought or said that they were prepared to sacrifice national security for some other objective. They all maintained that their combination of less defense and more of something else was the best strategy for national security. Those who preferred larger social programs held they were essential for the social solidarity which was a prior requirement for national security. Those who preferred to hold the deficit down said that was necessary to prevent an economic crisis which would make a continued defense buildup insupportable. Those who put lower taxes first said they were indispensable for the economic growth that was essential to national survival.

It happened that many in each group that placed the military buildup second to some other objective had a special interest in the other objective. Those who were most protective of the nondefense social programs in the budget tended to have constituencies which thought themselves the direct beneficiaries of those programs. Those who put restraining the deficit first tended to have an interest in financial markets which was not equally shared by the rest of the country. Many of those who put low taxes first were large taxpayers.

This didn't mean that they were insincere. They all honestly saw matters from their

own perspective. Of course, they were all wrong. As the country learned later—to late—the danger to the free world was not the inadequancy of American social programs, or the size of American budget deficits, or the height of American taxes. It was the inadequacy of the actual and prospective American military establishment.

In any case, the upshot was that, even though a large majority of the people thought that defense was important, they couldn't agree on how to pay for it. They couldn't agree on what to give up in order to have a larger defense program and could, therefore, agree only on a smaller one.

The tragic irony is that in the end, after World War III, the American people paid more than it would have cost to defend the country. They paid more even in the common coinage of taxes and deficits, because they had to raise the fund assessed by the U.N. upon America as its contribution to WEEP—the World Economic Equalization Plan. But far beyond that, they paid more in the rare coinage of freedom and the lives of those who would fight for it.

Mr. PERCY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The time for morning business has expired.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, in a moment I believe the distinguished chairman of the Committee on Foreign Relations (Mr. PERCY) will ask unanimous consent to call up a resolution in respect to Poland.

Mr. President, I ask unanimous consent, if that measure is made pending today and if there is a rollcall vote ordered today, that rollcall vote occur at 2 p.m. tomorrow.

Before the Chair rules, I may say I do not plan to ask for a rollcall. I believe the Senator from Illinois does not plan to either, but in the event someone should ask for the yeas and nays and they were granted, this would provide a time certain for the disposition of this measure.

I put the request.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, there will be no objection from this side on the conditions that have just been set forth by the distinguished majority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

POLISH SOLIDARITY DAY

Mr. PERCY. Mr. President, on behalf of myself and Senator MURKOWSKI, and also Senators HELMS, GLENN, ABDNOR, HAYAKAWA, MATTINGLY, CHAFEE, LUGAR, ZORINSKY, RANDOLPH, KENNEDY, BIDEN, KASTEN, PRESSLER, HOLLINGS, PELL, SASSER, GORTON, LEVIN, BUMPERS, DIXON, INOUYE, D'AMATO, SARBANES, JACKSON, ROTH, HEINZ, GARN, QUAYLE, MOYNIHAN, NICKLES, and THURMOND, I send to the desk a resolution.

Mr. ROBERT C. BYRD. Mr. President, will the Senator add my name?

Mr. PERCY. Yes; I am happy to.

Mr. METZENBAUM. As well as mine.

Mr. PERCY. Mr. President, I ask unanimous consent to add the names of the distinguished minority leader as a cosponsor as well as the distinguished Senator from Ohio.

I send to the desk a resolution and ask for its immediate consideration under the terms and conditions specified by the majority leader.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 501) expressing the sense of the Senate that the American people continue to protest martial law repression in Poland and wish to see it ended, remaining detainees released, and full and free dialog resumed with the Church and Solidarity; and urging the President to proclaim a national day of solidarity and prayer with the Polish people on the first anniversary of the imposition of martial law.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. PERCY. Mr. President, December 13 will mark the first anniversary of martial law repression in Poland. We scarcely need to be reminded of that, but we all feel a need to commemorate this sad occasion in some public and prominent way. We want to tell the Polish people that Americans have not forgotten them.

I am pleased that Lech Walesa is now back with his family, but I am concerned that he will not be free to speak out, or to participate in the shaping of Poland's future.

I hope that recent reports that martial law will soon be lifted are true, but I think we all can agree that Poles need real, not cosmetic, change and significant movement toward restoration of their freedoms.

It seems fitting that the Congress and Executive join in giving focus to our Nation's tribute to the courage and free heritage of the Polish nation by proclaiming December 12, the eve of this first anniversary of the repression of Poland's freedoms, a national day of solidarity and prayer for the people of Poland.

Senator MURKOWSKI has joined me and provided invaluable assistance in drafting a resolution calling for this day of prayer and solidarity, which I now introduce and ask for its immediate consideration.

Mr. President, earlier this year I was in Chicago at a Solidarity meeting with then Secretary of State Haig and heard the emotion and feeling expressed by many people of different national heritages. I presume that a very high proportion in that huge meeting in the city of Chicago were of Polish heritage. Chicago Polish Americans are almost a million strong. The feelings expressed there I think are shared by all American people, feelings of deep sadness for a nation that has been in the suppressive orbit of the Soviet Union. Poland professes to represent the workers, yet when these workers speak out in what is presumably a worker's state, simply asking for the right for workers to organize and to have something to say about the conditions under which they work, they were suppressed and their voices stilled, and martial law was imposed in Poland.

It is for this reason that those of us who have joined together in this resolution feel so strongly. We are not only saying to Polish Americans that we are not forgetting the dedication and feelings of deep sorrow and regret that you have as to what is going on in your native country, but also that we want, through Radio Liberty and Radio Free Europe, all the people of Eastern Europe to know that we have not forgotten. We want progress resumed in Poland toward our goal of workers being able to speak out on issues of importance to them, toward church and state being able to work together, not in opposite directions. We want those who are still jailed released, not punished so harshly for simply expressing a point of view that is shared by millions of people throughout the world.

I thank my distinguished colleagues for their consideration and for the support that they give to this resolution.

Mr. President, I ask unanimous consent that Senator GRASSLEY be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, it gives me great pleasure to join with my esteemed colleague (Mr. PERCY) in bringing before the Senate this resolution pertaining to Poland.

Senators may recall that some time ago I introduced a similar resolution, S. 497. Since that time, Senator PERCY and I have conferred and our staffs have prepared the resolution which we bring before the Senate today. As an American of Polish descent and as the junior Senator from the State of Alaska—the only State, I might add, with which the Soviet Union shares a common border, just as Poland—I urge the adoption of this resolution calling for the show of solidarity with the Polish people by all Americans.

Most Americans are aware that martial law was imposed in Poland late in the evening of December 13, 1981. The 21-member Polish military junta led by General Jaruzelski has, since that date, engaged in a systematic eradication of the precious few civil liberties which the Polish citizens and their chosen trade representative, Solidarity, had previously negotiated. The brief period of democratization which Poland experienced during the months before last December 13 has ended, but must not be forgotten.

The Polish people stand today deprived of basic human rights and freedoms by General Jaruzelski's regime. The swiftness with which the military moved and the severity of the military's response to opposition in Poland were startling. The brutality and oppression which the Polish people have suffered at the hands of their own Communist government should be recognized and remembered by the citizens of all free nations as evidence of the need for unfailing vigilance in defense of democracy.

The purpose of this resolution is to establish December 12, 1982 as a day of national prayer and reflection on which all Americans pause to consider the plight of the Polish people and to reaffirm their commitment to the ideals of freedom and democracy. I hope that through this expression of support and unity all Americans can symbolically demonstrate to the people of Poland and to the world our commitment to the goal of freedom.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, Senator Percy has asked for the roll-call vote tomorrow, and I concur in that request.

The PRESIDING OFFICER. Is the Senator asking for the yeas and nays?

Mr. PERCY. Mr. President, in accordance with the request of the majority leader, the request for the yeas and nays would then result in a roll-call vote at 2 p.m. tomorrow.

I ask for the yeas and nays.

Mr. MURKOWSKI. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PERCY. Mr. President, I ask unanimous consent that the name of the distinguished Senator from New Jersey (Mr. BRADLEY) be added as a co-sponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

(By request of Mr. PERCY, the following statement was ordered to be printed in the RECORD:)

● Mr. BIDEN. Mr. President, it has been 1 year since the iron doors of martial law slammed shut on the people of Poland. This is, therefore, a somber anniversary, but one we must not fail to observe.

We cannot, of course, celebrate what has happened in Poland over the past year. Repression strikes at the liberty of free people everywhere. And, however sadly, we must face the fact that the Jaruzelski regime has largely succeeded in its effort to suppress the Solidarity movement and apply totalitarian solutions to the social and economic problems that continue to plague Polish life. Even the welcome release of Lech Walesa appears to symbolize nothing more than the confidence of a successful dictatorship.

But if the events of the past year offer us no cause for celebration, we would do a tragic disservice to the Polish people to mark this anniversary only as a milestone of a journey into bondage. The hopes and aspirations of a free-spirited people cannot be eradicated by the edicts of an authoritarian government. To believe otherwise would be to abandon a people who have given the world, throughout a long and difficult history, an inspiring and enduring example of courage and determination.

By the resolution we are introducing today, we recognize their national agony—but we also affirm their independent spirit with our own dedication to freedom and self-determination and we assure them of the continuing friendship and good will of the United States.

Mr. President, this resolution would not only declare the view of the Congress on the events in Poland but would also call upon the President to proclaim a national day of solidarity and prayer for the people and nation of Poland. It is time for us, as a nation, to join together again with hope and prayer and renewed spirit.●

Mr. PELL. Mr. President, I am co-sponsor of the resolution calling for an end to martial law in Poland and I strongly support its adoption by the Senate.

When the Polish people formed the Solidarity Labor Union in 1980 their message was clear. The Polish people told their government, the Soviet Union and the world that they valued the principles of individual liberty and freedom from governmental repression. Their courage, strength of conviction, and solidarity won international respect. I have often reflected on the appropriateness of their chosen banner, "Solidarity." It so aptly expresses a nation of 36 million people standing firmly, solidly together in defense of their culture, church and national pride. Under this banner all Poles, including clergymen, laborers, farmers, and intellectuals are unified in the resistance against oppression. Polish supporters of Solidarity have demonstrated undaunted courage in the face of threats and hardships.

December 13 marks the anniversary of the brutal crackdown on the spontaneous expression of the Polish people for freedom. It was 1 year ago on that date that the Polish Government imposed martial law. Official repression in Poland has been at times violent and often brutal. Through the past year thousands of patriotic Poles have suffered physical hardships in prison because of their support for Solidarity. These brave patriots have demonstrated that they cannot be intimidated or deflected from their commitment to freedom. Yet, it is clear that their human rights and civil liberties are being denied in blatant violation of the U.N. Charter, the Helsinki final act, and the universal declaration of human rights.

As a member of the Helsinki Commission. I am grieved by this breach of international agreements. In their actions the Communist officials flaunt their lack of respect for the rights of the individual, international law and their own people. The imprisonment for many months and the clumsy attempts to discredit labor union Lech Walesa with blackmail underscore this lack of concern for human rights and the gap between the Polish authorities and the Polish people. The gap widened when authorities thwarted the will of the Polish people by outlawing the free lawful trade union Solidarity in October 1982.

I support this resolution urging the President to proclaim a national day of Solidarity and prayer with the Polish people on the first anniversary of the imposition of martial law. In so doing, the American people express support for the many brave Poles, their protest of martial law and their desire to see the repressive measures lifted. The American people also wish to see the remaining detainees released and a full free dialog resumed among the church, Solidarity and Polish authorities.

Mr. BAKER. Mr. President, earlier, the Senate gave unanimous consent that the rollcall vote previously ordered on the Poland resolution occur tomorrow at 2 p.m. Implicit in that arrangement was that we complete action on that measure today and have the final vote tomorrow.

I should have included, and I now ask unanimous consent, that no further action on this measure be in order, except for a vote on final passage.

The PRESIDING OFFICER. Without objection, it is so ordered.

BUDGET WAIVER

Mr. BAKER. Mr. President, it is my understanding that the distinguished chairman of the Foreign Relations Committee is prepared to proceed to consideration of the so-called Radio Marti measure. There is a budget waiver on the calendar relating to that, which is calendar No. 923.

Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of calendar No. 923, Senate Resolution 480, waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 5427.

Mr. ZORINSKY. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BAKER. Mr. President, I move that the Senate proceed to the consideration of that measure.

The PRESIDING OFFICER. The motion is not debatable.

Mr. BAKER. Mr. President, I think a point of order will be made.

Mr. ZORINSKY. Mr. President, I rise to a question of order.

It is not in order to consider the budget waiver resolution for H.R. 5427, since that waiver resolution was originally reported by the Committee on Foreign Relations in contravention of rule XXVI 5(a) of the Senate.

Though it lacked special leave, the committee met beyond the first 2 hours of the Senate session on September 21, 1982, and ordered the resolution to be reported at that time.

Mr. BAKER. Mr. President, it is my understanding that the factual situation alleged by the Senator is correct, and no dispute is made on that point. I assume, therefore, that the Chair will uphold the point of order of the distinguished Senator.

The PRESIDING OFFICER. The point of order is well taken, and the resolution is before the Foreign Relations Committee.

Mr. BAKER. I thank the Chair.

Mr. President, I make a parliamentary inquiry. Is it not in order at this time, under the provision of section 904(b) of the Budget Act to move to waive section 402(a) of the Budget Act itself with respect to this measure?

The PRESIDING OFFICER. That is in order.

Mr. BAKER. And that motion is debatable, is it not?

The PRESIDING OFFICER. It is debatable.

Mr. BAKER. In accordance with the provision of section 904(b) of the Budget Act, I move to waive section 402(a) of the Budget Act with respect to the consideration of H.R. 5427, a bill to authorize appropriations to provide for broadcasting of accurate information to the people of Cuba.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. ZORINSKY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. BAKER. Mr. President, will the Senator from Nebraska permit me, before he begins his presentation, to make one statement at the request of the chairman of the Budget Committee?

Mr. ZORINSKY. I yield for that purpose.

Mr. BAKER. Mr. President, the purpose of this motion relates to the timeliness of this legislation and is not meant to have any effect on the fiscal considerations of this bill. Both the Foreign Relations Committee and the Budget Committee met with live quorums present. The point of order involves the timing of when these committees met under Senate rule XXVI 5(a) and does not involve the substance of the budget waiver resolution.

By waiving the section 402 budget waiver resolution request, the Senate will expedite the consideration of this bill.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. ZORINSKY. Mr. President, I do not believe that titles III and IV should be waived, because there is a serious entitlement question involving the waiver of titles III and IV.

Section 6 of H.R. 5427 addreses the potential problem of Cuban interference with U.S. broadcasting.

I believe that this section also creates an entitlement because it provides sufficiently broad authority to obligate the United States to make reparations payments to broadcasters damaged by potential transmission interference by the Cubans.

Although section 6 does not authorize specific funds for this purpose, it does authorize the Federal Communications Commission to make payments to U.S. radio and television licensees and provides for criteria to evaluate financial claims submitted by these licensees.

This provision creates a new set of rights which meet the definition of entitlement under section 401c(2)(c) of the Budget Act, and that section defines an entitlement as spending authority to make payments the budget authority for which is not provided for in advance by appropriation acts to any person or government if under the provisions of the law containing such authority the United States is obligated to make such payments to persons or governments who meet the requirements established by such law.

Under the Budget Act if any committee reports out a bill containing such entitlement authority, the bill must be referred to the Committee on Appropriations for at least 15 calendar days following the date of reference. Even though it has been estimated that reparation payments could cost the U.S. Government as much as $40 million in the coming fiscal year, there has been no appropriate reference of this question to the Appropriations Committee. Thus, it is not in order in my estimation to proceed to the consideration of H.R. 5427 at this time.

Mr. President, I ask for the yeas and nays on the motion to waive the Budget Act provisions.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. GRASSLEY. Mr. President, I wish to speak at this particular time to alert my colleagues in this body to some of the history of this Budget Committee's involvement with this bill and also to express some of the concerns that I have.

First, there was a Budget Committee meeting back in the last of September on the question of the cost of this legislation and whether or not it was open ended, as has been suggested by the Senator from Nebraska, and also on the integrity of the budget process itself.

I commend the Senator from New Mexico (Mr. DOMENICI) for his cooperation in arranging that meeting, for it was very difficult to arrange in light of the heavy legislative agenda that we faced before our October recess. But I felt it was important that each member of the Budget Committee fully understand the problems related to H.R. 5427.

I wish to say that I voted for the motion before the committee because it was without recommendation and so that this issue could come before the Senate as it is now before this body. My major concerns at that time as well as now with granting the budget waiver are that we would be approving a waiver for untold millions of dollars and thus jeopardizing the integrity of the Budget Committee's process. Section 6 of H.R. 5427 authorizes the Federal Communications Commission to instruct the Board of International Broadcasters to compensate U.S. radio and television broadcasters for "expenses that they incur in mitigating the effects of the activities by the Government of Cuba which interfere with the transmissions of reception of the broadcasts of those licensees." The

problem is that we have no reliable estimate of what this cost might be.

I have absolutely no objection to compensating our broadcasters for the damage that might result if we get into a what is termed a "radio war" with Cuba. Moreover, the U.S. Government should bear the responsibility for its foreign policy initiatives and not unduly jeopardize the private interests of our country. Compensation, however, must serve only as a partial remedy and not a solution. The U.S. Government should be willing to take other actions to minimize and prevent Cuban interference.

It seems to me with the process we have now gone through and the time that has elapsed that we should have more answers to these questions now than we did in October. But I think that the issue is more than one of dollars and cents. In times of severe budget crunches, massive budget deficits, we have to give careful considerable time to the costs that are involved here.

At this point, about the only estimates that we have for the cost of this legislation are the actual appropriation request for the administrative, programing, and facility costs for fiscal year 1983 and an estimate by the Congressional Budget Office of over $40 million for compensation. The Congressional Budget Office used the National Association of Broadcasters' estimate that over 200 AM radio stations in 32 States are threatened by Cuban interference and multiplied the number of stations by $100,000 to $200,000. Unfortunately, this cost estimate covered only the costs of adjusting the facilities of our broadcasters in order to minimize interference. It ignores completely the costs incurred for lost advertising revenues, an expense that this legislation could well cover.

I do not have estimates of lost advertiser revenues from all stations, but I do have them for WHO Radio in Des Moines, Iowa, and I might say for the benefit of my colleagues, that my interest in this legislation goes to the property interests and rights of all broadcasters in America. It happens that of all the radio stations in Iowa, even though there may be more than one potentially affected by this legislation, at least the one most talked about and one that is most affected is WHO Radio and the reason for the concern about WHO Radio is that earlier in this process of the administration consideration of Radio Marti, there was a preliminary decision based upon very limited criteria that 1040 kilohertz would be the ideal frequency for Radio Marti. It happens that WHO Radio, Des Moines, Iowa, is a major radio station in my State, for both daytime and nighttime broadcasting and it has FCC licensed and protected service radius of 800 miles. It does reach a large area of the country. Unfortunately, broadcasting to these areas could be destroyed as a result of a jamming or counterbroadcasts to Radio Marti by Castro.

In the process, the loss for this one radio station has been calculated as high as $1,150,000 to $1,350,000 in net losses.

Although it might be difficult to claim that every American broadcaster would suffer to the same extent, it is easy to see that the Government could be paying out hundreds of millions of dollars per year. It was even suggested during the Senate Foreign Relations Committee markup of H.R. 5427 that we might be talking about the loss of revenues of many times that amount.

In light of the above it is extremely difficult for me to agree to the wisdom of rushing this piece of legislation. In light of the fact that we are in the final days of this session and that we only have 10 out of 13 appropriations bills that have not been passed yet, I would raise the question of whether in the lameduck session, as we are trying to close down the 97th Congress, that this is a time to be bringing this up.

But I think if we are then, of course, we are going to have to bring adequate understanding to my colleagues of the issues that are involved, particularly the costs.

As the Budget Committee staff pointed out in a memo it sent out on Senate Resolution 480, establishing a new Federal program such as Radio Marti is inconsistent with an overall freeze in discretionary appropriations unless compensating reductions are made in other programs under the jurisdiction of the Appropriations Committee.

I surely, as a member of the Budget Committee, would never put myself in a position, short of offering an amendment myself, to tell the Appropriations Committee what they ought to do, and I have great respect for their consideration of all these costs. But I do not think there has been any suggestion that the funds will come from some other part of the budget, that there has been any shifting, and I think that is something we need to take into consideration as well.

Although the staff found there is sufficient funding remaining under the Senate Appropriations Subcommittee on Commerce, Justice, State, and the Judiciary section 302 allocations to cover the $7.5 million of H.R. 5427, no suggestion is made in that document of a tradeoff that may be necessary to cover the additional millions of dollars that might be involved.

We are talking about the rights of individual business people in America, individual businesses, and it seems to me, as my senior colleague from Iowa said at the Senate Foreign Relations Committee, we must retain respect for individual property rights. That here we are in our Government trying to decrease regulation, the readjustment of taxes to encourage investments to revitalize our economy, and we are always concerned about the impact of Government on business. It seems to me that we need to recognize, through the consideration of Radio Marti, the potential costs to businesses, the potential damage that Radio Marti might cause to those businesses. We ought to give the same weight to the rights of the businesses as we usually do in this body in light of our concern about the Government's impact through regulation, taxes, and paperwork on businesses.

It would be wrong, it would be a dual standard, if somehow we in a very general vein address the problems that Government is causing business in America generally and in the abstract, but then at the same time not be equally concerned when there is a specific impact we could be making upon a large segment of American business, the broadcasters of America.

I am sure there has been no attempt to justify why this needs to be done right now. I assume the distinguished chairman of the Senate Foreign Relations Committee, Senator PERCY, in his discussion of this issue will state his views, and maybe even those of the administration, as to why this should be passed at this point.

I will have to admit that about 8 weeks have passed since it was considered by the Budget Committee to address my concerns at that particular time. But I think on these general issues of costs these general concerns about the impact it is having on business, they have not been answered yet and, of course, in this debate they can be answered. I hope in the process of considering this legislation that there is not going to be any insinuation that this is something that ought to be rushed through and not given the consideration that is its due, particularly for those of us who are concerned about budget costs.

I guess when I say those of us concerned about budget costs, it is a reflection of the rhetoric of the last election. Whether they be Members of the minority party of this body or Members of the majority party of this body, it seems to me that there was more concern in every region of the country, in almost every race, about the huge budget deficit and what ought to be done about that. And I am sure that concern is impacting greater in this lameduck session than it was in the period of time before the October 2 recess to go home to the grassroots and find out what people's views are.

I am not implying that the people of this country have any specific views on the issue of Radio Marti. But I do say that my constituents and those of every other Member, are more con-

cerned about budget deficits now. That is going to be a major influence on the debate in both this body and in the other body as we deal with those last 10 appropriations bills.

I thank the Members of this body for their kind attention.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. EXON. Are we working on a so-called privileged matter with regard to the budget waiver that has been advanced by the majority leader?

The PRESIDING OFFICER. It is a privileged motion. It is a debatable motion to waive section 402 of the Budget Act.

Mr. EXON. A further parliamentary inquiry, Mr. President: Is it an unlimited debate that is now taking place on this bill or is it controlled time?

The PRESIDING OFFICER. There has been no time agreement.

Mr. EXON. I thank the Chair.

Mr. President, let me echo the sentiments of my colleague from Nebraska and my colleague from Iowa and add to them, that I think the message should go forth very loud and very clear from this body right now that we are indeed wasting our time.

I think the leadership should understand, I think the chairman of the Foreign Relations Committee, my good friend and colleague from Illinois, and all in the Senate should understand, that starting now we are filibustering this Radio Marti measure. There are those of us who will stand on this floor as long as is necessary to see that this matter does not pass the Senate in this special session.

Mr. President, it seemed very clear, as the Senator from Iowa has just spent considerable time on in debating, that there is no reason whatsoever for us taking up this kind of a bill, even if it had merit which, in my opinion, it does not have, in this special session.

Everyone here who understands the procedures here knows full well that in a special session or any kind of a session where time is limited because of the calendar, it is not very difficult for anyone to oppose almost any kind of an action that one or more Senators would hope to take.

Therefore, I call very early in this debate for the managers of the bill and indeed the majority who brought this up to recognize and realize now that there will be those of us who will take advantage of every parliamentary procedure that we can to kill this bill, at least in this special session.

I say, Mr. President, that this bill is a dead duck and the quicker we recognize it as a dead duck then the better off we are going to be, as far as addressing the supposedly key matters that we were called back here after the election to address.

I only wish that the backers of Radio Marti had the wisdom and the foresight of other people that have other types of legislation that they think is necessary. I just wish that the backers of this bill would see the wisdom of those who were proposing a coal slurry pipeline that they wanted to rush through this session. I would hope that the backers of this bill would have the wisdom to recognize that there are a whole series of what is generally referred to as special legislation that was perceived to be appropriate to bring up during this special lameduck session. Such is not the case.

I simply say that I just wish that the advocates of Radio Marti were as wise and considerate of the devastating perils of our time, of which Radio Marti is not one that should be addressed by the U.S. Senate.

If we could get on with the critical business of this Nation that confronts us, then I suggest that we would not be perceived as so hapless and, at times, hopeless in the minds of many of the people of this country. I simply say, again, Mr. President, that we indeed are wasting our time as we debate the motion presently before us, which is the budget waiver.

But since that is before us, let me address myself to that for at least a period of time. I also am a member of the Budget Committee. I voted against this waiver.

Yes, I know that it is commonplace for people to say that whatever the Budget Committee does cannot be that important because it can be waived. Just come to the floor and make a motion, have debate and override the Budget Committee.

Now while I agree that at first blush the amount of money proposed under President Reagan's Radio Marti is not a staggering sum. It is certainly not staggering when you recognize the size of the Federal deficit today, which is staggering indeed. Certainly it is a relatively small amount when you recognize the size of our national debt today which is somewhere between $1.2 and $1.3 trillion and going up each and every hour.

But I think that regardless of the amount that Radio Marti proposes to add to the deficit—and that is what it will do, for what, in this Senator's mind, is not a good reason—then I think that if you are even for Radio Marti, which I suppose some people may be in the end, you should not be automatically voting for a budget waiver.

Mr. President, I am not familiar with the technical violations that may have occurred inside the committee headed by my friend from Illinois, our Foreign Relations Committee, the point that was brought up by my friend and colleague from Nebraska. I simply say, Mr. President, let us not at this particular juncture be willy-nilly in waiving the budget restraints of the Budget Committee. I think, to a considerable extent, not paying attention to the Budget Committee has been one of the main reasons that we find ourselves in this Nation today, in serious financial difficulties. Yes, it has been too easy, indeed, to waive budget considerations by the Budget Committee.

In fact, I have been critical, Mr. President, that the Budget Committee itself is too prone and too quick to endorse budget waivers on matters that it had previously either considered and not acted upon or, as is more often the case, with such budget waivers that is something that we did not consider and therefore as a second thought, as an afterthought, or upon further consideration we should proceed.

(MR. ABDNOR assumed the chair.)

Mr. EXON. Mr. President, I think it should be made clear once again that the only reason that this matter is being brought up on the floor of the U.S. Senate is that the President of the United States wants it. Somehow, Mr. President, the President of the United States seems to feel that it would be wise to continue his macho approach with regard to Cuba.

I would simply say that I share the concerns of the President of the United States with regard to the insurgence of Cuba into the affairs of many other countries. I certainly realize and recognize and, indeed, am most concerned about the increasing role that the Cubans are playing with regard to the havoc being caused in certain places in Central and South America today, a concern that the President of the United States himself is fully conversant with and one of the main reasons for his trip to Central and South America just a few days ago.

But, Mr. President, Radio Marti is one of those macho approaches that is going to be another step, I say, in shooting ourselves in the foot while we attempt to take macho actions against some country that we do not consider friendly. I intend to go into this in more detail in remarks that I will make during the ongoing portion of this debate, which I emphasize once again will be an ongoing debate.

But it seems to me that if we are going to try to broadcast the truth as we see it to the Cuban people, the leadership of Cuba are not going to sit idly by and let this happen. It seems to me that we should begin at least to consider what action the leadership of Cuba are likely to take against us if and when we see fit to go ahead with the proposal by the President of the United States. This is something else,

Mr. President, that I will be talking about in future and prolonged debate.

The facts of the matter are, as many of our friends in the broadcast industry have pointed out, that indeed, with the threat that the Cuban leadership have made, they would be able to carry on extensive jamming of some radio frequencies in the United States. And, as my friend from Iowa has just pointed out, who can tell what damages the U.S. Government would incur from lawsuits that likely would be filed against our action which provoked the initiation of jamming devices from Cuba?

You see, Mr. President, it is one thing to take action—ill-advised or otherwise—against those whom we consider unfriendly a long, long ways off. It is quite another, Mr. President, for us to be taking the action, which I term a macho action on the part of the President of the United States, that would boomerang not to our betterment but make Fidel Castro a new hero in certain parts of the globe for the relatively inexpensive action that he could take in response to this later plan by the President.

I would hope that at some appropriate time we could hear in some detail from the chairman of the Foreign Relations Committee not only what the cost would be now but what the majority of the Foreign Relations Committee feel the cost would be in the long term, or the possible cost that would be incurred by the American taxpayer for Radio Marti, which I would dub as President Reagan's folly.

Mr. President, the key matter before us is simply to recognize and realize that the leadership has called up before the Senate a time-consuming matter that is not going to be resolved. I would simply hope, Mr. President, that the leadership of the Senate would realize that there are many more important matters, of critical importance, which should be addressed at this time.

Therefore, Mr. President, I would hope that we would not even have to take a vote on whether or not to bring up the budget resolution, but if that vote is taken, if the budget waiver is approved by the Senate, then I can simply say that there will be more endless debate because I see no way that this measure has the votes to pass because of the time constraints of this special session.

I oppose the waiver, and I certainly will oppose every step of the process, as I have said, to obligate this country for Radio Marti because it is not in the best interests of the farmers of this Nation who depend on some of the radio stations that have been referred to, but even beyond and above that it is my conviction that this is not in the best interests of the United States in either the short or the long run.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. PERCY. Mr. President, my comments will be very brief at this point. I will not make any comments on the substance of the bill itself at this point, but merely to the point of order which has been raised and the pending motion of the majority leader.

Mr. President, on September 21, 1982, the committee met and ordered reported by a vote of 12 to 4 a budget waiver resolution in accordance with section 402 of the Congressional Budget Act of 1974. That meeting took place 2 hours after the Senate convened and was thus technically in violation of the Senate 2-hour rule.

However, at the time of the vote, I was confident that I had the agreement of the full committee to proceed. I support, therefore, Senator BAKER's motion to waive the Budget Act.

The compensation provisions of this bill are subject to the authorized amounts contained in this legislation, that is, $7.5 million, or to any further authorized and appropriated funds. This bill does not provide for open-ended entitlements.

The Budget Committee has studied the cost of this bill. It is not recommending any amendments to restrict any possible entitlements.

This vote, therefore, is not at all on the merits of Radio Marti. It is also not on the Radio Marti budget. It is simply on a technical point that should not be allowed to hold up the consideration by the Senate of this bill.

Mr. CHILES. Will the Senator yield?

Mr. PERCY. I am happy to yield.

Mr. CHILES. I just want to say to the distinguished chairman of the Foreign Relations Committee that I sat on the Budget Committee. This matter did come before the Budget Committee. One time it came through in a way that we often waive the Budget Act, sort of by passing a slip and receiving the consent of the membership. There was some objection to that in regard to this even though the amount of money in this was relatively small. But some of the members felt that we should look at it and actually hold a meeting on it.

Because of those objections, the Budget Committee did hold a formal meeting. At that time, we did waive the matter, formally, at the Budget Committee meeting. Normally, sitting on the Budget Committee, I would be kind of constrained to be against a waiver of the act itself, as the majority leader has made, but I think in no way does this jeopardize the Budget Act or the Budget Committee's action because we actually met on this provision. We did formally waive the act. That was taken. Now the problem appears to be this technical one as to whether the Foreign Relations Committee in fact was meeting while the Senate was in session. But I think that in no way—and I want to concur with what the chairman has said—does that raise a budget question because the Budget Committee did carry out its duty and its responsibility in every manner and means.

So the majority leader's motion to waive the act is to simply get around this technical requirement that has now been raised in regard to the meeting time of the Foreign Relations Committee.

I certainly concur with what the chairman has said.

Mr. PERCY. I thank my distinguished colleague. I would like to make it clear that at the appropriate time, after debate has concluded on this particular point, there will be a request for the yeas and nays on the majority leader's motion.

Inasmuch as the Senate lameduck session is a very limited session, and the majority leader has already announced that there is a certain amount of business that has to be taken care of, and he has announced the schedule that he intends to adhere to, I would hope that everyone would recognize that though we have a technical point here, from a practical standpoint, if we are to really give serious consideration to Radio Marti—and I hope that we will—the committee favorably reported it out by 2 to 1, and I know my distinguished colleague from Florida favors this bill—to really be practical about it the majority leader's motion should prevail. I intend to support it and vote for it. We should debate this issue. We should proceed with it and hopefully adopt the bill.

Mr. CHILES. I certainly concur. I think because it is purely a technical motion now, and that the Budget Committee did actually hold a meeting on this bill, did actually give the waiver after due consideration of it, simply the waiving of the act is to just take us around the dilemma of the technicality of the Foreign Relations Committee meeting a couple of hours after the Senate went into session. If we stopped every bill on which that has been done, there probably would never be any legislation that would pass this body, or very little.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. ZORINSKY. Mr. President, as a matter of clarity I ask unanimous consent that the following remarks be considered an extension of my initial remarks on the motion for purposes of the two-speech rule.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ZORINSKY. Mr. President, I understand that the Budget Committee was sufficiently disturbed by the creation of an entitlement by H.R. 5427 to the extent that it reported the

budget waiver without a recommendation. Generally, in the time that I have been in the Senate, if a committee felt in reporting out a bill that they had sufficient support, they generally reported it out with a recommendation.

I think it should be pointed out that this bill came out without recommendations. One of the main reasons for that nonrecommendation was the fact that they were concerned about the creation of an entitlement by H.R. 5427.

Mr. President, we ought to be clear about what we are doing here. I wish to bring to my colleague's attention an article I received from a Miami newspaper within the past week. The headline says, "Latin radio solicits tips from Cuba." It is by the Herald staff writer, Ana Veciana-Suarez. It goes on to say:

Emboldened by an increase, in transmitting power, Spanish-language radio station WQBA—which I assume is in Miami, Florida—is extending its tip line from Little Havana across the Florida Straits and into the heart of Cuba.

Monday,—

this is two Mondays ago—

the station asked its listeners on the island to phone or write the studios at SW Eighth Street and 27th Avenue with information about news and social events in their hometowns.

"We are interested in anything, including traffic accidents," news director Tomas Garcia Fuste said. "We obtain very little information from the island, so whatever material we can get is important for our listeners, both in Florida and in Cuba."

WQBA, 1140 on the AM dial, is trying to live up to its name of *La Cubanisima* (the most Cuban) by relaying all the news that can be leaked out of the island, Garcia Fuste said. Last week, WQBA inaugurated a new 50,000-watt transmitter that makes it one of the most powerful stations in South Florida.

I ask my colleagues to bear in mind that we are today debating something so important that the rest of the Nation wonders and sits in amazement as we continue to have over 10 percent unemployment, as we continue to have a huge deficiency in our foreign policy, and as we continue to go along our merry way with trying to pass a continuing resolution while not having the time for important things like passing appropriations bills on the floor of the Senate.

It is no wonder no one wants us to get a raise in salary. We do not deserve a raise in salary when we debate Radio Marti to the detriment of unemployment in the United States of America. It is even more ludicrous when you get an article from a friend in Florida which says there is a radio station right now doing the same thing we are spending all this time trying to get another radio station to do for them.

There is a big difference, I must point out. That is, the Radio Marti that we are debating is paid for by the taxpayers, whereas the radio station WQBA is meaningless to the taxpayers because it is only private enterprise and certainly would not be qualified to pay off any patronage that may have been promised by politicians of either party by its creation.

The increased power also helps the station overcome the high-pitched tone that the Cuban Government uses to interfere with nightly broadcasts.

During the morning news show Monday, the broadcasters invited their Cuban listeners to join the station's "award-winning corps of correspondents" by writing or phoning news items to the studio. Garcia Fuste said employes of the station will continue to recruit "correspondents" during the station's regular programming.

"This is something we decided unofficially," Garcia Fuste said. "It is not a management decision. Our duty, first and foremost, is to the listeners in South Florida and then to the people of Cuba who do not receive any news from the outside or from within their own country."

I point out to my colleagues that, as a member of the Committee on Foreign Relations, during our hearings, I asked, "What is Radio Marti going to do after they broadcast the news to the so-called Cuban people in Cuba who are not aware of what is happening in their country?"

The reply was the main thrust of our broadcasting, besides the news, will be baseball games and Spanish music

Mr. President, I know the American people will love to hear that their tax dollars will be used to pay for broadcasting baseball games and Spanish music to the Cuban mainland. Those poor people must have no other way of getting that type of transmission without spending American tax dollars to do that.

It is not known how many people listen to WQBA in Cuba, but Garcia Fuste said the station receives about 10 letters a week from listeners there. Most of the letters are addressed to hosts of religious and musical shows.

Before the increase in transmitting power, WQBA's listeners in Cuba were scattered in the provinces. Now, WQBA management believes the station will be heard throughout the island, including Havana.

"We expect the response from Cuba to increase." Garcia Fuste said. "Just a couple of days ago, we received a call from a man in Camaguey who had heard about his brother's death during our news show."

Though WQBA intends to continue its pitch for Cuba-based listeners, Garcia Fuste said he is worried the Fidel Castro government will try to find a way to jam the Little Havana station.

"We are trying to keep this as much a secret as we can." he said.

I apologize for not helping keep it a secret, although I felt it was important, when talking about spending millions in taxpayers' money, that we do point out the fact that there is a radio station contributing to that news and obviously, Radio Marti would not be secret in its essence, either, if by some quirk of the imagination, it were allowed to pass in this Congress.

Mr. President, we ought to be clear about what we are doing here. The bottom line of the Radio Marti proposal is that we are prepared to spend millions of dollars on a fancy foreign aid program in a time of economic hardship and cuts in domestic areas from assistance to farmers to aid to the poor. We are willing to spend those millions with the full knowledge that not the first minute of Radio Marti broadcasting will ever be heard in Cuba. Not any individual in this assembly can assure or guarantee the American public and the American taxpayers that Radio Marti, upon its completion, will ever have one broadcast received in Cuba, due to the jamming ability of the Cuban radio industry. Not 1 minute of guarantee.

In all probability, it will be jammed and the jamming will wreak havoc on the American broadcasting industry and its listening audience. So we shall be sacrificing our taxpayers' right to listen to the truth in an effort known in advance to be futile to offer the same to the Cubans and we shall do it with our taxpayers' money and at the risk of a possible dangerous confrontation and an entirely avoidable radio war.

Let us be clear about it, Mr. President, so that when the chickens come home to roost, no one can claim ignorance about who laid the egg. Mr. President, to speak plainly, this is a stupid idea. We are spending millions of dollars in construction, operation, and compensation costs for a radio station whose broadcasts in all probability will never be heard.

This particular concept of Radio Marti is a bomb that will not explode, a plane that will not fly, a ship that will not float. How can such a silly notion ever be justified to the American taxpayer? When our constituents awake to Radio Havana instead of the morning news and weather reports, which of us will feel comfortable in saying, "Yes, I voted to spend millions of our tax dollars to bring the American public this kind of service"? Will the taxpayers be outraged that Castro denies Cubans the truth or will they be outraged that their own Government has done the same to them? How that outrage will flow when they learn that the Cubans have never heard the first minute of a Radio Marti broadcast, despite the millions of dollars, while their local stations have been replaced by Radio Havana by the courtesy of the U.S. Senate. Even if Radio Marti could be heard, the only likely result would be to increase the flood of refugees to our shores.

I heard one of our people during the course of debate in committee indicate that if truly the Cuban population finds out how great our country really

is, imagine the refugees that would want to come to our country in addition to those who have already made a beeline and created an almost intolerable condition in the State of Florida.

Last year we debated emergency aid during the refugee influx in Florida. That cost a few hundred million of the Federal tax dollars that we do not have. Inasmuch as we are currently spending in deficit, here is more money we are going to spend that we do not have.

As I said before, with the hundreds of millions that we—and I supported it—sent to Florida to help in the current refugee problem, this will exacerbate the situation because the philosophy is to enhance awareness in Cuba of how great our country is, in the hopes that more refugees will seek shelter and haven in Miami and other places in Florida.

Our taxpayers will be very happy to also fund that adventure with dollars we do not have.

We already have 1 million Cubans in this country, and that is 10 percent of the Cuban population. What percentage are the proponents of this amendment aiming for—20, 30 percent, or higher? And how much is another wave of Cuban immigration likely to cost the taxpayers of America?

Mr. President, this is a vote to spend millions of dollars. The Congressional Budget Office estimates that compensation costs will be at the level of at least $40 million. Broadcasters estimate the potential damage to them in the hundreds of millions of dollars. There are construction costs already borne by the Department of Defense. There is another $2 million for an additional transmitter in the future if the station is ever to reach the more populous eastern part of Cuba. The costs to the American radio audience deprived of their ability to listen to local radio stations cannot be expressed solely in terms of dollars and cents. All of this on top of the costs for operation of the station requested by this amendment.

Yes, Mr. President, this is a vote to spend, a vote for foreign aid, and a vote to enshrine nonsense in law by funding a radio station that will broadcast but never be heard.

Mr. President, I did not oppose the Soviet grain embargo because I favored the invasion of Afghanistan, nor did I oppose the European gas pipeline embargo because I agreed with the suppression of freedom in Poland. In the same way, I do not oppose Radio Marti because I support Fidel Castro or Cuban communism, I have opposed all three because they harm us far more than they do the Communists.

Mr. President, I think that we should make ourselves aware of some of the background concerning Radio Marti, and Senators who are not members of the Senate Foreign Relations Committee I think will be very interested to hear the Radio Marti final report, which is a few hundred pages, but I think in the essence of intelligently voting on this type of legislation they should be made aware of it. I will begin to read the Radio Marti final report which was prepared by the Presidential Commission on Broadcasting to Cuba dated August 17, 1982:

The members of the Presidential Commission on Broadcasting to Cuba were appointed in January 1982 with a mandate to develop a recommended plan for radio broadcasting to Cuba. Based on research conducted by the Commission's staff, information provided by the State Department and other Government agencies, testimony and materials received in open meetings and its own deliberations, the commission has concluded the following:

The concept of Government-sponsored broadcasting to Cuba by a surrogate home service along the lines of Radio Free Europe and Radio Liberty, delivering impartial news and information and designed to provide the Cuban people with the accurate information needed to make informed judgments on their Government's policies and actions, is both sound and important.

Mr. President, I should like to digress from reading the Commission's report to a piece of literature which was published by Harper & Row, by Hugh Thomas, and it is entitled "Cuba in Pursuit of Freedom." I would like all of those who support Radio Marti to listen to what Jose Marti wrote himself. It is in chapter 26 of this document by Hugh Thomas. Radio Marti, our proud transmission system, is being proposed to help this bastion of freedom of ours, the United States of America, this wonderful land of ours and our great democracy impart the truth to the Cuban people.

I read, and I hope JESSE HELMS is listening also:

Jose Marti had acted fast for more than one reason. In May Jose was to write:—

And this is who we have named this freedom radio station after—

It is my duty . . . to prevent, through the independence of Cuba, the United States of America from spreading over the West Indies and falling with added weight upon other lands of Our America. All I have done up to now and shall do hereafter is to that end—

To prevent the United States of America from spreading over the West Indies.

He goes on to say:

I know the Monster, because I have lived in its lair—and my weapon is only the slingshot of David.

Now, this is a fellow whose name is being chosen to head the radio station which our taxpayers will pay for; that we will all proudly say is representative and symbolic of freedon in our country, an individual who recognizes the United States of America as a monster and who will dedicate his life to making sure the United States does not spread its dominance over the area.

I think that is a rather curious way of using Federal tax dollars, even when you put it up against priorities such as the MX missile, which some people have even talked about as of late. In the other body, I think they are currently debating that on the floor, and it is of current concern in our country.

The concept of government-sponsored broadcasting to Cuba by a surrogate "home service" along the lines of Radio Free Europe/Radio Liberty (RFE/RL), delivering impartial news and information and designed to provide the Cuban people with the accurate information needed to make informed judgments on their government's policies and actions, is both sound and important.

The already incorporated but non-operational Radio Broadcasting to Cuba, Inc., patterned after RFE/RL, Inc., is the most appropriate vehicle to conduct such broadcasting, using the name "Radio Marti."

Oversight and supervision of federal grants to RBC, Inc. might best be lodged in the Department of State during the initial start-up phase; thereafter, an informed choice for oversight could be made from among several options, including the International Communication Agency (ICA), the Board for International Broadcasting (BIB), or a separate, new agency. The Commission recommends that its term be extended for a period not to exceed one year from the effective date of legislation authorizing and funding RBC, Inc., so that it can make further specific recommendation on permanent oversight authority based on Radio Marti's first year of operation.

Credibility is crucial and to be credible, the programming of Radio Marti must be accurate and impartial.

I would imagine that the baseball portion and the music portion would have no difficulty being impartial, and I cannot see the credibility being very crucial, inasmuch as it would be the voice of truth.

In order to reach the majority of Cubans effectively, broadcasting should be conducted on the AM band. The Commission recommends that Radio Marti operate on one basic, well-established frequency on the AM band. Although 1040 kHz has already been identified and assigned as the frequency for Radio Marti, the selection of a frequency may have to be repeated if proposed legislation passed by the House of Representatives is adopted and passed by the Senate. This process would ensure that the most appropriate frequency for Radio Marti is chosen, while taking into account the interests of U.S. broadcasters.

Cuban interference with U.S. AM broadcasting has been a growing problem for many years. While Radio Marti may be made the scapegoat for Cuban interference, the Commission believes that abandonment of Radio Marti would certainly not eliminate nor probably even reduce such interference now or in the future.

Just recently, I might add, due to Radio Marti's advent in the committee, the Cuban Government was able

to demonstrate their jamming ability when, one morning not too long ago, we woke up to Spanish music on WHO in Des Moines, Iowa, and several other radio stations throughout the Midwest. So they do have that capability and have demonstrated that.

The Commission recommends that the Department of State keep the door open to opportunities to address the interference problem through diplomatic channels.

The Commission considers the Administration's request of $10 million for first-year funding to be reasonable. Effective coverage of Cuba will require two transmitters, one located at a Caribbean site. Effective programming will require a sizable, well-trained professional staff because of Radio Marti's unique research and development requirements, including the need for extensive information gathering.

INTRODUCTION

A. Commission's authority

The White House announced on September 22, 1981 its intention to begin radio broadcasting to Cuba, establishing a radio service to be called "Radio Marti." The text of the White House statement is at Appendix A.

The Presidential Commission on Broadcasting to Cuba was established by Executive Order 12323 of September 22, 1981 (see Appendix B). The functions of the Commission are to "develop a recommended plan for radio broadcasting intended for transmission to Cuba" and to "examine issues related to effectively carrying out such a plan for radio broadcasting to Cuba. These shall include, but not be limited to, possible program content, information gathering, writing and editing needs, staffing requirements, legal structure for a broadcasting organization, proposed legislation, sample budgets, and the location, structure and function of possible broadcasting stations."

The President appointed ten members of the Commission on January 19, 1982, with F. Clifton White as Chairman. An eleventh member was named in June. A list of Commission members is at Appendix D.

The Commission held closed meetings on February 5, March 2, March 30 and May 3. Open meetings were held on March 2, March 30, and May 3. The open and closed meetings scheduled for April 16 were postponed to May. Summary minutes of these meetings, together with testimony received, may be found in Appendix E.

Chairman White testified before the House Committee on Foreign Affairs on March 3 and the House Subcommittee on Telecommunications, Consumer Protection and Finance on May 10. He also testified before the Senate Committee on Foreign Relations on July 1, as did Senator Stone. Copies of these statements are in Appendix F.

B. The concept behind Radio Marti

The Commission believes that radio broadcasting to Cuba is the logical extension of an important concept begun with the establishment of Radio Free Europe and Radio Liberty more than thirty years ago. Radio Marti would fill an important informational void created by more than twenty years of censorship and control of the Cuban media by the Castro government. Because of that control, the Cuban people are not only denied the fundamental human right of free access to information and ideas but are largely unaware of their government's mismanagement at home and adventurism abroad.

The Administration has proposed the creation of Radio Marti as part of a general foreign policy effort to increase the domestic cost of Cuban adventurism and to moderate Cuba's foreign policy. The purpose is to provide the Cuban people with the information needed to make informed judgments on their government's policies and actions so that they may be better able to hold their government accountable.

That should mean we are going to create the radio station to make sure that the Cuban people are made aware of their government's policies and actions so that the Cuban people may be better able to hold their Government accountable.

I think that is a rather unique task to set out for them to do in a Communist nation such as Cuba.

The Commission strongly endorsed this concept at the outset.

The Commission believes that the proposed name of the broadcasting entity, Radio Marti, is entirely appropriate to the concept outlined here. Jose Marti, the Cuban liberator, was indeed sometimes a critic of the United States. But he was always passionately dedicated to democracy and freedom, to the truth, and to the independence of Cuba from foreign dominance from whatever quarter. This credo should be mirrored by Radio Marti. Marti is a symbol of a free Cuba to Cubans of all political views, and Radio Marti should emulate those values.

C. PREVIOUS BROADCASTING TO CUBA

The Commission reviewed the history of U.S. broadcasting to Cuba in an effort to draw lessons for Radio Marti. The U.S. once maintained a clandestine radio station, Radio Swan and later Radio Americas, which broadcast extremely partisan views, information and material designed for short-term psychological effect. Those broadcasts ended in the 1960's. From the early 1960's until 1974, the Voice of America broadcast a Cuba-oriented daily program called Cita con Cuba ("A Date with Cuba"). It was taken off the air in 1974 because the United States Information Agency considered that its general Spanish language broadcasts sufficiently covered that agency's specific information objectives in Cuba.

The Commission's review served to reinforce the conviction that Radio Marti should be an overt activity with full Congressional approval and that it be, from the beginning, a long-range, non-confrontational effort clearly identified as a U.S. Government-sponsored activity. Radio Marti must not be, nor appear to be, identifiable as an emigre undertaking nor as reflective of any partisan view or perspective. Rather it must be objective, non-partisan and thoroughly reliable so as to earn for itself a reputation as fully credible.

D. INTERIM REPORT AND RECOMMENDATIONS

This Final Report affirms the Commission's earlier Interim Report of May 23, 1982, adds to it additional information received and casts most of its preliminary conclusions and recommendations in final form. It does not make a recommendation concerning legislation because the Administration submitted proposed legislation to authorize radio broadcasting to Cuba to the Congress before the Commission's members were appointed. If its mandate is extended, the Commission intends to make additional recommendations based on one year after Congress authorizes and funds Radio Marti.

FINDINGS

Based on statements submitted at its open meetings, information it requested, and its own deliberations, the Commission has made the following findings.

A. THE NEED FOR RADIO BROADCASTING TO CUBA

For decades the United States has found radio the most effective means at its disposal to provide the truth to the peoples of the Soviet Union and Eastern Europe. Radio Free Europe and Radio Liberty have proven their worth in this effort. Yet in Cuba itself, Communist propaganda has no similar competition and there is no alternative view of the Castro government and its actions. Radio broadcasting aimed specifically at Cuba would provide such alternative views.

I wonder what the administration would say if one of our amendments that we include to this piece of legislation were to offer a separate radio broadcasting facility to broadcast into the People's Republic of China because obviously their people have no alternative view of their government also.

Communism well understands the power of ideas and devotes enormous resources to propagating its ideology and view of events with considerable emphasis on radio broadcasting aimed at specific countries. The Soviet Union outspends the U.S. by 7 to 1 in the area of international broadcasting and information. The Soviet Union and its Caribbean client, Cuba, outbroadcast the U.S. in Latin America by a ratio of 5 to 1 in terms of hours on the air. Radio Moscow is retransmitted to Latin America from Cuba, and Cuban radio propaganda echoes Radio Moscow themes. Cuba alone broadcasts 280 hours a week to Latin America and the Caribbean. The U.S. even lags behind some of its Western allies in broadcast hours around the world, but especially in the Caribbean, an area of strategic concern to the U.S.

Some critics have questioned whether Radio Marti would find an audience among the Cuban people, claiming that the Cuban population is largely antagonistic toward the United States. Statements by Cuban officials, including several by President Castro, indicate that the Castro government is very concerned about the effect Radio Marti could have on the Cuban people. This suggests that the Cuban people, and especially the young (44% are under 20, 66% are under 35), may be a more receptive audience than those critics are willing to admit. Other critics argue that any news from a U.S. Government source is suspect in Cuba. Yet, Cuban officials themselves readily admit to listening to the VOA because it is comprehensive and accurate.

Other critics have suggested that Cuba is a more open society than generally believed, that the range of information available in Cuba may be greater than recognized, and that there is wider political participation and greater freedom of expression than assumed. But, according to several Cuban analysts, the recent increase in mass organizations, the Mariel exodus, the ascendency of hardliners among top-level decisionmakers, and the implementation of a new, tougher penal code in November 1979 are all evidence of a decreased liberalization of Cuban society since early 1980. The "Country Reports on Human Rights Practices" submitted to Congress under this Administration and the last document show little free ex-

pression and political freedom exists in Cuba.

According to the 1979 Human Rights Report, "all political, economic, social, and cultural activities are under close control of the Communist Party. No political opposition is allowed. The press is owned and controlled by the Party apparatus. Freedom of speech is severely circumscribed." The 1979 Inter-American Human Rights Commission Report on Cuba noted that "the legal system in Cuba prevents free expression and any expression of disagreement with the socialist system. There are individuals who are in prison for the mere fact of having expressed their opposition to the system." According to the 1981 Human Rights Report, "All group activities in Cuba are controlled and monitored by the Communist Party and political block committees." While Radio Marti can do little about the limited outlets for expression in Cuba, it can significantly increase the availability of information to the Cuban people. Like RFE and RL at the beginning, Radio Marti will need to carefully establish its credibility and earn its audience. Whether people live in Gdansk or Havana, those in a closed society thirst for more information.

Artistic autonomy does not exist in Cuba. Infringement of intellectual freedom is accomplished through a Cuban form of "social realism" which punishes by law any "ideological deviation." Writers, filmmakers, educators and artists face the choice of conforming, departing or facing imprisonment.

Mr. President, at this time I ask unanimous consent to yield the floor to the distinguished Senator from Rhode Island (Mr. PELL) for the purpose of a statement without losing my right to the floor and without this being considered the end of the speech for the purpose of the two-speech rule, and I ask that I be recognized at the conclusion of the Senator's remarks.

The PRESIDING OFFICER (Mr. GORTON). Is there objection? The Chair hears none, and it is so ordered. The Senator from Rhode Island.

Mr. PELL. I thank the Senator from Nebraska very much indeed, Mr. President.

I congratulate him and felicitate him, on his remarks and on the thrust of his argument, and I support him to the hilt.

I join him in rising in opposition to the motion to waive the Budget Act with respect to the Radio Marti measure.

Certainly in this brief session of Congress, with its first week already beyond us and with only 2 weeks left, there are many more urgent issues with which we might well be dealing. But with the issue at hand, one which I have strongly opposed in the past, one that I think the national interests would be best served by omitting at this time or in fact any time, I rise to take the floor.

Amid the accolades for President Reagan's bold initiative to bring peace to the Middle East, the Senate Foreign Relations Committee—in a little-noted action—and without the vote of this particular Senator—approved this administration's proposal to beam anti-Castro broadcasts into Cuba. This could be the first step in a process that threatens to undermine the prospects for peace at our back door, that threatens to destabilize even further the relations between our two nations.

According to the administration, Radio Marti's purpose is to help the Cubans know more about their country, and thus hold their government accountable in ways it is not now. This sounds harmless, although to my mind it evokes memories of Radio Swan, a CIA-sponsored station run by Cuban exiles who broadcast inflammatory propaganda to Cuba in the early 1960's. I remember I was concerned and opposed to the action of Radio Swan almost 20 years ago, and I still remain opposed to actions of this sort which seek to exacerbate and to destabilize relations. I think at this point the national interests of the United States would best be served by achieving some small degree of normalization and not go in the opposite direction and on an opposite course.

In any case, there are indications that putting Radio Marti on the air will set off a chain reaction of retaliation and counterretaliation. This could create such a heated confrontation with Cuba that it would destroy whatever chance there is of persuading Fidel Castro, through quiet diplomacy, that it is in his interest to abandon his interventionist policies.

The administration is apparently willing to take that chance in the belief that a policy of bluster and confrontation will succeed in the 1980's, even though it has failed miserably in the 1960's and 1970's. I imagine that if there is no change we will have the continuation of this policy right through the century, and I see no possible good achieved from it.

I think we can look at our relationship with Cuba now or 20 years ago and find not only no improvement but even greater worsening. Cuba is today, Castro's Cuba today, what it is, in part, because of earlier American policies. Only different policies can alter the behavior of the Frankenstein monster that we have helped create.

We mounted one major invasion against Cuba, the Bay of Pigs, and only the CIA knows how many minor ones, as well. We sought to strangle and isolate her economically, sponsored several attempts to assassinate its chief of government and wonder why Cuba supports the most virulent strain of anti-American communism in the world today and why it is so closely bound to the Soviet Union. We have helped give it cause in this direction.

But the Reagan administration still seeks victories over communism, which makes it difficult for the lessons of history to be applied. Cuba was targeted for tougher treatment by an administration eager to discredit President Jimmy Carter's efforts to engage Castro in a peaceful dialog. According to Wayne Smith, who was until recently the head of the U.S. Interests Section in Havana, the administration has ignored several Cuban overtures to resolve differences through diplomacy.

The proposal would be more palatable if it had been accompanied by formal diplomatic relations with Cuba. Radio Free Europe, which I support, broadcasts to countries with which we have diplomatic relations. But Radio Marti appears destined to prevent rather than coexist with normal diplomatic relations.

Administration witnesses have testified that it would be wrong to rule out trying again to negotiate with Cuba. Yet those same spokesmen rejected less provocative proposals. Now there is the very likely prospect that Cuba will interfere with American broadcasts in response.

One of these proposals, which I offered in the committee, would have assigned Radio Marti's mission to the Voice of America, which Castro has tolerated and whose integrity would insure that no propaganda or incitements to riot would be broadcast. Moreover, the Voice could do the job at half the cost of Radio Marti, an important consideration when domestic programs are being slashed to the bone.

The attitude of the Reagan administration, however, can only lead me to suspect that it welcomes a confrontation with Cuba over Radio Marti.

I am convinced that Cuba will react in kind and the administration will escalate and react in turn. But how? That is what worries me. Representative TOM HARKIN recently told Congress that, according to administration officials, Cuban retaliation through broadcast interference would constitute an act of war justifying American military strikes against Cuban transmitters.

If such actions are seriously contemplated, which I trust they are not, the consequences would be to boost Castro's prestige and aggressiveness—and, more important, to create the same kind of rift in United States-Latin American relations that the sanctions against participation in the trans-Siberian pipeline have created in Europe.

The administration was justifiably praised for its Middle East peace initiative, and the reason for that praise was that its objective was to advance the cause of peace. A similar objective should be pursued closer to home. The Senate should reject Radio Marti—not because broadcasts to Cuba are wrong, but because the policy of which Radio Marti is an integral part is wrong.

If we want to broadcast the truth to Cuba, hurrah, but let us do it under the umbrella of the Voice of America with a proven record which will not es-

calate or destabilize the situation more.

For all these reasons, I congratulate the Senator from Nebraska for the viewpoints he expressed and I am glad to support him.

I yield the floor back to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. ZORINSKY. I continue:

The large number of Cuban intellectuals resident abroad testifies to this fact. No dissent is tolerated. Likewise, while the press in Cuba may not always cover events in the same manner, story lines are predetermined and criticism of the Revolution or national issues is not permitted. American newsmen and others who have visited Cuba report that there is no non-communist printed material available to the public.

The Communist Party is the only legal party. "Citizens have some limited participation in discussion of local issues such as transportation, sanitation, and crime prevention, but only at the local level." (1980 Human Rights Report) But there is no serious debate of national issues. These are precisely the issues which Radio Marti will try to cover.

The Inter-American Press Association (IAPA) at its 37th General Assemby in Rio de Janeiro in October 1981 resolved "to encourage free journalists of the continent, especially IAPA members, to make every effort to bring about the end of the news blackout for the people of Cuba, and support any means that would help achieve that objective."

For these reasons, the Commission believes there is a need for Radio Marti.

Mr. President, I would like to interject a personal view at this point and at this juncture. I do not take issue with the need for an expression of the truth in Cuba to its inhabitants and to its citizens. But I have a quirk in my background that is on my reumebut not often cited. And that is, I, for 23 years, was a businessman, and I ran a business and attempted to use commonsense and logic in how I ran that business. Having been thrust into this awesome body where I see a $10 million expenditure for an issue such as Radio Marti being validated by an austere commission such as this, I do not take issue for the need of people in Cuba to realize the truth that goes on within their country.

However, as a former businessman, my concern is this—and I must relate to you a conversation I had with members of the State Department. I said, "Just suppose, for example, although Cuba has demonstrated their ability to jam a so-called Radio Marti, just suppose, for instance, if they really have that capability,"—which again I will reiterate they do have and have already demonstrated they have—"I know of several taxpayers that would think that commonsense and logic would dictate an alternative to spending $10 million to test the waters in that area."

That is the recommendation I made to the State Department, that we package a format for an existing Spanish-speaking radio station in Miami, Fla., put it out for bids for 6 months.

It would accomplish everything that spending $10 million of the American public's tax dollars would, and, in this day and age, with hard-earned tax dollars, I might add, for testing those waters. At the end of 6 months, we would have a very obvious demonstration of what would happen in beaming messages into Cuba. But there would be a difference: It would not be reinventing the wheel. We would not be recreating another broadcasting station using tax dollars.

We would merely pay for the service of broadcasting a news period. Obviously, the other broadcasts that Radio Marti had intended, such as baseball game broadcasting and Spanish music broadcasting, are being done free of charge to the American public at this very moment.

Also, I might add, in creating Radio Marti you create additional Federal employees who are ultimately entitled to Federal pensions, to sick leave, to days off for holiday, and to all the numerous benefits that any other Federal employees would be entitled to. And that is forever, as long as that radio station is in existence.

So as we are speaking about $10 million today, that, in the term of many of us in past administrations, is called peanuts. That is a small sum of money compared to the money over the period of years for people retiring from Radio Marti who will be eligible for Federal pensions and other fringe benefits accrued as a result of their Federal employment.

As a former businessman, I am looking at this this way: Let us agree with the conclusions of the Radio Marti Presidential Commission on Broadcasting to Cuba that there is a need. Let us also agree with the credibility of the Cuban broadcasting industry to be able to jam radio stations. That is even more than an assumption. When you wake up to Spanish-speaking music from Havana in the morning in Des Moines, Iowa, that is more than an assumption. That is a reality. So I think we can assume that as being true.

Then putting those both on the scales, we have an option to use people's hard-earned tax dollars versus established Spanish-speaking radio broadcasting stations given a format trial period for 6 months for the American public to see is this a good thing or a bad thing.

That is almost so logical it is frightening, and yet the State Department refused to even consider it. I know why that is. I have been contacted by every supporter of this genesis of Radio Marti who has an interest in any form or shape whatsoever with it, asking me to lay off, asking me to stop the filibuster, asking me not to oppose it, for one reason: Generally, each and every one of those people, directly or indirectly, has an economic vested interest in the creation of Radio Marti.

I might point out to my fellow colleagues whom I hold in very high esteem, whom I respect immensely, that unemployment to those who have no jobs in America is even more important than to those people who are pushing Radio Marti with a vested economic interest.

I have had numerous people call me from Florida, people who are known in Florida in the broadcasting industry, and even federally elected officials and local State and municipal elected officials in Florida. They have called my office within the last week. Some of them have even visited my office. I asked if I could use their names, and they said, "Heavens no, my constituency is Cuban." If it is somebody affiliated with radio broadcasting, it is, "Do you not realize that the Cuban business people pay me to advertise on my radio stations? I cannot say anything publicly about this." It would be political or economic suicide for them to say anything.

What they do say is, "Senator Zorinsky, we know in Nebraska you are not faced with the same situation and you are doing the right thing."

I have had calls from Cubans in the broadcasting business who tell me I am on the right track.

I would like to read a letter from the National Radio Broadcasters' Association dated November 23. This is not too long ago, about 2½ or 3 weeks ago.

It says:

Dear Senator:

The National Radio Broadcasters' Association, representing nearly 2,000 radio stations in the United States, has previously expressed its misgivings about the proposed Radio Marti authorization bill, which is now being considered by the Senate.

We do not presume to be experts in the area of foreign relations, and we accept the decision of our Government that the establishment of Radio Marti would be in the best interests of the United States.

We do believe, however, that the many millions of dollars could be saved by making use of the present, underutilized Voice of America facility on Marathon Key, or by buying air time on South Florida commercial radio stations.

Politicians during election time have to buy air time on radio stations. I do not think it was such a bad idea for them to make a recommendation for the Government to possibly buy air time, for a very short period of time, to find out what jamming capability would be used if, in effect, it is used.

With these excellent AM transmission facilities in place and available, it seems to us to be inappropriate in times like these to spend millions of dollars for unnecessary duplication of steel, brick, and electronics. Furthermore, we urge that if Radio Marti must be built, that it operate on frequencies beyond those used by commercial radio stations in the United States. The effect of ex-

pected Cuban jamming on United States radio stations is now well known to you and the financial damage to these stations will be catastrophic.

Mr. HEINZ. Will the Senator yield?

Mr. ZORINSKY. Mr. President, I ask unanimous consent to yield the floor to the distinguished Senator from Pennsylvania for the purpose of making a statement or a unanimous-consent request without losing my right to the floor and without this being considered the end of a speech for the purpose of the two-speech rule, and I ask that I be recognized at the conclusion of the remarks of the Senator from Pennsylvania.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. I thank the Senator from Nebraska for yielding.

(The remarks of Senator HEINZ which were presented at this point in the proceedings appear later in the RECORD.)

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. ZORINSKY. Mr. President, in connection with the letter previously read from the National Radio Broadcasters' Association, I should like to conclude with the last two paragraphs:

We strongly urge that any Radio Marti transmission bill include and full compensation for expenses and losses incurred as a result of Cuban interference with the signals of American commercial radio stations.

So when you bring this facet into the Radio Marti discussion, you are not talking about $10 million in expenditures; because, as they have already illustrated by jamming, if any monetary economic negative effect results and accrues to the private sector in the broadcasting industry, then the Federal Government must recompose and compensate these stations for that interference, loss of billing incurred by a lesser amount of advertising on those radio stations, possibly refunds they would have to make on advertising.

In committee, we discussed how much money that would be. How much money it would be was voiced by some in terms of billions of dollars rather than the $10 million we are being told Radio Marti would cost.

So, obviously, the other end of the spectrum, the cost that could be incurred as a result of this bill to indemnify the broadcasters, could be astronomical and, again, would be money we do not have, inasmuch as we are in deficit spending at the current time.

The last paragraph reads:

Negotiation is the only true solution to the Cuban interference problem. But American broadcasters should not be expected to bear the brunt of a government policy and action which results from the failure of such international negotiations.

It is signed by the President of the National Radio Broadcasters Association.

I point out that we are putting our private sector of the broadcasting industry in a position of bearing the brunt of any political retaliation as an act of Congress, specifically of the Senate, in its action on the Radio Marti issue.

I know how I would feel, as a former businessman, and so do my colleagues, I am sure. When you have an investment in anything and have worked hard to attain that investment and you have paid off with hard endeavors and hard work a business or the purchase of something tangible, you hate to see it destroyed by others, through no control of your own. That is exactly what we are doing to the broadcasting industry, and that is the exact position we place them in by the actions we take on this floor with respect to Radio Marti.

B. BROADCASTING ENTITY

The commission believes that the Voice of America would not be the appropriate entity for Radio Marti. The Charter granted to the VOA by the Congress in 1976 mandates the Voice to serve as a window on America, projecting American society and institutions and explaining U.S. policies. The VOA charter does not contemplate a surrogate "home service" like Radio Marti. The Commission, therefore, believes that Radio Marti should follow Radio Free Europe and Radio Liberty in maintaining a separate identity and operation from those of the VOA.

In other words, what the Commission is inferring is that we should have a special radio station for each nation that we fear is not getting the truth of the matter or factual realities from their government.

Similarly, there is a plan currently before the Congress for a new radio station (Radio Marti) to broadcast to Cuba news and events that affect the Cuban people. The plan calls for the new station to construct transmitter facilities in Florida and the Caribbean. This is being done at a time when VOA is planning to rebuild its Marathon Relay Station, which has been broadcasting to Cuba for 20 years, and to construct several new transmitter facilities in the Caribbean. VOA transmission schedules indicate that Marathon is used only about 6 hours a day.

That means, according to my calculation, that there are approximately 16 hours or 18 hours available which are being unused.

There are no indications that VOA or Radio Marti will share existing or planned facilities.

Again, instead of reinventing the wheel, this particular piece of legislation is reinventing the airwaves, with its own personal facility paid for by the taxpayers of America.

We believe that efforts should be made to consolidate similar transmitter requirements of U.S. Government radio operations.

We, being the U.S. General Accounting Office, the GAO, in having made a report to the Director of the U.S. International Communication Agency regarding the fact that the Voice of America should address existing problems to insure high performance.

So the General Accounting Office believes that efforts should be made to consolidate similar transmitter requirements of U.S. Government radio operations.

Joint use of facilities should, at a minimum, be explored in new construction projects and in negotiations with host governments before being precluded from consideration.

* * * * *

The absence of an appropriate existing broadcasting entity suggests that a separate corporate entity patterned after RFE/RL, Inc. is required, particularly if it would enhance the credibility and efficiency of Radio Marti. Such an entity, called Radio Broadcasting to Cuba, Inc. (RBC, Inc.), already exists. RBC, Inc. was incorporated as a private non-profit corporation in the District of Columbia in September 1981, and was recognized as a tax exempt organization by the Internal Revenue Service in January 1982. Pending the enactment of Federal legislation, RBC, Inc. has remained essentially a non-operational corporate shell.

C. OVERSIGHT

The Commission recognizes that if broadcasting is to be conducted by a separate, non-profit corporate entity, formal governmental supervision and guidance will be necessary. While federal oversight need not extend to the minute details of daily management and operations, the Commission believes that close guidance on content (to ensure a balanced, credible broadcast) and careful supervision of expenditures of federal grant money are essential.

Exactly what the Senate or Congress needs is more oversight. We do not know what is going on in half of the grants and pieces of legislation we perform thus far and here we are going to say we are going to give careful supervision to the expenditures of this Federal money. It is pretty hard to make the taxpayers who are paying for this realize that we do not have enough to do yet and we are looking for more to do and we need more oversight.

I might even go a step further. I have had taxpayers tell me they feel the oversight that we currently give would be better done if we did it diligently and in a responsible manner rather than in the slipshod manner that we are currently doing that.

For RFE/RL, Inc., the Board for International Broadcasting now performs this oversight role. For RBC, Inc., the Commission believes that the four logical entities to which oversight responsibility could be assigned are: (1) an independent agency, (2) the Department of State, (3) the International Communication Agency (ICA), or (4) the Board for International Broadcasting (BIB).

1. Independent Agency: The scale of operations contemplated may be insufficient to warrant creation of a separate agency.

I would take issue with that because every time we create something new here not only eventually will they need a separate agency, they will need several separate buildings that can be

constructed at the cost of the very generous U.S. taxpayer.

The establishment of an independent board could be excessively complex and costly.

To make that recognition is a wonderment when we probably have so many independent boards and organizations that we have created that have caused the very nature of our deficit spending complex that we have back here in Washington.

2. State Department: Since State provides RFE/RL with continuous policy guidance, it should perform a similar role for Radio Marti. However, State is not now structured to provide the permanent day-by-day supervision of Radio Marti required.

I wonder how much instruction and structuring would have to take place for that to happen. There is no indication of that made by the Commission on broadcasting to Cuba.

3. ICA: ICA has a global view and considerable regional Latin American expertise and experience both directly and through the Voice of America. But Radio Marti should be kept separate from the VOA, as its mission and structure are sharply distinct.

4. BIB. The BIB would seem to be a logical supervisory agency given its experience with managing RFE/RL. But, because the BIB is regionally oriented at all levels, grafting a much smaller Latin American activity to its Europe-oriented board and management could cause serious problems.

I am sure the farmers of America would like to hear about all of those serious problems it would cause a regional organization to absorb a smaller Latin America activity.

As indicated in recent BIB Annual Reports, the BIB has been experiencing board/management problems in recent years, so that an added responsibility like Radio Marti might be unwise, particularly if the BIB must adjust to the changes introduced by the Pell Amendment at the same time.

I wonder how they would like to experience banks coming and foreclosing on all of their problems and all the years endeavors as the farmers of America currently are having done to them.

Legislation proposed by the Administration to the Congress specifies the State Department as the temporary grantor of federal funds and supervisory authority for Radio Marti, pending the statutory designation of an appropriate federal granting and oversight agency. The Commission considers this a sensible arrangement until Radio Marti is fully operational. The Commission would prefer to defer recommendation on a permanent oversight agency until one year after Radio Marti has been authorized and funded by Congress.

By one stretch of the imagination they say that we should have oversight over them but, on the other hand, they would like to defer recommendation on a permanent oversight agency until a year after Radio Marti has been authorized and funded by Congress.

Mr. President, I ask unanimous consent to yield the floor to my distinguished colleague, the Senator from Nebraska (JIM EXON) for the purpose of debate without losing my right to the floor and without this being considered the end of the speech for the purpose of the two-speech rule, and I ask that I be rerecognized at the conclusion of Senator EXON's remarks.

The PRESIDING OFFICER (Mr. CHAFEE). Without objection, it is so ordered.

Mr. EXON. I thank the Senator.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. EXON. Mr. President, I thank the Chair, and I thank my colleague from Nebraska.

Mr. President, H.R. 5427 sent over to the Senate from the House of Representatives is a bad bill in many respects.

While it could be argued that the budget waiver request as advanced by the majority leader should go forward, I think it is entirely proper that those of us who are fundamentally concerned about and are opposed to H.R. 5427 take every opportunity to raise our voices as long as is necessary to bring the Senate leadership to the place where they realize and recognize that the macho approach to international policy embodied in H.R. 5427 authorizing Radio Marti is not good for a whole series of reasons.

Let us discuss some of those.

Mr. President, this is an ill-conceived measure which is just another example of the macho foreign policy approach which in the end will hurt no one but the American farmer on the domestic scene and some independent free enterprise businessmen known as broadcasters but probably even more important it could do great harm to the radio broadcasting industry of this Nation.

But the foreign policy implications of this action are even more far reaching than the possibilities that I have just cited.

Mr. President, the State Department says that H.R. 5427, Radio Marti, must go forward so that the Cuban people will know the truth about Cuban adventurism in Africa and Central America, and this can only be done through Radio Marti.

Mr. President, I for one do not undervalue the adventurism and expansionism of the Cuban Government which by and large is a satellite nation or a surrogate nation of the Soviet Union.

But when we contemplate actions we are contemplating in H.R. 5427, I think it is critically important that we recognize and appreciate very fully the international complications this could set off. In the first place, I do not believe most Cubans are naive enough to believe or are particularly concerned about what their Nation is doing around the world.

The reason why Castro came to power in Cuba in the initial instance was because the people there were searching for a better life. I do not believe they have it under Castro's communism, but I cannot be convinced because of the risk that we take or contemplate with Radio Marti that it might not blow up in our faces as far as any significant accomplishment that would be rendered therefrom if we put it in place.

The fact of the matter is, Mr. President, that almost any inhabitant of Cuba today can tune in his AM radio to a whole host of radio stations in the United States, certainly those presently located in Florida, southern Florida.

I have not seen the piece, Mr. President, but I understand there was a recent article in a Florida newspaper which said there was a free enterprise radio station providing essentially the same information that the State Department and the Reagan administration propose to pump into Cuba at taxpayer expense.

If they can turn on their radios now and listen to the news, the editorials in either English or almost any other language they might be interested in, what makes us think they are going to be sufficiently entertained or sufficiently interested to listen to our expensive broadcasts that would blanket that nation?

The State Department says that Radio Marti is a nonconfrontational and peaceful means of making the Cuban Government accountable to its population. That sounds a little weak to me. It sounds like very poor salesmanship.

It seems to me that we know and Fidel Castro has demonstrated that if we go ahead with Radio Marti at millions and millions of dollars of expense to the American taxpayer, and the additional millions and millions of dollars that will be added to the present Reagan deficit, we are going to get nothing from our investment, and we are going to get nothing from the increase in the deficit and the increase in the national debt that, of course, is driven by the deficit because, as I said a moment ago, the Cuban leadership has demonstrated their ability to jam significant radio signals in the United States.

Mr. President, I ask that there be order in the Senate.

The PRESIDING OFFICER. The Senate will be in order.

Mr. EXON. I thank the Chair.

The PRESIDING OFFICER. I ask the aides to cease speaking while the distinguished Senator from Nebraska is making his statement.

The Senator from Nebraska may continue.

Mr. EXON. I thank the Chair.

Mr. President, it seems to me that if we go ahead with Radio Marti we are not only inviting but we can expect renewed jamming techniques to be brought upon the broadcasting industry of this Nation, far more than what the Cuban leadership has evidenced they can do up until this time, which is considerable.

Let us consider for a moment what position the United States would be in a few weeks or a few months from now if we proceed with the ill-conceived H.R. 5427 in relation to the prospects of our international posture. I think we should consider that there is a distinct possibility—in fact, Mr. President, I would predict it as a near certain outcome—that we will make Fidel Castro, if we proceed, bigger in life and a bigger threat to us than he is right now from the standpoint of being a man who can stand up to what he calls the big bully up north.

Let us assume, Mr. President, that H.R. 5427 eventually becomes law or something akin to it becomes law, and let us assume that the Reagan administration continues with its macho approach to international policy by showing up or attempting to show up the island off the southern shores of our Nation. It seems to me we are running the risk through Radio Marti of making Fidel Castro even bigger in life than his activities now, which certainly remain to be of great concern to the democracies of this hemisphere.

Radio Marti will not have a major moderating effect on Cuban foreign policy even if it is successful, as the State Department and the Reagan administration claim it will be. All it will do is to raise the noise level appreciably and very likely to our detriment and not to the Cuban Government's detriment.

While Radio Marti will have a questionable effect on Cuban foreign policy at best, and I underline at best, it could, and very likely will, have a definite adverse effect on AM broadcasting in the United States, especially affecting our farmers. Cuba has already demonstrated its ability to jam U.S. AM radio broadcasting.

Mr. President, let us put ourselves in Castro's place if we proceed as outlined in H.R. 5427. Castro would and could jam the Marti broadcasts, thereby eliminating their effectiveness to carry out what the supporters of H.R. 5427 claim. Of course, you would have Castro there with an easy victory when he was able to jam the signals which would cost millions of dollars broadcasting into Cuba. There you would have another victory for Castro over the United States, and there is little if anything we can do about it.

But as long as I have said that, let us explore that possibility for a moment. Let us assume that H.R. 5427 passes and let us assume that we begin broadcasting, and we do not have to assume, we know what Castro will do, he has already said it, and he has demonstrated his ability to carry out that threat. He would not only jam the frequency of Radio Marti, but he would also jam other AM radio stations in the United States. Then what would we do, Mr. President? The State Department has not very well addressed that. They have made some grand general statements about what they would or could do.

In that regard, we would have to say, "Well, we quit, we give up the broadcasting, or we might take some other action." What other action would we take?

I am sure if that happens there would be some suggestions, and I do not think they would be acceptable at the White House or anyplace, that we just in some way eliminate the jamming devices in Cuba. I recognize that that might be a suggestion that some would make.

I say that, Mr. President, simply to understand that this action of propaganda that we are taking, however well-intentioned, against the leadership of the Cuban Government will not work and it invites even worsening relationships with the Cuban Nation than we have today. And I for one cannot imagine how H.R. 5427, embodying the principles of Radio Marti, could be of any real benefit to us or to the furtherance of freedom-loving ideals around the world.

Mr. President, I ask unanimous consent that the remarks I have just made not be considered the end of my speech for the purpose of the two-speech rule.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. EXON. I yield back to my colleague from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. ZORINSKY. Mr. President, I ask unanimous consent that I may yield the floor to the distinguished Senator from Massachusetts for the purpose of debate without losing my right to the floor and without this being considered the end of a speech for the purpose of the two-speech rule and that I be rerecognized at the conclusion of the remarks of Senator TSONGAS.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

The Senator from Massachusetts.

Mr. TSONGAS. Mr. President, let me begin by dispensing with the preliminary formalities.

My view of Fidel Castro is very simple, and that is I consider Castro to be a product of what Batista left behind, not unlike the kind of legacy that Somoza has bequeathed to Nicaragua. One could well argue that Castro was motivated by a sense of injustice at one time in his career. My own view about Castro is that, for one reason or another, he has submitted to being a prostitute of the Soviet Union and that his interest in his country, although I am sure they exist very strong, have become secondary to his dependence upon the Soviet Union, not only in terms of economics but also ideology.

As someone who has spent part of his life in the Third World and is very committed to the Third World and has a respect for the issue of nonalinement, I think the role Castro has played has done serious damage to the Third World and to those who profess and are committed to sincerely true nonalinement.

I think that issue was best revealed, or at least Castro's position, when the U.N. voted on the issue of Afghanistan. Here you have Castro, who tends to be nonalined and concerned about injustice, concerned about national independence, who turns around and leads the battle for the Soviet Union in trying to put the stamp of approval on the Soviet invasion of Afghanistan. And whatever else Castro may do, that one act, I think, lays bare any claim that he would have to true nonalinement.

There are reasons why people become captive to various interests. This Senate body is no different. But at least, in Castro's case, I would hope that he would dispense with some of the piousness that has marked his career.

All of that notwithstanding, the issue before us today is Radio Marti. Radio Marti would fit under the category of what is referred to by some as "feel good" legislation. Not many people think it will do any good, but they feel good if it somehow is in place and beaming our message to the Cuban people.

I will not repeat what has been said by my predecessors and I will be brief. But I would like to have printed in the RECORD the statement of Wayne Smith, who was the former head of the U.S. interests section in Havana and the comments he made to the committee on August 19, of this year in response to Radio Marti. I will just read a brief portion of it.

Mr. Chairman, as Americans, we are all committed to the free flow of ideas across borders, and the argument against Radio Marti, at least my argument does not flow from some objection to providing more information to the Cuban people. There are, however, serious doubts that Radio Marti is the best way to go about it.

The consideration of U.S. interests must come first. What is the United States going to get out of this? What are the costs and risks? Do the possible gains outweigh the possible losses? I have seen no evidence of such calculations. Indeed, it seems to me that the administration's most glaring failure is to explain exactly what the United

States hopes to achieve by spending $17 million to establish Radio Marti, a new station.

And it goes on and on about his view that the effort, in fact, will be counterproductive.

It seems to me, the United States would be well served by the end of the Castro regime that has done virtually very little, in my mind, to bring his people into the modern world. Granted the progress made in things like health care and education, but what he has done in doing that is simply impose an ideological view that has made that country an economic basket case dependent upon the infusion of outside money.

I think, in trying to be as nonideological as possible, that the people of Cuba would be served by a transition away from Fidel Castro to someone that is more pragmatic, less ideological, and more committed to a mixed economy.

Radio Marti, in my mind, will probably do Castro more good than ill, for the reasons raised by the junior Senator from Nebraska, giving Castro something he can point to to evoke empathy among his own people.

But even if that is not the case, the obvious question is: Who is going to listen to Radio Marti, given the access they have already to existing American radio and television programs?

If you try to postulate a situation whereas the average Cuban family has a choice between listening to Radio Marti, with its obvious governmental sponsorship and, by definition, at least, in their view, a lack of objectivity, or tuning in to a Miami radio station or a Miami television station that provides them a window into the American culture—or, put another way, if you had the choice of listening to propaganda or watching Monday night football, despite Howard Cosell—I would suspect that most people would probably pass up the chance to listen to Radio Marti. That is probably true all the way down to the "Little House on the Prairie" and even "Dallas."

Once you get beyond those examples of American culture and try to figure out who is left in Cuba to listen to Radio Marti, you have a very narrow constituency, most of whom probably have serious problems anyway, if they have nothing better to do than to listen to American propaganda.

I doubt if the leadership of opposition to Castro would be well founded in that kind of constituency.

Let us say we are wrong. Let us say that everybody in Cuba is going to be tuned to Radio Marti and consider it the best thing since life's breath. Indeed, that we are incorrect, that Radio Marti will be the major factor in knocking Fidel Castro off his governmental perch. Let us grant all that.

I think it is an absurd assumption, but let us say it happens.

In that case, Radio Marti will have served a national interest, and all Americans will be better off for that process. If Fidel Castro has any brains at all, and there is no reason to suggest that he does not, he will fight back, and the way that he will fight back is to try to get everybody in the United States to be as committed to Radio Havana as everybody in Cuba will be to Radio Marti.

Given the technology available, it may well be the case if you live in Nebraska and many other parts of this country and you want to listen to Monday night football, the only way you will listen to it is by tuning in Radio Havana.

So let us say Castro has nothing to do in this situation, and is certainly willing to introduce Soviet nuclear weaponry on his island and would certainly not blanch at the notion to sending over signals on the airwaves. Let us say he uses the technology available to him potentially and floods the U.S. broadcasting bands with Radio Havana. What do we do?

We have a number of options. One is to go into Spanish and have a crash course of Spanish lessons around the country so everyone understands what they are talking about.

Assuming there is no money in the budget to do that, the other alternative is to engage in either the destruction of the transmitter physically, which, as you know, would qualify as an aggressive act, or changing the technical equipment used by American radio stations.

Put another way, if we go ahead and do this, and I acknowledge why some would want to—I may not agree with it but I can acknowledge it—the fact is the most likely people to endure response and recriminations are those in the American broadcasting industry.

When the Foreign Relations Committee, on which I serve, took up this issue, I introduced an amendment that reads as follows:

Any United States radio and television broadcasting station licensee which suffers a loss of advertising or other revenues as a result of Cuban interference with its broadcasts which is greater than the average daily interference over the 12 months immediately preceding the enactment of the Radio Broadcasting to Cuba Act shall receive compensation from the Board equal to the economic loss incurred.

Getting past the gobbledegook what this says is, in essence, If the Cubans retaliate and in the course of that retaliation and interference do damage to an American broadcaster, he shall be compensated for that loss; that Radio Marti is in pursuit of a national interest and the cost of that national interest should be borne by all of us, not simply a narrow segment of our constituency.

That amendment lost in committee by a 9-to-7 vote. It was very close. It is my intent, should this matter be deliberated, to raise the issue and give my colleagues an opportunity to vote on it.

I think it would be very difficult for a Member of the Senate to argue to a broadcaster why, in our desire to see this thing passed, we could not, at a minimum, guarantee that clear economic interest would not be harmed. If the Cubans react as everyone suggests they are going to, then it seems to me that innocent broadcasters in this country who have no say over these kinds of matters should be made whole, and if we are doing this as a national matter, then the losses incurred should also be incurred nationally, not by just a small constituency.

There are two associations of broadcasters. One is the National Association of Broadcasters and the other is the National Radio Broadcasters Association. They have both taken positions on the issue of compensation.

Before I read those letters, let me say at the outset there is a distinction between my point which talks about economic loss and their point which refers to managerial compensation for expenses in changing signals. I wanted to get that distinction on the record before I read the letters.

The first is November 23, 1982, by Sis Kaplan, president of the National Radio Broadcasters Association.

Dear Senator: The National Radio Broadcasters Association, representing nearly 2,000 radio stations in the United States has previously expressed its misgivings about the proposed Radio Marti authorization bill which is now being considered by the Senate. We do not presume to be experts in the area of foreign relations. We accept the decision of our Government that the establishment of Radio Marti would be in the best interests of the United States.

We do believe, however, that many millions of dollars could be saved by making use of the present underutilized Voice of America facility on Marathon Key or by buying air time on south Florida commercial radio stations. With these excellent AM transmission facilities in place and available, it seems to us to be inappropriate in times like these to spend millions of dollars for unnecessary duplication of steel, brick, and electronics.

Furthermore, we urge that if Radio Marti must be built, that it operate on frequencies beyond those used by commercial radio stations in the United States. The effects of expected Cuban jamming of U.S. radio stations is now well known to you and the financial damage to these stations will be catastrophic.

We strongly urge that any Radio Marti authorization bill include full compensation for expenses and losses incurred as a result of Cuban interference with the signals of American commercial radio stations. Negotiation is the only true solution to the Cuban interference problem, but American broadcasters should not be expected to bear the brunt of Government policy and action which results from the failure of such international negotiations.

I think that letter is rather straightforward.

The second comes from the National Association of Broadcasters. This is a statement that was sent in a letter which was distributed to every Member of the Senate.

Cuban interference to U.S. AM radio stations is a grave problem which is likely to become worse. Already, numerous stations in Florida and facilities spread from Texas to Utah to Connecticut are experiencing interference from Cuban broadcasts. If Cuba implements its stated plan to drastically increase the number and power levels of its AM operations, over 200 U.S. radio stations in 34 states will suffer, and millions of Americans will lose service to which they've become accustomed.

In the Radio Marti authorization bill now pending before the U.S. Senate, there is a provision intended to provide financial help to U.S. broadcasters for expenses incurred in mitigating the effects of Cuban interference. The bill gives discretionary authortiy to the FCC to direct government reimbursement to affected broadcasters. As a trade association which represents 4430 radio stations and all the major commercial radio networks, the NAB asks you to support a change in the current provision to make such compensation mandatory.

The NAB has repeatedly stated that there is no adequate unilateral solution to Cuban interference and jamming. A program of compensation cannot substitute for a diplomatically negotiated agreement between the U.S. and Cuban governments on standards for AM broadcasting. The latter is the only sensible course of actior and one that our government must vigorously pursue. NAB's All Industry Cuban Interference Task Force is working with the State Department and other involved parties to encourage and facilitate negotiations, and we would welcome your participation in that effort.

Though a compensation program does not provide a truly adequate answer to Cuban interference, NAB nevertheless believes that at least some measure of financial relief should be guaranteed to broadcasters attempting to maintain service to their listeners. It is certainly appropriate to include such a guarantee in the Radio Marti bill since the relationship between Cuban interference and the establishment of the station is becoming increasingly clear. On August 30, at least twenty-two U.S. stations on five frequencies were the victims of jamming generated by Voice of Cuba broadcasts on U.S. AM frequencies. Cuba stated that its actions were in retaliation to the Radio Marti proposal.

NAB has not taken a position on the establishment of Radio Marti because it is essentially a foreign policy issue. We believe, however, that if the station is indeed authorized, there are proposals for its operation that could minimize its potential to exacerbate an already intolerable situation. In addition to supporting mandatory reimbursement, we ask that you give serious consideration to those proposals. They include: (1) put Radio Marti at either end of the AM band outside of commercial radio frequencies; (2) operate Radio Marti on shortwave; (3) permit government leasing or airtime on existing commercial AM stations for Radio Marti; (4) allow Radio Marti to share the frequency now used by the Voice of America at its Marathon station; or (5) expand the operating hours and mandate of the Voice of America to include the kind of programming envisioned for Radio Marti.

NAB and radio broadcasters across the nation will appreciate your attention to these important concerns.

Sincerely,

EDWARD O. FRITTS,
President.

Mr. President, I simply conclude by reiterating that if this matter is taken up, I shall be introducing this amendment and shall give my colleagues a chance to vote on it. To those who may be reluctant to do so, I simply suggest that when those 200 stations in 34 States get overwhelmed with Radio Havana and come knocking on your door, it may be in everybody's interest to have been able to say you voted for the amendment.

I think the case is going to be compelling in terms of the justice and equity that they not be thrown into economic chaos because of this situation. If we are intent on pursuing the Radio Marti alternative, and there are good people on both sides of that issue, at a minimum, those in this country who are going to be hurt by the venture should be protected. I shall give all of my colleagues a chance, if this bill is to be discussed now or in the next session, to show that that is not the intent and that there is a sensitivity on the part of the U.S. Senate to those who would be damaged by the process.

I thank my colleague, the Senator from Nebraska.

Mr. ZORINSKY. I thank the Senator from Massachusetts.

Mr. President, I continue reading from the Radio Marti final report of the Presidential Commission on Broadcasting to Cuba dated August 17, 1982.

Examination shows that neither FM nor television broadcasts would be feasible from the United States side to Cuba with adequate reception there, since each requires line-of-sight transmission. Furthermore, FM and television listenership is not as broad as it is in the United States. While a shortwave signal could readily reach Cuba, few would hear it. In Europe or the Soviet Union, availability of shortwave receivers is almost universal. In some countries—for instance, the U.S.S.R.—shortwave is sometimes used for domestic broadcasting.

In Cuba, on the other hand, shortwave is not used for domestic broadcasting. There are no reliable estimates on the number of shortwave receivers in Cuba. The Commission has consulted a variety of sources, including the VOA, the FCC, and the intelligence community. Logic and all available information indicate that shortwave receivers are not widely held in Cuba.

Cubans who arrived in the United States in 1980 also reported this.

One American expert on Cuban broadcasting, who visited Cuba in 1981, has recently reported in comments submitted to the FCC that since the revoloution, shortwave sets have become very difficult to acquire in Cuba. Authorities even disable shortwave receivers whenever they can. Shortwave could thus be expected to reach only the government and Communist Party officials and a few others with old or informally acquired sets.

The AM radio band, the medium wave, is what the Cuban Government uses to reach its own populace. Cuba maintains an interlocking system of five national AM networks, each with local transmitters registered with the International Communications Union.

The Cuban Government even rebroadcasts on the AM band those Soviet shortwave broadcasts which it wants to be widely heard in Cuba. The 1981 edition of the World Radio And TV Handbook reports 2.12 million radios in Cuba. Virtually all are likely to be AM receivers, most being inexpensive transistor models.

If Radio Marti is intended to reach the general Cuban populace, the man and woman on the street, or in the fields, it would appear that only AM can reach them effectively.

That is why I think it is even more meaningful to evaluate the comments made by radio station WQBA in Miami, Fla., that they are currently already doing that. This is indicative by the letters they are receiving from Cuba in addition to interviewing people that come from Cuba.

While the international radio regulations state that in principle the AM band is for domestic national service, in practice the AM band is used extensively by international broadcasters throughout the world. Some of the principal users are the BBC, Deustchwail in West Germany, Radio Moscow, Radio Havana, and the Voice Of America. RFE also operates an AM transmitter in Germany to broadcast to Eastern Europe.

When planning for Radio Marti began, the Federal Communications Commission was asked in September 1981 to recommend a frequency for its future use. In conducting the frequency search, the FCC considered three criteria:

1. Minimization of interference from Radio Marti to United States domestic stations;

2. Maximization of service from Radio Marti over Cuba, and

3. Minimization of interference of Radio Marti to other stations in the Western Hemisphere.

All 107 commericial channels in the AM band were reviewed to assess the usability. It was determined that approximately three United States class 1-A clear channel frequencies, one of which was 1040 kilohertz, showed greatest promise. Through computer analysis it was determined that 1040 kilohertz met the criteria noted above to the greatest extent. These studies did not take into account Cuba's plans to use 1040 kilohertz, since Cuba had not notified the International Frequency Registration Board of this intent at the time the FCC made its recommendation. The FCC formally identified 1040 kilohertz as the recommended frequency for Radio Marti in a letter dated October 29, 1981.

The MTIA formally assigned it for use by the United States Government in January of 1982. Therefore, Radio Marti's use of 1040 kilohertz would be entirely legal. In fact, United States use of 1040 has already been accepted by the ITU on the list B of its frequency assignments plan.

H.R. 5427 passed by the House on August 10 establishes a specific procedure and specific criteria to be followed in making a final selection for frequency for Radio Marti. Taking into the account the interests of the United States broadcasters, if this proce-

dure becomes law, a new determination of frequency for Radio Marti would be required.

The Commission has received and considered proposals that Radio Marti use a frequency off the regular AM commercial broadcast band. The Commission believes that this would be unwise for several reasons. Some inexpensive transistor radios have limited tuning capability and cannot pick up transmissions outside the normal range of 535 to 1605 kilohertz. In addition, the fringes of the AM band, 525 to 535 kilohertz and 1605 to 1705 kilohertz, are largely validated to other uses by international regulations to which the United States is a party. Finally, since the offband frequencies are not covered by international aggreements, the United States would have weaker ground for complaint under international law against possible Cuban jamming.

CUBAN INTERFERENCE IN JAMMING

The administration's proposal to establish Radio Marti has generated concern that Cuba may retaliate by jamming Radio Marti and by increasing interference with the United States broadcasters.

JAMMING

The Cuban Government could try to jam the reception of Radio Marti broadcasts in Cuba by locating a number of low-powered transmitters at appropriate points, probably along the north coast. This could be done at moderate cost with partial effectiveness. In the past 23 years, however, Cuba has seldom jammed the Voice Of America. Jamming is rarely fully effective, and the Commission would expect it to enhance the credibility of Radio Marti for the Cuban people. Jamming would probably have little effect on broadcasters in the United States including stations using the same frequency as Radio Marti.

INTERFERENCE

During the course of its public hearings, the Commission was made acutely aware of the problems for United States broadcasters caused by interference from Cuban broadcasts. This Cuban interference is in violation of both the letter and the spirit of international treaties or agreements to which it is or has been a party.

It is a serious problem which should be addressed jointly by the Federal Government and the broadcasters. Cuban radio interference with American broadcasts on the AM band, caused by transmitting radio signals, frequently at high power, on the same frequencies used by U.S. radio stations, is not new. It has been going on for at least 15 years, affecting primarily stations in the southeastern United States, especially Florida, as indicated by the Florida broadcasting associations in their statements to the Commission.

In the mid-1960's, the Castro government embarked on a program to redesign its domestic AM broadcasting system and to initiate broadcasting directed toward the United States and other neighboring countries. New Cuban plans to increase significantly the number and power of its AM radio stations to meet both internal and external requirements were announced in 1979 as part of a five-year plan and were submitted to the International Frequency Registration Board of the ITU in May 1980. Were Cuba's plans to be implemented, its stations would cause greatly increased interference to U.S. broadcasters.

Cuba's current inventory of operating and proposed radio stations includes two high-powered stations using 500 KW transmitters, announced in 1979. One 500 KW station began broadcasting in the fall of 1981 (but not at full power) on 1160 kHz, the same frequency used by KSL of Salt Lake City, which has experienced serious interference as a result. This interference ceased in July 1982.

The Cubans told U.S. officials in August 1981 that the other 500 KW station would utilize 1040 kHz, the same frequency used by WHO in Des Moines. However, Cuba has never broadcast and is not now broadcasting at high power on 1040 kHz. Cuba's plans to use 1040 kHz, as well as a number of other frequencies which would cause interference to U.S. stations, have not been accepted by the ITU, which instead accepted use of 1040 kHz by the U.S. in November 1981.

Cuba's broadcasting plans were made known well before the U.S. announcement in September 1981 that it intended to establish Radio Marti. They cannot be considered, therefore, as retaliation against Radio Marti. The problem of increasing Cuban interference is a separate and distinct issue which will remain whether Radio Marti goes on the air or not.

While recognizing that there is some degree of risk from Cuban interference on any frequency selected for Radio Marti, the Commission believes this contingency should not deter the United States from implementing its plan to put Radio Marti on the air.

Again, I personally cannot help wonder why, instead of putting Radio Marti on the air, there is not a format which a current Spanish-speaking radio station could utilize on behalf of Radio Marti for a trial period, to further confirm or deny the hypothesis which this Commission believes would be a degree of risk. The big difference, of course, is that with the building and construction of Radio Marti, it puts the taxpayers' dollar at stake; whereas, a radio station in existence is a functioning entity, with a profit motive structure, which, in the event of the format being unsuccessful, can revert to its current use of transmission facilities.

HOW WILL CUBA REACT TO RADIO MARTI

Cuba may do nothing: The VOA has been broadcasting to Cuba for 23 years and Cuba has rarely tried to jam these broadcasts.

Cuba could jam: Low-powered transmitters could be used to block reception of Radio Marti's signal in Cuba, if the Castro government wants to prevent the Cuban people from hearing Radio Marti. Such jamming would not fully prevent reception of Radio Marti in Cuba.

Cuba might try counterbroadcasting: President Castro in an April 1982 speech suggested Cuba might counterbroadcast. This could consist of a so-called "Radio Lincoln" appealing to minorities in the U.S. Cuba used this approach in the early and mid-1960's. Whether such broadcasts might cause interference in the U.S. would depend on the frequency used and the power of the signal.

Interference: Blocking reception of Radio Marti by creating radio interference through counter-broadcasting makes no sense. Were Cuba to use high power and an omni-directional antenna on 1040 kHz, it would cause interference not only with Radio Marti and WHO but also with radios on that frequency in several neighboring countries including Mexico, Venezuela, Nicaragua and Grenada, with which Cuba wants good relations. If Cuba were to use a highly directional antenna on 1040 kHz, Radio Marti might still be heard in Cuba depending on where the Cuban antenna is targeted.

National Association of Broadcasters Study: A study by the National Association of Broadcasters released in March 1982 indicates that over 200 U.S. radio stations in 32 States would experience interference and reduced listening areas should Cuba fully implement its proposed inventory of broadcast facilities. The U.S. stations listed in the NAB study would not be affected by Cuban interference in the manner projected unless Cuba operated its full inventory of stations at maximum power and under ideal conditions. Some of the stations listed exist now but many others are proposed and may not be built. Further, many of the existing Cuban stations do not broadcast at the power shown in the Cuban plan. Bearing in mind the limitations of Cuba's electric power generating system, which is dependent on increasingly scarce imported Soviet oil, it is doubtful that Cuba will put all the stations listed in its plan on the air or at the power indicated. Thus, although theoretically possible at some time in the future, such "maximum" intereference may not occur.

And I am sure that the broadcasters would love to see that word changed to "shall not occur" because I think it is very simple for any commission in the report to be able to say "may not occur" and not be held to the liability of their commitment. Obviously, the people who wrote this must adhere to that old adage that if you live by the crystal ball, you may have to end up eating glass and certainly glass may cause some of them indigestion and therefore the use of the word "may not occur" must have seemed much safer for them to use.

How to Address the Interference Problem: The 15 year old problem of Cuban interference, now assuming national proportions, needs to be addressed as an issue separate from Radio Marti, as suggested in H.R. 5427. That Act includes the following provision: "It is the sense of the Congress that the President should establish a task force to analyze the level of interference from the operation of Cuban radio stations experienced by broadcasters in the United States and to seek a practical political and technical solution to this problems."

The Commission notes that Section 6 (a) of H.R. 5427 authorizes the Board for International Broadcasting to compensate U.S. broadcasters for expenses incurred in mitigating the effects of Cuban Radio interference. The estimate that compensation payments could exceed $40 million, submitted by the Congressional Budget Office, appears to be exaggerated and highly speculative. This estimate is based on compensation costs of $100-200 thousand projected for each of the 200 AM radio stations identified by the National Association of Broadcasters study as affected by Cuban radio interference if Cuba should implement fully its ambitious plan to build a variety of new, high-powered radio stations.

And God forbid if they build it during an election time and start using them for the indemnification that

would be required to these radio stations for the politicians not being able to spend all those wild hours that we spend at election time expounding our ego and our views to the general public as to why we should be returned to this den of inequity.

Since many of these stations may not operate at the power indicated, or may not even be built, the $40 million figure is clearly high.

I do see the Commission did not go on to say that they would use that as a minimum figure being that confident that it would never exceed that figure.

Some of these people back home in the broadcasting business seem to think they have very expensive equipment and I can vouch personally from having paid the rate structures as a politician they have very high schedule fees for advertising for politicians which I am sure this Commission could not indemnify.

While the Commission is well aware of the problem of Cuban interference and the need to deal effectively with it, it believes that any plan to compensate U.S. broadcasters should be the result of careful analysis of the problem and its impact, in view of the technical complexity and question of precedent involved. The task force called for by H.R. 5427 to deal with the interference problem, as provided for in Section 6(b), may be the logical body to address the question of compensation as well.

Some members of the broadcasting industry told the Commission that the U.S. should seek to resolve the interference problem through negotiations. Unfortunately, the record of past attempts to negotiate this issue with Cuba indicates that Cuba may not be ready for meaningful negotiations. State Department officials and industry representatives reported to the Commission that the Cubans showed no flexibility or real interest in accommodation during several bilateral talks in 1981.

I feel it is very curious they showed some accommodation and interest in returning hijacked airplanes to our country and sat down and negotiated and talked with us; whereas, the Commission reports that the Cubans showed no flexibility or accommodation or interest in these types of talks.

The State Department has indicated it would continue to explore all possible means to address the problem.

I would think that one of those means would, experimentally, for a 6-month period, develop a format, a trial period to see what happens, without building or committing the Federal Government to the expenditure of these sums of tax dollars.

It is working, that is the State Department, with the National Association of Broadcasters and others in the industry to develop a provision acceptable to U.S. broadcasters should the opportunity for talking seriously to Cuba about this present itself.

The State Department has indicated it would continue to explore all possible means to address the problem. It is working with the NAB and others in the industry to develop a position acceptable to U.S. broadcasters should the opportunity for talking seriously to Cuba about this present itself. While endorsing these efforts the Commission feels strongly that Cuban interference and Radio Marti are separate and distinct issues, and should be addressed as such.

4. TRANSMITTERS

Two medium wave transmitters would be required for full coverage of Cuba with a strong signal, one for western Cuba, including Havana, the other for the eastern half of the island. The best location for the first transmitter would be in south Florida as close to Cuba as possible. Eastern Cuba, the most heavily populated part of the island, cannot be reached effectively by AM broadcasts from Florida, except for some scattered night-time service. Consideration would therefore have to be given to establishing a second transmitter site in the Caribbean.

The Commission considered proposals that Radio Marti use VOA's AM transmitter at Marathon Key in south Florida. The Commission found, however, that prime time would not be available for broadcasting Radio Marti programs on this facility. The Commission has heard from Cubans themselves that if Radio Marti is to succeed, it must broadcast on prime time, i.e. in the early morning before the Cubans go to work and in the evening after they return. According to the VOA, the Marathon transmitter and its other transmitters planned for the Caribbean will be fully utilized during prime morning and evening hours, precisely when Radio Marti programs should be broadcast. Nor would there be significant financial advantage to co-locating VOA and Radio Marti transmitters in the Caribbean since each would require its separate directional antenna arrays, the most costly element of these systems.

The Commission also considered proposals that Radio Marti use commercial stations in the U.S. and in Caribbean countries to broadcast Radio Marti's programs, and found such an approach not feasible either. Because of their distance from Cuba, insufficient power, and antennas which are not designed for broadcasting to Cuba, U.S. stations can be heard in only limited areas of Cuba and cannot provide blanket coverage, as envisaged for Radio Marti. Moreover, commercial stations are often identified with positions that are too partisan either to serve U.S. interests or to be credible in Cuba, whereas Radio Marti would be nonpartisan. Finally commercial stations might also be reluctant to give up prime time for Radio Marti, since this might affect their own commercial viability. The cost to Radio Marti, therefore, for leasing this prime time might be quite high.

Well, you can see that no effort was really made to find out because again using that bureaucratic word "might" in the phrase "might be quite high" is indicative to me that they do not know, because had they found out it would have been either quite high or quite low, but the word "might" need not have been used.

Again I cannot help going back to my former position as a businessman in the equation of commonsense and logic, where we always took bids and we had them down in black and white and we had them on paper, and we knew what we were getting into before we went that far.

It is quite obvious that this Commission at that time was not aware of the capabilities of station WQBA which is reported to have the ability to reach the great portion of, the majority of, people of the listening audience in Cuba.

As with VOA facilities, the use of commercial stations would not result in substantial savings, particulary if Radio Marti can use other government facilities which may be available. Separate office space, studios and regional bureaus will still be needed for Radio Marti. The costs of programming, operations and administration, which would amount to about 90 percent of the overall operating budget, would be the same regardless of transmission facilities used.

Clearly, U.S. comercial stations do not offer a real alternative. The Commission agrees with the South Florida Radio Broadcasters Asssociation, which in a statement submitted to the Commission stated that "commercial operations are a poor substitute for the proposed Radio Marti."

Information is not available on which radio stations in Caribbean countries can be heard in Cuba. There is no reason to believe that any such stations would be willing to broadcast to Cuba on our behalf.

5. OFFICES

Because close policy and operating guidance is essential, consideration was given to locating RBC's headquarters and main studio near the oversight agency in Washington. Radio Marti's non-partisan image would be enhanced by locating its primary programming operations outside areas identified in the American and Cuban public minds with partisan ethnic groups.

The Commission believes it would be desirable for Radio Marti to have two small regional bureaus in New York and Miami. New York is a major news center, including such news sources as the United Nations, where Cuba conducts much of its diplomatic business, and in Miami, recognized as a major center of news for and from Latin America.

I wonder if the poverty that currently exists in Cuba would just give a bare clue as to the mismangement of the economy without even the broadcast being heard?

Some people even in this Nation are talking about mismanagement of our own economy, especially over 11 million unemployed Americans who are beginning to look at where, how, and when the management of this economy will once again return in our country.

The Revolution's record of broken promises in improvements in standard of living and, the availability of housing, foodstuffs, consumer goods, etc.

Now, obviously the revolution's record of broken promises have to be self-evident in that country. I assume people just do not walk in and purchase a filet mignon or whatever luxury items they so desire in Cuba, as we do here in our country. And if they do not and cannot and are not able to, I imagine the God-given brain given to them will deduce and deduct the same logic that we would if it happended to us, and that is that our Government

and its revolution may not be well managing commodities and housing and consumer goods, and so forth, as we are going to tell them and alert them to through the creation of Radio Marti.

Examples of how economic mismanagement and the allocation of scarce resources to foreign adventurism exacerbate the daily hardships and shortcomings experienced by the Cuban people.

Comprehensive news focusing on developments such as the repression of workers in Poland, the Soviet subjugation of Afghanistan, the Cuban military role in Angola, Ethiopia and South Yemen.

Cuba's increasing economic dependence on the U.S.S.R.

The privileged status of a ruling elite despite a commitment to egalitarianism.

The primary target audience should be the general public, with particular emphasis on youth. Special segments should also be designed for select sub-groups such as government employees, the military, blue collar workers and farmers. "News and views" should be the core of programming, but care should be taken to assure an objective, sophisticated approach tailored to the existing Cuban milieu, and to avoid harsh, strident or obviously ideological presentations or concepts to which the average Cuban cannot relate.

To attract and keep the audience for the news and views segments, Radio Marti should also be entertaining, while seeking to fill voids left by Communist censorship. For example, radio dramas are extremely popular throughout the Caribbean, yet the most popular ones (often Colombian or Venezuelan) are not broadcast to Cuba. Properly selected series might be aired, with the advertising "spots" used for commentary. Popular American and Latin "Top 40" hits are not aired in Cuba, yet Cuban youth are as enamored of their generation's rhythms and songs as are their counterparts elsewhere.

I am sure the American taxpayers will be ecstatic to find out that we are going to beam the top 40 hits of the week to Cuba with their money and their hard-earned tax dollars. I know there will be dancing in the streets of Omaha, Nebr., when I tell the people back there when I go back to explain Radio Marti to them.

Music should play a major role. Baseball is a national passion, but the World Series is not heard well. Much of the very best classic and modern Spanish and Latin American literature, drama or poetry is not now available to the Cuban people.

Well, we are cutting the budget on American drama, poetry, and literature in our own budget and, at the same time, I am going to have to go back and tell the people of Nebraska that we are going to cut our budget on the classics and drama but we are going to take that budget and shift it over to providing that for the people that currently do not pay taxes in our country. They will be ecstatic to hear that, also.

But before final decisions are made on programming, those responsible should carefully consider the results of a survey of Cuban radio listening habits and preferences, financed by private funds and expected to be completed by the end of August. This survey, drawn from a random sample of the 125,000 Cubans who came here in 1980, is intended to determine radio listening tastes, not political views.

I once had Senator PRYOR tell me about the tastes of a few of the people in Arkansas that we might ask about what to put in that program.

Once Radio Marti is on the air, future programming will need to be adjusted to respond to feedback of listener reactions in Cuba.

F. INFORMATION GATHERING

A wide variety of sources of information on Cuba which are not available to the Cuban people would be available to Radio Marti. To take advantage of these sources Radio Marti should have: (1) monitoring and selective transcribing of Cuban radio and television, as well as monitoring of Prensa Latina and other Cuban publications; (2) speedy access to coverage of Cuba by leading Latin American newspapers, magazines and radio-TV networks, and by the Western wire services represented in Cuba such as Reuters, AFP and EFE and (3) an expert corps full-time correspondents to provide concise reporting and analyses on major international developments of interest to Cubans, as well as to fill in gaps and to track down inconsistencies in wire-service and other coverage of Cuban-related developments.

It should be noted that while reporting by the Western wire services of developments in Cuba is distributed world wide, it is not available to the Cuban public. Nor does most news related to Cuba's involvement in Central America and Africa reported by these wire services reach the Cuban people.

As in the case of RFE and RL, travellers returning from Cuba would be another source of valuable information on developments there. Radio Marti's bureaus in Miami and New York could help collect this.

6. BUDGET AND PERSONNEL

To launch Radio Marti, a budget of $10 million in FY 82 and $7.7 million in FY 83 has been submitted to Congress by the Department of State. Of the $10 million for the first year, $4.2 million has been proposed for engineering, $3 million for programming, and $2.8 million for administration. Included under engineering expenditures are $1.2 million for one-time acquisition costs for an antenna, transmitter and related equipment at the South Florida transmitter site, and approximately $1 million for headquarters and studio facilities. Virtually all of the $7.7 million recommended for the second year is for programming and administration, with full-year personnel costs making up nearly $5 million. Of the 168 positions recommended to be filled in FY 82, 148 would be related to programming requirements.

I would even have more respect for this if it was called a jobs bill because it creates 168 new positions for people to be employed. It will be a jobs bill that will be under the auspices of a broadcasting bill and nobody will ask questions about the pensions that eventually will come about in the creation of those jobs in order to broadcast the numerous baseball games, music, and some of the other cultural aspects.

The Commission does not consider the budget request of $10 million for first year funding as unreasonable. The cost of establishing Radio Marti cannot be compared to that of a commercial station for domestic broadcasting. Radio Marti's costs would include not only expensive four-tower directional antennas but also high personnel and administrative costs related to its heavy research and program development requirements.

Obviously, they do not intend to take much advantage of those costs we have already incurred on developmental requirements in programing with regard to other agencies who serve a like purpose in other areas of our world.

Reduction of the funding level from $10 million to the $7.5 million authorized by the House for first-year funding would require corresponding reductions in either construction and start-up costs or operations. This may mean postponement of the second transmitter site in the Caribbean ($1.9 million), which is needed to reach eastern Cuba, or cuts in research and program staffs, reductions in broadcast time.

With the need for specialized programming tailored specifically for the Cuban people, Radio Marti will be required to establish a specialized news service and to research and write much of its own material. Programming-related positions include editors, commentators. analysts, writers, correspondents, researchers, translators, technicians, etc. Personnel should be drawn from the ranks of professional broadcasters and newspersons, with special emphasis on hispanic, including Cuban, experience. While it will be essential to include staff with knowledge of Cuba, and to use Cuban voice talent, Radio Marti should be perceived not as a Cuban exile activity but rather as an objective, non-partisan effort.

IV. RECOMMENDATIONS

A. GOALS

The Commission supports the Administration's intent in establishing Radio Marti as explained in Section 1 of the proposed legislation, namely that:

(a) it is the policy of the United States to support the right of the people of Cuba "to seek, receive, and impart information and ideas through any media and regardless of frontiers," in accordance with article 19 of the Universal Declaration of Human Rights;

(b) consonant with this policy, Radio Marti in its planned broadcasting to Cuba should be effective in furthering the open communication of information and ideas to the people of Cuba and in particular accurate information about Cuba; and

(c) such broadcasting by Radio Marti, operating in a manner not inconsistent with the broad foreign policy objectives of the United States and in accordance with high professional standards, would be in the national interest.

The specific goals of Radio Marti should be to: Provide a reliable source of information concerning Cuba's domestic and international policies and actions now lacking to the Cuban people; provide the information necessary for the Cuban people to make informed judgments on these policies and actions and to try to hold their government more accountable; provide news and analysis that is not manipulated by the state but is objective, accurate, credible, relevant and timely, as well as a full range of radio programming, including sports, music and entertainment.

Radio Marti should not: broadcast propaganda or provocations; be designed to tell the Cuban people about the United States, a service performed by the VOA.

Radio Marti should espouse no single specific political, economic or religious point of view. It should have no relationship to any political party or exile organization; nor should it identify with any opposition group or groups, political party or organization. Radio Marti should be committed to respect for human rights and to the principles of democracy, including freedom of opinion, the rule of law, and nondiscrimination on the basis of race, religion, sex, class, or nationality. It should be nonsectarian, defending freedom of religious faith and observance for all creeds. It should be committed to the free movement of people and ideas among nations and to the peaceful negotiation of international conflicts. Radio Marti should subscribe to the principle of equal rights and self-determination of peoples as expressed in the United Nations Charter. The purpose of Radio Marti should not be to incite a desire within the Cuban people to leave their country. Nor is Radio Marti intended to incite Cubans to revolt against their own society.

Recognizing that it will take a long time for Radio Marti to develop a wide audience which looks to it for credible news, it is conceived as a long term strategic effort intended to help the Cuban people hold their government accountable for its actions. As such, Radio Marti must, whenever possible, maintain a steady course essentially unaltered by short term tactical considerations. It should not be considered a "bargaining chip" nor should its policies and perspectives be subject to abrupt shifts. It should have a perspective insulated from partisan viewpoints and reflective of the long range, U.S. national interest.

Recommended program policy guidelines for Radio Marti, modeled on those of RFE, are set forth in Appendix I.

B. BROADCASTING ENTITY

Adopting the view that a separate corporate entity patterned after RFE/RL would enhance the credibility and efficiency of the broadcasting organization, the Commission endorses the establishment and use of Radio Broadcasting to Cuba, Inc.

Once the Senate passes authorizing legislation, the Commission also recommends that RBC, Inc. be activated to perform certain planning functions, using private funds until appropriations are available. To do this Radio Marti should hire key personnel to begin planning for programming and future recruitment.

Mr. President, I cannot help but notice that it does not mention any passage in Congress. It takes passage in Congress as a prerequisite action to instruct Radio Marti to hire key personnel and begin planning for programing and future recruitment. At the current time, we are merely debating whether we should take this issue up on the floor of the Senate.

C. OVERSIGHT

The Commission recommends that the State Department be the temporary grantor of federal funds and oversight authority for RBC, Inc., pending the statutory designation of a permanent federal granting and oversight agency, as provided for in the legislation proposed by the Department of State. The oversight agency should exercise effective control over Radio Marti's operations to ensure that the Executive Branch's instructions and limitations are met. The Commission considers this a sensible arrangement until Radio Marti is fully operational.

The Commission would like to review the question of a permanent oversight agency for no more than one year after Congress authorizes and funds Radio Marti. Accordingly, the Commission also recommends that its term be extended for a period not to exceed one year from the effective date of Congressional legislation authorizing and funding RBC, Inc. During this period, the Commission should continue in its advisory role assisting the State Department with its responsibility for oversight over Radio Marti. The Commission as a body, and its expert members individually, could serve as consultant advisors to Radio Marti during that period. The Commission would further undertake to produce specific recommendations on permanent oversight authority and on program design and content before its mandate expires.

D. BROADCAST BAND

The Commission recommends that Radio Marti broadcast on the AM (medium frequency) radio band. This is the only band which will enable Radio Marti to fulfill its goal of reaching the Cuban people effectively. The other broadcast bands, such as short wave and FM, would reach only a limited part of the Cuban population.

E. FREQUENCY

The Commission recommend that Radio Marti begin operating on one basic, well established frequency on the AM band. Even though 1040 kHz has already been assigned to the government for this purpose, the Commission notes that the process of selecting a frequency for Radio Marti is to be repeated in conformance with the procedure and criteria specified in H.R. 5427, Section 3, if this provision is approved by the Senate. This would ensure that the most appropriate frequency for Radio Marti is chosen, while taking into account the interests of U.S. broadcasters.

Mr. President, as we get further involved in this, we shall see that the interests of U.S. broadcasters are very numerous. As a matter of fact, the human nature involved with this issue is such that all broadcasters would like to be indemnified from the use and selection of their frequency, of their broadcasting facility being used in the event Radio Marti becomes a reality.

The Commission also recommends that consideration be given to the possibility of using additional frequencies, if this is found to be feasible by the FCC and NTIA, in order to make more difficult possible Cuban jamming of Radio Marti broadcasts. Consideration should also be given to the possibility of complementary technical facilities for contingency use.

F. CUBAN INTERFERENCE

The Commission believes that suspension of plans for Radio Marti would certainly not eliminate nor probably even reduce Cuban radio interference now or in the future.

The Commission recommends that the Department of State keep the door open to opportunities to address this problem through negotiations, particularly involving international organizations and efforts by other nations, as well as our own. The State Department should continue to work with the NAB to develop a position acceptable to U.S. broadcasters should the opportunity for talking seriously to Cuba about this present itself.

The question of compensation for costs incurred in mitigating the harmful effects of Cuban interference should be postponed until the task force authorized by H.R. 5427, or other appropriate body, makes recommendations. Compensation could then be considered in separate legislation at a later time, because adequate funds for this are not included in legislation now before the Congress.

● Mr. PACKWOOD. Mr. President, I rise in strong support of the Radio Marti bill. The purpose of Radio Marti is to provide the people of Cuba with information about what is going on in Cuba. For more than 20 years, the Cuban people have received, from Cuban Government and Soviet radio, a steady flow of heavily censored and strongly anti-American news. They are not being told what is happening to their economy or what is happening to their agriculture and that information is vitally important to them.

Castro's totalitarian regime controls the dissemination of information in Cuba. Radio Moscow is the only international broadcasting targeted specifically to Cuba. Cuba, on the other hand, operates an extensive broadcasting effort abroad in more than a half dozen languages and Indian dialects.

U.S. commercial broadcasts which can be received in Cuba are sporadic, most are not in Spanish, and not one is directed specifically to the Cubans on the island. Moreover, Voice of America services are limited in both time and scope.

Radio Marti would allow the United States to provide accurate, up-to-date and uncensored news and information to the people of Cuba regarding Cuban activities both at home and abroad. The need for such a service is clear. Cuba is located just 90 miles off the coast of the United States, and yet it is truly an island both in terms of physical isolation and the isolation of its people from free access to information.

Radio Marti would serve the same vital role that Radio Free Europe and Radio Liberty serve in broadcasting to the Soviet bloc in Europe. The operation of these radio networks is an integral part of U.S. foreign policy serving, in particular, our interest in promoting the free flow of information and ideas. For tens of millions of East Europeans, the most reliable information about their country comes from the outside world. There is no comparable source of news for those living in Cuba.

Even with the establishment of Radio Marti, the United States will still remain far behind the Soviet Union and Cuba in the amount of resources and time devoted to international radio broadcasts. I think it is essential that we meet this challenge

and provide for the creation of this new voice of truth for the Cuban people.

The proposed new radio broadcasts to Cuba will reach the audience most likely to influence the Cuban Government—the Cuban people. They have the right to know what the Castro regime is doing in their name and what they must endure at home and abroad to support those polices. The Cuban people deserve the truth. Radio Marti will give it to them.●

ORDER OF PROCEDURE

Mr. ZORINSKY. Mr. President, I shall be happy to yield to the majority leader (Mr. BAKER), provided that I am accorded unanimous consent to be recognized first to resume when this question is before the Senate, tonight or tomorrow or any other date, and that the continuation of my remarks at that time be viewed as an extension of my remarks today and not as a second speech under the two-speech rule.

I further inquire of the majority leader whether the motion to waive the Budget Act, which remains the pending business, is likely to recur before recess tonight or whether it can be put over until tomorrow.

Mr. BAKER. Mr. President, let me answer the question put, and before I do so let me say that I have no objection to the request if the Senator wishes to put the earlier part of the request.

It is my intention, if the request is granted, to go to the royalty management bill, which is S. 2305, and to complete that this evening. I am advised it will not take very long to complete.

At this point I would ask, after it is completed, that the Senate recess over until 11 a.m. tomorrow. I intend after that to provide for a period for the transaction of routine morning business tomorrow, a time for a recess of the Senate for caucuses on both sides of the aisle, I believe, and then to take up the Poland resolution tomorrow at 2 p.m., to be followed then with the resumption of my motion to proceed to the consideration of Radio Marti.

So the answer to the Senator's question is technically, I suppose, the motion would not recur as the pending business under the request I am about to put until after the Poland vote tomorrow.

Mr. ZORINSKY. Mr. President, I make the aforementioned unanimous-consent request, that I be accorded unanimous consent first to resume when this question is again before the Senate tomorrow or any other day, and that continuation of my remarks at that time will be viewed as an extension of my remarks today and not as a second speech under the two-speech rule.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. I thank the Chair, and I thank the Senator for permitting me to interrupt at this point.

UNANIMOUS-CONSENT AGREEMENT

Mr. BAKER. Mr. President, I now ask unanimous consent that the Senate temporarily lay aside the pending motion to waive section 402(a) of the Budget Act with respect to the consideration of H.R. 5427, the Radio Marti bill, and I ask that the Senate turn to the consideration of Calendar Order No. 760, which is the budget waiver to accompany Calendar Order No. 731, which is S. 2305, the Outer Continental Shelf bill, and to consider S. 2305; that following the disposition of the items just mentioned, the Senate resume consideration of the pending motion subject to prior orders for rollcall votes which may have been entered and which indeed has been entered in respect to the Polish resolution.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ORDERS FOR TUESDAY

ORDER FOR RECESS UNTIL TOMORROW AT 11 A.M.

Mr. BAKER. Mr. President, if Senators will permit me, before we begin consideration of the budget waiver, I ask unanimous consent that when the Senate completes its business today it stand in recess until 11 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER DESIGNATING PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that tomorrow after the recognition of the two leaders under the standing order, there be a period for the transaction of routine morning business to extend not past the hour of 12 noon, in which Senators may speak for not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS TOMORROW FROM 12 NOON TO 2 P.M.

Mr. BAKER. Mr. President, I indicated earlier that on Tuesdays ordinarily there are caucuses on both sides of the aisle, at least on one side of the aisle, which are held off the floor but which are of an official nature. In order to accommodate that, once more I ask unanimous consent that the Senate then stand in recess from 12 noon until 2 p.m. tomorrow.

The PRESIDING OFFICER (Mrs. KASSEBAUM). Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Madam President, on tomorrow, at 11 a.m., when the Senate reconvenes, and after the recognition of the two leaders under the standing order, there will be a period for the transaction of routine morning business not to extend past 12 noon in which Senators may speak for not more than 5 minutes each. At 12 noon, the Senate will recess until 2 p.m., at which time the Senate will reconvene and, pursuant to the order previously entered, a rollcall vote will occur on the resolution in respect to Poland.

After the disposition of that resolution, Madam President, on which no further action can be taken by unanimous consent, the Senate will resume consideration of the motion to waive section 402(a) of the Budget Act with respect to the consideration of H.R. 5427, the Radio Marti bill.

Madam President, it is anticipated that in addition to these actions tomorrow the Senate will be asked at some point to turn to the consideration of the D.C. appropriations bill which will not be prior to 2 p.m. under the arrangements that have just been provided for.

There are other matters that may be dealt with on tomorrow and announcements on them will be given from time to time in the course of this day or tomorrow.

Madam President, earlier today I indicated a number of matters I hoped we could deal with this week. Included among them were appropriation bills as they may become available.

I am now advised of the high likelihood that the House of Representatives will send us a defense appropriations bill later this week. I would like to specifically identify that as one appropriations bill which we would like to deal with this week, if it is possible to do so, among the other appropriation bills which have been previously referred to.

Madam President, I thank the Senator from Nebraska for yielding. I am prepared now to yield the floor.

I believe the Senator from Idaho may seek recognition for the purpose of proceeding with the matter now before the Senate.

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

WAIVER OF SECTION 402(a) OF THE CONGRESSIONAL BUDGET ACT OF 1974 WITH RESPECT TO THE CONSIDERATION OF S. 2305

Mr. McCLURE. Madam President, the pending business, I believe, is Calendar Order 760, Senate Resolution 439, the budget waiver to accompany Calendar Order No. 731, am I correct?

The PRESIDING OFFICER. The Senator is correct. The bill will be stated by title.

The bill clerk read as follows:

A resolution (S. Res. 439) waiving section 402(a) of the Congressional Budget Act of

1974 with respect to the consideration of S. 2305.

There being no objection, the Senate proceeded to consider the resolution.

The resolution was considered and agreed to as follows:

S. RES. 439

Resolved, That, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 2305. Such waiver is necessary because S. 2305, as reported, authorized the enactment of new budget authority which would first become available in fiscal year 1983, and such bill was not reported on or before May 15, 1982, as required by section 402(a) of the Congressional Budget Act of 1974 for such authorizations.

The waiver of section 402(a) is necessary to permit Congressional consideration of the initiatives authorized in S. 2305, which are expected to result in no net increase in costs to the Federal Government and are expected to result in increased Federal revenues.

Such initiatives are anticipated in the fiscal year 1983 budget request by the President which reflects the program activities necessary to support implementation of S. 2305. The Appropriations Committees of the Senate and the House of Representatives have therefore had adequate notice of this authorization; enactment is not expected to interfere with or delay the appropriations process.

UNANIMOUS-CONSENT AGREEMENT—S. 2305

Mr. McCLURE. Madam President, I ask unanimous consent, upon the consideration of Calendar Order No. 731, S. 2305, the royalty management bill, that no amendments be in order save the committee substitute and the amendment to the title.

The PRESIDING OFFICER. Is there any objection?

Mr. ROBERT C. BYRD. Madam President, reserving the right to object, I am advised that there is no objection on this side.

The PRESIDING OFFICER. The Chair hears no objection, and it is so ordered.

FEDERAL OIL AND GAS ROYALTY MANAGEMENT ACT OF 1982

The PRESIDING OFFICER. The bill will be stated by title.

The bill clerk read as follows:

A bill (S. 2305) to insure that all energy and mineral resources originating on the public lands and on the Outer Continental Shelf are properly accounted for under the direction of the Secretary of the Interior, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consideration of the bill, which had been reported from the Committee on Energy and Natural Resources with an amendment to strike out all after the enacting clause, and insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Royalty Management Act of 1982".

FINDINGS AND PURPOSES

SEC. 2. (a) Congress finds that—

(1) the Secretary of the Interior should enforce effectively and uniformly existing regulations under the mineral leasing laws providing for the inspection of production activities on lease sites on Federal and Indian lands;

(2) the system of accounting with respect to royalties and other payments due and owing on oil and gas resources produced from such lease sites is archaic and inadequate;

(3) it is essential that the Secretary initiate procedures to improve methods of accounting for such royalties and payments and to provide for routine inspection of activities related to the production of oil and gas resources on such lease sites, and

(4) the Secretary should aggressively carry out his trust responsibility in administration of Indian oil and gas resources.

(b) It is the purpose of this Act—

(1) to improve provisions of the mineral leasing laws related to obligations of lesses in the production of oil and gas resources from the Federal and Indian lands and the Outer Continental Shelf;

(2) to clarify and reaffirm the authorities of the Secretary of the Interior to maintain properly a system of information regarding Federal and Indian oil and gas resources in order for him to carry out effectively his duties under the mineral leasing laws;

(3) to permit and encourage the development of enforcement practices to ensure prompt and proper collection of oil and gas revenues owed to the United States and Indian lessors and those due to States in view of the significant Federal interest in assuring prompt and full collections of such royalties; and

(4) to fulfill the trust responsibility in the administration of Indian oil and gas resources.

DEFINITIONS

SEC. 3. For the purposes of this Act, the term—

(1) "Federal land" means all land and interests in land owned by the United States which are subject to the mineral leasing laws, including mineral resources or mineral estates reserved to the United States in the conveyance of a surface or nonmineral estate;

(2) "Indian allottee" means any Indian for whom land or an interest in land is held in trust by the United States or who holds title subject to Federal restriction against alienation;

(3) "Indian lands" means any lands or interest in lands of an Indian tribe or an Indian allottee held in trust by the United States or which is subject to Federal restriction against alienation, including mineral resources and mineral estates reserved to an Indian tribe or an Indian allottee in the conveyance of a surface or nonmineral estate, but does not include any lands subject to the provisions of section 3 of the Act of June 28, 1906 (34 Stat. 539);

(4) "Indian tribe" means any Indian tribe, band, nation, pueblo, community, rancheria, colony, or other group of Indians, including the Metlakatla Indian Community of Annette Island Reserve, for which land or interest in land is held by the United States in trust or which is subject to Federal restriction against alienation;

(5) "lease" means any contract, profit-share arrangement, joint venture, or other agreement issued or approved by the United States under a mineral leasing law that authorizes exploration for and extraction and removal of an oil or gas resource;

(6) "lease site" means any lands or submerged lands on which exploration for and extraction and removal of an oil or gas resource are authorized pursuant to a lease;

(7) "lessee" means any person to whom the United States, an Indian tribe, or an Indian allottee, issues a lease, or any person who has been assigned an obligation to make royalty or other payments required by the lease;

(8) "mineral leasing law" means any Federal law or provision of Federal law authorizing the disposition under lease of oil or gas resources;

(9) "oil or gas resource" means any oil or gas originating from a deposit of oil or gas in or on the Outer Continental Shelf, Federal, or Indian lands subject to disposition under lease under any mineral leasing law;

(10) "Outer Continental Shelf" means all submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in section 2 of the Submerged Lands Act (Public Law 83-31) and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control;

(11) "operator" means any person, including a lessee, who is responsible for the operations conducted on a lease;

(12) "production" means those activities which take place for the removal of an oil or gas resource, including such removal, field operations, transfer of an oil or gas resource off the lease, operation monitoring, maintenance, and workover drilling;

(13) "royalty" means any payment based on the value or volume of production which is due to the United States or an Indian tribe or an Indian allottee on production of an oil or gas resource from the Outer Continental Shelf, Federal, or Indian lands, or any payment owed to the United States or an Indian tribe or an Indian allottee under any provision of a lease;

(14) "Secretary" means Secretary of the Interior or his designee; and

(15) "State" means the several States of the Union, the District of Columbia, Puerto Rico, the territories and possessions of the United States, and the Trust Territory of the Pacific Islands.

SECRETARIAL AUTHORITIES

SEC. 4. (a) The Secretary shall prescribe such rules and regulations as may be reasonably necessary for the determination and collection of royalties on the production of oil or gas resources, the preparation and retention of records, the filing of reports, the conduct and frequency of audits, the enforcement of security at lease sites and during the process of transporting oil or gas resources from such sites, and the imposition of penalties for failure to conduct properly such activities.

(b) Rules and regulations issued to implement this Act shall be issued in conformity with section 553 of title 5 of the United States Code, notwithstanding section 553(a)(2) of that title.

(c) In carrying out his functions under subsection (a) of this section, the Secretary may also—

(1) apply to any existing leases, permits, or applications for leases or permits issued under the mineral leasing laws such rules and regulations as may be promulgated under the authorities granted by this Act; and

(2) contract with such non-Federal inspectors, auditors, enforcement officials, and other persons as he deems necessary to aid in the implementation of this Act in addition to entering into cooperative agreements as authorized under section 14 or a delegation under section 15 of this Act.

(d) Whenever the Secretary receives any royalty funds derived from the production of oil or gas resources on Indian lands the Secretary shall deposit the funds in the appropriate Indian account at the earliest practicable date.

DUTIES OF THE SECRETARY

SEC. 5. The Secretary shall—

(a) establish procedures to ensure that authorized representatives of the Secretary will inspect each lease site producing or expected to produce significant quantities of oil or gas resources in any year at least once during such year;

(b) establish and maintain adequate programs providing for the training of all such authorized representatives in methods and techniques of inspection and accounting that will be used with respect to such lease sites; and

(c) select lease accounts for audit either on his own initiative or upon written request by a State, Indian tribe or Indian allottee alleging good cause for selection of an account. The Secretary may also conduct company-wide audits of selected oil and gas companies to determine whether there are any royalty payments owed on Federal or Indian leases.

DUTIES OF LESSEES, OPERATORS, AND MOTOR VEHICLE TRANSPORTERS

SEC. 6. (a) Any lessee—

(1) who is required to make any royalty or other payment under a lease or the mineral leasing laws, shall make such payments in the time and manner as may be specified by the Secretary;

(2) shall notify the Secretary, in the time and manner as may be specified by the Secretary, of any assignment the lessee may have made of the obligation to make any royalty or other payment under a lease or the mineral leasing laws.

(b) Any operator shall—

(1) develop and comply with a site security plan designed to protect the oil or gas resources produced or stored on the lease site from theft, which plan shall conform with such minimum standards as the Secretary may prescribe by rule, taking into account the variety of circumstances at lease sites;

(2) notify the Secretary not later than the fifth business day after any new well begins production, or after any old well begins new production, of the date of commencement of production; and

(3) prepare and maintain all records and, upon request by the Secretary, submit any such records to the Secretary on the quantities of any oil or gas resource that is produced, stored, used, removed, or sold from the lease site and the method by which such resource is removed.

(c) Any person engaged in transporting by motor vehicle any oil resource from any lease site, or allocated to any such lease site, shall carry, on his person or in his vehicle, documentation showing, at a minimum, the amount, origin and intended destination of the resource.

HEARINGS AND INVESTIGATIONS

SEC. 7. (a) The Secretary may conduct after notice any hearings, investigation, audit, or other inquiry necessary or appropriate to carrying out his duties under this Act. In connection with such hearings, investigation, audit, or inquiry, the Secretary shall also have the power where reasonably necessary—

(1) to require by special or general order, any person to submit in writing such affidavits and answers to questions as the Secretary may reasonably prescribe, which submission shall be made within such reasonable period and under oath or otherwise, as may be necessary;

(2) to administer oaths;

(3) to require by subpena the attendance and testimony of witnesses and the production of all books, papers, production and financial records, documents, matter, and materials, as the Secretary my request;

(4) to order testimony to be taken by deposition before any person who is designated by the Secretary and who has the power to administer oaths, and to compel testimony and the production of evidence in the same manner as authorized under paragraph (3) of this subsection; and

(5) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States.

(b) In case of refusal to obey a subpena served upon any person under this section, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the Attorney General at the request of the Secretary and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary. Any failure to obey such order of the court may be punished by such court as a contempt thereof and subject to a penalty of up to $10,000 a day.

(c) Any authorized representative of the Secretary may stop or inspect any motor vehicle that he has probable cause to believe to be carrying an oil resource from any lease site, or allocated to any such lease site, for the purpose of determining whether the driver of such vehicle has the documentation required under section 6(c).

(d) No advance notice of any inspection under this Act need be provided to any person: *Provided,* That the Secretary shall develop guidelines setting forth the coverage and the frequency of such inspections.

(e) For the purpose of making any inspection or investigation under this Act, the Secretary shall have the same right to enter upon or travel across any lease site as the lessee or operator has acquired by purchase, condemnation, or otherwise.

INJUNCTION AND SPECIFIC ENFORCEMENT AUTHORITY

SEC. 8. In addition to any other remedy under this Act or any mineral leasing law, the Attorney General or his designee may bring a civil action in the district courts of the United States, which shall have jurisdiction over such actions—

(a) to restrain any violation of this Act; or

(b) to compel the taking of any action required by or under this Act or any mineral leasing law of the United States.

REQUIRED RECORDKEEPING

SEC. 9. In addition to the provisions of existing law and section 6(b)(3) of this Act, any lessee, operator, or person engaged in the transport of an oil or gas resource prior to the first sale of such resource, or any person involved in the first sale of an oil or gas resource subject to this Act, shall establish and maintain any records, make any reports, and provide any information as the Secretary may, by rule, reasonably require for the purposes of implementing this Act or determining compliance with rules or orders prescribed under this Act. Upon the request of any officer or employee duly designated by the Secretary the appropriate records, reports, or information which may be required by this section shall be made available for inspection and duplication by such officer or employee.

ROYALTY INTEREST, PENALTIES AND PAYMENTS

SEC. 10. (a) The first sentence of section 35 of the Act of February 25, 1920, as amended (30 U.S.C. 191), is amended by inserting "including interest charges, and any other moneys, except civil and criminal penalty moneys, collected under the Federal Royalty Management Act of 1982 because of nonpayment, late payment or underpayment of royalties" between "royalties" and "and" and by deleting wherever it appears "as soon as practicable" and inserting in lieu thereof "as often as administratively convenient but at least".

(b) An amount equal to fifty per centum of any civil penalty collected under this Act resulting from activities conducted by a State or Indian tribe pursuant to a cooperative agreement under section 14 or a State under a delegation under section 15, shall be payable to such State or tribe: *Provided,* That such amount shall be deducted from any compensation due such State or Indian tribe under section 14 or such State under section 15.

(c) The Secretary shall charge interest on late royalty payments at a rate determined by the Secretary of the Treasury to provide adequate incentive for timely royalty payment.

(d) All interest charges collected under this Act or other applicable laws because of nonpayment, late payment or underpayment of royalties due and owing an Indian tribe or an Indian allottee shall be paid to the Indian tribe or Indian allottee whose royalty payments are affected by such nonpayment, late payment or underpayment.

(e) Notwithstanding any other provision of law, no State will be assessed for any interest or penalties found to be due against the Department of the Interior for failure to comply with the Emergency Petroleum Allocation Act of 1973 or regulation of the Department of Energy thereunder concerning crude oil certification or pricing with respect to crude oil taken by the Department of the Interior in kind as royalty. Any State share of an overcharge, resulting from such failure to comply, shall be assessed against moneys found to be due and owing to such State as a result of audits of royalty accounts for transactions which took place prior to the date of the enactment of this Act: *Provided,* That if after the completion of such audits, sufficient moneys have not been found due and owning to any State, the State shall be assessed the balance of that State's share of the overcharge.

EXPANDED ROYALTY OBLIGATIONS

SEC. 11. Any lessee is liable for royalty payments on oil or gas resources lost or wasted from a lease site when such loss or waste is due to negligence on the part of the operator of the lease, or due to the failure to comply with any rule or regulation, order or citation issued under this Act or any mineral leasing law.

CIVIL PENALTIES

SEC. 12. (a) Any person who—

(1) after due notice of violation fails or refuses to comply with any requirements of

this Act or any mineral leasing law, or any rule or regulation thereunder;

(2) fails to permit inspection authorized in section 7(c) or fails to notify the Secretary of any assignment under section 6(a)(2); or

(3) after due notice of violation fails or refuses to comply with the terms of any lease;

shall be liable for a penalty of up to $500 per violation for each day such violation continues. A penalty under this subsection may not be applied to any person who is otherwise liable for a violation of paragraphs (1) or (3) if:

(A) the violation was discovered and reported to the Secretary or his authorized representative by the liable person and corrected within thirty days; or

(B) after due notice of violation has been given to such person by the Secretary or his authorized representative, such person has corrected the violation within thirty days of such notification.

(b) Any person who—

(1) knowingly or willfully fails to make any royalty or other payment required under a lease, as specified by statute, regulation, order or terms of the lease, by the date specified in same;

(2) fails or refuses to permit lawful entry, inspection, or audit; or

(3) fails or refuses to comply with section 6(b)(2) of this Act;

shall be liable for a penalty of up to $10,000 per violation for each day such violation continues.

(c) Any person who—

(1) knowingly or willfully prepares, maintains, or submits false, inaccurate, or misleading reports, notices, affidavits, records, data, or other written information;

(2) knowingly or willfully takes or removes, transports, or diverts any oil or gas resource from any lease site without having valid legal authority to do so; or

(3) purchases, accepts, sells, transports, or conveys to another, any oil or gas resource knowing or having reason to know that such resource was stolen or unlawfully removed or diverted,

shall be liable for a penalty of up to $25,000 per violation for each day such violation continues.

(d) No penalty under this section shall be collected until the person charged with a violation has been given the opportunity for a hearing on the record.

(e) The amount of any penalty under this section, as finally determined may be deducted from any sums owing by the United States to the person charged.

(f) On a case-by-case basis the Secretary may compromise civil penalties under this section and may, in his discretion, decline to assess any penalty under this section.

CRIMINAL PENALTIES

SEC. 13. Civil penalties imposed under section 12 of this Act shall be in addition to any criminal penalties available under the laws of the United States.

COOPERATIVE AGREEMENTS

SEC. 14. (a) The Secretary is authorized to enter into a cooperative agreement with any State or Indian tribe to share oil or gas royalty management information, in a timely manner and on a regular basis, to secure information for the cross checking of company submitted data, to carry out inspection auditing and enforcement activities under this Act in cooperation with, and under delegated authorities from, the Secretary, and to carry out any other activity described in subsections (c), (d), and (e) of section 7 of this Act. The Secretary shall not enter into any such cooperative agreement with a State with respect to any such activities on Indian lands, except with the permission of the Indian tribe involved.

(b) Any cooperative agreement entered into pursuant to this section shall be in accordance with the provisions of the Federal Grant and Cooperative Agreement Act of 1977, and shall contain such terms and conditions as the Secretary deems appropriate and consistent with the purposes of this Act, including, but not limited to, a limitation on the use of Federal assistance to those costs which are directly required to carry out the agreed upon activities.

(c) The United States shall not be liable for the wrongful disclosure by any individual, State, or Indian tribe of any information provided to such individual, State, or Indian tribe pursuant to any cooperative agreement authorized by this section or a delegation under section 15.

(d) Whenever any individual, State, or Indian tribe has obtained possession of information pursuant to a cooperative agreement authorized by this section, or any individual or State has obtained possession of information pursuant to a delegation under section 15, the individual shall be subject to the same provisions of law with respect to the disclosure of such information as would apply to an officer or employee of the United States or of any department or agency thereof and the State or Indian tribe shall be subject to the same provisions of law with respect to the disclosure of such information as would apply to the United States or any department or agency thereof.

DELEGATION TO STATES

SEC. 15. (a) Upon written request of any State, the Secretary is authorized to delegate, in accordance with the provisions of this section, all or part of the authorities and responsibilities of the Secretary under this Act to conduct inspections, audits, and investigations, and to collect royalties, interest, and civil penalties to any State with respect to all the Federal lands or Indian lands within the State: *Provided, however,* That the Secretary may not undertake such a delegation with respect to any Indian lands, except with the permission of the Indian tribe involved.

(b) After notice and opportunity for a hearing, the Secretary is authorized to delegate such authorities and responsibilities granted under this Act as the State has requested, if the Secretary finds that—

(1) it is likely that the State will provide adequate resources to achieve the purposes of this Act;

(2) the State has demonstrated that it will effectively and faithfully administer the rules and regulations of the Secretary under this Act in accordance with the requirements of subsections (c) and (d) of this section; and

(3) such delegation will not create an unreasonable burden on any lessee,

with respect to the Federal lands and Indian lands within the State.

(c) The Secretary shall promulgate regulations which define those functions, if any, which must be carried out jointly in order to avoid duplication of effort, and any delegation to any State must be made in accordance with those requirements.

(d) The Secretary shall by rule promulgate standards and regulations, in conformance with section 4(a) of this Act, pertaining to the authorities and responsibilities under subsection (a), including standards and regulations pertaining to:

(1) audits performed;

(2) records and accounts to be maintained; and

(3) reporting and collection procedures to be required by States under this section.

Such standards and regulations shall be designed to provide reasonable assurance that a uniform and effective system of accounting and payment of royalties and other payments required under Federal leases will prevail among the States. The records and accounts under paragraph (2) shall be sufficient to allow the Secretary to monitor the performance of any State under this section.

(e) If, after notice and opportunity for a hearing, the Secretary finds that any State to which any authority or responsibility of the Secretary has been delegated under this section is in violation of any requirement of this section or any rule thereunder, or that an affirmative finding by the Secretary under subsection (b) can no longer be made, the Secretary may revoke such delegation.

(f) The Secretary shall compensate any State for those costs which may be necessary to carry out the delegated activities under this section. Payment shall be made no less than every quarter during the fiscal year.

(g) In the event the State is delegated authority to collect moneys under Federal leases under this Act, such State shall deposit any such royalties, interest, penalties, or other moneys into the general fund of the United States Treasury as miscellaneous receipts, as often as administratively convenient, but at least every quarter during the fiscal year, in a form and manner to be prescribed by regulation promulgated by the Secretary, and such funds shall be dispersed by the United States in accordance with the provisions of section 35 of the Act of February 25, 1920, as amended (30 U.S.C. 191).

RELATION TO OTHER LAWS

SEC. 16. (a) No provision of this Act limits the authority of the Inspector General of the Department of the Interior under provisions of the Inspector General Act of 1978 (P.L. 95-452) as amended.

(b) No provision of this Act impairs or affects lands and interests in land entrusted to the Tennessee Valley Authority.

(c) The penalties or authorities provided in this act are supplemental to, and not in derogation of, any penalties or authorities contained in any other law.

FUNDING

SEC. 17. Effective October 1, 1982, there are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, including such sums as may be necessary for the cooperative agreements authorized by section 14, and delegations authorized by section 15.

STATUTE OF LIMITATIONS

SEC. 18. Except in the case of fraud, any action to recover penalties under this Act shall be barred unless the action is commenced within six years after the date of the act or omission which is the basis for action.

STUDY OF OTHER MATERIALS

SEC. 19. (a) The Secretary shall study the question of the adequacy of royalty management for coal, uranium and other energy and nonenergy minerals on Federal and Indian lands. The study shall include proposed legislation if the Secretary determines that such legislation is necessary to ensure prompt and proper collection of rev-

enues owed to the United States, the States and Indian tribes or Indian allottees from the sale, lease or other disposal of such minerals.

(b) The study required by subsection (a) of this section shall be submitted to Congress not later than one year from the date of the enactment of this Act.

(c) Nothing in this Act shall be construed to reduce the responsibilities of the Secretary to ensure prompt and proper collection of revenues from coal, uranium and other energy and nonenergy minerals on Federal and Indian lands, or to restrain the Secretary from entering into cooperative agreements or other appropriate arrangements with States and Indian tribes to share royalty management responsibilities and activities for such minerals under existing authorities.

SEVERABILITY

SEC. 20. If any provision of this Act or the applicability thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

Amend the title so as to read: "A bill to ensure that all oil and gas resources originating on the public lands and on the Outer Continental Shelf are properly accounted for under the direction of the Secretary of the Interior, and for other purposes.".

UP AMENDMENT NO. 1414

Mr. McCLURE. Madam President, I send an amendment to the desk in the nature of a substitute and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an unprinted amendment numbered 1414.

Mr. McCLURE. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be inserted by the committee amendment, insert the following:

SECTION 1. This Act may be cited as the "Federal Oil and Gas Royalty Management Act of 1982".

TABLE OF CONTENTS

Sec. 1. Short title and table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Definitions.
TITLE I—FEDERAL ROYALTY MANAGEMENT AND ENFORCEMENT
Sec. 101. Duties of the Secretary.
Sec. 102. Duties of lessees, operators, and motor vehicle transporters.
Sec. 103. Required recordkeeping.
Sec. 104. Prompt disbursement of royalties.
Sec. 105. Explanation of payments.
Sec. 106. Liabilities and bonding.
Sec. 107. Hearings and investigations.
Sec. 108. Inspections.
Sec. 109. Civil penalties.
Sec. 110. Criminal penalties.
Sec. 111. Royalty interest, penalties and payments.
Sec. 112. Injunction and specific enforcement authority.
Sec. 113. Rewards.
TITLE II—STATES AND INDIAN TRIBES
Sec. 201. Application of title.
Sec. 202. Cooperative agreements.
Sec. 203. Information.
Sec. 204. State suits under Federal law.
Sec. 205. Delegation to States.
Sec. 206. Shared civil penalties.
TITLE III—GENERAL PROVISIONS
Sec. 301. Secretarial authority.
Sec. 302. Reports.
Sec. 303. Study of other minerals.
Sec. 304. Relation to other laws.
Sec. 305. Effective date.
Sec. 306. Funding.
Sec. 307. Statute of limitations.
Sec. 308. Expanded royalty obligations.
Sec. 309. Severability.
TITLE IV—REINSTATEMENT OF LEASES AND CONVERSION OF UNPATENTED OIL PLACER CLAIMS
Sec. 401. Amendment of Mineral Lands Leasing Act of 1920.

FINDINGS AND PURPOSES

SEC. 2. (a) Congress finds that—

(1) the Secretary of the Interior should enforce effectively and uniformly existing regulations under the mineral leasing laws providing for the inspection of production activities on lease sites on Federal and Indian lands;

(2) the system of accounting with respect to royalties and other payments due and owing on oil and gas produced from such lease sites is archaic and inadequate;

(3) it is essential that the Secretary initiate procedures to improve methods of accounting for such royalties and payments and to provide for routine inspection of activities related to the production of oil and gas on such lease sites, and

(4) the Secretary should aggressively carry out his trust responsibility in administration of Indian oil and gas.

(b) It is the purpose of this Act—

(1) to clarify, reaffirm, expand, and define responsibilities and obligations of lessees operator, and other persons involved in transportation or sale of oil and gas from the Federal and Indian lands and the Outer Continental Shelf;

(2) to clarify, reaffirm, expand and define the authorities and responsibilities of the Secretary of the Interior to implement and maintain a royalty management system for oil and gas leases on Federal lands, Indian lands, and the Outer Continental Shelf;

(3) to require the development of enforcement practices that ensure the prompt and proper collection and disbursement of oil and gas revenues owed to the United States and Indian lessors and those inuring to the benefit of States;

(4) to fulfill the trust responsibility of the United States for the administration of Indian oil and gas resources; and

(5) to effectively utilize the capabilities of the States and Indian tribes in developing and maintaining and efficient and effective Federal royalty management system.

DEFINITIONS

SEC. 3. For the purposes of this Act, the term—

(1) "Federal land" means all land and interests in land owned by the United States which are subject to the mineral leasing laws, including mineral resources or mineral estates reserved to the United States in the conveyance of a surface or nonmineral estate;

(2) "Indian allottee" means any Indian for whom land or in interest in land is held in trust by the United States or who holds title subject to Federal restriction against alienation;

(3) "Indian lands" means any lands or interest in lands of an Indian tribe or an Indian allottee held in trust by the United States or which is subject to Federal restriction against alienation, including mineral resources and mineral estates reserved to an Indian tribe or an Indian allottee in the conveyance of a surface or nonmineral estate, but does not include any lands subject to the provisions of section 3 of the Act of June 28, 1906 (34 Stat. 539);

(4) "Indian tribe" means any Indian tribe, band, nation, pueblo, community, rancheria, colony, or other group of Indians, including the Metlakatla Indian Community of Annette Island Reserve, for which land or interest in land is held by the United States in trust or which is subject to Federal restriction against alienation;

(5) "lease" means any contract, profit-share arrangement, joint venture, or other agreement issued or approved by the United States under a mineral leasing law that authorizes exploration for, extraction, or removal of oil or gas;

(6) "lease site" means any lands or submerged lands, including the surface of a severed mineral estate, on which exploration for, extraction or removal of oil or gas is authorized pursuant to a lease;

(7) "lessee" means any person to whom the United States, an Indian tribe, or an Indian allottee, issues a lease, or any person who has been assigned an obligation to make royalty or other payments required by the lease;

(8) "mineral leasing law" means any Federal law administered by the Secretary authorizing the disposition under lease of oil or gas;

(9) "oil or gas" means any oil or gas originating from or allocated to the Outer Continental Shelf, Federal, or Indian lands;

(10) "Outer Continental Shelf" has the same meaning as provided in the Outer Continental Shelf Lands Act (as amended) (Public Law 95-372);

(11) "person" means any individual, firm, corporation, association, partnership, consortium, or joint venture;

(12) "operator" means any person, including a lessee, who has control of, or who manages operations on, an oil and gas lease site on Federal or Indian lands or on the Outer Continental Shelf;

(13) "production" means those activities which take place for the removal of an oil or gas, including such removal, field operations, transfer of oil or gas off the lease site, operation monitoring, maintenance, and workover drilling;

(14) "royalty" means any payment based on the value or volume of production which is due to the United States or an Indian tribe or an Indian allottee on production of oil or gas from the Outer Continental Shelf, Federal, or Indian lands, or any minimum royalty owed to the United States or an Indian tribe or an Indian allottee under any provision of a lease;

(15) "Secretary" means the Secretary of the Interior or his designee; and

(16) "State" means the several States of the Union, the District of Columbia, Puerto Rico, the territories and possessions of the United States, and the Trust Territory of the Pacific Islands.

TITLE I—FEDERAL ROYALTY MANAGEMENT AND ENFORCEMENT

DUTIES OF THE SECRETARY

SEC. 101. (a) The Secretary shall establish a comprehensive inspection, collection and fiscal and production accounting and audit-

ing system to provide the capability to accurately determine oil and gas royalties, interests, fines, penalties, fees, deposits, and other payments owed, and to collect and account for such amounts in a timely manner.

(b) The Secretary shall—

(1) establish procedures to ensure that authorized and properly identified representatives of the Secretary will inspect at least once each year each lease site producing or expected to produce significant quantities of oil or gas in any year or which has a history of noncompliance with applicable provisions of law or regulations; and

(2) establish and maintain adequate programs providing for the training of all such authorized representatives in methods and techniques of inspection and accounting that will be used in the implementation of this Act.

(c)(1) The Secretary shall audit and reconcile, to the extent practicable, all current and past lease accounts for leases of oil or gas and take appropriate actions to make additional collections or refunds as warranted. The Secretary shall conduct audits and reconciliations of lease accounts in conformity with the business practices and recordkeeping systems which were required of the lessee by the Secreatry for the period covered by the audit. The Secretary shall give priority to auditing those lease accounts identified by a State or Indian tribe as having significant potential for underpayment. The Secretary may also audit accounts and records of selected lessees and operators.

(2) The Secretary may enter into contracts or other appropriate arrangements with independent certified public accountants to undertake audits of accounts and records of any lessee or operator relating to the lease of oil or gas. Selection of such independent certified public accountants shall be by competitive bidding in accordance with the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252), except that the Secretary may not enter into a contract or other arrangement with any independent certified public accountant to audit any lessee or operator where such lessee or operator is a primary audit client of such certified public accountant.

(3) All books, accounts, financial records, reports, files, and other papers of the Secretary, or used by the Secretary, which are reasonably necessary to facilitate the audits required under this section shall be made available to any person or governmental entity conducting audits under this Act.

DUTIES OF LESSEES, OPERATORS, AND MOTOR VEHICLE TRANSPORTERS

SEC. 102. (a) A lessee—

(1) who is required to make any royalty or other payment under a lease or the mineral leasing laws, shall make such payments in the time and manner as may be specified by the Secretary; and

(2) shall notify the Secretary, in the time and manner as may be specified by the Secretary, of any assignment the lessee may have made of the obligation to make any royalty or other payment under a lease or the mineral leasing laws.

(b) An operator shall—

(1) develop and comply with a site security plan designed to protect the oil or gas produced or stored on an onshore lease site from theft, which plan shall conform with such minimum standards as the Secretary may prescribe by rule, taking into account the variety of circumstances at lease sites;

(2) develop and comply with such minimum site security measures as the Secretary deems appropriate to protect oil or gas produced or stored on a lease site on the Outer Continental Shelf from theft; and

(3) not later than the 5th business day after any well begins production anywhere on a lease site or allocated to a lease site, or resumes production in the case of a well which has been off of production for more than 90 days, notify the Secretary, in the manner prescribed by the Secretary, of the date on which such production has begun or resumed.

(c)(1) Any person engaged in transporting by motor vehicle any oil from any lease site, or allocated to any such lease site, shall carry, on his person, in his vehicle, or in his immediate control, documentation showing, at a minimum, the amount, origin, and intended first destination of the oil.

(2) Any person engaged in transporting any oil or gas by pipeline from any lease site, or allocated to any lease site, on Federal or Indian lands shall maintain documentation showing, at a minimum, amount, origin, and intended first destination of such oil or gas.

REQUIRED RECORDKEEPING

SEC. 103. (a) A lessee, operator, or other person directly involved in developing, producing, transporting, purchasing, or selling oil or gas subject to this Act through the point of first sale or the point of royalty computation, whichever is later, shall establish and maintain any records, make any reports, and provide any information that the Secretary may, by rule, reasonably require for the purposes of implementing this Act or determining compliance with rules or orders under this Act. Upon the request of any officer or employee duly designated by the Secretary or any State or Indian tribe conducting an audit or investigation pursuant to this Act, the appropriate records, reports, or information which may be required by this section shall be made available for inspection and duplication by such officer or employee, State, or Indian tribe.

(b) Records required by the Secretary with respect to oil and gas leases from Federal or Indian lands or the Other Continental Shelf shall be maintained for 6 years after the records are generated unless the Secretary notifies the record holder that he has initiated an audit or investigation involving such records and that such records must be maintained for a longer period. In any case when an audit or investigation is underway, records shall be maintained until the Secretary releases the record holder of the obligation to maintain such records.

PROMPT DISBURSEMENT OF ROYALTIES

SEC. 104. (a) Section 35 of the Mineral Lands Leasing Act of 1920 (approved February 25, 1920; 41 Stat. 437; 30 U.S.C. 191) is amended by deleting "as soon as practicable after March 31 and September 30 of each year" and by adding at the end thereof "Payments to States under this section with respect to any moneys received by the United States, shall be made not later than the last business day of the month in which such moneys are warranted by the United States Treasury to the Secretary as having been received, except for any portion of such moneys which is under challenge and placed in a suspense account pending resolution of a dispute. Such warrants shall be issued by the United States Treasury not later than 10 days after receipt of such moneys by the Treasury. Moneys placed in a suspense account which are determined to be payable to a State shall be made not later than the last business day of the month in which such dispute is resolved. Any such amount placed in a suspense account pending resolution shall bear interest until the dispute is resolved."

(b) Deposits of any royalty funds derived from the production of oil or gas from Indian lands shall be made by the Secretary to the appropriate Indian account at the earliest practicable date after such funds are received by the Secretary but in no case later than the last business day of the month in which such funds are received.

(c) The provisions of this section shall apply with respect to payments received by the Secretary after October 1, 1983, unless the Secretary, by rule, prescribes an earlier effective date.

EXPLANATION OF PAYMENTS

SEC. 105 (a) When any payment (including amounts due from receipt of any royalty, bonus, interest charge, fine, or rental) is made by the United States to a State with respect to any oil or gas lease on Federal lands or is deposited in the appropriate Indian account on behalf of an Indian tribe or Indian allottee with respect to any oil and gas lease on Indian lands, there shall be provided, together with such payment, a description including the type of payment being made, the period covered by such payment, the source of such payment, production amounts, the royalty rate value and such other information as may be agreed upon by the Secretary and the recipient State, Indian tribe, or Indian allottee.

(b) This section shall take effect with respect to payments made after October 1, 1983, unless the Secretary, by rule, prescribes an earlier effective date.

LIABILITIES AND BONDING

SEC. 106. A person (including any agent or employee of the United States and any independent contractor) authorized to collect, recieve, account for, or otherwise handle any moneys payable to or receive by the Department of the Interior which are derived from the sale, lease, or other disposal of any oil or gas shall be—

(1) liable to the United States for any losses caused by any intentional or reckless action or inaction of such individual with respect to such moneys; and

(2) in the case of an independent contractor, required as the Secretary deems necessary to maintain a bond commensurate with the amount of money for which such individual could be liable to the United States.

HEARINGS AND INVESTIGATIONS

SEC. 107. (a) In carrying out his duties under this Act the Secretary may conduct any investigation or other inquiry necessary and appropriate and may conduct, after notice, any hearing, or audit, necessary and appropriate to carrying out his duties under this Act. In connection with such hearings, investigation, audit, or inquiry, the Secretary is also authorized where reasonably necessary—

(1) to require by special or general order, any person to submit in writing such affidavits and answers to questions as the Secretary may reasonably prescribe, which submission shall be made within such reasonable period and under oath or otherwise, as may be necessary;

(2) to administer oaths;

(3) to require by subpena the attendance and testimony of witnesses and the production of all books, papers, production and financial records, documents, matter, and materials, as the Secretary may request;

(4) to order testimony to be taken by deposition before any person who is designated by the Secretary and who has the power to administer oaths, and to compel testimony and the production of evidence in the same manner as authorized under paragraph (3) of this subsection; and

(5) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States.

(b) In case of refusal to obey a subpena served upon any person under this section, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the Attorney General at the request of the Secretary and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary. Any failure to obey such order of the court may be punished by such court as contempt thereof and subject to a penalty of up to $10,000 a day.

INSPECTIONS

SEC. 108. (a)(1) On any lease site on Federal or Indian lands, any authorized and properly identified representative of the Secretary may stop and inspect any motor vehicle that he has probable cause to believe is carrying oil from a lease site on Federal or Indian lands or allocated to such a lease site, for the purpose of determining whether the driver of such vehicle has documentation related to such oil as required by law.

(2) Any authorized and properly identified representative of the Secretary, accompanied by any appropriate law enforcement officer, or an appropriate law enforcement officer alone, may stop and inspect any motor vehicle which is not on a lease site if he has probable cause to believe the vehicle is carrying oil from a lease site on Federal or Indian lands or allocated to such a lease site. Such inspection shall be for the purpose of determining whether the driver of such vehicle has the documentation required by law.

(b) Authorized and properly identified representatives of the Secretary may without advance notice, enter upon, travel across and inspect lease sites on Federal or Indian lands and may obtain from the operator immediate access to secured facilities on such lease sites, for the purpose of making any inspection or investigation for determining whether there is compliance with the requirements of the mineral leasing laws and this Act: *Provided*, That the Secretary shall develop guidelines setting forth the coverage and the frequency of such inspections.

(c) For the purpose of making any inspection or investigation under this Act, the Secretary shall have the same right to enter upon or travel across any lease site as the lessee or operator has acquired by purchase, condemnation, or otherwise.

CIVIL PENALTIES

SEC. 109. (a) Any person who—

(1) after due notice of violation or after such violation has been reported under subsection (a)(2)(A) fails or refuses to comply with any requirements of this Act or any mineral leasing law, any rule or regulation thereunder, or the terms of any lease or permit issued thereunder; or

(2) fails to permit inspection authorized in section 108 or fails to notify the Secretary of any assignment under section 102(a)(2)

shall be liable for a penalty of up to $500 per violation for each day such violation continues, dating from the date of such notice or report. A penalty under this subsection may not be applied to any person who is otherwise liable for a violation of paragraph (1) if:

(A) the violation was discovered and reported to the Secretary or his authorized representative by the liable person and corrected within twenty days after such report or such longer time as the Secretary may agree to; or

(B) after the due notice of violation required in subsection (a)(1) has been given to such person by the Secretary or his authorized representative, such person has corrected the violation within twenty days of such notification or such longer time as the Secretary may agree to.

(b) If corrective action is not taken within 40 days or a longer period as the Secretary may agree to, after due notice on the report referred to in subsection (a)(1), such person shall be liable for a civil penalty of not more than $5,000 per violation for each day such violation continues, dating from the date of such notice or report.

(c) Any person who—

(1) knowingly or willfully fails to make any royalty payment by the date as specified by statute, regulation, order or terms of the lease;

(2) fails or refuses to permit lawful entry, inspection, or audit; or

(3) knowingly or willfully fails or refuses to comply with subsection 102(b)(3),

shall be liable for a penalty of up to $10,000 per violation for each day such violation continues.

(d) Any person who—

(1) knowingly or willfully prepares, maintains, or submits false, inaccurate, or misleading reports, notices, affidavits, records, data, or other written information;

(2) knowingly or willfully takes or removes, transports, uses or diverts any oil or gas resource from any lease site without having valid legal authority to do so; or

(3) purchases, accepts, sells, transports, or conveys to another, any oil or gas knowing or having reason to know that such oil or gas was stolen or unlawfully removed or diverted,

shall be liable for a penalty of up to $25,000 per violation for each day such violation continues.

(e) No penalty under this section shall be assessed until the person charged with a violation has been given the opportunity for a hearing on the record.

(f) The amount of any penalty under this section, as finally determined may be deducted from any sums owing by the United States to the person charged.

(g) On a case-by-case basis the Secretary may compromise or reduce civil penalties under this section.

(h) Notice under this subsection (a) shall be by personal service by an authorized representative of the Secretary or by registered mail. Any person may, in the manner prescribed by the Secretary, designate a representative to receive any notice under this subsection.

(i) In determining the amount of such penalty, or whether it should be remitted or reduced, and in what amount, the Secretary shall state on the record the reasons for his determinations.

(j) Any person who has requested a hearing in accordance with subsection (e) within the time the Secretary has prescribed for such a hearing and who is aggrieved by a final order of the Secretary under this section may seek review of such order in the United States district court for the judicial district in which the violation allegedly took place. Review by the district court shall be only on the administrative record and not de novo. Such an action shall be barred unless filed within 90 days after the Secretary's final order.

(k) If any person fails to pay an assessment of a civil penalty under this Act—

(1) after the order making the assessment has become a final order and if such person does not file a petition for judicial review of the order in accordance with subsection (j), or

(2) after a court in an action brought under subsection (j) has entered a final judgment in favor of the Secretary,

the court shall have jurisdiction to award the amount assessed plus interest from the date of the expiration of the 90-day period referred to in subsection (j). Judgment by the court shall include an order to pay.

(l) No person shall be liable for a civil penalty under subsection (a) or (b) for failure to pay any rental for any lease automatically terminated pursuant to section 31 of the Mineral Leasing Act of 1920.

CRIMINAL PENALTIES

SEC. 110. Any person who commits an act for which a civil penalty is provided in section 109(d) shall, upon conviction, be punished by a fine of not more than $50,000, or by imprisonment for not more than 2 years, or both.

ROYALTY INTEREST, PENALTIES AND PAYMENTS

SEC. 11. (a) In the case of oil and gas leases where royalty payments are not received by the Secretary on the date that such payments are due or are less than the amount due, the Secretary shall charge interest on such late payments or underpayments at the rate applicable under section 6621 of the Internal Revenue Code of 1954. In the case of an underpayment or partial payment, interest shall be computed and charged only on the amount of the deficiency and not on the total amount due.

(b) Any payment made by the Secretary to a State under section 35 of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 191) and any other payment made by the Secretary to a State from any oil or gas royalty received by the Secretary which is not paid on the date required under section 35 shall include an interest charge computed at the rate applicable under section 6621 of the Internal Revenue Code of 1954.

(c) All interest charges collected under this Act or other applicable laws because of nonpayment, late payment or underpayment of royalties due and owing an Indian tribe or an Indian allottee shall be paid to the Indian tribe or Indian allottee whose royalty payments are affected by such nonpayment, late payment or underpayment.

(d) Any deposit of royalty funds made by the Secretary to an Indian account which is not made by the date required under subsection 104(b) shall include an interest charge computed at the rate applicable under section 6621 of the Internal Revenue Code of 1954.

(e) Notwithstanding any other provision of law, no State will be assessed for any interest or penalties found to be due against the Department of the Interior for failure to comply with the Emergency Petroleum Allocation Act of 1973 or regulation of the Department of Energy thereunder concerning crude oil certification or pricing with respect to crude oil taken by the Department of the Interior in kind as royalty. Any State share of an overcharge, resulting from such

failure to comply, shall be assessed against moneys found to be due and owing to such State as a result of audits of royalty accounts for transactions which took place prior to the date of the enactment of this Act: *Provided*, That if after the completion of such audits, sufficient moneys have not been found due and owing to any State, the State shall be assessed the balance of that State's share of the overcharge.

(f) Interest shall be charged under this section only for the number of days a payment is late.

(g) The first sentence of section 35 of the Act of February 25, 1920, as amended (30 U.S.C. 191), is amended by inserting "including interest charges collected under the Federal Oil and Gas Royalty Management Act of 1982 between "royalties" and "and".

INJUNCTION AND SPECIFIC ENFORCEMENT AUTHORITY

SEC. 112. (a) In addition to any other remedy under this Act or any mineral leasing law, the Attorney General of the United States or his designee may bring a civil action in a district courts of the United States, which shall have jurisdiction over such actions—

(1) to restrain any violation of this Act; or

(2) to compel the taking of any action required by or under this Act or any mineral leasing law of the United States.

(b) A civil action described in subsection (a) may be brought only in the United States district court for the judicial district wherein the act, omission, or transaction constituting a violation under this Act or any other mineral leasing law occurred, or wherein the defendant is found or transacts business.

REWARDS

SEC. 113. Where amounts representing royalty or other payments owed to the United States with respect to any oil and gas lease on Federal lands or the Outer Continental Shelf are recovered pursuant to any action taken by the Secretary under this act as a result of information provided to the Secretary by any person, the Secretary is authorized to pay to such person an amount equal to not more than 10 percent of such recovered amounts. The preceding sentence shall not apply to information provided by an officer or employee of the United States, an officer or employee of a State or Indian tribe acting pursuant to a cooperative agreement or delegation under this Act, or any person acting pursuant to a contract authorized by this Act.

TITLE II—STATES AND INDIAN TRIBES

APPLICATION OF TITLE

SEC. 201. This title shall apply only with respect to oil and gas leases on Federal lands or Indian lands. Nothing in this title shall be construed to apply to any lease on the Outer Continental Shelf.

COOPERATIVE AGREEMENTS

SEC. 202. (a) The Secretary is authorized to enter into a cooperative agreement or agreements with any State or Indian tribe to share oil or gas royalty management information, to carry out inspection, auditing investigation or enforcement (not including the collection of royalties, civil or criminal penalties or other payments) activities under this Act in cooperation with the Secretary, and to carry out any other activity described in section 108 of this Act. The Secretary shall not enter into any such cooperative agreement with a State with respect to any such activities on Indian lands, except with the permission of the Indian tribe involved.

(b) Except as provided in section 203, and pursuant to a cooperative agreement—

(1) each State shall, upon request, have access to all royalty accounting information in the possession of the Secretary respecting the production, removal, or sale of oil or gas from leases on Federal lands within the State; and

(2) each Indian tribe shall, upon request, have access to all royalty accounting information in the possession of the Secretary respecting the production, removal, or sale of oil or gas from leases on Indian lands under the jurisdiction of such tribe.

Information shall be made available under paragraphs (1) and (2) as soon as practicable after it comes into the possession of the Secretary. Effective October 1, 1983, such information shall be made available under paragraphs (1) and (2) not later than 30 days after such information comes into the possession of the Secretary.

(c) Any cooperative agreement entered into pursuant to this section shall be in accordance with the provisions of the Federal Grant and Cooperative Agreement Act of 1977, and shall contain such terms and conditions as the Secretary deems appropriate and consistent with the purposes of this Act, including, but not limited to, a limitation on the use of Federal assistance to those costs which are directly required to carry out the agreed upon activities.

INFORMATION

SEC. 203. (a) Trade secrets, proprietary and other confidential information shall be made available by the Secretary, pursuant to a cooperative agreement, to a State or Indian tribe upon request only if—

(1) such State or Indian tribe consents in writing to restrict the dissemination of the information to those who are directly involved in an audit or investigation under this Act and who have a need to know;

(2) such State or tribe accepts liability for wrongful disclosure;

(3) such State demonstrates that such information is essential to the conduct of an audit or investigation or to litigation under section 204; and

(4) in the case of an Indian tribe, such tribe demonstrates that such information is essential to the conduct of an audit or investigation and waives sovereign immunity by express consent for wrongful disclosure by such tribe.

(b) The United States shall not be liable for the wrongful disclosure by any individual, State, or Indian tribe of any information provided to such individual, State, or Indian tribe pursuant to any cooperative agreement or a delegation, authorized by this Act.

(c) Whenever any individual, State, or Indian tribe has obtained possession of information pursuant to a cooperative agreement authorized by this section, or any individual or State has obtained possession of information pursuant to a delegation under section 205, the individual shall be subject to the same provisions of law with respect to the disclosure of such information as would apply to an officer or employee of the United States or of any department or agency thereof and the State or Indian tribe shall be subject to the same provisions of law with respect to the disclosure of such information as would apply to the United States or any department or agency thereof. No State or State officer or employee who receives trade secrets, proprietary information, or other confidential information under this Act may be required to disclose such information under State law.

STATE SUITS UNDER FEDERAL LAW

SEC. 204. (a)(1) A State may commence a civil action under this section against any person to recover any royalty, interest, or civil penalty which the State believes is due, based upon credible evidence, with respect to any oil and gas lease on Federal lands located within the State.

(2)(A) No action may be commenced under paragraph (1) prior to 90 days after the State has given notice in writing to the Secretary of the payment required. Such 90-day limitation may be waived by the Secretary on a case-by-case basis.

(B) If, within the 90-day period specified in subparagraph (A), the Secretary issues a demand for the payment concerned, no action may be commenced under paragraph (1) with respect to such payment during a 45-day period after issuance of such demand. If, during such 45-day period, the Secretary receives payment in full, no action may be commenced under paragraph (1).

(C) If the Secretary refers the case to the Attorney General of the United States within the 45-day period referred to in subparagraph (B) or within 10 business days after the expiration of such 45-day period, no action may be commenced under paragraph (1) if the Attorney General, within 45 days after the date of such referral, commences, and thereafter diligently prosecutes, a civil action in a court of the United States with respect to the payment concerned.

(3) The State shall notify the Secretary and the Attorney General of the United States of any suit filed by the State under this section.

(4) A court in issuing any final order in any action brought under paragraph (1) may award costs of litigation including reasonable attorney and expert witness fees, to any party in such action if the court determines such an award is appropriate.

(b) An action brought under subsection (a) of this section may be brought only in a United States district court for the judicial district in which the lease site or the leasing activity complained of is located. Such district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to require compliance or order payment in any such action.

(c)(1) Notwithstanding any other provision of law, any civil penalty recovered by a State under subsection (a) shall be retained by the State and may be expended in such manner and for such purposes as the State deems appropriate.

(2) Any rent, royalty, or interest recovered by a State under subsection (a) shall be deposited in the Treasury of the United States in the same manner, and subject to the same requirements, are as applicable in the case of any rent, royalty, or interest collected by an officer or employee of the United States, except that such amounts shall be deposited in the Treasury not later than 10 days after receipt by the State.

DELEGATION TO STATES

SEC. 205. (a) Upon written request of any State, the Secretary is authorized to delegate, in accordance with the provisions of this section, all or part of the authorities and responsibilities of the Secretary under this Act to conduct inspections, audits, and investigations to any State with respect to all Federal lands or Indian lands within the State: *Provided*, That the Secretary may not undertake such a delegation with respect to any Indian lands, except with the

permission of the Indian tribe allottee involved.

(b) After notice and opportunity for a hearing, the Secretary is authorized to delegate such authorities and responsibilities granted under this section as the State has requested, if the Secretary finds that—

(1) it is likely that the State will provide adequate resources to achieve the purposes of this Act;

(2) the State has demonstrated that it will effectively and faithfully administer the rules and regulations of the Secretary under this Act in accordance with the requirements of subsections (c) and (d) of this section; and

(3) such delegation will not create an unreasonable burden on any lessee,

with respect to the Federal lands and Indian lands within the State.

(c) The Secretary shall promulgate regulations which define those functions, if any, which must be carried out jointly in order to avoid duplication of effort, and any delegation to any State must be made in accordance with those requirements.

(d) The Secretary shall by rule promulgate standards and regulations, 301(a) pertaining to the authorities and responsibilities under subsection (a), including standards and regulations pertaining to:

(1) audits performed;

(2) records and accounts to be maintained; and

(3) reporting procedures to be required by States under this section.

Such standards and regulations shall be designed to provide reasonable assurance that a uniform and effective royalty management system will prevail among the States. The records and accounts under paragraph (2) shall be sufficient to allow the Secretary to monitor the performance of any State under this section.

(e) If, after notice and opportunity for a hearing, the Secretary finds that any State to which any authority or responsibility of the Secretary has been delegated under this section is in violation of any requirement of this section or any rule thereunder, or that an affirmative finding by the Secretary under subsection (b) can no longer be made, the Secretary may revoke such delegation.

(f) The Secretary shall compensate any State for those costs which may be necessary to carry out the delegated activities under this section. Payment shall be made no less than every quarter during the fiscal year.

SHARED CIVIL PENALTIES

SEC. 206. An amount equal to fifty per centum of any civil penalty collected by the Federal Government under this Act resulting from activities conducted by a State or Indian tribe pursuant to a cooperative agreement under section 202 or a State under a delegation under section 205, shall be payable to such State or tribe: *Provided,* That such amount shall be deducted from any compensation due such State or Indian tribe under section 202 or such State under section 205.

TITLE III—GENERAL PROVISIONS

SECRETARIAL AUTHORITY

SEC. 301. (a) The Secretary shall prescribe such rules and regulations as he deems reasonably necessary to carry out this Act.

(b) Rules and regulations issued to implement this Act shall be issued in conformity with section 553 of title 5 of the United States Code, notwithstanding section 553(a)(2) of that title.

(c) In addition to entering into cooperative agreements or delegation of authority authorized under this Act, the Secretary may contract with such non-Federal Government inspectors, auditors, and other persons as he deems necessary to aid in carrying out his functions under this Act and its implementation. With respect to his auditing and enforcement functions under this Act, the Secretary shall coordinate such functions so as to avoid to the maximum extent practicable, subjecting lessees, operators, or other persons to audits or investigations of the same subject matter by more than one auditing or investigating entity at the same time.

REPORTS

SEC. 302. (a) The Secretary shall submit to the Congress an annual report on the implementation of this Act. The information to be included in the report and the format of the report shall be developed by the Secretary after consulting with the Committees on Interior and Insular Affairs of the House of Representatives and on Energy and Natural Resources of the Senate. The Secretary shall also report on the progress of the Department in reconciling account balances.

(b) Commencing with fiscal year 1984, the Inspector General of the Department of the Interior shall conduct a biennial audit of the Federal royalty management system. The Inspector General shall submit the results of such audit to the Secretary and to the Congress.

STUDY OF OTHER MINERALS

SEC. 303. (a) The Secretary shall study the question of the adequacy of royalty management for coal, uranium and other energy and nonenergy minerals on Federal and Indian lands. The study shall include proposed legislation if the Secretary determines that such legislation is necessary to ensure prompt and proper collection of revenues owed to the United States, the States and Indian tribes or Indian allottees from the sale, lease or other disposal of such minerals.

(b) The study required by subsection (a) of this section shall be submitted to Congress not later than one year from the date of the enactment of this Act.

RELATION TO OTHER LAWS

SEC. 304. (a) The penalties and authorities provided in this Act are supplemental to, and not in derogation of, any penalties or authorities contained in any other provision of law.

(b) Nothing in this Act shall be construed to reduce the responsibilities of the Secretary to ensure prompt and proper collection of revenues from coal, uranium and other energy and nonenergy minerals on Federal and Indian lands, or to restrain the Secretary from entering into cooperative agreements or other appropriate arrangements with States and Indian tribes to share royalty management responsibilities and activities for such minerals under existing authorities.

(c) Except as expressly provided in subsection 302(b), nothing in this Act shall be construed to enlarge, diminish, or otherwise affect the authority or responsibility of the Inspector General of the Department of the Interior or of the Comptroller General of the United States.

(d) No provision of this Act impairs or affects lands and interests in land entrusted to the Tennessee Valley Authority.

EFFECTIVE DATE

SEC. 305. The provisions of this Act shall apply to oil and gas leases issued before, on, or after the date of the enactment of this Act, except that in the case of a lease issued before such date, no provision of this Act or any rule or regulation prescribed under this Act shall alter the express and specific provisions of such a lease.

FUNDING

SEC. 306. Effective October 1, 1983, there are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, including such sums as may be necessary for the cooperative agreements, contracts, and delegations authorized by this Act: *Provided,* That nothing in this Act shall be construed to affect or impair any authority to enter into contracts or make payments under any other provision of law.

STATUTE OF LIMITATIONS

SEC. 307. Except in the case of fraud, any action to recover penalties under this Act shall be barred unless the action is commenced within six years after the date of the Act or omission which is the basis for the action.

EXPANDED ROYALTY OBLIGATIONS

SEC. 308. Any lessee is liable for royalty payments on oil or gas lost or wasted from a lease site when such loss or waste is due to negligence on the part of the operator of the lease, or due to the failure to comply with any rule or regulation, order or citation issued under this Act or any mineral leasing law.

SEVERABILITY

SEC. 309. If any provision of this Act or the applicability thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

TITLE IV—REINSTATEMENT OF LEASES AND CONVERSION OF UNPATENTED OIL PLACER CLAIMS

AMENDMENT OF MINERAL LANDS LEASING ACT OF 1920

SEC. 401. Section 31 of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188) is amended by redesignating subsection (d) as subsection (j) and by inserting after subsection (c) the following new subsections:

"(d)(1) Where any oil and gas lease issued pursuant to section 17(b) or section 17(c) of this Act or the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et. seq.) has been, or is hereafter, terminated automatically by operation of law under this section for failure to pay on or before the anniversary date the full amount of the rental due, and such rental is not paid or tendered within twenty days thereafter, and it is shown to the satisfaction of the Secretary of the Interior that such failure was justifiable or not due to lack of reasonable diligence on the part of the lessee, or, no matter when the rental is paid after termination, it is shown to the satisfaction of the Secretary that such failure was inadvertent, the Secretary may reinstate the lease as of the date of termination for the unexpired portion of the primary term of the original lease or any extension thereof remaining at the date of termination, and so long thereafter as oil or gas is produced in paying quantities. In any case where a lease is reinstated under this subsection and the Secretary finds that the reinstatement of such lease (A) occurs after the expiration of the primary term or any extension thereof, or (B) will not afford the lessee a reasonable opportunity to continue operations under the lease, the Secretary may, at his discre-

tion, extend the term of such lease for such period as he deems reasonable, but in no event for more than two years from the date the Secretary authorizes the reinstatement and so long thereafter as oil or gas is produced in paying quantities.

"(2) No lease shall be reinstated under paragraph (1) of this subsection unless—

"(A) with respect to any lease that terminated under subsection (b) of this section prior to enactment of the Federal Oil and Gas Royalty Management Act of 1982.

"(i) the lessee tendered rental prior to enactment of such Act and the final determination that the lease terminated was made by the Secretary or a court less than three years before enactment of such Act, and

"(ii) a petition for reinstatement together with the required back rental and royalty accruing from the date of termination, is filed with the Secretary on or before the one hundred and twentieth day after enactment of such Act, or

"(B) with respect to any lease that terminated under subsection (b) of this section on or after enactment of the Federal Oil and Gas Royalty Management Act of 1982, a petition for reinstatment together with the required back rental and royalty accruing from the date of termination is filed on or before the earlier of—

"(i) sixty days after the lessee receives from the Secretary notice of termination, whether by return of check or by any other form of actual notice, or

"(ii) fifteen months after termination of the lease.

"(e) Any reinstatement under subsection (d) of this section shall be made only if these conditions are met:

"(1) no valid lease, whether still in existence or not, shall have been issued affecting any of the lands covered by the terminated lease prior to the filing of such petition: *Provided however,* That after receipt of a petition for reinstatment, the Secretary shall not issue any new lease affecting any of the lands covered by such terminated lease for a reasonable period, as determined in accordance with regulations issued by him;

"(2) payment of back rentals and either the inclusion in a reinstated lease issued pursuant to the provisions of section 17(b) of this Act of a requirement for future rentals at a rate of not less than $10 per acre per year, or the inclusion in a reinstated lease issued pursuant to the provisions of section 17(c) of this Act of a requirement that future rentals shall be at a rate not less than $5 per acre per year, all as determined by the Secretary;

"(3)(A) payment of back royalties and the inclusion in a reinstated lease issued pursuant to the provisions of section 17(b) of this Act of a requirement for future royalties at a rate of not less than 16⅔ percent computed on a sliding scale based upon the average production per well per day, at a rate which shall be not less than 4 percentage points greater than the competitive royalty schedule then in force and used for royalty determination for competitive leases issued pursuant to such section as determined by the Secretary: *Provided,* That royalty on such reinstated lease shall be paid on all production removed or sold from such lease subsequent to the termination of the original lease;

"(B) payment of back royalties and inclusion in an reinstated lease issued pursuant to the provision of section 17(c) of this Act of a requirement for future royalties at a rate not less than 16⅔ percent: *Provided,* That royalty on such reinstated lease shall be paid on all production removed or sold from such lease subsequent to the cancellation or termination of the original lease; and

"(4) notice of the proposed reinstatement of a terminated lease, including the terms and conditions of reinstatement, shall be published in the Federal Register at least thirty days in advance of the reinstatement.

A copy of said notice, together with information concerning rental, royalty, volume of production, if any, and any other matter which the Secretary deemed significant in making this determination to reinstate, shall be furnished to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate at least thirty days in advance of the reinstatement. The lessee of a reinstated lease shall reimburse the Secretary for the administrative costs of reinstating the lease, but not exceed $500. In addition the lessee shall reimburse the Secretary for the cost of publication in the Federal Register of the notice of proposed reinstatement.

"(f) Where an unpatented oil placer mining claim validity located prior to February 25, 1920, which has been or is currently producing or is capable of producing oil or gas, has been or is hereafter deemed conclusively abandoned for failure to file timely the required instruments or copies of instruments required by section 314 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744), and it is shown to the satisfaction of the Secretary that such failure was inadvertent, justifiable, or not due to lack of reasonable diligence on the part of the owner, the Secretary may issue, for the lands covered by the abandoned unpatented oil placer mining claim, a noncompetitive oil and gas lease, consistent with the provisions of section 17(e) of this Act, to be effective from the statutory date the claim was deemed conclusively abandoned. Issuance of such a lease shall be conditioned upon:

"(1) a petition for issuance of a noncompetitive oil and gas lease, together with the required rental and royalty, including back rental and royalty accruing from the statutory date of abandonment of the oil placer mining claim, being filed with the Secretary—

"(A) with respect to any claim deemed conclusively abandoned on or before the date of enactment of the Federal Oil and Gas Royalty Management Act of 1982, on or before the one hundred and twentieth day after such date of enactement or

"(B) with respect to any claim deemed conclusively abandoned after such date of enactment, on or before the one hundred and twentieth day after final notification by the Secretary or a court of competent jurisdiction of the determination of the abandonment of the oil placer mining claim;

"(2) a valid lease not having been issued affecting any of the lands covered by the abandoned oil placer mining claim prior to the filing of such petition: *Provided however,* That after the filing of a petition for issuance of a lease under this subsection, the Secretary shall not issue any new lease affecting any of the lands covered by such abandoned oil placer mining claim for a reasonable period, as determined in accordance with regulations issued by him;

"(3) a requirement in the lease for payment of rental, including back rentals accruing from the statutory date of abandonment of the oil placer mining claim, of not less than $5 per acre per year;

"(4) a requirement in the lease for payment of royalty on production removed or sold from the oil placer mining claim, including all royalty on production made subsequent to the statutory date the claim was deemed conclusively abandoned, of not less than 12½ percent; and

"(5) compliance with the notice and reimbursement of costs provisions of paragraph (4) of subsection (e) but addressed to the petition covering the conversion of an abandoned unpatented oil placer mining claim to a noncompetitive oil and gas lease.

"(g)(1) Except as otherwise provided in this section, a reinstated lease shall be treated as a competitive or noncompetitive oil and gas lease in the same manner as the original lease issued pursuant to section 17(b) or 17(c) of this Act.

"(2) Except as otherwise provided in this section, the issuance of a lease in lieu of an abandoned patented oil placer mining claim shall be treated as a noncompetitive oil and gas lease issued pursuant to section 17(c) of this Act.

"(h) The minimum royalty provisions of section 17(d) and the provisions of section 39 of this Act shall be applicable to leases issued pursuant to subsections (d) and (f) of this section.

"(i)(1) In acting on a petition to issue a noncompetitive oil and gas lease, under subsection (f) of this section or in response to a request filed after issuance of such a lease, or both, the Secretary is authorized to reduce the royalty on such lease if in his judgement it is equitable to do so or the circumstances warrant such relief due to uneconomic or other circumstances which could cause undue hardship or premature termination of production.

"(2) In acting on a petition for reinstatement pursuant to subsection (d) of this section or in response to a request filed after reinstatement, or both, the Secretary is authorized to reduce the royalty in that reinstated lease on the entire leasehold or any tract or portion thereof segregated for royalty purposes if, in his judgement, there are uneconomic or other circumstances which could cause undue hardship or premature termination of production; or because of any written action of the Untied States, its agents or employees, which preceded, and was a major consideration in, the lessee's expenditure fo funds to develop the property under the lease after the rent had become due and had not been paid; or if in the judgment of the Secretary it is equitable to do so for any reason.".

Mr. McCLURE. Madam President, I am pleased to bring before the Senate for its consideration today the Federal Royalty Management Act of 1982, S. 2305. This bill is the product of extensive efforts by the Energy and Natural Resources Committee to draft a legislative vehicle designed to better insure that royalties due to the Federal Government from Federal and Indian oil and gas leases are, in fact, collected.

As reported by the Energy and Natural Resources Committee, S. 2305 clarifies, reaffirms, and expands the authorities and responsibilities of the Secretary of the Interior for the management of the Federal oil and gas royalty accounting system. It also vests in the Secretary new enforcement powers and subjects persons vio-

lating Federal royalty laws to new civil and criminal penalties.

This legislation is necessary because our present royalty management and collection system is both archaic and ineffective. This is true despite the fact that oil and gas leases are the most valuable property on Federal and Indian lands. With the rapid escalation of energy prices and increased leasing, oil and gas royalties have risen from less than $500 million in 1971 to more than an estimated $5 billion in 1982. Federal royalties from 17,866 onshore and 1,260 offshore oil and gas leases in 1981 alone produced $4 billion in revenues for the Federal Government. In 1980, the States, which share in these revenues under the terms of the Mineral Leasing Act of 1920, received $315 million in royalty revenues. In that same year, 33 Indian tribes received $164 million for their oil and gas leases.

Yet, despite the obvious financial importance of oil and gas royalty revenues to all concerned, the Federal royalty management and collection system is in disarray. Hundreds of millions of dollars due the U.S. Treasury, the States, Indian tribes, and individual Indian allottees are going uncollected every year due to inadequacies in the system.

Evidence of mismanagement in the royalty collection system first came to light in the mid-seventies when a General Accounting Office report cited evidence of vast underpayment of royalties by industry, due to mismanagement of the royalty collection system. To investigate these charges, Secretary of the Interior Watt, on July 8, 1981, established the Commission on Fiscal Accountability of the Nation's Energy Resources. The Commission, known as the Linowes Commission after its chairman, David Linowes, was charged with examining allegations of royalty underpayments, system mismanagement, and oil and gas theft on Federal and Indian lands. The Commission was to make recommendations for changes to correct any problems they discovered.

What the Commission found was that the royalty management collection system for the Nation's energy resources had been deficient for more than 20 years. This was primarily as a result of the Government's inability to adequately manage this multibillion-dollar enterprise. According to the Linowes Commission report, outmoded royalty accounting and collection procedures, slack enforcement, inadequate penalties, and an insufficient information and reporting system all contributed to the breakdown of the system. Lax site security was also an open invitation to theft on Federal and Indian leases.

In short, the Linowes Commission found that lessees were not paying all the royalties due on Federal and Indian oil and gas leases due to outmoded practices and inadequate royalty management laws. Royalty management was so bad that, according to the Linowes Commission, the industry was essentially on an "honor system."

As a result of these findings, the Linowes Commission concluded that the Federal royalty management system was in need of a thorough overhaul. To correct the many problems they found, the Commission made 60 recommendations for change, some of which required legislation to enact.

Responding to the Commission's recommendations, Secretary Watt, on January 19, 1982, removed the Conservation Division from the U.S. Geological Survey. It was reestablished as a separate Minerals Management Service in the Department of the Interior. The object of this transfer was to give the royalty collection function a special focus within the Department. In addition, a completely revamped fiscal and production accounting system was approved. Contracts were let for the development of a new, sophisticated accounting system to replace the one which had been in place for the past 20 years. The administration then moved to incorporate the recommendations for legislative change made by the Linowes Commission into proposed legislation.

This legislation was introduced on behalf of the administration as S. 2305. It was subsequently reported, with amendments, by the Senate Energy and Natural Resources Committee on July 30 of this year. On September 23, 1982, the House Interior and Insular Affairs Committee also reported a similar royalty management bill, H.R. 5121, the Federal Oil and Gas Royalty Management Act of 1982. On September 29, 1982, H.R. 5121 was passed by the House.

Due to the several similarities between S. 2305 as reported and H.R. 5121 as passed by the House, the respective Senate and House committee chairmen directed their staffs to conduct information negotiations in order to produce one royalty management text combining the best elements of both the Senate committee version and the House-passed version. Their intent was to obtain a bill that would be acceptable to both the Senate and the House and avoid the necessity of a conference. The amendment offered today is, I believe, acceptable to the Senate. It is my hope that the other body will find it acceptable as well, without amendment.

As a result of many meetings, an amended bill was produced. I am pleased today to offer this amendment in the nature of a substitute to S. 2305 to the Senate.

Madam President, this substitute amendment is the product of a great deal of hard work. House and Senate committee members, their staffs, and the administration labored long hours to produce needed changes to a bill which would remedy the failings in our present royalty accounting system.

Our national energy resources are finite and must be prudently and properly managed, particularly in these difficult economic times. We must be good managers of the Nation's resources. This substitute amendment, if enacted, would help us to do a better job. Its provisions help insure a substantial gain in revenues to the U.S. Treasury which are presently being lost through mismanagement. I urge its passage.

At this point, Madam President, I ask unanimous consent to have printed in the RECORD a summary of the major provisions of this amendment in the nature of a substitute and an explanation of certain of its sections.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2305 SUBSTITUTE.—SECTION-BY-SECTION ANALYSIS

Sec. 1. Title.
Sec. 2. Findings and Purposes.
Sec. 3. Definitions.

TITLE I

Federal royalty management and enforcement

Sec. 101. (a) Directs the Secretary to establish a comprehensive royalty management system.

(b)(1) Directs the Secretary to conduct annual inspections of most leases.

(b)(2) Directs the Secretary to establish adequate training programs for inspectors.

(c) Directs the Secretary to audit and reconcile lease accounts. Audits may be undertaken by independent CPA's under contract.

Sec. 102. (a) Requires lessees to make royalty payments due and to notify the Secretary of assignments of obligations to make payments.

(b) Requires operators to develop and comply with a site security plan for onshore leases, site security measures for offshore leases, and to notify the Secretary when a well begins production by the 5th business day. Wells off of production for more than 90 days are subject to the production notice requirement.

Sec. 102. (c) Requires documentation for motor vehicles carrying oil and pipelines carrying oil or gas.

Sec. 103. Requires records of activities through the first sale or royalty computation point for oil or gas. Such records must be retained for 6 years.

Sec. 104. Provides for monthly deposits of the State and Indian tribes' share of royalty payments.

Sec. 105. Provides for an explanation of payments to the States and Indian tribes.

Sec. 106. Makes persons liable for losses of royalty payments and requires bonding

Sec. 107. Provides the Secretary with hearing and investigation authority.

Sec. 108. Provides authority to stop and inspect motor vehicles for documentation, with probable cause, on or off a lease site. Inspections onsite may be conducted without notice pursuant to regulations.

Sec. 109 (a). Provides for a civil penalty of up to $500 per day for violations of the Act or regulations which are not corrected

within 20 days of receipt of notice. The penalty increases to $5,000 per day if the violation is not corrected after 40 days.

(b) Provides for a civil penalty of $10,000 per day for a person who knowingly fails to make a royalty payment; fails to permit entry, inspection or audit; or fails to notify of new production.

(c) Provides for a civil penalty of $25,000 per day for a person who knowingly prepares inaccurate reports; steals oil or gas; or purchases stolen oil or gas.

(d-k) Provide procedural safeguards. (House/Senate blend.)

Sec. 110. Provides a criminal penalty of $50,000 and up to 2 years in jail for the most serious violations of the Act (Sec. 110(c)).

Sec. 111(a-d). Provides that late payments for royalities shall be charged interest at the IRS rate. Such interest shall be paid in the appropriate share to State and Indian tribes.

(e) Provides for the methodology of assessing overcharges to the States. This provision is designed solely to avoid any significant hardship for the States. It is not intended to be a waiver of the Federal government's immunity against suits for overcharges or other alleged violations of the mandatory price and allocation regulations issued pursuant to the Emergency Petroleum Allocation Act of 1973, as amended.

(f-g) Technical.

Sec. 112. Provides for injunctive and specific enforcement authority.

Sec. 113. Provides rewards for persons providing information leading to recovery of money owed under this Act.

TITLE II

States and Indian tribes

Sec. 201. Make the title applicable to onshore leases only.

Sec. 202. Gives the Secretary authority to enter into cooperative agreements with States and Indian tribes to share royalty management information, or to carry out inspection, audit, or enforcement activities.

Sec. 203. Provides for the condition upon which States or Indian tribes may obtain confidential information.

Sec. 204. Provides a multi-stage mechanism through which States may bring enforcement actions in Court if the Federal Government fails to diligently pursue its enforcement obligations.

Sec. 205. Provides authority for the Secretary to delegate to the States his responsibilities for inspections, audits, and investigations. Such a delegation may not occur until certain findings have been made and standards promulgated.

Sec. 206. Provides for sharing of civil penalties with States or Indian tribes.

TITLE III

General provision

Sec. 301. Authority for rules, regulations, and contracts.

Sec. 302. Provides for reports on implementation of the Act by the Secretary and the Inspector General.

Sec. 303. Provides for a study of the adequacy of royalty management for other minerals.

Sec. 304-308. Technical provisions.

Sec. 309. Expands the royalty obligation of lessees to oil and gas lost or wasted due to negligence.

Sec. 310. Severability.

TITLE IV

Lease reinstatements

Sec. 401. Provides reinstatement of automatically terminated leases under certain terms and conditions.

Mr. MELCHER. Madam President, I have come to the floor today to participate in the debate on this bill with more than a small amount of foreboding.

Anyone who has followed the course of this legislation should be aware of my concerns with the approach that previous Secretaries of the Interior and Secretary Watt have taken with regard to the obvious problems with our system of royalty management. It has been in bad shape for more than two decades. It has taken us more than 2 years to get a corrective bill before us.

In December 1980, I and the staff of the Senate Select Committee on Indian Affairs started an investigation of allegations of theft and nonreporting of oil production from the Wind River Indian Reservation in Wyoming. This started a series of investigations and public hearings concerning other tribes, to see whether or not the royalty accounting procedures were being followed correctly.

The original legislation that was submitted by the administration to make corrections was simply inadequate. With the help of Chairman McCLURE and several other members of the Committee on Energy and Natural Resources, a very bad bill has become an acceptable bill.

The bill is far from perfect now, but it is a vehicle for Congress to establish an effective policy for royalty management on Federal and Indian lands. The substitute being offered today is a further improvement over the committee-reported version. We have some hope that the House will find this substitute acceptable.

To see where we have to go it is helpful to look at where we have been.

The Secretary of the Interior has broad authority in existing law to establish and maintain an effective system of accounting, inspection, and enforcement for the Federal interest in the oil and natural gas produced on Federal and Indian lands. The problem has been that the Secretary has not used that authority, has not hired the necessary trained staff, and has not enforced the terms of the leases to which he is a party. As a result, the accounting system we are using is archaic and totally inadequate, and the inspection program is so anemic that the Department has no idea how much oil and gas is being produced, who owes royalty on that oil and gas, or where the oil and gas is going after it is produced.

Now, we ought to understand that passing a bill is not, by itself, going to cure these very fundamental problems with the system. The trouble starts in the field, where far too little monitoring of wells, production, and the movement of oil and gas is taking place. We can all meet in the Rose Garden, sign a bill, and congratulate each other, and not one more inspection will actually occur in the field if this Secretary of the Interior acts like the others we have had previously. To improve things, forceful administrative action will be required, especially including the hiring of more inspectors who either have previous experience in oil and gas field operations or who have had extensive training and apprenticeship under experienced inspectors. These actions must also include the adoption of a uniform policy of regular inspections with a clear understanding between Federal inspectors and operators in the field as to what is required by the regulations. One of the amendments I offered during the committee's consideration of the bill—and the amendment was accepted—would require the Secretary to establish procedures to insure that each lease site producing significant quantities of oil or gas is inspected at least annually. This provision is very important, since it is one of the few in the bill actually requiring the Secretary to do something.

I should add here that Secretary Watt and his staff have asked for a good strong bill and have given us some indication that they have no objection to the provisions in this act, and that is to the credit of Secretary Watt.

Royalty accounting is another area where the Secretary has adequate authority under existing law, but has not exercised that authority effectively.

As I make this statement, it must be recalled that we are speaking of not just this Secretary, who has asked for some direction from Congress, but previous Secretaries of the Interior.

The existing royalty accounting system was scarcely adequate during the period when the Federal revenues from royalties were measured in tens of millions of dollars. It is a disgrace in an era when these revenues are measured in the billions. In fact, most of the "lost revenue" which has recieved so much publicity is not the result of theft. Rather it is the result of a totally archaic accounting system which literally cannot account for the revenues it is supposed to monitor and assist in collecting.

Over a year ago, the Department began to develop a computer model and contracted for a computer system to bring production reports and royalty accounting up to date. Of course, the vast majority of operators in the field long ago modernized their systems. At the rate the Department is currently moving, the Federal system will not be operational until late 1984 or sometime in 1985. I think this schedule is unacceptable.

There are real problems associated with designing and getting this new system into place, and new accounting regulations could cause enormous con-

fusion in the field. I have been deeply concerned about the provisions of the bill which suggest that States might "take over" the royalty collection function from the Department of the Interior on the basis of some vague delegation of Federal authority to the Governor. Nothing could do more to compound the confusion which is inevitable under the new system than the imposition on top of it all of multiple, possibly contradictory systems of regulation, reporting, and accounting involving State authorities.

I am gratified that the substitute bill before the Senate today would not authorize the Secretary to delegate to States the authority he exercises on behalf of the Nation as a whole to collect royalties on oil and gas production on Federal and Indian lands.

Finally, I think it essential to emphasize my fear that this bill, in the hands of the managers who are with us under both Republican and Democratic administrations, could end up significantly reducing the net revenue to the Federal Government, the States, and the tribes below what everyone might receive without the bill.

It is in everyone's interest to produce the oil and gas on Federal and Indian lands. The Nation needs more oil and gas. The Federal Government, the States, and the tribes need the revenue from oil and gas royalties. Discouraging exploration, development, and production of oil and gas on Federal and Indian lands just reduces Federal, State, and Indian revenues. There is nothing good about that.

This bill is still topheavy in redtape potential that will create substantial disincentives to oil and gas production from these lands. The only question is, How much of a disincentive will the bill prove to be? If the persons who invest in and are engaged in oil and gas drilling decide that the new layers of redtape and regulation and the potential liability for huge fines resulting from this bill overshadow the potential rewards of the enterprise, everyone will be a loser. There is a good chance that this will be the result in the end. Whether it is or not depends all too critically for my taste on the actions of managers in the Department of the Interior—persons over whom we in Congress have far too little control.

Madame President, I have supported this bill as an exercise of the art of the possible. The substitute bill before us is not perfect, but it is the best we can get in this Congress. I think we should take advantage of this opportunity to pass it now.

● Mr. JACKSON. Madam President, I rise in support of the Federal Oil and Gas Royalty Management Act of 1982. For over 20 years, the General Accounting Office has been reporting on the need for major improvements in the Federal Government's oil and gas royalty accounting system. More recently, hearings before the Energy and Natural Resources Committee and the Select Committee on Indian Affairs have forcefully reminded us of the archaic nature of the Interior Department's royalty accounting system and of the lack of adequate security measures at Federal and Indian lease sites.

To determine the nature and extent of these problems, Secretary of the Interior Watt appointed the Linowes Commission on Fiscal Accountability of the Nation's Energy Resources. On January 21, 1982, after hearing from dozens of witnesses from the administration, affected States and Indian tribes, and the oil and gas industry, the Commission submitted its findings and recommendations to the Secretary.

The Linowes Commission's findings basically confirm the reports of the General Accounting Office and the testimony received at congressional hearings. The Federal royalty management system lacks effective accounting procedures and is understaffed. The system does not provide for the verification of data reported by oil and gas lessees, and lease account records are so unreliable that Federal royalty managers often do not know which lessees have paid royalties and which lessees have not. Penalties for late payment or underpayment are rarely imposed. Because of these shortcomings, the Commission concluded that "the industry is essentially on an honor system." In addressing the problem of theft, the Commission could not determine the amount of oil and gas stolen but did find that lax security at onshore Federal and Indian lease sites is well documented and is an open invitation to theft.

Based on these findings, the Commission made 60 recommendations. Several of these recommendations are addressed in the provisions contained in the bill before the Senate. The others, according to Secretary Watt, will be dealt with administratively.

The committee bill is the result of a long, hard look at the problems involved in royalty management. I believe that the bill gives the Secretary the authority he needs to implement an effective royalty accounting system and to prevent the theft of oil and gas from Federal and Indian leases. I also believe that we need to pass this bill this session. Therefore, I urge my colleagues to join me in supporting prompt action by the Senate on this legislation.●

● Mr. DOMENICI. Madam President, I want to compliment Chairman McCLURE and the committee staff for the work they have done on S. 2305, the Federal Oil and Gas Royalty Management Act of 1982.

There is no doubt in my mind that if the Government has mismanaged programs over the years, the mineral management effort may have been the absolute worst example. In many cases, States, including my State of New Mexico, have performed not only better than that of the Federal Government but a whole lot better. In fact, in many cases not only did they do a better job but through memorandums of understanding and other arrangements they were able to assist the Federal Government in recovering millions of dollars in revenue. A recovery, I might add, that would not have occurred without the assistance from State government.

Be that as it may, I have been deeply concerned about this bill since its introduction and have worked with the chairman to reserve those concerns. Three major areas dominate and these include the penalty section, insuring that the rights and revenue of the States and finally and probably the most important issue, insuring that the system is one that works and one that works for all involved, not just the Federal Government.

In protecting State rights, Senator WALLOP and Senator MURKOWSKI and I had proposed a State option plan for the collection of royalties. However, I am informed and my State is satisfied that the substitute contains language that insures that State's will receive their proper share of royalties collected and that there is a mechanism to insure that the proper royalties are being collected.

In regard to the penalty section of this bill, I was concerned that the bill did not differentiate between knowing and willful acts to evade the law and just bookkeeping errors. Senator MELCHER shared my concern. Provisions were added to the bill which made the distinction and provided the chance to correct unintentional technical violations of the law.

I think it should be pointed out that there has been some misinformation about the amount of money that was being lost to the Treasury through royalty management and why the money was being lost. I think this lack of clear information did a disservice to many in our oil and gas industry.

Most of the large dollar amounts involved in the royalty management issue have to do with natural gas pricing regulations and have absolutely nothing to do with the royalty collection system. I would further point out, for the record, that in many cases under existing laws companies are forced to pay royalties on natural gas produced on Federal lands before they have even sold that natural gas or even know at what price that natural gas will be sold.

This means that the public record could very well indicate adequate royalties may not have been collected, but in fact, is not out of any wrongdoing

but rather to the laws regulating the price of natural gas and the overall system.

Finally, I think we have in this bill a system that protects the interest of all those involved. It is a much better system than we had before and hopefully it will be a system that will work well and will serve the best interests of the Federal Government, the State government, the oil and gas industry, and most important, the best interests of the citizens of the United States.

While the bill is in the nature of a substitute, many of the issues addressed in the bill as reported out of committee and that the report on that bill in many cases, especially in reference to natural gas pricing difficulties, and collection problems that stem from those difficulties still pertain to the substitute.●

● Mr. WALLOP. Madam President, today the Senate begins consideration of long awaited and critically needed legislation which will insure that the oil and gas resources of the public lands and Outer Continental Shelf are properly accounted for under the direction of the Secretary of the Interior. This legislation, S. 2305, titled the "Federal Oil and Gas Royalty Management Act of 1982," was introduced on March 30, 1982, at the request of the administration. As amended by the Committee on Energy and Natural Resources, the bill is the product of thorough study and extensive debate both in Senate and House committees.

Credit for the legislation's existence goes to Secretary of the Interior, Jim Watt, who unlike his predecessors, had the fortitude and courage to unveil the many, longstanding, defects in the Federal Government's management of the Federal oil and gas royalty accounting system. On July 8, 1981, Secretary Watt established a blue ribbon commission under the able leadership of David F. Linowes to carry out a detailed study of the allegations of theft and of substantial underpayment of oil and gas royalties owed the Federal Government, Indian tribes, and States from Federal oil and gas leases. While the Commission was carrying out this directive, the Senate Energy and Natural Resources Committee conducted a parallel investigation, and I had the honor of chairing the first committee hearing in Casper, Wyo.

Six months after its creation, the Linowes Commission presented its extremely uncomplimentary, 267 page report to Secretary Watt, and I quote from the report's summary:

The Federal Government currently collects several billion dollars each year in royalties from leased Federal and Indian lands. They expect to collect in the neighborhood of $4 billion dollars this year, and the figure is projected to climb to $20 billion by 1990. Wyoming's share of mineral royalties last year, including those paid on coal and sodium in addition to oil, amounted to $95 million. By 1985, Wyoming is expected to receive $250 million due to the rising price and production of oil. There is no question that with rising oil prices, royalty funds are becoming extremely important to the producing States, particularly those who will suffer the impact of development of new sources of oil and gas.

Consequently, it is nothing short of apalling to find that a State like Wyoming and Indian tribes are being and have been short-changed by the Federal Government due primarily to accounting problems in addition to isolated incidents of outright theft. The figures for Wyoming are particularly shocking since this State is the largest producer of Federal onshore oil in the Nation. Figures differ, but it has been calculated by some that Wyoming alone may have been short-changed by as much as $80 to $200 million in oil and gas royalties over the last 6 years. It is a situation which we obviously cannot—pardon the pun—afford much less tolerate.

The report continues, explaining that:

The problem . . . is dual in nature. It is one of accounting as well as one of security. The latter, lack of adequate security resulting in theft, is in part tied to the former.

It was the theft situation which really focused national attention on the accounting mess. The idea of people stealing oil is reprehensible, and those guilty of theft are quite rightly being prosecuted as a result of a Federal grand jury investigation. The theft situation is very serious and certainly the security problem must be cured. . . .

The accounting system has had problems that go back in time as far as the fifties. The old system managed to limp along for as long as it did presumably because with oil priced at less than $2 per barrel, it was felt that the cost to update it was not outweighed by the royalties to be gained. That has drastically changed. It is claimed that 10 percent of all mineral royalties aren't being collected due to obsolete and inefficient accounting procedures. Ten percent adds up to an anormous amount of money at today's oil prices.

The Linowes' Commission followed with 60 specific recommendations for revising and rebuilding the system. Secretary Watt immediately reorganized the U.S. Geological Survey, establishing a new Minerals Management Service to focus on the problems. At the same time, Secretary Watt created an internal legislative task force to draft the omnibus royalty management legislation which was introduced in March. The Committee on Energy and Natural Resources held hearings on that proposal May 3 and 17, consumed nine committee business meetings marking up the bill, and unanimously reported out substitute legislation.

Melded with essential provisions of H.R. 5121, passed by the House September 29, 1982, the compromise bill being discussed here today represents a thorough overhaul of the Federal oil and gas royalty management system, and I might emphasize, an overhaul needed nowhere more than in my State of Wyoming. Further, I am pleased to note that all my amendments to the bill adopted in committee markup have been retained in substance and, for purposes of legislative history, they are explained in detail in the Senate Energy Committee Report 97-512.

To repeat a statement of Mr. Linowes from his report to Secretary Watt:

There has been too much time spent in tinkering with quick fixes that don't work. It is time to get down to business and see that a good system is put into place. If we don't we are in effect only going to cure symptoms when what we need to do is wipe out the disease.

I believe that the compromise bill being considered today does just that.

Thank you.●

Mr. McCLURE. Madam President, I move the adoption of the substitute to the committee substitute.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Idaho.

The motion to agree to the substitute (UP No. 1414) was agreed to.

Mr. McCLURE. Madam President, I move the adoption of the substitute, as amended.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Idaho.

The motion was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. McCLURE. Madam President, I move to discharge the Energy Committee from further consideration of H.R. 5121, the House companion bill, and ask for its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The bill clerk read as follows:

A bill (H.R. 5121) to improve the collection of Federal royalties and lease payments derived from certain natural resources under the jurisdiction of the Secretary of the Interior, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. McCLURE. I move to strike all after the enacting clause and substitute the text of S. 2305, as amended.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Idaho.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 5121), as amended, was read the third time and passed.

Mr. McCLURE. Madam President, I move to reconsider the vote by which the bill was passed.

Mr. MELCHER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended so as to read as follows:

An Act to ensure that all oil and gas originating on the public lands and on the Outer Continental Shelf are properly accounted for under the direction of the Secretary of the Interior, and for other purposes.

Mr. McCLURE. Madam President, I thank the Chair and I thank the Senator from Montana for his constructive contribution in the discussion of this bill as well as here on the floor today. I thank all members of the staff again who worked so very hard to get us to this point.

Mr. MELCHER. Madam President, I likewise join in the thanks to the staff on both sides. I want to congratulate the chairman of the committee for the work he has done in pursuing this bill to final passage.

Mr. McCLURE. I thank the Senator from Montana.

It would not do at all to complete consideration of this bill without also thanking the Senator from Maine (Mr. COHEN), who is chairman of the Select Committee on Indian Affairs, and other members of that committee for the constructive help they have given us and the suggestions they made with respect to certain provisions of this legislation.

I think they have helped to improve the work product. Again I thank the Chair and I thank the majority leader for making it possible to consider this today.

Mr. BAKER. Madam President, I thank the Senator from Idaho and I thank the distinguished minority manager of this bill for making it possible for us to transact this piece of business in an efficient way.

CONGRATULATIONS TO HERSCHEL WALKER

Mr. MATTINGLY. Madam President, I would like to take this opportunity to congratulate Herschel Walker, who was recently awarded the Heisman Trophy, an award for the Nation's outstanding college football player.

This season, Herschel Walker gained 1,752 yards in 335 carries. He did this despite a broken thumb that hampered him in the season's first three games. Moreover, he accomplished this despite the fact that week after week, every Georgia opponent lined up defensively with one goal in mind—to stop Herschel Walker.

Herschel Walker, in three seasons at the University of Georgia, has gained 5,259 yards; 1,616 yards in 1980, 1,891 yards in 1981, and, as I earlier pointed out, 1,752 yards in 1982. He only lacks 823 yards from becoming the alltime leading college rusher, a title currently held by Tony Dorsett. During his stay at the University of Georgia, Herschel has lead the Bulldogs to a 32 and 2 record over the past three seasons. Georgia won its first national championship in 1980, Herschel's freshman year, and is currently ranked No. 1 in both major college polls.

Despite the fact that Herschel Walker has virtually rewritten the Southeastern Conference and National College Athletic Association football college record books, he remains an unselfish and humble individual, a team player. Those who know Herschel will attest to his humble attitude and his refusal to boast of his own successes. When presented the Heisman Trophy, Herschel gave credit to his teammates for his winning the award. He stated, "People have to make people. I have been surrounded by fine athletes and people who have helped me. Life is teams, and if it was not for them, I would not be here."

While the demands on college athletes are enormous, Herschel has nevertheless maintained an excellent academic record at the University of Georgia. He is a criminology major and has over a B average.

Again I congratulate Herschel Walker on winning the Heisman Trophy. I look forward to returning to Athens, Ga., next year and participating in what has become a favorite pastime for all Georgians—to watch Herschel Walker do his thing. Additionally, I look forward to next year when I can rise again to congratulate Herschel Walker for being the NCAA alltime rusher and the recipient of his second Heisman Trophy award.

Congratulations, Herschel.

NATIONAL COMMISSION ON SOCIAL SECURITY REFORM

Mr. HEINZ. Madam President, on Friday, the National Commission on Social Security Reform will meet for the last time to complete its consideration of recommendations on social security financing. Whether the final report provides Congress with a blueprint for solvency or merely supplies a list of available options depends upon the willingness of the President and the Speaker of the House of Representatives, Mr. O'NEILL, to get involved this week.

Though the Commission has made considerable progress toward a solution to social security's financing problems, it has had to stop short of proposing a specific package of solutions. The remaining decisions are a matter of simple arithmetic, admittedly, but they involve perilous politics.

Today I would like to remind my colleagues that the perils of making that decision, though great, do not compare to the perils of postponing it, which are greater.

In my view, what is urgently needed now, in the next few days, is a summit meeting between President Reagan, Speaker O'NEILL and other key Members of Congress to lead the way toward a bipartisan solution.

The National Commission, on which I have been privileged to serve these many months, has laid the groundwork for a pragmatic bipartisan agreement between the Congress and the White House. They have achieved consensus on the size of the short-term and the long-term problem and on the necessity of enacting legislation to resolve both. They have reaffirmed that the basic structure of the existing system is appropriate and they have ruled out solutions which would alter or dismantle this basic structure. They have agreed that social security coverage should be extended to new Federal and all nonprofit employees, and they have indicated that the remaining solution will require a combination of options affecting taxpayers and beneficiaries alike.

But the remaining solvency options, while clear, are impossible to select without bipartisan agreement. For the short term, what are our options? We can accelerate the scheduled payroll tax increases, restrain cost-of-living increases, or pump general revenues into the system. There really are no other options. But none of these options is, by itself, sufficient to meet the problem. It is evident, at least to this Senator, that a combination will be necessary for both financial and political reasons. Pragmatic compromise, not partisan rhetoric, must be the basis for a proper balance or mix of these options.

Compromise is essential, for neither party can gain satisfaction or profit from staring each other down as the July 1983 expiration date for the social security trust funds draws near. Continued inaction on social security will inevitably trigger an exercise in brinksmanship. A deadlock on the issue this winter will only bring on another bloody budget battle over social security's role in the overall budget deficit.

Madam President, as we think back to what happened last spring during the deliberations of the "Gang of Seventeen" and then of the Budget Committee, we should recognize from that history that this can only further endanger the congressional budget process and erode public confidence in the future of the social security system still more. Continuing this standoff until June will leave only the option of extending borrowing from the hospital insurance, or medicare, fund for another 8 months, an option that involves a terrible cost, the depletion of

that fund 6 years earlier than otherwise is projected.

We must all, in this body and in the other body, recognize that any reasonable agreement will extract concessions from all sides. Our elected leaders must signal their recognition of this fact as well, for failure to reach an immediate agreement not only risks serious political consequences, it also threatens the ability of social security to meet one of the basic tenets of any responsible proposal; that is, that no one now receiving benefits shall have their benefits reduced.

Everybody says we are certainly not going to cut benefits of existing beneficiaries. The President has said it, the Democrats have said it, the Republicans have said it. That pretty well covers the waterfront. But the fact is that delay for even another year will put so much financial pressure on the retirement fund that it would be absolutely impossible to have a rescue without cutting current benefits. If we act now, it is still possible to come up with the necessary revenues or other savings to honor that pledge. But if we wait until next year, we can never do what we need to do with sufficient time to have those actions go into effect and provide revenues and provide savings to the social security funds before they are depleted.

I am, therefore, Madam President, deeply concerned that many of my colleagues feel that an acceptable timetable for developing the necessary legislative solutions is somehow now magically going to emerge and lift the obligation from the National Commission's shoulders to arrive at conclusive recommendations for Congress prior to December 31. That sentiment is dangerous.

The leadership in the House have announced their intention to begin hearings in the Ways and Means Committee in February and to bring a bill to the floor in March. Some of my colleagues feel that if the Senate can wait until late March, we will then have a bill from the House to work with; then we shall be able to work our legislative will and, presumably, by June, have a legislative initiative that can move right along and go to the President for his signature.

Madam President, I do not want to be unduly pessimistic, but the normal legislative process on social security has not worked since 1977. It did not work last year, did not work the year before, and we have every reason to believe that histroy will repeat itself and the normal legislative process as regards social security will produce what it has produced in each of the last 6 years—namely, nothing. I do not say that it is what I hope for; I just say that that is what a careful reading of history suggests; so simply waiting for the House to act, with everybody else going about their business as they see fit, is at best, a long-odds gamble.

I am not convinced, frankly, that the House of Representatives is going to be any more able in the 98th Congress than it was in the 97th to report out of committee and pass a reasonable social security financing bill without, in advance, the blessings of the Speaker and the President. I think it would be, therefore, a mistake for the Senate to sit on its hands and let the clock run down on social security in the expectation that it will somehow all come together in the end.

Madam President, I think the National Commission on Social Security Reform is potentially the shield that is needed to get social security financing legislation moving. It is the ideal vehicle for working out a truly bipartisan agreement before December 31 of this year.

For all practical purposes, though, since the last scheduled meeting is this Friday, that means right now. Were we able to bring that kind of progress about this week, a strong consensus report from the Commission would enable all Members in the next Congress—new and old—to support a compromise financing package. Without this shield, many members of both parties will be obligated to oppose many of the financing options which must of necessity appear in any reasonable legislation. Without a bipartisan agreement in advance, I fear that the debate on social security, which we necessarily will have early next year, will once again become hopelessly partisan, and with that partisanship we will once again see a deadlock.

I think the Commission is within reach of finding a viable solution to the financing problems which have faced the Congress over these 2 years. With a sign from the President, the Speaker, and key congressional leadership, substantial recommendations could be sent to the Congress before Christmas, and the Congress could be well on its way to enacting the necessary legislation next spring.

But if we are left to our own devices to let the so-called normal legislative process work its will, we will run the risk of waiting and waiting and waiting on the House of Representatives to send us a bill that never materializes.

Let me take a moment to elaborate upon that risk, because it may not be self-evident to most of my colleagues.

A few moments ago I indicated that there were three basic options, none of them mutually exclusive, to finding the money for the social security system. One is raising taxes, another is finding savings in benefits, and the third is general revenues.

There is absolutely no possibility that this Congress or this President would enact a solution involving only increases in taxes to save the social security system.

There are some people who think that that might take place, but there are two proposals I have seen advanced. One of them is just simply accelerate most or all of the 1990 payroll tax increases to as soon as possible, which would be presumably January 1, 1984. Now I have met very few people who think that simply moving up the increases in payroll taxes on employees and employers would be something they would vote for.

From the employer point of view, there are a lot of statistics that suggest that is a good way to wipe out a lot of jobs; a consequence we could ill afford in the midst of this recession.

It is also to a lot of people politically unattractive to increase the employee portion of payroll taxes because that comes out of the paycheck, and that is not only noticeable, it is rather questionable economics at a time when you would like people to be spending more money to revive the economy. So I frankly do not see very many votes, not just in this body but in the other body, to impose substantial additional employee social security payroll taxes.

That leads me to the second proposal—to offset those payroll tax contributions in whole or in part with a tax credit. Now, that has some wonderful superficial appeal because that does not increase the taxes on any of the taxpayers. What it really does is to transfer via the tax credit the cost of those tax increases to the general fund, increasing the deficit there beyond the $175 billion or $185 billion already anticipated.

Maybe some Members might vote for the payroll tax or the tax credit solution if it were part of a balanced and fair package. But if we were to try and solve this problem all with general revenues, I do not think you could even get a majority of the Democratic Party in the House to support that. There are an awful lot of people in both parties who recognize that trying to finance the social security system out of general revenues, in spite of the fact that it seems to be without much political pain, goes against all those votes they have been having on balancing the budget, on being fiscally responsible, and on trying to get this country out from under these big deficits.

I really do not believe, Madam President, that there is a majority in either party in the House to come up with either of those two financing options.

So what does that leave you with? That leaves putting it all on benefits. If you were to get all the savings that you seek from benefits, the $150 billion to $200 billion between now and the end of 1989, you would have to reduce current benefit levels. Nobody is willing to do that. If you looked to the benefit side for only a portion of

the savings, you would not have to actually cut benefits.

It is apparent to me that it is just not going to be all that easy for Congressman ROSTENKOWSKI, the chairman of the Ways and Means Committee, and his committee to find a solution in the House that is going to meet with a sufficient amount of approval to get it out of committee and, if it can be gotten out of committee, to pass muster on the floor. I think any objective analysis of the problem shows that it is not only such a big problem but such a politically perilous problem to deal with that, absent some genuine leadership at the very top, we cannot expect the congressional process to produce what we would like to see it produce.

So that nobody misunderstands my sentiments, I do not happen to believe that Congress cannot deal with big issues. I believe we can. I believe we have. But this issue is not a big bipartisan or nonpartisan issue. It is the most partisan issue I have seen in the 11 years that I have served in Congress.

Madam President, I want to take this opportunity to urge the President, the Speaker, the other key leaders of Congress, and my colleagues to join in this sentiment and agree to move, this week, to negotiate, to get a solution, and to stop postponing dealing with something that we must deal with effectively if we are to avert a continued standoff in social security in the next Congress and avert disaster either for our country or the 35 million beneficiaries who depend on social security.

ROUTINE MORNING BUSINESS

(During the day, routine morning business was transacted and additional statements were submitted, as follows:)

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

DEFERRALS OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT—PM 199

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, was referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Foreign Relations, the Committee on Armed Services, the Committee on Energy and Natural Resoures, the Committee on Finance, the Committee on Commerce, Science, and Transportation, and the Committee on Veterans' Affairs:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report 5 new deferrals of fiscal year 1983 funds totaling $624,650,000.

The deferrals are for programs in International Security Assistance and the Department of Housing and Urban Development.

The details of each deferral are contained in the attached reports.

RONALD REAGAN.

THE WHITE HOUSE, *December 6, 1982.*

MESSAGE FROM THE HOUSE

At 4:22 p.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the House recedes from its disagreement to the amendment of the Senate to the bill (H.R. 2330) to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes; and agrees thereto, with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the house has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3809. An act to provide for the development of repositories for the disposal of high-level radioactive waste and spent nuclear fuel, to establish a program of research, development, and demonstration regarding the disposal of high-level radioactive waste and spent nuclear fuel, and for other purposes;

H.R. 6329. An act to authorize appropriations for the Department of Energy for national security programs for fiscal year 1983, and for other purposes;

H.R. 6395. An act to amend the Federal Trade Commission Act to extend the authorization of appropriations contained in such Act, and for other purposes;

H.R. 7205. An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1983, and for other purposes; and

H.R. 7356. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1983, and for other purposes.

At 6:32 p.m., a message from the House of Representatives, delivered by Mr. Gregory, announced that the House disagrees to the amendments of the Senate to the bill (H.R. 7019) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1983, and for other purposes; agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. LEHMAN, Mr. SABO, Mr. AUCOIN, Mr. GRAY, Mr. RATCHFORD, Mr. WHITTEN, Mr. COUGHLIN, Mr. CONTE, Mr. EDWARDS of Alabama, and Mr. PURSELL as managers of the conference on the part of the House.

HOUSE BILLS REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 7205. An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1983, and for other purposes; to the Committee on Appropriations.

H.R. 7356. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1983, and for other purposes; to the Committee on Appropriations.

HOUSE MEASURES PLACED ON THE CALENDAR

The following bills were read the first and second times and placed on the calendar:

H.R. 3809. An act to provide for the development of repositories for the disposal of high-level radioactive waste and spent nuclear fuel, to estabish a program of research, development, and demonstration regarding the disposal of high-level radioactive waste and spent nuclear fuel, and for other purposes;

H.R. 6329. An act to authorize appropriations for the Department of Energy for national security programs for fiscal year 1983, and for other purposes; and

H.R. 6995. An act to amend the Federal Trade Commission Act to extent the authorization of appropriations contained in such Act, and for other purposes;

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATFIELD, from the Committee on Appropriations, without amendment:

S. 3079. An original bill making appropriations for energy and water development for the fiscal year ending September 30, 1983, and for other purposes (Rept. No. 97-673).

FOREIGN CURRENCY REPORTS

In accordance with the appropriate provisions of law, the Secretary of the

Senate herewith submits the following report(s) of standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel:

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1982

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator James Abdnor:									
France	Franc	1,822	261.00					1,822	261.00
England	Pound	172.82	300.00					172.82	300.00
Burkett Van Kirk:									
France	Franc	1,822	261.00					1,822	261.00
England	Pound	172.82	300.00					172.82	300.00
United States	Dollar				1,850.00				1,850.00
James D. Bond:									
To and from United States	Dollar				2,484.00				2,484.00
Cyprus	Dollar		75.00						75.00
Lebanon	Dollar		80.00						80.00
Israel	Dollar		275.00						275.00
Senator Daniel I. Inouye:									
Republic of Philippines	Dollar		300.00		2,240.00				2,540.00
Senator Arlen Specter:									
Cyprus	Dollar		75.00						75.00
Lebanon	Dollar		80.00						80.00
Israel	Dollar		175.00						175.00
To and from United States	Dollar				2,484.00				2,484.00
Paul Michel:									
Cyprus	Dollar		75.00						75.00
Lebanon	Dollar		80.00						80.00
Israel	Dollar		175.00						175.00
To and from United States	Dollar				2,484.00				2,484.00
Total			2,512.00		11,542.00				14,054.00

MARK O. HATFIELD,
Chairman, Committee on Appropriations, Oct. 26, 1982.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS, EXPENDED BETWEEN SEPT. 5 AND SEPT. 8, 1982

Name and country	Name of currency	Per diem		Transportation [1]		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
John T. Collins:									
Canada	Canadian dollar	419.77	340.00					419.77	340.00
United States	Dollar				272.50				272.50
Paul Freedenberg:									
Canada	Canadian dollar	314.82	255.00					314.82	255.00
United States	Dollar				272.50				272.50
Charles L. Marinaccio									
Canada	Canadian dollar	419.77	340.00					419.77	340.00
United States	Dollar				272.50				272.50
Carolyn Jordan:									
Canada	Canadian dollar	419.77	340.00					419.77	340.00
United States	Dollar				272.50				272.50
Steven B. Harris:									
Canada	Canadian dollar	314.97	255.00					314.97	255.00
United States	Dollar				272.50				272.50
Total			1,530.00		1,362.50				2,892.50

[1] Transportation provided by Department of the Treasury.

JAKE GARN,
Chairman, Committee on Banking, Housing and Urban Affairs Sept. 20, 1982.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON THE BUDGET, EXPENDED BETWEEN JUNE 27 AND JUNE 30, 1982

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Jeffery Malashock:									
United Kingdom	Pound	143.67	175.00			158	275.00	301.67	450.00
Total			175.00				275.00		450.00

PETE V. DOMENICI,
Chairman, Committee on the Budget, Sept. 30, 1982.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION, EXPENDED BETWEEN JUNE 25 AND SEPT. 10, 1982

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Wm. M. Diefenderfer:									
Japan	Yen	95,481	375.90	12,000	47.24			107,481	423.14
Hong Kong	HK dollar	2,043.36	339.15	20	3.32			2,063.36	342.47
	U.S. dollar				2,158.30				2,158.30
John D. Hardy:									
England	Pound	229.90	400.00					229.90	400.00
	U.S. dollar				1,674.00				1,674.00
William D. Phillips:									
United Kingdom	Pound	433.65	750.00					433.65	750.00
	U.S. dollar				1,850.00				1,850.00
Senator Ted Stevens:									
United Kingdom	Pound	86.73	150.00					86.73	150.00
	U.S. dollar				1,969.00				1,969.00
	U.S. dollar				1,846.00				1,846.00
Ward H. White:									
Italy	Lire	250.740	180.00					250.740	180.00
	U.S. dollar				822.50				822.50
Total			2,195.05		10,370.36				12,565.41

BOB PACKWOOD,
Chairman, Committee on Commerce, Science and Transportation, Sept. 30, 1982.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ENERGY AND NATURAL RESOURCES, EXPENDED BETWEEN JULY 1 AND JULY 17, 1982

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Roger A. Sindelar:									
Korea	Won	208,962	282.00					208,962	282.00
Hong Kong	HK Dollar	1,249.75	212.00	200.00	33.93			1,449.75	245.93
Taiwan	Nt	7,238.60	184.00					7,238.60	184.00
Japan	Yen	110.592	432.00	18,790	73.98			129,382	505.98
United States	U.S. dollar				2,425.96				2,425.96
Total			1,110.00		2,533.87				3,643.87

JAMES A. McCLURE,
Chairman, Committee on Energy and Natural Resources, Sept. 30, 1982.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ENERGY AND NATURAL RESOURCES, EXPENDED BETWEEN JULY 1 AND JULY 17, 1982

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator John H. Glenn, Jr.:									
Bahrain	Dollar	50.0812	133.55					50.0812	133.55
United Arab Emirates	D.H.S.					33.33	9.00	33.33	9.00
Saudi Arabia	S.R.	1,667.90	492.00					1,667.90	492.00
Germany	Deutsche mark	167.04	70.77					167.04	70.77
Israel			360.00						360.00
Jordan	Fils	28.980	84.00					28.980	84.00
United States	Dollar				4,655.00				4,655.00
Senator Charles H. Percy:									
Morocco	Dirhams	90	19.00					90	19.00
Tunis	Dollar	124,800	242.00					124,800	242.00
Jerusalem	U.S. dollar		270.00						270.00
Jordan	Dollar	85.175	252.00					85.175	252.00
Egypt	LE	182.130	225.00					182.130	225.00
Sudan	LS	427.115	476.00					427.115	476.00
Saudi Arabia	SR	1.113	337.00					1.113	337.00
Oman	RO	142.830	414.00					142.830	414.00
Lebanon	LL	351.	75.00					351.	75.00
United Arab Emirates	DHS	333.57	90.00					333.57	90.00
Bahrain	Dollar	57.000	152.00					57.000	152.00
Kuwait	U.S. dollar		157.00						157.00
London	Pound	28.82	54.00					28.82	54.00
United States	Dollar				2,342.00				2,342.00
Senator Larry Pressler:									
England	Pound	110.84	200.00					110.84	200.00
United States	Dollar				477.00				477.00
U.S.S.R.	Ruble		21.00				179.78		200.78
Robert W. Andrews:									
Bahrain	Dollar	50.0812	133.55					50.0812	133.55
United Arab Emirates	D.H.S.					33.33	9.00	33.33	9.00
Saudi Arabia	SR	1,667.90	492.00					1,667.90	492.00
Germany	Deutsche mark	387.04	164.00					384.04	164.00
Israel	Dollar		360.00						360.00
Jordan	Fils	28.980	84.00					28.980	84.00
United States	Dollar				3,989.00				3,989.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ENERGY AND NATURAL RESOURCES, EXPENDED BETWEEN JULY 1 AND JULY 17, 1982—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
G. B. Christianson:									
United States	Dollar				2,052.40				2,052.00
Israel	Shekel	5797	270.00					5797	270.00
Lebanon	Pound	260	52.40					260	52.40
Jordan	Dinar	29.105	84.00					29.105	84.00
Switzerland	Franc	344.50	170.00					344.50	170.00
Carl W. Ford, Jr.:									
Bahrain	Dollar	50.0812	133.55					50.0812	133.55
United Arab Emirates	DHS					33.33	9.00	33.33	9.00
Saudi Arabia	SR	1,667.90	492.00					1,667.90	492.00
Greece			56.00						56.00
Israel			360.00						360.00
Jordan	Fils	28.980	84.00					28.980	84.00
United States	Dollar				3,085.00				3,085.00
Peter Galbraith:									
Kenya	Shekel	6,258.40	600.00					6,258.40	600.00
United States	Dollar				2,204.00				2,204.00
Margaret Daly Hayes:									
El Salvador	Colon	128.8	322.00					128.8	322.00
United States	Dollar				171.17				171.17
John B. Ritch III:									
Germany			300.00						300.00
Tobias K. Seggerman:									
Ireland	Pound	211.35	313.32					211.35	313.32
United Kingdom	Pound	37.00	65.86					37.00	65.86
United States	Dollar				1,330.50				1,330.50
Melvin Ustad:									
United Kingdom	Pound	110.84	200.00					110.84	200.00
U.S.S.R.	Ruble		309.00				30.00		339.00
United States	Dollar				477.00				477.00
Total			9,170.00		20,783.07		236.78		30,189.85

CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, Aug. 16, 1982.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1982

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Christopher J. Dodd:									
Ireland	Irish pound	154.67	229.00					154.67	229.00
United States	Dollar				1,887.14				1,887.14
Graeme Bannerman:									
United States	Dollar				1,795.00				1,795.00
Cyprus			75.00						75.00
Lebanon			75.00						75.00
Israel			273.00						273.00
Joel Johnson:									
Canada	Canada dollar	629.65	510.00					629.65	510.00
United States	Dollar				272.50				272.50
Switzerland	Swiss franc	503.10	255.00					503.10	255.00
Austria	Shilling	3,404.75	204.00					3,404.75	204.00
Italy	Lira	362,327	276.00					362,327	276.00
United States	Dollar				1,595.00				1,595.00
Janice M. O'Connell:									
Canada	Dollar	629.65	510.00					629.65	510.00
United States	Dollar				253.95				253.95
Alison Rosenberg:									
United States	Dollar				3,956.00				3,956.00
Liberia	U.S. dollar		30.00						30.00
Kenya	Kenya shilling	634.65	58.00					634.65	58.00
South Africa	Rand	257.38	226.00					257.38	226.00
Zimbabwe	Zimbabwe dollar	170.84	225.00					170.84	225.00
Botswana	Pula	75.84	69.00					75.84	69.00
Total			3,015.00		9,759.59				12,774.59

CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, Oct. 12, 1982.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), SELECT COMMITTEE ON INTELLIGENCE, EXPENDED BETWEEN SEPT. 4 AND SEPT. 9, 1982

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Barry Goldwater:									
United Kingdom	Pound	320.75	522.00						522.00
Judy Eisenhower:									
United Kingdom	Pound	320.75	522.00						522.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), SELECT COMMITTEE ON INTELLIGENCE, EXPENDED BETWEEN SEPT. 4 AND SEPT. 9, 1982—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Earl Eisenhower:									
United Kingdom	Pound	320.75	522.00						522.00
Denny Sharon:									
United Kingdom	Pound	320.75	522.00						522.00
Deborah Morrell:									
United Kingdom	Pound	320.75	522.00						522.00
Doris Berry:									
United Kingdom	Pound	320.75	522.00						522.00
Henry Guigni:									
United Kingdom	Pound	320.75	522.00						522.00
Total			3,654.00		NA				3,654.00

BARRY GOLDWATER,
Chairman, Select Committee on Intelligence, Sept. 30, 1982.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), JOINT ECONOMIC COMMITTEE, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1982

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Marian Malashevich:									
United States	Dollar		1,657.00		1,261.00				2,918.00
Sandra Masur:									
United States	Dollar				280.00				280.00
Canada	Dollar	524.71	425.00					524.71	425.00
Henry S. Reuss:									
United States	Dollar				1,640.00				1,640.00
Total			2,082.00		3,181.00				5,263.00

HENRY S. REUSS,
Chairman, Joint Economic Committee, Oct. 1, 1982.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), CODEL LAXALT, AUTHORIZED BY THE MAJORITY AND MINORITY LEADERS, EXPENDED BETWEEN JULY 1 AND JULY 13, 1982

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Paul Laxalt:									
Italy	Lira	373,680	270.00					373,680	270.00
Hungary	U.S. dollar		150.00						150.00
Great Britain	Pound	175.24	300.00					175.24	300.00
Senator Ernest Hollings:									
France	Franc	136.8	20.00					136.8	20.00
Italy	Lira	373,680	270.00					373,680	270.00
Hungary	U.S. dollar		150.00						150.00
Great Britain	Pound	175.24	300.00					175.24	300.00
Senator J. Bennett Johnston:									
Italy	Lira	373,680	270.00					373,680	270.00
Hungary	U.S. dollar		150.00						150.00
Great Britain	Pound	175.24	300.00					175.24	300.00
Senator Walter D. Huddleston:									
Italy	Lira	373,680	270.00					373,680	270.00
Hungary	U.S. dollar		150.00						150.00
Great Britain	Pound	175.24	300.00					175.24	300.00
Terrence Sauvain:									
France	Franc	1,539	225.00					1,539	225.00
Italy	Lire	373,680	270.00					373,680	270.00
Hungary	U.S. dollar		150.00						150.00
Great Britain	Pound	175.24	300.00					175.24	300.00
Jan Novins:									
France	Franc	1,539	225.00					1,539	225.00
Italy	Lire	373,680	270.00					373,680	270.00
Hungary	U.S. dollar		150.00						150.00
Great Britain	Pound	175.24	300.00					175.24	300.00
Edward Allison:									
France	Franc	1,539	225.00					1,539	225.00
Italy	Lire	373,680	270.00					373,680	270.00
Hungary	U.S. dollar		150.00						150.00
Great Britain	Pound	175.24	300.00					175.24	300.00
Jeanine Drysdale Lowe:									
France	Franc	1,539	225.00					1,539	225.00
Italy	Lire	373,680	270.00					373,680	270.00
Hungary	U.S. dollar		150.00						150.00
Great Britain	Pound	175.24	300.00					175.24	300.00
Pat Dondero:									
France	Franc	1,539	225.00					1,539	225.00
Italy	Lire	373,680	270.00					373,680	270.00
Hungary	U.S. dollar		150.00						150.00
Great Britain	Pound	175.24	300.00					175.24	300.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), CODEL LAXALT, AUTHORIZED BY THE MAJORITY AND MINORITY LEADERS, EXPENDED BETWEEN JULY 1 AND JULY 13, 1982—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Eileen de Latour:									
France	Franc	1,539	225.00					1,539	225.00
Italy	Lire	373,680	270.00					373,680	270.00
Hungary	U.S. dollar		150.00						150.00
Great Britain	Pound	175.24	300.00					175.24	300.00
Richard Pierce:									
France	Franc	1,539	225.00					1,539	225.00
Italy	Lire	373,680	270.00					373,680	270.00
Hungary	U.S. dollar		150.00						150.00
Great Britain	Pound	175.24	300.00					175.24	300.00
Delegation Expenses:[1]									
France							3,894.58		3,894.58
Italy							3,362.47		3,362.47
Hungary							2,837.05		2,837.05
United Kingdom							3,575.35		3,575.35
Total			9,515.00				13,669.45		23,184.45

[1] Delegation expenses include direct payments and reimbursements to State Department and Defense Department under authority of sec. 502(B) of the Mutual Security Act of 1954, as amended by sec. 22 of P.L. 95-384, and S. Res. 179, agreed to May 25, 1977.

PAUL LAXALT,
Chairman of Delegation, Sept. 30, 1982.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), SPECIAL COMMITTEE ON AGING, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1982

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
John C. Rother:									
Austria	Shilling	15,744	918.00					15,744	918.00
United States	Dollar				1,061.00				1,061.00
Total			918.00		1,061.00				1,979.00

JOHN HEINZ,
Chairman, Special Committee on Aging, Sept. 30, 1982.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4559. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Federal Involvement In The Mount St. Helens Disaster: Past Expenditures and Future Needs"; to the Committee on Appropriations.

EC-4560. A communication from the Principal Deputy Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting, pursuant to law, a report on the conversion of the messenger service, at the Norfolk Naval Shipyard, Portsmouth, Va., to contractor performance; to the Committee on Armed Services.

EC-4561. A communication from the Principal Deputy Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting, pursuant to law, a report on the conversion of the material turned into store function at the Naval Supply Center, Norfolk, Va., to contractor performance; to the Committee on Armed Services.

EC-4562. A communication from the Principal Deputy Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting, pursuant to law, a report on the conversion of the cold storage function at the Cheatham Annex, Naval Supply Center, Norfolk, Va., to performance by contract; to the Committee on Armed Services.

EC-4563. A communication from the Principal Deputy Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting, pursuant to law, a report on the conversion of the motor vehicle operations and maintenance function at the Naval Training Center, Orlando, Fla., to performance by contract; to the Committee on Armed Services.

EC-4564. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Problems Hamper Foreign Commercial Service's Program"; to the Committee on Banking, Housing, and Urban Affairs.

EC-4565. A communication from the Secretary of the Interstate Commerce Commission, transmitting, pursuant to law, some corrected pages to a previously submitted executive summary of the Commission; to the Committee on Commerce, Science, and Transportation.

EC-4566. A communication from the Chairman of the Federal Trade Commission, transmitting, pursuant to law, a report of the Commission on the Residential Energy Conservation Service; to the Committee on Commerce, Science, and Transportation.

EC-4567. A communication from the Assistant Attorney General (Land and Natural Resources Divisions), transmitting, pursuant to law, a report on the victim compensation program; to the Committee on Environment and Public Works.

EC-4568. A communication from the Secretary of the Interior and the Secretary of Commerce, jointly transmitting, pursuant to law, the second report on the activities of their various Departments with respect to the emergency stripped bass research study; to the Committee on Environment and Public Works.

EC-4569. A communication from the Assistant Secretary of the Army (Civil Works), transmitting a draft of proposed legislation to modify the authority of the Richard B. Russell Dam and Lake project, and for other purposes; to the Committee on Environment and Public Works.

EC-4570. A communication from the Deputy Secretary of the Treasury, transmitting a draft of proposed legislation to amend sections 5315 and 5316 of title 5 United State Code, to change the position of Chief Counsel for the Internal Revenue Service, Department of the Treasury, from Level V to Level IV of the Executive Schedule; to the Committee on Finance.

EC-4571. A communication from the Deputy Secretary of the Treasury, transmitting, a draft of proposed legislation to authorize the Secretary of the Treasury to accept gifts and bequests for the purposes of the Department of the Treasury, and for

other purposes; to the Committee on Finance.

EC-4572. A communication from the Chairman of the Board for International Broadcasting, transmitting a draft of proposed legislation to amend the Board for International Broadcasting Act of 1973 to authorize an amended appropriation for fiscal year 1983; to the Committee on Foreign Relations.

EC-4573. A communication from the Acting Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, copies of international agreements, other than treaties, entered into by the United States within the previous 60 days; to the Committee on Foreign Relations.

EC-4574. A communication from the Secretary of State transmitting, pursuant to law, a report on payments made during the previous month to individuals and corporations in satisfaction of assurance agreements or payment of loan guarantees to the Polish People's Republic; to the Committee on Foreign Relations.

EC-4575. A communication from the Acting Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, copies of the international agreements, other than treaties, entered into by the United States within the previous 60 days; to the Committee on Foreign Relations.

EC-4576. A communication from the Secretary of the Department of Agriculture transmitting, pursuant to law, the semiannual report of the Inspector General for April 1 to September 30, 1982; to the Committee on Governmental Affairs.

EC-4577. A communication from the Secretary of Labor transmitting, pursuant to law, the semiannual report of the Inspector General for the period April 1 through September 30, 1982; to the Committee on Governmental Affairs.

EC-4578. A communication from the Secretary of Education transmitting, pursuant to law, the semiannual report of the Inspector General for the period April 1 through September 30, 1982; to the Committee on Governmental Affairs.

EC-4579. A communication from the Deputy Assistant Secretary of Defense for Administration transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-45780. A communication from the Comptroller General of the United States transmitting an errata page for his report of September 1, 1982, entitled "Progress in Improving Program and Budget Information for Congressional Use"; to the Committee on Governmental Affairs.

EC-4581. A communication from the District of Columbia Auditor transmitting, pursuant to law, an audit report entitled "Lease of Public Space Under DuPont Circle"; to the Committee on Governmental Affairs.

EC-4582. A communication from the Secretary of Health and Human Services transmitting, pursuant to law, a report relative to certain foreign medical graduates in the United States; to the Committee on the Judiciary.

EC-4583. A communication from the Assistant Secretary of Education for Educational Research and Improvement transmitting, pursuant to law, a report relative to certain studies and a final report to be transmitted to Congress on December 31, 1982; to the Committee on Labor and Human Resources.

EC-4584. A communication from the Acting Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics transmitting, pursuant to law, the audit of the American Red Cross for the year ended June 30, 1982; to the Committee on Labor and Human Resources.

EC-4585. A communication from the Architect of the Capitol, transmitting, pursuant to law, a report of all expenditures during the period April 1, 1982 through September 30, 1982, from moneys appropriated to the Architect of the Capitol; ordered to be printed and to lie on the table.

EC-4586. A communication from the Secretary of Defense transmitting, pursuant to law, a report on six violations of law involving overobligation of appropriated funds; to the Committee on Appropriations.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-1227. A joint resolution adopted by the Legislature of the State of California; to the Committee Agriculture, Nutrition, and Forestry:

"ASSEMBLY JOINT RESOLUTION No. 128

"Whereas the Western Regional Research Center of the Science and Education Administration, an agency of the United States Department of Agriculture, located at Albany, California, has operated at that location since 1948; and

"Whereas, the center has made substantial contributions to the wool and mohair industry through its research, educational, and consultative activities; and

"Whereas, the wool industry is a major agricultural activity of the 17 western states where 80 percent of domestic wool is produced; and

"Whereas, the center's research activities have led to significant improvements in the production, processing, and marketing of these natural fibers, and to the development of well over 100 public service patents related to all phases of the wool industry and the textile industry in general; and

"Whereas, these research activities have resulted in improved textile qualities that have been utilized in such products as protective socks for amputees using artificial limbs and that have reduced energy and chemical needs for textile production and consumer maintenance, including low-temperature machine washability, greater acceptability of wool qualities by processes which reduce shrinkability, and in international recognition of the center's capability in both basic and applied research; and

"Whereas the center's scientific, technical, and support staffs located in the Albany area provide a substantial economic benefit to a generally low-income community; and

"Whereas the United States Department of Agriculture is presently planning to close the center at its current location; now therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to maintain the effective wool and mohair research conducted by the Western Regional Research Center of the Science and Education Administration at the center's present location in Albany, California, until a more appropriate location in nothern California is selected; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-1228. A joint resolution adopted by the Legislature of the State of California; to the Committee on Energy and Natural Resources:

"ASSEMBLY JOINT RESOLUTION No. 80

"Whereas, the California coastal management program is essential for the wise management of the coastal resources of this state, including fisheries, beaches, wetlands, and wildlife; and

"Whereas, there is a national interest in the continuation of ocean and coastal resources management programs such as the Coastal Zone Management Program, the Coastal Energy Impact Program, the Sea Grant Program, and the Living Marine Resources Program; and

"Whereas, State coastal management programs provide the primary vehicle for the wise management and protection of our valuable coastal and marine resources and for state participation in the Outer Continental Shelf leasing programs; and

"Whereas, coastal states have a legitimate role in the Outer Continental Shelf activities and other coastal energy programs and must be prepared to fully participate in the leasing process and in the siting of energy facilities; and

"Whereas, the Department of the Interior intends to accelerate the leasing of tracts in the Outer Continental Shelf for the exploration of oil and gas; and

"Whereas, Revenues from a nonrenewable offshore natural resource which belongs to the people of the United States should be reinvested in ocean and coastal programs which provide management for renewable coastal resources; and

"Whereas, Federal financial support for state coastal zone management and related marine programs is being withdrawn and an inequity exists because inland states receive royalties from mineral leases on federal lands, and coastal states affected by the federal Outer Continental Shelf oil and gas leasing and development now receive no direct compensation; and

"Whereas, the total federal revenues from the development of oil and gas on California's Outer Continental Shelf amounted to $2.38 billion in federal Fiscal Year 1981; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to support the establishment of an ocean and coastal resources management and development fund, supported by Outer Continental Shelf oil and gas revenues, and to provide that the money from the fund be distributed to coastal and Great Lake states and territories in block grants for coastal management, research, energy impact planning and mitigation, and fisheries management programs; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and

Representative from California in the Congress of the United States."

POM-1229. A joint resolution adopted by the Legislature of the State of California; to the Committee on Energy and Natural Resources:

"ASSEMBLY JOINT RESOLUTION No. 117

"Whereas, the United States Department of the Interior has decided to lease certain areas of the Outer Continental Shelf off the southern California coast on June 11, 1982; and

"Whereas, the areas covered by the lawsuit filed by the State of California are the 12 tracts adjacent to Santa Monica Bay, the precautionary area off of the Ports of Los Angeles and Long Beach, and nine tracts within the three and one-half nautical mile buffer zone offshore of Orange County; and

"Whereas, the exploration, development, and production of oil in these areas would threaten ecological preserves and other ecologically sensitive areas; increase the risk of oil spills; increase onshore air pollution; increase hazards to vessel traffic safety; and seriously threaten the economy and quality of life of southern California coastal communities; and

"Whereas, the proposed leases are in direct conflict with the provision of the federal Coastal Zone Management Act of 1972, which required federal action directly affecting the state to be conducted in a manner consistent with the state's approved coastal management program; and

"Whereas the Secretary of the Interior violated the provisions of the Outer Continental Shelf Lands Act amendments by offering the above-described tracts for lease sale in spite of reasonable recommendations by the Governor of California that the tracts be deleted from the lease sale; and

"Whereas, there is no likelihood of obtaining oil from these areas in amounts which would meaningfully assist America's national energy supply needs in comparison to the potential economic and ecological damage which could result; and

"Whereas, the State of California has brought an action in federal court seeking declaratory and injunctive relief in order to stop the proposed lease sale in these areas; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California strongly supports the actions taken by the state to prevent the June 11, 1982, proposed lease sale of the above-described tracts by the United States Department of the Interior; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM—1230. A joint resolution adopted by the Legislature of the State of California; to the Committee on Environment and Public Works:

"ASSEMBLY JOINT RESOLUTION No. 120

"Whereas, Louisiana-Pacific Corporation and Crown Simpson Pulp Company, owners and operators of two nearly identical pulp mills located on the Samoa peninsula near Eureka, California, applied for and received from the State Water Resources Control Board in 1977 variances from federal ocean discharge limitations on biochemical oxygen demand (BOD) and alkalinity or acidity (pH); and

"Whereas, Municipalities are already eligible for exemption from those requirements under the Clean Water Act of 1977; and

"Whereas, The Environmental Protection Agency has refused to approve the variances granted to the two pulp mills by the State Water Resources Control Board; and

"Whereas, The State Water Resources Control Board has concluded that compliance with the federal requirements will result in negligible benefits to the ocean environment; and

"Whereas, the effluents currently being discharged with primary treatment are nontoxic and have never been shown to cause significant degradation of the ocean environment; and

"Whereas, compliance with the federal requirements will require construction of secondary treatment facilities at each mill, with the cost to each company estimated at ten million dollars ($10,000,000) to fifteen million dollars ($15,000,000) in capital costs, and one million dollars ($1,000,000) to two million dollars ($2,000,000) is annual operation and maintenance costs; and

"Whereas, Operation of the secondary treatment systems will have a net negative impact on energy, air pollution, visibility, sludge disposal, and chemical usage without any measurable improvement in receiving water quality; and

"Whereas, Construction and operation of the required secondary treatment plants will add substantially to the two mills' costs of production, with no corresponding benefits to the environment; and

"Whereas, Both mills have already been forced to curtail production periodically and lay off employees because of relatively high production costs and the companies' inability to compete in a weakened pulp market; and

"Whereas, Compliance with the federal requirements will reduce still further the two companies' ability to compete successfully on the world pulp market and provide continued employment for the mills' workers; and

"Whereas, Unemployment in Humboldt County is currently more than 17 percent, and further layoffs would exacerbate the county's depressed economic position, now therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California requests the Environmental Protection Agency to reopen it proceedings in this case and approve the variances granted the two pulp mills by the State Water Resources Control Board; and be it further

"Resolved, That if it is not feasible to reopen the proceedings, the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to amend the Clean Water Act of 1977, after careful evaluation of the potential water quality impacts of such action, to provide appropriate relief and to incorporate in the legislation the following provisions:

(a) All existing conditions and requirements of Section 301(h) of the Clean Water Act of 1977 applying to municipal dischargers shall be applicable to industrial dischargers.

(b) In order to demonstrate eligibility for a waiver, the applicant shall demonstrate there is no reasonable relationship between the economic and social costs and the benefits to be obtained, including the objectives of the Clean Water Act of 1977.

(c) The effluent limitations established under any such waiver shall be at such a level necessary to implement the applicable state water quality standards, sufficient to assure the protection and propagation of shellfish, fish, fauna, wildlife, and other aquatic organisms. In setting such standards, the administrator shall take into account any seasonal variations, an adequate margin of safety, and any lack of knowledge concerning the relationship between effluent limitations and water quality and any lack of knowledge of the effects of the discharge on receiving water beneficial uses.

"(d) Any such waiver shall not exceed a period of time greater than five years, with provisions for renewal upon application by the discharger.

"(e) A decline in ambient water quality during the course of the permit may constitute grounds for the termination of the waiver even if a direct cause and effect relationship cannot be shown.

"(f) Any waiver of effluent standards will be limited to the standards for biochemical oxygen demand (BOD) and acidity or alkalinity (pH).

"(g) No such waiver shall be allowed in estuarine areas or designated areas of special biological significance.

"(h) A state properly certified to administer NPDES permits shall have the right to have the Environmental Protection Agency be the responsible agency for hearing variances or an individual variance without otherwise endangering any other portion of a certified state's program. The state may, however, choose to hear all such variances.

"(i) The review process shall consider overall economic factors to ensure that the applicant is not granted an undue competitive advantage over other producers in that industry as a result of the modification in discharge limitations; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Administrator of the Environmental Protection Agency, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-1231. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance:

"ASSEMBLY JOINT RESOLUTION No. 76

"Whereas, The crimes of parricide and other forms of familial homicide are regarded as particularly heinous forms of murder; and

"Whereas, Under existing federal law cases have recently occurred in California in which the perpetrators of these crimes, who are dependents of the victims, have been held eligible for the payment of Social Security survivor's benefits available because of the deaths resulting from the commission of the crimes; and

"Whereas, The people of this state and other states are unjustly burdened by the payment of these benefits resulting directly from such crimes; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to review and remedy by reform legislation the federal rules and regulations pertaining to Social Security survivor's benefits so that persons found sane and committed or sentenced to

incarceration for the murder of a parent, spouse, or other family member will not benefit from federal funds paid as a result of the death of the murder victim; and be it further

"Resolved, That the Legislature urges the President and Congress of the United States to act swiftly to enact legislation remedying this injustice whereby a murderer may benefit from the government of the United States for his heinous act; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-1232. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance:

"ASSEMBLY JOINT RESOLUTION No. 127

"Whereas, The needs of the terminally ill, the bereaved, and their families in California and the nation have not been adequately met by the health care delivery system; and

"Whereas, The hospice concept of care for the terminally ill, the bereaved, and their families first received worldwide acclaim because of the efforts of Dr. Cicely Saunders to deliver hospice care in England; and

"Whereas, In the United States, the needs of the terminally ill of all ages was first brought to the attention of the health professions and the general public by Dr. Elisabeth Kubler-Ross; and

"Whereas, Through the efforts of many volunteers and health professionals, the hospice program of care has become an accepted part of the health care delivery system; and

"Whereas, The hospice program of care has received the official endorsement of numerous national organizations including the American Medical Association and the AFL-CIO; and

"Whereas, Numerous national corporations including General Electric, Westinghouse, Warner-Lambert Foundation, RCA, and the National Cancer Institute, have provided the hospice benefit to its employees, dependents, and, in some cases, its retirees; and

"Whereas, A large number of terminally ill patients and their families qualify for financial assistance under Medicare coverage; and

"Whereas, Hospices in California have provided national leadership in education, training, and program development, and in the setting of standards for the quality of care; and

"Whereas, Legislation currently before the Congress of the United States, House Bill 5180 (Panetta, D-CA) and Senate Bill 1958 (Dole, R-KS), proposes the modification of Medicare benefits to provide assistance for terminally ill citizens seeking the comfort and services of hospice care, and these proposed revisions in federal law are in the best interest of California residents; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact the provisions of House Bill 5180 (Panetta, D-CA) and Senate Bill 1958 (Dole, R-KS) to extend Medicare coverage to hospice services for terminally ill persons in the United States; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Chairman of the Senate Finance Committee, to the Chairman of the House Committee on Ways and Means, and to each Senator and Representative from California in the Congress of the United States."

POM-1233. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance:

ASSEMBLY JOINT RESOLUTION No. 129

"Whereas, Ontario Airport, a part of the Los Angeles International Airport complex, has become the transportation hub of the Inland Empire region of southern California and the focal point for major airline traffic; and

"Whereas, In addition to its own traffic, Ontario Airport has become the major traffic overflow facility for Los Angeles International Airport, thus handling traffic originating from all over the world; and

"Whereas, Airline traffic at Ontario Airport has increased every year since being designated as part of the LAX complex and has been the point of arrival for many international travelers to southern California; and

"Whereas, It is time that Ontario airport be fully recognized for its international importance and strategic position in the southern California international transportation network; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of California respectfully memorializes the President and Congress of the United States to direct the Civil Aeronautics Board to take the necessary action to designate Ontario Airport as an international airport, including United States customs clearance as part of its services and facilities as a port of entry to the United States; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Civil Aeronautics Board."

POM-1234. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance:

"ASSEMBLY JOINT RESOLUTION No. 116

"Whereas, We live in an increasingly computerized society; and

"Whereas, Education must keep pace with technological developments; and

"Whereas, Our schoolchildren are not receiving adequate training in the use and application of computers and other sophisticated equipment; and

"Whereas, It has been said that nothing more effectively contributes to the cultivation of a country than the education of the youth; and

"Whereas, Legislation exists in the House of Representatives of the Congress of the United States to allow greater tax credits and deductions for corporations which make charitable contributions of computers or other sophisticated technological equipment to schools; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes each Senator and Representative from California in the Congress of the United States to support efforts to encourage corporations to make charitable contributions of computers or other sophisticated technological equipment to schools by allowing the corporations to claim greater tax credits and deductions for these contributions; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-1235. A joint resolution adopted by the Legislature of the State of California; to the Committee on Foreign Relations.

"ASSEMBLY JOINT RESOLUTION No. 93

"Whereas, Mexico has established an offshore extended economic zone for the regulation of commercial fishing; and

"Whereas, In the past Mexico issued permits to American commercial fishermen to take fisheries products within the offshore economic zone, but will no longer issue these permits; and

"Whereas, Past activities of the Mexican government to discourage the taking of fisheries products within the zone by American commercial fishermen included heavy fines and the confiscation of fish and nets; and

"Whereas, In response to these activities the United States has embargoed all tuna and tuna products from Mexico; and

"Whereas, Negotiations between Mexico and the United States on the issue of commercial fishing within the zone are currently at a standstill with neither side gaining anything positive as a result thereof; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectively memorializes the President, the Congress of the United States, and the United States Secretary of State to reopen negotiations with Mexico on the issue of commercial fishing within the zone and to negotiate in total good faith avoiding approaches which could lead to the animosities that existed in the past; and be it further

"Resolved, That the Legislature of the State of California firmly believes that two countries with similar economic interests and a common border should be able to coexist in harmony and negotiate in good faith, and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the United States Secretary of State"

POM-1236. A joint resolution adopted by the Legislature of the State of California; to the Committee on Labor and Human Resources.

"ASSEMBLY JOINT RESOLUTION No. 119

"Whereas, A foreign company, "HEEREMA," has set an oil platform and is using foreign labor from Holland and Spain on the Outer Continental Shelf of California; and

"Whereas, We have many Americans in the State of California unemployed; now, therefore, be it

"Resolved, by the Assembly and Senate of the State of California, jointly, That the Legislature respectfully memorializes the President and the Congress of the United States to take such action as is necessary to ensure the use of American labor on the Outer Continental Shelf, with all applicable affirmative action guidelines; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-1237. A joint resolution adopted by the Legislature of the State of California; to the Committee on Labor and Human Resources.

ASSEMBLY JOINT RESOLUTION No. 107

"Whereas, Under the federal Employee Retirement Income Security Act of 1974 (ERISA), multiple-employer trusts are minimally regulated while state regulation, except that relating to insurance, is preempted; and

"Whereas, Multiple-employer trusts offer to provide health benefit plans and the benefits of comprehensive group health and other insurance to the vast and particularly vulnerable market group composed of small businesses and small employers at reduced costs and operate in the junctures of federal and state jurisdictions; and

"Whereas, Highly questionable business practices have occurred among the multiple-employer trusts, including the taking of immense fees, failures to provide comprehensive insurance benefits at reasonable costs, preparing brochures referring to health care providers without notice to or approval by those health care providers, failure to establish sound reserves, including a possible maximum unfunded group health insurance liability in California alone of $50,000,000, and business failures resulting in bankruptcy with policyholders being transferred to newly formed multiple-employer trusts; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the current federal statutes regulating the multiple-employer trust industry are ineffective and that the California Insurance Commissioner and the California Department of Corporations are well-equipped to regulate that industry; and be it further

"Resolved, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to enact legislation permitting the states to regulate all multiple-employer trusts which do not meet the ERISA definition of "employee benefit plan;" and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-1238. A joint resolution adopted by the Legislature of the State of California; to the Committee on Labor and Human Resources.

"ASSEMBLY JOINT RESOLUTION No. 89

"Whereas, A strong national economy and defense relies upon a well-trained pool of human resources; and

"Whereas, It is within the national interest to assist all citizens in their efforts to avoid prolonged dependence on federal assistance programs; and

"Whereas, Postsecondary educational opportunities have proven beneficial in aiding citizens in obtaining long-term, unsubsidized employment; and

"Whereas, The attainment of this employment contributes to the national economy and enables these individuals to repay the national investment in each person so employed; and

"Whereas, The State of California has demonstrated its longstanding commitment to maintaining accessibility to quality postsecondary education; and

"Whereas, The approval of recent and ongoing efforts to cut student financial aid programs will operate to reduce current funding for federal financial aid assistance to students in California by approximately $132.6 million and will result in the loss of over 198,000 student financial aid awards in the fiscal year 1982-1983; and

"Whereas, Federal outreach programs such as Special Programs for Disadvantaged Students (TRIO) and student financial assistance programs such as the State Student Incentive Grants, Pell Grants, Supplemental Education Opportunity Grants, Work-Study, and Guaranteed Student Loans have expanded the opportunities for postsecondary education; and

"Whereas, Federally proposed reductions in these programs will eliminate the opportunities which are available to a significant number of this nation's citizens to successfully enter into and complete a program of postsecondary education; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes each Senator and Representative from California in the Congress of the United States to work for the support of a federal appropriation level equivalent to that appropriated for the 1981 fiscal year for the support of these federally assisted student financial aid programs, and for the enactment of federal legislation to accelerate loan collection efforts on delinquent student loans so as to establish a revolving student loan funding mechanism; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-1239. A joint resolution adopted by the Legislature of the State of California; to the Committee on Labor and Human Resources.

"ASSEMBLY JOINT RESOLUTION No. 111

"Whereas, Elderly persons are an important natural resource which can be utilized to improve the general welfare of our nation; and

"Whereas, Unemployment among persons 55 years of age and older is skyrocketing; and

"Whereas, Many elderly persons find that it is absolutely necessary to supplement their meager incomes through the social security system or other pension systems, by engaging in employment; and

"Whereas, The difficult task of finding employment is complicated for elderly persons due to age discrimination, as well as the fact that many elders have been out of the work force for a number of years; and

"Whereas, Tremendous strides in employment of elderly persons have been made through the federally funded Community Service Employment for Older Americans programs, provided for pursuant to Title V of the Older Americans Act, as amended; and

"Whereas, This program has been extremely effective in promoting useful part-time opportunities in community service activities for unemployed low-income workers, as well as placement into unsubsidized employment; and

"Whereas, In December of 1981, subsequent to Congressional action, President Reagan signed into law a three-year extension for this program; and

"Whereas, Recommendations have been made to eliminate this program through federal budget action; and

"Whereas, The demise of this program would add to the difficulties which currently exist in securing employment for the elderly; now, therefore be it

"Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to refrain from taking any action which could lead to the elimination or dismantling of the Community Service Employment for Older Americans program, and to extend full funding to the program, as budgeted in fiscal year 1981-82; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representatives from California in the Congress of the United States."

POM-1240. A joint resolution adopted by the Legislature of the State of California; to the Committee on Labor and Human Resources.

"ASSEMBLY JOINT RESOLUTION No. 69

"Whereas, The Federal Library Services and Construction Act (20 U.S.C. Sec. 351 et seq.) since its passage has provided valuable support to the extension and improvement of public library services in California and throughout the nation; and

"Whereas, Under the Library Services and Construction Act, $6,500,000 has been provided annually to the State of California to be distributed within the state by the State Librarian for library services to low-income physically handicapped, and elderly persons, to the limited- and non-English speaking, and for the general improvement of the quality of library services and interlibrary cooperation in the state; and

"Whereas, Many California public libraries and their underserved and limited- or non-English-speaking patrons have benefited and continue to benefit from the improved library services and access to free public library resources made possible by funds awarded by the State Librarian from the LSCA; and

"Whereas, Funding for California's public libraries has been cut back as a result of the budgetary reductions following the passage of Proposition 13; and

"Whereas, A 25 percent reduction in LSCA funding, which was $62,500,000 in 1981, has been proposed for the fiscal year 1982; and

"Whereas, This reduction in funding would have an extremely detrimental effect upon the ability of California public libraries to continue to provide to their users even the present level of services, which has already been cut back to the basic level, and would limit the ability of the information-poor, particularly the Hispanic, blind, and disabled, to have equal access to the information resources enjoyed by California citizens; and

"Whereas, Many current library services which assist the underserved and disadvantaged, including the California Spanish Language Data Base, reference networks, and the school-public library cooperation program, receive full or partial funding from LSCA; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California jointly, That the Legislature of the State of California commends the State Librarian and the library community for their continued support of free access to library information services and resources for the disadvantaged, the limited- and non-English speaking, the blind, and the disabled; and be it further

"Resolved, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to maintain at $62,500,000 the amount of funding given to the Library Services and Construction Act in 1982 and to provide adequate funding in subsequent years in order to provide vital federal funds to the State of California for library services to the disadvantaged; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-1241. A joint resolution adopted by the Legislature of the State of California; to the Committee on Veterans' Affairs.

ASSEMBLY JOINT RESOLUTION 72

"Whereas, As a result of an amendment to the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35) sponsored by the Reagan Administration, veterans of the United States armed forces separated after July 31, 1981, are no longer able to avail themselves of unemployment benefits except in rare circumstances; and

"Whereas, This loss of benefits to veterans constitutes a severe disincentive to those contemplating enlistment in the United States military, and thus will make recruitment of qualified individuals to serve in the armed forces much more difficult; and

"Whereas, This loss of benefits amounts to real economic injustice against active duty servicemen and women who, in many cases, must already rely on food stamps and other forms of public assistance to make ends meet; and

"Whereas, It has been shown that less than 20 percent of veterans are able to secure employment upon their release from active duty or discharge in which they can use skills learned while in the military; and

"Whereas, These newly enacted restrictions stand in stark contrast to the 52 weeks of unemployment benefits afforded to veterans after World War II; now, therefore, be it

"Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to support and enact necessary changes to the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35) so that ex-military persons who served their country honorably are not deprived of their rightful benefits in assisting them in their transition from military to civilian life; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-1242. A joint resolution adopted by the Legislature of the State of California; to the Committee on Veterans' Affairs.

"ASSEMBLY JOINT RESOLUTION No. 71

"Whereas, A burial allowance of $300 has been a time-honored benefit available from the federal government for service in the United States Armed Forces; and

"Whereas, The Reagan Administration, with the approval of Congress, has eliminated this benefit for all veterans except those with a compensable service-connected disability or receiving a pension; and

"Whereas, This action has resulted in the loss of this benefit for 3.3 million California veterans; and

"Whereas, The cost of burial of indigent veterans will now fall upon the counties in this state because of prohibitions in the California Military and Veterans Code against paupers' burials for veterans; and

"Whereas, The estimated cost due to the loss of this benefit is estimated to be $250,000 to $300,000 in Los Angeles County alone; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California hereby respectfully memorializes the President and Congress of the United States to reverse the recent federal action which eliminated the $300 burial benefit for veterans of the United States Armed Forces; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States"

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SPECTER (for himself, Mr. GRASSLEY, and Mr. BOSCHWITZ, and Mr. DIXON):

S. 3076. A bill to provide a temporary means to correct imbalances in the natural gas market in order to restrain prices charged to natural gas users; to the Committee on Energy and Natural Resources.

By Mr. EAGLETON:

S. 3077. A bill to establish the Harry S. Truman National Historic Site in the State of Missouri, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BAKER (for Mr. LAXALT (for himself and Mr. CANNON)):

S. 3078. A bill to amend the Internal Revenue Code of 1954 to exempt from the windfall profit tax certain charitable organizations which provide assistance to patients; to the Committee on Finance.

By Mr. HATFIELD:

S. 3079. An original bill making appropriations for energy and water development for the fiscal year ending September 30, 1983, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. PELL (for himself and Mr. CHAFEE):

S. 3080. A bill to require the Administrator of General Services to convey at no cost certain surplus real property for public park or public recreational use to State and local governments; to the Committee on Governmental Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. PERCY (for himself, Mr. MURKOWSKI, Mr. HELMS, Mr. GLENN, Mr. ABDNOR, Mr. HAYAKAWA, Mr. MATTINGLY, Mr. CHAFEE, Mr. LUGAR, Mr. ZORINSKY, Mr. RANDOLPH, Mr. KENNEDY, Mr. BIDEN, Mr. KASTEN, Mr. PRESSLER, Mr. HOLLINGS, Mr. PELL, Mr. SASSER, Mr. GORTON, Mr. LEVIN, Mr. BUMPERS, Mr. DIXON, Mr. INOUYE, Mr. D'AMATO, Mr. SARBANES, Mr. JACKSON, Mr. ROTH, Mr. HEINZ, Mr. GARN, Mr. QUAYLE, Mr. MOYNIHAN, Mr. NICKLES, Mr. THURMOND, Mr. ROBERT C. BYRD, Mr. METZENBAUM, Mr. GRASSLEY, Mr. BRADLEY, and Mr. MATSUNAGA):

S. Res. 501. Resolution expressing the sense of the Senate that the American people continue to protest martial law repression in Poland and wish to see it ended, remaining detainees released, and full and free dialogue resumed with the Church and Solidarity; and urging the President to proclaim a national day of solidarity and prayer with the Polish people on the first anniversary of the imposition of martial law; submitted and read.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SPECTER (for himself, Mr. BOSCHWITZ, Mr. GRASSLEY, and Mr. DIXON):

S. 3076. A bill to provide a temporary means to correct imbalances in the natural gas market in order to restrain prices charged to natural gas users; to the Committee on Energy and Natural Resources.

TEMPORARY NATURAL GAS MARKET CORRECTION ACT OF 1982

Mr. SPECTER. Mr. President, In my capacity as cochairman of the Northeast-Midwest Coalition in the U.S. Senate, I am introducing this legislation drafted by the Northeast-Midwest Institute because I am convinced that some action must be taken on the urgent national problem of natural gas.

On my travels through Pennsylvania and from thousands of letters from constituents, I believe that some relief must be given from the sharp increases in the price of natural gas. The Citizen Labor Energy Coalition report-

ed in September that natural gas customers in 26 States, including Pennsylvania, will see their bills rise by $2.3 billion over the next 6 months despite the fact that gas supplies are currently plentiful. In Pennsylvania, most of the 1.8 million households which heat their homes with natural gas had their gas rates increased substantially at the beginning of September. Preliminary estimates show that a minimum of 50,000 jobs will be lost in Pennsylvania if proposed increases in natural gas rates go into effect. That 50,000 job-loss figure could easily rise to a significantly higher number.

While I have substantial reservations about this bill, I am introducing it because it is indispensable that we proceed with a national debate on this complex issue in an effort to find answers. The answers must include both livable prices for the consumers and a policy which will encourage exploration of natural gas to help to relieve our dependence on OPEC oil.

My reservations on this bill include its effect on existing contracts since it makes fundamental changes from prior legislation on which explorers and producers have relied. The impact on exploration and production is a factor which must be addressed in hearings.

While it is highly unlikely that any such legislation can be enacted this year, the introduction of this bill, along with other pending proposals, will provide a framework for national debate on this subject. I am pleased that Senator McCLURE, Chairman of the Energy Natural Resources Committee last week scheduled hearings on December 13, 1982, and I am confident that Senator McCLURE will schedule whatever additional hearings may be required to complete consideration of this issue. The introduction of this bill will enable the committee to focus specifically on the contents of the proposal by the Northeast-Midwest Coalition.

In evaluating the propriety of suspending existing contracts, it is important to know what the effects will be on gas producers in terms of financial hardship or even possible bankruptcies. From the consumers point of view there should be an evaluation of the financial hardship on homeowners and the possibility of bankruptcies of businesses—either large or small businesses.

In my judgment, the Congress should proceed with extreme caution in abrogating or suspending contracts. That should be done only on a strong showing that the national health and welfare mandate elevating the interests of the consumers over the existing contractual rights of the producers. A final judgment on the issue of such short-term suspension of contracts may depend on the balancing of bankruptcies as to gas producers versus the business gas consumers, and whether residential consumers can both heat and eat.

Hearings can shed the determinative light on these critical factual questions. It may be that this bill should be amended to permit exceptions to suspension of contracts where producers can show extreme financial hardship or the imminence of bankruptcies. I believe the introduction of this bill will aid the hearing process and assist in finding both short- and long-term answers to the complex issues involved in our national natural gas policy.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3076

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Temporary Natural Gas Market Correction Act of 1982".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) problems of market imbalance threaten the natural gas industry;

(2) such problems are likely to result in natural gas users being burdened by excessively high prices;

(3) interstate commerce is significantly affected by such problems;

(4) an urgent need exists to provide, on a temporary basis, immediate relief from natural gas contract provisions which cause those problems; and

(5) adequate information regarding the operation of the natural gas market is not available to the Congress and the public.

(b) It is the purpose of this Act to reduce the cost of natural gas supplies to end users which would otherwise occur during the forthcoming year under "take-or-pay" and other minimum charge contract provisions—

(1) by permitting natural gas pipeline companies to adjust volumes of high-price natural gas they would otherwise be required to take from producers and other suppliers, thereby facilitating new contracts (and renegotiation of existing contracts) for lower-price natural gas; and

(2) by treating any failure by such pipeline companies to provide to their customers the least-cost natural gas available under contract as if such failure were "fraud, abuse, or similar grounds" for purposes of the Natural Gas Policy Act of 1978.

NATURAL GAS PURCHASE CONTRACTS DEEMED TO INCLUDE VOLUME ADJUSTMENT OPTION

SEC. 3. (a)(1) Any contract for the first sale of natural gas shall be deemed to include a volume adjustment option (as defined in subsection (b)) with respect to any natural gas the first sale delivery of which could occur pursuant to such contract at any time after the effective date of this section and before November 1, 1983.

(2) Such option shall be in addition to, and not in lieu of, any other provision of such contract; except that such option shall supersede any other provision of such contract to the extent such other provision would prohibit or restrict the operation of such option.

(b) For purposes of this section, the term "volume adjustment option" means a contract provision under which the purchaser may elect to refuse to take delivery under such contract of any volume of natural gas (or portion thereof) without incurring an obligation to pay any fee or charge with respect to the natural gas not delivered pursuant to such election.

(c) Subsection (a) shall only apply to natural gas produced in the United States (including the Outer Continental Shelf).

(d) This section shall take effect beginning on the 15th day after the date of the enactment of this Act.

FAILURE BY A PIPELINE TO ACQUIRE THE LEAST-COST NATURAL GAS UNDER CONTRACT CONSIDERED AS FRAUD, ABUSE, OR SIMILAR GROUNDS FOR PURPOSES OF F.E.R.C. REVIEWING PASS-THROUGH OF COSTS

SEC. 4. (a) Except as provided under subsection (c), the purchase by any natural gas pipeline company of any natural gas which is delivered on any day on or after the effective date of this section and before November 1, 1983, at an excessive price shall be considered as fraud, abuse, or similar grounds for purposes of section 601(c)(2) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3431(c)(2)).

(b) For purposes of subsection (a), the price of natural gas delivered to any natural gas pipeline company on any day shall be considered excessive if that price exceeds the price of any other natural gas not delivered to such pipeline company on that day but which could have been acquired by such pipeline company for delivery on that day under any contract to which the pipeline company is a party. Any modification of such contract after December 6, 1982, shall not be taken into account for purposes of the preceding sentence to the extent such modification results in a higher price, lower delivered volume, or earlier termination of such contract than would otherwise occur under the terms of such contract as they were in effect December 6, 1982.

(c) Subsection (a) shall not apply to the acquisition of any natural gas if—

(1) such acquisition is determined by the Federal Energy Regulatory Commission to be justified because of field drainage requirements, because of peak-shaving demands of any pipeline, local distribution company, or end-user, or because of similar reasons; and

(2) a filing for such exception is included with the first filing made by such company under section 5(a) of this Act.

(d) This section shall take effect beginning on the 15th day after the date of the enactment of this Act.

MODIFICATION OF COSTS UNDER PURCHASED GAS ADJUSTMENT CLAUSE

SEC. 5. (a) Within 15 days after the date of the enactment of this Act, and monthly thereafter, each natural gas pipeline company shall file with the Federal Energy Regulatory Commission—

(1) a statement explaining how such pipeline company has used and will use the contract rights available under section 3, as well as other steps it has taken and proposes to take, to achieve the lowest possible weighted average acquisition cost of natural gas; and

(2) a modification of the costs to be recovered by such pipeline under a purchased gas adjustment clause, if the weighted average acquisition cost of natural gas by such pipe-

line company is lower by reason of the exercise of the contract rights available under section 3 or other steps taken by such pipeline company.

(b) Any modification made under subsection (a)(2) shall take effect on and after the date it is filed.

(c) The filings made under this section shall specify, with respect to each contract under which the pipeline company can acquire natural gas during the period covered by section 3—

(1) the parties to such contract;

(2) the volumes subject to such contract;

(3) the price or prices for the natural gas subject to such contract; and

(4) the point of delivery under such contract.

DEFINITIONS

SEC. 6. For the purposes of this Act—

(1) the term "natural gas pipeline company" means a natural-gas company, as defined in section 2(6) of the Natural Gas Act;

(2) the terms "first sale", "deliver", and "Outer Continental Shelf" have the meanings given such terms by the Natural Gas Policy Act of 1978; and

(3) the term "purchased gas adjustment clause" has the meaning given such term under regulations issued under the Natural Gas Act.

● Mr. BOSCHWITZ. I rise today in joining my friends on the Northeast-Midwest Coalition in introducing legislation to revolve the emerging crisis in the natural gas market.

The crisis is partly one of price. Rapidly escalating natural gas prices as we approach winter stand to severely hurt residential consumers already hard pressed by the recession, not to mention industrial and consumer users.

My home State of Minnesota has been hit particularly hard by these price increases. According to Minnesota's State energy agency, residential natural gas prices increased from an average of $4.02 Mcf in 1981 to $5.03 Mcf so far in 1982. The agency projects an increase of nearly 20 percent in 1983 to $5.75 Mcf.

That means that Minnesotans will be paying an average of $110 more in natural gas bills this winter. That is an unnecessary and onerous burden for lower- and middle-income families.

This is most tragic in northeastern Minnnesota's iron range, one of the coldest areas of the State, and also an area where unemployment has overstepped 20 percent.

The crisis we face is not concerned solely with price. It is one of public confidence in the natural gas industry and in the price system established by the Government in 1978. The problem is that, according to the logic of the marketplace, prices should not be rising rapidly when demand for gas is declining.

But that is exactly what is happening.

For example, natural gas consumption in the United States for the first 8 months of 1982 was 4.6 percent less than in the comparable 1981 period, according to the Department of Energy.

At the same time, the cost to heat your home increased. Average residential heating prices for natural gas in the United States increased from $3.95 per thousand cubic feet (Mcf) in 1980 to $4.56 in 1981. Prices increased from $4.86 Mcf in January 1982 to $5.61 Mcf in June 1982 despite the fact that consumption always declines as winter turns into spring.

Knowledgeable observers cite two reasons for this contradiction of the laws of supply and demand in the gas market:

The first is that under the NGPA, prices of "new" gas—gas discovered after 1977—are to be gradually decontrolled until 1985, when controls will be removed entirely.

The whole purpose of the NGPA was to eradicate the gas shortage of 1976–77 through a phased program of price decontrol, which would, in turn, encourage procedures to increase supply. The NGPA has given us higher prices, which continue to rise today, but it has achieved its objective of bringing forth greater supplies. There is now a gas surplus of around a trillion cubic feet.

Mr. President, the NGPA's decontrol program makes sense as a partial explanation for rising natural gas prices, but there is more to the story. I am convinced that another major factor in the price increases is the behavior of the pipeline companies.

The pipeline company which supplies over 90 percent of Minnesota's natural gas is Northern Natural Gas Co. This year, Northern Natural Gas applied to the Federal Energy Regulatory Commission for a staggering rate increase of $348 million. This amounts to a 22-percent increase over last year. Included in this proposal was a recommended rate-of-return on investment of 18 percent.

As a businessman who has fully felt the ravages of our economy, Mr. President, I would dearly love to earn that kind of rate of return on investment, especially in the midst of a recession, when earnings at most firms are being squeezed. I find it difficult to justify such a high return on investment in the face of rising gas prices.

Curiously, Northern Natural also claimed it needed this large rate increase because high gas prices have led to declining demand, thus reducing the volume of gas carried in their pipelines and raising unit costs. Here again, the consumer gets gouged for conserving. What's more, the more he conserves, the more the price goes up.

Also, I am told by FERC that they feel Northern Natural overestimated its loss of volume, which means that they asked for a larger rate increase than they should have.

A final reason for Northern's rate increase was its contention that it needed to offset purchases of high-cost ($4.94 Mcf) Canadian gas, which they ordered during the gas shortages of 1976–77. But is it really fair to ask the consumer to bail Northern out of this predicament? Is it fair to charge customers for this high-cost gas that is no longer needed? I don't think so.

Mr. President, I have related this account about a gas pipeline in Minnesota to make one important point: Consumer all over the country are at the mercy of pipeline companies who do not necessarily have the consumer's best interests at heart.

Take, for example, the issue of so-called take or pay contracts, which is the principal concern of the legislation my colleagues and I are introducing today. During the gas shortage of 1976–77, contracts were written between pipelines and producers which have now locked pipelines into paying for expensive gas whether they use it or not. The pipelines were eager to get gas during the shortage and did not foresee that these contracts would eventually prevent them from acquiring gas cheaper than that which they contracted for.

Mr. President, these take or pay contracts are certainly a factor in the rising gas prices we now face. The bill being introduced today tackles this problem in two ways.

First, it allows pipelines to refuse to take gas under take or pay contracts without having to pay for it for a period lasting from 15 days after the date of the bill's enactment to November 1, 1983.

Second, it allow FERC to charge a pipeline which does not use this right to acquire the lowest cost gas available with fraud. This would then allow FERC to deny or scale back a rate increase based on a pipeline's claim of higher costs for gas purchases.

I do not think this bill will completely solve the problem of rising gas prices. There will continue to be some escalation due to the NGPA. But it will place needed pressure on pipelines to serve the interests of consumers by acquiring the lowest cost of gas possible. I also favor a tough stand by FERC in reviewing pipeline rate increases.

Mr. President, if we are to retain the confidence of consumers as another tough winter approaches, we must do everything in our power to hold gas price increases to a minimum. This bill, together with close scrutiny by FERC of all proposed rate increases will help us meet that objective.●

● Mr. GRASSLEY. Mr. President, earlier today, members of the Northeast-Midwest Coalition held a press conference announcing the introduction of legislation to provide some relief to individuals hit hard by increases in natural gas prices. I regret that I was unable to join my distinguished colleagues at that press conference, but I would like to take this opportunity to

voice my strong support for the Temporary Natural Gas Market Correction Act of 1982.

This issue of natural gas pricing is of tremendous concern to all Iowans who have been hit with a 100-percent increase in their natural gas prices over the past 3 years. Despite their commendable conservation efforts, Iowans can expect to see their natural gas bills rise an additional 25 percent during the upcoming winter months. As an energy-dependent State, Iowa has sought to combat the hardships brought on by spiraling heating costs by successful utilizations of Federal energy block grants. Yet Iowans must face another winter of higher gas costs unless the Congress takes some action to address the problem.

Our current natural gas paradox stems from a combination of current contracts negotiated between pipelines and producers and the pricing structure mandated by the Natural Gas Policy Act of 1978, legislation I voted against. In order to remedy some of the distortions created by current market conditions and those producer-pipeline contracts, the Temporary Natural Gas Market Correction Act will require pipeline companies to adjust the volume and mix of their gas in order to provide the least cost mix of gas available under their current contracts. Thus, a pipeline could refuse to take higher priced gas if lower priced gas is available.

Although this bill does not provide a comprehensive solution to soaring gas prices, it is nonetheless a serious and positive attempt to address the severe problem of high prices this winter. We cannot sit idly by and watch as Americans pay an increasing percentage of their take-home pay to heat their homes. It is now to the point where some unfortunate individuals must choose between heating their homes and putting food on the table.

I beleive we must take this opportunity during these last few weeks of the 97th Congress to act on the regulatory maelstrom we unleashed with passage of the Natural Gas Policy Act. Furthermore, we must stand ready to adopt more long-term and comprehensive solutions once Congress convenes next year. In the interim, I remain hopeful that contracts between pipelines and producers can be renegotiated to dramatically improve the current pricing anomolies. Such initiatives would substantially improve the energy environment for consumers and signal a good faith effort by the natural gas industry to work for remedial action.●

By Mr. EAGLETON:

S. 3077. A bill to establish the Harry S. Truman National Historic Site in the State of Missouri, and for other purposes; to the Committee on Energy and Natural Resources.

HARRY S. TRUMAN NATIONAL HISTORIC SITE

● Mr. EAGLETON. Mr. President, today I am introducing a bill to facilitate the transfer of the Truman home from the General Services Administration to the National Park Service.

It is a simple matter of transfer between two of our Federal agencies, both willing participants in the transfer.

Our country has been given a special gift by our former First Lady, Bess Truman, who passed away on Monday, October 18, 1982, at the age of 97. Words cannot express the loss I feel for this special First Lady. The Trumans left as their legacy to the American people their home and grounds in Independence. This is the house the Trumans happily returned to after leaving the White House. It was the house Bess Truman always called home.

The Victorian-style white frame house at 219 North Delaware, Independence, Mo., which had been in Mrs. Truman's family since the middle 1880's, was bequeathed to the U.S. Government to be administered under the direction "of the Archivist of the United States in conjunction with the Harry S. Truman Library."

Both the Archivist and the National Park Service are in agreement that the management of the Truman home should be handled by the National Park Service, as most Presidential homes are currently managed by the Park Service or private organizations. This is acceptable to the Truman family, as well.

I ask that the Senate give my bill expedited attention. Currently, the Truman estate is paying for security guards at the home, until the appropriate authorization can be passed. Today, the Senate Interior Appropriations Subcommittee agreed to report language appropriating the needed $160,000 for 24-hour security guards at the Truman home for the coming fiscal year.

This historic site is most certainly a valued and treasured national asset, and I feel it is important that out of the proper respect to the generosity of the Trumans that this Congress move quickly in transferring the property, so that the funding for immediate protection of the home can be forthcoming.●

By Mr. BAKER (for Mr. LAXALT for himself and Mr. CANNON):

S. 3078. A bill to amend the Internal Revenue Code of 1954 to exempt from the windfall profit tax certain charitable organizations which provide assistance to patients; to the Committee on Finance.

EXEMPTION OF CERTAIN CHARITABLE ORGANIZATIONS FROM WINDFALL PROFIT TAX

● Mr. LAXALT. Mr. President, I am introducing legislation exempting from the windfall profit tax certain charitable organizations that provide research, physician education and/or assistance to patients and which will be forced to close their doors as a result of this tax.

There are a small number of vitally important medical service organizations who aid in payment of hospital bills, out-patient care, and living expenses for patients who are terminally ill or physically impaired for a continuous period of a year or longer. They have been put in great financial straits and will be forced to terminate their services to patients upon payment of the windfall profit tax.

Presently, only schools, hospitals, orphanages, and certain churches are exempt. This amendment would allow these specific service organizations which are originated and operated substantially to provide physical training, medical or hospital care, medical research, or financial assistance to medical research, or to individuals who have a medically determinable physical impairment that can be expected to last for a continuous period of not less than 1 year or resulting in death.

I do not believe Congress intended to discriminate against usually tax-exempt, nonprofit service organizations which receive their money from oil revenues. These few institutions obviously slipped through the cracks when Congress originally composed the windfall profit tax. During these times of reduced Government spending, and increased emphasis for private charitable works, we should be doing all we can to help these small but extremely vital establishments whose sole purpose is to give aid to physically impaired and terminally ill patients who are struggling financially.

Specifically, there are two such organizations in Nevada which will be forced to close their doors as a result of the windfall profit tax. The Reno Cancer Center and the Nevada Division of the American Lung Association are two nonprofit, patient service organizations which will be devastated by this tax.

The Reno Cancer Center has been in existence for 24 years in the Washoe County Hospital in Reno. Its purpose is to help pay for hospital care, chemotherapy, and other drugs and radiation for cancer patients and on occasion, a portion of surgery fees; though the bulk of the patient assistance program is to help pay for cancer patients' living expenses.

In the past, the Reno Cancer Center has also given money to the University of Nevada Medical School for cancer research; however, this year it has been forced to keep this money to pay the windfall profit tax.

The Nevada Lung Association primarily aids with living expenses, medi-

cal research, physical training, and hospital care for patients with unpayable medical expenses. It, too will be forced to close its doors as it financially cannot exist when forced to pay such a large percentage of funds as taxes.

I believe Congress will agree that it is vital that both the Reno Cancer Center and the Nevada Lung Association become exempt from the windfall profit tax as they are both patient service, nonprofit, usually tax-exempt organizations that will be devastated and ultimately terminated by this tax.●

By Mr. PELL (for himself and Mr. CHAFEE):

S. 3080. A bill to require the Administrator of General Services to convey at no cost certain surplus real property for public park or public recreational use to State and local governments; to the Committee on Governmental Affairs.

ACQUISITION OF SURPLUS FEDERAL PROPERTY BY STATE AND LOCAL GOVERNMENTS

● Mr. PELL. Mr. President, today I am introducing legislation to allow State and local governments to continue to acquire surplus Federal lands for park and recreational purposes. Over the years, the American people have enjoyed the benefits of State parks across the Nation that were developed through the acquisition of surplus Federal lands. Earlier this year the longstanding Federal practice of promoting State and local park development was frozen in its tracks by an Executive order stating that the new policy of the Government would be to auction surplus property at fair market value to the highest bidder. My legislation would insure that notwithstanding this Executive order, the General Services Administration will continue to convey surplus property at no cost where the conveyance is for the purpose of park and recreational development by State and local governments.

The President's Executive order was intended to reduce the inventory of surplus Federal property, and in the process contribute to the reduction of the Federal debt. I do not quarrel with the administration's broad objectives, and no doubt there are many properties which the Federal Government has held for years which are ideally suited for commercial or residential development, and would produce a substantial amount of revenue if appraised and sold at fair market value. The identification and sale of these properties will spur needed economic activity, and eliminate the cost to the Federal Government of maintaining a large inventory of unproductive surplus property. At the same time, however, I believe it would be shortsighted and foolish for the Government to conduct a "fire sale" of surplus properties, and in so doing give up valuable natural resources which have a value to the taxpayers far beyond the fair market price these land could produce on the auction block.

Belonging to this category are dozens of properties in the Federal inventory which are ideally suited for park and recreational use by the American public. By longstanding practice under Federal law, the General Services Administration—as custodian of Government property—has offered surplus land to State and local governments at no cost, if the acquisition is for park and recreational development. Surplus properties not designated by the National Park Service for transfer in this category could then be offered for public sale. This procedure has worked well in making thousands of acres of surplus lands available for the park and recreational enjoyment of the American people. An example of property obtained in this manner is the beautiful Narragansett Bay Islands Park in my own State of Rhode Island, which consists of a number of formerly excess Federal properties preserved for public benefit under the management of the Rhode Island Department of Environmental Management.

Executive Order 12348, signed by the President on February 25, 1982, directed the General Services Administration to complete appraisals on surplus properties, and begin the process of auctioning them at fair market value. The order applies even to properties that have previously won designation for recreational use by the Park Service. I believe this practice is shortsighted, and will result in many properties being sold for a "quick fix" for the Federal debt that should be preserved as valuable natural resources for all the taxpayers. In many cases, the public sale of these lands will actually diminish the value of existing park and recreational areas. Such a case exists in Rhode Island, where GSA is proceeding toward the sale of a 6.6-acre parcel at Beavertail Park in Jamestown. This property is a former Naval Reserve station which is entirely surrounded by State parkland. Its value for private development is, of course, enhanced by its proximity to the beautiful Narragansett Bay Islands Park. At the same time, commercial development of the Beavertail site will diminish the surrounding parklands—just as a condominium development in the middle of Yellowstone Park would devalue the beauty and uniqueness of that national treasure.

The legislation I am introducing today, with the cosponsorship of my colleague Senator CHAFEE, will allow the conveyance at no cost of surplus properties which have been identified by State or local planning agencies as appropriate for potential park and recreational use. Any property conveyed to State and local governments in this manner must be retained for park use in perpetuity.

This legislation will insure that there is ample opportunity to decide the most appropriate use for surplus Federal lands before the property is put on the auction block for private development. Most significantly, it will preserve for future generations valuable public resources which are in danger of being permanently lost to immediate sale at fair market value. Congressional attention to this problem is urgently needed, if we are to prevent irreparable losses of valuable public assets in many States, and I urge my colleagues to join me in urging the prompt enactment of this legislation.

I ask that the text of the bill be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3090

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (k) of section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(k)) is amended—

(1) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively, and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) Notwithstanding any other provision of law, the Administrator shall convey to any State, political subdivision, instrumentality, or municipality, without monetary consideration to the United States, all of the right, title, and interest of the United States in and to any surplus real property, including buildings, fixtures, and equipment situated thereon, which the Secretary of the Interior shall designate as suitable for public park or public recreational use after receiving a plan for such use submitted by any such State, political subdivision, instrumentality, or municipality. Such plan shall include assurances that such use shall be perpetual.".●

ADDITIONAL COSPONSORS

S. 1256

At the request of Mr. EXON, the name of the Senator from Arkansas (Mr. BUMPERS) was added as a cosponsor of S. 1256, a bill to regulate interstate commerce by protecting the rights of consumers, dealers, and end-users.

S. 2424

At the request of Mr. HEINZ, the name of the Senator from Vermont (Mr. STAFFORD) was added as a cosponsor of S. 2424, a bill to amend the Internal Revenue Code of 1954 to allow a credit against tax for expenses incurred in the care of elderly family members.

S. 2731

At the request of Mr. HEINZ, the name of the Senator from New York

(Mr. D'AMATO) was added as a cosponsor of S. 2731, a bill to amend title II of the Social Security Act to provide for continued payment of disability benefits during appeal, to provide adjustment benefits and vocational training for individuals terminated from the disability program, to strengthen the reconsideration process, to provide for more uniformity in decisionmaking at all levels of adjudications, and for other purposes.

S. 2800

At the request of Mr. MCCLURE, the names of the Senator from Nevada (Mr. LAXALT), and the Senator from Idaho (Mr. SYMMS) were added as cosponsors of S. 2800, a bill to provide for the disposal of silver from the national defense stockpile through the issuance of a special series of bonds which may be redeemed for silver, and for other purposes.

S. 2948

At the request of Mr. DOLE, the name of the Senator from Washington (Mr. GORTON) was added as cosponsor of S. 2948, a bill to promote the development of nonanimal methods of research experimentation, and testing, and to insure humane care of animals used in scientific research, experimentation, and testing.

S. 2953

At the request of Mr. PELL, the names of the Senator from West Virginia (Mr. RANDOLPH) and the Senator from North Dakota (Mr. BURDICK) were added as cosponsors of S. 2953, a bill to provide for a program of financial assistance to States in order to strengthen instruction in mathematics, science, computer education, foreign languages, and vocational education, and for other purposes.

S. 2954

At the request of Mr. PELL, the name of the Senator from Connecticut (Mr. WEICKER) was added as cosponsor of S. 2954, a bill to amend part E of the Higher Education Act of 1965 to provide cancellation of loans for certain teachers who enter the teaching profession in the field of mathematics, science, or computer education.

S. 3040

At the request of Mr. ARMSTRONG, the names of the Senator from Minnesota (Mr. BOSCHWITZ), and the Senator from Minnesota (Mr. DURENBERGER) were added as cosponsors of S. 3040, a bill establishing a new GI education program.

S. 3047

At the request of Mr. KASTEN, the names of the Senator from Alabama (Mr. HEFLIN), the Senator from Wisconsin (Mr. PROXMIRE), the Senator from Nebraska (Mr. EXON), and the Senator from Kentucky (Mr. FORD) were added as cosponsors of S. 3047, a bill to repeal the withholding of tax from interest and dividends and to require statements to be filed by the taxpayer with respect to interest, dividends, and patronage dividends.

S. 3068

At the request of Mr. BOSCHWITZ, the name of the Senator from Georgia (Mr. MATTINGLY) was added as a cosponsor of S. 3068, a bill to establish a cap on the pay of certain Federal officers and employees for the fiscal year 1983.

SENATE JOINT RESOLUTION 215

At the request of Mr. HATCH, the names of the Senator from Minnesota (Mr. BOSCHWITZ) and the Senator from Wisconsin (Mr. PROXMIRE) were added as cosponsors of Senate Joint Resolution 215, a joint resolution to provide that the week beginning March 6, 1983 shall be designated as "Women's History Week."

SENATE JOINT RESOLUTION 244

At the request of Mr. WARNER, the name of the Senator from Tennessee (Mr. SASSER) was added as a cosponsor of Senate Joint Resolution 244, a joint resolution designating January 17, 1983, as "Public Employees' Appreciation Day."

SENATE JOINT RESOLUTION 254

At the request of Mr. JEPSEN, the names of the Senator from Illinois (Mr. DIXON), the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from Vermont (Mr. LEAHY), the Senator from West Virginia (Mr. RANDOLPH), the Senator from New Jersey (Mr. BRADLEY), the Senator from Idaho (Mr. SYMMS), the Senator from North Carolina (Mr. HELMS), the Senator from Utah (Mr. HATCH), and the Senator from Kansas (Mrs. KASSEBAUM) were added as cosponsors of Senate Joint Resolution 254, a joint resolution designating September 22, 1983, as "American Business Women's Day."

SENATE JOINT RESOLUTION 263

At the request of Mr. THURMOND, the names of the Senator from Arizona (Mr. DECONCINI), the Senator from New Mexico (Mr. DOMENICI), the Senator from Oregon (Mr. HATFIELD), the Senator from South Dakota (Mr. ABDNOR), the Senator from Minnesota (Mr. DURENBERGER), the Senator from North Dakota (Mr. BURDICK), and the Senator from Louisiana (Mr. JOHNSTON), were added as cosponsors of Senate Joint Resolution 263, a joint resolution to authorize the President to issue a proclamation designating the week beginning on March 13, 1983, as "National Surveyors Week."

SENATE JOINT RESOLUTION 265

At the request of Mr. DENTON, the names of the Senator from Kansas (Mr. DOLE), the Senator from Nevada (Mr. LAXALT), the Senator from California (Mr. HAYAKAWA), the Senator from Texas (Mr. TOWER), and the Senator from Idaho (Mr. SYMMS) were added as cosponsors of Senate Joint Resolution 265, a joint resolution to authorize and request the President to proclaim 1983 as the "National Year of Voluntarism."

SENATE CONCURRENT RESOLUTION 121

At the request of Mr. DOLE, the names of the Senator from Colorado (Mr. HART), and the Senator from South Dakota (Mr. PRESSLER) were added as cosponsors of Senate Concurrent Resolution 121, a concurrent resolution expressing the sense of the Congress that the United States should maintain Federal involvement in, and support for, the child nutrition programs, and for other purposes.

SENATE CONCURRENT RESOLUTION 124

At the request of Mr. SASSER, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of Senate Concurrent Resolution 124, a concurrent resolution concerning the administration's study of hydroelectric power.

AMENDMENTS SUBMITTED FOR PRINTING

HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS OF 1982

AMENDMENT NO. 4967

(Ordered to be printed and to lie on the table.)

Mr. GORTON submitted an amendment intended to be proposed by him to the bill (S. 2607) to amend and extend certain Federal laws relating to housing, community, and neighborhood development, and related programs, and for other purposes.

IMPROVEMENT OF OCEAN COMMERCE

AMENDMENT NO. 4968

(Ordered to be printed and to lie on the table.)

Mr. GORTON submitted an amendment intended to be proposed by him to the bill (H.R. 4374) to improve the international ocean commerce transportation system of the United States.

SENATE RESOLUTION 501—RESOLUTION RELATING TO MARTIAL LAW IN POLAND

Mr. PERCY (for himself, Mr. MURKOWSKI, Mr. HELMS, Mr. GLENN, Mr. ABDNOR, Mr. HAYAKAWA, Mr. MATTINGLY, Mr. CHAFEE, Mr. LUGAR, Mr. ZORINSKY, Mr. RANDOLPH, Mr. KENNEDY, Mr. BIDEN, Mr. KASTEN, Mr. PRESSLER, Mr. HOLLINGS, Mr. PELL, Mr. SASSER, Mr. GORTON, Mr. LEVIN, Mr. BUMPERS, Mr. DIXON, Mr. INOUYE, Mr. D'AMATO, Mr. SARBANES, Mr. JACKSON, Mr. ROTH, Mr. HEINZ, Mr. GARN, Mr. QUAYLE, Mr. MOYNIHAN, Mr. NICKLES, Mr. THURMOND, Mr. ROBERT C. BYRD, Mr. METZENBAUM, Mr. GRASSLEY, Mr. BRADLEY, and Mr. MATSUNAGA) submitted the

following resolution; which was considered:

S. RES. 501

Whereas, the American people have since the early days of our revolution and nation had a deep and lasting friendship with the Polish people and nation, founded upon an unfaltering respect for freedom;

Whereas, the American people expressed widespread admiration and support for the creativity, combined with restraint and discipline, with which the Polish people in 1980 and 1981 attempted to evolve a mutually more responsive relationship between workers and government;

Whereas, the imposition of martial law on December 13, 1981, and actions taken by the martial law government, including the imprisonment for many months of the people's chosen trade union representative, Lech Walesa, have constituted grave abridgements of the human rights and civil liberties of the Polish people, and violated the UN Charter, the Helsinki Final Act, the Universal Declaration of Human Rights, and other international human rights agreements which Poland signed and ratified as a participating state;

Whereas, the martial law regime continues in Poland to engage in acts of violence and repression against its own citizens in contravention of the indomitable right of the Polish people to determine their own future;

Whereas, the outlawing of the free and lawful trade union Solidarity by the Polish government in October 1982 is a further suppression of the clearly expressed will of the Polish people; Now, therefore, be it

Resolved, That it is the sense of the Senate—

(1) that the Senate condemns and abhors the suppression of civil liberties and human rights by the martial law government in Poland;

(2) that the American people respect and admire the commitment to the ideals of freedom and independence manifested by the Polish people and Mr. Lech Walesa in particular; that the American people welcome the release to his family of Lech Walesa, and hope that he will be permitted to express himself freely and contribute to a full and free dialogue on Poland's future and the resolution of her problems by Poles themselves, free from external influence or coercion;

(3) that the American people hope that Polish authorities will take early, concrete, and significant steps to return their human rights and civil liberties to the people of Poland, beginning with the full lifting of martial law and release of remaining detainees, and will resume a full, sincere, and dree dialogue with Solidarity and the Church to commonly resolve Poland's problems;

(4) that the President of the United States is urged to proclaim December 12, 1982, the eve of the first anniversary of the imposition of martial law repression in Poland, officially as a national day of solidarity and prayer for the people and nation of Poland.

NOTICES OF HEARINGS

SUBCOMMITTEE ON PRODUCTIVITY AND COMPETITION

Mr. WEICKER. Mr. President, I would like to announce that the Senate Small Business Committee's Subcommittee on Productivity and Competition will hold an oversight hearing on the Economic Problems Facing Small and Independent Businesses in the Forest Products Industry, on December 8, 1982, at 2 p.m., in room 6226 of the Dirksen Senate Office Building. Senator GORTON will chair the hearing.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. PERCY. Mr. President, on behalf of the leadership—and Senator BAKER will be here any moment—I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Monday, December 6, at 11 a.m., to hold a hearing to consider S. 3052, fiscal year 1983, Budget Amendment for the Board for International Broadcasting; and to consider the nomination of Kenneth L. Tomlinson to be an Associate Director for Broadcasting of U.S. Information Agency.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. PERCY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Monday, December 6, at 2:30 p.m., to consider the nomination of Lev E. Dobriansky, to be an Ambassador to the Commonwealth of the Bahamas.

The PRESIDING OFFICER. Is there objection?

Mr. ZORINSKY. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. PERCY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PERCY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, after consultation with my distinguished colleague, I rephrase the unanimous-consent request that was just made.

Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Monday, December 6, at 2:30 p.m., for the sole purpose of considering the nomination of Lev E. Dobriansky to be an Ambassador to the Commonwealth of the Bahamas.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. PERCY. Finally, Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Monday, December 6, a 3:30 p.m., to consider the nomination of John Herbert Holdridge to be an Ambassaor to the Republic of Indonesia, and this request is that it be the sole purpose of the committee to meet for that purpose.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Later the following occurred:)

Mr. PERCY. Mr. President, I ask unanimous consent to revise the unanimous-consent request granted earlier to allow the Foreign Relations Committee to meet solely for the purpose of considering the nomination of Mr. Dobriansky to also include consideration of the nominations of Samuel Hart, to be Ambassador to Ecuador, and Victor Blanco, to be a member of the Board of Inter-American Foundation.

Therefore, the purpose of that meeting would be solely for the purpose of considering those three named nominations rather than just the single nomination that was mentioned before.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Conclusion of later proceedings.)

COMMITTEE ON THE JUDICIARY

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Monday, December 6, 1982, in order to receive testimony concerning the following nominations:

U.S. DISTRICT COURT JUDGES

Judge Frank X. Altimari, of New York, to be U.S. District Judge for the eastern district of New York.

Mr. Frank W. Bullock, Jr., of North Carolina, to be U.S. District Judge for the middle district of North Carolina.

Mr. Paul E. Plunkett, of Illinois, to be U.S. District Judge for the northern district of Illinois.

U.S. CLAIMS COURT JUDGES

Judge Joseph V. Colaianni, of Maryland, to be a judge of the U.S. Claims Court.

Judge Robert J. Yock, of Virginia, to be a judge of the U.S. Claims Court.

Mrs. Christine C. Nettesheim, of the District of Columbia, to be a judge of the U.S. Claims Court.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE DOMINICAN REPUBLIC: AN EXAMPLE FOR THE CARIBBEAN BASIN

● Mr. DOLE. Mr. President, as our president visits some of our sister republics to promote greater cooperation and mutual growth, a few recent remarks by Robert Anderson, our Ambassador to the Dominican Republic, are of particular interest and importance.

In an address delivered Thanksgiving Day before the American Chamber

of Commerce in Santo Domingo, Ambassador Anderson outlined with clarity the policies and views of the U.S. Government with respect to the vital interests we have in common with our democratic neighbors in the Caribbean Basin. He stressed, too, the importance we attach to the leadership provided in this respect by the Government of the Dominican Republic.

I believe excerpts from his remarks would make a valuable contribution to congressional and public understanding of the matter, and I am pleased to place them in the RECORD for that purpose at this time.

The excerpts follow:

THE DOMINICAN REPUBLIC: A CORNERSTONE FOR CARIBBEAN STABILITY

I would now like to comment on the fundamentals of our relationship. One may ask if or why the Dominican Republic is of great importance to the United States. The answer is clear. The very location of your country on one of the most important strategic and commercial arteries for the United States speaks for itself. Nearly half of our trade, two thirds of our imported energy and more than half of the strategic minerals necessary for our industrial production pass through the Caribbean. Further, and this is not generally recognized, 70 percent of the reinforcement and resupply of Europe by the United States in the event of a NATO conflict will have to be transported from our ports in the Gulf of Mexico through the Caribbean and on to Europe.

As President Reagan noted in addressing this subject at the Organization of American States in February of this year: "Make no mistake. The well-being and security of our neighbors in this region are in our own vital interest."

Aside from your geographic location, your country is, in my view, important to the United States for reasons which have to do with ideas and ideals, not numbers. They deal basically with what your nation stands for: democracy and freedom. No matter what those opposed to these tenets may proclaim, democracy can and will flourish. Indeed, it is flourishing in many places around the world: not just in Northern Europe and North America, but in Asia and in Africa, and here in the Caribbean as well.

Your nation and your leaders should rightly be proud of what has been accomplished in building democratic institutions in your country. Your constitution provides a valuable framework for elections, for the adoption of laws, for the administration of government, for a system of justice, and for the protection of human rights. That structure has been tested this year, and has been proven strong. We in the United States rejoice in this further success in consolidating a vibrant democratic system emerging from the will of the people and responsive to it. It is precisely because of this favorable evolution that the Dominican Republic is a cornerstone for stability in the Caribbean.

As the largest democracy in this critical area, your country stand as a model toward which the aspirations of all who love freedom can turn. I am thinking in particular of the many new or emerging nations in the Caribbean who are or will be deciding on their own systems of government. From my own travels during the past three years visiting many of these island states I can tell you that each passing year they look more and more toward your country in weighing what political and economic system best suits their needs. I think we would all agree, however, that the Dominican Republic's contribution to regional stability will be in direct proportion to the role it chooses to play in the area. For this reason, my Government welcomes the intention of the new Administration of President Salvador Jorge Blanco to reactivate or establish diplomatic relations with its democratic neighbors in the Caribbean. I see this as another sign of your Government's recognition that stability in this area is in its national interest, and of a readiness to assume greater responsibilities to contribute to it in a meaningful way. For this we are grateful.

The pursuance of a successful foreign policy rests first and foremost on political and economic stability at home. As we all know, the state of an economy is more often than not crucial to preserving political stability. That this is recognized by the new Administration is clear. Your President has already taken a series of difficult and courageous steps to surmount the pressing financial problems facing your nation. These, coupled with the reports of positive discussions with the International Monetary Fund and the World Bank, make it difficult for me to share the views of the school of doom and gloom about this country's economic future. Rather, I am confident that with perseverance in the effort to obtain the badly needed infusion of additional foreign exchange, the short term difficulties will be overcome. I am not alone here. In his remarks in Santo Domingo on October 28, 1982, Henry Wallich, a distingished Governor of our Federal Reserve Board, noted: "Temporary difficulties are likely to remain just that—temporary. They will scarcely be visible on the upward-sweeping graph of long-term trends."

One may rightly ask why I am optimistic about the long-term economic future of the Dominican Republic. A nation dependent on imported energy at prices set abroad. A nation dependent for its foreign exchange in large measure on the export of five or six primary products whose prices are also set in the world market place. My optimism stems from the fact that I have served in or worked with nations where there was little hope, no matter what effort and imagination their leaders could apply. Resources above the subsistence level were just not there. By comparison, I am now in a garden of Eden. The Dominican Republic has ample resources, human and material, for future development. Let us examine briefly this potential.

First, because of its political stability in recent years, because of its nearness to the United States market, and because of its long friendship with our country, the Dominican Republic is becoming more and more attractive to American investors. Your nation is truly a rare asset in this world. Where else, for example, would an American visitor ask me where he could invest in the Dominican Republic simply because, as he put it, "I love this country"? He really had no clear idea of where to invest. He just wanted to help a very special country which he felt deserved his support. Needless to say, our American Chamber will do its best to assist this friend of the Dominican Republic.

Secondly, the areas for potential growth in this country are clear and, as your Government has indicated, seem best fostered by private enterprise drawing on documents and foreign investments. Agrobusiness and tourism are of particular interest and should prosper. . . . From conversations I have had with American firms, I can attest that there is an active interest here.

A third factor which could benefit your country's agricultural and industrial development is the existence of a market which has not yet been exploited to its full extent. I refer to the English, French and Dutch-speaking islands of the Caribbean, which are so dependent on food imports. The aggregate population is over 11 million people. One may conservatively add another 11 million representing the annual influx of tourists. These 22 million potential customers then could be an interesting market for reasonably priced household items, shoes and clothing, and for non-traditional agricultural exports from the Dominican Republic. There may be good and sufficient reasons, but I am not clear, for example, why so many fruits and vegetables come from Central America via the United States for eventual consumption in the Eastern Caribbean. This may also merit examination, perhaps leading to positive and profitable action. Then again, I was perplexed to learn that no Dominican fruits and vegetables go to the Turks and Caicos, only 125 miles away. This currently represents $15 million annually in cash for some enterprising supplier.

With this brief overview of your country's potential, it is clear that there are no quick and easy answers. But it is equally clear that with realistic priorities, hard work, determination and persistence success may be achieved. Towards this end you may be assured that the United States will always be ready to play its part.

For the past twenty years, as you know, we have provided bilateral economic assistance in addition to our contributions to such multilateral aid efforts as the World Bank and Inter-American Development Bank. From 1975 through 1978 our direct bilateral assistance averaged $16.9 million per annum. During the following four years the average was $57.7 million. We fully expect our help to continue at about this level for the foreseeable future, even though the level of our assistance worldwide may drop slightly.

While our government-to-government aid programs can be helpful, particularly technical assistance, they should be considered a supplement to meeting the overall needs of a developing country. Experience in other areas has taught me one basic fact. It is the participation of private enterprise and the infusion of its capital that are the major determinants for economic development. It is in this spirit that our assistance can be most accurately viewed.

This spirit has been most recently expressed by the Caribbean Basin Initiative of President Reagan. The economic assistance part of this Initiative has been enacted into law. The two other parts are even more important than the first. These cover areas of great potential importance to your Government in its efforts to increase employment and export-oriented industries. . . . President Reagan has made it clear that he considers this a top priority for consideration by our legislators, and plans to do everything possible to encourage its passage. . . .

After listening to these few thoughts, I hope you may now understand my enthusiasm for this assignment, my optimism about the future of the Dominican Republic, and the importance of your nation's role in the Caribbean for our mutual security. Remarkable strides have been made in the past twenty years. From a nation then, with one agronomist, two industrial engineers, and

three economists, one has only to observe your country today. From a nation then, with virtually no middle class, observe it today. From a nation then, with most of its industrial production concentrated in the hands of one man, observe it today. From a nation then, with freedom of expression and freedom of assembly excluded, observe it today. From a nation then, with democratic institutions little more than symbols, observe it today. From a nation then, unconcerned with human rights, observe it today. And finally, from a nation then, oblivious to the needs and aspirations of the individual, observe it today: a vibrant democracy, a cornerstone for Caribbean stability.

Thank you very much.●

MX

● Mr. TOWER. Mr. President, on Sunday, December 5, 1982, George F. Will wrote a thoughtful article concerning the upcoming congressional deliberation on MX entitled "Serious Business," which appeared in the Washington Post.

In his usual eloquent and sensible way, Mr. Will has articulated a number of key issues and points of contention with which we, in Congress, must grapple before arriving at a final decision on this controversial and important program.

Senators HENRY JACKSON, JOHN WARNER, and TED STEVENS have joined me in writing to our colleagues in the Senate to encourage them to maintain open minds on President Reagan's MX basing proposal and related subjects until planned congressional reviews of these matters can be completed.

I hope that while Members of the Senate are formulating their positions over the coming weeks with respect to the MX, they will ponder Mr. Will's thought-provoking comments.

I submit for the RECORD the article and letter to which I have made reference.

The material follows:

SERIOUS BUSINESS

(By George F. Will)

The symptoms are unmistakable that Washington is entering one of its relatively lucid intervals for the MX missile debate. Seriousness has not become general, but serious people will dominate both sides of the controversy.

The leading critic of MX—Sen. Fritz Hollings (D-S.C.)—was a leading opponent of SALT II.

The crucial question is not whether the Minuteman force—land-based ICBMs—is vulnerable. Hollings and the administration agree that it is, because a Soviet first strike could substantially destroy it. Neither is the crucial question whether a land-based component of the deterrent is valuable. Most persons agree that a strategic triad is desirable because it complicates the task of Kremlin planners, preventing them from concentrating their resources on means of degrading the effectiveness of the sea-based and airborne deterrent. And land-based forces still have (although they soon may not have) inherent advantages of control and accuracy (which make them useful against "hardened" Soviet targets).

The crucial question is not whether we can "afford" MX. The nation can afford the price of peace, period. Anyway, even if you budget for something not yet planned—a protective overlay of ABMs (antiballistic missiles)—the total MX cost of perhaps $60 billion a year over a decade. If MX makes deterrence significantly more stable for such a span it is a bargain.

The question is not in any simple sense whether the "Dense Pack" basing will "work." To work means to enable a significant number of the 100 missiles to survive a Soviet strike. Each side in the MX debate will have scientists to testify about "fratricide" of incoming Soviet warheads. The "fratricide" theory is this;

MX silos will be so "hardened" that a disarming attack would require saturation by Soviet warheads; but blast effects (heat, shock, debris, etc.) would be such that Soviet attackers will need to plan an incredibly—indeed, prohibitively—complex attack sequence, with certain warheads arriving precisely as the blast effects of other warheads are just sufficiently dissipating.

Some critics of MX will say the Soviets can stage such an attack. However, many anti-defense senators and congressmen are precluded (by logic, if nothing else) from making that argument because they have long argued against new strategic programs on the ground that a Soviet first strike on existing strategic forces is prohibitively difficult.

Critics of MX will say "fratricide" cannot be tested. That is true, but the existing U.S. deterrent is woven, in large measure, from untestable hypotheses about how strategic systems will work and how Soviet decisionmakers will calculate in certain situations.

The more telling criticisms of MX are more specific. They are that MX's deterrent value is subject to rapid (in perhaps five years) deterioration as a result of Soviet developments (such as ground-penetrating warheads), and that even without such developments the U.S. capacity to "harden" silos sufficiently with steel and concrete is hypothetical and dubious.

The pro-MX side has an inherent advantage because deterrence is less a piling up of certainties than it is the multiplication of useful uncertainties. We cannot know beyond peradventure that "hardening" or "fratricide" would work; but neither can Soviet planners enter a crisis certain that it would not.

The least crucial question is whether MX would violate what critics call "existing arms" control agreements." The critics are referring to SALT I, which has expired, and SALT II, which never came close to ratification. Still, the administration argues that MX does not violate the SALT II ban on new fixed-ICBM launchers because MX travels with its launcher. All that is new is the silo into which the launcher—a cannister—slips. This interpretation of SALT II is no more legalistic than various Soviet interpretations.

The crucial question about MX or any other strategic program is: how much enhancement of deterrence would be bought for how many years, and for how many dollars per year? Before birds sing their anthems to spring, the debate may have produced a dusty answer: more money for the missile, none for deployment.

But deployment is everything. So a few billion dollars from now, MX may be nothing. Responsible persons who ask, "Can't we do better than MX in Dense Pack?" must also ask, "Can we afford to do nothing?"

The Trident submarine D5 missile, with an accuracy comparable to that of MX, is due in 1989. The U.S. ballistic missile force (as distinct from cruise missiles) may be destined to go to sea. Then America might have a somewhat less vulnerable but also less versatile deterrent. There would be no respite from spending billions to counter Soviet measures, which would be concentrated against submarines. Come what may, there will be no escape from the dialectic of weaponry.

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, D.C., December 1, 1982.

DEAR COLLEAGUE: As you know, on Monday, November 22, 1982, President Reagan announced his selection of a system for deploying the MX missile. Under the President's plan, one hundred of these missiles would be deployed in closely spaced, superhardened shelters in a so-called "Dense Pack" configuration.

The theories and principles upon which the feasibility and survivability of the Dense Pack system rely are complex and highly technical. The Reagan Administration arrived at its decision to propose this basing plan only after an arduous internal review of these considerations was conducted at the express direction of the Senate. In the course of this review, the judgment and counsel of a number of distinguished experts outside the government were received. The Congress, no less than the Executive Branch, needs to give the questions raised by the closely spaced basing proposal full and fair deliberation.

Since the President's announcement, few, if any, of our colleagues have had the opportunity to receive the Administration's classified briefings or the counter-arguments thereto in the detail required to make an informed assessment of this technically complex proposal. Consequently, for the vast majority of our colleagues, a decision during the post-election session—be it an outright endorsement or a rejection of either the totality or any part of the funding for the MX—would have to be made on the basis of scant information and assertions of questionable validity.

The Armed Services Committee and its Subcommittee on Strategic and Theater Nuclear Forces will strive in their upcoming hearings to develop a record which fairly and systematically addresses the questions many of us have about the efficacy, cost-effectiveness, and strategic importance of a closely spaced basing of the MX missile.

Since whatever action we take will affect our strategic deterrent posture, U.S. foreign policy, and the sensitive START and Theater Nuclear Force discussions, we must avoid making a hasty, ill-informed decision. Let us permit more of our colleagues and the appropriate Senate Committee to explore the full range of views on the need for the MX and on the proposed basing mode unencumbered by the distractions and legislative time pressures inherent in the post-election session.

We believe that the passage of any proposal in the post-election session to delete MX production funds for the current fiscal year would be premature and incompatible with an objective and systematic Congressional review of the President's plan. Until that review is completed, all options—including that of initiating production of MX missiles and associated hardware in Fiscal

Year 1983 as requested by President Reagan—should be preserved.

Sincerely,

JOHN W. WARNER.
HENRY M. JACKSON.
JOHN TOWER.
TED STEVENS.●

DISSENTING VIEWS ON THE IMMIGRATION BILL

● Mr. EAST. Mr. President, in our attempts to solve difficult problems, we must never forget the admonition of Hippocrates "to help, or at least to do no harm." Most Members of Congress will agree that this Nation has lost control of its borders and that legislation to reduce illegal immigration is long overdue. I fervently hope that we can promptly enact an immigration control bill providing for increased enforcement efforts.

However, if the political price for passage of greater law enforcement measures is a mass amnesty for millions of illegal aliens, I am convinced that we would do more harm than good. A distinguished member of the House Committee on the Judiciary, Mr. F. JAMES SENSENBRENNER, JR., came to the same conclusion and reluctantly voted against H.R. 6514, the Immigration Reform and Control Act of 1982. I find his dissenting views on the bill convincing. I also believe they reflect the thinking of most Americans.

I ask that his views be printed in the RECORD for the edification of my colleagues.

The views follow:

DISSENTING VIEWS OF CONGRESSMAN F. JAMES SENSENBRENNER, JR., ON H.R. 6514

It is difficult for me to understand how H.R. 6514, the Immigration Reform and Control Act of 1982, can be characterized as immigration reform. This legislation does not even represent the lowest common denominator needed to accomplish immigration reform. H.R. 6514 should not be enacted into law for two reasons: it fails to deal effectively with the problem of legal immigration, and it provides amnesty provisions for illegal aliens residing in our country.

H.R. 6514 fails to deal with the problem of legal immigration in several ways. First, there is the failure to set a cap on the number of immigrants, asylees, parolees, entrants, etc., who enter our country each year. One of the major criticisms the American people have with the present immigration law is that we have "different strokes for different folks," or different quotas for different people, resulting in no real hard or fast limitation on how many foreigners are legally admitted into the United States on an annual basis. If a cap on legal immigration is not enacted then the current number of legal immigrants entering our country will continue to mushroom. In 1977, legal immigration was 399,000. In 1980, it was 808,000. In 1981, it was 697,000, with an increase expected in 1982.

Legal immigration mushroomed at a time of rising unemployment, at a time when we have been unable to provide enough jobs for our own American citizens. This has soured the American people on the entire issue of immigration and substantially reduced the compassion the American people have historically felt toward refugees from oppression and political and religious persecution around the world. Americans are having a difficult time understanding why our government continues to allow more people in this country who compete for jobs and place a drain on the treasuries of our state, local, and federal governments. Public opinion polls show that 80 percent of the American people want reductions in legal admissions. "Compassion fatigue" has, indeed, set in.

While some have argued that those are unsubstantiated fears, there are hard facts to support these concerns. For instance, a Presidential Report in 1980 revealed that taxpayers have spent over $2 billion a year in refugee admissions. Billions of dollars more have been spent since this report was issued. These figures are put into greater perspective by a GAO report which showed that over 70 percent of the Indochinese refugees of employable age had requested public assistance. Most requests were made within 30 days of arrival. In my own state of Wisconsin, which held more than 15,000 Cuban-Haitian refugees at Fort McCoy, I heard many complaints from both the state and local government officials strongly objecting to the open ended refugee policies.

Placing refugees under the legal immigration cap is essential for our country to be able to withstand increasing pressure in the future for more refugee admission. The current refugee explosion is only a preview of things to come. For instance, our world populations will increase another two billion by the end of the century. This means the labor force will grow by 900,000,000 people, who will join some 50 million currently unemployed. At the same time, economic and political tensions will add millions more. In other words, our country will be able to absorb only a small fraction of a percent of this number.

When H.R. 6514 comes before the U.S. House of Representatives, I will be offering an amendment to place a cap on legal immigrants entering this country. My amendment will place refugees under a ceiling of 425,000. This figure is generous when it is compared with the period from 1921-1980, when our average total legal immigration was under 300,000 per annum. This figure in my amendment is slightly above a 1980 Roper Poll figure of 400,000 which 80 percent of the American people wanted. Until refugees are included within this cap, there is no reform of legal immigration. There might be reform of legal immigration as we call it under the present law, but it is not what the American public wants. My amendment maintians flexibility. If an international crisis requires the admission of more refugees in one year, then the number of legal immigrants in other categories would be reduced. Conversely, if there is no need to admit a large number of refugees, then the other legal immigrant ceiling would be increased.

A second problem affecting legal immigration concerns the method of allocating immigrants other than refugees into this country. H.R. 6514 does nothing to limit the 5th preference. The problem of "chain immigration," whereby alien brothers and sisters of U.S. citizens are given a preference for permanent residence, remains unchanged. Currently there is a 5th preference backlog of 700,000, which is continually growing. Less than one-half of this backlog are brothers and sisters of U.S. citizens themselves. The rest are spouses and children of those brothers and sisters. If the 5th preference is not modified, then closer family members, i.e., spouses, sons, and daughters will continue to have problems being united. If family reunification is to be a preferred public policy, it should be for the closest relatives—not a loophole to bring "every" relative into the country.

Because of the way in which the preference system is allocated, family reunification is becoming the principal way for immigrants, other than refugees, to enter this country. This will be felt even more a few years down the road when all the legal immigrants, which include refugees, become citizens; and, if amnesty is granted, the millions of now illegal aliens will be eligible for citizenship, and naturally will want to bring their relatives into this country.

There are, however, other public policy reasons for allowing immigrants into the United States. In certain industries there is a shortage of U.S. skilled labor. In some of these areas, i.e., high technology, these shortages will continue for some years in the future. As reported out of Subcommittee, H.R. 6514 has some provisions that were a step in the right direction because it created a category of "independent immigrants," which allows for greater numbers of skilled aliens and aliens of exceptional quality, to enter our country. These immigrants would not compete with American labor, because in order to be admitted, there must be an existing labor shortage.

The most objectionable features of H.R. 6514, however, are the provisions which grant amnesty to millions of illegal aliens. The amnesty provisions give permanent resident status to those illegal aliens who have continuously resided within the U.S. prior to January 1, 1977. It also gives temporary resident status to illegal aliens who have entered and resided in the United States continuously prior to January 1, 1980. Temporary residents would be able to receive limited benefits, such as emergency medical care, etc. However, after a three year period, illegal aliens granted permament resident status would be eligible for a whole plethora of welfare benefits, which would cost the taxpayers billions and billions of dollars each year.

The costs of the amnesty bill are unclear because it is not known how many illegal aliens will take advantage of this program. Any estimate is truly a shot in the dark. The CBO estimates the number of illegal aliens to be 4½ million; the Justice Department estimates the number to be 6 million; and other estimates vary from 8 to 10 to 12 million illegal aliens. Obviously, the costs will be astronomical. All these costs will be absorbed by either the federal, state, or local governments, some of which are already subject to enormous pressure to cut their budgets and reduce their spending. These additional costs could bankrupt some of these jurisdictions in the next few years.

Aside from the billions of dollars of increased costs to the federal, state, and local governments, there are numerous other reasons for opposing this legalization program.

The legalization program has no safeguards. It does not provide protection against aliens purchasing false documents, e.g., leases, affidavits, etc. to prove they have been in this country the required number of years. In addition, the amnesty program will be an incentive for more illegal aliens to enter our country. The limitations as to who will be eligible for amnesty will not filter down to the citizens residing in economically depressed countries. They will

only hear that amnesty is being granted and the influx will start.

Amnesty is a bad precedent for our country to set. It shows our country is not serious about enforcing its immigration laws. It truly makes our borders in the southwest borderless. Aliens will continue to come to the United States hoping in the future they, too, will be granted amnesty.

I fear that the U.S. Supreme Court decision rendered in *Plyler, Superintendent, Tyler Independent School District et al.* v. *Doe, Guardian,* which forced the state of Texas to provide free education benefits to children of illegal aliens, will be extended to include other benefits. This is yet another incentive for a family to move illegally to the United States.

The employer sanctions in the bill are equally ineffective. Illegal aliens drawn by the "economic magnet" to the U.S. will not be hindered. Supporters of the bill will argue the employer sanctions will turn off the "economic magnet." However, this is not true. The employer sanctions were considerably weakened in the full Judiciary Committee. The burden of proof in enforcement of immigration laws has now been shifted from the government to the employer. Employer sanctions must be stronger for the magnet to be turned off. Illegal aliens must not have an incentive to come or to stay in this country. The amnesty provisions in the bill are an admission that employer sanctions will not work, because they are weak and ineffective.

Blanket amnesty is unfair to the hundreds of thousands of immigrant applicants, some of whom have been waiting as long as 10 years to come to this country legally. We are saying to these people they were stupid for obeying the law. If they had come here illegally, they would be rewarded. However, because they decided to abide by our law, they are penalized. We are keeping law abiding applicants out of the country while giving resident status to lawbreakers.

There also will be a negative impact in the years to come on these prospective applicants if illegal aliens are granted amnesty. When the amnestied aliens are granted citizenship, they will bring into this country millions of relatives who are not subject to any numerical limitation. According to a Washington Post editorial of September 13, 1982, a single citizen filed petitions for 69 relatives. In certain areas, the current waiting period for relatives to enter this country is as long as 12 years. What will happen to family reunification when you add millions of newly eligible petitioners? What will the waiting periods be then?

Finally, it seems ludicrous to be granting amnesty to millions of illegal aliens at a time when our country is suffering from such high unemployment. The Congressional Budget Office shows that each unemployed American receives $7,000 annually in unemployment benefits and from public assistance programs. With 10 million unemployed, the American taxpayers are spending a minimum of $70 billion annually. Our country should be considering ways to remove the illegal drain on the work force. Former Secretary of Labor Ray Marshall stated that removing illegal aliens from the work force could cut the unemployment rate in half. This would amount to a savings of at least $35 billion per year. It has been said that illegal aliens are not a drain on the labor force because they work at jobs "no Americans want to take." After legalization, there will be incentive for them to move away from their traditional employment fields and put them in direct competition with American labor, thus causing further imbalances in the labor market.

I would hope the U.S. could continue as much as possible its "open door" tradition and policy toward the displaced, the persecuted, and the ambitious of the world. However, the reality of our economic and resource situation is that we simply cannot continue to be a nation without borders. We must limit the influx of aliens and immigrants and have an orderly and fair system for admitting those we are able to absorb. The Simpson-Mazzoli measure as reported by the House Judiciary Committee provides neither, so it cannot be regarded either as a true "reform' of our messed up immigration laws or as the first step toward restoring order to our immigration system. If it cannot be amended on the floor of the House to remedy these deficiencies, it should be defeated.

For all of the above cited reasons, I must respectfully decline in supporting H.R. 6514.

F. JAMES SENSENBRENNER, JR.●

VICTIM OF ALIEN GLUT

● Mr. EAST. Mr. President, no economy can produce an unlimited number of jobs. By allowing illegal aliens to take jobs at a time when millions of American citizens are unemployed, we are playing with social and political dynamite. Should Congress affirmatively act to grant amnesty to millions of illegal aliens, in other words to permanently give millions of jobs to these foreigners, I fear we will see a terrible backlash that will divide our country for years to come.

No Member of this body will lose his job to an illegal alien. Mike Royko, writing in the Chicago Sun-Times of October 1, 1982, tells the story of one unemployed American. I hope we will remember the plight of our unemployed fellow citizens as we consider legislation to deal with illegal immigration. I ask that Mr. Royko's column be printed in the RECORD.

Supporters of amnesty contend that we have no choice but to give amnesty to illegal aliens, that the expense of enforcing our immigration laws is too great. Yet we could triple the number of border patrol officers and INS criminal investigators for a fraction of the increased welfare costs that will eventually result from amnesty. Could it be that amnesty—opposed by the American people—is popular here because it allows us to placate the pressure groups that favor immigration.

The column follows:

[From the Chicago Sun-Times, Oct. 1, 1982]

VICTIM OF ALIEN GLUT—HE WAS JOBBED

(By Mike Royko)

Those kindly souls who oppose tougher immigration laws still insist that illegal aliens don't take jobs that otherwise would be filled by unemployed citizens of this country.

They say the illegals only do the grubby jobs that finicky U.S. citizens reject.

I can't buy that argument. It might be true if this country had more good jobs to fill than people to do them.

But in hard times like these—with hundreds of desperate job seekers showing up whenever some factory advertises a few jobs in a paper—I don't think there are many paying chores that jobless people of this country will turn down.

And I know that Charlie, 24, with a pregnant wife and no job, doesn't want his full name used, or the name of the company, because he still hopes to be rehired and doesn't want to burn that bridge behind him.

But Charlie is real, and he's bitter because he says many illegal aliens were kept on their jobs while he was let go.

"I'm an American citizen," he said, "and I've been working real hard. But I'm being kicked out of a company that's keeping illegals, and I don't think that's fair."

Charlie had been working for a suburban food-processing company. They mass-produce various kinds of salads and supply fast-food chains.

He was being paid $5 an hour. Not a princely sum, but it was enough for him and his wife to scrape by on in their tiny apartment. They had been doing better before she became pregnant and had to quit her job.

A few days ago, Charlie's supervisor called him into his office and told him he was being laid off. With summer ending, there was less demand for the salads, so the company was cutting back on its work force.

"It wasn't just me," he said. "At least seven others that I know of—three women and four men—were laid off at the same time. They were boxmakers, food trimmers and hand packers.

"Now, I can understand people being laid off by a seasonal company. And I wouldn't be complaining, except for this:

"I'd say the company employs about 150 workers, and about half are illegal aliens. None of the illegals were asked to leave.

"They told me that I was one of the ones being laid off because I don't have much seniority. But nobody there has much seniority because they lay us off when things slow up. But they don't lay off the illegals. So they've got us coming and going. We can never build up seniority, so that gives them an excuse to lay us off."

Charlie was in the plant a few months ago when it was raided by immigration agents.

"You never saw anything like it," he said. "All the illegals went flying out the back door. That was about half the work force. But with all the hullaballoo, only a couple of them were caught.

"The ones who weren't caught stayed away for about three days. Then they came back like nothing had happened and went back to work.

"Then, after a few weeks, one of the illegals who had been caught and shipped back to Mexico showed up again.

"She was back, and there she was, filling out new employment papers, and she had a new Social Security card.

"And she's still there, while I'm out of work. Can you believe that—somebody who was already deported once? And now she's back in this country illegally again, and she's working there, and I'm out on the street without a paycheck.

"I don't know what the illegals get paid, but I think maybe it's a little less than the rest of us get, but I can't be sure. It's not the kind of thing that people there talk about.

"There's a union at the company, and the illegals are members just like us. But I think

there must be some kind of collusion between the company and the union.

"The illegals are probably easier for both the union and the company to deal with. What the heck—they're not going to ask for anything extra or rock the boat. So the union gets their dues and the company doesn't get any grief from the union, and they've all got a good deal.

"Yeah, everybody's got a good deal except me and the others who were laid off.

"So don't buy that stuff about how native Americans won't do the jobs that the illegals take. That's a lie. I was happy to have that job, especially the way things are right now.

"And I can guarantee you that if all the illegals were taken out of those jobs and they advertised, they'd have a thousand people lined up in the morning. Maybe $5 an hour isn't much, but with the health and medical benefits, it sure as heck is better than I've got now, which is nothing."

Every time I've written about the illegal alien problem, and the impact it has on U.S. citizens like Charlie, I hear from people who tell me I have no compassion for the downtrodden.

That's not true. It's just that I have more compassion for a U.S. citizen who is currently downtrodden than for somebody downtrodden from another country who is in this country in violation of our laws.

And one thing I've noticed about those do-gooders who argue that we should do almost nothing about stopping the flow of millions of illegal aliens:

Unlike Charlie, the do-gooders have jobs.●

REAGAN'S AVOIDING SOCIAL ISSUES COSTLY

● Mr. EAST. Mr. President, the Washington Times of November 5, 1982, carried a thought-provoking column by John Lofton discussing the recent election. I ask that it be printed in the RECORD.

The column follows:

[From The Washington Times, Nov. 5, 1982]

REAGAN'S AVOIDING SOCIAL ISSUES COSTLY

(By John Lofton)

The fascinating thing about the New Right's criticism that the Republican Party would have probably done better in the midterm elections had the president been more strongly identified with the so-called social issues, is that this is a criticism with which Ronald Reagan would seem to be in agreement.

In his new biography, "Reagan," reporter Lou Cannon says that in 1977 Reagan knew that the GOP would never become a majority unless it shed what he called the party's "country club-big business image." The conventional wisdom among Republicans at that time, Cannon writes, was that the way to attract working men and their families was on the basis of what Reagan termed the "so-called social issues—law and order, abortion, busing, quota systems."

In their book, "The Reagan Revolution," Reagan—speaking about the 1980 elections—told columnists Rowland Evans and Robert Noak that he was sure the Moral Majority was helpful in his campaign, that the MM "is a reflection of another hunger on the part of the people, a hunger for a return to more spiritual things . . . a rebellion against the humanistic philosophy, materialism and so forth."

But, by 1982 the social issues had, for all practical purposes, been forgotten. They were given only lip service by the president and his men. And even this lip service came very late in the game. As Cannon notes: "It was (Ed) Meese—with enthusiastic support from (Jim) Baker and (Mike) Deaver—who kept the White House out of the morass of 'social issues' like abortion while the administration concentrated on its economic program."

But is Cannon's characterization correct? Are the social issues a "morass" to be avoided? I think not and believe there is persuasive evidence to indicate otherwise:

First, there is the electoral clout alluded to by Reagan. An ABC-Lou Harris survey released Nov. 11, 1980, credited the "moral majority TV preachers" with being largely responsible for turning around the white Baptist vote in the South for Reagan and thus providing him a sizable portion of his margin of victory.

An October 4, 1980 New York Times analysis on the impact of the social issues declared that they have the power to affect voter choices in all parts of the nation . . ." The Times said Reagan was helped as much as he was hurt by these issues because "social conservatives seem more likely to cast ballots solely on these issues than do many of those who take a liberal stance on these same issues." Reagan's support for a constitutional ban on abortion, said the Times, won sympathy for him "from voters whose fingers have long been allergic to the Republican lever."

A national AP/NBC poll taken in mid-September of 1981 showed that 18 percent of the American people thought the president's "most important duty"—above either the economy or foreign affairs—was dealing with the social issues.

A 1981 national survey on U.S. values, taken for the Connecticut Mutual Life Insurance Co. showed that 40 million to 45 million religious Americans rate the social-moral issues on a par with the economy and foreign policy

Finally, and ironically, the president's pollster, Richard Wirthlin, is quoted in the August/September issue of Public Opinion magazine as saying "The social issues that tap the Moral Majority support could be decisive in bringing many Republicans into the Congress who might otherwise not get there." And in the Wall Street Journal of Sept. 29, 1982, an anonymous presidential adviser said the social issues are "good, strong issues and we've been setting them up well."

But, herein lies the problem: The administration did *not* set the social issues up well, not at all. In fact, until just a few weeks ago these issues were avoided like the plague. And, when addressed, they were, for the most part, given only rhetorical support. Instead of embracing simultaneously during the past 21 months the social issues *and* the economic issue, the president put all his eggs in the economy basket. This was the morass in which the administration became mired. And this was a huge mistake. As the brilliant professor of jurisprudence Hadley Arkes has observed:

"Few people identify Lincoln today as the man who presided over the Legal Tender Act . . . "The record of his administration was marked by an achievement far more unequivocal than that. In the same way, the final judgment on the Reagan administration should not be left to the arts of accountants and econometricians debating the prosaic question of whether Ronald Reagan really did succeed in cutting back the size of the government to the level that was indeed the 'right' one for the economy. Mindless reckonings of that kind could be displaced in the public judgment. Far better for Mr. Reagan to attempt to ensure that he is judged in the light of achievements far more precise and memorable."

Indeed. And this means significant achievements in the social-issue arena, which, alas, Reagan has not yet really entered in any meaningful way.●

U.S. POPULATION

● Mr. PACKWOOD. Mr. President, I wish to report that according to the latest U.S. Census Bureau approximations, the total population of the United States on November 1, 1982, was 232,306,018. The total for December 1, 1982, was 232,458,074. This represents an increase of 152,056 in 1 short month. Since this time last year, our population has grown by an additional 2,131,427.

Between November 1 and December 1, 1982, we added enough people to our population to more than fill the city of Little Rock, Ark. Over the past year, our population has increased enough to fill the city of Nashville, Tenn. more than five times.●

ACTION ON NATURAL GAS PRICES

● Mr. EAGLETON, Mr. President, I applaud the leadership of the Energy and Natural Resources Committee for scheduling a hearing Monday next to air concerns about the natural gas market. This is certainly an issue that is foremost in the minds of millions of Americans and one which the Senate must address immediately.

Mr. President, in response to gas consumers' cry for rate relief, last Thursday I introduced legislation to place a 2-year freeze on runaway natural gas prices. This measure will give consumers some price protection while Congress struggles to solve the many and complex gas market problems that plague both consumers and producers.

Today, I wish to briefly discuss the second provision in my bill. This profits provision directs the Comptroller General to conduct a study of the profitability of natural gas production and report to Congress by June of 1983. The bill also gives the Comptroller General the authority to gain access to such books and records that are necessary for the study.

Mr. President, although data on the profits made by gas producers would seem to be an essential element to any discussion of the state of the gas market, such data have been notably absent in congressional hearings and public forums on the subject.

A study performed for me by the Congressional Research Service (CRS) offers an explanation for the painful gas profits silence; gas profits information simply does not exist in material published by oil companies, by Gov-

ernment agencies, or by private financial services. However, it concludes that this type of data does exist in internal company records and that Congress will need to access this data in order to estimate profit margin and investment return.

Mr. President, I urge my colleagues to review the CRS study, (which I submit for the RECORD) and contemplate the many benefits that Congress would gain from an unbiased and thorough examination of gas company profits.

Mr. President, if, as my bill presumes, Congress is to take a good hard look at gas pricing and the gas market, it must be armed with good hard information on the producing end of the gas flow.

The study follows:

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, D.C., December 1, 1982.

To: Honorable Thomas Eagleton, Attention: Kirk Robertson.

From: Sylvia Morrison, Analyst in Industry Economics, Economics Division.

Subject: Information about oil company profit margins and return on investment in natural gas production.

This responds to your inquiry about profit margins and return on investment in the production of natural gas.

As you may know, three methods of assessing profitability are generally used by financial analysts. The first is net profit which is profit remaining after taxes, expenses, and depreciation are deducted from revenues. The second is return on assets, which is the ratio of net profit to total assets. The third is return on investment, which is the ratio of net profit to average investment.

A search for information which would allow us to calculate these items for natural gas sales by major oil companies failed to turn up any body of data published by oil companies, by government agencies, or by private financial services which separates investments or expenses in gas exploration and production from investments or expenses in oil exploration and production. For example, a review of the 10K Forms for a half-dozen major companies turned up no data on expenses for gas production,[1] although some of the company reports do include data on how much gas was produced and how much revenue gas sales generated. Standard and Poor's Industry Analysis for Oil and Gas also lacked data for gas alone.

In reply to a request for this information, the American Petroleum Institute (API) sent its most recent update of its annual report, "Market Shares Individual Company Data for the U.S. Energy Markets: 1950-1980." This report contains data on volume of gas production by company as well as data on proved reserves of natural gas by company. However, the report does not contain data which would answer your questions about profit margins in gas production or return on investment.

In addition to carrying out a document search, CRS also made telephone calls to the Federal Energy Regulatory Commission, The American Gas Association and the Department of Energy's Economics and Statistics Division. A spokesman for the Producer Rates Office of FERC said that the oil companies (the primary source of information for all Federal agencies about the companies) never submit gas and oil expense figures separately. The American Gas Association confirmed this statement as did Dr. Arthur Andersen, Director of the Economics and Statistics Division of the DOE and manager of the DOE's Financial Reporting System confirmed the FERC statement. Dr. Andersen added that the companies say that since gas and oil deposits occur together, and since the companies do not know until they have drilled a field which, or how much of each product they will find, they cannot disaggregate the expenses of retrieving the separate products. However, once drilling has begun, the companies are able to estimate the nature and size of the deposits at a given site. These estimates form the data for the tables published by the American Petroleum Institute titled "Proven U.S. Natural Gas Reserves."

HOW NATURAL GAS PRICES ARE SET

Under the terms of the Natural Gas Policy Act (NGPA), effective November 9, 1978, ceiling prices for various categories of gas were set at rates prevailing in April, 1977. Companies are permitted under the act to increase this ceiling rate monthly by an inflation factor and, in some cases, an additional growth factor. The growth factor was created both to establish parity between projected oil and gas prices and to cover the additional expense as companies drilled for gas in more difficult locations, using more complex systems than they have previously used to get at the gas which has been easiest to recover.[2]

Since the companies are presumably aware in advance how much their gas will likely be worth in a given month (under the NGPA regulations), it would seem probable that they set a ceiling on the amount of expense they can economically undertake to retrieve gas. Therefore, it is likely that some form of these data exist in internal company records; the Congress would have to obtain these data in order to estimate profit margin and investment return.●

[1] Since calculation of all three measures of profitability require expense information, the lack of expense information for natural gas production prevents any calculation of net profit, return on assets or return on investment from gas sales.

[2] Subsequently, categories of "high cost" gas were totally deregulated.

INFRASTRUCTURE REPAIR SHOULD INCLUDE DAMS

Mr. GOLDWATER. Mr. President, I am pleased to submit for the RECORD the following editorial and accompanying letter to the editor which appeared last week in the Phoenix Gazette. The editorial addresses itself to a critical matter now pending in the Senate—the Reclamation Safety of Dams Act of 1982, S. 956. The related letter, authored by two of my colleagues in Congress who represent Arizona in the House of Representatives, further illustrates the need for immediate passage of this bill.

As Representative RHODES and Representative UDALL point out, infrastructure preservation is needed on a national basis, but should be undertaken with a sensitivity toward regional differences. While bridges, for instance, may be crumbling in the East, both bridges and dams are decaying in the West. Both are equally deserving of Federal aid and attention.

Congress is now focusing on legislative remedies to restore the Nation's physical assets. In so doing, I believe we should give serious consideration to the unique needs of the West. Enacting the reclamation dam safety bill during this lameduck session would be a step in that direction.

The material follows:

[From the Phoenix Gazette, Dec. 1, 1982]

A MOST WORTHY MEASURE

In a joint statement in the adjoining columns, the senior members of Arizona's congressional delegation make a persuasive case for immediate action to ensure the safety of federally constructed dams.

Reps. Udall, chairman of the Interior Committee, and Rhodes, winding up a distinguished career in the House, represent opposing parties. But just as there is bipartisan support for a program to rebuild the nation's roads and bridges, Democrat Udall and Republican Rhodes demonstrate that dam safety rises above partisanship.

Actually, the disagreement, if there is any, is between the two legislative bodies. The House of Representatives passed the legislation last spring. To avoid a costly delay, it will be necessary for the Senate to act during the lame duck session now in progress.

The federal government has a clear legal and moral obligation to finance modifications to Roosevelt and Stewart Mountain dams, as well as other Reclamation dams, that it is requiring for safety's sake. There is a question of cost-sharing for modifications beyond the federal obligation. But that should not be allowed to drown the whole legislation, so important to the lives and fortunes of millions of Americans.

Moreover, dam construction/rehabilitation is important in economic terms. The $119 million presently estimated for work at Roosevelt translates into nearly 4,000 jobs. The $550 million authorized in the Senate bill could mean more than 17,000 jobs.

Any way you look at it, the Dam Safety Bill is a measure worthy of quick adoption.

DAM SAFETY IS A NATIONAL CONCERN

Editor:

As we approach the last weeks of the 97th Congress, Eastern and Midwestern senators are asking their Western colleagues to support federal legislation that provides funds to repair and rebuild roads and bridges in their home states.

They cite alarming safety statistics and point out the potential disasters that may result from unsafe bridges. They also stress that the federal repair program would provide a significant number of jobs and would help put America back to work.

At the same time, many of those same senators from east of the Mississippi seem to be unconcerned about moving legislation that would repair 35 unsafe dams located in Western states.

S. 956, a bill authorizing federal funds to repair dams constructed by the federal government, has been stalled in the Senate for months. The dams, which have been identified by the United States as needing safety repairs, are located upstream from some five million people in the West.

It is true that we in the West receive most of the direct benefits of those dams. Most of the direct benefits of the bridges across the Ohio and Hudson rivers, to name just two, accrue to residents of those areas. It is important to remember, however, that Western dams and Eastern roads are both important parts of the national infrastructure. The indirect benefits to secure urban areas, improved transportation, and navigation flow far beyond the locality to the region and to the nation as a whole.

Similarly, if a dam upstream from a city like Phoenix were to fail, the damage inflicted would extend much further than the city and the state of Arizona. The impact of such a disaster would be felt in commercial centers all across the country. And the federal government, as owner of the dam, would be subject to potentially astronomical claims.

We should encourage our Western senators to support a road and bridge repair bill. In turn, senators from the East and Midwest should recognize the national interest in making existing dams safe again.

Passage of S. 956, the Reclamation Safety of Dams Act, in the current session of Congress can save months, even years of valuable time. We should act now to repair dams that have been determined to be unsafe. The country needs to avoid another tragedy like the collapse of the Teton Dam.

Rep. JOHN J. RHODES,
Rep. MORRIS K. UDALL.●

SIXTH ANNIVERSARY OF THE FOUNDING OF THE LITHUANIAN HELSINKI GROUP

● Mr. DOLE. Mr. President, the announcement of June 9, 1982, that the Moscow Helsinki Group had been forced to disband under pressure by the Soviet Government once more turned the world's attention to the fate of those brave Soviet citizens who dared challenge the Kremlin to live up to the Helsinki accords, signed by representatives of the Soviet Government in 1975. Few in number, but significant beyond measure, these courageous individuals have been treated like criminals for having the temerity, by KGB standards, to collect and publicize Soviet violations of the human rights provisions of the Helsinki accords.

November 25, 1982, marked the sixth anniversary of the founding of one of these Soviet Helsinki monitoring groups, "The Lithuanian Public Group To Promote Observance of the Helsinki Accords." In its founding statement, five Lithuanian human rights activists declared that:

> The aim of the group is to promote the observation and fulfillment of the humanitarian articles of the final act of the conference on security and cooperation in Europe.

The Lithuanian Helsinki Group also noted that the status of Lithuania as a Soviet Socialist Republic was a result of the Soviet occupation of that formerly free nation on June 15, 1940.

The Soviet Government was swift to respond to this independent initiative in the same way that it responded, for instance, to the recent independent peace movement in Moscow * * * with prison sentences, psychiatric abuse, and exile. Five members of the Lithuanian Helsinki Group are presently being held in labor camps or prison, one is incarcerated in a special psychiatric hospital run by the MVD, one was forced to emigrate, and two are at liberty, having been harassed by the KGB to a state of virtual inactivity. I might also add that two of these imprisoned Helsinki monitors from Lithuania also hold American citizenship.

WHO WILL RID ME OF THIS TROUBLESOME PRIEST?

Father Bronius Laurinavicius, a human rights activist and Helsinki Group member, was struck and killed by a truck in Vilnius, capital of Lithuania, in November 1981. At least one witness stated that Father Laurinavicius had been thrown into the path of the vehicle by four men who accosted him on the street. Perhaps it is only a coincidence, but Father Laurinavicius had been the subject of an accusatory article in the official government newspaper a few days prior to his death.

I would like to briefly quote from a letter written by Dr. Algirdas Statkevicius, a Lithuanian Helsinki Group member who was arrested in February 1981 and is currently being held in the special psychiatric hospital in Chernykhovsk. Told that his Helsinki Group activities were criminal acts according to Soviet law, Dr. Statkevicius wrote:

> I belong to a criminal organization that was created to support the Helsinki agreement . . . this seems unbelievable! Can the defense of human rights ever be a criminal matter anywhere? But they wanted to do away with a defender of human rights, and so they had to find some justification for doing it.

Mr. President, at a recent session of the Madrid Review Conference on the Helsinki accords, I reminded the Soviet Union that Americans find it difficult to reconcile the harsh realities of Soviet repression with the noble ideals of the Helsinki agreements. The treatment accorded the members of the Lithuanian Helsinki Monitors is just one example of these harsh realities. I call upon the Soviet Union to honor both the letter and the spirit of the Helsinki accords, as a matter of justice for the Lithuanian people, and as a matter of vital importance to maintaining the dialog on security and cooperation in Europe. Security is of the utmost concern to the signatory nations of the Helsinki accords, particularly in these dangerous times in which we live. But I would remind the Soviet Union that there can be no real security without the balance of cooperation pledged in the Helsinki Final Act.●

CLINCH RIVER: DOE'S LATEST $3.3 BILLION ERROR

● Mr. HUMPHREY. Mr. President, last Tuesday I entered material into the RECORD detailing how misleading the Department of Energy's recent estimates were of how much money the Clinch River breeder reactor would make once it was built. The Department of Energy claims that at least $8 to $20 billion in net operating revenues will be made from Clinch River electricity sales.

Last Wednesday, though, the General Accounting Office held a special briefing on its latest cost estimate findings and explained that once Clinch River is completed its operation may cost the taxpayers an additional $3.3 billion.

This information soon made its way to the press and the press, in turn, started to ask questions. Why were DOE's estimates so far off from those of the GAO? What was the basis for DOE's estimates? Did they have the calculations to back their estimates up?

The answers from DOE were not encouraging. There were no documents backing the estimates. Nor should this be surprising, according to DOE—a lot of administration breeder calculations are, "a back of an envelope type of thing." If this is so, how can DOE argue there is $8 billion to be made? Answer: "It was just to give people a perspective on the issue."

This makes for sad reading. Indeed, if this is the way DOE does business, we all have reason to worry.

National Public Radio has done us all a public service in supplying us with a transcript of its report on Clinch River aired last Thursday. Also we have firm information on the GAO briefing courtsey of a Dear Colleague letter produced on the House side. I ask that the complete text of both documents be entered into the RECORD.

The material follows:

NATIONAL PUBLIC RADIO BROADCAST "ALL THINGS CONSIDERED" DECEMBER 2, 1982

(By Dan Zwerdling)

The controversial Clinch River Breeder Reactor could be in trouble again. President Reagan says the proposed experimental reactor is crucial for the future of nuclear power. Opponents call the breeder a technological turkey and a waste of money. Just before the election, the Senate saved the breeder from defeat, but by only one vote. Now a new showdown is coming up and PR's Daniel Zwerdling has more.

The Administration has been persuading many legislators to back the breeder by insisting that the reactor will make money. Energy Department officials have told the Congress that the breeder would earn between 8 and 20 billion dollars profit during the life of the reactor. And during the recent Senate debate on the breeder, that statement that the breeder will pay its own way was crucial, and the Administration has been making the same argument in recent

weeks as the Congress gets ready for a new showdown on the breeder. But a confidential draft study by the GAO staff concludes the opposite. Far from making money the GAO report says the Clinch River Breeder would lose money. It would lose more than 3 billion dollars over the life of the plant. The way GAO researchers see it the Energy Department's basic assumptions about the breeder are wrong. So the Administration says the breeder will cost 5 billion dollars to operate, but the GAO says try 50% more. The Administration says that income from the breeder will top at least 16 billion dollars maybe twice that, but the GAO staff says try 30% less. The result according to GAO researchers, the Clinch River Breeder could cost billions of dollars and the taxpayers would have to make up the losses. Energy Department officials say they haven't seen the draft report and they stress that it's not yet final.

John Longenecker manages the Breeder program; "We have made what we consider to be realistic and very well founded assumptions on the cost."

In order to figure out why the estimates are so different, GAO investigators asked the Energy Department to give them all the documents the Administration used to justify its figures. But according to GAO's staff, the Energy Department has not turned over all the documents. Sources close to the investigation say that some of them were accidently thrown out. Gordon Chipman, Deputy Assistant Secretary told me in a phone call that there is nothing surprising about that. He said a lot of the Administration's breeder calculations have been, in his words, "a back of an envelope type of thing". In that case I asked how can the Department really claim that the breeder will make 8 billion dollars? That figure Chipman answered is just a rough figure, designed "just to give people a perspective on the issue". The House and Senate will vote on appropriations for the breeder before Christmas. I am Daniel Zwerdling in Washington.

HOUSE OF REPRESENTATIVES,
Washington, D.C., December 3, 1982.

CLINCH RIVER BREEDER REACTOR PRICE TAG JUMPS TO $11 BILLION

DEAR COLLEAGUE: Recently, the supporters of the Clinch River Breeder Reactor Project (CRBR) have asserted that revenues from the operation of the CRBR will provide a net return of $8.2 to $20.7 billion from the project. This has led some CRBR supporters to claim that the project will return many times its original investment.

The General Accounting Office (GAO) requested the Department of Energy's (DOE) documents that justified these curious estimates. After a period which the GAO describes as a "contemptuous delay" of 4 to 5 weeks—DOE officials alleged they had inadvertently destroyed the requested documents.

However, the GAO has just performed its own analysis of projected CRBR revenues and expenses. It shows, convincingly, that the claim is not only complete nonsense, but also that if the CRBR project is completed, its operation may cost the taxpayers as much as an additional $3.3 billion. These operational costs are in addition to CRBR's already massive construction cost, which GAO estimated earlier this year could exceed $8 billion.

Construction and operation of the CRBR now threaten to cost more than $11 billion, and this figure could grow even more.

The basis for the GAO's estimate is as follows:

The Department of Energy has overestimated by 8.5 million megawatt hours the amount of electricity the CRBR will generate. To achieve the DOE's claim, the CRBR must maintain a capacity factor of 80 percent for more than 10 years—something neither the French Phenix breeder nor conventional nuclear reactors have done.

The GAO used a more realistic average 63 percent capacity factor, a figure which is based on the operating experience of the Tennessee Valley Authority plants and is consistent with overall experience in the United States. However, it must be remembered that the CRBR is an experimental design and cannot be expected to operate as efficiently as a conventional nuclear powerplant.

The DOE estimates that it will be able to sell the reactor's power for much more than TVA estimates it will pay. Moreover, the DOE estimate is based on a method of electricity pricing which is at variance with the DOE-TVA contract.

The result is that the GAO believes the net 30 year revenues from CRBR power sales will be at least $3.8 billion, or 23 percent less than DOE claims.

The DOE has also seriously underestimated the 30 year cost of operating the reactor. The GAO estimates that operation and maintenance costs will exceed the DOE estimate by $2.4 billion. The GAO estimates an additional $5.4 billion in reprocessing and fuel related costs (even considering credits from plutonium produced) will be incurred—costs for which the DOE has not accounted.

Apart from these serious miscalculations of revenues and expenses, the DOE has seriously underestimated the project cost. The GAO now estimates the project's construction cost will exceed $8 billion—far more than the DOE estimate of $3.6 billion. The GAO also believes the CRBR will experience significant cost growth similar to that of other nuclear projects in recent years. Based on GAO's findings, we have concluded that the Congress will need to appropriate more than $1 billion in FY 1984—four times this year's proposed appropriation of $227 million—if the project is to remain on schedule and even greater costs are to be avoided.

In the face of Federal deficits which may reach $200 billion, then Congress simply must not continue to authorize a project for which there is no foreseeable need and the total cost of which could exceed $11 billion.

We urge you to vote for the Coughlin/Wolpe amendment to delete funds for the Clinch River Breeder Reactor when the Energy and Water Development Appropriations bill is voted on in the House of Representatives.

Sincerely,

John D. Dingell, Morris K. Udall, Fernand J. St Germain, Lawrence Coughlin, Vin Weber, John E. Porter, Hamilton Fish, Ed Bethune, Richard L. Ottinger, Jonathan B. Bingham, Silvio O. Conte, Howard Wolpe, Claudine Schneider, Judd Gregg, Bill Green, and George E. Brown, Jr.●

MEDICAL PROGRESS: MORE TECHNOLOGY OR LESS?

● Mr. QUAYLE. Mr. President, anyone reading the front page of last Friday's Washington Post, Indianapolis Star, or any other major newspaper, confronted the report of a tremendous medical advance: The installation of an artificial heart. The Washington Post readers also read about a second major advance: The Group Health Association's decision to begin using nurse midwives in routine obstetrical deliveries.

As the heart implant patient's day-to-day progress continues to capture worldwide attention, interest in this new procedure is already turning to long-range issues. The patient, a dentist from the State of Washington, was literally snatched from death as he lay dying at the University of Utah, so critically ill that his heart transplant had to be done days before it was originally scheduled. Dr. Barney Clark would not be alive today unless his heart had been replaced.

It is estimated that there could be up to 50,000 people annually who, like Dr. Clark, will die unless they can have an artificial heart. As Dr. Clark's metal and plastic heart continues to beat and he regains his strength, we should begin to address the difficult economic and ethical issues that are raised when we consider the implications of the widespread use of the artificial heart.

While producing no less than a miracle, the installation of an artificial heart is very costly. At the present time, the machinery alone costs $20,000, the hospitalization and surgery $15,000, a total of $50,000 per procedure. With 50,000 patients waiting in the wings, it is appropriate that we begin to ask how these costs will be met.

Kidney dialysis, a procedure covered by medicare and medicaid, was initially intended for a select few. The number of cases was seriously underestimated and the Government now pays $2 billion to dialyze 63,000 Americans a year.

The Health Care Financing Administration (HCFA) has also decided this year that it will no longer reimburse all human heart transplant procedures because of the tremendous cost potential for an operation that was chancy at best. To be done now, a patient must raise the funds from a non-Government source.

This raises the second set of questions regarding the artificial heart: those of an ethical nature. If the procedure is costly, will it be available only to the wealthy? The other dilemma is the quality-of-life debate and the problems that arise regarding a recipient's right to disconnect themselves from the machinery should they want to die.

All these future-oriented questions need to be raised and discussed when the 98th Congress convenes. The advances of medical technology—however beneficial to society—need to be viewed in many ways and from many

angles. The introduction of an artificial heart is welcome, not only for the genius it represents, but for the debate that is sure to result.

Turning from the story of the artificial heart to the report that GHA will be expanding their use of nurse midwives, one can not help but be struck by the contrast of moving from a highly technical health delivery world into a less mechanized one.

Nurse midwives have demonstrated, without a doubt, their ability to perform high-quality obstetrical care at a tremendous cost savings. GAO recommended earlier this year that the Department of Health and Human Services encourage greater use of nurse midwives, and assist them in eliminating the barriers that exist toward their practice. Births attended by nurse midwives use much less technology with the same favorable results.

The Omnibus Reconciliation Act of 1980 provides for mandatory medicaid payments for nurse midwife services to catagorically needy patients. The Department of Health and Human Services has estimated that when the regulations take effect later this year. The result in savings in Federal dollars will range from $2.2 to $2.8 billion in fiscal year 1983.

Not only does the expanded use of nurse midwives result in substantial savings, but more importantly, they are well received by patients, who actually seem to prefer delivering their babies in the least mechanized setting possible.

Two new moves in the health care field, both wondrous in their own right, both worth a second look and our continued attention next year.●

HEROIC ATF SPECIAL AGENTS

● Mr. ABDNOR. Mr. President, I was shocked and saddened to learn of the tragic death of special agent Ariel Rios, and of the wounding of special agent Alexander D'Atri during their participation in an undercover operation in Miami, Fla.

Their heroism and selfless dedication to duty are the strongest kind of evidence of the committment and professionalism of the ATF special agents.

Mr. President, being a law enforcement officer is a lonely and dangerous job. Far too often the work of our police forces go unnoticed and unappreciated. As chairman of the Treasury Appropriations Subcommittee, which funds and oversees the Bureau of Alcohol, Tobacco, and Firearms, I want every Treasury law enforcement agent to know of my complete support and gratitude for the hazardous services they perform in the war on crime.

The families, friends, and colleagues of agents Rios and D'Atri have my deepest and most profound sympathy.●

CATHY BURKE—IRISH AMERICAN WOMAN OF THE YEAR

● Mr. BRADLEY. Mr. President, with great pride and pleasure I now take this opportunity to congratulate Ms. Cathy Burke, a resident of New Jersey, who was recently chosen the Irish American Woman of the Year by the Independent American Irish Society of America. Ms. Burke was chosen for this honor because of her numerous humanitarian services to her community in church, cultural and social areas. She has served for two terms as president of the local parent-teachers' association and she has been a major fundraiser for the American Heart Fund, the Cancer Fund, the Community Drive, and the March of Dimes. In addition, she has been active in her local church, the St. Nicholas of Tolentine Church in Atlantic City, N.J.

I can think of no better recipient of the Irish American Woman of the Year honor than Ms. Burke who exemplifies the best of American voluntarism. The French critic and journalist, Alexis de Toqueville, in his book "Democracy in America," observed this same spirit of voluntarism in our Founding Fathers. De Toqueville wrote:

> Everything is in motion around you; here the people of one quarter of a town are met to decide upon the building of a church; there the election of a representative is going on; a little farther, the delegates of a district are hastening to the town in order to consult upon some local improvements; in another place, the laborers of a village quit their plows to deliberate upon the project of a road or a public school.

As long as this Nation has citizens like Cathy Burke who give themselves for their community, I am sure that the dream of our Founding Fathers will continue and thrive.●

BUDGET CUTS FOR PUBLIC HEALTH SERVICE

● Mr. BRADLEY. Mr. President, on December 1, 1982, the Washington Post published a most disturbing set of budget cuts projected for the U.S. Public Health Service. Mr. Stockman has proposed a $500 million reduction in the fiscal 1984 budget, a 7-percent decrease from fiscal 1983. Coupled with a 5- to 6-percent inflation rate, the overall reduction in the budget amounts to a 12- or 13-percent shortfall. Having already been subjected to 2 years of belt tightening the human service programs of the Public Health Service are once again being pared back, this time with a more selective scalpel which will perhaps mortally wound some of the most successful and cost-effective Federal programs in health. Although all programs will be affected by the cuts, the Center for Disease Control and the National Health Service Corps have been singled out for the most severe fiscal maltreatment.

Let me comment on what these cuts will mean for the health of our Nation.

The Center for Disease Control is charged with protecting the health of the Nation by providing leadership and direction in the prevention and control of diseases and other preventable conditions. It will experience, if these cuts are implemented, a budget reduction of more than a third—from $318 to $215 million for fiscal 1984. Personnel will be reduced by 20 percent. This agency serves as the major link to all State health departments and implements the major elements of our national public health policy. Besides providing basic laboratory support in evaluating communicable disease outbreaks and reference laboratory services for State health departments, the center through its epidemiology program assists States, the military, and foreign governments in investigating and controlling disease outbreaks. Its Center for Environmental Health and National Institute for Occupational Health evaluate and protect our workplace environments. Its research facility determines toxicity levels of hazardous chemicals and, in conjunction with the Environmental Protection Agency, helps in setting safe working standards. No other government agency has this responsibility.

At a time when disease prevention and health promotion measures have begun to bear fruit in terms of enhanced quality and length of life, the CDC's centers of Health Promotion and Prevention Services will have to be curtailed. Programs to promote improved nutrition, exercise, hypertension detection and smoking cessation cannot be maintained without funding.

Through its international health program the CDC provides assistance to underdeveloped nations particularly in the Southern Hemisphere. When our less fortunate Latin and South American neighbors look to us for guidance and assistance in eradicating major communicable and infectious diseases, what will we tell them?

The budget cuts proposed by OMB for the Center for Disease Control would jeopardize that agency's basic mission and impair its ability to protect our Nation's health.

The National Health Service Corps has been slated for a one-third reduction in personnel and a budget reduction for $93 to $75 million. This physician resource specifically provides medical professionals in medically underserviced areas throughout our Nation. Although there are some preliminary indications that this program

has improved care in underserved efforts in previous budget cuts have already taken their toll. And the new budget cuts are justified by assuming that fewer unserved areas will exist next year, an unlikely occurence. What remains are hard core, economically destitute, and remote areas. Cuts for the National Health Services Corps will directly reduce our ability to provide minimal and basic primary care to our Nation's most underserviced populations.

Mr. Stockman proposes to cap the budgets of other Public Health Service agencies at present dollar amounts. This includes the Food and Drug Administration and the National Institutes of Health. Inflation alone will effect a 6-percent reduction in operations and personnel. These cuts though modest came on the heels of previous budget reductions and strike at the heart of medical progress, our ability to understand disease processes and to treat those diseases more effectively. Our medical advances have increased life expectancy to 70 years for men and 77 for women. Heart disease as a cause of death has plummented 32 percent since 1950. Infant mortality rates have continued to decline to less than 14.4 per 1,000 live births. Vaccine discoveries and technological improvements have almost banished measles and rubella from the American scene. A recently introduced hepatitis vaccine promises to do the same for that disorder. A good deal of this progress can be directly linked to our Federal research enterprise, the National Institute of Health. Our continued progress is directly linked to ability to attract, train, and to retain outstanding young scientists. Declining budgets make it ever more difficult to maintain our basic research enterprise. Once interrupted these human skills and advance technology can be restored at only great expense and over a long period of time.

The Food and Drug Administration in its approval and monitoring of new drugs, food additive, cosmetics, and devices has provided us that ever important seal of safety and effectiveness for pharmaceutical products. Witness the rapid and decisive action taken during the most recent Tylenol tradegy. The cuts proposed by OMB will surely reduce our ability to protect our Nation's citizens from similar tragedies.

Mr. President, I categorically oppose the Public Health Service cuts proposed by OMB. We are flirting with disaster by dismantling the research, human services, and public health initiatives for the sole purpose of providing antitank missiles, another cruiser or a B-1 bomber. The good health of our society ought to be at least as important as its destruction.●

THE PROPOSED GAS TAX

● Mr. PRESSLER. Mr. President, while I support the intent of the proposals to revitalize our Nation's highway systems, I have become increasingly concerned over the haste at which the Congress is being asked to consider this wide-reaching legislation.

Most Americans, and indeed many Members of Congress, preceive this issue as a simple bill which will raise the gasoline tax. In reality, this legislation contains extremely complicated reauthorization legislation for the Federal-aid highway program, the urban mass transit program and changes in Federal standards governing permissible vehicle weights and lengths for use on our Nation's roads.

I have met in the last few days with many of the truckers from my home State of South Dakota and have heard from scores more. There is increasing alarm that in the hurry to pass this legislation, revenue and other provisions relating to the trucking industry are not being adequately consedered.

Our Nation's truckers, particularly in my home State, provide valuable services on which all Americans depend for receiving food and other goods. The passage of legislation which will harm the trucking industry will not only put already hard-pressed truckers out of work, but will also adversely affect American consumers.

There are several areas of the bill which I fear will have this negative effect. I intend to fight on the Senate floor to insure that a death blow is not dealt to the trucking industry. I will not support a bill which will raise revenues in adddition to fuel taxes by placing an inordinate burden on American truckers.

In addition, I plan to introduce an amendment which will address this problem. The amendment would provide flexibility for States, enhance interstate commerce, keep consumer prices down, and in the long run will be beneficial to employment.●

IN RECOGNITION OF PUBLIC EMPLOYEES

● Mr. BRADLEY. Mr. President, I am pleased to join my colleagues as a cosponsor of Senate Joint Resolution 244, a joint resolution designating January 17, 1983, as "Public Employees Appreciation Day."

The designation of such a day in recognition of the contributions of public employees is long overdue. Too often in our attempts to control government spending we lose sight of the tremendously important services performed by public employees—work performed at the local, State, and National level.

In 5 years this Nation will commemorate the 200th anniversary of the writing of the Constitution of the United States. While the Founding Fathers provided the genius behind that document, it is the public employees of this country who have had the actual responsibility to carry out the provisions of that Federal charter. Public employees work to "establish justice"—from the local policeman who places his life on the line for our security to the Federal officials who fight organized crime. Public employees work to "insure domestic tranquility"—by promoting decent housing, sufficient food, proper medical care, and a clean environment for all Americans. Public employees "provide for the common defense" by serving their country in the Army, the Navy, the Air Force, and the Marines. Public employees "promote the general welfare" by educating our children and maintaining the many public goods which are necessary for a growing economy.

On Public Employees Appreciation Day we must not forget these important contributions made by government employees which keep our Federal constitution a living document and keep this "American experiment in democracy" a thriving institution.●

ORDER OF BUSINESS

Mr. BAKER. Madam President, I conferred with the minority leader before and I advised him that I did not plan to transact any further business today. He indicated to me there was no requirement then for him to return to the floor prior to my making the motion which I will now make.

RECESS UNTIL 11 A.M. TOMORROW

Mr. BAKER. I see no Senator arising and seeking recognition. I, therefore, move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 11 a.m. tomorrow.

The motion was agreed to; and at 6:32 p.m. the Senate recessed until Tuesday, December 7, 1982 at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate December 6, 1982:

DEPARTMENT OF STATE

Paul D. Wolfowitz, of the District of Columbia, to be an Assistant Secretary of State, vice John H. Holdridge.

THE JUDICIARY

James F. Merow, of Virginia, to be a judge of the U.S. Claims Court for a term of 15 years (reappointment).

CIVIL AERONAUTICS BOARD

Diane Kay Morales, of Texas, to be a Member of the Civil Aeronautics Board for the term of 6 years expiring December 31, 1988, vice George A. Dalley, term expiring.

IN THE AIR FORCE

The following-named officers for appointment in the U.S. Air Force under the provisions of chapter 36, title 10 of the United States Code:

To be regular major general

Lt. Gen. James E. Dalton, [redacted] FR, Regular Air Force.

Lt. Gen. Robert T. Herres, [redacted] FR, Regular Air Force.

Lt. Gen. John S. Pustay [redacted] FR, Regular Air Force.

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be general

Lt. Gen. William R. Richardson, [redacted] U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Fred K. Mahaffey, [redacted], U.S. Army.

The following-named officer for appointment to the position indicated under the provisions of title 10, United States Code, section 711:

To be senior Army member of the Military Staff Committee of the United Nations

Maj. Gen. Fred K. Mahaffey, [redacted], U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President in grade as follows:

To be lieutenant general

Maj. Gen. Bennett L. Lewis, [redacted], U.S. Army.

The following-named Army Medical Department officers for appointment in the U.S. Army to the grade indicated under the provisions of title 10, United States Code, sections 611(a) and 624:

To be permanent brigadier general

Col. John E. Major, [redacted], Medical Corps, U.S. Army.

Col. Billy Johnson, [redacted] Dental Corps, U.S. Army.

HOUSE OF REPRESENTATIVES—*Monday, December 6, 1982*

The House met at 2 p.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Oh God, make us aware of the needs of others that we will have grateful hearts and be of a generous spirit. In times of want and uncertainty may we be specially aware of how we have been blessed and may that awareness cause us to use our gifts in ways that ease human suffering and give hope for tomorrow. Make us cheerful givers and wise stewards of our resources that all people will share in the bounty of Your creation and know Your peace that passes all human understanding. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 4364. An act to declare that the United States holds in trust for the Pascua Yaqui Tribe of Arizona certain land in Pima County, Ariz.; and

H.R. 7093. An act to amend the Internal Revenue Code of 1954 to reduce the rate of certain taxes paid to the Virgin Islands on Virgin Islands source income.

The message also announced that the Senate had passed bills, joint resolutions, and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 1340. An act to provide for the use and distribution of Clallam judgment funds in docket numbered 134 before the Indian Claims Commission, and for other purposes;

S. 1735. An act to provide for the use and distribution of funds awarded the Pembina Chippewa Indians in dockets numbered 113, 191, 221, and 246 of the Court of Claims;

S.J. Res. 258. Joint resolution to authorize and request the President to designate the month of December 1982 as "National Closed-Captioned Television Month";

S.J. Res. 264. Joint resolution to designate the week of March 13, 1983, through March 19, 1983, as "National Children and Television Week"; and

S. Con. Res. 130. Concurrent resolution expressing the sense of the Congress that the advancement of science and technology in the communications and electronics industry is vital to the needs of the United States.

CONSENT CALENDAR

The SPEAKER. This is the day for the call of the Consent Calendar. The Clerk will call the first bill on the Consent Calendar.

DIRECTING SECRETARY OF INTERIOR TO CONVEY CERTAIN REAL PROPERTY TO PERSHING COUNTY WATER CONSERVATION DISTRICT

The Clerk called the bill (H.R. 5652) to authorize and direct the Secretary of the Interior to convey certain real property to the Pershing County Water Conservation District.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. WALKER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

COW CREEK BAND OF UMPQUA TRIBE OF INDIANS RECOGNITION ACT

The Clerk called the bill (H.R. 6588) to provide for Federal recognition of the Cow Creek Band of Umpqua Tribe of Indians, to institute for such tribe those Federal services provided to Indians who are recognized by the Federal Government and who receive such services because of the Federal trust responsibility, and for other purposes.

There being no objection, the Clerk read the bill, as follows:

H.R. 6588

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Cow Creek Band of Umpqua Tribe of Indians Recognition Act".

DEFINITIONS

SEC. 2. For the purposes of this Act—

(1) the term "tribe" means the Cow Creek Band of Umpqua Tribe of Oregon; and

(2) the term "member", when used with respect to the tribe, means a person enrolled on the membership roll of the tribe in accordance with section 5 of this Act.

EXTENSION OF FEDERAL RECOGNITION, RIGHTS, AND PRIVILEGES

SEC. 3. (a) FEDERAL RECOGNITION.—Notwithstanding any provision of the Act approved August 13, 1954 (25 U.S.C. 691 et seq.), or any other law, Federal recognition is extended to the Cow Creek Band of Umpqua Tribe of Oregon. Except as otherwise provided in this Act, all laws and regulations of the United States of general application to Indians or nations, tribes, or bands of Indians which are not inconsistent with any specific provision of this Act shall be applicable to the tribe.

(b) RESTORATION OF RIGHTS AND PRIVILEGES.—All rights and privileges of the tribe and members of the tribe under any Federal treaty, Executive order, agreement, or statute, or under any other Federal authority, which may have diminished or lost under the Act approved August 13, 1954 (25 U.S.C. 691 et seq.), are restored, and the provisions of such Act shall be inapplicable to the tribe and to members of the tribe after the date of enactment of this Act.

(c) FEDERAL SERVICES AND BENEFITS.—Notwithstanding any other provision of law, the tribe and members of the tribe shall be eligible for all Federal services and benefits furnished to federally recognized Indian tribes upon the date of enactment of this Act without regard to the existence of a reservation for the tribe or the residence of members of the tribe on a reservation.

(d) EFFECT ON PROPERTY RIGHTS AND OTHER OBLIGATIONS.—Except as otherwise specifically provided in this Act, no provision contained in this Act shall alter any property right or obligation, any contractual right or obligation, or any obligation for taxes already levied.

ORGANIZATION OF TRIBE; CONSTITUTION AND BYLAWS

SEC. 4. The tribe may organize for its common welfare and adopt an appropriate instrument, in writing, to govern the affairs of the tribe when acting in its governmental capacity. The tribe shall file with the Secretary of the Interior a copy of its organic governing document and any amendments thereto.

MEMBERSHIP ROLLS

SEC. 5. (a) IN GENERAL.—Membership in the tribe shall consist of every individual—

(1) whose name appears on the tribal roll in effect on the date of enactment of this Act; or

(2) who is a descendant of any individual described in paragraph (1).

(b) LIMITATION.—Membership in the tribe pursuant to subsection (a) shall not entitle an individual, who is not otherwise entitled, to participate in any distribution of funds pursuant to a judgment under the Act approved May 26, 1980 (94 Stat. 372).

RULES

SEC. 6. The Secretary of the Interior may make such rules as are necessary to carry out the provisions of this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PROVIDING PURCHASE AND SALE OF LAND BY DEVILS LAKE SIOUX INDIAN TRIBE

The Clerk called the Senate bill (S. 503) to authorize the purchase, sale, and exchange of lands by the Devils Lake Sioux Tribe of the Devils Lake Sioux Reservation, N. Dak., and for other purposes.

There being no objection, the Clerk read the Senate bill, as follows:

S. 503

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. The Congress finds that—

(1) the Devils Lake Sioux Tribe, of the Devils Lake Sioux Reservation, North Dakota, is vigorously pursuing its goal of self-determination through development of manufacturing and farming enterprises; and

(2) the continued existence of the Devils Lake Sioux Reservation, North Dakota, as a permanent homeland of the Devils Lake Sioux Tribe and as a necessary foundation for continued self-determination requires that the Secretary of the Interior have authority to—

(A) consolidate and increase the trust land base in the reservation for the tribe and individual tribal members; and

(B) prevent further loss of trust land.

SEC. 2. (a) The Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") is authorized to—

(1) purchase with any funds held by the Secretary in trust for the benefit of the Devils Lake Sioux Tribe or appropriated for the purpose, or acquire by gift, exchange, or relinquishment, any interest in land (or any improvements thereon) located within the boundaries of the Devils Lake Sioux Reservation for the benefit of the Devils Lake Sioux Tribe or individual members of such tribe;

(2) sell or approve sales of any interest in tribal trust or tribal restricted land (or any improvements thereon) located within the boundaries of the Devils Lake Sioux Reservation but only if additional tribal trust or tribal restricted land which is approximately equal in acreage or value to the interest sold is acquired by the Secretary at the time of such sale; and

(3) exchange any interest in tribal or individual trust land or tribal or individual restricted land (or any improvements thereon) for any land located within the Devils Lake Sioux Reservation but only if the values of the interests in land involved in such an exchange are equal or are equalized by the payment of money.

(b) Any purchase of Federal lands under subsection (a)(1) shall be made in accordance with the provisions of the Federal Land Policy and Management Act of 1976 (90 Stat. 2744).

SEC. 3. The Secretary shall accept any transfer of title from the Devils Lake Sioux Tribe, or from any individual member of such tribe, for any interest in land (or any improvements thereon) located within the boundaries of the Devils Lake Sioux Reservation, and shall take title to such property in the name of the United States in trust for the benefit of the Devils Lake Sioux Tribe, or for such individual member.

SEC. 4. Any acquisition, sale, or exchange of lands for the Devils Lake Sioux Tribe which is made under this Act shall be made only upon the request of the authorized governing body of the Devils Lake Sioux Tribe, subject to the limitations and procedures of the tribal constitution.

SEC. 5. Notwithstanding any other provision of applicable law, the title to any interest in land, or any improvements thereon, acquired by the Secretary under this Act shall be acquired in the name of the United States in trust for the benefit of the Devils Lake Sioux Tribe or an individual member of such tribe, as the case may be, and such property shall be held and treated in the same manner as other trust or restricted Indian lands are held and treated under Federal law.

SEC. 6. Money or amounts credited to the Devils Lake Sioux Tribe from the sale or exchange under this Act or any interest in trust or restricted land (or any improvements thereon) may be used only for the purpose of purchasing or acquiring property under this Act and shall be deposited in a special account under the control of the Secretary or his duly authorized representative.

SEC. 7. Subsection (a) of the first section of the Act of August 9, 1955 (69 Stat. 539; 25 U.S.C. 415), as amended, is further amended—

(1) by striking out "and leases of land on the Agua Caliente" in the second sentence and inserting in lieu thereof "leases of land on the Agua Caliente", and

(2) by striking out "and the lands comprising the Moses Allotment Numbered 10, Chelan County, Washington," in the second sentence and inserting in lieu thereof the following: "leases of the lands comprising the Moses Allotment Numbered 10, Chelan County, Washington, and leases to the Devils Lake Sioux Tribe, or any organization of such tribe, of land on the Devils Lake Sioux Reservation,".

SEC. 8. (a)(1) The devise or descent of any interest in trust or restricted land located within the Devils Lake Sioux Reservation to any person who is not a member of the Devils Lake Sioux Tribe shall be subject to the right of such tribe to purchase such interest within two years of the date of death of the decedent by paying to the Secretary for the benefit of such person an amount equal to the fair market value of such interest on the date of such purchase (as determined by the Secretary after appraisal).

(2) Within ninety days after the date on which the Secretary receives payment of an amount for the benefit of a person under paragraph (1), the Secretary shall pay such amount to such person.

(3) The Devils Lake Sioux Tribe may exercise its right under paragraph (1) to purchase the interest of a person only if the governing body of such tribe notifies such person and the Secretary of the intent of such tribe to purchase such interest at least ninety days prior to the date of such purchase.

(b)(1) Subsection (a) shall not apply to any interest in land acquired by the spouse of a decedent if—

(A) the spouse elects the application of this subsection prior to the date which is ninety days after the date on which the governing body of the Devils Lake Sioux Tribe notifies the spouses of its intent to acquire such interest, and

(B) prior to such date, the spouse retains a life estate in such interest and conveys the remainder of such interest to any heir of the decedent who is a member of such tribe.

If the spouse of a decedent elects the application of this subsection with respect to any interest in land which was trust or restricted land immediately prior to the death of the decedent, the life estate and the remainder of such interest created by the conveyance described in paragraph (1)(B) shall acquire such trust or restricted status.

(c) This section shall only apply to interests included in the estates of decedents dying on or after the date of enactment of this Act.

SEC. 9. The Devils Lake Sioux Reservation, North Dakota, is hereby declared the permanent homeland of the Devils Lake Sioux Tribe.

SEC. 10. The Secretary is authorized to take such action as may be necessary to carry out the purposes of this Act.

With the following committee amendment:

Strike all after the enacting clause and insert in lieu thereof the following:

TITLE I

SECTION 101. The Congress finds that—

(1) the Devils Lake Sioux Tribe, of the Devils Lake Sioux Reservation, North Dakota, is vigorously pursuing its goal of self-determination through development of manufacturing and farming enterprises; and

(2) the continued existence of the Devils Lake Sioux Reservation, North Dakota, as a permanent homeland of the Devils Lake Sioux Tribe and as a necessary foundation for continued self-determination requires that the Secretary of the Interior have authority to—

(A) consolidate and increase the trust land base in the reservation for the tribe and individual tribal members; and

(B) prevent further loss of trust land.

SEC. 102. (a) The Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") is authorized to—

(1) purchase with any funds held by the Secretary in trust for the benefit of the Devils Lake Sioux Tribe or appropriated for the purpose, or acquire by gift, exchange, or relinquishment, any interest in land (or any improvements thereon) located within the boundaries of the Devils Lake Sioux Reservation for the benefit of the Devils Lake Sioux Tribe or individual members of such tribe;

(2) sell or approve sales of any interest in tribal trust or tribal restricted land (or any improvements thereon) located within the boundaries of the Devils Lake Sioux Reservation but only if additional tribal trust or tribal restricted land which is approximately equal in acreage or value to the interest sold is acquired by the Secretary at the time of such sale; and

(3) exchange any interest in tribal or individual trust land or tribal or individual restricted land (or any improvements thereon) for any land located within the Devils Lake Sioux Reservation but only if the values of the interests in land involved in such an exchange are equal or are equalized by the payment of money.

(b) Any purchase of Federal lands under subsection (a)(1) shall be made in accordance with the provisions of the Federal Land Policy and Management Act of 1976 (90 Stat. 2744).

SEC. 103. The Secretary shall accept any transfer of title from the Devils Lake Sioux Tribe, or from any individual member of such tribe, for any interest in land (or any improvements thereon) located within the boundaries of the Devils Lake Sioux Reservation, and shall take title to such property in the name of the United States in trust for the benefit of the Devils Lake Sioux Tribe, or for such individual member.

SEC. 104. Any acquisition, sale, or exchange of lands for the Devils Lake Sioux Tribe which is made under this title shall be made only upon the request of the authorized governing body of the Devils Lake Sioux Tribe, subject to the limitations and procedures of the tribal constitution.

SEC. 105. Notwithstanding any other provision of applicable law, the title to any interest in land, or any improvements thereon, acquired by the Secretary under this title shall be acquired in the name of the United States in trust for the benefit of the Devils Lake Sioux Tribe or an individual member of such tribe, as the case may be, and such property shall be held and treated in the same manner as other trust or restricted Indian lands are held and treated under Federal law.

SEC. 106. Money or amounts credited to the Devils Lake Sioux Tribe from the sale or exchange under this title of any interest in trust or restricted land (or any improvements thereon) may be used only for the purpose of purchasing or acquiring property under this title and shall be deposited in a special account under the control of the Secretary or his duly authorized representative.

SEC. 107. Subsection (a) of the first section of the Act of August 9, 1955 (69 Stat. 539; 25 U.S.C. 415), as amended, is further amended—

(1) by striking out "and leases of land on the Agua Caliente" in the second sentence and inserting in lieu thereof "leases of land on the Agua Caliente", and

(2) by striking out "and the lands comprising the Moses Allotment Numbered 10, Chelan County, Washington," in the second sentence and inserting in lieu thereof the following: "leases of the lands comprising the Moses Allotment Numbered 10, Chelan County, Washington, and leases to the Devils Lake Sioux Tribe, or any organization of such tribe, of land on the Devils Lake Sioux Reservation,".

SEC. 108. (a)(1) The devise or descent of any interest in trust or restricted land located within the Devils Lake Sioux Reservation to any person who is not a member of the Devils Lake Sioux Tribe shall be subject to the right of such tribe to purchase such interest within two years of the date of death of the decedent by paying to the Secretary for the benefit of such person an amount equal to the fair market value of such interest on the date of such purchase (as determined by the Secretary after appraisal).

(2) Within ninety days after the date on which the Secretary receives payment of an amount for the benefit of a person under paragraph (1), the Secretary shall pay such amount to such person.

(3) The Devils Lake Sioux Tribe may exercise its right under paragraph (1) to purchase the interest of a person only if the governing body of such tribe notifies such person and the Secretary of the intent of such tribe to purchase such interest at least ninety days prior to the date of such purchase.

(b)(1) Subsection (a) shall not apply to any interest in land acquired by the spouse of a decedent if—

(A) the spouse elects the application of this subsection prior to the date which is ninety days after the date on which the governing body of the Devils Lake Sioux Tribe notifies the spouse of its intent to acquire such interest, and

(B) prior to such date, the spouse retains a life estate in such interest and conveys the remainder of such interest to any heir of the decedent who is a member of such tribe.

(2) If the spouse of a decedent elects the application of this subsection with respect to any interest in land which was trust or restricted land immediately prior to the death of the decedent, the life estate and the remainder of such interest created by the conveyance described in paragraph (1)(B) shall acquire such trust or restricted status.

(c) This section shall only apply to interests included in the estates of decedents dying on or after the date of enactment of this title.

SEC. 109. The Devils Lake Sioux Reservation, North Dakota, is hereby declared the permanent homeland of the Devils Lake Sioux Tribe.

SEC. 110. The Secretary is authorized to take such action as may be necessary to carry out the purposes of this title.

TITLE II

SEC. 201. This title may be cited as the "Indian Land Consolidation Act".

SEC. 202. For the purpose of this title—

(1) "tribe" means any Indian tribe, band, group, pueblo, or community for which, or for the members of which, the United States holds lands in trust;

(2) "Indian" means any person who is a member of a tribe or any person who is recognized as an Indian by the Secretary of the Interior;

(3) "Secretary" means the Secretary of the Interior; and

(4) "trust or restricted lands" means lands, title to which is held by the United States in trust for an Indian or an Indian tribe or lands title to which is held by Indians or an Indian tribe subject to a restriction by the United States against alienation.

SEC. 203. The provisions of section 5 of the Act of June 18, 1934 (48 Stat. 985), shall apply to all tribes notwithstanding the provisions of section 18 of such Act: *Provided*, That nothing in this section is intended to supersede any other provision of Federal law which authorizes, prohibits, or restricts the acquisiton of land for Indians with respect to any specific tribe, reservation, or state(s).

SEC. 204. (a) Notwithstanding any other provision of law, any tribe, acting through its governing body, is authorized, with the approval of the Secretary to adopt a land consolidation plan providing for the sale or exchange of any tribal lands or interest in lands for the purpose of eliminating undivided fractional interests in Indian trust or restricted lands or consolidating its tribal landholdings.

SEC. 205. Any Indian tribe may purchase at no less than the fair market value all of the interests in any tract of trust or restricted land within that tribe's reservation or otherwise subjected to that tribe's jurisdiction with the consent of over 50 per centum of the owners or with the consent of the owners of over 50 per centum of the undivided interests in such tract: *Provided*, That—

(1) no such tract shall be acquired by any Indian or Indian tribe over the objection of three or less owners owning 50 per centum or more of the total interests in such tract;

(2) any Indian owning any undivided interest in, and in actual use and possession of such tract, may purchase such tract by matching the tribal offer;

(3) no Indian acquiring land under this section shall be eligible to apply for a fee patent in such lands for a period of 10 years after such acquisition;

(4) this section shall not apply to any tract of land owned by less than fifteen persons; and

(5) all purchases and sales initiated under this section shall be approved by the Secretary.

SEC. 206. Notwithstanding any other provisions of law, any Indian tribe may provide by appropriate action of its governing body, subject to approval by the Secretary, that nonmembers of the tribe or non-indians shall not be entitled to receive by devise or descent any interest in trust or restricted lands within that tribe's reservation or otherwise subjected to that tribe's jurisdiction: *Provided*, That in the event a tribe takes such action—

(1) the sale price or exchange value received by the tribe for land or interests in land covered by this section shall be no less than within 10 per centum of the fair market value as determined by the Secretary;

(2) if the tribal land involved in an exchange is of greater or lesser value than that land for which it is being exchanged, the tribe may accept or give cash in such exchange in order to equalize the values of the property exchanged;

(3) any proceeds from the sale of land or interest in land or proceeds received by the tribe to equalize an exchange made pursuant to this section shall be used exclusively for the purchase of other land or interest in land;

(4) the Secretary shall maintain a separate trust account for each tribe selling or exchanging land pursuant to this section consisting of the proceeds of the land sales and exchanges and shall release such funds only for the purpose of buying lands under this section; and

(5) any tribe may retain the mineral rights to such sold or exchanged lands and the Secretary shall assist such tribe in determining the value of such mineral rights and shall take such value into consideration in determining the fair market value of such lands.

(b) The Secretary must execute such instrument of conveyance needed to effectuate a sale or exchange of tribal lands made pursuant to an approved tribal land consolidation plan unless he makes a specific finding that such sale or exchange is not in the best interest of the tribe or is not in compliance with the tribal land consolidation plan.

(1) if an Indian dies intestate, the surviving non-Indian or nonmember spouse and/or children shall be entitled to a life estate in as much of the trust or restricted lands as he, she or they would have been entitled to take under existing law;

(2) if an intestate Indian decendent has no heir to whom interests in trust or restricted lands may pass, such interests shall escheat to the tribe, subject to any non-Indian or nonmember spouse and/or children's rights as described in paragraph (1) of this section;

(3) if an Indian decedent has devised interests in trust or restricted lands to persons who are ineligible for such an inheritance by reason of a tribal ordinance enacted pursuant to this section, the devise shall be voided only if, while the estate is pending before the secretary for probate, the tribe acquires such interests by paying to the Secretary, on behalf of the devisees, the fair market value of such interests as determined by the Secretary as of the date of the decedent's death; Provided, That any non-Indian or nonmember spouse and/or children of such decedent who have been devised such interests may retain, at their

option, a life estate in such interests, or be compensated by the tribe for the value of such interests.

SEC. 207. No undivided fractional interest in any tract of trust or restricted land within a tribe's reservation or otherwise subjected to a tribe's jurisdiction shall descedent by intestacy or devise but shall escheat to that tribe if such interest represents 2 per centum or less of the total acreage in such tract and has earned to its owner less than $100 in the preceding year before it is due to escheat.

SEC. 208. The Secretary in carrying out his responsibility to regulate the descent and distribution of trust lands under section 1 of the Act of June 25, 1910 (36 Stat. 855; 25 U.S.C. 372) as amended, and other laws, shall give full faith and credit to any tribal actions taken pursuant to section 206 of this title, which provision shall apply only to estates of decedent's whose deaths occur on or after the effective date of tribal ordinances adopted pursuant to this title.

SEC. 209. The Secretary shall have the authority to issue deeds, patents, or such other instruments of conveyance needed to effectuate a sale or exchange of tribal lands made pursuant to the terms of this title and to remove, at the request of an Indian owner, the trust status of individually held lands or interests therein, where authorized by law.

SEC. 210. Title to any land acquired under this title by any Indian or Indian tribe shall be taken in trust by the United States for that Indian or Indian tribe.

SEC. 211. All lands or interests in land acquired by the United States for an Indian or Indian tribe under authority of this title shall be exempt from Federal, State and local taxation.

The committee amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "An act to authorize the purchase, sale, and exchange of lands by Indian tribes and by the Devils Lake Sioux Tribe of the Devils Lake Sioux Reservation of North Dakota specifically, and for other purposes."

A motion to reconsider was laid on the table.

USE AND DISTRIBUTION OF FUNDS AWARDED TO BLACKFEET AND GROS VENTRE TRIBES OF INDIANS AND THE ASSINEBOINE TRIBE OF THE FORT BELKNAP INDIAN COMMUNITY, AND OTHERS

The Clerk called the Senate bill (S. 1986 to provide for the use and distribution of funds awarded the Blackfeet and Gros Ventre Tribes of Indians and the Assiniboine Tribe of the Fort Belknap Indian Community, and others, in dockets numbered 250–A and 279–C by the United States Court of Claims, and for other purposes.

There being no objection, the Clerk read the Senate bill, as follows:

S. 1986

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of the law, the funds appropriated on January 23, 1981, in accordance with section 1302 of the Supplemental Appropriation Act (31 U.S.C. 724a), in satisfaction of a judgment awarded to the Blackfeet and Gros Ventre Tribes of Indians and the Assiniboine Tribe of the Fort Belknap Indian Community in dockets numbered 250–A and 279–C of the United States Court of Claims (less attorney fees and litigation expenses), including all interest and investment income accrued, shall be distributed and used as herein provided.

SEC. 2. The funds appropriated to the Blackfeet Tribe of the Blackfeet Reservation; Montana, in docket numbered 279–C, amounting to $400,000, shall be held in trust and invested by the Secretary of the Interior (hereinafter "Secretary") for the benefit of the members of the Blackfeet Tribe. The governing body of such tribe is authorized to utilize such funds on a budgetary basis, subject to the approval of the Secretary, for governmental operation and social and economic programs.

SEC. 3. The funds appropriated to the Assiniboine Tribe of the Fort Belknap Indian Community, Montana, in docket numbered 250–A, amounting to $2,170,013 shall be used and distributed as follows: *Provided,* That no person shall be eligible to share in more than one award in his own right.

(a) Eighty per centum of such funds shall be distributed in the form of per capita payments (in sums as equal as possible) to all persons duly enrolled as Assiniboin members of the Fort Belknap Indian Community and born on or prior to and living on the date of enactment of this Act.

(b) Twenty per centum of such funds shall be held in trust and invested by the Secretary for the benefit of the members of the Assiniboine Tribe of the Fort Belknap Indian Community. The treaty committee of such tribe is authorized to utilize such funds on a budgetary basis, subject to the approval of the Secretary, for social and economic programs. Such programs may include but are not limited to land acquisitions and the development of local reservation projects.

SEC. 4. The funds appropriated to the Gros Ventre Tribe of the Fort Belknap Indian Reservation, Montana, in docket numbered 279–C amounting to $2,094,987 shall be used and distributed as follows: *Provided,* That no person shall be eligible to share in more than one award in his own right.

(a) Eighty per centum of such funds shall be distributed in the form of per capita payments (in sums as equal as possible) to all persons born on or prior to and living on the date of enactment of this Act who are (1) duly enrolled members of the Gross Ventre Tribe of the Fort Belknap Indian Reservation who possess at least one quarter degree Gros Ventre blood, or (2) who are enrolled in the Fort Belknap Indian Community and are at least one-eighth degree Gros Ventre blood and at least one-eighth degree Assiniboine blood and are not eligible to share in section 3 of this Act.

(b) Twenty per centum of such funds shall be held in trust and invested by the Secretary for the benefit of the members of the Gros Ventre Tribe of the Fort Belknap Indian Reservation. The treaty committee of such tribe is authorized to utilize such funds on a budgetary basis, subject to the approval of the Secretary, for social and economic programs. Such programs may include but are not limited to land acquisitions and the development of local reservation projects.

(c) Nothing in this section is deemed in anyway to increase, diminish or in anyway affect the right of the Gros Ventre Tribe to determine its membership.

SEC. 5. The per capita shares of living competent adults shall be paid directly to them. Per capita shares of deceased individual beneficiaries shall be determined and distributed pursuant to regulations prescribed by the Secretary. Per capita shares of individuals under age eighteen shall be paid in accordance with such procedures, including the establishment of trusts, as the Secretary determines to be necessary to protect and preserve the interest of such individuals.

SEC. 6. None of the funds distributed per capita or held in trust under the provisions of this Act shall be subject to Federal or State income taxes, and the per capita payments shall not be considered as income or resources when determining the extent of eligibility for assistance under the Social Security Act or other Federal assistance programs.

SEC. 7. The Secretary of the Interior is authorized to prescribe rules and regulations to carry out the provisions of this Act, including the establishment of deadlines for filing applications for enrollment.

SEC. 8. Twenty-six and eight-tenths per centum of funds in the amount of $29,404,951.84 (less attorney fees and litigation expenses), appropriated on June 30, 1981, in accordance with section 1302 of the Supplemental Appropriation Act (31 U.S.C. 724a), in satisfaction of a judgment awarded to the Blackfeet and Gros Ventre Tribes in docket numbered 649–80L of the United States Court of Claims, shall be distributed to the Gros Ventre Tribe of the Fort Belknap Reservation in accordance with sections 4, 5, 6, and 7 of this Act.

SEC. 9. Funds in the amount of $77,780.13 (less attorney fees and litigation expenses), appropriated on July 16, 1981, in accordance with section 1302 of the Supplemental Appropriation Act (31 U.S.C. 724a), in satisfaction of a judgment awarded to the Gros Ventre Tribe of the Fort Belknap Indian Community in docket numbered 309–74 of the United States Court of Claims, shall be distributed in accordance with sections 4, 5, 6, and 7 of this Act.

With the following committee amendment:

Strike all after the enacting clause and insert in lieu thereof the following:

That, notwithstanding any other provision of law, the funds appropriated in accordance with section 1302 of the Supplemental Appropriation Act (31 U.S.C. 724a), on January 23, 1981, in satisfaction of a judgment awarded to the Blackfeet and Gros Ventre Tribes of Indians and the Assiniboine Tribe of the Fort Belknap Indian Community in dockets numbered 250–A and 279–C of the United States Court of Claims; on July 16, 1981, in satisfaction of a judgment awarded to the Gros Ventre Tribe of Fort Belknap Indian Community in docket numbered 309–74 of the United States Court of Claims; and 26.8 per centum of the funds appropriated on June 30, 1981, in satisfaction of a judgment awarded to the Blackfeet and Gros Ventre Tribes in docket numbered 649–80L of the United States Court of Claims, less attorney fees and litigation expenses, but including all accrued interest and investment income, shall be distributed and used as herein provided.

SEC. 2. The funds appropriated to the Blackfeet Tribe of the Blackfeet Reservation, Montana, in docket numbered 279-C, in an original amount of $400,000, shall be held in trust and invested by the Secretary of the Interior (hereinafter "Secretary") for the benefit of the members of the Blackfeet Tribe. The governing body of such tribe is authorized to utilize such funds on a budgetary basis, subject to approval of the Secretary, for governmental operations and social and economic programs.

SEC. 3. The funds appropriated to the Assiniboine Tribe of the Fort Belknap Indian Community, Montana, in docket numbered 250-A, in the original amount of $2,170,013 shall be used and distributed as follows: *Provided*, That no person shall be eligible to share in more than one award in his own right:

(a) Eighty per centum of such funds shall be distributed in the form of per capita payments (in sums as equal as possible) to all persons duly enrolled as Assiniboine members of the Fort Belknap Indian Community and born on or prior to, and living on, the date of enactment of this Act.

(b) Twenty per centum of such funds shall be held in trust and invested by the Secretary for the benefit of the members of the Assiniboine Tribe of the Fort Belknap Indian Community. The treaty committee of such tribe is authorized to utilize such funds on a budgetary basis, subject to approval of the Secretary, for social and economic programs. Such programs may include, but are not limited to, land acquisitions and the development of local reservation projects.

SEC. 4. The funds appropriated to the Gros Ventre Tribe of the Fort Belknap Indian Community, Montana, in docket numbered 279-C, in the original amount of $2,094,987; in docket numbered 309-74, in the original amount of $77,780.13; and in docket numbered 649-80L, in the initial amount of 26.8 per centum of $29,404,951.94, shall be used and distributed as follows: *Provided*, That no person shall be eligible to share in more than one award in his own right:

(a) Eighty per centum of such funds shall be distributed in the form of per capita payments (in sums as equal as possible) to all persons born on or prior to, and living on, the date of enactment of this Act who are (1) duly enrolled members of the Gros Ventre Tribe of the Fort Belknap Indian Reservation who possess at least one-quarter degree Gros Ventre blood or (2) who are enrolled in the Fort Belknap Indian Community and who are at least one-fourth degree Gros Ventre and Assiniboine blood, but not less than one-eighth degree Gross Ventre blood, and are not eligible to share under section 3 of this Act.

(b) Twenty per centum of such funds shall be held in trust and invested by the Secretary for the benefit of the members of the Gros Ventre Tribe of the Fort Belknap Indian Reservation. The treaty committee of such tribe is authorized to utilize such funds on a budgetary basis, subject to approval of the Secretary, for social and economic programs. Such programs may include, but are not limited to, land acquisition and the development of local reservation projects.

(c) Nothing in this section is deemed in any way to increase, diminish, or in any way affect the right of the Gros Ventre Tribe to determine its membership.

SEC. 5. The per capita shares of living competent adults shall be paid directly to them. Per capita shares of deceased individual beneficiaries shall be determined and distributed pursuant to regulations prescribed by the Secretary. Per capita shares of individuals under eighteen shall be paid in accordance with such procedures, including the establishment of trusts, as the Secretary determines to be necessary to protect and preserve the interests of such individuals.

SEC. 6. None of the funds distributed per capita or held in trust under provisions of this Act shall be subject to Federal or State income taxes, and the per capita payments shall not be considered as income or resources when determining the extent of eligibility for assistance under the Social Security Act or other Federal assistance programs.

SEC. 7. The Secretary is authorized to prescribe rules and regulations to carry out the provisions of this Act, including the establishment of deadlines for filing applications for enrollment.

SEC. 8. (a) Notwithstanding any other law, the funds appropriated by the Act of September 30, 1976 (90 Stat. 1416), in satisfaction of a judgment awarded to the Papago Tribe of Arizona in dockets numbered 345 and 102 of the Indian Claims Commission, less attorney fees and litigation expenses, but including all accrued interest or investment income, shall be used and distributed as provided in this Act.

(b) Fifty per centum of such funds shall be held in trust by the Secretary for the benefit of the Papago Tribe and shall be administered or invested by the Secretary for the best interest of the tribe under existing law. Such funds shall be held and used as follows:

(1) All interest or investment income accruing to said funds shall be available, at the request of the tribe on a quarterly basis, for use by the Papago Tribal Council on an annual budgetary basis for expenditures of the tribal government, and for health, education, and social services, capital improvements and economic development programs of the tribe and of the district and communities of the tribe's reservation. Any interest or investment income accrued during the year and remaining available at the end of the tribe's fiscal year shall, at the request of the tribe, be added to the principal amount.

(2) A portion of such funds, principal and accrued interest or investment income, but not in the aggregate a sum in excess of 20 per centum of the initial principal amount, shall be available upon the request to the tribe for capital improvement or major economic development activities of benefit to the tribe as a whole pursuant to a plan or plans developed by the Papago Tribal Council and approved by the Secretary.

(3) Sufficient funds from the principal amount of such funds shall be available to the Secretary to insure that the per capita distribution of $1,000 to each enrollee is completed as provided in subsection (c) to the extent that there are not sufficient funds in the amount set aside for per capita distribution to make such payment.

(c) Fifty per centum of such funds shall be held and administered by the Secretary for per capita distribution and such sums, together with any accrued interest or investment income, shall be distributed and used as follows:

(1) The membership roll of the tribe shall be brought current to the date of enactment of this Act pursuant to the criteria specified in the tribal constitution and the provisions of the Papago Enrollment Ordinance, ordinance numbered 5-81, and the Papago Enrollment Manual, or other ordinances and regulations adopted by the Papago Tribal Council and approved by the Secretary: *Provided*, That no application for membership of the roll may be filed or received by the tribe for purposes of per capita payments under this section one hundred and eighty days after the date of enactment of this Act.

(2) Sufficient funds shall be made available to the tribe on an annual budgetary basis from interest and investment income accruing to such funds to assist the tribe to bring the membership roll current as provided in paragraph (1) of the subsection.

(3) Per capita distributions shall be made, in shares as equal as possible, to all members of the Papago Tribe who were born on or prior to, and living on, the date of enactment of this Act, as follows:

(i) Persons whose applications for membership on the roll have been approved on the date of enactment of this Act shall be paid the sum of $1,000 within ninety days after such date.

(ii) Persons whose applications for membership on the roll have not been approved on the date of enactment of this Act shall be paid the sum of $1,000 within ninety days after their membership has been approved.

(iii) Upon completion of the membership roll and of all appeals from adverse determinations on applications for membership, and upon the expiration of the time allowed for such appeals, any remaining amount, after the payments provided in paragraph (2) of this subsection and in subparagraphs (i) and (ii) of this paragraph, shall be distributed, in sums as equal as possible, to all enrolled members of the Pagapo Tribe.

(iv) The per capita shares of living competent adults shall be paid directly to them. Per capita shares of deceased beneficiaries, legal incompetents, and minors shall be determined and distributed pursuant to regulations prescribed by the Secretary.

(v) Any amount remaining after the per capita distributions to enrollees provided in subparagraph (iii) of this paragraph shall revert to the tribe and shall be added to the principal fund held and administered by the Secretary pursuant to subsection (b) of this section.

(d) None of the funds distributed per capita or held in trust under the provisions of this section shall be subject to Federal or State income taxes, and the per capita payments shall not be considered as income or resources when determining the extent of eligibility for assistance under the Social Security Act or other Federal assistance programs.

The committee amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "An act to provide for the use and distribution of funds awarded to the Blackfeet and Gros Ventre Tribe of Indians and the Assiniboine Tribe of Fort Belknap Indian Community, in certain dockets of the United States Court of Claims and of funds awarded to the Papago Tribe of Arizona in dockets numberd 345 and 102 of the Indian Claims Commission, and for other purposes."

A motion to reconsider was laid on the table.

PROVIDING FOR THE DISTRIBUTION OF WARM SPRINGS JUDGMENT FUNDS AWARDED IN DOCKET NUMBERED 198 BEFORE THE INDIAN CLAIMS COMMISSION, AND FOR OTHER PURPOSES

The Clerk called the bill (H.R. 6243) to provide for the distribution of Warm Springs judgment funds awarded in docket number 198 before the Indian Claims Commission, and for other purposes.

There being no objection, the Clerk read the bill, as follows:

H.R. 6243

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any provision of the Act approved October 19, 1973 (25 U.S.C. 1401 et seq.), any other law, and any regulation or plan promulgated pursuant to such Act or any other law, the funds appropriated by the Act approved January 3, 1974 (87 Stat. 1071), for the award to the Confederated Tribes of the Warm Springs Reservation in docket numbered 198 before the Indian Claims Commission, including all interest and investment income accrued, less attorney fees and litigation expenses, shall be distributed in accordance with section 2 of this Act.

SEC. 2. The Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") shall distribute the funds referred to in the first section of this Act to the individuals enrolled by the Secretary under section 3 of this Act on a per capita basis in the following manner:

(1) The per capita share of a living competent individual who has attained the age of eighteen shall be paid directly to such individual.

(2) The per capita share of a deceased individual shall be distributed to the heir or beneficiary under a will of such individual in accordance with regulations prescribed by the Secretary and the probate code of the Confederated Tribes of the Warm Springs Reservation. In the event such individual dies intestate without heirs, the per capita share of the individual shall escheat to the Confederated Tribes of the Warm Springs Reservation.

(3) The per capita share of an individual under the age of eighteen or an individual determined by the Secretary to be incompetent to handle his own affairs shall be (A) distributed in accordance with such procedures as the Secretary determines to be necessary to protect the interests of such individual, or (B) in the discretion of the Secretary, held in trust for the benefit of such individual.

SEC. 3. The Secretary shall prepare, under such procedures as he may establish by regulation, a roll of all members of the Confederate Tribes of the Warm Springs Reservation who—

(1) were living on the date of the enactment of this Act, and

(2) have not participated in—

(A) the distribution to the Malheur Paiutes under the provisions of the Act approved August 20, 1964 (78 Stat. 563),

(B) a distribution pursuant to any other judgment under the Act approved August 13, 1946 (25 U.S.C. 70 et seq.), or

(C) any distribution under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)

The determination of the Secretary regarding the eligibility for enrollment under this section of any individual shall be final.

SEC. 4. (a) None of the funds distributed by the Secretary under section 2 of this Act (or held in trust by the Secretary pursuant to paragraph (3)(B) of such section) shall be subject to Federal or State income taxes.

(b)(1) Except as provided in paragraph (2), the availability or distribution of funds by the Secretary under section 2 of this Act may not be considered as income or resources or otherwise used as the basis for denying or reducing—

(A) any financial assistance or other benefit to which any individual enrolled as a member under section 3 of this Act, or the household of any such individual, would otherwise be entitled or for which such individual or household is otherwise eligible under the Social Security Act, or

(B) any other Federal financial assistance or other Federal benefit to which such individual or household is otherwise entitled or for which such individual or household is otherwise eligible.

(2) The restriction contained in paragraph (1) of this subsection on the consideration or use of such funds for the purpose of reducing or denying any financial assistance or benefit described in subparagraph (B) of such paragraph shall not apply to that portion of any per capita share distributed under section 2 of this Act which exceeds $2,000.

With the following committee amendments:

1. On page 2, line 18 strike all until and including the word "Reservation" on lines 22 and 23 and insert in lieu the following:

(2) The per capita shares of deceased individual beneficiaries shall be determined and distributed in accordance with 43 CFR Part 4, Subpart D.

2. On page 3, line 2, strike the word "such" and insert in lieu the word "an".

3. On page 3, strike all of lines 17 and 18 and insert in lieu thereof the following:

(1) were born on or prior to, and were alive on, the date of enactment of this Act, but also including deceased persons who were alive and enrolled as of February 18, 1975, and,

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PROVIDING FOR THE USE AND DISTRIBUTION OF FUNDS AWARDED THE PEMBINA CHIPPEWA INDIANS IN DOCKETS NUMBERED 113, 191, 221, AND 246 OF THE COURT OF CLAIMS

The Clerk called the bill (H.R. 6416) to provide for the use and distribution of funds awarded the Pembina Chippewa Indians in dockets numbered 113, 191, 221, and 246 of the Court of Claims.

There being no objection, the Clerk read the bill, as follows:

H.R. 6416

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any provision of the Act of October 19, 1973 (87 Stat. 466; 25 U.S.C. 1401, et seq.), or any other law, regulation, or plan promulgated pursuant thereto, any funds appropriated in satisfaction of a judgment awarded to the Pembina Chippewa Indians in dockets numbered 113, 191, 221, and 246 of the Court of Claims shall be used and distributed as provided in this Act.

SEC. 2. All of the funds appropriated with respect to the judgment awarded the Pembina Chippewa Indians in dockets 113, 191, 221, and 246 (less attorney fees and litigation expenses), including all interest and investment income accrued, shall be divided by the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") among the Turtle Mountain Band of Chippewa Indians, the Chippewa Cree Tribe of Rocky Boy's Reservation, the Minnesota Chippewa Tribe, and the nonmember Pembina descendants (as a group) so that each is allocated an amount which bears the same relationship to such funds as the number of members of such band, tribe, or group who are described under section 3(1), 4(1), 5(1), or 6(a) bears to the sum of—

(1) the number of members of the Turtle Mountain Band of Chippewa Indians described in section 3(1),

(2) the number of members of the Chippewa Cree Tribe of Rocky Boy's Reservation described in section 4(1),

(3) the number of members of the Minnesota Chippewa Tribe described in section 5(1), plus

(4) the Number of nonmember Pembina Chippewas enrolled by the Secretary under section 6(a).

SEC. 3. The funds allocated by section 2 to the Turtle Mountain Band of Chippewa Indians shall be used and distributed as follows:

(1) Eighty per centum of such funds shall be distributed in the form of per capita payments (in sums as equal as possible) to all enrolled members of the Turtle Mountain Band of Chippewa Indians who are living on the date of the enactment of this Act.

(2) Twenty per centum of such funds shall be held in trust and invested by the Secretary for the benefit of the members of the Turtle Mountain Band of Chippewa Indians. The governing body of such band is authorized to use the interest and investment income accrued on such 20 per centum portion, on an annual budgetary basis subject to the approval of the Secretary, for—

(A) the administration of such band, or

(B) social and economic programs.

A proposed tribal budget utilizing $5,000 or more of such interest or investment income in any fiscal year shall be subject to a tribal referendum in accordance with the constitution of the Turtle mountain Band of Chippewa Indians. Such 20 per centum portion of the principal shall not be available for per capita payments.

SEC. 4. The funds allocated by section 2 to the Chippewa Cree Tribe of Rocky Boy's Reservation shall be used and distributed as follows:

(1) Eighty per centum of such funds shall be distributed in the form of per capita payments (in sums as equal as possible) to all enrolled members of the Chippewa Cree Tribe of Rocky Boy's Reservation who—

(A) established Pembina Chippewa ancestry to the satisfaction of the Secretary, and

(B) are living on the date of the enactment of this Act.

(2) Twenty per centum of such funds shall be held in trust and invested by the Secretary for the benefit of the members of the Chippewa Cree Tribe of Rocky Boy's Reser-

vation. The governing body of such tribe is authorized to use the interest and investment income accrued on such 20 per centum portion, on an annual budgetary basis subject to the approval of the Secretary, for—

(A) development of a tribal administration complex,

(B) land acquisition and development,

(C) a swimming pool,

(D) a roller skating rink,

(E) a bowling alley,

(F) any other recreational purposes,

(G) tribal administration, or

(H) any social and economic programs.

A proposed tribal budget utilizing $5,000 or more of such interest or investment income in any fiscal year shall be subject to a tribal referendum in accordance with the constitution of the Chippewa Cree Tribe of Rocky Boy's Reservation. Such 20 per centum portion of the principal shall not be available for per capita payments.

SEC. 5. The funds allocated by section 2 to the Minnesota Chippewa Tribe shall be used and distributed as follows:

(1) Eighty per centum of such funds shall be distributed in the form of per capita payments (in sums as equal as possible) to all enrolled members of the Minnesota Chippewa Tribe who—

(A) are designated as Pembina Band Chippewas on the basis of tribal procedures which are approved by the Secretary, and

(B) are living on the date of the enactment of this Act.

(2) Twenty per centum of such funds shall be held in trust and invested by the Secretary for the benefit of the members of the Minnesota Chippewa Tribe. The White Earth Reservation Business Committee, in consultation with the Pembina Program Planning Committee is authorized to use the interest and investment income accrued on such 20 per centum portion, on an annual budgetary basis subject to the approval of the Secretary, for—

(A) a joint investment and use program for the bands affiliated with the reservation, or

(B) reservation social and economic programs.

Such 20 per centum portion of the principal shall not be available for per capita payments.

SEC. 6. (a) In order to establish eligibility to participate in the distribution of the funds allocated to the nonmember Pembina Chippewa descendants under section 2, the Secretary shall develop a roll of all individuals who—

(1) are of at least one-quarter Pembina Chippewa blood,

(2) are citizens of the United States,

(3) are living on the date of the enactment of this Act,

(4) are not members of the Red Lake Band of Chippewa Indians, the Turtle Mountain Band of Chippewa Indians, the Chippewa Cree Tribe, or the Minnesota Chippewa Tribe, and

(5) are—

(A) enrolled, or the descendants of a lineal ancestor enrolled—

(i) as Pembina descendants under the provisions of the Act of July 29, 1971 (85 Stat. 158), for the disposition of the 1863 Pembina Award, or

(ii) on the McCumber roll of Turtle Mountain Indians of 1892, or

(iii) on the Davis roll of Turtle Mountain Indians of 1904, or

(iv) as Chippewa on—

(I) the tentative roll of the Rocky Boy Indians of May 30, 1917, or

(II) the McLaughlin census report of the Rocky Boy Indians of July 7, 1917, or

(III) the Roe Cloud Roll of Landless Indians of Montana, or

(B) able to extablish Pembina ancestry on the basis of any other rolls or records acceptable to the Secretary.

(b) The Secretary shall promulgate regulations regarding nonmember Pembina enrollment procedures and shall utilize any documents acceptable to the Secretary in establishing eligibility of an individual to receive funds under this section.

(c) Funds allocated to the nonmember Pembina descendants under section 2 shall be distributed on a per capita basis to the individuals enrolled under subsection (a).

SEC. 7. (a) Any payment of a per capita share of funds to which a living, competent adult is entitled under this Act shall be paid directly to such adult.

(b) Any per capita share of funds to which a deceased individual is entitled under this Act shall be paid, and the beneficiaries thereof determined under regulations prescribed by the Secretary.

(c) Any per capita share of funds to which a legally imcompetent individual or an individual under eighteen years of age is entitled under this Act shall be paid in accordance with such procedures (including the establishment of trusts) as the Secretary determines to be necessary to protect the interests of such individual.

SEC. 8. None of the funds distributed per capita or made available under this Act for programs shall be subject to Federal, State, or local income taxes or be considered income or resources or otherwise utilized as the basis for denying or reducing the financial assistance or benefits to any person or household participating in any Federal, State, or local programs.

With the following committee amendments:

1. On page 2, line 15, insert after the comma after the word "Tribe", the phrase "the Little Shell Band of the Chippewa Indians of Montana,".

2. On page 2, line 20, strike "6(a)" and insert in lieu "6(1) or 7(a)".

3. On page 3, line 2, strike the word "plus" and insert between lines 22 and 23 a new subparagraph (4) as follows:

(4) the number of members of the Little Shell Band of the Chippewa Indians of Montana as described in section 6(1) plus.

4. On page 3, line 6, strike out "(4)" and insert in lieu "(5)".

5. On page 3, line 7, strike out "6(a)" and insert in lieu "7(a)".

6. On page 4, line 1, strike all from the beginning of line 18 through the word "Indians." on line 5.

7. On page 5, strike all from the beginning of line 1 on page 5 through the word "Reservation." on line 14 on page 5 and insert in lieu the following:

(A) economic programs,

(B) recreation, or

(C) tribal administration.

8. On page 6, line 9 and on page 6 in line 10, strike the phrase "Committee, in consultation with the Pembina Program Planning Committee," and insert "Committee".

9. On page 6, after line 21, insert the following:

SEC. 6. The funds allocated by section 2 to the Little Shell Tribe of Chippewa Indians of Montana shall be used and distributed as follows:

(1) Eighty per centum of such funds shall be distributed in the form of per capita payments (in sums as equal as possible) to all enrolled members of the Little Shell Tribe of Chippewa Indians of Montana who are living on the date of the enactment of this Act and who would meet the enrollment criteria under Section 7(a) of this Act if they were not enrolled members of the Little Shell Tribe of Chippewa Indians of Montana.

(2) Twenty per centum of such funds shall be held in trust and invested by the Secretary for the benefit of the members of the Little Shell Tribe of Chippewa Indians of Montana. The governing body of such tribe is authorized to use the interest and investment income accrued on such 20 per centum portion, on an annual budgetary basis subject to the approval of the Secretary, for—

(A) the administration of such tribe, or

(B) social and economic programs:

Provided, That the Secretary shall act on the Tribe's petition for federal recognition prior to September 30, 1985. In the event that recognition is not approved, the twenty per centum portion shall be distributed in the form of per capita payments (in sums as equal as possible) to those persons who qualify for per capita payments under sec. 6(1); *Provided further*, That if the Secretary fails to act on the recognition petition by September 30, 1985, the Secretary shall make a report to Congress on that date outlining the reasons for his failure to act and shall make no per capita payments under this subsection until action on the petition is final.

10. On page 8, line 6 delete "SEC. 6." and insert "SEC. 7.".

11. On page 8, line 18, after the word "Tribe" insert the following phrase: "or the Little Shell Band of Chippewa Indians of Montana,".

12. On page 10, line 1, delete "SEC. 7." and insert "SEC. 8.".

13. On page 10, lines 12 and 13, insert after the word "protect" the words "and preserve".

14. On page 10, line 14, delete "SEC. 8." and insert "SEC. 9.".

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SETTLING CERTAIN INDIAN LAND CLAIMS WITHIN THE STATE OF FLORIDA, AND FOR OTHER PURPOSES

The Clerk called the bill (H.R. 7155) to settle certain Indian land claims within the State of Florida, and for other purposes.

There being no objection, the Clerk read the bill as follows:

H.R. 7155

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Florida Indian Land Claims Settlement Act of 1982".

CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY

SEC. 2. Congress finds and declares that—

(1) there is pending before the United States District Court for the Southern District of Florida a lawsuit by the Miccosukee Indian Tribe which involves certain lands within the State of Florida;

(2) the pendency of such lawsuit may result in economic hardships for residents of the State of Florida by clouding the titles to lands in the State, including lands not now involved in the lawsuits;

(3) the pendency of such lawsuit also has clouded the easement rights of the South Florida Water Management District in lands necessary for use as a water flowage and storage area, which is part of a federally authorized project for flood control and water management in central and southern Florida, and which is being used to provide and regulate a water supply for the residents of South Florida;

(4) the State of Florida and the Miccosukee Indian Tribe have executed agreements for the purposes of resolving tribal land claims and settling such lawsuit, which agreements require implementing legislation by the Congress of the United States and the Legislature of the State of Florida; and

(5) Congress shares with the parties to such agreements a desire to settle such Indian claims in the State of Florida without additional cost to the United States.

DEFINITIONS

SEC. 3. For purposes of this Act—

(1) The term "Miccosukee Tribe" means the Miccosukee Tribe of Indians of Florida, a tribe of American Indians recognized by the United States and organized under section 16 of the Act of June 18, 1934 (48 Stat. 987; 25 U.S. 476) and recognized by the State of Florida pursuant to chapter 285, Florida Statutes.

(2) The term "State of Florida" means the State of Florida, its agencies, political subdivisions, constitutional officers, officials of its agencies and subdivisions, and the South Florida Water Management District.

(3) The term "Secretary" means the Secretary of the Interior.

(4) The term "lands or natural resources" means any real property or natural resources, or any interest in or right involving any real property or natural resources including but not limited to minerals and mineral rights, timber and timber rights, water and water rights, and rights to hunt and fish.

(5) The term "lawsuit" means the action in the United States District Court for the Southern District of Florida, entitled Miccosukee Tribe of Indians of Florida against State of Florida, et al., Case No. 79-253-CIV-JWK.

(6) The term "Lease Agreement" means that perpetual lease granted by the State of Florida to the Miccosukee Tribe, involving a specifically described area in South Florida, title to which is held by the State of Florida and in which the Miccosukee Tribe is granted certain express rights and interests.

(7) The term "settlement funds" means those amounts of money which the State of Florida has agreed to pay to the Miccosukee Tribe under the Settlement Agreement in partial consideration for the settlement of the lawsuit and the extinguishment of rights to all potential or unsettled claims which the Miccosukee Tribe may have to lands or natural resources in the State of Florida.

(8) The term "Settlement Agreement" means those documents entitled "Settlement Agreement between the Miccosukee Tribe and the State of Florida" executed on April 16, 1982, by representatives of the State of Florida and representatives of the Miccosukee Tribe and filed with the secretary of state of the State of Florida which incorporate the Lease Agreement described in paragraph (6) of this section.

(9) The term "transfer" includes but is not limited to any sale, grant, lease, allotment, partition, or conveyance, any transaction the purpose of which was to effect a sale, grant, lease, allotment, partition, or conveyance, or any event or events that resulted in a change of possession or control of lands or natural resources.

FINDINGS BY THE SECRETARY

SEC. 4. Section 5 of this Act shall not take effect until the Secretary finds that the following events have occurred:

(1) the State of Florida has enacted legislation appropriating sufficient money to pay, and in fact has paid, the settlement funds to the Miccosukee Tribe;

(2) the State of Florida and the Miccosukee Tribe have executed the Lease Agreement; and

(3) the State of Florida has enacted appropriate legislation to carry out its commitments under paragraph 1b of the Settlement Agreement between the State of Florida and the Miccosukee Tribe and has given the waiver specified in paragraph 4d of such Agreement.

APPROVAL OF PRIOR TRANSFERS AND EXTINGUISHMENT OF CLAIMS AND ABORIGINAL TITLE INVOLVING FLORIDA INDIANS

SEC. 5. (a) If the Secretary finds that the State of Florida has satisfied the conditions set forth in section 4 of this Act, he shall publish such findings and the Settlement Agreement in the Federal Register, and upon such publication—

(1) the transfers, waivers, releases, relinquishments, and other commitments made by the Miccosukee Tribe in paragraph 3 of the Settlement Agreement between the State of Florida and the Miccosukee Tribe shall be of full force and effect on the terms and conditions therein stated; and

(2) the transfers, waivers, releases, relinquishments, and other commitments validated by paragraph (1) of this subsection and the transfers and extinguishments approved and validated by paragraphs (1) and (2) of subsection (b) shall be deemed to have been made in accordance with the Constitution and all laws of the United States that are specifically applicable to transfers of lands or natural resources from, by, or on behalf of any Indian, Indian nation, or tribe of Indians (including but not limited to the Act of July 22, 1790 (1 Stat. 137) and any amendments thereto and all subsequent versions thereof), and Congress does hereby approve any such transfers effective as of the date of such transfers.

(b)(1) All claims to lands within the State of Florida based upon aboriginal title by the Miccosukee Tribe, or any predecessor or successor in interest, are hereby extinguished, and any transfer of lands or natural resources located anywhere within the State of Florida, including but not limited to transfers pursuant to the statute or treaty of or with any State or the United States, by, from, or on behalf of the Miccosukee Tribe, or any predecessor or successor in interest, shall be deemed to be in full force and effect: *Provided, however,* That nothing herein shall be construed as extinguishing any aboriginal right, title, interest, or claim to lands or natural resources solely to the extent of the rights or interests defined as "excepted interests" in paragraph 3c of the Settlement Agreement between the State of Florida and the Miccosukee Tribe.

(2) By virtue of the approval of a transfer of lands or natural resources effected by this section, or an extinguishment of aboriginal title effected thereby, all claims against the United States, any State or subdivision thereof, or any other person or entity, by the Miccosukee Tribe, arising subsequent to the transfer and based upon any interest in or right involving such lands or natural resources, including but not limited to claims for trespass damages or claims for use and occupancy, shall be regarded as extinguished as of the date of the transfer.

(3) Notwithstanding any other provision of this subsection, nothing in this Act shall be construed as extinguishing any right, title, interest, or claim to lands or natural resources in the State of Florida by any individual Indian—

(A) which is based on use and occupancy, or

(B) which was acquired under Federal or State law.

and which is not derived from or through the Miccosukee Tribe, or its predecessor or predecessors in interest.

SPECIAL PROVISIONS FOR MICCOSUKEE TRIBE

SEC. 6. (a) The leasehold interest granted the Miccosukee Tribe under the Lease Agreement shall be exempt from all State and local taxes.

(b) The lands leased to the Miccosukee Tribe pursuant to the Lease Agreement shall be treated as if such lands constituted a federally recognized Indian reservation solely for purposes of determining the eligibility of the Miccosukee Tribe and its members for any Federal health, education, employment, economic assistance, revenue sharing, law enforcement over Indians, or social welfare programs, or any other similar Federal program for which Indians are eligible because of their status as Indians and of their residence on an Indian reservation.

(c) The State of Florida, through exercise of the power of eminent domain, may take or diminish any interest granted to the Miccosukee Tribe under the Lease Agreement only for a public purpose and upon payment of just compensation, but such taking or diminution shall not require the approval of Congress or any executive officer of the United States.

(d) Nothing in this Act or in any grant of leasehold rights by the State of Florida under the Lease Agreement shall affect or otherwise impair in any adverse manner any benefits received by the State of Florida under the Act of September 2, 1937 (16 U.S.C. 669 et seq.), or the Act of August 9, 1950 (16 U.S.C. 777 et seq.).

SEC. 7. Nothing in this Act shall grant to the Miccosukee Tribe any greater rights or interests in the leased area other than those expressly set forth in the Lease Agreement, and, notwithstanding any other provision of this Act, nothing in this Act shall diminish, modify, or otherwise affect the extent of the civil and criminal jurisdiction of the State of Florida in the leased area.

SEC. 8. (a) The Secretary is authorized and directed to accept the transfer to the United States, to be held in trust for the use and benefit of the Miccosukee Tribe of Indians of Florida, of the lands authorized to be conveyed to the Miccosukee Tribe by section 285.061, Florida Statutes, and the lands described in Dedication Deed No. 23228 from the Trustees of the Internal Improvement Trust Fund subject to the provisions of section 285.061, Florida Statutes, and of this section.

(b)(1) Notwithstanding the conveyance of any lands by the State of Florida to the United States in trust for the Miccosukee Tribe of Indians of Florida, the assumption

of jurisdiction in favor of the State of Florida contained in section 285.16, Florida Statutes, pursuant to section 7 of the Act of August 15, 1953 (67 Stat. 588), as in effect prior to its repeal, shall continue in full force and effect on such lands unless the State shall retrocede such civil or criminal jurisdiction in whole or in part.

(2)(A) The laws of Florida relating to alcoholic beverages (chapters 561, 562, 563, 564, and 565, Florida Statutes), gambling (chapter 849, Florida Statutes), sale of cigarettes (chapter 210, Florida Statutes), and their successor laws, shall have the same force and effect within said transferred lands as they have elsewhere within the State and the State shall have jurisdiction over offenses committed by or against Indians under said laws to the same extent the State has jurisdiction over said offenses committed elsewhere within the State.

(B) Nothing in subparagraph (A) shall permit the exercise of jurisdiction by the State of Florida as to any matter to which section 1162(b) or 1360(b) of title 18, United States Code, applies.

(c)(1) Any transfer of lands under this section shall be subject to all existing leases, easements, and rights-of-way, and all the rights, easements, and reservations in favor of the Central and Southern Florida Flood Control District (now the South Florida Water Management District) and shall not increase, diminish, modify, or otherwise affect the extent to which chapter 373, Florida Statutes, and its successor laws, have force and effect within such lands.

(2) Any transfer of lands under this section shall not confer upon the Miccosukee Tribe, or upon the lands within the reservation, any additional water rights.

LIMITATIONS OF ACTIONS

SEC. 9. Notwithstanding any other provision of law, any action to contest the constitutionality of this Act shall be barred unless the complaint is filed within one hundred and eighty days after the date of enactment of this Act. An action to contest the constitutionality of this Act may only be brought in the United States District Court for the Southern District of Florida.

REVOCATION OF SETTLEMENT

SEC. 10. In the event the Settlement Agreement between the Miccosukee Tribe and the State of Florida is ever invalidated—

(1) the transfers, waivers, releases, relinquishments, and other commitments made by the Miccosukee Tribe in paragraph 3 of the Settlement Agreement shall no longer be of any force or effect,

(2) section 5 of this Act shall be inapplicable to the lands, interests in lands, or natural resources of the Miccosukee Tribe and its members as if never enacted, and

(3) the approvals of prior transfers and the extinguishment of claims and aboriginal title of the Miccosukee Tribe otherwise effected by section 5 shall be void ab initio.

With the following committee amendment:

Page 11, line 1, strike "or 1360(b) of title 18," and insert in lieu therof "of title 18 or section 1360(b) of title 28,".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER. This concludes the call of the Consent Calendar.

APPOINTMENT OF CONFEREES ON H.R. 7109, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, 1983

Mr. SABO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 7019) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1983, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objections to the request of the gentleman from Minnesota? The Chair hears none, and appoints the following conferees:

Messrs. LEHMAN, SABO, AUCOIN, GRAY, RATCHFORD, WHITTEN, COUGHLIN, CONTE, EDWARDS of Alabama, and PURSELL.

PEMBINA CHIPPEWA INDIANS JUDGMENT FUNDS

Mr. GEJDENSON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1735) to provide for the use and distribution of funds awarded the Pembina Chippewa Indians in dockets numbered 113, 191, 221, and 246 of the Court of Claims, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Connecticut?

Mr. WALKER. Mr. Speaker, reserving the right to object, I do so to inquire of the gentleman just what we are doing, since we just passed this House legislation. Is the gentleman simply asking that the House language be substituted for the Senate language?

Mr. GEJDENSON. Mr. Speaker, if the gentleman will yield, yes, that is correct. I am about to do that.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1735

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any provision of the Act of October 19, 1973 (87 Stat. 466; 25 U.S.C. 1401, et seq.), or any other law, regulation, or plan promulgated pursuant thereto, any funds appropriated in satisfaction of a judgment awarded to the Pembina Chippewa Indians in dockets numbered 113, 191, 221, and 246 of the Court of Claims shall be used and distributed as provided in this Act.

SEC. 2. All of the funds appropriated with respect to the judgment awarded the Pembina Chippewa Indians in dockets 113, 191, 221, and 246 (less attorney fees and litigation expenses), including all interest and investment income accrued, shall be divided by the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") among the Turtle Mountain Band of Chippewa Indians, the Chippewa Cree Tribe of Rocky Boy's Reservation, the Minnesota Chippewa Tribe, the Little Shell Tribe of Chippewa Indians of Montana and the nonmember Pembian descendants (as a group) so that each is allocated an amount which bears the same relationship to such funds as the number of members of such band, tribe, or group who are described under section 3(1), 4(1), 5(1), 6(1) or 7(a) bears to the sum of—

(1) the number of members of the Turtle Mountain Band of Chippewa Indians described in section 3(1),

(2) the number of members of the Chippewa Cree Tribe of Rocky Boy's Reservation described in section 4(1),

(3) the number of members of the Minnesota Chippewa Tribe described in section 5(1),

(4) the number of members of the Little Shell Tribe of Chippewa Indians of Montana as described in section 6(1), plus

(5) the number of nonmember Pembina Chippewas enrolled by the Secretary under section 7(a).

SEC. 3. The funds allocated by section 2 to the Turtle Mountain Bank of Chippewa Indians shall be used and distributed as follows:

(1) Eighty per centum of such funds shall be distributed in the form of per capita payments (in sums as equal as possible) to all enrolled members of the Turtle Mountain Band of Chippewa Indians who are living on the date of the enactment of this Act.

(2) Twenty per centum of such funds shall be held in trust and invested by the Secretary for the benefit of the members of the Turtle Mountain Band of Chippewa Indians. The governing body of such band is authorized to use the interest and investment income accrued on such 20 per centum portion, on an annual budgetary basis subject to the approval of the Secretary, for—

(A) the administration of such band, or

(B) social and economic programs.

Such 20 per centum portion of the principal shall not be available for per capital payments.

SEC. 4. The funds allocated by section 2 to the Chippewa Cree Tribe of Rocky Boy's Reservation shall be used and distributed as follows:

(1) Eighty per centum of such funds shall be distributed in the form of per capita payments (in sums as equal as possible) to all enrolled members of the Chippewa Cree Tribe of Rocky Boy's Reservation who—

(A) establish Pembina Chippewa ancestry to the satisfaction of the Secretary, and

(B) are living on the date of the enactment of this Act.

(2) Twenty per centum of such funds shall be held in trust and invested by the Secretary for the benefit of the members of the Chippewa Cree Tribe of Rocky Boy's Reservation. The governing body of such tribe is authorized to use the interest and investment income accrued on such 20 per centum portion, on an annual budgetary basis subject to the approval of the Secretary, for—

(A) economic programs

(B) recreation or

(C) tribal administration

Such 20 per centum portion of the principal shall not be available for per capita payments.

SEC. 5. The funds allocated by section 2 to the Minnesota Chippewa Tribe shall be used and distributed as follows:

(1) Eighty per centum of such funds shall be distributed in the form of per capita payments (in sums as equal as possible) to all enrolled members of the Minnesota chippewa Tribe who—

(A) are designated as Pembina Bank Chippewas on the basis of the tribal procedures which are approved by the Secretary, and

(B) are living on the date of the enactment of this Act.

(2) Twenty per centum of such funds shall be held in trust and invested by the Secretary for the benefit of the members of the Minnesota Chippewa Tribe. The White Earth Reservation Business Committee, in consultation with the Pembina Program Planning Committee, is authorized to use the interest and investment income accrued on such 20 per centum portion, on an annual budgetary basis subject to the approval of the Secretary, for—

(A) a joint investment and use program for the bans affiliated with the reservation, or

(B) reservation social and economic programs.

Such 20 per centum portion of the principal shall not be available for per capita payments.

SEC. 6. The funds allocated by section 2 to the Little Shell Tribe of Chippewa Indians of Montana shall be used and distributed as follows:

(1) Eighty per centum of such funds shall be distributed in the form of per capita payments (in sums as equal as possible) to all enrolled members of the Little Shell Tribe of Chippewa Indians of Montana who are living on the date of enactment of this Act and who meet the enrollment criteria under section 7(a) of this Act.

(2) Twenty per centum of such funds shall be held in trust and invested by the Secretary for the benefit of the members of the Little Shell Tribe of Chippewa Indians of Montana. The governing body of such tribe is authorized to use the interest and investment income accrued on such 20 per centum portion, on an annual budgetary basis subject to the approval of the Secretary, for—

(A) the administration of such tribe, or

(B) social and economic programs:

Provided, That the Secretary shall act on the Tribe's petition for Federal recognition prior to September 30, 1985. In the event that recognition is not approved, the twenty per centum portion shall be distributed in the form of per capita payments (in sums as equal as possible) to those persons who qualify for per capita payments under Section 6(1):

Provided further, That if the Secretary fails to act on the recognition petition by September 30, 1985, the Secretary shall make a report to Congress on that date outlining the reasons for his failure to act and shall make no per capita payments under this subsection until action on the petition is final.

SEC. 7. (a) In order to establish eligibility to participate in the distribution of the funds allocated to the nonmember Pembina Chippewa descendants under section 2, the Secretary shall develop a roll of all individuals who—

(1) are of at least one-quarter Pembina Chippewa blood.

(2) are citizens of the United States,

(3) are living on the date of the enactment of this Act,

(4) are not member of the Red Lake Band of Chippewa Indians, the Turtle Mountain Band of Chippewa Indians, the Chippewa Cree Tribe, or the Minnesota Chippewa Tribe, and

(5) are—

(A) enrolled, or the descendants of a linal ancestors enrolled—

(i) as Pembina descendants under the provisions of the Act of July 29, 1971 (85 Stat. 158), for the disposition of the 1863 Pembina Award, or

(ii) on the McCumber roll of Turtle Mountain Indians of 1892, or

(iii) on the Davis role of Turtle Mountain Indians of 1904, or

(iv) as Chippewa on—

(I) the tentative roll of the Rocky Boy Indians of May 30, 1917, or

(II) the McLaughlin census report of the Rocky Boy Indians of July 7, 1917, or

(III) the Roe Cloud roll of Landless Indians of Montana, or

(B) able to establish Pembina ancestry on the basis of any other rolls or records acceptable to the Secretary.

(b) The Secretary shall promulgate regulations regarding nonmember Pembina enrollment procedures and shall utilize any documents acceptable to the Secretary in establishing eligibility of an individual to receive funds under this section.

(c) Funds allocated to the nonmember Pembina descendants under section 2 shall be distributed on a per capita basis to the individuals enrolled under subsection (a).

SEC. 8. (a) Any payment of a per capita share of funds to which a living, competent adult is entitled under this Act shall be paid directly to such adult.

(b) Any per capita share of funds to which a deceased individual is entitled under this Act shall be paid, and the beneficiaries thereof determined under regulations prescribed by the Secretary.

(c) Any per capita share of funds to which a legally incompetent individual or an individual under eighteen years of age is entitled under this Act shall be paid in accordance with such procedures (including the establishment of trusts) as the Secretary determines to be necessary to protect and preserve the interests of such individual.

SEC. 9. None of the funds distributed under this Act shall be subject to Federal or State income taxes or be considered income or resources when determining eligibility for, or the amount of, assistance under the Social Security or any Federal or federally assisted program.

MOTION OFFERED BY MR. GEJDENSON

Mr. GEJDENSON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. GEJDENSON moves to strike out all after the enacting clause of the Senate bill (S. 1735) and insert in lieu thereof the provisions of the bill, H.R. 6416, as passed by the House, as follows:

That, notwithstanding any provision of the Act of October 19, 1973 (87 Stat. 466; 25 U.S.C. 1401, et seq.), or any other law, regulation, or plan promulgated pursuant thereto, any funds appropriated in satisfaction of a judgment awarded to the Pembina Chippewa Indians in dockets numbered 113, 191, 221, and 246 of the Court of Claims shall be used and distributed as provided in this Act.

SEC. 2. All of the funds appropriated with respect to the judgment awarded the Pembina Chippewa Indians in dockets 113, 191, 221, and 246 (less attorney fees and litigation expenses), including all interest and investment income accrued, shall be divided by the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") among the Turtle Mountain Band of Chippewa Indians, the Chippewa Cree Tribe of Rocky Boy's Reservation, the Minnesota Chippewa Tribe, the Little Shell Band of the Chippewa Indians of Montana, and the nonmember Pembina descendants (as a group) so that each is allocated an amount which bears the same relationship to such funds as the number of members of such band, tribe, or group who are described under section 3(1), 4(1), 5(1), or 6(1) or 7(a) bears to the sum of—

(1) the number of members of the Turtle Mountain Band of Chippewa Indians described in section 3(1).

(2) the number of members of the Chippewa Cree Tribe of Rocky Boy's Reservation described in section 4(1).

(3) the number of members of the Minnesota Chippewa Tribe described in section 5(1),

(4) the number of members of the Little Shell Band of the Chippewa Indians of Montana as described in section 6(1) plus

(5) the number of nonmember Pembina Chippewas enrolled by the Secretary under section 7(a).

SEC. 3. The funds allocated by section 2 to the Turtle Mountain Band of Chippewa Indians shall be used and distributed as follows:

(1) Eighty per centum of such funds shall be distributed in the form of per capital payments (in sums as equal as possible) to all enrolled members of the Turtle Mountain Band of Chippewa Indians who are living on the date of the enactment of this Act.

(2) Twenty per centum of such funds shall be held in trust and invested by the Secretary for the benefit of the members of the Turtle Mountain Band of Chippewa Indians. The governing body of such band is authorized to use the interest and investment income accrued on such 20 per centum portion, on an annual budgetary basis subject to the approval of the Secretary, for—

(A) the administration of such band, or

(B) social and economic programs.

Such 20 per centum portion of the principal shall not be available for per capita payments.

SEC. 4. The funds allocated by section 2 to the Chippewa Cree Tribe of Rocky Boy's Reservation shall be used and distributed as follows:

(1) Eighty per centum of such funds shall be distributed in the form of per capital payments (in sums as equal as possible) to all enrolled members of the Chippewa Cree Tribe of Rocky Boy's Reservation who—

(A) establish Pembina Chippewa ancestry to the satisfaction of the Secretary, and

(B) are living on the date of the enactment of this Act.

(2) Twenty per centum of such funds shall be held in trust and invested by the Secretary for the benefit of the members of the Chippewa Cree Tribe of Rocky Boy's Reservation. The governing body of such tribe is authorized to use the interest and investment income accrued on such 20 per centum portion, on an annual budgetary basis subject to the approval of the Secretary, for—

(A) economic programs,

(B) recreation, or

(C) tribal administration.

Such 20 per centum portion of the principal shall not be available for per capital payments.

SEC. 5. The funds allocated by section 2 to the Minnesota Chippewa Tribe shall be used and distributed as follows:

(1) Eighty per centum of such funds shall be distributed in the form of per capita payments (in sums as equal as possible) to all enrolled members of the Minnesota Chippewa Tribe who—

(A) are designated as Pembina Band Chippewas on the basis of tribal procedures which are approved by the Secretary, and

(B) are living on the date of the enactment of this Act.

(2) Twenty per centum of such funds shall be held in trust and invested by the Secretary for the benefit of the members of the Minnesota Chippewa Tribe. The White Earth Reservation Business Committee is authorized to use the interest and investment income accrued on such 20 per centum portion, on an annual budgetary basis subject to the approval of the Secretary, for—

(A) a joint investment and use program for the bands affiliated with the reservation, or

(B) reservation social and economic programs.

Such 20 per centum portion of the principal shall not be available for per capita payments.

SEC. 6. The funds allocated by section 2 to the Little Shell Tribe of Chippewa Indians of Montana shall be used and distributed as follows:

(1) Eighty per centum of such funds shall be distributed in the form of per capita payments (in sums as equal as possible) to all enrolled members of the Little Shell Tribe of Chippewa Indians of Montana who are living on the date of the enactment of this Act and who would meet the enrollment criteria under section 7(a) of this Act if they were not enrolled members of the Little Shell Tribe of Chippewa Indians of Montana.

(2) Twenty per centum of such funds shall be held in trust and invested by the Secretary for the benefit of the members of the Little Shell Tribe of Chippewa Indians of Montana. The governing body of such tribe is authorized to use the interest and investment income accrued on such 20 per centum portion, on an annual budgetary basis subject to the approval of the Secretary, for—

(A) the administration of such tribe, or

(B) social and economic programs:

Provided, That the Secretary shall act on the tribe's petition for Federal recognition prior to September 30, 1985. In the event that recognition is not approved, the 20 per centum portion shall be distributed in the form of per capita payments (in sums as equal as possible) to those persons who qualify for per capita payments under section 6(1): *Provided further*, That if the Secretary fails to act on the recognition petition by September 30, 1985, the Secretary shall make a report to Congress on that date outlining the reasons for his failure to act and shall make no per capita payments under this subsection until action on the petition is final.

SEC. 7. (a) In order to establish eligibility to participate in the distribution of the funds allocated to the nonmember Pembina Chippewa descendants under section 2, the Secretary shall develop a roll of all individuals who—

(1) are of at least one-quarter Pembina Chippewa blood,

(2) are citizens of the United States,

(3) are living on the date of the enactment of this Act,

(4) are not members of the Red Lake Band of Chippewa Indians, the Turtle Mountain Band of Chippewa Indians, the Chippewa Cree Tribe, or the Minnesota Chippewa Tribe, or the Little Shell Band of Chippewa Indians of Montana, and

(5) are—

(A) enrolled, or the descendants of a lineal ancestor enrolled—

(i) as Pembina descendants under the provisions of the Act of July 29, 1971 (85 Stat. 158), for the disposition of the 1863 Pembina Award, or

(ii) on the McCumber roll of Turtle Mountain Indians of 1892, or

(iii) on the Davis roll of Turtle Mountain Indians of 1904, or

(iv) as Chippewa on—

(I) the tentative roll of the Rocky Boy Indians of May 30, 1917, or

(II) the McLaughlin census report of the Rocky Boy Indians of July 7, 1917, or

(III) the Roe Cloud Roll of Landless Indians of Montana, or

(B) able to establish Pembina ancestry on the basis of any other rolls or records acceptable to the Secretary.

(b) The Secretary shall promulgate regulations regarding nonmember Pembina enrollment procedures and shall utilize any documents acceptable to the Secretary in establishing eligibility of an individual to receive funds under this section.

(c) Funds allocated to the nonmember Pembina descendants under section 2 shall be distributed on a per capita basis to the individuals enrolled under subsection (a).

SEC. 8. (a) Any payment of a per capita share of funds to which a living, competent adult is entitled under this Act shall be paid directly to such adult.

(b) Any per capita share of funds to which a deceased individual is entitled under this Act shall be paid, and the beneficiaries thereof determined under regulations prescribed by the Secretary.

(c) Any per capita share of funds to which a legally incompetent individual or an individual under eighteen years of age is entitled under this Act shall be paid in accordance with such procedures (including the establishment of trusts) as the Secretary determines to be necessary to protect and preserve the interests of such individual.

SEC. 9. None of the funds distributed per capita or made available under this Act for programs shall be subject to Federal, State, or local income taxes or be considered income or resources or otherwise utilized as the basis for denying or reducing the financial assistance or benefits to any person or ⅛household participating in any Federal, State, or local programs.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 6416) was laid on the table.

THE ADMINISTRATION'S OUTRAGEOUS TAX PLANS

Mr. PEYSER. Mr. Speaker, in the last 3 to 4 months we have seen this administration suggest to us that we should have a means test for medicare; suggest to us that we should be taxing social security benefits; suggest to us and carry out that we should cut from higher education and school lunch programs; suggest that we tax unemployment benefits; and finally, this weekend, come forth with the suggestion that we now should have employees be taxed for the money paid on their health benefits.

Mr. Speaker, we have rejected most of these taxing plans as being outrageous. It offends the people of this country. It attacks the middle income areas. It attacks the elderly, it attacks the poor.

When, Mr. Speaker, is this administration going to understand that this Congress is not going to follow through with these actions and, hopefully, the Congress that comes in next January in 1983 will be even stronger in rejecting these efforts.

THE CONGRESSIONAL PAY RAISE

(Mr. HIGHTOWER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HIGHTOWER. Mr. Speaker, in the next several weeks this Congress will be faced once again with the issue of whether or not to increase its own pay. Unless Congress acts otherwise, a cost-of-living increase of either $2,400 or $16,600, depending on how Congress chooses to calculate it, wil automatically be added to our base salary of about $60,000. Now, no matter what people may think about the amount of money that a Member of Congress earns—and I know that there are some who think it is too high and some who think it is too low—the bottom line is that now is not the time for a congressional pay raise.

We are nearly at the end of 1982. At this point, we are faced with an economy which, in spite of our best efforts, continues to falter. There are 11.6 million Americans out of work, the highest unemployment rate since the Great Depression. So far this year, over 22,000 American businesses have failed—nearly twice as many business failures as last year at this time. And through it all, this Government has continued to spend money at an unprecedented rate, to such an extent that our Federal deficit for last year of $110 billion was by far the highest Federal deficit we have ever had. To choose a time in our country's history with statistics as appalling as these to allow ourselves a raise in pay is completely unconscionable. I do not understand it, nor do I condone it; and I know millions of Americans standing in unemployment lines and dipping into the last of their bank accounts will not understand it, nor will they condone it.

Mr. Speaker, our economic problems are grave and will be difficult to solve.

It will be hard for this Congress to find jobs for millions of unemployed Americans; it will be impossible for this Congress to reopen businesses that have already gone bankrupt and closed their doors. But, Mr. Speaker, it should be relatively easy for this Congress to take a few simple steps to keep down the level of Federal spending, and surely one of the most obvious steps to take is to say "no" to a pay raise for ourselves. I, for one, am completely unprepared to look my unemployed constituents in the eye and try to explain why Congress picked one of the worst economic times in recent memory to give itself a raise in pay.

CENTRAL AMERICA—HINGE OF FATE

(Mr. GONZALEZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GONZALEZ. Mr. Speaker, Central America is confronting the hinge of fate. The United States, if it follows a sensitive, positive role, can bring forward hope and progress to the beleaguered, suffering lands of that region. Or if our Government is blind, if it makes simple-minded blunders, the future will only bring oppression, misery, and death to innocent people—people who know or care nothing about ideology, and who only want a decent chance, a little respect, and a chance to earn enough money to survive on, to build for a better tomorrow.

President Reagan says that Gen. Rios Montt is a nice fellow who has gotten a bum rap. Tell that to the people who have witnessed the murder of babies, by soldiers using bayonets made in our own country—murder repcrted to me personally by the Bishop of Chiapas, who should know. Can babies be Communists? Do nice guys countenance the murder of innocents?

The President says that the governments he supports are not burning anybody, except Communists. Yet he has every reason to know that innocent people have been killed in El Salvador, in Guatemala, and elsewhere, in acts of cold murder, not by the dozens, not by the hundreds, but by the thousands. How can it be that the murder of civilians can be justified in the name of anything?

Mr. Reagan knows that Central America today looks more and more like the Vietnam of 20 years ago. What he should also know is that no amount of money, no amount of cheerleading, no amount of blinking at the facts, and no amount of violence, is going to insure the survival of any government for very long. There is no substitute for a government that asks for and deserves the support of its people. There is no substitute for a government that legitimately represents its people and that genuinely seeks to protect their rights, to promote their interests, and to protect their future. There is no substitute for a government that is honest. There is no substitute for a government that understands schoolbooks and plows are not only cheaper than soldiers, they are more appreciated by people who want nothing less, nothing more, than a decent chance to live unfettered, and to live decently.

It is terrifying to see now, with Central America at the very hinge of fate, for our President to dismiss casually those who protest against brutality, unwarranted murder, and wholesale repression. We cannot maintain honor by supporting dishonor; we cannot promote the cause of freedom by standing behind repression and tyranny. We cannot promote hope by stifling those who have just cause for complaint. We cannot build sound policies on the basis of quick trips, quick judgments, and quick endorsements of the same kinds of policies that created the disaster in Vietnam.

OTIS ELEVATOR TO CLOSE DOWN OPERATIONS IN YONKERS

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BIAGGI. Mr. Speaker, on December 1, an act of moral larceny was committed against the city and people of Yonkers, N.Y. Otis Elevator Co. which has operated in Yonkers since 1852, announced it will close all of its operations effective in mid 1983.

Otis Elevator Co. is owned by United Technologies Corp. of Hartford, Conn. United Technologies acquired Otis in a swirl of controversy in 1975 after some $14 million in Federal, State, and city money was spent in 1974 to expand Otis operations and increase its employment to 2,000.

For 6 years, United Technology has conducted a reign of economic terror at Otis reducing the work force from 1,200 to just over 320 today less than 1 year from now that number could be 0.

Once again the arrogance and cruelty of large corporate mergers and or acquisitions has produced misery for hundreds of innocent working men and women and their families—is displayed. In this instance, United Technologies has demonstrated its calloused disregard for the people of Yonkers and especially the loyal workers at Otis some of whom have been with the company 30 and 40 years and represent the second or even third generation of Otis workers from the same family.

I will be representing Yonkers and the new 19th Congressional District beginning in January, However, my efforts to try and forestall this economic tragedy have begun and will continue with the hope that United Technologies and Otis will reconsider this most ill advised and morally bankrupt proposal.

□ 1415

THE JOBS LIMITATION ACT OF 1982?

(Mr. WALKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, over the last several weeks we have heard an awful lot of discussion in this country about putting America back to work. There can be no greater priority than that. Yet, today later on, we will probably consider a bill which could rightfully be called the Jobs Limitation Act of 1982.

Why the Jobs Limitation Act? Well, they call it the gas tax bill, but there is a major payoff in this bill to big labor. The big labor allies have gotten together and decided to put Davis-Bacon coverage in this bill. What is Davis-Bacon coverage? Well, it relates to the prevailing wages of the Federal Government, which means, according to the General Accounting Office, that Federal projects under Davis-Bacon thereby cost as much as 20 percent more.

What does that mean to jobs? Well, it translates to less jobs. The more the project costs, the less people we can afford to employ with that amount of dollars. Perhaps 20 percent less jobs. That would mean that 50,000 or more Americans not now working would not be able to get jobs under this bill, despite raising taxes to spur employment. That is shameful. It is a shameful payoff to big labor that would mean that some who otherwise might get a job will not now be able to get a job.

A FATE WORSE THAN DEATH

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, last night the evening news delivered to our Nation one of the most disturbing historical announcements that we have heard in years. It was reported that eight or nine American citizens, civilians working for the CIA, were lost when their aircraft was shot down somewhere over the Soviet Union way before Francis Gary Powers' U-2 aircraft was shot down, and that was on May 1 of 1960. The news story said that John Foster Dulles, then our Secretary of State, gave secret testimony about this loss of eight or nine Americans to the

Senate Committee on Foreign Relations in 1960. The evening news reported this information has just now been declassified and the CIA takes a position of "no comment," "no comment."

What in heaven's name was the fate of these eight or nine Americans. Are their families, 22 years later, still in the dark as to what happened to them? It is long overdue that their fellow American citizens know of their fate.

Last night there was a superb 1-hour documentary by NBC about the greatest military tragedy that American citizens have ever suffered: the indescribable abuse, torture, maiming, and murder of thousands of World War II Battle of Bataan and Corregidor survivors. In an awful irony of fate, 5,000 survivors of the Bataan death march died at sea by U.S. submarine attack because the Japanese warlords would not mark the prison ships transporting our men to Japan for slave labor in their coal mines. That horrible tragedy can only be surpassed with its nightmarish torture and death, by the insane possibility that U.S. CIA members, shot down over Russia in the fifties may still be alive in Siberian Gulag camps for over 22 years, like Raoul Wallenberg, the heroic Swedish citizen who may have survived, forgotten for over 36 years.

I pray that now, 22 years later, the truth will finally come out about these heroic "Nathan Hales" of the CIA who gave the full measure of devotion to their country. We in the Congress must know their fate. The citizens of the United States must know what happened to these loyal agents lost in 1959. Further secrecy serves absolutely no purpose whatsoever about our men who met a fate worse than death.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Saunders, one of his secretaries.

PROVIDING FOR CONSIDERATION OF H.R. 6211, SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 620 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That upon the adoption of this resolution it shall be in order, any rule of the House to the contrary notwithstanding, to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6211) to authorize appropriations for construction of certain highways in accordance with title 23, United States Code, for highway safety, for mass transportation in urban and rural areas, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be contained to the bill and to the amendments made in order by this resolution and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation, the bill shall be read for amendment under the five-minute rule. In lieu of the amendment in the nature of a substitute recommended by the Committee on Public Works and Transportation now printed in the bill, it shall be in order to consider an amendment in the nature of a substitute consisting of the text of the bill H.R. 7360 as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered for amendment by titles instead of by sections and each title shall be considered as having been read, and all points of order against said substitute are hereby waived. It shall be in order to consider an amendment to said substitute recommended by the Committee on Ways and Means, if offered by the chairman of the Committee on Ways and Means or his designee, inserting a new title, and all points of order against said amendment for failure to comply with the provisions of clause 7, rule XVI, and clause 5, rule XXI, are hereby waived. Said amendment shall be debatable for not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, and shall not be subject to amendment except amendments recommended by the Committee on Ways and Means, which shall not be subject to amendment. After the adoption of the amendment recommended by the Committee on Ways and Means, no further amendments to the bill shall be in order. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Florida (Mr. PEPPER) is recognized for 1 hour.

Mr. PEPPER. Mr. Speaker, for purposes of debate only I yield the customary 30 minutes to the able gentleman from Mississippi (Mr. LOTT), and pending that I yield myself such time as I may consume.

Mr. Speaker, House Resolution 620 provides for the consideration of H.R. 6211, the Surface Transportation Assistance Act of 1982. This very important bill would extend the surface transportation program for 4 years through fiscal year 1986. The Committee on Rules met on Friday last to consider a rule for the measure so that the House might consider the bill as expeditiously as possible.

Mr. Speaker, I would like first to describe for my colleagues the provisions of the rule before us. It is a modified open rule and follows the procedure set out for consideration of comparable legislation in the past. Basically, the rule takes the two bills that make up the surface transportation measure and combines them into one legislative package for floor consideration. The bill reported from the Committee on Public Works and Transportation is an authorization for surface transportation programs and is composed of four titles. It is used as the base vehicle. The bill from the Committee on Ways and Means is the funding mechanism, and it will be offered as a separate title to the Public Works Committee bill. The authorization portion, or public works bill, will be open to amendment and any germane amendment may be proposed to it. The funding portion or tax title will not be subject to amendment except by direction of the Committee on Ways and Means. This is the procedure generally followed in the past in comparable situations.

Specifically, the rule makes in order consideration of H.R. 6211 and allows 1 hour of general debate on the bill. The time is to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation. During consideration of the bill for amendment, the rule specifies that an amendment in the nature of a substitute consisting of the text of H.R. 7360 shall be considered as original text. There are four titles to the substitute, and it is to be considered by title with each title considered as having been read and thus open to amendment at any point within the title. All points of order are waived against consideration of the original bill and the substitute.

Once all amendments to the public works bill are disposed of, it shall be in order for the chairman of the Ways and Means Committee to offer an additional title to the bill. Two waivers of points of order are granted to allow consideration of the amendment. Clause 7, rule XVI, the germaneness rule, and clause 5, rule XXI, appropriations in a legislative bill, are both waived. The germaneness waiver is necessary because the Ways and Means portion of the bill amends the Internal Revenue Code and the public works bill does not. The appropriations waiver is necessary because of the transfer of tax revenue into the highway trust fund.

The new title of the bill will then be debatable for 2 hours with the time equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. No amendment shall be in order to the title except amendments from the Committee on Ways and Means which likewise would not be

subject to amendment. Upon adoption of the Ways and Means amendment, no further amendment would be allowed to the bill.

The bill then would be reported back to the House under the normal parliamentary procedure, allowing separate votes on amendments adopted in the Committee of the Whole. One motion to recommit with or without instructions would be in order prior to final passage of the legislation.

Mr. Speaker, as I said earlier in my remarks, this is a very important bill. It provides crucially needed funds to expand and maintain the vitally important networks of highways and mass transit systems in this country. The highway titles of the bill authorize some $12.1 billion in fiscal year 1983 with increasing increments over the next 3 years for a total authorization of some $53.4 billion over the 4-year period for highways and safety. This funding would allow expeditious completion of the Interstate System, clearly the system of highest Federal responsibility. Preservation of the system is provided by funding for interstate resurfacing, restoration, rehabilitation and reconstruction. Funding for system-related primary highway programs is also continued as well as authorizations for badly needed bridge replacement and rehabilitation.

The bill further changes requirements of the Highway Act to facilitate better coordination between the States and the Federal Government in constructing and maintaining highway networks. Truck size and weight provisions are revised to require States to allow larger trucks on the Interstate System.

The revenue title would add 5 cents per gallon to the fuels tax. Revenues equivalent to 1 cent per gallon of the fuels tax would be earmarked for a new mass transit account to be set up within the highway trust fund. This revenue would be available for transit capital expenditures, including new projects. Changes are also made to simplify the current highway excise tax structure and to implement the findings of the Department of Transportation's highway cost allocation study.

Mr. Speaker, while there may be specific provisions of this legislative package that Members may not agree with—indeed there are provisions particularly relating to the size of the heavy vehicle use tax increase and the rate at which it is to take effect which I along with several of my colleagues questioned during the Rules Committee hearing. The fact remains, Mr. Speaker, that the country needs this legislation. Most of the concerns expressed at the Rules Committee can be addressed through amendments to the public works portion of the bill. While the rule does not allow individual Members to directly amend the tax title, it would be possible for the Member controlling the motion to recommit to include instructions germane to that portion of the bill.

Mr. Speaker, the Rules Committee also heard testimony—most eloquently stated by our colleague, Mr. REUSS—that the added nickel gasoline tax is the wrong way to go. Mr. REUSS proposed a cap on the third year of the tax cut and asked that his amendment be allowed as an alternative. Unfortunately, this amendment is nongermane and the Rules Committee did not see fit to make it in order.

While I sympathize with my distinguished colleague's position and agree with him that there should be a cap on the third year of the tax cut, I do not believe this is the place or the time. Let us face political facts. H.R. 6211 has significant bipartisan support in the House. It is supported by the leadership of the other body and the President has endorsed the concept. Our highway and mass transit systems desperately need the funding. Although it does not come close to meeting the needs of our millions of unemployed, it does mean jobs, at least some jobs and with a 10.8-percent unemployment rate that is not a factor to take lightly. It is estimated that the bill will create some 320,000 jobs.

We must remember that politics is the art of compromise. Negotiation itself precludes the gaining of a whole loaf. Political compromise always results in gaining only a portion of the loaf. It has been ever thus. So let me urge my colleagues to take the portion we have gained and to wait for a more opportune time to reach out for a larger slice. I do not counsel abandoning the fight but simply look for higher ground on the battlefield from which to wage the assault.

Mr. Speaker, this rule is as fair a document as we could assemble at the Rules Committee. It allows the House fairly to work its will on the legislative package while maintaining the delicate balance of that package.

□ 1430

So, therefore, Mr. Speaker, I urge my colleagues to adopt House Resolution 620 so that we might consider H.R. 6211, the Surface Transportation Act of 1982, with the hope that we may soon put into effect what this program will contribute to the country.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as has most eloquently been explained, this is the rulemaking in order consideration of H.R. 6211, the Surface Transportation Act of 1982. It is a 4-year authorization for highway construction, highway safety, and mass transportation. But, also contained in the bill is the new revenue measure which provides additional user fees on those who use the Nation's highways.

The rule does waive any rule of the House which might work against consideration of the bill. It provides for 1 hour of general debate, and makes in order an amendment in the nature of a substitute and and an amendment to that substitute. The amendment in the nature of a substitute is in lieu of the public works amendment contained in the bill, and consists of the text of H.R. 7360, the Highway Improvement Act of 1982.

The rule provides that all points of order against the substitute are waived. It also is open to amendment under the 5-minute rule, and will be read by titles instead of by sections for that purpose.

Mr. Speaker, the rule also makes in order an amendment to the substitute by the Ways and Means Committee, and provides for 2 hours of debate on this amendment. The amendment contains the new revenue measure and is not subject to amendment except by amendments recommended by the House Ways and Means Committee, which are also not open to amendment.

For the Ways and Means Committee amendment only, the rule waives clause 7, rule XVI, the provisions that are not germane to the bill; and clause 5, rule XXI, which provides for the appropriations in this bill, which is basically a legislative bill.

After adoption of the Ways and Means Committee amendment, no other amendment shall be in order. The rule provides for no other motion except one motion to recommit with or without instructions.

So, basically the situation will be this under the rule, Mr. Speaker: We will take up general debate first on the public works portion of the bill. That debate will be for 1 hour. After that period, we will then have the amendments to the public works portion of the bill. After that is completed, we will go to the Ways and Means title of the bill, which will be subject to 2 hours of debate but not subject to any amendments except amendments by the Committee on Ways and Means, which are also not subject to amendment.

So, after the 2 hours of general debate on the Ways and Means Committee, basically that would be it. I realize that there are some objections to any rule that ever is closed, partially or totally, but in order to get this legislation, which involves the two committees, before this body today and have it considered properly, with both committees having their opportunities to be heard, and with amendments to the public works section, I think it is a fair rule, and I do support the rule.

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Texas.

Mr. KAZEN. Mr. Speaker, it is ironic that the portion of the bill that is going to have the least controversy has 1-hour general debate, and is subject to amendment. The portion that is the most controversial but is not subject to amendment gets 2 hours of debate. A lot of good that is going to do us when we come to figuring out what the licensing provisions and the increases in licensing for trucks and certain modes of transportation are. Those are the things that our constituents are mostly talking about. My truckers, for instance, do not object to the 5-cent gasoline tax, but they do object to the way licensing and excise taxes will be increased. They claim—one of them claims—that his rate goes from $210 to $2,000 and we will not have any opportunity to amend that portion to lower it a little bit and make it more equitable and might keep some firms from going broke.

How in the world can the Rules Committee expect us in all good conscience to be able to sit here and vote for a rule that closes this part of the bill which has so great an effect on the people of this country and on the jobs of these people who are going to lose them because of the provisions of that particular part of the bill?

Mr. LOTT. I will be glad to try to respond to the gentleman's question because I think obviously it is a very legitimate question, and one which is raised quite often and one that I generally, basically agree with the gentleman on.

There are two reasons for the 2 hours of debate; so that you can have plenty of time to ask questions and have clarification made about those provisions of title 5.

Mr. KAZEN. What good will it do me if I cannot amend it?

Mr. LOTT. The second point is, as the gentleman well knows, over his long and distinguished career here in the House of Representatives, those measures which come from the Ways and Means Committee have traditionally been, going back over the 14 years I have been here, closed, and this is a Ways and Means tax provision which we are dealing with.

Mr. KAZEN. Yes; this has always been so, where there was a danger of amending the entire Tax Code. In this instance I do not believe that is true. Other amendments would not be germane, and there is not that much to the Tax Code pertaining to the subject matter. I have supported that rule in the past on many occasions, as has the gentleman, when there was a danger of opening up the entire Tax Code to amendment, and certainly we would not be for that.

Mr. LOTT. Well, seeing as how most of the time I do agree with the gentleman and find it very difficult to defend this type of rule, I must say it is broader than the gentleman might indicate by just saying it is a very limited area, because there are, as a matter of fact, several sections involved in the Code in this particular title, but I would like to, if I might, reserve the balance of my time to allow the prospective chairman of the Rules Committee, our ranking member from Florida, to respond also.

Mr. KAZEN. I thank my colleague from Mississippi for yielding.

Mr. HARTNETT. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from South Carolina.

Mr. HARTNETT. Mr. Speaker, I appreciate the gentleman yielding to me. I find it passingly strange that the gentleman from Mississippi would all of a sudden become a disciple of a closed rule. The gentleman just told the gentleman from Texas that for 14 years anything coming out of the Ways and Means Committee is customarily a closed rule. The gentleman and I came here to do things differently from how they had been doing them for the last 14 years, and the gentleman is disenfranchising me as the Representative from the First District of South Carolina from offering any amendments to this bill whatsoever, and yet there are a substantial number of my constituents who reside in South Carolina who are going to be adversely affected by this. I wish the gentleman could tell me how he could advocate the changes which he and I propose, and still be a disciple of a closed rule on a bill that raises substantial revenue on the backs of an industry that is already adversely affected by this economy.

Mr. LOTT. I agree with the gentleman from South Carolina, there are many things we would like to change when the day comes when we are in the majority. I suspect there will be occasions when we will support what will be a modified closed rule. It is open anyway on four titles, and that is one reason why we had 2 hours of debate, so that the gentleman could ask questions, because as a matter of fact, when we get into debate on the substance of this bill I think a lot of Members are going to find that they have misconceptions or misinterpretations about what is going to be the impact of the Ways and Means Committee section.

If I might continue, this is a measure which we are trying to have considered by the House and acted upon for a variety of reasons. We have a number of vital issues facing us, including a very important bill that we will be working on and voting on tomorrow involving the defense of this Nation. We have 2 weeks in which to do an awful lot of vitally important work, and if we take this particular bill and use up 2 or 3 days it is going to be awfully hard to get a lot of other very important legislation finished.

Mr. HARTNETT. Will the gentleman yield further?

Mr. LOTT. I will yield.

Mr. HARTNETT. I think the gentleman said he gave us 2 hours, but——

Mr. LOTT. One hour on the rule, 1 hour on public works, and 2 hours on ways and means, plus the amendment process under the 5-minute rule under the public works portion.

Mr. HARTNETT. If the gentleman will yield, he gives me 2 hours of debate but only an hour on the rule, and once the rule is adopted there is no use in my doing any debating whatsoever because it is not to my advantage. I cannot offer any amendments, any deletions, any additions, no changes at all. So, the gentleman gives me, in effect, 1 hour. I say to my friend, the Republican whip, the minority rouser, he gives me 1 hour, and all my colleagues here who may want to amend this bill, 1 hour, because once this rule passes then no amendments are in order. I do not need 2 hours to amend the bill when the gentleman only gives me 1 hour to debate.

Mr. LOTT. I think the gentleman will have more than that, and he will have amendments on the public works section.

Mr. HAMMERSCHMIDT. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Mr. Speaker, I would ask my distinguished colleague if, under this rule, it would be possible to offer a motion to recommit with instructions to title 5 of the bill.

Mr. LOTT. Would the gentleman restate the question?

Mr. HAMMERSCHMIDT. I wonder if the gentleman would tell me whether it would be possible to offer a motion to recommit with instructions to title 5 of the bill.

Mr. LOTT. A motion to recommit with instructions is in order under the rule, and would be in order. It would be possible.

Mr. HAMMERSCHMIDT. I thank the gentleman.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, let me ask a question with regard to the public works section. Do I understand that the public works section of the bill is fully open to amendment?

Mr. LOTT. That is correct.

Mr. WALKER. In other words, I have a concern about one of the greatest political payoffs in history that is in the bill, the payoff to big labor under Davis-Bacon. As I understand it, that is in the public works portion of the bill. Can I assume, then, that we

would be able to get at the Davis-Bacon language completely through the amendment process under this rule?

Mr. LOTT. Absolutely, and to facilitate the flow of debate here I would reserve some of my time if the distinguished gentleman from Florida has some additional debate.

Mr. PEPPER. Mr. Speaker, I have one request for time.

Mr. LOTT. Mr. Speaker, I reserve the balance of my time.

Mr. PEPPER. Mr. Speaker, I yield 3 minutes to the able gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. Mr. Speaker, I thank my friend from Florida for yielding. I take this time to urge a vote against this rule.

The gentleman from Wisconsin, HENRY REUSS, on behalf of himself and me, as the gentleman from Florida has indicated, sought before the Rules Committee to get made in order an alternative tax provision that would be far fairer to the American people, far less inflationary, far less a burden on the ordinary working man than the tax which the Ways and Means Committee has provided. Unfortunately, the Rules Committee did not see fit to grant us that permission, but I see no reason why the House should not be allowed to work its will on our alternative.

We have decided as a matter of tactics to make our main effort to try to defeat the tax provision which will be presented as title 5, and ask the Ways and Means Committee or the Rules Committee to make in order a more appropriate tax. The tax alternative we have proposed is to cap the third year of the tax increase scheduled to go into effect in July 1983, by $700 per taxpayer, which in effect means that the cutoff would be people making $45,000. People below that amount would have the full tax reduction, but people above that amount would bear the burden of paying for this program. Capping the reduction would produce $7 billion in revenues, considerably more than needed to pay for this program.

In last year's tax bill we substantially relieved wealthy people and all of the large corporations from their obligation to pay their fair share of taxes. Now, we come in and say we are going to put a 5-cent-a-gallon tax on gasoline, which hits the working man and woman of this country, the people who have to drive to and from their jobs and low-income Americans. The gasoline tax is highly inflationary because it will be reflected in the cost of all the goods and services that our people have to pay for. It is very regressive—the person who makes $100,000 per year pays the same 5 cents a gallon as the person making $10,000 per year. And the gasoline tax will take $5.5 billion out of the pockets of consumers, causing further layoffs and unemployment.

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At a time when our economy is really on its uppers and many of the working people of this coountry have lost their jobs and many of them are fearful of losing their jobs and there is great pressure not to have any wage increases, to put this additional burden on the working men and women of this country is, I think just plain wrong and unconscionable; it shifts from a progressive income tax that was decimated by the Tax Reduction Act to a very regressive tax, because the millionaire pays the same 5-cent-a-gallon increase as the person who is just marginally making it with his or her spouse and he or she each working full time.

So I think this tax is wrong. I think it will have a dilatory effect on an already tottering economy. I think we ought to have the opportunity to consider the more fair and equitable capping of the tax reduction that Congressman REUSS and I sought to make in order.

Mr. Speaker, for that reason I will oppose the rule, and if we are not successful in voting down the rule, I will oppose the tax measure that is made in order under the rule.

Mr. LOTT. Mr. Speaker, I again yield myself such time as I may consume for the purpose at this point of noting that my understanding is that the amendment that would be offered by the gentleman from New York (Mr. OTTINGER) would not be germane anyway even if he should prevail.

At this point, Mr. Speaker, I will yield to the gentleman from Indiana (Mr. MYERS) for comment.

Mr. MYERS. Mr. Speaker, I thank my colleague, the gentleman from Mississippi, for yielding.

Mr. Speaker, I share the concern of the gentleman from New York about the closed nature of the tax provisions of this bill, title 5. While this certainly is no surprise or nothing new, because most tax measures do come to this floor under a closed rule, I had hoped that would not be the case because this bill covers so many different issues and so many different subjects.

I had prepared an amendment which would allow the tax increase on gasoline to provide that the States be given the first opportunity to increase the tax, to collect the tax themselves and to spend it as they saw fit on their highways or on their transportation systems.

It seems to me this would have been much better than sending the money through Washington, as we so frequently do, and getting a very, very poor return.

I have this amendment prepared and expected to introduce it. If the States did not impose the additional tax on their gasoline within a given space of time, the Federal Government would then impose the tax. I regret that I cannot offer that amendment, because I believe the needed improvement in our highways, as far as new construction, maintenance of existing highways, and replacement and repair of bridges are concerned, can be done best by the States, with the tax collected by them. I regret that we do not have the opportunity to vote on such a measure which would be getting more benefits including more money for jobs.

Mr. Speaker, I thank my colleague for yielding.

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I would be glad, Mr. Speaker, to yield during the limited time we have left for a question or two that the gentleman may have.

Mr. KAZEN. Mr. Speaker, I just wish to rise to express my concern with the closed part of this rule to the Ways and Means Committee portion of the bill.

This started out to be a 5-cent-a-gallon tax bill. I think most everybody would agree that this is needed for the purposes that the gentleman just stated, but the Committee on Ways and Means went way beyond that 5 cents. I do not know who it was that convinced them that we needed much more than that 5 cents at a time when the economy is in the shape it is in, but the Committee on Ways and Means has come in here with provisions on licenses, increases in license fees, and excise taxes, which may cut back on jobs at a time when unemployment is what it is today.

I would certainly hope that somehow or other, after defeating this bill, if we are able to defeat it, that we would separate the two portions of this bill and leave the public works bill intact. The constituents I have heard from do not object so much to the 5-cent gasoline tax. Their objection goes to the Ways and Means part of the bill, and I would hope that the House would go along with us in defeating this bill and seeing if we can get two separate bills or just pass the public works portion of this bill.

Mr. LOTT. Mr. Speaker, I have several requests remaining, and at this point I yield 3 minutes to the gentleman from Arizona (Mr. RUDD).

Mr. RUDD. Mr. Speaker, I am very interested in what has taken place in a couple of the colloquys here, especially those by the gentleman from Texas and also the gentleman from North Carolina. I have constituents who traveled clear across our great land to arrive here this morning to plead their case against this rule, which is not open enough to try to amend what has been put into the bill with regard to the user tax.

The small operators and truckers across this land find themselves in a great dilemma, and that dilemma means going out of business or going into bankruptcy at a time when we are talking about providing—and I am in favor of this—300,000 jobs from this tax. These truckers I am talking about are not opposed to the 5-cent-a-gallon tax; what they are opposed to is that user tax which will, as my colleagues said earlier, provide for a payment jumping from $200 a truck to $2,000 a truck, and a 10-trucker operation will be paying $20,000. This means that we may be providing jobs for the workingman, but we are going to trade those jobs and put truck drivers and the people in the trucking industry out of work.

The user tax also applies to supporting industries that sell parts to these truckers. They are going to have to go out of business. It is as simple as that.

I am opposed to this rule, which will not provide for amendments that will alleviate this terrible situation that is imposed upon the small trucking companies across the Nation. The large trucking companies can probably live with it all right because they operate on a much broader scale, traveling back and forth across the Nation but the small trucking companies cannot do it.

Mr. Speaker, I must oppose this bill, and I urge my colleagues to oppose this bill, not because we are opposed to the tax, because when it first came out, everybody agreed that we need it to provide more jobs and to repair the roads across the land, but this part of the bill is absolutely unacceptable.

Mr. Speaker, I hope we will reject the rule and recommit it to the committees so they may have a chance to amend that part of the rule.

Mr. Speaker, I rise to oppose the rule of this bill because it contains revenue provisions which I believe have not been carefully considered by this body and which are not open to amendment.

During the past several weeks, we have heard strong support for augmenting the highway trust fund in order to repair and rebuild our Nation's highways, and create about 300,000 jobs in the process.

However, the revenue amendment which has emerged from the Ways and Means Committee contains some provisions which could be devastating to the small- and medium-sized transport companies across the country. Take a close look at what is provided in this amendment, and you will see that heavy trucks will incur a 1,000-percent increase in highway user fees. Take, for instance, the operator with 10 large units. That man currently pays $210 per truck each year or $2,100 in Federal highway use taxes. His taxes under the new bill will go to $2,000 per vehicle, or $20,000, that is before the cost of the 5-cents-a-gallon increase in fuel tax is added in. Not only that, but these small operators, many of whom only make short hauls, will not benefit from the exchanges that were included in the bill which will allow transcontinental truckers to increase their productivity and make up for the increase in taxes. They will just have to take it out of their pockets.

These sorts of computations are going on right now all over the country, and the net result that trucking operators are coming up with is that they will not be in business for very much longer. These tax provisions are going to force smaller trucking companies into bankruptcy.

It does not make sense, Mr. Chairman. One of the aims of this bill is to put people back to work. All we will have done with this plan is trade truck drivers' jobs for construction jobs. Not only that, but the automotive, equipment manufacturing, and servicing industries which support the trucking industry will soon be laying off workers and closing their doors.

I do not oppose the 5-cents-a-gallon gas tax, and I believe the trucking industry is willing to invest its tax dollars in order to see roads repaired and maintenance costs on their equipment reduced. But we did not bargain for a bill which would levy a billion dollar tax increase on the trucking industry—an increase which will weigh heaviest on small operators. I urge my colleagues to vote with me against the rule, and against the revenue title of this bill. So that it may be recommitted to remedy the imposition on small truckers.

Mr. LOTT. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. STANGELAND).

Mr. STANGELAND. Mr. Speaker, I rise in strong opposition to House Resolution 620 which makes in order the consideration of Federal-aid highway and mass transit legislation to be financed by increased highway-user excise taxes from the highway trust fund.

As a member of the House Surface Transportation Subcommittee who has participated in the extensive series of hearings and markups on the highway authorizing legislation scheduled for consideration today, I will be the first to agree that revenues from the highway trust fund have not kept pace with the necessary highway and transit programs facing this country. Highways, bridges, and our mass transit systems are deteriorating at an alarming rate, thereby jeopardizing both safety and efficiency of our basic transportation systems as well as the billions of dollars of investment we have already spent on these programs.

While I wholeheartedly agree that an increase in revenues for our programs is vital, I also feel that the impact of rebuilding and maintaining our infrastructure should not fall unduly on one class or group. Unfortunately, title V of the legislation to be considered, known as the Ways and Means Committee revenue title, unfairly burdens truckers, an industry that is already suffering from the current economic situation. Under this rule, no amendments will be allowed to the revenue portion of this bill, thereby saddling the trucking industry with huge increases in the taxes that they will have to absorb. Let me point out that any tax increase is bitter for me to swallow but the use tax proposed for heavy vehicles is particulary distasteful. For example, under existing law if the gross vehicle weight is more than 26,000 pounds, $3 per 1,000 pounds per year is charged. For an 80,000 pound truck, that comes to $240 as a use tax. Under the Ways and Means title V language, the use tax on a similar vehicle would be $2,000, or an increase of over 800 percent. This is in addition to the increase they face for the fuels tax.

Now is not the time to impose unreasonable financial burdens on the trucking community. On the contrary, we should be doing all that we can to support a strong trucking industry. As a major hauler of agricultural commodities, I am well aware of the importance in keeping this vital sector of our transportation network healthy.

For that reason, I feel that we should defeat this rule so that we will have the opportunity to structure the revenue provisions more fairly.

Mr. Speaker, I just want to point out to the committee that the figures given are accurate. On a 55,000-pound truck weight the taxes are going to go from $57 to $500, and on an 80,000-pound truck they are going to go from $240 to $2,000. That is an 800-percent increase.

I think we can stand some increase in the user tax on heavy trucks, but I think these increases are very exorbitant.

I would like to point out for the benefit of the committee that these user taxes will not go into effect until January 1, 1984. The Ways and Means Committee has adequate time next year to come back and study and analyze how much more user tax we should put on this segment of the transportation industry and come down with some sensible figures that all of us can support.

Mr. Speaker, I think we need the 5 cents, and I think we need some increase in the user tax, but this user tax that is in this legislation is exorbitant. It is unconscionable at a time when the trucking industry is having extreme difficulty in this economy.

Mr. Speaker, I urge my colleagues to vote against the rule so that we might

get this rule opened up or this provision deleted from the bill.

Mr. LOTT. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. ROBINSON).

Mr. ROBINSON. Mr. Speaker, I rise in opposition to the rule. The gentleman from Texas (Mr. KAZEN) pointed out correctly just a moment ago that it is absurd to allot 1 hour of dabate, and full opportunity for amendments, to the least controversial aspects of the legislation, while allotting 2 hours of dabate, but no opportunity for amendment, to its most controversial tax provisions.

The rule would apply the "gag-barring amendments to the wrong part of the legislation, and should be defeated.

I object to certain tax increases recommended by the House Ways and Means Committee that go far beyond a moderate increase in the basic fuel tax. These provisions would impose an overly heavy burden on thousands of small and medium-sized trucking firms, and on related industries that supply key parts to the trucking industry.

I also object to the committee's plan to require that fully 20 percent of the revenue levied—1 cent of every nickel raised—be earmarked for mass transit assistance. That is too big a bite from a program aid for rebuilding the Nation's crumbling network of highways and bridges.

Mr. Speaker, the basic thrust of this initiative is not unreasonable in principal. But unless we are able to modify its ultra-heavy proposed tax load, which is certain to have an adverse impact on employment opportunities for truckers and workers in related industries, I intend to vote against it.

I might add that we will be performing a solid public service for unemployed construction workers, and for the taxpayers, if we should succeed in waiving the application of the Davis-Bacon Act to construction projects to be funded through the Surface Transportation Assistance Act of 1982.

Mr. LOTT. Mr. Speaker, I yield 2 minutes to the gentlewoman from Nebraska (Mrs. SMITH).

Mrs. SMITH of Nebraska. Mr. Speaker, I rise in opposition to this rule. I support certain provisions of the legislation this rule would make in order, but others could be much improved. I support increasing the gasoline tax, and rebuilding our Nation's highways. These are things on which most of us agree.

The rule would prohibit amendments to the revenue title of the bill. This title contains come controversial tax increases which, in my view, could be improved by perfecting amendments. The taxes imposed by the bill on the trucking industry should at least be subject to change on the House floor by a vote of the full House. Fifty percent or more of the truckers in Nebraska are now operating at a loss. Nebraska truck-industry officials estimate that this bill would increase the taxes on a five-axle tractor by 151 percent. These increased costs would, of course, ultimately be paid by either consumers or producers.

Another controversial provision that should be subject to amendment and full consideration deals with a new mass transit account within the highway trust fund. The revenue available in this new trust fund would go for transit capital expenditures, including new projects. These public transit facilities would be funded by a tax paid by highway users. The Nebraska Highway Commission has recommended against this use of highway revenue. Members will not have a chance to change this provision under the rule; they will not have the opportunity to make this legislation better.

Mr. Speaker, I do not ask for an open rule on these revenue provisions, but for a reasonable chance to make minor changes. These are issues the full House should decide. The Members should have more of a choice than the up-or-down choice we now have. This is particularly true when one considers the speed with which this bill is moving through the House in this lameduck session. The revenue provisions were concocted last Thursday and are on the floor on today, Monday, 1 legislative day later.

I urge defeat of this rule. Let us go back to the Rules Committee and bring back a rule that will allow the full House to consider alternatives for financing the highway trust fund.

Mr. LOTT. Mr. Speaker, I have one further request for time.

Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. MILLER).

Mr. MILLER of Ohio. Mr. Speaker, I rise in opposition to the rule to H.R. 6211, because I object to the closed rule on the Ways and Means title V portion of the bill. While I believe in the user fee concept because of its general fairness, I have difficulty accepting the formula which has been devised for this bill. Specifically, title V will require those who use our roads and bridges to pay 5 cents more for a gallon of gasoline, but 1 cent of that amount will go for mass transit. Where is the equity in this proposal? Should not the users of mass transit make a contribution of some sort for the upkeep of their own transportation system? As written now, the Ways and Means proposal to the bill disproportionately burdens the rural residents of our country who are almost completely dependent on their cars for transportation. I want to see in this bill an equivalent contribution by those who use urban transit systems. I believe that one approach which would accomplish this end is a phase-out of operating subsidies to mass transit systems. I believe that H.R. 6211 has many merits. But one it does not contain is equity. I urge you to defeat the rule so that there might be an opportunity to make appropriate amendments to the revenue-raising portion of this bill in order to bring meaning to the user-fee concept.

● Mr. RITTER. Mr. Speaker, on Friday, December 3, before the Rules Committee, I testified in support of a rule which would allow the House to consider separately the onerous features of the gas-tax bill regarding heavy-duty truck manufacturing and shipping.

I rise today to urge my colleagues to consider the effects of the user-fee provisions of this proposed bill on the heavy-duty trucking industry, and to allow the full House the opportunity to address these problems. Thus, I rise in opposition to the rule which prevents Members such an opportunity.

The heavy-duty truck industry includes manufacturers, motor carriers, tire manufacturers, suppliers and, of course, workers. The proposed special increase of some 150 percent in heavy-duty truck taxes would, however, have a devastating impact on an industry already hard hit by the recession. Industrywide truck sales have dropped from 165,000 units in 1979 to 62,000 units in 1982. Mack Truck, in my own congressional district for example, has suffered over a 40-percent reduction in personnel since 1979. According to the American Trucking Association, 195 motor carriers have closed their doors since 1980, a failure rate more than double that of other businesses. The International Brotherhood of Teamsters estimates that 175,000 of their trucking-industry members are out of work today.

I realize that these special heavy duty trucking taxes are based on a particular DOT highway cost allocation study. My understanding, however, is that the Department has another study in conflict. That study finds that trucks of all weights are paying their fair share of current highway taxes. A second study, which is being used by DOT, claims that the heaviest trucks are paying less than their fair share. I do not feel that Congress, in its haste to act during this session, should accept the findings of this second study without thorough review and deliberation.

Fair treatment is what heavy-truck builders and shippers seek. And fair treatment is what I as the representative of Allentown, and the Lehigh Valley of Pa., "Truck Capitol of the World," world headquarters of the bulldog of heavy trucks, Mack Truck, seek.

Based on these realities, I urge my colleagues to vote down the rule and to allow the House to take a separate vote on the nonfuel heavy-duty tax

provisions of the bill, thus allowing those Members who do not support the additional tax on the trucking industry, to vote accordingly.●

Mr. LOTT. Mr. Speaker, I have no further requests for time.

Mr. PEPPER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I just want to make two remarks, if I may, to my colleagues. The first is that no one requested the Rules Committee to allow amendments to be made in order to the Ways and Means part of the bill relative to the increased tax on heavier trucks.

Second, it would be possible under this rule for the Member controlling the motion to recommit to offer a germane motion with instructions to include a provision relative to truck weight if they wish to do so, so that would give the House an opportunity to express itself on that subject.

Mr. LOTT. Mr. Speaker, I yield back the balance of my time.

Mr. PEPPER. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HARTNETT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 197, nays 194, not voting 42, as follows:

[Roll No. 414]

YEAS—197

Addabbo	Collins (IL)	Fazio
Akaka	Conable	Fenwick
Anderson	Corcoran	Ferraro
Annunzio	Coughlin	Fields
Anthony	Coyne, William	Fish
Applegate	Crockett	Flippo
Archer	D'Amours	Foglietta
AuCoin	Daniel, R. W.	Foley
Bailey (PA)	Dellums	Ford (MI)
Bellenson	Derrick	Forsythe
Bennett	Derwinski	Fowler
Biaggi	Dicks	Frank
Bingham	Dingell	Frost
Boggs	Dixon	Garcia
Boland	Donnelly	Gaydos
Bolling	Dorgan	Gephardt
Bonior	Dornan	Gibbons
Bowen	Dougherty	Gradison
Breaux	Dowdy	Gray
Brodhead	Downey	Green
Brooks	Dwyer	Gregg
Brown (CA)	Dymally	Grisham
Brown (OH)	Dyson	Guarini
Burgener	Early	Hall (IN)
Burton, John	Eckart	Hall (OH)
Burton, Phillip	Edgar	Hawkins
Carman	Edwards (AL)	Heckler
Clausen	Edwards (CA)	Hertel
Clay	Erlenborn	Hollenbeck
Clinger	Evans (DE)	Howard
Coelho	Fary	Hoyer
Hunter	Moakley	Schumer
Jenkins	Moffett	Shamansky
Johnston	Mollohan	Shannon
Jones (NC)	Montgomery	Shaw
Kennelly	Murtha	Shuster
Kildee	Natcher	Simon
Kogovsek	Nelligan	Smith (IA)
Lagomarsino	Nelson	Smith (NJ)
Latta	O'Brien	Smith (PA)
Lent	Oakar	Snyder
Lewis	Panetta	Solarz
Long (LA)	Parris	St Germain
Long (MD)	Pashayan	Stark
Lott	Pease	Staton
Lowery (CA)	Pepper	Stokes
Lowry (WA)	Peyser	Stratton
Luken	Pickle	Thomas
Lungren	Price	Traxler
Markey	Pritchard	Udall
Martin (IL)	Railsback	Vento
Martinez	Rangel	Walgren
Matsui	Ratchford	Watkins
Mavroules	Reuss	Waxman
Mazzoli	Rhodes	Whitehurst
McClory	Rinaldo	Whitten
McDade	Rodino	Wirth
McGrath	Rose	Wolpe
McHugh	Rosenthal	Wortley
Mica	Rostenkowski	Wright
Michel	Rousselot	Wyden
Mikulski	Roybal	Wylie
Miller (CA)	Russo	Yates
Mineta	Sabo	Young (MO)
Minish	Scheuer	Zablocki
Mitchell (MD)	Schulze	

NAYS—194

Albosta	Ginn	McKinney
Andrews	Glickman	Miller (OH)
Ashbrook	Goldwater	Mitchell (NY)
Aspin	Gonzalez	Moore
Badham	Goodling	Moorhead
Bailey (MO)	Gore	Morrison
Barnard	Gramm	Murphy
Beard	Gunderson	Myers
Bedell	Hagedorn	Napier
Benedict	Hall, Ralph	Neal
Bereuter	Hall, Sam	Nichols
Bethune	Hamilton	Nowak
Bliley	Hammerschmidt	Oberstar
Boner	Hansen (ID)	Obey
Bouquard	Hansen (UT)	Ottinger
Brinkley	Harkin	Oxley
Broomfield	Hartnett	Patman
Brown (CO)	Hatcher	Paul
Broyhill	Hefner	Perkins
Butler	Hightower	Petri
Campbell	Hiler	Porter
Chappell	Holland	Pursell
Chappie	Holt	Quillen
Cheney	Hopkins	Rahall
Coats	Horton	Regula
Coleman	Hubbard	Ritter
Collins (TX)	Huckaby	Roberts (KS)
Conyers	Hughes	Roberts (SD)
Courter	Hutto	Robinson
Craig	Hyde	Roe
Crane, Daniel	Ireland	Roemer
Crane, Philip	Jacobs	Rogers
Daniel, Dan	Jeffords	Roth
Dannemeyer	Jeffries	Roukema
Daschle	Jones (OK)	Rudd
Daub	Jones (TN)	Sawyer
Davis	Kastenmeier	Schneider
de la Garza	Kazen	Schroeder
Dickinson	Kemp	Seiberling
Dreier	Kindness	Sensenbrenner
Duncan	Kramer	Sharp
Edwards (OK)	LaFalce	Shelby
Emerson	Leach	Shumway
English	Leath	Siljander
Erdahl	Lee	Skeen
Ertel	Levitas	Smith (AL)
Evans (GA)	Livingston	Smith (NE)
Evans (IA)	Loeffler	Smith (OR)
Fiedler	Lujan	Snowe
Findley	Lundine	Solomon
Fithian	Madigan	Spence
Ford (TN)	Marriott	Stangeland
Fountain	Martin (NC)	Stenholm
Frenzel	Martin (NY)	Studds
Fuqua	McCollum	Stump
Gejdenson	McCurdy	Swift
Gilman	McDonald	Synar
Gingrich	McEwen	Tauke
Tauzin	Weber (MN)	Williams (OH)
Trible	Weber (OH)	Wilson
Vander Jagt	Weiss	Wolf
Volkmer	White	Yatron
Walker	Whitley	Young (AK)
Wampler	Whittaker	Young (FL)
Weaver	Williams (MT)	

NOT VOTING—42

Alexander	Dunn	Marlenee
Atkinson	Emery	Mattox
Bafalis	Evans (IN)	McCloskey
Barnes	Fascell	Molinari
Bevill	Florio	Motti
Blanchard	Hance	Patterson
Bonker	Heftel	Santini
Byron	Hendon	Savage
Carney	Hillis	Skelton
Chisholm	Lantos	Stanton
Conte	LeBoutillier	Taylor
Coyne, James	Lehman	Washington
Deckard	Leland	Winn
DeNardis	Marks	Zeferetti

□ 1515

Messrs. EVANS of Iowa, DAVIS, WEAVER, and MOLLOHAN changed their votes from "yea" to "nay."

Messrs. FRANK, BONIOR of Michigan, LEWIS, HUNTER, and MOLLOHAN changed their votes from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FIVE DEFERRALS OF FISCAL YEAR 1983 FUNDS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 97-261)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Appropriations and ordered to be printed.

(For message, see proceedings of the Senate of today, Monday, December 6, 1982.)

SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982

Mr. ANDERSON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6211) to authorize appropriations for construction of certain highways in accordance with title 23, United States Code, for highway safety, for mass transportation in urban and rural areas, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. ANDERSON).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill,

H.R. 6211, with Mr. NATCHER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from California (Mr. ANDERSON) will be recognized for 30 minutes, and the gentleman from Pennsylvania (Mr. SHUSTER) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. ANDERSON).

Mr. ANDERSON. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey (Mr. HOWARD), the chairman of the Committee on Public Works and Transportation.

Mr. HOWARD. Mr. Chairman, it is with pride that we bring to the House the Surface Transportation Assistance Act of 1982.

In May of this year, our committee reported out H.R. 6211, a 4-year bill combining authorizations for highways, highway safety, and public transportation. It contained authorization levels consistent with those advocated by Secretary Lewis as part of his proposal to increase revenues in amounts equivalent to a 5-cent increase in the motor fuels tax.

The President's decision to defer a decision on the issue during the regular session made it necessary for us to adopt H.R. 6965, a 1-year, scaled-down version, which the trust fund could sustain if extended a corresponding 1 year at existing revenue levels. It later became necessary to move an interim bill which passed on the last day of the regular session, and as a result, H.R. 6211 and H.R. 6965 are still alive.

What we propose to have considered in the House is a substitute for H.R. 6211, containing the following: The bulk of the provisions of that bill, some provisions of H.R. 6965, a number of technical amendments, and several provisions which have surfaced more recently and whose inclusion will expedite consideration in the House. Furthermore, it is my intention to offer two additional amendments: One which would establish a minimum level of apportionments for each State equivalent to 85 percent of each State's contribution to the highway trust fund; and second, an amendment to temporarily waive the matching requirements for the additional funds provided in the first year of the bill, with provision for a payback of funds or a reduction in future years' apportionments in lieu of payback. It is my understanding that the two amendments are supported by the National Governors Association.

Mr. Chairman, I will confine the remainder of my remarks to the highlights of the bill. The highway title authorizes in excess of $12 billion a year from the highway trust fund, up from the range of $8.5 billion in fiscal year 1982. Principal areas of expansion are interstate completion, Interstate 4-R, the primary system, and replacement and rehabilitation of bridges. To expedite completion of the Interstate System, we expand the discretionary fund by $300 million and target it to completion of high-cost gaps. For Interstate 4-R, we also permit States to transfer a limited amount of their own construction apportionments to 4-R work, provided they scale down the scope of their total system requirements. The bill also modifies the apportionment formula for 4-R to give greater weight to factors reflecting greater wear and tear on the system. Also modified are the primary system formula, to give greater weight to urban population, and the bridge formula, on the basis of updated needs estimates.

Interstate transfer substitute projects would be funded by the highway trust fund, with most of the funds apportioned on the basis of cost to complete and the remainder at the discretion of the Secretary. We also would eliminate separate funding for a number of categories authorized in existing law, but allow States which wish to continue funding them to do so from regular apportionments at a preferential Federal matching share.

The substitute also contains truck size and weight provisions, as did H.R. 6211, but with a triggering mechanism specifying that the modifications shall not take effect unless and until an equitable cost allocation adjustment is enacted into law. It is our opinion that the changes made by the Ways and Means Committee, if enacted into law, would satisfy this requirement.

On the transit side, we increase overall program levels from $3.5 to $4.15 billion a year. We also assume earmarking of the equivalent of a 1-cent increase in the fuels tax for public transportation capital. This would go out as contract authority, backed up by a public transportation account in the highway trust fund.

The program would be restructured, with a greater proportion going out by formula and less at secretarial discretion. Capital would go for the traditional public transportation purposes, including a limited number of cost-effective new starts. We also would restructure the apportionment formula, giving greater emphasis to existing levels of service. Great care has been taken to assure equitable treatment of cities of under 200,000 and areas of under 50,000 population. Operating assistance would be capped at fiscal year 1982 levels. We also provide an incentive, in the form of a higher Federal match, for communities which use for capital purposes those funds made available for either capital or operating assistance. We also provide more flexibility in procurement procedures and incentives to seek greater operating efficiency and economies, and we strengthen the Buy America provisions of existing law.

We feel that our proposed authorizations are more than warranted by the various studies documenting needs in the area of surface transportation. The Department of Transportation project annual highway spending needs ranging from $11.6 billion just to maintain 1978 conditions to $16.6 billion to meet full needs. Transit needs, just to maintain existing systems and not taking any expansions into account, will total nearly $50 billion over the next 10 years.

And last but not least, the jobs picture today makes prompt action even more imperative. The administration estimates that this program would create 320,000 jobs per year, including 170,000 directly related to the construction industry, which is hit by unemployment roughly twice the national average.

I urge my colleagues to support the bill.

□ 1530

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. I thank the gentleman for yielding.

Mr. Chairman, I would like to commend the gentleman in the well for his articulate statement and for the work that he and the gentleman from California (Mr. ANDERSON) and the gentleman from Pennsylvania (Mr. SHUSTER) have done in producing this legislation.

It came through our committee, which has a divergence of opinion, Democrats and Republicans, conservatives and liberals. It came out of our committee with strong bipartisan support because we need a strong transportation bill dealing with highways, bridges, and public transit.

It is here before us in the House today because the President of the United States has committed himself to a 5-cent tax.

If I could just ask one question of the gentleman in the well. In clarifying the gentleman's two amendments, as I understand it, the gentleman has given to all of the States in the Nation no less than 85 percent of the funds that they have sent to Washington; is that correct?

Mr. HOWARD. That is correct.

Mr. EDGAR. And second, the gentleman has provided all of the States, whether they have money available or no money available an opportunity to use this legislation.

Mr. HOWARD. Yes; we do hope that only those who need it without the match will take it without the match. We did this in the midseventies and we had a rush bill during President Ford's

administration, and we made this available to the States. Sixteen States did take advantage of it. We hope that all the States will not take it all without a match because that would reduce the program, it would reduce the number of jobs.

Mr. EDGAR. I thank the gentleman for his efforts. I think that the gentleman has amended the legislation in the proper way. I hope all Members will accept the amendments as well as pass the legislation. I commend the gentleman in the well.

Mr. HOWARD. I thank the gentleman.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. Would the Chair advise me as to how much time I have left?

The CHAIRMAN. The gentleman has consumed 9 minutes.

Mr. HOWARD. I yield to the gentleman from Missouri.

Mr. VOLKMER. I thank the gentleman for yielding.

The waiver of the match for the first year for those States who do not have the funds, does that apply to all the matching Federal highway programs, construction, rehabilitation, resurfacing, and all?

Mr. HOWARD. Yes, all of them.

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Louisiana.

Mr. ROEMER. I thank the gentleman for yielding.

I want to join others in complimenting the gentleman for the job he has done in a tough situation. One question just to clarify for the body's information. Section 154 by striking the word "initial" in regard to prevailing wage represents a major shift in policy. Would the gentleman just take a second and explain what the committee had on its mind when that was done?

Mr. HOWARD. We have had the Davis-Bacon provision in the Highway Act since the late 1960's. The 3R program of rehabilitation programs have always had the Davis-Bacon Act in it. It has always worked that way. That provision has been in that part of the bill.

The last administration and this administration indicated that perhaps they could find the word initial in initial construction to mean that maybe in the future those parts of the legislation should not come under Davis-Bacon.

So the intention we have from the administration is that they would intend to change the use of Davis-Bacon and not have it to apply where it has applied and has been the intent of Congress and the operation of the Federal Government all these years.

So the language that was put into the bill in that section merely clarifies and has the situation where what has gone on before with Davis-Bacon will go on in the future. It in no way expands it. Without that language being accepted, we will have a situation where the administration will administratively change the Davis-Bacon provision and reduce the coverage of Davis-Bacon. That is the absolute simple reason that that language is in there, to continue what we have, not to expand it, but to not reduce it. If you want to reduce it or cut back or weaken Davis-Bacon then you should vote to take that out.

If you want to have Davis-Bacon continue as it has from the beginning, then you will have it in.

I want to give the chairman a chance to explain, but I am sure it will come up in the debate.

Mr. SHUSTER. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. CLAUSEN), the ranking minority member of the Committee on Public Works and Transportation, a gentleman who has been a distinguished Member of this Congress for many years, and I know that we will sorely miss him in the next Congress.

Mr. CLAUSEN. Mr. Chairman, I want to join in adding to the favorable comments that have been directed toward the chairman of the full committee, the gentleman from New Jersey (Mr. HOWARD); the chairman of the subcommittee, the gentleman from California (Mr. ANDERSON); and the distinguished ranking minority member of our subcommittee, the gentleman from Pennsylvania (Mr. SHUSTER), for the work that they have put forth in the coordination of the presentation of this bill. It is a tough bill. It is a tough bill to put together. And I think that you could find a number of people on the floor who may very well come to the conclusion that there are certain provisions that they could not agree with. And, I might add, that includes me because there are a number of areas that I differ with quite strongly.

But that is the problem we always face when we are attempting to deal with this kind of a comprehensive legislation under the time constraints that we have.

My own personal opinion would have been to have stayed with the original package which was H.R. 6211. I thought we did a reasonably good job with the bill and moved it out of the committee. I would like to have moved that bill through the House. But here we are.

The bill before us today offers an excellent opportunity and an all too rare opportunity at that to take a great step forward in meeting our responsibilities for surface transportation in this country, both highways and transit.

This substitute is a large bill, a comprehensive bill, and a balanced bill. To be sure it contains some controversial provisions and there is some dispute over the provisions which it does not contain which some would like to see. Understandably there are also some controversial aspects of the Ways and Means revenue package which is to be added to in the form of title V of the bill. But looked at in its entirety, the bill itself should not be regarded as controversial.

There is no doubt in my mind that through the process of amendment, here in the House, and I would hope to see amendments held to an absolute minimum, as well as in the conference itself, where we can next address the revenue title, any remaining concerns can be dealt with so that a final package can be worked out in the maximum extent feasible for all parties concerned with this legislation.

As we proceed, I urge Members to keep the following thoughts in mind.

First, there is no getting around the fact that timing and momentum play a key role in our success or failure in enacting major legislation. We now have the best chance in a generation to restore in substantial part the purchasing power of the trust fund that had been eroded by inflation, factors that increase costs beyond the rate of inflation, as well as lagging revenues.

Now is the best opportunity, certainly the best in my nearly 20 years as a Member, to set up a stable and predictable longtime funding mechanism for at least a significant portion of the public transportation capital program.

While recognizing some controversial aspects of the bill, it is basically a good bill and I support advancing it through the House, recognizing that some improvements or changes will and in my view must take place in the conference.

The bill builds on a basis of the highway trust fund which has in my view been one of the best funding mechanisms ever designed by the Federal Government. That trust fund concept is fair, it is efficient, and the users pay in direct proportion to the amount that they use. It has made it possible for us to achieve a highway system that is literally the best in the world. As a matter of fact, the airport-airways trust fund concept as a funding mechanism was adopted similar to that pattern because of the success story of the highway trust fund mechanism.

It has built the systems, and I want to emphasize that, the systems that I referred to are the Interstate System, the primary and secondary road systems as well as the urban systems that we added back in the seventies.

Without this funding source, and without the Federal aid program as we now know it, which the trust fund has made possible, we would not have those systems in place today. And you

would not have the kind of economic growth that has taken place in this country. Certainly we would not have them if every State had demanded and succeeded in nailing down every nickel of revenue paid into the trust fund in that State.

Is the system perfect? No. Nor is the bill perfect. But it is in my view a good, sound, solid system, it is a beginning and a movement on the part of this House to move the bill where we can make it even better.

Today is day 1 of week 2 of a 3-week session, so time is short. This means that it will take an unusual degree of willingness to cooperate and to compromise with the Senate and the administration to get this bill enacted into law.

So I earnestly urge my colleagues to join me in viewing this bill in that light.

I have seen a lot of legislation come and go. But I believe we can in the short time remaining put through a bill essentially along the lines of the bill we advanced through our committee.

The CHAIRMAN. The time of the gentleman from California (Mr. CLAUSEN) has expired.

Mr. SHUSTER. Mr. Chairman, I yield 1 additional minute to the gentleman from California.

Mr. CLAUSEN. Mr. Chairman, if this can be done, I will truly say I will take as much satisfaction from that as any other accomplishment I have been associated with in nearly 20 years in this body.

One final comment that I would like to make does center around the concern that I have over the concept of the donor-donee issue. There is one thing of which we must remind ourselves. When we set up this program initially it was intended to serve as a vehicle for funding a complete system. Some of the States actually received their funds in advance and as a consequence have made a donation to the balance of the completion of the system. I think we need to keep that in mind.

I am a little bit disappointed over the concept we now have, and I want to serve notice as we move to the conference I may very well be looking toward a measure of revising that donor-donee formula provision and other provisions of the bill that need revision.

□ 1545

Mr. ANDERSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, during the remaining days of the 97th Congress, we have the opportunity to pass historic legislation that will put our Nation's transportation network back on the right track; steering it away from its present course which is, by all accounts, a road to ruin.

During July of 1981, the Subcommittee on Surface Transportation, which I chair, held 6 days of hearings here in Washington on the country's short- and long-term highway, highway safety, and public transit needs. Numerous other hearings were held on this subject in other cities and towns around the Nation.

What we learned was devastating. We learned that our Interstate System, initiated in the 1950's with a design life of 25 years, was crumbling.

The Interstate System is deteriorating at the rate of 2,000 miles per year. Eight thousand miles of the system need total rebuilding, and 20,000 miles of interstate will require major repair within the next 12 years.

And our bridges are a national disgrace. Forty-five percent of the country's 557,000 bridges require work if they are to provide safe mobility at reasonable capacities.

In my own State of California, and I do not believe we are atypical, the road information program has estimated that 40 percent of our paved main roads, or 23,100 miles, are in need of resurfacing or rebuilding. These roads handle 91.9 percent of our total traffic.

One of the most comprehensive studies of the subject nationally, the ATAC II report, estimates Federal highway needs of over $14 billion in 1983, and the need to average $20 billion per year the next decade.

With respect to public transit, our hearings clearly indicated that too many systems around the country are structurally decaying or functionally obsolete. Too many cities need to build or rebuild their public transit systems.

Transit capital needs in this country over the next decade total about $50 billion. If this challenge is not met, beneficial public transit gains will be lost. Transit patronage has gone up about 7 percent since the gas crisis. If just these new riders are forced back into their automobiles because of insufficient capacity, the country will consume an additional 2.6 billion barrels of oil per year.

If transit capital needs are great, so is the need for operating assistance. Transit fare increases right now are far outstripping the inflation rate. Historically, patronage falls by 3 percent with every 10-percent increase in fares. And yet, there are those who say "cut out operating assistance altogether." I could not be more emphatic in disagreeing and in pointing out that it is the smaller and medium size communities; those with stable bus fleets and few capital demands, that are most in need of operating assistance. Because they are not densely populated, their farebox cannot cover operating expenses. It only makes sense to allow the Federal Government help with their operating costs.

And it would be similarly foolhardy to eliminate operating assistance to high density cities when public transit may carry as many as 70 to 85 percent of their central business district bound trips during peak hours. Cut operating assistance to these cities and their fares will rise, patronage will drop, and city streets and freeways will be gridlocked.

Mr. Chairman, this is what the Surface Transportation Subcommittee learned during our hearings.

The subcommittee and full Committee on Public Works and Transportation responded in a reasonable manner by producing legislation, H.R. 6211, which was designed based upon one overriding theme: Meeting the Nation's transportation needs.

The revenue required to do this, though, exceeds that which is currently generated. The funding needs upon which my subcommittee received extensive testimony, and which are reflected in H.R. 6211, will require the infusion of about $5.5 billion in additional moneys each year.

President Reagan has reviewed and recognizes this problem and recommended that additional user fees be raised to meet these needs. I am pleased that the Ways and Means Committee has acted so promptly to raise revenues by a similar amount.

Mr. Chairman, even the popular press now recognizes the need for improving our transportation system, as well as the increased revenues that must be generated to finance such a system. Business Week and News Week have run cover stories on the problem, and even Nation's Business, published by the U.S. Chamber of Commerce, has published a story on our funding dilemma.

Mr. Chairman, I believe our Nation's transportation needs are well-documented. And it is commonsense that those who use our transportation system, should pay for it. These two ideas, simple, basic, and obvious, are wedded in H.R. 6211. I urge the support of all our colleagues.

Mr. Chairman, this substitute contains the following: the bulk of the provisions of H.R. 6211, as reported by the committee on May 17, 1982; some provisions of H.R. 6965, the separate, 1-year bill which the committee approved on August 10 when the revenue increase appeared unlikely; and several provisions which have surfaced more recently and whose inclusion will expedite consideration on the floor.

To preclude any misunderstanding with respect to any changes in the substitute in relation to H.R. 6211, as reported, the following modifications are noted:

TITLE I

SECTION 101—SHORT TITLE

The section changes the title to the Highway Improvement Act of 1982, because the

interim bill, P.L. 97-327, was entitled Federal-Aid Highway Act of 1982.

SECTION 102—AUTHORIZATIONS FOR THE INTERSTATE SYSTEM

This substitute makes a technical change to conform to an authorization in the Federal-Aid Highway Act of 1982, but makes no substantive change in the $4 billion level of authorizations in fiscal year 1983 for Interstate construction. (These are actually fiscal year 1984 funds, because funds for the Interstate System are made available for apportionment one year in advance of the year for which initially authorized.)

SECTION 103—APPROVAL OF INTERSTATE COST ESTIMATE

The substitute makes reference to the most recently approved table for apportioning Interstate construction funds. Such table includes parking ramps and frontage roads cited in section 133 of the substitute. This section also provides that no state shall, as a result of the enactment of this legislation, lose funds. Such otherwise might be the case because the P.L. 97-327 provided a minimum one-half of one-percent for all states under the Interstate construction program, which the substitute does not provide.

SECTION 104—OBLIGATION CEILING

No change.

SECTION 105—AUTHORIZATIONS

The substitute takes account of the enactment of P.L. 97-327, the Federal-Aid Highway Act of 1982, by reducing the authorizations in H.R. 6211 for Federal-aid primary, secondary and urban highways, forest highways and public lands highways by amounts already authorized in the already-enacted legislation. The combination of the previously authorized amounts and the reduced authorizations remaining in the substitute bring total authorized amounts for fiscal year 1983 to the increased levels originally contemplated in H.R. 6211. The substitute also makes reference to a more up-to-date listing of priority primary routes which must receive priority consideration by states in the use of their regular primary system apportionments. Further provision is made to continue in operation the Federal Highway Administration office in the Virgin Islands. A separate authorization for territorial highways is repealed. (See Section 108 for provisions authorizing primary system funds for the territories.)

SECTION 106—INTERSTATE RESURFACING

No change.

SECTION 107—INTERSTATE TRANSFERS

Taking into account the fact that $518 million in general revenues has been appropriated for highway projects substituted for withdrawn segments on the Interstate System, the substitute reduces amounts in H.R. 6211 by an equal amount. The additional sum of $257 million shall be made available out of the Highway Trust Fund at the discretion of the Secretary for highway substitute projects. Thus the total $775 million originally provided under H.R. 6211 will be made available, but substitute highway projects will not be totally funded by the Trust Fund until fiscal year 1984.

The substitute also delays by one year the effective date for instituting the apportionment of transit substitute projects resulting from Interstate transfers, 25 percent at the discretion of the Secretary and 75 per cent by formula on the basis of cost-to-complete. The delay is to reflect existing appropriations for fiscal year 1983.

The substitute also makes clear that the cost-escalator provisions of existing law, whereby costs of substitute projects are adjusted on the basis of increases in construction costs, will terminate in fiscal year 1983, the deadline for withdrawal of Interstate routes. However, in the case of three projects which on May 12, 1982, were subject to judicial injunction prohibiting their construction, the 1983 withdrawal deadline is extended for a "reasonable period of time."

SECTION 108—FEDERAL-AID PRIMARY FORMULA

As in the case of the "hold-harmless" provisions in section 103 in the case of the Interstate System, the substitute assures that no fiscal year 1983 primary funds will be taken away from any state as a result of the enactment of this legislation. For the purposes of primary apportionment, the Virgin Islands, Guam and American Samoa shall be considered together as a single state, entitled to one-half per cent of each year's primary apportionment.

SECTION 109—INTERSTATE RESURFACING FORMULA

The substitute adds a hold-harmless provision to assure that fiscal year 1984 funds for the resurfacing, restoration, rehabilitation and reconstruction of the Interstate System will not be taken away from any state as a result of enactment of this legislation, which changes the formula for apportionment of such funds.

SECTION 110—ENERGY IMPACTED ROADS

No change.

SECTION 111—COST REDUCTION

No change.

SECTION 112—RESURFACING STANDARDS

The substitute establishes the clear intent of Congress that Federal-aid projects for resurfacing, restoring or rehabilitating (3R) non-freeway highways must be constructed in accordance with standards which will preserve and extend the service life of highways and enhance the safety of such highways. This provision is not necessarily intended to require that new construction standards be applied to such projects.

The substitute adds a requirement for the National Academy of Sciences to conduct a study and perform additional research if necessary to assess the safety cost effectiveness of new construction and reconstruction standards for the purpose of determining the most appropriate minimum standards that should be applied to 3R projects. After review by the Secretary of Transportation, the standards would be submitted to Congress for approval.

SECTION 113—VENDING MACHINES

No change.

SECTION 114—LETTING OF CONTRACTS

No change.

SECTION 115—CONSTRUCTION IN ADVANCE OF APPORTIONMENT

No change.

SECTION 116—ADVANCE CONSTRUCTION FOR BRIDGE PROJECTS

No change.

SECTION 117—MAINTENANCE

No change.

SECTION 118—INTERSTATE DISCRETIONARY FUNDS

No change.

SECTION 119—INTERSTATE SYSTEM RESURFACING TRANSFERS

The substitute adds a provision authorizing a State to use its own Interstate resurfacing funds on Interstate routes added to the System in connection with the withdrawal of an Interstate route under section 103(e)(4) of title 23, United States Code. The mileage of such routes thus made eligible for 4R funding is not to be counted in computing any State's apportionment of funds. Thus no other state's share of 4R apportionments is to be reduced as a result of this provision.

SECTION 120—FEDERAL SHARE

The substitute makes reference to a more up-to-date listing of priority primary routes eligible for 95 percent Federal funding under the regular primary program. Further, the Federal match for traffic control signalization projects financed by funds made available as a result of the Interstate transfer provision shall be 100 percent.

SECTION 121—HIGHWAY BEAUTIFICATION

The substitute makes clear that the requirement to pay compensation extends to situations where the State takes action to deliberately obscure advertising signs with vegetation in those cases where such vegetation is primarily intended to conceal such sign. Further, the substitute allows sign owners to replace or repair signs damaged or destroyed by an Act of God by a willful act of a third party.

SECTION 122—APPROACHES

No change.

SECTION 123—PARKING FACILITIES

No change.

SECTION 124—EQUAL OPPORTUNITY

No change.

SECTION 125—PUBLIC TRANSPORTATION

No change.

SECTION 126—BRIDGE PROGRAM APPORTIONMENT

The substitute adds a technical amendment directing the apportionment of bridge funds as soon as practicable after enactment.

SECTION 127—HIGHWAY BRIDGE REPLACEMENT AND REHABILITATION

The substitute makes a technical change to assure that no more than $200 million is made available for discretionary bridge projects in fiscal year 1983, as originally intended. In addition, technical changes are made in the existing language of the bill making the LaSalle Peru Bridge eligible for funding. A bridge over the Russian River in the vicinity of Cloverdale, California, together with necessary relocation of approach roads, also is made eligible for funding under the program, including the discretionary amount.

SECTION 128—CARPOOL AND VANPOOL PROJECTS

No change.

SECTION 129—ALLOCATION OF URBAN FUNDS

No change.

SECTION 130—HAZARD ELIMINATION PROGRAM EXTENSION

No change.

SECTION 131—FEDERAL LANDS HIGHWAYS PROGRAM

No change.

SECTION 132—BYCYCLE TRANSPORTATION

No change.

SECTION 133—PARKING RAMPS AND FRONTAGE ROADS

The substitute provides a more accurate description of a parking ramp project in Minneapolis, Minnesota than in the reported bill and also adds technical language

clarifying Congressional intent that a frontage road project in Detroit, Michigan, is also eligible for Interstate construction funds. Congressional intent is evidenced by approval of apportionment factors in the Federal-Aid Highway Act of 1982 which assumed funding for these projects. Inclusion of language in this section confirms the intent of a prior enactment.

SECTION 134—PRIORITY PRIMARY AVAILABILITY

The substitute strikes this section which is now moot, and in lieu thereof adds a new section which confirms Congressional intent that a project to depress a section of highway in Charlestown, Massachusetts will remain eligible for Interstate construction funding. Interstate apportionment factors approved by the Federal-Aid Highway Act of 1982 assumed funding for this project.

SECTION 135—FULL UTILIZATION OF APPORTIONMENT

Since section 135 is already law, it is stricken from the bill.

SECTION 136—ACCELERATION OF PROJECTS

This section is renumbered as section 135.

SECTION 137—FOUR-LANE BRIDGES

This section is renumbered as section 136.

SECTION 138—COMPETITIVE BIDDING

This section is stricken because it is unnecessary. A Comptroller General investigation of competitive bidding practices is already underway and a report to Congress is due in March, 1983.

SECTION 139—DEMONSTRATION PROJECTS

This section is renumbered as section 137, and four additional demonstration projects are added. As stated earlier in my remarks, these include: (1) The high-technology demonstration project on a segment of Route 200 from East Freedom south of the Blair County/Benford County line in Pennsylvania; (2) a congestion-alleviation project at the intersection of College Drive and Interstate 10 in East Baton Rouge, Louisiana; (3) a project to demonstrate most up-to-date techniques for both repairing and preventing highway damage resulting from shoreline erosion in the vicinity of Buhne Point, Humboldt Bay, California; (4) a project-acceleration demonstration involving Route 841 (Jefferson Freeway) from Route 60/31W (Dixie Highway) to Interstate 65, in the vicinity of Louisville, Kentucky. The entire Jefferson Freeway also is being added to the list of priority primary highways designated in a forthcoming Committee Print.

SECTION 140—VEHICLE WEIGHT, LENGTH AND WIDTH LIMITATIONS

This section is renumbered as section 138, and has been amended by addition of a provision prescribing that the modifications contained in the section shall take effect only upon enactment of a more equitable allocation of the cost burden among classes of users of the highway system.

SECTION 141—MARTIN LUTHER KING BRIDGE

This section is renumbered as section 139.

SECTION 142—MANPOWER STUDY

This section is renumbered as section 140.

SECTION 143—FERRYBOAT STUDY

This section is renumbered as section 141.

SECTION 144—STUDY OF WEATHER-RELATED FACTORS

This section is renumbered as section 142.

SECTION 145—REPORT REGARDING LONGER VEHICLES

This section is renumbered as section 143.

SECTION 144—CHANGE IN LOCATION OF INTERSTATE SEGMENTS

The substitute adds a provision authorizing the relocation of an Interstate route in the vicinity of Winston-Salem, North Carolina. The provision is justified by the following unique circumstance: The existing route requires extensive upgrading whose cost would exceed that of constructing an alternative route. Due to other limitations inherent in the project, even more costly upgrading of the existing route would not result in a less safe and less efficient transportation facility than the alternative.

SECTION 145—ACCESS CONTROL DEMONSTRATION PROJECTS

The substitute adds a technical amendment extending from September 30, 1983 to September 30, 1985, the date by which the Secretary must report to the Congress on the results of the access control demonstration projects in progress in the states of Arkansas, Colorado and New Hampshire authorized by the Surface Transportation Assistance Act of 1978.

SECTION 146—REVISION OF PROJECT AGREEMENT

The substitute authorizes modification of a project agreement for a project in New Jersey so as to provide compensation for certain economic losses not compensable under existing law.

SECTION 147—STUDY OF RECYCLED TIRES

The substitute authorizes a study of the feasibility of incorporating rubber from recycled tires into materials used for roadway resurfacing.

SECTION 148—ENFORCEMENT OF TAX

The substitute provides that highway apportionments would be denied to any state that does not require proof that the highway use tax on a heavy truck has been paid before such vehicle can be registered in the state.

SECTION 149—STUDY OF DOUBLE TRAILER COMBINATIONS

The substitute authorizes a National Academy of Sciences project to monitor the effects on highway and highway safety of the operation of double trailer combinations in states where they have not heretofore been permitted. This assumes that section 138 of the substitute, dealing with operation of double trailers, is enacted and takes effect.

SECTION 150—ADVANCEMENT OF NON-FEDERAL SHARE

The substitute allows a temporary waiver of non-Federal matching requirements, applicable only to the increase in states' ability to obligate funds as a result of the authorizations and revenues provided in the legislation. Such waivers would extend through September 30, 1983, and would be available only in cases in which the governor of the state certified that such state lacked the non-Federal funds to match the increases in funding made available by this legislation.

SECTION 151—LANE RESTRICTIONS

The substitute contains a provision prohibiting the imposition of "diamond lane" restrictions, limiting certain lanes to high-occupancy vehicles, on a certain segment of Interstate highway in Alameda County, California.

SECTION 152—UPGRADING CERTAIN INTERCHANGES

The substitute, as noted above in my remarks, assures that improvements associated with the Route 24/I-680 interchange in California are eligible for Interstate construction funds.

SECTION 153—CONVICT LABOR

The substitute adds to existing law, which prohibits the use of convict labor on Federal-aid highway projects, a prohibition against the use of materials produced by convict labor.

SECTION 154—DAVIS-BACON

The substitute contains a provision striking the word "initial" from the subsection (a) of section 113, United States Code, relating to prevailing wage determinations under the Davis-Bacon Act. The effect of the amendment is to resolve any dispute as to whether Davis-Bacon applies to all Federal-aid highway projects.

TITLE II

SECTION 201—SHORT TITLE

No change.

SECTION 202—HIGHWAY SAFETY AUTHORIZATIONS

The substitute reduces the FY83 authorizations for the bridge replacement and rehabilitation and hazard elimination programs by the amounts already authorized for those programs under the Federal-Aid Highway Act of 1982.

SECTION 203—HIGHWAY SAFETY

The substitute reduces the authorization for section 402 Highway Safety Programs (FHWA) to $100 million per year for fiscal years 1983 through 1986. This is necessary to conform to recently enacted law. This section also repeals an earlier authorization for $9.6 million in Highway safety funds which has not been used.

SECTION 204—MAXIMUM SPEED LIMIT

No change.

SECTION 205—RAIL-HIGHWAY CROSSINGS

No change.

SECTION 206—PUBLIC INFORMATION

No change.

SECTION 207—SAFETY PERFORMANCE REPORTS

The substitute makes a technical change in the proposed reporting requirements to better conform with data already being collected by the Department of Transportation.

SECTION 208—ALCOHOL TRAFFIC SAFETY PROGRAMS

The substitute delets this section as it has already been enacted into law.

SECTION 209—ANNUAL APPROTIONMENT FORMULA

This section is renumbered as section 208.

Part B—National Driver Register Act of 1982

This section is deleted as it has already been enacted into law.

SECTION 209—MINIMUM DRINKING AGE

This section, to encourage the States to establish a minimum drinking age of 21, is added to the bill.

TITLE III

SECTION 301—SHORT TITLE

No change.

SECTION 302—AUTHORIZATION OF APPROPRIATIONS

The substitute increases the authorization for sections 6, 10, 11(a), 12(a), and 20 of the Urban Mass Transportation Act to $90 million each year for fiscal years 1983 through 1986. This change reflects the action of the Committee in approving H.R. 6965.

SECTION 303—BLOCK GRANTS

No change.

SECTION 304—LETTER OF INTENT

No change.

SECTION 305—RESEARCH AND TRAINING GRANTS

No change.

SECTION 306—COMPETITIVE PROCUREMENT

No change.

SECTION 307—DEFINITION OF FIXED GUIDEWAY

No change.

SECTION 308—ADVERTISING FOR BIDS

No change.

SECTION 309—PERFORMANCE REPORTS

The substitute changes the initial reporting requirement to January 1984.

SECTION 310—CONSTRUCTION CONDITION

The substitute would permit the Georgia General Assembly, together with the Metropolitan Atlanta Rapid Transit Authority to modify the direction given by this section. This change reflects the action of the committee in approving H.R. 6965.

SECTION 311—LOAN REPAYMENT

No change.

SECTION 312—ADVANCE ACQUISITION

This section authorizes advance acquisition of transit rights-of-way.

SECTION 313—FEASIBILITY STUDY

The substitute adds a requirement for a feasibility study of new transit technology.

SECTION 314—STUDY OF LONG-TERM LEVERAGE FINANCING

The substitute contains a provision directing the Secretary to conduct a study to explore the possibility of providing long-term contracts to assure the flow of Federal funds to local or state transit agencies for periods of up to 35 years. This study, in response to transit financing problems of the New York metropolitan area, is to determine whether and to what extent such long-term, assured funding would provide incentives for the raising of funds from non-Federal sources.

TITLE IV

SECTION 401—BUY AMERICA EXTENSION

The substitute deletes subsection (a) to reflect its earlier enactment. Subsection 401(c), an amendment to clarify that Federal funds cannot be used to purchase buses or other rolling stock if 40 percent or more of the cost is derived from components which are the product of a country with which the United States has a trade deficit, is deleted from the bill.

Mr. Chariman, I would like to lend support and make clarifications on several projects which have been mentioned by several colleagues on this side of the aisle and the other.

Congressman JOHN BREAUX has a project in this legislation which could clear up a severe problem at the intersection of College Drive and Interstate 10 in East Baton Rouge, La. I agree with my colleague that this project should be given expeditious consideration.

In section 137(b) of the substitute, there is a project intended to demonstrate the latest state-of-the-art highway technology. It is stated in this section, among other criteria, that this project should close a gap of not more than 10 miles and connect both types of highway construction; one using current technology, the other an older highway using an older method of highway construction. This project should be given priority consideration. The segment of route 220 from East Freedom, Pa., south to the Blair County-Bedford County line qualifies for all the specific criteria in this section and shall be eligible for this demonstration project and shall be funded.

In regard to discretionary bridges, I would like to make reference to those bridges mentioned by the committee in House Report 97-555. I agree with my colleagues that these bridges should be given priority consideration.

I also want to make it clear that the committee intends that the relevant legislative history in House Report 97-555, including sections 105, 107, 118, 120, 127, 133, and 137 of such report, to the extent that the provisions of H.R. 6211 as reported are not inconsistent with such bill as amended by H.R. 7360, concerning special concerns and priorities apply to the appropriate provisions in our substitute.

In addition, I would agree with ROBERT MICHEL, the distinguished minority leader, that the Franklin Street Bridge in Peoria, Ill., should be given priority in the allocation of discretionary bridge funds. The Franklin Street Bridge is in serious need of replacement because it is a narrow two-lane bridge serving 12,000 vehicles daily and has been closed frequently for repairs.

Congressman TRENT LOTT has also expressed his concern about two critical projects in Mississippi. I agree with Mr. LOTT that the Fort Bayou Bridge and the Moss Point-Escatawpa Bridge qualify under the discretionary bridge program and should be given priority consideration. The Fort Bayou Bridge would need $10.3 million and the Moss Point-Escatawpa Bridge would need $27 million.

Congressman TOM HAGEDORN of Minnesota has brought to the committee's attention the need for reconstruction of the Wabasha Bridge over the Mississippi River connecting Minnesota and Wisconsin via Fap Trunk Highway 60. I agree with the Congressman that this project should receive priority consideration and funding under the discretionary bridge program. The cost of the bridge to be shared equally with Wisconsin, is $18.4 million. Additionally, Minnesota's approach cost is $2.25 million, bringing the total Minnesota cost to $11.45 million.

This bill omits the provision contained in section 138 of the substitute requiring an investigation by the Comptroller General into competitive bidding practices with respect to highway and mass transit construction in this country. Our sole reason for dropping this provision is that it has proven to be unnecessary. This is because, since the time our highway legislation was first developed this past spring, the study has been requested and is now underway.

Prior to the October 1 adjournment of the regular session, the deletion was discussed by both the House and Senate sides with full agreement that, whether initiated by statute or otherwise, this investigation is urgently needed, has the support of both the House and Senate committees, and should be completed expeditiously.

The purpose of the language in section 112 of the substitute dealing with resurfacing standards under section 109 of title 23, United States Code, is to assure that enhancement of highway safety result from the carrying out of any project for the resurfacing, restoring, or rehabilitation of any highway. The intent of this provision, moreover, is to provide some flexibility to the States in the degree of safety improvement which reasonably can be required in the circumstances of a given project. It is explicitly not the intent of the committee, for example, that new construction standards necessarily be applied in every case.

One final point on this provision: It is further the intent that adequate opportunity for public participation be provided as standards mandated under this provision are developed to the point of approval by the Congress.

Congressman JACK BRINKLEY has been instrumental in calling to the committee's attention, the 13th Street Viaduct Bridge in Columbus, Ga. The bridge is a vital link in an east-west transportation corridor which facilitates the movement of interstate and intracity traffic. Replacement of the bridge is essential for two reasons. The bridge is in a state of disrepair resulting from 57 years of service. If the bridge were to be declared unsafe and placed out of service, the disruption to traffic flow and the progress of commerce would be severe. Second, the existing viaduct no longer meets the necessary traffic capacity standards. Traffic volume presently exceeds 20,000 vehicles per day.

Similarly, the Green Bridge in Manatee County, Fla., qualifies under the discretionary bridge program. It has a sufficiency rating of 28.7, and will cost $16.1 million to replace. It is structurally deficient, functionally obsolete, and yet vitally important to surface transportation in the county. The Green Bridge should receive priority consideration when discretionary bridge funds are distributed. The committee wishes to thank Congressman IRELAND for his tireless efforts on behalf of this project.

Congressman SHAW has expressed a great concern over the availability of section 402 funding for safety projects related to motorcycle, bicycle, and pedestrian safety. It should be made quite clear that the States may apply

for such funds. We are concerned, however, that the States may be laboring under the false impression that these programs are not eligible for funding despite the fact that they have proven successful and effective, and are certainly eligible for funding under requirements set forth in the Code of Federal Regulations.

Mr. Chairman, I have also discussed a number of other projects and policy concerns with Chairman HOWARD, Mr. CLAUSEN, and Mr. SHUSTER which Mr. SHUSTER has agreed to cover on his time. I want the record to show I concur with my colleagues from California and Pennsylvania concerning the intent of the committee and wish to state we are in agreement.

I would also like to bring to the Members' attention an accelerated construction project and demonstration project for primary Route 841 known as the Jefferson Freeway. The project would be located between Route 60/31W and Interstate Route 65 in the vicinity of Louisville, Ky., and would fit the criteria established in section 137(e) of the substitute to H.R. 6211. It also should be mentioned that Route 841 in being added in its entirety to the priority primary list of projects.

At the request of the distinguished chairman of the House Ways and Means Committee, I agree that three bridges in Illinois should receive priority consideration. Those bridges are the Dan Ryan, Clark, and Staley Viaduct.

Congresswoman BARBARA KENNELLY has brought to this committee's attention a comprehensive interstate project to complete and improve the interchange of I-91 and I-84 in Hartford, Conn. The structurally deficient bridge program is an essential element of the comprehensive project. The committee believes the Charter Oak Bridge should receive priority consideration when discretionary funds are distributed.

Also, Congressman PANETTA has brought to the attention of the committee State Route 101 from Monterrey St. and Gilroy, California to Russel Road in Salinas, Calif. I believe this route qualifies to be added to the priority primary program.

In addition, Congressman FAZIO requests that Highway 99 in Sacramento, Calif. be designated as priority primary. This highway is a 13-mile stretch of roadway north from Interstate 5 to where Highways 99 and 70 divide. I believe this route is a good example of what priority primary routes are meant to be.

Regarding another matter, the Federal bridge formula and axle limits do not supersede or nullify the grandfather clause. A State may issue special permits for divisible loads that do not comply with the bridge formula or axle limits if authorized under those laws as provided in the grandfather clause.

The committee intended that deference be given to the States' determination of whether their laws comply with the grandfather clause. However, the committee also intended that these determinations be made in consultation with the Secretary of Transportation. Consultation with the Secretary is intended to insure that the Federal investment in the Interstate System is safeguarded to the maximum extent practicable. It is also intended that a State in the process of consultation with the Secretary, provide such available documentation and other information as may be necessary and appropriate to demonstrate the basis for its determination with respect to the sizes and weights of vehicles which could be lawfully operated in the State on July 1, 1956, or the date of enactment of the Federal-Aid Highway Amendments of 1974. It should be noted that the committee also intended that the Secretary exercise his right to challenge such an initial determination.

Finally, I would like to state that the grandfather clause makes no distinction between divisible and nondivisible loads for the issuance of special permits.

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON. Yes. I am happy to yield to the gentlewoman from Ohio.

Ms. OAKAR. Mr. Chairman, I want to congratulate the gentleman on his very fine work with respect to this bill and engage in a brief colloquy, if I may, at this time.

Mr. Chairman, as the gentleman knows, under prior priority lists for transitional money, SR-8, the Brooklyn-Brighton Bridge and the Main Avenue Bridge in northeast Ohio were listed as priorities.

The following is a description of these much-needed projects. Those of us from this area are deeply grateful; I just wanted to be assured that those were still part of the priority list.

The Greater Cleveland area has many aging and deteriorating roads, bridges, and other major structures that have served the area well for decades but are now succumbing to the inevitable ravages of time. The area is also among the hardest hit in the current recessions with an unemployment rate far in excess of the national average. The Greater Cleveland area, therefore, is an excellent example of the kind of area that this bill is designed to assist.

Section 127 of the Surface Transportation Assistance Act of 1982 provides a $200 million set-aside from authorizations for highway bridge replacement and rehabilitation. The report to the bill identifies a number of important bridge projects and directs the Secretary of Transportation to assign them priority in the use of these discretionary funds. I am delighted that the distinguished chairman of the House Public Works Subcommittee on Surface Transportation agrees that two major bridge projects in Cleveland should be included in the priority funding list. These will be funded if our State has them on their priority list.

The first such project is the Brooklyn-Brighton Bridge which must be replaced, utilizing the already existing foundations. The bridge is a critical link connecting Cleveland and the suburbs such as Parma, Seven Hills, and Brooklyn Heights accommodating both commercial and private traffic as well as transit. It crosses the B&O and N&W railroads. The bridge was built in 1914. The 1,726-foot span definitely merits priority consideration. The same is true of the Main Avenue Bridge which spans the Cuyahoga River providing private, commercial, and transit access over a major waterborne shipping route in the heart of industrial Cleveland. The 6,580-foot bridge which was built in 1940 along the lake suffers from annual freezes and is in need of major rehabilitation.

In addition the SR-8 Northfield Road project is a critical need. I thank the Chair for his support.

Mr. ANDERSON. The gentlewoman from Ohio is correct. These bridges have been mentioned in previous legislative history and have equal priority with the bridges mentioned in the committee report.

Mr. STOKES. Mr. Chairman, will the gentleman yield to me?

Mr. ANDERSON. I yield to the gentleman from Ohio.

Mr. STOKES. Mr. Chairman, I rise to commend the distinguished chairman, Mr. HOWARD, with respect to section 127, the highway bridge replacement and rehabilitation of H.R. 6211. Section 127 targets $200 million in discretionary funds for unique or especially high-cost bridges which need special, Federal attention.

We are all aware that our Nation has a serious problem in bridges that are decaying and deteriorating at a rapid rate, thereby endangering the public safety and health. More than two out of every five bridges in the Nation require replacement or rehabilitation.

Mr. Chairman, my colleagues may not be aware, however, that the Cleveland area is generally recognized as having one of the most critical problems of deficient bridges in the Nation. One example of these hazardous bridges is the SR-8 Tinkers Creek Bridge in my congressional district. Thus, I am delighted that Chairman HOWARD has agreed that this bridge is one of those which should receive priority for funding under the bridge dis-

cretionary program. With the funds received under section 127, the rehabilitation of the Tinkers Creek Bridge—a $9.5 million effort—would greatly help to protect the safety of the users of Northfield Road in Bedford, Ohio.

Mr. GINN. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON. I yield to the gentleman from Georgia for a colloquy.

Mr. GINN. Mr. Chairman, I am especially pleased to see in H.R. 7360 the increased authorization for reconstruction or replacement of the thousands of deteriorated bridges of this Nation. This action is long overdue.

In my own district, the Eugene Talmadge Memorial Bridge over the Savannah River in Savannah, Ga., has reached an advanced stage of deterioration. Present traffic exceeds the design volume of the structure, and the bridge design makes it impossible to modify the bridge to increase capacity.

The present structure has reached the end of its useful life. It is functionally obsolete, will require a significant investment to be rebuilt, and is an obvious candidate for replacement under the bridge discretionary program.

Safety considerations for both highway and waterborne traffic, and the use of the Port of Savannah for defense purposes during a national emergency, dictate replacement of the present bridge. After careful study, both the Georgia Department of Transportation and the Georgia Ports Authority have concluded that the Talmadge Bridge must be replaced.

The total estimated cost to replace this bridge is $125 million. Current planning would permit design to begin in fiscal year 1984. Construction would begin in fiscal year 1985, and be completed in 3 years.

There will not be sufficient apportionment of bridge funds to the State of Georgia under the pending highway bill to replace the Talmadge Memorial Bridge. Under these circumstances would it not be the intent under the pending authorization bill that this bridge be funded under the bridge discretionary program?

Mr. ANDERSON. That is correct. I am familiar with the Talmadge Bridge and its importance to the city of Savannah. It is our intent under the pending bill that the bridge be funded on a priority basis under the discretionary bridge program.

Mr. GINN. I thank the gentleman from California for his support in this matter and wish him well as he continues his outstanding work as chairman of the very important Subcommittee on Surface Transportation.

Mr. BRINKLEY. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON. I yield to the gentleman from Georgia (Mr. BRINKLEY).

Mr. BRINKLEY. Mr. Chairman, I thank the gentleman from California.

I, too, wish to commend him and his committee for the excellent work which they have done in bringing this bill before the body.

I should like to ask the gentleman two questions. First, under section 120(J) I understand that sums apportioned to States under this act may be utilized for priority primary routes under section 147 of this title designated in committee print No. 97-61 at the rate of 95 percent of the cost thereof.

Mr. ANDERSON. The answer is yes.

Mr. BRINKLEY. And, Mr. Chairman, is Georgia Corridor Z a primary priority route listed in the committee print referred to?

Mr. ANDERSON. Again the answer is yes.

Mr. BRINKLEY. Mr. Chairman, if I could extend this just a bit further, we have identified the 13th Street viaduct in Columbus, Ga., as being eligible under the discretionary bridge replacement program.

Is it the gentleman's understanding that that is accurate under this act?

Mr. ANDERSON. Again the answer is yes. I make reference to the gentleman's bridge in my opening remarks.

Mr. BRINKLEY. I thank the gentleman.

Mr. FARY. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON. I yield to the gentleman from Illinois.

Mr. FARY. Mr. Chairman, I thank the gentleman.

I would ask the gentleman to engage in a brief colloquy in regard to this bill.

Mr. Chairman, I am pleased that H.R. 7360 retains the discretionary bridge program in addition to the regular formula bridge program. The discretionary program is especially important to Illinois since our apportionment share under the formula program is cut by one-half in the new bill. Our State has an unusually large number of bridges and a large proportion of those are old and in need of repair or replacement. Given the fact that Illinois' immense bridge needs must now be met with only half of its past regular apportionment share, the discretionary program is essential to our State.

Mr. Chairman, I would like to point out three bridges in our State which have critical needs and which are especially deserving candidates for the discretionary program. First, the Dan Ryan Bridge: it carries an average of 225,000 vehicles a day, with trucks constituting 15 percent of those vehicles. This bridge is part of a major urban and national defense arterial, the Dan Ryan Expressway in Chicago, which is also the world's busiest highway. A second candidate is the Clark Bridge which carries U.S. 67 traffic over the Mississippi River in Alton. Built in 1928, this two-lane bridge has a dogleg in the middle and has long been a major problem in our State. Also built in 1928, is the third, the Illinois Route 121 Bridge in Decatur, or the Staley Viaduct. Structurally deficient, this 28-foot-wide bridge carriers average daily traffic of 21,000 vehicles, one of the highest traffic volumes in the Nation for a two-lane bridge. Do you agree that these bridges reflect the kind of needs which the descretionary bridge program is intended to address?

Mr. ANDERSON. Yes, I agree. These bridges should receive high priority consideration for discretionary bridge funds.

Mr. FARY. Mr. Chairman, I thank the gentleman.

Mr. ANDERSON. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. ALBOSTA).

Mr. ALBOSTA. Mr. Chairman, I had the opportunity last summer to go to Europe and rent a car and drive around and see firsthand the conditions of their roads and bridges. In fact, I was even in Eastern Europe for a short period of time and drove around Poland, Czechoslovakia, and Hungary and I saw firsthand what their roads were like. I am not going to stand here and tell this House that theirs are better than ours, but they are nearly as good.

West Europe's roads are much better than ours.

I think the debate today should be perhaps how this bill comes out and how we divide up moneys, but it should not be on its need.

Obviously, we are fast becoming a second-rate nation and if we do not do something about correcting the kinds of problems that we have now, we will become a second-rate nation.

In Western Germany, for instance, I did not travel on any roads that I found load limits on the bridges, and there are big trucks traveling their roads also. Their roads were painted better than ours. They were not cracked up and there were people out there working continually repairing the roads; not like I see here in our own country.

So for those reasons, I believe that this bill is very necessary and that we should not debate the need for the bill. We ought to debate perhaps how it is administered and how it is divided up; but the need is obviously there.

I would hope that all Members would consider the kind of need that we have in this country and whether or not we should become a second-rate nation, because we are not willing to accept the responsibilities that go with being here in this legislative body, and that is to do something about the deterioration of our highways and bridges, which are in terrible, terrible need in this country.

Mr. Chairman, my own State of Michigan will benefit from this highway and mass transit bill because we have changed the primary formula to better reflect the needs and costs associated with repairing and rebuilding primary roads in States like Michigan. As a result Michigan will receive about $16 million in additional funds for primary highways in 1983.

Likewise the bridge formula in H.R. 6211 will update the inventory of bridges needing repair and will include on and off system bridges, a change that will bring Michigan extra funds to fix up our bridges for years to come.

When it comes to the interstate construction and rehabilitation program, Michigan will receive more funds as part of this 4 year bill because we do have important segments of the Interstate Highway System that will be constructed in the next several years. Furthermore, the $2.1 billion for repair and rehabilitation of the Interstate System will help a State like Michigan where our highway system was built many years ago and is in need of major repair in order to maintain its high quality.

Finally, I would like to mention the issue of equity. It is time that we received our fair share of Federal highway and bridge funds to meet our needs in Michigan. By insuring that no State will receive less than 85 percent of the money it contributes to the highway trust fund through gas tax receipts and excise taxes on trucks and related motor vehicle parts, H.R. 6211 takes an important first step in providing for an equitable distribution of Federal highway funds. I strongly believe that Michigan will increase its share of these highway funds during the next 4 years but we will never again drop our previous low level of return.

The amendments adopted today providing for the 85-percent minimum share and allowing for States to spread their match requirements over several years will make this highway bill a better piece of legislation for Michigan and the entire country.

As I stated earlier now is the time for a major highway and mass transit bill to create over 320,000 jobs at a time when national unemployment has reached record levels. I urge my colleagues in the House to pass H.R. 6211 so that we can get on with the job of rebuilding America. This country was not built by standing still. We need to enact this highway legislation for progress, productivity and jobs.

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Mr. SHUSTER. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman and ladies and gentlemen, I rise in strong support of this legislation which is before us today. This Nation of ours is facing a transportation crisis and it is not a crisis which we have been unaware of. It has been studied to death.

The evidence has been provided. The evidence is clear. It is incontrovertible. Unless we now act and provide for additional funding for America's transportation system, we are not going to have the kind of system which this Nation so badly requires.

The Governors, meeting in the National Governors Conference, stated, and I quote:

Transportation funding is the most serious problem facing States.

Indeed it is. We have an opportunity here today to make a historic decision by passing this legislation. Now, do not let me mislead you into thinking I support everything and I am pleased with everything in this bill, because I am not.

I am not happy about the closed rule. I am not happy about the tax structure in title V. I believe that trucks are too heavily penalized and I am sad that we do not have the opportunity under an open rule to deal with this issue.

Beyond that, let me emphasize, particularly to my friends from the rural areas, that nobody in this House had to swallow harder than I—and it is a little hard for me to swallow these days—on the 1 cent of the 5 cents for mass transit. But in the interest of compromise, in the interest of getting legislation, in the interest of addressing a very serious national problem, I indeed did swallow hard and I do support the 5-cent gas tax is it is structured.

I need not go through the details here of the justification for this legislation because it has already been amply covered. It has been my great privilege to serve for almost a decade as the ranking member of our Transportation Subcommittee and, indeed, as the chairman of the National Transportation Policy Commission, a commission created by this Congress.

The evidence is overwhelming. We must act or we must pay a price much dearer than the price of the taxes which are being levied in this legislation.

We are not only talking about rebuilding America; we are talking about saving lives, because as highways are modernized they become safer.

Do my colleagues know that the death rate on rural highways at night is 14 deaths per 100 million miles traveled, and on four-lane interstates it is as low as 1.6?

So we are talking about safety here. We are talking about highway safety.

I might add that I conducted a one-man demonstration project a month or so ago to see whether or not seatbelts worked. I can report that they do, because I would not be here today as a result of a head-on collision but for the fact that I had my seat belt on.

So we must view this legislation not only in terms of reviving our economy, not only in terms of rebuilding the infrastructure, not only in terms of the 320,000 long-term jobs which are going to be created, but also in terms of the implication for saving lives across this great land of ours.

I would like to particularly salute the bipartisan leadership of our committee, the members of the committee who have worked out this compromise. In particular, I would like to salute the Secretary of Transportation, Drew Lewis. I do not believe there has ever been a better Secretary of Transportation in these United States.

I would salute the President for coming forward to support this legislation.

Last, I would like to particularly salute the Speaker of the House. I have been known to disagree with the Speaker a few times in the past, and I have a feeling that I am probably going to disagree with him a few times in the future, but today is certainly not one of those times.

Today I rise to salute the statesmanship of the Speaker of the House. By his action, he has made it possible for this legislation to be brought before this House.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. SHUSTER) has expired.

Mr. SHUSTER. Mr. Chairman, I yield myself 1 additional minute.

Mr. Chairman, by the action of the Speaker, we have a bipartisan agreement between a Republican President and a Democratic Speaker of the House, between both parties, so that both present and future Americans will be able to travel more safely, more economically, more conveniently, because of the action taken here today.

By working together, this is possible. Within the confines of this House, but for the distinguished Speaker and his willingness to support this bill on a bipartisan basis, we would not be here today.

Mr. ROEMER. Mr. Chairman, will the gentleman yield to me?

Mr. SHUSTER. I yield to the gentleman from Louisiana.

Mr. ROEMER. I thank the gentleman for yielding to me.

Mr. Chairman, I thank my colleague and salute him for his efforts on this bill in our committee.

I would like to ask the gentleman about section 154 as I earlier asked the chairman of our committee.

Does the gentleman agree with the changes proposed in this bill on prevailing wage, striking the word "initial"?

Mr. SHUSTER. Personally, I do not agree with that, Mr. Chairman, but in the interest of compromise it got through the committee. Should there be a vote, I will vote against it.

Mr. ROEMER. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. SHUSTER) has again expired.

Mr. SHUSTER. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Kentucky (Mr. SNYDER).

Mr. SNYDER. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in support of the amendment in the nature of a substitute for H.R. 6211, and urge its prompt passage so as to enable us to get into conference quickly.

As I said in my individual views in the report accompanying H.R. 6211—most of which is incorporated into this substitute—I consider it a worthwhile piece of legislation despite some reservations about particular provisions. I also was concerned at the time, however, that the revenue increase whose enactment it assumed was not appropriate.

That was well over 6 months ago, Mr. Speaker, and in the interim the condition of the economy has not improved to the extent that many of us had anticipated. In recognition of this fact, I recently wrote to the President to express the view that it now appeared time to reconsider our positions on the matter, and am pleased that he has done so. I therefore am pleased to support the bill and the revenue package, despite some continuing reservations about certain of the provisions.

I am pleased, in particular, that the chairmen and ranking members, respectively, of the committee and Subcommittee on Surface Transportation have recognized the need for a project to demonstrate the potential for accelerating construction of a project on the Federal-aid primary system.

As Members may recall, there was a project acceleration effort undertaken in Pennsylvania as a result of the 1978 Surface Transportation Act. The results were astounding: A savings of 6½ years in construction time and a total cost of $25 million on a project which otherwise would have cost $50 million.

The time and cost savings achieved by that demonstration are hardly typical of what one can expect nationwide, however, since the Pennsylvania project was carried out at a time when a lack of a capital budget for the State meant that it was the only project in progress. To a unique degree, State and Federal manpower was available to cut redtape and to achieve the coordination and cooperation necessary to bring that project to completion.

Yet we are convinced that the lessons of that success can be applied elsewhere, although necessarily to a lesser degree. In fact, we provide in section 136 of this substitute that an acceleration of projects program be instituted whereby projects chosen by the Secretary and the State highway departments may be exempted from normal administrative procedures, policies, rules and regulations so long as no provision of law is violated.

The specific project which has been incorporated in this bill would apply the cost-saving acceleration approach to that State Route 841, known as the Jefferson Freeway, which extends between U.S. Routes 60/31W and Interstate Route 65, in the vicinity of Louisville, Ky. This is a high-priority project serving a major metropolitan area and one which should demonstrate the applicability of the lessons of the Pennsylvania project in a State with an active program statewide.

I also should like to point out that all of route 841 has been added to the list of priority primary routes to be published in a committee print designating such routes. While priority primary routes are not slated to receive continued funding as a separate category under this bill, it does provide for a 95-percent Federal match for the States choosing to fund such projects from their regular primary apportionments. Furthermore, all States are to receive an increase in primary apportionments, and are encouraged to give priority in the use of their increase in this category to projects so designated.

Completion of the Interstate System is rightly the highest priority from a Federal standpoint in this legislation. However, primary system highways also perform a vital function in terms of the Federal interest. This bill's authorization of project acceleration demonstration on a portion of this key highway and the designation of the remainder as a priority primary route reflect that interest and therefore merit the support of Members.

I urge enactment of the bill.

The CHAIRMAN. The gentleman from Pennsylvania (Mr. SHUSTER) has 17 minutes remaining, and the gentleman from California (Mr. ANDERSON) has 5 minutes remaining.

Mr. SHUSTER. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Pennsylvania (Mr. CLINGER).

Mr. CLINGER. Mr. Chairman, I rise in very strong support of this bill, which is long overdue and is going to address some critical problems in this country.

I would just make one point which I think deserves stressing, and that is that there is a direct linkage between the quality of our Nation's infrastructure, specifically the transportation system, and the ability with which we can respond to economic development. We cannot have economic development and growth unless we have an adequate transportation system to move our commerce around this country.

At this point, Mr. Chairman, I would ask if Chairman ANDERSON would engage in a colloquy with the gentleman from Pennsylvania (Mr. EDGAR) and me.

Mr. Chairman, the gentleman from Pennsylvania (Mr. EDGAR) and I have coauthored legislation to provide for the first and continuing capital budget for the U.S. Government. As you know, the Subcommittee on Economic Development held 4 days of hearings last September on H.R. 6591, the Federal Capital Investment Budget Act. With over 50 cosponsors in the House, the legislation has wide bipartisan support from Members throughout the Nation. A major concern of the supporters of this bill is that with each passing year that Congress fails to enact this legislation, enormous and compounding problems on the serious deterioration of the country's infrastructure result.

Mr. EDGAR. Mr. Chairman, will my colleague yield?

Mr. CLINGER. I yield to my colleague from Pennsylvania.

Mr. EDGAR. I thank the gentleman for yielding.

Mr. Chairman, it has been estimated that the United States will have to spend between $2.5 and $3 trillion in this decade just to maintain existing levels of service on public facilities, yet at present expenditure levels less than a third of these needs will be met. This crisis is evident in all parts of the country.

The decline in investment in public capital stock has occurred in virtually every public works activity. Already, one-quarter of our 42,500-mile Interstate Highway System is worn out and needs rebuilding. One-half of Conrail's rails and roadbeds are seriously decayed. Half of all the communities in the country cannot expand because their water treatment plants are at or near full capacity. Boston loses 20 percent of its water supply through leaky pipes each day, while Houston loses up to 30 percent. One-fifth of the Nation's bridges have deteriorated to the point where they are either restricted or closed.

As owner of a huge number of public facilities, the Federal Government must take the lion's share of responsibility for the deterioration of our collective holdings. Rather than addressing this critical issue directly, the Federal Government—in the current public works practices of both the executive and legislative branches—is only exacerbating the problem.

Budgeting for public works now happens on a piecemeal, project-by-project basis. In fact, most Federal capital expenditures are made in the absence of even the most basic information and policies. The Federal Government has no inventory of its physical investments; no assessments of the condition or capacity of its existing facilities; and no plan for maintenance,

repair, rehabilitation, and new construction.

□ 1610

Mr. ANDERSON. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. EDGAR).

The CHAIRMAN. The gentleman from Pennsylvania (Mr. EDGAR) is recognized for 2 minutes.

Mr. ANDERSON. Mr. Chairman, will the gentleman yield?

Mr. EDGAR. I yield to the gentleman.

Mr. ANDERSON. Mr. Chairman, I wish to commend the gentleman from Pennsylvania on bringing this vital issue to the attention of this body. Media reports throughout the country are finally putting a spotlight on the troubles of our national infrastructure which now have accumulated to the point where they pose a growing obstacle to a sustained national recovery. There is also a growing awareness that the quality of life of our citizens is threatened because of public works disinvestment. I feel this issue is of such vital urgency that I will work toward placing a Federal capital investment budget bill on the top of the House Public Works Committee's agenda in the 98th Congress.

Mr. CLINGER. Will the gentleman yield?

Mr. EDGAR. I yield to the gentleman from Pennsylvania.

Mr. CLINGER. The sponsors of H.R. 6591 believe that a capital budget will enhance the unified budget process by providing basic information so that Congress can make informed decisions about allocations of public infrastructure funding. The bill would provide us with a good management document to identify our public infrastructure investments, assess their condition, estimate what is needed in the future, help establish responsibility among Federal, State, and local levels of government, and prioritize our present spending in order to bring about the greatest return on taxpayer investments.

Should the other body adopt a capital budget amendment to their transportation bill along the lines of H.R 6591, what would be the chairman's position in conference committee?

Mr. ANDERSON. You may be assured that I will support the inclusion of such an amendment in the conference report.

Mr. EDGAR. I wish to thank the chairman for his cooperation and understanding on the merits of a capital budget.

Mr. CLINGER. Let me just echo the sentiments of Mr. EDGAR. Thank you again for your consideration.

Mr. SHUSTER. Mr. Chairman, I yield myself 1 minute.

I would like to discuss with the chairman of the Surface Transportation Subcommittee, section 137(b), a project intended to demonstrate the latest state-of-the-art highway technology. It is stated in this section, among other criteria, that this project should close a gap of not more than 10 miles and connects both highway construction using current technology and older completed highway construction. I would like to ask the chairman if the segment of Route 220 from East Freedom, Pa., south to the Blair County-Bedford County line would qualify for all the specific criteria in this section and would be eligible for this demonstration project?

Mr. ANDERSON. Yes, Route 220 from East Freedom, south to the Blair Country/Bedford County line would qualify for all the criteria in this section and should be given priority consideration in the placement of this project. In my estimation, this segment of highway in Pennsylvania is an ideal location to demonstrate the latest state-of-the-art highway technology that should be embodied in this project.

Mr. SHUSTER. I thank my destinguished chairman.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. SHUSTER. Mr. Chairman, I am pleased to yield 3 minutes to the distinguished gentleman from Florida (Mr. SHAW).

Mr. SHAW. Mr. Chairman, I thank the gentleman for yielding.

As a member of the Public Works and Transportation Committee, I am extremely proud of the work that we have done to bring this most important bill to this body. I am also delighted to recommend the amendment to the bill that is going to be made by the Ways and Means Committee that will, for the first time perhaps, show light at the end of the tunnel for the construction of the interstate program, one that the State of Florida has lagged so sorely behind in.

There is one provision, however, of this bill that I am not proud of, and I would like to focus on at this point, and at a later time offer an amendment to. That is the provision that would eliminate section 131 of title 27 which would, by one single vote in a lameduck session, completely eliminate the highway beautification program for this entire country, which has been in place now for almost 20 years.

I would warn the Members of this body that this has far-reaching implications. It appears to be a States right issue on its fact but it is not.

In turning the authority over to the States, it dictates to the States how they are going to do it. It provides how they are to provide for compensation. It locks in existing location of billboards throughout the country, and in doing so it even provides that the various States will have to eliminate trees from the right-of-way that it cannot justify as being part of a general landscape design. This would simply mean that we would be eliminating trees, by cutting them down, to give the motoring public a better view of billboards along our highways. I do not think under any definition that this can be called a highway beautification program.

I think this would be a tragedy if my amendment, when I offer it at the proper time, were not accepted, to retain the existing law that seems to be working in some small way, and substitute in place thereof a study where the Public Works and Transportation Committee can go back, properly study this issue, with the Secretary of Transportation, talk to the various States, and then come up with a responsible amendment to the Highway Beautification Act that will do precisely that; that is, beautify the highways of this country.

Mr. SHUSTER. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Virginia (Mr. WOLF).

Mr. WOLF. I thank the dinstinguished ranking member of the Surface Transportation Subcommittee. It is my understanding that this highway legislation makes funds available out of the highway trust fund in fiscal years 1983, 1984, 1985, and 1986 for substitute highway projects, such as the Interstate 595 withdrawal and substitution project in Arlington County in the 10th District of Virginia. Is that correct?

Mr. SHUSTER. Yes, the gentleman is correct. The availability of highway trust fund financing would effectively restore contract authority to substitute highway projects with 25 percent of the funds available in a fiscal year for substitute highway projects to be allocated at the discretion of the Secretary of Transportation. The remaining 75 percent would be apportioned on the basis of estimates of the cost to complete substitute highway projects prepared by the Secretary of Transportation and approved by the Congress. Projects such as I-595, which I understand would withdraw 0.84 miles of the unbuilt segment of the interstate project and substitute a 1.78 mile improvement project for U.S. Route 1, would certainly qualify for funds authorized under section 107 of this legislation and the allocation of interstate transfer funds to the Commonwealth of Virginia could certainly be earmarked for the I-595 project.

Mr. WOLF. I thank the gentleman. I strongly support the interstate transfer program as a cost effective way to build highways which can best meet a jurisdiction's needs. As you know, the initial plan for I-595 was to provide a spur to be constructed to interstate standards from the existing I-395, Shirley Highway, to Route 223, Na-

tional Airport connector, in Arlington County. After environmental impact study, it is recommended that the project be built instead as an improvement to U.S. Route 1, Jefferson Davis Highway, from I-35 to Route 120, Glebe Road, for a facility at less than interstate design, which could better meet the needs of this rapidly developing corridor. The withdrawal of the I-595 project and the substitution of the improvement to U.S. Route 1 is the type of interstate transfer project that certainly should be funded under provisions of Federal-aid highway legislation. I want to thank the gentleman for clarifying the interstate transfer section of this legislation.

The CHAIRMAN. The gentleman from Pennsylvania (Mr. SHUSTER) has 9 minutes remaining, and the gentleman from California (Mr. ANDERSON) has 3 minutes remaining.

Mr. SHUSTER. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Indiana (Mr. MYERS).

□ 1620

Mr. MYERS. Mr. Chairman, I hope that the gentleman from New Jersey, the chairman of the committee, can eliminate any possible ambiguity with respect to the bill's treatment of the railroad relocation projects that are authorized under section 163 of the Federal-Aid Highway Act of 1973.

Mr. Chairman, when this bill becomes law, will the entire project in Lafayette, Ind., qualify for the priority consideration required under section 105, and for the 95-percent Federal, 5-percent State funding match provided for under section 120, even though only a portion of the total project physically impacts the Federal primary, secondary, or urban systems? It is my understanding that 20 of the 42 highway crossings that the Lafayette project will eliminate are on the Federal-aid systems. I yield to the gentleman from New Jersey.

Mr. ANDERSON. Mr. Chairman, will the gentleman yield?

Mr. MYERS. I yield to the gentleman from California.

Mr. ANDERSON. Mr. Chairman, I thank the gentleman for yielding. The gentleman is correct; the provisions in this bill for the Lafayette project, as well as for the other section 163 projects, apply to the entire project, including those portions not physically impacting the Federal-aid primary, secondary, or urban systems.

It is not the objective of the committee to terminate or deauthorize these projects. It is only our intent to integrate them into the Federal-aid systems and to make them more a part of the overall State highway programs.

Mr. MYERS. Mr. Chairman, I thank the gentleman for his clarification, and I yield back the balance of my time.

Mr. SHUSTER. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Virginia (Mr. BUTLER).

Mr. BUTLER. Mr. Chairman I expect to vote for this legislative anticipation that it will make available funding for the deteriorating Williams Viaduct Bridge at Lynchburg, Va.

The Williams Viaduct Bridge connecting the northern part of the Commonwealth of Virginia to central Virginia was constructed in 1917.

It is one of only two bridges that span the James River in this part of the State.

The Williams Viaduct is deteriorating rapidly. According to a report by the city of Lynchburg's consulting engineer in 1979, "a replacement structure must be built within 5 to 8 years," 1984–88, to prevent a serious reduction in load limit on this structure.

The estimated cost of this bridge replacement structure is $40 million, which is obviously beyond the funding capability of that city based upon current State and Federal highway allocations.

This bridge is critical to the entire central Virginia area as it carries approximately 13,000 vehicles per day and serves as the one and only access to Griffin Pipe & Products Co. which has gross sales in excess of $60 million and supplies pipe to the entire eastern seaboard.

Each year the bridge continues to deteriorate to such an extent that it may be necessary to close the bridge to truck traffic and other traffic may be severely restricted.

It is imperative that the need for this replacement be recognized during the very time Congess considers the gasoline tax and bridge repair and highway rehabilitation legislation.

Mr. SHUSTER. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Vermont (Mr. JEFFORDS).

Mr. JEFFORDS. Mr. Chairman, I intend to support this bill, and I certainly want to commend the committee for making some accommodations to States that will have a hard time with matching funds.

I find little fault with the premise that the Federal gasoline tax needs to be increased. It has not been raised in 23 years, and the nickel per gallon hike that is proposed today is barely half of the 9 cents per gallon which would be required to keep up with inflation over the last two decades. In addition, as the miles-per-gallon ratio improves, fewer dollars for the miles driven are being received.

Certainly this Nation's highways and bridges are in a serious state of disrepair. Sixty-five percent of the Interstate System will need major work between now and 1995. Fifty percent of the primary system will reach the end of its design life during this decade, and 40 percent of our bridges are more than 40 years old, with design life expectancies of 50 years.

The highway trust fund has been paying out more than it has been taking in recently. New revenues are required, and it makes sense to me that those who use our roads should pay for their upkeep.

The problem comes with the distribution of the $5.5 billion the tax increase will generate. A significant number of States will be unable to come up with the match required to qualify for the new funds. In Vermont, for example, over the past 2 years we have increased our rehabilitation program by $7 million annually in State funds. In fiscal year 1983, we were able to cover the increase with a combination of economy measures, including RIF's, reduced bonding, and reduced salt usage. For fiscal year 1984, the State transportation agency was planning to ask the legislature for a 3 cents per gallon hike in the State gas tax. However, there is little chance that the legislature would honor such a request with the advent of the new Federal tax.

Our State gas tax is presently at 11 cents per gallon, and delivery prices in Vermont are high. We can expect delivery prices to go even higher as the trend of major suppliers pulling out of the State continues, and competition lessens. The point here is that Vermont already has a high tax effort, and is severely limited in its ability to tap new financial resources for the purpose of highway maintenance.

The State is thus left with a $7 million shortfall in the repaving program. Since the $1.3 million of State funds we will lose were slated to match $4 million in Federal funds, the State has an $11 million problem. In summation, although Vermont could become eligible for some $25 million in new Federal funds under the tax increase, it will not be able to match all currently available Federal funds without the State gas tax increase that had been planned upon.

I understand that the committee has addressed the donor-donee problem by allowing States to certify that they cannot come up with the match; they will then receive their share of the new funds and have 2 years to cough up the match money. If they do not, after the 2 years have expired their apportionments will be reduced accordingly. I also understand that this loan proposal compromise is favored by the adminstration and that the Senate Public Works Committee is leaning that way.

I would have much preferred an easing of the matching requirements, with no payback provision, for 1 or 2 years on highway programs other than interstate. A 90 to 10 Federal/State ratio would be satisfactory. Vermont's uptapped tax base is minimal

today and will be in all likelihood 2 years from now. The ratio change would allow the State to stretch further its limited resources.

Another possibility would be to return part of the increased revenues to the States as a block grant in lieu of an increase in the non-Federal secondary and urban programs. This plan would be in keeping with the President's New Federalism initiative, which includes the return of certain highway programs to the States, and is sensible in light of the fact that the Federal gas tax increase precludes State gas tax increases.

Mr. Chairman, it would be extremely unfortunate if States with high tax efforts like Vermont are penalized in the distribution of the new revenues. We too have a joblessness problem and we too have severe bridge and highway repair problems.

I also would like to make a few comments as ranking minority member of the subcommittee dealing with unemployment. First, I would commend the committee for not trying to sell this bill as a jobs bill, as a solution to unemployment. It will, or at least may, create some jobs, but for the dollars spent, it is not very productive. For instance, there is no economic stimulus. It is a trade-off. You spend money, but you tax for it, and thus remove any pump priming. Also for the dollars spent it will have little effect on unemployment, as compared to other programs. In fact, only 3½ percent of the unemployed will receive help; 96 plus percent of the unemployed will not receive help. Let me give you some examples of more productive or meaningful expenditures for the unemployed. By funding title 3 of the new employment training bill, related to training dislocated workers, we could take care of eight times as many workers for dollars spent.

There is no money presently appropriated in that bill for title III for 1983.

We could get two to four times the punch per dollar spent for other programs.

This bill is restricted almost entirely to contruction. Half of the unemployed are women. This will provide almost no help for women.

The greatest area of unemployed is with youth yet few, if any youth, will be employed by this bill.

I will be speaking out more fully on this issue tomorrow. I would urge Members not to forget the large number of people unemployed, 96 percent that will get no help by this legislation. They have serious problems that must be faced.

The CHAIRMAN. The time of the gentleman from Vermont (Mr. JEFFORDS) has expired.

Mr. SHUSTER. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York (Mr. GREEN).

Mr. GREEN, Mr. Chairman, I thank the gentleman from Pennsylvania (Mr. SHUSTER) for yielding time to me, and I join my colleagues in welcoming him back to the floor.

Mr. Chairman, I rise to speak in support of H.R. 6211. I commend the Public Works and Transportation Committee for drafting an excellent piece of legislation.

I am particularly pleased with the section of the bill which reauthorizes mass transit assistance. As the Members of the House know, New York City depends heavily on mass transit. It has been estimated that 85 to 90 percent of persons entering the central business district during work hours enter by some form of public mass transit. The New York City transit system also accounts for one-third of all rides taken daily by Americans riding public transit. While New York City welcomes Federal transit assistance, it is not dependent on it solely. In fact, Federal transit assistance accounts for only 6 percent of the New York City transit budget. Cognizant of the fact that it must find ways to upgrade the system, New York City has embarked on a $7.1 billion capital improvement plan, of which only a small percentage will come from Federal funding.

Part of the funding for this bill will come from the new 5-cents-per-gallon gas tax, of which 1 cent will be dedicated to mass tranist. This is a significant step, and I am pleased that the President joined Secretary Lewis in endorsing this concept. Such support was key in the approval of the proposal by the Ways and Means Committee.

H.R. 6211 makes some important changes in how mass transit funds are distributed. It looks beyond the present population and population density formulas to service-based factors such as bus revenue miles, fixed guideway revenue vehicle miles, bus passenger miles for each dollar of operating cost, rail passenger miles for each dollar of operating cost and non-Federal operating revenue. What this approach means is that the size of a system and how much it is used will account for something in determining Federal funding. While population factors will still be used, in communities of relatively equal size the city with a bigger system that provides more services will receive more Federal aid.

The creation of a new block grant program—section 9—is another important feature contained in H.R. 6211. It recognizes that different systems have different needs and allows the funds appropriated for the block grant program to be used for either capital or operating assistance. However, systems would be limited to the fiscal year 1982 level of spending for operating assistance. I consider this to be a reasonable approach. It is far better than the administration's bill which proposed to phase out operating assistance over the next 2 years. Under the administration's proposal, there would have been $640 million available for operating assistance in fiscal year 1983, $275 million on fiscal year 1984, and nothing after that time. New York City, which received $105 million in operating assistance in fiscal year 1982, would receive $67 million in fiscal year 1983, $34 million in fiscal year 1984, and nothing in operating funds after that time. Under H.R. 6211, New York City will be able to use up to $150 million per year of the Federal funds it receives for operating assistance.

Congress has repeatedly made it clear during these past 2 years that it wants to continue Federal mass transit operating subsidies. When this bill reaches the President, I urge him to sign it even though it contains continued operating subsidies. The budget resolutions adopted last year and this with his support have contemplated continuation of such funding. I would be dismayed if he vetoed this legislation if it did not provide for the phaseout of mass transit operating subsidies.

Once, again, I want to congratulate members of the House Public Works and Transportation Committee for the work they did on this bill. Additionally, I want to commend the members of the Ways and Means Committee for the work they did on the gas tax. I urge all my colleagues in the House to support H.R. 6211.

Mr. ANDERSON. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas (Mr. BROOKS) for the purpose of engaging in a colloquy.

Mr. BROOKS. Mr. Chairman, I would like to inquire as to the priorities you intend for these funds.

It is my understanding that it is the intent of the committee that priority be given to projects that will fit in with other ongoing federally supported projects.

To cite an example, in my district in Texas, the city of Port Arthur and local private interests have invested in a large project to revitalize the city. This project is a new community under the Department of Housing and Urban Development's criteria and is well on the way to completion. The tract of approximately 2,000 acres combines commercial, public and residential—including low- and moderate-income housing—and meets all of the Federal criteria for a new community development.

The city has invested in extensive improvements and the public and private commitments to this much needed project are very substantial.

One of the problems it faces, however, is inadequate access from Highway 69 and needed improvements to Ninth Avenue in Port Arthur.

I am hopeful that this project and others like it, which are presently progressing well and which offer the most immediate benefits and return on our investment, will be given the highest priority under the proposed highway improvement program.

Mr. ANDERSON. Mr. Chairman, if the gentleman will yield, I will state to the gentleman from Texas (Mr. BROOKS) that is the intention of this legislation—to provide needed improvements where they will have the most immediate effect and where they will augment other Federal and local programs to help our economy.

Mr. BROOKS. Mr. Chairman, I thank the gentleman very much.

Mr. ANDERSON. Mr. Chairman, I yield such time as he may consume to the gentleman from Puerto Rico (Mr. CORRADA).

Mr. CORRADA. Mr. Chairman, I rise in support of H.R. 6211, the Surface Transportation Act of 1982 and the committee amendments to be offered shortly.

This legislation comes before us with an added authorization for a new 5-cent-per-gallon increase in the Federal gasoline tax to finance a highway construction and rehabilitation program in addition to extending the critical transportation programs of the Federal Highway Administration and the Urban Mass Transit Administration.

I would like to commend the diligence and the foresight of the members of the House Surface Transportation Subcommittee, House Committee on Public Works and Transportation, who have spent many hours in considering the long-range impact of this important revision of the Nation's transportation programs.

All of us know, H.R. 6211 was reported last spring and, prior to the recess, a simple extension which enabled the major highway programs to continue was passed. This expires December 17.

However, the major provisions of H.R. 6211 coupled with the new transit stimulus which has received the support of both the administration and congressional leaders, particularly the House Democratic leadership, provide an added stimulus to revitalizing our transit systems, and repairing out Nation's bridges and highways.

In Puerto Rico, this legislation will continue programs which, for years, have helped develop the island's infrastructure by developing a viable transportation system on the island, enabling our local economic development to ship goods and services throughout Puerto Rico.

The 4-year authorization for the highway and mass transit programs gives our Secretary of Transportation the tools necessary to continue that development.

At the same time, Mr. Chairman, the rise in the gasoline tax will give an added stimulus which will expand on the primary premises of H.R. 6211 when it was reported last spring.

We have all heard of, in recent months, of the need to halt the deterioration of our highway and public transportation system. The increase authorization levels for highway and bridge construction and rehabilitation, for local highway safety programs, and for capital investment in the transit systems will help Puerto Rico continuation of Federal funds which help maintain an excellent highway system, and which help operate and maintain the Metropolitan Bus Authority.

This legislation, while not primarily seen as an employment bill, will certainly still result in an increase in employment, particularly in the construction and construction-related industries. It comes at a time when Puerto Rico's unemployment is at a staggering level of 22.8 percent. It comes at a time when the need to provide the capital investment to improve and rehabilitate a highway and transit system is absolutely vital. It comes at a time when some projects in the island's 5-year priority program, once canceled, might now be restored, enabling our Puerto Rico Highway Authority the means to continue a program which, when on the drawing board, will help meed increasing needs due to a sharp rise in motor vehicle registration, the growth in vehicle travel and the growth in vehicle ownership.

Mr. Chairman, H.R. 6211 is an excellent bill. It merits all of our support, coming at a time when the need to stimulate our economy, create jobs, and improve and maintain our Nation's transportation systems is absolutely vital.

I hope that the House approval of H.R. 6211 will be speedily matched by the Senate consideration of companion legislation to accomplish the same task.

Mr. SHUSTER. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Virginia (Mr. BLILEY).

Mr. BLILEY. Mr. Chairman, I thank the gentleman from Pennsylvania for yielding this time to me, and I wonder if I might ask the gentleman a question.

I am concerned with section 122 of the bill which deals with approaches. I have one of the counties there that wishes to extend an expressway, the Powhite Expressway, as a toll road to assist a desperate traffic problem.

Is it not true that under the language of this section the county could be eligible for assistance for a portion of this road up to but not including the toll plaza?

Mr. SHUSTER. Mr. Chairman, if the gentleman will yield, let me respond to him.

If my understanding is correct, if the Robert E. Lee Bridge meets the warrants that have been mentioned and that I have been assured by the gentleman it does, then I would assume the bridge is indeed eligible to be considered for the funds needed.

Mr. BLILEY. Mr. Chairman, I thank the gentleman very much.

● Mr. CAMPBELL. Mr. Chairman, I, along with many of my colleagues, have been inundated with letters and visits from truckers and trucking firms opposing the disastrous trucking provisions of the Surface Transportation Act—and I must say Mr. Chairman, that I agree with them 100 percent.

Let me say that I do support the concept of this bill. I agree, we do need to rebuild and rehabilitate our Nation's highway system. But, I do not believe that we can single out one of the most important industries in the country and tax them to death, which is what this bill would do.

All of the truckers I have met with support the 5-cent increase in the price they pay for their diesel fuel. In fact, many have stated that they would support moderate increases in the miscellaneous taxes on truckers. But, a 163-percent increase in taxes on a typical tractor trailer truck is totally unacceptable. Heavy use taxes would be increased from $210 to $1,880. One of the truckers I met with today gave me figures that should shock everybody. This company's present tax and user costs are $81,200 per year. This bill would increase his costs by 212 percent to $253,097.

This is a phenomenal increase in taxes and fees for a single year. I want to join the truckers in asking, "who will pay for these extra costs?" The consumers may pay, but during a time of deregulation, competition has increased and prices have fallen in the trucking industry. It would be difficult to raise prices or increase trucking fleets. The more likely scenario is that many of the smaller, independent firms will fold, adding to our unemployment problem—while the larger firms will show substantial losses in their attempt to absorb the increased costs.

Mr. Chairman, I urge my colleagues to support the truckers and the thousands of jobs at stake by defeating this rule. Let us pass a bill that will rebuild our roads, without running over the truckers in the process.●

● Mr. FARY. Mr. Chairman, I rise in strong support of the substitute bill to H.R. 6211, the Surface Transportation Assistance Act of 1982. This legislation is urgently needed to help repair our deteriorating highways, bridges, and mass transportation infrastructure. This bill will provide jobs in the con-

struction industry and spur economic development.

As a member of the Public Works and Transportation Committee, I have long been aware of the necessity of passing a comprehensive multiyear highway and mass transit bill. H.R. 6211 targets funding for the most pressing highway and transit projects. Our transportation network and interstate highways are well past their original design life. The surface Transportation Subcommitte has held many days of hearings on this problem. State highway officials from all over the country have testified that the road systems in their States need major resurfacing and repair work done.

There are three sections of this bill that are of importance to my home State of Illinois. Under the interstate transfer program, the Chicago area, under the substitute bill, will receive $150 million in addition to what is included in the transportation appropriations bill. These funds will be used to complete needed highway projects. In the highway bridge replacement and rehabilitation program, the Dan Ryan Expressway is slated for funding. This expressway is a very heavily traveled route and needs major bridge repair work.

The Federal-aid urban system program is also reauthorized in H.R. 6211. The FAU program is unique in that project funding is left in the hands of local officials. This flexibility allows the local areas to have a voice in helping solve their transportation problems.

Finally, H.R. 6211 sets up a strong and effective mass transit program for capital construction and block grants. A mass transit account has been created that will earmark revenues equivalent to 1 cent of the fuels taxes for a new mass transit account within the highway trust fund.

Mr. Chairman, H.R. 6211 is an excellent piece of legislation that has been under intensive study by my committee for many months. I wholeheartedly urge my colleagues to support this measure.●

● Mr. BIAGGI. Mr. Chairman, I rise in support of H.R. 6211, the Surface Transportation Act of 1982. This legislation offers a sensible approach to deal with two of our Nation's most serious problems—record high unemployment, and deteriorating bridges, and highways.

Main features of the bill would authorize a 5-cent-a-gallon increase in the Federal gasoline tax to fund a highway construction and repair effort, and to fund important mass transit programs. Overall, the measure would authorize $53.5 billion for highway and safety programs, and $16.5 billion for public transportation programs over the next 4 fiscal years.

As New York's ranking member on the House Education and Labor Committee I am especially pleased that over 300,000 jobs are expected to be created as a result of the bridge and highway repair work that will be funded by this bill. This comes at a time when our Nation's unemployment level—now at 10.8 percent—is as high as it has ever been since the Great Depression. Some 12 million American workers are unemployed.

The 5-cents-a-gallon increase in the Federal gasoline tax would bring the total Federal tax to 9 cents per gallon. The bill would distribute 8 cents of the Federal gasoline tax in the highway trust fund, and the additional 1 cent per gallon would go to a newly established public transportation trust fund.

Several important factors justify this 5-cent-a-gallon Federal fuel tax increase. First, the gasoline tax has not been increased since 1959. As a result, the highway trust fund, which finances bridge and highway repairs, has been unable to keep up with the rising costs of maintaining our Nation's transportation system. Second, the 5-cent fuel tax increase is not an excessive economic burden. This tax increase will cost the average motorist only $30 per year—a cost that may very well be recouped since improved roadways mean reduced automobile wear and tear. Further, those persons who are obligated to pay the tax—highway users—are assured of receiving direct benefits—a better highway system.

Some of the bill's more controversial features deal with the trucking industry. The bill eliminates the tax on new, smaller trucks and truck trailers while raising the tax on larger trucks. These provisions are aimed at imposing a more equitable share of highway costs on the trucking industry, which has inflicted much of the damage on our deteriorating highways and bridges. I am hopeful these tax increases will not prove too much of a financial burden for the already-weakened trucking industry to bear.

Although I have my reservations, I am encouraged that the bill also seeks to balance out those added burdens by allowing larger trucks to operate on the Interstate System, and by imposing a national standard for truck size and weights permitted on our highways. Inconsistent truck-size standards from one State to the next have long had a detrimental effect on the trucking industry.

Other provisions of the bill that I strongly support would provide $125 million over the next 3 fiscal years to help cut down on our Nation's critical drunk-driving problem; would provide $524 million over the next 4 fiscal years for National Highway Traffic Safety Administration programs; and would clarify that Davis-Bacon wage requirements are applicable to all construction and repair work authorized in the bill.

As a Representative of our Nation's largest city, a city that depends heavily on its public transportation system, I am particularly impressed with this bill's mass transit provisions. For the first time ever, mass transit will be supported by a dedicated source of Federal revenue—1 cent out of the 5-cent fuel tax increase is targeted solely for mass transit assistance. In addition, the bill continues mass transit operating assistance at the fiscal year 1982 level, rather than phasing the program out as President Reagan has requested. Specifically, the bill authorizes $3.8 billion for mass transit programs in fiscal year 1983, $4 billion in fiscal year 1984, $4.2 billion in fiscal year 1985, and $4.5 billion in fiscal year 1986. It should also be noted that the new formula block-grant program will give the States more flexibility on how the States can use these mass transit funds, since assistance will be provided on an annual basis, instead of project by project.

Of special benefit to New York City is the fact that the distribution formula for mass transit funding has been changed to target more money to transit dependent cities.

For New York State, the numbers are equally impressive. Under H.R. 6211, New York will receive more than $6.7 billion over the next 4 years for highway, bridge, and mass transit projects. This represents a $1.5 billion increase over current funding levels for highway and bridge programs, and an extra $1.3 billion over 4 years for mass transit.

Unlike many Federal programs, where New Yorkers pay out far more in taxes than they ever receive in benefits, H.R. 6211 would mean that New York State would get back $2 billion more in highway and mass transit assistance than it would pay in taxes for these programs over the next 4 years. Carried a step further, this will also mean that the net gain per automobile in New York State will be approximately $64.

Finally, let me thank my distinguished colleague from Georgia (ED JENKINS) for working to include in this measure an extension and increase in the authorization levels for the boating safety and facilities improvement program that was first established by a bill I authored in 1980. Specifically, H.R. 6211 would authorize $25 million in motorboat fuel taxes to be deposited in the recreational boating fund for each of the next 6 fiscal years.

The program had been scheduled to expire at the end of fiscal year 1983, despite the fact that none of the fuel tax dollars designated for boating safety and facilities improvement have ever been spent. These important new

provisions should mean that recreational boaters will finally get a fair return on the fuel excise tax they have been paying over these many years.

Mr. Speaker, a close scrutiny of H.R. 6211 reveals that its cost-benefit ratio is highly favorable. Add to that the millions of Americans who would benefit from this legislation—our highway users, mass transit riders, and boaters—and we have avery important piece of legislation that deserves to be passed.●

● Mr. STUDDS. Mr. Chairman, as chairman of the Subcommittee on Coast Guard and Navigation, I would like to point out that the burden imposed by an increase in the Federal tax on gasoline falls not only on automobile motorists, but on the recreational boating community, as well. Because the gasoline tax affects motorboat fuel, recreational boaters currently contribute, according to rough estimate, some $30 million a year to the highway trust fund. Although this money is diverted by law into the land and water conservation fund, a total of $20 million is allocated to the recreational boating safety and facilities improvement fund created by the Boating Safety Act Amendments of 1980. By increasing the gasoline tax from 4 to 9 cents a gallon, we will also more than double the amount of money paid by recreational boaters to the land and water conservation fund.

It is my intention next year to introduce legislation which will guarantee that the money paid by recreational boaters as a result of the Federal gasoline tax will be utilized for purposes which benefit the boating community. This is not presently the case. Congress has thus far failed to appropriate money from the Recreational Boating Fund for the purpose of assisting State boating programs, despite the fact that this money comes not from general revenues, but from the pockets of boaters, themselves. Moreover, money in the land and water conservation fund is not generally used for purposes of direct importance to boaters.

I was tempted to offer an amendment to this legislation to establish guidelines for allocating the portion of the gasoline tax increase attributable to boaters, in order to make certain that these funds would be fully and fairly used. I am refraining from doing so only because of the urgent time contraints under which the Congress has chosen to consider this legislation. My purpose in speaking today is simply to express my hope that Congress will be willing next year to lend its support to legislation aimed at resolving the unfair situation in which the boating community now finds itself. My own committee, Merchant Marine and Fisheries, will be initiating such a bill, but we will require the cooperation and advice of other committees, as well.●

Mr. MICHEL. Mr. Chairman the respective committees involved in the preparation of this legislation deserve a good deal of credit for moving this bill to the floor with all deliberate speed.

We should now extend that good work and get this bill adopted and over to the Senate and on to conference.

I have some misgivings about portions of this legislation. I am sure that all Members do. However, the bottom line is this: The legislation is sound. The need for it is immense, and the time to act is now.

We have before us a bill that does what it should. This legislation meets a real need, both in terms of the jobs it will create and the improvements that will be made in our highways and bridges. This legislation also provides the means to meet that need, by providing for the additional revenue necessary.

It has been our habit around here to be quick to meet needs but reluctant to provide the means. That is how we dug ourselves into the recession.

This time we are putting the House to the test. You cannot reap the rewards of this legislation, without paying the price. We are backing up our political inclinations to build roads and create jobs with the tax revenues with which to do it. This bill gives you the opportunity to be fiscally responsible while you are politically responsive. That combination is the only one that will help us dig our way out of the recession.

I suspect that before this Congress ends we will be offered the temptation to revert back to the golden days of buy now, pay later politics. The siren sounds of makework jobs are already filling our ears. The vote will be very easy to cast. There is nothing like creating millions of mythical jobs without providing for one dime in taxes to pay for them.

This legislation, on the other hand, may be a tough vote politically, as it will be for me, but it is the only responsible way out.

As I mentioned, there are provisions of this bill that are not appealing to me. The authorization is extended for too long a period, and we are making some changes in highway programs that are not necessary or desirable.

There is too much provided for the operation of mass transit systems. However, when I look at my own State of Illinois, I know all too well the very immediate need there for repair and maintenance of our transportation network and the very critical need for the 26,000 jobs it will create there. I hope some of the gliches can be worked out in conference and no additional unacceptable items added before we vote on final passage.

This legislation will provide $5.5 billion and create 170,000 construction jobs and nearly as many more in other fields.

The problem is obvious to anyone who travels on our Nation's highways. We have got 4,000 miles of interstate in need of resurfacing. Half of the total system will need major work in the next 15 years, 50 percent of our primary highways will need work in this decade, and 40 percent of all our bridges are reaching the end of their lifespan in this decade.

This financing mechanism will allow us to finish the Interstate System in the next 10 years, meet most of our critical repair needs and rehabilitate all of those bridges now classified as structurally weak, or too narrow for present day traffic.

These funds will be distributed through existing highway programs so that the effect can be felt this spring. There will be no long delays while we create new bureaucracies and mountains of new regulations.

And that is the real key to this program, having an immediate impact on the economy that will be positive for those out of work.

This legislation has been criticized because it does not do enough to resolve our unemployment problems. It is true that 320,000 jobs do not put a very large dent in unemployment of 12 million. But part of our failure to meet recessionary jobs needs in the past has been our penchant for massive programs that hold out the hope of the ultimate solution, and do nothing more than bring on another round of inflation.

Meeting the unemployment problem means attacking it on many fronts, not just one.

This is but one frontal attack. There are a number of other innovative and fiscally responsible ways to address unemployment and I hope the new Congress will put them at the top of the priority list. I hope we will not be so irresponsible as to try to solve the entire problem with one grandiose sweep of our magic wand.

I urge my colleagues to take this major step and enact this legislation.

● Mr. OBERSTAR. Mr. Chairman, I opposed House Resolution 629, the rule providing for consideration of H.R. 6211, the Surface Transportation Act of 1982. I took that position reluctantly, but out of a sense that the Ways and Means Committee has not had adequate time fully to evaluate the consequences of the new and special taxes proposed for the trucking industry.

The proposed revenue title of this legislation does indeed place a disproportionate burden of the funding for highway and transit construction on the Nation's truckers. The trucking industry today is not healthy and this

kind of regressive tax could precipitate bankruptcies and increased joblessness within this recession-weakened industry.

I agree with the principle that those who use our Nation's highways should pay for that privilege. It is also evident that there is a direct relationship between a truck's weight and the amount of damage that that vehicle inflicts on the highway. But these two facts alone cannot justify the action taken by the Ways and Means Committee. Under their proposal, the average tax on a 5-axle tractor semitrailer will zoom from $1,746 to $4,374, a 151-percent increase. Only one-third of that increase is attributable to an increase in diesel fuel; well over two-thirds is attributable to increases in the so-called special taxes.

These special tax increases are enormous. The truck tire tax increases by 150 percent, the tread rubber tax by 500 percent, the excise tax on new trucks and trailers by 20 percent, the tax on larger truck parts increases by 50 percent and the highway load tax increases are both substantial and sudden. All of these new taxes for an industry that has 175,000 drivers out of work and a net profit of only 210 million after taxes. The $1 billion-plus in new taxes proposed by this title has the potential for serious economic harm to the trucking industry—though, I must concede, it is much less burdensome than the administration's costly proposal.

For this reason I wanted the House to return this title of the highway legislation to the Ways and Means Committee until a more responsible funding formula can be agreed upon, one which could phase in a tax increase over an extended period of time, allowing the industry a fair opportunity to recover from this recession and be in a better position to pay higher taxes.

● Mr. HEFTEL. Mr. Chairman, although there exists no small amount of controversy over several provisions of the revenue title of the Surface Transportation Act of 1982, I would like to take this opportunity to call attention to two provisions that clearly deserve our support. First, this legislation exempts methanol and other alcohol fuels from the full 9-cents-per-gallon fuel excise tax established in this bill. Second, the revenue provisions extend the existing exemption for both public and private buses from the full amount of the fuel excise tax, thus maintaining an important equity in the bus industry.

The complete exemption from the fuel tax is only provided in this bill for methanol, ethanol, and other alcohol fuels that are produced from sources other than crude oil and that are used in at least an 85-percent pure state, either by themselves or in combination with other alcohol fuels. However, methanol represents the only truly viable alternative to gasoline as a primary motor fuel because it can be manufactured economically from our abundant feedstock supplies of coal, natural gas, and other carbon-bearing materials.

Methanol today is primarily being manufactured from natural gas. However, the technology to manufacture methanol from coal or from wood or other sources has existed for a number of years. Thus, in the event that natural gas supplies shrink again in the coming years, methanol can be economically produced from our vast coal reserves.

In addition, because methanol must be used in an 85-percent pure state to qualify for the full exemption, methanol is thus virtually a complete substitute for gasoline. Gasohol, on the other hand, contains up to 90 percent gasoline and receives only a limited exemption under this legislation, in recognition of the high proportion of petroleum-based gasoline required for its use.

Finally, although there are many inherent virtues in methanol use, including greater safety, efficiency, and pollution control, an exemption from the fuel excise tax is necessary to help offset the additional $600 to $1,200 that it costs to modify new vehicles or convert existing vehicles to methanol use and to create greater consumer awareness of this important alternative fuel. As it now stands, potential suppliers are waiting for enough cars to be on the road to justify investment in distribution facilities. However, manufacturers will not make the necessary engine modifications until supplies of methanol are readily available. Thus, the fuel tax exemption will provide a significant incentive to help overcome this impasse and to begin to develop the distribution network that will be necessary for widespread methanol use in this country.

Second, this legislation provides for a continuation of the existing complete exemption from the fuel excise tax for both public and private buses. In 1978, Congress in the Energy Tax Act determined that all buses merited a complete exemption from the current fuel tax level of 4 cents per gallon for two reasons. First, bus transportation is more energy efficient than private automobile transportation, and second, it was considered appropriate to make the excise tax treatment of private transit and schoolbus operations consistent with the treatment of governmental and tax-exempt educational bus operations, as such systems often compete with each other for charter and other business. The reasons for enacting the original exemption in 1978 are just as important today.

Mr. Chairman, in addition to the many reasons that I have cited, by supporting these two provisions of the revenue title of this bill, Congress will be sending an important message to the American people that we have not abandoned our commitment to conservation and energy independence. Therefore, these two provisions clearly deserve the full support of this body.●

● Mr. WIRTH. Mr. Chairman, a major consensus has finally been achieved in the Congress on the urgent need to repair our Nation's deteriorating transportation network. Just as people cannot function with veins and arteries which do not work properly, so our Nation's economy cannot function properly with vital arteries of commerce that are worn out.

The condition of our Nation's infrastructure has reached crisis proportions. Our Interstate Highway System is deteriorating at a rate requiring reconstruction of 2,000 miles per year, although it has yet to reach completion, and secondary roads off the interstates are often in much worse condition. More than 100,000 of our Nation's bridges are officially listed as dangerous, and 45 percent of them are either obsolete or structurally deficient. In my home State of Colorado, needed bridge repairs alone will cost $200 million. We simply have no alternative but to begin a major effort to rebuild. In the long term this is a cost-effective effort. Estimates are that it costs five times more to rebuild a bridge once it has fallen than to repair it before it does.

Yet the past 15 years have been marked by massive underinvestment in public facilities. Since 1965, the percent of gross national product devoted to our infrastructure needs has dropped from 3.6 percent to 1.7 percent in 1980. We simply must correct this deficiency. We cannot expect our economy to achieve sustained growth if our public transportation network is in a shambles. The special task force on long-term economic policy which I chaired for the House Democratic Caucus recognized this and called for a major infrastructure investment program as one of the keys to restoring long-term economic growth to our economy.

H.R. 6211 is only a start in this direction, but it is an important first step. It addresses our twin national needs of rebuilding our deteriorating public transportation network, and providing jobs to an estimated 300,000 Americans.

While I strongly support this bill, for it will take us in a direction we simply must go, I am deeply troubled by the primary and interstate/4-R funding formulas contained in the bill.

The formulas contained in H.R. 6211 represent a dramatic change in funding which is very detrimental to the interest of not only Western States but of other States which share our geographic and demographic transpor-

tation profile. According to the Colorado Highway Commission, "the formula changes would shift the balance away from the number of lane miles of State highway and toward vehicle miles traveled, or its surrogate, fuel consumption."

The primary formula in this bill would change the present careful balance which takes into consideration such things as area, rural delivery mileage, and intercity mail route mileage to one based simply on rural and urban population. This change alone would lead to a decrease of $8.6 million annually, and my State's highway commission estimates that the combined effect of these changes could cost Colorado over $21 million in expected revenues for next year.

Additionally, the changes in the interstate 4-R program comes on top of a change made last year that already has cost the Western States millions of dollars. The formula change in H.R. 6211 represents the final step in a shift in the program away from the fair treatment of the Western States with their extensive roads and few people, and toward the exclusive interests of States with large populations and small geographic areas. In short, it removes the funding balance which is critical to a national program of this type.

I certainly hope that the floor managers of this bill in the other body follow through on their stated intention to oppose in conference any changes in the existing funding formula.

Despite this serious reservation, I urge my colleagues to support this bill. We must rise above regional disputes and competing special interests and unite to pass this important legislation to lay the foundation for long-term economic growth.●

● Mr. FORD of Michigan. Mr. Chairman, I rise in opposition to the Stenholm amendment and in support of the Davis-Bacon Act. Never before during my years in Congress has the Davis-Bacon Act been as critically needed as it is today; never have prevailing wage protections been more necessary than they are in this bill. The Surface Transportation Act will inject the Federal Government's economic power into every State and into thousands of separate localities where the road and bridge construction it generates will be by far the most important new economic activity in the community. The question before us is a simple one: Will these billions of dollars of public funds be spent in such a way as to drive local wages up or down artifically, or will Davis-Bacon Act coverage insure that local wages and working conditions are not disrupted?

For 50 years, Congress has wisely chosen through Davis-Bacon Act prevailing wage protections, to insure that wages on federally funded construction projects are the wages which construction employers normally pay in their community. Now is not the time to change this wise policy.

People sometimes argue that Davis-Bacon is a depression-era law, that it was appropriate when President Hoover signed it in 1931, but is outdated today. Mr. Chairman, is the American economy not in a depression today? Are critics of the Davis-Bacon Act aware that as many Americans are unemployed today as at the height of the Great Depression? People need work desperately. We cannot afford to set off bidding wars for Federal construction where bids are sliced and cut by cutting workers' wages. The quality of construction would suffer, local economies would be badly disrupted, and construction workers would have their wages cut unfairly. Anyone who professes to believe in Federalism, who seeks a less instrusive role for the Federal Government in American society, should oppose any attempt to weaken or remove Davis-Bacon Act protections. I urge my colleagues to defeat the amendment.●

● Mrs. KENNELLY. Mr. Chairman, I rise in support of the Weiss amendment.

Since 1973, States have been able to withdraw nonessential segments from the Interstate System, upon the approval of the Secretary of Transportation. When State and local communities agreed in good faith to withdraw highways, they did so based on a commitment from the Federal Government that an equivalent amount of funds would be available in interstate transfer grants for substitute projects at a later date. Unfortunately, due to the vagaries of the budget and appropriations process, some communities have not received transfer grants on either a timely or a strictly fair basis.

The Hartford and Hartford/New Britain regions in the State of Connecticut are two of those communities. They have been badly short changed in the funding process. For instance, in fiscal year 1981 when the regions were prepared to undertake projects requiring $32 million in Federal assistance, they received only a $9 million appropriation.

The combined value of Connecticut's tradeins are $546 million. Even after receiving appropriations of $56 million this calendar year, the State has only received 20 percent of what it is due. By contrast, four other communities which traded in highways at about the same time had received 100, 88, 83, and 51 percent of their totals on December 31, 1981.

The Public Works Committee has included in this bill significant improvements in the interstate transfer grants program. I have strongly supported our efforts except for the cap we place on inflation. We fund substitute highway projects from the highway trust fund and we distribute funding on a fair and predictable formula basis. I am convinced this is the best way to remedy the problems of communities which had been short changed in the past.

I still beieve, however, that these communities are entitled to the full equivalent value of their withdrawn highways. Without compensation for the inevitable increases due to inflation, the eligible communities will be unable to fund all the work they have planned. In my State, this could mean serious transportation deficiencies will not be addressed in full. It would be one thing if we could order inflation to cease on September 30, 1983. Since we can't I urge my colleagues to support the Weiss amendment.●

● Mr. HAMMERSCHMIDT. Mr. Chairman, as a member of the House Public Works and Transportation Committee who has actively supported the revitalization and expansion of our highways to be funded through the equivalent of a 5-cent-per-gallon increase in the highway user fee, I regret that I must rise in opposition to the bill in the form it appears before us today.

My objection to this proposal centers on title V of the bill relating to increased taxes on tires, tread rubber, and trucks. Our Nation's trucking industry is still reeling from the combined effects of the Motor Carrier Deregulation Act of 1980 and depressed economic markets. This combination has produced a financial condition that saw 2 out of 3 regulated motor carriers losing money in the fourth quarter of 1981 and the first quarter of this year. Carriers as a whole barely broke even for the first 6 months of this year. A financially ailing industry cannot afford skyrocketing tax increases. It is interesting to note that in 1982, the entire regulated trucking industry will have a net income of less than one-half of 1 percent. The total cost of the increases advocated in this legislation approximates 10 times this projected income.

Basically, this measure would increase total taxes on a typical 18-wheel truck from $1,746 to about $4,000 per year. The rationale for these increased taxes is based upon a study which related virtually all highway damage to weight and ignores the effects of weather, environment highway maintenance and chemicals. Such a high increase in taxes would be untenable at any time, but under the current economic situation in the trucking industry they become confiscatory.

Originally intended to spur productivity, if this proposal prevails it will hamper employment efforts in the trucking industry and have a ripple effect on related industries such as truck and trailer manufacturers, tire manufacturers and manufacturers of

truck equipment and components. The employment gains in the construction industry through the highway program will surely be offset by the employment losses in the transportation network.

Moreover, these provisions come to the floor without substantiation from a complete hearing record on the merits and demerits of singling out one segment of our transportation system to face an undue share of the tax burden which eventually will be passed on to consumers through increased shipping costs. In addition, Congress should investigate the impact of tire tax modifications on highway safety and Korean tire imports.

The truck size and weight increases in H.R. 6211 can do their part in helping alleviate the present condition by allowing carriers needed productivity increases. But, excessive taxes in H.R. 6211 would wholly offset any productivity gains and further depress the industry's financial condition. Even if the tax increases were based on a highway cost allocation method that was defensible, which it is not, they represent cost increases that could not possibly be absorbed. It is implied that the tax increases that are recommended can be passed on to the consumer through increased freight charges and, therefore, we should not be alarmed. I cannot accept such a cavalier treatment of what the consumer can or cannot be called upon to pay. The pervasiveness of motor truck service, because of the role it plays in freight transportation, is such that increased costs of truck transportation mean increased costs to the consumer. This is not time to talk about increased consumer costs when we are finally bringing inflation under control. But the major point is that increased costs of any magnitude have no place in our economy when they are based on a misguided approach to highway cost responsibility calling for a punitive assessment of taxes against the trucking industry, resulting in increased costs of everything we eat, wear, and use.

The trucking industry has never disputed its responsibility for extra tax payments for extra highway facilities its vehicles require. However, there is no basis in terms of highway use or highway responsibility to justify such a high tax assessment against the larger vehicles. The Department of Transportation (DOD) maintains that a tax level such as this against the larger truck is justified by a highway cost allocation study. But, if you look at this study carefully, you will find that the tax proposal was based on the premise that truck traffic in virtually the sole cause of highway wear and tear. Any competent highway engineer will tell you that among the major causes of highway deterioration are the weather, the environment and age. All highways need resurfacing or reconstruction, regardless of truck traffic. This is borne out by the experience of highways that trucks never use, such as the Merritt Parkway in Connecticut, and the southern portion of the Baltimore Washington Parkway. Both of these road sections needed major repair, or resurfacing within their design life, of approximately 20 years. Yet, they never carried truck traffic.

If the DOT highway cost methodology is correct it means that highways that never carry truck traffic will last forever. This is ridiculous. We are talking about a tax increase of close to $2 billion in taxes on an industry which at this time is in its worst financial condition since the Great Depression. Voting against the excise tax increases related to trucks is not possible under the rule we adopted so I will vote against title J in the hopes that the Committee on Ways and Means would come up with a cost allocation package which is more equitable than the one before us today.●

● Mr. RAHALL. Mr. Chairman, today, America is at a crossroads in transportation planning. Over the years we have profoundly changed the way Americans conduct business, seek recreation and enjoy the advantages of mobility through the construction of the Interstate Highway System, improvement of roads and bridges and expansion of mass transit systems.

However, the history of our efforts in the area of road construction sharply contrasts with the future continued viability of the highway system. At present, America's transportation infrastructure is almost in ruins.

In West Virginia, nearly half the bridges are functionally obsolete or structurally deficient. Interstates in the State such as I-64, I-77, and I-70, the most heavily used in West Virginia, are in bad need of repair on those portions constructed years ago. The 34-mile gap in I-64 between Beckley and Sam Black Church is the only uncompleted link in the interstate from St. Louis, Mo., to Norfolk, Va., and has been designated as an "essential gap" serving national needs by the Department of Transportation. In addition, crumbling primary and secondary roads in the State are costing West Virginia drivers wasted dollars in gasoline costs at an average of about 13 cents on every gallon of gasoline purchased.

It is for these reasons I view the legislation before us today, the Surface Transportation Assistance Act of 1982, with so much importance. This measure authorizes Federal assistance to the States for highway and mass transit programs and presents the Congress with an opportunity to not only reverse the trend of deterioration of our highway system, but to stimulate the creation and retention of jobs during a period of skyrocketing unemployment.

Resurfacing West Virginia, and the Nation's roads today before they completely wear out would save a great deal of money. The $11 billion highway authorization before us, coupled with the 5-cent per gallon Federal gasoline tax increase reported by the Committee on Ways and Means, is a prudent approach to ameliorating the multifaceted problems associated with roadway deterioration. This tax increase—the first in over 20 years—will enable the States to embark on projects to arrest this deterioration. In light of the 13 wasted cents per gallon of gasoline already being paid by West Virginia drivers due to faulty pavement, I view the tax increase as a sound investment not only in terms of repairing the transportation infrastructure but toward energy conservation.

The authorization will make a total of $160 million available in fiscal year 1983 to West Virginia in roadway apportionments. About $15 million will be earmarked in fiscal year 1983 for interstate restoration, resurfacting, rehabilitation and reconstruction; more than a twofold increase over fiscal year 1982 levels. This legislation contains $83 million for interstate constuction for the State in fiscal year 1983, up for $70 million in fiscal year 1982. Also provided for by the authorization are $23 million in primary road funds and $7.7 million in secondary road funds in addition to $22.8 million for West Virginia bridges in fiscal year 1983 alone. The State will be able to continue road hazard elimination through its $1.6 million allotment for this program and may reduce faulty rail/highway crossing with the $2 million received for this program.

The people of West Virginia have experienced dwindling transportation opportunities over the past few years. Airline deregulation has reduced service to the State by the major carriers. Only one Amtrak line now runs in the southern portion of the State. And, under the recently enacted bus deregulation bill, there is fear that interstate service of this nature may be reduced. While the highway section of the bill alleviates some of my concerns over inadequate roads, the mass transit portion insures that public transportation opportunities will still be available to West Virginians.

In my State, five transit authorities received section 5 operating funds which this bill provides for in the form of block grants. These authorities in Huntington, Clarksburg, Parkersburg, Charleston, and Wheeling will share with other transit authorities throughout the Nation the $3.8 billion authorized for transit programs by this legislation for fiscal year 1983. Nine other entities in Summersville,

Petersburg, Morgantown, Fairmont, Martinsburg, Kingwood, Clarksburg, and Bluefield, W. Va., will receive section 18 funds for bus service under the Surface Transportation Assistance Act of 1982. Combined, these operations serve almost 9 million passengers in 25 West Virginia counties.

I would now like to turn to what I view as a particularly exciting new element in the Federal-aid-to-highway legislation. In the Appalachian region one of the most pressing road problems affecting communities is that of energy-impacted roads. Road damage incurred through the movement of domestic energy resources such as coal is alarming and is increasing dramatically. Today, a national coal market is benefiting at the expense of the Appalachian taxpayer. There is a national responsibility for the maintenance of energy-impacted roads and this legislation contains a provision which I authored aimed at placing greater emphasis on their improvement by increasing the Federal share to 85 percent for 4-R work done on such roads. A State has complete discretion on whether to use any of its primary/secondary apportionment for this purpose. All this provision does is say to the States if you want to direct funds to energy-impacted roads, the Federal share will increase to 85 percent from the normal 75 percent for those projects. It is my hope this program will enable the States to repair many of these roads; a prospect which will greatly contribute to our national energy transportation system.

This highway authorization has been touted as a jobs bill and it will without a doubt create some employment. From my particular standpoint this legislation will provide some stimulus for the metallurgical coal industry prevalent in southern West Virginia. Recent statistics show that McDowell County—in my congressional district—is experiencing an unemployment rate of 34.6 percent. One in three county residents in McDowell are jobless and the major reason is because of the condition of the metallurgical coal industry. Obviously, as roads and bridges are constructed and repaired a great deal of steel will be used. As steel demand goes up, so does demand for metallurgical coal which will help to put some of the 11,000 unemployed West Virginia miners back to work.

I would like to close with some minor points. This legislation contains a section authorizing a study of weather-related factors in apportionment formulas, something that is very important to a State like West Virginia. The bill before us today changes the interstate 4-R apportionment from a land mile and vehicle mile traveled basis to one which considers gasoline and diesel fuel consumption in addition to vehicle miles. The purchase of gasoline and diesel fuel in a particular State has a very weak correlation to roadway conditions and is unfair to a rural State like West Virginia which does not have heavy traffic corridors insofar as fuel purchases are concerned. For this reason I look forward to the Secretary of Transportation's study authorized by this legislation.

Mr. Chairman, I commend the distinguished chairman of the Committee on Public Works and Transportation, JIM HOWARD, and the chairman of the Subcommittee on Surface Transportation, GLENN ANDERSON, for their diligence in bringing this most important legislation to the floor. I rise in strong support of this authorization and urge my colleagues to join in our effort to make America's roads sound again.●

● Mr. GILMAN. Mr. Chairman, the bill before us, H.R. 6211, poses real problems for me, inasmuch as the intentions are honorable, but the means are not. I understand that the desire to reduce unemployment, and the creation of over 300,000 jobs, as this legislation purports to do, is certainly a welcome step in rejuvenating our economic problems. I was however distressed to learn that not only was a tax of 5 cents per gallon to be levied on the public, but that additional and inequitous taxes were proposed regarding heavy trucks and trailers.

I voted against the fiscal portions of this measure for several reasons, Mr. Speaker, and I would like to explain my rationale for that vote. My concerns are many: The 5 cents a gallon tax is another burden on our senior citizens, who, especially in my area, must continue to rely on their automobiles due to the lack of a developed mass transit system. These men and women are being asked to shoulder another tax—money that would have gone for food, medicines, and other necessities of life. It is not right that we should continue to demand of the most deserving group in our society.

This tax is not in the best interests of all consumers, either, regardless of socioeconomic status. The automobile is used extensively, and for many purposes, by every eligible segment of our population. At a time when our goals have been to cut taxes in order to spur investments, this measure decreases the amount of disposable income available. The average family is struggling to meet their financial obligations, and, in this day and age, it is more than likely that one or more children, presently in college, possesses a car. For students to be asked to take additional money from part-time jobs for this tax, when it is probable that a portion of the tuition is being financed by that student, is another inequity that is created by this amendment.

I am also disappointed that the Ways and Means Committee opted to impose a substantial increase in taxes on trucks and trailers. The tax on tires, currently set at 9.75 cents per pound, is increased almost threefold to 25 cents per pound for tires over 100 pounds. Furthermore, the present 5 cent tax on tread rubber is increased fivefold to 25 cents per pound for tires over 100 pounds. The 12 percent tax on retail sales of trucks over 33,000 pounds, and trailers over 26,000 pounds, places a burden on those who might have been willing to invest in new vehicles; now, I fear, it will deter them.

What strikes me as clear about these taxes is that those utilizing trucks and trailers in their livelihood will now be forced to pass this additional cost on to the consumer. I was astounded to read that the taxes I have just mentioned are not the only taxes being levied at this time—the list goes on and on. The excise taxes on trucks have been raised enormously; the current tax is $3 per 1,000 pounds for trucks over 26,000 pounds. The amendment proposed not to tax vehicles under 33,000 pounds, but rather required a $60 plus $20 tax per 1,000 pounds for trucks between 33,000 and 55,000 pounds, a $500 plus $60 tax per 1,000 pounds for trucks between the weight of 55,000 and 80,000 pounds, and a flat $2,000 fee for trucks over 80,000. This is not a one-time tax, but an annual tax rate on each and every truck owned. This is sure to drain everyone who relies on trucks to bring goods to consumers, as the farmers in my district know. They will be forced to pay this money, and as the truck rolls along the highway to market, so will the prices increase in the foodstuffs being delivered to consumers.

As I stated earlier, I understand the salutary intent of this legislation. That is why I supported the final passage of the bill, despite my objections to the fiscal provision of the measure. The bulk of H.R. 6211 deals with necessary highway authorizations. But the 5 cents a gallon tax on the automobile user, as well as the additional taxes on truck and trailer owners, makes the amendment a real burden for us all. What the American people need are cogent and thoughtful solutions to the problems of our day, and this additional burden is no such animal.●

□ 1630

Mr. SHUSTER. Mr. Chairman, the gentleman from Maryland (Mr. MITCHELL) had asked for time. I do not see the gentleman on the floor at this time. If the gentleman were available I would be pleased to yield to him but I see he is not on the floor at this time and therefore I yield back the balance of my time.

Mr. ANDERSON. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the text of H.R. 7360 is consid-

ered by titles as an original bill for the purpose of amendment under the 5-minute rule, and each title is considered as having been read. It shall be in order to consider an amendment to said substitute recommended by the Committee on Ways and Means, if offered by the chairman of the Committee on Ways and Means, or his designee, inserting a new title. Said amendment shall not be subject to amendment except amendments recommended by the Committee on Ways and Means, which shall not be subject to amendment. After the adoption of the amendment recommended by the Committee on Ways and Means, no further amendments to the bill are in order.

The Clerk will designate section 1.

Section 1 reads as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Surface Transportation Assistance Act of 1982".

The CHAIRMAN. Are there any amendments to section 1?

If not, the Clerk will designate title I.

Title I reads as follows:

TITLE I

SHORT TITLE

SEC. 101. This title may be cited as the "Highway Improvement Act of 1982".

REVISION OF AUTHORIZATION FOR APPROPRIATIONS FOR THE INTERSTATE SYSTEM

SEC. 102. Subsection (b) of section 108 of the Federal-Aid Highway Act of 1956, as amended, is amended by striking out "the additional sum of $3,225,000,000 for the fiscal year ending September 30, 1984," and all that follows down through the period at the end of the sentence and by inserting in lieu thereof the following: "the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1984, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1985, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1986, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1987, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1988, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1989, and the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1990.".

APPROVAL OF INTERSTATE COST ESTIMATE

SEC. 103. (a) The Secretary of Transportation shall apportion for the fiscal year ending September 30, 1984, the sums authorized to be apportioned for such year by section 108(b) of the Federal-Aid Highway Act of 1956, as amended, for expenditures on the National System of Interstate and Defense Highways, using the apportionment factors contained in revised table 5 of the Committee Print Numbered 97-53 of the Committee on Public Works and Transportation of the House of Representatives.

(b)(1) For fiscal year 1984, no State, including the State of Alaska, shall be apportioned under this section less than one-half of 1 per centum of the amount authorized for such fiscal year by section 108(b) of the Federal-Aid Highway Act of 1956, as in effect immediately before the date of enactment of this Act. Whenever amounts made available under this subsection for the Interstate System in any State exceed the estimated cost of completing that State's portion of the Interstate System, and exceed the estimated cost of necessary resurfacing, restoration, rehabilitation, and reconstruction of the Interstate System within such State, the excess amount shall be available for expenditure for those purposes for which funds apportioned under paragraphs (1), (2), and (6) of such section 104(b) of title 23, United States Code, may be expended and shall also be available for expenditure to carry out section 152 of title 23, United States Code.

(2) Sections 3 and 4(b) of the Federal-Aid Highway Act of 1982 are repealed.

OBLIGATION CEILING

SEC. 104. (a) Notwithstanding any other provision of law, the total of all obligations for Federal-aid highways and highway safety construction programs shall not exceed—

(1) $12,200,000,000 for fiscal year 1983;

(2) $12,700,000,000 for fiscal year 1984;

(3) $13,500,000,000 for fiscal year 1985; and

(4) $14,400,000,000 for fiscal year 1986.

These limitations shall not apply to obligations for emergency relief under section 125 of title 23, United States Code, or projects covered under section 147 of the Surface Transportation Assistance Act of 1978, or section 9 of the Federal-Aid Highway Act of 1981. No obligation constraints shall be placed upon any ongoing emergency project carried out under section 125 of title 23, United States Code, or section 147 of the Surface Transportation Assistance Act of 1978.

(b) For each of the fiscal years 1983, 1984, 1985, and 1986, the Secretary of Transportation shall distribute the limitation imposed by subsection (a) by allocation in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to each State for such fiscal year bears to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to all the States for such fiscal year.

(c) During the period October 1 through December 31 of each of the fiscal years 1983, 1984, 1985, and 1986, no State shall obligate more than 35 per centum of the amount distributed to such State under subsection (b) for such fiscal year, and the total of all State obligations during such period shall not exceed 25 per centum of the total amount distributed to all States under such subsection for such fiscal year.

(d) Notwithstanding subsections (b) and (c), the Secretary shall—

(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction which have been apportioned or allocated to a State, except in those instances in which a State indicates its intention to lapse sums apportioned under section 104(b)(5)(A) of title 23, United States Code;

(2) after August 1 of each of the fiscal years 1983, 1984, 1985, and 1986, revise a distribution of the funds made available under subsection (b) for such fiscal year if a State will not obligate the amount distributed during such fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during such fiscal year giving priority to those States having large unobligated balances of funds apportioned under section 104 of title 23, United States Code; and

(3) not distribute amounts authorized for administrative expenses and forest highways.

(e)(1) Section 1106(b) of the Omnibus Budget Reconciliation Act of 1981 is repealed.

(2) Section 1106(c) of the Omnibus Budget Reconciliation Act of 1981 is amended to read as follows:

"(c) For the fiscal year 1982, the Secretary of Transportation shall distribute the limitation imposed by subsection (a) by allocation in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned to each State for such fiscal year bears to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned to all the States for such fiscal year.".

(3) Section 1106(d) of the Omnibus Budget Reconciliation Act of 1981 is amended by striking out "periods" and inserting in lieu thereof "period" and by striking out "and October 1 through December 31, 1982,".

(4) Section 1106(e)(2) of the Omnibus Budget Reconciliation Act of 1981 is amended by striking out "and after August 1, 1983,".

AUTHORIZATIONS

SEC. 105. (a) For the purpose of carrying out the provisions of title 23, United States Code, the following sums are hereby authorized to be appropriated:

(1) For the Federal-aid primary system in rural areas, including the extensions of the Federal-aid primary system in urban areas, and the priority primary routes, out of the Highway Trust Fund, $2,000,000,000 (reduced by the amount authorized by the first sentence of section 4(a)(1) of the Federal-Aid Highway Act of 1982) for the fiscal year ending September 30, 1983, $2,100,000,000 for the fiscal year ending September 30, 1984, $2,200,000,000 for the fiscal year ending September 30, 1985, and $2,500,000,000 for the fiscal year ending September 30, 1986. For the Federal-aid secondary system in rural areas, out of the Highway Trust Fund, $600,000,000 (reduced by the amount authorized by the second sentence of section 4(a)(1) of the Federal-Aid Highway Act of 1982) for the fiscal year ending September 30, 1983, $600,000,000 for the fiscal year ending September 30, 1984, $600,000,000 for the fiscal year ending September 30, 1985, and $600,000,000 for the fiscal year ending September 30, 1986.

(2) For the Federal-aid urban system, out of the Highway Trust Fund, $800,000,000 (reduced by the amount authorized by section 4(a)(2) of the Federal-Aid Highway Act of 1982) for the fiscal year ending September 30, 1983, and $800,000,000 per fiscal year for each of the fiscal years ending September 30, 1984, September 30, 1985, and September 30, 1986.

(3) For Indian reservation roads and bridges, $83,000,000 per fiscal year for each of the fiscal years ending September 30, 1983, September 30, 1984, September 30, 1985, and September 30, 1986.

(4) For the Virgin Islands, all such sums as may be required for the continued presence and operation of the office of the territorial representative of the Federal High-

way Administration in St. Thomas, Virgin Islands.

(5) For the Commonwealth of the Northern Mariana Islands, not to exceed $1,000,000 per fiscal year for each of the fiscal years ending September 30, 1983, September 30, 1984, September 30, 1985, and September 30, 1986. Sums authorized by this paragraph shall be expended in the same manner as sums authorized to carry out section 215 of title 23, United States Code. Sums authorized by this paragraph shall be available for obligation at the beginning of the period for which authorized in the same manner and to the same extent as if such sums were apportioned under chapter 1 of title 23, United States Code.

(6) For the forest highways, out of the Highway Trust Fund, $33,000,000 (reduced by the amount authorized by section 4(a)(3) of the Federal-Aid Highway Act of 1982) for the fiscal year ending September 30, 1983, and $33,000,000 per fiscal year for each of the fiscal years ending September 30, 1984, September 30, 1985, and September 30, 1986.

(7) For public lands highways, out of the Highway Trust Fund, $16,000,000 (reduced by the amount authorized by section 4(a)(4) of the Federal-Aid Highway Act of 1982) for the fiscal year ending September 30, 1983, and $16,000,000 per fiscal year for each of the fiscal years ending September 30, 1984, September 30, 1985, and September 30, 1986.

(b) Section 151 of the Federal-Aid Highway Act of 1978 is repealed.

(c) In the case of fiscal years 1983 and 1984, each State shall, with respect to any Federal funds available to such State for expenditure on the Federal-aid primary system in excess of the amount apportioned to such State under section 104(b)(1) of title 23, United States Code, for such expenditure in fiscal year 1982, give priority consideration to those priority primary routes under section 147 of this title designated in Committee Print Numbered 97-61 of the Committee on Public Works and Transportation of the House of Representatives.

(d) In the case of fiscal years 1983 and 1984, each State shall, with respect to any Federal funds available to such State for expenditure on the Federal-aid primary system, the Federal-aid secondary system, or the Federal-aid urban system in excess of the amount apportioned to such State under section 104(b) (1), (2), or (6), respectively, of title 23, United States Code, for such expenditure in fiscal year 1982, give priority consideration to any project authorized by section 163 of the Federal-Aid Highway Act of 1973 in such State on the Federal-aid primary system, the Federal-aid secondary system, or the Federal-aid urban system, respectively.

(e) Section 4(a) of the Federal-Aid Highway Act of 1982 is amended by striking out "a joint resolution making continuing appropriations for such fiscal year," and inserting in lieu thereof "Public Law 97-276,".

INTERSTATE RESURFACING

SEC. 106. Section 105 of the Surface Transportation Assistance Act of 1978 is amended by striking out "and not to exceed $800,000,000 for the fiscal year ending September 30, 1984." and inserting in lieu thereof "not to exceed $2,100,000,000 for the fiscal year ending September 30, 1984, not to exceed $2,400,000,000 for the fiscal year ending September 30, 1985, not to exceed $2,800,000,000 for the fiscal year ending September 30, 1986, and not to exceed $3,100,000,000 for the fiscal year ending September 30, 1987.".

INTERSTATE TRANSFERS

SEC. 107. (a)(1) Section 103(e)(4) of title 23, United States Code, is amended by striking out the eighth sentence and inserting in lieu thereof the following: "For the fiscal year ending September 30, 1983, $257,000,000 shall be available out of the Highway Trust Fund for expenditure at the discretion of the Secretary for projects under highway assistance programs. For the fiscal years ending September 30, 1984, September 30, 1985, and September 30, 1986, sums obligated for projects under highway assistance programs shall be paid out of the Highway Trust Fund, and $775,000,000 shall be available for expenditure during each such fiscal year. Twenty-five per centum of the funds available from the Highway Trust Fund for each of the fiscal years ending September 30, 1984, September 30, 1985, and September 30, 1986, for substitute highway projects under this paragraph shall be distributed at the discretion of the Secretary. The remaining 75 per centum of such funds shall be apportioned in accordance with cost estimates approved by Congress. The Secretary shall make an estimate of the cost of completing substitute highway projects under this paragraph and transmit the same to the Senate and the House of Representatives as soon as practicable after the date of enactment of this sentence. Upon approval of such cost estimate by Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for substitute highway projects for the fiscal year ending September 30, 1984. The Secretary shall make a revised estimate of the cost of completing substitute highway projects under this paragraph and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1984, and upon approval by Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for substitute highway projects for the fiscal years ending September 30, 1985, and September 30, 1986. There are authorized to be appropriated for liquidation of obligations incurred under this paragraph for public mass transit projects such sums as may be necessary from the general fund of the Treasury. Twenty-five per centum of the funds appropriated for each fiscal year beginning after September 30, 1983, for carrying out substitute transit projects under this paragraph shall be distributed at the discretion of the Secretary. The remaining 75 per centum of such funds shall be apportioned in accordance with cost estimates approved by Congress. The Secretary shall make an estimate of the cost of completing substitute transit projects under this paragraph and transmit the same to the Senate and the House of Representatives as soon as practicable after the date of enactment of this sentence. Upon approval of such cost estimate by Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for substitute transit projects for the fiscal year ending September 30, 1984. The Secretary shall make a revised estimate of the cost of completing substitute transit projects under this paragraph and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1984, and upon approval by Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for substitute transit projects for the fiscal years ending September 30, 1985, and September 30, 1986.".

(2) Section 103(e)(4) of title 23, United States Code, is amended by striking out the sixth sentence and inserting in lieu thereof the following: "The sums apportioned under this paragraph for public mass transit projects shall remain available for the fiscal year for which apportioned. The sums available for obligation under this paragraph for projects under any highway assistance program shall remain available for the fiscal year for which apportioned. Any sums which are apportioned to a State for a fiscal year and are unobligated (other than an amount which, by itself, is insufficient to pay the Federal share of the cost of a substitute project which has been submitted by the State to the Secretary for approval) at the end of such fiscal year shall be apportioned among those States which have obligated all sums (other than such an amount) apportioned to them for such fiscal year, in accordance with the latest approved estimate of the cost of completing the appropriate substitute projects in such States.".

(b) Section 103(e)(4) of title 23, United States Code, is amended by adding at the end thereof the following: "Any route or segment thereof which was statutorily designated after March 7, 1978, to be on the Interstate System shall not be eligible for withdrawal or substitution under this subsection.".

(c) Section 103(e)(4) of title 23, United States Code, is further amended by—

(1) inserting in the second sentence after the words "approved by Congress," the following: "or up to and including the 1983 interstate cost estimate, whichever is earlier,";

(2) striking out in the second sentence "the date of enactment of the Federal-Aid Highway Act of 1976 or" and "whichever is later, and in accordance with the design of the route or portion thereof that is the basis of the latest cost estimate";

(3) inserting in the second sentence after "approval of each substitute project under this paragraph," the following: "or the date of approval of the 1983 interstate cost estimate, whichever is earlier,".

(d) The third sentence of section 103(e)(4) of title 23, United States Code, is amended by striking out the period and inserting in lieu thereof the following: ", and except that with respect to any route which on May 12, 1982, is under judicial injunction prohibiting its construction the Secretary may approve substitute projects and withdrawals on such route for a reasonable period of time after September 30, 1983.".

(e) Section 115 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) When a State proceeds to construct without the aid of Federal funds any substitute highway project approved under section 103(e)(4) of this title, in accordance with all procedures and requirements applicable to such projects, except insofar as such procedures and requirements limit a State to the construction of projects with the aid of Federal funds previously apportioned to it, the Secretary, upon application by such State and his approval of such application, is authorized to pay to such State the Federal share of the cost of construction of such project when additional funds are apportioned to such State under section 103(e)(4) of this title if—

"(1) prior to the construction of the project the Secretary approves the plans and specifications therefor in the same manner as other projects approved under section 103(e)(4) of this title, and

"(2) the project conforms to the applicable standards under section 109 of this title. The Secretary may not approve an application under this section unless an authorization is in effect for the fiscal year for which the application is sought beyond the currently authorized funds for such State. No application may be approved which will exceed the State's expected apportionment of such authorizations.".

(f) The first sentence of section 122 of title 23, United States Code, is amended to read as follows: "Any State that shall use the proceeds of bonds issued by the State, county, city, or other political subdivision of the State for the construction of one or more projects on the Federal-aid primary or Interstate System, or extensions of any of the Federal-aid highway systems in urban areas, or for substitute highway projects approved under section 103(e)(4) of this title, may claim payment of any portion of the sums apportioned to it for expenditure on such system or on highway projects approved under section 103(e)(4) of this title to aid in the retirement of the principal of such bonds the proceeds of which were used for projects on the Federal-aid primary system or extensions of any of the Federal-aid highway systems in urban areas and the retirement of the principal and interest of such bonds the proceeds of which were used for projects on the Interstate System or for substitute highway projects approved under section 103(e)(4) of this title at their maturities, to the extent that the proceeds of such bonds have been actually expended in the construction of one or more of such projects.".

(g) Section 107(e) of the Federal-Aid Highway Act of 1978 is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, the term 'construction' has the meaning such term has under section 101(a) of title 23, United States Code.".

FEDERAL-AID PRIMARY FORMULA

SEC. 108. (a) Section 104(b)(1) of title 23, United States Code, is amended to read as follows:

"(1) For the Federal-aid primary system (including extensions in urban areas and priority primary routes): One-half in the ratio which the population of rural areas of each State bears to the total population of rural areas of all the States as shown by the latest available Federal census and one-half in the ratio which the population in urban areas in each State bears to the total population in urban areas in all the States as shown by the latest Federal census. For purposes of this paragraph and subsection (b) of section 103 of this title, the Virgin Islands, Guam, and American Samoa shall be considered together as one State. The State consisting of the Virgin Islands, Guam, and American Samoa shall not receive less than one-half of one per centum of each year's apportionment.".

(b) The amendment made by subsection (a) of this section shall take effect October 1, 1982, and apply with respect to each fiscal year beginning on or after such date. Notwithstanding section 104(b) of title 23, United States Code, as soon as practical after the date of enactment of this Act, the Secretary of Transportation shall apportion under paragraph (1) of such section, as amended by subsection (a) of this section, sums authorized to be appropriated for expenditure upon the Federal-aid primary system for the fiscal year ending September 30, 1983. For such fiscal year, no State shall be apportioned less under such paragraph (1), as so amended, than such State was apportioned for such fiscal year under such paragraph (1) before the date of enactment of this Act.

(c) Section 103(b)(1) of title 23, United States Code, is amended by striking out "or Puerto Rico" and inserting in lieu thereof "Puerto Rico, the Virgin Islands, Guam, and American Samoa".

INTERSTATE RESURFACING FORMULA

SEC. 109. Section 104(b)(5)(B) of title 23, United States Code, is amended by striking out "55 per centum" and inserting in lieu thereof "(i) For the fiscal year ending on September 30, 1983, 55 per centum" and by adding at the end thereof the following:

"(ii) For fiscal years beginning on or after October 1, 1983, one-third in the ratio that vehicle miles traveled on lanes on the Interstate routes designated under sections 103 and 139(c) of this title (other than those on toll roads not subject to a Secretarial agreement provided for in section 105 of the Federal-Aid Highway Act of 1978) in each State bears to the total of all such vehicle miles in all States; one-third in the ratio that gasoline used by motor vehicles on highways in such State bears to the total of gasoline used by motor vehicles on highways in all States; and one-third in the ratio that diesel fuel used by motor vehicles on highways in such State bears to the total of diesel fuel used by motor vehicles on highways in all States. For the fiscal year ending September 30, 1984, no State shall be apportioned less under this clause than such State was apportioned before the date of enactment of this clause under this subparagraph for such fiscal year.

The Secretary shall establish such rules and regulations as may be necessary to carry out this provision.".

ENERGY IMPACTED ROADS

SEC. 110. (a) Section 105 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) In preparing programs to submit in accordance with subsection (a) of this section, the State highway departments may give priority to projects for the reconstruction, resurfacing, restoration, or rehabilitation of highways which are incurring a substantial use as a result of transportation activities to meet national energy requirements and which will continue to incur such use, and in approving such programs the Secretary may give priority to such projects.".

(b) Section 120 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(k) Notwithstanding any other provision of this section, the Federal share payable on account of any project under this title to reconstruct, resurface, restore, and rehabilitate any highway which the Secretary determines, at the request of any State, is incurring a substantial use as a result of transportation activities to meet national energy requirements and will continue to incur such use is 85 per centum of the cost of such project.".

COST REDUCTION

SEC. 111. Section 106(d) of title 23, United States Code, is amended to read as follows:

"(d) Plans, specifications, and estimates for proposed projects on any Federal-aid system shall be accompanied by a value engineering or other cost reduction analysis on all projects with construction costs of $2,000,000 or above. The Secretary shall establish such rules and regulations as may be necessary to carry out this provision.".

RESURFACING STANDARDS

SEC. 112. (a) Section 109 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(o) It is the intent of Congress that any project for resurfacing, restoring, or rehabilitating any highway, other than a highway access to which is fully controlled, in which Federal funds participate shall be constructed in accordance with standards to preserve and extend the service life of highways and enhance highway safety.".

(b) The Secretary of Transportation shall enter into appropriate arrangements with the National Academy of Sciences (1) to conduct a study of the safety cost-effectiveness of geometric design criteria of standards currently in effect for construction and reconstruction of highways, other than highways access to which is fully controlled, to determine the most appropriate minimum standards to apply to resurfacing, restoration, and rehabilitation projects on such highways, and (2) to propose standards to preserve and extend the service life of such highways and enhance highway safety. The National Academy of Sciences shall conduct such study in cooperation with the National Transportation Safety Board, the Congressional Budget Office, and the American Association of State Highway and Transportation Officials. Upon completion of such study, the National Academy of Sciences shall submit such study and its proposed standards to the Secretary of Transportation for review. Within ninety days after submission of such standards to the Secretary of Transportation, the Secretary shall submit such study and the proposed standards of the National Academy of Sciences, together with the recommendations of the Secretary, to Congress for approval.

VENDING MACHINES

SEC. 113. Section 111 of title 23, United States Code, is amended by inserting "(a)" before "All agreements between the Secretary" and by adding at the end thereof the following new subsection:

"(b) Notwithstanding subsection (a) of this section, any State may permit the placement of vending machines in rest and recreation areas and in safety rest areas constructed or located on rights-of-way of the Interstate System in such State. Such vending machines may only dispense such food, drink, and other articles as the State highway department determines are appropriate and desirable. Such vending machines may only be operated by the State through the State licensing agency designated pursuant to section 2(a)(5) of the Act of June 20, 1936, commonly known as the Randolph-Sheppard Act (20 U.S.C. 107a(a)(5)). The costs of installation, operation, and maintenance of vending machines under this section shall not be eligible for Federal assistance under this title.".

LETTING OF CONTRACTS

SEC. 114. Section 112 of title 23, United States Code, is amended—

(1) in subsection (b) by striking out "unless the Secretary shall affirmatively find that, under the circumstances relating to such project, some other method is in the public interest" and inserting in lieu thereof "unless the State highway department demonstrates, to the satisfaction of the Secretary, that some other method is more cost effective"; and

(2) by striking out subsection (e).

CONSTRUCTION IN ADVANCE OF APPORTIONMENT

SEC. 115. (a) Section 115(b)(2) of title 23, United States Code, is amended by striking out "1978" each place it appears and inserting in lieu thereof "1983".

(b) Section 115(b) of title 23, United States Code, is amended by adding at the end thereof the following:

"(3) subject to the provisions of this paragraph, the cost of construction of a project, the Federal share of which the Secretary is authorized to pay under this subsection, shall include the amount of any interest earned and payable on bonds issued by the State to the extent that the proceeds of such bonds have actually been expended in the construction of such project. In no event shall the amount of interest considered as a cost of construction of a project under the preceding sentence be greater than the excess of (A) the amount which would be the estimated cost of construction of the project if the project were to be constructed at the time the project is converted to a regularly funded project, over (B) the actual cost of construction of such project (not including such interest). The Secretary shall consider changes in construction cost indices in determining the amount under clause (A) of this paragraph.".

ADVANCE CONSTRUCTION FOR BRIDGE PROJECTS

SEC. 116. Section 115 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) When a State has obligated all funds apportioned to it under section 144 of this title, and proceeds to construct any project without the aid of Federal funds for the replacement or rehabilitation of a bridge in accordance with all procedures and all requirements applicable to projects under such section, except insofar as such procedures and requirements limit a State to the construction of projects with the aid of Federal funds previously apportioned to it, the Secretary, upon application by such State and his approval of such application, is authorized to pay to such State the Federal share of the costs of construction of such project when additional funds are apportioned to such State under section 144 of this title if—

"(1) prior to the construction of the project the Secretary approves the plans and specifications therefor in the same manner as other projects under such section; and

"(2) the project conforms to the applicable standards adopted under section 109 of this title.

The Secretary may not approve an application under this section unless an authorization is in effect for the fiscal year for which the application is sought beyond the currently authorized funds for such State and no application may be approved which will exceed the State's expected apportionment of such authorizations.".

MAINTENANCE

SEC. 117. The second sentence of subsection (c) of section 116 of title 23, United States Code, is amended to read as follows: "If, within ninety days after receipt of such notice, such project has not been put in proper condition of maintenance, the Secretary shall withhold approval of further projects of all types in the State highway district, municipality, county, other political or administrative subdivision of the State, or the entire State in which such project is located, whichever the Secretary deems most appropriate, until such project shall have been put in proper condition of maintenance.".

INTERSTATE DISCRETIONARY FUNDS

SEC. 118. (a) Section 118(b) of title 23, United States Code, is amended to read as follows:

"(b)(1) Sums apportioned to each Federal-aid system (other than the Interstate System) shall continue available for expenditure in that State for the appropriate Federal-aid system or part thereof (other than the Interstate System) for a period of three years after the close of the fiscal year for which such sums are authorized and any amounts so apportioned remaining unexpended at the end of such period shall lapse.

"(2) Except as otherwise provided in this subsection, sums apportioned for the Interstate System in any State shall remain available for expenditure in that State for the Interstate System until the end of the fiscal year for which authorized. Sums not obligated within the time period prescribed by the preceding sentence shall be made available by the Secretary for projects on the Interstate System (other than projects for which sums are apportioned under section 104(b)(5)(B)) in accordance with the following priorities: First, for high cost projects which directly contribute to the completion of an Interstate segment which is not open to traffic; and second, for projects of high cost in relation to a State's apportionment. Sums may only be made available under this paragraph in any State if the Secretary determines that the State has obligated all of its apportionments other than an amount which, by itself, is insufficient to pay the Federal share of the cost of a project on the Interstate System which has been submitted by such State to the Secretary for approval, and the applicant is willing and able to (A) apply the funds to a ready-to-commence project; and (B) in the case of construction work, begin work within ninety days of obligation. Sums made available under this paragraph shall remain available until expended.

"(3) Any amount apportioned to the States for the Interstate System under subsection (b)(5)(B) of section 104 of this title shall continue to be available for expenditure in that State for a period of two years after the close of the fiscal year for which such sums are authorized. Sums not obligated within the time period prescribed by the preceding sentence shall be made available by the Secretary for projects for resurfacing, restoring, rehabilitating, and reconstructing the Interstate System to any other State applying for such funds, if the Secretary determines that the State has obligated all of its apportionments under such subsection other than an amount which, by itself, is insufficient to pay the Federal share of the cost of such a project which has been submitted by such State to the Secretary for approval, and the applicant is willing and able to (A) obligate the funds within one year of the date the funds are made available; (B) apply them to a ready-to-commence project; and (C) in the case of construction work, begin work within ninety days of obligation. Sums made available under this paragraph shall remain available until expended.

"(4) Sums apportioned to a Federal-aid system for any fiscal year shall be deemed to be expended if a sum equal to the total of the sums apportioned to the State for such fiscal year and previous fiscal years is obligated. Any Federal-aid highway funds released by the payment of the final voucher or by the modification of the formal project agreement shall be credited to the same class of funds, primary, secondary, urban, or interstate, previously apportioned to the State and be immediately available for expenditure.".

(b) Section 118 of title 23 is amended by relettering subsections (c) and (d) as subsections (e) and (f), respectively, and by adding after subsection (b) thereof the following new subsections:

"(c) Before any apportionment is made under section 104(b)(5)(A) of this title for a fiscal year beginning after September 30, 1983, the Secretary shall set aside $300,000,000. Such amount shall be available only for obligation by the Secretary in accordance with subsection (b)(2) of this section.

"(d) In addition to amounts otherwise available to carry out this section, an amount equal to the amount by which the unobligated apportionment for the Interstate System in any State is reduced under section 103(e)(4) of this title on account of the withdrawal of a route or portion thereof on the Interstate System, which withdrawal is approved after the date of enactment of this subsection, shall be available to the Secretary for obligation in accordance with subsection (b)(2) of this section.".

INTERSTATE SYSTEM RESURFACING TRANSFERS

SEC. 119. (a)(1) Section 119(a) of title 23, United States Code, is amended by inserting after the first sentence the following: "In addition to projects approved under the preceding sentence, beginning with funds apportioned for fiscal year 1984, the Secretary may approve projects for resurfacing, restoring, rehabilitating, and reconstructing those routes or portions thereof on the Interstate System designated before the date of enactment of this sentence under section 139(a) of this title (other than routes on toll roads not subject to a Secretarial agreement provided for in section 105 of the Federal-Aid Highway Act of 1978) which routes or portions were so designated in conjunction with the withdrawal of approval of another route or portion thereof on the Interstate System under section 103(e)(4) of this title.".

(2) The last sentence of section 119(a) of title 23, United States Code, is amended by striking out "designated under sections 103 and 139(c) of this title" and inserting in lieu thereof "under this subsection".

(3) The last sentence of section 139(a) of title 23, United States Code, is amended by striking out the period at the end thereof and inserting in lieu thereof the following: ", except that any State may use funds available to it under section 104(b)(1) of this title and, beginning with funds apportioned for fiscal year 1984, under section 104(b)(5)(B) of this title for the resurfacing, restoring, rehabilitating, and reconstructing of any route or portion thereof on the Interstate System on which a project may be approved under the second sentence of section 119(a) of this title.".

(b) The last subsection of section 119 of title 23, United States Code, is relettered as subsection (c).

(c) Section 119 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) Upon application by a State and approval by the Secretary, the Secretary may authorize the transfer of so much of the amount apportioned to such State for any fiscal year under paragraph (5)(A) of subsection (b) of section 104 of this title, as does not exceed the Federal share of the cost of segments of the Interstate System open to traffic in such State (other than

high occupancy vehicle lanes), in the most recent cost estimate, to the apportionment under paragraph (5)(B) of subsection (b) of section 104 of this title, except that not more than 50 per centum of the total apportionment under such paragraph (5)(A) for a fiscal year shall be transferred under this subsection for such fiscal year. The next cost estimate submitted to Congress under paragraph (5)(A) of subsection (b) of such section 104 of the cost of completing segments of the Interstate System open to traffic in that State (other than high occupancy vehicle lanes) shall be reduced for such State in an amount equal to the amount transferred under this subsection.".

FEDERAL SHARE

SEC. 120. (a) Section 120(c) of title 23, United States Code, is amended by adding at the end thereof the following new sentence: "Notwithstanding subsection (a) of this section, the Federal share payable on account of any project financed with primary funds on the Interstate System for resurfacing, restoring, rehabilitating, and reconstructing shall be the percentage provided in this subsection.".

(b) Section 120(d) of title 23, United States Code, is amended by inserting "or for pavement marking" after "signalization" and by adding at the end thereof the following: "The Federal share payable on account of any project for traffic control signalization under section 103(e)(4) of this title may amount to 100 per centum of the cost of construction of such project.".

(c) Section 120 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(j) Notwithstanding any other provision of this section (other than subsection (i)), of this title, or of any other law, in any case where a State elects to use funds apportioned to it for any Federal-aid system for any project, under sections 143, 146, 148, 155, and 217 of this title, section 163 of the Federal-Aid Highway Act of 1973, as amended, and for those priority primary routes under section 147 of this title designated in Committee Print Numbered 97-61 of the Committee on Public Works and Transportation of the House of Representatives, the Federal share payable on account of such project shall be 95 per centum of the cost thereof, unless—

"(1) such project is on land owned by the United States in which case the Federal share shall be 100 per centum of the cost of such project, or

"(2) a Federal share of the cost of the project greater than 95 per centum is specifically authorized by law.".

HIGHWAY BEAUTIFICATION

SEC. 121. (a) Subsections (a), (b), (c), and (d) of section 131 of title 23, United States Code, are amended to read as follows:

"(a) The Congress hereby finds and declares that it is in the public interest to deregulate to the maximum extent practicable Federal controls over outdoor advertising signs, displays, and devices and for the States to control the erection, maintenance, and eminent domain removal of outdoor advertising signs, displays, and devices in order to protect the public investment in highways, to preserve communications through the outdoor medium, and to promote natural beauty in scenic areas.

"(b)(1) For purposes of this section, the term 'outdoor advertising sign, display, or device' means an outdoor billboard or other display or device which (A) is customarily used to communicate a commercial or noncommercial message, and (B)(i) is located within six hundred and sixty feet of the nearest edge of the right-of-way of the Interstate System or the primary system and is visible from the main traveled way of such system, or (ii) outside of urban areas, is located more than six hundred and sixty feet from the nearest edge of the right-of-way, is visible from the main traveled way of such system, and is erected with the purpose of its message being read from such main traveled way.

"(2) This section does not apply to—

"(A) directional and official signs and notices, conforming to national standards promulgated by the Secretary;

"(B) signs, displays, and devices advertising the sale or lease of property upon which they are located;

"(C) signs, displays, and devices, including those which may be changed at reasonable intervals by electronic process or by remote control, advertising activities conducted on the property on which they are located;

"(D) signs lawfully in existence on October 22, 1965, determined by the State, to be landmark signs, including signs on farm structures or natural surfaces, of historic or artistic significance; and

"(E) signs, displays, and devices advertising the distribution by nonprofit organizations of free coffee to individuals traveling on the Interstate System or the primary system.

For the purposes of this subsection, the term 'free coffee' shall include coffee for which a donation may be made, but is not required.

"(c) Each State is encouraged to make such provision as it deems proper for the effective control of the location, erection, maintenance, or removal of outdoor advertising signs, displays, and devices. In order to assure that any control efforts are effective, the control efforts taken by a State, and by a political subdivision thereof, with respect to the location, erection, maintenance, or removal of such outdoor advertising signs, displays, and devices shall include, at a minimum, the following:

"(1) A requirement that outdoor advertising signs, displays, and devices may be erected only in areas which are zoned commercial or industrial under authority of State law and in such unzoned commercial and industrial areas as the State may deem appropriate;

"(2) Prohibition of the erection of any outdoor advertising sign, display, or device upon a site previously occupied by an outdoor advertising sign, display, or device which has been removed by order of a State or a political subdivision thereof, and for which just compensation has been paid;

"(3) The payment of just compensation through condemnation or eminent domain for any outdoor advertising sign, display, or device, lawfully erected under State law, upon the removal or upon the substantial impairment of the customary use or maintenance of such sign, display, or device by the State or any political subdivision thereof whether or not removed pursuant to or because of this section. Such compensation shall be paid for the taking from the owner of such sign, display, or device of his interest therein, and for the taking from the owner of the real property, on which such sign, display, or device is located, of the right to erect and maintain outdoor advertising signs, displays, and devices thereon. In the case of any outdoor advertising sign, display, or device, lawfully erected under State law, which is damaged or destroyed by an act of God or by a willful act of a third party, any action by a State or a political subdivision of a State which has the effect of preventing the owner from restoring such sign, display, or device to its previous condition or replacing such sign, display, or device with an outdoor advertising sign, display, or device meeting the requirements of State law which applied to the damaged or destroyed sign, display, or device at the time it was erected, shall be considered a substantial impairment of the customary use or maintenance of such sign, display, or device. For purposes of this paragraph, no growth of vegetation which wholly or partially impairs the visibility of an outdoor advertising sign, display, or device shall be considered a substantial impairment of the customary use or maintenance of such sign, display, or device unless such growth is the result of any action by a State or any political subdivision thereof which is primarily intended to conceal such sign, display, or device; and

"(4) Prohibition of the erection of any such sign, display, or device within areas which have been specifically designated by the State as scenic areas or areas of historic preservation if such prohibition is general and not applicable or intended for the control of outdoor advertising signs, displays, or devices.

"(d) In order to assure that each State, in the exercise of its discretion, makes some provision for control of the location, erection, maintenance, or removal of outdoor advertising signs, displays, and devices and does not eliminate all such controls, the Governor of each State shall certify to the Secretary annually that the State has a program which provides for the reasonable and orderly control of outdoor advertising, incorporating the minimum controls set forth in subsection (c) of this section. The Secretary shall accept as such certification a statement that a State has continued to enforce the controls on outdoor advertising which were in effect in such State on January 1, 1982.

"(e) Where the Secretary determines that a State has failed to establish effective control regarding the location, erection, maintenance, or removal of outdoor advertising signs, displays, or devices in accordance with subsections (c) and (d), Federal-aid highway funds apportioned to that State shall be reduced by an amount equal to 10 per centum of the amounts which would otherwise be apportioned to such State under section 104 of this title, until such time as such State shall provide for effective control. Any amount withheld from apportionment to any State hereunder shall be apportioned to the other States.

"(f) The Secretary may promulgate only such procedural regulations as are necessary for the enforcement of this section.".

(b) Section 131 of title 23, United States Code, is amended by striking out subsections (e), (g), (h), (l), (m), (n), (o), (p), and (q) and by redesignating subsections (f), (i), (j), and (k), and any references thereto, as subsections (g), (h), (i), and (j), respectively.

(c) Subsection (j) of section 131 of title 23, United States Code, as redesignated by subsection (b) of this section, is amended by striking out "(g)" and inserting in lieu thereof "(c)(3)".

(d) Section 131 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(k) There is authorized to be appropriated to carry out the provisions of subsection (i) of this section such sums as may be necessary.".

APPROACHES

SEC. 122. Subsection (c) of section 129 of title 23, United States Code, is amended by adding at the end thereof the following: "In the case of any connection of a highway free of tolls with a toll facility, Federal funds available for expenditure on any Federal-aid system may be expended on a project for an approach, as defined by the Secretary, to any toll road, bridge, or tunnel to that point where such approach enters the main lanes of the toll facility or the toll plaza, whichever first occurs. No Federal funds shall be expended for toll collection equipment.".

PARKING FACILITIES

SEC. 123. (a) Subsection (a) of section 137 of title 23, United States Code, is amended by inserting "(1)" after "(a)" and by inserting at the end thereof the following:

"(2) The Secretary may approve as a project on the Interstate System the acquisition of land adjacent to the right-of-way and the construction of publicly owned parking facilities thereon or within such right-of-way, including the use of the air space above and below the established grade line of the highway pavement. Such parking facility shall be for the exclusive use of carpools and vanpools. In the event fees are charged for the use of any such facility, the rate thereof shall not be in excess of that required for maintenance and operation (including compensation to any person for operating such facility). Sums apportioned under section 104(b)(5)(B) of this title shall be available to pay the Federal share of the cost of projects authorized by this paragraph.".

(b) Subsection (b)(2) of section 137 of such title is amended by inserting after "including" the following: ", in the case of any project approved under subsection (a)(1) of this section,".

(c) Subsection (e) of section 137 of such title is amended by inserting after "project" the following: "in an urbanized area".

EQUAL OPPORTUNITY

SEC. 124. (a) The first and third sentences of subsection (a) of section 140 of title 23, United States Code, are amended by striking out "or national origin" and inserting in lieu thereof ", national origin, or sex".

(b) Subsection (b) of section 140 of title 23, United States Code, is amended by striking out the second and third sentences and inserting in lieu thereof the following new sentence: "Of the sums available for carrying out the provisions of section 104(a) of this title, not to exceed $10,000,000 per fiscal year, as provided in annual appropriation Acts, shall be available for the administration of this subsection.".

(c) Section 140 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) The Secretary, in cooperation with any other department or agency of the Government, State agency, authority, association, institution, corporation (profit or nonprofit), or any other organization or person, is authorized to develop, conduct, and administer training programs and assistance programs in connection with any program under this title in order that minority businesses may achieve proficiency to compete, on an equal basis, for contracts and subcontracts under this title. Of the sums available for carrying out the provisions of section 104(a) of this title, not to exceed $10,000,000 per fiscal year, as provided in annual appropriation Acts, shall be available for the administration of this subsection. The provisions of section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), and section 302 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252) shall not be applicable to contracts and agreements made under the authority granted to the Secretary by this section.".

(d)(1) The heading of section 140 of title 23, United States Code, is amended to read as follows:

"§ 140. Equal opportunity"

(2) The analysis for chapter 1 of title 23, United States Code, is amended by striking out

"140. Equal employment opportunity."

and inserting in lieu thereof

"140. Equal opportunity.".

PUBLIC TRANSPORTATION

SEC. 125. The last sentence of section 142(a)(1) of title 23, United States Code, is amended by inserting "and the cost of providing shuttle service to and from the facility" after "of the facility" and by inserting "and for providing such shuttle service" after "operating the facility".

BRIDGE PROGRAM APPORTIONMENT

SEC. 126. (a) Subsection (e) of section 144 of title 23, United States Code, is amended to read as follows:

"(e) Funds authorized to carry out this section shall be apportioned among the several States on October 1 of the fiscal year for which authorized in accordance with this subsection. Each deficient bridge shall be placed into one of the following categories: (1) Federal-aid system bridges eligible for replacement, (2) Federal-aid system bridges eligible for rehabilitation, (3) off-system bridges eligible for replacement, and (4) off-system bridges eligible for rehabilitation. The square footage of deficient bridges in each category shall be multiplied by the respective unit price on a State-by-State basis, as determined by the Secretary; and the total cost in each State divided by the total cost of the deficient bridges in all States shall determine the apportionment factors. No State shall receive more than 10 per centum or less than 0.25 per centum of the total apportionment for any one fiscal year. The Secretary shall make these determinations based upon the latest available data, which shall be updated annually.".

(b) The amendment made by subsection (a) of this section shall take effect October 1, 1982, and shall apply with respect to each fiscal year beginning on or after such date. Notwithstanding subsection (e) of section 144 of title 23, United States Code, as soon as practical after the date of enactment of this Act, the Secretary of Transportation shall apportion under such subsection (e), as amended by subsection (a) of this section, sums authorized to be appropriated to carry out such section 144 for the fiscal year ending September 30, 1983.

HIGHWAY BRIDGE REPLACEMENT AND REHABILITATION

SEC. 127. (a) Subsection (g) of section 144 of title 23, United States Code, is amended by inserting after "(g)" the following: "(1)". Such subsection is further amended by striking out the fourth and fifth sentences and by adding at the end thereof the following:

"(2) Of the amount authorized per fiscal year for each of the fiscal years ending September 30, 1983, September 30, 1984, September 30, 1985, and September 30, 1986, by section 5(a)(1) of the Federal-Aid Highway Act of 1982 and section 202(1) of the Highway Safety Act of 1982, all but $200,000,000 per fiscal year shall be apportioned as provided in subsection (e) of this section. $200,000,000 per fiscal year of the amount authorized for each of the fiscal years ending September 30, 1983, September 30, 1984, September 30, 1985, and September 30, 1986, shall be available for obligation on the date of each such apportionment in the same manner and to the same extent as the sums apportioned on such date, except that the obligation of such $200,000,000 shall be at the discretion of the Secretary and shall be only for projects for those highway bridges the replacement or rehabilitation cost of each of which is more than $10,000,000, and for any project for a highway bridge the replacement or rehabilitation costs of which is less than $10,000,000 if such cost is at least twice the amount apportioned to the State in which such bridge is located under subsection (e) of this section for the fiscal year in which application is made for a grant for such bridge. Not less than 15 per centum nor more than 35 per centum of the amount apportioned to each State in each of the fiscal years ending September 30, 1983, September 30, 1984, September 30, 1985, and September 30, 1986, shall be expended for projects to replace or rehabilitate highway bridges located on public roads, other than those on a Federal-aid system. The Secretary after consultation with State and local officials may, with respect to a State, reduce the requirement for expenditure for bridges not on a Federal-aid system when he determines that such State has inadequate needs to justify such expenditure.".

(b) Notwithstanding section 144 of title 23, United States Code, and any other provision of law, the Secretary of Transportation may approve under such section 144 (including subsection (g)) a project to relocate and replace (1) any bridge across a river located on a two-lane Federal-aid highway which is in a slide area, in a flood plain, and in the vicinity of and north of Cloverdale, California, together with (2) all highways and approaches required as a result of such relocation and replacement.

(c) Notwithstanding section 144 of title 23, United States Code, and any other provision of law, the Secretary of Transportation may approve under such section 144 (including subsection (g)) a project to replace the La-Salle Peru Bridge which is part of a complete replacement of United States 51 in a new location.

CARPOOL AND VANPOOL PROJECTS

SEC. 128. Subsection (b) of section 146 of title 23, United States Code, is amended by striking out "A project authorized by this section" and inserting in lieu thereof the following: "The Federal share of a project authorized by this section shall be that provided in section 120(j) of this title, and such project otherwise".

ALLOCATION OF URBAN FUNDS

SEC. 129. (a) Section 150 of title 23, United States Code, is amended by adding at the end thereof the following: "Funds allocated to an urbanized area under this section may, at the request of the Governor of a State and upon approval of the appropriate local officials of such area and of the Secretary, be made available for expenditure in another urbanized area or in any urban area in such State.".

HAZARD ELIMINATION PROGRAM EXTENSION

SEC. 130. Subsection (c) of section 152 of title 23, United States Code, is amended to read as follows:

"(c) Funds authorized to carry out this section shall be available for expenditure on any public road (other than a highway on the Interstate System).".

FEDERAL LANDS HIGHWAYS PROGRAM

SEC. 131. (a) Section 204 of title 23, United States Code, is amended to read as follows:

"§ 204. Federal lands highways program

"(a) Recognizing the need for all Federal roads to be treated under the same uniform policies there is established a coordinated Federal lands highways program to be administered by the Secretary which shall consist of the forest highways, public lands highways, park roads, parkways, and Indian reservation roads and bridges as defined in section 101 of title 23, United States Code.

"(b) Funds available for forest highways and public lands highways shall be used by the Secretary to pay for the cost of construction and improvement thereof. Funds available for park roads, parkways, and Indian reservation roads and bridges shall be used by the Secretary of the Interior to pay for the cost of construction and improvement thereof. In connection therewith, the Secretary or the Secretary of the Interior, as appropriate, may enter into construction contracts and such other contracts with a State, or civil subdivision thereof as deemed advisable.

"(c) Cooperation of States, counties, or other local subdivisions may be accepted in construction and improvement, and any funds received from a State, county, or local subdivision shall be credited to appropriations available for the class of Federal lands highways to which such funds were contributed.

"(d) Construction of each project shall be performed by contracts awarded by competitive bidding, unless the Secretary or the Secretary of the Interior, as appropriate, shall affirmatively find that, under the circumstances relating to such project, some other method is in the public interest.

"(e) All appropriations for the construction and improvement of each class of Federal lands highways shall be administered in conformity with regulations and agreements jointly approved by the Secretary and the Secretary of the appropriate Federal land managing agency.

"(f) The Secretary shall transfer to the Secretary of Agriculture from appropriations for forest highways such amounts as may be needed to cover necessary administrative expenses of the Forest Service in connection with forest highways.

"(g) Funds available for each class of Federal lands highways shall be available for adjacent vehicular parking areas and scenic easements.

"(h) As used in this section, the term 'Federal lands highways' means forest highways, public lands highways, park roads, parkways, and Indian reservation roads and bridges.".

(b) Section 202 of title 23, United States Code, is amended to read as follows:

"§ 202. Allocations

"(a) On October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for such fiscal year for forest highways according to the relative needs of the various elements of the National Forest System as determined by the Secretary, taking into consideration the need for access as identified by the Secretary of Agriculture through renewable resource and land use planning, and the impact of such planning on existing transportation facilities.

"(b) On October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for such fiscal year for public lands highways among those States having unappropriated or unreserved public lands, nontaxable Indian lands, or other Federal reservations, on the basis of need in such States, respectively, as determined by the Secretary upon application of the State highway departments of the respective States. The Secretary shall give preference to those projects which are significantly impacted by Federal land and resource management activities.

"(c) Sums authorized to be appropriated for forest development roads and trails shall be allocated by the Secretary of Agriculture according to the relative needs of the various national forests, taking into consideration the existing transportation facilities, value of timber or other resources served, relative fire danger, and comparative difficulties of road and trail construction.

"(d) On October 1 of each fiscal year, the Secretary of the Interior shall allocate the sums appropriated for such fiscal year for park roads and parkways according to the relative needs of the various elements of the National Park System, taking into consideration the need for access as identified through land use planning and the impact of such planning on existing transportation facilities.

"(e) On October 1 of each fiscal year, the Secretary of the Interior shall allocate the sums appropriated for such fiscal year for Indian reservation roads and bridges according to the relative needs of the various reservations as jointly identified by the Secretary and the Secretary of the Interior.".

(c) Section 101(a) of title 23, United States Code, is amended by striking out the twelfth undesignated paragraph, defining the term "park roads and trails", and inserting in lieu thereof the following new paragraph:

"The term 'park road' means a public road that is located within or provides access to an area in the National Park System.".

(d) Sections 206, 207, 208, and 209 of title 23, United States Code, are hereby repealed.

(e) The analysis of chapter 2 of title 23, United States Code, is amended—

(1) by striking out

"202. Apportionment for allocation."

and inserting in lieu thereof

"202. Allocations.";

(2) by striking out

"204. Forest highways."

and inserting in lieu thereof

"204. Federal lands highways program.";

and

(3) by striking out

"206. Park roads and trails.
"207. Parkways.
"208. Indian reservation roads.
"209. Public lands highways.".

(f) Section 201 of title 23, United States Code, is amended by inserting "(a)" before "The provision" and by adding at the end thereof the following new subsection:

"(b) There is hereby authorized to be appropriated such sums as may be necessary for forest development roads and trails, public lands development roads and trails, and park roads.".

(g) Sections 201 and 203 of title 23, United States Code, are amended by striking out "park roads and trails" each place it appears and inserting in lieu thereof "park roads".

(h) Section 307 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) Up to one and one-half per centum of funds appropriated for forest highways, public lands highways, park roads, parkways, and Indian reservation roads and bridges may be made available for expenditure by the Secretary for the planning of future highway programs, for engineering and economic studies and investigations, and for the development and demonstration of technology relative to the planning, design, construction, and maintenance of such highways.".

(i) The amendments and repeals made by this section shall only be applicable to fiscal years beginning after September 30, 1982.

BICYCLE TRANSPORTATION

SEC. 132. Section 217 of title 23, United States Code, is amended to read as follows:

"§ 217. Bicycle transportation and pedestrian walkway

"(a) To encourage energy conservation and the multiple use of highway rights-of-way, including the development and improvement of pedestrian walkways on or in conjunction with highway rights-of-way, the States may, as Federal-aid highway projects, construct pedestrian walkways. Sums apportioned in accordance with paragraphs (1), (2), and (6) of section 104(b) of this title shall be available for pedestrian walkways authorized under this section and such projects shall be located and designed pursuant to an overall plan which will provide due consideration for safety and contiguous routes.

"(b)(1) To encourage energy conservation, including the development, improvement, and use of bicycle transportation, the States may, as Federal-aid highway projects, construct new or improved lanes, paths, or shoulders; traffic control devices, shelters for and parking facilities for bicycles, and carry out nonconstruction projects related to safe bicycle use. Sums apportioned in accordance with paragraphs (1), (2), and (6) of section 104(b) of this title shall be available for bicycle projects authorized under this section and such projects shall be located and designed pursuant to an overall plan which will provide due consideration for safety and contiguous routes.

"(2) In any case where a highway bridge deck being replaced or rehabilitated with Federal financial participation is located on a highway, other than a highway access to which is fully controlled, on which bicycles are permitted to operate at each end of such bridge, and the Secretary determines that the safe accommodation of bicycles can be provided at reasonable cost as part of such replacement or rehabilitation, then such bridge shall be so replaced or rehabilitated as to provide such safe accommodations.

"(3) No bicycle project shall be authorized by this section unless the Secretary shall have determined that such bicycle project will be principally for transportation, rather than recreation, purposes.

"(c) For all purposes of this title, a pedestrian walkway project authorized by subsection (a) of this section shall be deemed to be a highway project, and the Federal share payable on account of such pedestrian walkway project shall be that provided in section 120 of this title.

"(d) For all purposes of this title, a bicycle project authorized by subsection (b) of this section shall be deemed to be a highway project, and the Federal share payable on account of such bicycle project shall be that provided in section 120(j) of this title.

"(e) Funds authorized for forest highways, forest development roads and trails,

public lands development roads and trails, park roads, parkways, Indian reservation roads, and public lands highways shall be available, at the discretion of the department charged with the administration of such funds, for the construction of pedestrian walkways in conjunction with such trails, roads, highways, and parkways.

"(f) Funds authorized for forest highways, forest development roads and trails, public lands development roads and trails, park roads, parkways, Indian reservation roads, and public lands highways shall be available, at the discretion of the department charged with the administration of such funds, for the construction of bicycle routes.

"(g) No motorized vehicles shall be permitted on trails and walkways authorized under this section except for maintenance purposes and, when snow conditions and State or local regulations permit, snowmobiles.

"(h) Not more than $45,000,000 of funds authorized to be appropriated in any fiscal year may be obligated for projects authorized by subsections (a), (b), (e), and (f) of this section. No State shall obligate more than $4,500,000 for such projects in any fiscal year, except that the Secretary may, upon application, waive this limitation for a State for any fiscal year.".

PARKING RAMPS AND FRONTAGE ROADS

SEC. 133. (a) Subsection (b) of section 108 of the Federal-Aid Highway Act of 1956, as amended, is further amended by adding before the last sentence thereof a new sentence as follows: "Notwithstanding any other provisions of law, including any other provision of this subsection, where a project is to be constructed with high occupancy vehicle lanes which flow into a distributor system emptying directly into ramps for off-street parking with preferential parking for carpools, vanpools, and buses, and the ramps are part of an environmental mitigation effort and are designed to feed into an aerial walkway system, the cost of such parking ramps and parking garage project shall be eligible for funds authorized by this subsection as if the costs of such parking ramps and parking garage project were included in the 1981 interstate cost estimate and shall be included as an eligible project in any future interstate cost estimate.".

(b) Notwithstanding the provisions of section 108(b) of the Federal-Aid Highway Act of 1956, as amended, the Secretary of Transportation may approve the expenditure of funds authorized under such section for the construction of a previously approved project which provides for improvements to and reconstruction of ramps and service roads which are being developed as part of a roadway system to relieve a severely congested segment on an Interstate route. Such expenditures shall be limited (1) to work necessary to provide more effective and safe operation of such Interstate route, and (2) to a section of an Interstate route which proceeded to construction contract prior to the date of enactment of such Act and which Interstate route, together with service roads, was constructed without the expenditure of any funds authorized by such section.

PROJECT ELIGIBILITY

SEC. 134. In any case where a project involving a Federal-aid primary route not on the Interstate System, and a route on the Interstate System which was originally constructed without the expenditure of any funds authorized under section 108(b) of the Federal-Aid Highway Act of 1956, as amended, and was subsequently added to the Interstate System, both occupying a common alignment and having elements which have been approved in concept by the Secretary of Transportation as part of a project providing for the upgrading of an interchange on such Interstate route, the cost of improvements in the vicinity of the interchange necessary to upgrade the safety of that part of such Federal-aid primary route not on a common alignment with such Interstate route in an environmentally acceptable manner shall be eligible for the expenditure of funds authorized by such section 108(b).

ACCELERATION OF PROJECTS

SEC. 135. The Secretary of Transportation shall by rule or regulation establish, as soon as practicable, alternative methods for processing projects under title 23, United States Code, so as to reduce the time required from the request for project approval through the completion of construction. In carrying out this section the Secretary shall utilize the knowledge and experience resulting from the demonstration project authorized by and carried out under section 141 of the Federal-Aid Highway Act of 1976.

FOUR-LANE BRIDGES

SEC. 136. Whenever any law of the United States, enacted after January 1, 1970, and before the date of enactment of this Act, authorizes payment, in financing the relocation of an existing road, for the cost of construction of a two-lane bridge with a substructure and deck truss capable of supporting a four-lane bridge, payment for the cost of completing the construction of such bridge as a four-lane bridge is authorized upon the completion of such substructure and deck truss.

DEMONSTRATION PROJECTS

SEC. 137. (a)(1) The Secretary of Transportation is authorized to carry out a demonstration project in Los Angeles County, California, for the purpose of demonstrating methods of improving the motor vehicle transportation of freight to and from areas for the transshipment of waterborne commerce.

(2) There is authorized to be appropriated to carry out this subsection, out of the Highway Trust Fund, not to exceed $19,000,000 for the fiscal year ending September 30, 1983, not to exceed $19,000,000 for the fiscal year ending September 30, 1984, and not to exceed $20,000,000 for the fiscal year ending September 30, 1985.

(3) Funds authorized by this subsection shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this subsection shall be 100 per centum of the total cost thereof and such funds shall remain available until expended.

(b)(1) The Secretary of Transportation shall carry out a highway project to demonstrate state of the art technology which can be applied to a section of highway the construction of which will close a gap of not more than 10 miles in a multi-lane limited access approach road through hilly terrain connecting a city (not directly connected to the Interstate System by such an approach road) with a route on such System on which tolls are charged. For comparison purposes, the highway section shall connect both highway construction using current technology and older completed highway construction. The project shall demonstrate the latest high-type geometric design features and new advances in highway traffic control and safety hardware. All design elements, including the highway pavement, shall be designed to provide the best life-cycle costs, thereby minimizing future maintenance costs. The Secretary of Transportation shall provide necessary technical assistance in the design and construction of the project. Upon completion of the project, the highway shall be added to the Federal-aid primary system.

(2) Not later than one year, six years, and eleven years after the completion of the state of the art technology project, the Secretary of Transportation shall submit reports to the Congress, including but not limited to the results of such project, the effects of using the best available technology on safety and other considerations, recommendations for applying the results to other highway projects, and any changes that may be necessary by law to permit further use of such features.

(3) There is authorized to be appropriated to carry out this subsection, out of the Highway Trust Fund, not to exceed $5,000,000 for the fiscal year ending September 30, 1983, $10,000,000 for the fiscal year ending September 30, 1984, and $62,000,000 for the fiscal year ending September 30, 1985. Such funds shall be available until expended, shall be available for obligation in the same manner and to the same extent as if apportioned under chapter 1 of title 23, United States Code, and shall not be subject to any obligation limitation. The Federal share payable for the state of the art technology project shall be 100 per centum.

(c)(1) The Secretary of Transportation shall conduct a project to demonstrate state of the art methods of repairing damaged highways, and preventing damage to highways, resulting from shoreline erosion. Such project shall be carried out in the vicinity of Buhne Point, Humboldt Bay, California, at a cost not to exceed $9,000,000 for fiscal years beginning after September 30, 1982, out of the Highway Trust Fund.

(2) The Secretary of Transportation may enter with the heads of other departments, agencies, and instrumentalities of the Federal Government into such arrangements as may be necessary to carry out the provisions of this subsection.

(3) The Secretary of Transportation shall submit to Congress a report on the results of the demonstration project not later than 180 days after completion of such project.

(4) Funds authorized by this subsection shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this subsection shall be 100 per centum of the total cost thereof and such funds shall remain available until expended.

(d)(1) The Secretary of Transportation is authorized to carry out a demonstration project in the vicinity of East Baton Rouge, Louisiana, for the purpose of demonstrating the efficacy of reducing traffic congestion in the immediate vicinity of a partial-diamond, partial-cloverleaf interchange which connects an east-west highway on the Interstate System and a four lane highway not on such system by providing a direct access ramp to, and a travel lane on, the Interstate highway and by eliminating a crossover which is used for access to the Interstate highway.

(2) There is authorized to be appropriated to carry out this subsection, out of the

Highway Trust Fund, not to exceed $5,000,000 for the fiscal years beginning after September 30, 1982.

(3) Funds authorized by this subsection shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this subsection shall be 100 per centum of the total cost thereof and such funds shall remain available until expended.

(e)(1) The Secretary of Transportation is authorized to carry out a demonstration project in the vicinity of Louisville, Kentucky, for the purpose of demonstrating methods of accelerating construction of high traffic sections of highways on the Federal-aid primary system which are directly connected to the Interstate System.

(2) The Secretary of Transportation shall submit to Congress a report on the results of the demonstration project carried out under this subsection not later than 180 days after completion of such project.

(3) There is authorized to be appropriated to carry out this subsection, out of the Highway Trust Fund, not to exceed $25,000,000 for the fiscal year ending September 30, 1983, and not to exceed $27,000,000 for the fiscal year ending September 30, 1984.

(4) Funds authorized by this subsection shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this subsection shall be 100 per centum of the total cost thereof and such funds shall remain available until expended.

VEHICLE WEIGHT, LENGTH, AND WIDTH LIMITATIONS

SEC. 138. (a) Section 127 of title 23 of the United States Code is amended to read:

"§ 127. Vehicle weight, length, and width limitations—Interstate System

"(a) No funds authorized to be appropriated for any fiscal year under provisions of the Federal-Aid Highway Act of 1956 shall be apportioned to any State which does not permit the use of the National System of Interstate and Defense Highways within its boundaries by vehicles with a weight of twenty thousand pounds carried on any one axle, including enforcement tolerances, or with a tandem axle weight of thirty-four thousand pounds, including enforcement tolerances, or a gross weight of at least eighty thousand pounds for vehicle combinations of five axles or more. However, the maximum gross weight to be allowed by any State for vehicles using the National System of Interstate and Defense Highways shall be twenty thousand pounds carried on one axle, including enforcement tolerances, and a tandem axle weight of thirty-four thousand pounds, including enforcement tolerances and with an overall maximum gross weight, including enforcement tolerances, on a group of two or more consecutive axles produced by application of the following formula:

$$W = 500\left(\frac{LN}{N-1} + 12N + 36\right)$$

where W equals overall gross weight on any group of two or more consecutive axles to the nearest five hundred pounds, L equals distance in feet between the extreme of any group of two or more consecutive axles, and N equals number of axles in group under consideration, except that two consecutive sets of tandem axles may carry a gross load of thirty-four thousand pounds each providing the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six feet or more: *Provided*, That such overall gross weight may not exceed eighty thousand pounds, including all enforcement tolerances, except for those vehicles and loads which cannot be easily dismantled or divided and which have been issued special permits in accordance with applicable State laws, or the corresponding maximum weights permitted for vehicles using the public highways of such State under laws or regulations established by appropriate State authority in effect on July 1, 1956, except in the case of the overall gross weight of any group of two or more consecutive axles, on the date of enactment of the Federal-Aid Highway Amendments of 1974, whichever is the greater. Any amount which is withheld from apportionment to any State pursuant to the foregoing provisions shall lapse. This section shall not be construed to deny apportionment to any State allowing the operation within such State of any vehicles or combinations thereof which the State determines, after consultation with the Secretary, could be lawfully operated within such State on July 1, 1956, except in the case of the overall gross weight of any group of two or more consecutive axles, on the date of enactment of the Federal-Aid Highway Amendments of 1974. With respect to the State of Hawaii, laws or regulations in effect on February 1, 1960, shall be applicable for the purposes of this section in lieu of those in effect on July 1, 1956. With respect to the State of Michigan, laws or regulations in effect on May 1, 1982, shall be applicable for the purposes of this subsection.

"(b) No funds authorized to be appropriated for any fiscal year under provisions of the Federal-Aid Highway Act of 1956 shall be apportioned to any State which imposes a vehicle length limitation of less than 48 feet on the length of the semitrailer unit operating in a truck tractor-semitrailer combination, and of less than 28 feet on the length of any semitrailer or trailer operating in a truck tractor-semitrailer-trailer combination on any segment of the National System of Interstate and Defense Highways. No funds authorized to be appropriated for any fiscal year under provisions of the Federal-Aid Highway Act of 1956 shall be apportioned to any State which imposes a vehicle width limitation of more or less than 102 inches on any segment of the National System of Interstate and Defense Highways.

"(c) Length limitations established, maintained, or enforced by the States under subsection (b) of this section shall apply solely to the semitrailer or trailer and not to a truck tractor. No State shall establish, maintain, or enforce any regulation which imposes an overall length limitation on motor vehicles operating in truck-tractor semitrailer or truck tractor semitrailer, trailer combinations authorized in subsection (b) of this section. No State shall establish, maintain, or enforce any regulation which has the effect of prohibiting the use of trailers or semitrailers of such dimensions as those that were in actual and lawful use in such State on the date of enactment of the Highway Improvement Act of 1982. No State shall establish, maintain, or enforce any regulation of commerce which has the effect of prohibiting the use of existing trailers or semitrailers, of up to 28½ feet in length, in a truck tractor-semitrailer-trailer combination if those trailers or semitrailers were actually and lawfully operating on December 1, 1981, within a 65-foot overall length limit in any State.

"(d) No State shall prohibit motor vehicle combinations consisting of a truck tractor and two trailing units on any segment of the National System of Interstate and Defense Highways.

"(e) The Secretary of Transportation is authorized to establish, consistent with this title, rules to implement the provisions of this section, and to make such determinations as are necessary to accommodate specialized equipment (including, but not limited to, automobile transporters) subject to subsections (b) and (c) of this section.

"(f) For purposes of this section, 'truck tractor' means the noncargo carrying power unit that operates in combination with a semitrailer or trailer.

"(g) The length and width limitations described in subsections (b) and (c) of this section shall be exclusive of safety and energy conservation devices, such as rear view mirrors, turn signal lamps, marker lamps, steps and handholds for entry and egress, flexible fender extensions, mudflaps and splash and spray suppressant devices, load-induced tire bulge, refrigeration units or air compressors and other devices, which the Secretary of Transportation may interpret as necessary for safe and efficient operation of commercial motor vehicles, except that no device excluded under this subsection from the limitations of subsections (b) and (c) of this section shall have by its design or use the capability to carry cargo.

"(h) No State may enact or enforce any law denying reasonable access to motor vehicles subject to this title to and from the Interstate Highway System to terminals and facilities for food, fuel, repairs, and rest.".

(b) The amendment made by subsection (a) of this section shall only take effect upon the enactment into law of a tax structure which more nearly achieves an equitable distribution of the tax burden among classes of persons and vehicles using Federal-aid highways then the current distribution.

MARTIN LUTHER KING BRIDGE

SEC. 139. The Martin Luther King Bridge which crosses the Mississippi River between St. Louis, Missouri, and East St. Louis, Illinois, and is not on a Federal-aid system shall be eligible for assistance under section 144 of title 23, United States Code, to the same extent that any other bridge which is not on a Federal-aid system is eligible for assistance under such section, except that no such assistance shall be made available with respect to such bridge until such bridge—

(1) has been transferred to one or both of the States of Missouri and Illinois;

(2) is freed from tolls; and

(3) otherwise meets the eligibility requirements of such section, and the rules and regulations promulgated thereunder.

MANPOWER STUDY

SEC. 140. The Secretary of Transportation shall undertake to enter into appropriate arrangements with the National Academy of Sciences' Transportation Research Board to conduct a comprehensive study and investigation of future transportation professional manpower needs, including but not limited to prevailing methods of recruitment,

training, and financial and other incentives and disincentives which encourage or discourage retention in service of such professional manpower by Federal, State, and local governments. In entering into any arrangement with the National Academy of Sciences for conducting such study and investigation, the Secretary shall request the National Academy of Sciences to report to the Secretary and the Congress not later than two years after the enactment of this Act on the results of such study and investigation, together with its recommendations. The Secretary shall furnish to the Academy at its request any information which the Academy deems necessary for the purpose of conducting the study and investigation authorized by this section.

FERRYBOAT STUDY

SEC. 141. The Office of Technology Assessment shall conduct a comprehensive investigation and study of the feasibility of a high speed ferryboat operation over the waters of the Caribbean Sea between Saint Croix and Saint Thomas in the Virgin Islands in accordance with this section. The Department of Transportation, the Army Corps of Engineers, the National Oceanic and Atmospheric Administration, and all other agencies, offices, and instrumentalities of the United States shall assist the Office in conducting an objective investigation and study of such projected operation. The Office shall evaluate this projected operation for its feasibility under various degrees of commercial and government sponsorship. The Office shall complete and transmit a report on such investigation and study to the Congress no later than January 1, 1984.

STUDY OF WEATHER-RELATED FACTORS IN APPORTIONMENT FORMULAS

SEC. 142. The Secretary of Transportation shall study and determine the need for including weather-related factors, particularly the effects of freezing and thawing, in the apportionment formulas for Federal-aid highways under section 104 of title 23, United States Code. The Secretary shall report to Congress not later than one year after the date of enactment of this Act on the results of such study and shall include in such report specific recommendations for changing such apportionment formulas to take into account weather-related factors.

REPORT REGARDING LONGER COMBINATION COMMERCIAL MOTOR VEHICLES

SEC. 143. (a) Within one year after the date of enactment of this Act, the Secretary of Transportation, after consultation with the transportation officials and Governors of the several States and after an opportunity for public comment, shall submit to Congress a detailed report on the potential benefits and costs, if any, to shippers, receivers, operators of commercial motor vehicles, and the general public, that reasonably may be anticipated from the establishment of a national intercity truck route network for the operation of a special class of longer combination commercial motor vehicles.

(b) For the purposes of this section—

(1) the term "longer combination commercial motor vehicles" means multiple-trailer combinations consisting of (A) truck tractor-semitrailer-full trailer, and (B) truck tractor-semitrailer-full trailer-full trailer combinations with an overall length not in excess of one hundred and ten feet; and

(2) the term "national intercity truck route network" means a network consisting of a number of controlled-access, interconnecting segments of the National System of Interstate and Defense Highways and other highways of comparable design and traffic capacity including, but not limited to, all such highways where the operation of longer combination commercial motor vehicles is authorized on the date of enactment of this Act.

(c) The detailed report mandated by this section shall include, but need not be limited to, the following:

(1) a specific plan for the establishment of a national intercity truck route network, including the designation of those specific highway segments which would be required to connect the major distribution centers and markets for long-haul intercity freight service; except that the Secretary of Transportation shall not include in the plan any highway segment which, because of design limitations or other factors, cannot accommodate the safe operation of longer combination commercial motor vehicles;

(2) an analysis of the intercity motor freight volume that reasonably can be anticipated to be transported by longer combination commercial motor vehicles over the national intercity truck route network if such network is established by Congress;

(3) an analysis of the fuel savings that reasonably can be anticipated in the transportation of freight by commercial motor vehicle if such network is established by Congress;

(4) an analysis of the productivity gains that reasonably can be anticipated to be achieved in the transportation of freight by commercial motor vehicle if such network is established by Congress;

(5) an analysis of the fuel conservation and productivity gains historically achieved by operators of longer combination commercial motor vehicles;

(6) an analysis of the safety record of longer combination commercial motor vehicle operations that have been conducted prior to the date of enactment of this Act; and

(7) an analysis of the effect of the size and weight limitations contained in section 127 of title 23, United States Code, as in effect after the date of enactment of this Act.

(d) In making the findings and determinations required by subsection (c) of this section, and in making the detailed report to Congress required by this section, the Secretary of Transportation shall assume that the longer combination commercial motor vehicles operating on the national intercity truck route network, if and when established by Congress, would be subject to the single- and tandem-axle weight limits imposed by section 127 of title 23, United States Code. The Secretary of Transportation shall further assume that the overall gross weight of such vehicles on a group of two or more consecutive axles shall be limited by the formula set forth in such section, and only by such formula.

(e) In making the detailed report to Congress required by this section, the Secretary of Transportation shall assume that longer combination commercial motor vehicles operating on the national intercity truck route network will have reasonable access to terminals, combination breakup areas, and food and fuel facilities consistent with safe operations of such vehicles.

(f) Nothing in this section shall be construed to establish Federal policy with regard to highway vehicle weight and size standards, nor shall anything in this section be construed to preempt or to affect any State law establishing highway vehicle weight or size standards. The provisions of this section require an investigation and study on the feasibility and propriety of making changes in vehicle weight and size standards which the Congress may choose to consider in the future.

CHANGE IN LOCATION OF INTERSTATE SEGMENTS

SEC. 144. (a) Notwithstanding the provisions of section 4(b) of the Federal-Aid Highway Act of 1981, the Secretary may approve a change in location of any Interstate route or segment and approve, in lieu thereof, the construction of such Interstate route or segment on a new location if the original location of such route or segment meets the following criteria: (1) it has been designated under section 103(e) of title 23, United States Code; (2) it is serving Interstate travel as of the date of enactment of this section; (3) it requires improvements which are eligible under the Federal-Aid Highway Act of 1981, and which would either involve major modifications in order to meet acceptable standards or result in severe environmental impacts and such major modifications or mitigation measures relating to the environmental impacts are not cost effective. The cost of the construction of such Interstate route or segment on new location with funds available under section 108(b) of the Federal-Aid Highway Act of 1956, as amended, shall not exceed the estimated cost of the eligible improvements on the original location as eligible under the Federal-Aid Highway Act of 1981 and included in the 1983 interstate cost estimate as approved by the Congress. Such cost shall be increased or decreased, as determined by the Secretary, based on changes in construction costs of the original location of the route or segment as of the date of approval of each project on the new location. Upon approval of a new location, any funds apportioned under section 104(b)(5)(A) of title 23, United States Code, which were expended on the route or segment in the original location shall be refunded to the Highway Trust Fund and credited to the unobligated balance of the State's apportionment made under section 104(b)(5)(A) of title 23, United States Code, and other eligible Federal-aid highway funds may be substituted in lieu thereof at the appropriate Federal share.

(b) Where the Secretary approves a relocation of an Interstate route or segment under the provisions of subsection (a) of this section, such route or segment shall not be eligible for withdrawal under the provisions of section 103(e)(4) of title 23, United States Code, and shall be subject to the Interstate System completion deadlines provided in subsections (d) and (e) of section 107 of the Surface Transportation Assistance Act of 1978 or subject to Interstate System completion deadlines as may be determined by Congress.

ACCESS CONTROL DEMONSTRATION PROJECTS

SEC. 145. Section 150(b) of the Federal-Aid Highway Act of 1978 is amended by striking out "1983" and inserting in lieu thereof "1985".

REVISION OF PROJECT AGREEMENT

SEC. 146. Notwithstanding any other provision of law, as a condition of reimbursement of the Federal share of the cost of Federal-aid project 23-D-U-54 (100) in New Jersey, the Secretary of Transportation and the New Jersey Department of Transportation shall revise the project agreement for such project to make available financial assistance not to exceed $1,000,000 for the purpose of compensating businesses in the general vicinity of such project that have suffered monetary losses as a result of the

temporary bypass established to accommodate the construction of the project.

STUDY OF THE USE OF SURFACING MATERIALS PRODUCED FROM RECYCLED TIRES

SEC. 147. The Secretary of Transportation shall conduct a study to determine the feasibility of the use by the States of highway and bridge surfacing, restoration, and maintenance substances or materials produced in substantial part from rubber recovered from recycled tires. The Secretary shall determine the extent to which such use would conserve energy and operate to remove discarded tires from areas adjacent to the highways, and thereby effectively assist in the accomplishment of highway beautification and safety programs. The Secretary shall complete such study and submit a report thereof to the Congress not later than one year after the date of enactment of this Act.

ENFORCEMENT OF HEAVY VEHICLE USE TAX

SEC. 148. (a) Section 141 of title 23, United States Code, is amended by adding subsection (d) as follows:

"(d) No funds shall be apportioned to a State under section 104(b)(5) of this title in any fiscal year during which heavy vehicles, subject to the use tax imposed under section 4481 of the Internal Revenue Code of 1954, may be lawfully registered in the State without having presented proof of payment, in such form as may be prescribed by the Secretary of the Treasury, of the use tax imposed by section 4481 of such Code. Amounts withheld from apportionment to a State under this subsection shall be apportioned to the other States pursuant to the formulas of section 104(b)(5) of this title and shall be available in the same manner and to the same extent as other Interstate funds apportioned at the same time to other States.".

(b) The amendment made by subsection (a) of this section shall be effective January 1, 1985.

MONITORING OF EFFECT OF DOUBLE BOTTOM TRUCKS

SEC. 149. (a) The Secretary of Transportation shall undertake to enter into appropriate arrangements with the National Academy of Sciences to monitor the effects on the National System of Interstate and Defense Highways of the use of trucks with two trailing units, in light of the amendment made by this Act to section 127 of title 23, United States Code, providing that no State shall prohibit the use of such vehicle combinations. Such monitoring shall include, but need not be limited to, determining the effects of the use of such vehicle combinations on highways and highway safety in urban and rural areas and in different regions of the country, taking into account differences in age and design features of highways on the Interstate System.

(b) The Secretary of Transportation shall request the National Academy of Sciences to submit a report to the Secretary and the Congress of such monitoring, not later than two years after appropriate arrangements are entered into under subsection (a). The Secretary shall furnish to the Academy, at its request, any information which the Academy deems necessary for the purpose of conducting such monitoring.

ADVANCEMENT OF NON-FEDERAL SHARE

SEC. 150. (a) Notwithstanding any other provision of law, the Federal share of any qualifying project approved by the Secretary of Transportation under section 106(a), and of any qualifying project for which the United States becomes obligated to pay under section 117, of title 23, United States Code, during the period beginning on the date of enactment of this Act and ending September 30, 1984, shall be such percentage of the construction cost as the State highway department requests, up to and including 100 per centum.

(b) For purposes of this section, the term "qualifying project" means a project approved by the Secretary of Transportation under section 106(a) of title 23, United States Code, or a project for which the United States becomes obligated to pay under section 117 of title 23, United States Code, for which the Governor of the State submitting the project has certified that sufficient funds are not available to pay the cost of the non-Federal share of the project.

(c) The total amount which may be obligated for qualifying projects in any State under subsection (a) shall not be greater than the excess of—

(1) the amount of obligation authority distributed to such State for fiscal year 1983 under section 104(b) of this Act, over

(2) the amount of obligation authority distributed to such State for fiscal year 1982 under section 3(b) of the Federal-Aid Highway Act of 1981.

(d) The total amount of such increases in the Federal share as are made pursuant to subsection (a) for any State shall be repaid to the United States by such State on or before September 30, 1984. Such payments shall be deposited in the Highway Trust Fund. No project shall be approved under section 106 or 117 of title 23, United States Code, for any project in any State which has failed to make its repayment in accordance with this subsection until such repayment has been made.

LANE RESTRICTIONS

SEC. 151. The State of California shall not restrict or require the restriction of the use of any lane on any Federal-aid highway in the unincorporated areas of Alameda County, California, to high occupancy vehicles, exclusive of approaches to controlled access highways, toll roads, or bridges.

UPGRADING CERTAIN INTERCHANGES

SEC. 152. Notwithstanding any other provision of law, in the case of any portion of a route on the Interstate System in the State of California which is open to traffic and which has less than two through lanes in either direction in the area where such route connects with a limited access highway on the Federal-aid primary system, a project to improve the portion of the Interstate route to a design of six lanes and to upgrade the interchange between such Interstate route and primary route to accommodate such design shall be eligible for funds authorized by section 108(b) of the Federal-Aid Highway Act of 1956, as amended, as if the costs of such project were included in the 1981 interstate cost estimate and shall be included as an eligible project in the 1983 interstate cost estimate and any later interstate cost estimate.

CONVICT LABOR

SEC. 153. Section 114(b) of title 23, United States Code, is amended by inserting after "Convict labor" the following: "or materials produced by convict labor".

PREVAILING RATE OF WAGE

SEC. 154. Section 113(a) of title 23, United States Code, is amended by striking out "initial".

AMENDMENT OFFERED BY MR. HOWARD

Mr. HOWARD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HOWARD: After section 154, insert the following:

MINIMUM ALLOCATION

SEC. 155. (a) In the fiscal year year ending September 30, 1983, as soon as practicable after the date of enactment of this Act, and in each of the fiscal years ending September 30, 1984, September 30, 1985, and September 30, 1986, on October 1, the Secretary of Transportation shall allocate among the States, as defined in section 101 of title 23, United States Code, amounts sufficient to insure that a State's percentage of the total apportionments in each such fiscal year of Interstate highway substitute, primary, secondary, Interstate, urban, bridge replacement and rehabilitation, hazard elimination, and rail-highway crossings funds under sections 103(e)(4), 104(b), 144, and 152 of title 23, United States Code, and section 203 of the Highway Safety Act of 1973, as amended, shall not be less than 85 per centum of the percentage of estimated tax payments attributable to highway users in that State paid into the highway trust fund, other than the mass transit account, in the latest fiscal year for which data is available.

(b) Amounts allocated pursuant to subsection (a) of this section shall be available for obligation when allocated for the year authorized plus the three succeeding fiscal years, shall be subject to the provisions of title 23, United States Code, and may be obligated for interstate highway substitute, primary, secondary, Interstate, urban, bridge replacement and rehabilitation, hazard elimination, and rail-highway crossings projects. Obligation limitations for Federal-aid highways and highway safety construction programs established by this Act or any subsequent Act shall not apply to obligations made under this section except where the provision of law establishing such limitation specifically amends or limits the applicability of this sentence. Sums allocated pursuant to this section shall not be considered to be sums allocated for purposes of section 104(b) of this Act.

(c) In order to carry out this section there is authorized to be appropriated out of the Highway Trust Fund, other than the Mass Transit Account, $420,000,000 for the fiscal year ending September 30, 1983, and such sums as may be necessary for each of the fiscal years ending September 30, 1984, September 30, 1985, and September 30, 1986.

Mr. HOWARD (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. HOWARD. I would like to state in developing this bill we did find that there is and has been throughout the history of the highway trust fund a discrepancy between the amount of money that certain States may contribute into the highway trust fund and the amount of money that they may receive for that State from the highway trust fund.

When this program was established in the 1950's it was found that there was a national need for a major interstate highway network across the country, a superhighway, a safe highway, a limited access highway.

States would be or individuals throughout the country would be asked to pay 3 cents and later 4 cents a gallon that would go into the highway trust fund to pay for this.

The amount of money going into the trust fund from a particular State had no relationship to the needs of that State. We could take a State like the State of New Jersey, a State with a fairly high population, many automobiles. The State would put a great deal of money into the Federal Highway Trust Funds. However, when it came to the Interstate Highway, we find that New Jersey is a very small State and so, in order to complete this necessary national network it would not get many miles of interstate or much money to build this interstate.

We find in other States, mainly out in the West, fairly rural States like Montana, Nebraska or South Dakota, with relatively few people, that they did not send very much to the highway trust fund at all and yet they had a need for many miles of interstate.

So in the national interests, to have a national program, the States were allocated sufficient money to build the interstates in that State no matter how much it cost. That is why we had some States like smaller, more populous States, contributing money to the rest of the country to build the system, because it was in the national interests.

Many of the States which were allocated money on what it would cost to complete the interstate, many of the States used their money early and they are now getting near the end of the interstate needs in their State. So their allocation is going down. Therefore, if you look at a number you would find that some States are getting 80 cents, 75 cents, 78 cents back on each dollar they contribute. Other States are getting more than a dollar for each dollar they contribute.

We cannot balance that out one to one. Otherwise we will have 50 separate highway situations in the country, good roads in one State and poor roads in another State.

So what we did in order to help the imbalance was to not bother any State that was getting more than 85 cents per dollar back, but for the States which got fewer than 85 cents, to lift them up to a minimum of 85 cents.

The way this was done was to add money to the bill each year and in the first year, the only year we have the figures for on projected revenues, this adds $420 million in just the first year alone to the bill. States will get at least 85 percent back for each dollar they send in.

One of the major recipients, one of the ones that was lowest because it used a lot of its interstate money, was the State of Texas. The State of Texas in fiscal 1982 got $346 million. Even though we only double the tax this year, the State of Texas, bringing it up to the 85 percent, will get in fiscal 1983 $779 million, much more than double what they got, even though the gas tax for the highway trust fund is double.

We think this is a good compromise. It seems to have satisfied most of the States.

The $420 million addition to the program is something that we can live with through the 4 years of this bill without triggering the Byrd amendment or any other amendments which would cause a reduction for all of the other States.

So this is an amendment that helps several States and hurts no State. We believe that it will help in the passage of the legislation and I urge adoption of the amendment.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I will be happy to yield to the gentleman from Pennsylvania.

Mr. SHUSTER. This indeed is a compromise and substantially different from the original amendment which I understood the gentleman was going to offer.

I have studied it. I think it is fair. It is equitable and I support the gentleman.

Mr. HOWARD. I thank the gentleman for his support.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank my colleague. He told us about Texas. What happens to New Jersey?

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. HOWARD) has expired.

(By unanimous consent Mr. HOWARD was allowed to proceed for 2 additional minutes.)

Mr. HOWARD. The State of New Jersey I believe is at 95 percent. We were at the 95 cents and well above that.

Mrs. FENWICK. I thought we were at 84 cents.

Mr. HOWARD. No, it is 95 cents and we stay at the 95 in the new bill.

However, I would say this is only the highway portion. If you look at what we New Jerseyites are contributing, we are finally getting a little justice because of the great needs we have in transit in the area, which part of the trust fund will be part of, and we finally do fairly well in that.

Mrs. FENWICK. I thank the gentleman.

Mr. CLINGER. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I am happy to yield to the gentleman from Pennsylvania.

Mr. CLINGER. I would just ask the chairman: Does this include all Federal highway assistance?

Mr. HOWARD. What this includes is a total of about $11.048 billion. The only thing that is not cranked into this are two areas. One area is the interstate transfer money of which 75 percent is formulated out; and then, two, 20 percent, $200 million, is discretionary. That comes under general revenue for this first year so that it would not be a factor in relation to getting back money from the trust fund that you put in. That is not in there.

On the bridge money, in the first year we have $1.5 billion, $1.3 billion of which is formula money. That is factored in.

We have, as you know, $200 million of that which is discretionary. We do not know that is going. So out of the tax money in the trust fund everything is covered, $11 billion, except $200 million of the $1.5 billion in the bridge money.

□ 1640

So it is as close as we can come, within half a point or so, of what would happen, depending upon what happens with the discretionary money in the bridge program.

Mr. ANDERSON. Mr. Chairman, I rise in support of the amendment. One of the unfortunate aspects of programs distributed according to formulas, is that they often appear to have winners and losers. I happen to think, though, that when it comes to having a national Federal-aid highway system, we are all winners.

Because certain States have been raising an equity question over the past few weeks, the decision was made that each State should receive an 85-cent return on apportioned programs for each dollar they invest in the trust fund.

Let me say that I feel it is unfortunate that some States, because they have virtually completed their Interstate System, now complain that they do not get a fair share, because those States that are only now building their interstate, and have not been able to enjoy the economic advantages of a completed system, are now receiving greater apportionments of interstate construction funding.

But if we are to have a healthy Federal-aid system, it must enjoy broad support from all States. And so, I think it is wise for the chairman of the full Public Works and Transportation Committee to be offering this amendment today. I will support it. But I am supporting this equity amendment knowing full well that what is equitable for one person or one State may not be so equitable for the next.

As it is crafted, the amendment will not cost any State a dime. Rather, additional funds are added to those normally apportioned, to bring each State's return on its trust fund contribution for apportioned programs to at least 85 cents. I support this amendment.

Mr. PETRI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment.

This amendment is a matter of simple equity. Without it, Wisconsin will get back only 70 cents in highway spending for every $1 it pays in highway taxes. With the amendment, Wisconsin and other similar States will be assured a return of at least 85 cents on the dollar. In Wisconsin's case, this amounts to an extra $30 million a year for highway improvement, which we would otherwise have to get from State sources.

The funds to be raised by this bill have been called user fees. As I understand it, that means that users of services are to pay directly for those services in proportion to the amount they use. Now, paying $1 for 70 cents worth of services does not sound like a user fee to me. It sounds more like a plain old ordinary tax. Under current economic circumstances, I cannot vote for a plain old ordinary tax increase. However, I can support a true user fee for increased highway maintenance, which we badly need, and more equitable distribution provisions, as contained in this amendment, will move the bill a long way in that direction.

I wish to congratulate and thank the distinguished chairman of the Public Works and Transportation Committee for offering this important amendment, and I urge its adoption.

AMENDMENT OFFERED BY MR. ARCHER AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. HOWARD

Mr. ARCHER. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. ARCHER as a substitute for the amendment offered by Mr. HOWARD: In section 107(a)(1) concerning interstate transfers strike "$775,000,000" and insert in lieu thereof "$650,000,000".

In section 118(b) concerning Interstate discretionary funds strike "$300,000,000" and insert in lieu thereof "$200,000,000".

At the end of title I add a new section as follows:

APPORTIONMENTS AND ALLOCATIONS

SEC. . (a) In each of the fiscal years 1984, 1985, and 1986, on October 1, the Secretary of Transportation shall allocate among the States, as defined in title 23, United States Code, amounts sufficient to insure that the total sum of apportionments and allocations, excluding apportionments under section 103(e)(4) and 104(b)(5)(A) of title 23, United States Code, a State receives during that fiscal year to incur obligations for which expenditures may be made from the highway trust fund, excluding the mass transit account, shall not be less than 90 percent of the estimated tax payments attributable to highway users in that State into the highway trust fund in the latest fiscal year for which data is available.

(b) Amounts allocated pursuant to subsection (a) of this section shall be available for obligation when allocated for the year authorized plus 3 fiscal years, shall be subject to the provisions of title 23, United States Code, and may be obligated for those purposes for which funds are apportioned or allocated pursuant to title 23, United States Code, to incur obligations for which expenditures may be made from the highway trust fund, excluding the mass transit account.

(c) In order to carry out this section there is authorized to be appropriated out of the highway trust fund not to exceed $125,000,000 per fiscal year for each of the fiscal years 1984, 1985 and 1986.

(d) In addition to the sums authorized by subsection (c) of this section and before any apportionment of authorizations is made under section 104(b)(5)(A) of title 23, United States Code, during the fiscal years 1984, 1985, and 1986, the Secretary of Transportation shall set aside from such authorizations $100,000,000 per fiscal year for each of the fiscal years 1984, 1985, and 1986 to carry out this section.

Mr. ARCHER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. ARCHER. Mr. Chairman, I want to compliment the chairman of the committee, the gentleman from New Jersey (Mr. HOWARD), for recognizing the inequities that have existed over the years in the distribution of funds out of the highway trust fund compared to the amount of taxes that have been paid in by each State.

I recognize that there is a need for an Interstate System and that it cannot be 100 cents on the dollar, but certainly over a 20-year period, when the State of Texas has received less than three-quarters of the money that it has paid in, there is a gross inequity when you consider the number of highway miles that our State has to build.

There has been much discussion in recent days about the basic inequity perpetrated by the bill we are considering in regard to allocation of these funds. The so-called donor/donee problem is a very real one for many States. As I mentioned, I understand the reluctance of States receiving more than 100-percent return on the taxes they pay in to accept a change in the allocation formulas to help States which are net losers under the bill. that is why the amendment that I am offering as a cosponsor with Congressman JACK FIELDS should be acceptable to all States. Under our amendment, no State's percentage allocation is reduced. Instead, we provide for a 90-percent floor for all States as a minimum return on the taxes they pay in, in those categories other than interstate construction and interstate transfer.

Chairman HOWARD has just stated that his proposed amendment would increase the authorized expenditure under the bill by $420 million. The amendment that Congressman FIELDS and I offer as a substitute would accomplish the 90-percent floor without increasing the bill's authorization at all. It would keep the total spending within the limits of the committee bill, thereby reducing the overall budget deficits. The revenues necessary to bring all States up to a 90-percent floor are instead drawn from the Transportation Secretary's existing discretionary accounts.

Relative to the bill as it now stands, six States would directly benefit from this 90-percent floor. But no States will see their allocations reduced. My colleagues from Arizona, California, Florida, Michigan, Ohio, and Texas should vote for this amendment in the knowledge that it reduces the inequitable treatment our States received under the committee bill's allocation process. My colleagues from other States in the Union can support it in the knowledge that they are providing greater equity nationwide without reducing their own State's allocations. It is fiscally sound as an approach to reducing a basic inequity which has existed for many years in our highway program and others.

The amendment also addresses the need to set as a priority the completion of our National Interstate System. For that reason, as I mentioned earlier, categories for interstate construction and interstate transfer are not included. Those funds will still be allocated according to the need for completion of the Interstate System.

□ 1650

I urge my colleagues in the House to search their consciences and vote to provide more equitable treatment for those States which are tremendously disadvantaged under the present bill before us. Whether or not a Member is from one of the States directly benefited by this amendment, that Member can be assured that not a single State's allocation under any category will be reduced as stated in the bill that came out of the committee. To me that is a very fair and compelling reason for support of this amendment.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. ARCHER. I yield to the gentleman from California.

Mr. CLAUSEN. I thank the gentleman for yielding.

The gentleman's suggestion tends to coincide with some reservations that I have expressed to the chairman about

how we deal with this donor-donee issue. It may very well be that the efforts on the part of the gentleman may not succeed at this point. I am not sure. But I do want the gentleman to know that I think the fact his amendment leaves the interstate system out of the donor-donee issue, so that we can complete the system itself, is a very meritorious objective.

I want to let the gentleman know I commend him and the gentleman from Texas (Mr. FIELDS) for moving in this direction because I think it is conceivable we may end up doing something like this in the conference.

The CHAIRMAN. The time of the gentleman from Texas (Mr. ARCHER) has expired.

(At the request of Mr. HOWARD and by unanimous consent, Mr. ARCHER was allowed to proceed for 1 additional minute.)

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. ARCHER. I yield to the gentleman from Florida.

Mr. SHAW. I thank the gentleman for yielding.

I would like to compliment the gentleman in the well for a very fine amendment. For years many of the States have suffered the inequities of the distribution of the Interstate System funds. I think what the gentleman has offered is a recognition of the contributions made today by the States, but also an overriding recognition for the need for the completion of the Interstate project throughout the entire country. I compliment the gentleman for a very equitable formula and one that I would hope that the whole House would support.

Mr. ARCHER. I thank the gentleman.

Mr. FIELDS. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment offered by the gentleman from Texas (Mr. ARCHER) and myself.

Mr. Chairman, first I must compliment and applaud the chairman of the Committee on Public Works and Transportation for offering his amendment to help resolve the donor-donee problem, a problem that Texas has historically experienced. The amendment offered by the gentleman from Texas (Mr. ARCHER) and myself, however, attempts to correct one of the historic inequities of the Federal-aid highway program; namely, the situation which exists for the so-called donor-donee States. But we do so in a different manner than the chairman.

Mr. Chairman, over the life of the Federal-aid highway program and the highway trust fund, each State has contributed its share of gasoline tax and excise tax money to the highway trust fund. This money is then apportioned among the various 50 States for programs under the Federal-Aid Highway System. The distribution formulas of these revenues originally devised over 20 years ago, are based on a number of factors including total lane miles and total vehicle miles traveled in a State.

Unfortunately, because of the failure of these distribution formulas to reflect other statistics, many States are not receiving an adequate share of the revenue which they contribute. For example, my own State of Texas will contribute an estimated $783 million in fiscal year 1983 but will only receive back $627 million according to this legislation. This represents a return of approximately $968 for every dollar which Texas contributes to the trust fund, hardly an equitable return on this money.

Mr. Chairman, our amendment would correct this situation in a way which would not take money away from any other States but would guarantee that each State receive at least 90 percent of its contributed revenues. In this way, States such as Texas will be guaranteed an apportioned share of Federal-aid highway money which is directly proportional to its contribution level.

In keeping with this administration's and previous administration's philosophy and, the priority of the Public Works and Transportation Committee's priority of completing the Interstate System by 1991, our amendment would exclude the interstate construction program and the interstate transfer program. We feel strongly that the interstate is indeed a program of national scope and its completion should not be delayed or deterred in any way. The 42,000-mile Interstate System which is now 95 percent complete provides vital transport and mobility for all of our Nation's citizens in addition to being one of the essential links to interstate commerce in our country. In this regard, we recognize and accept that some States will, until completion of this system, bear a disproportionate share of the cost.

However, the apportionment inequity which now exists for the other Federal aid highway programs such as the Interstate 4-R, the urban, secondary, and primary categories cannot be justified as an overriding national priority. Rather, because these moneys are spent on construction of roads and highways which directly serve the transportation needs of each State, their distribution should reflect the diversity of these needs.

Mr. Chairman, our amendment would correct the donor-donee problem by guaranteeing qualifying donor States a minimum of 90 percent of their contributed revenues. According to the Federal Highway Administration, the revenue needed to fund this guarantee for fiscal year 1984 would total $225 million, with subsequent fiscal years averaging approximately the same amount. This $225 million would be generated from two sources; $125 million would come from the interstate transfer authorization and $100 million would come from the interstate discretionary authorization. This money would then be spent by the Secretary to supplement the trust fund shares of those donor States which do not receive at least 90 percent of their contributed revenues. The recipient States would then be free to spend this additional money in whatever highway category they deem necessary.

An additional feature of this amendment, Mr. Chairman, is that it does not increase the authorization levels of this legislation. I do not feel that with the deficit for fiscal year 1984 approaching $180 billion, we can stand here and arbitrarily increase the spending levels of this legislation. I find it unconscionable that with a 1983 authorization level of $12.1 billion we can even consider increasing the authorization levels any further. It is because of this terrible deficit problem that our amendment would shift existing authorizations within this legislation to solve the donor-donee problem and not increase the overall authorization levels.

Mr. Chairman, it is only fitting and equitable that States should be receiving a proportionate and fair share of their contribution to the highway trust fund, especially since the revenues collected for the trust fund reflect the level of use and road service within each State. This amendment would achieve that equity and balance while not penalizing other States. In the spirit of fairness and equity, I welcome the support of my colleagues and urge the adoption of this amendment.

Mr. HOWARD. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, we have before us an amendment that I had offered which brings all the States up 85 percent, adds $420 million to the program, does not take funds from any other States, and will not slow down the completion of the interstate program.

Now we have a substitute which states that it is going to bring all the States up to 90 percent, taking some of the money away from the program for interstate transfer, which means that funds for a highway that was not going to be built, as I understand it.

Mr. ARCHER. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Texas.

Mr. ARCHER. I thank the gentleman for yielding.

We do not touch the formula for allocating interstate transfers or interstate construction.

Mr. HOWARD. As I understand from the gentleman's amendment it

affects that and it also affects the discretionary interstate program.

Mr. ARCHER. It affects the discretionary fund.

Mr. HOWARD. The discretionary fund is intended so we may complete this system at the lowest cost possible by having discretionary money into high-cost programs so we can get them finished earlier so they do not run the cost up higher, and therefore cause more of an increase in costs to all the States.

Mr. BREAUX. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Louisiana.

Mr. BREAUX. I thank the gentleman for yielding.

Paragraph 1 of the gentleman's amendment says in section 107(A)(1) concerning interstate transfers, "Strike $775 million and insert in lieu thereof $650 million."

Mr. ARCHER. If the gentleman will yield, we do not reduce any allocation to any State under the interstate transfer category.

Mr. HOWARD. How do you save money if you do not get it from some place?

Beyond that, if I may reclaim my time, we talk about every State wanting to get in these programs everything back that they give. And we said Texas goes from $300 and some million to $779 million. Nobody talks about needs, when the figures are on their side. But they want to get as much proportionally as any other State gets.

We need a national highway system, we need good roads in every State, if we are going to have commerce and safety in our transportation. And so we have to consider having a good national highway system. And if it is going to cost some States, like my own State, to have my people in New Jersey have safe, decent, good, efficient roads when they travel to other States, that is the way I would like it.

If we are going to talk about giving back, getting back everything we give, we could talk to the State of Texas, and ask them how much of the billions of dollars in the Federal space program that goes into Texas would they like to share with New Jersey and some of the other States, or how many of our farm States would like to share money from the farm program.

We in New Jersey are willing to help the farm areas, because it is important nationally. We could ask about the defense money that goes to California, and does not go to other States. The word "united" in United States of America is there for a reason. We are not supposed to be 50 separate competing individual entities that just want to get back everything that they can, no matter what it does to the rest of the country. We have got to have a national system. We have raised the bill $425 million. We know that that will not trigger the Byrd amendment to cause all the other States to be reduced. We are not sure what will happen in this substitute, whether it will trigger the Byrd amendment or the Rostenkowski amendment.

□ 1700

So I just want to urge opposition to this amendment. We think we have done a fair job.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, I thank the gentleman.

It is my understanding that this amendment would take money away from the interstate discretionary fund, which is our highest priority. Is that not true?

Mr. HOWARD. That is what we were just talking about. I believe it reduces it by at least $100 million.

Mr. SHUSTER. So we would be taking funds away from the Nation's highest highway priority.

Mr. HOWARD. I agree with the gentleman. I urge a vote against it.

Mr. ARCHER. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I am happy to yield.

Mr. ARCHER. Mr. Chairman, I want to clarify the gentleman's own amendment, which I applaud the gentleman for introducing in order to try to treat these inequities.

The problem we had is that it does require an increased level of funding of $420 million. We are trying to live within the existing funding.

I wonder if the gentleman can tell us whether it would not be possible for the Appropriations Committee to fail to appropriate this extra $420 million and leave us with really nothing under the gentleman's amendment.

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

(By unanimous consent, Mr. HOWARD was allowed to proceed for 1 additional minute.)

Mr. HOWARD. Mr. Chairman, I have to say to the gentleman, it is entirely possible; but I believe that the fact that this is trust money makes it much more sure than we would be of being able to have the Appropriation Committee come out with this, rather than if it were general revenue funds where every dollar they come out with actually adds to the deficit of the budget; whereas this one, of course, should be separate from that and does not and the money is there; so I believe that it is possible, certainly. I am not going to fool the gentleman.

Mr. ARCHER. Mr. Chairman, if the gentleman will yield further, I am not going to try to make a strong argument against the gentleman's amendment, but I think ours is better, because we can stay within the funding that exists under the bill.

Mr. HOWARD. But we do damage to a certain program that is important.

Mr. ARCHER Without damaging any single State.

Mr. HOWARD. We would damage programs that are supposed to go under the interstate discretionary program, we certainly would.

Mr. ARCHER. But if the gentleman would yield further, that is, as the gentleman said, discretionary. It is not a commitment to any particular State. It is within the power of the Secretary to determine where those funds go.

Mr. HOWARD. That is right, and he is supposed to use them for that purpose, not just give them out in areas where they do not have a tremendous need for it.

Mr. SENSENBRENNER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the Archer amendment, and I rise in support of the amendment to the amendment in the nature of a substitute offered by the gentleman from New Jersey.

The amendment offered by the gentlemen from New Jersey affords an opportunity to partially correct an inherent inequity in the distribution of the highway trust fund.

The highway trust fund formula creates two classes of States: Those which receive more than they contributed; and those which receive less than they contributed, often referred to as "donor States." Wisconsin is a donor State. Wisconsin has about 2 percent of the Nation's land area and population. We pay 2.1 percent of all Federal excise fees. Yet Wisconsin has averaged, since its creation in 1956, only about 1.5 percent of all highway trust fund apportionments, in effect receiving back only 75 cents per $1 of fees paid. Wisconsin in fiscal year 1982 received 70 cents from every $1 contributed. Wisconsin drivers pay for road rehabilitation in other States, as its roads deteriorate. If the amount of the revenue contributed to the fund is increased, this disparity will only be exacerbated. The State of Wisconsin, as well as other donor States, will be deprived of scarce revenues, which will have to be offset if its transportation systems are to remain usable. Further, employment opportunities will be lost, in many cases, to States with less unemployment than the State of Wisconsin.

The amendment offered by the gentlemen from New Jersey, will allocate at least 85 percent of the percentage of estimated tax payments attributable to highways in that State, to be returned to the State. This amendment will provide for a more equitable distribution of the highway trust fund.

I, therefore, strongly urge my colleagues to support the amendment.

Mr. LOWRY of Washington. Mr. Speaker, I move to strike the requisite number of words. I rise in opposition to the Archer amendment.

Mr. Chairman, in the State of Washington there has been serious doubt that adequate funding will be available in the future to complete all aspects of the Seattle portion of the Interstate 90 project. It is feared that after the highway portion of the project is completed there will not be adequate money to complete the necessary amenities, such as the environmentally important lidding of the freeway. The U.S. Department of Transportation has stated that the level of Interstate 4-R funding authorized by the Federal Highway Act of 1981 did not adequately reflect the system's needs. I want to be certain that the additional money made available by this legislation will provide for completion of all the amenities of the I-90 project and specifically those amenities, in their entirety, included in the agreements with local governments and final environmental impact statements for the completion of the Interstate 90.

I have today received correspondence from the U.S. Department of Transportation and the Washington State Department of Transportation stating the additional funding provided by this legislation will allow completion of the I-90 Seattle project. A letter from the U.S. Department of Transportation from the Deputy Administrator of the Federal Highway Administration, Mr. L. P. Lamm, states the problem of inadequate funding will be "rectified by congressional approval of the proposed user tax increase." Under H.R. 6211, Washington State will receive a significant increase in the amount of Interstate 4-R funds it receives. Washington State's apportionment for fiscal year 1984 would increase from $16.8 million to approximately $40 million according to the Department of Transportation. In his letter, Mr. Lamm stated:

> We believe there would be enough interstate construction funding to finance all remaining gap work by the early 1990's and also enough Interstate 4-R funds to complete the 4-R work items on projects such as I-90.

In a telegram from the Washington State Department of Transportation, I have received assurances that with the passage of H.R. 6211 the State will be in a position to meet its commitments on the completion of the I-90 project as agreed with local governments and as authorized.

I will enter both the letter from the U.S. Department of Transportation and the telegram when we return to the full House.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. ARCHER) as a substitute for the amendment offered by the gentleman from New Jersey (Mr. HOWARD).

The question was taken; and on a division (demanded by Mr. ARCHER) there were—ayes 8, noes 31.

So the amendment offered as a substitute for the amendment was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. HOWARD).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HOWARD

Mr. HOWARD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HOWARD: Amend the section heading for section 150 to read as follows:

TEMPORARY MATCHING FUND WAIVER

In subsection (a) of section 150, strike out "September 30, 1984" and insert in lieu of "September 30, 1983".

In subsection (b) of section 150, insert after "has certified" the following: ", in accordance with regulations established by the Secretary of Transportation,".

In subsection (c) of section 150, strike out paragraph (1) and insert in lieu of the following:

(1) the sum of the amount of obligation authority distributed to such State for fiscal year 1983 under section 104(b) of this Act, plus the amount, if any, available to such State under section 155 of this Act, pertaining to minimum allocation, over

In subsection (d) of such section, strike out the second and third sentences and insert in lieu of the following: Such payments shall be deposited in the Highway Trust Fund and such repaid amounts shall be credited to the appropriate apportionment accounts of such State.

After subsection (d) of such section, insert the following new subsection:

(e) If a State has not made the repayment as required by subsection (d) of this section, the Secretary shall deduct from funds apportioned to such State under section 104(b) of title 23, United States Code, except for paragraph (5)(A), in each of the fiscal years ending September 30, 1985 and September 30, 1986, a pro rata share of each category of such apportioned funds, the total amount of which shall be equal to 50 per centum of the amount needed for repayment.

Mr. HOWARD (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

Mr. CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. HOWARD. Mr. Chairman, this is the second amendment that I referred to during the general debate. We are, as we know, passing a bill that had not been anticipated just a few weeks ago. It is going to be able to provide for the States several billions of dollars in additional money which will be used for highway improvements, maintenance, construction, bridge improvement, and safety projects.

The States are very, very happy about this; however, they do have a problem. They did not know this legislation was coming and many of them are not in a position to match the Federal funds.

As we know, in the Interstate and Interstate 4-R program we pay 90 percent. The States have to come up with 10 percent of that.

In the bridge program and in the transit program, it is 80-20.

In the non-Interstate Highway program, it is 75-25.

The States either because their budgets are completed or the legislatures do not meet are put in a terrible bind. So we want to get this money out, have the people put to work, have the projects start, hopefully almost all of it in 90 days.

This happened in the mid-1970's when we had a similar program during a recession under former President Ford, where money was being put out; so what we did with the States that could not match it was this. We said, "All right, if you will certify that you validly cannot match this money, but you do have the programs ready to go, we will give you the Federal share without a match."

All of the new money in the bill, all this money that is in addition to what is in the present law, and what we will ask these States to do is to have this repaid by the end of the second year. If all of it or any part of it is not repaid by the end of the second year, under this amendment then that money will be repaid by having the Federal Government deduct half of what is owed by the third year and the remaining half by the fourth year, the entire amount will be paid back to the highway trust fund and the money will have been utilized as speedily as possible and jobs provided.

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I am happy to yield to the gentlewoman from Ohio.

Ms. OAKAR. Mr. Chairman, I want to commend the gentleman for both amendments. It certainly helps States like the State of Ohio. I know that this has been a concern of our delegation and, indeed, of our Governor-elect. It certainly will give us the option that we were looking for.

Also in respect to the gentleman's previous amendment, it increased Ohio's amount by $73 million and I think we are all very, very grateful for that. This, in addition to the three projects totaling $54.5 million, adds to the commitment of the chairman to the State of Ohio. We are a lot better off than we were yesterday as stated by an article which appeared in the Plain Dealer, Ohio's largest newspaper which I would like to put in the RECORD at this time:

[The Plain Dealer, Sunday, Dec. 5, 1982]

GAS TAX BILL TO DRAIN OHIO

(By Geraldine M. Strozier)

If Ohioans think the gas tax hike-jobs bill working its way through Congress will help pull the state out of its recession, they should think again.

According to the U.S. Department of Transportation, the proposal to increase the federal gasoline tax four cents a gallon to finance highway and bridge renovation and one cent for mass transit, will end up costing the state at least $95 million and possibly more than $143 million, in total gas taxes.

If the House bill is enacted in its present form—adding five cents to the four cents a gallon already levied—Ohio will be sending about $472 million in gasoline taxes to Washington and it will get back only about $329 million, even though Ohio's unemployment rate of 14.2 percent is the second highest in the country.

According to one analysis of the House bill, Ohio could get back only 61 cents for every $1 in highway taxes it sends to Washington, said David L. Weir, the Ohio director of transportation.

The amount of Ohio's loss depends on which of several bills before Congress is enacted, and does not include an accurate analysis yet of what the state will get for mass transit nor how much truck taxes will increase. But no matter what happens, Ohio will end up subsidizing states with lower unemployment and higher revenues.

Mr. HOWARD. Mr. Chairman, I thank the gentlewoman.

I would like to say that the National Governors' Conference has supported and endorsed both these amendments. Should these amendments both be adopted, they then strongly support the passage of the legislation.

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I am happy to yield to the gentleman from Louisiana.

Mr. ROEMER. Mr. Chairman, a quick question. As I understand it, for the jobs aspect of this bill, this allows those States that are in a cash bind to take advantage of the money here and now. It does not forego their matching share in the appropriate categories.

Mr. HOWARD. That is true.

Mr. ROEMER. What about the match for the transit money?

Mr. HOWARD. I believe that is not included in this. I am sorry that I mentioned that. It is in the highway programs, but we believe that what they will be able to save there, they will be able to use in their States certainly to match the transit portion.

Mr. SHAW. Will the gentleman yield?

Mr. HOWARD. I am happy to yield.

Mr. SHAW. I would like to complement the gentleman on this most important amendment. Many States, like Florida, cannot by its own constitution deficit-finance construction of any sort. This is going to help our State in the event that the funds are not available as, of course, we as the other States were not prepared for the passage of this bill.

I thank the gentleman for his amendment.

Mr. HOWARD. We are very happy to help the gentleman's State and the other States.

Mr. MYERS. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I am happy to yield to the gentleman from Indiana.

Mr. MYERS. I would like to ask the gentleman, how soon do the States have to start paying this back?

Mr. HOWARD. We expect, as we said, that the money that is utilized from this first year where they will be able to get it will be paid back by the end of the second year. If it is not paid back by the end of the second year, then what we will do is take half of what is owed out of the third year allocation to the State and the other half out of the fourth year, so that by the end of this bill, by the end of the fourth year, it will all be repaid.

Mr. MYERS. So in effect, by the third year they would have to start paying one way or the other, either through their own contribution or by withholding future appropriations.

Mr. HOWARD. As I say, either pay us now or pay us later.

Mr. MYERS. I have heard that before.

Mr. ANDERSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by my good friend and chairman from New Jersey.

One of the concerns I have heard from many States during the crafting of this bill was that they might have difficulty coming up with their required match of the additional Federal funds that we are making available.

As our colleagues who have served on the State level are aware, most States have a budget cycle that runs from July to July. Many legislatures will not be meeting again for several months. And when they last met, as a matter of fact up until about 2 weeks ago, it looked as though there would be no increase in Federal highway funding this year. Of course, it now looks as if there will be.

□ 1710

But this confusion has left many States high and dry. They want the Federal funds, they need them; but they simply were not expecting this infusion of money and have not pursued the mechanisms which would allow them to provide the match.

This amendment would allow States to forgo their match the first year, to be made up at the end of the second year. If they are not made up by that time, the Secretary will reduce 50 percent of the appropriate amount in making his apportionment to the States during each of the fiscal years 1985 and 1986.

This is an equitable amendment, a fair amendment, and one which ought to be adopted.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding to me.

Mr. Chairman, some of us did receive notification from several States, including our own, California, that various States would not, in fact, be able to make the match. The gentleman is telling us now that this amendment will solve that problem?

Mr. ANDERSON. First, it is my understanding that the Governor has to declare that his or her State is unable to make the match; there has to be a clear need.

Then they get their first years required match waived, or put off. They are supposed to pay it back the end of the second year. If they do not pay it the second year, then the Secretary takes out in the third year half of it and in the fourth year the other half.

So it all eventually gets back into the highway trust fund. This makes it possible for States not ready for this money to get moving right away.

Mr. ROUSSELOT. So to the best of the gentleman's knowledge, this amendment solves the problem and the questions raised by our highway people in California?

Mr. ANDERSON. I say to the gentleman that the National Governors Conference has supported this amendment. I know our own State is facing the question of whether they have the money to get moving. So if that is true, this would allow them to move. I think it is a very good amendment.

Mr. ROUSSELOT. Mr. Chairman, I thank the gentleman for yielding to me and for his statements.

Mr. MYERS. Mr. Chairman, will the gentleman yield to me?

Mr. ANDERSON. I yield to the gentleman from Indiana.

Mr. MYERS. I thank the gentleman for yielding to me.

Mr. Chairman, it is not clear in my mind what the impact of this amendment would be. Is it the fact that the State would not have to put their share up and the Federal Government would match that share so the States can get 100, or it it just that they are not required to put their share up?

Mr. HOWARD. Mr. Chairman, will the gentleman yield to me?

Mr. ANDERSON. I yield to the gentleman from New Jersey.

Mr. HOWARD. I thank the gentleman for yielding.

Mr. Chairman, what would happen is that we would not put up the Federal share and the State share. We would put up the Federal share.

Let us make it simple. Let us assume we have a $90 million Federal share

for interstate which they would normally match with $10 million so we would have a $100 million program. If they do not have the money, they will get only $90 million.

Mr. MYERS. They will get only the $90 million. The $10 million is not advanced to the State.

Mr. HOWARD. No, but that will be their 90 percent, so they will have to put in another 10 percent, or $9 million, into the fund later on.

Mr. MYERS. Later on? All right.

Mr. HOWARD. They put that into the fund.

Mr. MYERS. I am glad we got that clarified.

Mr. HOWARD. We went round and round on this one. That is the way it works.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. HOWARD).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. LEVITAS

Mr. LEVITAS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LEVITAS: Page 33, line 18, strike out "order" and all that follows through line 21 on page 33 and insert in lieu thereof the following: "areas adjacent to the Interstate System and the primary system in order to protect the public investment in such highways, to promote the safety and recreational value of public travel, and to preserve natural beauty.".

Mr. LEVITAS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. LEVITAS. Mr. Chairman, this amendment amends section 121 of the bill entitled "Highway Beautification" in subsection (a) by striking language beginning with the word "order" that was added in the new version, and it restores the language to the original purpose language of the Highway Beautification Act.

In a sense, what it does is to maintain the same emphasis and thrust of the highway beautification program as was originally intended and does not change the emphasis by suggesting that one of the purposes of the Highway Beautification Act is to preserve communications through the outdoor media. It simply leaves the purpose as the Congress wrote it when the legislation was first passed. Since that sets the theme and the purpose of the legislation, which does get reflected in regulations and litigation, I feel it is important to restore the language to the original form that it was in and would urge my colleagues to join me in supporting this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. LEVITAS).

The amendment was agreed to.

Mr. LOWERY of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to ask a question of the distinguished gentleman from California (Mr. ANDERSON), the chairman of the Subcommittee on Surface Transportation of the Committee on Public Works and Transportation.

It is my understanding that a major emphasis of the legislation under consideration is significant increases in funding for 4-R rebuilding and repair activities. Am I correct?

Mr. ANDERSON. My distinguished colleague is correct.

Mr. LOWERY of California. The motorists of San Diego County have been awaiting the completion of an important interchange at the intersection of Interstate 8 and State Route 125 for a number of years now. Because of existing obsolete geometric standards and a poor safety record, funding for the I-8/125 interchange was previously approved under the regular interstate completion program. However, with the passage of the 1981 Federal-Aid Highway Act, the project was reclassified from the interstate completion program to the 4-R program. I-8 on either side of the interchange is an eight-lane freeway. However, through the interchange there are only six lanes, without shoulders, contributing to a severe bottleneck in the area.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield to me?

Mr. LOWERY of California. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. I thank the gentleman for yielding.

Mr. Chairman, I have reviewed this particular project, if I remember correctly, the I-8/125 intersection controls the only major land access from the east to service the many military bases and activities in San Diego. Completion of the interchange would greatly relieve the terrible congestion problems that exist in the area.

Mr. LOWERY of California. The gentleman is absolutely correct. In a national emergency, the present configuration would be totally inadequate.

Mr. SHUSTER. If the gentleman will yield further, there are many projects nationwide that are worthy of funding. Is it the gentleman's understanding that the State of California sees this as a priority project?

Mr. LOWERY of California. Yes, my colleagues will be interested to know that under the Brown administration, this project is considered a priority. It is also my understanding that it is approved by the San Diego Association of governments, CALTRANS, and the State transportation board. In addition, the impacted municiplaities strongly suport the project. Am I correct in assuming that this is the kind of project that the proposed change in existing law was designed to help?

Mr. ANDERSON. Mr. Chairman, will the gentleman yield to me?

Mr. LOWERY of California. I yield to the gentleman from California.

Mr. ANDERSON. I thank the gentleman for yielding.

Mr. Chairman, I have also reviewed the project to which the distinguished gentleman has referred, and agree that it is entirely appropriate that it be considered for completion under an expanded 4-R program. given the previous commitments by Governor Brown, I am certain that the State of California under the new administration will give this project priority consideration.

□ 1720

AMENDMENTS OFFERED BY MR. CONTE

Mr. CONTE. Mr. Chairman, I offer amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. CONTE: On page 12, line 14, strike "Twenty-five per centum of the" and insert "The" in lieu thereof; and

On page 12, strike all after the period in line 18 through the end of line 11 of page 13.

On page 88, strike all after the period in line 14 through the end of line 17.

Mr. CONTE. Mr. Chairman, the bill as written provides for contract authority, rather than budget authority, for substitute highway projects under the interstate transfer program; 25 percent of the funds would be allocated at the discretion of the Secretary, while the remaining 75 percent would be appropriated according to formula.

For transit projects under the interstate transfer program, the bill again provides for 25 percent of the funds to be allocated at the discretion of the Secretary, while the remaining 75 percent would be apportioned according to formula.

Mr. Chairman, the purpose of my first amendment is to prevent funding interstate transfer transit projects through the Appropriations Committee.

Mr. Chairman, it seems to me that there is a grave danger in the expansion of backdoor spending as proposed in this bill. We already face deficits of over $150 billion this year. Part of our problem is the uncontrollable nature of so many of our expenditures.

Without the opportunity for annual oversight of the Appropriations Committee, I am afraid that these pro-

grams, once underway, will continue to operate as entitlements. Without the Appropriations Committee's ability to provide annual oversight, and to adapt these programs to the individual needs of transit systems and our general economic conditions, I fear that we are setting ourselves up for another uncontrollable program.

Mr. Chairman, my second amendment would eliminate the authorization of contract authority for expenditures for transit capital projects from the transit account of the highway trust fund.

As currently written, this bill would provide for transit capital projects under contract authorizations to be spent at the discretion of the Secretary. This effectively transfers control of approximately $1.1 billion per year in transit discretionary funding from the Appropriations Committee to the administration, with only limited oversight by the Public Works Committee. This form of back-door spending authority should be eliminated.

Mr. Chairman, permitting the use of contract authorization makes the budget more and more uncontrollable. At a time when we are facing budget deficits of over $150 billion, we can ill afford this type of approach.

Last year, the Appropriations Committee spent almost 15 hours with the UMTA Administrator discussing the projects in UMTA's budget. It is critical that we retain the ability to exercise this oversight on a yearly basis. In addition, we should be able to allow for changing circumstances and adjust project funding levels to meet the individual needs of the transit systems involved. This discretion should remain with the Congress, not be delegated to this or any other administration.

Mr. Chairman, this provision raises serious questions about the ability of new rail projects or extensions of existing systems to be funded. To my knowledge, this would include such cities as Boston, Houston, Los Angeles, Seattle, San Jose, Jacksonville, St. Louis, Honolulu, San Juan, Denver, Miami, Atlanta, Portland, Baltimore, Buffalo, and San Diego. While I sympathize with the need for stable and predictable funding, back-door spending is not the way to accomplish this end. I urge the adoption of these amendments.

Mr. CONTE. Mr. Chairman, let me say—and I want Mr. HOWARD to hear this—you know, the Committee on Appropriations has been raped down through the years, and Members are going home and saying that we have to bring the budget in balance, but we can't do anything to bring this about because it is all in entitlements—or contract authority—medicare, medicaid, food stamps. Now, you are chipping away a little further with this bill.

Let me tell you, it is going to have a great bearing on whether I am going to stand here and vote for this 5-cent gasoline tax. You may be winning a great coup here today, Mr. HOWARD, but it is going to have a great bearing on the outcome of this legislation.

Mr. HOWARD. Mr. Chairman, I rise in opposition to the amendments. I would just like to state to my good friend from Massachusetts, the highway program is not an entitlement program—contract authority program. So, for him to talk about entitlement programs that can just run away with themselves, it cannot happen here. As the gentleman knows, this is a 4-year bill. We know exactly what the cost level of authorization is. So, I think the gentleman does a disservice to his colleagues to try and imply that that is not the case.

Mr. Chairman, for the interstate transit project, present law allows the appropriations process to set annual funding levels, and appropriation committees determine how these funds are apportioned to transfer cities. H.R. 6211 will still have appropriation process to determine local funding levels, but say that 75 percent of the funds will be distributed on a fair share basis among the cities in proportion to the amount of work the city must do as determined on a periodic construction schedule prepared by the Secretary. And so, the way 75 percent of this money will be given out under the present law, without the gentleman's amendment, is on a cost to complete the project, a fair share for everyone.

What the gentleman wants to do is to eliminate that and to have it up to the Appropriations Committee to give it all to Massachusetts and Boston if it wants to, and with that long list that he read of all the cities that might be involved, the only way they can be sure of getting a fair share at least of 75 percent of the money is to be able to reject this amendment and make sure that it goes out based upon the cost to complete, the money available, and not open it wide open so that it can be given all to one special area.

I think that we do a great deal of harm with this.

Another program which would apparently, as I believe, eliminate the 1 cent of the gasoline tax for the transit which I believe that is absolutely necessary. This money in transit also helps the highways. The more people who use public transportation, the more people we get off the highways. Not only will we conserve fuel, not only will we have less air pollution, but we will have fewer cars on the highways; we will have better traffic; we will have a savings on fuel; we will have better safety. I think this is all one package, and I think we should just summarily reject the one or both or en bloc amendments offered by Mr. CONTE, the gentleman from Massachusetts.

Mr. MYERS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I reluctantly rise on this occasion, not because I have any hesitancy in supporting the amendment, but to take the time; I shall not take the 5 minutes.

But, the argument that the chairman, the gentleman from New Jersey, has used this afternoon for justification to bypass the appropriations process is one I have heard a number of times, in fact, too often. It seems to me that if this continues we might just as well abolish the Appropriations Committee. Why have the necessary hearings? Why go through the routine we do of inviting agencies that use this money and to examine after authorization the necessity for, on an annual basis, I might add, not a 4-year program as this is, but to annually review and to make certain that there still is a need or there might be a better way of accomplishing this?

□ 1730

Now, to suggest that, as our Chairman has suggested, that the Appropriations Committee might give all the money to Boston or Massachusetts, or any one else means that someone impugns the motives, if not the judgment, of the Appropriations Committee. My friend, the gentleman from Massachusetts, who is the ranking minority member of the Transportation Subcommittee of the Committee on Appropriations, and I have had some disagreements over a lot of things, but I have never seen him try to get everything for Massachusetts.

But really, I think if we are interested in protecting the rights not only of the Appropriations Committee—maybe you have no feelings toward that committee—but of the other committees, the authorizing committees, this is going to expand if we allow this to happen today.

I am not questioning the Committee on Public Works and Transportation. I know that committee does a good job, and certainly I generally support everything if does, and I do not think it is any fault of theirs that this bill has been drafted and brought together so quickly to get it through at the end of this session.

Mr. Chairman, I urge my colleagues to support the committee because we cannot just allow this to continue and continue to expand. The gentleman from Massachusetts certainly performs a very important service by offering this stopper with this amendment. I hope the Members will support it.

Mr. PURSELL. Mr. Chairman, will the gentleman yield?

Mr. MYERS. I yield to the gentleman from Michigan, who is a member of the Appropriations Committee.

Mr. PURSELL. Mr. Chairman, I rise in support of the Conte amendment.

I think to give up that legislative prerogative would be a mistake on the part of the Congress. It is a matter of policy. I think we have been fair in our distribution as members of the appropriations or authorizing committees. That is critical. I think we should keep that prerogative here at the congressional level. It is a principle here that we ought not overlook, and I think the gentleman from Massachusetts (Mr. CONTE) has offered an excellent amendment.

Mr. MYERS. Mr. Chairman, I think so. We have all seen the Budget Committee take more and more away. Again, if we are all going to go this route, why not just turn it all over to the Budget Committee and we will not need a Public Works Committee or our committee?

Mr. HOWARD. Mr. Chairman, will the gentleman yield?

Mr. MYERS. I yield to the committee chairman.

Mr. HOWARD. Mr. Chairman, I thank the gentleman for yielding.

I just want to correct one thing. It seems to the gentleman from Michigan as though we were going to change something here if we do not pass the amendment. I just want to say that if we pass the amendment, then we would take away the right of contract authority which we have had, so the change will come if the amendment passes. It is not that we are now in this bill trying to change something.

Mr. MYERS. But this is not additional tax money we are bringing in now. We have had that contract authority. But the appropriations process is being violated here, and no one can deny that.

Mr. HOWARD. Mr. Chairman, it seem that our programs have run very well in the past. Most States have said that they have been very good programs. I do not know why we want to pick on Public Works all the time to change things.

Mr. MYERS. Mr. Chairman, we are certainly not picking on Public Works. We did not bring this subject up.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Massachusetts.

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 11, noes 22.

RECORDED VOTE

Mr. CONTE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 96, noes 305, not voting 32, as follows:

[Roll No. 415]

AYES—96

Addabbo	Heckler	Petri
AuCoin	Hertel	Porter
Boland	Hightower	Pursell
Bonior	Hiler	Ratchford
Broyhill	Hillis	Regula
Burgener	Horton	Roberts (KS)
Cheney	Johnston	Roberts (SD)
Coats	Jones (OK)	Robinson
Collins (TX)	Kemp	Roth
Conte	Latta	Roybal
Coughlin	Livingston	Rudd
Daub	Loeffler	Sabo
DeNardis	Long (MD)	Sawyer
Dicks	Lowery (CA)	Shannon
Dixon	Lundine	Skeen
Donnelly	Markey	Smith (IA)
Early	Mavroules	Smith (NE)
Eckart	McCurdy	Snowe
Edwards (AL)	McDade	Studds
Edwards (OK)	McDonald	Synar
Emery	McHugh	Tauke
English	Michel	Traxler
Erlenborn	Miller (OH)	Vander Jagt
Fazio	Moakley	Walker
Fenwick	Moffett	Watkins
Fiedler	Myers	Weaver
Fountain	O'Brien	Whittaker
Frank	Oakar	Whitten
Gilman	Obey	Wilson
Goodling	Patman	Yates
Gray	Paul	Young (FL)
Green	Perkins	Zeferetti

NOES—305

Akaka	Coyne, James	Gejdenson
Albosta	Coyne, William	Gephardt
Anderson	Craig	Gibbons
Andrews	Crane, Daniel	Gingrich
Annunzio	Crane, Philip	Ginn
Anthony	Crockett	Glickman
Applegate	D'Amours	Gonzalez
Archer	Daniel, Dan	Gore
Ashbrook	Daniel, R. W.	Gradison
Aspin	Dannemeyer	Gramm
Atkinson	Daschle	Gregg
Badham	Davis	Grisham
Bailey (MO)	de la Garza	Guarini
Bailey (PA)	Dellums	Gunderson
Barnard	Derrick	Hagedorn
Beard	Derwinski	Hall (IN)
Bedell	Dickinson	Hall (OH)
Beilenson	Dingell	Hall, Ralph
Benedict	Dorgan	Hall, Sam
Bennett	Dornan	Hamilton
Bereuter	Dougherty	Hammerschmidt
Bethune	Dowdy	Hance
Biaggi	Downey	Hansen (ID)
Bingham	Dreier	Hansen (UT)
Bliley	Duncan	Harkin
Boner	Dunn	Hartnett
Bouquard	Dwyer	Hatcher
Bowen	Dymally	Hawkins
Breaux	Dyson	Hefner
Brinkley	Edgar	Heftel
Brodhead	Edwards (CA)	Hendon
Brooks	Emerson	Holland
Broomfield	Erdahl	Holt
Brown (CA)	Ertel	Hopkins
Brown (CO)	Evans (GA)	Howard
Brown (OH)	Evans (IA)	Hoyer
Burton, John	Evans (IN)	Hubbard
Burton, Phillip	Fary	Huckaby
Butler	Fields	Hughes
Byron	Findley	Hunter
Carman	Fish	Hutto
Carney	Fithian	Hyde
Chappell	Flippo	Ireland
Chappie	Foglietta	Jacobs
Clausen	Foley	Jeffords
Clay	Ford (MI)	Jeffries
Clinger	Ford (TN)	Jenkins
Coelho	Forsythe	Jones (NC)
Coleman	Fowler	Jones (TN)
Collins (IL)	Frenzel	Kastenmeier
Conable	Frost	Kazen
Conyers	Fuqua	Kennelly
Corcoran	Garcia	Kildee
Courter	Gaydos	Kindness
Kogovsek	Nelligan	Smith (AL)
Kramer	Nelson	Smith (NJ)
LaFalce	Nichols	Smith (OR)
Lagomarsino	Nowak	Smith (PA)
Leach	Oberstar	Snyder
Leath	Ottinger	Solarz
LeBoutillier	Oxley	Solomon
Lee	Panetta	Spence
Leland	Pashayan	St Germain
Lent	Pease	Stangeland
Levitas	Pepper	Stark
Lewis	Peyser	Staton
Long (LA)	Pickle	Stenholm
Lott	Price	Stokes
Lowry (WA)	Pritchard	Stratton
Lujan	Quillen	Stump
Luken	Rahall	Swift
Lungren	Railsback	Tauzin
Madigan	Rangel	Thomas
Marriott	Reuss	Trible
Martin (IL)	Rinaldo	Udall
Martin (NC)	Ritter	Vento
Martin (NY)	Rodino	Volkmer
Martinez	Roe	Walgren
Matsui	Roemer	Wampler
McClory	Rogers	Washington
McCollum	Rose	Waxman
McEwen	Rosenthal	Weber (MN)
McGrath	Rostenkowski	Weber (OH)
McKinney	Roukema	Weiss
Mica	Rousselot	White
Mikulski	Russo	Whitehurst
Miller (CA)	Savage	Whitley
Mineta	Scheuer	Williams (MT)
Minish	Schneider	Williams (OH)
Mitchell (MD)	Schroeder	Winn
Mitchell (NY)	Schulze	Wirth
Molinari	Schumer	Wolf
Moliohan	Seiberling	Wolpe
Montgomery	Sensenbrenner	Wortley
Moore	Shamansky	Wright
Moorhead	Sharp	Wyden
Morrison	Shaw	Wylie
Murphy	Shelby	Yatron
Murtha	Shumway	Young (AK)
Napier	Shuster	Young (MO)
Natcher	Siljander	Zablocki
Neal	Simon	

NOT VOTING—32

Alexander	Evans (DE)	Mazzoli
Bafalis	Fascell	McCloskey
Barnes	Ferraro	Mottl
Bevill	Florio	Parris
Blanchard	Goldwater	Patterson
Boggs	Hollenbeck	Rhodes
Bolling	Lantos	Santini
Bonker	Lehman	Skelton
Campbell	Marks	Stanton
Chisholm	Marlenee	Taylor
Deckard	Mattox	

□ 1750

Mr. ARCHER changed his vote from "aye" to "no."

Messrs. WALKER, MICHEL, EDWARDS of Oklahoma, DICKS, and FOUNTAIN changed their votes from "no" to "aye."

So the amendments were rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. WYDEN

Mr. WYDEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WYDEN: Strike out section 147 of the amendment and insert in lieu thereof the following:

USE OF SUBSTANCES FROM RECYCLED TIRES IN PAVING MATERIALS

SEC. 147. (a) Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 157. Substances produced from recycled tires.

"(a) The Congress hereby finds and declares that it is in the national interest to

encourage and promote utilization by the States of highway and bridge surfacing, restoration, and maintenance substances or materials produced in substantial part from rubber recovered from recycled tires. Such utilization conserves energy and operates to remove old, unsightly, discarded tires from the countryside, junkyards, public parks, and recreation lands adjacent to the Interstate System, and it thereby effectively assists in the accomplishment of highway beautification and safety programs under this title.

"(b) Subject to the provisions of this section, the Secretary shall make grants to each State which adopts and implements an effective program that requires the utilization of significant volumes of substances or materials produced in substantial part from rubber recovered from recycled tires in projects for construction, resurfacing, restoration, rehabilitation, reconstruction, or maintenance on routes of Federal-aid highways in such State. Such grants may only be used by recipient States to implement and enforce such programs. The Secretary shall establish a procedure for the selection of grant applications submitted under this section. Any State may make an application under this section, and such application shall be in the form and contain such information as the Secretary, by regulation, shall prescribe.

"(c) The Secretary shall issue and publish in the Federal Register proposed regulations to implement this section not later than 90 days after the date of enactment of this section and shall issue and publish in the Federal Register final regulations not later than 60 days after the date of publication of the proposed regulations.

"(d) There is hereby authorized to be appropriated to carry out this section, out of the Highway Trust Fund, not to exceed $5,000,000 for the fiscal year ending September 30, 1983, and not to exceed $25,000,000 per fiscal year for each of the fiscal years ending September 30, 1984, and September 30, 1985. All provisions of this chapter that are applicable to Federal-aid primary funds, other than provisions relating to the apportionment formula, shall apply to the funds authorized to be appropriated to carry out this section, except as determined by the Secretary to be inconsistent with this section.".

(b) The analysis for chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following:

"157. Substances produced from recycled tires.".

Mr. WYDEN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. WYDEN. Mr. Chairman, our debate today highlights the widespread concern over continued high levels of unemployment and the deterioration of our highway infrastructure.

With these concerns in mind, I offer an amendment that will rebuild our roads in a cost-effective manner, alleviate our dependence on oil and remedy our Nation's most pressing solid waste problem: the disposal of old tires.

The amendment is simple: It earmarks a small portion of the $685 million per year paid into the trust fund from tire excise taxes to provide grants to States to establish highway rehabilitation projects that use asphalt mixed with rubber recycled from old, discarded tires. The grants—which would total $5 million in fiscal 1983 and $25 million in fiscal 1984 and 1985—would be administered by the Secretary of Transportation.

The facts—based on 8 years of study and more than 25 State demonstration projects—prove that the proposal adds up for taxpayers—and for our infrastructure.

Study after study has shown asphalt containing recycled tire rubber to be a superior, longer lived, highway paving material.

The Federal Highway Administration (FHWA) reports that after years of heavy use and observation, rubber/asphalt roads are still in good to excellent condition.

The FHWA also reports that asphalt/rubber substantially extends the service life of pavement and that asphalt/rubber is far superior to plain asphalt in the control of cracks and potholes.

The city of Phoenix, Ariz., with more than 11 years experience using rubber/asphalt, concludes that asphalt/rubber has virtually stopped maintenance costs. Indeed, they report asphalt/rubber mixtures actually improve with time whereas conventional mixtures deteoriate.

The facts also show that the amendment adds up for energy independence:

By converting to asphalt/rubber mixtures, America could reduce its dependence on crude oil—the principal component of asphalt—of which it still imports more than 4 million barrels per day.

In fact, if 25 percent of the asphalt used in 1979 for repaving roads had been replaced with recycled tire rubber, more than 7 million tons of asphalt from crude oil could have been saved and the country would have been rid of 659 million. Texas alone has reaped a 40-percent overall energy savings from the use of asphalt/rubber over conventional methods.

Finally, Mr. Chairman, the amendment adds up for financially strapped counties and cities:

By transforming one of the most distressing solid waste problems—used tires—into a national asset, this proposal will provide our cities and counties with a new raw material source for building our roads—at a savings to taxpayers.

Each year this country must dispose of 240 million used tires. Burying these tires in landfills costs our cities and counties over $100 million annually. In addition, tire disposal presents a costly and intractable problem because tires have a tendency to float to the surface and do not decompose.

By enhancing the market for recycled tire rubber we will not only alleviate the disposal problems with tires, we will provide cities and counties with a veritable gold mine in tires to be recovered from landfills and sold as a highway paving material.

Mr. Chairman, this amendment is a small but crucial step in closing an open-ended and costly loop.

It is easy to implement—the recipe simply calls for 20 to 25 percent shredded tire rubber mixed with asphalt.

It is cost effective. By cutting down on road maintenance costs, which are taking up an ever-increasing portion of our highway trust fund, and extending the life of our highways, it saves the taxpayers money.

And it is a particularly fitting solution to our decaying transportation infrastructure. How much more sensible it is to use the very tires that wear down our roads to rebuild those roads than it is to simply allow them to become eyesores along our roadsides or in our landfills.

Mr. Chairman, I believe my amendment adds up for America in every possible way. I urge adoption of the amendment.

Mr. ANDERSON. Mr. Chairman, will the gentleman yield?

Mr. WYDEN. I yield to the gentleman from California. And at this time I also want to thank him for the tremendous help he has given me in preparing this amendment.

Mr. ANDERSON. I thank the gentleman for yielding.

Mr. Chairman, I will accept the amendment offered by the gentleman from Oregon, which is intended to encourage and promote the acceptance of a promising technology that may help us improve the resurfacing of our roads, conserve energy, and clean our environment.

I appreciate the persistent efforts of the gentleman from Oregon, thank him, and accept his amendment.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. WYDEN. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. I thank the gentleman for yielding.

Mr. Chairman, we have examined the gentleman's amendment and we support it.

Mr. WYDEN. I thank the gentleman.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. WYDEN. I yield to the gentleman from Arizona.

Mr. UDALL. I thank the gentleman for yielding.

Mr. Chairman, I strongly endorse this amendment. It is conservation in

its very best sense. I think the gentleman from Oregon has done a real public service. I am delighted to be a supporter of his amendment.

Mr. WYDEN. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon (Mr. WYDEN).

The amendment was agreed to.

Mr. SHUSTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to lend my support and make clarifications on several projects which have been mentioned by several colleagues on this side of the aisle and the other.

Congressman JOHN BREAUX has a project in this legislation which could clear up a severe problem at the intersection of College Drive and Interstate 10 in East Baton Rouge, La. I agree with my colleague that this project should be given expeditious consideration.

In section 137(b) of the substitute, there is a project intended to demonstrate the latest state-of-the-art highway technology. It is stated in this section, among other criteria, that this project should close a gap of not more than 10 miles and connect both highway construction using current technology and older completed highway construction. I agree with my colleague, Mr. ANDERSON of California, that this project should be given priority consideration and that a segment of Route 220 from East Freedom, Pa., south to the Blair County/Bedford County line qualifies for all the specific criteria in this section and shall be eligible for this demonstration project and shall be funded.

In regard to discretionary bridges, I would like to make reference to those bridges mentioned by the committee in House Report 97-555. I agree with my colleagues that these bridges should be given priority consideration.

I also want to make it clear that the committee intends that the relevant legislative history in House Report 97-555, including sections 105, 107, 118, 120, 127, 133, and 137 of such report, to the extent that the provisions of H.R. 6211 as reported are not inconsistent with such bill as amended by H.R. 7360, concerning special concerns and priorities apply to the appropriate provisions in our substitute.

I also want to note that the committee will be publishing a revised table of priority primary routes. This table will include the state of Franklin Road in the vicinity of Johnson City, Tenn. This matter was brought to our attention by the distinguished gentleman from Tennessee, JAMES QUILLEN, and I am most pleased that we have been able to take care of this important matter.

Also, there are several of my colleagues who have expressed a concern about bridges in their respective districts which should receive priority consideration out of the discretionary bridge program. I agree with Congressman TOM BLILEY that the Robert E. Lee Bridge spanning the James River at Richmond, Va., meets the criteria under the program and should be given priority consideration for funding. I would wholeheartedly agree with my colleague from California, Mr. CLAUSEN, that the Russian River Bridge near Cloverdale, Calif., receive priority funding under the discretionary bridge program and priority consideration should be warranted as referenced in section 127(b) of the substitute.

In addition, I would agree with ROBERT MICHEL, the distinguished minority leader, that the Franklin Street Bridge in Peoria, Ill., should be given priority in the allocation of discretionary bridge funds. The Franklin Street Bridge is in serious need of replacement because it is a narrow two-lane bridge serving 12,000 vehicles daily and has been closed frequently for repairs.

Furthermore, I would agree with Congressman DAVID EMERY that the Cook's Corner Bridge over the Androscoggin River between Topsham and Brunswick, Maine, should be given priority consideration in the allocation of discretionary bridge funds.

Congressman TRENT LOTT has also expressed his concern about two critical projects in Mississippi. I agree with Mr. LOTT that the Fort Bayou Bridge and the Moss Point-Escatawpa Bridge qualify under the discretionary bridge program and should be given priority consideration. The Fort Bayou Bridge would need $10.3 million and the Moss Point-Escatawpa Bridge would need $27 million.

Finally, Congressman TOM HAGEDORN of Minnesota has brought to the committee's attention the need for reconstruction of the Wabasha Bridge over the Mississippi River connecting Minnesota and Wisconsin via Fap Trunk Highway 60. I agree with the Congressman that this project should receive priority consideration and funding under the discretionary bridge program. The cost of the bridge to be shared equally with Wisconsin, is $18.4 million. Additionally, Minnesota's approach cost is $2.25 million, bringing the total Minnesota cost to $11.45 million.

In regard to interstate transfers, I have spoken with the gentleman from Virginia, Mr. WOLF, and agree with him that the project providing for the withdrawal of funds from the I-595 project and transfer to improvements to U.S. Route 1 from I-395 to Route 120 should receive priority consideration and approval.

This bill omits the provision contained in section 138 of the substitute requiring an investigation by the Comptroller General into competitive bidding practices with respect to highway and mass transit construction in this country. Our sole reason for dropping this provision is that it has proven to be unnecesssary. This is because, since the time our highway legislation was first developed this past spring, the study has been requested and is now underway.

Prior to the October 1 adjournment of the regular session, the deletion was discussed by both the House and Senate sides with full agreement that, whether initiated by statute or otherwise, this investigation is urgently needed, has the support of both the House and Senate committees, and should be completed expeditiously.

The purpose of the language in section 112 of the substitute dealing with resurfacing standards under Section 109 of Title 23, United States Code, is to assure that enhancement of highway safety result from the carrying out of any project for the resurfacing, restoring, or rehabilitation of any highway. The intent of this provision, moreover, is to provide some flexibility to the States in the degree of safety improvement which reasonably can be required in the circumstances of a given project. It is explicitly not the intent of the committee, for example, that new construction standards necessarily be applied in every case.

One final point on this provision: It is further the intent that adequate opportunity for public participation be provided as standards mandated under this provision are developed to the point of approval by the Congress.

Congressman JACK BRINKLEY has been instrumental in calling to the committee's attention, the 13th Street Viaduct Bridge in Columbus, Ga. The bridge is a vital link in an east-west transportation corridor which facilitiates the movement of interstate and intracity traffic. Replacement of the bridge is essential for two reasons. The bridge is in a state of disrepair resulting from 57 years of service. If the bridge were to be declared unsafe and placed out of service, the disruption to traffic flow and the progress of commerce would be severe. Second, the existing viaduct no longer meets the necessary traffic capacity standards. Traffic volume presently exceeds 20,000 vehicles per day. The Columbus-Phenix City transportation study calls for additional reliance on the 13th Street corridor for east-west traffic movement. A multilane replacement of the existing viaduct is imperative to provide necessary traffic capacity. The existing 13th Street Viaduct Bridge has a sufficiency rating under 50 and an estimated replacement cost of $13.8 million. The committee believes it should receive priority consideration under the discretionary bridge program.

Similarly, the Green Bridge in Manatee County, Fla., qualifies under the

discretionary bridge program. It has a sufficiency rating of 28.7, and will cost $16.1 million to replace. It is structurally deficient, functionally obsolete, and yet vitally important to surface transportation in the county. The Green Bridge should receive priority consideration when discretionary bridge funds are distributed. The committee wishes to thank Congressman IRELAND for his tireless efforts on behalf of this project.

Congressman SHAW has expressed a great concern over the availability of section 402 funding for safety projects related to motorcycle, bicycle, and pedestrian safety. It should be made quite clear that the States may apply for such funds. We are concerned, however, that the States may be laboring under the false impression that these programs are not eligible for funding despite the fact that they have proven successful and effective, and are certainly eligible for funding under requirements set forth in the Code of Federal Regulations.

I would also like to bring to the Members' attention an accelerated construction project and demonstration project for Primary Route 841 known as the Jefferson Freeway. The project would be located between Route 60/31W and Interstate Route 65 in the vicinity of Louisville, Ky., and would fit the criteria established in section 137(e) of the substitute to H.R. 6211. It also should be mentioned that Route 841 in being added in its entirety to the priority primary list of projects.

At the request of the distinguished chairman of the House Ways and Means Committee, I agree that three bridges in Illinois should receive priority consideration. Those bridges are the Dan Ryan, Clark, and Staley Viaduct.

Congresswoman BARBARA KENNELLY has brought to this committee's attention a comprehensive interstate project to complete and improve the interchange of I-91 and I-84 in Hartford, Conn. The structurally deficient bridge program is an essential element of the comprehensive project. The committee believes the Charter Oak Bridge should receive priority consideration when discretionary funds are distributed.

Also, Congressman PANETA has brought to the attention of the committee State Route 101 from Monterrey Street and Gilroy, Calif., to Russell Road in Salinas, Calif. I believe this route qualifies to be added to the priority primary program.

In addition, Congressman FAZIO requests that Highway 99 in Sacramento, Calif., be designated as priority primary. This highway is a 13-mile stretch of roadway north from Interstate 5 to where Highways 99 and 70 divide.

AMENDMENT OFFERED BY MR. DONNELLY

Mr. DONNELLY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DONNELLY: Page 22, line 2, after "highways," insert the following: "which study shall include a study of the cost effectiveness of the hot dip galvanizing process for the installation, repair, or replacement of exposed structural and miscellaneous steel,".

Mr. DONNELLY. Mr. Chairman, the amendment which I am offering today is of a technical nature and does not call for additional funding. Section 112 of H.R. 6211 requires that the National Academy of Sciences conduct a study to assess the cost effectiveness of new construction and reconstruction standards that could be applied to projects. My amendment would simply include the review of the cost effectiveness of the hot dip galvanizing process. A National Bureau of Standards study stated that corrosion costs the United States an estimated $123 billion in 1981. It was further estimated that 15 percent of the total loss due to corrosion, or $18.5 billion, could have been avoided by making use of the available corrosion-control techniques.

Hot dip galvanizing is an effective and widely applicable corrosion control technique, yielding long lasting rust prevention for steel. The life expectancy of galvanized steel is up to 50 years more than conventional products and would protect the investment made into our Interstate System. NASA engineers have used galvanized steel in many sections of the Space Shuttle which upon takeoff suffers 100 years of corrosion every 30 seconds. I believe that it is time to use this same technique on our transportation system, to save the Congress from reestablishing programs to rebuild our roads every 15-20 years.

Once again, I would like to point out that my amendment does not call for a new study or additional funds but simply requires that the authorized study review a procedure which has proven to save billions of dollars.

Mr. ANDERSON. Mr. Chairman, will the gentleman yield?

Mr. DONNELLY. I yield to the gentleman from California.

Mr. ANDERSON. I just would like to inform the gentleman, we have no opposition to his amendment and accept it.

Mr. DONNELLY. Mr. Chairman, I thank the gentleman for his interest.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. DONNELLY. I am more than happy to yield to the ranking minority member.

Mr. SHUSTER. We have examined this amendment and believe it is a good amendment and we support it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. DONNELLY).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SHAW

Mr. SHAW. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SHAW: Page 33, line 10, strike "Subsections (a)" and all that follows through the period on page 39, line 8. Insert in lieu thereof the following:

Section 131 of title 23 United States Code is amended by inserting the following new subsection:

"(r) The Secretary shall submit to the Congress, not later than one year from the date of enactment of this legislation, a study:

"(1) regarding the effectiveness of the Federal Highway Beautification Act in controlling and removing outdoor advertising signs, displays, and devices in areas adjacent to the Interstate System and the primary system for the purposes of protecting the public investment in such highways, promoting the safety and recreational value of public travel, and preserving natural beauty, and;

"(2) in preparation for the possible deregulation of the Federal Highway Beautification Act, the responsibilities of federal, state, and local governments in the control and removal of outdoor advertising signs, displays, and devices in order to provide an effective and responsive highway beautification program, and;

"(3) possible administrative improvements and alternative funding methods for removing nonconforming compensable outdoor advertising signs, displays, and devices, and;

"(4) any other aspect deemed appropriate by the Secretary of Transportation regarding the Highway Beautification Act."

Mr. SHAW (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. SHAW. Mr. Chairman, in the debate on the bill, I made reference to section 131, the Highway Beautification Act.

I would like to take a few minutes to tell this body exactly what the existing law is that has been on the books since 1965 and has served this country well. It provides that each of the States is by agreement with the Secretrary of Transportation to set up certain guidelines which in effect regulate the placement of billboards on the interstate system. In doing so, it recognizes the responsibility and intention of this Congress as set forth in the opening paragraph that was just restored by an amendment that was made and passed by the gentleman from Georgia (Mr. LEVITAS).

In doing so, we have enacted a set of laws which are not necessarily on the State statutes of the States of this country.

Now, let us take a minute to examine exactly what the new law would do

that I am trying to amend out of the bill and revert back to the old law.

The new law would completely erase these agreements and make them null and void. Also it instructs the States under certain guidelines that are set forth in the new act, to come up with a new set of statutes which shall be certified by the Federal Government.

Now, in the period of time between the enactment of this act and the certification, it is my opinion that the country and the various States of this country may be totally without any regulations for the placement of billboards on the interstate and federally funded highway systems as they exist now.

Further, this puts an additional burden upon the various States. It requires the States to leave a clear and unobscured vision for the motoring public of the billboards placed along the interstate system.

Now, let us take an example of what that might mean to your particular State. If your State comes along and allows a tree or plants a tree which obscures the view of a billboard, it has to do one of three things: Either it has to justify that this is part of a general landscape system, which might be very hard to do particularly in the country areas, or it has to buy the billboard; that is, to pay the billboard company the fair market value of that billboard, and I can tell you, the billboards along the interstate system are worth tens of thousands of dollars because of their advertising value; or it has a third alternative and that is to cut down the tree.

Now, let us see what else this provision does. This new act would require the various municipalities and States of this country, in addition to setting forth the criteria for obstructing billboards and the penalties of the various States, it also grandfathers in for all time the billboards that are erected under present law or future law.

Now, let us examine what exactly this does. Under our present law, if a city or a State were to change various ordinances or statutes which would change the placement of billboards, then the billboards would be allowed to stay there until they were taken out by an act of God, hurricane or storm or whatever or simply deteriorated and rotted fell to the ground. This bill says, no. It says even under an act of God, the States or the cities will have to either allow these billboards to be replaced, or they will have to compensate the owners of the billboard for the fact that they are not allowed to put these billboards back into place. These are just a few of the fishhooks that are replete throughout this provision.

Now, I would also like the full Congress to know exactly how much testimony the Public Works and Transportation Committee had on this particular provision. I have searched my own memory and I have also searched the records of the Public Works and Transportation Committee and I am only aware of one witness, one witness who has come before that very important committee to testify on this particulary issue and this particular witness, as I recall, was representing the camping industry, which has some gripe with a particular section of some State's agreement which provided for the placement of his camping signs sending the motoring public to his campground.

I also very vividly recall the amount of time that the committee spent on this bill and I do not believe it was even 5 minutes. I am talking now only about the highway beautification provision.

The amendment that I have provided would go back and retain the existing law.

The CHAIRMAN. The time of the gentleman from Florida has expired.

(By unanimous consent, Mr. SHAW was allowed to proceed for 1 additional minute.)

Mr. SHAW. In addition, my proposed amendment would instruct the Secretary of Transportation to do a study and report back in concert with the Public Works and Transportation Committee, come in with an evaluation as to what we have accomplished or failed to accomplish under the Highway Beautification Act and then bring it back to the Public Works and Transportation Committee for further action in next year's session.

A lameduck session with the pressing business that is coming before this Congress in my opinion is no time to eliminate 20 years of work and eliminate the highway beautification bill as it presently stands.

Mr. HOWARD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to discuss with the gentleman from Florida his amendment, which we understand would require a study of the several things that he lists here.

The gentleman mentioned that it also maintains the existing law, which we do not see here in the amendment.

I would like to ask the gentleman, does the gentleman mean that it does not change any of the language that was placed in this legislation, but would require a study?

□ 1810

Mr. SHAW. The legislation that I am striking strikes the existing legislation, but by getting rid of this provision of the amendment we would go back to the old law.

Mr. HOWARD. We would go back to where we are. This means we go back to where we were and where we are now.

Mr. SHAW. Yes; that is absolutely correct.

Mr. HOWARD. I thank the gentleman.

Mr. Chairman, in October of 1965 this Congress passed the so-called beautification legislation with relation to billboards, among other things. For several years, this legislation worked quite well.

It is estimated that because of this legislation, there have been about half a million billboards taken down in this country. There have been about a million billboards that might have gone up that have not gone up. However, during the past several years, we have seen that the Federal Government has been unwilling to appropriate money to pay the 80-percent Federal cost.

Here is where we have been the last several years with the beautification program that we brag about: It is estimated that the cost to do the complete job throughout the country is about $1 billion. The Federal share of that would be $800 million. The Congress has been appropriating about $500,000 per year for this program, so that means that all the illegal billboards in this Nation will be down in 1,600 years.

This administration's budget—the last two budgets of this administration—which the gentleman from Florida supported, provided no money to take down the billboards and, therefore, no billboards would come down.

Many States wish to move on their own, with their own dealings with the billboard operators. Compensation must be paid; there is no doubt about that. It is a constitutional right. The Government may not take private property unless the person is compensated.

If we build a highway and it goes through a house, we take that property but we must compensate for it. The courts protect that right. But many States wish to go on their own. We in this legislation permit that.

One thing that the billboard people wanted that they did not get was a change in the criteria. Whatever the States do, whatever deals they make, whatever progress they make in taking down billboards, they may not change the criteria. Any billboard that is illegal under our Federal law today remains illegal and must come down. The States may not do anything to permit a billboard to go up where one would not be permitted to go up at this time.

I think it is a farce. I think that it is not to the credit of the Congress nor our committee to go around saying that we have a billboard removal program when we know, if the Congress keeps doing what it does, it will take us 1,600 years to take them down, and if we do what this administration's budget has wanted to do, we would not take any more down at any time.

We are on our way to at least getting part of the job done. Let us stick with the committee, reject this amendment, and admit that we are not doing the job here in the Congress.

I urge a "no" vote on this amendment.

Mr. SHAW. Mr. Chairman, will the gentleman yield to me?

Mr. HOWARD. I yield to the gentleman from Florida.

Mr. SHAW. I thank the gentleman for yielding.

Mr. Chairman, in my statement I made reference to the fact that many of the States were not aware of this and were simply not prepared with a statute that in any way followed the guidelines as set forth in the amendment which is part of the public works bill.

I would like to ask the chairman, in his opinion, upon the enactment of this bill, what would happen?

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. HOWARD) has expired.

(By unanimous consent, Mr. HOWARD was allowed to proceed for 1 additional minute.)

Mr. HOWARD. Mr. Chairman, I yield to the gentleman from Florida.

Mr. SHAW. I thank the gentleman for yielding further.

If I could ask the chairman's opinion, what law would govern in the event the States were not ready to take on this responsibility? Is it not possible that we might have a situation where it is open season on the placement of billboards?

Mr. HOWARD. No.

Mr. SHAW. If the gentleman would yield further, there is no law on the books to take care of that?

Mr. HOWARD. No, no. What would happen if the States are not ready is to continue what we are doing now? At least there will be a chance for some States to move ahead. But where we are now, what we are looking at now is 1,600 years to get them, now. But the States would not be in a position of changing the criteria or being able to permit any billboards to go up in any other areas. That Federal criterion stays as is in the language of the bill now.

So we are not weakening this provision at all, I say to the gentleman; we are not.

Mr. SHAW. Mr. Chairman, if the gentleman will yield further, what is the chairman's position?

Mr. HOWARD. That the States will do a better job than we will. I am sort of a "States Rightist," as you may well know. I would like to give them a crack at it since we have been so unsuccessful.

Mr. SHAW. Mr. Chairman, if the gentleman would yield further, I would be the first to agree with the chairman that the States can do a better job, but the States have no idea what we are doing here and are in no way ready to accept the responsibility.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. HOWARD) has again expired.

(By unanimous consent, Mr. HOWARD was allowed to proceed for 1 additional minute.)

Mr. HOWARD. Mr. Chairman, I met with the Governor of Florida last week; I met with the transportation leaders of Florida last week, and with the two prior amendments that were passed earlier this evening, the State of Florida has indicated that they are in total support of this legislation as it stands at this moment.

Mr. SHAW. Mr. Chairman, will the gentleman yield to me?

Mr. HOWARD. I yield to the gentleman from Florida.

Mr. SHAW. I thank the gentleman for yielding further.

Mr. Chairman, I met with the Governor after the gentleman from New Jersey did, and he was not aware of what this particular provision was because I discussed it with him and he asked me to keep him advised.

Mr. HAGEDORN. Mr. Chairman, will the gentleman yield to me?

Mr. HOWARD. I yield to the gentleman from Minnesota.

Mr. HAGEDORN. I thank the gentleman for yielding.

Mr. Chairman, I want to concur with the position of the chairman of the committee. I think the State highway commissioners and the Governors know full well what is being done. I think the American people recognize that nothing is being done by the Congress, nor will it be done in regards to the funding of this program.

What we are doing is turning the proper responsibilities back to the States. If they want to provide just compensation and move forward, they can.

Mr. HOWARD. And, of course, the people and the businesses will be protected under their institutional rights in the courts, also, and the Federal criteria remain.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. HOWARD) has again expired.

(By unanimous consent, Mr. HOWARD was allowed to proceed for 1 additional minute.)

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from California.

Mr. CLAUSEN. I thank the gentleman for yielding.

Mr. Chairman, I do concur with the gentleman's statement. I am concerned about the fundamental constitutional issue of just compensation. Compensation has to be followed all the way through the process, be it Federal or State levels, in order to give people that have the investment in these kinds of facilities the right to be paid for a public taking.

Mr. HOWARD. No matter what we want to do, we in the Congress cannot take constitutional rights away from people.

Mr. SHAW. Mr. Chairman, will the gentleman yield further to me in order that I may address a question?

Mr. HOWARD. I yield to the gentleman from Florida.

Mr. SHAW. I thank the gentleman for yielding further to me.

Mr. Chairman, I think the question of just compensation here is being abused as the Constitution provides for. There is no right for all time under any zone ordinance, as construed by the Constitution, to have a billboard that is legal in 1982 there in the year 2082, and that is exactly what the language of the gentleman in the well would do.

Mr. HOWARD. No.

Mr. SHAW. It completely undercuts any powers that the States or local governments would have, and even an act of God cannot take them away.

Mr. HOWARD. I assure the gentleman that the courts will protect the people if the Congress or the States will not.

Mr. BREAUX. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will not belabor the point. What we have here is an effort by the gentleman from Florida to do what normally may be something that is needed and accepted; that is, where we have a problem, let us authorize a Federal study.

In this case, this is an issue that not only has the Department of Transportation studied, but this Congress indeed has studied since 1965. Not only have we studied it, our committees have debated it, and this House has debated this issue extensively in the past.

In 1978, we had several hours of debate on the floor about what to do with billboards. This Congress at that time made a decision to say very simply that some billboards are going to be illegal. In those areas where they are illegal, they are going to be taken down. But we cannot take those pieces of property down without paying just compensation for them.

□ 1820

So, Congress in fact has studied this issue and we have made a decision. Signs that intially are lawfully erected will have to be compensated if they are going to be taken down. So, I think we have studied the issue, and I think to ask the Federal Department of Transportation to go through another study, go through the expenditure of studying an issue which we have already studied, is really wasteful and certainly is not going to shed any new light on something we have already decided on.

So, I urge rejection of the gentleman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. SHAW).

The amendment was rejected.

AMENDMENT OFFERED BY MR. MITCHELL OF MARYLAND

Mr. MITCHELL of Maryland. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MITCHELL of Maryland: Section 105 of the Act is amended by adding at the end thereof the following new section:

Section 105(7)(e). Notwithstanding any other provision of the law not less than 10 percent of the amounts authorized to be appropriated under this Act shall be expended directly with small business concerns owned and controlled by socially and economically disadvantaged individuals as defined by section 8(d)(3) of the Small Business Act (15 U.S.C. Section 637(d)(3)) and relevant regulations promulgated pursuant thereto.

Mr. MITCHELL of Maryland. Mr. Chairman, I hope not to take the entire 5 minutes. When this body considered the Public Works Act in 1977, it acted almost unanimously to set aside for small and disadvantaged, economically disadvantaged businesses, a set-aside to insure the participation of the businesses in these massive public spendings. That is all I am attempting to do in the amendment that is before the Committee.

I would simply like to indicate that, based on the experience of the Public Works Act of 1977, the amendment met with enormous success. There was a test as to its constitutionality. The Supreme Court in 1980 upheld the constitutionality of it. That is all we are dealing with, is a set-aside for small and disadvantaged businesses in this amendment.

In light of the disproportionate unemployment enjoyed by minorities as of this time, and in light of the success of the public works amendment in mixing together county, State, and local governments with minority business provisions, I would urge the passage of my amendment.

Mr. Chairman, I certainly share the deep concern of State and local elected officials, my colleagues, and constituents about the critical unemployment levels which continue to haunt this Nation.

Just last week, the November unemployment figures were released; 10.8 percent of Americans are out of work. This translates to approximately 12 million Americans who have no hope of providing their families with the necessities of life. Mr. Chairman, while 10.8 percent of Americans are without jobs, the percentage of unemployed black American adults is at an atrocious level of 20 percent. This percentage is low because it does not recognize the millions of individuals who have given up total hope and thus are no longer seeking employment.

It is projected that the measure before us today will create nearly 300,000 jobs. I am deeply concerned that the twin forces of racism and economic discrimination will once again raise their ugly heads. Of course, this will result in a few blacks and other minorities being part of this employment rejuvenation program.

Mr. Chairman, the above exclusionary scenario does not have to become a reality. Yes we have the power within our grasp today to provide blacks and other minorities with a hope for the future. In 1977 with my amendment to the local public works program we gave hope to the less fortunate in this Nation by requiring a 10-percent set-aside for minority contractors. Over $600 million were awarded to minority businesses and this resulted in the creation of many jobs for the minority population. Today, I present to you a similar amendment. This amendment requires that not less than 10 percent of the amounts, authorized to be appropriated under the Surface Transportation Act of 1982, shall be expended directly with small business concerns owned and controlled by socially and economically disadvantaged businesses.

Mr. Chairman, earlier this year, this body debated a small business legislative initiative. I am confident that you and our colleagues are aware of the major contributions such businesses have made to job creation. As far as I am concerned, the scenario is clear and simple—if you want to create jobs then give the responsibility to the segment of our economic system that has the proven track record, the small and minority business community. The small minority business community can play a major role in assisting this Nation to reduce the 20-percent black unemployment figure.

I urge my colleagues to support my amendment; for in supporting it, you are indeed making a commitment to get this country working again.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. MITCHELL).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SIMON

Mr. SIMON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SIMON: At the end of title I, add the following new section:

DEMONSTRATION PROJECTS—RAIL HIGHWAY CROSSINGS

Sec. 155. Section 163(p) of the Federal-Aid Highway Act of 1973, as amended, is amended by inserting after "1982," the following: "and $50,000,000 for the fiscal year ending September 30, 1983, and $50,000,000 for the fiscal year ending September 30, 1984, and $50,000,000 for the fiscal year ending September 30, 1985, and $50,000,000 for the fiscal year ending September 30, 1986," and by adding at the end thereof the following: "Notwithstanding any other provision of this section, any project which is not under construction, according to the Secretary of Transportation, by September 30, 1985, shall not be eligible for additional funds under this authorization."

Mr. SIMON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. SIMON. Mr. Chairman and my colleagues, this amendment attempts to preserve the railway demonstration project that affects some of the districts in this Nation. My colleague from Indiana (Mr. MYERS), my colleague from Louisiana (Mrs. BOGGS), and some of the other Members of this body are affected. It does not preserve it at the present level. It brings it from $100 million a year authorization, down to $50 million, and says that projects not under construction by September 1986 will be phased out. So, there is a sunset provision.

What we have are railway demonstration projects involving highways where communities have had Federal funding, and they have moved ahead, and now without this amendment there is the danger that they would be cut off.

Now, I recognize what the committee has done, and that is to provide 95 percent funding on these projects, and that sounds good and I hope that will protect us. I have today talked with the Governor of Illinois and the very able Secretary of Transportation, John Kramer, on this matter, but even if I am protected there may be some communities in other States that are not projects that are halfway down the road. Once we authorize these kinds of projects, it seems to me it is only fair and equitable that we permit the conclusion of them.

I would also add two other factors. One, this was defeated by amendment in the committee—it was an 18 to 18 vote, with the majority of those present voting for the amendment. So this is a very, very close matter.

Finally, while we authorize this here, this leaves it up to the Appropriations Committee, the very point made by the gentleman from Massachusetts (Mr. CONTE) earlier and it gives the flexibility to the Appropriations Committee. I would urge my colleagues in the House to accept this amendment.

Mr. BARNARD. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I will be pleased to yield to my colleague from Georgia.

Mr. BARNARD. Mr. Chairman, I want to thank the gentleman for yielding, and certainly thank him for bringing this very, very important

needed development back into this particular legislation.

In the gentleman's amendment, does this include all of the original demonstration projects that were authorized, or how does this work?

Mr. SIMON. It does. It leaves it open to the community in the gentleman's district, so long as that community acts, has it under construction by September 1986. We do have a sunset provision. We also cut back the total appropriations authorized from $100 million a year down to $50 million, because on the basis of what we know now, we do not believe the larger authorization is needed.

Mr. BARNARD. I thank the gentleman.

Mr. BEREUTER. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield.

Mr. BEREUTER. Mr. Chairman, I thank the gentleman for yielding. I commend him on his initiative and his vigor in continuing to pursue this point. I would have to say, I think without fear of being refuted, that my predecessor from the State of Nebraska, colleagues in both bodies in this Congress, probably had a more active role in achieving this authorizing legislation than any other State. We have had a substantial commitment of planning and legislative action in my home State on the designated demonstration project in Lincoln, Nebr.—all in anticipation of eventually having some benefit from this particular authorizing legislation. Yet the delegation most responsible for the authorizing legislation continues to have its designated project languish unfunded.

Now that we have made this kind of legislative and fiscal commitments on the part of our State and the city of Lincoln, we are left with the possibility of no certain funding from the Federal Government. So, I think in short, that a commitment has been made to variety of designated demonstration projects designated in the past; therefore, it is, I believe only equitable that there at least be some result from those State and local commitments in the designated demonstration projects.

I thank the gentleman for yielding to me at this point.

Mr. SIMON. I thank my colleague from Nebraska, and I appreciate his point.

Mr. MYERS. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to my colleague from Indiana.

Mr. MYERS. Mr. Chairman, I thank my friend from Illinois for yielding, and I thank him for his amendment. We did have a discussion earlier between the gentleman from Illinois and myself about this problem, and had an earlier colloquy with the chairman of the committee, who assured us that the original—I believe 21 demonstration projects——

Mr. SIMON. Nineteen.

Mr. MYERS [continuing]. Lack of local support, funding, or other problems have possibly reduced this more.

□ 1830

So we do not need the same number of dollars, and it seems to me that the amendment the gentleman from Illinois (Mr. SIMON) has offered here responds to all the questions and all the reasons why the committee might oppose.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. SIMON) has expired.

(By unanimous consent, Mr. SIMON was allowed to proceed for 2 additional minutes.)

Mr. MYERS. So, Mr. Chairman, I think the amendment the gentleman from Illinois (Mr. SIMON) is offering here is one that we certainly can live with, and I hope the committee will accept it because it carries forth in spirit what the intent of the act was back in 1973.

Even though the chairman of the subcommittee earlier confirmed these projects that had been identified back in 1973 were continued to be authorized, there might be some question as we move along because this act does not specifically up to this point designate these projects. The language in the gentleman's amendment keeps them alive and provides, if they start to construct in a reasonable time, in 1986, they continue to be authorized. That gives an opportunity to the communities to continue these projects, many of whom have spent so much money in engineering plans, construction, buying property, and so forth, and many of them have already given up, so this is certainly a reason why the committee ought to accept the amendment.

Mr. ANDERSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, in our committee we had a record vote against the railroad demonstrations. The gentleman may ask, why? The reason is because we thought the solution we were offering was a better solution for the gentleman from Illinois (Mr. SIMON) and the others because there are 18 demonstration projects.

The total cost of these is over $1 billion. The Federal Government cannot possibly find the resources to finance them as individual items, and so we suggested that if the State or local agency wished to go on with their project and wished to use some of their own allocated money, either from the primary, secondary or urban apportionment, we would let them have it at a 95-to-5 match, which is extremely favorable. Right now the primary, secondary, and urban systems match is at 75 to 25.

So this does make money available. If a State thinks that a project is of such high priority, it can take that money they are getting for work on the system and use it with a 19-to-1 match.

I might also say that we have had most of these 18 demonstration projects on the books since 1973, and very little money has gone out in all this time. So, the present program is not even working. We think ours will, because in recent years, there has been very little money actually going to these projects.

We think our solution, allowing States to use their apportionments with a 19-to-1 match, is a much better inducement to get these railroad demos built, than would reauthorization of the separate category.

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON. I yield to the gentleman from Illinois.

Mr. SIMON. Mr. Chairman, I thank the subcommittee chairman for yielding, and I appreciate the fact that the committee has been sensitive to this.

But I think the problem is a little complicated from the viewpoint of those of us who are involved in our communities. As I indicated earlier, I have today talked to the Governor of Illinois and the Secretary of our transportation system, and I think probably the gentleman's formula will protect me, although I hate to take that chance because we have forced businesses to move and done some things like that. And if this protects me, I do not know if it is going to protect Savannah, Ga.; I do not know if the gentleman is going to protect a community in Indiana or Nebraska or somewhere else. And there is a Federal commitment here.

Second, when the gentleman talks about $1 billion, my amendment limits it to $50 million a year for the 4-year period. So we are talking about a substantial reduction here.

So, Mr. Chairman, I would urge the House to seriously consider what I think is a sensible amendment.

Mr. ANDERSON. Mr. Chairman, I might point out to the gentleman that under the Howard amendment to bring all States up to an 85-percent return on their dollar, Illinois will receive an additional $65 million. It would seem to me that out of that $65 million, when you are getting money on a 19-to-1 match, you ought to be able to build this project. I think we are being pretty reasonable on this.

Mr. SIMON. Mr. Chairman, again, if the gentleman will yield, I think frankly that I am protected, but I am protected a little more with my amendment. However, I think some of the other communities are not as ade-

quately protected, and I hate to see the Federal Government make a commitment and say, "sorry, fellows, we are backing out of our commitment."

Mr. MYERS. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON. I yield to the gentleman from Indiana.

Mr. MYERS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I have sympathy with what the subcommittee chairman is saying. As to the community that the gentleman from Indiana (Mr. FITHIAN) and I share and are talking about here, I have told those people that as far as I am concerned, they are going to have to wait until we get a balanced budget before we advance the money from here. But in line with what the gentleman from Illinois said, Carbondale and others have already started their projects. They have done their part. They have made sacrifices, and now we come along and change the rules after they have spent considerable time and money and effort toward solving their problem. It seems to me that we are changing the rules in the middle of the game.

Mr. ANDERSON. But we are giving them a 95-to-5 match.

Mr. MYERS. But these were demonstration projects, and the local community has in kind offered to do their share and now we are changing the rules in the middle.

Maybe this will be faster, that is, the 95 to 5. But what the gentleman from Illinois and some of us are trying to do is to protect these communities and make certain, without any question, that they are grandfathered in, for want of a better word, and that they will be protected and get those projects started, either in planning, engineering, and/or construction. This is the only thing we are trying to accomplish.

I am sure the gentleman's committee and those of us who support the amendment want to get to the same place. I believe this option does not preclude anything, and it does not cut off anything.

Mr. Chairman, I think the better approach is to accept the amendment offered by the gentleman from Illinois (Mr. SIMON).

The CHAIRMAN. The time of the gentleman from California (Mr. ANDERSON) has expired.

(On request of Mr. BARNARD, and by unanimous consent, Mr. ANDERSON was allowed to proceed for 2 additional minutes.)

Mr. BARNARD. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON. I yield to the gentleman from Georgia.

Mr. BARNARD. Mr. Chairman, would the gentleman clarify for me now what the difference is? I am gaining the impression that in the bill these construction projects are no longer authorized. Is that my understanding?

Mr. ANDERSON. They are eligible for Federal assistance, but there is no separate authorization as in the past.

Mr. BARNARD. They are not designated as they were in the original highway bill as individual demonstration projects.

Mr. Chairman, I would have to reiterate what my friend, the gentleman from Illinois (Mr. SIMON), has said about this. My State has put far more money into the demonstration project in Augusta, Ga., than the Federal Government has, and it just seems unfair to me at this point in time to put all of them in the same kettle when we have been laboring under the apprehension since 1977 that we were included.

We have got some small funding in 1978, 1979, and 1980, but the bulk of the funds has come from the State of Georgia, and I would hope that some consideration could be given to this, because anything the State has put into it up to now, unless we continue to have it designated as a demonstration project, is going to be of no avail.

Mr. ANDERSON. Mr. Chairman, does the gentleman not think we have been pretty reasonable by allowing these projects to be built with a 95-to-5 match: That is almost 100 percent. If a project has such a high priority and is so important I would think a Governor could come up with 5 percent.

Mr. BARNARD. It is already 95 to 5, but it is designated.

Mr. ANDERSON. It is taking money that we have currently in the bill, and that is primary and secondary and urban moneys. They go out on a 75-to-25 basis. We are taking that same money and saying, "You can have it at 95 to 5."

Mr. BARNARD. It was amended in 1977 for 95 to 5.

Mr. ANDERSON. But I point out that you are not getting very much, because you need to spend a billion dollars that we do not have to spend and you have to take it out of revenues that we do not have. There are 18 demonstration projects, and I am sure every one of them is worthy.

Mr. BARNARD. So what the gentleman is saying, then, is that the funding would come out of the trust fund?

Mr. ANDERSON. It would come out of the money the States are currently entitled to. If they think there is a high enough priority, they could take it out of the primary, secondary, and urban money on a 95-to-5 basis.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. BARNARD, and by unanimous consent, Mr. ANDERSON was allowed to proceed for 1 additional minute.)

Mr. BARNARD. Mr. Chairman, if the gentleman will yield, the thing that disturbs me is that these projects that have already been identified and are receiving some funding would not get any priority or preference over brand new demonstration projects; is that not true?

Mr. ANDERSON. That is right, yes. But it would be up to the States to set their own priorities.

Mr. BARNARD. Mr. Chairman, I would say again that I can go along with the gentleman on the amendment to the point of what he is trying to accomplish, but I would at least like to protect those demonstrations that are in there.

Mr. ANDERSON. But where is the gentleman going to get the money?

Mr. BARNARD. I do not want to rewrite the amendment, but I would hope that the subcommittee chairman could reconsider and accept the amendment offered by the gentleman from Illinois (Mr. SIMON), because I would think that would clarify the program and we would have helped ourselves to get the funding.

□ 1840

Mr. BLILEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to engage the gentleman from Pennsylvania (Mr. SHUSTER) in a colloquy if I might.

I wonder if the gentleman could corroborate something for me. I am correct in understanding that this bill, H.R. 6211, includes discretionary funding which can be used to replace or repair deteriorating bridges?

Mr. SHUSTER. The gentleman is correct. It is my understanding that passage of this legislation will authorize funds for those purposes.

Mr. BLILEY. Could the gentleman clarify for me what criteria must be satisfied for consideration of funding new construction to repair or replace existing structures under this bill?

Mr. SHUSTER. For an existing bridge to qualify for funding under the discretionary bridge program, it must meet the warrants for replacement in accordance with section 114(g) of title 23 of the United States Code.

Mr. BLILEY. Then, as I understand the gentleman, the Robert E. Lee Bridge spanning the James River at Richmond, Va., which meets these warrants for replacement is eligible as an appropriate candidate for funding under the discretionary bridge program in this legislation?

Mr. SHUSTER. If the Robert E. Lee Bridge meets the warrants I have mentioned, as I have been assured by the gentleman that it does, then I would assume that the bridge is indeed eligible to be considered for the funds needed.

Mr. BLILEY. I have an additional question in regard to section 122—approaches. One of my counties wishes

to extend the Powhite Expressway, a toll road, to assist a desperate traffic problem. Is it not true that under the language in this section this county could be eligible for assistance for a portion of the road up to but not including the first toll plaza.

Mr. SHUSTER. The gentleman is correct.

Mr. BLILEY. I thank the gentleman, and I appreciate his remarks.

Mr. FITHIAN. Mr. Chairman, I move to strike the requisite number of words and would like to speak in favor of the amendment.

There have been very many fine arguments put forth here about the amendment offered by the gentleman from Illinois, Mr. SIMON. I would just like to reiterate those and say that I want to strongly support my colleague from the new Seventh District of Indiana, JOHN MYERS, and his support for this.

I will be departing but, before I depart, let me just make one last moment of argument. The community of Lafayette, Ind., has been involved in this for a very long time and on their own initiative went out and got a private grant at the time when the engineering, when the study needed to be made. They did that.

For some time now this has been an authorized project. It has been delineated in various authorization bills over the years.

The community has worked long and the city administration has worked long and the Congress has responded and cooperated with them.

I think the Simon amendment is an extraordinarily fine compromise for we recognize the authorization problems of the committee. I think that the gentleman from Illinois (Mr. SIMON) recognized that when he cut the authorization from $100 million to $50 million.

I think also he recognized the confusion that we have caused in the last 2 years on these projects, the uncertainty of them, and the problems of the committee when he said that the project must absolutely be started by January 1986, a date which is responsible to the projects and to the Congress.

I would urge my friends to support the Simon amendment. I think it is an excellent amendment.

I know well one project. I know the Lafayette Railroad demonstration project. It is an extremely fine project, well thought out and worked at over the years.

I would urge the committee to support the amendment which I believe to be an excellent compromise and one which does not get the 19 projects that they wanted, it does not get the committee all that it wanted, but it is a reasonable compromise that brings together the two points of view.

We recognize in this amendment both the problems of the communities and the problems of the committee.

Mr. MYERS. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I would be happy to yield to my friend from the Seventh District.

Mr. MYERS. I thank my colleague for yielding and certainly thank him for his remarks. It has been 8 years that he has worked for this project in Lafayette, Ind., and knows much more about it than I do. But I am going to try to continue the project as the gentleman has worked for it in the past.

One thing that concerns me that the chairman has not mentioned, and I tried to mention it a while ago in my question to the Chairman, I am not questioning for a moment the intent of this committee to continue these 19 or however many projects, and there will not be that many, there is no question about it. But what about future Secretaries of Transportation, Federal Highway Administrators, or someone else in the Department of Transportation who decides that these projects do not meet the criteria to meet the priority that we spell out now in section 105, that they do not meet the Federal requirements here as far as primary, secondary, and urban systems.

Second, under section 120, some future interpretrations by the Department decides that these projects that had already been advanced, as the one the gentleman from Indiana is discussing, do not meet the funding criteria in section 120 for the Federal 95, local 5 percent. Suppose they decide that it does not meet that criteria? Then these are out.

This is the reason this amendment offered by the gentleman from Illinois is so important. It spells out for some future Congress, future Secretary of Transportation, or some interpreter between now and 1986 that it was the intent of Congress to continue these projects that are already started.

I can see no problem with keeping both of these approaches open and I do not understand why the committee fights it so much and that we do not keep both of them open. At least we would be just clarifying what already has been done and what the intent of this Congress is.

Mr. FITHIAN. I thank the gentleman.

I would add that over the period of time of this project, and I believe in others I have worked with and talked to the sponsors of, they have worked very hard to demonstrate their quality.

As the gentleman from Indiana (Mr. MYERS) points out, now some projects will not make it, they will not make it either on the basis of quality or they will not make it on the basis of timeliness.

But the Lafayette project and some of the others have met that test repeatedly. It has met the criteria and it has moved along in much the order the committee has previously spelled out. So it has met the criterion of quality and merit and it has met the criterion of timeliness, at least in the Lafayette case.

On every single occasion they have met the timeliness factor.

I would urge the committee to recognize what local governments must go through with the vicissitudes and shifting of activities in the Congress and recognize the problems that the local governments have.

● Mrs. BOGGS. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Illinois (Mr. SIMON) to extend the funding authorization for the railroad/highway crossings demonstration program which was originally authorized in the Federal-Aid Highway Act of 1973.

Jefferson Parish, La., and New Orleans, La., are fortunate indeed to be at the very crossroads of commerce in the South Central part of our country. Five major railroad lines use our area as their major terminal and interchange points. These railroads include the Louisville and Nashville (CSX), Illinois Central-Gulf, Norfolk and Southern, Missouri-Pacific and Kansas City-Southern. Four of these lines, L&N, ICG, KCS and N&S, perform key interchange functions in Metairie, La.

For more than 30 years the citizens of Metairie have had to live with several major railroad lines running through the heart of their neighborhood. The lengthy delays caused by switching railroad cars between the several lines involved has caused considerable discomfort to the people of the area and it has served as a threat to their health and safety. Because of delays and blocked streets and highways, people living in the neighborhoods frequently find themselves cut off from fire and rescue services for significant periods of time. In addition, there is the potential danger posed by the hazardous chemicals and materials transported through these neighborhoods by the railroads.

In 1976 Metairie was included as one of the railroad/highway demonstration projects. As a result of engineering and design studies, a proposed solution has been developed to relocate and consolidate the railroad alinements of several of the railroads involved. Rights-of-way acquisition has already commenced for a new interchange. The next phase will be the actual construction of the new interchange which will permit Kansas City-Southern traffic to be rerouted along the Illinois Central-Gulf right-of-way. This will eliminate 17 at-grade highway-railroad crossings. This can be ac-

complished at an estimated cost of $2.5 million.

Improved rail/highway safety in a dangerous area will result directly from completion of this plan. In addition, the people of the area will have greater assurance of access to needed fire and safety services that have long been imperiled by the current configuration.

It should also be noted that the 1984 Louisiana World Exposition will be held in New Orleans. It is extremely important that the Metairie project be kept on line and moved as near to completion as possible prior to that event in order to accommodate the tremendous influx of people. By approving this amendment, we can help to resolve this problem as well as the problem currently faced by thousands of commuters who must contend with the congestion caused by the present situation.

On first blush, this may seem to be a local problem but it is, in fact, a national one. This is one of the key rail junctions in the Nation. The lines affected by this project serve the entire country. This is certainly the most important rail interchange point south of St. Louis. It is a national problem that requires a national solution. The gentleman's amendment will help to achieve the needed solution by extending the funding authority for the railroad/highway relocation demonstration projects. I urge its adoption.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. SIMON).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. PANETTA

Mr. PANETTA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PANETTA: Section 117 is amended by inserting "(a)" after "SEC. 117." and by adding at the end thereof the following new subsection:

(b) Notwithstanding section 116 of title 23, United States Code, or any other provision of law, maintenance of any projects constructed on the Federal-aid primary system, Federal-aid secondary system, and the Federal-aid urban system may be paid from sums apportioned in accordance with section 104(b)(1) of such title for the Federal-aid primary system, section 104(b)(2) of such title for the Federal-aid secondary system, and section 104(b)(6) for the Federal-aid urban system, respectively; except that (1) a State may only obligate such sums for maintenance projects in the 120-day period beginning on the date of enactment of this Act, and (2) no State may obligate under this subsection more than 50 percent of the funds apportioned under sections 104(b)(1), 104(b)(2), and 104(b)(6) of such title to such State for the fiscal year ending September 30, 1983, for maintenance projects constructed on the Federal-aid primary, Federal-aid secondary, and Federal-aid urban systems, respectively. Notwithstanding section 120 of this title, the Federal share payable on account of any maintenance project under this subsection shall be 95 per centum of the costs of such project.

Mr. PANETTA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. PANETTA. Mr. Chairman, first of all I want to commend the gentleman from New Jersey (Mr. HOWARD), the gentleman from California (Mr. ANDERSON), and the committee members on the Republican side as well, and of the entire committee for their leadership in bringing this bill to the floor.

But I think the question that is being asked by the American people as we debate this bill is, is this a jobs bill or is this a highway bill?

It is I think largely a highway bill without question. It does not change the formula that is in place. It does not have any specific provision that would expedite the projects any faster than they normally would be done, and the funds basically go into the trust fund to be disbursed pursuant to the formula contained in the trust fund.

□ 1850

The managers have been honest about that. The gentleman from New Jersey, the distinguished chairman of this committee, has in fact said this is in effect a highway bill. And I respect him for having said that publicly.

But this bill and the proposal for a 5-cent tax would have no life at all in a lameduck session were it not for a 10.8-percent unemployment rate, were it not for the fact that there is a tremendous unemployment problem in this country, and were it not for the fact that there was a message that was included in the November election and indeed a message that the leadership on the Democratic side and the Republican side have sent this country that this Congress is going to try to do something about jobs now.

Now, I do not disagree with the basic intent of trying to add funds to the highway trust fund. I would be willing to support that effort on its own merits. But I think we have to be straight with the American people, who are going to have to pay another 5 cents on their gasoline tax. I think the bulk of the American people sense that the purpose of this legislation is not simply to put more money into a trust fund, but to try to create jobs for the American people at a time of high unemployment in our society.

For all of the testimony, for all of the statements concerning this legislation, the fact is that there is nothing specific in the bill that requires that these funds be expedited now to produce jobs.

My amendment is designed to translate these funds authorized by H.R. 6211 into as many jobs as possible within the shortest period of time, 120 days. If this amendment is not approved, States will not be permitted to spend gas tax proceeds for the purpose which would create the most jobs in the shortest amount of time, which is maintenance of highways and roads.

The amendment I offer will allow State and local governments to use funds obligated under the Federal highway primary, secondary, and urban road system for maintenance purposes. At the present time such purposes as pothole repair, joints and shoulder repair, many other maintenance tasks, are prohibited to be carried out with Federal moneys. The Federal policy in this area of highway construction has been basically that Federal assistance is to go to the construction and building of roads, leaving the function of maintenance of those roads to the State and local governments.

While this is generally a sound and reasonable policy, it is not a sound and reasonable policy when we have a 10.8-percent unemployment rate, and it is not a sound policy when there is a need to develop labor intensive work.

The inability now of State and local governments to do major highway repair work leaves the country with a tremendous need for an important maintenance effort throughout the country. Because of budget constrictions, because of the economic situation, I think the greatest need for this money is in the area of maintenance.

My amendment would allow States and local governments, for a period of 120 days after enactment of this act, to use the funds obligated to them for primary, secondary, and urban roads for the maintenance of these roads. States would be able to use 50 percent of the appropriated funds for maintenance projects, and at the same time the Federal share of these maintenance projects would be 95 percent to insure that the States could commit themselves quickly to this kind of work.

The CHAIRMAN. The time of the gentleman from California (Mr. PANETTA) has expired.

(By unanimous consent, Mr. PANETTA was allowed to proceed for 3 additional minutes.)

Mr. PANETTA. Mr. Chairman, it has been pointed out on many occasions that repair and maintenance work is highly labor intensive and will certainly demand the least amount of time for startup. Also the identification of projects in need of maintenance can be readily designated by State and local transportation officials, and most of the design and technical requirements demanded on new construction projects can be avoided.

I think it is important that we put forth an effective program to repair and maintain the public infrastructures of our society. I believe that we need to repair our Nation's highway and transportation system, so that it can become a part hopefully of long-range recovery in our economy. But at the same time, we have to make use of this opportunity to provide employment opportunities now, not later.

This legislation would not alter the basic formula of the highway fund program. It does not call for additional money. It simply directs money where we can use it the fastest, which is in the maintenance of highways and roads.

The basic reason that we are here today is because we have an unemployment problem in our society. This amendment offers an approach that would expedite funds to labor intensive use within the first 120 days. In that way I think we can fulfill not only our responsibility to the highway program, but more importantly we can fulfill our responsibility to the unemployed in our society.

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. I thank the gentleman for yielding.

I understand what the gentleman is attempting to do. Others are going to get into the merits and demerits of the gentleman's amendment. But in the early part of the gentleman's statement he asked a very critical question—is this a highway bill or is this a jobs bill. And I would like to make just one minor correction to the statement.

This is not a jobs bill, it is a transportation bill. It has not only highways and bridges, but has public transit as part of the component, and it is a bill that could stand worthy on its own apart from the fact that we have 10.8 percent of our population unemployed.

As the gentleman from New Jersey has indicated, this bill will, by virtue of expending these funds, put some 320,000 people to work. Now, the gentleman's concern about those who are structurally unemployed, those who have low skills and need to be put to work very quickly, that is an important responsibility. And I wish that we were dealing today with a comprehensive jobs bill that was handling the issue of the 10.8-percent unemployment. But I do not think that the public or any of us should be fooled into believing that this bill in in fact a jobs bill.

The CHAIRMAN. The time of the gentleman from California (Mr. PANETTA) has again expired.

(At the request of Mr. EDGAR and by unanimous consent, Mr. PANETTA was allowed to proceed for 3 additional minutes.)

Mr. EDGAR. If the gentleman will continue to yield, I do not think this bill amended on the floor can make up for a comprehensive jobs program. And I have just two small questions about the gentleman's amendment.

The first deals with the issue of maintenance. Has not that traditionally been the role and responsibility of the States, while we at the Federal level have taken care of major reconstruction and renovation of the highways?

Mr. PANETTA. Well, as I stated in my statement, this is the basic policy, that the Federal moneys would be used for construction and building of roads and that the State and local governments would handle maintenance of these roads. But it seems to me that at a time of high unemployment, at a time when I think all of us agree, we would not be here talking about a 5-cent tax unless we had a serious unemployment problem in the country, we must take expeditious action. And yet many of these construction projects are going to take a year or 2 years before they are implemented. I understand that. But I think we need to send a message to the American people that we are concerned about people who are unemployed.

Mr. EDGAR. I agree with the message.

The other question is do we send that signal with the gentleman's amendment? I do not see anything specifically in the gentleman's amendment that would obligate these funds quickly within the 120-day period that the gentleman is suggesting.

How does that happen with no regulations in place?

Mr. PANETTA. I think as normally happens under the trust fund, if the States, local communities, decide to proceed to do repair work within the 120 days, they could certainly seek the same kind of reimbursement that would cover the work they do. That is what I am after. I am trying to get as much work out there in the shortest period of time as possible.

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from Louisiana.

Mr. ROEMER. I thank the gentleman for yielding.

If I could follow up, could the gentleman quantify for the benefit of the body. The gentleman has made the point about the need for jobs. I think it is shared deeply by everyone here. Could the gentleman put a number on the jobs that would be created by the gentleman's approach versus that of the committee?

Mr. PANETTA. The gentleman asks a question that I have been asking. Very frankly, it is difficult to pinpoint numbers of jobs for this area. I do know one thing. That in the State of California, it is going to take a year before we get projects out there, before we are able to provide jobs under the bill as it stands now. I know right now in the counties in my district and in many counties throughout my State that they can do maintenance work right now, and that money could directly flow into those areas right now, rather than waiting a year of 2 years.

Mr. ROEMER. The gentleman has made that point. If the gentleman will continue to yield, however, there is just no way the gentleman can quantify the impact of his approach versus that of the committee?

Mr. PANETTA. The gentleman is correct.

Mr. ROEMER. One additional question. Is it true, under the gentleman's amendment, that the States and localities, if they opt for the gentleman's approach, would do that over a 4-year life of the bill?

□ 1900

The CHAIRMAN. The time of the gentleman from California has again expired.

(By unanimous consent, Mr. PANETTA was allowed to proceed for 1 additional minute.)

Mr. PANETTA. The gentleman has asked a good question, because this would be a one-shot, 120-day operation. Once we go beyond the 120 days, the trust fund goes back to its standard approach. It could not be used for maintenance.

What I am looking for here is an emergency program that would flow to the local communities in a 120-day period.

Mr. ROEMER. But no longer than that?

Mr. PANETTA. That is correct.

Mr. ROEMER. The 50-percent maintenance threshold would be eliminated?

Mr. PANETTA. That is correct.

Mr. ROEMER. I thank the gentleman.

Mr. HOWARD. Mr. Chairman, I move to strike the requisite number of words.

Mr. HOWARD. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the gentleman from California states that we in the Congress should take action on producing a jobs bill for the Nation. I agree with him on that, but that is the end of where I agree with him, because I do not believe that it would be wise to take this necessary legislation that is long-term steady legislation for long-term permanent jobs to the degree of the 335,000 of them and turn it into a quick fix, short-term operation, which may not produce any jobs at all. What you would be doing is you would be working on maintenance throughout the country and being asked to provide 50 percent of, I presume, the first

year's total money in 120 days. I do not know how much of that, how far that will be extended beyond the 120 days for those jobs; that is not in the amendment and I did not hear that in the discussion, but I do know also, and we had arguments and are going to have arguments about the kind of pay that is given, that all that money that will be spent would be exempt from the Davis-Bacon provision that has always been in this legislation. No. 1, that is not going to help workers very much to have low paying jobs.

No. 2, most of this kind of maintenance is done by public employees that are on the State payroll now. The additional cost of what they would do and the materials would merely be subtracted from what the State or the local community or the county pays out. We just replace it with this money and it might not produce any more jobs.

What kind of havoc would we do to the necessary infrastructure transportation improvements that this Nation needs?

As to not being able to use the funds, we have figures that indicate that under this bill for the project which these programs have always been intended, that somewhere like about $4 to $4½ billion of this money, almost all the increase, can be put to use within 90 days, not 120 days; so therefore, it is not necessary.

I believe that we would be making a total departure. We would not know where we are going, where the money is going to go, how effective it will be, what the people will be paid, how many jobs, if any, it will produce; and so although I am ready to support a major jobs producing bill in this lame duck session with the gentleman from California, this is not the amendment. This is not the bill. This is not the time.

I think we would be doing much more damage than good if we adopt the amendment. I urge its defeat.

Mr. SHUSTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have the greatest respect for the gentleman from California and, indeed, have empathy for what he is attempting to do here; however, I believe that perhaps inadvertently, but nevertheless this amendment, if adopted, would be one of most sweeping historic changes in the Federal highway program in the very history of the Federal highway program, because the very word maintenance itself is not a function of the Federal Government. It is a function of State governments.

Title XXIII, section 116, which the gentleman's amendment says notwithstanding section 116 of title XXIII, that particular section says, it shall be the duty of the State highway department to maintain or cause to maintain our Nation's highways.

So to make this fundamental change with an amendment here on the floor without any committee consideration would be sweeping, would change the fundamental character of our Federal highway program and at the same time would take billions of dollars away from real construction.

Last, and perhaps ironically, it may not create very many jobs at all because maintenance as a function of State government is performed by and large by State government employees, not by the private sector.

So for all those reasons, even though I understand and sympathize with what the gentleman is attempting to do, I believe that this amendment is much more far reaching than one perhaps might realize at first blush and I therefore vigorously urge the defeat of this amendment.

Mr. DUNN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment. I shall not take the entire 5 minutes, merely to point out that for a great majority of the States involved in high unemployment areas that the gentleman is concerned with in the next 90 days, it is literally impossible to do maintenance on highway programs because of the frost situation that would exist.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. PANETTA).

The question was taken; and on a division (demanded by Mr. PANETTA) there were—ayes 3, noes 14.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. GREGG

Mr. GREGG. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GREGG: At the end of title I, add the following new section:

STUDY OF METHANE CONVERSION FOR HIGHWAY FUEL USE

SEC. 155. the Secretary of Transportation shall study, out of any funds available to the Secretary of Transportation for research purposes, the potential for recovering methane which is released in the process of offshore oil drilling and converting such methane on a floating conversion plant located at the drilling site into methanol for use as a fuel for highway vehicles. Such study shall include, but need not be limited to, a determination of the quality and quantity of the methane which is released at offshore drilling sites at various locations and the costs involved in recovering such methane and converting it in the manner described in the preceding sentence. The Secretary shall also determine the permitting requirements which would apply to such floating conversion plants and the most effective way to implement those permitting requirements. The Secretary shall report to the Congress the results of the study under this section not later than one year after the date of enactment of this Act.

Mr. GREGG (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Hampshire?

There was no objection.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. GREGG. Yes, I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, we have examined this amendment on the minority side and find no problem with it and accept it.

Mr. HOWARD. Mr. Chairman, will the gentleman yield?

Mr. GREGG. Yes, I yield to the gentleman from New Jersey.

Mr. HOWARD. Mr. Chairman, we are happy to accept the amendment also. It has been discussed.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Hampshire (Mr. GREGG).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. STENHOLM

Mr. STENHOLM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STENHOLM: Page 81, strike out lines 15 and 16 and insert in lieu thereof the following:

SEC. 154. Section 113 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) The provisions of subsections (a) and (b) of this section shall not be applicable to funds obligated out of the highway trust fund, other than the mass transit account, after the date of enactment of this subsection and before October 1, 1986."

Mr. STENHOLM (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. STENHOLM. Mr. Chairman, I also ask unanimous consent that a second amendment that I have which deals with the exact same subject be considered en bloc with this amendment, for purposes of saving time.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The Clerk will report the second amendment.

The Clerk read as follows:

Amendment offered by Mr. STENHOLM: Page 106, after line 8, insert the following new section:

LABOR STANDARDS

SEC. 315. Section 13 of the Urban Mass Transportation Act of 1964 is amended by redesignating subsection (c) (and any references thereto) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) The provisions of subsections (a) and (b) of this section shall not be applicable to funds obligated out of the mass transit account of the highway trust fund after the date of enactment of this subsection and before October 1, 1986.".

Mr. STENHOLM (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. STENHOLM. Mr. Chairman, no one can argue with the merits of the legislation that we have been considering this afternoon, but we have heard just in the last few moments some argument concerning whether or not this is in fact a jobs bill, whether or not it is a transportation bill.

My amendment is to proceed in the direction of making this a jobs bill, or at least some small semblance of a jobs bill.

The question we might ask is, what is an effective way to get people back to work? The question has been raised and the country looks to the Congress for an answer.

My amendments will deal with creating jobs (20,000 to 32,000 by some conservative estimates) at zero cost to the Federal Treasury.

The legislation we are considering today is designed to stimulate jobs through highway infrastructure projects.

□ 1910

Such is a legitimate responsibility for us to undertake; that is the rebuilding of needed roads, highways, and bridges, to keep America moving and working. Both sides of the aisle are prepared to see this necessary legislation get through both Houses, and the President is waiting to sign this measure into law.

None of the current proposals include ways to increase the number of jobs for the same amount of Federal investment. The way to increase employment is the waiver of the Davis-Bacon Act from all construction work funded under these programs. For many well-documented reasons the act tends to inflate construction wages and inhibits the use of untrained or unskilled workers, many of whom have the most need for jobs. By waiving Davis-Bacon, more jobs will be created for those traditionally limited in the working force.

Waiving Davis-Bacon will not take us back to a time when a worker's standard of living was unprotected. The Federal Government initially undertook the Davis-Bacon Act to make these needed protections.

The time has arrived to review this language and ask if the Government has achieved its purpose in protecting a worker's standard of living. The way to conscientious reform is to see the wavier of Davis-Bacon and the Surface Transportation Assistant Act will accomplish this purpose. This is a labor issue only in that more workers will be put back on the job. Is it not appropriate to ask labor interests to assist in reforming the system and help create more jobs?

Reams of documentation have been available to show the savings attributed to the waiver of Davis-Bacon. The 1979 GAO study documents those savings. The General Accounting Office states that other labor laws passed since 1931 make Davis-Bacon unnecessary. Their report is entitled, "The Davis-Bacon Act Should Be Repealed." Once again, this is not a labor issue, except that federally funded projects will have more individuals employed because Davis-Bacon is repealed. The original intent, to protect local contractors from unfair competition during the depression, is no longer valid. In today's economy, consumers, workers, and taxpayers would benefit from waiver of the Davis-Bacon provisions in surface transportation programs.

Martin Feldstein has advised the administration that the imposition of the gas tax may actually increase unemployment and estimated that the net effect will be the loss of 20,000 jobs. The waiver of Davis-Bacon would restore a sense of fiscal responsibility to the surface transportation program and remove the doubts about the number of new jobs that are to become available.

Mr. Chairman, I ask you today to make a bold move toward increasing the number of jobs under Federal surface transportation programs. I applaud the unanimity of opinion, and I appeal to your sense of fairness and compassion to do that which is best for all workers, consumers, and taxpayers.

It just makes more sense at this point in time for us to increase by whichever figures one may want to use 20,000 to 30,000 additional jobs which can be created by the passage of this amendment.

I ask for your support.

Mr. STANGELAND. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we in Congress are faced with the problem of putting Americans back to work. This bill we have before us today, H.R. 6211, the Surface Transportation Act, is directed at putting people back on the work force.

In this bill is the highway user fee for repair of our Nation's infrastructure and if this passes it is estimated to create some 320,000 jobs. But we do not have to be satisfied with this.

We can create an additional 25,000 jobs through this same Federal investment if the Davis-Bacon requirements were waived from these programs.

Studies published by the General Accounting Office and the Council of Economic Advisers have determined that the Davis-Bacon Act increases the cost of Federal and federally assisted construction projects by at least 10 percent.

Applying this estimate to the number of jobs to be generated through programs to which Davis-Bacon applies, thousands of more jobs clearly could be provided to the unemployed and unskilled if the inflationary and restrictive practices of Davis-Bacon were waived.

This does not mean that we will be asking people to work on construction for a minimum wage. These wages will be negotiated and the workers will be under union contract. But the waiver of the Davis-Bacon will put a stop to some inflated costs but it will still assure the worker a fair wage, a wage that our unemployed need and will accept.

I have joined Congressman STENHOLM in cosponsoring this amendment. We are asking Congress to allow a waiver of this act, the Davis-Bacon, that would require payment of prevailing wages to workers on these federally funded and assisted construction projects. For many well-documented reasons, the act tends to inflate all construction wages and, as a result, unnecessarily increases construction costs.

It is as simple as this, the more the construction costs—the less jobs we can create.

Congressman STENHOLM and I are asking that you realize the importance and urgency of producing jobs for the unemployed. And then, ask yourself this question—why should we not create more jobs for the same amount of money. We can do this if Congress passes the Stenholm-Stangeland amendment which would waive the Davis-Bacon law as it applies to this act.

Mr. ANDERSON. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, the gentleman's amendment is completely inconsistent with the longstanding practice and intent of Congress. In fact, practically every federally assisted construction program requires the payment of the prevailing wage rates in the locality as predetermined by the Secretary of Labor.

For 51 years, the Davis-Bacon Act has protected both local contractors and construction workers engaged on federally assisted projects from unfair competition by outside contractors who fail to observe the labor standards maintained generally in the area.

When this happens, responsible contractors, employees, and the community in general, suffer from this unfair competition to which the Federal Government is a party. The low wages of these workers from outside the local area undercut the wage rates and undercut the living standards of building and construction workers and their families in the local community.

It should be clearly understood that the inclusion of prevailing wage provisions, as provided for in the Davis-Bacon Act of federally assisted projects does not increase wage rates in a community. The Davis-Bacon provisions are designed purely to protect local contractors and local building tradesmen in the area from the incursions and underbidding of the outside contractors. Thus the wage and living standards in the community are protected and contractors are placed on equal competitive terms.

I feel that local contractors and workers on these projects are entitled to the protection of the Davis-Bacon Act. As I have stated, virtually all Federal construction projects require the payment of the prevailing wage rate.

I urge the defeat of this amendment.

Mr. PHILIP M. CRANE. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

I think, Mr. Chairman, that there is a legitimate expression of concern in this bill for the derelict status of our highways, but on the other hand, I think we have to recognize that at a time when we are already suffering from confiscatory taxation and when we are suffering from unprecedentedly high budgets as well as budget deficits, that we have to be duly concerned about the impact of any of our actions on the overtaxed taxpayer/user, in this case, and as a result, it seems to me that the amendment introduced by the gentleman from Texas is totally supportable by these criteria.

A HUD study in 1976 indicated that Davis-Bacon adds to Federal construction projects anywhere from 5 to 15 percent, and if we take a 10-percent figure, which splits the difference between these HUD estimates, then we are talking about somewhere between $5 and $6 billion that could be saved to the taxpayer and put to constructive use in other ways if we waived the requirement for the application of Davis-Bacon in this instance.

In addition to that, there have been other studies indicating that Davis-Bacon has had a negative effect on employment, most especially on minority employment. As a result, if we are concerned about having a peripheral fringe benefit of this legislation resulting in expanded employment, then again I think it dictates waiving the Davis-Bacon application and giving many, most especially the minorities who are being hurt at this time worse than anyone else in the economy, the opportunity for job opportunities that otherwise most assuredly will be denied by Davis-Bacon.

□ 1920

So, Mr. Chairman, I would urge our colleagues to support the amendment introduced by the gentleman from Texas. It is supportable upon all economic as well as humanitarian grounds.

Mr. PEYSER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I would like at the outset to ask my friend from Texas a very simple question on this amendment, and that is, does the President support the amendment that the gentleman has offered at this time? Does he know?

Mr. STENHOLM. I do not know.

Mr. PEYSER. Does the Secretary of Labor support this amendment?

Mr. STENHOLM. I do not know.

Mr. PEYSER. So they have not been involved in any way?

Mr. STENHOLM. This bill is before the Congress at this time. My concern is our colleagues in this body, as to whether or not we wish to—in fact want to—put 20,000 to 32,000 additional Americans back to work under the basic premise of the amendment that I have offered, and that is my total concern.

Mr. PEYSER. The reason for my question was obviously to find out whether the executive branch was supporting this, and I gather, obviously, they are by their omission of speaking on this issue, are not supporting it, however, I think it is important that everybody recognize that what we are seeing now, is an attempt to use the whole issue of unemployment and the tragedy facing millions of Americans today, as another device, to end Davis-Bacon.

Over the years I have been here I have repeatedly seen this effort made, and it was not made in this vehicle of highways and work of this nature, nor was it made at times of tremendously high unemployment. We are dealing with a very basic philosophical issue here as to whether labor, working men and women should be protected as they have traditionally been, and incidentally as it has been stated by every President that I have had the opportunity of serving under, starting with President Nixon, President Ford, President Carter, and President Reagan. They believe that Davis-Bacon is a necessary protection for the workers of this country. That is really the issue.

Now, I must admit that the administration, in a back-door way, tried 6 months ago by regulation to make many drastic changes in Davis-Bacon, and when they made that effort, which would have stripped a great many of the privileges, and frankly, the rights, that labor had under Davis-Bacon. The building trades went to the Supreme Court where an injunction was issued against the Labor Department preventing them from taking this action.

Now, I do not think that we here in this Congress are about to let this situation come up under the guise of helping the unemployed in this country, to strip labor of a much-needed protection; the working men and women, obviously in the building trades, who need this kind of protection, and it benefits all of us in the kind of quality and the kind of work that is done on our roads and our highways—all of the work in the infrastructure in this country that is protected under Davis-Bacon.

So I would ask, Mr. Chairman, that we recognize this amendment for what it is, as another attempt over the years, who will use any vehicle possible to bring it to the floor to try to strip it, because obviously if we take it out of this bill it would be logical that it ought to come out of any area of construction that the Federal Government is in. I urge the Members to defeat the amendment. I am convinced that we will defeat it as we have all other attempts.

Mr. WALKER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I think we ought to take a look at what we are supposedly doing in the bill that is before us. Supposedly, the bill before us is to do two things: It is to create more roads and it is to create more jobs. Well then, if that is what this bill is all about, then who wants the language that exists in the committee bill with regard to Davis-Bacon? Do the States and municipalities who are to provide us with more roads want it? Well, no, because under the provisions of this language in the bill, they do not get more roads; they get less roads.

Do the unemployed want this language, the people who are going to have a chance at more jobs? No; because under this language there would not be more jobs; there would be less jobs. That is not only questionable in terms of where this bill is going, but it seems to me that is outright cruel at a time when we are saying to the American people that it is necessary to provide jobs, and truly it is.

So, who does want this language? Who benefits from this language? Only one major group, the big labor unions. In my mind, this is purely and simply a political payoff for what has just happened in the elections; purely and simply, because they are the only ones who get any benefit out of this, and most of the people who are going

to benefit are people who already have jobs, who are going to receive the increased wages that this bill would permit.

Well, if we adopt the amendment offered by the gentleman from Texas, it seems to me that then we get to where we supposedly want to be; we get more roads; we get as much as 10 to 20 percent more roads, and that is not based upon figures I have come up with. It is based upon figures the GAO has reported. The General Accounting Office has said what the problem is—that for the same amount of money you get less activity. So, we get more roads out of it.

We get more jobs out of it, perhaps 10 to 20 percent more people will go to work if we adopt this amendment. How many people is that? The gentleman makes very modest claims in saying 20,000 to 25,000 or perhaps as many as 32,000. It could be as many as 50,000 people who will get jobs as a result of this amendment.

The American people, it seems to me, when they look at the vote on this amendment, are going to be able to judge quite clearly who is really serious about providing jobs. They can watch to find out whether or not we are going to adopt the committee language, which limits the number of jobs by 50,000, or adopt this amendment, which increases the number of jobs by 50,000. The special interests who say they are looking at this whole bill are more interested in protecting their own perks than they are in creating jobs, Oh, they made a political issue out of jobs and ran around the country talking about jobs, but the fact is they are more interested in protecting their own perks than in creating work opportunities.

Listen to the arguments that have been given us in favor of keeping this language in the bill. Members heard from the gentleman from California that the reason we should do this is because we have always done it this way. The gentleman from New York told us purely and simply that we ought to protect the labor unions; that that is the purpose of Davis-Bacon and its priorities are larger than providing jobs.

I think that the prime priority that we ought to have is the provision of jobs, and we should not be doing what we have always done because what we have always done is limit jobs. In these times of crisis it seems to me that we ought to stop denying jobs and begin putting people back to work. It is time that we do better than we have done in the past, and I support the amendment of the gentleman from Texas.

Mr. PEYSER. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I will be glad to yield.

Mr. PEYSER. Mr. Chairman, in the first place I would like to correct something. I believe it is correct in the record. I never mentioned protecting labor unions at any time in my talk. I did talk of working men and women, but I think one thing the gentleman said is of importance. He said this was really just going to the people who already have jobs——

Mr. WALKER. I said give them larger salaries.

Mr. PEYSER. Larger salaries. The truth is, in the building trades, in the construction trades, in the highway areas, they are running 34 to 40 percent unemployment today, well above the national average, triple.

Mr. WALKER. The gentleman has made my point for me. Why not then put those people back to work with a provision that would allow the creation of more jobs?

Mr. PEYSER. Mr. Chairman——

Mr. WALKER. I am reclaiming my time. It seems to me that if we have an opportunity to use the money in this bill to create more jobs, we can bring down that unemployment by a significantly greater amount, and that is exactly what this amendment is all about.

I would urge, based upon what the gentleman has just said, that we support the gentleman from Texas.

Mr. WOLF. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment which would restrict Davis-Bacon wage rate requirements for highway and bridge repair programs funded through this legislation and the highway trust fund.

I believe this is an important amendment to insure that the highway bill and the gas tax revenue to support it accomplish their intended purpose: that is, to rebuild this Nation's deteriorating infrastructure while simultaneously expanding jobs.

If we allow Davis-Bacon to be extended to these projects, we will effectively reduce the number of jobs which could be created and inflate the cost of the projects. According to the General Accounting Office, if Davis-Bacon were waived, this legislation would be strengthened to increase jobs conservatively estimated by 10 percent.

It is clear that Davis-Bacon provisions increase construction costs. After a GAO study last year found that costs for Metro construction in the Washington area would increase by about $149 million because of the prevailing wage rate established by Davis-Bacon, I introduced legislation to exempt Metro from Davis-Bacon Act requirements, which dictate that the highest prevailing wage rate be paid on Government construction projects.

We have an opportunity with this amendment to provide jobs for Americans. I urge my colleagues to join me in restricting Davis-Bacon Act provisions in this legislation to make the greatest possible use of our limited resources.

□ 1930

The CHAIRMAN. The question is on the amendments offered by the gentleman from Texas (Mr. STENHOLM).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. STENHOLM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 174, noes 223, not voting 36, as follows:

[Roll No. 416]

AYES—174

Andrews	Fuqua	Moore
Anthony	Gibbons	Moorhead
Archer	Gingrich	Morrison
Ashbrook	Goldwater	Myers
Badham	Goodling	Napier
Bailey (MO)	Gramm	Neal
Barnard	Gregg	Nelson
Beard	Grisham	Oxley
Benedict	Gunderson	Paul
Bereuter	Hagedorn	Porter
Bethune	Hall, Ralph	Pritchard
Bliley	Hammerschmidt	Pursell
Broomfield	Hance	Regula
Brown (CO)	Hansen (ID)	Roberts (KS)
Brown (OH)	Hansen (UT)	Roberts (SD)
Broyhill	Hartnett	Robinson
Burgener	Hefner	Rogers
Butler	Hendon	Rose
Byron	Hightower	Roth
Carney	Hiler	Roukema
Chappell	Hillis	Rousselot
Chappie	Holland	Rudd
Cheney	Holt	Sawyer
Coats	Hopkins	Sensenbrenner
Coleman	Huckaby	Shaw
Collins (TX)	Hunter	Shumway
Conable	Hutto	Shuster
Corcoran	Hyde	Siljander
Coughlin	Jeffries	Skeen
Craig	Jenkins	Smith (AL)
Crane, Daniel	Johnston	Smith (NE)
Crane, Philip	Jones (NC)	Smith (OR)
Daniel, Dan	Kindness	Snowe
Daniel, R. W.	Kramer	Snyder
Dannemeyer	Lagomarsino	Solomon
Daub	Latta	Spence
Deckard	Leach	Stangeland
Derrick	Leath	Staton
Dornan	Lewis	Stenholm
Dreier	Livingston	Stump
Duncan	Loeffler	Tauke
Dunn	Long (MD)	Taylor
Edwards (AL)	Lott	Thomas
Edwards (OK)	Lowery (CA)	Trible
Emerson	Lujan	Vander Jagt
Emery	Lungren	Walker
English	Marriott	Wampler
Erdahl	Martin (NC)	Watkins
Erlenborn	Martin (NY)	Weber (MN)
Evans (DE)	McClory	White
Evans (GA)	McCollum	Whitehurst
Evans (IA)	McCurdy	Whitley
Fenwick	McDonald	Whittaker
Fiedler	McEwen	Winn
Fields	Mica	Wolf
Findley	Miller (OH)	Wortley
Fountain	Molinari	Wylie
Frenzel	Montgomery	Young (FL)

NOES—223

Addabbo	AuCoin	Boland
Akaka	Bailey (PA)	Boner
Albosta	Bedell	Bonior
Anderson	Beilenson	Bouquard
Annunzio	Bennett	Bowen
Applegate	Biaggi	Breaux
Aspin	Bingham	Brinkley
Atkinson	Boggs	Brodhead

Brooks	Hamilton	Peyser
Brown (CA)	Harkin	Pickle
Burton, John	Hatcher	Price
Burton, Phillip	Hawkins	Quillen
Carman	Heckler	Rahall
Clausen	Heftel	Rangel
Clay	Hertel	Ratchford
Clinger	Hollenbeck	Reuss
Coelho	Horton	Rinaldo
Collins (IL)	Howard	Ritter
Conte	Hoyer	Rodino
Courter	Hubbard	Roe
Coyne, James	Hughes	Roemer
Coyne, William	Jacobs	Rosenthal
Crockett	Jeffords	Rostenkowski
D'Amours	Jones (OK)	Roybal
Daschle	Jones (TN)	Russo
Davis	Kazen	Sabo
de la Garza	Kennelly	Savage
Dellums	Kildee	Scheuer
DeNardis	Kogovsek	Schneider
Derwinski	LeBoutillier	Schroeder
Dicks	Leland	Schulze
Dingell	Lent	Schumer
Dixon	Levitas	Seiberling
Donnelly	Long (LA)	Shamansky
Dorgan	Lowry (WA)	Shannon
Dougherty	Luken	Sharp
Dowdy	Lundine	Shelby
Downey	Madigan	Simon
Dwyer	Markey	Smith (IA)
Dymally	Martin (IL)	Smith (NJ)
Dyson	Martinez	Smith (PA)
Early	Matsui	Solarz
Eckart	Mavroules	St Germain
Edgar	Mazzoli	Stark
Edwards (CA)	McDade	Stokes
Ertel	McGrath	Stratton
Evans (IN)	McHugh	Studds
Fary	McKinney	Swift
Fazio	Michel	Synar
Ferraro	Mikulski	Tauzin
Fish	Miller (CA)	Traxler
Fithian	Mineta	Udall
Flippo	Minish	Vento
Foglietta	Mitchell (MD)	Volkmer
Foley	Mitchell (NY)	Walgren
Ford (MI)	Moakley	Washington
Ford (TN)	Moffett	Waxman
Fowler	Murphy	Weaver
Frank	Murtha	Weber (OH)
Frost	Natcher	Weiss
Garcia	Nelligan	Whitten
Gaydos	Nichols	Williams (MT)
Gejdenson	Nowak	Williams (OH)
Gephardt	O'Brien	Wilson
Gilman	Oakar	Wirth
Ginn	Oberstar	Wolpe
Glickman	Obey	Wright
Gonzalez	Ottinger	Wyden
Gore	Panetta	Yatron
Gradison	Pashayan	Young (AK)
Gray	Patman	Young (MO)
Green	Pease	Zablocki
Guarini	Pepper	Zeferetti
Hall (IN)	Perkins	
Hall (OH)	Petri	

NOT VOTING—36

Alexander	Florio	Mattox
Bafalis	Forsythe	McCloskey
Barnes	Hall, Sam	Mollohan
Bevill	Ireland	Mottl
Blanchard	Kastenmeier	Parris
Bolling	Kemp	Patterson
Bonker	LaFalce	Railsback
Campbell	Lantos	Rhodes
Chisholm	Lee	Santini
Conyers	Lehman	Skelton
Dickinson	Marks	Stanton
Fascell	Marlenee	Yates

□ 1950

Mrs. HECKLER changed her vote from "aye" to "no."

Mr. ROBERTS of South Dakota and Mrs. ROUKEMA changed their votes from "no" to "aye."

So the amendments were rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. ROEMER

Mr. ROEMER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROEMER: On page 81, strike lines 14 through 16.

Mr. ROEMER. Mr. Chairman, we have been discussing at some point today, as we have in the past, the Davis-Bacon provisions that affect these and other bills. I have got an attempt at what I call middle ground on that point.

In the current law of this land, on highway construction, under current and existing law, Davis-Bacon applies under the funds out of the highway trust fund under the following language:

The Secretary . . . employed by contractors or subcontracts on the initial constuction work performed on highway projects.

Initial construction.

That meant that items of maintenance and repair were not included under the Davis-Bacon provision. That has been the law of the land for a number of years.

In our committee, without debate, the current law was changed. Because of the time shortage, the bill when brought over, had a number of changes proposed by the chairman and others who worked hard on this bill, and I compliment them for that.

One of the changes that they made was to section 154, which says that the word "initial" would be stricken from current law, which in my mind gave the opportunity for Davis-Bacon, not to be cut back, but to be expanded to those items in the history of the highway trust fund that were never intended to be under the Davis-Bacon provisions.

What my amendment does is not restrict or expand Davis-Bacon. It makes sure that the bill that comes out of this House has the same language in regard "initial" highway construction.

Our chairman and others removed the word "initial." With my amendment, I put the word "initial" back.

Now, some would say and have already made on this floor the point that Davis-Bacon ought not apply in any manner to the highway trust fund. That if it is jobs that we want, we ought to strip away the protection for skilled labors. This House has already, by a vote taken minutes ago, decided not to do that. I stand with that commitment.

My amendment would only make sure that the statute is not changed in any direction, up or down, vis-a-vis Davis-Bacon. But the word "initial" highway construction be maintained in and under the law.

Mr. HOWARD. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, we on the Committee on Public Works and Transportation appreciate the work of the gentleman from Louisiana (Mr. ROEMER), who is not only a valuable member of the committee, but always accurate in what he says, and I believe that this is the exception that proves the rule.

We are in disagreement here as to whether or not his amendment will weaken Davis-Bacon and change what has been the practice or whether it will remain the same.

I believe that I can speak to the intent of the original amendment that put Davis-Bacon in the highway legislation in the sixties, because I was the author of the amendment that put it in that legislation.

That intent was to have it in all construction, and in the law construction is listed as a certain type of work, and certain parts of the 3-R program are construction.

Now, the practice has been as the intent has always been that the 3-R program is covered by Davis-Bacon, it always has been.

Late in the Carter administration, in looking at the word "initial" they determined that they may be able to weaken Davis-Bacon by having "initial" rather than "construction" be the operative word, and this administration has taken that up, and the Federal Highway Administrator, Mr. Barnhart, has indicated that he will change the practice, weaken Davis-Bacon, not have it apply to 3-R as it always has, as it always had been intended to be and put that in the Federal Register.

What is in the legislation today clears that up. The language we put in in the committee merely clarifies the legal argument and says Davis-Bacon shall apply to 3-R as it has always applied to 3-R, and it does not expand it at all.

If this amendment is defeated, the Davis-Bacon provision will continue as it has in the past, not be added to any kind of program.

If the amendment is agreed to, then we will be voting as though we want to kill Davis-Bacon.

So we have, basically, the same kind of vote as before except if there are people who did not want to kill Davis-Bacon but maybe just have it continue as it has in the past, then they would oppose this. Those who are in support of Davis-Bacon will oppose this.

So what we are having here is a decision as to whether we are going to weaken it, as the amendment does, or whether it will continue the same as before, as the committee language does.

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Louisiana.

Mr. ROEMER. I thank the gentleman for yielding.

I just want to clarify a point of fact, and that is the law currently reads "initial construction"; is that correct?

Mr. HOWARD. That is right.

Mr. ROEMER. So the gentleman's amendment, that because of the pressing of time, we did not debate in committee or subcommittee, makes a change in the law.

Mr. HOWARD. No, no. Makes a change in the wording so that there will be no change in the law.

Mr. ROEMER. Laws are made up of words. And if you strike the word "initial" you strike to the heart of maintenance and repair in the program.

Mr. HOWARD. I know what the results will be. I am not going to argue about what goes into the law because the gentleman is Harvard educated and I am just a poor little sixth grade teacher from New Jersey. So I do not know much about that. But I know what I meant when I put the amendment in.

All the administrations from then on know what we meant, because they followed that. And all we want to do is continue that practice, and that practice will not be continued, Davis-Bacon will be reduced in its effects if this amendment carries.

So those of my colleagues who want to cut down Davis-Bacon would vote "yes." Those who want to maintain it as it has been, will vote "no"; the same vote roughly we just had. And we are probably going to have another one after this. So I think if we get at it, we will be doing ourselves a service.

□ 2000

Mr. McEWEN. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment.

Mr. Chairman, I rise with a certain amount of trepidation because of my strong admiration and respect for the chairman of our committee. However, I do find it somewhat disturbing that a provision has been added to the substitute at the last minute which appears to expand significantly the applicability of Davis-Bacon wage rate determinations beyond initial construction to include resurfacing, restoration and rehabilitation.

I would like to just take a moment of the time of the House to point out a section of legislative history taking us back to when this section was enacted in 1968.

The chairman of our committee, the gentleman from New Jersey (Mr. HOWARD) proposed to delete on the floor by amendment, very similar action that we are facing just now, to delete the term "initial" from section 113 of chapter 23 of the United States Code and in the process expand the application of Davis-Bacon to cover the primary, secondary, and urban systems as well as the interstate system originally covered under section 113. The attempt to delete that term "initial" was met with strong opposition by then Representative Cramer, the ranking member of the committee.

On the floor of the House, Mr. Cramer stated that he opposed that amendment because it would have the effect of including under Davis-Bacon the previously excluded construction work "that if performed after the highway is built, such as reconstruction, major repairs, possibly some maintenance functions, and other small improvement or betterment projects."

Mr. Cramer noted that "initial" was specifically written into the basic law for the purpose of limiting the application of Davis-Bacon "to the actual first construction of a highway, not its upkeep."

Mr. Cramer asked Mr. HOWARD why he proposed deleting the term "initial" and Mr. HOWARD replied that his proposal was drafted to apply to the Davis-Bacon Act in a general manner to the ABC highway program.

Mr. Cramer offered a substitute amendment for the purpose of retaining the term "initial" while still expanding the coverage of the Davis-Bacon Act to the noninterstate Federal-aid systems. His amendment was accepted by Mr. Kluczynski, as chairman of the subcommittee, and Mr. HOWARD, whose own proposal was therefore withdrawn. The amendment as proposed by Mr. Cramer was passed by the House and was identical to the provision subsequently adopted by Congress.

Now, I believe that this measure has not been subjected to the full hearings which an issue of this sensitivity would seem to require, nor was it voted upon in the Public Works and Transportation Committee, or its Surface Transportation Subcommittee, upon which I serve.

If there is a problem, then it must be remedied by legislation. The case has not been made here.

I suggest that the best course for us is to accept this amendment to restore the language of the existing law and to proceed in a more deliberate manner to address this issue.

Allow me to conclude by reemphasizing again my tremendous respect for our chairman, my appreciation for his performance in the House and in our committee and for his dedication to major transportation issues; but the fact is that we are about to do something that has been attempted for now some 14 years successively and yet has not been successful. Unless all of us pay strict attention we will do something tonight that the Congress has not chosen to accomplish in some 14 years.

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. McEWEN. I am glad to yield to the gentleman from Louisiana.

Mr. ROEMER. Mr. Chairman, the chairman and I and others disagree directly on these words. The chairman makes the point that deletion of the word "initial" makes no difference. It does as the law is practiced. It does as ruled by the Carter administration when it said that section 113 by its terms is limited to initial construction and the 3-R program is designed to improve and restore the usability of the existing roads, et cetera.

There is a difference of opinion here. It is not idle games. It is not an attempt to eliminate Davis-Bacon or to restrict it. It is an attempt to hold the law where it ought to be.

This bill suffers, if anything, from too hasty action and changes made, quietly done because of the necessity of time, that make big impacts on the highway trust fund.

Let us not allow this change to stand.

Mr. McEWEN. Mr. Chairman, I thank the gentleman.

Mr. HOWARD. Mr. Chairman, will the gentleman yield?

Mr. McEWEN. I am glad to yield to the chairman.

Mr. HOWARD. The gentleman is a most valuable member of the committee. I appreciate his presence and debate on the committee almost every time.

Mr. McEWEN. I thank the gentleman.

Mr. HOWARD. I would like to ask the gentleman, should there be a two-lane highway in existence that had been built perhaps in the 1940's and that highway is going to undergo a change to become a four-lane or six-lane divided highway, would Davis-Bacon apply if the gentleman's amendment is adopted?

Mr. McEWEN. It is my understanding that it certainly would, yes.

Mr. HOWARD. It would not apply; it would not be, as the gentleman says, if we put the key word "initial" in there, it would not, because it would not be the initial construction on that.

Our point is that it has always applied and comes under construction and so what will happen if this amendment is passed will be a major change on what is covered by Davis-Bacon.

Mr. McEWEN. I think the gentleman recognizes that if it would go from a two-lane highway to a four-lane highway, that you would have to construct a four-lane highway.

Mr. HOWARD. The Federal Highway Administrator will declare that is not an initial construction and Davis-Bacon does not apply. He has already said that.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(By unanimous consent, Mr. McEWEN was allowed to proceed for 2 additional minutes.)

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. McEWEN. I yield to the distinguished ranking member.

Mr. CLAUSEN. Mr. Chairman, in response to the example propounded by the chairman, I am of the opinion that it would qualify under the reconstruction criteria which has been applied by the administration. It does not impact on the reconstruction as well as the initial construction.

Mr. McEWEN. I thank the gentleman for his contribution.

Mr. HOWARD. Mr. Chairman, if the gentleman will yield further, reconstruction is not initial construction, so that would wipe it out. That is why we have the language of the amendment.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. McEWEN. I am glad to yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I thank my colleague for yielding.

In the remarks of my colleague from Ohio, he suggested that there needs to be further study of the entire Davis-Bacon matter, including this issue.

I would like to remind my colleague on the committee that as a result of a request made by the committee, the Subcommittee on Investigation and Oversight has already begun preparations for a major investigation, a major study of application of the entire Davis-Bacon legislation.

Mr. McEWEN. That is correct.

Mr. LEVITAS. So that we will once and for all have an objective look at whether or not the rules of Davis-Bacon should be modified or changed or repealed or continued or expanded.

So I can assure the gentleman that as a result of a request from the committee, that process is now underway and I hope will be completed objectively within the next several months.

Mr. McEWEN. I appreciate the gentleman's contribution and understanding of the need for us not to change the law at this point.

Mr. ROEMER. Mr. Chairman, will the gentleman yield just for a point of information as a member of the Investigation Oversight Committee.

Mr. McEWEN. I yield to the gentleman from Louisiana.

Mr. ROEMER. We do look forward to that kind of investigation.

Would the gentleman agree that the current law reads "initial construction"? That is my point, current law.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield further?

Mr. McEWEN. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I thank the gentleman for yielding.

I have not done the study of this provision that the gentleman from Louisiana or the gentleman from Ohio has, but one of the reasons I voted against the last amendment was because I did not want the current law to be changed in any particular until we have completed our study. I think in order to be consistent, I will have to support the gentleman in his position.

Mr. SHAW. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment. I shall not take my 5 minutes, however.

We have at this time in this country over 12 million Americans out of work. There is 10.8 percent of our population who wants to work and cannot.

We have a bill that will contribute something to eliminate this.

We also have an infrastructure in the form of bridges and streets throughout this country that are deteriorating to the point where if we allow them to deteriorate more, we are going to drastically further put a negative effect upon the economy of the United States. While we are here tonight discussing a bill in a lameduck session that will do a little bit to cure the unemployment problems in this country and fixing the streets in this country, we are also debating whether we want to amend the laws of this country so that we are going to further expand Davis-Bacon into an area that it does not exist in tonight.

Now, I cannot argue the history of this thing and whether this was changed in the Carter administration or wherever. I do not know; but all I know is that tonight it is simply not right to those of us who are depending upon the transportation structure of this country to get bogged down in a senseless discussion about whether or not we are going to require the work to be done just by union labor and therefore restrict what we can do and whether we are going to restrict those who can go back to work under this bill to being those who are carrying union cards. To me that is unconscionable.

We should not change the law. Even though I was on the losing side of the prior amendment that would have eliminated Davis-Bacon, I did so only so it would put more people back to work

I do not believe that we should do anything short of passing the amendment of the gentleman from Louisiana, which I think is a very sober approach to a very difficult problem, and that is getting about the work of reconstructing the roads of this country and putting some of the people back to work.

Mr. ERLENBORN. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment.

□ 2010

Mr. Chairman, when the gentleman from Ohio spoke, he initiated his remarks with praise for the gentleman from New Jersey, the chairman of the committee, which I would adopt as my own.

However, I would say he missed one appellation that he could have used for the gentleman from New Jersey, and that is "tenacious," because he then told us how the gentleman from New Jersey in 1968 had offered this amendment to strike the word "initial." He failed at that time, and now 14 years later he is trying to accomplish what he failed to do then.

The fact is, the law today—and for years—has applied Davis-Bacon to the initial construction of these highways. The law for years has applied only to initial construction. The gentleman from New Jersey is now trying to change the law by striking the word "initial."

We have already passed on the question as to whether we are going to change Davis-Bacon in the direction of removing its application under this bill, and we have decided not to. If we are going to be at all fair with the people who are looking to this to have their highways improved, be fair to the people who expect to have jobs under the funds made available through this legislation, we will defeat this amendment and leave the law as it is today.

The gentleman from New Jersey may be tenacious, but I do not think we ought to let him win tonight what he did not win then.

Mr. WALKER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time principally to ask a couple of questions of the gentleman from Louisiana (Mr. ROEMER) whose amendment this is.

First of all, is it not true that most of the intent, much of the money that is in this bill, is aimed at the reconstruction and rebuilding of roads so that a large bulk of the jobs and numbers of miles that would be repaved and redone would be in the area to which the gentleman's amendment speaks?

So that, in fact, if the gentleman is correct and we would apply Davis-Bacon in a way in which it has never been applied before, we would be limiting the jobs precisely in the area in which this bill seeks to expand jobs.

Mr. ROEMER. Mr. Chairman, would the gentleman yield further to me?

Mr. WALKER. I would be glad to yield to the gentleman from Louisiana.

Mr. ROEMER. Yes, at a time when jobs are at least a portion of the momentum for this legislation.

As you know, I voted against the amendment offered by my good friend, the gentleman from Texas (Mr. STENHOLM), a minute ago. The chairman, myself, and others on the committee have worked closely together, I thought with a common goal; that is,

to make no radical changes under the law, but to make sure that the money fairly collected was fairly distributed for jobs on highways. That is why I object to the change in the bill by the gentleman from New Jersey (Mr. HOWARD). That is what I am trying to amend to go back to original law.

Mr. WALKER. Mr. Chairman, let me see if I can understand a bit about where the gentleman thinks the difference lies.

The gentleman from New Jersey gave us an example here a little bit ago, a rather wild example, taking a two-lane road and making it into a four-lane road. It seems to me, though, that what the gentleman is saying is that if you take that same two-lane road and you want to put down some new macadam on it and rebuild it some, under the law as it is now written you would not apply Davis-Bacon to that particular kind of project.

However, if the gentleman's amendment is not adopted and we take the committee bill as such, that particular two-lane road might have Davis-Bacon now applied to it where it has never had it in the past. Is that correct? Is that my understanding?

Mr. ROEMER. If the gentleman will yield further, the danger now is not from the diminution of Davis-Bacon; it is from the expansion of same, because current practice allows for maintenance and certain types of repair to remove itself from the burden of Davis-Bacon.

With the changes given to us by the chairman of the committee, that pressure would not be there. All would be a fair game. Every dollar, every penny, every allocation of this bill would be under the burden of Davis-Bacon. It is a major change in the law.

Mr. WALKER. If I further understand what the gentleman is saying, the law right now has the word "initial" in it; is that correct?

Mr. ROEMER. That is correct.

Mr. WALKER. So, in other words, the argument being propounded by those who do not favor the gentleman's amendment is that by changing the law, we are really not changing the law. Somehow the logic of that escapes me, but we are making a change in the law unless we adopt the amendment offered by the gentleman; is that not correct?

Mr. ROEMER. If the gentleman will yield further, Mr. Chairman, the fear on the last amendment was that we would send a signal that there would be no Davis-Bacon application. There was a very close vote. The fear on this one is that Davis-Bacon would apply to everything.

I voted against the last amendment, and for that same reason I offer this amendment: Keep the law as it is.

Mr. WALKER. I thank the gentleman.

Mr. MINETA. Mr. Chairman, I move to strike the requisite number of words.

Mr. HOWARD. Mr. Chairman, will the gentleman yield?

Mr. MINETA. I yield to the chairman of our committee, the gentleman from New Jersey.

Mr. HOWARD. I thank the gentleman for yielding.

Mr. Chairman, I want to address two points so that there will not be confusion about the statements made by the gentleman from Pennsylvania.

The gentleman asked the question that if his amendment did not pass, then the effect would be that in the future Davis-Bacon would apply where it has not applied before. The gentleman from Louisiana said that that is correct.

The gentleman is mistaken, because Davis-Bacon has applied all the way through. If his amendment is not adopted, then there will be no change. If his amendment is adopted, then what the Federal Highway Administrator put in the Federal Register would change that operation. So that is one thing.

Another point: The gentleman mentioned that if there is an existing highway and you replace it, it is not initial, so it should not apply. However, I am sure the gentleman knows that there is a definition of what is construction and that has to do with the thickness of the repaving. The law states that if it is over 1½ inches in thickness, then it is construction and it is not maintenance, so it should apply. So that is a second misstatement that we heard.

We just want to make sure everyone here who votes on this has the opportunity to know what they are voting on. So if you want to weaken Davis-Bacon, vote for the amendment; if you want to keep its application, if not its words, but the application the same, then vote no.

I thank the gentleman from California for yielding.

Mr. MINETA. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. ROEMER).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ROEMER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 191, noes 194, not voting 48, as follows:

[Roll No. 417]

AYES—191

Andrews	Atkinson	Benedict
Anthony	Bailey (MO)	Bereuter
Archer	Barnard	Bethune
Ashbrook	Bedell	Bliley
Broomfield	Hammerschmidt	Nelligan
Brown (CO)	Hance	Nelson
Brown (OH)	Hansen (ID)	Nichols
Broyhill	Hansen (UT)	O'Brien
Butler	Hartnett	Oxley
Byron	Hatcher	Paul
Carman	Hefner	Petri
Carney	Hendon	Pickle
Chappell	Hightower	Porter
Chappie	Hiler	Pritchard
Cheney	Hillis	Pursell
Clausen	Holland	Railsback
Clinger	Holt	Regula
Coats	Hopkins	Ritter
Coleman	Huckaby	Roberts (KS)
Collins (TX)	Hunter	Robinson
Conable	Hutto	Roemer
Corcoran	Hyde	Rogers
Coughlin	Jeffords	Rose
Coyne, James	Jeffries	Roth
Craig	Jenkins	Roukema
Crane, Daniel	Johnston	Rousselot
Crane, Philip	Jones (NC)	Rudd
Daniel, Dan	Kazen	Sawyer
Dannemeyer	Kemp	Schulze
Daub	Kramer	Sensenbrenner
de la Garza	Lagomarsino	Shaw
Derrick	Latta	Shumway
Dickinson	Leach	Siljander
Dornan	Leath	Skeen
Dreier	LeBoutillier	Smith (AL)
Duncan	Levitas	Smith (NE)
Dunn	Lewis	Smith (OR)
Edwards (AL)	Livingston	Snowe
Edwards (OK)	Loeffler	Snyder
Emerson	Long (MD)	Solomon
English	Lott	Spence
Erdahl	Lowery (CA)	Stangeland
Erlenborn	Lujan	Staton
Evans (DE)	Lungren	Stenholm
Evans (GA)	Madigan	Stump
Evans (IA)	Marlenee	Tauke
Fenwick	Marriott	Thomas
Fiedler	Martin (NC)	Trible
Fields	Martin (NY)	Vander Jagt
Findley	McCollum	Walker
Fountain	McCurdy	Wampler
Frenzel	McDonald	Watkins
Fuqua	McEwen	Weber (MN)
Gibbons	Mica	Weber (OH)
Gingrich	Michel	White
Goodling	Miller (OH)	Whitehurst
Gradison	Molinari	Whitley
Gramm	Montgomery	Whittaker
Green	Moore	Winn
Gregg	Moorhead	Wolf
Grisham	Morrison	Wortley
Gunderson	Myers	Wylie
Hagedorn	Napier	Young (FL)
Hall, Ralph	Neal	

NOES—194

Addabbo	D'Amours	Fowler
Akaka	Daschle	Frank
Albosta	Davis	Frost
Anderson	Dellums	Garcia
Annunzio	DeNardis	Gaydos
Applegate	Derwinski	Gejdenson
Aspin	Dicks	Gephardt
AuCoin	Dingell	Gilman
Bailey (PA)	Dixon	Ginn
Beilenson	Donnelly	Glickman
Bennett	Dorgan	Gonzalez
Biaggi	Dougherty	Gore
Bingham	Dowdy	Gray
Boggs	Downey	Guarini
Boland	Dwyer	Hall (IN)
Boner	Dymally	Hall (OH)
Bonior	Dyson	Hamilton
Bouquard	Early	Harkin
Bowen	Eckart	Hawkins
Breaux	Edgar	Heckler
Brinkley	Edwards (CA)	Hertel
Brodhead	Ertel	Horton
Brooks	Evans (IN)	Howard
Brown (CA)	Fary	Hoyer
Burton, John	Fazio	Hubbard
Burton, Phillip	Ferraro	Hughes
Clay	Fish	Jacobs
Coelho	Fithian	Jones (OK)
Collins (IL)	Flippo	Jones (TN)
Conte	Foglietta	Kastenmeier
Courter	Foley	Kennelly
Coyne, William	Ford (MI)	Kildee
Crockett	Ford (TN)	Kogovsek

Leland	Panetta	Smith (PA)
Lent	Pashayan	Solarz
Long (LA)	Patman	St Germain
Lowry (WA)	Pease	Stark
Luken	Pepper	Stokes
Lundine	Perkins	Stratton
Markey	Peyser	Studds
Martin (IL)	Price	Swift
Martinez	Quillen	Synar
Matsui	Rangel	Tauzin
Mavroules	Ratchford	Traxler
Mazzoli	Reuss	Udall
McDade	Rinaldo	Vento
McGrath	Rodino	Volkmer
McHugh	Roe	Walgren
McKinney	Rosenthal	Waxman
Mikulski	Rostenkowski	Weaver
Miller (CA)	Roybal	Weiss
Mineta	Russo	Whitten
Minish	Sabo	Williams (MT)
Mitchell (MD)	Savage	Williams (OH)
Mitchell (NY)	Scheuer	Wilson
Moakley	Schroeder	Wirth
Moffett	Schumer	Wolpe
Murphy	Seiberling	Wright
Murtha	Shamansky	Wyden
Natcher	Shannon	Yatron
Nowak	Sharp	Young (AK)
Oakar	Shelby	Young (MO)
Oberstar	Simon	Zablocki
Obey	Smith (IA)	Zeferetti
Ottinger	Smith (NJ)	

NOT VOTING—48

Alexander	Fascell	McCloskey
Badham	Florio	Mollohan
Bafalis	Forsythe	Mottl
Barnes	Goldwater	Parris
Beard	Hall, Sam	Patterson
Bevill	Heftel	Rahall
Blanchard	Hollenbeck	Rhodes
Bolling	Ireland	Roberts (SD)
Bonker	Kindness	Santini
Burgener	LaFalce	Schneider
Campbell	Lantos	Shuster
Chisholm	Lee	Skelton
Conyers	Lehman	Stanton
Daniel, R. W.	Marks	Taylor
Deckard	Mattox	Washington
Emery	McClory	Yates

□ 2030

Mr. ROSE changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. NELSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time for the purpose of engaging in a colloquy with the chairman of the subcommittee, and I would like to address this question to him:

Does the committee amendment language contain language that strongly urges the States to raise the legal drinking age to 21 years?

As part of that question, I would point out that this recommendation has been endorsed by the Secretary of Transportation and the Secretary of Health and Human Services and is anticipated to be included in the final recommendations of the President's Commission on Drunken Driving when they issue their final report.

Mr. ANDERSON. Mr. Chairman, will the gentleman yield?

Mr. NELSON. Indeed I yield to the subcommittee chairman.

Mr. ANDERSON. Mr. Chairman, the answer is, yes, we do strongly urge States to raise their legal drinking age to 21.

More and more information has been surfacing that substantiates the fact that young people are a disproportionate number of the fatalities in accidents involving drunken driving. In a study done by the National Highway Traffic Safety Administration, the statistics showed that in 8 States that raised the drinking age to 21, the fatalities of the 18- to 21-year-olds resulting from alcohol-related highway accidents decreased by 28 percent! By raising the drinking age to 21 in each State, we could help to save these young lives—and the lives of their collision victims.

Mr. NELSON. Mr. Chairman, I would like to commend the gentleman for his foresight in including this strong language in the amendment to urge the States, many of which presently have a legal drinking age below 21 years, to raise that drinking age nationwide to 21 years.

Mr. LEVITAS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, first of all I will take this occasion to join with many other members of the committee in expressing admiration and commending the chairman of the subcommittee, the gentleman from Califoria (Mr. ANDERSON), the ranking minority member of the subcommittee, the gentleman from Pennsylvania (Mr. SHUSTER), the chairman of the committee, the gentleman from New Jersey (Mr. HOWARD), and the gentleman from California (Mr. CLAUSEN) for the outstanding job they have done in bringing this extremely important bill to the floor.

Mr. Chairman, there is an expression that says, "clothes make the man," or I guess these days we say, "clothes make the person." The relevance that that little expression has to this legislation today is, I think, worth noting.

On several occasions during the last 4 or 5 years, during the administrations of the last two Presidents, efforts were made to pass legislation very

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On several occasions during the last 4 or 5 years, during the administrations of the last two Presidents, efforts were made to pass legislation very similar to that which we are considering today. Those efforts were not only unsuccessful but were overwhelmingly defeated. The Members of this body rejected a gasoline tax, the Members of this body rejected a highway improvement bill. They did not want to have anything to do with it. Even though it may have been needed, nevertheless that was the position that was taken, Mr. Chairman

But we have now dressed the person in some different clothes. It is no longer a gasoline tax; it is a user fee. It is no longer a highway bill, it is an infrastructure improvement program. And no longer is it simply to build highways with a user fee; it is a jobs bill.

So we have taken essentially the same piece of legislation, which may have been needed for quite some time and because we have dressed it in some new clothes and made it no longer a tax but a user fee, no longer a highway bill but an infrastructure improvement program and, above all, a jobs bill, we are now going to see, in my judgment, many Members of this body support this legislation and pass it tonight as a result of the hard work done by many members of the leadership of this committee.

□ 2040

There is one particular provision of the bill that I think is particularly noteworthy, Mr. Chairman, that I would like to make some observations about and ascertain whether the chairman of the subcommittee concurs in my views. That relates to the 3-R program and the safety significance of the 3-R program.

Mr. Chairman, as chairman of the subcommittee that held 4 days of oversight hearings on the subject of standards for resurfacing, restoration, and rehabilitation (3-R) of roads other than freeways, I would like to emphasize that section 112 in H.R. 7360 makes it clear that Federal aid projects constructed in accordance with these standards will comply with the intent of Congress. It is intended that the Secretary of Transportation, in approving or adopting standards or exceptions to standards for these projects, shall not approve variations that will differ with the existing congressionally stated objectives of preserving and extending the service life of highways and enhancing highway safety.

This section's effect will be to place appropriate safety emphasis on 3-R standards. It will overturn any feature

of the Federal Highway Administration's final rule on these standards, implementing instructions to its field offices or standards developed by individual States as a result of this guidance, which are based on the premise that 3-R projects have safety as a secondary or optional objective or that safety need not be enhanced.

The study authorized in the section is proposed in an effort to seek research data for evaluating the safety cost-effectiveness of current highway geometric design criteria, and how they would apply to the development of more appropriate 3-R standards.

Mr. Chairman, in effect, the committee in this legislation will say to the Federal Highway Administration that life enhancement of the project and safety must continue to be primary considerations, not secondary considerations.

I am sure that the chairman of the subcommittee will agree with that evaluation of the section.

Mr. ANDERSON. I agree with the interpretation suggested by my friend, the gentleman from Georgia.

AMENDMENT OFFERED BY MR. WEISS

Mr. WEISS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WEISS:

In section 118(a) of the amendment, strike out paragraph (2) of section 118(b) of title 23, United States Code, as proposed to be inserted, and insert in lieu thereof the following:

"(2) Except as otherwise provided in this subsection, sums apportioned for the Interstate System in any State shall remain available for expenditure in that State for the Interstate System until the end of the fiscal year for which authorized. Sums not obligated within the time period prescribed by the preceding sentence must be made available by the Secretary to any other State applying for such funds for the Interstate System, if the Secretary determines that the State has obligated all of its apportionments other than an amount which, by itself, is insufficient to pay the Federal share of the cost of a project on the Interstate System which has been submitted by such State to the Secretary for approval, and the applicant is willing and able to (A) obligate the funds within one year of the date the funds are made available; (B) apply them on a ready-to-commence project; and (C) in the case of construction work, begin work within ninety days of obligation. Sums made available under this paragraph shall remain available until expended.

Mr. WEISS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. WEISS. Mr. Chairman, at the outset let me apologize to my colleagues for the shape of my voice. I just will not be able to project over any of the background noise.

I want at the outset to express my admiration for both the chairman of the full committee, the gentleman from New Jersey (Mr. HOWARD) and the chairman of the subcommittee, the gentleman from California (Mr. ANDERSON) and, indeed, the ranking members and the members of the committee for being among the most progressive Members of this body as far as public transportation is concerned. Indeed, earlier this afternoon I heard a statement from the gentleman from California (Mr. ANDERSON) with which I totally associate myself as to the need to provide additional and continued funding for operating expenses for public transportation.

The amendment I offer is not intended in any way to denigrate their work. What it seeks to do is correct what I think may be an unintended consequence of a provision of this bill by deleting that section.

The purpose of the amendment is to delete the provision of the bill that redirects interstate highway discretionary funds to the high cost interstate projects.

Let me expand on that. The legislation says that after the apportioned funds to the States have been all made and there are moneys which are not used by particular States for their projects, when those moneys are returned to the Secretary of the Department of Transportation, together with an additional $300 million which is provided for in this legislation, rather than having the moneys redistributed on the basis of merit, on the basis of need, on the basis of length of time in preparation. The money under the provisions of this legislation would have to go to the most expensive, the most costly projects.

That, Mr. Chairman, I think will encourage not a reasoned expenditure of moneys. It will encourage States and localities to build up, to put all kinds of frills on their projects so that in fact they will come in as high cost highway projects.

At a time when we need all of the money that we can get for public transportation purposes, to put an incentive on frills, on high cost highways, just does not make any sense. It flies in the face of everything that this Congress and this administration have been trying to do during the course of these last couple of years.

I happen to think as well that the people who offered that amendment which is included in the legislation are misguided if they believe that they have the high cost project in their district and they are going to come in for the lion's share of the money. The supreme boondoggle of all boondoggles happens to be located in my district.

What I am arguing is not to have this body give a top priority to that project simply because of its outrageously high cost. I have a 4.2-mile stretch of interstate highway in my district which is calculated under current cost estimates to come in at $2.8 billion, the most expensive highway in the history of mankind.

Before the construction is completed the projections are that that 4-mile stretch of highway will probably cost over $4 billion. That is $1 billion a mile.

So let no one in this body think that because they have high costs priority built into this bill that their project is going to come in as the high cost project. My project has you beat to pieces.

What I am urging is that we delete the high cost priority from this legislation and allow the Secretary of Transportation to continue to make this determination on the basis of the merits, on the basis of the needs, and on the basis of the length of time in the pipeline.

The provision I seek to delete creates an incentive to make highway projects as costly as possible, rewarding potential waste on State and local levels. But perhaps more crucial is that it makes highway construction projects appear more attractive to localities than "trading in" highways for mass transit and road repairs by offering assurances that, no matter how high the cost of a particular interstate, the Federal Government will foot the bill. The law gives no such assurances to localities which opt to "trade in."

We have all heard cries in Congress, in the media, and from the Reagan administration about the need to repair our Nation's decaying infrastructure. However, giving priority to high cost interstate highways promotes new construction at the expense of true infrastructure repair.

The legislation before us contains no new controls on how revenues derived from the gas tax increase will be spent. It offers absolutely no way of compelling States and cities to stop deferring maintenance costs in favor of new highways. Hopefully, my amendment will sway some localities to allocate new highway money to road repair and mass transit.

Mr. ANDERSON. Mr. Chairman, I must strongly and emphatically oppose the amendment offered by the gentleman from New York (Mr. WEISS).

There are various interstate projects left in the interstate cost estimate. We certainly have a goal to complete them all.

So that these projects might be completed, hopefully by 1991, the bill before us establishes an interstate discretionary fund and instructs the Secretary of Transportation to consider when he distributes the funds, the ability of a State to fund the project out of its normal apportionments.

Why should discretionary funds, that is those given to a State above and beyond its normal apportionments, why should discretionary funds be given to a State that can fund its interstate out of its regular allotment? Let them build that freeway out of those apportionments.

Discretionary funds should go to those States with more costly projects that otherwise will be delayed for years, because let us remember the costly segments must be built sooner or later and by providing an infusion of additional funds to build these roads today we are preventing the eventual costs of the projects from escalating even more.

□ 2050

Now I know the gentleman from New York recognizes the manner in which interstate projects escalate in price, because the other amendment he has circulated addresses that problem. H.R. 6211 tries to prevent costly delays in the completion of Interstate Systems. The gentleman's amendment will only result in escalating costs and delays in completing this system of national importance.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON. I yield to the gentleman from California.

Mr. CLAUSEN. I thank the gentleman for yielding.

Mr. Chairman, I rise to support the position that has been taken by the chairman of the subcommittee and in opposition to the amendment. What really is at stake here is whether or not we are actually going to be able to complete the Interstate System itself. That is the bottom line.

The administration supports the retention of the discretionary funds and it is a very important tool in our process of completing the Interstate System.

Mr. ANDERSON. We are about 96 percent completed with the Interstate. The problem is some of that which has not been completed are those gaps that are the more costly ones. They are in various parts of the country and they should be finished.

I think it is the priority of most of us to complete the Interstate System as soon as possible.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. WEISS).

The question was taken; and the chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. WEISS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 21, noes 329, not voting 83, as follows:

[Roll No. 418]

AYES—21

Bedell	Ferraro	Schumer
Beilenson	Ford (TN)	Seiberling
Burton, John	Glickman	Smith (IA)
Burton, Phillip	Harkin	Studds
Crockett	Ottinger	Tauke
Edwards (CA)	Rangel	Weiss
Evans (IA)	Rosenthal	Wolpe

NOES—329

Addabbo	Erlenborn	Leath
Akaka	Ertel	Leland
Albosta	Evans (DE)	Lent
Anderson	Fary	Levitas
Andrews	Fazio	Lewis
Annunzio	Fenwick	Livingston
Anthony	Fiedler	Loeffler
Archer	Fields	Long (LA)
Ashbrook	Findley	Long (MD)
Aspin	Fithian	Lott
Atkinson	Flippo	Lowry (WA)
AuCoin	Foglietta	Lujan
Bailey (MO)	Fountain	Luken
Bailey (PA)	Fowler	Lungren
Barnard	Frank	Markey
Benedict	Frenzel	Marlenee
Bennett	Frost	Marriott
Bereuter	Fuqua	Martin (IL)
Bethune	Garcia	Martin (NY)
Biaggi	Gaydos	Martinez
Bliley	Gejdenson	Matsui
Boggs	Gephardt	Mavroules
Boland	Gibbons	Mazzoli
Boner	Gilman	McCollum
Bouquard	Goldwater	McCurdy
Bowen	Gonzalez	McDade
Breaux	Goodling	McDonald
Brinkley	Gore	McEwen
Brooks	Gradison	McGrath
Brown (CA)	Gramm	McHugh
Brown (CO)	Green	McKinney
Brown (OH)	Gregg	Mica
Broyhill	Guarini	Michel
Byron	Gunderson	Mikulski
Carman	Hagedorn	Miller (CA)
Carney	Hall (IN)	Miller (OH)
Chappell	Hall, Ralph	Mineta
Chappie	Hall, Sam	Minish
Cheney	Hamilton	Mitchell (MD)
Clausen	Hammerschmidt	Mitchell (NY)
Clinger	Hance	Moakley
Coats	Hansen (ID)	Moffett
Coleman	Hansen (UT)	Molinari
Collins (IL)	Hartnett	Montgomery
Collins (TX)	Hatcher	Moore
Conable	Hawkins	Moorhead
Conte	Heckler	Morrison
Corcoran	Hefner	Murphy
Coughlin	Heftel	Murtha
Courter	Hendon	Myers
Coyne, William	Hightower	Napier
Craig	Hiler	Natcher
Crane, Daniel	Hillis	Neal
Crane, Philip	Holland	Nelligan
D'Amours	Holt	Nelson
Daniel, Dan	Hopkins	Nichols
Dannemeyer	Horton	Nowak
Daub	Howard	Oakar
Davis	Hoyer	Oberstar
Derrick	Hubbard	Oxley
Derwinski	Huckaby	Panetta
Dickinson	Hughes	Pashayan
Dicks	Hunter	Patman
Dingell	Hutto	Paul
Dixon	Hyde	Pease
Dorgan	Jacobs	Pepper
Dornan	Jeffords	Perkins
Dougherty	Jeffries	Petri
Dowdy	Jenkins	Peyser
Downey	Johnston	Pickle
Dreier	Jones (NC)	Porter
Duncan	Jones (OK)	Price
Dunn	Jones (TN)	Pursell
Dwyer	Kazen	Quillen
Dymally	Kemp	Rahall
Dyson	Kennelly	Ratchford
Early	Kildee	Reuss
Eckart	Kindness	Rinaldo
Edgar	Kogovsek	Ritter
Edwards (OK)	Kramer	Roberts (KS)
Emerson	Lagomarsino	Robinson
English	Latta	Rodino
Erdahl	Leach	Roe
Roemer	Smith (NJ)	Washington
Rogers	Smith (OR)	Watkins
Rostenkowski	Smith (PA)	Waxman
Roth	Snowe	Weaver
Roukema	Snyder	Weber (MN)
Rousselot	Solarz	Weber (OH)
Roybal	Solomon	White
Rudd	Spence	Whitehurst
Russo	St Germain	Whitley
Sabo	Stark	Whittaker
Savage	Staton	Whitten
Sawyer	Stenholm	Williams (MT)
Scheuer	Stratton	Williams (OH)
Schroeder	Stump	Wilson
Schulze	Swift	Winn
Sensenbrenner	Synar	Wirth
Shamansky	Tauzin	Wolf
Shannon	Thomas	Wortley
Sharp	Traxler	Wright
Shaw	Trible	Wyden
Shelby	Udall	Wylie
Shumway	Vander Jagt	Yatron
Siljander	Vento	Young (FL)
Simon	Volkmer	Young (MO)
Skeen	Walgren	Zablocki
Smith (AL)	Walker	Zeferetti
Smith (NE)	Wampler	

NOT VOTING—83

Alexander	Donnelly	Marks
Applegate	Edwards (AL)	Martin (NC)
Badham	Emery	Mattox
Bafalis	Evans (GA)	McClory
Barnes	Evans (IN)	McCloskey
Beard	Fascell	Mollohan
Bevill	Fish	Motti
Bingham	Florio	O'Brien
Blanchard	Foley	Obey
Bolling	Ford (MI)	Parris
Bonior	Forsythe	Patterson
Bonker	Gingrich	Pritchard
Brodhead	Ginn	Railsback
Broomfield	Gray	Regula
Burgener	Grisham	Rhodes
Butler	Hall (OH)	Roberts (SD)
Campbell	Hertel	Rose
Chisholm	Hollenbeck	Santini
Clay	Ireland	Schneider
Coelho	Kastenmeier	Shuster
Conyers	LaFalce	Skelton
Coyne, James	Lantos	Stangeland
Daniel, R. W.	LeBoutillier	Stanton
Daschle	Lee	Stokes
Deckard	Lehman	Taylor
de la Garza	Lowery (CA)	Yates
Dellums	Lundine	Young (AK)
DeNardis	Madigan	

□ 2100

Mr. FINDLEY changed his vote from "aye" to "no."

Mr. TAUKE changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER: On page 81, after line 16, add the following: "However, none of the provisions of this section shall be used to limit or in the opinion of the Secretary have the effect of limiting legitimate job opportunities for any individual.".

Mr. PAUL. Mr. Chairman, will the gentleman yield?

Mr. WALKER. Mr. Chairman, I yield to the gentleman from Texas.

Mr. PAUL. Mr. Chairman, I rise in opposition to H.R. 6211, the Surface Transportation Act of 1982.

I recognize the fact that the Nation's highways and bridges are in need of repair, but such repairs should

be financed by genuine "user fees," or out of general revenues. We should not be increasing taxes again during a recession.

H.R. 6211, which contains the infamous gas tax increase, is an ill-conceived, short-term response to the long-term problem of high unemployment. This is but another attempt to shore-up an ailing segment of the economy, without addressing the underlying economic problems. Creating a maximum of 320,000 jobs in a nation with 10.8 percent unemployment would be as effective as giving a sugar pill to a cancer patient.

The rhetoric surrounding this "make-work" bill has led to misconceptions about its future impact. The measures proposed in H.R. 6211 would not alleviate the unemployment problem. Although this bill would create some jobs in the highway construction business, jobs would be lost in other sectors. The tourist industry would suffer, since people would travel less. The American automotive industry would lose sales as people shifted to foreign cars that were more fuel efficient. The trucking industry, which faces increased fuel costs and higher excise taxes, would attempt to pass these costs on to the consumer.

It is an economic principle that governments cannot create wealth, they can merely transfer it. The money used to create these jobs would come at the expense of jobs in other sectors. Even the Chairman of the President's Council of Economic Advisers recognizes this economic reality. Martin Feldstein has stated that this tax increase "may actually increase unemployment during the first year or two."

I must take issue with the claims that this bill would create 320,000 new jobs. Even if jobs would not be lost in other sectors, this is an incredibly optimistic estimate. OMB has found that public works projects are an expensive means of job creation—from $69,320 for each job created. Using OMB's estimates, it would cost over $22 billion just to fund the creation of 320,000 new jobs. Yet proponents of the tax increase claim they can create these jobs and finance other construction costs without using general revenues.

Just as this bill would not create additional jobs, it would not institute a user fee. Tolls are user fees; they are paid on location by those actually using the road. A Federal gas tax, however, is arbitrarily collected and redistributed. The Ways and Means Committee admits that due to the apportionment formulas, certain States will not receive as much money back as they pay in.

In addition, the gas tax is not a true user fee, since one-fifth of the money collected would go to subsidize mass transit renovations. Those who must use the highways would be forced to subsidize those who are able to use mass transit systems.

Having dispensed with the rhetoric, we are left with the obvious: this is simply another tax increase for the overburdened American taxpayer. This increase will fall hardest on the unemployed and those with low incomes. Many in Congress have cried out against the benefits to the rich of the income tax cuts. Yet proponents of this bill are strangely silent about its adverse effects on the poor. The $30 per year this would exact from the average driver will be felt most by those the bill is supposedly designed to aid.

As Members of Congress, we cannot continue pillaging the American people to finance a Federal budget that is running out of control. An objective assessment of the past 20 years shows that simply increasing taxes will not provide for a balanced Federal budget. Personal tax liabilities have risen sharply during this period, yet so have annual budget deficits and the national debt.

The American people made it clear in 1980 that they were tired of high taxes. Since that time, the Nation's economic program has undergone such radical shifts that no one is certain of the current policy. It is not a question of "stay the course," or "alter the course." There simply is no course.

Congress is grasping at the first available program without examining its full impact. Once again, we are proposing to interfere in the workings of the free market. Such interference in the past has created more problems than it has solved. Now we are planning to shuffle money around within the economy in the naive hope that this will cure the Nation's economic ills. We must defeat H.R. 6211 so that the American people will not be forced to endure the consequences of congressional shortsightedness.

Mr. WALKER. Mr. Chairman, I wanted the Clerk to read the amendment in full so that Members would understand the language, and let me read it again so that Members do understand what they are going to be voting on in this language.

The language says this:

However, none of the provisions of this section shall be used to limit or in the opinion of the Secretary have the effect of limiting legitimate job opportunities for any individual.

That is it.

□ 2110

That is it. This is a job opportunities amendment. It goes to that section of the bill that refers to Davis-Bacon.

We have discussed Davis-Bacon here before and we have taken a couple of actions on it. We decided that Davis-Bacon should stay in the whole bill. In fact, on one of the votes we have decided that Davis-Bacon should be expanded over what it has been in the past.

having done that, I think it is extremely important that we speak to the issue that a number of us raised earlier on the floor; that is, that the potential is in that particular decision for limiting the number of jobs that can be created in this bill. All this amendment seeks to do is to assure that that language does not do that; that, in fact, we make certain that the Secretary, in his interpretation of the Davis-Bacon provisions, the expanded Davis-Bacon provisions, administer the law in a way that does not limit job opportunities.

Jobs are supposed to be the highest priority of this body, and no program and no set of regulations is more important to the American people than doing something about jobs. At a time when there are 12 million Americans officially classified as unemployed, the very last position the Federal Government should be in is that of denying legitimate job opportunities to people who are willing to work.

Furthermore, it is crucial that we stop nibbling at the margins of the unemployment problem and focus on the root cause of that problem. People need jobs, they want to work, and in my opinion it is a crime that we should impose a major obstacle to their obtaining gainful employment with some provisions that the Federal Government itself enacts.

What this amendment does is assure that we are not erecting those kinds of obstacles as we administer the law in this particular bill. As we administer this expanded Davis-Bacon coverage, we should not be in the process of limiting job opportunities.

Supposedly what we are doing in this bill is creating more jobs. If we adopt this amendment that I am talking about here, what we will get is what we supposedly want, and that is more jobs, because we will force the interpretation of this bill to assure that in these times of crisis we stop denying jobs and we actually put people to work.

So I would urge the Members of this body, even if you voted against the two previous amendments relating to Davis-Bacon, you will endorse this particular amendment which seeks to do what I think all of us want to do, what we have all been telling our constitutents we want to do: Let us have the Federal Government administered in a way that creates jobs, does not hinder jobs.

This amendment, and I will read the language again so that you will know that you are voting only on something that relates to job opportunties, says:

However, none of the provisions of this section shall be used to limit or in the opinion of the Secretary have the effect of limit-

ing legitimate job opportunities for any individual.

Nothing could be clearer. If you vote for this amendment you are voting for job opportunities; if you vote against the amendment, you are seeking to deny the job opportunities, as has been done in too many of the administrative decisions in the past.

Mr. STRATTON. Mr. Chairman, will the gentleman yield to me?

Mr. WALKER. I would yield to the gentleman from New York.

Mr. STRATTON. I thank the gentleman for yielding.

Mr. Chairman, do I understand the gentleman from Pennsylvania (Mr. WALKER) to say the lower the pay the better the job opportunities are? Are we seeking to try to pay out as little in this program as possible?

Mr. WALKER. I think it would relate to what the prevailing wage rate of a particular area is.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. WALKER) has expired.

(By unanimous consent, Mr. WALKER was allowed to proceed for 1 additional minute.)

Mr. WALKER. We certainly do not want to pay below prevailing wages, but the fact is, the Department of Labor prevailing wage tends in some cases to be double what the overall prevailing wage is in the area. We can create more jobs if we pay the prevailing wage.

I do not know where Otsego County is in New York.

Mr. STRATTON. Mr. Chairman, if the gentleman will yield further, that used to be in my district.

Mr. WALKER. Very well. The gentleman might be interested. The General Accounting Office, in taking a look there at some job rebuilding program found that a bulldozer operator was paid under the Davis-Bacon Act $10.40 an hour; whereas, the prevailing wage rate in the area at that time was $4.75, which means that one additional person could have been hired if they had just stuck to the prevailing wage, at what we were paying Federal Government wages.

So, in fact, it does have the effect of limiting job opportunities. All I am saying is that we should not be limiting job opportunities. That is true in a number of other categories, I might say to the gentleman.

Mr. STRATTON. Mr. Chairman, if the gentleman will yield further, the gentleman would not insist would he that we ought to get as cheap a proposal as possible? Does not the gentleman want quality workmanship, quality performers, from quality contractors, when our bridges are being repaired. Otherwise, the bridges will fall down again, will they not?

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. WALKER) has again expired.

(By unanimous consent, Mr. WALKER was allowed to proceed for 2 additional minutes.)

Mr. WALKER. I will say to the gentleman that the emphasis that we should have as our top priority in this country today is the creation of jobs. Anything which stands in the way of creation of jobs, it seems to me, is going against what the American people said very clearly in the mandate in November was their top priority.

All this gentleman is seeking to do is assure that we meet the mandate; that we do what the American people told us to do. I do not think we can take any kind of perk that we might establish through Federal legislation and put that as a priority over and above job opportunities.

My amendment says only that job opportunities should be the standard by which we measure the performance of this program, and I would hope the Members would adopt an amendment aimed at creating better job opportunities.

Mr. HOWARD. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. HOWARD. Mr. Chairman, the amendment reads:

However, none of the provisions of this section shall be used to limit, or in the opinion of the Secretary have the effect of limiting legitimate job opportunities for any individual.

That means that the Secretary of Transportation, on his own, may waive, eliminate the Davis-Bacon Act totally for all or any part of this legislation.

It will provide more jobs. The Secretary then would have the right to provide twice as many jobs at half the price, 4 times as many jobs at one-fourth the price, 10 times as many jobs at one-tenth the price.

I believe this is the most outrageous of any of the amendments on Davis-Bacon and think it ought to be defeated. I urge that it be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. WALKER).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. WALKER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 149, noes 217, not voting 67, as follows:

[Roll No. 419]

AYES—149

Andrews	Bereuter	Broyhill
Archer	Bethune	Byron
Ashbrook	Billey	Carman
Bailey (MO)	Broomfield	Carney
Barnard	Brown (CO)	Chappie
Benedict	Brown (OH)	Cheney
Coats	Hightower	Ritter
Coleman	Hiler	Roberts (KS)
Collins (TX)	Hillis	Roberts (SD)
Conable	Holt	Robinson
Corcoran	Hopkins	Roemer
Coughlin	Huckaby	Rogers
Craig	Hunter	Roth
Crane, Daniel	Hutto	Rousselot
Crane, Philip	Hyde	Rudd
Daniel, Dan	Jeffries	Sawyer
Dannemeyer	Jenkins	Schulze
Daub	Johnston	Sensenbrenner
Dickinson	Kindness	Shaw
Dornan	Kramer	Shumway
Dreier	Lagomarsino	Siljander
Dunn	Latta	Skeen
Edwards (AL)	Leach	Smith (AL)
Edwards (OK)	Leath	Smith (NE)
Emerson	Livingston	Smith (OR)
English	Loeffler	Snyder
Erdahl	Lott	Solomon
Erlenborn	Lujan	Spence
Evans (DE)	Lungren	Stangeland
Evans (IA)	Marlenee	Staton
Fenwick	Marriott	Stenholm
Fiedler	Martin (NC)	Stump
Fields	McCollum	Tauke
Fountain	McDonald	Taylor
Fowler	McEwen	Thomas
Frenzel	Miller (OH)	Trible
Gibbons	Molinari	Vander Jagt
Gingrich	Montgomery	Walker
Goodling	Moore	Wampler
Gramm	Moorhead	Weber (MN)
Gregg	Morrison	Weber (OH)
Hagedorn	Myers	White
Hall, Sam	Napier	Whitehurst
Hammerschmidt	Neal	Whitley
Hance	Nichols	Whittaker
Hansen (ID)	Oxley	Winn
Hansen (UT)	Paul	Wolf
Hartnett	Porter	Wortley
Hefner	Pursell	Young (FL)
Hendon	Quillen	

NOES—217

Addabbo	Dougherty	Hoyer
Akaka	Dowdy	Hubbard
Albosta	Duncan	Hughes
Anderson	Dwyer	Jacobs
Annunzio	Dymally	Jeffords
Anthony	Dyson	Jones (NC)
Applegate	Eckart	Jones (OK)
Aspin	Edgar	Jones (TN)
Atkinson	Edwards (CA)	Kazen
AuCoin	Ertel	Kemp
Bailey (PA)	Fary	Kennelly
Bedell	Fazio	Kildee
Beilenson	Ferraro	Kogovsek
Bennett	Findley	LaFalce
Biaggi	Fish	Lee
Bingham	Fithian	Leland
Boggs	Flippo	Lent
Boland	Foglietta	Levitas
Boner	Foley	Lewis
Bonior	Ford (MI)	Long (LA)
Bowen	Ford (TN)	Long (MD)
Breaux	Frank	Lowry (WA)
Brinkley	Frost	Luken
Brodhead	Garcia	Madigan
Brooks	Gaydos	Markey
Brown (CA)	Gejdenson	Martin (IL)
Burton, John	Gephardt	Martin (NY)
Burton, Phillip	Gilman	Martinez
Chappell	Ginn	Matsui
Clausen	Glickman	Mazzoli
Clay	Gonzalez	McCurdy
Clinger	Gore	McDade
Collins (IL)	Gradison	McGrath
Conte	Gray	McHugh
Courter	Green	McKinney
Coyne, William	Guarini	Mica
Crockett	Gunderson	Michel
D'Amours	Hall (IN)	Mikulski
Daschle	Hall, Ralph	Miller (CA)
Davis	Hamilton	Mineta
de la Garza	Harkin	Minish
Dellums	Hatcher	Mitchell (MD)
DeNardis	Hawkins	Mitchell (NY)
Derrick	Heftel	Moakley
Derwinski	Hertel	Murtha
Dicks	Holland	Natcher
Dingell	Hollenbeck	Nelligan
Dixon	Horton	Nelson
Dorgan	Howard	Nowak

Oakar	Roukema	Traxler
Oberstar	Roybal	Udall
Obey	Russo	Vento
Ottinger	Sabo	Volkmer
Panetta	Savage	Walgren
Pashayan	Scheuer	Washington
Patman	Schroeder	Watkins
Pease	Schumer	Waxman
Pepper	Seiberling	Weiss
Perkins	Shamansky	Whitten
Petri	Sharp	Williams (MT)
Peyser	Shelby	Williams (OH)
Pickle	Simon	Wirth
Price	Smith (IA)	Wolpe
Rahall	Smith (NJ)	Wright
Rangel	Snowe	Wyden
Ratchford	Solarz	Wylie
Reuss	St Germain	Yates
Rinaldo	Stokes	Yatron
Rodino	Stratton	Young (MO)
Roe	Studds	Zablocki
Rose	Swift	Zeferetti
Rosenthal	Synar	
Rostenkowski	Tauzin	

NOT VOTING—67

Alexander	Evans (GA)	Mollohan
Badham	Evans (IN)	Mottl
Bafalis	Fascell	Murphy
Barnes	Florio	O'Brien
Beard	Forsythe	Parris
Bevill	Fuqua	Patterson
Blanchard	Goldwater	Pritchard
Bolling	Grisham	Railsback
Bonker	Hall (OH)	Regula
Bouquard	Heckler	Rhodes
Burgener	Ireland	Santini
Butler	Kastenmeier	Schneider
Campbell	Lantos	Shannon
Chisholm	LeBoutillier	Shuster
Coelho	Lehman	Skelton
Conyers	Lowery (CA)	Smith (PA)
Coyne, James	Lundine	Stanton
Daniel, R. W.	Marks	Stark
Deckard	Mattox	Weaver
Donnelly	Mavroules	Wilson
Downey	McClory	Young (AK)
Early	McCloskey	
Emery	Moffett	

□ 2130

Mr. MARTIN of New York and Mr. RALPH M. HALL changed their votes from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. MICHEL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will be very brief. I would like to engage the gentleman from California (Mr. CLAUSEN) in a brief colloquy. Would he be willing to have an exchange with the gentleman from Illinois on a matter which he considers to be of some importance?

Mr. CLAUSEN. I would be delighted to have an exchange with the minority leader.

Mr. MICHEL. Mr. Chairman, this bill, as I understand it, would eliminate funding for the priority primary program. This program has been a critical source of funds for highway projects in Illinois, including one in my district—the Peoria North Bypass—and we would suffer a severe adverse impact should this program suddenly be brought to a halt.

We prepared an amendment to be offered by the gentlewoman from Illinois (Mrs. MARTIN) which would authorize continued funding for these projects under a 4-year demonstration program to complete usable segments of larger planned routes. This demonstration project proposed would substantially reduce the Federal commitment needed to complete those projects and would also have the benefit of not extending the priority primary program itself.

Rather than going the amendment route, however, I would be willing to accept the gentleman's assurances that he would work in conference to achieve a solution along this line so that we can complete these projects.

Would the gentleman be willing to provide such assurances?

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from California.

Mr. CLAUSEN. Mr. Chairman, we have proposed elimination of the priority primary program because the total ultimate cost would have exceeded $3 billion. I understand the gentleman's concern and will continue to explore avenues of compromise.

Mr. MICHEL. Mr. Chairman, that would certainly help those of us who have this concern. Given that assurance, it is my understanding that the members would do their best in the conference to accomplish that, and the gentlewoman from Illinois (Mrs. MARTIN) will not offer her amendment. That would at least eliminate one of the seven or so amendments pending at the desk.

Mr. Chairman, I thank the gentleman for his response.

Mr. HOWARD. Mr. Chairman, I ask unanimous consent that the debate on the remaining amendments and all amendments thereto to the first four titles of this legislation, namely, the Committee on Public Works and Transportation titles, be limited to 10 minutes each, 5 minutes in favor and 5 minutes in opposition.

The CHAIRMAN. Does the gentleman request first that the remaining titles be considered as read?

Mr. HOWARD. Mr. Chairman, I make that unanimous consent request also.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

Mr. GAYDOS. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

AMENDMENT OFFERED BY MR. WEISS

Mr. WEISS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WEISS: Strike out subsection (c) of section 107 of the amendment and redesignate subsections (d), (e), (f), and (g) of such section 107 as subsections (c), (d), (e), and (f), respectively.

□ 2140

Mr. WEISS. Mr. Chairman, the purpose of this amendment is to reinstate the so-called inflation escalator for interstate transfer funding.

Under the interstate transfer program States and cities can trade in interstate funds in exchange for mass transit improvements and road repairs. Under current law transfer appropriations are modified periodically to reflect the highway construction cost estimate. As such they tend to accelerate with inflation.

Interstate highway funds are afforded the same treatment. A provision in H.R. 7360, the bill before us, would place a ceiling on transfer project costs at 1983 levels but not on highway funds. As a result, cities already owed trade-in money, and there are some 26 of them, could stand to lose tens of millions of dollars and cities considering trading in interstate links would be encouraged instead to build highways, the cost of which would increase with inflation.

The inflation escalator, insures that States receive full and sufficient funding for trade-in projects since Congress is forced to spread out trade-in appropriations over many years.

It is essential to provide a balanced option for localities which must choose between highway construction and infrastructure repair. The interstate transfer program, the trade-in program provides an effective vehicle in allotting funds to where they are most needed, our existing roads, subways and buses.

Without the passage of this amendment, 26 cities which are already owed trade-in funds around this country could stand to lose tens, perhaps hundreds of millions of dollars. These cities, including many of the Nation's largest, applied for trade-in funds assuming they would increase with inflation. In midcourse this bill now wants to go back on its commitment, costing these cities vital repair money and in the process discouraging other cities from trading in highway projects for mass transit improvements and road repairs.

Clearly funding under the interstate transfer section of this legislation must be permitted to increase with inflation to help insure that funds are going where they are truly needed, to repair our Nation's crumbling infrastructure.

I urge my colleagues to support this amendment in order to provide fair treatment both for public transit as well as for highways.

Mr. ANDERSON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment does reimpose the inflation escalator, perhaps better known as the Abzug amendment for the interstate transfer program.

The Abzug amendment has actually had the effect of giving States that traded in, say, a $300 million project, many times that amount over the years, and the Federal Government

may still owe them over the $300 million that they initially traded in. There have been many such cases documented.

Our bill, H.R. 6211, does indeed eliminate the inflation-escalator provision. In so doing it restores sense and order to the interstate transfer program.

Mr. CLAUSEN. Mr. Chairman, I move to strike the requisite number of words and rise in opposition to the amendment.

Also I concur in the remarks made by the gentleman from California (Mr. ANDERSON), chairman of the subcommittee. The interstate transfer has been on the books since 1973. The ability to let project costs escalate has been literally an inducement to localities for delaying a decision on building or withdrawing interstate segments. The net effect has been that they put the projects back as costs increase.

The bill caps this escalator provision effective in 1983, the deadline for the interstate withdrawals.

These localities which deferred decisions have in our judgment waited long enough. The cost escalator should no longer serve as an incentive to delay. We need to get on with the completion of the interstate system and if they cannot meet the local project sponsorship responsibilities those funds ought to be allocated elsewhere.

Therefore the amendment ought to be rejected.

Mr. CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. WEISS).

The amendment was rejected.

Mr. HOWARD. Mr. Chairman, I ask unanimous consent that all four titles of public works section of this legislation be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Titles II, III, and IV read as follows:

TITLE II

SHORT TITLE

SEC. 201. This title may be cited as the "Highway Safety Act of 1982".

HIGHWAY SAFETY AUTHORIZATIONS

SEC. 202. The following sums are hereby authorized to be appropriated:

(1) For bridge replacement and rehabilitation under section 144 of title 23, United States Code, out of the Highway Trust Fund, $1,500,000,000 (reduced by the amount authorized by section 5(a)(1) of the Federal-Aid Highway Act of 1982) for the fiscal year ending September 30, 1983, $1,600,000,000 for the fiscal year ending September 30, 1984, $1,700,000,000 for the fiscal year ending September 30, 1985, $2,100,000,000 for the fiscal year ending September 30, 1986.

(2) For projects for elimination of hazards under section 152 of title 23, United States Code, out of the Highway Trust Fund, $200,000,000 (reduced by the amount authorized by section 5(a)(2) of the Federal-Aid Highway Act of 1982) for the fiscal year ending September 30, 1983, $200,000,000 for the fiscal year ending September 30, 1984, $200,000,000 for the fiscal year ending September 30, 1985, and $200,000,000 for the fiscal year ending September 30, 1986.

HIGHWAY SAFETY

SEC. 203. (a)(1) There is hereby authorized to be appropriated for carrying out section 402 of title 23, United States Code (relating to highway safety programs), by the National Highway Traffic Safety Administration, out of the Highway Trust Fund, $100,000,000 per fiscal year for each of the fiscal years ending September 30, 1985, and September 30, 1986.

(2) Out of the funds authorized to be appropriated under paragraph (1) of this subsection for each of the fiscal years ending September 30, 1985, and September 30, 1986, not less than $20,000,000 per fiscal year shall be obligated under section 402 of title 23, United States Code, for the purpose of enforcing the fifty-five-miles-per-hour speed limit established by section 154 of such title.

(3) Each State shall expend each fiscal year not less than 2 per centum of the amount apportioned to it for such fiscal year of the sums authorized by paragraph (1) of this subsection, for programs to encourage the use of safety belts by drivers of, and passengers in, motor vehicles.

(b)(1) Notwithstanding any other provision of law, the total of all obligations for highway safety programs carried out by the National Highway Traffic Safety Administration under section 402 of title 23, United States Code, shall not exceed $100,000,000 per fiscal year for each of the fiscal years ending September 30, 1983, September 30, 1984, September 30, 1985, and September 30, 1986, and the total of all obligations for highway safety programs carried out by the Federal Highway Administration under section 402 of title 23, United States Code, shall not exceed $10,000,000, per fiscal year for each of such fiscal years.

(2) Section 1107(b) of the Omnibus Budget Reconciliation Act of 1981 is amended by striking out "$100,000,000, per fiscal year for each of the fiscal years ending September 30, 1982, September 30, 1983, and September 30, 1984," and inserting in lieu thereof "$100,000,000 for the fiscal year ending September 30, 1982," and by striking out "$10,000,000, per fiscal year for each of such fiscal years" and inserting in lieu thereof "$10,000,000 for such fiscal year".

(c) Section 202 of the Highway Safety Act of 1978 is amended as follows:

(1) Paragraph (2) is amended by striking out "and September 30, 1984." and inserting in lieu thereof "September 30, 1984, September 30, 1985, and September 30, 1986.".

(2) Paragraph (3) is amended by striking out "and September 30, 1984." and inserting in lieu thereof "September 30, 1984, September 30, 1985, and September 30, 1986.".

(3) Paragraph (5) is amended by striking out "and September 30, 1984." and inserting in lieu thereof "September 30, 1984, September 30, 1985, and September 30, 1986.".

(d) Of the funds authorized to be appropriated by section 202(3) of the Highway Safety Act of 1978 for any fiscal year ending before October 1, 1982, which have not been obligated for expenditure before the date of enactment of this Act, $9,600,000 shall not be available for obligation, and shall no longer be authorized, on and after such date of enactment.

MAXIMUM SPEED LIMIT

SEC. 204. Section 154(a) of title 23, United States Code, is amended by inserting immediately after the first sentence the following new sentence: "The Secretary of Transportation shall not approve any project under section 106 in any State whose laws do not constitute a substantial deterrent to violations of the maximum speed limit on public highways within its jurisdiction.".

RAIL-HIGHWAY CROSSINGS

SEC. 205. The first sentence of subsection (b) of section 203 of the Highway Safety Act of 1973 (Public Law 93-87), as amended, is amended by inserting "and" after "1979," and by striking out "and September 30, 1982" and all that follows through the period at the end of such sentence and inserting in lieu thereof "September 30, 1982, September 30, 1933, September 30, 1984, September 30, 1985, and September 30, 1986.".

PUBLIC INFORMATION

SEC. 206. Section 209 of the Highway Safety Act of 1978 is amended by striking out ", acting through the Administrator of the Federal Highway Administration," each place it appears, in subsection (g) by striking out "Federal Highway Administration to" and inserting in lieu thereof "Secretary of Transportation to", and by adding at the end of such section the following new subsection:

"(i) All provisions of chapter 1 of title 23, United States Code, that are applicable to Federal-aid primary highway funds, other than provisions relating to the apportionment formula and provisions limiting the expenditure of such funds to the Federal-aid systems, shall apply to the funds authorized to be appropriated to carry out this section, except as determined by the Secretary to be inconsistent with this section.".

SAFETY PERFORMANCE REPORTS

SEC. 207. The Secretary of Transportation shall prepare, publish, and submit to Congress not later than December 31 of each calendar year beginning after December 31, 1982, a report on the highway safety performance of each State in the preceding calendar year. Such report shall provide data on highway fatalities and injuries and motor vehicle accidents involving fatalities and injuries and travel in urban areas of each State for each system of highways and in rural areas of such State for each system of highways. Such report shall be in such form and contain such other information on highway accidents as will permit an evaluation and comparison of highway safety performance of the States. For purposes of this section (1) the systems of highways in a State are the Federal-aid primary system, the Federal-aid secondary system, the Federal-aid urban system, and the Interstate System (as such terms are defined in section 101 of title 23, United States Code) and the other highways in such State which are not on the Federal-aid system, and (2) the terms "State", "rural areas", and "urban area" have the meaning such terms have under such section 101.

ANNUAL APPORTIONMENT FORMULA

SEC. 208. The sixth sentence of section 402(c) of title 23, United States Code, is amended by striking out ", except that the apportionments to the Virgin Islands, Guam, and American Samoa shall not be less than one-third of 1 per centum of the total apportionment".

MINIMUM DRINKING AGE

SEC. 209. The Congress strongly encourages each State to prohibit the sale of alcoholic beverages to persons who are less than 21 years of age.

TITLE III

SHORT TITLE

SEC. 301. This title may be cited as the "Federal Public Transportation Act of 1982".

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 302. (a) The Urban Mass Transportation Act of 1964 is amended by striking out sections 21 and 22 ad inserting in lieu thereof the following new section:

"AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 21. (a)(1) There is hereby authorized to be appropriated to carry out the provisions of sections 3, 4(i), 8, 9, 16(b), and 18 of this Act not to exceed $3,710,000,000 for the fiscal year ending September 30, 1983, $3,910,000,000 for the fiscal year ending September 30, 1984, $4,120,000,000 for the fiscal year ending September 30, 1985, and $4,350,000,000 for the fiscal year ending September 30, 1986.

"(2) In each fiscal year, 25 per centum of the sums authorized to be appropriated under this subsection shall be available from the transit account of the Highway Trust Fund only to carry out sections 3, 4(i), 8, and 16(b) of this Act. Notwithstanding any other provision of law, approval by the Secretary of a grant under any such section shall be deemed a contractual obligation of the United States for payment of the Federal share of the cost of the project.

"(3) In each fiscal year, 2.93 per centum of the amount appropriated from the general fund of the Treasury under this subsection for such fiscal year shall be available to carry out section 18 of this Act and shall remain available until expended.

"(b) There is hereby authorized to be appropriated to carry out sections 6, 10, 11(a), 12(a), and 20 of this Act not to exceed $90,000,000 per fiscal year for each of fiscal years ending September 30, 1983, September 30, 1984, September 30, 1985, and September 30, 1986. Sums appropriated pursuant to this subsection for financing projects funded under section 6 of this Act shall remain available until expended.".

(b) Section 4(c)(3)(A) of such Act is amended by inserting "and" after "September 30, 1981;" and by striking out "; and $1,580,000,000 for the fiscal year ending September 30, 1983".

(c) Section 4(f) of such Act is amended by striking out "18, 21, and 22," and inserting in lieu thereof "and 18,".

BLOCK GRANTS

SEC. 303. (a) The Urban Mass Transportation Act of 1964 is amended by inserting immediately after section 8 the following new section:

"BLOCK GRANTS

"SEC. 9. (a)(1) Of the amount appropriated from the general fund of the Treasury to carry out section 21(a) of this Act, 8.73 per centum shall be available for expenditure under this section in each fiscal year only in urbanized areas with a population of less than 200,000.

"(2) Of the amount appropriated from the general fund of the Treasury to carry out section 21(a) of this Act, 88.34 per centum shall be available for expenditure under this section in each fiscal year only in urbanized areas with a population of 200,000 or more.

"(b)(1) Funds available under subsection (a)(1) of this section shall be apportioned on the basis of a formula under which urbanized areas of less than 200,000 population or parts thereof shall be entitled to receive an amount equal to the sum of—

"(A) one-half of the total amount so apportioned multiplied by the ratio which the population of such urbanized area or part thereof, as designated by the Bureau of Census, bears to the total population of all such urbanized areas in all the States as shown by the latest available Federal census; and

"(B) one-half of the total amount so apportioned multiplied by a ratio for that urbanized area determined on the basis of population weighted by a factor of density, as determined by the Secretary.

As used in this paragraph and paragraph (2)(A)(ii) of this subsection, the term 'density' means the number of inhabitants per square mile.

"(2) Of the funds available under subsection (a)(2) of this section—

"(A) 50.64 per centum of the amount appropriated to carry out section 21(a) of this Act shall be apportioned among urbanized areas of 200,000 population or more as follows:

"(i) 25 per centum of the total amount so apportioned multiplied by the ratio which the population of such an urbanized area or part thereof, as designated by the Bureau of the Census, bears to the total population of all such urbanized areas in all the States as shown by the latest available Federal census;

"(ii) 25 per centum of the total amount so apportioned multiplied by a ratio for that urbanized area determined on the basis of population weighted by a factor of density, as determined by the Secretary; and

"(iii) 50 per centum of the amount so apportioned multiplied by the ratio which the number of bus revenue vehicle miles directly serving such urbanized area, as determined by the Secretary, bears to the total number of all bus revenue vehicle miles directly serving all such urbanized areas;

"(B) 28.6 per centum of the amount appropriated to carry out section 21(a) of this Act shall be apportioned among urbanized areas of 200,000 population or more as follows:

"(i) 70 per centum of the amount so apportioned multiplied by the ratio which the number of fixed guideway revenue vehicle miles directly serving the urbanized area, as determined by the Secretary, bears to the total number of all fixed guideway revenue vehicle miles directly serving all such urbanized areas; and

"(ii) 30 per centum of the amount so apportioned multiplied by the ratio which the number of fixed guideway route miles directly serving the urbanized area, as determined by the Secretary, bears to the total number of all fixed guideway route miles directly serving all such urbanized areas;

"(C) 6.5 per centum of the amount appropriated to carry out section 21(a) of this Act shall be apportioned among urbanized areas of 200,000 population or more as follows: in the ratio that the number of bus passenger miles traveled multiplied by the number of bus passenger miles traveled for each dollar of operating cost in each such urbanized area bears to the sum of the number of bus passenger miles traveled multiplied by the number of bus passenger miles traveled for each dollar of operating cost in all such urbanized areas; and

"(D) 2.6 per centum of the amount appropriated to carry out section 21(a) of this Act shall be apportioned among urbanized areas of 200,000 population or more as follows: in the ratio that the number of fixed guideway vehicle passenger miles traveled multiplied by the number of fixed guideway vehicle passenger miles traveled for each dollar of operating cost in each such urbanized area bears to the sum of the number of fixed guideway vehicle passenger miles traveled multiplied by the number of fixed guideway vehicle passenger miles traveled for each dollar of operating cost in all such urbanized areas.

For the purposes of this paragraph, bus and fixed guideway revenue vehicle miles which a public body provides itself or under contract which directly serve an urbanized area with a population of 200,000 or more but are provided outside of such urbanized area, and passengers served thereby, shall be included in the apportionments under this paragraph. Any such fixed guideway revenue vehicle miles provided in a State adjacent to the State or States in which such urbanized area is located, and passengers served thereby, shall be attributed to the public body in the adjacent State which contracts, directly or indirectly, for such service as if the public body were an urbanized area with a population of 200,000 or more.

"(c)(1) Sums apportioned by subsection (b)(1) of this section shall be made available to the Governor in accordance with section 5(b)(2) of this Act.

"(2) Sums apportioned by subsection (b)(2) of this section shall be made available to designated recipients in accordance with section 5(b)(1) of this Act.

"(d) The Federal share and the non-Federal share of any project under this section shall be determined in accordance with section 5(e) of this Act, except as otherwise provided in subsection (h) of this section.

"(e)(1) The provisions of sections 3(e), 3(f), 3(g), 5(k)(3), 8, 12(c), 13, 16, and 19 shall apply to this section and to every grant made under this section. No other condition, limitation, or other provision of this Act, other than as provided in this section, shall be applicable to this section and to grants made under this section.

"(2) Every person receiving a grant (including any person receiving funds from a Governor under this section) shall submit to the Secretary annually a certification that such person—

"(A) has or will have the legal, financial, and technical capacity to carry out the proposed program of projects;

"(B) has or will have satisfactory continuing control, through operation or lease or otherwise, over the use of the facilities and equipment, and will maintain such facilities and equipment in operational order;

"(C) has or will have a competitive process to procure professional services, facilities, and equipment;

"(D) will comply with the provisions of section 401 of the Surface Transportation Assistance Act of 1978;

"(E) has conducted public hearings (or has afforded the opportunity for such hearings) and that these hearings included (or were scheduled to include) consideration of the economic and social effects of such program of projects, its impact on the environment, and its consistency with the goals and objectives of such urban planning as has been promulgated by the urbanized area or part thereof;

"(F) will comply with requirements of section 5(m) of this Act;

"(G) will give the rate required by section 5(m) of this Act to any person presenting a medicare card duly issued to that person pursuant to title II or title XVIII of the Social Security Act.

"(f)(1) No grant shall be made under this section to any person unless the Secretary has accepted a certification for that fiscal year by that person submitted pursuant to subsection (e) of this section.

"(2) Acceptance by the Secretary of a certification under this section may be rescinded by the Secretary at any time, if, in his opinion, it is necessary to do so.

"(g)(1) The Secretary shall not make any grant under this section unless the applicant for the grant and any person or organization to receive benefits directly from that grant are subject to a reporting system and a uniform system of accounts and records prescribed in accordance with section 15(a) of this Act.

"(2) Every person receiving a grant under this section shall submit to the Secretary annually an independent audit of grant expenditures. On the basis of such audit the Secretary shall determine whether the grant agreement has been complied with. The Secretary is authorized to make adjustments in grants made or to be made under this section, including but not limited to withholding or reducing a grant.

"(h)(1) Grants made under this section may be expended for construction, or for operating assistance in accordance with paragraph (2) of this subsection.

"(2)(A) In any fiscal year for which funds are authorized to carry out this section, any recipient of such funds located in an urbanized area designated as such based upon the 1970 decennial census may obligate such funds for operating assistance only in an amount not to exceed the amount of Federal funds such recipient was apportioned under sections 5(a)(1)(A), 5(a)(2)(A), and 5(a)(3)(A), or allocated from such an apportionment for operating assistance for fiscal year 1982. Any recipient of funds under this section located in such an urbanized area who had total maintenance expenditures in fiscal year 1982 in an amount more than twice the amount of Federal funds such recipient was apportioned under sections 5(a)(1)(A), 5(a)(2)(A), and 5(a)(3)(A) or allocated from such an apportionment for fiscal year 1982 must expend any funds under this section, other than for construction, only for maintenance. Any recipient of funds under this section in such an urbanized area who had total maintenance expenditures in fiscal year 1982 less than twice the amount of Federal funds such recipient was apportioned under sections 5(a)(1)(A), 5(a)(2)(A), and 5(a)(3)(A), or allocated from such an apportionment in fiscal year 1982 who elects to expend funds under this section for other than construction purposes must expend such funds only for maintenance until the expenditures equal an amount equal to at least one-half of the total expenditure by such recipient for maintenance in fiscal year 1982. Any recipient of funds under this section located in an urbanized area designated for the first time as such based upon the 1980 decennial census shall give priority in the expenditure of such funds for operating assistance to maintenance purposes.

"(B) If in any fiscal year a recipient of funds subject to a limitation under the first three sentences of subparagraph (A) of this paragraph on the use of such funds for operating assistance (including maintenance), uses for construction any part of the funds available to such recipient for operating assistance (including maintenance), the Federal share of such construction project payable from such funds for such fiscal year shall be 95 per centum of the cost of such project. If in any fiscal year such a recipient uses all funds available to it under this section for construction, the Federal share of the cost of each construction project payable from that part of the funds under this section which are available without limitation under this paragraph, and from funds under section 3 of this Act, for such fiscal year shall be 90 per centum. If in any fiscal year such a recipient uses more than 50 per centum but less than 100 per centum of the funds under this section subject to a limitation on their use for operating assistance (including maintenance), for construction, the Federal share of the cost of each construction project payable from that part of the funds under this section which are available without limitation under this paragraph, and payable from funds under section 3 of this Act, for such fiscal year shall be 85 per centum.

"(i) Sums apportioned under this section shall be available for obligation for a period of three years following the close of the fiscal year for which sums are apportioned. Any amounts so apportioned remaining unobligated at the end of such period shall be added to the amount available for apportionment under this section for the succeeding fiscal year.".

(b) Section 3(a)(1)(B) of the Urban Mass Transportation Act of 1964 is amended by inserting immediately after "section (5)(a)(4)" the following: "and section 9".

(c) The second sentence of section 4(a) of the Urban Mass Transportation Act of 1964 is amended by striking out "The" and inserting in lieu thereof the following: "Except as otherwise provided in section 9(h)(2)(B), the".

(d) Section 3(a)(2)(A) of the Urban Mass Transportation Act of 1964 is amended by striking out "and" at the end of clause (i), by striking out the period at the end of clause (ii) and inserting in lieu thereof "; and", and by adding at the end thereof the following:

"(iii) sufficient capability to maintain the facilities and equipment.".

(e)(1) No urbanized area shall receive an amount under section 9 of the Urban Mass Transportation Act of 1964 for the fiscal year ending September 30, 1983, which is less than the amount such urbanized area received under section 5 of such Act for the fiscal year ending September 30, 1982.

(2) There is authorized to be appropriated to the Secretary of Transportation to make payments under this subsection not to exceed $2,000,000 per fiscal year for each of the fiscal years ending September 30, 1983, September 30, 1984, September 30, 1985, and September 30, 1986.

LETTER OF INTENT

SEC. 304. (a) Section 3(a)(4) of the Urban Mass Transportation Act of 1964 is amended by inserting immediately after the first sentence thereof the following: "At least thirty days prior to the issuance of a letter of intent under this paragraph, the Secretary shall notify, in writing, the Committee on Public Works and Transportation of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate, of the proposed issuance of such letter of intent.".

(b) Section 3(a)(4) of the Urban Mass Transportation Act of 1964 is amended by striking out "in section 4(c)" and inserting in lieu thereof the following: "to carry out section 3".

RESEARCH AND TRAINING GRANTS

SEC. 305. (a) Section 4(d) of the Urban Mass Transportation Act of 1964 is amended by striking out "and September 30, 1982" and inserting in lieu thereof "September 30, 1982, September 30, 1983, September 30, 1984, September 30, 1985, and September 30, 1986".

(b) Section 11(b)(5) of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"(5) As a condition to project approval, the amount of the Federal grant must be equally matched from other than Federal funds.".

COMPETITIVE PROCUREMENT

SEC. 306. Paragraph (2) of subsection (b) of section 12 of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"(2) In lieu of requiring that contracts for the acquisition of rolling stock be awarded based on consideration of performance, standardization, life-cycle costs and other factors, or on the basis of lowest initial capital cost, such contracts may be awarded based on a competitive procurement process. The Secretary of Transportation shall report to Congress within a year of enactment of the Federal Public Transportation Act of 1982 on any legislative or administrative revisions required to ensure that procurement procedures are fair and competitive.".

DEFINITION OF FIXED GUIDEWAY

SEC. 307. Section 12(c)(2) of the Urban Mass Transportation Act of 1964 is amended by inserting "or rails" immediately after "separate right-of-way" and by striking out the semicolon at the end of such paragraph (2) and inserting in lieu thereof a comma and the following: "and also means a public transportation facility which uses a fixed catenary system and utilizes a right-of-way usable by other forms of transportation;".

ADVERTISING FOR BIDS

SEC. 308. Section 12 of the Urban Mass Transportation Act of 1964 is amended by striking out subsection (g).

PERFORMANCE REPORTS

SEC. 309. (a) The Secretary of Transportation shall report to Congress in January of 1984 and in January of every second year thereafter his estimates of the current performance and condition of public mass transportation systems together with recommendations for any necessary administrative or legislative revisions.

(b) In reporting to Congress pursuant to this section, the Secretary shall prepare a comprehensive assessment of public transportation facilities in the United States. The Secretary shall also assess future needs for such facilities and estimate future capital requirements and operation and maintenance requirements for one-, five-, and ten-year periods at specified levels of service.

CONSTRUCTION CONDITION

SEC. 310. The Secretary of Transportation shall only make available Federal financial assistance to the Metropolitan Atlanta Rapid Transit Authority for the construction of the proposed fixed rail line from Doraville, Georgia, to the Atlanta Hartsfield International Airport on the condition that the portion of such line extending north from Lenox Station to Doraville and the portion of such line extending south from Lakewood Station to the Atlanta Hartsfield

International Airport will be constructed simultaneously in usable segments so that revenue passenger service to Doraville and such airport shall commence at approximately the same time. This section shall apply until priorities different from those set forth in the preceding sentence are adopted after September 30, 1983, by a valid act of the Georgia General Assembly and by a valid resolution of the Board of the Metropolitan Atlanta Rapid Transit Authority.

LOAN REPAYMENT

SEC. 311. (a) The Massachusetts Bay Transportation Authority shall have no obligation to repay the United States 80 per centum of the principal and the interest owed on the following loans entered into with the Secretary of Transportation under the Urban Mass Transportation Act of 1964 for the acquisition of rights-of-way: the loan numbered MA03-9001 entered into on January 26, 1973, and the loan numbered MA23-9010 entered into on December 20, 1976.

(b)(1) The Secretary of Transportation may convert the remaining 20 per centum of the principal and interest owed on the loans described in subsection (a) to grants under the conditions set forth in paragraph (2).

(2) In lieu of the local matching share otherwise required, the grant agreement may provide that State or local funds shall be committed to public transportation projects in the urbanized area, on a schedule acceptable to the Secretary of Transportation, in an amount equal to the local share that would have been required had the amount of principal and interest forgiven under subsection (a) been the Federal share of a capital grant made when the original loan was made. The State or local funds contributed under the terms of the preceding sentence shall be made available for capital projects eligible for funding under section 3(a) of the Urban Mass Transportation Act of 1964 and may not be used to satisfy the local matching requirements for any other grant project.

ADVANCE ACQUISITION OF RIGHTS-OF-WAY

SEC. 312. Section 3(a)(1)(A) of the Urban Mass Transportation Act of 1964 is amended by striking out "and" the second place it appears and by inserting immediately before the semicolon at the end thereof the following: ", and the acquisition of rights-of-way, and relocation, for fixed guideway corridor development for projects in advanced stages of any such detailed alternatives analyses or preliminary engineering".

FEASIBILITY STUDY

SEC. 313. (a) The Secretary of Transportation shall make a grant to the Massachusetts Bay Transportation Authority to conduct a feasibility study to examine the possibility of replacing either one or all three of the existing electric trolley bus lines (and thereby eliminating the overhead power lines) in Cambridge, Massachusetts, with the more advanced and equally environmentally sound electric bus technology that is being developed in the State of California for the Santa Barbara transit system.

(b) Notwithstanding section 21(a)(2) of the Urban Mass Transportation Act of 1964, of the amount made available by such section 21(a)(2) for the fiscal year ending September 30, 1983, $500,000 shall be available only to carry out this section and such amount shall remain available until expended.

STUDY OF LONG-TERM LEVERAGE FINANCING

SEC. 314. The Secretary of Transportation shall conduct a study on the possibility of providing an assured flow of Federal funds under long-term contracts with local or State transit authorities for use in leveraging further capital assistance from State or local government or private sector sources. The study shall include estimates of how much additional revenues could be raised by local transit authorities through such a mechanism, how much additional rail mileage or capital construction could be financed, which local jurisdictions might make use of such a provision, and what kinds of matching requirements could be employed. In conducting the study, the Secretary shall consider other Federal program areas where this type of financing arrangement has been used, and any examples of similar arrangements at the State or local level. Within four months of the date of enactment of this Act, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Public Works and Transportation of the House a report of such study, including recommendations on how this type of financing arrangement might be implemented.

TITLE IV

BUY AMERICA

SEC. 401. (a) Section 401 of the Surface Transportation Assistance Act of 1978 is amended by adding at the end thereof the following new subsections:

"(c) For purposes of this section, in calculating components' costs in order to meet the 'substantially all' requirement, labor costs involved in final assembly should not be included in the calculation.

"(d) The Secretary of Transportation shall not impose any limitation or condition on assistance provided under this Act, the Urban Mass Transportation Act of 1964, or title 23, United States Code, which restricts any State from imposing more stringent requirements than this section on the use of articles, materials, and supplies mined, produced, or manufactured in foreign countries in projects carried out with such assistance or restricts any recipient of such assistance from complying with such State-imposed requirements, provided that these State requirements do not conflict with the exceptions specified in subsection (b).".

(b) Section 401(b)(4) of the Surface Transportation Assistance Act of 1978 is amended by striking out "10 per centum" and inserting in lieu thereof "20 per centum".

AMENDMENT OFFERED BY MR. NAPIER

Mr. NAPIER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. NAPIER: After section 154, insert the following:

FEASIBILITY STUDY

SEC. 155. The Secretary of Transportation shall conduct a study to determine the feasibility and costs of designating and constructing approximately 69 miles of highway in the State of South Carolina extending from Interstate Route I-95 in Florence, South Carolina, or at any other such point from Interstate Route I-95 within the boundaries of South Carolina, southeasterly to United States Route 17 in Myrtle Beach, South Carolina, as a route on the National System of Interstate and Defense Highways, or the Primary System, or recommend other alternatives. Such study shall consider emergency evacuations, commercial and tourist traffic, and other appropriate factors. The Secretary shall complete such study and submit a report on the results of such study to the Congress not later than one year after the date of enactment of this Act. There is authorized to be appropriated to carry out this section cut of the Highway Trust Fund not to exceed $500,000 for the fiscal year ending September 30, 1983.

Mr. NAPIER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. NAPIER. I am happy to yield to the gentleman from California.

Mr. CLAUSEN. We on the minority side have reviewed the gentleman's amendment. We discussed this in depth and we are prepared to accept it.

Mr. ANDERSON. Mr. Chairman, will the gentleman yield?

Mr. NAPIER. I yield to the gentleman from California (Mr. ANDERSON).

Mr. ANDERSON. Mr. Chairman, we have had the opportunity to look over the gentleman's amendment and we have no objection to it. We accept it.

Mr. NAPIER. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Carolina (Mr. NAPIER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. EDGAR

Mr. EDGAR. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. EDGAR: At the end of Section 303, add the following new subsection:

"(e) Notwithstanding any other provision of this Act, the Secretary will apportion to designated recipients the full amount of funds authorized under this section for use for operating assistance in fiscal year 1983 within 30 days of enactment of this Act."

Mr. EDGAR. Mr. Chairman, I have talked to both sides on this particular amendment. I think it is a technical amendment and there should not be much debate.

Since the new block grants for transit will not take effect until April 1, it is likely to be as late as July before regulations are promulgated, data are collected, and funds actually apportioned to public transit systems.

Such a delay in apportionment of the operating assistance portion of the block grants will place transit operators in cash flow difficulty.

Since most States' fiscal years do not start until July 1, operators are likely to face 6 months with no State or Federal operating aid. For example, the SEPTA system in the Philadelphia metropolitan area which operates transit service in the Philadelphia

area will run out of funds for the operation of its commuter rail system in January if its full amount of Federal operating aid is not made available in that month.

This technical amendment directing the Secretary to apportion operating funds up to the cap level within 30 days of enactment of the bill would alleviate the cash flow problem without expending any additional funds.

Since under the committee bill operating aid is capped at the fiscal 1982 level the Secretary could release operating funds without waiting for the development of a formula apportionment under the new block grant.

Mr. ANDERSON. Mr. Chairman, will the gentleman yield?

Mr. EDGAR. I yield to the gentleman from California.

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Mr. ANDERSON. We have looked over the gentleman's amendment and we will accept the amendment.

Mr. EDGAR. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. EDGAR).

The amendment was agreed to.

Mr. LOTT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do so to engage in a short colloquy with the ranking member of the committee.

The Fort Bayou Bridge in Ocean Springs, Miss., and the Moss Point-Escatawpa Bridge in Jackson County, Miss., are in terrible condition and are in desperate need of replacement. These bridges meet the requirements under the program in the Federal-Aid Highway Improvement Act.

Therefore, I would ask the gentleman from California (Mr. CLAUSEN) whether these bridges would receive priority consideration under the discretionary bridge program. The projects will require $10.3 million for the Fort Bayou Bridge and $27 million for the Moss Point-Escatawpa Bridge.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from California.

Mr. CLAUSEN. I do concur in the need for the replacement of the bridges. Because they do meet the program requirements, I concur in the gentleman's request that they receive priority consideration under the discretionary bridge program.

Mr. LOTT. I thank the gentleman.

AMENDMENT OFFERED BY MR. APPLEGATE

Mr. APPLEGATE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. APPLEGATE: Strike section 401 and insert:

SEC. 401. (a) Notwithstanding any other provision of law, the Secretary of Transportation shall not obligate any funds authorized to be appropriated by this Act or by any Act amended by this Act or, after the date of enactment of this Act, any funds authorized to be appropriated to carry out this Act, title 23, United States Code, the Urban Mass Transportation Act of 1964, on the Surface Transportation Assistance Act of 1978 and administered by the Department of Transportation, unless steel, cement, and manufactured products used in such project are produced in the United States.

(b) The provisions of subsection (a) of this section shall not apply where the Secretary determines that such products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality.

(c) As an exception to subsection (a), for the procurement of bus and other rolling stock under the Urban Mass Transportation Act of 1964, the manufactured products which go into the vehicles may be of foreign origin to the extent of 50 percent of the cost of all components of the vehicles. Final assembly of the vehicles must take place in the United States.

(d) For purposes of this section, in calculating components' costs, labor costs involved in final assembly shall not be included in the calculation.

(e) The Secretary of Transportation shall not impose any limitation or condition on assistance provided under this Act, the Urban Mass Transportation Act of 1964, the Surface Transportation Assistance Act of 1978, or title 23, United States Code, which restricts any State from imposing more stringent requirements than this section on the use of articles, materials, and supplies mined, produced, or manufactured in foreign countries in projects carried out with such assistance or restricts any recipient of such assistance from complying with such State imposed requirements.

Mr. APPLEGATE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. APPLEGATE. Mr. Chairman, the purpose of my amendment is simple. It is to make sure that all of the revenues generated by the increase in the Federal gasoline tax that this House will pass today will be spent in America on American goods and services. It is a strong Buy America clause, yes; but considering the latest official unemployment figure of 10.8 percent, and the fact that increased imports are a prime cause of these high unemployment rates, I believe it is imperative that strong action be taken to correct what has been a blatant inequity of trade laws.

As an example of the current situation, let us look at the domestic steel imports. Imports account for nearly 25 percent of the apparent supply of basic or carbon steel, and 45 percent of specialty steel. The carbon industry is operating at a 33 percent capacity while specialty steel is even less, some at 20 percent capacity. There are over 160,000 steelworkers currently on a layoff status with another 50,000 on short work weeks and these figures are continuing to increase. Let us keep in mind, too, that these unemployment figures can be translated into budget figures, with each percentage point of unemployment causing an increase of $25 billion in the Federal deficit. If we do not pass this amendment, we will only serve to worsen our own unemployment crisis and allow the present decline of our American steel industry to continue. Certainly those of you who argue the free trade philosophy can not be so blind as to not see the blatant differences in our trade laws and those of our foreign trading partners. For example, the openness of our ports as compared to the nearly closed door they offer us. Further, the general acceptance of many foreign product lines in this country as compared to a strong reluctance to permit American made goods to be sold in foreign countries. These foreign countries realize, perhaps better than some of us, what will happen if their trading doors are opened. We will flood their markets, increase our employment, and their security will be threatened.

I realize that many, if not most of our foreign trading partners are hurting also, and that some of our actions would not necessarily help their particular situation, I regret this, but equality must be established.

As for retaliation, why must the United States, which is supposedly the most powerful economic giant of the world, begin to quiver and be brought to its knees simply for asking for equality and for what is right.

It is important to realize that out of every $1,000 of domestic procurement, $552 are returned to State, local, and Federal Government in the form of taxes on profits, incomes, and social security. If we buy foreign products, nothing is returned to us.

The American people, too, agree that certain action must be taken to stem the import tide. In a recent survey, pollster Lou Harris found that by a 62 to 35 percent majority, the people believed that some type of import restraint legislation must be enacted.

Ladies and gentlemen, we need to guarantee that the revenues from the 5 cents/gallon tax increase will be spent on American goods and services. I believe my buy American amendment will insure that the jobs we are creating today will remain among the taxpayers who will be financing this program. The economy and the people of this country need the support of this Congress.

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. APPLEGATE. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. I thank the gentleman for yielding.

I asked the gentleman to yield to engage him in a colloquy with regard

to subsection C of the gentleman's proposed amendment.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. APPLEGATE) has expired.

(At the request of Mr. GEJDENSON and by unanimous consent, Mr. APPLEGATE was allowed to proceed for 3 additional minutes.)

Mr. GEJDENSON. Mr. Chairman, it is my understanding that subsection C of the gentleman's proposed amendment merely codifies existing law and regulation with respect to procurement of buses and other rolling stock under the Urban Mass Transportation Act of 1964 as amended by the Surface Transportation Act of 1978. In other words, the restrictions of subsection A of the gentleman's amendment do not apply to the procurement of buses and other rolling stock.

Mr. APPLEGATE. It is my understanding that is correct.

Mr. GEJDENSON. I thank the gentleman.

Ms. MIKULSKI. Mr. Chairman, will the gentleman yield?

Mr. APPLEGATE. I yield to the gentlewoman from Maryland.

Ms. MIKULSKI. I thank the gentleman for yielding.

I would like to just rise and associate myself with the remarks on the amendment offered by the gentleman.

As the Secretary of the Steel Caucus, I know the terrible problem being faced by our steelworkers. Forty-eight percent of the unemployed steelworkers in my district will have their benefits run out in the next 2 weeks. I feel that instead of the Christmas present of a pink slip to the American steel industry and to the suppliers of our transportation network, we ought to give them a Buy American amendment and make a real Christmas present. And I am happy to support the gentleman in his efforts.

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

Mr. APPLEGATE. I yield to the gentlewoman from Ohio.

Ms. OAKAR. I thank the gentleman for yielding.

I am very proud of the gentleman for introducing this amendment. Would it not be unbelievable if we had passed a bill of this magnitude that would tax the American people an extra nickel on a gallon of gasoline, and did not really have every job that is made available by this bill presented for our American workers, particularly those who are the hardest hit, which happens to be in the steel and interrelated areas.

It would be unbelievable to have a bill of this magnitude that did not in fact produce American jobs.

And so I think the gentleman's amendment is not only in order, but it is absolutely logical. And I would hope that no one would vote against something so obvious. The American worker wants above all else—fairness. Our trade laws are not fair—as a result we cannot always compete adequately. Therefore this amendment is not only necessary, but very important.

Mr. APPLEGATE. I thank the gentlewoman.

I would just add to that, that I think it ought to be pointed out that in the third quarter, steel companies lost more than $1 billion in steel operations, and for the year the steel industries in this country expect their losses to exceed $3 billion. And that amounts to many jobs.

□ 2200

Mr. WILLIAMS of Ohio. Mr. Chairman, will the gentleman yield?

Mr. APPLEGATE. Yes, to the gentleman from Youngstown.

Mr. WILLIAMS of Ohio. Mr. Chairman, I, too, want to compliment the gentleman on his amendment and maybe share with the members of this committee the fact that I believe the real enemy of American industry and of the American industrial community is the foreign import, no longer should we fight each other—labor, management, and Government. We must attack the enemy and the culprit that has put our people out of work and that is the foreign import.

The CHAIRMAN. The time for the gentleman from Ohio has expired.

(At the request of Mr. HOWARD, and by unanimous consent, Mr. WILLIAMS of Ohio was permitted to proceed for 3 additional minutes.)

Mr. HOWARD. Mr. Chairman, will the gentleman yield?

Mr. APPLEGATE. Yes. I yield to my chairman.

Mr. HOWARD. I thank the gentleman for yielding.

I have a hunch the gentleman's amendment is going to pass. There are just two points I would like to bring up, small ones that do concern me. One has to do with, in the legislation that we have we had added, a provision on the differential of price that would force Buy America, where it had been a 10-percent differential, that was made 20 percent.

The other thing that bothers me about the amendment is the fact that there has always been a provision that would permit the Secretary to be able to waive a Buy America provision if it is felt that it is not in the best interest of the United States.

This amendment would not permit this waiver or any condition that anyone in either the Defense Department or the White House or the State Department or the Congress might feel is not in the best interest of the United States and would not permit the Secretary to act in the best interests of the United States of America. I just think that is a big thing. If this should go to conference, I would hope that we would be able to provide some kind of a situation where we would be able to act in the best interests of the United States, but that is taken out of the bill by this amendment. I just want the gentleman to be aware of that.

Mr. APPLEGATE. I thank my chairman.

Mr. FRENZEL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I strongly oppose title IV of H.R. 6211 which establishes "Buy America" preferences for projects funded under this act, title 23 of the United States Code and the Urban Mass Transportation Act of 1964. In addition, the title provides that the Secretary of Transportation cannot interfere with more stringent "Buy America" requirements imposed by the States, and raises from 10 to 20 percent the amount of additional costs a project can incur as a result of domestic sourcing before the "Buy America" provisions can be waived.

As bad as the existing title IV provisions are, the Applegate amendment is worse. It would provide a total ban on the use of imported goods for all highway, bridge and mass transit projects, except for the procurement of bus and other rolling stock where at least 50 percent domestic content would be permitted. The requirement in existing law that "Buy America" preferences not increase the overall cost of a project by more than 10 percent would be totally eliminated as I understand the amendment.

There seems to be a widespread, and I believe mistaken, notion that these Buy America provisions create jobs. These amendments, in effect, close our borders, signal our trading partners to do the same and threaten the economic viability, and the employment, of our export industries. Between 1977 and 1980, four out of five of all new manufacturing—I repeat, manufacturing—jobs were created in export industries. By passing this amendment we are saying we are willing to jeopardize these manufacturing jobs in order to throw up a wall of protection around the jobs associated with these highway, bridge and mass transit projects.

Title IV, and any amendment which seeks to provide more restrictions or to broaden the coverage of such severe restraints, is contrary to all past efforts by this Congress and the administration to reduce the need for protectionism in our own country, to exert as much Federal influence as is possible and feasible to see that the States do not establish their own trade barriers and to persuade foreign governments to remove protectionist trade barriers that hurt U.S. exports.

"Buy America" provisions such as the one contained in this bill undermine our efforts to achieve greater access to foreign government procurement markets. Under the existing

Government Procurement Code, to which the United States is a party, it has been estimated that procurement opportunities valued at more than $25 billion have been created for U.S. exporters.

The United States continues to be in the forefront in trying to encourage more open competitive bidding in foreign markets as well as our own. If successful, it will provide substantial economic opportunities for American business. However, we cannot have it both ways. We cannot close down procurement opportunities in this country and expect to have similar foreign procurement made available to us. By passing more strict buy America rules we support an entrenched attitude about international competition that can only disadvantage us in the long run.

Mr. Chairman, we cannot ourselves be protectionist and at the same time demand that trade barriers to U.S. exports be removed. We do not expand employment in this country by trading off jobs in one sector for jobs in another. We cannot expect to improve our economic situation by removing cost controls on such a broad range of projects.

The administration strongly opposes these buy America provisions. They have already been contacted by industries who will be adversely affected and may have to lay off workers if the provisions remain in this bill.

I urge my colleagues to reject this title and any amendment that seeks to make it more restrictive.

Mr. OBERSTAR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we are asking the American people to accept a substantial increase in their tax burden under the bill for the purpose of improving the Nation's highways, replacing some of the 100,000 bridges that are declared dangerous, too dangerous, some of them, to drive on, and for the additional purpose of creating some 320,000 direct jobs in the construction field.

In return for the tax increase, we ought to be assuring that the materials to be purchased under this legislation will create additional American jobs in the materials supply sector of the economy.

Now, concern was expressed just a moment ago by my distinguished colleague from Minnesota, who spoke from deep sincerity, about Members who are "pushed to the ragged edge" by this bill. There are thousands of Americans who are pushed to the ragged edge of unemployment by the current economic conditions, closed down steel mills, shut down iron ore mines, people who are out of work, and who want jobs.

Free trade does not necessarily mean fair trade. We will hear from the free traders who are concerned about retaliation from our trading partners. My friends, they have struck already, a preemptive. Ask an American steelmaker who has tried to sell one lousy foot of rail to the Chemins de Fer National de France. You cannot see American steel rail in France because they will not let it in and you cannot see American steel in Japan because they will not let it in.

I know a little something about trade with the European common market. I did my graduate studies at the College of Europe in Belgium during the time of the formation of the Common Market. I traveled through the European coal and steel community countries and I have great admiration for the ingenious way in which Europe raised itself by its bootstraps after the devastation of World War II and recreated its coal and steel communities with enormous subsidies. They rebuilt with concern for their workers, created with government subsidies a new steel industry enormously competitive to the United States. Since then they continued to protect that industry in every respect, including keeping out competitive American steel.

Now, with the help of those earlier subsidies as well as recent billion dollar subsidies and ingenious nontariff barriers, they are invading our domestic market and taking jobs away from American workers.

□ 2210

In Duluth, Minn., stretching over the waters of Lake Superior to Superior, Wis., a $60 million interstate bridge is under construction; 100,000 tons of steel are going into that bridge. The bid on the center arch span for 10,000 tons of steel was $7 million. It was won by a Japanese firm.

Under that bridge will go the iron ore, some day we hope, when our mines are producing again, from northern Minnesota to the steel mills of the lower lake ports. That iron ore will pass under a Japanese steel bridge.

The steelworkers in northern Minnesota, the iron ore production workers, are not very happy about that. They have lost jobs to Japanese steel.

We are not trying to keep foreign goods out of the United States.

The CHAIRMAN. The time of the gentleman from Minnesota (Mr. OBERSTAR) has expired.

(By unanimous consent, Mr. OBERSTAR was allowed to proceed for 2 additional minutes.)

Mr. OBERSTAR. We are not trying to keep foreign goods out of the United States. We are trying to fire a shot across the bow and let our trading partners know that if they want to trade: "Trade fair. Open your markets to American goods. Let American workers earn their keep. Trade fairly. Play with us on the same playing field according to the Marquis of Queensberry rules and not your own self-protective rules."

Unless this House adopts this amendment, we are going to continue to let foreign steel steal American jobs.

I urge your support for the amendment.

Mr. GAYDOS. Mr. Chairman, I move to strike the requisite number of words and rise in support of the amendment.

I think it is absolutely imperative that the Members here have the benefit of some the items I am about to put in the RECORD at this time.

I would like to start off first in answering the question of what is the effect of the "Buy American" amendment. I think it is a simple question, and the answer is very revealing.

In a report to the Congress in 1978, the Congressional Research Service observed that for every $1,000 of domestic procurement, $552 are returned to the Government in the form of corporate profits taxes, social security tax payments, personal income taxes, State sales taxes, and taxes on unincorporated nonfarm business income. The exact breakout is as follows:

Corporate profits taxes	$53
Taxes on unincorporated nonfarm business income	12
Social security tax payments	161
Personal income taxes on wages, salaries, rent and interest	306
State sales taxes	20
Total taxes per $1,000 domestic procurement	552

If $1,000 is expended on the procurement of a foreign good or service, nothing is returned to this Government.

Now, we have several analysts and businessmen who recently appeared in some of our national publications. I think these, too, should be part of the RECORD and should be there for the information of our colleagues in order to enable everybody here to vote, hopefully, intelligently, and informed, and to add it to their information.

Monetary expert C. Fred Bergsten, quoted in the April 26, 1982, Forbes magazine:

For the first time in history, trade balance is a major cause of a recession.

William L. Givens, chairman of Twain Braxton International, Boston, writing in the November 22, 1982, Business week:

The effect of this process (of Japanese industry targeting) has been the progressive erosion of our industrial base.

We must recognize that free trade, while a laudable concept, is hopelessly inadequate as a trade policy.

Richard Nenneman, senior vice president of the Girard Bank, Philadelphia, writing in the November 26, 1982, Christian Science Monitor:

This business cycle is different from the seven others since World War Two. The U.S. is adjusting to two phenomena unique to this period—the need to share production of many goods once considered almost proprietary . . . and to deal with the serious financial problems of . . . the developing world.

Theodore White, author and political historian, who wrote in the July 5, 1982, U.S. News & World Report:

As for industry, when I travel through the Midwest, I see the automobile and steel manufacturers being undermined by government directed cartels from abroad.

Stanley Modic, editor of Industry Week, in a June 14, 1982, editorial:

America sits as the largest, most open market, all but inviting other nations to flood it . . . developed and undeveloped alike are building their economies and solving their unemployment . . . at the expense of the U.S. economy.

The bottom line is jobs. Industry Week estimates that auto imports alone last year deprived 433,000 Americans of work.

These are just examples of what is being said throughout the country.

One-fifth of the proposed tax is marked for mass transit. Will subway cars be bought with portions of this $4 billion? Most likely. Well, two recent big subway deals went to foreign governments that are on the stalk, internationally.

New York City bought Canadian subway cars last summer. The Canadian bid was best because 20 percent of the cost of each car—$167,000 on each car—was subsidized by the Canadian Government, according to our Commerce Department.

Meanwhile, the remaining American-based manufacturer, the Budd Co. in Mr. BONIOR's district, had a good bid but not 9.7 percent financing. Budd lost a $659 million deal and the workers lost the work.

Furthermore, the Canadian Government—which is serious about buying Canadian—easily could raise its subsidy to 21 or 25 percent or to whatever it takes for them to get the job. Keeping their workers at work is in their political interest, and they know it, and practice it.

In the other subway deal, New York City spent $274 million on Japanese cars. The bid offered a 12.5-percent loan from the Government of Japan. The record shows that they are strong in Japan on the idea of buying Japan—by custom if not law.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. GAYDOS) has expired.

(By unanimous consent, Mr. GAYDOS was allowed to proceed for 1 additional minute.)

Mr. GAYDOS. Mr. Chairman, I want to conclude by saying that there has been a question as to what the importance of this amendment is. Is it important?

Let me say this: Admittedly, in the best of circles, and I do not care which committee you are dealing with and I do not care who you are talking to, the conclusion is very, very clear: This country lacks a national steel policy and I suggest with all the sincerity I can muster here in this late evening that maybe, just maybe, this amendment, this "Buy American" amendment, might be the beginning, hopefully, the impetus of our now starting to head toward hopefully and accomplishing in the near future some kind of a national steel policy.

When my good friend, the gentleman from Minnesota (Mr. FRENZEL) suggested that we have just negotiated an agreement, some of the facts were not listed. Those are that the American steel industry as a whole spent literally hundreds of millions of dollars over the last 4 or 5 years.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. GAYDOS) has again expired.

(By unanimous consent, Mr. GAYDOS was allowed to proceed for 30 additional seconds.)

Mr. GAYDOS. Mr. Chairman, I conclude by pointing out to my colleagues that the American steel industry has spent literally millions of dollars in pursuing this nebulous end of trying to find relief, trying to find relief from the 1974 Trade Act, the 1979 Trade Act, trying to get some relief from that Trade Act.

It is expensive to pursue and to bring cases before the International Trade Commission and also to proceed with them thoroughly internationally to a just conclusion.

I suggest to my colleagues this is the time.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield to me?

Mr. GAYDOS. I yield to the gentleman from California.

Mr. MILLER of California. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the gentleman's amendment and the gentleman's position.

Mr. GAYDOS. I thank the gentleman.

I ask for a "yes" vote on the amendment.

□ 2220

AMENDMENT OFFERED BY MR. LELAND TO THE AMENDMENT OFFERED BY MR. APPLEGATE

Mr. LELAND. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. LELAND to the amendment offered by Mr. APPLEGATE: Strike out subsection (c) of the amendment and insert in lieu thereof the following:

(c) As an exception to subsection (a), for the procurement of buses, other rolling stock, and support equipment (including train control, communication, and traction power equipment) under the Urban Mass Transportation Act of 1964, the manufactured products which go into such vehicles or equipment may be of foreign origin for the extent of 50 percent of the cost of all components of the vehicles or equipment. Final assembly of the vehicles must take place in the United States.

Mr. LELAND (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. LELAND. Mr. Chairman, I offer an amendment which would clarify the application of the pending amendment to mass transit rail support equipment. I have talked to the gentleman from Ohio who offered the original amendment, and he has agreed with me that the amendment to his amendment is acceptable.

The amendment would amend subsection (c) to add rail support equipment, including train control, communication and traction power equipment to buses and other rolling stock which under the amendment of the gentleman from Ohio would remain subject to the less than 50-percent foreign limitation in existing law. This would still require these items to include at least 50-percent domestic content, but would retain the flexibility of existing law to avoid unnecessary cost escalation.

Mr. Chairman, I have long been a strong supporter of responsible legislation to encourage greater use of domestic products. As a matter of fact, I think that in my history here in the Congress I have voted for all buy-American pieces of legislation.

I believe that the narrow modification that I am offering strikes a reasonable balance between the legislative interests of local transit authorities facing rising costs and the need to put Americans back to work. This amendment would relate only to mass transit, and would only affect the enumerated types of support equipment. It would not affect the use of structural steel, supports, cement, or other similar major items.

I ask that the Committee support the amendment.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. LELAND. I yield.

Mr. FRENZEL. Mr. Chairman, would the gentleman mind telling us what company this bails out?

Mr. LELAND. This gentleman from Texas does not try to bail out any company. However, I am trying to act in the best interests of our development in Houston, Tex., where we are having an extreme problem getting startup productivity for the transit system in Houston.

Mr. FRENZEL. The gentleman has expanded an exemption within the Applegate amendment, and I just won-

dered; the existing exemption, as I understand it, was put in there for a particular company making motorbuses, and I wondered if the gentleman's expansion of that refers to another particular company.

Mr. LELAND. I think the gentleman is trying to imply something that is not correct. I have absolutely not talked to any special interest in this matter. I care about the interests of the city of Houston, the district I represent, and I am trying to help them get started with a mass transit system that would be adequate to transport the people of the city of Houston.

Mr. FRENZEL. I thank the gentleman for his explanation.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. LELAND. I yield.

Mr. CLAUSEN. Mr. Chairman, could the gentleman tell me whether or not the established law which was made permanent would in fact cover the gentleman's situation now?

Mr. LELAND. The established law does, but I suggest that I support the gentleman's amendment in its original form with certain exceptions because I feel it will indeed, if in fact we passed this amendment as originally drawn, it would hurt our movement in the city of Houston to try to develop a transit system.

Mr. CLAUSEN. I think it is important that the record be set straight, that there is in fact incorporated in the permanent law a buy-American provision, and it was incorporated, made permanent in the 3-month extension legislation we passed just prior to the election recess. I think it is important that the record be set straight so that everyone will understand that there is in fact now a buy-American provision in law.

Mr. LELAND. I understand.

Mr. ARCHER. Mr. Chairman, will the gentleman yield?

Mr. LELAND. I yield to my colleague from Texas.

Mr. ARCHER. Mr. Chairman, is it true that the gentleman is merely trying to include those items which he mentioned in the same fashion in which they are covered under current law?

Mr. LELAND. Absolutely.

Mr. ARCHER. Rather than have it extended to be 100 percent buy American, which would significantly raise the cost of implementing new mass transit systems, and in some instances make it prohibitive, where we could not go forward.

Mr. LELAND. That is correct, and I thank the gentleman from Texas for clarifying that.

Mr. APPLEGATE. Mr. Chairman, will the gentleman yield?

Mr. LELAND. I yield to the gentleman from Ohio.

Mr. APPLEGATE. Mr. Chairman, I have discussed the amendment with the gentleman from Texas. It does not adversely affect my amendment. In fact, it makes it a little better amendment, and I agree to the amendment and ask the House to agree to it.

Mr. LELAND. I thank the gentleman.

Mr. MURPHY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have followed the debate closely this evening and heard many of my colleagues say that we are trying to do what is in the best interest of the United States. We are talking about using tax dollars of U.S. citizens to pay U.S. contractors to buy from U.S. suppliers, who in turn employ U.S. workers, who then in turn pay taxes to the U.S. Government. Is not that in the best interests of the United States, to see that our workers are employed to support this Government, who would commence a massive building program?

I cannot imagine the Japanese Diet debating whether or not the Japanese Government would begin a massive public works program and insist that they buy their materials and goods from the United States. They would not, my friends. Nor would any other government in this world.

I have heard some of my colleagues state that if the buy American proposal does pass, they will oppose the measure. Are they thinking in the best interests of the United States? I think not. We are not talking about private investment dollars, buying on the world market, whether it be free trade or fair trade. We are talking about American taxpayer dollars, which this body is charged to raise and to expand.

Buy American does not mean a lack of competitive bidding as some opponents have stated. There are many producers and suppliers of steel, cement, asphalt, wire, lumber and other products right here in the United States. Competition would flourish among domestic suppliers and producers.

This amendment would protect those American taxpayers by saying that their tax dollars would be expended in this country to pay our workers and our laborers, and buy from our suppliers.

I would like to answer the gentleman on the other side who alleges we are only interested in "bailing out" American businesses and industry. I would like to inform the gentleman that my interest is in "bailing out" the people of the United States who are suffering from record unemployment.

Mr. KINDNESS. Mr. Chairman, will the gentleman yield?

Mr. MURPHY. I yield to the gentleman from Ohio.

Mr. KINDNESS. Mr. Chairman, I thank the gentleman for yielding. I think he has put his finger on the argument here so well that we ought to pause for just a moment to realize that this is not a free trade issue. I support the amendment of the gentleman from Ohio (Mr. APPLEGATE), although at the same time I like to think we could progress in terms of free trade in the world, but we are talking about governmental policy having to do, as the gentleman from Pennsylvania so well stated it, with the use of tax dollars extracted from American workers to be spent here in the United States. That is the issue. It is not free trade that is involved at all. It is governmental procurement policy.

Wherever you go throughout the world, you find that the attitudes and policies of governments are more conservative with respect to trade along the lines that are proposed by the amendment of the gentleman from Ohio. I do not see why we should lag so far behind. I think we ought to be sending something of a message to the administration that opposes this amendment that they are not doing enough to keep trade indeed free and fair in this world.

I thank the gentleman for yielding, and I support the amendment.

Mr. MURPHY. I thank the gentleman.

Mr. GIBBONS. Mr. Chairman, I move to strike the requisite number of words, and I rise to oppose the amendment.

Mr. Chairman, nothing is harder than opposing the free lunch, and certainly nothing is harder than opposing the free lunch if it is wrapped in the American flag, so I have taken on for myself quite a task, and I understand. I will try to limit myself to the 5 minutes we are supposed to speak in.

Let us find out where we are. There is already in this legislation, on the books, a buy-American provision.

□ 2230

It is one of the toughest buy American or buy national provisions in the world. The committee has modified that further to increase the 10 percent to 20 percent, making it really the toughest buy American or buy national provisions in the world. And now we have the free lunch wrapped in the American flag which is waved before us.

It looks very attractive, but it is very deceptive. I am not going to talk about trade. I am not going to defend any of our trading partners. That is ridiculous. I feel as badly about them as other Members do, perhaps worse, because I know so much about them.

But let me tell the Members what we have done for the steel industry. And this is a steel industry initiative. We on the Democratic side offered them the finest depreciation schedule imaginable, but they were not sensible enough to take it. We have had in the

almost 20 years that I have been in Congress a policy of trying to exclude foreign steel, and it has worked, but not in the way one would think it has worked.

We have had the Mills' proposals which informally kept steel out. We had the trigger price mechanism, which was another price fixing mechanism that keeps steel out at a competitive price. And what has been the result of it?

While the price of everything in America doubled, the price of steel tripled. Steel wages, starting after World War II, began to escalate faster than all American industrial wages, and now steel wages are 70 percent higher than all industrial wages in the United States. In fact, steel wages are the highest wages in the world, and yet it takes about twice as many man hours of labor to produce a ton of steel in the United States as it does in Japan. It is not that the Japanese worker is that great, but the Japanese management got off its rear ends and ran the business and got productivity up.

So we have had a protective steel market, and all we have gotten is very inefficient production and very high prices, and we have priced our steel out of the world market. In fact, we have priced it out of the American market.

One reason why automobiles are so expensive is because the cotton-picking steel is so expensive. The reason why nuts, bolts and screws are so expensive is because steel is so expensive, and the reason why steel is so expensive is because we have excluded the industry from market place competition management has gotten lousy and the labor has gotten more expensive. And we wonder why.

Now we are going to wrap this free lunch in the American flag and say that this save us. It will not. It will bankrupt us as nation. All we are doing with this little piece of aggression against all the other Americans in this country is transferring jobs within America.

There is only a limited amount of money in this bill, and if we are going to spend more of it on steel, we are going to spend less of it on everything else. We are either going to build fewer road or we are going to have less other disposable income.

Mr. GAYDOS. Mr. Chairman, will the gentleman yield to me?

Mr. GIBBONS. Mr. Chairman, this amendment will not produce one American job. All it will do is send a signal to steel labor and steel management that "you go right on, fellows. The price can keep on going up."

Now, if we do that, if we can wrap it in the American flag, maybe we can sell it to our constituencies, but I will tell the Members that it is sorry econimic policy, it is sorry politics, and I want no part of it.

Mr. GAYDOS. Mr. Chairman, will the gentleman yield to me?

Mr. GIBBONS. Mr. Chairman, I yield back the balance of my time.

Mr. FRENZEL. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Leland amendment.

Mr. Chairman, the Leland amendment, as was discussed in the colloquy between myself and its author, expands the one exception in what is an otherwise absolute, impenetrable Buy American provision. It is so tough that it would turn our trading partners, who would like to close their markets, green with envy.

What the Leland amendment shows us is that the Applegate language, is too strict. If Mr. LELAND constituents were to buy a transit system for the city of Houston, they could not live under the terms of the Applegate amendment.

So the Applegate amendment has to be expanded. But why should we let the city of Houston alone be able to afford the best transit system it can have? Why do we not allow the taxpayers of the United States to build our Interstate Road System in the most effective and efficient way possible?

It has been said by one of the speakers that the net long-term effect of the Applegate amendment is increased revenues. I am going to quote to you from a letter from Alice Rivlin to the Honorable DANIEL ROSTENKOWSKI. In the second to the last paragraph of that letter it says:

> Therefore, although the net long-term effect that the amendment will have on revenues is unclear, its direct and most proximate effect is likely to be a reduction in tariff revenues.

Now, another speaker said the bottom line is jobs. That is partly true. The bottom line is subsidized jobs, jobs subsidized by the driving people of this country.

Protest cases are expensive at the ICC—to expensive for the largest steel companies in the world who would not even push them forward but were, rather, inclined to negotiate for restrictions on imports.

We are protecting the taxpayers? Yes, we are protecting them by spending more of their gasoline tax money to buy the same amount or a lesser amount of miles of road.

I think the Leland amendment absolutely exposes the impossible restrictions that the Applegate amendment lays upon us.

Mr. Chairman, the gentleman from Florida (Mr. GIBBONS) has shown us our duty tonight. I am not sure we are going to accept his challenge. I hope that we do. The amendment offered by the gentleman from Texas (Mr. LELAND) should be adopted and that offered by the gentleman from Ohio (Mr. APPLEGATE) should be defeated.

Mr. WEAVER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. GAYDOS. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from Pennsylvania.

Mr. GAYDOS. Mr. Chairman, I will not take the full 5 minutes of the gentleman, and I mean what I say. But I do want to say something which I think is important.

When someone gets up, as my good friend and colleague, the gentleman from Florida, and starts wrapping the American flag around things, we start questioning his motives. I never mentioned the American flag, but I would rather wrap the American flag around me than the Japanese flag or the flag of some other foreign country. When someone talks about the flag, that is the flag of my preference.

Let me, hopefully, make one point very clear to my colleagues. The American steel industry has been crucified. It has been accused of bad management, bad labor overcosts, overpriced labor.

We have had men before the Steel Caucus repetitively coming before us, men of integrity, men of well-known reputations, and they have testified as one to the effect that the American steel industry under present conditions will compete with the Japanese, with the British, or with West Germany, anyone we can name. They will compete if we are just so kind as to establish an American national steel policy and cut out the subsidies. That is not me speaking; that is the testimony of all the experts of this country.

I am surprised at the gentleman from Florida. He should know those things. I want this RECORD to show that the American steel industry is not an industry that has been fat and lazy and nonproductive. It has been jawboned to death over the last 30 years about keeping its prices down. It has always been the steel industry that has been accused of raising its prices, and that is the first place the Government goes to jawbone to reduce prices.

People do not invest in the steel industry if it is not competitive for if it is not making a profit. The last 25 years show very clearly that in the steel industry they were making 5 to 6 percent corporate profits while other corporations in this country were averaging 18 to 20 percent. I say to the Members, "You answer those potatoes."

Mr. Chairman, I do not want to take the full 5 minutes, because perhaps the gentleman from Oregon wishes to yield to other Members.

Mr. WEAVER. Mr. Chairman, I would be delighted to yield to the gentlewoman from New Jersey (Mrs. FENWICK), if she wishes me to.

Mrs. FENWICK. Mr. Chairman, I can get my own time, but I thank the gentleman from Oregon.

The CHAIRMAN. The Chair recognizes the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think we should pause here and consider what we are doing. We should listen very carefully to a man of vision and principle, our colleague, the gentleman from Florida (Mr. GIBBONS), a man who knows the subject worldwide.

□ 2240

I do not think we can close our eyes to a few facts. In our steel industry, the best plant we have, as I understand it, makes 550 tons per man per year. The best Japanese steel mill makes 850 tons per man per year.

A bridge over the St. Lawrence had $7 million worth of steel but for a $42 million bridge, built over the Mississippi, the steel came from a Japanese mill, structural and sheet steel came down by gravity into the hull of a ship; it came across the Pacific, burning oil that Japan does not produce, through the canal, paying a toll on every ton. They landed a $42 million contract to build that bridge over the Mississippi at one-third less than any bid from an American steel company.

We have tried to help our steel industry and the gentleman from Florida has outlined some of the efforts. What do steel companies do when they have money? They buy oil companies.

We are going to have to begin to face the facts. We cannot ask our people continuously to pay more and more and more when other places are producing the material for less.

Further, one more word of caution. We are at a watershed. We are either going to try to make international agreements work in the interests of a fair and free trade or we are going to give up the whole thing and plunge into protectionism not just in one industry but in one after another after another.

We are at a watershed. I, too, have felt tremendous impatience with the United States, wondering why we could not get even-stephen.

If it takes 10 months to land an American car in Tokyo, I used to ask, why not 10 months to land one in San Francisco?

I think I was shortsighted and uneducated because the answer is not there. We cannot have dog eat dog and begger your neighbor. We must try to have an orderly world.

The only hope is to come to some sound agreements with teeth in them so that we can see that they work. We must make the effort. We cannot continue to shelter a noncompetitive industry at the cost of our own public. We have to make our industries more productive and encourage those that can produce in fair and free competition.

Mr. BAILEY of Pennsylvania. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I serve on the Trade Subcommittee of the House Ways and Means Committee. I have listened to the debate and I have read about it in the newspapers.

This Nation has some very difficult choices to make. The issue is not whether or not we have a steel industry that has difficulties.

Quite frankly, every capital intensive industry in the United States of America that requires long-term capital investment is in trouble. This Nation offers itself to the world as that great leader and example of free enterprise where the role and function of government should be limited to allow for investment in business environments that will provide us most efficiently with those goods and services we need. But we are in competition with a modern form of state capitalism as practiced in Europe and in Asia that is going to deny this Nation the kind of basic feedstock industries it needs to protect itself economically and in the defense area while at the same time we bear the burden almost unilaterally in some ways of a free world defense requirement.

There is a world oversupply of steel. It is not because American managers and American labor is inefficient. It is because the U.S. Government, as a matter of policy, fostered the export of capital and the establishment of those basic industries abroad as a matter of policy since the Second World War.

This Nation is disserviced by dishonest references to the quality of her business leadership and the productivity of her workers because it deters the proper attention that needs to be paid to a lack of industrial policy in this country which is the root cause of the reason why we are headed into this poor capacity area with all of our basic industries.

Steel, mining, transportation, all of them have basic problems.

You have a world steel industry which is protected abroad. It is subsidized. Its marketing is directed. We have got to learn to deal with those kinds of problems.

We have a choice to make. We use our basic economic power, we use our basic good sense and good will, we use our leadership to try to encourage some kind of standard, some comparable standard of free enterprise and government role so that our businessmen can compete abroad fairly. But it is improper to deny protections and recognition for what our industries and labor face here at home while we write trade policy and tax policy that in effect opens the door and robs us of that kind of favorable investment environment the gentleman from Pennsylvania (Mr. GAYDOS) very properly pointed out.

Trade is a growing area. Those businesses will respond to the kind of legal and tax and environmental policies that we compose for them so that they will make those long-term investments we need.

It is our responsibility as a government to confront our Nation's challenges with insight and courage. If we fail to properly coordinate the policy conflicts between domestic economic demands and the implications that our trade policies have for them, we shall lose grasp of the commonsense and balance that has heretofore enabled us to politically support viable trade policy—we shall degenerate into irrational protectionist or knee jerk free trade policies that will only create ever increasing economic instability in an increasingly unstable international political environment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. LELAND) to the amendment offered by the gentleman from Ohio (Mr. APPLEGATE).

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. APPLEGATE), as amended.

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 54, noes 46.

So the amendment, as amended, was agreed to.

Mr. HOWARD. Mr. Chairman, I ask unanimous consent that all amendments and amendments thereto to the four titles of the public works section of the bill be limited to 10 minutes, 5 minutes in support and 5 minutes in opposition.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

Mr. GOODLING. Mr. Chairman, reserving the right to object, I have been sitting here for 6 hours waiting for the second, third, particularly the second section of this bill to open. It finally did open and now I have been sitting here and I wanted to make a 1-minute comment. I would like to reserve my right to make that 1-minute comment.

Mr. HOWARD. Mr. Chairman, will the gentleman yield under his reservation?

Mr. GOODLING. I yield to the gentleman from New Jersey.

□ 2250

Mr. HOWARD. Mr. Chairman, may I inquire as to how many amendments there are at the desk—excluding the

Ways and Means Committee amendment?

The CHAIRMAN. The Chair would advise the gentleman there are three amendments pending at the desk.

Mr. HOWARD. Mr. Chairman, I withdraw my unanimous-consent request.

The CHAIRMAN. The gentleman withdraws his unanimous-consent request.

Mr. GOODLING. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of section 209, the Nelson section of this legislation. This section states that it is the sense of the Congress that it strongly encourage the States to raise the minimum drinking age to 21.

I wholeheartedly endorse a unified drinking age, and only last week introduced House Concurrent Resolution 429, which likewise expresses the sense of the Congress that the age for drinking and purchasing all alcoholic beverages should be raised to 21 in those 35 States and the District of Columbia where the drinking age is now less than 21. My distinguished colleague from Pennsylvania, Senator SPECTER, has sponsored the companion resolution (S. Con. Res. 129). This resolution has been endorsed by the National Transportation Safety Board and by the National Safety Council.

December 12-18 has been designated as "National Drunk and Drugged Driving Awareness Week," a timely event in lieu of the upcoming holiday season. All of us in Congress and in statehouses across the country lately have been forced to take significant steps to increase penalties for driving while under the influence of alcohol. But, a related and equally serious matter that is drawing more attention is the need to raise the legal drinking age in the States that still allow persons under the age of 21 to purchase and consume alcohol.

Did you know that almost 60 percent of fatally injured teenage drivers had alcohol in their blood? Did you know that the life expectancy in America has improved over that past 75 years for every age group except one—15- to 24-year-olds—and did you know that the leading single cause of death for this age group was drunk driving?

We in Congress with this amendment have an opportunity to make our voices heard about this national disgrace. I feel very strongly about this matter, and I know that others in this Chamber do as well. Today, most State laws are a hodge-podge of jurisdictional incongruities, and we as U.S. Members of Congress should actively encourage the States to look at the problems associated with differing drinking ages seriously. First of all, a standard age of 21 would reduce the general availability of alcohol to teenagers, a move which has been proven to reduce the disciplinary problems of the high school youth and prevent 13- and 14-year-olds from easy access to alcohol. Second, a unified drinking age would correct an undesirable situation in which access to alcohol by teenagers is only a matter of motoring across the State line. A standard age of 21 would prevent young people from driving over State borders to procure alcohol and then return, possibly intoxicated, to their home State.

Recently, Transportation Secretary Drew Lewis and Health and Human Services Secretary Richard S. Schweiker endorsed a unified approach to the drinking age. This idea is being studied by the President's National Commission on Drunk Driving, which reports on December 13.

Let us send a message to the National Commission and to the legislatures of our home States. Let us take the first step to unifying the drinking age. Let us end this national tragedy. Let us save these young lives.

Thank you.

H. CON. RES. 429

Whereas of the twenty-five thousand persons who die each year in drunk driving accidents, five thousand are teenagers and almost thirty-five per centum are between the ages of sixteen and twenty-four;

Whereas almost sixty per centum of fatally injured teenage drivers had alcohol in their blood;

Whereas life expectancy in America has improved over the past seventy-five years for every age group except one—fifteen to twenty-four year olds—and whereas the leading single cause of death for this age group is drunk driving;

Whereas available data shows a direct correlation between minimum drinking age and alcohol-related accidents in the eighteen to twenty-one year old age group;

Whereas numerous empirical investigations have shown significant increases in motor vehicle crash involvement among young drivers after reductions in the drinking age;

Whereas as the result of this emerging research, a number of States raised the drinking age in the late 1970's and early 1980's; and

Whereas the National Transportation Safety Board has urged that the legal minimum age for drinking and purchasing alcohol be raised to twenty-one nationwide in an effort to cut the highway death toll from drunken driving: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the age for drinking and purchasing all alcoholic beverages should be raised to twenty-one in those thirty-five States and the District of Columbia where the drinking age is now less than twenty-one.

Mr. HOWARD. Mr. Chairman, I ask unanimous consent that debate on all amendments and amendments thereto to the first four titles of this bill be limited to 10 minutes, 5 minutes in support, 5 minutes in opposition.

The CHAIRMAN. On each amendment?

Mr. HOWARD. On each amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

AMENDMENT OFFERED BY MR. ECKART

Mr. ECKART. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ECKART: At the end of section 120 of the amendment add the following:

(d) Section 120 of title 23, United States Code, is further amended by adding at the end thereof the following new subsection:

"(k) Notwithstanding any other provision of this section, the amount of non-Federal funds payable on account of any project approved by the Secretary under section 106(a) of this title and constructed in any labor suplus area, as determined by the Secretary of labor, shall be reduced by 25 per centum.".

Mr. ECKART (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. ECKART Mr. Chairman, this piece of legislation has been talked about as a bill to protect our infrastructure, as a bill designed to create jobs, indeed as a bill designed to place the principle of the users' fee for important public works projects to be funded on a pay-as-you-go basis.

Mr. Chairman, the amendment that I seek to offer to this legislation would state that the amount of the local match that municipalities, counties or States would have to raise in order to qualify for the Federal share of funds under this legislation would be reduced by 25 percent if the project that was to be undertaken would be located in a labor surplus area as defined by the Department of Labor.

A labor surplus area of course is an area in which has occurred unemployment levels in excess of 20 percent above the national average. Clearly the provision of this amendment would do several things.

First, many of our levels of local government, particularly those which have acute levels of unemployment, are desperately strapped for the funds needed to meet their match. Many States have returned hundreds of millions of dollars because they were unable to raise the local funds necessary to go forward.

These strapped local government levels are much in need of the incentives that this bill envisions, but many do not have the local financing capability to meet the match.

The adoption of this amendment will make the targeted funds more available to projects in areas of high unemployment, relieve the tremendous strain on local government, and

not in any way diminish the contributions of the Federal Government to this important program.

Second, there is no Federal fiscal impact with this legislation. It just changes the method by which local government raises its funds and directs that the program will be spent in areas where there is high unemployment.

Third, it addresses the donor-donee State problem by shifting to local government an opportunity to raise the funds or not to raise the funds to meet the threshold in a more amicable way to take into account the pecularities of local financing.

And lastly, it will increase the leverage at the local level for targeting projects, important projects that are already on the board, already have been approved, but have not been able to go forward because of the lack of local funds in areas of high unemployment.

There are almost 1,100 labor surplus areas in the United States. Forty-six of our States have them to some degree or other. If the Members are concerned about unemployment, if the Members are concerned with providing some assistance in this bill to areas of high unemployment, then I urge my colleagues to look closely at my amendment.

Mr. PEASE. Mr. Chairman, will the gentleman yield?

Mr. ECKART. I yield to the gentleman from Ohio.

Mr. PEASE. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the very fine amendment offered by my colleague from Ohio. As a Member representing a district which has four counties which have long been labor-surplus areas, and which desperately need the employment which this additional highway work would bring, I can think of no better way this evening that we can help districts like mine than to adopt the amendment of the gentleman from Ohio.

I commend the gentleman for offering it.

Mr. MITCHELL of Maryland. Mr. Chairman, will the gentleman yield?

Mr. ECKART. I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. I thank the gentleman for yielding.

Mr. Chairman, I too want to commend the gentleman for offering the amendment. In all that we are doing here on the floor, you can say this is not a jobs bill or it is just a tax bill, but what we are aiming at is trying to help those areas that have the highest rates of unemployment. That just makes good sense.

I commend the gentleman for pointing out where the problem is and offering a solution and urge the support of the gentleman's amendment.

Mr. WILLIAMS of Ohio. Mr. Chairman, will the gentleman yield?

Mr. ECKART. I yield to the gentleman from Ohio.

Mr. WILLIAMS of Ohio. I thank the gentleman for yielding.

I rise in strong support of the gentleman's amendment. As the gentleman knows, we serve in neighboring districts. I represent, regrettably the area with the highest unemployment in the Nation. I compliment the gentleman on his amendment and urge my colleagues to support it.

Mr. ECKART. I thank the gentleman for his contribution.

In conclusion, let me indicate I believe this legislation, whether it is a tax bill or an infrastructure bill or a jobs bill, would be better served by adoption of this amendment. We would in fact maintain the same kind of projects that are already on the board; we would in no way diminish the number of jobs that are created.

We would in fact target those jobs and projects into the areas of the greatest need and still fulfill the targeted intent of this bill of preserving our infrastructure, rebuilding our highways and bridges, and giving the opportunity to tens of thousands Americans who so deeply need work and are looking to this bill for some relief in areas of unemployment.

Mr. ANDERSON of California. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, I think all of us hear the message from the gentleman from Ohio. But I think he makes a mistake in what he is actually doing. He is reducing the local match by 25 percent.

Now, if a project is a $100 million job, and the Federal Government is putting up 75 percent, and the local agencies put up 25 percent, he would reduce that 25 percent by 25 percent which means he is cutting down the number of jobs by probably 6¼ percent.

Now, we do not need to do this to help the States come up with their match. We took care of that in the amendment that was adopted earlier, offered by the gentleman from New Jersey (Mr. HOWARD) when we said that if a Governor of a State feels it cannot match the money, that we will waive it for the first year and have them pay it after the second year. If they do not pay it after the second year, we will reduce the State's apportionment to recover 50 percent the third year, and the balance the fourth.

What we are doing on ths amendment is actually cutting the total amount of money by 25 percent of whatever the State match is. You are just cutting the project that much. And if you cut the project by 5 percent, you are probably going to cut down the number of jobs by 5 percent.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of California. I yield to the gentleman from California.

Mr. CLAUSEN. I thank the gentleman for yielding.

I think the distinguished chairman makes an excellent point. I would remind our colleagues that in the basic legislation itself there has been a very substantial increase in the overall funding commitment.

In addition, this amendment would alter the approach in existing law whereby the variations in Federal share have been based on transportation priorities.

□ 2300

Also, the amendment has the potential of injecting a new factor subject to the discretion of a Cabinet department. There could be variations and distortions as well as a loss of predictability.

We already amended this bill to address the Federal matching issue, and we dealt with the fund distribution issue from a donor-donee standpoint.

So the amendment would complicate the bill accordingly. Therefore, I am inclined to supoport the position of the chairman in opposition to the amendment.

Mr. EDGAR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, if the author of the amendment would rise for a moment, I would like to just have a colloquy with the gentleman.

I happen to think that the gentleman's concept and his idea is a good one. I think what the gentleman is trying to do is to attempt to help write into this legislation some jobs legislation. I just want to be clear that the suggestion of the gentleman is that it be 25 percent of the local match, not the 25 percent local match, and that means that if it was 90–10, it would be 25 percent of the 10 percent that the local would have to put up; is that not correct?

Mr. ECKART. That is correct. In that instance, the local's match would be reduced by 2 percent, so the local government would be able to acquire the 90 percent of the fund by raising only 8 percent; in effect enabling more local governments to qualify for more Federal funds.

Mr. EDGAR. I just want to be clear on that. I have some problems in accepting the amendment for myself, simply because of some other intentions that we are trying to put together in this highway, bridge, and public transit bill and what it does to some of the formulas. I think cost-sharing is very important; but I think the gentleman raises an important question for all of us to consider. As we develop jobs legislation, how do we target jobs

legislation into areas of economic distress?

I think that the guidelines that the gentleman is suggesting are good ones. I am not certain that this is the right legislation to put it on, but I think the gentleman's amendment is a positive contribution to the debate.

I would hope as we develop jobs legislation that we will look at the gentleman's amendment and the amendment of the gentleman from California, Mr. LEON PANETTA, and look at ways in which we can target jobs to the structurally unemployed, those that lack skills.

I thank the gentleman for his concern for that group of people in areas of economic distress that have the greatest need.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ECKART).

The question was taken; and on a division (demanded by Mr. ECKART) there were—ayes 12, noes 41.

So the amendment was rejected.

AMENDMENTS OFFERED BY MR. SKEEN

Mr. SKEEN. Mr. Chairman, I offer two amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. SKEEN: On page 83, strike lines 1 through 7, and redesignate the succeeding subsections accordingly.

On page 85, strike lines 3 through 10, and redesignate the succeeding sections accordingly.

Mr. SKEEN (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

Mr. SKEEN. Mr. Chairman, I want to begin by apologizing to the body for the attempt earlier to have the words and music of this song played at the wrong dance hall; but now some 4 hours later that we are in the right section, I would like to explain quickly exactly what these two amendments do.

Mr. Chairman, one of these amendments strikes the committee amendment to the Surface Transportation Act of 1982, which bars the Secretary of Transportation from approving highway projects in "any State whose laws do not constitute a substantial deterrent to violations" of the speed limit. And the other strikes the committees amendment which authorize the appropriations of $20 million in fiscal year 1984 and fiscal year 1985 for "enforcing the 55-mile-per-hour speed limit."

Mr. Chairman, to pass the highway bill with these provisions as now written is inherently wrong. Who are we to tell State governments what laws are a substantial deterrent to violations and which laws are not. For the Federal Government to tell State governments what laws to pass is totally foreign to the constitutional guarantee that the States shall retain sovereignty in areas not specifically delegated to the Congress. And the fact that the Federal Government now enforces the so-called national speed limit by threatening to withhold highway funds unless the law is followed means very simply that our Government is engaged in blackmail.

Mr. Chairman, this language is vague and obviously discretionary. This sort of thinking seems to pervade the minds of those people who have not taken the trouble to question whether the 55-mile-per-hour speed limit experiment has worked. It is certainly not clear to me that it has worked. It is certainly not clear to the Reagan administration that the experiment has worked. So that is why I stand here today, and that is why my colleague from Illinois (Mr. DAN CRANE) has introduced legislation, and that is why there will continue to be legislation aimed at ending this experiment.

But regardless of the merit of this experiment, there can be no logical reason to add another layer of Federal Government blackmail to the ones already imposed in connection with the 55-mile-per-hour speed experiment. We can and must take steps to insure that our States are not required to bend further under the provisions of the Federal Government as frantic efforts are made to make this experiment work. Mr. Chairman, I urge the adoption of my amendments.

Mr. HOWARD. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, in the mid-seventies during the first energy crisis, Congress passed what is called the Federal 55-mile-an-hour speed limit. This was done mainly at that time for the purpose of being able to save gasoline and to cut down on the use of it at a time when we had an energy problem. We still have an energy problem. We will have an energy problem for many years to come.

It was thought also as a spotlight to this that there might be some saving of lives involved in it. What does the record show? The record shows that with the limited adherence that there is across this country to the 55-mile-an-hour speed limit, and it is limited, what we have seen since the passage of this legislation is on the high speed highways where we have previously had an average speed of 67 miles an hour, it is down to an average speed of 61 miles an hour; but what has that limited adherence done? Has it saved fuel? It has. Every single day it shows a savings of 200,000 barrels or 8,400,000 gallons of gasoline; so it has served that purpose.

On the side, what has it done to safety? It has done to safety this: Almost 10,000 lives a year have been saved. Over 50,000 American citizens are alive today who would not be alive today if we had not passed that.

Besides that, each year due to this law, we have 90,000 fewer paralyzing back injuries with all that that costs in monetary and personal anguish for individuals and their relatives and families.

Besides that, we have a 70-percent decline in severe head injuries. The AMA stated a few years ago that the 55-mile-an-hour speed limit is the major reason for the reduction of epilepsy in this country. Epilepsy, which is latent in all of us, is brought about by traumatic head injuries. We have seen that the 55-mile-an-hour speed limit is the reason for this.

In the States that have lax enforcement, as of a couple years ago the last figures we saw, like Wyoming, have the highest death rate in the Nation on the highways.

□ 2310

States with strong enforcement, such as my own State of New Jersey, have the lowest death rate. The people approve of this. The reason we have the language about substantial compliance is this: We have to have the Governor certify that he is "enforcing the law." We have in some of our States legislation where they did not eliminate 55, but from 55 miles an hour to 70 miles an hour they say that no one may be fined more than $5.

That is enforcement?

They also say that up to 70 miles an hour the person is not even charged with a moving violation for speeding. The only charge that can be made is the charge of not saving fuel. That is why we have this in there.

So I think it would be disastrous, with the people supporting this, for the 90,000 Americans who would not have severe, paralyzing back injuries, for the 70-percent decline in head injuries, for the almost 10,000 lives per year that can be saved.

I urge the committee to vote down both of these amendments en bloc and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendments offered by the gentleman from New Mexico (Mr. SKEEN).

The amendments were rejected.

Mr. JONES of Oklahoma. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time in order to enter into a brief colloquy with the distinguished subcommittee chairman on the subject of highway safety programs.

Mr. Chairman, I rise to bring to your attention the urgent need for continued financing of highway safety programs. Each year more than 55,000 Americans die in motor vehicle-related accidents. The cost to society of these deaths is estimated at over $20 billion annually. Currently we have authorized the National Highway Traffic Safety Administration to spend $131 million in 1983 and 1984 on highway safety programs, and a further $25 million in 1983 and $50 million in 1984, on incentive grants to the States to combat drunk driving. Furthermore, the Federal Highway Administration is authorized to spend $13 million in 1983 and $23 million in 1984 and 1985, on its highway safety programs. These programs are designed to educate the American driver about the hazards and horrible results of automobile accidents. I know all my colleagues are aware of the increasing public outcry against drunk driving, and I am sure you will agree that we can do more to combat the senseless killings and injuries which occur daily on our Nation's highways. It is my hope that a portion of this tax will be used to increase efforts to prevent highway deaths, through increased spending on the NHTSA and FHA programs.

I am not satisfied that we are doing enough in highway safety at this point. I would like to see some indication from this body that the administration should put some of these funds into highway safety and prevention.

Mr. Chairman, I would ask the distinguished subcommittee chairman for his views.

Mr. ANDERSON. Mr. Chairman, will the gentleman yield to me?

Mr. JONES of Oklahoma. I yield to the gentleman from California.

Mr. ANDERSON. I thank the gentleman for yielding.

Mr. Chairman, I completely agree with the sentiments of the gentleman from Oklahoma. I assure him and all the members that we will carefully consider the levels of funding of the NHTSA and FHA programs when we take up the DOT authorization, with an eye toward increasing highway safety and reducing the cost to society of highway injuries and deaths.

Mr. JONES of Oklahoma. I thank the gentleman.

Mr. HOWARD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman and Members of the Committee: This is to thank you for your patience. This is, overall, I believe, an excellent bill, a 4-year, $71-billion piece of legislation that is going to help the economy, going to help highway safety all across this country.

But before we leave this and go on to the Ways and Means Committee section, our Committee on Public Works and Transportation, the committee I joined 18 years ago, found that it was an effective, cooperative committee mainly because of the personnel on the committee, the members, and staff.

This piece of legislation, which I believe is landmark legislation, is the result of one of our members who served on this committee for more than the 18 years that I have been a Member of this body, a most cooperative productive Member who has never made an enemy on the committee or off the committee; a Member whose friendship we all cherish, whose expertise and dedication we all admire, whose presence we will all miss.

I refer to our friend, the ranking minority member of the full committee who is participating in this as his last legislative act of his congressional career, the gentleman from California, DON CLAUSEN.

DON, you have been wonderful. We all appreciate it. This bill is for you.

Mr. MINETA. Mr. Chairman, I move to strike the requisite number of words.

I do so, Mr. Chairman, for the purpose of entering into a colloquy with the distinguished chairman of the Subcommittee on Surface Transportation of the Committee on Public Works and Transportation.

As the leadership of the House Committee on Public Works and Transportation is aware, I have suggested, during the committee's deliberations, an amendment to this highway legislation restoring to the District of Columbia the one-half percent minimum apportionment for its primary system that it received under Federal highways laws until 1973. As a matter of basic equity, it would seem only fair to me, therefore, for the one-half percent to be restored to the District.

The highways and bridges in the Nation's Capital are in a critical state of disrepair. The primary highways in the District are particularly in need of work. I would urge as a matter of fairness that an effort be made to let the District go ahead with its program to perform this work.

Since the bill introduced by the Senate Committee on Environment and Public Works has this one-half percent restoration provision in it, I would ask that the chairman and the committee leadership give every consideration to agreeing to this provision.

Mr. ANDERSON. Mr. Chairman, will the gentleman yield?

Mr. MINETA. I would be more than pleased to yield to my subcommittee chairman.

Mr. ANDERSON. I thank the gentleman for yielding.

Mr. Chairman, I understand the Member's concern on this matter, and the issue of fairness to the District, and will make every effort to favorably consider this matter in conference.

Mr. MINETA. I thank the distinguished chairman for his assurance that he will consider this matter.

AMENDMENT OFFERED BY MR. ROSTENKOWKI

Mr. ROSTENKOWSKI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROSTENKOWSKI:

TITLE V—HIGHWAY REVENUE ACT OF 1982

Subtitle A—Short Title; Table of Contents; Amendment of 1954 Code

SEC. 501. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Highway Revenue Act of 1982".

(b) TABLE OF CONTENTS.—

TITLE V—HIGHWAY REVENUE ACT OF 1982

Subtitle A—Short Title; Table of Contents; Amendment of 1954 Code

Sec. 501. Short title; table of contents.
Sec. 502. Amendment of 1954 Code.

Subtitle B—Tax Changes

Sec. 511. Motor fuel taxes.
Sec. 512. Excise tax on heavy trucks.
Sec. 513. Heavy truck use tax.
Sec. 514. Taxes on heavy truck tires.
Sec. 515. Repeal of tax on lubricating oil.
Sec. 516. Period taxes and exemptions in effect.
Sec. 517. Treatment of certain motor carrier operating authorities acquired by taxpayers other than corporations.

Subtitle C—Floor Stock Provisions

Sec. 521. Floor Stocks taxes.
Sec. 522. Floor stocks refunds.
Sec. 523. Definitions and special rules.

Subtitle D—Highway Trust Fund; Mass Transit Account

Sec. 531. 4-year extension of Highway Trust Fund; codification of Trust Fund in Internal Revenue Code of 1954; establishment of Mass Transit Account.

SEC. 502. AMENDMENT OF 1954 CODE

Except as otherwise expressly provided therein, whenever in subtitle B an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

Subtitle B—Tax Changes

SEC. 511. MOTOR FUEL TAXES

(a) TAXES ON GASOLINE, DIESEL FUEL, AND SPECIAL MOTOR FUELS INCREASED FROM 4 CENTS A GALLON TO 9 CENTS A GALLON.—

(1) GASOLINE TAX.—Subsection (a) of section 4081 (relating to tax on gasoline) is amended by striking out "4 cents a gallon" and inserting in lieu thereof "9 cents a gallon".

(2) DIESEL FUEL AND SPECIAL MOTOR FUELS.—Section 4041 (relating to tax on diesel fuel and special motor fuels) is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a) DIESEL FUEL AND SPECIAL MOTOR FUELS.—

"(1) DIESEL FUEL.—There is hereby imposed a tax of 9 cents a gallon on any liquid (other than any product taxable under section 4081)—

"(A) sold by any person to an owner, lessee, or other operator of a diesel-powered

highway vehicle for use as a fuel in such vehicle, or

"(B) used by any person as a fuel in a diesel-powered highway vehicle unless there was a taxable sale of such liquid under subparagraph (A).

"(2) SPECIAL MOTOR FUELS.—There is hereby imposed a tax of 9 cents a gallon on benzol, benzene, naphtha, liquefied petroleum gas, casing head and natural gasoline, or any other liquid (other than kerosene, gas oil, or fuel oil, or any product taxable under section 4081 or paragraph (1) of this subsection)—

"(A) sold by any person to an owner, lessee, or other operator of a motor vehicle or mototboat for use as a fuel in such motor vehicle or motorboat, or

"(B) used by any person as a fuel in a motor vehicle or motorboat unless there was a taxable sale of such liquid under subparagraph (A)."

(b) EXEMPTION FOR METHANOL AND ETHANOL FUELS.—

(1) IN GENERAL.—Section 4041 is amended by adding at the end of the subsection (b) inserted by subsection (c) of this section the following new paragraph:

"(2) QUALIFIED METHANOL AND ETHANOL FUEL.—

"(A) IN GENERAL.—No tax shall be imposed by subsection (a) on any qualified methanol or ethanol fuel.

"(B) QUALIFIED METHANOL OR ETHANOL FUEL.—The term 'qualified methanol or ethanol fuel' means any liquid at least 85 percent of which consists of methanol, ethanol, or other alcohol produced from a substance other than petroleum.

"(C) TERMINATION.—On and after October 1, 1988, subparagraph (A) shall not apply."

(2) COORDINATION WITH CREDIT.—Subsection (c) of section 44F (relating to coordination of credit for alcohol used as a fuel with exemption from excise tax) is amended by striking out "section 4041(k) or 4081(c)" and inserting in lieu thereof "subsection (b)(2) or (k) of section 4041 or section 4081(c)".

(c) EXEMPTION FOR OFF-HIGHWAY BUSINESS USE.—

(1) GASOLINE.—Subsection (a) of section 6421 (relating to nonhighway use of gasoline) is amended by striking out the first sentence and inserting in lieu thereof the following: "Except as provided in subsection (i), if gasoline is used in an off-highway business use, the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the amount determined by multiplying the number of gallons so used by the rate at which tax was imposed on such gasoline under section 4081."

(2) DIESEL FUEL AND SPECIAL MOTOR FUELS.—Section 4041 is amended by inserting after subsection (a) the following new subsection:

"(b) EXEMPTION FOR OFF-HIGHWAY BUSINESS USE; EXEMPTION FOR QUALIFIED METHANOL AND ETHANOL FUEL.—

"(1) EXEMPTION FOR OFF-HIGHWAY BUSINESS USE.—

"(A) IN GENERAL.—No tax shall be imposed by subsection (a) on liquids sold for use or used in an off-highway business use.

"(B) TAX WHERE OTHER USE.—If a liquid on which no tax was imposed by reason of subparagraph (A) is used otherwise than in an off-highway business use, a tax shall be imposed by paragraph (1)(B) or (2)(B) of subsection (a) (whichever is appropriate).

"(C) OFF-HIGHWAY BUSINESS USE DEFINED.—For purposes of this subsection, the term 'off-highway business use' has the meaning given to such term by section 6421(d)(2)."

(3) CLERICAL AMENDMENTS.—

(A) Subparagraphs (A) and (B) of section 6421(d)(2) are each amended by striking out "qualified business use" and inserting in lieu thereof "off-highway business use".

(B) The heading for paragraph (2) of section 6421(d) is amended by striking out "QUALIFIED" and inserting in lieu thereof "OFF-HIGHWAY".

(d) RATES OF TAX FOR GASOHOL.—

(1) AMENDMENTS OF SECTION 4081.—

(A) IN GENERAL.—Paragraph (1) of section 4081(c) (relating to gasoline mixed with alcohol) is amended by striking out "no tax shall be imposed by this section on the sale of any gasoline" and inserting in lieu thereof "subsection (a) shall be applied by substituting '5 cents' for '9 cents' in the case of the sale of any gasoline".

(B) TREATMENT OF LATER SEPARATION.—

(i) Paragraph (2) of section 4081(c) is amended by striking out "tax was not imposed by reason of this subsection" and inserting in lieu thereof "tax was imposed under subsection (a) at the rate of 5 cents a gallon by reason of this subsection".

(ii) Paragraph (2) of section 4081(c) is amended by adding at the end thereof the following new sentence: "The amount of tax imposed on any sale of such gasoline by such person shall be 4 cents a gallon."

(C) TERMINATION.—Paragraph (4) of section 4081(c) is amended by striking out "December 31, 1992" and inserting in lieu thereof "September 30, 1988".

(2) AMENDMENT OF SECTION 4041.—Subsection (k) of section 4041 (relating to fuels containing alcohol) is amended to read as follows:

"(k) FUELS CONTAINING ALCOHOL.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, in the case of the sale or use of any liquid fuel at least 10 percent of which consists of alcohol (as defined in section 4081(c)(3))—

"(A) subsection (a) shall be applied by substituting '5 cents' for '9 cents' each place it appears, and

"(B) no tax shall be imposed by subsection (c).

"(2) LATER SEPARATION.—If any person separates the liquid fuel from a mixture of the liquid fuel and alcohol to which paragraph (1) applied, such separation shall be treated as a sale of the liquid fuel. Any tax imposed on such sale shall be reduced by the amount (if any) of the tax imposed on the sale of such mixture.

"(3) TERMINATION.—Paragraph (1) shall not apply to any sale or use after September 30, 1988."

(3) TERMINATION OF INCOME TAX CREDIT.—Paragraph (1) of section 44E(f) (relating to termination of credit for alcohol used as a fuel) is amended by striking out "December 31, 1992" and inserting in lieu thereof "September 30, 1988".

(4) AMENDMENTS OF SECTION 6427.—Subsection (f) of section 6427 is amended to read as follows:

"(f) GASOLINE USED TO PRODUCE CERTAIN ALCOHOL FUELS.—

"(1) IN GENERAL.—Except as provided in subsection (i), if any gasoline on which a tax imposed by section 4081 at the rate of 9 cents a gallon is used by any person in producing a mixture described in section 4081(c) which is sold or used in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the amount determined at the rate of 4 cents a gallon. The preceding sentence shall not apply with respect to any mixture sold or used after September 30, 1988.

"(2) COORDINATION WITH OTHER REPAYMENT PROVISIONS.—No amount shall be payable under paragraph (1) with respect to any gasoline with respect to which an amount is payable under subsection (d) or (e) of this section or under section 6420 or 6421."

(e) USE IN CERTAIN TAXICABS.—

(1) IN GENERAL.—Paragraph (1) of section 6427(e) (relating to use in certain taxicabs) is amended by striking out "an amount equal to the aggregate amount of the tax imposed on such gasoline or fuel" and inserting in lieu thereof "an amount determined at the rate of 4 cents a gallon".

(2) EXTENSION OF REPAYMENT.—Paragraph (3) of section 6427(e) (relating to termination) is amended by striking out "December 31, 1982" and inserting in lieu thereof "September 30, 1984".

(3) STUDY.—The Secretary of the Treasury or his delegate shall conduct a study of the exemption from fuels tax provided to taxicabs by section 6427(e) of the Internal Revenue Code of 1954. Not later than January 1, 1984, the Secretary shall transmit a report on the study conducted under the preceding sentence to the Congress, together with such recommendations as he may deem advisable.

(f) REFUND OF MOTOR FUEL TAXES TO AERIAL AND OTHER APPLICATORS OF AGRICULTURAL SUBSTANCES.—Paragraph (4) of section 6420(c) (defining use on a farm for farming purposes) is amended to read as follows:

"(4) CERTAIN FARMING USE OTHER THAN BY OWNER, ETC.—In applying paragraph (3)(A) to a use on a farm for any purpose described in paragraph (3)(A) by any person other than the owner, tenant, or operator of such farm—

"(A) the owner, tenant, or operator of such farm shall be treated as the user and ultimate purchaser of the gasoline, except that

"(B) if—

"(i) the person so using the gasoline is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the gasoline, and

"(ii) the person described in subparagraph (A) waives (at such time and in such form and manner as the Secretary shall prescribe) his right to be treated as the user and ultimate purchaser of the gasoline,

then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such gasoline on a farm for farming purposes."

(g) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) GASOLINE USED IN NONCOMMERICAL AVIATION.—Paragraph (3) of section 4041(c) (relating to noncommerical aviation) is amended to read as follows:

"(3) RATE OF TAX.—The rate of tax imposed by paragraph (2) on any gasoline in the excess of 12 cents a gallon over the rate at which tax was imposed on such gasoline under section 4081."

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (2) of section 6416(b) is amended by striking out "section 4041(a)(1) or (b) (1)" and inserting in lieu thereof "paragraph (1) (A) of (2) (A) of section 4041 (a)".

(B) Subsection (a) of section 6427 is amended by striking out "section 4041(a), (b) or (c)" and inserting in lieu thereof "section 4041(a) or (c)"

(C) Paragraph (1) of section 6427 (b) is amended by striking out "subsection (a) or (b) of section 4041" each place it appears

and inserting in lieu thereof "subsection (a) of section 4041".

(D) Subsection (c) of section 6427 is amended by striking out "section 4941(a), (b) or (c)" and inserting in lieu thereof "section 4041(a) or (c)".

(h) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on April 1, 1983.

(2) FOR SUBSECTION (e) (2).—The amendment made by subsection (e) (2) shall take effect on January 1, 1983.

SEC. 52. EXCISE TAX ON HEAVY TRUCKS.

(a) CHANGES IN EXISTING MANUFACTURERS EXCISE TAX.—

(1) INCREASE IN THRESHOLD WEIGHTS.—Paragraph (2) of section 4061(a) (relating to exclusion for light-duty trucks, etc.) is amended to read as follows:

"(2) EXCLUSION FOR TRUCKS WITH GROSS VEHICLE WEIGHT OF 33,000 POUNDS OR LESS, AND CERTAIN TRAILERS.—

"(A) The tax imposed by paragraph (1) shall not apply to automobile truck chassis and automobile truck bodies, suitable for use with a vehicle which has a gross vehicle weight of 33,000 pounds or less (as determined under regulations prescribed by the Secretary).

"(B) Tax imposed by paragraph (1) shall not apply to truck trailer and semitrailer chassis and bodies, suitable for use with a trailer or semitrailer which has a gross vehicle weight of 26,000 pounds or less (as determined under regulations prescribed by the Secretary)."

(2) REPEAL OF TAX ON PARTS AND ACCESSORIES, TERMINATION OF TAX IMPOSED AT MANUFACTURERS LEVEL.—Section 4061 is amended by adding at the end thereof the following new subsection:

(c) TERMINATION.—

"(1) TAX ON PARTS AND ACCESSORIES.—On and after the day after the date of the enactment of this subsection, the tax imposed by subsection (b) shall not apply.

"(2) TAX ON TRUCKS.—On and after April 1, 1983, the tax imposed by subsection (a) shall not apply."

"(3) EXEMPTION OF CERTAIN RAIL TRAILERS AND VANS.—Subsection (a) of section 4063 (relating to exemptions for specified articles) is amended by adding at the end thereof the following new paragraph:

"(8) RAIL TRAILERS AND RAIL VANS.—The tax imposed under section 4061 shall not apply in the case of—

"(A) any chassis or body of a trailer or semitrailer which includes as an integral part one or more rail axles and is designed primarily for use on a railroad, and

"(B) any parts or accessories designed primarily for use on or in connection with an article described in subparagraph (A).

For purposes of this paragraph, a piggyback trailer or semitrailer shall not be treated as designed primarily for use on a railroad."

(4) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the day after the date of the enactment of this Act.

(b) IMPOSITION OF RETAIL TAX ON SALE OF HEAVY TRUCKS AND TRAILERS.—

(1) In General.—Chapter 31 is amended by adding at the end thereof the following new subchapter:

"Subchapter B—Heavy Trucks and Trailers

"Sec. 4051. Imposition of tax on heavy trucks and trailers sold at retail.

"Sec. 4052. Definitions and special rules.

"Sec. 4053. Exemptions.

"SEC. 4051. IMPOSITION OF TAX ON HEAVY TRUCKS AND TRAILERS SOLD AT RETAIL

"(a) IMPOSITION OF TAX.—

"(1) IN GENERAL.—There is hereby imposed on the first retail sale of the following articles (including in each case parts or accessories sold on or in connection therewith or with the sale thereof) a tax of 12 percent of the amount for which the article is so sold:

"(A) Automobile truck chassis.

"(B) Automobile truck bodies.

"(C) Truck trailer and semitrailer chassis.

"(D) Truck trailer and semitrailer bodies.

"(E) Tractors of the kind chiefly used for highway transportation in combination with a trailer or semitrailer.

"(2) EXCLUSION FOR TRUCKS WEIGHING 33,000 POUNDS OR LESS.—The tax imposed by paragraph (1) shall not apply to automobile truck chassis and automobile truck bodies, suitable for use with a vehicle which has a gross vehicle weight of 33,000 pounds or less (as determined under regulations prescribed by the Secretary).

"(3) EXCLUSION FOR TRAILERS WEIGHING 26,000 POUNDS OR LESS.—The tax imposed by paragraph (1) shall not apply to truck trailer and semitrailer chassis and bodies, suitable for use with a trailer or semitrailer which has a gross vehicle weight of 26,000 pounds or less (as determined under regulations prescribed by the Secretary).

"(4) SALE OF TRUCKS, ETC., TREATED AS SALE OF CHASSIS AND BODY.—For purposes of this subsection, a sale of an automobile truck or truck trailer or semitrailer shall be considered to be a sale of a chassis and of a body described in paragraph (1).

"(b) SEPARATE PURCHASE OF TRUCK OR TRAILER AND PARTS AND ACCESSORIES THEREFOR.—Under regulations prescribed by the Secretary—

"(1) IN GENERAL.—If the owner, lessee, or operator of a vehicle taxable under subsection (a) installs, not later than the date 6 months after the date he placed such vehicle in service, any part or accessory on such vehicle, there is hereby imposed on such installation a tax equal to 12 percent of the price of such part or accessory and its installation.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply if—

"(A) the vehicle taxable under subsection (a) is a vehicle which is fully equipped for service,

"(B) the part or accessory installed is a replacement, or

"(C) the aggregate price of the parts and accessories (and their installation) described in paragraph (1) does not exceed $200 (or such other amount or amounts as the Secretary may by regulations prescribe).

"(c) TERMINATION.—On and after October 1, 1988, the taxes imposed by this section shall not apply.

"(d) TRANSITIONAL RULE.—In the case of any article taxable under subsection (a) on which tax was paid under section 4061(a), subsection (a) shall be applied by substituting '2 percent' for '12 percent'.

"SEC. 4052. DEFINITIONS AND SPECIAL RULES.

"(a) FIRST RETAIL SALE.—For purposes of this subchapter—

"(1) IN GENERAL.—The term 'first retail sale' means the first sale, for a purpose other than for resale, after manufacture, production, or importation.

"(2) LEASES CONSIDERED AS SALES.—Rules similar to the rules of section 4217 shall apply.

"(3) USE TREATED AS SALE.—

"(A) IN GENERAL.—If any person uses an article taxable under section 4051 before the first retail sale of such article, then such person shall be liable for tax under section 4051 in the same manner as if such article were sold at retail by him.

"(B) EXEMPTION FOR USE IN FURTHER MANUFACTURE.—Subparagraph (A) shall not apply to use of an article as material in the manufacture or production of, or as a component part of, another article taxable under section 4051 to be manufactured or produced by him.

"(C) COMPUTATION OF TAX.—In the case of any person made liable for tax by subparagraph (A), the tax shall be computed on the price at which similar articles are sold at retail in the ordinary course of trade, as determined by the Secretary.

"(b) DETERMINATION OF PRICE.—

"(1) IN GENERAL.—In determining price for purposes of this subchapter—

"(A) there shall be included any charge incident to placing the article in condition ready for use,

"(B) there shall be excluded—

"(i) the amount of the tax imposed by this subchapter,

"(ii) if stated as a separate charge, the amount of any retail sales tax imposed by any State or political subdivision thereof or the District of Columbia, whether the liability for such tax is imposed on the vendor or vendee, and

"(iii) the fair market value (including any tax imposed by section 4071) at retail of any tires (not including any metal rim or rim base), and

"(C) the price shall be determined without regard to any trade-in.

"(2) SALES NOT AT ARM'S LENGTH.—In the case of any article sold (otherwise than through an arm's-length transaction) at less than the fair market price, the tax under this subchapter shall be computed on the price for which similar articles are sold at retail in the ordinary course of trade, as determined by the Secretary.

"(c) CERTAIN COMBINATIONS NOT TREATED AS FURTHER MANUFACTURE.—For purposes of this subchapter (other than subsection (a)(3)(B), a person shall not be treated as engaged in the manufacture of any article merely by reason of combining such article with an item described in section 4063(d).

"(d) CERTAIN OTHER RULES MADE APPLICABLE.—Under regulations prescribed by the Secretary, rules similar to the rules of—

"(1) subsections (c) and (d) of section 4216 (relating to partial payments), and

"(2) section 4222 (relating to registration), shall apply for purposes of this subchapter.

"SEC. 4053. EXEMPTIONS.

"(a) EXEMPTION OF SPECIFIED ARTICLES.—No tax shall be imposed under section 4051 on any article specified in subsection (a) of section 4063.

"(b) CERTAIN EXEMPTIONS MADE APPLICABLE.—The exemptions provided by section 4221 (a) are hereby extended to the tax imposed by section 4051."

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) Chapter 31 is amended by striking out the chapter heading and inserting in lieu thereof the following:

"Chapter 31—RETAIL EXCISE TAXES

"Subchapter A. Special fuels.

"Subchapter B. Heavy trucks and trailers.

"Subchapter A—Special Fuels".

(B) The table of chapters for subtitle D is amended by striking out the item relating to

chapter 31 and inserting in lieu thereof the following new item:

"Chapter 31. RETAIL EXCISE TAXES.".

(C) Paragraph (2) of section 6416(b), as amended by this Act, is amended by inserting "or under section 4051" after "section 4041(a)".

(D) Paragraph (1) of section 6416(a) is amended by striking out "chapter 31 (special fuels)" and inserting in lieu thereof "chapter 31 (relating to retail excise taxes)".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on April 1, 1983.

SEC. 513. HEAVY TRUCK USE TAX.

(a) INCREASE IN RATE OF TAX.—Subsection (a) of section 4481 (relating to imposition of tax) is amended to read as follows:

"(a) IMPOSITION OF TAX.—A tax hereby imposed on the use of any highway motor vehicle which (together with the semitrailers and trailers customarily used in connection with highway motor vehicles of the same type as such highway motor vehicle) has a taxable gross weight of at least 33,000 pounds at the rate specified in the following table:

"Taxable gross weight		Rate of tax
At least	But less than	
33,000 pounds	55,000 pounds	$60 a year, plus $20 for each 1,000 pounds or fraction thereof in excess of 33,000 pounds.
55,000 pounds	80,000 pounds	$500 a year, plus $60 for each 1,000 pounds or fraction thereof in excess of 55,000 pounds.
80,000 pounds or more		$2,000 a year."

(b) EXEMPTION WHERE TRUCK USED FOR LESS THAN 2,500 MILES ON PUBLIC HIGHWAYS.—Section 4483 (relating to exemptions from highway use tax) is amended by adding after subsection (c) thereof the following new subsection:

"(d) EXEMPTION FOR TRUCKS USED FOR LESS THAN 2,500 MILES ON PUBLIC HIGHWAYS.—

"(1) SUSPENSION OF TAX.—

"(A) IN GENERAL.—If—

"(i) it is reasonable to expect that the use of any highway motor vehicle on public highways during any taxable period will be less than 2,500 miles, and

"(ii) the owner of such vehicle furnishes such information as the Secretary may by forms or regulations require with respect to the expected use of such vehicle,

then the collection of the tax imposed by section 4481 with respect to the use of such vehicle shall be suspended during the taxable period.

"(B) SUSPENSION CEASES TO APPLY WHERE USE EXCEEDS 2,500 MILES.—Subparagraph (A) shall cease to apply with respect to any highway motor vehicle whenever the use of such vehicle on public highways during the taxable period exceeds 2,500 miles.

"(2) EXEMPTION.—If—

"(A) the collection of the tax imposed by section 4481 with respect to any highway motor vehicle is suspended under paragraph (1),

"(B) such vehicle is not used during the taxable period on public highways for more than 2,500 miles, and

"(C) except as otherwise provided in regulations, the owner of such vehicle furnishes such information as the Secretary may require with respect to the use of such vehicle during the taxable period,

then no tax shall be imposed by section 4481 on the use of such vehicle for the taxable period.

"(3) REFUND WHERE TAX PAID AND VEHICLE NOT USED FOR MORE THAN 2,500 MILES.—If—

"(A) the tax imposed by section 4481 is paid with respect to any highway motor vehicle for any taxable period, and

"(B) the requirements of subparagraphs (B) and (C) of paragraph (2) are met with respect to such taxable period,

the amount of such tax shall be credited or refunded (without interest) to the person who paid such tax.

"(4) RELIEF FROM LIABILITY FOR TAX UNDER CERTAIN CIRCUMSTANCES WHERE TRUCK IS TRANSFERRED.—Under regulations prescribed by the Secretary, the owner of a highway motor vehicle with respect to which the collection of the tax imposed by section 4481 is suspended under paragraph (1) shall not be liable for the tax imposed by section 4481 (and the new owner shall be liable for such tax) with respect to such vehicle if—

"(A) such vehicle is transferred to a new owner,

"(B) such suspension is in effect at the time of such transfer, and

"(C) the old owner furnishes such information as the Secretary by forms and regulations requires with respect to the transfer of such vehicle.

"(5) OWNER DEFINED.—For purposes of this subsection, the term 'owner' means, with respect to any highway motor vehicle, the person described in section 4481(b)."

(c) CLARIFICATION OF TRAILERS CUSTOMARILY USED IN CONNECTION WITH HIGHWAY MOTOR VEHICLES.—

(1) Subsection (c) of section 4482 is amended by adding at the end thereof the following new paragraph:

"(5) CUSTOMARY USE.—A semitrailer or trailer shall be treated as customarily used in connection with a highway motor vehicle if such vehicle is equipped to tow such semitrailer or trailer."

(2) The heading for subsection (c) of section 4482 is amended by inserting "AND SPECIAL RULE" after "DEFINITIONS".

"(d) SPECIAL RULE FOR TAXABLE PERIOD IN WHICH TERMINATION DATE OCCURS.—Section 4482 is amended by adding at the end thereof the following new subsection:

"(d) SPECIAL RULE FOR TAXABLE PERIOD IN WHICH TERMINATION DATE OCCURS.—In the case of the taxable period which ends on September 30, 1988, the amount of the tax imposed by section 4481 with respect to any highway motor vehicle shall be determined by reducing each dollar amount in the table contained in section 4481(a) by 75 percent."

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on January 1, 1984.

(2) SHORT TAXABLE PERIODS.—For purposes of subchapter D of chapter 36 of the Internal Revenue Code of 1954—

(A) the period beginning on July 1, 1983, and ending on December 31, 1983, and

(B) the period beginning on January 1, 1984, and ending on June 30, 1984,

shall each be treated as a taxable period.

(3) TRANSITIONAL RULE FOR FIRST SHORT PERIOD.—In the case of the taxable period beginning on July 1, 1983, the tax imposed by section 4481(a) of such code with respect to the use of any highway motor vehicle shall be determined by substituting "$1.50 for such period" for "$3.00 a year" in such section 4481(a).

(4) TRANSITIONAL RULE FOR SECOND SHORT PERIOD.—In the case of the taxable period beginning on January 1, 1984—

(A) the amount of the tax imposed by section 4481(a) of such Code (as amended by this section) on the use of any highway motor vehicle shall be determined by cutting in half each dollar amount in the table contained in such section 4481(a), and

(B) subsection (d) of section 4483 of such Code (as amended by subsection (b)) shall be applied by substituting "1,250" for "2,500" each place it appears.

(5) COORDINATION WITH INSTALLMENT PAYMENT OF TAX.—

(A) The Secretary of the Treasury or his delegate shall by forms or regulation provide for appropriate adjustments in the application of section 6156 of such Code with respect to the taxable periods referred to in paragraph (2).

(B) For purposes of subparagraph (A)—

(i) there shall be substituted for the table appearing in section 6156(a) of such Code the following table:

"If liability is incurred in—	The number of installments shall be—
July, August, September, January, February, or March.	2", and

(ii) in lieu of subsection (e) of such section 6156, this paragraph shall not apply to any liability for tax incurred in October, November, December, April, May, or June.

(f) STUDY OF ALTERNATIVES TO TAX ON USE OF HEAVY TRUCKS—

(1) IN GENERAL.—The Secretary of Transportation (in consultation with the Secretary of the Treasury) shall conduct a study of—

(A) alternatives to the tax on heavy vehicles imposed by section 4481(a) of the Internal Revenue Code of 1954, and

(B) plans for improving the collecting and enforcement of such tax and alternatives to such tax.

(2) ALTERNATIVES INCLUDED.—The alternatives studied under paragraph (1) shall include taxes based either singly or in suitable combinations on vehicle size or configuration; vehicle weight, both registered and actual operating weight; and distance traveled. Plans for improving tax collection and enforcement shall, to the extent practical, provide for Federal and State cooperation in such activities.

(3) CONSULTATION WITH STATE OFFICIALS AND OTHER AFFECTED PARTIES.—The study required under subsection (a) shall be conducted in consultation with State officials, motor carriers, and other affected parties.

(4) REPORT.—Not later than January 1, 1985, the Secretary of Transportation shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under paragraph (1) together with such recommendations as he may deem advisable.

SEC. 514. TAXES ON HEAVY TRUCK TIRES.

(a) GENERAL RULE.—Subsection (a) of section 4071 (relating to imposition and rate of tax on tires and tubes) is amended to read as follows:

"(a) IMPOSITION AND RATE OF TAX.—There is hereby imposed on the following articles, if wholly or in part made of rubber, sold by the manufacturer, producer, or importer a tax at the following rates:

"(1) Any tire of the type used on highway vehicles which weighs more than 100 pounds, 25 cents a pound.

"(2) Tread rubber, 25 cents a pound".

(b) EXEMPTION FOR TREAD RUBBER USED IN RECAPPING OR RETREADING TIRES WEIGHING 100 POUNDS OR LESS.—

(1) Subsection (c) of section 4073 (relating to exemption from tax on tread rubber in certain cases) is amended to read as follows:

"(c) EXEMPTION FROM TAX ON TREAD RUBBER IN CERTAIN CASES.—Under regulations prescribed by the Secretary, the tax imposed by section 4071(a)(2) shall not apply to tread rubber used by the manufacturer, producer, or importer (or sold by the manufacturer, producer, or importer for use) otherwise than in the recapping or retreading of any tire which (after recapping or retreading)—

"(1) is of the type used on highway vehicles, and

"(2) weighs more than 100 pounds.".

(2) Clause (i) of section 6416(b)(2)(G) (relating to specified uses and resales) is amended to read as follows:

"(i) used or sold for use otherwise than in the recapping or retreading of any tire which (after recapping or retreading)—

"(I) is of the type used on highway vehicles (as defined in section 4072(c)), and

"(II) weighs more than 100 pounds,".

(3) Subsection (d) of section 4222 (relating to registration in the case of certain other exemptions) is amended by inserting "4073(c)," after "4064(b)(1)(C),".

(c) TECHNICAL AND CLERICAL AMENDMENTS.—

(1) The first sentence of section 4071(b) is amended by striking out "or inner tube" and by striking out "or tube" each place it appears.

(2) Subsection (e) of section 4071 is amended—

(A) by striking out "or inner tubes (other than bicycle tires and inner tubes)", and

(B) by striking out "and inner tubes" in paragraphs (1) and (2).

(3) Subsection (b) of section 4218 is amended—

(A) by striking out "or inner tube", and

(B) by striking out "Except as provided in subsection (d), if" and inserting in lieu thereof "If".

(4)(A) The heading for part II of subchapter A of chapter 32 is amended by striking out "AND TUBES".

(B) The table of parts for subchapter A of chapter 32 is amended by striking out "and tubes" in the item relating to part II.

(5) The heading for subsection (b) of section 4218 is amended by striking out "and Tubes".

(6)(A) Section 4218 is amended by striking out subsection (d) and by redesignating subsection (e) as subsection (d).

(B) Subsection (a) of section 4218 is amended by striking out "(b), (c), or (d)" and inserting in lieu thereof "(b) or (c)".

(7)(A) Paragraph (2) of section 4221(e) is amended—

(i) by striking out "or inner tube" each place it appears; and

(ii) by striking out "or tube" each place it appears.

(B) The heading for paragraph (2) of section 4221(e) is amended by striking out "and tubes".

(8) Subsection (e) of section 4221 is amended by striking out paragraph (4) and by redesignating paragraphs (5) and (6) as paragraphs (3) and (4), respectively.

(9)(A) Subparagraph (A) of section 4221(e)(3), as redesignated by paragraph (8), is amended to read as follows:

"(A) the tax imposed by paragraph (1) of section 4071(a) shall not apply in the case of tires sold for use by the purchaser on or in connection with a qualified bus, and"

(B) Subparagraph (B) of section 4221(e)(3), as redesignated by paragraph (8), is amended by striking out "paragraph (4)" and inserting in lieu thereof "paragraph (2)".

(C) The heading for paragraph (3) of section 4221(e) as redesignated by paragraph (8), is amended by striking out ", tubes,".

(10)(A) Paragraph (1) of section 6412(a) is amended—

(i) by striking out "tubes," in the heading,

(ii) by striking out "4071(a)(1), (3), or (4)" and inserting in lieu thereof "4071(a)(1) or (2)", and

(iii) by striking out the last sentence.

(B) Subparagraph (A) of section 6412(a)(2) is amended by striking out "section 4071(a)(4)" and inserting in lieu thereof "section 4071(a)(2)".

(11) Subparagraph (G) of section 6416(b)(2) is amended by striking out "section 4071(a)(4)" and inserting in lieu thereof "section 4071(a)(2)".

(12) Subparagraph (L) of section 6416(b)(2) is amended to read as follows:

"(L) in the case of any tire taxable under paragraph (1) of section 4071(a), sold to any person for use as described in section 4221(e)(3)(A);".

(13) Subparagraph (M) of section 6416(b)(2) is amended by striking out "paragraph (4)" and inserting in lieu thereof "paragraph (2)".

(14)(A) Subparagraph (C) of section 6416(b)(3) is amended by striking out "or inner tube".

(B) Subparagraph (D) of section 6416(b)(3) is amended by striking out "section 4071(a)(4)" and inserting in lieu thereof "section 4071(a)(2)".

(C) Paragraph (3) of section 6416(b) is amended by striking out subparagraph (E), by adding "or" at the end of subparagraph (D), and by redesignating subparagraph (F) as subparagraph (E).

(15)(A) Subparagraph (A) of section 6416(b)(4) is amended by striking out "section 4071(a)(4)" and inserting in lieu thereof "section 4071(a)(2)".

(B) Paragraph (4) of section 6416(b) is amended by striking out "or inner tube" each place it appears.

(C) The heading for paragraph (4) of section 6416(b) is amended by striking out ", inner tubes".

(16)(A) Subsection (c) of section 6416 is amended—

(i) by striking out "OR INNER TUBES" in the heading, and

(ii) by striking out "or inner tubes" in the text.

(B) Paragraphs (1) and (2) of subsection (c) of section 6416 are amended to read as follows:

"(1) if such tires were taxable under section 4071 (relating to tax on tires), the purchase price (less the part of such price attributable to the metal rim or rim base); or

"(2) if such tires were taxable under section 4218 (relating to use by manufacturer, producer, or importer), the price (less the part of such price attributable to the metal rim or rim base) at which such or similar tires are sold, in the ordinary course of trade, by manufacturers, producers, or importers thereof, as determined by the Secretary."

(17) Subsection (b) of section 9502 is amended by inserting "and" at the end of paragraph (1), by striking out "; and" at the end of paragraph (2) and inserting in lieu thereof a period, and by striking out paragraph (3).

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold on or after January 1, 1984.

SEC. 515. REPEAL OF TAX ON LUBRICATING OIL.

(a) GENERAL RULE.—Subpart B of part III of subchapter A of chapter 32 (relating to tax on lubricating oil) is hereby repealed.

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (c) of section 4221 is amended by striking out "4083, or 4093" and inserting in lieu thereof "or 4083".

(2) Subsection (d) of section 4222 is amended by striking out "4093,".

(3) (A) Section 6206 is amended by striking out "4091 (with respect to payments under section 6424)," and by striking out "6424," each place it appears in the heading and the text.

(B) The table of sections for subchapter A of chapter 63 is amended by striking out "6424," in the item relating to section 6206.

(4) Paragraph (2) of section 6416(b) is amended—

(A) by striking out subparagraph (N),

(B) by striking out the next to the last sentence,

(C) by inserting "or" at the end of subparagraph (L), and

(D) by striking out "; or" at the end of subparagraph (M) and inserting in lieu thereof a period.

(5) Section 6424 (relating to lubricating oil used for certain nontaxable purposes) is hereby repealed.

(6) (A) Subsection (a) of section 39 is amended by striking out paragraph (3), by redesignating paragraph (4) as paragraph (3), and by inserting "and" at the end of paragraph (2).

(B) Subsection (b) of section 39 is amended—

(i) by striking out "section 6421, 6424, or 6427" and inserting in lieu thereof "section 6421 or 6427", and

(ii) by striking out "section 6421(i), 6424(f), or 6427(i)" and inserting in lieu thereof "section 6421(i) or 6427(i)".

(C) The heading for section 39 is amended by striking out ", special rules, and lubricating oil" and inserting in lieu thereof "and special fuels".

(D) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by striking out ", special fuels, and lubricating oil" in the item relating to section 39 and inserting in lieu thereof "and special fuels".

(E) Sections 874(a) and 6201(a)(4) are each amended by striking out ", special fuels, and lubricating oil" and inserting in lieu thereof "and special fuels".

(F) Paragraph (2) of section 882(c) is amended by striking out "and lubricating oil".

(7) Subparagraph (C) of section 6421(d)(2) is amended by striking out ", special motor fuels, and lubricating oil" and inserting in lieu thereof "and special motor fuels".

(8) Section 4101 is amended by striking out "or section 4091".

(9) Section 4102 is amended by striking out "or lubricating oils".

(10) Paragraph (9) of section 6504 is amended by striking out "6424 (relating to lubricating oil used for certain nontaxable purposes)," and by striking out "6424,".

(11)(A) Subsection (a) of section 6675 is amended by striking out "6424 (relating to lubricating oil used for certain nontaxble purposes),".

(B) Paragraph (1) of section 6675(b) is amended by striking out "6424,".

(C) The heading for section 6675 is amended by striking out "OR LUBRICATING OIL".

(D) The table of sections for subchapter B of chapter 68 is amended by striking out "or

lubricating oil" in the item relating to section 6675.

(12) Sections 7210, 7603, 7604, 7605, 7609(c)(1), and 7610(c) are each amended by striking out "6424(d)(2)," each place it appears.

(13) The table of subpart for part III of subchapter A of chapter 32 is amended by striking out the item relating to subpart B.

(14) The table of sections for subchapter B of chapter 65 is amended by striking out the item relating to section 6424.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to articles sold after the date of the enactment of this Act.

SEC. 516. PERIOD TAXES AND EXEMPTIONS IN EFFECT.

(a) PERIOD TAXES IN EFFECT.—

(1) SPECIAL FUELS TAX.—

(A) Subsection (a) of section 4041 (as amended by this Act) is amended by adding at the end thereof the following new paragraph:

"(3) TERMINATION.—On and after October 1, 1988, the taxes imposed by this subsection shall not apply."

(B) Subsection (e) of section 4041 is hereby repealed.

(2) TIRES AND TREAD RUBBER.—Subsection (d) of section 4071 is amended to read as follows:

"(d) TERMINATION.—On and after October 1, 1988, the taxes imposed by subsection (a) shall not apply."

(3) GASOLINE.—Subsection (b) of section 4081 is amended to read as follows:

"(b) TERMINATION.—On and after October 1, 1988, the taxes imposed by this section shall not apply."

(4) HIGHWAY USE TAX.—Sections 4481(e) and 4482(c)(4) are each amended by striking out "1984" each place it appears and inserting in lieu thereof "1988".

(5) FLOOR STOCKS TAXES.—Paragraph (1) of section 6412(a) (relating to floor stocks refunds) is amended—

(A) by striking out "1985" each place it appears and inserting in lieu thereof "1989" and

(B) by striking out "1984" each place it appears and inserting in lieu thereof "1988".

(6) OTHER PROVISIONS.—Paragraph (2) of section 6156(e) (relating to installment payments of tax on use of highway motor vehicles) and subsection (h) of section 6421 (relating to tax on gasoline used for certain nonhighway purposes or by local transit systems) are each amended by striking out "1984" and inserting in lieu thereof "1988".

(b) TERMINATION OF EXEMPTIONS.—

(1)(A) Subsection (f) of section 4041 is amended by adding at the end thereof the following new paragraph:

"(3) TERMINATION.—On and after October 1, 1988, paragraph (1) shall not apply."

(B) Subsection (g) of section 4041 is amended by adding at the end thereof the following new sentence: "Paragraphs (2) and (4) shall not apply on and after October 1, 1988."

(2) Subsection (a) of section 4221 (relating to certain tax resales) is amended by adding at the end thereof the following new sentence: "In the case of taxes imposed by section 4051, 4071, or 4081, paragraphs (4) and (5) shall not apply on and after October 1, 1988."

(3) Section 4483 (relating to exemption for highway use tax) is amended by adding after subsection (d) thereof the following new subsection:

"(e) TERMINATION OF EXEMPTIONS.—Subsections (a) and (c) shall not apply on and after October 1, 1988."

(4) Section 6420 (relating to gasoline used on farms) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) TERMINATION.—This section shall apply only with respect to gasoline purchased before October 1, 1988."

(5) Section 6427 is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) TERMINATION OF SUBSECTIONS (a), (b), (c), AND (d).—Subsections (a), (b), (c), and (d) shall only apply with respect to fuels purchased before October 1, 1988."

SEC. 517. TREATMENT OF CERTAIN MOTOR CARRIER OPERATING AUTHORITIES ACQUIRED BY TAXPAYERS OTHER THAN CORPORATIONS.

(a) GENERAL RULE.—Paragraph (2) of section 266(c) of the Economic Recovery Tax Act of 1981 (relating to stock acquisitions of motor carrier operating authorities) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) TREATMENT OF CERTAIN NONCORPORATE TAXPAYERS.—Under regulations prescribed by the Secretary of the Treasury or his delegate, and at the election of the holder of the authority, in any case in which—

"(i) a noncorporate taxpayer or group of noncorporate taxpayers on or before July 1, 1980, acquired in one purchase stock in a corporation which held, directly or indirectly, any motor carrier operating authority at the time of such acquisition, and

"(ii) the acquisition referred to in clause (i) would have satisfied the requirements of subparagraph (A) if the stock had been acquired by a corporation,

then, for purposes of subparagraphs (A) and (C), the noncorporate taxpayer or group of noncorporate taxpayers referred to in clause (i) shall be treated as a corporation. The preceding sentence shall apply only if such noncorporate taxpayer (or group of noncorporate taxpayers) on July 1, 1980, held stock constituting control (within the meaning of section 368(c) of the Internal Revenue Code of 1954) of the corporation holding (directly or indirectly) the motor carrier operating authority."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years ending after July 30, 1980.

Subtitle C—Floor Stock Provisions

SEC. 521. FLOOR STOCKS TAXES.

(a) 1983 TAX ON GASOLINE.—On gasoline subject to tax under section 4081 which, on April 1, 1983, is held by a dealer for sale, there is hereby imposed a floor stocks tax at the rate of 5 cents a gallon.

(b) 1984 TAX ON TIRES AND TREAD RUBBER.—On any article which would be subject to tax under paragraph (1) or (2) of section 4071(a) if sold by the manufacturer, producer, or importer on or after January 1, 1984, which on January 1, 1984, is held by a dealer and has not been used and is intended for sale, there shall be imposed a floor stocks tax equal to—

(1) in the case of an article taxable under paragraph (1) of section 4071(a), 15.25 cents a pound, and

(2) in the case of an article taxable under paragraph (2) of section 4071(a), 20 cents a pound.

In the case of tread rubber, the tax imposed by this subsection shall not apply in the case of any person if such person establishes, to the satisfaction of the Secretary of the Treasury or his delegate, that all tread rubber held by him on January 1, 1984, will be used otherwise than in the recapping or retreading of tires which are of the type used on highway vehicles (as defined in section 4072(c)) and which weigh more than 100 pounds.

(c) OVERPAYMENT OF FLOOR STOCKS TAXES.—Section 6416 shall apply in respect of the floor stocks taxes imposed by this section, so as to entitle, subject to all provisions of section 6416, any person paying such floor stocks taxes to a credit or refund thereof for any of the reasons specified in section 6416.

(d) DUE DATE OF TAXES.—The taxes imposed by this section shall be paid at such time after—

(1) May 15, 1983, in the case of the tax imposed by subsection (a), or

(2) February 15, 1984, in the case of the tax imposed by subsection (b), as may be prescribed by the Secretary of the Treasury or his delegate.

(e) TRANSFER OF FLOOR STOCKS TAXES TO HIGHWAY TRUST FUND.—For purposes of determining the amount transferred to the Highway Trust Fund for any period, the taxes imposed by this section shall be treated as if they were imposed by section 4081 or 4071 of the Internal Revenue Code of 1954, whichever is appropriate.

SEC. 522. FLOOR STOCKS REFUNDS.

(a) GENERAL RULE.—

(1) IN GENERAL.—Where, before the day after the date of the enactment of this Act, any tax-repealed article has been sold by the manufacturer, producer, or importer and on such day is held by a dealer and has not been used and is intended for sale, there shall be credited or refunded (without interest) to the manufacturer, producer, or importer an amount equal to the tax paid by such manufacturer, producer, or importer on his sale of the article if—

(A) claim for such credit or refund is filed with the Secretary of the Treasury or his delegate before October 1, 1983, based on a request submitted to the manufacturer, producer, or importer before July 1, 1983, by the dealer who held the article in respect of which the credit or refund is claimed, and

(B) on or before October 1, 1983, reimbursement has been made to the dealer by the manufacturer, producer, or importer in an amount equal to the tax paid on the article or written consent has been obtained from the dealer to allowance of the credit or refund.

(2) LIMITATION ON ELIGIBILITY FOR CREDIT OR REFUND.—No manufacturer, producer, or importer shall be entitled to credit or refund under paragraph (1) unless he has in his possession such evidence of the inventories with respect to which the credit or refund is claimed as may be required by regulations prescribed by the Secretary of the Treasury or his delegate under this subsection.

(3) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4061, 4071, or 4091 (whichever is appropriate) shall, insofar as applicable and not inconsistent with paragraphs (1) and (2) of this subsection, apply in respect of the credits and refunds provided for in paragraph (1) to the same extent as if the credits or refunds constituted overpayments of the tax.

(b) REFUNDS WITH RESPECT TO CERTAIN CONSUMER PURCHASES OF TRUCKS AND TRAILERS.—

(1) IN GENERAL.—Except as otherwise provided in paragraph (2), where after December 2, 1982, and before the day after the date of the enactment of this Act, a tax-repealed article on which tax was imposed by section 4061(a) has been sold to an ultimate purchaser, there shall be credited or refunded (without interest) to the manufacturer, producer, or importer of such article an amount equal to the tax paid by such manufacturer, producer, or importer on his sale of the article.

(2) LIMITATION OF ELIGIBILITY FOR CREDIT OR REFUND.—No manufacturer, producer, or importer shall be entitled to a credit or refund under paragraph (1) with respect to an article unless—

(A) he has in his possession such evidence of the sale of the article to an ultimate purchaser, and of the reimbursement of the tax to such purchaser, as may be required by regulations prescribed by the Secretary of the Treasury or his delegate under this subsection.

(B) claim for such credit or refund is filed with the Secretary of the Treasury or his delegate before October 1, 1983, based on information submitted to the manufacturer, producer, or importer before July 1, 1983 by the person who sold the article (in respect of which the credit or refund is claimed) to the ultimate purchaser, and

(C) on or before October 1, 1983, reimbursement has been made to the ultimate purchaser in an amount equal to the tax paid on the article.

(3) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4061(a) shall, insofar as applicable and not inconsistent with paragraph (1) or (2) of this subsection, apply in respect of the credits and refunds provided for in paragraph (1) to the same extent as if the credits or refunds constituted overpayments of the tax.

(c) CERTAIN USES BY MANUFACTURER, ETC.—In the case of any article which was subject to the tax imposed by section 4061(a) (as in effect on the day before the date of the enactment of this Act), any tax paid by reason of section 4218(a) (relating to use by manufacturer or importer considered sale) with respect to a tax-repealed article shall be deemed to be an overpayment of such tax if tax was imposed on such article after December 2, 1982, by reason of section 4218(a).

(d) TRANSFER OF FLOOR STOCKS REFUNDS FROM HIGHWAY TRUST FUND.—The Secretary of the Treasury shall pay from time to time from the Highway Trust Fund into the general fund of the Treasury amounts equivalent to the floor stocks refunds made under this section.

SEC. 523. DEFINITIONS AND SPECIAL RULE.

(a) IN GENERAL.—For purposes of this subtitle—

(1) The term "dealer" includes a wholesaler, jobber, distributor, or retailer.

(2) An article shall be considered as "held by a dealer" if title thereto has passed to such dealer (whether or not delivery to him has been made) and if for purposes of consumption title to such article or possession thereof has not at any time been transferred to any person other than a dealer.

(3) The term "tax-repealed article" means any article on which a tax was imposed by section 4061(a), 4061(b), or section 4091 as in effect on the day before the date of the enactment of this Act, and which will not be subject to tax under section 4061(a), 4061(b), or 4091 as in effect on the day after the date of the enactment of this Act.

(4) Except as otherwise expressly provided herein, any reference in this subtitle to a section or other provision shall be treated as a reference to a section or other provision of the Internal Revenue Code of 1954.

(b) 1984 EXTENSION OF FLOOR STOCKS REFUND TO TIRES.—

(1) IN GENERAL.—In the case of an article on which a tax was imposed by section 4071(a) as in effect on December 31, 1983, and which will not be subject to tax under such section as in effect on January 1, 1984, such article shall be treated as a tax-repealed article for purposes of subsection (a) of section 522.

(2) ALLOWANCE OF REFUND.—In the case of a tax-repealed article to which paragraph (1) applies, subsection (a) of section 522 shall be applied by treating December 31, 1983, as the date of the enactment of this Act.

Subtitle D—Highway Trust Fund; Mass Transit Account

SEC. 531. 4-YEAR EXTENSION OF HIGHWAY TRUST FUND; CODIFICATION OF TRUST FUND IN INTERNAL REVENUE CODE OF 1954; ESTABLISHMENT OF MASS TRANSIT ACCOUNT.

(a) GENERAL RULE.—Subchapter A of chapter 98 of the Internal Revenue Code of 1954 (relating to Trust Fund Code) is amended by adding at the end thereof the following new section:

"SEC. 9503. HIGHWAY TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Highway Trust Fund', consisting of such amounts as may be appropriated or credited to the Highway Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFER TO HIGHWAY TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—

"(1) IN GENERAL.—There are hereby appropriated to the Highway Trust Fund amounts equivalent to the taxes received in the Treasury before October 1, 1988, under the following provisions—

"(A) section 4041 (relating to taxes on diesel fuels and special motor fuels),

"(B) section 4051 (relating to retail tax on heavy trucks and trailers),

"(C) section 4061 (relating to tax on trucks and truck parts),

"(D) section 4071 (relating to tax on tires and tread rubber),

"(E) section 4081 (relating to tax on gasoline),

"(F) section 4091 (relating to tax on lubricating oil), and

"(G) section 4481 (relating to tax on use of certain vehicles).

"(2) LIABILITIES INCURRED BEFORE OCTOBER 1, 1988.—There are hereby appropriated to the Highway Trust Fund amounts equivalent to the taxes which are received in the Treasury after September 30, 1988, and before July 1, 1989, and which are attributable to liability for tax incurred before October 1, 1988, under the provisions described in paragraph (1).

"(3) ADJUSTMENTS FOR AVIATION USES.—The amounts described in paragraphs (1) and (2) with respect to any period shall (before the application of this subsection) be reduced by appropriate amounts to reflect any amounts transferred to the Airport and Airway Trust Fund under section 9502(b) with respect to such period.

"(c) EXPENDITURES FROM HIGHWAY TRUST FUND.—

"(1) FEDERAL-AID HIGHWAY PROGRAM.—Except as provided in subsection (e), amounts in the Highway Trust Fund shall be available, as provided by appropriation Acts, for making expenditures before October 1, 1988, to meet those obligations of the United States heretofore or hereafter incurred which are—

"(A) authorized by law to be paid out of the Highway Trust Fund established by section 209 of the Highway Revenue Act of 1956,

"(B) authorized to be paid out of the Highway Trust Fund under title I or II of the Surface Transportation Assistance Act of 1982, or

"(C) hereafter authorized by a law which does not authorize the expenditure out of the Highway Trust Fund of any amount for a general purpose not covered by subparagraph (A) or (B) as in effect on December 31, 1982.

"(2) TRANSFERS FROM HIGHWAY TRUST FUND FOR CERTAIN REPAYMENTS AND CREDITS.—

"(A) IN GENERAL.—The Secretary shall pay from time to time from the Highway Trust Fund into the general fund of the Treasury amounts equivalent to—

"(i) the amounts paid before July 1, 1989, under—

"(I) section 6420 (relating to amounts paid in respect of gasoline used on farms),

"(II) section 6421 (relating to amounts paid in respect of gasoline used for certain nonhighway purposes or by local transit systems),

"(III) section 6424 (relating to amounts paid in respect of lubricating oil used for certain nontaxable purposes), and

"(IV) section 6427 (relating to fuels not used for taxable purposes),

on the basis of claims filed for periods ending before October 1, 1988, and

"(ii) the credits allowed under section 39 (relating to credit for certain uses of gasoline, special funds, and lubricating oil) with respect to gasoline, special fuels, and lubricating oil used before October 1, 1988.

"(B) TRANSFERS BASED ON ESTIMATES.—Transfers under subparagraph (A) shall be made on the basis of estimates by the Secretary, and proper adjustments shall be made in amounts susequently transferred to the extent prior estimates were in excess or less than the amounts required to be transferred.

"(C) EXCEPTION FOR USE IN AIRCRAFT AND MOTORBOATS.—This paragraph shall not apply to amounts estimated by the Secretary as attributable to use of gasoline and special fuels in motorboats or in aircrft.

"(3) 1988 FLOOR STOCKS REFUNDS.—The Secretary shall pay from time to time from the Highway Trust Fund into the general fund of the Treasury amounts equivalent to the floor stocks refunds made before July 1, 1989, under section 6412(a).

"(4) TRANSFERS FROM THE TRUST FUND FOR MOTORBOAT FUEL TAXES.—

"(A) TRANSFER TO NATIONAL RECREATIONAL BOATING SAFETY AND FACILITIES IMPROVEMENT FUND.—

"(i) IN GENERAL.—The Secretary shall pay from time to time from the Highway Trust Fund into the National Recreational Boating Safety and Facilities Improvement Fund established by section 202 of the Recreational Boating Fund Act amounts (as determined by him) equivalent to the motorboat fuel taxes received on or after October 1, 1980, and before October 1, 1988.

"(ii) LIMITATIONS.—

"(I) LIMIT ON TRANSFERS DURING ANY FISCAL YEAR.—The aggregate amount transferred under this subparagraph during any fiscal year shall not exceed $45,000,000.

"(II) LIMIT ON AMOUNT IN FUND.—No amount shall be transferred under this sub-

paragraph if the Secretary determines that such transfer would result in increasing the amount in the National Recreational Boating Safety and Facilities Improvement Fund to a sum in excess of $45,000,000.

"(B) EXCESS FUNDS TRANSFERRED TO LAND AND WATER CONSERVATION FUND.—Any amount received in the Highway Trust Fund which is attributable to motorboat fuel taxes and which is not transferred from the Highway Trust Fund under subparagraph (A) shall be transferred by the Secretary from the Highway Trust Fund into the land and water conservation fund provided for in title I of the Land and Water Conservation Fund Act of 1965.

"(C) MOTORBOAT FUEL TAXES.—For purposes of this paragraph, the term 'motorboat fuel taxes' means the taxes under section 4041(a)(2) with respect to special motor fuels used as fuel in motorboats and under section 4081 with respect to gasoline used as fuel in motorboats.

"(d) ADJUSTMENTS OF APPORTIONMENTS.—

"(1) ESTIMATES OF UNFUNDED HIGHWAY AUTHORIZATIONS AND NET HIGHWAY RECEIPTS.—The Secretary of the Treasury, not less frequently than once in each calendar quarter after consultation with the Secretary of Transportation, shall estimate—

"(A) the amount which would (but for this subsection) be the unfunded highway authorizations at the close of the fiscal year, and

"(B) the net highway receipts for the 24-month period beginning at the close of such fiscal year.

"(2) PROCEDURE WHERE THERE IS EXCESS UNFUNDED HIGHWAY AUTHORIZATIONS.—If the Secretary of the Treasury determines for any fiscal year that the amount described in paragraph (1)(A) exceeds the amount described in paragraph (1)(B)—

"(A) he shall so advise the Secretary of Transportation, and

"(B) he shall further advise the Secretary of Transportation as to the amount of such excess.

"(3) ADJUSTMENT OF APPORTIONMENTS WHERE UNFUNDED AUTHORIZATIONS EXCEED 2 YEARS' RECEIPTS—

"(A) DETERMINATION OF PERCENTAGE.—If, before any apportionment to the States is made, in the most recent estimate made by the Secretary of the Treasury there is an excess referred to in paragraph (2)(B), the Secretary of Transportation shall determine the percentage which—

"(i) the excess referred to in paragraph (2)(B), is of

"(ii) the amount authorized to be appropriated from the Trust Fund for the fiscal year for apportionment to the States.

If, but for this sentence, the most recent estimate would be one which was made on a date which will be more than 3 months before the date of the apportionment, the Secretary of the Treasury shall make a new estimate under paragraph (1) for the appropriate fiscal year.

"(B) ADJUSTMENT OF APPORTIONMENTS.—If the Secretary of Transportation determines a percentage under subparagraph (A) for purposes of any apportionment, notwithstanding any other provision of law, the Secretary of Transportation shall apportion to the States (in lieu of the amount which, but for the provisions of this subsection, would be so apportioned) the amount obtained by reducing the amount authorized to be so apportioned by such percentage.

"(4) APPORTIONMENT OF AMOUNTS PREVIOUSLY WITHHELD FROM APPORTIONMENT.—If, after funds have been withheld from apportionment under paragraph (3)(B), the Secretary of the Treasury determines that the amount described in paragraph (1)(A) does not exceed the amount described in paragraph (1)(B) or that the excess described in paragraph (1)(B) is less than the amount previously determined, he shall so advise the Secretary of Transportation. The Secretary of Transportation shall apportion to the States such portion of the funds so withheld from apportionment as the Secretary of the Treasury has advised him may be so apportioned without causing the amount described in paragraph (1)(A) to exceed the amount described in paragraph (1)(B). Any funds apportioned pursuant to the preceding sentence shall remain available for the period for which they would be available if such apportionment took effect with the fiscal year in which they are apportioned pursuant to the preceding sentence.

"(5) DEFINITIONS.—For purposes of this subsection—

"(A) UNFUNDED HIGHWAY AUTHORIZATIONS.—The term 'unfunded highway authorizations' means, at any time, the excess (if any) of—

"(i) the total potential unpaid commitments at such time as a result of the apportionment to the States of the amounts authorized to be appropriated from the Highway Trust Fund, over

"(ii) the amount available in the Highway Trust Fund at such time to defray such commitments (after all other unpaid commitments at such time which are payable from the Highway Trust Fund have been defrayed).

"(B) NET HIGHWAY RECEIPTS.—The term 'net highway receipts' means with respect to any period, the excess of—

"(i) the receipts (including interest) of the Highway Trust Fund during such period, over

"(ii) the amounts to be transferred during such period from such Fund under subsection (c) (other than paragraph (1) thereof).

"(6) REPORTS.—Any estimate under paragraph (1) and any determination under paragraph (2) shall be reported by the Secretary of the Treasury to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, the Committees on the Budget of both Houses, the Committee on Public Works and Transportation of the House of Representatives, and the Committee on Environment and Public Works of the Senate.

"(e) ESTABLISHMENT OF MASS TRANSIT ACCOUNT.—

"(1) CREATION OF ACCOUNT.—There is established in the Highway Trust Fund a separate account to be known as the 'Mass Transit Account' consisting of such amounts as may be transferred or credited to the Mass Transit Account as provided in this subsection or section 9602(b).

"(2) TRANSFER TO MASS TRANSIT ACCOUNT.—The Secretary of the Treasury shall transfer to the Mass Transit Account one-ninth of the amounts appropriated to the Highway Trust Fund under subsection (b) which are attributable to taxes under sections 4041 and 4081 imposed after March 31, 1983.

"(3) EXPENDITURES FROM ACCOUNT.—Amounts in the Mass Transit Account shall be available, as provided by appropriation Acts, for making capital expenditures before October 1, 1988 (including capital expenditures for new projects) under section 3 of the Urban Mass Transportation Act of 1964.

"(4) LIMITATION.—Rules similar to the rules of subsection (d) shall apply to the Mass Transit Account except that subsection (d)(1) shall be applied by substituting '12-month' for '24-month'."

(b) REPEAL OF SECTION 209 OF THE HIGHWAY REVENUE ACT OF 1956.—Section 209 of the Highway Revenue Act of 1956 (other than subsection (b) thereof) is hereby repealed.

(c) CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.—Subsection (b) of section 201 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-11) is amended—

(1) by striking out "1985" each place it appears and inserting in lieu thereof "1989"; and

(2) by striking out "1984" and inserting in lieu thereof "1988".

(d) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of such Code is amended by adding at the end thereof the following new item:

"Sec. 9503. Highway Trust Fund."

(e) EFFECTIVE DATE; SAVING PROVISION.—

(1) IN GENERAL.—The amendments made by this section shall take effect on January 1, 1983.

(2) NEW HIGHWAY TRUST FUND TREATED AS CONTINUATION OF OLD.—The Highway Trust Fund established by the amendments made by this section shall be treated for all purposes of law as the continuation of the Highway Trust Fund established by section 209 of the Highway Revenue Act of 1956. Any reference in any law to the Highway Trust Fund established by such section 209 shall be deemed to include (wherever appropriate) a reference to the Highway Trust Fund established by the amendments made by this section.

Mr. ROSTENKOWSKI (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. Pursuant to House Resolution 620, the gentleman from Illinois (Mr. ROSTENKOWSKI) will be recognized for 1 hour, and the gentleman from New York (Mr. CONABLE) will be recognized for 1 hour.

The Chair recognizes the gentleman from Illinois (Mr. ROSTENKOWSKI).

Mr. ROSTENKOWSKI. Mr. Chairman, I am offering an amendment, approved by the Committee on Ways and Means on December 2, 1982, as the revenue title to H.R. 6211, the Surface Transportation Assistance Act of 1982.

H.R. 6211 provides authorizations for highway programs at increased levels for the period fiscal year 1983 through fiscal year 1986. Accordingly, the amendment of the Committee on Ways and Means provides a revenue title which finances the higher spending levels proposed in H.R. 6211 by increasing net excise tax receipts from highway user taxes and extending the highway trust fund through fiscal year 1988. This revenue title is a product of bipartisan effort, and enjoys the strong support of the administration.

At this point, Mr. Chairman, I will insert in the RECORD, correspondence from the Secretary of the Treasury and the Secretary of Transportation strongly endorsing our committee amendment.

THE SECRETARY OF THE TREASURY,
Washington, D.C., December 6, 1982.

DEAR MEMBER OF CONGRESS: The House Ways and Means Committee has approved legislation to increase and restructure the excise taxes currently dedicated to the Highway Trust Fund. The Administration supports this bill and urges its adoption by the House.

The Ways and Means Committee legislation would increase highway user taxes to finance increased Federal funding for needed investments in highway maintenance, highway construction, and mass transit. It is appropriate that these vitally needed programs continue to be financed by taxes on highway users. Reliance on user taxes to finance particular Federal programs, such as highways and airports, is fair because costs of the program are then paid by the beneficiaries of the service rather than by the general taxpaying public.

The Ways and Means Committee legislation would also restructure the highway excise taxes to increase the share of the tax burden paid by heavy vehicles and reduce the share of highway taxes paid by light trucks. This restructuring will bring the tax shares paid by different user groups more closely in line with the costs they impose on the highway system. The trucking industry as a whole will benefit from this legislation because of the improvements in the highway system it will finance and because of the provisions in the legislation to increase truck weight limits.

The legislation also contains significant provisions to improve the administration of the highway excise taxes and to reduce taxpayer compliance burdens. The truck parts tax, a source of considerable taxpayer burden, will be eliminated, the truck sales tax will be removed from most trucks, and enforcement of the heavy vehicle use tax will be improved.

For these reasons, we strongly support the bill and urge bipartisan support for it in the House.

With best wishes,
Sincerely,

DONALD T. REGAN.

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., December 3, 1982.

DEAR MEMBER OF CONGRESS: I urge your support for the revenue portions of the legislation approved Thursday by the Ways and Means Committee. That legislation, which increases highway user fees and extends the Highway Trust Fund, is expected to come to the floor of the House on Monday as the revenue title of H.R. 6211. While the Administration has major problems with the authorization provisions for highways and transit, which we will seek to resolve during Congressional deliberation on those provisions, we strongly endorse the revenue title.

This revenue title is essential legislation. We have a rare opportunity to enact legislation that has been too long delayed. I know you have heard from the many special interests on this issue, but there is an overriding public interest at stake. To defer action will be too costly—both to the users of our highway system and to the system itself.

Without the additional revenues this title provides, we will face a serious and immediate shortfall in the funds needed to complete the interstate system and halt the creeping deterioration of our existing roads, bridges and transit systems. Unless we meet those pressing needs, we will face the far higher costs of future replacement and reconstruction.

The Ways and Means Committee has reported a revenue title that is even-handed and fair to all concerned. The five cent per gallon increase in motor fuel represents the first increase in highway user fees in 23 years. It is not a general tax, and will not affect the budget deficit. The Committee's revenue title reduces the highway use taxes that we originally proposed for the heaviest trucks, and delays the effective date for some of those taxes until January 1984. The total package of increases will generate the revenues needed to replenish the Highway Trust Fund and finance a growing agenda of Interstate, primary and bridge repair projects and mass transit capital improvements.

The revenue title achieves the Administration's objective of having heavy trucks pay a greater share of their responsibility for highway costs. At the same time, the improved highways and the increased truck size and weight limits that are part of this legislation will provide truckers productivity gains that will more than offset any increase in user fee taxes. Attached is a fact sheet explaining these issues in more detail.

Favorable action now will enable the states to proceed early in the new year with the nearly $6 billion worth of road and bridge projects awaiting funding. For states without adequate matching funds, we have agreed to consider a proposal allowing them to pay a smaller share initially, the balance to be repaid later.

We believe the revenue title before the House contains the provisions necessary to put the nation's highway construction and rehabilitation programs on a sound financial footing. Our objective is the protection and preservation of a transportation infrastructure that is too valuable to neglect.

We may not again have the opportunity now before us. Let's not lose it, or defer to a later day legislation that is needed now. When the Committee's bill comes to the floor, I respectfully ask your strong support for the revenue title as reported by the Ways and Means Committee.

Sincerely,

DREW LEWIS.

HIGHWAY ISSUES AFFECTING TRUCKERS

The issue. Are the truckers getting a fair deal in the package of legislative changes affecting truckers in the 5-cent highway bill?

Answer. Yes.

The facts. Up to now other drivers have been subsidizing the operators of large trucks.

A three year study of cost responsibilities for Federal-aid highway programs, recently completed by the Federal Highway Administration, concluded that under the existing highway user charge structure: combination trucks heavier than 75,000 lbs. gross vehicle weight (GVW) are paying only about 60 percent of their fair share of the costs, single-unit trucks, as a group, are overpaying their fair share of the costs by nearly 90 percent.

Though disputed by the trucking community, these results are broadly supported and confirmed by the analyses and professional judgments of: the Congressional Budget Office; the American Association of State Highway and Transportation Officials (AASHTO); individual state transportation and highway departments; a consensus of the highway engineering and design community, both practicing and theoretical; and practitioners employing the latest design practices in the U.S., Canada and Europe.

Correcting the inequities in the existing user fee system is important for two reasons: It is only fair that the users of the system pay those costs for which they are responsible. A fundamental requirement of the free market system is that prices must accurately reflect the costs of goods and services for the system to work most efficiently, and the existing structure does not do this.

THE COMPROMISE PROPOSAL RECOMMENDED AND APPROVED BY THE WAYS AND MEANS COMMITTEE

The user fees reported out by the House Ways and Means Committee strike a reasonable compromise between the Administration's proposed changes and the concerns expressed by the trucking community arising out of the current economic difficulties. The principal results which the compromise user fee would accomplish are: increasing the contribution of combination trucks greater than 75,000 lbs. GVW to 77 percent of their share of the costs (increased from the nearly 60 percent they now pay, but reduced from the 86 percent which the Administration requested), reducing the amount that single-unit trucks overpay to 18 percent of their share.

BENEFITS TO TRUCKERS

Question. Won't these changes devastate the trucking industry?

Answer. Absolutely not. In fact, the Administration package, as modified by Ways and Means, contains many benefits for truckers.

Cost.—We estimate that the new user fee increases will amount to less than one-half of one percent of the annual operating costs of the trucking industry.

Productivity.—The Administration bill will dramatically raise the productivity of truckers. The completion of the Interstate system will be accelerated, bridges will be made stronger, and roads will be repaired. The Administration bill also guarantees that larger and heavier trucks will be able to use the Interstate in every state. The estimate of benefits to truckers from allowing larger and heavier trucks alone is $4 billion per year.

Safety.—The Administration bill proposes a $150 million state safety grant program. This program will provide funds to the states for enforcement of commercial motor vehicle safety standards. This will help keep unsafe trucks off the roads to the benefit of other truckers.

Tax structure.—As modified by Ways and Means, truckers would be relieved of $308 million of taxes per year on truck parts. This benefit will help small truckers and large truckers alike. Another concern of the trucking industry was addressed when Ways and Means decided to postpone the effective date of new use taxes from July 1, 1983, to January 1, 1984. The Ways and Means version also drops the maximum heavy vehicle use tax from the Administration's proposed $2,700 per year to $2,000 per year. Overall, the Ways and Means' proposal represents a reasonable compromise.

In providing these tax changes and the extension of the highway trust fund, the committee has changed the distribution of the tax burden by shifting a larger share of the heaviest trucks on the highways and reducing

the share paid by lighter trucks. These shifts are consistent with the highway cost allocation study submitted to Congress by the Department of Transportation in May of this year and were strongly urged by the administration.

SUMMARY OF THE REVENUE TITLE

The Ways and Means Committee's revenue title extends the highway trust fund for 4 years past its present expiration date, through fiscal year 1988, and creates a mass transit account in the trust fund for capital expenditures that will rebuild and expand urban mass transit systems.

The revenue sources for the highway trust fund presently are scheduled to terminate or revert to lower rates on October 1, 1984. The Ways and Means Committee amendment increases, repeals, or modifies these provisions and raises the current annual trust fund revenues by an estimated $2.2 billion in fiscal year 1983, $5.2 billion in 1984, and $5.6 billion in fiscal year 1985. After considering the effects on income tax receipts resulting from the deductibility of these excise taxes by businesses, net budget receipts will increase by an estimated $1.7 billion in fiscal year 1983, $3.9 billion in fiscal year 1984, and $4.2 billion in fiscal year 1985.

I now want to briefly describe the major provisions of the revenue title.

FUEL TAXES

The excise tax on gasoline, diesel, and special motor fuels that are used in automobiles and trucks is increased from 4 cents a gallon to 9 cents a gallon, effective April 1, 1983.

The motorboat fuel tax is also increased to 9 cents a gallon. Revenues from this tax bill continue to be deposited in the land and water conservation fund, and the transfer to the boating safety fund will increase from $20 million to $45 million through fiscal year 1988.

The fuel tax exemptions in present law for State and local governments, intercity, school and local buses, nonprofit educational institutions, farming, and nonhighway business uses, are increased to 9 cents a gallon. The current 4 cents a gallon exemption for taxicabs will continue at that level through September 30, 1984. The present gasohol exemption remains at 4 cents a gallon. A new 9-cent-a-gallon exemption is provided for alcohol fuels, chiefly methanol and ethanol, that are made from substances other than petroleum.

TIRE TAXES

Except for the tax on heavy duty truck tires, the present excise taxes on tires are repealed. The excise tax on new tires that weigh more than 100 pounds is increased from 9.75 cents a pound to 25 cents a pound. Similarly, the 5 cents a pound tax on rubber used for retreading tires heavier than 100 pounds also is raised to 25 cents a pound. The excise taxes on nonhighway tires and on innertubes are repealed. The tax on aircraft tires is also repealed. These changes are effective on January 1, 1984.

LUBRICATING OIL

The 6-cents-a-gallon tax on lubricating oil is repealed on the day after the date of enactment.

TRUCK RELATED TAXES

Truck-related taxes are simplified and restructured to reallocate a larger share of the cost burden for the highway system to heavy trucks and to reduce the relative burden on light trucks. The tax on truck parts and accessories is repealed, as of the day after enactment. The tax on new trucks and trailers will increase from 10 percent to 12 percent on April 1, 1983. At that time, the truck and trailer excise tax will become a retail tax. The truck tax will apply to trucks over 33,000 pounds and trailers over 26,000 pounds compared to 10,000 pounds under present law. These higher exemption levels for trucks and trailers go into effect on the day after enactment, and refunds of excise taxes paid after December 2 will be provided.

HEAVY-VEHICLE USE TAX

The heavy-vehicle use tax is the principal means for redistributing a larger burden on the highway costs to the heaviest trucks. The present tax is $3 per 1,000 pounds for trucks weighing more than 26,000 pounds. In its place, the Ways and Means Committee amendment provides a graduated tax that begins at 33,000 pounds. Trucks below that weight level will pay no tax. At 33,000 pounds, trucks will pay $60. Trucks weighing 55,000 pounds will pay $500. The maximum annual use tax of $2,000 will apply to heavy trucks over 80,000 pounds. The new schedule will become effective on January 1, 1984.

TERMINATION OF TAXES

All the highway user excise taxes, as well as exemptions from the taxes, expire on October 1, 1988.

TRUST FUNDS

HIGHWAY TRUST FUND

The highway trust fund is extended for 4 years, through September 30, 1988. The taxes that will be deposited into the trust fund, and the authority to spend from the trust fund, expire after that date.

The statutory authority for the trust fund is transferred to the Internal Revenue Code. Authority to spend from the trust fund is provided for general expenditure purposes which are authorized by law as of December 31, 1982.

The antideficit provisions of the present Byrd amendment are modified and clarified. As a result, unfunded authorizations may not exceed 2 years of anticipated trust fund receipts. Authority for repayable advances from the Treasury is repealed.

TRANSIT ACCOUNT

One cent a gallon of the fuel taxes is to be deposited in a separate account in the highway trust fund. This revenue may be used only for mass transit capital expenditures, including new starts, that are authorized in section 3 of the Urban Mass Transit Act as amended by H.R. 6211 and subsequent acts of Congress. This account is limited to unfunded authorizations in anticipation of only 1 year's revenues. Repayable advances are not permitted.

CONCLUSION

H.R. 6211 and the Ways and Means Committee's revenue title accomplish many important objectives. The Committee on Ways and Means worked hard to complete this major legislation in a short period of time. This has been an admirable demonstration of how Congress can meet its responsibilities thoughtfully and quickly.

The Ways and Means Committee revenue title extends the highway trust fund, adds a transit account, and provides the financing for a needed, higher level of outlays. In providing this financing, the committee both simplified the highway excise tax structure and shifted a greater portion of the cost burden to heavy highway vehicles and large trucks and trailers, as recommended by the administration.

I am well aware that tax increases, however meritorious, are not popular. However, I want to emphasize that these highway user taxes have not been increased for several decades. The gas tax has remained at 4 cents per gallon since 1959. The heavy truck use tax has not been increased since 1961. Further, many of the changes made in the Ways and Means Committee amendment will simplify the highway excise tax structure for those that must pay and collect these taxes. Nuisance taxes are repealed and all the major truck taxes are restructured to apply only to heavy trucks.

Finally, these changes have been strongly urged by the administration and are fully supported by studies prepared by the Departments of Transportation and Treasury on how to more fairly distribute the tax burden among highway users and to simplify the highway excise tax structure.

Some will argue today that the increased tax burden on heavy trucks under the Ways and Means Committee amendment is excessive. In response, I would observe that the Department of Transportation's cost allocation study found the heaviest trucks underpaying their fair share today by 40 percent. Under the committee amendment, these trucks will still underpay by over 20 percent. Nevertheless, in recognition of the fact that the tax dollar increase involved for some trucks may be particularly burdensome in today's economy, the commit-

tee agreed to reduce the level of the heavy truck use tax recommended by the administration, and also delayed the effective date of this tax increase until January 1, 1984.

Mr. Chairman, I have today filed a committee report on H.R. 7368, a bill introduced earlier today by the Honorable BARBER CONABLE, ranking minority member of the committee, and myself, which embodies the text of the Ways and Means Committee amendment now pending before the House. It is the intention of the Ways and Means Committee that this committee report on H.R. 7368 constitute the official legislative history of the Ways and Means Committee amendment.

Mr. Chairman, the Ways and Means Committee's revenue title strikes a reasonable balance and deserves the support of the House. I urge its adoption.

□ 2330

The CHAIRMAN. The Chair now recognizes the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am going to, in some degree, repeat some of the points of information made by the distinguished chairman of the committee, because we do not have many requests for time, but this is a terribly important piece of legislation and I want to be sure the Members understand it. I will try to be as brief as I can.

Mr. Chairman, I support the revenue title of H.R. 6211. It was reported out of the Committee on Ways and Means by voice vote—a rare occurrence in major legislation and expressive of the leadership of both the distinguished chairman of the committee, the gentleman from Illinois, and adroit spokesmen from the administration, notably the innovative Secretary of Transportation. It also represents what I believe to be a reasonable and equitable response to an obvious need: Financing the restoration of our country's traffic arteries.

The measure clearly is controversial. Any legislation which raises taxes, whatever the purpose, is likely to be. Much of the trucking industry, for example, is unhappy with it, in large part because it shifts the user tax burden more to heavy vehicles—a step which is consistent with findings of a highway cost allocation study requested by the Committee on Ways and Means several years ago.

That study, by the Department of Transportation, showed that the weightiest vehicles do not pay a road user share commensurate with the damage they do to the Nation's highways. In particular, the study disclosed that heavy combination trucks underpay their "cost responsibility" by about 50 percent, on average, while single unit trucks, excluding pickups and vans, overpay their "cost responsibility" by about 100 percent. The legislation before us today makes a substantial adjustment in this regard. In so doing, it endears itself to some segments of the transportation sector and alienates others.

It must be acknowledged that this legislation taxes work. Most Americans go to their job in automobiles, despite great progress in mass transit, and a small part of total mileage in this country is discretionary today. Thus, the gasoline tax in this package does represent a tax on work.

To the extent that money consumed by a higher gas tax will not be spent in other sectors of our economy, this measure also can be seen as a negative macroeconomic factor.

Despite these "downside" aspects, the legislation has a positive force which should be dominant. Its potential drawbacks should be offset to a substantial degree by its tangible benefits—an improved and safer highway-and-bridge network, plus several hundred thousand jobs in a basic industry now suffering a 23-percent unemployment rate.

Specifically, this revenue title provides what we are assured will be adequate funding for the increased road authorizations contained in H.R. 6211 for the next 4 years. Highway excise taxes, as well as all exemptions, are terminated at the end of fiscal 1988.

The legislation increases taxes on gasoline, diesel fuel, and certain special fuels from 4 cents per gallon to 9 cents per gallon, effective April 1, 1983. Revenues equal to 1 cent of this increase are earmarked for a new mass transit account within the highway trust fund, the provisions of which are transferred to the trust fund portion of the Internal Revenue Code.

The mass transit revenue will be available for capital expenditures, including new starts, which promises to be a particular boon to troubled urban systems.

Although most users will have to absorb the higher taxes at the pumps, there are exemptions to take into account extraordinary needs and a general desire to lower reliance on traditional fossil fuels. Examples: A full exemption of 9 cents per gallon is given for off-highway business users who now enjoy a 2-cents-per-gallon exemption, for users of alcohol fuels which are not derived from petroleum, for State and local government users, and for agricultural users. Full exemptions also go to nonprofit educational groups and buses—not only school buses but both local and intercity buses. Gasohol users and qualified taxicab operators will continue to get a 4-cents-per-gallon exemption, but will pay the added levy.

The taxi exemption terminates September 30, 1984. In the meantime, the executive branch will conduct a study on the merits of that specific relief.

Present law provides that the taxes collected on motorboat fuels be assigned to the land and water conservation fund, except for $20 million, which goes to the recreational boating safety and facilities improvement fund. The new revenue provisions continue that general practice, and extend the boat safety fund through the life of the tax and increase the amount that fund receives to $45 million.

Of special interest to smaller vehicles producers and users, the revenue title repeals existing taxes on inner tubes, laminated tires and nonhighway tires and increases the highway tire tax from 9.75 cents per pound to 25 cents per pound, but only for tires weighing more that 100 pounds. Commensurately, the tax on tread rubber is also placed at 25 cents per pound, when it is used on tires weighing over 100 pounds.

The very controversial 8 percent excise taxes on truck parts and accessories would be ended, under this revenue title, on the day after enactment. This levy was seen as an administrative nuisance and not a major revenue producer.

The revenue title would increase, from 10 to 12 percent, the taxes on new trucks and trailers, and would shift the imposition of these taxes from manufacturing to retail level. The measure also would increase the weight threshold for tax purposes from 10,000 pounds to 33,000 pounds for trucks, and to 26,000 pounds for trailers. Repeal of the parts tax and the increase in weight thresholds would become effective the day after enactment, but the conversion from manufacturing to retail levies would be effective April 1 next year.

One of the most widely discussed facets of this legislation is its adjustment of the so-called use tax, consistent with the cost allocation finding. Existing law imposes a flat $3 per 1,000 pounds on trucks weighing more than 26,000 pounds.

The new schedule, which is based on a sliding scale, would provide: For vehicles under 33,000 pounds, no tax; for those up to 55,000 pounds, $60 plus $20 for each 1,000 pounds over 33,000; for those up to 80,000 pounds, $500 plus $60 per 1,000 pounds over 55,000; and for vehicles weighing over 80,000 pounds, $2,000. This represents a very substantial increase for heavier vehicles, but it is important to keep in mind that a drastic alteration is warranted according to the cost allocation study, and that trucks which travel fewer than 2,500 miles per tax period will be exempt from the tax.

Mr. Chairman, I do not hold out this piece of legislation as any kind of a cure-all, for what we euphemistically call our Nation's infrastructure, for our ailing economy, or for our unemployment problem. But I do think it is appropriate to the times.

The idea behind this package is not new. It was brought forward many months ago by our able Secretary of Transportation, and since then has been examined and adopted by others. Whereas it commanded slim support at the outset, it now has widespread backing, particularly where it counts, both in the White House and here on the Hill. In effect, events have caught up with it.

In short, Mr. Chairman, this revenue title represents an idea whose time apparently has come, and I urge my colleagues to join me in approving it today.

□ 2340

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 3 minutes to the gentleman from South Carolina (Mr. HOLLAND).

Mr. HOLLAND. I thank my chairman for yielding me this time because I rise in opposition to this section of the bill.

No matter what the President said, this is the 125-percent tax increase part of this legislation.

I have been watching all week for President Reagan to come on television and urge my constituents to get on the telephone and send me the telegrams urging me to vote for this like he did the Kemp-Roth package. But I have not seen that.

But, you know, the President does not have to do this in this instance. He has the leadership of this House to do it for him.

I think this tax, to put it like a lot of my liberal friends put it, is about the most regressive attack on the poor and middle-class of this country that I have seen in 8 years in Congress. The burden is going to fall and I would say to my rural friends on you and your constituents to pay 20 percent of this 125 percent tax increase to build subways in the bigger cities of this country.

I know the big cities have problems. But that takes it away from being a user's tax, does it not? If they want a user's tax for subways they should tax subway tickets so those of us who do not have any mass transit but maybe like in my district a couple of school buses, we are sort of paying up as a user for things we are not going to be using.

I talked about New Jersey over in the committee the other day and I tried to tell my friends, like the gentleman from New Jersey (Mr. GUARINI) that we do not have these toll roads down there in my part of the country to extract money from the innocent tourist passing through. So we think we are paying more into the trust fund than we are getting out regardless of some of these computer printouts.

I do not want to take much time because I know it is late. I just tried to put back a letter that I got from one of my constituents and I want to read to the House what my constituent had to say about what has been going on lately in the Congress.

DEAR MR. HOLLAND: I read where Congress is talking about raising taxes again. About the only pleasure a poor man has left is to smoke a cigarette or drink a beer and ride in his pickup truck.

You all have figured out how to tax all of these things with Reagan's help. I guess a poor man is just out of luck these days.

P.S.—I am afraid to say I like women. You all might figure out how to tax that, too.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin (Mr. REUSS).

Mr. REUSS. Mr. Chairman, while we need to rehabilitate our Nation's highways and bridges—and we must find the money to do it—the arguments against imposing a 5-cent increase in the gasoline tax are overwhelming. We should defeat the tax increase and instead fund the needed highway and bridge improvements by placing a $700 per taxpayer cap on the July 1983 income tax cut.

With unemployment now up to 10.8 percent, the gasoline tax increase would take $5.5 billion yearly from the pockets of the very consumers who are being counted on to generate an economic recovery. This is not a job-creation bill, it is a job-elimination bill. According to CEA Chairman Martin Feldstein, the cut in consumer spending that will result from the gas tax will cost our economy dearly in jobs in 1983. The 12 million Americans currently unemployed would be joined by thousands more if the gas tax is enacted.

Many of the private forecasters agree. In the December 1982 forecast of Data Resources, Inc., it is stated:

The President and the Congress agree on a public works program to be financed out of a higher gasoline tax. While the country has a need for a new round of investment in roads and bridges, the initial impact of this program is certain to be perverse. The gasoline tax, as presently proposed, would begin to withdraw $5 billion of purchasing power on January 1, 1983. But the federal outlays to be financed out of these taxes would not occur for many months. Indeed, since the grants to the states are on a reimbursement basis, little federal money would be paid out in the first year. Thus, this particular program will, in a small way, worsen the recession.

Moreover, the gasoline tax is unfair. It falls most heavily on low- and middle-income wage-earners, while imposing only an insignificant burden on the well-to-do. Lower income families spend a larger fraction of their annual incomes on gasoline than do those at the top of the scale and will be most hurt by the new tax. According to the Labor Department, the bottom half of all families in the United States receive about 22 percent of all income but consume about 31 percent of all gasoline. By contrast, the top 7 percent of families receive 22 percent of the Nations income but consume only 11 percent of the gasoline. And, although $30 is the estimated annual "average" cost of the tax, it will actually be much larger for those who must drive to work each day or use their car for other essential purposes.

The burden will be worst for those families with incomes of $15,000 per year or less. The proposed gasoline tax increases would completely wipe out the income tax reduction they are scheduled to receive on July 1, 1983.

Of course, we need to rehabilitate our Nation's highways and bridges. But we should not fund the proposal with a tax which costs thousands of jobs. Instead, we should transfer to the highway trust fund from general revenues an annual amount equal to the revenues that would have been raised by the 5-cent increase in the gasoline tax, and fund this by imposing a $700 per taxpayer cap on the personal income tax cut currently scheduled for July 1983. The cap when fully effective will yield $7 billion in new revenues, more than enough to fund the $5.5 billion highway program. The cap, furthermore, will not eliminate jobs, since its revenue gain will much more closely match the timing of increased spending on highways and bridges.

The cap also would be equitable. The burden will be borne not by low- and middle-income taxpayers who must drive to work, but by those with annual incomes of $45,000 and up. Under our proposal, taxpayers who make less than $45,000 will receive the full tax cut for 1983. While the $700 cap will reduce the tax cut for the well to do, these taxpayers received a great benefit in 1982 when the top rate was cut in one stroke from 70 to 50 percent, 35 percent of the 1982 tax cut, and the top rate on capital gains was reduced from 28 to 20 percent.

By replacing the 5-cent-per-gallon tax increase on gasoline with a $700 cap on the July 1983 income tax cut, we can rebuild our highways without further damaging our economy. If the House votes down the gas tax, legislation can be introduced that would fund the highway and bridge program through a $700 cap on the July 1983 tax cut.

□ 2350

Mr. CONABLE. Mr. Chairman, I yield 7 minutes to the distinguished gentleman from Minnesota (Mr. FRENZEL.)

Mr. FRENZEL. Mr. Chairman, the description of the bill as given by the

distinguished chairman and the distinguished ranking member of the Committee on Ways and Means is in my judgment accurate. I think also accurate is their combined statement which indicates the need for the preservation and enhancement of our important Interstate Highway System, and the rest of our transportation arteries.

I think no one would say that the need does not exist.

That of course takes us to the way in which we are going to finance the general attention to that particular need.

During the consideration of the Committee on Ways and Means, it is my judgment that insufficient attention was given to the testimony of trucking interests. We heard 5 minutes I think from the American Trucking Association. I do not remember hearing from any people who would be independent truckers, or cattle haulers, or all of the other trucking interests that might be involved.

I think that the 5-cent gas tax is something which all of us and probably all of them would be willing to support.

The increases in tire taxes for trucking companies will be in the neighborhood of 250 percent may also be stomached. Perhaps even the excise tax increase from 10 to 12 percent on new equipment is something that could be stood.

However, like the gentleman from South Carolina (Mr. HOLLAND), I am positively aghast at the percentage increase in the highway use tax. For heavier weighted trucks, which runs around 800 percent for the standard combination in use in my area, which would be licensed for about 70,000 pounds, the cost of a use tax would go from $210 to around $1,900, which is an increase of slightly more than 800 percent.

For the heaviest weighted trucks, those of over 80,000 pounds, that increase goes from $240 to $2,000, and would have under the original bill presented by the administration soared to $2,700.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from New York.

Mr. CONABLE. I thank the gentleman for yielding.

I do want to point out to my colleagues while what the gentleman from Minnesota is saying is correct, the proposal has been substantially compromised below that suggested by the administration by the Committee on Ways and Means.

Also that it falls far short of what the study conducted over the past several years has indicated should be the proportionate cost of heavy trucks in terms of the damage they do to the roads.

And so I want my colleagues to understand that we have already compromised with both the study and the administration proposal.

Mr. FRENZEL. I thank the gentleman for his contribution.

I would say that we did compromise. We compromised from a 1,100-percent increase down to an 800-percent increase, which is probably going to not be terribly thrilling news to the operators who, as I understand it right now, are operating on razor slim margins or perhaps at least in my area many of them operating on negative ratios at this time.

It is true that studies have been completed. It is also true that studies have been subjected to various interpretations, some of them sustaining the position of the Department of Transportation and some of them not sustaining that decision.

Certainly I have seen no overwhelming evidence of the exact percentage that is contributed by trucks and that contributed by cars. I think we have a lot of work to do yet in that regard.

Nevertheless, it seems to me that an 800-percent increase by anyone's standards is a pretty tall order.

Finally, Mr. Chairman, I express my great disappointment at the "Buy American" protectionist amendment attached to this bill—when the Committee on Public Works was operating under its section at the time. I think that and the excess taxes on trucks have changed my position from one of enthusiasm for this bill to one of a large question mark.

Mr. Chairman, until the gentleman from Wisconsin spoke, I was wondering how I could rationalize a vote for this bill with what I considered to be two crippling features. He has shown me that our alternative is to finance the road system through user taxes or to finance it through general taxation on the general taxpayers of this country who may or may not use that road system at any particular time. He has indicated that he is nervous about the number of jobs to be created.

I think under the program the same will be created no matter how you finance it. And therefore, I think he has shown me that I have but one opportunity, one alternative, and that is to vote for the bill that is before us rather than to see our road repairs and improvement completed at the expense of the general taxpayer.

However, Mr. Chairman, I would expect that this bill in the two particulars I have concentrated will be improved as the legislative process wends its way through the other body. I certainly hope so, because my affirmative vote tonight does not indicate an affirmative vote on the conference report unless there is some repair.

Mr. Chairman, I urge an affirmative vote on this bill.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from New York.

Mr. CONABLE. Mr. Chairman, I think it is important also to emphasize once again that the effective date of the user tax is postponed until January 1, 1984, a wonderful opportunity for the trucking industry to discuss it with us all next year.

Mr. FRENZEL. I thank the gentleman for his contribution.

As the gentleman said on the gallows, a 5-minute reprieve is better than none at all.

Mr. ROSTENKOWSKI. Mr. Chairman, I want to thank the gentleman from Minnesota for his ringing endorsement of the legislation.

I yield such time as he may consume to the gentleman from Oregon (Mr. AUCOIN).

Mr. AUCOIN. Mr. Chairman, I support the stated aim of this bill. To help put millions of Americans who do not have a job today, or even a hope of a job, back to work. To rebuild this country's transportation and industrial infrastructure. To set forth a multiyear authorization for critical highway and mass transit programs that is long overdue.

But this bill, as drafted, is seriously flawed. I disagree with a whole host of its provisions. And I resent the manner in which it has been pushed through Congress. Last May, after the President restated his strong opposition to any increase in the gas tax, most people considered the chances of passage of H.R. 6211 to be nonexistent. It was put on a back burner. Up until the day of the election the President still opposed a gas tax increase. Now we are told that this is not a gas tax increase—it's a "user fee", and lo and behold with unemployment increasing by leaps and bounds—the President supports it.

Last week the Ways and Means Committee held a hearing one day, marked up the next, the bill got a rule and here we are today voting on a measure which will have far-reaching implications for cities and States all over this country without the majority of my colleagues knowing exactly what this bill proposes to do.

I recognize, and I commend my colleagues, Mr. HOWARD and Mr. ROSTENKOWKI, for the work they have done in trying to get a gas tax proposal through all the hurdles this administration has put up over the last 2 years.

I also realize the pressing need to do something now, in 3 short weeks, to address unemployment levels of tragic proportions and the needs of this country's transportation systems.

I have grave concerns about many of the provisions of this bill and I plan to press for several critical changes when

the House and Senate go to conference on this bill. I want the record to reflect my deep concern over these provisions.

The bill tends to promote the construction and completion of unneeded legs of the Interstate System, and it gives a higher funding priority to segments on the basis that they are more expensive—it costs more to complete them, so they get more funds. I'll push to see that the conferees make changes by eliminating or adjusting the formulas as they are now set forth to reflect other variables such as the need for the projects and whether or not they are already under construction.

In addition, by proposing to allocate both interstate transfer and mass transit funds on a contract authority/formula basis and by leaving it up to the discretion of the Secretary, Congress loses its ability to exercise its authority and judgment as to the most efficient and effective use of highway and transit dollars. What it really does is allow Dave Stockman or whoever happens to be sitting at OMB to decide "go or no go" on State and local projects all over this country—without congressional approval.

I don't know about the rest of my colleagues, but Dave Stockman and I don't exactly see eye to eye. He proposed a 20-percent cut in transit funding in fiscal year 1981, a 12-percent cut for fiscal year 1982, and no new rail starts "until the economy improves." The Banfield light rail project in my home district would be dead if Dave Stockman had had his way. And given this administration's track record on the economy, I'm in no mood to wait for it to improve before going ahead with necessary projects that will provide jobs for at least 200,000 of the unemployed construction workers in this country.

This bill also continues and greatly expands the use of multiyear contract authorizations for funding highway and mass transit programs which I believe is dangerous and unnecessary. The expanded use of multiyear authorizations makes the Federal budget even more uncontrollable than it is now. Just because a program is financed by a user fee and ends up in a trust fund does not mean that it should escape congressional review and oversight.

I also oppose terminating the escalation provisions in the interstate transfer program although I fully understand and agree with the committee's attempt to get this program under control. Coupled with an extension of the deadline for localities, however, this provision ends up penalizing those States, like Oregon, that withdrew projects early in good faith that their purchasing power would not erode due to a stretched-out funding schedule.

Placing the interstate transfer highway funds under the same State obligational ceiling as other highway programs pits urban interests against rural interests in those States which participate in this program, so I will also push for removing the interstate transfer program from any one State's overall obligation ceiling. Small States like Oregon will not be able to take enough away from general maintenance throughout the State to make up for the obligational authority needs of major projects funded from the interstate transfer program.

Among other concerns I have, the abrupt change in Federal/State matching ratios for both capital and operating expenses is going to wreak havoc on local transportation agencies. In the State of Oregon, we could be facing a $900 million deficit. In Portland, the local transit authority has suffered close to a 10-percent drop in its payroll tax revenue which it uses for operating assistance because so many Oregonians are out of work. I fail to see the workability, or the logic, of any plan which asks local jurisdictions to jump from having to fund 20 percent of a Federal project to having to fund 50 percent—especially during these economic times. Localities which already have letters of intent or full funding contracts should be allowed to participate in these programs under the terms of their current contracts.

In summary, I was prepared to support a bill that repaired the economic "infrastructure" of the country and created jobs. But this bill pours the new gas tax revenues out in a way that does not accelerate needed new jobs; it revamps and warps the current transportation delivery system, it strips back congressional review and program oversight and I can't justify the raising of gasoline taxes to pay for all this.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from Kentucky (Mr. HUBBARD).

Mr. HUBBARD. Mr. Chairman, I rise in opposition to the Ways and Means Committee amendment to the Surface Transportation Assistance Act of 1982, H.R. 6211, and ask unanimous consent to revise and extend my remarks.

My constituents in western Kentucky do not want tax increases. They want reductions in Government spending. This legislation with its 5-cents-per-gallon gasoline tax increase and highway tax proposals represents another attempt to raise revenues by imposing additional tax burdens on the backs of our already overburdened taxpayers, including those of the trucking industry.

My constituents in western Kentucky believe they will not equitably benefit from the revenues raised by these tax increases. The revenues generated will most likely be forwarded to large cities across the United States. I believe highway construction and repair could be funded by cutting spending in other areas—like foreign aid—not by increasing taxes.

Therefore, I request that my colleagues oppose and vote against this H.R. 6211, the Surface Transportation Assistance Act of 1982.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from Missouri (Mr. GEPHARDT).

Mr. GEPHARDT. Mr. Chairman, I commend the chairman of the Committee on Ways and Means on the work done by the committee on the bill.

Mr. Chairman, I am pleased to note that the committee has made clear in its report on this measure that a fair share of revenues allocated to the newly created mass transit account should be spent on cost effective new rail construction.

in the St. Louis area, plans are underway for a new light rail system involving an innovative approach that will substantially lower the cost. Under this proposal, right of way on existing track, including existing tunnels under the downtown business district and bridges across the Mississippi River to East St. Louis, would be granted for a light rail system linking the heart of downtown St. Louis to the airport, the close-in suburbs, and the Illinois side of the region. By making use of extensive infrastructure, a system which was originally estimated to cost over $400 million would now run about one-third of that amount, or some $135 million. It seems to me the proposed St. Louis light rail system is exactly the type of cost-effective construction envisioned by the committee. The large local capital contribution represented by the use of existing infrastructure will triple the value of the Federal expenditures.

So, I ask the gentlemen if he would agree that the proposed St. Louis system is an example of the new starts envisioned by the committee.

Mr. ROSTENKOWSKI. The gentleman is correct. I am familiar with the St. Louis project and the constructive use of existing facilities it proposes. It is my understanding this is the type of new construction that would be eligible for financing out of mass transit account and should be given preference.

Mr. Chairman, I yield such time as he may consume to the gentleman from Missouri (Mr. YOUNG).

Mr. YOUNG of Missouri. Mr. Chairman, I rise in support of the Surface Transportation Assistance Act of 1982 and urge its immediate passage. This legislation will provide the needed authorizations and revenues to rebuild the Nation's highways and bridges, as

well as the public transportation systems.

Mr. Chairman, I am in support of the language that has been included in the report that has accompanied the revenue title of the highway bill where a fair share of the revenues apportioned to the mass transit account of the highway trust fund be spent on innovative and cost-effective light rail construction.

Over the past 6 years, the St. Louis Metropolitan Area has been developing a low-cost approach to establishing a modern, urban light rail transit system. The proposed project for St. Louis was selected after careful review of alternative projects and corridors. The project will use existing rights-of-way and existing infrastructure such as the historic Eads Bridge and its adjacent tunnel through downtown St. Louis. The estimated cost of the St. Louis light rail is $135 million, which is far below the original proposal.

The project presents a significant potential for linking economic development priorities in the St. Louis region, as well as several cultural centers. The light rail service will substantially improve traffic and transit service throughout the region. The existing bus service will feed directly into the proposed light rail line. Traffic congestion and downtown parking will be reduced to a large extent.

A recently completed transportation planning study sponsored by the Urban Mass Transit Administration indicated that the proposed project would have substantial ridership and compare favorably to all other light rail lines operating or under construction in the United States.

Mr. Chairman, it is my understanding that the St. Louis light rail project is exactly the kind of project that was the intent of the committee in the report language. It is also my understanding that this project should receive high priority and be given preference by the Urban Mass Transit Administration, as well as be eligible for Federal funds as a new rail start under the language provided in the report.

Mr. Chairman, would you agree that the St. Louis light rail project is the kind of project that was intended by the committee as a cost-effective and innovative new start?

Mr. ROSTENKOWSKI. Yes; it is my understanding the gentleman is correct.

Mr. YOUNG of Missouri. I thank the gentleman.

□ 2400

Mr. CONABLE. Mr. Chairman, I yield 4 minutes to the gentleman from South Carolina (Mr. HARTNETT).

Mr. HARTNETT. Mr. Chairman, I thank the distinguished ranking Member for yielding me some time.

Mr. Chairman, Abraham Lincoln, I think, once said that you do not build up your own house by tearing down the house of another. You do not jeopardize 9 million jobs in the trucking industry with the hopes of curing our unemployment ills with 320,000 new jobs.

What we are doing here is increasing the user tax on large truckers from $210 to over $2,000 and that just is not fair.

What we are saying is that if large trucks did not use our highways at all, then they would not deteriorate at all, that the elements and the smaller trucks and other vehicles would not cause any deterioration to our roads at all, that it is all done by the large truckers.

What we are saying is that we should not charge anybody excessive excise taxes but large truckers.

You know, they do not do anything for the economy. They do not provide jobs in the trucking industry. They do not pay taxes now. They do not provide what little bit of fuel taxes we are getting.

Now, you know, we Americans are funny. We say to ourselves, look at what we have done in the way of conservation. Look at the mileage that our automobiles get.

Now, we do not send the Arabs that money for oil anymore. Instead, we send it to the Japanese for their automobiles.

Mr. Chairman, we are going to kill the goose that lays the golden egg if we effectively pass this user tax onto the large truckers. We are adding, as one trucking firm in my district said, about $3,200 overall increase to an 80,000 pound truck. To a man that has 125 trucks, that is a $450,000 increase on his business.

Pass it on, you say. Everything that you have in this building or in your office or in your home arrived by truck. From the pencil that you write notes with to the typewriter or the copy machine which you use or the desk at which you sit, it all came by truck, large trucks probably at some point. If you pass that tax on to that large trucker, he is going to pass it on to that pencil or that desk or that copy machine or that piece of paper or the pair of shoes you have on your feet; which means that consumer prices are going up, which means that inflation is going up.

Mr. Chairman, if you want to pass a user tax, pass a 6-cent or a 7-cent-a-gallon tax on fuel, but do not adversely treat a trucker that provides employment, that pays taxes now, that is trying to operate profitably.

You know, we talk about creating a climate in which small business can operate to provide jobs so that we do not have to create jobs on the Government payroll for people who are unemployed, and yet when someone tries to operate a business profitably, we figure all the devious ways we can to take money away from that businessman in the form of taxes.

Well, I will tell you, you are going to create a large unemployment percentage in the trucking industry if you pass this user tax, because it is not the little truckers that provide employment. It is the big truckers. It is not the little truckers that give us the bulk of our fuel tax from trucking fuel, it is the big truckers.

I am telling you this, that if you heard about the proverbial goose that laid the golden egg and you want to wring its neck, that is what you are doing with this user tax bill that you are trying to pass now on to large truckers.

They are not the only ones that deteriorate our roads and our bridges and our highways.

I urge you to think twice before you vote in favor of this bill.

I thank the ranking member for giving me this time.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 3 minutes to the gentleman from Florida (Mr. GIBBONS).

Mr. GIBBONS. Mr. Chairman, I had not really wanted to speak now and I will be brief.

The last argument sounds attractive on its face, but there are some flaws in it I think that should be pointed out.

This is a balanced package of benefits and costs. The truckers not only get a tax, they also get wider trucks, longer trucks, heavier trucks, and tandem trucks. Without the user tax, they cannot get that. The President will not sign the bill. The Ways and Means Committee probably would not pass it and I do not think you would want to do it either when you stop to think about it.

Now, about the gentleman's argument that we are just hitting the trucks, that is not so. This study, and it was conducted under three administrations, under the Ford administration, under the Carter administration, and under the Reagan administration, has been going on for a number of years at the direction of the Congress with input from the Congress on it, not only the respective committees, but the Congressional Budget Office. It has been a wide-open test. Everybody has had a chance to look at, it criticize it. If you go to the last page of that green sheet that is on all these desks here, you will see a cost-benefit ratio of what this study concluded, an open study, a critical study; everyone had a chance to criticize it and you will find that the heavier trucks are still not paying their fair share.

Now, they do not do all the damage to the highways, but they do a large portion of the damage to the highways. No one suggests that they do it all.

There are perhaps 1,000 different ways you could work this out. This fol-

lows the traditional way. We have had a user tax for a long time, but the heavier trucks got a substantial benefit or subsidy before. They are still getting a subsidy. It is just not as great a subsidy.

In total, this is a balanced package. There are benefits in it for the industry and there is cost-sharing in there for the industry.

This report and study that I refer to was made public back in May of this year. I doubt that any one of you heard from anybody that was interested in it more than 2 days ago or 3 days ago.

Certainly the industry has got to protest. Nobody wants more taxes and I do not want any more on them; but there is a responsibility for us to share the burden and the benefits equitably and this package does it.

Mr. CONABLE. Mr. Chairman, I yield 1 minute to the gentleman from Louisiana (Mr. MOORE).

Mr. MOORE. Mr. Chairman, unfortunatley I rise in opposition to H.R. 6211 due to the measure's deficiency in design and function of title V as written by the Committee on Ways and Means to impose some $5.5 billion annually in new taxes upon the American people.

I do not oppose the other provisions in the bill as the Nation's Interstate Highway System needs and deserves fiscal attention to complete remaining sections and upgrade existing highways and bridges already in disrepair or deteriorating rapidly. I do seriously question the method in this bill to pay for it. The tax provisions of this proposal are flawed both in concept and design for several reasons.

At the outset, we were told the nickel increase in the excise tax on motor fuels is a user fee and not a tax. A tax by any other name is a tax and this user fee is a tax and an unwise method of raising taxes at that. DOT testimony before the National Tax Association-Tax Institute of America in 1979 stated that the fuel tax paid by private automobiles is hardly a user charge at all, but rather a general excise tax. Eighty-five percent of American households have at least one car or pickup truck, therefore, their paying 4 cent a gallon fuel tax is only barely distinguishable from the Nation as a whole. There is not really a separate and distinct group compensating the taxpayer-at-large for the cost of the highway program, as they are one in the same. By comparison, in 1980 only 79 percent of American households paid Federal income tax.

It is not only a tax increase, but title V is regressive in structure, will likely result in little, if any, improvement in the Nation's unemployment rate, and invades a tax area normally reserved for State revenue collection and State gas tax increases.

This nickel increase in motor fuel tax is regressive because gasoline purchases account for a higher percentage of the income of low-income families than for high-income families. A Congressional Budget Office study released in June 1981 found that households with less than $7,400 in annual income spend an average of 8.2 percent of income on gasoline, while households with an income of $36,900 or more spend 3.7 percent. As the motor fuels tax is imposed at a flat rate of 4 cents per gallon, it is regressive in the same proportion as gasoline cost distribution as a percentage of income. Further, this study found it is most regressive in the South which is the region in which the State and congressional district I am privileged to represent is located.

Increasing the tax by another nickel just increases the dimension of an existing regressive tax structure and increases disproportionately the tax burden on lower income taxpayers. This conclusion is corroborated by a study of a Rand Corp. analysis by James P. Stucker prepared under a grant from the National Science Foundation. We have already increased regressive excise taxes this year on cigarettes and telephones, and I am very concerned at this continuing trend.

Much dispute has centered on the question of employment change as a result of the bill. Some assume perhaps as many as 320,000 new jobs would be directly or indirectly attributed to this bill. Martin S. Feldstein, Chairman of the Council of Economic Advisers, has reportedly cautioned against such a rosy outlook. He was quoted most recently on November 29, 1982, before the Washington Press Club as saying this proposal may actually increase unemployment during the first year or two and produce a net loss of 20,000 jobs. His argument states the increase in transportation construction jobs would be more than offset by a decline in jobs in industries that produce goods and services that consumers would otherwise buy with the $5.5 billion they will now pay to the Federal Government in increased gasoline taxes. Comments from Bruce Bartlett, staff member of the Joint Economic Committee, in the Wall Street Journal on November 30, 1982, agree that there will be no net jobs created and further points out that the nickel increase may simply accelerate the purchase of smaller, more fuel-efficient foreign cars, just as the OPEC oil price increase did, further damaging the hard-hit U.S. auto industry. I am led to believe, according to press accounts, there are similar studies and results at the Treasury Department and OMB, which I have requested but have been denied.

Attention must also be given to the question of the nickel increase on the basis of use of gasoline excise taxes by States for their own revenue base to pay for State obligations. This is a form of sales tax and has been widely recognized by States as such. All but two States impose an excise tax on gasoline.

Last year 22 States enacted increases in their gas tax structures and a total of 40 State legislatures had bills before them for this purpose. The Highway Users Federation found this to be a record. Bills to increase gas taxes have been introduced in at least 18 States this year, 6 of which passed gas tax increases in 1981. A total of six States passed legislation so far this year to increase State excise taxes on gasoline. Clearly, States are looking to this revenue base for their own purposes and their historic ability to use it is seriously eroded by title V of H.R. 6211. We must leave to the States some sources of revenues and not compete with them if possible, lest we in combination and without coordination overtax a particular commodity or disproportionately utilize a particular revenue-raising device.

In 1980, I came to the conclusion that President Carter's 10-cent-per-gallon tax increase was bad tax policy and led successful floor efforts to defeat it. I find no reason to reverse my conclusion simply because we are now asked to pass a tax of half that amount.

Therefore, although the highways do need additional financing, this tax is not the proper, best, or fairest ways and means to raise the revenue. Unfortunately this body has not considered any of the many possible alternative revenue-raising devices that would not be regressive or compete with the States' efforts to raise revenue. The fast track this legislation has taken indicates no interest in proper tax policy or alternatives, just revenue results as quickly as possible.

The tax bill was introduced on Tuesday, November 30; the hearing was on Wednesday, December 1; the markup and passage of the bill out of the Committee on Ways and Means on a voice vote having refused my request for a recorded vote occurred on Thursday, December 2; a rule granted by the Rules Committee on Friday, December 3; and now the measure is up for debate and final passage on Monday, December 6,

This is a rather incredulous procedure for a major tax bill insuring the taxpayers of insufficient consideration of the tax by their elected Representatives.

Mr. Chairman, title V of this bill imposes a new tax at a time and in a manner the Nation does not need or deserve. H.R. 6211 should be defeated.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. MINETA).

Mr. MINETA. Mr. Chairman, as a member of the House Public Works and Transportation Committee, I am pleased to reiterate my longstanding support for the legislation which levies a 5-cent-per-gallon user fee on gasoline. This legislation establishes the first regular and predictable stream of revenue for transit construction and repair, and it will provide substantial benefits to the citizens of this Nation.

In California, we now have 24,000 miles of deficient roads and about 5,500 substandard bridges, and we have been the victims of an inefficient administration ban on all new transit projects. Each year, Californians spend $6.9 billion—$100 each—in added driving costs because we drive over deficient road surfaces.

In Santa Clara County, the 5-cent user fee will particularly benefit us as a funding mechanism for the Guadalupe Corridor Light Rail Transit System, the San Jose Transit Mall, and the San Jose Intermodal Terminal. When funded, these projects and all of the highway projects aided by the gas user fee will shift workers from depressed construction industries into a realm where there is an overwhelming demand for work.

More importantly, projects funded by this user fee will help the entire economy. Both those who use mass transit systems and those who use roads will benefit from the mass transit projects, as these projects provide travel alternatives which reduce traffic congestion, operating costs, and congestion on highways. Similarly, not only drivers, but all consumers will benefit from the swifter, less expensive truck and automobile travel which will result from the repair of our State's roads and bridges.

The projects which will be funded by the gasoline user fee will improve the conditions and performance of our highways, increase productivity, and save Americans money. Thus, the surface transportation bill represents farsighted policy, and I am proud to endorse it.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from Alabama (Mr. NICHOLS).

Mr. NICHOLS. Mr. Chairman, the legislation we consider today is championed as a step toward assisting in putting people back to work and certainly no one could argue the need in the face of the highest unemployment this Nation has experienced since the Great Depression. The unemployment rate in the State which I represent and the hardship associated with unemployment are of the gravest concern to me. Now, Mr. Chairman, coming from a State where the unemployment rate currently exceeds 15 percent, it might be expected that I would be in support of this gasoline tax and were I fully convinced that a great number of individuals in my congressional district and in my State would go back on the employment rolls, I would be more inclined to consider supporting this legislation. But I am not convinced of that, Mr. Chairman, and neither am I convinced that my State of Alabama will receive its equitable share of the moneys raised by this increase in the gasoline tax.

For the past week now I have been trying to get someone to tell me how my State will share in the overall $5 billion which H.R. 6211 is expected to bring in through additional taxation. I have not been able to obtain these figures. However, in going through the Atlanta airport last Friday afternoon, I noted in heavy headlines on the front page of the Atlanta evening paper that the Atlanta Intercity Transportation System, better known as MARTA, is expected to receive in that one city alone some $32 million should this legislation pass.

But there is still another concern that I have in that included in this bill I find a sort of "carrot and stick" approach aimed, I would suppose, to secure the support of the large trucking companies across the Nation. The provision, as I understand it, would specifically permit by law on our interstate system from California to Maine and from Key West to the Canadian border the large major truck lines to operate their large trailers in tandem, and this should give some concern to each and every American who utilizes the Nation's highways. Frankly, I would have some concern in driving in the darkest of the night in all sorts of weather behind an 18 wheeler which is pulling a second trailer in tandem. Certainly, I would not want to pass such a rig on a rainy night and I believe there is very definitely an unsafe situation embodied in that practice.

Finally, Mr. Chairman, I will tell you there is a great deal of concern in the trucking industry as well as with all other industries which use trucks to haul our Nation's goods because of the unreasonably large increases in the Federal taxes, particularly the user fees assessed to each of these trucks.

There are those who will argue that these increased taxes will only be passed on to the consumers in the form of higher transportation charges. That would be a callous argument. The burden of our economic recovery should not fall on the backs of the consumers. They have already suffered enough from high Federal taxes.

At the same time, the transportation industry should not be expected to absorb this increased tax liability. Independent, small, and medium size trucking firms are already operating on only the smallest profit margins as a result of the deregulation of that industry. Additional unreasonable expenses will cause many of these firms already working to stay in operation to simply go out of business. This Congress hardly wants to be responsible for adding to our unemployment rolls, but that is what these revenue provisions will do.

Mr. Chairman, in many ways I am supportive of the intent of the legislation in that the Nation certainly needs to improve it's highways and bridges and had the bill come to the floor with a rule so that much needed changes could be made in spelling out the exact apportionment of the legislation together with effecting needed changes in the tax structure, then I would have no doubt been in support of its passage. Unfortunately, there is no opportunity under the closed rule and it is, therefore, my intention to oppose passage of H.R. 6211.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. Mr. Chairman, I thank the gentleman for yielding.

I have joined with the chairman of the Joint Economic Committee, the gentleman from Wisconsin (Mr. REUSS) in seeking to defeat this tax, with the hope that we could substitute a cap on the tax reduction that is due to go into effect in July 1983, which would raise, as the gentleman indicated, more revenue and would do so without costing jobs.

I join him in support of a program such as that presented here to repair our infrastructure. Certainly that is very badly needed.

I sympathize with the gentleman from Illinois when he says that the tax on gasoline has been at the same rate for some time and perhaps deserves reconsideration; but I feel very strongly that now is just not the time to do that at a time when our economy is teetering on the brink of collapse, at a time when we have the greatest unemployment since the Great Depression is not the time for converting a program which could create many jobs. It has been cited that it would create perhaps 200,000 or 300,000 jobs, with an offset that will result in our losing more jobs than the public works aspect of this creates. It just does not make sense.

The chairman of the President's Economic Advisers indicates that that will be the result.

In the Wall Street Journal just on November 30 it said:

> Perhaps most important, the gasoline tax boost will have negative effects on employment that no one has taken into account. It is certainly not going to do any good for the hard-hit U.S. auto industry. It may simply accelerate the purchase of smaller, more fuel-efficient foreign cars just as the OPEC oil price increase did.
>
> And even if we assume that as many jobs are created as are destroyed—a very questionable assumption—the tax is likely to be implemented first, meaning that the job-de-

stroying effect on the tax will occur before the job-creating effect of the public works spending.

□ 2410

The tax is also unfair. We have just recently alleviated the wealthy people in this country, wealthy corporations of this country, of a large measure in paying their fair share of the tax burden.

Now we go to a tax whose primary burden is going to be on low- and middle-income people. There was a study that was done recently by the Rand Corp., financed by the National Science Foundation, written up in a magazine called Public Policy by James W. Stucker. It makes a detailed analysis of households. It finds that a tax on gasoline would fall much harder on poor and middle-income families than those that are better off.

The CHAIRMAN. The time of the gentleman from New York (Mr. OTTINGER) has expired.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 additional minute to the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. Forty percent of the gasoline taxes are paid by families with incomes of less than $5,000 per year, and 85 percent is paid by those with incomes of less than $10,000 a year. The poorer families and the working families tend to drive more.

While the average cost of this may be $30 per year per person, the person who has to drive to and from work is going to have to pay several hundred dollars. Indeed, this study finds that most of the low- and middle-income people have second-hand cars, and they tend to have older cars which consume a great deal more gasoline.

So this study finds that the preponderance of the burden would be on low- and middle-income families.

In constrast, the cap on the income tax reduction would give the full income tax reduction to everybody making less than $45,000 a year, would give $700 to everybody, and would be a much fairer tax, and I would hope this tax would be defeated.

Mr. CONABLE. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. OXLEY).

Mr. OXLEY. Mr. Chairman, I rise in opposition to H.R. 6211, the Surface Transportation Act, primarily because of the impact this bill would have on the small, family run, owner-operated trucking firms in my State of Ohio. When the bill was originally proposed by the administration, I wholeheartedly supported the concept of a 5-cent-per-gallon fee. I also endorsed the targeted projects for the projected revenues created by the user fee. I also endorsed the targeted projects for the projected revenues created by the user fee. However, as many of my colleagues have noted after studying the details of the bill, the measure contains a death blow to most of the smaller trucking firms across the country.

There is no doubt that America's highways and bridges are in desperate need of repair. However, funding these repair projects by specifically penalizing smaller family run trucking firms smacks of competitive discrimination within the trucking industry.

The burden of this user fee would be borne by the small trucking companies, which, by the way, are predominant in Ohio, and would literally put most of the smaller companies out of business. Currently, most of the trucking firms in Ohio are suffering because of the dismal economy coupled with the adverse effects of deregulation. In fact, one of my local firms in Lima, Ohio, is losing at least $15,000 every morning, just by opening its doors. The effect of an additional tax on these trucking firms would spell the kiss of death to their businesses.

Let me point out a few additional facts which bear out my opposition. First, the unemployment rate among union drivers in Ohio ranks among the highest in the country at 38 percent. If one takes into account the number of nonunion drivers and their corresponding unemployment, that figure most certainly skyrockets.

Second, the profit margin of short-haul, intrastate haulers is currently less than one-half of 1 percent. That is substantially down from the 4- to 5-percent profit margin enjoyed by the trucking industry before deregulation. By asking the small trucking firms to absorb a substantial tax burden per truck, in addition to those taxes already paid into the highway trust fund, the certain result will be thousands of displaced trucking jobs.

Third, the additional taxes spell increased operating costs for the small trucking firms by at least 4 percent. That impact is probably representative of the truckload freight industry, where the profit margin is about 1 percent. The obvious consequence of this added tax is that a large number of companies such as Ohio's will be literally taxed out of existance, or else freight rates will have to be increased, with the full effect of the cost passed along to shippers and eventually consumers.

Finally, with respect to the jobs creation portion of the bill, it must be remembered that the creation of thousands of construction jobs on bridges and highways will be offset by the huge amounts of unemployed trucking industry personnel.

I would urge my colleagues to defeat this measure.

Mr. CONABLE. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. SHUMWAY).

Mr. SHUMWAY. Mr. Chairman, I rise in opposition to H.R. 7360, the Surface Transportation Act of 1982. I have given this matter a great deal of thought and realize that credible arguments can be made in favor of some kind of action. As a former county supervisor, I am well aware of the need to repair and reconstruct certain roads and bridges. However, the legislation before us today is not the correct answer. H.R. 7360 would unfairly and unjustifiably raise taxes, and futhermore, this bill would not even accomplish the objectives that its proponents have identified.

Raising the gas tax to finance highway programs is the wrong approach for two reasons. First, contrary to it popular image, H.R. 7360 violates the user-fee concept, thereby unfairly distributing the costs of this bill. For example, under revenue disbursement formulas contained in the highway programs, at least 10 States, including my own State of California, receive substantially few dollars in benefits than the amount they pay into the highway trust fund. Or viewed from a different angle, it is estimated that about 1 driving mile in 4 is driven off the Interstate System, thus penalizing these nonusers who are still required to pay a gas tax. Finally, there is no justification whatsoever from a user-fee perspective to use 20 percent of the new highway trust fund moneys for public transit assistance. It seems ludicrous to me that a highway commuter in Stockton, Calif., should be required to subsidize the electric subway in New York City.

No matter how proponents attempt to disguise the fact, the gas tax proposal is what it seems to be—a substantial increase in Federal taxes. It is estimated that the average driver will spend an additional $30 annually as a result of the 5-cents-per-gallon increase. This is money that would otherwise be saved and invested, or spent in the private sector. At a time when Federal taxes, as a percentage of GNP, are at their highest level since World War II, it makes little sense to enact a tax bill of this magnitude when the economy is only now showing signs of recovery. Although such signs exist—interest rates, for instance, are declining rapidly—corporate liquidity is at its lowest level in 40 years, before-tax profits are down 30 percent from last year, and business failures are running at their highest rate in 50 years. Simply stated, increasing taxes at a time of 10.8 percent unemployment runs contrary to all economic logic.

Those who would argue that this legislation creates jobs have not fully considered the impact of this bill. For every dollar that the consumer pays in higher gas taxes, less money will be made available for consumer demand in the private market. In fact, Martin

Feldstein, Chairman of the Council of Economic Advisers, has calculated that raising the gas tax could cost as many as 20,000 more jobs than it creates. The business of government has never been to create jobs, but especially not when it does so at the expense of jobs in the private sector.

Not only is it wrong to call H.R. 7360 a jobs program, this bill's emphasis is not even focused on what has been identified as its major justification; the need to repair and reconstruct our Nation's highway system. Approximately two-thirds of the money generated by the gas tax would go to build new roads and complete missing segments of the Interstate System. Only one-third is to go to all forms of upgrading.

Mr. Chairman, instead of supporting this ill-conceived legislation, I would urge my colleagues to encourage reliance on the private sector, and secondarily, on State and local governments, to meet the needs of our transportation infrastructure, Privately financed and operated toll roads would mean better upkeep at less cost. A 1978 study by the National Transportaton Policy Study Committee, as reported by the Council for a Competitive Economy, concluded that "by and large, toll roads are better maintained than other roads."

State and local governments should also assume more responsibility for the construction and maintenance of roads, bridges, and public transit. Road conditions vary widely from State to State and merit selective repair. Some States have been responding to their individual needs with innovative ideas. For example, I have learned that Wisconsin and Pennsylvania are considering toll options, contracting out segment construction, and other market-oriented financing schemes. With this kind of progress being made on redefining the traditional Federal/State highway relationship, it seems to me the wrong time to pass another multiyear highway bill that commits the Federal Government to new financial responsibilities in this area.

In sum, this bill is an inappropriate response to a problem that largely needs to be addressed outside of the Federal arena. I therefore strongly urge my colleagues to join me in opposition to H.R. 7360.

● Mr. CHENEY. Mr. Chairman, I rise in opposition to the proposed 5-cent-per-gallon increase in the gasoline tax, because I am convinced that such a tax increase could wipe out more jobs than it would create.

Such an eventuality was first suggested several days ago by the President's Chief Economic Adviser, Martin Feldstein, and a number of conversations I have had since with constituents in my State of Wyoming convince me of the validity of Mr. Feldstein's warning that the higher tax may worsen unemployment, instead of reducing it.

There are many businesses in Wyoming and across the country, including many small trucking interests which serve rural communities, that are in very bad shape because of the recession. They are barely hanging in there, and for them, the gasoline tax increase could be the straw that broke the camel's back. It very likely would drive them out of business, and we could end up destroying more jobs than would be created by the highway constructon which the tax increase is supposed to generate.

Many people are confident that our economy will soon begin a strong recovery, and I am among those who believe better days are ahead. But right now, a lot of people are still in trouble. This is not a good time to impose a tax increase of this magnitude.

I would be the first to agree that our highways and bridges are in need of repair, and that it is appropriate that such repairs be financed by user fees. I commend Secretary of Transportation Drew Lewis for putting together a very good program to bring about those repairs. But I cannot go along with the timing, which would more than double user fees at a time when our economy can least stand it.●

● Mr. BEREUTER. Mr. Chairman, I wish to voice my intentions regarding final passage of this bill so that there will be no misunderstanding regarding my vote on it.

I support a 5-cent gas tax. I have traveled the highways of my State. I believe they represent one of our country's greatest assets. They carry truckers, tourists, people, agricultural products. They are immeasurably important to our economy and our way of life.

I cast my vote in favor of this bill with several reservations, however, and I want to lay them out very clearly for my colleagues. I want to go on record as being inclined to oppose this bill in its postconference form if these imperfections are not mitigated to some substantial degree in the other body or in conference.

My first objection is the elimination of the one-half of 1 percent minimum allocation provision, which is unfair to rural States and unfair to those States which have completed their interstate construction.

Second, I am concerned that this bill has shifted too much of the financing burden onto heavy truckers. In my State of Nebraska, even profitable trucking firms do not net the $2,000 to $3,000 per truck which this bill would impose in user fees. They would have no choice but to pass the tax along to the end user, and in Nebraska the end user is agriculture—the stockman, farmer or meat packer who needs heavy truck transportation but have in most instances, no place to pass on those costs without losing markets. Especially in those rural areas where the railroads have abandoned service to grain shipppers in our small communities, the only alternative has become an increased reliance upon the trucking industry to meet the needs of agriculture.

A third area of concern is in the 4R formula factors. These factors have a long-term effect on our State highway budgets and even shifts which appear to be small will have a significant net effect in the outyear. The usual version in the other body for the 4R formula is a more equitable one for low population density States than is the one in the House version.

Finally, I am concerned that this bill provides only for a 4-cent exemption ıor gasohol rather than a full exemption as we have in present law. As the young alcohol fuel industry begins to become a viable and self-supporting enterprise, it is essential that the Congress not act counterproductively on an industry that has the potential to consume mass quantities of agricultural products.●

● Ms. FERRARO. Mr. Chairman, I rise in support of H.R. 6211, the Surface Transportation Act of 1982.

This bill addresses two of our most pressing domestic problems—unemployment and our crumbling transportation system. Its approach is direct and logical—to put the unemployed to work repairing roads and bridges and improving public transit.

The need for the bill is great. Unemployment nationally is 10.8 percent, with 12 million Americans out of work. In the construction industry, the rate is 23 percent. It has become clear that the key to economic recovery is to put people back to work.

As for our transportation system, the problems are becoming all too familiar. Twenty percent of the Interstate System, some 8,000 miles, is beyond its design life and needs repair. For too long, we have neglected our roads and bridges. The failure to perform needed maintenance over the years now threatens the smooth flow of people and commerce. The broad bipartisan support for this legislation reflects the growing awareness that we cannot afford to wait any longer to stop the steady deterioration.

In the transit area, the bill continues Federal support for urban mass transportation. Over 4 years, $16.5 billion is provided in transit aid. In an important breakthrough, a public transportation trust fund is established as a separate account within the highway trust fund. Approximately $1.1 billion of the annual revenue from the Federal gas tax will be used for mass transit. Thus, for the first time, mass transit is assured a reliable source of funds.

Revenues for both the highway and transit portions of the bill are provided by a 5-cent-a-gallon increase in the Federal gasoline tax. Currently, the tax is 4 percent a gallon. It has not been changed since 1959.

Part of the reason proper maintenance has not been performed on our roads and bridges is the failure of revenues from the gas tax to keep pace with the needs of the system, especially the rising costs of construction and repairs. As a result, the trust fund has been drawn down steadily.

In 1959, when the gasoline tax was set at 4 percent, a gallon of gasoline cost about a quarter. Today, the tax is still 4 percent, even though gasoline costs $1.25. The nickel increase provided in this bill is a moderate and reasonable approach to pay for needed road repairs.

There is substantial controversy over the bill's increases in user fees for the trucking industry. In raising the funds needed to pay for rebuilding our highways, we need to try to spread the burden fairly, so that there is a reasonable relationship between the damage done to our roads by a certain class of vehicles and the share of taxes paid by that class.

The changes in this bill help make that relationship more fair. In the past drivers of small trucks have borne more than their share of repair costs, to the benefit of heavy truck operators. A recent 3-year study concluded that while heavy trucks are paying only 60 percent of their share compare to the damage they do, smaller trucks pay 90 percent more than their share.

This bill improves the distribution of costs, though heavy trucks still are subsidized. Even with the new taxes and fees, they will still pay only 77 percent of the costs they might be expected to bear.

There is some concern in the trucking industry that this increase may impose too great a burden on already hard-pressed truckers. I am, of course, concerned that this program, which is designed to create jobs for construction workers, not wind up costing jobs for truckers.

To balance any possible adverse affects of the increased user fees, the bill gives truckers several new advantages. First, the bill increases the maximum weight and length of trucks permitted on the interstate. Estimates of benefits to truckers from this change alone are $4 billion a year.

Second, the improvements to the highways and bridges will help productivity in the industry. Highways strewn with potholes and bridges that sway with the wind force delays in transport time that increase costs to trucking companies. Completing the Interstate System and repairing other highways and bridges will help restore economic health to the industry.

To begin the improvements, over the next 4 years this bill provides $16 billion for the Interstate System, $10.4 billion for resurfacing and rehabilitation of the interstate, $8.8 billion for the primary road system, $6.9 billion for bridge repair, and $3.2 billion for urban roads. In addition to increased funding levels, the bill makes other changes that will help States deal with their problems.

My own State of New York will benefit from overdue formula changes in two areas. Under current law, no State can receive more than 8 percent of Federal bridge repair funds. Because we have so many bridges needing repairs, that cap keeps New York from getting its full share of funds. This bill increases the cap to 10 percent, which means an additional $148 million for New York.

The second change involves the primary road program, where the new formula makes urban population more important. This change also increases New York's aid by about $150 million over 4 years.

In addition to these changes, the bill continues Federal operating assistance for transit systems. The Reagan administration favors eliminating operating aid, and I am pleased the committee has chosen to continue to recognize the importance of our Nation's subways to the economic health of our cities.

Even with the $16.6 billion the bill provides for transit aid, many cities still face serious funding problems. An amendment I sponsored to this bill could provide needed help. The amendment calls for a study of having the Department of Transportation enter into long-term agreements with local transit authorities to assure a steady flow of annual aid. The local agency could then use the funds as leverage to raise more money by issuing bonds.

This plan has already been used successfully in New York. Adopting a similar approach at the Federal level would give local transit authorities a big boost without increasing Federal spending.

The last issue I would like to discuss is the provision prohibiting discrimination on the basis of sex in employment in Federal highway programs. Women have made progress in recent years in getting a larger share of highway construction jobs. As a matter of simple fairness, we should prohibit discrimination in Federal programs.

But the need to bar sex-based discrimination is made even greater by the job-creating purpose of this bill.

We have all come to understand that unemployment is as serious a problem for women as for men. No longer do women work for pin money. Women working today are frequently single parents, solely responsible for supporting their families. Other women must work to keep their families above the poverty line. As economic pressures on women grow, we must insure that women with the ability and the interest are not denied job opportunity because of discrimination.

The legislation we have before us is not perfect. It will not provide a job for every unemployed American, nor will it take care of all that is wrong with our roads. But it is a strong start at dealing with both problems. It deserves our support.●

Mr. CONABLE. Mr. Chairman, I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ROSTENKOWSKI).

The question was taken; and the Chairman announced that he was in doubt.

Mr. REUSS. Mr. Chairman, I demand a recorded vote, and pending that I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. One-hundred twenty-seven Members are present, a quorum.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Wisconsin (Mr. REUSS) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 236, noes 169, not voting 28, as follows:

[Roll No. 420]

YEAS—236

Addabbo	Corcoran	Foglietta
Albosta	Coughlin	Foley
Anderson	Coyne, James	Ford (MI)
Annunzio	Coyne, William	Fowler
Anthony	Crockett	Frank
Aspin	D'Amours	Frenzel
Atkinson	Daub	Frost
Badham	DeNardis	Garcia
Bailey (PA)	Derrick	Gephardt
Barnard	Derwinski	Gibbons
Bedell	Dicks	Gingrich
Beilenson	Dingell	Glickman
Benedict	Dixon	Goodling
Bennett	Donnelly	Gradison
Bereuter	Dorgan	Gray
Biaggi	Dornan	Green
Bingham	Dougherty	Gregg
Bliley	Dowdy	Grisham
Boland	Downey	Guarini
Bowen	Dunn	Hagedorn
Breaux	Dymally	Hall (IN)
Brodhead	Eckart	Hamilton
Brooks	Edgar	Hance
Broomfield	Edwards (AL)	Heckler
Brown (OH)	Edwards (CA)	Heftel
Burgener	Erdahl	Hendon
Burton, Phillip	Erlenborn	Hightower
Butler	Ertel	Hiler
Carman	Evans (DE)	Hollenbeck
Carney	Evans (IN)	Howard
Clausen	Fary	Hoyer
Clay	Fazio	Huckaby
Clinger	Fenwick	Hunter
Coats	Ferraro	Hutto
Coelho	Findley	Ireland
Collins (IL)	Fish	Jacobs
Conable	Fithian	Jeffords
Conte	Flippo	Jones (NC)

Jones (OK)	Moorhead	Shaw
Kastenmeier	Morrison	Simon
Kennelly	Murtha	Skeen
Kildee	Napier	Smith (IA)
Kogovsek	Natcher	Smith (NE)
Kramer	Nelligan	Smith (NJ)
LaFalce	Nelson	Smith (PA)
Latta	O'Brien	Snyder
LeBoutillier	Oakar	Solarz
Lee	Oberstar	St Germain
Leland	Obey	Stark
Lent	Pashayan	Staton
Lewis	Patman	Stokes
Lott	Pease	Stratton
Lowery (CA)	Pepper	Swift
Lowry (WA)	Petri	Tauke
Luken	Peyser	Thomas
Lungren	Pickle	Traxler
Madigan	Porter	Trible
Markey	Price	Udall
Martin (IL)	Pritchard	Vander Jagt
Martinez	Pursell	Vento
Matsui	Rahall	Walgren
Mavroules	Railsback	Waxman
McClory	Rangel	Weber (MN)
McCollum	Ratchford	Weber (OH)
McCurdy	Regula	Weiss
McDade	Rodino	Whitehurst
McGrath	Rostenkowski	Wilson
McHugh	Roukema	Wirth
McKinney	Rousselot	Wolf
Mica	Russo	Wolpe
Michel	Sabo	Wortley
Mikulski	Scheuer	Wright
Miller (CA)	Schneider	Wyden
Mineta	Schroeder	Wylie
Mitchell (MD)	Schulze	Yates
Moakley	Schumer	Young (MO)
Moffett	Shamansky	Zablocki
Molinari	Shannon	Zeferetti
Montgomery	Sharp	

NAYS—169

Akaka	Fuqua	McEwen
Andrews	Gaydos	Miller (OH)
Applegate	Gejdenson	Minish
Archer	Gilman	Mitchell (NY)
Ashbrook	Ginn	Moore
AuCoin	Gonzalez	Murphy
Bailey (MO)	Gore	Myers
Beard	Gramm	Neal
Bethune	Gunderson	Nichols
Boggs	Hall (OH)	Nowak
Boner	Hall, Ralph	Ottinger
Bonior	Hall, Sam	Oxley
Bouquard	Hammerschmidt	Panetta
Brinkley	Hansen (ID)	Parris
Brown (CA)	Hansen (UT)	Paul
Brown (CO)	Harkin	Perkins
Broyhill	Hartnett	Quillen
Burton, John	Hatcher	Reuss
Byron	Hawkins	Rinaldo
Campbell	Hefner	Ritter
Chappell	Hertel	Roberts (KS)
Chappie	Hillis	Roberts (SD)
Cheney	Holland	Robinson
Coleman	Holt	Roe
Collins (TX)	Hopkins	Roemer
Courter	Horton	Rogers
Craig	Hubbard	Rose
Crane, Daniel	Hughes	Roth
Crane, Philip	Hyde	Roybal
Daniel, Dan	Jeffries	Rudd
Daniel, R. W.	Jenkins	Savage
Dannemeyer	Johnston	Sawyer
Daschle	Jones (TN)	Seiberling
Davis	Kazen	Sensenbrenner
de la Garza	Kemp	Shelby
Dellums	Kindness	Shumway
Dickinson	Lagomarsino	Siljander
Dreier	Leach	Smith (AL)
Duncan	Leath	Smith (OR)
Dwyer	Levitas	Snowe
Dyson	Livingston	Solomon
Early	Loeffler	Spence
Edwards (OK)	Long (LA)	Stangeland
Emerson	Long (MD)	Stenholm
Emery	Lujan	Studds
English	Lundine	Stump
Evans (IA)	Marlenee	Synar
Fiedler	Marriott	Tauzin
Fields	Martin (NC)	Taylor
Florio	Martin (NY)	Volkmer
Ford (TN)	Mazzoli	Walker
Fountain	McDonald	Wampler
Washington	Whittaker	Yatron
Watkins	Whitten	Young (AK)
Weaver	Williams (MT)	Young (FL)
White	Williams (OH)	
Whitley	Winn	

NOT VOTING—28

Alexander	Evans (GA)	Mottl
Bafalis	Fascell	Patterson
Barnes	Forsythe	Rhodes
Bevill	Goldwater	Rosenthal
Blanchard	Lantos	Santini
Bolling	Lehman	Shuster
Bonker	Marks	Skelton
Chisholm	Mattox	Stanton
Conyers	McCloskey	
Deckard	Mollohan	

□ 2430

The Clerk announced the following pairs:

On this vote:

Mr. Lantos for, with Mr. Mottl against.

Mr. Rosenthal for, with Mr. Bevill against.

Mr. MARTINEZ changed his vote from "no" to "aye."

So the amendment was agreed to.

The CHAIRMAN. The question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker, having resumed the chair, Mr. NATCHER, Chairman of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6211) to authorize appropriations for construction of certain highways in accordance with title 23, United States Code, for highway safety, for mass transportation in urban and rural areas, and for other purposes, pursuant to House Resolution 620, he reported the bill back to the House with an amendment by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. CLAUSEN

Mr. CLAUSEN. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill in its present form?

Mr. CLAUSEN. In its present form, yes, Mr. Speaker, I am.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. CLAUSEN moves to recommit the bill, H.R. 6211, as amended, to the Committee on Public Works and Transportation with instructions to report forthwith with an amendment: On page 106 of the committee substitute (H.R. 7360) on line 3 after "Within" delete the word "four" and insert "six".

The SPEAKER. The gentleman from California (Mr. CLAUSEN) is recognized for 5 minutes in support of his motion to recommit.

Mr. CLAUSEN. Mr. Speaker, Although I generally support the bill, I feel that the time allotted for the study provided for by section 314 is insufficient. This study is an important one and should be done right. I, therefore, urge my colleagues to join with me in lengthening the time allotted the Secretary of Transportation to study leverage financing from 4 to 6 months. Should this correction be made, I then feel that I would be in a position to support the legislation.

I urge my colleagues to join with me in support of the motion to recommit.

Mr. HOWARD. Mr. Speaker, will the gentleman yield?

Mr. CLAUSEN. I yield to the chairman of the committee.

Mr. HOWARD. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would like to say that I agree with the gentleman from California (Mr. CLAUSEN). I think 4 months is an outrageously short time for this study. I believe that we should have the 6 months, as is contained in the gentleman's recommital motion. We support that provision.

Mr. CLAUSEN. Mr. Speaker, I move the previous question on the motion to recommit.

The previous question was ordered.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was agreed to.

The SPEAKER. The Chair recognizes the gentleman from New Jersey (Mr. HOWARD).

Mr. HOWARD. Mr. Speaker, pursuant to the instructions of the House, I report the bill, H.R. 6211, back to the House with an amendment.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Amendment: On page 106 of the committee substitute (H.R. 7360) on line 3 after "Within" delete the word "four" and insert "six".

The SPEAKER. The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HARTNETT. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 262, noes 143, not voting 28 as follows:

[Roll No. 421]

AYES—262

Addabbo	Flippo	Miller (CA)
Albosta	Foglietta	Mineta
Anderson	Foley	Mitchell (MD)
Annunzio	Ford (MI)	Mitchell (NY)
Anthony	Ford (TN)	Moakley
Applegate	Fowler	Moffett
Aspin	Frank	Molinari
Atkinson	Frenzel	Montgomery
Badham	Frost	Morrison
Bailey (MO)	Garcia	Murtha
Bailey (PA)	Gejdenson	Napier
Barnard	Gephardt	Natcher
Bedell	Gibbons	Nelligan
Beilenson	Gilman	Nelson
Benedict	Gingrich	Nowak
Bennett	Goodling	O'Brien
Bereuter	Gradison	Oakar
Biaggi	Gray	Oberstar
Bingham	Green	Obey
Bliley	Gregg	Pashayan
Boggs	Grisham	Patman
Boland	Guarini	Pease
Bowen	Gunderson	Pepper
Breaux	Hagedorn	Petri
Brinkley	Hall (IN)	Peyser
Brodhead	Hamilton	Pickle
Brooks	Hammerschmidt	Porter
Broomfield	Hance	Price
Brown (CA)	Harkin	Pritchard
Brown (OH)	Hatcher	Pursell
Burgener	Hawkins	Quillen
Burton, John	Heckler	Rahall
Burton, Phillip	Heftel	Railsback
Butler	Hendon	Rangel
Carman	Hightower	Ratchford
Carney	Hiler	Regula
Clausen	Hillis	Reuss
Clay	Hollenbeck	Rodino
Clinger	Howard	Roe
Coats	Hoyer	Roemer
Coelho	Hunter	Rostenkowski
Collins (IL)	Hutto	Roukema
Conable	Ireland	Russo
Conte	Jacobs	Sabo
Corcoran	Jeffords	Savage
Coughlin	Jones (NC)	Scheuer
Coyne, James	Kastenmeier	Schneider
Coyne, William	Kennelly	Schroeder
Crockett	Kildee	Schulze
D'Amours	Kogovsek	Schumer
Daub	Kramer	Seiberling
Dellums	LaFalce	Shamansky
DeNardis	Latta	Shannon
Derrick	Leach	Sharp
Derwinski	LeBoutillier	Shaw
Dicks	Lee	Simon
Dingell	Leland	Smith (IA)
Dixon	Lent	Smith (NE)
Donnelly	Levitas	Smith (NJ)
Dorgan	Lewis	Smith (PA)
Dougherty	Long (LA)	Snyder
Dowdy	Lott	Solarz
Downey	Lowery (CA)	St Germain
Dunn	Lowry (WA)	Stark
Dwyer	Lujan	Staton
Dymally	Luken	Stokes
Dyson	Madigan	Stratton
Edgar	Markey	Swift
Edwards (AL)	Martin (IL)	Tauke
Edwards (CA)	Martinez	Thomas
Erdahl	Matsui	Traxler
Erlenborn	Mavroules	Trible
Ertel	Mazzoli	Udall
Evans (DE)	McClory	Vander Jagt
Evans (IA)	McCollum	Vento
Evans (IN)	McDade	Volkmer
Fary	McEwen	Walgren
Fazio	McGrath	Washington
Fenwick	McHugh	Waxman
Ferraro	McKinney	Weber (MN)
Findley	Mica	Weber (OH)
Fish	Michel	Weiss
Fithian	Mikulski	Whitehurst
Williams (OH)	Wortley	Young (MO)
Wilson	Wright	Zablocki
Wirth	Wyden	Zeferetti
Wolf	Wylie	
Wolpe	Yates	

NOES—143

Akaka	Gore	Oxley
Andrews	Gramm	Panetta
Archer	Hall (OH)	Parris
Ashbrook	Hall, Ralph	Paul
AuCoin	Hall, Sam	Perkins
Beard	Hansen (ID)	Rinaldo
Bethune	Hansen (UT)	Ritter
Boner	Hartnett	Roberts (KS)
Bonior	Hefner	Roberts (SD)
Bouquard	Hertel	Robinson
Brown (CO)	Holland	Rogers
Broyhill	Holt	Rose
Byron	Hopkins	Roth
Campbell	Horton	Rousselot
Chappell	Hubbard	Roybal
Chappie	Huckaby	Rudd
Cheney	Hughes	Sawyer
Coleman	Hyde	Sensenbrenner
Collins (TX)	Jeffries	Shelby
Courter	Jenkins	Shumway
Craig	Johnston	Siljander
Crane, Daniel	Jones (OK)	Skeen
Crane, Philip	Jones (TN)	Smith (AL)
Daniel, Dan	Kazen	Smith (OR)
Daniel, R. W.	Kemp	Snowe
Dannemeyer	Kindness	Solomon
Daschle	Lagomarsino	Spence
Davis	Leath	Stangeland
de la Garza	Livingston	Stenholm
Dickinson	Loeffler	Studds
Dornan	Long (MD)	Stump
Dreier	Lundine	Synar
Duncan	Lungren	Tauzin
Early	Marlenee	Taylor
Eckart	Marriott	Walker
Edwards (OK)	Martin (NC)	Wampler
Emerson	Martin (NY)	Watkins
Emery	McCurdy	Weaver
English	McDonald	White
Fiedler	Miller (OH)	Whitley
Fields	Minish	Whittaker
Florio	Moore	Whitten
Fountain	Moorhead	Williams (MT)
Fuqua	Murphy	Winn
Gaydos	Myers	Yatron
Ginn	Neal	Young (AK)
Glickman	Nichols	Young (FL)
Gonzalez	Ottinger	

NOT VOTING—28

Alexander	Evans (GA)	Mottl
Bafalis	Fascell	Patterson
Barnes	Forsythe	Rhodes
Bevill	Goldwater	Rosenthal
Blanchard	Lantos	Santini
Bolling	Lehman	Shuster
Bonker	Marks	Skelton
Chisholm	Mattox	Stanton
Conyers	McCloskey	
Deckard	Mollohan	

□ 2450

The Clerk announced the following pairs:

On this vote:

Mr. Lantos for, with Mr. Mottl against.

Mr. Rosenthal for, with Mr. Bevill against.

Mr. VOLKMER changed his vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 6211, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

AUTHORIZING CLERK TO MAKE TECHNICAL CORRECTIONS IN ENROLLMENT OF H.R. 6211

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent that the Clerk be authorized to make technical corrections in the enrollment of the bill, H.R. 6211.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

TRIBUTE TO HON. BUD SHUSTER

(Mr. CLAUSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLAUSEN. Mr. Speaker, I would like to take just a moment to address the House, to bring to the attention of the Members the fact that our distinguished colleague, the gentleman from Pennsylvania (Mr. SHUSTER), who is the ranking minority member on the subcommittee and was here earlier today during the course of the presentation of the legislation, was actually ordered by his doctor to leave the Chambers so that he could get more in the way of rest, having had to recover from an automobile accident.

I only wanted to make the point that if ever there was a gentleman who made the extra effort, went that extra mile on behalf of his own legislative responsibilities, it was BUD SHUSTER of Pennsylvania.

I think this is a real tribute, the legislation having passed with the kind of vote that it did. It is truly a great tribute to the gentleman from Pennsylvania.

IN PRAISE OF HON. BUD SHUSTER

(Mr. HOWARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOWARD. Mr. Speaker, I wish to thank the gentleman for his remarks and to tell the Members of the House that BUD SHUSTER had been working on this legislation for literally years. We know he had a very severe accident just before election, had two operations since that time. But even during the final deliberations on this bill, was part of the meetings and negotiations to put this legislation together, by telephone from his hospital bed. We are very, very happy to see

him with us for the short time he was able to stay today.

I wish to agree with the gentleman from California that in many, many ways this is to a good measure the Shuster bill, as well as the Public Works and the House of Representatives bill.

I wish to thank the gentleman for bringing that to the attention of the Members.

THE WEATHERIZATION AND EMPLOYMENT ACT OF 1982

(Mr. OTTINGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.

Mr. OTTINGER. Mr. Speaker, today I am introducing the Weatherization and Employment Act of 1982. This bill has two purposes. First, it would expand the existing low-income weatherization program at the Department of Energy and would authorize sufficient funding to weatherize the remaining 12 million low-income homes in the Nation that have yet to receive this assistance. Second, the bill would provide significant new employment opportunities. In addition to the jobs created by the expanded program, job training would be offered to prepare weatherization workers to enter the energy conservation industry and related construction and maintenance fields.

Of the 14 million low-income households in the Nation, the DOE weatherization program has already weatherized close to 2 million homes. The results of this program have been impressive, both in terms of energy savings for the Nation and income savings for low-income people. According to a 1981 study by the Consumer Energy Council, weatherization results in savings to low-income households of 27 percent in their fuel bills, or 4 percent of their average annual income. This figure is significant because low-income households spend a larger proportion of their income on energy than other income groups—often as high as 40 percent. Because they have little disposal income, they usually cannot afford to make the improvements in their homes that are needed to reduce energy needs beyond the economies they have already achieved through reduced comfort.

In addition, the low-income weatherization program delivers energy at a cost per barrel of oil equivalent which makes it a cheaper way to expand the Nation's energy resources than any other form of energy production. According to the Consumer Energy Council, the low-income weatherization program has "produced" saved energy at less than half the cost the resident would pay for oil, electricity, or natural gas.

The potential for employment in the weatherization industry is particularly impressive. The conservation industry is a labor-intensive industry, particularly as compared to other forms of energy production. Estimates based on figures from the Bureau of Labor Statistics indicate that this program will create over 61,000 jobs in the first year and produce 280,000 additional work years over the life of the program investment. These additional job opportunities are attributable to the employment created when low-income households respend their energy savings in other sectors of the economy. This expanded weatherization program could save 135,000,000 barrels of oil equivalent, which translates into a savings of $6.1 billion that low-income households would otherwise be obligated to pay on fuel bills. At this level of savings the amount spent on the program would be easily repaid in a few years through reduced financial assistance for fuel assistance to the poor.

This program would cost a total of $14.85 billion over the next 11 years, starting with a $500 million authorization level in fiscal year 1983 and scaling up to an annual level of $1.5 billion. In addition, the bill would create a performance fund, composed of 10 percent of the total funding, that would permit the Secretary of Energy to reward those States that have demonstrated excellent performance in terms of the quantity of houses weatherized or the quality of their weatherization programs.

Under the bill, priority would be given to employing workers who have been unemployed for at least 17 weeks, which was the average duration of the unemployed American worker in October 1982.

The bill would also make several changes to increase the effectiveness of the existing program, including permitting efficient replacement heating systems to be eligible for weatherization assistance, providing information to homeowners about the maintenance of weatherization measures and providing information about the weatherization of multifamily buildings.

Mr. Speaker, it is hard for me to think of a program that has as many benefits for the Nation's economy as an expanded weatherization program. Despite the Reagan administration's repeated attempts to kill the weatherization program, this Congress has steadfastly restored funding showing strong support of the most important of our energy conservation programs. At a time when we are trying to put our Nation back to work, I propose that we expand this proven, successful program to train our unemployed citizens to enter a new and promising industry. Simultaneously, we will contribute to the energy savings of our low-income citizens and reduce the dollars that this Nation is sending out of the country for energy expenditures.

□ 0100

A TRIBUTE TO THE HONORABLE BO GINN, FIRST DISTRICT OF GEORGIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. LEVITAS) is recognized for 60 minutes.

GENERAL LEAVE

Mr. LEVITAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks in connection with this special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. LEVITAS. Mr. Speaker, the occasion of this special order which I have asked for and taken is to honor a colleague of ours who will not be returning next year, Congressman Bo GINN of Georgia. Bo GINN is one of the most decent human beings I have ever had the pleasure of knowing. He is a true gentleman, a loyal American, and someone who has made a difference for his community and his State and has made this institution a better place for his being here.

Mr. Speaker, the retirement of Bo GINN from the Congress is a time of personal sadness for me, because Bo is a good friend and a valued colleague. But my sadness is tempered by the fact that I know he will always remain a good friend to me personally, and he will always remain a powerful advocate for the people of his beloved State of Georgia and this Nation.

All of us know that when we leave the Congress, there will be a time when this legislative body will pause to take our measure. Our colleagues and our constituents and others will look back over our careers, and they will remember.

Mr. Speaker, it is my own hope that when I leave the Congress, I will do so having earned, as Bo GINN has earned, the respect and the admiration and the good will of all those I have worked with.

To the people of his First District and all of Georgia, Bo has typified the high traditions of public service to our State. He is a man who took the time to learn how the Congress works as an institution, and he is a man who took the time to help make it work better.

If you have had the honor of serving with Bo on a committee, as I did for 4 years, you had the honor of learning some special skills that are in all too short a supply in our midst today.

Bo has chaired three subcommittees during his 10 years of service—the Subcommittee on Public Buildings and

Grounds and the Subcommittee on Investigations and Oversight of the Committee on Public Works and Transportation, and for the past 2 years, the Subcommittee on Military Construction of the Committee on Appropriations.

I have seen the talent of being a good chairman raised to something of an art form by Bo. He has wielded his gavel with thoughtfulness, good humor, and with the respect for all of his colleagues, both senior and junior, Democrat and Republican. But most of all, he was serious and effective in doing the business of the people.

Bo earned his chairmanship of the Military Construction Subcommittee by his hard work and by an unchallenged vote by his colleagues in the Democratic Caucus. He proved himself worthy of our confidence.

His tenure as chairman coincided with a great growth in defense needs, and his subcommittee budget has doubled to more than $7 billion during his subcommittee service. But at the same time he was earning his reputation as an effective advocate for national defense, he and his fellow subcommittee members found areas of wise spending reductions.

During both years when he presided over the subcommittee budget, reductions of more than 10 percent were made in the budget request without impairing defense requirements.

That is quite an accomplishment, but no more than another characteristic of Bo's service. He has removed partisan politics from the deliberations of his subcommittee, and he has harnessed the energies of Democrats and Republicans alike in putting their best work together for the good of the American people. I know that my colleagues on the other side of the aisle will echo this evaluation.

Bo has been a leader in our midst. He has always been one who will step forward to take on a tough job, but one who will be quick to emphasize the role of those who helped him on every occasion when he has won a battle.

And Bo has another characteristic that is even more rare these days—he has not been affected by his positions of influence. He has lived by a maxim that he always preached to his staff—"the bigger you get in Washington, the smaller you get at home."

By that he means that the more impressed we might become with our own authority and power in Washington, the more in danger we are forgetting those good citizens who sent us to this city to render service to the people.

A great many elected officials make a pledge to themselves when they come to Washington that they will never forget where they came from. But too often that is a promise not kept. Bo GINN has shown us how to keep that promise, and how always to remain worthy of the confidence of our constituencies.

Mr. Speaker, Bo's decision to retire from Congress and seek the office of Governor of our State was a very dramatic decision in the political life of Georgia. It was a decision that raised a recurring question put to Bo over more than a year and a half of campaigning.

The question was why he would give up a very safe seat in the Congress and the prestige and power of his leadership roles in exchange for the gamble of a difficult statewide campaign. That is a good question for us to point to today, because it comes with an answer that tells us something very fine about the character of Bo GINN.

I personally could not think of a more difficult time to serve as Governor in any of these United States because of the problems of the economy and diminishing public resources. But for Bo, I think the very difficulty of the challenge set him on the quest for the office.

He knew that he could make a contribution to our State as its chief executive, and that was as far as the question had to go. He saw a challenge in public service, and it was a challenge that he knew he could not ignore.

He led the ticket in a crowded field of excellent Democratic candidates, and lost his race in a runoff election with about 46 percent of the vote. He ran a strong race, and one in which he can justly take pride. And he is at peace with his decision to run because he knew that his quest was a worthy one.

The greatest testimony to Bo's accomplishments and his ability is reflected in part by the vote of that election. I am referring to the fact that Bo carried the counties of his own congressional district by some of the largest victory margins we have seen in a contemporary Georgia election. The people who know Bo the best gave him their unqualified support.

That is a testament more powerful that any words we can speak today. Bo GINN is a man who never forgot who sent him to Washington, and those good people and thousands of other Georgians did not and will not forget him.

I look forward to always having the benefit of his advice and counsel. He has brought honor to this body, and it is an honor to be his friend.

Mr. Speaker, I add to my remarks a brief summary of Congressman GINN's outstanding record of congressional service:

SUMMARY OF CONGRESSIONAL SERVICE—U.S. REPRESENTATIVE BO GINN

Congressman Bo Ginn has achieved a ten-year record of distinction in both the Congress and in service to the people of his First Congressional District and the nation.

As Chairman of the Subcommittee on Military Construction and as a member of the Subcommittee on Defense of the Committee on Appropriations, he has earned a reputation as an effective steward of the taxpayers' dollars.

As the Representative of the First District, he has earned the consistent loyalty and support of his constituents. Since winning election in 1972, Mr. Ginn has been opposed only twice, and he defeated his first challenger by a 90 percent margin and his second by 99 percent.

In 1981, the Georgia Municipal Association presented Mr. Ginn with its coveted "Key Citizen" award for outstanding service to local governments, and later on the same day the Georgia Association of Broadcasters named him "Georgian of the Year."

These and other honors reflect his achievements in a professional life devoted totally to public service.

Mr. Ginn was born 48 years ago in Calhoun County, Georgia, on a small family farm. His first interest was in baseball, but the prospect of a professional career was shattered when, as a teenager, he was stricken by crippling polio and was told he would never walk again. Long months of surgery and therapy at the Warm Springs Foundation eventually brought him out of his wheelchair and led him to resolve to enter the arena of public service.

After graduation from Abraham Baldwin Agricultural College and from Georgia Southern College in 1956, Mr. Ginn married his college sweetheart, Gloria Averitt, and worked for two years as a high school teacher. The Ginns then moved to Millen, Georgia, where Mr. Ginn became Assistant Manager and Director of Member Relations for Planters Electric Membership Corporation.

He served in Millen as president of the Jenkins County Jaycees and was named the Most Outstanding Jaycee President in the First District. He served as Chairman of the local March of Dimes and Red Cross drives. He was an active member in the Millen Baptist Church, which he still attends, and has served there as a Sunday School superintendent and has been elected a deacon.

In 1961, Mr. Ginn came to Washington to serve as Administrative Assistant to U.S. Representative Elliott Hagan. In 1967, he moved to the U.S. Senate as Administrative Assistant to U.S. Senator Herman E. Talmadge, a position he held until he resigned to return to Georgia to seek and win election to Congress in 1972.

Mr. Ginn served for six years as a member of the Committee on Public Works and Transportation and the Committee on the Merchant Marine and Fisheries. He was Chairman of the Subcommittee on Public Buildings and Grounds and later chaired the Subcommittee on Investigations and Review of the Committee on Public Works. He concentrated his efforts on the Committee in the areas of transportation, economic development and water pollution control.

As a freshman member of the Public Works Committee, he was active in helping to enact federal legislation to establish a national program for rail transit systems, and Mr. Ginn worked successfully to include the City of Atlanta in the system.

In addition, Mr. Ginn was a co-author and conferee on amendments to the Federal Water Pollution Control Act, which provided the primary thrust to begin the ongoing clean-up of the nation's rivers and streams.

As Chairman of the Subcommittee on Investigations and Review, he conducted a series of nationally acclaimed hearings on

the problems of pollution of the nation's waterways by toxic waste. The hearings were the foundation for landmark legislation to begin correcting the problem.

He was the author of legislation which initially cleared the way to allow states to accelerate construction of their interstate highways through advance funding by the sale of state bonds. The State of Georgia used this system to complete its interstate system five years ahead of schedule and at a savings to the taxpayers of $75 million.

Mr. Ginn was also the author of the Public Building Cooperative Act, which among other provisions, has helped efforts to revitalize downtown areas through the restoration and renovation of unused buildings to meet federal office needs. The bill also improved access to buildings by handicapped citizens.

In 1979, Mr. Ginn was chosen by his colleagues to serve on the House Committee on Appropriations, and he was subsequently elected by the Democratic Caucus of the Subcommittee on Military Construction.

Mr. Ginn's chairmanship came at a time when an increased emphasis on defense needs more than doubled the subcommittee's budget to a total of over $7 billion. In addition to his effectiveness in bolstering American military strength, Mr. Ginn led his subcommittee to find areas of savings that brought about reductions in the military construction budget request by more than ten percent for two successive years.

During his tenure as Chairman, Mr. Ginn initiated the subcommittee's first hearings into the quality of life of men and women serving in the military. For the first time, enlisted personnel and women were called on to testify before a congressional committee about the problems facing persons serving in the senior and junior enlisted ranks.

Mr. Ginn's concern about the growing problems of family life in the military and the impact those problems were having on military preparedness led him to recommend a major new initiative to improve living conditions for personnel. As a result, Congress has in the past two years appropriated $100 million for design work for 30,000 new housing units for single men and women in the military. The subcommittee has also expanded family housing programs and for the first time funded child care centers and family service centers on military installations.

Mr. Ginn also led his subcommittee in a new effort to require our allies to put more of their own funding into American military construction projects undertaken in their countries. This work has led to a major increase in such support by the Japanese, and additional efforts are anticipated by NATO allies.

Other work under his leadership included reform of military construction planning and design procedures, improving military medical facilities, and new opportunities for American contractors to bid on construction projects overseas.

In all cases, the appropriations bills reported by his subcommittee have won virtually unanimous support by the Congress and earned strong praise from both Democratic and Republican leaders.

Mr. Ginn has also been recognized for a variety of leadership roles in other legislative area.

In environmental affairs, he has earned national recognition for his work to preserve the natural beauty of wilderness lands. He has authored and won enactment of wilderness legislation for more land than almost any other member of Congress from the southeast. He has authored legislation which secured wilderness designation for the Okefenokee National Wildlife Refuge, and the Blackbeard Island and Wolf Island National Wildlife Refuges.

He is also the author of legislation giving wilderness status to the largest of Georgia's Golden Islands, the Cumberland Island National Seashore. The Cumberland bill is the only wilderness bill signed into law thus far under President Reagan, and it was enacted by the House within 30 days of its introduction.

Mr. Ginn also played the key role in securing federal funding to establish the 4,715 acre Amicalola River Corridor in north Georgia, thus preserving and protecting for public recreational use one of the most beautiful sections of mountain area river land in the southeast.

In addition to his Washington activities, Mr. Ginn has won strong recognition for his careful attention to constituent services and for his close involvement in assisting in community problems in his District.

In seeking election in 1972, Mr. Ginn vowed to maintain a 90 percent voting attendance average or resign. He has maintained a cumulative attendance average of well over 90 percent while at the same time returning to Georgia virtually every weekend and during every Congressional recess for ten years to maintain close contact with his constituents. He has made more than 4,000 public appearances in his district and has never traveled outside the United States during his ten years of service.

Mr. Ginn announced his decision in 1981 to retire from Congress this year to fulfill his lifelong ambition to seek the office of Governor of Georgia. He led the field of Democratic candidates in a hotly contested election and was defeated in a runoff election with 46 percent of the vote.

Mr. Ginn and his wife have three children: Kacy, Julie and Bryan.

Mr. Speaker, I yield to my good friend, the gentleman from Georgia (Mr. BARNARD).

Mr. BARNARD. Mr. Speaker, I thank my colleague for yielding. I would certainly like to associate myself with the gentleman's comments. Tonight as we come to pay tribute to Bo GINN, we can say that Bo GINN epitomizes what the word statesman means, the word friend and the word Congressman. I am delighted tonight to be here to pay tribute to his service to the Congress, his service to his country, and his service to the State.

Mr. Speaker, in a small town in my district, there is a man who is not the mayor, not the city administrator, not the high school principal—yet he is so experienced in the workings of the world that nearly everyone in town comes to him for advice.

My colleague in the Congress, Bo GINN, has always impressed me as that kind of man. Bo has been an opinion leader of the "small town" that is Congress. In the course of a day, he hears from fellow Congressmen, staffers, constituents. But the calls also come from the leaders of Congress, military top brass, the movers and shakers of business—all seeking out Bo's opinion. Each person gets the same respectful hearing, the same thoughtful and reasoned response. And Bo's advice comes back later, translated by many people into words and actions that shape our country's course.

Bo GINN has been a hard-working and effective member of the Appropriations Committee. His list of contributions to Georgia is a lengthy one—military installations, especially King's Bay; water projects; the MARTA system in Atlanta; and the new airport that reinforces Atlanta's stature as a crucial transportation hub.

Bo has enjoyed a well-deserved reputation for getting things done. Yet at the same time, he has maintained a sense of integrity, placing the well-being of the country above purely parochial or party interests.

Bo GINN now takes his place among the historic Georgia politicians, the likes of Carl Vinson and Richard Russell.

We in Congress have many that we do business with, but few we can call "friend." Bo GINN has been a friend in the true sense of that word, and for me, his leaving marks not only a professional loss, but a personal one as well.

Mr. LEVITAS. Mr. Speaker, I yield to the gentleman from Colorado (Mr. KRAMER).

Mr. KRAMER. Mr. Speaker, I thank the gentleman from Georgia for yielding.

During my time in the Congress, I have appreciated working with Bo GINN.

Mr. GINN has chaired one of the most important defense committees in the Congress, the Subcommittee on Military Construction of the House Appropriations Committee. The activities of this committee represent a solid commitment to future fighting strength, a commitment that moves from abstractions to realities. It is committees like his that translate the funds appropriated by Congress into the training grounds, the warehouses, the barracks, runways, and depots that American forces simply must have to operate and fight.

During his time as chairman of that committee, Mr. GINN has served with fairness, competence, and integrity. I came to respect these qualities during my own testimony before his committee on several occasions regarding critical facilities in my own State. I appreciated his judgment and his willingness to fight for what he believed in.

I wish him the best for the future. He has served our Nation and its Armed Forces well during his time in the Congress. I am glad to have known him and to have worked with him here.

Mr. ANDERSON. Mr. Speaker, I am honored to join with my colleagues in

paying tribute to one of this Chamber's most distinguished Members, the Honorable Bo GINN.

For the past decade Bo has represented Georgia's First Congressional District with the highest level of legislative ability and statesmanlike dignity. Bo's popularity both at home and on this floor is proof of his outstanding performance as a Member of the House of Representatives.

As chairman of the Subcommittee on Military Construction and as a member of the Subcommittee on Defense of the Committee on Appropriations, Bo has demonstrated his keen ability time and again to address the problems which face this Nation.

It should be noted that Bo's election to chair the Military Construction Subcommittee came at a time when we reevaluated our need in this area and his working budget was more than doubled to well over $7 billion. At the same time, however, Bo also recognized that each of the programs within his jurisdiction should be thoroughly reviewed for their cost effectiveness.

I think that Bo will best be remembered for his many contributions in improving the quality of life for our enlisted men and women and their families. Because of his efforts Congress has appropriated over $100 million the past 2 years for design work for 30,000 new housing units for single men and women in the military. Also, his hard work has brought about the expenditure of funds, for the first time, devoted to child care centers and family service centers on military installations.

Prior to his current committee assignment, I had the privilege of serving with Bo on both the Public Works and Transportation and Merchant Marine and Fisheries Committees. As we all know, it is in committee where we truly see the effectiveness of our colleagues and, it was here where I began a very good working relationship with Bo. I can personally attest to the outstanding job he has done both for his constituents, as well as the Nation.

As chairman of the Public Buildings and Grounds and the Investigations and Review Subcommittees, I saw, firsthand, Bo's ability to comprehend the many issues we confronted as well as his capable leadership in striking workable compromises with those interested in the development of a particular measure. Bo's triumphs in the areas of transportation, economic development, and water pollution control are many and his many contributions will be remembered for years to come.

It was with mixed feelings in which I reacted to the news this past year that Bo had decided to retire from the House and seek the office of Governor of Georgia. As we all know, Bo could have again been overwhelmingly reelected by his constituents, and thus continue to play an active role in the House's proceedings. Although Bo will not be us when the 98th Congress convenes in January, you can be sure that his presence will be remembered.

My wife, Lee, joins me in saying a sad farewell to Bo GINN, and we wish him, and his wife, Gloria, and their three children, Kacy, Julie, and Bryan, all the best in their future endeavors.

□ 0110

Mr. LEVITAS. Mr. Speaker, at this time I yield to the gentleman from Alabama (Mr. FLIPPO).

Mr. FLIPPO. Mr. Speaker, I thank the gentleman for yielding.

I am grateful for the opportunity to say that it has been a great pleasure for me to know and to work with Bo GINN.

As the great State of Georgia is known for its many products, including beautiful women, Vidalia onions, and uncommonly good Congressmen, Bo GINN is certainly representative of that and deserving of this title of an uncommonly good Congressman.

He always gave me the impression that he recognized and handled his responsibilities to the people of Georgia, the people of this Nation, and to his colleagues about as well as any man that I have ever met.

It has been a pleasure to know him. I have benefited greatly from his counsel and look forward to continuing to work with him in the future.

Mr. LEVITAS. Mr. Speaker, at this time I yield to the gentleman from Georgia (Mr. MCDONALD).

Mr. MCDONALD. I thank the gentleman for yielding.

Mr. Speaker, today we are paying tribute to yet another departing Georgia Member, Bo GINN. Bo has longer service up here than his record as a Representative might indicate. Bo served as administrative assistant to Elliot Hagen from 1961 to 1966, himself a very distinguished Member of Congress. After that, he served as administrative assistant to Senator Talmadge from 1967 to 1971. Bo is distinguished by those he served, plus his own service. We will miss his kind of experience, which taken together with the loss of JACK BRINKLEY, subtracts 21 years experience from the Georgia delegation. Of course, his latest endeavor of running for the Governorship was nothing to be ashamed of and he came close to achieving that goal, also.

Bo's service will also be sorely missed on the subcommittee of the House Appropriations Committee—the Subcommittee on Military Construction, which he chaired and the Subcommittee on Defense. In those spots, Bo was a rock in taking stands to keep America strong and free. We will all miss that strong service and that ready smile. I do not know his future plans, but I sincerely hope they include visits to the Georgia delegation and the House of Representatives on a frequent basis.

Bo, we wish you Godspeed.

Mr. LEVITAS. Mr. Speaker, at this time I yield to the gentleman from Oklahoma (Mr. WATKINS).

Mr. WATKINS. I thank the gentleman for yielding.

Mr. Speaker, I join with the speaker in the well and our many other friends and colleagues to pay tribute to our distinguished colleague from the First District of Georgia, Bo GINN.

Mr. Speaker, it is a privilege to rise today to pay tribute to the distinguished gentleman from Georgia, my good friend and colleague, the Honorable Bo GINN.

Representing the First Congressional District of Georgia, Bo GINN has worked extremely hard to serve his constituents, State, and Nation well. While he began his career on Capitol Hill as a staff member in both the House and Senate, he won election to the House in 1972 and has been reelected without difficulty ever since. He is now a member of the House Appropriations Committee, where he serves on the Defense Subcommittee and as the chairman of the Military Construction Subcommittee. His leadership as subcommittee chairman has been outstanding.

During his 10 years of service in the House of Representatives, Bo GINN has proven extremely dedicated to the service of the people of the First Congressional District of Georgia, his State, and Nation. It was due to his dedication to be of even greater service to the State of Georgia that he decided to seek the office of Governor. Unfortunately, that move halted all hope temporarily for Bo GINN to be a public servant. Bo, most of us realize that if your decision had been to not run for Governor but seek reelection to the House, you could have continued your distinguished career in the Congress for the remainder of your life.

I join my colleagues in wishing Bo GINN every success in his future endeavors. He will not soon be forgotten by those of us who have served with him in the Halls of Congress.

Mr. LEVITAS. Mr. Speaker, at this time I yield to the gentleman from Kentucky (Mr. HUBBARD).

Mr. HUBBARD. I thank the gentleman very much for yielding.

Mr. Speaker, I congratulate the gentleman and the Georgia delegation for taking this special order in honor of our good friend and colleague, Congressman Bo GINN.

Yes, this Congressman from the First District of Kentucky expresses appreciation to the Congressman from the First District of Georgia.

In 1979, I, too, ran for Governor of my home State, but was fortunate enough to run in an off year election and could be reelected to Congress. We wish that could have been the way Bo GINN could have handled it. Bo GINN could have easily been reelected to Congress; that is for sure.

My wife and daughters and I had the privilege of visiting in Brunswick, St. Simon's Island, Jekyll Island, and Savannah, Ga., all in Bo's district. We know by repeated visits to that area that the people there think of Bo GINN with admiration, affection, and appreciation.

Yes, he has been described by other colleagues as a friend, a man of integrity and fairness, and one we sorely will miss.

Bo, as we said recently about our good friend and colleague, JACK BRINKLEY, as you and JACK leave this body, Georgia loses two real giants from the Congress. We wish you, Bo, Gloria Ginn, and the other members of your family God's richest blessings.

Mr. LEVITAS. Mr. Speaker, at this time I yield to my colleague, the gentleman from California (Mr. FAZIO).

Mr. FAZIO. I appreciate the gentleman yielding to me.

Mr. Speaker, I have been privileged to serve with two true gentlemen from Georgia during the 4 years I have had to serve my constituency in the House of Representatives. I was negligent the other day in not being present on the floor to pay tribute to my good friend and colleague, Mr. BRINKLEY, who served the people of my district, my State, and my Nation so well as chairman of the Subcommittee on Military Installations and Facilities of the Committee on Armed Services.

I feel somewhat, at this hour of the night, inadequate to express my appreciation to him and to the gentleman we honor during this special order, the other gentleman from Georgia, Mr. GINN, who I think really epitomized the kind of friendship and mutual trust and service that colleagues provide each other when we are at our best here in the House.

Mr. GINN traveled to my district, he understood my personal needs, and he worked closely with me and my staff to try to attain some solution to them. In the process, I got to know him.

I am pleased that his is not the first time that I have been up at 1:15 with him. I wish there had been more opportunities in the past, and certainly I am very sad that there will not be as many in the future as I would have liked. But I would like to simply say that I consider Mr. GINN to be a national Democrat, not because of a voting record that would so indicate, but because he had a perspective that crossed the entire spectrum of this body.

He understood people, he understood regions, he understood human beings. That kind of sensitivity is what caused him to get that overwhelming vote that Mr. LEVITAS mentioned in his district. That is what stands us all in good stead as we look to the future.

I am sure that kind of confidence, that kind of trust that the people of the First District showed in him will be the kind of underpinning, the kind of foundation that will make his future even more successful than his past. He is a man who I think will be sorely missed in this body, as all of us who knew him certainly understand.

I am glad I was able to make a friend in Bo GINN, and I look forward to maintaining that friendship in the years ahead.

Mr. LEVITAS. Mr. Speaker, at this time I yield to the gentleman from Colorado (Mr. KOGOVSEK).

Mr. KOGOVSEK. Mr. Speaker, I wish to commend the gentleman from Georgia for offering us this opportunity tonight to pay our respects to Congressman Bo GINN.

I want to very briefly say, and certainly not as eloquently as the preceding speaker, of the generosity of Congressman GINN. I just want to remember very briefly this evening an occasion a couple of summers ago where Congressman GINN came out to southeastern Colorado in the heat of the summer to help alleviate some of the fears of the constituents that I had in southeastern Colorado about that time concerning a takeover by the Department of the Army of approximately 242,000 acres of private grazing land.

□ 0120

I think that was a memorable occasion when Bo GINN was out in the middle of the Plains meeting with a group of ranchers one afternoon. I think the renewed trust that Congressman GINN gave to that handful of ranchers, renewed trust in Congress, I think is something I will always remember and something that that group of ranchers would remember because there was a person in a position of authority, who had the generosity with his own time to come out and somewhat alleviate the fears and some of the problems that those ranchers had at that time concerning the Army.

I think because of that kind of generosity, because of that kind of leadership, because of the fact that Congressman GINN was willing to make that kind of a trip for a Congressman he had not known that well, speaks well not only for the Congress and himself, for the gentleman from Georgia, but certainly gives Congress the kind of name I think we have not had in the past.

I wanted to take this brief moment tonight to thank the gentleman from Georgia, Congressman GINN, for his generosity at that time, and once again to say that he gave my constituency a renewed trust in Congress. This United States is a better place because of the gentleman from Georgia.

Mr. LEVITAS. Mr. Speaker, I am happy to yield to my colleague from Texas (Mr. SAM B. HALL, JR.).

Mr. SAM B. HALL, JR. Bo GINN is one of my closest and dearest friends. From the day I took the oath of office here in the House, Bo GINN and his family have been treasured friends to me and my family. We have visited back and forth in each other's homes and enjoyed the camraderie and hospitality that acrues from such a strong and abiding friendship.

Bo GINN is well known in my part of Texas. He has done some hunting in east Texas, but I refrain from discussing this side of Bo's many talents in that he may feel the need to reciprocate. But regardless of Bo's talent as an outdoorsman I can report that his son, Bryan, who is known far and wide as Bo Bo, puts us all to shame when it comes to handling a 12-gage.

When Bo GINN decided to leave the House and enter the Democratic primary for the Governorship of Georgia, it was the realization of a dream he has harbored for as long as he can remember. He came close—mighty close—but it just was not to be. In all my years of politics and watching elections, including my own, I can only say that his unsuccessful primary runoff caused me great consternation and sorrow. I hope he will try again. Bo GINN is a young man and certainly one of the most able people in public life I have ever had the privilege of meeting.

The people of the First Congressional District of Georgia would have returned Bo GINN to the House for as long as he wanted to offer for reelection. His service in their behalf has been exemplary. The city of Savannah in just the past few years has grown into a major port city with a tremnendous influx of manufacturing in and around the metropolitan area. Bo stood in the forefront of this development. His name is synonymous with jobs and productivity. In short, we can search this body over and not find a Member as dedicated—and successful in that dedication—to his constituency than Bo GINN.

The work he has done on the House Public Works and Transportation Committee is without parallel in the benefit brought to a congressional district. His service on House Appropriations has been greeted with applause by friend and admiration by foe. Look at the most successful defenders of national defense in and out of the Congress in recent years and when you choose them, the name Bo GINN will be right up at the top of the list.

It is going to be difficult to return in January and not have Bo GINN as a

Member of the 98th Congress. Many of us have come to rely heavily on his wisdom and counsel and the void is going to be difficult to fill. Ask members of the Appropriations Committee, and regardless of their particular philosophy, they will tell you that Bo GINN does his homework, that he is persuasive and effective. He works and he works hard, as hard as anyone, and his constituency has benefited. More important, the country has benefited.

To Bo, his lovely wife, Gloria, and to his wonderful children, Kacy, Julie, and Bo Bo, I can only say that our friendship will continue and it will continue to grow in the years ahead. To Bo himself I can only say thank you for all the help and advice you have given me along the way. I just hope to have the opportunity to serve with you in an official capacity again.

Bo GINN is a great patriot. The State of Georgia can take the greatest possible pride in his service to the Nation. We need more like him.

Mr. LEVITAS. Mr. Speaker, I am happy to yield to my colleague from Georgia (Mr. HATCHER).

Mr. HATCHER. Mr. Speaker, I would like to associate myself with the remarks of the gentleman from Georgia (Mr. LEVITAS) in paying tribute to Bo GINN. On a personal note, let me say that in my freshman term in Congress I have relied very heavily on the advice of Congressman GINN, and hope that I will have the benefit of that in the future.

Mr. Speaker, I take this time to join with my colleagues from Georgia and other Members of the House in recognizing and paying tribute to Congressman Bo GINN.

Congressman GINN will be leaving this body in January, but not before he has left his indelible mark on the U.S. House of Representatives. For Congressman GINN is a true product of the Hill. As a legislative aide and later Congressman, he mastered the kinds of legislative skills that resulted in his being appointed chairman of the Military Construction Subcommittee after having served only 2 years on Appropriations.

And as a subcommittee chairman, Congressman GINN practiced the economy of time as well as the economy of the dollar in reporting his exacting legislation in a timely manner.

In 1981, as Georgia's only freshman, I relied heavily on the advice of Congressman GINN. I treasure his counsel that will be just as important in the coming years as it was in those first uncertain weeks that all freshmen experience.

But while Congressman GINN is certainly a product of the Hill, and this Chamber in particular, he is no less a product of south Georgia. And the people of south Georgia, the people with whom he shares his roots, have always been Congressman GINN's first concern.

Confident that Congressman GINN will always have an active hand in affairs on the Hill, I bid him best wishes for a bright future.

Mr. LEVITAS. Mr. Speaker, I will be happy to yield to our beloved, revered, and distinguished dean of the Georgia delegation (Mr. BRINKLEY).

Mr. BRINKLEY. Mr. Speaker, following a Jefferson-Jackson Day dinner in Georgia a few years ago, I overheard a man say to the group who was with him that Bo GINN was the finest Congressman of them all. While there may be mild dissent on that score outside of Savannah, I would not be surprised that a vote in the House of Representatives would show Bo GINN to be the second finest Congressman of all, which tells us a lot about this good man.

In Bo's recent campaign for Governor, I introduced him to some of my friends in Columbus as a man we could be proud of. I told them that my wish was for them to know Bo GINN as I knew him—as a man of character and conviction and commonsense. Well, I am sure Bo came in first in terms of the ballots of congressional families who did know him best.

The highest tribute which can be paid to a man is for friends and neighbors to give freely of their time and effort. There was an abundance of such people around Bo GINN.

It was mainly so because Bo met the Edmund Burke test, when he stated the following in 1774:

> Certainly, Gentlemen, it ought to be the happiness and glory of a representative to live in the strictest union, the closest correspondence, and the most unreserved communication with his constituents. Their wishes ought to have great weight with him; their opinions high respect; their business unremitted attention. It is his duty to sacrifice his repose, his pleasure, his satisfactions, to theirs—and above all, ever, and in all cases, to prefer their interest to his own.
>
> But his unbiased opinion, his mature judgment, his enlightened conscience, he ought not to sacrifice to you, to any man, or to any set of men living. These he does not derive from your pleasure, no, nor from the law and the Constitution. They are a trust from Providence, for the abuse of which he is deeply answerable. Your representative owes you, not his industry only, but his judgment; and he betrays, instead of serving you, if he sacrifices it to your opinion.

It was also because Bo was independent. Oh, he listened to the voices that sent him. He appreciated them. But he voted on the basis of merit and constitutionality.

He tried to make the most responsible decision that he could based upon the facts. That way he satisfied his conscience and best served his district and country.

Bo is a moderate which may be defined as a man of commonsense with an open mind. Of course a moderate is too liberal for the conservative and too conservative for the liberal, but Bo has been truly a nondoctrinaire.

The two of us did not have any problem with President Carter's postcard registration proposal; we were openminded about President Carter's SALT II proposal; and we represented our districts in Washington and not Washington in our districts. We were mindful of Senator Russell's affirmation to the effect that he did not come to Washington to leave Georgia, but that he came to Washington to serve Georgia.

I have spoken these words about my dear friend and colleague, Bo GINN, but as one who is leaving this institution for which I have the highest respect, I can honestly say that the same philosophy seems to guide each and every Representative in this body.

□ 0130

Mr. LEVITAS. Mr. Speaker, I thank my good friend, the gentleman from Georgia (Mr. BRINKLEY), the dean of our delegation, for those eloquent and moving words, and I thank the other Members of this body who have joined with us tonight in paying tribute to a dear friend and a great Congressman, one of the true leaders of this Nation.

Over and beyond that, I guess the thing that on a personal basis most of us are going to miss—not that we will never see it again or have the pleasure of coming under its glow, just that we will not have enough of it—is the opportunity in the morning of seeing that ready smile, the opportunity to have him available for his advice and counsel and comfort when it is needed and to be a friend.

So, Mr. Speaker, tonight we say to our dear friend and colleague, Bo GINN, Godspeed in all you do.

● Mr. WHITTEN. Mr. Speaker, I rise today to add my praise to the outstanding service provided by my honorable colleague, Bo GINN. As chairman of the House Appropriations Committee, I have been privileged to serve with Bo GINN and watch his rise from a member of the committee to the distinguished chairman of the Military Construction Subcommittee.

Two years ago Bo GINN became chairman of the Military Construction Subcommittee at a time of increased interest in spending levels for military construction. He has overseen the Defense Department's massive buildup in defense construction spending. More than $15 billion in appropriations in the United States and abroad have been proposed in the past 2 years. His chairmanship has brought about an intense review of defense construction spending and has resulted in more than $1 billion in savings to the American public. At the same time, he has carefully assured that the defense of the Nation has been maintained.

I believe that Bo GINN will be remembered as the chairman who looked out for the people in the military. He insisted on better facilities for both living and working. He recognized that keeping good people in the military through better quality of life facilities results in a better military and—in the long run—is an essential factor in the improvement of overall readiness.

Bo GINN has also shown his ability to produce comprehensive and fair legislation. Both bills that he has brought to the House floor have had overwhelming approval and have been sent to the President with only minor changes in either the House or the Senate.

In conclusion, I am sorry that Bo GINN will not be here next year to serve on this committee and lend his wide range of talents to the appropriations process. The country will be without a concerned legislator, and this committee will be without an aggressive and diligent subcommittee chairman.

To Bo and his family we wish the very best in his new undertakings.●

● Mr. JENKINS. Mr. Speaker, it is always a pleasure to salute a colleague for a job will done. However, in this particular instance, I feel a personal sadness, for I shall miss my good friend, Bo GINN, as he leaves the Congress of the United States.

It has been my privilege to serve in this body with Mr. GINN. I have seen firsthand his devotion to his duty and his dedication to the people of this country. He has been tireless in this work on behalf of those whom he represents, lending his abilities and influence to all matters affecting his district and the State.

While I could list at great length the accomplishments of Congressman GINN, the legislator, his legislative victories will be part of the public record. Those of us who know him well will remember the small, personal things that he has done for those who have called upon him for help, both his constituents and his colleagues.

Bo GINN is a public servant in the highest and best sense. I know that he will continue to serve the people of Georgia and of this Nation, for it is second nature to him to lend a hand when called upon.

Those of us who have served beside him will miss his helping hand, and wish him well.●

● Mr. FOWLER. Mr. Speaker, throughout his 10 years in this body, Bo GINN has been an outstanding public servant and an exceptional spokesman for the State of Georgia.

He has been invaluable to me personally as a friend, counselor and ally in making the legislative process work effectively for the people of my district and the entire State of Georgia.

His colleagues on the Appropriations Committee know they are losing a superb legislator and a thoughtful leader, and we will hear much more in that vein from them today. I want to take a few moments to reflect with you on what Bo GINN has meant to me and to the city of Atlanta.

I can tell you that I will miss him sorely. Apart from my personal friendship with Bo, I have always been impressed with his genuine interest and concern on behalf of the city of Atlanta and all of the people of the Metropolitan Atlanta area. More than any other congressional colleague from outside the metro area, Bo has consistently recognized the fact that the well-being and prosperity of Atlanta is crucial to all of Georgia.

When MARTA was fighting in 1974 to be included in the priority funding category for Federal assistance, Atlanta was dropped from the list of eligible cities in the subcommittee draft of authorizing legislation prepared for the House Committee on Public Works and Transportation. Because MARTA had not technically begun construction at that time, its opponents had argued that it should not share in the major new construction program Congress was creating to help those cities with rail systems already being built. Congressman GINN, who was Georgia's only member of the committee, fought and won a tough battle in committee to overturn the earlier decision and list Atlanta as one of nine cities in the Nation eligible for this crucial funding.

The bill was passed by the House, and though legislation to specifically designate cities by name was modified before being signed into law, Bo's work had established MARTA in the legislative history of the new Mass Transportation Act and was the basis for the city's subsequent designation for priority construction funding. As a result, Atlanta has received more than $1 billion in Federal funds for MARTA.

MARTA has been able to advance its construction timetable by many years through the use of "letters of no prejudice" from the U.S. Department of Transportation which make it possible to finance construction with MARTA money and then be reimbursed later by Federal funds. In 1979, the Transportation Subcommittee of the House Committee on Appropriations issued appropriations report language which prohibited future letters of no prejudice because of their abuse in some cases. Congressman GINN personally helped to persuade the subcommittee chairman, Congressman BOB DUNCAN, to exempt MARTA from that provision as a special case so that MARTA could continue advance construction. We have a letter of no prejudice in effect now for the Art Center-to-Lenox and West End-to-Lakewood lines for $437.3 million. Without Bo's help, this line and other construction would have been slowed drastically or perhaps never completed at all due to inflation.

In 1976, Bo led the efforts in the House to defeat a plan by Snow Belt Congressmen which would have cut Georgia's share of national funding for water pollution control. He succeeded in winning an agreement by House conferees that has brought more than $60 million in additional funding for waste water treatment facility construction in Atlanta.

In 1978, Bo joined me in my efforts on the House floor to remove the last remaining Federal obstacle to allowing Georgia and Atlanta to make our own plans for the Great Park proposed for the I-485 corridor. At my request, he met with the chairman of the House Surface Transportation Subcommittee to persuade the chairman to reverse an earlier position and to support my effort to remove the payback requirement for a canceled segment of the Interstate Highway System for I-485. This modification in the Surface Transportation Act of 1978 was crucial to allowing plans for the Great Park to be prepared.

Last spring Atlanta was engaged in a major competition for selection as the site for the annual convention of the National Association of Homebuilders. The convention is one of the largest and most prized in the Nation, and the selection competition came at a time when the city was still suffering from the tragic killings of our children and other reports of crime. As the competition came down to the wire, the city was allowed one final presentation to the 1,000-member board of directors of the association, and Bo agreed to make the presentation on behalf of the Georgia congressional delegation. He made an appeal for the selection of Atlanta on behalf of the people throughout the State, and Atlanta won the selection. The convention will come to the city 3 years in succession and generate some $300 million in economic activity in Georgia and $13 million in local and State tax revenues.

One of our largest Federal employers in the Atlanta area is the U.S. Army Forces Command (Forscom) headquarters at Fort McPherson. With 2,000 employees and a $177 million annual economic impact in Atlanta, other cities have sought to have it moved from Fort McPherson on the grounds that its World War II-vintage "temporary" buildings have deteriorated to the point that Forscom operations have been hurt. Such action would eventually lead to the likely closing of Fort McPherson altogether. Working at the request of the Atlanta Chamber of Commerce, Bo last year secured $1 million in planning and design appropriations for a new facili-

ty to house Forscom at Fort McPherson. This means that the Army will proceed with the new construction, and the danger of the closing of Fort McPherson will be ended.

One of the "growing pains" we have suffered at the Hartsfield Atlanta International Airport is an inadequate number of U.S. Customs Service and Immigration and Naturalization Service personnel to process incoming international passengers. Because this restraint hurts our international trade, Bo worked with Atlanta-area Congressmen and held a meeting in his office with the Under Treasury Secretary in 1979 to appeal for additional personnel. Six more agents have been designated for the airport, and efforts are continuing to get more.

Atlanta's water supply has been a matter of great concern to us in terms of the city's immediate future as well as long-range planning. Bo has been a leader in recognizing the importance of this issue throughout the State, and in our area has supported appropriations for both the Metropolitan Atlanta area and the South Metropolitan Atlanta region water resources management studies by the Army Corps of Engineers. These studies provide the basis for our work to meet the metro area's water needs.

In 1979, when I was fighting on the House floor to save the Southern Crescent passenger train service to Atlanta, Bo was among my most active supporters. He has also lead continuing efforts to bring new rail service to Atlanta by establishing additional service along the old Nancy Hanks route through our city and on to central and coastal Georgia.

Construction of the Richard B. Russell Federal Building was vital to insure the continuation of Altanta's role as the regional headquarters for the Federal Government. As a member of the House Committee on Public Works and Transportation, Bo was the leader in securing approval of the committee resolution which authorized the final construction program for the building. He also coordinated work to secure the appropriation of $54 million in construction funding and came to Atlanta to testify in support of the building at a field hearing. The Russell Building is a very important part of the major new construction to enhance our downtown area.

A major hurdle in completing the major land acquisition for the Chattahoochee River National Recreation Area was securing a $14 million appropriation in the fiscal year 1982 Interior appropriations bill. The lack of support of this project by the Appropriations Subcommittee chairman, the Honorable Sidney Yates, resulted in this funding being left out of the House version of the bill. As a member of the Appropriations Committee and former member of the Interior Subcommittee, Bo prevailed upon Mr. YATES to change his position, and the funding was provided in a House-Senate conference committee.

Bo has been a consistent supporter in my work on such projects as Justice Department funding to help solve the Atlanta child slaying cases, public works construction in Atlanta through the Local Public Works and Development Act, airport development, and many other important projects and issues over the years.

Bo GINN is a proven friend to the people of the Atlanta area and a great servant of his State and Nation. He demonstrated time and again through both word and deed his effectiveness as a representative for the State of Georgia and his commitment to sound principles of good government. We will miss him. I will miss him especially.●

● Mr. BOLAND. Mr. Speaker, I want to thank the gentleman from Georgia (Mr. LEVITAS) for taking this time to allow us to pay tribute to Bo GINN.

I have had the pleasure of working with Bo since he joined the Appropriations Committee. He has been an effective and hard-working member of the committee and has done a particularly fine job as chairman of the Military Construction Subcommittee. He has been a strong and consistent advocate of improving the living conditions and compensation of our servicemen and servicewomen, and his efforts have borne fruit in the form of increased retention rates in the Armed Forces. He is a respected member of the Appropriations Committee and his counsel will be missed during the committee's deliberations in the 98th Congress.

Mr. Speaker, the people of the First District of Georgia have been well served by Bo GINN's work in Congress. I want to wish him all the best as he turns his attention toward new endeavors.●

● Mr. ADDABBO. Mr. Speaker, I am proud to join my colleagues today in paying tribute to our good friend and colleague, Bo GINN, who will be retiring at the end of this Congress.

I have had the pleasure of serving with Bo for the past 10 years, and most recently, with him on the Defense Subcommittee of the Appropriations Committee. I have always been impressed with his legislative achievements, especially his efforts on behalf of our military personnel. Bo, as chairman of the Subcommittee on Military Construction, initiated the first subcommittee hearings into the quality of life of men and women serving in our Armed Forces. These hearings led to major new initiatives to improve living conditions; including expanded family housing programs, funded child care centers, and improved military medical facilities.

Bo's work in environmental affairs has been no less notable; as a member of the Public Works Committee, he was a coauthor and conferee on amendments to the Water Pollution Control Act, aimed at cleaning up the Nation's rivers and streams. Bo also authorized much wilderness legislation aimed at preserving the natural beauty of our wilderness lands.

But Bo's most important contribution has been to his constituents, the residents of the First Congressional District of Georgia. He has always remained in close touch with the people who elected him, and has worked tirelessly on community problems.

Bo will be greatly missed by his constituents, this institution, and by the Nation. I join my colleagues in wishing him well in all his future endeavors.●

● Mr. LOEFFLER. Mr. Speaker, with deep respect—indeed with deep affection—I join my colleagues today in honoring a distinguished American and friend, the Honorable Bo GINN.

It has been a privilege to serve with the distinguished gentleman from Georgia in this 97th Congress on the Military Construction Subcommittee of the House Appropriations Committee. As our chairman, he has consistently displayed great sensitivity to those of us who work with him and to those who come before the subcommittee to press their case. It is a tribute to him that military construction appropriations bills have merited almost unanimous support from the House.

Bo's achievements as chairman truly reflect his compassionate interest in people and his strong concern for spending wisely and well in defense of our Nation. Our chairman is also to be commended for bringing to the subcommittee the idea that we should hear from those who use the facilities we construct. This concern for the quality of military life will result in more reenlistments and better preparedness.

Thank you, Mr. Chairman, for all your efforts in behalf of our country. We shall miss you. Godspeed, my friend.●

● Mr. BENNETT. Mr. Speaker. I rise in honor of Congressman Bo GINN who did not run for reelection to the House this year and who will leave a tremendous vacancy in our body as we all know.

Bo occupies a piece of geography just north of the congressional district that I represent in Florida. His area in Georgia includes the Kings Bay Submarine Base and other Federal installations and activities in which we share an interest, in our efforts to have a strong national defense. These things have brought me particularly close to Congressman GINN in the years he has served here in Washington and I will personally greatly miss him, as will all of the Members of Congress. He has done an outstanding job

for his country and for his district and we wish him and his family every happiness in the years ahead.●

● Mr. COELHO. Mr. Speaker, the conclusion of the 97th Congress will bring to an end the illustrious and exemplary congressional career of our colleague, Bo GINN. I am privileged to join others in honoring this outstanding public servant who has served his Georgian constituents and the people of our Nation in an absolutely superior manner.

Throughout his 10-year tenure, Bo has proven himself to be a man possessed with personal warmth, unquestionable integrity, and strong leadership qualities that have always characterized his work in the House. He has always shown the highest level of competence and legislative ability, largely through his distinguished service on the Public Works and Transportation Committee and the Appropriations Committee. In his role as chairman of the Subcommittee on Military Construction, he has been most effective in bolstering American military strength as well as reform of military construction planning and design procedures, and initiated programs to improve the quality of life for men and women in the military. Such tremendous efforts and accomplishments will certainly be long remembered.

Bo's impressive record of legislative achievement is one of which he and his constituents should be rightly proud. He has earned my admiration and respect, and I am certain that this feeling is shared by every Member of the House. In closing, I extend my respected colleague, Bo GINN, my regards and best wishes for his continued success in his future endeavors.●

● Mr. HEFNER. Mr. Speaker, I rise today to join with many of this body to pay tribute to my colleague and friend, Bo GINN. Bo is leaving this House at the end of this session, and I commend the gentleman from Georgia (Mr. LEVITAS), for arranging this special order in Bo's behalf.

When I came to Congress in 1974, Bo was one of the first Members I met, and I am proud to say that he has been my fast friend ever since. We served on the Public Works and Transportation Committee together, and even in these early days, I learned a great deal from Bo about how one serves a district, a State, and a Nation all at the same time. We serve together now on the Appropriations Committee, as a member of the Defense Subcommittee, and as chairman of the Military Construction Subcommittee, Bo has afforded a level of leadership equaled by very few.

I believe that when Bo leaves the Congress, he will leave behind a legacy of effective and accomplished service, service that is exhibited in the First District in modern military facilities, finer Federal buildings, better water and sewer lines in his towns and cities, and better transportation systems throughout the State of Georgia. Many children of the First District are going to college because of Bo GINN, veterans have gotten the medical help they need and deserve, senior citizens have received endless assistance and the knowledge exists within his constituency that Bo GINN is a man who listens and with whom their opinions matter.

Bo has served with such personal integrity as to be an example to us all. He has been tough and effective, he has worked diligently and hard to accomplish his ends; and he has always done so without compromise or malice. I believe that when Bo GINN leaves the Congress, he will leave a record of service—a record his successor will have to work hard to meet. But more than this, I believe that Bo GINN will leave with a reputation as one of the finest and most honorable men to have ever served in this great Capitol.

He is my friend, and I owe him a great debt of thanks for the many times he has worked with me, helped me, advised me. He leaves here with my best wishes for a future of accomplishment as great or better than he has known thus far, and he leaves behind a Congress that is better and stronger and more noble because of his service.●

● Mr. MAZZOLI. Mr. Speaker, along with my colleagues, I would like to express my thanks and appreciation to Congressman Bo GINN for his work in the House. The First District of Georgia has been well represented through the efforts of this hard working, industrious Congressman, and he will be missed. I wish Bo the very best in his future endeavors.●

● Mr. ROE. Mr. Speaker, I am most pleased to join in this well deserved salute today to my good friend Bo GINN, who is leaving the House of Representatives after 10 years of outstanding service to the people of Georgia and the Nation.

Bo GINN is widely recognized by his colleagues as one of the most effective members of this august body. During the years we served together on the Public Works Committee, Bo demonstrated a unique devotion to his work that won the admiration of all those who worked with him.

That same drive later won him the important chairmanship of the Appropriation Committee's Military Construction Subcommittee. And what a break for the American serviceman that was. Bo immediately began a full scale investigation into the shoddy housing conditions given our enlisted men and started the drive that resulted in military pay hikes to help our servicemen live decent lives.

In my current role as chairman of the Water Resources Subcommittee, Bo and I have had several discussions about his strong interest in the port of Savannah and the amount of money the Federal Government should spend on widening it.

Mr. Speaker, let me tell you this straight out; the people of the First District of Georgia have a forceful voice for their interests in Bo GINN. It is a voice that will be sorely missed over the next 2 years. But, Mr. Speaker, I have a strong feeling deep in my heart that it will not be too long before we hear that voice on this floor again.●

● Mr. MATSUI. Mr. Speaker, I join my colleagues today to honor a Member of this House who is retiring after 10 years of distinguished service to our Nation. Representative Bo GINN will be returning to his home State of Georgia to devote his considerable energies to his family and to personal pursuits. We shall miss this dedicated public servant.

During my tenure in Congress, I have watched Bo exercise his prodigious abilities as a legislator and developed immense respect for this man's talents. The record of achievement that he has amassed spans the gamut of subjects from promotion of rail transit systems to cleanup of our waterways contaminated by toxic waste to improvement of military medical facilities. Bo's legislative accomplishments have enhanced the lives of our citizens by seeking compassionate, reasonable solutions to seemingly insoluable problems.

In addition, the leadership he has demonstrated as chairman of the Appropriations Subcommittee on Military Construction directly translated into a higher quality of life for the men and women serving in the Armed Forces. Bo spearheaded a major new initiative to provide adequate military housing units for single men and women as well as families. He was responsible for funding child care centers and family service centers on military installations for the first time. Bo's foresight will insure that military personnel enjoy a life commensurate with their service to our country.

Bo has represented the interests of the First Congressional District of Georgia with skill and intelligence. It is with sadness that we wish him farewell and with fondness that we wish him a productive and healthy retirement.●

● Mr. PANETTA. Mr. Speaker, I want to join my colleagues in paying tribute to Bo GINN. It has been a great pleasure working with Bo over the past several years. He has been an excellent colleague and has done an outstanding job representing his constituents and carrying out the work of the House of Representatives. We will miss him, and I know the people of Georgia will miss his representation as well.

I am sure my colleagues join me in expressing hope that Bo will not abandon public life entirely upon leaving the House. He has a great deal to contribute to the welfare of his State and of the Nation. In the meantime, though, we all wish him well in whatever pursuit he chooses in the future.●

● Mr. AKAKA. Mr. Speaker, I want to take this opportunity to join my colleagues in recognition of the outstanding accomplishments of Congressman Bo GINN. In his 10 years of service in the House, he has been an effective spokesman in the areas of transportation, economic development, water pollution control, and our Nation's military strength and preparedness.

Mr. GINN won election to the House in 1972. As a freshman member of the Public Works Committee, he was active in establishing a national program for rail transit systems. The inclusion of the city of Atlanta in this system is directly attributable to Mr. GINN's efforts. He was the author of legislation which allows States to accelerate construction of their interstate highways through advance funding by the sale of State bonds. The State of Georgia proved this system practical by completing its Interstate System 5 years ahead of schedule and at a savings of $75 million to the taxpayers.

Through his work to preserve the natural beauty of wilderness lands, Mr. GINN has earned national recognition in environmental affairs. He has authored and won enactment of wilderness legislation for more land than almost any other Member of Congress from the Southeast. His legislation secured wilderness designations for the Okefenokee National Wildlife Refuge, the Blackbeard Island and Wolf Island National Wildlife Refuges, and the Cumberland National Seashore, the largest of Georgia's Golden Islands. Mr. GINN also played the key role in securing Federal funding to preserve and protect one of the most beautiful sections of mountain area river land in the Southeast for public recreational use by establishing the Amicalola River corridor in north Georgia.

Mr. GINN's concern for cleaning up the Nation's rivers and streams is evidenced by his efforts to amend the Federal Water Pollution Control Act in order to begin that task. In addition, concern for the problems of pollution of the Nation's waterways by toxic waste led him, as chairman of the Subcommittee on Investigations and Review, to conduct a series of nationally acclaimed hearings on the subject. The hearings were the foundation for landmark legislation to correct the problem.

In 1979, Mr. GINN was chosen by his colleagues to serve on the House Committee on Appropriations, and he was subsequently selected by the Democratic Caucus as chairman of the Subcommittee on Military Construction. While chairman, Mr. GINN initiated the subcommittee's first hearings into the quality of life of men and women serving in the military. His perception of the growing problems of family life in the military and the impact those problems were having on military preparedness led him to recommend a major new initiative to improve living conditions for personnel. As a result, Congress has, in the past 2 years, appropriated $100 million for design work for 30,000 new housing units for single men and women in the military. Family housing programs and, for the first time, funded child care centers and family service centers on military installations also resulted from the subcommittee's efforts. Mr. GINN also led his subcommittee in a new effort to require our allies to put more of their own funding into American military construction projects undertaken in their countries. Mr. GINN's subcommittee work has led to a major increase in such support by the Japanese, and additional efforts are anticipated by NATO allies.

Even though his Washington activities have taken much of his time, Mr. GINN has won strong recognition for his careful attention to constituent services and for his close involvement in assisting in community problems in his district. In seeking election in 1972, Mr. GINN vowed to maintain a 90-percent voting attendance average or to resign. He has kept his vow by maintaining a cumulative attendance average of well over 90 percent, while at the same time returning to Georgia virtually every weekend and during every congressional recess for 10 years to maintain close contact with his constitutents. This record of service has earned the loyalty and support of his constituents. Since winning election in 1972, Mr. GINN has been opposed only twice. He defeated this first challenger by a 90-percent margin and his second by 99 percent.

Mr. GINN's service to the people of Georgia and to the Nation as a whole are a tribute to this courage, dedication and strong sense of duty. His presence will be sorely missed in the House.●

● Mr. O'BRIEN. Mr. Speaker, Bo GINN and I came to Congress together in 1973. In the 10 years since then Bo has been a good friend and an effective legislator.

Bo and I came to know each other especially well through our service together on the Appropriations Committee. Bo has ably discharged the responsibilities of the chairmanship of our Military Construction Subcommittee. In doing so, Bo has pursued the national security interests of the United States without a trace of partisanship, which is in the best traditions of that important subcommittee.

As a friend, Bo has shown that the pressures of office need not preclude the practices of a gentleman and in Bo's case, a true southern gentleman.

Serving with Bo has been a pleasure and an honor. I know I speak for all Members when I say Bo GINN will be missed very much.●

● Mr. FUQUA. Mr. Speaker, I am proud to add my voice to those of other colleagues who are today honoring Congressman Bo GINN for his 10 years of able service to this House.

During the 10 years Bo GINN and I have served together I have come to know him not only as a competent, effective legislator, but as a good friend.

Our friendship was almost inevitable given the similarity of our backgrounds; we both grew up in rural Southern towns even, coincidentally, in Calhoun County although one was in Florida and the other in Georgia, we both took our degrees in agriculture, and we are the same age.

Bo GINN's effectiveness as a Congressman started the day he was sworn into office, reflecting the outstanding service he provided and experience he gained as administrative assistant to former Congressman Elliott Hagen and then to Senator Herman Talmadge, for a combined total of 10 years.

That service and experience has been reflected in his outstanding record on the Committee on Public Works and Transportation, the Committee on Merchant Marine and Fisheries, and the Committee on Appropriations on which he served as chairman of the Subcommittee on Military Construction.

Though his legislative accomplishments are many, Bo GINN has left an indelible mark on legislation to help restore downtown America through the renovation of unused buildings to meet Federal office needs, legislation to improve the Nation's water quality, and legislation to improve the quality of life for men and women serving in our Armed Forces.

While maintaining a rigorous legislative schedule, Bo GINN never lost sight of the needs of his constituents. Seldom did a weekend or recess pass that Bo GINN did not return to the First District of Georgia to maintain his close relationship with those who elected him.

His attention to casework involving constituents set a standard that most Congressmen would envy.

Bo GINN, at 48 years of age, has accomplished more than most individuals do in a lifetime.

And with half a lifetime still ahead, I am sure Bo GINN will continue to build on the already admirable record he has established.●

● Mr. LEATH of Texas. Mr. Speaker, I rise today to pay my respects and my gratitude to a fine Member of Con-

gress and a dear friend. Along with our other colleague from Georgia, JACK BRINKLEY, the departure of Bo GINN will leave a great void in our lives. We are grateful, however, to have served with Bo, and we rejoice for his more relaxed future. Bo has done a superb job for the First Congressional District of Georgia. When he came to Congress in 1973, he had never before served in any elective capacity, yet he knew the system well. His service has been marked by competence, diligence, and dedication. Like other respected Members of the Georgia delegation, Bo is quiet, he does his homework, works hard, shuns the limelight, and gets the job done. He is a winner in every respect, and a man of his word—qualities that are invaluable here.

Working with Bo has been a constant pleasure. No matter how pressures have mounted, he has never lost the good humor that sustains us all. It is not easy to be tough, to make unpleasant decisions, or even to explain the complexities of the legislation Bo has developed. Yet, he is the expert's expert and never appears to show strain. Every one of us appreciated his professionalism but, even more, we appreciate his kindness and unfailing courtesy. It is good to have this opportunity to express how much we admire him and to wish him Godspeed as his life takes a new direction. Bo, you have been one of our great resources. We will miss you.●

● Mr. WINN. Mr. Speaker, the House of Representatives will miss Congressman Bo GINN. He has served his five terms in the House with distinction and integrity and has injected a degree of personal warmth that keeps us from taking ourselves too seriously.

Bo is very representative of Members of Congress from the South; that is, he is very personable and, most importantly, very effective. He combines a strong concern for the First District of Georgia with a solid overview of our country as a whole. He balances his constituents' interests with national interests well and we all know that can be difficult sometimes. But Bo realizes, as we all do, that his constituents' interests are often the same as America's and votes accordingly.

His work on the Appropriations Committee has been commendable. In these times of budget restraint, he has been in the middle of the storm by serving on the Defense and Military Construction Subcommittees. From all accounts, he performed admirably as chairman of Military Construction which is an especially important subcommittee in light of the unprecedented Soviet military buildup in recent years.

Bo is a well-respected, well-liked Congressman—both here in Washington and back home in Georgia. I wish him the best of luck in his future endeavors.●

● Mr. SKELTON. Mr. Speaker, it is hard for me to imagine Congress next year without Bo GINN. In the years we have served in Congress together, I come to respect him immensely for his professionalism, his integrity, his intelligence, and his leadership. Moreover, I have come to value his personal friendship.

Mr. Speaker, Congressman Bo GINN is a master of the legislative art. He understands that it is accommodation and compromise, not partisanship and confrontation, that makes for successful legislation. Consider this, Mr. Speaker: To date, this Congress has enacted only two fiscal year 1983 appropriation bills. It is no surprise that one of those bills is the military construction appropriation bill, drafted by the subcommittee so ably chaired by Congressman Bo GINN. Consider also that in putting together this vital measure Chairman GINN not only had to meet the needs of our national defense, and provide for the well-being of the young men and women who serve in our Armed Forces, but he also tried to satisfy the concerns of 535 Members of the House and Senate. Bo GINN's handling of this measure, in committee and on the House floor, was, as usual, masterful.

Mr. Speaker, no Member of Congress has represented his district and his State better than Bo GINN. The people of Georgia have benefited in many ways from his public service. But, in his work here, Bo has not ignored the national interest. His contribution to our national security, and his efforts to preserve the natural beauty of wilderness lands, have earned him recognition throughout the land.

Mr. Speaker, this body will miss Bo GINN. He has been a friend and an inspiration to us all. It is my fervant hope that his considerable talents will remain available to us in whatever way he might see fit. I wish him well in his future endeavors, and I know he will always be welcome in these Halls.●

● Mr. HUGHES. Mr. Speaker, I am pleased to join in this salute to our colleague, Bo GINN, for his outstanding service to the House of Representatives.

Although my opportunites to work with Bo were, unfortunately, infrequent, they were always a genuine pleasure, and a true learning experience in efficient and effective lawmaking. Since 1972, Georgia's First District has benefited from his exceptional talent for getting things done. From his years on the Public Works Committee—where his dedication to improving the Port of Savannah began—to his present position as chairman of the Appropriations Committee on Military Construction—where he has worked tirelessly to better living conditions for our Nation's enlisted men—he has demonstrated a profound concern for his constitutents and his country.

The House of Representatives will be poorer for the loss of Bo's legislative ability and personal warmth. In bidding him farewell, I extend my sincere gratitude for his fine work and best wishes for his continued success and happiness.●

● Mr. HUTTO. Mr. Speaker, it is a privilege to join with my colleagues to commend Congressman Bo GINN for his outstanding service to his Georgia constituency and to the people of our great Nation. He will be sorely missed for the leadership he provided in the House Appropriations Committee.

As chairman of the Appropriations Subcommittee on Military Construction, Bo GINN was at the leading edge of the efforts to improve the living and recreational needs of military members and their dependents throughout the world. His insight and concern for the welfare of the military member caused him to be "up front" on vital people-related programs, which led to improved morale and effectiveness of our defense forces. As a result of his dedicated efforts, the military service provides a better quality of life, and a great deal of thanks is due him.

Recently, when Bo GINN made an outstanding race for the governorship of Georgia, I tried to do a little campaigning for him during my layovers at the Atlanta Airport. I suspect that other Members might have done likewise because he is held in such high esteem by those who know him and work with him. I am grateful for the assistance and wise counsel Bo has given me in my 4 years in Congress. Bo GINN indeed has been a friend and we shall all miss him.

Bo GINN's contributions to his district, his State, and our great Nation are many and I am pleased to join in the praise and thanksgiving for one with whom I have had the high privilege and honor of serving, I wish Bo Godspeed in all his future endeavors and much happiness for him and his family.●

● Mr. CONTE. Mr. Speaker, I am pleased to be able to take part in this special order today for my good friend and colleague, Bo GINN, of Georgia. It has been a pleasure to serve with him over the past 10 years.

As the chairman of the Military Construction Subcommittee of the Committee on Appropriations, Bo has had a tremendous opportunity to help the people of his district. Because of the substantial number of military bases in his district, he has had a unique opportunity to help his people, who appreciatively sent him back to the Congress for five terms.

The fact that Bo has moved quietly up the Appropriations Committee leadership ladder attests to the respect with which he is held, both by his colleagues in the House as a whole, and his colleagues on the committee. I can tell you that I have enjoyed working with him over the years.

Bo had been given the difficult task of representing a very divergent district. The First District of Georgia, encompassing Savannah and several counties inland from there, has a combination of the rural South with the expanding and growing Southeast. New jobs, growth, and investment are a part of this area of this country, and with it comes new people and a new type of constituent. In the 10 years that Bo served in this body, he had to remain representative of all these people, and the impressive victories with which he was always reelected shows that he served his people well.

Ultimately, that is why we are all here—to serve our people, and serve them well. Bo did that, and we will all miss him at the end of this Congress. In whatever he does, I know that all my colleagues join me in wishing him well, and the best of luck in his future endeavors.

Thank you, Mr. Speaker.●

● Mr. NELSON. Mr. Speaker, one of my greatest pleasures of serving in the U.S. House of Representatives is the privilege of working alongside some of our Nation's most dedicated and honorable men. As we near the close of another session, one leader especially comes to mind as a great contributor of integrity and guidance to this institution—my good friend, Bo GINN.

It is an honor to pay tribute to Bo today for his dedication to this country and to his many friends and constituents in the State of Georgia. His valuable efforts as a freshman on the Public Works Committee have led to the passage of legislation to revitalize our Nation's rail system. His concern for the future of our environment was evidenced by his coauthorship of the Federal Water Pollution Control Act. He has developed this Nation's awareness of a looming toxic waste problem through a series of widely acclaimed public hearings. And as chairman of the Appropriations Subcommittee on military construction, he has worked to insure our Nation's security.

These successes only highlight Bo's distinguished legislative record, earned through dedication and a genuine desire to help make America even better.

While his presence in the Congress will surely be missed in the years ahead, Bo GINN's accomplishments will long be remembered.

Thank you Bo, for your many years of fine service to this Nation and for your personal friendship. God bless you always.●

● Mr. ANNUNZIO. Mr. Speaker, I am proud to join my colleagues in paying tribute to the Honorable Bo GINN, who has been a dedicated Member of the House of Representatives ably representing his constituents in the First District of Georgia for the last 10 years.

Before becoming a Member of the House, Bo was a high school teacher, and later pursued a career in business. He came to Washington in 1961, and was the administrative assistant to Senator Herman E. Talmadge until he returned to Georgia in 1971.

Elected to Congress in 1972, Bo GINN has served with distinction as chairman of the Subcommittee on Military Construction of the House Appropriations Committee, and as a member of the Subcommittee on Defense of the House Appropriations Committee. He is respected in the House of Representatives not only for his expertise, but also for his hard work, independence, and integrity.

Bo will surely be missed in the House of Representatives by all who have had the opportunity of knowing him. He is a Congressman of outstanding ability, who has provided exemplary service to his constituents and to our Nation.

I extend to my colleague, Bo GINN, my best wishes for success in all of his future endeavors.●

● Mr. REGULA. Mr. Speaker, I rise today to honor my colleague from Georgia, the Honorable Bo GINN.

It has been my privilege to serve with Bo on the Military Construction Subcommittee.

Bo took his role on this subcommittee very seriously, exercising careful and deliberate consideration of every expenditure of taxpayers' money for military construction. He served well not only the people of Georgia, but the people of the United States in overseeing priority decisions on these expenditures.

As chairman, Bo GINN had to balance the needs of our service personnel, the security of our Nation and allies, the readiness of our military force, the maintenance of our existing military hardware, and the construction of new military facilities, housing, and schools all over the world. This was not an easy task, but one that Bo GINN performed with intelligence, insight, and skill, while always exercising compassionate concern for the condition of our military forces.

Bo GINN has been an exemplary chairman. He possessed keen sensitivity to the critical quality-of-life needs of America's service men and women—in this country and overseas. He has been responsible for initiating and conducting special hearings on quality of life in the military—hearings where enlisted personnel testified from firsthand points of view about the needs and concerns of American service men and women.

Bo's talent as a caring and sensitive leader will be missed. I extend to him my heartfelt appreciation and respect for his leadership on our subcommittee, and for his friendship. I hope he will continue his outstanding service to the people of this Nation.●

● Mr. SENSENBRENNER. Mr. Speaker, I would like to take this opportunity to recognize a distinguished colleague of mine in the House—Congressman Bo GINN.

Congressman GINN has served the First Congressional District of Georgia and the Nation with devotion for 10 years. During his tenure in the House, Bo GINN has earned a reputation as a prudent and responsible steward of taxpayers' dollars.

Representative GINN has served with distinction as chairman of the Subcommittee on Military Construction, as well as a member of the Subcommittee on Defense of the House Appropriations Committee. Earlier in his career, Congressman GINN served for 6 years as a member of the Committee on Public Works and Transportation and the Committee on the Merchant Marine and Fisheries. He has worked wholeheartedly during his stay in Congress to preserve the environment, bolster U.S. military strength, and provide for improvements in the Nation's transportation system.

As chairman of the Subcommittee on Military Construction of the House Appropriations Committee, Congressman GINN has worked to improve the quality of life of the Armed Services enlisted personnel. He has also determined to require our allies to share some of the costs of allied military construction. In all his endeavors on the subcommittee, Congressman GINN has been remarkably successful in gaining the acceptance of Congress. In all cases, bills reported from the subcommittee have won virtually unanimous bipartisan support in the House.

Mr. GINN has remained a strong representative of the people of the First District of Georgia, and he has been rewarded with several honors. In 1981, the Georgia Municipal Association presented Bo GINN with its "Key Citizen" award, and on the same day he was awarded the "Georgian of the Year" honor by the Georgia Association of Broadcasters.

As Congressman GINN retires after this session of Congress, I would like to join with my fellow Members of the House in thanking him for his dedicated service and wishing him the best of luck in the future.●

WHAT IS PROGRESS?

The SPEAKER pro tempore. Under a previous order of the House, the gen-

tleman from Texas (Mr. COLLINS) is recognized for 30 minutes.

● Mr. COLLINS of Texas. Mr. Speaker, as I leave Congress after eight terms, I have been asked why my district continues its strong economic growth. Serving as a Republican where the liberal Democrats have controlled Congress all of the last 26 years, I am asked where we stand.

We have the greatest economic area in the country. I am mighty proud of the friendly cities in my district, which include Irving, Farmers Branch, Carrollton, Addison, Richardson, Plano, and Lewisville. Within these areas we have the strongest economic momentum in America today. Since I have been in Congress for eight terms, I have had an opportunity to see my area grow and develop.

And people ask why does the Third District of Texas grow and develop? The biggest reason is that we do not call on the Federal Government for all their subsidized programs. We basically depend on the Federal Government for their primary services which are national defense, highways, water, social security and other essential national programs.

But we have built our community based on self-reliance, not on special Washington subsidies. We have built jobs and business on strength. The State of Texas requires by constitutional law that the State have a balanced budget. The second thing that the constitution requires is that the legislature meet for 4 months once every 2 years and they go home, so we do not have a continuous Texas Legislature in session.

In Texas, we have momentum because we have the right-to-work law. States that have the right-to-work law, which gives people an opportunity to work, have led in progress, and our State moves forward.

In Texas we have no State income tax, on individuals or on business. Because business knows it will be treated fairly it builds and expands. The greatest need in America is to have good jobs that pay a good wage today and provide a good future for tomorrow. My prime concern as a Congressman has always been to see that we have an energetic economic base with business operating profitably. We want business to succeed, because when business moves forward, we all are moving forward with it.

As I finish my term of service in Congress, my greatest satisfaction is to see my community with diversified and successful business. So many in Congress have worried about what the Government could do for their district. I have always worried about what the Third District of Texas could do for themselves. And in our area, in the greater Dallas Metroplex, where we still believe in God and family and country, we have built the greatest spirit and dynamic growth in any part of America.●

SOLVING THE FARM EMERGENCY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. FINDLEY) is recognized for 5 minutes.

● Mr. FINDLEY. Mr. Speaker, the administration should be congratulated on its decision to use the payment-in-kind principle on a large scale to reduce surplus grain stocks.

I hope the Government will move swiftly and put the plan in motion in the next few weeks so that it can be functioning fully by spring. It would be a serious mistake to delay until the new Congress has time to act.

Indeed, my own experience leads me to believe the program can be put into effect without additional legislation. But if legislation is needed, the steps should be taken this month—before adjournment of this Congress.

What is the PIK principle? Simply put, it utilizes existing Government holdings of grain to compensate farmers for idling grain acres.

Under it, a farmer gets paid in Government-owned grain for agreeing to idle his grain acres for the year. No money changes hands. The farmer is paid not in dollar value of grain, but in grain equivalent to the yield he would normally get. He would be paid in bushels or tons.

I have been recommending this type approach since I came to Congress in 1961, and during one of the last meetings of the House Committee on Agriculture prior to this year's election, I urged administration officials to move swiftly with a payment-in-kind program.

My own recommendation is that the Government contract to idle entire farms, not just a percentage of each farm. A farmer who normally produces only wheat would shut down his entire wheat acreage for the year, putting it to uses that would maintain—or build—soil value and minimize erosion. In exchange, he would get title to a specific number of bushels of Government-held wheat. He would get control of the wheat at his normal harvesttime, and at that time would dispose of the wheat in his normal manner. The same would apply to producers of corn and soybeans.

I urge whole-farm retirement for two main reasons: First, taking an entire operating unit out of production is the best way to reduce production. When only a percentage of a farm is taken out, the least productive acreage are always the first to go. Sometimes fertilizer is heaped on the remaining acres and this, too, reduces the effectiveness of the program. Second, whole-farm retirement is easier to administer. It involves fewer individual farmers and fewer administrative details.

The Government, of course, would have to limit carefully the number of farms idled in a particular township or county. Otherwise, the effect on supporting services—like fertilizer and equipment dealers—would be devastating.

The plan is a sound answer to the farm emergency now unfolding. It will reduce substantially existing surplus grain stocks that are costly for the taxpayers to maintain. It will reduce substantially new production of these grain. It will accomplish these goals without new budget outlays.

In a word it uses burdensome grain stocks to bring about new adjustment in production. It permits the market system to function. Farmers who idle their land could even play the futures markets with their contract grain if they wish.

It gets farmers out of a very deep yawning chasm, and gets results much faster than the costly programs now on stream. If the Government pushes this approach aggressively it will end the surplus strains by this time next year, bolster farm prices, and relieve taxpayers of spending billions to handle excess grain production.

It is one of those rare Federal programs that is self-ending. As soon as surplus stocks are used up, the program obviously must end.●

ORDERING COINS BY MAIL: HOLIDAY SHOPPERS BEWARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, the old cliche "you can't judge a book by its cover" is as true for mail order coin advertisements as it is for novels. Regrettably, this seldom means that treasures can be found behind lackluster ads. On the contrary, fancy packaging is frequently used to camouflage the lemons—to pass off glorified tokens and pedestrian coins as rare collectors items.

Although this problem exists all year round, it seems to become more acute during this season when less than reputable coin merchants try to take advantage of the holiday shopper. Using a variety of outrageous advertising techniques, these opportunists seek to persuade the potential customer that worthless goods have real value, and hence would make marvelous gifts. While the methods may differ, the aim is always the same: to mislead the consumer into purchasing overpriced coins.

Trying to infer that the coins are being offered under the auspices of the U.S. Government is by far the most prevalent form of deception.

These private firms that deal in the sale of numismatic items know all too well that the American consumer likes buying coins from the Bureau of the Mint; people trust that the Government will not deceive them into buying coins that are not worth the money. Hence, these merchants do evrything in their power to take advantage of this trust.

For example, I recently saw a full-page color advertisement in the newspaper for something called the "200th Anniversary American Eagle." The merchants go out of their way to make you believe that these are official commemorative coins, struck to mark the bicentennial of the selection of the bald eagle as our national bird. The text of the ad states that "this is the first silver double eagle issued in United States history." Bold print announced the "Official First Day of Issue," while another prominent heading says "Authorized by Congress."

In addition, the very use of the terms "eagle" and "double eagle" are employed to infer Government sanction as these words normally refer to actual $10 and $20 American gold coins. The "coins" are undenominated, as were early American gold coins. The term "American eagle" is the name given to an undenominated bullion coin that has recently been proposed in legislation before this Congress.

As I am sure you have gathered, these "200th Anniversary American Eagles" have absolutely nothing to do with the U.S. Government. In fact, the repeated references to both the Government and Congress may violate Federal counterfeit statutes; at the very least, they show just how long some merchants will stoop to sell worthless tokens. These "American eagles" are simply privately struck medals, not legal tender coins.

This same type of misleading advertising is also used by private organizations that deal in the sale of real coins. Last month a local coin collector brought a very interesting packet of information to my attention. It contained a brochure and order blank for a supposedly rare Franklin-Liberty Bell half dollar. And once again, the seller made numerous references to the U.S. Government. For example, a photograph of the Capitol appears on the front cover of the brochure. The mailing envelope bears terms like "official notification," and a warning that reads "$500 reward for information leading to conviction of persons unlawfully tampering with, or interfering with, delivery of this official notification." Centered below the envelope seal is a picture of an American eagle with an "E Pluribus Unum" banner in his mouth.

Why the charade? The simple truth is that the Franklin-Liberty Bell half dollar being advertised for $25 can be purchased from a reputable dealer for about $7 or $8. The advertised price tag is nothing more than an exorbitant markup of approximately 300 percent. Numismatists tell me that the ad's claim that the coins have "a profit potential of 500 percent in 24 months" is sheer fantasy. The dealer is trying to convince the consumer to pay $25 for something worth less than one-third that amount, and then telling him that it will be worth $125 in "just 2 to 4 years from today." The coins would have to have a profit potential of at least 1,500 percent for that to be true. Clearly, only the seller stands to make a fortune on these coins.

Many of these opportunists take this pretense one step further by claiming that the offer is a "once in a lifetime deal." One recent advertisement for 1921 Morgan silver dollars said that the coins would be available for "3 days only" five times. The potential customer was warned that "any orders postmarked after midnight Thursday will be returned unopened." The marketers push the point that time is of the essence by reminding the consumer that there are "only 246 coins available." In fact, 87 million Morgan silver dollars were minted in 1921, and they are not particularly hard to come by. The advertised "special" price of only $49.50 is about double what the collector would pay if the coin was bought from a legitimate dealer.

"Shopping by mail" has been an integral part of the American retail industry ever since Sears, Roebuck issued its first catalog. Today, we can purchase everything from housewares and clothing to fine jewelry without leaving home. For those with restricted mobility, or just no time to shop, the mail-order business has been a lifesaver. Unfortunately, it has also served as a fertile ground for the manipulation of consumers by those interested in making a fast buck at the expense of others. These three examples of fraudulent coin advertising are, I am sorry to say, just the tip of the iceberg. I urge everyone to keep this in mind during the holiday shopping season. Let us not allow this blatant opportunism ruin a joyous occasion.●

LEAVE OF ABSENCE

(By unanimous consent, leave of absence was granted to:)

Mr. SKELTON (at the request of Mr. WRIGHT), for today, until December 9, on account of a death in the family.

Mr. SHUSTER (at the request of Mr. MICHEL), from 8 p.m. this evening and the balance of the week, on account of medical reasons.

Mr. ALEXANDER (at the request of Mr. WRIGHT), for today, on account of illness in the family.

Mr. CAMPBELL (at the request of Mr. MICHEL), from 5 p.m. until midnight, on account of a necessary absence.

Mr. BEVILL (at the request of Mr. WRIGHT), for today, on account of illness.

Mr. BAFALIS (at the request of Mr. MICHEL), for today and the balance of the week, on account of a death in the family.

Mr. LEHMAN (at the request of Mr. WRIGHT), for this week, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative programs and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. WHITTAKER) to revise and extend their remarks and include extraneous material:)

Mr. FINDLEY, for 5 minutes, today.

Mr. COLLINS of Texas, for 30 minutes, December 13.

Mr. COLLINS of Texas, for 30 minutes, December 14.

Mr. COLLINS of Texas, for 30 minutes, December 15.

Mr. HORTON, for 60 minutes, December 14.

(The following Members (at the request of Mr. HATCHER) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. MAZZOLI, for 5 minutes, today.

Mr. STOKES, for 60 minutes, on December 9.

Ms. FERRARO, for 60 minutes, on December 9.

Mr. SKELTON, for 60 minutes, on December 15.

Mr. ECKART, for 60 minutes, on December 15.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. RITTER, prior to the vote on House Resolution 620.

Mr. MICHEL, during general debate on H.R. 6211 in the Committee of the Whole today.

Mrs. BOGGS, immediately following the Simon amendment in the Committee of the Whole today.

(The following Members (at the request of Mr. WHITTAKER) and to include extraneous matter:)

Mr. BROOMFIELD in two instances.

Mr. BROWN of Ohio in two instances.

Mr. ARCHER.

Mr. LEWIS.

Mr. DERWINSKI in four instances.

Mr. SENSENBRENNER.

Mr. COLLINS of Texas.

Mr. WEBER of Ohio for December 9.

Mr. BAILEY of Missouri.

Mr. CORCORAN.

Mr. RUDD in two instances.

Mr. CHENEY.

Mr. BEREUTER.
(The following Members (at the request of Mr. HATCHER) and to include extraneous matter:)
Mr. HERTEL.
Mr. HOYER.
Mr. WEAVER.
Mr. DORGAN in two instances.
Mr. FARY.
Mr. ANDERSON in 10 instances.
Mr. FLORIO.
Mr. FOWLER.
Mrs. COLLINS of Illinois.
Mr. LEVITAS.
Mr. MATSUI.
Mr. GONZALEZ in 10 instances.
Mr. ROSENTHAL in 10 instances.
Mrs. BOUQUARD in five instances.
Mr. HAMILTON in 10 instances.
Mr. BROWN of California in 10 instances.
Mr. ANNUNZIO in six instances.
Mr. JONES of Tennessee in 10 instances.
Mr. BONER of Tennessee in five instances.
Mr. GARCIA.
Mr. MINETA.
Mr. CHAPPELL.
Mr. FOGLIETTA.
Mr. SHANNON.
Mr. LONG of Maryland.
Mr. GIBBONS.
Mr. OBERSTAR in two instances.
Mr. ASPIN.
Mr. FORD of Michigan.
Mr. HARKIN.
Mr. PANETTA.
Mr. EDGAR in two instances.
Mr. EDWARDS of California.

SENATE BILL, JOINT RESOLUTIONS AND A CONCURRENT RESOLUTION REFERRED

A bill, joint resolutions and a concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1340. An Act to provide for the use and distribution of Clallam judgment funds in docket numbered 134 before the Indian Claims Commission, and for other purposes; to the Committee on Interior and Insular Affairs.

S.J. Res. 258. Joint resolution to authorize and request the President to designate the month of December 1982 as "National Closed-Captioned Television Month"; to the Committee on Post Office and Civil Service; and

S.J. Res. 264. Joint resolution to designate the week of March 13, 1983, through March 19, 1983, as "National Children and Television Week"; to the Committee on Post Office and Civil Service.

S. Con. Res. 130. Concurrent resolution expressing the sense of the Congress that the advancement of science and technology in the communications and electronics industry is vital to the needs of the United States; to the Committees on Energy and Commerce, and Science and Technology.

ADJOURNMENT

Mr. HATCHER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 34 minutes a.m.), under its previous order, the House adjourned until today, Tuesday, December 7, 1982, at 1 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5217. A communication from the President of the United States, transmitting proposed amendments to the request for appropriations for fiscal year 1983 (H. Doc. No. 97-262); to the Committee on Appropriations and ordered to be printed.

5218. A communication from the President of the United States, transmitting the proposed amendment to the fiscal year 1983 budget for the District of Columbia (H. Doc. No. 97-263); to the Committee on Appropriations and ordered to be printed.

5219. A letter from the Secretary of Defense transmitting six reports of violations of the Anti-Deficiency Act, pursuant to section 3679(i)(2) of the Revised Statutes, as amended; to the Committee on Appropriations.

5220. A letter from the Acting Secretary of State, transmitting a report, covering the month of November, on the manner in which the national interest of the United States has been served by the payments made by the Commodity Credit Corporation to the U.S. creditors on credits guaranteed by the CCC on which payments had not been received from the Polish People's Republic, pursuant to section 306 of Public Law 97-257; to the Committee on Appropriations.

5221. A letter from the Secretary of the Air Force, transmitting the required report for HARM (AGM-88A), pursuant to section 917(b)(2) of Public Law 97-86; to the Committee on Armed Services.

5222. A letter from the Chairman, U.S. Commission on Civil Rights, transmitting the Commission's report on unemployment and underemployment among blacks, Hispanics, and women, pursuant to section 104(c), Public Law 85-315; to the Committee on Education and Labor.

5223. A letter from the Assistant Secretary of Energy, transmitting the Department's final environmental impact statement for conversion to coal of the New England Power Co.'s Salem Harbor generating station, pursuant to section 165(b) of the Energy Policy and Conservation Act, as amended; to the Committee on Energy and Commerce.

5224. A letter from the Secretary of Health and Human Services, transmitting the 10th annual report of the National Heart, Lung, and Blood Advisory Council, pursuant to section 418(b)(2) of the Public Health Service Act, as amended; to the Committee on Energy and Commerce.

5225. A letter from the Secretary of Health and Human Services, transmitting the annual report of the National Cancer Advisory Board which describes the actions and deliberations for fiscal year 1982, pursuant to section 404(a)(7) of the Public Health Service Act; to the Committee on Energy and Commerce.

5226. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense articles to Greece (Transmittal No. 83-10), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

5227. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense articles to the Federal Republic of Germany (Transmittal No. 83-11), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

5228. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the proposed lease of certain defense articles to Turkey (Transmittal No. 1-83), pursuant to section 62(a) of the Arms Export Control Act; to the Committee on Foreign Affairs.

5229. A letter from the Director, Defense Security Assistance Agency, transmitting quarterly reports on foreign military sales of September 30, 1982, pursuant to section 36(a) of the Arms Export Control Act; to the Committee on Foreign Affairs.

5230. A letter from the Comptroller, State Department, transmitting the semiannual report on the activities of the international narcotics control program, pursuant to section 481(b)(2) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

5231. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of a proposed commercial manufacturing license agreement for the production of certain military equipment for the Government of Taiwan (Transmittal No. MC-15-82), pursuant to section 36(d) of the Arms Export Control Act; to the Committee on Foreign Affairs.

5232. A letter from the Inspector General, Department of Health and Human Services, transmitting a quarterly report identifying any significant problems, abuses, or deficiencies, pursuant to section 204(b) of Public Law 94-505; to the Committee on Government Operations.

5233. A letter from the Secretary of Education, transmitting the semiannual report of the Department's Inspector General, covering the period ended September 30, 1982, pursuant to section 5(b) of Public Law 95-452; to the Committee on Government Operations.

5234. A letter from the Administrator, National Aeronautics and Space Administration, transmitting the semiannual report of the NASA Inspector General, covering the period ended September 30, 1982, pursuant to section 5(b) of Public Law 95-452; to the Committee on government Operations.

5235. A letter from the Administrator, Veterans' Administration, transmitting the semiannual report of the Veterans' Administration Inspector General, covering the period ended September 30, 1982, pursuant to section 5(b) of Public Law 95-452; to the Committee on Government Operations.

5236. A letter from the Director, Minerals Management Service, Department of the Interior, transmitting notice of the proposed refund of $87,718.13 to Shell Oil Co. and Amerada Hess Corp., for excess royalty payment, pursuant to section 10(b) of the Outer Continental Shelf Lands Act of 1953; to the Committee on Interior and Insular Affairs.

5237. A letter from the Director, Minerals Management Service, Department of the Interior, transmitting notice of the proposed refund of $26,530.74 to Shell Oil Co. and Cities Service Co., for excess royalty payment, pursuant to section 10(b) of the Outer

Continental Shelf Lands Act of 1953; to the Committee on Interior and Insular Affairs.

5238. A letter from the Assistant Secretary for Fish and Wildlife and Parks, Department of Interior, transmitting the list of areas on the Registry of Natural Landmarks and the areas of national significance included in the National Register of Historic Places, which exhibit known or anticipated damage or threats to the integrity of their resources, pursuant to section 8 of Public Law 94-458; to the Committee on Interior and Insular Affairs.

5239. A letter from the Chairman, Administrative Conference of the United States, transmitting the annual report on the activities of the Conference for the period ended December 31, 1981, pursuant to 5 U.S.C. 575; to the Committee on the Judiciary.

5240. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders suspending deportation under the authority of section 244(a)(1) of the Immigration and Nationality Act, together with a list of the persons involved, pursuant to section 244(c) of the act; to the Committee on the Judiciary.

5241. A letter from the Chief Judge, District of Columbia Circuit, U.S. Court of Appeals, transmitting notice of an order promulgated by the Court establishing procedures for handling bankruptcy and related matters upon expiration of the current and any subsequent stay granted by the Supreme Court in *Northern Pipeline Construction Co.* v. *Marathon Pipe Line Co.*, pursuant to 28 U.S.C. 332(d); to the Committee on the Judiciary.

5242. A letter from the Adjutant General, Military Order of the Purple Heart, transmitting the audit report of the organization as of June 30, 1982 and 1981, pursuant to section 3, of Public Law 88-504; to the Committee on the Judiciary.

5243. A letter from the Administrator, Panama Canal Commission, transmitting a report on an accident claim while the ship was in canal waters for $685,104.10 from the owners of the m/v *Ocean Ever*, pursuant to section 1415(b) of Public Law 96-70; to the Committee on Merchant Marine and Fisheries.

5244. A letter from the Deputy Assistant to the President for Management, transmitting a report on the total number of employees employed at any time during fiscal year 1982 in the White House Office, the Executive Residence at the White House, the Office of the Vice President, the Office of Policy Development (Domestic Policy Staff), and the Office of Administration, pursuant to 3 U.S.C. 113; to the Committee on Post Office and Civil Service.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 7368. A bill to provide revenue for repair and rehabilitation of the Nation's highways and for mass transit capital expenditures, and for other purposes. (Rept. No. 97-945). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ROSTENKOWSKI (for himself and Mr. CONABLE):

H.R. 7368. A bill to provide revenue for repair and rehabilitation of the Nation's highways and for mass transit capital expenditures, and for other purposes; to the Committee on Ways and Means.

By Mr. MINETA:

H.R. 7369. A bill to provide for a capital budget within the budget of the U.S. Government, to provide budget process incentives for dedicated revenues, and to create a National Commission on the Rebuilding of America; jointly, to the Committees on Government Operations, Rules, Public Works and Transportation, and Energy and Commerce.

By Mr. BROOMFIELD:

H.R. 7370. A bill to prohibit any individual who has diplomatic immunity from the criminal jurisdiction of the United States from possessing a handgun without the approval of the Secretary of State; to the Committee on Foreign Affairs.

By Mr. SAM B. HALL, JR.:

H.R. 7371. A bill to amend the Diplomatic Relations Act to limit immunity from criminal prosecution for families of foreign diplomats; to the Committee on Foreign Affairs.

By Mr. OBERSTAR:

H.R. 7372. A bill to amend title II of the Social Security Act to exclude certain amounts in the computation of the offset against benefits which is presently provided in the case of spouses and surviving spouses receiving Government pensions; to the Committee on Ways and Means.

By Mr. OBERSTAR (for himself, Mr. EDGAR, Mr. HORTON, Mr. CONTE, Mr. FISH, Mr. ST GERMAIN, Mr. WALGREN, Ms. MIKULSKI, Ms. OAKAR, Mr. HARKIN, Mr. SEIBERLING, Mr. ECKART, Mr. CLINGER, Mr. BOLAND, Mr. BEDELL, Mr. WEBER of Ohio, Mr. ROTH, Mr. WORTLEY, Mr. MITCHELL of Maryland, Mr. VENTO, Mrs. MARTIN of Illinois, Mr. RINALDO, Mr. LONG of Maryland, Mr. HOYER, Mr. PEASE, Mrs. HECKLER, Mr. MCHUGH, Mrs. COLLINS of Illinois, and Mr. WINN):

H.R. 7373. A bill to provide a temporary means to correct imbalances in the natural gas market in order to restrain prices charged to natural gas users; to the Committee on Energy and Commerce.

By Mr. ZABLOCKI (for himself, Mr. BINGHAM, Mr. BROOMFIELD, and Mr. LAGOMARSINO) (by request):

H.R. 7374. A bill to facilitate the adjudication of certain claims of U.S. nationals against Iran, to authorize the recovery of costs incurred by the United States in connection with the arbitration of claims of U.S. nationals against Iran, and for other purposes; to the Committee on Foreign Affairs.

By Mr. GAYDOS:

H.R. 7375. A bill to freeze for fiscal year 1983 the rate of salary payable to Members of Congress; to the Committee on Post Office and Civil Service.

By Mr. OTTINGER:

H.R. 7376. A bill to amend the Energy Conservation in Existing Buildings Act of 1976 to provide for the weatherization of the remaining 12,000,000 eligible low-income houses throughout the United States, to create additional employment in weatherization-related industries, and for other purposes; to the Committee on Energy and Commerce.

By Mr. FUQUA:

H.J. Res. 627. Joint resolution to designate the year 1983 as the Bicentennial of Air and Space Flight; to the Committee on Post Office and Civil Service.

By Mr. BONKER (for himself, Mr. LEACH of Iowa, Mr. GEJDENSON, Mr. ROSENTHAL, Mrs. FENWICK, Mr. PORTER, Mr. PRITCHARD, and Mr. DYMALLY):

H. Con. Res. 433. Concurrent resolution condemning all forms of religious persecution and discrimination as a violation of human rights; to the Commmittee on Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1491: Mr. BIAGGI.

H.R. 1493: Mr. BIAGGI.

H.R. 6239: Mr. HEFTEL, and Mr. NELLIGAN.

H.R. 6318: Mr. WYDEN.

H.R. 6527: Mr. DOWNEY.

H.R. 7051: Mr. EMERSON.

H.R. 7063: Mr. GOLDWATER, Mr. DAUB, Mr. KEMP, Mr. BARNARD, Mr. MILLER of Ohio, Mr. CORCORAN, Mr. SNYDER, and Mr. YOUNG of Florida.

H.R. 7122: Mr. FISH, Mrs. MARTIN of Illinois, and Mr. OXLEY.

H.R. 7263: Mr. JEFFRIES.

H.R. 7309: Mr. BOLAND, Mr. QUILLEN, Mr. VENTO, Mr. JEFFRIES, Mr. LUKEN, Mr. DE LA GARZA, Mr. BONER of Tennessee, Mrs. MARTIN of Illinois, Mr. WATKINS, Mr. ANDERSON, Mrs. FENWICK, Mr. SOLARZ, Mr. HUCKABY, Mr. BARNARD, Mr. CLAUSEN, Mr. EARLY, Mr. BOWEN, Mr. DELLUMS, Mr. WYLIE, Mr. SMITH of New Jersey, Mr. HOPKINS, Mr. SHAMANSKY, Mr. JONES of North Carolina, Mr. BURGENER, and Mr. ROUSSELOT.

H.R. 7314: Mr. LUNDINE and Mr. KEMP.

H.J. Res. 591: Mr. ANDERSON, Mr. BONKER, Mr. EMERSON, Mr. GINGRICH, Mr. GUNDERSON, Mr. JONES of North Carolina, Mr. LIVINGSTON, Mr. MCGRATH, Mr. MOAKLEY, and Mr. MOORE.

H.R. 7366: Mr. COLEMAN, Mr. BOLLING, Mr. EMERSON, Mr. BAILEY of Missouri, Mr. YOUNG of Missouri, Mr. VOLKMER, Mr. CLAY, Mr. TAYLOR, and Mr. GEPHARDT.

H.J. Res. 513: Mr. WOLF, Mr. MORRISON, Mr. BADHAM, Mrs. KENNELLY, Mr. MCEWEN, Mr. LOWERY of California, Mr. VOLKMER, Mr. HOLLENBECK, Mr. DANNEMEYER, Mr. BLILEY, Mr. SKEEN, Mr. HORTON, Mr. ROSENTHAL, Mr. BONER of Tennessee, Mr. COELHO, Mr. FORD of Tennessee, Mr. MCGRATH, Mrs. HECKLER, and Mr. PORTER.

H.J. Res. 556: Mr. ECKART, Mr. HAMILTON, Mr. BONIOR of Michigan, Mr. WASHINGTON, and Mr. FASCELL.

H.J. Res. 607: Mr. WASHINGTON.

H.J. Res. 619: Mr. SHAMANSKY, Mr. ROSENTHAL, Mr. DERWINSKI, Mr. ROE, Mr. FORD of Michigan, Mr. GILMAN, Mr. PEPPER, Mr. HYDE, Mr. HOPKINS, Mrs. HOLT, Ms. OAKAR, Mr. ENGLISH, Mr. ERDAHL, Mr. CARNEY, Mr. BROOKS, Mr. MARTIN of New York, Mr. ADDABBO, Mr. SEIBERLING, Mr. FAUNTROY, Mr. YATES, Mr. BARNES, Mr. FROST, Mr. DICKS, Mr. ANTHONY, Mr. MARRIOTT, Mr. DYSON, Mr. SCHEUER, Ms. MIKULSKI, Mr. WOLF, Mr. CORRADA, Mr. FOWLER, Mr. CORCORAN, Mr. MATSUI, Mr. MINETA, Mr. FOGLIETTA, Mr.

BROWN of California, Mr. LAFALCE, Mr. DAUB, Mr. CONTE, Mr. BROWN of Colorado, Mr. LAGOMARSINO, Mr. COELHO, Mr. WASHINGTON, Mr. WEISS, Mr. RATCHFORD, Mr. BEILENSON, Mr. GUARINI, Mr. HOWARD, Mr. CHENEY, Mr. SOLARZ, Mr. ANDERSON, Mr. HATCHER, Mr. SWIFT, Mr. DELLUMS, Mr. HUGHES, Mr. SIMON, Mr. MCDADE, Mr. EVANS of Indiana, Mr. FAZIO, Mr. GARCIA, Mr. WON PAT, Mr. JOHN L. BURTON, Mr. DYMALLY, Mr. FRANK, Mr. LANTOS, Mr. SMITH of New Jersey, Mr. WHITEHURST, Mr. WIRTH, Mr. HANSEN of Utah, Mr. GOODLING, Mr. PARRIS, Mr. SUNIA, Ms. FERRARO, Mr. WILSON, and Mr. TRIBLE.

H. Con Res. 236: Mr. WASHINGTON.

H. Con. Res. 392: Mr. SIMON.

H. Con. Res. 425: Mr. MONTGOMERY, Mr. DORNAN of California, Mr. FRANK, Mr. LEBOUTILLIER, Mr. SANTINI, Mr. ROE, Mr. YOUNG of Alaska, Mr. APPLEGATE, Mr. WINN, Mr. TAUZIN, Mr. OTTINGER, Mrs. SCHROEDER, Mr. OXLEY, Mr. RANGEL, Mr. HARTNETT, Mr. FAUNTROY, Mr. LAGOMARSINO, Mr. FAZIO, Mr. WASHINGTON, Mr. WILLIAMS of Montana, Mr. FISH, and Mrs. SNOWE.

PETITIONS, ETC.

Under clause 1 of rule XXII,

669. The SPEAKER presented a petition of the Board of Supervisors, Seneca County, N.Y., relative to an "Economic Marshall Plan"; which was referred to the Committee on Banking, Finance and Urban Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposal amendments were submitted as follows:

H.R. 5133

By Mr. BROWN of Ohio:

—Page 8, line 3, strike out "For" and insert in lieu thereof "Except as provided in subsection (b)".

Page 8, insert after the table before line 11, the following:

"(b) SPECIAL RULE.—For each model year beginning after January 1, 1983, the minimum domestic content ratio for a vehicle manufacturer who began production in the United States between January 1, 1980, and December 31, 1982, shall not be less than the applicable minimun content ratio specified in the following table:

Model year 1984

Number of motor vehicles produced by the manufacturer and sold in the United States during such year:	*Minimum domestic content ratio:*
Not over 100,000	0 percent.
Over 100,000 but not over 900,000.	The number, expressed as a percentage, determined by dividing the number of vehicles sold by 90,000.
Over 900,000	30 percent.

Model year 1985

Number of motor vehicles produced by the manufacturer and sold in the United States during such year:	*Minimum domestic content ratio:*
Not over 100,000	0 percent.
Over 100,000 but not over 900,000.	The number, expressed as a percentage, determined by dividing the number of vehicles sold by 45,000.
Over 900,000	60 percent.

Each model year after model year 1985

Number of motor vehicles produced by the manufacturer and sold in the United States during such year:	*Minimum domestic content ratio:*
Not over 100,000	0 percent.
Over 100,000 but not over 900,000.	The number, expressed as a percentage, determined by dividing the number of vehicles sold by 30,000.
Over 900,000	90 percent.

Page 8, line 11, strike out "(b)" and insert "(c)".

H.R. 7145

By Mr. LEVITAS:

—Page 37, after line 6, insert the following section:

SEC. 505. None of the funds appropriated by this Act may be used to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

H.R. 7355

By Mr. JOHN L. BURTON:

—Page 73, line 17, add the following section:

SEC. 794. No funds appropriated under this Act for the MX missile shall be expended in violation of section 7 of Public Law 95-435.

—Page 26, line 25, add the following language:

No funds appropriated under this section for the MX missile shall be expended in violation of section 7 of Public Law 95-435.

By Mr. GARCIA:

—At the end of title VII (page 73, after line 16), insert the following new section:

SEC. 794. None of the funds appropriated by this Act may by used—

(1) to operate, maintain, or provide personnel support services for the dining room of the Secretary of Defense in the Pentagon;

(2) for the pay of enlisted members of the Armed Forces assigned to duty as personal aides to general and flag officers; or

(3) for the provision of veterinary care for pets of members of the Armed Forces or their dependents.

By Mr. MONTGOMERY:

—Page 3, line 23, strike out "$1,223,650,000" and insert in lieu thereof "$1,247,450,000".

—Page 5, line 25, strike out "$1,658,950,000" and insert in lieu thereof "$1,695,150,000".

By Mrs. ROUKEMA:

—At the end title IV (page 28, after line 13), add the following new paragraph:

LIMITATION ON TOTAL AVAILABLE FOR OBLIGATION

Notwithstanding the total of the amounts appropriated under this title, the total amount obligated under this title may not exceed $77,090,233,000. In making reductions in order to comply with this paragraph, no reduction may be made in amounts available for spare parts, repair parts, or ammunition.

By Mr. VENTO:

—Page 19, line 7, strike "$10,616,546,000" and insert in lieu thereof "$10,368,346,000.

H.R. 7357

By Mr. PERKINS:

—(1) Page 6, strike out line 4 and insert in lieu thereof the following new paragraph:

"(3) the person or entity, in the case of the hiring of an individual, must attest, under penalty of perjury and on or appended to such form, to the name and address of each other individual who (A) applied in writing (within 90 days before the hiring of the individual) for the position in which the individual was hired, and (B) was not hired for the position; and

Page 6, line 5, strike out "(3)" and insert in lieu thereof "(4)".

Page 6, line 6, strike out "(1) and (2)" and insert in lieu thereof "(1), (2), and (3)".

—(2) Page 7, at the end of line 3, add the following new sentence: "The person or entity shall also make the completed forms described in this subsection available to officials of the Department of Justice, the Civil Rights Commission, and the Equal Employment Opportunity Commission".

Page 7, line 21, before the comma insert the following: "and determining whether discrimination because of race or national origin has occurred".

—(3) Page 9, line 21, insert "either" after "Attorney General".

Page 9, line 24, insert before the comma the following "or has reason to believe that a person or entity is engaged in a pattern or practice of employment, recruitment, or referral in violation of subsection (a)(1)(B)".

Page 10, strike out lines 16 through 20 and insert in lieu thereof the following:

"(B) In the case of a person or entity which has previously been cited under subparagraph (A), which is determined to have violated subsection (a)(1)(B), and which—

"(i) has not previously been subject to a civil penalty under this subparagraph, the person or entity shall be subject to a civil penalty of $500 for each individual with respect to whom such violation occurred;

"(ii) has previously been subject to a civil penalty under this subparagraph, the person or entity shall be subject to a civil penalty of $1,000 for each individual with respect to whom such violation occurred; and

"(iii) has previously been subject to a civil penalty under this subparagraph in more than one instance, the person or entity shall be subject to a civil penalty of $1,500 for each individual with respect to whom such violation occurred.

—(4) Page 12, after line 23, insert the following new subsection:

"(e)(1) An individual alleging that a person or entity has denied the individual employment, or recruitment or referral for a fee for employment, in the United States because of the failure of the person or entity in good faith to meet the require-

ments of subsection (b) by failing to accept documentation tendered by the individual, is entitled to a hearing before an administrative law judge, in which the person or entity is entitled to notice and opportunity to appear and contest the allegations.

"(2) If the administrative law judge determines that the individual tendered documentation that, on its face, appears to be genuine and the person or entity had not acted in good faith in failing to accept documentation tendered in order to comply with the requirements to subsection (b), the judge may cause to be served on the person or entity an order to take such affirmative action, including the payment of back pay and the employment of the individual, as will place the individual in the same position as if the requirements of subsection (b) had been met in a timely manner. Such affirmative action shall not exceed the actual damages incurred as a result of the failure to meet such requirements, and the amount of any monetary damages so recovered shall be set off against any recovery under any other employment discrimination law arising out of such failure to meet such requirements.

"(3)(A) The hearing shall be conducted in accordance with the requirements of section 554 of title 5, United States Code and rules of the United States Immigration Board established under section 107. A party to the hearing may appeal an adverse determination to the United States Immigration Board in accordance with section 107 and, if such a timely appeal is taken, the order of the administrative law judge shall not become final until the Board has rendered a decision on the appeal.

"(B) A person or entity adversely affected by the determination after a hearing may, within 60 days after the date the final order is issued, fule a petition n the Court of Appeals for the appropriate circuit for review of the order.

"(C) The individual may file suit to enforce the order of an judge under this subsection in the United States district court for the district in which the person or entity resides or in which the event on which the order is based occurred. In such a suit, the suit shall be determined solely upon the administrative record upon which the order was made and the administrative law judge's findings of fact, if supported by substantial evidence on the records considered as a whole, shall be conclusive.".

Page 12, line 24, strike out "(e)" and insert in lieu thereof "(f)".

Page 13, lines 6 and 10, strike out "(f)" and "(g)(1)", respectively, and insert in lieu thereof "(g)" and "(h)(1)", respectively.

—(5) Page 27, line 22, insert "and the making of other orders" after "civil penalties".

—(6) Page 59, strike out line 8 and all that follows through page 67, line 11, and insert in lieu thereof the following:

H-2 WORKERS

SEC. 211. (a) Paragraph (15)(H) of section 101(a) (8 U.S.C. 1101(a)) is amended by inserting "(a) in agricultural labor or services included within the provisions of section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or section 3121(g) of the Internal Revenue Code of 1954, or (b) in any other labor or services" after "temporary services or labor".

(b) Section 214 (8 U.S.C. 1184) is amended—

(1) by adding at the end of subsection (a) the following new sentences: "An alien may not be admitted to the United States as a nonimmigrant—

"(1) under section 101(a)(15)(H)(ii) for an aggregate period longer than eight months in any calendar year, except in the case of agricultural labor or services which the Secretary of Labor, before the date of the enactment of the Immigration Reform and Control Act of 1982, has recognized require a longer period;

"(2) under section 101(a)(15)(H)(ii)(a) unless the conditions described in subsection (c)(2)(B) have been met with respect to the employment of the alien; or

"(3) under section 101(a)(15)(H)(ii) if the alien was admitted to the United States as such a nonimmigrant within the previous five-year period and the alien during that period violated a term or condition of such previous admission.

The Attorney General shall provide for such endorsement of entry and exit documents of nonimmigrants described in section 101(a)(15)(H)(ii) as may be necessary to carry out this section and to provide notice for purposes of section 274A.",

(2) by inserting "(1)" after "(c)" in subsection (c), and

(3) by adding at the end of subsection (c)(1), as so redesignated, the following: "For purposes of this paragraph the term 'appropriate agencies of Government' means the Department of Labor.

"(2)(A)(i) A petition to import an alien as a nonimmigrant under section 101(a)(15)(H)(ii) may not be approved by the Attorney General unless the petitioner has applied to the Secretary of Labor for a certification that—

"(I) there are not sufficient qualified workers available in the United States to perform the labor or services involved in the petition, and

"(II) the employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed, and such certification has been issued.

"(ii) After the Attorney General has approved petitions in a fiscal year for a number of nonimmigrant workers classified under section 101(a)(15)(H)(ii) equal to the number of such workers for whom petitions were approved in fiscal year 1982, the Attorney General may not approve any additional such petitions for such workers in the fiscal year unless the Secretary of Labor has certified in writing to the Attorney General and to the Congress that there are sufficient funds and personnel available to adequately enforce the provisions of this subsection.

"(iii) The Secretary of Labor shall require by regulation, as a condition of issuing the certification, the payment of a fee to recover the reasonable costs of processing applications for certification. Such fees and all penalties collected pursuant to this subsection shall be applied toward reimbursement of the costs of processing applications for certifications under this subsection, of making determinations of violations of this subsection, and of assessing and collecting such penalties.

"(B) The Secretary of Labor shall ensure that the following conditions are met with respect to employment of a nonimmigrant worker under section 101(a)(15)(H)(ii)(a) and eligible individuals in the job opportunity for which a certification under subparagraph (A) is sought:

"(i) The employer will provide adequate and safe housing without charge to the worker.

"(ii) If the employment is not covered by State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of and in the course of the worker's employment which will provide benefits at least equal to those provided under the State workers' compensation law for comparable employment.

"(iii) The employer will provide, without cost to the worker, or reimburse the worker for the cost of all tools, supplies, and equipment required for the worker to perform the duties assigned.

"(iv) The employer will provide three meals a day or, where under prevailing practice or long-standing arrangement at the establishment workers prepare their meals, will furnish free, convenient, and safe cooking and kitchen facilities. Where the employer provides such meals, the job offer must state the reasonable cost to the worker of such meals.

"(v)(I) The employer will provide or pay for transportation and daily subsistence (consistent with clause (iv)) from the place from which the worker, without intervening employment, will come to work for the employer, to the place of employment.

"(II) The employer will provide safe and adequate transportation between the worker's living quarters and the employer's work site without cost to the worker.

"(vi) The employer guarantees to offer the worker employment for at least three-fourths of the workdays of the total period during which the work contract and all extensions thereof are in effect.

"(vii) The employer will keep accurate and adequate records with respect to the worker's earnings.

"(viii) The employer will furnish to the worker at or before each payday written statements including information on the worker's wages and deductions taken from wages.

"(ix)(I) The employer must pay a wage rate which will not adversely affect the wages and working conditions of similarly employed eligible individuals.

"(II) The employer must not discriminate in the wage rate paid between United States and foreign workers who are engaged in the same tasks.

"(III) If the worker will be paid on a piece rate basis, the price rate will be designed to produce average hourly earnings at least equal to the wage rate described in subclause (I) and will be based on a schedule, established and periodically published by the Secretary of Labor, containing the normal hourly piece rate of production of an average United States worker employed in the field of production of agricultural labor or services concerned.

"(x) The employer must provide for payment of wages not less frequently than biweekly or at such more frequent intervals as may be the prevailing practice in the employment area.

"(xi) If the cost of such transportation and subsistence described in clause (v)(I) is deducted from the wages of a worker, the worker shall be reimbursed the amount so deducted upon the worker's completion of 50 percent of the worker's contract period.

"(xii) The employer must provide the worker with a copy of the work contract between the employer and the employee, which contract shall contain all of the information pertaining to the requirements set forth in regulations issued under this paragraph.

In addition, the Secretary of Labor shall ensure that the employer shall pay each

nonimmigrant worker under section 101(a)(15)(H)(ii)(a), at the end of the contract period, an additional amount equal to the amount of taxes that the employer would have paid under the Federal Insurance Contributions Act and under Federal Unemployment Tax Act with respect to the employment of that worker if such employment were included in the definition of employment for purposes of the imposition of such taxes.

"(C)(i) The Secretary of Labor may not issue a certification under subparagraph (A) if a strike or other labor dispute involving a work stoppage or layoff of employees is in progress in the occupation and at the place the alien is to be employed. If, after such a certification is issued and during the period of the certification, such a strike or other labor dispute occurs, the certification shall be automatially suspended while such strike or labor dispute is in process.

"(ii) The Secretary of Labor may not issue a certification under subparagraph (A) with respect to an employer if the Secretary of Labor has determined, after notice and opportunity for a hearing, that the employer has not complied with the terms of a labor certification, or if the Secretary has assessed a civil penalty for failure to comply with such a term, that the employer has failed to pay the penalty. No employer may be denied certification under this clause for more than three years for any violation described in such a clause.

"(3)(A) In the case of an application for a labor certification for a nonimmigrant described in section 101(a)(15)(H)(ii)(a)—

"(i) the Secretary of Labor shall require that the application be filed at least 80 days before the first date the employer requires the labor or services of the alien;

"(ii) the employer shall be notified in writing promptly after the date of filing if the application does not meet the standards (other than that described in paragraph (2)(A)(i)(I)) for approval and if it does not, such notice shall include the reasons therefor and permit the employer an opportunity to resubmit promptly a modified application for approval; and

"(iii) the Secretary of Labor shall make, not later than 20 days before the date such labor or services are first required to be performed, the certification described in paragraph (2)(A)(i) if the employer has complied with criteria for certification, including criteria for a recruitment period of at least 60 days for eligible individuals as prescribed by the Secretary, and if the employer does not actually have, or has not been provided with referrals of, qualified eligible individuals who have indicated their availability to perform such labor or services on the terms and conditions of a job offer which meets the requirements of the Secretary, except that the terms of such a labor certification remain effective only if the employer continues to accept for employment, until 50 percent of the period of the work contract for which the certification was issued has elapsed, qualified eligible individuals who apply or are referred to the employer.

The failure to provide timely notice under clause (ii) does not preclude denial of an applications based on a standard described in that clause.

"(B) A petition to import an alien as an nonimmigrant described in section 101(a)(15)(H)(ii)(a), and an application for a labor certification with respect to such an alien, may be filed by an association representing agricultural producers which use agricultural labor or services. The filing of such a petition or application on a member's or user's behalf does not relieve the member or user of any liability under this subsection.

"(C)(i) The Secretary of Labor shall provide for an expedited procedure for the review of a denial of certification under paragraph (2)(A)(i).

"(ii) The Secretary of Labor shall expeditiously, but in no case later than 72 hours after the time a new determination is requested, make a new determination on the request for certification in the case of importing a nonimmigrant described in section 101(a)(15)(H)(ii)(a) if qualified eligible individuals are not actually available at the time such labor or services are required and a certification was denied in whole or in part because of the availability of qualified eligible individuals. If the employer asserts that any eligible individuals who have been referred are not qualified or available, the burden of proof is on the employer to establish that the individuals referred are not actually available or are not qualified because of employment-related reasons as shown by their job performance. In determining whether or not an individual referred is qualified, the individual's initial level of proficiency or productivity shall not be a basis for establishing that the individual is not qualified.

"(D) For purposes of this paragraph, the term 'eligible individual' means, with respect to employment, an individual who is not an unauthorized alien (as defined in section 274(a)(4)) with respect to that employment.

"(4) The Secretary of Labor, in consultation with the Attorney General, shall annually report to the Congress on the certifications provided under this subsection, the impact of aliens admitted pursuant to such certifications on labor conditions in the United States, and on compliance of employers and nonimmigrants with the terms and conditions of such nonimmigrants' admission to the United States.

"(5) There are authorized to be appropriated for each fiscal year, beginning with fiscal year 1983, $10,000,000 for the purposes (A) of recruiting domestic workers for temporary labor and services which might otherwise be performed by nonimmigrants described in section 101(a)(15)(H)(ii), and (B) of monitoring terms and conditions under which such nonimmigrants (and domestic workers employed by the same employers) are employed in the United States. The Secretary of Labor is authorized to take such actions, including imposing appropriate penalties and seeking appropriate injunctive relief and specific performance of contractual obligations, as may be necessary to assure employer compliance with terms and conditions of employment under this subsection.

"(6) There are authorized to be appropriated for each fiscal year, beginning with fiscal year 1983, such sums as may be necessary for the purpose of enabling the Secretary of Labor to make determinations and certifications under this subsection and under section 212(a)(14).

"(7) Any person aggrieved by a violation of this section or any regulation under this section with respect to aliens classified as nonimmigrant workers under section 101(a)(15)(H)(ii) may file suit in any district court of the United States having jurisdiction of the parties, without respect to the amount in controversy and without regard to the citizenship of the parties and without regard to exhaustion of any alternative administrative remedies.".

(c) The amendments made by this section apply to petitions and applications filed under section 214(c) of the Immigration and Nationality Act on or after the first day of the seventh month beginning after the date of the enactment of this Act (hereinafter in this section referred to as the "effective date").

(d) The Secretary of Labor, in consultation with the Attorney General, shall issue regulations implementing the amendments made by this section. Notwithstanding any other provision of law, final regulations implementing the amendments made by this section shall first be issued, on an interim or other basis, not later than the effective date.

(e) The Secretary of Labor, in consultation with the Attorney General, shall report to the Congress not later than 18 months after the effective date on recommendations for improvement in the temporary alien worker program amended by this section, including recommendations—

(1) improving the timeliness of decisions regarding admission of temporary foreign workers under the program,

(2) removing any current economic disincentives to hiring United States citizens or permanent resident aliens where temporary foreign workers have been requested, and

(3) improving the cooperation among government agencies, employers, employer associations, workers, unions, and other worker associations to end the dependence of any industry on a constant supply of temporary foreign workers.

(f) It is the sense of Congress that the President should establish an advisory commission which shall consult with the Government of Mexico and advise the Attorney General regarding the operation of the alien temporary worker program established under section 214(c) of the Immigration and Nationality Act.

—(7) Page 68, beginning on line 15, strike out "in a natural science, mathematics, computer science, or an engineering field".

—(8) Page 92, line 9, strike out "(3)(B)" and insert in lieu thereof "(3)".

Page 92, amend lines 10 through 15 to read as follows:

(2) The definitions and provisions of titles I through IV of Refugee Education Assistance Act of 1980 shall apply to payments under this subsection in the same manner as they apply to grants and payments under those titles, except that, in applying this paragraph, any reference in such titles to an "eligible participant" shall be deemed to be a reference to an "eligible legalized alien".

Page 92, strike out lines 16 through 21.

Page 92, line 22, strike out "(B) The" and insert in lieu thereof "(3) For purposes of this subsection, the".

EXTENSIONS OF REMARKS

ADDRESS BY ROBERT L. HARDESTY, CHAIRMAN OF THE BOARD OF GOVERNORS, U.S. POSTAL SERVICE

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 6, 1982

● Mr. DERWINSKI. Mr. Speaker, I insert for the Members' attention an address by Robert L. Hardesty, Chairman of the Board of Governors of the U.S. Postal Service. His speech was delivered before the National Association of Postmasters at their annual convention held this year in Biloxi, Miss. Mr. Hardesty defends the continuation of the private express statutes which grant the Postal Service a partial monopoly over the delivery of letter mail and assures the American people of mail delivery throughout the Nation at uniform rates. As a member of the House Post Office and Civil Service Committee, I believe that Mr. Hardesty's remarks are worth pondering:

I bring you greetings from the Board of Governors of the United States Postal Service.

I am proud to be associated with you as we face the challenges and opportunities of the 1980's. To meet those challenges and make the most of those opportunities, the Postal Service, as an institution, must be strong and healthy.

Today I would like to talk with you about a threat to the strength and health of the Postal Service—a threat that could subvert its fundamental mission to serve all Americans. I refer to the current round of proposals to abolish the private express statutes. As you know, these statutes grant the Postal Service a partial monopoly over the delivery of letter mail, to assure the American people of mail delivery throughout the Nation at uniform rates.

A great debate is beginning in America about the future of these private express laws. This debate is taking place in the Congress, in the Executive Branch, among mailing groups, in the press, on university campuses. The debate is one the Postal Service must join with deadly earnest. As the key officals on the front line of the Postal Service, you must bring home to every community in America the significance of the postal monopoly to our citizens—and the frightening ramifications of eliminating it.

In a 1977 report, the Antitrust Division of the Department of Justice claimed that the private express statutes could no longer be justified and that they should be repealed "absent very compelling public policy reasons."

In 1981, the Heritage Foundation stated:

"The postal monopoly is based upon 19th Century concepts which are almost completely inappropriate to today's methods of communication. The postal monopoly * * * should probably be abolished entirely. * * * The long term future of the Postal Service should be reexamined. In a competitive age in which the telephone, not the post, provides essential communications, it is unclear why there should be a publicly owned and supported national document delivery company."

A few weeks ago, in testimony before the Joint Economic Committee of the Congress, James Miller, the Chairman of the Federal Trade Commission, challenged the Postal Service to demonstrate that it still deserves the postal monopoly.

I am here today to accept that challenge.

After years of association with the Postal Service—both before and after postal reorganization in 1971—it is my firm conviction that the private express statutes are essential to the public interest. Those statutes are critical if the Postal Service is to continue to provide universal letter delivery at uniform rates. As William Ford, the Chairman of the House Post Office and Civil Service Committee, has stated, the private express statutes are "the financial underpinning (that the Postal Service) needs to provide reliable service at reasonable rates to every corner of the nation."

Now, let's understand this:

The private express statutes do not exist to protect the Postal Service. They exist to protect the mailing public. Their abolition would be costly, chaotic and corrosive: costly to our taxpayers, chaotic to our systems of commerce and communications, and corrosive to the fabric of our democracy.

The Postal Service monopoly applies only to letter mail. In addition, traditional exemptions from the statutes permit a letter to be sent outside the Postal Service, if the sender uses his own carriers or if the carrier receives no compensation. And the Postal Service itself has suspended the statutes in particular instances. For example, time-sensitive mail may be carried outside the Postal Service.

The private express laws are an important part of our nation's history. They have existed in one form or another since the beginning of the American postal system in 1775. The Articles of Confederation expressly granted the Government a monopoly over the delivery of letters. Article 9 provided that:

"The United States in Congress assembled shall * * * have the sole and exclusive right and power of * * * establishing and regulating post-offices from one State to another, throughout all the United States, and exacting such postage on the papers passing thro' the same as may be requisite to defray the expenses of the said office."

The authority of the Congress over the provision of postal services was preserved in Article I of the Constitution, which provided that "The Congress shall have Power * * * To establish Post Offices and post Roads."

Our first national leaders recognized the importance of this expansion and the monopoly that made it possible. George Washington advocated expansion of the postal network as a means of increasing the bond between the frontier settlers and the East. "These settlers," he said, "are on a pivot and the touch of a feather would turn them away * * * Let us bind these people to us with a chain that can never be broken." The Postal Service provided strong links for that chain. And the expansion of the Postal Service to the frontiers of the South and West was funded largely with mail revenues derived from the Eastern cities.

These mail revenues also subsidized certain services critical to the development and preservation of our democracy. To assist the flow of information from members of Congress to the citizens they represented, these revenues subsidized the free delivery of franked correspondence to and from Federal officeholders.

To encourage the publication of local newspapers and help assure the vitality of a free press, these revenues made possible the free delivery of newspapers and news pamphlets within each county in America.

By the 1820's, as volume grew, private express companies began circumventing the rather loose postal monopoly laws then in existence. By the early 1840's, up to half of postal volume—undoubtedly the most profitable half—was being carried outside the postal system. Postal deficits grew so large that in 1845 the Congress revised the law to tighten the postal monopoly, and lowered postage rates. In passing the bill, the Congress indicated that the Government should provide service to all areas, even though such service might not be self-supporting. Loss from rural service were to be offset by revenues from more populous areas.

The Congress established a uniform rate for nationwide service. New services were introduced, such as free city delivery in 1863, and free rural delivery in 1896. These services, made possible by the postal monopoly, permitted the development of the mail order industry, which helped bring an ever increasing variety of consumer goods to rural America.

The history of our nation is marked by a series of very pragmatic contracts between the federal government and the American people, to bolster our national strength and promote the public welfare. The private express statutes are one of the most successful of these historic contracts. We, the people, agreed to give up a small measure of our individual commercial freedom to secure for ourselves and our country the far greater benefit of nationwide mail service, at uniform rates. If we now default on this historic contract, a small number of businesses might well profit, but the American people will surely lose.

The Postal Service is exactly what the word says—a service—not just a business to be dominated by the desire to take home a profit. Certainly, a private business can make a profit by delivering some mail at a lower price in certain easily accessible, densely populated areas. But the consequences for nationwide postal delivery would be disastrous. The universal postal system as we know it today would be destroyed.

Scores of private postal operators would spring up in populated areas to offer delivery services for local mail. As smart businessmen, these operators would limit themselves to high-volume, low-cost areas, like Wall Street, and similar downtown business districts. They simply would not bother to

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

deliver mail to high-cost areas such as rural America, less densely populated suburbs, and poor inner-city neighborhoods. They would also not be likely to offer postal consumers conveniences that we have come to rely on, such as window service. No wonder mail service by some of the private operators would be less expensive—they would only provide low-budget delivery service in high-profit areas.

The consequences for the Postal Service would be ominous. This "cream-skimming," as it is called, would take a considerable volume of mail away from the Postal Service. The cost of providing service to rural communities, center-city neighborhoods, and other high-cost areas would skyrocket due to the loss of the urban business volume. The Postal Service would either have to raise its rates dramatically, or more likely, look to the Congress for the lost revenue. The mailers or the taxpayers would be left to bear these costs. If the postal monopoly were eliminated today, and the taxpayers subsidized delivery in unprofitable areas, the cost of delivering mail to those areas would add $100 billion to the federal deficit by the mid-1990's.

But if the consequences for the Postal Service would be ominous, the consequences for the American consumer would be even worse. We would have a balkanized postal service—with many delivery systems and no uniformity. In addition to First and Second Class mail, we would have First and Second Class communities.

Who accepts the ultimate responsibility for the many services the public has come to expect?

For forwarding the mail when it has to go to another part of the country?

For protecting the privacy of the mail?

For protecting the public against fraud and false advertising?

For handling the huge volumes of foreign mail?

For assuring uniformity of service?

To force the American people to depend on the uncertain services of private carriers is to ask them to play russian roulette with their personal correspondence, their bills, and their financial transactions.

It also imposes upon them a crazy quilt system of rates that a genius couldn't keep in his head. If you think that the public has trouble with parcel post rates, just let people try to figure the cost of mailing a letter from New York to Louisville to a rural route outside of Paducah, Kentucky—via three different carriers, or two carriers plus the Postal Service.

Having a nationwide system is a clear benefit to the American public and to American business. It justifies a uniform rate for a First Class stamp, even if every mailer does not at all times take advantage of the nationwide feature of the system. In putting a First Class stamp on his letter, a mailer in New York City or Biloxi, Mississippi, or Honolulu, Hawaii, can reach anyone in the fifty states from the local mailbox on the nearby street corner. In a world without the private express statutes, the Postal Service simply could not offer such service to everyone at a relatively low uniform price.

Abolition of the private express statutes would have other damaging consequences. The Postal Service's nationwide network would be curtailed, if not abolished. The Federal Government would lose the one contact that most Americans have with the Government on a daily basis. There are over 30,000 post offices in this country, and the Postal Service, through its network of carriers, reaches every point in this land.

Without its nationwide reach, the Postal Service could not provide the Federal Government with such special assistance as selective service registration, or help the F.B.I. and other law enforcement agencies. Programs like "Carrier Alert," where postal carriers check daily on the elderly and handicapped, could not continue. This program has already saved dozens of lives because dedicated mail carriers noticed something wrong at the home of an elderly or handicapped citizen. I doubt whether many private companies, eager to earn a profit on their delivery service, would be interested in conducting such a program.

Other services Americans now take for granted would be likely casualties of a repeal of the private express statutes. The price of the First Class stamp covers the cost of forwarding mail in case the addressee has moved. The letter follows the individual until it reaches him. This service is possible under a universal system that can keep track of millions of Americans who change their residences annually. In a balkanized postal world it is not clear who would be responsible for forwarding mail or who would take mail from one local delivery system to another—and at what surcharge.

And how would international mail be handled? At a time of increasing interdependence, with international communications growing rapidly, predictable and regular communications among nations are essential. How would foreign postal systems deal with a variety of private postal operations in large cities?

And what about the privacy of mail without a postal monopoly? Today, when someone deposits a check, or letter, or contract in the mail, he is confident that it will not be subject to prying eyes while in the postal system. Indeed, by law, a search warrant issued by a Federal judge is generally required before a First Class letter may be opened. As a result, valuable documents and merchandise are placed in the postal system daily without a second thought that they will be open or stolen in transit. Simply put, the mail is safe, and it is private. In the brave new world of several postal systems, I would be less confident about the security and sanctity of any communication that I might send.

Other services would be in jeopardy. At present, Postal Inspectors help guard the public against mail fraud and false advertising. These frauds, often directed at the naive and the elderly, frequently involve sophisticated nationwide schemes. Enforcement of mail fraud and false representation laws would be virtually impossible if the unscrupulous could operate among many private mail services. Who would enforce these laws? The private companies would certainly not be interested in maintaining an investigative force that would lower profits. And what authority would any private investigative group have? To whom would any such private investigators be answerable?

It is said that abolition of the private express statutes will lead to competition in the delivery of mail, and that this will hold down postal rates. Competition, however, already exists and is having precisely that effect. The Postal Service is but one supplier of communication services in the fiercely competitive communications market. In that market, the Postal Service's share of all communications has declined from 70% in 1900 to less than 20% today. Of course, the telephone is our greatest competitor, and it is responsible in large part for our declining share of the communications market. On the horizon, an even more formidable competitor looms—electronic communications. As electronic mail and electronic fund transfers become more common and their costs decline, they will compete for a substantial portion of the business transaction service that we now provide.

These communications alternatives serve to hold down postal prices. They require that the Postal Service be as efficient as possible in providing its universal delivery. For if the Postal Service is to compete with electronic communication services, it must be able to provide mailers with a nationwide network that can reach all the people at the lowest price possible.

But we must take our message to the American people. We must remind each citizen what a universal postal system means to him and to her. That is why I have come to speak to you today—to urge you to take this message back to every community and every citizen in America.

When you return to your home, remind the citizens in the communities you serve what the Postal Service with its universal delivery system means to them.

It means that any American can send a letter to any part of the country no matter how far away, at a uniform rate.

It means that each American gets the same high delivery standards—whether poor or old, a wealthy businessman or a storeroom clerk, or whether he lives in Biloxi, Mississippi, Harlem in New York City, or at an Alaskan outpost.

It means that each American can send a private letter, knowing that privacy will be protected as a sacred right.

It means that wherever you live in this nation, there is a mail carrier who will deliver your letters to you.

It means that when you move to another street, or another city or another state, your important mail will follow you.

It means that you can trace a lost social security check, no matter where in the country you live.

If you remind your friends and customers what a universal postal system means to each of them, they will stand with you and with the Board of Governors of the U.S. Postal Service. They will join us in the fight to preserve the postal service that has meant so much to the commercial development of this great nation and the individual liberty of its citizens.●

THE RONALD McDONALD HOUSE OF NORTHWEST OHIO

HON. ED WEBER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 6, 1982

● Mr. WEBER of Ohio. Mr. Speaker, I want to bring to the attention of the House the grand opening today in Toledo of a novel and needed facility.

The Ronald McDonald House of Northwest Ohio—named for the clown figure made popular by McDonald's—opens at 3883 Monroe Street after nearly 2 years of work. It is centrally located to all nine hospitals in Toledo.

This facility is the 44th in the United States and the fifth in the State of Ohio. It will serve as a home away from home for parents and families of youngsters receiving hospital treatment for cancer and other serious illnesses.

Parents who accompany their children to hospitals want to remain close to their children. For them, motel rooms are both expensive and lonely.

The Ronald McDonald House, a renovated building with play areas, living rooms, and a common kitchen, will house up to 14 families at a time in pleasant, private bedrooms with private baths. Only small donations will be accepted from those able to pay and more than 700 families are expected to be served by the house in the coming year.

This worthwhile effort by Home Away from Home, Inc., comprised of doctors and hospital administrators, parents, McDonald's owner/operators, and other concerned individuals, well deserves the praise of the House.●

HON. JACK BRINKLEY

HON. F. JAMES SENSENBRENNER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. SENSENBRENNER. Mr. Speaker, I wish to take this opportunity to commend Congressman JACK BRINKELY, who has served the House of Representatives, and the Third District of Georgia with distinction since 1966.

Congressman BRINKLEY, who is the dean of the Georgia congressional delegation, has served the second longest of any representative from the Third District of Georgia since the Civil War.

In the House of Representatives, Congressman BRINKLEY is a member of the House Armed Services Committee and chairman of the Military Installations and Facilities Subcommittee. He also served as chairman of the Veterans' Housing Subcommittee and the Special Subcommittee on Civil Defense in previous Congresses. He has also served the House as the president of the House Prayer Breakfast Group from 1979 to 1980, and as Democratic zone whip for region VI for Georgia and South Carolina during the 96th Congress. Representative BRINKLEY's voting record for his tenure is well over 96 percent, and was an impressive 99.2 percent during 1981.

Congressman BRINKLEY has a distinguished nonpublic life as well. He is an honors graduate of Young Harris College, and received his law degree from the University of Georgia Law School. Representative BRINKLEY served as a USAF pilot for 5 years during the Korean war. He is married and has two sons, both hailing from Representative BRINKLEY's hometown of Columbus.

The devotion of Congressman BRINKLEY to his constituents and district is impressive. As mentioned, he has devoted his efforts in the House to military affairs, an important issue in his district. The Third District of Georgia contains both Robins Air Force Base and Fort Benning. Congressman BRINKLEY has served his district in the tradition of Georgia's legendary Armed Services Committee chairman—Carl Vinson. Representative BRINKLEY even finds time to occasionally show constitutents around the Capitol.

I join with the other Members of the House in paying tribute to this outstanding member of the Georgia delegation.●

TRIBUTE TO THE HONORABLE JACK BRINKLEY

HON. MARVIN LEATH

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. LEATH of Texas. Mr. Speaker, today, we have gathered to honor a colleague who has honored our institution for many years. When JACK BRINKLEY announced his intention to retire, many of his colleagues and constituents voiced the same reaction: What will we do without him?

Since 1967, JACK has been a true representative of his people and an esteemed Member of Congress. His ethics and dignity are hallmarks of his service. As one of his constituents told me, JACK is not interested in publicity or fame—he just does his job and goes home. There has never been any fanfare associated with JACK BRINKLEY. His style is quiet, and when he speaks, we all listen. We can depend on his judgment, expertise, and integrity. Those few of us who have served with him on both the Armed Services Committee and the Veterans' Affairs Committee have been doubly blessed and doubly graced. We have had more opportunities than most Members to work with JACK and learn from him. We can share with the people of the Third Congressional District of Georgia great pride and affection for this man.

Our best wishes go with you, JACK. Please do not forget us when you are back in the Georgia sunshine. You hold a special place in our hearts and minds and we will always be grateful for the good years we served together.●

TRIBUTE TO GASTON FREDERICK "COUNTRY" LEWIS

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 6, 1982

● Mr. BROWN of Ohio. Mr. Speaker, if our children are the hope of our Nation's future, and indeed they are, then surely the men and women who mold their characters are among our most precious resources.

This past Friday, such a man, Gaston Frederick "Country" Lewis, was among those honored at the Pigskin Club Banquet here in Washington.

Because the Lewises and the Browns have been friends for a number of years, I was pleased to have the opportunity to attend a reception in his honor the previous evening. Watching so many men and women pay tribute to this outstanding coach, it occurred to me that we seldom understand just how much impact one life can have.

Country's influence, in building the character of countless young men, spans across four decades and across an entire continent. A number of the men Country has coached over the years were on hand to pay tribute to him last week.

Washingtonian Frank Bolden, a 1939 graduate of Wilberforce, served as director of health, physical education, athletics and safety in the Washington, D.C. Public Schools. Another Washington native, Francho Gray, a 1958 Central State graduate, is a retired policeman and now a White House clerk.

Earl Duvall, who hails from New York City, a 1969 Central State graduate, is an assistant professor of physical education and swimming coach at Howard University. He was there because he had received his instruction from Dr. Vivian Lewis, Country's wife, who is an instructor in physical education at Central State.

No one knows how many lives have been enriched by these three men whose lives were enriched by the Lewises.

Walter G. Sellars, who serves on the Xenia School Board, as president of the Ohio School Board Association and as director of the Central State University Alumni Association, was one of Country's quarterbacks.

Lionel H. Newson, president of Central State University, illustrated the extent of a college coach's influence by wagering that no one could remember the names of the men who served as president of Ohio State University during Woody Hayes' tenure or the names of the men who served as president of Notre Dame in Knute Rockne's day.

Perhaps, he suggested, this is because the coach must prove himself each Saturday.

As a father and as one of Country's longtime friends, I am proud to know him and am delighted that the Pigskin Club chose to confer this well deserved recognition on him.

I would like to insert the Pigskin Club's citation at this point in the RECORD:

Gaston Frederick "Country" Lewis, born in Clinton County, Ohio, attended the elementary and secondary schools of Greene County, Ohio.

A graduate of Wilberforce University in 1926, with a B.S. in Education, he received an M.S. in Health, Physical Education and Recreation from the Ohio State University in 1938.

Upon graduation from Wilberforce, Lewis became Head Football, Basketball and Track Coach at Alabama State Teachers College, in Montgomery, Alabama, serving in this capacity from 1926 until 1934. In 1934, Lewis returned to Wilberforce as head football and basketball coach. With the exception of two years, he served as head coach in football at both Wilberforce and Central State (Ohio) until 1957. Coach Lewis also served as head basketball and track coach at both of the above institutions.

Lewis assumed the Athletic Directorship at Central State University in 1957, serving in this position until 1965. As Athletic Director, Lewis was responsible for greatly expanding the athletic program and facilities at Central State University.

"Country's" coaching career spanned four decades. During this time he compiled 151 wins, 70 losses and 19 ties in football. In basketball, his teams won several midwestern conference titles and continuously played one of the best brands of basketball games in the late twenties and early thirties, at a time when it was unheard of for most black college squads. His football teams both at Wilberforce and at Central State played in bowl games in New York, Chicago and San Franscisco. Among the more famous of these games was the annual Wilberforce-Tuskegee Football Game in Chicago's Soldier's Field. In his playing days, Lewis was a member of the celebrated "Green Wave" football and basketball teams of the early twenties.

Lewis has also served on the Olympic Track and Field Committee and as manager of the Track and Field Committee for the Pan American Games held in Winnipeg, Canada. He is a former member of the National Collegiate Athletic Association Track and Field Rules Committee, a consultant to the Area High School Football Coaches Association, a member of the Helms Athletic Directors Hall of Fame, and the United States Track Association.

Coach Lewis is married to Vivian F. Lewis, former Director of the Department of Health and Physical Education at Central State University. They have one son, Fred G. Lewis, and four grandchildren.●

THE RETIREMENT OF CONGRESSMAN ROBERT MOLLOHAN

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 6, 1982

● Mr. BENNETT. Mr. Speaker, on the occasion of the retirement of ROBERT MOLLOHAN as a Member of the House of Representatives, I want to express my sense of personal loss that he is leaving the House and my sense that in the many years he has served here he has done a truly outstanding job for the country and for his district and State. The fact that he is going to be succeeded in Congress by his fine young son, I am sure, is a matter of joy to him and his wife. BOB MOLLOHAN has served on the House Armed Services Committee with me for many years, and I have never known a more dedicated American than he. He works vigorously and enthusiastically for a strong national defense for our country and he leaves a great heritage here in the things that he has accomplished, not only in strengthening the overall defenses of our country, but also in seeing to it that the average man who is in the armed services is properly treated and recognized.

We will all deeply miss Congressman BOB MOLLOHAN but he should have no regrets in leaving because he leaves such a fine legacy of good things for our country and for the State which he so ably represented.●

DIPLOMATIC IMMUNITY: ANOTHER ABUSE?

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, December 6, 1982

● Mr. BROOMFIELD. Mr. Speaker, I want to share with my colleagues the details of a tragic incident which occurred recently in this city.

On the evening of November 29, 1982, Antonio F. Azerado Da Silveira, Jr., the adopted son of the Brazilian Ambassador to the United States, was asked to leave a bar in downtown Washington. As he was being escorted to the door by the manager, he shouted "I'm with the Mafia," wielded two revolvers, and pulled the trigger of one of the weapons. Fortunately, the weapon misfired. Da Silveira then ran from the bar into an alley while being pursued by the manager and two other employees. After running for a distance, da Silveira turned and fired three shots which struck Ken Skeen on his hand, leg and abdomen. The two other pursuers subdued Da Silveira and recovered two operable handguns. Da Silveira, at first, refused to disclose his identity to the arresting officers. The felony charges filed against him were dropped when diplomatic immunity was invoked. His arrest was officially erased from the books at the local police station. He is now on his way back to Brazil.

I am certain that my colleagues will join me in expressing dismay at this incident. Far too many foreign diplomats in this country are literally getting away with murder in disregarding the laws of this Nation. Diplomatic immunity must not be a cloak for the wholesale and calculated abuse of America's laws. Many diplomats are violating both the spirit and the letter of our laws and are making fools out of all of us in the process. How many of us in this Chamber have read the all-too-frequent reports of diplomats smuggling drugs into America, refusing to pay rent, wrecking apartments, and parking illegally all over the city. Their reckless driving often left their victims either dead or without legal, or financial recourse.

Thankfully, the situation today is far less permissive than it was prior to 1978. In response to past abuses of diplomatic status by the diplomatic corps, this Congress changed America's law in 1978. The law was brought into line with rules spelled out by the Vienna Convention on Diplomatic Relations of 1961. Under the new statute, more than 10,000 diplomatic personnel and their families in the Washington area alone lost some measure of the complete immunity from civil and criminal prosecution they had enjoyed under a 1790 statute. Under the new law, for example, it is legal for an American citizen to file a lawsuit against a diplomat or the lowest ranking employee of an embassy. Foreign diplomats are now required to legally insure their vehicles. This is certainly a major step in the right direction.

This recent incident, however, and others like it, convince me that more work has to be done since diplomats are still regarded as the real abusers of the public repose. Abuses of America's law by the foreign diplomatic community must be stopped. Diplomatic immunity does not give the more than 20,000 diplomats stationed in this area the right to bear arms. American citizens cannot even carry weapons, without special permission, in their own country.

The Vienna Convention carefully stipulates that diplomats are obliged to respect local laws and regulations wherever they may be. There is no excuse for large numbers of diplomats from over 150 different nations to assume that diplomatic immunity gives them the right to brandish deadly weapons for any reason. This gives diplomatic immunity a bad name and attacks the basic concept of diplomacy. I am certain that the many dip-

lomatic personnel in the Washington area are law-abiding guests in our country. The few unfortunate exceptions have given the age-old concept of immunity a bad name. I believe that something must be done to rectify this embarrassing situation.

Today I am introducing legislation expressly forbidding foreign diplomats assigned to this country from carrying weapons of any type without the written permission of our Government. Legislation of this nature is long overdue. I am confident that many of my colleagues share my concern. I will ask for your support in this effort.●

UNITED STATES-SOVIET RELATIONS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 6, 1982

● Mr. DERWINSKI. Mr. Speaker, I insert into the RECORD a very thoughtful and timely editorial which appeared in the Noverber 29 Southtown Economist News, serving Cook County, Ill. The editorial analyzes the possible developments in the policy of the Soviet Union toward the United States as a result of accession into power of Yuri Andropov. I wish to include this editorial at this point as I believe it provides a valuable commentary on United States-Soviet relations:

The editorial referred to follows:

[From the Southtown Economist, Nov. 29, 1982]

NEW SOVIET CHIEF UNLIKELY TO ALTER PATH OF NATION

Will the Soviet Union and the United States ever understand each other?

International experts have already begun analyzing what the reign of Yuri V. Andropov will mean to the free world.

Does Andropov like Western music and clothes? Is he, former head of the secret police, really a closet liberal?

Such questions being discussed are nonsense. Countries act out of their historic needs.

Soon after Leonid Brezhnev's death, President Ronald Reagan announced the lifting of the ill-conceived sanctions against the Soviet gas pipeline.

Immediately upon taking office, Reagan implemented his get tough policy against the Soviet Union. It has gotten us nowhere, because in many ways we need the Russians as much as they need us.

Grain embargoes against the Soviet Union are fruitless. While their people may feel the impact of such sanctions until they can buy from Canada or Argentina, it is the farmers here that pay the price in lost sales.

Halting the sale of American equipment to Russia may have delayed the pipeline by a few weeks or months, but ultimately resulted in the loss of thousands of jobs in this country.

In essence, action we take against the Soviet Union appear to have unexpected boomerang effects. So we act out of our historical needs. We are the great agricultural producer and we need to sell grain. The Soviet Union acts the same way.

Much of our animosity against the Soviet Union is the result of Cold War rhetoric. This rhetoric has helped confuse the American public and led to a misunderstanding of the Russian mentality.

For instance, the communist takeover and obsessive behavior toward Germany, Poland, Hungary, Czechoslovakia and other Eastern European nations can never be completely understood in this country.

Russia is a land which has been invaded by enemy armies twice in the 20th Century and many times before that. Germany's brutal attacks against the nation killed millions of people and caused hardships beyond our comprehension.

So now the Soviet Union is determined that it will never again be invaded. It has taken over control of the countries surrounding it to act as a buffer against any such attack.

It does not matter to the Russians that their military might—and nuclear capability—make a war against it literally unthinkable.

This should be understandable to Americans since we have an almost equal defensive capability but are constantly worried about an assault by the Russians. But somehow, neither side allows this logic to penetrate international policy.

Well, some might say, we would never attack the Soviet Union. But we did invade the Soviet Union after World War I following the Russian Revolution. The Russians remember this.

Our fears of each other are so mirror-like that the glare keeps us from seeing the light.

The new fact in the world is that we and the Russians can now drop warheads on each other. Fifteen years ago they could not do that to us and 30 years ago we would not do that to them.

This is a new fact of life, but both sides seem to ignore it and continue to carry on policy as if a slip of state would not lead to mutual destruction.

This new fact is what needs to be put on the bargaining table at the disarmament conferences.

The Russians now have more to fear from the sky than from invading armies crossing Poland. In fact, no invading armies are going to get them across Poland because they have the power to drop from the sky also. But, they still act like the great threat is across land.

And we behave as if it was 1950 and the world jumped when we sneezed. We hope the pipeline nonsense taught us something.

It does not matter what Andropov's clothes closet looks like. Peace can come only by recognition on both sides that the destructive power we both already hold must be placed in check.●

AMERICAN TEENAGERS

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 6, 1982

● Mr. COLLINS of Texas. Mr. Speaker, in reading the Washington Times, I saw an interesting story from the Associated Press on the commonsense of teenagers. A 13th annual survey of high achievers shows the views of the "Who's Who Among High School Students."

Only 4 percent said they used marihuana compared with 21 percent in 1970. Today 39 percent favored legalized abortion compared with 70 percent in 1970.

Fifty-five percent of the bright youngsters say Ronald Reagan is doing a good or excellent job with the economy. Thirty-three percent in the Associated Press-NBC News poll of American adults gave a favorable rating to President Reagan. This is most encouraging for the future to see that the bright youngsters in high school understand economics better than the average adult.●

HOPE FOR WELFARE FRAUD

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, December 6, 1982

● Mr. FLORIO. Mr. Speaker, the issue of welfare fraud is one of continuing grave concern to the Nation's taxpayers who rightfully expect that moneys allocated to those unable to help themselves be spent prudently.

Particularly during this time of budget belt tightening, it is imperative that those who administer the public assistance programs be even more mindful of the need to uncover and prevent abuses.

Just as important is the need to devise new strategies to deal with welfare fraud in a fundamental way. For this reason I was pleased to read the recent series of articles published by the Courier-Post, a newspaper in my district, which explored the welfare fraud problem with a significant degree of depth.

An editorial published by the Courier-Post at the close of the series outlined some innovative ideas that should interest anyone seriously concerned about welfare cheating. I would like to recommend it for reading by my colleagues.

The editorial follows:

EASING INCOME RULES CAN REDUCE WELFARE FRAUD

Welfare has two faces, one bureaucratic, the other human. In six articles published last week, Courier-Post reporter Judy Petsonk examined both of them. She found the former growing more exasperated and the latter growing uglier.

Her research sustains the conclusion, among others, that welfare fraud must be attacked not only by more vigorous monitoring of the system but also by removing from it the economic penalties imposed on welfare recipients who try to improve their circumstances.

We will examine several of Ms. Petsonk's findings, but we turn to welfare fraud first because it is first to leap to mind whenever the "welfare problem" is discussed. Yet fraud is not pervasive, nor is the overtly criminal brand of it the most common. For every sophisticated scheme to file fraudulent claims, establish phony identities and

cash the resultant checks, scores of recipients beat the system for only a few bucks by accepting money from a relative or showing up for a free lunch at a church kitchen.

Illegal? Yes. Scandalous? No more so than the behavior of affluent people who have learned to manipulate an expense account or a tax return to their economic advantage. For the benefit of the middle class, the tax laws draw a distinction between tax avoidance, which is legal, and tax evasion, which is not. To the detriment of the poor, however, the welfare laws are unforgivingly rigid. Every attempt welfare recipients make to get a dollar ahead in the economy outside the welfare system carries an economic penalty inside the system. This situation ignores the one inescapable similarity between rich and poor, that is, that both act in their own economic interest.

In the last 10 years, the cost of living has more than doubled, but the monthly check for a family of four receiving welfare under Aid to Families with Dependent Children rose only 28 percent. The economic pressure on these families has intensified, and the incentive to devise ways to beat the system has increased.

The obvious remedy is to increase the level of aid, which for a family of four in New Jersey totals $414 per month in AFDC and $134 per month in food stamps. But an increase is out of the question because the Reagan administration has proposed that the states take on full responsibility for AFDC in return for the federal government's assuming responsibility for Medicaid. Serious discussion of benefit levels won't even begin until the shift is completed. Even then, states may be unable to come up with larger grants. Gov. Thomas Kean, in fact, specifically ruled out an increase in welfare grants in his budget message for 1983. The governor's position can be justified fiscally. By law, he must eliminate the projected deficit in the state budget. But, because welfare benefits, unlike virtually every other federal income maintenance program, are not indexed to inflation, New Jersey's inaction punishes its poor, including the one in seven of its children dependent on public assistance.

A more subtle remedy, cheaper but perhaps even more volatile politically than increasing welfare benefits, is to remove the penalties welfare recipients pay for outside work. As things stand, an industrious man on municipal welfare might build up a small appliance repair business, only to lose more than he makes if he reports his earnings. As a result, the system either encourages fraud or rewards dependence. It is neither advisable nor politically feasible to revive the complex guaranteed income or negative income tax schemes proposed in the 1960s and '70s, but modest adjustments in welfare regulations would enable recipients to earn outside income, if only enough to close the inflation gap opened in the last 10 years, without losing benefits. The change won't alter welfare's bureaucratic face enough to increase costs significantly, but it will improve its human face by adding a dash of hope.●

THE SCHOOL NURSE

HON. JAMES WEAVER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, December 6, 1982

● Mr. WEAVER. Mr. Speaker, I would like to take a moment to recognize a seldom praised professional: the school nurse. Having raised three daughters, I have been grateful to have trained health professionals available, full time, at their schools. It was always reassuring to know, when I sent my children off in the mornings, that there was someone at school specifically trained to handle health emergencies.

School nurses have increasingly played an active role in fostering better health awareness in our schools. With the persistent problems of improper nutrition and drug abuse, and the increasing sensitivity, in our society, to emotional problems, school nurses have begun to play an ever larger role in advocating healthy lifestyles and instructing our children in good health habits. This, combined with their traditional duties of administering diagnostic tests and assisting in immunization maintenance, has firmly established the school nurse as a vital element in our children's health care.

I would like to personally commend our Nation's school nurses and their organization, the National Association of School Nurses, Inc., for their dedicated work. They deserve our recognition, and your support.●

DAVID A. SCHOONOVER ELECTED NATIONAL SECRETARY-TREASURER OF DELTA NU ALPHA

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 6, 1982

● Mr. BROWN of Ohio. Mr. Speaker, Delta Nu Alpha (DNA), the national professional transportation fraternity, recently held its annual education conference in Milwaukee.

I am proud to note that one of my constituents, David A. Schoonover of Marion, Ohio, was elected national secretary-treasurer of the organization.

Delta Nu Alpha is an organization of some 10,000 transportation professionals from the United States, Canada, and Mexico, who have for the past 42 years devoted themselves to improving their knowledge and skills in all forms of transportation. The organization and its more than 200 local chapters are also active in community and school educational projects regarding the transportation industry and occupations. They are involved each year in the support of National Transportation Week publicizing transportation's role in commerce and industry and their personal lives. On many of the Nation's campuses, they support college chapters for students training for the transportation industry, and sponsor programs at the K-through-12 level dealing with such topics as modes of transportation and traffic safety.

David Schoonover has been very active in DNA during his membership. He is a member of the Marion, Ohio, Chapter No. 102 of DNA, of which he has served as both president and secretary. During his year as president, the chapter was judged "outstanding chapter of the year."

He also served as regional vice president for the area comprising western and southern Ohio and West Virginia, during which time the region was also named "region of the year." During the past year, he served as national membership chairman. During his term, the organization experienced more than 16 percent membership growth—its largest 1-year increase in the last decade.

He won the national secretary-treasurer post over two other candidates from Boston and Los Angeles. The election took place at the organization's 42nd annual meeting, which followed its recent National Education Conference at Milwaukee.

David Schoonover is employed as the assistant manager of production planning and shipping at Tecumseh Products. He is also chairman of the Marion County Regional Planning Commission and transportation chairman of the Marion Area Chamber of Commerce. He has also served on the Business Technology Advisory Committee of Marion Technical College and on the board of the Marion Cadets Drum and Bugle Corps.

He is also active in PTA and Cub Scout leadership. He resides with his wife, Maria, and his two children at 352 Merchant Avenue, Marion, Ohio.

I congratulate David A. Schoonover on his election as Delta Nu Alpha Secretary-Treasurer. I know that he will continue to serve the fraternity with competence and enthusiasm as he continues in the offices that should culminate in his election as national president in 4 more years.●

SCARCITY OF HOUSING FOR ELDERLY AND LOW-INCOME AMERICANS

HON. WYCHE FOWLER, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 6, 1982

● Mr. FOWLER. Mr. Speaker, we are all aware of the need to exercise fiscal restraint in making our budget and spending decisions. But we must also be aware of the increasing shortage of housing stock suitable and available for the elderly and other fixed- and low-income citizens.

The administration's plan to replace the section 8 housing program with a voucher system and to drastically reduce funding for the section 202 pro-

gram ignores this desperate need. The critical nature of the housing stock shortage was brought home to me in an eloquent letter from one of my constitutents, and I want to share it with my colleagues in the House.

DEAR MR. FOWLER: I am concerned about the section 202 housing program and section 8 outlined in your spring 1982 newsletter and regret that I have not written sooner.

I am a member of a committee at First Presbyterian Church which, for a year before President Reagan's budget cuts were announced, considered various ways of helping to meet the housing needs of retirees whose apartment buildings are being converted to condominiums. During our studies we learned of various churches that were considering building programs. Unfortunately, when the plans of the present administration were announced, these initiatives were scrapped. Our committee did not yet have a plan, as we hoped to be more creative. Many of us do not like to see retirees segregated from other age groups; yet I am benefiting from section 202 and section 8 and know many persons who would be in desperate situations if it had not been for churches that have built apartment buildings for those of us on limited retirement.

Please, sir, will you do everything possible to continue both of these programs. The plan for issuing certificates or vouchers to those eligible for section 8 would not meet the need. Our committee at First Presbyterian interviewed several prominent real estate brokers and know of the scarcity of apartments that are reasonable. Also, many retirees do not have family members to help with the search. Many apartment managers will not accept retirees.

I am grateful to St. Phillips Cathedral for this lovely place to live. Please help others to have the same privilege.

Sincerely,

MILDRED E. TROTTER.●

THE RETIREMENT OF CONGRESSMAN JACK BRINKLEY

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. BENNETT. Mr. Speaker, it will be a great loss to Congress and to the country to have JACK BRINKLEY retire from Congress as he is doing but he has earned the retirement that he seeks and it is understandable that he would wish to have more time with his family than his present duties in Congress allow. He has been an outstanding subcommittee chairman of the House Armed Services Committee. It has been a great pleasure to serve with him on that committee and to gain thereby his counsel and advice, and cooperative endeavors for the strengthening of our national defense and our country. It was no surprise to me when I learned he was coming to Congress that he would do an excellent job here because of his background of civic leadership, leadership in the legal profession, and service in the Georgia House or Represenatatives. His distinguished career in Congress is something that leaves everyone a rich legacy from him and all of us here in Congress will miss his warm friendship, cheerful manner, and constructive efforts for our country.●

THE KREMLIN'S WAR CRIMES

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 6, 1982

● Mr. DERWINSKI. Mr. Speaker, "The Kremlin's War Crimes," is the subject of the lead editorial in today's, December 6, Chicago Tribune. The original outrage against imagined U.S. abuses of international law is not matched by any sign of public indignation against the terrorist crimes of the Soviet Union. One must wonder at the logic of those who have been carried away with emotion dating back to the Vietnam period. I wish to insert this very timely editorial as evidence of the double standard that seems to exist in the world's code of behavior.

The editorial follows:

[From The Chicago Tribune, Dec. 6, 1982]

THE KREMLIN'S WAR CRIMES

It is now certain that the Soviets are using ghoulish chemical agents called mycotoxins to kill Afghans, Laotians and Cambodians. They are doing it directly or through allies working under their supervision, and they are doing it in contravention of international law. This is atrocity; it is war crime. It is the sort of thing for which political leaders have been hanged.

Yet the world has taken little note of the crimes and has had little to say to the criminals. There have been no outraged resolutions of denunciation passed by the UN General Assembly and no protest marches outside Soviet embassies. Powerfully convincing evidence presented by the U.S. State Department has elicited international indifference. Only Canada, Britain and Thailand have protested publicly.

Imagine what would happen if U.S. forces were accused of atrocities a tenth as heinous as the ones the Soviets have committed in Afghanistan and Southeast Asia. The United Nations would go berserk; demonstrators would burn U.S. flags and smash embassy windows; Swedish peace groups would hold a ponderous war crimes trial; Uncle Sam effigies would hang from trees the world over.

The charge against the Kremlin is more than mere conjecture. Numerous accounts from eyewitnesses and survivors have been compiled, and they have been corroborated by such physical evidence as urine and tissue analysis and by information from captured Soviet soldiers in Afghanistan. The State Department has even obtained gas masks bearing traces of mycotoxins, one of them taken from a dead Soviet soldier.

The toxins are delivered by a variety of means, including artillery shells, bombs and spraying from helicopters or armored vehicles. The evidence indicates that at least 10,000 persons have perished in these "yellow rain" attacks, so called because of the yellow cloud that forms when the agent is released.

There is further evidence of still another Soviet agent which has the gruesome effect of softening human tissue and hastening the process of decomposition. It sounds like a kind of chemical neutron bomb that kills and gets rid of the evidence at the same time.

But where is the outrage? Where are the protesters who can rise to such a high state of moral righteousness over U.S. military activity that does not violate international law or abrogate solemn treaties?

Perhaps it is reasonable to expect a double standard to apply because the United States holds itself to a higher code of behavior than the Soviets. Our soldiers are not expected to gas helpless peasants, so America suffers greater criticism (from its own citizens, first of all) than the Soviets might expect.

But the Soviets, too, must be held to some standard. They have signed the treaties and accepted the laws. Yet they, who present themselves as the champions of revolution, use illegal gases against revolutionaries. The worker-peasant state murders workers and peasants and nobody even bothers to remark upon the irony.

What the State Department was presented is not just propaganda—it is an indictment of murderers. The killers must be convicted, at least in the eyes of world public opinion, if they cannot be brought to justice elsewhere.●

FRANK CANETTI, SR., HONORARY MAYOR OF SAN PEDRO, CALIF., 1982

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 6, 1982

● Mr. ANDERSON. Mr. Speaker, it is with distinct pleasure that I rise and pay tribute to the honorary mayor of San Pedro, Calif., for 1982, the Honorable Frank John Canetti, Sr.

Born in the city which honored him, Frank was educated in the local public schools: The 15th Street School, and Dana Junior High. Upon graduating from San Pedro High School, he entered the U.S. Navy, where he served in the South Pacific. He was then sent to officer candidate school at the University of Redlands, and the University of Southern California. In 1946, he married Barbara Glenn, who would eventually serve as a teacher in the Palos Verdes School District for 20 years, and began to raise their family.

In 1961, he ventured into a successful career as an agent with the Standard Life Insurance Co. He has, since then, opened his own office and has qualified for the Leaders' Club every year, and the industry's Million Dollar Roundtable four times.

Taking an active interest in the growth and development of this three sons, Frank became involved in the Cub Scouts, later the Boy Scouts, and also began coaching and managing youth baseball and football teams. Frank continued his support of local sports programs by becoming president of the Rolling Hills Booster Club,

Palos Verdes Booster Club, and the Miraleste Booster Club—the three separate high schools his sons attended.

Despite the demands of his work, and his involvement with his sons' activities, Frank has managed to devote his time, talents and efforts to the improvement of the San Pedro community. He is presently serving on Councilwoman Flores' Community Affairs Committee and is a member of the San Pedro Chamber of Commerce. As a member of the San Pedro Peninsula Hospital Conches Club, he is a tireless fundraiser for the hospital. Maintaining ties to the fishing industry formed years before while working in his family's grocery business, he is presently on the San Pedro Fishermen's Fiesta Committee. At one time he served as chairman of the committee and was on the executive board which revived the Fishermen's Fiesta, a community event which had been discontinued for a number of years.

As if these activities were not enough to utilize his time, Frank is currently a member of the San Pedro Sea Lions, the Elks, and the Rolling Hills Covenant Church.

Frank's involvement in such a wide spectrum of activities has benefited many people in the San Pedro community. And, although his honorary title will be bestowed in 1983 upon another individual, we are fortunate that we will continue to benefit from his active community participation.

My wife, Lee, joins me in wishing Frank Canetti, Sr., his wife, Barbara, and their three sons. Frank, Jr., Christopher, and Bruce, continued happiness and the very best of all things in the future.●

REPORT ON OPTIONS FOR SOCIAL SECURITY REFORM MERITS CLOSE ATTENTION

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 6, 1982

● Mr. BIAGGI. Mr. Speaker, I wish to bring to the attention of my colleagues a timely and thought-provoking report issued by the Community Council of Greater New York's Ad Hoc Committee on Social Security.

The ad hoc committee advances a number of viable options for reform, both for the short as well as long-term interest of the system. I believe that this report persuasively presents the case that reform can be achieved without cutting benefits to current beneficiaries. The report recommends a combination of better management of trust fund dollars, extension of interfund borrowing and several revenue enhancing measures which could bring immediate relief to hard-pressed trust fund dollars. It also advances new ideas, including the issuance of social security bonds similar to those provided under the Federal National Mortgate Association (Fannie Mae).

During the ongoing national debate on social security reform, it would be my hope that Members could review this report and give serious attention to the issues raised. More importantly, it would be my hope that members of the President's Commission of Social Security Reform could incorporate some of these recommendations in their final report to the President and Congress due on December 15 of this month. Due to the length of this report, I wish to insert the first of several installments I will be making during the course of this week.

The report referred to follows:

AN APPROACH TO THE SOCIAL SECURITY SYSTEM—CONFIDENCE NOT CRISIS

SUMMARY

The Social Security System is fundamental to the welfare of this country. It is of deep concern to all persons, present and future beneficiaries. The System is now contronted with a growing crisis in confidence, exaggerated by the political process. While the emergence of intermittent fiscal problems was foreseen by the architects of Social Security, the current problems are exacerbated by existing economic conditions. A National Commission on Social Security Reform has been appointed to address this situation and will shortly issue its recommendations. It is expected that legislative action will follow to implement these recommendations.

The Community Council of Greater New York has focused special attention on the Social Security program for the last five years. In response to the current debate on these issues, the Community Council convened a special Ad Hoc Committee on Social Security in July, 1982 to provide an independent citizen forum for the study of Social Security and the development of recommendations to meet the current situation.

The Committee was comprised of a distinguished group of representatives from private industry, labor, government, the academic community, and voluntary human services. It included spokespersons for retirees and persons still in the workforce. This diverse membership on the Committee was designed to reflect the broadest public interest.

Throughout its deliberations, the Ad Hoc Committee was assisted by a Technical Work Group composed of experts knowledgeable in various areas related to the financing and operation of Social Security.

The Committee met over a three month period and divided into three sub-committees on financing, benefits and entitlements and public education. A comprehensive examination was made of the best information available on all aspects of the Social Security System, including the review of original material prepared by the Technical Work Group. In addition, a presentation was made to the Committee by a member of the National Commission on Social Security staff.

The Social Security System is basically sound and essential to the welfare of the nation, to persons young and old.

Social Security is the primary source of income and purchasing power for millions of retirees, disabled persons and survivors. However, at the present time, Social Security is inadequate to meet the needs of many of its beneficiaries.[1] The most vulnerable aging, e.g. single persons, usually women, in the oldest age category, now have a level of income substantially below the poverty level.

Our economy is presently experiencing severe problems which are reflected in the Social Security System. The present shortfall in Social Security income in impacted by unemployment since Trust Funds' revenues are based on payrolls. Increasing employment among all age groups would improve directly the fiscal viability of the Social Security System. (Note: Every one percent increase in unemployment reduces the Social Security Trust Funds' income by $4-$4.5 billion .)

The System is faced with an immediate short-term financial problem. However, between 1990 and 2020, the System will be relatively sound. Following this period there may be a long-term difficulty in financing.

Steps must be taken to meet the short-term financing needs. These steps can occur without fundamentally altering the System.

Such steps should be consistent with the principles inherent in the design of the Social Security System. These include social adequacy and individual equity, universality, intergenerational contract, and economic interdependency with other retirement income systems.[2]

RECOMMENDATIONS

No reductions should be imposed on Social Security benefits to solve the short-term financing problems. Moreover, some recently cut benefits should be reinstated.

A number of financing options to meet short-term deficits, which do not alter the System, are available and should be taken during the immediate period.

No short-range solutions should be used to solve long-range problems. The short-range and long-range problems are distinct and should be addressed separately. Solutions for the long-term, (after 2020) will be complex and are difficult to project. Planning, to address these problems, must be ongoing and continued throughout the period of financial stability (1990-2020). However, decisions concerning the long-term planning (for the post 2020 years), should not be locked into place and legislated by Congress until more reliable demographic and fiscal data are available. There is sufficient time for thorough study before any long-term major adjustments in Social Security are made.

Immediate steps must be taken to reaffirm for the public the important role that the Social Security System plays in our society. This is necessary to ensure continuing confidence in the System.

It is our conclusion that every American citizen, both young old, benefits from the Social Security System. It is social insurance. The health of many of our public and private social and economic institutions depend on their ties to the System. With confidence in the integrity of Social Security and belief that permanent stability can be achieved in the System, we offer this report.

[1] "Social Security, It's Role in Providing Retirement Income," *New York City Department for the Aging, October 1982.*

[2] "Paper & Data, the United States Social Security System," p. 1, Community Council of Greater New York, 1982.

FINANCING RECOMMENDATIONS FOR IMMEDIATE ACTION

These recommendations should be viewed as a continuum of options to be used flexibly, as changing economic conditions necessitate.[3]

If all of our short-term recommendations were enacted, revenues would far exceed anticipated costs.

Measures regarding improved financial administration, interfund borrowing and revenue enhancement should be enacted immediately; they are designed to ensure that no basic reductions in entitlements will be made during the projected 1982-1990 financial shortfall.

The OASDI Trust Fund should maintain reserve funds in an amount which will be sufficient to meet cash flow needs, based on reasonable and prudent projections and sufficient to protect public confidence in the ability of Social Security to meet its obligations without interruption.

1. Improved financial administration

a. *Trust fund investments.*—Investments of Social Security Trust Funds should be made in a manner which earns maximum returns without unreasonable risks, as would be the case with any other institutional investor. Any loans to other government bodies, such as investments in low-yield Treasury notes undertaken for the purpose of reducing the general Treasury deficit should be prohibited. (Note: Investments are now producing greater interest rates than in previous years. However, the Social Security Trustees and Congress should be vigilant in overseeing future loans to make sure that the System does not return to poor investment practices.)

b. *Repayment of lost income.*—Income lost to the Social Security Trust Funds due to investment practices which secured below average returns from the U.S. Treasury should be reimbursed to the Social Security Trust Funds. If the funds had been invested to earn the maximum return on marketable U.S. government securities, it is estimated that the Trust Funds would have earned an additional $14.9 billion between 1961 and 1981.

c. *Credit uncashed checks.*—All uncashed Social Security checks should be credited back to the OASDI Trust Fund instead of to the general treasury, as is now the case. If applied retroactively, to the start of the program, this action would add $250 million to the Trust Fund and would save approximately $30 million yearly in the future.

2. Relationship of social security funds to other Government budgets and accounts

Social Security funds should once again be separated from General Revenue Funds of the Treasury. This would protect the integrity of the Funds which are often wrongly considered as part of the Federal budget. Better public understanding of the construction and content of the Federal budget will also result from this action.

3. Borrowing to support the fund[4]

a. *Interfund borrowing.*—Current interfund borrowing authority should be extended beyond the December 31, 1982 expiration date for as long as it is necessary to meet any cash flow need in the Trust Funds. Borrowing by the Trust Funds should be undertaken only if repayment is made at a rate required under prevailing law. The integrity of the separate funds should be maintained.

b. *Special bond issue.*—One way to take care of the OASDI shortfall from 1983 to 1990 would be to legislative the issuance of a special Social Security bond similar to "Fannie Mae" (Federal National Mortgage Association) certificates in small demoninations with an interest rate calculated to bring in sufficient funds to cover the need.

We estimate that an 8 to 12 year Bond Issue with competitive interest payments in the amount of approximately $10 billion per year, would be sufficient to cover the shortfall and the annual interest. These would be special bonds for Social Security purposes. While they would represent an obligation of the U.S. Treasury, they would not add to the general budget deficit.

c. *Borrowing from general revenues.*—The Trust Funds should be given standby authority to borrow from General Tax Revenues as necessary. Repayment of such loans should be accompanied by a reasonable interest charge, in accordance with general fiduciary principles.

Such borrowing should take place as a last resort in dealing with the short-term financing problem to avoid a hiatus in payment of benefits. If necessary, such borrowing would have only a marginal impact on the size of the federal deficit.

4. Additional revenue enhancement measures

a. *Universal coverage.*—Congress should mandate universal coverage under Social Security. Coverage should be extended to all public and private employees. Universal coverage would not only be financially sound, but would also be more socially equitable and acceptable than present coverage. In making this change in the Social Security System, present non-Social Security beneficiaries should not have pension entitlements cut. Re-entry should be mandated for all those governmental units and not-for-profit organizations which have already withdrawn from the System. Future withdrawals by governmental and non-profit agencies should be prohibited. The integrity of the Social Security System requires full participation. Universal coverage would produce an additional $11.1 billion in Trust Fund revenues in 1983, $16.3 billion more in 1984, and another $18.2 billion in 1985.

b. *Reform the payroll tax increase schedule.*—The increases in the Social Security payroll tax scheduled for 1985, 1986, and 1990 should be replaced by an annual payroll tax increase for each year from 1983 to 1990.

Year	Currently scheduled payroll tax rate for OASDHI combined	Proposed altered rate for OASDHI combined
1984	6.7	7.44
1985	7.05	7.56
1986	7.15	7.63
1987	7.15	7.65
1988	7.15	7.65
1989	7.15	7.65
1990	7.65	7.65

Employees should obtain a refundable income tax credit equal to the increase in their share of the tax beyond that prescribed by current law. This would avoid double taxation on this increase.

c. *Expand the employer's share of payroll subject to social security tax.*—The FICA rate should be applied to the entire payroll without regard to the legal wage taxable base in calculating the employer's share of the payroll tax.[5]

This action could generate aditional Social Security revenue of $9.6 billion in 1983, $10.5 billion in 1984 and $12 billion in 1985. It is estimated that in total this provision would generate an additional $100 billion in revenues between 1983 and 1990.[6]●

[3] All recommendations are based on the II-B projections (Intermediate-Pessimistic) on the condition of the Social Security Trust Funds, as developed for the Social Security Trustees Report. These projections use commonly accepted assumptions relating to several economic factors which influence Social Security revenues and benefit levels including unemployment, real GNP (Gross National Product), inflation, wage levels and interest rates.

[4] It should be noted that any borrowing option will shorten the time available to plan for long-term financing solutions since repayment of loans will be made during the "healthy period", 1990-2020.

[5] The wage base income limits now scheduled in law for purposes of calculating the employee's payroll tax should be maintained.

[6] Consideration might be given to making all or a greater part of the payroll tax increase payable by the employer.

Note.—If a specific Trust Fund ratio were to be desired (recommended ratios range from 8 to 25 percent), then higher payroll tax rates would be necessary.

SOCIAL SECURITY: THE PYRAMID GAME

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 6, 1982

● Mr. ARCHER. Mr. Speaker, as the 97th Congress draws to a close, I am extremely dismayed at the fact that there has been no meaningful action taken by this body on social security. The political demagoguery that has completely confused most citizens, particularly with respect to the issue of their benefits, will have tragic consequences. I would like to share with my colleagues an excellent column which appeared in the November 22, 1982, issue of Newsweek.

SOCIAL SECURITY: THE PYRAMID GAME

(By Jane Bryant Quinn)

Social security was a Ponzi scheme right from the start. Each lucky participant has always been guaranteed more money out of the system than was ever contributed on his behalf.

A 65-year-old, retiring in January 1982, can expect retirement benefits worth almost three times the tax payments that he and his employers made, plus interest, according to a study headed by James R. Capra of the Federal Reserve Bank of New York. If he has a nonworking spouse, he'll get back five times his investment. And that doesn't count what he gets from Medicare or disability.

WINDFALL

The recent rise in social-security taxes is cutting back on this retirement windfall. A 1984 retiree can expect to receive social-security payments worth a little more than twice the amount that he and his employer put into the system, plus interest. By contrast, the first wave of baby-boom retirees, reaching 65 in 2010, will get back only 30 percent more than their investment. A young person just now entering the labor force can expect a bonus no larger than 20 percent. But he is still coming out ahead.

That's the system's fatal flaw. Social security is supposed to be self-financed—yet each recipient is taking out more than the value of what he and his employer put in.

Any good Ponzi scheme can be maintained as long as enough new people come into the game. Their fresh money pays off the older participants, while they themselves wait patiently for their own reward. Over the years, social security has expanded to include farmers, domestic workers, the military, the self-employed and many others not originally covered. The only major group still outside the system is the federal work force. If they join the game, their contributions will reduce the deficit until they themselves begin to retire. But once you've got everybody playing, the pyramid has got to fall—especially when the operator keeps raising the stakes. Over the years, Congress enlarged social security to include disability payments, student benefits and Medicare. In election year 1972, benefits rose 20 percent and were indexed automatically to price inflation. Between 1971 and 1981, average social security-awards (subtracting inflation) rose 65 percent, while real hourly earnings fell. Today older people are no more, and no less, poor than any other age group.

It has been clear for some time that the pyramid was starting to crumble. Several cuts in benefits, proposed under President Carter, passed into law under President Reagan. The 1982 budget phased out social security's student benefits, the $225 lumpsum death benefit in some cases, survivor benefits for parents of children 16 and 17 and the $122 minimum benefit, for an estimated saving of $3.4 billion in fiscal 1983. Carter cut back on maximum disability payments, and Reagan went to work on Medicare.

But those savings are a drop in the bucket for a system mailing out $13.2 billion a month. The retirement fund will borrow up to $11 billion from Medicare and disability, just to make it through next June. With more loans, the entire pyramid could stand until the end of 1984, after which the game is over. The battle now is over which taxpayers—or which generation—should pay the tab.

If Congress decides to raise social-security taxes or increase the retirement age, almost all of the tab will be paid by people retiring after the year 2000, reports the New York Fed. Today's retirees and near retirees will keep their big subsidies, at their children's expense.

If Congress freezes cost-of-living increases (COLA's) for a year or links them to wage increases, current retirees will pay more of the bill.

If Congress fixes COLA's at 60 percent of the rise in inflation or taxes social-security income in excess of your contributions (just as private pensions are currently taxed), the cost of bailing out the system is roughly shared among the generations.

If Congress leaves social security unchanged and finances its deficits with income taxes, the elderly as a group will take a growing protion of the federal budget, at the expense of everything else the government does. Already social security and Medicare are the government's largest single expense (an estimated $225 billion in 1983, followed by $221 billion for defense), accounting for 30 percent of federal outlays. Whatever happens, social security should solve its problems with its own money. The rest of the budget is in bad enough shape without taking on the retirement deficit, too.●

IN PRAISE OF VIETNAM VETERANS

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, December 6, 1982

● Mr. BROOMFIELD. Mr. Speaker, I want to take this occasion to offer my personal thanks to the nearly 3 million American men and women who worked and fought in Vietnam. These loyal and patriotic citizens responded to their country's call. They willingly gave of themselves to serve their Nation's interest in the jungles of a far-off land. Many of these valiant Americans made the ultimate sacrifice.

It is fitting that the names of those who gave their lives are inscribed in the newly-dedicated Vietnam Veterans Memorial here in Washington. The impressive memorial and moving National Salute to Vietnam Veterans represent a long-delayed, but lasting tribute to those who deserve a place of honor in our Nation's history.

Over 250,000 Vietnam veterans gathered in Washington and participated in the belated 5-day-long National Salute to those who served in Vietnam.

I believe that the vigils, ceremonies, receptions and parade showed these men and women and all Americans that this country did not forget their sacrifice. It is regrettable that because of the controversial nature of the war, the United States failed to pay a tribute to these brave people until many years after the war ended.

I am gratified, however, that Congress recently passed legislation which provides these veterans with a wide range of services ranging from job training to extended educational benefits. This is the least we can do for those veterans who answered the Nation's call to duty. On Veterans' Day, the President made some very poignant comments regarding his personal feelings concerning this occasion. His remarks follow:

It is fitting that we pay tribute to Mr. Weeks on this day when we remember the sacifices of those who donned this country's uniform and did their part to protect our freedom and independence. Words alone cannot express our gratitude to the brave men and women who took on the task of protecting our country from foreign threats and aggression.

President Coolidge once said, "The nation which forgets its defenders will be itself forgotten." Nothing is more important to the soul of America than remembering and honoring those who gave of themselves so that we might enjoy the fruits of peace and liberty. And that is the spirit of this special day and of this coming Saturday, when the Nation will dedicate the Vietnam Veterans Memorial, a tribute that is long overdue.

For too long, America closed its heart to those who served us with valor. It's time that Vietnam veterans take their rightful place in our history along with other American heroes who put their lives on the line for their country. Certainly, mistakes were made. But the reality of Vietnam today—massive prisoner camps for torture and political indoctrination, hundreds of thousands of boat people sacrificing everything and risking a painful death to flee communist oppression—all this suggests that the cause for which our Vietnam veterans fought was an honorable one.

This Saturday, America will put behind us the ingratitude and injustice of the past. We'll move forward in the spriit of Abraham Lincoln, who in 1865 said: "Let us strive on to finish the work we are in, to bind up the nation's wounds, to care for him who shall have borne the battle and for his widow and his orphan, to do all which may achieve and cherish a just and lasting peace among ourselves and with all nations."

And although we'll be putting the divisiveness of Vietnam behind us, we will not forget those who are still unaccounted for. Today I renew my pledge to the families of those listed as missing in action that this Nation will work unceasingly until a full accounting is made. It's our sacred duty, and we will never forget them.

Along with Raymond Weeks, I may be one of the few people in this room who remembers when Veterans Day was called Armistice Day, commemorating the armistice that ended the First World War on the 11th hour of the 11th day of the 11th month of the year in 1918. And I might add, I not only remember when it was called that day, I guess we may be the only ones that were on the streets in the wild celebration of the first and actual Armistice Day when it was signed.

Armistice Day honored those who gave their lives in "the war to end all wars"—a day of hope that they had not given their lives in vain. But within a few years, and in spite of an impressive effort on the part of the Western democracies to limit arms and to outlaw war, aggressors rearmed and war came again. Ironically, Armistice Day, was made a legal holiday in the United States in 1938, just 1 year before a second and more terrible conflagration swept across Europe.

Winston Churchill labeled it the "unnecessary war," because he said there never was a war more easy to stop. And no man had more right to say that then Winston Churchill. He had fought the illusions that led to war, pleaded with his countrymen to recognize and arm against this expanding totalitarian war machine, pleaded with his countrymen to be strong and to have courage—not because he wanted war, but because this was the only way to preserve peace. Yet, for all this, Churchill was castigated as a warmonger.

Even after war broke out in Asia and in Europe, our own country was slow to take the steps necessary to defend itself. Warning us of the impending crisis, a young Harvard student, John Fitzgerald Kennedy, wrote a book titled "Why England Slept." His thoughtful study holds as true now, 42 years later, as when it was first published. After describing how a dictatorship with a controlled press and the power to silence political opposition can carry on a vigorous arms program, he noted, "In contrast, in a democracy, the cry of warmonger would discourage any politician who advocates a vigorous arms policy. This leaves armaments with few supporters. Among the reasons for England's failure to rearm in time," Kennedy wrote, "probably the most important was a firm and widely held conviction that armaments were one of the primary causes of

war." Well, the Western democracies didn't wake up till it was too late. It took Pearl Harbor to shake Americans from their complacency.

Today, in this era of much more dangerous weapons, it is even more important to remember that vigilance, not complacency, is the key to peace. This administration is committed to rebuilding our national defenses, which were permitted to erode during the last decade. We're now in the initial phases of that rebuilding, and we must continue to press forward in the years to come if we're to maintain a credible deterrent.

But let the world understand: Our purpose is not belligerency, but respect; not conflict, but deterrence; and not war, but peace. None of the wars that I have mentioned, or others before them, ever came about because this country was too strong. We shall never flag in our pursuit of a more peaceful world.

Our goal is peace—peace that's achieved through a stable balance of forces, a mutual reduction of weapons, and a better understanding between the Soviet Union, the United States, and all nations.

Earlier today, we received word of the death of Soviet President Brezhnev. And I want to read to you, if I might, the letter that I have sent this morning to Vasiliy Kuznetsov, First Deputy Chairman of the Presidium in Moscow.

Now, I've said for many years there are fundamental differences between the Soviet system and our own system here in the United States. But I believe our peoples, for all our differences, share a desire and a dedication to peace. On this day, dedicated to American veterans, we honor the brave men and women who have by their service preserved our liberty. Our parades are a celebration of freedom. Our banner is Old Glory, and we hold her high and proud. This is the legacy of the brave men and women that we honor today.

So let us go forth from here, having learned the lessons of history, confident in the strength of our system, and anxious to pursue every avenue toward peace. And on this Veterans Day, we will remember and be firm in our commitment to peace, and those who died in defense of our freedom will not have died in vain.

And, again, we thank the man who has made Armistice Day into this Veterans Day—Raymond Weeks. And thank you all for being here.●

NATIONAL ALZHEIMER'S DISEASE WEEK

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, December 6, 1982

● Mr. HOYER. Mr. Speaker, a short time before we adjourned for the election recess the House adopted legislation authorizing the President to designate the week beginning November 21 as Alzheimer's Disease Week. I was happy to be among the more than 250 cosponsors of this legislation which was sponsored by the gentleman from California, Mr. LOWERY.

Mr. Speaker, Alzheimer's is a disease that only recently has become a part of public awareness, although it was first identified in 1906. Unfortunately, it is also a disease that is growing in the number afflicted by it. As medical science continues to triumph in conquering the diseases of the body, thus allowing people to live longer, we see that new diseases are coming to the fore. Among these is Alzheimer's, which attacks the brain.

Many Members may recall reading a moving series of articles in the Washington Post earlier this year which discussed the human side of Alzheimer's disease—the effect on the individual suffering from the disease and the equally devastating impact on the families of the sufferers. Husbands and wives observe their spouses deteriorating slowly from a phase of temporary forgetfulness to the point that the victims are unable to care for themselves at all. The victims become violent and belligerent, and have no recognition of their family and friends.

The tragedy of Alzheimer's disease is awesome from the human side, but it also has the potential to be devastating to the rest of society as well. As we all know, the number of people over the age of 65 is growing faster than any other segment of our population. It is estimated that in the next 50 years it will grow by 150 percent, from the current 25 million people to 65 million in the year 2030. At the same time, it is estimated that up to 15 percent of all people over the age of 65 suffer from Alzheimer's disease. Put these two facts together, the immense growth in the older segment of the population and the percentage of that population that may suffer from the disease, and we see the potential epidemic nature of this disease.

We know the current shortage of nursing home beds in many areas. Can we expect that this supply will expand to meet the need of Alzheimer victims? Furthermore, can we afford in strictly monetary terms to pay for these nursing home costs? In 1980 the cost of nursing home care for Alzheimer's disease victims was more than $20 billion. It will shoot up to $30 billion in 1990. The thought of what the cost could be in 2030 is staggering. Medicare does not cover these costs under current law; the alternative is for families to expend all of their resources until the victim qualifies for Medicaid. Without development of methods to retard or reverse the symptoms of Alzheimer's disease, we face an ever growing epidemic crisis in both human and financial terms.

Real progress in Alzheimer's research has been slow, but there are hopeful signs regarding our understanding of what causes the disease. We must continue to support this research and continue to bring attention to this insidious disease. I am glad that the Congress and the President took action to designate the week of November 21 as National Alzheimer's Disease Week. I hope we will continue to help in this effort in the future.●

PROSPECTS FOR PEACE AND STABILITY IN THE WORLD

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 6, 1982

● Mr. DERWINSKI. Mr. Speaker, Ambassador W. Tapley Bennett, Jr., the U.S. Permanent Representative to the North Atlantic Treaty Organization (NATO) recently delivered a very stirring address before the Cincinnati (Ohio) Council on World Affairs. Ambassador Bennett's leadership in improving the role of NATO and in promoting the United States commitment toward defending freedom in the world, deserves special commendation. As I believe that his remarks will be of great interest to the Members, I am pleased to insert into the RECORD this very pertinent address on the prospects for peace and stability in the world.

THE NORTH ATLANTIC ALLIANCE CRUCIAL ISSUES IN WORKING FOR PEACE IN FREEDOM

(By Ambassador W. Tapley Bennett, Jr.)

INTRODUCTION

It is a great honor and pleasure for me to be your guest at today's program of the Cincinnati Council of World Affairs. Your Council's good work and the degree of support which it receives from this community is known far and wide. This continuing effort to ensure that the people of this city and region are adequately informed on the crucial world issues of our day has the high respect of all of us. Private citizen organizations such as yours hold as essential role in public education in our democracy. Further, your role helps maintain and strengthen the vital and ongoing dialogue between Americans and our allies in the North Atlantic Treaty Organization, which for more than 30 years now has held central place in United States foreign policy.

AN ALLIANCE IN DISARRAY?

The Atlantic Alliance was 33 years old this year. It is perhaps getting as much attention now as at any time in its history. Concerned observers can be heard to ask whether the alliance has outlived its time, lost its relevance in safeguarding our way of life through its strategy of deterrence. Many wonder if allies are not devoting more effort to family squabbles than to warding off the very real dangers that loom over us all. The current commentary on NATO is such that one may well question how many citizens of the 16 member countries still have a clear notion of why the alliance was formed, what it is about today or why they should be ready to make sacrifice on its behalf.

Questions and doubts like these are not precisely framed. Much media glare and headline crescendo is directed at NATO for the wrong reasons. We should be careful to distinguish between problems in the realms of public perception on the one hand and, on the other, actual differences among allies on how to deal with specific problems.

Let us be clear, too, about what is the real work of NATO. Since its foundation as a defensive alliance in 1949, NATO's central purpose has not changed or wavered—the maintenance of peace in freedom through deterrence—through the marshalling of sufficient strength to deter an expansionist Soviet Union bent on imperial domination and now projecting its military power on a global scale. For more than a generation now, whatever the disturbances and armed conflict in other parts of the world, our deterrent policies have kept the peace in the heartland of Western Europe and the North Atlantic Area. In these days of so-called peace demonstrations, it it NATO that has proved itself the effective peace movement of our time.

We are an organization of sovereign equals. NATO is no lockstep alliance, marching to a single drumbeat. We are allied out of sovereign will, not out of compulsion as in the Soviet empire, with its Warsaw Pact directed by the iron dictates of Moscow. We must expect diversity. So long as the member nations of NATO are subject to popular choice at home and not to the autocratic fiat of rulers immune to the views of their citizens, so long will there be public scrutiny and debate. We do not always sing in complete unison in the West, but for more than three decades now we have managed a consistent harmony.

Today we have our differences to be sure—some of them serious ones: Pipelines, steel imports, grain embargoes, the proper allocation of national resources for defense, for example. Some of our differences of perception and approach are dictated by the simple facts of geography. The resident of Berlin or of a village 10 miles from the border of Czechoslovakia may feel himself more immediately threatened than a citizen of the Ohio valley, although in truth both are under the same strategic gun.

But, as regards the essential nature of the threat which confronts the West, there is no dissension in allied councils. Recognition of the need for an adequate Western defense is our common denominator.

THE ROLE OF NUCLEAR WEAPONS

Central to current concerns and controversy is the role of nuclear weaponry in maintaining peace and western freedoms. This issue, with its moral as well as physical implications, has troubled policymakers ever since the ball of fire rose over Alamagordo in 1945 in the first nuclear explosion. It is a serious and complex subject. It deserves serious and objective attention It is a subject too easily oversimplify—too often given demagogic treatment. Today some are trading on fears of nuclear weapons. This is very much a factor in the so-called peace demonstrations in Europe. Fear is a bad counselor, and we must never let fear drive our conclusions.

The self-styled peace advocates have no monopoly on nuclear angst. We all share the dread of unleased nuclear force, perhaps none more than those decisionmakers in position to know fully its awesome and horrible potential. But since nuclear weapons cannot be uninvented, the question then becomes: How to balance the Eastern and Western nuclear weapons capabilities most effectively to help keep the peace.

In fact, we in the West have allowed ourselves to become too dependent on nuclear deterrence. In a recent sober appraisal of NATO strategy and objectives, General Bernard W. Rogers, former Chief of Staff of the United States Army and now serving as Supreme Allied Commander, Europe, said the following: "NATO has mortgaged its defense to the nuclear response, because our nations have not been prepared to pay the cost of a credible conventional capability. . . . our citizens need to understand the implications of NATO's low nuclear threshold if they are to support the sacrifices required for improving our security arrangements to the point where we would have a reasonable prospect of a successful conventional defense. . . .".

The defense of the West is based on a triad made up of conventional forces, nuclear forces in the European theater and the Intercontinental Strategic Nuclear Forces based in the United States. The Russians have historically developed huge land armies, and the Western alliance has always been inferior in these conventional forces. After all, it is not necessary for the defender to match tank for tank, gun for gun the forces of the prospective aggressor. And so long as the United States had unquestioned nuclear superiority, the West knew it could rely on this nuclear umbrella for its ultimate safety. Judicious United States and NATO policies used this nuclear force to deter aggression and guarantee the peace.

Our problem today is that, unfortunately, the United States no longer enjoys unquestioned nuclear superiority. We lost it year by year during our preoccupation with other parts of the world and the burdens we carried there—and during the period of détente in which, while the West was trying to reduce tensions and work out a better relationship with the East, the Soviet Union was relentlessly arming-arming-arming. In recent years the Soviet Union has consistently spent 13 or 14 percent of its GNP on arms, has created a blue ocean navy with worldwide reach, has upgraded the quality of its other forces and weapons. We did not listen well enough to Brezhnev in 1967: "Détente does not in the slightest abolish . . . the laws of class struggle."

Today the Soviet buildup continues relentlessly, and we in the West are having to play catchup ball. Among the NATO nations today there is full agreement that upgraded conventional forces and modernized intermediate-range and strategic nuclear systems are necessary to redress the situation resulting from decade-long growth in Soviet armaments.

And let me say a word to those who claim a corner on nuclear concern, who are demanding a freeze on nuclear armaments. That would leave this country and its allies in a position of inferiority and thus remove pressure on the Soviets to negotiate meaningful arms reductions. Those concerned citizens owe the rest of us the application of their energy and determination to the support of efforts to strengthen allied conventional defenses and thus take practical steps to diminish the nuclear burden which we all carry. It is not enough just to be against this or that defense program with pious-sounding phrases. Peace is not to be taken for granted. It takes work—hard, grinding work—to achieve a rational and effective defense for the protection of the values we all hold dear. To those who would spend the money elsewhere, I would point out that without the base of national security no other facet of national life can survive. If security is forfeited, then all else goes with it.

EFFORTS FOR DISARMAMENT

At the same time that the West is rebuilding its strength, the United States is engaged in serious negotiations with the Soviet Union on arms reductions. In Geneva the START talks are underway with respect to strategic nuclear weapons. Separate talks have been going on there since last November with respect to Soviet intermediate-range missiles which menace the territory of our Western European allies. In Vienna, western negotiators have proposed a treaty which would reduce and equalize the numbers of NATO and Warsaw Pact conventional forces in central Europe.

The United States is committed to real reductions in arms—not to arms talks merely for the sake of talk. President Reagan has proposed a deep-cut strategic arms agreement to the Soviets and called for an unprecedented zero-zero outcome on intermediate-range missiles. Under the zero-zero option NATO would forego the deployment of 572 ground-launched cruise and Pershing II missiles in Western Europe in exchange for the withdrawal of Soviet SS-20 and other missile systems which together account for more than 1,000 nuclear warheads already in place and blanketing all of Europe with an overwhelming nuclear threat. The U.S. proposals are fair, serious, and innovative approaches to achieving reduced levels of danger. They have the approval of our intensely concerned allies. They deserve full public support. And they call for a serious and positive response from Soviet negotiators.

In the West we are in the paradoxical situation that we must arm today in order to disarm tomorrow. If we are to be successful in achieving the arms reductions we all want, we are going to have to have counterbalancing military assets to barter in the negotiations. The Soviets are ahead today in some key categories of weapons, and they would be delighted to "freeze" their advantage. No one has put it more clearly than the Soviet negotiator in Geneva who recently said, "You must understand, we Soviets are neither idealists nor philanthropists."

It is not the practice of Soviet negotiators to give something for nothing. It was, for instance, only after NATO's decision in December 1979 to go forward with a program to place intermediate-range missiles in Western Europe to counter the Soviet SS-20 missiles that the Soviet Union finally agreed to come to the negotiating table. A freeze at this time would undermine our negotiators at Geneva. Let's not tie our negotiators' hands!

NO FIRST USE

Similarly, the recent proposal that the United States proclaim a policy of no first use of nuclear weapons goes very much against Western interests. In the first place, the starting point for a debate on alliance strategy must surely be on how we can most effectively prevent the outbreak of war while safeguarding our freedom. Would such a policy help to prevent war, or would it make it more likely?

Most experienced observers believe that such a Western policy would constitute an open invitation to Soviet conventional aggression, given the overwhelming preponderance of Soviet strength in conventional armaments. Many qualified authorities consider that it is the uncertainly in the Russian mind about a Western nuclear response—the risk that we would respond to a Soviet move with nuclear weapons—that has deterred Soviet aggression and has kept the peace.

Renunciation of our nuclear deterrence would require, as even its proponents recognize, a massive buildup of NATO's conventional forces—a buildup of a magnitude which up to now our electorates have not

shown themselves prepared to support, particularly in these times of widespread economic difficulties. Should NATO fail to achieve its conventional force goals, this would undermine the credibility of the proposal.

On the other hand, quite apart from the financial burden, the renunciation of a possible nuclear option would leave the choice of strategy to the Soviets. It would allow them to limit their risks, whether for a general attack on the West or for a more limited move such as against Berlin or the Turkish Straits. It would lower the threshold of military action, thus making war more, not less, likely. As we have seen in Afghanistan, Soviet willingness to move militarily when the risks appear low has increased in recent years.

If we are to talk about no first use, then why not talk about all weapons? As the foreign minister of Norway, one of the most peace-oriented countries in the world, pointed out recently in a speech in Oslo in which he opposed the no first use proposal, NATO has already disavowed being the first to use force of any kind. The Bonn declaration made by the heads of allied governments on last June 10 stated clearly that NATO will not use its weapons, either nuclear of conventional, unless in response to an attack. And to quote Secretary of Defense Weinberger, "Nuclear deterrence may be an unpopular notion, but there is no refuting the fact that it has worked."

THE NATURE OF THE THREAT

Whether Soviet policies derive from a master plan aimed at imposing their system on others world-wide, represent an opportunistic lunge at targets of opportunity or stem basically from the historic Russian paranoiac suspicion of all things beyond their borders need not concern us here. Even if the most beign interpretation were put on recent Soviet actions, however, one could wonder what was the danger for them in Afghanistan, that unforunate land bloodied by some 100,000 Soviet troops even as we meet here. One could wonder where was the danger from the Polish people seeking a more decent society while at the same time foreswearing challenge to Soviet imperial demands on their society.

We must look at Soviet capabilities. In the post-Vietnam decade, the United States abandoned conscription and wound down the levels of its defense expenditures and the size of its military establishment. In a time marked by Western efforts to reduce tensions, the Soviet Union outspent the United States by $130 billion on strategic forces alone. In this period the Soviets deployed 10 versons of 3 new intercontinental ballistic missiles, while the United States deployed no new nuclear systems and will not deploy any until the MX comes on line later in this decade. While the United States built no new ballistic missile submarines, the U.S.S.R. was sending 60 new or improved strategic submarines to sea. In a missile-installing program which continues despite President Brezhnev's declaration last spring of a unilateral moratorium, Soviet intermediate-range nuclear warheads capable of striking all of Europe now number more than 1,000. The West has no comparable capability and will not have any until the planned deployment in the mid-1980's—of the Pershing II and ground-launched cruise missile systems.

The Soviet Union has increased its advantage in conventional forces—for example, to 4 to 1 in tanks and 3 to 1 in artillery—far beyond any defensive needs. Soviet military forces have grown by one-third to 4.8 million men.

But, broad as the Soviet threat is, it is essentially one dimensional. Let us be clear about it—the Communist state is a colossal failure except in one area, an important area, the area of military power. There the Soviet Union has made itself a superpower—and a dangerous one, marked by the lack of any effective restraint on its totalitarian power to lash out suddenly if impelled by its enormous internal strains. We face a system with a moribund ideology, a huge country unable to feed itself, a government which has never evolved a legitimate means of succession to replace its dependence on murderous intrigues in dark Kremlin corridors to pass state power, the head of an alliance of dragooned and unreliable satellites.

Six and a half decades after a revolution that promised bread and freedom, the Soviet people enjoy neither. The Soviet system produces tanks and highly sophisticated weapons (regrettable with the aid of a great deal of western technology), but not food. It produces walls and refugees, not freedom. Indeed, who can doubt the outcome of truly free elections were it possible to hold them in states under the Kremlin's sway?

HOPE FOR THE FUTURE

I have no doubt the peoples of the Soviet Union and its clients states long for peace no less than do we in the West. We cannot compel the Soviets to be either idealists or philanthropists, but we can require that they be realists. We can do this—and we and the allies are doing this—by constructing necessary defenses even while we table negotiable and genuine arms reduction proposals. We and our allies in NATO do not seek confrontation.

The North Atlantic Alliance continues to do the job it was designed to do by farsighted statesmen a generation ago. Now a new generation looks at our structure of peace and some, along with some of the older generation, ask whether it is still adequate—whether we need basic changes of direction. Let me illustrate in closing with a story told by former Under Secretary of State George Ball:

A village in a valley had for decades been periodically devastated by floods until one day the villagers gathered resources and built a dam that for more than 30 years kept the village safe and dry. Then a new generation, disdaining the wisdom of their fathers, looked at the dam with abhorrence. It blotted out the sunset, they complained, and threatened the ecology. Who needed It? Since there had been no flood for 30 years, it was obvious that the dam was no longer required. So they held a rock festival, blew up the dam, and sank beneath the advancing waters."

NATO is democratic and pluralistic alliance of 16 nations of like-minded peoples who, in their democratic way, are united on the fundamental issues and sometimes divided on details. As President Reagan stated recently: "The fundamental values and shared interests which have always united us are, and will remain, much more important and enduring than the issues over which we differ from time to time."

NATO is an organization for peace. That is its abiding purpose—to maintain peace in freedom. Through its steadfast policy of deterrence, peace has been maintained in the Atlantic Community for the longest time in modern history; and the way has been held open for a truly remarkable rise in our standard of living on both sides of the ocean that unites us. The alliance has always enjoyed strong and bipartisan support in this country. It deserves and needs that public support today, so that it can go on safeguarding our peace in freedom.●

BAILEY OUTLINES FAVORABLE SUPREME COURT GUIDES ON SCHOOL PRAYER

HON. WENDELL BAILEY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, December 6, 1982

● Mr. BAILEY of Missouri. Mr. Speaker, polls show that an overwhelming majority of Americans believe that voluntary prayer should be allowed in our public schools. I believe that an equally heavy high percentage of elected officials agree. One major hurdle is to understand what the Supreme Court has ruled permissible and not permissible. To this end, I offer the following summary of key U.S. Supreme Court decisions (and would note the grateful guidance and assistance of Mrs. Anne Neaman, National Coordinator of Citizens For God and Country).

U.S. SUPREME COURT FAVORABLE GUIDES ON SCHOOL PRAYERS, BIBLE, AND NEUTRALITY AS GUIDES IN GOVERNMENT ADMINISTRATION

A careful review of the key U.S. Supreme Court cases on Engel, 1962 and Abington, 1963 reveals that the Court did not rule out school prayers, but provided favorable guides in harmony with the First Amendment Establishment neutrality clause.

Unfavorable court decisions by the U.S. Supreme Court were due to deficient defenses of the specific cases, which failed to conform to those established church-state guides, which related to legislated prayers. According to the First Amendment Establishment Clause, "Congress shall *make no law* respecting the establishment of religion. . ." (Emphasis added). Obviously, a First Amendment violation occurs with the making of a law, while unlegislated prayers do not violate the Constitution, since "the authority of the school superintendent was not usurped." Abington, J. Brennan, (p. 56, 67). Engel and Abington, as many other cases in lower courts related to legislated prayers, only. By errors and disinformation strategies to secularize public school education, the Supreme Court decisions have been misrepresented, as those of lower courts to relate to all prayers, unlegislated as well. The following details clarify the fact that prayers are not forbidden by the Supreme Court, whether legislated or unlegislated; and that "separation of church and state," Art. 52, Soviet Constitution, an alien enemy doctrine, is unconstitutionally misapplied to the prayers cases and to the celebration of Christian, non-sectarian holidays, which are legal and official.

The unfavorable decisions in Engel and Abington ruled out legislated prayers. Engel, decision (p. 8 ftn) declared that the "case had nothing to do with the . . . love of country . . . and belief in God . . . patriotic and ceremonial exercises." Engel, decision, (p. 8) reaffirmed Christian law priori-

ty and Christian neutrality as guides to government administration:

"Who does not see that authority which can establish Christianity, in exclusion of all other religions, can with the same ease establish one Christian sect over another . . ."

The Court reasserted these guides to government by Christian neutrality with reassertions from Everson, J. Rutledge, stemming from Holy Trinity, 1892. Roemer, 1976 denounced "separation of church and state" as never required, and reaffirmed that "scrupulous neutrality" was. There is no doubt that "scrupulous neutrality" relates to Christian neutrality, since this nation has been identified as a Christian nation, Holy Trinity, 1892; *Zorach* v. *Clauson*, 1952; and *McGowan* v. *Maryland*, 1961. In fact Holy Trinity propounds the founding general Christian principles which structure the Constitution, Institutions, and laws.

"We are founded to legislate, propagate, and secure general Christian faith which is and always has been a part of our common law . . . Nothing be done to hurt Christianity . . . Bring infidels and savages unto human civility for a quiet and settled government . . . Enter into confederations to preserve and maintain the true Gospel of the Lord Jesus . . . The morality of the nation is deeply ingrafted upon Christian faith . . . We are a Christian people . . .

"Passing into view of American life, in law, business, customs and society, the same truth is recognized. This and many other matters which might be noticed add a volume of unofficial declaration to the mass of organic utterances that this is a Christian nation."

Where these founding Constitutional principles are excluded, confusion and misdirection result. Where they are included, it is simple to comprehend the Supreme Court decisions on school prayers, Bible, Christian ethics, which guide law and jurisprudence. By including the Holy Trinity values of the Constitution, it becomes clear, undebatable, that only Christian, non-sectarian, prayers, are permitted in public education. Undoubtedly, the purpose of founding a nation, specifically, a Christian nation, is to preserve the Christian culture, western civilization. Such culture depends upon an order in life which provides sufficient harmony to develop the necessary strength through unity. Without a moral order with stable values by authority higher than man and his shifting politics, corruption, and greed, how can the INTENT of the Constitution be realized for Justice, Tranquillity, and Blessings of Freedom?

Just as the flag flies over a public institution every day, similarly, the Bible and school prayers serve as a guidepost that the values which administer that institution are by founding Christian ethics, Biblical morality. There is no issue of "diversity" when the proper facts of Christian neutrality are presented, for whose culture but that of the United States of America are public, tax-funded schools supposed to propagate? Citizenship is in a Christian nation, entitled to a Christian administration. Diversity is by individual rights and private means, and since a Christian nation is obligated to encourage Christianity wherever possible, the obvious objections come from those propagating the alien enemy doctrines of international atheism, known in public education as unconstitution humanism-atheism.

The total favorable guides of the court include:

(1) Christian law priority and Christian neutrality as guides to government administration. Holy Trinity, 1892; Everson, 1947; Engel, 1963; Roemer, 1976; Sydell Stone, 1980.

(2) Patriotic and ceremonial exercises for love of country and belief in God. Engel, (p. 8, ftn), also, reaffirmed in Abington.

(3) Christian neutrality as defined in Engel, (p. 21) and Abington, (pp. 28, 32, 42, 55, 66, 72, 74) relates to "no favor or disfavor of any specific church or specific sect over another." Since the issue is chruch-and-state, not sanctuary, synagogue, temple and state, but church, the issue is within the Christian community, as propounded in Everson, 1947 (pp. 36, 40, 52, 53, 54 ftn, and p. 65) stemming from Holy Trinity. The Court further defined neutrality to include no secularism and no secular passivity; it is the duty of government to deter no-religion belief, and "the facilities of government cannot commit inhibition, handicap, hostility, jeopardy, impediment, oppression, offense, prohibition to Godly religion, religious principes" nor Christian faith, which is the apparent common law.

(4) Prayers for discipline, harmony, unity, promotion of authority; and the use of the Bible for moral order, do not violate the First Amendment. "Rigid limits on the mention of God (Christ) in the classroom are fraught with danger." Abington, (pp. 56, 57; 20, 27, 52, 55, 67).

(5) "Atheists do not interfere. There is nothing compatible. They go their own way." Engel, J. Douglas, (p. 12).

(6) The Superintendent's authority was not usurped. *Abington* (pp. 56, 57)

(7) Release time for student religious training off the school premises is permitted. *Abington*, (p. 47)

(8) *Legislated* prayers are permitted to uphold the moral order, a "civic" not "religious" objective, "Where secular means fail to meet secular ends." J. Brennen specifically declared that this reaffirmation applied to the *Abington* case. (The unfavorable cases involved ignorance or political profits with deficient defenses, leaving the Court no alternative but to rule *legislated* prayers out, while providing guides on how prayers and Bible can be in harmony with First Amendment neutrality, legislated or unlegislated.)

(9) Parents rights were declared undebatable and sovereign to educate youth in accordance with the parent's station in life. *Abington* (pp. 32, 49, 57, 64). Many other historic Supreme Court cases identified parents' rights as part of the religious freedom of parents to "upbring, educate, and nurture their young" in accordance with the rights of conscience, and a moral environment by Christian ethics as guaranteed by the Constitution.

(10) The Commandments and the Bible are permitted in curriculum for history, literature, comparative religions, and ETHICS. *Sydell Stone*, 1980, (p. 3). Biblical ethics, of course, are Christian ethics.

(11) "Scrupulous neutrality," clarified in earlier cases as Christian neutrality, and *not* separation, was required. *Roemer*, (p. 7), 1976.

The U.S. Supreme Court has remained consistent from *Holy Trinity*, 1892 throughout history to *Sydell Stone*, 1980 that Christian ethics guide government. Many lower courts, however, have failed to uphold these Supreme Court guides, because of incompetent defending attorneys or political manipulations, and unconstitutional threats of legal risks to local School Boards. Principals manipulate local committees to report to the Board, "Parents do not want prayers."

Aside from the Supreme Court favorable guides, Federal law, Title 36, U.S.C. 172 one nation under God, declares in its legislative history that this law was passed to address the "rabid communism," the prevailing nationwide outcries against invading "corrupt coalitions." Everson, reciting Madison, (p. 40, ftn).

"Diversity and student comfort" are disguises for the "rabid communism"—since the vast majority of the nation are of Christian faith, and the Constitution is based on Christianity, forbidding secularism and secular passivity. Institutions which fly the flag, administer by Christian ethics, corresponding to the five-pointed, Christian star, in the flag and Constitution.

Public officials are compelled to fulfill their Oath to Defend against all enemies, foreign and domestic. The Code of Ethics for Public Officials compels service through "conscience and Constitution, and reporting of corruption." Art. IV, Sec. 4 "Guarantee(s) a Republican form of government, and secure against invasions," as defined by Title 18, U.S. Criminal Code Sec. 241-242 and Title 42, Sec. 1983, 1984, 1985, and 1986, denial of others rights and privileges, and interference with official performance. Officials who exchange their obligation to serve within the scope of the U.S. Constitution, "acting beyond official duties"—Ultra Vires, can be sued personally, for shifting loyalty to the anti-Christian, Soviet Constitution.

The issue of prayers involves more than the right of Free Exercise, and the duty of Christian neutrality for moral order guaranteed by the Constitution. It is an issue of whose Constitution will be served, U.S. Constitution, Christian law priority, Christian neutrality? Or, will it be the U.S.S.R. Constitution, Annex, A, Art. 1, 25, 52, 169, "centralized education, communistic morality, classless society, worldwide atheism, separation of church and state, workers of all nations, unite." The issue of school prayers is an issue of the threat to national security and the loss of Human Rights, fundamental, God-given, and inalienable as recognized by the First Amendment Christian ethics. As a Rabbi testified before the House Judiciary Committee, 1980, School prayers, "Had Christianity prevailed in Germany, no holocaust could have occurred."

The issue of school prayers has been related to shifting school curriculum from Christian ethics to Soviet "communistic morality, propagate worldwide atheism, separation of church and state."

The issue of prayers has been followed by throttling and denial of the celebration of the non-sectarian Christian holidays identified in tradition, common law, case procedence law, and public law as official, legal holidays.

Not only educational institutions, but all branches of government have been infiltrated to expel the U.S. Constitution, Christian ethics in government. Even the National Park Services have conformed, in the District of Columbia, to accommodate the anti-Christian movement, with the six-pointed star of David on the Christmas Tree with the laughable justification that is is a mere "electronic decoration." Indifference to public complaints, treated with intent, involves not only support to shift Christians out of the New Testament into the Old Testament, and then into international atheism; but by such actions, there is a further violation of secular passivity, as well as secularism—both declared unconstitutional, Abington, (p. 28), reaffirming from earlier cases, stemming from *Holy Trinity*. The

Constitution, based on the values of Holy Trinity, forbids hostility, jeopardy—"Nothing be done to hurt Christianity, which is and always has been a part of common law."

The U.S. Congress, Office of the Architect, responsible for the decorating of the Christmas Tree on the Capitol grounds involved similar Constitutional violation. According to the personnel in charge of the decoration, the tree is decorated, as in the past 18 years, with a four-pointed star. The office of the Solicitor justified this as a need to consider "wind convection pressures" in the interest of pedestrian safety. He justified the six-pointed star on the Ellipse as carrying a double Holy Trinity, a Christian message. The Office of the Solicitor justified this as a need to consider "wind convection pressures" in the interest of pedestrian safety. He justified the six-ponted star on the Ellipse as carrying a double Holy Trinity, a Christian message. He justified the refusal to use the five-pointed star, because it is in the flag, and that would make the Tree "secular."

A correction was presented by private interest exposing the error which indentifies with performance of official duties in Ultra Vires—performance beyond the scope of the U.S. Constitution—and thereby personally accountable to legal liabilities. Though the Solicitor offered corrective consideration, the signficance is alarming that public personnel should arrogantly advocate "separation of church and state" to justify why the Christmas Tree for the U.S. Capitol has four-pointed star—secular—instead of the five-pointed traditional Christian, Star of Bethlehem. It is more alarming that public personnel with greater arrogance should declare to inquiring interests that the four-pointed star represents the People's Tree (code for communism).

Not only informed Christians, but informed Torah, Old Testament, Jews are concerned, since for the Torah believers the anti-Christian movement identified with the story in Germany. According to the Jewish Guardian, New York, 1976, Torah Jews are directed in the interest of their religious and ethnic security: "International atheism is contrary to the supremacy of the Torah. It is anti-Semitic. Do not fight the government in whose country you reside."

According to Jewish psychiatrists, equally concerned, "Living is snuggest where Christianity prevails."

According to Holy Trinity, Christian law priority, and Christian neutrality as guides in government are not "personal sayings. . . Passing into view of American life, in law, business, customs and society, the same truth is recognized. This and many other matters which might be noticed add a volume of unofficial declaration to the mass of organic utterances that this is a Christian nation."●

USO ITALIAN-AMERICAN FESTIVAL

HON. SAM GIBBONS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 6, 1982

● Mr. GIBBONS. Mr. Speaker, I would like to take this opportunity to give testimony to a significant USO-sponsored event in Tampa, Fla. From March 25 through March 27, 1983, the first annual USO Italian-American Festival will celebrate Italian heritage, culture, customs, and traditions. Some of the scheduled activities will feature an Italian street bazaar highlighting Italian craftsmen, an old-fashioned spaghetti dinner and a celebrity-studded USO show.

Funds raised from this extravaganza will support USO services in Bari, Brindisi, Catania, Genoa, Naples, Livorno, Messina, Palermo, Taranto, Taromina, Trieste, Venice, and Rome, Italy and for USO service programs in Tampa, Fla. USO is a voluntary, civilian, congressionally chartered organization devoted solely to meeting the needs of American servicemen and women, and their families. It is a noble part of the American tradition of neighbor helping neighbor—volunteers joining together to give their time and talents to meet the human needs of the U.S. military population which could not be served as effectively by Government agencies.

The first annual USO Italian-American Festival in Tampa, Fla., is yet one important way by which USO could realize its vital mission of service to American military citizens.●

JOHN J. BUSWICK

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, December 6, 1982

● Mr. LONG of Maryland. Mr. Speaker, on November 11 our Nation celebrated Veterans Day in recognition of the millions of men and women who have served in our Armed Forces to insure the freedom that we enjoy today.

However, I wish to take a moment today to recognize the contributions of one of my constituents, Mr. John J. Buswick a veteran of World War I.

At the age of 25, John J. Buswick enlisted in the Army during World War I and fought with American forces in France and Germany. During a battle in Belgium, Private Buswick was injured by poison gas. Despite his incapacity, private Buswick continued to fight. In April 1919 he received an honorable discharge and returned to private life in Baltimore.

Mr. Buswick is now 90 years old and has participated in Veterans Day celebration ceremonies since his days as a private in World War I.

Mr. Buswick represents the millions of men and women who have unselfishly served our Nation. I know that my colleagues in the House join me in praising this fine American.●

IMMIGRATION REFORM AND UNITED STATES AND MEXICAN STABILITY

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 6, 1982

● Mr. GARCIA. Mr. Speaker, the President's trip through Central and South America is evidence of the growing awareness of the importance of that region to the United States. While our security and prosperity are not contingent on the prosperity of Latin America, we are greatly effected by disturbances in the region—both political and economic.

Argentina and Brazil are having a difficult time remaining economically solvent. Their economies are running in the red, and their future stability depends, to a large extent, on their ability to meet their debt requirements.

But it is Mexico that is going through the most severe economic crisis in this hemisphere. It owes upward of $80 billion to foreign creditors. Much of that is owed to U.S. financial institutions. Yet, Mexico has a great deal of oil reserves, making its potential wealth promising. This oil wealth also makes Mexico even more important to the United States.

The point is clear, Mexican stability is of concern to the United States. To a certain extent that stability is contingent on money sent back to Mexico from immigrants working in the United States. Also, Mexico has always used the safety valve of immigration to the United States to control its astronomically high unemployment and underemployment rates.

I am not implying that the United States must have a lax immigration policy to help Mexico with its unemployment and balance-of-payment problems. Our own problems are primary. Our jobless rate and national debt are out of hand, we must help ourselves first.

But it has become apparent that we are directly effected by what goes on in Mexico and throughout Latin America. We cannot afford to let Mexico go bankrupt; it will only make things much worse for us at home. Look at the crisis that the recent drop in the peso caused for U.S. border towns.

If we pass a restrictive, one-dimensional immigration law, it could have disastrous effects on an economy such as Mexico's, and consequently, it will backfire on our own economy.

H.R. 6514, the Immigration Reform and Control Act of 1982, does not take into consideration the foreign policy side of immigration reform. That is why it is an incomplete bill. If we do not revise and extend our immigration

policy to include foreign policy questions, we are only hurting ourselves.

I am putting an October 12 article from the Washington Post in the RECORD that touches on this problem. I hope my colleagues find it useful.

AMERICAN'S SOFT UNDERBELLY

(By Joseph Kraft)

SAN DIEGO.—Mexico presents a trickier challenge to this country than Russia, China, Japan and all of Europe. For those distant nations can be deterred or fenced out. But Mexico transmits its disorders directly into the American bloodstream.

That point emerged in the meeting here last week between President Reagan and president-elect Miguel de la Madrid. For the setting here along the border emphasized how much Mexican problems create baffling troubles for the United States.

The financial problem is not front and center. Mexico is $80 billion in the red to foreign creditors, and lacks the money to pay either interest or principal. Much of the debt is owed to American banks, which would go bust if Mexico defaulted.

To prevent such a catastrophe Washington has organized emergency loans from this country and several international institutions. A moratorium on debt payment is in effect while Mexico negotiaties a recovery package with the International Monetary Fund. President de la Madrid, in a chat at a reception given after his official meeting, said he expected an accord with the IMF to be reached by the outgoing president, Jose Lopez Portillo, before his term expires on Dec. 1. If so, new financing will become available and the danger of immediate collapse will be averted.

But in return for IMF support, Mexico will be obliged to accept an austerity program that cuts back government spending and limits economic growth—perhaps to zero. The incoming president acknowledged that the burden of enforcing the program would fall on his shoulders. That obliges him to bear down on several spots that are already raw points in Mexican-American relations.

Illegal immigration for one. Several million Mexicans have come to this country illegally to find jobs. The financial pinch south of the border has stimulated an even larger flow, which is evident in the number of arrests by the border police just south of here. The austerity program is bound in cause a greater increase over the next few years.

But the United States has not yet figured out how to square the demand for Mexican labor with immigration law. And so a problems that defies solution is simply going to grow worse.

Energy is a second sore spot. The huge stores of oil and gas recently discovered in Mexico represent for the United States a supply far more secure than any available in Africa or the Middle East. So this country has been pushing Mexico to expand output rapidly.

But rapid development of oil stimulates inflation and gives increase to corruption. And it does almost nothing to solve the most pressing Mexican problem—jobs. Thus by pushing for more energy production, the United States contributes to further immigration, and fosters more of the irresponsibility that led to the present financial crisis.

Commerce represents a third sore spot. Mexico is a bug buyer of American goods and services, especially along the border. But the present financial crisis has already caused stagnation in many border areas. Sale of retail items to Mexicans is almost flat. So is the market in housing. And the austerity program will further diminish the Mexican appetite for American products.

The more so as the incoming president seems to intend a basic restructuring of the economy. He wants to make Mexico competitive in international markets. That means weaning business away from the pervasive corruption that makes Mexico an extremely inefficient producer. But American interests—it should never be forgotten—also batten on corruption in Mexico.

Managing all these difficulties simultaneously would try any leader. De la Madrid at least understands the problems. He is an economist, versed in government and banking. At the reception after the meeting with Reagan, he observed that Mexico could best meet its responsibilities to the United States by solving its own problems. He evinced no trace of the anti-Americanism so pervasive in Mexican politics.

But the incoming president has undoubted weaknesses also. He is a technocrat, not a figure from the heart of Mexico's political powerhouse, the Party of Revolutionary Institutions, or PRI. He lacks the flair and the commanding presence that enabled Lopez Portillo to run the show.

So a reasonable bet is that this country's hard times with Mexico are far from over. For years to come the United States will be vulnerable to the many troubles now bred in what is more and more becoming America's soft underbelly.●

H.R. 7359

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 6, 1982

● Mrs. COLLINS of Illinois. Mr. Speaker, I am alarmed by the pain, grief, and suffering criminal tampering with over-the-counter drugs and other products has caused throughout the United States.

These well-publicized crimes have incited copycat activities, as we witnessed in the Tylenol situation. Targets have included over-the-counter drugs ranging from mouthwash, eyewash, and pain relievers to food products such as pies, candies, fruit drinks, and hot dogs.

Our society is by no means risk free, and legislation cannot make it so. The new tamper-proof regulations may work against capsule tampering, but the problem may just surface again elsewhere. I feel severe punishment should be given to individuals who knowingly adulterate a product with the intent or possibility of harming or killing another human being.

On Friday, December 3, 1982, I introduced legislation which addresses this problem. This measure, H.R. 7359, amends title 18 of the United States Code to include punishment for individuals who knowingly adulterate a substance with the probable knowledge of harming or killing another person or damaging the reputation of a business.

Specifically, the provision states:

That whoever knowingly adulterates a food, drug or cosmetic with knowledge that such food, drug or cosmetic will be ingested, inhaled or used by any person and who causes any person to die as a result of ingesting, inhaling or using such food, drug or cosmetic shall be fined (not to exceed $250,000), imprisoned for a term not less than 20 years or life, or both.

The measure also focuses on the penalty for an individual who tampers with a product which results in severe mental or physical injury to the victim of the tampering. The penalty for such an action shall be a fine (not to exceed $100,000) and imprisonment for a term not to exceed 10 years, or both.

These penalties will apply not only where the intent of the perpetrator is to actually cause harm to another but also where the intent is committing such an act may be to damage the reputation of another's business.

I urge my colleagues to join me in cosponsoring this measure, which if enacted into law, will provide proper penalties for those who intentionally try to harm others for their own sadistic enjoyment.

A text of the legislation follows:

H.R. 7359

A bill to amend title 18 of the United States Code to make unlawful the adulteration of food, drugs, and cosmetics carried out for the purpose of causing death or injury

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1118. Adulteration of food, drugs, and cosmetics

"(a) Whoever adulterates or causes to be adulterated a food, drug, or cosmetic in interstate commerce—

"(1) for the purpose of killing any individual who ingests, inhales, or uses such food, drug, or cosmetic; or

"(2) with knowledge that it is possible that such food, drug, or cosmetic will be ingested, inhaled, or used by such individual and will cause the death of such individual;

and who causes any individual to die as a result of ingesting, inhaling, or using such food, drug, or cosmetic shall be fined not to exceed $250,000, imprisoned for a term of years not less than 20 years or for life, or both.

"(b) Whoever adulterates or causes to be adulterated a food, drug, or cosmetic in interstate commerce—

"(1) for the purpose of causing death or severe mental or physical injury to any individual who ingests, inhales, or uses such food, drug, or cosmetic;

"(2) with knowledge that it is possible that such food, drug, or cosmetic will be ingested, inhaled, or used by any individual and will cause the death of or such injury to such person; or

"(3) for the purpose of causing injury to the business reputation of any person;

shall be fined not to exceed $100,000, imprisoned for a term of years not to exceed 10 years, or both.

"(c) For purposes of this section—

"(1) a food, drug, or cosmetic is adulterated if such food, drug, or cosmetic is deemed to be adulterated under section 402, 501, or 601, respectively, of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342, 351, 361);

"(2) the term 'cosmetic' shall have the meaning given it in section 201(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(i));

"(3) the term 'drug' shall have the meaning given it in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1);

"(4) the term 'food' shall have the meaning given it in section 201(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(f)); and

"(5) the term 'interstate commerce' shall have the meaning given it in section 201(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(b)).".

SEC. 2. The table of sections for chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"1118. Adulteration of food, drugs, and cosmetics.".●

CONSERVATIVE SUPPORT FOR THE CLINCH RIVER BREEDER REACTOR

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 6, 1982

● Mr. RUDD. Mr. Speaker, a massive campaign to stop the Clinch River breeder reactor project has been launched by the opponents of nuclear power development and U.S. energy growth and independence. This is predictable. However, what has especially concerned me is the number of conservative organizations and spokesmen who have become allies with the proponents of the stop Clinch River movement. Current economic projections concerning American electrical energy needs over the next 25 years clearly indicate the need for the continued development of this near-inexhaustible nuclear power source. Perhaps nearsightedness may be contorting the viewpoint of some of my colleagues, and for this reason I recommend the reading of some statements by Mr. Daniel J. Popeo, founder of the Washington Legal Foundation:

STATEMENT OF DANIEL J. POPEO, FOUNDER, WASHINGTON LEGAL FOUNDATION

Logic and the preponderance of the evidence dictates that the sound conservative position is to support the completion of the Clinch River Breeder Reactor. Here, are some of the reasons why:

If the United States is to maintain even a modest annual growth rate of 3 percent, we will have to double our electric power capacity in 25 years. Breeder reactor technology, an essentially inexhaustible source of energy, is needed to help supply this increased capacity if we are to have economic growth without relying upon foreign energy sources.

As the International Energy Agency recently warned, a new oil crisis may hit by mid-1980's that would deal a "devastating blow" to the U.S. and other industrial nations. Such a prospect makes any effort to kill the Clinch River Breeder and thus cripple a readily available U.S. energy option the equivalent of committing national suicide.

President Reagan is firmly committed to breeder reactor technology and the "completion of the Clinch River Breeder Reactor." He states that Clinch River is "essential to ensure our preparedness for longer-term nuclear power needs."

President Jimmy Carter, beginning weeks after his inauguration in 1977, attempted to kill the project and succeeded in stalling construction work on Clinch River for more than four years. This short-sighted move is largely responsible for driving the cost of CRBR from some $1.7 billion (when the contracts were let in 1974) to the current estimated figure of $3.6 billion.

The Soviet Union, France, Japan, and other nations are moving ahead of the United States in breeder technology. How can conservatives, or even liberals for that matter, force the nation to withdraw from this competition at the expense of America's continued growth?

The total cost of the Clinch River research and development project (now said to be $3.6 billion by the Energy Department) is dwarfed by the drain on taxpayers caused by the annual cost of such social welfare programs as food stamps. For example, food stamp handouts cost somewhere in the neighborhood of $11 billion in 1982 which is more than fifty times the amount spent on Clinch River in the same year. Furthermore, Clinch River dollars provide jobs, not handouts.

Contrary to environmentalist misstatements, the Clinch River Breeder Design is technologically up to date and contains features, such as its heterogeneous core, which have attracted the attention of German, British and other foreign breeder experts. Repeated assessments by the General Accounting Office, most recently supported by their July, 1982 report, have concluded that among "a wide range of knowledgeable industry, government and private individuals, no one we talked with was able to provide us with any specific facts indicating that components or design features were obsolete."

After years of bureaucratic and regulatory delays, work has begun at the Clinch River site. Some 3,500 workers are already employed in 29 states and the District of Columbia, the plant design is 96 percent complete and about $900 million worth of components have been delivered or are on order. If cancelled now, the cost to the taxpayers would be $1.4 billion with nothing to show for it.

According to a respected member of the other body, "the opponents of the Clinch River Breeder Reactor have come up with false and phony rigged figures and then repeat them." Among other things, the revenues from CRBR are liberally estimated at more than $20 billion payable to the government over the 30 year life of the plant. This figure, developed by the Appropriation Committee, estimates 2 percent real growth in electricity prices.

Many question why private utilities have not contributed more money to this plant. I would simply point out that the electric utilities, companies that are closely regulated by government, are limited in their financial ability to invest in a long-term research and development project.

Professor Hans Bethe, a Nobel Prize Laureate, says that "once the breeder or a similar type of reactor is in place, the uranium in the U.S. will last for tens of thousands of years, at an affordable price. An inexhaustible energy source is as good as a renewable one."

Finally, halting the Clinch River project now, just as construction is finally beginning would be tragic and would place our country's economic future in the hands of the radical environmentalists and others who oppose economic growth. The G.A.O. put it best in its most recent report. Failure to construct Clinch River, it said, would "foreclose on the long-term future of a major energy option—nuclear fission . . ."

More is at stake than simply the Clinch River Project.

We have all worked too hard and fought too many battles to allow the left-wing to use the Clinch River issue to break our ranks as well as encourage us to abandon our principles.●

WHAT DOES THE FUTURE HOLD FOR THE SOVIET JEWS?

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 6, 1982

● Mr. FOGLIETTA. Mr. Speaker, recently, an op-ed column by Theodore R. Mann appeared in the Jewish Exponent, a weekly Philadelphia newspaper. Mr. Mann, who I am proud to say is a constituent of the First Congressional District of Pennsylvania, serves as chairman of the National Conference on Soviet Jewry. Mr. Mann's thoughts on what the future may hold for Soviet Jews provide cogent commentary on a very important topic that must be on our minds as we pursue relations with the new Soviet Government under Yuri Andropov. It is for that reason that I am entering them into the RECORD today.

[From the Jewish Exponent, November 19, 1982]

WHAT DOES FUTURE HOLD FOR THE SOVIET JEWS?

(By Theodore R. Mann)

Concerned with the fate of the Soviet Union's two-and-a-half million Jews, we are asking ourselves some hard questions this week. Will Jewish emigration be permitted to resume under the new regime of Yuri Andropov? Will the condition of Soviet Jews worsen or improve?

It is a critical moment. Twenty percent of the entire world Jewish population resides in the Soviet Union. The change in leadership therefore will affect not only Soviet Jews but the entire Jewish community.

Some say that the situation cannot get much worse than it is. Emigration, after all, has already virtually stopped—only 168 Jews were let out last month. But that is not so. The situation can get much worse.

All dissident movements in the Soviet Union, except one, were decimated over the past decade by the KGB. Yuri Andropov was the head of the KGB. Jewish dissidents were the single exception. While they have been severely harassed, they have been allowed to survive. Most probably, this was because the Soviets believed that their fate was of special importance to the United

States government. Presumably Andropov joined in that decision to make an exception in the case of the Jews. At least one hopes so.

On the other hand, it is not hard to describe how the Soviet Jewish condition could be made infinitely better: Anatoly Shcharansky and the other Jewish prisoners could be released from their jails; the thousands of refuseniks could be allowed to emigrate; a decision could be taken to permit Jewish emigration to Israel at the 1979 rate of 50,000 per year, or even much higher: state-sponsored anti-Semitism and harassment of all activities which give substance to Jewish identity could stop.

Our most optimistic goals can only be reached through a process of negotiation, either between the Soviets and the Israelis, which cannot occur as long as there are no diplomatic relations between them, or between the United States and the Soviet Union, which cannot occur in any meaningful way unless and until relations between the two superpowers begin to thaw.

It would seem to be in the Soviet interest to resume diplomatic relations with Israel. They could thereby gain for themselves a role in Middle East negotiations. The United States has managed to develop and maintain sufficient credibility with most Mideast nations to play a significant role in the evolving political situation in that region. One would think that the Soviets would like to achieve the same status. Nevertheless, they have not done so in the past 15 years, and it is hard to believe that Andropov's ascension to power will make the essential difference.

The more realistic opportunity is that the change of leadership in the Soviet Union might lead to a thaw in U.S.-USSR relations. Jews are let out of the Soviet Union for the same reason that Jewish dissidents have been permitted to exist there: Soviet leaders believe that the safety of Soviet Jews and their right to emigrate are demanded by an American Jewish community influential enough to make the subject important to American governmental leaders.

Jews have been permitted to leave, therefore, in order to induce better relations with the United States or in order to reward better relations with the United States. At this moment, and for the past two-and-a-half years, East-West relations have been so bad that there has been nothing to reward. And in light of the other very difficult items on the Soviet-American agenda, there is nothing to induce. The Soviets are not likely to believe that if emigration levels are raised, the United States will bend on such critical issues as Poland the arms race and Afghanistan.

In other words, the immediate fate of Soviet Jews is tied to the relationships between the two superpowers. For that reason, the most pertinent questions we must ask ourselves are questions like will Andropov seek a period of calmer relations with the United States in order to enable him to concentrate on curing a very ailing Soviet economy? Which will he regard a greater risk to the regime—the injection of some profit motive into the economy, as the Hungarians have successfully done, or a continuing decline in Soviet productivity? Does he believe that in an arms race with the United States, the Soviets have any chance at all of winning, even if other areas of the economy are sacrificed?

The Reagan Administration has tried to demonstrate to the Soviets for two years now that they cannot over the long term compete with us in the production of both guns and butter; that the American productive capacity is simply too great. One would think, logically, that after two years, the Soviets should be ready, even anxious, to press hard for arms limitations accords.

It is clear now that even if the Reagan defense budget is trimmed somewhat in order to lower a dangerously high deficit, the net result will still be an America with a much more substantial defense budget during the rest of this decade than existed in the 1970s. This does not even take into account the great and growing technological gap between the two superpowers and the resulting superiority of American weapons—as evidenced by the relative performance of those weapons in the recent Middle East war.

The Reagan Administration's demonstration of America's will and productive capacity may well cause the new leader of the Soviet Union, anxious to address the very real economic problems in that society, to seek a new kind of accommodation with the United States, a detente without Soviet adventurism. One hopes that the Reagan Administration itself will be equally anxious to reach such an accommodation.

The appointment of George Shultz as secretary of state—less ideological and more practical than the President—will make that more likely. Should that occur, the opportunities for achieving a real amelioration of the Soviet-Jewish condition could improve dramatically.●

POLITICAL PAC-MAN

HON. JAMES M. SHANNON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 6, 1982

● Mr. SHANNON. Mr. Speaker, the people of America understand the growing influence of political action committees, and they do not like what they see. The December 13, 1982 issue of the New Republic contains an article that describes how unduly powerful these organizations have become. No wonder that a recent Roper poll showed that, by a 2.5-to-1 margin, the American public considers PAC's undesirable.

Those who want some substantive understanding of how PAC's are gaining undue influence should read Mark Green's article, which is called Political Pac-Man. It illustrates in very concrete terms the ways in which PAC's are undermining the very processes which keep our country strong.

Green's article shows that the growing concern over PAC's is bipartisan. And well it should be, since the legitimacy of each Member of Congress is diminished any time there is even the perception that votes in this body are up for sale.

I strongly recommend this piece to all my colleagues, and request that the following excerpts be inserted in the RECORD.

The article follows:

[From the New Republic, Dec. 13, 1982]

ON THE HILL, ALL THE VOTES MONEY CAN BUY: POLITICAL PAC-MAN

(By Mark Green)

(Mark Green is the president of the Democracy Project, a progressive policy institute. He is the author of Winning Back America (Bantam) and of the fourth edition of Who Runs Congress? (Dell), to be published next year. Mr. Green would like to thank Michael Waldman for his research assistance on this article)

"I'm scared," says Representative Barber Conable, the eight-term Republican from upstate New York. "I'm scared," he softly repeats, anxiously pacing around his high-ceiling office in the Cannon House Office Building. "These new PACs not only buy incumbents, but affect legislation. It's the same crummy business as judges putting the arm on lawyers who appear before them to finance their next campaign."

James Shannon, a 30-year-old Massachusetts Democrat and member of the Ways and Means Committee, has his office down the hall. "During the tax bill," he says, "lobbyists asked me to help their cause because 'it will be good for the party,' which meant that business PACs would contribute money to the Democratic Party if Democrats cooperated. One lobbyist who saw me in my office said of a client, 'He makes good PAC contributions to the party.' At this point I exploded, saying, 'I'm tired of hearing appeals based on money.' And you know what he said? 'You think I like this any more than you do?' "

The most absorbing topic of conversation in Congress these days is the rise of Political Action Committees. PACs are groups of like-minded people with an internal means of communication—corporations, trade associations, labor unions, interest groups—who raise funds to give to Congressional candidates. In a kind of financial arms race, candidates from both parties aggressively solicit funds from PACs—who in turn solicit votes from members of Congress. It is this link between PAC contributions to candidates and PAC lobbying of Congressmen that has led people like California Representative Leon Panetta to charge that "Congress is literally being bought and sold by PAC contributions." Yet an annoyed Bernadette Budde, for twelve years with the Business Industry PAC, heatedly disagrees. She expressed the widely held view of PAC managers: "No one has ever shown me one body—not one—who has sold his vote for a contribution."

Admissions of vote buying, which is a felony, are usually as rare as cherry blossoms in November. But for the first time, members of Congress are talking in interviews about specific (if often anonymous) instances when a colleague admitted that a PAC gift procured a vote, or tried to:

In the mid-1970s, a labor union that gave Panetta a $1,500 contribution asked for support of pending "cargo preference legislation." When Panetta asked about the substance of the bill, he was told, "I don't have to tell you anything substantively—we gave you money. We support the bill, and we expect you to." Panetta kicked the lobbyist out of his office, and voted no.

Republican Representative Claudine Schneider of Rhode Island tried to persuade a Republican colleague to oppose more funding for the Clinch River Breeder Reactor. He declined, explaining, "Yes, but Westinghouse is a big contributor of mine."

Another Republican Representative, Jim Leach of Iowa, tells how he once suggested

to an urban Democrat with no dairy constituency that it would be wisest for him to oppose a dairy price support measure, and was told, "Yeah, but their PAC gave me money. I have to support them."

According to one PAC manager, a certain liberal Democratic Representative, unsure how to vote on the recent Reagan tax increase, was told by a business PAC that if he supported the bill, "the slate would be wiped clean" between them. The Democrat voted for the bill, for reasons having nothing to do with the business lobby. Yet when the PAC sent him a $500 check, he angrily returned it, telling the PAC manager, "It was like leaving a 20¢ tip." The PAC then doubled the contribution, which the Congressman accepted.

When Representative Dan Glickman of Kansas asked a colleague earlier this year to join him in opposing a measure that would forbid the F.T.C. regulating auto dealers, he was told, "I'm committed. I got a $10,000 check from the National Automobile Dealers Association. I can't change my vote now." (In a separate incident, the Iowa Beef PAC began a letter asking for Glickman's support on a bill by noting, "As we trust you will recall, the Political Action Committee of Iowa Beef Processors, Inc., has heretofore supported your candidacy. . . ." Glickman sent back their $250, and then voted for the measure, as he had originally intended to.)

Retiring Representative Millicent Fenwick recalls, "I wasn't down here but two months [in 1974], at a dinner for Alvin Toffler, when I sat down next to a reformer in Congress and asked if he'd be overriding a President Ford veto. He said, 'Are you kidding? I took $58,000 from labor and they want it.' "

Representative Mike Synar, Democrat of Oklahoma, says, "I go out on the floor and say to a member, 'I need your help on this bill,' and often he will say, 'I can't do that, I got $5,000 from a special interest.' So I no longer lobby Congressmen. I lobby the lobbyists to lobby the Congressmen."

PAC managers deny that their purpose is to buy votes. "We feel a $5,000 contribution in no way can be construed as an influence on a candidate," says Frank McCarthy of the National Automobile Dealers Association, which contributed over $1 million to candidates in two-thirds of all federal races this year. "My own strong personal opinion is we haven't changed one vote." Other PAC managers add that PACs on both sides of issues often cancel themselves out, and that money rewards past votes but doesn't buy future ones. In response to the argument that PACs cancel each other out, Senator Bob Dole of Kansas remarked, "Poor people don't make campaign contributions. You might get a different result if there were a Poor PAC up here." And on an array of economic issues, such as those involving used cars, oil and gas, dairy price supports, housing, maritime and trucking policy, funeral homes, and antitrust exemptions, specific economic interests have PACs while the consuming public does not.

Economic interests have been contributing significantly to Congressional campaigns for decades. Robert Caro's new biography of L.B.J., The Years of Lyndon Johnson (Knopf) describes in colorful detail how the young Congressman successfully wooed Southwest oilmen in the 1940s. But today's PAC phenomenon dwarfs past special-interest giving. PACs gave $8.5 million to Congressional candidates in the 1972 election cycle, $12.5 million in 1974, $35 million in 1978, and $55 million in 1980. F.E.C. data indicate that all PAC giving is running about 50 percent ahead of the record race of 1979–1980, and will likely exceed $80 million, a ten-fold increase in one decade. Corporate PACs have enjoyed the greatest growth of all, nearly doubling their contributions in only one election cycle—from $9.8 million in 1978 to $19.2 million in 1980. By 1982 business PACs generally (corporate and trade associations) were out-spending labor union PACs nearly 3 to 1. And there is plenty of room for growth: 40 percent of Fortune's 500 largest industrial corporations have not yet even established a PAC.

Unless a candidate is personally wealthy, it is hard to reject PAC money. This causes some wear and tear on candidates with consciences—not because PAC money invariably buys votes, but because it's human nature for anyone, members of Congress included, to want to help those who help you. Richard Bolling of Missouri, the brainy House veteran retiring this year after 17 terms, says, "If you had two phone calls at once, and your secretary said one was a constituent, the other a PAC that gave you $10,000 last election, which phone would you pick up?" Barney Frank sees the matter in simple behavioral terms: "We are the only human beings in the world who are expected to take thousands of dollars from perfect strangers on important matters and not be affected by it."

Adding insult to injury is the way candidates have to seek PAC funds. Many business PACs require a candidate either to submit to a personal interview or answer a questionnaire, and it doesn't take a genius to calculate the cost of a wrong answer. When the National Education Association asks, "Please explain your position on the following: a.) Tax credits for tuition paid to private . . . schools," it's what one Republican Senator in an interview called "the $10,000 question," which he answered incorrectly. Randall Moorhead, of the Realtors PAC survey, says, "Sometimes candidates call me and plead with me to give them the correct answers so they can fill out the questionnaire to our satisfaction."

Consequently, many candidates surrender to the temptation to pander to PAC prejudices. Even a modernate, thoughtful Republican like New York's Benjamin Gilman, who was redistricted into a successful race with his Democratic colleague Peter Peyser, wrote to PACs saying, "I am fighting for my political life against an ultra-liberal Democratic Congressman. . . . Can I count on you for commitment to the free enterprise system, to America, and to my reelection?" Kent Jones, who lost to Democratic Representative Byron Dorgan in North Dakota, wrote to the pharmacists' PAC: "The opponent is best known for his vigorous efforts to win substantial tax settlements against large corporations and has capitalized on the image of being a 'champion of the people,' fighting 'Big Business'. . . ." Then there was Republican John Beuchner, challenging Tim Wirth in Colorado, whose standard solicitation letter left little to the imagination. After asking for funds, he concluded, "What do you stand to gain? You stand to gain my support of probusiness legislation once I am elected."

There is little if any talk in Congress now about changing the rules of the campaign finance game in the 98th Congress. At the same time, many members believed both that change will require a scandal and that, in the words of Representative Tim Wirth, "PACs are a scandal waiting to happen." People ranging from Fred Wertheimer to Kevin Philips, conservative author and commentator, predict a public backlash to PAC expenditures if present trends continue—trends such as the tripling of campaign expenditures in ten years, the doubling of corporate PAC spending in two, and the growing share of campaign fund-raising accounted for by PACs; Ed Roeder's newly published PACs Americana calculates that PACs accounted for an average of 43 percent of the campaign treasuries of incumbents in the past Congress. Already in a recent Roper poll, the public thought that PACs were undesirable by a margin of 2.5 to 1.

If there is to be reform, what form might it take? There is a menu of alternatives available for the next generation of Congressional action:

Free TV and radio. In a report released in September, the Democracy Project detailed a "Voter Access Plan" to provide minimal guaranteed TV and radio time to all Congressional candidates in general elections at a cost of $21 million, or a dime per citizen, with funds raised by the same voluntary tax check-off that supports Presidential campaign funding. (For urban areas where there are many Congressional districts in one media market, a qualified candidate would have the option of "cashing in" the air time for an equivalent mailing.) Great Britain, France, West Germany, and Sweden, among other countries, routinely provide some free air time to candidates. Because this approach is inexpensive, involves voluntary taxpayer funding, and does not require more federal bureaucracy, it has the potential to attract bipartisan support and become the next major reform vehicle in Congress.

A PAC cap per candidate. The Obey-Railsback bill of the 97th Congress sought to limit the amount a House candidate could accept from all PACs to $70,000 per election cycle and to reduce the allowable PAC contribution from $5,000 and $5,000 (primary and general) to $3,000 and $3,000. Nearly 200 candidates got more than $70,000 from PACs in 1980. Supporter Jim Leach calls it "a kind of domestic Salt agreement between big business and big labor, an agreement which is likely to be disliked by each." A version of it passed the House 217 to 198 in 1979, but was not acted on by the Senate.

Public financing. First proposed by Teddy Roosevelt in 1907, public financing would assume some campaign costs, relieving part of the pressure on candidates to take special interest gifts. A version that passed the Senate and failed by 17 votes in the House in 1978 would have provided some $70,000 to general election candidates and put a cap of $180,000 on expenditures. Supporters argue that public financing has worked to clean up Presidential campaigns—so why not Congressional campaigns? Critics attack a system where taxpayers are forced to foot the bill for candidates they oppose, a complaint that recalls an exchange Republican Governor Goodwin Knight once had with Gracie Allen on the old Burns and Allen TV show. "Governor, do the Democrats have to pay part of your salary and office expenses?" "Why yes, Gracie." "Well, Governor, is that fair?" The most current public financing measure is the "Clean Campaign Act of 1982," introduced in October by Representative Obey. It would provide matching funds up to $90,000 for gifts of $100 or under and would impose an expenditure ceiling of $180,000. Although most Congressional observers have regarded the 1978 vote as public financing's high water mark, a

recent Business Week editorial in support of public financing may indicate the start of a rising tide.

A tax credit. At present $50 of the first $100 contributed to Congressional candidates is tax deductible, which helps only those wealthy enough to itemize. Instead, if all taxpayers were entitled to a tax credit of, say, $25, then thousands of individual citizens would contribute to favored candidates, since there is no cost to them. Although this approach is a form of public financing, since there is a consequent revenue loss, it has political appeal because it involves small subsidies to many small contributors rather than a large subsidy to a particular candidate. It is a "democratic" way of funding the campaigns of candidates who lack the wealth of Lewis Lehrman or the BUILD PAC.

Discounted TV/radio and mail. Candidates can now buy time on the electronic media at the "lowest unit charge" for commercial advertisers. Instead, the rates should be further discounted so stations don't lose money, but don't profit, either—a mild precondition, imposed every other October, for the granting of a lucrative public license. Similarly, just as nonprofit groups and political parties mail at reduced rates, so too should general election candidates be able to mail to their constituents at less than 20 cents a letter.

For those officials on the prowl for "new ideas," these approaches can suggest the substance, tactics, and strategy for successful PAC reform legislation. Substantively, a package of three complementary reforms has the best prospect of passage and impact; TV and radio time for general election candidates, a PAC cap per candidate, and tax credits to encourage small donors. Tactically, short of attaching these reforms to a debt-ceiling bill, the preferable legislative vehicle would be legislation affecting an array of Congressional-money matters, electoral and political. Such an overall measure might also increase the limits on individual contributions, indexing them to inflation, and increase Congressional pay, indexing it as well to some appropriate standard. These less desirable provisions might be needed to attract needed bipartisan support—and would be worth the benefit of slowing the PAC race in America.

Strategically, reformers might want to try to use the system against itself by creating their own independent bipartisan PAC—say, "A PAC to End All PAC's—in order to raise and spend funds for positive advertisements on behalf of candidates who support the reform package. Eventually, however, genuine change will depend on two major political preconditions. First, the volume of PAC giving and examples of money influencing votes must continue to grow exponentially—which is likely. Second, a Democratic Presidential candidate must make "stopping the special interest state" one of his campaign themes and then, once elected, must invest political capital in an effort to secure passage—which is problematical.

The public would surely be receptive. Already people are wondering why we had national elections in 1982 that cost $300 million, while the British held theirs in 1979 for $3 million—and why we're the only country on the planet considering itself a democracy that requires its candidates for federal office to raise a half-million dollars from people with specific economic interests in legislation. This process is a triple threat: it balkanizes the Congress so as to frustrate legislative majorities on behalf of PAC-less public interests; it discourages able citizens of modest means from running for federal office—the "silent casualties . . . defeated before they start" in Judge J. Skelly Wright's words; and it tempts most elected officials to genuflect to outside advocates with more money than merit. For in Washington today, Pac-Man is not a video game for kids. It is a cynical business affecting the behavior of adults who govern us, and it takes, not quarters, but $5,000 checks to play. This is not a game that democracy can win.●

DEVILS LAKE SIOUX LAND CONSOLIDATION BILL

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 6, 1982

● Mr. DORGAN of North Dakota. Mr. Speaker, I rise in strong support of S. 503, as amended, which will aid the Devils Lake Sioux Tribe—and all Indian tribes—in efforts to promote tribal land consolidation and economic development.

The bill contains provisions nearly identical to those in H.R. 6940, which I introduced at the unanimous request of the Devils Lake Sioux Tribal Council, to help the tribe merge and retain its tribal lands.

After extensive hearings on land consolidation problems, the Senate passed its version of S. 503 on August 20, 1982, while the House Interior Affairs Committee reported the bill with unanimous bipartisan support on September 30, 1982. The committee took the wise step of adding comprehensive land consolidation provisions to those which aid the Devils Lake Sioux Tribe in particular. I understand that the administration also supports the bill as amended by the House committee.

I want to commend Chairman UDALL and other members of the committee for their work and urge my colleagues to support this vitally needed bill.

Two major snags have hindered economic development on the Devils Lake Sioux Reservation. Since non-Indians own over three-fifths of the land within the reservation, this creates a checkerboard ownership effect and prevents the tribe from effectively managing its limited land. In addition, the tribe loses more and more land when it is inherited by a person who is not a tribal member. This erodes the tribal land base.

S. 503 seeks to solve these problems and to promote economic development on the reservation by giving the Secretary of the Interior—as the tribe's trustee—the right to consolidate and prevent the loss of tribal lands.

The bill includes many safeguards to protect the rights of the tribe, tribal members, and non-Indians alike. Any land sales or exchanges are limited to reservation land. The tribe must consent to all transactions. The bill also protects the rights of both member and nonmember heirs. Any money credited to the tribe from sales permitted in the bill must be held in a special account for land purchases only.

A key part of the bill clarifies who has legal jurisdiction on the reservation. By declaring the Devils Lake Sioux Reservation, the tribal homeland of the Devils Lake Sioux Tribe, the bill confirms in statute the operating views of tribal, State, and Federal Governments and prevents costly lawsuits.

I might underscore the fact that the bill does not appropriate any funds for tribal land purchases. Nor does the Devils Lake title affect any land outside the reservation boundaries. It simply intends to help the tribe better manage land within the historic reservation boundaries and thus improve the chances of tribal self-sufficiency.

In sum, the bill seeks to help the Devils Lake Sioux Tribe—and every tribe—become self-sufficient by strengthening its land base, without infringing upon anyone's rights.

The bill thus makes good sense and the House should pass it without delay.●

THE INSIDER TRADING SANCTIONS ACT OF 1982

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 6, 1982

● Mr. ROSENTHAL. Mr. Speaker, last week I introduced legislation to strengthen the Security and Exchange Commission's authority to prosecute violators of the law prohibiting insider trading. "The Insider Trading Sanctions Act of 1982" would allow the SEC to seek civil penalties equal to three times the profit gained or losses avoided by insider traders and would increase criminal penalties. At present, the strongest civil penalty available to the SEC is limited to seeking simple repayment or disgorgement or profits. The maximum criminal fine is $10,000.

This means that a person who obtains material, nonpublic information about an upcoming takeover or some other event that will affect the stock price of a publicly traded company, can make enormous profits and, even if caught, frequently walk away by simply repaying his illegal profit. It is a gamble many are willing to take, especially since criminal sanctions are rarely sought by the Justice Department. Insider trading has serious adverse effects on individual investors and on the integrity of the securities markets. People with inside information benefit to the detriment of innocent people who lose money on these fixed situations. For every insider who profits, another investor without inside information is the loser. Per-

haps even more important, faith in the integrity and fairness of the market is undermined when all are not equal in access to information. The SEC is correctly interested in increasing penalties and in avidly pursuing violations of the laws against insider trading.

The Commerce, Consumer, and Monetary Affairs Subcommittee of the Committee on Government Operations, which I chair, has examined the insider trading phenomenon. In the takeover of Santa Fe International Corp. by Kuwait Petroleum Corp., a pattern of insider trading was quite evident. The SEC and the various stock exchanges conducted investigations and the SEC has filed several cases. In spite of severe obstacles to prosecution, such as substantial trading through secret Swiss accounts, the SEC has made progress in several of its cases. However, the SEC's law enforcement efforts are undermined because the relief obtained—simply having the wrongdoer agree to repay his wrongfully earned profit—is not a deterrent to future misconduct by others. In one case, a Federal judge in California has refused to accept a settlement solely requiring repayment of profits, even though the SEC claims it has no power to impose a greater civil penalty.

The bill I have introduced would also increase from $10,000 to $100,000 the maximum fine that may be imposed in criminal prosecutions under the Securities Exchange Act of 1934. This proposed increase in criminal fines, the first since the law was passed in 1934, is obviously necessary to impose a meaningful deterrent.

Mr. Speaker, I hope that favorable congressional action on this legislation will encourage the SEC and the Justice Department to pursue more vigorously criminal and civil remedies in insider trading and other "white collar crime" cases such as fraud by bank officers or directors. I am now submitting a section-by-section analysis of the bill and selected news articles detailing why the bill is needed. This legislation also has the full support of the SEC.

I urge my colleagues to support this bill.

The material follows:

ANALYSIS OF THE BILL BY SECTION

Section 1. The act may be cited as "The Insider Trading Sanctions Act of 1982." Although Section 3 of the Act provides a larger criminal fine for most violations of the Securities Exchange Act of 1934, the Act principally provides a significant new remedy for insider trading.

Section 2. The Act amends Section 21 of the Securities Exchange Act of 1934.

Paragraph (d) of Section 21 now allows the Securities and Exchange Commission to bring actions to enjoin violations of the federal securities laws. The Act creates an additional remedy for insider trading in secondary trading markets by providing that whenever it appears that certain transactions were illegal because they were effected by someone in possession of material nonpublic information, the Commission, in addition to seeking other remedies such as an injunction or disgorgement, may seek an order in a district court action requiring the violator, or anyone who aided and abetted the violation, to pay as a civil penalty an amount of money up to three times the profit gained or loss avoided as a result of the unlawful transaction. Such amount of money shall be payable into the Treasury of the United States.

If the person upon whom such penalty is imposed shall fail to pay such penalty within the time prescribed in the court's order, the Act expressly authorizes the Commission to refer the matter to the Attorney General, who may recover such penalty by action in the appropriate United States District Court. As with other civil orders entered as a result of an action brought by the Securities and Exchange Commission, the Commission may in its discretion seek to enforce an order under this section by appropriate proceedings.

The provisions of Section 27 relating to venue, service of process, and other matters in "actions to enforce a liability or duty created by this title" apply to actions under this paragraph.

This new remedy is available to the Securities and Exchange Commission regardless of whether or not the Commission has pursued other remedies available to it. The choice of which remedies to pursue remains in the discretion of the Commission.

The Act empowers the Commission to adopt rules or regulations that exempt any class or persons or transactions from the operation of the civil penalty provision.

Section 3. The Act increases from $10,000 to $100,000 the maximum criminal fine that may be imposed on persons, other than exchanges, who willfully violate the Securities Exchange Act of 1934 (other than section 30A) or willfully and knowingly make certain false statements. Section 3 neither changes the type of misconduct that may be punished nor creates any new defenses. This section of the Act is not limited to violations arising out of insider trading.

Section 4. The Act is to become effective immediately upon its enactment.

[From the Chicago Sun-Times, Oct. 18, 1982]

GET-TOUGH SEC A WELCOME SIGHT

(By Jerome Idaszak)

The Securities and Exchange Commission, which gets criticism at times and at times deserves it, should receive applause for delivering on its promises to crack down on insider trading.

SEC enforcement chief John Fedders told a meeting of layers at Northwestern University last spring that the headlines would soon demonstrate the SEC get-tough policy. And they have.

Earlier this month, a director of Santa Fe International Corp., without admitting or denying the charges, agreed to repay $287,750 that the SEC said he gained from buying options before Santa Fe's takeover by a Kuwait oil company in October, 1981. Another businessman earlier this year surrendered $424,000.

Also in the Santa Fe case, the SEC is going after an attorney and five relatives, saying they reaped $787,000 in profits. The lawyer for the group says his clients are innocent.

Lawyers, bankers, brokers and businessmen have been targets of 26 proceedings that the agency has filed since the new chairman and top staff took charge in 1980.

The SEC was created as part of the New Deal reform to restore confidence in the stock market. The era of the SEC as champion of the small investor is long gone, if indeed it ever existed. The agency's main role these days is to ensure the integrity of the system, and it goes after notable cases to make its point.

In the 1970s, Wall Street began to worry about individual investors shunning stocks. A bear market caused much of that, but securities leaders did worry about loss of confidence in the market was perceived as stacked in favor of "the house."

With suspicions of a big increase of insider trading abuse in recent years, the integrity of the system was being questioned. That's why the crackdown came. Fedders said the SEC wants to "raise the level of risk" for insiders who take the gamble that they won't get caught.

But it's only a first step. The biggest penalty the SEC can extract is repayment of profits. That's little more than a slap at someone who's willing to run a risk of making a half million or more.

It's not just the SEC that's hampered. The U.S. attorney's office in New York brought charges against a lawyer who reportedly made profits of $450,000 buying shares in nine different companies before takeover bids were announced.

The judge in that case sentenced the lawyer to a one-year suspended sentence and two years' probation. Prosecutors said the judge refrained from a harsher sentence because the lawyer's record indicated an emotional disorder was a major cause of the illegal actions.

While the SEC, then, can refer a case to the Justice Department for criminal charges, the charges are tougher to prove.

The problem is serious. One study says that stocks of companies that are takeover targets frequently rise a week before a public announcement. The potential rewards make the risk of detection worthwhile—one person charged with insider trading bought $3,000 worth of options that soared in value to $424,000 in two days.

Seeking to raise the ante for insiders, the SEC earlier this year sent Congress a request that civil penalties be triple the amount of profits gained or losses avoided by the inside trader. The agency also wants an increase in the maximum fine to $100,000 from $10,000.

It's unlikely those requests will get approved this year when Congress begins its post-election session Nov. 29. And even next year, the SEC request may be blocked by some who would argue that if the penalty is tripled, defendants who now choose to settle instead may choose to fight. Lawsuits take time, people and money. It would require more staff attorneys at the SEC.

So a debate over budget could stall the triple penalty. But it shouldn't. The need is for deterrence, and a slap on the wrist isn't enough.

Insider trading, like any crime, can never be wiped out. But if it's worth having an enforcement agency to chase crooks, then the agency should have a big club to use when it catches up with them.

The SEC should continue to push for the triple penalty. And Congress should go along.

[From the Wall Street Journal, Nov. 23, 1982]

SEC GOES AFTER SANTA FE INSIDERS, BUT LIGHT PENALTIES DRAW CRITICISM

(By Richard L. Hudson)

WASHINGTON.—Shortly after the stock market closed on Oct. 5, 1981, an announcement came clacking across the news wires: Kuwait Petroleum Co., the huge oil producer owned by the Kuwaiti government, had agreed to buy Santa Fe International Corp. for $2.5 billion in cash.

But the news was apparently old to some people. For more than a week, trading in Santa Fe stock had been booming. So had sales of seemingly worthless options—contracts to buy Santa Fe stock at prices far above the prevailing market price. Then the merger news brought a 140% jump in Santa Fe's stock price, and some of the options soared to $1,925 apiece from $37.50 a few days earlier.

The unusual trading "raised questions" in the minds of Securities and Exchange Commission investigators, recalls Theodore A. Levine, the agency's associate enforcement director. Had some of the buyers broken the law by buying securities with inside knowledge of the merger?

A small cadre of SEC investigators started trying to answer that question. Their work has developed into what the SEC calls its most productive insider-trading investigation ever. In four lawsuits, the SEC has charged certain Santa Fe insiders with illegally using advance knowledge of the merger to turn investments totaling less than $540,000 into trading profits of $8.5 million. The accused include one Santa Fe director and the personal accountant to another; a Kuwaiti businessman; and three Santa Fe employees, their relatives and friends. A number are contesting the charges. The SEC is continuing the investigation.

WE CAN CATCH ANYONE

When the Santa Fe acquisition agreement was announced, the SEC had already begun a campaign to crack down on insider trading. Now the diversity of the people charged in the Santa Fe suits demonstrates to the SEC "that we can catch anyone," says John Fedders, the agency's enforcement director.

But the Santa Fe case also illustrates the SEC's inability to extract stiff penalties in such situations. The agency lacks the legal power to fine or imprison traders on its own. It has been proposing court settlements with many of the Santa Fe traders that require them to pay back their trading profits, without admitting or denying guilt, and little more.

This policy prompted angry criticism from a federal judge, who last month rejected one such agreement. U.S. District Judge William Orrick Jr. in San Francisco said, "I think the commission is derelict in its duty" by proposing such lienient settlements.

"These are thieves we're talking about," the judge said at a court hearing. "The government is prosecuting people for stealing Social Security checks out of the mail, welfare frauds . . . and here these people come down and get a slap on the wrist. That isn't much in the way of deterrence."

The judge suggested tougher penalties, such as charging the traders for the cost of the SEC investigation or referring the civil case to the Justice Department for criminal prosecution. The SEC rejected the idea of pressing for a stiffer civil penalty, saying that fast settlements free its investigators for other cases. The agency noted that it hasn't yet been authorized to get much more from traders than a repayment pledge, though it is urging Congress to authorize civil penalties of up to three times the trading profits.

As for criminal penalties—fine or imprisonment—the Justice Department says it is "working closely with the SEC regarding several allegations of insider trading" in the Santa Fe case. But neither it nor the SEC will elaborate. Criminal indictments are rare in such cases. One reason is that criminal charges are harder to prove than the SEC's civil charges. Another reason, contends Ralph Ferrara, a former SEC general council, is that "U.S. attorneys are interested in economic crimes that deliver greater body counts than insider trading cases."

There haven't been any complaints of leniency, though, about the SEC's investigation of the Santa Fe case. Shortly after the agreement to purchase the Alhambra, Calif.-based Santa Fe was announced, a half dozen SEC investigators, led by Mr. Levine and his aide, John F. Hartigan, set off on the track of the traders.

The SEC had other reasons for being interested in the case besides suspicious trading. Two Pacific Stock Exchange market makers who had sold options to the traders were forced out of business by their losses, and the exchange was irate. Moreover, the merger caused a dispute in Congress, where there was concern about Kuwait's getting control of Santa Fe's oil drilling and defense work.

The investigators got early help from the Pacific exchange, which searched its trading records to help the agency identify the brokers and bankers involved in the trading. SEC subpoenas promptly went out seeking to learn the identities of the customers behind the trades. The first client to be charged, only three weeks after the merger announcement, was a customer of Merrill Lynch, Pierce, Fenner & Smith Inc.'s Kuwait office. Multimillionaire Faisal al Masoud al Fuhaid was accused by the SEC in federal court in New York of illegally making about $840,000 on his trades. He is contesting the SEC allegations in court.

Meanwhile, however, many of the trades had been executed through secret Swiss bank accounts. To deal with that obstacle, the agency took the unusual step of getting a federal court in New York to freeze more than $5 million in trading profits that the banks were holding for their clients. It also asked Swiss authorities to waive bank-secrecy laws. The Swiss are expected to cooperate, which could help the SEC bring new cases.

LOTS OF SUITS

In September, the SEC also obtained an agreement from Santa Fe director Darius Keaton to repay $278,000 in trading profits, without admitting or denying insider-trading charges. The SEC won't discuss publicly how it found out Mr. Keaton was a trader. But his attorney, Arnold Jacobs of the New York law firm of Shea & Gould, confirms that Mr. Keaton turned himself into the SEC last spring. Mr. Jacobs says his client is "a very honorable man" and never had any intention of illegally profiting from his stock purchase.

Separately, the SEC sued the personal accountant of another Santa Fe director, Stanley B. McDonald. It alleged in federal court in Seattle that the accountant, Gary L. Martin of Seattle, deduced a merger was afoot when Mr. McDonald asked him to calculate the tax liability in the event of a sudden capital gain. Using Mr. McDonald's figures, the accountant guessed the director was expecting a sharp rise in the value of his Santa Fe stockholdings and began buying options, the SEC charged. Mr. Martin is contesting the allegations.

Recently, the agency sued three Santa Fe employees who had helped the company prepare for the merger. One, Ronald A. Feole, is general counsel of a Santa Fe unit. The SEC alleged in federal court in Los Angeles that he passed on the merger news to two reatives and two former neighbors in cross-county telephone calls. They were also charged with illegally buying Santa Fe securities. The SEC announced yesterday that the two relatives had agreed to pay back their profits, without admitting or denying guilt.

Mr. Feole, who is contesting the charges against him, was so taken with the idea of buying Santa Fe securities that he placed orders with his Dallas broker from China, where he was traveling on business, the SEC alleged. He also touted purchases with coworkers telling them "if they failed to purchase Santa Fe call options they would miss a good investment opportunity," the SEC charged.●

TRIBUTE TO CLARICE BYRD

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 6, 1982

● Mr. CHAPPELL. Mr. Speaker, I would like to pay tribute today to Mrs. John Dewey Byrd (Clarice), an outstanding citizen, whom I have had the privilege and honor of representing in this Chamber for the past 14 years. Clarice's dedicated service to her community and the Democratic Party is widely recognized by all those with whom she has been associated. For this reason, on November 13 the Democratic Women's Club of the New Smyrna Beach, Edgewater area paid a special tribute to Clarice for her tireless efforts on behalf of the Democratic Party. At that time, the Florida State legislative delegation from Volusia adopted a resolution honoring Clarice Byrd, "For her years of dedicated service to the Democratic Party and its candidates and officeholders."

Clarice has distinguished herself as a civic leader in the Volusia County community and has greatly assisted the city of Holly Hill as well as served as an adviser to Bethune Cookman College. In addition, Clarice has been the president of the Halifax Area Democratic Women's Club for five separate terms, served as a member of the Volusia County Executive Committee for many years, and participated in the Democratic Women's Club of Florida, Inc., as the Region II vice chairperson.

As a candidate who has personally witnessed her invaluable contributions on behalf of the Democratic Party and our country as a whole, I know firsthand of her years of dedication to our Nation's political process. She is an ex-

traordinary person and her accomplishments will be appreciated and well remembered for many years to come.●

NATURAL GAS CONTRACTS MUST BE RENEGOTIATED

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 6, 1982

● Mr. CORCORAN. Mr. Speaker, especially now that we are entering the heating season, I am deeply troubled by the ever-increasing prices being experienced by natural gas ratepayers. It is interesting that despite the vast differences that exist among the people of this Nation, be they political, economic, or regional, there seems to be a strong consensus emerging that suggests fundamental changes in U.S. natural gas policy are urgently needed.

An article in the November 8, 1982, issue of Time accurately outlines the problems as well as some of the grim implications for gas consumers in this country. This article paints a rather grim, but realistic, picture of the problems gas consumers face in the months ahead. It also, however, suggests some corrective actions for the future.

One pipeline company that I feel has begun to take some steps in the right direction is the Natural Gas Pipeline Co. of America (NGPL). In a November 23 letter to its 49 distribution company customers, NGPL stated its recognition of the current concern about rising natural gas prices at a time of increasing supply and decreasing demand. Additionally, the letter outlines some of the steps NGPL is taking to address these concerns. Naturals' two major customers are Northern Illinois Gas and Peoples distribution companies in my home State of Illinois. Northern Illinois' service territory includes Chicago suburbs and Peoples' service territory includes the city of Chicago.

Mr. Speaker, these materials are representative of the resounding message Members of Congress, of both political parties, of every ideological persuasion, have been receiving regarding natural gas policy in the United States. As a member of the Energy and Commerce Subcommittee on Fossil and Synthetic Fuels, the communications I receive suggest that nobody is happy with the current state of affairs. Producers, pipelines, distribution companies, and consumers can all find something to legitimately complain about regarding U.S. gas policy. It is no secret that the present law has allowed pipelines to purchase and get "locked in" to high-cost imported products such as Canadian natural gas and Algerian liquefied natural gas (LNG). At the same time, other sources of cheaper, domestic gas are either underutilized or completely shut in. In my opinion, most of the present problems confronting us in this area can be directly or indirectly traced back to an ill-conceived regulatory scheme called the Natural Gas Policy Act of 1978. Particularly if the various segments of the natural gas industry are not going to renegotiate their contracts on a timely basis, then I believe the next Congress will have no choice but to legislatively deal with this natural gas policy gone haywire early next year.

Mr. Speaker, for the benefit of our colleagues, I would like to include in the RECORD the text of the November 8 Time article as well as the text of the November 23 NGPL letter to its distribution company customers.

[From Time magazine, Nov. 8, 1982]

GASFLATION—A COLD, COSTLY WINTER AHEAD

For many years Americans who heat their homes with natural gas have been a privileged class. While families who use fuel oil have cursed OPEC and watched helplessly as their heating costs reached crushing levels. Government price controls have kept gas bills comparatively modest. Last winter, heating with gas was about 50 percent cheaper than burning oil. The gap between the two fuels has been so great that since 1980 more than a million households have switched their money-munching oil boilers or furnaces to gas, a process that costs anywhere from several hundred dollars to a few thousand.

But now the energy price outlook is changing rapidly and dramatically. While oil costs are expected to be relatively stable this winter, the U.S. Department of Energy forecasts that gas prices will rise an average of 20 percent across the U.S. In some areas gas-price hikes may run as high as 40 percent. Mary Kurt, a home economics teacher in Toledo, is paying $77 a month for gas. That is 38 percent more than she was charged a year ago, even though she has stuffed the nooks and crannies of her home with insulation. Says she: "I can't think of much more to do except shut down the furance."

What infuriates gas customers is that the price increases seem unjustified and arbitrary. The hikes come at a time when gas supplies are plentiful and demand from industrial users has been reduced sharply by the recession. According to the most basic principles found in any economics textbook, gas prices should be going down, not up.

In the real world, however, gas costs are determined not by market forces but by abstruse and sometimes counterproductive Government regulations and by complex contracts between gas producers and the pipeline companies that supply the gas to local utilities. The origins of the current price explosion go back to the cold winter of 1976–77, when gas shortages forced many schools and factories to shut down temporarily. After that disaster, Congress decided to spur new production by passing the Natural Gas Policy Act of 1978, which called for the gradual phaseout, through 1984, of price controls on gas produced from new wells. The law set guidelines on how much the cost of gas could go up each year. Pipeline companies, eager to ensure future gas supplies, signed numerous long-term contracts with producers, in which it was often agreed that prices would rise. Now, even though gas is abundant, the pipelines are locked into those contracts.

To make matters worse, the regulations that have evolved from the Natural Gas Policy Act have discouraged producers from holding down their costs. The rules identify some 28 categories of gas, as well as price ceilings that vary widely. In general, the newer a gas well is and the deeper it is, the more money a producer can charge. Naturally, producers have an incentive to drill new and expensive deep wells rather than sell cheaper gas from existing fields.

The system has become so complicated that no one can be certain what would happen if controls were lifted immediately instead of being phased out. The Reagan Administration supports quick decontrol, but has not pressed the issue because of strong opposition in Congress and criticism from consumer-protection groups. The Washington-based Consumer Energy Council of America contends that faster decontrol would add $400 a year to the average gas bill. But Charles M. Butler III, the Reagan-appointed chairman of the Federal Energy Regulatory Commission, argues that if controls were removed and pipelines were allowed to renegotiate their long-term contracts, gas prices might acturally fall. He reasons that only the laws of supply and demand, rather than the laws of Congress can bring about the most rational gas prices.

NATURAL GAS PIPELINE CO.
OF AMERICA,
A MIDCON CORP. COMPANY,
Chicago, Ill., November 23, 1982.

DEAR—— ——: I am writing this letter to you to convey my continuing concern about the national problem of escalating cost of gas at the wellhead and the ultimate impact of this cost on you and your customers. As we enter the winter season all of us expect strong customer reaction. This reaction could cause potentially undesirable solutions imposed on the industry by regulators and legislators. At the same time, various segments of the industry will be advocating a variety of legislative solutions to this cost problem.

It is important for you to know the extent of the effort Natural has undertaken to mitigate rising gas costs. It is also important for you to know Natural's current position toward certain legislative and regulatory proposals. Therefore, I submit the following to you:

Natural is continuing its long standing efforts to obtain long-term gas supplies to take care of the needs of its traditional customers. We continue to exercise care and prudence with respect to the price and other conditions in gas purchase contracts. As you know, we continue to have one of the lowest, if not the very lowest, city gate prices of any pipeline serving large metropolitan areas.

We are extremely cognizant of the need to tailor our purchase policies to our markets. We have recently signed a rather large contract which contains pricing provisions which are responsive to market clearing prices. We will also continue to include "market out" clauses in our contracts. Although we anticipate some very attractive opportunities to purchase gas are expected to develop, we will continue to be very selective and will seek the best possible contractual terms.

Natural is not, and has not been, contracting for any significant amount of unregulated deep gas. At the present time, Natural is

purchasing less than 0.5 percent of its supply as Sec. 107 High Cost Gas. This gas comes primarily from contracts which include much larger volumes of regulated gas. This small volume of high cost gas places Natural in a unique position, however, we are reviewing the efficacy of exercising market out provisions in applicable contracts.

Natural's takes of Canadian gas have been cut to the minimum possible under existing contracts. We will continue to do this as long as we continue to experience excess deliverability and less expensive gas is available to us. The minimum takes are 75 percent of the annual contract quantities. This allows Natural to take at 100 percent in the winter and drop well below 75 percent (zero on some days) in the summer months.

We have recently had discussions with TransCanada Pipeline Company concerning 100 MMcf/D of new Canadian gas supply scheduled for delivery commencing November 1, 1984. This application is now before the Canadian authorities. We have expressed a strong concern over the Canadian border price as it affects this supply. We are concerned about the viability of this project under the present pricing provisions. TransCanada advises us that this is an issue that must be dealt with and is presently consulting its customers about this problem. In addition, this pricing question will probably be a subject of negotiations between the two governments. Canada's substantial gas reserves are important to Natural in the long run, and it is important that we keep this option of additional gas open as long as possible. We will not accept the authorization of this supply if the conditions of the sale are not satisfactory.

Natural has informed United Gas Pipe Line Company that it does not desire to continue purchasing gas from United after the expiration of its contract on December 31, 1982. The supply from United has escalated rapidly in price to the point that the current commodity rate is approximately $4.15 Mcf. Natural has not taken any gas from United in recent years, as a matter of fact, we have sold them gas. As a result of a tariff change effective October 1, 1982, we are now faced with a 66⅔ percent minimum take. Therefore, we have been purchasing at this volumetric level even though we have protested incorporation of this tariff provision. The necessary steps are being taken toward abandonment of this source of supply.

Natural is actively pursuing modification of our service agreement with Colorado Interstate Gas Company in an effort to reduce the 90 percent annual minimum commodity bill provision contained therein. CIG's rates have risen at a sharp rate and it is only prudent that we attempt to alter this onerous contractual provision. We have informed CIG that we will vigorously oppose their current rate settlement or institute the necessary actions under the Natural Gas Act in order to eliminate or substantially reduce this minimum bill provision.

Natural has notified all of its producer suppliers that it believes it is necessary to renegotiate all contracts that provide for gas prices to rise above market clearing price levels. While this is a long arduous task, appropriate actions have been initiated. Natural believes that this problem of indefinite price escalators is best handled in this manner, rather than attempting to have legislative action.

We have filed for substantive changes in our rate design which, if adopted, will enhance marketability to high volume users.

Natural has adopted a policy of transporting gas for others. This will result in more efficient use of the system and lower unit transportation costs to traditional customers.

Natural has spoken out repeatedly against proposals to decontrol "old gas"—gas from wells drilled before 1978. Deregulation would confer no benefit to our customers and would lead to higher prices. Such a move would penalize Natural who has been diligent in acquiring low-cost supplies.

Natural continues, however, to be faced with short run excess deliverability and substantial take-or-pay exposure. Our offsystem sales program has proven such time as one of our other actions begin to bear fruit. We continue to urge you to support our program and to bear with us as we attempt to deal with our current demand/supply imbalance which we believe is manageable and of relatively short term duration.

I am proud of Natural's past record. I promise you that we will continue to pursue every avenue possible to keep gas prices in line, responsive to your markets and to satisfy your long term needs for gas. We have enjoyed and appreciated your support in the past and we will work as closely as possible with your people. We welcome your comments and questions.

Sincerely yours,

GEORGE L. MORROW,
President.●

TEL-A-FRIEND "PHONES HOME"

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 6, 1982

● Mr. BIAGGI. Mr. Speaker, reach out and touch someone, familiar words that bring to mind smiling faces of families and friends united across the miles by the mere ringing of the telephone. Last week I had the opportunity to learn just what those words meant when I participated in a new telephone reassurance program in my Congresssional District of the Bronx called Tel-A-Friend, a program launched in conjunction with National Home Health Care Week, a proposal which I cosponsored.

Tel-A-Friend, designed by the Visiting Nurse Service of New York, when fully in operation will reach an average of 150 homebound elderly men and women each week. It began last Monday, November 29, and I was given the high honor of placing the first phone call. Although this call had been publicized, it was so very gratifying and heartwarming to spend minutes chatting with Mrs. Mary Millon, a widow living alone and one of my constitutents. This call was followed by another to Ms. Katie Baker, also a constituent and also a very lovely lady. We chatted as though we had known each other for years, and talked about subjects of mutual interest and concern.

I am quite honored that the visiting nurse service selected me to open the program because as the ranking New York member of the House Select Committee on Aging, I have an intense and deep concern for the millions of elderly Americans in this country, and especially the nearly 1 million who live in New York City. Over 150,000 senior citizens live in my district, and unfortunately, many of them live alone. I am aware that certain problems face these elderly people, and feel confident knowing the Tel-A-Friend will be there to provide a welcome break to elderly homebound residents, who might be depressed or lonely. For some of these isolated people, a phone line is their link to the rest of the community; it is their lifeline.

Tel-A-Friend, this winter, will be manned by 10 to 12 volunteers most of whom are senior citizens themselves. They will place phone calls 5 days a week, from 9 a.m. to 1 p.m. I had the opportunity to meet some of the people who will be volunteering their time, and I was impressed with their sincerity and concern for the homebound. Their understanding, enthusiasm and active involvement will make Tel-A-Friend a great success.

Equally successful in her achievements is Miss Anne-Marie Thom, the executive director of the Visiting Nurse Service of New York, Inc. which is underwriting Tel-A-Friend as a community service. Although Miss Thom has recently announced her December 31 retirement, she will remain a vital figurehead within the organization. In the past 22 years, Miss Thom has seen the visiting nurse service grow from a solitary program to a huge multiservice expansion designed to reach millions. Miss Thom's departure comes at a time when the agency is celebrating its 1 millionth visit and the success of last year's million dollar donor program. I salute Miss Thom for her leadership which is directly responsible for the agency's success.

It has been my pleasure to share with you my experience at the Tel-A-Friend ceremonies last week. I urge all to join me in congratulating Miss Thom, the visiting nurse service and Tel-A-Friend for their important and outstanding contributions to the elderly community. Christmas will be merry for many because of them.●

ARMS CONTROL IN THE REAL WORLD

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 6, 1982

● Mr. RUDD. Mr. Speaker, the emergence of the themes enunciated by the so-called nuclear freeze movement, especially in the 1982 elections, had both positive and negative sides to it.

The negative, and I think very dangerous, side was its tendency to per-

suade citizens to avoid certain inescapable facts that we face in the real world. The fact that we share this world with some powerful adversaries, namely the Soviet Union, which do not hold the same values we hold, and which certainly do not have the same views on the use of military might as we have. History plainly bears these differences as inescapable facts.

The more positive side to this debate on nuclear and arms control issues is the possibility that the American public can become more educated and better informed on the intricacies, and the real complexities, involved in the nuclear arms issue.

For this latter purpose, I submit the very timely and important article which appeared in a recent edition of the Armed Forces Journal concerning the debate on nuclear arms. It is entitled "Arms Control in the Real World," and I highly recommend my colleagues read this thought-provoking statement by Gen. Kelly Burke, former U.S. Air Force Deputy Chief of Staff for Research, Development, and Acquisition.

The article follows:

ARMS CONTROL IN THE REAL WORLD

(By Kelly H. Burke)

The great nuclear freeze debate—in all its manifestations—rages on in the United States as well as in many of the Western European countries. Regrettably, there is no discernible evidence of a comparable drive among the citizens of the only other nuclear superpower, the Soviet Union.

Unfortunately, for those who view debate as a mechanism to marshal facts and sharpen logic, the nuclear freeze controversy has seen precious little of either. Instead, the protagonists on both sides have, for the most part, offered a steady drumbeat of emotional rhetoric and *ad hominem* attacks against their opponents.

But leave it to Gov. Jerry Brown to reach new heights of hyperbole and new lows of campaign demagoguery. Brown, a Democrat, is presently locked in a hard-fought campaign for the seat of retiring Sen. S. I. Hayakawa. His Republican opponent is Pete Wilson, currently mayor of San Diego.

Brown's newest campaign gimmick is a television ad that seeks to translate the substantial emotional appeal of the nuclear freeze movement into votes. The ad opens with Ron Cey of the Los Angeles Dodgers baseball team saying. "I want to keep on playing baseball." He is followed by conductor Leonard Bernstein who wants "to go on making music." Then, actress Candice Bergen says, "I want to go on doing it all."

Next, the screen is filled with the unmistakable mushroom shape of the fiery nuclear explosion, and then a small boy saying plaintively, "I want to go on living."

The ad concludes with a shot of Brown, presumably projecing peacefulness and goodwill, while an announcer delivers the not-too-subtle appeal to the voters: "Pete Wilson opposes the nuclear arms freeze. Jerry Brown supports it. Vote for your life. Elect Jerry Brown to the US Senate."

Now that's really getting down to basics: "Vote for me and you live, vote for my opponent and you die."

Would that life were that simple and that the issues we face could be reduced to such simplistic formulations. But they can't be, and certainly the nuclear freeze question can't be boiled down to a pithy one-liner.

Nor does it seem likely that those who question the desirability or practicability of a nuclear freeze (whatever that means) are motivated by a belief that any nuclear war is apt to have a happy ending. It is equally unlikely, as some have suggested, that all supporters of the nuclear freeze movement are Communist sympathizers, if not outright card-carrying members of the Communist Party.

SECURITY IN A DISORDERLY WORLD

It's no bad thing that hundreds of thousands, perhaps millions, of people in this country are giving reasonably serious thought to the nuclear issue. All of us ought to view the prospect of nuclear war with absolute horror. All of us ought to regret the necessity of the large expenditures required to maintain the nuclear balance (but no more than we should deplore the much higher cost of the nonnuclear arsenals). Having done that, we then must carefully assess the few *real* alternatives that might provide us peace and security in this dangerous and disorderly world.

There is an old, shopworn axiom which holds that war is too important to be left to generals. Certainly that is true. But certainly the pursuit of peace is also important enough to warrant the time and attention of all of us.

A marvelously intelligent young Frenchman, Alexis de Tocqueville, visited our country in its infancy and recorded his observations in a book entitled *Democracy in America*, a book that has stood the test of time remarkably well.

With uncanny foresight, de Tocqueville predicted that a major problem, perhaps a fatal one in this democratic America, would be the difficulty in reconciling the inherent conflict between the peace-loving, anti-militaristic tendencies found in democratic people and the necessity to defend ourselves in a hostile world. History has proven de Tocqueville correct. That tension of which he wrote has been a consistent theme in America and is clearly evident now in the nuclear freeze debate.

Nuclear war and nuclear deterrents are not simple or pleasant subjects. Herman Kahn captured that thought nicely in the elegantly simple title of his early book on this subject, *Thinking about the Unthinkable.*

Even professional military officers often have great difficulty in grapling with the enormity and complexity of nuclear issues. That isn't to say that we shouldn't all try to think our way through this subject, only that we shouldn't expect to find simple and easy answers, and we should be highly skeptical of those who offer such answers ("vote for me and you live").

SWORDS INTO PLOWSHARES

In considering nuclear issues, it is useful to reflect on the world as it is. It is also useful to reflect on the world as we would wish it to be. But it is dangerous to confuse those two worlds.

A few millennia have passed since Isaiah prophesied a time when man would beat his swords into plowshares. It is a sad commentary on mankind that there has been little if any progress in the direction of Isaiah's vision. While all of us can lament that it is so, few, if any, can doubt man's continuing proclivity to settle disputes with violence. In such a world—regrettably the real world in which we live—force remains the final arbiter, and nuclear forces the absolute, the ultimate, arbiter.

Another unpleasant but inescapable fact about the real world is that we share it with a powerful and not-very-friendly competitor, the Soviet Union, a country that has shown an inordinate enthusiasm for acquiring military force and at least a cautious willingness to use that force in the pursuit of its political goals.

In such a world it would be a fundamental and perhaps fatal mistake for America to adopt any form of nuclear freeze that could lead it to a position of unambiguous nuclear inferiority. This is not to argue that on the day the Soviets calculate they're ahead by 10, 20, or even 100%, they will push the nuclear button and annihilate us. Given the complexity and unpredictability of nuclear exchange calculus, even a relatively small nuclear force has a reasonable prospect of deterring a much larger one.

But before airily dismissing the likelihood of nuclear war, it is well to reflect on the history of war. More often than not, wars begin in irrationality and confusion, frequently to divert attention from internal problems. Hence, our nuclear forces must be sized and shaped not just to deter war or nuclear war in relatively normal and placid times but in times of *extremis*, times when perhaps the Soviets are in danger of losing control over their people and their empire is crumbling. That is the correct test of the adequacy of our deterrent.

NUCLEAR BALANCE PERMEATES WORLD AFFAIRS

Even aside from deterrence of war, the nuclear balance is a dominant theme in another important context in this real world in which we live. Nuclear superiority, if attained by the Russians, can be and certainly would be converted to political leverage. The nuclear balance and the perceptions of that balance permeate world affairs today. That balance affects the behavior of not only the two superpowers but of the rest of the world as well.

To the extent that the Russians see themselves as ahead in this competition—and there is evidence that they do believe themselves somewhat ahead at this point—they will tend to be even more adventuresome and opportunistic than they have been in the past. The other side of that coin is, of course, that to the extent we see ourselves as behind in the nuclear balance, we will tend to be more timid and less willing to interpose ourselves between the Russians and their objectives, no matter how much we may deplore those objectives. This is the first and immediate danger of allowing any major imbalance to develop.

Damon Runyon, a great American philosopher who liked to masquerade as a writer, once wrote: "The race is not always to the swift not the battle to the strong, but that's the way to bet." Runyon would have looked very dubiously at nuclear freeze proposals that could lead to the Russians becoming stronger and swifter than us.

Maintaining the nuclear balance is important. Striving to reduce the level of weapons on both sides in a balanced way is also important. But even more important than simply reducing the overall numbers of weapons is to reduce specifically those weapons and those conditions that would add to instability in time of a confrontation between ourselves and the Soviets.

In particular, we should aspire to reduce, if not eliminate altogether, weapons that are at once highly threatening and highly vulnerable. That is, of course, a good de-

scription of silo-based missiles with multiple warheads. That is why the first goal of our strategic force planning should be to provide an adequately survivable basing system for the M-X missile, and the first goal of our arms control negotiations should be to reduce the number of 10-warheaded Soviet SS-18 missiles.

Commonly, the pursuit of a strategic arms control agreement is justified on three grounds: first, to reduce the cost of maintaining our nuclear forces; second, to reduce the consequences of a nuclear war, should one ensue; and, third, to reduce the probability of war.

There is a dangerous tendency to confuse the relative importance of these three goals when, in fact, the last—reducing the probability of war—is so transcendental as to completely overshadow the other two. It is easy to deplore the expenditures of large sums for these awful and awesome weapons, but it is well to remember that over the past decade or so we have spent on the order of one-half of 1% of our gross national product on strategic nuclear forces. To be fair, one-half of 1% of a $2.5-trillion GNP is still a tidy sum, but it is also obviously an affordable sum. If doubling that expenditure would measurably reduce the probability of war, it would be a bargain: if halving that expenditure would measurably *increase* the probability of war, it would be a terribly wrong way to economize.

It is also easy to favor reductions in the overall number of nuclear weapons with a view toward substantially lessening the consequences of war should it come. Unfortunately, in the real world, in which the Soviet Union is free to act in what it perceives as its own best interests, reductions of that magnitude do not appear attainable. Should we miraculously negotiate a treaty that reduced the nuclear inventories of both sides by 90%, the consequences of an exchange with the remaining 10% would still be calamitous beyond our ability to contemplate.

Nor are we free to concentrate only on lessening the probability of *nuclear* war. War was god-awfully horrible long before the atom was unleashed. The victims of Hiroshima and Nagasaki were no more dead than the victims of the nonnuclear attacks on London, Hanover, Tokyo, etc. A reduction in the probability of nuclear war, accompanied by a significant increase on the probability of conventional war, would be no bargain either.

Therefore, both our arms control effect and our nuclear force planning must, as a primary goal, seek to minimize the likelihood not just of nuclear war, but of *any* war. This requires a much closer integration of our force planning and our arms control planning than we've had in the past.

Indeed, much of the problem with both our arms control planning and our arms control negotiations has been a regrettable tendency by some to view the arms control process as a substitute for maintaining an adequate deterrent force. In a Congressional hearing on this subject a few years ago, Sen. William Cohen (R-ME) observed that the problem with SALT I was its role in putting arms control on hold—in effect, lulling the American people "to sleep" for several years, and that SALT II was dangerously capable of leading them into a permanent coma.

The nuclear freeze movement continues that same unfortunate tendency, a tendency to embrace wishful thinking and simplistic solutions instead of doing the hard thinking about the hard choices which exist in this real world. To borrow from Samuel Johnson, much of what propels the nuclear freeze movement is "a triumph of hope over experience." The danger is that in opting for the immediate and seductively appealing nuclear freeze proposals, we will lose patience and interest in those real, and terribly important, arms control negotiations now underway between ourselves and the Russians. That would be tragic.

No one who has done business with the Russians doubts that they are tough-minded, hard-nosed negotiators. They do have an interest, in many ways stronger than our own, in reducing nuclear armaments. But the oldest rule of diplomacy is that "peace treaties merely confirm the realities of the battlefield," and surely the realities of the current and projected military balance must dominate any arms control agreements we are able to negotiate with the Russians.

Negotiated arms control reductions *are* important, perhaps vitally so. If we are to succeed in negotiating the right kinds of arms control treaties—that provide a stable balance of forces—we must first convince the Russians that we are determined to match them at whatever higher level they insist upon. Once they truly believe that we are so committed, they have every reason to join with us in reducing the threat of war.

Unfortunately, this approach will necessarily require both time and money. But as another American philosopher, H. L. Mencken, who posed as a newspaperman, once said, "There's always an easy solution to every human problem—neat, plausible, and wrong." Nuclear issues are too important for such a solution.●

PEMBINA CHIPPEWA SETTLEMENT

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 6, 1982

● Mr. DORGAN of North Dakota. Mr. Speaker, I rise in strong support of H.R. 6416, which provides for the use and distribution of a judgment award to the Pembina Chippewa Indians.

The bill will settle land claims of Pembina Chippewa Indians, many of whom reside on the Turtle Mountain Band of Chippewa Indians Reservation in North Dakota.

The House Interior Committee reported the bill favorably September 30, 1982, as did the Senate Select Committee on October 1, 1982.

COURT OF CLAIM AWARD

The U.S. Court of Claims on March 18, 1980, issued a "partial judgment" of about $47 million to the "American Pembina Chippewa." The court made the award for the 1905 value of an aboriginal tract of some 8 million acres in today's north-central North Dakota. The Pembina Chippewa Indians had ceded this land to the Federal Government after negotiations with the McCumber Commission without receiving fair compensation for the land.

Distribution of this award may not resolve all issues in this complicated and protracted chapter of Federal-Indian relations. But it will vindicate the Pembina Chippewa Indians in their land claims against the United States and bring some monetary relief to designated Pembina descendants of the original Indian landholders. Much of these funds will form seed money for vital economic investments at various Pembina reservations.

More specifically, this distribution will fulfill article I of the 1904 executive agreement with the Turtle Mountain Band that "the friendly relations heretofore existing between the Turtle Mountain Band of Chippewa Indians and United States shall be forever maintained."

Distributing this award will further show that the Federal Government honors its treaties and agreements with American Indian tribes and responsibly executes its trust responsibility to these tribes.

Finally, the settlement will help clear the air of residual tension between native and other Americans. This is no small thing as Felix Cohen, famous Associate Solicitor for Indian Affairs, once noted:

> Our treatment of Indians, (perhaps) even more than our treatment of other minorities, reflects the rise and fall of our democratic faith.

NEED FOR LEGISLATION

To implement the court's decision, a series of events made it necessary to enact enabling legislation.

At the request of the Turtle Mountain Chippewa Tribal Council, I introduced H.R. 6416. Congressmen MARLENEE, WILLIAMS of Montana, and SABO joined me as cosponsors on behalf of Pembina Chippewa Indians in their respective States.

Since both the relevant House and Senate committees have acted favorably on this bill, I would urge my colleagues to do so as well.

Resolving the lingering land claims of the Pembina Chippewa Indians makes good sense and we should act without delay.●

SUMMARY OF EARLY WARNINGS ON SPENDING BILLS

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, December 6, 1982

● Mr. ASPIN. Mr. Speaker, the following early warning on the Surface Transportation Assistance Act of 1982 and the Energy and Water Development Appropriation Act was prepared by the staff of the Budget Committee:

EARLY WARNING—HOUSE BUDGET COMMITTEE

H.R. 6211, SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982

Staff analysis

Committee: Public Works and Transportation.

Subcommittee: Surface Transportation.

Chairman: Mr. Anderson (California).

Ranking minority member: Mr. Shuster (Pennsylvania).

Scheduled: Monday, December 6, 1982.

I. Description of bill

This bill provides or authorizes funding for highway construction and improvement and highway safety and authorizes appropriations for public mass transportation programs. It raises additional revenues for the highway trust fund. These amounts are in addition to the levels in the interim highway bill, Public Law 97-327.

II. Comparison with budget targets

Now that fiscal year 1983 has started, there are two budget targets to consider. The first is the aggregate ceiling on budget authority and outlays and floor under revenues that were specified in the First Budget Resolution for Fiscal Year 1983. Pursuant to section 7 of that resolution, the aggregates automatically become binding on October 1. Summary table B, below, shows that while the current level of budget authority, based on enacted law, is substantially under the budget resolution ceiling, the current level of outlays is over the ceiling and the current level of revenues is under the floor.

The second target is the 302 targets provided for the Public Works and Transportation Committee pursuant to the First Budget Resolution. These are the targets which the Budget Committee scorekeeping system uses as a measure of spending action. These are targets for discretionary spending, i.e., spending legislation this session, over which this committee has control. While the overall resolution ceiling has been breached by other bills, summary table C below shows that, with this bill, the committee would also exceed the 302 targets for discretionary spending that were provided in the first resolution. This is for three reasons:

(1) The committee has not enacted $370 million of user fees targetted in the Budget Resolution; (2) this bill provides $2,697 million more contract authority (budget authority) than targetted; and (3) this bill increases the obligation limitation, and thus the 1983 outlays, above the current legal limit.

[In millions of dollars]

	Budget authority	Outlays	Revenues
Summary table A, Comparison of action this session and this bill:			
1. Action this session	4,314	.....	.....
2. This bill (H.R. 97-6211)	3,695	535	+1,676
3. Total action this session	8,009	535	+1,676
Summary table B, Comparison with current level and ceilings:			
4. Budget resolution ceilings	822,390	769,818	665,900
5. Current level	806,948	775,026	663,635
6. Over (+)/Under (−)	−15,442	+5,208	−2,265
7. Impact of this bill	+3,695	+535	+1,676
8. Over (+)/Under (−)	−11,747	+5,743	−589
Summary table C, Comparison with 302 target for discretionary action:			
9. 302 targets	4,942	−370	NA
10. Current level	4,314	.....	NA
11. Over (+)/Under (−)	−628	+370	NA
12. Impact of this bill	+3,695	+535	NA
13. Over (+)/Under (−)	+3,067	+905	NA

IV. Possible future requirements

The budget resolution assumes enactment of user fees totalling $370 million within the jurisdiction of this committee. To date the Committee has not reported any user fee legislation.

V. Revenues

The Ways and Means Committee is expected to offer, under a closed rule, a revenue title (Title III) to the Public Works Committee amendment to H.R. 6211, The Surface Transportation Act of 1982, which would not only extend the present highway user taxes and trust fund, but would increase taxes on gasoline, diesel and special fuels from the current 4 cents per gallon to 9 cents per gallon effective April 1, 1983, through October 1, 1988. In addition, effective January 1, 1984, there will be an increase in the heavy vehicle use tax from a flat $3 per 1,000 pounds for trucks over 26,000 pounds to a graduated rate schedule which would go as high as $2,000 over 80,000 pounds.

Offsetting the revenue pickup from these revenue increasing provisions, the committee title would grant the following exceptions and reductions in current taxes after continuing State and local government, nonprofit educational groups, farm use and school, local and innercity transit buses exemptions: A full exemption for off-highway business use and alcohol fuels; taxicabs would continue to be exempt from the current 4 cents a gallon tax until September 30, 1984, but not from the increased tax. The present excise tax on laminated tires, innertubes, nonhighway tires, trucks, truck parts and lubricating oil is either repealed or reduced to pretrust fund levels and after September 30, 1984, will go back to general Treasury funds.

The largest offset is in the form of an average of 25 percent of gross revenues because of the interaction with the income tax, since higher excise tax payments will reduce corporate and business income tax payments.

The final net revenue figures are as follows:

Fiscal year:	*Millions*
1983	$1,676
1984	3,905
1985	4,196
1986	4,208
1987	4,256
1988	4,335

One final note: The Ways and Means title earmarks revenues equivalent to one cent of the fuel tax for a new mass transit account within the Highway Trust Fund, as proposed by the Public Works' amendment.

VI. Definitions of terms in the summary tables, section III

Line 1. Action this session. This is the direct spending action this session by the Public Works and Transportation Committee. It consists of the ADAP bill (Public Law 97-248) and the interim Highway bill (Public Law 97-327).

Line 2. This bill (H.R. 97-6211): This is the amount of budget authority and outlays that will result if the bill is enacted. It also portrays the revenue impact of this bill. This is the net impact on current level of enactment of this bill.

Line 3. Total action this session: Line 2 plus line 1.

Line 4. Budget resolution ceilings: These are the total amounts of budget authority, outlays, and revenues in the First Budget Resolution for Fiscal Year 1983.

Line 5. Current level: This is the official estimate of total fiscal year 1983 spending, and revenues, based only on existing law, including the continuing appropriations (Public Law 97-276).

Line 6. Over(+)/Under(−): Line 5 minus line 4.

Line 7. Impact of this bill: See line 2.

Line 8. Over(+)/Under(−): Line 6 plus line 7.

Line 9. 302 targets: The targets for discretionary action for this committee, set pursuant to the Budget Resolution for Fiscal Year 1983.

Line 10. Current level: This is the official estimate of total fiscal year 1983 spending for this committee, due to action this session, based only on existing law. (See line 1).

Line 11. Over(+)/Under(−): Line 10 minus line 9.

Line 12. Impact of this bill: See line 2.

Line 13. Over(+)/Under(−): Line 11 plus line 12. This compares the Public Works and Transportation Committee with its 302 targets.

H.R. 7145, ENERGY AND WATER DEVELOPMENT APPROPRIATION, FISCAL YEAR 1983

Staff analysis

Committee: Appropriations.

Subcommittee: Energy and Water.

Chairman: Mr. Bevill (Alabama).

Ranking minority member: Mr. Myers (Indiana).

Scheduled: Wednesday, December 8, 1982.

I. Description of bill

This bill provides $13,899 million in budget authority and $7,742 million in outlays for discretionary programs in the Department of Energy (including atomic weapons activities), the Army Corps of Engineers, the Bureau of Reclamation, the Nuclear Regulatory Commission, and the Appalachian Regional Commission, among others. Funding for these programs has already been provided in the Continuing Appropriations Act (Public Law 97-276). This regular appropriation will supersede and replace funds provided in the Continuing Appropriations Act. The effect of this bill, therefore, is to provide an increase to the current level of spending that is already provided by law, as shown in summary table A on the next page. Also, the bill appropriates revenues, estimated to total $120 million, which the budget resolution anticipated would have accrued to the miscellaneous receipts category of federal revenues in accordance with present law. This bill accordingly reduces the current level of revenues.

II. Comparison with budget targets

Now that fiscal year 1983 has started, there are two budget targets to consider. The first is the aggregate ceiling on budget authority and outlays and floor under revenues that were specified in the First Budget Resolution for fiscal year 1983. Pursuant to section 7 of that Resolution, the aggregates automatically become binding on October 1. Summary table B, below, shows that while the current level of budget authority, based on enacted law, is substantially under the budget resolution ceiling, the current level

of outlays is over the ceiling and the current level of revenues is under the floor.

The second target is the 302(b) target provided for this subcommittee when the Appropriations Committee subdivided its share of the First Budget Resolution's budget authority and outlays. These are the targets which the Budget Committee scorekeeping system uses as a measure of spending action. These targets are separated between discretionary spending, over which this subcommittee has control, and mandatory spending, over which it does not. While the overall resolution ceiling has been breached by other bills, summary table C below shows that, with this bill, the subcommittee would remain under the 302(b) targets for discretionary spending that were provided in the first resolution. This bill has no impact on the current level of mandatory spending.

III. Summary tables

[In millions of dollars]

	Budget authority	Outlays	Revenues
Summary table A: Comparison of continuing and regular appropriations, discretionary action [1]:			
1. Continuing appropriations (Public Law 97-276)	12,612	6,870	
2. This bill (H.R. 97-7145)	[2] 13,899	[2] 7,742	−120
3. Over (+)/Under (−)	+1,287	+872	−120
Summary table B, Comparison with current level and ceilings:			
4. Budget resolution ceilings	822,390	769,818	665,900
5. Current level	806,948	775,026	663,635
6. Over (+)/Under (−)	−15,442	+5,208	−2,265
7. Impact of this bill	+1,287	+872	−120
8. Over (+)/Under (−)	−14,155	+6,080	−2,385
Summary table C, Comparison with 302(b) Subdivisions, Discretionary Spending [1]:			
9. 302(b) targets	14,225	7,755	NA
10. Current level	12,612	6,870	NA
11. Over (+)/Under(−)	−1,613	−885	NA
12. Impact of this bill	+1,287	+872	NA
13. Over (+)/Under (−)	−326	−13	NA

[1] This bill does not affect the current level of mandatory spending.
[2] This figure does not include a reduction of $300 million in budget authority and outlays that is assumed by the appropriations Committee. It would occur, under the terms of this bill, upon the final enactment of the nuclear waste disposal bill.

IV. Possible future requirements

The budget resolution does not assume funding for any additional programs within the jurisdiction of this subcommittee.

V. Credit

The First Budget Resolution for Fiscal Year 1983 also contains targets for credit program amounts. As with budget authority and outlays, the Appropriations Committee is allocated amounts for credit program amounts and subdivides those amounts among subcommittees. The table below shows the additional credit assistance provided by this bill; credit assistance program levels already enacted, including action in the continuing appropriations resolution; and credit assistance programs not yet acted on. These amounts are then compared to the Appropriations Committee subdivisions.

	Direct loan obligations	Primary guarantee commitments	Secondary guarantee commitments
1. 1983 credit program limits already enacted	67		
2. Additional program limits in the bill	41		
3. Limits assumed in the budget resolution not acted on in the bill and other amounts not subject to annual limits			
4. Possible total for subcommittee	108		
5. Credit subdivisions	159		
6. Over (+)/Under (−) Subdivision	−51		

VI. Definitions of terms in the summary tables, section III

Line 1. Continuing appropriations (Public Law 97-276): This is the amount of discretionary budget authority and outlays provided by that law, for programs funded by this subcommittee, as estimated on a full-year basis pursuant to congressional scorekeeping rules and GAO intepretation.

Line 2. This bill (H.R. 97-7145): This is the amount of discretionary budget authority and outlays that will be provided to the agencies in questions if this bill is enacted—in that case it would supersede the continuing appropriations. It also portrays the revenue impact of this bill.

Line 3. Over(+)/Under(−): Line 2 minus line 1, which is the net impact on current level of this bill.

Line 4. Budget resolution ceilings: These are the total amounts of budget authority, outlays, and revenues in the First Budget Resolution for Fiscal Year 1983.

Line 5. Current level: This is the official estimate of total fiscal year 1983 spending, and revenues, based only on existing law, including the continuing appropriations (Public Law 97-276).

Line 6. Over(+)/Under(−): Line 5 minus line 4.

Line 7. Impact of this bill: See line 3.

Line 8. Over(+)/Under(−): Line 6 plus line 7.

Line 9. 302(b) targets: The targets for discretionary spending for this subcommittee, set by the Appropriations Committee pursuant to the Budget Act.

Line 10. Current level: This is the official estimate of total fiscal year 1983 discretionary spending for this subcommittee, based only on existing law, i.e., the continuing appropriations (Public Law 97-276).

Line 11. Over(+)/Under(−): Line 10 minus line 9.

Line 12. Impact of this bill: See line 3.

Line 13. Over(+)/Under(−): Line 11 plus line 12. This compares the reported bill (H.R. 97-7145) with its 302(b) targets.●

THE AMERICAN INFRASTRUCTURE

HON. NORMAN Y. MINETA
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Monday, December 6, 1982

● Mr. MINETA. Mr. Speaker, we hear a great deal about the problems of the crumbling American infrastructure these days, and with good reason. The only wonder is that it has taken so long for the message to sink in that we cannot continue to defer construction, rehabilitation, and maintenance expenditure in this country, year after year, and not ultimately pay the piper in the higher costs associated with crumbling highways, strained bridges, inadequate transit, growth limits imposed by inadequate waste water treatment facilities, airspace congestion and delay, and so on.

The infrastructure problems we face across this Nation are very real and of staggering proportions. Many economists estimate the outstanding bill for deferred capital investment at over $1 trillion, a sum as incomprehensible as it is unaffordable. Such an astronomical backlog did not happen by accident; it is the product of years of declining public investment in the very underpinnings of our society and of our economic viability.

Let me give some examples. From 1970 to 1981, the investment in highways by all levels of government fell by 26 percent in constant dollars. On a cents per mile basis, highway expenditures were cut in half between 1956 and 1981. Federal appropriations for waste water treatment facilities have declined 63 percent in constant dollars between 1975 and 1982. Appropriations for the federally owned airway system, vital to safe and efficient air transportation, declined 54 percent in constant dollars between 1972 and 1980.

Are these examples unrepresentative of our commitment to infrastructure generally? Unfortunately they are not. Economist estimate that the proportion of our GNP devoted to our infrastructure needs has declined by more than half between 1965 and 1980. And all levels of government have played a part in that declining commitment. The proportion of State and local budgets devoted to infrastructure has declined by 43 percent between 1960 and 1980, based on data from the Commerce Department's Bureau of Economic Analysis. Capital spending on infrastructure as a share of the total States' budget fell by almost half between 1960 and 1977.

The price of this declining commitment is evident all around us. Half of the communities in the United States cannot permit economic development or expansion because their water treatment and waste water treatment facilities are at or near capacity. A recent study showed that 40 percent of the drinking water in this country is below established standards for clean and safe water. The General Accounting Office has described drinking water contamination as "emerging as one of the most serious health and environmental problems facing our Nation during the 1980's."

The Nation's railroads are unfortunately a good example of the deterioration of our Nation's physical assets. As railroad track maintenance has too often been deferred, train speeds have had to be reduced to avoid derailments on deteriorating rails and roadbeds. The average running speed on our Na-

tion's once-great rail system has declined to an incredible 14 miles per hour.

Transit has fared no better, as maintenance and rehabilitation have often been the first victims of the annual budget squeeze. Two years ago we looked into this issue in some depth. Testimony showed that if we took a businesslike approach to the New York transit system, considering the replacement value and the useful life of its assets, we would be spending over $1 billion a year on capital replenishment. Instead, only one-fifth of that was being spent in recent years. That is symptomatic of our problems in transit.

In highways, one-fifth of our most modern system, the Interstate Highways, is already past its design life. About 45 percent of the Nation's bridges are considered structurally deficient or functionally obsolete by the U.S. Department of Transportation.

The full extent of deterioration in our vital infrastructure is beyond reckoning. But I think the more important questions are, how did we get into this predicament and what can we do about it?

I think the root problem has, more often than not, been in the public decisionmaking process itself. As the budget squeeze has tightened in recent years, politicians are under pressure to find ways of cutting expenditure without cutting services, or at least without appearing to cut services. In that bind, politicians from city councilmen to Presidents are prey to a constant temptation: the temptation to slide the necessary cuts over onto the capital side of the budget, where the benefits of that spending—and therefore the pain of the cut—are generally several years in the future. This gives the appearance, at least, that you can cut spending today without cutting services.

The tragedy is that for the sake of short-term appearances, we end up trifling with long-term investment in the basic infrastructure on which all economic vitality in this country ultimately depends.

Whether it is highways or transit or water works, what we are talking about is the same pattern of deferred maintenance and deferred reinvestment which too many of the railroads of this country used just to get by a few tough years. But they found that once you start slipping behind the curve of needed reinvestment, you get pulled into a vicious cycle, and it becomes nearly impossible to get out.

We now face the threat of more and more of our basic infrastructure systems following in the footsteps of the Penn Central.

Just recently, with the costs of years of disinvestment becoming more evident, there has been some movement to reverse the trend and to establish the kind of constant reinvestment necessary to sustain our infrastructure. Earlier this year the Congress adopted a major new multiyear authorization program to modernize and expand the Nation's airports and airways, all financed by increased user fees dedicated to these purposes. And it now appears that we may be about to do the same for highways and transit.

But welcome as these program-by-program initiatives are, we will not have gotten to the root of the problem until we also deal with the fundamental biases in the public decisionmaking process itself: the bias toward dealing with annual budget problems by deferring needed capital reinvestment.

Anyone familiar with the process by which the Congress makes budgetary decisions must recognize that there are powerful incentives favoring legislative proposals with short-term benefits and long-term costs over proposals with the opposite characteristics. Dealing with that problem is the most fundamental contribution we could make to our future infrastructure and economic vitality.

We need a budget process which makes it clear what the needed rate of capital reinvestment is and which flags our attention if we go below that level.

We need some budget process incentive for establishing the kind of dedicated revenues which can assure the consistent generation of revenues necessary to any stable program of capital reinvestment.

And we need to address in some unified forum the problems and find the solutions which are common threads running through all our infrastructure problems, so that the separate institutions responsible for each program need not solve these common problems each for themselves through duplicated effort.

I am therefore introducing today legislation which I believe will accomplish those needed reforms in the way we make decisions regarding our infrastructure: H.R. 7369, the Infrastructure Revitalization Act of 1982. The bill is divided into three titles, each with a somewhat different scope and purpose, but all working toward the same end.

Title I would establish a capital budget within the unified budget submitted by the President each January. It would establish two benchmarks against which we could measure our own capital spending, as well as the capital spending proposed by the President. One benchmark—(C) in section 102—would simply be the level of capital spending required each year to sustain our present level of infrastructure performance. The second benchmark—(D) in section 102—would be the higher level of capital spending required each year to accomplish the full level of cost-effective investment in our Nation's competitiveness and efficiency and to achieve already adopted standards for public safety, environmental protection, et cetera.

To illustrate, and somewhat oversimplify, the two benchmarks, the first benchmark would be the level of spending at which I would find as I drove my car to work, year after year, the same basic condition of roads, the same degree of traffic congestion—even with whatever changes may have occurrred in the number of cars in use—the same time to work, the same wear and tear on the car, et cetera. In other words, it is the "standstill" level of capital spending.

The second benchmark would be the level of spending at which cost-effective investment in these highways, with the costs of maintenance, rehabilitation, and new construction weighed against the full costs—in increased congestion, reduced efficiency, et cetera—of not making those investments. The second benchmark would also include the levels of spending necessary to achieve compliance with already adopted Federal standards. So it would be the level at which, as I drove to work year after year, I would find roads not just in a constant condition (even if that condition failed to meet safe design criteria and required structural standards), but in an improved condition. In other words, the second benchmark is the level of "sound and necessary" investment.

Title I would also require the President's budget to indicate how much of the proposed spending levels were capital investment-type spending, and to compare that capital investment with the two benchmark levels described above. In this way, it would be readily apparent what the long-term consequences of our short-term budget decisions were.

The basic division of proposed spending into capital investment-type spending and operating-type spending is similar to the division now made in the President's budget under special analysis D. This applies the infrastructure or capital investment concept in its broadest meaning, including not only physical assets, but also less-tangible forms of long-term benefits from short-term spending: education, and research and development, for example. The definition used in title I for capital investment type spending is similar, although not identical to that traditionally used in special analysis D.

In addition, other provisions in title I require clear indication of past trends in infrastructure investment; the respective roles of State, local, and Federal Government; the adequacy of maintenance of federally funded physical assets; and the amounts of revenues dedicated to capital investment purposes.

The capital budget required by title I would satisfy the main objectives of proposals dating back to the Hoover Commission in 1949, that the Federal Government should adopt the more business like approach to budgeting by having a capital budget. The Hoover Commission recommended that:

• • • The budget estimates of all operating departments and agencies of the Government should be divided into two primary categories—current operating expenditures and capital outlays.

The argument for capital budgets, and the reason most sizable businesses and State governments use them, is that a spending decision—which is often a decision to incur an added increment of debt—must be made in a very different light if it is of a capital nature, producing long-term benefits outweighing the intial cost, than if it is of a current operating nature. And that should be no less true for the Federal Government than it is for everyone else.

The capital budget required by title I does not, however, do those things which have provoked opposition to certain types of capital budgeting in the past. It does not take the capital investment programs off budget. All items which are now included in the unified budget would remain in the unified budget. Total budget figures would still reflect the total impact of Federal fiscal policy on the economy as a whole (at least to the extent they do so today).

And it would not do away with full funding or expensing, whereby most major capital projects are fully appropriated in the first year. Full funding has both its pros and its cons. While it does front end capital costs and therefore put them at a disadvantage in competing with operating costs, it also tends to insure stable commitment to completion of multiyear projects, even in the face of annualized decisionmaking. The capital budget proposed by title I would not in and of itself alter the current practice on full funding: The Congress would continue to make this decision on a program-by-program basis.

The Hoover Commission's recommendation of a capital budget was never adopted. Instead the executive branch beginning in 1951 gave us a pallid imitation of a capital budget: Special analysis D. Title I would build on special analysis D, turning it into a serious capital budget of real utility to the Congress and to the public in making difficult budget decisions.

Title II addresses one of the most frustrating catch-22's of the entire budget process. Nothing would be of greater assistance to the budget crisis we face than to increase reliance on dedicated user fees. Both the administration and the Budget Committee have advocated this approach. Yet the budget process itself provides powerful disincentives to raising those dedicated revenues. It does so because in the aggregate it looks at total revenues and at total expenditures and compares the two, but it tends to ignore the dedicated relationship between some of those revenues and some of those expenditures. Once the dedicated revenues are enacted, the process tends to take their existence as a given, but treats the expenditure side as a completely open question, subject to severe limitation even where dedicated revenues continue to flow in unabated.

We have had this problem in the aviation trust fund for much of the past decade. Dedicated revenues are enacted based on certain levels of need and authorized spending. But then in subsequent years the budget process considers those spending levels completely disembodied from the dedicated revenues on which they were based. The result is that budget resolutions and enforcement devices are easily used to cut the expenditure side while leaving the revenue side untouched. The close relationship originally intended by Congress when it enacted the dedicated revenues is lost.

This is not only detrimental to the programs and the taxpayers involved, it is also detrimental to the budget process itself, because this kind of experience is used to oppose new dedicated revenues which would ease the budget squeeze and would provide assured financing mechanisms for capital reinvestment. The argument against dedicated revenues it that the promises accompanying dedicated tax proposal are just a ruse: "Once you get the revenues, we will never see the spending you have promised." Until we deal with that concern, we will continue to face stiff opposition on user fees and other forms of dedicated revenue.

Title II would accomplish that by providing that programs supported by dedicated revenues would not be subject to the various enforcement devices of the budget process, if and only if the dedicated revenues provided by the Congress were fully adequate to cover the costs of the program. In other words, if you can raise the revenue, you can spend it. This would apply not only to existing dedicated revenue programs, but to such new dedicated revenue programs as the Congress might choose to enact, either of the contract authority type or the prior appropriation type.

This is basically, therefore, a "pay-as-you-go" proposal. The Congress would be assured that the programs involved would not contribute one dime to the deficit, since they would be required to be at least fully self-supporting.

It also does not take these programs "off-budget": Their anticipated revenues and expenditures would still be included in the unified budget. Even if the Congress subsequently decided to raise both revenues and expenditures, there would be no net impact on the aggregate deficit figure adopted in the budget resolution. And the proposed title II would not alter in any way the existing ability of the Congress to reduce annual obligation ceilings on these programs through the appropriations if we so chose. It would just mean that we would no longer be compelled to do so by the budget process.

Title II is not restricted in its potential application to any particular type of program: Any contract authority or prior appropriation program where the Congress might choose in the future to establish dedicated revenues could benefit from its provisions. But it has been the capital programs which have traditionally relied on dedicated revenues to the greatest extent, and I think the most important consequence of title II would be the reduction of powerful budget process incentives against the dedicated revenues we need to assure predictable financing mechanisms for capital reinvestment.

Title II of the bill would establish a National Commission on the Rebuilding of America.

Two of the key problems we face in addressing the Nation's infrastructure problems are that the problem is so enormous that it has been difficult to quantify and accurately assess, and that the responsibility for addressing these problems is distributed among many agencies, organizations, and congressional committees. Many of the issues that need to be addressed are common to the jurisdictions of each of those agencies, organizations, and committees, and it would be highly duplicative and inefficient to have these common tasks addressed individually all over town. The Commission would represent many of those same institutions and would give them a single forum in which to conduct the basic assessment of the scope of the problem, using consistent data and methodology, and in which to study and make recommendations on many of the common problems.

The Commission in modeled on the National Transportation Policy Study Commission and would not have any legislative authority. Its studies and report would be advisory to the executive branch and to the Congress. But it would be an important device for accomplishing much of the preliminary work necessary to the Congress in dealing with many of these infrastructure issues. The Commission is directed to complete its study and report in 1 year; 6 months later its authority automatically sunsets. We are not creating any new permanent entity or agency.

The Commission would consist of 23 members: 6 from the committees with relevant jurisdiction in the Senate, 6

from the committees with relevant jurisdiction in the House, 6 appointed by the President from the private sector, and 5 representing the major associations of State and local governments.

Its assignment is to assess the condition of infrastructure, trends in historic spending on infrastructure, needs for future spending, proper roles for State, local and Federal government and the private sector, the need for proper maintenance and efficient operations to assure an adequate return on capital investment how revenues can be raised most equitably and reliably, how needs can best be targeted, and the extent to which Federal tax policy, loan or loan guarantee programs, and research and development programs could assist or encourage other levels of government and the private sector to play a large role in solving our infrastructure problems.

These are broad issues running through virtually all of our infrastructure program areas. In many of these programs the Congress can and should move ahead quickly with legislation to expand our infrastructure commitment and to create needed jobs. Nothing in title III is intended to create an impression that we should not act in any of these areas until the Commission has completed its work. But for many of our infrastructure programs there simply is no consensus on how to resolve many of these difficult issues, and there is therefore little likelihood of near-term congressional action. And for all of the infrastructure programs, the issues being addressed by the Commission are enduring issues, on which the Commission's study and report would be useful at any time to the Congress in its continuing review and reauthorization of these programs.

The scope of infrastructure problems within the purview of the Commission would include publicly owned highways, bridges, transit systems, waterways, sewer systems and waste water treatment facilities, airports, and airways; railroads and ports whether publicly or privately owned, to the extent they are necessary for the common carriage; and municipal water supply treatment storage or distribution systems.

The costs of this temporary commission would be minimal and are, in fact, the only direct costs associated with the entire bill.

Mr. Speaker, if, as I believe, the present crisis in infrastructure is not just happenstance but is the product of fundamental biases against captial spending in the public decisionsmaking process, then we at this point not only have to enact significant improvements in the individual infrastructure programs, but we also need to correct the fundamental biases in the process which got us into this predicament. The bill I am introducing would do that, while preserving the unified budget, the congressional budget process, and the full prerogatives of the various committees of Congress. It is legislation which all Members concerned about the infrastructure problems in this country can support, and I urge them to do so.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, December 7, 1982, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

DECEMBER 8

9:00 a.m.
Commerce, Science, and Transportation
Business meeting, to consider pending calendar business.
235 Russell Building

Judiciary
To hold hearings on pending nominations.
2228 Dirksen Building

9:30 a.m.
Finance
To hold hearings on the nominations of Manuel H. Johnson, Jr., of Virginia, to be an Assistant Secretary of the Treasury, Enrique J. Leon, of New York, and Susan W. Liebeler, of California, both to be Members of the International Trade Commission.
2221 Dirksen Building

Labor and Human Resources
To hold hearings on the nominations of Betty H. Brake, of Oklahoma, to be Deputy Director of the ACTION Agency, and David L. Slate, of California, to be General Counsel of the Equal Employment Opportunity Commission.
4232 Dirksen Building

10:00 a.m.
Armed Services
To hold open and closed hearings on the MX missile and associated Presidential basing decisions.
1318 Dirksen Building

Commerce, Science, and Transportation
To hold hearings on the nomination of George W. Douglas, of Texas, to be a Federal Trade Commissioner.
235 Russell Building

Environmental and Public Works
Business meeting, to mark up S. 3043, authorizing funds through fiscal year 1987 for the Federal-aid highway program.
4200 Dirksen Building

Finance
Business meeting, to consider S. 3044, authorizing funds through fiscal year 1988 to improve the Nation's highway system, and to restructure the current taxes that go into the highway trust fund, the nominations of Manuel H. Johnson, Jr., of Virginia, to be an Assistant Secretary of the Treasury, Enrique J. Leon, of New York, and Susan W. Liebeler, of California, both to be Members of the International Trade Commission, and other pending calendar business.
2221 Dirksen Building

Rules and Administration
To hold hearings on computer and communication systems for the U.S. Senate.
301 Russell Building

Select on Intelligence
Closed briefing on intelligence matters.
S-407, Capitol

10:30 a.m.
Judiciary
Business meeting, to consider pending calendar business.
2228 Dirksen Building

2:00 p.m.
Small Business
Productivity and Competition Subcommittee
To hold oversight hearings on the economic problems facing small and independent businesses in the forests products industry.
6226 Dirksen Building

2:30 p.m.
Appropriations
Business meeting, to mark up the substance of H.R. 7356, appropriating funds for fiscal year 1983 for the Department of the Interior and related agencies programs.
1114 Dirksen Building

3:00 p.m.
Veterans Affairs
To hold hearings on the nomination of Harry N. Walters, of Virginia, to be Administrator of Veterans' Affairs.
412 Russell Building

DECEMBER 9

9:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production, Marketing, and Stabilization of Prices Subcommittee
To hold hearings on S. 3074, to increase minimum loan rates and require acreage limitation and paid land diversion programs for the 1983, 1984, and 1985 crops of wheat, feed grains, upland cotton, and rice, and to develop export markets for U.S. agricultural commodities, and related proposals.
324 Russell Building

9:30 a.m.
Labor and Human Resources
To hold hearings on the nominations of Wendy H. Borcherdt, of California, to be Deputy Under Secretary for Intergovernmental and Interagency Affairs,

Department of Education, Douglas A. Fenderson, of Minnesota, to be Director of the National Institute of Handicapped Research, Manuel J. Justiz, of New Mexico, to be Director of the National Institute of Education, Edward M. Elmendorf, of Vermont, to be Assistant Secretary for Postsecondary Education, Department of Education, pending nominations for the National Council on Educational Research, and pending nominations for the National Commission on Libraries and Information Science.

4232 Dirksen Building

Rules and Administration

Business meeting, to mark up S. Con. Res. 32 and H. Con. Res. 153, measures authorizing a bust or statue of Dr. Martin Luther King, Jr., to be placed in the U.S. Capitol, and to consider other pending legislative and administrative business.

301 Russell Building

9:45 a.m.

Appropriations

State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee

To hold hearings on proposed budget revisions for fiscal year 1983 for the Department of Justice.

S-126, Capitol

10:00 a.m.

Environment and Public Works

Business meeting, to resume consideration of proposed amendments to S. 2432, authorizing funds for fiscal years 1983 and 1984 for programs of the Solid Waste Disposal Act and Resource Conservation and Recovery Act (pending on Senate calendar), and other pending business matters.

4200 Dirksen Building

Judiciary

Agency Administration Subcommittee

To hold oversight hearings on the implementation of the Equal Access to Justice Act (Public Law 96-481).

2228 Dirksen Building

Select on Intelligence

Closed briefing on intelligence matters.

S-407, Capitol

DECEMBER 10

9:30 a.m.

*Banking, Housing, and Urban Affairs

To hold oversight hearings on the report of banking regulators regarding the Penn Square National Bank in Oklahoma.

5302 Dirksen Building

Finance

Taxation and Debt Managment Subcommittee

To hold hearings on S. 2987, S. 2647, and S. 3064, miscellaneous tax proposals.

2221 Dirksen Building

10:00 a.m.

Commerce, Science, and Transportation

Surface Transportation Subcommittee

To hold oversight hearings on the implementation of the Household Goods Transportation Act (Public Law 96-454).

235 Russell Building

Energy and Natural Resources

Energy and Mineral Resources Subcommittee

To hold hearings on S. 2503, S. 2680, S. 2681, and S. 2824, bills providing for the reinstatement of certain oil and gas leases.

3110 Dirksen Building

Foreign Relations

East Asian and Pacific Affairs Subcommittee

To receive a briefing on Micronesian status negotiations.

4221 Dirksen Building

Judiciary

JUvenile Justice Subcommittee

To hold hearings on S. 2856, increasing the penalties for the sexual exploitation of children.

2228 Dirksen Building

2:00 p.m.

Judiciary

To hold hearings on pending nominations.

2228 Dirksen Building

DECEMBER 13

10:00 a.m.

Energy and Natural Resources

To hold hearings to review current conditions in the natural gas market, and related proposals to modify existing law.

3110 Dirksen Building

Governmental Affairs

Energy, Nuclear Proliferation and Government Processes Subcommittee

To hold hearings on government payments and the potential for fraud.

3302 Dirksen Building

Select on Intelligence

Closed briefing on intelligence matters.

S-407, Capitol

2:00 p.m.

Foreign Relations

Closed meeting, to consult with Administration officials on the intermediate nuclear forces negotiations (INF).

S-116, Capitol

3:00 p.m.

Foreign Relations

Closed meeting, to consult with Administration officials on the strategic arms reduction talks (START).

S-116, Capitol

DECEMBER 14

10:00 a.m.

Commerce, Science, and Transportation

Surface Transportation Subcommittee

To hold oversight hearings on the implementation of the Motor Carrier Act (Public Law 96-296).

235 Russell Building

Foreign Relations

To hold open and closed hearings on U.S. strategic doctrine.

4221 Dirksen Building

DECEMBER 15

9:30 a.m.

Governmental Affairs

Energy, Nuclear Proliferation and Government Processes Subcommittee

To hold hearings on Government debt collection procedures.

5302 Dirksen Building

Governmental Affairs

Oversight of Government Management Subcommittee

To hold oversight hearings on computer matching programs to detect fraud and mismanagement in Government programs.

3302 Dirksen Building

DECEMBER 16

9:30 a.m.

Governmental Affairs

Oversight of Government Management Subcommittee

To continue oversight hearings on computer matching programs to detect fraud and mismanagement in Government programs.

3302 Dirksen Building

Small Business

To hold oversight hearings on the small business investment companies (SBIC) program of the Small Business Administration.

424 Russell Building

10:00 a.m.

Foreign Relations

Closed meeting, to consult with an official of the Department of State on the threshold test ban and peaceful nuclear explosion treaties.

S-116, Capitol

Select on Intelligence

Budget Authorization Subcommittee

Closed meeting on budget matters relating to intelligence activities.

S-407, Capitol

JANUARY 12

9:30 a.m.

Labor and Human Resources

Employment and Productivity Subcommittee

To hold hearings to review Federal programs which create certain job opportunities.

4232 Dirksen Building

JANUARY 25

9:30 a.m.

Finance

To hold hearings on the Administration's assessment of the meeting of ministers to the General Agreement on Tariffs and Trade (GATT).

2221 Dirksen Building

CANCELLATIONS

DECEMBER 9

10:00 a.m.

Judiciary

Separation of Powers Subcommittee

To hold hearings on judicial leniency.

5110 Dirksen Building

HOUSE OF REPRESENTATIVES—*Tuesday, December 7, 1982*

The House met at 1 p.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We thank You, O God, for all the glories of Your creation that give meaning and purpose in a weary world. We praise You that Your spirit speaks to us in ways that encourage us to do the right and speak the truth. We are thankful that You have raised up people who, through lives of goodness and grace, help to witness to Your love and to know a better world of mercy and of justice and of peace. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. WALKER. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 314, nays 35, not voting 84, as follows:

[Roll No. 422]

YEAS—314

Addabbo	Boland	Clausen
Akaka	Boner	Clinger
Albosta	Bonior	Coats
Anderson	Bonker	Coelho ●
Andrews	Bouquard	Coleman
Annunzio	Bowen	Collins (TX)
Anthony	Breaux	Conable
Aspin	Brinkley	Corcoran
AuCoin	Brodhead	Courter
Badham	Brooks	Coyne, James
Bailey (PA)	Broomfield	Coyne, William
Beard	Brown (CA)	Craig
Bedell	Brown (OH)	Crane, Daniel
Beilenson	Broyhill	Crane, Philip
Bennett	Burgener	D'Amours
Bereuter	Burton, Phillip	Daniel, R. W.
Bethune	Byron	Daschle
Bevill	Campbell	Daub
Biaggi	Carman	Davis
Bingham	Carney	de la Garza
Bliley	Chappie	Deckard
Boggs	Cheney	Dellums
Derwinski	Jones (TN)	Ratchford
Dixon	Kastenmeier	Regula
Donnelly	Kazen	Reuss
Dorgan	Kennelly	Roberts (SD)
Dornan	Kildee	Robinson
Dowdy	Kindness	Rodino
Downey	Kogovsek	Roe
Duncan	Kramer	Rose
Dunn	LaFalce	Rostenkowski
Dwyer	Lagomarsino	Roth
Dymally	Latta	Roukema
Dyson	Leath	Roybal
Early	Lent	Rudd
Eckart	Levitas	Russo
Edgar	Lewis	Sawyer
Edwards (AL)	Livingston	Scheuer
Edwards (CA)	Loeffler	Schneider
Edwards (OK)	Long (LA)	Schulze
English	Lott	Schumer
Erdahl	Lowery (CA)	Seiberling
Erlenborn	Lowry (WA)	Sensenbrenner
Ertel	Lujan	Shamansky
Fary	Luken	Shannon
Fazio	Lundine	Sharp
Fenwick	Lungren	Shaw
Ferraro	Madigan	Shelby
Fiedler	Markey	Shumway
Findley	Marlenee	Siljander
Fish	Marriott	Skeen
Fithian	Martin (IL)	Smith (AL)
Flippo	Martin (NC)	Smith (IA)
Florio	Martin (NY)	Smith (NE)
Foglietta	Martinez	Smith (NJ)
Foley	Matsui	Smith (PA)
Ford (TN)	Mazzoli	Snowe
Fowler	McClory	Snyder
Frank	McCollum	Solarz
Frenzel	McCurdy	Spence
Frost	McDade	Stangeland
Fuqua	McDonald	Stark
Garcia	McEwen	Staton
Gibbons	McGrath	Stenholm
Gilman	McHugh	Stokes
Gingrich	Mica	Stratton
Glickman	Michel	Studds
Goldwater	Mikulski	Swift
Gonzalez	Miller (CA)	Synar
Gore	Mineta	Tauke
Gradison	Minish	Tauzin
Gramm	Mitchell (NY)	Taylor
Gray	Moakley	Thomas
Green	Molinari	Traxler
Gregg	Mollohan	Trible
Guarini	Moore	Udall
Gunderson	Moorhead	Vander Jagt
Hagedorn	Morrison	Vento
Hall (IN)	Mottl	Volkmer
Hamilton	Murtha	Walgren
Hammerschmidt	Napier	Wampler
Hance	Natcher	Watkins
Hansen (UT)	Neal	Waxman
Hatcher	Nelligan	Weaver
Hefner	Nelson	Weber (MN)
Hendon	Nowak	Weiss
Hertel	O'Brien	White
Hightower	Oakar	Whitehurst
Hiler	Oberstar	Whitley
Hillis	Obey	Whittaker
Hollenbeck	Panetta	Whitten
Hopkins	Parris	Williams (OH)
Howard	Patman	Wilson
Hoyer	Paul	Winn
Hubbard	Pease	Wirth
Huckaby	Perkins	Wolf
Hughes	Petri	Wolpe
Hunter	Peyser	Wortley
Hutto	Porter	Wright
Hyde	Price	Wyden
Jeffords	Pritchard	Wylie
Jeffries	Quillen	Yatron
Jenkins	Rahall	Young (FL)
Jones (NC)	Railsback	Zablocki
Jones (OK)	Rangel	

NAYS—35

Bailey (MO)	Fountain	Roemer
Brown (CO)	Gejdenson	Rogers
Burton, John	Goodling	Sabo
Butler	Harkin	Schroeder
Coughlin	Hartnett	Smith (OR)
Daniel, Dan	Hawkins	Solomon
Dannemeyer	Holt	St Germain
Dickinson	Jacobs	Stump
Dreier	Miller (OH)	Walker
Emerson	Mitchell (MD)	Yates
Evans (IA)	Moffett	Young (AK)
Forsythe	Roberts (KS)	

NOT VOTING—84

Alexander	Fields	McKinney
Applegate	Ford (MI)	Montgomery
Archer	Gaydos	Murphy
Ashbrook	Gephardt	Myers
Atkinson	Ginn	Nichols
Bafalis	Grisham	Ottinger
Barnard	Hall (OH)	Oxley
Barnes	Hall, Ralph	Pashayan
Benedict	Hall, Sam	Patterson
Blanchard	Hansen (ID)	Pepper
Bolling	Heckler	Pickle
Chappell	Heftel	Pursell
Chisholm	Holland	Rhodes
Clay	Horton	Rinaldo
Collins (IL)	Ireland	Ritter
Conte	Johnston	Rosenthal
Conyers	Kemp	Rousselot
Crockett	Lantos	Santini
DeNardis	Leach	Savage
Derrick	LeBoutillier	Shuster
Dicks	Lee	Simon
Dingell	Lehman	Skelton
Dougherty	Leland	Stanton
Emery	Long (MD)	Washington
Evans (DE)	Marks	Weber (OH)
Evans (GA)	Mattox	Williams (MT)
Evans (IN)	Mavroules	Young (MO)
Fascell	McCloskey	Zeferetti

□ 1315

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 244. Joint resolution designating January 17, 1983, as "Public Employees' Appreciation Day."

PRIVATE CALENDAR

The SPEAKER. This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

REMEDIOS R. ALCUDIA, CHRISTOPHER, EZRA, VERMILLION, AND PERISTELLO ALCUDIA

The Clerk called the bill (H.R. 1547) for the relief of Remedios R. Alcudia, Christopher, Ezra, Vermillion, and Peristello Alcudia.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

LASZLO REVESZ

The Clerk called the bill (H.R. 1352) for the relief of Laszlo Revesz.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

JENNIFER FERRER

The Clerk called the bill (H.R. 1830) for the relief of Jennifer Ferrer.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

MOHAMMAD ISMAIL KHAN, HASHMAT ISMAIL KHAN, AND MURAD ISMAIL KHAN

The Clerk called the bill (H.R. 2276) for the relief of Mohammad Ismail Khan, Hashmat Ismail Khan, and Murad Ismail Khan.

Mr. BLILEY. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

SIRAJ YOOSUF PATEL, FARIDA FATIMA SIRAJ PATEL, HUMAIRA SIRAJ PATEL, FAYSAL SIRAJ PATEL, AND FAHD SIRAJ PATEL

The Clerk called the bill (H.R. 2277) for the relief of Siraj Yoosuf Patel, Farida Fatima Siraj Patel, Humaira Siraj Patel, Faysal Siraj Patel, and Fahd Siraj Patel.

Mr. BLILEY. Mr Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

TESSIE AND ENRIQUE MARFORI

The Clerk called the Senate bill (S. 191) for the relief of Tessie and Enrique Marfori.

Mr. BLILEY. Mr. Speaker, I ask unanimous consent that the Senate bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The SPEAKER. This concludes the call of the Private Calendar.

JOE POOL LAKE

Mr. ROE. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 7377) to designate the Lakeview Lake project, Mountain Creek, Tex., as the "Joe Pool Lake."

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

Mr. HAMMERSCHMIDT. Mr. Speaker, reserving the right to object, and I will not object, I yield to the gentleman from New Jersey (Mr. ROE) to explain his unanimous-consent request.

Mr. ROE. I thank the gentleman for yielding.

Mr. Speaker, H.R. 7377 would designate the Lakeview Lake project in Texas as the Joe Pool Lake in honor of former Congressman Pool.

The Lakeview Lake project was authorized by the River and Harbor Act of 1965 as part of the overall project for development of the Trinity River. The project which is now under construction and scheduled for completion in 1988 will serve the purposes of flood control, water supply, and recreation.

Located on Mountain Creek, a right bank tributary to the West Fork of the Trinity River in Dallas County, Tex., it will meet critical water supply and flood protection needs in the area.

Congressman Joe Pool was elected to the 88th Congress and served from January 3, 1963, until his death in Houston, Tex., on July 14, 1968. Prior to his service in the U.S. Congress, he served in the Texas State House of Representatives from 1953 until 1958. He was a forceful and effective advocate of water resources development in the Trinity River Basin and played a leading role in demonstrating the need for the Lakeview project and securing authorization and appropriations for its construction.

In view of Congressman Pool's contribution to water resources development both in the State of Texas and in the country as a whole, it is fitting and proper to name the Lakeview project in his honor.

Mr. WRIGHT. Mr. Speaker, will the gentleman from Arkansas yield to me at this time?

Mr. HAMMERSCHMIDT. Further reserving the right to object, Mr. Speaker, I yield to the distinguished majority leader.

Mr. WRIGHT. I thank the gentleman for yielding.

Mr. Speaker, the late Joe Pool, as some of us recall, served in this House from 1963 until 1968 when he was taken from us in an untimely death.

Joe Pool, during that time, was instrumental in the authorization of this reservoir project. He served effectively and well and was dedicated to water resource conservation in Texas and throughout the United States.

We think it appropriate that this reservoir be named in his honor.

Mr. HAMMERSCHMIDT. Mr. Speaker, I thank the gentlemen for their responses.

Mr. Speaker, I rise in support of the well-warranted legislation to rename Lakeview Lake in Texas after the late former Member, Joe Pool. I was pleased to serve with Congressman Pool from the time I entered Congress until his untimely death in July 1968. Congressman Pool served in the Texas House of Representatives prior to beginning his service in the U.S. House of Representatives in January 1963.

Joe Pool was a leader in the effort to develop the Lakeview project. This project, which is currently under construction on Mountain Creek, will provide flood control, recreation, and other important benefits. The dam will have an initial storage of more than 300,000 acre-feet and is of great importance to the citizens of Texas. Joe Pool began his work on this project even before coming to Congress. He personally took part in studies of the feasibility of this project and, while in Congress, was a key figure both in study efforts and in obtaining project funding. There has been local support for naming this project for former Congressman Joe Pool for many years. The project is now scheduled for completion in 1986 and I think it is most appropriate that the name change take place at this time so as to be an integral part of the project as completed.

Mr. Speaker, I withdraw my reservation of objection.

● Mr. HOWARD. Mr. Speaker, I rise in support of the bill.

Congressman Joe Pool, who served in this House from 1963 until his death in 1968, played a crucial part in obtaining the authorization for the Lakeview Lake project in Texas. In 1961, serving as a member on the National Democratic Natural Resources Advisory Committee, he prepared a flood control and water supply study which eventualy led to the approval of the Lakeview Lake project. After his election to Congress, he was a strong and effective supporter of the project.

The project, which is now under construction, will serve essential water supply and flood control needs in the Trinity Basin. It is entirely appropriate that this project be named in honor of the man who played such a meaningful and effective role in its conception, authorization, and funding.●

The SPEAKER. Is there objection to the request of the gentleman from New Jersey (Mr. ROE)?

There was no objection.

The Clerk read the bill, as follows:

H.R. 7377

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Lakeview Lake project, Mountain Creek, Texas, authorized by the River and Harbor Act of 1965, shall hereafter be known and designated as "Joe Pool Lake". Any reference in any law, map, regulation, document, record, or other paper of the United States to such lake shall be held to be a reference to the "Joe Pool Lake".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just passed.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

CONTINUE FUNDING PLANNED PARENTHOOD AND FAMILY PLANNING PROGRAMS

(Mr. PEYSER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEYSER. Mr. Speaker, what are the real problems facing this country today? I guess if any of us were asked that we would say unemployment, the crisis in the business community, the problems in education, suffering under the dramatic cuts that have been made by this Congress, and a multitude of other things that are of real concern.

Yet, what is it that the administration appears to be addressing itself to at this time with the full support of the White House? They are addressing themselves to the problem of how to block planned parenthood and family planning programs from being available to use facilities and hospitals, to be able to help people who are desperately in need of help.

I do not think the administration is tuned in, Mr. Speaker, to the real concerns of this country. To waste the time and to hurt so many people by this outrageous action and attack on planned parenthood, I think, is inexcusable.

I wish the administration would try to revise its priorities.

A VOTE AGAINST MX IS A VICTORY FOR ALL OF US AND FOR WORLD PEACE

(Mr. MOFFETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOFFETT. Mr. Speaker, it will not be long now before this great body will have the opportunity to cast a vote, a vote for peace and sanity. When we vote against the Dense Pack MX proposal later today, it will not be a defeat for anybody or anything. It will not be a defeat for the President, as some have said. It will not be a defeat for the military. It will not be a defeat for our deterrent strength.

In fact, Mr. Speaker and colleagues, it will be a big victory for all of us and for world peace.

I urge my colleagues to vote against this missile.

LEGISLATION INTRODUCED TO FORCE LOWER IMPORTED NATURAL GAS PRICES

(Mr. CORCORAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CORCORAN. Mr. Speaker, we all know that natural gas prices are too high. But did you know that imported natural gas is a key source of the high prices Americans are paying for natural gas?

From Boston to San Francisco, American consumers are up in arms about high-priced imported gas from Canada, Mexico, and Algeria. We are familiar with countries dumping their products on our markets more cheaply than they are sold at home through Government subsidization. Well, this is an even better deal. Canada, Mexico, and Algeria are "dumping" their gas to us at prices much higher than their citizens pay for gas and even much higher than we pay the vast majority of our own producers for natural gas. And our consumers are forced to buy it while abundant supplies of cheaper domestic natural gas are shut in.

Ridiculous, is it not? Even the Alberta producers have urged the Canadian National Energy Board to drop the price, but the board has declined. After all, as long as we keep paying Canadians $4.94 while we pay our own producers of gas an average price of $2.50, why give up a good thing?

I am introducing legislation today that will end this ridiculous situation. In 6 months, the price of imported natural gas will come down or the gas will not come in. In any case, American natural gas consumers in the 24-plus States now receiving imported natural gas will benefit from lower gas prices.

It is a simple bill. We can do it now. I ask for your support.

FORTY-FIRST ANNIVERSARY OF PEARL HARBOR

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, today is one of those dates in American history that will ring forever in our memories and our hearts. Precisely at this moment on the clock, 41 years ago, the warloads of Japan had their so-called peace negotiators and their ambassador here in Washington, D.C., present Secretary of State Cordell Hull a declaration of war long after the attack had begun on Pearl Harbor and all military installations on Oahu.

Why did the Japanese warlords attack the greatest power in the Western Hemisphere? Where did they get the gall to strike us? Of course they had slogans like "Asia for the Asians," and "The East Asia Coprosperity Plan," but the real reason was that they thought they could quickly crush us. That we were so weak that they could win a quick blitzkrieg war. In other words, we did not represent to the Japanese warlords in their perception a nation of resolve with credible deterrent.

Deterrent. That one word should be the key word at the core of the debate today on the "Peacekeeper MX" missile and its closely spaced basing plan called Dense Pack. It is deterrent and deterrent only that we should debate in this Chamber today. President Jimmy Carter wanted 200 of this follow-on missile to the Minuteman series. President Reagan recommends 100 as a sufficient deterrent to Soviet attack planning.

This CSB basing mode requires more discussion, understanding, and refinement, but no one has come up with a better basing mode—no one. Our military planners analyzed moving barges, moving trucks, moving trains on old rail lines, even dirigibles as basing modes. We have looked at literally every possible idea. So I ask my colleagues on this day, Pearl Harbor Day, the 41st anniversary of a sneak "first strike attack" for which we were horribly unprepared, that we think first and foremost about deterrence, deterrence, deterrence. Why? To keep the fragile peace we enjoy today in our God-blessed country.

WHICH PARTY WANTS JOBS FOR AMERICANS?

(Mr. WALKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, last evening we learned something I think disturbing about the job issue on which we have been focusing for so

long. We learned that one of the major parties represented in this House may not be fully committed to the idea of creating as many jobs as possible. I offered last night an amendment entitled "the job opportunity amendment." It was an idea to use the money we are spending for as many jobs as possible.

To give the Members some sense of perspective, if we have $100 to spend, I would say that what we should do is create 20 jobs at $5 an hour.

What we heard as the defense of the Democratic position on this floor last night was that they want to create 5 jobs at $20 an hour. I think it is far more important to have 20 people working at $12,000 a year than to have 5 people working at $36,000 a year. The Democrats' defense put them on the side of less jobs at more money per job.

I think that if this country wants jobs, enough jobs to put all Americans back to work, it is necessary to understand which party wants to put the most Americans back on the job.

REGULATORY REFORM LEGISLATION SUPPORTED

(Mr. KINDNESS asked and was given permission to address the House for 1 minute.)

Mr. KINDNESS. Mr. Speaker, I would like to join our colleague, the gentleman from Georgia (Mr. LEVITAS), in his comments upon the regulatory reform legislation which is due to be the subject of consideration before the Rules Committee on Thursday. The commitment of the Speaker of the House and the leadership with respect to consideration of that very important legislation is remembered well.

It is a matter of concern that the mechanics of the process are occurring at such a late date. Let us hope that there will not be insulation by those surrounding the leadership in staff positions, and so forth, so that the leadership will not be able to live up to that commitment. It is timely that the matter proceed very promptly, and I would urge that the commitment be kept, as did the gentleman from Georgia, so that this House may debate that very important legislation having to do with regulatory reform in the rulemaking process which affects our lives and businesses so very much.

ARE OUR DRUG PLANS ONLY A PLOY?

(Mr. GILMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. GILMAN. Mr. Speaker, on October 14, 1982, in an effort to wage war on drug trafficking, the President established 12 regional drug task forces—in addition to the ongoing south Florida task force—and a Presidential Commission on Organized Crime. The cost to underwrite these new regional drug task forces has been pegged at approximately $130 million. We are now receiving reports that the funds to underwrite these task forces would have to come from other law enforcement agencies.

Although I applaud the President for undertaking this new drug interdiction initiative, we must avoid playing a charade of creating new drug enforcement programs on the one hand, while failing to properly fund those law enforcement programs on the other hand. If we truly mean what we say about waging war on drug trafficking, then we must back up our well intended words with deeds by providing funds, personnel, equipment, and the resources needed by our drug law enforcement agencies to effectively perform their dangerous tasks.

Mr. Speaker, the President of Pakistan is currently in Washington to discuss a wide range of complex issues affecting both our nations, including the thorny problem of the massive heroin exports by Pakistan. But how can we ask that Government to intensify its efforts to help eradicate the illicit production of drugs in that Nation's northwest frontier if our Nation is not prepared to effectively interdict drug trafficking in this country?

An editorial appearing in today's New York Times, entitled, "Was the Drug Plan Only a Ploy?" questions the administation's preelection drug plan by asking: "Was this just another bold anticrime proposal surfacing in the thick of a campaign and destined to sink from sight after the votes were counted?"

I hope not. I hope that the administration's drug plan is not a ploy, that it truly intends to provide the funds, personnel, and equipment for the proposed regional crime task forces and not at the expense of our existing law enforcement agencies.

Mr. Speaker, in an effort to bring to my colleagues attention the possibility that these drug task forces might not properly be funded, I am inserting at this point in the RECORD the complete text of the New York Times editorial of December 7, 1982:

[From the New York Times, Dec. 7, 1982]

WAS THE DRUG PLAN ONLY A PLOY?

Just before the November elections, President Reagan announced a new plan to fight organized crime and drug trafficking. It called for adding 900 agents to the Federal Bureau of Investigation and the Drug Enforcement Administration and creating task forces to conduct major investigations in 12 cities.

The plan was impressive. The Administration seemed ready at last to go beyond rhetoric about crime. But funding remained a problem. Mr. Reagan said the $130 million could be found by cutting back other Justice Department programs.

That shaky commitment aroused skepticism. Was this just another bold anticrime proposal surfacing in the thick of a campaign and destined to sink from sight after the votes were counted?

The skeptics now seem vindicated. The Administration duly asked Congress to pare the needed funds from other budgets. But when this met opposition, the White House backed off. The Office of Management and Budget now says it cannot find enough money in other programs, and offers no alternative.

The Administration cannot be held serious about its plan if it will not help make the difficult financial choices. Not to fund the program, now that the election is over, turns an admirable plan into a cynical ploy. In the matter of crime-busing, that is disgraceful.

FORTY-FIRST ANNIVERSARY OF THE ATTACK ON PEARL HARBOR

(Mr. CLAUSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLAUSEN. Mr. Speaker, today is the 41st anniversary of the Japanese surprise attack on Pearl Harbor. As a former naval aviator and veteran of World War II, I will never forget that day on December 7, 1941, which President Roosevelt referred to as: "a day that will live in infamy."

I believe that this day should be a day of remembrance for the 2,400 citizens of the United States who were killed in action on that fateful morning. This was an attack which touched off a war effort in the Pacific that dramatically changed the balance of power in East Asia and the Pacific region for decades to follow.

I believe that this day should also be remembered and associated with an effort that took 44 months of battles at sea, in the air, and on scores of Pacific islands—at a cost of over 97,000 American lives—to end the war in the Pacific. This is a high price to pay for unpreparedness. This must be the lesson to all Americans—that peace goes well beyond the absence of war—it goes straight to the issue of a credible deterrent and a national commitment to peace through strength.

I would remind my colleagues of this lesson during their consideration of "Peacekeeper," a program designed to help protect this great Nation and the free world by providing a capable and effective deterrent.

Finally, Mr. Speaker, let us all remember that what has made this Nation great is the moral strength and character of our people and our ability to pull together in times of stress and pressure—to overcome adversity no matter what the odds are. This is the lesson which makes me proud to be an American.

PERSONAL EXPLANATION

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, last week, on Wednesday, Thursday, and Friday, December 1, 2, and 3, I went to Brasilia, Brazil, as an official delegate to the Western Hemisphere Conference of Parliamentarians on Population and Development. I headed the delegation of the United States, was elected a vice president of the Conference and presided at one of its plenary sessions, and delivered to the Conference the greetings and good wishes of President Reagan.

Unfortunately, these official responsibilities in representing our country in Brazil, forced me to miss a number of recorded votes in the House. I wish to announce for the record how I would have voted on each rollcall, had I been able to be present:

Rollcall No. 400; "yes."
Rollcall No. 401; "yes."
Rollcall No. 402; "yes."
Rollcall No. 403; "no."
Rollcall No. 404; "yes."
Rollcall No. 405; "yes."
Rollcall No. 406; "yes."
Rollcall No. 407; "no."
Rollcall No. 408; "no."
Rollcall No. 409; "yes."
Rollcall No. 410; "no."
Rollcall No. 411; "no."
Rollcall No. 412; "yes."
Rollcall No. 413; "yes."

GENERAL LEAVE

Mr. ADDABBO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill (H.R. 7355) making appropriations for the Department of Defense for the fiscal year ending September 30, 1983, and for other purposes, and that I may be permitted to include tables and extraneous material in connection with the bill.

The SPEAKER pro tempore (Mr. BENNETT). Is there objection to the request of the gentleman from New York?

There was no objection.

DEPARTMENT OF DEFENSE APPROPRIATION BILL, 1983

Mr. ADDABBO. Mr. Speaker, pursuant to the unanimous-consent request granted December 2, 1982, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7355) making appropriations for the Department of Defense for the fiscal year ending September 30, 1983, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 2 hours, the time to be equally divided and controlled by the gentleman from Alabama (Mr. EDWARDS) and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. ADDABBO).

The motion was agreed to.

□ 1345

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 7355, with Mr. ROSTENKOWSKI in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the unanimous-consent agreement, the gentleman from New York (Mr. ADDABBO) will be recognized for 1 hour, and the gentleman from Alabama (Mr. EDWARDS) will be recognized for 1 hour.

The Chair recognizes the gentleman from New York (Mr. ADDABBO).

Mr. ADDABBO. Mr. Chairman, I yield myself 14 minutes.

Mr. ADDABBO. Mr. Chairman, this year the administration submitted to the Congress the largest single military budget ever submitted to any legislative body during peacetime.

It is 85.6 percent above the fiscal year 1980 budget that was submitted just 36 months ago.

Measured in fiscal year 1983 constant dollars—the defense budget as submitted is $20 billion higher than the peak of the Vietnam war years; and it has been exceeded in total dollars only once since the end of World War II, and that was 1 year, 30 years ago, during the peak of the Korean war.

Mr. Chairman, the committee looked at estimates for defense in fiscal year 1983 totaling $249.6 billion, including military and civilian pay raise sums.

The bill being presented to the House at this time contains a total of $231.6 billion, including transfers of $520.1 million, a reduction of $18 billion from the President's request.

It is $25.9 billion more than the sums made available for the same purposes in fiscal year 1982.

The administration proposes spending almost $1.7 trillion for defense over the next 5 years beginning in fiscal year 1983.

It took Congress over 40 years to appropriate $2 trillion for defense and the Pentagon plans to spend almost that much in only 60 months.

With record-high deficits facing this country, estimated to range between $155 billion and $200 billion, it is my judgment this Nation cannot support a number of unneeded major weapon systems funded in this bill that will have significant outlay impact in fiscal year 1984 and thereafter. For example—the bill contains about $4.8 billion to fund 7 B-1B bombers; 100 B-1 bombers will cost $41 billion, or $410 million each, according to CBO estimates.

The bill contains about $3.5 billion in fiscal year 1983 for continued development and initial production of five MX ICBM missiles. The MX missile program will cost over $35 billion in Dense Pack deployment mode.

Depending on the Soviet response to MX, the administration proposes to additionally invest in antiballistic missile defense, deceptive basing, and deep underground basing, which will add many billions of dollars more to the MX program.

The bill contains $6.6 billion to construct two more nuclear-powered aircraft carriers in fiscal year 1983.

A minimum expenditure of nearly $84 billion in constant fiscal year 1983 dollars will be required over the next 30 years for initial investment and lifecycle cost of the two carriers, their airwings, their task force ships, and submarines, and support ships.

The aircraft carrier costs that I cited are conservative Navy estimates; they are not in then-year dollars. And for that amount, we are told the Navy will save the taxpayers $750 million. What a bargain.

These three systems, plus the C-5B and KC-10 aircraft programs funded in this bill, will cost nearly $100 billion in initial investment alone.

This country cannot afford to spend $100 billion to buy just five military systems over the next few years.

I support a strong national defense like everyone else in this House, but I do not think we have to fund every expensive military "toy" the admirals, generals, and contractors think we should have.

I do not think we need to build two more nuclear-powered aircraft carriers when we already have 13 carriers and another one under construction.

We need more Navy aircraft, missiles, surface ships, and submarines to adequately threaten the Soviet Navy, not provide the Soviets with expensive targets that large aircraft carriers represent.

I do not think we need to build 100 B-1B bombers at a cost of $410 million apiece when Congress decided to terminate the B-1 in 1977 in favor of building cruise missiles on B-52's through the 1990's until the advance technology bomber enters the inventory.

Nothing has changed since 1977. There is no new threat to cruise missiles.

This country cannot afford to build two new bombers. Mark my words. If the B-1 proceeds forward, the advance technology bomber will be terminated at a great loss to this country because it will compound and tax Soviet air defenses far more than the B-1 will.

I do not think this country can afford to develop and deploy an MX system at a cost of $35 billion to $50 billion that will abrogate the only two hard fought agreements we have achieved with the Soviets.

The MX is not mobile. A total of 100 missiles will be placed in 100 fixed silos. And new fixed silos are prohibited under SALT.

When the administration proposes a new ABM system to protect MX, it will effectively terminate the only treaty we have had with the Soviets.

And just as serious, these multibillion dollar systems will cause very important areas of our conventional forces to suffer for lack of sufficient funding.

Without doubt, our conventional forces will continue to suffer over the next few years because of these costly, unneeded systems that might be nice to have but are not necessary for our national defense.

And more importantly, I do not think we should fund multibillion dollar carriers, MX missiles, and B-1 bombers at the expense of our economy, and to the detriment of the needs of our cities, States, and the people of this great Nation.

And keep this in mind. If we do not do our work today on the B-1, the MX and the carrier, I feel that they will be acted on by the 98th Congress at great expense to the American taxpayer in the nature of costly termination costs in fiscal year 1984.

I recommend that you read my additional views on page 245 of the report. You will find that later on I shall offer amendments to delete funds for the second nuclear-powered aircraft carrier, for the MX missile, and all funds budgeted in fiscal year 1983 for the B-1 bomber. Deleting funds for these programs now does not preclude reconsideration of these weapons systems in the future.

On a more positive note, I am proud to point out that the Defense Subcommittee again this year took a number of initiatives to increase spending during fiscal year 1983 for our reserve components, which are continually underfunded. We have recommended over $500 million above the budget for additional weapons and other support for our Guard and Reserve Forces.

A word about the Pershing II missile. The full $111.3 million budgeted for continued development of the Pershing II missile is included in the bill.

The committee deleted without prejudice the $498.3 million budgeted for continued production of that missile until about 10 or 12 successful flights are accomplished, giving us confidence the missile works.

Remember that 21 Pershing II missiles were funded for production in fiscal 1982, allowing the administration to meet the initial deployment schedule in Europe of 16 Pershing missiles.

I want to compliment the members of the Defense Subcommittee for returning on November 15—during their district work period—to mark up this bill so that we might bring it to the floor today. They worked long hours in an effort to get a bill out of the House before sine die adjournment.

Our staff is to be commended for the long and tedious hours and months they worked in order to prepare the committee for markup and in writing the bill and report and having it printed in only 6 days after markup was completed. It is a record never before achieved.

We have initiated another first this year by including in this bill the military and civilian pay raise that became effective October 1, 1982. This initiative will preclude the necessity for a pay supplemental next spring.

With the $231.6 billion recommended in this bill, the Department has been placed on notice the committee does not expect to receive any supplemental for any purpose in 1983 unless it is in the nature of a "zero sum" type utilizing available funds.

I should remind the House that by far the majority of the thousands of line items in the defense budget are untouched. They are funded at the budget or the authorized levels.

We have been very careful not to cut into our readiness; therefore, the reductions recommended in operation and maintenance represent savings identified from revised fuel cost estimates—$1.2 billion—in energy conservation—$50 million—in excess industrial workload carryover estimates—$63.5 million—in underestimates of FMS administrative surcharge collections—$100 million—in civilian pay raise overestimates—$372 million—in the foreign currency fluctuation account—$1 billion—and in other nonreadiness areas.

With the few exceptions I have mentioned, I urge your support of the recommendations of the committee. I thank you for your attention, but before I defer to the gentleman from Alabama, the ranking minority member of the subcommittee, I shall submit a table and further additional highlights of the bill into the RECORD at this point.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY

	Fiscal year—		House	House bill compared with enacted	House bill compared with estimates
	1982 enacted	1983 estimates			
RECAPITULATION					
Title I—Military personnel	42,737,017,000	47,902,500,000	45,076,265,000	+2,339,248,000	−2,826,235,000
Title II—Retired military personnel	14,986,000,000	16,510,800,000	16,154,800,000	+1,168,800,000	−356,000,000
Title III—Operation and maintenance	62,646,310,000	71,087,451,000	66,894,464,000	+4,248,154,000	−4,192,987,000
(Transfer from other accounts)	(218,626,000)			(−218,626,000)	
Title IV—Procurement	64,987,785,00	89,616,914,000	80,753,133,000	+15,765,348,000	−8,863,781,000
(Transfer from other accounts)	(208,000,000)		(520,072,000)	(+312,072,000)	(+520,072,000)
Title V—Research, development, test, and evaluation	19,859,148,000	24,398,894,000	22,114,054,000	+2,254,906,000	−2,284,840,000
Title VI—Special foreign currency program	3,083,000	3,800,000	3,800,000	+717,000	
Title VII—General provisions (additional transfer authority sec. 732)	(750,000,000)	(1,000,000,000)	(1,200,000,000)	+450,000,000)	(+200,000,000)
Title VIII—Related agencies	98,295,000	92,050,000	106,976,000	+8,681,000	+14,926,000
Total, Department of Defense (NOA)	205,317,638,000	249,612,409,000	231,103,492,000	+25,785,854,000	−18,508,917,00
(Transfer from other accounts)	(426,626,000)		(520,072,000)	(+93,446,000)	(+520,072,000)
Total funding available	205,744,264,000	249,612,409,000	231,623,564,000	+25,879,300,000	−17,988,845,000
(Transfer authority)	(750,000,000)	(1,000,000,000)	(1,200,000,000)	(+450,000,000)	(+200,000,000)
Distribution by organizational component:					
Army	51,332,422,000	60,021,108,000	54,563,284,000	+3,230,862,000	−5,457,824,000
(Transfer from other accounts)	(23,500,000)		(198,200,000)	(+174,700,000)	(+198,200,000)
Navy	67,771,738,000	87,165,570,000	80,133,555,000	+12,361,817,000	−7,032,015,000
(Transfer from other accounts)	(236,900,000)		(35,000,000)	(−201,900,000)	(+35,000,000)
Air Force	63,479,054,000	76,445,760,000	71,537,844,000	+8,058,790,000	−4,907,916,000
(Transfer from other accounts)	(166,226,000)		(286,872,000)	(+120,646,000)	(+286,872,000)
Defense agencies/OSD	7,650,129,000	9,377,121,000	8,993,033,000	+1,342,904,000	−384,088,000
Retired military personnel	14,986,000,000	16,510,800,000	16,154,800,000	+1,168,800,000	−356,000,000
Related agencies	98,295,000	92,050,000	106,976,000	+8,681,000	+14,926,000
General reduction			−386,000,000	−386,000,000	−386,000,000
Total, Department of Defense (NOA)	205,317,638,000	249,612,409,000	231,103,492,000	+25,785,854,000	−18,508,917,000
(Transfer from other accounts)	(426,626,000)		(520,072,000)	(+93,446,000)	(+520,072,000)

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY—Continued

	Fiscal year—		House	House bill compared with enacted	House bill compared with estimates
	1982 enacted	1983 estimates			
Total funding available	205,744,264,000	249,612,409,000	231,623,564,000	+25,879,300,000	−17,988,845,000
(Transfer authority)	(750,000,000)	(1,000,000,000)	(1,200,000,000)	(+450,000,000)	(+200,000,000)

MILITARY PERSONNEL

The committee recommendations for Active and Reserve personnel appropriations for fiscal year 1983 total $45,076,265,000. That is a reduction of $2,826,235,000 from the budget request, but an increase of $2,339,248,000 over fiscal year 1982 appropriations. Action on the fiscal year 1983 pay raise accounts for $1.9 billion, or about two-thirds, of the $2.8 billion reduction from the budget.

Committee action on the Department of Defense's budget revisions lowering force structure and permanent change of station requests accounts for another 20 percent of the reductions. The balance of the reduction largely stems from committee recommendations for enlistment and reenlistment bonuses and for certain proposed travel initiatives.

The budget requested $3,007,000,000 to cover an 8-percent pay raise for fiscal year 1983 for the military. Congressional action on the fiscal year 1983 budget resolution and reconciliation bill set military pay at 4 percent and called for a 50-percent absorption of that amount by all departments and agencies. The Appropriations Committee itself asked subcommittees to approve a more realistic 25 percent in absorption. The committee's reduction of $1,885,566,000 from the budget request for the pay raise reflects the policy of a 4-percent pay raise for the military and an absorption rate of 25 percent.

The committee has broken with the past by including the funds for the pay raise in the regular appropriation bill rather than waiting for the spring supplemental, which is the usual practice. This action was taken to give the Department the greatest opportunity to plan the administrative and management actions that will be necessary to achieve the 25-percent absorption. It is obvious that the efforts will require an intensive scrutiny of the military personnel accounts, and may well require reprogramings from other accounts. To be certain those reductions will be made, the committee is requiring the Department to submit its plan for achieving the 25-percent absorption promptly after enactment of this bill.

Committee actions on military personnel will fund an estimated active end strength of 2,127,444. Considering that 11,000 training and administration of Reservists [TARS] personnel were counted as active strength last year and are now counted as Reserves, the committee recommendation funds an active end strength increase of about 30,000 over fiscal year 1982. The Air Force, Navy, and Marine Corps are funded at the authorized levels, which represent substantial growth for the Navy and the Air Force. The Army is funded at just about the 1982 end strength levels, somewhat lower than the revision recommended by the Secretary of Defense. The committee reductions in end strength were not specific with regard to force structure.

The committee recommendations fund selected reserve strength at about 30,000 over fiscal year 1982, when the adjustment for TARS, mentioned above, is taken into account. This reduction is lower than authorized levels by 4,946, but fully 20,000 higher than the revised Department request.

The third general area that accounts for the committee's overall reduction is its recommendations on bonus programs and travel initiatives.

For enlistment and selective reenlistment bonuses, the committee recommends $616,154,000, a reduction of $147,680,000 from the request. In a word, recruiting and retention are at historically high rates, both in terms of quality and quantity. Authorized end strengths are lower than budgeted amounts, so requirements are down. Furthermore, powerful forces besides bonuses are at work to produce the glowing achievements in retention and recruiting. Department and other sources have cited the sluggish economy, the very significant pay raises of recent years, a growing sense that it is an honor to wear the uniform again, opportunities for education and training, and improved recruiting and advertising efforts, to mention a few of the major ones. The committee feels that its actions will help to bring about the selectivity it has been emphasizing for several years in these programs.

The committee also funded 25 percent of the budget request for several travel initiatives proposed in the fiscal year 1983 budget, including member mileage allowance, dependent mileage allowance, household goods weight allowance, and temporary lodging expense. It is the committee's long-held view that the Department transfer policies result in far too many moves that are disruptive and expensive to the taxpayers and to the individual member. It is the committee's intention to perform a comprehensive review of various permanent change of station initiations in connection with the fiscal year 1984 budget. The 25-percent funding recommended by the committee reflects its concern for the cost to individual members of current policies.

Last year the committee directed the Department to permit each service to establish the appropriate mix of active Guard/Reserve (AGR) and civilian technician strength. The committee also provided a number of guidelines for the services to follow in this activity. Since that time, the committee has received numerous complaints about the manner in which its directives are being carried out, and requested assistance from the General Accounting Office to review the issues being raised. As a result of its review this year, the committee recommendation establishes a floor strength at fiscal year 1982 levels for civilian technicians, and it directs the Secretary to use existing authority to exceed presonnel ceilings and hire the civilian positions the committee is funding. For the future, the committee requires each component to develop a plan for managing its full-time support personnel, and directs the Department to take the necessary steps to insure that future growth of full-time manning is determined on the basis of cost effectiveness consistent with readiness requirements.

Closely related to the civilian technician conversion issue is the committee's recommendation on full-time support. The committee had before it Department budget revisions lowering budgeted drill strength by 20,000 and $80 million, and for keeping full-time support at 1982 levels by lowering earlier budget requests by 4,946 end strength and $60 million. The committee rejected the 20,000 reduction in drill strength, but accepted the 4,946 reduction for full-time strength.

The committee anticipates budget requests for significant growth in full-time support in future years, and determined that the best course was to concur in the Department revision and take actions to insure that increases in full-time personnel do improve readiness in a cost-effective manner. The committee's review this year disclosed the need to enhance the relevance of cost effectiveness and readiness in selecting the type of full-time support personnel increase; the need to improve the management of CAPSTONE to insure that increases in full-time support results in improved training; the need to eliminate the wasteful practice of double slotting—listing full-time manning personnel in active duty positions comparable to those

held by drilling Reservists; and the need to insure that AGR and military technician personnel will mobilize and deploy with their units.

In other actions having to do with Reserve components, the committee removed the pay cap on civilian technicians putting them on the same footing as the other 200,000 Federal employees who are also members of a Reserve component; and the committee clarified its intent that full-time personnel in the Guard are under State control.

OPERATION AND MAINTENANCE (O&M)

The committee is recommending reductions totaling $4,192,987,000 from the O&M request of $71,087,451,000, or a reduction of less than 6 percent.

Because the O&M accounts fund our near-term military readiness, I want to assure my colleagues that the bill before you provides for higher readiness levels than included in the President's fiscal year 1983 budget but does so for $4.2 billion less than was requested.

Let me break the $4.2 billion reduction down for you.

The sum of $1,150 million was deleted because current fuel prices are significantly less than was projected in the budget. DOD buys so much fuel that for every 1 cent per gallon that fuel goes down in price, DOD saves about $75 million.

The sum of $1 billion was deleted because of the continued strength of the dollar overseas. When the budget was submitted last January, DOD was projecting that the strength of the dollar would start to decline. Since this has not happened, it means that DOD has requested more funding in the budget than it really needs to support its planned programs.

The sum of $125 million was deleted from the Army because slippages in the delivery of new weapons systems meant that O&M funds would not be requested to support the items not yet received.

The sum of $190 million was deleted simply as a result of an agreed upon change in the method of accounting for obligations in the Air Force depot maintenance program.

The sum of $100 million was deleted from the $1.3 billion DOD guesses that it requested for consultants and experts. The committee investigative staff found that DOD does not really know how much it spends and that very little control exists over these expenditures.

The sum of $100 million was deleted to reflect the savings which will result from increased reimbursement on administrative costs from foreign military sales customers.

The sum of $182 million was deleted because DOD had proposed a change in the budgeting procedures for buying industrial plant equipment. These costs will continue to be reflected in the procurement accounts where they have always been.

The sum of $64 million was deleted because our investigative staff and the GAO had found that DOD was requesting hundreds of millions of dollars for work in DOD industrial activities which could not even be performed during fiscal year 1983.

The sum of $333 million was deleted as a result of giveups by the Secretary of Defense or by the military services during the course of our budget review. The largest portion of this reduction is $249 million which the Secretary of Defense testified could be saved by accelerating the retirement dates for 22 ships which were beyond their normal life expectancy and were scheduled to be retired over the next few years anyway.

The sum of $372 million was deleted for the civilian pay increase which took effect on October 1, 1982—$186 million of this reduction is attributable to the fact that the budget projected a 5 percent civilian pay raise when the actual raise was only 4 percent. The remaining $186 million reduction requires DOD to absorb 25 percent of the cost of the pay raise. This is only half of the 50 percent absorption that was recommended in the budget resolution for the civilian agencies of the Federal Government.

The sum of $305 million was deleted based upon specific authorization reductions recommended by the Authorization Conference Committee, including such items as base operations, CINC readiness fund and Navy depot maintenance.

The remaining reduction of $272 million is the result of many separate smaller adjustments, the larger items of which include: Reduced reimbursements to GSA for space rental; overbudgeted unemployment and disability compensation costs; reduced claims reimbursements to the West German Government; increased emphasis on energy conservation; and savings in the CHAMPUS program.

Based upon the above list, I think it is clear that the proposed reductions do not impact adversely on readiness.

The recommendation does, however, include several increases which will directly improve the readiness posture of our Armed Forces. For example:

The sum of $44 million was added to continue the equipment and training upgrade presently underway in the Army Guard and Reserve.

The sum of $75 million was added to allow Navy pilots to fly 39,000 hours more than was included in the budget for tactical and antisubmarine warfare operations.

The sum of $150 million was added for improved maintenance on DOD owned real property. This is $285 million above the level recommended by the Secretary of Defense in our hearings.

The sum of $33 million was added to support improved Marine Corps and Marine Corps Reserve supply, equipment, and training readiness.

The sum of $50 million was added to reengine Air Guard tankers to improve their range and readiness capability.

In summary, the reductions being proposed were made judiciously to insure that our ever-improving readiness levels would not be harmed. In addition, it can clearly be seen that the increments to the budget being proposed will have a direct and immediate beneficial impact on readiness. Finally, the bill before us includes an increase of 6.2 percent over the fiscal year 1982 appropriated level, making it the largest recommended appropriation for O&M ever considered by the Congress.

PROCUREMENT

Mr. Chairman, the amended fiscal year 1983 procurement budget totals $89,616,914,000. The bill before the House recommends $81,273,205,000 in total funding, including $80,753,133,000 in new budget authority and $520,072,000 in prior year unobligated balances transferred forward to fiscal year 1983. The total amount recommended is a decrease of $8,343,709,000 below the fiscal year 1983 budget estimate and is $16,077,420,000 above the total amounts provided for fiscal year 1982, an increase of 25 percent. The table below summarizes the budget estimates and the committee's recommendations:

	Budget request	Committee recommended	Change from request
SUMMARY			
Army:			
Aircraft	2,745,914	2,514,900	−231,014
Missiles	2,846,600	2,287,600	−559,000
Weapons, tracked combat vehicles	5,024,485	4,488,815	−535,670
Transfer from other accounts		(198,200)	(+198,200)
Ammunition	2,625,684	2,075,394	−550,290
Other	4,625,791	4,148,804	−476,987
Total, Army	17,868,474	15,515,513	−2,352,961
Transfer from other accounts		(198,200)	(+198,200)
Total funding available		198,200	+198,200
Navy:			
Aircraft	11,582,300	10,616,546	−965,754
Weapons	3,901,600	3,644,060	−257,540
Ships	18,648,300	15,918,000	−2,730,300
Transfer from other accounts		(35,000)	(+35,000)
Other	3,969,356	3,825,301	−144,055
Marine Corps	2,300,700	2,008,432	−292,268
Total, Navy	40,402,256	36,012,339	−4,389,917
Transfer from other accounts		(35,000)	(+35,000)
Total funding available	40,402,256	36,047,339	−4,354,917
Air Force:			
Aircraft	17,834,800	17,588,600	−246,200
Transfer from other accounts		(254,800)	(+254,800)
Missiles	6,795,900	5,669,700	−1,126,200
Transfer from other accounts		(15,000)	(+15,000)
Other	5,836,200	5,520,136	−316,064
Transfer from other accounts		(17,072)	(+17,072)
Total, Air Force	30,466,900	28,778,436	−1,688,464
Transfer from other accounts		(286,872)	(+286,872)
Total funding available	30,466,900	29,065,308	−1,401,592
Defense agencies	879,284	832,845	−46,439

	Budget request	Committee recommended	Change from request
National Guard and Reserve components			
General reduction, IR&D and B&P		−386,000	−386,000
Total MDA	89,616,914	80,753,133	−8,863,781
Transfer from other accounts		(520,072)	(+520,072)
Total funding available	89,616,914	81,273,205	−8,343,709

ARMY

For Army procurement, the bill includes $15,515,513,000 in new obligational authority plus $198,200,000 in transfers, for a total of $15,713,713,000. This total represents an increase of $1,742,342,000, or 11 percent above fiscal year 1982. The bill includes the following: $810.3 million, including advance procurement, for 48 AH-64 Apache attack helicopters; $568.9 million, including advance procurement, for 96 UH60A Black Hawk helicopters; $261.3 million for the CH-47 helicopter modification program; $779.1 million for procurement of 376 Patriot surface-to-air missiles; $422.1 million, including advance procurement, for production of the multiple launch rocket system (MLRS) under a 5-year multiyear contract; $832.5 million, including advance procurement, for 600 Bradley fighting vehicles; $1,939.5 million, including transfers and advance procurement, for 855 M-1 main battle tanks; $511.5 million, including advance procurement, for procurement of the division air defense system (Divad); $2,075.4 million for tank, artillery, mortar, and other ammunition; $4,148.8 million for other procurement, including almost $1 billion for tactical trucks, and a wide variety of electronic, communication, and other support equipment.

NAVY

For Navy procurement, the bill includes $36,012,339,000 in new obligational authority, plus $35,000,000 in transfers of unobligated balances to fiscal year 1983, for a total funding availability of $36,047,339,000. This total represents an increase of $9,447,806,000 or 36 percent above fiscal year 1982.

The bill funds the following major Navy weapon systems:

Bill provides funds for 272 aircraft including 84 F/A-18, 24 F-14 fighter aircraft, 8 A-7E attack aircraft, and 21 AV-8B close air support aircraft.

Total appropriation recommended for Navy aircraft is $10.6 billion and represents a 16-percent increase over the fiscal year 1982 appropriation.

Total appropriation for Navy weapons is $3.6 billion which is an increase of nearly 13 percent over fiscal year 1982.

Includes 72 Trident missiles, 670 Sparrow missiles, 500 Sidewinder missiles, 144 Mark-48 torpedoes, 440 Mark-46 torpedoes, and 500 Captor mines.

Total appropriation for Navy shipbuilding is $15.9 billion for 14 ships and includes funds for a Trident D-5 ballistic missile submarine, 3 Aegis cruisers, 2 SSN-688 nuclear-powered attack submarines, 2 FFG-7 guided missile frigates and 2 nuclear-power aircraft carriers.

The total appropriation for other procurement, Navy is $3.8 billion which represents a 3-percent increase over fiscal year 1982.

The total appropriation for the Marine Corps procurement is $2 billion which represents an increase of 17 percent over fiscal year 1982.

AIR FORCE

For Air Force procurement, the bill includes $28,778,436,000 in new obligational authority and $286,872,000 in unobligated balances transferred forward to fiscal year 1983 for a total availability of $29,065,308,000. This total represents and increase of $5,166,977,000 or 22 percent above the amounts provided in fiscal year 1982.

Major items funded in Air Force procurement include: $3,868.1 million, including advance procurement, for 7 B-1 aircraft; $1,402.4 million, including advance procurement, for 39 F-15 aircraft; $1,934.9 million, including advance procurement, for 120 F-16's under a multiyear contract; $915 million, including transfers and advance procurement, for a multiyear procurement contract for KC-10A tanker/airlift aircraft; $850.0 million for C-5B intertheater airlift aircraft; $3,581.9 million for aircraft spares and repair parts; $988 million for the procurement of 5 MX missiles; $548.2 million for air launched cruise missiles; $1,287 million for continued procurement of four different satellite systems, plus space boosters and shuttle costs; and $5,537 million for a wide variety of equipment in the "Other Procurement, Air Force" account.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

For research, development, test, and evaluation [RDT&E], the bill provides a total of $22.1 billion, a reduction of $2.3 billion from the budget request. This recommended sum is an increase of $2.3 billion over the amount provided last year, and therefore represents an increase of 11.4 percent. It will be fully adequate for the RDT&E activities of the military departments and agencies in fiscal year 1983.

The RDT&E accounts include hundreds of line items, each of which received careful scrutiny in the course of examining the budget. The line items themselves comprise thousands of individual projects which span the full gamut of technology and weapons system developments.

Among the major programs funded in the bill are defense research sciences, $717 million; ballistic missile defense system technology, $377.3 million; Pershing II, $111.3 million; DDGX, $138.6 million; F/A-18, $109.2 million; space defense systems, $211.8 million; and advanced medium range air-to-air missile, $207.6 million.

I must point out that more than 11 percent of the total amount in the bill for the entire RDT&E program for all of the Department of Defense, some $2.5 billion, is for the MX. Further, $754 million, or 3.4 percent of the entire RDT&E amount, is for the B-1B bomber which its advocates claimed last year was already developed and ready for production.

Mr. Chairman, the first major amendment will probably be the MX amendment. The MX amendment will propose to delete the $988 million for procurement. It does not affect anything as a bargaining chip. It is $988 million which is premature. It would probably be added to the unexpended balances which now total $124.3 billion. These are moneys appropriated to the Defense Department which are still waiting to be spent. This $988 million would probably be added to that.

A second amendment will be offered to reduce the funding for the MX research and development. In this same bill, in which the administration has asked for $988 million for the production of the MX missile, they have also asked for $1.7 billion for research and development on that same missile.

How can we sign a contract, and procure missiles when we still need nearly twice as much money for research and development on the missile?

There is also money in the bill for the basing modes. There is $775 million for that in the bill. I will move to reduce that sum because Dense Pack is now the intended basing mode that was announced to this Congress.

So there will be two separate amendments as far as the MX is concerned. The first will be on the procurement; to cut out the waste and stop the Air Force from taking this money under a blank check without the Congress having any control over when they are going to spend it. And the second amendment will be to reduce funding on research and development for the basing modes and the missile itself.

Mr. PEYSER. Mr. Chairman, will the gentleman yield?

Mr. ADDABBO. I yield to the gentleman from New York.

Mr. PEYSER. Mr. Chairman, I thank the gentleman for yielding.

I want to take this opportunity at the opening of the debate to thank the subcommittee chairman, the gentleman from New York (Mr. ADDABBO) for what has to be one of the most courageous stands that anyone has taken. As one individual member, he has led the way in this fight, which is really a fight, I believe, for the American people and represents how the

American people feel, particularly in the area of the deletion in terms of the MX missile money and the money for the B-1 bomber. In the face of tremendous opposition by the administration and by the Cabinet members, the gentleman has stood firm in his convictions.

I know that it has not been easy, and I want the gentleman to know that I really believe he is speaking for the American people and is going to be speaking for a majority of this Congress. I want to thank him for the job he has done.

Mr. ADDABBO. Mr. Chairman, I thank the gentleman from New York.

Mr. STRATTON. Mr. Chairman, will the gentleman yield to me?

Mr. ADDABBO. I yield to the gentleman from New York.

Mr. STRATTON. Mr. Chairman, the gentleman indicated that one of the amendments he was going to offer was an amendment that would eliminate $988 million for the MX. My question is this: I assume that the gentleman's amendment would be to strike out lines 13 through 25 on page 26; is that correct?

Mr. ADDABBO. Mr. Chairman, I do not have the bill before me, but it will be to reduce the sum of money that is in the bill for missile procurement.

Mr. STRATTON. By the $988 million?

Mr. ADDABBO. The gentleman is correct.

Mr. STRATTON. Mr. Chairman, a further question is this:

The section that contains this $988 million spells out the fact that those funds would not be obligated or expended for procurement of any missiles until after March 15, 1983, when the Congress has received a written timetable regarding the monthly production and delivery schedule, and so forth.

Does that not mean that the so-called Dense Pack basing mode which we have been told is the recommended system for utilizing the missile, is by no means set in concrete, and that we will not really know what the fired missile basing mode until the first of March 1983?

Mr. ADDABBO. That is essentially correct, and that is the reason I am moving to strike out the full $988 million. The language in the bill, regarding the March 15 date, says all we have to do is receive a timetable, and if that timetable says that the missile is going to be needed on January 1, 1986, which is the earliest time it could be had, they could hold that money or reprogram it or do whatever they want before that time.

We want control by the Congress, the people's House. On November 2, 1982, the people said the Congress should look at the defense bill and should look at each weapons system. That is what I am saying. Let the next Congress look at the entire program and see whether we should give them money for production. This would give them complete license after March 15 to commit us to a $25 billion to $40 billion program, which I think the next Congress should look at very carefully and not this Congress.

Mr. STRATTON. Mr. Chairman, if the gentleman will continue to yield to me, a number of Members of the House, I believe, are concerned about the so-called Dense Pack basing mode. They have problems with understanding fratricide, pindown, and all of these other things that are supposedly involved with what is known as Dense Pack. I wonder if the gentleman would agree with me that, as this legislation is formulated here in his bill, there is no Dense Pack included. Therefore, those who are worried about the fact that Dense Pack is a part of this arrangement need not be concerned with this aspect of it. Does he not agree?

Mr. ADDABBO. Mr. Chairman, Dense Pack is not included in this amendment, but later on, as the gentleman knows—sitting as the ranking member on the House Armed Services Committee—Dense Pack could be included under the research and development portion of this bill. We will move to the consideration of that when we get to it later. We will be debating the MX for quite some time later on this afternoon, and probably tomorrow.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. ADDABBO. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, it is true that the production money is there in the procurement part of the bill, but implicit in that is the assumption that the administration has selected Dense Pack as the basing mode, so once the missiles are procured it is the Dense Pack system they intend to deploy, and they will put the missiles in the Dense Pack arrangement.

That is why Members are concerned, because they are questioning whether Dense Pack itself is a viable option, and, therefore, they want to deny the procurement money until we have a basing mode that is more credible than Dense Pack; is that not the fact?

Mr. ADDABBO. The gentleman is absolutely correct. That was the decision announced by the President on November 22. The Dense Pack is the mode announced for the MX.

Mr. DICKS. And there is more than $700 million in there for research and development on the basing mode, which one would assume would be the Dense Pack arrangement?

Mr. ADDABBO. That is correct.

Mr. DICKS. So Dense Pack is very much a part of this bill.

The CHAIRMAN. The time of the gentleman from New York (Mr. ADDABBO) has expired.

The Chair recognizes the gentleman from Alabama (Mr. EDWARDS).

□ 1400

Mr. EDWARDS of Alabama. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the bill we bring before you today is, as the Chairman has said, the largest in peacetime history.

But it also contains the largest reduction from the President's request in the last 22 years.

This is a bill, I believe, no one is pleased with. I do not think the President or Secretary Weinberger really like it. The Chairman has indicated he did not like it, and I am certainly uncomfortable with it.

Prior to this past couple of months I could not imagine myself ever standing in this well urging passage of a Defense bill which cut $18 billion from the President's request.

But here I am doing just that. I firmly believe this bill represents the best to be done this year.

We started out last February with a budget request of more than $249 billion. By the time we got a budget resolution, our target was lowered to $239 billion and the bill before you is $231 billion.

In February we started out with an outlay figure of $209 billion; in the budget resolution it went to $201 billion; and in this bill it is about $200 billion.

I must say at this point that the budget resolution figure did not do us any favors. The ratio of budget cuts to outlay cuts was so out of sync that it was impossible for us to reach both targets without doing violence to one of them.

I would plead with my friends on the Budget Committee to be more realistic in their calculations next year. I would ask them to keep in mind that Defense does not spend out at 80 percent the first year and that this year's target of $10 billion in budget authority cuts to $8 billion in outlay cuts simply could not be done.

The only accounts that spend out at that rate or greater are personnel and retirement at 99 percent and operations and maintenance at about 81 percent. All the others spend out at a lesser rate—general procurement at about 14 percent, shipbuilding at about 4 percent, and research and development at about 56 percent.

In order to reach $8 billion in outlay cuts for fiscal year 1983 we had to take, not $10 billion from budget authority, but $18 billion. And that means that we have already reduced 1984 outlays by $7.5 billion and 1985 outlays by $7 billion by virtue of this year's action. So we have built in credits for next year.

With this handicap, with the pressures of the deficit, and with no clear guidance from Congress until the end of June, we went to work on the 1983 bill, the product of which is before you today.

I want to compliment my chairman for bringing the subcommittee back here in mid-November, 2 weeks before Congress reconvened, to complete markup in order to have a bill ready for action this week. I have great respect for the subcommittee, for its dedication to the task and I want to thank the subcommittee staff for its hard work under rather trying circumstances.

Now it is essential that we act on this bill quickly; get it to the Senate and on to the President before we quit for the year. It is irresponsible, counterproductive and extremely wasteful, I believe, to have the Defense Department operating under a continuing resolution any longer.

Having said all that, I want to move on to a brief discussion of this bill, what is in it, and not in it, and a little of what approach we took in arriving at where we are.

In the personnel area, we cap pay raises at 4 percent and instruct the services to absorb one quarter of that. But we include pay in the bill rather than wait for a spring supplemental, which, incidentally, we did not get around to this year until September 10.

Asking the services to absorb a part of the pay raise without funding the remainder up front is to invite management chaos and waste. It is bad enough to have Defense rob various accounts for 11 months of the fiscal year in order to pay the agreed-upon military and civilian pay rates, but asking them to absorb a part of the raise when the year is just about over is simply bad management and we have avoided that by including pay increases in this bill.

The manpower levels are about 20,000 below those originally requested but are in line with adjustments made by the Department last May.

Considering the pay cap and absorption, manpower cuts and some other miscellaneous cuts, we have only provided for 1.2 percent real growth in personnel accounts. That is not enough, but in order to reach our budget resolution guidelines, it is the best we could do.

In retired pay, some recalculations this past summer reduced requirements by $375 million.

In the operations and maintenance account, I have some concern we have cut too deeply. We have allowed only 1.7 percent in real growth. We cut the President's request by more than 5 percent. This is the nuts and bolts of readiness. O&M is where ships and planes and tanks are repaired, where training is funded, and where fuel for flying and steaming hours is funded. Our basing structure is operated from O&M and repair parts are purchased.

But the fact is, we had to cut O&M and cut it deeply in order to attain those outlay cuts we were reaching for.

It is my hope that this is a 1-year phenomenon and that next year, providing our budget resolution targets are realistic, we can return once again to the policy of funding O&M at a prudent and manageable level in order to keep operational those systems we have in the field and to train those who use them.

We have tried to impose O&M cuts so as to impact as little as possible on readiness, but experience tells us we are not always successful in this critical area.

Procurement was cut almost 10 percent by the committee. The Pershing missile was zeroed pending a more successful testing program. The F-18 was reduced due to contract savings and we took steps to make certain no funding for the attack version is spent on procurement until we know more about its value as an attack aircraft. We denied funds for the mine countermeasures ship program, for the fleet oiler, and reduced funding for other ships. We funded the two nuclear carriers at the authorized level, and I am sure we will hear more about that as debate continues.

We funded the Army's modernization program for tanks, fighting vehicles and aircraft in order to enhance our conventional capabilities. We denied some questionable vehicle programs in the Army which fell out on our priority listings.

In the Air Force, we funded both the B-1 and MX at authorized levels, and those issues, too, will be heard from later.

Research and development funds were cut over 9 percent from the request with reductions spread across many programs. Major system R&D was funded as authorized.

In all, we have given the President about 6 percent real growth in this Defense budget authority, a far cry from the February request of 13 percent real growth.

Despite what I consider to be massive cuts in this bill, I still say to you it is a reasonably good bill, and I ask you to support it as presented.

Let me just sum up, Mr. Chairman, by reiterating a couple of points.

We will hear this afternoon and tomorrow that the defense budget was too high, that vis-a-vis domestic spending we are spending too much on defense and there will be efforts made to cut further in this bill.

We have reduced from 13 percent real growth down to about 6 percent real growth what the President asked for. We have reduced some $18 billion from the President's budget authority request and we have reduced over $8 billion in outlays for fiscal 1983 beyond what the President requested us to do.

So we have not been a spendthrift subcommittee. We do not come to you with a bill that is bloated out of proportion.

We do come to you with a bill I think which represents the reasonable efforts of members of this subcommittee to make cuts where proper and to try to leave programs in where they were needed. I believe in that sense we have succeeded and that we should not be embarrassed by the bill that we present or the totals that are involved or the programs that are in this bill for funding.

● Mr. McDADE. Mr. Chairman, I rise in support of H.R. 7355 making appropriations for the Department of Defense and to urge its approval by the full House.

This bill is very much a compromise bill. It is the product of an extraordinary week of work when the members of our subcommittee came back before this session to write it. We did so because we all believed it is in our national interest to pass a defense bill before adjourning this Congress. To do otherwise would have given the congressional seal of approval to waste, uncertainty, and confusion about our defense commitments. In a perfect environment we need to weigh those commitments against our real defense needs not against the nondefense items in the budget. However, the pressure to rebuild our Nation's defense is matched by our need to build a strong economy. We met at a time when the defense spending consensus seems to be evaporating under the clouds of economic uncertainty that grip our Nation. So we had to weigh budget decisions on defense in concert with our overall budget dilemma.

The result is that we have brought a bill that is $18 billion in budget authority below the original budget request of $249 billion. The bill before you today contains $231 billion in budget authority. These $18 billion in BA cuts amount to $8 billion in outlay cuts. These are painful reductions in many places. We have minimal growth in the personnel accounts. We have made a 5-percent cut in O&M, the heart of our readiness effort. These reductions will translate into fewer repairs, fewer steaming hours, less training, less spare parts, and other less visible but real obligations of national defense.

While we reduce procurement by 10 percent we still managed to fund most of the Army's modernization needs. We funded the construction of two new carriers and kept the Navy shipbuilding program growing apace. We also continued to fund the accelerated

aircraft and missile programs of the Air Force.

The committee wrestled long and hard with the elements of the strategic program and it has kept it intact. We have included full funding for the modernization of our strategic forces. I heartily concur with the committee's decision to withhold funding on the Pershing II missile system until the committee is satisfied that it has been tested successfully and is mission capable.

Mr. Chairman, there is about 6 percent real growth in this bill. I hope we will not reduce that growth any further. I will vote to reduce funding for the MX procurement as I did in subcommittee and full committee, not because I want to kill the program but because I believe we need the opportunity to review the basing mode and we need the opportunity to further develop and test this missile prior to going full speed ahead in procurement.

Mr. Chairman, this is a good bill. It may be the best we can get at this time. But it is critical that we get a bill now before we adjourn if our Nation is to have the planning and the program capability it needs to defend our people. I urge its support.●

Mr. ADDABBO. Mr. Chairman, I yield 3 minutes to the gentleman from Connecticut (Mr. RATCHFORD).

Mr. RATCHFORD. Mr. Chairman, I rise in support of the amendment offered by the gentleman from New York (Mr. ADDABBO). The time has come to stop second guessing the Soviets. The time has come to cease all posturing about what impact the outcome of this debate will have on the ongoing START talks in Geneva. Yes, Mr. Chariman, the time has come to assess the MX and the proposed Dense Pack basing mode on their own merits.

What impact will deployment of the MX have on the existing strategic balance? Can we afford a potential cost of $54 billion for the MX program at a time when budget deficits are approaching the $200 billion mark? And if deployed in the Dense Pack scheme, is the MX defensible? These are the questions that must be addressed in this debate.

As has been stated by a wide range of military experts in recents weeks, deployment of the MX system would prove most destabilizing to the existing strategic balance between the United States and the Soviet Union. This Nation has continually maintained that it would not pursue development of a first-strike capability, yet this is just what the MX would provide. With the high explosive yield and the extreme accuracy of the warheads mounted on each MX missile, it would be a potent first-strike threat to the land-based nuclear deterrent of the Soviets. In recognition of this prospect, the Soviets have already pledged immediate development of a similar weapon that will "in no way be inferior." I ask whether this kind of response can really be expected to enhance U.S. security?

Even if we were to assume that any Soviet response at this time is sheer rhetoric, there has been little disagreement with the claim of scientific panels assembled by Defense Secretary Weinberger that the Soviets could readily develop a system to effectively counter the proposed Dense Pack basing mode in the 1987 to 1990 period. At best, the MX system we contemplate here today would not become operational until 1986. Can we ask the American people to support further development and production of a system that will become obsolete shortly after deployment?

And what of the impact that a congressional go-ahead for the MX system would have on existing arms control agreements? Paul Warnke, our former chief SALT negotiator has said, "If Russia did what we now propose to do, we would clearly think of it as a violation of the strategic arms limitation talks agreements that prohibit new fixed missile launchers." Aside from abrogating our commitments under the SALT treaties, deployment of the MX would undercut the ABM Treaty as well—the most important and stabilizing arms control agreement to date.

As for the so-called bargaining chip argument, this is hardly sufficient grounds for supporting such a massive expenditure of funds for a system of questionable merit. In fact, it would seem that despite its own rhetoric, the administration has no intention of abandoning the MX at the negotiating table in Geneva. It seems to me that a far more prudent negotiating posture would be to not provide funds for procurement of the MX at this time as our negotiators explore the possibility of some tradeoff in the Soviet arsenal. Full production and deployment at all costs hardly constitutes a "bargaining chip" approach to negotiations.

Finally, and perhaps most significantly, the MX price tag is intolerable in light of record-high Federal budget deficits and the vast number of questions that remain at to the system's vulnerability and effectiveness. To deal with expected silo vulnerability, most military experts and scientists agree that it would be necessary to deploy an extensive ABM system, adding further to the excessive costs of the system. Examining estimates prepared by both the Air Force and the Union of Concerned Scientists, the full cost of the 100-missile Dense Pack system, warheads, and the ABM system will approach $54 billion by completion. Just the $4.5 billion that has already been spent on research and development for the MX far exceeds the entire operating budget of $3.1 billion for the State of Connecticut this year.

Yes, Mr. Chairman, far too many questions remain and the projected cost of the system cannot be justified by the "bargainning chip" argument alone. If this fall's elections told us anything, it is that the vast majority of Americans while favoring the achievement of a strong national defense, do want to see some restraint in military spending and do not want to jeopardize existing and future arms control agreements. I urge my colleagues to support the Addabbo amendment, if only to allow sufficient time for a full airing of the merits of the Dense Pack system and to explore other basing options or enhancement of our sea and air strategic capabilities.

□ 1415

Mr. EDWARDS of Alabama. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. GREEN).

Mr. GREEN. Mr. Chairman, the defense appropriation bill before us starts us down a most dangerous path, dangerous to both the economic well-being and the future defense of our country.

It is dangerous to our economic well-being because it guarantees future large deficits, which threaten renewed double digit inflation and 20 percent plus interest rates.

It is dangerous to our defense because its uncritical funding of virtually every weapons system that any bureaucracy in the Pentagon ever imagined makes an unsustainable call on future resources for procurement and research and development. This in turn inevitably means future procurement stretchouts and resultant cost overruns, and stinting on readiness, our invariable responses in the past to pressures in defense budgeting.

Indeed, the ranking minority member of the defense appropriations subcommittee acknowledged before the full Appropriations Committee that the subcommittee had reluctantly been forced to reduce budget authority for readiness—the operations and maintenance function—by more than $3 billion in order to sustain the procurement and research and development levels called for by this bill. So even in fiscal year 1983 we shall be paying the price of a serious reduction in our conventional defense capabilities if we start down the path charted in this bill.

The danger of this bill is that, despite its unprecedented size, it makes still larger claims on our future resources. That is because many of the major procurements to which it commits us call for very small outlays in fiscal year 1983 but very large outlays in future years. Using the defense

function figures established by the first budget resolution, defense outlays will take a dramatic upturn in the coming years. The total outlays called for by the budget resolution in fiscal year 1983 are $212.8 billion, in fiscal year 1984, $242.1 billion, and in fiscal year 1985, $277.7 billion.

The reasons for those large increases in outlays are not hard to find. Let us look at just three of the bill's programs and their effects on outlays:

[Dollars in millions]

	Fiscal year—			
	1983	1984	1985	1986
MX Missile	$1,953	$3,916	$4,943	$4,115
B-1 Bomber	859	3,079	5,507	6,965
Nuclear aircraft carriers	165	790.2	1,237	1,239

In short, this bill commits us to numerous programs where this fiscal year we simply pay the penny ante, but in future years we must bet high stakes indeed.

Outlays, of course, are the stuff of which deficits are made. And the increases in defense outlays implicit in just this bill—$48.8 billion for fiscal year 1984 and another $23.8 billion for fiscal year 1985—are a major contributor to the excessive deficits that are predicted for those years even if the economy recovers smartly by then.

Those deficits in turn threaten a return to the high inflation, high interest rate economy from which we have paid each a high price to escape.

I recognize that the administration and some on my side of the aisle are talking of solving the problem with further cuts in the order of $30 billion a year in domestic spending above and beyond those made in 1981. And some on the other side of the aisle are talking of solving the problem with further masssive tax increases above and beyond those we made in 1982. But, looking realistically at where the 1982 election has left us, is either of those results probable? Plainly, the answer to that question is no.

So, if you support this bill as it now stands, you are inevitably telling your constituents that you are ready to return to double digit inflation and 20 percent plus interest rates.

As I have already indicated, I believe this bill is bad defense policy because its injudicious funding will inevitably lead to shortchanging readiness. Since this problem arises in its most acute form in the area of strategic nuclear weaponry, let me focus my attention there, though I feel that there are other important questionable procurement decisions in this bill, such as the F-18 and the two nuclear-powered aircraft carriers.

At the outset of this discussion, let me state that I strongly endorse the concept of having a redundancy of means to respond to a Soviet nuclear first strike, so that if they should achieve a technological breakthrough in one area, we still would have a credible deterrent. Indeed, the concept of three means of response strikes me as about right, though I see no reason why one has to be on land, one in the air, and one in or on the water other than to placate the Pentagon bureaucracies involved.

What in fact does this bill do in terms of strategic nuclear weaponry? It provides funds to: First, procuring the MX; second, upgrading our B-52's; third, producing the B-1's; fourth, developing the Stealth bombers; fifth, deploying air launched cruise missiles; sixth, completing development of sea launched cruise missiles; seventh, developing the next generation of cruise missiles, presumably embodying Stealth technology, which some press reports have indicated will be ready for procurement next spring; and eighth, continuing procurement of the Trident-class submarine and developing their D-5 missiles. One does not have to be a mathematical genius to know that that adds up to more than three.

The sad fact is that the administration and the Pentagon have simply failed in their responsibility to make some choices among this plethora of systems. Unless we now make the choices—and I for one believe the MX and the B-1 can be dropped with little loss in second strike capability—what are the consequences?

We all know. We have been down that road before. When the budget crunch hits, we will stretch out the procurements and we will cut operations and maintenance.

Stretched out procurements in turn mean cost overruns and an inadequate number of each weapon procured.

Reductions in operations and maintenance mean a deterioration in our ability to project conventional military force effectively. Pay and allowances are allowed to slip behind civilian standards, we lose trained technicians, and ships literally are unable to put to sea for lack of adequate personnel. Training is curtailed. Supplies of spare parts and ammunition shrink. Equipment procured at great cost is cannibalized to keep other units going. Dependents overseas are housed in disgraceful quarters. None of these are hypothetical events. They have all happened recently, and some are happening right now.

In short, in order to buy both a belt and suspenders in terms of nuclear weaponry, we risk being caught with our pants down if we have to engage in conventional combat.

You do not have to let that happen. You can make choices, you can reject weapons systems that are duplicative or ineffective.

Finally, if the amendments relating to individual weapons systems do not succeed in turning this bill around, I intend to offer an amendment to the general provisions that will reduce nonreadiness related procurement and R&D and divide the savings between improved readiness and a reduction of further deficits.

This bill, as it now stands, is disastrous for our economy and disastrous for our defense. I plead with you to set it right.

Mr. ADDABBO. Mr. Chairman, I yield 4 minutes to the gentleman from Connecticut (Mr. MOFFETT).

Mr. MOFFETT. Mr. Chairman, I would like to thank the distinguished chairman of the subcommittee not just for yielding me this time but for his work on this particular bill and the questioning of the military budget that he has done.

Some of us in this body have made a decision some time ago to move on and will not be part of the New Congress. I would like to convey some impressions that relate to the subject at hand. One is the impression, from the last 8 years, that this place is filled with more people who are decent people on both sides of the aisle than you find in most groups and institutions. It is filled with more people who want to do the right thing than you find in most groups and institutions. And yet it is also true that this great body is also a place that manifests and reflects the kind of intense and often extreme paranoia and insecurity that is a contributor to our involvement in what is, in my view, a very damaging arms race. We have allowed ourselves to fall victim to this kind of insecurity and paranoia; and at some point, in my view, we have to deal with it and confront this very real and damaging phenomenon, this very damaging inferiority complex that plagues us as people here and that certainly plagues the leadership in the Soviet Union and in other countries. It has something to do, I am afraid, with macho, and the more discussions that we have about it in this place—and men particularly are not inclined to have those discussions; they feel somewhat uncomfortable with them—the better off we are going to be in defense policy.

To defeat this particular weapon which will be most at issue here—the MX—will not be a defeat for the President or for the military or for those people in this body who have wanted it. It could be an important and a wondeful victory not for the Soviets but for all people on the Earth who feel a pressing need for world peace.

We must take some risks to achieve peace and to get us on the track toward peace. What greater risk could we be taking than the one we are taking now, with the casino-like, roulette-like approach to arms that both sides in the arms race are taking? I think if we keep trying to add one

more major weapon before we get serious about negotiations, we are playing, in fact, a dangerous kind of game of roulette, and there are some people, unfortunately, who do not want to have serious negotiations at all—again, on both sides.

I intend to work on the outside for these goals. I hope there is a growing number of people, particularly those who will be coming into this body, who intend to work and join those on the inside who have been working toward those goals, and my hope and prayer is that the people who have been asking questions about weapons systems like this will be joined not only by new Members on both sides of the aisle but by some of you who have not been as prone to ask these questions about the direction in which we are headed.

Mr. EDWARDS of California. Mr. Chairman, I take great pride in yielding as much time as he may need to the very able gentleman from Virginia (Mr. ROBINSON), a stalwart on the subcommittee and a man with whom I have had the pleasure of working with for many years.

Mr. ROBINSON. Mr. Chairman, I thank the ranking minority Member for those very flattering comments, and additionally I want to address my chairman, the gentleman from New York, and the staff of our Defense Subcommittee. I want to again express my appreciation for the unfailing courtesy and consideration with which I have always been treated and with which he always treats the minority, as a matter of fact. It is a pleasure to work with him. We do not agree all the time, by any means; but nevertheless we find an agreeable climate in our subcommittee when the time comes to consider those things that are of greatest significance to this great country of ours.

I am not going to impose myself on my colleagues very long this afternoon, and I will tell you why: All you have to do is glance around this floor and see how many people we have here to determine whether or not people have already made up their minds with regard to the significant items that are in this bill.

Now, this is the moment of truth, as far as this subcommittee is concerned. It is always the moment of truth when an appropriations subcommittee brings its bill to the floor. It is what we have been working for, for the whole year. And here we are, today, and we have a mere handful of people on the floor, which, as I say, demonstrates to me that the majority of the membership has already made up its mind with regard to what they are going to do as to the critical votes that are going to be cast this afternoon and perhaps tomorrow.

But I want to once again commend my friend, our chairman, the gentleman from New York, because we are here; we have a bill on the floor, a defense bill for fiscal year 1983. The chairman does not agree with a good many of the things that are in the bill. It would have been very easy for him to keep this bill off the floor at the present time, in this remaining session of this Congress, and take it up again next year in a time when the climate would have been more conducive, perhaps, to getting the items excluded that he cares to not favor with regard to this bill. But we are here, and it is a credit to the gentleman from New York that we are here because it is his determination to make that the bill comes up or does not.

Now, I think we have a good bill. The gentleman from Alabama has explained to you the extent to which cust have already been made, deep cuts, significant cuts, that are going to impact in a variety of areas. But the things that remain in this bill, I say to you are critical for our national defense. They are absolutely essential if we are going to provide the attitude that is necessary in international circles to prove that we mean business and that we are going to show that deterrent that is so necessary if we are going to bring the Soviets to the bargaining table.

And I want to assure you, my colleagues, that it is not in any extent, in the words of one of my colleagues who has preceded me here, a bill that is intended to placate Pentagon bureaucracies involved.

This is a bill that is brought up after a year's work on the part of this Defense Subcommittee, with the idea in mind of providing for the most important, the most significant areas for the defense of this country of ours, and I suggest to you that you give it your best attention because the safety and freedom of our country is involved.

Mr. ADDABBO. Mr. Chairman, I yield 5 minutes to the gentleman from Tennessee (Mr. GORE).

Mr. GORE. Mr. Chairman, I would like to compliment the members of the subcommittee and the full committee on both sides of the aisle for all of the hard work they have done on this bill. I have always supported the bills produced by this subcommittee. I wish to speak briefly on this occasion about a controversy which will receive a good deal more attention later this afternoon when the amendments introduced by the distinguished chairman of the subcommittee relating to the MX missile are introduced.

I want to oppose the Addabbo amendment to delete the research and development funds and testing funds for the MX missile, but I would like to support the Addabbo amendment to delete the production money for the MX missile so long as the administration continues its plans to deploy it in the Dense Pack deployment mode, and so long as the rationale supporting Dense Pack is as unclear and fuzzy as it presently is.

□ 1430

In my judgment, the latter amendment offered by the subcommittee chairman is going to carry this House today. And I think it would be unfortunate if the victory for that amendment was misinterpreted by anyone, because the Members of this House want to see a strong defense for this country and will insist upon one.

But counterforce weapons have been surrounded by misinterpretation, confusion, and fear since they were first created. Indeed, today as we meet here, the President has just warned that we will be imposing upon our country the risk of another Pearl Harbor if we do not approve Dense Pack.

We are meeting here the day after the Soviet Union's Defense Minister in a crude move, obviously intended to affect us, claimed that Dense Pack violates SALT arrangements still being honored by both countries, and that they will in any event match the MX.

I would say to my colleagues that we were not sent here to be pushed around by scare tactics, regardless of the source. Where strategic weapons are concerned, we are not defenseless today. The fact is this country is extremely strong. And the President does our country no service by constantly denigrating the quality of what we have now and what we are in the process of acquiring.

As for Minister Ustinov, he should be reminded that the dictum that "that which is not explicitly prohibited by treaty is permitted" is one which the Soviets have repeatedly exercised.

As for matching the MX, one can only say the world would be better off if the Soviet Union had done only that rather than deploying the far larger missiles that comprise the backbone of its strategic forces today.

The issue, Mr. Chairman, is whether the country is in such peril at this moment that we ought to proceed with the MX and the Dense Pack deployment mode and ignore the many uncertainties that continue to surround this deployment mode. I believe that there is no such peril so imminent as to require the rush to Dense Pack that is proposed.

So before we vote for MX deployment, we need to have considered carefully the technical merits and feasibility of the Dense Pack system, and we have not yet done so.

We need to consider the ultimate cost of maintaining MX if in order to secure it we have to build a ballistic missile defense system, and we have made no such consideration. We need to consider the effect of deploying a hard target killer like the MX on strategic stability and on the progress of

negotiations in Geneva. We need to consider the availability and merits of other alternative solutions to the problem. And we need to consider very carefully the opinions expressed by technical and military experts and indeed by many of our colleagues who are experts on this subject, some of whom will oppose the amendment, but who will privately say, "Now, this thing is not proven, it has not been worked out, and I have great reservations about it."

The Members all know that that is what we hear from so many of our colleagues. And we have not got the answers to those questions, so let us keep the research and development funds, let us keep the testing funds, let us keep the program. But let us stop this Dense Pack deployment mode by supporting the Addabbo amendment.

The CHAIRMAN. The Chair will make the observation that the gentleman from New York (Mr. ADDABBO) has 33 minutes remaining, and the gentleman from Alabama (Mr. EDWARDS) has 39 minutes remaining.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield 6 minutes to the able gentleman from Florida (Mr. YOUNG), a member of our subcommittee, and one of the hard workers on our subcommittee.

Mr. YOUNG of Florida. Mr. Chairman, I thank the gentleman for yielding this time to me. I would like to call attention to our colleagues that it was just 41 years ago today that American forces were attacked at Pearl Harbor by a nation whose leaders were convinced that we had allowed our defenses to be degraded to the point that they could attack and attack successfully and eliminate us as a threat.

The world has seen us as a nation do the same thing in a recent decade. They have seen us allow our defenses to become degraded further, they have seen us watch while other nations advanced the buildup of their military machines, and they are wondering what might be in store for the future of freedom and the future of the United States as the guardian of freedom throughout the world.

I remember as a very young boy on that day in 1941 feeling very sad, very depressed, but believing that because I was an American everything was going to be OK. I knew that somebody somewhere was going to have taken care of everything and that my Nation was going to prevail, that we were going to be strong, that we were going to win out. And of course we did.

As I grew, and as other people my age grew, we just knew that because we were Americans we would always be in pretty good shape when it came to international confrontations.

Well, as I got older, got involved in the political process, came to Congress, all of a sudden I became acutely aware that the people that those kids back home believe are going to be able to pull something out of a magic hat, or those people who are going to take care of things for us should we ever need them, all of a sudden I realized that was us. Because as I read in the Constitution of the United States, I saw where the Congress of the United States was given the responsibility to provide for the common defense.

The Congress of the United States was given the responsibility to raise and pay for the armies, to raise and pay for the navies. That is what we are doing today. we are paying for the armies and the navies and the Air Force and the Marine Corps and all the associated and affiliate agencies that go along with providing for the Nation's defense.

Now, there are going to be some very legitimate differences of opinion today as to how we best meet this constitutional responsibility. There has been a lot of conversation about the MX. And I am satisfied that before the day is over, we will be so tired of hearing about MX and Dense Pack and closely spaced basing that we will wish we were back on the 5-cent-a-gallon gasoline increase from yesterday.

I would like to say something about missiles generally, if I might. If any one of my colleagues would go to a meeting of a civics class in a high school or to a service club or any kind of a group of Americans and discuss missiles, the Soviet Union versus the United States, and ask the question, and I have done this quite often, I have asked the question of my audiences, hypothetically: If the Soviet Union were to launch 1,000 ICBM's at the United States, how many of these 1,000 ICBM's could we stop before they got here?

And a lot of people will say, "Oh, 90 percent, 80 percent, 60 percent." And every once in a while someone comes up with the right answer—zero, none, because we do not have an antiballistic missile system. The Soviets do of course. But we do not.

Now, that creates a tremendous imbalance in my opinion that has long been ignored in this whole debate about intercontinental ballistic missiles.

The fact is if we were to ever fire a missile toward the Soviet Union, we are not exactly sure how many of them might get there, because the Soviets do have an antiballistic system.

On the other hand, should the Soviets launch at us, we have no ABM. So it is not questionable whether or not we would have a defense, because we do not.

Now, when you add that to the equation, you recognize that the parity that everyone talks about that we have now, or the near parity really is not a true and actual equation, because if we cannot get ours there but they can get theirs here, that makes for quite an imbalance in that strategic capability. And I think as we get into the conversation about intercontinental ballistic missiles and our ability to have a deterrent weapon, a weapon to convince the Soviets that it is not in their best interests to launch an attack against the United States or our interests, that we must take into account that lack of ability that we have to defend against their incoming missiles.

We will be talking about these issues for a long time today and probably as well tomorrow. We will get into more specifics.

Mr. Chairman, I want to say again as we do this, I recognize all of our colleagues have very legitimate concerns and different ideas and convictions as to how best we meet our constitutional responsibilities. On our subcommittee, I would like to say that I have a tremendous respect for the chairman of the subcommittee and for the ranking minority member of the subcommittee, and all of the members, although we may differ on occasion. Many long hours and long days are put into the business of this subcommittee, and the development of a defense appropriations bill that we feel that we can bring to this House and ask to be approved so that it does provide for the common defense so those people back home in our districts can feel safe, can believe that someone, somewhere is looking after their future security interests.

Mr. ADDABBO. Mr. Chairman, I yield 3 minutes to the gentleman from Oregon (Mr. AuCOIN).

Mr. AuCOIN. Mr. Chairman, there will be a number of ways of looking at the missile system the MX, when it comes up for a vote. I would hope that, first, my colleagues will remember the fundamental question of cost. We are, after all, dealing with what may be a $200 billion deficit this year.

Fiscal responsibility cannot be turned on and turned off like a faucet; turned on when it comes to the military and turned off when it comes to programs for the people of this country.

If my colleagues believe in fiscal responsibility, they have got to be consistent. They have got to look at questions like the MX and be just as fiscally responsible there. It is a bad program from that standpoint, a waste of money from that standpoint, and ought to be defeated on those grounds.

One of the other things that disturbs me when the Congress gets involved in these military debates is the "double speak" that we engage in. It is happening again on the MX question. It is Orwellian rhetoric: "war is peace," "the arms race is arms control." And now, the President has renamed the MX "Peacekeeper."

Mr. Speaker, if this weapon is a "Peacekeeper," then napalm is "funny foam" and the pentagon is "Fort Friendly."

It is not a peacekeeping move to fund the MX at a time like this. This is a destabilizing weapon. It is going to be one that will forego an opportunity for serious arms control. It probably will require the abrogation of the ABM treaty which is a highly successful treaty with the Soviet Union in which almost all experts recognize that there has been adherence, adherence by both sides.

I would hope my colleagues would think about that. I hope in all sincerity my colleagues would think about the grim and grave consequences of abrogating that treaty.

Finally, Mr. Speaker, a couple of Members have suggested today is the anniversary of Pearl Harbor. I think it is worth remembering that. Think back 41 years to what some military geniuses did at Pearl Harbor. They decided that the one way to make sure the planes would be safe is to cluster them on the runway at Pearl Harbor. And they got blown to smithereens.

That was the original Dense Pack. Today we have the new Dense Pack.

For sure, we should "Remember Pearl Harbor." And that is why the MX and Dense Pack must be defeated.

Mr. EDWARDS of Alabama. Mr. Chairman I yield 4 minutes to the gentleman from Ohio (Mr. REGULA).

Mr. REGULA. Mr. Chairman, I think that we need to be careful that we understand that there are several MX issues here.

First, do we want to abandon the system totally? And that was not implied in the chairman's amendments. Second, do we want to stop procurement of the MX? That was amendment No. 1 by the chairman. Third, do we want to stop research and development on the Dense Pack basing for the MX? Fourth, should U.S. defense policy continue to maintain the triad concept?

Had the chairman's amendments prevailed, we would have eliminated procurement, we would have eliminated RDT&E for the Dense Pack, and a portion of the research on the MX. However, the research account would still have contained $1.1 billion for research for the missile itself.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Washington.

Mr. DICKS. I thank the gentleman for yielding.

I think the gentleman is almost correct. The chairman's second amendment as I recall, would reduce the amount for RDT&E on the basing mode, but it would not eliminate the money.

Mr. REGULA. It comes close to eliminating it.

Mr. DICKS. You would still have RDT&E money for both the basing mode and the missile.

Mr. REGULA. It was not clear in the amendment.

I think the gentleman makes a point that the amendment was not clear exactly what it did, and hopefully in the debate this afternoon on the amendments it will be very clear as to what is happening.

But I think the important point is that the chairman's committee amendments were not a complete abandonment of the MX.

□ 1445

It is abandonment temporarily of the basing R&D, most of it, and abandonment of procurement. In any event, I share Chairman ADDABBO's concerns with these issues too.

I offered two amendments which were accepted by the chairman and the ranking member in the committee. I just want to briefly mention those.

No. 1, all money for procurement and part of the money for research and development would have been fenced until March 15. I chose the March 15 date because it allows the new Congress sufficient time to address this issue. The original bill provided 30 legislative days or RDT&E on fencing and I do not think that is enough.

Second, my amendment requires the Secretary of Defense on or before March 1 to give us a timetable as to when the procurement, if it continues, will synchronize with the basing.

I think we should avoid temporary storage of missiles. We should not be procuring missiles unless we have completed action on the basing and that is a problem that the Congress will have to address.

The President has made his recommendation. As policymakers, it is our responsibility to respond. I do not want to see missiles procured that do not have a permanent home. As the ranking member on the Military Construction Appropriations Committee, I put together a schedule based on the latest projections of the Air Force. According to my schedule, the procurement would result in missiles being delivered anywhere from 6 to 24 months before the basing mode was completed.

I think it is important that we have the Secretary advise us by letter on or before March 1 as to exactly how this timetable would dovetail to avoid any procurement obligations without the basing being completed.

It is important as we go forward in this debate that we explore all these issues.

Mr. ADDABBO. Mr. Chairman, I yield 4 minutes to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Chairman, I believe the committee, that is, the Appropriation Subcommittee on Defense, especially the chairman, is to be congratulated on their attempt to reconcile our national security needs with the harsh realities of soaring deficits. In a real sense, they had an impossible job since they were working from budget requests, and an authorization which was based on the administration's rosy budget predictions of last spring.

With the reality of a $185 billion deficit facing them and us, the committee sought to check the obscene Pentagon rush to the cookie jar by inhibiting overhasty procurement of systems of unproven or doubtful utility and capability. In some cases, such as the Pershing II, the committee eliminated procurement funding. In other cases, such as the F/A-18, the committee provided language which seeks to prevent the Navy from buying an aircraft of no value. Unfortunately, in my judgment, the committee was not totally successful in either mode of action. In the denial of procurement moneys, we are still saddled with the preposterous scheme for the MX—something which I expect the full House to have something to say about. In the case of the F/A-18, the language is such that the Navy could well evade the restrictions.

Mr. ADDABBO. Will the gentleman yield?

Mr. VENTO. I would be happy to yield to the distinguished chairman.

Mr. ADDABBO. If the gentleman believes the bill language to be insufficiently precise, I will try to clarify our meaning and legislative intent.

Mr. VENTO. Mr. Chairman, I appreciate that. In the F/A-18 attack provisions, page 19, lines 17-24, I am concerned about the meaning of "scheduled" (line 20) where there appears to be nothing to prevent the Navy from reassigning an aircraft after it is built; that is, from a fighter schedule to an attack schedule. Second, because of the miasma which exists with respect to F/A-18 performance, I am concerned about what is meant by "the originally established attack mission requirements, goals, and specifications." (lines 23-24).

Mr. ADDABBO. I believe we can satisfy the gentleman's concerns. As far as the word "scheduled" is concerned, absent a certification as specified in lines 22-24, any contracts for the relevant aircraft must be accompanied by a statement to the Appropriations Committees as to the planned service use of the aircraft. Any change in such use toward re-equipment of Navy attack mission squadrons would be a reprograming which would require consent of the committees.

The "originally established attack mission requirements, goals and specifications" refer to all those (including thresholds) which were established in

the original development concept paper (DCP 141) of December 1975, as well as those first established in subsequent documents. The subcommittee would welcome the testimony of Mr. Myers, who at that time was the Director of Tactical Air Warfare. Each year the committee sets aside several days to hear public witnesses. Also, the surveys and investigations staff will be called upon to verify that the data on which the written certification was based and whether that data was obtained in operationally realistic conditions. I assure the gentleman that we do not approve of the downgrading of naval performance requirements in the face of an increasing Soviet capability.

Mr. VENTO. I thank the chairman for his statement. I trust that the Navy will pay attention to his words.

Mr. ADDABBO. I intend to make sure that they do.

Mr. VENTO. Again, I thank the chairman. Both he and I agree that the security of our country depends heavily on the Navy. On the grounds of the State capitol in St. Paul, the area I represent, is a memorial, the gun from U.S.S. *Ward* which 41 years ago today fired the first shot against the Japanese at Pearl Harbor. It was manned by reservists from the city which I now represent. We, in Congress, have a problem. We hear about defense needs from senior officers whose careers are at stake. On the other hand, our responsibilities are to those junior ranks and junior officers who have nothing to lose but their lives. I ask my colleagues to remember the gun crew of the *Ward* and to consider their responsibilities when voting on this bill.

Mr. ROBINSON. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. DORNAN).

Mr. DORNAN of California. Mr. Chairman, in this period of general debate, those of us on our side of the aisle who support the "Peacekeeper" missile will try to find the right words to convince those 30 or 40 Republican Members who have not yet made up their minds about this important issue, or who are confused or afraid of the nuclear freeze phenomenon. This debate at this moment is still within the exact timeframe of the Pearl Harbor attack and we will be until a few minutes before 4 o'clock of that precise anniversary. What a day for Members to contemplate weakening our defense strength and our deterrent triad.

There was a very clever comparative reference made to the "Dense Packing" together of our planes on the runways at Pearl Harbor and what juicy targets that presented to the Japanese attacking dive bombers. True; and we went through the same problem 41 years ago tomorrow on December 8, 1941, when 20 or more B-17's and over 75 P-40 fighters were caught on the ground at Clark Field in the Philippines. But what a meaningless comparison. Of course, we were not planning on defending our aircraft. We were caught napping. Sometimes you deploy your forces, other times you pull them together for mutual defensive support. There was the Greek phalanx. There was the Roman turtle formation where men came together and overlapped their shields on the sides of the formation and over their heads to shield against the attacks of archers and the missiles of ancient history—arrows. It was one of the most effective military formations for attack or defense that ancient armies had devised. How about supportive fighter aircraft tactics. How about U-boat wolfpacks, strategic bomber formations over Nazi Germany, battle tank formations? The list goes on and on with examples on mutual "Dense Packing" for military offense or defense. But this is even more logical because it is for deterrent effect.

What we are talking about here today is the problem that we are going to give the Soviet Union military planners in the Kremlin to make them think twice about ever, ever hitting the United States. If I have learned anything in defense studies during my 6 years as a U.S. Congressman—including several trips to the Soviet Union, dozens of factfinding sorties over to the Pentagon, and as many CIA and DIA briefings on Capitol Hill as any Member of this House on either side of the aisle has ever had in a 6-year period—it is the following: and this is the one thing that I would choose to bequeath to my fellow Members as a deeply researched fact as I leave this great legislative House—"The Soviet Union never, never, ever, ever, ever, ever worries about the United States striking them first." Do you hear that? Not ever. They do not war game from fear of attack. They do not plan first strike against them. They do not ever think about it. They do not ever worry about it. I have never had an American admiral or general or any intelligence analyst at any level at the DIA or CIA ever confide to me that they have ever picked up the slightest vibration that the military and KGB leaders in the Soviet Union have ever expressed an attitude other than the following: That our country would never strike them first. Their defense planning is only how to counter what we might do if they were to hit us. This gives the Soviets the amazing advantage of planning only military offense and defense based on their initial offense.

We Americans basically plan one thing and one thing only—defense and offense designed to deter—deterrent, deterrent, deterrent—deterring a war, keeping the peace. That is our only goal.

Let us not get into inane games about this MX missile's new formal name, now that it is no longer an "x" or experimental system. Of course it should be named the Peacekeeper. The B-36 bomber, our principle deterrent when we had overwhelming superiority was called the Peacemaker. A very fitting nickname for a defense system that accomplished its purpose. The B-36 made peace and kept peace and yet never fired a gun from its many turrets or ever dropped a weapon from its bomb bays in anger at any foe. "Peacekeeper" is a fitting name for this MX missile and that is precisely the role it can fulfill unless shortsighted Members of this body foolishly begin the gutting of our triad. Do not simplify the planning of the Soviet Politburo. Defeat the Addabbo amendment and keep our adversaries off balance.

Mr. ADDABBO. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. ZEFERETTI).

Mr. ZEFERETTI. Mr. Chairman, I wish to commend my distinguished colleague from New York, Defense Subcommittee Chairman ADDABBO, and all of my colleagues on the Appropriations Committee, for providing additional funds in the Defense appropriations bill for the Navy to operate the E-2C surveillance aircraft supporting the law enforcement effort to interdict drug traffickers into the south Florida area. The highly sophisticated tracking capabilities of the E-2C have greatly aided the Customs Service and the Coast Guard to identify and interdict drug traffickers and others attempting to cross our borders for illegal purposes. This joint effort not only improves our law enforcement efforts, but also improves our national defense through a tightening of our borders. In fact, the task force operation in south Florida has proven so successful that this effort, including the use of the E-2C's, will continue indefinitely. In addition, the task force concept is being expanded to include 12 task forces throughout the United States. This will require additional resources.

The Navy cannot maintain the two E-2C's committed to the south Florida task force indefinitely. I had requested that your Defense Appropriations Subcommittee, Mr. Chairman, provide lead money in the 1983 defense budget toward the purchase of two E-2C aircraft to undertake the drug trafficking mission and to be part of the Navy's overall E-2C inventory for such other use as the Navy may be called upon to perform. However, the authorization levels for defense spending had already been approved. I would urge my distinguished colleague that his request be included in the defense budget for 1984. We must provide the

resources or we will never win the war against drugs and crime.

I yield to the gentleman from New York.

Mr. ADDABBO. I want to thank my good friend, the chairman of the Select Committee on Narcotics Abuse and Control, for his remarks and his contribution in supporting law enforcement efforts in fighting drug traffickers in the south Florida area and other areas of the country.

With respect to the bill before us, the committee has recommended an increase of 39,392 flying hours. The increase includes an additional 11,117 hours for the E-2C aircraft due to the significant workload increase from drug surveillance and interdiction now performed by the Navy in coastal areas.

Concerning the gentleman's request about the procurement of two E-2C aircraft to undertake the drug trafficking mission and to be a part of the Navy's overall E-2C inventory for fiscal year 1984, I will recommend to the committee that they give serious consideration to this matter provided authorization is made.

Mr. ZEFFRETTI. Again, I want to thank the chairman and the members of the committee. I look forward to working in any possible way that I can to help.

The CHAIRMAN. The Committee will rise informally in order that the House may receive a message.

MESSAGE FROM THE PRESIDENT

The SPEAKER pro tempore (Mr. FOWLER) assumed the chair.

The SPEAKER pro tempore. The Chair will receive a message.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Saunders, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

DEPARTMENT OF DEFENSE APPROPRIATION BILL, 1983

The Committee resumed its sitting.

Mr. ROBINSON. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Iowa (Mr. LEACH).

Mr. LEACH of Iowa. Mr. Chairman, the most pernicious notion in modern politics is that the United States somehow faces a "window of vulnerability" with the Soviet Union and that our second strike capacity is grossly inadequate. As Dickens would have said, this is "humbug."

When we have the capacity to destroy the Soviet Union many times over, there is no such notion as inferiority. It is true that the Soviet Union does have certain conventional weapons advantages over U.S. forces and it is true that the Soviets have certain geographic advantages with regard to potential conflicts in some parts of the world; but as far as a second strike capacity is concerned today, the MX missile, however it is based, adds very little to our current overkill capability.

In fact, the greatest strength of the Dense Pack proposal is that it is so awesomely dumb that even Congress should recognize the need to reject it. The Maginot line mentality that drives the efforts to produce an invulnerable land-based system defies both commonsense and the lessons of history.

□ 1500

We need to look no further than how vulnerable the ships in battleship row in Pearl Harbor were 41 years ago today to see the folly of coupling an irresistible, concentrated target with a belief in our adversary's inability to get at it.

Finally, it should not be forgotten that both SALT I and SALT II prohibit the deployment of additional fixed ICBM launchers, and the President sensibly has agreed to comply with the latter treaty despite its incomprehensible lack of ratification.

Now the President advocates the violation of SALT, but there is a gross distinction between advocating and actually violating the provisions of an arms control treaty. No one should underestimate the destabilizing implications that putting irresponsible campaign rhetoric into practice could have at this time. The environment for future arms control negotiations will be changed forever, and there can be little doubt but that it will be irrevocably worsened.

This public works project for the cement industry should be rejected.

Mr. ADDABBO. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. JOHN L. BURTON).

Mr. JOHN L. BURTON. Mr. Speaker, first of all I would like to commend the subcommittee chairman, JOE ADDABBO, for what has been a long and sometimes lonely fight on this committee to bring some sense to the military spending in this country, and I hope that we are on the verge of a victory for the subcommittee chairman and for the people of this country.

To call this weapon, the MX, a peacekeeper, only a person that would think about taxing unemployment insurance would have the imagination to do that.

The only way that we can have peace in this world is to have nuclear disarmament, not to spend billions of American tax dollars on something like the MX missile. Missile experimental is what MX stands for, and certainly that is what it is. They have gone through I do not know how many different kinds of basing modes. I personally like Jimmy Carter's railway track the best because we know that Amtrack and Conrail were in trouble and there is a way they could have utilized some of these tracks around the country and made the trains run on time by putting the missiles on them.

Then, of course, the Soviet Union never would have known where the missiles were because trains never ran on time and nobody ever knew in the Northeast whether the trains would be stopping or not, and the Russians would have been thoroughly confused.

But I will have to join with my friend, the gentleman from Oregon, LES AUCOIN, in talking about Dense Pack. My good friend, the gentleman from Florida, C. W. (BILL) YOUNG, who talked about Pearl Harbor, that was the initial Dense Pack at Hickam Field, and we see what happened when the Japanese attacked us.

Certainly if the Albanians would attack the Dense Pack MX missile, we would have trouble there because they could wipe them out with one blow.

So I would really hope that my friends who believe in fiscal responsibility and are concerned about an ever-growing budget, ever-growing budget deficits, would take a look at the potential $200 billion tab.

The CHAIRMAN. The time of the gentleman from California (Mr. JOHN L. BURTON) has expired.

Mr. ADDABBO. Mr. Chairman, I yield 30 additional seconds to the gentleman from California.

Mr. JOHN L. BURTON. I thank the Speaker and the Chairman of the Committee of the Whole House on the State of the Union for the purpose of considering this bill, and I would like to close by saying that those who are concerned with balanced budgets and those who are concerned with deficits, we can save a potential $200 billion over the next few years without in any way deterring the national defense of this country.

In closing, again I would like to emphasize that the way toward keeping peace is the way to a nuclear arms freeze and not to the MX missile.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I want to say that the House is going to greatly miss the gentleman from California (Mr. JOHN L. BURTON). I do not know how we are going to spice up our defense bill in future years, but we appreciate the gentleman's comments and we will miss him around here and we will have to find someone else to take a good look at our defenses in the future.

Mr. ROBINSON. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Louisiana (Mr. LIVINGSTON).

Mr. LIVINGSTON. Mr. Chairman, as I understand it, this motion to delete funds for the MX was barely defeated in subcommittee. It came up again for reconsideration in the full Committee on Appropriations, and by a very, very close vote, the closest, 26 to 26, it was barely defeated again.

So it is that the MX missile will be included for consideration in this defense bill. I would expect that people on both sides of the aisle feel that it is quite likely that the funds for the MX missile procurement may be deleted in this body. If that is to be, well, we will certainly stand to answer for whatever action we do take in this body later on, I suppose.

Perhaps it is in the best interest of the country to delete the funds, but I worry, because I do not think it is a decision that should be made glibly, nor lightly, nor in an atmosphere of joke or without the utmost consideration as to whether or not it is the right decision.

It seems to me there is one paramount proposition being put forward by those who favor the funding for the MX missile, and that is that the MX missile is to be the land-based replacement for the Minuteman missile, which has always served in recent years as the land-based portion of the triad defense system; that is, if we are to defend ourselves in future years, and if the triad defense system is to work, then the MX missile must take the place of the Minuteman missile and work in conjunction with the bombers, the B-1 bomber and the Trident submarine missiles at sea.

If it is not in place, then the triad may not be able to work, for if the experts, both civilian and military, are correct and the Minuteman missile system is obsolete, that whole leg of the triad system is gone.

I am glad to hear my liberal friends who say that we are going to be saving money by cutting it out. But, as I understand it, we are only going to be saving less than $1 billion, since that is all we are talking about in this bill: $1 billion out of a very, very large defense bill.

I am not an expert in ballistic missiles. I cannot tell you with any degree of certainty that the MX missile is the secret to maintaining our defenses or, at least, the land-based Triad leg; but if it is, and if we truly are tampering with the security of every man, woman and child in this Nation, then to treat this question lightly and in an atmosphere of jokes is doing an injustice to the entire Nation.

I ask all Members, all of the Members of this House, whichever way they vote, to weigh this question in a much more serious vein than has been displayed in recent speeches.

Mr. ADDABBO. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I would tell my friend that there is no need to really worry. We presently have the Minuteman-III, we have the Trident-II missile coming down the road, we have ALCM's, SLCM's, and bombers. We have so many other deterrents we really do not need this wasteful MX missile.

Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Chairman, today the House will be making a critical decision on what might be called Reagatomics.

We all know how well Reaganomics has worked. The unemployment lines across the country tell that story.

Well, today the House decides on one of the key ingredients of Reagatomics—basing the MX in Dense Pack.

And if you think Reaganomics is a back-of-the-napkin economic policy, Reagatomics and Dense Pack do not even belong on the back of a matchbook cover.

Here is the latest Trojan horse the administration wants to slip through and you tell me if we should open up the gates.

The White House wants to spend, all told, more than $30 billion on a Dense Pack scheme:

That would not make us any more secure;

That depends on a fratricide theory the Air Force cannot even prove on the blackboard;

That will likely take the Soviets only a few years to overcome even if the fratricide theory proves true;

That will have us bending SALT II every which way so it will look like a pretzel;

That will probably have us do even more damage to the ABM Treaty; and

That will just keep both sides barreling down the arms race.

Mr. Chairman, Dense Pack is so bad, so unworkable, so wasteful, so unnecessary, it is going to give lemons a bad name.

If the Soviets foisted this Dense Pack scheme on us, you know darn well we would be yelling from the top of our lungs that they had violated the SALT II Treaty. And you know darn well that the White House would be screaming the loudest. And you also know that if the Soviets put forth Dense Pack we would be scrambling to find a way to defeat it.

So if you think the Soviets will roll over and play dead while we deploy Dense Pack, you are living in a fantasy world.

All across this country, people are standing up and demanding a halt to the nuclear arms race. More than one-fourth of the Nation's electorate voted on freeze referendums this November 2.

The message from the people is clear: They want the arms race halted. They do not want a basing scheme like Dense Pack, which ony heats up the arms race.

Mr. Chairman, the administration calls this scheme peacemaker.

I call it Ronald Reagan's Christmas turkey.

And I hope the House today will adopt the Addabbo amendment and reject this turkey before it is put on the table.

THE MX AND THE OVERALL U.S. NUCLEAR ARSENAL

The MX proponents want us to believe that the vulnerability of the land-based ICBM means the vulnerability of the entire triad. But this is not the case. Both sea-based weapons and bombers are still relatively immune to attack and they are likely to remain so for the time being. Thus, strategic stability and deterrence are not upset if only one part of the U.S. nuclear arsenal, carrying less than one-quarter of the total of nuclear warheads, could be hit by a Soviet attack. Moreover, one has to take into consideration that by the time the MX is completed, its effect on our retaliatory capacity will be minimal. As a recently issued report by the Congressional Budget Office emphasized: When all the bombers, missiles, and submarines in the administration's $180 billion program to build up the nuclear deterrent are active in 1996, "the contribution of the MX would range from 5 percent to about 13 percent."

TECHNICAL PROBLEMS WITH DENSE PACK

Dense Pack has so many technical unknowns it is hard to know where to begin. One point stands out in the Dense Pack debate, however. Even a number of people not normally considered doves on defense have raised questions about Dense Pack based on its technical unknowns. For example, Senator JACKSON has estimated that Dense Pack will assure missile survivability only for about 4 years. Colin S. Gray has stated that the Dense Pack basing mode "does not provide an enduring ICBM capability * * * You're talking at most about a matter of hours of survivability and that is being optimistic."

Two important questions should be asked about Dense Pack:

First, does Dense Pack really improve the survivability of the new ICBM systems?

Second, how long can the United States stay ahead of Soviet responses to Dense Pack?

As for survivability, the Pentagon's arguments in favor of Dense Pack are fatally flawed on several grounds:

First, if one believes that the Soviet Union can destroy 90 percent the U.S. Minuteman III missiles—though this is a highly dubious position—it is hard to believe why the Soviet Union may

not be able to destroy MX missiles in the Dense Pack basing mode.

Second, the key idea behind Dense Pack is to space the silos so close that a Soviet warhead about to detonate at one silo would be destroyed by the explosion of another Soviet warhead at an adjacent silo—fratricide. It is hard to believe now that the Dense Pack basing mode will enhance survivability of the MX missile since the Air Force in the past has favored the very opposite basing scheme; namely, improving survivability by dispersing silos as much as possible—for example, in multiple protective shelters. The Dense Pack "solution" therefore, seems to be a product of pressure to concoct some basing scheme rather than rational planning.

Third, even if arriving warheads would destroy succeeding ones, it cannot be excluded that the Soviet Union would develop a technique that enables it to detonate the attacking warheads more or less at about the same time.

Fourth, another Soviet option could be to avoid fratricide by using only a few extremely high-yield warheads that would destroy more than one MX silo each. Dr. Charles Townes, who directed the administration's two main MX studies, reportedly doubts that any silo can be hardened to the extent necessary to make Dense Pack meaningful. According to Richard Garwin, a consultant to U.S. administrations on defense matters for three decades, a Soviet weapon of about 5 megatons could disrupt other launch sites. The Soviets, reportedly, have tested a nuclear weapon of 60 megatons.

Fifth, another Soviet way of defeating Dense Pack could be to detonate weapons periodically above the Dense Pack field to create radiation, blast, et cetera, which would destroy U.S. missiles launched shortly after the Soviet detonations, thus "holding or pinning down" the missiles in their silos.

Sixth, another option to avoid fractricide would be the use of so-called Earth penetrator weapons that penetrate the ground before they explode, destroying all shelters. As to this scenario, the Pentagon's "MX Closely Spaced Basing" paper of July 20, 1982, admits that the Earth-penetrators "could not be made available before the next decade"—in other words, shortly after the full deployment of the MX.

Thus, the second question concerning the MX timetable becomes extremely relevant. Given delays in production and construction, given the expected Soviet countermeasures, we cannot help but conclude that the MX would only be survivable for a couple of years. In view of the economic, political, and environmental costs involved: This is too high a price for a questionable amount of security.

THE MX WILL ACCELERATE THE ARMS RACE

MX supporters claim that the MX will have a stabilizing effect—but this is just wishful thinking, not a convincing argument. First, our accumulation of first-strike weapons will only result in the Soviet Union racing ahead with theirs. The decision to build and to deploy MX in Dense Pack just leads to another spiral of the arms race. Soviet reactions to Dense Pack probably would include at least a silo hardening program, the development of larger yield weapons, as well as the development and deployment of new warheads, such as MARV's, with low yield and high accuracy. It is quite obvious—the nuclear arms race has always been that way—that the United States will then feel forced to react again. As far as the MX is concerned, this would mean that this weapon system will become obsolete sooner than its supporters wish or claim.

THE MX AND ARMS CONTROL: THE MX IS NOT A BARGAINING CHIP

The Reagan administration justifies building MX also as a potential bargaining chip to be used in the START negotiations with the Soviet Union in Geneva. This argument, too, cannot be taken seriously for several reasons:

First, except for the ABM treaty, which really limits the antiballistic missiles system of both superpowers, there is no evidence during the whole nuclear arms race that when a technology is developed, is planned to be deployed in the near future and has backers in the Congress, the administration and the industry, it will be slowed down or even canceled.

Second, many top administration officials have said that MX itself is not a bargaining chip and that the 100 MX missiles could be deployed under the reduced ceilings that the administration is proposing to the Soviet Union in its START package.

Third, if the administration were really serious about bargaining chips and arms reductions, the MX would not be needed. Weapons under development or already deployed, such as the Trident I and II missiles, the bombers and the variety of cruise missiles, are more than enough to serve as bargaining chips.

MX MAY ENDANGER THE ABM TREATY

If the administration is really serious about arms control and arms reductions, it should not pursue a policy that might not only require a missile defense system, but might also imply that the ABM treaty would have to be revised or even canceled. The ABM treaty is virtually the only treaty that has had a real impact on the defense policies of both superpowers. Though it has not stopped the nuclear arms race, it has put a lid on it in one major area, thus saving the expense of an arms race in defensive weapons systems. This achievement should not be put at jeopardy. The administration, however, has proposed changing the ABM treaty as one solution, if the Dense Pack would become vulnerable in the next decade. Needless to say, such a policy would also include more costs for a required ABM system. It would probably cost an additional $25 billion, thus doubling the price of the Dense Pack system.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield 4 minutes to the gentleman from New York (Mr. KEMP).

Mr. KEMP. Mr. Chairman, this vote indeed, when it comes on the MX or Peacekeeper, is not—I repeat—not a vote on Dense Pack. That issue will be resolved as the Congress goes forward, as research and development moneys go forward, to determine whether or not closely spaced basing is technically feasible and reponsive to our strategic requirements. Indeed, that decision will be made later. The vote will come today on whether or not the Congress is going to support the attempt of the President and this bill to modernize the land based leg of our strategic deterrent which has kept the peace for more than 30 years. So, from the standpoint of suggesting that this vote will be on the Dense Pack system, that is not the truth. That will not be the vote. As I said before, the vote will be on whether or not we want to go forward toward making the basing decision upon which this leg of our strategic triad is predicated.

The goal of our national defense spending is to deter war and preserve our freedom. It is increasingly obvious that that goal cannot be met by just maintaining the status quo. Deterrence depends upon the quality of our strategic forces. My support of this legislation is now and has been in the past predicated upon the fact that deterrence will be enhanced and modernized by these defense programs. The political climate in the real world demands that we in the Congress support improvements to our strategic forces so that we can maintain that balance so essential to the peace of the Western world and to its democratic values.

In terms of priorities, there is no more urgent requirement than redressing the vulnerabilities of our strategic forces. Our strategic forces are the heart of America's deterrent, the highground of our defense and our ability to protect our allies. As Winston Churchill once said:

> It is certain that Europe would have been communized like Czechoslovakia . . . some time ago, but for the deterrent of the atomic bomb in the hands of the U.S.

In his 1961 message to Congress transmitting the Defense budget, President Kennedy explained that the strength of our strategic forces:

> Depends not only on the number of our missiles and bombers, but on their state of

readiness, their ability to survive attack, and the flexibility and sureness with which we can control them to achieve our national purpose and strategic objectives.

These basic requirements have not changed. What has changed since 1961 is the balance of strategic forces between the United States and the Soviet Union. During the early sixties, when our Nation was threatened by Soviet missile emplacements in Cuba, the United States enjoyed clear strategic superiority. With this knowledge, President Kennedy was able to counter the challenge confidently, and the missiles were withdrawn. Today, by most comparative indixes, the Soviet Union has achieved strategic superiority over the United States. A Soviet first strike utilizing only a small fraction of Soviet forces could destroy approximately 50 percent of our submarine force, 75 percent of our bomber force, and at least 95 percent of our ICBM's. We are rapidly reaching the point where we can no longer have confidence in the ability of our defenses to achieve our strategic objectives, to assure stability in a crisis, or to deter attack on the United States or our allies.

We are in this dangerous situation because during the SALT years, the United States has virtually stood still in strategic force modernization while the Soviet Union has pursued a determined program to achieve strategic superiority. Over the past decade, the Soviets have spent three times the American total on strategic offensive forces, and today spend three times the U.S. amount in the entire strategic realm.

During the Salt years, the Soviets produced over 70 Backfire bombers, and continue to produce Backfires at the rate of about two and one-half per month; and now there are not one but two follow-on Soviet bombers in production. The United States canceled production of the B-1 in 1977.

The Soviet developed the Delta 1, Delta 2, Delta 3, and Typhoon strategic submarines; the U.S. developed but one class, the Trident.

The Soviets produced 4 SLBM systems: the SSN-8, SSN-17, SSN-18, and SSN-20. The United States deployed two.

The Soviet Union has been deploying its highly mobile, MIRV'd long-range SS-20 missile at the rate of about one per week, while the U.S. theater nuclear force in Europe has not been modernized in years but rather has been reduced by 1,000 warheads over the past 2 years.

Finally, during, the SALT years, the Soviets developed four generations of ICBM's, the SS-16, SS-17, SS-18 and SS-19; while the United States shut down its only ICBM production line.

These facts are a matter of public record. The inescapable conclusion is that American restraint has been exploited by the Soviets, who have pushed their advantage through the dedication of enormous resources to their military buildup.

The change in regimes in the Soviet Union, coupled with ongoing negotiations on stratetic as well as theater nuclear weapons, requires that we approach the defense appropriations legislation with a very sober and responsible attitude. We can have a tremendous impact for good or for bad on those negotiations. President Reagan and his administration have set out on an unprecedented and difficult path to try to reduce the alarming number of nuclear weapons now in the world. If forces are modernized and negotiations are enhanced by what we do here today, the threat of nuclear war would be substantially reduced.

If the U.S. strategic force posture, however, is allowed to decay without improving its survivability, without modernization, the Soviets will not need to worry about questions of parity. It seems to me that it would be obvious, increasingly so, that their offensive forces would in time—in a very short time, unfortunately—face no credible opposition in the world. On the other hand, prudent and timely improvements to address the vulnerabilities of our strategic forces, and to modernize our capabilities, would insure deterrence and thereby peace. Moreover, only through strength can we ever hope to achieve stability and worthwhile arms control. We should therefore move ahead with procurement and production money now.

Second, a failure to provide procurement funds would seriously disrupt the momentum of the program to meet the scheduled initial operational capability in 1986. I have had this debate with my friend the gentleman from New York (Mr. ADDABBO), for whom I hold high regard.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield 2 additional minutes to the gentleman from New York.

Mr. KEMP. It would be untimely because it would put off the date upon which we could have an initial deployment. The MX is not a paper missile. It has completed development tests and it is scheduled for its first complete test flight early in 1983, and we want the first 10 to be ready by 1986.

As pointed out by the President, negotiations with the Soviets have only been successful when we deal from a position of strength. That is not only the history of our relations with the Soviet Union; that is the history of negotiations throughout the world.

Soviet Defense Minister Dmitri Ustinov was prominently featured in morning papers today, threatening this Congress that if we decide to produce the MX, the Soviet Union would respond by developing a similar weapon that will "in no way be inferior" to the MX.

Such threats are a crude attempt at intimidation, and wholly lacking in credibility.

In the first place, the Soviets have been steadily modernizing their strategic forces—in part through stolen U.S. technology—over a period of unilateral U.S. restraint. The lesson here is, if we build, they build; and if we do not build, they build.

Second, the Soviets today are devoting some 18 percent of their GNP to their military buildup, and have given defense spending a priority above all else. The defense sector is unquestionably the first priority of Soviet industrial production, whatever economic difficulties may plague the U.S.S.R. Simply stated, the Soviet Union is already allocating the maximum possible to its military buildup: It has been racing while the United States has stood still. They really could not do much more than they are already doing.

Third, their current missile inventory dwarfs the proposed MX. The SS-18 is about twice the size of the MX. As explained in Soviet Military Power:

> Each warhead of the 10RV variants has a better than 50 percent chance of destroying a Minuteman silo. When used in pairs, against a single target, the warheads are even more destructive. The single RV versions of the SS-18, with their large destructive power and accuracy, are capable of destroying any known fixed target with high probability.

Finally, just last month, the Soviets flight-tested a new generation ICBM from their test center at Pletsesk, with characteristics in the same class as the MX. Since they already have sufficient ICBM's to take out our entire land-based force—with about two-thirds of their force in reserve—it is clear that this new generation ICBM has been developed with other targets in mind, and will be deployed or not irrespective of our decision on the MX.

I believe, Mr. Chairman, we would be surrendering our future and the future of our democratic world by our own hand if we approve the amendments to delete funding for the MX. Our allies and our citizens want us, as Mr. YOUNG pointed out earlier, to take those steps that will assure the peace and the survival of the freedom of this country and of our allies not only now but in the future. It would be terribly wrong, I think, to cancel this program. And make no doubt about it, we would be canceling the ability of our negotiators to be successful if we adopt the amendment that is to be offered this afternoon.

I suggest that we approach these deliberations today with an eye toward the success of those negotiations, and not their failure.

The cost of the MX is high, but so is the cost of peace and freedom. But, the loss of peace and freedom is far more costly.

Mr. ADDABBO. Mr. Chairman, I yield myself 1 minute.

I do not think we have such a good bargaining chip if we go ahead and build the missile for multibillions of dollars, and have no place to put it except possibly where it does not provide a deterrent. It is not a bargaining chip. It does not help national defense, but hurts our defenses because it takes money away from other needed programs.

Mr. GORE. Mr. Chairman, will the gentleman yield?

Mr. ADDABBO. I yield to the gentleman from Tennessee.

Mr. GORE. Mr. Chairman, our distinguished colleague from New York made the statement that research and development had essentially been completed. Within my district just 2 weeks ago, where the second of five scheduled tests was held, the test resulted in a tragic explosion and fire. The last three of those five tests have now been put off, and they are planning to go prematurely to atmospheric testing. So, the development and research on this missile has not been completed, and there are all these signs of a hurry-up rush, rush, rush toward the Dense Pack, even though it has not been thought through.

Mr. ADDABBO. Mr. Chairman, I would also add that research and development of the missile could not be completed or they would not be asking for $1.7 billion in this bill for that purpose.

Mr. Chairman, I yield 4 minutes to the gentleman from New York (Mr. DOWNEY).

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Mr. DOWNEY. Mr. Chairman, I thank the gentleman from New York (Mr. ADDABBO).

Mr. Chairman, all during this debate there is a series of military myths that I would like to dispel.

The first myth is the dangerous and misleading notion that the United States is somehow inferior to the Soviet Union in the area of nuclear weapons. There is no member of the Joint Chiefs of Staff, when the question is put to them, who would trade our arsenal for that of the Soviet Union's.

Arguably, the Soviets have some advantage, if we can call it that, in the number of missiles and throw-weight in their land-based missiles, but no one can credibly argue that the Soviet submarine force is the equal of ours or their bombers are the equal of ours. They clearly are not.

So this notion of superiority or inferiority is ridiculous. Both sides are fully capable of destroying one or the other. But, more importantly, it is inaccurate and misleading to the American people to leave them to think that their own country is in a position of inferiority when it is not.

Second is the myth that the Soviets will not negotiate. This is preposterous. The Soviets have been willing to negotiate arms control agreements since 1969 and continue to be and remain interested in negotiating.

Why? Very simply, they recognize the incredible and awesome power of the United States. They understand the damage that would occur to their country if they were involved in a nuclear war with us.

So whether or not we have the MX or the Dense Pack, whether we have research and development or procurement money, they are going to sit down at the table with us because it is in their interest to do so, as it is in our interest to negotiate with them.

Third is the myth of the bargaining chip. This carpet has been worn threadbare with Members walking down into this well and saying that all we need to do is build another missile and another plane and have an ABM system so we can have a bargaining chip to force the Soviets to the table.

A weapon system is a bargaining chip in its design phase. When it enters into the force, it is no longer a bargaining chip. It is a weapon system, and it brings us one inexorable step closer to nuclear war.

Last, we have this insane notion that we have to have the MX to respond to the Soviets' SS-18 heavy missile, and that we somehow must jeopardize Soviet land-based missiles in order to have peace in America.

Well, as the gentleman from California so eloquently pointed out, the Soviets are not worried about a first strike by the United States. So if they struck us first and attacked some of the land-based missile we have and we then decided to place in jeopardy their SS-18's, what rational Soviet leader would allow their missiles to be destroyed in their launching pads? No Soviet leader would do that.

That makes the MX the greatest hole-digger in the history of mankind.

I suggest to the Members that we be honest with the American people. The Soviets have been provocative and have expanded their arsenal and we need to respond to them, but we do not need to respond to them with a weapons system whose very premise for being is false, that there is going to be a first strike, and whose technical problems are so complete and thorough that there are these wrenching debates even inside the Pentagon as to whether or not the system will work.

Mr. Chairman, the time has come to stop the procurement and possibly to go ahead with the R&D so that it remains the potential bargaining chip—and if some Members buy that argument, they are welcome to it—and continue the process of negotiating. My colleague, the gentleman from Tennessee (Mr. GORE), has come up with one of the more outstanding ideas to come down the pike for some time. The idea is that we should be emphasizing elimination of first-strike capabilities on both sides.

The CHAIRMAN. The time of the gentleman from New York (Mr. DOWNEY) has expired.

Mr. ROBINSON. Mr. Chairman, I yield 5 minutes to our distinguished Republican leader, the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Chairman, recently I was reading from a biography of Gen. Douglas MacArthur.

When he was Chief of Staff of the Army during the 1930's, he came before the Congress time after time asking for adequate funds to modernize our forces.

But the need to balance the budget one of President Roosevelt's 1932 campaign promises, was seized upon by those in Congress at the time who felt it was politically wiser to cut defense spending than other spending.

They were well-meaning. They were patriotic. but they were tragically wrong.

That was 50 years ago.

We are told times have changed. But the hard facts of the defense of freedom and peace remain the same.

The defense of freedom and peace is always expensive. It is always a sacrifice. The money spent on weapons always could be used for nonmilitary programs. The military who ask for the weapons are always said to be feathering their own nests at taxpayers expense. It was ever thus.

It was that way in the age of the musket. It is that way in the age of the nuclear weapon.

In every age there are always well-meaning, patriotic people who say: "But we can defend freedom and peace just as well if we cut out this or that weapons system.

Today we hear that we can defend ourselves and still reject the B-1, the MX, the Trident, hi-tech airplanes, and large aircraft carriers. We are told we can build more, smaller, less sophisticated weapons or just fix up the old ones.

Maybe the critics are right. But suppose they are wrong?

We are told: Do not trust the military. They are always asking for too much.

Perhaps, but in the last 10 years they have not been getting it.

In the last 20 years the percentage of the budget spent on defense has gone from 45.9 percent in 1962 to 25.8 percent.

The money we are being asked to spend on the MX program, in fiscal year 1983, in terms of budget outlays,

is around 1 percent of the total budget.

But MX is not simply a budget question.

It is a military question. It is a strategic question. It is a foreign policy question.

It is an arms reduction question. Ambassador Rowney tells us that if we vote against the MX, hope for an arms reduction agreement with the Soviet Union may very well be lost.

If the current feeling grows that it is not only too costly but actually immoral to fund nuclear weapons, it is not going to make much difference how we vote today.

Maybe that is where this country is today. Maybe we are too weary or cynical or too self satisfied or too frightened to pay the price to defend ourselves. I hope and pray it is not so.

I do not believe it is so.

But I may be wrong. It is time to find out where we stand.

I hope Members will reject the amendment to delete the funds for proceeding with the production of the MX missile.

Mr. ADDABBO. Mr. Chairman, I yield such time as he may require to the gentleman from Georgia (Mr. FOWLER).

Mr. FOWLER. Mr. Chairman, 600 years ago a chronicler in the Italian town of Siena wrote:

> And no bells tolled and nobody wept no matter what his loss because almost everyone expected death * * *. And people said and believed, "This is the end of the world."

The writer was referring to the black plague which killed an estimated one-third of the population of Europe, or 20 million men, women, and children, during the 14th century.

The people of the Middle Ages were unable to understand the cause of their horror, or to treat or prevent the great epidemic. The perhaps natural reaction to this inestimable evil which was visited upon them, and which was evidently totally outside of their control, was to turn away and to block out thoughts of the tragedy. Of the major contemporary writers, Froissart refers to the plague only once and Chaucer gives little more attention to the greatest calamity of his era.

The great plague of the latter half of the 20th century is the threat of nuclear war, only today we must contemplate casualties ranging from a low of 20 million—in the extremely unlikely event of a limited nuclear conflict—to a high of 160 million in the United States alone. And those are just the immediate deaths. No one knows, or can know, what the long-term consequences would be but at least some reputable scientists believe that all-out nuclear war would lead to the extinction of all higher forms of life on Earth.

The thought is staggering, and the people of our era have shown the same reluctance to confront the awesome danger displayed by medieval Europeans toward the black plague.

Yet we have to confront it. The one major difference between the plague of the Middle Ages and that of our time is that they truly lacked the knowledge of the cause and cure of their malady, which were not to be discovered for another 500 years. We know all too well the reasons for our predicament: The existence of scientific discoveries unlocking the secret of the power of the atom and the absence of the moral and political will to prevent the diversion of that knowledge into the weapons of war.

As John F. Kennedy said at the United Nations in 1961:

> Unconditional war can no longer lead to unconditional victory. It can to longer serve to settle disputes. It can no longer be of concern to great powers alone. For a nuclear disaster, spread by winds and waters and fear, could well engulf the great and the small, the rich and the poor, the committed and the uncommitted alike. Mankind must put an end to war or war will put an end to mankind.

While there are some areas in conventional forces where we do need to improve our position vis-a-vis the Soviets, it is patently untrue that overall our strategic nuclear forces are inferior to those of the Soviet Union. The major reason for the existence of the myth of Soviet strategic superiority is that the United States and Soviet forces are different, owing to the differences in defense establishments and technological capabilities of the two sides. Thus, because the Soviets have placed a greater reliance on certain forces, such as large land-based ballistic missiles, figures can be found that show a Soviet lead in these individual aspects of nuclear weaponry. However, it is the overall balance that is important, not that each side has certain advantages in individual weapons systems.

The U.S.S.R. leads in intercontinental ballistic missiles (ICBM's) 1,398 to 1,052 and submarine-launched ballistic missiles (SLBM's) 950 to 520. The United States has a big edge in long-range bombers 376 to 145, and in total number of nuclear warheads 9,500 to 7,800.

The Soviet ICBM's carry more and larger warheads but the U.S. SLBM's carry more warheads and possess greater accuracy than their Soviet counterparts. The United States has a 5- to 10-year lead in the emerging technology of cruise missiles.

However, in addition to these raw numbers several other factors must be borne in mind in evaluating the strategic balance from the American perspective. While the United States converted all of its ICBM force, except the oldest element (the 52 Titans) from liquid propulsion to the more reliable solid propellants, 95 percent of the Soviet ICBM force is powered by liquid propulsion.

While the Soviet Union has 62 strategic submarines to our 32, because of maintenance and other problems they can keep only an average of 10 of these (with a total of 225 warheads) at sea at any one time compared to 16 U.S. strategic submarines (with 2,400 warheads) always on sea patrol. Furthermore, while U.S. surveillance capabilities allow us to routinely monitor the whereabouts of Soviet submarines, from all evidence that we have the Soviets have never successfully tracked a U.S. strategic submarine on normal sea patrol. Thus, the U.S. submarine force is far more survivable than the Soviet force.

None of this is to suggest that we possess a usable strategic superiority over the Soviets. Clearly their strategic arsenal is capable of inflicting a devastating blow to U.S. society. But neither are our strategic forces inferior to those of the U.S.S.R. We now possess the capability to destroy the Soviet Union as a functioning society, even after absorbing a full-scale first strike.

As has already been observed, United States and Soviet strategic forces are now essentially equal. However, mutual suspicions, the march of technology, and the sheer momentum of the nuclear arms buildup will continue to threaten this stability, in the absence of an agreement to stop the accumulation of evermore dangerous nuclear weapons.

The present time is a particularly crucial one in the history of humanity's efforts to check the nuclear danger. We are on the brink of a new and particularly threatening round in the arms race. A new generation of American and Soviet weapons are to be deployed which will place even more of a hair trigger on the nuclear button and will seriously undermine the verification of, and hence the prospects for, future arms control agreements.

Which brings us to the MX and the key issue before the House today.

THE MX

My opposition to the proposed MX system is not based primarily on cost, though in the outyears the Reagan program could be almost prohibitively expensive depending on the final basing mode, but rather on its strategic implications.

Unless I am badly mistaken, the primary purpose of our strategic nuclear forces is to deter aggression against ourselves, our interest, and our allies. With this in mind, the problems that do or will exist in the Triad stem not from insufficient numbers of warheads or too little firepower but from the perceived survivability of our missiles and bombers—that is, their ability to

ride out potential attack and to inflict unacceptable damage to any aggressor.

The major reason that defense planners have pushed for an MX program has been to improve the survivability of U.S. land-based missiles against potential Soviet attack. The Ford and Carter administrations had responded to the theoretical vulnerability of our land-based missiles by proposing that we develop a mobile MX missile that could be shuttled between a number of possible launch points.

Frankly, I had several major reservations about the Ford and Carter plans, including my belief that, in the absence of a ratified SALT II or successor treaty which limits the size of United States and Soviet nuclear arsenals, the Soviets would be able to field enough warheads to theoretically threaten our land-based missiles no matter how much launch points we provided for our missiles. For this reason, I question the wisdom of pouring vast sums of money into land-based strategic missile forces and favor instead the enhancement of our invulnerable—for the foreseeable future—strategic submarine forces.

The Reagan MX Dense Pack decision makes even less sense to me than the earlier proposals. Essentially, it adopts a strategy of providing for ICBM survivability that runs exactly opposite to the deception and dispersal theories of all previous administrations. It relies on heretofore unattainable silo hardnesses, ineffective Soviet countermeasures and the jeopardizing of U.S. compliance with the ABM treaty, SALT I and SALT II.

With regard to the plan to harden these fixed silos, if the Soviet ICBM's can attain the current and future accuracies attributed to them no amount of hardening will be sufficient because any silo would be vaporized by the fireball created when the incoming warhead detonates.

The technological arms control, and financial risks inherent in the MX system before the House today are large. And what is the payoff? CBO has concluded that after a Soviet attack the MX could provide as little as 5 percent of our retaliatory warheads; 5 percent.

What we can be sure of is that the current MX plan does not promote strategic stability, a characteristic that is vitally important given the fact that any nuclear exchange is more likely to be the result of accident or miscalculation rather than of rational, premeditated design.

In my opinion, the major negative consequence of the Reagan MX policy would be to place both American and Soviet policymakers on more of a "hair-trigger" when it comes to launching nuclear attacks: The Soviets because the MX will pose a significant threat to their land-based missile forces—which are a much bigger part of their total strategic forces than U.S. land-based missiles are of ours—and the Americans because to be able to use this new weapon we will have to be prepared to launch it before Soviet missiles can destroy it.

I can think of few more destabilizing armaments than a vulnerable, countersilo nuclear weapons system.

Ladies and gentlemen, I am no starry-eyed idealist and I have no illusions about the threat posed by the massive Soviet conventional arms buildup. I support the calls for improving NATO's conventional force readiness. Achieving stability in conventional forces, by pursuing both readiness improvements and conventional force reduction agreements, would lessen the chances for conventional war, which in our era would itself cause unprecedented death and destruction, and allow us to remove the hair-trigger from NATO's nuclear deterrent.

By itself, arms limitation is not enough. In addition to limiting numbers of weapons we must also seek to promote crisis stability so that we do not stumble into nuclear annihilation by accident or miscalculation.

With this in mind, I urge the President and our START negotiating team to give serious consideration to each of the following measures:

Update and expand the various United States-Soviet agreements for preventing nuclear war by accident, miscalculation, or miscommunication (Hot Line Agreement, Accident Measures Agreement, Prevention of Nuclear War Agreement).

Establish a joint United States-Soviet crisis control facility to monitor all nuclear weapons-related activities including missile tests, as suggested by several Members of Congress.

Negotiate a strong and verifiable antisatellite warfare treaty to head off weapons competition in this particularly destabilizing field because of its threat to the reconnaissance and communication satellites which provide the major breathing space for leaders in nuclear crisis.

Negotiate limitations on the operating areas for strategic submarines to prevent launchers from occupying the coastal waters of the other country because such positioning—with the short flightime to potential targets—changes the basic nature of the strategic submarines from being a stabilizing, deterrent force into a destabilizing, first-strike threat.

Given additional priority to U.S. nonproliferation effects by strengthening current controls on the export of nuclear weapons-related technologies and materials.

Reinvigorate the current round of mutual and balanced conventional force reduction negotiations in Vienna.

Without sufficient defense forces, of course, no arms control agreement could be trusted to insure our national security. But without mutual and verifiable arms control, which brings stability and some measure of limitation to nuclear competition, no amount of weaponry can insure our survival.

When he was accepting the Nobel Peace Prize in 1964 Martin Luther King, Jr. said "I refuse to accept the cynical notion that nation after nation must spiral down a militaristic stairway into the hell of nuclear destruction. I believe that unarmed truth * * * will have the final word in reality."

Are we up to the challenge posed by Dr. King, or will we sit helplessly by as did the doomed victims of the black plague of the middle ages?

I urge you to support the Addabbo amendment to stop the development of the militarily dubious, and economically costly MX missile system.

Mr. ADDABBO. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. SCHUMER).

Mr. SCHUMER. Mr. Chairman, we have heard many arguments on both sides, arguments that were very erudite about the capabilities of the MX missile system. I think at the bottom line this is ultimately a question of priorities and no more.

My distinguished colleague, the minority leader, said that this is not a budget question; this is a military question and a foreign policy question. The gentleman is right. But, too, many of us believe that the questions of education funding and funding for food stamps and funding for needy and unemployed people were also more than budget questions. They were questions of human capital, they were questions of investment in America, and they were ultimately questions of our own defense. Which priority do we choose? The answer is up to us today.

The CHAIRMAN. The time of the gentleman from New York (Mr. SCHUMER) has expired.

Mr. ADDABBO. Mr. Chairman, I yield such time as he may consume to the gentleman from Washington (Mr. LOWRY).

Mr. LOWRY of Washington. Mr. Chairman, I rise in support of the amendment to be offered by the gentleman from New York (Mr ADDABBO).

Mr. Chairman, I would like to express my strong opposition to the Dense Pack basing mode for the MX missile, which President Reagan has proposed. I am seriously concerned by the technical questions about Dense Pack, but I am even more concerned by its effects on the arms control process and the Soviet decisionmaking process. We are not simply faced with a choice of a basing mode for a component of our strategic forces. We are about to decide whether or not to throw away the accomplishments of the arms control process and poison

the atmosphere for the negotiations which are now going on.

I oppose the MX missile because it is accurate enough to threaten Soviet land-based ICBM's with a first strike. This capability is of no use to us unless we wish to start a nuclear war, and it will create an incentive for the Soviets to launch their missiles in a crisis instead of acting with restraint. It will add to instability and can only increase the dangers of war through miscalculation or accident.

But the Dense Pack proposal itself has serious drawbacks. Although the official cost estimate is $26.4 billion, Defense Department officials have admitted that it could cost $40 billion or more by the time it is completed, with an additional 50 percent cost if we add more silos or a ballistic missile defense (BMD). Dense Pack may violate SALT I and SALT II, and lead to a violation of the ABM Treaty. In the absence of a nuclear arms reduction treaty, it is not in our interest to endanger these existing agreements.

Dense Pack would place 100 MX missiles in 100 shelters in a long, narrow rectangle of about 20 square miles at Warren Air Force Base in Wyoming. It would rely on fratricide, the radiation, blast, and debris from the explosions of the first attacking warheads would shield the MX missiles from following warheads. In theory, the Soviets could not time the explosions closely enough to avoid fratricide. But we have already been told of a dozen or more ways that Dense Pack might be defeated. There is also concern that the effects of fratricide might not last as long as projected. Consequently, we cannot in any way be sure that this untested theory is correct.

Defense Secretary Weinberger stated that Dense Pack would give our land-based missiles survivability well into the nineties. But it will not be completed until 1989. In any case, Dense Pack would become the primary Soviet target. An attack on it would create a huge amount of fallout and kill millions of Americans regardless of the method of attack or its success.

Even before Dense Pack is completed, we will be considering the addition of a ballistic missile defense (BMD) system. Under the 1972 ABM Treaty, and BMD system would have to be placed at Grand Forks, N. Dak., not in Wyoming. This and other problems could well destroy the ABM Treaty, which has prevented the waste of billions of dollars on ineffective BMD systems.

Dense Pack may also violate the SALT accords, as the Soviets have charged. SALT I and II prohibit construction of additional fixed ICBM launchers. Dense Pack supporters claim that it will use mobile launchers which are fixed in shelters. But the launchers will never actually be moved. It would be a tragic mistake for the United States to jeopardize these two agreements.

In his announcement of Dense Pack, President Reagan repeated several myths which give a wholly inaccurate impression of American strength. He stated that, "in virtually every measure of military power, the Soviet Union enjoys a decided advantage." The repetition of this false claim is not in our national interest, for it misleads the American people and our allies, and could lead to Soviet overconfidence and adventurism. Given the enormous nuclear arsenals of both superpowers, and the fact that each one could retaliate against an attack by the other, it is not possible for either nation to achieve a meaningful nuclear advantage.

Even so, we are ahead in many aspects of national defense. In May of this year, Gen. John Vessey, the Chairman of the Joint Chiefs of Staff, testified to Congress that he would not trade military forces with his Soviet counterpart. His predecessor, Gen. David Jones, has stated that "I have no doubt that we can deter the Soviets." In particular, our strategic nuclear triad is more diverse than the Soviet triad, and is less dependent on vulnerable land-based missiles.

Concerning the arms race, the President stated that "while the Soviet Union has raced, we have not." We have heard this claim before: During the debate on the nuclear weapons freeze, the State Department circulated a misleading and inaccurate document on the strategic balance. The administration has continually stated the myth that the United States did not improve its nuclear arsenal during the 1970's. At that time, I noted that we have upgraded and improved each branch of our nuclear triad.

Between 1970 and 1975 we built 550 MIRV'd Minuteman III missiles; throughout the 1970's we upgraded our ICBM force by hardening silos and adding guidance, command, and control systems; and since 1979 we have added 900 highly accurate MK-12A warheads to our Minuteman III arsenal.

For most of the 1970's, we converted submarines and armed them with 496 MIRV'd missiles. We added 192 Trident I missiles on 12 Poseidon submarines with over 1,500 warheads between 1978 and the present. We are now deploying the Trident submarine, with a greater range. During the decade of the 1970's, we put over 3,000 more warheads on submarines than did the Soviets.

Our B-52 bombers have been upgraded with new engines, nuclear hardening, offensive avionics, new electronic countermeasure equipment, new wing skin and other improvements. We have also added over 1,000 SRAM—short-range attack missiles—to our bomber fleet.

It should also be noted that we have deliberately used MIRV technology to add warheads to our stockpile without increasing the number of missiles. In his presentation, however, the President did not mention our substantial lead of over 1,000 warheads.

Finally, the President stated that "unless we demonstrate the will to rebuild our strength and restore the military balance, the Soviets, since they are so far ahead, have little incentive to negotiate with us." This is the old bargaining chip argument. The history of the arms race shows that weapons which are intended to force the other side to the negotiating table simply add more momentum to the arms race. Thus, one bargaining chip, the cruise missile, now threatens to add unverifiable momentum to the arms race. Our MIRV technology, which we refused to limit through negotiations in the early seventies, had been matched by the Soviets. If we proceed with Dense Pack, the same process will begin again, at great cost to our economy and our security.

Implicit in the argument for Dense Pack is that it will create a perception among the Soviet leadership and military planners that they cannot successfully destroy our land-based missiles in a preemptive strike. Let us leave aside the question of whether they would consider that capability to give them any military advantage, since our sea- and air-based strategic forces would still be there to retaliate. Is it really in our interests to create this perception at the cost of indicating that we do not care about the ABM Treaty, SALT I and SALT II? Does it add to our security to undermine the arms control process?

I am concerned by the Soviet Union's military activities and its strategic arsenal. But the United States is not weak: America has a tremendous capability to devastate the Russian people and their society. It is incorrect and irresponsible to pretend otherwise, to imply that we have stood still in nuclear systems while the Soviets have raced ahead, or to suggest that there is a clear margin of superiority in nuclear weapons.

Dense Pack has been presented to the Nation as a means of ending the arms race. It is not. It will continue the arms race and provide momentum for the development of new weapons just as every previous nuclear system has done. The arms race will end only with mutual, verifiable arms reduction agreements. Without such agreements, Dense Pack can only increase the dangers of nuclear war. I urge my colleagues to join me in support of arms control and national security and against Dense Pack.

Mr. ADDABBO. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. DELLUMS).

Mr. DELLUMS. Mr. Chairman, when this bill is read for amendment, I plan to involve myself actively in the debate on deleting the B-1, the MX, the carriers, and other efforts to reduce this military budget. At this point in general debate I would like to make a few very brief remarks.

All of us have come back from campaigning where we have debated the critical issues of our time.

Mr. Chairman, I come back even more convinced that we must challenge the madness of this ever expanding military budget, and we must speak to the issue of world peace powerfully and profoundly for three reasons. This planet is indeed in danger, in danger from the potential of a nuclear holocaust. We are going beyond deterrence to a war-fighting capability, we are going beyond verifiability to nonverifiability and we are developing dangerous and exotic nuclear technology that over the next few years may very well take us beyond our capacity to bring the world back within the confines of an arms control environment.

□ 1530

We are also in danger because we are pursuing a foreign policy based on the madness of the cold war that has masqueraded as America's foreign policy for the last 40 years. The problems of the world are not military problems, Mr. Chairman. The problems of the world are social and political and economic and no huge military budget is going to address that reality.

Finally, we must pursue world peace and challenge the madness of this military budget because it indeed is expanding. When I first came to Congress the military budget was $73 billion. Ten years later, in fiscal 1981, the military budget was in excess of $173 billion. The next year it was $220-some-odd billion.

This year this committee, the authorizing committee, sent to the President of the United States a bill for $254.6 billion. It is anticipated that by fiscal year 1985 this military budget will exceed $325 billion and by 1987, $422 billion.

If we do not stop this madness it is conceivable that by the end of this decade we could be spending well in excess of a half trillion dollars per annum. We cannot spend between $3 trillion and $4.5 trillion in the 10 years up to 1990 and address the tragedy of human misery of people in this country. we have a responsibility to address that human misery.

I would also like to conclude by making this one final comment, Mr. Chairman. Peace is not simply the absence of nuclear weapons. It is also the absence of conditions on this planet that give rise to violence, hostility, and war.

Two-thirds of the world live in abject poverty and millions of human beings starve to death every year. If we want to reach out to people in the world and be competitive with the Soviet Union then we should compete over who can best address the human misery of people on this planet not who best can destroy life on this planet.

Mr. ADDABBO. Mr. Chairman, I yield 5 minutes to the gentleman from Washington (Mr. DICKS), a distinguished member of the subcommittee and coauthor of the MX amendment.

Mr. DICKS. I think this year our subcommittee has done an excellent job in reviewing the defense appropriation request of this administration. After a very thorough analysis of the budget and after an item by item critique our subcommittee has reduced overall spending for the Defense Department, in budget authority, by nearly $17.5 billion. I think that is a tribute to the chairman of this committee, to its members, and to its very professional staff that we have given this kind of analysis to the Defense Department's budget.

I know that much of the attention today is going to come on the amendment to be offered by my colleague from New York (Mr. ADDABBO) which I am glad to cosponsor, to delete funding for the MX missile procurement.

I think there are in this House many who are the very strongest supporters for defense spending who are saying to themselves today: "How can we go forward and procure a missile when we are not certain that we have a credible way to base it?"

Anyone would say to themselves: "How can we spend $1 billion of the American taxpayer's money on a missile when we are not certain we have a basing mode that can survive over just a few hours?"

Secretary Weinberger told the congressional leadership at the White House that 4 years after the IOC, the initial operating capability of MX, that the Soviets would have the technical capability to overcome Dense Pack. We are talking about spending $26.4 billion for 100 missiles, just one-half the size of the Carter MPS proposal.

In my judgment, when you look at the prospects for vulnerability of Dense Pack you have to also listen to what Mr. Weinberger has suggested. He says that Dense Pack may not be enough; we may then have to spend another $15 billion to $20 billion on a ballistic missile defense system.

That gets us to $46 billion. Then we may have to add more silos for deception. Then all of a sudden we have a $50 to $60 billion decision.

I say to my good friend from Illinois (Mr. MICHEL), the distinguished minority leader, whom I have great respect for, that no one is leaving this country defenseless. We are buying the Trident submarines which are invulnerable. We are purchasing the B-1 bomber and the advanced technology bomber. We are adding air-launched cruise missiles, all of which have strategic capability.

We are also listening to former Secretary of Defense Schlesinger who said:

> Even if the silo hardness design were actually achieved the Soviets have available to them measures to counter Dense Pack within a few years of initial deployment. Either earth penetrators or other innovations (not yet discussed in open literature) would permit silo destruction.

Secretary Brown said that MX in Dense Pack is vulnerable.

Dr. Richard Garwin talks about the ability of the Soviets to detonate RV's over Dense Pack and pin down our missiles.

Bill Perry, Under Secretary for Research and Development in the last administration, says Dense Pack within 1 year will be proclaimed technologically obsolete.

So what we are saying here today is let us not waste our money on a system that probably cannot survive, that is vulnerable. Let us invest our money in things that will produce real defense.

Let us go ahead with the Trident. Let us go ahead with the D-5 missile on the Trident submarine. Let us go ahead with the air-launched cruise missile and the B-1 and the ATB but let us hold up on a system that is inherently vulnerable to Soviet attack.

I think if we do that it will demonstrate to the American people that we have some judgment, that we have some commonsense. We are not killing this program for my friends who are strongly committed to defense. We are going to continue an R&D effort.

The budget carries with it $1.7 billion for R&D on the missile and $700 million for R&D on the basing mode. That is a lot of money to spend on something that we are not sure can survive.

So I think the Addabbo amendment is well thought out. It is not compromising our defense and deserves the support of this body.

● Mr. WYDEN. Mr. Chairman, I rise today to make an appeal for commonsense—and an appeal for our security.

President Kennedy said of our nuclear era: "in a spiraling arms race a nation's security may be shrinking even as its arms increase." At no time in our history has this been more true.

And yet today, Congress will vote on a $231.1 billion spending bill that makes a vain attempt to buy security and strength through increasing our nuclear arsenal with weapons systems of dubious military value—weapons that if deployed will make us less—not more—secure.

The biggest military boondoggle in this spending bill is the MX missile, deployed in the so-called Dense Pack basing scheme. As a defensive weapon, the MX in the Dense Pack basing mode is useless and will probably be obsolete by the time it is deployed. However, because of its speed, accuracy, and capability to hit hard targets in the Soviet Union, it appears to fit the bill perfectly for a first strike.

What is worse, the MX violates existing arms control agreements—the SALT II Treaty and potentially the SALT I Treaty—with devastating consequences for future arms control.

And to add insult to injury, the price tag on this destabilizing, useless and provocative weapons system is $36 billion.

The President contends that we need the MX for bargaining purposes—to enable the United States to negotiate from a position of strength. But the President has refused to lay the MX on the bargaining table.

I must ask my colleagues: Will America really be stronger if we permit the production and deployment of a whole new generation of nuclear weapons?

Will we be stronger if we continue to strangle all hopes for economic recovery by pouring billions into the MX at the very time our domestic resources are strained to their limit?

Will we be stronger if both sides continue this trend toward improved weapons technology—to the point where weapons speed and accuracy will pose so great a threat to each side that life on our planet will depend on a hair-trigger?

Spending $36 billion on the MX will not buy us security. It will not buy us strength. What it will buy us is disaster.

The bottom line is that continuing to build up our nuclear arsenal will only cause the Soviets to do the same—and fuel a nuclear arms race that no one can win. Only by putting a halt to this arms race and working to prevent the outbreak of nuclear war can we reduce the real threat to our national security.

I urge my colleagues to support the amendment offered by the gentleman from New York (Mr. ADDABBO) to delete funds for the MX.●

● Mr. LUJAN. Mr. Chairman, I have been a supporter of the Dallas Cowboys of the National Football League for a long time. I have been a fortunate fan for many years, fortunate because the team that I support has been a consistent winner. The method of their success is not a secret. They win with regularity because they have depth or in other words reserve strength. They repeatedly bring players off of the bench who are as trained and practiced as the players that they replace. And their bench is at full strength at all times. My point is, can we afford any less in the reserve strength of the U.S. Army?

The National Guard and Reserve unit readiness is the bench of our Nation's defenses. Currently, the National Guard alone is short 14,000 trained and practiced players from the Department of the Army stated requirement for full-time support personnel in the National Guard. This bill eliminates nearly 5,000 full-time military spaces and in effect reduces the depth and strength which the House Armed Services Committee recommended. Therefore, Mr. Chairman, I must support the amendments which will restore the $60 million and the 4,946 full-time military spaces to the ARNG and the U.S. Army Reserve. I would be merely disappointed if the Dallas Cowboys lost a game, but I hate to think of the consequences if the U.S. Army lost one.●

● Mr. SMITH of Oregon. Mr. Chairman, I rise in opposition to production funding for the MX missile. I have supported the administration's efforts to rebuild our defense and I am well aware of the need to continue rebuilding a strong, credible defense for this Nation; 10 years in the military including one combat tour in Vietnam did much to convince me of the importance a strong military plays in determining the survival of our freedom. Many years of fatherhood have also convinced me of the fact that I do not want my sons fighting in somebody else's jungle or desert any more than I want my family in a position of defending our home from aggression.

But let this vote against the MX be a signal—a true heartfelt signal from a combat veteran who would gladly fight again for his country—that those of us in Congress dedicated to a strong national defense cannot sell to the American people each and every ideal the Pentagon decides to wheel up the Hill.

We had the consensus of public opinion for a revitalized national defense, but it is rapidly eroding. In 1980, America was losing face around the globe. American hostages were taken in our Embassy in Teheran. Desert One was a fiasco. The Soviets marched into Afghanistan. America appeared powerless.

The 1980 elections brought a new confidence to this Nation and together we forged the national will essential to rebuilding our military forces. Now the erosion of that confidence is at hand and our freedom and very way of life are at stake.

It is clear to me—after classified briefings—that there is indeed a massive Soviet buildup. It cannot be ignored. Yet we continue to keep this photographic evidence and documented intelligence from the American public, when it is vital that Americans understand the need for updating our antiquated military hardware.

We have been crying wolf about the Soviet threat for 37 years, and now, when the Soviets are on the brink of becoming the strongest military superpower in the world, the American people are convinced we can do without the frills.

In many ways, they are absolutely right. Our depressed economy dictates that we be cost-conscious and selective in the weapons we buy for the defense of this Nation. No agency, including the Department of Defense, should be granted a blank check to spend as they please. Just a few months ago we saw an example of that in the approval of the $11 billion C-5 program that will send us deeper into the red without adding any significant improvement to the defense of America.

It is obvious that the modernization of many weapons systems have been delayed for too long. We do need to modernize our land-based leg of the Triad. But before we launch into revitalizing our defense structure for the good of this Nation, there must exist a consensus on behalf of the American people that it is necessary to do so and that the hardware we need is not just another expensive toy we can do without.

More importantly, we cannot reach that consensus without the help of the administration that must lobby America itself.

The United States has essentially stood still over the past decade, while the Soviet Union has proceeded in bolstering its military capability area in many areas far beyond ours. Americans deserve to know just how serious the Soviet threat is and our Government must play an active role in providing that knowledge, while prioritizing what weapons systems we can afford within the constraints of fiscal reality. We must make concerted efforts to release what classified intelligence we can depicting the Soviet buildup to every American in this land.

Vietnam taught us all a valuable lesson: Our Government will not be successful in any endeavor it undertakes—whether it be building a missile, winning a war, or placing a man on the Moon—if the will of the American people is not behind it.●

● Mr. COURTER. Mr. Chairman, I wish to be counted among those who recognize that deterrence is the single most important factor in determining the value of any military weapons program. It is ironic that on this day, December 7, we seem to ignore the higher, more dangerous price nations pay for unpreparedness. I believe the focus of our concern today should be on the issue of a credible deterrent and a national commitment to peace through strength.

Many reasonable points have been raised in criticism of the means of de-

ployment of this missile. However, the Addabbo amendment does not deal with the Dense Pack basing mode plan, but rather seeks to eliminate total funding of the missile itself. As a member of the House Armed Services Committee, I have problems with the basing plan as presented to Congress, and, in that regard, I would like to see further investigation of the Dense Pack scheme.

It is important to realize, however, that the fundamental question being debated today in this Chamber is not deployment, but the key role this weapon system plays in protecting our national security. The deletion of the MX system will leave our land-based Minuteman II and III missiles vulnerable to destruction by a Soviet first-strike attack by 1985. We need a survivable land-based strategic deterrent capable of responding to any Soviet aggression.

Equally important, I believe the amendment will deny the United States a valuable bargaining chip for the START talks in Geneva. Those concerned about insuring world peace and reducing nuclear arsenals should realize that by unilaterally reducing our defense, we have absolutely no leverage to bargain for real, meaningful reductions, and, at the same time, we give the Soviets the strategic edge. Thus, they have absolutely no incentive to seek an agreement which would compromise their strategic advantage.

In the meantime, the Soviets build and deploy, regardless of American actions. I hope that this vote does not signify a watershed where America's commitment to world peace and national security will be questioned by friend and foe alike.●

Mr. EDWARDS of Alabama. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I find the debate so far a little disconcerting. The subcommittee started back in February of this year on its bill when the President's budget came over in late February. We have spent untold weeks and months of hearings, time spent marking up our bill and studying the testimony and preparing for it in the subcommittee and in the full committee and preparing to come here to the floor.

So help me goodness, Mr. Chairman, it sounds like what we have brought you today is the MX appropriation bill.

I want to reiterate to the Members of this House that we have some $231 billion worth of personnel, manpower, retirement, operation and maintenance, procurement, research and development, and many other things funded in this bill for the defense of this country.

We have cut some $18 billion from the President's original proposal of $249 billion. We have cut over $8 billion in outlays for fiscal year 1983. We have cut something over $14 billion in outlays for fiscal 1984 and 1985 because of the massive cuts that we have made this year.

We have explored from one end to the other the needs of the defense of this country, whether it be strategic or conventional. I would not stand here and argue to you that we have in fact brought you a perfect bill because we have not. But we have brought you the best that this committee has been able to put together in the system that makes this country work. That is the majority rule, and we come now to the floor where the majority once again will work its will.

But I would suggest again, Mr. Chairman, to lose sight of all of this and to zero in on the MX missile as somehow the be-all, end-all of this bill that we have brought you is to miss the point of what it is this committee has been struggling to do over the last 11 or 12 months.

So I would urge the Members of this body of course to spend time understanding the issues and the amendments that would be brought here today. Of course, do your best to dig into what is in this bill and in the committee report, but understand that there is a lot more that goes on in the defense of this country than just one missile system.

□ 1540

We have time very shortly to debate that missile system. We will have time to debate other amendments that will be offered. And that is fine. But do not lose sight of what we have tried to do. Do not lose sight of the fact that this is an all inclusive bill providing for the defense of this Nation.

I would like to close, Mr. Chairman, finally by again saying that while we disagree a lot, I wish to commend, as well as I know how, the chairman of our subcommittee, the gentleman from New York (Mr. ADDABBO), who has dealt fairly with us, who has stuck in their with us while we tried to work out this bill and make it something that we are proud of, and to commend the members of this subcommittee and staff for the work that they have done.

I urge the Members of the House to support this bill.

The CHAIRMAN. The gentleman from New York (Mr. ADDABBO) has 1 minute remaining.

Mr. ADDABBO. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I thank the gentleman from Alabama (Mr. EDWARDS) for his kind remarks, and I thank him and all of the members of the subcommittee again for their cooperation.

I would also agree with the gentleman that the bill does contain more than just the MX. We have two other wasteful programs, the aircraft carrier and the B-1B, on which I will also be offering amendments at a later time.

But I would ask my colleagues to please listen to the debate on the various amendments, including the MX, the carrier, the B-1B and the other amendments, because they will be debated on both sides and a vote will be taken on each. We do not want to look at just defense spending; we want everyone to evaluate the need for these individual weapons systems.

The CHAIRMAN. All time has expired.

The Clerk will read.

The Clerk proceeded to read title I.

Mr. ADDABBO (during the reading). Mr. Chairman, I ask unanimous consent that title I be considered as read and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. Are there any points of order against title I? The Chair hears none.

AMENDMENTS OFFERED BY MR. ADDABBO

Mr. ADDABBO. Mr. Chairman, I offer amendments.

The portions of title I to which the amendments relate are as follows:

RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 265, 3019, and 3033 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; $1,223,650,000.

NATIONAL GUARD PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under sections 265, 3033, or 3496 of title 10 or section 708 of title 32, United States Code, or while serving on active duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; $1,658,950,000.

The Clerk read as follows:

Amendments offered by Mr. ADDABBO: On page 3, line 23, strike "$1,223,650,000" and insert in lieu thereof, "$1,247,450,000".

On page 5, line 25, strike "$1,658,950,000" and insert in lieu thereof, "$1,695,150,000".

Mr. ADDABBO. Mr. Chairman, the purpose of my amendment is to restore $60 million for the full-time manning personnel for the Army National Guard and the U.S. Army Reserve. The committee has always been a very strong supporter of the Guard and the Reserve and, in fact, included

in this budget a net total of $517.4 million above the budget for our Reserve components.

The bill as reported also rejected reductions recommended by the Secretary of Defense of $80 million that would have reduced Reserve pay drill strength by 20,000.

In view of the fact that the total committee recommendation is holding at about a $17 billion reduction in the overall budget and that it is the committee's long-held conviction that a dollar spent on the Guard and Reserve is one of the best defense expenditures we can make, I am now recommending that we reject the Secretary's original recommendation and that we appropriate this $60 million for the Army Guard and Reserve.

Mr. MONTGOMERY. Mr. Chairman, will the gentleman yield?

Mr. ADDABBO. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Chairman, I rise in support of the bill, and I rise in support of the amendment. In fact, I have two amendments at the desk that are identical, and certainly I will not offer these amendments. But I would like to commend the chairman of the subcommittee and also the gentleman from Alabama (Mr. EDWARDS), plus the subcommittee and the full Committee on Appropriations for their work on the National Guard and Reserve. You have done an excellent job. This amendment gives us additional full-time manning technicians for the National Guard and Reserve. A number of additional missions, responsibilities, and better equipment has been turned over to the Guard and the Reserve. These technicians are needed to move the Army Guard and Army Reserve more toward readiness which is the bottom line for being prepared. Thanks to this House of Representatives, we have insisted that the regular military give better equipment to the National Guard and Reserve, give them incentives and give them missions, and they can do the job. This is an excellent amendment, and I certainly commend the gentleman for giving us the opportunity on this amendment. The Guard and the Reserve are ready and anxious to do their part in defense of this country.

Mr. ADDABBO. I thank the gentleman for his remarks.

Mr. EDWARDS of Alabama. Mr. Chairman, will the gentleman yield?

Mr. ADDABBO. I yield to the gentleman from Alabama.

Mr. EDWARDS of Alabama. Mr. Chairman, I commend the gentleman for his amendment. Our side fully supports the amendment and urges its passage.

Mr. BAILEY of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. ADDABBO. I yield to the gentleman from Pennsylvania.

Mr. BAILEY of Pennsylvania. I thank the gentleman for yielding.

Mr. Chairman, I also want to commend the gentleman from New York (Mr. ADDABBO) and recommend to my fellow Members of the House that the gentleman's amendment be accepted. It is an excellent idea.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. ADDABBO. I yield to the gentleman from Washington.

Mr. DICKS. There is some concern that this would somehow affect the direction the committee has given the Defense Department on the question of the civilian technician program. I just wanted to clarify that that is not the intention of the committee.

Mr. ADDABBO. This in no way affects our decision on the technician conversion part of the bill.

Mr. DICKS. I thank the gentleman for clarifying that.

The CHAIRMAN. The question is on the amendments offered by the gentleman from New York (Mr. ADDABBO).

The amendments were agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk concluded reading title II and proceeded to read title III.

Mr. ADDABBO (during the reading). Mr. Chairman, I ask unanimous consent that title III be considered as read and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. Are there any amendments to title III? If not, the Clerk will read.

The Clerk proceeded to read title IV.

Mr. ADDABBO (during the reading). Mr. Chairman, I ask unanimous consent that title IV be considered as read and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. SOLOMON. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk continued to read title IV.

Mr. STRATTON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would appreciate the attention of the chairman of the subcommittee for a brief colloquy.

Mr. Chairman, we on the House Armed Services Committee have noted that H.R. 7355 appropriates certain sums for items which appear not to have been authorized in the conference report on the fiscal 1983 Defense Authorization Act.

In most cases, these items are relatively minor, in terms of cost, but as the chairman is well aware, the law requires that no funds may be expended by the Department of Defense without a prior authorization.

I am well aware that some of these items appear to have resulted from oversights on the part of the authorizing committees, such as the failure, for example, to provide funds for the operation of an independent inspector general in the Department of Defense, or the success of the E2-C Navy aircraft, for example, in dealing with the drug traffic off the coast of Florida, where it had been originally assumed that ships and not aircraft would bear the brunt of the task, as the gentleman from New York (Mr. ZEFERETTI) observed a moment ago.

□ 1550

In order to bring these minor deviations into line with the provisions of the law, could the chairman of the Defense Appropriations Subcommittee assure us that before these sums could be expended or obligated, there should be a prior authorization in the form of a reprograming action such as was done a year ago? And also, I would like to ask the chairman of the subcommittee if he would be willing to establish closer liaison between the staff of his subcommittee and the staff of the House Armed Services Committee in an effort to avoid a recurrence of these items in the future.

Mr. ADDABBO. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from New York.

Mr. ADDABBO. I thank the gentleman for yielding.

I do not agree the House Appropriations Committee violated funding levels in the Authorization Act in a number of instances. As far as I can determine, we are below all funding levels established in the Authorization Act except for a minor amount in aircraft procurement, Air Force. I will agreee with the gentleman from New York that certain sums for items which are relatively minor in terms of costs differ in a few instances with the allowances contained in the report language for each bill.

As we both know, the Comptroller General has held that report language does not carry the impact of law. I have made every effort to avoid such conflicts between the two committees during our markup.

As the gentleman has stated, we are talking about relatively minor sums and instances. I will assure the gentleman from New York that I shall establish closer liaison between our two staffs in order to avoid such problems in the future.

Mr. STRATTON. I thank the gentleman for his response.

Mr. ADDABBO (during the reading). Mr. Chairman, I ask unanimous consent that title IV be considered as

read and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. SOLOMON. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. SOLOMON. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1610

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

Mr. ADDABBO. Mr. Chairman, I ask unanimous consent that title IV be considered as read and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. PARRIS. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk read as follows:

AIRCRAFT PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of aircraft, equipment including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; $10,616,546,000, of which $267,800,000 shall be available only for purchase of C-2 aircraft under a multiyear contract, to remain available for obligation until September 30, 1985: *Provided,* That none of the funds appropriated or made available pursuant to this paragraph for the F/A-18 aircraft program may be obligated or expended until the Secretary of the Navy submits to the Committees on Appropriations of the House of Representatives and the Senate a certified plan to incorporate a United States manufactured ejection seat system in F/A-18 aircraft purchased with fiscal year 1983 and future funds: *Provided further,* That none of the funds appropriated or made available pursuant to this paragraph for F/A-18 advance procurement may be obligated or expended for any of those aircraft scheduled to replace Navy attack mission aircraft squadrons until such time as the Secretary of Defense certifies, in writing, that the A-18 version of the aircraft meets the originally established attack mission requirements, goals, and specifications.

AMENDMENT OFFERED BY MR. VENTO

Mr. VENTO. Mr. Chairman, I offer an amendment to title IV.

The Clerk read as follows:

Amendment offered by Mr. VENTO: Page 19, line 7, strike "$10,616,546,000" and insert in lieu thereof "10,368,346,000".

Mr. VENTO. Mr. Chairman, my amendment is a very significant amendment in that it deletes the long-lead funding for the F/A-18 with the intent that the production of the aircraft will be terminated after completing the 1983 procurement.

Of course, this action will terminate production at 242 aircraft, sufficient to equip the Marine fighter squadrons.

Mr. Chairman, at this time I yield such time as he may consume to the distinguished chairman of the Subcommittee on Defense of the Committee on Appropriations, the gentleman from New York (Mr. ADDABBO).

Mr. ADDABBO. Mr. Chairman, I again ask unanimous consent that the balance of title IV be considered as read and open for amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. ADDABBO. Mr. Chairman, I thank the gentleman from Minnesota for yielding to me.

Mr. VENTO. Mr. Chairman, the F/A-18 is one of our largest weapons programs. It is twice the size of the B-1 program, and $14 billion more than the MX. In terms of dollars to be spent, there are $32 billion in this program. It is the largest program in the entire U.S. Government.

The F/A-18 was supposed to be a modest program originally costing approximately $13 billion. Now the cost of the program is closer to $40 billion, $39.7 billion. Despite the huge expenditure of money, the F/A 18 is a failure as a Navy attack aircraft. Both the Navy's own test pilots on November 4 and the Appropriations Committee's own survey and investigation staff on November 29, reached the same conclusion. In the words of the latter the findings of the operation evaluation validates the investigative staff report dated October 27, which concluded that the F/A-18 would denigrate the combat capability of the Navy.

Most of the deficiencies of the F/A-18 could be cured with time and money, but they cannot cure the totally inadequate range problem. The operation and evaluation test pilots reported that a realistic scenario and radius of the weapon was in the 250 nautical mile area, far below the Navy requirements of 550 nautical miles.

In less demanding scenarios, they were able to crank up a radius of 440 nautical miles, still over 100 miles short of the Navy requirement.

These tests, I have learned, were repeated this last weekend because there was some concern that the initial tests conducted were somehow biased against the F/A-18. What were the results?

On the first day, a plane came back to Patuxent Air Base with the warning lights flashing as regards fuel. On the second day, the plane had to make an emergency landing 220 nautical miles short of where it was supposed to land at Patuxent.

In short, the F/A-18 has flunked the test again. I would remind my colleagues that there is seldom an emergency airfield 230 miles from an aircraft carrier. The fact of the matter is, the range of this plane is going to move our carriers into positions where they are going to be much more vulnerable.

We have tried and tried, after 8 years of deciding, to go with this aircraft. We have about 40 of them, 40 fighters on line and ready to be used. None of them have been assigned yet, but they are on line.

A similar program, the F-15/F-16 program has nearly 700 fighters on line, serving in various modes.

I submit to my colleagues, the largest single appropriation measure that we have in terms of the defense budget is this procurement. 1,377 of these planes are supposed to be approved. Yet, 8 years after it has been approved, we simply do not have an attack version.

Are we ready to give up about half the carrying capacity, for instance, that might be attributed to the A-7 or the A-6 which might take the place of this plane in terms of what it can deliver, what it can lift? Are we ready to give up, in terms of the fighter version, as we have already given up a much less capable fighter for the type of dual role?

I think the dual-role concept in this instance has been tried, evaluated, and failed. This is one of the few instances where we can vote to save, on this particular amendment, a quarter of a billion dollars and not give up any fighting capacity.

This plane was situated in the first place because it was supposed to be that we were going to go with small-deck carriers. We have large-deck carriers today. We are going to be pushing more capable planes off the deck in order to enhance the use of the F/A-18.

For instance, some have suggested that the A-6 could serve as tankers. Is it not ironic that the plane we are dealing with in this particular in-

stance, a more capable plane, is going to serve as a tanker for a less capable plane to enhance its range?

Yet, they are talking about an addition of tanks to the plane, wing tanks, conformal tanks, doing other things, stretching out the body of the plane in order to achieve its goal.

I think, Members of this body, that we would do well to revisit this program and eliminate the attack version of this plane, to finish out the buy and to supply the Marine Corps with the fighter that they need. Maybe they do not desire it, but we built them and that is where they are probably going to be used.

We could reduce the total number of planes that we have. The Navy has a large number of planes.

What happens when we buy planes like this that are less capable is that we do not have the ability.

The CHAIRMAN. The time of the gentleman from Minnesota (Mr. VENTO) has expired.

(By unanimous consent, Mr. VENTO was allowed to proceed for 2 additional minutes.)

The question is: Are we going to buy more capable planes at more economic numbers such as the F-14 or the A-6's, or are we going to continue with the plane that has proven time and time again to be much more expensive?

The initial F-18 and F/A-18 were supposed to be a low-cost, low-option plane. What happened with it? Today the cost of this particular plane is as much as the F-14. If purchased in economical numbers, the F/A-18 costs 50 percent more than the A-6, which is more capable.

So we are on a large-deck carrier basis at this time. It cannot be explained away with only inflation. It cannot be explained away. A program that was supposed to cost less than $15 billion now is up to $40 billion. Assuming a doubling of the inflation rate in these 8 years, it would only bring us up to $30 billion. I submit to you.

□ 1620

So, the rest has been in terms of cost growth, in terms of adding different things to the plane, trying to make it do what it is incapable of doing. It is time for this body to take a stand. Here is a way that we can save a quarter of a billion dollars and not reduce any capability in terms of our Navy; provide them with more planes, provide them with a plane adequate to do the job it is expected to do. So, I appeal to my friends, Members of this body, to vote up this amendment.

I want to commend the committee for the work they have done in terms of certification, but I think the best certification is for them to come back to this Congress with a product that delivers; not a reduction in terms of specification which they have done historically with this plane, but to come back before this Congress, this deliberative body, and deliver a message. We can deliver that message by making them come back before us to deal with this particular product, an adequate product that is not going to cause us a lot of problems down the road.

We do not need this particular plane. I would hope that we would be able to take action in this body to demonstrate our fiscal conservatism in action, and not just in words.

The CHAIRMAN. During the time of the gentleman from Minnesota, consent was granted to waive the reading of the remainder of title IV.

Are there any points of order against the remainder of title IV, beginning on page 20, line 1?

The Chair hears none.

Mr. BENNETT. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, yesterday the Secretary of the Navy came to my office and urged that I oppose this amendment. Today, the CNO called me and urged me to oppose this amendment.

Simplistically stated, this plane is a bargain, not a turkey. It is a plane which will do most of the things it was designed to do. It costs more money than they had planned to have it cost, but it is still a good plane. Furthermore, it makes viable some of our carriers which are not big carriers. We do have some which are not big carriers, and this plane can be used both as a bomber and an attack plane.

It is true that it does not go as far as they would like to have it go. It is not perfect. It did not live up to all the things they wanted it to do. It is also true that the other planes which are competitive have had things added, and that caused those planes to go up in cost and this caused this plane to go up in cost, too, because technological advantages are desired to be put on all the planes.

So, all these planes are better planes than originally was contemplated. They do cost more money partly because of that.

But, the bottom line is that this plane is a cost-effective plane. It does a good job both as an attack plane and as a bomber, and it will fit some kinds of carriers which cannot take the other types of planes. So, it makes viable these expensive smaller carriers, makes them viable in the context we will have ahead of us and we will, therefore, have a greater carrier fleet.

I repeat, the Secretary of the Navy came to see me yesterday and spent almost an hour with me. The CNO called me from a distant city and urged me to take the well today to speak on behalf of the need for the FA-18. The Navy obviously greatly desires this plane as a sound buy for our defense needs.

Mr. MAVROULES. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I rise in opposition to the gentleman from Minnesota's amendment. In our zeal to cut back defense spending, it is incumbent upon us not to throw the baby out with the bath water.

The F/A-18 is just such a program, one that the Navy deems necessary in order to perform its mission effectively and economically.

There has been a lot of misinformation swirling around the hill with respect to the F/A-18.

Let us set a few things straight. The Secretary of the Navy remains steadfastly behind the F/A-18 program, calling the Hornet "a superb aircraft." He would ask you to consider the recent operational evaluation of the Hornet, about which there is a lot of confusion, in a proper context.

And I join him in making this request. Consider, for instance, other operational evaluations of other aircraft—The F-4, the A-6, the F-14, the F-15, or the F-16. All of these aircraft have had problems identified through this process, and subsequently corrected.

I submit to you that the F/A-18 is ahead of each of these other aircraft at a similar point of development or production, a fact to which Secretary Lehman will attest.

"We got what we paid for," he recently said.

A multimission combat aircraft, the Hornet is the only Navy aircraft that can shift from fighter to interceptor to attack roles, as the situation warrants. It has the high performance required to survive in target areas.

Its highly accurate weapons delivery capability means the pilot can do his job on one pass against highly defended targets.

Also, the Hornet has far higher reliability and lower maintenance requirements than any other aircraft in the Navy's inventory. That means, simply, that more of them will be available to fight in time of need than any other mix of carrier-based aircraft.

Mr. Chairman, thus far three of our allies have, after exhaustive tests of the most advanced aircraft in the world, chosen the F/A-18 as the primary tactical aircraft to meet their nation's defense requirements. But there are other reasons to vote against the Vento amendment and for the F/A-18.

The language in the appropriations bill addresses some of the gentleman's chief concerns but with none of the liabilities that would attend the gentleman's amendment.

The bill, as it now stands, recognizes the F/A-18's outstanding capabilities while, at the same time, recognizing that kinks still remain in the program that have to be ironed out.

In its infinite wisdom, the committee has in effect fenced off the $248.2 million appropriated until such time as the Defense Department can certify that the F/A-18 has met its attack mission requirements—a requirement that we have every confidence the F/A-18 will meet.

Mr. Chairman, I support the language now in the bill and would urge my colleagues to do the same.

The Vento amendment is simply not necessary at this time.

Mr. YOUNG of Florida. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, as we discuss aircraft programs, oftentimes we are constrained to ask ourselves why we do not build a multirole aircraft. Why do we have to have one airplane for this job, another airplane for that job, and another airplane for something else? The jobs, the roles, the missions are somewhat different.

This is an honest attempt to have a multirole aircraft; one that can be a fighter, one that can be an interceptor, one that can be an attack bomber, without too much difficulty in changing from one mode to the other.

The FA-18 does this job very well. The previous speaker made the comment about serious development problems in one aircraft. Most of our colleagues will recall the troubles the F-14 had during development, the tremendous cost overruns, the attempts to close down the F-14 line. Members today will tell you that the F-14 is one of the finest pieces of aircraft equipment that has ever been made. Certainly, the Libyans in the Gulf of Sidra found that out very rapidly when they encountered two of them there.

The FA-18 is attempting to be a multi-role aircraft. We recognize—as the subcommittee, we recognize the problem. I want to call the attention of our Members to the language in the bill that has been referred to on several occasions. We have taken into account that there are some development problems. On page 19 of the bill Members will find language that says:

. . . none of the funds appropriated or made available pursuant to this paragraph F/A-18 advance procurement may be obligated or expended for any of those aircraft scheduled to replace Navy attack mission aircraft squadrons until such time as the Secretary of Defense certifies, in writing, that the A-18 version of the aircraft meets the originally established attack mission requirements, goals, and specifications.

So, I think we have taken care of the problem that our distinguished colleague from Minnesota is attempting to call to our attention here, and I hope that we will just go ahead and provide the long leadtime funding for the FA-18. Let us defeat this amendment and keep that viable aircraft program underway.

□ 1630

Mr. STRATTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take part in this debate simply because the gentleman from Minnesota made many of these same arguments several months ago when the authorization bill was on the floor. The gentleman is very persistent. He has been an opponent of the F-18 for years, and obviously he is continuing that battle.

I suppose the reason for it is that in the last few months there have been a couple of newspaper reports that some of our Navy pilots who like to fly fighters did not think that the F/A-18 responded the way a fighter should. Of course, the F/A-18 is a switch hitter. It not only bats right handed but it bats left handed. It not only runs but it also blocks in the line. And when we have an aircraft with twin capabilities, obviously it does not have as much capability in one particular aspect as does some aircraft designed strictly as a fighter.

I remember when the authorization bill was up, the gentleman from Minnesota pointed out it was much more expensive than the F-16, and he was comparing it just a moment ago again with the F-16. But the F-16 is, of course, strictly an interceptor, fighter aircraft. It does not have the complicated electronics devices, it does not have the carrying capability that the F-18 has, and that is because the F-18 is designed for different missions.

The fact of the matter is that we ought not to rest the decision on what a few disgruntled aircraft fighter pilots think. Secretary of the Navy Lehman has said, as the gentleman from Florida and the gentleman from Massachusetts pointed out a moment ago, that the F/A-18 is doing its job. It is a good airplane, and it is doing the job the Navy wanted it to do. It costs just about two-thirds of what an F-14 costs and certainly, with the need for additional aircraft, this is the very kind of aircraft we need to meet not only the goals of the Navy but also the goals of the Marine Corps.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I am glad to yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, the gentleman made a statement with respect to the cost. He said the cost was two-thirds of that of an F-14. To what cost is the gentleman referring? Is that the flyaway cost?

Mr. STRATTON. Mr. Chairman, I do not have the exact figures, but this is the statement of the Secretary of the Navy. The fact is that it is not as expensive as the first line fighter aircraft, and it is not intended to be. The F-14 is something on the order of $30 million, so the F-18 would apparently be somewhere around $20 million.

Mr. VENTO. Mr. Chairman, if the gentleman will yield, the information I have is that with the proper production levels, if they can be considered, the cost is only slightly higher. This is supposed, of course, to have been a much lower cost plane and a much lower cost program. Today it has soared to $40 billion, and that is admitted by everyone.

If the gentleman will continue to yield further, a little while back, when we made these arguments, it was argued that these figures were plucked out of the air someplace, but they were not. They were plucked out of the facts that have existed for some time.

Mr. STRATTON. Mr. Chairman, let me reclaim my time.

The fact that there has been a cost growth has been simply because the Navy liked the plane so much that it was loading more and more of its responsibilities on the F-18. The original idea was back in the days when the Air Force became enchanted with the F-16 and the Navy, therefore, wanted something like the F-16 but they wanted a Navy version, so they went to the F-18 and what was then conceived as a fighter in those days, as I recall. But they recognized it also had a capability as an attack plane.

The Marine Corps, for example, has used it as an attack plane, and that is why the cost has grown.

The CHAIRMAN. The time of the gentleman from New York (Mr. STRATTON) has expired.

Mr. VENTO. Mr. Chairman, I ask unanimous consent that the gentleman from New York (Mr. STRATTON) be allowed to proceed for 2 additional minutes.

The CHAIRMAN. The Chair will inquire does the gentleman from New York (Mr. STRATTON) seek additional time?

Mr. STRATTON. No, I do not seek further time, Mr. Chairman.

Mr. EMERSON. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, first, I wish to associate myself with the remarks of the gentleman from Florida (Mr. YOUNG).

Mr. RUDD. Mr. Chairman, will the gentleman yield?

Mr. EMERSON. I yield to the gentleman from Arizona.

Mr. RUDD. Mr. Chairman, I would like to say that I have flown this aircraft and I know what the Navy thinks of it. I just came back from a trip to Spain, where I talked to the Spanish Government and the fighter pilots who fly that plane and are looking forward to receiving that plane.

Mr. Chairman, I rise in opposition to the amendment to delete funding for the F-18. We will hear several assertions today on the cost and perform-

ance of this airplane, and as one who has flown this plane, I would like to make a few observations regarding its performance and its role in fleet air defense and power projection.

The critics claim that the F-18, which already has been flown some 6,200 hours by Navy and Marine Corps pilots, has failed crucial tests and experienced exorbitant cost growth. The crucial tests referred to are a series of tests conducted by the Navy called the OpeVal or mission operations evaluation. As with any developing weapon system, there will be problems. However, the most crucial problem cited by critics of the F-18 is the so-called failure to meet the mission range requirements set by the Navy. What the critics do not tell you is that the OpeVal test conditions did not meet the test assumptions the contractor was supposed to meet. Furthermore, the Navy itself is continuing evaluation for that very reason. Some of the test conditions which were different from the assumptions in aircraft specifications included: Smaller than specified auxiliary fuel tank: Failure to release fuel tank after emptying, causing drag and higher fuel consumption: Carrying less fuel than was optimal, and evaluating the performance in weather conditions that were not part of the assumed test variables. In short, the OpeVal planned to test an airplane under conditions that changed after the airplane was built.

Aside from this particular part of the test results, the critics somehow forget to mention the positive comments that were also part of the operations evaluation. What the Navy was seeking in the construction of the F-18 was an aircraft with flexibility: For use as fighter, interceptor, or attack aircraft: High performance in the target area; accurate weapons delivery; and reliability and low maintenance. The operations evaluation test confirmed these characteristics. The test concluded that the F-18, with better load and speed capability than the current fleet aircraft, was a superior performance aircraft: That it had the flexibility needed in fleet operations and excellent reliability. In most cases, the F-18 exceeded substantially program standards: Operational availability was 74 percent instead of the 68 percent required; reliability was 83 percent instead of the 70 percent required; operational reliability was 73 percent instead of the 60 percent required. Furthermore, in the attack mode, the F-18 with the same bomb load, has greater speed, acceleration, and significantly more maneuverability than either of its two possible alternatives. Clearly, the operational evaluation for the F-18 was not the "disaster" as some critics would have us believe.

On the issue of cost, one must also look beyond the simple fact of the growth of costs. Two-thirds of the cost growth are due to unanticipated inflation. However, the flyaway cost for the F-18, between $24-$24 million, is lower than the flyaway cost of either of the two planes talked about as substitutes. The A-6E or A-7 and the F-14.

In addition, the improved reliability of the F-18 significantly reduces its life-cycle cost, thus making it even more attractive than its possible alternatives. Finally, the F-18 has proved to be a solid competitor in the foreign sales market: Beating the F-16 in three major competitions and receiving orders of 137 planes from Canada, 75 to Australia, and 84 to Spain. Having talked to several members of the Spanish Air Force, I know that they are very excited about this aircraft and are watching with no little concern over what we do today.

What we have today is a reliable, flexible, and quality aircraft. It is being attacked, I suspect, because its procurement is one of the bigger ticket items in the defense budget, and not for any concrete performance deficiency. Deletion of the forward funding for the continuation of the Navy's planned acquisition of the 1,336 of these aircraft would put us in the position of having to spend more money on its alternatives; alternatives which cannot match the performance envelope of the F-18: And it would be a step backward. The F-18, simply put, is less expensive, better performing, more flexible, and more reliable than any of its alternatives. Deletion of the forward funding for this aircraft would only escalate the cost of the program: delay the introduction of this superior plane into the fleet and make this body come back a year from now to try to undo what has been done. I urge my colleagues to support the F-18 program and oppose any attempt to reduce or eliminate forward procurement for this aircraft.

Mr. EMERSON. Mr. Chairman, I rise in opposition to the amendment. I wish to associate myself with the thorough and eloquent remarks of the gentleman from Florida, (Mr. YOUNG). He has said it all and has made the case for the F-18.

● Mr. YOUNG of Missouri. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Minnesota.

As we debate this amendment, I think several points need to be brought out for the Members so that they can better understand this highly technological aircraft.

You will hear from the opponents of the F/A-18 Hornet that it is a too costly aircraft and can be replaced with a better alternative. However, the facts tell a different story. The costs of purchasing each F/A-18 have been decreasing and are expected to continue decreasing as the program matures and larger numbers of aircraft are produced annually. The 63 Hornets funded for fiscal year 1982, when inflation is taken into account, will have a significantly lower unit cost than F/A-18's funded in fiscal year 1981.

Second, the F/A-18 is far less espensive than the F-14, which is also being purchased by the U.S. Navy. In recent action, Congress authorized fiscal 1983 unit flyaway costs requested by the Navy for the F/A-18 of $25.1 million. This compared to $38 million for the F-14. Also, the Hornet is comparable in cost with the slower, less maneuverable, less survivable A-6.

While we are all concerned about the cost of our weapons systems, negotiations have taken place to control the cost of the F/A-18. In October, Navy Secretary John Lehaman and the plane's prime contractor agreed on a $22.5 million price tag per plane for the first 63 aircraft. This is a major decision by both parties to make a concerted effort to control the costs of the Hornet.

Critics have charged that a mix of A-6's and F-14's would be preferable to the Navy's current plan, which includes the F/A-18, due to their lower cost and improved capabilities. This is not the case. If you compare these alternative plans with our current mix of two squadrons of F/A-18's, two squadrons of F-14's, and one squadron of A-6's, you can easily see that it would reduce the Department's fighter and attack capabilities. It would also increase defense costs by an additional $10 to $16 billion over a 15-year life cycle period. There is no question that alternatives to the F/A-18 are less attractive and would be a step backward for the Navy.

We must also consider the impact this amendment would have on our allies. Mr. Chairman, thus far three allies of the United States have, after exhaustive studies of the most advanced aircraft in the world, chosen the F/A-18 aircraft as the primary tactical aircraft for their nation's future. Selection of the F/A-18 by Canada, Australia, and Spain demonstrates the extent to which these countries have bet their future survival on the performance of the F/A-18.

These countries chose the F/A-18 because of its capability, reliability, and maintainability, and state-of-the-art technology. Recently, Canadian pilots began training in the CF-18—a version of the F/A-18—and the first week of operations exceeded even their most optimistic predictions. Following is a part of the text from the commander of Canada's first CF-18 squadron, "this has been a great week for the 410 squardron and the new Air Force. We have an absolute winner on our hands and look forward to fully exploiting amazing potential of CF-18 in weeks and months ahead."

Mr. Chairman, recently a great deal of misinformation has been reported by the opponents of the Hornet from the Navy's operation and evaluation test (OpeVal) of the F/A-18. I would like to clear the air and present all the facts about this test. The OpeVal strike mission was, at best, questionably run. The specifications for the strike mission called for a standard day mission; the test was flown on a hot day. Also, the specifications called for carrier operations; the Hornet flew off a runway.

Another criticism of the Hornet by the operations and evaluation test was its range. The OpeVal used three 315-gallon auxiliary fuel tanks which were retained for reasons of economy. In wartime, such tanks would be jettisoned once their fuel was consumed, in order to reduce drag and improve range. The F/A-18's currently coming off the production line have three 330-gallon tanks. Regarding internal fuel, the Hornet that was tested had 10,400 pounds of fuel. This can be compared with 10,860 pounds of fuel that the F/A-18 currently carries. The combat radius deficiencies reported by the opponents are really not deficiencies at all, but only reflections of the equipment the OpeVal aircraft carried and the way they were flown. When the Hornet is flown to the requirements specified, you will see that it not only meets but exceeds its expectations.

Mr. Chairman, I would also like to refresh everyone's memory of the actions the House took last year in support of the F/A-18. By a vote of 101-316, the House defeated a similar amendment offered by the gentleman from Minnesota to terminate this program. The House spoke last year in support of the F/A-18 and I believe it should continue to support the Hornet.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. VENTO).

The amendment was rejected.

AMENDMENT OFFERED BY MR. ADDABBO

Mr. ADDABBO. Mr. Chairman, I offer an amendment.

The portion of title IV to which the amendment relates as follows:

MISSILE PROCUREMENT, AIR FORCE

(INCLUDING TRANSFER OF FUNDS)

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land without regard to section 9774 of title 10, United States Code, for the foregoing purposes, and such lands and interests therein, may be acquired and construction prosecuted thereon prior to the approval of title as required by section 355, Revised Statutes, as amended; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $5,669,700,000, of which $988,000,000 may not be obligated or expended for procurement of five MX missiles until March 15, 1983, following the presentation of a written timetable to the Congress by the Secretary of Defense on March 1, 1983, containing a monthly production and delivery schedule for the MX program including lead times for missiles and silos, the planned operational test and aging/surveillance schedule, and insuring that no missiles will be produced under a schedule that would require their temporary storage prior to the completion of their permanent basing silos, and in addition, $15,000,000 shall be derived by transfer from "Missile Procurement, Air Force, 1982/1984", to remain available for obligation until September 30, 1985.

The Clerk read as follows:

Amendment offered by Mr. ADDABBO: On page 26 of the bill, line 12, strike out "$5,669,700,000" and all that follows down to and including "silos," on line 22 and insert in lieu thereof "$4,681,700,000,".

The CHAIRMAN. The gentleman from New York (Mr. ADDABBO) is recognized for 5 minutes in support of his amendment.

Mr. ADDABBO. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto not exceed 90 minutes, the time to be equally divided and controlled between myself and the gentleman from Alabama (Mr. EDWARDS).

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. The gentleman from Alabama (Mr. EDWARDS) will have under his control 45 minutes, and the gentleman from New York (Mr. ADDABBO) will have under his control 45 minutes.

The Chair recognizes the gentleman from New York (Mr. ADDABBO).

Mr. ADDABBO. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, this is the first MX amendment.

This amendment cuts out $988 million for production. There is in the bill $1.7 billion for research and development of the MX missile. There is in this bill $775 million for research and development on the basing modes.

I make that point because I ask, how can we in all good conscience tell the American people that we are going to give the Air Force almost $1 billion for something on which they need almost twice as much money to still do research and development? That is $1.7 billion in research and development for the MX missile. How can we, facing a possible $200 billion deficit this year, tell the American people that we are going to give the Air Force nearly $1 billion to procure five missiles when they still need over $1 billion to design the basing mode for the missile?

We have been told that the so-called Dense Pack for the MX will be located at Warren Air Force Base in Wyoming, but we were not told that the land for the silos is not Federal property. The land still must be bought, and there must be environmental impact statements made. At least 1 year or more will be required before we even have an approved site.

So how can we, in this time of high deficits, waste money by giving the Air Force a blank check to buy missiles for which they do not have a home? They do not yet know how they are going to deploy the missile. Is this a bargaining chip? This is too expensive a bargaining chip. If we wish to have a bargaining chip, we have the money in research and development, the $1.7 billion for research and development for the missile, and $775 million for research and development on the basing modes. This is too expensive a bargaining chip.

The missiles would take only about 2 years to produce. But they would have no home; they would be stored in a warehouse. Is that a bargaining chip?

The Arms Control Director for President Nixon and the Arms Control Director for President Carter have both written and stated that there can be no bargaining chip with this missile. This is a complete waste.

Mr. Chairman, if my amendment is not accepted, all we will be doing is giving the Air Force a blank check and add to the $124.3 billion of unexpended balances that the Defense Department has at the present time. We cannot afford it. This is a complete waste, and I ask support for my amendment.

I offer the following additional points with respect to the MX production request.

AMENDMENT ON MX PROCUREMENT FUNDS

Production of MX missiles is premature.

This amendment defers production.

It strikes fiscal year 1983 procurement funds.

This amendment does not kill the program.

Deferral of production is necessary.

Program schedules are in conflict.

At earliest, first Dense Pack silos would be ready in 4 years, in December 1986.

This 1986 date is highly optimistic.

Building missiles themselves will take only about 24 months.

If we start building missiles now, with fiscal year 1983 money, they will be ready 2 years before we have a place to put them.

It makes no sense to build homeless missiles that will then be stored in a warehouse.

Earliest possible need for missile production funds is next year, in fiscal year 1984.

In addition, other problems make MX schedule unrealistic.

First test flight will probably be slipped from January to late February or March.

Second stage motor, which exploded in a recent test, requires design changes.

Most of land required for Dense Pack is private or State owned. Acquiring land will take time.

By current law, specific design of Dense Pack cannot begin until after all National Environmental Policy Act requirements have been met.

These problems mean both missile production and silo construction dates will slip.

These problems make fiscal year 1983 production funds even more premature.

This amendment should be adopted even if Dense Pack had no problems. But there are many problems with Dense Pack.

Townes Panel report says the concept is still being developed, and cost, time and effectiveness estimates are not firm.

Dr. Townes wrote to Secretary Weinberger, according to the press:

Soviets may be able to attack Dense Pact effectively almost as soon as it is fully deployed.

Superhardening of silos may not be possible.

Many U.S. experts say Dense Pack violates SALT II.

Dense Pack will require a ballistic missile defense.

Probable abrogation of 1972 ABM treaty.

Added billions in cost.

These problems mean Congress should slow the program down.

Advocates will tell us not to slow down, because we need MX as a "bargaining chip".

What kind of "bargaining chip" is a missile we have no place to put?

What kind of "bargaining chip" is a Dense Pack that Pentagon's handpicked experts say can be easily countered?

What kind of "bargaining chip" is a system that leads to abrogating the only meaningful arms control agreement we have with the Soviets?

How can we afford a $35 billion "bargaining chip" with deficits of $200 billion, and a 10.8-percent unemployment rate?

Advocates will say deferral is a "siren song," luring us to further delay.

The lure is voting money for a Dense Pack which Congress has yet to carefully examine.

The lure is voting money for a Dense Pack which experts say may be easily countered.

The true siren song here is "just a few billions more."

This amendment makes simple commonsense.

Even MX advocates must agree the missile and silo schedules are out of step.

It is not reasonable to build missiles in advance of having a place to put them.

A "yes" vote avoids building homeless missiles, and gives Congress time for careful consideration of Dense Pack.

□ 1640

Mr. EDWARDS of Alabama. Mr. Chairman, I yield 5 minutes to the gentleman from Alabama (Mr. DICKINSON).

Mr. DICKINSON. Mr. Chairman, I think we are probably overlooking the main think involved here. What we are looking at is not whether or not we need a missile system, because I think most of us agree that we do.

I think most of us are not aware of the fact, though, that the way the bill is written, without the Addabbo amendment, we are fencing the money. We are saying they are going ahead until March 15 and requiring of the Department of Defense to furnish full details on basing mode and everything else. So we will have a chance to look at what it is.

So if you vote today to keep the money in, to go forward with the research, development, long lead procurement, you are not committing to a basing mode.

Let me emphasize this. You are not committing to a basing mode, whether it be in the shape of a triangle, or long and narrow, or whether it is close spacing. We are not committing today to keep the money in here for any particular basing mode.

I think one thing that has escaped notice and it is unfortunate that it comes up in this timeframe because enough people have not had an opportunity to be briefed and be told what is involved, but the MX is not something that is isolated and set aside and has nothing to do with the rest of our strategic defense and deterrence. Our committee just returned, for instance, from Europe where we met with the North Atlantic Assembly, our counterparts in NATO. I am speaking now of the Armed Services Committee and not the Appropriations Committee. We went from there to Germany where we met with the Defense Minister of Germany and with the Foreign Minister of Germany.

They are very much concerned because, we have an agreement with our NATO allies that we will base the MX in the United States. This will ultimately take the place of Titan and Minuteman.

There will be an intertheater capability deployed inside of NATO. We are putting the GLCM, ground-launched cruise missile, in Great Britain, and the Pershing II will go into Germany. GLCM again will go to Italy. And this is all part of the whole.

If we send the signal that we are killing the MX missile, then these intermediate range weapons that we have an agreement on will not come about. The Pershing II is already in trouble, as you know. Money was taken out of the bill that we are debating today because we have had technical problems.

It was not for the political reasons, it was technical problems. But it is not being interpreted that way. The perception is not that with our allies in the NATO countries.

So they have agreed, as I said, to put GLCM in Great Britain, Pershing II in Germany, GLCM in Italy, if we go forward with our plan of putting the MX in the United States.

Now, if we take out the money and we say, and the perception will inevitably be that it is a political decision, not a technical decision, if we take out the money for the MX, whether it is for basing or whatever, then the perception is going to be, well, we are not living up to our part. We have already taken out the money for Pershing II and so the whole thing comes apart, the fabric becomes undone.

So let me urge my colleagues, do not take out the money at this point for the MX because it will be seen as undermining the entire agreement, and I am not exaggerating. I am telling you what the ministers of defense and the leading parliamentarians have told me.

Mr. CHAPPELL. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I am very pleased to yield to the gentleman from Florida.

Mr. CHAPPELL. I would like to emphasize again with the gentleman the fact that there are no construction moneys in here for the basing of this missile.

Mr. DICKINSON. This is true.

Mr. CHAPPELL. All of the money in here has to do with the research and development.

Mr. DICKINSON. We are not committing to the basing mode.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Chairman, I do not know whether one can do justice to this complex subject in 2 minutes, but let me simply try to make a couple of points.

First of all, what we are doing with the MX is that we are trying to duplicate a capability which the Soviet Union has already achieved through the greater weight and yield of its missiles, and through an improved accuracy in recent years that is even beyond our own. They can now knock out some 90 percent of our land-based missile force with their missiles and still have plenty left over after that is done.

We have no comparable capability, and that is what is meant by the window of vulnerability which was not invented by Ronald Reagan, by the way. It was invented by the Carter administration, by Secretary Brown, and by Secretary Perry.

When one side has a capability that can knock out your primary deterrent force, and the other side does not have the same capability, that is a condition of grave instability.

The gentleman from Tennessee (Mr. GORE) who spoke here earlier under general debate, had an article in the Washington Post this morning and I commend him for it in which he said the nuclear freeze people were making a mistake to try to deny to the United States the achievement of the same kind of hard kill capability that the Soviets have against us.

Yet what we are trying to do with the MX is to remove this instability. If we refuse, with the Addabbo amendment, to duplicate this capability of the Soviet Union, then we are going to be in greater danger and we are going to increase rather than reduce the risk of war.

Most people who have been opposing the MX have come up here to excoriate Dense Pack. I am no lover of Dense Pack. I do not understand all of this fratricide and pindown and all of this other stuff. But what President Reagan has proposed is not the real Dense Pack. It is a "loose pack," 14 miles long and 1½ miles wide.

But the real point is that we ought to get on with producing the weapon itself, so as to demonstrate our desire to match this dangerous edge which the Soviets now hold over us.

Mr. ADDABBO. Mr. Chairman, I yield 4 minutes to the gentleman from Illinois (Mr. YATES).

Mr. YATES. Mr. Chairman, my friend, the gentleman from Alabama (Mr. EDWARDS), stated quite correctly during general debate that one would believe from the debate that the entire military budget consisted entirely of the MX missile program and that the MX missile program is a relatively small part of the entire military bill. That is true.

But is is also true that the MX program goes far beyond its relatively small place in the military budget. The MX has become a symbol, a symbol of the overcostliness of the Reagan military budget.

It has become a symbol of whether this Nation will stay the Reagan military course.

The MX missile has become a symbol of national protest to the continued buildup of the nuclear spiral.

It has become a symbol of all that is wrong with Reaganomics, of the overburdening of our national economy with the cost of paying for an uneconomic national program.

□ 1650

Every other national program is being held hostage to the military budget. And, Mr. Chairman, our national security does not depend only upon the number and upon the power of our weapons. It depends as well upon a strong, healthy, well educated, well trained, hard working American people.

That is why it is important that the amendment offered by the gentleman from New York (Mr. ADDABBO) be sustained. I shall support the amendment. I urge the House to do so as well.

Mr. ADDABBO. Mr. Chairman, I yield 4 minutes to the gentleman from California (Mr. DELLUMS).

Mr. JACOBS. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I yield to the gentleman from Indiana.

Mr. JACOBS. Mr. Chairman, I regret that time is too limited in this debate for me to speak. But I am grateful for this opportunity to include my views in the RECORD.

As I sit here listening to the debate, I am amazed by the assertions of Soviet superiority in the military field.

On November 4, 1982, John Scali, a former Republican Federal official and now a correspondent for The ABC Television Network reported a CIA study of Soviet military strength. The CIA conclusions were published in April 1982. I have a copy of the study and this is what I heard Mr. Scali say about it on that November 4, ABC evening news program:

Here's what the report says about key Soviet arms. Missiles: Accuracy and stability of Soviet models are significantly behind all U.S. versions including the MX and those launched from submarines. Aircraft: Many Soviet planes are virtual copies of earlier U.S. models. The Soviets are seeking the newest data on engines in design of U.S. wide body jets to speed up the production of two new Soviet transports. Navy: The vast Soviet submarine fleet critically needs modern acoustic sensor technology to escape detection. Not only are their submarines vulnerable to detection the report says, but self-generated noises reduce their effectiveness significantly. Tactical battlefield weapons: The Soviet's latest tank, antitank and air defense weapons are faulty as demonstrated by Israeli successes against such systems in Lebanon.

The purpose of the report is to put everyone on guard against helping Moscow get hold of the latest Western industrial and defense secrets. But the information disclosed in this report might cause some in the new Congress to ask if we're so far ahead of the Russians militarily, do we need the multibillion dollar increase in defense spending that President Reagan insists is so vital?

JOHN SCALI,
ABC News,
WASHINGTON

Mr. Chairman, we spend a lot of money on the CIA for its intelligence. Now the question is whether we have the intelligence to understand that intelligence.

The missile gap of 1960 and the missile gap of 1982 were really intelligence gaps—of one kind or another. What a price we pay for ignorance.

Mr. DELLUMS. Mr. Chairman, I think that it is terribly important we debate the question of the MX missile in some comprehensive fashion. We talk about the missile and we say let us wait until we get a decision on the basing mode.

The President of the United States has indeed made a decision. So now it seems to me that we have a responsibility to address the reality of the entire system, whether or not we need it.

I believe that this world is in danger from the potential of a nuclear holocaust, in part because we are moving beyond deterrence to a war fighting capability, and the MX missile system is one such system that brings us closer to that brink of disaster. It is a system that is unnecessary, it is wasteful, it is expensive, it is dangerous.

To the missile itself; it is unnecessary for deterrence. It ushers in the potential of a new era of nuclear war fighting capability, and it certainly may bring us to the brink of disaster because it is a crisis destabilizing weapon system.

With respect to the basing mode, Mr. Chairman, we have rarely addressed the fact that there is no such animal as a survivable basing mode for the MX missile. A few months ago I gave you what I defined as a litany of lunacy that defined our efforts to bring about some kind of survivable basing mode, and let me read to the Members the list of 34 different efforts on the part of this country to bring about a survivable MX missile basing mode.

I would like my colleagues to understand how we get to Dense Pack. We started with a system called launch under attack. Then orbital based, shallow underwater missile, HYDRA, ORCA, ship-inland, ship-ocean, sea sitter, wide body jet, short takeoff and landing, vertical takeoff and landing, dirigible, midgetman, hard rock silo, hard tunnel, south side basing, sandy silo, commercial rail—that is interesting. Dedicated rail, off-road mobile, ground effect machine, euphemistically referred to as GEM, road mobile, road mobile—Minuteman—road mobile—new missile—covered trench, hybrid trench, dash to shelter—that means run like hell—mobile front end, pool, Minuteman/MPS, MX/MPS, continuous airborne aircraft, deep underground basing, ballistic missile defense, and now, Dense Pack.

Let us talk about it.

Dense Pack—speculative, unproven, clearly no panacea, it can be defeated by a variety of different scenarios.

As the gentleman said, we know very little about fratricide. A small number

of high yield weapons can defeat it. Underground solutions, pin-down, delayed sequential attack, a variety of different mechanisms.

Finally, it forces us to violate article 4 of our understandings with respect to the SALT II Treaty. It could make for the development of an ABM ballistic missile system that could cost us as much as $100 billion. it is in violation of the treaty that we are presently involved in unless we renegotiate those treaties.

So we come down to a missile that is not a mobile Minuteman 3. This is a system that produces a hard target time urgency low killer. This is a first strike counterforce weapon. It can and must be defeated.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield 2 minutes to the gentleman from South Carolina (Mr. HARTNETT).

Mr. HARTNETT. Mr. Chairman, I thank the ranking minority member for yielding me this time.

There is nothing that I can add, Mr. Chairman, especially after hearing the more eloquent gentleman from California espouse his views in this vital part of our defense.

But I would say to my colleagues you have the greatest responsibility that you all have had in the last 2, 4, 8, 10 years maybe, to procure for this country and to produce the MX missile.

Probably a place that the Members might reflect upon that responsibility is right across the Potomac River here. It is called Arlington National Cemetery, if you want to go and look at the price those people paid.

We are all political prostitutes, I guess. We do what is necessary to get the votes. We do what is necessary to look good among our constituents.

I am telling the Members this. This is the greatest issue that is going to face this Congress in a long time. If we store them in barns in South Carolina and haylofts it makes little difference. If we do not have a state of the art missile, a state of the art defense system, we are going to have to have hundreds and hundreds of little Minuteman missiles and Pershing missiles and others.

If my colleagues want to give this country a true deterrent to nuclear war, to a nuclear holocaust, you give us the MX missile. If not, as surely as we made serious blunders before, we will now. And we will be promoting and condoning the possibility of a third global conflict without the deterrent factor of the MX missile.

Back a long time ago people like Patrick Henry, who were patriotic Americans, stood up in the court houses and the capitols in Williamsburg, Va., and said, "Give me liberty or give me death." And you are saying give my constituents green checks and do not give them any freedom at all—keep those Government checks coming. If we had a $200 billion surplus, there are few among us who would not vote for an MX.

The CHAIRMAN. The time of the gentleman from South Carolina (Mr. HARTNETT) has expired.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield an additional 30 seconds to the gentleman from South Carolina.

Mr. HARTNETT. Mr. Chairman, the choice is now between entitlement programs, social programs, and the protection of our freedoms. I challenge most of the Members on this side of the aisle to for once in your life do something politically courageous and not politically expedient and vote for the MX missile.

Mr. ADDABBO. Mr. Chairman, I yield myself 10 seconds.

I would ask the gentleman to remember that today is Pearl Harbor day. The concentration of so many naval vessels in that harbor was the 1941 equivalent of Dense Pack.

Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. COUGHLIN).

Mr. COUGHLIN. Mr. Chairman, I rise in support of the amendment to eliminate funds for the MX missile program. I do so as a former marine who is deeply committed to our national defense.

It should first be pointed out that the nearly $1 billion for MX procurement included in the defense appropriations bill is unnecessary in fiscal year 1983 since procurement will take only 2 years and the Dense Pack silos cannot be ready for them until 1986 at the earliest.

My concerns, however, run much deeper than the premature timing of this funding. I oppose the MX program for a combination of strategic and budgetary reasons. I am convinced that the MX is not needed to insure a credible U.S. nuclear deterrent and, at a time when budget deficit projections are in the $180 billion range, committing from $26 billion to $50 billion for a program that is not crucial to national security would be ruinously extravagant.

I do not take matters involving our national security lightly, Mr. Chairman.

I am concerned, however, that in our compulsion to match or outdo the Soviets in every aspect of nuclear weaponry, we have lost our perspective on nuclear strategic nuclear weapons have always been looked upon as a deterrent to war and not as an acceptable means of fighting or winning such a war since it would be difficult in any event to tell the winners from the losers in a nuclear exchange. Such weapons are a deterrent because they can inflict unacceptable damage on the Soviet Union or any other potential enemy.

The MX missile in the Dense Pack basing mode represents an extraordinarily grim, expensive, and arguably still vulnerable new generation of advanced land-based ICBM's. The critical question is: Without the MX, do we still maintain a credible nuclear deterrent that can inflict unacceptable damage upon an enemy? The answer seems clearly "Yes." If not, what are our Poseidon missiles for? What are our Trident missiles for? What are our B-52 and FB-111 strategic bombers for? What are our air-launched cruise missiles and our ground-launched cruise missiles for? How many redundant systems of destruction do we need?

In my judgment we are blindly wedded to the triad concept and land-based ICBM's. The Soviets have chosen to deploy 75 percent of their nuclear warheads on land-based ICBM's while the United States has deployed only 25 percent of our nuclear warheads on land, placing the remainder on mobile bases in the air and on essentially invulnerable submarines. We now have approximately 5,000 submarine-based nuclear warheads as well as more than 400 strategic bombers compared with about 1,500 Soviet sea-based warheads and 350 strategic bombers.

Both our sea and air-based missile programs are undergoing extensive modernization. The Trident II missile will have essentially the same capabilities as the MX. Development is proceeding on the cruise missile, the B-1B bomber and the radar-evading Stealth.

Soviet leaders surely know that our submarine-launched ballistic missiles and strategic bombers can inflict unacceptable devastation on their Nation. Why, then, do we need a new double-digit billion-dollar deterrent with a questionable basing mode that will drain funds away from other needs including our lagging conventional capabilities. The answer is that we do not need the MX. I urge that the amendment be adopted.

Mr. ADDABBO. Mr. Chairman, I yield 4 minutes to the gentleman from Oregon (Mr. AUCOIN).

Mr. AUCOIN. Mr. Chairman, I rise in strong support of the amendment offered by the chairman to the Defense Appropriations Subcommittee.

I think that we ought to be consistent. Every single Member of the House campaigned over the fall saying that he or she was for fiscal responsibility. You have your chance now, my friends.

We have before us a question. Are we going to spend billions of dollars on a missile that no one has come up with a good way of launching, or are we going to say, no, not until we figure out how to launch it, how to base it. And until then we are going to save the taxpayers the money, reduce the

deficit, help bring down interest rates and make this economy sound and stable again.

You cannot take budget cuts solely out of the hides of the people. You just cannot stand here and say that fiscal responsibility means we are going to be cutting back on food stamps. You just cannot stand here and say that we are going to cut out all the people programs.

What the message was in November was that fiscal responsibility ought to be across the board. And if the Pentagon has not figured out a good way of deploying a missile, then until they do so we ought not to be giving them the money to build it. And that is what the amendment of the gentleman from New York says. Funds for procurement of this missile will not go forward until the military can convince America they can figure out how to sensibly use the missile. I say they will never be able to do so.

We just heard a speaker say we could store this missile in barns! That we can build the missile and store it somewhere and somehow that would represent a message to the Russians that would in some way insure our liberties.

My God, does any Member of this House think the Russians are so stupid as to believe that we have got a bargaining chip on the table if we fund the procurement of this missile when we have not figured out how to deploy or base it? I thought these were the vaunted Russians, so smart and so tough, and so clever. And yet we are going to scare the Russians if we do not have a basing mode for this missile? This is ludicrous!

Window of vulnerability. How are we going to close the window of vulnerability with a missile in a Dense Pack basing mode?

The Russians only have to devise a means—and experts tell us it will take a couple of years to do so—to send in waves of missiles on a sequential basis to blow to smithereens the Dense Pack basing mode. If they do not do that, experts have told us they can take a couple of years to develop a penetration capability on their incoming missiles that will allow their missiles to penetrate the earth, then detonate and blow the Dense Pack mode to bits.

The MX, then, in Dense Pack is still vulnerable so all we will accomplish is a waste of money.

The people in this country came the closest to a national referendum in the history of this Republic on November 2, when they endorsed overwhelmingly the nuclear weapons freeze. And one of the weapons they had in mind was the MX.

□ 1700

It would be an unspeakable tragic if we allow the funding to go forward with the procurement of this missile when it would mean the abrogation of the ABM Treaty and the violations of the terms of the SALT II Treaty.

Do not do this, my colleagues. Pass this amendment.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. WHITE).

Mr. WHITE. I thank the gentleman for yielding.

Mr. Chairman, for 38 years our country has not been in a general war. The key to this deterrent, the key to our peace, has been the triad. It has been fundamental to our defense. Bombers, missiles, submarines. With this triad, any would-be attacker would be accepting unacceptable damage because of the differential timing the attacker could not demolish all three. But for a decade our defense has been eroding at the same time the Soviets have been building, hardening their silos, building their kilotonnage and their accuracy to the point where now our Minutemen are at risk and to the point that today it is estimated that we would only be able to knock out something like 15 percent of their missiles in an exchange, unless we can increase and improve the accuracy and penetration of our on-land missiles. If we do not procure the MX missile, in effect we would be abandoning one important leg of our triad. Regardless of the basing, we have to procure now in order to avoid the time lag in production in preparation for whenever we do get a basing, whether it be mobile or whatever it happens to be. We have not had a true land-based missile improvement for two decades.

Some critics say, "Just continue the R&D, and do not procure now." That has been the problem of our defenses over the years. In some important areas we have a paper defense. We research and research and develop without actually producing, contrary to the Soviet system which has research that produces, improves on what they produce, and then goes on to the next generation of weapons. The Soviets, have been developing their weapons systems to the point where they are a tremendous threat, and that is why today we are under threat. If we do not procure as we improve the MX, our retaliatory deterrent will be on paper and no guarantee of peace at all. The only way in our generation and for years to come that we can insure peace in this world is through the perception of strength. We do not want to send a signal abroad that we cannot modernize to defend ourselves and that we do not have the resolve to improve our missile systems so that we threaten their systems and throw off their timetable.

So I urge you to procure the MX missile now. March 15. There is a time lag in the bill, March 15, which gives us ample time to study the basing mode.

Mr. ADDABBO. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. GREEN).

Mr. GREEN. I thank my colleague, the gentleman from New York, for yielding time to me.

Mr. Chairman, I want to make the point that being against the MX is not being against defense. I for one support the Trident, I support the cruise missiles, I support the expenditure on the Stealth technology, and I support increased funding for nonnuclear forces. But I oppose the MX because I think it is simply a project that will not work, and it will not work very expensively.

Taken together with all of the other Pentagon demands on us, it will severely damage our ability to fund really vital defense functions, such as our readiness, our operations and maintenance.

Is there anyone who seriously believes that we want to strip billions of dollars more from lean social programs, as some in the White House are suggesting, for a missile that no one is sure how to deploy? Is there anyone who would look happily on enormous budget deficits and a return to years of inflation and 20-percent plus interest rates to have another expensive missile system on top of the some seven or eight ways that we are funding in this bill for retaliating after Soviet nuclear attacks?

Must we really buy the Pentagon a billion dollar question mark for Christmas? I think the answer is "no." I think you can be pro defense and buy us the defense we really need and still vote against the MX, and I therefore urge support of this amendment.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield 5 minutes to the very able gentleman from Wyoming (Mr. CHENEY).

Mr. CHENEY. Mr. Chairman, I rise in opposition to the Addabbo amendment to delete funding for the MX. I have a particular interest and special responsibility on this matter, because, as most of you know, Wyoming has been selected by the President as his preferred site for basing the MX missile. Let me assure you at the outset, that the President's recommendation has not been received with a unanimous outpouring of enthusiasm in Wyoming. To say the least, it has generated considerable controversy. Nonetheless, after a great deal of thought, I decided to support the President's decision that we go forward with the MX and his decision to locate it at Warren Air Force Base in Wyoming.

I will not dwell today on the technical aspects of the debate. I am sure others will ably discuss those issues. But I do want to spend a few moments explaining why I believe we must go

forward with the missile and why I am willing to accept the responsibility of having it deployed in my State.

First of all, I think it is important to remember the time factor involved. We often talk as if the question is whether or not we will have the MX on line tomorrow—when the reality is that under the most optimistic scenario, it would not be completely deployed until the end of the decade, long after President Reagan and many in the Congress will have left office. The strategic capabilities and balance that we are debating here today is that of the 1990's, not the early 1980's. There is virtually nothing we can do to alter the strategic balance in the short run, but there is a great deal that we can do to provide for the Nation's defenses well into the next century, if we defeat the Addabbo amendment now before us.

The fact is, that the strategic systems available to the President today were conceived of and designed, and in some cases deployed by his predecessors some 15 to 20 to 25 years ago. We would be in great difficulty today if our predecessors had lacked the foresight to make the difficult choices and commit the necessary resources to the future security of the Nation. I only hope our successors will be able to say the same of us.

The MX is not an original concept of the Reagan administration. On the contrary, it is a system that has had the bipartisan support of Presidents and Congress, Republicans and Democrats, alike for nearly 10 years. Preliminary approval was granted during the Nixon administration, and the need for a new ICBM has been recognized by every administration since. All of our efforts to negotiate an arms limitation agreement with the Soviets have assumed that eventually the United States would develop and deploy a new ICBM—the MX. There has been a national consensus about the need to build a follow-on system for the Minuteman.

Obviously, there has been no such consensus on the question of how to deploy the MX in order to insure its survivability. We have progressed from the racetrack scheme, through multiple protective shelters, to interim basing in Minuteman silos, to Dense Pack. No matter what the outcome of today's debate, the basing question will not be resolved until next year. Although I am persuaded of the merits of closely spaced basing, I do not believe Congress will finally approve the basing proposal until there has been time for extensive hearings and debate on the matter. And I do not believe a lameduck session provides the best atmosphere for such a debate, but there should be no question about the importance of going forward with the research and development and procurement of the missile as well as further R&D on the basing mode.

Like all Americans, I wish we did not have to spend $26 billion for a new nuclear weapons system. But, unfortunately, we do not have that option at present. And it may well be that we will never have it in our lifetimes, that future generations will be faced with equally difficult choices about how to survive in an often hostile world.

All of us sincerely hope that we will be able to reduce the threat of nuclear war by entering into an arms limitation agreement with the Soviet Union. The nuclear freeze movement has generated widespread support in the United States and Europe, because of the intense concern a great many people feel at the possibility of a general nuclear war. And anyone who has given the subject any thought has to be concerned. But I cannot believe that we will be successful in achieving an agreement if we pursue a strategy of unilaterally deciding not to modernize our strategic forces.

At present, we have an understanding with our NATO allies that we will pursue a two track approach—that we will modernize our theatre nuclear forces by beginning deployment of the ground launched cruise missiles and the Pershing II in Europe, while simultaneously negotiating an arms reduction agreement with the Soviet Union. I believe such an approach is equally valid when considering strategic systems.

I am personally convinced that the Soviets will not enter into a meaningful arms limitation or arms reduction treaty unless they believe that to be in their self-interest. It has to be clear to them that an arms limitation treaty is more attractive than any other alternative. That will not be the case if they continue their arms modernization programs while we unilaterally decide not to pursue ours. Given existing trends, and forecasting future capabilities, if the United States fails to provide for up-to-date replacements of the three key elements of our strategic triad, the Trident, B-1 and MX systems, the Soviets can clearly anticipate achieving an unacceptable level of superiority in the not-too-distant future. If we really want them to limit armaments, then we must make it clear they have nothing to gain by refusing to negotiate.

If the United States decided not to deploy the MX, I would be deeply concerned that the Europeans would quite legitimately refuse to go forward with the deployment of the Pershing II and the GLCM. And at that point it would be clear to the Soviets that they have an alternative, more attractive to them, than limiting their military buildup by entering into an arms limitation or arms reduction treaty.

Thus, based on the need to provide the United States with the necessary strategic weapons to safeguard our interests into the next century, the need to respond to the growing Soviet threat, and the importance of persuading the Soviets that they have nothing to gain from refusing to enter into an arms limitation agreement, I firmly believe we must go forward with the MX, and defeat the Addabbo amendment.

But what of Wyoming, why should we be asked to shoulder the burden of having the MX deployed in our State? At first it seemed to me that I might be able to do what a great many others have done—voice their concern over the need for a new ICBM, but then work to see to it that it goes in someone else's district.

But all too often these days, we seem to have lost our ability to accept responsibility. Everybody wants to pass the buck. The voters believe in fiscal responsibility, as long as we cut someone else's subsidy. People like the modern conveniences of electricity as long as they do not build the powerplant in their neighborhood. And eveyone believes in a strong national defense, as long as the MX goes in some other State.

The fact is in Wyoming we have accepted a large share of the responsibility for a quarter of a century. We have had ICBM's, based at Warren Air Force Base since 1957 when the first Atlas missiles were deployed and at present there are 200 Minuteman III's deployed in the area around Cheyenne.

There are a lot of strong feelings about the wisdom of locating the MX at Cheyenne, but if the Congress ultimately approves the President's recommendation, I believe the people of Wyoming are prepared once again to contribute to the common good and support this essential effort to improve American's security.

I urge the defeat of the Addabbo amendment and the approval of the MX system.

□ 1710

Mr. ADDABBO. Mr. Chairman, I yield 2 minutes to the gentlewoman from Colorado (Mrs. SCHROEDER).

Mrs. SCHROEDER. Mr. Chairman, I yield to the gentleman from Michigan (Mr. WOLPE).

Mr. WOLPE. Mr. Chairman, I rise in support of the amendment to delete funds for procurement of the MX missile from the fiscal year 1983 appropriation.

I oppose the MX missile because I believe strongly that it is simply not in our national security interest. The MX missile is a first-strike weapon which will destabilize the current nuclear balance. By deploying MX missiles we not only may be violating the 1972 SALT agreement, but we may also be setting the stage to abrogate the anti-

ballistic missile agreement and protocol should we eventually have to produce such weapons to protect the MX. These agreements have been at the core of efforts to bring the nuclear arms race under control. The MX will undercut arms control efforts and the balance that now exists with the Soviet Union. The MX will likely spur the Soviets to produce their own first-strike weapons. The result will be less and not more security for the people of the United States.

Mr. Chairman, I also oppose the funding and deployment of the MX missile because it represents a callous misperception of our national priorities on the part of the Reagan administration. Very bluntly the MX program puts unneeded and controversial military hardware ahead of our Nation's crying human needs. This administration is prepared to spend between $35 and $50 billion or a weapons program with no assurance of achieving its objectives. To fund the MX and other expensive weapons systems the administration is apparently ready to incur deficits of over $200 billion with the unbearably high interest rates such deficits entail. Tragically, we hear the administration is preparing to make even more severe cuts in vital domestic health and social service programs rather than touch the sacred defense budget.

At a time when unemployment nationally has reached 10.8 and 17.2 percent in my home State of Michigan; when electricity and natural gas are being turned off in the homes of our poor and unemployed just as winter is setting in; when bankruptcies and business closings are at record levels—I believe such a policy is unconscionable.

Mr. Chairman, Christmas is only a few weeks away. Americans are busy preparing to celebrate the holiday with their families. This year millions of our citizens will have little if anything to spend on Christmas. Now is not the time to let the Pentagon go on a Christmas shopping spree for sophisticated weapons of dubious utility. I urge my colleagues to oppose the MX missile appropriation and restore a true sense of national priority to our economically ravaged country.

Mrs. SCHROEDER. Mr. Chairman, I rise in support of the Addabbo amendment to strike all funds for procurement of the MX missile in fiscal year 1983.

This amendment is well founded. It defers funding for the missile until a suitable basing mode, if any, can be found. Although I am skeptical of the MX missile itself, I am absolutely convinced that this latest administration basing scheme should be scrapped.

First, the dense pack basing mode is another in a long line of bad ideas on bad theories. The fratricide theory that says Soviet missiles will destroy each other before they destroy our missiles has never been tested, and can never be adequately tested. The MX worshipers, admitting this point, say the Soviet Union has no choice but to believe fratricide will work. Regardless of what choice the Russians have, we remain vulnerable. They will merely rely on their present arsenal or they will quickly design ways to overcome the theoretical deterrence. Either way we spend too much for too long and get very little in return.

Second, also untested is the superhardened silo counted on to withstand nuclear explosions above and around them. The Townes Panel, the handpicked MX advisory group to the Secretary of Defense, concluded in September that whether we can adequately strengthen our silos is uncertain. The Air Force has just begun to test whether it can harden the silos. Yet we are asked to cough up $988 million for procurement now with the weak promise that the Air Force will someday find a way. Let us not be fooled out of $1 billion now and billions later. This is one reason defense spending is so out of control.

Third, President Reagan wants the Dense Pack as one more chip to bring to the bargaining table. What he does not realize is that we already have that chip, the threat and the capability to produce the MX missile. What he does not realize is bargaining chips, once they are built, stay built. The cruise missile, a bargaining chip during the SALT talks, is still with us. Most importantly, if we agree to deploy the MX, there will be no bargaining table. The Russians will simply pack up and leave, only to return when they have more chips, namely a MX-counter weapon.

Fourth, there are better answers than Dense Pack. If Reagan truly wants strategic sufficiency (not advantage) while simultaneously pursuing economic security, he should quesiton the Triad notion. Land-based ballistic missiles are the most vulnerable leg of the Triad, and they invite retaliatory missiles to our heartland. Air and especially sea-based missiles are harder to find and destroy, requiring much time and expense by the Soviets to counter. Sea basing builds on our traditional maritime strength. We already rely on these two legs for 75 percent of our nuclear force. We should devote our entire nuclear force there, spending far less than the total $54 billion that we will spend into the 1990's on the land-based MX Dense Pack.

The best long-term answer is still negotiation. When the President announced his Dense Pack intention, he immediately followed it by a call for negotiations. The Soviets have already condemned his announcement and vowed to step up its efforts to match the MX threat. Dense Pack's possible violation of existing treaties and understandings also throws cold water on any meaningful progress in negotiations.

The American people have become involved in this MX debate as never before. The church community nationwide has become the voice of reason to get negotiations underway. The Freeze resolution ballot proposals that won in several States show that more and more people want to stop nuclear mania. They are telling the Government to negotiate with the Soviet Union from a position of parity and sufficiency, not strength and superiority. They are telling us to stop the MX missile. That is exactly what we should do.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. WILSON).

Mr. WILSON. Mr. Chairman, I think that there is one point that has not been sufficiently made here today and that is that at the present time the Soviet ICBM force is immune from attack. They are in refuge. They cannot be destroyed.

Our ICBM force is extremely vulnerable. That is the critical and central question here today and if our ICBM force can be destroyed and if they know that theirs cannot because theirs cannot be destroyed by submarine missiles, we do not have a reliable air attack, then why should the Soviets bargain when they are sitting in an absolute immune situation and we are sitting in an absolutely vulnerable situation.

The second thing is if we do not build a missile, we will have in effect forfeited one leg of the triad which will then allow the Soviet Union to concentrate all of their technology and all their resources on air defense and on antisubmarine warfare and when they break through one time there, then we are in serious and critical danger.

The third reason is, how can we possibly ask our allies who live so much closer to the Soviet Union than we do, how can we possibly ask them to deploy the Pershing II's that we expect them to deploy in 2 years when we ourselves do not have the will to build the land based deterrent, the only land based deterrent that the Soviets fear.

Furthermore, I would like to make the point, people say, "We don't know if it will work or not." That is right. We do not absolutely know if it will work or not, but we are not the only ones that do not absolutely know if it will work or not. The Soviet Union does not absolutely know whether it will work or not.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. WILSON. I yield to the gentleman from New York.

Mr. KEMP. Mr. Chairman, the gentleman has made an extremely important contribution to the debate and that is, how can a negotiation proceed from the standpoint of unilaterally withdrawing one of the most important initiatives that we can make? What would be the impact upon our allies in Europe if, as the gentleman suggested, we are not willing to deploy a new land-based missile in the United States when we are asking them to deploy a new land based IRBM?

It seems to me it is impossible to expect the negotiations over theater nuclear weapons to go forward if the United States does not take the steps necessary to modernize its triad strategic forces.

Mr. WILSON. I completely agree with the gentleman. If I were a West German and the United States would refuse to have a land-based deterrent, I would certainly be concerned.

Mr. BEARD. Mr. Chairman, will the gentleman yield?

Mr. WILSON. I yield to the gentleman from Tennessee.

Mr. BEARD. Mr. Chairman, I commend the gentleman on his statement.

Let me just say how we would negotiate the START negotiations, the same way we did when we unilaterally canceled the B-1 bomber while trying to include three Backfire bombers being produced by the Soviet Union for months into the SALT II. When we unilaterally canceled the B-1, our negotiators went to the table. Senator TOWER over there asked the Soviet negotiator, "Look what we have done as a sign of our good faith. What are you going to do?"

The Soviet negotiator said——

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield an additional 30 seconds to the gentleman from Texas.

Mr. BEARD. The Soviet negotiator looked at our people and stated when asked, "What are you going to do about the Backfire bomber now that we have unilaterally canceled the B-1?"

The negotiator said, "We are neither pacifists nor philanthropists."

I think that is the message right there of what our negotiators will be dealing with in Geneva if we take this irresponsible action.

Mr. WILSON. I agree with the gentleman and if their forces are immune from attack and our forces are vulnerable to attack, why should they negotiate?

Mr. ADDABBO. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Chairman, I rise in strong support of the amendment to delete the funds for the MX missile. This is a weapons system which will not enhance our national security. It will not guarantee a stronger U.S. negotiating position with the Soviets.

Most importantly, the MX will not safeguard world peace. The MX will, however, escalate an already dangerous nuclear arms race. It will force a Soviet response and then a U.S. counter response.

These steps are all the result of a system of questionable value and extravagant costs.

Mr. Chairman, the people of Minnesota and the rest of the country are worried. They are worried about the course we are following, the course of an uncontrolled arms race. They are worried for themselves and their children. It is time to change the course and to lead the world along the course of peace.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana (Mr. HILLIS).

Mr. HILLIS. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from New York (Mr. ADDABBO).

While I certainly am not yet knowledgeable enough about the details of the President's proposed closely spaced basing scheme for the MX missile to give it an unqualified endorsement, I do not believe we should foreclose the option of going forward with the production of the missile during fiscal year 1983 should we ultimately reach a consensus to support the President's plan.

I believe the provision the committee has included in the bill that restricts the expenditure of funds on the MX until March 15 is the desirable alternative to a straight up or down vote on the MX at this time. Let us agree to fence the production funding until we have had an ample opportunity to fully and fairly deliberate the President's proposal. I do not believe many of us here today can honestly say we understand the closely spaced basing proposal sufficiently to either vote yes or no on its merits. The Armed Services Committee has held only one hearing on the closely spaced basing proposal and although I strongly believe that we need to modernize the land-based leg of the Triad, I am not prepared to fully support the proposal at this time. Likewise, however, I am not willing to reject it. I just do not know enough about it yet. I need more time to study it before making up my mind.

That is why I think the restrictive provision that is already in the bill makes so much sense. It gives us this time. It will allow our committees to thoroughly examine the proposal. If after close examination we find the system unworthy of our support, then so be it, the money will not be spent. On the other hand, if we find it supportable, we will have preserved the option to quickly go forward with production in 1983.

The action we ultimately take on the MX program will have a significant impact on our strategic deterrent posture, our foreign policy and the very sensitive START negotiations and the theater nuclear force modernization discussions. We must avoid being panicked here today into making an ill-advised and hasty decision to kill the fiscal year 1983 production funding for the MX.

I urge you to vote down this amendment. Let us give the President time to adequately make the case for the MX in the closely spaced basing mode. We owe him that opportunity.

□ 1720

Mr. ADDABBO. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. I thank the gentleman for yielding this time to me.

Mr. Chairman, when one sits up there and listens to the comments by the gentleman from Texas or the gentleman from New York or the gentleman from Tennessee, one hears them speak as the President does in his television performances about our land-based missiles. But what they do, of course, is ignore a strategic decision made by the United States back in the 1960's, and that was to put 50 percent of all of our nuclear weapons out at sea in invulnerable submarines.

Now, think what you might about Adm. Hyman Rickover and what he has done over the past generation, but he did one terrific technical job in making sure that our submarines could not be detected, much less destroyed, by the Soviet Union. So while the Soviet Union was deciding to put 80 percent of its missiles on land and 10 to 15 percent at sea and in the air, in submarines and airplanes that were very much inferior to ours, we made a decision to put 25 percent on land, 25 percent in the air, and 50 percent at sea.

There is no way under any scenario that has the Soviet Union destroying all of our land-based missiles, all of our bombers, and all of our submarines that would be in port; that we still would not have 3,500 nuclear weapons at sea, 3,500 weapons.

In 1969, when we began negotiating SALT I, we had 2,400 weapons aimed at them; they had 1,600 aimed at us. The reason we began negotiating is that we realized there were only 200 cities in either country that had populations over 100,000.

In 1982, in a worst-case scenario, we still have 3,500 weapons aimed at them, 3,500 weapons. For that, we are going to destroy the American budget, we are going to vitiate the ABM Treaty, enter into a new round of the arms race, and are not going to offer one additional jot of security for the American security.

Does the House know what the definition of Dense Pack is? Dense Pack is

six generals sitting around the Pentagon trying to figure out what the window of vulnerability is.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. SHUMWAY).

Mr. SHUMWAY. I thank the gentleman for yielding to me.

Mr. Chairman, I rise in opposition to the amendment offered by Mr. ADDABBO. I do so only after having given the complex question of MX production a great deal of thought, and after having considered the compelling arguments on both sides of the issue. While not necessarily an easy decision, I have concluded that it is clearly in our best national interest to proceed with the MX at this time.

At the outset, I would like to clarify one common mispercention: Our vote today has nothing to do with Dense Pack or any other possible MX basing mode. The Addabbo amendment deals only with procurement funding; the appropriate congressional committees will have ample time to review the President's basing recommendation in the months ahead. Despite the legitimate uncertainties surrounding the establishment of a permanent basing mode, I feel that it is imperative that we continue with the initial production of the MX missile, as scheduled, in the interest of deterrence, national defense, and hopefully as a means of achieving genuine arms reductions.

Over the last two decades, this Nation has maintained a stable deterrent by means of a strong strategic triad consisting of land-based ICBM's, manned bombers, and submarine-launched ballistic missiles. While the policy of deterrence has stood the test of time, it is now apparent that we must make some changes in order to restore credibility and balance to the Triad. Unfortunately, over the past several years, the Soviets have deployed new land-based strategic missiles of such quality and quantity as to threaten the survivability of the land-based (ICBM) leg of the triad. It is this fundamental weakness in our overall defense capability that the MX, in the appropriate basing mode, is intended to rectify. The MX will provide us with a weapon of greater accuracy, increased payload, hard target kill capacity, and greater range than our present Minuteman force. In addition, it will maintain the diversity of forces, preventing a Soviet technological breakthrough against one leg of the triad from crippling overall U.S. deterrent capability. Failure to appropriate funds for production of the MX will only delay the start of the program and will inevitably increase ultimate costs.

It is, therefore, important that we not curtail MX funding. Such action, if supported by this body, will have a deleterious effect on the President's strategic modernization program and on the current strategic arms limitation talks. Both of these efforts are essential to our national security and, indeed, to the security of the free world. President Reagan is, in my view, correct in arguing that the MX is needed to influence the Soviets to actually negotiate in Geneva. History has shown that U.S. unilateral strategic arms reductions and limitations have not persuaded the Soviets toward similar action. However, initial U.S. discussions about building an antiballistic missile system helped bring about the ABM agreement. I firmly believe that there is a tactical value in proposing the MX and beginning to build it—the sooner the better. The MX will be the Soviets' only incentive to reduce, limit or dismantle their SS-18's—in all likelihood, the most destabilizing strategic weapon now in existence.

The development of the MX will not give the United States nuclear superiority, but it will weaken the Soviet counterforce advantage and will restore our capability to deter nuclear war. While I recognize the need for restraint and frugality in defense, I believe that international peace and stability can only be preserved if we maintain a strong and effective national defense. I appreciate the force of the argument that it is unnecessary to spend so much on war, in a time of peace, and in a time of hardship. But I do not believe that the first criterion of defense spending is social or economic. It is national security. If a weapon is demonstrated to be necessary, then it must be built. In my opinion, the MX is a necessary weapon. It is necessary to maintain a stable deterrent, to preserve the security of the free world, and to achieve successful arms reductions. I, therefore, strongly oppose the Addabbo amendment and respectfully urge that it be defeated.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield such time as he may consume to the gentleman from Colorado (Mr. KRAMER).

Mr. KRAMER. I thank the gentleman for yielding to me.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from New York (Mr. ADDABBO).

Today this Chamber faces one of the most significant votes it has made on choosing the American strategic future. The MX missile deployed in a Dense Pack mode may not be the ideal response we would like to see to a Soviet arms race that has been running out of control. Nevertheless, I believe that we must focus our attention on a number of broader strategic issues that have gotten lost in the turmoil of today's debate.

First, it is my firm belief that this Nation needs to look hard at not only the MX, but at the need for an entirely new strategic posture built around strategic active defenses and nonnuclear defensive technologies. We have all forgotten that we originally got into the indirect strategy called deterrence through retaliation only because some 30 years ago we decided that there was no way we could defend ourselves with a "direct" approach, using strategic defenses such as ABM's, air defenses, and space defenses. In short, we adopted a policy of deterrence because we thought that defense would not ever work.

Second, over the years, however, the costs of maintaining a force for nuclear retaliation have mounted higher and higher. As the Soviets continue to violate the spirit and the letter of the SALT agreements and continue their massive arms race in strategic offensive weapons, the United States, for reasons I have never found persuasive, decided to stop its efforts in building strategic defenses against Soviet weapons. For example, despite some brilliant technology development in nonnuclear space defenses in the period 1958–64, the technology for which was recently resurrected by Project High Frontier, the United States decided during the 1960's to literally throw away some extremely valuable defensive options and concentrate entirely on deterrence through nuclear retaliation. The adoption of MAD policies provided the rationalization for such a "nuclear emphasis."

This Nation's leaders should seriously consider offsetting the Soviet strategic effort not through attempts to produce more offensive weapons but by investing heavily in nonnuclear, nonretaliatory forces that can be deployed in space. According to recent analyses by a major aerospace firm and by a think tank with considerable experience in this area of space defenses, these nonnuclear systems in orbit could offer considerable performance against even major Soviet attacks.

We do not have an opportunity to change our strategic policy today. We are faced only with a choice between having a better offensive capability or not having one. I believe there must be an American counterforce capability equivalent to that possessed by the Soviet Union. The MX missile is the most rapid means we have available today to deploy such a counterforce capability, one that would permit our leaders to respond to a Soviet first strike by targeting surviving Soviet missiles and military installations.

I also believe that we might send a very dangerous signal to the Soviet Union by not approving the deployment of this missile. On the 41st anniversary of Pearl Harbor, we must not forget that a prime factor in the Japanese decision to go to war was their belief that the U.S. Congress was not united behind the military rebuilding

programs of the Roosevelt administration. Today, we may be creating the same kind of strategic miscalculation in the minds of the Soviet leadership. Let us not reward the Soviets for their arms racing. Let us not hypocritically call for arms talks with the Soviet Union—and then proceed to cut off our negotiators at the knees in Geneva by gutting this administration's strategic programs.

I support procurement of the MX and further consideration of the Dense Pack basing mode. Although we cannot guarantee that this is the most survivable basing mode, nevertheless, the uncertainties it creates in the minds of Soviet leaders translates into deterence, a deterence that will help preserve the peace until we change our policy from one of mutual armed destruction to one of assured survival.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. LEWIS).

Mr. LEWIS. I thank the gentleman for yielding to me.

Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the irony of December 7 is before us—December 7, 1941, a day that will live in infamy, America was brutally attacked by a well-prepared aggressor who was seeking to dominate the world. It is more than ironic that today—December 7, 1982, 41 years later—we should have this debate on the floor of the House of Representatives.

Try to reflect upon the world crisis in the late 1930's and early 1940's. America was actively seeking to avoid its international responsibility, hoping the world would go away. Two years before Pearl Harbor, there was a debate similar to this one on the House floor. The dialog was between those who urged adequate preparedness and those who would vainly hope. In 1939 the House came within 15 votes of requiring a national referendum before the President could declare war. In 1941 America responded only when crisis crystallized reality.

In 1982 we cannot afford the luxury of naivete nor those who would hope that these Soviet leaders wish for the same kind of peace as you and I.

It is a fact that America must be strong enough in its capability to defend herself to assure that the world aggressor—the U.S.S.R.—will be forced to think again before pursuing its ambitions too far. It is a fact that three Presidents and their Commissions have concluded that the MX missile is a vital part of our triad defense strategy. Even the responsible opponents to this appropriation in question, state their support for a modernized land-based system.

They argue today that because many of us continue to question the basing mode that we should not go forward with missile development. Well it seems to me that such logic is flawed to the core. Is it not more logical to conclude just the opposite? Three Presidents have concluded that MX is fundamental to adequate deterrence. Responsible parties in support of peace agree that it will be a part of the triad. It seems to me that this logic concludes that there is at least a reasonable balance in the debate taken that far.

But there is more. We are at this moment at the negotiating table in Geneva. Those who are at the table who are truly working for peace—rather than beating their breasts with hope reminiscent to 1938—have said time and again that the only chance to get the Soviets to negotiate is for America to be strong in its resolve.

It appears to me that the leadership across the aisle, those who dominate this House, are going to send exactly the wrong message today. If this amendment passes it will be a disaster to our friends at Geneva. If we strike funding for the MX today we will have given the Kremlin an early Christmas present.

I urge my colleagues to weigh carefully what we are about. We do not have the luxury of time provided in 1941. Perhaps Santayana best expressed this kind of situation when he said, "Those who cannot remember the past are condemned to repeat it." I beg you not to add your vote to the ax that would cut the legs off our efforts for meaningful arms reduction and lasting peace.

Mr. Chairman, I hope against those of naive hope, I am afraid this amendment will pass. If so, the world will be able to hear the vodka glasses clinking in Andropov's chamber tonight.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. REGULA).

Mr. REGULA. I thank my colleague for yielding to me.

Mr. Chairman, I have questions, but we do not have enough time and I am only going to ask a few of them.

Question No. 31. How does the MX program meet the limitations of SALT II?

Mr. EDWARDS of Alabama. Mr. Chairman, will the gentleman yield to me?

Mr. REGULA. I yield to the gentleman from Alabama.

Mr. EDWARDS of Alabama. I thank the gentleman for yielding.

The administration takes the position that the MX program, in fact, complies with SALT II. We have not ratified that treaty, but in many ways we have tried to comply with it.

So far as I know, the Defense Minister of the Soviet Union is the only one who seriously contends that the MX does not comply.

Mr. REGULA. Does the MX program meet the limitations of SALT I?

Mr. EDWARDS of Alabama. I believe it does.

Mr. REGULA. Mr. Chairman, I yield back the balance of my time. We do not have sufficient time for further questions.

Mr. ADDABBO. Mr. Chairman, at this time I yield 5 minutes to the gentleman from Massachusetts (Mr. MAVROULES) a coauthor of this amendment.

Mr. MAVROULES. Mr. Chairman, I rise in support of the Addabbo amendment.

This is a historic moment in this House of Representatives. More is at issue here than MX and Dense Pack. Instead, it is time to debate some fundamental questions involving our national security. It is time to separate myth from reality.

In his address to the Nation, President Reagan claimed that "in virtually every measure of military power the Soviet Union enjoys a decided advantage" over the United States. Those of us who serve on the Armed Services Committee or the Defense Appropriations Subcommittee know that this just is not true.

As Members of Congress we have a constitutional responsibility to support and maintain the "common defense" of the United States. The MX program does not stand in isolation, and our national defense rests not upon one single weapon system. With or without MX/Dense Pack, our strategic forces will still possess diversity and redundancy in the missions they perform. Together they have synergistic effect, the combination of the force is stronger than the sum of its parts.

Counting the numbers of weapons on each side is like counting beans. It makes for colorful charts, but poor planning. It has never been U.S. policy to try and match Soviet weapons one for one. I challenge the President, the Secretary of Defense, or any of our commanding generals, or admirals, to publically state they would rather command Soviet forces.

You also will not hear very much about the Navy's new Trident submarine, the U.S.S. *Ohio* which went on station last month. It carries 24 submarine-launched ballistic missiles. Those 24 missiles each hold 10 warheads, and that one submarine can deliver a destructive force 1,600 times as great as the Hiroshima bomb of 1945. The current force structure is to build 20 of these boats.

Also, in this month of December, the Air Force is deploying its first squadron of B-52G bombers carrying air-launched cruise missiles. Each B-52 bomber will carry 12 cruise missiles—a strategic weapon capable of guiding itself to its own target.

Trident and cruise missiles—they are not weapons for the future, they are in the inventory today, adding num-

bers and redundancy to our strategic forces.

Now with the MX/Dense Pack plan, the real problem is not modes of basing, its modes of thinking. As former Secretary of Defense James Schlesinger recently wrote, "the administration's present and prospective MX difficulties are to a considerable extent its own creation."

Will Dense Pack work? Is fratricide a workable theory?

Defense Secretary Weinberger's own expert on MX and Dense Pack is Dr. Charles H. Townes. Dr. Townes warned it is "uncertain" whether Dense Pack silos can be hardened or protected to the point necessary for surviving in an environment of fratricide.

In a September 22 letter to Secretary Weinberger, Dr. Townes concluded that the most troubling aspect of Dense Pack "is that the Soviets may have appropriately modified their weapons—for an effective attack on it—almost as soon as it is fully deployed."

Dr. Townes has these reservations, and the Congress has the responsibility to receive his testimony, consider all the respective merits of dense pack, and then make a decision on a total program. A program which may well become the most expensive in U.S. history.

If you support the Addabbo amendment, you will not damage our national security, in fact you will be adding strength because we will not be fueling another round in the arms race.

Delete the procurement money and support Mr. ADDABBO's amendment. Take the time to look at this program in the detail it deserves.

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Mr. EDWARDS of Alabama. Mr. Chairman, I yield 2 minutes to the gentleman from Maine (Mr. EMERY).

Mr. EMERY. Mr. Chairman, it seems to me that we are facing two questions here this afternoon. One is, will this system work? The second is, do we really need it?

I do not think that the floor of the House is the appropriate place to debate the intricacies of physics, but from my knowledge of this system, work on the Armed Services Committee, and discussion with a great many people, I am convinced that the fratricide principle is in fact a sound one unless you believe that this is something that has been thought up during the last several months in order to sell a weapons system. Let me tell the Members that during the length of time that we have been debating nuclear weapons, at least as long as I have been in this House, we have been concerned about the principle of fratricide as it affects systems already deployed; attacks on our systems and capabilities of our own systems to operate in a wartime scenario. So, fratricide is not new. It is in some cases a problem, and in this case it is an opportunity to turn a well-known physical phenomenon to our defensive advantage.

Is it foolproof? Well, I do not think anything is foolproof. We can take a look at every aircraft, every missile, every submarine, every system we have ever devised and manufactured, and we find that there are flaws. There is no system that the mind of man can devise, construct and deploy, that will work perfectly under all circumstances forever. We know that too, but do we need a new system? In my opinion, we most certainly do. I think we need a system that is defensible, a system that is more accurate, a system that will allow us to defend ourselves in the nuclear environment, and against the activities of the Soviet Union that will certainly occur over the next several decades.

Unless we are willing to meet that challenge, unless we are willing to devise defensive mechanisms that will protect our national security, then we are not going to succeed.

Mr. ADDABBO. Mr. Chairman, I yield 30 seconds to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Chairman, there is an unstated premise that precedes the swirl of arguments around the MX and this amendment. It is whether we are sane or insane. And if we are insane, no amount of nuclear deterrent will be adequate or sufficient. If we are sane, then it is beyond question, in fact, undebatable that only three Poseidon submarines can totally devastate 70 percent of the U.S.S.R. infrastructure. Therefore, we already possess more than enough nuclear armaments. Never forget: Rationality is the first prerequisite for sound legislative judgment. The ultimate question then is not whether we are for or against the MX missile, but whether or not we have any sense.

Mr. ADDABBO. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Chairman, I rise in strong support of the Addabbo amendment to continue research and development on the MX but to call a halt to this strange thing called "Dense Pack."

All of us have had a bewildering barrage of approaches by the White House and military personnel supporting the procurement, but many of us have also had these quiet phone calls from top military people who have said, "This is an unwise use of defense dollars, a use that will take dollars away from our real needs."

If we go ahead will the Soviets not go ahead?

That seems unlikely.

If we go ahead will arms control talks likely be more productive?

That also seems unlikely primarily because the Soviets believe, and many of us fear, that the administration is not serious about arms control negotiations.

Is the economic security of the United States aided by such an expenditure?

The last thing we need is to spend $30 to $40 billion needlessly.

Will an expenditure on MX help us politically in the rest of the world?

It conveys a sense of bristling militarism, rather than a nation searching desperately for peace.

The United States is not alone responsible for the arms race. The Soviets have contributed their full share. But if we approve of this weapons system the arms race will be escalated.

If we took one-tenth of the amount we contemplate spending on this weapons system and used it to promote understanding and exchanges between the Soviet Union and the United States, the world would be much closer to genuine security. We fear the Soviets in large measure because we do not understand them; and they fear us, in large measure because they do not understand us.

Let us build bridges of understanding rather than more and more and more weapons of destruction.

Mr. ADDABBO. Mr. Chairman, I yield such time as he may consume to the gentleman from Iowa (Mr. BEDELL).

Mr. BEDELL. Mr. Chairman, I rise in strong support of the amendment.

Mr. Chairman, as a longstanding opponent to both the production and deployment of the MX missile system, I rise in support of the Addabbo amendment and urge my colleagues to join him in its passage. In determining whether to support the President in his decision to deploy 100 MX missiles in a closely spaced basing (CSB) mode, we must ask ourselves whether MX will truly enhance United States, allied, and world security; whether CSB is more survivable than our present Minuteman basing mode; whether MX is truly affordable; and finally, whether MX truly enhances the cause of greater worldwide arms control. In my mind, the answer to each of these questions is "no."

In defending the President's decision to endorse closely spaced basing, Dr. George Keyworth, Director of the President's Office on Science and Technology Policy, argued that the MX—now ironically known as the Peacekeeper—is not a war fighting weapon because it takes away the option of a preemptive first strike by an enemy, therefore, it makes nuclear war much less likely. Dr. Keyworth went on to state that deployment of the MX will permit reduction in nucle-

ar tension. I find this analysis Orwellian in nature and object to it completely.

I recall reading an arms control impact statement in which the MX was pronounced as the most lethal weapons system known to man—this being due to its incredible accuracy—and as such, could be construed as a first strike weapons system. Today, Dimitri Ustinov, Defense Minister of the Soviet Union, announced that if the United States goes ahead in deploying the MX missile, the Soviet Union will develop a similar weapon that will in no way be inferior. How then is United States, allied and world security enhanced through the deployment of MX when we know well in advance that the Soviet response to this deployment will be to reengage the United States in a new, more costly, more lethal and more destabilizing round of the nuclear arms race? In what manner will a reduction in nuclear tension occur given the fact that we know well in advanced that both we and the Soviets would be engaged continually in developing more and better systems of mass destruction than we presently have?

Dr. Keyworth also argued that closely spaced basing would work as it takes advantage of superhardening of missile silos, and warhead fratricide. In explaining the theory of fratricide, Dr. Keyworth noted four phenomena that would create this destructive effect. First is the intense radiation of gamma rays and neutrons that "within a few millionths of a second, reach and disable nearby enemy warheads. Second is the nuclear blast wave which, for several seconds would destroy neighboring warheads. Third is the fireball, which would prevent incoming warheads from detonating effectively. And, finally dust and debris created in the initial blast would damage any remaining incoming warheads, thus making them ineffective in attack. I find it quite ironic that the theoretical vulnerability of our present Minuteman missile deployments to preemptive attack is solved through the implementation of a new basing mode that relies solely on the theoretical effect of warhead fratricide.

Or does MX survival rely only closely spaced basing? Dr. Charles Townes who headed a panel of experts appointed by the Pentagon to seek flaws in Dense Pack warned that the Soviet Union could begin to counter closely spaced basing by the late 1980's and that survival of Dense Pack would probably require the addition of an antiballistic missile system to defend it. Once again, I see little contribution to U.S. security through the deployment of MX, knowing that within 5 years, we very well might have to abrogate the ABM Treaty of 1972 and engage the Soviets in another segment of the nuclear arms race—that of defensive systems to protect our already awesome offensive system—and the race goes on and on and on with no end in sight.

Finally, we must ask ourselves whether this system is truly affordable to the U.S. taxpayer during an era of intense economic strain and fiscal constraint. The Air Force reports that 100 MX missiles, deployed in a closely spaced basing mode would cost no more than $26 billion. Other experts believe the cost may approach $35 billion and if we add the associated costs of research, development, and deployment of an ABM system to defend the MX, the final price tag for this $26 billion program may exceed $50 billion.

Like many of you, I support a U.S. defense posture that is second to no other power in the world and am committed to a U.S. defense policy that is both sound and rational. Since entering Congress, however, I have committed myself to an ending of the nuclear arms race through mutually verifiable arms control agreements with the Soviet Union. In this regard, deployment of the MX does little to enhance the cause of greater arms control and will certainly result in an intensification of the already precarious nuclear arms race. For these reasons, I implore you to support the Addabbo amendment.

Mr. ADDABBO. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. PANETTA.)

Mr. PANETTA. Mr. Chairman, I rise in strong support of the Addabbo amendment.

Mr. Chairman, in his November 22 address to the Nation, President Reagan unveiled his long-awaited plans for basing the MX missile. In urging the Congress and the American people to support his decision to deploy 100 of the most technologically advanced intercontinental ballistic missiles in close-spaced formation—Dense Pack—the President outlined the twofold objective of the MX program: To deter a Soviet attack and to demonstrate America's resolve at the arms negotiating tables in Geneva.

Mr. Chairman, my fellow colleagues, the people of my district and across the country demand an explanation why after spending $4.5 billion and over half a decade researching and developing the MX program, are we now presented with a $26.4 billion proposal that has failed to develop any semblance of consensus to support its ability to contribute significantly to American security or global stability.

To analyze properly this proposal, we must ask several key questions: First, is this an effective deterrent? Second, how does this proposal relate to efforts at arms control? Third, is this proposal cost effective in today's budget? Let us address each area:

First, is this deployment plan workable—is it an effective deterrent?

Central to the administration's defense planning and the stated objective of the MX proposal is the concept of nuclear deterrence—to make the Soviets believe that a significant portion of our nuclear arsenal can survive an attack and be available for return. The argument follows that the certainty of that costly retaliation dissuades the Soviets from attacking first.

In the context of the present debate on the MX, therefore, we must at a very minimum examine the ability of the proposed system to meet the prescribed conditions of a deterrent force. Admittedly the technical aspects of the present debate are complex with perhaps only a handful of scientists qualified to understand the necessary engineering and military calculations involved. And yet there are scientists and military strategists who legitimately question the functional competence of deploying 100 MX missiles in closely spaced, superhardened silos.

Proponents of the Dense Pack proposal claim that if an attack were launched to knock out all 100 silos, the radiation, debris, explosive pressure and heat from the first warheads to reach the target and explode would destroy or disable the remaining incoming warheads, thereby assuring the survival of some MX missiles. To charges that the Soviets will invariably develop new technologies which in turn will increase the vulnerability of our MX missiles, Pentagon officials have countered that additional weapon systems deployed around the MX site would effectively neutralize such threats. Frankly, it has been precisely this kind of haphazard strategic planning that has given impetus to three decades of uncontrolled weapon increases.

One critical source of insight in the present controversy comes from Dr. Charles Townes, the Nobel physicist who directed the administration's two main MX studies. Dr. Townes has taken occasion to express his deep reservations over plans to deploy MX missiles in closely spaced silos, warning that the Dense Pack basing mode will become increasingly vulnerable with advances in multiple warhead technology.

In addition, I think it is important that we look at the overall composition of our strategic force. To date, the United States relies for over 75 percent of its strategic capacity on weapons systems that are still relatively immune to attack—the submarines and the bomber planes. I am concerned that the administration, in its haste to deploy the MX missile, has not allowed time to examine suffi-

ciently these and other alternatives to fixed land-based deployment.

Second, how does this proposal relate to our overall effort at arms control?

An analysis of the President's MX proposal would not be complete without assessing its impact on arms control efforts. The President identified arms reductions as the second approach—in addition to deterrence—in his program for peace. The cornerstone to any international commitment is trust, engendered by past relevant experience or, at a minimum, ability to verify compliance. The proposed deployment of 100 MX missiles in superhardened silos threatens to undermine the entire, if somewhat disappointing, framework for negotiated arms controls.

Specifically, under the terms of both SALT agreements, the United States is barred from constructing "additional fixed ICBM (intercontinental ballistic missile) launchers." Administration officials contend that the restrictions do not apply to the construction of 100 MX missile silos or shelters. I would contend that that is stretching the terms of SALT II. I might remind my colleagues that while the SALT II accords remain unratified, President Reagan pledged early this year that the United States would abide by its conditions as long as the Soviet Union does likewise—implying tacit recognition of Soviet compliance to date.

Finally, President Reagan has proposed that MX missiles could be used as bargaining chips in arms negotiations with the Soviets. The history of nuclear bargaining chips, however, has demonstrated repeatedly that they are rarely persuasive until deployed, and once deployed are very difficult to abandon.

Third, is this proposal cost effective in today's budget?

In essence, what is being debated today is whether the Congress will approve—despite massive cuts across a broad range of vital domestic programs—the first major installment on the $26.4 billion MX program. Moreover, this action must be taken against the backdrop of the administration's $1.6 trillion defense buildup over the next 5 years and projected deficits in excess of $200 billion.

I would also like to take this opportunity to draw attention to a recent study released by the Congressional Budget Office which estimates that by the mid-1990's, the MX system could reasonably be expected to contribute only 7 to 13 percent of our total nuclear strength in the event of attack. The CBO's analysis was based exclusively upon examination of data supplied by the Department of Defense.

In closing, I would like to emphasize that we all share the belief that it is urgently important to begin now to seek seriously and vigorously alternatives which would be more effective in protecting and promoting the interest, welfare, and security of the American people. Pouring billions of dollars into ill-conceived weapons systems, especially at the expense of our social commitments, will not make the United States invincible any more than pouring money into ineffective welfare programs will make poverty disappear. Moreover, Americans from all walks of life have—at countless meetings and voting booths as well as in letters to their elected representatives—taken occasion to express their support for verifiable balanced reductions, leading to the ultimate elimination, of nuclear weapons.

We must face the fact that weapons originally justified as necessary deterrents to attack now far exceed the destructive potentials required to deter any rational leader from ordering their use. The sheer magnitude and indiscriminate nature of nuclear destruction makes their use impossible unless we are committed to a path of self-destruction and global suicide. And yet, despite these very same self-engendered nightmares, we have persisted in building increasingly lethal weapons.

It is time we challenge the notion that the continued existence of our Nation is assured by the proliferation of nuclear arms. American initiative, ingenuity, and energy have achieved many goals deemed impossible by others. Realistic and imaginative planning to prevent massive nuclear destruction is the most compelling goal of our time; the commitment of tremendous fiscal and human resources to the construction of the MX missile is not the way to turn the world away from the nuclear threat. We must build for peace, not out of fear.

I urge my colleagues to join me in opposing the MX missile.

Mr. ADDABBO. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois (Mr. RUSSO).

Mr. RUSSO. Mr. Chairman, I rise in support of this amendment to save the taxpayers from the first $26 billion installment on this ridiculous pacifier missile.

Before you vote to blow billions of your constituents' dollars on this Rube Goldberg scheme, consider its history.

We do not have to look at all 39 MX basing plans that have come and gone. Let us just look at the ones the Pentagon told us would work.

In the Ford administration, we had final solution No. 1: the subway tunnel.

We were going to drive each missile along a little railroad track inside a buried 11-mile concrete tube. The same poeple who now believe in fratricide told us, "This is it, this is the answer, the Russians will never zap our missiles in the tunnel." But after about 2 years they discovered the tunnel would not work. Actually, it was worse than nothing: The Russians just had to hit the tunnel at any point and it would act like a gun barrel, transmitting the shock wave right to the missile.

So then in the Carter administration we got final solution No. 2: the racetrack.

Again they told us, "This is it, this is the answer, the Russians will never zap our missiles there." Well, this final solution lasted about 3 years. Then President Reagan got in, and the Pentagon realized the racetrack would not work without SALT II. So Cap Weinberger showed President Reagan a political cartoon, and this sophisticated strategic analysis convinced him to throw out the racetrack.

Then we got final solution No. 3: President Reagan said let us put the MX in Minuteman silos and harden them a bit. This final solution lasted about 2 days. The only thing it was good for was to hope it would make the Russians die laughing.

Next, Cap Weinberger came up with final solutions Nos. 4, 5, and 6 all at once.

He said we will either put the missile in an airplane, or maybe we will bury it deep underground, or maybe we will build an ABM around it. He did not know which he wanted, but he will swear on a stack of Bibles that one of them would be the answer. These three final solutions lasted 1 year until the Pentagon figured out none of them was the answer. Deep undergound would break the bank, the ABM would not work, and the airplane was another lethal laughter weapon.

Now we have final solution No. 7: Dense Pack.

How long this one will last, nobody knows. I would give it maybe 6 months.

Nobody in his right mind thinks it will work.

The gentleman from Alabama (Mr. EDWARDS), one of this body's real military experts, says he really hates to spend the money on this thing but we need it for our negotiators. Well, the fact is MX is not a bargaining chip because we have not proposed to bargain with it. Read the newspapers this morning. If we go ahead with MX, the Soviet response will not be easier negotiations, it will be to build an MX of their own. And let us not forget in this game they hold better cards than we do; they can put their ICBM's wherever they want, without worrying about local reaction or environmental impact statements.

Charles Townes, the Nobel physicist who chaired the official MX panel, says the Russians can counter Dense Pack as fast as we can build it.

Jim Schlesinger, the Ford administration Secretary of Defense who started the MX, says the Russians can

neutralize Dense Pack before we can build it.

The Russians can use pin-down, they can use small accurate warheads, they can use very large warheads, they can use earth penetrators, they can use laydown weapons, they can use several of these in combination.

The only problem is choosing from the menu of opportunities Dense Pack offers them.

If we were serious about saving the ICBM's, we would face reality. In the real world, arms control is the only way to do it. Technology cannot do it. Money cannot do it. Arms control can do it.

The nuclear freeze would do it by wiping out the counterforce reliability of Soviet ICBM's.

The gentleman from Tennessee (Mr. GORE) has a plan that would do it by getting rid of Soviet MIRV ICBM's.

But this Dense Pack farce? Mr. Chairman, I will tell you what. Those of you who vote to throw away your constituents' money on this thing, see me after we adjourn. I will tell you where you can get a good deal on the Brooklyn Bridge.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield 2 minutes to the gentleman from Arizona (Mr. RUDD).

Mr. RUDD. Mr. Chairman, a long time ago Americans committed ourselves to peace and to liberty and to freedom, and made the bargain with ourselves that we were willing to pay the price for peace rather than get involved in an expensive war in order to survive.

□ 1740

And we are involved in survival at this moment. The nuclear triad was part of that agreement for peace, and I think the plain fact of the matter is that the current missile system is no longer survivable. A few days ago I heard General Rowny, who is a highly respected military man, say that he at one time had been opposed to the Dense Pack arrangment, but he is now convinced that that is survivable and the way to go.

But that is not the issue here today. The issue is this: The Soviets have missiles that many times over have the yield and the throw-weight that we have. We cannot survive without the MX missile.

Mr. Chairman, the issue is not the Dense Pack arrangement; it is the fact that we must build the MX missile.

Mr. Chairman, we are facing an important test of our political resolve today with regard to the issue of the Peacekeeper missile.

We have heard, and will hear continued and repeated testimony on the political, moral, economic, military rights, and wrongs of both the missile itself and the proposed basing mode. Let me state quite clearly that I consider the Peacekeeper to be a necessary and vital part of our strategic deterrence and that the basing mode known as Dense Pack is a revolutionary concept that is the most efficient and acceptable method of deployment, despite arguments to the contrary, I would like to discuss the issue of where that missile fits in our overall national security program.

I do not think that there is anyone present that will say that the concept and practicality of the strategic defense triad is invalid. It is, in fact, the most sensible guarantor of strategic defense and more importantly; of nuclear deterrence.

The requirements of a workable triad deterrent force are these: First, each leg of the triad is independently survivable; second, each leg of the triad, while not sufficient on its own, is sufficient to cause a potential enemy to restrict his options with regard to nuclear attack; and third, each leg must have built safeguards and the flexibility of use and evolution over time.

An integral part of the triad concept is that one leg of the triad must always be upgraded, as advancing technology will always cause a vulnerability in whatever systems one employs in any of the three legs. Unfortunately, that upkeep was neglected for many years in this country. The air breathing leg of the triad, our most flexible and therefore the one leg needed to be most dependable, consists of a fleet of airplanes older than the pilots who fly them. Our Navy is now just beginning to commission the Trident fleet and now we are trying to upgrade and make less vulnerable the missile leg of the triad.

In short, a triad deterrent system requires upgrading and improving if it is to do the job it was designed for: preventing nuclear war. That is the bargain this country made years ago. We are committed to the preservation of our rights and freedoms and the rights and freedoms of peoples all over the world, we made a bargain with ourselves and with all freedom loving people to pay the price for freedom, the maintenance of a viable strategic deterrent, the nuclear triad.

It is a plain fact that the current missile system leg of the triad is no longer survivable. The peacekeeper missile and its deployment scheme will restore the integrity to that section of our nuclear triad.

We need a viable triad: and we do need the peacekeeper to make that triad a viable force. I urge my colleagues to support the funding in this bill for the peacekeeper missile.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. HUNTER).

Mr. HUNTER. Mr. Chairman, I think that most Members in this Chamber know that since 1967 we have essentially been engaged in a unilateral nuclear freeze. The United States has built no new missiles and no new bombers, although we have built a few submarines, and the Soviets during this time have built and deployed, targeted mainly on the United States and our Western allies, in excess of 5,000 warheads. The crown jewel of the Soviet ICBM force has been the SS-18.

It is my opinion, Mr. Chairman, that the Department of Defense made a major mistake in trying to sell the MX missile—and I am talking about the missile, not the basing system—to the Congress. If we forgot about the basing system and thought about sticking to the MX missile in the old silos or changing the old silos slightly, the MX missile would be a logical follow-on to the Minuteman missile. The Minuteman missile has 3 warheads; the MX missile has 10 warheads. It is more accurate. It is really the counterpart to the SS-18. But during the debate last year the MX missile has become inextricably intertwined with the basing system, and when we talk about the MX missile, most Americans today, I believe, think about the basing system in Nevada.

But the MX missile itself—and I am speaking of the missile—is needed as a follow-on, as a replacement for the Minuteman. For the last Minuteman that we put in the last silos in, I believe, 1967, the projected life at that time was about 6 years.

I would like to make one more point, Mr. Chairman, it has been said on the other side that we need a missile that is stabilized, and the MX missile is destabilizing. Actually the MX missile is very stabilizing, and the complaint has been made that we are dedicating a great deal of the money in the MX program to the basing system and not the missile itself.

The CHAIRMAN. The time of the gentleman from California (Mr. HUNTER) has expired.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. KEMP).

Mr. KEMP. Mr. Chairman, one of the previous speakers talked about arms control, and mentioned that ALBERT GORE has a plan to reduce the Soviet ICBM force. I just wonder, with all due respect to the gentleman from Tennessee and the mutual desire of all of us in this great body to bring about arms control and indeed arms reduction, how can it possibly be accomplished without the willingness and the determination of the United States to do what is necessary to modernize that leg of the strategic forces that is the most vulnerable?

I am not suggesting that we have wholly lost our second-strike capability, but the window of vulnerability is

either open now or will be in the very near future if these asymmetries are not redressed.

So my question is, How can we negotiate with the Soviet Union by unilaterally undercutting the heart of our deterrent forces?

I, too, reject the idea of MX as some kind of a bargaining chip. It is not a bargaining chip. I think it is a vital necessary program at this moment in the life of this Nation. We have a new regime going into the Soviet Union. We have talks going on in Geneva; we have theater nuclear force talks going on over the Soviets unprecedented deployment of IRBM's targeted at Europe. Yet the committee has eliminated production funds for Pershing II. How is it possible to negotiate from a position of unilaterally withdrawing from our negotiating team its sole source of leverage over the Soviets?

My other question is simply this: How could it be possible to leave our negotiators in Geneva if we gut a strategic modernization effort? The Soviets will never be serious about arms control if they see that we are not serious about making our essential defense requirements. Indeed, we, as I suggested before, are reducing unilaterally the leverage, the strength, and the ability of this country to bring about the very arms control agreement that all of us want, from President Reagan all the way to that side of the political aisle; that kind of arms control agreement that would make a real contribution to peace and stability.

The Congress has declared to law that a survivable land-based ICBM system is vital to U.S. national security, and has time and again committed itself to the MX program.

Today, we are asked to reaffirm that commitment.

We are not equipped on the floor today to debate the technical merits of the President's proposed basing plan for the MX. In part this is so because the Congress, in its many responsible committees, has not had the opportunity to examine and review the intricacies of closely spaced basing. The Armed Services and Intelligence Committees, along with the defense appropriations subcommittees, have yet to hold the necessary detailed hearings on CSB.

When these hearings are held, in due course, and all interested Members have had the opportunity to study CSB and to make informed judgments as to its merits, perhaps the Congress will elect not to proceed with this basing mode. Or perhaps we will find CSB desirable and supportable. I just do not want to prejudge that review.

I believe it would be shortsighted and even irresponsible for us to interrupt the continuity of this program before all the facts are in. Make no mistake, if we deny funding today, we would a priori be foreclosing our option to initiate production of the system in this fiscal year. And we would risk impairing our ability to meet the congressionally mandated IOC of 1986.

Only by supporting the committee's mark can we insure full freedom of Congress to review and judge the merits of the President's proposal, without jeopardizing the success and timeliness of the plan.

I would also like to point out that the consequences of our vote today extend beyond the practical requirement of preserving our options. We must also be aware that other governments will look to our action as evidence of our national determination—of failure of will—to respond to the severe and unprecedented growth of the Soviet military threat to peace.

The governments of our NATO allies, for the most part, recognize the urgent need to modernize our defense in Europe. But how are they to explain to their citizenry why they should support a new generation land-based missile in Western Europe if we refuse to support a new land-based missile in this country?

The President, in his November 22 televised address, stressed the importance of our ICBM modernization program to the success of our arms control efforts. Undeniably, Soviet perceptions of America's willingness to commit the resources necessary to defend our interests affect Soviet behavior at the negotiating table, just as it affects Soviet willingness to take risks in many parts of the world.

This is a time of testing for the United States. Just when the Soviets' vast investment in military power is nearing its peak return, a new regime has come to power in the Soviet Union. Yuri Andropov's long years of service to the Soviet police state have made him a skilled observer of U.S. behavior. If this committee should today deny funding for the MX, our action, without fail, will be interpreted as a sign of weakness. that is a signal we can ill afford to send at this delicate moment in history.

Deterrence, and therefore peace, depends upon the quality of America's strategic forces. Because of the Soviets' steady modernization of their offensive forces, the survivability of our land-based force is in jeopardy and our ability to protect our allies is called into question. The MX missile was conceived and developed in response to that threat, with the support of Congress and four administrations.

The MX missile represents an important improvement to our ICBM force. Its added throwweight and high accuracy will give our strategic forces a prompt counterforce capability that is an essential feature of our nuclear deterrent not found in any other component of our strategic forces. If we undercut the MX program now, we will be signaling our acceptance of a continued decline in American strength. Is this the future we envision for our Nation, a world defined by an unchecked Soviet drive to render the United States vulnerable and unable to support our allies?

To repeat, our vote today is not a referendum on the merits of closely spaced basing. It is, however, a referendum on our willingness to preserve our options, to allow for a careful and responsible congressional review during the new Congress, consonant with our recognition of the urgency of our strategic modernization needs. And it will be viewed by others as a referendum on our determination to preserve America's security and strength, which alone has insured the peace for 30 years.

Mr. EMERY. Mr. Chairman, will the gentleman yield?

Mr. KEMP. I yield to my friend, the gentleman from Maine.

Mr. EMERY. Mr. Chairman, I think my colleague, the gentleman from New York (Mr. KEMP), is making an extremely important statement. The fact of the matter is that last June we embarked on what could be the most important of all our negotiating activities. Undermining those activities at this point would be criminal.

Mr. KEMP. Mr. Chairman, Solzhenitzyn, said that if America does not lead the free world, the free world will have no leader. By our vote today, our leadership will be known.

The CHAIRMAN. The time of the gentleman from New York (Mr. KEMP) has expired.

Mr. DICKS. Mr. Chairman, I yield 3 minutes to the gentleman from Kentucky (Mr. HUBBARD).

Mr. HUBBARD. Mr. Chairman, I rise today in support of the Addabbo amendment to the Defense Department's appropriations bill for fiscal year 1983.

During my 8 years in Congress, I have supported the appropriations requests of the Department of Defense. I want the United States to have everything necessary to be militarily superior to any countries who would attack or invade us or our allies.

I have served in both the Army and Air Force. Fort Campbell, Ky., is in my district. Fort Knox, Ky., is adjacent to my district.

Yesterday other Members of Congress and I had the privilege of meeting with President Reagan, Vice President BUSH, and Secretary of Defense Caspar Weinberger at the White House.

We were told by these outstanding men that the MX missile program is "absolutely essential" to our national security.

Secretary Weinberger told us yesterday that "survivability is the name of the game."

President Reagan told us yesterday: "National security—this is the No. 1 responsibility of the Federal Government."

It appears to me that we in America are waging a war among ourselves regarding our ability to wage a war.

Question: Should we now spend an estimated $35 billion for 100 intercontinental MX missiles in underground silos near Cheyenne, Wyo.?

As one who sincerely believes in a strong national security and an excellent defense system, I say no, not now to the MX missile program.

I see our current economy—high interest rates, record level unemployment, business bankruptcies, et cetera—as more of a problem in December 1982, than continuing to add to our national defense capabilities. I believe our defense is adequate.

On this MX missile issue I say no to the Pentagon. Our Federal budget deficit is all but totally out of control.

Right or wrong, the words, "Here come the Russians" nowadays do not scare Kentuckians half as much as "Here come the creditors."

Yesterday I said: "Our people don't want higher taxes." I voted no to the 5-cent-per-gallon gasoline tax increase.

I strongly believe the American people want lower taxes, less Government and spending restraints across the board. And "across the board" includes defense spending.

I urge my colleagues to vote "yes" for the Addabbo amendment.

□ 1750

Mr. EDWARDS of Alabama. Mr. Chairman, I yield 4 minutes to the gentleman from Florida (Mr. YOUNG).

Mr. YOUNG of Florida. Mr. Chairman, if the United States is going to maintain the triad system that has served us well for such a long time we are going to have to do something about the land-based leg, our ICBM system.

We are talking about upgrading now the Minuteman systems that have included technologies that were developed in the 1950's. Since we put the Minuteman in their holes in the ground, the Soviets have deployed eight new missile systems.

As one listens to this debate one might become suspect that there are those in the Chamber who do not believe in the triad system any longer. There may be those who believe that we no longer need a land-based leg for the Triad.

I would like to suggest, Mr. Chairman, should that be the case, the land-based leg of the triad, the ICBM, is the most powerful deterrent missile system that we have. It is the most accurate. It is the most easy to maintian. It is the easiest to keep on alert, and we are able to communicate with the land-based leg more readily than any of the other systems. Command and control become extremely important if we are talking about a nuclear exchange or strategic situation.

It has been suggested that the Trident submarine, and I support the Trident submarine, but that the Trident submarine could easily replace the land-based system. I think all of the Members in the Chamber are aware that it is very difficult to communicate with the submarine at the depth that he would have to be at to protect himself. It is possible that a nuclear submarine could have been destroyed, taken out of action, and the President or the command authority would not even have knowledge of that for an hour or more after that happened.

That, of course, would not happen with the land-based ICBM.

I think it is important we pay close attention to the necessity, the viability, the importance of the Triad, the three-legged defensive system, and to recognize that the land-based leg is an extremely important part of that.

I hope that we are not talking about eventually doing away with the Triad, with the land-based leg, but I get the suspicious feeling that maybe we are when I hear some of the debate that is taking place today.

One of our colleagues commented on what kind of reaction we have had around the world here in the Congress and the Soviet Union. I can tell you what one of the reactions was just by reading in the newspapers. I read what Yuri Andropov has had to say about it. You recall who he is. He is the new leader of the Soviet Union. He was the Director of the KGB for 15 years.

Well, Andropov is really upset. He is really unhappy to think we might go ahead with building a new missile system despite the fact they have fielded, deployed eight new systems since we deployed the Minuteman.

Andropov does not like it and I do not blame him because it certainly is a deterrent to any adventurism that they might want to get active with.

Mr. ADDABBO. Mr. Chairman, I yield 3 minutes to the gentleman from Tennessee (Mr. GORE).

Mr. GORE. Mr. Chairman, this has been a good debate and I think there is obviously good faith on both sides with Members genuinely seeking to do what is best for the country in their view.

My own conclusion is we should keep the research and development money for the MX missile but stop the Dense Pack deployment.

I come to that conclusion for two reasons. First of all because according to some of the best technical and military experts in this country it simply will not work.

Second, what are the implications if this deployment mode does not work? Are we seeking to close our own window of vulnerability or merely open a comparable window of vulnerability onto the Soviet Union?

If we are going to create a world in which both of the superpowers are vulnerable to a first strike we will create a hair trigger situation that will not be good for either country.

I would submit to my colleagues that the disarray and confusion that surrounds this weapons program reflects the lack of a thoughtful, unifying strategic principal or plan tying together America's weapons programs and our arms control efforts.

We have division where we should have unity.

After this vote I believe we could forge a consensus around the principle of stability and an effort to eliminate the fear of a first strike by either nation. Stability, Mr. Chairman, is not a function simply of weapons building but of weapons building and arms control. Neither is it a function merely of the forces of one side in isolation. It is a function of the relationship between the two forces.

If this weapons system was part of a sensible plan which combined arms control and weapons building to achieve that kind of result I would support it. But in the present environment it is surrounded by confusion and it is said by the experts to be incapable of working as it is advertised.

So I urge an aye vote.

Mr. ADDABBO. Mr. Chairman, I yield 1 minute to the gentleman from Florida (Mr. BENNETT).

Mr. BENNETT. Mr. Chairman, the triad is not the Trinity. The triad has been a method of defending ourselves and for deterring nuclear war. But if we do not have a third arm of the triad that is truly credible it does not do any good to spend billions of dollars on it to pretend that we do.

A noncredible leg of the triad is not a bargaining chip.

I think there is too much money at stake in this matter to spend this money on such an incredible type of defense as involved in the Dense Pack. I believe it will be useless by the time it is in place.

Furthermore, I think the money is desperately needed for conventional weapons. I think our country faces today one of the most serious challenges it has ever had; and that is to be adequately defended from the standpoint of conventional weapons. This amendment strikes procurement for the Dense Pack idea and does not in any way prevent further research and development to see where and how to use the missile. I urge the adoption of this amendment.

Mr. ADDABBO. Mr. Chairman, I yield 2 minutes to the gentleman from Oklahoma (Mr. JONES).

Mr. JONES of Oklahoma. Mr. Chairman, in reaching my decision to support the Addabbo amendment I asked myself four questions. First of all, is this basing mode and the MX missile technically accurate and will it work. To that question I really do not have the answer.

But, second, if it does work, and presuming it does, is it cost effective. There I think I can bring something to this debate.

According to a Congressional Budget Office study that we released about a week ago, and presuming that this missile system in Dense Pack basing mode will work, is it cost effective; and the answer is "no."

The CBO paper concludes that, even if Dense Pack works and the MX survives in substantial numbers, the percentage contribution of the MX missile to U.S. strategic capabilities would be small. By 1996, when all systems are fielded the contribution of the MX would range from about 5 percent to about 13 percent depending on the measure of capability chosen, the scenario assumed for the nuclear exchange, and assumptions about arms control. If there was warning of an attack, the MX would contribute 5 percent of all U.S. warhead inventories likely to survive a Soviet first strike; it would provide 7 percent of those surviving warheads capable of destroying Soviet targets hardened against a nuclear blast. Were a Soviet attack to occur as a total surprise—destroying U.S. bombers not on alert and submarines in port—the MX could provide 7 percent of all surviving warheads and 13 percent of hard-target inventories.

And in order to get small percentage capability we are spending at least $35 billion on this system

It seems to me for 5 percent of our nuclear deterrent after a Soviet first strike that $35 billion minimum is not cost effective.

Another question that concerned me was whether or not the President's hopes of making MX operational by 1986 could be achieved if we deleted the procurement funds in 1983. Again, according to the survey of our committee and because of the lead time involved, if it was decided next year to put this in the 1984 budget, the MX could still be operational by 1986 even if we took out the procurement in the 1983 budget.

Finally, does this preclude the President from having a bargaining chip? There I think we have to see what is left in the budget. There is $2.4 billion in research and development. That is clearly an effective bargaining chip.

Mr. ADDABBO. Mr. Chairman, I yield such time as she may consume to the gentlewoman from New York (Ms. FERRARO).

Ms. FERRARO. Mr. Chairman, I rise in support of the amendments to delete funds for procurement of the MX missile and to reduce funds for research and development, test, and evaluation of the proposed Dense Pack basing mode.

Over the past few weeks, we have seen a major lobbying effort by the Reagan administration and its allies in Congress in support of the MX missile and the Dense Pack basing mode.

We have been told that the MX itself is essential to our national security.

We have been told that Dense Pack is the most survivable basing mode possible, and that without it MX will not be safe from Soviet attack.

We have been told that MX should be called "the Peacekeeper," because it will help deter nuclear attack by the Soviet Union.

Mr. Chairman, I have consistently, in my 4 years in Congress, supported necessary programs to achieve a strong national defense. I have supported new weapons systems, such as the Trident II submarine and the Cruise missile. I have repeatedly voted against amendments to delete all funding for the MX missile.

At the same time, I have supported a mutual and verifiable freeze on nuclear weapons. I do not think there is any contradiction in these positions. I believe the overriding issue in United States-Soviet relations must be the prompt negotiation of serious arms control and reduction agreements. I believe both countries should agree to a freeze right now. But I do not believe the United States can simply adopt a freeze unilaterally and hope for the Soviets to follow suit.

The arguments in support of spending a billion dollars this year to build the first five MX missiles are not consistent with my view of our national security requirements. They are based on the notion that we have fallen dangerously behind the Soviets, when the best information available is that we still have an advantage, and that no prominent U.S. military person would trade our forces for the Soviets.

I am not ready today to decide finally that we do not need the MX missile and that the project should be put on the shelf forever. But the reservations I have about the missile lead me to the decision that I will vote today to delete funding for building those first five missiles.

My biggest concern is that we are building a missile that still may not have a home. While the President is committed to Dense Pack, serious questions remain about whether such a system can work. Dense Pack is clearly not the first choice of our military leaders. The idea behind it—that incoming missiles will self-destruct, leaving most of the MX missiles undamaged—is extremely controversial, and flies in the face of a generation of accepted logic regarding nuclear planning. With so many unanswered questions, Dense Pack is not an acceptable place to put the MX.

In addition, there is some question over whether the MX is in fact ready to be built. While this bill provides $1 billion for building the MX, it also provides $1½ billion for research and development, test and evaluation of the missile. We should not be building the missile if there is still that much work to be done on research and development.

The debate over MX includes many serious questions about whether the missile poses a first strike threat and therefore increases the danger of nuclear war, and whether we should commit $30 to $50 billion to a weapons system that may not be necessary to preserve national security. For now, however, we should put the missile on hold until the basic questions of where to put it and whether it is ready for production have been satisfactorily answered. I urge my colleagues to join me in supporting the amendments to delete funding for procurement of the MX and to reduce research funding on Dense Pack.

Mr. ADDABBO. Mr. Chairman, I yield 3 minutes to the gentleman from Washington (Mr. DICKS), a distinguished member of the subcommittee and coauthor of the amendment.

Mr. DICKS. Mr. Chairman, today I would like to read a letter that we received from two former arms negotiators to Chairman ADDABBO, because so much has been made about MX as a bargaining chip.

DEAR MR. CHAIRMAN: One claim for the proposal to place the MX missile in closely spaced basing is its potential use for negotiating purposes with the Soviet Union. As former United States strategic nuclear arms negotiators, our experience in past arms control talks has taught us to be wary of bargaining chips. We believe the United States should proceed with strategic arms programs that are necessary for our security. Such weapons systems need no bargaining chip rationale to secure public support or approval by Congress. They will stand on their own merit.

The MX missile program should not be justified as a useful bargaining chip in discussions with the Soviet Union. It should be examined for its impact on our national security, on a more stable strategic balance, and on the hope for nuclear arms reductions.

Weapons systems employed as bargaining chips have led to agreements to arm, rather than to reduce weaponry. We should recall the testimony of then Under Secretary of Defense David Packard who told the Congress in 1971 that the MIRV is a very important bargaining chip. Today we and the Soviets have deployed over 14,000 MIRVed warheads. We recall the testimony of then Director of Pentagon Research and Engineering, John S. Foster, who called cruise missiles essential to insure that we are in a position of strength to negotiate on this class of strategic weapons during the next round of SALT.

Today the United States has plans for over 85 air-ground and sea-launched cruise

missiles. We have no doubt that the Soviet Union will match this effort.

It seems especially curious to hear of Administration support for MX—

Now listen to this—

As a bargaining chip since were the Soviets to accept the U.S. START proposals at Geneva, the United States would be free to deploy the MX as proposed. Some bargaining chip.

There are many serious questions about the proposed closely spaced basing mode for the MX that need thorough examination. But we strongly believe the MX production funding should not be approved or justified on the basis that it is a useful bargaining chip.

Sincerely,

GERARD C. SMITH AND PAUL C. WARNKE.

I think it is wrong for this side to say that we are somehow undercutting the administration. We still have the Trident submarine, we have the prospect of building the C-5 missile which has the same capability as the MX.

● Mr. MILLER of California. Mr. Chairman, I rise in favor of the amendment to delete funding for deployment of the MX Dense Pack program.

Some will oppose this concept because of its potential $35 billion cost. Malcolm Forbes, publisher of Forbes magazine, recently called on President Reagan to reduce his excessive military spending in order to reduce the unacceptable Federal deficit. Mr. Forbes denounced the Dense Pack concept as a "dunce pack" idea.

My objection is strategic as well as financial. We are all aware that the Dense Pack concept would concentrate over 100 MX missiles in hardened silos, forcing an aggressor to target numerous warheads into the MX site to take out our weapons. The effect of those multiple detonations, according to administration strategists, would be to throw some of the incoming missiles off target and allow us, after a period of time, to launch our own ICBM's without risk of their being countered by Soviet weapons.

According to a recent report, the Soviets would have to detonate 10 megatons of explosive force over the MX site every minute to successfully pin down our missiles. We can only presume that the Soviets would do precisely that, and that they will undertake a massive missile-launching program to develop sufficient missiles to achieve that goal.

Brig. Gen. Gordon E. Fornell recently concluded that in order to achieve that capability, the Soviets would have to undertake "the development of new warheads larger in yield." So, we are being told by the Reagan administration to initiate a program which will assuredly push the Soviets into the development of a new round of larger nuclear weapons.

Let us look for a moment at the effects of exploding 10 megatons a minute, not on the American MX's, but on the American people.

Remember that the strategy would require detonation of 10 megatons per minute for however long the Soviets want to prevent us from launching our own MX missiles.

A single 10-megaton bomb has as much explosive power as 800 Hiroshima bombs. So, if the Soviets wanted to pin down our MX's for just 5 minutes, they would have to detonate the equivalent of 4,000 Hiroshima bombs—4,000.

Presumably, MX strategists are heartened that in the aftermath of such an attack, and the attack might last far longer than 5 minutes, we could launch a similar assault on the Soviet Union. But the United States that launched such an attack would not be the country we seek to defend, for much of this Nation would be a radiated, lifeless, and dying shell.

"A 10-megaton attack would leave any nation on Earth devastated beyond anything in our historical experience," Jonathan Schell wrote in "The Fate of the Earth."

Dense Pack proponents misleadingly suggest that the devastation might be contained to the vicinity of the MX site in Wyoming. But the residents of the other 49 States, and indeed of the entire hemisphere, have little to feel secure about.

A 10-megaton explosion—the equivalent of a single minute's assault on the MX site—would lift millions of tons of dust into the atmosphere, producing a cooling of the Earth's surface. Repeated blasts would deplete the ozone layer, exposing all life to dangerous levels of ultraviolet radiation.

Radioactive clouds from such explosions would move across the United States, producing dust and rain fallout which would contaminate much of the Earth's surface. A 20-megaton blast—2 minutes' attack on the MX Dense Pack—would flatten an area 24 miles in diameter, destroying 450 square miles. People 23 miles away would be severely burned, and exposed people over an area of 2,460 miles would suffer second-degree burns.

Depending on the prevailing winds, a single 20-megaton attack could result in the deaths of 20 million people.

The American people must keep in mind that there would be far more than one 20-megaton explosion. If the Russians knew that our missiles could be kept in their silos only by repeated 10-megaton explosions every minute, the attack would likely be in the thousands of megatons. And the effects of that level of assault would effectively end life as we know it, not just in Wyoming, but throughout this Nation and much of the globe. And among the survivors, the alteration of photosynthesis, the massive increase in cancers and genetic abnormalities, and the destruction of the food chain would render our planet virtually uninhabitable.

This is the inconceivable scene which the Dense Pack paints. Dense Pack is a clear statement to our potential adversaries to build bigger weapons, and to plan to use them in order to tie down our own centralized and vulnerable missiles.●

● Mr. OBERSTAR. Mr. Chairman, this House faces a historic choice. We have the opportunity to prevent the production of a tremendously costly and wasteful weapons system. As a legislative institution, we have the opportunity to exercise a check on a colossal policy mistake by the executive branch. The cause of world peace and that of fiscal responsibility will not allow us to fail.

I have consistently voted against funding of the MX missile system. When I cast my votes against funds for the MX in the past, I did so in the realistic expectation that the present membership of the House would not challenge the administration by rejecting a major weapons system. I think the mood of the House is different today.

The House vote today will determine the course of defense spending not only in fiscal year 1983, but in the years to follow; not only with respect to MX, but also to a whole series of costly and unnecessary weapons systems.

I am convinced that a vote today for fiscal responsibility and defense sanity will influence our colleagues in the other body to join us in saying, at last, the MX, and particularly the Dense Pack system, is a waste of the taxes paid by the people who have sent us to this House.

Through fiscal year 1982, this system has already cost us over $4.7 billion. The administration has requested an additional $4.5 billion for the current fiscal year, including the first construction funds—a very significant policy decision. It is curious, to say the least, that the administration is requesting $1.4 billion for procurement, initiating actual production, when it is still requesting funds for research and development. The rhetorical question that occurs to one is: "Is this system ready to go or not?"

Opposition to the MX is not partisan. I opposed the MX missile years ago when President Carter asked for funds for it. I did so because I had grave reservations about committing our Nation to such an expensive and questionable system. The questions are answered; the doubts resolved—against the system.

The Dense Pack basing system, the latest concoction of the Department of Defense for basing the MX, does not make me very confident about spending $35 or $40 billion of taxpayer money. If I or one of our colleagues came before this House to ask for one-tenth as much money for a domestic

human resources program, with a proposal as harebrained as the dense pack, we would hear the catcalls on the other side of the beltway.

The time has come to look upon the MX with the same skepticism applied to nondefense spending.

The proposed basing system is untried and untestable. Furthermore, the MX appears to be based upon the unrealistic "window of vulnerability" theory. At any first strike attack on the United States, the Soviet Union would face certain and massive U.S. retaliation.

The issue before us now is whether the U.S. House of Representatives will approve billions of dollars for an unworkable missile system with an untested basing mode. I am deeply concerned about the implications on the relationship between Congress and the Executive in the development of defense policy if we rubber stamp the ridiculous MX proposal. I ask the question: "What kind of legislative institution would approve such a proposal?" If we approve funds for procurement of the MX, we should consider abolishing the appropriations process and bring administration defense budgets directly to the floor under a unanimous consent request.

The legislation before us contains funds for procurement as a result of the narrowest possible vote in the Appropriations Committee—a tie vote defeating an amendment to delete these funds. I want to commend the gentleman from New York (Mr. ADDABBO) the chairman of the Defense Appropriations Subcommittee, for his leadership in attempting to impose fiscal restraint and commonsense on the Defense Department budget. He has won the admiration of all of us here in the House who want this senseless waste of taxpayer dollars to end.

I urge adoption of Addabbo amendment, as well as an end of all funding for the MX missile.●

● Mr. GOODLING. Mr. Chairman, in considering the issue of nuclear deterrence, and in particular, the present issue of the MX missile, we should ask ourselves what exactly constitutes deterrence. The prevailing point of view seems to be that we must match the Soviets missile for missile, bomb for bomb, megaton for megaton, and just to be on the safe side we should whenever possible be one up on them. For myself, I take a different point of view: We do not need to gain superiority over the Soviets in the nuclear sphere, nor do we need to match them missile for missile. All we really need to deter the Soviets are a few well-placed missiles aimed at a few select targets in the Soviet Union, and the damage they would be capable of perpetrating would be more than enough to prevent the Soviets from initiating a first strike. For this, we do not need the MX missile, and certainly not 100 of them in 20 square miles out in Wyoming.

We should remember that nuclear deterrance was orginally the means by which we hoped to prevent a conventional attack by the Soviets on Western Europe. Now that the Soviets have a rough parity with us in the nuclear sphere, that position is clearly passé. We should now concentrate our efforts on a thorough revitalization of our conventional forces with a nuclear safeguard such as I have already described. That would be far better than our present course which weighs heavy on the budget.

The great civilizations of the past fell not from outside attacks, but from internal dispute and dissent. The danger from the Soviet Union is not as great to the United States as the dangers it faces from within: Moral strife, greed, and fear. Let us not embark on a course that is dominated by fear and fueled by greed and strife which could well result in the economic and moral collapse of this great Nation of ours. Let us instead put forward a unified and moral front without the MX missile and similar such nuclear programs. This is the feeling I get from my constitutents, as I believe it is of the vast majority of Americans.●

● Mr. HERTEL. Mr. Chairman, December 7 is a day which will always be associated with sneak attacks. It is ironic that this Congress is debating a deployment scheme for the MX missile to protect it from sneak attacks.

Closely spaced basing is a defensive arrangement based on a theory of nuclear fratricide. The theory of nuclear fratricide is impossible to test. It is important to evaluate what we do not know when we consider the value of Dense Pack basing. The Dense Pack theory postulates that in the hellfire environment of an atomic attack, later, incoming warheads would be destroyed by electromagnetic pulse or debris kicked-up in the maelstrom of the blast through which our missiles can supposedly be launched. This defense scenario is based on a Hiroshima type blast in the air. The picture is radically altered by a ground-burst detonation.

Proponents of Dense Pack claim this would enhance and lengthen the fratricide effect for incoming missiles. It is unknown whether MX could launch through this environment. However, it is important to remember that the environment created by an atomic blast is not clearly understood. An appropriate analogy would be comparing it to conducting launch operations on the surface of the Sun, if only momentarily. Furthermore, should the Soviets be capable of simultaneously detonating warheads, the dynamics of the blast environment changes totally and incomprehensibly.

Second, let me caution my colleagues, that we are plainly deluding ourselves if we believe that fratricide will be the defense of the Dense Pack. With this particular configuration, it is postulated that there would be a limited number of cross pull or trajectories which could be attack corridors for a Soviet nuclear salvo on the 14 square mile target in Wyoming. Theoretically, it should be possible to defend this area with an antiballistic missile system, rather like a video arcade game. A single ABM system is permitted under the SALT treaty. The extremely difficult technical problems which must be overcome to implement an ABM system include: differentiating MIRV warheads from meteorites, which they would resemble on radar, and submarine launch ballistic missiles could invalidate the defense by launching south to north or west to east. I hope my colleagues will attempt to evaluate the cost factors.

It was nearly a decade ago this body rejected the ABM, not on the grounds of technical feasibility, but prohibitive costs; that was prior to a threefold decrease in the value of the dollar. You have not been told this, but it cannot be denied, if you buy the Dense Pack, you will ultimately be forced to buy ABM at a price that is anyone's guess. You will be allocating a massive amount of our Nation's security dollars for the deployment mode of a single leg of our nuclear triad which is of questionable quality under actual conditions of combat and would require yet another defensive system of unproven quality and cost.●

● Mr. LAGOMARSINO. Mr. Chairman, there has been some confusion, at least in the press, about the effect of today's vote. In voting on this amendment, we are in no way committing ourselves to a specific basing mode for the MX. What we are doing is buying ourselves some time in which to make a final decision.

The closely spaced basing mode—or Dense Pack, as it is called—was proposed by the administration on November 22, after a year's study. Over the next few months, the various committees in Congress will hold extensive hearings on this and alternative proposals for basing the MX. It is quite possible the hearings may show that the Dense Pack mode is not feasible, in which case it would be rejected. But there is nothing to be gained from prejudging our committees' review by cutting funds for the MX now. If we deny funding at this stage, we would foreclose our option to begin production of the missile itself in the next year; what is worse, we would be sending the wrong kind of signal to the Soviet Union at a very critical time, just as we are starting negotiations for arms reductions.

There are few who would deny that we desperately need to replace our aging ICBM's with a new model. The

MX would be easier to maintain, and incorporate the most recent technological advances. The only real question, in the absence of an agreement with the Soviets to reduce strategic weapons, is the basing mode. If, however, in the absence of any such agreement, we cut off funds for production of the missile itself, the Soviets will have no incentive to negotiate. Congress should be given a chance to review and judge the merits of the President's proposal without jeopardizing the success and timeliness of the program.

In conclusion, the vote on the MX is not a referendum on the merits of the basing mode. It is, however, a referendum on our willingness to preserve our options, to allow a careful and responsible legislative review by the new Congress, and to give our arms negotiators something with which to negotiate, not just on the START but on intermediate-range nuclear forces in Europe.●

● Mrs. SCHNEIDER. Mr. Chairman, the attempt to develop an absolutely involnerable land-based missile is futile. For every effort to harden sites, there will be an effort to develop a counterstrike large enough to destroy them. For every basing mode that relies on a precision timed strike for its defense, precision timing will be perfected. And for every missile system developed to serve as a bargaining chip in future negotiations the other side will engage in the building of bargaining chips of their own.

If I felt that the addition of a thousand warheads to our nuclear arsenal would increase our national security, I could perhaps view it in a different light. But the addition of a $26 billion missile system which is technologically questionable, strategically unsound, and morally indefensible cannot be viewed in a positive light. Some proponents of the MX system, including GTE a major defense contractor, admit that the margin of superiority that the MX would provide could disappear within 2 to 5 years of its full operational deployment. An increasing number of defense experts recognize that the deployment of the MX in the Dense Pack configuration would require the development of yet another expensive, destabilizing, and untestable system to provide for antiballistic missile defenses.

Every Member of Congress, every citizen of this country is deeply concerned about our national security. At a time when our budget deficit is expected to exceed $200 billion, we must carefully examine how a new missile system will affect our national security. Noel Gayer, a former Director of the National Security Agency was recently quoted as saying that:

The Soviets are going to match (the MX) if it takes their last kipek and they're going to feel even more insecure than they do now.

Our national security cannot be increased with the deployment of a missile system that trivializes a nuclear exchange in a contest over which side can destroy the land-based missiles of the other. Such thinking not only denies the massive delivery systems available to both sides, it also denies that either side is likely to quit when it is behind.

I urge my fellow Members of Congress to vote against the MX missile system as a first step in affirming our desire to reduce the deployment of nuclear weapons in all nations.●

● Mr. ROYBAL. Mr. Chairman, I rise in support of Mr. ADDABBO's amendment to delete $988 million for the procurement of the MX missile.

Ever since Mr. Reagan was elected, we have heard little else except the importance of maintaining a strong national defense. I have no argument with that—I doubt any of us do. Instead, my concern stems from the way this administration defines "defense."

They would have us believe that the chief answer to our country's security lies in throwing billions of dollars into complex, costly and largely unproven weapon systems such as the MX missile system. The President wants us to spend at least $26 billion on the MX in the Dense Pack basing mode—that cost could turn out to be well over $35 billion when inflation and cost overruns are taken into account. And this is just for the baseline system. When other essential costs are added in, such as warheads for the missiles, support and sensor equipment, and the antiballistic missiles many scientists feel will be necessary to protect the system, the costs could well exceed $60 billion. What do we get for all this money?

According to the administration, we get an effective deterrent to a first strike by the Soviets, a means of defending ourselves should such an attack occur, and a "bargaining chip" to be used in arms reduction negotiations with the Soviets. Many of our leading scientists and defense experts have compiled an astonishing array of facts and figures indicating that none of these arguments are valid.

We have all seen the figures that show how the Pentagon conveniently skipped over the existence of some of our major weapons, including our submarine fleet, when assessing our vulnerability to the Soviets. Indeed, the Congressional Budget Office estimates that the MX system could provide as little as 5 percent of our retaliatory warheads. These facts make it difficult to understand why we need such a system in the first place.

We are also very familiar with the myriad problems that surround the Dense Pack basing mode. It will be very vulnerable to Soviet attack, since measures are available to counter the "fratricide" effect of all the missiles being clumped together. Most experts believe that antiballistic missiles and additional silos will be needed to effectively protect the MX missiles. Why spend money for missiles we still cannot base effectively?

Not only is the MX system too vulnerable and too costly, it would also violate both SALT I and SALT II. And it does not take much in the way of commonsense to realize the flaws in the bargaining chip theory. The Soviets are just as paranoid about falling behind in terms of weapons production and capability as we are. They have made it clear they will waste no time in developing counters to the MX, no matter what cost and effort is necessary. This is no way to discourage an arms race.

As I said, we have heard all these arguments many times. However, there is yet another aspect to this entire issue that I have not heard fully discussed. Have we really stopped to consider what elements constitute an effective national defense?

Surely, we do need weapons—planes, ships, submarines, tanks, missiles—all the terrible trappings of modern warfare. We need a well-prepared, well-trained and well-equipped fighting unit. We need the force of our values behind us—the belief that our cause is right.

But there is something else that we need, and it is that element which the administration is ignoring—we need the full strength and cooperation of civilian America in any military effort this country undertakes. What good are these costly and complicated weapons systems if we have no one to conceive of them, to build, operate and maintain them, to improve on them? What purpose will these weapons serve if we fail to address the issues that are tearing this Nation apart—inadequate education and training for our people in the face of higher and higher levels of technology; the failure of thousands of businesses, large and small; the depletion and irresponsible management of our resources and continued pollution of our water and air; our growing inability to meet the basic needs of our people. These issues must be addressed or all the sophisticated weapons in the world are not going to be of much help to us.

I urge you to vote for the Addabbo amendment to delete funds for the MX missiles. In the interest of the defense of this country, our priorities must lie elsewhere.●

● Mr. OTTINGER. Mr. Chairman, I rise in strong support of the amendment to the fiscal year 1983 Defense Appropriations bill (H.R. 7355) to delete funding for procurement of the MX missile. I want to commend my distinguished colleague from New

York, the chairman of the House Appropriations Subcommittee on Defense, Representative JOSEPH ADDABBO, for leading this fight against the MX program.

I oppose the MX missile—in any basing mode—because it will make us less secure by increasing the likelihood of nuclear war and accelerating the arms race. The MX is exceedingly destabilizing, costly and unnecessary. Furthermore, it will violate the SALT II Treaty and is likely to eventually require abrogration of the Anti-Ballistic Missile Treaty.

The entire MX program has been based on an illusory concept: the so-called "window of vulnerability." We are developing a $50 billion weapons system which will add 1,000 nuclear weapons to our arsenal on the basis of this concept which is flawed in two major respects. First, the window of vulnerability premise ignores the reality of our current nuclear capability versus that of the Soviets. Second, it contradicts the heart of nuclear strategy.

The myth that our nuclear forces are vulnerable to the Soviets is dispelled when you consider the present state of our arsenals. We still exceed Moscow in sheer destructive power and numbers of warheads. Our arsenal is not concentrated in land-based missiles, but is divided among virtually undetectable submarines and manned bombers and land-based missiles. The Soviets, on the other hand, maintain a vulnerable land-based ICBM force which constitutes 75 percent of its total strategic deployment.

The MX is highly destabilizing because it enhances our first strike capability. The high explosive yield and extreme accuracy of the MX poses a clear threat to the Soviet Union and its land-based forces in particular, forcing Moscow to consider a preemptive or "launch on warning" attack against the United States in times of crisis.

The MX missile also misses the point of our nuclear strategy, which has been to maintain enough firepower to wreak an unacceptable level of destruction after a Soviet attack. We have already far exceeded the minimal nuclear firepower necessary to deter the Russians from attacking, and there is no need to add 1,000 warheads to our arsenals as is envisaged in the MX program. Rear Adm. Gene La Rocque (USN, Ret.), Director of the Center for Defense Information raised this point in a recent letter to me:

We do not need the MX because we can already cause 12,000 nuclear warheads to be exploded on the Soviet Union. When finally deployed in the late 1980's, the MX will add only 1,000 nuclear weapons to an already overwhelming nuclear arsenal.

Even without the MX, by 1989 the U.S. will be able to explode more than 19,000 nuclear weapons on the Soviet Union. Nearly 7,000 of these will be on invulnerable submarines and thousands more will be on alert bombers that will escape any Soviet first-strike.

Incredibly, President Reagan intends to go ahead with this redundant nuclear capability to "make the rubble bounce." He proposes that the MX be placed in a "Dense Pack" basing mode, which has become one of the most ludicrous aspects in the MX debate.

The Dense Pack has never been tested and is frought with countless uncertainties. Many eminent scientists and defense analysts have predicted that the Soviets, in trying to overcome the U.S. first strike capability, will develop methods of defeating Dense Pack by pinning down the MX or by creating earth penetrating weapons to avoid "fratricide."

The debate over "Dense Pack" has been particularly alarming, as voices are raised advocating the deployment of an extensive antiballistic missile system. This would violate our most effective and stabilizing arms control agreement with the Russians and escalate the arms race to new and more perilous heights.

President Reagan ignores the MX's dangerous implications for existing United States-Soviet arms control agreements. Indeed, he frames the MX as a "bargaining chip" which will be used to exact concessions from the Soviet Union. This psychology has fueled the arms race for the past 30 years; it is ludicrous for the President to assume that he can develop for the United States a true first strike capability and not expect the Russians to do everything in their power to counter it.

The MX promises a future plagued by instability, obsessed with an escalated arms race and devastated by excessive spending for new weapons systems at an enormous cost to our social and economic structures. It will be a future dependent on a perilous hair trigger response in times of crisis. In short, the MX promises a future that will be less secure than ever.

I strongly urge my colleagues to support Chairman ADDABBO's amendment to delete funding for the MX missile. I am including in the RECORD a copy of the letter which I recently received from Rear Admiral La Rocque:

CENTER FOR DEFENSE INFORMATION,
Washington, D.C., December 2, 1982.

Hon. RICHARD L. OTTINGER,
Rayburn House Office Building,
Washington, D.C.

DEAR CONGRESSMAN OTTINGER: Thank you for your inquiry concerning the MX missile/Dense Pack proposal of the Department of Defense. I know that you and other members of Congress face a most important decision on this matter. I want to make one central point which I believe cuts to the heart of the matter.

The basic issue has been lost in the confusing debate over the shifting kaleidoscope of MX basing schemes, huge costs, and plans to use the MX missile to fight a nuclear war: the United States simply does not need the MX missile, no matter how it may be deployed or how much it costs.

We do not need the MX because we can already cause 12,000 nuclear weapons to be exploded on the Soviet Union. When finally deployed in the late 1980's the MX will add only 1,000 nuclear weapons to an already overwhelming nuclear arsenal.

By the time the MX is completed we will have built at least 10,000 other new nuclear weapons for striking the Soviet Union. This includes weapons for the air-, ground-, and sea-launched cruise missiles, the Trident missiles, Pershing II missiles, and many new gravity bombs.

Even without the MX, by 1989 the U.S. will be able to explode more than 18,000 nuclear weapons on the Soviet Union. Nearly 7,000 of these will be on invulnerable submarines and thousands more will be on alert bombers that will escape any Soviet first strike.

This is the main point: the MX missile, destructive as it may be and invulnerable as it probably will not be, simply is not needed because it will add almost nothing to the U.S. nuclear strength. It is not worth anything at any cost or in any basing mode.

Sincerely,

GENE R. LAROCQUE,
Rear Admiral USN (Ret.),
Director.●

● Mr. BOLAND. Mr. Chairman, I intend to support the amendments to delete fiscal year 1983 procurement funds, and reduce research, development, test and evaluation funds, for the MX missile.

I have not been convinced by any of the arguments I have heard or read that the United States needs a new, land-based ICBM. Even if that need could be demonstrated, I am not convinced that the MX missile, in the Dense Pack basing mode would meet that need.

It seems to me that the call for a new, land-based ICBM is grounded on two premises. First, that ICBM's which are land-launched are, solely because of the character of their launching platform, clearly and unalterably superior to missiles launched from any other platform; and second, that the means exist by which the survivability of land-based ICBM's can be guaranteed to the maximum extent mathematically possible for any weapons system. I do not believe that either premise is valid. Land-based ICBM's are currently more accurate and powerful than either sea-launched or air-launched missiles. That fact, however, is not a constant in the calculation of the relative merits of weapons systems. We already have under development an extremely powerful submarine-launched missile with improved accuracy—the Trident II D-5 which will have essentially the same performance characteristics as the MX. Submarine launching of ballistic missiles is a technology at which the United States excels. There is therefore no reason to expect that the Trident II missile, which is scheduled to be deployed only a short time after

the deployment of MX, will not perform as expected.

Even if the military advantages of land-based ICBM's could never be matched by other weapons systems, there would be no reason to invest more of our resources in them unless they could survive a nuclear attack. I realize that no weapons system is totally invulnerable, but I have not been convinced that the survivability problems associated with land-based ICBM's are amenable to a solution that would place them on a competitive plane with air-launched or submarine-launched weapons. Land-launched ICBM's are, it seems to me, inherently vulnerable. Any attempts to enhance vulnerability, such as the Dense Pack basing mode, can be readily countered. Countermeasures demand further improvements which invite further countermeasures in a never ending and costly circle that in the end yield us little if anything in terms of added security.

Mr. Chairman, I know that the Soviets has made a major investment in new land-launched ICBM's, and that most of their strategic nuclear weapons are land based. That was, and is, their choice to make. I see no reason to follow their lead especially in light of the clear technological and numerical advantage we hold in submarine-launched ballistic missiles and air- and sea-launched cruise missiles. In spite of appearances to the contrary, the resources we can devote to defense are finite. We cannot afford to procure weapons systems, like the MX, which are of dubious utility. Although I support efforts to bring an end to the arms race, I also know that until those efforts show promise, we must maintain a strong defense. I believe we can do so more resourcefully and more beneficially by improving existing systems of demonstrated value rather than by sinking billions of dollars into systems that will not contribute to the national defense.●

● Mr. GUNDERSON. Mr. Chairman, the open and well-publicized debate of the President's MX/Dense Pack proposal, both by the Members of Congress and the American public, has offered all citizens an opportunity to participate in the decisionmaking process which yields our defense policy. It has also offered every American the opportunity to consider, in their own mind, the factors contributing to such an important decision. One can only conclude that our national defense decisionmaking process, as it now stands, is somewhat fragmented and clearly deficient in that it fails to examine the entire national security picture.

Clearly, the choice of any single defense strategy or weapon, the MX missile for example, cannot be dependent solely on the discussion of cost or capability alone, or even simply its place in the arms reduction process. This consideration of a weapons system as controversial as the MX must take into account the numerous factors, both domestic and international, which accompany any such decision.

My decision to vote against procurement funding for the MX missile was based upon the primary factors which must be considered in any approach to any weapons decision and to defense spending in general. Several primary factors present themselves in the examination of this missile, which, when considered, in total, will yield an acceptable decision.

The first concern is the status of the international, strategic climate and the effect this weapon would have on it. In addition, our own overall defensive strategy, both strategic and conventional must be examined with an eye toward the role this weapon will play in it.

Clearly, certain deficiencies have appeared in the U.S. capability to defend itself, due, in part, to the neglect of the last decade. This neglect has also reached our capability to continue an unqualified deterrent, as our ICBM's and B-52's continue to age and deteriorate.

The administration has forwarded the revitalized MX missile as the panacea for our land-based needs. While the maintenance of the strategic triad is a worthwhile goal, the MX does not have to be the replacement. Clearly, the development and deployment of a smaller, less costly ICBM, though admittedly years away, would be more desirable than the $35 billion MX.

In terms of our own strategic policy, the improvements which will be made by the adoption of the cruise missile, B-1B bomber, the Trident submarine deployment, and, in the future, the advanced technology bomber (Stealth) will surely compensate for the deficiencies of the Minuteman force.

A second concern, most important at this juncture in the Nation's history, is the economic difficulties facing the country. While most other programs in the Federal budget, such as education or energy, have been asked to tighten the fiscal belt, the Pentagon has been allowed to forward budgets which contain at least a 7-percent real growth. It is difficult for any Member of Congress to ask his constituents to make do with less when our own Government appears to support the oft-stated fiscal austerity premise only in selected cases.

The effect of the MX on our relationship with other nations, the third factor, offers a vote in favor of the weapon's deployment. What effect the weapon would have on the Soviet Union is open to debate. Their recent rhetoric on the deployment of a superior weapon in response to the MX may be no more than an effort to further persuade our public against the missile. However, we must also consider the possibility that the procurement of the MX will again launch the Soviets into the arms race—a contest they have participated in undeterred for the past two decades.

The termination of the program, on the other hand, could have a significant effect on our relationship with our allies in Europe. The deployment of the MX on our own territory would make it much easier for the European governments and people to rationalize the deployment of the Pershing II and ground-launched cruise missile on their territory next year. Clearly, this deployment is vital to the defense of Europe and the potential success of our negotiations with the U.S.S.R. in Geneva.

The fourth factor, the actual capability and performance of the weapon is, in this case, virtually untestable. While the concept of fratricide used in the Dense Pack may seem plausible on paper, its actual effectiveness can only be proven under one circumstance: a nuclear attack. Under such a limitation one must wonder whether this weapon can actually reaffirm and reassure our deterrent capability. Despite the acknowledged capability and accuracy of the missile itself, will it reinstate in the Soviet mind the doubt that assured destruction of our land-based force is not possible? If a significant portion of our society, including many defense experts believe it unworkable, what guarantee is there that the Soviets would not reach a similar conclusions?

Finally, the MX clearly ranks below several other weapons, both strategic and conventional, which are of critical need to our Armed Forces. Procurement of additional Trident submarines, deemed by all experts the safest leg of the Triad, has been slowed in the defense appropriations bill in favor of the MX. The appropriations legislation we are considering today contains further development and procurement funds for a military buildup which includes a new strategic bomber, air-launched cruise missiles, ground-launched cruise missiles, the new M-1 tank, several aircraft including fighters, helicopters, tankers, and cargo aircraft. The bill also funds two nuclear aircraft carriers, and numerous other conventional and nuclear weapons.

In this context, the Pentagon must also learn to conserve in accordance with the fiscal difficulties facing the Nation. The prioritized value of the weapons available should be established by the Department of Defense. Instead, a request has been offered that does not simply improve the areas where we are most lacking or simply further solidify the systems which provide the best security, it asks for improvements in all areas. Such a

request may seem reasonable upon initial scrutiny, but in actuality the funding limitation placed upon our Nation, and thus the Department of Defense, preclude such a spending policy.

While no American citizen, especially myself, desires a weakened national security capability, the prosperous program outlined by the Pentagon goes beyond what is rationally needed for our security, particularly in light of our current economic problems. The pressing needs in other areas and the valuable contributions other weapons and programs can make to our defensve effort eliminate the MX missile as an immediate priority.

Although the termination of the system may have an undesired effect on our NATO relationship, the progress we are making in other areas of our defense capability should well indicate to the Europeans our firm commitment to the improvement of our forces. This, in turn, will provide the needed rationale for their participation in the improvement of the Atlantic Alliance's defenses through the deployment of the Pershing II and the ground-launched cruise missile.

In the future we must continue to view our defense spending in terms of the factors I have outlined. Clearly, the fractured decisionmaking process we now use and the distinct lack of final decisions has worked only to further delay the improvement and modernization of our defensive capabilities. Our consideration must be based upon the entire national security interest, not simply the shaded view of one group or another.

The sum parts—the strategic climate, the economy, foreign affairs, the weapon's capability, and the requirements of the defense budget—all indicate that the MX is not the answer to our national security and defense needs.●

● Mr. WIRTH. Mr. Chairman, in the Middle Ages during a different era of military strategy, knights on horseback were loaded with ever more armor in an effort to make them less vulnerable to enemy attack. By the 15th century, they lost all mobility, and in hand-to-hand combat they were sitting ducks for slaughter by foot soldiers lightly armed with crossbows. Too much hardware made the armored knight useless for carrying out his basic military function.

This is disturbingly similar to what we are considering today. We are being asked to spend $988 million for procurement of five MX missiles, and $2.5 billion for research and development of the missile and the administration's proposed Dense Pack basing mode. The current total cost of the program is estimated at $26.4 billion, a figure we can expect from past experience to rise dramatically over the life of the project. Down the line, we may well be asked to spend additional tens of billions of dollars for an antiballistic missile system to protect the MX.

These staggering figures overlook some very simple points. First, the MX missile is not ready for procurement, or why would we need to spend $2.5 billion on research? Second, and even more basic, is this weapon necessary to our basic defense needs?

I think the answer is clearly "no," and urge my colleagues to support the amendments offered by the gentleman from New York (Mr. ADDABBO). I would like to briefly outline my reasons for believing that the MX, far from offering our country added security, would indeed make our country less secure.

First, the MX missile could give the United States a first strike nuclear war capability, thus effectively destroying the rough balance that now exists between our country and the Soviet Union in nuclear forces. The MX would allow our country to destroy the bulk of the Soviets' land-based missiles, which represent 75 percent of their nuclear force. It would thus be a highly destabilizing system, providing the Soviet Union with, at the very least, a public excuse for massive new nuclear weapons development.

Second, the alleged window of vulnerability is highly questionable. Despite the Soviet Union's lead in numbers of land-based ICBM's, the United States is still far ahead in terms of nuclear warheads, most of which are based in virtually invulnerable submarines. We are already able to respond to any Soviet attack with thousands of missiles—is a significant deterrent. MX is not justified in terms of additional needed deterrence: It is only justified if we embrace it as a first strike weapon. That is not, and should not be, U.S. policy.

Third, MX would endanger, and perhaps violate outright, the few fragile nuclear arms control treaties we have successfully negotiated. The administration argues that because the MX is to be technically transportable, it will not violate SALT II's prohibition on additional fixed missile launchers. But that is more semantics than reality, and is being interpreted as such by the Soviets. SALT II, while unratified, is the best framework of its kind we have been able to devise and must not be undermined, at least until we have an agreement to replace it. Additionally, the administration plans to deploy an antiballistic missile system to protect the MX if the Soviets take steps to counter this missile system, which would be a clear violation of the ABM Treaty, one of our most successful arms control pacts which is still in force. Thus, proceeding with this weapon would indeed lessen our level of security.

Fourth, we are being told that the MX is an essential "bargaining chip" in the stalled Geneva START negotiations. But the administration's START proposals include no provision to trade the MX for part of the Soviet arsenal, like the SS-18 missile which is already in place. More fundamentally, are we really willing to spend close to $30 billion on a bargaining chip of dubious validity? The administration's "bargaining chip" argument is a signal that there is little of substantive value to recommend the MX.

Fifth, is the proposed basing mode for this missile. To me Dense Pack makes no more sense than the earlier racetrack scheme of the last administration. The idea that the first incoming Soviet missiles would cause fratricide of later missiles, while leaving the MX free for a retaliatory strike is highly dubious. The Defense Department's own chief of research and development has pointed out that the effectiveness of Dense Pack requires developing techniques to harden silos to 10 times the strength of the most recent hardening of our Minuteman II silos. Finally, questions have been raised by many experts about whether MX silos could be made strong enough to keep a single incoming warhead from disabling a good many of the MX missiles, and whether a strong nuclear blast in the air space above the Dense Pack would leave the MX operational. Because the survivability of the MX in Dense Pack is far from assured, it would be a tempting target for Soviet planners. As their technology develops, experts believe there will be numerous ways in which the Soviets can defeat Dense Pack in the 1987-90 period. The survivability of the MX in this basing scheme relies on an unprovable 1-in-a-1,000 scenario.

Sixth, the proposal to base the MX around Warren Air Force base near Cheyenne, Wyo., has not undergone an environmental impact study, and could lead to serious impacts in the entire region. If the system is built, such potential damage must be mitigated.

Mr. Chairman, I have always favored a strong defense, and that means that we need to be spending more in the 1980's than we did in the 1970's. But the MX could actually harm our Nation's security, as well as diverting urgently needed resources from less glamorous military areas like readiness, spare parts, and training for our forces. Our existing Minuteman missiles could be made more accurate, a possibility acknowledged by DOD officials.

In these times of projected budget deficits in the coming years approaching $200 billion annually, we simply must subject the Pentagon to the same kind of discipline as other parts of the budget. We cannot afford every poorly justified multibillion dollar weapon on the Pentagon's shopping list. If we proceed with weapons like the MX, we will risk major national se-

curity risks at home by diverting urgently needed scarce resources away from people who are in increasing need. And, we will escalate the insane nuclear arms race at a time when there may be a real opportunity for improved relations with the Soviet Union.

Mr. Chairman, the choice before us is critical and clear. I strongly urge my colleagues to support the amendment by the gentleman from New York, (Mr. ADDABBO).●

● Mr. DORGAN of North Dakota. Mr. Chairman, building and maintaining a strong defense must remain a top priority for the U.S. Congress and for the United States. But strengthening our national security does not mean that we buy every billion-dollar item on the Pentagon's shopping list.

A case in point is the MX missile.

I strongly believe that we need a strong nuclear force to prevent Soviet aggression or adventurism. And I believe we now have such a deterrent.

The Pentagon concluded in its 1982 report that the United States and Soviet Union have roughly equal nuclear forces.

In November, the United States launched its first Trident submarine carrying 24 Trident I missiles. Each of these subs carries enough weapons to target every Soviet city over 100,000 people. And we plan to build 12 to 15 of these potent ships.

I support the Trident I program because it gives a secure nuclear punch that will not force the Soviets to launch on warning of an attack.

Similarly, we will deploy this month the first operational squadron of B-52's carrying air-launched cruise missiles with nuclear warheads. The Soviets have no sound defense against this weapon, which works by evading Soviet radar, not by surprising our adversaries in a sudden strike.

So both of these weapons add to the numbers and power of our strategic power without tightening the hair trigger on nuclear war. Wise investments in national security.

The MX is not.

A careful review of the facts will show that the MX will not boost our security; that the MX may not work; and that even if the MX did work as advertised, it would cost far too much to build.

ENOUGH IS ENOUGH

We do not need an MX missile for several reasons.

We can already explode more than 12,000 nuclear weapons on the Soviet Union. More than enough to wipe it out. So we don't need the 1,000 extra warheads the MX would offer.

As noted before, we have also taken steps to beef up and modernize our air- and sea-based forces with cruise and Trident I missiles. We have already strengthened our land-based force by installing more accurate and powerful Mark 12-A warheads on our Minuteman III missiles. These are as advanced as the warheads on the best Soviet missiles—the SS-18's and SS-19's.

The MX is not just frosting on the cake. It is frosting on the frosting.

By deploying a missile with the speed, accuracy, and explosive power to knock out Soviet ICBM's, we may invite a nuclear war. The Soviets surely know that we will not target the MX on empty missile silos.

The only reason to deploy such a weapon is to be able to strike first. This could force the Soviets to launch on warning since 75 percent of the Soviet force is land-based. Changing our defense policy to do this makes no sense and I cannot morally support it. Nor do I believe the Alice-in-Wonderland tale of nuclear survival.

The bottom line is that the first strike would be the last strike.

Our national security requires that we reject this proposed change of course. We must return to the promotion of nuclear stability and strive to reduce the chance of accidental nuclear war.

DOUBTS ON DENSE PACK

Even if proponents convinced me that we needed the MX in 1986, they could not convince me that the Dense Pack basing mode makes any sense.

The Pentagon's own advisory panel on the MX warned that "the U.S.S.R. could readily and early on deploy counters to 100 missiles in 100 capsules, from a technological standpoint, in the 1987-90 period." The chairman of the panel, Dr. Charles H. Townes, reportedly advised Secretary of Defense Weinberger that the Soviets would have less trouble defeating Dense Pack than we would in building it.

No wonder that Herbert Scoville, former Deputy Director of the CIA, called Dense Pack a "Rube Goldberg" scheme. Scoville has warned that the Pentagon might not be able to achieve the kind of silo hardening required in the Dense Pack plan.

More doubts about the MX Dense Pack arise from a recent article in the New York Times by Kosta Tsipis, director of the Program in Science and Technology for International Security at the Massachusetts Institute of Technology. Dr. Tsipis argues that the Soviets could destroy Dense Pack by exploding their attacking missiles simultaneously, by setting off ground-penetrating bombs, or by sending in their missiles in waves.

Since Dr. Tsipis has conducted a careful study on Dense Pack, I would like to bring this article to the attention of my colleagues and the people of North Dakota.

BANG NOT WORTH THE BUCKS

The Air Force claims Dense Pack will cost about $25 billion for building the 100 missile base.

But the Tsipis article also makes clear that the only way to protect Dense Pack from attack is by installing an antiballistic missile defense system around it. But such an installation would not only violate the 1972 ABM Treaty with the Soviet Union, but cost as much as $12 to $25 billion.

So the cost now becomes $25 to $50 billion.

Other additions to the system like missile mobility or deep basing could push the MX cost over $50 billion—not counting inevitable overruns in price.

We cannot afford Rube Goldberg schemes when our economy is floundering, budget deficits are soaring, and our small businesses and family farms are facing the worst crisis in 50 years.

Nor can the poor and hungry of the world afford the MX and an unfettered arms race. The world has amassed a nuclear arsenal equal to 3.5 tons of TNT for every inhabitant of our planet. Yet 500 million suffer from chronic malnutrition.

This is a scandal.

In conclusion, I agree with former Defense Secretary James Schlesinger, who said that the MX Dense Pack is "fatally flawed."

But it is not just that we cannot count on the MX. We cannot afford it and we do not need it.

So I support the Addabbo amendments to strike $988 million for MX procurement and to reduce MX research funds from $2.5 billion to $1 billion.

Let us make sure we maintain a strong America with weapons programs that we need, and ones that we can count on working.●

● Mr. FORD of Tennessee. Mr. Chairman, after long years of research and development, more than 30 proposals for basing the MX have been thoroughly examined by two administrations. All have been discarded for a variety of technical, political, and environmental reasons. And now President Reagan has presented Congress with another expensive, elaborate, unworkable, and unsurvivable basing scheme for the troubled MX missile—the so-called Dense Pack plan.

The rationale for the MX Dense Pack plan has been that the Nation needs a "survivable" land-based missile that also has counterforce capability. However, many technical experts—including two former secretaries of defense agree that the Dense Pack basing mode is clearly unsurvivable.

In my own State, we are particularly sensitive to this issue in the wake of a recent disaster in Tullahoma, Tenn., where four workers died and two were injured in a fire at a MX testing center during cleanup of debris from a MX rocket motor that exploded. What if it had been a MX missile itself—with 10 nuclear bombs.

There has been considerable debate on effects that the MX will have on our economy. Right now, we are faced with deep recession and unmet human needs. This weapon would be a major contributor to a projected $200 billion budget deficit.

The Dense Pack MX will place a tremendous strain on our overburdened Federal budget. The Air Force estimates the cost of this system at $26 billion. This does not include an estimated $4 billion for MX warheads, $7.5 billion for the procurement of an ABM system, and a possible additional $6 billion for procurement of 100 more missiles.

If these likely additions and necessary components of MX Dense Pack are totaled, we will present the American people with a final bill for $54 billion.

According to the Congressional Budget Office, this enormous expenditure on the MX would only make a relatively small contribution to our strategic capabilities. In an era when we find domestic programs slashed to the bone, I find this MX spending unacceptable. Also building MX sites will not—as President Reagan claims—increase the pressure on the Soviet Union to accept meaningful limits on or reductions in nuclear weapons. Instead, such action by the United States at this time will escalate the arms race and undermine our ability to negotiate new arms control agreements.

This has already been verified by Soviet Defense Minister Dmitri who warned today that "if the United States deploys its new MX missile, the Soviet Union will develop a similar weapon that will in no way be inferior."

Next year, will the administration come back to the Congress asking for huge sums of money to develop a weapons system to counteract the Soviet's anti-MX system. When will we get off this merry-go-round?

Construction of the 100 new silos for Dense Pack would also constitute a violation of the spirit of both the SALT I and II accords. The American people have spoken out strongly in favor of concerted Government efforts to stop the nuclear buildup and to reduce nuclear armaments by the prompt negotiation and ratification of bilateral and verifiable agreements.

If this weapon is authorized it will clearly demonstrate this Congress disregard of the national public outcry for a freeze on the production and deployment of nuclear weapons.

Rather than commit this country to an ill-considered and, by most accounts, unworkable plan for basing the MX, I urge my colleagues to support the amendment to be offered by Defense Subcommittee Chairman ADDABBO to delete funding for production of the MX from the 1983 defense appropriations bill. My colleagues, let us not build this expensive, unnecessary weapon.●

● Mr. FORD of Michigan. Mr. Chairman, I rise in support of the amendments offered by my colleague, Congressman ADDABBO, chairman of the House Appropriations Subcommittee on Defense, to delete procurement funds for the MX and to reduce research and development for the MX. I have very real doubts whether this program is at all necessary. President Reagan's November 23 televised presentation of relative nuclear strengths of the United States and the Soviet Union served no purpose except to deceive the public. Mr. Reagan not only ignored the total number of deliverable warheads—9,700 for the United States and 8,300 for the Soviets—but also failed to mention that American nuclear forces are superior in quality and flexibility.

In addition, the Dense Pack basing scheme is reliant on two unproven theories. The first assumption is that the silos within which the MX missile will be placed can be super-hardened to such a degree that Soviet nuclear weapons will not be able to destroy the MX. This is beyond current engineering capabilities and may, in fact, be impossible. The second unproven theory is that of nuclear "fratricide." Although this concept may seem appealing and logical, there are serious doubts about its validity. Considering the administration's firm commitment to Dense Pack, it is ironic that it is already considering the addition of an antiballistic missile system or additional silos to strengthen the Dense Pack system.

Dense Pack is also a blatant violation of SALT II, which Reagan promised to adhere to in May. The administration claims that the MX in Dense Pack is a "mobile" system and, therefore, does not violate SALT II's prohibition against the construction of additional fixed ICBM launchers. Dense Pack calls for 100 missile launchers in 100 holes. There are no additional launchers, no transport vehicles to move the missiles once they are in place, and thus, no mobility.

By far, the biggest problem with the MX missile is its price tag. The administration estimates that the MX system will cost over $26 billion to deploy. With a budget deficit over $150 billion per fiscal year and massive cuts in domestic programs which aid the elderly, students, and the poor, it is unconscionable for the administration to seek this military boondoggle. The time has come for the Congress to say "no" to the MX missile.●

● Mr. LEHMAN. Mr. Chairman, I was greatly dismayed by the vote taken last week in the full Appropriations Committee concerning funding for the MX. I had hoped to be present in order to cast the deciding vote against this weapon. Unfortunately, I was unable to leave the hospital in time to make the vote.

Thanks to cancer research, I have won my personal battle against this disease and I am determined that others have the chance to successfully fight cancer. I find it absurd that we are cutting back on funds for cancer research while increasing funding for nuclear arms.

Researchers at Memorial Sloan-Kettering Hospital in New York, where I have spent the past 3 weeks, have told me that important research has been hindered by budget cutbacks. Just when they think they are on the verge of making some very significant discoveries, Federal grants are not renewed and alternative funding sources are unavailable.

What does it say about our national priorities when we are prepared to spend billions on nuclear weapons and at the same time reduce spending on research that can save lives? I feel very strongly about this issue, and that is why I am here today. If my vote can make a difference, I want to be here to stop this MX madness; and in the future I intend to work hard to secure more Federal support for the type of research being conducted at Sloan-Kettering.●

Mr. EDWARDS of Alabama. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I listened with great interest to the gentleman from Washington reading the letter. I do not know anybody over here or in the administration who has contended that the MX missile is a bargaining chip. I would be the first to agree that it is too expensive to use simply as a chip. But I will guarantee you, Mr. Chairman, that if we do not go forward with the MX missile, then the desire and the incentive on the part of the Soviet Union to sit at the bargaining table and talk to us at the START talks will diminish overnight. It is just that simple. And that is not a bargaining chip. That is a fact of life.

The reason they are at the bargaining table today is because they do believe in fact that we have the will and the determination to do what is necessary to secure this country. And if they ever believed that we do not have that will and determination, therein is the end to the START talks, and that would be an unfortunate thing for this great Nation of ours.

Now, we have heard an awful lot of comment in the last hour and a half about Dense Pack, about basing, about who knows what about Dense Pack.

Let me just remind the Members of the House that it was the Congress that insisted that the President come back to the Congress by December 1 with a basing plan. We turned down the basing plan the President had sent

earlier. So it has only been in the last few days that the Dense Pack proposal has been before us pursuant to the request of the Congress.

And so we have written into our bill, both in the procurement section and in the R&D section, provisions drafted by the gentleman from Ohio (Mr. REGULA), fencing this money until March 15 so that the Congress can become better acquainted with the Dense Pack, so that we can all understand in a much better way exactly what is involved.

The question of Dense Pack is not here today before us. The question here today is whether we are in fact going to go forward with a replacement for the Minuteman, a missile that is now becoming more vulnerable everyday, a missile that we desperately need to replace.

You can argue all you want to about whether the Triad is good or bad. But you are copping out if you ignore the fact that Minuteman is becoming vulnerable. We do indeed need to replace it. We do indeed need to go forward with a missile that is available to us as a replacement, and that is the MX.

There is ample time written into this bill for the basing mode to be resolved. There is ample language written into this bill which says that until the administration comes forward by March 1 with the schedules and all the other documents necessary to show that there is a basing plan and a missile plan going hand in hand, that this money will not be available. That language is in here.

I think the committee has done an adequate job of fencing, and I think it is important that we understand that.

Now, let me close, Mr. Chairman, by saying this.

There has been talk about spending restraints. The concern I have is that the MX has become sort of the symbol of that restraint. And I think we have lost a lot of our perspective as we have talked about the MX vis-a-vis spending restraints.

I will remind the Members again that we have cut $18 billion out of the President's budget, that we have made a 10-percent reduction in his procurement, that we have made a 5-percent reduction in his research and development budget, we have made major cuts in this bill. And if it is a spending restraint that you are concerned about, we have used great restraint as we have drafted this bill and as we have brought it to the floor.

I think the world is watching what we do today. I think the Soviet Union is watching. I think our own people are watching as to whether or not we have the determination, the will, the fortitude, to be counted as far as security for this country is concerned.

I would hope and I would pray that the day will never come when we will have to deploy the MX missile. But I will venture to say that if we do not go forward with it now in one way or another, that day will come because the START talks will fall into a wasted effort.

And so I plead with you today to give the President the chance to go forward with this proposal, to give those who negotiate the chance to keep the Soviet Union at the bargaining table, to keep the incentive there on the part of the Soviet Union. It is extremely important. And I urge a "no" vote on the amendment of the gentleman from New York.

Mr. ADDABBO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we come to the end of this debate. And it has been confusing.

To make it simple, we are debating this amendment striking $988 million for the procurement of MX missiles that still requires $1.7 billion of research and development. It is that simple. We are being asked to appropriate money for a missile that still needs almost twice as much money to do research and development during fiscal year 1983.

If we worry about our opponents, I think Andropov gave us the answer today if we vote down this amendment. He says if we go with MX, Russia will build their version of the MX. We then have an arms escalation. But more important, most important, if we do not adopt this amendment and they go ahead with MX in the Dense Pack mode, we have made the first installment of $1 billion toward the cancellation of the only agreements that exist between us and Russia. There also would be a violation of the ABM treaty if Dense Pack is protected with an antiballistic missile defense system. This is not just a canister that is being buried in Wyoming. This is a silo, a new silo, in violation of the SALT agreement. And if we vote down this amendment, that is what you would be doing today, giving our children the heritage of seeing this Congress start down the road toward the abrogation of the SALT agreements intended to stop the escalation of this nuclear insanity.

□ 1810

So I tell my colleagues, this is solely an amendment to cut the MX production.

Do you want your bargaining chip? Do you want to go ahead? You have the R&D of $1.7 billion for the missile, and over $700 million for the basing modes.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from New York (Mr. ADDABBO).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. EDWARDS of Alabama. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 245, noes 176, not voting 12, as follows:

[Roll No. 423]

AYES—245

Addabbo	Frost	Obey
Akaka	Fuqua	Ottinger
Albosta	Garcia	Panetta
Anderson	Gaydos	Patterson
Andrews	Gejdenson	Paul
Annunzio	Gephardt	Pease
Anthony	Gibbons	Pepper
Applegate	Glickman	Perkins
Aspin	Gonzalez	Petri
AuCoin	Goodling	Peyser
Barnard	Gore	Pickle
Barnes	Gradison	Porter
Bedell	Gray	Pritchard
Beilenson	Green	Pursell
Bennett	Gregg	Rahall
Biaggi	Guarini	Railsback
Bingham	Gunderson	Rangel
Boggs	Hall (IN)	Ratchford
Boland	Hall (OH)	Reuss
Boner	Hamilton	Rinaldo
Bonior	Harkin	Roberts (KS)
Bonker	Hawkins	Rodino
Bouquard	Heftel	Roe
Brinkley	Hertel	Roemer
Brodhead	Holland	Rose
Brooks	Hollenbeck	Rosenthal
Brown (CA)	Hopkins	Rostenkowski
Burton, John	Horton	Roukema
Burton, Phillip	Howard	Roybal
Byron	Hoyer	Russo
Chisholm	Hubbard	Sabo
Clay	Huckaby	Savage
Clinger	Hughes	Scheuer
Coats	Jacobs	Schneider
Coelho	Jeffords	Schroeder
Collins (IL)	Jenkins	Schumer
Conte	Jones (NC)	Seiberling
Conyers	Jones (OK)	Sensenbrenner
Coughlin	Jones (TN)	Shamansky
Coyne, William	Kastenmeier	Shannon
Crockett	Kennelly	Sharp
D'Amours	Kildee	Simon
Daschle	Kogovsek	Smith (IA)
Deckard	LaFalce	Smith (NE)
Dellums	Lantos	Smith (NJ)
DeNardis	Leach	Smith (OR)
Derrick	Lehman	Smith (PA)
Dicks	Leland	Snowe
Dingell	Lent	Snyder
Dixon	Long (LA)	Solarz
Donnelly	Long (MD)	St Germain
Dorgan	Lowry (WA)	Stark
Dowdy	Luken	Stokes
Downey	Lundine	Studds
Dwyer	Markey	Swift
Dymally	Marks	Synar
Dyson	Martin (IL)	Tauke
Early	Martinez	Traxler
Eckart	Matsui	Udall
Edgar	Mavroules	Vento
Edwards (CA)	Mazzoli	Volkmer
English	McCloskey	Walgren
Erdahl	McCurdy	Washington
Ertel	McDade	Watkins
Evans (IA)	McGrath	Waxman
Evans (IN)	McHugh	Weaver
Fary	McKinney	Weber (MN)
Fascell	Mica	Weiss
Fazio	Mikulski	Whittaker
Fenwick	Miller (CA)	Whitten
Ferraro	Mineta	Williams (MT)
Findley	Minish	Williams (OH)
Fithian	Mitchell (MD)	Wirth
Florio	Moakley	Wolpe
Foglietta	Moffett	Wright
Foley	Murphy	Wyden
Ford (MI)	Natcher	Yates
Ford (TN)	Neal	Yatron
Forsythe	Nowak	Young (MO)
Fowler	O'Brien	Zablocki
Frank	Oakar	Zeferetti
Frenzel	Oberstar	

NOES—176

Archer	Fountain	Moorhead
Ashbrook	Gilman	Morrison
Atkinson	Gingrich	Mottl
Badham	Ginn	Murtha
Bailey (MO)	Goldwater	Myers
Bailey (PA)	Gramm	Napier
Beard	Grisham	Nelligan
Benedict	Hagedorn	Nelson
Bereuter	Hall, Ralph	Nichols
Bethune	Hall, Sam	Oxley
Bevill	Hammerschmidt	Parris
Bliley	Hance	Pashayan
Bowen	Hansen (ID)	Patman
Breaux	Hansen (UT)	Price
Broomfield	Hartnett	Quillen
Brown (CO)	Hatcher	Regula
Brown (OH)	Hendon	Rhodes
Broyhill	Hightower	Ritter
Burgener	Hiler	Roberts (SD)
Butler	Hillis	Robinson
Campbell	Holt	Rogers
Carman	Hunter	Roth
Carney	Hutto	Rousselot
Chappell	Hyde	Rudd
Chappie	Ireland	Sawyer
Cheney	Jeffries	Schulze
Clausen	Johnston	Shaw
Coleman	Kazen	Shelby
Collins (TX)	Kemp	Shumway
Conable	Kindness	Siljander
Corcoran	Kramer	Skeen
Courter	Lagomarsino	Smith (AL)
Coyne, James	Latta	Solomon
Craig	Leath	Spence
Crane, Daniel	LeBoutillier	Stangeland
Crane, Philip	Lee	Stanton
Daniel, Dan	Lewis	Staton
Daniel, R. W.	Livingston	Stenholm
Dannemeyer	Loeffler	Stratton
Daub	Lott	Stump
Davis	Lowery (CA)	Tauzin
de la Garza	Lujan	Taylor
Derwinski	Lungren	Thomas
Dickinson	Madigan	Trible
Dornan	Marlenee	Vander Jagt
Dreier	Marriott	Walker
Duncan	Martin (NC)	Wampler
Dunn	Martin (NY)	Weber (OH)
Edwards (AL)	McClory	White
Edwards (OK)	McCollum	Whitehurst
Emerson	McDonald	Whitley
Emery	McEwen	Wilson
Erlenborn	Michel	Winn
Evans (DE)	Miller (OH)	Wolf
Evans (GA)	Mitchell (NY)	Wortley
Fiedler	Molinari	Wylie
Fields	Mollohan	Young (AK)
Fish	Montgomery	Young (FL)
Flippo	Moore	

NOT VOTING—12

Alexander	Dougherty	Mattox
Bafalis	Heckler	Santini
Blanchard	Hefner	Shuster
Bolling	Levitas	Skelton

□ 1820

Mr. SILJANDER and Mr. SHAW changed their votes from "aye" to "no."

Mrs. SCHNEIDER, Mr. WEAVER, and Mr. FORSYTHE changed their votes from "no" to "aye."

So the amendment was agreed to.

□ 1830

The result of the vote was announced as above recorded.

Mr. ADDABBO. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. ROSTENKOWSKI, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7355) making appropriations for the Department of Defense for the fiscal year ending September 30, 1983, and for other purposes, had come to no resolution thereon.

DEFERRALS AND REVISIONS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 97-264)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Appropriations and ordered to be printed.

(For message, see proceedings of the Senate of today, December 7, 1982.)

ANNUAL REPORT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Energy and Commerce.

(For message, see proceedings of the Senate of today, December 7, 1982.)

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair would like to make the following announcement.

We have completed the formal business of the day. When the House adjourns, it will adjourn to meet at 2 o'clock tomorrow.

The Chair appreciates the fact that we stayed very late last night, and tomorrow we expect to stay and finish the Defense appropriation bill. We will be working late tomorrow night.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5133, FAIR PRACTICES IN AUTOMOTIVE PRODUCTS ACT

Mr. BEILENSON, from the Committee on Rules, submitted a privileged report (Rept. No. 97-946) on the resolution (H. Res. 622) providing for the consideration of the bill (H.R. 5133) to establish domestic content requirements for motor vehicles sold in the United States, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PRESIDENT DE LA MADRID'S INAUGURAL ADDRESS

(Mr. DE LA GARZA asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DE LA GARZA. Mr. Speaker, I know that you will agree with me that the extraneous matter which I submit for your perusal, the inaugural speech of the newly inaugurated President of Mexico, Lic Miguel de la Madrid Hurtado, will make interesting reading.

Mr. Speaker, as an official guest of the Government of Mexico I was privileged to attend the inauguration of Lic Miguel de la Madrid Hurtado, the new President of Mexico.

When President de la Madrid made his first address to the nation as its President he described a challengingly strong course for his country to follow.

Mindful of the impact of the new President's speech will have on the entire hemisphere, I would like to share with you the entire text of President de la Madrid's inaugural address.

MIGUEL DE LA MADRID, PRESIDENT OF MEXICO, INAUGURAL ADDRESS, DECEMBER 1, 1982

Honorable Congress of the Union, Mexicans: I have sworn before you to observe and protect the Constitution and the laws of the Republic, to carry out loyally and patriotically the duties of the office conferred upon me by the people, and to seek in all things the well-being and prosperity of the Union. That oath is not a mere formality, but the most solemn declaration of the political, legal and moral obligation I hereby assume to the people of Mexico.

In line with those imperatives, I shall make the Presidency of the Republic the instrument of guidance and service that the framers of the Constitution designed for leading the nation towards the goals set by the sole legitimate author of our history—the Mexican people.

I shall govern in accordance with the Constitution and the laws. I shall govern with the purpose of pursuing the high objectives they set forth. I shall govern with the purpose of preserving and strengthening national independence; of protecting and increasing the enjoyment of individual and collective freedoms; of enriching democratic participation in political, economic and cultural affairs, and of fostering the fraternal and harmonious community life of all Mexicans. I shall govern with the purpose of preserving and reinforcing the peace of the Republic.

I shall govern within the framework of a rule of Law. My administration will subject its action to the law. I shall respect and exact respect for the legal system born out of the Mexican Revolution. That is the way to guide free community life and social efforts towards justice. I firmly believe that there are no rights that run counter to the law and that the more we obey the laws, the less we will have to obey men.

Our State of Law, as mandated by the Constitution of 1917, is a strong State. The strength of the State guarantees the unity of the nation, ensures our independence and enables us to carry out the mandate for social change. The Mexican State is strong, not because it arbitrarily imposes its will, but because it rests on the consensus of the majority. We shall preserve its strength, for there can be no justice with a weak State, nor can any State be strong without freedom or with injustice. We shall strengthen ourselves in the laws, freedom and justice that are our justification.

I shall govern in accordance with the mandate I received at the polls. I tried to make the elections a true plebiscite on ideology and programs. To that end, I conducted my election campaign as an intensive process of consultation with the people. I probed the nation's sentiments, in order to draft a premise and objectives that would be based on them. The people voted for a detailed and specific platform in the elections marked by the heaviest voter turnout in our history. As a result, I received a clear mandate to which I must adjust the action of my administration. Those are the foundations of the administration I am beginning today at the behest of the nation. We will not have to propose new doctrines, because we already have the doctrine that has been given its legitimacy by our history—the doctrine that has sustained the national consensus under all kinds of circumstances, and the one the people upheld on July 4th. My ideological commitment is to the Mexican Revolution.

Today we begin a new chapter in Mexico's history. We do so within the tradition of the popular movements that spur and guide us: the Independence, the Reform and the Revolution. We shall draw upon the contributions made at each stage of our history, through the efforts of each administration, and, of course, upon the progress achieved under the direction of Jose Lopez Portillo. We owe many accomplishments to his administration: the strenthening of our federalism; a great thrust to economic activity and employment: outstanding advances in energy and food supplies; significant increases in education and social security; support to marginalized groups; the political reform; the administrative reform; the basic stages of the National Planning System; the reaffirmation of the State's guiding role; the nationalization of the banking system; an era of broad freedoms, and an active and dignified foreign policy. My recognition and appreciation for the efforts and accomplishments of Jose Lopez Portillo.

In beginning this new state, we must recognize and accord its proper value to the national heritage we Mexicans have built.

We have an extensive infrastructure; a major industrial plant; the fourth largest oil reserves in the world and extractive facilities of the first order; abundant agricultural, forest, fisheries and mining resources; great tourism potential. Communication media and routes link all parts of the country together. We have educational, healthcare and social security systems; administrative and cultural cadres; responsible workers and able, nationalistic entrepreneurs; and a system of freedoms firmly grounded in a basic consensus of the people. We have achieved much, thanks to the effort of all Mexicans.

On the other hand, I am aware that I am assuming responsibility for the Republic's government at a difficult time.

Mexico is undergoing a grave crisis. We are suffering inflation that will reach almost 100 percent this year; an unprecedented public-sector deficit fuels the fire of inflation, while savings to finance public-sector investment are lacking; outdated prices and rates of public goods and services place state enterprises in a deficit position, conceal inefficiencies and subsidize high-income groups. Weakness in the dynamics of productive sectors has slowed our growth rate to zero.

The flow of foreign currency into the financial system has been paralyzed, except for that from exports of oil and a few other public-sector products and from loans to that sector. Our public and private foreign debt has reached inordinate proportions, and debt servicing imposes an excessive burden on the budget and our balance of payments and drains off funds needed for productive investments and social expenditures. The tax collection system has been undermined and its inequities consequently accentuated. Foreign credit has been drastically reduced, and domestic savings and investment have been discredited. Under these circumstances, the productive plant and employment are seriously threatened. Thus, we are confronting the highest rate of open unemployment in recent years. Mexicans with low incomes are finding it increasingly difficult to satisfy basic subsistence needs.

The crisis is evident in the expressions of mistrust and pessimism regarding the country's ability to fulfill its immediate requirements. It is evident in the emergence of discord among classes and groups; in the angry search for the guilty; in the mutual and growing recriminations; in the feelings of despair and discouragement and in the exacerbation of individual and sectarian egoism, all of which are tendencies that corrode the solidarity essential to community life and collective effort.

An atomosphere has spread that encourages the enemies of the system, built through the people's extraordinary democratic effort, to rush in to condemn it indiscriminately and to foster doubts about our historical course.

This is the national outlook. We point out assest and advances in contrast to liabilities and difficulties in order to maintain a realistic perspective, taking neither an Apocalyptic nor an ingenuous view of the grave circumstances we face. We are confronting difficulties, serious difficulties, but we are not a defeated or bankrupt nation.

The crisis is taking place in international context of uncertainty and fear; a deep recession is in the making. There are trade wars, even among allies, and protectionism in the guise of free exchange. High interest rates, the drop in raw materials prices and the rise in the prices of industrial products are driving many countries to insolvency. In addition to world economic disorder, there is political instability, the arms race and the struggle between great powers to expand their spheres of influence. Never in recent times has international harmony seemed so far distant a prospect.

We are in an emergency. This is not the moment for hesitation or complaining; it is a time for definition and responsibility. We will not simply be carried along with the current. The situation is intolerable. I will not allow our homeland to crumble away through our fingers. We shall act, decisively and firmly.

By integrating our collective efforts in a great movement of national solidarity, Mexico will win out. At this time, more than ever before, we Mexicans have been able to experience and witness the fact that, over and above individual interests, lie the interests of the Republic and the future of our country. That is the national sentiment, which, as of today, we must transform into decided and vigorous action.

I am launching and Immediate Program for the Reordering of the Economy, the main purposes of which are to wage an in-depth combat against inflation, to protect employment and to reestablish the basic conditions for a dynamic, sustained, just and efficient development. Details and procedures will be announced during the first month of this administration. We shall begin work immediately. The severity of the crisis will determine the dimension of our efforts.

These are the ten points of our program:

First: *Reduction of growth in public spending.* I shall propose an austerity budget, strictly adjusted to available financial resources, which will maintain public services at a minimum acceptable level, uphold operational and investment priorities for our most needed programs, provide for payments on the debts we have incurred and limit the growth of current expenses to increase public saving.

Second: *Protection of employment.* I shall promote special programs for productive and socially useful work in the most depressed rural zones and in marginalized urban areas. Within our austerity plan, we shall redirect investment resources towards projects that generate a considerable use of manpower and we shall make adjustments in capital-intensive programs. To protect existing jobs, we shall promote a selective program of support to industry that will stress aid to intrinsically sound medium-sized and small enterprises, by such means as timely loans, priority treatment in access to currency, technical assistance and demand that is organized and stimulated by public sector purchases. Responsible and patriotic entrepreneurs—who form a majority—will merit my administration's respect for their legitimate rights and be accorded incentives for the tasks they undertake that further the interests of the majority of the Mexican people.

Employment is the fundamental value to be protected. We shall ask those who are the factors of production for moderation and responsibility in their negotiations, so as to keep wages and profits within reasonable bounds. We shall precisely define the contents of the basic food basket for popular consumption and shall reinforce the strict, effective and honest control of prices of the articles that comprise it, in order to defend the purchasing power of working families in the country and the city. Subsidies will be rechanneled and rationalized to this end with a view to a just reconciliation of consumer interests with production incentives.

Third: *Continuation of works in progress* with a selective criterion. We shall accelerate investment for prioritary and immediate production, decrease investment that is not indispensable, and cancel projects when they are found to be unnecessarily expensive or of a low-priority or improperly programmed nature.

Fourth: *Strengthening of standards ensuring discipline, proper programming, efficiency and scrupulous honesty in implementation of authorized public spending.* Financial responsibility will be the prime criterion in supervising and evaluating the performance of government officials. The exercise of budget outlays will be strictly regulated to eliminate squandering, waste or corruption.

Fifth: *Protection and encouragement of programs for the production, importation and distribution of basic foods for human consumption.* We shall combat speculation in this field. We shall improve and rationalize State intervention in the production, processing, distribution and consumption of foodstuffs for popular consumption so that the resources employed will really benefit the sector we are interested in protecting.

Sixth: *Increase in public income* to curb the unbirdled growth of our deficit and the consequent disproportionate rise in the public debt. I shall immediately promote a tax reform to increase the fairness of direct taxes, provide uniformity in indirect taxation and revise fictitious levels of untaxed items. This fiscal reform is also designed to increase tax revenues with a view to providing sounder foundations for financing public expenses. We shall take new steps in tax administration. We shall revise tax incentives to that they will support production and employment and provide sound encouragement for exports.

We will inevitably have to increase prices and rates for goods and services produced by the public sector, charging higher rates for those used by social groups with the highest relative incomes. He who has more must pay more; basic justice demands it. At the same time, we shall demand of administrators and request of workers in public enterprises, explicit efficiency and productivity commitments. This must be their contribution to the essential reordering of the economy to which we Mexicans must all be committed. We must face reality: we cannot tolerate the collapse of our public enterprises, the fundamental heritage of our nation.

Seventh: Channeling credit to national development priorities, while preventing speculation or the diversion of funds to financing purposes not justified by the production, processing, distribution and consumption of the goods and services required for general consumption or by the best interests of the nation.

We shall take care that the nationalized banking system performs with efficiency and honesty. Domestic credit and savings are based on trust. The Mexican Government will show its capability of fulfilling its responsibility through a trustworthy and efficient management of the national banking system. I will not permit rapacity, nor the use of bank credits for the political advancement of bank officers, nor banking procedures that affect the rights of depositors. I reject financial populism. We will offer attractive returns on savings, security in the management of public resources and productivity and efficiency in banking services, in order to avoid unjustified increases in the cost of credit.

The nationalization of the banking system is irreversible. We shall restructure our lending institutions in such a way as to ensure effective control of the nation through their association with the State. We shall propose new and creative formulas to avoid their bureaucratization, so that savings depositors, loan recipients and society as a whole—workers, campesinos, entrepreneurs—will have a proper share in the management and even in the partrimony of these institutions. To nationalize is not to "State-ize". The nationalized bank must belong to the people and not to a new minority group of directors.

Eight: *Regularization of the exchange market under the authority and monetary sovereignty of the State.* We shall adjust exchange control mechanisms to achieve a realistic and functional system that corresponds to the actual operation of the Mexican economy. We propose to recover its proper role in the exchange market for our national financial system and to maintain a realistic exchange rate that will encourage exporters and foster the acquisition of the foreign exchange needed to supply goods and services to our productive plant. We shall eliminate irrational exchange subsidies that affect the heath of public finances. We shall maintain a strict control over imports and gradually rationalize protection accorded to the various sectors to eliminate unwarranted profits that have a negative effect on the well-being of consumers. These steps will lead to a better integration of industry and will improve the competitive position of our products. We shall strive to reestablish objective conditions that will keep domestic savings in Mexico and prevent the flight of financial resources.

Ninth: *Restructuring of the Federal Public Administration* to increase its effectiveness and flexibility. We shall make use of the considerable progress that has already been achieved, rectify what has proved deficient and make the essential innovations. We shall make public administration subject to planning, order and the strictest possible application of rules governing the responsible conduct of government officials.

Tenth: We shall act under the principle of *guidance by the State* and within the *mixed-economy system* established by the General Constitution of the Republic.

For the purposes of affirming these principles and lending clarity and certitude to the path that we shall follow, I shall submit to the consideration of the Congress and the state legislatures, which have permanent constitutional amending authority, a proposal for amendments and additions to the Constitution of the Republic on economic matters.

Based on the operative principles in this field and on the will of the people as expressed in the July 4th elections, this proposal aims to reassert and strengthen the State's responsibility to direct and promote national development; to reaffirm and define harmonious and jointly accountable coexistence of the public, private and social sectors in our economic system; to ratify economic freedoms, subject to the public interest, and to establish at the Constitutional level a system of democratic planning for development.

The economic activity of the State and of individuals—whether they be from the social or the private sector—requires a clear legal framework that will strike a proper balance between the authority of the State and individual rights and liberties. This necessary harmony must be governed by nationalism, freedom, democracy and social justice.

With this ten-point program, we shall take our first step in responding to the crisis. All Mexicans must join in this great national task, mindful that no foreign aid or magic solution can do the job for us. Recovery will take time—the next two years. The first few months of our administration will be arduous and difficult. The present situation makes this so. Austerity is imperative; we shall see that it is enforced, and that the burden it implies is shared equitably.

I shall govern with a view to surmounting the crisis, but at the same time I shall also implement the six-year platform that the people voted for when they approved the seven general theses that emerged from the consultation of public opinion. From each of them we shall formulate a set of effective policies in order to start now to build the society defined by the majority of the nation's people. These campaign commitments will orient our government's activities and the work of the National System of Democratic Planning.

REVOLUTIONARY NATIONALISM

My conduct will be guided by revolutionary nationalism. It is the ideology that synthesizes our historic will to form a vigorous political, economic and social community; it is the consciousness of our identity and collective image. Revolutionary nationalism evinces loyalty to our traditions and customs, devotion to the land where we were born and to the meaning of our history; it is rooted in a democratic conviction; it undergirds the transforming power of the nation through the State, and it imposes upon us the obligation to overcome everything that jeopardizes our political or economic independence.

Revolutionary nationalism is the vital unifying force that can enable Mexicans to achieve the goals of the people. I shall strive to strengthen it; I shall maintain its transforming nature and I shall affirm its impact on social justice.

Revolutionary nationalism, as a national purpose, lives on and gains strength in the consciousness of the younger generations. Education is the nation's instrument for affirming its identity. The Constitution calls for public education to disseminate and instill democratic attitudes, egalitarian ideals, and pride in and defense of national independence. We shall most emphatically address the quality of education; we shall facilitate access of the people at large to higher education and organize a vigorous ongoing literacy campaign. More and better education for all is an imperative of Mexico's cultural, technological and economic independence.

Revolutionary nationalism is based on culture, and we shall promote the national and regional aspects of culture in order to preserve and enrich it. We shall make our culture an instrument of individual and collective liberation. We shall defend it against colonializing encroachment. We shall promote creative freedom and the enjoyment of culture by everyone. We shall improve knowledge of our history and devotion to the symbols of our native land. With strict adherence to our laws, we shall orient the use of government-owned communications media towards these high purposes.

Mexico's foreign policy is the synthesis and instrument of our revolutionary nationalism. The affirmation of our identity allows us to meet others on an equal footing; our values of independence, freedom, democracy and justice are projected beyond our borders in our respect for ideological pluralism and in the demand for a new international order.

Without pretensions to leading others, without dogmatism alien to historic conditions or false pragmatism lacking direction and purpose, we shall maintain a policy of principles—our principles. We are aware of the limitations imposed on them in a world of frustrated selfish interests and paralyzing economic insecurity, but we are also aware that repeating them regularly, with firm diplomacy open to negotiation, will serve to defend our own values and objectives and those of other nations seeking their development in independence and freedom.

With unshakable conviction, we shall continue to uphold the principles of self-determination of peoples, non-intervention, peaceful settlement of disputes, sovereign equality of States, disarmament for the preservation of peace, and equitable and efficient international cooperation.

Isolationism is not only anachronistic but impossible. Cooperation among free peoples is the only path to peace in an interdependent world. By improving the coordination of our action and strategies at home, we shall

be more effective in upholding our objectives and principles in our participation in international forums and in bilateral action.

We shall work to rebuild world economic and political security, and to strengthen seriously weakened international agencies, we shall work for peace and disarmament, for solidarity with the best causes of the developing world, to promote respectful and equitable relations with our neighbors, to strengthen Latin American brotherhood, for a just and peaceful solution to tensions in Central America, with respect for those nation's sovereignty and support for their development. We shall consolidate the links between our domestic and foreign policies, because we have set ourselves to improve our access to the benefits of international cooperation and to serve the highest national interest efficiently.

In order to strengthen our commitment to federalism, I respectfully urge the Senate of the Republic to exert its authority more dynamically in matters of foreign policy.

It is with genuine pride that I assume supreme command of the Armed Forces, fundamental institutions of proven loyalty and patriotism, efficiency and indisputable professionalism. Deeply identified with the people and demonstrating strict adherence to the law and unwavering nationalistic and revolutionary convictions, the Armed Forces are the country's greatest guarantee of national sovereignty and defense. To every possible extent, I shall strive to provide them with the means for fulfilling the noble mission assigned to them by the Constitution and for ensuring that members of the Armed Forces and their families will enjoy the same standard of living demanded by the rest of the population. I shall issue orders for the participation of the Armed Forces within their respective spheres of competence and in accordance with their internal discipline, in drafting the National Development Plan.

INTEGRAL DEMOCRATIZATION

We are committed to working towards the complete democratization outlined in our Constitution. We shall strengthen the separation of powers, federalism and the free municipality. We shall respect pluralism and all forms of political association and heed public opinion and the media with responsibility and freedom.

We shall not limit ourselves to perfecting the electoral process, but will also strengthen democracy in every sphere of society's life—in communities, neighborhoods, labor unions and political associations and leagues. We shall foster organization of producers and consumers and dialog between labor and management, so as to promote productivity and lay a better groundwork for the redistribution of income.

We shall maintain constant contact with the people. I will call for public debate to study the progress made in the political reform process, the function and make-up of the Senate of the Republic, citizen participation in the government of the Federal District, and the judicial reform. We shall strengthen the systems for keeping the nation informed on government activities. I shall keep democracy alive and well in Mexico.

EGALITARIAN SOCIETY

An egalitarian society is a demand stemming from the Mexican Revolution. Social inequality continues to be one of Mexico's most serious problems.

The struggle for equality involves dynamic action to achieve equity in the production and distribution processes and to expand stock capacity and opportunities. I reject populism which yields to mere expediency and causes society to regress. We shall combat inequality on a realistic, permanent and lasting basis.

We shall strive, with renewed determination, to achieve equity for all; every group and individual must help to the best of their ability to see to it that everyone receives the fair treatment he deserves. We shall strengthen the weakest sections by providing training, without false paternalism or demagoguery. We shall review all instruments of economic and social policy in light of their impact on distribution. We shall seek to ensure the effectiveness of social spending, avoiding special treatment that leads to injustice. We shall combat the most serious inequality in the country—that which exists between the rural and urban sectors—by every means available to us.

Our fundamental concern will be to satisfy the people's basic needs: food, housing, education, culture, recreation and sports. We shall raise the right to health care to constitutional status so as to lay the foundation for a solid, integrated national healthcare system; we shall give priority to preventive medicine, especially in the marginalized rural and urban areas. We shall attack the housing problem on all fronts: by setting aside land reserves, by administrative reorganization, new technologies, financing and support to owner-built housing. In the area of food we shall give the highest priority to production and supply policies, with emphasis on proper planning, effective implementation and equitable treatment for producers, distributors and consumers.

Beginning today we shall fight all inequality but in this area, as in all others, I must be sincere with Mexicans. As long as the crisis persists, we cannot make quantitative progress in the process of social justice; the immediate danger lies in the deterioration that day by day makes inequality more acute. The first step is to check that deterioration; we shall do so by an equitable balancing of the burden of costs and by fostering the qualitative changes that will give us solid support for progressing more rapidly toward an egalitarian society as soon as possible.

MORAL REGENERATION

The moral regeneration of society will be a commitment and a permanent standard of conduct for my administration. Through the example given by my government, beginning with my own example, I hope to encourage the commitment of all Mexicans, of each and every one of the sectors and of groups in all fields to strengthen our values.

Law, which is the synthesis of social morality and of the republican, democratic and revolutionary ethics created by Mexicans over the years, will be the fundamental guide for this regeneration. We shall update the constitutional provisions governing the accountability of civil servants and promote a new law on this matter as well as amendments and addenda to existing penal legislation. We shall introduce new techniques of government administration designed to prevent, detect, correct and, if necessary, to penalize unethical conduct on the part of government officials and employees.

I shall promote systems to put an end to illegal compensation and to render a clear accounting of the income of government officials. I shall regulate fringe benefits to which officials are entitled and prohibit the use of government goods and services for purposes other than those for which they are intended. We shall prevent illicit business practices in government construction or service contracts and in purchases by the government and its enterprises. I shall not allow government funds to be used to further the personal political careers of officials.

We shall put a stop to the unlawful misuse of government payrolls; we shall root out illegal conduct in the granting of authorizations, permits, licenses and concessions, and in the inspection and supervision called for by laws and regulations.

I insist: service in public office is not compatible with operating businesses whose activities are based on economic relations with the government. To do both is unethical. Either one governs or one makes business deals. Government office should not be used for anyone's personal gain.

We shall perfect the systems used for the management of State resources and strengthen the systems for the control and supervision of public administration.

To fulfill the objective of making the government of the Republic a model of conduct, I shall promote the establishment of a Federal Comptroller's Office, with the rank of Ministry of State, to systematize and strengthen the various activities involved in the supervision, control and evaluation of public administration. We shall make vigorous and decisive use of this new instrument.

I expect a dynamic and vigilant attitude on the part of the Chamber of Deputies and the Accounting Office of the Ministry of Finance toward the programs and budgets of the Federal Executive Branch.

The moral regeneration of society is a challenge to be faced by all Mexicans alike. We cannot allow the nation to weaken and decline. Our problems are so serious that it is only through moral regeneration that we will be able to overcome them. Mexicans are a deeply moral people and they demand that I pursue all forms of corruption. I shall do so. I will govern by example.

The people must be given the means of asserting their legitimate interests in dealings with the government. I am hereby instructing the Attorney General's Office to hold public hearings so as to sound out public opinion to be used in drafting bills and promoting actions to provide society with a better system for the administration of justice and of public safety.

We shall clean up and modernize the police departments of the federal government and the Federal District. People throughout the country are demanding this. We must act quickly. The police should be a guarantee of public safety and order, not a cause of their breakdown. We shall work out agreements with the state governments to support them in similar undertakings. The people are entitled to security for themselves and their families, and we shall make sure that they have it.

DECENTRALIZATION OF NATIONAL LIFE

We shall promote decentralization of national life. There can be no thought of the Republic's vitality without the full participation of the states in defining and implementing the tasks required by national development. We shall combat the centralization that saps our energy and inhibits far-reaching action.

Adopting one of the nation's demands as my own, I have decided to promote the transfer of preschool, primary, secondary, and normal school education—now administered by the Federal Government throughout the country—to local governments, to-

gether with the corresponding financial resources.

Well-founded reasons of a pedagogical, academic and administrative nature indicate that we should now return to the original educational system set forth in the Constitution of 1917, in which basic education was the responsibility of local and municipal governments. Through the Ministry of Public Education, the Federal Government will continue to direct and evaluate programs. The labor rights of the teaching profession and the autonomy of its union will be scrupulously respected.

I respectfully invite the governors of the states to participate wholeheartedly and decisively in this new task of strengthening state governments. The validity of federalism is the concern not just of the Federal Government, but of everyone. I know that we can count on your valuable support.

I invite the teachers of our nation, who have worked tirelessly in efforts for nationalistic change to collaborate in this movement to achieve real decentralization. The nation will be stronger for it.

Decentralization of national life will draw support from the vigor and enterprise of the states. We shall decentralize public health services to bring them closer to beneficiaries. We shall immediately propose to local governments that agreements be drafted to enable them to take charge of programs in other areas. We shall revise the distribution of functions in order to bring about a new division of responsibilities among the three branches of government.

We shall continue the consolidation of free municipalities; political autonomy depends on economic self-sufficiency. We shall initiate amendments to Article 115 of the Constitution by proposing that the Congress and state legislatures, which have permanent authority to amend the Constitution, assign to the municipalities their own inviolable sources of income with which to provide the public services in their charge. We shall thus comply with widespread demand voiced in our consultation with the people.

The time has come to create the conditions that will enable the municipalities to rely less on federal contributions and more on their own tax programs. We shall soon invite tax authorities throughout Mexico to join in designing a new scheme for the division of authority on these matters.

One of the major challenges where decentralization is concerned is the intolerable growth of Mexico City and its metropolitan area. We must take energetic steps to curb the accelerated growth of the area by offering other settlement possibilities. We shall protect the quality of life in our capital, which, because of its macrocephalic growth, is suffering serious deterioration that we must combat. Special attention must be given to the urgent problem of transportation.

DEVELOPMENT, EMPLOYMENT AND THE FIGHT AGAINST INFLATION

The people have declared themselves in favor of a strategy designed to promote development and employment and to fight inflation. The measures enumerated in the ten points are based on these objectives. In addition to implementing these immediate policies, we shall also adopt other parallel policies for addressing and promoting the structural changes required by our economy. We shall tackle the problems of inadequate domestic savings, low productivity, the poor competitive position of our products abroad, and social inequality. We shall do so by means of far-reaching and unremitting action.

We shall give high priority to the needs of the Mexican campesino. We shall diversify his job opportunities by giving added impulse to agroindustry. We shall make rational use of agricultural, forest, livestock and fishery products. We shall make land tenure secure. We shall improve conditions in rainfall-dependent areas and introduce planning techniques in rural areas. We intend to broaden the social development of Mexico's agricultural sector.

We shall democratize, modernize, and streamline the government entities in charge of agriculture. We shall give no quarter in our fight against all the corrupt practices that fleece the Mexican campesino. We will promote production and justice in our countryside.

Energy sources are an inalienable part of the nation's heritage. We shall continue to rely on petroleum to support our development, seeing to its rational utilization for the benefit of present and future generations, and without thinking of it as a panacea that saves us from the need to work on other aspects of our development. I will pay special attention to the appropriate planning and efficient and honest operation of our petroleum industry, the mainstay of our economic nationalism. We shall apply this same criterion to our electric industry.

We shall modernize the state-affiliated, private and public industrial plant, employing firm high-productivity criteria that prevent waste, incorporate technological change and maintain national priorities. In view of the prevailing world economic instability, we must do this if we want to keep Mexico a sovereign and viable country, expand our domestic market, and also participate effectively in the flow of international trade. We need to carry out a real revolution in technology and productivity. We shall spare no effort in bringing about this transformation, which can no longer be delayed.

We shall address the ecological problem and the preservation of the environment in such a way as to improve the quality of life and protect man and our natural resources. We shall reinforce the national awareness of the importance of ecology, an essential factor in the protection of our environment.

I shall not govern solely to overcome present adversity. I know the immediate and medium-term needs of my compatriots; I shall govern decisively, so as to bring about a future of well-being for all Mexicans. We shall work for our children and for our children's children. We must take care of the country that we want for them, and make it greater still. We can and must do it.

DEMOCRATIC PLANNING

A political system that is incapable of regularly voicing popular demand is condemned to failure. State action must be planned as the coherent product of the aims, desires and expectations of the majority of its citizens. Planning, to be democratic, should incorporate the vitality and creative participation of society as a whole and arouse the enthusiastic and fruitful participation of all Mexicans in the great national tasks that cannot be undertaken by the government alone.

In coming days I shall send to this Honorable Congress a bill outlining the National Planning System. With this system, we shall integrate the states and municipalities into our mixed economy system, with all due respect for their sovereignty and regional interests, in order to strengthen our joint national action. We shall institutionalize an ongoing process for consulting public opinion that will enable us to adapt plans to changing conditions and will provide the means for keeping public officials in constant contact with the opinions of those to whom they are responsible.

This bill is based on the constitutional principle of guidance by the State. Governments cannot abdicate either the responsibilities or the specific mandate given them by the people. For this reason, we are proposing mechanisms for consulting the opinions of the different sectors and organizations and of the general public, and for their efficient participation in the decisions programmed. Within this framework, in May of next year I shall present to the country the 1983-1988 National Development Plan.

Honorable Congress of the Union, Mexicans: I demand hard work and solidary responsibility on the part of all Mexicans. The country's economic conditions will impose great sacrifices upon us in the short run. But we shall address ourselves to the basic needs of the population, we shall put the economy on a sound footing, we shall fulfill our commitments abroad, and we shall steadfastly maintain the free and democratic functioning of society and of the State.

I cannot offer major quantitative changes in the near future, nor any sudden improvement in our situation. To surmount the crisis we must work, produce and save with greater intensity and quality than ever before. Within this framework of severe limitations, however, we propose to carry out the changes that will profoundly transform the nation.

This is the challenge and that will be our victory.

We shall not overcome the crisis by aspiring to return to the conditions that preceded it. It would not be worth the effort or the sacrifice, nor would the people accept it. We are going to create a different and better chapter in our history.

We shall not overcome the crisis merely by paying the consequences; that would only make it recurrent. We will overcome the crisis by doing away with the causes that produced it, by making the qualitative changes that will lead us to a new society. We have the necessary tools: the principles, the institutions, the political will, in a great country endowed with abundant natural resources and an unshakable attachment to the native land we love so well.

We shall make qualitative changes in our democratic life. We shall move decisively and fearlessly toward higher levels of civic participation. The State is society organized into a structure, not a structure empty of content. We shall not "State-ize" society; that would be totalitarianism. We shall seek changes that imbue State structures with all the vitality and creativity of civil society, to and from the State, respecting freedom and with an unwavering commitment to justice, we shall give new impetus to the integral development of society and individuals. We have made progress in political democracy; let us now set about making even more progress in social democracy so as to break down the barriers raised by limited participation and by structures that disregard society. Let us seek not just a larger State, but a greater integration of society into the State. People are the priority.

We shall promote changes in conduct. We shall renew social morality. I shall make use of all my authority. I shall require each and every one of my associates to conform to

the highest standards of public honesty. In this there shall be neither compromise nor toleration. New laws and undeniable political determination will be the government's contribution to this process. A new civic conscience—which we shall foster by using all the communication and social education media—will be the primary guardian of public morality in both governors and the governed.

We shall promote the meaningful nature and value of work, as well as discipline, perseverance, thrift and civic responsibility, the awareness of a solidarity present and a common future, and foster appreciation of what is our own, pride in being Mexican, and the love of our native land. These are not mere concepts or phrases; they are the qualities that have enabled us to become what we are and those we must cultivate if we are to eventually become a prosperous nation in every sense of the word, capable of ensuring independence, liberty and justice for all.

We shall reestablish confidence in the country and in ourselves. Confronting the difficult circumstances that afflict us, we shall restore confidence based on the certainty of every individual and group of their inalienable rights and on their awareness of their grave responsibilities. Respecting both those values, each of us can do his work, and will do his work, because that is the conviction of all.

With history as our witness, we strongly assert our confidence in our national greatness and our indestructible future. We need only recall that we have forged a nation of free men from a structure of colonial domination and oppressed castes; that we have forged a developing society in the face of all types of obstacles, in the midst of an adverse geography and a poor society. We need only realize that we are respected the world over as an original and independent people. We shall move forward, reaffirming our confidence in Mexico.

As President of Mexico, I will do my part to the limit of my abilities and with full awareness of my supreme duty to serve the nation. I will speak truthfully. I will tell the people what can be done and what cannot be done. I will say what has been accomplished, where we have failed and the reason for each failure, demanding accountability and recognizing the limitations the circumstances impose on us.

I will govern with realism, adhering to principles—with realism in the analysis and design of practical policies to broaden our scope of action. I will govern with imagination but avoid fantasy.

I will govern for all Mexicans. The interest of each one shall be my guide, and his right the limit of my authority. I shall do this without forgetting my irreversible commitment to our nation's majority groups—the campesinos, the workers and the middle classes who supported me with their votes. I will do so thanks to the collective strength of a revolutionary movement that established, along with social rights, individual liberties and social and political pluralism, for which, with that same collective strength—both democratic and emancipatory—we shall demand respect. I will govern with the strength of the men and women of Mexico and with the vitality and idealism of the country's youth.

Today, fellow countrymen, let us set to the task of national recovery, with everyone on his feet, enthusiastically and vigorously prepared to make the sacrifices the moment requires, prepared to show generosity and patriotism; with all of us prepared to carry on the achievements of Mexico, those of the Mexico of yesterday, rich in heroism; those of the Mexico of tomorrow, rich in possibilities; those of our Mexico, the eternal Mexico.

Long live Mexico!

H.R. 746, REGULATORY REFORM

(Mr. LEVITAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. LEVITAS. Mr. Speaker, I take this time to call to the attention of the Members of the House that the Rules Committee has announced that on this Thursday they will resume consideration of a rule for the Regulatory Procedures Act, regulatory reform, and that this rule, when granted, will make it in order for the House to complete action on this important legislation which passed the other body 94 to 0 earlier this year.

Mr. Speaker, in light of the specific commitments which have been made by the leadership of this House, it seems to me that we now have the opportunity for final action on this important legislation that the American people have been waiting for, for so long.

Mr. Speaker, I would like to put in the RECORD correspondence between the Speaker and the President of the United States and a colloquy between the majority leader and myself relative to the commitments which have been made. I have no doubt, Mr. Speaker, that the solemn commitments which have been given with respect to the consideration of this legislation before the end of this Congress will be honored by all the parties concerned.

The material follows:

THE WHITE HOUSE,
Washington, August 18, 1982.

Hon. THOMAS P. O'NEILL, JR.,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: I am writing to ask your urgent attention to H.R. 746, the regulatory reform bill that was approved by the House Judiciary Committee last year. The bill still has not been considered further by the House, and time is critically short for action to be completed this session on this important reform legislation.

Within the first few days of my Administration, I made reform of the federal regulatory system one of the top priorities of my Administration. I directed all executive agencies, consistent with regulatory statutes, to eliminate unnecessary regulatory burdens and ensure that all new regulations were as cost-effective as possible. I established a review process to see that these policies were carried out.

These regulatory reform policies have been a basic element in my Administration's program for economic recovery; they have had bipartisan support; and they have, I believe, been successful. The growth and burden of federal regulation have been substantially reduced. Already, many billions of dollars have been saved. Important health, safety, and environmental objectives have not been compromised; in many cases they have been advanced.

The principle behind these reforms is straightforward. The expenditure of resources required by regulations is every bit as costly to the economy as the resources taxed and spent directly by our government—and should be just as carefully controlled as our tax and spending policies.

If these reforms are to be continued and expanded to embrace the several "independent" regulatory agencies, it is essential that they be enacted in statutory law. For several years, Republicans and Democrats in both Houses of Congress have been working on legislation that would enact many of the elements of my regulatory reform program. As you know, the Senate passed regulatory reform legislation on March 24, 1982. S. 1080, sponsored principally by Senators Laxalt and Leahy, was approved by a vote of 94-0, and there were indications of early consideration and passage of the House version.

The time has now come for consideration of this legislation in the House. I know that, in recent weeks, our representatives have been discussing this legislation in a constructive spirit. I am concerned, however, that the bill has been delayed so long as to raise questions as to whether the bipartisan manner in which the legislation was passed in the Senate, and which has prevailed in the House as well, will continue so that the legislation may now proceed to prompt floor consideration. No elected officials should object on partisan grounds to stricter review of regulations to ensure that they implement statutory programs in a balanced and cost-effective manner. At a time when direct government spending is under such critical review, we simply cannot afford "business as usual" where regulations are concerned.

Mr. Speaker, on this issue we can join forces to establish lasting reforms to the regulatory process. I therefore ask you and your colleagues to pass H.R. 746 so that action may be completed on this legislation before the end of the 97th Congress.

Sincerely,

RONALD REAGAN.

U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C., August 19, 1982.

Hon. RONALD REAGAN,
The President,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I am writing in response to your recent letter concerning House consideration of H.R. 746, the regulatory reform legislation.

As you know, Congressman Elliott Levitas of Georgia has been a tireless advocate of this legislation. Largely as a result of his persistence, I directed my staff to scrutinize this legislation, and work with the business community, administration representatives and other concerned parties to work out a regulatory reform package that meets the objectives of regulatory reform without unnecessarily burdening federal agencies.

This legislation will make lasting changes in the way our government functions. These changes impose time consuming requirements that will involve additional burdens for federal agencies. These major changes to our basic administrative laws risk leading to expensive and time consuming litigation. Procedural changes, if not crafted with extreme care, could alter underlying substantive statutes. New opportunities to chal-

lenge agency actions in court might serve only to interfere with the ability of the government to function smoothly. Moreover, the changes in this legislation which affect independent agencies must be subjected to the most careful scrutiny, since these agencies have been set up so that neither Congress nor the President can determine their policies.

My staff reports to me that these discussions have progressed well and that a series of amendments to improve the House bill are close to completion. I am optimistic that work on these amendments can be completed quickly. I intend to schedule this matter for House consideration as soon as this work is completed, with the objective of completing House action on H.R. 746 by mid-September.

Sincerely,

THOMAS P. O'NEILL, Jr.,
The Speaker.

[From the CONGRESSIONAL RECORD, Oct. 1, 1982]

REGULATORY REFORM BILL

Mr. LEVITAS. Mr. Speaker, I asked for this time in order to engage in a colloquy with the distinguished majority leader.

A number of Members have spoken to me during the afternoon and evening of yesterday and today with respect to H.R. 746, the regulation reform bill which has a great deal of support, and which was in the midst of hearings before the Rules Committee yesterday at the time the balanced budget issue came up, and as a result of that and that alone, I am told further proceedings were suspended on the regulation reform bill rule.

The distinguished chairman of the Rules Committee, the gentleman from Missouri (Mr. BOLLING), this afternoon informed me that it was his intention to resume the hearings on the regulation reform bill during the lameduck session in a timely manner so that there would be adequate time to consider such a rule.

And my question to the distinguished majority leader is what would the intentions be of the leadership with respect to consideration of that bill.

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Texas.

Mr. WRIGHT. Mr. Speaker, I would like to point out that the bill to which the gentleman refers was scheduled by the leadership for consideration in the House this week subject to the granting of a rule. I know of no Member in the House who has been more diligent than the gentleman from Georgia in pursuit of that bill, and in the promotion of that legislation.

It is my understanding that due in large part to the diligence of the gentleman from Georgia many of the misunderstandings and concerns that earlier existed now have been resolved.

It still is the purpose of the leadership to schedule that bill upon the granting of a rule. If the understanding of the gentleman from Georgia is correct, assuming the granting of a rule, after this Congress returns in late November, it had been and will be the purpose of the leadership to schedule it for consideration in the House.

Mr. LEVITAS. I thank the majority leader for that information.

DEATH OF JOHN W. McCORMACK II

(Mr. MOAKLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MOAKLEY. Mr. Speaker, it is with great sorrow that I rise to advise the House of the death of John W. McCormack II, during the recent congressional recess, on September 27. Jocko was the beloved nephew of the late Speaker John W. McCormack and brother of Attorney General Edward McCormack.

Mr. Speaker, I express my condolences to Jocko's family—his beloved wife, Lorna; his son Sean; his mother, Mary; and his brother, Edward. Theirs is a loss shared by myself and all of Jocko's many friends.

His uncle, the Speaker, whose name he proudly bore, was an inspiration to Jocko. And Jocko, in turn for a source of pride to John and Harriet, who had no children of their own.

Although Jocko himself never ran for public office he was active in civic and community affairs in my town of South Boston and in Framingham, where he settled and raised a family. Jocko was never too busy to lend a helping hand to a friend or neighbor and will always be remembered, by all of us who counted him our friend, for his kindness, his charity, and particularly his sense of humor. All of these qualities he retained even in the adversity of his difficult last year.

Mr. Speaker, again I express my condolences to Jocko's family and to his coworkers at Canteen Corp., an organization to whose growth and success he contributed significantly during his many years of association with them. Mr. Speaker, under leave of the House, I would place in the RECORD at this point the moving tribute to Jocko delivered by his friend and employer, Pat O'Malley:

EULOGY FOR JOHN W. McCORMACK II, SEPTEMBER 30, 1982

In the hushed hours of dawn on Monday, September 27, a kindly Providence claimed a great and gallant guy, John W. "Jocko" McCormack. His name was synonymous with respect—his trademark an extraordinary sense of humor. His convictions were firm—his thinking flexible. Beneath his rugged exterior gleamed a sensitive and compassionate nature. The living of many has been enriched by his warm friendliness, his depth of understanding, and his ready willingness to give of himself. He served the Navy and the United States of America with love, loyalty, respect, pride, and dedication. His heroism won for him a Presidential citation following World War II.

Today there is a great void in our ranks, a shattered star in our constellation, but the warm and vibrant image of "Jocko" remains engraved in our minds and deep within our hearts.

We cannot help, Dear Lord, but be sad at the loss of one who has brought so much laughter and so much love into our hearts and who exemplified so beautifully how to live gracefully in spite of tremendous physical pain and suffering.

"Jocko" had a great appreciation of this life because he knew how to live it. He never had the time nor the inclination to just sit around and await God's call. He was indeed a special and beautiful man—strong in determination and courage and filled with enthusiasm for life, love, beauty, people, and fun.

We pray this morning that the spirit of John McCormack may live, as we strive to possess and share the gifts of dignity and intelligence, of candor and compassion, of fidelity and enthusiasm which he bestowed on all who knew him. He carried warmth and affection with him always. He never thought of himself as great, although that is what he was. Those who thought they knew "Jocko" from one pattern of discourse were ever mistaken. "Jocko" had no single inspiration from which he drew his enthusiasm and verve for living and by which he shaped his life, but he was careful to deny no source that might help him live it more deeply, more justly, and more meaningfully. The warmth and affection "Jocko" had for his fellow man, the dignity of his carriage, and the contagious cordiality of his smile and humor magnetized every gathering of people. To all who knew him he gave matchless talent for life, and he radiated a strength of character and mind that excelled any we can imagine in one individual. The adversity and pain with which he has lived the past year would cripple the minds of most of us. "Jocko" rose above these circumstances. He was a master of "mind over matter" and ruled his body as if it were an inanimate object. He was always in control of himself. Because he did not manipulate, he could not be manipulated. Because he was open, he had no taste for cunning. Some who knew him chiefly for his love of life and his rare sense of humor may be surprised at the deep spiritual qualities which he possessed. He never wore them on his sleeve, but I know how happy he was when last Sunday Monsignor Sullivan quietly entered his hospital room and gave him communion and absolution just before he entered the gates of Heaven.

"Jocko" loved his home in Framingham, and he loved his beautiful wife, Lorna, with whom he truly enjoyed over twenty-five years of all the joys, the sorrows, and the romance of a happy marriage. Listen to this letter "Jocko" wrote Lorna just after his first illness:

DEAR LORNA: I just got through talking with you, and I know that I've never been demonstrative with words. I want you to know I bless the day I met you. I love you with all my heart. You have not only been a good wife and mother but, to an undeserving guy like me, you have been an inspiration.

All the fancy words and flowery phrases are encompassed in "You are—I am".

JOCKO.

Lorna; Sean; His mother, Mary; and his brother, Edward, were the core of his life. What pride he took in Sean's accomplishments in sports and at school, and what pleasurable anticipation he had for Sean's future. Following are excerpts from a letter "Jocko" wrote to Sean when Sean was fourteen months old:

Sean, you are now fourteen months old, and this letter is being written today to be opened on your sixteenth birthday. Mom and I truly love you and always will. Remember, as you grow beyond sixteen, that

you have a beautiful, loving mother. If I could write your script for life, and I hope some day I can, I would want you always to profess your faith in God, keep a clean body and mind, be friendly and understanding. Always be your own man and know that in this life you must work for whatever you have a right to expect out of life.

Who among us would have believed that "Jocko" would write such heart-warming letters?

"Jocko" loved Canteen, where he was our business associate for over eighteen years. Just a few days before his death he sent to our president, Jim McGuire, a chronological summary of his association with Canteen, naming in loving terms all those with whom he worked through the years. Many of those names had long since been forgotten by Jim and me.

He truly loved South Boston, where he was born and where he frequently visited his beloved mother, Mary, until sickness slowed him down.

"Jocko" shared that kind of love which, I am sure, God reserves for those who love Him. But he did not keep his love to himself. He gave it to family—to friends—to strangers—to neighbors—Yes, to all who needed love.

You and I experience today that dreadful tension which can only be felt by the believing friend. It is the tension between the joy which is real but is so difficult to acknowledge through our tears—the joy which comes from the understanding that God is giving the vision of Himself to one whose life was lived so lovingly—and the sorrow that, in His wisdom, He has left us lonely and bereft, deprived of John's kindness, humor, laughter, love, and warmth, upon which so many of us have come to depend. The sorrow—that deep and most painful sorrow which each of us experiences this morning—is cruel beyond measure and meaningless unless we believe that Jesus died and rose again and that, with Him, God will bring rest to those who have died through Him. We are admonished to comfort one another with these words, for without them there is no comfort.

"Jocko" lived with the joy of a man who loved life, who lived it to the fullest with uncompromising integrity, and who shared the best of what he had with all those who walked the road with him. How he loved to tell humorous and loving stories about his dad, whom he affectionately called "Knocko", and his uncle and close friend, Speaker John W. McCormack, whose name He bore so proudly. "Jocko's" story of his dad leading the South Boston St. Patrick's Day parade on a horse borrowed from the city barn is a legend that will live in memory.

He loved and was loved. All of us have been blessed by his life, his patriotism, his friendship, and we all rejoice in having known him.

And so this morning each one of us must be filled with gratitude because this man lived. He has now returned to his Maker without fear in his heart. I don't know how things are organized "up there", but I've got news for that illustrious company—something new and beautiful has been added, and if a few of the saints have grown a little stuffy through the ages they had better shine up their halos and get with it, because, now that "Jocko" has arrived, it will never be stuffy any more.

To Lorna and Sean—to his mother, Mary—and to his brother, Edward, and all members of John's family—you must believe that, from his place in Heaven, he will support you, strengthen you, and always be with you. May God be merciful to his gentle soul, and may he find rest for eternity with him in paradise.

Good-bye, "Jocko". We loved you, and we shall forever miss you.

□ 1330

CELEBRATING 100 YEARS OF ONTARIO'S HISTORY

(Mr. BROWN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BROWN of California. Mr. Speaker, at this time I invite my colleagues in the House to join me in the pleasure of celebrating the centennial anniversary of the city of Ontario, Calif. On December 11, 1982, citizens and friends of Ontario will gather to commemorate this occasion and celebrate the beginning of the city's second century. This ceremony promises to be most memorable and is one which I am most pleased to attend.

The city of Ontario, along with the Ontario Chamber of Commerce and the Ontario Centennial Committee, have sponsored numerous events throughout the past year in order to publicize and celebrate the city's 100th anniversary. I would like to take this opportunity to applaud the efforts of the members of these organizations, and all other Ontario citizens who have contributed to the success of the Ontario centennial celebrations.

The original Ontario colony was founded in the fall of 1882 by George and William Chaffey. It initially encompassed 6,216 acres purchased from Capt. J. S. Garcia and the Kincaid Ranch which were located near the mouth of the San Antonio Canyon. The colony was conceived as a model agricultural community with mutually owned irrigation and hydroelectric power programs.

It has been said that the plan of the Chaffey brothers for their new colony of Ontario was one of the most perfect ever formulated for colonization. This plan was considered superior because of the four principles on which the colony was founded. These principles included: First, a main thoroughfare connecting one end of the colony to the other; second, the equal distribution of water resources to each agricultural lot, irrespective of its distance from the source; third, the establishment of a college of agriculture; and fourth, the inclusion of a revisionary clause in the deeds to each allotment forbidding the sale of liquor, in order to secure the best possible class of settlers.

Influenced by these guidelines, the community soon expanded and prospered as colonists began to settle in substantial numbers. The original colony territory was soon augmented by the purchase of railroad and government lands, in addition to the extensive acreage obtained by the purchase of land from private individuals.

Development then proceeded rapidly throughout the Ontario area. By March of 1883, the colony was in need of a post office, which was established with L. Alexander as postmaster. In 1883, a school district was formed, and the first Ontario public school was established March 8, 1884. By 1886, the community had witnessed the opening of an agricultural college, and the initial beginnings of a public library and reading room.

Land sales were numerous throughout the rest of the 19th century, as Ontario gained recognition as an extremely productive spot within the Citrus Belt. Further impetus to Ontario colony development was soon provided by the passage of the first Santa Fe train through the nearby Cajon Pass.

Community improvements occurred steadily during the later part of the 1800's and throughout the 20th century. Irrigation and flood control systems were constructed, streets were graded and paved, sidewalks were laid, and a unique mule-powered rail system operated along the beautiful Euclid Avenue.

The San Antonio Electric Light & Power Co. was organized in 1891 for the purpose of furnishing electricity to the Ontario, Pomona, and Redlands areas. This company is credited as being the first plant in the United States which transmitted electricity over long distances. Power from this plant was used to electrify the Euclid Avenue rail system in 1926, thereby rendering the mule-powered system obsolete.

From these worthy beginnings, significant accomplishments have ensued. Nine years after the Chaffey brothers founded the original colony, the city of Ontario was incorporated under the laws of the State of California on December 11, 1891. Ontario has since developed into a general law city which operates under a modified city manager form of government. It is governed by a city council of five, which is chaired by the mayor.

Under this system, the city has evolved well beyond its initial development of citrus groves and vineyards. An Ontario airport was established in July of 1923 by the Ontario Aircraft Corp. This occurrence made Ontario the second city in southern California to establish a municipal airport. Today, Ontario International Airport, run by the city of Los Angeles, is a multimillion-dollar facility which handles over 1.8 million passengers annually. Thus, Ontario is now a center for aircraft transportation, construction, and maintenance. The city also con-

tains a variety of manufacturing and packing industries which contribute substantially to Ontario's expanding economy.

Ontario today is a growing and vibrant community with a population of over 88,000. The city's business and professional communities have grown significantly in recent years and its citizenry is pleased with, and indeed proud of, the progress achieved from the city's balanced development.

As Ontario enters its second century, I am confident that my colleagues in the House will join with me in sending congratulations and best wishes to this exemplary community.

COMPLETION OF I-90 IN SEATTLE

(Mr. LOWRY of Washington asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. LOWRY of Washington. Mr. Speaker, yesterday during the long and important discussion on the transportation funding bill, I made notice that I would enter correspondence from the U.S. Department of Transportation and the Washington State Department of Transportation into the RECORD today. That correspondence is attached:

FEDERAL HIGHWAY ADMINISTRATION,
Washington, D.C., December 6, 1982.

Hon. MICHAEL E. LOWRY,
House of Representatives, Washington, D.C.

DEAR MR. LOWRY: I spoke today with your Administrative Assistant, Mr. Donald Wolgamott, who told me about your concern regarding the amount of Interstate "4R" funding available to the State of Washington for resurfacing, restoration, rehabilitation, and reconstruction projects. Mr. Wolgamott indicated you were concerned that Washington State is not receiving enough Interstate 4R funds to ensure prompt completion of I-90 in Seattle.

The Federal-Aid Highway Act of 1981 authorized separate Interstate funds for 4R work, including work on the Interstate System which Section 4(b) excluded from eligibility for Interstate construction funds. It is important to emphasize that the 4R program is an Interstate program financed by a distinct category of Interstate funds. The Federal share of project costs is the same as for all Interstate construction projects in Washington State, 90.64 percent.

As you are aware, the level of Interstate 4R funding authorized by the 1981 act did not adequately reflect System needs. This problem will be rectified by congressional approval of the proposed user tax increase we have recommended to Congress. Under the version which the House of Representatives is considering (H.R. 6211), Washington State would see a significant increase in the amount of Interstate 4R funds it receives. The Interstate 4R authorization for fiscal year 1984 would increase from $800 million under current law to $2.1 billion under H.R. 6211. As a result, Washington State's apportionment for fiscal year 1984 would increase from $16.8 million (apportioned on October 1, 1982) to approximately $40 million. In following years, interstate 4R authorizations would be increased. Thus, with the proposed user tax increase, we believe there would be enough Interstate construction funding to finance all remaining gap work by the early 1990's and also enough Interstate 4R funds to complete the 4R work items on projects such as I-90.

I hope this information is helpful to you. Please do not hesitate to contact me again if you have any further questions on this matter.

Sincerely yours,

L. P. LAMM,
Deputy Administrator.

OLYMPIA, WASH., *December 6, 1982.*

Representative MICHAEL E. LOWRY,
Washington, D.C.

The Washington State DOT respectfully urges you to support passage of the surface transportation bill H.R. 6211 today. While we have some concern over specific provisions in H.R. 6211 such as the proposed 85 percent minimum apportionment for each State these issues can be addressed in House/Senate conference it is essentially that multiyear highway legislation be enacted during the special session with highway authorization which reflect a 5-cent increase in the Federal gas tax the 5-cent increase and a multiyear transportation bill will add to the certainty that Washington State can complete its Interstate System including I-90 and with the interstate 4R component be able to maintain it.

QUANE BERENTSON,
Secretary, Washington State DOT.

TRIBUTE TO THE HONORABLE HENRY S. REUSS

The SPEAKER pro tempore (Mr. MURTHA). Under a previous order of the House, the gentleman from Wisconsin (Mr. ZABLOCKI) is recognized for 60 minutes.

GENERAL LEAVE

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks in paying tribute to our colleague, Congressman REUSS.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. ZABLOCKI. Mr. Speaker, it is a pleasure and privilege to pay tribute to our friend and colleague from Milwaukee, Chairman HENRY REUSS. As one whose district adjoins Chairman REUSS' Fifth District of Wisconsin, I have had the privilege of witnessing firsthand HENRY's many accomplishments for his constituents in Milwaukee.

For example, anyone taking a drive through downtown Milwaukee will see ample evidence of HENRY REUSS' efforts. The new Federal building, which Milwaukeeans chose to name after him, is important for a number of reasons. Developed as a private building, the structure pumps tax revenues into the city. In addition, its construction has created hundreds of jobs for our Milwaukee workers who have been suffering from our current economic ills.

The Henry S. Reuss Federal Building and Plaza also serves as a keystone of the Milwaukee downtown development for which Milwaukee is presently receiving national acclaim. As one who has heard HENRY argue the case of channeling Federal money to areas where it will serve citizens the most, I find it typical that HENRY would fight long and hard to put Federal funds to the best possible use in Milwaukee's downtown.

When HENRY REUSS came to Congress 28 years ago, he came with enthusiasm and an obvious set of solutions for our country's problems. His enthusiasm has not subsided, and many of his policies have proven worthwhile. A number of HENRY's thoughtful suggestions in areas including jobs programs, economic policy, housing, renewable energy sources, and preservation of the environment, have materialized or are well on their way to doing so.

As a national figure who has not forgotten the folks back home, HENRY is just as comfortable chairing a meeting of top economic experts as he is hiking on the 800-mile Ice Age Trail in Wisconsin, which he established. He is as comfortable at community meetings in Milwaukee as he is at the Federal Reserve.

Importantly, HENRY's enthusiasm for service and his reponsiveness to the duties of his job have not diminished in recent months. We see him in the press now as often as we did before he announced his retirement, I am pleased to say.

His consistent concern with the conditions of the poor, the middle class, and the unemployed surfaced most recently in his work to lay the groundwork for major jobs legislation. At a time when HENRY could have been cleaning off his desk, he was working toward enactment of a jobs program at a pace faster than ever!

His skillful leadership and persistent hard work resulted in a healthier Milwaukee Road, jobs for Milwaukee brewery workers, community development grants, and a transformation of Milwaukee's downtown.

On a national scale, HENRY made his mark on a broader-based constituency. He was an early supporter of open housing and civil rights legislation to assure that equal opportunities are available to all people, regardless of the color of their skin. As chairman of the House Banking Committee, he made his views on economic recovery known. He advocated responsible urban development and made sure the views of the consumers were heard in banking issues.

One of the major pieces of legislation of which HENRY can be proud is the Financial Deregulation and Mone-

tary Control Act of 1980. That legislation addressed problems HENRY had been concerned with and gave greater flexibility to savings and loans and other financial institutions. His early insight into this issue resulted in enactment of a strong bill, one that seeks to remove barriers between financial institutions.

As chairman of the Joint Economic Committee, HENRY investigated issues ranging from gas deregulation to defense spending to agricultural policy and studied their relation to the economic health of this country.

Mr. Speaker, it is interesting that HENRY REUSS had constructed a windmill long before renewable energy alternatives became popular. It is one small example of a REUSS insight come true.

HENRY is a fine statesman, intelligent, a true gentleman, and open to new ideas.

It is a pleasure to have served with him in the House of Representatives, and I wish him every happiness in the future. To HENRY, his wife Margie and his entire family, best wishes on a job well done, and good luck for the future.

Mr. Speaker, this morning an excellent article by Mr. Martin Tolchin appeared in the New York Times, on HENRY'S career, which I insert under permission granted at this point in the RECORD for the benefit of my colleagues.

[From the New York Times, Dec. 7, 1982]

REPRESENTATIVE REUSS: LOOKING BACK ON 28 YEARS IN THE HOUSE

(By Martin Tolchin)

WASHINGTON, December 6.—When Representative Henry S. Reuss was selected recently by the Democratic leadership to respond to one of President Reagan's Saturday afternoon radio talks, a leadership aide offered him a script. Mr. Reuss scanned it and replied, "I think I'll go with what I've got."

"He didn't care what the President said," the aide recalled, "and he didn't care what we said."

The 70-year-old Congressman, a liberal Democrat from Milwaukee, has been doing things his way since he arrived on Capitol Hill in 1954, and that has usually been good enough for the House Democratic leadership.

It turned to him this fall when it wanted to publicize the plight of the economy, and the hearings Mr. Reuss has under way in the Joint Economic Committee have helped lay the groundwork for the pending highways-jobs bills. While Mr. Reuss favors such a proposal, he opposes an increase in the gasoline tax to finance it, and would prefer to put a ceiling on the third year of Mr. Reagan's tax cut.

The hearings constitute a swan song for Mr. Reuss who is retiring this month after 28 years in the House, including six years as chairman of the Banking Committee.

"STRAIGHT AS AN ARROW"

During his stay in Washington, Mr. Reuss has earned a reputation as an intellectual who is "straight as an arrow" but decidedly not a backslapper, as a colleague, Representative Benjamin S. Rosenthal, Democrat of Queens, put it.

About his crusade for public works legislation, Mr. Reuss said:

"I think the voters delivered a message on Nov. 2. They thought Reaganomics was deficient in both common sense and fairness. Ronald Reagan has given supply-side economics a bad name. Instead of concentrating on how our economy can become more efficient and productive, he concentrated on lining the pockets of military contractors and the very wealthy who are the principal beneficiaries of his tax cut."

Mr. Reuss said he was retiring because "I figured a fellow ought to do something new." Having undergone heart bypass surgery in 1980, he plans to devote himself to practicing law, teaching, writing and "enjoying life."

Looking back over his years in Washington, he says that Congress has changed considerably, not always for the better. "The quality of the average member today." he said, "is the finest in history, in terms of general education and outlook on public life. But the institution has moved backward, and is less effective today than 28 years ago."

The reasons, he said, are the "evolution of the electronic Congressman" who lives by the television set and computer, the accompanying decline of the parties, "especially mine," and "unbridled" campaign expenditures. "Congress is less collegial," he said, "because there's more egotism and less team spirit."

Mr. Reuss was a 63-year-old "young Turk" when he gained the chairmanship of the Banking Committee in 1975, ousting Representative Wright Patman, an octogenarian, and jumping over two colleagues. It was a year of revolt against aging chairmen; Democrats also toppled the chairmen of the Armed Services and Agriculture Committees.

"In 1975, I'd been here 20 years, and I was still in the four place on the Banking Committee," he recalled. "I knew if I just waited around, by the time I got to be chairman, if ever, I would have developed watermelon seeds between the ears."

As committee chairman, he helped push through the New York City loan guarantee bill, as well as one for the Chrysler Corporation. He said he doubted whether the New York City bill would ever come to pass, because the city, state, banks and unions appeared reluctant to make the sacrifices he felt were needed.

But he has no afterthoughts about helping New York: "We couldn't let New York City go down the drain." He added, however, that "to this day I'm not sure we did the right thing with Chrysler."

PEACE CORPS INSPIRATION

He considers his proudest achievement to be the long crusade that resulted in the "Financial Deregulation and Monetary Control Act of 1980," which gave greater flexibility to financial institutions. "We had set up such a crazy system of highly specialized institutions that our financial system was showing signs of rigor mortis," he said. "We moved to break down some of those barriers between institutions, and let the savings and loan associations make a wide variety of loans, and allow banks to do some of the things hitherto reserved to investment bankers."

Mr. Reuss was also the author of legislation that established the Peace Corps, having been inspired by a visit to Cambodia. "The specific vision," he said, "was the contrast between the super highway between Pnom Penh and the sea, and four young Americans crashing through the jungle to build a school. I've observed that in the last gasp of a civilization, they build great highways from the center to the sea, and than the barbarians come in the other way, and wipe out the civilization."

Mr. Reuss has also exulted in what he calls "feats of statutory archaeology, looking at old lawbooks and finding something nobody knew existed and resurrecting it." In the days before the Clean Water Act, he said, he discovered "The Refuse Act of 1899," which provided penalties for water pollution. Similarly, he discovered a Reconstruction statute that banned housing discrimination on the basis of race, color or creed.

What would he do if he could live his career over again?

"I'd be a bit more angelic to my staff and slap some backs," he said. "It's a marvelous job. Where else do you have a daily opportunity to do good, and get paid for it?"

□ 1840

Mr. KASTENMEIER. Mr. Speaker, will the gentleman yield?

Mr. ZABLOCKI. I am delighted to yield to my colleague, the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Speaker, with the retirement of my good friend from Wisconsin, HENRY REUSS, from the House of Representatives, we will lose a colleague of extraordinary vision and creativity.

The scope of his interests is vast. The impact he has had in terms of international finance, our own economic structure and our environment, has been typically underplayed but very significant.

Many, I am certain, will speak today of his early promotion of what was to become the Peace Corps; of his uncovering the long forgotten and unused 1899 Refuse Act, that caught hundreds of companies illegally dumping wastes into rivers and led to enactment of the Clean Water Act; his long history of expertise in the area of international finance and his ability to somehow make it understandable to the rest of us; and his leadership role as chairman of the House Banking Committee and of the Joint Economic Committee.

The Milwaukee Journal, in an article earlier this year, said that HENRY REUSS "has a mind like a Cyclone fertilizer spreader, constantly spraying ideas in every direction." I am certain HENRY would like that analogy. Those of us who have known and observed him through the years know that he is as comfortable in his hiking boots, walking the trails of the Ice Age Scientific Reserve, the 1,000-mile-long trail and related parks in Wisconsin, to which he was so key in establishing, as he is dealing with bankers in Zurich.

Those of us from Wisconsin know of his longstanding devotion to his home town, Milwaukee. His dedication to restoring that city and vitalizing it as a

key link in the Midwest is legend with the constituents he has served so well.

His departure from the House will clearly leave a void. It will also probably lower the average IQ of this collective body significantly.

For me, it will represent the departure of a valued friend for more than 24 years. Even before I became a Member of Congress, HENRY REUSS graciously came to my district to aid in my cause and has done so many times since.

He has been a source of wise counsel and advice.

Indeed, both he and his wife, Margie, who has achieved in her own right the admiration of many in the field of economics, have been good friends and advisers to many of us.

Those of us who have known HENRY REUSS through the years know that for HENRY there is no such thing as retirement. The only question to be answered is which of the many interests and opportunities that await him will claim his time.

I am certain we will continue to hear from and about HENRY REUSS. I can only wish him continued success as he pursues his new adventures.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. ZABLOCKI. I am delighted to yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, I want to commend the gentleman from Wisconsin (Mr. ZABLOCKI) for holding this special order and allowing me to take the opportunity to say, "Thank you" to HENRY REUSS for the help he has been to me as a Member and for the help he has been to the people of this Nation.

Really, HENRY REUSS, in my mind's eye, personified an excellent role model to those of us who aspired to work in the direction and development of national policy.

Really, in terms of my experience on the Banking Committee, on which I served for 4 years, when I first came, he took time and effort to listen to all the members on that committee and lead us in really what I think is a landmark time in terms of addressing the problems and responsibilities in the jurisdiction of that committee. Whether the issue was monetary policy, whether the issue was housing, or whether the issue was consumer affairs, the yeoman service that he provided almost singlehandedly in terms of dealing with community reinvestment provisions, with regard to banks and the regulated savings and loan industry, is work that will long be remembered.

It might be said that the work and policies and efforts of HENRY REUSS are much like the volcano of Mount St. Helens, in that the ash and the effect of those policies will be permeating the very fiber of this Nation for years to come in a very positive way.

So it is with some degree of regret that I learned of our chairman's desire to retire, but certainly the last 2 years really have been the crowning jewel in his performance over three decades of public service.

In terms of his voice and his views being reflected as chairman of the Joint Economic Committee, Mr. Speaker, it certainly has resulted in something we can hold up as Democrats and as progressives from the Midwest and show that we did have a voice during a very difficult time in the development of public policy that did express our views and hopes so eloquently. This was just at a time when we had from my own great State the voice of Hubert Humphrey during these past few years, and indeed they have been very difficult times in terms of public policy. In the direction we have moved, fortune was good to us because we had HENRY REUSS as chairman of the Joint Economic Committee, and I am grateful to him, as I am sure other Democrats and others are that that voice and those views were reflected as eloquently as they were.

That is HENRY and I wish you and your family and your wife especially who have contributed and sacrificed so much in terms of public service a long and hardy future.

Mr. ZABLOCKI. I thank the gentleman for joining in this tribute.

I now yield to the gentlewoman from Ohio (Ms. OAKAR).

Ms. OAKAR. I thank my friend and colleague from Wisconsin for yielding. I certainly commend him for having this special order on our good friend, HENRY REUSS.

From the time Chairman REUSS first arrived in Congress in 1954 he has proven to be both an able legislator and a profound theoretician. I must say he has a tremendously magnificent command of the English language as well.

These are qualities we will sorely miss when the chairman leaves at the end of this Congress.

It is really difficult to measure the achievements of Chairman REUSS. He has guided so much legislation in so many diverse areas, probably one of the most versatile individuals in Congress, as banking, the environment, economics, foreign affairs, to name a few.

As his last assignment in Congress Chairman REUSS chaired some of the most important Joint Economic Committee hearings which I have seen and heard that affect the economic future of our country. Those hearings provided us with distinguished commentary by some of the most important thinkers of our country, and it was only fitting that they be chaired by Chairman REUSS.

There has been a line of thought throughout much of his actions, knowing our present state of affairs and trying to guard our ship of state through future uncharted waters. This has been the hallmark of his tenure here and he leaves a legacy for all of us to ponder.

How many of us remember the excitement of the Peace Corps? That was another achievement of my colleague.

When social security was under attack and underfinanced in 1970 it was Chairman REUSS who in 1971 proposed a 20-percent hike in social security benefits to provide a decent living for our older Americans.

In the area of taxation Chairman REUSS has consistently stood for genuine tax reform, reform aimed at benefiting those who are middle and lower income citizens, the majority of Americans.

Mr. Chairman, I salute one of the greatest Members of this House. I wish him well.

On a personal level, like my colleague, the gentleman from Minnesota (Mr. VENTO) he and I came in the same year to Congress and we served under the leadership of HENRY REUSS as chairman of the Committee on Banking, Finance and Urban Affairs during my first two terms. He was an excellent chairman, very, very fair and very knowledgeable, and certainly gave much of his time to those of us who were new. I know Chairman REUSS will continue for more years to come to serve the American people and, indeed, his country and I wish him and his family my very sincere best wishes.

Mr. ZABLOCKI. I thank the gentlewoman for her contribution.

Mr. Speaker, at this time I yield to the gentleman from Florida (Mr. BENNETT).

Mr. BENNETT. The gentleman from Wisconsin is indeed a man who has left a tremendous list of legislation that he has enacted carefully and discreetly and thoughtfully for our country, a real heritage that has been given to us in the legislation that he has proposed and we have enacted.

He has been a real leader in Congress. All of us, I guess, aspire to be leaders but here we have a real leader.

But despite all of those glowing terms about a fellow Congressman, I guess really the greatest sentiment that I have, and I presume most Members of Congress have when we see a Member of Congress retire, is our affection for him and our concern that he is not going to be with us as much as he was in the past.

Many times at lunch or in the subway train or in our offices I have visited with this delightful personality, this intellectual giant that does not make ordinary people like myself feel

inferior. This very fine and splendid American has been a treasured friend and I am sure will be in the future. But that is the main sentiment I have in seeing him leaving in the capacity of being a Congressman.

I hope he comes back many times because he is a delightful person to be with and we have all been enriched by his presence.

Mr. ZABLOCKI. I thank the gentleman for his contribution.

I now yield to the gentleman from Wisconsin (Mr. GUNDERSON).

Mr. GUNDERSON. I thank the gentleman for yielding.

I would like to join with you in paying tribute at this time to one of certainly our most distinguished colleagues, not only in this Congress but certainly one of our colleagues in the State delegation from Wisconsin.

HENRY REUSS was serving in this Congress, to be honest, long before STEVE GUNDERSON ever thought about running for Congress. I think I can share only two experiences with each and every one of you which reflect on the kind of individual he is.

One experience dates back to when I was in college. I remember during those early 1970's, during the hotbed of the antiwar sentiment at the University of Wisconsin campus in Madison.

In particular I recall as a student there, an undergraduate student, reading the posters on which it said Congressman HENRY REUSS was going to come to Bascom Hall and speak to students. Being the curious political science major that I was at that time I made sure that I attended.

I recall there was not a large attendance at the meeting. He began giving some remarks about the war and our international relations at that time. But then it came down to the question and answer period.

The thing I remember as one who was getting one of their first experiences with a Member of Congress whom they had read about, heard a great deal about, and considered part of the national leadership of this country, was the fact that we had in this gentleman one who I did not agree with totally, not even the remarks he made that afternoon at Bascom Hall, but one who saw his role as an educator and as one who would try to promote reconciliation at a time of grave emotional strife and tension among the people of this country. That is because he used that afternoon to try to speak to all of the students there and try to get them to understand the total picture of what our country could or could not do.

That is one of the very first experiences, live experiences I have had with a Member of Congress and I suspect that has had an impact on my desire to be a part of public service myself.

The second experience that I would like to share with you is one that happened just recently. That was a couple of months ago during the August recess, if I recall, the Congressman from Milwaukee, who was noted for his work on the Banking, Finance and Urban Affairs Committee in helping the large cities of our country, took time out from his work to come up to St. Croix Falls in my congressional district, a small town in a rural part of my area.

He came there because we were having a dedication. We were having a dedication of the Ice Age Interpretive Center, which was a part of the Ice Age National Scientific Reserve, and the only reason we were doing this is because one Congressman from Milwaukee, one Congressman from Wisconsin by the name of HENRY REUSS had for years provided the leadership, and I think more than the leadership, the tenacity to continue to promote what he thought was a very, very important program which now is beginning to see some of the fruits of its harvest in this particular Ice Age Reserve and this interpretive center.

So Congressman REUSS came into western Wisconsin, to the Third Congressional District, to dedicate this particular interpretive center for which he had had so much to do and to show this to the people of Wisconsin, and I think even our country.

But I think it says a second thing about this man who is not only a Congressman, not only an educator, not only one who promotes reconciliation, but one who understands America and our world, both its urban areas from Milwaukee and its rural areas that I come from.

He also understands that we need to, as Leopold, another famous Wisconsinite wrote some time ago, we need to understand that the outstanding scientific discovery of the 20th century is not television or radio but, rather, the complexity of the land organism and the land we come from.

If we are to learn from history, as some people believe we do, then I believe we need to look at the leadership that our distinguished colleague has provided in this area. Once we do that, as we go forth in this country, there are going to be many people that are going to follow in the Halls of the Congress and even from the delegation from Milwaukee and the State of Wisconsin.

But I suspect that there are going to be few people as well rounded, as totally universally committed to the overall purpose that we as human beings have, not as political parties and not even as patriarchs of our own country, but as human beings as our distinguished colleague from Wisconsin.

So I appreciate and thank my distinguished colleague and chairman of the Foreign Affairs Committee for sponsoring this special order so that all of us and in particular those younger Members like myself who have learned and been inspired by his work, could have this brief opportunity to rise and say thank you, not Congressman REUSS, but thank you, HENRY, for what you have done and continue to provide that inspiration to us in the years ahead, even if it is not in this Chamber.

□ 1900

Mr. ZABLOCKI. I thank the gentleman for his contribution.

Mr. Speaker, I yield to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. I thank the gentleman for yielding.

Mr. Speaker, I find it, like most of my colleagues, rather difficult to offer a farewell tribute to the gentleman from Wisconsin (Mr. REUSS). I think it is simply a matter of not wanting to let him go.

In this Congress, as the chairman of the Joint Economic Committee, and particularly in the last 3 months, the gentleman has been vigorously involved in efforts to correct the disastrous economic policies of the present administration, and in so doing he has established himself as the leader of the loyal opposition on economic matters. I can only think of an appropriate parallel with our parliamentary counterpart in England, where he would be considered the Chancellor of the Exchequer in a shadow cabinet.

HENRY REUSS has literally had prodigious activities in these concluding months of the 97th Congress. And that will make his departure all the more difficult for those of us entering the 98th Congress.

He has been an enthusiastic and energetic and eloquent and articulate, as well as a tireless leader in the fight for what we consider in this party, on this side of the aisle, to be compassionate, fiscally responsible, and effective economic legislation.

In 1981 it was my privilege to work with HENRY REUSS, DAVE OBEY, MO UDALL, in developing the most responsible tax legislation considered in the 97th Congress. Had we adopted the Udall-Reuss-Obey proposal a year ago we would today have substantially reduced Federal deficits, we would have a significantly lower rate of unemployment, we would have a substantially healthier economy.

Let me stop there a moment and say that had that occurred, surely that would be HENRY REUSS' greatest legacy to the country on leaving this Congress.

Those of us who know and respect Chairman REUSS have no doubt that the years ahead for him will be tremendously fulfilling ones. Freed of the institutional responsibilities and con-

straints of this body he will in the future develop those considerable energies and all of his impressive mental and political abilities to the pursuit of academic as well as pragmatic endeavors to enlighten us and benefit all of his fellow Americans.

I am proud that in one of my first acts as a member of the Democratic Caucus before the 94th Congress convened, I helped elect HENRY REUSS chairman of the House Banking Committee. That pride I must say is shared by the overwhelming number of members of that class who contributed to that successful effort.

A constituent of HENRY REUSS' wrote to me a few weeks ago urging that we establish a Draft Henry Reuss for President Committee. And those of us who know HENRY REUSS well and love him cannot but take such a suggestion seriously.

Mr. ZABLOCKI. I thank my colleague for his observations.

I yield to the gentleman from New York (Mr. SCHEUER).

Mr. SCHEUER. Mr. Speaker, I, too, rise sadly for the loss of HENRY to this Chamber, but with a feeling that this step must be right for him at this time.

HENRY has been a towering Member of this House. He has been egregious. He has stood out head and shoulders above the herd.

As chairman of the Banking Committee and as chairman of the Joint Economic Committee, HENRY acquired a reputation of solidity, of professionalism, of erudition, of scholarship, of sound judgment that reflected on every Member of this House.

When there were important economic questions of the day, it was to HENRY that the business media, columnists and editors turned, as well as the general practitioners in the electronic and printed press. And always in commenting on national and international economic affairs, HENRY combined his brilliance as an economist, his scholarship, his sound and thorough knowledge of economics, with a compassion, with a people-oriented warmth that made him a populist spokesman in the tradition of Bob LaFollette, for everything that was good and decent in America.

As he distinguished himself, he reflected great credit upon every Member of this House. And time and time again, as I would read his comments on the important issues of the day, or would listen to him on television, I had a sense of pride that our political system could send to Congress and then put a square peg in a square hole of outstanding leadership a man of such elegance of economic thought, and a man of such personal warmth and humanity.

So I can only say that we are all going to miss HENRY. We are going to miss him for his profundity, for his professionalism, and above all for the warmth and affection that we have felt in a two-way glow between the many, many friends of his in this body and HENRY himself.

Mr. ZABLOCKI. Mr. Speaker, at this time I yield to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, the first time I ever met HENRY REUSS I was a student at the University of Wisconsin, and we had a meeting of the Young Democrats in the old education building. HENRY gave a really good speech that night. When he was finished, I remember asking him—this was at the time Dwight Eisenhower was President, just before the 1958 elections. And I remember asking HENRY, "Would you mind evaluating Dwight Eisenhower."

And HENRY said, "Well, let me just say that Dwight Eisenhower was the only man in history that had a chance to be President and turned it down."

I thought that that was really a very funny comment at the time. As you know, that was the view of Eisenhower by a lot of Democrats who wanted to see more done on the part of the Federal Government.

I just thought that that remark caught the wry humor or exemplified the wry humor which HENRY has contributed on so many occasions.

I think if you are looking for words to describe HENRY REUSS, you look for words like humor, guts. I have never seen HENRY back away from a fight or be shy about starting fights that he felt needed to be fought for the good of the common people in this country. I think obviously the word "intelligence" comes to mind. We know that HENRY brings force of intellect to his work which many of us envy and certainly as his colleagues cherish.

I think also as a younger, newer member of the Wisconsin delegation I have to say that HENRY has been immensely kind. When I came here in April of 1969 in a special election it was a pretty lonely experience. It was not like it is when you have 70 or 80 freshmen coming in and you have some people to talk to about your common problems.

HENRY REUSS was one of those who took the time to sit down and point out to me where various people were coming from in the House and taught me a lot of the ropes that you have to know here. In those days there were not very many senior Members that took all that much time. I was grateful to have a delegation of people by a person such as HENRY who would take the time.

□ 1910

If you take a look at his career, it is truly impressive. I do not know of any career in the House that has had as much impact on the world after World War II as HENRY's had; first of all, his role in helping implement the Marshall plan, which is truly, I think, one of the great economic recovery actions taken by the Western World. It is one of the key reasons that we have a strong and vital Western Europe as an ally today.

If you take a look at his insistence upon economic fairness and policies that would lead to fairness and growth and the eloquence with which he has pursued those policies; if you take a look at his really inexhaustible efforts, as the gentleman in the well knows, for his home State and his home city of Milwaukee to help revitalize the downtown area, you just have to be proud to have spent a portion of your career in the company of a man with the qualities of HENRY REUSS.

I very much hate to see him leave. He is a tremendous loss to the State of Wisconsin and I know he is a tremendous personal loss to us all.

Mr. ZABLOCKI. Mr. Chairman, I yield to the gentleman from California (Mr. JOHN L. BURTON).

Mr. JOHN L. BURTON. Mr. Chairman, I thank the gentleman from Wisconsin for yielding.

I think it is proof of my affection for HENRY REUSS that I ran over from the office and put my tie back on to come and speak for this.

The first time I met HENRY was in the backyard of PETE STARK's house when I was first a Member of Congress after being elected in a special election in June of 1974. PETE STARK with his introduction of HENRY took about 5 minutes to introduce him and to ask him a question on how you would solve all the problems of the universe and of this Nation. I remember HENRY going, "Well, one could consider socialism." After having said that, then he launched into one of his talks about how we could try to make this economic system of ours work to a better degree than it does to improve the quality of life for the people of this Nation.

The second thing I remember about HENRY was sitting with him down in the House dining room having lunch and he ordered a beer to drink and he naturally ordered, which I consider actually to be the best beer in the country, Pabst Blue Ribbon. It was a good Milwaukee beer owned by Democrats, he said. Our family lived in Milwaukee and we, too, were graced with growing up under Socialist mayors and knew they could make a city work.

Another thing I remember about HENRY, my wife and I had HENRY when he was chairman of the Banking Committee, he and his wife over to our house for dinner to impress a California banker friend of mine. We got the wrong kind of roast. We thought we were getting in effect the eye of a prime rib, but we got a rump roast, only we were cooking it like a prime

rib and we could not cut the thing. I remember it was right after the New York bailout bill and my wife, Sharon, was really panicked and she said, "What are we going to do? How are we going to deal with this?"

And I said, "For Christ's sake, HENRY, if you bailed out New York, you ought to be able to bail out this dinner."

So we brought him in to fix up the meat and I remember always the gentleman, as he was cutting the meat and then chewing on it and he went, "Oh, oh, very delicious."

I figured anybody that could bail out New York could bail out JOHN BURTON trying to make a prime rib out of a rump roast.

Also I remember HENRY when he ran for chairman of the Banking Committee against another great American, Wright Patman, and I think HENRY was 60 years old at that time. It was 1975. He felt that with I believe 20 years seniority and at the age of 60 he was the most unique of all the young Turks in the House.

He was a man of great wit, of great perception.

I am happy for him that he is leaving. I am not happy for the country. I am happy for HENRY because those of us that do decide to leave here under our own power realize that there is, in fact, not only life after death, but life after serving in the House.

I would differ with JIMMY OBERSTAR. I think HENRY REUSS ought to be serious about his chances of being President and would be happy to join an exploratory committee. I am committed to CHRIS DODD first, but he is my second choice; but HENRY has done a great service to this country. When the Democratic Party takes over that White House and tears down the fence and has a picnic on the lawn after the next Presidential election, I am looking forward to an intelligent and humane Chairman of the Federal Reserve Board whose term will be limited to 3 years.

HENRY, I love you very much and I look forward to opening a bar and having you come out and run the kitchen.

Mr. ZABLOCKI. I thank the gentleman for his contribution.

Mr. Speaker, I yield to the gentleman from Oklahoma (JIM JONES).

Mr. JONES of Oklahoma. Mr. Speaker, I thank the gentleman for yielding.

I am truly delighted to participate in this tribute to our good friend and colleague, HENRY REUSS. I had the privilege of getting to observe HENRY REUSS for the first time about 21 years ago when I came to this institution right out of college and worked for a Congressman from Oklahoma while going to law school at night. As a staff assistant, particularly staff assistants who are attending law school at the same time do, they sit around and size up this institution and determine who are the giants, who are the movers and shakers and who make things happen. Out of the very small handful of Members of Congress in the 1961 to 1964 timeframe, we concluded, those of us who really knew what was going on, obviously, concluded that HENRY REUSS was one of those handful who were the movers and shakers, the people that made things happen through the force of their intellect, the force of their objectivity, the force of their vision for this country.

Since that time, having been elected to the Congress, I got to see HENRY REUSS in a more personal way, but it really has been only the last 2 years in which I have truly appreciated the value of HENRY REUSS to this institution and to this country. Having been elected as chairman of the Budget Committee, we had a number of tough fights in the last 2 years. In that process, HENRY REUSS was one of the most instrumental, one of the most helpful people I know in trying to put together a package, a program that was both fair and workable, to bring this country out of the economic doldrums in which we have been living and into a path of true economic recovery.

The private meetings we have had together show that he does have the intellect, he does have the vision; but just as important, he knows how to wheel and deal and come up with a compromise package designed to meet the broad spectrum of concerns in this body.

Those who have spoken about HENRY today have said different things from different perspectives; but a few characteristics come out in all the conversations, all the speeches.

First of all, his brilliance; that goes without question; his courage, that has been demonstrated time and time again on issue after isssue; his statesmanship, all of us feel that about HENRY REUSS; his dignity and then as our colleague, DAVE OBEY said, his kindness. For the last 2 years he has been very kind, very gentle, very helpful to me in the work that I have tried to perform as chairman of the Budget Committee. For that experience and that time period alone, I will be eternally grateful for that help and for that friendship.

So many of the comments today have sounded like a farewell and we will never see you again. I do not intend mine to be a farewell at all because this country, particularly in the next few years ahead, faces some tremendous problems, the likes of which we have not seen in at least three or four, maybe five decades.

Insofar as I will be working on those problems, I can assure you and I hope that I can count on HENRY to continue to counsel those of us who are trying to grapple with those problems, because his intellect, his vision will be needed in the next few years by those of us who are remaining as much or more so than it has been in the last 28 years when he so ably served this country.

Mr. ZABLOCKI. I thank the gentleman for his comments.

Mr. Speaker, I yield to the gentleman from Ohio (Mr. PEASE).

Mr. PEASE. Mr. Speaker, I thank the gentleman very much for yielding.

I am pleased to participate in this special order. I frankly had not been aware of it until I turned on my television set and saw the earlier speakers talking about HENRY.

□ 1920

So what I am saying is essentially off the cuff, but very, very much heartfelt.

There is no person, and I emphasize no person, that I have respected as much in my 6 years in Congress as HENRY REUSS. He is truly a gentleman and a scholar. Those qualities are not ones that automatically come to the fore in the Congress. Actually, our political system, with its rough and tumble, its hurly-burly, often mitigates against genuine scholars coming into this body.

So that makes HENRY REUSS an uncommon man. He is a genuine scholar, an intellectual, a man of ideas and principles, a leader by the force of his ideas as well as by the force of his personality.

He is a person who has represented not only his own congressional district, but the Nation as a whole in many, many policy fields.

HENRY is witty, urbane, intelligent, humane, energetic, inventive, a perfect role model, as one of the earlier speakers has said, for younger Members of the House.

He has influenced me, perhaps without knowing it fully, but he has influenced me a great deal in the last 6 years. I think that has made me a better Member of Congress.

I thank the gentleman for yielding and for taking this time.

Mr. ZABLOCKI. Mr. Speaker, I yield to the gentleman from New York (Mr. SCHUMER).

Mr. SCHUMER. I thank the gentleman from Wisconsin, the chairman of the Committee on Foreign Affairs, for yielding.

Mr. Speaker, I, too, join with my colleagues in praise of HENRY RUESS, someone whose departure I will sorely feel.

I have only known Chairman REUSS for 2 years as we have served on the Committee on Banking, Finance, and Urban Affairs, and he on the Joint Economic Committee with me, interested in economic ideas. But he has truly been an inspiration.

I know before I spoke, some of the more senior Members said that he would prove an excellent role model to younger Members. I think I realized that the first time I walked into his office and asked him whether he thought it was a good idea for me to seek membership on the Committee on Banking, Finance, and Urban Affairs.

Chairman REUSS to me symbolizes the best in American Government, a man of ideas, yet a man pragmatic enough to see those ideas implemented; a man of compassion who never forgot about his roots and about the little people who depend on all of us here.

Time and time again HENRY REUSS has had his compassion embodied in law so that literally tens of millions of Americans have benefited from the fact that he took public service as his calling.

Mr. Speaker, I will sorely miss the presence of HENRY REUSS here, both in his writings, his readings, and in his personage. He is the kind of gentleman who would go out of his way for a younger Member interested in the kinds of things that he was interested in, and one who would hope to follow in his footsteps.

I thank the chairman of the committee for allowing me this opportunity.

Mr. ZABLOCKI. I thank the gentleman from New York.

Mr. Speaker, I yield to the gentleman from Texas (Mr. GONZALEZ).

Mr. GONZALEZ. Mr. Speaker, I thank the distinguished chairman for this opportunity to rise and say a few things, sadly, about this departing illustrious Member of the House with whom I have had the great privilege of serving on the same committee since I came to the Congress 21 years ago and whose leadership has been exemplary and whose idealism, as one of my colleagues said here previously, his academic and profound seminal thinking has been an inspiration to me all along in my service here in the House.

I think from the very outset when I came up, which will be 21 years shortly, I will have been on January 10 next exactly 21 years in the House. I was elected in a special election November 4, 1961, and was sworn in here on January 10, 1962.

I went back to my office after the swearing-in and I had an emergency call from a businessman in my district. At that time my district consisted of the entire county. This businessman was in great anguish because we had suffered a blightening cold spell, what we call a norther. As a result, it had created a problem for those who had their cattle in the fields depending on field feed. This meant that they had to have prickly pear burners available.

This man manufactured them in San Antonio, but in order to supply on an emergency basis, he had to have these component parts which were manufactured in Congressman REUSS' district. So not knowing what to do, I just picked up the phone and called the Congressman. There he was on the other end of the line.

I explained my dilemma. He said, "Let us see what we can do."

The next thing I know I get a call back from him and he says, "I contacted the manufacturer in Wisconsin and the parts are on the way. The problem is solved."

This was my introduction to HENRY REUSS. Mind you, I had just come aboard and barely had seen him at that time because at that time the Committee on Banking and Currency, as it was called then, met very infrequently. As a matter of fact, in 1962 we had three meetings during that whole period, three formal meetings.

But I think that the departure of HENRY REUSS from the Congress is truly a loss to the country, to the Congress particularly. As I have worked with and under his leadership, one of the first assignments on the subcommittee was to the subcommittee that he then chaired, the Subcommittee on International Finance as it was then known.

That being a very special field of interest, I noticed the tremendous reputation that HENRY REUSS had not only in our country but internationally. He developed not only an expertise, but such a knowledge in depth that he was recognized. He wrote numerous articles. In fact, I think the record should show that he is the author of more than one book and that his preeminence in this respect was very well noted in the academic world and also in the business world.

His leadership on the House Committee on Banking, Finance, and Urban Affairs, as I said and repeat, was exemplary. That service gave every one of us a target or a goal to emulate.

I think the record also ought to show that on top of being considered an expert in these fields, he was the first, for example, who discussed the possibility of what came out later to be revenue sharing. It was really a Henry Reuss initiative, first spelled out and even discussed in the Congress by HENRY REUSS, becoming a reality a few years later.

So I join my colleagues in expressing my sincere regrets and sadness at seeing this great American leave the active scene of combat. However, I know that HENRY REUSS is not going to retire into oblivion, and it is my hope that if he remains in the environs here in Washington that he will be available for consultation and will visit us often. I certainly wish him Godspeed in his future endeavors.

I thank the Chairman for allowing me this opportunity.

Mr. ZABLOCKI. I thank the gentleman for his comments.

Mr. Speaker, I yield to the gentleman from California (Mr. ANDERSON).

Mr. ANDERSON. I thank the gentleman for yielding.

Mr. Speaker, I am honored by this opportunity to rise and join my colleagues in duly recognizing the Honorable HENRY REUSS, who, at the conclusion of this special session, will be bidding farewell to the Congress, after 28 years as one of our most distinguished Members.

An accomplished author and legislator, HENRY, in addition to his brilliant performance as chairman of the Joint Economic Committee, originated many innovative concepts in response to the needs and challenges of our citizens. He has encouraged each of us to be like him: open-minded, progressive, and concerned for the needs of both our country and its citizens.

I know that, from a personal standpoint, one of HENRY's most cherished moments was when the President and the Congress approved legislation creating the Peace Corps. He is also to be recognized for his work as an avid yet practical environmentalist; as an advocate of fair housing legislation and other programs to aid our poorer citizens; and as author or sponsor of many programs that have served the economic well-being of all our people.

It is in this spirit of State and national service that HENRY became actively a part of so many causes: as commissioner of the Milwaukee chapter of the March of Dimes, as director of the American Youth Hostels, and as a board member of the Enterprise Foundation. I would also like to call to mind his military service to our Nation during the Second World War, and his receipt of the Bronze Star Medal for Valor as a result of his heroic actions during the Rhine River crossing. After the war, he served as deputy general counsel for the Marshall plan, and helped bring to fruition this noble and generous effort to restore Europe to economic health.

My wife, Lee, joins me in extending to HENRY REUSS, his wife, Margaret, and their four children, our warmest wishes for a healthful and prosperous future. His knowledge, leadership, vitality, and warm personality will be dearly missed in this body.

● Mr. CONTE. Mr. Speaker, there are too few creative thinkers in the Congress already without having to suffer the loss of one of the most successful. HENRY REUSS, who has decided to retire at the end of this term, has been at the root of some of this body's best legislative initiatives of the past quarter century.

HENRY's monetary and legal expertise has already been accompanied by a passion to defend equal opportunity and provide creative solutions to na-

tional problems. In the 1960's, HENRY's dogged research laid the groundwork for landmark open housing and antipollution legislation. His belief in aiding the less fortunate of the world by providing opportunities for our young people to engage in intercultural education led to the creation of the Peace Corps, and his resolve to aid our Nation's cities and towns led to his authorship of the first Federal Revenue Sharing Act.

To become chairman of the House Banking Committee in 1975, HENRY, in his usual independent fashion, piloted a coup of the leadership, instituted the important Subcommittee on the City, and went about his business of helping the Nation's needy.

His ascension to the chairmanship of the Joint Economic Committee brought with it knowledge and expertise in international and domestic economics unmatched by any other Member. His insights into the mechanics of our domestic monetary policy have served the committee and the Nation very well, especially in these times of economic strain.

HENRY has been a great friend through the years, and his unique talents and creative thinking are needed as much today as ever before. I cannot blame a man for wanting to spend a few hours more with his fishing pole, and I know that HENRY will continue to influence our Nation's direction regardless of the office he holds. I wish him health and happiness in the future.●

● Mr. BOLAND. Mr. Speaker, I am pleased to join the many friends of HENRY REUSS in congratulating him on his outstanding congressional service and wishing him well as he retires at the end of the 97th Congress. For 28 years HENRY has represented the Fifth District of Wisconsin with intelligence, integrity, and dedication. His retirement will deprive the House of one of its most capable Members.

As chairman of the Committee on Banking, Finance and Urban Affairs from 1975 to 1981, HENRY combined his extensive knowledge of finance with an even-handed approach to his role as chairman. Under his leadership, the committee was able to effectively guide the House in its consideration of complex legislation affecting the national economy and the banking community. Since 1981, when HENRY assumed chairmanship of the Joint Economic Committee, he has continued to focus his considerable knowledge on economic matters of intense national concern.

With his diligence and scholarship, HENRY REUSS has provided the people of the United States with a uniquely capable voice in their National Government. For those of us who have served with him, he has provided an invaluable source of knowledge and wise counsel. I wish HENRY the greatest success in his future endeavors.●

● Mr. MURTHA. Mr. Speaker, the next Congress will certainly miss the leadership and insightfulness of Congressman HENRY REUSS.

Particularly with his recent work on the Joint Economic Committee, HENRY REUSS has been a leading spokesman for the elderly, poor, and less fortunate in our society. In addition, he has been bold and imaginative in proposing alternatives to the administration's economic policies. It is through this type of lively, intelligent debate that we can hope to achieve a consensus economic policy to promote growth and get the American economy moving again.

But it has not simply been in the economy that HENRY REUSS has left his mark. To each issue I have been involved with during my years in Congress, HENRY has brought intelligent analysis and an appreciation for the many sides of the debate. His suggestions have always been constructive. He is a man of philosophy and principle with the courage to stand firm for his convictions.

The service of HENRY REUSS in Congress has been in the highest traditions of the House of Representatives. I know I join with his many friends and colleagues in wishing him well and extending our thanks for the contribution he has made to our Nation.●

● Mr. ADDABBO. Mr. Speaker, it is with great pride and pleasure that I join my colleagues in paying tribute to our good friend and most distinguished colleague, HENRY REUSS.

HENRY's impressive record of achievement in his 28 years of service to his constituents and his Nation is one of which he should be proud, and I join my colleagues in expressing our deep admiration and gratitude.

Since his election to the House of Representatives in 1955, HENRY has been the source of innovative and challenging ideas, and always a man of great intellect and wit. As chairman of the Joint Economic Committee and former chairman of the House Banking, Finance and Urban Affairs Committee, HENRY has demonstrated his leadership and expertise in international finance and trade. As chairman of the Joint Economic Committee, HENRY has tackled such diverse areas as agricultural policy, the Nation's economic status of women—certainly an impressive and demanding workload.

He will be well-remembered by his constituents, the residents of the Fifth Congressional District of Wisconsin, for his tireless efforts on behalf of open housing legislation and antipollution measures. As chairman of a special nonlegislative Subcommittee on the City, his dedication to the urban middle class and poor directed his legislative efforts. HENRY will be fondly remembered by over 40,000 past Peace Corps volunteers and countless future members; his proposals in 1957 provided the impetus for the foundation of this organization.

HENRY REUSS will be sorely missed by his constituents and the Nation; but especially by those of us who have had the honor of serving with him. I wish him every success in his future endeavors.●

● Mr. FORD of Michigan. Mr. Speaker, I will truly miss the presence of one of the most respected and intellectual Members of Congress—HENRY S. REUSS. Throughout his 28 years in the House, HENRY has exhibited a broad range of interests and expertise. As chairman of the Joint Economic Committee, HENRY has used that body as a forum for topics as varied as the international economic impact of Persian Gulf politics and the economic status of women in America. I doubt if anyone is better suited for the chairmanship of this committee than HENRY.

Early in his congressional career, one of Congressman REUSS' major accomplishments was his work with two of the great statesmen of our time, the late President John F. Kennedy and the late Hubert H. Humphrey, which created the Peace Corps. I know that HENRY must receive great satisfaction knowing of the opportunities that the Corps has provided many of America's youth and the positive reflection it has made of the United States in foreign countries.

Late in his career, HENRY became active in environmental issues. After noting the dearth of legislation to protect the waters of Wisconsin and the rest of the United States, HENRY began a thorough search of the United States Code and unearthed the Refuse Act of 1899. He used this act to file innumerable lawsuits in Wisconsin, and focused national attention on the need for a comprehensive water pollution law. These efforts culminated in the Clean Water Act of 1972. In addition, Chairman REUSS' dedication to the outdoors spurred his involvement in preservation projects throughout the country.

Undoubtedly, HENRY is best known for his work on economic issues. In 1975, he became chairman of the Committee on Banking, Finance and Urban Affairs, a position which he held through 1980. In this capacity, he worked on a variety of projects, including urban assistance and banking deregulation. He also has been the pointman in the congressional drive to pressure the Federal Reserve Board to keep interest rates low for productive purposes.

HENRY REUSS' dedication to the elderly, the needy, and people from all walks of life throughout America will be greatly missed in the Halls of Con-

gress. I look upon his departure with great sadness, and wish him continued success and happiness.●

● Mr. ST GERMAIN. Mr. Speaker, it has been my pleasure to serve with HENRY REUSS on the Banking Committee for more than 20 years. While others here today will mention HENRY'S accomplishments on other committees, I am struck by one thing as I look back over that span of service on the Banking Committee—HENRY REUSS has truly been one of Congress futurists.

From when I first came to Congress in 1961, here was our colleague from Milwaukee using every forum to remind us that the American financial system was inextricably tied into the world financial system. Drawing on his experience and contacts with the Marshall plan—and long before the financial pages and editorial writers began devoting space to the world's financial interdependence—HENRY was here on the floor speaking of special drawing rights, the Eurodollar, the Euromoney markets—pushing and pulling the rest of us into understanding the impact of changes in the world's financial system on our own system.

When he became chairman of the House Banking Committee in 1975, HENRY began a multifaceted effort to turn the committee beyond the mundane decisions about whether we would continue regulation Q for another 90 days and onto the larger questions of structural change needed to take financial structures set up in the 19th and early 20th centuries into the 21st century. Chairman REUSS looked at the system from every angle.

Among his major accomplishments were the establishment in 1975 of the so-called FINE study—financial institutions and the nation's economy. Using my Subcommittee on Financial Institutions as a vehicle, Chairman REUSS inspired a major effort to reexamine all aspects of financial legislation. I would like to quote from the preface of the discussion principles to indicate the scope of this effort:

As a means of insuring the widest possible participation, including that of the consumer, citizen and financial groups, the following set of Discussion Principles, a result of preliminary discussions with staff and expert consultants, is submitted as a part of the FINE (Financial Institutions and the Nation's Economy) Study process.

The broad approach embodied in these Discussion Principles is deemed essential to insure that proposals for the restructuring of our Nation's financial institutions clearly promote efficiency of financial markets through increased competition among financial institutions. Artificial and outmoded constraints which have served to inhibit capital formation required of a flourishing economy must be dealt with comprehensively if the credit needs of this Nation—private individuals, government, and business—are to be met.

Hearings will now be held on these principles, leading to the consideration of implementing legislation. The Committee encourages the fullest possible participation, by the submission of suggestions, criticisms, and supplemental proposals.

And full participation we got, HENRY knows from his years here that the best change—the best legislation—takes time, that you have got to keep at it. And because he kept at it, HENRY S. REUSS can take a large share of the credit for:

The Federal Reserve System now has to come up every 6 months and apprise the Congress of its targets for money growth for the next year. For those who come late to this debate, you would be surprised to know how difficult and impassioned this attempt by Congress to obtain information from the super-secret Federal Reserve System became. But HENRY REUSS persisted.

The General Accounting Office—the Congress watchdog—can now audit the banking agencies: the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Comptroller of the Currency. Again, for those who come late to this effort and wonder why it should ever have not been so, the Congress is operating with new and additional information because HENRY REUSS persisted.

And finally, in 1980, 5 years after the start of the FINE process, HENRY got his "landmark," the Depository Institutions Deregulation and Monetary Control Act—the major effort to untangle the anachronistic restrictions set up over more than 100 years of banking legislation came to life with all the oxygen it needed. Again, because HENRY REUSS persisted.

The Federal Reserve System, both at the Board of Governors level and throughout the district banks and branches, is becoming more broadly representative of the citizens of this Nation as a result of Mr. REUSS' reports, columns, speeches, and prodding. While HENRY would be the first to say that all of the financial regulatory agencies have a long way to go in employment opportunity and representation, the groundwork has been laid because HENRY REUSS persisted.

Mr. Speaker, Mr. REUSS has left a large pair of shoes to fill as chairman of the Banking Committee, but I am well served by remembering how he stuck to it, how he returned again and again to the problem that needed correcting. We will miss Chairman REUSS and we will try to live up to the challenge he has left us.●

● Mr. DERWINSKI. Mr. Speaker, we join today in paying tribute to the public service of our retiring colleague, the Honorable HENRY S. REUSS, chairman of the Joint Economic Committee and former chairman of the House Banking, Finance and Urban Affairs Committee.

His dynamic leadership in the House over the past 28 years has been a source of great inspiration and respect. His concentration on economic matters and monetary policy has gained him national recognition as a skillful legislator. HENRY'S perceptive insights and broad experience in these committees important responsibilities will be hard to replace.

HENRY REUSS has served the Fifth District of Wisconsin as a dedicated and effective Member of this body. HENRY'S experience and creative legislative proposals have added much to the Congress.

As HENRY REUSS leaves the Congress, I join in congratulating him on his many years of dedicated service, and wish him many more happy and healthy years in his well-deserved retirement.●

● Mr. GARCIA. Mr. Speaker, HENRY REUSS leaves Congress after this term, and with him goes another piece of the liberal Democratic tradition. Throughout his career, he fought for the poor and minorities. But there was nothing knee-jerk in his liberalism. He believes in what he was doing.

For 28 years, HENRY REUSS was a Member of this great body. He has seen a lot of changes, a lot of history. He has also made history. He bailed out my city, New York, a few years back. He helped draft the legislation to establish the Peace Corps, one of the most humane forms of foreign aid this country has ever devised.

This is a tough occupation we have. We are constantly on center stage and under public scrutiny. We never really know whether or not we are being effective. Election results only tell us half the story; our legislative record tells the other half.

In that case, HENRY REUSS will be remembered. He was a diligent legislator. He was also a leader, in a strong and somewhat quiet way. The 98th Congress will miss his leadership. The Democratic Party will miss his guidance and dependability.●

● Mr. WILLIAM J. COYNE. Mr. Speaker, Chairman REUSS has been the kind of Congressman who makes one proud to be in politics and proud to be a Member of the House. Even before I came to Washington, when I served on the Pittsburgh City Council, HENRY REUSS was one of the few persons in Washington who was alert to reforms being carried out in my city. He wanted to probe what we were doing and find out if policies that were proving beneficial in our area could be helpful to other cities.

For anyone interested in urban affairs, Chairman REUSS was a fount of knowledge. His understanding of local tax issues, urban transportation, metropolitan governance, and land use matters was impressive.

He has also been a great innovator. He was not afraid to pursue little-known or unpopular causes. And when

he pushed for a new approach, it was evident that he had researched it thoroughly. His national reputation as one of the keenest thinkers in the House is well deserved.

I count myself fortunate to have known and worked with Chairman REUSS. The House will be a poorer place for his leaving. But it is also a richer place for his having served so long and so well.

As we bid him farewell, I know I join my colleagues in expressing the confident hope that we in this House and in the country at large will still have the benefit of his counsel for many years to come.●

● Mr. STOKES. Mr. Speaker, it is a pleasure for me to join with the distinguished gentleman from the State of Wisconsin, Mr. ZABLOCKI and the rest of my colleagues in honoring one of the most respected and valuable Members of the House, Congressman HENRY REUSS. As we all know, HENRY will be retiring at the end of the 97th Congress.

I take this time to say to Congressman REUSS that every Member of the House and the American people will sorely miss the expertise and commitment you have brought to the business of this body.

Mr. Speaker, I have seen few legislators during my 14 years in the Congress who have made such a profound and indelible mark on the work of this body like my friend from Wisconsin's Fifth Congressional District. At the same time, he has gained a reputation for his intellect and dedication throughout the business, academic, and other sectors of the Nation.

Congressman REUSS currently serves as the distinguished chairman of the Joint Economic Committee and is the ranking Democrat and former chairman of the House Banking, Finance and Urban Affairs Committee. Throughout his 14 terms in the House, HENRY REUSS has become known as the resident expert on economic and monetary policy. Accordingly, the leadership and Members on both sides of the aisle have come to respect his opinion and positions on key issues dealing with economic and monetary policy.

In fact, Mr. Speaker, much of the historic legislation relating to monetary policy, in some way, bears the mark of Congressman REUSS. At this time, I would like to share some examples with my colleagues.

First, it was Congressman REUSS' amendment which gave the President in 1975, the authority to impose wage and price controls. In 1976, it was HENRY REUSS who dared to sue the Federal Reserve Board to block presidents of regional Federal Reserve banks from voting on domestic monetary policy as members of the Federal Open Market Committee. Mr. REUSS won that battle just as he won so many other battles dealing with economic policy.

Mr. Speaker, it has been Congressman REUSS at the forefront of the fight, time and time again, to make the Federal Reserve Board lower its often excessively high interest rates. Finally, it was a bill sponsored by Congressman REUSS that passed requiring all banks to make minimum reserve deposits with the Federal Reserve bank, whether they are members are not.

Mr. Speaker, the list of Reuss authored measures in the areas of economic and monetary policy is exhaustive. Throughout his many years in the Congress, HENRY REUSS seems never to have lost his enthusiasm or commitment to developing progressive ideas to remedy the economic and monetary woes of this Nation. I applaud him for that perseverance.

With the continued economic crisis in this Nation and the ongoing need for creative and progressive measures to address those concerns, we will undoubtedly miss the leadership and legislative efforts of HENRY REUSS in the 98th Congress.

Mr. Speaker, it is with those thoughts in mind, that I join with my colleagues in saluting the man who has become the resident expert on economic and monetary policy in the House, the Honorable HENRY REUSS.●

● Mr. MAZZOLI. Mr. Speaker, I join my colleagues today in paying tribute to Representative HENRY REUSS of the Fifth District of Wisconsin. HENRY has rendered a distinct service to the House as chairman of the Joint Economic Committee. HENRY's leadership and economic scholarship has made him a valuable asset to the House as well as the State of Wisconsin. I extend to HENRY and his family my best wishes upon his retirement.●

● Mr. SHUSTER. I am pleased to join in this tribute to our distinguished colleague, the Honorable HENRY REUSS, who is retiring from this House after 28 years of exemplary service. His constituents in the Fifth Congressional District of Wisconsin, the Members of this body, and the people of the Nation will miss his dedicated representation and able leadership.

As former chairman of the House Banking Committee, and as chairman of the Joint Economic Committee, HENRY REUSS showed exceptional grasp of complex economic problems, and is widely recognized as one of the foremost experts on international finance. He was an early proponent of the Peace Corps, and an advocate of renewal of our own urban areas. He also was a leader in the development of the revenue sharing concept.

In his efforts in foreign policy, environmental conservation, and in domestic and international economics, HENRY REUSS always showed intelligence, determination and compassion. We who have served with him have benefited from having HENRY REUSS as a colleague and a friend.

I wish him the best of success in his future endeavors.●

● Mr. HOYER. Mr. Speaker, when the 97th Congress comes to a close at the end of the month, it will lose one of its most distinguished and able Members. HENRY REUSS, chairman of the Joint Economic Committee and former chairman of the Committee on Banking, Finance and Urban Affairs, is retiring after 14 extremely fruitful terms in the Congress of the United States.

My tenure in Congress—19 months—has been considerably shorter than HENRY REUSS', and I am honored to have had the privilege of working with him. He is a recognized expert on international finance, a creative economic thinker and, most of all, a generous and tolerant man who extends his compassion to all those around him. He has unswervingly maintained his commitment to help the less fortunate: the poor, the sick and the old; and he has served his country with energy and dedication which can be a model to us all.

Chairman REUSS has played a critical role in the shaping of major events of the past five decades. He contributed to the Roosevelt economic recovery plan through his work at the Office of Price Administration; he earned a medal for distinguished service in World War II; he assisted the Marshall reconstruction of Europe; and he joined Congress in 1954. Throughout his career, and, most particularly, since his election in the 1950's, he has been a forceful and articulate presence in the development and enactment of economic policy in this institution.

But perhaps Mr. REUSS may best be remembered as a man of keen intellect; a man whose ability to recognize the important link between positive government action and a healthy economy was crucial to his successful development of fiscal policy; a man whose ideas, however creative, were always backed with an intelligent analysis of economic facts. It is a sign of the strength of his vision that these ideas have been adopted by administrations of both parties.

I recently had the honor of joining Chairman REUSS at Joint Economic Committee hearings on the unemployment problem. He consistently attempted to go beyond the numbing statistics of the problems in this country and into the realities and magnitude of its unemployment problems. He did this by covering those anonymous faces with flesh and bone and offering the true stories of life as an unemployed person. It is this humanity, this striving to fulfill the vision of this country, that so endears us to Chair-

man REUSS and makes it equally difficult to see him go.

Mr. Speaker, I ask my colleagues to join me in expressing the deep sense of appreciation that we feel for the contributions that HENRY REUSS has made to this institution and to this great Nation. His intelligence, bold thinking, and, above all, his refusal to retreat from his deeply held convictions in the face of political adversity are all qualities that will be missed. I am privileged to have worked with HENRY REUSS, and I wish him and his wife Margaret continued success in the future.●

● Mr. ROE. Mr. Speaker, I deem it a great honor to rise today to join in a well-deserved salute to our colleague HENRY REUSS as he winds up 14 terms of outstanding service to the people of the Fifth District of Wisconsin and the Nation.

HENRY has served with great distinction as current chairman of the Joint Economic Committee and in his previous role as chairman of the House Banking Committee.

In his three terms as chairman of the House Banking Committee, HENRY REUSS developed the reputation as the guardian of the common man in his dealings with the banking industry. HENRY's advice to a group of bankers who came to his office one day is still told with relish by those who were lucky enough to be in attendance. "Make a lot of loans, do not charge too much interest and make it up in volume," he told the startled group.

His battles with the Federal Reserve bank have also become legendary. He was among the first to charge the Federal Reserve's monetary policies were responsible for our Nation's high interest rates. How prophetic he was in that assertion.

HENRY REUSS was also a leader in helping secure passage of one of the first revenue sharing bills introduced in Congress during the recession of the early 1970's.

His record has been one of hard work and dedication to the interests of the American people. His guidance will be sorely missed. It is my hope he will make himself available to us as we seek answers to the Nation's continuing economic crisis.●

● Mr. GUARINI. Mr. Speaker, I rise to join my colleagues in praise of our friend from Wisconsin, HENRY REUSS, a splendid gentleman who, over the years, has become a national statesman in his role as a leading voice in national economic policy. As chairman of the Joint Economic Committee and as the former chairman of the House Banking, Finance, and Urban Affairs Committee, HENRY REUSS has been in the forefront of our struggle to bring stronger economic health to our Nation.

Chairman REUSS' benchmark is legislation which proposes solutions to problems fairly and equitably. His has been a voice of reason in these difficult economic times. I have had the pleasure of working closely with Chairman REUSS on one piece of legislation particularly concerned with fairness: a bill to limit the 1983 tax cut to a ceiling of $700. This measure would direct the tax cut to middle-class Americans, who are most in need of tax relief, and who are the consumers most likely to pull us out of this lengthy recession.

In closing, let me say that I have always admired HENRY REUSS for his wisdom and efficacy. I shall always remember him as a practical person looking for fair solutions that work. I know we all wish Chairman REUSS the best of luck in his new endeavors.

I salute him as an effective and outstanding public servant and truly a great American.●

● Mr. RODINO. Mr. Speaker, I want to join my colleagues in paying tribute to a good friend and an invaluable Member of this House who is retiring at the end of this term. Congressman HENRY REUSS, the highly respected chairman of the Joint Economic Committee, is a man of creative ideas and effective action who has been a leader in Congress for over a quarter of a century fighting for the needs of our cities and for the needs of all our citizens.

As a man who has always backed up his ideas with learned study and sharp analysis, HENRY REUSS has led the initiatives for the Peace Corps, the first tough antipollution laws, and major jobs, housing and urban assistance programs. Whenever our country has been faced with economic problems over the last three decades, we have routinely turned to the gentleman from Wisconsin to provide the intellectual underpinnings for our Government's policies to solve problems.

He is a friend and wise counselor to me, and I will miss his enthusiasm, vitality and wit in the House. The people of Wisconsin will surely miss his dedicated service.

I am proud to have served with this man of integrity, compassion and commitment, and I wish him all the best as he leaves the House.●

● Mr. SCHEUER. Mr. Speaker, it is with a profound sense of regret that we acknowledge the retirement of our truly outstanding colleague from the Fifth District of Wisconsin, HENRY S. REUSS. Although wishing his decision to retire might have been otherwise, I am pleased to have this opportunity to offer a few words in appreciation for his 28 years as a Member of this body.

First elected to Congress in 1954, HENRY has distinguished himself as a dedicated representative of his Milwaukee constituency and as a highly competent and skilled legislator. He is generally recognized as one of the most intellectually gifted Members of the House, certainly its most professional economist.

Over the years, HENRY REUSS has established a well-deserved reputation as a leading congressional authority in the area of international finance. As a member, and later chairman, of the House Banking Committee and as chairman of the Joint Economic Committee, HENRY has demonstrated time and again an incisive grasp of economics—national as well as international—that is second to no one. His expertise in economic affairs has earned him the respect and admiration of Members on both sides of the aisle.

As chairman of the Banking Committee, his leadership was pivotal in the passage of loan guarantees that kept New York City from going under in 1975, an accomplishment for which the entire New York delegation will ever be grateful.

HENRY REUSS has always been a thoughtful and articulate spokesman for the Democratic Party on a wide variety of issues, and has been a warm personal friend of many amongst us. He will be sorely missed.●

● Mr. FASCELL. Mr. Speaker, it is a pleasure to join in tribute to our colleague, HENRY REUSS. The list of his accomplishments during his 28 years of service in the House speaks clearly of a man whose perception of the needs of our country is acute and whose dedication to meeting those needs and solving difficult problems is unequaled. He is a man of vision, great intellect, courage, creativity, and tenacity. In a sense, too, it would not be inaccurate to label HENRY a maverick—a bright, well informed, demanding conscience of this legislative body urging his colleagues to take an unorthodox step in an important fight.

Among the legislative accomplishments which have given HENRY the greatest satisfaction, he cites the establishment of the Peace Corps, the creation of the Ice Age Scientific Reserve and Trail, and what he calls statutory archeology. Many of us recall the unearthing of a 1865 statute regarding an equal right to housing which he used to pursue open-housing legislation in the 1960's, and the 1899 Refuse Act which he used with great effectiveness in his fight against water pollution.

HENRY is probably best known for his leadership in the economic field. He served, of course, as chairman of the Banking and Currency Committee—and played a key role in House reform when he challenged the seniority system and unseated that committee's chairman—and as chairman of the Joint Economic Committee, where he has gained a national reputation for his mastery of complex financial matters. But it is his service on the House Government Operations Committee where I have had the opportu-

nity to observe and work with HENRY most closely. It was in Government Operations that HENRY waged war against water pollution with the aid of the 1899 Refuse Act and the Corps of Engineers and where he won on so many occasions. I have the greatest admiration for his conservation efforts and, again, his recognition of the vital importance of an issue before it became a popular cause.

The House of Representatives and the Fifth Congressional District of Wisconsin are losing a man of great intelligence and ability, of ingenuity and drive. Our only consolation is the certainty that HENRY REUSS will continue to work in the same manner for Wisconsin and the Nation in his new role, whatever and wherever that is. Let me thank HENRY for the privilege of knowing and working with him, and wish him the very best.

Mr. Speaker, I include an article from today's New York Times entitled "Representative REUSS: Looking Back on 28 Years in the House" in the RECORD.

[From the New York Times, Dec. 7, 1982]

REPRESENTATIVE REUSS: LOOKING BACK ON 28 YEARS IN THE HOUSE

(By Martin Tolchin)

WASHINGTON, December 6.—When Representative Henry S. Reuss was selected recently by the Democratic leadership to respond to one of President Reagan's Saturday afternoon radio talks, a leadership aide offered him a script. Mr. Reuss scanned it and replied, "I think I'll go with what I've got."

"He didn't care what the President said," the aide recalled, "and he didn't care what we said."

The 70-year-old Congressman, a liberal Democrat from Milwaukee, has been doing things his way since he arrived on Capitol Hill in 1954, and that has usually been good enough for the House Democratic leadership.

It turned to him this fall when it wanted to publicize the plight of the economy, and the hearings Mr. Reuss has under way in the Joint Economic Committee have helped lay the groundwork for the pending highways-jobs bills. While Mr. Reuss favors such a proposal, he opposes a increase in the gasoline tax to finance it, and would prefer to put a ceiling on the third year of Mr. Reagan's tax cut.

The hearings constitute a swan song for Mr. Reuss who is retiring this month after 28 years in the House, including six years as chairman of the Banking Committee.

STRAIGHT AS AN ARROW

During his stay in Washington, Mr. Reuss has earned a reputation as an intellectual who is "straight as an arrow" but decidedly not a backslapper, as a colleague, Representative Benjamin S. Rosenthal, Democrat of Queens, put it.

About his crusade for public works legislation, Mr. Reuss said:

"I think the voters delivered a message on Nov. 2. They thought Reaganomics was deficient in both common sense and fairness. Ronald Reagan has given supply-side economics a bad name. Instead of concentrating on how our economy can become more efficient and productive, he concentrated on lining the pockets of military contractors and the very wealthy who are the principal beneficiaries of his tax cut."

Mr. Reuss said he was retiring because "I figured a fellow ought to do something new." Having undergone heart bypass surgery in 1980, he plans to devote himself to practicing law, teaching, writing and "enjoying life."

Looking back over his years in Washington, he says that Congress has changed considerably, not always for the better. "The quality of the average member today," he said, "is the finest in history, in terms of general education and outlook on public life. But the institution has moved backward, and is less effective today than 28 years ago."

The reasons, he said, are the "evolution of the electronic Congressman" who lives by the television set and computer, the accompanying decline of the parties, "especially mine," and "unbridled" campaign expenditures. "Congress is less collegial," he said, "because there's more egotism and less team spirit."

Mr. Reuss was a 63-year-old "young Turk" when he gained the chairmanship of the Banking Committee in 1975, ousting Representative Wright Patman, an octogenarian, and jumping over two colleagues. It was a year of revolt against aging chairmen; Democrats also toppled the chairmen of the Armed Services and Agriculture Committees.

"In 1975, I'd been here 20 years, and I was still in the four place on the Banking Committee," he recalled. "I knew if I just waited around, by the time I got to be chairman, if ever, I would have developed watermelon seeds between the ears."

As committee chairman, he helped push through the New York City Loan guarantee bill, as well as one for the Chrysler Corporation. He said he doubted whether the New York City bill would ever come to pass, because the city, state, banks and unions appeared reluctant to make the sacrifices he felt were needed.

But he has no afterthoughts about helping New York: "We couldn't let New York City go down the drain." He added, however, that "to this day I'm not sure we did the right thing with Chrysler."

PEACE CORPS INSPIRATION

He considers his proudest achievement to be the long crusade that resulted in the "Financial Deregulation and Monetary Control Act of 1980," which gave greater flexibility to financial institutions. "We had set up such a crazy system of highly specialized institutions that our financial system was showing signs of rigor mortis," he said, "We moved to break down some of those barriers between institutions, and let the savings and loan associations make a wider variety of loans, and allow banks to do some of the things hitherto reserved to investment bankers."

Mr. Reuss was also the author of legislation that established the Peace Corps, having been inspired by a visit to Cambodia. "The specific vision," he said, "was the contrast between the super highway between Pnom Penh and the sea, and four young Americans crashing through the jungle to build a school. I've observed that in the last gasp of a civilization, they build great highways from the center to the sea, and then the barbarians come in the other way, and wipe out the civilization."

Mr. Reuss has also exulted in what he calls "feats of statutory archaeology, looking at old lawbooks and finding something nobody knew existed and resurrecting it." In the days before the Clean Water Act, he said, he discovered "The Refuse Act of 1899," which provided penalties for water pollution. Similarly, he discovered a Reconstruction statute that banned housing discrimination on the basis of race, color or creed.

What would he do if he could live his career over again?

"I'd be a bit more angelic to my staff and slap some backs," he said. "It's a marvelous job. Where else do you have a daily opportunity to do good, and get paid for it?"●

● Mr. BONIOR of Michigan. Mr. Speaker, I thank our colleague from Wisconsin, Chairman ZABLOCKI, for putting aside this time to pay tribute to Chairman HENRY REUSS.

The House is a place that often sets obstacles to original and careful thinking. If these barriers have been hurdled in the last few decades, that feat, in no small part, can be credited to Chairman REUSS.

The Peace Corps, the Ice Age Trail—someday I hope to hike a section or two—"statutory archeology," keeping the term current is alone an accomplishment—these are certainly the varied accomplishments of a thoughtful career.

But the final measure of this institution is its success in overseeing and encouraging our Nation's sprawling economy. It is our most demanding job. As chairman of first the Banking Committee, and then the Joint Economic Committee, HENRY REUSS has done that job well.

He was right about the regressive impact of last year's tax cut. He was right about the deficit it would generate. He offered us a real alternative. He has been right about interest rates. Most recently, he has been woefully right about the wisdom of the proposed gas tax.

In the House, Chairman REUSS has been an original. More than that, he has been a thoughtful original. In the Joint Economic Committee, he found one of those places in this institution conducive to thought.

We shall surely miss him.●

● Mr. MINISH. Mr. Speaker, I am pleased to join in this special order to honor our esteemed colleague, HENRY REUSS, on his retirement from these Chambers.

I had the privilege of serving with HENRY, when he chaired the Banking Committee. Getting to know him personally, I have the highest regard for his abilities and sensitivity as a man. Under Chairman REUSS' effective leadership, the Banking Committee developed significant legislation which will help to shape banking policy for many years to come.

Chairman REUSS's skill, expertise, and personality are a great asset to the House and I know we will surely miss him, but not forget his work. Outstanding legislators, such as

HENRY, leave lasting impressions on these Chambers.

My most sincere good wishes for happiness to you and your family, HENRY. God bless.●

● Mr. ANNUNZIO. Mr. Speaker, it is a genuine pleasure for me to join with the chairman of the House Foreign Affairs Committee, the Honorable CLEMENT J. ZABLOCKI, in paying tribute to our distinguished colleague, the Honorable HENRY S. REUSS, who is retiring from the House of Representatives after 28 years of outstanding service.

I have enjoyed working with HENRY on the House Banking, Finance and Urban Affairs Committee, and his influence upon my own career in Congress goes back to when I first came to the House of Representatives. His advice, his expertise, and his counsel have been invaluable to me, and he will be missed by all of us who have come to know him as one of the most skillful and respected legislators in the Congress.

Congressman HENRY REUSS has devoted his life to public service, and his record is most commendable. He served as assistant corporation counsel of Milwaukee County from 1939 to 1940, and as Assistant General Counsel of the Office of Price Administration from 1941 to 1942. HENRY is a decorated and honored World War II veteran, having received the Bronze Star Medal and several Bronze Battle Stars. In 1949, he was Deputy General Counsel of the Marshall plan in Paris, France. He also has authored several books, has taught in college, and has served as a member of the Milwaukee School Board.

First elected to Congress in 1954, Congressman REUSS has ably represented the Fifth District of Wisconsin for almost three decades, providing exemplary service to his constituents and to our Nation. HENRY has a record of distinguished service as the former chairman of the House Banking, Finance and Urban Affairs Committee, and as chairman of the Joint Economic Committee. His dedication, his integrity, his knowledge, and his accomplishments in the House of Representatives are an inspiration to his friends and fellow citizens.

I extend to my respected colleague, HENRY REUSS, my regards and best wishes for his continued success in future endeavors, as well as a healthy and happy retirement.●

● Mr. FUQUA. Mr. Speaker, it is difficult to find appropriate words to honor a man like HENRY REUSS whose career in so many fields has been marked with honors.

His distinguished elective career dating back to service on the Milwaukee School Board from 1953 to 1955, has been crowned with his service in this House since 1955 and his able chairmanship of the Committee on Banking, Finance and Urban Affairs.

In his role as chairman of the Banking, Finance and Urban Affairs Committee, HENRY REUSS has worked diligently and effectively to assure the viability of our banking and economic systems and to bring our cities back to their past glories.

During 28 years of service in the House of Representatives, HENRY REUSS has regularly demonstrated a commitment to the institution, the Nation, and his constituents which all can admire.

During World War II, HENRY REUSS was awarded the Bronze Star and two bronze battle stars in recognition of his courageous service.

Though we in the House of Representatives have no similar decorations to award our colleagues, HENRY REUSS would certainly be among the first so recognized if such honors were bestowed.●

● Mr. SENSENBRENNER. Mr. Speaker, at the end of this Congress our colleague, Representative HENRY REUSS, chairman of the Joint Economic Committee and former chairman of the House Banking, Finance and Urban Affairs Committee, will be retiring. I would like to join with my colleagues in recognizing the years of impeccable service HENRY REUSS has given this Congress in representing the Fifth District of Wisconsin.

The dedication and expertise with which HENRY REUSS served is exemplified through the 14 consecutive elections he has won, many without a serious challenge, since first taking office in 1954.

During the course of his tenure in Congress, HENRY REUSS has been the consumate entrepreneur. As head of the Government Operations Subcommittee on Conservation and Natural Resources, he brought to life the little known 1899 Refuse Act, which directly prohibits the dumping of effluents into interstate waterways. This law was subsequently used as a net to catch industrial polluters.

This entrepreneurship and a keen intellect earned HENRY REUSS an early chairmanship of the House Banking Committee. In the field of international finance, he is a widely recognized congressional expert on such matters as the gold market, the flux of various foreign currencies, and the development of the Eurodollar.

His persistent drive in addressing issues, combined with an astute analysis and foresight have made the current chairman of the Joint Economic Committee an invaluable asset to Congress for more than a quarter of a century. I join with my fellow colleagues in honoring the distinguished service of HENRY REUSS.●

● Mr. ROYBAL. Mr. Speaker, the adjournment of the 97th Congress will mark the end of the congressional service of one of our most respected colleagues. HENRY S. REUSS has served with distinction in the House for 28 years and both we, his colleagues, and his constituents will miss him a great deal.

HENRY is a senior Member of Congress of stature and accomplishment. He was instrumental in establishing the successful and much needed Peace Corps. He has also been a key member of the Committee on Banking, Finance and Urban Affairs as well as an effective chairman of the Joint Economic Committee. His dedication to the public interest and his tireless work on behalf of his constituents in Wisconsin make him an asset which the Congress will sorely miss.

I want to extend to my friend my hearty best wishes on his retirement.●

● Mr. BINGHAM. Mr. Speaker, I appreciate the opportunity of joining in paying tribute to our distinguished and esteemed colleague, HENRY REUSS, as his long service in this House draws to a close.

I first knew HENRY some 40 years ago when we both served as lawyers in the Office of Price Administration. He was then, as he always has been, energetic, capable, and full of ideas.

It was my good fortune to serve with HENRY for one term on the Banking Committee and we have worked together on a number of projects, especially in the Democratic study group.

HENRY has surely been one of the shining lights of the House during his long period of service.

His many legislative achievements are well known and need not be detailed by me. I want to mention only one, for which I as a New Yorker was especially grateful: his shepherding to passage of the legislation that helped New York City survive its financial crisis.

History should record that HENRY played a crucial role in the historic events of 1975 when the rigid and harmful system of selecting committee chairs on the basis of seniority alone was modified: HENRY had the courage to wage an active campaign for the chairmanship of the Banking Committee, even though he was fourth from the top in terms of seniority. The steering and policy committee, which had the new responsibility of recommending committee chairs to the caucus, responded to the challenge, recognizing HENRY's unusual qualifications for the post, and the battle was won.

HENRY has always been wonderful to work with, especially in the development of Democratic policy. His fund of ideas was bottomless, but he was always ready to mesh his ideas with those of others and to share the credit.

My wife, June, and I wish for HENRY and Margie many years of happiness and productive life.●

● Mr. CARMAN. Mr. Speaker, I rise today to congratulate HENRY REUSS on his years of service to the people of Wisconsin and the country. He has served with distinction not only for the past 28 years in Congress, but also during World War II. His receiving the Bronze Metal attests to the distinguished manner in which he performed his military service.

In Congress, his chairmanship of the House Committee on Banking, Finance and Urban Affairs and his present position as chairman of the Joint Economic Committee testify to his leadership. I wish him all the best in the future.●

● Mr. CORRADA. Mr. Speaker, I join with the many Members today in this tribute to the distinguished career of our colleague Congressman HENRY REUSS of Wisconsin.

Throughout his entire congressional career, with considerable skill and intellectual acumen, Congressman REUSS has consistently been in the forefront of the many issues and has carried his expertise to the sometimes arid world of international finance and monetary policy.

Presently the chairman of the Joint Committee, it perhaps is characteristic of his career that just recently, assigned to come up with an economic stimulus program for the House Democratic leadership, HENRY REUSS was once again in the national spotlight, pointing out some time-tested and some economically viable ways out of the present recession, and some alternative policies that the country and Congress would be wise to consider in our present economic downturn.

Such prescience, I note, has always marked his congressional career whether the issue was an international volunteer corps for the United States, now known as the Peace Corps, or environmental issues, or any other issue with which the Congress has had to grapple.

The citizens of his own city of Milwaukee, his State of Wisconsin and, most important, our Nation have always had the benefit of his thinking, his legislative mastery, his talent for hard work but, always, commonsense in thinking our way through complicated problems.

I share the hopes of all the Members here today that we bid a fond farewell to a Congressman who has been a chairman of a key committee, the House Banking, Finance and Urban Affairs Committee, before taking up his present influential position.

As he retires, I can only wish that our country continues to receive the benefits of his accumulated wisdom and intellectual diligence.

To his wife and family, too, we hope they have many pleasant hours with his companionship as he leaves the House of Representatives where he has faithfully served since 1954.●

● Mr. RHODES. Mr. Speaker, I am pleased to join in the special order paying tribute to HENRY REUSS, a very able, well-informed, and hardworking Member.

As is well known, HENRY has distinguished himself in the House as an expert on international finance, and as an initiator of creative legislative ideas. With foresight, he was an early proponent of allowing the dollar to float away from the price of gold; he realized the merits of revenue sharing; and envisioned a plan similar to the Peace Corps years before it became a reality.

HENRY REUSS has been dedicated to the idea of an efficient and responsive Government, prompting him to suggest several novel solutions to problems on the Federal level. The breadth and depth of HENRY'S commitment to his constituents, and to the Nation, is amply reflected in the impressive record he has produced during his term in office.

It was a genuine pleasure to have had the opportunity to work with HENRY REUSS in the House for the past 28 years. Betty joins me in wishing him and his wife, Margie, well in the future.●

● Mr. STANTON of Ohio. Mr. Speaker, I want to enthusiastically join my colleagues in paying tribute to my good friend from Wisconsin, HENRY REUSS. As ranking minority member on the House Banking, Finance and Urban Affairs Committee, I quite predictably had philosophical differences with my chairman, HENRY REUSS, from time to time. However, he was always a most worthy adversary, impeccably honest and fair, who shared my commitment to the health of our Nation's and the free world's economy.

HENRY REUSS not only is one of the few great intellectuals in Congress but also is one of a handful of Members of this body with a full understanding of the complex issues of our international financial system. Over the years, he has been instrumental in guiding the necessary authorizing legislation through Congress affecting the World Bank, the International Monetary Fund, and the various regional multilateral development banks. His concern for the well-being of people everywhere dates back to his service in the General Counsel's Office of the Marshall plan to reconstruct Europe in the late 1940's.

I was privileged to work with HENRY on the Depository Institutions Deregulation and Monetary Control Act of 1980, the most significant piece of banking legislation since the sweeping overhaul of our Nation's financial institutions in the 1930's. Among other things, this act gave the Federal Reserve the necessary powers to more effectively conduct monetary policy. Moreover, for the first time in recent memory, it allowed depository institutions to pay consumers a market rate of interest on insured deposits gradually over a 6-year period.

At the outset of the 97th Congress HENRY REUSS relinquished his chairmanship of the Banking Committee to become chairman of the Joint Economic Committee, where he continues to play a very strong role. In 1975 Chairman REUSS was instrumental in creating the formal and constructive dialog which now occurs between the Congress and the Federal Reserve. Just a few weeks ago, Federal Reserve Chairman Paul Volcker appeared before Chairman REUSS to testify on the latest developments in the Federal Reserve's monetary policy. As a result of that hearing, it is noteworthy to point out the Federal Reserve agreed to explore all aspects of a five-point proposal which Chairman REUSS advanced recently. This is testimony to HENRY'S constant devotion to promoting the dialog about the role of monetary policy in our Nation's economy.

I am pleased that in the final analysis, HENRY and I see eye to eye, for we have both decided that the time has come for us to retire from Congress.

In addition to his many significant legislative achievements, HENRY REUSS leaves a reputation for rising above partisanship in his dedication to the best interests of our Nation. This is in the finest tradition of this body and the legislative process, and I am proud and privileged to have served with him.●

● Mr. STARK. Mr. Speaker, a critic once said of a mediocre Lear, "He played the King as though under momentary apprehension that someone else was about to play the ace."

Our retiring colleague, the gentleman from Wisconsin (Mr. REUSS), has never given anyone grounds for such a sardonic review of any role he has played during his political career. From his losing effort in 1952 to replace Joe McCarthy, to his long and successful career in the House, including top billing as chairman of the House Banking, Finance and Urban Affairs Committee and the Joint Economic Committee, HENRY REUSS has always played to rave reviews.

Because HENRY has had such a successful career, I flatter myself by looking for parallels between our respective experiences. We were both born in Milwaukee, got our undergraduate educations in the East, served in the military and were involved in banking before being elected to Congress. I served with HENRY on the Banking Committee when I first came to Congress in 1973. Now, all I have to do is gain reelection eight more times, become a chairman and match all of HENRY'S other accomplishments. He

has set a high standard for all of us to measure-up to and he will leave a big gap in our ranks.

No one has ever been able to accuse HENRY REUSS of a bad performance. He has been a respected leader in this House for almost 30 years and continues to lead today. I am honored to have served with him and look forward to his wise counsel in the years ahead. And, he certainly is qualified for higher office.●

● Mr. ROSENTHAL. Mr. Speaker, I would like to add my voice to the many being heard today in tribute to a man who has served this Congress and the American people for almost three decades.

HENRY S. REUSS of Wisconsin's Fifth District is retiring in a few weeks and the traits which have made him a desired ally and a troublesome opponent—his hard-driving style, his genius for international finance, his devotion to a carefully defined cause—will be missed.

He has carved out his place in history through his positions as chairman of the House Banking, Finance and Urban Affairs Committee from 1975-81, and as chairman during this last Congress of the Joint Economic Committee. He has thrown himself into such special projects as the establishment of the Peace Corps. As he has delved into matters of international finance, he has never forgotten the needs of his constituents in Milwaukee and has put their priorities above all else.

HENRY's physical presence will certainly be missed in these halls but his voice will undoubtedly still be heard.●

● Mr. OTTINGER. Mr. Speaker, I rise in warmest praise of our colleague from Wisconsin, HENRY REUSS, and his tremendous contributions to this House and our country.

HENRY has been a good friend and adviser to me, since I was first elected in 1964, as he has been to so many Members. His has always been a voice of reason, progressiveness, and caring.

HENRY's specialty has been economics, and as such he has dealt with issues that have always been at the center of our national agenda. As chairman of the Banking and Currency Committee, he has formulated responsible urban development initiatives and championed consumer concerns in banking matters. As chairman of the Joint Economic Committee he has led the fight against Reaganomics and has been at the national forefront in exposing its inadequacies.

HENRY leaves behind him a fine history of legislative accomplishments which include laying the groundwork for creation of both the Peace Corps and the Ice Age Scientific Reserve and Trail. He will also be remembered for helping establish open-housing legislation in the 1960's.

Even after 28 years of service, HENRY has remained a "young turk," innovative and challenging unsatisfactory status quos. Most members disappear from the picture after they announce their retirement, but HENRY has doubled his activities and grown in stature as a Democratic spokesman. His national response to President Reagan's media defense of his economic program was one of the most brilliant and effective of any Democratic effort.

HENRY will be sorely missed by his colleagues. We wish him well in what will surely be an active retirement, continuing as spokesman for the most decent and constructive interests of this country.●

● Mr. D'AMOURS. Mr. Speaker, it is with deep gratitude and appreciation that I join with my colleagues in paying tribute to one of the most respected and well-versed Members of Congress, HENRY REUSS. HENRY's departure will leave us with a challenge in trying to fill the void he will leave behind. I have been honored to serve on the Banking Committee with HENRY and have come to know and appreciate him both as an effective spokesman for his constituents in Milwaukee and as a national leader in the fields of economic reform, urban policy, and international finance.

He has served in this body for almost 30 years and his influence upon us all will be here for many more years. His scholarly approach to legislation, his ability to understand the "whole" and not just the "parts," and his selfless devotion to the ideals of the democratic process have been left to us, and to those who come after us, as a legacy to be treasured and valued.

The magnitude of his willingness to work on behalf of us all, his ability to see directly to the heart of an issue, and his sincerity in trying to resolve a problem without alienating anyone are all traits that we will miss in this body. I can only hope that we will be able to carry on the tradition that HENRY has left with us so that the good of the people will continue to remain a priority.

The years that I have spent on the Banking Committee with HENRY have been extremely educational years and ones which, I'm sure, will continue to serve me in good stead. I would like to take this opportunity to wish HENRY the best of luck in his many future endeavors.●

LEST WE FORGET

The SPEAKER pro tempore (Mr. AKAKA). Under a previous order of the House the gentleman from California (Mr. DORNAN) is recognized for 60 minutes.

GENERAL LEAVE

Mr. DORNAN of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DORNAN of California. Mr. Speaker, twice in the well of this august body today I mentioned that today is the 41st anniversary of Pearl Harbor, one of the most horrible periods in the 2-century and 6-year history of our Nation, when our country was caught completely unprepared both at our major naval and air and Army facilities in the Hawaiian Islands, and also in the Philippine Islands, which were then an American colony. It led to the capitulation of thousands of troops, both American and our brave Philippine allies on the Bataan Peninsula on April 9, 1942, and then on the island of Corregidor less than 4 weeks later on May 6.

The suffering that those thousands of Americans went through really defies description. Only those who truly lived through it and felt the intense pain can conjure up those memories. NBC television presented a superb documentary on this just within the last 48 hours, and to see men in their 60's recalling events 41 years ago, brought instantly to tears over and over again, just gave a slight indication of the depth of that pain and agony.

This Nation at the end of World War II—and I was 8 years of age; it was my exact eighth birthday, April 3, when the Japanese began their major offensive against our defenders on Bataan—I remember those days vividly, and lived through very impressionable years, 8 to 12 years of age, when the war ended, that enfolded in me the terrible firestorms of Dresden and Hamburg, Nagasaki and Hiroshima at the end of the war, but divulged stories to mankind that we thought we had left behind in the Dark Ages—the living skeletons, many of whom still died, freed in Auschwitz, Buchenwald, Belsen, and the death camps in Poland, some of which had been ground into the dirt where there was not a square inch where one could not pick up the bones of and the remains of millions of people who had been killed. The world resolved that never again would we tolerate in this modern world torture, abuse of prisoners, abuse of the Geneva Convention that tried to bring some sanity to the insanity of war, and yet within a few years American boys were being captured in Korea. Three hundred and ninety are known to be alive and as healthy as can be in a POW stockade, never to be heard of again; men shot down all over the world by Soviet fighters, literally hundreds of them

killed in between Vietnam and the Korean war that almost were forgotten by our American people. Then, that long decade, long tragedy of Vietnam, where again served American fighting men, this time most of them officers able to survive in the north, but the enlisted young men caught in the south, a 90-percent fatality rate, torture as bad as that inflicted by Nazi Germany, although in much less numbers; as bad as that inflicted by the sadistic Japanese against British, Australian, and New Zealand troops in Burma and our troops in Southeast Asia; and those torture-ridden survivors from Bataan and Corregidor.

All of these nightmare stories came out again on the evening of March 28, 1973, when the last airplane landed bringing our men home, when we approached that 10th anniversary. But, did it bring all of our men home? No, because every single high-ranking intelligence source that I respect in the United States, the military structure and in the CIA, formed to assist our President, in every administration of either party, has conceded to me that the evidence is overwhelming that we will be again, as we did in Korea, leaving behind men at the end of the Vietnam crisis.

I would like to address myself to that problem now in my last days as a Member of this great Congress of the United States, and touch on some of the things that I tried to accomplish in 17 years of activity on this issue.

I would like to pay respect to my closest associate, who put in years of hard work on this issue, 4 years before I came to Congress, my good and dear friend, BENJAMIN GILMAN, of New York. Since he is coming back to the 98th Congress, I hope that the Democratic majority, particularly a man of different political persuasion whom I admire as a person, the chairman of my Pacific and Asian Affairs Committee, STEPHEN SOLARZ, will see fit not only to continue the task force efforts of our House Task Force on Missing and Prisoners in Southeast Asia, but will see fit to heed whatever advice I can give him from my almost two decades of experience on this issue, to let Mr. BENJAMIN GILMAN, of New York, take over the reins as chairman of this task force that Mr. SOLARZ has so graciously given to me—a heavy responsibility, even though I am of a different party, and even of a different political ideology generally.

I would like to yield to my good friend, Mr. BENJAMIN GILMAN, as we go over most of our frustrations and the first little lights that we were able to set fire to on this issue.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I want to take this opportunity to thank the gentleman from California (Mr. DORNAN) for taking the time for this special order on this special day, Pearl Harbor Day, in order to keep the Congress apprised of the progress in accounting for our MIA-POW's and report what still has to be done for the 2,500 Americans who are still missing in action or prisoner of war in Southeast Asia.

On this occasion, I also want to commend the gentleman from California (Mr. DORNAN) for his outstanding work over the past 2 years as the chairman of the House Task Force on Missing Persons in Southeast Asia and his untiring efforts for our MIA's during his past 6 years in the Congress. His retirement from the Congress will leave a big void. We will truly miss BOB DORNAN's work in this and other important issues.

Our missing in action in Vietnam, in Laos and Cambodia is one of those issues which defies the traditional approaches the Congress has made in other matters. Despite the work of our former Select Committee on MIA's, despite the number of congressional hearings that we have held on the MIA problem, no matter how many meetings we initiated, and how many gatherings of the families of our missing in action, the bulk of our work must inevitably come from the Vietnamese, Laotian, and Cambodian Governments, and that places us in an extremely difficult position. It is very difficult and painful to continually report to the families of the 2,500 missing in action that there is no new information, no good news, and no bad news. In the 10 years I have been in the Congress, I have worked on no issue more difficult to resolve than our MIA-POW issue.

From the families' point of view, and from the point of view of many of us in the Congress, we are fighting a two-headed enemy—the governments of Southeast Asia and, in too many instances, our own Government. During the early days of the MIA struggle—over 10 years ago—the families' distrust of the Government was deep-seated and strong. Many MIA families believed, and some still do, that our Nation knew that live men were left in Vietnam and that we failed to rescue them at the cessation of hostilities. The complex fabric of public reaction to the Vietnam war also colored the attitudes of Government officials who, after the war, refused to consider this issue in a direct manner. There was a pattern of denial and evasion which still results in bitter feelings on the part of some family members.

But it is not my intention in this special order to underscore those bitter feelings. Indeed, in the last 3 years, there has been a distinct change in the attitude of our Government toward this issue. Many factors have contributed to that change—a more open feeling about the war in Vietnam, the active involvement of our Vietnam veteran, in this issue, and the passage of time.

The families of our missing have weathered some difficult times over the past decade, and the admiration and cooperation of our Government are just rewards for their patience and perseverance. While the administration has been cooperating with the Congress and other interested parties in seeking the truth on the MIA issue, I am not fully satisfied that we are doing enough. Many of us will never be satisfied that we have done enough. There are times that the doubts about our progress linger, and I am concerned that during this passage of time we may have abandoned some opportunities which could have borne fruit. We often wonder if there are any live Americans still being held as POW's, how they may have fared while negotiations and debates continue in our own country.

It is appropriate at these concluding days of the 97th Congress that we examine just where we have been and where are we going with regard to this issue.

We have been to the point of no return, as far as I am concerned. We have invested too much both as a nation and as a humanitarian people to turn back now. In the past 10 years, the Vietnamese have returned only 77 sets of remains to our Nation. The Laotians have officially returned no servicemen, although Lao resistance forces have cooperated in securing the remains of Comdr. Nick Brooks, lost in action in January 1970. For a 10-year period, in which there have been numerous overtures by the United States, many offers of assistance, diplomatic and congressional missions and family visits, this record is wholly inadequate. We heard testimony from a Vietnamese-Chinese mortician in June 1980, whose testimony has been deemed credible by our intelligence agencies. That Vietnamese mortician said on several occasions—passing a polygraph test administered by our Government—that he personally prepared the remains of 400 American servicemen during the Vietnam war, and that the Vietnamese Government was storing these remains to use as bargaining chips at a later date.

When we visited Hanoi we asked to inspect the site where these remains were reportedly being held. The Vietnamese, who appeared to be caught off guard, denied us access to the warehouse, stating we would not have time to travel to that building. However, on the way to the airport, a member of our congressional delegation took a photo of the building, which was in reality only a few blocks from where our meeting took place.

This is an example of the kind of duplicity that the Vietnamese have practiced in avoiding the real issue. When

we confront Vietnam officials with our requests for information, the discussion is usually shifted—"that the United States is slandering the Vietnamese on the yellow rain issue; that the United States is in a league with the Chinese against the Vietnamese; that the United States owes billions of dollars in reparations to the Vietnamese." With this reasoning and dialog it is no wonder that the resolution of the MIA issue has taken over a decade.

On a recent visit to Vietnam and Laos, four family members with relatives missing in action met with government officials and scored some important gains in this difficult battle of will. The families, including George Brooks of Newburgh, traveled to Vientiane, Laos, and to Hanoi in Vietnam. They met with officials, who assured the Americans that the MIA issue was a high priority. In Laos, the families for the first time were permitted to travel to an actual plane crash site at Pakse and came upon some pieces of an American aircraft. While the Laotians were indeed forthcoming in this regard, I was disturbed to learn that the files we repeatedly turned over to the Laotian Government on certain downed Americans—files prepared by our Government in the Lao language—were missing and had probably never been submitted to the proper Laotian officials.

The Laotians appear to be willing to work with the United States to begin a joint recovery effort to search for remains in the Laotian countryside. While that attitude is encouraging, the Lao Government has not yet established any permanent committee on the MIA's nor have they made any definite strides in getting the recovery missions off the ground.

The Vietnamese, on the other hand, have established a committee to deal with the MIA problem. Their committee even issued a white paper a few years ago denouncing U.S. criticism of the Vietnamese on the MIA matter. We have met with the members of that Vietnamese committee and I have faith that they are well versed in all aspects of the missing-in-action issue. Their meticulous recordkeeping and their very orderly preparation of the personal effects which were returned with sets of remains are indicative that the Vietnamese are highly aware of the impact and importance that the MIA issue has for most Americans. I do not, however, believe that the Vietnamese have disclosed all the facts and information that they know.

So now what? Where do we go from here? What are we to do in the next several months to bring about more activity on the MIA issue? And from there, how do we maintain progress and bring the proper pressure on the Vietnamese, the Laotians, and Cambodians to provide for final accounting of our missing in action?

One of the first things we will have to do in the next few months is to meet with our President to let him know just how critically important this matter is to us. The families have not yet met with President Reagan, and I think that it is extremely important for our Commander in Chief to focus his personal attention on our 2,500 MIA's. The White House has not made the public statements and has not given the highest priority to this issue that is so necessary for a national movement to bring MIA's and POW's home. We will be calling upon President Reagan to meet with us to discuss how we can best proceed toward a resolution of this agonizing issue.

It is also time for us to seriously discuss—on a government-to-government basis—joint recovery efforts. If these nations do not have the equipment and funding necessary for such a mission, we should be able to provide them with the necessary expertise and guidance necessary. We cannot afford to allow such a proposal and these initiatives to die from neglect.

But most important, I urge my colleagues to continue working with our Government agencies, keeping the pressure on them to produce the most responsive and responsible positions on the MIA issue. Now that we are beginning to achieve some progress, now that some of the doors are beginning to open in Southeast Asia, there can be no letting up. Our MIA's deserve no less.

□ 1950

In closing, again I want to commend the outstanding work that has been undertaken by our chairman of the task force, the gentleman from California (Mr. DORNAN), who has devoted so many years to this issue and so much of this time and effort to trying to bring about an accounting. I hope that we are soon going to see that accounting become a reality.

Mr. DORNAN of California. I say to the gentleman from New York (Mr. GILMAN), that he knows I treasure the traditions of the House because it is a governor on us when we get angry to have to refer to a Member with whom we may be disagreeing as the distinguished gentleman from this State or that.

But every now and then the tradition weighs heavy on me when I want to use the full impact of familiarity with a friend so that people watching on television on the Hill or on cable network across this country will know that it is more than just the formal expressions of respect.

So I say, BEN, God bless you for your work. I am sure glad you are coming back. I know you will not forget and that is what I would like to title this whole special order tonight, "Lest We Forget."

I treasure your friendship in the future and particularly over the last 6 years and before that when I joined you here in the Congress, all of the efforts you did so as not to forget friends of mine that were left behind that you could just as easily, and you have shown such devotion to your best friends in the Air Force and other branches of the service. Thanks BEN.

Mr. GILMAN. I thank the gentleman for his kind words and I hope he will continue to give us the benefit of his advice and support in the months and years ahead.

Mr. DORNAN of California. I remember when a great black general, and I say black because we do not have, unfortunately, many big, handsome, black Americans with eight stars on their shoulders, I remember when full Gen. Chappie James retired he said he was going to stay in the Washington, D.C., area because he wanted to be close to the arena where he could hear the roars of the lions and the screams of the martyrs. I will stay in the area of this arena for at least at couple of years, I say to the gentleman from New York (Mr. GILMAN).

Mr. BAILEY of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. DORNAN of California. It gives me great pleasure now to yield to a man that I have served here with for several years, that although we have not had a chance to work together that much, it just gave me a kick, frankly, to be in the same House with him because we did not get many Vietnam veterans in this House who were airborne qualified officers, chosen to lead other men in Vietnam, and who understood fully that that war was lost here on Capitol Hill, mainly on the television screens of America, and that there is not anything 99.99 percent of the veterans, the men and women of all of the services who fought in Vietnam ever have to ever be sorry for or apologize.

The 600,000 dead boat people, the 1.5 to 2 million people genocided in Cambodia, the victims today of red rain, yellow rain, blue rain, nerve gases, the concentration camps, four major ones that we have identified still open in Vietnam, the intense suffering of the men who have probably been left behind, I do not care whether it is a handful or 100 or 200, it is unbelievable and a disgrace.

All of the agony that still goes on with the Vietnam Communist occupation of Laos, Cambodia, the refugee camps my daughter spent a year in and that I have traveled over four times to see, all of this agony was exactly what we were trying to prevent, exactly what President Reagan meant when up in Nashua in New Hampshire when in the debate that won him the Presidency he said that Vietnam was a noble cause.

By just sheer, dumb coincidence, since I saw Congressman DON BAILEY play in the Rose Bowl in Pasadena in 1965, I have only been lucky enough to go to four Rose Bowl games. I was sitting in the stands and he was taking it on the chin, grinding leather against leather down in the field. I remember in 1965 starting a brief television show where he debated what was happening in Vietnam and the death figure sticks in my mind of 213 men. In 1964 I wrote a movie script called "The 101st American" when the 101st American died in Vietnam, and I was going to tie it into the 101st Airborne. Years later, over a decade later, I served with a man who went from that football game gridiron, his good education, to officer training, airborne jump school, and finds himself in Vietnam.

I hope some way, somehow, you will come back to this Congress, or the U.S. Senate, or you will stay in the arena area here, DON, and continue to serve our country. We need more and more veterans of the Vietnam war in this House just so desperately, and it is a pleasure to yield to you on this special order about or MIA's.

Mr. BAILEY of Pennsylvania. I thank the gentleman very, very much, particularly for your kind personal words. I want to thank you also in my capacity as a Vietnam veteran, thank yourself and the gentleman from New York (Mr. GILMAN) for keeping a very uncomfortable issue in the national spotlight and before our people.

The last 2 years I have spent very, very quietly interviewing particularly refugees who were boat people, who had spent time in reeducation camps, so-called reeducation camps.

I have also had come into my possession letters from individuals who have been sent to the Soviet Union to work in order to try to compensate for the debt that Vietnam owes to the Soviet Union, an ever-growing debt.

During this process I have become aware of and tried to work with those groups establishing a liaison with resistance groups fighting within Vietnam and within Laos and those that are associated with the new coalition that has been formed there under the leadership of Prince Sihanouk and Mr. Sun San, whom I personally also have personally tried to help.

During the process, of course, of picking up information one of the things I consistently looked for was the evidence of Americans who were seen or whom reference had been made to, either Americans who had been seen or located or were somewhere within the Southeast Asian area. It is very clear that we still have American soldiers who are being held there. The evidence is, as the gentleman mentioned earlier in his special order, overwhelming.

We now have a government which has slowly come to the realization under President Reagan's leadership that indeed that is the case. Very unfortunately, though, and I think it is important to note this, people that view a government, a massive government, a great bureaucracy, have a tendency to think that executive leadership is simply a matter of edict or change and it is not.

There is a great deal of lethargy, and I really do not know the reason for it, within much of our intelligence community and certainly within the State Department that just does not want to, for some reason, acknowledge or accept the responsibility for doing something about this problem.

I may be unfair to them, and if I am I hope that I will someday stand corrected.

But the truth, in fact, is that we have a country that is embarrassed. I very much want to thank you people in particular, Congressman DORNAN and Congressman GILMAN, for what you have done. The real problem with policy in our country is the fact that we just do not want to admit that the United States of America would leave her soldiers behind, and in the rationalizations that many policymakers and antiwar types I suppose would say now incur in order to avoid resolution of some of the realities of what has happened to Southeast Asia, along with that goes the desire not to recognize some Americans that we left behind.

Words are not adequate to express what anybody who sits back and reflects for a moment feels about that. What if it were you or me? What if it were your brother or sister? What if it were your father or other relative? But it is not.

So the Nation just lets those families and relatives of people there just hang in doubt somewhere in between while we do not do anything about it as a country. As a country we are not going to take up arms to solve the problem. Let us be honest about it.

I know many people feel they want to do something about this. I feel, and this is why I really wanted to run over here and commend you two gentlemen, I feel really we have to do something about the grassroots problem with public opinion and getting the truth out in this country. It is the only way to change things.

Right now you have a media that failed to report. I found one report in the United States last week, about one and one-half column inches or so in the Los Angeles Times. There was a revolt in Saigon a week ago, Ho Chi Minh City. Hanoi Radio has spent about, at least from the reports that we have from the wire services, and they are French wire services, amazingly, not American, but the media indicates that Hanoi now has spent a great deal of time trying to explain that situation, and we are going to research it out thoroughly, of course.

□ 2000

But it is amazing that with the millions of American soldiers who were involved in Southeast Asia, with a half a million new citizens, soon to be new citizens, in this country, with the now openly acknowledged presence of American soldiers still being held captive—and I say to the gentleman from New York (Mr. GILMAN), I know the gentleman is aware of this, the gentleman from California (Mr. DORNAN) and I know the gentleman is aware of the fact—that we have knowledge of locations of remains, et cetera, that people have access to, knowledge of, that probably could be returned. And with the resources of the American intelligence community and our State Department, nothing is being done to emphasize or publicize these realities.

It is very difficult to get the American people aroused, I suppose, or concerned when we spend so much media time on Eastern Europe, as perhaps we should, different problems in Latin America, as perhaps we should. But we cannot get just a modicum of news reporting on an area where the United States of America has spent so much blood and so much effort.

The Communist takeover has been a total dismal, absolute failure—a mindless tyranny, devoid of any respect for any individual's rights, who make a practice of manipulating American media, and thereby public opinion, and therefore government policy—because unfortunately I suppose they understand the system even better than many of our own citizens.

I guess the only thing to do is to continue trying to struggle and fight to get the word out. I quite frankly am frustrated and do not believe that it is viable to try to go to Government institutions or to our Government agencies to get these problems solved. I think you just have to work person by person to bring people together who at least care about doing something about our soldiers over there. You get a finger pointed at you, and you get called some kind of rightwing fanatic or nut, unfortunately.

I suppose that serves the interests of those who are looking for an excuse not to do anything. I do not know of anyone who wants to lead expeditionary forces or go to war. As a former soldier I would do anything within reason to avoid an armed conflict. But it is a terribly, terribly unfortunate thing that access to media time in this country is so controlled by what I am sure is not some sort of overt collusion, but certainly there has got to be some preference for attitudes or viewpoints which controls information.

And I think the resultant lack of Government response means that you just have to go to the private sector and you have got to go to individuals who believe the way that we do and

try to do something about helping those people.

At some point our Government is going to be embarrassed. Sooner or later someone is going to come out, sooner or later someone is either going to be released—they just released 30 French prisoners of war, not too many years ago, that had been held since the fifties and late forties. And there are going to be a lot of embarrassed Congressmen and Senators, and I hope not an embarrassed American President, mostly I think an embarrassed people.

As a country I just cannot understand how we as a people can take our soldiers and send them to a place to fight and then somehow, because it creates political difficulties for us to face the music, not at least try to bring those kids home.

Again I thank both of the gentlemen very much for the efforts they have made. Someday they will come to fruition. We will get our people back, and hopefully, and I am sure without violence, but only when our Government really puts the pressure and emphasis on trying to do something, and they have the means at their disposal. They are just not doing it.

I have talked to intelligence analysts who are very much aware of what is going on in Vietnam today. Their feeling is it is OK, just let it perk and cook along. But the last thing in the world we would want to do is ever really stand up for those values in which we believe by assisting in that effort, in whatever subtle ways that we can.

On behalf of my comrades in arms, I would just like to thank both the gentlemen very, very much.

Mr. DORNAN of California. Thank you very much Captain. I thank the Congressman from Pennsylvania (Mr. BAILEY).

Mr Speaker and all interested Americans on this, the 41st anniversary of the bombing of Pearl Harbor, I pause once again to salute, with Mr. GILMAN, the men who fought so bravely, like Mr. BAILEY, to protect the call of freedom. And we pause here again so that we will not forget, although I am afraid that in our haste, as Mr. BAILEY said, to put Vietnam behind us and to create definitely future embarrassments because of trying to sweep away history, that we are forgetting the 2,553 men and their noble families who are unaccounted for, and among them the handful or not such a small handful who may be still fighting in some small individual way, not for the freedom of Southeast Asia, that fight is over for any American prisoners, but fighting for their own personal freedom.

In the 17 years since my best friend in the Air Force, captain, now Lt. Col. David Hrdlicka was shot down over Sam Neua in Laos I have never been able to forget. I still wear a bracelet with David's name on it. I have traveled to Laos four times, South Vietnam eight times, to Hanoi in August of 1979. Mr. GILMAN has been to Hanoi four times, I believe, certainly three. I have heard the cries from pain wracked families, watched the disgraceful end to Saigon as it became Ho Chi Minh City before our eyes, watched the Communist Vietnamese invasion of Cambodia, the fall of Phnom Penh, when with nine other Congressmen we sat helpless across the border in Bangkok, Thailand, having to cancel our trip into Hanoi, which I had waited 10 years to accomplish, listened to the promises of the Hanoi Vietnamese, and seen absolutely no progress, a war between China and Vietnam, and the continued agony in that area that I referred to before.

Mr. Speaker, I took this special order tonight to join with Mr. GILMAN in pointing out that for some of us this will never be over until a full accounting is made—as much as is humanly possible—for hundreds of Americans out of that 2,500 figure. There is certainly no contravening, contradicting or disavowing the fact that 400 boxes of remains, 400 plus, are in some warehouse, somewhere in the Hanoi area, with the bones of our American heroes that we demand to have back for proper funerals in this country, as we have had for a couple of dozen, so that those families are able to rebuild their lives, and we are able to take some small measure of dignity out of that decade of agony in Indochina.

I am pleased and more than a little proud to say that House Joint Resolution 479 to provide for the designation of POW-MIA Recognition Day was signed into law for a July date last year, and for this year and into the future always on August 9, the day that more Americans began their agony of suffering as POW's than ever in history—August 9, 1942, in the Bataan Corregidor nightmare. I have introduced several pieces of legislation here including House Concurrent Resolution 275, which currently has 11 cosponsors, to try and animate this body to send the strongest message possible to the Communist conquerers of Southeast Asia that we are deadly serious, that we will never forget our missing men. I have held task force hearings, read POW and refugee letters into the RECORD, given speeches, stood before you countless times. And yet, as Mr. GILMAN says, not much progress has been made except by that great and noble volunteer organization, the League of Families.

I am not complaining. Obviously I am not campaigning. I am just simply imploring that this body address this issue with the attention it deserves, and to remember the sacrifice that those men who made in Southeast Asia may still at this moment, may be in the progress of being made by a handful of men suffering the most intense pain any American could suffer, as they feel that we wrote them off. There truly is something worse than death.

□ 2010

It is to rot somewhere in some Gulag dungeon in Siberia or in some Communist or dictator cell anywhere in this world and feel that your loved ones and your fellow citizens have forgotten you.

I have four pages of facts here that my staff carefully put together over months of work but because of the late hour I guess it does not make much sense to read carefully and respectfully each little set of facts and suspicions and sets of evidence on the devious way this issue has been handled by the Communists in Hanoi.

I respect—and I use that word with a small "r"—the skill of the current Foreign Minister of the Hanoi government that rules the three nations of Indochina today. I would ask Mr. Thach who has stared me down eyeball to eyeball across his negotiating table in Hanoi, I would ask him if he has any power or clout with Pham Van Dong or any sense of judgment about his country that is on the razor's edge of starvation, that the way to break loose anything in the United States is to execute the greatest search that anybody has ever made for men out in the small villages and to come up with some live Americans, because we know there are some there, particularly in Laos where they have complete hegemony and control, and then to take some bad press. They are so worried about bad press. They do not get much bad press in France when they return bones at the price of somewhere between $8,000 to $50,000. They know they are getting bad press because they are still refusing to give back the bones of the grandson of a former great President and war hero of France, Charles de Gaulle's grandson, who fought and died in Vietnam. Take their bad press. It will only last a few months and then wait and see if this great legislative body, the Congress of the United States, does not respond to them returning all the remains home, that we will not let even Communists or people under a Communist system of government starve.

When there is an earthquake in China or Yugoslavia or some natural tragedy of nature in the Soviet Union, the United States is the first Nation to respond with help.

The tragedy with the great Chinese earthquake a few years ago when the Gang of Four was still in power, that based on pride they let tens of thousands of their people die without American aid that could come from this wealthy country, rather than let

that aid come into a country that is also barely able to feed itself.

Foreign Minister Thach, I know you will read these words. I know your delegation to the United Nations in New York goes over every single thing we do in this Congress with a fine-tooth comb about potential economic aid to Vietnam, Cambodia, or Laos.

Well, be advised that as a private citizen outside the Congress, or the Gilmans in this Congress, we are not going to forget that you have played fast and loose with American women, mothers, daughters, sons that are now in their twenties that were infants when their dads were lost; you cannot play with people's emotions like this. You have your traditions, your respect for animism and the spirits of your ancestors and your grandfathers and grandmothers. Well, we are not going to forget our men that were left behind there when we know you have 400 or more sets of remains and we are demanding that they be returned. You cannot destroy them or burn them or execute the remaining live men you have and get away with it because you, Mr. Toc, are sophisticated enough, and I say this for the second time in the well of this great Congress, you are sophisticated enough to be familiar with one of the great writers of history in any language, William Shakespeare, and as he said in Hamlet, "Murder though it hath no tongue will by most miraculous organ out."

If you harm these final American survivors, if you destroy in some funeral pyre the bones of our heroes, it will eventually get out. Someone will turncoat on your regime. Someone will escape from that country. Someone will have a relative killed in some Communist night of the long knives and somehow or other somebody will make it out to the free world and tell the story.

If you want to put this chapter of history behind you, you know how to start. Start by giving us back our remains and initiating a legitimate search where you do not charge the wives and fathers and mothers $18,000 to fly around in a Communist Russian supplied helicopter that you are paying for with your young men sent as slave labor to work on the natural gas pipeline from Siberia.

Open your mind up and let us be open on the table on what you know we know about what you know and let us get this thing put behind us.

In conclusion, I refuse to close my eyes and so do some other Congressmen. All it needs is one dynamic handful of leaders in any free legislative body to keep an issue alive. We are not going to turn our backs. We cannot forget. We are not going to forget.

As Alexandr Solzhenitsyn, the greatest Russian living today, along with Dr. Sakharov, as Solzhenitsyn said in 1974, "If the Government of North Vietnam had difficulty in explaining to you Americans what happened to your brothers with our American POW's who have not yet returned, I on the basis of my experience in the Gulag Archipelago of prison camps can explain this quite clearly. There is a law in the Archipelago that those who have been treated the most harshly and withstood the most bravely, the most honest men, the most courageous, the most unbending, never again come out into the free world. They are never again shown to the world because they will tell such tales as the human mind cannot accept. A part of your returned POW's told you they were tortured. This means that those who have remained behind were tortured maybe even more and did not yield an inch. These are your best people. These are your first heroes who is solitary combat have stood the test and today they cannot take courage from our applause because they cannot hear it from their solitary cells where they either die or sit for 30 years like Raoul Wallenberg who was seized in 1945, was taken to the Soviet Union where he has been in prison for 30 years and they will still not yet give him up.

And of Alexandr Solzhenitsyn, I ask this House to rise up and put an end to this suffering in the 98th Congress, to the suffering of our fellow American families. If we do not do everything humanly possible, if we do not unturn every stone, then we are denying our heritage and we are literally eviscerating our future for this country in our third century, which by every form of reasoning should be our best century. Do not allow this to happen. I ask the remaining members of the task force to see that this issue is seen through to its humane conclusion. As I leave this House, my only regret is that I could not see a proper solution to this agonizing issue that has involved so much of my life; but I am not going to take off my bracelet, as I told a whole array of Russian diplomats and Politburo members in the Kremlin, I will not take off this bracelet of Dave Hrdlicka even if we get his remains home, because I will replace it with a bracelet of Shcharansky and other people who are suffering in Siberia.

I guess what I am saying is that I am stuck wearing this Montagnard bracelet that has been on my wrist since 1966 for the rest of my life. I guess I will die with it on, and the other bracelet that grew out of the Montagnard bracelet, the people who are the relatives of the Mung tribesmen being poison gassed, genocided off the planet at this very moment in Indochina, that bracelet will stay forever and I will keep changing the other bracelet with the names of the heroes, who as Solzhenitsyn said, are rotting away somewhere in solitary combat against the forces of despotism and evil, and it does not always have to be Communist evil, either.

The freedom for which my friends fought in Vietnam and the younger men who were my vintage as a Korean veteran, I will not forget them, so help me Almighty God.

I wanted to end on a positive note, but in this special order I want to ask two younger Members, I think they will be coming back to the House some day, although they were defeated, that since I put them on the committee should have worked more closely with me in their heroic and tough efforts to do something on this issue.

I appeal again from the bottom of my heart to Mr. SOLARZ, as one of the hardest working Members of the loyal opposition from my standpoint, to keep this task force intact, to utilize the talents and the longstanding experience of Mr. GILMAN and any Members who are given this responsibility to serve on this task force; do not go off on tangents on your own the way some of my friends did on the task force.

□ 2020

I say work together with Mr. GILMAN, make this a team effort.

On April 9 next I will look forward to turning on cable television on Bataan/Corregidor Day on the 41st anniversary of that day of infamy in the history of our country and seeing another special order, other men get in the well, and other women who serve all of us Americans, and take out 1-minute speeches, special orders, keep this issue alive, and do not ever let the conquerors of Vietnam think we are going to write off the memory of our men, so help all of us, Almighty God.

FACTS

When the Vietnam war ended in 1973 with the Paris peace accords, there were 2,553 men still unaccounted for in Southeast Asia; 1,178 were listed as KIA-bodies not recovered. And there were 1,279 listed as MIA and 96 remained as POW's.

In the almost 10 years that have elapsed, only 77 remains have been returned out of the 2,553. In Laos, where 559 men were MIA, only 2 remains have been returned and no information regarding the men held in the huge caves in Sam Neau has been released.

Within the last few years, there have been 280 firsthand live sighting reports from refugees and 170 secondhand reports on American soldiers in Southeast Asia.

Only two men are still listed as MIA: Maj. Jeffery Lemon, USAF and Lt. Col. Winfred Sisson, USMC. We have begun to turn our backs on the men who gave their lives for freedom.

SUSPICIONS

Lingering suspicions prod us to believe that Hanoi has not been straightforward in dealing with us. Hanoi's reputation: As late as 1977, the French have paid for prisoners and continue to do so for the remains of Frenchmen killed in the Indochina war nearly 20 years ago. All, long after the Vietnamese claimed to have no more remains.

In November 1979, a Vietnamese mortician reported to have processed some 400 American bodies. His testimony before the congressional committee has been verified as "irrefutable" by the DIA. These bodies were then stored in a morgue near Saigon several years after its collapse.

After years of testimonies, and hundreds of files being turned over to the Vietnamese, it is incontrovertible that they have precise records of our missing men. They have a Third Reich fascination with details. In fact, their Ministry of Defense had an enemy proselytizing department which provided their troops with morale and the world with propaganda concerning our captured men.

Lt. Gen. Eugene Tighe, ex-head of the DIA, testified in 1981 that it is his considered opinion that there are live Americans still being held in Southeast Asia.

The reports from many of the 500,000 people fleeing from the Communist repression have lent credence to the reports of American men still alive in Southeast Asia.

Unfortunately, Hanoi is associating their humanitarian obligation, in some perverted way, with some kind of economic reparations from the United States.

There are the continuing suspicions that the Vietnamese will use the POW/MIA issue for some form of political leverage—Kampuchea into the United Nations, smokescreen for territorial aspirations. Our missing men will become bargaining chips in some surrealistic game of political chess.

Only 13 percent of American casualties in North Vietnam have been accounted for.

EVIDENCE

The Vietnamese claimed that since 1973 they have had no evidence nor remains of American soldiers. In light of this claim, one must weigh the evidence.

As late as October 14, 1982, four bodies have been returned: Maj. Robert Trice, USAF, December 20, 1965; Ens. Donald P. Frye, USN, June 19, 1967; PO William P. Jackson, USN, June 19, 1967; and PO Donald P. McGrane, USN, June 19, 1967.

The painful cases of Tucker Guggleman, Capt. Richard Van Dyke, Lt. Stephen Musselman, and Comdr. Ron Dodge all scream out in indignation to the blatant lies of the Vietnamese. How could it take 14 years to account for Ron Dodge? How could the Montgomery committee return without Tucker Guggleman in 1975 if the Vietnamese said he died 6 months before the committee's arrival?

The fascination with details that they have, supports the belief that they have complete records of every man held in Southeast Asia. If they had the sophistication in Laos to build the stadium size cave compound in Sam Neua, then the Pathet Lao, under the control of the North Vietnamese, certainly had the organization necessary to keep records. They are there; somewhere in a hermetically sealed room lay the files that tell the fate of some 2,500 American men.

The evidence substantiates the suspicions that there are men still missing who can be accounted for in Southeast Asia.

PROGRESS

The Reagan adminstration has given the problem of accounting for the missing men the highest priority. William P. Clark said:

> We have enough information not to rule out the possibility that some of our unaccounted for men could still be held alive in Southeast Asia.

But progress has been slow due to the lack of cooperation of the Vietnamese Communists who continue to tie this issue to their political objectives. With thousands held in reeducation camps and thousands more sent to the Soviet Union as slave labor, appealing to their humanitarian sympathies seems unrealistic. With the slaughter of millions of innocents in Laos and Kampuchea and the reprehensible use of yellow (red) rain, it is no surprise that the Vietnamese have so inhumanely manipulated this issue of our missing men.

Although our progress has been slow, the Vietnamese have been able to attain a seat in the United Nations and their puppet government in Kampuchea is now bucking for one.

Since 1975, the International Monetary Fund has loaned the Vietnamese Government over $170 million. The United States provides for 20.65 percent of the IMF's funds.

We have provided them with close to $100,000 in medical assistance.

Yet, we have only received seven remains in the last 3 years.

We desperately need the humanitarian cooperation of the people of Southeast Asia if we are to see any real progress in this area.

THE KEY TO THE DOOR

We must find the key to resolving this issue. If the Governments of Vietnam and Laos wish to see further cooperation from the United States, then they must be more forthcoming with their information. We must find a way to impress upon those governments that if they have information they should divulge it now. If they have prisoners, feed them, heal them and return them to us. We will bear no resentment—we understand the misery of the war. We will only welcome our heroes home.

As William Shakespeare said in his most tragic work "King Lear," "Endurance is all." If men are still alive, if they have been able to endure all the hardship that life has doled them, then send them home for they are our best. These are our heroes.

As John F. Kennedy said, when discussing the Cuban missile crisis, if you have a rat cornered and you do not want it to fight then you have to give it a way out. We must find a way to let the Vietnamese release our men and come out unscathed.

Maybe the recent trip of the National League of Families will provide us with that key. I am sure though, that we cannot sit idly by and allow further inhuman acts of terror to rage in Southeast Asia and I am convinced that before any diplomatic relations can be established with Vietnam and Laos, some resolution must be found to this tragic legacy of the Vietnam war.

We cannot close our eyes; we cannot turn our backs; we cannot forget. As Alexandr Solyhenitsyn said in 1975:

> If the Government of North Vietnam has difficulty explaining to you what happened to your brothers, with your American POW's who have not yet returned, I, on the basis of my experience in the Archipelago, can explain this quite clearly. There is a law in the Archipelago that those who have been treated the most harshly and withstood the most bravely, the most honest, the most courageous, the most unbending, never again come out into the world. They are never again shown to the world because they will tell such tales as the human mind cannot accept. A part of your returned POW's told you that they were tortured. This means that those who have remained were tortured even more, but did not yield an inch. These are your best people. These are your first heroes, who, in a solitary combat, have stood the test. And today, they cannot take courage from our applause. They can't hear it from their solitary cells where they may either die or sit for thirty years, like Raoul Wallenberg, the Swedish diplomat who was seized in 1945 in the Soviet Union. He has been imprisoned for thirty years and they will not give him up.

I ask this House to rise up and put an end to this suffering, to their families suffering. If we do not do everything humanly possible, if we do not unturn every stone, then we are denying our heritage and eviscerating our future. Do not allow this to happen. I ask the remaining members of the task force to see this issue to its humane conclusion. As I leave this House, I only regret that I could not see a proper solution to this issue, but I will not take off my bracelet until the last man has been released and the freedom for which these men fought achieved. I will not forget, so help me Almighty God.

Mr. HEFTEL. Mr. Speaker, I wish to commend Mr. DORNAN of California and Mr. GILMAN for their dedication to the bodies and to the actual individuals who may be living who were never returned from Vietnam.

I am sure the gentleman from New York (Mr. GILMAN) will carry on with great courage and leadership that which our colleague, the gentleman from California (Mr. DORNAN) has portrayed, and I do so with a great sense of confidence in the spirit that Mr. DORNAN will leave behind and the spirit that Mr. GILMAN of California will carry forward.

And there is always the possibility that Mr. DORNAN will return to do it himself.

THE LATE HONORABLE CRAIG HOSMER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. LUNGREN) is recognized for 60 minutes.

GENERAL LEAVE

Mr. LUNGREN. Mr. Speaker, at the outset I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the life, character, and public service of the late Honorable Craig Hosmer.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. LUNGREN. Mr. Speaker, several days ago it was my sad duty to officially report to this body the passing of a former Member of Congress, Craig Hosmer, one known by many Members still serving and many who have left this body in the past few years.

You could go through his record as stated in "Who's Who in America" and give the simple facts:

HOSMER, CRAIG, lawyer, former congressman; b. Brea, Calif., May 6, 1915; s. Chester Cleveland and May Jane (Craig) H.; A.B., U. Calif., 1937; postgrad. U. Mich., 1938, U.S. Naval Acad., 1941; J.D. U. So. Calif., 1940; m. Marian Caroline Swanson, Feb. 12, 1946; children—Susan Jane, Craig Larkin. Admitted to Calif. bar, 1940, Supreme Ct. bar, 1953; practiced in Long Beach, 1946-47; 49-74; spl. asst. U.S. dist. atty. for AEC, Los Alamos, 1948; mem. 83d-93d congresses from 32d Dist. Calif., mem. interior and insular affairs and joint com. on atomic energy, ranking minority mem.; adviser U.S. Atoms-for-Peace Del., Geneva, 1958, 63, 71; Congl. adviser 18 Nation Disarmament Conf., UN Conf. Com. on Disarmament; mem. U.S. del. to Internat. Atomic Energy Agy., 1959-75; pres. Am. Nuclear Energy Council, 1975-78, bd. dirs., 1978—; energy cons., 1978-79; of counsel firm Doub. Purcell & Muntzing, Washington, 1979—. Bd. dirs. Inst. for Congress, 1975-78; v.p., bd. dirs. Oceanic Ednl. Found., 1972—. Served to rear adm. USNR, 1941-46. Recipient Oliver Townsend award for disting. service Atomic Indsl. Forum, 1978. Mem. Am. Nuclear Soc., AAAS Editor; U. So. Calif. Law Rev., 1939-40. Home: 5024 Van Ness St NW Washington DC 20016 Office: 1875 Eye St NW Suite 775 Washington DC 20006.

But that really would not give you a full picture of the man. Although I do not always rely on local newspapers to provide the best explanation for things which have occurred or describe people or activities, I think our local newspaper, the Long Beach Press-Telegram, on the Wednesday following the death of Craig Hosmer, said it very well.

They entitled it: "Hosmer: a quiet man of achievement."

This is what they said:

A RECORD OF SERVICE, OF GOOD CHEER, OF CALM ACCOMPLISHMENT

Oct. 26 would have been a special day for Craig Hosmer. It will be the 40th anniversary of the sinking of the SS President Coolidge, a troopship that struck a U.S. mine field while entering Espiritu Santo Harbor, 400 miles southeast of Guadalcanal. Hosmer—who had gone into the Navy immediately after being admitted to the bar in 1940—commanded the Coolidge's naval gun crew. The ship sank in an hour and 23 minutes. Only two of the 6,000 men aboard lost their lives.

The next morning Hosmer, weary from the successful search among the survivors for the 48 men of his command, wrote his log of the events. His last entry, on the conclusion of that exciting day:

"1930—Bunked down. No one takes long to get to sleep tonight. This has been quite a day. The men are all cheerful and morale is good despite the losses they all have suffered. Little more than the clothes we wear and partial pay cards were saved in most cases. They were marvelously calm when the mines exploded. Stuck right to their posts."

Perhaps the qualities we see most clearly in others are the qualities we ourselves possess. Hosmer praised sailors who were cheerful, calm and—as he put it elsewhere in the log—"doing the logical things." The praise was no doubt equally deserved by Hosmer that day—and in the years that followed.

In World War II, Hosmer, who had entered the Navy as an enlisted man, rose to full commander. Later in the Naval Reserve he rose to the rank of rear admiral. After the war, Hosmer entered private law practice, served a year as attorney at the Los Alamos, N.M., laboratories of the Atomic Energy Commission, and then returned to his home in Long Beach to run for Congress.

He served 22 years in the House of Representatives and became one of that body's recognized experts on nuclear energy. After he retired in 1976, he stayed in Washington to lobby for nuclear power, and to serve as president of the American Nuclear Energy Council, a trade association.

On Monday, on a cruise ship bound for Mexico, Craig Hosmer died. His life was rich in accomplishment, no doubt because he stayed calm, cheerful and did the logical things. He will be missed in Washington, where he was quietly but widely influential, and he will be missed by the Southern California constituents he served diligently and well.

Sometimes we reach this place in rather curious ways. The very first political activity I was involved in was as a 6-year-old child in Long Beach, Calif., walking door to door, handing out literature for a fellow named Craig Hosmer who was running for Congress. I really cannot remember whether he won at that time or whether he lost, because again, more curiously, he ran and was defeated and he had to run a second time in order to win.

I, attempting to succeed him, once removed by a Member of the other party who intervened, was unsuccessful my first time and had to run a second time.

He covered many of the areas that I have now, both in Los Angeles and Orange County, serving people who were noted for, among other things, having a large percentage of retired among them.

We had the first Leisure World in our district. I have it now; he served it then. Some of the areas in my district were beanfields. He explained to a friend of mine one time why, if you go to certain parts of Orange County, Calif., you will see houses built with what appear to be many different fences or stones around them. He would explain to you that the reason why it was that particular size, covered all around or fenced all around by a stone fence, was the fact that that was a farmer's beanfield that he sold off to be developed.

Unfortunately, in my area there are no beanfields left. In fact, in Orange County, in my area, there are not many orange trees left. We have found a metropolis in our area. Nonetheless, it remains very much the same type of community, conservative people, hard-working people, people who ask for nothing more than to have a place for their children to grow up in and for them to retire.

Craig was somebody who served them. He was somebody I looked up to as a young person growing up. The first person you go to work for when you are young is someone you look up to and admire and follow, although from a distance. He served our community well. He served for 22 years. He served until, as he put it, he got a little tired of it.

He said to the press upon his retirement that he wanted to make way for younger people because they are in the majority and this is a government by the majority. I am not sure that is completely the reason he retired, but I think there is some truth to that.

He served this Congress well. He served as one of the outstanding Members with knowledge and expertise in the area of atomic energy. He was the ranking member on the Joint Committee on Atomic Energy. That marked a time in this House and in the Senate when there was tremendous bipartisanship on the question of energy, nuclear energy.

The chairman of that committee, also from California, southern California, was Chet Holifield, a Democrat. He and Craig worked very closely together to make sure that that issue did not become a partisan issue; that it was one we faced in this country together as American citizens, Democrats and Republicans, liberals and conservatives; but nonetheless, Americans trying to deal with something new.

Atomic energy, how do you put it to the best uses? How do you use it so it can be used for peace and not necessarily for war?

Craig also served as the ranking Republican on the Committee on Interior and Insular Affairs. You can talk to Members who served with him and find out about the yeomanlike service that he performed, the long hours that he worked, the personal attention that he gave.

It is not so much just a reflection of the fact that we have more staff members here, we have more committees and more subcommittees and more work and we delegate more work to the staff. Even as that was coming on in the House, Craig insisted on doing even more than his usual, to be expected, personal effort.

□ 2030

He was someone who was looked up to in this House for that expertise. He was looked up to in this House for the hard work he put on, but even more than that he was looked up to in this House for his sense of humor, for the calm way he could attack things, but also in the way that he could use a rhetorical scalpel to make his point. Luckily, I was never on the end of any of those nice scalpel strikes. In some ways I was the beneficiary of some of them.

When I ran my first time, the person from my party who had been the standard bearer in the previous election, a former State representative, decided to go again, and I decided to challenge him. Some in our area thought that was a little forward of me. They suggested that I might start at the city council level, work my way up to State assemblyman, State senator, and perhaps in about 15 years run for Congress. I tried to point out to them that I had looked on my form 1040, my income tax return, in vain for a youth tax. I found I was being taxed as much as those who were older, and I thought therefore that perhaps I ought to have the same opportunity as they did. In fact, Craig felt the same way, and for whatever reason decided to give me a little help.

The fellow running against me made a mistake. In our area of the country, our part of the State, he decided to attack Craig Hosmer because Craig Hosmer had helped me. There was the first mistake. The second mistake was that he put it in a letter, not realizing that our former colleague, Craig Hosmer, would rise to the occasion and meet him on the playing field of letters. It was described in one newspaper, one of the letters, as the latest entry in the transcontinental poison pen derby. What it meant was that I got a lot of support out of that, and I got a lot of support from those who had supported Craig Hosmer for so very long.

In World War II Craig entered the Navy as an enlisted man and rose to full commander, but following his service, he, like many others after that war, decided to serve his country as a reservist, and he served in the Naval Reserve, many, many years, finally retiring from the Reserve as a rear admiral.

He was somebody from our area. He was born in Orange County, Brea, Calif. He went to school in two communities in my district, Huntington Beach and Long Beach. He went to the University of California at Berkeley. He later, as I mentioned before, graduated from the University of Southern California Law School, where he was the editor of the Law Review.

Another interesting thing I recall very well was the fact that Craig's parents, although they have gotten along in years, at that time lived right around the corner from me, and some of my brothers and sisters and myself used to go over there at times to visit them. That was another connection we had.

He was, very simply, a man of our district, a man of our community, a man with a lot of service, a man of good cheer, a man of calm accomplishment. Sometimes I suppose we think that those who seek the limelight, those that love to get on the nightly news, who are on television or radio on a daily basis, are the ones who are the leaders in this House. Oftentimes we forget that the leaders in this House many times are those who dig in and do the hard work that must be done in the various committees, who come to the floor and add their wisdom—not a lot, but just as necessary; sometimes calm the storm with humor, sometimes rile up the calm with charged remarks, but in many ways certainly making this institution a very human institution.

Mr. Speaker, I am sorry that this special order took place at this late hour. I am sorry because this does place a burden on those who work for us in this Chamber and work with us in this Chamber, but I am also sorry because the confused schedule that we have faced over the last couple of days probably has not allowed a number of Craig's former colleagues to be here. I have a number of letters that I have entered into the RECORD of colleagues that served with him.

I was reminded just the other day when I was down in the Members' gym, where I ran into another Member who had not served with Craig, but met him there when he was down in the gym on occasion, he said he saw Craig hitting the paddleball against the wall, and went up to him wanting to play a game with him. It was only then that Craig mentioned to him that his health would not allow him to do that, that that would be too strenuous for him.

In many ways, many of us thought of Craig as a very, very healthy man. I had heard just 2 weeks before his death that he was smiling as usual, had a good word for me, a good word for everybody. It did not matter whether you were the locker room boy in the locker room or the Speaker of the House, Craig Hosmer treated you the same way.

He went out of his way to welcome me to the House of Representatives. Both he and his wife Marian were most hospitable to my wife and myself, and on very simple terms remained the quiet man of achievement that was proclaimed by our local newspaper and that has been confirmed by the comments of many Members who greeted me with surprise when I mentioned that Craig had passed away when we were gone during the election recess.

Mr. Speaker, Craig Hosmer is a man who will be missed by this House. He will be missed by his friends. He will be missed by his family. He will be missed by the communities he served so well. He is someone that still acts as an inspiration for me, and I hope I can serve the people of my district as ably as he served them in the past.

● Mr. STARK. Mr. Speaker, the death of Craig Hosmer brings to an end a full and productive life. I served just one term in this House with my fellow Californian but that was long enough for me to come to know the important role he played in this body.

At the time of Craig Hosmer's retirement from Congress in 1974, another respected colleague, Bill Steiger of Wisconsin who also was taken from us prematurely, said of the man we commemorate today, "His conscientiousness and his thoughtfulness have brought him wide respect both in Congress and among those on all sides of the energy issue. He has made a sizable contribution in his 11 terms and will be remembered for it for a long time."

The fact that so many today testify to Craig Hosmer's accomplishments indicates that Bill Steiger had it right 8 years ago when he commented on the long-term impact of Craig Hosmer's congressional service. It remains today as a monument to the man so many of us knew and respected. My sympathy goes to the family of our colleague.●

● Mr. ANDERSON, Mr. Speaker, I rise to pay tribute and to express my sympathy over the death of my friend and former colleague, Craig Hosmer. I knew Craig since the early 1960's, even before I came to serve here in Washington. Since he represented much of the same territory as I do now, I would often see and speak with Craig when he returned to the district while I was serving as Lieutenant Governor.

Among his many contributions while in Congress, Craig's involvement with atomic energy development while serving as ranking member of the Interior Committee and the Joint Committee on Atomic Energy is most memorable. To be sure, he served on these committees with the same hard work and dedication that he did when he was a member of the U.S. Atoms-for-Peace delegation in Geneva.

To lose a friend is never easy, and indeed, Craig is one who I, along with so many others will miss very much. I saw and spoke with Craig back home in California only the day before he passed away, which makes his death for me all the more hard to accept.

Mr. Speaker, I know you and my colleagues join my wife, Lee, and me in sending sincere condolences to Craig's wife, Marian, his daughter, Susan and his son Larkin. His friendship and service will always be remembered.●

● Mr. BADHAM. Mr. Speaker, today it is my privilege to pay tribute to a former Member of this honorable body, Craig Hosmer, who recently died an untimely death. Craig, who was a good friend of mine as well as many who serve in this House, served for 22 years in the House of Representatives from the Long Beach and Orange County area of southern California.

Craig Hosmer was a distinguished legislator who was noted for his poignant honor and expertise in the field of atomic energy, serving for many years as the leading minority member of the Joint Committee on Atomic Energy.

During his service in Washington, Craig fought an endless, and seemingly hopeless, battle for year-round daylight saving time, which he considered important for the Nation as a means for saving energy. His articles and speeches on the subject were delightful examples of understated humor, to which Members of this body looked forward each year.

Unfortunately, when the time was right for year-round daylight saving time, the President of the United States took over the promotion of the change in the national interest and Craig Hosmer, as usual, was once again left in the lurch, a development which he accepted with grace and style.

In the meantime, however, Craig became an unqualified expert on atomic energy, both for the generation of power to light our cities and for propulsion for our warships. He joined with another distinguished former Member, Chet Holifield, in serving as messengers to the free world on the importance of nuclear power for the future of mankind, delivering scholarly lectures throughout the country and carrying important legislation in this area in the Congress of the United States.

Craig Hosmer was a native of Orange County, Calif., born in Brea on May 6, 1915. He received his law degree from the University of Southern California, after graduating from the University of California. He was in the naval services during World War II for 6 years, served as an attorney for the Atomic Energy Commission and was a member of the American Nuclear Society, Phi Beta Psi fraternity and was a retired admiral in the Naval Reserve at the time of his death.

Craig Hosmer was elected to the House of Representatives in 1952 and in addition to his service on the Joint Committee on Atomic Energy, was a member of the Interior and Insular Affairs Committee. He served as a congressional advisor to the U.S. delegations to Atomic-for-Peace Conferences and the International Atomic Energy Agency.

As a member of a pioneer Orange County family, Craig Hosmer was the nephew of the late Ted Craig of Brea, who served as a speaker of the California Assembly nearly 50 years ago. All of us in this House and his family friends and associates here in California were well-served by Craig Hosmer and all of us were better off for having known him. We shall miss him.●

● Mr. RHODES. Mr. Speaker, I was shocked and saddened when I learned of the sudden death in October of our former colleague, Craig Hosmer.

Craig and I began our congressional careers in the same year, 1952. Having had the opportunity of working closely with him, I know well of his unstinting efforts to secure the necessary water to meet the needs of the dry Southwest, and of his outstanding work in promoting the use of nuclear power.

The chairmanship of the Joint Committee on Atomic Energy, upon which he served, eluded him during his tenure only because he was a member of the minority party. Nevertheless, he was widely recognized as an expert in the field. Evidence of this recognition resulted in his appointment as an adviser to the U.S. Atoms-For-Peace delegation at Geneva and the 18-nation Disarmament Conference.

When he left Congress, after serving 22 years in the House, he founded the American Nuclear Council, to provide a forum for national and international exponents of nuclear power.

Probably the part of his public career of which Craig Hosmer was most proud, was his service in the U.S. Navy. As a Navy officer during World War II, Craig served in the North Atlantic, Iwo Jima, and Okinawa. Upon completion of his active duty, he continued his interest and commitment to the Navy, serving in the Reserves and ultimately attaining the rank of rear admiral.

Craig Hosmer was a dedicated public servant and a trusted friend. Betty joins me in extending our sincere sympathy to his widow, Marian and their two children, Larkin, and Susan.●

● Mr. ROE. Mr. Speaker, it is with much sadness that I rise today to salute the memory of our late colleague Craig Hosmer.

For 22 years, Craig Hosmer served the people of his California district with both honor and distinction. His record in Congress was certainly one to be admired and emulated.

At the time of his retirement in 1974, Congressman Craig Hosmer was the ranking member of the Interior Committee and the Joint Committee on Atomic Energy.

Our Nation's water development system owes a great debt to the efforts of Craig Hosmer. In his influential position on the Interior Committee he was a major force in developing and securing approval of the Colorado River Basin project and other vital water projects.

Craig Hosmer was one who realized the power and promise of nuclear energy and its potential benefits to mankind. But he was also out front in pointing out the dangers that the misuse of this most potent force could bring. It was a great honor in his career to be chosen three times to serve as an adviser to the U.S. Atoms-For-Peace delegation at the 18-member Disarmament Conference in Geneva.

Congressman Craig Hosmer was a dedicated public servant who devoted his life to the well-being of others. I pray his memory will serve as an inspiration to us all in the years to come.●

● Mr. DERWINSKI. Mr. Speaker, it was my privilege to have served with the late Congressman, Craig Hosmer, during his brilliant service in the House of Representatives. I join in expressing my sorrow at his passing.

As a Member of Congress, Craig Hosmer was a sincere, hard working Representative for the people of California. I remember that I was impressed with Craig's courtesy and his ability as a legislator. I held great admiration and respect for his judgment and counsel, and always found him to be a very warm, pleasant, and understanding individual.

During his distinguished career in the House, Craig made countless contributions to the legislative process. As ranking member of the Interior Committee and the Joint Committee on Atomic Energy, Craig was influential

on both water resources development and nuclear power initiatives. During his tenture of 22 years, Craig Hosmer served as an adviser to the U.S. Atoms-for-Peace delegation at the Disarmament Conference in Geneva, and worked to develop the Colorado River Basin project.

Craig had many friends on both sides of the aisle and was admired and trusted for his knowledgeable and wise counsel. Craig was truly dedicated to public service, and lived up to the full measure of his responsibilities.

Mrs. Derwinski joins me in extending our heartfelt condolences to his widow, Marian, and his entire family. We will remember him as a true friend and respected colleague.●

● Mr. HORTON. Mr. Speaker, it is with deep sadness that I join with my colleagues today to pay tribute to a good friend and former colleague, Craig Hosmer. Craig served the people of his southern California congressional district with distinction throughout his 11 terms in the House of Representatives. A pioneer in water resource development and nuclear power, Craig recognized the need for this country to develop energy resources in order to maintain energy independence, well before any Arab oil embargo. Craig's work and strong support for the Colorado River Basin project is a lasting testimonial to his dedication and perseverance.

I had the honor and privilage to serve on the Joint Committee on Atomic Energy shortly after Craig left office. Much of what we accomplished was based upon the work of Craig Hosmer. He also served as an adviser to the U.S. delegation in Geneva at the 18-member Disarmament Conference.

Craig also served his country with distinction during the Second World War as a Rear Admiral in the Naval Reserve. He participated in two of the major battles of the Pacific theater; Iwo Jima and Okinawa.

Craig will be missed by all of those who knew him, just as he has been missed by this House since he retired. It is with heartfelt sadness that I extend my sincere condolences to the family and friends of Craig Hosmer.●

● Mr. ADDABBO. Mr. Speaker, it is with great sadness that I join my colleagues today in honoring our good friend and former colleague, Craig Hosmer, who passed away last month.

Craig served his constituents, the residents of the 18th, 32d, and 34th Congressional Districts of California, and this institution well for 22 years until his retirement in 1974. As ranking Republican on the House Interior Committee and the Joint Committee on Atomic Energy, Craig was influential in nuclear power and water resources legislation, including the Colorado River Basin Project, which allocated California's share of vital river water for industry and agriculture. Craig served as an adviser to the U.S. Atoms for Peace delegation at Geneva and the 18-nation Disarmament Conference.

Craig retired in 1974, expressing his desire that younger, new people serve in the House. He then became an energy consultant here in Washington and served as president of the American Nuclear Council. I join my colleagues in offering my deepest sympathies and prayers to Craig's family in this difficult time.●

● Mr. MONTGOMERY. Mr. Speaker, I was saddened to hear of the death of former Representative Craig Hosmer of California. He served so ably in this Chamber for 22 years and I considered him a close personal friend.

I always had the utmost respect for Craig and he was counted on for his leadership and expertise, especially in the areas of atomic energy and on matters concerning the Interior. He gained this vast knowledge by working so hard and so effectively as a member of the Interior Committee and on the Joint Committee on Atomic Energy. In addition, he served his State and his Nation as an adviser to the U.S. Atoms-For-Peace delegation in Geneva.

Besides working so long and diligently for his California constituents in the Halls of Congress, Craig served his country in the Armed Forces. He fought in World War II at Iwo Jima and Okinawa, and he continued to serve his country as a rear admiral in the Naval Reserve.

The people of California, and this country, can be proud of the most outstanding work done by Craig Hosmer both as a public servant and as a member of our military. He was a fine American and I was proud to have served with him in this Chamber.●

● Mr. FUQUA. Mr. Speaker, I would like to join those colleagues today who are honoring the memory of Craig Hosmer, who served in this body with distinction and dignity from 1952 until 1974.

The very fact that so many Members of this House are taking the time today to honor Craig Hosmer's memory 8 years after his retirement speaks volumes about the respect in which he was held by his colleagues.

During more than two decades representing the 18th, 32d, and 34th Districts of California, Craig Hosmer established a record of attention to constituent needs and national priorities which is well remembered by those of us who were honored to serve with him.

Craig Hosmer was elected to the House of Representatives after distinguished service with the U.S. Navy during World War II in which he rose to the rank of rear admiral of the Naval Reserve and participated in the battles of Iwo Jima and Okinawa.

His memory will remain with us on the honor roll of outstanding Members of Congress.●

GENERAL LEAVE

Mr. HEFTEL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on the subject of the special order today of the gentleman from Illinois (Mr. PRICE).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Hawaii.

There was no objection.

TRIBUTE TO HON. JOHN G. FARY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. PRICE) is recognized for 30 minutes.

● Mr. PRICE. Mr. Speaker, I requested this special order today to pay tribute to our colleague, the Honorable JOHN G. FARY, of Illinois, who will leave the House of Representatives at the end of this Congress.

The people of Chicago will lose a dedicated representative and champion of their interests, and the people of the United States will lose the benefit of Mr. FARY's contributions to the Federal legislative process and his insights into the issues that we must consider here.

JOHN FARY came to the 94th Congress by special election to the vacancy created by the death of the Honorable John Kluczynski. Mr. FARY quickly proved himself to be a worthy successor.

Mr. FARY and I became fast friends, and with Congressman ANNUNZIO, of Chicago, we solved all the world's problems many times over every day in the dining room.

If JOHN FARY's personality and career could be described by one word, that word would be "loyalty": Loyalty to his friends, loyalty to his colleagues, loyalty to his constituents, loyalty to his State, loyalty to his party, and loyalty to his country.

We need more people like JOHN FARY in Congress, and I hope we get them. But JOHN's unique temperament and humor are not likely to be matched and will be missed around here.

I wish him and his family all the best for the future.●

● Mr. ANNUNZIO. Mr. Speaker, it is a genuine pleasure for me to join my good friend, the dean of the Illinois delegation, MEL PRICE, in paying tribute to a dear friend, JOHN FARY.

JOHN has represented the Fifth District of Illinois for the last 7 years. His dedication to his committee assign-

ments, his loyalty to the Democratic Party, and his devotion to the highest standards of integrity are well known to all of those who have been privileged to have worked with JOHN on the Public Works Committee or as a Member of the Congress of the United States.

He was elected to Congress in 1975. Since coming to Congress, he has served on the Public Works Committee, where he became chairman of the Subcommittee on Public Buildings and Grounds, and he has also given distinguished service as a member of the Surface Transportation Subcommittee of the Public Works Committee.

JOHN FARY played a leading role in the revitalization of Midway Airport in Chicago, and it was largely due to his efforts and hard work that flights have been restored from Chicago to Washington and Washington to Chicago at Midway.

He also played a key role in securing $37 million for the Little Calumet watershed plan in Illinois. When completed in 10 years, this watershed will provide four reservoirs and hundreds of jobs in the Chicago area.

During the last 3 years Illinois has received more Federal highway funds than any other State because of the efforts of JOHN FARY, who has been an outstanding watchdog on the Public Works Committee for Illinois.

Before coming to Congress, JOHN served as a legislator in the Illinois General Assembly for almost 22 years where he was respected by all of his colleagues as a knowledgeable legislator and a dedicated public servant who was completely committed to his responsibilities, to his job, and to the Democratic Party of Cook County. Because of his great respect for JOHN FARY, the late Mayor Richard J. Daley picked him to replace the late distinguished Congressman from that district, John Kluczynski.

JOHN FARY has indeed been a worthy successor to John Kluczynski on the Public Works Committee. In a short 7 years, he has left his mark. He has performed conscientiously and constructively on behalf of his constituency. He has served his city well and his city is proud because of JOHN's outstanding contributions in the Congress. JOHN left no stone unturned in his efforts on the Public Works Committee to insure that Chicago and the State of Illinois received all of the benefits to which our State was entitled under the law.

Over the years he has been an especially close friend and we have shared good fellowship and camaraderie. We have assisted each other on all types of legislation that would benefit our city and our State.

JOHN has been an effective Congressman for the Fifth District, serving his constituency well. He has been a highly respected member of the Public Works Committee, a knowledgeable Member of Congress, and a good team player who will be sorely missed by all of us in the Congress of the United States. His outstanding voting record reflects his great love for the United States of America, and he has never been found wanting in his voting record to protect the best interests of the United States and to insure that this country remains the greatest and most powerful democracy in the world.

I join all of my colleagues in Illinois in saying, "JOHN, thank you for a job well done," and I want to extend to you as you leave this Congress best wishes for long life, good health, and continued success in all of your endeavors.●

H.R. 7379—CORCORAN TO ALGERIANS, CANADIANS: DROP PRICES OR KEEP YOUR GAS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. CORCORAN) is recognized for 5 minutes.

● Mr. CORCORAN. Mr. Speaker, we all know that natural gas prices are higher than they need to be. But did you know that one of the chief causes of soaring natural gas prices for much of the country is imported natural gas?

In 1981, we imported 904 billion cubic feet of natural gas at an average price of $4.88 per Mcf. Of this amount, 762 billion cubic feet came from Canada at an average price of $4.83 per Mcf. 105 billion cubic feet came from Mexico and was priced at $5.01 per Mcf. Natural gas consumers in this country paid $4.2 billion to Canadian and Mexican natural gas producers. Another $204 million went to Sonatrach, the Algerian National Energy Co., for imported liquefied natural gas.

When you compare the average border cost of these imports ($4.83 per Mcf), with the average cost of domestic natural gas in 1981 ($2.06 per Mcf), you can see the role imported natural gas is playing in the natural gas prices American consumers are paying. By the time Canadian gas is transported to residential consumers, it may cost as much as $6.75 to $7.

Even this year, at a time when my colleague from Ohio (Mr. BROWN) informs us that domestic natural gas is being burned off into the air, we are importing ever greater quantities of natural gas. For the first 9 months of this year, we imported 703 Bcf. This is deceptive, however, because new projects for the import of Canadian natural gas and Algerian LNG came on line in October. Thus, the figures for the last 3 months of the year are likely to be substantially higher.

Do we need these expensive imported supplies? No, at a hearing conducted in Indianapolis, Ind., by the Fossil and Synthetic Fuels Subcommittee on October 8, Panhandle Eastern Pipeline Co. testified that it did not need Canadian gas this winter at all, but that it was required by its contract with the Canadian gas supplier to take 75 percent of the contract volume. More than half of the 45-percent increase in Panhandle's wholesale rate effective October 1, 1982, was due to this unneeded Canadian gas and the facilities required to transport it to Panhandle's service area.

Panhandle's situation is not atypical. As you can see from the factsheet submitted with this statement, 14 interstate and intrastate natural gas pipelines imported Canadian gas in 1981. Another imported Mexican natural gas at a price even higher than Canadian natural gas.

Some parts of the country are now confronted with the unique privilege of consuming Algerian liquefied natural gas. If Canadian and Mexican gas represent the Cadillacs of the natural gas market, Algerian LNG is the Rolls-Royce. Regasified Algerian LNG enters the pipeline in Louisiana priced at $7.13 per Mcf. It will cost even more for Massachusetts consumers if a new price provision sought by Distrigas and Sonatrach is approved by DOE. Thanks to many of my colleagues, including Mr. MICHEL and Mr. FINDLAY, consumers are not yet paying these Rolls Royce prices for gas which they do not need. But unless something is done now, they may.

We can stop it. The legislation I am introducing today would give governments as well as importing and exporting companies 6 months in which to renegotiate import prices and conditions. If exporting countries insist on maintaining prices that are above the level sustainable by the U.S. market, American gas companies will have to turn to the cheaper American supplies that are now being shut in. A company which has made expenditures based on a previously granted license to import Algerian LNG, whose importation is suspended because of this act, would be entitled to recover its costs, since those costs were incurred in good faith.

If, alternatively, lower foreign gas prices are agreed upon, hopefully pursuant to contracts with less onerous "take or pay" provisions, natural gas consumers served by importing companies will benefit immediately because natural gas pipelines will be paying less than they expected to pay.

This legislation does not entail months of proceedings at FERC to make contract-by-contract determinations about prudency, abuse or any other such silliness.

It places imports of natural gas in today's market for natural gas, not above it. I ask for your support.

FACTSHEET

CANADIAN GAS IMPORTS

In 1981, we imported 904 billion cubic feet of natural gas at an average of $4.88 per thousand cubic feet. Of this amount, 762 billion cubic feet came from Canada, 4.3 percent less than in 1980. We paid $3,681,832,000 (nearly $3.7 billion) for Canadian gas. This price reflects an increase of 11.8 percent over the amount paid per mcf. for Canadian gas in 1980. The price of Canadian gas averaged $4.83 per mcf. compared with an average 1981 price of $2.06 per mcf. for domestic gas supplies.

Importers of natural gas from Canada are now authorized to pay up to $4.94 per million BTU. If currently pending import requests are approved by DOE, Canadian gas will reach virtually every State in the continental United States.

In 1981, the following interstate gas pipelines received 730 billion cubic feet of Canadian gas: (1) Great Lakes Gas Transmission Company; (2) Inter-City Minnesota Pipelines, Ltd.; (3) Michigan-Wisconsin Pipeline Company; (4) Midwestern Gas Transmission Company; (5) Northern Natural Gas Company; (6) Northwest Alaskan Pipeline Company; (7) Northwest Pipeline Corporation; (8) Pacific Gas Transmission Corporation; (9) Tennessee Gas Pipeline Company; (10) Texas Eastern Transmission Corporation; and (11) Transcontinental Gas Pipeline Corporation.

The following intrastate pipelines received 31 billion cubic feet of Canadian gas: (1) The Montana Power Company; (2) St. Lawrence Gas Co., Inc.; and (3) Vermont Gas Systems, Inc.

Canadian gas was delivered by truck to distribution companies in Manchester and Tilton, New Hampshire.

MEXICAN GAS IMPORTS

In 1981, Border Gas, Inc. imported 105 billion cubic feet of natural gas from Mexico at an average price of $5.01 per mcf. The total cost of Mexican imports was $526,236,000, an increase of 13.7 percent over 1980.●

LEGISLATION PROVIDING GREATER EQUITY TO "INNOCENT SPOUSES" BURDENED WITH TAX LIABILITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. STARK) is recognized for 5 minutes.

● Mr. STARK. Mr. Speaker, today I am introducing legislation to provide greater equity and justice to those "innocent spouses" now unfairly burdened with tax liability under section 6013(e) of the Internal Revenue Code.

In January 1971, Congress enacted an amendment to the Tax Reform Act of 1969 which recognized that joint and several liability by married couples filing joint Federal tax returns was not always a fair determination of tax liability. In seeking to relieve one spouse from liability for an erroneous understatement of gross income attributed to the other spouse the act established the concept of the "innocent spouse."

For purposes of the act a spouse could be declared innocent if five conditions were met: First, a joint return was filed; second, an amount properly includable in gross income had been omitted from the return; third, the omitted income exceeded 25 percent of the gross income reported on the joint return; fourth, the innocent spouse established that in signing the return he or she did not know of and had no reason to know of the omission from the income; and fifth, taking into account whether or not the spouse significantly benefited from the items omitted from gross income and all other facts and circumstances, it was inequitable to hold the spouse in question liable for the deficiency in tax.

While Congress believes this remedial act would create equitable and just relief for an innocent spouse it has at best turned out to be only a halfway measure. First, there is a flaw in the existing legislation because it only provides relief with respect to taxes on amounts includable in gross income under chapter 1 of the code. However, frequently cases involved errors in deductions or credits rather than gross income and thus the innocent spouses have not been forgiven for the tax liability. Since the intent of the original bill was to grant relief where it would be inequitable to impose liability, my proposed bill represents the recognition of the obvious fact that it is possible that such an inequity could arise in the context of improper deductions or credits.

Second, drawing the line at income omissions exceeding 25 percent of gross income stated on the return has proven too high and onerous a threshold test in many situations. It is unnecessarily excludes from coverage situations involving sizable tax deficiencies caused by erroneous deductions against income where relief would be equitably deserving. In reducing the threshold test to a "substantial understatement" of tax, that is, those exceeding 10 percent or $500, whichever is the lesser amount, required to be shown on the return, this legislation seeks to grant more equitable relief without unnecessarily overburdening the courts and the Internal Revenue Service with suits in which the deficiency is de minimis.

Third, this amendment will eliminate the unfair provision requiring the innocent spouse prove that she or he did not significantly benefit from the omitted item. When the couple is separated or living apart due to abandonment or desertion, it is easy enough to establish that the innocent spouse did not significantly benefit. However, as matters now stand, it is more difficult and sometimes impossible, to prove no significant benefit when the couple lives together. In removing this test we will end the inherent bias against an innocent spouse who is living with a guilty tax evader.

Last, my bill provides relief for innocent spouses filing separate returns under section 66 of the Internal Revenue Code, which relates to treatment of community income where spouses live apart. In a noncommunity property State, a taxpayer filing a separate return is not taxed on income earned by the other spouse. However, at present, in an community property State, like California, a taxpayer filing a separate return is charged with income earned by the other spouse.

The income of each spouse is community income and 50 percent is therefore attributable to the nonearning spouse and must be reported on the latter's separate return. As a result, in a community property State an innocent spouse is liable for a deficiency attributable solely to income earned by the other spouse. As Congress has acknowledged the justice of granting relief for joint returns it seems only equitable to make relief available in a similar manner to those filing separate returns.

Clearly persons who are unaware of an uninvolved in the substantial understatements of tax attributable to gross erroneous items reported by their spouses on Federal tax returns deserve and need the protection from unfair tax liability which this bill is designed to provide.

H.R. 7382

A bill to amend the Internal Revenue Code of 1954 to expand the circumstances where relief from liability for income tax (and penalties and interest with respect thereto) is provided to a spouse for a deficiency with respect to a joint return, and to provide similar relief with respect to certain separate returns of married individuals

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (e) of section 6013 of the Internal Revenue Code of 1954 (relating to spouse relieved of liabiity in certain cases) is amended to read as follows:

"(e) SPOUSE RELIEVED OF LIABILITY IN CERTAIN CASES.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, if—

"(A) a joint return has been made under this section for a taxable year,

"(B) on such return there is a substantial understatement of tax attributable to grossly erroneous items of 1 spouse,

"(C) the other spouse establishes that in signing the return he or she did not know, and had no reason to know, that there was such substantial understatement, and

"(D) taking into account all the facts and circumstances, it is inequitable to hold the other spouse liable for the deficiency in tax for such taxable year attributable to such substantial understatement.

Then the other spouse shall be relieved of liability for tax (including interest, penalties, and other amounts) for such taxable year to the extent such liability is attributable to such substantial understatement.

"(2) GROSSLY ERRONEOUS ITEMS.—For purposes of this subsection, the term 'grossly erroneous items' means, with respect to any spouse—

"(A) any item of gross income attributable to such spouse which is omitted from gross income, and

"(B) any claim of a deduction or credit by such spouse in an amount for which there is no basis in fact or law.

"(3) SUBSTANTIAL UNDERSTATEMENT.—For purposes of this subsection, the term 'substantial understatement' means any understatement (as defined in section 6661(b)(2)(A)) which exceeds the lesser of—

"(A) 10 percent of the tax required to be shown on the return for the taxable year, or

"(B) $500.

"(4) SPECIAL RULE.—For purposes of paragraph (2)(A), the determination of the spouse to whom items of gross income (other than gross income from property) are attributable shall be made without regard to community property laws."

(b) Section 66 of such Code (relating to treatment of community income where spouses live apart) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) SPOUSE RELIEVED OF LIABILITY IN CERTAIN OTHER CASES.—Under regulations prescribed by the Secretary, if—

"(1) an individual files a separate return for any taxable year,

"(2) such individual does not include in gross income for such taxable year an item of community income properly includible therein which is attributable to the other spouse,

"(3) the individual establishes that in signing such separate return he or she did not know of, and had no reason to know of, such item of community income, in such individual's gross income,

"(4) taking into account all facts and circumstances, it is inequitable to include such item of community income in such individual's gross income,

then, for purposes of this title, such item of community income shall be treated in accordance with the rules contained in section 879(a)."

(c) The amendments made by subsections (a) and (b) shall apply to all taxable years to which the Internal Revenue Code of 1954 applies. Corresponding provisions shall be deemed to be included in the Internal Revenue Code of 1939 and shall apply to all taxable years to which such Code applies.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Hampshire (Mr. D'AMOURS) is recognized for 5 minutes.

● Mr. D'AMOURS. Mr. Speaker, I was unavoidably absent from the floor of the House during consideration of two amendments to the Federal Trade Commission authorization bill, H.R. 6995. Had I been present, I would have voted "aye" on the amendment offered by Representative BROYHILL, rollcall No. 403, and I would have voted "no" on the amendment offered by Representative LUKEN, rollcall No. 404.●

EXPORT-IMPORT BANK FINANCING NOTIFICATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. NEAL) is recognized for 5 minutes.

● Mr. NEAL. Mr. Speaker, I am informing the House today of the U.S. Export-Import Bank's proposal to provide additional financing to enable the Republic of Indonesia to buy U.S.-made radio isotope and pharmaceutical production equipment and services for a laboratory near Jakarta.

The Eximbank originally granted Indonesia a loan of $13,086,000 for this project on April 27, 1982. This was 75 percent of the total purchases planned in the United States.

Subsequently, the U.S. supplier, General Atomic Co. of San Diego, Calif., was awarded an additional contract of $5,286,000 to supply the Jakarta Laboratory. The Eximbank is now proposing a loan for 75 percent of the increase, or $3,964,000.

This Eximbank notification was referred to me as chairman of the Banking Committee's Subcommittee on International Trade, Investment and Monetary Policy. Under section 2(b)(3)(iii) of the Export-Import Bank Act of 1945, as amended, the Eximbank must notify Congress of proposed loans or guarantees involving the export of nuclear technology or equipment. Unless Congress determines otherwise, the Eximbank may give final approval to the transaction after 25 days of continuous session of the Congress after notification.

I am submitting the Eximbank's notification, which includes details regarding the additional financing for the Indonesian laboratory, for the RECORD. I would welcome any comments or questions my colleagues might have on this financial proposal.

The Eximbank material follows:

EXPORT-IMPORT BANK
OF THE UNITED STATES,
Washington, D.C., October 19, 1982.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES,
The Speaker's Room, U.S. Capitol, Washington, D.C.

DEAR MR. SPEAKER: This is to inform you of an increase in the financing to be provided by Eximbank for a project in Indonesia. This financing was reported to Congress on March 17, 1982, pursuant to Section 2(b)(3)(iii) of the Export-Import Bank Act of 1945. Enclosed is a copy of that report.

On April 27, 1982, Eximbank authorized a loan in favor of the Republic of Indonesia ("ROI") in the amount of $13,086,000 to assist in financing the purchase in United States of radio-isotope and pharmaceutical production equipment and technical services for a pharmaceutical laboratory ("Project"). The U.S supplier, General Atomic Company of San Diego, California, was awarded additional procurement for the project which raised the value of its sale from $17,448,000 to $22,734,000. As a consequence the ROI requested a corresponding increase in Eximbank's assistance and on October 19, 1982, Eximbank authorized an increase in its Credit from $13,086,000 to $17,050.000. The scope of the Project remains unchanged.

Sincerely,

WILLIAM H. DRAPER III.

Enclosures.

EXPORT-IMPORT BANK
OF THE UNITED STATES,
Washington, D.C., March 17, 1982.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES,
The Speaker's Room, U.S. Capitol, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to Section 2(b)(3)(iii) of the Export-Import Bank Act of 1945, as amended, Eximbank hereby submits a statement to the United States House of Representatives with respect to the following transaction involving U.S. exports to the Republic of Indonesia ("ROI").

A. DESCRIPTION OF TRANSACTION

1. Purpose

Eximbank is prepared to authorize a Credit of $13,086,000 to the Republic of Indonesia to facilitate the purchase in the United States of radio-isotope and pharmaceutical production equipment and technical services for a pharmaceutical laboratory near Jakarta, Indonesia for use by BATAN, the national atomic energy agency of the ROI. The ROI has selected the General Atomic Company of San Diego, California, to provide the goods and services. The total U.S. export value of this sale is $17,448,000. A portion of this transaction was included in a preliminary commitment issued previously for potential U.S. suppliers of goods and services for the project. The Germans were awarded the bulk of the procurement for the basic research reactor, the scope of which included the pharmaceutical laboratory equipment and services which are to be financed by Eximbank.

2. Identity of the parties

The ROI will be the borrower and will issue an unconditional full faith and credit obligation to repay the Eximbank Credit. The Indonesian National Atomic Energy Agency (BATAN) will be the user of the equipment and services.

3. Executive branch approval

Eximbank requested through the Department of State the views of the Executive Branch on the proposed transaction. The State Department has advised Eximbank that the Executive Branch has no objection to our proceeding with this transaction.

4. Nature and use of the services

The goods and services to be exported from the United States will relate to a research reactor being built by BATAN near Jakarta which is expected to produce 80% of the Indonesian national demand for medical isotopes. The reactor will also be used for basic research and proof-testing of fuel for power reactors. The General Atomic Company received the order for the associated laboratory facility which will be used to produce radio-pharmaceuticals as well as radio-isotopes for industrial applications. The scope of supply for this work will include preliminary facility design, design and supply of equipment, process specifications, training and transfer of technology.

B. EXPLANATION OF FINANCING

1. Reasons

In August, 1980, Eximbank issued a preliminary commitment offering to provide financing for a research reactor and related equipment and services. The preliminary commitment was issued on terms considered necessary to meet officially supported foreign competition. While the bulk of the research reactor was awarded to the Germans, a portion of the original project was awarded to General Atomic. Eximbank will finance the $9,448,000 portion of the pro-

posed transaction covered by its preliminary commitment on the terms provided therein but will finance the remainder under Eximbank's current terms resulting in the blended financing charges described in paragraph 2(a) below.

The procurement of the goods and the performance of the services will provide more than 84 man-years of employment for General Atomic's employees and its suppliers. Financing for the export of the services will provide employment in a sector where there are limited employment opportunities in the United States inasmuch as very few new nuclear reactors are being built here. Also, the financing permits General Atomic to keep its employees involved in a very important technological area so that they may maintain their skills and expertise.

2. The financing plan

The total cost of the U.S. goods and services to be exported from the United States for the project is estimated to be $17,448,000, which will be financed as follows:

	Amount	Percentage
Cash payment	$2,617,200	15
Supplier financing (without an Eximbank guarantee)	1,744,800	10
Eximbank credit	13,086,000	75
Total	17,448,000	100

(a) Eximbank Charges: The Eximbank credit will bear interest at the rate of 10.25 percent per annum, payable semi-annually. There will be a commitment fee of 0.5 percent per annum charged on the undisbursed portion of the Eximbank credit and a credit application fee of .92 percent of the amount of the Eximbank credit. In addition, the Supplier Financing to be provided by General Atomic will bear interest at the rate of 10.25 percent per annum.

(b) Repayment terms: Indebtedness incurred by the ROI under the Supplier Financing and the Eximbank credit will be repaid in twenty equal semiannual installments of principal beginning April 1, 1986. This date is six months after the estimated completion date of the facility. The Supplier financing will be repaid from the earlier installments and Eximbank will be repaid from the later installments.

Attached is additional information on Eximbank activity in and economic data on the Republic of Indonesia.

Sincerely,

WILLIAM H. DRAPER III.

Attachment.

Eximbank exposure in the Republic of Indonesia as of Feb. 28, 1982

	Thousands
Direct loans	$404,843
Financial guarantees	35,000
Bank guarantees and other	200
Insurance	7,908
Medium term	−1,731
Short term	−6,177
Total exposure	447,951

REPAYMENT EXPERIENCE

Payment of principal, interest and fees due on Eximbank loans to Indonesian borrowers have usually been prompt.

ECONOMIC INDICATORS

[Exchange rate: US$1 = 625 rupiah [1]]

	1979	1980	Percent change (1979–80)	1981 estimate
Population (million midyear)	143	147	2.1	150
GDP (millions, in constant 1973 prices)	$15,983	$17,526	9.6	$18,750
GDP (millions, current prices)	$49,637	$70,024	40.9	$85,000
Per capita GDP	$347	$476	37.2	$567
Consumer Price Index	143	168	17.1	[2] 179
Money supply (million, Dec. 31)	$5,405	$8,018	48.3	[3] $9,277
Foreign investment approvals (nonoil) (millions)	[4] $1,069	$814	−24.0	[5] $267
Federal official international reserves (millions, Dec. 31)	$4,145	$6,531	57.6	[6] $6,735
External official debt [7] (disbursed, millions, Dec. 31)	$13,570	$14,482		[8] $14,875
Debt service ($ million)	1,679	1,777	5.9	2,051

[1] At exchange rate (effective Nov. 15, 1978) of US$1 = 625 rupiah.
[2] October.
[3] August.
[4] Includes Japanese-sponsored Ashan aluminum/hydroelectric complex.
[5] June.
[6] September.
[7] Government debt, including debt of state corporations such as Pertamina.
[8] March.

GOVERNMENT BUDGET

[In millions of dollars [1]]

	Fiscal year 1979–80 (actual)	Fiscal year 1980–81 (budget)	Percent change (1979–80)	Fiscal year 1981–82 (budget)
Routine expenditure	6,499	9,280	42.8	12,002
Development expenditure	6,423	9,466	47.4	10,239
Domestic revenues	10,715	16,363	52.7	19,639
Development receipts (external assistance)	2,210	2,390	8.1	2,601

[1] Indonesian fiscal year Apr. 1 to Mar. 31. (Source: fiscal year 1981–82 budget.) The 1981–82 figures are Embassy estimates.

OFFICIAL BALANCE OF PAYMENTS

[In millions of dollars [1]]

	Fiscal year 1979–80	Fiscal year 1980–81 (estimate)	Percent change (1979–80)	Fiscal year 1981–82
Overall balance (change in off. reserves)	1,690	2,724	61.2	500
Current account	2,192	887	59.5	−1,500
Exports, merchandise	17,814	22,424	25.9	23,500
Oil and LNG (gross)	(11,649)	(16,669)	43.1	(19,500)
Nonoil	(6,165)	(5,755)	−.7	(4,000)
Imports, merchandise	12,833	15,569	21.3	18,000
Oil and LNG	(3,534)	(3,781)	7.0	(4,000)
Nonoil	(9,299)	(11,788)	26.3	(14,000)

[1] Indonesian fiscal year Apr. 1 to Mar. 31. (Source: fiscal year 1981–82 budget). The 1981–82 figures are Embassy estimates.

UNITED STATES-INDONESIAN TRADE

[Dollar amounts in millions]

	1979	1980	Percent change (1979–80)	1981 estimate
Indonesia exports to the United States	$3,170	[1] $4,303.3	35.7	$5,700
U.S. share of Indonesian exports (percent)	20.3	19.6		17
Indonesian imports from the United States	$1,027.8	[1] $1,409.2	[1] 37.1	$1,500
U.S. share of Indonesian imports (percent)	14.3	[1] 13.0		13

[1] U.S. export data for 1980 is not consistent with that quoted above. According to U.S. Department of Commerce trade statistics, U.S. exports to Indonesia grew by 58 percent to $1,500 million in 1980, while Indonesian exports to the United States grew 43 percent to $5,280 million for the same period.

Source: Bank Indonesia, Central Bureau of Statistics, Investment Coordinating Board, Embassy Estimates.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. ALEXANDER (at the request of Mr. WRIGHT), for today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. WHITTAKER) to revise and extend their remarks and include extraneous material:)

Mr. COLLINS of Texas, for 45 minutes, on December 16, 1982.

Mr. COLLINS of Texas, for 45 minutes, on December 17, 1982.

Mr. COURTER, for 60 minutes, on December 8, 1982.

Mr. CORCORAN, for 5 minutes, today.

(The following Members (at the request of Mr. RATCHFORD) to revise and extend their remarks and include extraneous material:)

Mr. STARK, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. D'AMOURS, for 5 minutes, today.

Mr. BIAGGI, for 30 minutes, on December 8, 1982.

Mr. ROSTENKOWSKI, for 60 minutes, on December 13, 1982.

Mr. BRINKLEY, for 60 minutes, on December 13, 1982.

(The following Member (at the request of Mr. HEFTEL) to revise and extend his remarks and include extraneous material:)

Mr. NEAL, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. DE LA GARZA, to extend his remarks in the RECORD and to include therein extraneous material, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,666.

Mr. BROWN of California, and to include extraneous matter in the body of the RECORD notwithstanding the fact that it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $1,690.

Mr. DORNAN of California, and to include extraneous matter in the body of the RECORD on his special order of Thursday, December 2, 1982, notwithstanding the fact that it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $4,950.

Mr. OBERSTAR, to revise and extend his remarks prior to vote on Addabbo amendment, H.R. 7355.

(The following Members (at the request of Mr. RATCHFORD) and to include extraneous matter:)

Mr. BAILEY of Pennsylvania.
Mr. MINISH.
Mr. FASCELL.
Mr. WEISS.
Mr. LAFALCE.
Mr. CLAY in three instances.
Mr. DINGELL in three instances.
Mrs. SCHROEDER.
Mr. MARKEY.
Mr. FAUNTROY.
Mr. CONYERS in two instances.
Mr. GARCIA.
Mr. DORGAN of North Dakota.
Mr. MILLER of California.
Mr. MOTTL in two instances.

(The following Members (at the request of Mr. WHITTAKER) and to include extraneous matter:)

Mr. CRAIG in two instances.
Mr. LUJAN in three instances.
Mr. LEWIS.
Mr. CONTE.
Mr. YOUNG of Florida.
Mr. CONABLE.
Mr. GILMAN in three instances.
Mr. CARMAN in two instances.
Mr. WINN.
Mr. BROWN of Ohio.
Mr. COLLINS of Texas.
Mr. GEJDENSON.

SENATE JOINT RESOLUTION REFERRED

A joint resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 244. Joint resolution designating January 17, 1983, as "Public Employees' Appreciation Day"; to the Committee on Post Office and Civil Service.

ADJOURNMENT

Mr. HEFTEL. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 39 minutes p.m.) under its previous order, the House adjourned until Wednesday, December 8, 1982, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5245. A letter from the Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting notice of the Army's intention to move two chemical agent identification sets from Newark, Ohio, to Rocky Mountain Arsenal where the sets will be destroyed, pursuant to section 409(b)(4) of Public Law 91-121, as amended; to the Committee on Armed Services.

5246. A letter from the Secretary of the Navy, transmitting the required written report to accompany the notice of November 1, 1982, that a weapon system had exceeded the baseline unit cost by more than 25 percent, pursuant to section 917(b)(2) of Public Law 97-86; to the Committee on Armed Services.

5247. A letter from the Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notice of the decision to convert to contractor performance the Naval Amphibious School, Little Creek, Va., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

5248. A letter from the Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notice of the decision to convert to contractor performance the Naval Weapons Center, China Lake, Calif., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

5249. A letter from the Architect of the Capitol, transmitting the semiannual report on expenditures covering the period April 1, 1982, through September 30, 1982, pursuant to section 105(b) of Public Law 88-454, as amended; to the Committee on Appropriations.

5250. A letter from the Assistant Secretary for Congressional Relations, transmitting a report of political contributions of Ambassadors-to-be Edward Peck, Samual Hart, and John Holdridge and members of their families, pursuant to section 304(b)(2) of Public Law 96-465; to the Committee on Foreign Affairs.

5251. A letter from the Acting Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

5252. A letter from the Secretary of Housing and Urban Development, transmitting a report on the activities of the Department's Inspector General covering the period ended September 30, 1982, pursuant to section 5(b) of Public Law 95-452; to the Committee on Government Operations.

5253. A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to authorize settlement of a claim of the Shoalwater Bay Indian Tribal Organization; to the Committee on Interior and Insular Affairs.

5254. A letter from the Assistant Secretary of the Interior for Indian Affairs, transmitting a proposed plan for the use and distribution of the Hoopa Valley Tribe judgment funds awarded in Dockets Nos. 342-70 and 343-70 before the U.S. Court of Claims, pursuant to section 2(a) and 4 of Public Law 93-134; to the Committee on Interior and Insular Affairs.

5255. A letter from the Director, Minerals Management Service, Department of the Interior, transmitting notice of the proposed refund of $80,666.35 to Shell Oil Co., Mobil Oil Corp., Union Oil Co. of California, and Arco Oil & Gas Co., for excess royalty payment, pursuant to section 10(b) of the Outer Continental Shelf Lands Act of 1953; to the Committee on Interior and Insular Affairs.

5256. A letter from the Assistant Attorney General (Antitrust Division), transmitting a report on competition in the coal industry, pursuant to 30 U.S.C 208(2); to the Committee on Interior and Insular Affairs.

5257. A letter form the Deputy Assistant Secretary of the Interior for Indian Affairs, transmitting a report on cancellations and adjustments of reimbursable charges of the Government of the United States existing as debts against individual Indians or tribes of Indians during fiscal year 1982, pursuant to the act of July 1, 1982; to the Committee on Interior and Insular Affairs.

5258. A letter from the Administrator, Federal Aviation Administration, transmitting a report on the "National Airspace System Plan," pursuant to section 504 of Public Law 97-248; to the Committee on Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BONIOR of Michigan: Committee on Rules. House Resolution 622. A resolution providing for the consideration of H.R. 5133, a bill to establish domestic content requirements for motor vehicles sold in the United States, and for other purposes (Rept. No. 97-946). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. WRIGHT (for himself and Mr. FROST):

H.R. 7377. A bill to designate the Lakeview Lake project, Mountain Creek, Tex., as the "Joe Pool Lake"; to the Committee on Public Works.

By Mr. RODINO:

H.R. 7378. A bill to codify without substantive change recent laws related to money and finance and to improve the United States Code; to the Committee on the Judiciary.

By Mr. CORCORAN:

H.R. 7379. A bill to establish new import prices for natural gas and liquefied natural gas authorized by the Department of Energy to be imported to the United States pursuant to section 3 of the Natural Gas Act, and for other purposes; to the Committee on Energy and Commerce.

By Mr. ST GERMAIN:

H.R. 7380. A bill to repeal sections 301 through 308 of the Tax Equity and Fiscal Responsibility Act of 1982, which impose withholding on interest and dividends; to the Committee on Ways and Means.

By Mr. SEIBERLING:

H.R. 7381. A bill to amend title II of the Social Security Act and the Internal Revenue Code of 1954 to exclude from wages, for purposes of computing benefits and taxes under the old-age, survivors, and disability insurance program, the quarterly cash remuneration for the services of a domestic employee in a private home of the employer if such quarterly cash remuneration is less than $200 or the employee has not attained age 19 before the beginning of the quarter; to the Committee on Ways and Means.

By Mr. STARK:

H.R. 7382. A bill to amend the Internal Revenue Code of 1954 to expand the circumstances where relief from liability for income tax (and penalties and interest with respect thereto) is provided to a spouse for a deficiency with respect to a joint return, and to provide similar relief with respect to certain separate returns of married individuals; to the Committee on Ways and Means.

By Mr. GINGRICH:

H. Res. 621. Resolution to amend the Rules of the House of Representatives to establish an Office for the Bicentennial of the House of Representatives; to the Committee on Rules.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 4070: Mr. JEFFORDS.

H.R. 4147: Mr. FOWLER.

H.R. 4588: Mr. ADDABBO, Mr. BEILENSON, Mr. BROWN of California, Ms. FERRARO, Mr. FORD of Tennessee, Mr. GREEN, Mr. HANCE, Mrs. HECKLER, Mr. LEBOUTILLIER, Mr. MARTINEZ, Mrs. SCHNEIDER, Mr. STOKES, Mr. UDALL, Mr. WALKER, and Mr. ZEFERETTI.

H.R. 5422: Mr. HOWARD.

H.R. 6928: Mr. DELLUMS, Mr. ADDABBO, and Mr. BAFALIS.

H.R. 6950: Mr. DENARDIS, Mr. BAILEY of Pennsylvania, and Mr. WASHINGTON.

H.R. 6983: Mr. JACOBS.

H.R. 7041: Mr. GINGRICH, Mr. BARNARD, Mr. HUTTO, Mr. KOGOVSEK, Mr. EDWARDS of Oklahoma, Mr. BLILEY, and Mr. DAN DANIEL.

H.R. 7066: Mr. FAZIO and Mr. WHITEHURST.

H.R. 7305: Mr. BONER of Tennessee.

H.R. 7314: Mr. HENDON and Mr. MCHUGH.

H.R. 7323: Mr. DYMALLY, Mr. GILMAN, and Mr. DORGAN of North Dakota.

H.R. 7361: Mr. HOYER.

H.J. Res. 532: Mr. SIMON, Mr. WALGREN, Mr. MINETA, Mrs. BOUQUARD, Mr. PETRI, Mr. EMERSON, Mr. HOWARD, Mr. EDGAR, Mr. NELLIGAN, Mr. HOYER, Mr. ST GERMAIN, Mr. MOAKLEY, Mr. ANDERSON, Mr. SHUMWAY, Mr. GREEN, Mrs. HECKLER, Mr. MAVROULES, Mr. ROTH, Mr. WIRTH, Mr. GILMAN, Mr. CORCORAN, and Mr. APPLEGATE.

H.J. Res. 591: Mr. BREAUX, Mr. BURGENER, Mr. DIXON, Mr. ERDAHL, Mr. HANSEN of Idaho, Mr. HILER, Mr. LOWERY of California, and Mr. MYERS.

H.J. Res. 592: Mr. KEMP.

H.J. Res. 627: Mr. GLICKMAN and Mr. MINETA.

H. Con. Res. 401: Mr. BIAGGI, Mr. LOWRY of Washington, Mr. MAVROULES, Mr. BEDELL, Mr. MINETA, Mr. ROE, Mr. PANETTA, Mrs. KENNELLY, Mr. FOGLIETTA, Mr. STUDDS, Mr. NOWAK, Mr. GILMAN, Mr. MARTINEZ, Mr. SHAW, and Mr. WASHINGTON.

H. Con. Res. 413: Mr. KEMP, Mr. FROST, Mrs. HOLT, Mr. BADHAM, Mr. MURPHY, Mr. COATS, Mr. WILSON, Mr. RATCHFORD, Mr. WAXMAN, Mr. BEREUTER, and Mr. SOLOMON.

H. Res. 424: Mr. ASPIN, Mr. BARNARD, Mr. BONKER, Mr. BRODHEAD, Mr. CROCKETT, Mr. FORD of Tennessee, Mrs. HECKLER, Mr. HERTEL, Mr. HOWARD, Mr. HUBBARD, Mr. KASTENMEIER, Mr. MATSUI, Mr. MCHUGH, Mr. OBERSTAR, Mr. PEASE, Mr. ROSENTHAL, Mr. SIMON, Mrs. SNOWE, Mr. WEISS, and Mr. DORNAN of California.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

670. By the SPEAKER: Petition of the International Union—UAW, Region 4, Detroit, Mich., relative to H.R. 5133 and S. 2300—fair practices in automotive products; to the Committee on Energy and Commerce.

671. Also, petition of the National Association of State Auditors, Comptrollers and Treasurers, Nashville, Tenn., relative to repeal of sections 215 and 204(B) of the Tax Equity and Fiscal Responsibility Act of 1982; to the Committee on Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5133

By Mr. FRENZEL:

—Page 14, redesignate section 7 as section 8 and insert after line 11 the following new section:

SEC. 7. WAIVER FOR GATT.

(a) IN GENERAL.—The President may suspend the implementation of sections 1 through 6 upon a finding by the President that the implementation of such sections would violate the obligations of the United States under the General Agreement on Tariffs and Trade.

(b) NOTICE TO CONGRESS.—The President shall transmit to the House of Representatives and the Senate any findings made by the President that the implementation of sections 1 through 6 would violate the obligations of the United States under the General Agreement on Tariffs and Trade.

—Page 15, redesignate section 8 as section 9.

H.R. 7145

By Mr. CONYERS:

—Page 5, line 11, strike out "$4,454,740,000," and insert in lieu thereof "$2,709,890,000," and on line 12 immediately before the period insert the following ": *Provided*, That none of the funds appropriated or otherwise made available under this paragraph may be obligated or expended for the production of additional fissionable materials, or for the assembly or testing of new warheads."

—Page 5, line 24, strike out "$1,306,841,000," and insert in lieu thereof "$818,741,000" and on line 25, immediately before the period insert the following ": *Provided*, That none of the funds appropriated or otherwise made available in this paragraph may be obligated or expended to increase existing production capacity."

By Mr. CONTE:

—On page 14, line 5, delete "$1,244,857,000" and insert "$1,243,857,000" in lieu thereof;

On page 22, after line 3, insert the following new section:

SEC. . None of the funds appropriated in this Act shall be used for construction of the Manteo (Shallowbag) Bay Project in North Carolina.

H.R. 7355

By Mr. GREEN:

—Page 73, after line 16, insert the following new section:

SEC. 794. Notwithstanding the appropriations made by titles IV and V, such appropriations shall be reduced by $5,250,000,000 (in addition to the reduction required by section 790). In addition, of the appropriations made by titles IV and V, $1,750,000,000 shall be transferred to operation and maintenance accounts under title III. In order to comply with the reductions and transfers made by the preceding sentences, no reduction shall be made in amounts available for spare parts, repair parts, or ammunition.

By Mr. HARKIN:

—Page 73, immediately after line 16, insert the following new sentence:

SEC. 794. None of the funds provided in this Act may be used by the Central Intelligence Agency or the Department of Defense to furnish military equipment, military training or advice, or other support for military activities, to any group or individual, not part of a country's armed forces, for the purpose of assisting that group or individual in carrying out military activities in or against Nicaragua.

H.R. 7357

By Mr. EDWARDS of California:

—Page 18, after line 23, insert the following new subsection:

(c) Section 287 of the Immigration and Nationality Act (8 U.S.C. 1357) is amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding any other provision of this section, other than paragraph (3) subsection (a), an officer or employee of the Service shall not enter without the consent of the owner (or agent thereof) or a properly executed warrant onto the premises of a farm or other outdoor operation for the purpose of interrogating a person believed to be an alien as to the person's right to be or to remain in the United States.".

By Mr. PEYSER:

—Page 37, line 11, strike out the close quotation mark and the period following and add after that line the following new subsection:

"(e) Notwithstanding the laws of any State or any judicial decree of any court of any State but subject to section 241, no person who has been granted asylum under this section may be involuntarily removed from the United States.".

Page 37, line 9, strike out "subsection" and insert in lieu thereof "subsections".

By Mr. WEISS:

—Page 59, after line 6, insert the following new subsection:

(d) Section 212(d)(1) (8 U.S.C. 1182(d)(1)) is amended by striking out "(11) and (25)" and inserting in lieu thereof "(11), (25), and (28)".

—Page 57, after line 18, insert the following new section (and redesignate the succeeding section, and conform the table of contents, accordingly):

MODIFICATION OF CERTAIN GROUNDS FOR EXCLUSION

SEC. 204. (a)(1) Paragraph (13) of section 212(a) (8 U.S.C. 1182(a)) is repealed.

(2) Paragraph (28) of such section is amended—

(A) by striking out subparagraphs (A) through (E),

(B) in subparagraph (G)—

(i) by striking out "advocating or teaching opposition to all organized government, or" before clause (i), and

(ii) by striking out "or (v)" and all that follows through "dictatorship;"

(C) by striking out "paragraph (G)" in subparagraph (H) and inserting in lieu thereof "subparagraph (B)",

(D) by striking out "subparagraphs (B), (C), (E), (F), (G), and (H)" in subparagraph (I) and inserting in lieu thereof "subparagraphs (A), (B), and (C)", and

(E) by redesignating subparagraphs (F), (G), (H), and (I), as subparagraphs (A), (B), (C), and (D), respectively.

(3) Paragraph (29) of such section is amended—

(A) by inserting "or" after "security,", and

(B) by striking out ", or (C)" and all that follows through "1950".

(b)(1) Paragraph (6) of section 241(a) (8 U.S.C. 1251(a)) is amended—

(A) by striking out subparagraphs (A) through (E),

(B) in subparagraph (G)—

(i) by striking out "advocating or teaching opposition to all organized government, or" before clause (i), and

(ii) by striking out "or (v)" and all that follows through "dictatorship;",

(C) by striking out "paragraph (G)" in subparagraph (H) and inserting in lieu thereof "subparagraph (B)", and

(E) by redesignating subparagraphs (F), (G), and (H), as subparagraphs (A), (B), and (C), respectively.

(2) Paragraph (7) of such section is amended by striking out ", unless" and all that follows up to the semicolon.

SENATE—*Tuesday, December 7, 1982*

(Legislative day of Tuesday, November 30, 1982)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

*Blessed is the nation whose God is the Lord, the people he chose for his inheritance * * *. The eyes of the Lord are on those who fear him, on those whose hope is in his unfailing love.*—Psalm 33: 12, 18 (N.I.V.)

Our Father who art in Heaven, strengthen the Senators against confusion and indifference and frustration. In this seriously critical hour of our national welfare, help them to resist the pervasive ambivalence and apathy which shrouds this place like fog. Forgive the cynicism, the doubt, the tentativeness that mocks constructive action. Help them to realize they are not alone, that God is present and He can elevate these days to significant achievement. Grant to the Senators, individually and collectively, the will to resist a negative, destructive spirit and help them to make these last hours of the 97th Congress ones to be remembered and honored. We pray this in the name of Him whose wisdom and power and love are available to all who seek Him. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. I thank the Chair.

SENATE AGENDA

Mr. BAKER. Mr. President, I believe I am correct in saying that after the recognition of the two leaders under the standing order there is already an order entered for a period for the transaction of routine morning business to extend not past the hour of 12 noon. Is that correct?

The PRESIDENT pro tempore. That is correct.

Mr. BAKER. At 12 noon, is there not already an order for the Senate to stand in recess until the hour of 2 p.m. in order to accommodate the requirement that Senators on both sides of the aisle may attend caucuses of an official nature off the floor of the Senate?

The PRESIDENT pro tempore. The leader is correct.

Mr. BAKER. Mr. President, at 2 p.m., under the order previously entered, the Senate will vote on the Poland resolution, on which the yeas and nays were ordered yesterday. No further action on that resolution may be taken except for final passage and vote.

After that, Mr. President, it is the expectation of the leadership that the Senate will be asked to turn to the consideration of the D.C. appropriations bill. Radio Marti will recur as the pending business. It is hoped that today we can complete action on Radio Marti; the D.C. appropriations bill; S. 2000, the bankruptcy bill; and perhaps H.R. 1524, the California utilities bill. That is a great deal to expect for one day, but there is a very great shortage of time between now and the time we adjourn sine die.

I repeat what I indicated on yesterday, Mr. President, that Members should be on notice of the possibility of a late session any evening and the possibility of a Saturday session.

Mr. President, I believe I have no further need for my time under the standing order. I see no Senator seeking recognition. I offer the remaining time to the minority leader if he wishes.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER (Mr. DANFORTH). The minority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, I thank the majority leader.

POLISH SOLIDARITY DAY

Mr. ROBERT C. BYRD. Mr. President, December 13, 1982, will mark the first anniversary of the brutal military crackdown in Poland, aimed at smashing the solidarity labor union movement in that country. The imposition of martial law by a military dictatorship exposed, for all the world to see, the transparencies of Marxist-Leninist regimes who are fearful of their own populations.

One only has to recall that solidarity began as a small, almost obscure, union in the shipyards of Gdansk. It had grown to encompass more than 10 million industrial workers from the coal miners of Silesia to the factory workers in nearly all the major cities of Poland. It had even spread to the rural areas, where the normally docile peasant farmers began organizing their own solidarity unions.

The emergence of solidarity in Poland represented a threat to the Soviet leadership. Poland a year ago was not Hungary of 1956, which the Soviets invaded to suppress a revolt of intellectuals and students. Poland a year ago was not Czechoslovakia of 1968, where Soviet tanks were used to roll back the liberalization of the "Prague Spring." Poland a year ago was not Afghanistan, a neutral, third world country for which the Soviets have always had imperialist designs.

The Poland of a year ago was a Poland comprised of 10 million industrial workers and peasants who wanted a greater voice in the running of their unions and a greater voice in controlling their own destinies. And this created a dilemma for the Soviets. It was one thing to turn guns on students and intellectuals. It would be quite another to turn guns on the proletariat, the so-called foundation of the Communist state.

Faced with this dilemma, the Soviets turned to the Polish generals. Either General Jaruzelski was to crack down on the Polish people or the Soviets would intervene and do so themselves. General Jaruzelski imposed a military dictatorship, solidarity was banned and its courageous leader, Lech Walesa, was imprisoned, and the Polish people were once again relegated to facing the grim reality of a corrupt and repressive government.

Mr. President, as a cosponsor of Senate Resolution 501, I believe it represents the strong sentiments and concerns of all Americans. I believe it is appropriate to set aside December 12 as a demonstration of our solidarity with the people of Poland.

S. 3081—WEST VIRGINIA FEDERAL JUDICIARY IMPROVEMENT ACT

Mr. ROBERT C. BYRD. Mr. President, I am introducing legislation to improve and facilitate the administration of justice in the Federal judiciary in my home State of West Virginia. In recent years, the judiciary has been increasingly burdened in West Virginia by a disparity of caseloads between the northern and southern districts; by the retention of a "swing" judgeship position which must serve the entire State, although Judge Haden, who serves in that position, is also the

chief judge for the southern district; and by the inclusion of several counties in each of the districts that would be better included, because of the region's geography, in the State's other judicial district.

In brief, the bill which I am introducing would transfer Wood and Wirt Counties to the southern district, with Braxton, Webster, and Pocahontas Counties being shifted to the northern district. The "swing" judge's designation would be eliminated, with Chief Judge Haden being permanently located in the south. Judge Kidd would be transferred from the southern to the northern district, and the temporary judgeship would be abolished.

This change will not cost the Federal Government any additional money. The southern district will be reduced from 4½ to 4 judges, and the northern district will be increased from 1½ to 2.

The judicial caseload for the northern district has greatly increased in recent years. The Statistical Analysis and Reports Division of the Administrative Office of the U.S. Courts issued a judicial workload profile for the year ending June 30, 1982, in which the northern district for West Virginia was ranked as 15th in the Nation in the total number of civil filings. There has been a 24-percent increase in the court's caseload in the past 5 years, and the current caseload of 1,233 cases is 12.6 percent larger than in the previous year. This formidable burden has been shouldered by 1½ judges.

The bill that I am introducing is supported by the Federal District Court judges in the State, by the Circuit Council for the 4th Judicial Circuit, and was initiated by Chief Judge Charles A. Moye, Jr., chairman of the Subcommittee on Judicial Statistics of the Committee on Court Administration of the Judicial Conference. I believe that this bill will alleviate the difficult situation that exists in my State, and I commend it to my colleagues for their favorable consideration.

Mr. President, I ask unanimous consent that the bill be introduced under the joint cosponsorship of myself and my senior colleague (Mr. RANDOLPH).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3081

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 129 of title 28, United States Code, is amended—

(1) in subsection (a) by—

(A) striking out ", Wirt, and Wood";

(B) inserting "Braxton," after "Berkeley,";

(C) inserting "Pocahontas" after "Pleasants,"; and

(D) inserting "Webster, and" after "Upshur"; and

(2) in subsection (b) by—

(A) striking out "Braxton,", "Pocahontas," and "Webster,"; and

(B) inserting "Wirt, Wood," after "Wayne,".

SEC. 2. (a) The existing district judgeship for the Southern District of West Virginia, authorized by section 2 of the Act entitled "An Act to provide for the appointment of additional district and circuit judges and for other purposes", approved October 20, 1978, (92 Stat. 1632; 28 U.S.C. 133 note) shall, as of the date of enactment of this Act, be authorized under section 133 of title 28 of the United States Code as a district judgeship for the Northern District of West Virginia, and the incumbent of that office shall henceforth hold office under section 133, as amended by this Act.

(b) The existing district judgeship for the Northern and Southern Districts of West Virginia shall be authorized as the district judgeship for the Southern District.

SEC. 3. The table in section 133 of title 28, United States Code, is amended by striking out the following:

"West Virginia:	
"Northern	1
"Southern	3
"Northern and Southern	1",

and inserting in lieu thereof the following:

"West Virginia:	
"Northern	2
"Southern	4".

Mr. ROBERT C. BYRD. Mr. President, I have no need for additional time. I yield 4 minutes of the time allocated to me to the distinguished Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin.

MILITARY STRENGTH

Mr. PROXMIRE. Mr. President, we get advice from all kinds of sources about our Federal policies and the policies we should follow in the Senate. One of the least likely appeared on Sunday in the comic strips in a comic panel on Beetle Bailey by Mort Walker. I think the advice that Mort Walker gives us through Beetle Bailey is not only interesting but very timely.

The first panel shows the general, General Halftrack, I think is his name, saying, "I'm not sure the Government is doing the right thing." The major says, "What's it doing now?" General Halftrack says, "It cut Federal money to schools * * * it cut money to libraries * * * " The major says, "Where's the money going?" General Halftrack says, "To us!"—that is, to the Pentagon.

The major says, "Is that bad?" And the general says, "That's what I was wondering."

Then he looks at what he has—the sergeant and Beatle Bailey and Zero and the other character who is not as bright or intelligent or informed as he might be. The general says, "Money won't help them, but schools and libraries might."

Well, Mr. President, I think probably more millions of Americans saw that comic strip than read any editorial on Sunday. I think some of them might have nodded their heads and said, "Well, there is something to that."

The Congress has its priorities confused. The Congress and the President should remember that we build military strength—military strength, I am talking about—through schools and libraries and education, as well as through having a strong military force.

I think this is a neat and simple and dramatic way of demonstrating that.

Incidentally, on the same day, the distinguished chairman of the Appropriations Committee, Senator MARK HATFIELD, appeared on "Meet the Press" and made very much the same point. He made it extremely well. I intended to call the attention of the Senate to that later on, when the transcript becomes available of Chairman HATFIELD's appearance, because it was a masterful performance on the part of Senator HATFIELD.

One of the points the chairman of the Senate Appropriations Committee made is that we should not measure our military strength strictly on the basis of our procurement or on the size of our military force or on how much money we spend, but we should also measure it in our economic terms and in our productivity and in our education and in the capability of our citizens to understand national policy and to support national policy.

DECAPITATION: AN EXPLOSIVE NUCLEAR STRATEGY

Mr. PROXMIRE. Mr. President, in the New York Times of November 2, 1982, Arthur Macy Cox makes a cogent case against the Reagan administration's defense policy, which he thinks will "substantially increase the risk of nuclear holocaust."

Last May, Secretary of Defense Caspar Weinberger signed into effect a new defense guidance doctrine, which is to be implemented over the next 5 years. The principal intent of this doctrine is to develop the capacity to decapitate the Soviet Union in a first-strike nuclear attack. This term means that we would destroy the Soviet leadership and the communications network that regulates their nuclear weapons in a first-strike nuclear attack, thus making a counterattack impossible and winning a nuclear war. The decapitation strategy calls for an array of stunningly powerful and expensive first-strike nuclear weapons, such as the MX missile, the Trident II submarine, and the Pershing II missile.

Cox urges us to consider the implications of such an approach. Most important is that it departs from our previous defense policy of deterrence, which seeks to prevent, rather than prepare for nuclear war. Deterrence is based on the premise that neither the United States or U.S.S.R. could hope to win a nuclear war if both nations possessed an adequate second-strike force. Therefore, the defense needs of the United States could be met by a survivable second-strike force.

Changing from a nuclear strategy from deterrence to decapitation, then, would significantly increase our military expenditures. Even more important, Cox argues, is that it would create enormous tension between our Nation and the Soviet Union. The tension that exists between us now would look miniscule in comparison to a situation where both superpowers are on constant edge, in fear of a surprise nuclear attack. We would both be forced to adopt a policy of "launch on warning," which is hardly a recipe for peaceful coexistence. Moreover, the chances for an accidental unleashing of nuclear weapons would be much greater.

Cox concludes by recommending that we abolish the decapitation nuclear strategy, and return to the nonagressive policy of deterrence. Deterrence would not only be less costly, but may be much more in line with our highest national priority: survival.

I ask unanimous consent that the Cox article from the New York Times be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Nov. 2, 1982]

WRONG DIRECTION IN NUCLEAR STRATEGY

(By Arthur Macy Cox)

WASHINGTON.—The Reagan Administration is pursuing a nuclear strategy that reverses the policies of every President since Dwight D. Eisenhower—policies that have avoided nuclear war for 37 years. Since the 1950's United States policy has stressed the importance of deterring nuclear war, promoting nuclear stability and reducing the possibility of accidental or unintentional nuclear war. Today, the Reagan Administration is moving rapidly in the opposite direction. The new Reagan policies, if carried out, will substantially increase the risk of nuclear holocaust.

Last week, President Leonid I. Brezhnev, speaking to Soviet military leaders, referred to "Washington's aggressive policy, which is threatening to push the world into the flames of nuclear war." Mr. Brezhnev's remarks cannot be dismissed as merely another dramatic flourish of anti-American propaganda. They are an aggressive response to an aggressive new United States policy and the very real weapons that the United States plans to deploy to carry out that policy.

This May, Secretary of Defense Caspar W. Weinberger signed a five-year "Defense Guidance" that calls for adoption of a nuclear war strategy based on creating the weapons necessary to "decapitate" the Soviet state. That means deploying nuclear weapons so accurate, so powerful and so fast on target that they could destroy the Soviet civilian and military leadership even in underground bunkers protected by stone and steel. They would also be able to destroy Soviet communications systems that control the ability to launch nuclear weapons.

When we have deployed the first-strike weapons capable of "decapitating" the Soviet state we will have the theoretical possibility of launching a surprise attack and "winning" a nuclear war. If the Soviet leaders and the communications systems required to launch nuclear weapons were destroyed, there would theoretically be no Soviet nuclear counterattack against the United States.

Until now the theory of deterrence has been based on the shared knowledge that any nuclear attack would be suicidal because both sides had an assured second-strike capacity to destroy the other. The ability to "decapitate with a first strike would change everything. Not wanting to be decapitated, the Soviet Union would move to a policy of launch on warning. The nuclear arms race would spiral out of control. Both sides, fearing surprise attack, would be on constant hair-trigger alert, increasing the probability of the accidential launching of nuclear weapons.

Even so, the Reagan Administration is pressing ahead to build and deploy first-strike weapons. The Pershing 2, scheduled for deployment in Germany early in 1984, is a first-strike weapon that will be able to reach its targets in the Soviet Union in six minutes. The MX is a first-strike weapon and the Trident II (D-5) submarine-launched missile is a first-strike weapon. First-strike weapons run counter to all principles of deterrence. They make unintentional nuclear war more likely.

We have no requirement for a weapon as accurate, powerful and fast as the MX will be. The existing Minuteman III missiles have been modernized with Mark 12-A warheads that are more accurate than the warheads on the best Soviet missiles—the SS-18's and the SS-19's. If there is a requirement for a less vulnerable basic system for our ICBM's, we should try to deal with that problem, but this does not mean, at the same time, a requirement for a first-strike weapon such as the MX.

The Trident II (D-5) submarine-launched missile is also a surprise-attack weapon. The accuracy, power and speed of that missile's warheads will be destabilizing. The Trident I missile on the Poseidon and Trident submarines is a powerful deterrent, but it is not accurate enough or fast enough to be a "decapitation" weapon. We have ample deterrence without first-strike weapons. For example, our strategic bombers will soon be equipped with long-range cruise missiles, which, though very accurate, are very slow. Bombers can always be turned back as well. They are not first-strike weapons.

What this means is that we should change course. We should reject the policy of "decapitation" and the building and deployment of first-strike weapons. We should return to the promotion of nuclear stability and deterrence with emphasis on reducing the possibility of unintentional or accidental launch of nuclear weapons.

We should return, also, to genuine arms control negotiations with the Soviet Union, giving priority to a ban on first-strike weapons, a comprehensive test ban, and a ban on antisatellite weapons and other military uses of space. These measures will provide a more stable framework for drastically reducing existing nuclear arsenals on an equal and verifiable basis.

POTENTIAL FOR GENOCIDE STILL EXISTS

Mr. PROXMIRE. Mr. President, since 1967 I have daily urged the Senate to ratify the Convention of the Prevention and Punishment of Genocide. Today, once again, I should like to call on the United States to join with over 80 other nations in officially condemning genocide.

Although the Genocide Convention was initially drawn up in response to the Nazis' Holocaust, the need for the treaty is still very real. Widespread violations of human rights and the continual use of violence to resolve social and political disputes remind us that the potential for genocide still exists in the world today.

For example, recently Survival International, U.S.A., a group dedicated to advancing the rights of indigenous peoples, issued a report describing the political situation in Guatemala. According to the report, written by Craig W. Nelson and Kenneth I. Taylor, Guatemalan Indian communities are the targets of Gen. Rios Montt's counterinsurgency program. The authors say that the program not only has contributed to the deaths of many members of the Indian population, but, also has reportedly affected the Indians' expression of their national culture.

Mr. President, while a clear understanding of the situation in Guatemala is difficult to obtain, reports such as this remind us that the potential for genocide still exists in the world, many years after the Nazis' Holocaust. The Genocide Convention makes the act of genocide an international crime and once again, I urge my colleagues to give this treaty favorable consideration.

TRENDS IN CONVENTIONAL ARMS TRANSFER TO THE THIRD WORLD BY MAJOR SUPPLIER 1974-81

Mr. PROXMIRE. Mr. President, the volume of arms deliveries abroad does not necessarily determine relative military advantage or increase in political influence. One need only to recall the billions of rubles the Soviet Union invested in Egypt only to find that a new government turned to the West for diplomatic and economic support. In Africa, Somalia, and Ethiopia have changed sides in terms of arms suppliers, with a startling degree of quickness. Furthermore, arms are sometimes used up or depleted in warfare such as that between India and Pakistan where U.S. equipment was used on both sides.

In addition, arms delivery statistics tell us little about the sophistication of the weapons or their impact on the regional balance of power. Nor do they allow us to determine if these weapons are being used solely for self protection.

Standing by themselves, statistics are signposts—giving an indication of velocity and change of direction but telling us nothing about the consequences of arms deliveries.

Arms sales are justified by a wide array of intellectual arguments. They are considered national security sales. They are important for reasons of employment in the aerospace industry. They are thought to be elements of U.S. influence abroad. If we do not sell, then someone else will. Sales support democracies against hostile neighbors.

All of these arguments are commonly heard. Sometimes they were accurate. And just as often they are not. Sales can backfire—for example the Iranian situation when our most sophisticated air-to-air missile was compromised as well as the technical details of our F-14 aircraft. Arms sales stimulate regional arms races as can be seen in Latin America; between India and Pakistan; and in the Middle East. Arms are used for repression of local populations or for wars of aggression against neighbors. They complicate diplomatic relations as in the example of the People's Republic of China and the Republic of China.

While it is comforting to say that arms keep the peace, we know from hundreds of years of history that arms are used. Every major weapon system developed by mankind, including biological warefare, chemical warfare, and nuclear weapons, has been used in combat.

The more the nations of the world sell weapons to the Third World, the higher the intensity of battle will become, the greater the likelihood of widespread war, and the greater the drain on scarce resources.

Weapons are the international heroin of the Third World. Nations start out with a tantalizing taste and soon become hooked on an ever more rich diet until the demand outstrips the resources for fulfillment.

Mr. President, I ask unanimous consent that the remaining tables from the Congressional Research Service report on Trends in Conventional Arms Transfers to the Third World by Major Supplier be printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE 3.—NUMBERS OF WEAPONS DELIVERED BY MAJOR SUPPLIERS TO THE THIRD WORLD [1]

Weapons category	United States	U.S.S.R.	Major Western European [2]
1974–77			
Tanks and self-propelled guns	3,881	4,595	1,215
Artillery	3,123	7,375	1,260
APCs and armored cars	6,853	5,245	1,470
Major surface combatants	61	12	19
Minor surface combatants	144	58	189
Submarines	13	9	14
Supersonic combat aircraft	822	1,280	215
Subsonic combat aircraft	510	230	35
Other aircraft	938	170	490
Helicopters	463	305	890
Guided missile boats	0	32	8
Surface-to-air missiles (SAM's)	2,450	14,345	1,755
1978–81			
Tanks and self-propelled guns	2,375	5,635	510
Artillery	2,783	7,000	1,145
APCs and armored cars	5,658	6,810	3,230
Major surface combatants	23	28	43
Minor surface combatants	33	110	93
Submarines	1	6	8
Supersonic combat aircraft	500	1,795	240
Subsonic combat aircraft	149	190	75
Other aircraft	330	300	410
Helicopters	172	845	715
Guided missile boats	0	42	21
Surface-to-air missiles (SAM's)	4,995	5,665	585
1974–81			
Tanks and self-propelled guns	6,256	10,230	1,725
Artillery	5,906	14,375	2,405
APCs and armored cars	12,511	12,055	4,700
Major surface combatants	84	40	62
Minor surface combatants	177	168	282
Submarines	14	15	22
Supersonic combat aircraft	1,322	3,075	455
Subsonic combat aircraft	659	420	110
Other aircraft	1,268	470	900
Helicopters	635	1,150	1,605
Guided missile boats	0	74	29
Surface-to-air missiles (SAM's)	7,445	20,010	2,340

[1] Third World category excludes Warsaw Pact nations, NATO nations, Europe, Japan, Australia, and New Zealand. U.S. data are for fiscal years given (and cover the period from July 1, 1973 through Sept. 30, 1981). Foreign data are for calendar years given.
[2] Major Western European includes France, United Kingdom, West Germany, and Italy totals as an aggregate figure.
Source: U.S. Governments.

TABLE 4.—NUMBERS OF WEAPONS DELIVERED BY MAJOR SUPPLIERS TO EAST ASIA AND THE PACIFIC [1]

Weapons category	United States	U.S.S.R.	Major Western European [2]
1974–77			
Tanks and self-propelled guns	543	275	30
Artillery	1,904	120	75
APCs and armored cars	1,101	95	20
Major surface combatants	31	0	1
Minor surface combatants	88	0	0
Submarines	2	4	0
Supersonic combat aircraft	236	15	0
Subsonic combat aircraft	106	0	0
Other aircraft	449	105	110
Helicopters	106	40	75
Guided missile boats	0	0	0
Surface-to-air missiles (SAM's)	185	0	15
1978–81			
Tanks and self-propelled guns	714	640	50
Artillery	870	475	115
APCs and armored cars	870	355	230
Major surface combatants	14	7	0
Minor surface combatants	25	44	16
Submarines	0	0	2
Supersonic combat aircraft	218	240	0
Subsonic combat aircraft	118	55	10
Other aircraft	67	100	80
Helicopters	150	130	115
Guided missile boats	0	8	3
Surface-to-air missiles (SAM's)	1,078	175	0
1974–81			
Tanks and self-propelled guns	1,257	915	80
Artillery	2,774	595	190
APCs and armored cars	1,971	450	250
Major surface combatants	45	7	1
Minor surface combatants	113	44	16
Submarines	2	4	2
Supersonic combat aircraft	454	255	0
Subsonic combat aircraft	224	55	10
Other aircraft	516	205	190
Helicopters	256	170	190

TABLE 4.—NUMBERS OF WEAPONS DELIVERED BY MAJOR SUPPLIERS TO EAST ASIA AND THE PACIFIC [1]—Continued

Weapons category	United States	U.S.S.R.	Major Western European [2]
Guided missile boats	0	8	3
Surface-to-air missiles (SAM's)	1,263	175	15

[1] Excludes Japan, Australian, and New Zealand. U.S. data are for fiscal years given (and cover the period from July 1, 1973 through Sept. 30, 1981). Foreign data are for calendar years given.
[2] Major Western European includes France, United Kingdom, West Germany, and Italy totals as an aggregate figure.
Source: U.S. Government.

TABLE 5.—NUMBERS OF WEAPONS DELIVERED BY MAJOR SUPPLIERS TO NEAR EAST AND SOUTH ASIA [1]

Weapons category	United States	U.S.S.R.	Major Western European [2]
1974–77			
Tanks and self-propelled guns	3,168	3,230	1,020
Artillery	725	4,195	665
APCs and armored cars	5,426	3,955	1,065
Major surface combatants	4	10	14
Minor surface combatants	26	15	88
Submarines	0	5	3
Supersonic combat aircraft	559	1,000	115
Subsonic combat aircraft	262	150	15
Other aircraft	345	25	135
Helicopters	282	180	685
Guided missile boats	0	27	3
Surface-to-air missiles (SAM's)	2,265	12,680	1,540
1978–81			
Tanks and self-propelled guns	1,656	4,155	390
Artillery	940	4,065	730
APCs and armored cars	4,731	5,125	1,950
Major surface combatants	4	16	7
Minor surface combatants	6	10	28
Submarines	1	3	2
Supersonic combat aircraft	270	1,310	205
Subsonic combat aircraft	19	85	30
Other aircraft	128	90	175
Helicopters	7	575	390
Guided missile boats	0	23	17
Surface-to-air missiles (SAM's)	3,917	4,170	510
1974–81			
Tanks and self-propelled guns	4,824	7,385	1,410
Artillery	1,665	8,260	1,395
APCs and armored cars	10,157	9,080	3,015
Major surface combatants	8	26	21
Minor surface combatants	32	25	116
Submarines	1	8	5
Supersonic combat aircraft	829	2,310	320
Subsonic combat aircraft	281	235	45
Other aircraft	473	115	310
Helicopters	289	755	1,075
Guided missile boats	0	50	20
Surface-to-air missiles (SAM's)	6,182	16,850	2,050

[1] U.S. data are for fiscal years given (and cover the period from July 1, 1973 through Sept. 30, 1981). Foreign data are for calendar years given.
[2] Major Western European includes France, United Kingdom, West Germany, and Italy totals as an aggregate figure.
Source: U.S. Government.

TABLE 6.—NUMBERS OF WEAPONS DELIVERED BY MAJOR SUPPLIERS TO LATIN AMERICA [1]

Weapons category	United States	U.S.S.R.	Major Western European [2]
1974–77			
Tanks and self-propelled guns	136	305	110
Artillery	275	215	165
APC's and armored cars	293	55	120
Major surface combatants	26	0	2
Minor surface combatants	30	17	55
Submarines	11	0	11
Supersonic combat aircraft	18	85	35
Subsonic combat aircraft	142	5	10
Other combat aircraft	142	15	95
Helicopters	69	45	40
Guided missile boats	0	3	5
Surface-to-air missiles (SAM's)	0	565	95
1978–81			
Tanks and self-propelled guns	5	70	30
Artillery	917	420	130
APC's and armored cars	14	175	210
Major surface combatants	5	1	21

TABLE 6.—NUMBERS OF WEAPONS DELIVERED BY MAJOR SUPPLIERS TO LATIN AMERICA[1]—Continued

Weapons category	United States	U.S.S.R.	Major Western European[2]
Minor surface combatants	2	21	29
Submarines	0	3	4
Supersonic combat aircraft	0	85	30
Subsonic combat aircraft	12	0	5
Other aircraft	97	55	65
Helicopters	15	30	115
Guided missile boats	0	7	0
Surface-to-air missiles (SAM's)	0	245	70
1974–81			
Tanks and self-propelled guns	141	375	140
Artillery	1,192	635	295
APCs and armored cars	307	230	330
Major surface combatants	31	1	23
Minor surface combatants	32	38	84
Submarines	11	3	15
Supersonic combatant aircraft	18	170	65
Subsonic combat aircraft	154	5	15
Other aircraft	239	70	160
Helicopters	84	75	155
Guided missile boats	0	10	5
Surface-to-air missiles (SAM's)	0	810	165

[1] Excludes Canada. U.S. data are for fiscal years given (and cover the period from July 1, 1973 through Sept. 30, 1981). Foreign data are for calendar years given.
[2] Major Western European includes France, United Kingdom, West Germany, and Italy totals as an aggregate figure.
Source: U.S. Government.

TABLE 7.—NUMBERS OF WEAPONS DELIVERED BY MAJOR SUPPLIERS TO AFRICA (SUB-SAHARAN) [1]

Weapons category	United States	U.S.S.R.	Major Western European [2]
1974–77			
Tanks and self-propelled guns	34	785	55
Artillery	219	2,845	355
APC's and armored cars	33	1,145	265
Major surface combatants	0	2	2
Minor surface combatants	0	26	46
Submarines	0	0	0
Supersonic combat aircraft	9	180	65
Subsonic combat aircraft	0	75	10
Other aircraft	2	25	150
Helicopters	6	40	90
Guided missile boats	0	2	0
Surface-to-air missiles (SAM's)	0	1,100	105
1978–81			
Tanks and self-propelled guns	0	770	40
Artillery	56	2,040	170
APC's and armored cars	43	1,155	840
Major surface combatants	0	4	15
Minor surface combatants	0	35	20
Submarines	0	0	0
Supersonic combat aircraft	12	160	5
Subsonic combat aircraft	0	50	30
Other aircraft	38	55	90
Helicopters	0	110	95
Guided missile boats	0	4	1
Surface-to-air missiles (SAM's)	0	1,075	5
1974–81			
Tanks and self-propelled guns	34	1,555	95
Artillery	275	4,885	525
APC's and armored cars	76	2,300	1,105
Major surface combatants	0	6	17
Minor surface combatants	0	61	66
Submarines	0	0	0
Supersonic combat aircraft	21	340	70
Subsonic combat aircraft	0	125	40
Other aircraft	40	80	240
Helicopters	6	150	185
Guided missile boats	0	6	1
Surface-to-air missiles (SAM's)	0	2,175	110

[1] U.S. data are for fiscal years given (and cover the period from July 1, 1973 through Sept. 30, 1981). Foreign data are for calendar year given.
[2] Major Western European includes France, United Kingdom, West Germany, and Italy totals as an aggregate figure.
Source: U.S. Government.

DESCRIPTION OF ITEMS COUNTED IN WEAPONS CATEGORIES, 1974–81

Tanks and self-propelled guns.—Light, medium and heavy tanks; self-propelled artillery; and self-propelled assault guns.

Artillery.—Field and air defense artillery, mortars, rocket launchers, and recoilless rifles—100 mm. and over; FROG launchers—100 mm. and over.

Armored personnel carrier (APC's) and armored cars.—Personnel carriers, armored and amphibious; armored infantry fighting vehicles; and armored reconnaissance and command vehicles.

Major surface combatants.—Aircraft carriers, cruisers, destroyers, frigates.

Minor surface combatants.—Minesweepers, subchasers, motor torpedo boats; and patrol craft, motor gunboats.

Submarines.—All submarines, including midget submarines.

Guided missile patrol boats.—All boats in this class.

Supersonic combat aircraft.—All fighters and bombers designed to function operationally at speeds above Mach 1.

Subsonic combat aircraft.—All fighters and bombers, including propeller driven, designed to function operationally at speeds below Mach 1.

Other aircraft.—All other fixed-wing aircraft, including trainers, transports, reconnaissance aircraft, and communications/utility aircraft.

Helicopters.—All helicopters, including combat and transport.

Surface-to-air missiles (SAM's).—All air defense missiles, excluding those which are shoulder-fired.

NATIONS IN REGIONS IDENTIFIED IN ARMS DELIVERY TABLES AND CHARTS

EAST ASIA AND PACIFIC

Australia, Brunei, Burma, China, Fiji, French Polynesia, Gilbert Islands, Hong Kong, Indonesia, Japan, Kampuchea (Cambodia), North Korea, North Vietnam, Laos, Macao, Malaysia, Nauru, New Caledonia, New Hebrides, New Zealands, Norfolk Islands, Papua New Guinea, Philippines, Pitcairn, Singapore, Solomon Islands, South Korea, South Vietnam, Taiwan, Thailand, and Western Somoa.

NEAR EAST AND SOUTH ASIA

Afghanistan, Algeria, Bahrain, Bangladesh, Egypt, India, Iran, Iraq, Israel, Jordan, Kuwait, Lebanon, Libya, Morocco, Nepal, North Yemen (Sana), Oman, Pakistan, Qatar, Saudi Arabia, South Yemen (Aden), Sri Lanka, Syria, Tunisia, and United Arab Emirates.

EUROPE

Albania, Austria, Bulgaria, Belgium, Canada, Czechoslovakia, Cyprus, Denmark, Finland, France, Germany, Democratic Republic; Germany, Federal Republic; Greece, Hungary, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Spain, Sweden, Switzerland, Turkey, United Kingdom, U.S.S.R., and Yugoslavia.

AFRICA (SUB-SAHARAN)

Angola, Benin, Botswana, Burundi, Cameroon, Cape Verde, Central African Empire/Republic, Chad, Congo, Djibouti, Equatorial Guinea, Ethiopia, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Ivory Coast, Kenya, Lesotho, Liberia, Madagascar, Malawi;

Mali, Mauritania, Mauritius, Mozambique, Niger, Nigeria, Reunion, Rwanda, Senegal, Seychelles, Sierra Leone, Somalia, South Africa, St. Helena, Sudan, Swaziland, Tanzania, Togo, Uganda, Upper Volta, Zaire, Zanbia, and Zimbawe.

LATIN AMERICA

Antigua, Argentina, Bahamas, Barbados, Belize, Bermuda, Bolivia, Brazil, British Virgin Islands, Cayman Islands, Chile, Colombia, Costa Rica, Cuba, Dominica, Dominican Republic, Ecuador, El Salvador, Falkland Islands, French Guiana, Grenada, Guadeloupe, Guatemala;

Guyana, Haiti, Honduras, Jamaica, Martinique, Mexico, Monteserrat, Netherlands Antilles, Nicaragua, Panama, Paraguay, Peru, St. Christ-Nevis, St. Lucia, St. Pierre and Miquelon, St. Vincent, Suriname, Trinidad-Tobago, Turks and Caicos, Uruguay, and Venezuela.

Mr. PROXMIRE. Mr. President, I thank the minority leader and I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, I yield back the remainder of my time.

Mr. BAKER. Mr. President, I have no further need for time. I believe at the conclusion of this time there is an order for a period for the transaction of routine morning business.

The PRESIDING OFFICER. The leader is correct.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business, not to extend beyond the hour of 12 noon, with statements therein limited to 5 minutes each.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME LIMITATION AGREEMENT—H.R. 7144

Mr. BAKER. Mr. President, my staff advises me that the request I am about to put has been agreed to on this side of the aisle. I will state it now for the consideration of the distinguished minority leader.

Mr. President, I ask unanimous consent that at 3 p.m. today the Senate turn to the consideration of Calendar No. 951, H.R. 7144, the D.C. appropriations bill, and that it be considered under the following time limitation agreement: 30 minutes on the bill to be equally divided between the chairman of the Appropriations Committee and the ranking minority member or their designees; 2 hours on an amendment to be offered by the Senator from Missouri (Mr. EAGLETON) dealing with the D.C. Convention Center; 20 minutes on any remaining first degree amendments; 10 minutes on second degree amendments; 5 minutes on any debatable motions, appeals, or points of order, if so submitted to the Senate; and that the agreement be in the usual form with respect to division and control of time.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, we have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, at 2 p.m. or shortly thereafter, when the roll-call vote is concluded on the Poland resolution, what will be the business before the Senate? Will Radio Marti recur as the pending business?

The PRESIDING OFFICER. It will recur automatically.

Mr. BAKER. I thank the Chair.

SENATE JOINT RESOLUTION 270—TO DESIGNATE 1983 AS THE BICENTENNIAL OF AIR AND SPACE FLIGHT

Mr. MATHIAS. Mr. President, I sent a joint resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

Mr. MATHIAS. Mr. President, I state for the Senate that this resolution has been cleared by the majority leader and the minority leader; that it has also been cleared by the Judiciary Committee.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 270) to designate 1983 as the bicentennial of air and space flight.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration, and, without objection, the joint resolution will be considered to have been read the second time at length.

Mr. MATHIAS. Mr. President, the joint resolution speaks for itself. It is to designate the year 1983 as the year in which the nations of the world will celebrate 200 years of manned flight.

In 1783, the famous French balloonist Montgolfier made the first manned flight in recorded history. It is interesting that this achievement in France was followed very closely by manned flight in the State of Maryland when, in Baltimore, Md., just a few months after the Montgolfier flight, a 13-year-old boy named Edward Warren became the first American to ascend from the Earth's surface.

This is a year which will be celebrated in many ways, not the least of which will be by looking forward into the future of manned flight both within the Earth's atmosphere and beyond. So it is a significant occasion, and I hope the Senate will see fit to adopt this resolution and name 1983 as the bicentennial of air and space flight. I ask immediate approval of the resolution.

The PRESIDING OFFICER. The joint resolution is open for amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution (S.J. Res. 270) was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

S.J. RES. 270

Whereas the first manned flight in history was made by Etienne de Montgolfier at LaMuette, France on November 21, 1783 releasing man from his terrestrial shackles;

Whereas a few months later in Baltimore, Maryland, a thirteen year old boy named Edward Warren soared aloft in a balloon launched by Peter Carnes, Esq. who a few days previously launched America's first hot air balloon, the Splendid Chariot, from the grounds of the Indian Queen Tavern in Bladensburg, Maryland and;

Whereas the United States and its first ally, France, together with many other countries will celebrate the extraordinary achievements in air and space flight of the past two centuries;

Whereas the United States Organizing Committee has been established to plan, coordinate and assist in the implementation of national, state and local festivities during 1983;

Whereas the Bicentennial provides an opportunity for increasing public awareness in international trade, of education in science, mathematics and engineering, and of re-igniting the creativity and competitiveness that has historically fueled America and its economy; now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the year commencing January 1, 1983, is hereby designated the Bicentennial of Air and Space Flight, and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the year with appropriate ceremonies and activities.

AMBASSADOR GERARD SMITH'S THOUGHTS ON THE IAEA

Mr. MATHIAS. Mr. President, the former director of the U.S. Arms Control and Disarmament Agency and chief SALT I negotiator, Ambassador Gerard Smith, is qualified to discuss all aspects of the nuclear equation. His is an experienced and reasonable voice which this Chamber should not ignore. Indeed, when Gerard Smith speaks, we in the Senate would be well advised to sit up and listen.

I share his concern expressed in an article about American policy toward the International Atomic Energy Agency. In fact, I wrote President Reagan along the same lines earlier this fall, and would like to place my letter in the RECORD at this time.

As the final phase of this Government's IAEA "reassessment" draws near, we must guard against any weakening of America's nuclear nonproliferation policy.

I ask unanimous consent that Ambassador Smith's article entitled "U.S. Role in Atom Agency" which appeared in the New York Times on October 26, 1982, be printed in the RECORD at this point and my letter to President Reagan dated September 29, 1982, be printed following the article.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. ROLE IN ATOM AGENCY

(By Gerard C. Smith)

The Administration recently suspended United States contributions to the International Atomic Energy Agency and is now reassessing whether we should continue to participate in the agency's activities. As a former representative at the agency, I—along with other former representatives, including T. Keith Glennan, Gerald F. Tape and Henry D. Smyth—believe that this is a dangerous course.

The agency's main functions are to promote the peaceful uses of atomic energy internationally while providing inspection and safeguard systems to insure that nuclear material and equipment are not diverted to military purposes. Accordingly, this country has a vital interest in the performance of the agency's functions, which are integral to our national security.

We deplore the patently illegal action taken at the close of the agency's General Conference in September to reject the credentials of the Israeli representative to the meeting, and we share the anxiety of the Administration to make clear that any recurrence of such illegal political action will not be tolerated by the United States and might well force us to take action unwelcome to those who support it.

But we believe the following options should be ruled out as clearly antithetical to our interests:

United States withdrawal from the agency or nonparticipation in its activities.

Refusal (after the current suspension) to pay the assessed contribution to the agency's budget and safeguards costs.

Any diminution in our efforts to support and strengthen the agency's safeguards system.

The agency and its safeguard system are irreplaceable and essential to efforts to stem the proliferation of nuclear weapons.

We must continue to participate in and supply leadership to its activities to insure that such functions are performed as well as possible. To opt out would be a monumental mistake.

SEPTEMBER 29, 1982.

President RONALD REAGAN,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: It is encouraging to observe the interest of your Administration in the International Atomic Energy Agency and the obvious importance that you attach to its work. The wide attention attracted to the IAEA by the action of the United States in protecting the rejection of the credentials of the Israeli delegation will remind the world of the vital function of this international agency.

Having made this point in a forceful way, I urge you to direct the American delegation to return to the next meeting of the IAEA with instructions to pursue new methods of containing the danger of nuclear prolifera-

tion. In addition, it would be useful for the Secretary of State to inquire of the USSR whether it would support new, more effective, international measures by which nuclear proliferation could be detected and restrained. The joint action of the world's two nuclear superpowers would be a major step in the right direction, and would be welcomed by people everywhere.

Today we are witnessing both horizontal and vertical proliferation. More nations are experimenting with nuclear technology, and nuclear technology is ever more sophisticated. Intelligence sources have advised that there are even sub-national organizations that are capable of acquiring nuclear devices.

The United States played a leading role in the Agency's founding, during the Eisenhower Administration, by actively encouraging the participation of other nations, including the Soviet Union. Since that time, support for the IAEA has remained a cornerstone of U.S. nonproliferation policy. To abandon our leadership now—or even to appear to step back from it—might damage the machinery of nonproliferation beyond repair.

Sincerely,

CHARLES MCC. MATHIAS, Jr.,
U.S. Senator.

GLOBAL ECONOMY IN SERIOUS TROUBLE

Mr. MATHIAS. Mr. President, we are setting postdepression records in this country for unemployment, business failure, and low farm income. But we are not unique. The global economy is in serious trouble. Nor is it clear that it has bottomed out and is headed for a recovery.

Instead, we are witnessing escalating requests for debt rescheduling and rising unemployment figures in the West. In response to these pressures, we are also facing rising protectionist sentiment and increasing complaints about bank "bailouts."

The dimensions of our dilemma together with the elements of a remedial operation were outlined in the Sunday's Outlook section of the Washington Post in an article entitled, "Can the West Avoid Economic Disaster?" by Jean Francois-Poncet, the former Foreign Minister of France. His analysis is superb, his prescriptions timely. I commend this excellent article to all who share my concern that we risk losing control of our economic fate. I ask unanimous consent that Mr. Francois-Poncet's article be included in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Dec. 5, 1982]

CAN THE WEST AVOID ECONOMIC DISASTER?

(By Jean Francois-Poncet)

PARIS.—Instead of searching the skies of Moscow for clues to the intentions of the new Soviet leadership, the leaders of the West might better turn their attention to the disquieting racket arising from the machine rooms of the Western economy. Our leaders are suffering from two serious delusions.

Faced with the formidable Third World debt, they are convinced that international financial institutions are able to cope with the resulting bankruptcies case by case and by using the traditional methods. Moreover, hoping to be delivered from their nightmares, they anticipate the recovery of the American economy and with it the automatic rescue of the other imperiled economies of the world.

Unfortunately, both of these convictions are lame. No one can really claim to be able to read the future of the U.S. economy, or to say when, with what force or for how long the winds of recovery will blow. The American economy staggers under the triple weight of the Federal budget deficit, high real interest rates and world recession. I doubt that the promised recovery will turn it into a powerful locomotive to pull out other economies. The general confidence in the solidity of the international financial system reflects a strange degree of optimism.

True, until now accidents have been avoided. When needed, central banks intervened with determination and speed. Commercial banks did not flounder. The IMF fully assumed its role.

However, is the situation really under control? Is it enough just to sit back and wait for the clouds to clear? The answer is probably not, for four reasons:

Despite appearances, the problem of indebtedness is political, rather than financial. The most difficult task is not to have central banks impose emergency measures nor to get countries in a state of bankruptcy to accept rescheduling agreements as provided by the IMF. The real problem will surface when the time comes to carry out the drastic rehabilitation measures prescribed.

It is unduly optimistic to believe that fragile governments—in countries whose populations grow at a staggering rate and where there are glaring social inequalities and widespread unemployment, corruption and misery—are ready to enforce the financial and economic *diktats* imposed on them. What is more probable is that, under the pressure of an agitated public, the established authorities or those who may replace them will eventually decide, either unilaterally or in agreement with other debtor countries, to repudiate their debts and to refuse the sacrifices demanded of them in the name of Western banks.

Debtor countries must reduce their imports to balance their acccounts and repay their debts. The IMF encourages them to do so, and, besides, they have no choice. However, the process necessarily means a further deterioration and extension of the world recession and leads to a painful contradiction. At a time when the IMF urges all borrowing countries to clean up their houses, Western countries through the GATT demand that they open their markets, threatening retaliation should they refuse. It is past time to put some order into our own politics and to view the problem of debt and its economic consequences in a coherent global context.

The role the system entrusts to the IMF is that of negotiator and guarantor rather than lender. The bulk of the actual financing is done through private banks. A good example is Mexico: while using all the financial facilities it disposes of, the IMF supplies a little over $1 billion per year, while private banks are asked to increase their commitments to $5 billion for 1983 alone.

Despite the errors they have committed, that is asking quite a lot from those major banks, whose dubious loans already run far higher than their capital. It is asking way too much of the some 1,500 small- and medium-size banks that, disregarding pressing appeals, are choosing to pull out.

By putting pressure on banks, governments run a serious risk. For, should the operation ultimately fail, they expose themselves to justified demands for compensation.

There is reason to wonder whether the present situation is not deteriorating rather than improving. The total debt of underdeveloped countries is estimated at $600 billion, to which short-term debt should be added. This cumulative figure is but one element. No one knows the exact nature of the off-shore banks' transactions. The collapse of the Ambrosiano Bank and the Italian government's refusal to guarantee its transactions in Luxemburg underscore the risk that such interbank activity—estimated at $2 trillion—implies.

Finally, too little attention is paid to the rising European debt. Sweden, Denmark, Belgium and Ireland are already faced with difficult financial situations. Italy, Spain and France are on a downhill slope.

So what lessons can we learn from this gloomy picture?

The threat weighing on the world economy is much more serious than commonly acknowledged. If we allow it to develop, a depression similar to the one that shook the world in 1929, 1930 could well follow. But with a difference: it would quickly revive inflation, which all affected governments would be forced to confront. Unavoidably, they would react in a way that dealt a massive backhanded blow to the measures of financial rehabilitation that are now being so painfully put in place.

Then, it is high time for Western leaders to drop their wait-and-see policies. A major initiative is imperative. Instead of nurturing the hope that everything will fall into place by itself, that there is no particular urgency and that it is necessary to maintain a conspiracy of silence, Western countries must face the crisis squarely and offer plausible solutions.

The Versailles summit, which failed to broach any one of these problems, will be remembered in history as the summit of idle talk and blindness. What the world needs is a "Versailles in reverse."

At the top of the agenda would be the restructuring of world debt and the substantial expansion of funds available to the IMF.

It would then be necessary to create a financial security net designed to restore confidence, a prerequisite to any real economic recovery. This would have to go beyond the present cooperation among central banks.

Finally, we would need to reconstruct the international financial system, drawing the proper lessons from the experience since 1973. Rash actions in the past resulted not only from errors in judgment but also from structural weaknesses, which are well known and must be eliminated.

There is no reliable source of information on the actual situation of the debtors. There are still major gaps in a number of countries' internal legislation. Commercial banks have become the principal money lenders but are unable to impose the disciplinary measures that should accompany their loans.

The reciprocal responsibilities of central banks and commercial banks are unclear. The first should not pull the second out of difficulties resulting from unsound manage-

ment. But commercial banks have reason to turn to their governments when they fulfill a mission in the public interest, one undertaken with governmental approval and because of the government's own failure to act.

Then, international institutions should be able to offer Third World countries the long-term funds they need for their development. Unfortunately, this is not part of the IMF's role and is not within the means of the World Bank.

Avoid the worst, restore confidence, reconstruct an obsolete financial system: those are the urgent tasks awaiting the Western world. They will determine not only the well-being of our economies but also our political future.

No one can say how Yuri Andropov will conduct the policies of his country. But it is common knowledge that in the balance between East and West, the Soviet Union depends on its military advantage while the West has always played on its economic strength. This balance would be shattered if, by sheer blindness or apathy, the West failed to take the necessary measures immediately to preserve its economic vitality. That is one favor the West should not grant Andropov.

UNICEF ESSAY WINNERS FETED BY SWEDISH AMBASSADOR

Mr. MATHIAS. Mr. President, several days before Halloween, the Ambassador of Sweden, Count Wilhelm Wachtmeister, and Countess Wachtmeister, acted as hosts for a unique celebration. Their guests of honor were the 17 children from Maryland, the District of Columbia, and Virginia, who wrote winning essays in the UNICEF Festival of Sharing Essay Contest.

The Swedish residence was festive that night with orange candles glowing both inside and out. The dining room was filled with delightful Swedish delicacies. Countess Wachtmeister welcomed the children to a formally set table. As they ate, she answered questions about the decorations, the food, and Swedish customs. At each seat was a place card—a leaf with the child's name painted on it—and a Swedish and American flag pin.

Ambassador Wachtmeister congratulated the winners and presented them with prizes contributed by the U.S. Committee for UNICEF, Washington Area Office.

At a time when parents, teachers, and community leaders are searching for safe and constructive Halloween activities, it is encouraging that over 300 area students, ages 7 to 11, cared enough to write about their concern for the world's children.

The Swedish Government and people, through their generous contribution to UNICEF, have set a high standard that challenges us and every other nation.

Mr. President, I ask unanimous consent to enter in the RECORD the names of the 17 winners and the 4 first-place essays.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MARYLAND WINNING ESSAY

WE HOPE FOR PEACE

(By Cinnamon Daniel)

People are dying,
And children are crying
All over the world.

I wish people would not fight,
For it gives me an awful fright
And it makes people die.

If countries would agree
What a nicer place this would be
For evey man and woman.

All countries should come together
And make peace now and forever.
It's something we can all hope for.

We should care for one and all
And help when somebody calls.
There are burdens we can share.

If countries disagree,
We should try and make them see
That problems can be solved in a friendly way.

People are dying,
And children are crying
Let's see what we can do.

OTHER MARYLAND ESSAYS

Minh Vo.
Kaho Abe.
Maggie Harrison.
Eric Counts.

DISTRICT OF COLUMBIA WINNING ESSAY (TIE)

HOW I, A DIME, HELPED UNICEF

(By Crystal Smith)

I was the only coin in Jane's piggybank and I was so lonely. One day I heard Jane ask her mother if she could get a dime out of her piggybank. I knew that it would be me.

Jane came in her room and shook her bank. I jingled around. I loved it when she did that. She took me out and put me in her coat pocket.

When we got to school she gave me to her teacher. Her teacher put me in a box. I didn't know why though. Then I heard Jane's teacher tell Jane, "Thank you for donating to UNICEF." When I heard that I knew it was for a good cause. I knew it because I had heard Jane and her mother discussing how UNICEF was an organization for helping the needy. I was so happy that I was going to be helpful.

Later on, I and some other coins were taken to the office. I was excited because I had not been to a principal's office before. When I got there it wasn't as I had expected. The box I was in was thrown into a bag with a lot of other boxes. I suppose they were for UNICEF too. I could hear the other coins talking among themselves. No other coins were talking to me, so I just sat there.

We were placed in a truck and taken for a long ride. Finally after about five or six hours we arrived at a building. I wanted badly to see this building I was in. Then I heard someone say that it was the United Nations Building. Right away I knew with a name sounding like that, it had to be a big building.

After a while we coins were taken out of our boxes and put into a bigger sack. Then I decided that it was time for me to stop being shy so I whispered to the nickel next to me,"Do you know what we're here for?" I said it loud enough so all the other coins could hear. They all didn't know, so I told them that we would be taken to far away places to help many needy children and their families. I also said that we would be used to buy medicine and supplies, equip schools, help community sanitation projects, set up nutrition programs and teach people how to help themselves.

All the coins were happy that they were going to be helpful. We were happy that we were going to be used.

STARVATION

(By Stephanie Joe)

Little sad tear drops,
Stream from children's eyes,
For their loving mother,
Has perished from their lives.
She died of starvation
And you can hear the children's cries.

Rocks pierce their flesh
And gnats take their blood,
As the children lay sadly helpless
In the mud.

No food to eat,
Not a morsel of meat
Hunger flows through them
And everywhere all about.

Death awaits them
While they live in their land.
All they can do is depend on you.
So give a helping hand.

OTHER DISTRICT OF COLUMBIA ESSAYS

Diedre Swesnik.
Angela Hudgins.
David Schneider.
Charles Mister.
Eve Harmon.
Matt Albinson.

VIRGINIA WINNING ESSAY

CHILDREN MUST BE EDUCATED

(By Kimberly Ann Golden)

Children in every corner of the world have the right and the need to be educated. Education is the key to understanding and world peace. All of the countries of the world, even the small and poor countries can invest in a better future by educating their children. Countries which do not educate all of their children are hurting the children, the country, and the world.

Children living in countries without school for everyone do not grow to their full ability. As a result the country doesn't grow to its full ability. Children who do not go to school are unhappy. They know things are different in other places and they feel as if they aren't good enough to experience better situations. When children feel they aren't as important as other children they stop dreaming, exploring and experimenting. When this happens, the children stop growing and at the same time the country's future growth is reduced. The children will probably follow in their parents' footsteps because that is the only thing they will know about. When uneducated children become adults they are unable to change bad situations in their country. All of the countries of the world should allow every child to continue to dream, explore and experiment, through education, so the country and the world will grow into a better place for everyone.

The size of the country is not important, but it is important that children go to school no matter where they live. All countries, from the large and powerful to the very small and poor, need to change. The

changes that happen in the future are going to come from the children of today. Changes in everything, doctors, lawyers, government, and even changes in better ways to grow food is only going to happen if children can go to school and learn and dream and experiment. In school, children also learn how to get along with other people. Oh, how beautiful the world would be if everyone could get along together.

OTHER VIRGINIA ESSAYS

Andrew Madden.
Sarah Drucker.
Melissa Sagemiller.

Mr. MATHIAS. Mr. President, I make the point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

The PRESIDING OFFICER. The clerk will suspend the calling of the roll.

RECESS UNTIL 2 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until 2 p.m. today.

The Senate, at 12 noon, recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. LUGAR).

POLISH SOLIDARITY DAY

The Senate resumed consideration of the resolution (S. Res. 501).

The PRESIDING OFFICER. Under the previous order, a vote will now occur on Senate Resolution 501. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

ON SOLIDARITY WITH THE PEOPLE OF POLAND

Mr. MOYNIHAN. Mr. President, as an original cosponsor of the pending resolution, which urges the President to declare December 13 a national day of solidarity and prayer with the Polish people, I rise to urge its adoption by the Senate.

I am hopeful, and indeed confident, that the vote in support of this resolution will be near to unanimous, that we might demonstrate to the world that the U.S. Senate is undivided in its commitment to the indomitable people of Poland.

I would also like to commend the junior Senator from Alaska, Mr. MURKOWSKI, for his initiative in bringing this important measure before the Senate this week.

Finally, Mr. President, I would like to ask if this is all that we can do for the people of Poland? Is this all that we are going to do?

I have never underestimated the power of prayer, and I am confident that the Polish people will appreciate the gesture of solidarity that this resolution represents. But I am also afraid that the United States will not, in the end, do much more for Poland than offer gestures, or symbols. This troubles me.

When President Reagan announced on October 9 his intention to terminate Poland's most favored nation trading status, as an expression of his discontent with the continuing Soviet-guided military repression that has scarred the people of Poland since last December 13, the New York Times quite rightly described it as "symbolic," for our present trade with Poland is negligible. The administration's most recent action has had little identifiable effect on the Polish junta, or on its Soviet masters. And it is not likely to result in any meaningful pressure being applied to the Government of Poland.

The administration has steadfastly refused to resort to the measure most likely to be felt in Warsaw, which would be to declare Poland's long overdue loans in default. A declaration of defualt would add in a significant way to the economic and financial pressure on the Polish junta and on the Soviets who helped to install it. In the continuing absence of the political and economic reforms that are our goals—let us not be misled into believing that the expected formal end of martial law will lead to the release of all the 10,000 political prisoners in Poland—we shall not adopt a policy of conciliation toward the Polish generals. We should be seeking opportunities to apply economic and financial pressure.

Yet, despite the urging of the Congress to do so in the last two continuing resolutions on appropriations, the administration has not taken any steps toward the application of such strong financial pressure. In fact, the U.S. Government has continued a practice begun last January of actually paying the Polish junta's over due debts to American banks. I have discussed this policy, and my objections to it, on numerous occasions on this floor and will not detain the Senate at this point with a by now familiar recitation.

I would, however, like to remind Senators that during this month of December 1982, 1 year after the imposition of martial law, and at a time when we are voting an expression of our solidarity with the Polish people, the Commodity Credit Corporation of the United States will pay $37 million of Poland's unpaid debts. Under no obligation, legal or moral, to make these disbursements, the U.S. government is as a matter of policy preparing to make payments equal to $37 million on behalf of the government of General Jaruzelski.

This will bring to $338 million the amount of General Jaruzelski's debts that the American Government has financed since the imposition of martial law in Poland.

I support the present resolution. I think it is important that the Senate make the strong statement that it herein does. And I urge my colleagues to consider whether and how we shall back it up.

SENATOR KASTEN SPEAKS AT THE UN ABOUT POLAND

Mr. President, for the edification of Senators and the many readers of the CONGRESSIONAL RECORD, I would like to ask that a powerful and persuasive address delivered yesterday by the junior Senator from Wisconsin, Mr. KASTEN, be printed in the RECORD as part of the debate preceeding the adoption of Senate Resolution 501.

Senator KASTEN, whose tireless work in the Senate on behalf of the people of Poland is unsurpassed by any Member, is presently a public member of the U.S. delegation to the United Nations. In that capacity, he was called upon yesterday to speak in the Third Committee during debate on the timely subject of human rights of Poland.

Senator KASTEN's address needs no editorial comment by this Senator. It should be made a part of the record of the Senate's deliberation on Senate Resolution 501. I ask unanimous consent, therefore, that the full text of an address by Senator KASTEN be included at this point in the RECORD.

There being no objection, the remarks, were ordered to be printed in the RECORD, as follows:

STATEMENT BY HON. ROBERT W. KASTEN, JR.

Mr. Chairman, I wish to address today the continuing suppression of human rights and fundamental freedoms in Poland.

This is an issue which is of profound importance for a proud and courageous people, of course—and for peace and stability in the world. Last December 13, in Poland, one of the major hopes and indeed prospects of the post-war period for renewal of civil society was brutally repressed by a member State of this organization. This was the attempt of the Polish people to create a genuinely free labor movement which expressed the real will of the workers; to put back into the hands of the Polish people greater control of their own social, economic, political and cultural destiny; and to breed new life into a society which had been deadened by a totalitarian system as unsuccessful as it was inhumane. What was repressed in Poland was an effort at peaceful, non-violent change supported by the overwhelming majority of the Polish people themselves.

Although some changes have been instituted recently by the Polish authorities, and additional changes are rumored to be imminent, there has been no fundamental change in the basic situation in Poland: The free Solidarity trade union movement has been outlawed; the apparatus of repression remains in force; massive violations of human rights and fundamental freedoms continue; and Poland's basic problems have not been resolved. Indeed, in some areas repression is still increasing. Just last week, for example, Poland's military authorities dissolved the independent Polish actors' association—after other methods of harassment and intimidation had failed—to crush the highly successful boycott of state-controlled televison and radio which the actors'

association had instituted to protest repression.

Mr. Chairman, a measure of the international community's revulsion at the repression which has befallen Poland is contained in Resolution 1982/26, adopted by the United Nations Commission on Human Rights last March in Geneva. That Resolution expressed the Human Rights Commission's deep concern over the continuing widespread violations of human rights and fundamental freedoms in Poland. It reaffirmed the rights of the Polish people to pursue their political and economic development free from outside interference. And it called for an end in Poland to measure restricting human rights and fundamental freedoms, for the release of prisoners detained without charge and a review of sentences imposed under martial law.

The Resolution also called on the Secretary-General to undertake a thorough, objective study of the human rights situation in Poland and to present a comprehensive report to the Thirty Ninth Session of the Commission in the Spring of 1983. Mr. Chairman, this issue is so important, and the continuing violations of human rights in Poland so grave, as to make it absolutely essential that the Secretary-General appoint the Special Rapporteur mandated by Resolution 1982/26 without further delay. This action, and prompt preparation of the required report, would make a positive contribution to greater international understanding of repression in Poland; it could serve as a further useful inducement to real improvements in the human rights situation in that country.

The Governing Body of the International Labor Organization also expressed its continuing concern at events in Poland during its just completed session in Geneva. On November 19, the ILO's Governing Body overwhelmingly approved—by a vote of forty seven to four, with three abstentions—the report on Poland of its Committee on Freedom of Association. That report expressed particularly deep concern at the actions of the Polish government in dissolving all existing trade unions, especially Solidarity. It noted that the provisions of the new Polish Trade Union Act of October 8, 1982 do not conform to the International Labor Organization's principles of freedom of association and collective bargaining particularly in respect to recognition of trade union rights, in the area of collective bargaining, and in respect to strike procedures and penalties. The Report also noted that, a full year after the repressive crackdown, numerous persons are still being detained in Polish prisons and that new arrests took place in Poland as recently as August and September.

The ILO Report accordingly recommended that the International Labor Organization's Governing Body, in its February-March 1983 session, consider possible establishment of an official Commission of Inquiry on Poland.

Mr. Chairman, these actions make it clear that the international community does not accept the view, often expressed by the Polish military authorities and their supporters that the Polish repression is solely a Polish internal matter. Clearly, these international organizations consider—as we do—that the repressive activities of the Jaruzelski regime, including the Trade Union Law of October 8, 1982, are serious violations of Poland's freely assumed international obligations and commitments and thus are a matter of profound and legitimate concern to all countries. Indeed, Polish repression directly violates, inter alia, the United Nations Charter, the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Coltural Rights, several conventions of the International Labor Organization, and the Helsinki Final Act, to all of which the government of Poland is a party.

Nor can we accept the view that as a result of some largely cosmetic gestures by the Jaruzelski government, we need no longer concern ourselves with the human rights situation in Poland. For the fact is that nothing fundamental has yet changed in Poland: the instruments of repression in Poland remain and massive repression of human rights and fundamental freedoms continues to occur.

Certainly we join all free men in welcoming the long overdue release in November of Lech Walesa, the leader of Solidarity. We, like others, earnestly hope that this move now will be followed by the release of the other leaders, members, advisers and supporters of Solidarity and of the Polish reform movement who are still interned; that martial law itself will be rescinded; and that there will be renewed, genuine dialogue between the Government, Solidarity, and the Church.

But, at the same time, we cannot ignore the fact that Mr. Walesa was imprisoned for eleven months, the last seven reportedly in virtual solitary confinement, for activities which the United Nations and numerous other international organizations actively support and promote—namely, for seeking to achieve expanded rights for Polish workers through free trade unionism. Though released from confinement, Mr. Walesa's political activities remain circumscribed by Polish authorities.

Nor, Mr. Chairman, can we or will we overlook other salient facts about the human rights situation in Poland today.

We will not overlook the fact that the Polish martial law government has abolished the ten-million member Solidarity trade union, including the private farmers union, by administrative fiat; and that it has passed new laws prohibiting Solidarity's restoration—even use of its name—and severely restricting all union activities. We will not ignore that this was done in blatant violation of numerous International Labor Organization Conventions, as the ILO Report definitively establishes. Nor that repression was expressly imposed to roll back the momentum toward political and social change which Solidarity represented, and which was and is supported by the great majority of the Polish people. It thus involves suppression of one of the most basic rights of any people: The right of the Polish people to self-determination; their right freely to decide their own political status and freely to guide their own economic, social and cultural development.

In a vain attempt to justify their repressive actions, Polish authorities have offered a number of "explanations." General Jaruzelski has accused Solidarity of seeking the destruction of socialist Polish statehood and the dismantling of the postwar configuration of forces in Europe. Solidarity's leaders, he has claimed, had embarked upon a process of "confrontation" which would have plunged Poland "into the abyss of fratricide". Solidarity's activities, he has further charged, had led to "chaos and demoralization [which] have assumed the proportions of a disaster."

Let us examine these charges.

The charge that Solidarity sought to overthrow the Polish Communist regime is an outright falsehood. The Solidarity Union never challenged the supremacy of the Communist Party in Poland or demanded Poland's withdrawal from the Warsaw Pact. To the contrary: it vowed to observe the Polish Constitution and to recognize the "leading role" of the Polish Communist Party. Solidarity's only so-called "crime" was to demand those human rights to which the Polish government has legally committed itself in international agreements: free trade unions; freedom of expression; the reduction of censorship; and end to political trials; and honest information about Poland's past and present.

Nor was Solidarity embarked on a policy of confrontation which would have culminated in fratricidal strife. In the year and a half preceding the imposition of martial law, it was the Polish government—not Solidarity—which sought to provoke a confrontation. It was the Polish government which engaged in a continuous effort to undermine and obstruct the implementation of the historic Gdansk Agreement of August 31, 1980. It was the government which deliberately distorted Solidarity's aims in the government-controlled media, which harassed and beat Solidarity activists, and which finally proposed a law outlawing strikes. In the face of these provocations, Solidarity persisted in its call for a national dialogue. Perhaps the most striking feature of Solidarity's struggles for human rights is the commitment of its leaders and members to a policy of non-violence. To accuse such a movement of seeking to provoke civil war is to engage in blatant, cynical inversion of the truth.

It also is totally absurd to charge that Solidarity's activities were bringing Poland to the verge of economic chaos. Months before the imposition of martial law, Solidarity's leaders sought to curtail strikes and prevent disruption. Time and again Solidarity's leaders proposed economic reforms to increase productivity and efficiency. It was the authorities, in fact, that blocked every initiative and were concerned solely with the question of political power. The imposition of martial law, far from rescuing Poland from economic chaos, can only intensify Poland's economic difficulties, as current development indicate. Even official Polish Government forecasts project a six to seven percent decline in national income in 1982 under martial law, and this figure probably is overly optimistic. An industrial economy cannot be run at gunpoint.

Mr. Chairman, Solidarity's only "crime" was its failure to acquiesce in the Polish regime's claim to omnipotence. It's members refused to regard themselves as a kind of state property. They had the temerity to demand their human rights, and the audacity to seek to place limits on the heretofore absolute powers of the regime. For this singular act of insubordination—and for this act alone—the Polish military government is trying to destroy Solidarity and the broader spirit of reform it represents.

Mr. Chairman, in that effort the Polish military regime continues, a full year after the application of martial law, to commit sweeping acts of repression against nearly all segments of Polish society.

The very decree on the State of War which established that repression suspends, or limits for the duration of the proclamation, all fundamental civil rights recognized by the Polish Constitution and the international treaties to which Poland is a party. And actions taken under that, and other repressive laws violate numerous provisions of

the Declaration of Human Rights (Articles 3, 5, 8, 9, 10 and 11) and of the International Convenant on Civil and Political Rights (Articles 6, 7, 8, 9, 10, 14 and 15) which inter alia affirm the individual's right to be free from cruel, inhuman or degrading treatment or punishment. Indeed the current actions of Poland's military authorities make a mockery of these international commitments.

Mr. Chairman, the human costs of these violations continue to be enormous:

The Polish authorities themselves have acknowledged the killing of strikers and demonstrators in the course of suppressive actions. On December 17, 1981, for example, the regime announced that nine coal miners had been shot to death by security forces breaking a strike in the Wujek coal mines near Katowice. Following the nationwide disturbances on August 31, 1982, the official media reported the deaths of two demonstrators in Lubin, one in Wroclaw, and one in Gdansk. And unofficial and unconfirmed reports indicate an even higher number of fatalities actually may have occurred.

Moreover, additional thousands of Polish citizens have been wounded and injured in the course of police actions. Numerous eyewitness accounts testified to excessive use of police force in the past year to suppress public manifestations of dissatisfaction with repression.

Thousands of Polish citizens have been convicted of martial law violations by summary military and civil tribunals, and many others are under arrest and awaiting trial. Thus, over five thousand people were arrested or detained in the wake of the August 31, 1982 disturbances alone. According to conservative estimates there are approximately 700 detainees and 4000 individuals who are languishing in prison for violation of martial law offenses. Others estimate that at least ten thousand are now serving sentences or awaiting trial and as many as thirty thousand have been sentenced under martial law to prison terms ranging from three months to nine years.

Sentences for martial law violations often have been severe. Even minor offenses, such as printing and distributing underground news bulletins, have entailed sentences of three to five years' imprisonment.

Accounts of beatings and physical abuse of prisoners continue to abound. The Catholic Church and the International Committee of the Red Cross have made strenuous efforts to visit martial law prisoners in various detention centers, but the Polish regime has generally done what it could to frustrate such efforts. When one such visit was permitted in early January, ICRC inspectors reported deplorable conditions in all but four or five showcase facilities in former resorts. They reportedly often found eighteen to twenty persons sharing a single room with a common toilet, internees were locked up with common criminals, and some were sent to psychiatric hospitals.

The scale of such police actions as warrantless search of homes and offices, confiscation of personal documents and property, monitoring of telephones and other forms of electronic eavesdropping—all without legal recourse—have been massive.

Tight military and government control has been reimposed by the Jaruzelski regime over print and electronic media. The Polish press, radio and television have resumed practices reminiscent of the 1950's. Pluralism of viewpoints, regard for factual accuracy, and candor have all but vanished in Poland. Solidarity's press has been shut down and church periodicals subjected to censorship.

The martial law regime also has used a system of ideological "verification" to subdue dissident voices and produce a uniform media line conforming to military distates. According to a key official of the dissolved journalists association and to Western press reports, more than 1,200 print and media journalists have lost their positions in the ideological purge. The creation in late March of a new, regime-controlled journalists organization demonstrated the regime's determination to eradicate all vestiges of public autonomy and assert complete dominance over public life.

Martial law decrees also have expressly banned all types of public assembly and demonstrations without prior permission of the authorities, except for limited types of religious celebrations. Under this provision, the regime reportedly has employed massive amounts of police force to suppress strikes, demonstrations and other open manifestations of popular unrest. Elite internal security troops and Zomo riot police have used tanks, armoured cars, water cannons, tear gas, clubs and in some instances, even small arms, to crush what almost always have been non-violent protest actions. Crowd violence against police generally has occurred only after the authorities had forcibly suppressed attempts to hold peaceful protest actions.

Stiff action has been taken against those attempting to carry on free union activities. Severe prison sentences have been mandated for persons persisting in such trade union activities, especially those organizing and participating in strikes.

Some Polish industrial plants have been militarized. According to the Polish newspaper, Zycie Warszawy (October 21, 1982), the essence of such militarization is that workers in the enterprise involved are, in effect, inducted into military service from the moment of militarization. Military service principles, including military penal provisions and summary court procedures, are substituted for normal conditions of work; factory directors have military command authority, including the possibility of lenghtening working hours and transferring workers, without consultations with the workers.

In addition, the martial law authorities have employed another highly effective method of stifling worker protests. This is the so-called "wolf-ticket" which involves dismissal from employment and the effective denial of future employment in any state-controlled sector of the economy. A worker denied employment in this manner becomes dependent on his family for support, a particularly onerous sanction in the wake of the steep price rises which have caused the costs of food and other basic necessities in Poland to skyrocket.

Mr. Chairman, the suppression of human rights and fundamental freedom of the Polish people which we have documented also constitutes a massive violation of the Helsinki Final Act. Since my country, like many others, has made these violations a central subject at the review talks of the Conference on Security and Cooperation in Europe, in Madrid, I will not review them again in detail today before this Committee.

However, I do wish, Mr. Chairman, to mention one particularly flagrant violation of the Helsinki Final Act and of the United Nations Charter on which it is based: the continuing Soviet effort to dictate, and to control events in Poland. Through massive intimidation and interference, the Soviet Union has conspired with the Polish military authorities to deprive the Polish people of their rights to self determination. As my government has fully documented (Special Report No. 94 on Soviet Involvement in Poland, July 1980-December 1981), Poland was subjected in the period leading up to imposition of martial law, to a continuous barrage of Soviet pressures, threats and acts of intimidation, including military maneuvers to bring about repression in Poland and to stifle the reform process supported by the great majority of the Polish people. And continuing attacks on the Church, private agriculture and the Polish workers movement appear in the official Soviet press to supplement Soviet official encouragement for a continuing tough line against the forces of reform in Poland.

It is a bitter irony that the Soviet Communist Party, which calls itself the "vanguard of the proletariat", so avidly has sought to crush in Poland the true aspirations of the Polish working class. It is equally ironic that the Soviet Union, which purports to be the leader of world revolution, is so rigid and intolerant—and so fearful—that it cannot permit peaceful, progressive reform in one of its neighbors. Certainly it is inconsistent with the United Nations Charter for any country to assume that some ideological prerogative grants it the right to control another—whether in Afghanistan or Poland.

Mr. Chairman, we are convinced that a rapid and complete restoration of human rights and fundamental freedoms is the surest guarantee of peace and stability in Poland. Continuing repression of the Polish people's rights cannot solve Poland's intractable economic and political problems. Purely superficial and cosmetic changes designed more to put a respectable facade on repression than to change the underlying situation cannot bring a lasting solution. Only a return to a genuine process of national reconciliation and self-determination can do so.

We therefore urgently call upon the government of Poland to lift martial law repression in fact and substance, not just in name; to release all of its political prisoners; and to return to a process of constructive and uncoerced dialogue with the Polish Church and with Solidarity.

We call upon the new leaders of the Soviet Union to abide by the provisions of the United Nations Charter and the Helsinki Final Act to respect the rights of the Polish people freely to pursue its political, economic, social and cultural development, and to refrain from the threat or use of force against Poland.

And we urge all countries in this Committee to support all efforts in this body and its specialized agencies to promote the earliest possible return to a process of self-determination in Poland and the fullest possible restoration of human rights and fundamental freedoms in that country.

My country has joined others in taking a number of measures to encourage improvements in the human rights situation in Poland. We also have made it absolutely clear that if real, not just cosmetic, improvements do occur, these will be met with a reciprocal positive United States response. Our actions have been and will be guided by the practical consideration of strengthening respect for human rights in Poland, including the rights of free association which the Polish people exercised in forming the Solidarity Union. The denial of human rights not only affects the Polish people but has

done grave damage to world peace. We all, therefore, have a fundamental stake in the genuine termination of the repression in Poland and in the revival of the process of peaceful change which inspired the hopes of the Polish people and—indeed—of freedom-loving people throughout the world.

● Mr. D'AMATO. Mr. President, I rise in support of the pending resolution and share the concern expressed by many Amricans over the tragic events which have occurred in Poland since the imposition of martial law nearly 1 year ago. The declaration of martial law by the Polish Council of State, under the leadership of Gen. Wojciech Jaruzelski, represents an attempt to deal a serious blow to the freedom and rights of the Polish people. Nevertheless, it is important to remember that the Polish authorities have not acted alone. Under constant pressure from the Soviet Union, General Jaruzelski has sought to extinguish the free spirit of the Polish workers, denying them the right to strike as well as imposing stringent control with respect to personal travel and communications.

Despite repeated statements that the Government would remove restrictions instituted since December 12, 1981, the situation in Poland today, nearly a year later remains grave. The recent outlawing of the free trade union solidarity has only served to exacerbate the domestic tension already present in Poland. While there have been some encouraging signs, including the release of solidarity leader Lech Walesa from confinement, thousands of workers remain imprisoned. In addition, the volatile domestic situation in Poland has been further frustrated by a deteriorating economy. Food supplies remain at critically low levels with even basic commodities in short supply. Meanwhile, the government's foreign debt has grown to more than $26 billion.

As a member of the Commission on Security and Cooperation in Europe, I am particularly concerned over the flagrant violation of human rights as outlined in the Helsinki Final Act and the UN Universal Declaration on Human Rights by the Jaruzelski regime. I deplore the actions of the Polish Communist authorities designed to suppress even the most basic civil liberties and share the sense of outrage expressed by Pope John Paul II, President Reagan and others in response to the events in Poland.

It is more important than ever that Americans stand in solidarity with the people of Poland. Therefore, I have joined as a cosponsor of Senate Concurrent Resolution 501, expressing the sense of the Senate that it is vital that Americans continue to protest martial law repression in Poland. This important resolution calls upon the President to proclaim a national day of solidarity and prayer with the Polish people.●

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Utah (Mr. HATCH) are necessarily absent.

I further announce that, if present and voting, the Senator from Utah (Mr. HATCH) would vote "yea."

Mr. CRANSTON. I announce that the Senator from Ohio (Mr. GLENN) and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote who have not voted?

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 395 Leg.]

YEAS—96

Abdnor	Exon	Moynihan
Andrews	Ford	Murkowski
Armstrong	Garn	Nickles
Baker	Gorton	Nunn
Baucus	Grassley	Packwood
Bentsen	Hart	Pell
Biden	Hatfield	Percy
Boren	Hawkins	Pressler
Boschwitz	Hayakawa	Proxmire
Bradley	Heflin	Pryor
Brady	Heinz	Quayle
Bumpers	Helms	Randolph
Burdick	Hollings	Riegle
Byrd, Harry F., Jr.	Huddleston	Roth
	Humphrey	Rudman
Byrd, Robert C.	Jackson	Sarbanes
Cannon	Jepsen	Sasser
Chafee	Johnston	Schmitt
Chiles	Kassebaum	Simpson
Cochran	Kasten	Specter
Cohen	Kennedy	Stafford
Cranston	Laxalt	Stennis
D'Amato	Leahy	Stevens
Danforth	Levin	Symms
DeConcini	Long	Thurmond
Denton	Lugar	Tower
Dixon	Mathias	Tsongas
Dodd	Matsunaga	Wallop
Dole	Mattingly	Warner
Domenici	McClure	Weicker
Durenberger	Melcher	Zorinsky
Eagleton	Metzenbaum	
East	Mitchell	

NOT VOTING—4

Glenn	Hatch
Goldwater	Inouye

So the resolution (S. Res. 501) was agreed to.

The preamble was agreed to.

The resolution, together with the preamble, is as follows:

S. RES. 201

Whereas the American people have since the early days of our Revolution and Nation had a deep and lasting friendship with the Polish people and nation, founded upon an unfaltering respect for freedom;

Whereas the American people expressed widespread admiration and support for the creativity, combined with restraint and discipline, with which the Polish people in 1980 and 1981 attempted to evolve a mutually more responsive relationship between workers and government;

Whereas the imposition of martial law on December 13, 1981, and actions taken by the martial law government, including the imprisonment for many months of the people's chosen trade union representative, Lech Walesa, have constituted grave abridgments of the human rights and civil liberties of the Polish people, and violated the United Nations Charter, the Helsinki Final Act, the Universal Declaration of Human Rights, and other international human rights agreements which Poland signed and ratified as a participating state;

Whereas the martial law regime continues in Poland to engage in acts of violence and repression against its own citizens in contravention of the indomitable right of the Polish people to determine their own future;

Whereas the outlawing of the free and lawful trade union Solidarity by the Polish Government in October 1982 is a further suppression of the clearly expressed will of the Polish people: Now, therefore, be it

Resolved, That it is the sense of the Senate—

(1) that the Senate condemns and abhors the suppression of civil liberties and human rights by the martial law government in Poland;

(2) that the American people respect and admire the commitment to the ideals of freedom and independence manifested by the Polish people and Mr. Lech Walesa in particular; that the American people welcome the release to his family of Lech Walesa, and hope that he will be permitted to express himself freely and contribute to a full and free dialog on Poland's future and the resolution of her problems by Poles themselves, free from external influence or coercion;

(3) that the American people hope that Polish authorities will take early, concrete, and significant steps to return their human rights and civil liberties to the people of Poland, beginning with the full lifting of martial law and release of remaining detainees, and will resume a full, sincere, and free dialog with Solidarity and the church to commonly resolve Poland's problems; and

(4) that the President of the United States is urged to proclaim December 12, 1982, the eve of the first anniversary of the imposition of martial law repression in Poland, officially as a national day of solidarity and prayer for the people and nation of Poland.

Mr. PERCY. Mr. President, first of all I would like to thank the Senate for that splended vote on a very important and vital issue.

Second, I would like to say that Senator ZORINSKY left the floor for a moment and he wanted to seek recognition.

I see him on the floor now, and I am prepared to yield the floor to him.

BUDGET WAIVER FOR RADIO MARTI

The PRESIDING OFFICER. The question is on agreeing to the motion to waive section 402 of the Budget Act as the pending business.

The Senator from Nebraska is recognized.

Mr. ZORINSKY. Mr. President, I ask unanimous consent to yield the floor to the distinguished Senator from New York for the purpose of making a statement or a unanimous-consent request without losing my right to the floor and without this being considered the end of a speech for the purpose of the two-speech rule, and I ask that I again be recognized at the conclusion of the remarks of the Senator from New York.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I thank the Senator for yielding.

(The remarks of Senator MOYNIHAN relating to Poland, which were presented at this point in the proceedings, appear earlier in the RECORD.)

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. ZORINSKY. I thank the Chair.

Mr. President, in continuation of the saga of Radio Marti's final report by the Presidential Commission on Broadcasting to Cuba, dated August 17, 1982, I read as follows:

The Commission recommends that Radio Marti use two transmitters in order to reach all areas of Cuba effectively. The first transmitter should be located in the Fiorida Keys, as close to Cuba as possible. While the budget proposal already submitted to the Congress includes $1.2 million for this purpose, the Department of Defense transmission facilities at the U.S. Navy installation on Saddlebunch Key should be utilized if at all possible in order to reduce costs.

A second transmitter should be located at a Caribbean site in order to broadcast to eastern Cuba.

Radio Marti transmitters located in the United States should conform to the domestic 50KW power limit. To avoid interference with existing U.S. or third country stations, and to define its signal as precisely as possible towards Cuba, Radio Marti should have highly directional antennas.

H. HEADQUARTERS AND STUDIO

The Commission recommends that RBC, INC.'s, headquarters and Radio Marti's major studio be located in Washington, D.C. in close proximity to the oversight agency. Small bureaus should be located in New York and Miami.

I. INFORMATION GATHERING

The Commission recommends that Radio Marti arrange for subscriptions to the Western wire services reporting from Cuba, the personnel and means to monitor Cuban and Latin American publications and other sources of news, and correspondents in key locations, in addition to the small regional offices in New York and Miami.

J. PROGRAMMING

Relevance is essential. Conditions in Cuba of the 1980's, not the 1950's, 60's or 70's, must be addressed. Cuban society has undergone socio-economic, political and value changes as a result of government policies and pervasive socialization efforts since Castro came to power.

Credibility will be established over time only if Cubans perceive that Radio Marti is not a spokesman for particular partisan groups in the U.S. This means reporting on as many developments as possible in Cuba. In contrast to the Castro government's media, Radio Marti must be perceived as comprehensive, reliable and objective.

Mr. BAKER. Mr. President, will the Senator yield to me without losing his right to the floor and without it counting as a second speech, and with the understanding that he be re-recognized at the conclusion of the quorum which I will suggest if that request is granted?

Mr. ZORINSKY. Without this being the end of my speech for the purposes of the two-speech rule?

Mr. BAKER. Yes, I include that.

Mr. ZORINSKY. I so yield the floor to the majority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. I thank the Chair.

Mr. President, I think it might be helpful if we had a few moments to confer more informally than if we do it while debate proceeds. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I ask unanimous consent that I be recognized to speak but without it interrupting the speech of the Senator from Nebraska (Mr. ZORINSKY), without it counting toward my two-speech limit, and with me being able to yield back the floor to Senator ZORINSKY at the conclusion of my speech.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. LEAHY. I thank the Chair.

First, I ask unanimous consent that Dr. Janet Breslin be allowed access to the floor throughout the debate on H.R. 5427 and any vote on the bill or any amendments today or any succeeding days.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Mr. LEAHY'S remarks are printed later in today's RECORD.)

Mr. ZORINSKY. Mr. President, I continue to read:

The Commission therefore recommends that news, commentaries and news analysis form the heart of programming for Radio Marti blended in to features, sports, music and cultural programs designed to attract the widest possible listenership in Cuba. As an instrument of U.S. foreign policy, Radio Marti's program content should be carefully monitored to ensure that it conforms with policy guidance received from the Department of State. Care must be taken to assure objectivity and under no circumstances should broadcasts appear pedantic, propagandistic or inflammatory. Truth should be Radio Marti's hallmark. Newcasts and commentaries must be accurate, balanced and, where possible, verifiable by Cubans residing on the island. This means reporting on both negative and positive aspects of events related to Cuba. By maintaining these objectives and observing high journalistic standards, Radio Marti programming should win a large following in Cuba.

K. BUDGET AND PERSONNEL

The Commission recommended in its Interim Report a budget of $10 million in FY 82 and $7.7 million in FY 83, as submitted by the Department of State to the Congress. The Commission believes this recommendation remains justified in order to implement Radio Marti effectively. Given the high costs of two directional antennas and of the personnel to meet Radio Marti's need for specialized research and programming, these funding levels are reasonable.

To meet the personnel requirements described in Section III. G. the Commission recommends staffing for Radio Marti of 168 employees. Of these, 148 persons would meet programming requirements and 20 others would be required to meet administration needs. When the Caribbean transmitter is ready for use, it is estimated that an additional 14 employees would be needed. These positions, which were requested in the Administration's budget proposal, are further identified in Appendix J.

I wish to now read the introduction from a book on Jose Marti entitled "Inside the Monster," and the introduction is done by Philip S. Foner, and it proceeds as follows:

During the years 1810–1825 Spain's colonies in the New World revolted and achieved independence. Only Cuba and Puerto Rico remained of what was once the great Spanish empire of the West Indies, Central and South America. Of these two, Cuba was by far the more important to Spain. Following the destruction of the sugar economy of St. Domingue (later to become Haiti), Cuba gradually emerged as the world's largest producer of sugar. By 1838 it was the prize of Spain's reduced overseas empire. Its contribution to the Spanish treasury alone made it an important possession for the perpetually bankrupt Spanish monarchy.

As the sugar economy expanded, slaves poured into Cuba from Africa. Between 1762 and 1838, 391,024 Negroes were brought to the island, and despite the acceptance by Spain in 1817 of a British-inspired agreement to end the slave trade, the flow of slaves from Africa not only continued but increased. Slaves were imported illegally in greater numbers after 1817 than when the trade was legal.

Cuban white society was mainly made up of Creoles, born in the New World, and Peninsulares who were born in Spain. The political affairs of the island were dominated by the Peninsulares, who occupied nearly all of the positions in the colonial bureaucracy. The Peninsulares also dominated the commerical life of the island. The Creoles, on the other hand, were principally landowners—cattleraisers and tobacco, coffee and sugar planters—and the professional people.

An inevitable conflict developed between these two white groups and increased in intensity in the nineteenth century. While the Peninsulares were fanatically pro-Spain, as might be expected from the political and economic advantages Spanish policies afforded them, the Creoles resented the restrictions imposed upon their political aspirations and upon their freedom to trade under Spanish mercantilist policies. While Cuba was emerging as the world's largest producer of sugar, the colony was still functioning under Spain's backward and chaotic colonial policies, and a leading characteristic of the Spanish island's political life was the notorious corruption of the officials. Inevitably, the ideas of the Creoles ran counter to Spanish colonial policy. Furthermore, as travel brought them into contact with conditions in other countries, particularly those in the nearby United States, the Creoles increasingly resented the corrupt,

inefficient, and frequently repressive Spanish colonial rule in Cuba.

Some Creoles believed that only through independence could Cuba achieve a modern political and economic form of society. Even during the Latin American independence struggles, there were Cubans who favored joining the revolutions against Spain and ridding the island of domination by the mother country. In 1825, to assist these revolutionists, Mexico and Venezuela planned an expedition to Cuba to aid in the independence struggle. But the United States, fearing an independent Cuba would lead to the end of slavery with repercussions in the Southern states, let it be known through Secretary of State Henry Clay that it would block any move to liberate Cuba from Spain. Another factor influencing this decision was the belief of the American government that in due time, under the operation of the law of political economy, Cuba would fall into the lap of her North American neighbor. The United States was not only becoming a major market for Cuban sugar, but despite Spanish restrictions, an important source of its manufactured goods. Hence, as John Quincy Adams put it, as long as Cuba remained part of Spain, in time it would, like a ripe apple, fall into the lap of the United States.

Independence movements arose and fell after the 1820s in Cuba. The struggle for liberation from Spain was retarded by the simple fact that the Negro population grew enormously with the rise of the sugar economy. In 1842 the official census reported a population of 1,007,524 inhabitants: 448,291 white, 152,838 free colored, and 436,495 Negro slaves. The danger of slave insurrection increased with the growth of the black population, and Cuban planters increasingly looked upon the Spanish government, and particularly the Spanish military power on the island, as the major safeguard against rebellious slaves.

To be sure, the value of Spanish protection of person and property in a slave society clashed with the restrictions imposed upon the island by Spanish imperial policies. The Cuban planters demanded the right to buy goods from countries other than Spain and to sell in a market larger than that offered by the mother country. But as long as slavery was the key to Cuba's prosperity and protection against the slaves was embodied in Spanish power, the Creoles swallowed their distaste for the repressive features of Spanish rule and turned a deaf ear to appeals for liberation of the island from the mother country.

Mr. President, I ask unanimous consent that at the conclusion of the Senate's consideration of the District of Columbia Appropriations Act or whatever time the Senate returns to the consideration of this motion concerning the budget waiver on H.R. 5427 I not lose my right to the floor and the interruption not be considered the end of the speech for purposes of the two-speech rule and that I be duly rerecognized first on the resumption of the consideration of this question.

The PRESIDING OFFICER. Without object, it is so ordered.

Mr. ZORINSKY. Thank you, Mr. President.

However, both Peninsulares and Creoles were opposed to any attempts from Spain, egged on by England, to alter or abolish slavery, the key to the prosperity of Cuba. Consequently it is not surprising that when Spain appeared to be veering toward supporting abolition of slavery, thus seemingly abandoning its role as protector of white Cubans against blacks, schemes of annexation to the United States, where slavery flourished, emerged. But as the fears that Spain would interfere with slavery subsided, annexationist sentiment in Cuba lost its main appeal. Annexationism continued, but the main initiative now came from the predominantly proslavery groups in the United States who saw in the annexation of Cuba a vast area for the expansion of the Cotton Kingdom and the acquisition of increased political power in the national government. In the end, Spain's refusal to sell the island to the United States and the opposition of antislavery expansionist forces in the North either to purchase or capture of Cuba through filibustering expeditions, doomed the annexationist movement in the United States. With the outbreak of the Civil War in 1861, annexation, for the time being, was dead.

In 1865, Spain, suffering from internal dissension and political and economic difficulties, and fearing the rise of independence movements in Cuba, adopted a policy of conciliation toward its colonial possession. A royal decree of November 25, 1865, established a Colonial Reform Commission to discuss proposals for reforms in the island. Despite conservative opposition in Madrid, the Spanish colonies in the Antilles elected twenty commissioners, sixteen of whom came from Cuba, and the remaining four from Puerto Rico.

The election of commissioners in Cuba and the debates in Madrid created a wave of excitement in the island and fostered the hope that at last the long-awaited reform of Cuban political and economic life was on the way.

(The following remarks by Mr. LEAHY occurred during the presentation of Mr. ZORINSKY and are printed at this point in the RECORD by unanimous consent.)

Mr. LEAHY. Mr. President, I am a long-time supporter of the Voice of America and similar efforts to bring news of the free world to citizens of countries within the Communist sphere.

These broadcasts provide the only source of uncensored information that millions of people, living in countries with a state-controlled press, can rely upon. But I must take exception to the Radio Broadcasting to Cuba Act before us today. This bill would establish a special radio station financed by the American Government to provide sports, music, entertainment, as well as presumably negative information about Cuba solely designed for the Cuban population 90 miles off our Florida coastline.

We are being asked to authorize at least $7.5 million to build this radio station. But as far as I can figure out, no one in Cuba is even going to hear these broadcasts.

I am not so sure that the same holds true, however, for the people in Iowa, Texas, Missouri or my own home State of Vermont which has a station now broadcasting on one of the same frequencies proposed for Radio Marti.

These Americans may well be hearing a Government-subsidized radio station with a stronger signal than private, independent stations in their area. Moreover, these American stations will be drowned out by Cuban attempts to block Radio Marti.

According to the Senate Foreign Relations Committee report on this bill, the Cubans have the capability to block Radio Marti's signal and are planning to construct two 500,000 watt stations—10 times the generating power of Radio Marti—to do just that. In order for our radio stations to make the technical adjustments to protect their signals against the Cuban broadcasts, it would cost the American taxpayer an additional $40 million according to the Congressional Budget Office.

Moreover, if the U.S. Government compensates the effected stations for lost revenues as a result of these Cuban counterbroadcasts, the annual cost of Radio Marti would be in the hundreds of millions of dollars.

That is a lot of money for something that is not going to work, especially at a time when we are cutting out just about everything in this country—aid to the unemployed, aid to the handicapped, aid to the disabled, aid to the hungry. We are going to spend hundreds of millions of dollars for something that will not work.

One year ago, President Reagan created a special Presidential Commission "to develop recommendations with respect to the broadcasting of information and ideas to Cuba." This Commission received almost $100,000 for its work and issued two slim reports on the venture.

Commenting on the 11-page interim report, the Foreign Relations Committee noted it "contained little discussion on the background or rationale for its recommendations." The final report—all of 25 pages long—apparently overcame earlier shortcomings to the committee's satisfaction.

One of the bright ideas to come from the Commission report—which cost approximately $4,000 a page—was to name Radio Marti in honor of the Cuban patriot.

But the selection of Marti may be as bad as the idea itself. Marti lived part of his life in this country and had some very pointed views toward the United States.

Upon returning to Cuba from the United States in 1895, he wrote the following. Let us hear the views of Señor Marti, the person after whom we are proposing to name this radio station, the person in whose honor we are going to spend hundreds of millions of dollars of American taxpayers' money. Here is what he said about the United States, this man we are going to spend hundreds of millions of dollars to eulogize:

It is my duty to prevent the United States from spreading over the West Indies and over other lands in our America. All I have done up to now, and shall do hereafter, is to that end. I have lived inside the monster and know its entrails and my weapon is only the slingshot of David.

We will spend hundreds of millions of dollars of the taxpayers' money to honor and memorialize this man, who referred to the United States as a monster.

Marti wrote a paeon of praise to Karl Marx at the time of Marx' death.

And writing in the Argentine newspaper, La Nacion in 1882, Marti said:

We are at the height of a struggle between Capitalism and the worker. The Capitalist compels the poor worker to work at ruinous wages.

Frankly, as one Latin American friend told me, the selection of the name "Radio Marti" for this U.S. propaganda effort, tells the Cubans and other Latin Americans more about the naivete and ignorance of this administration toward the countries south of our border. They think it makes us look a little ridiculous. A lot of snide comments and a lot of chuckles are heard at the same time they shake their heads and wonder that this is what we will spend hundreds of millions of dollars on.

Mr. President, this multimillion dollar radio experiment is not this Vermonter's idea of sound, fiscally responsible national policy. Perhaps, as I grow older and the longer I stay here, I become more and more fiscally conservative.

But, it is some sort of dipsy doodle that no one in the White House appears to have thought through very carefully.

I urge my colleagues to spare the President the embarrassment this program is bound to cause him if enacted into law, while sparing the American taxpayer the millions of dollars that would be wasted on this ill-conceived venture. I really do want to spare the President embarrassment, coming on the heels of his Latin American trip, to sign into law legislation authorizing a radio station named after a man who referred to our country as a monster.

Mr. President, I have at the desk 19 amendments, to be called up if we actually get into votes on this matter. These are to protect each radio station in Vermont, and an amendment to protect the emergency radio broadcasting system.

This is something people have not looked at very closely. If Radio Marti is put into place and if the Cubans go through with the jamming mechanisms, we put greatly at risk the emergency broadcasting system in this country.

What we end up with is a radio station that will not work and could well cost hundreds of millions of dollars to the American taxpayer, a station named after a man who referred to the United States as a monster, a station that will bring about the jamming of a lot of our commercial stations in this country, stations built under the free enterprise system. Worse yet, it will put into jeopardy the emergency broadcasting system of this country.

That will all be for naught, all to be able to try to broadcast something into Cuba that will never reach there.

DISTRICT OF COLUMBIA APPROPRIATIONS, 1983

The PRESIDING OFFICER (Mr. HAYAKAWA.) The hour of 3 p.m. having arrived, the Chair lays before the Senate H.R. 7144, which the clerk will state by title.

The legislative clerk read as follows:

A bill (H.R. 7144) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1983, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, it is once again a pleasure to present the D.C. budget to the Senate. As required the bill presented represents a balanced budget for the Nation's Capital. In terms of total Federal funds this bill is well below the President's request and the House bill, while at the same time providing the increase requested by the President in the Federal payment, as authorized by Public Law 97-334.

The Federal funds recommended total $573 million. This is comprised of: $361 million for the Federal payment; $11.8 million for water and sewer services to Federal installations; $52.1 million for retirement fund contributions; $3.1 million for a special crime initiative; and $145 million for capital project loans.

These funds are partially offset by a rescission of $48.8 million. This rescission represents previous appropriated capital loan authority that was never used and will not be used under current projections of the capital program. The total of these funds falls within our allocation under the first budget resolution.

Mr. President, I will shortly submit for the Senate's consideration a series of amendments to the House D.C. Appropriations bill for fiscal year 1983. These amendments are contained in S. 2917 with three exceptions.

First, the committee recommended a rescission of $38 million, the amendments I will submit contains a rescission of $48 million. The reason for this is that at the time the committee acted we had been told that the $38 million figure included $10 million carryover from fiscal year 1982. Subsequently we have confirmed that it did not. So we have added that amount to the amendment that will be submitted shortly.

The other difference is that section 129, concerning the implementation of the Foreign Missions Act as it relates to the District, is not included in the amendments that I will submit. The amendment's sponsor has withdrawn this amendment.

And finally as a result of the conference agreement with the House on the continuing resolution we are agreeing with their language on the D.C. lottery.

In addition, the committee has recommended an amount slightly over $2 billion including local revenues as the total D.C. budget for fiscal year 1983.

Mr. President, as part of the Federal portion of this bill I mentioned an item called the special crime initiative totaling $3.1 million. As we are all aware, crime in our Nation is reaching epidemic proportions in some areas. That is not a cliché, it is an unfortunate reality. It affects not only our large cities, like my home area, but it invades the rural areas of my State and those of every other State represented in this body. We are no longer safe anywhere. Crime erodes our quality of life. If we are not victims, we are prisoners of our fear.

Unfortunately, the Nation's Capital is not immune from this plague. During our hearings we received testimony from the Mayor, the Chief of Police, and the judges of the court system. All have told us of their efforts and problems in combating crime. Last May the Mayor and Chief of Police established a repeat offenders unit within the Police Department. This unit concentrates on about 1,000 criminals who commit a majority of all crimes in the District. The purpose is to locate and apprehend these individuals in the act of committing a crime.

Once apprehended our prosecutors and our court system must have the resources to deal with these offenders. With the recent changes in law and the additional resources provided in this bill, I believe we can have a major impact on crime in this city.

To combat crime in the District this bill includes: $800,000 for the U.S. Attorney to hire more prosecutors; $2.3 million for an automated fingerprint identification system for the Police Department to allow faster positive identification of arrested suspects; $285,000 to hire three hearing commissioners for the superior court. This will allow for speedier trials, where we are now experiencing a 1.6-percent increase per month in the felony case backlog; and a total of 3,880 police officers.

In addition to these important provisions we also have included: $2.4 million for the Fire Department to pro-

vide separate crews for the city's four heavy-duty rescue squads; $3.1 million to continue the implementation of the financial management system; $10 million toward retiring the accumulated deficit; $4.3 million as partial payment of a shortfall in retirement funds from fiscal 1981; and $306 million as the full budget request for the public school system.

Mr. President, this bill deserves our support. It continues the progress already made in managing the city's finances. We all know that in fiscal year 1981 the District had its first balanced budget, with a surplus of $68 million. What has been less publicized is that $8 million of that amount was the result of management savings through spending reduction. It is clear that as the city's managers are provided more tools, such as the financial management system, the quality of their management will continue to improve.

Mr. President, we should note that the Mayor has recently informed us of recent projections which indicate that the District may have a $110-million shortfall in fiscal 1983. This is caused by a revision downward of $51 million in the revenue estimates and a $59-million increase in projected expenditures.

I am confident that given this early knowledge and the resources provided in this bill the Mayor will be able to manage the District's resources to insure a balanced budget.

Before I close, Mr. President, I want to thank the members of the District of Columbia Subcommittee and in particular the ranking minority member, Senator LEAHY, who has offered his counsel and assistance in formulating this bill. And to the distinguished chairman of the Appropriations Committee whose leadership has kept us on track and proceeding in an orderly fashion to bring this bill to the floor today.

GOVERNMENTAL DIRECTION AND SUPPORT

The bill includes a total of $69,439,000 for governmental direction and support. For the District Council $4,914,300 is recommended. This is $200,000 more than the House provided.

For the Office of the Mayor the committee has recommended a total of $1,819,600, of which $750,000 is to support the implementation District Victims of Violent Crime Compensation Act.

The sum of $3,126,600 is provided, over the budget request, for the continued implementation of the financial management system.

For the Retirement Board a total of $1,689,000 is recommended, to be derived entirely from the investment income of the Board. The House had provided that of this amount $425,000 would come from the general fund of the District.

ECONOMIC DEVELOPMENT AND REGULATION

For the Department of Housing and Community Development the committee recommends $26,707,700. This amount is $2.6 million more than the House and the same as the budget request. The committee recommends that $3.4 million be used for the home purchase assistance program; $3.4 million for rehabilitation financing; and $1.75 million for acquisition of vacant buildings and land.

These and other city-wide development programs will be targeted to a major new initiative in fiscal 1983, the Ward 8 Alabama Avenue Renaissance. This project is designed to bring the efforts of many District agencies to bear on the Anacostia area, one of the sections of the city most in need of revitalization.

For the Office of Business and Economic Development the committee recommends $1,329,600. The office is responsible for efforts to retain and attract new employment opportunities to the District. And $307,500 is provided in the bill for the Minority Business Opportunity Commission, which represents the budget request.

PUBLIC SAFETY AND JUSTICE

For the agencies under the public safety and justice appropriation title the committee recommends $410,175,078. This amount is $4.7 million more than the budget request and $5 million more than the House allowance.

For the Metropolitan Police Department $2.3 million more than requested, and approved by the House is recommended. As noted earlier these funds will be used for the purchase of a computerized fingerprint identification system. In addition it will provide for the purchase of 210 additional portable radios in support of the 3,880 officers force size.

For the Fire Department $48,769,000 is provided, which is $2.4 million more than the budget and House allowance. This addition, also noted earlier, allows for the provision of separate heavy-duty rescue squads.

For the D.C. courts a total of $45,209,678 is recommended in the bill. This is comprised of $2.8 million for the court of appeals; $30.9 million for the superior court; $6.4 million for the D.C. court system; $3.4 million for the Public Defender Service; and $1.5 million for the Pretrial Services Agency.

For the Department of Corrections the bill includes $87,795,900. This amount provides for 90 additional correctional officers to help increase security at District prison facilities.

PUBLIC EDUCATION SYSTEM

For the public education system appropriation title $439,042,100 is recommended. This is $4.9 million more than the House allowance.

The principal components of this account are the public schools $306.5 million; the University of the District of Columbia $58.7 and the teachers retirement system $55.7 million.

For the public library the committee recommends $11,246,300. This includes an amount over the budget to allow the main library to remain open on Sunday afternoons during the school year.

HUMAN SUPPORT SERVICES

The committee recommends $465,103,800 for the Human Support Services appropriation.

For the Department of Employment Services $18,561,000 is recommended. This is $664,000 more than allowed by the House. This amount supports the out-of-school youth employment program and the adults with dependents employment program. The budget also includes $2.8 million for expansion of job training programs under the Youth Employment Act.

For the Department of Recreation $20,739,800 is provided. The District operates 44 neighborhood swimming pools, 10 day camps, and special programs for the handicapped, mentally retarded, and elderly through the Department.

For the Department of Human Services a total of $333,046,400 is included. DHS administers the District public assistance, AFDC, medicaid, and supplemental security income programs, as well as emergency assistance, child day care, and foster care programs.

For the D.C. General Hospital operating subsidy $35.1 million, the budget estimate and House allowance, is recommended.

For a payment to the federally owned St. Elizabeth's Hospital $22.9 million is recommended. This is $3.6 million less than allowed by the House and the same as last year.

TRANSPORTATION SERVICES AND ASSISTANCE

The bill includes $136,712,400 for the transportation services and assistance appropriation title. This is comprised of $43.5 million for the Department of Transportation; $91,000 for the Washington Metropolitan Area Transit Commission, and $93.1 million for Metro.

ENVIRONMENTAL SERVICES AND SUPPLY

The bill includes $32,910,000 in general fund appropriations for the Department of Environmental Services. In addition the $17.2 million request for a general fund payment to the water and sewer enterprise fund is recommended, rather than the $5.4 million allowed by the House.

PERSONAL SERVICES

For the personal services appropriation title $13,750,822 is recommended. This is $9.9 million below the budget request and $3.3 million below the House allowance.

In addition to the above appropriation accounts the committee recommends $142,204,200 for repayment of

loans and interest; $10,000,000 for repayment of the general fund deficit, this is $10 million less than the House; and $2,078,500 in energy adjustments.

For capital outlay the committee recommends approval of the budget request of $83,885,600. This is an increase of $446,100 over the House allowance. The committee concurs with the House provision of $1.6 million for four projects in the District courts.

ENTERPRISE FUNDS

For the water and sewer fund the committee recommends $114,479,400; for the Washington Convention Center fund $7,574,000 is recommended and for the lottery and charitable games fund $1,184,500 is provided.

UP AMENDMENT NO. 1415

Mr. D'AMATO. Mr. President, I send to the desk several amendments as described earlier and ask for their immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New York (Mr. D'AMATO) proposes an unprinted amendment numbered 1415.

Mr. D'AMATO. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2 at line 3 strike $336,600,000 and insert $361,000,000

On page 2 at line 6 strike the colon and all through line 12 except the period.

On page 2 after line 23 insert the following:

"SPECIAL CRIME INITIATIVE

For a Federal contribution to the District of Columbia to aid in the detection and prevention of crime, $3,142,600: *Provided*, That $2,342,600 shall be available to the Metropolitan Police Department: *Provided further*, That $800,000 shall be transferred to the Department of Justice for use in the Superior Court Division of the U.S. Attorney's Office for the District of Columbia."

On page 3 after line 2 insert the following: "(including rescission)"

On page 3 at line 6 strike, after the word "which" down through "purpose," on page 3 line 7.

On page 3 at line 9 strike all after the word "That" down through line 11 and insert before the period the following: "there is hereby recinded $48,832,500 in capital loan authority"

On page 3 at line 18 strike $68,312,200 and insert "$69,439,000"

On page 3 at line 24 strike the word *"Provided"* down through the word "constitution:" on page 4 line 11.

On page 4 at line 22 strike starting with the word "of" down through "rived" on line 24.

On page 5 at line 10 strike $58,263,400 and insert "$61,122,000"

On page 6 at line 11 strike $405,111,600 and insert "$410,175,078"

On page 6 at line 24 strike $230,000 and insert "$300,000"

On page 7 at line 18 strike $434,171,200 and insert "$439,042,100"

On page 7 at line 20 strike beginning with the word *"Provided"* down through the work "program:" on line 22.

On page 7 at line 23 strike the word "further"

On page 8 at line 16 before the period insert the following: ": *Provided further*, That of the $55,700,000 for the District of Columbia Teachers' Retirement Fund, of which $4,300,000 is to be applied against a fund shortfall in fiscal year 1981"

On page 8 at line 21 strike $450,550,880 and insert "$465,103,800"

On page 9 at line 10 strike, beginning with the word *"Provided"* down through "$26,548,700" on line 16 and insert before the colon the following: "*Provided further*, That total reimbursements in operating funds to Saint Elizabeths Hospital, including funds from title XIX of the Social Security Act, approved July 30, 1965 (79 Stat. 343; 42 U.S.C. 1396 et seq.), shall not exceed $22,948,700"

On page 9 at line 19 strike beginning with the colon down through the word "expenditures" on line 25.

On page 10 at line 7 strike $135,712,400 and insert "$136,712,400"

On page 10 at line 12 strike $38,337,000 and insert "$50,140,500"

On page 10 at line 19 strike $5,427,000 and insert "$17,230,500"

On page 11 at line 1 strike $17,100,000 and insert "$13,750,822"

On page 11 at line 1 strike all beginning with the third comma down through the word "Department" on line 2.

On page 12 at line 4 strike beginning with the word "cash" down through "$309,000,000" on line 5.

On page 12 at line 6 strike $20,000,000 and insert "$10,000,000"

On page 12 strike line 8 through line 11 and insert after line 11 the following: "The Mayor is hereby authorized and directed to apportion a reduction in the amount of $2,078,500 in authorized appropriations and expenditures within object class 30A (energy) within one or several of the various appropriations headings in this Act."

On page 13 at line 7 strike $83,439,500 and insert "$83,885,600"

On page 14 at line 9 strike $107,195,900 and insert "$114,479,400"

On page 14 at line 9 strike $16,726,500 and insert "$24,010,000"

On page 14 at line 16 strike beginning with the colon down through the word "heading" on line 20.

On page 15 at line 6 after the second comma insert the following: "as amended,"

On page 19 at line 2 strike 33,109 and insert "33,165"

On page 19 at line 2 strike 32,052 and insert "32,108"

On page 19 at line 12 strike 28,459 and insert "28,515"

On page 22 strike lines 12 through 19.

On page 22 at line 20, strike "Sec. 124" and insert "Sec. 123"

On page 22 at line 24 strike "Sec. 125" and insert "Sec. 124"

On page 23 after line 5 add the following new sections:

SEC. 125. (a) Notwithstanding section 422(7) of the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code 1-242(7)), the City Administrator shall be paid, during any fiscal year, a salary at a rate established by the Mayor, not to exceed the rate established for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(b) For purposes of applying any provision of law limiting the availability of funds for payment of salary or pay in any fiscal year, the highest rate of pay established by the Mayor under subsection (a) for any position for any period during the last quarter of calendar year 1982 shall be deemed to be the rate of pay payable for that position for September 30, 1982.

(c) Notwithstanding section 4(a) of the District of Columbia Redevelopment Act of 1945 (D.C. Code 5-803(a)) the board members of the Redevelopment Land Agency shall be paid, during any fiscal year, a per diem compensation at a rate established by the Mayor.

SEC. 126. Notwithstanding any other provision of law, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act, D.C. Law 2-139, enacted pursuant to the District of Columbia Self-Government and Governmental Reorganization Act of 1973 (Public Law 93-198; 87 Stat. 744), shall apply with respect to the compensation of District of Columbia employees: *Provided*, That for pay purposes, employees of the District of Columbia government shall not be subject to the provisions of title 5 of the United States Code.

SEC. 127. None of the funds appropriated by this Act may be used to transport any output of the municipal waste system of the District of Columbia for disposal at any public or private landfill located in any State, excepting currently utilized landfills in Maryland and Virginia, until the appropriate State agency has issued the required permits.

SEC. 128. (a) No funds available in fiscal year 1983 or thereafter pursuant to this or any other Act may be used for leasing, promoting, or permitting the occupancy or use of any part of the Washington Convention Center (including any related facility) for any concert, athletic event, or similar entertainment activity (as defined in subsection (b)), unless—

(1) such activity is incidental to a convention, meeting, trade show, product exhibition, or similar primary event held at the Center, and the activity is of a type customarily performed as part of the primary event;

(2) admission to the activity is limited to those attending the primary event; and

(3) allowing the activity to occur is consistent with the purpose of promoting the use of the Center as a national and regional convention and trade show center.

(b) For purposes of this section, the term "concert, athletic event, or similar entertainment activity" includes—

(1) any concert or other performance of music,

(2) any circus or rodeo,

(3) any athletic competition,

(4) any theatrical production, or

(5) any similar spectator event,

which traditionally has been held in publicly or privately owned facilities within the metropolitan area of Washington, District of Columbia.

Mr. D'AMATO. I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1415) was agreed to.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the bill H.R. 7144, as thus amended, be regarded for purposes of amendment as original text; provided that no point of order

shall be considered to have been waived with respect thereto.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. No objection.

The PRESIDENT OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, I yield the floor.

Mr. LEAHY. Mr. President, as the ranking minority member of the District of Columbia Subcommittee, I rise in support of the committee bill.

I should also say it has been a pleasure to work with the chairman, Senator D'AMATO, on this appropriations bill. During the past 2 years, he has handled an assignment which I am willing to venture, even though I am not a member of the Republican Party, was not his No. 1 committee request when he came to the Senate. Nor when he writes his biography years and years and years from now about his service here will be devote a chapter to this time as being the time that he looked forward to the most.

I might say, Mr. President, that he has received the acclaim and the praise of the political leaders, the public leaders, the business leaders, the civic leaders, and others throughout the city of the District of Columbia. This requires special political skill.

He has received it because he has worked very hard on this and has given great consideration to the bill. He has made every effort in our hearings to listen to the views of all affected parties. I know of nobody, whether they agreed or disagreed with a particular matter, who was not given a full and fair hearing.

He has worked closely with subcommittee members on both sides of the aisle. He has worked diligently and effectively.

As a result of his leadership, this bill was one of the first reported from the committee. I also wish to emphasize that one of the reasons that I found it so easy to support the bill is that it is below the 1982 appropriation, it is below the budget estimates, and it is below the level reported from the other House.

It funds the full payment requested by the District of Columbia. In spite of what has been contended by some, it clearly preserves the proper relationship between the District and the Congress, with due respect for the concerns of home rule.

In fact, I think the Mayor of the District of Columbia said it best when he described this appropriations bill, the one that is before us now, as "another positive step forward for the District."

I think the Mayor is correct. I think the Senate would be correct in passing this bill. When we come to the point of voting on the bill, I will certainly urge my colleagues on this side of the aisle to vote for the bill.

Mr. President, I yield the floor.

Mr. President, I would suggest the absence of a quorum, but before I do that, I would like to make a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. LEAHY. Mr. President, are there any unanimous-consent requests which have been entered into with regard to this bill?

The PRESIDING OFFICER. The bill is under a time limitation of 30 minutes on the bill, 20 minutes of first-degree amendments, 10 minutes on second-degree amendments, and 2 hours on the Eagleton amendment.

Mr. LEAHY. For now, Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, as we resume consideration of our regular appropriations bills during this lameduck session I think important to point out to the Members of the Senate a very unusual and disturbing aspect of the budget procedures we are currently employing.

Were I so disposed, I, or any other Member of the Senate, could make a point of order against the consideration of this bill or any other measure or amendment which provided any increased spending for fiscal year 1983. This is the so-called nonwaivable point of order under section 311 of the Congressional Budget Act of 1974 which is intended to prevent any additional spending if the binding limits on budget authority or outlays of the second budget resolution have been breached.

I might add, parenthetically, for the benefit of any supplysiders that may still be among us, that this same point of order can be made against any proposal to reduce Federal revenues, since current estimates of receipts are far below those levels anticipated in the budget resolution.

Why do we find ourselves in this fix? Why, after enacting only 3 of the 13 regular appropriations bills for fiscal year 1983, is Congress technically precluded from considering any further spending bills? Why have our anticipated levels or spending and revenues been so off base? Indeed why are the spending and revenue "targets" of the first budget resolution binding on Congress when we have not considered and adopted the second budget resolution called for the Budget Act? Finally, why despite all our continuing and vociferous pledges to uphold the congressional budget process are we confronted with the need to suspend the enforcement procedures provided by that same process.

Mr. President, the answer to all these questions is fairly simple. Congress did not revise the targets of the first budget resolution, in a second "fall" budget resolution as required in the Budget Act.

Instead, the Senate accepted a provision proposed by the House which "automatically" converted the first budget resolution into the binding second resolution on October 1 in the absence of congressional action in actually adopting a second budget resolution. There was no adjustment made to the economic assumptions underlying the first budget resolution, despite the deteriorating and significantly changed economic projections of the summer and early fall. Increasing levels of program demand and requirements were also not considered, nor did Congress have the opportunity to reevaluate its economic and budgetry strategy in light of the deepening recession. None of this was done prior to establishing binding expenditure ceilings on October 1.

During the adoption of the first budget resolution, I stood on this floor and protested this ill-conceived and ill-advised departure from the Congressional Budget Act procedure. At that time I warned that the failure to update the budget resolution would force arbitrary and unworkable budgetary constraints on the Congress. I stated that to the extent that expenditure estimates increased, and the total spending ceiling was not revised, the burden of addressing the resulting gap would fall disproportionately on the discretionary programs funded in annual appropriations acts under the jurisdiction of the Committee on Appropriations.

Mr. President, I was right. Current estimates of the deficit for this fiscal year are running about 50 percent higher than the $103 billion assumed in the first budget resolution, and there are those who say this is very conservative. Not only are revenues down, but program requirements are increasing beyond our earlier assumptions, and this is before making any allowance for the infrastructure development and jobs programs now being contemplated by Congress. Under the budget resolution now in place all these appropriations proposals are out of order, as are each on the appropriations bills that we have remaining to be acted upon, even though each complies with the allocation on budget authority and outlays established by the Committee on Appropriations as required by section 302(b) of the Budget Act.

Mr. President, this circumstance makes a mockery of the budget process. The current budget resolution is so unrealistic that it constitutes a fraud on every American concerned with the economic future of our Nation, and as we take up and consider the 10 remaining appropriations bills, it presents a possible procedural obstacle which we can remove only by admitting that we have no budgetary plan worth respecting.

I hope each Member of this Chamber, as well as our colleagues in the other body, will take heed of this very serious departure from sound budgetary procedure, so that we can avoid repeating the blunder we have made this year.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1416

(Purpose: To remove section 128 which restricts the use of the District of Columbia's Convention Center)

Mr. EAGLETON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Missouri (Mr. EAGLETON) for himself, Mr. RUDMAN, and Mr. GLENN, proposes an unprinted amendment numbered 1416.

Mr. EAGLETON. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 23, after line 5, strike section 128.

Mr. EAGLETON. Mr. President, this amendment deals with the D.C. Convention Center and some language in the bill before us that seeks to restrict the uses of the D.C. Convention Center. I offer it in behalf of myself, Senator RUDMAN, and Senator GLENN.

Mr. President, as ranking minority member of the District of Columbia Subcommittee and as former chairman of that subcommittee, I have had a longstanding interest in the affairs of the District of Columbia. Indeed, one of the most significant pieces of legislation bearing my name is the District of Columbia Home Rule Act, passed by Congress in 1973. The basic principle behind that act—namely, that the District of Columbia should be a self-governing municipality to the greatest extent possible within the confines of the Constitution and the Federal Government's needs—is in serious jeopardy here today.

H.R. 7144, the District of Columbia appropriation bill for 1983, the matter before us, has language in section 128 which I find so appalling, so inequitable, so dictatorial, so misguided, and so unfair that I urge my colleagues to strike this section in its entirety. The section, which is a clear case of legislating on an appropriation bill, attempts to place statutory restrictions on the use of the District of Columbia's new $100 million convention center. Conventions and trade shows, for which the center is specifically designed, are OK, says the bill, but no city funds in 1983 "or thereafter," "pursuant to this or any other act," may be used for any "concert, athletic event, or similar entertainment activity."

That language, "similar entertainment activity," is then defined to include, as follows—these would be things prohibited from presentation at the Convention Center—

(1) any concert or other performance of music,
(2) any circus or rodeo,
(3) any athletic competition,
(4) any theatrical production, or
(5) any similar spectator event

which *traditionally* has been held in *publicly* or *privately*-owned facilities within the metropolitan area of Washington.

In other words, Congress now is telling the District, or would it this language remains, that, after 10 years of congressional review of a project for which local taxpayers have spent $100 million, the Congress—months before the Center opens its doors—will restrict the Center's use by Federal law.

In the House, Representatives FAUNTROY, DELLUMS, and MCKINNEY have removed the offending language from H.R. 7144 on a point of order. Since the Senate offers no such convenient procedural remedy, I am moving to strike the provision.

As a practical matter, the Center will be used primarily for trade shows and conventions. The Center consists of four main halls constructed for conventions, trade shows, and their peripheral activities. And the Convention Center Board, as part of its hockey policy, has set the following priorities for Center use:

Priority 1—Conventions and trade shows which are international, national, or regional requiring significant usage of hotel rooms.

Priority 2—Multiple-day annual public shows.

Priority 3—Multiple-day shows contracting no earlier than 12 months in advance, or a space available basis.

Priority 4—Single-day events, contracting no sooner than 6 months prior to the event, on a space available basis.

Adhering to these priorities, the Convention Center Board reports that the Center is booked at 85 percent of capacity for 1983, at 80 percent of capacity for 1984, and at 70 percent of capacity for 1985. The Center also reports commitments as far in the future as 1990.

If the remaining capacity, however, cannot be booked with conventions or trade shows, what should the Center consider? Section 128 clearly contemplates that the Center should remain dark.

Under Section 128, for instance, would the University of the District of Columbia, with a gymnasium that now seats 2,400, have been able to use the Convention Center for its NCAA Division Two championship game? The answer to that, under the language in the bill, NO.

Could locally-reared ballerina Andrea McKerrow appear for a local fundraiser? The answer, NO. What about locally-reared Roberta Flack, Goldie Hawn, Shirley MacLaine? Would they appear? NO.

Could the District of Columbia Youth Orchestra, a group of high school students who use Collidge High School auditorium give a city-wide performance at the Convention Center? NO.

Could local fraternities and sororities hold dances? NO.

Could local churches sponsor a Billy Graham presentation in the Convention Center? NO.

Could local or regional political groups use the Center for conventions? NO.

Would the majority of the residents of the District of Columbia—those citizens whose tax dollars have built this Center—ever see the inside of this Center? Probably NO under the language.

What will be the financial impact of these restrictions should Congress go blindly forward with this nonsense?

Convention centers, I am told by the managers, directors, general counsels, and presidents of 21 other major convention centers across the country, are highly competitive businesses. Parenthetically, Mr. President, we have been in contact with the 21 operators of major convention centers around the country. While most cities find convention centers good investments because increased tax revenues are realized from higher hotel and retail sales receipts, nearly all convention centers, nevertheless, lose money on rentals. To post a profit they depend on operating subsidies from their local tax bases. Further, none has the type of restrictions contemplated for the District, and all of the ones that we have contacted, the 21 biggest in the country, aggressively pursue nearly every revenue source available in efforts to fill their non-convention/trade show weeks.

The managers of these other institutions also tell me that the non-convention weeks represent a sizable chunk of a given calendar year. No conventions of note are held anywhere the

last two weeks of July, anytime in August, or during the two weeks before and after Christmas. Furthermore, trade shows simply cannot fill what amounts to nearly one-quarter of a year.

"I can guarantee," said the vice president and general counsel of the New York Convention Center, "that the District will be forced to approach Congress cap in hand for a massive subsidy if the restrictions proposed on its center are approved."

Here is a quote from Los Angeles: "Convention centers are a very competitive business and a manager can't be hampered at all. Washington has a great building, a great design, and it simply can't be restricted."

The man in Philadelphia said this: "Either the City or Congress will really have to bail out the Center if it can't have local bookings."

And from Houston came this: "A manager must have the leniency to book whatever he wants. We have three major halls and will book anything into any of them, with conventions overriding other events."

From Baltimore from its manager, we received this: "A convention center is a magnet. I would not like the kind of restrictions under consideration for Washington."

And from Cleveland we heard this: "It should be made impossible to restrict the use of these centers."

Mr. President, if these convention center experts from New York, Los Angeles, Philadelphia, Houston, Baltimore, Cleveland, and 15 of the other largest cities in the country are to be believed, the restrictions contemplated by Congress will guarantee a white elephant for Washington.

That is hardly the result both Congress and the City intended during the 10 years since 1972, when Public Law 92-520 provided for the construction of a Dwight D. Eisenhower Memorial Bicentennial Civic Center in Washington, to "provide * * * the District of Columbia facilities for the holding of conventions, exhibitions, meetings, and other social, cultural, and business activities."

Indeed, like most other cities, Washington had hoped that the Convention Center would help revitalize its downtown, increase hotel receipts, tax revenues, job opportunities, spending in the city, and use of the $10 billion subway system. Whether the City will realize these economic benefits has been widely debated during the 10 years the Convention Center has been in progress, but Congress now simply must not place any impediments in the City's way as it attempts to realize the Center's fullest potential.

Why is Congress even attempting this outrage? There appear to be two reasons. First, certain Members of Congress feel the City agreed to such restrictions when Congress reviewed and approved the project. Second, owners of potential competitive facilities apparently fear competition from the Convention Center in non-convention related activities. In the truest spirit of American private enterprise, they have come to Congress and asked for protection.

To refute this, let me say that I have reviewed thoroughly the legislative history on the Convention Center and outside of some general committee report language, I find no evidence that the City is bound in its uses of the Center. In fact, there is direct evidence to the contrary.

In 1977, when the House and Senate held their first major hearings on the City's Convention Center, the City testified that:

> The Civic Center will be a large meeting and exhibition facility specially designed for national, regional and local events, chiefly convention, trade shows, large-scale meetings and international conferences. It will provide a significant new resource for local meetings and community activities and events. It will bring public attendance shows and other activities for local audiences and citizens into downtown Washington.

Also in 1977, the Federal City Council, a Washington entity similar to a Chamber of Commerce, urged in a letter to the D.C. City Council that the Center be available for local events "such as meetings and special events like holiday basketball tournaments—during those times of the year when conventions generally do not meet." All interested members of Congress were made aware of the Federal City Council's position.

And, in 1978, a technical update prepared by the economic consultants, Gladstone Associates, for the District of Columbia Civic Center Task Force, stated:

> Certain local events, such as local shows (boat show, flower show, etc.), entertainment events, and sports events, are money makers for the Center itself * * *. One way to increase the revenue of the Center would be to schedule as many of these types of local events as possible.

All interested Members of Congress were made aware of this technical update and economic justification for the Center.

Meanwhile, on the Hill in early 1978, the City was telling Congress during hearings that:

> * * * the Center provides space for local open-to-the-public events such as a boat show, musical event or sports activity, primarily geared to the Metropolitan Washington market. A number of these local events will be accommodated in the Civic Center during the summer months and other vacation periods when conventions are normally not held.

And later in 1978, when the Center again was discussed at hearings, Mayoral candidate Marion Barry testified that:

> Our local universities—Howard, Georgetown, George Washington, American University—have no major sports arena * * *. Our citywide basketball tournament will be held there. It is now held at Cole Field House. The new Civic Hall will be the only hall in the District of Columbia to house a major concert or other entertainment event for a sizable audience.

Senator LEAHY, who was chairing the hearing, made no comments on, nor voiced any objections to, Candidate Barry's remarks about the Center's use.

Following the 1978 Congressional review, the City, in 1979, put its plans for the Center into a local law. Under Public Law 92-520, the enabling legisation for the Center, the District City Council was directed to approve a plan for the Center. The Council followed this instruction and enacted D.C. Act 3-102, the Washington Convention Center Management Act of 1979. Congress received and did not disapprove the plan during the Home Rule Act's required Congressional review period. D.C. Act 3-102 specifically said in section (d) that:

> A convention center would provide space and facilities for local public shows and exhibitions including, but not limited to, civic and community events and gatherings, athletic and cultural events, entertainment, and other such activities as may be in the interest of the citizens of the District of Columbia.

I must mention that in 1980, when the Senate held hearings on the City's fiscal year 1981 appropriation, the use of the Center was discussed at some length. Senator LEAHY, still chairman of the District Appropriations Subcommittee, mentioned concerns about the Center's use, emphasizing that it should be a convention center. A reading of the record indicates Senator LEAHY was satisfied with the City's response; namely, that the building was designed to be a convention center, but other uses, for example, "* * * certain sports and entertainment events, particularly college, high school basketball tournaments * * * a fund-raising activity that might entail some stars * * * would be legitimate * * * activities * * *."

That was testimony by one of the city witnesses at that hearing on the fiscal year 1981 appropriation. The hearing was held in calendar year 1980.

Further, in response to written questions on the Center's use, the City honestly, and again with no apparent Congressional objection, said that "possible" uses were boxing events, rock concerts, auto, boat, and wine shows, that the Center would be used for high school proms, graduation ceremonies, and gymnastic events, and that the Center would not be used for a circus, the Ice Capades, the Harlem Globetrotters, a horse show, or a rodeo, the latter uses being physically difficult or impossible to host.

While my reading of this hearing record is that Congress had no objec-

tions to the City's plans, the Senate Committee Report for fiscal year 1981 indicated that the Senate was moving in the direction of restricting the Center's use. Specifically, the report stated that the "Committee calls the attention to the Board" (the Convention Center Board) an earlier *House Public Works Committee* report (emphasis added) which noted that the Civic Center project did not include a sports arena. The fiscal year 1981 report also stated:

Uses which would compete with existing facilities in the National Capital Region, such as cultural or entertainment appealing to a national audience, were clearly not contemplated.

But over in the House, the fiscal year 1981 Appropriations Committee report said the Center would ". . . provide facilities for local events, local shows, entertainment, sports tournaments, meetings, and other civic events."

Finally we get to 1981 and 1982, the years specific restrictions were placed on the City's Convention Center. In 1981—and that was the bill appropriating for fiscal year 1982—some generalized restrictions were made in report language, (". . . the Center is not to be used for cultural events or entertainment appealing to a national audience and not to be used in competition with existing facilities"—that was some report language accompanying the fiscal year 1982 appropriations bill—and now in 1982, for fiscal year 1983, we see untenable use restrictions as part of the bill. In neither case can I find a hearing record which supports this Congressional interference with a City project.

On the House side, I find even less discussion of the issue. During hearings on the City's fiscal year 1982 budget, House Appropriations Chairman Julian Dixon notes that the Center's use was ". . . the Senate's concern." During hearings on the fiscal year 1983 appropriations, the House Committee discussed the issue, but again seemed satisfied that the Center was for conventions, both by design and by policy. Nevertheless, with no hearing record to support it, the House Committee agreed in both years to restrict the Center's use. As mentioned earlier, however, the full House deleted the statutory restrictions on September 30.

In conclusion, it seems clear to me that the bulk of the legislative record shows that the City and Congress always believed that the District of Columbia Convention Center would be a multipurpose facility.

Now it is said, however, that there was an unwritten agreement among concerned parties to the effect that the Center policy would be (1) to book only national conventions, and (2) not to compete with any other private or public facility. But I have spoken directly with those involved in its purported agreement, and each unequivocally denies having made such a deal. There were discussions about professional sports events and a general agreement that the Center was not a sports arena, but specific restrictions, say the people with whom I have talked, were never suggested and certainly never agreed to.

Mr. President, Representative MCKINNEY, of Connecticut, long known for his strong interest in the advocacy of District concerns, said Section 128 "stinks like the dead turkey that it is." I could not agree more. I urge the Senate to delete this most offensive language.

Mr. President, I ask unanimous consent to have printed in the RECORD following my remarks a lengthy memorandum prepared for me by my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. EAGLETON. The memorandum provides a complete legislative history of use restrictions on the Convention Center, describes the physical layout of the Center, which proves the Center is a convention center and not a sports arena or opera hall, and details convention center uses, financing, ownership, size, and restrictions in 21 other metropolitan areas. In no area of the country are there any restrictions even remotely comparable to what is being herein proposed.

EXHIBIT 1

MEMORANDUM

I. ASSIGNMENT

A. History of D.C. Convention Center Use Restrictions:

Pursuant to your instructions, I have researched the legislative history of "uses" of the District of Columbia Convention Center in an attempt to document commitments made to restrict its use.

B. Survey of convention centers in 22 major U.S. cities:

By telephone, members of our staff and I have contacted managers, directors, presidents, and/or counsels of 21 convention centers located throughout the country to determine if any are restricted in their use. The survey was confined to the 20 largest U.S. cities, plus St. Louis and Kansas City. Columbus, Ohio, the 19th largest city, had no public convention facility, so the final total was 21 convention centers surveyed.

C. Actual and practical uses of D.C. Center/Need for Seats:

The proposal to impose statutory restrictions on the D.C. Center assumes that the Center can and will compete adversely with certain existing local facilities. Is that really the case? Also, if the facility is simply for conventions and trade shows, why does it need 10,000 theatre-style seats? To answer these questions, I toured the Center, studied the list of events already scheduled into the Center, and researched the legislative history of the seats.

II. SUMMARY OF FINDINGS

A. History of Use Restrictions:

1. *Verbal commitments.*—According to the three individuals purported to have agreed to restrict the Center's use—Rep. Walter Fauntroy, former D.C. Mayor Walter Washington, and D.C. businessman Robert Linowes—no such agreement was ever made.

All three told me in telephone conversations that "yes," there was an agreement, but all three said it consisted of three commitments: a reduction in the total cost of the Center, enactment of a local hotel tax to help cover costs, and evidence of sufficient private development in the area to generate necessary spin-off revenues. No agreement was made as to the use of the Center, although Mayor Washington recalled some "discussion" that the Center would not be used for a sports arena.

2. *Written Agreements or Commitments.*—I find no record of any written agreement restricting the use of the D.C. Center. In fact, most of the written record on the Center—the 1972 enabling legislation and debate thereon, committee reports, appropriations committee hearings, D.C. legislation, the environmental impact statement, and an economic feasibility study conducted by Galdstone Associates—clearly indicates that both Congress and the City assumed the Center would, should, and could be used as a multi-purpose facility.

3. *Legislative History.*—When discussing the "use" of the Center, the early Congressional documents, beginning with the enabling legislation in 1972, by-and-large paraphrased or repeated the original purpose of the Center, which was to "provide . . . the District of Columbia facilities for the holding of conventions, exhibitions, meetings, and other social, cultural, and business activities. . . ."[1] In 1977, however, when the House and Senate held their first serious hearings on the Center as part of the D.C. FY 1978 budget review process, the City expanded on the Center's purpose and stated:

The Civic Center will be a large meeting and exhibition facility specially designed for national, regional and local events, chiefly conventions, trade shows, large-scale meetings and international conferences. It will provide a significant new resource for local meeting and community activities and events. It will bring public attendance shows and other activities for local audiences and citizens into downtown Washington.[2]

(a) Senate Legislative History:

(1) As work on the Center progressed, it appears that the City and the Senate continued to assume multi-purpose use of the facility. In Senate hearings on the D.C. FY 1979 budget, held in February, 1978, the City again justified the project and stated as follows:

Overnight Visitors: The Chief Market Target.—The main purpose of the Civic Center will be to serve the national and international convention, trade show and large meeting market. It is these events which will be responsible for bringing new visitors and new spending to the City. Secondarily, the Center provides space for local open-to-the-public events such as a boat show, musical event or sports activity, primarily geared to the Metropolitan Washington market. A number of these local events will be accommodated in the Civic Center during the summer months and other vacation periods when conventions are normally not held.[3]

Later in 1978, when the City returned to Congress in October, and presented a revised plan for the Convention Center, Marion Barry, then a candidate for Mayor, testified before Senator Patrick Leahy, then chairman of the D.C. Appropriations Subcommittee, and said that:

Our new civic center will have 290,000 square feet of exhibit space . . . Additionally, the 108,000 square-foot column-free civic hall will seat 10,000 to 12,000 for a national convention or civic event.

Our local universities—Howard, Georgetown, George Washington, American University—have no major sports arena anywhere near that size. Our citywide basketball tournament will be held there. It is now held at Cole Field House. The new civic hall will be the only hall in the District of Columbia to house a major concert or other entertainment event for a sizable audience.[4]

Senator Leahy made no comments on, nor voiced any objections to, Candidate Barry's remarks about the Center's use. In fact, immediately following Barry's comments, Leahy addressed himself to the need to bring people into downtown Washington in the evening.[5]

(2) In the Senate hearings on the Fiscal Year 1980 D.C. budget, the use justifications published previously were repeated.[6]

(3) During the Senate hearings on the Fiscal Year 1981 D.C. budget, the use of the Center surfaced as a separate topic. Senator Leahy, still chairman of the D.C. Appropriations Subcommitte, commented during the hearing that to obtain Senate approval of the Convention Center, a number of commitments were made, including ". . . financial commitments, *use commitments* (emphasis added), design commitments. . . ." [7] Senator Leahy did not elaborate as to what the use commitments were, except to note that the City, in its budget justification, mentioned using the Center for sports.

In answer to Senator Leahy, the City responded that the Center could not physically accommodate a "sports season or an entertainment season," but that the flexible seating would "accommodate shows or sports events that might occur either as activities apart from or in conjunction with scheduled conventions." [8]

Leahy then mentioned rock concerts, while emphasizing that he wanted to make sure that the Center's use would be related to conventions. The City assured him it would, but stated that ". . . certain sports and entertainment events, particularly college, high school basketball tournaments . . . a fundraising activity that might entail some stars . . . would be legitimate . . . activities. . . ." [9]

Leahy appeared satisfied with this response. He then included in the record some questions prepared by Senator Mathias on the Center's use. The Mathias questions were specific, asking if the Center envisioned events ranging from high school proms to rodeos. The City answered "yes" or "possibly" to all uses except a circus, Ice Capades, the Harlem Globetrotters, a horse show, and a rodeo. Among the "possible" uses were boxing events, rock concerts, auto, boat, and wine shows. The City also responded to a separate question that a Presidential Inaugural Ball was a likely use.[10]

(4) Apparently in response to the FY 1981 hearing record, the Senate Appropriations Subcommittee report for FY 1981 brought up (for the first time, in a committee report), the subject of the Center's use. The report stated that the "Committee calls the attention to the Board" [11] (the Convention Center Board) and earlier *House Public Works Committee* report (emphasis added) which noted that the Civic Center project did not include a sports arena. The FY 1981 report also stated:

"Uses which would compete with existing facilities in the National Capital Region, such as cultural or entertainment appealing to a national audience, were clearly not contemplated." [12]

(In its FY 1981 committee report, the House was still saying the Center would ". . . provide facilities for local events, local shows, entertainment, sports tournaments, meetings, and other civic events.") [13]

(5) In 1981, when Senator D'Amato became chairman of the D.C. Appropriations Subcommittee, the question of the Center's use was again of minor importance. During the hearings on the City's FY 1982 budget, D'Amato questioned the City about whether the Center would compete with other local facilities and asked about rock concerts. The City replied that the Center's booking policy and events booked to date were not competitive.

"Senator D'Amato: The basic premise in which the Senate was given impetus to move forward, that there would be no real competition with the private arenas which are in the habit of having athletic events and rock concerts. It is still essentially, as you understand, alive and well?

"Mr. Gibson (City): It is very much alive and is explicit. The managing approaches and the schedule approaches conflict with each other and essentially it is an oil and water situation." [14]

According to Mr. Gibson, his use of the term "explicit" referred to no verbal or written agreements on the use of the Center, but rather to the fact that the Center was "explicitly" designed for conventions and would not be used for any seasonal athletic or entertainment events. Mr. Gibson reported that the City fully intended (and intends) to use the Center for short term or onetime productions which in no way conflict with the availability of the Center for convention bookings.

Nonetheless, the Senate report tightened the non-competitive words of the FY 1981 report and actually *prohibited* certain Center uses: " . . . the Center is *not to be used* for cultural events or entertainment appealing to a national audience and *not to be used* in competition with existing facilities (emphasis added)."[15]

(6) The hearings for the FY 1983 D.C. budget are not yet published. Persons in attendance report that the use of the Convention center was not an issue. The Senate FY 1983 appropriation bill for the City, however, includes section 123, which imposes stringent statutory restrictions on the Center's use.[16]

(b) *House Legislative History.*—In the House, nothing of substance on the issue of the Center's use appears until this year's hearings on the city's FY 1983 budget.

(1) During the hearings on the FY 1982 budget, the first time the issue surfaced at all, the House simply dismissed the matter. Chairman Julian Dixon noted that the potential use of the Center "was the Senate's concern."[17] Mr. Dixon commented on the language in the Senate's FY 1981 report and then asked if the Center's Board was developing a firm policy with regard to use. The Board's representative answered that development of such a ploicy was one of the first orders of business.[18]

(A booking policy was adopted by the Convention Center Board on December 22, 1981. The policy strongly favors conventions and trade shows.)

However, while the FY 1982 hearing record showed only this slight discussion of the matter, the House FY 1982 report followed the lead of the Senate and stated: ". . . the Committee reminds the . . . Board of previous legislative history indicating that the . . . Center is not to be used for entertainment purposes and was not intended to compete with existing facilities in the Washington area for entertainment and cultural events." [19]

(2) The use question received far more attention in the House during the discussion of the FY 1983 budget—the bill which proposed the statutory prohibitions. The Board was asked if the Center planned entertainment or cultural events. The Board said "no." The Board was asked about sports. The Board responded that the Center lacked the necessary facilities. The Board was asked about its request for theatre-style seats. The Board responded that conventions needed them for assembly events. The Board was asked about rock concerts. The Board responded that rock concerts were possible, but the Center's sound systems would be inadequate.[20]

The Committee went ahead, regardless of the testimony, and approved the statutory restrictions. On September 20, 1982, the full House voted to delete the restrictions on a point of order.[21]

4. *Other Documents Discussing Use of the Center.*—In addition to the congressional record, there was City legislation, an environmental impact statement, various letters, and an economic feasibility study which mentioned the use of the Center. All repeated or enlarged upon language which indicated the Center would be a multipurpose facility.

For congressional purposes, the most important description of how the Center would be used appeared in the City's "Washington Convention Center Management Act of 1979," a local law debated and approved by the City Council and signed by the Mayor. That bill, D.C. Act 3-102, stated in Section (d) that:

"A convention center would provide space and facilities for local public shows and exhibitions including, but not limited to, civic and community events and gatherings, athletic and cultural events, entertainment, and other such activities as may be in the interest of the citizens of the District of Columbia." [22]

As with all District legislation, Congress had 30 legislative days in which to review this legislation, which came to Congress for review on September 21, 1979. The Act became law on November 2, 1979. There is no indication that anyone in Congress had any objection to any part of the Act, including the section which explained how the City thought the Convention Center would be used.

III. SURVEY OF 22 OTHER U.S. CONVENTION CENTERS

A. None of the final 21 centers surveyed has any restrictions comparable to those suggested for D.C. Most give priority to conventions, and a number will not book non-conventions more than 6-12 months in advance. In the interest of taste, some do not book rock concerts. Because of physical limitations, some do not host sports. In Phoenix, the Mayor and City Council have the power to review bookings, but that power has never been used.

B. All 21 surveyed centers are publicly owned and operated, and all but one depend on operating subsidies from their local jurisdictions. Many have a percentage of earmarked taxes—usually a hotel tax. A few receive direct appropriations and are carried as line items in city budgets.

C. All 21 surveyed centers have major and serious competition, some from the public sector, but most from the private. Key competitors are convention centers in neighboring cities, large hotels, and other arenas/armories/sports complexes.

D. All persons surveyed emphasized the keenly competitive nature of the convention center business, many commenting that restrictions of any kind would be disastrous. (Note: This memo has not gone into the economics of convention centers. That would be a major subject in itself. All centers apparently lose money and justify themselves only by generating spin-off revenues. The fewer days the Centers are dark, the better their operating pictures; about one-fourth of each year, there are no conventions anywhere.)

E. See attached chart, Convention Centers in Major U.S. Cities, for summary of survey.[23]

IV. ACTUAL AND PRACTICAL USES OF D.C. CENTER/NEED FOR SEATS

A. The D.C. Center Board has repeatedly said it is operating a convention center, and it is. It opens for business in January, 1983. As of this time, its 1983 schedule is 85 percent filled. For 1984, it has 80 percent of its bookings filled, and for 1985, it has 70 percent of its schedule filled. It has some events booked as far in advance as 1990. All of the activities are conventions or trade shows.[24] There are no entertainment or sports events.

B. The booking policy adopted by the Center on December 22, 1981, shows conclusively that the Center would book non-convention events only to fill dark meeting rooms or periodic dark halls. The policy states:

"Priority 1—Conventions and trade shows which are international, national, or regional, requiring significant usage of hotel rooms.

"Priority 2—Multiple-day annual public shows.

"Priority 3—Multiple-day shows contracting no earlier than 12 months in advance, on a space available basis.

"Priority 4—Single-day events, contracting no sooner than 6 months prior to the event, on a space available basis."[25]

There is no evidence that the Convention Center has booked events in accordance with anything but this policy. The policy is self-explanatory and in itself sets standards which make it difficult for the Convention Center to compete with other local facilities.

C. The physical constraints of the Center also make non-convention/trade show use difficult.

1. Parking.—There is no parking available at the Convention Center. Even the Center administrators must park across the street or come by public transit. While 750 parking places had originally been approved, these were eliminated in 1978 as part of the required cost-cutting. George Demarest, Convention Center general manager, seemed to have no problem with the lack of parking, indicating that conventioneers come from out-of-town and are shuttled between hotels and convention activities at the center. Also should a convention require parking, the convention can contract with the Center to turn sufficient space in Exhibition Hall D into 200 parking spaces for conventioneers. As a practical matter, however, the lack of parking certainly is a drawback for the Center should it book non-convention events such as sports, theatre, or rock concerts.

2. Fire Code Restrictions.—The 10,000 theatre-style seats proposed for the Center would be used in Exhibition Hall A. D.C. fire code regulations require certain egress from large halls. Such egress can be achieved at the Convention Center only if Exhibition Hall B is vacant or used in conjunction with Hall A (i.e., part of the same meeting or group) so that the necessary walls and exit areas can be left open. Obviously, the Center will always attempt to rent both Halls A and B together to maximize receipts.

3. General facilities.—The Convention Center has no locker rooms for sports, no baskets, no floors, no scoreboards, no ice-making facilities. There is no room for animals. There is no stage, no wings, no backstage dressing rooms, rehearsal rooms, etc., for concerts, plays, or operas. Were the necessary accoutrements provided, however, and many could be in some "portable" fashion, most of the proposed "prohibited" activities could be held at the Center so long as there are theatre-style seats.

D. Need for Seats: Despite the basic inability of the Center to serve as other than a convention center, it does need its seats. These seats would be permanent, upholstered theatre-style seats which would retract against three walls of Exhibition Hall A.

1. There are 10 conventions already booked which require auditorium seating, and they are coming to Washington on the promise that the seats will be here.

These 10 conventions alone account for more than 100,000[26] visitors to Washington between 1984 and 1985. In addition, seven other conventions booked between 1986 and 1990 require the seats. These conventions all need the seats for assembly-type meetings. If the delegates were seated on the floor, they would be unable to see the speaker or the visual displays.

2. The seats have always been included as part of the Center's $98.7 million cost under the category of equipment. The first request for equipment was for $3.5 million; this amount was lowered to $3 million, but the equipment request has never been eliminated at any time during the congressional approval and review process.

3. The money for the seats is now at issue because the City appears to have put off buying the seats in favor of more immediate equipment needs. The seat money is now part of the Center's operating budget, rather than its capital budget. But outside of that one possible irregularity, there could be no serious objection to letting the Center go ahead and purchase the seats.

4. The seats are needed by April, 1984, at the latest. The Center needs 6-8 months to contract for the seats, and it would like them installed by the end of 1983 to work out kinks. The seat contract should be signed by March-April, 1983, at the latest.

5. Without the seats, the Center will lose not only the 17 conventions, but it will have to spend $144,000 each time it installs non-permanent, fold-up seats on plywood risers in Exhibition Hall A, where the automatic seats are planned. The temporary seats are so expensive because they take three days to set up and two days to remove, resulting in exorbitant labor costs (mostly to construct risers). The automatic theatre-style seats, on the other hand, could be put in place with three men working a total of 4.5 hours. In addition to the labor costs, the Center would lose money each time an assembly-type event was scheduled because Hall A could not be used if the seats were going up or coming down.

V. CONCLUSION

There is no rational reason for restricting the use of the D.C. Convention Center.

A. The legislative history shows that until Senate hearings on the City's fiscal year 1981 budget (calendar year 1980), it was assumed that the Center would be a multipurpose facility. Then, in 1980, in accordance with some unwritten and non-traceable agreement, the Center was not to compete with other local facilities. Still, at both the fiscal year 1982 hearings and in response to questions presented by the Senate Appropriations Committee, the City gave every indication of using the Center for a variety of purposes. No objections to the City's responses were ever voiced.

On the House side, no mention of the Center's use appeared until the fiscal year 1982 report. The restrictions in that report were not backed up by a hearing record. At House hearings for the fiscal year 1983 budget, the use of the Center was discussed at some length. There was no indication that the House expected the Center to do other than follow its booking policy which favors conventions. The House seemed satisfied that the facility was designed to be operated as a convention center.

When the city passed a local law in 1979 which stated the Center would be used as a multipurpose facility, Congress voiced no objections.

The record gives no indication that the statutory use restrictions were ever contemplated by Congress. The record gives no justification for such restrictions.

B. Of 21 other major convention centers surveyed, none faces restrictions similar to those being proposed for the Washington facility.

C. The 10,000 theatre-style seats are mandatory for conventions with assembly needs, and they could be used for non-convention activities. As a practical matter, however, the Center offers new facilities for non-convention events.

FOOTNOTES

[1] Sec. 18(a), Public Law 92-250, Dwight D. Eisenhower Memorial Bicentennial Civic Center Act, Oct. 21. 1972.

Also note the *Congressional Record* of October 3, 1972, Rep. Kenneth L. Gray of Illinois speaking in support of the Civic Center bill, pp. 33476-33478. "We know that this center will be used all year long. The Circus can play there a month out of the year. We can have the ice capades, the horse show, the automobile show, the boat show, and many other things . . . ."

[2] Fiscal year 1978, Capital Improvements Program, District of Columbia, Agency: Municipal Planning Office, Project Schedule, Washington Civic Center, Project Justification, found on p. 2744, District of Columbia Appropriations for Fiscal Year 1978, *Hearings Before a Subcommittee of the Committee on Appropriations, Part 3*, U.S. Senate, June 29, 1977 and on p. 21, District of Columbia Appropriations for 1978, *Hearings before the Subcommittee on Appropriations, Part 2*, House of Representatives, July 13, 1977.

[3] P. 507, Senate Hearings, *District of Columbia Appropriations, Fiscal Year 1979, Part 1*, February, 1978.

[4] P. 807, Senate Hearings, *District of Columbia Appropriations, Fiscal Year 1979, Part 3*, October, 1978.

[5] Id., p. 808.

[6] P. 199, Senate Hearings, *District of Columbia Appropriations, Fiscal Year 1980, Part 1*, March 13, 1979.

[7] P. 323, Senate Hearings, *District of Columbia Appropriations, Fiscal Year, 1981*, May 29, 1980.

[8] Id., p. 324.

[9] Id., p. 325.

[10] Id. pp. 379-382.

[11] P. 30, Senate, *District of Columbia Appropriation Bill, 1981, Report No. 96-969*, September 19, 1980.

[12] Id.

[13] P. 29, House of Representatives, *District of Columbia Appropriations Bill, 1981, Report No. 96-1271*, August 28, 1980.

[14] P. 175, Senate Hearings, *District of Columbia Appropriations, Fiscal Year 1982*, May 13, 1981.

[15] P. 50, Senate, *District of Columbia Appropriation Bill, 1982, Report No. 97-254*, October 27, 1981.

[16] Section 123, S. 2917, p. 60, Senate, *District of Columbia Appropriation Bill, 1983, Report No. 97-548*, September 16, 1982.

[17] P. 1874, House Hearings, *District of Columbia Appropriations for 1982, part 2.*

[18] Id.

[19] P. 69, House, *District of Columbia Appropriation Bill, 1982, Report No. 97-235*, September 17, 1981.

[20] Pp. 2719, 2720, 2722-2724, 2727, 2735, House Hearings *District of Columbia Appropriations for 1983, Part 2.*

[21] Pp. H 8135H 8148, *Congressional Record*, Thursday, September 20, 1982, No. 133—Part II.

[22] Section 2 (d), D.C. Act 3-102, Nov. 2, 1979.

[23] Chart Attached.

[24] See attached listing of Washington Convention Center Definite Bookings.

[25] See attached Washington Convention Center Booking Policy.

[26] See attached memorandum from Khalil Johnson to George Demarest re booked conventions requiring theater-style seats.

CONVENTION CENTERS IN MAJOR U.S. CITIES—RESTRICTIONS, USES, SIZE, FINANCING

Rank in size 1980 census and city	Convention center	Seating capacity/exhibition space	Uses and policy	Restrictions	Possible competitive facilities	Financing	Owner
1—New York City	New York Convention Center	35,000 seating, 900,000 sq ft exhibition space.	Primarily conventions and trade shows.	None	Hotel exhibition halls: N.Y. Coliseum, Madison Square Garden, N.J. Meadowland Sports Complex.	Construction: Bonds; operating subsidy: State pays rent to Corporation.	State project, a subsidiary of Triborough Bridge and Urban Development Corporations.
2—Chicago	McCormick Place and McCormick West.	4,000 seating in adjacent building, 1,030,000 sq ft exhibition space, 25,000 banquet stg.	Conventions, trade shows theatrical events in theatres, also has restaurants.	Charter broad, but center does not host athletic events and rock concerts.	Chicago Stadium, Rosemont Horizon, International Ampitheatre, University of Illinois, Chicago campus.	Construction: Bonds; operating subsidy: State tax on race track betting.	State owned; operated by Metro Fair and Exhibition Authority.
3—Los Angeles	Los Angeles Convention and Exhibition Center.	26,000 seating, 340,000 sq ft exhibition space.	Conventions, trade shows, miscellaneous public events (dances, concerts).	None on use: City counsel must approve any contract commencing 3 yr in future.	L.A. Coliseum/Sports Arena; Pasadena, Anaheim, Long Beach Convention Centers; Englewood Forum; Rose Bowl.	Construction: Bonds; operating subsidy: Receives 1 percent of 7½ percent city tax on hotel rooms.	Owned by city of Los Angeles.
3—Philadelphia	Philadelphia Civic Center	12,000 seating, 382,000 sq ft exhibition space.	Conventions, trade shows, miscellaneous public events.	None: Nonconventions may not book in advance of 18 mos.	Franklin Plaza Hotel, Philadelphia Armory Spectrum, Veterans Stadium.	Construction: Bonds; operating subsidy: City pays $225,000 annually from general revenues.	City owns.
5—Houston	Houston Civic Center—Coliseum, Jones Hall, Music Hall (all part of Civic Center for performing arts).	14,000 seats among 3 facilities, 127,500 sq ft exhibition space.	Conventions, trade shows, concerts, rodeos, performing arts.	None: Conventions have priority.	Astro Domain—Astro Hall, Arena and Astro Dome; Summit Arena.	Construction: Bonds; operating subsidy: Hotel/motel tax (same for Astro Domain).	City owns both Civic Center and Astro Domain.
6—Detroit	Cobo Hall	8,000 seating, 396,425 sq ft exhibition space.	Conventions, trade shows, sports, meetings, eating facilities.	None	Ford Auditorium, Joe Lewis Arena, Veterans Memorial Building, Renaissance Center, Hart Plaza.	Construction: Bonds; operating subsidy—none.	City of Detroit.
7—Dallas	Dallas Convention Center	10,000 seating, 525,000 sq ft exhibition space.	Everything welcome—conventions, trade shows, rock concerts.	None	Reunion Arena and Market Center.	Construction: Bonds; operating subsidy: Assortment of taxes on parking, telephones, shops.	City of Dallas.
8—San Diego	Convention and Performing Arts Center (Plaza Hall Golden Hall).	4,400 seats in Hall, 3,000 seats in Opera House; 66,436 sq ft exhibition space.	Conventions, trade shows	None: Users must comply with all city, State regulations and laws.	Town and Country Convention Center (private), San Diego Sports Arena, Sheraton Harbor Island Hotel.	Construction: Loan from city employees retirement fund, operating subsidy; percent of city tax on hotel/motel rooms.	City of San Diego.
9—Baltimore	Baltimore Convention Center (sister building with Civic Center).	5,000 seating, 115,000 sq ft exhibition space.	Conventions, trade shows, public events, shows, meetings, concerts, banquets.	None	Baltimore Civic Center (companion place).	Construction: Bonds; operation subsidy: General revenue appropriation.	City of Baltimore.
10—San Antonio	Henry B. Gonzalez Convention Center (includes sports arena and theater).	3,500 seating (theater), 16,000 (arena); 190,000 sq ft exhibition space.	Convention, sports, performing arts, miscellaneous public events (may not book in advance of 12 months).	None: Good taste and public interest.	The Majestic Theatre	Construction: Bonds; Federal urban renewal funds; operating subsidy: 4 percent hotel room tax and general city revenues.	City of San Antonio.
11—Phoenix	Phoenix Civic Plaza	1,274 seating, 240,000 sq ft exhibition space.	Conventions, exhibitions, meetings, dances.	None: Refused a punk rock group (mayor and council may review bookings—never have).	Arizona Coliseum	Construction: Bonds; operating subsidy: Hotel/motel, restaurant, and printing and advertising taxes.	City-owned, nonprofit corporation.
12—Indianapolis	Indianapolis Convention and Exposition Center.	10,000 seats (theatre), 140,000 sq ft exhibition space.	Conventions, trade shows, meetings, sports, concerts.	None: Business decisions can restrict use.	Market Place Arena (leased to private interest—no restrictions).	Construction: Bonds, donations, loans; operating subsidy: Public subsidy.	City of Indianapolis.
13—San Francisco	Musconi Center	8,000 seating, 288,000 sq ft exhibition space (including ballroom), 34 meeting rooms.	Conventions, trade shows	None: (Self-limiting)	Civic Auditorium and Brooks Hall.	Construction: Bonds; operating subsidy: Revenues earmarked from room tax.	City of San Francisco.
14—Memphis	Everett R. Cook Convention Center.	16,000 seating, 215,000 sq ft exhibition space.	Conventions, trade shows, sports.	None	Sports Coliseum	Construction: Bonds; operating subsidy: Room tax; operating costs subsidized by city/county.	City and county own jointly.
15—Washington, D.C.	Dwight D. Eisenhower Memorial Bicentennial Civic Center.	12,000 seating, 382,000 sq ft exhibition space.	Conventions, trade shows first priority.	Congress proposes no concerts, music, circuses, rodeo, sports, theater or other spectator events.	Capital Center, Kennedy Center, Constitution Hall, Wolf Trap, Sheraton Washington Hotel, D.C. Armory.	Construction: Bonds and hotel tax; operating subsidy: 7½ percent tax on hotel/motel rooms.	District of Columbia.
16—San Jose	San Jose Convention and Civic Center.	3,200 seating, 60,000 sq ft exhibition space.	Conventions, trade shows (two large and one small theater).	None: (Do not book hard rock).	Center for Performing Arts	Construction: Bonds; operating subsidy: Some from city (no room tax).	City of San Jose.
17—Milwaukee	Milwaukee Exposition, Convention Center and Arena (MECCA).	12,200 seating, 200,000 sq ft exhibition space.	Conventions, trade shows	None: (Except Communist Party).	Local hotels and convention centers in other cities.	Construction: Bonds; operating subsidy: City subsidy and room tax.	City of Milwaukee.
18—Cleveland	Cleveland Convention Center	10,000 seating, 475,780 sq ft exhibition space.	Conventions, trade shows, any other public event.	None	Cleveland Coliseum; Toledo, Dayton, Cincinnati, and Indianapolis Convention Centers.	Construction: Bonds; operating subsidy: Part room tax and money from city's general fund.	City of Cleveland.
19—Columbus	No major public facility	N/A	N/A	None on private facilities	Ohio Center (private)	Private donations	N/A.
20—Boston	John B. Hynes Veterans Auditorium.	5,000 seating, 150,000 sq. ft exhibition space (plans to expand for sports and concerts).	Conventions, trade shows	No rock concerts	Boston Garden (private)	Construction: Bonds; operating subsidy: Line item in city budget.	City of Boston (will be transferred to State Jan. 1, 1983.
26—St. Louis, Mo.	A. J. Cervantes Convention and Exhibition Center.	1,500 seating, 240,000 sq ft exhibition space.	Conventions, trade shows noncommercial events preferred.	No rock concerts	Kiel Auditorium (public), Bush Stadium, Checker Dome Arena.	Construction: Bonds; operating subsidy: Room tax, general revenues.	City of St. Louis.

CONVENTION CENTERS IN MAJOR U.S. CITIES—RESTRICTIONS, USES, SIZE, FINANCING—Continued

Rank in size 1980 census and city	Convention center	Seating capacity/exhibition space	Uses and policy	Restrictions	Possible competitive facilities	Financing	Owner
27—Kansas City, Mo.	K.C. Convention Center (Bartle Hall and Municipal Auditorium).	37,500 seating in hall and auditorium, 300,000 sq ft exhibition space.	Conventions and nonconvention events, sports and entertainment in auditorium.	None	American Royal Center Arena, Kemper Arena, Governers Expo Building, Harry S Truman Sports Complex.	Construction: Bonds, Kemper Foundation gift, Federal grant, American Royal contribution; operating subsidy: Hotel/motel and restaurant tax.	City of Kansas City.

Sources: Convention Center managers, Chief Executive Officers, General Counsels, Directors, various trade publications on Convention Centers.

WASHINGTON CONVENTION CENTER DEFINITE BOOKINGS

Organization	Convention dates	Exhibit area	Attendance
National Capital Area Auto Show: Cahners Expo, 221 Columbus Avenue, Boston, MA 02116	Jan. 5 to 9, 1983	Halls, A, B	Public show.
Washington Gift Show: Little Brothers Shows, Inc., 261 Madison Avenue, New York, NY 10016	Jan. 16 to 19, 1983	Hall D	Public show.
World of Wheels: Promotions South, Inc., 4140 Lapeer Road, Pontiac, MI 48057	Jan. 21 to 23, 1983	Halls, A, B	Public show.
Bicycle Dealers Showcase: Hester Communications, P.O. Box 19531, Irvine, CA 92713	Jan. 27 to 29, 1983	Hall A	8,000.
Hi-Fi Show: High Fidelity Music Show, Inc., P.O. Box 67, New Hope, VA 24469	Feb. 11 to 13, 1983	Hall D	Public show.
Rothstein Antique Show: 12 Chatham Street, Suffern, NY 10901	Feb. 18 to 20, 1983	Hall D	Public show.
Travel Fest 1983: Greater Washington Annual Travel Festival, Inc., 1518 K St., NW., Ste. 205, Wash., DC 20005	Feb. 18 to 20, 1983	Hall A	Public show.
National Capital Boat & R.V. Show: TJS Productions, 7668–B Fullerton Road, Springfield, VA 22153	Feb. 19 to 27, 1983	Halls, B, C	Public show.
Great American Motorcycle Show: Great American Media, Inc., 1055 East Waysata Blvd., Suite 211D, Wayzata, MN 55391	Mar. 4 to 6, 1983	Hall A	Public show.
The Flower Show: TJS Productions, 7668–B Fullerton Road, Springfield, VA 22153	Mar. 9 to 13, 1983	Hall A	Public show.
Federal Office Systems Expo: National Trade Productions, Inc., 9418 Annapolis Road, Suite 206, Lanham, MD 20801	Mar. 15 to 17, 1983	Halls, B, C	14,000.
The Second Home Show: Interart, 740 7th Streeet, S.E., Washingotn, D.C. 20003	Mar. 17 to 20, 1983	Hall D	Public show.
Bellman Antique Show: Bellman Promotions, 11959 Philadelphia Road, Bradshaw, MD 21021	Mar. 17 to 20, 1983	Hall A	Public show.
American Society of Association: Executives	Mar. 22 to 27, 1983	Halls A, B, C	6,000.
Building Process '83: World Computer Graphics Assn., 2033 M St., NW., Suite 250, Washington, D.C. 20036	Apr. 5 to 8, 1983	Halls C, D	6,000.
Women and the Law: c/o Antioch School of Law, 2633 16th Street, N.W., Washington, D.C. 20009	Apr. 8 to 10, 1983	Hall C	3,000.
Federal Data Processing Expo: Interface Group, 160 Speen Street, Framingham, MA 01701	Apr. 12 to 14, 1983	Halls B, C	10,000.
Capital Printing Show: Cahners Exposition Group, P.O. Box 3833, 999 Summer Street, Stamford, CT 06905	Apr. 14 to 16, 1983	Hall A	3,000.
Washington, DC Industrial Exhibition: Southex Exhibitions, Ste. 1530, Statler Bldg., 107 Delaware Ave., Buffalo, NY 14202	Apr. 19 to 21, 1983	Hall B	3,000.
Rothstein's Jewelry, Gem, Mineral Show: 12 Chatham Street, Suffern, NY 10901	Apr. 29 to May 1, 1983	Hall D	Public show.
Computer Showcase: Interface Group, 160 Speen Street, Framingham, MA 01701	May 5 to 8, 1983	Hall A	6,000.
International Development Conference: 1822 "R" Street, N.W., Washington, D.C. 20009	May 17 to 19, 1983	Rooms 18 to 37	1,000.
National Chapter I Instructional Conference: Colorado Department of Education/Chapter I Coordinators, 201 East Coljax Avenue, Denver, Colorado 80203.	May 23 to 25, 1983	Halls A, C	3,000.
Art Seven: Interart, 740 7th Street, S.E., Washington, D.C. 20003	June 2 to 6, 1983	Hall A	Public show.
Bellman Antique Show: Bellman Promotions, 11959 Philadelphia Road, Bradshaw, MD 21021	June 15 to 19, 1983	Hall A	Public show.
National Rural Electric Cooperative Association: 1800 Massachusetts Avenue, N.W., Washington, D.C. 20036	June 26, 1983	Rooms 30 to 31	200.
National Fancy Food and Confection Show: Cahners Exposition Group, P.O. Box 3833, Stamford, CT 06901	June 26 to 29, 1983	Halls A, B	10,000.
Taste of the Town: D&S Whyte Associates, 117 King Street, Ste. 200, Old Towne, Alexandria, VA 22314	July 9 to 10, 1983	Hall B	Public show.
Christian Booksellers Association: P.O. Box 200, Colorado Springs, CO 80901	July 18 to 21, 1983	Halls A, B, C	7,500.
Rothstein's Antique Show: 12 Chatham Street, Suffern, NY 10901	July 29 to 31, 1983	Hall D	Public show.
Washington Gift Show: Little Brothers Shows, Inc., 261 Madison Avenue, New York, NY 10016	Aug. 7 to 10, 1983	Hall D	
American Chemical Society: 1155 16th Street N.W., Washington, D.C. 20036	Aug. 28 to Sept. 1, 1983	Halls A, C	10,000.
Federal Computer Conference: P.O. Box 368, Wayland, Massachusetts 01778	Sept. 14 to 15, 1983	Halls B, C	
International Glass Metal Show: InterGlassMetal Corporation, 110 E. 42nd St., New York, New York 10017	Sept. 29 to Oct. 1, 1983	Halls A, B	3,000 to 4,000.
Medical Society of D.C.: 20007 Eye Street N.W., Washington, D.C.	Oct. 6 to 7, 1983	Rooms 28 to 31	300.
1983 Photo Show: Int'l Photo Optical Show Assoc., 1560 Broadway, Suite 514, New York, NY 10036	Oct. 6 to 9, 1983	Hall D	Public show.
World Graphics '83: World Computer Graphics Assn., 2033 M St., N.W., Suite 250, Washington, D.C. 20036	Oct. 10 to 14, 1983	Halls B, C	
National Association of College Admissions Counselors: 9933 Lawier Avenue, Suite 500, Skokie, IL 60077	Oct. 16 to 17, 1983	Hall D	3,000.
Gutenberg International: P.O. Box 11712, Santa Ana, CA 92711	Oct. 20 to 23, 1983	Halls A, B	20,000.
Bellman Antique Show: Bellman Productions, Inc., 11959 Philadelphia Road, Bradshaw, MD 21021	Oct. 27 to 30, 1983	Hall D	Public show.
Federal Office Automation Conference: P.O. Box E, Wayland, Massachusetts 01779	Nov. 2 to 3, 1983	Halls B, C	
Design for Living Show: 12 Chatham Street, Suffern, NY 10901	Dec. 9 to 11, 1983	Hall D	Public show.
Bicycle Dealer Showcase Expo/East	Jan. 27 to 29, 1984	Hall B	8,000.
Communications Network	Jan. 31 to Feb. 2, 1984	Halls, A, C	2,500.
Food Processing Machinery & Supplies Association	Feb. 12 to 15, 1984	Halls A, B, C	9,000.
World of Concrete	Feb. 27 to Mar. 1, 1984	Halls A, B, C, D	12,000.
Software Info	Mar. 13 to 15, 1984	Hall A	7,000.
Baptist Fundamentalism "84"	Apr. 11 to 13, 1984	Halls A, B, C, D	20,000.
Council for Exceptional Children	Apr. 25 to 27, 1984	Halls C, D	11,000.
American Institute of Aeronautics & Astronautics	May 1 to 4, 1984	Halls B, C	5,000 to 10,000.
American Bankers Association—National Operations and Automation	May 13 to 16, 1984	Halls A, B, C	3,500.
American Booksellers Association	May 26 to 29, 1984	Halls A, B, C, D	16,000.
Amway Corporation, Voting Member Convention	June 14 to 15, 1984	Halls A, B, C	9,000.
National Education Association	June 29 to July 4, 1984	Halls A, B, C, D	12,000 to 14,000.
Church of God in Christ—UNAC	July 9 to 14, 1984	Hall A	12,000 to 15,000.
Alpha Kappa Alpha Sorority	July 23–27, 1984	Halls A, D	8,000 to 10,000.
American Association of Clinical Chemistry	July 30 to Aug. 1, 1984	Halls B, C	8,500.
Pentecostal Assemblies of the World	Aug. 3 to 12, 1984	Hall C	6,000.
International Public Transit Expo '84	Oct. 1 to 4, 1984	Halls A, B, C	6,000 to 10,000.
American Dietetic Association	Oct. 15 to 18, 1984	Halls A, B, C	8,500.
Atlantic Cable Show	Oct. 24 to 26, 1984	Halls B, C	3,000.
U.S. League of Savings Associations	Oct. 28 to 31, 1984	Halls A, B, C	5,000.
Gutenberg International	Oct. 15 to 18, 1984	Halls A, B	25,000.
Radiological Society of North America	Nov. 25 to 30, 1984	Halls A, B, C, D	20,000.
Golf Course Superintendents of America	Feb. 9 to 12, 1985	Halls A, B, C	6,000.
National Micrographics Association	Apr. 30 to May 2, 1985	Hall B	6,000.
National Solid Waste Management Association	May 8 to 10, 1985	Halls A, B, C	5,000.
American College of Obstetricians & Gynecologists	May 13 to 15, 1985	Halls A, C	6,500.
International Car Wash Association	June 16 to 19, 1985	Hall A	4,000 to 5,000.
International Word Processing Association	June 18 to 20, 1985	Halls B, C	8,000.
Professional Picture Framers Association	July 13 to 16, 1985	Halls A, B, C	4,000.
National Urban League	July 21 to 23, 1985	Halls A, D	6,000.
Society of Exploration Geophysicists	Oct. 7 to 10, 1985	Halls A, B, C, D	12,000.
American Federation of Information Processing Societies	Feb. 17 to 19, 1986	Halls B, C	8,000.
American Institute of Aeronautics & Astronautics	Apr. 29 to May 2, 1986	Halls B, C	5,000 to 10,000.
American Psychiatric Association	May 12 to 15, 1986	Halls A, B, C	12,000.
Triple Industry Supply Association	May 19 to 20, 1986	Halls B, C	5,000.
American Society of Biological Chemists	June 9 to 12, 1986	Halls A, B, C	9,500.
Society of Nuclear Medicine	June 22 to 25, 1986	Halls B, C	6,000 tp 8,000.
Communication Workers of America	July 6 to 11, 1986	Hall A	3,000 to 4,000.
American Philatelic Society	Aug. 21 to 24, 1986	Hall A	7,500.
Tenth World Congress of Cardiology	Sept. 15 to 19, 1986	Halls A, B, C	10,000.
American Academy of Family Physicians	Sept. 29 to Oct. 2, 1986	Halls A, B, C	7,500.
Truck Body and Equipment Association	Oct. 20 to 22, 1986	Hall A	3,000.
Society of Neuroscience	Nov. 10 to 14, 1986	Halls A, C	9,500.
Communications Network	Feb. 10 to 12, 1987	Halls A, C	2,500.
Federation of American Societies for Experimental Biology	Mar. 29 to Apr. 3, 1987	Halls A, B, C	15,000.
American Orthopedic Association	May 4 to 8, 1987	Halls A, B, C	6,000.

WASHINGTON CONVENTION CENTER DEFINITE BOOKINGS—Continued

Organization	Convention dates	Exhibit area	Attendance
Kiwanis International	July 5 to 8, 1987	Halls A, B, C	20,000.
American Hospital Association	July 27 to 29, 1987	Halls A, B, C	11,000.
World Federation of Societies of Anesthesiologists	May 22 to 27, 1988	Halls B, C	8,000.
Construction Specification Institute	June 24 to 26, 1988	Halls A, B, C	6,000.
American Institute of Ultrasound in Medicine	Oct. 18 to 23, 1988	Halls B, C	5,000.
National Rural Electric Cooperative Association	Feb. 13 to 15, 1989	Halls, A, B, C	12,000.
National Soft Drink Association	Nov. 13 to 15, 1989	Halls A, B, C, D	10,000 to 12,000.
Communications Network	Feb. 6 to 8, 1990	Halls A, C	3,000.
National Water Well Association	Oct. 20 to 23, 1991	Halls A, B	5,000.
Communications Network	Feb. 2 to 4, 1993	Halls A, C	3,000

ROLE OF WASHINGTON CONVENTION AND VISITORS ASSOCIATION

Under the Convention Center booking policy, the Washington Convention and Visitors Association (WCVA) is designated as the official sales organization for the Center. With the consent of the Convention Center Board of Directors, WCVA will have the exclusive right to reserve all of the Convention Center facilities (with the exception of that area that may be designated for retail sales) for any event that will occur more than 18 months in the future. This policy also provides that the staff of the Center will work closely with the Convention and Visitors Association in developing promotional material, undertaking special marketing and sales efforts, and coordinating arrangements for the use of the Center by various groups.

By virtue of its ties with the Convention Center and local hotels and its affiliation with the International Association of Convention and Visitors Bureaus—and the information exchange within that Association regarding the needs and requirements of the potential users—the Washington Convention Center and Visitors Association possesses a unique capability to serve as the liaison between the potential customers and the District business community. It is the ideal organization for coordinating convention sales, promotion, housing, registration, planning and other related services.

As the sales organization for conventions and trade shows, the Washington Convention and Visitors Association will control the master advance booking calendar which will be maintained in the Association office. To coordinate the Association's and the Convention Center's marketing efforts a duplicate set of booking calendars will be maintained in the Center's offices. The Washington Convention and Visitors Association will have the right to make the Center available, including reserving dates, committing specific areas in the facility, and quoting current rental rates. Final rates will be confirmed at the time of contract signing.

Requests for reservation of dates from the Washington Convention and Visitors Association must be submitted in writing, identifying in detail overall dates and areas required. Requests will be addressed to the Convention Center General Manager and will only be considered a commitment when acknowledged by the General Manager.

For dates less than 18 months in the future, the Convention Center management will be responsible for booking those areas of the facility not previously committed. In scheduling the short-term events, the Convention Center General Manager will consider such factors as crowd control and the compatibility of events.

The key objective of the Convention Center is to serve as a generator of convention dollars brought into the community by convention delegates and exhibitors. This objective shall dominate booking and reservation functions.

When booking the Convention Center, consideration shall be given by both the Washington Convention and Visitors Association and the Convention Center management to the following factors:

(a) Projected overall economic impact on the City;

(b) Total number of hotel rooms required;

(c) Projected revenue to the facility both in terms of direct space rental revenue as well as projected revenue from concessions and other building services;

(d) Time of year;

(e) Potential for repeat booking; and

(f) Previous history and experience of the potential user with respect to use of similar facilities.

The primary function of the Center is to secure a market unique in itself and not in competition with currently available facilities. The primary type of events that may be scheduled include conventions, large meetings, trade shows and other flat floor exhibits. These events shall be given priority in accordance with Sections 406 through 409.

If special circumstances exist which would justify departing from the policy stated in subsection 400.3, the facility may be temporarily converted to handle such events as show-case concerts, theatre-style events, or sports events. Conversion may be made only with the express approval of the General Manager.

Any costs incurred in temporary conversion of the facility for non-primary events as described in subsection 400.4 must be covered by the particular promoter requesting those conversions.

OFFICIAL REPRESENTATIVE

The Washington Convention and Visitors Association shall be the official convention sales organization representing the Center. It shall serve as liaison between the customer and the community in terms of convention sales, promotion, housing, registration, planning, and other related services.

The duties, responsibilities, and obligations of the Washington Convention and Visitors Association shall be outlined in a written agreement which must be approved by the Board.

In carrying out its designated function, the Washington Convention and Visitors Association shall conform to and be bound by all provisions of this Chapter.

As the official representative, the Washington Convention and Visitors Association shall have the right to negotiate tentative arrangements with customers including reservation of dates, the committing of specific areas in the facility, and the quoting of current rental rates. Final rates will be confirmed at the time of contract signing.

CONTRACT APPROVAL

The Board of Directors shall be the final approving authority for all arrangements negotiated by the Convention and Visitors Association.

Each contract negotiated with a user of the Convention Center shall contain a clause in a clear and prominent location stating "All terms of this contract are subject to approval by the Board of Directors, Washington Convention Center."

LONG TERM ADVANCE RESERVATIONS

The Washington Convention and Visitors Association shall be responsible for booking all facilities in the Convention Center for any time more than eighteen (18) months in advance of the desired date.

The authority of the Convention and Visitors Association to reserve facilities shall not extend to that area designated for retail sales.

SHORT TERM ADVANCE RESERVATIONS

The Convention Center General Manager shall be responsible for booking any area of the facility not booked by the Convention and Visitors Association more than eighteen (18) months in advance.

In scheduling events within eighteen (18) months of the date of the event period, the General Manager shall consider appropriate factors, including (but not limited to) crowd control and compatibility, prior to agreeing to lease unused portions of the facility.

The Convention Center shall not release dates tentatively scheduled until first clearing those tentative dates with the Convention and Visitors Association, to insure there is no conflict with long-term advance reservations.

BOOKING CALENDAR

The Washington Convention and Visitors Association shall maintain the master advance booking calendar, and shall keep it in an appropriate location in their offices so that it may be available to the General Manager.

The General Manager of the Convention Center shall maintain a duplicate set of booking calendars at an appropriate location in the Convention Center offices.

FIRST PRIORITY BOOKINGS

First priority shall be given to conventions and trade shows which are international, national, or regional in nature, and which will have a significant impact on the hotel community in terms of hotel room patronage.

A signed, fully-executed contract for first priority events must be on file in the Manager's office no later than eighteen (18) months prior to the event and must be accompanied by a certified check, in the amount of at least ten percent (10%) of the total estimated rental.

A firm rental rate shall be guaranteed for first priority events at time of contract signing; provided, that contract signing occurs no sooner than two (2) years prior to the event.

SECOND PRIORITY BOOKINGS

The second priority for dates shall be given to multiple-day annual public shows

such as sport shows, boat shows, and similar events. These public shows shall be revenue producing events, from which the Washington Convention Center will receive a percentage of ticket sales.

Second priority events shall not be booked more than eighteen (18) months in advance of the event.

A contract shall be issued no sooner than eighteen (18) months prior to the event. A deposit representing at least twenty-five percent (25%) of the anticipated rental must accompany the contract.

THIRD PRIORITY BOOKINGS

Local multiple-day events shall be given third priority. When space is available, reservations will be taken by local, multiple-day events.

Reservations for third priority events shall not be made until the eighteen (18) month advance reservation period for first priority events has elapsed.

A contract shall be issued no sooner than twelve (12) months prior to third priority events. A deposit in the amount of rental for at least one full day must accompany the contract.

FOURTH PRIORITY BOOKINGS

Single-day local events shall be given fourth priority.

Requests for fourth priority events may be honored no sooner than six (6) months prior to the event, on a space-available basis, in order to allow the General Manager the opportunity of first booking local, multiple-day events.

A deposit of the full rental amount shall be received at the time of the signing of the contract for fourth priority events.

MEMORANDUM

To: George Demarest.
Thru: Alan Grip.
From: Khalil Johnson.
Date: May 6, 1982.

The following groups have bookings at the Washington Convention Center which require assembly-type seating for more than 3,000 in 1984, 1985:

1. Baptist Fundamentalism '84, 04/11-13/84, (20,000).
2. National Education Association, 06/29-07/04/84, (12-14,000).
3. Church of God in Christ—UNAC, 07/09-14/84, (12-15,000).
4. Alpha Kappa Alpha Sorority, 07/22-27/84, (8-10,000).
5. Pentecostal Assemblies of the World, 07/31-08/12/84, (6,000).
6. Church of God (Tennessee), 08/13-18/84, (15,000).
7. American College of Obstetricians and Gynecologists, 05/12-16/85, (6,500).
8. Women's International Convention, 05/27-06/01/85, (6,000).
9. American Baptist Association, 06/16-21/85, (3,000).
10. National Urban League, 07/20-25/85, (6,000).

In addition to the above in 1984, 1985, the following groups already have bookings spread over the next five years—1986-1990—which have similar assembly-type seating requirements:

1. Communications Workers of America.
2. National Rurl Electric Cooperative.
3. Kiwanis International.
4. Society for the Preservation and Encouragement of Barber Shop Quartet Singing in America.
5. Million Dollar Roundtable.
6. American Association of Operating Room Nurses.
7. American Business Women's Association.

Mr. RUDMAN. Mr. President, will the Senator from Missouri yield me 5 minutes?

Mr. EAGLETON. I am delighted to yield to my colleague from New Hampshire.

Mr. RUDMAN. Mr. President, being a member of the authorizing committee, let me just speak, if I may, very briefly on this issue.

The Senator from Missouri has, I think, in a very excellent and studious way outlined the entire legislative history of this convention center. I do not think it will be necessary, therefore, to repeat any of it.

Let me just make several observations;

First, if one were to look at the history of various attempts that have been made along the way to limit the use of this facility, it seems to me that we would end up with a facility being built at great public cost with extraordinarily limited use.

We all know why we are here talking about this. Obviously, there is an arena some distance from this building that is known as the Cap Centre that obviously would like to have as little competition as possible. I can understand that. But I certainly do not agree with it.

It seems at least to me that the District of Columbia, the city of Washington, should have a first-class convention center that can be used for all of those things that its directors deem appropriate.

For us, on the one hand, to see an expenditure of a large amount of public funds and then, on the other hand, place limitations of any kind is not prudent business practice and it is not good government.

Looking at the record of the Capital Centre and its performance over the last 5 or 6 years from available public records, it could not be said that that facility is in any financial difficulty, although it might be said that some of the sports teams might be. When one looks at the way they play their games it is no wonder.

Let me simply say that the Senator from Missouri has stated adequately the reasons why we should vote to make sure that this convention center when it opens can be opened to the residents and visitors to this city for whatever legitimate reasons the city government and its board of directors think appropriate.

We should not in any way restrict it. We should not confine it. And least of all should we do things for the benefit of a single enterprise, be it private enterprise, which somehow feels that it wants almost no competition at all.

It is my understanding that there will be an amendment offered which will purportedly limit the kind of exclusions that are spoken of in the pending matter before us by inserting certain words prior to the words that appear before each of the current restrictions.

It seems to me all we are doing then is to create a legal nightmare that will end up in the courts in which each event that is being presented by anything other than an eleemosynary institution will end up being challenged as somehow impinging on the language that was passed by this body.

So, Mr. President, I join my colleague from Missouri, and others, in hoping that we will, in fact, vote this restriction down, hopefully get this convention center completed, and the city will do that, and have a first class facility in this city to be used like other first class cities around this country for whatever purpose convention centers should be used for in the eyes of the local government and the people who live here.

Mr. EAGLETON. Mr. President, I thank my colleague.

Mr. President, I am going to have printed in the RECORD three letters. But before having them printed in the RECORD in their entirety, let me read some excerpts from them.

First is a letter from Mayor Marion Barry dated December 2, 1982. This is a quotation in part:

> The development and use of the Convention Center clearly involves no federal interest whatsoever. Therefore, Congress should exercise restraint in limiting in any way the use of this facility.
>
> As a practical matter the test of Congressional authority with respect to local District matters has been the review of pertinent federal interest. But there is a higher standard that needs to be reviewed. That standard is the philosophical commitment of the Congress to the principles of self-government. Almost eight years ago the Congress granted the citizens of the District of Columbia limited Home Rule. Since that time there have been a number of occasions when Members of the House or Senate have sought to modify or negate District programs or laws or to impose other restrictions or requirements. On these occasions, and I do not include those where there has been a legitimate federal interest, the Congress has retreated from their commitment to the people of this city. To place restrictions on the use of the Convention Center would be a similar breach of trust.

Then a letter dated December 7 from the District of Columbia City Council signed by Charlene Drew Jarvis, chairperson of the Committee on Housing and Economic Development. She writes in part:

> According to recent budgetary forecasts, the District expects a revenue shortfall of $109 million in this fiscal year alone and some believe it will grow to $257 million by 1987. Non-convention activities, held on days when no conventions are booked and the Center would otherwise be idle, could help reduce this shortfall.
>
> In cities with comparable 100,000 seat facilities, single night concert performances have generated significant revenues for

those cities and businesses. A recent survey revealed that within the last six weeks in eight other cities (Rochester, New York; Tucson, Arizona; Tulsa, Oklahoma; Worchester, Massachusetts; New Haven, Connecticut; Austin, Texas; Charlotte, North Carolina; Milwaukee, Wisconsin) one night concerts with a seating capacity of 10,000 or fewer generated a total of $902,696 in gross revenues.

Were the D.C. Convention Center available for only twenty single night concerts a year, $2 million in gross revenues could be generated, $240,000 of which would pass to the Center in rental income. This figure, of course, does not include concession profits, parking fees, merchandise sales, and other business revenues generated in the Downtown D.C. area.

The final letter that I will put in is from Matthew Watson, the former Auditor of the District of Columbia, and he raises this interesting point:

One serious impediment to management improvement in the District of Columbia government has been seemingly random Congressionally imposed limitations which restrict management flexibility. Such restrictions create a legal thicket which must be passed to determine the propiety of programs and expenditures. Resources at all levels of government today, particularly in planning and financial areas, are too scarce to burden with such extra requirements. Not only do such restrictions actually inhibit efficient operations, but they are sometimes used to shield unimaginative and inefficient administration.

The restrictions on use of the Convention Center contained in the FY 1983 appropriation bill, in addition to hampering efficient operation of the Center, may also adversely effect potential revenue. I strongly urge that these restrictions be rejected . . .

Mr. President, I ask unanimous consent that the three letters, one from the Mayor, one from the City Council, and one from Mr. Watson be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE DISTRICT OF COLUMBIA,
Washington, D.C., December 2, 1982.

Hon. THOMAS F. EAGLETON,
Ranking Minority Member, Senate Government Affairs Subcommittee on Governmental Efficiency and the District of Columbia, U.S. Senate, Washington, D.C.,

DEAR SENATOR EAGLETON: I greatly appreciate your efforts on behalf of the District of Columbia to insure that the District of Columbia Appropriations Act for Fiscal Year 1983 does not contain language restricting the use of the Convention Center.

As you have eloquently stated in the past, the basis of Congressional involvement in the local affairs of the District of Columbia should be limited to issues of overriding federal importance. The development and use of the Convention Center clearly involves no federal interest whatsoever. Therefore, Congress should exercise restraint in limiting in any way the use of this facility.

As a practical matter the test of Congressional authority with respect to local District matters has been the review of pertinent federal interest. But there is a higher standard that needs to be reviewed. That standard is the philosophical commitment of the Congress to the principles of self-government. Almost eight years ago the Congress granted the citizens of the District of Columbia limited Home Rule. Since that time there have been a number of occasions when Members of the House or Senate have sought to modify or negate District programs or laws or to impose other restrictions or requirements. On these occasions, and I do not include those where there has been a legitimate federal interest, the Congress has retreated from their commitment to the people of this city. To place restrictions on the use of the Convention Center would be a similar breach of trust.

Specifically, any area of competition between the District's Convention Center and other facilities in the region should be worked out directly between the affected governments. It should not be resolved by Congessional interference. This would not be done in any other jurisdiction in this country. Moreover, I believe that any area of competition is extremely limited and can be worked out to the satisfaction of the parties. There are many areas of intergovernmental cooperations within the region, ranging from sewage treatment to mass transportation. This is just another issue of regional interest.

It is true that I associated myself with language providing for limited restrictions on the Convention Center. At the time these discussion were held, it appeared that our entire budget would be held up. There were so many programs to be funded and our budget is so vital that I supported what appeared to be the "lesser of the evils." However, I indicated at that time my preference for an appropriation act free of restrictions, both because this issue is not budget related and because if there is a concern it is one that should be left to the local governments to address.

Your support on the District's behalf is greatly appreciated. You have supported us down through the years and we have come to rely on your efforts. It is sometime easier to fight for principle than to live by it. Thank you for doing both.

Sincerely,

MARION S. BARRY, Jr.,
Mayor.

COUNCIL OF THE DISTRICT OF COLUMBIA,
Washington, D.C., December 7, 1982.

Hon. THOMAS EAGLETON,
Committee on Appropriations,
U.S. Senate, Washington, D.C.

DEAR SENATOR EAGLETON: The Washington Convention Center represents a critical investment in the District's future: for the jobs it will create for many of our unemployed residents, for the vitality it will bring to the downtown area, and for the revenues it will generate for local merchants as well as D.C. government. The proposed amendment which would prohibit concerts, sporting events, and other entertainment activities from the Washington Convention Center will result in a substantial loss of needed revenues to the District of Columbia.

The approval of such an amendment could be a telling blow to the District in face of federal budget cuts and sustained demands for increased police protection, better public schools, and financial stability. The ability of the D.C. government to generate additional tax dollars to serve the needs of its 650,000 residents by levying a commuter tax has already been compromised. Further Congressional action to establish parameters for the operation of the Convention Center severely inhibits the capacity of this city to grow economically.

According to recent budgetary forecasts, the District expects a revenue shortfall of $109 million in this fiscal year alone and some believe it will grow to $257 million by 1987. Non-convention activities, held on days when no conventions are booked and the Center would otherwise be idle, could help reduce this shortfall.

In cities with comparable 10,000 seat facilities, single night concert performances have generated significant revenues for those cities and businesses. A recent survey revealed that within the last six weeks in eight other cities (Rochester, New York; Tucson, Arizona; Tulsa, Oklahoma; Worchester, Massachusetts; New Haven, Connecticut; Austin, Texas; Charlotte, North Carolina; Milwaukee, Wisconsin) one night concerts with a seating capacity of 10,000 or fewer generated a total of $902,696 in gross revenues.

Were the D.C. Convention Center available for only twenty single night concerts a year, $2 million in gross revenues could be generated, $240,000 of which would pass to the Center in rental income. This figure, of course, does not include concession profits, parking fees, merchandise sales, and other business revenues generated in the Downtown D.C. area.

As Member of the Committee on Appropriations, I urge you to vote against the restrictive language in Section 123 of the "District of Columbia Appropriations Bill, Fiscal Year 1983."

Sincerely,

CHARLENE DREW JARVIS,
Chairperson,
Committee on Housing and Economic Development.

KASWELL, PERAZICH & WATSON, P.C.,
Washington, D.C., December 2, 1982.

Hon. ALFONSE M. D'AMATO,
Chairman, Subcommittee on District of Columbia Appropriations, Senate Office Building, Washington, D.C.

DEAR SENATOR D'AMATO: I am a practicing attorney in the District of Columbia. Between 1975 and 1981, I was District of Columbia Auditor. As Auditor, I was charged by act of the United States Congress with conducting studies and making recommendations to the Mayor, the Council and the Congress to improve the management of District of Columbia agencies. I am concerned with restrictions on the use of the new Convention Center now being considered by the Senate.

One serious impediment to management improvement in the District of Columbia government has been seemingly random Congressionally imposed limitations which restrict management flexibility. Such restrictions create a legal thicket which must be passed to determine the propriety of programs and expenditures. Resources at all levels of government today, particularly in planning and financial areas, are too scarce to burden with such extra requirements. Not only do such restrictions actually inhibit efficient operations, but they are sometimes used to shield unimaginative and inefficient administration.

The restrictions on use of the Convention Center contained in the FY 1983 appropriation bill, in addition to hampering efficient operation of the Center, may also adversely effect potential revenue. I strongly urge that these restrictions be rejected in the interest of encouraging, rather than discouraging, effective management in the District government. It is clearly in our interest as residents, as well as in the Federal interest,

to improve the financial viability of the District.

Sincerely,

MATTHEW S. WATSON.

● Mr. GLENN. I am pleased to join Senators EAGLETON and RUDMAN as a cosponsor of an amendment to strike unwarranted language restricting the use of the newly constructed D.C. Convention Center from H.R. 7144, the D.C. appropriations bill for 1983. The amendment would delete language in the bill which would preclude the use of the center for any concert, athletic event, or similar entertainment activity.

I support the concept and philosophy of home rule for the District of Columbia. The District should be free to run its own internal affairs without interference by the Federal Government, except in matters involving a clear, overriding Federal interest.

My Senate colleagues should join us in the amendment to strike this language. Multipurpose use of the facility will provide additional revenue to help pay for the center; it will help avoid "dark days" during which no convention or trade show can be booked. In addition, because of its design and booking policy, the center will be used primarily for conventions and trade shows. Thus, it will not become a major competitor of local sports and entertainment facilities. For example, although the center's schedule has been substantially filled for 1983 through 1985, only conventions and trade shows have been booked to date.

The emergence of "restrictive use" language is relatively recent in the legislative history of the center. The early history does not indicate that Congress contemplated imposing such a restriction, and the record contains no adequate justification for doing so.

It would be unfair to saddle the center with use restrictions when no other major city, that is of the 21 largest cities, impose such restrictions on the use of their convention centers. Furthermore, since there is no overriding Federal interest in this instance, it is philosophically unjustified for Congress to interfere with the use of this facility by the District of Columbia.

I hope that the Senate will follow the action of the House of Representatives which recently deleted similar restrictive use language from its version of the D.C. appropriations bill for 1983, H.R. 7144.●

Mr. EAGLETON. I now yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator from Vermont yield for a question?

Mr. LEAHY. Of course, I will be happy to.

Mr. HARRY F. BYRD, JR. Does the Senator from Virginia understand correctly that the total operating expenses for the District of Columbia represented by the bill now before the Senate, the legislation now before the Senate would be $1.919 billion in round figures, leaving off the odd figures?

Mr. LEAHY. Under the bill it would be $2 billion——

Mr. HARRY F. BYRD, JR. No; I am speaking of operating expenses.

Mr. LEAHY. Operating expenses, I am sorry.

Mr. HARRY F. BYRD, JR. As differentiated from the capital——

Mr. LEAHY. Not only is the Senator correct but even the rounding off of the odd numbers would appear to be still, at least in Vermont, a large amount of money.

Mr. HARRY F. BYRD, JR. So this bill would mean the District of Columbia would have for operating expenses $1,919,000,000.

Mr. LEAHY. Yes; the Senator is correct.

Mr. HARRY F. BYRD, JR. As I understand the figures for the year just ended, the operating expenses were $1,694,000,000.

Mr. LEAHY. The Senator once again is correct.

Mr. HARRY F. BYRD, JR. If my arithmetic is correct, if one subtracts the proposed amount of what was spent for fiscal 1982, it gives an increase of $245 million or a 14-percent increase in operating expenses.

Mr. LEAHY. The figures the Senator is giving sound very, very close if not exactly correct, but they are certainly within my understanding of the ball park figure.

Mr. HARRY F. BYRD, JR. So the cost of operating the District of Columbia, the expenses for operating the District of Columbia, will increase under this legislation by 14 percent.

Mr. LEAHY. The Federal share, I understand from the chairman's staff, is raised by 7 percent. The rest is raised as a matter of local revenues.

Mr. HARRY F. BYRD, JR. Wherever the money comes from, the cost of operating the government will increase 14 percent.

Mr. LEAHY. Absolutely, the Senator is correct.

Mr. HARRY F. BYRD, JR. I guess that is really the point I wanted to establish.

I am just wondering whether this Congress is prepared to vote sums of money that will permit the government of the District of Columbia to increase its operating expenses by 14 percent. I thank the Senator.

Mr. LEAHY. The Senator raises, as always, a good point. We also would, if the amendment before us were to go through, go even a step further. We would make sure that we also operate what normally would be considered a commercial venture, a private enterprise venture, for the city, but that is to go from being a convention center to going to, in effect, commercial sports, entertainment, and cultural arena, with the Federal Government guaranteeing a fairly significant part of those operating expenses.

The Senator from Virginia well remembers the strong objections I imposed for a number of years to the convention center, which then was going to be a $200 million white elephant. They reduced the cost to a $100 million boondoggle, and at that time, as the Senator recalls, the argument made by the city was that it would be done as kind of a joint city and business sector operation for conventions. The city was at that time either the No. 1 or No. 2 convention city in the country, but they said the one thing the city could not handle were conventions. By cutting the cost down to $100 million they assured the Congress that they would be able to handle it. As a consequence, we supported it.

Now, of course, they want an arrangement which would allow them to enter into a commercial enterprise with none of the risks which most business people have to take. Instead they would do it hoping we would always be here to bail them out.

I might say in that regard that I agree very much with the Senator from Missouri that we should not be stopping local schools from being able to use the facility for their sporting events and for a number of other things. Once his time is yielded back, I will then submit a substitute which would allow a number of the locally sponsored operations he discussed to be scheduled, if accepted by the Senate.

But I digress from the original point the Senator from Virginia was making.

Mr. HARRY F. BYRD, JR. I was not addressing the amendment.

Mr. LEAHY. I understand the Senator was not. I did not want to leave the impression he was, but I just wanted to point out some of my concerns that continue to this day, even though I no longer hold that lofty, exalted position of chairman, the position fought for so assiduously by the 100 Members of this body, and which I had to give up, of course, with great reluctance 2 years ago. [Laughter.]

Mr. HARRY F. BYRD, JR. It is interesting to note that the population of the District of Columbia has gone down from 797,000 in 1965 to 637,000, a reduction of about 20 percent, but the per capita costs have gone way up; a substantial reduction in population but the cost of Government is going up at a faster rate than when the population was greater.

I am concerned about an increase of 14 percent, and I just do not see how this Congress can justify passing legislation that will permit the cost of Government to increase by 14 percent.

Mr. EAGLETON. Mr. President, I ask the Senator from Vermont if he is

willing to yield back the remainder of his time.

Mr. LEAHY. Mr. President, how much time remains on the subsitute?

The PRESIDING OFFICER (Mr. QUAYLE). Twenty minutes equally divided.

Mr. LEAHY. I am perfectly willing, in the absence of the junior Senator from New York, to yield back the managers' time on this if the Senator from Missouri is willing to yield back his remaining time, after which I am willing to introduce a substitute.

Mr. EAGLETON. Mr. President, that is all right with me. I yield back the remainder of my time.

Mr. LEAHY. Mr. President, I yield back the managers' time on the same amendment.

UP AMENDMENT NO. 1417 IN THE NATURE OF A SUBSTITUTE TO UP AMENDMENT NO 1416

(Purpose: To offer a substitute to the pending bill)

Mr. LEAHY. Mr. President, I send an amendment to the desk in the nature of a substitute and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Vermont (Mr. LEAHY), for himself and Mr. D'AMATO, proposes an unprinted amendment numbered 1417 in the nature of a substitute to unprinted amendment numbered 1416.

In lieu of the language proposed to be stricken, insert the following:

(a) No funds available in fiscal year 1983 or thereafter pursuant to this or any other Act may be used for leasing, promoting, or permitting the occupancy or use of any part of the Washington Convention Center (including any related facility) for any professional concert, athletic event, or similar entertainment activity (as defined in subsection (b)), unless—

(1) such activity is incidental to a convention, meeting, trade show, product exhibition, or similar primary event held at the Center, and the activity is of a type customarily performed as part of the primary event;

(2) admission to the activity is limited to those attending the primary event; and

(3) allowing the activity to occur is consistent with the purpose of promoting the use of the Center as a national and regional convention and trade show center.

(b) For purposes of this section, the term "professional concert, athletic event, or similar entertainment activity" includes—

(1) any professional concert,

(2) any professional athletic competition, or performance

(c) For purposes of this section, the term "professional concert, athletic event, or similar entertainment activity" (as defined in paragraph (1)) shall not include any event which is conducted solely for educational, charitable, eleemosynary, religious, or philanthropic purposes.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I am speaking for the committee. I would like to make a couple of brief points in regard to the argument made by the Senator from Missouri.

Both the Constitution and the Home Rule Act reserved the right of Congress to enact restrictions noted here. I commend the Senator for his involvement in the authorship of the Home Rule Act. In authoring it and passing it, those same restrictions were supported by him and became part of the law.

I also yield to nobody in an effort to move matters toward home rule. I voted for various home rule matters here in this city, I think, perhaps, more than any other Member in this body. I certainly know that I have been roundly criticized by just about every single issue group, especially those on the right, back in Vermont for supporting the city to the extent that I have.

I would like to point out the District's own convention board agrees with my interpretation of the legislative history.

These are their own words:

As I hope you all know, the sole purpose for building this long overdue facility—and the justification for its operating budget—is to attract the hundreds of major national and international conventions, conferences, and trade shows, and the hundreds of thousands of delegates and exhibitions to our city.

They were asked the following question:

Are any of you gentlemen aware of any written documentation that relates to previous legislative history indicating the Washington Convention Center is not to be used for certain purposes or activities?

The city's own Convention Board responded:

To the best of our knowledge, none of the testimony that was given in the past by proponents of the Convention Center anticipated the building being used for anything other than the national conventions and local flat floor shows that are currently reflected in our bookings . . ."

The chairman of the subcommittee and I both sat down with the Chairman of the Convention Board. He indicated that he supported the language in the bill. That is why I have put this in, to accommodate the concerns raised in the discussion. That is why I have put in this compromise amendment to make clear that charitable events are not restricted.

It removes limitations related to circuses and rodeos. I would allow local sporting events of schools that we have discussed.

I do this notwithstanding the fact that the mayor, on the day the committee approved the D.C. bill with the restrictions, hailed the bill as another positive step forward for the District, stating no objections whatsoever.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. EAGLETON. Mr. President, I rise in opposition to the substitute.

Mr. President, what we now have here, instead of the "outright greed" in the section already in the bill, is "sanitized greed," the greed of Mr. Abe Pollin.

It is a great generosity that the Senator from Vermont is now going to permit a couple of college games to be played in the D.C. Convention Center. For that partial help, I say thank you.

But if you read his amendment in full, it says this: Anything that is going to make money, Abe Pollin gets, and anything that is eleemosynary, anything that will be charitable or lose money, the D.C. Convention Center gets. "Thank you, Abe."

Can you imagine Abe Pollin calling up Mayor William Schaefer of Baltimore—and his Capital Centre is not all that far from Baltimore—and saying, "Mayor, you have a convention center complex over there, and I do not want it to compete with me. Please pass a local city ordinance restricting the use of your own convention center for my personal gain out here at Capital Centre."

Mayor Schaefer, not known for his profanity, would say, "Blank you, Abe Pollin," and hang up.

But instead of Abe Pollin calling Mayor Schaefer, he calls upon the U.S. Senate to outlaw any competition.

We are going to stand here in a little time and vote on the kind of an amendment that no city in the United States would contemplate enacting. Baltimore would not; my home city of St. Louis, which has a new convention center, and 15 minutes away from it a stadium that is known as Checker Dome, our Capital Centre, would not. The owners of the Checker Dome would not have the gall, the greed, or the temerity to suggest that the St. Louis Convention Center be removed from competition.

The second largest city of my State, Kansas City, has a new convention center, and not far from it, much closer than the Cap Centre is to the D.C. Convention Center, are other facilities. No one in their right mind would have the arrogance to ask the Kansas City Council to restrict the use of its convention center.

But arrogance vis-a-vis the District knows no bounds. So what we have here with the Leahy substitute is that the District gets every losing proposition in the world—everything that is going to "lay an egg" and be a financial loss goes to good old D.C. Convention Center. And anything that might make a buck, Abe Pollin is going to keep out there in suburban Maryland.

A few minutes ago the Senator from Virginia (HARRY F. BYRD, JR.) came to

the floor and pointed out the fiscal dilemma of the District of Columbia. The fact is the city's expenses are going up. They are going up too high, I admit. One way to insure that the city has an even larger deficit is to restrict the D.C. Convention Center in such a way that the city is guaranteed to lose even more money thereat. Congress can make the D.C. deficit larger and then some Senators can issue press releases to their home States about how wasteful the District of Columbia is. Other Senators can come to the floor and kick the city around and beat up on the District of Columbia—that is good raw meat, it is wonderful raw meat in States removed from the District of Columbia.

The District of Columbia is almost a 50-State punching bag for Senators and House Members taking their favorite potshots.

We find that one of the reasons the city cannot operate and stay within a budget is that we restrict its income. Mr. Pollin urges that by Federal law we guarantee that the convention center has to be a certain loser. Suburban Senators from Maryland and Virginia say, "Over our dead body will you have a commuter tax." Every other major city in the country has a commuter tax. It is the principal source of revenue for other big cities. We deny that to the District because Maryland and Virginia do not want it.

Let us let it all hang out, Mr. President. Section 128 is nothing more than a money grab. It is a money grab. It is so shameful it should not have been proposed. But the ultimate is shame—the ultimate is shame—will be if 100 Members of the U.S. Senate vote to put this into Federal law. Such would be nothing less than a national disgrace.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY. Mr. President, since it is a fact that this appears to be what seems to me, at least, if not a personal attack, at least bordering on it from the Senator from Missouri, I ask unanimous consent that I may have 10 minutes to respond. I certainly would have no objection if he should ask for 10 minutes for himself on that.

The PRESIDING OFFICER. Is there objection to the request to have an additional 10 minutes for the Senator from Vermont? Without objection, it is so ordered.

Mr. LEAHY. Mr. President, the Senator from Missouri speaks of greed. he makes a very pointed comment that the amendment introduced by the chairman of the subcommittee and me was put in not by us but by another individual who does not serve in this body. I point out that the restrictions that we have, the chairman of the convention center board himself supported. He had absolutely no objection to it and he found nothing in those restrictions that varied in any way from the agreements entered into when this convention center was originally voted on.

I suspect the Senator from Missouri perhaps forgets, and I shall be charitable in putting it that way, the fact that this matter, the convention center, came up before the Senate of the United States and it lost about 3 to 1 when the city came in asking for the money for it. I was given the chore of sitting down with the various groups—civic groups, business groups in the city—to work out some kind of proposal that could be accepted by the Senate. This was after it had been voted down by something like 70 to 25. I do not recall the exact number, but I think I am within something like 3 or 4 votes on each side.

When we worked it all out, we got the convention center money for the city through on a unanimous vote. The restrictions I am talking about in the amendment put in by the chairman and myself carry out to the best of my recollection—and, I might add, to the best of the recollection of a lot of other people who were there—what restrictions were there at the time.

It does not say anything about the fact that we scaled the convention center down by tens of millions of dollars to get down to $100 million, but that is in the bill here.

I also note for the Senator from Missouri, who seems to suggest that this is somehow the result of personal greed on the part of unnamed Senators in this body——

Mr. EAGLETON. I did not say unnamed Senators. I said an individual in Maryland, namely Abe Pollin.

Mr. LEAHY. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Vermont has the floor.

Mr. EAGLETON. I specified who had the greed—Mr. Abe Pollin, owner of the Capital Centre in Largo, Md.

The PRESIDING OFFICER. Does the Senator from Vermont yield?

Mr. LEAHY. No.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Because of the clear implication of that, I also note for the Senator from Missouri that at the time I was given the chore of trying to resurrect this Convention Center and get it through, I never set eyes on the Capital Centre he speaks of. Nor did I at that time know Mr. Abe Pollin. Not only that, I had never met him, never talked with him. Nor do I recall, at least in the discussions I had, that he ever entered into them.

I do know that the Senator from Missouri was part of those discussions. I do know that he, as a member of the Appropriations Committee, both at the committee level and on the floor, supported the bill that I got through for the Convention Center. I do know that a number of people, both within the city government today and some who are without, supported the concept that was in there.

That is what came through here. If there were some kind of greed percolating out in the outskirts on that, I am not aware of it. I would be glad to be instructed by the Senator from Missouri, who apparently was more aware of what we agreed to than I was and I was the one who got the bill through for the Convention Center.

I stated at the time I thought it was a white elephant. I stated at the time I thought it was a waste of the taxpayers' money. I stated at the time that I thought the city made a mistake. But I also stated at the time that because of my commitment to home rule, which I had voted for time and time again, they ought to have it.

I also realized that it meant turning around three-quarters of the U.S. Senate to support it. I also realized that that was the result of a very carefully constructed agreement, both within this body and with the other body, to do it. I feel a certain responsibility that those involved in it—and I refer to myself—keep their word and keep consistent with what we agreed to at the time the Convention Center went through.

The PRESIDING OFFICER. Who yields time?

Mr. EAGLETON. Mr. President.

Mr. D'AMATO. Mr. President, I ask the Senator from Missouri if I may make one or two observations.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I think that it is terribly unfortunate that this level of rhetoric and charges and countercharges have to be reached concerning this bill. I would have to say that in the 2 years that I have served as chairman of the District of Columbia Subcommittee, I do not think there is anyone who can question the fact what our committee has done more in advancing home rule has rejected more controls, restrictions—undue controls, undue restrictions, many proposed not only by Members of this body but also by Members of the other body. I think we have moved a good deal away from that kind of attitude.

Indeed, we have given to the District financial responsibility. We have allowed greater budget flexibility than has been the case in many years as a result of the bipartisan effort between Senator LEAHY and the chairman and other Members of the Congress.

Mr. President, I think we have a situation that is blown far out of proportion, because let me say that I had the opportunity, Mr. President, to meet with Mr. Ed Singletary, who is chairman of the Washington Convention Center Board. He indicated to me that

the Convention Center Board had a policy, a stated policy, that was opposed to putting in rock shows, that was opposed to putting in events that would create a situation where large numbers of people would have to come into that Convention Center in a short period of time. To put it bluntly, he said the facility is not constructed to hold rock concerts and even athletic competitions that might have upward of 10,000 people coming in and coming out.

It would be unsafe.

I should like to submit a copy of a letter, and ask that it be entered into the RECORD, in which Mr. Singletary's staff points out these various factors. He points out, for example, that the center contains no dedicated parking area. He says that if you attempted in an 8-hour period of time to utilize it as a convention center, it could suffice. But in attempting to put large numbers of people into that facility in a relatively short period of time, 1 hour, that it would be impossible.

He also points out, I might add, that you are going to have a difficult time attracting a professional basketball team or even the great Georgetown University team when you have a limited capacity of about 9,000 to 10,000 people even with the purchase of the chairs that can be put on the floor.

It has been suggested that, my gosh, we are restricting Georgetown from coming in and playing. They are not going to come in and play to 10,000 people when they are putting in 17,000 and 18,000 people elsewhere. It is just economically impossible.

I suggest that when you spend tens of millions of dollars—and I was not here; Mr. Pollin has not contributed to me directly or indirectly in any way so I can say this; when this decision was made to build this facility, but I have had experience in looking at municipal operations—it is totally incompatible to have rock concerts coming in and having the kind of convention center that you want to build that will inure to the benefit of the tax structure and to the business climate of Washington, D.C.

If you want to have that kind of thing—rock concerts—and that is where the money is, let me tell you—if there is anybody in any little group, you look at those promoters and they are all licking their chops; they want to see it: "Oh, boy, you let me get in there." You will see who will be making money. You will see who will be wheeling and dealing. I do not believe that this is the place or time to even begin to entertain that.

This is a policy that the board set. They talked to me, and I said, "What is the situation? I am a newcomer to this. Explain it to me." Mr. Singletary said, "We don't want rock concerts. We think we are going to be able to book in 35 to 40 different events, business shows that run for 5 days, 10 days, a week. We cannot afford to tie this up with the rock concerts that come in."

And there might be, understanding the greed that inures to this business in terms of the rock shows and in terms of the lack of accountability, those who, in the local administration and other places, might want to see that take place. I would suggest to you that that is not going to improve the climate of doing business in the downtown area. I suggest to you that they create very real problems. The District does not need them. It would be counterproductive.

I suggest that we can strike, and I think that the substitute amendment as offered by my distinguished colleague, which I cosponsored, allows for charitable events to be held, allows for the properly and orderly use of that facility, and says that we are not going to have these kinds of events.

I am very much concerned about rock concerts. We do not need them here. That is for the quick buck artists. The taxpayer is not going to be enriched by that kind of show, absolutely not. You will pay for more police protection in this area than you will ever get in offsets. I have them in my hometown, Nassau County, with a big coliseum. They hold those rock concerts, and there they can put in 17,000 and 18,000, and there they have sufficient parking and there it is not in the middle of a downtown area. You have the kids coming in to these concerts. I want to tell you something. You are going to have them running wild down here. Is that what you want? Do you think that is going to produce a healthful effect? Do you think that is going to bring in tourists? Do you think that is going to inure to the benefit of hotels that are going to be coming in and building? It is not. They are not going to do it for rock concerts.

So, Mr. President, I think that maybe we get a little bit too overly passionate on one side or the other, but I think the compromise Senator LEAHY and I have offered, language that I believe the other body will support, is reasonable, is fair, and I hope my distinguished colleague from the great State of Missouri would see fit to maybe work with us in structuring a compromise that we can all live with, taking fair play into consideration.

I certainly have never moved in the way to unduly restrict the city or place a limitation on it. I have talked out publicly and on the record about those who seek to burden the city, place undue restrictions upon it, treat it as a foster child, decry its crime enforcement, and yet not give them practical tools to deal with the inadequacies. I do not think that is the same. I do not believe that we can say that this deprives home rule, not when this Congress has appropriated tens of millions of dollars and want to see a commercial and economic business revival in this area. We certainly have the right to see to it that there is proper care taken in the utilization of what can be a fine facility as opposed to what could be a great detriment.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. EAGLETON. Mr. President, I shall be brief so we can vote on the substitute.

I listened with great interest to what the Senator from New York has to say. On the one hand, he says the D.C. Convention Center physically, from a parking point of view and from any point of view, just cannot handle a rock concert, cannot handle some of these things.

Well, if they cannot handle it, if he is correct in that judgment, why prohibit it? If, de facto, it is not structured or equipped or situated in such a way as to handle some of these events, why prohibit it de jure by Federal law?

Now, the second point he makes is that rock concerts are evil. I do not know whether they are or are not. I do not go to them. I cannot stand the music. I think it is an abomination, so perhaps they are evil.

He said, "We don't need that here," that proprietary "we" of the Senator from New York. I do not know if he physically lives in this area when he is here with us temporarily in the Senate, but "we," as if he were a citizen of the District of Columbia "we" do not need that here.

Mr. D'AMATO. I think the Senator from Missouri at least realizes, I guess, that we all have temporary residence here.

The PRESIDING OFFICER. Does the Senator from Missouri yield?

Mr. EAGLETON. I said his permanent abode is in New York and my permanent abode is in Missouri, and we are temporarily here at the sufferance of our electorate, and, God, do our electorates suffer.

But he said, "We don't need that here." So here is the kind of bill that I am willing to work on with the Senator from New York. Let us put in a Federal law, not just a Federal law for the District, but a Federal law for all 50 States, outlawing rock concerts in New York——

Mr. D'AMATO. Will the Senator from Missouri yield?

Mr. EAGLETON [continuing]. Albany, Syracuse, Rochester, Buffalo, New York City. Let us outlaw them.

Mr. D'AMATO. Will the Senator from Missouri yield?

Really, that is rather proposterous to suggest, No. 1, that I hate rock concerts. When I use "we," I am talking about a very direct link in terms of the total Federal dollars for constructing

the Convention Center, so that there is a very real relationship. I am not suggesting that the Federal Government should intrude on rock concerts and that they do not have their proper place where properly supervised, where the adequacy of space, and adequacy of parking, the adequacy of location.

I suggest to the Senator that you take very great chances in terms of attempting this. And there will be the great fast buck artists who will say, "We think we can achieve that concert irrespective of the fact that there is not adequate parking." Then we are going to have some real problems. I suggest to the Senator that Congress does have a very real say in the matter of what its investment in terms of dollars and cents will be put to; that we have an opportunity, because we are here as residents during our short term, and it is all relatively short in terms of the history of the Senate, to give to the city the proper tools to see the kind of rebirth that is so desperately needed in our city of Washington, D.C., in the inner core city, as in so many of our cities. I spoke to the Convention Center people. I did not take it on anybody's word. I spoke to them, and they said, "Senator, we do not intend that." It is fine for Mr. Singletary to say that now, but what happens when another board comes in or another administration? What happens when that rock concert group comes in and says to them, "Look, we have an opportunity here that we can put in 9,000 people. We are going to make a lot of money," and so forth. I do not think it is the proper use.

If you can say it is a proper use, fine. If they have proper facilities, fine. If there are proper safeguards, fine. But that is not the case.

I think we have a responsibility in terms of the utilization of taxpayers' dollars, facilities we pay for, that the people of the United States pay for. I do not think it makes much sense to spend the kind of money necessary, $98 million, to allow it to be used for rock concerts. I do not believe that. I do not want to say I am against them. I am not. If you like that, fine. But you do not hold rock concerts in a building that the taxpayers spend $98 million for, when the purpose and intent of the authorizing legislation was to have a place where conventions and business shows could come and help provide the economic stimulation that would have long-term business growth and development.

I do not think the citizens of the United States particularly want to come into the District, into a downtown area, and run into rock shows. I do not think we are ever going to turn around the economic climate, the development, and hope to bring prosperity to the Nation's Capital, if we do not see that there are proper safeguards. That is what we are talking about—proper safeguards.

So I do not see the connection between whether I do or do not like rock concerts or whether we should outlaw them. But I do suggest that it would be most inappropriate and it would be counterproductive to the best interests of the District, the people, and the investment of moneys by this Congress.

The PRESIDING OFFICER. The time of the proponents of the substitute has expired.

The opponents have 2 minutes and 56 seconds.

Mr. EAGLETON. Mr. President, if the Senator from New York examines the convention facilities in his home State—and there are all kinds of convention facilities in the State of New York, not only in the Big Apple but also in all the "little apples" in New York—he will find that no convention facility in the State of New York has any kind of restriction remotely analogous to what is contained in the Leahy-D'Amato substitute. They just are not there. Yet, in our great wisdom in the U.S. Senate, we are going to decide what is best for the residents of the District of Columbia.

If these innocent tourists who come into town and stay at the Mayflower, the Madison, the Four Seasons, and of the posh residences are going to somehow be annihilated and assaulted as a result of some rock concert that may be held in the D.C. Convention Center, let us protect innocent people out in the suburbs, too. I live in the suburbs; I need to be protected from this evil. Let us outlaw rock concerts at the Capital Centre. That would be fair. We can have a tradeoff on that.

We can pass a Federal law that we do not like rock, saying that we have to protect innocent bystanders anywhere in the greater metropolitan area. I live in suburbia, and I want to be just as much protected as that poor millionaire staying at the Four Seasons. I believe in the equal protection clause.

Mr. President, I ask for the yeas and nays on the Leahy-D'Amato substitute.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. EAGLETON. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the substitute offered by the Senator from Vermont and the Senator from New York. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Utah (Mr. HATCH), and the Senator from Florida (Mrs. HAWKINS) are necessarily absent.

I further announce that, if present and voting, the Senator from Utah (Mr. HATCH) would vote "nay."

Mr. CRANSTON. I announce that the Senator from Ohio (Mr. GLENN), the Senator from Hawaii (Mr. INOUYE), and the Senator from Arkansas (Mr. PRYOR) are necessarily absent.

The PRESIDING OFFICER (Mr. KASTEN). Are there any other Senators who desire to vote?

The result was announced—yeas 40, nays 54, as follows:

[Rollcall Vote No. 396 Leg.]

YEAS—40

Abdnor	Kasten	Quayle
Andrews	Laxalt	Randolph
Boschwitz	Leahy	Sarbanes
Bumpers	Long	Sasser
Burdick	Mathias	Schmitt
Chiles	Matsunaga	Stafford
Cochran	Mattingly	Stennis
Cohen	McClure	Stevens
D'Amato	Metzenbaum	Thurmond
DeConcini	Moynihan	Tower
East	Murkowski	Warner
Jackson	Packwood	Weicker
Jepsen	Percy	
Johnston	Pressler	

NAYS—54

Armstrong	Domenici	Levin
Baker	Durenberger	Lugar
Baucus	Eagleton	Melcher
Bentsen	Exon	Mitchell
Biden	Ford	Nickles
Boren	Garn	Nunn
Bradley	Gorton	Pell
Brady	Grassley	Proxmire
Byrd, Harry F., Jr.	Hart	Riegle
Byrd, Robert C.	Hatfield	Roth
Cannon	Hayakawa	Rudman
Chafee	Heflin	Simpson
Cranston	Heinz	Specter
Danforth	Helms	Symms
Denton	Hollings	Tsongas
Dixon	Huddleston	Wallop
Dodd	Humphrey	Zorinsky
Dole	Kassebaum	
	Kennedy	

NOT VOTING—6

Glenn	Hatch	Inouye
Goldwater	Hawkins	Pryor

So the Leahy-D'Amato amendment (UP No. 1417) was rejected.

Mr. LEAHY. May we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order. The Senate will be in order. Senators in the well will cease discussion. The Senate will be in order.

The Senator from Vermont.

Mr. LEAHY. Mr. President, I think the arguments have been made. I am sorry that the Senate is reversing, in reality, the action it took several years ago. But certainly it is something which the Senate should work its will on and has.

I would hope also, I might say, that the arguments made opposed to the Leahy-D'Amato amendment were, among others, or inter alia, that without any restrictions the Convention Center would make far more money and it would be greatly aided in its financial stability.

I hope that each year when the report comes to the Congress, as required, on their operation that for the sake of the Federal Treasury, and certainly for the sake of the local treasury, that those predictions will prove accurate. I think they will not, but I sincerely hope that they will.

Mr. President, may I have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. LEAHY. Certainly I will not introduce any other amendments, nor will I interpose further objections to the striking of these restrictions. I hope that the fears that I have heard suggested, not only by myself but others, do not materialize and that it will turn out that we have done the wise thing here today.

Mr. EAGLETON addressed the Chair.

Mr. D'AMATO. Mr. President, if I might ask my distinguished colleague from Missouri to yield me 30 seconds.

Mr. EAGLETON. Yes.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I agree with the concerns of my colleague, Senator LEAHY. I hope that our concerns, about the proper use and utilization of this facility, are all proven to be wrong. I hope that the city and those who will be responsible and are responsible for its management adhere to the highest kinds of utilization, because I think it would be tragic if that were not the case and it would be so counterproductive.

But I do not intend to oppose the motion to strike. I yield back to the Senator from Missouri so he can make that motion.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. EAGLETON. Mr. President, if I heard the Senator from Vermont correctly, he inferred that I am guaranteeing that the D.C. Convention Center will at all times be profitable. I have not made such a guarantee. I cannot make such a guarantee. The track record of convention centers throughout this country is that a few make some money and others lose. I am talking about the direct operations of the Convention Center. However, they do create revenues ancillary to the operation of the facility itself.

I can make one categorical promise to the Senate. With these restrictions removed, gross revenues of the Convention Center will increase. Were these restrictions to remain, the gross revenues of the Convention Center would be substantially reduced. Fundamental commonsense says as much.

Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1416) was agreed to.

Mr. EAGLETON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. D'AMATO. Mr. President, I yield back the remainder of my time.

Mr. LEAHY. Mr. President, I yield back the remainder of my time. But before doing so, I would like the record to note, before we close the record on this, that I wish to compliment the professional staff—Mr. Tim Leeth, Mr. Jim Cubie, Mr. Lula Joyce, and Miss Jane McMullan—for their fine and, I might say, indispensable work on this bill.

With that, I am ready to yield back the remainder of my time.

● Mr. DOMENICI. Mr. President, I commend the distinguished chairman of the subcommittee (Mr. D'AMATO), and the ranking member (Mr. LEAHY), along with the members of the Appropriations Committee, for reporting the District of Columbia appropriation bill within the subcommittee's spending and credit crosswalk allocations under the fiscal year 1983 first budget resolution.

Mr. President, I support the bill as reported.

The reported bill provides $0.5 billion in new budget authority for fiscal year 1983. Including prior-year outlays, fiscal year 1983 outlays associated with the reported bill would be $0.6 billion. These amounts are approximately $0.1 billion in budget authority and $50 million in outlays below the subcommittee's allocation under the first budget resolution. They are also below the President's budget request.

New direct loan obligations for fiscal year 1983 associated with the bill are estimated to be $0.1 billion. This is consistent with both the subcommittee's credit allocation under the first budget resolution and the President's request.

Mr. President, I ask that two tables showing the relationship of the reported bill to the congressional spending and credit budgets and the President's budget requests be printed in the RECORD at the conclusion of my remarks.

The tables referred to follow:

ATTACHMENT 1.—DISTRICT OF COLUMBIA SUBCOMMITTEE, SPENDING TOTALS

[In billions of dollars]

	Fiscal year 1983	
	Budget authority	Outlays
Outlays from prior-year budget authority and other actions completed		0.04
S. 2917, as reported in the Senate	0.5	.5
Total for District of Columbia Subcommittee	.5	.6
First Budget Resolution 302(b) allocation	.6	.6
House level (H.R. 7144)	.5	.5
President's request	.6	.6

ATTACHMENT 1.—DISTRICT OF COLUMBIA SUBCOMMITTEE, SPENDING TOTALS—Continued

[In billions of dollars]

	Fiscal year 1983	
	Budget authority	Outlays
Subcommittee total compared to:		
First Budget Resolution 302(b) allocation level	−.1	
House level		
President's request		

ATTACHMENT 2.—DISTRICT OF COLUMBIA SUBCOMMITTEE, CREDIT TOTALS

[In billions of dollars]

	Fiscal year 1983	
	New direct loan obligations	New primary loan guarantee commitments
S. 2917, as reported in Senate, with direct loan obligations resulting from obligations resulting from prior-year commitments and other actions completed	0.1	
Total for District of Columbia Subcommittee	.1	
First Budget Resolution 9(b)(2) allocation	.1	
House level (H.R. 7144)	.1	
President's request	.1	
Subcommittee total compared to:		
First Budget Resolution 9(b)(2) allocation level		
House level		
President		

●

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the third reading of the bill.

The bill was ordered to a third reading and was read the third time.

The PRESIDING OFFICER. The question is on final passage.

Mr. HARRY F. BYRD, JR., addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, it already cost more in operating expenses to operate the city of Washington, D.C., than any other city in the United States. From page 5 of the committee report, we learn that the operating expenses under this legislation will total just a shade under $2 billion for fiscal year 1983. That is an increase of $245 million over fiscal year 1982. It represents a 14-percent increase in operating expenses.

If the Senate passes this legislation, as it undoubtedly will, but with one vote against it, it will sanction a 14-percent increase in operating expenses.

Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. HARRY F. BYRD, JR. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Utah (Mr. HATCH), the Senator from Illinois (Mr. PERCY, and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that, if present and voting, the Senator from Utah (Mr. HATCH) would vote "yea."

Mr. CRANSTON. I announce that the Senator from Ohio (Mr. GLENN), the Senator from Hawaii (Mr. INOUYE), and the Senator from Arizona (Mr. PRYOR) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced yeas—71, nays 22, as follows:

[Roll Call Vote No. 397 Leg.]

YEAS—71

Abdnor	Domenici	Matsunaga
Andrews	Durenberger	Mattingly
Baker	Eagleton	McClure
Baucus	Exon	Melcher
Bentsen	Ford	Metzenbaum
Biden	Garn	Mitchell
Boren	Gorton	Moynihan
Boschwitz	Hart	Murkowski
Bradley	Hatfield	Nunn
Brady	Hawkins	Packwood
Bumpers	Hayakawa	Pell
Burdick	Heinz	Randolph
Byrd, Robert C.	Hollings	Riegle
Cannon	Huddleston	Roth
Chafee	Humphrey	Rudman
Chiles	Jackson	Sarbanes
Cochran	Johnston	Sasser
Cohen	Kassebaum	Schmitt
Cranston	Kennedy	Simpson
D'Amato	Leahy	Stafford
Danforth	Levin	Stevens
Denton	Long	Thurmond
Dixon	Lugar	Tsongas
Dodd	Mathias	

NAYS—22

Armstrong	Helms	Specter
Byrd, Harry F., Jr.	Jepsen	Stennis
	Kasten	Symms
DeConcini	Laxalt	Tower
Dole	Nickles	Wallop
East	Pressler	Warner
Grassley	Proxmire	Zorinsky
Heflin	Quayle	

NOT VOTING—7

Glenn	Inouye	Weicker
Goldwater	Percy	
Hatch	Pryor	

So the bill (H.R. 7144), as amended, was passed.

Mr. D'AMATO. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ARMSTRONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. D'AMATO. Mr. President, I move that the Senate insist upon its amendments and request a conference with the House of Representatives thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. KASTEN) appointed Mr. D'AMATO, Mr. SPECTER, Mr. WEICKER, Mr. HATFIELD, Mr. LEAHY, Mr. BUMPERS, and Mr. PROXMIRE conferees on the part of the Senate.

BUDGET WAIVER FOR RADIO MARTI

The PRESIDING OFFICER. The question recurs on the motion to waive section 402 of the Budget Act. Under the previous order, the Senator from Nebraska (Mr. ZORINSKY) is recognized, but before the Senator begins the Senate will be in order. The Senate will be order.

The Senator from Nebraska.

Mr. ZORINSKY. Mr. President, I should now like to continue my statement by reading a statement into the RECORD by Mr. Jim R. Eddens made before the Committee on Foreign Relations of the U.S. Senate on S. 1853, radio broadcasting to Cuba. The text is as follows:

Mr. Chairman and members of the committee, my name is Jim Eddens. I am Vice President and General Manager of Radio Station WOW, Omaha, Nebraska. I appear before this Committee as a representative of one of the 200 AM stations that has been or will be affected by Cuban interference.

According to a study done by the National Association of Broadcasters, Station WOW will lose interference-free coverage from its present 2.9 millivolt per meter down to 5.01 millivolts per meter. This is an approximately 49 percent loss of our nighttime and pre-dawn interference free area. The WOW signal will be reduced in area from 19,300 square miles to 9,700 square miles.

Like Station WHO in Des Moines, we furnish large amounts of news, market reports and farm information to a nighttime and to a pre-sunrise area covering portions of five states. As recently as last week, we received a listening report from a man in Minnesota in which he mentioned Cuban interference to our signal. Even though this report was from beyond our normal interference-free area, it shows the Cuban station is already there and operating at some significant power. Having read the response prepared for this Committee as well as other current information, it is my strong opinion that Radio Marti will do nothing but aggrevate an already serious interference problem to commercial broadcasters.

Station WOW is owned and operated by Meredith Corporation, whose corporate headquarters are at Des Moines, Iowa. Meredith Corporation is a publicly owned communications corporation which publishes Better Homes and Gardens, Successful Farming, Metropolitan Home and Sail magazines and is active in a wide range of printing, publishing and home service activities. In addition to Station WOW, Meredith Corporation is the license of sister Station KEZO (FM), Omaha, and Stations WGST-AM and WPCH-FM, Atlanta, Georgia, KCMO(AM) and KCEZ(FM), Kansas City, Missouri. Meredith is also the licensee of television broadcast stations at Syracuse, New York, Bay City-Saginaw-Flint, Michigan, Pittsburgh, Pennsylvania and Kansas City, Missouri, and is a minority owner of a television station at Orlando, Florida.

I wish to begin my statement by saying that I fully understand that the issue of Radio Marti involves questions of the foreign policy and, ultimately, the security of the United States, which I do not think myself competent to address. My purpose in coming before you today is to emphasize that, in addition to those issues, there are other issues presented by this proposal that are significant in terms of the public interest. I hope that my testimony here will help this Committee by drawing attention to domestic matters of importance which might not receive adequate attention.

In the earlier hearings before this Committee and in the House of Representatives, the basic facts regarding the potential impact of the Radio Marti proposal on our domestic broadcast industry have been established. The selection of the frequency 1040 kiloHertz for the high powered transmission facility in the Florida Keys will present a threat to the nighttime skywave service area of Class I-A Clear Channel Station WHO, Des Moines, Iowa. With adequate directional antenna facilities, the Radio Marti transmitter can provide adequate protection to that service. The greater threat to Station WHO comes not from Radio Marti, itself, but from the likely efforts of Cuba to jam Radio Marti's transmission. Cuba has been reported to have used various jamming techniques against United States stations in the past, and may be expected to resort to similar measures against Radio Marti, at least on an intermittent basis, in the future. Given the amount of power which will be necessary effectively to jam Radio Marti's signal and the direction in which that power must be transmitted, interference to Station WHO is predictable.

It is important for this Committee to realize that this issue affects more than Station WHO or only Clear Channel stations and secondary nighttime skywave services in the United States. It affects a wide range of AM broadcast services throughout the country. In fact, to put it more accurately, the possible impact of Radio Marti on our relations with Cuba has the potential of adversely affecting the quality of domestic AM radio service to residents throughout the United States.

The larger threat to AM stations in the United States is not the result of the Radio Marti proposal or the prospect of Cuban jamming. That threat comes from the proposals of Cuba to expand its use of the AM band in a manner which goes far beyond what may reasonably be considered necessary to serve Cuba's domestic needs. In the context of the negotiations of the Region 2 Medium Wave Broadcast Agreement concluded last year, Cuba proposed a large number of new stations and major changes in existing stations, some with powers from three to ten times higher than the highest power permitted stations in the United States. If implemented, those proposals will create havoc among United States AM broadcast stations and the public which they serve.

Mr. President, I ask unanimous consent to yield the floor to the distinguished Senator from Nebraska (Mr. EXON) for the purpose of debate, without losing my right to the floor and without this being considered the end of the speech for the purpose of the two-speech rule, and I ask that I be recognized at the conclusion of Senator EXON's remarks.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Senator from Nebraska (Mr. EXON) is recognized.

Mr. EXON. I thank my friend and colleague from Nebraska.

Mr. President, the last time I was on my feet, I asked that the following remarks that I intended to enter into this debate later be an extension of my previous remarks, which I think is still in order. When I conclude my remarks, I will again ask unanimous consent that my remarks not be counted under the two-speech rule.

Mr. President, once again I stand on the floor for this exercise that we continue to go through. I suppose what we have to do is to keep sending the message, very loud and very clear, to the powers that be that there remain those of us who believe that Radio Marti is an ill-advised action for the U.S. Senate to take now.

Therefore, I want to emphasize once again that whatever time is necessary to defeat this measure in this session of the Senate will have the support of this Senator, along with support of many others.

To emphasize that point, Mr. President, I might say that I telephoned Santa Claus yesterday and told him that the way things were looking, I would not be home for Christmas but would be here on the floor of the U.S. Senate. I hope that message, which Santa Claus understood, is understood by those who have the authority to take this bill down, if they so desire. If not, we will have to continue with this charade.

Mr. President, I should like at this time to read into the RECORD several matters of pertinent interest on this bill. I will be quoting extensively from a prepared response at the request of the Senate Committee on Foreign Relations regarding Radio Marti which was prepared by the Congressional Research Service.

Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senator is correct. The Senate is not in order.

Mr. EXON. I thank the Chair.

Mr. President, I should like at this time to read into the RECORD a telegram that was addressed to me by the Nebraska Broadcasters Association:

NEBRASKA BROADCASTERS ASSOCIATION,
Beatrice, Nebr., August 6, 1982.

Hon. J. JAMES EXON,
Dirksen Senate Building,
Washington, D.C.

Resolution because the development of the Radio Marti concept would create a state of a great difficulty for radio reception in the United States and inasmuch as the funding for such a project would come at a time when the world economic structure is depressed and further the Marti concept is such that it will make massive retaliation by the Cuban Government a reality in our broadcasting spectrum therefore be it resolved that the Nebraska Broadcasters Association oppose the passage of H.R. 5427 and S. 1853 and we as broadcasters make our individual and collective positions known to our legislators in the Federal Capital and a copy of this resolution be placed in the United States Postal Service to our 3 Congress persons and the 2 United States Senators.

Respectfully submitted,

CAL COLEMAN,
President.

Mr. President, turning, if I could, now to some of the material that I indicated earlier I would be quoting extensively from, the Congressional Research Service article, on page CRS 81 in that research paper, appendix II, Congressional Budget Office Cost Estimate: One of the things that I think that the Members of the Senate should understand that evidently the Members of the House of Representatives did not when they passed this bill was the costs that will occur to the taxpayers of the United States. The costs that are cited here are the known and established costs, and as I have said at some length in my previous remarks on this subject, no one knows what the true costs could be, if the U.S. Government is involved in lawsuits with broadcasters.

Mr. President, at this time I wish to yield back to my colleague from Nebraska and I ask unanimous consent that these remarks not be considered as the end of my speech for the purpose of the two-speech rule.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that it be in order for the Senator from Nebraska to yield to me under the same terms and conditions in respect to not losing his right to the floor, this interruption not appearing as an interruption in his speech for the purpose of the rules of the Senate on this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ZORINSKY. And that I be rerecognized when the leadership returns to this.

Mr. BAKER. Let me make that request.

Mr. President, it is my intention, with the concurrence of the minority leader, in a moment, if there is no further business to be transacted, to ask the Senate to go over until tomorrow in recess.

I ask unanimous consent that when the Senate reconvenes tomorrow and after the period for the transaction of routine morning business, if ordered, the Senator from Nebraska be first recognized to continue his presentation on the conditions previously outlined by him.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR WEDNESDAY

ORDER FOR RECESS UNTIL TOMORROW AT 9:15 A.M.

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 9:15 a.m. on tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE RECOGNITION OF CERTAIN SENATORS ON TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that after the recognition of the two leaders under the standing order that special orders of 15 minutes each be awarded to the following Senators: Senators BAKER, STEVENS, THURMOND, and TOWER.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I might explain to my colleagues that the hour aggregated by this special orders will be used for the purpose of paying tribute to those Senators who are retiring at the end of the 97th Congress.

It is anticipated that on tomorrow the distinguished President pro tempore, Senator THURMOND, will be in control of that time, that Senators who wish to speak at that time may consult with him or, of course, with the leadership on the Democratic side and there shall be no difficulty at all in arranging the schedule of presentations at that time.

It is also anticipated that the RECORD may be kept open beyond that hour's period so that Members may insert statements or extend their remarks.

ORDER KEEPING THE RECORD OPEN UNTIL 6 P.M. ON TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that for the purpose of making statements in respect to retiring Senators the RECORD tomorrow may remain open until 6 p.m.

The PRESIDING OFFICER (Mr. DURENBERGER). Without objection, it is so ordered.

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that after the execution of the special orders just provided for there be a brief period for the transaction of routine morning business not to exceed 10 minutes in length with statements limited therein to 2 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE CALENDAR NOMINATIONS

Mr. BAKER. Mr. President, as I announced yesterday and again today, tomorrow is Executive Calendar nominations day, and Senators are urged to be present in the Chamber if they have names on that calendar that they are especially concerned with.

It is the intention of the leadership on this side to proceed with that calendar in a methodical way and to try to dispose of as much business as we can in the course of that day.

Senators should be reminded, as I have announced in caucus, that in order to accomplish this it is necessary to move through the list notwithstanding that notations of holds on this side may have been entered. So if there is a hold or someone wants to particularly protect his position on a nomination, I urge and encourage Senators to be in the Chamber at the time of the call of that calendar.

SENATE AGENDA

Mr. President, also during the day tomorrow it is my hope that we can proceed to the consideration of the Criminal Justice Assistance Act. S. 2411. That is not on the list of items that I had read on Monday or repeated on Tuesday. I had thought that that matter would be cleared and ready for action tonight by unanimous consent. I continue to hope that we can get that up tomorrow, but I will confer with the distinguished Senator from Pennsylvania (Mr. SPECTER), and the minority leader, and others, to see if it is possible to do so.

If it is possible to do so, it would be my hope that we can do that as the first order of business after the conclusion of the time for transaction of routine morning business.

Mr. President, that will require unanimous consent, which I will now put in that under the circumstances when we resume tomorrow at the conclusion of the time for the transaction of routine morning business, the motion to proceed to the consideration of the budget waiver in respect to the resolution on Radio Marti will recur as the pending business. Is that not correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. I thank the Chair.

Mr. President, it has been my hope that we could do the bankruptcy bill, S. 2000, today. Indeed it was on the list for Tuesday. For a variety of reasons it appeared that it would not be productive to ask the Senator to proceed to that measure late this evening. I hope that Senators will make a diligent effort to clear that for action, perhaps even by unanimous consent, or at least on some sort of time limitation during the day tomorrow.

So tomorrow, after the tributes to departing Senators, after a brief time for the transaction of routine morning business, it is hoped that we may go to the Criminal Justice Assistance Act. The Radio Marti motion will recur as the pending business, absent unanimous consent or other action to the contrary taken by the Senate.

it is hoped as well that during the day tomorrow we can reach S. 2000. The burden of our effort tomorrow for a good part of the day will be to try to consider as much of the executive calendar on nominations as possible.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished majority leader yield for a question?

Mr. BAKER. I yield.

Mr. ROBERT C. BYRD. Mr. President, what is the program for the week beyond tomorrow as the majority leader now sees it?

Mr. BAKER. Yes; today and Monday I announced that any night might be a late night and that Senators should be on notice of the possibility of a Saturday session.

I am inclined now to think that we probably will not have a Saturday session for one very good reason, I suppose, and that is that I am advised by our friends and colleagues in the House of Representatives, in the other body, that it is not likely that they will be able to take up the continuing resolution making appropriations for those agencies and departments for which regular appropriations bills have not been passed until at least Monday or Tuesday of next

If that is the case, I do not know of any particular reason why I should ask the Senate to remain in session on Saturday.

There is, of course, the possibility that if we run into a procedural problem, such as a filibuster on a motion to proceed to the consideration of the highway bill, or a similar matter, it might be necessary to ask the Senate to be in on Saturday, but I wish to amend my previous announcement to say that absent such a contingency I do not plan to ask the Senate to remain in on next Saturday.

Mr. ROBERT C. BYRD. I thank the Senator.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, the Senator from California (Mr. HAYAKAWA) wishes to address the Senate for a period of time in respect to the anniversary date of Pearl Harbor.

I ask unanimous consent, Mr. President, that there now be a period for the transaction of routine morning business in which Senators may speak, and that during that period no business be transacted by the Senate except for the recognition of the Senator from California (Mr. HAYAKAWA) for the purpose of making such a presentation; and that at the close of that presentation by the distinguished Senator from California the Senate then stand in recess pursuant to the order just entered until the hour of 9:15 a.m. tomorrow.

Mr. ROBERT C. BYRD. Mr. President, I have no objection.

The PRESIDING OFFICER. Without objection it is so ordered.

RECOGNITION OF THE ALASKA DISTRICT OFFICE OF SMALL BUSINESS ADMINISTRATION

Mr. STEVENS. Mr. President, today I am pleased to share with my colleagues a news article concerning a Federal agency in Alaska that is doing an exemplary job for Alaskan businesses. That agency is the Small Business Administration, and the Alaska district office is overseen by Frank Cox, a dynamic Alaskan who has done a fine job in working on behalf of Alaska's small businesses.

Recently, several members of the President's Advisory Committee on Small and Minority Business Ownership made a factfinding trip to Alaska. Mr. Cox accompanied the members throughout the State, and from the communications I received from the Committee, they were very impressed not only with Alaska but also with the excellent job that the SBA is performing in my home State.

Mr. President, I ask unanimous consent that the article entitled "A Dynamite Agency of the Federal Government" from the November 11, 1982, issue of the Anchorage Times be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Anchorage Times, Nov. 11, 1982]

A DYNAMITE AGENCY OF THE FEDERAL GOVERNMENT

(By Robert R. Richards)

Over in the Federal Office Building there is a small agency comprised of 20 people which probably accomplishes more positive results for the State of Alaska per person than any other municipal, state or federal government agency in Alaska.

I am referring to the Anchorage District Office of the Small Business Administration headed up by Frank Cox. Mr. Cox is one of those rare public officials who has a deep appreciation of the private sector and a clear understanding of the government's role in contributing to the effective functioning of the private enterprise system.

The present portfolio of the Anchorage District Office of the SBA presently consists of 2,333 loans totalling in excess of $150 million. SBA-guaranteed loans provide financing for more than 20 percent of all Alaska businesses.

The SBA has been a major factor in providing capital for business expansion in this state. Since 1975 the office has provided financial assistance through loan guarantees and direct loans to more than 1,600 Alaska business firms amounting to nearly $180 million. These firms, of course, in turn have provided a growing private sector employment base. Assuming that each of these firms provide employment income for five people, each with an average taxable income of $20,000 per year, we see this generates an annual payroll of $160 million—quite a contribution to the Alaska economy.

Less than 100 of the 1,800 loans SBA has guaranteed or made since 1975 have been placed in liquidation. This amounts to approximately 6/10ths of 1 percent of the loans outstanding—an impressive record particularly in light of the fact that these

loans are generally the higher risk type of loans. This is partially a reflection of the effectiveness with which SBA works with businesses in trouble. Mr. Cox's staff endeavors to assist them with their financial challenges prior to the problem becoming irreparable.

Another program of the SBA which is the brainchild of Mr. Cox is the "AIDA" secondary market program which has been in existence about one year. Simply stated, under this program the Alaska Industrial Development Authority becomes a secondary purchaser of the guaranteed portion of the SBA guaranteed loan at the precommitted rate based on Moody's AA bond rates. This lower rate is passed on to the borrower with a servicing fee for the participating lender. This stroke of genius is a marvelous testimony to the magnificent benefits that can accrue with cooperation between the federal government, the state government and the private sector.

The benefits of this program are obvious, SBA gets quality loans. Participating lenders get an excellent yield on their exposure and can leverage their funds. AIDA gets an excellent no-risk return with minimal administrative costs. Most important, the borrowers get lower interest rates on their loans.

During fiscal year 1982 SBA will put approximately $55,000,000 in these guaranteed participating loans on its books. This is very near the loan volume of the SBA's Seattle, Portland, Boise and Spokane offices combined. The economic impact of these more than 300 business loans on private sector employment and on the tax base is obvious. Additionally, this program requires no immediate expenditure of federal funds. Loaned funds come from the private sector and the Alaska Industrial Development Authority.

The Anchorage District Office has one management assistance officer and an assistant district director for management assistance who provide business consulting services as well as initiating and coordinating management training programs. Over the past five years the SBA management assistance program has completed 7,600 management counseling sessions. Further, SBA has taken a leading role in initiating, designing, arranging and implementing practical management seminars and courses with community colleges, Chambers of Commerce and a myriad of professional associations throughout Alaska.

On a per capital basis it is estimated that the Anchorage District Office of the SBA provides more than five times as much management training as the national average. During the past five years the SBA co-sponsored 295 small business courses and seminars with a total attendance of nearly 15,000 persons.

The effectiveness of the SBA's programs in Alaska in providing funds and management assistance to a multitude of small businesses throughout the state is testimony to the marvelous benefits that accrue from cooperation between the public sector and enterprise view each other as adversaries; but when enlightened public officials are creatively committed to genuinely fulfilling the mission of their agencies and when private business leaders and bankers creativity and constructively relate to government agencies, impressive positive results can accrue.

FORTY ONE YEARS AFTER PEARL HARBOR

Mr. WARNER. Mr. President, today, December 7, is the anniversary of the attack on Pearl Harbor.

That tragic event precipitated the loss of almost 300,000 of our finest young men and women who gave their lives in the cause of freedom. Over 670,000 were wounded, and enormous quantities of our precious resources were lost forever.

My intent today is not to reflect upon Pearl Harbor, but to focus on the time immediately preceding that eventful date. Clearly, there are many differences between the conditions of today and those of over 41 years ago. However, there are many dramatic similarities too. The period before December 7, 1941, was a time of severe budgetary constraints. Our Nation was sharply divided on the question of defense expenditures in the face of legitimate social needs.

Registration and the authority to draft passed the U.S. House of Representatives by a single vote. While our Armed Forces grew at a rate of over 10 percent in the year before the war, the gap between the capabilities of our forces and those of our adversaries grew wider each day. And the credibility of our forces as a deterrent decreased correspondingly.

Wars were being fought in far-off lands. Rumors of war were discussed in the Halls and Chambers of this great body. Reports of events which occurred in China and other far-off lands were disbelieved by many.

Forty-one years later, our world is again faced with similar conditions. At home our Federal budget is stretched to meet both social and military needs. The peace of nations is threatened by the military adventures of the Soviet Union and their allies. And many discount or disregard altogether the comparisons of American deterrent capability versus Soviet military strength.

Over the past 2 years I have urged my colleagues to increase the questionable deterrent we have against the horror of chemical war. Many of my colleagues were unconvinced by the evidence offered to establish that the Soviets and their surrogates were illegally using chemicals against defenseless opponents.

Now new startling evidence has been found. In recent weeks the Department of State has displayed Soviet gas masks obtained in Afghanistan which were contaminated with trichothecene (tri-co-the-seen) mycotoxins—the deadly "yellow rain." Special report No. 104, entitled "Chemical warfare in Southeast Asia and Afghanistan: An Update," has just been released by the Department of State.

Mr. President, I ask unanimous consent that excerpts of this report be printed in the RECORD. I urge my colleagues to read this compelling evidence and begin reconsideration of our deterrent capabilities.

Let us all work together to avoid any contingency which could lead to an event more destructive than that which began on this day 41 years ago.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

CHEMICAL WARFARE IN SOUTHEAST ASIA AND AFGHANISTAN: AN UPDATE

(Report from Secretary of State George P. Shultz, November 1982)

UPDATED FINDINGS

Based on a thorough analysis of this new information, we are able to conclude the following:

Reports of chemical attacks from February through October 1982 indicate that Soviet forces continue their selective use of chemicals and toxins against the resistance in Afghanistan. Moreover, new evidence collected in 1982 on Soviet and Afghan Government forces' use of chemical weapons from 1979 through 1981 reinforces the previous judgment that lethal chemical agents were used on the Afghan resistance. Physical samples from Afghanistan also provide new evidence of mycotoxin use.

Vietnamese and Lao troops, under direct Soviet supervision, have continued to use lethal and incapacitating chemical agents and toxins against the H'Mong resistance in Laos through at least June 1982.

Vietnamese forces have continued to use lethal and incapacitating chemical agents and toxins against resistance forces in Kampuchea through at least June 1982.

Trichothecene toxins were found in the urine, blood, and tissue of victims of "yellow rain" attacks in Laos and Kampuchea and in samples of residue collected after attacks.

We continue to find that a common factor in the evidence is Soviet involvement in the use of these weapons in all three countries. Continued analysis of prior data and newly acquired information about Soviet mycotoxin research and development, chemical warfare training in Vietnam, the presence of Soviet chemical warfare advisers in Laos and Vietnam, and the presence of the same unusual trichothecene toxins in samples collected from all three countries reinforce our earlier conclusion about the complicity of the Soviet Union and about its extent.

INTRODUCTION

Our March study showed that casualties and deaths resulted from chemical attacks in Southeast Asia and Afghanistan and that trichothecene toxins were used in both Laos and Kampuchea. The new evidence shows that these attacks are continuing in all three countries and that trichothecene toxins have been used in Afghanistan as well.

The same rigorous analytical processes employed in our March study, and outlined in detail there, were followed to arrive at the judgments contained in this update. In light of the widespread publicity given the March report, special efforts were made by U.S. Government analysts to preclude being led astray by any possible false reports that might be generated for propaganda or other purposes and to eliminate the possibility of making erroneous judgments about the chemical or toxin agents involved because of tampering or improper handling. Every report has been carefully checked.

The evidence in the March study was based on a broad range of data, including

testimony by physicians, refugee workers, journalists, and others. Although some of the new reports are anecdotal, we have been able to corroborate most of them by other sources and sample analysis. Moreover, personal testimony tends to add credence to other accounts which, taken together, form a coherent picture. The material presented in this report represents only a relatively small amount of the total accumulated evidence. This additional information is examined in greater detail in the annexes. Improved sample collection procedures, a better quality of medical histories and physical examinations, documentation including photographs of lesions and hospital charts from Southeast Asia, and interviews by trained personnel have reinforced our earlier conclusions and led to new discoveries.

As international concern about this subject has increased, based on the development of evidence from many countries, independent analyses have been initiated by foreign chemical warfare experts, physicians, journalists, and independent nongovernmental scientists and laboratories. Analysis in the United States have found this research very helpful both in supporting their own conclusions and, more importantly, in expanding on them.

SUMMARY OF EVIDENCE

Afghanistan

Evidence indicates that the Soviets have continued the selective use of toxic agents in Afghanistan as late as October 1982. For the first time we have obtained convincing evidence of the use of mycotoxins by Soviet forces through analyses of two contaminated Soviet gas masks acquired from Afghanistan. Analysis and quantification of material taken from the outside surface of one mask have shown the presence of trichothecene mycotoxin. Analysis of a hose from a second Soviet mask showed the presence of several mycotoxins. In addition, a vegetation sample from Afghanistan shows preliminary evidence of the presence of mycotoxins. (See Annex A.)

Our suspicions that mycotoxins have been used in Afghanistan have now been confirmed. Reports during 1980 and 1981 described a yellow-brown mist being delivered in attacks which caused blistering, nausea, vomiting, and other symptoms similar to those described by "yellow rain" victims in Southeast Asia. Because of limited access to survivors who still exhibited symptoms, as well as great difficulties in collecting environmental and other physical samples from attack sites, we were unable to conclude with certainty in the March 22 report that mycotoxins were being used in Afghanistan. We have now concluded that trichothecene mycotoxins have been used by Soviet forces in Afghanistan since at least 1980.

A number of reports indicate that chemical attacks are continuing in 1982. While we cannot substantiate every detail, the pieces of evidence in these reports add up to a consistent picture. For example, a physician in a facility treating casualties among the *mujahidin* (resistance fighters) has reported that he treated 15 *mujahidin* for red skin lesions that he said were caused by Soviet chemical attacks in Qandahar Province in May-June 1982. Three *mujahidin* died within 12 hours of one attack in the general area of Maharijat south of Qandahar. The *mujahidin* claimed that Soviet helicopters fired rockets that emitted black, yellow, and white gases on impact. The physician said that the surviving victims failed to respond to conventional medical treatment.

We have received reports that on September 20, 1982, Soviet soldiers poisoned underground waterways in Lowgar Province south of Kabul where the *mujahidin* were hiding. According to a *mujahidin* commander in Pakistan, a similar event occurred in the same province on September 13, 1982, resulting in the deaths of 60 adults and 13 children. These two independent accounts described a Soviet armored vehicle pumping a yellow gas through a hose into the waterways.[1]

According to the accounts of the September 1982 attacks, the victims' bodies decomposed rapidly, and the flesh peeled away when attempts were made to move the bodies. Since 1979, *mujahidin* resistance leaders, refugees, journalists, and Afghan defectors have described chemical attacks causing almost identical symptoms. Most reports have described the skin as being blue-black after death. Although such symptoms seem bizarre, the large number of reports from a variety of sources since 1979 suggests that they cannot be dismissed (see our March 22 report, p. 16).

In 1982, a Soviet soldier who defected to the *mujahidin* said in an interview with a British journalist that a Soviet toxic agent, termed "100 percent lethal," causes the flesh to become very soft. The Soviet defector stated that the Soviets maintained stores of "picric acid" (probably chloropicrin, a potentially lethal tear gas), the "100 percent lethal" agent, and an incapacitating agent near the cities of Qonduz and Kabul. The defector also reported that:

Unidentified toxic agents had been used in June 1982 on the highway between Termez and the Salang Pass north of Kabul;

The "100 percent lethal" agent was delivered by rockets; and

"Picric acid" and an incapacitating agent were delivered by air-dropped canisters.

The defector stated that the Soviets have been preoccupied with protecting the roads and that chemicals were sprayed by planes along the areas adjacent to highways. Chemical grenades reportedly have been used, but the data are inadequate to allow us to hypothesize about the contents, although some symptoms are indicative of mycotoxins.

The reports of rapid skin decomposition as quickly as 1-3 hours after death continue to concern us. There is no recognized class of chemical or biological toxin agents we know of that could affect bodies in such a way. If we assume occasional inaccuracies in reporting by journalists and survivors of attacks, it is possible that phosgene or phosgene oxime could cause such effects after 3-6 hours but with much less softening of tissues than is consistent with stories of "fingers being punched through the skin and limbs falling off." The reported medical effects of other toxic agent attacks are consistent with use of the nerve agent tabun. We have information that both phosgene oxime and tabun are stored by the Soviets in Afghanistan.

The British journalist, who interviewed the Soviet defector, also reported on two attacks described to him by the *mujahidin*, which have not yet been confirmed. One was an attack in the spring of 1982 on Kaiba, where Soviet soldiers reportedly shot victims already rendered unconscious by a gas; the other was in the summer of 1982 near Herat where Soviet troops reportedly loaded the bodies from a gas attack onto a truck and removed them. Reliable information indicates that the Soviets used chemical bombs against *mujahidin* forces in late September 1982 and in early October 1982 in Baghlan Province.

Our earlier findings are reinforced by several reports received this year about earlier attacks not covered in our March report:

According to a former Afghan Army officer, in September 1981 a Soviet helicopter sprayed a yellow mist in Paktia Province (Sheikn Amir) causing 16 deaths. The survivors had bloody noses and tears; extensive bleeding was reported in those who died. The Afghan officer described a similar attack in Nangarhar Province during the same month in which four persons were killed.

In early December 1981, according to interviews with survivors, 15 refugees attempting to escape to Pakistan were attacked by a helicopter using gas; four or five people were killed (the youngest and the eldest), while the rest became unconscious for 5-6 hours. The attack occurred about 60 kilometers northwest of Jalalabad.

According to a Soviet soldier who served in Afghanistan in 1980 and personally observed the use of chemical weapons, the Soviets dispersed chemicals from fighter-bombers and assault helicopters. He said that an aircraft or helicopter first would drop a container and then, on a second run, drop a bomb, resulting in a mixture of two different chemicals that killed everything within the contaminated area. We believe that the soldier may have been describing the delivery of two separate chemical agents, an occurrence described by other eyewitnesses.

An Afghan veterinarian recently has described an incident in May 1979 in which 20 people and a number of sheep were killed near Qandahar. Soviet lab technicians explained that the incident resulted from anthrax, but the doctor knew that the explanation did not fit the effects observed. Local Afghans told the veterinarian that Soviet vehicles had been in the area spraying a yellow/white powder before the incident.

In June 1980, an airport official described seeing 200-300 gas containers painted in greens and browns at Qandahar Airport. The containers averaged 35-40 inches high and 26-30 inches in diameter. A subordinate reported three types of gases in the containers: one causing burning in the throat as well as suffocation; one causing what looked like smallpox and blistering; and one making victims tired and sleepy and unable to run or fight. Further, the subordinate stated that the containers were placed in special casings that were dropped from aircraft and exploded on impact, emitting a large cloud of smoke, usually yellow but sometimes other colors. He said he had heard mujahidin describe these gas attacks and had himself seen animals that had been killed by the gases. We lend credence to this report because we know from other evidence that chemicals are stored at Qandahar Airport, which is an important staging area for Soviet military operations.

Finally, information received this year revealed that a Soviet adviser inspecting sites for housing Soviet troops before the Afghan invasion indicated that Soviet chemical defense forces entering Afghanistan would bring in extensive stores of toxic materials. The adviser indicated that a proposed garrison in Kabul would be inappropriate for the

[1] We know from other sources that Soviet chemical agent delivery methods include this technique, as reported, for example, by a Cuban emigre trained by the Soviets in the use of chemical weapons.

Soviet chemical defense unit because the materials it transported could devastate the city if an accident occurred.

Laos

H'Mong refugees, recounting details of toxic agent attacks and exhibiting severe medical symptoms from exposure to the agents, fled to Thailand every month from January through June 1982. They brought out more samples contaminated by a yellow, sticky substance described as a "yellow rain" dropped by aircraft and helicopters on their villages and crops. We have preliminary reports on attacks as recent as October 1982. We now know that the yellow rain contains trichthecene toxins and other substances that cause victims to experience vomiting, bleeding, blistering, severe skin lesions, and other lingering signs and symtoms observed by qualified physicians. Experts agree that these people were exposed to a toxic agent and that no indigenous natural disease, plant, or chemical caused these unique physical effects.[2]

Laboratory analyses of blood samples from these victims and studies on experimental animals have shown that trichothecene toxins are retained in the body for much longer periods of time than previously thought. Scientific research has shown that the multiple-phase distribution pattern in animals includes a secondary half-life of up to 30 days. We believe that the severe skin lesions observed on victims by doctors are also relevant. Victims whose blood proved on analysis to have high levels of trichothecene mycotoxins exhibit such skin lesions.

Descriptions of the 1982 attacks have not changed significantly from descriptions of earlier attacks. Usually the H'Mong state that aircraft or helicopters spray a yellow rain-like material on their villages and crops. In some reports the symptoms are similar to those described in our March 22 study, and we attribute them to the use of trichothecene toxins. However, in many cases there was no bleeding, only abdominal pains and prolonged illness. These symptoms, described in previous years, suggest that another agent or combination of agents is still being used. The explanation is complicated because different symptoms are ascribed to men, women, children, and animals. It is possible that different agents, lower concentrations of the same agents, or climatic conditions have affected the efficacy of the agents.

Medical personnel in Lao refugee camps in Thailand were much better organized in 1982 to screen victims than in past years. Doctors now routinely use extensive questionnaires and conduct comprehensive medical examinations, including some onsite, preliminary blood analysis. Skilled paramedical personnel oversee preparation of blood and serum samples for proper transport and the shipment to the United States or other countries for chemical analysis. Some patients with active symptoms are now being monitored extensively over time.

A number of blood samples have been collected from Laos for analysis in the United States. All biological specimens were drawn by qualified medical personnel, and samples were refrigerated until analyzed in the United States. Analysis of these samples shows that trichothecene mycotoxins continue to be used against H'Mong villages. In addition to blood and urine specimens from victims exposed to chemical warfare, we have collected additional physical samples this year. These physical samples consist of more residue of yellow rain containing mycotoxins from the same attacks that yielded human biological specimens positive for these same toxins. (See Annex A.)

The number of reported attacks in Laos in 1982 did not differ significantly from the frequencies reported for comparable periods in the years 1977 through 1981. Reported fatalities per attack during 1981 and 1983 showed an apparent decrease, suggesting the possibility that less lethal toxic agents, or lower concentrations of the same agents, are now being used. This apparent decrease, however, was not statistically significant and could have been caused by a number of other factors, including the following:

Due to emigration and the high number of fatalities since at least 1976, the H'Mong were living in smaller, more scattered communities.

H'Mong survivors still in Laos were warier and quicker to take cover and to use rediментary protective measures at the first sign of attack.

The H'Mong were not taking time to count victims—this is supported by the existence of very few reports that indicate the precise number of people affected by a toxic agent attack.

As stated in the March report, the Soviet Union maintains in Laos significant numbers of advisers who provide maintenance assistance, technical support, and training in both conventional and chemical warfare. A former Lao transport pilot who defected early this summer has described the aerial movement, under Soviet supervision, of toxic agents within Laos.

Kampuchea

Most reports of toxic attacks in Kampuchea for the period 1978–June 1982 come from Democratic Kampuchean (DK) sources, including interviews with DK military personnel. Evidence from other sources confirmed most of these reports. In 1982, most reported attacks occurred near the Thai border, making it easier to obtain samples and other direct evidence of toxic agent use.

In the first 6 months of 1982, the number of reported toxic agent attacks in Kampuchea was about half the number reported during the same periods in 1980 and 1981. The number of reported deaths per attack also decreased, but data were insufficient to determine if this decrease was statistically significant. We also have preliminary reports on attacks through early November 1982.

In February and March 1982, several attacks occurred just across the Kampuchean border in Thailand. Analysis of samples collected from the attacks was performed in Canada, Thailand, and the United States. Although differing sampling techniques give rise to significant sampling error and lead to slightly different analytical results, both the U.S. and Thai analysts, using different analytical techniques, found trichothecene mycotoxins in their samples.[3] The Canadian team investigating these attacks has published a detailed medical assessment of the victims' symptoms; it concluded that illness had in fact occurred and was caused by a toxic agent, although preliminary tests for trichothecenes proved inconclusive in the Canadian sample.

Blood and urine samples from Kampuchean victims of a toxic agent artillery attack on February 13, 1982, contained trichothecene toxins (Annex A). In addition, post-mortem tissue from a victim of this same attack confirmed the presence of trichothecene toxins (Annex B). Analysis of additional samples showing the presence of trichothecenes taken from other attacks is also found in Annex A.

The Vietnamese conducted toxic agent attacks this year against another resistance group, the Kampuchean People's National Liberation Forces. On several occasions in March-May 1982, the resistance camp at Sokh Sann was hit with toxic artillery shells and bombs. Samples of contaminated vegetation and yellow residue from these attacks are now being analyzed. Attacks occurred in Kampuchea through June 1982, providing new samples; qualitative tests indicate that the presence of trichothecenes is probable. The results of confirmatory analyses are pending.

Several Vietnamese military defectors from Kampuchea have provided valuable information in 1981 and 1982 on chemical weapons use and on the Vietnamese chemical warfare program and have reported that some types of agents are supplied by the Soviet Union. Information from other sources also confirms our earlier view that the Vietnamese possess toxic agent munitions and are equipping their own troops with additional protective equipment.

TABLE 1.—AFGHANISTAN: REPORTED ATTACKS, 1982

Date	Village location	Method of attack	Form of material	Persons killed	Persons taken ill
Early Feb	North of Shindand	Aircraft	Yellow substance	4	?
Feb. 4, 5	South of Shindand	Helicopter	Yellow substance	0	?
Feb. 19	Badakhshan Province	Aircraft	Yellow crystals	?	?
May–June	Qandahar Province	Helicopter rockets	Black, yellow, white gases	3	15
June	Farah Province	Aircraft bombs	Red, black, white smoke	?	?
June 11	Qandahar Province	Aircraft bombs	?	15	30
June	Baghlan Province	Helicopter	?	?	?
July	Panjsher Valley	Aircraft	Nerve gas	0	0

[2] See Canadian report to the United Nations: "Study of the Possible use of Chemical Warfare Agents in Southeast Asia," Dr. H. B. Shiefer, University of Saskatchewan.

[3] It was thought initially that a harmless yellow powder had been dropped on Thai villages as part of a disinformation campaign attempting to discredit U.S. sample analysis results. Within days of such an attack, the Thai Ministry of Health announced that only ground-up flowers had been found. However, Thai officials later stated that further analysis showed traces of toxin and that the earlier Health Ministry announcement was based on incomplete investigation.

TABLE 1.—AFGHANISTAN: REPORTED ATTACKS, 1982—Continued

Date	Village location	Method of attack	Form of material	Persons killed	Persons taken ill
Sept. 13	Lowgar Province	Pumped from armored vehicle	Gas	73	0
Sept. 20	Lowgar Province	Pumped from armored vehicle	Gas	?	?
September	Lowgar Province	?	?	7	?
Late September/early October	Baghlan Province	Aircraft bombs	?	?	?

? = Undetermined.

TABLE 2.—LAOS: REPORTED ATTACKS, 1982

Date	Village location	Method of attack	Form of material	Persons killed	Persons taken ill
Jan. 3, 6, 11	Phou Bia [1]	Helicopter spray	Yellow rain	0	?
Jan. 4	Phou Bia	Aircraft	Green chemical [2]	?	?
Jan. 9	Phou Bia	Artillery	White/yellow cloud	0	?
Feb. 13	Phou Bia	Aircraft spray	Yellow rain	0	?
Feb. 21, 22	Phou Bia	Helicopter	White powder	0	?
Feb. 28	Phou Bia	Helicopter	White powder	10	30
Mar. 10	Phou Bia	Helicopter, aircraft	Red, yellow/white clouds	([3])	([3])
Mar. 17	Phou Bia	Helicopter spray	Yellow rain [2]	20	?
Mar. 25	Phou Bia	Helicopter spray	Yellow rain [2]	1	([4])
Late March, early April	Phou Bia	Aircraft	Yellow rain [2]	27	([3])
Apr. 1	Phou Bia (3 villages)	?	Yellow rain	([3])	4
Apr. 17, 18, 30	Phou Bia	Aircraft	Yellow rain	10	?
April/May	Phou Bia	Aircraft, helicopters	Yellow rain	0	([3])
May 20	Phou Bia	Aircraft	Yellow rain	4	100
May 24	Phou Bia	Aircraft	Yellow rain	9	([3])
May	Phou Bia	Poisoned river	?	0	([3])
June 17	Phou Bia	Aircraft spray	Yellow rain	4	([3])

? = —Undermined.
[1] Phou Bia refers to mountain area where H'Mong villages are located.
[2] Samples from this attack contained mycotoxin (see Annex A).
[3] Many.
[4] 40 families.

TABLE 3.—KAMPUCHEA AND THAILAND: REPORTED ATTACKS, 1982

Date	Village location	Method of attack	Form of material	Persons killed	Persons taken ill
Kampuchea:					
Feb. 13	Border near Khao Din	Artillery	?([1])	([2]) 1	100
Feb. 23	Border near Pailin	Spread along border	Yellow powder	0	?
May 3	Battambang Province	Artillery	?	0	?
Mar. 5, 7	Pailin area	Aircraft spray artillery	White powder [1]	0	10
Mar. 7–11	Sokh Sann	Artillery ground spray	Yellow substance	0	([3])
Mar. 10	Battambang Province	Aircraft	Toxic substance	25	12
Mar. 10–13	Battambang Province	Aircraft, artillery	Toxic substance	30	?
Mar. 17	Sokh Sann	Artillery	Yellow/white powder	0	([3])
Mar. 24	Battambang Province	Poisoned water	Yellow powder	4	?
Apr. 29	Battambang Province near border	Aircraft spray	Yellow powder	3	7
May 23, 26	Sokh Sann	Aircraft spray	?	0	?
June	Preah Vihear Province	Poisoned food and water	?	2	([3])
June 24	Border near Nong Chan	Mortar	Yellow cloud	0	4
Thailand:					
Feb. 19	Pong Nam Ron District	Aircraft spray	Yellow powder [1]	0	([3])
Mar. 3	Southeast of Pong Nam Ron District near border	Aircraft (powder wind-blown over border)	Powder	0	([3])
Mar. 5	Pong Nam Ron District	Mortars	Gray/black smoke	0	18
Mar. 6, 8	Southeast of Pong Nam Ron District near border	Aircraft spray	Yellow powder	0	([3])

? = Undetermined.
[1] Samples from this attack contained mycotoxin (see Annex A).
[2] See Annex B for detailed analysis of autopsy results of the victim.
[3] Many.

ANNEX A

ANALYSIS OF SAMPLES FOR CHEMICAL WARFARE AGENTS AND TOXINS

The identity of the agents and toxins being used in Laos, Kampuchea, and Afghanistan cannot be determined without collection and analysis of at least one of the following: environmental or physical samples contaminated with agent, the munitions used to deliver agents, or biological specimens from attack victims.

The likelihood of detection of chemical agents and toxins in contaminated samples depends on a number of factors. These include the persistency of the agent; the ambient temperature; rainfall; wind conditions; the media on which the toxic agent was deposited; and the time, care, and packaging of the sample from collection to laboratory analysis. Many standard chemical warfare agents and toxins disappear from the environment within a few minutes to several hours after being dispersed. These include, for example, the nerve agents sarin and tabun, the blood agents hydrogen cyanide and cyanogen chloride, the choking agents phosgene and diphosgene, and the urticant phosgene oxime. Other standard agents—such as the nerve agents VX and thickened soman and the blistering agents sulfur mustard, nitrogen mustard, and lewisite—may persist for several days to weeks depending on weather conditions. The trichothecene toxins are stable under laboratory conditions but degrade in field samples due to metabolism by micro-organisms contained in the sample. To maximize the chances of detection, sample collections should be made as rapidly as possible after a toxic agent assault; with many agents this means minutes to hours. Given the situation in Southeast Asia and Afghanistan, this usually has not been possible. Although numerous samples were collected, few held any realistic prospects for yielding results. However, when immediately collected and properly handled and using the advanced technology now available, trichothecenes may be detected in both physical and biological materials up to several months after the attack.

Samples have been collected from Southeast Asia since mid-1979 and from Afghanistan since May 1980. To date, more than 350 individual samples—of greatly varying types and utility for analytical purposes—have been collected and analyzed for the presence of traditional chemical agents. About 100 additional samples are pending completion of analysis. All environmental and nonmedical samples were submitted to the U.S. Army Chemical Systems Laboratory for analysis for traditionally recognized chemical warfare agents and other toxic materials. Tissue specimens and body fluids from attack victims were submitted to the Armed Forces Medical Intelligence Center. Under the sponsorship of that organization, the biomedical specimens were analyzed for the presence of trichothecene mycotoxins and other toxins by Dr. Chester Mirocha, Uni-

versity of Minnesota; Dr. Joseph Rosen, Rutgers University; and Dr. Tim Phillips, Texas A&M University.

To date, biomedical samples (blood, urine, and/or tissue) from 33 alleged victims have been screened. Specimens from 16 of these individuals show the presence of trichothecene mycotoxins. In addition, six environmental samples from alleged attack sites have been analyzed by Dr. Mirocha. Five show the presence of unusually high concentrations and combinations of trichothecene mycotoxins.

EVIDENCE OF CHEMICAL AND TOXIN AGENT USE IN SOUTHEAST ASIA AND AFGHANISTAN, 1982

Sample	Result
Laos:	
Blood	Trichothecene toxin.
Blood (post-mortem).	Trichothecene toxin.
Yellow residue	Trichothecene toxin.
Vegetation	Trichothecene/aflatoxin B1.
Kampuchea/Thailand:	
Blood	Trichothecene toxin.
Urine	Trichothecene toxin.
Tissue (autopsy)	Trichothecene aflatoxin B1.
Yellow residue	Trichothecene toxin.
Vegetation	Trichothecene toxin.
Water	Trichothecene toxin.
Water	Cyanide.
Afghanistan:	
Gas mask (2 sets)	Trichothecene toxin.
Vegetation	Trichothecene toxin.

Details concerning samples analyzed since the March report—including the circumstances of their collection, analysis, and the results—are provided in this annex. Results of analysis of earlier samples were included in our March 22, 1982 report.

POSITIVE SAMPLE RESULTS

Afghanistan

One-quarter of the external surface of a Soviet gas mask, obtained near Kabul in September 1981, was recently processed for analysis, employing techniques not previously used, and showed the presence of T-2 toxin. This analysis has been verified by two other laboratories. Similar analysis of material from the hose connections of another Soviet gas mask removed from a dead Soviet soldier in December 1981 in Afghanistan is indicative of the presence of the trichothecene toxins, T-2, DAS, verricarol, and another type of mycotoxin—zearalenone. It is believed that these protective masks were worn during operations in which a toxin agent was used.

Preliminary analysis of a third sample acquired in February 1982 also indicates the presence of trichothecenes.

Laos

(1) Blood samples were drawn from an ill H'Mong couple on March 21, 1982, by a physician in the Ban Vinai refugee camp. The victims were exposed to toxin agent attacks on November 11, 1981, and January 4, 1982. They remained ill and under treatment on March 21, 1982, when blood samples were obtained. During the November 1981 attack, an aircraft sprayed a yellowish agent. Although no one died in the village, symptoms such as bloody diarrhea were experienced by most of those exposed. In the January 1982 attack, a greenish chemical was sprayed from an airplane. Vomiting with blood, bloody diarrhea, blurred vision, chest pain, eye irritation, and skin rash were reported. Lingering effects included rash, pain in the joints, and fatigue. The blood samples were analyzed for three trichothecene toxins: DAS, T-2 and HT-2. The blood sample from the male was found to contain 13.5 ppb T-2 toxin. The female was negative for all toxins analyzed.

(2) Three blood samples were drawn by a U.S. physician on April 17, 1982, from three H'Mong refugees: Bloc Her, an 8-year-old boy; Tong Her, a 6-year-old boy; and Xia Sue Xiong, a young girl. They were among a group exposed to a toxic agent attack in late March 1982 in Laos. The agent used was described as being yellow to reddish brown. It was sticky and dried to a powder. Bloc Her had been severely ill with bloody diarrhea and coughing of blood. Xia Sue Xiong was suffering from bloody diarrhea and abdominal pain. The blood samples were analyzed for three trichothecene toxins: DAS, T-2, and HT-2.

TRICHOTHECENE TOXIN ANALYSIS

Victim	DAS	T-2	HT-2
Bloc Her	Negative	Negative	Negative
Tong Her	Negative	110 ppb	296 ppb.
Xia Sue Xiong	Negative	46 ppb	Negative.

ppb = parts per billion.

(3) Post-mortem blood samples were taken from a 25-year-old H'Mong refugee who had been admitted earlier to a refugee hospital at Ban Vinai, Thailand. Just before death he had suffered from a massive gastrointestinal hemorrhage. He had claimed exposure to a toxic agent attack sometime earlier in Laos. The blood was drawn in the hospital on April 17, 1982, and analyzed for three trichothecene toxins: DAS, T-2, and HT-2.

TRICHOTHECENE TOXIN ANALYSIS

Specimen type	DAS	T-2	HT-2
Heparinized blood	Negative	15ppb	19 ppb.

(4) Blood was drawn on April 6, 1982, from Neng Xiong, a H'Mong refugee in Thailand. She was suffering from the effects from a toxic agent attack that occurred in Phou Bia, Laos, on March 25, 1982. The entire population of the village (40 families) suffered from vomiting, fever, backaches, headaches, and chest pain after a helicopter dropped a yellowish agent. Many villagers also developed swollen eyes. It was reported that one woman and several animals died. Neng Xiong's blood was analyzed for three trichothecene toxins: DAS, T-2, and HT-2.

TRICHOTHECENE TOXIN ANALYSIS

Specimen type	DAS	T-2	HT-2
Heparinized blood	Negative	100 ppb	8 ppb.
Nonheparinized blood.	Negative	33 ppb	34 ppb.

(5) A H'Mong refugee reported being subjected to a toxic agent attack on March 17, 1982, in Phou Bia, Laos. The agent, which "looked like yellow rain," was sprayed by a helicopter at low altitude. The sticky yellow spots dried to a powder in 3-4 hours. Immediately after the attack, the victim developed stomach and chest pains and vomited. Vomiting with blood began later and continued over the next 24 hours. Other symptoms included headache, shortness of breath, dizziness, eye irritation, and vision disturbances. The refugee also developed a rash and blisters. Blood samples were drawn by a physician at Ban Vinai refugee hospital in Thailand on March 31, 1982. The samples were anaylzed for three trichothecene toxins: DAS, T-2, and HT-2.

TRICHOTHECENE TOXIN ANALYSIS

Specimen types	DAS	T-2	HT-2
Heparinized blood	Negative	19 ppb	Negative.
Non-Heparinized blood.	Negative	3 ppb	2 ppb.

(6) Results of analysis of two environmental samples from attack sites in Laos were reported in our March 22 report and are not repeated here. An additional set of environmental samples taken from an allegedly contaminated area in Laos near Phu He was obtained for analysis. Although symptoms were manifested in individuals collecting and handling the sample, no trichothecenes were detected upon analysis.

Kampuchea/Thailand

(1) On February 13, 1982, at least 100 Kampuchean soldiers were subjected to an artillery-delivered toxic attack by Vietnamese forces and became ill. The attack took place near the village of Tuol Chrey in an area north of Khao Din, about 300 meters from the Thai-Kampuchean border. One individual subsequently died (see autopsy results, Annex B). Reported symptoms included burning eyes, blurred vision, shortness of breath, chest pains, vomiting, and vertigo. Some victims also trembled and generally felt weak. Blood and urine samples were taken from a number of victims at various times after the attack as well as from a control group of individuals living under similar conditions but not subject to the toxic agent attack. Blood and urine samples from the control group were negative for all analyzed toxic agents, including trichothecene toxins.

On February 14, 1982, 1 day after the attack, blood samples were taken from two victims: Pen Nom and Prek Reth. On February 15, a urine sample was taken from Pen Nom, while on February 16, a urine sample was taken from Prek Reth. Both blood and urine samples were analyzed for the presence of the trichothecene mycotoxins T-2 and HT-2.

TRICHOTHECENE TOXIN ANALYSIS

Victim	Specimen	T-2	HT-2
Prek Reth	Blood	18 ppb	22 ppb
		Negative	Negative.
Pen Nom	Blood	11 ppb	10 ppb
		Trace	18 ppb.

On March 4, 1982, 19 days after the incident, some victims still showed effects of the attack and were being treated in Nong Pru hospital in Kampuchea. Further blood samples were drawn at that time from Prek Reth and five additional victims.

Trichothecene toxin analysis

Victim	T-2 Toxin
Prek Reth	Negative.
Kin Ving	7 ppb.
Mau Sereth	Negative.

Seng Nem ..... Negative.
Ching Soeum ..... Negative.
Chem Ron ..... 3 ppb.

Analysis of tissue samples from a victim of the February 13 attack is described in Annex B.

(2) On March 5, 1982, a small Vietnamese aircraft sprayed a white powder in an area near Pailin, Kampuchea. On March 6, 1982, 10 of a group of 15 Kampucheans were unable to continue walking due to illness after passing through the area. Symptoms included nausea, vomiting, shortness of breath, blurred vision, diarrhea, bloody discharge from the nose, and burning sensation in the chest and abdomen. A second attack occurred on March 7, 1982, when some of the same Kampucheans were subjected to Vietnamese toxic artillery shelling. The agent produced nausea, dry mouth, and blurred vision and also caused loss of consciousness and muscle twitching. Despite medical treatment, a number of the victims died.

Samples were taken from three survivors exposed to the contaminated area on March 6 and 7. Blood and urine were taken on March 13, 1982.

TRICHOTHECENE TOXIN ANALYSIS

Victim	Specimen [1]	DAS	T-2	HT-2
Neung Hon	Urine	Negative	5 ppb	2 ppb.
	Blood	Negative	7 ppb	Negative.
Chan Saran	Urine	Negative	4 ppb	1 ppb.
	Blood	Negative	Negative	8 ppb.
Bun Thoeum	Urine	Negative	22 ppb	7 ppb.
	Blood	Negative	Negative	Negative.

[1] Blood samples was heparinized.

(3) A sample of contaminated vegetation was obtained following spraying by a Vietnamese aircraft in Pong Nam Ron District near the Thai-Kampuchean border on February 19, 1982. Analysis of this sample for known chemical agents was negative. However, the trichothecene toxin T-2 was present at a level of 86 ppb. DAS was also present at 30 ppb. The sample was of insufficient size to analyze accurately for the toxins nivalenol and deoxynivalenol.

ANNEX B

AUTOPSY RESULTS OF A CHEMICAL WARFARE ATTACK VICTIM IN KAMPUCHEA

Chan Mann was one of several victims of a February 13, 1982, toxic agent attack in the area of Khao Din. The victim, being treated at Nong Pru Hospital, reportedly made a brief recovery on March 12 and 13, followed by a relapse when he became anuric, feverish, restless, and slightly jaundiced. On March 17, he lapsed into a coma and died. A urinary catheter was inserted approximately 4 hours before death, but only minimal blood-tinged urine was obtained. Shortly before death the victim vomited blood. Kampuchean physicians performed a necropsy. Tissue sections of heart, esophagus/stomach, liver, kidney, and lung were taken and fixed in formaldehyde. Tissue samples were given to both U.S. and Canadian officials for analysis.

The samples delivered to the United States were submitted to several U.S. laboratories for gross, microscopic, histopathological, and chemical-toxicological analysis.

RESULTS OF ANALYSIS OF TISSUE SAMPLES FOR DAS, T-2, AND HT-2 [1]

Material	Amount (g)	Toxins detected		
		DAS [2]	T-2	HT-2
Heart	7.9		([3])	1 ppm.
Stomach	13.5		25 ppb	4 ppm.
Liver	9.5			
Kidney	10.4	3 ppm [4]	7 ppb	
Lung	4.5		9 ppb	
Intestine	5.3		88 ppb	10 ppb.

[1] DAS (Diacetoxyscirpenol), a trichothecene toxin; T-2, a trichothecene toxin; HT-2, a metabolic product of T-2.

[2] DAS was used as internal standard—i.e., DAS was added to each tissue sample as a standard to check accuracy of analysis. Only the kidney had a concentration of DAS greater than the amount added.

[3] Toxins were not detected. Concentration of DAS was no greater than the added internal standard.

[4] Endogenous DAS in sample detected in concentration greater than the standard.

Note: Tissues were analyzed for trichothecene toxins by Dr. C.J. Mirocha, University of Minnesota. A parallel analysis performed by Dr. J. Rosen, Rutgers University, also revealed the presence of high levels of trichothecene toxins.

A high incidence of natural aflatoxin contamination of food in Southeast Asia has been well documented. Linderfelser and coworkers (1974) have shown that aflatoxin and T-2 toxin in combination have a synergistic effect and, therefore, it was of interest to determine the extent of aflatoxin in tissue of this individual.

RESULTS OF ANALYSIS OF SAMPLES FOR AFLATOXIN

Material	Weight of sample (g)	Sample	
		Actual (ng/g) [1]	Adjusted [2] (ng/g)
Stomach	3.04	19.8	22.5
Liver	3.00	20.2	23.2
Kidney	7.50	15.3	17.4
Intestine	3.02	11.2	12.7

[1] Nanograms per gram.

[2] Values adjusted on basis of 88 percent recovery—that portion of aflatoxin found when a known amount is added to the sample.

Note: Aflatoxin analyses were conducted by Dr. Phillips, Texas A&M University.

Levels of aflatoxin detected in the tissues were so high that it seemed prudent to investigate the possibility that this individual exposure to aflatoxin was not due to a natural contamination but may have been related to the chemical attack. To this end, portions of the sample of yellow rain from Laos previously shown to contain 143 ppm of T-2 toxin and 27 ppm of DAS were submitted to Dr. Mirocha and Dr. Phillips for analysis for aflatoxin B1. Independent thin-layer chromatography and high-performance liquid chromatography analyses were negative for aflatoxin, supporting a hypothesis that this toxin is not always a component of a yellow rain sample and that the victim's exposure to aflatoxin may have been due to contamination of the food source. It does not, however, rule out the possibility that aflatoxin is a component of some yellow rain attacks. Preliminary analysis of some more recent yellow rain samples indicates the presence of aflatoxin in these tissues is important since the high incidence of exposure to natural outbreaks of aflatoxin contamination in Southeast Asia may induce a greater susceptibility to trichothecenes in this population.

Portions of each tissue sample were submitted to Dr. Charles Stahl, University of Tennessee Medical School, for histopathological examination. A summary of the pathology found included: hemorrhage into the heart tissue with evidence of cell destruction and inflammation, cirrhosis of the liver, hemorrhage and cellular destruction of kidney tubules, hemorrhage in the bronchi, and congestion and destruction of the lung. The details of these results and similar findings by other pathologists are consistent with results and similar findings by other pathologists are consistent with results of analysis of animals exposed to trichothecenes.

No single post-mortem finding proves cause and effect of toxin exposure and death, but these data taken together provide objective evidence that:

Reports from witnesses of yellow rain attacks are valid and that bleeding sometimes occurs in the lung, stomach, intestine, and kidney or bladder.

Persons already debilitated by disease or exposure to other toxins have a greater risk of death from trichothecene toxicosis.

Microscopic examination shows that tissue damage occurs in humans after moderate-to-heavy exposure to trichothecenes. The damage is similar to that found in experimental animals.

Microscopic damage persists for 1 month or longer.

Trichothecenes are known to cause long-term damage to rapidly dividing tissue. These toxins accumulate and persist at least in the organs that were examined.

Aflatoxin found in the tissues may be foodborne and is not necessarily a component of the yellow rain substance. However, aflatoxins and trichothecene toxins act synergistically, and they could be components of a toxic crude extract mixture. Emerging data from several sources lend credibility to such a hypothesis; therefore, investigation seems warranted.

ANNEX C

DISCUSSION OF ANALYTICAL FINDINGS [4]

The finding of T-2 toxin and HT-2 toxin in blood, urine, and tissue samples from yellow rain victims is highly significant in view of the fact that no trichothecenes could be detected in similar samples from the control population who were not exposed to yellow rain. The finding of such high levels of trichothecenes weeks after exposure is surprising and raises questions concerning the distribution, metabolism, and excretion of these toxins as well as their long-term effects.

Only limited research concerned with elimination rates of the trichothecenes has been conducted. Ueno, et al., 1971, reported that orally administered fusarenon-x was rapidly distributed to the tissues and reached peak levels by 3 hours after dosing. The kidney was believed to be the major organ of excretion. Matsumoto, et al., 1978, conducted studies with T-2 toxin which led him to conclude that the liver and biliary system were the major organs of T-2 excretion. Chi, et al., 1978, administered oral doses of T-2 to broiler chickens. Peak tissue levels were reached by 4 hours after dosing, and the liver contained the greatest amount of toxin. By 12 hours after dosing, however, the muscle, skin, and bile contained the highest amounts of detectable toxin. By 48 hours, 82% of the adminstered dose had been excreted. Robinson, et al., 1979, showed that T-2 toxin was excreted into cow milk at levels up to 160 ppb after daily administration of 0.6 mg/kg doses.

Studies concerned with metabolism of the trichothecenes have also been limited in

[4] Based on excerpts from a paper by Dr. C. J. Mirocha and Dr. S. Watson, presented at an international symposium on mycotoxins in Vienna on Sept. 1, 1982.

number. Yoshizawa, et al., 1980, reported that in rat liver *in vitro* studies with the S-9 fraction of rat liver homogenates, HT-2 made up 50% of the metabolic products. Other metabolites included TMR-2 (19%), TMR-2 (2%), and T-2 tetraol (4%). In *in vivo* studies, HT-2 was one of the major products eliminated in the excreta of chickens (Yoshizawa, et al., 1980) as well as urine, feces, milk, and blood of dairy cattle (Yoshizawa, et al., 1981).

The finding of T-2 toxin and HT-2 in the blood and tissue of humans weeks after their exposure to the toxins would seem to indicate that enough toxin remains bound in body tissues to allow detection by sensitive instrumentation. Trichothecenes have been shown to bind to ribosomal proteins (Ueno, 1975) and to react with sulfhydryl containing compounds such as glutahione (Foster, et al., 1975) and with proteins such as albumin (Chu, et al., 1979). It would appear that although most of the toxin would normally be expected to be excreted within 48 hours after exposure, small amounts of the toxin and its metabolites remain bound to body tissues for much longer periods. The size of the dose administered and the route of exposure may have a significant effect on the proportion bound, since a sudden, rapidly absorbed, massive dose may overload normal excretion and detoxification mechanisms, resulting in greater tissue binding of the toxin. Similar apparent long-term storage of mycotoxins has been reported previously for aflatoxin B. Although most of the administered dose of aflatoxin is rapidly metabolized, Shank, et al., 1971, demonstrated in studies of monkeys that unmetabolized aflatoxin B could be detected up to 6 days after administration of a sublethal dose.

Additional significant findings lie in the trichothecenes found in the leaf samples (T-2, DON, nivalenol) and yellow powder (T-2, DAS). The concentrations found and their combination are not normally found in nature and it would appear that these mycotoxins found their way into the environment by the intervention of man. The most compelling evidence is the presence of T-2 and DAS in the yellow powder. Both toxins are infrequently found in nature and rarely occur together. In our experience copious producers of T-2 toxin *(F. Tricinctum)* do not produce DAS and, conversely, good producers of DAS (*F. reoseum* 'Gibbosum') do not produce T-2. This is also supported by our experience that a good producer of DON does not produce T-2 or DAS but could produce nivalenol. Thus, we have more than just the quantity of toxins produced to explain, but also the kinds that respective species and their isolates produce. Theoretically, it is possible to genetically manipulate or select an isolate that would produce copious amounts of two or more of these toxicants, but this would require a sophisticated research effort and sophisticated technology based on experience.

It is difficult to explain the presence of trichothecenes on leaf surfaces. Fusarium is not a leaf pathogen, and so we would not expect it to colonize leaves indiscriminately. Fusarium does colonize the roots and vascular tissue (causes wilt diseases) of some plants, and it would have to produce the toxins *in situ* and translocate them to the leaves. This has never been demonstrated in the pathogenesis of Fusarium-infected plants. If a pathogen like *F. oxysporum* f. *lycopersici*, pathogenic to tomatoes, were to produce trichothecenes and translocate them to the leaves, one would not expect such high concentrations and combinations of toxins. Moreover, we are not certain that pathogenic isolates of the latter produce trichothecenes during pathogenesis. It is a well known plant pathological principle that production of toxins by pathogens in laboratory culture does not signify that these toxins also are produced in the host.

Apart from the controversy of the trichothecenes occurring on the leaves, it is difficult to imagine a reasonable explanation for the appearance of T-2 and DAS in the yellow powder. To those who claim that they dropped onto the soil and rocks from overhanging leaves, this is contrary to any known facts about trichothecene occurrence or distribution. The burden of proof remains with those alleging such an unlikely hypothesis.

The finding of T-2 toxin, diacetoxyscirpenol, deoxynivalenol, zearalenone, and *Fusarium* pigments in leaves, water, yellow powder, and fragments originating at sites of yellow rain attacks in Southeast Asia and their absence in background samples (leaves, corn, rice, water, soil) from areas not exposed to yellow rain strongly implicates their use as warfare agents. Moreover, the finding of T-2 toxin and HT-2 toxin (a metabolite of T-2 toxin in animals) in the blood, urine, and tissue of victims of these attacks provides unequivocal evidence of their use as weapons.

Details of the experimental procedures used in these analyses were presented at the Society of Toxicology meeting in Louisville, Kentucky, on August 16, 1982; at an international mycotoxin symposium in Vienna, on September 1, 1982; and at the Association of Analytical Chemistry meeting in Washington, D.C., on October 28, 1982.

Two scientific manuscripts describing those analyses have been submitted for publication in refered journals and other studies pertaining to nongovernmental analyses are in press.

ELIMINATION OF RELIGIOUS INTOLERANCE

Mr. ARMSTRONG. Mr. President, a few days ago, the distinguished Senator from Wisconsin (Mr. KASTEN), who is serving as our representative to the United Nations 37th session of the General Assembly made an extraordinarily interesting and thought-provoking address before the Third Committee on Item 84, Elimination of All Forms of Religious Intolerance.

Mr. President, I urge my colleagues to carefully study the remarks of the Senator from Wisconsin. I ask unanimous consent that they be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR ROBERT W. KASTEN, JR.

Mr. Chairman, last year, following almost two decades of consideration, study and discussion, the General Assembly adopted the Declaration on the Elimination of All Forms of Intolerance and Discrimination based on Religion or Belief.

The Declaration locates the freedom of thought, conscience, religion and belief in the "dignity and equality inherent in all human beings." Freedom of religion, thought, conscience and belief, according to the Declaration, is not a favor that states may grant or withhold at their pleasure, or use as a reward or a punishment. It is a right of all humanity which exists independent of and prior to the prerogatives of states.

The Declaration prescribes that states take "effective measures to prevent or eliminate discrimination on the grounds of religion or belief," and that they "make all efforts to enact or rescind legislation where necessary to prohibit discrimination and to take all appropriate measures to combat intolerance." The state's role in setting standards for religious practices must be defined in law, according to the Declaration, and it is to be exercised only to the degree "necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others." Considerations such as the truth or falsity of religious claims are not among the items listed in this clause of the Declaration, nor are considerations of state convenience or views on political and social questions.

By adopting this Declaration, we have not solved the problem of religious intolerance. Many specific and glaring cases of religious intolerance and discrimination continue to exist.

For example, the treatment today of the Baha'i in Iran embodies in a particularly brutal way the classic form of religious intolerance which says that what is different must be wrong and must, therefore, be suppressed.

The present Iranian Government seems determined to destroy the Baha'i religion in Iran. The houses of worship of the Baha'i have been closed and destroyed. Their books and writings are burned when found. Baha'i marriages are not recognized as legal, and the children of such marriages are considered illegitimate. The pensions of retired government workers who are Baha'is have been stopped, and in May 1979, Baha'is employed by the Iranian Government were told they must renounce their faith or face dismissal. In September 1979, provincial governments were instructed not to license Baha'i shopkeepers or merchants. Elders of the Baha'i faith have been abducted, some to be publicly executed, others to join the thousands of the "disappeared."

Mr. Chairman, this is an example of the intolerance enforced by an undemocratic government controlled by the dominant religion. This has been a prevalent form of religious discrimination over the centuries, but the modern era has witnessed a new and especially virulent form of state-enforced intolerance. The rise of totalitarian governments, seeking to control and organize all aspects of life, culture and society, has been accompanied by intolerance of all religions. Religions are seen as competitors for influence, affection or obedience, and therefore, as institutions which must be destroyed. Such political systems are based on what Pope John Paul II this month called "secularized ideologies that go as far as to negate God and limit religious liberty."

One example is Vietnam where all three principal religions—Buddhism, Christianity, and Islam—are treated with great hostility. Catholic priests and nuns and Protestant ministers are subject to continual police surveillance, and according to the English Catholic newpaper, The Tablet, some 200 Catholic priests are in prison at the present time. Islamic schools have been closed and the traditional pilgrimage to Mecca has been forbidden. Large numbers of Buddhist monks have been sent to re-education

camps. The An Quang Buddhist sect, which ironically was suspected by the former Thieu Government of having pro-Communist sympathies, has suffered rigorous persecution by the Hanoi Government, according to An Quang monks who have managed to escape to Thailand.

Some of the most clear-cut violations of the Declarations on Elimination of Religious Intolerance take place in Albania. Let me quote from the 1980 Amnesty International Report:

"In 1967, Albania was officially proclaimed the first atheist state in the world and churches and mosques were closed or demolished. Religious leaders of the Roman Catholic, Orthodox and Moslem faiths were prohibited from exercising their functions and persecuted. Many are reported to have been sentenced to long terms of imprisonment or banishment for attempting to exercise their right to freedom of conscience."

Article 55 of the Albanian Constitution flatly prohibits religious organizations and religious activity, and the Albanian Penal Code make such activity punishable by three to ten years' imprisonment. Albanian law thus openly and completely contradicts the Declaration on the Elimination of Religious Intolerance. Article 4, Section 2 of the Declaration demands that all states shall either enact or, where necessary, rescind legislation in order to prohibit religious intolerance and discrimination. The Albanian Government thus has a clear moral obligation to remove the legislation which prohibits the full exercise of religion in Albania.

Nicaragua also applies a stringent political test to religious activity. There, Interior Minister Tomas Borge has stated, "the future of religious sects in Nicaragua will depend upon their attitude henceforth toward the revolution."

But the people of Nicaragua are deeply religious and the confrontation between the Nicaraguan Government and the Catholic Church has been a source of growing dismay and consternation. Archbishop Obando y Bravo, who was banned by the government from saying mass on television, has said that the Sandinistas are afraid of the church and its large following. "They would like us to accept their Marxism," he has said, "and walk shoulder to shoulder with them. They want us to be their apologists."

The government has repeatedly closed down the church's radio station and sponsored stone-throwing, chain-wielding mobs—called turbas—which harass priests and occupy church premises. Such acts have profoundly alienated the population. As a parishioner from San Marcos recently told the Wall Street Journal, "when they attack the church and our priests, they are attacking us, and we don't stand for it."

The United Nations and the world community should not stand for it either.

The world pioneer in the suppression of religion, Mr. Chairman, is the Soviet Union. Although Article 52 of the Soviet Constitution guarantees freedom of religion, and provides for the separation of church and state, the practice followed in the Soviet Union is best described in the following quote from the works of Stalin:

"The Party cannot be neutral toward religion and it conducts anti-religion propaganda against all and every religious prejudice."

Religion is seen as preaching a transcendent view of man and the world which Soviet authorities reject, since this view is innately opposed to their efforts to make the individual completely subservient to the state. There are also specific churches and religions—for example, the Catholic Church in Lithuania or the Islamic Religion in the Central Asian Republics of the USSR—that are seen as the carriers of a nationalist spirit which works against Russian domination. Such churches and religions are marked for special measures—overt suppression, as in the case of the Catholic Church in Lithuania, or a more subtle form of corruption and subversion from within, as in the case of Islam in the Central Asian Republics.

The Jewish minority in the Soviet Union experiences discrimination and denial of basic human rights not only on religious grounds but on racial and ethnic grounds as well. Soviet Jews who attempt to teach their religion to young people can be charged with criminal activity and sent to the Gulag. Those who reproduce religious writings may lose their jobs and often face arrest as well. Jewish parents, like Protestant or Catholic or Orthodox parents, may be deprived of their children if the children receive religious instruction outside the home.

In addition to these persecutions, common to all who practice a religion in the Soviet Union, Jews are subject to a range of discrimination and hostility which is reserved especially for them. State and party newspapers and periodicals have published an enormous volume of anti-Semitic hate literature which reworks the themes of The Protocols of the Elders of Zion, the anti-Semitic tract—first published in Russia in 1905. It alleges a Jewish world conspiracy and inspired the propaganda and violence of the Black Hundreds in Russia at the turn of the century and later of the Nazis in Germany.

Mr. Chairman, the U.S. delegation is fortunate to have in its possession a letter to a member of the delegation, dated November 5, 1982, which gives a vivid, moving picture of the nature of religious persecution in the Soviet Union. The letter is from Natalia Solzhenitsyn, the wife of the Nobel Laureate. Mrs. Solzhenitsyn calls our attention to a remarkable document, the "Report of the Council for Religious Affairs to Members of the Central Committee of the CPSU," which demonstrates that the Council, a party-governmental organization, controls the Russian Orthodox Church on all levels, from the Patriarch down to the clerk who sells candles. It also demonstrates that the Council demands from priests not merely civic loyality to the authorities, but a maximal passivity which perverts the very meaning of their service.

Mrs. Solzhenitsyn's letter is most significant, however, as a personal testimony. What follows is quoted from that letter:

"I would like to list for you," she writes, "those violations of religious freedom (and only those) which I and my family personally experienced, as rank-and-file members of the Orthodox Church.

"The number of churches in the USSR is far below the population's needs. Consequently, during services the churches are always crowded and stuffy, with the result that older people faint. In Moscow and all across the country there are many churches which are used as warehouses or offices, and some simply remain empty, but the authorities have refused believers' requests that they be allowed to use them for services. (Naturally, the believers were ready to assume all expenses.)

"It is impossible to purchase a copy of the Bible, the New Testament, prayer books, or any sort of religious or theological literature. There are no bookstores where these items are sold. The publishing house of the Moscow Patriarchate prints religious books, but they are issued in such miniscule quantities that a lay person cannot hope to acquire even a church calendar which lists church holidays and gospel readings. Only three or four calendars are issued to each parish, which usually contains thousands of people.

"I bought my copy of the New Testament from an old and very poor woman when I was a student at Moscow University, having given her my entire month's allowance. The thirst for Bibles and New Testaments is very great, not only among believers, but also among young atheists, all of whom are forced to take courses in 'scientific atheism' in all institutions of higher learning. Many of these people would themselves like to read the holy scriptures, which are constantly derided and made fun of, not only at these courses, but everywhere. However, I would like to repeat that these books are available only on the 'black market' and nowhere else.

"There is a lack of priests in the country. In order to have the opportunity to give confession, people must wait for hours, and even then it is often impossible to have a personal confession. Parishioners must then take part in 'collective confessions,' which do not satisfy most believers.

"Priests are forbidden to conduct private services outside of churches, and if a person is ill or is dying and is unable to go to church, then he may die without communion. For a believer, this can be tragic.

"Sermons are rarely given in churches. The Council for Religious Affairs exerts great pressure on priests, urging them not to give sermons. Religious meetings held outside church walls are forbidden as are any other meetings held by Soviet citizens which the authorities cannot control. Thus, people are practically left without any form of spiritual guidance, which is particularly felt by the youth.

"Soviet schools educate children in the spirit of generating hostility toward religion and they follow this policy with great militancy. Practically every school lesson and surely every school book, be it on history, literature, physics, or biology, contains angry attacks on religion and on Jesus Christ, formulated in extremely crude terms.

"Practically 100 percent of the children must join the 'Pioneers,' which is a children's communist organization under the jurisdiction of the Komsomol (Communist Youth League), which in turn is under the direction of the CPSU. The charter of the Pioneers contains a point which obliges a pioneer to actively combat belief in God and root out religion as a 'bourgeois vestige.'

"When my older son became nine years old (the required age for joining the Pioneers), he openly announced in School that he believed in God, that he attended church, and that he is ready to join the Pioneers only if he were relieved from fulfilling this particular point in the charter. A struggle began which lasted more than two years, up to the very time of our expulsion from the USSR. My son and I were constantly summoned by the school principal and were pressured into believing that he would be setting a bad example, that we are deeply confused, etc. A teacher who worked at the school for 25 years told me that this was the first such case that he had encountered.

"At the same time, however, other school children wearing their Pioneer neckties often came up to my son, pressed his hand,

and told him that they too believed in God, but that if they were to announce this openly, their parents would be fired from their jobs, and they were afraid. By that time our family had already become so completely 'damned' in the eyes of the Soviet authorities, that we no longer had anything to lose, while other families had good reasons for being afraid to confess their faith openly. I knew many Moscow families where the parents lost their jobs or were demoted after a denunciation from the Council for Religious Affairs was sent to the place of their employment, stating that they had baptized their child. And this did not happen during the legendary 1920's, but in the 1960's and 1970's. Thus, the authorities' pronouncements regarding 'freedom of conscience' are empty words.

"Religion cannot be taught even within the confines of church walls. In private homes it is also forbidden to create groups of more than three children for the study of religion. This means that in practice, Russian children are left without religious books and teachers, and are deprived of the opportunity to learn of the thousand-year-old faith of their forefathers. That is monstrous.

"In Moscow many of my friends and I copied (by hand or typewriter) church texts, explanations, and parables for our children.

"Everything is also done in order that children not participate in the liturgical life of the Church. For instance, children do not have the right to sing in church choirs, although in all countries of the world, during all ages, in all religions, children have sung in choirs during church services.

"Often children are forcibly stopped from attending Easter midnight service. I myself had to tear away my five-year-old son from the arms of the 'druzhinniki' (auxiliary police), who pulled him away from me, in order that he should not enter the church.

"Of course, there are many other difficult problems relating to the status of our church. The number of candidates who are accepted into theological seminaries are far below the number of people who want to attend, and this is done in order to deprive the people of their priests by artificial means. Almost all monasteries have been closed, and those priests who have dared to be true 'fathers' to their parishioners have been persecuted and arrested. There is much, much more, which bears witness to the essential facts that the communist regime is engaged in a struggle against God.

"At the present time church statistics are never published, but I will cite a few figures from the previously mentioned Report to the Central Committee and compare them with official church statistics for the year 1907.

"In 1907 there were 51,413 churches in Russia. As of 1975, there were 7,062.

"In 1907, there were 622 monastaries for men and 17,583 monks. As of 1970, there were 6 monastaries for men and 290 monks.

"In 1907 there were 218 monastaries for women and 52,972 nuns. As of 1970, there were 10 monastaries for women and 985 nuns.

"In 1907 there were 20,113 chapels and 19,659 church libraries. Chapels and church libraries are not mentioned in the Report to the Central Committee for the simple reason that now they don't exist anymore in the USSR."

Those are facts provided to us by Mrs. Solzhenitsyn.

Mr. Chairman, the United States would like to call to the special attention of the Third Committee the case of Zoya Krakhmalnikova, a famous literary critic and essayist in the Soviet Union, who was arrested in Moscow on the night of August 3-4 of this year, and taken to Lefortovo Prison. This woman did not participate in anything which may be described as political; she was arrested for engaging in purely religious-educational activity.

Krakhmalnikova has been, since 1976, the editor and compiler of a samizdat Christian reader called Nadezhda, which means 'hope' in Russian. Nadezhda contained texts written by church fathers, beginning with the first centuries of Christianity, along with excerpts from the work of famous Orthodox theologians, materials on the Christain tradition in literature, testimony from contemporaries describing their conversion to religion, articles on culture, etc. The writings published in Nadezhda were purely religious, and without political content of any type.

In his appeal issued on the occasion of Zoya Krakhmalnikova's arrest, Archbishop Anthony of Geneva and Western Europe wrote the following:

"In 1978 we blessed the publishing of this collection, which was so needed by the faithful. . . . We would like to draw everyone's attention to the fact that the Nadezhda collections do not contain any other materials besides those that are strictly religious."

During the course of the past six years the authorities had never warned Krakhmalnikova that her work on Nadezhda was illegal or undesirable. Her arrest represents a blatant case of religious persecution.

Such persecution will not snuff out the fire of religious belief. If anything, it will compel people to hold more firmly to their beliefs, which are a source of spiritual sustenance in the dark world of totalitarianism.

Every day on Victory Square in Warsaw the people come to lay flowers in the form of a giant cross, and every night the authorities sweep it away. Every day and every night this ritual is repeated—the people demonstrating in the light of the day their undying faith, and the regime, furtively and in the dark of night, trying unsuccessfully to erase the symbol of their belief.

It will not work, Mr. Chairman—not in Poland nor in the Soviet Union nor in any country where the authorities seek to destroy the human soul for the greater glory of the State. The human soul will endure, Mr. Chairman. Indeed, it will prevail.

DECADE OF DISABLED PERSONS, 1983-92

Mr. ARMSTRONG. Mr. President, in the United States the program of the 1981 International Year of Disabled Persons (IYDP) and the 1982 National Year of Disabled Persons stimulated important new activity to help improve the lives of our Nation's 35 million individuals with disabling conditions. No one anticipated that serious problems of disability would be solved in a year or two. Because we must continue to make progress in this area of human concern, I am especially pleased that the United Nations has now declared the Decade of Disabled Persons—1983-92.

Designations of years and decades, in themselves, do nothing. However, they help provide a climate and an opportunity which can be seized by organizations, governments at all levels, and concerned individuals to further objectives and programs. During the IYDP, the United States established a series of long-term goals of and for disabled persons. The decade declaration, together with the U.N.'s companion World Program of Action, provide a framework for continuing progress toward the long-term goals of and for disabled Americans.

In these days of fiscal restraint, when all Americans are being asked to do more for themselves and to look to Government less, it is especially important that we encourage those institutions and organizations which foster self-reliance and voluntary action. For this reason, I have been honored to serve as one of the congressional sponsors of the national office on disability. This permanent, private sector organization grew out of the International Year of Disabled Persons and is continuing the nationwide community partnership program developed in that observance. The program includes more than a thousand communities and hundreds of national organizations. The national office on disability is spearheading the decade observance in this country, in cooperation with many hundreds of organizations, Government agencies, corporations, and all who can contribute. This is an exemplary private sector initiative.

I soon will sponsor a resolution on the Decade of Disabled Persons in cooperation with my colleagues in the Senate. I was privileged to introduce the Senate resolution designating 1982 as the National Year of Disabled Persons. Thanks to the work of the National Office on Disability and many other groups, this "Year" has served as a bridge between the IYDP and the decade, which was declared last Friday by the U.N. General Assembly.

Following the General Assembly vote on the Decade of Disabled Persons, one individual was called on to respond to the U.N. initiatives, speaking on behalf of the world's half billion disabled persons, as well as the United States. In his statement, Mr. Alan Reich, president of the National Office on Disability, urged the United Nations and the world community to continue progress in this important area of human concern.

Mr. President, I ask unanimous consent that Mr. Reich's statement before the U.N. General Assembly be included in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY ALAN A. REICH

Mr. President and distinguished delegates: Thanks to you, fully one-half billion disabled persons of the world now can look forward to a brighter future. The UN, by proclaiming the 1981 International Year of Disabled Persons, aroused the hopes and aspi-

rations of this significant segment of humanity. The continuing vision and leadership of the member nations, Secretary-General Perez de Cuellar, the UN Secretariat, the agencies of the UN system, and the Center for Social Development and Humanitarian Affairs, will have radiating impact reaching people everywhere.

The resolutions you have adopted today for the World Program of Action for Disabled Persons and its implementation resolution, including the decade of Disabled Persons, are marvelous testimony to your humanitarian concern.

As a disabled person myself, I am well aware that your continuing commitment is raising the world's consciousness in the area of disability. You may not fully appreciate it, but people at the grassroots level truly do benefit from your actions. The best testimony to this effectiveness I can cite is a statement my organization, the National Office on Disability, received from one of our more than one thousand community liaisions. Ms. Lee McCoy of Mobile, Alabama wrote, "As chairman of the Mobile program, I request that as you structure your national community program, you think of the UN decade of the disabled as the frontispiece. Local communities need worldwide structures to hang their local programs on effectively. Geneva UN Program Secretariat Assembly, for example, works magic on the local level. With an international scope, working members gain in stature. The higher the source, the greater the local response. With this international base and your national plan, we have a total package to take to the community," she stated.

In the United States, as in several other nations, the year 1982 was proclaimed the National Year of Disabled Persons to continue the momentum of the IYDP. President Reagan and the United States Congress issued proclamations to help maintain the public focus on disability issues and secure the support for the programs of organizations committed to improving the lives of disabled Americans. Governors, mayors, and county officials throughout the country have provided leadership for these voluntary, self-help initiatives in States and communities. Most importantly, many thousands of citizens, both disabled and non-disabled, have joined in a partnership effort to continue what was started during the IYDP. A new era of economic restraint and budget reductions has made these local private initiatives more important than ever.

An outgrowth of the IYDP was the formation of the National Office on Disability, a permanent, private, non-governmental organization. Its purpose is to continue the momentum you have started. It is building on the solid progress achieved during the international year, supporting community level action of and for 35 million Americans with disabilities.

The continuing worldwide response to the IYDP challenge has been significant. More than 130 nations formed national commissions and carried out programs. The IYDP secretariat in Vienna, under the able direction of Assistant Secretary General Mrs. Leticia Shahani, is spearheading efforts to continue this momentum and has established a UN trust fund for disabled persons. It has great potential, especially for disabled persons in developing nations. An international organization made up entirely of disabled members, disabled persons international, has had its first meeting in Singapore. It serves as a conscience for the disabled throughout the world.

The World Program of Action, which you have adopted today, is the culmination of three years of careful work. This fine document offers great promise and opportunity for all mankind, disabled and non-disabled alike. It will enhance efforts aimed at participation of disabled persons and prevention programs, with enormous humanitarian and economic benefit.

We also are excited about your action today on the Decade of Disabled Persons. Support in the United States for the decade idea has been overwhelming. It will, indeed, help stimulate interest and awaken concern worldwide. It provides the necessary framework for national action.

But, we would not do justice to your initiative and leadership if we did not also recognize another important contribution of your work. By focusing world-wide attention on disabled people, the United Nations has opened an important area of transnational communication across political boundaries on common problems affecting all peoples. This communication will continue. It will further international cooperation and improve the climate for resolving other differences peaceably. Interactions among nations in the area of disability and the worldwide exchanges of information and people will contribute to this climate of peace and cooperation. I am reminded of the words inscribed here at the entrance of the United Nations, "Since wars begin in the minds of men, it is in the minds of men that the defenses of peace must be constructed." The decade of disabled persons is an idea born in the minds of men which is helping to build the human foundations for the structure of peace.

These two results of your actions—new commitment to improving the human condition and opening a new area of transnational communication—are inspirational testimony to the moral force of the United Nations. Voluntary response throughout the world to your challenge demonstrates the UN's tremendous capacity to stimulate purposeful action and commitment. With limited funds, the UN has fostered programs with far-reaching implications in all countries.

The IYDP success is not in what was done, but in what was started. By focusing attention over the long-term on the serious problems of disability, the United Nations has created the opportunity. But the opportunity must be seized. This is a challenge to us all.

And, let us no longer question the value of focal year and decade observances. They demonstrate that the UN can unleash tremendous human and organizational potential. As we look ahead to another signal year—the bimillennium in the year 2000—the continuing response you have aroused will be a beacon of hope. The bimillennium will inspire the setting and pursuit of high goals for improving the human condition for all mankind.

I urge you, distinguished member nation representatives and the world community, to intensify your efforts to improve the lives of the one-half billion people with disabilities. By challenging the world and by taking on this responsibility, you have become champions of the disabled. We need you as partners. We need your vision and leadership. We need your continuing concern, compassion and commitment.

You are giving us opportunity. You are inspiring hope. Let's keep up momentum. Together we can make our planet more livable!

Thank you, Mr. President.

FEDERAL OIL AND GAS ROYALTY MANAGEMENT ACT OF 1982

Mr. SASSER. Mr. President, I would like to express my support of S. 2305, the Federal Oil and Gas Royalty Management Act of 1982. I believe that it is high time we acted to end the royalty payments abuse that S. 2305 is designed to correct.

The royalty underpayments on our public lands and on the Outer Continental Shelf has been no small matter. The General Accounting Office estimated that $1 in every $10 owed in royalty payments had gone unpaid each year. Last year, this amounted to over one-half billion dollars. I believe that passage of S. 2305 will put an end to these abuses.

Mr. President, I believe that S. 2305 establishes a system of accountability for these underpayments. We can now determine who owes money to the Government, how much money is owed, and effectively set about the task of collecting it.

Mr. President, this is the essence of the mineral leasing bill, S. 2083, that I introduced just this past February.

Mr. President, I support S. 2305 because it reflects this overriding principle of equity and fair play that is vital to the collection of taxes.

Mr. President, it is my hope that the passage of this royalty management bill will put an end to the underpayments by major oil companies. We have sent a strong message to these companies that they will no longer be allowed to circumvent their mineral leases at the expense of the American people. Mr. President, I commend my colleagues for their passage of this important legislation.

TAX DEDUCTIONS FOR RECLAMATION AND RESURFACING COSTS

Mr. HEFLIN. Mr. President, this morning I submitted written testimony to the Subcommittee on Energy and Agricultural Taxation, of the Senate Committee on Finance, on S. 2642. I ask unanimous consent that a copy of my complete testimony be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TESTIMONY TO BE PRESENTED BY U.S. SENATOR HOWELL HEFLIN BEFORE THE SUBCOMMITEE ON ENERGY AND AGRICULTURAL TAXATION, U.S. SENATE COMMITTEE ON FINANCE, DECEMBER 7, 1982, 10 A.M.

Mr. Chairman: I have been added as a cosponsor to S. 2642, the "Comprehensive Mining Reclamation Reserve Act of 1982," introduced by Senator Wallop (for himself and Senator Symms). As you are well aware by now, this is a bill to amend the Internal Revenue Code of 1954 to provide for the establishment of reserves for mining land reclamation and for the deduction of amounts added to such reserves.

Mr. Chairman, it is no secret that the tax accounting options available to the surface mining operator have been in dispute for more than 30 years. The pivotal question surrounding the controversy focuses on when to take the deduction for reclamation and resurfacing costs—in the year in which all the events fixing the fact of liability to reclaim the land occurred or the year in which the reclamation work was actually performed.

Recent case law—especially *Ohio River Collieries Co.* v. *Commissioner*, 77 T.C. NO. 103 (Dec. 31, 1981)—in my judgment, has settled the controversy. However, it is alleged that the Internal Revenue Service refuse to change its position in light of current case law. Herein lies the real reason for S. 2642.

According to the aforementioned recent case law, liability of the taxpayer/surface mining owner to reclaim the affected land becomes fixed as soon as the surface mining begins. The only remaining issue then becomes the determination of the amount of the required reclamation expense or a reasonable estimate thereof. This is where, I understand, that the Internal Revenue Service likes to flex its muscles. However, if the taxpayer/surface mining owner does its homework in the exemplary manner as the Ohio River Collieries Company, the same favorable result should ensue.

The legislation of which I am a cosponsor, S. 2642, is designed to assure the taxpayers/surface miner owners that they will be able to utilize the case-law prescribed accounting methods for computing their accrual and deduction of reclamation and resurfacing costs. By codifying these methods we should certainly settle once and for all the more than 30 year old controversy between the surface mining industry and the Internal Revenue Service.

Mr. Chairman, I urge this Committee to act favorably and promptly during the remaining days of this lame-duck session of Congress on S. 2642.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

DEFERRAL OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT—PM 200

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, was referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Foreign Relations, the Committee on Armed Services, the Committee on Energy and Natural Resources, the Committee on Banking, Housing, and Urban Affairs, the Committee on Finance, the Committe on Veterans' Affairs, the Committee on Environment and Public Works, and the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

I hereby withdraw my message transmitted on December 6, 1982 (H. Doc. 97-261) under the Impoundment Control Act of 1974 by which 11 deferrals were reported, and I report herewith 13 new deferrals of fiscal year 1983 funds totaling $1,569,870,000 and three revisions to existing deferrals increasing the amounts deferred by $1,173,257,000.

The deferrals are for programs in International Security Assistance and the Departments of Defense—Military, Energy, Housing and Urban Development, Interior, and Treasury, the National Aeronautics and Space Administration, the Veterans' Administration, and the Interstate Commission on the Potomac River Basin.

The details of each deferral are contained in the attached reports.

RONALD REAGAN.

THE WHITE HOUSE, *December 7, 1982.*

ANNUAL REPORT ON IMPLEMENTATION OF THE EMERGENCY ENERGY CONSERVATION ACT—MESSAGE FROM THE PRESIDENT—PM 201

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Energy and Natural Resources:

To the Congress of the United States:

In accordance with Section 215(b) of the Emergency Energy Conservation Act of 1979 (42 U.S.C. 8515), I herewith transmit the annual report covering efforts of the Department of Energy to implement provisions of the Emergency Energy Conservation Act since its enactment on November 5, 1979.

RONALD REAGAN.

THE WHITE HOUSE, *December 7, 1982.*

MESSAGE FROM THE HOUSE

At 2:46 p.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 503. An act to authorize the purchase, sale, and exchange of lands by the Devils Lake Sioux Tribe of the Devil's Lake Sioux Reservation, N. Dak., and for other purposes.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 6211. An act to authorize appropriations for construction of certain highways in accordance with title 23, United States Code, for highway safety, for mass transportation in urban and rural areas, and for other purposes.

HOUSE BILL REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 6211. An act to authorize appropriations for construction of certain highways in accordance with title 23, United States Code, for highway safety, for mass transportation in urban and rural areas, and for other purposes; to the Committee on Finance.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4587. A communication from the Clerk of the U.S. Claims Court, transmitting, pursuant to law, a copy of the court's judgment in *Lower Sioux Indian Community in Minnesota, et al.* v. *The United States*, No. 363; to the Committee on Appropriations.

EC-4588. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the Department of the Navy's proposed letter of offer to the United Kingdom for defense articles estimated to cost in excess of $50 million; to the Committee on Armed Services.

EC-4589. A communication from the President of the United States, transmitting, pursuant to law, his recommendation for the basing mode for the MX missile; to the Committee on Armed Services.

EC-4590. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the Department of the Navy's proposed letter of offer to Colombia for defense articles estimated to cost in excess of $50 million; to the Committee on Armed Services.

EC-4591. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the Department of the Air Force's proposed letter of offer to Saudi Arabia for defense articles estimated to cost in excess of $50 million; to the Committee on Armed Services.

EC-4592. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the Department of the Navy's proposed letter of offer to Saudi Arabia for defense articles estimated to cost in excess of $50 million; to the Committee on Armed Services.

EC-4593. A communication from the Director of the Defense Security Assistance

Agency, transmitting, pursuant to law, a report on the Department of the Army's proposed letter of offer to Saudi Arabia for defense articles estimated to cost in excess of $50 million; to the Committee on Armed Services.

EC-4594. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the Department of the Navy's proposed letter of offer to Korea for defense articles estimated to cost in excess of $50 million; to the Committee on Armed Services.

EC-4595. A communication from the Federal Emergency Management Agency, General Services Administration, transmitting, pursuant to law, the statistical supplement stockpile report to the Congress, dated September 30, 1982; to the Committee on Armed Services.

EC-4596. A communication from the Principal Deputy Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting, pursuant to law, a report on the conversion of the outfitting function at the Naval Supply Center, Norfolk, Va., to performance by contract; to the Committee on Armed Services.

EC-4597. A communication from the Principal Deputy Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting, pursuant to law, a report on the conversion of the physical inventory function at the Naval Supply Center, Norfolk, Va., to performance by contract; to the Committee on Armed Services.

EC-4598. A communication from the Principal Deputy Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting, pursuant to law, a report on the conversion of the POV processing function at the Naval Supply Center, Norfolk, Va., to performance by contract; to the Committee on Armed Services.

EC-4599. A communication from the Principal Deputy Assistant Secretary of the Defense (Comptroller), transmitting, pursuant to law, a listing of contract award dates for the period December 15, 1982, to February 15, 1983; to the Committee on Armed Services.

EC-4600. A communication from the Secretary of Defense, transmitting, pursuant to law, a report on civilian end strength for the Department of Defense for September 30, 1983; to the Committee on Armed Services.

EC-4601. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a report on activities carried out under the Olympic Commemorative Coin Act for the period July 22 through September 30, 1982; to the Committee on Banking, Housing, and Urban Affairs.

EC-4602. A communication from the Secretary of Commerce, transmitting, pursuant to law, his conclusions on the criteria set forth on the embargo of export of pipeline technology; to the Committee on Banking, Housing, and Urban Affairs.

EC-4603. A communication from the Administrator of the national Aeronautics and Space Administration, transmitting, pursuant to law, notice of the proposed use of construction and facilities funds for the relocation of a deep space antenna; to the Committee on Commerce, Science, and Transportation.

EC-4604. A communication from the General Counsel of the Department of Energy, transmitting, pursuant to law, a notice of a meeting related to the international energy program; to the Committee on Energy and Natural Resources.

EC-4605. A communication from the Assistant Secretary of Energy (Convention and Renewable Energy), transmitting, pursuant to law, a report regarding power generation using stratified solar brine ponds as part of the Arkansas-Red River chloride control project; to the Committee on Energy and Natural Resources.

EC-4606. A communication from the Assistant Secretary of Energy for Fossil Energy, transmitting, pursuant to law, notice of a delay in the submission of the semiannual report on the alternative fuels production program; to the Committee on Energy and Natural Resources.

EC-4607. A communication from the Assistant Secretary of the Interior (Land and Water Resources), transmitting, pursuant to law, an application by the Columbia Irrigation District, Benton County, Wash., for a loan under the Small Reclamation Projects Act; to the Committee on Energy and Natural Resources.

EC-4608. A communication from the Assistant Secretary of the Interior, transmitting, pursuant to law, an application by the Fallbrook Public Utility District, San Diego County, Calif., for a loan under the Small Reclamation Projects Act; to the Committee on Energy and Natural Resources.

EC-4609. A communication from the Assistant Secretary of the Interior (Land and Water Resources), transmitting, pursuant to law, an application by the Yuba County Water Agency, Yuba County, Calif., for a loan under the Small Reclamation Projects Act; to the Committee on Energy and Natural Resources.

EC-4610. A communication from the Assistant Secretary of the Interior (Land and Water Resources), transmitting, pursuant to law, an application by the Roosevelt Irrigation District of Buckeye, Maricopa County, Ariz., for a loan under the Small Reclamation Projects Act; to the Committee on Energy and Natural Resources.

EC-4611. A communication from the Assistant Secretary of the Interior for Land and Water Resources, transmitting, pursuant to law, an application by the Ramona Municipal District, San Diego County, Calif., for an application under the Small Reclamation Projects Act; to the Committee on Energy and Natural Resources.

EC-4612. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, a proposed lease prospectus; to the Committee on Environment and Public Works.

EC-4613. A communication from the Deputy Administrator of the Veterans' Administration, transmitting, pursuant to law, the semiannual report of the Inspector General, Veterans' Administration, for the period April 1 through September 30, 1982; to the Committee on Governmental Affairs.

EC-4614. A communication from the Secretary of Transportation, transmitting, pursuant to law, the semiannual report of the Inspector General, Department of Transportation, for the period April 1 through September 30, 1982; to the Committee on Governmental Affairs.

EC-4615. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a copy of D.C. Act 4-249, adopted by the Council on October 19, 1982; to the Committee on Governmental Affairs.

EC-4616. A communication from the Assistant Secretary of the Interior (Indian Affairs), transmitting a draft of proposed legislation to vest the Secretary of the Interior with jurisdiction over certain statute of limitations claims, and for other purposes; to the Select Committee on Indian Affairs.

EC-4617. A communication from the Commissioner of Immigration and Naturalization, transmitting, pursuant to law, a report on an order suspending deportation of John Williamson; to the Committee on the Judiciary.

EC-4618. A communication from the Secretary of Education, transmitting, pursuant to law, a report on a final funding priority under the strengthening institutions program and the special needs program; to the Committee on Labor and Human Resources.

EC-4619. A communication from the Chairman of the Federal Election Commission transmitting, pursuant to law, a copy of the Commission's fiscal year 1983 pay cost supplemental appropriation request; to the Committee on Appropriations.

EC-4620. A communication from the Secretary of the Navy transmitting, pursuant to law, a report that the Navy's Harm missile program had exceeded its baseline program acquisition cost by more than 25 percent; to the Committee on Armed Services.

EC-4621. A communication from the Assistant Secretary of the Army for Installations, Logistics, and Financial Management transmitting, pursuant to law, a report on a decision made to convert the containers, tents, textiles, and tarps activity at Fort Sam Houston to performance under contract; to the Committee on Armed Services.

EC-4622. A communication from the Principal Deputy Assistant Secretary of the Navy for Shipbuilding and Logistics transmitting, pursuant to law, a report on a decision to convert the motor vehicle maintenance, refuse collection, and taxi operation functions at the Naval Shipyard, Charleston, S.C. to performance under contract; to the Committee on Armed Services.

EC-4623. A communication from the Assistant Secretary of the Army for Installations, Logistics, and Financial Management transmitting, pursuant to law, a report on a decision to convert the supply, storage, and warehousing and the logistics management office at Harry Diamond Laboratories to performance under contract; to the Committee on Armed Services.

EC-4624. A communication from the Administrator of the National Aeronautics and Space Administration transmitting, pursuant to law, a report on NASA's plan to report to the GSA as excess real property certain acreage and facilities at Plum Brook Station, Sandusky, Ohio; to the Committee on Commerce, Science, and Transportation.

EC-4625. A communication from the Vice President for Government Affairs, Amtrak, transmitting, pursuant to law, a report on the number of passengers and the on-time performance of each train operated for the month of September, 1982; to the Committee on Commerce, Science, and Transportation.

EC-4626. A communication from the Secretary of Transportation and the Chairman of the Interstate Commerce Commission transmitting, pursuant to law, a report on uniform state regulations under the Motor Carrier Act of 1980; to the Committee on Commerce, Science, and Transportation.

EC-4627. A communication from the Administrator of the National Aeronautic and Space Administration transmitting, pursuant to law, a report on certain contracts negotiated by NASA under 10 U.S.C. 2304 for the period January 1 through June 30, 1982; to the Committee on Commerce, Science, and Transportation.

EC-4628. A communication from the Assistant Secretary of Energy for Environmental Protection, Safety, and Emergency Preparedness transmitting, pursuant to law, reports on the strategic petroleum reserve drawdown plan, amendment No. 4 and the strategic petroleum drawdown and distribution report; to the Committee on Energy and Natural Resources.

EC-4629. A communication from the Director of the Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on a refund of an excess royalty payment to Amerada Hess Corp. and Shell Oil Co.; to the Committee on Energy and Natural Resources.

EC-4630. A communication from the Director of the Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on a refund of an excess royalty payment to Shell Oil Co. and Cities Service Co.; to the Committee on Energy and Natural Resources.

EC-4631. A communication from the Secretary of Commerce transmitting, pursuant to law, a lease prospectus for a succeeding lease on Lake Union, Seattle, Wash.; to the Committee on Environment and Public Works.

EC-4632. A communication from the Director of the Office of Management and Budget transmitting, pursuant to law, a plan for the Tehachapi watershed, California; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4633. A communication from the Secretary of the Treasury transmitting, pursuant to law, the final monthly Treasury statement of receipts and outlays of the U.S. Government for fiscal year 1982; to the Committee on Finance.

EC-4634. A communication from the President of the European Parliament, Brussels, Belgium, transmitting a copy of a resolution relative to visa reciprocity between the United States and the European Community; to the Committee on Foreign Relations.

EC-4635. A communication from the Secretary of State transmitting, pursuant to law, a report on payments made during the previous month to private individuals or corporations in satisfaction of assurance agreements or payment of loan guarantees with respect to loans made and credits extended to the Polish People's Republic; to the Committee on Foreign Relations.

EC-4636. A communication from the Secretary of State transmitting, pursuant to law, a report on chemical warfare in Southeast Asia and Afghanistan: An Update; to the Committee on Foreign Relations.

EC-4637. A communication from the Deputy Assistant to the President of the United States for Management transmitting, pursuant to law, a report concerning personnel employed in the White House; to the Committee on Governmental Affairs.

EC-4638. A communication from the Chief of the Army and Air Force Exchange Service transmitting, pursuant to law, a report on the financial condition of the exchange services' pension plans for the fiscal year ended December 31, 1981; to the Committee on Governmental Affairs.

EC-4639. A communication from the Commissioner of Social Security, Baltimore, Md., transmitting, pursuant to law, a report on an altered Privacy Act system of records; to the Committee on Governmental Affairs.

EC-4640. A communication from the Inspector General of the Department of Health and Human Services transmitting, pursuant to law, the quarterly report of the Inspector General for July 1 to September 30, 1982; to the Committee on Governmental Affairs.

EC-4641. A communication from the Administrator of the Environmental Protection Agency transmitting, pursuant to law, the Semiannual Report of the Inspector General for April 1 through September 30, 1982; to the Committee on Governmental Affairs.

EC-4642. A communication from the Administrator of the National Aeronautics and Space Administration transmitting, pursuant to law, the report of the Inspector General for the period ending September 30, 1982; to the Committee on Governmental Affairs.

EC-4643. A communication from the Secretary of Health and Human Services transmitting, pursuant to law, the final report of the evaluation of ANA's training and technical assistance program; to the Select Committee on Indian Affairs.

EC-4644. A communication from the Commissioner of the Immigration and Naturalization Service transmitting, pursuant to law, copies of orders suspending deportation pursuant to section 244(a)(1) of the Immigration and Nationality Act; to the Committee on the Judiciary.

EC-4645. A communication from the Director of the Office of Management and Budget transmitting, pursuant to law, a report on OMB's 1981 activities under the Freedom of Information Act; to the Committee on the Judiciary.

EC-4646. A communication from the Secretary of Education transmitting, pursuant to law, a copy of the 1983-84 Pell Grant Program Family Contribution Schedule; to the Committee on Labor and Human Resources.

EC-4647. A communication from the Secretary of Health and Human Services transmitting, pursuant to law, the 10th report of the National Heart, Lung, and Blood Advisory Council; to the Committee on Labor and Human Resources.

EC-4648. A communication from the Secretary of Health and Human Services transmitting, pursuant to law, the Annual Report of the National Cancer Advisory Board, 1982; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PERCY, from the Committee on Foreign Relations, without amendment:

S. 2611. A bill to amend the Peace Corps Act.

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 2944. A bill to authorize funds for the National Oceanic and Atmospheric Administration for fiscal year 1983 to carry out the provisions of the National Oceanic Pollution Planning Act of 1978.

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 3006. A bill to establish a program under the coordination of the Office of Science and Technology Policy for improving the use of risk analysis by those Federal agencies concerned with regulatory decisions related to the protection of human life, health, and the environment.

● Mr. PACKWOOD. Mr. President, the Senate Committee on Commerce, Science, and Transportation on Monday, December 6, 1982, ordered reported title IV of S. 3044, with an amendment in the nature of a substitute.

Title IV is an essential element of this overall administration proposal to increase highway user fees. It represents the culmination of many years of work by this committee on the issues of truck size and safety. The title is generally supported by the trucking industry, the Teamsters, the business community, and the Department of Transportation. A section-by-section analysis follows this statement but I believe it is important to highlight several provisions.

First, the bill sets Federal standards for truck length and truck width. The Federal minimum standards for truck length on the interstate and the Federal aid primary system are:

First, 48 feet for a semitrailer unit operating in a truck tractor-semitrailer combination; and

Second, 28 feet for a semitrailer operating as a "double."

States are required to allow the operation of "doubles" on the highways. The Federal standard for truck widths is 102 inches. The provisions in the bill are similar to the provisions in S. 1402 which was reported from the Senate Commerce Committee on December 14, 1981. Hearings were held on S. 1402 on September 24, 1981, and December 3, 1982 on title IV of S. 3044.

The purpose of the truck-size provision is to bring needed uniformity to the myriad of conflicting State regulations that set limitations on truck sizes allowed on the Interstate Highway System. The current patchwork pattern of State regulations creates substantial burdens on interstate commerce. Motor carriers and independent owner operators are forced to utilize equipment and perform operations that are far less efficient than those that would be possible with the type of minimum standards set forth in this legislation. The result of the new standards will be increased efficiency, reduced fuel consumption, fewer truck trips on the interstate highways, and improved safe working conditions for truck drivers.

The Secretary of Transportation, Drew Lewis, submitted evidence for the December 3, 1982, Senate Commerce Committee hearing record on title IV of S. 3044 that these provisions would save the trucking industry over $3 billion annually in transportation costs. An earlier letter submitted to Congressman GLENN ANDERSON, Democrat from California, by Charles Swinburn, Deputy Assistant Secretary for Policy and International Affairs, roughly estimated the transportation savings as a result of these truck-size provisions to be approximately $2.5 billion annually, with a cost impact on

the highway system of $254 million annually.

Further, the provision requiring States to allow trucks 102 inches in width to operate on the Federal aid system will have an important impact on productivity the trucking industry in many States including Oregon, my home State. Currently States are prohibited from authorizing trucks on the highway which are wider than 96 inches unless the State law in effect on July 1, 1956 authorized wider trucks.

The committee believed that present Federal law on truck width is too restrictive. The inefficiencies resulting from current law were made clear in testimony from truckers and shippers, particularly the forest products industry. For example, plywood, as well as other products, come in pallets which have dimensions of 4 feet by 8 feet. This means that in States where truck widths are restricted to 96 inches, one can load only one pallet in a closed van. If the van were only a few inches wider, two pallets could be loaded side by side. Obviously, if slightly wider trucks could operate on the Interstate System, productivity and fuel efficiency would be greatly increased. Further, an increase in the width of trucks to 102 inches would not negatively impact safety. Buses are currently permitted under Federal law to operate at 102 inches in width on a nationwide basis. The operation of wider trucks has been thoroughly studied by the Federal Government in 1964, 1973, and as recently as 1979 with the conclusion that 102 inch wide vehicles are as safe as 96-inch-wide vehicles. The Michigan Highway Safety Research Institute issued a study, December 1980, on the safety of double bottom tankers and recommended that the truck width be increased to 102 inches to improve the stability and rollover problems associated with trucks.

Second, the bill contains important provisions which will enhance motor carrier safety. This has been an issue of considerable concern to the committee for several years. Hearings on motor carrier safety legislation were conducted by this committee during both the 95th Congress and the 96th Congress. These hearings clearly demonstrated the need for comprehensive restructuring of regulation in the commercial motor vehicle safety area. During the 96th Congress, S. 1390—the Commercial Motor Vehicle Safety Act—introduced by my distinguished colleague, Senator PERCY, was reported out by the Commerce Committee and overwhelmingly passed the full Senate on February 20, 1980.

In title IV of S. 3044, the committee has adopted the provisions of S. 1390 with only minor modifications. These provisions, which expand upon the motor carrier safety provisions included in the administration's proposal, provide a systematic and integrated approach to remedying the present regulatory deficiencies in the commercial motor vehicle safety area.

The provisions of the committee's reported amendment to title IV:

First, give the Department of Transportation (DOT) authority to promulgate comprehensive safety rules and regulations;

Second, establish a program through which DOT can provide grants to States for enforcement of motor carrier safety regulations;

Third, expand DOT's authority to prosecute safety violations and provide for increased penalty levels; and

Fourth, provide protection for employees who report safety violations.

These provisions are an important component of the overall motor carrier safety reforms contained in S. 3044.

Third, title IV of S. 3044, as amended, authorizes the Secretary of Transportation to set lower levels of financial responsibility than currently required in section 30 of the Motor Carrier Act of 1980. The high levels of insurance required by the Motor Carrier Act were agreed to without the benefit of hearings or study. The insurance industry, small truckers, and small business all opposed section 30 of the Motor Carrier Act of 1980. The language in the staff working draft will assure protection of the public and will assure that a sensible and practical regulatory scheme is adopted. The language is supported by DOT, the insurance industry, and small business.

Fourth, title IV increases airport development spending $475,000,000 over the next 3 years, 1983-85. These levels will create an additional 12,000 jobs in both 1983 and 1984 and an additional 4,725 jobs in 1985.

I ask unanimous consent that the text of title IV of S. 3044 as reported by the Commerce Committee, and a section-by-section analysis of that title, be printed in the RECORD immediately following this statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TITLE IV, S. 3044—COMMERCIAL MOTOR VEHICLE SAFETY

DEFINITIONS

SEC. 401. For purposes of this title, unless the context otherwise requires, the term—

(1) "commerce" means trade, traffic, or transportation within the jurisdiction of the United States between a place in a State and a place outside of such State, or which affects trade, traffic, or transportation between a place in a State and a place outside of such State;

(2) "commercial motor vehicle" means any self-propelled or towed vehicle used on the highways in commerce principally to transport passengers or cargo—

(A) if such vehicle has a gross vehicle weight rating of 10,000 or more pounds;

(B) if such vehicle is designed to transport more than 10 passengers, including the driver; or

(C) if such vehicle is used in the transportation of materials found by the Secretary to be hazardous for the purposes of the Hazardous Materials Transportation Act, as amended (49 U.S.C. 1801 et seq.);

(3) "employee" means—

(A) a driver of a commercial motor vehicle (including an independent contractor while in the course of personally operating a commercial motor vehicle);

(B) a mechanic;

(C) a freight handler; or

(D) any individual other than an employer;

who is employed by a commercial motor carrier and who in the course of his employment directly affects commercial motor vehicle safety, but such term does not include an employee of the United States, any State, or a political subdivision of a State who is acting within the course of such employment;

(4) "employer" means any person engaged in a business affecting commerce who owns or leases a commercial motor vehicle in connection with that business, or assigns employees to operate it in commerce, but such term does not include the United States, any State, or a political subdivision of a State;

(5) "person" means one or more individuals, partnerships, associations, corporations, business trusts, or any other organized group of individuals;

(6) "Secretary" means the Secretary of Transportation; and

(7) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, or the Commonwealth of the Northern Marianas.

DUTIES

SEC. 402. Each employer and employee shall comply with the safety and health rules, regulations, standards, and orders issued pursuant to this title which are applicable to his own actions and conduct.

REGULATORY AUTHORITY AND STANDARDS

SEC. 403. (a) The Secretary shall establish and revise such rules, regulations, standards, and orders as may be necessary in order to further the purpose of this title. The Secretary shall where practicable consider costs and benefits before revising existing rules, regulations, standards, and orders or before promulgating new rules, regulations, standards, or orders. Such rules, regulations, standards, and orders shall be directed toward assuring that—

(1) commercial motor vehicles are safely maintained, equipped, loaded, and operated;

(2) the responsibilities imposed upon drivers of commercial motor vehicles do not impair a driver's ability to operate safely;

(3) the physical condition of drivers of commercial motor vehicles is adequate to enable them to drive safely; and

(4) the operation of commercial motor vehicles does not create deleterious effects on the physical condition of such drivers.

(b)(1) The Secretary shall promulgate any such rule or regulation within a period of 1 year after the date of commencement of any proceeding respecting such rule or regulation. If the Secretary determines that any such promulgation will not be completed within such time period, the Secretary shall immediately notify the Congress and shall furnish the reasons for the delay, information regarding the resources assigned, and the projected completion date, for any such proceeding. If such rule or regulation has

not been promulgated within 1 year after the date of the commencement of any proceeding with respect to such rule or regulation, the Secretary shall supply the Congress with current data regarding the information specified in the preceding sentence, and shall provide the Congress with such information at the end of every 60-day period thereafter during which the proceeding remains incomplete.

(2) All rules, regulations, standards, and orders issued under this section shall be promulgated in accordance with section 553 of title 5, United States Code (without regard to sections 556 and 557 of such title), except that the time periods specified in paragraph (1) of this subsection shall apply to such promulgation.

(c) The Secretary may waive in whole or in part application of any rule, regulation, standard, or order established under this section with respect to any person or class of persons if he determines that such waiver is in the public interest and is consistent with the safe operation of commercial motor vehicles. Any waiver permitted under this subsection shall be published in the Federal Register, together with the reasons for such waiver. Any final agency action taken under this section is subject to judicial review as provided in chapter 7 of title 5, United States Code.

(d)(1) The Secretary and the Director of the National Institute for Occupational Safety and Health shall, in consultation with the Secretary of Labor, undertake a study of health hazards to which employees engaged in the operation of commercial motor vehicles are exposed, and shall develop such materials and information as are necessary to enable such employees to carry out their employment in a place and manner free from recognized hazards that are causing or are likely to cause death or serious physical harm. The study shall include recommendations regarding the most appropriate method for regulating and protecting the health of operators of commercial motor vehicles. Such study shall be submitted to the Congress within 1 year after the date of enactment of this title.

(2) There are authorized to be appropriated out of the Highway Trust Fund to the Secretary for fiscal year 1984 not to exceed $1,500,000 for purposes of carrying out the provisions of this subsection.

(e) The Secretary, the Director of the National Institute for Occupational Safety and Health, and the Secretary of Labor shall coordinate their activities to insure adequate protection of the safety and health of operators of commercial motor vehicles. Such Secretaries and Director shall attempt to minimize paperwork burdens, to assure maximum coordination, and to avoid overlap or the imposition of undue burdens on persons subject to such rules, regulations, standards, and orders.

GENERAL POWERS

SEC. 404. (a) The Secretary is authorized to conduct, directly or indirectly, such research, development, demonstrations, and training activities as are considered appropriate to develop rules, regulations, standards, and orders authorized to be promulgated under section 403 of this title, to design and develop improved enforcement procedures and technologies, and to familiarize affected persons with such rules, regulations, standards, and orders.

(b) In carrying out his functions under this title, the Secretary is authorized to perform such acts including conducting investigations and inspections, compiling statistics, making reports, issuing subpenas, requiring production of documents, records, and property, taking depositions, holding hearings, prescribing recordkeeping and reporting requirements, and carrying out and contracting for such research, development, testing, evaluation, and training as he determines necessary to carry out the provisions of this title, or rules, regulations, standards, or orders issued pursuant thereto. With respect to the provisions of this title, if the Secretary approves a plan pursuant to section 411 of this title, the Secretary may delegate to a State such functions respecting the enforcement (including investigations) of the provisions of this title or rules, regulations, standards, or orders issued pursuant thereto as he determines appropriate to carry out the provisions of this title.

INSPECTIONS AND WARRANTS

SEC. 405. (a)(1) To carry out the Secretary's responsibilities under this title, agents of the Secretary are authorized to enter upon, inspect, and examine facilities, equipment, operations, and pertinent records without advance notice, in accordance with the provisions of paragraph (2) of this subsection. Any such agent of the Secretary shall display proper credentials when requested and may consult with employers and employees and their duly authorized representatives, and shall offer them a right of accompaniment.

(2)(A) A warrant under this paragraph shall be required for any entry or administrative inspection (including impoundment of motor vehicles or motor vehicle equipment) authorized by this section, except if such entry or inspection is—

(i) with the consent of the employer or agent of the employer in charge of the business, establishment, or premises;

(ii) in situations involving inspection of motor vehicles where there is reasonable cause to believe that the mobility of the motor vehicle makes it impractical to obtain a warrant;

(iii) in any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking;

(iv) for access to and examination of books, records, and any other documentary evidence which can be easily altered, manufactured, or falsified; and

(v) in any other situations where a warrant is not constitutionally required.

(B) Issuance and execution of administrative inspection warrants shall be as follows:

(i) Any judge of the United States or of a State court of record, or any United States magistrate, may, within his territorial jurisdiction, and upon proper oath or affirmation showing probable cause, issue warrants for the purpose of conducting administrative inspections authorized by this section and of impoundment of motor vehicles or motor vehicle equipment appropriate to such inspections. For the purposes of this section, the term "probable cause" means a valid public interest in the effective enforcement of this title, or rules, regulations, standards, or orders issued thereunder sufficient to justify administrative inspections of the area, establishment, premises, records, or motor vehicles, or contents thereof, in the circumstances specified in the application for the warrant.

(ii) A warrant shall be issued only upon an affidavit of an officer, or representative of the Secretary having knowledge of the facts alleged, sworn to before the judge or magistrate and establishing the grounds for issuing the warrant. If the judge or magistrate is satisfied that gounds for the application exist or that there is a reasonable basis for believing they exist, he shall issue a warrant identifying the area, establishment, premises, or motor vehicle to be inspected, the purpose of such inspection, and, where appropriate, the type of property to be inspected, if any. The warrant shall—

(I) identify the items or type of property to be impounded, if any;

(II) be directed to a person authorized under this section to execute it;

(III) state the grounds for its issuance and the name of the person or persons whose affidavit has been taken in support thereof;

(IV) command the person to whom it is directed to inspect the area, establishment, premises, records, or motor vehicle identified for the purpose specified, and where appropriate, shall direct the impoundment of the property specified;

(V) direct that it be served during the hours specified in it; and

(VI) designate the judge or magistrate to whom it shall be returned.

(iii) A warrant issued pursuant to this section must be executed and returned within 10 days of its date unless, upon a showing by the Secretary of a need therefor, the judge or magistrate allows additional time in the warrant. If property is impounded pursuant to a warrant, the person executing the warrant shall give the person from whom or from whose premises the property was taken a copy of the warrant and a receipt for the property taken or shall leave the copy and receipt at the place from which the property was taken. The return of the warrant shall be made promptly and shall be accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if they are present, or in the presence of at least one credible person other than the person making such inventory, and shall be verified by the person executing the warrant. The judge or magistrate, upon request, shall deliver a copy of the inventory to the person from whom or from whose premises the property was taken and the applicant for the warrant.

(iv) The judge or magistrate who has issued a warrant under this section shall attach to the warrant a copy of the return and all papers filed in connection therewith and shall file them with the clerk of the district court of the United States for the judicial district in which the inspection was made.

DUTY TO INVESTIGATE COMPLAINTS; PROTECTION OF COMPLAINANTS

SEC. 406. (a) The Secretary shall timely investigate any nonfrivolous written complaint alleging that a material violation of any rule, regulation, standard, or order issued under this title is occurring or has occurred within the preceding 60 days. The complainant shall be timely notified of findings resulting from such investigation. The Secretary shall not be required to conduct separate investigations of duplicative complaints.

(b) Notwithstanding the provisions of section 552 of title 5, United States Code, the Secretary shall not disclose the identity of complainants unless it is determined that such disclosure is necessary to prosecute a violation. If disclosure becomes necessary, the Secretary shall take every practical measure within his authority to assure that the complainant is not subject to harassment, intimidation, disciplinary action, dis-

crimination, or financial loss as a result of such disclosure.

PENALTIES

SEC. 407. (a) If the Secretary finds that a violation of sections 402 through 417 of this title has occurred, the Secretary shall issue a written notice to the violator. Such notice shall describe with reasonable particularity the nature of the violation found and the provision which has been violated. The notice shall fix a reasonable time for abatement of the violation, specify the appropriate civil penalty, if any, and specify the actions which the Secretary proposes to be taken in order to avoid subsequent similar violations. The notice shall indicate that the violator may, within 15 days of service, notify the Secretary of his intention to contest the matter. In the event of a contested notice, the Secretary shall afford such violator an opportunity for a hearing, pursuant to section 554 of title 5, United States Code, following which the Secretary shall issue an order affirming, modifying, or vacating the notice of violation.

(b) Except as hereinafter provided, any person who is determined by the Secretary to have committed an act which is a violation of recordkeeping requirements issued by the Secretary pursuant to this title shall be liable to the United States for a civil penalty not to exceed $500 for each offense. Each day of a violation shall constitute a separate offense, except that the total of all civil penalties assessed against any violator for all offenses relating to any single recordkeeping violation shall not exceed $10,000. If the Secretary determines that a substantial health or safety violation exists or has occurred which could reasonably lead to, or has resulted in, serious personal injury or death, he may assess a civil penalty not to exceed $10,000 for each offense: *Provided, however,* That except for recordkeeping violations, no civil penalty provided under this title shall be assessed against an employee for violations of this title unless the employee is an operator of a commercial motor vehicle and the Secretary determines that such employee's actions constituted gross negligence or reckless disregard for safety, in which case such employee shall be liable for a civil penalty not to exceed $1,000. The amount of any civil penalty, and a reasonable time for abatement of the violation, shall by written order be determined by the Secretary, taking into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the violation, the degree of culpability, history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice and public safety may require. In each case, the assessment shall be calculated to induce further compliance.

(c) The Secretary may require any violator served with a notice of violation to post a copy of such notice or statement thereof in such place or places and for such duration as the Secretary may determine appropriate to aid in the enforcement of this title.

(d) If, upon inspection or investigation, the Secretary determines that a violation, or combination of violations, poses an imminent hazard to safety, the Secretary shall order a vehicle or employee operating such vehicle out of service or order an employer to cease all or part of his commercial motor vehicle operations. In making any such order, the Secretary shall impose no restriction on any employee or employer beyond that required to abate the hazard. Subsequent to the issuance of such order, opportunity for review shall be provided in accordance with section 554 of title 5, United States Code, except that such review shall occur not later than 10 days following issuance of such order.

(e) Any person other than an employee who knowingly and willfully violates any provision of this title or who knowingly and willfully makes any false statement or representation required under this title shall, upon conviction, be subject for each offense to a fine not to exceed $25,000 or imprisonment for a term not to exceed 1 year, or both: *Provided, however,* That if such violator is an employee he shall only be subject to penalty if while operating a commercial motor vehicle his activities have led or could have led to death or serious injury, in which case he shall be liable, upon conviction, for a fine not to exceed $2,500.

(f) The Secretary shall promulgate regulations establishing penalty schedules designed to induce timely compliance for persons failing to comply with the requirements set forth in notices and orders.

(g) Any aggrieved person who, after a hearing, is adversely affected by a final order issued under this section may, within 30 days, petition for review of the order in the United States court of appeals in the circuit wherein the violation is alleged to have occurred or where he had his principal place of business or residence, or in the United States Court of Appeals for the District of Columbia Circuit. Review of the order shall be based on a determination of whether the Secretary's findings and conclusions were supported by substantial evidence, or otherwise not in accordance with law. No objection that has not been urged before the Secretary shall be considered by the court, unless reasonable grounds existed for failure or neglect to do so. The commencement of proceedings under this subsection shall not, unless ordered by the court, operate as a stay of the order of the Secretary.

(h) The Secretary may obtain enforcement, including injunctive relief, of any penalties or orders issued under this section by applying to the United States district court for the district where the violation occurred or where the cited party has his principal place of business or residence. In addition to granting enforcement, the district court may assess an appropriate penalty for noncompliance and award such further relief as justice and public safety may require.

(i) All penalties and fines imposed under this section shall be deposited into the Treasury as miscellaneous receipts.

(j) In any action brought under this section, subpenas for witnesses who are required to attend a United States district court may run into any other district.

(k) In any proceeding for criminal contempt for violation of an injunction or restraining order issued under this section, trial shall be by the court, or, upon demand of the accused, by a jury, conducted in accordance with the provisions of rule 42(b) of the Federal Rules of Criminal Procedure.

REPRESENTATION BEFORE THE COURTS

SEC. 408. Except as provided in section 518(a) of title 28, United States Code, relating to litigation before the Supreme Court, the General Counsel of the Department of Transportation may appear for and represent the Secretary in all proceedings and in any civil litigation brought under this title. Prior to making any such appearance and representation, the General Counsel of the Department of Transportation shall consult with and inform the Attorney General of the United States of his activities pursuant to this section.

PROTECTION OF EMPLOYEES

SEC. 409. (a) No person shall discharge, discipline, or in any manner discriminate against any employee with respect to the employee's compensation, terms, conditions, or privileges of employment because such employee (or any person acting pursuant to a request of the employee) has filed any complaint or instituted or caused to be instituted any proceeding under or related to this title or other authorities of the Secretary relating to commercial motor vehicle safety, or has testified or is about to testify in any such proceeding, or because such employee has exercised, on behalf of himself or others, any right afforded by this title.

(b) No person shall discharge, discipline, or in any manner discriminate against an employee with respect to the employee's compensation, terms, conditions, or privileges of employment for refusing to operate a vehicle when such operation constitutes a violation of any Federal rules, regulations, standards, or orders applicable to commercial motor vehicle safety or health, or because of the employee's reasonable apprehension of serious injury to himself or the public due to the unsafe condition of such equipment. The unsafe conditions causing the employee's apprehension of injury must be of such nature that a reasonable person, under the circumstances then confronting the employee, would conclude that there is a bona fide danger of an accident, injury, or serious impairment of health, resulting from the unsafe condition. In order to qualify for protection under this subsection, the employee must have sought from his employer, and have been unable to obtain, correction of the unsafe condition.

(c)(1) Any employee who believes he has been discharged, disciplined, or otherwise discriminated against by any person in violation of subsection (a) or (b) of this section may, within 180 days after such alleged violation occurs, file (or have filed by any person on the employee's behalf) a complaint with the Secretary of Labor alleging such discharge, discipline, or discrimination. Upon receipt of such a complaint, the Secretary of Labor shall notify the person named in the complaint of the filing of the complaint.

2(A) Within 60 days of receipt of a complaint filed under paragraph (1) of this subsection, the Secretary of Labor shall conduct an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify the complainant and the person alleged to have committed a violation of this section of his findings. Where the Secretary of Labor has concluded that there is reasonable cause to believe that a violation has occurred, he shall accompany his findings with a proposed order providing the relief prescribed by subparagraph (B) of this paragraph. Thereafter, either the person alleged to have committed the violation or the complainant may, within 30 days, file objections to the proposed order and request a hearing on the record. Such hearings shall be expeditiously conducted. Where a hearing is not timely requested, the proposed order shall be deemed a final order which is not subject to judicial review. Upon the conclusion of such hearing, the Secretary of Labor shall issue a final order within 120 days. In the interim, such proceedings may be terminated at any time on the basis of a settlement

agreement entered into by the Secretary of Labor, the complainant, and the person alleged to have committed the violation.

(B) If, in response to a complaint filed under paragraph (1) of this subsection, the Secretary of Labor determines that a violation of subsection (a) or (b) of this section has occurred, the Secretary of Labor shall order (i) the person who committed such violation to take affirmative action to abate the violation, (ii) such person to reinstate the complainant to the complainant's former position together with the compensation (including back pay), terms, conditions, and privileges of the complainant's employment, (iii) compensatory damages, and (iv) where appropriate, exemplary damages. If such an order is issued, the Secretary of Labor, at the request of the complainant, may assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorney's fees) reasonably incurred, as determined by the Secretary of Labor, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

(d)(1) Any person adversely affected or aggrieved by an order issued after a hearing under subsection (c) of this section may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred, or the circuit in which such person resided on the date of such violation. The petition for review must be filed within 60 days from the issuance of the Secretary of Labor's order. Such review shall be in accordance with the provisions of chapter 7 of title 5, United States Code, and shall be heard and decided expeditiously.

(2) An order of the Secretary of Labor, with respect to which review could have been obtained under this section, shall not be subject to judicial review in any criminal or other civil proceeding.

(e) Whenever a person has failed to comply with an order issued under subsection (c)(2) of this section, the Secretary of Labor shall file a civil action in the United States district court for the district in which the violation was found to occur in order to enforce such order. In actions brought under this subsection, the district courts shall have jurisdiction to grant all appropriated relief, including injunctive relief, reinstatement, and compensatory and exemplary damages. Civil actions brought under this subsection shall be heard and decided expeditiously.

GRANTS TO STATES

SEC. 410. Under the terms and conditions of this title, and subject to the availability of funds, the Secretary is authorized to make grants to States for the development or implementation of programs for the enforcement of Federal rules, regulations, standards, and orders applicable to commercial motor vehicle safety and compatible State rules, regulations, standards, and orders.

STATE ENFORCEMENT

SEC. 411. (a)(1) The Secretary shall formulate procedures for any State to submit a plan whereby the State agrees to adopt, and to assume responsibility for enforcing, rules, regulations, standards, and orders in compliance with this title. Such plan shall be approved by the Secretary if, in his judgment, the plan is adequate to promote the objectives of this title, and the plan—

(A) designates the State motor vehicle safety agency responsible for administering the plan throughout the State;

(B) contains satisfactory assurances that such agency has or will have the legal authority, resources, and qualified personnel necessary for the enforcement of such rules, regulations, standards, and orders;

(C) gives satisfactory assurances that such State will devote adequate funds to the administration of such plan and enforcement of such rules, regulations, standards, and orders;

(D) provides a right of entry and inspection sufficient to enforce the provisions of this title;

(E) provides civil penalty procedures, rights, and remedies comparable to those set forth in section 407 of this title;

(F) provides that all reports required pursuant to this title be submitted to the State agency, and that such agency make available upon request to the Secretary all such reports;

(G) provides that such State agency will adopt such uniform reporting requirements and use such uniform forms for recordkeeping, inspections, and investigations as may be established and required by the Secretary; and

(H) requires registrants of commercial motor vehicles to make a declaration of knowledge of applicable Federal and State safety rules, regulations, standards, and orders.

(2) If a plan submitted under paragraph (1) of this subsection is rejected, the Secretary shall provide the State a written explanation of his action and shall permit the State to modify and resubmit its proposed plan for approval, in accordance with the procedures formulated in such paragraph.

(b) The Secretary shall, on the basis of reports submitted by the State agency, and on his own inspections, make a continuing evaluation of the manner in which each State with a plan approved under this section is carrying out such plan. Whenever the Secretary finds, after affording due notice and opportunity for comment, that a State plan previously approved is not being followed or that it has become inadequate to assure the enforcement of rules, regulations, standards, or orders issued under this title, he shall notify the State of withdrawal of approval of such plan. Upon receipt of such notice, such plan shall cease to be in effect. Any State aggrieved by a determination of the Secretary pursuant to this subsection may seek judicial review pursuant to chapter 7 of title 5, United States Code. The State may, however, retain jurisdiction in any case commenced before the withdrawal of the plan whenever the issues involved do not directly relate to the reasons for the withdrawal of approval of the plan.

(c) The Secretary shall not approve any plan under this section which does not provide that the aggregate expenditure of funds of the State and political subdivisions thereof, exclusive of Federal funds, for commercial motor vehicle safety programs will be maintained at a level which does not fall below the average level of such expenditures for its last 2 full fiscal years preceding the date of enactment of this title.

STATE REGULATIONS

SEC. 412. (a) Except as may otherwise be provided in this or any other law, any State agency may adopt additional or more stringent safety rules, regulations, standards, or orders for commercial motor vehicle safety if such rules, regulations, standards, or orders are not inconsistent with the Federal rules, regulations, standards, and orders issued under this title.

(b) Nothing in this title shall affect existing hour-of-service regulations of any State applying to commercial motor vehicle operations occuring wholly within that State, unless the Secretary affirmatively finds upon review of a State's hours-of-service regulations that such regulations (1) materially diminish commercial motor vehicle safety or the health and safety of employees, (2) are not required by compelling local conditions, or (3) unduly burden interstate commerce. If the Secretary makes such an affirmative determination, he may require such State to adopt Federal hours-of-service regulations.

FEDERAL SHARE OF COSTS

SEC. 413. By grants authorized under this title, the Secretary shall reimburse any State an amount not to exceed 80 percent of the costs incurred by that State in that fiscal year in the development and implementation of programs to enforce commercial motor vehicle rules, regulations, standards, or orders adopted pursuant to this title. The funds of the State and political subdivisions thereof which are required to be expended under section 411(c) of this title shall not be considered to be part of the non-Federal share. The Secretary is authorized to allocate, among the States whose applications for grants have been approved, those amounts appropriated for grants to support such programs pursuant to such criteria as may be established.

AUTHORIZATIONS

SEC. 414. To carry out the purposes of sections 410 and 411 of this title, there is authorized to be appropriated out of the Highway Trust Fund not to exceed $10,000,000 in the fiscal year ending September 30, 1984, not to exceed $20,000,000 in the fiscal year ending September 30, 1985, not to exceed $30,000,000 in the fiscal year ending September 30, 1986, not to exceed $40,000,000 in the fiscal year ending September 30, 1987, and not to exceed $50,000,000 in the fiscal year ending September 30, 1988. Appropriated funds authorized by this section shall be used to reimburse to States the Federal pro rata share of costs incurred. Grants made pursuant to the authority of this title shall be for periods not to exceed 1 fiscal year, ending at the end of a fiscal year.

ANNUAL REPORT

SEC. 415. As part of the Secretary's annual report to the Congress required by section 12 of the Department of Transportation Act (49 U.S.C. 1658), the Secretary shall make a written report to the Congress concerning his efforts and his current plans to upgrade the safety and health of operators of commercial motor vehicles. The report shall include, but not be limited to, an evaluation of commercial motor vehicle safety or health programs of the Department of Transportation, an outline of problem areas and appropriate steps to alleviate them, and recommendations for closer coordination and cooperation among agencies of the Federal Government and between the Federal Government and the States to enforce the rules, regulations, standards, and orders issued pursuant to this title.

APPLICABILITY

SEC. 416. Nothing in this title shall apply to the operation of any vehicles engaged in farming activities and logging operations as defined by the Secretary.

COMMERCIAL MOTOR VEHICLE SAFETY ADVISORY COMMITTEE

SEC. 417. (a)(1) Not later than 12 months after the date of enactment of this title, the Secretary shall establish a Commercial Motor Vehicle Safety Advisory Committee and appoint the initial members of the Committee. The Committee shall be composed of the Secretary and 15 members, each of whom shall be experienced in the safety regulation of commercial motor vehicles or technically qualified by training, experience or knowledge to evaluate commercial motor vehicle rules or regulations. The Committee shall be appointed by the Secretary, after consultation with public and private agencies and organizations concerned with commercial motor vehicle safety. Members shall include representatives of State governments, the motor carrier industry, shippers, union drivers and independent owner-operators, and the public.

(2) A Chairman shall be selected by a majority of the members of the Committee.

(3) Each member appointed by the Secretary shall hold office for a term of 3 years, except that (A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; (B) the terms of office of members first taking office after the date of enactment of this title shall expire as follows: Five at the end of 1 year after the date such Committee members are appointed by the Secretary; five at the end of 2 years after the date such Committee members are appointed by the Secretary; and five at the end of 3 years after the date such Committee members are appointed, and designated by the Secretary at the time of appointment; and (C) the term of any member shall be extended until the date on which the successor's appointment is effective. None of the members appointed by the Secretary who has served a 3-year term, other than Federal officers or employees, shall be eligible for reappointment within 1 year following the end of his preceding term.

(4) Members of the Committee other than Federal employees may be compensated at a rate to be fixed by the Secretary, but not to exceed the daily equivalent of the maximum annual rate of basic pay then currently payable under the General Schedule under section 5332 of title 5, United States Code, for each day (including traveltime) when engaged in the actual duties of the Committee. All members, while away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently. Payments under this section shall not render members of the Committee employees or officials of the United States for any purpose.

(b) The Advisory Committee shall advise, consult with, and make recommendations to the Secretary on matters relating to the activities and functions of the Department in the field of commercial motor vehicle safety. The Committee is authorized to review research projects or programs submitted to or recommended by it in the field of commercial motor vehicle safety and recommend to the Secretary any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause and prevention of commercial motor vehicle accidents. The Committee is also authorized to review, prior to issuance, rules, regulations, standards, and orders proposed to be issued by order of the Secretary under the provisions of this title and to make recommendations thereon. Such recommendations shall be published in connection with the Secretary's determination or order.

(c) The Committee shall meet with the Secretary (or his designee) at least once every year.

(d) There are authorized to be appropriated for each of the fiscal years ending on September 30, 1984, 1985 and 1986 not to exceed $125,000 for purposes of carrying out the provisions of this section.

AUTHORIZATION OF APPROPRIATIONS

SEC. 418. For the purposes of carrying out the provisions of title 23, United States Code, the following sums are hereby authorized to be appropriated out of the Highway Trust Fund:

(1) for carrying out sections 307(a) and 403 of title 23, United States Code (relating to highway safety research and development) by the Federal Highway Administration, $13,000,000 per fiscal year for each of the fiscal years ending September 30, 1985, September 30, 1986, September 30, 1987, and September 30, 1988;

(2) for carrying out section 402 of title 23, United States Code (relating to highway safety programs) by the National Highway Traffic Safety Administration, $100,000,000 per fiscal year for each of the fiscal years ending September 30, 1985, September 30, 1986, September 30, 1987, and September 30, 1988; and

(3) for carrying out section 403 of title 23, United States Code (relating to highway safety research and development) by the National Highway Traffic Safety Administration, $31,000,000 per fiscal year for each of the fiscal years ending September 30, 1985, September 30, 1986, September 30, 1987, and September 30, 1988.

APPORTIONMENT

SEC. 419. (a) Section 401 of title 23, United States Code, is amended by striking the second sentence.

(b) Section 402(c) of title 23, United States Code, is amended by striking ", except that the apportionments to the Virgin Islands, Guam, and American Samoa shall not be less than one-third of 1 per centum of the total apportionment".

NATIONAL UNIFORM STATE REGULATION

SEC. 420. (a) There is established in the Department of Transportation a working group, composed of the Secretary (or an official of the Department appointed by the Secretary) and not to exceed 51 members to be appointed by the Secretary. The Secretary shall select the Chairman of the Committee from among the Committee members. The appointed members shall be selected from among representatives of various State governments concerned with vehicle registration, fuel tax, and third structure tax requirements of States. The term of members shall not exceed 18 months.

(b)(1) The working group shall devise, consult with, and make recommendations to, the Secretary regarding uniform State regulations of interstate motor carriers. The working group is authorized to develop and recommend to the Secretary standards for uniform State regulation of interstate motor carriers in regard to vehicle registration, fuel tax, and third structure tax requirements. These standards shall include:

(A) standardized procedures and forms;

(B) base State certification;

(C) single State unit for filings, applications, and permits;

(D) payment to the base State of fees and taxes due other States;

(E) equitable distribution of revenues; and

(F) a limit on fees paid for identification stickers, plates or other indicia.

Such standards shall not define or include the amounts of any State registration fees, fuel taxes, or third structure taxes.

(2) The working group shall also:

(A) define an approach to resolve any discrepancies in States' implementation of standards ultimately promulgated by the Secretary;

(B) identify permanent bodies to develop and recommend future modification to such standards; and

(C) consult with public and private interests contributing to, affected by, or concerned with State motor carrier requirements during the development of the standards.

(c) Members of the working group who are not officers or employees of the United States shall, while attending meetings or conferences of such working group or otherwise engaged in the business of such working group, be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding $100 per diem, including travel time. While away from their homes or regular places of business, members of the working group may be allowed travel expenses, including per diem in lieu of subsistence, as authorized in section 5703 of title 5, United States Code, for persons in the Government service employed intermittently. Payments under this subsection shall not render members of the working group employees or officials of the United States for any purpose.

(d) The recommendations required by subsection (b) of this section shall be submitted to the Secretary within 18 months of the date of enactment of this title.

(e) The Secretary may initiate rulemaking after the Secretary has received such recommendations in order to implement those recommendations found acceptable and in compliance with the criteria defined in subsection (b)(1) of this section.

(f) If the working group fails to make such recommendations within 18 months after the date of enactment of this title, the Secretary may develop such standards and initiate rulemaking to promulgate regulations implementing those standards.

MINIMUM FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS

SEC. 421. (a) Section 30(a)(2) of the Motor Carrier Act of 1980 (Public Law 96-296; 94 Stat. 820) is amended to read as follows:

"(2) The minimum level of financial responsibility established by the Secretary under paragraph (1) of this subsection for any vehicle shall not be less than $750,000, except that the Secretary may by regulation reduce such amount for any class of vehicles or operations if the Secretary finds that such reduction will not adversely affect public safety and will prevent a serious disruption in transportation service.".

(b) Section 30(b) of the Motor Carrier Act of 1980 (Public Law 96-296; 94 Stat. 821) is amended to read as follows:

"(b)(1) The Secretary shall establish regulations to require minimum levels of financial responsibility sufficient to satisfy liability amounts (to be determined by the Secretary) covering public liability, property damage, and environmental restoration for the transportation of hazardous materials (as defined by the Secretary), oil or hazard-

ous substances (as defined by the Administrator of the Environmental Protection Agency), or hazardous wastes (as defined by the Administrator of the Environmental Protection Agency) by motor vehicle in interstate commerce, foreign commerce, or intrastate commerce.

"(2) The minimum level of financial responsibility established by the Secretary under paragraph (1) of this subsection for any vehicle transporting in interstate commerce, foreign commerce, or intrastate commerce—

"(A) hazardous substances (as defined by the Administrator of the Environmental Protection Agency), in cargo tanks, portable tanks, or hopper-type vehicles, with capacities in excess of 3,500 water gallons;

"(B) in bulk Glass A and B explosives, poison gas, liquefied compressed gas, or compressed gas; or

"(C) a large quantity of radioactive materials;

shall not be less than $5,000,000, except that the Secretary may by regulation reduce such amount for any class of vehicles or operations if the Secretary finds that such reduction will not adversely affect public safety and will prevent a serious disruption in transportation service.

"(3) The minimum level of financial responsibility established by the Secretary under paragraph (1) of this subsection for any vehicles transporting in interstate, foreign, or intrastate commerce any material, oil, substance, or waste not subject to the provisions of paragraph (2) of this subsection shall not be less than $1,000,000, except that—

"(A) the Secretary may by regulation reduce such amount for any class of vehicles or operations if the Secretary finds that such reduction will not adversely affect public safety and will prevent a serious disruption in transportation service;

"(B) in the case of any class of vehicles transporting any such material, oil, substance, or waste in intrastate commerce other than in bulk, the Secretary, by regulation, may reduce such amount if the Secretary finds that such reduction will not adversely affect public safety; and

"(C) in the case of any class of vehicles transporting any such material, oil, substance, or waste in interstate commerce in quantities less than those requiring placarding under the Department of Transportation's hazardous materials regulations, the Secretary may by regulation reduce such amount if the Secretary finds that such reduction will not adversely affect public safety.

"(4) If, at the end of the one-year period beginning on the date of enactment of this Act, the Secretary has not established regulations to require minimum levels of financial responsibility as required by paragraph (1) of this subsection for any class of transportation of hazardous materials, oil, hazardous substances, or hazardous wastes by motor vehicle in interstate, foreign or intrastate commerce, the levels of financial responsibility for such class of transportation shall be the $5,000,000 amount set forth in paragraph (2) of this subsection or the $1,000,000 amount set forth in paragraph (3) of this subsection, as the case may be, until such time as the Secretary, by regulation, changes such amount under this subsection.".

(c) Section 30(f) of the Motor Carrier Act of 1980 (Public Law 96-296; 94 Stat. 823) is amended to read as follows:

"(f) This section shall not apply to motor vehicles having a gross vehicle weight rating (GVWR) less than 10,000 pounds, if such vehicles are not used to transport any quantity of Class A or B explosives, any quantity of poison gas, or a large quantity of radioactive materials in interstate or foreign commerce.".

COMMERCIAL MOTOR VEHICLE LENGTH LIMITATION

SEC. 422. (a) No State shall establish, maintain, or enforce any regulation of commerce which imposes at vehicle length limitation of less than 48 feet on the length of the semitrailer unit operating in a truck tractor-semitrailer combination, and of less than 28 feet on the length of any semitrailer or trailer operating in a truck tractor-semitrailer-trailer combination, on any segment of the National System of Interstate and Defense Highways or any other qualifying Federal-aid highway as designated by the Secretary, except with respect to such qualifying Federal-aid highways designated pursuant to subsection (e) of this section.

(b) Length limitations established, maintained, or enforced by the States under subsection (a) of this section shall apply solely to the semitrailer or trailer(s) and not to a truck tractor. No State shall establish, maintain, or enforce any regulation of commerce which imposes an overall length limitation on commercial motor vehicles operating in truck-tractor semitrailer or truck tractor semitrailer, trailer combinations. No State shall establish, maintain, or enforce any regulation of commerce which has the effect of prohibiting the use of trailers or semitrailers of such dimensions as those that were in actual and lawful use in such State on December 1, 1982. No state shall establish, maintain, or enforce any regulation of commerce which has the effect of prohibiting the use of existing trailers or semitrailers, of up to 28½ feet in length, in a truck tractor-semitrailer-trailer combination if those trailers or semitrailers were actually and lawfully operating on December 1, 1982 within a 65-foot overall length limit in any State.

(c) No State shall prohibit commercial motor vehicle combinations consisting of a truck tractor and two trailing units on any segment of the National System of Interstate and Defense Highways, or any other qualifying Federal-aid highway as designated by the Secretary, except with respect to such qualifying Federal-aid highway as designated by the Secretary, except with respect to such qualifying Federal-aid highways designated pursuant to subsection (e) of this section.

(d) The Secretary is authorized to establish rules to implement the provisions of this section, and to make such determinations as are necessary to accommodate specialized equipment (including, but not limited to, automobile transporters) subject to subsections (a) and (b) of this section.

(e) Subsections (a) and (c) of this section shall not apply to qualifying Federal-aid highways or segments of highways which are:

(1) designated by any State, in conformity with guidelines promulgated by the Secretary setting forth those specific factors that would significantly and adversely affect public safety on any such highways or segments of highways where subsections (a) or (c) of this section would otherwise be applicable; or

(2) specifically designated by the Secretary on the basis that public safety would be significantly and adversely affected if subsections (a) or (c) of this section were applicable to such specific highways or segments of highways.

(f) For the purposes of this section, "truck tractor" shall be defined as the noncargo carrying power unit that operates in combination with a semitrailer or trailer, except that a truck tractor and semitrailer engaged in the transportation of automobiles may transport motor vehicles on part of the power unit.

(g) The provisions of this section shall take effect 180 days after the date of enactment of this title.

COMMERCIAL MOTOR VEHICLE WIDTH REGULATION

SEC. 423. Notwithstanding any other provision of law, a State (other than the State of Hawaii) shall permit trucks of combinations thereof having a width of not more than 102 inches to operate over interstate highways, National Defense Highways, or any other qualifying Federal-aid highway as designated by the Secretary, with traffic lanes designed to be a width of 12 feet or more.

SAFETY-RELATED DEVICES

SEC. 424. The length and width limitations described in sections 422 and 423 of this title shall be exclusive of safety-related appendages, such as rear view mirrors, turn signal lamps, marker lamps, steps and handholds for entry and egress, flexible fender extensions, mudflaps and splash and spray suppressant devices load-induced tire bulge, energy conservation devices or designs, refrigeration units or air compressors, which the Secretary may interpret as necessary for safe and efficient operation of commercial motor vehicles.

ACCESS TO THE INTERSTATE SYSTEM

SEC. 425. No State may enact or enforce any law denying reasonable access to commercial motor vehicles subject to this title to and from the Interstate Highway System, Defense Highways, and any other qualifying Federal-aid highway as designated by the Secretary to the Federal-aid primary system and loading and unloading terminals and facilities for food, fuel, repairs, and rest.

ENFORCEMENT

SEC. 426. The Secretary, or, on the request of the Secretary, the Attorney General of the United States, is authorized and directed to institute any civil action for injunctive relief as may be appropriate to assure compliance with the provisions of this title. Such action may be instituted in any district court of the United States in any State where such relief is required to assure compliance with the terms of this title. In any action under this section, the court shall, upon a proper showing, issue a temporary restraining order or preliminary or permanent injunction. In any such action, the court may also issue a mandatory injunction commanding any State or person to comply with any applicable provision of this title or any rule issued under authority of this title.

SPLASH AND SPRAY SUPPRESSANT DEVICES

SEC. 427. (a) The Congress declares that visibility on wet roadways on the Interstate System should be improved by reducing, by a practicable and reliable means, splash and spray from truck tractors, semitrailers, and trailers.

(b) The Secretary shall—

(1) within one year after the date of the enactment of this title, establish minimum standards with respect to the performance and installation of splash and spray sup-

pression devices for use on truck tractors, semitrailers, or trailers;

(2) within two years after the date of the enactment of this title, require that all new truck tractors, semitrailers, and trailers operated on the Interstate System be equipped with any splash and spray suppression device which satisfies the standards established pursuant to paragraph (1) of this subsection; and

(3) within five years after the date of the enactment of this title, require that all truck trailers, semitrailers, and trailers operated on the Interestate System be equipped with any splash and spray suppression device which satisfies the standards established pursuant to paragraph (1) of this subsection.

(c) For the purposes of this section, the term—

(1) "truck tractor" means the noncargo carrying power unit that operates in combination with a semitrailer or trailer(s);

(2) "semitrailer" and "trailer" mean any semitrailer or trailer, respectively, with respect to which section 422 of this title applies; and

(3) "Interstate System" has the same meaning provided in section 101 of title 23, United States Code.

REPORT REGARDING LONGER COMBINATION COMMERCIAL MOTOR VEHICLES

SEC. 428. (a) Within 1 year after the date of enactment of this title, the Secretary, after consultation with the transportation officials and Governors of the several States and after an opportunity for public comment, shall submit to Congress a detailed report on the potential benefits and costs if any, to shippers, receivers, operators of commercial motor vehicles, and the general public, that reasonably may be anticipated from the establishment of a National intercity truck route network for the operation of a special class of longer combination commercial motor vehicles.

(b) For the purposes of this section, the term—

(1) "longer combination commercial motor vehicles" means multiple-trailer combinations consisting of (A) truck tractor-semitrailer-full trailer, and (B) truck tractor-semitrailer-full trailer-full trailer combinations with an overall length not in excess of 110 feet; and

(2) "National intercity truck route network" means a network consisting of a number of controlled-access, interconnecting segments of the National System of Interstate and Defense Highways and other highways of comparable design and traffic capacity including, but not limited to, all such highways where the operation of longer combination commercial motor vehicles is authorized on the date of enactment of this section.

(c) The detailed report mandated by this section shall include, but need not be limited to, the following—

(1) a specific plan for the establishment of a National intercity truck route network, including the designation of those specific highway segments which would be required to connect the major distribution centers and markets for long-haul intercity freight service, except that the Secretary shall not include in the plan any highway segment which, because of design limitations or other factors, cannot accommodate the safe operation of longer combination commercial motor vehicles;

(2) an analysis of the intercity motor freight volume that reasonably can be anticipated to be transported by longer combination commercial motor vehicles over the National intercity truck route network if such network is established by Congress;

(3) an analysis of the fuel savings that reasonably can be anticipated in the transportation of freight by commercial motor vehicle if such network is established by Congress;

(4) an analysis of the productivity gains that reasonably can be anticipated to be achieved in the transportation of freight by commercial motor vehicle if such network is established by Congress;

(5) an analysis of the fuel conservation and productivity gains historically achieved by operators of longer combination commercial motor vehicles; and

(6) an analysis of the safety record of longer combination commercial motor vehicle operations that have been conducted prior to the date of enactment of this section.

(d) In making the findings and determinations required by subsection (c) of this section, and in making the detailed report to Congress required by this section, the Secretary shall assume that the longer combination commercial motor vehicles operating on the National intercity truck route network, if and when established by Congress, would be subject to the single- and tandem-axle weight limits imposed by section 127 of title 23, United States Code. The Secretary shall further assume that the overall gross weight of such vehicles on a group of two or more consecutive axles shall be limited by the formula set forth in such section, and only by such formula.

(e) In making the detailed report to Congress required by this section, the Secretary shall assume that longer combination commercial motor vehicles operating on the National intercity truck route network will have reasonable access to terminals, combination breakup areas, and food and fuel facilities consistent with safe operations of such vehicles.

DEMONSTRATION PROJECT

SEC. 429. (a) The Secretary is authorized to carry out a demonstration project in the vicinity of East Baton Rouge, Louisiana, for the purpose of demonstrating the efficacy of reducing traffic congestion in the immediate vicinity of a partial-diamond, partial-cloverleaf interchange which connects an east-west highway on the Interstate System and a four lane highway not on such system by providing a direct access ramp to, and a travel lane on, the Interstate highway and by eliminating a crossover which is used for access to the Interstate highway.

(b) There is authorized to be appropriated to carry out this section, out of the Highway Trust Fund, not to exceed in the aggregate $5,000,000 for the fiscal years beginning after September 30, 1982.

(c) Funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this section shall be 100 per centum of the total cost of such project, and such funds shall remain available until expended.

AIRPORT AND AIRWAY DEVELOPMENT PROGRAM

SEC. 430. (a) Section 507(a)(3) of the Airport and Airway Improvement Act of 1982 (Public Law 97-248; 96 Stat. 671) is amended by redesignating the existing paragraph as subparagraph (A) and adding at the end thereof the following new subparagraph:

"(B) The amounts apportioned to the discretionary fund pursuant to subparagraph (A) of this paragraph shall be increased by apportioning from the Trust Fund additional aggregate amounts of $200,000,000 for fiscal year 1983; $400,000,000 for the fiscal years ending before October 1, 1984; and $475,000,000 for the fiscal years ending before October 1, 1985. Such additional amounts shall be distributed by the Secretary in the same manner as funds apportioned pursuant to subparagraph (A), except that (i) such additional amounts may only be distributed for projects involving new construction begun after the date of enactment of this subparagraph and not to liquidate obligations arising from construction begun before such date; (ii) the Secretary shall give preference to those projects which would increase the safety or capacity of the airport receiving such additional amounts; and (iii) such additional amounts shall not be subject to the limitations set forth in section 508(d) of this title. For the purposes of the provisions of this title (other than sections 507, and 508(d)), and all amendments made to other laws by this title, such additional amounts shall be considered to be funds authorized by or made available under section 505. If any Act of Congress has the effect of limiting or reducing the amount authorized or available to be obligated for any fiscal year for the purposes of section 505, the Secretary shall implement such limitation or reduction by reducing the amount of discretionary funds distributed in that fiscal year pursuant to this subparagraph prior to reducing any other apportionment under this section. In no event may the Secretary reduce any other apportionment under this section in order to comply with any such Congressional limitation or reduction unless all of the discretionary funds available for distribution in such fiscal year pursuant to this subparagraph have been eliminiated.".

(b) Section 505(a) of such Act is amended by striking "$3,772,500,000" and inserting in lieu thereof "$3,660,000,000", and by striking "$4,789,700,000" and inserting in lieu thereof "$4,564,700,000".

(c) The first sentence of section 506(c)(2) of such Act is amended by striking everything after "section 505" and inserting in lieu thereof "(including funds made available under section 507(a)(3)(B)) for that fiscal year multiplied by a factor equal to 1.83 in the case of fiscal year 1983; 1.25 in the case of fiscal year 1984; 1.28 in the case of fiscal year 1985; 1.44 in the case of fiscal year 1986; and 1.51 in the case of fiscal year 1987.".

(d) The second sentence of section 507(a)(1)(E) of such Act is amended by inserting ", after complying with the provisions of subparagraph (3)(B) of this subsection," immediately after "the Secretary".

(e) Section 9502(d)(1)(A) of the Internal Revenue Code of 1954 is amended by striking "the Airport and Airway Improvement Act of 1982", the second time it appears therein, and inserting in lieu thereof "the Surface Transportation Act of 1982".

STATE RECREATIONAL BOATING AND REFORESTATION

SEC. 431. (a) The Federal Boat Safety Act of 1971 Public Law 92-75; 85 Stat. 213) is amended as follows:

(1) By inserting "contract with, and" immediately after "The Secretary may" in the second sentence of section 25(a)(46) U.S.C. 1474(a)) and in section 26(a) (46 U.S.C. 1475(a)) immediately after "promulgate, may".

(2) In section 26(b) and (c)(46) U.S.C. 1475(b) and (c)):

(A) by striking "appropriated" and inserting "authorized to be expended"; and

(B) by adding at the end thereof the following: "His action in doing so shall be deemed a contractual obligation of the United States for the payment of the proportional share of the cost of implementing the program.".

(3) In section 26(d)(46 U.S.C. 1475(d))—

(A) by striking "appropriated" in the third and fourth sentences and inserting in lieu thereof "authorized to be expended";

(B) by inserting immediately after the third sentence the following: "Approval of those elements of a combined program shall be deemed a contractual obligation of the United States for the payment of the proportional share of the cost of implementing State recreational boating safety programs pursuant to this Act."; and

(C) by adding at the end thereof the following: "Approval of those elements of a combined program shall be deemed a contractual obligation of the United States for the payment of the proportional share of the cost of implementing State recreational boating facilities programs pursuant to this Act.".

(4) In section 30 (46 U.S.C. 1479) by striking the section heading and all that follows thereafter and inserting in lieu thereof the following:

"AUTHORIZATION OF CONTRACT SPENDING AUTHORITY FOR STATE RECREATIONAL BOATING SAFETY AND FACILITIES IMPROVEMENT PROGRAMS

"SEC. 30. For the purposes of providing financial assistance for State recreational boating safety and facilities improvement programs, the Secretary is authorized to expend, subject to such amounts as are provided in appropriations Acts for liquidation of contract authority, an amount equal to the revenues accuring each fiscal year from the taxes under section 4041(b) of the Internal Revenue Code of 1954 with respect to special motor fuels used as fuel in motor boats and under section 4081 of such Code with respect to gasoline used as fuel in motor boats. Of the funds available for allocation and distribution for recreational boating safety and facilities improvement programs, one-third shall be allocated for recreational boating safety programs and two-thirds shall be allocated for recreational boating facilities improvement programs beginning with fiscal year 1983. Any funds authorized to be expended for State recreational and boating safety improvement programs shall remain available until expended and shall be deemed to have been expended only if a sum equal to the total amounts authorized to be expended under this section for the fiscal year in question and all previous fiscal years have been obligated. Any funds that were previously obligated but are released by payment of a final voucher or modification of a program acceptance shall be credited to the balance of unobligated funds and shall be immediately available for expenditure.".

(b) Section 209(f)(5) of the Highway Revenue act of 1956 (23 U.S.C. 120, note) is repealed.

(c) Sections 303 (d) and (e) of the Act of October 14, 1980 (16 U.S.C. 1606a(d) and (e)), are amended to read as follows:

"(d) During each of the fiscal years 1983, 1984, and 1985, the Secretary of Agriculture shall expend all amounts available in the Trust Fund (including any amounts not expended in previous fiscal years) for:

"(1) reforestation and timber stand improvement as set forth in the Congressional policy in section 3(d) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1601(d)); and

"(2) administrative costs of the Federal Government properly allocable to the activities described in paragraph (1).

In no event may the Secretary expend less than $104,000,000 out of the Trust Fund in fiscal year 1983 for the purposes of this subsection.

"(e) It is the intent of Congress that the Secretary shall expend all of the funds available in the Trust Fund in each fiscal year. Any such funds which are not expended in a given fiscal year shall remain available for expenditure without fiscal year limitation; except that any funds not expended prior to October 1, 1985, shall, no later than April 30, 1986, be distributed to the States for use in State forestry programs pursuant to the formula set forth in the Act of May 23, 1908 (16 U.S.C. 500, Public Law 60-136).".

AMENDMENT TO SALTONSTALL-KENNEDY ACT

SEC. 432. Section 2(e) of the Act of August 11, 1939, commonly referred to as the Saltonstall-Kennedy Act (15 U.S.C. 713c-3(e)), is amended to read as follows:

"(e) ALLOCATION OF FUND MONEYS.—(1) All moneys in the fund shall be used only to promote United States fisheries in accordance with the provisions of this section. With respect to any fiscal year, the sum of all unexpended moneys carried over into that fiscal year and all moneys transferred to the fund under subsection (b) or any other provision of law with respect to that fiscal year, shall be allocated as follows:

"(A) the Secretary shall use no less than 60 percent of such funds to make direct industry assistance grants to develop new United States fisheries and to expand domestic and foreign markets for United States fishery products pursuant to subsection (c) of this section; and

"(B) the Secretary may not use more than 40 percent of such funds to finance the operations of the National Marine Fisheries Service, including, but not limited to, fisheries research laboratories, market development, quality control, export promotion, import research, administration of this section, and related programs to promote the development of United States fisheries.

"(2) It is the intent of the Congress that the Secretary should, consistent with the number of meritorious applications received with respect to any fiscal year, obligate or expend all of the funds described in paragraph (1). Any such funds which are not expended in a given fiscal year shall remain available for expenditure under this section without fiscal year limitations.".

THE MERCHANT MARINE ACT, 1936

SEC. 433. Section 1103(f) of the Merchant Marine Act, 1936 (46 U.S.C. 1273(f)), is amended by adding at the end thereof the following new sentence: "No additional limitations may be imposed on new commitments to guarantee loans for any fiscal year, except in such amounts as established in advance in annual authorization Acts.".

SECTION-BY-SECTION ANALYSIS: TITLE IV—COMMERCIAL MOTOR VEHICLE SAFETY, S. 3044, "SURFACE TRANSPORTATION ACT OF 1982"

DEFINITIONS

Section 401.—This section defines certain terms used in Title IV (except where the context otherwise requires).

One of the most significant of the definitions is section 401(1), "commerce". At present, the Secretary of Transportation is empowered to regulate commercial motor vehicle safety primarily with regard to vehicles that cross State lines or national boundaries or perform the intrastate portion of a continuous interstate movement. This class of vehicles is operated primarily by the approximately 17,000 carriers who must obtain operating authority from the Interstate Commerce Commission (ICC) plus the approximately 140,000 private and exempt interstate carriers. This definition would authorize the Secretary to promulgate regulations regarding the safety of commercial motor vehicle operations both in and affecting interstate and foreign commerce.

The definition of "commercial motor vehicle", section 401(2), includes vehicles used on the highways in commerce which are (1) 10,000 pounds gross vehicle weight rating or more or (2) designed to transport more than 10 passengers, including the driver, or (3) used in the transportation of hazardous materials (found to be hazardous by the Secretary for purposes of the Hazardous Materials Transportation Act (40 U.S.C. 1801 et seq.). The 10,000 pound limit is proposed to focus enforcement efforts and because small vans and pick-up trucks are more analogous to automobiles than to medium and heavy commercial vehicles, and can best be regulated under State automobile licensing, inspection, and traffic surveillance procedures. However, all vehicles designed to transport 10 or more persons would also be covered to assure the highest levels of safety in this particularly important transportation area. Also vehicles transporting hazardous materials would be covered because of the potentially greater safety dangers in this area.

The definition of "employee," section 401(3) includes any individual other than an employer who is employed by a commercial motor carrier and directly affects commercial motor vehicle safety, such as (a) a driver of a commercial motor vehicle (including for purposes of this title any independent contractor while in the course of personally operating a commercial motor vehicle); (b) a mechanic; or (c) a freight handler.

An employer is defined in section 401(4) as any person engaged in a business affecting commerce who owns or leases a commercial motor vehicle in connection with that business, or assigns employees to operate it in commerce.

The definition of employee includes mechanics and freight handlers who are employed by a commercial motor carrier and in the course of their employment directly affect commercial motor vehicle safety. For example, in loading a truck it is important for highway safety that the load be balanced. Also, a mechanic who repairs commercial motor vehicles has a direct effect on commercial motor vehicle safety and should be subject to the rules, regulations, standards, or orders issued under this title by the Secretary of Transportation. On the other hand, mechanics or freight handlers are not subject to these provisions when repairing or loading a motor vehicle not covered by this title nor with respect to those aspects of their activities that do not directly affect commercial motor vehicle safety.

The Department of Labor continues its authority and this act does not amend or modify the Occupational Safety and Health Act or the National Labor Relations Act.

Whether to treat independent owner-operators as employers or employees posed a unique problem to the drafters. An independent owner-operator owns his own truck and drives it. He also may own several other trucks and have several drivers working for him. There was no question that the commercial motor vehicles he drives and his driving should be subject to the same safety rules as other commercial motor vehicles on the highway. All commercial motor vehicles if improperly maintained or operated pose a significant threat to the public safety.

It was decided that where an independent owner-operator has the primary responsibility for the maintenance and operation of his commercial motor vehicle or vehicles he should be considered an employer and be subject to the penalty provisions for employers. This is appropriate because the owner-operator does have primary control over the vehicle, yet the Committee was sensitive to the fact that the financial status of certain owner-operators is closer to that of employees who are subject to much lower penalties. Therefore, in the actual language of section 407 relating to penalties and the report language accompanying the section the Committee makes clear that in determining the amount of the penalty financial status, among other factors, is to be taken into account. This should protect the owner-operator from unreasonable penalties for violations of the title.

This section also defines the terms "person", "Secretary", and "State".

DUTIES

Section 402.—This section requires each employee and employer to comply with the safety and health rules, regulations, standards, and orders issued pursuant to this title.

REGULATORY AUTHORITY AND STANDARDS

Section 403.—Section 403(a) requires the Secretary of Transportation to establish and revise rules, regulations, standards, and orders as may be necessary to further the purpose of this title and to provide that they shall be directed to assuring that (1) commercial motor vehicles are safely maintained, equipped, loaded, and operated; (2) the responsibilites imposed on a driver do not impair his ability to operate the vehicle safely; (3) the physical condition of drivers is adequate to enable them to drive safely; and (4) the operation of commercial motor vehicles does not create deleterious effects on the physical condition of such drivers.

The Secretary is required to consider, where practicable, costs and benefits of such rules, regulation, standards, and orders. In requiring the Secretary to consider costs and benefits, where practicable, in the course of regulatory activities, the Committee realizes that many aspects of safety and health regulation do not lend themselves to cost-benefit analysis. While the benefits of a particular rule or regulation may be substantial, they may not be practicably quantifiable. The relative costs and benefits reasonably expected to result from a proposed safety or health rule warrant the consideration of the Secretary where practicabe; but the Committee does not intend such requirement to have the effect of precluding, preventing, or suspending the promulgation or revision of rules, regulations, standards or orders due to difficulty in establishing specific, quantified cost or benefit data.

Section 403(b) requires the Secretary of Transportation to promulgate rules or regulations within 1 year after commencing a proceeding. If this is not possible, the Secretary is required to keep the Congress informed of the reaons for the delay and the efforts and progress being made to complete the proceeding. The purpose of this section is to provide incentives to the Department of Transportation to promulgate rules and regulations in a timely manner.

Section 403(b) also requires that all rules, regulations, standards and orders issued under this section be promulgated in accordance with section 553 of title 5, United States Code (without regard to sections 556 and 557 of that title), except that the time periods specified in section 403(a) apply to such promulgation.

Section 403(c) allows the Secretary to waive the application of any rule, regulation, standard, or order if such waiver is in the public interest and is consistent with the safe operation of commercial motor vehicles. This provision should be used with extreme care, and this waiver provision should only be used if the Secretary has developed sufficient information to provide adequate assurance that such waiver will not adversely affect the safe operation of commercial motor vehicles. It should not be enough to exempt a group merely because it is a small part of the commercial motor vehicle industry.

Section 403(d) directs the Secretary of Transportation and Director of the National Institute for Occupational Safety and Health (NIOSH), in consultation with the Secretary of Labor, to conduct a study of health hazards to which employees engaged in the operation of commercial motor vehicles are exposed and to develop recommendations regarding the most appropriate method for regulating and protecting the health of operators of commercial motor vehicles. This section authorizes an appropriation of $1.5 million out of the Highway Trust Fund for fiscal 1984 to conduct this study.

Subsection (e) requires the Secretary of Transportation, the Director of the National Institute for Occupational Safety and Health, and the Secretary of Labor to coordinate their activities to ensure adequate protection of the safety and health of operators of commercial motor vehicles.

In the context of this section, it is important to note the respective roles of the Departments of Transportation and Labor. The Secretary of Transportation, for example, in protecting the public from unsafe commercial motor vehicles, and assuring that commercial motor vehicles are safely maintained, equipped, loaded, and operated, is responsible for the manner in which brakes are repaired, the manner in which a load is distributed in a vehicle, the disign and equipment of the vehicle, and related matters insofar as failure to observe his regulations would adversely affect the safety of the public or the health and safety of operators of commercial motor vehicles. The Secretary of Transportation is not responsible for protecting employees from asbestos fibers, and toxic fumes involved in the course of properly repairing a brake, nor for the protection of employees from slippery walking surfaces or for inadequately braked fork-lift trucks. These activities continue to be the responsibility of the Department of Labor.

It is the intent of the Committee that nothing in section 403 of the bill alter this state of affairs which has developed under existing provisions of law.

At the same time, the Committee believes that both Departments must focus more attention upon the hazards that commercial motor vehicle drivers face in the course of their work. As efforts to permanently reduce or eliminate specified health hazards may ultimately require changes in commercial motor vehicle design, which is generally the expertise of the Secretary of Transportation, this bill therefore directs the Secretary of Transportation and the Director of the National Institute for Occupational Safety and Health, in consultation with the Secretary of Labor, to conduct a study of safety and health hazards to drivers. By doing this, the two regulatory authorities will have the information necessary to determine the extent to which they should utilize their respective expertise to deal with these problems. Section 403(e) does not provide additional or new regulatory authority to the Secretary of Labor or the Director of the National Institute for Occupational Safety and Health. The DOT Secretary is mandated under this act the authority to assure the protection of safety and health of operators while operating commercial motor vehicles. This section requires the Secretaries and the Director to make every attempt to avoid overlap or duplication of activities and to coordinate their efforts. The Committee intends, in the exercise of its regular oversight authority, to follow further developments in this area of concern.

GENERAL POWERS

Section 404.—This section provides the Secretary of Transportation with broad administrative powers to assist in the implementation of this title. Section 404(b) includes provision for the Secretary to delegate enforcement functions, as he determines appropriate, under this title to a State with a plan approved under section 411 of this title.

INSPECTIONS AND WARRANTS

Section 405.—Section 405 authorizes the conditions under which the Secretary of Transportation can carry out inspections or searches. Employers and employees and their duly designated representatives shall be offered a right of accompaniment.

Specifically, section 405(a)(2)(A) provides that an administrative warrant shall be required for any entry or administrative inspection unless the entry of inspection is: (1) with the consent of the employer, employee, or agent of the employer in charge of the business, establishment, or premises; (2) in situations where there is reasonable cause to believe that the mobility of the motor vehicle makes it impractical to obtain a warrant; (3) in any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking; (4) for access to and examination of books, records, and any other documentary evidence which can be easily altered, manufactured, or falsified; or (5) in any other situations where a warrant is not constitutionally required.

Section 405(a)(2)(B) provides for the issuance and execution of administrative inspection warrants. Any judge of the United States or of a State court of record, or any United States magistrate, may within his territorial jurisdiction, and upon proper oath or affirmation showing probable cause, issue warrants to conduct administrative inspections and to impound motor vehicles or their equipment. This section also sets forth in detail the circumstances under which a warrant shall be issued and the contents of the warrant. Details of the execution and return are also set forth in detail.

DUTY TO INVESTIGATE COMPLAINTS, PROTECTION OF COMPLAINANTS

Section 106.—This section requires the Secretary of Transportation to investigate nonfrivolous written complaints alleging a material violation of the title. The Secretary is also required to take steps to protect the identity of persons complaining of safety violations.

PENALTIES

Section 407.—This section sets forth the penalties available to the Secretary of Transportation in enforcing violations of sections 402 through 417 of this title. The section provides for both civil and criminal penalties, subsections (b) and (e), injunctive relief, subsection (h), and imminent hazard authority, subsection (d).

Subsection (a) sets out the procedure for the Secretary to follow if he finds that a violation under this title has occurred.

Subsection (b) provides for a civil penalty of up to $500 for a recordkeeping violation. The total of all recordkeeping offenses relating to any single recordkeeping violation shall not exceed $10,000. If the Secretary determines that a substantial health or safety violation exists or has occurred which could reasonably lead to or has resulted in serious personal injury or death, he may assess a civil penalty of up to $10,000 for each offense. However, no civil penalty, except recordkeeping penalties, may be assessed against an employee unless the employee is the operator of a commercial motor vehicle and the Secretary of Transportation determines that the employee's actions constituted gross negligence or reckless disregard for safety, in which case such employee shall be liable for a civil penalty up to $1,000. In assessing civil penalties the Secretary is to take into account the nature, circumstances, extent, and gravity of the violation and the degree of culpability, history of prior offenses, ability to pay, and effect on ability to continue to do business of the violator. The assessment is to be calculated to induce further compliance.

The Committee felt that an employee who is operating a commercial motor vehicle in a grossly negligent manner or with reckless disregard for safety and in violation of this title should be subject to a civil penalty. At the same time the Committee recognized the fact that employees and employers enjoy a different financial status. The level of penalty necessary to provide a deterrent to an employer could have the effect of financially bankrupting an employee. The different levels of penalties for employers and employees are designed, therefore, to create adequate incentives to assure compliance with the act. As stated in the section-by-section analysis under the definition of employee and employer, the independent owner operator posed a unique problem for the drafters. For the purposes of this title only an owner-operator while in the course of personally operating a commercial motor vehicle for a commercial motor carrier is considered an employee for penalty purposes. When the owner-operator is not acting in such capacity, for purposes of this title he shall be treated as an employer. However, the Secretary, in assessing a civil penalty, is directed to take into account, among other criteria, the ability to pay and effect on ability to do business.

Subsection (c) authorizes the Secretary to require a violator to post a copy of a notice of violation or a statement thereof.

Subsection (d) authorizes the Secretary to place a vehicle out of operation or to order an employer to cease all or part of his commercial motor vehicle operations if the Secretary determines that an imminent hazard to safety exists.

Subsection (e) provides for criminal penalties for employers and employees who are operating a commercial motor vehicle who knowingly or willfully violate the act. Penalties for an employer are a fine of up to $25,000 and/or imprisonment not to exceed 1 year. An employee is subject to a $2,500 fine. The Committee felt this was sufficient deterrent for the employee because he would also be subject to employer sanctions and State laws.

Subsection (f) requires the Secretary to promulgate regulations establishing penalty schedules designed to induce timely compliance for those failing to comply promptly with the requirements set forth in notices and orders.

Subsection (g) establishes a procedure whereby any aggrieved person who, after a hearing is adversely affected by a final order issued by the Secretary, may petition for review of the order in the U.S. Court of Appeals.

Subsection (h) authorizes the Secretary to obtain enforcement of any penalty or order under this section by applying to the United States District Court. In addition, to granting enforcement, the District Court may assess a penalty for noncompliance.

Subsection (i) provides that penalties and fines imposed shall be deposited into the Treasury as miscellaneous receipts.

Subsection (j) provides subpenas for witnesses who are required to attend a District Court may run into any District.

Subsection (k) provides procedures for proceedings for criminal contempt in accordance with the Federal Rules of Criminal Procedure.

REPRESENTATION BEFORE THE COURTS

Section 408.—The section authorizes the General Counsel of the Department of Transportation to appear for and represent the Secretary in all proceedings and in any civil, litigation brought under this title, except as otherwise provided.

PROTECTION OF EMPLOYEES

Section 409.—Subsection (a) of section 409 prohibits any person from disciplining, discriminating against, or discharging an employee for filing a complaint or excercising a right afforded by this title or other authorities of the Secretary of Transportation concerning commercial motor vehicle safety.

Subsection (b) provides for protection of an employee who refuses to operate an unsafe vehicle. In order to qualify for protection under this subsection, the employee must have sought from his employer and have been unable to obtain, correction of the unsafe condition. The employee's refusal to operate the vehicle must be of such nature that a reasonable person, under the circumstances then confronting the employee, would conclude that there is a bona fide danger of an accident, injury or serious impairment of health, resulting from the unsafe condition. In providing protection of employees in section 409, it is intended to assure that employees are not forced to drive unsafe vehicles or commit unsafe acts. It is not intended to promote refusal of employees to operate when violations occur en route that do not adversely affect safety or health.

Subsection (c) provides the procedure an employee may follow if the employee believes he has been discriminated against, disciplined or discharged in violation of subsection (a) or (b). An employee may file a complaint, within 180 days after the alleged violation occurs with the Secretary of Labor. The Secretary of Labor is then required to conduct an investigation within 60 days of receipt of a complaint and report his findings and conclusions to the affected parties. If the Secretary of Labor determines that there is reasonable cause to believe that the complaint has merit, he shall notify the complainant and the person alleged to have committed the violation. Thereafter, either the person alleged to have committed the violation or the complainant may, within 30 days file objections to the proposed order and request a hearing on the record. Where a hearing is not timely requested, the Secretary shall issue a final order not subject to judicial review. Where a hearing is requested, it is to be expeditiously conducted with a final order issued within 120 days after conclusion of the hearing. If, in response to a complaint, the Secretary of Labor determines that a violation of subsection (a) or (b) has occurred, he shall order (1) the person who committed such violation to take affirmative action to abate the violation, (2) such person to reinstate the complainant to the complainant's former position, (3) compensatory damages, and (4) where appropriate, exemplary damages. If such an order is issued, the Secretary of Labor may assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses reasonably incurred by the complainant for, or in connection with, the bringing of the complaint.

Subsection (d) allows any person adversely affected by a subsection (c) order to obtain review of the order in the United States Court of Appeals.

Subsection (e) authorizes the Secretary of Labor to obtain enforcement of its order in the United States District Courts.

The section was considered necessary to encourage "whistle-blowing" by employees. Enforcement of commercial motor vehicle safety laws and regulations is possible only through an effort on the part of employers, employees, State safety agencies, and the Department of Transportation. Therefore, the Committee considered it necessary to specifically provide protection for those employees who are discharged or discriminated against for exercising their rights and responsibilities under this title.

The Committee determined that employees with reasonable complaints should be able in the first instance to seek timely consideration of their complaints from a Federal agency rather than a court. Redress through the court system is a very expensive and time-consuming process. It was believed that timely agency review of employee complaints would result in a fairer resolution of employer/employee disputes. In addition, the Committee believes that section 409 provides one more incentive to employers to comply with rules, regulation standards and orders issued under the title.

The Department of Labor was designated the agency responsible for review of employee complaints. The Department of Labor has responsibility for similar employee protection provisions in the Toxic Substances Control Act and other environmental and safety legislation and was deemed to be the agency most appropriate for handling complaints relating to employer/employee labor relations. While the Department of Transportation has expertise for developing commercial motor vehicle safety regulations, The Committee believes that the Department of Transportation should

focus its effort on commercial motor vehicle safety and health regulations rather than employer/employee labor relations The Committee believes it is extremely important for the Department of Labor to act expeditiously in this area.

GRANT TO STATES

Section 410.—This section authorizes the Secretary to make grants to the States for the development or implementation of programs to enforce Federal and compatible State commercial motor vehicle safety laws and regulations.

This provision is considered to be very important to achieving the purposes of this title. There are millions of commercial motor vehicles traveling on our Nation's highways. It is impossible and in fact not desirable to have a Federal force large enough to be solely responsible for the enforcement of the commercial motor vehicle safety and health rules and regulations.

The drafters of this legislation realize that the State highway safety agencies must have a major responsibility for enforcement if the purposes of this act are to be achieved. While the States already play a significant enforcement role, the Committee is aware that the States would need increased financial assistance if State programs were to be improved and expanded. The purpose of sections 410, 411, 412, 413, and 414 are to assist the States in meeting the goals of this legislation.

STATE ENFORCEMENT

Section 411.—Subsection (a) of section 411 requires the Secretary of Transportation to formulate procedures for a State to submit a plan whereby the State agrees to adopt and assume responsibility for enforcing rules, regulations, standards, and orders in compliance with this title.

Subsection (b) requires the Secretary to make a continuing evaluation of the manner in which each State with an approved plan is carrying out the plan or enforcing the rules, regulations, standards, or orders under this title. A State whose approved plan is withdrawn by the Secretary may seek judicial review.

Subsection (c) provides that no State plan shall be approved which does not provide for funding for commercial motor vehicle safety programs at a level which does not fall below the average level of such expenditures by the State for the last 2 fiscal years preceding the date of enactment of this act.

STATE REGULATIONS

Section 412.—Generally, subsection (a) of section 112 allows a State to adopt additional or more stringent commercial motor vehicle safety rules if the rules do not create a burden on commerce or are not inconsistent with the Federal rules, regulations, standards, or orders issued under this title.

Subsection (b) states that this act shall not affect existing State hours-of-service regulations applying to commercial motor vehicles operations occurring wholly within the State unless the Secretary of Transportation finds upon review of a State's hours-of-service regulations that such State regulation materially diminishes commercial motor vehicle safety or health, is not required by compelling local conditions, or unduly burdens interstate commerce.

FEDERAL SHARE OF COSTS

Section 413.—This section authorizes the Secretary to reimburse a State for up to 80 percent of costs incurred by the State in the development and implementation of programs to enforce commercial motor vehicle safety laws and regulations.

AUTHORIZATIONS

Section 414.—This section authorizes appropriations out of the Highway Trust Fund not to exceed $10 million in fiscal 1984, $20 million in fiscal 1985, $30 million in fiscal 1986, $40 million in fiscal 1987, and $50 million in fiscal 1988 to reimburse to States the Federal pro rata share of costs incurred under sections 410 and 411 of this title.

ANNUAL REPORT

Section 415.—Section 415 requires the Secretary of Transportation to annually report to Congress concerning his efforts and plans to upgrade the safety and health of operators of commercial motor vehicles.

APPLICABILITY

Section 416.—This section exempts from this title the operation of any vehicles engaged in farming activities and logging operations as defined by the Secretary.

The primary purpose of this legislation is to reduce the deaths and personal injuries due to commercial motor vehicle operations. For this reason, the Committee believed it was necessary and logical to include within the scope of this title many motor vehicles not covered under present law. On the other hand, it is not the intent of the Committee to cover commercial motor vehicle operations which do not affect highway safety. For this reason certain farming and logging operations were exempted from the title. For example, logging operations may include mechanical and manual activities, used to move forest growth in a variety of forms from the forest origin point to a facility converting the forest growth to consumer or industrial products or energy. Generally, the movement of forest growth on a highway vehicle begins in the forest, may be subject to intermediate activities such as scaling, bucking, debarking, chipping, or reloading, and ends when unloaded at the conversion facility. Any such logging operation which merely crosses the highway, travels short distances on the highways, and has only a minimal effect on highway safety should not be subject to the provisions of the act. The Secretary of Transportation is responsible for determining which logging or farming operations do not have an impact on highway safety and should be exempt from the act.

COMMERCIAL MOTOR VEHICLE SAFETY ADVISORY COMMITTEE

Section 417.—This section establishes a Commerical Motor Vehicle Safety advisory Committee with the Secretary of Transportation and 15 members appointed by the Secretary. The Advisory Committee is to advise, consult with and make recommendations to the Secretary on matters relating to the activities and functions of the Department of Transportation in the field of commercial motor vehicle safety. An appropriation of not to exceed $125,000 for each of fiscal years 1984, 1985, and 1986 is authorized for carrying out this section.

This committee is patterned after the Highway Safety Act. Such a committee is expected to be very helpful in improving communications, among the many parties interested in and affected by rules and regulations adopted under this title. Other similar safety advisory committees have proved beneficial to assuring more sensible and effective safety rules and regulations.

AUTHORIZATION OF APPROPRIATIONS

Section 418.—This section authorizes appropriations from the Highway Trust Fund of $13 million for each of fiscal years 1985 through 1988 for Federal Highway Administration safety research and development programs.

This section also authorizes appropriations for each of fiscal years 1985 through 1988 of $100 million from the Highway Trust Fund for National Highway Traffic Safety Administration (NHTSA) highway safety progrsms and $31 million for each of these fiscal years for NHTSA highway safety research and development.

APPORTIONMENT

Section 419.—Subsection 419(a) strikes the definition of "State" in section 401 of title 23, United States Code, dealing with expenditures for carrying out safety programs.

Subsection 419(b) amends section 402 of title 23, United States Code, regarding the annual highway safety apportionment by striking exceptions relating to the Virgin Islands, Guam, and American Samoa.

Section 420.—National uniform State regulation.

Section 19 of the Motor Carrier Act of 1980, Pub. L. 96-296, requires the Department of Transportation and the Interstate Commerce Commission to develop legislative or other recommendations to provide a more efficient and equitable system of State motor carrier regulations. After soliciting public comments, both written and oral, a final report detailing the various inconsistencies between State regulations in these areas has been prepared.

This section provides that a working group be established to review the various State licensing and State taxing requirements of interstate motor carriers by highway. This working group will recommend standards to the Secretary of Transportation. The Secretary may then initiate a rulemaking action to adopt or otherwise implement these standards. As a minimum such standards are to include: (1) standardized procedures and forms; (2) base State certification; (3) a single State unit for filings, applications, and permits; (4) payment of fees and taxes to the base State; (5) equitable distribution of revenues; (6) a common basis for taxation in each area of requirements; and (7) reasonable limits on fees paid for identification stickers, plates or other indicia.

Subsection (a) establishes a working group.

Subsection (b) defines the responsibilities of the working group. The working group is to develop uniform State procedural standards for vehicle registration, fuel tax, and third structural tax requirements.

Subsection (c) provides for the expenses to be paid to the members of the working group.

Subsection (d) provides that after the working group has completed its work, it must submit recommended standards to the Secretary, Department of Transportation, within 18 months of the date of enactment of this Act.

Subsection (e) provides that the Secretary may initate rulemaking to implement the recommended standards found acceptable.

Subsection (f) provides that, if the working group fails to act, the Secretary may develop such standards and initiate rulemaking. The Secretary may act in any area or on any subject on which this working group fails to act after 18 months.

This section authorizes Federal preemption of certain State procedures, e.g., the manner in which States collect fuel taxes; administer vehicle registration.

Section 421.—Minimum financial responsibility for motor carriers.

This section amends the financial responsibility requirements contained in section 30 for motor carriers of property.

Subsection (a) would remove the limitation on the levels of financial responsibility for motor carriers of property established by the Secretary and allow the Secretary to determine appropriate levels through public rulemaking action.

Subsection (c) would do three things: (1) complement the proposed amendment to Section 30(b)(1) and subject motor vehicles transporting certain specified hazardous materials, substances, or wastes in foreign commerce to the financial responsibility provisions of Section 30; (2) change the language of subsection (c) to be consistent with the Department's hazardous materials regulations; and (3) remove the limitations on the levels of financial responsibility established by the Secretary, and allow the Secretary to determine future appropriate levels through public rulemaking action.

Subsection (d) would also do three things: (1) complement the proposed amendment to Section 30(b)(1) and subject motor vehicles transporting other hazardous materials, substances, or wastes in foreign commerce to the financial responsibility provisions of Section 30; (2) remove the limitations on the levels of financial responsibility established by the Secretary and allow the Secretary to determine future appropriate levels required through public rulemaking action; and (3) effectively exempt many more small businesses from the financial responsibility requirements of Section 30 without compromising highway safety.

Subsection (e) would also do two things: (1) complement the proposed amendment to Section 30(b)(1) and subject motor vehicles transporting any hazardous materials, substances, and wastes in foreign commerce to the financial responsibility provisions of Section 30; and (2) remove the limitation on the limits established by the Secretary and allow the Secretary to determine future appropriate levels required through public rulemaking action.

Subsection (f) amends the 10,000 pound GVWR exemption to Section 30. It would exclude from the 10,000 pound GVWR exemption those vehicles transporting any quantity of radioactive materials in interstate or foreign commerce.

Section 422.—Commercial motor vehicle length limitation.

Subsection (a) prohibits States from imposing trailer limitations if less than 48 feet for trailers in a "single" combination or 28 feet for "double" combinations on any segment of the interstate system or Federal-aid highways except with respect to such qualifying Federal-aid highways designated pursuant to subsection (e).

Subsection (b) assures that State regulation may not apply to the length of truck tractors or the overall length of singles and doubles. (The bill is neutral with respect to State regulation of "triples" or straight trucks involving no combinations.) States are prohibited from imposing regulations that have the effect of being more restrictive than those in force on December 1, 1982. Existing trailers or semitrailers of up to twenty eight and a half feet in length, in the truck tractor-semitrailer-trailer combination are allowed to continue to operate in Commerce if actually operating on December 1, 1982 within a 65 foot overall length limit in any State.

Subsection (c) prohibits States from precluding "double" combination units from the interstate and federal-aid highway system—except with respect to such qualifying Federal-aid highways designated pursuant to subsection (e) of this section.

Subsection (d) gives the Secretary of Transportation the authority to establish guidelines for the implementation of the provisions of the section and to make such determinations as are necessary to accommodate specialized equipment. The bill notes, by example, the situation of automobile haulers where the cargo-carrying unit extends over the cab. A strict interpretation of trailer size limitations could jeopardize what has become a standard and perfectly safe vehicle configuration. The Secretary should also be guided by the desire of Congress to assure that no existing regulations are made more restrictive.

Subsection (e) authorizes the Secretary of Transportation and the States to restrict the application of the federal standards for length on Federal-aid highways if the application of such standards to specific Federal-aid highways would adversely affect the public safety.

Subsection (f) defines "truck tractor" as the non-cargo carrying power unit that operates in combination with a semi-trailer or trailer(s).

Subsection (g) provides that the provisions of the section take effect six months after the enactment of the bill. This will allow time for the States to adjust their regulations, if necessary.

Section. 423.—Commercial motor vehicle width regulations.

States are required to allow commercial motor vehicles to operate on highways at a width of 102 inches provided the traffic laws are designed to be a width of 12 feet or more.

Section. 424.—Safety related services.

This provision provides that the limits described in sections 422 and 423 are exclusive of a number of fuel conservation and safety devices listed.

Section. 425.—Access to the Interstate System.

This provides that no State may deny reasonable access to and from the interstate and federal aid system and terminals and facilities for food, fuel, repairs, and rest.

Section. 426.—Enforcement.

This provision allows the Secretary of Transportation to seek injunctive relief to require compliance with the provisions of the act.

Section. 427.—Splash and spray suppressant devices.

The Secretary of Transportation is required to set standards for the use of splash and spray suppressant devices for tractors, semi-trailers, and trailers.

Section. 428.—Report regarding longer combination commercial motor vehicles.

The Secretary of Transportation is required to study and report on the potential benefits and costs that may result from the establishment of a National intercity truck route network for the operation of a special class of longer-combination commercial motor vehicles.

Section. 429.—Demonstration project.

This section authorizes a demonstration project for East Baton Rouge, Louisiana.

Section 430.—Airport and Airway Development Program.

This section increases airport development spending $475 million over the next 3 years, 1983-1985. This is accomplished by shifting $112.5 million from both 1986 and 1987 and distributing the funds in 1983, 1984 and 1985. Also, an additional $250 million is drawn from the Aviation Trust Fund surplus and is allocated in 1983, 1984 and 1985. The result of this is to increase the authorized level in 1983 by $200 million; 1984 by $200 million and 1985 by $75 million.

	Currently authorized levels	Proposed changes	Actual change
1983	$600,000,000	$800,000,000	[1] 200,000,000
1984	793,500,000	993,500,000	[1] 200,000,000
1985	912,000,000	987,000,000	[1] 75,000,000
1986	1,017,000,000	904,500,000	[2] 112,500,000
1987	1,017,200,000	904,700,000	[2] 112,500,000

[1] Increase.
[2] Decrease.

These levels would create an additional 12,000 jobs in both 1983 and 1984 and an additional 4,725 jobs in 1985.

The additional funds shall be discretionary funds and they shall be spent for new construction.

The Secretary may, in no event, reduce any other apportionment or entitlement of the Airport and Airway Improvement Act of 1982.

Section 431.—Recreational Boating and Reforestation Trust Fund Amendment.

Subsection (a) amends P.L. 96-451 to provide the Secretary of Transportation authority to contract with the States to implement and administer a national recreational boating safety and facilities improvement program. A contractual obligation of the United States to distribute motorboat gasoline fuel tax revenues to the States is created when the Secretary of Transportation approves specified elements of the State program.

The formula for distribution is unchanged from current law. The current limitation on amounts which may be held in the Trust Fund is removed, so that all motorboat gasoline fuel tax revenues are transferred into the Fund.

Subsection (b) would require the expenditure of funds collected in the Reforestation Trust Fund created by P.L. 96-451. This is accomplished by repealing the current legal prerequisites to expenditure of the funds by the Secretary of Agriculture. In no case may the Secretary spend, in F.Y. 1983, less than the $104,000,000 now held in Trust Fund. Any funds remaining in the Trust Fund at the end of F.Y. 1985 are to be distributed to the States for use in State forestry programs.

Section 432.—Amendment to Saltonstall-Kennedy Act.

This section would require that all money in the Saltonstall-Kennedy Fund be used in support of the United States fishing industry. Specifically, up to 40 percent of the Fund could be used to support activities within the National Marine Fisheries Service as long as those activities were related to fisheries development.

At least 60 percent of the Fund would have to go directly for industry grants. Since the Fund is currently collecting approximately $28 million per year, at least $17 million would have to go for grants, and the rest could go to the National Marine Fisheries Service fisheries development programs.

Attached to the amendment is an excerpt from a Department of Commerce study of fisheries development potential in the United States. It shows that a strong industry/government development effort could create 43,000 new jobs by the year 1990.

Section 433.—The Merchant Marine Act, 1936.

The section provides that no ceiling shall be placed on the Title XI loan guarantee program other than a ceiling imposed by authorizing legislation. The Committee is proposing no such ceiling.●

THE SCHMITT-RITTER RISK ANALYSIS AND DEMONSTRATION ACT OF 1982 (S. 3006)

● Mr. SCHMITT. Mr. President, the Schmitt-Ritter Risk Analysis and Demonstration Act of 1982 will establish a program under the coordination of the Office of Science and Technology Policy for improving the use of risk analysis by those Federal agencies concerned with the regulatory decisions related to the protection of human life, health, and the environment. This will improve the scientific basis on which risk assessments are made. This act is a necessary step on the road to a better and more balanced use of risk assessment by the Federal Government.

The legislation authorizes a 30-month program, under the direction of the Office of Science and Technology Policy (OSTP), to coordinate and evaluate the use of risk assessments by Federal regulatory agencies.

Presently there are a number of Federal regulatory agencies which are grappling with the meaning, role, and application of risk analysis in the fulfillment of their missions. These efforts are generally little coordinated, so that the presumptions, criteria, and standards which are applied vary widely. Congress has provided little overall guidance on how risks are to be identified or analyzed. Participating agencies include: The Food and Drug Administration, the Environmental Protection Agency, the Occupational Safety and Health Administration, the Food Safety and Inspection Service of the Department of Agriculture, and the Consumer Product Safety Commission. OSTP will also organize a number of demonstration projects involving different methods of risk assessment.

No new budget authority is required by the bill. At the end of the program OSTP is to submit to the Congress a report with its findings, analysis of Federal agencies' risk analysis procedures or capabilities, and recommendations for future legislative and administrative initiatives.

Mr. President, I urge the Senate to act on this legislation favorably, as the House of Representatives has already done on related legislation, H.R. 6159, sponsored by Congressman RITTER.

Mr. President, I ask unanimous consent that a section-by-section analysis be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

Section 1. Designates the short title of the Act as the "Schmitt-Ritter Risk Analysis Research and Demonstration Act of 1982."

Section 2. Sets forth Congresssional findings and declarations.

Section 3. States the Act's purpose, which is to develop a coordinated research and demonstration program for risk analysis. Such a program would assess the current role of risk analysis in Federal regulatory decisionmaking, define criteria and standards to further its development and use, identify areas of research required to improve existing methodologies, and promote public awareness of the nature of regulated risks and the means of their quantification.

Section 4. Sets forth definitions of risk, risk assessment, risk evaluation, comparative risk-analysis, Administrator, Office, Director, and Federal regulatory agencies for the purposes of this Act.

Section 5. Describes the program objectives and assigns coordinating, planning, and implementation roles to the Office of Science and Technology Policy and OMB's Office of Information and Regulatory Affairs. Basically, the program will improve techniques for measuring, gathering and evaluating data necessary to complete risk assessments and evaluations, and will establish procedures for the sharing of risk analysis knowledge among and between Federal agencies and private sector entities. This section also describes the requirements for a program plan report to be submitted to the Congress in 12 months following enactment.

Section 6. Stipulates that Federal regulatory agencies shall recommend to OSTP research required to meet the Act's objectives.

Section 7. Specifies that prototypical risk analysis studies shall be undertaken by the relevant Federal agencies, and defines what these studies are intended to accomplish.

Section 8. Directs the Administrator as defined in Sec. 4 to submit a report to the Congress within 30 months following the Act's enactment into law that will include (1) a summary and critical review of agencies' risk analysis procedures or capabilities as evidenced by the prototype studies to be performed under Sec. 7; (2) recommendations for legislative or nonlegislative changes for furthering the objectives of the Act; and (3) recommendations for improving the transfer of risk-related research and information, and for improving the public's appreciation of risk and regulatory decisions.●

REAUTHORIZATION OF THE NATIONAL OCEAN POLLUTION PLANNING ACT OF 1978 (S. 2941)

● Mr. SCHMITT. Mr. President S. 2941 authorizes funds for the National Oceanic and Atmospheric Administration (NOAA) to carry out the provisions of the National Ocean Pollution Planning Act (NOPPA). Under this act, NOAA is given responsibility for coordinating long-term ocean pollution research among the Federal agencies and for producing a 5-year research plan. NOAA also is responsible under the act for the dissemination of ocean pollution data to the public, Government agencies and other interested parties.

NOPPA requires that national needs and problems relating to ocean pollution be identified and compared with the inventory of current Federal research in this area.

It provides for a forum for agencies who make decisions on needs and priorities in ocean pollution research. Their recommendations will have to comply with the 5-year plan. In this way, NOPPA will lead to a solid and yet effective national program in long-term ocean pollution research.

It is very important that this program be continued and therefore, I ask your unanimous support for the passage of this bill.●

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. McCLURE, from the Committee on Energy and Natural Resources:

Donald P. Hodel, of Oregon, to be Secretary of Energy, to which position he was appointed during the recess of the Senate; and

Martha O. Hesse, of Illinois, to be an Assistant Secretary of Energy (Management and Administration), to which position she was appointed during the recess of the Senate.

(The above nominations were reported from the Committee on Energy and Natural Resources with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. ROTH, from the Committee on Governmental Affairs:

Henry R. Folsom, of Delaware, to be a Commissioner of the Postal Rate Commission for the term expiring October 14, 1988.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. ROBERT C. BYRD (for himself and Mr. RANDOLPH):

S. 3081. A bill to modify the judicial districts of West Virginia, and for other purposes; to the Committee on the Judiciary.

By Mr. FORD (by request):

S. 3082. A bill to amend the Internal Revenue Code of 1954 to exempt from rules relating to foreign conventions all conventions, and so on, held on cruise ships when cruises on such ships originate and terminate in United States ports; to the Committee on Finance.

By Mr. D'AMATO:

S. 3083. A bill to amend the Internal Revenue Code of 1954 to lower the limitation on defined benefit plans established for policemen and firemen; to the Committee on Finance.

By Mr. NICKLES:

S. 3084. A bill to establish a cap on the pay of certain Federal officers and employees for the fiscal year 1983; to the Committee on Governmental Affairs.

By Mr. GRASSLEY:

S. 3085. A bill to amend the 1954 Internal Revenue Code to allow a tax deduction for charitable contributions to fraternal organizations for the purpose of constructing and maintaining their buildings; to the Committee on Finance.

By Mr. MATHIAS:

S. 3086. A bill for the relief of certain Government physicians who were paid basic pay, performance awards, and physicians comparability allowances in aggregate amounts exceeding the limitation set forth in section 5383(b) of title 5, United States Code; to the Committee on Governmental Affairs.

By Mr. MATHIAS:

S.J. Res. 270. Joint resolution to designate 1983 as the Bicentennial of Air and Space Flight; considered and passed.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation:

S. Res. 502. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2941; to the Committee on the Budget.

By Mr. STEVENS (for himself, Mr. BAKER, Mr. ROBERT C. BYRD, Mr. CRANSTON, Mr. PACKWOOD, Mr. CANNON, Mr. MATHIAS, Mr. FORD, and Mr. INOUYE):

S. Res. 503. Resolution to establish the United States Senate Productivity Award; to the Committee on Commerce, Science, and Transportation and the Committee on Rules and Administration, jointly.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROBERT C. BYRD (for himself and Mr. RANDOLPH):

S. 3081. A bill to modify the judicial districts of West Virginia, and for other purposes; to the Committee on the Judiciary.

(The remarks of Mr. ROBERT C. BYRD on this legislation appear earlier in today's RECORD.)

By Mr. D'AMATO:

S. 3083. A bill to amend the Internal Revenue Code of 1954 to lower the limitation on defined benefit plans established for policemen and firemen; to the Committee on Finance.

POLICE AND FIREMEN'S PENSION PLANS

● Mr. D'AMATO. Mr. President, I am today introducing legislation to correct an inequity in section 235(e) of the Tax Equity and Fiscal Responsibility Act of 1982. This provision requires that pension payments under qualified defined benefit plans be limited to $75,000, actuarily reduced for those who retire before age 55. This actuarial reduction limits a pension for someone who retires at age 40 to $26,741. Procedural safeguards are included in this section for those who retire due to disability and for those whose benefits are the result of collective bargaining.

Unfortunately, the 32,000 police officers and firefighters covered under the New York State qualified pension plan are unprotected by these safeguards. Benefits have been set without collective bargaining since 1974. Twenty-three thousand members of this plan are eligible to retire at half pay after 20 years of service. A recent analysis by the deputy comptroller of New York State revealed that there are currently 1,100 active members of the plan—3.4 percent of the total membership—whose retirement benefits would exceed allowable limits should they choose early retirement. The first of these individuals is eligible for retirement in a few months.

This places my State in an extremely unenviable provision. To pay the full benefits due these police officers and firefighters would violate the 1982 tax law. This, of course, could lead to the disqualification, by the Internal Revenue Service, of the entire New York State pension plan. On the other hand, to limit pension benefits to the amounts specified in TEFRA, and thus deny retirees the payments which they have anticipated and to which they are entitled, would violate article 5, section 7 of the State constitution. Neither of these options is satisfactory.

The solution to this dilemma which I am today proposing would provide our Nation's police officers and firefighters with a slightly higher early retirement benefit than that allowed under TEFRA. This would be done by applying normal age 62 retirement benefit limitations to police officers and firefighters at age 55. Actuarial reduction for early retirement would still be required. Thus, the maximum allowable benefits at age 40, following 20 years of service, would become $32,089. It is only fair that those public servants who lay their lives on the line for us every day of the year should not be denied the full retirement benefits which they have earned and on which they have based their plans for the future.

This change, which would cost the Federal Government nothing, should be given the highest priority. The new pension limits take effect in New York on April 1, 1983. We should not risk the disqualification of an entire State qualified pension plan.

Mr. President, I ask unanimous consent that this legislation be printed in the RECORD in full following my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3083

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LIMITATION ON BENEFITS UNDER POLICE AND FIREMEN'S PENSION PLANS.

Paragraph (2) of section 415(b) of the Internal Revenue Code of 1954 (relating to annual benefit) is amended by adding at the end thereof the following new subparagraphs:

"(F) Special limitation for qualified police or firemen's pension plans.—In applying subparagraph (C) with respect to a participant in a qualified police or firemen's plan, "55" shall be substituted for "62" each place it appears.

"(G) Qualified police or firemen's plan defined.—For purposes of this paragraph, the term 'qualified police or firemen's plan' means a defined benefit plan—

"(i) which is maintained by a State, or political subdivision thereof, for the benefit of all full-time employees of any police department or fire department that is organized and operated by such State or political subdivision to provide police protection, firefighting services, or emergency medical services for any area within the jurisdiction of such State or political subdivision,

"(ii) under which benefits are determined solely by reference to the length of service of the employee in—

"(I) such a police or fire department, or

"(II) the armed forces of the United States, and

"(iii) which requires, as a condition of participation of any employee in the plan, that the sum of—

"(I) the number of years such employee was employed on a full-time basis by such State or political subdivision in such a police or fire department, plus

"(II) the number of years such employee served in the armed forces of the United States (to the extent such years are taken into account under the plan), equals or exceeds 20 years.

SEC. 2. EFFECTIVE DATE.

The amendment made by section 1 shall take effect as if it had been included in section 235 of the Tax Equity and Fiscal Responsibility Act of 1982.●

By Mr. NICKLES:

S. 3084. A bill to establish a cap on the pay of certain Federal officers and employees for the fiscal year 1983; to the Committee on Governmental Affairs.

EXTENSION OF CONGRESSIONAL PAY CAP

● Mr. NICKLES. Mr. President, I am introducing a bill which will continue the present pay cap contained in House Joint Resolution 599, making continuing appropriations through December 17, 1982.

I join with other of my colleagues in introducing legislation designed to extend the present pay cap or restructure the method of approval of pay recommendations for Members of Congress. This bill I am introducing is an original bill to cap certain Federal pay, however, I intend to offer this same bill as an amendment to the next continuing resolution in the event that measure does not contain such a provision.

While this bill extends the current pay cap, another bill, S. 3050, introduced by Senators HELMS and THURMOND would remove the automatic pay

increase mechanism currently in the law. Extending the pay cap and not changing the underlying law regarding automatic pay increases postpones but does not solve the problem. For that reason, I have cosponsored S. 3050 sponsored by my colleagues HELMS and THURMOND which would correct this problem.

The last pay raise granted to Members of Congress was 5.5 percent in 1979. Since that time increases in congressional pay have come under sharp criticsm from within and without of Congress. This criticism is justifiably raised * * * while Federal spending escalates beyond control, those persons responsible, that is Members of Congress, should be leaders in the cause for fiscal austerity.

I believe that Congress is now establishing itself as opposed to pay increases under the present economic conditions, as is evidenced by the number of bills introduced in response to the present situation. Let us put an end to this constant potential for public criticism and unnecessary waste of congressional time and resources and reform the method of determining congressional pay raises.

When Members of Congress begin to act more fiscally responsible to control Federal spending and reduce deficits only then should Members even consider any upward adjustment of compensation.●

By Mr. GRASSLEY:

S. 3085. A bill to amend the 1954 Internal Revenue Code to allow a tax deduction for charitable contributions to fraternal organizations for the purpose of constructing and maintaining their buildings; to the Committee on Finance.

CONTRIBUTIONS TO FRATERNAL ORGANIZATION CONSTRUCTION AND MAINTENANCE

● Mr. GRASSLEY. Mr. President, I am introucing legislation today which would amend the 1954 Internal Revenue Code to allow a tax deduction for charitable contributions to fraternal organizations for the purpose of constructing and maintaining their buildings.

A fraternal organization is defined in Internal Revenue Code section 501(c)(10), as a domestic fraternal beneficiary association which does not provide for the payment of life, sick, accident, or other benefits to its members, and devotes its net earnings exclusively to religious, charitable, scientific, literary, education, and fraternal purposes.

Fraternal organizations throughout our Nation are responsible for many community services which would otherwise not be undertaken. I feel, as does President Reagan, that the solution to the majority of the problems facing our country today can be found at the local level, where the problems can be quickly recognized and addressed in a timely manner. Fraternal organizations, such as the Knights of Columbus, the Masons, and the Shriners, to name but a few, provide many of the resources needed to assist localities in addressing community needs. Some of the community services provided by fraternal organizations, and funded by charitable contributions, include: youth programs, hospitals, health research laboratories, homes for the aged, widows, and orphans, scholarships, relief for the underprivileged, museums, and libraries. The combined contributions of fraternal organizations to community charitable enterprises surpass $1.5 million per day.

Because deductible contributions to fraternal organizations for the purpose of constructing and maintaining their meeting halls are not permitted, these assembly halls have been allowed to deteriorate. In many rural communities, meeting halls are in such poor condition that the appearance of the facilities discourages new members from joining these worthwhile organizations. In larger cities, the population has moved away from the downtown area to the suburbs; hence, members of fraternal organizations often do not have a place to meet within a reasonable driving distance. It is a matter of pride to these community-oriented fraternities to have their own meeting hall in which to congregate. By passing this bill, we will provide incentives for the construction and maintenance of fraternal lodges, thus encouraging continued support of their efforts and encouraging new membership.

By providing this incentive, new building and restoration projects would be initiated. This would create many jobs for skilled laborers, both in rural and urban localities where there are presently many, many unemployed workers just waiting for a chance to do productive work. This, in turn, would reduce the number of individuals receiving unemployment benefits and increase revenues to the Treasury. This bill would also encourage charitable contributions which enable many of the community service projects to be undertaken.

In conclusion, this bill would provide the incentive for the construction and maintenance of fraternal meeting halls. This would, in turn, create many needed jobs in the construction industry. It is important that we find the solution to the social ills facing our Nation today—we can accomplish this by encouraging community service and charitable projects at the local level. Fraternal organizations provide these badly needed services and should be encouraged to continue to do so. I urge my colleagues to join me in this effort.●

By Mr. MATHIAS:

S. 3086. A bill for the relief of certain Government physicians who were paid basic pay, performance awards, and physicians comparability allowances in aggregate amounts exceeding the limitation set forth in section 5383(b) of title 5, United States Code; to the Committee on Governmental Affairs.

LIMITED WAIVER OF THE PAY FOR 13 MEDICAL OFFICERS, PHS, SES

● Mr. MATHIAS. Mr. President, from time to time, the best intentions of Congress become counterproductive. The Federal Physicians Comparability Allowance (PCA) and the Senior Executive Service (SES) bonuses, added by the Civil Service Reform Act of 1978, both were enacted to enhance the recruitment and retention of highly qualified individuals for Government service. Because the current law prohibits a Federal employee from receiving more than the Executive Schedule Level I pay, some employees are being asked to pay back part of the SES bonuses which they have received. The consequence will be to penalize the very individuals who have received awards for exemplary service.

Mr. President, today I am introducing legislation providing for a limited waiver of the executive level pay cap of $69,630 for 13 Public Health Service, Senior Executive Service, Medical Officers. The waiver is effective for the (current) fiscal year 1982 dollar limitation.

The current law (5 U.S.C. 5383(b)) prohibits a Federal employee from receiving more than the Executive Schedule Level I pay. These 13 medical officers have been awarded total compensation that exceeds that statutory limit because, in addition to their base pay, each was awarded a Senior Executive Service performance bonus for meritorious service during fiscal year 1981 and each received a $10,000 per annum physicians comparability allowance. Congress raised the SES pay ceiling on January 1, 1982, thereby raising the base pay from $50,112.50 to $58,500, while retaining the executive level pay cap of $69,630.

The PCA was negotiated under the established civil service laws and the SES bonuses were paid before Congress raised the SES pay cap. The raising of the SES pay cap, without a commensurate raising of the Executive Schedule Level I pay limit, left these 13 doctors in an unusual situation, which they have no power to remedy. They have been asked to return part of their SES bonuses to bring their fiscal year 1982 pay within the Executive Schedule Level I limit. Overpayments range from $1,455 to $5,988.

The effect of the pay cap limitation is clear. Rather than creating incentives and boosting morale, as the bonus and award programs were in-

tended by law to do, this action is lowering morale and lessening whatever useful effects might have been gained for the Public Health Service.

I know of no other Federal employees who have been asked to repay any part of their SES bonuses to the Government.

Mr. President, it is my understanding that identical legislation by our retiring colleague, Representative RICHARD BOLLING, will be introduced in the other body. Both bills will correct an inequity and allow these dedicated civil servants to retain the full bonus amounts awarded to them for their exemplary performance and service to their country. I urge its favorable consideration by my colleagues in both Houses.●

ADDITIONAL COSPONSORS

At the request of Mr. EXON, the name of the Senator from New Jersey (Mr. BRADLEY) was added as a cosponsor of S. 1256, a bill to regulate interstate commerce by protecting the rights of consumers, dealers, and end-users.

S. 1695

At the request of Mr. SYMMS, the names of the Senator from Iowa (Mr. GRASSLEY), the Senator from Colorado (Mr. ARMSTRONG), the Senator from Alabama (Mr. HEFLIN), the Senator from Colorado (Mr. HART), the Senator from Idaho (Mr. MCCLURE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Florida (Mrs. HAWKINS), and the Senator from North Carolina (Mr. HELMS) were added as cosponsors of S. 1695, a bill to repeal the Generation Skipping Transfer Tax.

S. 2247

At the request of Mr. PACKWOOD, the names of the Senator from Connecticut (Mr. WEICKER), and the Senator from Minnesota (Mr. DURENBERGER) were added as cosponsors of S. 2247, a bill to amend the Tariff Schedules of the United States to permit the duty-free entry of certain footwear for use in the Special Olympics program.

S. 2300

At the request of Mr. FORD, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 2300, a bill to establish domestic content requirements for motor vehicles sold in the United States, and for other purposes.

S. 2985

At the request of Mr. CANNON, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 2985, a bill to amend the Internal Revenue Code of 1954 to provide that debts shall accrue only in certain circumstances.

S. 3047

At the request of Mr. KASTEN, the names of the Senator from North Carolina (Mr. HELMS), and the Senator from Iowa (Mr. JEPSEN) were added as cosponsors of S. 3047, a bill to repeal the withholding of tax from interest and dividends and to require statements to be filed by the taxpayer with respect to interest, dividends, and patronage dividends.

S. 3048

At the request of Mr. THURMOND, the names of the Senator from Arizona (Mr. DECONCINI), and the Senator from Mississippi (Mr. STENNIS) were added as cosponsors of S. 3048, a bill to amend title 18, United States Code, to combat, deter, and punish individuals who adulterate or otherwise tamper with food, drug, cosmetic, and other products with intent to cause personal injury, death, or other harm.

At the request of Mr. BIDEN, the name of the Senator from Kentucky (Mr. HUDDLESTON) was added as a cosponsor of S. 3048, supra.

At the request of Mr. THURMOND, the names of the Senator from New Mexico (Mr. DOMENICI), the Senator from Mississippi (Mr. COCHRAN), the Senator from Connecticut (Mr. WEICKER), the Senator from Wyoming (Mr. SIMPSON), and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. 3048, supra.

S. 3053

At the request of Mr. D'AMATO, the name of the Senator from Hawaii (Mr. INOUYE), and the Senator from Oregon (Mr. HATFIELD) were added as cosponsors of S. 3053, a bill to amend the Agriculture Act of 1949 to modify the dairy price support program.

S. 3060

At the request of Mr. HATFIELD, the name of the Senator from Connecticut (Mr. WEICKER) was added as a cosponsor of S. 3060, a bill to amend section 7(b) of the Wild and Scenic Rivers Act.

S. 3066

At the request of Mr. GLENN, the names of the Senator from Hawaii (Mr. INOUYE), and the Senator from Nebraska (Mr. EXON) were added as cosponsors of S. 3066, a bill with regard to Presidential certifications on conditions in El Salvador.

S. 3078

At the request of Mr. LAXALT, the name of the Senator from Nevada (Mr. CANNON) was withdrawn as a cosponsor of S. 3078, a bill to amend the Internal Revenue Code of 1954 to exempt from the windfall profit tax certain charitable organizations which provide assistance to patients.

SENATE JOINT RESOLUTION 254

At the request of Mr. JEPSEN, the names of the Senator from Washington (Mr. GORTON), the Senator from Iowa (Mr. GRASSLEY), and the Senator from South Dakota (Mr. ABDNOR) were added as cosponsors of Senate Joint Resolution 254, a joint resolution designating September 22, 1983, as "American Business Women's Day."

SENATE JOINT RESOLUTION 263

At the request of Mr. THURMOND, the names of the Senator from Iowa (Mr. JEPSEN), and the Senator from North Dakota (Mr. ANDREWS) were added as cosponsors of Senate Joint Resolution 263, a joint resolution to authorize the President to issue a proclamation designating the week beginning on March 13, 1983, as "National Surveyors Week."

SENATE JOINT RESOLUTION 265

At the request of Mr. DENTON, the names of the Senator from Mississippi (Mr. STENNIS), the Senator from Virginia (Mr. WARNER) the Senator from Michigan (Mr. LEVIN), the Senator from New Mexico (Mr. DOMENICI), the Senator from Pennsylvania (Mr. SPECTER), the Senator from Utah (Mr. GARN), and the Senator from Florida (Mrs. HAWKINS) were added as cosponsors of Senate Joint Resolution 265, a joint resolution to authorize and request the President to proclaim 1983 as the "National Year of Voluntarism."

SENATE CONCURRENT RESOLUTION 32

At the request of Mr. MATHIAS, the name of the Senator from Virignia (Mr. WARNER) was added as a cosponsor of Senate Concurrent Resolution 32, a concurrent resolution authorizing a bust or statue of Dr. Martin Luther King, Jr., to be placed in the Capitol.

SENATE RESOLUTION 501

At the request of Mr. PERCY, the names of the Senator from Iowa (Mr. JEPSEN), the Senator from Alabama (Mr. HEFLIN), the Senator from Maine (Mr. COHEN), the Senator from Pennsylvania (Mr. SPECTER), the Senator from Arizona (Mr. DECONCINI), and the Senator from Alabama (Mr. DENTON), were added as cosponsors of Senate Resolution 501, a resolution expressing the sense of the Senate that the American people continue to protest martial law repression in Poland and wish to see it ended, remaining detainees released, and full and free dialog resumed with the church and Solidarity; and urging the President to proclaim a national day of solidarity and prayer with the Polish people on the first anniversary of the imposition of martial law.

AMENDMENT NO. 3639

At the request of Mr. PRESSLER, the name of the Senator from New York (Mr. D'AMATO) was added as a cosponsor of amendment No. 3639.

SENATE RESOLUTION 502—BUDGET WAIVER

Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES. 502

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 2941. Such waiver is necessary because S. 2941 authorizes the enactment of new budget authority which would first become available in fiscal year 1983 and such bill was not reported on or before May 15, 1982, as required by section 402(a) of the Congressional Budget Act of 1974 for such authorizations. S. 2941 would authorize $3,873,000 for fiscal year 1983 to permit the National Oceanic and Atmospheric Administration to continue ocean pollution research under the National Ocean Pollution Planning Act of 1978. An identical authorization is contained in S. 2605, the National Oceanic and Atmospheric Administration Authorization Act, which was reported out of Committee on May 11, 1982. Unfortunately no action has been taken on S. 2605 on the Senate floor for reasons totally unrelated to the authorization for ocean pollution research. Therefore the Committee on Commerce, Science, and Transportation has decided to report this authorization as a separate bill so that this vital work may continue. The amount of the authorization is the same as the request for this program in the President's budget.

SENATE RESOLUTION 503—ESTABLISHING THE U.S. SENATE PRODUCTIVITY AWARD

Mr. STEVENS (for himself, Mr. BAKER, Mr. ROBERT C. BYRD, Mr. CRANSTON, Mr. PACKWOOD, Mr. CANNON, Mr. MATHIAS, Mr. FORD, and Mr. INOUYE) submitted the following resolution, which was referred jointly by unanimous consent to the Committee on Commerce, Science, and Transportation and the Committee on Rules and Administration:

S. RES. 503

Whereas the economic productivity of the United States has drastically fallen from its traditional rate;

Whereas the economic productivity rates of other nations in economic competition with the United States are higher than the traditional productivity rate of the United States;

Whereas the American people suffer from the national decline in productivity which contributes to high unemployment as foreign industries with greater productivity capture many markets which were once served by American industries;

Whereas the average household of the American worker would have received over $5,000 more in 1982 if the traditional productivity rate of the Nation had been maintained;

Whereas economic preeminence of the United States will continue to fall, industry by industry, unless the productivity rate is increased;

Whereas an essential first step to the restoration of the productivity rate is an understanding by the public of the seriousness of the problem and the specific practices needed for a solution; and

Whereas a cost effective way to facilitate such an understanding is for each United States Senator to present an annual United States Senate Productivity Award in his State and for the news media to utilize the event to communicate information to the public regarding productivity improvement: Now, therefore, be it

Resolved, That (a) the United States Senate Productivity Award is established.

(b) Beginning with calendar year 1983 and each year thereafter, each Senator may be participation in the award program select a recipient of the award pursuant to the guidelines established by the Committee on Commerce, Science, and Transportation of the Senate.

SEC. 2. The Committee on Commerce, Science, and Transportation of the Senate shall—

(a) establish guidelines for the selection of recipients and the awarding of medallions to such recipients; and

(b) enter into a contract for the design and striking of suitable medallions for the purposes of this resolution.

SEC. 3. Expenses necessary and not in excess of $100,000 per year to carry out the provisions of this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the Chairman of the Committee on Commerce, Science, and Transportation of the Senate.

AMENDMENTS SUBMITTED FOR PRINTING

CALIFORNIA UTILITY ACT

AMENDMENTS NO. 4969 THROUGH 4976

(Ordered to be printed and lie on the table.)

Mr. ARMSTRONG submitted eight amendments intended to be proposed by him to the act (H.R. 1524) to amend the Internal Revenue Code of 1954 to provide that certain procedures and adjustments shall be treated as inconsistent with the normalization method of treating public utility property.

SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982

AMENDMENT NO. 4977

(Ordered to be printed and lie on the table.)

Mr. PACKWOOD submitted an amendment intended to be proposed by him to the act (H.R. 6211) to authorize appropriations for construction of certain highways in accordance with title 23, United States Code, for highway safety, for mass transportation in urban and rural areas, and for other purposes.

NOTICES OF HEARINGS

SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER

Mr. WALLOP. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of a public hearing before the Subcommittee on Public Lands and Reserved Water to consider S. 2811, to extend the restriction of water resources project construction for 1 year on the Tuolumne River, California; and S. 3060, to amend section 7(b) of the Wild and Scenic Rivers Act.

The hearing will be held on Tuesday, December 14, beginning at 2 p.m. in room 3110 of the Dirksen Senate Office Building.

Those wishing to testify or who wish to submit written statements for the hearing record should write to the Subcommittee on Public Lands and Reserved Water, room 3104, Dirksen Senate Office Building, Washington, D.C., 20510, or call Mr. Tony Bevinetto of the subcommittee staff at 202-224-5161.

Witnesses will be limited and may be arranged in panels. Witnesses are requested to provide the subcommittee with 25 copies of their written testimony 24 hours before the hearing, as required by the rules of the committee and are requested to limit their oral testimony to 5 minutes.

For further information regarding this hearing, please contact Mr. Bevinetto at the number listed above.

SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT

Mr. PACKWOOD. Mr. President, the Subcommittee on Taxation and Debt Management of the Senate Finance Committee will hold a hearing at 9:30 a.m. on December 10, 1982. Three bills have been scheduled for the hearing: S. 2647, introduced by Senator MATSUNAGA; S. 2987 and S. 3064, introduced by Senator ROTH. A summary of the bills follows.

The purpose of this statement is to briefly explain the issues raised by these bills. This may help you chart the progress of tax legislation before the subcommittee. It also helps assure greater public awareness of tax amendments coming before hearings.

S. 2647, introduced by Senators MATSUNAGA and INOUYE. S. 2647 would amend the Internal Revenue Code to allow a deduction for the expenses of business conventions conducted on cruise ships registered in the United States, plying exclusively between American ports.

S. 2987, introduced by Senator ROTH. S. 2987 would create a general exemption from the Federal motor vehicle excise tax for bloodmobiles, vehicles used exclusively in the collection and transportation of blood. Currently, only bloodmobiles operated by the American National Red Cross are exempt from the tax.

S. 3064, introduced by Senator ROTH. S. 3064 would extend for an additional 4 years the temporary rule of current law that no amount is includible in income by reason of the discharge of certain student loans. The existing rule, which expires on December 31, 1982, applies to loans discharged in connection with the borrower's agreement to work in certain geographical areas, or for certain classes of employers.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Tuesday, December 7, at 10 a.m., to mark up S. 3043, the Federal-Aid Highway Improvement Act of 1982.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Wednesday, December 8, at 10 a.m., to mark up S. 3043, the Federal-Aid Highway Improvement Act of 1982.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. MATHIAS. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, December 8, 1982, in order to receive testimony from Senators and from officials of the electronics industry on computer and communication systems and services for the 1980's.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, December 8, 1982, in order to receive testimony concerning the following nominations:

U.S. DISTRICT COURT JUDGES

Judge John W. Bissel, of New Jersey, to be U.S. District Judge for the District of New Jersey.

Judge Sam H. Bell of Ohio, to be U.S. District Judge for the Northern District of Ohio.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PRODUCTIVITY AND COMPETITION

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Productivity and Competition of the Small Business Committee be authorized to meet during the session of the Senate at 2 p.m., Wednesday, December 8, to hold a hearing on economic problems facing small and independent businesses in the forest products industry.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, December 8, at 10 a.m., to receive a briefing on intelligence.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, December 9, at 10 a.m., to receive a briefing on intelligence.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Thursday, December 9, at 9:30 a.m., to hold a business meeting to discuss pending legislative and administrative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

A DAY OF SORROW

● Mr. HEINZ. Mr. President, I take this opportunity to share an interesting proclamation that came to my attention during the recess. I received the following statement from the Congress of Russian Americans, commemorating, as a "Day of Sorrow," the 65th anniversary of the Russian Revolution. I ask that this statement be included in the RECORD at this point.

The statement follows:

A DAY OF SORROW

On the 65th anniversary of the "October Revolution", we, as Russian-Americans, wish to remind the Free World that on November 7, 1917 the Bolshevik Communist Party deprived the peoples of Russia of their liberty.

Since that day the Soviet government under the leadership of its Communist Party has continually perpetrated crimes that are an affront to humanity. Among them:

The creation of an Orewellian state founded on a basis of human fear and ignorance and maintained by a ruthless military police;

The "reedification" of the Russian peoples, a policy inaugurated by the heinous murder of the royal family and pursued in the hopes of stripping the Russian peoples of their heritage and thereby creating the ideal human cipher, Homo Sovieticus;

The desecration and destruction of over 50,000 churches and monasteries;

The forcible collectivization of peasants, an act which resulted in the death by starvation of seven million people;

The exploitation of workers and the reduction of peasants to the status of government serfs;

The abandonment of Soviet P.O.W.'s (branded "traitors" by the Soviet regime) in Nazi war camps, resulting in the death of 4,650,000 native sons by starvation and disease;

The forceable repatriation of Soviet citizens remaining in Western European countries after the war and the subsequent imprisonment of these citizens in concentration camps;

The extermination of tens of millions of people in concentration camps and prisons;

The mental and physical torture of countless millions without regard to human rights or dignities;

The military suppression of any popular uprisings within the Soviet Union or any of its satellite nations, particularly Hungary, Czechoslovakia, and Poland;

The creation, through the wanton exploitation of natural resources and environment, of an aggressive military machine which continues to grow at the expense of the people's needs and aspirations;

The suppression of the freedoms of religion, thought, speech and the press and the persecution of individuals for their religious convictions and their beliefs in basic human rights.

No document can enumerate the countless crimes perpetrated by the Soviet government against its peoples. Only the tears of an anguished and suffering people can serve to measure these atrocities. To these tears we direct our hopes, our prayers, and our actions.

The 7th of November, the day of pompous Soviet celebrations, parades and deceitful proclamations about the "struggle for peace" and about the "joyous life" of Soviet citizens, we designate as a Day of Sorrow and Irreconcilability.

This Day of Sorrow and Irreconcilability has been faithfully observed by Russian-Americans and by all Free Russians for the past six decades. Throughout all these years Russians free in mind and spirit have continually attempted to warn the Free World of the threatening Communist danger, but to no avail.

Once again, we appeal to the government of the United States of America to proclaim this day as a Day of Sorrow and Irreconcilability and we invite the citizens of this country to join us in prayers for those who perished at the hands of Communism and for the deliverance of those presently living under the yoke of Communism.●

YURI ANDROPOV

● Mr. SYMMS. Mr. President, I submit for the RECORD the November 22, 1982, Jack Anderson column commenting on the Soviet Union's disinformation campaign to portray the new Soviet Premier, Yuri Andropov, as a moderate who is kindly disposed to the West.

While Mr. Anderson has never been one of my supporters, in fact he has been one of my detractors, I do want to compliment him on his ability to analyze the type and origin of information being fed to the Western media concerning Mr. Andropov.

It has been amazing to me that both the establishment media and the so-called underground media have so blindly accepted the Soviet Union's descriptions of Mr. Andropov as fact, and that they then accept the premise that because Mr. Andropov allegedly likes some aspects of Western culture, he is kindly disposed to our economic and political systems.

A cursory review of Mr. Andropov's career and a slight glance at the groups in the Soviet Union who are his strongest supporters suggests that

he is perhaps anything but pro-West. Why the media generally ignores these indicators is a question that every thinking individual should ask. However, it does portray an image of the Western media as being a group that generally accepts the "party line" without question.

[From the Washington Post, Nov. 22, 1982]

ANDROPOV RISE COULD SPELL END OF DETENTE

(By Jack Anderson)

Despite the Kremlin's not-so-subtle disinformation campaign to paint Yuri Andropov as a moderate, or even a liberal, the new boss of the Soviet Union is a hard-liner whose elevation means rough times ahead for the long-suffering Russian people and the rest of the world.

Actually, anyone who thinks a man who ran the KGB for 15 years could be a liberal must also believe in the Tooth Fairy. The KGB is a combination CIA, the FBI and the Bureau of Prisons—but without any legal restraints. The head jailer is now in charge of the entire country.

For years, our intelligence agencies mistakenly thought that no one with a KGB background could hope to rise to the top of the Kremlin. At most, they believed, Andropov would have veto power over any would-be successor to Leonid Brezhnev.

As I reported three years ago, the CIA evaluated Andropov's position this way: "Any serious contender for the job of general secretary must ensure that he has the tacit approval of the security organ if not its active support." Within the last year, however, Western intelligence began to rethink its assessment of Andropov's chances. In fact, as early as last May, I reported my intelligence sources' hunch that Andropov would be the one to grab the brass ring.

The CIA may have been slow to consider the possibility that Andropov would be Brezhnev's successor, but it was never under any illusions about the nature of the beast. In November 1979, sources told my associate Bob Sherman that Andropov is "an astute, ruthless party bureaucrat whose cold and calculating attitude" fit him well for his job as KGB boss.

What this means for Soviet-U.S. relations is that detente is dead. As long as Andropov is in charge at the Kremlin, the United States can expect a tough Soviet policy on all fronts. The man who supervised the crushing of the Hungarian uprising as Soviet ambassador in 1956 can hardly be expected to be lenient on Poland or other restive satellites.

The big question now is how long Andropov will remain in charge. I've seen secret CIA reports on his health; he is far from robust.

At 68, Andropov is a relative stripling by the standards of the Soviet gerontocracy. But he has serious health problems. In 1966, he suffered a heart attack, and in the mid-1970s he required surgery so major that he spent 10 weeks in the hospital, according to the CIA.

Power, as ex-secretary of state Henry A. Kissinger fondly believed, may be the ultimate aphrodisiac; it may also be the ultimate tonic. Brezhnev was in frail health for years, yet he never relinquished his grip on the Soviet power apparatus. Andropov can be expected to be every bit as tenacious now.

In the Byzantine atmosphere of the Kremlin, no one can relax in the top job. The other old men Andropov beat out will not give up easily.

But Andropov still has the ace in the hole: the loyalty of the KGB. The men who run the Gulag Archipelago now have one of their own in control, and they're not likely to abdicate their newly enhanced power and prestige.●

BOB DOLE—THE FAITH TO ENDURE

● Mr. MENTZENBAUM. Mr. President, all of us in the Senate know the senior Senator from Kansas as an accomplished legislator, a formidable chairman, and one of this body's real leaders. But, Mr. President, an article that appears in this month's edition of the Washingtonian shows us another BOB DOLE—the young man whose courage and determination through years of pain and disappointment brought him back from the devastating war wounds he suffered in Italy in the spring of 1945.

Mr. President, this article, written by Noel C. Koch, illustrates beautifully the spirit and strength of character that all of us who know him have come to associate with Senator DOLE. I ask that the article be printed in its entirety at this point in the RECORD.

The article follows:

THE FAITH TO ENDURE

(By Noel C. Koch)

Gerald Ford intended to waste no time launching his 1976 presidential campaign. It would begin that weekend in Russell, Kansas, hometown of his vice-presidential running mate. Bob Dole.

Russell is almost the geographical center of the continental United States. Socially, economically, culturally, and politically, Russell is dead-center.

The Ford-Dole gathering was held on the lawn of the courthouse, and featured hot dogs and soft drinks. No beer.

Dole got up to face his townspeople

He stepped to the microphone to an outpouring of pride and affection. As the crowd settled, he began to speak.

The words began with the studied protocol of the Senate-seasoned orator, but the sound was the harsh, flat, atonal assault of the American prairie.

A local farmer in the crowd was telling a reporter about the town and when Dole was young and how children were given mustard sandwiches for dinner because that's all there was. . . . "And the dust blew in and filled the creek and sifted in the windows and nothing would grow. We'd wrap the babies' faces with wet towels because people were dying of dust pneumonia. Nobody had anything here and Bob Dole was a poor boy, too."

The Dust Bowl years were mostly forgotten now, called back in stark beauty in photographs by people like Margaret Bourke-White, a piece of history in coffee-table books. Now the poor were in the cities. And so were the votes. But the people who had lived through it remembered. They remembered that they got through it mostly on their own, not because of the government but in spite of it. It shaped their politics.

Jimmy Carter had cried poverty throughout the land in the primary campaigns. Bob Dole never would. He had known poverty. "Everybody in Russell's been broke at least once. It's something we all remember." The farmer said.

But being poor wasn't what was on Dole's mind as he looked out at the people who knew him.

"I can recall when I needed help, the people of Russell helped. . . ." His voice halted, resumed, faltered, and stopped. Dole's left hand moved to his forehead, the fingers splayed as if to shield his eyes from the sun. There was a silence, and his fingers came down squeezing into his eyes, and his shoulders began to quiver. The hard-nosed conservative senator, the Republic hatchetman, was crying, first silently, then audibly. And as the sound of his human self carried, the President of the United States rose and the people of Russell, Kansas, rose and began to applaud, the sound sheltering and protecting, lifting him yet once more, with no undue concern, and certainly not in pity, but out of a long habit of love.

Recovering his composure, Dole whispered, "It was a long time ago." April 14, 1945. One might select any of a number of dates to say how long ago it was. The doctor might chose the day he told Dole that he could no longer play basketball. Dole's mother might pick the day he came home. Dole himself might choose the first time someone, thinking him to be unconscious, said that he was going to die. Perhaps when a man says, "It was a long time ago," he means to be vague.

Those who knew him on April 14, 1945, could also contribute dates. Ollie Manninen fought that day and he speaks about the common experience, but he does not say that he won a Silver Star on April 14. Still, there is something his modesty will not contain, that he wants to tell. At the end of the conversation he stalls, and then shyly works it in: "There was another thing I wanted to mention. I had the honor to represent the United States at the Olympics in 1948. I was a cross-country runner."

He doesn't mean that you should know that he is a man of achievement. No, he means he loves America, and tried to prove worthy of her.

There was another Olympian there that April day of 1945. Devereaux Jennings would go to the 1948 Winter Games at St. Moritz as a downhill racer. The probability of having two Olympians in one Army Division is not great, yet there were two just in that Company, for this was an unusual group of men. There were scions of great families, an over-representation of America's ruling class, and there were other champions. Torger Tokle, the national ski-jumping champion, was there. Al Nencioni remembers passing his body. "He was in the 86th and we passed through them on the second day, going along the saddle toward Torracio. That was woods in there, and they got a lot of tree bursts. Somebody said, 'That's Torger Tokle over there.' We walked right past him. We carried bodies out of those woods for hours."

Nencioni does not say that he got a concussion on April 14, 1945. You get it out of the record. If you pry you will learn he refused to be sent home from the evacuation hospital, but jumped on a passing truck and found his way back to his unit. He prefers to talk about the unit, the men. He has his points of personal pride, however. As though it was a mistake to have taken it from the folder of documents and pictures he has beside him, he advances and then pulls back a photograph of himself and his wife. They are standing with Senator Hubert Humphrey and FBI chief J. Edgar

Hoover. Nencioni is a retired FBI agent. "I wrote the J. Edgar Hoover March," he says. "The Marine Band used to play it when he was around. I didn't want anybody to know I wrote it, though." But he is proud of it. And he remembers the way people from Graves Registration would throw the bodies on the trucks. "I thought they'd just lay them up there, but they didn't. It made me sick," and he clears his throat. He clears his throat a lot when he talks about the war.

And there is Stanley Kuschick, repository of the tribal memory. When others' memories fuzz, they tell you to ask Kuschick, he'll know. Kuschick knows not just what they did and where, or who got hit and with what, but the smell and the sound of it. He knows how wars are run. Kuschick is as old as working every day for 30 years without vacation will make a man.

"I had a football scholarship to Villanova after the war. But you need the killer instinct to play good football. After the war, I didn't have it anymore. I couldn't pretend after everything I saw. I used my GI bill to learn how to farm."

The spring offensive, "Operation Craftsman," is scheduled to begin on April 12, 1945. Since February, efforts have been under way, initiated by Germans, to bring about the surrender of German forces in Italy. Soldiers in the field are unaware of this. So is Hitler. As the intrigue goes forward, so does the war. The Allies mean to destroy the German forces in Italy, and to have their surrender without condition as agreed upon by Roosevelt, Churchill, and Stalin. German forces in Italy are dwindling, they can no longer be reinforced, and their commander, Generaloberst Heinrich Gottfried von Vietinghoff, has no illusions about what confronts him. He cables the German Armed Forces High Command to say, "If the Supreme Command of the Armed Forces continues to maintain its intention of keeping the Anglo-Americans as far and as long as possible from the border of the Reich, its aim can only be achieved if we defeat the known intentions of our enemies, the annihilation of the German armies. This can be done only if we avoid decisive battles by retreating, if necessary, to our prepared Ticino-Po defense positions."

Other German generals have made similar requests. Friedrich von Paulus, commander of the German 6th Army, had done so in the fall of 1942. Hitler's enraged answer was "Stand and fight." So von Pauus stood and fought at Stalingrad, and before the spring of 1943 his 300,000-man army no longer existed.

Von Vietinghoff's answer comes three days later: "All further proposals for a change in the present war strategy will be discontinued. The Führer expects now, as before, the utmost steadfastness in the fulfillment of your present mission, to defend every inch of the north Italian areas entrusted to your command." The signature is Generaloberst Alfred Jodl's, but the order is Adolf Hitler's.

A military historian says that the spring offensive scheduled for April 12 was delayed by fog, which prevented planes from flying. The troops remember that on April 12 Franklin Delano Roosevelt died, and some say it was this that delayed the offensive. The emotional impact of Roosevelt's death was great. But it was fog that caused the offensive to be rescheduled for April 14 at 0600.

At that hour, heavy weather continues to shroud Allied-held airfields, and the American commanders, like golfers on a weekend, fidget and curse. At 0800 the fog begins to lift, and one hour later begins the most intensive bombing of German positions yet undertaken in the Mediterranean Theater. Heavy bombers are followed by fighter-bombers, and by artillery, more than 2,000 pieces firing for more than half an hour. What could not be seen for fog now cannot be seen for dust and smoke, and under its cover the spring offensive begins against heavily fortified German positions, against men of whom "the Führer expects now, as before, the utmost steadfastness. . . ." For those who might not be galvanized by their Führer's expectations, there is an additional encouragement. The troops are told that the 10th US Mountain Division does not take prisoners. The unit has become legendary. It is the only unit that, having taken a position, has never lost it. The ground they take, they keep.

It is not so cold in the mountains as it has been, but not so warm that you can smell the bodies you pass.

The noise of the shelling continues, speckled closer in with the rattle of smaller arms. Here in this ravine there is a small silence. If birds or animals were there, they have fled, frightened, perhaps knowing something you don't.

Over the top of the ravine is a clearing. Across it, curving down and away to the right, are hedgerows—so thick a tank cannot traverse them. You cannot approach the hedgerows from the left for there is a minefield there, nor skirt the clearing to your right for that is the responsibility of the 3rd Platoon. You are to move across the clearing.

Second Lieutenant Robert Dole leads the 2nd Platoon of "I" Company of the 3rd Battalion of the 85th Infantry Mountain Regiment of the US Army's 10th Mountain Division.

He has scouts in the clearing, and now he takes a squad of men along with his radio operator and moves over the top of the ravine and into the clearing. It bears the marks of the bombing and shelling. Dole's men, both for caution and for the silence they do not understand, will move toward these shell holes, going from one to the next, clinging to some little security.

The hedgerow is low, and beyond it the land climbs quickly up the objective, Hill 913, so that the clearing is exposed to the rising land.

There is a stuttering of automatic-Weapons fire into the clearing and mortar rounds from Hill 913, killing one or two whose names the others no longer remember. Dole has called for covering fire, and it spatters into and across the hedgerows, but it does not stop the stuttering or the mortars or save the radioman who has moved to his comrade and is hit almost within his reach. The rest of the squad has scrambled into the craters and some are wounded. But Dole is not. He bellies out into the fire to get his radiomen, not knowing that it no longer matters how many more times he may be hit.

On the right, the 3rd Platoon is moving. There is a farmhouse on the flank of 913, and Sergeant Sanford Rague has gone to it, negotiating a minefield along the way. He is hit from the farmhouse as he comes beneath its windows and plops a grenade inside. So now Rague is bleeding on the far side of a minefield, and a private named Smith whom no one previously suspected of ruthlessness takes two German prisoners and orders them across the minefield. German prisoners are often cocky, knowing they are out of battle and safe while their captors must still face death. These prisoners are not cocky. They plead. "Nein, nein. Minen! Minen!" as though the American does not understand what he is asking them to do. Smith makes it clear that he will shoot them, so they begin across the minefield and both explode mines and are killed. Smith takes a ladder, lays it on the two German bodies, totters across, and retrieves Rague.

There is a sniper 50 yards to the front, midway up the hill, and Sergeant Bill Skinner of the weapons platoon takes a mortar up in front of the hedgerow and fires it. He is shot in the forehead, but his round drops on the sniper. Al Nencioni goes forward to peek at his friend, Skinner, and knows that he is dead. "Their snipers were good. There were a lot of head shots. That was a bad day. It was worse than Belvedere." Asked why the beginning of the spring offensive was worse than the taking of Mount Belvedere, he says that they lost more men on this day. "But it wasn't that. Belvedere was at night. You couldn't see what happened to your friends so much at night."

Now Nencioni has one more hour to see what is happening to his friends. Then a large mortar round will go off a little to close to him.

Company "I" is to take Hill 913 and continue three miles beyond it. By nightfall they will have gone only a thousand yards, but they will have reached the summit. The resistance is everything the Führer could have hoped, except successful. Nor is it unusual that day for the men of this American unit to have to be driven forward by the curses and kicks and rifle butts and bayonets of their noncommissioned officers. "We thought, the way they wiped that mountain, we wouldn't have any resistance at all," Nencioni says, recalling the bombing and artillery fire. "But they were there, dug in." The 10th Division that day will take more casualties than all other Allied forces in Italy combined, and men will become inured to it. Dev Jennings will catch a few hours of sleep that night wrapped in a mattress cover, and wake up screaming as men from Graves Registration begin to haul him up to be numbered, one notched dog tag between his front teeth, his mouth kicked shut upon it, the other tag sent up for the records.

In his shell hole Dole has administered morphine to his radioman because it is all he can do. Overhead the firing from the hill stops. When it begins again, if it begins again, it may find them in their shell holes. No one believes lightning doesn't strike twice in the same place. So now Dole comes up again, out into the clearing, moving on the unseen positions.

The iron rain begins, and something—a mortar round perhaps, one medical record says an explosive shell, Nencioni thinks it could have been a bullet, and so does Kuschick; you think these things can be determined with precision, but they can't—something full of orange-brown-black noise explodes Dole's right shoulder.

Behind them, the 2nd Platoon continues to pour fire across the hedgerow and into the hill. Kuschick, second in command as platoon sergeant, now has a problem. They have been ordered to leave their wounded to await the medics who come behind. It is a practical order to conserve manpower in a unit that takes so many casualties that if one man is left to guard and comfort another who has been wounded, then there

might be none left to move forward. Kuschick decides to disobey this order.

"The Lieutenant was gray, the way they got before they died. I couldn't just leave him there to die by himself. We gave him some morphine, and I told Arthur McBryar to stay with him. You know, we weren't supposed to have morphine. But the Germans would shoot our medics. They didn't care about the Geneva Convention. So we had to make do a lot. When we came across a dead medic, we'd take his morphine. Then when our guys got hit, we could help them a little. You dipped your finger in his blood and put an 'M' on his forehead, because we had to leave them and when somebody got to them to take care of them they'd see the 'M' and not give him more morphine. So he wouldn't overdose, see?

"So we gave the Lieutenant the morphine and left McBryar. I figured McBryar wouldn't have to wait long."

The Allied invasion of Italy had begun on September 3, 1943. Its objectives were not entirely military, but political as well, involving the prestige of the British Empire, then defended by Winston Churchill. Supreme Allied Commander Dwight Eisenhower agreed that Italy should be invaded (Army Chief of Staff George Marshall did not), but he could have contented himself with taking the strategic airfields at Foggia, just north of the heel of the Italian boot, then using Allied airpower against southern Europe.

Churchill had a different idea. Planning for the cross-channel invasion of Normandy was in full swing, and the United States was determined that no men or equipment should be diverted for a major Italian campaign. Churchill was equally determined that British forces in the Mediterranean were not going to sit out the last half of 1943 and the first of 1944 waiting for the attack on France. The plan to go into Naples, called "Avalanche," went forward.

On September 3, a combined U.S.-British force landed at Reggio on the toe of Italy. On that same day an armistice covertly negotiated with the new Italian government was signed. Five days later another combined forced steamed toward Salerno on the coast south of Naples, and the armistice was announced. That the Allies were no longer at war with the nation that they now invaded was no more than a mournful coincidence. Germany prepared to reinforce Italy and to take the deposed Mussolini and re-establish him as the head of the Fascist government. This was done as the Allies were trying to fight their way our of the Salerno beachhead. On the 15th, the Germany General Kesselring pulled back and Salerno was secured. The Allies were irrevocably on Italian soil.

On October 8, 1943, Churchill cabled Roosevelt: ". . . we cannot yet tell whether it is in October or November that we can occupy Rome; but it is certain that we shall not come in contact with the main German forces at the top of the leg till December, or even later. . . ."

It was even later, for Hitler resolved to stand south of Rome and charge dearly for any inch of ground, so that the Allied conquest of Rome did not come until June 5, 1944, and by then its luster had been dimmed by its terrible cost. There was more to come.

As the price of Italy went up, Private Robert Joseph Dole, 17179287, was being factored into the U.S. military establishment. On December 14, 1942, his parents, Doran and Bina Dole, swore before a notary in Russell, Kansas, that they "the undersigned, being the father and mother of Robert Joseph Dole, a minor, an applicant for enlistment in the United States Army, do hereby give our consent to his enlistment therein." The next day he was enlisted at Lawrence, Kansas. He was finally called to active duty on June 1, 1943. The records show that he was a trainee in the Army Medical Corps from June until November of 1943, and that he was then placed in the Army Specialized Training Program for engineering studies until March of 1944. This took him to Brooklyn College, where he compiled a short academic record. The medical and engineering training completed, Dole now became a gunner in an anti-tank company of the 290th Infantry at Fort Breckenridge, Kentucky. At Breckenridge, on June 15, Dole applied for Officer Candidate School.

He was sent to Fort Benning for officer training. The physical required showed that he was a large, healthy 20-year-old: six feet two inches tall, 186 pounds.

During the same period, the 87th Infantry Mountain Regiment was being shot at on the Aleutian Island of Kiska, where it was landed along with some 30,000 other men with the mission of retrieving this bit of American soil from the 6,000 Japanese forces planted there. Before they arrived, the Japanese were quietly evacuated and the fresh, frightened American troops went ashore, spread out in a dense fog. They began firing at any noise, killing and wounding a number of their own people.

This inglorious episode was not consistent with the expectations of those who had labored to make mountain troops a part of the US armed forces. Chief among those was Charles Minot Dole (not related to Robert Dole), a skiing enthusiast who had founded the National Ski Patrol System. In 1940. "Minnie" Dole and some of his friends had suggested that a German attack on America could come from the Northeast and encounter no US forces trained to fight in winter weather or mountainous terrain.

The Secretary of War was offered the services of the National Ski Association in preparing to defend the Northeast. He was not interested. But winter sports were still largely the province of the rich, and the rich were well-connected.

Soon the National Ski Patrol found itself advising the military on how to equip and train troops for the kind of role they might have to perform in the northeastern United States, or in the mountains of Europe.

In November 1941, the 1st Battalion, 87th Infantry Mountain Regiment, was activated at Fort Harris, Washington. The Army now had a paper unit, but they hadn't the personnel to man it. So the National Ski Association became the recruiting agency for the 87th Infantry Mountain Regiment. They were a discriminating agency. Those wishing to join up had to provide letters of recommendation. The result was that the 87th and its spawn, the 85th and 86th Infantry Mountain Regiments—one day to be the 10th Mountain Division—were composed of men rarely found in the Army. Many were graduates of Ivy League schools.

Through the summer and winter of 1943, the mountain regiments trained while wars in the Atlantic and Pacific went forward. The one exception was the embarrassing adventure of the 87th on Kiska. It began to appear that those who had opposed the formation of the elite unit—and there were many, for the military has a traditional hostility to elite units—had had their revenge. The mountain men might be good, and they might be valuable. But no one would ever know because they had never been tested.

Then came Monte Cassino. Mountain troops, George Marshall realized, would have been valuable at Monte Cassino.

In October, Marshall toured the European Theater of Operations and chanced upon a colleague, General George P. Hays, commanding the 2nd Division's artillery in the Ardennes Forest. Marshall thought the job beneath Hays, whose military exploits had included winning a Congressional Medal of Honor in World War I by dancing his horse through a German artillery barrage, calmly identifying targets for his own gunners. Marshall brought Hays back to the States and put him in charge of the mountain regiments, now coalesced into the 10th Mountain Division. In November the Division received orders to go to Italy.

While the 10th was sailing for Italy, Bob Dole was already there, assigned to the 24th Replacement Depot as a pool officer. Winter action was limited, and so were Dole's duties.

"I thought that Replacement Depot was the best duty you could have. I remember going into Rome. They had a big sports school in Rome. I figured the best way to get out of that Army over there was to get in the sports school." Dole laughs, almost wistfully. "Never could figure out how to do it. All those athletes running around the Coliseum there in Rome, getting in shape for the games. . . ." His voice trails off. Dole has no problem admitting that he never went in search of something dangerous to do.

On February 25, 1945, he was assigned to "I" Company, 3rd Battalion, 85th Mountain Regiment. The unit morning report recording this routine personnel action gives an account of the day: "Company in defense. Weather fair and warm. General thawing out. Morale very good."

One week earlier, the 10th Mountain Division had assaulted and taken Riva Ridge and Monte Belvedere-Monte Torracio Ridge, opening the way for an attack on Bologna and the Po Valley. The Allies had attempted this three times before. On one occasion, Belvedere had been held for three days, but the Germans took it back. The 10th Mountain took it and kept it, against the fortifications and firepower of the Germans on the heights, against the Germans' desperate knowledge of what could pour through this bottleneck. A radio message from Hays catches the urgency with which he drove his troops: "Recall 6 to Rebate 5: General does not want to hear of anyone stopping. Send patrol over to break through and to hell with this business of being surrounded."

The Division took more than 900 casualties, 203 dead. When it was over, the reputation of the 10th Mountain division was made.

At the time Dole joined it, "I" Company was in defensive positions. Dole had not been there when the unit was blooded. To the men of the 2nd Platoon he was just another lieutenant, and the division was quickly using up lieutenants.

"When he got up there, we'd been pretty busy and we were dirty. I don't know what he thought of us," Kuschick says. "We were both about the same age, but I had not shaved, had a beard, and I must have looked older or something, because he was very respectful. He asked questions and he listened. A lot of them didn't listen."

Al Nencioni says: "At first, he looked like a sissy. He didn't wear a helmet, he wore one of those cloth hats to keep his head warm. And I remember he didn't blouse his pant over his boots. I don't know why—just wrapped them tight around his legs and laced his boots around them. He looked funny. A lot of guys who looked like sissies had more guts than the others, though—the John Wayne types. And he always listened to the sergeants."

"We had two battles going," Kuschick says. "One with the Germans and one with the officers. A lot of them weren't worth much. Dole was the best combat leader the platoon had. If he had to take a farmhouse, he went right for it. Never told somebody else to do it. He stayed in front."

On March 18, Dole took a pat ol out to try to capture some Germans. It is the first record of Dole in action. They came under fire, and he, along with three of his men, was lightly wounded by grenade fragments. These may not have been German grenade fragments.

"I think one of ours might have bounced off a tree and rolled back." Dole says. "Sometimes it was like a shooting gallery in the dark. You didn't know where the stuff was coming from or whose it was."

On April 14, the spring offensive began. Dole was hit less than one hour after it began.

Whatever justifies the recollection that he was the best combat leader the 2nd Platoon had remains locked in the memories of men who shared an experience a long time ago. Inevitably, a war wound invests the bearer with an aura of heroism; yet being wounded is almost always an accident. Why people get medals for it is a mystery. Heroism involves choices, and Dole perceived no choice between leading his men and not leading them. For six weeks he was in the war and showed himself worthy of one of the best units and was hit. He seems to have met the high expectations of those he led. What it meant to him then or now is not clear.

He returned to Italy years later to try to find the hill where he was on April 14, 1945, but the land was strange to him. In recent years he has attended an occasional reunion of men from the 10th Mountain Division, but he doesn't remember many, nor does he maintain contact with them. The unit's archivist, Andy Hastings, say, "For a long time Bob didn't identify himself with us. He just felt like he didn't belong." There is nothing that would lead one to believe now that he shares with them a sense of belonging. Out of it all, it is this that most sets Dole apart from his comrades. Read Henry's exhortation at Agincourt to them, and they will understand it in their stomachs. Every generation of soldiers has its St. Crispin's Day. Tennyson's "Ulysses" will touch the same scars that these men intentionally keep open so as never to forget. Men may pray for peace and brotherhood, but they will settle for the brotherhood they've known at war. They are grateful to have known it.

For Bob Dole, it was just bad luck. He did not begin with these men; he came to them by chance, and long afterward he suffered for it. While Manninen and Jennings were competing for Olympic medals in 1948, Dole was being released from a hospital, and even that was not the end of it.

Dole had lain in the shell hole with McBryar for what seemed like an eternity. The medics who should have come to help him had themselves been hit by German fire, and it was nine hours before Dole arrived by litter at the 15th Evacuation Hospital, where the consensus was that he would die. Whatever had hit him had damaged his spine: "The patient had immediate paralysis complete of all four extremities."

Two days later he was transferred to the 70th General Hospital in Casablanca.

The letters began to come in to the little house at 1035 Maple Street, Russell, Kansas. Because Dole could not use his hands, the letters were written for him.

"APRIL 25, 1945.

"DEAR MOM AND DAD: Just writing to let you know I'm feeling O.K. I can move my legs now but I'm still having a little trouble with my left arm. I have a broken bone in my right arm and two in the shoulder. I guess some German thought I was a good target.

"Write and let me know all the news. Tell me how Kenny is getting along in the Army. Tell everyone hello and to write. I'll let you hear from me as often as possible. Please don't worry about me. I may be home for my birthday

"Love,

"BOB.

"APRIL 27, 1945.

"DEAR MOM AND DAD: I'm feeling pretty good today. I'm just a little nervous and restless, but I'll be okay before long. I'm getting so I can move my right arm a little and I can also move my legs. I seem to be improving every day and there isn't any reason why I shouldn't be as good as new before long.

"Send me something to read and something to eat.

"Love,

"BOB.

"APRIL 27, 1945.

"HELLO, MR. AND MRS. DOLE: I'm sure you know that Robert is unable to write so I tried to write him a note. He told me what to write. I know you are worrying about Robert but I wouldn't worry too much because there isn't any doubt in my mind at all but what he will be just as good a man when he gets well as he was before he was hurt.

"Just thank God it wasn't any worse than it was. That's the way I feel about it. In case you want to know who I am, my name is John Booth of Bethany, Mo. Robert was my Platoon Leader. He is a fine fellow. I'll write again for him. (A sniper shot me in the foot. I can't walk very well but it won't be long until I can.)

" As always,

"JOHN.

"MAY 23, 1945.

"DEAR MOM AND DAD: I haven't written in a couple of weeks, primarily because I thought I'd be home by this time. I'm in a different hospital now and I should be going home soon. Am feeling much better than I was when my last letter was written. My legs are better and my left arm seems to be improving steadily.

"The cast I'm in is none too comfortable but as soon as I reach home, it will be taken off. There is a possibility that I will be sent to Winter General Hospital in Topeka.

"Love,

"BOB.

"P.S. I don't know who wrote this."

The war in Europe ended May 8, 1945. On June 12, Dole was admitted to Winter General Hospital in Topeka, Kansas. Shortly, the Doles arranged a leave for their son and brought him home on the train. His townspeople were there to see him borne down among them on a stretcher.

Dole was now 22 years old, having been born in Russell on July 20, 1923, eldest of the four children of Doran R. and Bina Dole. Doran Dole ran a cream-and-egg business, and sold feed and other rural sundries. Mrs. Dole sold Singer sewing machines and vacuum cleaners. The children sold Cloverine Salve and the *Salina Journal,* mowed lawns, and had chores. The proceeds helped to pay for their schoolbooks and clothing. In a place where constancy was a necessary virture, Doran Dole gained a homey fame by missing one day of work in 40 years.

The boys were active in the Boy Scouts, the family active in the Methodist Church. All four children attended Russell Elementary School. Dole's third-grade teacher remembered him: "Bobby Dole was unforgettable. He had big, brown eyes—warm and sensitive. When I looked into the room, across the little faces, I was always aware of Bobby. He studied his lessons and he enjoyed coming up with the answers to questions. He stood by his desk like a little soldier."

Even in his youth there was a fidelity to duty. A family story recalls an occasion when Bina Dole was ill. "Dad was in charge of us kids," said Dole's sister, Gloria. "One morning he popped out of bed without looking at the clock and immediately went about waking everyone up. We protested, but Dad would hear none of that.

"Then, while we were sitting at the table waiting for breakfast—and none of us hungry—Dad sent Bob to the drugstore to get something for him.

"After Bob left, Dad finally looked at the clock and saw it was only 3 a.m. When Bob didn't come back right away, Dad sent the rest of us back to bed and went down to the drugstore. There was Bob, sitting in the darkened door of the drugstore half-asleep, determined to wait until it opened."

Dole went to work there at Dawson's Drugstore when he was twelve. He worked after school, evenings, Saturdays, and Sundays after church. The Dawsons had three sons, all quick-witted and outgoing, and Dole recalled, "Many customers who traded there came just to be 'insulted' by the Dawson brothers. It was natural that I would pick up some of this." He bought the family a $26 bicycle for $2 and services to the store owner. It took a year to pay it off.

As he grew older he developed a passion for sports, and he trained hard. His work at the drugstore enabled him to meet the local doctors, and he developed an ambition for a medical career.

In high school he became president of Hi-Y and a member of the National Honor Society. His last summer in high school he worked for the Kaw Pipeline Company, and his body hardened further. Before he left the drugstore he'd met the son of Kansas University's basketball coach, Phog Allen. Allen was told of the young man who ran everywhere he went, training all the time, lifting weights, doing calisthenics, winning letters three years running in football, basketball, and track, and making the all-confernce teams.

Dole enrolled at Kansas Unviersity as a pre-medical student, played football and basketball, and in track nearly broke the indoor record for the quarter-mile. But there was a war, and Dole had already joined the reserves. Finally, he asked to be placed on active duty.

Now the strapping boy who had brought the trophies home to Russell was home again, and there were few who had the voice to give him welcome. He weighed 120 pounds, excluding his cast.

The "instrumentality of war" that broke him had entered his right shoulder, fracturing the clavicle, which is the collarbone, the scapula, which is the large shoulder bone behind the collarbone, the humerus, which is the upper arm, and penetrated to the fourth cervical vertebra. The bony top of this vertebra was fractured, and the vertebra tilted out of line, shocking the spinal cord, paralyzing all four extremities, and taking away normal bowel and bladder functions.

Dole went back to Winter General with a few additional pounds and improved color. Soon he lay near death. His mother was told he might have a few hours to live. His temperature reached an improbable 108.7 degrees.

The loss of bladder function, notwithstanding catheterization, results in kidney infection and kidney stones: "Extensive workup was done and it was found that the right kidney was markedly infected and contained a large number of stones. This necessitated removal of the kidney on 11 July 1945. The patient had an uneventful recovery from his kidney condition. By September 1945, the patient had regained function of his bladder and bowels as well as function in both lower extremities with some improvement in the left upper extremity."

Autumn, and to be able to stand alone was a great achievement. Bina Dole had taken an apartment close by the hospital and helped him each day. "Bob had learned to walk as a baby when he was between ten and eleven months old. At Winter General I watched a nurse get him up out of bed. He walked the same way—tentatively, but with the determination to learn."

He had begun to smoke, and she held his cigarettes for him because his arms didn't work. He was still given slight chance of recovery, and occasionally acknowledged this. And if he lived, what? "To be completely helpless has a marked effect on anyone," he says. "I couldn't feed myself for almost a year, or do anything with my hands."

By late fall he could take a few steps and move his left arm. He could manipulate his left hand a little. In November he was transferred to Percy Jones General Hospital in Battle Creek, Michigan, away from his home and parents and friends. But his progress encouraged him to hope again.

Most of his time was spent on his back. When a patient is incapacitated, bedded for long periods, the blood slows in the body. This slowing leads to clotting.

Early on December 21 he awoke with a savage pain in the left side of his chest. It was diagnosed as a pulmonary infarct—an obstruction in the lung. The obstruction was a blood clot. He was treated with dicumarol, an anti-clotting agent that made him, temporarily, hemophilic. And because he wanted to be told, the doctors admitted again that it was uncertain he would live.

The dicumarol was continued. There was no other treatment available at the time. For long periods Dole's body was packed with ice. The year ended, the days oozed into weeks, and the weeks saw January out and February come, and the physical skills Dole had sought to restore were sliding away again.

On February 12 the dicumarol was discontinued, and on February 13 there was a chill and the pain returned. The dicumarol was begun again along with penicillin, but on the 14th there was a second chill and coughing. The medication wasn't working anymore. The penicillin was not hitting all the cocci that threatened his life. His parents had come to Percy Jones, knowing that the doctors didn't know how to save their son.

There was a chance, however: an experimental drug called streptomycin. There was no guarantee that it would work and no real assurance what it might do. The Doles signed a release.

The streptomycin did work. On March 6, Dole was permitted to sit up in a chair for a few moments.

Now Dole started again. Each day he could sit up a little longer. Then he could stand. Finally, he walked. The ability honed back at Dawson's Drugstore—jiving, joking—came back more quickly than his other skills, and because he made the doctors and nurses laugh, it was thought that he might have a good effect on others. So they wheeled him around to a ward with men paralyzed from the waist down. They had heard of the streptomycin guinea pig; he was proof that you didn't have to die even if you were supposed to.

He laughed at himself and he laughed at them and they laughed at each other.

If Uncle Sam had things a little better organized he'd figure out how to dismantle us and put the good parts together. Throw the other junk away.

Yeah. Except everybody's got good heads. Too many heads and not enough bodies for them.

If I had a head as ugly as yours, I'd be glad to sacrifice it.

Listen to you guys. Two hogs arguing who's prettiest. . . .

How about running down the machine and get me some Luckies?

You go, my feet are tired.

Can't. They see me skippin' down there they pull my disability and put me back on active duty. I am a paraplegic!

Shut up, I'm a Sosnowski.

I'd rather be a paraplegic. . . .

I'll tell you something, pal.

Yeah?

I am going to walk.

Keep saying it.

This war went on. Dole stayed in it. He made them laugh, lifted them up.

His industriousness reasserted itself, and for a while he took up selling automobiles in the hospital. Oldsmobile had a specially equipped car with controls on the steering wheel. He hustled it with the paraplegics. He was not successful.

Inspiration comes and goes. Dole's spirit helped others, and so helped him, but the end was difficult to see and there were periods of despondence.

"It's strange what can happen to a man after he's been lying around a hospital for a couple of years," Dole says. "The realities of life seem to fade away. You lose your energy, you stop caring, it's too much trouble to do anything. Sometimes you just want to lie there and let others wait on you.

"People who love you can help, though."

Each day in the hospital he went through the same therapy, the exercises to strengthen his legs, to strengthen his left arm, to restore as much articulation as possible to his hands, to learn to do things for himself again, to eat, to dress, to write.

In the wards at Percy Jones was a Dr. Bill Eilert, injured by a mortar blowback on Okinawa. Eilert had heard of a man named Kelikian in Chicago who performed the kind of surgery that might help restore Dole's right shoulder and arm, and thought Dole ought to see him.

Dr. Kelikian is an Armenian immigrant. He came to America and enrolled at the University of Chicago while working as an elevator operator there. He went on to become one of the nation's leading neurosurgeons. His brother was killed in Italy. Kelikian agreed to operate on Dole for nothing. "I do what I can for the country," the doctor says, "both out of gratitude and out of respect. Dole epitomized America to me. He had the faith to endure. . . ."

Before the operations, Dole went home again to Russell.

This time he came standing up. The first day he got out his old track shoes and circled the block. Every day he worked to increase his speed. In his basement he set up a gym. His friends came to wonder at him. When he toppled over, he got up by himself. He would have no help. Wherever he went he carried a rubber ball to squeeze his left hand back to strength, though he had almost no feeling in those fingers. His right hand still would not work properly. They cast a device in lead to fit his arm and fixed it with rubber bands to hold his fingers open, and covered it with felt from the pool hall to keep it from chafing. This help he accepted.

When his townspeople learned he was going to Chicago for operations to make his shoulder and arm work better, the Russell Veterans of Foreign Wars Post got up a fund drive to help pay his way; for even without Kelikian's fee, there were transportation and other costs to cover. One person gave $100, another a nickel.

The first operation on his shoulder was done on June 3, 1947, another on August 4, and the last on November 5. Part of the scapula was removed, and muscles in Dole's neck were connected to his arm. The arm had been ankylosed, or fused, at the elbow, and the paralysis of nerves in the shoulder was relieved by the operation in Chicago. When Kelikian was finished with him, Dole was getting about 40 percent use of his right arm, and the doctor estimated that this should increase to 70 percent in time. No, he wouldn't play basketball again.

What he could do was still uncertain, but he had set his mind to one thing, and this he confided to his brother Ken. "I'm going to get those years back," he said.

Epilogue: Robert Dole went back to college, at the University of Arizona, and then received a law degree in 1952 from Washburn Municipal University in Topeka. He was elected to the Kansas House of Representatives in 1950, and was Russell County Attorney until he was elected to the US Congress in 1960. In 1968 he was elected to the United States Senate, and in 1976 he was the Republican candidate for Vice President. He now serves as chairman of the Senate Finance Committee.●

VISIT OF STUDENTS, PARENTS, AND FACULTY OF JOSEPH B. CAVALLARO JUNIOR HIGH SCHOOL

● Mr. D'AMATO. Mr. President, I am pleased to note the visit by students, parents, and faculty of the Joseph B. Cavallaro Junior High School of Brooklyn, N.Y., to our Nation's Capitol. These students, who have expressed an interest in journalism, are to be commended for their production of a comprehensive guide to Washington, D.C. This informative book provides a detailed profile of the many

historic monuments and buildings in this city.

I request that the name of each of the participants in this ambitious project be recorded in the RECORD.

The list of names follows:

Noah Beltran, Lonnie Goodman, Albert Cremer, Tommy Ford, Tong Ting Fatt, Harry Poon, Diane De Meo, Vicki Daskalakis, Joane Hartas, Lidia Gaisi.

Regina Siano, Yolanda Hoey, Anne Maris Fasulo, Eric Wilmes, Michael Palumbo, Ronald Lumangino, Tomas Stanziale, James Barilla, Andrew Frances, Louis LiCausi.

Serafim Kouros, Jaime Castillo, Richard Ware, Charles Lee, Arnie Sand, Eric Unger, Charles Carollo, Samuel Sherr, Mr. Stanley Kuperstein, Mr. Eugene Berlin.

Mrs. Jeanette Addessi, Mr. David Silberstein, Mr. Walter Keiller, Mr. Vito LiCausi, Mr. Joe Fasulo, Mr. Richard Wilmes, Mrs. Alma Fields, Mrs. Debbie Gaisi, Mrs. Roberta De Meo, Mr. Charles Fields, Mr. Irving Berger.●

PEARL HARBOR REMEMBERED

● Mr. BIDEN. Mr. President, for a majority of Americans, Pearl Harbor is only a name, an historical incident glimpsed in old newsreels of exploding bombs and an angry President. But for those who were alive on that day 41 years ago, it is a searing memory of the death of 2,300 American servicemen and of the sacrifice which they and their families made so that our Nation might remain strong.

Only last month, in a series of moving tributes before the Vietnam War Memorial—tributes either spontaneous and personal or organized and ceremonial—we were reminded of the private grief and of the deep sense of dignity born of commitment and sacrifice which many experienced in combat but which the rest of us can only imagine.

Pearl Harbor and the conflict which followed it burned into the national memory the physical and emotional suffering which all wars engender. For veterans and the families of veterans, images of lost loved ones remain as part of an immediate, everyday experience. Those who gave their lives live on in the hearts of those who knew them. From the highest to the most humble, they were all of equal honor.

The veterans of the Second World War, like those of World War I, Korea, and Vietnam, deserves our deepest gratitude and our support. We owe to them what we are today, for they fought to safeguard our freedoms and make possible a hopeful future.

And for those who died in battle on this day in 1941, we commemorate their valor. In the words of the poet Stephen Spender:

Born of the sun they traveled a short while towards the sun,
And left the vivid air signed with their honor.●

"ON THE ISSUE OF LIMITED RESOURCES:" SENATOR STEVE SYMMS

● Mr. SYMMS. Mr. President, the prophets of doom and gloom are many. In widely published studies such as "Limits to Growth" and "Global 2000," a dark picture is painted of a future which has exhausted the world's food and resources. Advocates of a "no-growth" philosophy warn that we must lower our sights and prepare for a declining standard of living. They say that Americans and others in the industrialized Western World have been "selfish," and have been using more than "their share" of the world's minerals, energy and food, despite the fact that the industrialized countries are using those resources to produce nearly every product available.

Nevertheless, I have always sharply disagreed with this fatalistic and limited assessment of our capabilities and our resources. If economic growth has slowed in recent days, it has not been because of a lack of resources, or overpopulation, but because of self-imposed social limits such as the demands of environmentalists and ecologists and the increasing burden of taxation and Government regulation. The explanation of these new trends lies in a profound change in value systems in affluent countries, countries which have both the technology and the wealth required to satisfy their new values. If economic growth were to stop or slow drastically, it would mainly be the result of various social limits. Indeed, it is difficult to think of any intellectual change in the second half of the 20th century that is likely to have greater consequences on material growth than these noneconomic factors. During the last decade we have been confronted with an entire literature of pessimism. All of the books reflect a startling loss of confidence in the traditional premises and values of economics progress, specifically the acceptance of material advancement as a sign of intellectual and moral growth. As a result, as shift has occurred in public places. The new policies often encourage an unwise distortion of market forces for nonmarket purposes, and generally urge an interference with and undermining of the social patterns that once supported economic growth.

Two out of three Americans polled in recent years believe that their grandchildren will not live as well as they do. If America is to change course, it is important to reestablish an ideology of progress. Ideologies are important in themselves. They emphasize values and attitudes; they contain a theory of the past, help shape responses to current issues, often providing the energy and motivation needed to make those responses effective.

There is no reason for there not to be continued economic growth and progress. There will be great expansion of non-OPEC sources of gaseous and liquid fuels from conventional and unconventional sources. There will be a technological revolution, and new opportunities in space. Our recent problems have been artifically created by Government policy: For the past 10 years, U.S. energy policies have been misguided, inappropriate, and counterproductive. Presidents Nixon, Ford, and Carter all agreed that the energy crisis threatened the basic security of the United States, yet all of them pursued policies which increased dependency on foreign oil. In 1970, the United States imported 24 percent of its oil; in 1979, it imported 45 percent. Throughout the decade the Government kept the price of domestic oil and gas artificially low—that is, below world market prices—thereby greatly reducing incentives both to conserve and to explore and develop new domestic sources and alternatives. At a time when the world price of oil was about $14 a barrel, the United States kept the average domestic price to about $9 even though that price reduction was not reflected in the cost to the consumers—the group who the Government was supposedly trying to help through regulating the price. The consumer always ended up paying the world market price for oil.

A new era of prosperity can be ours if we restore the proper incentive structure of the marketplace. For example, the deregulation of the energy industry and of society and industry in general. The basic standard for Government intervention should be that the burden of proof of need of intervention should be on the Government. Unless it makes a very good case, it should not be involved.

Over the next 20 years, if we pursue proper economic policies the national income will double. The policies of the Reagan administration are pointing the country in the proper direction for economic revival. It is up to all of us to continue on a course which will turn this country around.●

CLINCH RIVER—DOE IMPUTING ITS OWN INTEREST

● Mr. HUMPHREY. Mr. President, yesterday and last Tuesday I entered material into the RECORD detailing how much the Clinch River breeder reactor project will cost American taxpayers to operate and maintain after it is built. Today, however, I would like to return to just how much the project will cost to construct.

The Department of Energy (DOE) now claims that the project will only cost $3.6 billion to complete. The General Accounting Office (GAO), on the other hand, claims that this estimate

is unrealistic, specifically, that DOE's estimate does not include the cost of financing construction. This expense, known as imputed interest, is quite high. GAO estimates that it will add $3.9 billion to the project's final cost.

When the GAO came out with this estimate in September, however, DOE in Washington complained that it was unfair, that imputed interest should not be included in calculating Clinch River's costs since it was a research and development facility.

That was in September when it was in DOE's interest to exclude imputed interest in their cost estimates. Earlier in the year when DOE was attempting to fast-track a limited work authorization license from the Nuclear Regulatory Commission (NRC) for Clinch River site preparation work, DOE then argued that it was important to fast-track Clinch River's construction to avoid additional imputed interest costs.

This point, moreover, was not just made in passing. In a separate submission dated February 23, 1982, DOE's own private accounting consultant, Arthur Andersen & Co., defended DOE's use of the imputed interest argument.

Throughout the summer at NRC proceedings, DOE repeated this argument for fast-tracking the licensing of the project. Indeed, it repeated the argument so many times that initially it was caught off guard when the GAO came out with its September finding of $3.9 billion in imputed interest costs. Thus, Percy Brewington, Clinch River's acting project director, first answered reporters' questions about the GAO finding by arguing that limiting the high cost of borrowing money—imputed interest—was one of the reasons for pushing ahead with the project. As he explained to the Knoxville Journal, interest should be considered in any examination of the cost of the breeder.

DOE, of course, now argues that we ought not to include imputed interest. It certainly is not a cost to them. It is, however, a major cost to the American taxpayer who must pay interest on the loans the Government must take to retire the national debt. GAO understands this. Every utility when it borrows money is forced to recognize this. And even DOE recognizes this when it is in its interest to do so.

We are fortunate that DOE makes many of its arguments publicly. We have copies of Arthur Andersen & Co.'s submission to the NRC and of Percy Brewington's comments in the Knoxville Journal.

I ask that the text of both of these documents be entered into the RECORD.

The documents follow:

BREEDER COST $8.9 BILLION IN NEW FORECAST

(By Joe Krakoviak)

The General Accounting Office has released a pair of reports that indicate eventual cost of the Clinch River Breeder Reactor project could be as high as $8.9 billion—$5.3 billion more than the latest estimate by the Department of Energy.

The GAO estimate follows by a week two other estimates made by both sides of the experimental nuclear program to produce electricity with a process that breeds more plutonium fuel than it uses.

GAO did not give exact estimates in its reports, instead describing situations not considered in the DOE estimate and giving a range of possible costs.

Breeder officials, however, said most of the added costs should not be considered as part of the estimate.

Main expenses GAO focused on were imputed interest, up to $3.9 billion over the life of the project, and the value of plutonium, perhaps as high as $1.2 billion.

GAO said Congress should be aware that interest costs associated with the project could amount to as much as $3.9 billion.

Admitting that inclusion of the costs of borrowing money from private sources isn't done with any federal project, GAO said nevertheless the figure should be considered. Percy Brewington, acting project director, agreed that interest should be considered in any examination of the cost of the breeder.

He also suggested that if the GAO insisted on considering the time value of money, the agency should also be concerned about finishing the project and protecting the $1.3 billion already spent.

One report said the eventual plutonium cost would be much higher than the $10 million figure the DOE used. Quoting DOE officials, GAO said the real value of the 6.2 million grams of plutonium would range from $143 million to $1.2 billion—depending on how much plutonium came from existing defense stockpiles and how much from reprocessing plants.

John Wagoner, a DOE employee and deputy project director, said the plutonium would not actually cost anything, since it would eventually be returned. And because of the "breeding" of plutonium, the payback would include any fuel created during the program.

"The Congress (during original budgeting in the early 1970s) understood that all the plutonium would come from existing defense stockpiles and then be returned," Wagoner said.

The other report said DOE underestimated the actual cost of the project in three main areas other than plutonium: implicit interest expense, the estimated revenue from selling electricity generated during testing and the allowance for construction contingencies.

GAO said DOE disregarded projections by Tennessee Valley Authority of the utility's power demands and payments for extra electricity over the five-year life of the test to overestimate by $53 million—$680 million rather than $627 million—eventual income which would be used to reduce the project's cost.

Brewington said any predictions are "really very speculative," but that he has confidence in the project's estimate.

The report also faulted DOE's estimate of the average production capacity—the percentage of usage at full operation—of the plant. GAO said the 75 percent figure used was more than the 63 percent average compiled from statistics of the 72 commerical nuclear plants—resulting in an overage of $120 million.

Brewington called the figure "reasonable," adding that the present estimate was up to 82 percent capacity. He said the breeder reactor wasn't impacted by changes in sister plants as with commerical reactors, it benefited from more reliable design techniques, and it refueled only half as often.

GAO questioned DOE's allowance for construction contingencies, about 9.2 percent out of a $973 million cost.

ARTHUR ANDERSEN & CO.,
Washington, D.C., February 23, 1982.

U.S. NUCLEAR REGULATORY COMMISSION,
Washington, D.C.

GENTLEMEN: This is to respond to the Commissioners' request that I provide (1) comments I might have on the Applicants' submissions, and (2) an analysis of the increased interest costs that would be incurred as a result of a one-year delay of the Clinch River Breeder Reactor Plant Project.

My comments on the Applicants' submission fall within three categories of delay cost.

a. Inflation;

b. Personnel retention, deferral of revenue and a permanent stretch-out of the construction period of one year;

c. Interest on the present capital investment.

A. As to inflation.—Inflation has been reflected in the construction costs because it causes actual incurred costs to increase. To assume no inflation would be unrealistic and would cause capital planning and budgets to be unreal. The rate of 8% per annum seems reasonable for planning purposes.

B. As to personnel retention, deferral of revenue and deferral of capital expenditures.—The parties agree that there are delay costs associated with maintaining the managerial personnel during the period of delay. Applicants have calculated the cost of maintaining this personnel at $41.8 million per year. When appropriately discounted, the total cost is $38 million per year.[1]

As to the deferral of revenue, a one-year delay will cost the Project between $5.9 million and $20 million per year in 1982 dollars per the record in this case. Intervenors base the $20 million on the avoided cost of power from coal generation. We understand that, if the avoided cost were based on petroleum generation, the cost of deferral of revenue would increase by a large factor. We have noted that the $5.9 million is understated because it is for a five-year period of time rather than for the estimated service-life of the plant. Because of this, the $20 million cost of deferred revenue shou''d be a more realistic basis for measuring the cost incurred as a result of the delay.

As to the permanent stretch-out of the construction period by one year, the Applicants' exhibit shows that the cost would be a "saving" of $30 million on a present-worth

[1] The discount calculations are attached as exhibits 3, 4 and 5. At the Feb. 16, 1982, Commission meeting, applicants estimated that the effect of discounting would be to decrease management costs by about $11 million. A more precise analysis by the applicant shows that this effect is significantly less. In particular, it was not necessary to discount Project Office or Stone & Webster management costs. The costs for both of these groups were already discounted in calculating the anticipated savings due to delay.

basis and a cost of over $136 million with inflation of 8 percent per year.

The above three cost matters, which were deployed by the Applicant, are summarized in millions of dollars.

[Dollars in millions]

	High	Low
Increased cost of personnel	$38	$38
Lost revenue	20	20
Subtotal	58	58
Inflation, gross	136	.....
Inflation, discounted	.....	(30)
Total cost	194	28

C. Interest on the present $1.1 billion capital investment.—Interest is a cost of doing business that arises from the fact that capital must be raised and committed to each project. It must then be serviced during each time period from its formation and commitment to the project through the completed service-life of the project.

It is often described as a real cost because it is a hard-core, unavoidable cost just like engineering, construction materials, construction labor, manufactured components and configurations of purchased equipment and the many other elements comprising the total cost of a new facility.

A possible delay of Clinch River has raised the question of the costs of a one-year delay. Our experience with delays due to material shortages, labor strikes, fires, explosions, accidents and regulatory processes illustrate that the cost of interest is an inescapable part of delay costs.

In the event of a one-year delay in the construction of Clinch River, interest will be incurred for one extra year. This is so because capital (money) is a commodity with real value. It can be exchanged for other items of value, loaned to another party or invested to produce a return to its owner. The use of capital resources over a period of time causes a cost to be incurred. During any period of a project delay in construction, the capital or interest costs continue to accumulate. Such costs are measured by dollars of capital required, the timing of capital requirements, the rate or cost at which the capital is available and the length of the period of time to completion of the project. In short, the cost of money is incurred from the beginning of construction to the time of placement of the project into continuous demonstration or revenue producing service, the purpose of the project in the first instance.

Accounting Standard No. 34 of the Financial Accounting Standards Board states:

"The historical cost of acquiring an asset includes the costs necessarily incurred to bring it to the condition and location necessary for its intended use. *If an asset requires a period of time in which to carry out the activities necessary to bring it to that condition and location, the interest cost incurred during that period as a result of expenditures for the asset is a part of the historical cost of acquiring the asset.*" (Emphasis added.)

The accompanying Exhibit I demonstrates the incremental cost that would be incurred as a result of a one-year increment in the time period of constructing a plant. In the example, we assume a project in which $100 million are expended annually in each year of a 20-year construction schedule and an 11 percent interest rate. In comparing the no delay and one-year delay cases, the cost of delay is measured by the capital funds spent to the time of the delay, the period of delay and the capital cost rate.

This Exhibit shows that:

In 1982, $145 million of interest cost would be incurred while the plant activity is idle.

1995 is the year when extra or avoidable interest cost is paid under the delay.

The $145 million incurred in 1982 due to the delay would be worth $563 million at the end of the construction period if the delay would be avoided. In other words, that real economic saving would pay the last five to six years of construction costs.

The example which I described in my previous presentation before the Commission also illustrates this concept. The example I refer to is the person that is constructing his own home using construction financing. He is his own general contractor and at 75 percent completion, an electrical installation approval must be secured before additional work can proceed. The approval process is delayed for six months and construction cannot proceed. The true economic fact to the person building his home is that his costs have increased. He had to carry the accumulated cost on the 75 percent completed home because he borrowed from the bank, had already expended the funds, and had to pay interest for the six-month delay period.

Exhibit II applies this concept specifically to the Clinch River Breeder Reactor Plant Project and shows the true future cost impact upon the project. As shown in that Exhibit, interest is accrued for an extra year in the delay case, and, thus, a one-year delay will result in additional interest on expended capital of $737.4 million. Discounted to present value, the cost of delay in 1982 is approximately $190 million.

Accordingly, I believe that the Applicants' conclusion is correct. Interest on expended capital is a real and substantial cost to the project, including that interest that would result from any delay in construction.

Very truly yours,

JERRY E. WALKER.●

ORDER FOR RECESS FROM WEDNESDAY UNTIL 9:30 A.M. THURSDAY

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business on Wednesday it stand in recess until the hour of 9:30 a.m. on Thursday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, are we in morning business now, may I inquire of the Chair?

The PRESIDING OFFICER. The Senate is in morning business.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I made a request a moment ago which the Chair granted that no business be transacted during this period except to hear the presentation of the distinguished Senator from California.

I amend that so that no business will be transacted except for that presentation and the introduction of a resolution for referral by the distinguished assistant majority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

CREATION OF A U.S. SENATE PRODUCTIVITY AWARD

Mr. STEVENS. Mr. President, I send a resolution to the desk and ask unanimous consent that it be jointly referred to the Committee on Commerce, Science, and Transportation, and to the Committee on Rules and Administration.

The resolution I am introducing would create a U.S. Senate Productivity Award, and is being cosponsored by Senators BAKER, ROBERT C. BYRD, CRANSTON, PACKWOOD, CANNON, MATHIAS, FORD, and INOUYE. The cosponsors constitute the Senate leadership and the chairmen and ranking minority members of the pertinent committees. The sponsorship reflects the importance of this issue to our economy and Nation.

America's productivity rate has fallen drastically in the last few years. More productive foreign industries are able to target American industries and jobs and defeat them at will. The effects can be seen in each of our States. The drop in productivity is also very pertinent to employed America. Productivity statisticians tell us that the average American worker's household would have received over 5,000 more real dollars this year if our traditional productivity rate had not fallen.

Productivity experts agree that the single most effective step we can take in Washington to improve productivity is to make Americans across the country aware of the serious productivity problem and to educate them about the techniques that have been successful in correcting this problem. The most cost effective way to communicate this information to large numbers of Americans is for each of us to present annually a U.S. Senate Productivity Award to one of our constituents.

The National Association of Broadcasters' productivity council has agreed to work closely with each of us in the announcement of the productivity award, the announcement of our award selection committee, and later, the presentation of the award. Through the broadcast and print media's coverage of this process, productivity-improving techniques will reach a maximum number of our constituents.

This award will bring successful productivity practices to the attention of thousands of others who could also

implement them. Other nations have found this kind of information sharing of productivity practices to contribute greatly to their nation's productivity improvement. Such information sharing among organizations in this country is already underway; the award will greatly accelerate that process.

Other such awards have proven to be very effective—Japan's Deming Award, named after the American who took productivity to Japan; the President's E Award for achievement in exports; and the Queen's Award for export and technology in Great Britain.

The presentation of this award will cost no more than approximately $100,000 per year and this expense could be for only 1 year. After the award is established an effort will be made to make it self-sustaining through minor application fees.

I am hopeful that we can expeditiously enact this noncontroversial and inexpensive productivity program. Given the dimensions of the emergency in domestic productivity and international competition that we are facing, we cannot afford to wait any longer.

Mr. President, I invite any cosponsors who would be interested in joining us in this endeavor.

The PRESIDING OFFICER. The resolution will be received and jointly referred.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The bill clerk proceeded to call the roll.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

JAPANESE-AMERICANS

Mr. HAYAKAWA. Mr. President, I should like to remind my friends and colleagues that today is December 7, the 41st anniversary of the Japanese attack on Pearl Harbor.

Forty-one years ago today forces of the Empire of Japan attacked the United States at Pearl Harbor. Less than 3 months later President Franklin D. Roosevelt signed the Executive order that led to the relocation and detention of some 120,000 Japanese-American citizens and noncitizens in relocation centers.

In the four decades since that "day of infamy" we have destroyed our powerful adversary and built her up to be a powerful friend—so powerful that we now plead with her to restrict the export of her products.

In the four decades since the mutual hatreds of war, we have so healed ourselves that we now have a prosperous, thriving Japanese-American community which, despite its small population of about 600,000, includes not one, not two, but three U.S. Senators. The ancestors of these three men worshiped the Emperor. But these men stand in this Chamber, the heart of our democracy, and when the spirit moves them, freely criticize the President.

But one controversy has not subsided during the 41 years since Pearl Harbor. If anything, it has grown. That is the controversy over the relocation of Japanese-Americans.

In an effort to understand the issue, the Congress created a commission to investigate the events surrounding the relocation and to make any recommendations for redress. By law the commission must release its findings in a report by December 30, 1982. According to several newspaper reports, it will recommend compensation to those who were interned of up to $25,000 per person.

Whether or how we shall compensate those interned is a matter for future Congresses, of which I shall not be a Member. But as a U.S. Senator, a Japanese-American, and especially as an American, I must share my views on this most sensitive issue.

The wartime relocation of Japanese-Americans in 1942 can only be understood in the context of California history. As is well known, California has been the principal source of anti-Oriental propaganda in the United States for more than 100 years. During the Gold Rush days, by 1851, there were 25,000 Chinese in the State. It was a regular practice of miners, on a big Saturday night drunk, to raid the Chinese sections of mining towns to beat up or lynch a few Chinese just for the hell of it. Chinese were often the victims of mob violence. A mob of whites shot and hanged 20 Chinese one night in Los Angeles in 1871.

When the first transcontinental railroad, the Central Pacific, was completed, great ceremonies were held in connection with the hammering in of the Golden Spike to celebrate the occasion. Eloquent speeches were given praising the magnificent contributions of Englishmen, Irishmen, Germans, Frenchmen, and others who had contributed to the completion of the railroad. But no Chinese were invited to this event, although they above all—10,000 of them—had done the most dangerous and demanding labor to make the completion possible. The Chinese were dismissed when their work was done and set adrift without severance pay.

Anti-Chinese legislation and agitation were common throughout the latter half of the 19th century and well into the 20th. The workers discharged from the railroads drifted from town to town looking for work. In San Francisco they entered some of the skilled trades like hatmaking, cigarmaking, tailoring and so on. It is an interesting fact that the first union label was one placed on cigars to tell the customer that this cigar was made by white men and not by Chinese. That is what the union label means. That is the proud origin of the union label. In 1882 the Chinese Exclusion Act was passed after much agitation on the part of Californians, including the very influential and then-powerful Sons and Daughters of the Golden West.

The persecution of the Chinese continued into the 20th century. Chinese-American friends of mine who are now older professional men in San Francisco remember the days when, if they left the Chinese area, they were beaten up by Irish and other toughs, so they had to stay within the limits of Chinatown. Throughout this period, pamphlets and books were published attacking Orientals as a menace to white society.

The Hearst newspapers continued to lead a crusade against the "Yellow Peril." The Sacramento Bee, Fresno Bee, Modesto Bee—all of the McClatchy chain—were notorious for their anti-Oriental propaganda. I remember as a high school student in Winnipeg in the early 1920's writing a term paper on anti-Oriental agitation in California, and it was then that I learned of the McClatchy newspapers, long before I knew where Sacramento, Modesto, and Fresno were. The Hearst newspapers were no better.

The attacks upon Orientals were not limited to the popular press or to labor unions and "patriotic" societies. It was highly endorsed by many of the leading intellectuals of the time. There were such books as Lothrop Stoddard's "The Rising Tide of Color, Against White World Supremacy" (1920). Other distinguished intellectuals who wrote warning books against the Orientals were people like Madison Grant, who wrote "Passing of the Great Race, or Racial Basis of European History" (1916). There was also the distinguished labor economist of the University of Wisconsin in the 1930's, Prof. E. A. Ross. When I was a graduate student at the University of Wisconsin in the 1930's, I used to see Professor Ross at the University Club. He never spoke to me nor did I ever speak to him. I did not know then what I learned much later, namely, that he was one of the leading intellectual advocates of exclusion of Orientials from the American labor force. He was regarded as a great liberal at the time.

There was also the widely accepted doctrine of what was later to be known as "Social Darwinism," to the effect that the white race was the highest point of human evolution, and that yellow, brown, and black people represented lower stages. Indeed, white people themselves were divided into the "higher" North European—"Nordic," "Aryan"—and the "lower"

South Europeans—Slavs, Greeks, and Italians. The fact that these ideas were widely believed to be scientific is all too evident in the U.S. Immigration Act of 1924, which codified these ideas into law, and which gave high immigration quotas to British, Germans, and Scandinavians, lower quotas to Middle and South Europeans, and total exclusion to the Japanese. The Chinese had already been excluded in 1882.

Against this background of almost 100 years of successful anti-Oriental agitation throughout California, it is easy to understand that the attack on Pearl Harbor aroused in the people of California, as well as elsewhere, all the superstitious, racist fears that had been generated over the years, as well as the normal insanities of wartime. The surprise attack on Pearl Harbor was called "a stab in the back"—a typical Oriental form of behavior.

It is difficult for people who did not live through that dreadful time to reconstruct the terror and the anxiety felt by people along the entire west coast. Disaster followed upon disaster after the attack on Pearl Harbor. On that same day, December 7, 1941, Japanese forces landed on the Malay Peninsula and began their drive toward Singapore. Guam fell on December 10, Wake on December 23. On December 8 Japanese planes destroyed half the aircraft on the airfields near Manila. As enemy troops closed in, General MacArthur withdrew his forces from the Philippines and retired to Australia. On Christmas Day the British surrendered Hong Kong.

The Western World was scared stiff. The west coast of the United States, rich with naval bases, shipyards, oil fields, and aircraft factories, seemed especially vulnerable to attack.

There was talk of evacuating not just the Japanese from the west coast but everybody. Who knew what was going to happen next?

How frightening were the nightly blackouts during that bleak winter of defeat. Would Japanese carriers come to bomb the cities—San Diego, San Francisco, Los Angeles? Would submarines sneak through the Golden Gate to shell San Francisco? Would they actually mount an invasion? Who could tell?

I moved to San Francisco in 1955. You could still see along the shores of Marin County the great big remains of submarine nets that went across the Golden Gate to catch Japanese submarines in case they started sneaking through the Golden Gate. That is how serious the fear was.

War of course breeds fear of enemies within—spies, saboteurs. There were rumors that Japanese farmers in Hawaii had cut arrows in their fields to direct Japanese fighter pilots to targets at Pearl Harbor, and that west coast Japanese were equally organized to help the enemy. Such rumors were later found to be totally without foundation, but in the anxieties of the moment they were believed.

It was a field day for inflammatory journalists and newscasters: Westbrook Pegler, John B. Hughes—even Damon Runyon—on the radio every night, screaming, these alarmist broadcasts about the dangers of Japanese attack.

The columnist Henry McLemore wrote:

> Herd 'em up, pack 'em off and give 'em the inside room in the badlands . . . Let us have no patience with the enemy or with any whose veins carry his blood . . . Personally I hate the Japanese. That goes for all of them.

So both at the level of sensational journalism and at the level of the social sciences into the 1930's, the idea of white supremacy was challenged by remarkably few. In California, white supremacy took the form of anti-Orientalism. The notion that the Oriental was shifty, mysterious, and untrustworthy was built into the culture in such books as the Sax Rohmer "Dr. Fu Manchu" novels.

Most Americans have always had difficulty distinguishing between Chinese and Japanese I—must say the Chinese and Japanese have the same difficulty—although the latter were treated far more leniently than the former. The Chinese, except for diplomats and merchants, were forbidden to bring women or wives to America, so that they were essentially a society of bachelors. You can still see many of these lonely old bachelors sunning themselves in Portsmouth Square in San Francisco.

If you want to see the evidence of history still alive, and that evidence in front of your eyes, you can see these old, elderly Chinese gentlemen in old, old clothes and old hats playing chess in Portsmouth Square, all of them 75, 80, and 90 years old. They are the old bachelors who came at a time when they did not let Chinese women into the country at all. But the Japanese could bring their wives or send for picture brides, that is, brides selected from photographs, so that they developed strong family ties and a place for themselves in American society, especially through their children who learned English in the public schools and helped to Americanize their parents.

Again the popular hue and cry was backed up by reputable intellectuals. Walter Lippmann, the dean of American social commentators then and for decades thereafter, joined in the demand for mass evacuation. The idea was also supported at the time by such liberal intellectual journals as the Nation, the New Republic, and the extra-liberal but short-lived New York newspaper, PM.

On February 19, 1942, President Roosevelt signed Executive Order 9066, which set in motion the evacuation program. It applied to all Japanese, citizens and noncitizens alike, in the three Western States and a portion of Arizona. Altogether some 110,000 were relocated, of whom more that 70,000 were American citizens by birth; the remainder were not able to become citizens under the laws then prevailing.

Of course the relocation was unjust. But under the stress of wartime anxieties and hysteria and in the light of the long history of anti-Oriental agitation in California and the West, I find it difficult to imagine what else could have occurred that would not have been many times worse. If things had continued to go badly for American forces in the Pacific—and they did—what would Americans on the west coast have done to their Japanese and Japanese American neighbors as they learned of more American ships sunk, more American planes shot down, more American servicemen killed, including your husband, your boyfriend, your brothers? What would they have done? Would they have beaten their Japanese neighbors in the streets? Would they have ostracized and persecuted Japanese American children? Would mobs have descended on Little Tokyo in Los Angeles and Japan town in San Francisco to burn down shops and homes?

There was precedent for such behavior in California, especially directed against the Chinese. The Chinese started wearing lapel pins saying, "I am Chinese."

I recall a friend of mine, a Japanese American now living in Marin County, who was 11 years old when the war broke out. She and her parents were vastly relieved when they learned of their evacuation from the west coast. Most of her generation and her parents generation welcomed the evacuation as a guarantee of their personal safety.

The question is often asked why Germans and Italians were not interned and why the Japanese in Hawaii were left alone. The answer is simple. Germans and Italians were persecuted during World War I, when they were fairly recent immigrants, but there were too many of them to intern. However, "patriots" dumped garbage on the lawns of German homes, and in some east coast cities, all the German books in the public libraries were burned and courses in the German language offered in colleges and high school stopped. By the time of World War II, both Germans and Italians were a well-established and familiar part of American life. The same was true of the Japanese in Hawaii, who were more than 20 percent of the population there and well known and

trusted. Besides there were not enough ships to transport the huge Japanese populations out of the major islands.

On the west coast of the American mainland, the situation was different. The Japanese were a small fraction of the population of California, Washington, and Oregon. The immigration of Japanese was principally between the years 1900 to 1924; then it was stopped by law. Japanese males, who constituted the first immigrants, married late in life because they felt that they had to have a steady job before they could send for a bride from Japan. Hence the typical Japanese American family consisted of a father 20 years older than the mother, and the average age of the Nisei, as the American-born Japanese were called, at the time of Pearl Harbor was 16.

This last statistic is of great importance in accounting for the evacuation and internment.

If the average age of the American-born Japanese is 16, it means that the average white adult official in California knew little or nothing about the Japanese. He had not gone to school with Japanese children nor visited their homes. He had not had Japanese friends on baseball or debate teams. Furthermore, the Japanese parent generation spoke little English or none at all. So the ruling classes, the people in the city councils, the State assemblies, and so on, did not know who the Japanese were. They did not know anything about them. So whatever Westbrook Pegler said about them was likely to be true.

For most white Americans, especially those old enough to sit in positions of authority, the Japanese were a strange and foreign element, so almost anything could be believed about them.

For example, it was widely believed—Japanese used to send their children, after public school, to Japanese language schools. It was widely believed that the Japanese children going to Japanese language school were being taught reverence for the Emperor of Japan, that they were being indoctrinated with Japanese patriotism.

This happened to be true. That is, many of the teachers who came over in the 1930's were products of the superheated patriotism in Japan that made it possible for Pearl Harbor to happen. However, it was not possible at that time to predict that this indoctrination in emperor worship would prove to be totally ineffective.

Incidentally, our distinguished colleague DANIEL INOUYE, as a pupil in a Japanese language school in Hawaii before World War II, kicked up a strenuous protest against the use of these schools to preach Japanese nationalism—and look what happened to him. He got elected to the U.S. Senate.

The relocation centers in desert areas to which the Japanese were assigned were, indeed, dreary places. However, the governing body of the centers, the War Relocation Authority, was headed by the wise and humane Dillon Myer, a midwesterner who, before his appointment, had known almost nothing about the Japanese.

Dillon Myer, by the way, died just about a month ago at quite an advanced age. I believe he was in his nineties.

Being a firm believer in democracy and justice and knowing the people in the camps has done nothing to deserve their internment. Mr. Myer did everything possible to make life tolerable for the internees. He encouraged camp self-government, hired teachers from outside to continue the education of the children, sent WRA staff around the East and Middle West to seek college admittance for Nisei who had graduated from the camp high schools. One result was that many Nisei students who, without enforced evacuation from the west coast, might have stopped with a high school education to work in their father's shops or farms, instead went on to college, including prestigious and private institutions such as Antioch, Oberlin, and Mount Holyoke, as well as to such great public institutions as Minnesota, Michigan, Wisconsin, and Purdue.

A large number of young people—middle-aged people by this time—from very modest families got a college education which they otherwise would never have if they had not been sent to relocation camp.

The officials of the staff of the WRA with a few exceptions were deeply concerned about the injustice of the relocation program, eager to restore the Japanese Americans, especially Nisei, to normal American lives. They fanned out over the United States east of the Rockies to seek employment for them. You must understand that the Japanese Americans that were put into camps were only those who lived west of the Rockies. If you lived east of the Rockies—Salt Lake City, Denver, Chicago—they left you alone, because you were not considered to be a military danger. I was living in Chicago, thank goodness.

They fanned out over the United States east of the Rockies to seek employment for the internees. Everywhere the Japanese Americans went, they impressed their employers by their industry and loyalty, so that more were summoned from the camps—scientists, teachers, mechanics, food processors, agricultural workers. By the time the order excluding Japanese from the west coast was rescinded on January 2, 1945, half the internees had found new jobs and homes in mid-America and the East.

I emphasize this last point because the relocation centers were not "concentration camps." The younger generation of Japanese Americans love to call them concentration camps. Unlike the Nazis, who made the term "concentration camp" a symbol of the ultimate in man's inhumanity to man, the WRA officials worked hard to release their internees not to be sent to gas chambers but to freedom, to useful jobs on the outside world and to get their B.A. at Oberlin College.

By 1945, there were almost 2,500 Nisei and Issei in Chicago, a city that was most hospitable to Japanese, and I myself found relatives I did not know existed. Other Midwest and Eastern cities acquired Japanese populations they did not know before the war: Minneapolis, Cleveland, Cincinnati, New York, Madison, Wis., Des Moines, St. Louis, and so on. And those who remained in camp in most cases did so voluntarily. These were the older people, afraid of the outside world, with the Nation still at war with Japan.

I point out these facts to emphasize the point that to call relocation centers concentration camps, as is all too commonly done, is semantic inflation of the most dishonest kind, an attempt to equate the actions of the U.S. Government with the genocidal actions of the Nazis against the Jews during the Hitler regime. As am American I protest this calamity against the Nation I am proud to have served as an educator and even prouder to serve as a legislator.

Now, the relocation center at Tule Lake, Calif., was different from the others. It was there that those who resisted the evacuation and internment, including a Japanese veteran of the U.S. Army in World War I, a Nisei who renounced American citizenship in protest against the relocation, and other angry people were sent to isolate them from those who patiently accepted their internment. There were frequent distrubances at Tule Lake.

The trouble-free lives at all the relocation centers other than Tule Lake can be contributed to a cultural trait of the Japanese, clearly seen in the Issei, that is, the older generation of immigrants, but almost unheard of in their American-born grandchildren, and that is the concept of gaman, which means endurance. Gaman is to endure with patience and dignity, especialy dignity, hardships, misfortunes or injustices, especially those about which nothing can be done.

I am sure there are some Americans who will be enraged at the suggestion that anyone was happy in a relocation camp. But with the concept of gaman, you learn to make the best of a tough situation, endure with patience and dignity the situation you are in and make the best of it.

89-059 O-86-34 (Pt. 21)

The people in the relocation camps were shopkeepers, market gardeners, farmers, laborers, all in relatively humble occupations, finding themselves with 3 years of leisure on their hands.

As one elderly gentleman said recently, "That was the first time in my life that I didn't have to get up at 4 o'clock in the morning to milk the cows."

Finding themselves with some leisure in their lives, they went in for art. There was a tremendous artistic output. They turned out little masterpieces of sculpture, flower arrangements, and ceramics and painting, later memorialized in a scholarly volume entitled "Beauty Behind Barbed Wire" by Allen Hendershott Eaton, 1952.

How else can one account for the elderly Japanese farmers and grocers who gathered around a bridge table to go over the nagauta, a traditional, long narrative song, and the music from the kabuki, which is the Japanese equivalent of opera?

For many older Japanese, the relocation turned out to be a 3-year release from unremitting work on farms and vegetable markets and fishing boats, and they used this leisure to recover and relive the glories of their traditional culture.

Now I come to the most important part of the story. It is the story of the Nisei, the children of the older generation I have just been talking about.

It was a great humiliation for the Nisei of the 100th battalion of the Hawaii National Guard to be sent to Camp McCoy, Wis., where they were trained with wooden guns.

SPARK MATSUNAGA, now a U.S. Senator from Hawaii, was in that unit. He writes:

> We wrote home of our great desire for combat duty to prove our loyalty to the United States. It was not known to us then that our letters were being censored by higher authority. We learned subsequently that because of the tenor of our letters, the War Department decided to give us our chance. Our guns were returned to us, and we were told that we were going to be prepared for combat duty * * *. Grown men leaped with joy.

On January 28, 1943, the War Department announced that Nisei would be accepted as a special combat unit. They volunteered in the thousands both from Hawaii and from the relocation camps. They were united with the 100th Battalion as the 442d Regimental Combat Team at Camp Shelby, Miss.

The 100th Battalion first saw action at Salerno, Italy, in September 1943, and took heavy casualties. The 442d landed in Italy in June 1944, at once gained a reputation as an assault force, and accomplished the famous rescue of the "lost battalion" of the 36th (Texas) Division at an enormous cost in blood. Fighting in seven major campaigns, the men of the 442d suffered 9,486 casualties and won more than 18,000 individual decorations for valor.

Another 3,700 Nisei served in combat areas in the Pacific as translators and interpreters. The Japanese military, believing their language to be too difficult for foreigners to master, were careless about security. They did not count on Nisei on every battlefront reading captured documents and passing information on to Allied commanders. Kibei, Nisei born in America but educated in Japan and originally the object of special distrust, turned out to be especially helpful in this respect.

They were born in America. They were American citizens, but they were educated in Japan. They could read Japanese very well, so they were very, very good for intelligence work.

In short, the Nisei covered themselves with honor and made life in America better for themselves, their parents, who a few years after the war won the right to be naturalized, and their children. I remember vividly the returning Nisei veterans I saw in Chicago soon after V-E Day. Short of stature as they were, they walked proudly, infantry combat citations on their chests, conscious that they were home—in their own country. Chicago, known throughout the war for its hospitality to servicemen, outdid itself when the Nisei returned. They had earned that welcome.

The relocation was a heart-breaking experience for Japanese Americans as well as a serious economic loss for those who had spent decades of labor on their farms and businesses. But most seriously it was an affront. America was saying to them, "You are not to be trusted. You are Japs. We doubt your loyalty."

The Nisei, although very much Americanized, are in some respects profoundly Japanese. An imputation of disloyalty, being an affront, was also a challenge. A powerful Japanese motivation is "giri to one's name"—the duty to keep one's reputation—and one's family's—unblemished. Giri is also duty to one's community, one's employers, to one's nation. The Nisei's nation was the United States. One accused of disloyalty is dutybound to remove that disgrace by demonstrating himself to be loyal beyond all expectation.

This is a basic reason the Nisei volunteered in such numbers and fought so well. More than 33,000 Nisei served in the war—a remarkable number out of a total Japanese American population—Hawaii and mainland combined—of little more than 200,000. They had a fierce pride in their reputation as a group.

The Nisei were also motivated by "giri to one's name." Those who found jobs outside the camps were exemplary workers, as if to prove something not only about themselves but about their entire group. Japanese Americans, young and old alike, accepted the mass relocation with dignity and maturity, making the best of a humiliating situation. In so doing, they exhibited the finest resources of their ancient background culture.

The prewar theory of white supremacy was completely discredited by the crushing defeat of Hitler and Hitlerism. The prejudice against Japanese in America was all but wiped out by the courage and the sacrifice of Nisei service men in Italy and the Pacific. Then in the 1960's came the civil rights movement, which further discredited doctrines of racial superiority and inferiority. We live today in a totally different era, in which the prevailing racialist theories of the 1930's and earlier are seen as historical curiosities.

The Nisei, with their courage, and their parents, by their industry, have won for Japanese Americans the admiration and respect of all Americans. Japanese Americans have an average level of education higher than any other ethnic group, including whites. They have a higher representation in the learned professions—medicine, law, engineering, computer science—than other ethnic groups—and in this respect they are doing as well as another group famous for their respect for learning—namely, the Jews. The per capita income of Japanese-Americans is $500 a year above the national average. And they have, with a population of less than half a million, three representatives in the U.S. Senate, while the blacks, with a population approaching 23 million, have none. What more can Japanese-Americans want? We are living today at a time when Japanese-Americans are almost a privileged class, with their notorious scholastic aptitude, their industriousness, and their team spirit in whatever occupation they find themselves.

Mr. President, I am proud to be a Japanese-American. But when a small but vocal group of Japanese-Americans calling themselves a redress committee demand a cash indemnity of $25,000 for all those who went to relocation camps during World War II, including those who were infants at the time and those who are now dead, a total of some two and three-quarters of a billion dollars—we have been seeing this in a series of articles being published in the Washington Post—my flesh crawls with shame and embarrassment.

Let me remind the Japanese American Redress Committee that we also live in a time when American industry is seriously threatened by Japanese competition—in automobiles, steel, cameras, television, and radio sets, tape recorders, and watches. I warn the Japanese Americans who demand about $3 billion of financial redress for

events of 41 years ago from which nobody is suffering today, that their efforts can only result in a backlash against both Japanese Americans and Japan. And to make such a demand at a time of the budget stringencies of the Reagan administration is unwise enough, but to make this demand against the background of their own record as America's most successful minority is simply to invite ridicule.

Let me remind the Japanese Americans that we are, as we say repeatedly in our Pledge of Allegiance, "one nation," striving to achieve "liberty and justice for all."

This means—and I say this to black Americans and Mexican Americans and all other ethnic political groups—let us stop playing ethnic politics to gain something for our own group at the expense of all others. Let us continue to think of America as "one nation, under God, indivisible" and let us act accordingly.

RECESS UNTIL 9:15 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until 9:15 a.m. tomorrow.

Thereupon, at 7:07 p.m., the Senate recessed until tomorrow, Wednesday, December 8, 1982, at 9:15 a.m.

NOMINATIONS

Executive nominations received by the Senate December 7, 1982:

DEPARTMENT OF DEFENSE

W. Paul Thayer, of Texas, to be Deputy Secretary of Defense, vice Frank C. Carlucci, resigned.

IN THE AIR FORCE

The following-named officers for permanent promotion in the U.S. Air Force, under the appropriate provisions of chapter 36, title 10, United States Code, as amended, with dates of rank to be determined by the Secretary of the Air Force.

MEDICAL CORPS

To be lieutenant colonel

Hardy, Marion J., [redacted]

MEDICAL CORPS

To be major

Connelly, Daniel P., [redacted]
Hilderbrand, Charles P., [redacted]
Joshi, Sanatkumar K., [redacted]
Lonchyna, Vassyl A., [redacted]
Morris, Francis M., [redacted]
Owens, David B., [redacted]
Stickney, Randall H., [redacted]
Thode, Henry P., III, [redacted]
Tobin, James V., [redacted]
Wheeler, Anthony H., [redacted]

IN THE AIR FORCE

The following Air National Guard of the United States officers for promotion in the Reserve of the Air Force under the provisions of section 593(a) title 10 of the United States Code, as amended:

To be lieutenant colonel

LINE OF THE AIR FORCE

Maj. Thomas F. Astaldi, [redacted]
Maj. Jerry L. Bowers, [redacted]
Maj. Shelby G. Bryant, [redacted]
Maj. Lanny A. Karns, [redacted]
Maj. Harold E. Keistler, [redacted]
Maj. Paul D. Knox, [redacted]
Maj. Krystyna Llenza, [redacted]
Maj. Thomas P. Maguire, Jr., [redacted]
Maj. Daniel B. McDuffie, [redacted]
Maj. Cecil E. Modlin, III, [redacted]
Maj. Vincent W. Patrick, [redacted]
Maj. Carl W. T. Perkins, Jr., [redacted]
Maj. John R. Rec, [redacted]
Maj. James L. Reid, [redacted]
Maj. Richard H. Santoro, [redacted]
Maj. James H. Snyder, [redacted]
Maj. Thomas J. Taber, [redacted]
Maj. Kenneth E. Wilson, [redacted]

MEDICAL CORPS

Maj. David M. Hadden, [redacted]

BIOMEDICAL SCIENCES CORPS

Maj. James R. Pope, [redacted]

IN THE NAVY

The following-named Naval Reserve Officers Training Corps candidates to be appointed permanent ensign in the line or staff corps of the U.S. Navy, subject to qualification therefor as provided by law:

Fox, Michael A.
Groover, David L.
Laszakovits, John S.
Shaffer, Brent C.

The following-named Naval Reserve officers for permanent appointment in the line or staff corps of the U.S. Navy in the permanent grade of ensign, subject to qualification therefor as provided by law:

Asbjornsen, Douglas J.
Beck, Duane E.
Berry, Michael G.
Boland, Robert M.
Booth, Donald E.
Brands, Edward P.
Campbell, Jayne E.
Fill, John F.
Grau, John R.
Harasha, Jeffrey S.
Huntoon, Richard L.
Kuebler, David P.
Kwan, Andrew W.
Lewis, Larry R.
Maschke, Marvin S.
Mezzano, Dominic
Natsuhara, Roger M.
Olmstead, Gary W.
Pannier, Stephen J.
Pfeiff, Robert L., Jr.
Pierce, Frederic S., III
Pierce, Scott E.
Reed, Mark S.
Richards, Randall G.
Rinaldi, Peter M.
Sherfey Solomon R.
Spina, James A.
Sterr, Robert K.
Turner, Timothy A.

The following U.S. Navy officers to be appointed permanent commander in the Medical Corps in the Reserve of the U.S. Navy, subject to qualification therefor as provided by law:

Cohen, Irving M.
Lwin, Tint
Taylor, John H.

The following-named ex-Naval Reserve officers to be appointed permanent commander in the Medical Corps in the Reserve of the U.S. Navy, subject to qualification therefor as provided by law:

Billig, Donal M.
Finsten, Robert M.
Persoff, Myron M.

The following-named medical college graduates to be appointed permanent commander in the Medical Corps in the Reserve of the U.S. Navy, subject to qualification therefor as provided by law:

Laborati, Juan C.
Monge, Saul

IN THE NAVY

The following-named U.S. Naval Reserve Officers, to be appointed permanent captain in the line of the U.S. Navy, subject to qualification therefor as provided by law:

U.S. NAVAL RESERVE

Captain, line, permanent

Dunbar, Richard Mills

The following-named U.S. Naval Reserve Officers, to be appointed permanent commander in the line of the U.S. Navy, subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE

Commander, line, permanent

Christian, George Frederick
Dyer, Bruce Peter
Foster, William I.
Herndon, Albert A., Jr.
Offutt, James H.
Smith, Jessie Mack

The following-named U.S. Naval Reserve Officers, to be appointed permanent lieutenant commander in the line of the U.S. Navy, subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE

Lieutenant commander, line, permanent

Barrowman, Glenn J.
Brick, James Michael
Deantonio, Robert F.
Edwards, Scott W.
Kinane, Keith W.
Newman, Don R.
Noziglia, Robert Everett, Jr.
Payne, Terry Daniel
Pittman, Alan Ralph
Reese, Michael James
Rylant, Arboth Andrew
Storer, David G.
Swenson, Wayne Fredrick

The following-named U.S. Naval Reserve Officers, to be appointed permanent lieutenant in the line of the U.S. Navy, subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE

Lieutenant, line, permanent

Ackerman, Mark Thomas
Ackman, Terry Mark
Ade, Edward Kenneth
Allard, Martin Robert
Allred, Keith Johns
Ambler, Jay C.
Anderson, Douglas Lloyd
Anderson, Mark Allen
Anderson, Robert K.
Anderson, Thomas David
Anduze, Neal Edwin
Anglin, Mark Gieson
Antle, Stephen Bradford
Arsenault, Daniel Scott
Asmus, Robert Bryant
Bachman, Stephen Dale
Baggett, Linwood Merle, Jr.
Bahr, Randal Lee
Baker, Glwynn Robinson, Jr.
Baker, Jack Granville
Bales, Robert Franklin, Jr.
Balestrrieri, Peter Albert
Ballou, Robert Morris
Barnes, David Richard
Bass, Rhonda Shaffer
Baszner, Pall Henry
Baxter, Roxanne Lea Thomas
Beck, Belmont Guy, II
Becker, Gerard Lee
Bellamy, John Cornelius, Jr.
Berg, Richard Charles
Blackburn, Alan Jeffrey
Blunt, Susan J.
Bohannon, David William
Bottrell, Mark Steven
Boyd, Robert K.
Bradberry, Michael Joseph
Bradley, Stephen Craig
Breeding, Mark David
Brion, Lawrence Richard
Bryson, James Theodore

Buck, Daniel Edward
Buck, Robert Berkley
Buchingham, Jack Edgar, Jr.
Buehn, Robert A., Jr.
Caldwell, David Emmett
Callaway, Ronald Havard
Carl, Michael Joseph
Caviedes, Ernesto Fabian
Chase, John Hall, Jr.
Cheak, Alan Scott
Cole, Kenneth Dwight
Coleman, Frank S., Jr.
Colledge, Keith Andrew
Compton, Bryan Barton
Conner, Terry Lynn
Coppenbarger, Mark Wayne
Coppock, Bruce Eldon, Jr.
Corser, Jack A.
Crim, Robert Kenneth
Crowley, Kenneth Lee
Cummings, William Douglas
Cuneo, David MacLeod
Cultri, Anthony Dominick
Damiano, Patrick John
Darby, Peter Jay
Davis, Gerald Richard
Dempsey, Chris Ray
Denam, James Donald
Derosset, Richard Dame
Dobson, Kevin NMN
Dolat, Stephen William
Donovan, Patrick Joseph
Dorgan, Martha Jo
Draper, Lee Bruce
Dufour, Raymond Anthony, Jr.
Durmon, Joe Dwain
Dust, Mark W.
Dyson, Alvin
Earl, William Jeffrey
Edley, John Hays
Elison, Michael James
Ellwood, Jeffrey Lawrence
Erickson, Gregory Alec
Ernst, Daniel Denis
Evans, Michael James
Falkenau, Michele Lynn
Felegie, Timothy Scott
Ferenczy, William Joseph
Ferguson, Richard Paul
Florie, Terry Lynn
Florin, Craig Arthur
Fortuna, Daniel Walter
Frair, Keith Bernard
Fraser, John Edward
Frederick, David Jerome
Gallagher, Timothy Richard
Gavin, Patrick Howard
Gay, Frederick Sydney, Jr.
Gerber, Charles Cole
Gest, Robert Norman, Jr.
Gleason, Neal Eugene
Goddard, Paul Earnest
Gorski, Terence P.
Gortney, William Evans
Graham, Gary Edward
Griffiths, Jeffrey Allen
Gumbert, Charles John
Hack, Joseph, III
Hafer, Seabastian Charles
Hale, Gregory Dwight
Haley, Paul Richard
Hallmark, Richard Gray
Hamilton, Kathryn Jean
Hantjis, William Michael
Hardee, Michael D
Hardenbrook, James Mauric, Jr.
Harrington, Robert Hancock
Hass, Alfred James II
Hassett, David Michael
Hatley, Thomas Edward
Helms, Michael Philip
Hendrikson, Peter Henrik
Hesse, Mark William
Hibbs, Steven Raymond
Hines, Bradley Robert
Hirsh, Deborah Duggin
Hoff, Francis Xavier
Hollinberger, David E
Hopta, Dale Anthony
Hubbell, Jeffrey Paul
Hubert, Beth Evelyn
Huey, Patrick Charles
Hughes, William Charles, Jr.
Hunter, Robert Gray, Jr.
Hutton, Renny Massalski
Ivory, William Marshall
Jackson, Jennetta W.
Jackson, Larry Carroll
Jeffries, James Joseph
Johnson, Alan Kim
Jones, Michael Albert
Jones, Robert Edmund
Judson, Dennis Lee
Kamract, Henry Dwight
Keating, Timothy Patrick
Kelly, Wolfgang Louis
Kelsey, Mark Charles
Kennetz, Bernard Francis, Jr.
Kent, Michael Lynn
Key, Charles Byng III
Kiell, Jonathan
Kimball, Martin Alan
Kimmick, Bruce Leonard
Kindred, John Preston
Kiser, Richard John
Knight, Kim David
Knollman, Michael Galeese
Koehler, Cynthia Ann
Kohut, John Nicholas
Krentz, Donald James
Lamoreaux, Lewis Scott, III
Lashar, Walter Benjamen, IV
Laubach, James Michael
Lee, Jeffrey Wellons
Leighty, Melinda J.
Leplatt, Herbert Amile
Lester, James Philip
Lilley, Steve Kirk
Little, Kevin Lindsay
Littrell, James Ross
Livingston, James Richard, Jr.
Logan, Frank Granger, III
Looney, John Thomas
Lovegren, Lee Arthur
Lovelace, Charles Ray
Luck, Lawrence Edward
Luhmann, Ronald Bennett
Luttgen, Robert Hall
Lynn, Michael Francis, Jr.
Mack, Michael Leroy
Mackey, Sue W.
Makowski, Robert Walter
Manley, Ronald Richard, Jr.
Mann, Michael David
Markovits, Paul Joseph
Marlowe, William Stanley, Jr.
Martin, William Alexander
Martinez, Benjamin NMN, Jr.
Masem, Timothy Thomas
Mason, Craig Alan
Massey, Robert Clyde
Mazurkiewicz, John
McCaninch, Robert Austin
McCollum, Edward Manning
McCoy, Kelly Eugene
McCullen, Mary Ann
McLaughlin, Kevin John
McLeod, Robert Lawrence, III
McMahon, Christine Marie
McNerney, Stephen Robert
McPhatter, Alvin Ray
Medick, Victoria Moira
Merritt, Robert Randall
Middlebrook, Jimmy Reed
Miller, David Jacob
Miller, Thomas James
Mills, John Brian
Mills, Leroy M.
Milner, Larry Donald
Moore, David Russel
Moore, Roy Dayton
Morgan, Gary Edward
Morganelli, Patrick Daniel
Morissette, Garry Gene
Monroe, Stephen Richard
Murdock, John Stephen
Murray, Michael Johnson
Murray, Richard B.
Mydlow, Michael Walter
Nalley, Charles Jeffrey
Nawrocki, Joseph Karol
Nevius, William
Newcomer, Delos Raymond
Newton, Lawrence A.
Norris, Patrick Benjamin
Norris, Robert Edmund
Packer, Cynthia Dee
Padgett, Edwin Richard
Paine, Paul Fisk
Park, Edwin Yale
Passell, Donald Hillary
Paterson, Thomas Jay
Perryman, Daniel Michael, III
Peterson, Greg Alan
Peterson, Lindsey Grady
Phelps, Charles Lester
Phillips, Lawrence Edward
Pitera, Theodore Stanley
Plucker, Ronald Christian
Pontes, Lee
Porter, John Edward
Potter, Daniel Michael
Powell, Elliott, Jr.
Price, David Mark
Provenza, Clinton Eugene
Radford, William Maytlon, Jr.
Rasmussen, Bruce Alan
Ray, James Michael
Reed, Nori Ann
Reedy, Jay Linville
Rhodes, David Allen
Richetti, Donald Nicholas
Rigoulot, Kenneth Gerard, II
Roberts, Charles Edward
Roberts, Charles Henry
Roberts, Randall Robert
Roeling, Myles Elliott
Rogers, Dale Edward
Romano, Peter John
Rose, George Herman
Ross, Eddie Bob
Rossner, Otto Ernest, III
Rouzer, Rebecca Jane
Royce, John Carl, Jr.
Ruzevick, James Edward
Savage, Larry NMN
Saxon, Kevin Gary
Schmaltz, Michael H.
Schram, Todd Griffen
Schuler, Paul Arthur
Scott, Robert Marshall
Semmler, Karl John
Shell, Francis Bruce
Sherman, Patrick Joseph
Silverman, Michael
Simpson, Mark Stephen
Smith, Michael Timothy
Smith, Stephen Mark
Smouse, David Patrick
Stahl, Stephen Anthony
Stanley, Henry Turner, III
Starr, Robert Scott, Jr.
Stedman, William Bruce
Stewart, Keith James
Stone, James Robert
Story, Gregory Leon
Suckow, George Bruce
Supan, Alan Joseph
Swanton, Michael Timothy
Sweeney, Douglas John
Taylor, Benjamin Warren, Jr.
Taylor, Bret Clinton

Taylor, Howard, O. D.
Thomas, William Franklin
Thompson, Michael Rene
Thompson, Richard Bruce
Thompson, Thomas Petree
Thorn, David John
Tomazic, Rocco Guy
Tompkins, Gary Michael
Townsend, Wade Benton
Tucker, James Gary
Turner, Kent Dobell
Ucci, Francis Mark
Uchida, Richard Tad
Uhlenbrock, Mark Joseph
Vazquez, Alexis Erasmo
Veitch, Kim William
Vester, Stephen James
Vinson, John Paul
Waite, Michael Albert
Walker, Ivey Franklin, Jr.
Walker, Lambert Roger, III
Walker, Mary Patricia
Watson, Kenneth Thomas
Watson, Michael NMI
Watson, Paul Bradley
Weber, Philip Durant
Welch, Jeffrey W.
White, Gregory Veo Victor
White, Joseph William
Whitney, Frank Edward
Wilbur, Thomas George
Wilkey, Douglas Alan
Willis, Gibson Robert
Wilson, Rick Douglass
Wilson, Robert Leslie
Windham, Jimmy Roscoe
Winkler, John W.
Womble, Thomas Murray
Wooten, James Singleterry
Wright, David Bruce
Wright, David Elliott
Wright, James Barnes, III
Wright, Reuben Leon
Wright, Robert Joseph
Yeakel, Karl E.
Yri, Bryan Lee
Zell, Steve Richard
Ziegler, Paul Michael
Ziegler, Russell Mark
Zoda, John Charles

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant (junior grade) in the line of the U.S. Navy, subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE

Lieutenant (junior grade), line, permanent

Adams, Michael J.
Adamson, Dave Ray
Aikin, Glenn Taylor
Alessandria, Marc Louis
Anderson, Jacquelyn Kay
Anderton, Norma Marie
Anhalt, Scott Timothy
Askinas, Andrew A.
Atkinson, Peter L.
Babcock, Benjamin Dean
Bailey, Kevin Howard
Baker, Gayla Layne
Baldwin, Robert Guy
Balluch, Pamela Jo
Barnhart, Deborah Edwards
Barich, Dianne Elizabeth
Barunas, George Denison
Baler, Mark David
Bednarczyk, Adalbert Anthony
Beierl, Elizabeth Ann, NMN
Bell, Ronald Lee
Belser, Ritchie Hugh, III
Benbow, John Dewitt
Bloomer, Charles Lee
Bloomer, Roberta Spillane
Boyles, Elizabeth Ann
Brass, Sidney Nannette
Brigham, Alan Prince
Brindley, John Frederick
Broeker, Arla Marie
Brooks, Sandra Kay
Broski, Caroline Frances
Brown, John Michael
Brubaker, James Leroy
Bruno, Michael David
Buozynski, Peter Stanley
Burgess, Thomas Frederick
Burrismeyer, Peter Winthrop
Bush, Barry Earl
Buzby, Mark Howard
Capps, Warren Louis
Carey, Kevin Michael
Carmody, Patrick Brendan
Carpenter, Stanley Dean
Carson, Charles Joseph, Jr.
Carter, Emmett Palmer
Cash, James Earl
Cash, Lauren Gail
Charles, Randy Joe
Cheathem, Lesa O.
Chisholm, Joseph Dwyer
Clark, Amy Joan
Clark, Edward Schuyler
Clarkhansen, Karen Elizabeth
Clifford, George Barnard IV
Coffman, Homer Jay
Coley, Linda Towner
Cool, Thomas Clark
Coolbaugh, Eric Jay
Cope, Susan Kaye
Cotton, Deatley Hatten
Couch, Alvin Chris
Courter, Craig Earle
Creasy, David Wayne
Crookshanks, Judith Ann
Cruz, Ernesto NMN, Jr.
Dami, John William
Davis, Curtman Kenneth
Davis, John Charles, Jr.
Davis, Toby Kevin
DeCook, Terrile Lee
Delorey, Richard L.
Dennehy, Charles Sterling
Deppe, Jill Noreen
Derienzo, Thomas
Desimone, James Vincent A.
Dillard, James Louis
Drury, Kim Marie
Ducharme, Marilyn Miller
Dummerth, Denise Theresa
Dunbar, Steven Arthur
Dwyer, Nancy McCarthy
Eby, Terry L.
Eckstein, Steven Harry
Edwards, Ruth Carole
Elkins, Alfred Bart
England, Janine Vettese
Erickson, Michael Lee
Evers, Wayne Kevin
Flores, Theodora Helena
Flynn, Charles Bernard, III
Ford, William Francis
Fosseen, William Conrad
Franklin, Dennis Larone
Fredericksen, Michael Nels
Freeborough, Boyd M.
Freeman, John Joseph, Jr.
Fulenwider, Mark William
Galvin, Beulah Clare
Ganyo, Donald James
Gast, Ronald Paul
Geiger, Linda Susan
Gleason, Barbara Jean
Glover, Hayden Mark
Glynn, Kevin Christopher
Gonzalez, Debra Louise
Gourd, Henri Noel
Greenert, Darleen Elizabeth
Grieco, Anthony Marion
Gruendl, Lois Helen
Gundy, John Edward
Gurley, Michael Joseph
Hackbarth, Gary
Hackett, Peter Mark
Hall, Gregory Harwood
Hall, James D.
Hall, Timothy Gerard
Hansen, Michael John
Harmon, Robert Thomas
Harrelson, Roger Dale
Head, Dana Lea
Healey, Peter Joseph
Heininger, Calef Edwin, Jr.
Helbling, Timothy James
Henderson, Blake Douglas
Herb, Martha Elizabeth Gray
Herlihy, Thomas Philip
Herron, Carol Jo
Hess, Murray Alan
Higgins, David Alan
Higgins, Roger James
Hinkle, Valerie Nelson
Hinson, Reid Garrett
Hodgins, Denise Marie
Holmes, Michael David
Homsher, Harriett Alice
Hooke, David Roy
Hopkins, Jack Harlan
Hornstein, Jayne Marie
Hoskinson, Linda Lee
Howard, Ivy Layne
Hughes, Christopher Peter
Hume, Larry Joe
Humer, Anne Lorraine
Hurst, Susan Irene
Immel, Jeffrey Wayne
Iskra, Carlene Marie
Iverson, Jonathan Carey
Jackson, Barbara Ann
Jackson, Bernard Lloyd
Jackson, Gregg S.
Jagodnik, Doreen Ellen
James, Jonathan Thomas
Jardot, David Edward
Jasitt, Donna White
Jeffords, Alice Mobley
Jensen, Paul Raymond
Jones, Alberta Rose Josephin
Jones, Richard Lloyd
Jordanek, Paula Lynn
Kachmarik, George Steven, Jr.
Kaplan, Millicent
Karolices, Paul Phillip
Kassatly, Christina Margaret
Keehne, Mark Frederic
Keipper, Phillip John
Kelly, Stephen David
Kelsey, Donna C. Greenleaf
Kerr, David William
Killoren, Ann Lachlan
King, James Parker
Kirk, Kathleen Frank
Kirn, Rick Louis
Koehler, Kim Arnas
Kovensky, Lynne Anderson
Kozlowski, Richard C.
Krahn, Steven L.
Krieger, Larry Carl
Kroll, Richard Stephen
Kunsemuller, Margaret
Lambrecht, Ronald Anthony
Landis, David William
Larocque, Nancy Neider
Leblanc, Sandra Maria
Legrys, Patricia Sheree
Leland, Scott Bronston
Leonard, Sharon Mae
Lienard, David Edward
Lincoln, Gwynne Lorraine
Lloyd, Gary Lee
Lockard, Jeffrey Bruce
Lucas, Robert Charles
Lundberg, Mark, NMN
MacMullen, Melanie Alice

Maglott, Lisa Eleanor
Mahoney, Randolph Barret
Malara, Patsy, NMN, III
Maley, Philip Allen
Malone, Ronald Dale
Mannon, Robert Simpson
Marchant, William Morris
Markey, Stuart Brian
Marks, Thomas Sutton
Marshall, Pamela Ann
Martin, Rick Stephen
Martin, Robert Warren
Mason, Alan David
Mason, Robin Ferguson
Mayer, Gary John
Mayor, George, NMN, Jr.
Mazza, Richard Charles
McCallan, Denise Jacqueline
McCaw, John Hanson, III
McComas, Lesa A.
McConathy, William B.
McConkle, Corinne Mildred
McDonell, Robert Gerald
McDonough, Mary Magdalen
McDowell, Laurence O'Dell
McFadden, Joseph Stanley
McFarland, Keith Allen
McGee, Claudia Dorothy
McKee, Thomas Edmond
KcKinney, Ceil Catherine
McNeely, Ronald James
McNeilly, Dennis NMN
McWilliams, Daniel Edward
Megow, Gregory Edward
Mendez, Robert Rene
Miller, Bob Laramour
Miller, Steven Gregory
Mills, Thomas Albert, Jr.
Minner, Steven F.
Mitcham, George Maurice
Mitchell, Robert Harrison
Mitsatsos, James NMN
Mnich, William Richard, II
Moncrief, Basil Earl, Jr.
Montgomery, Daniel John
Mulligan, Roland John
Munoz, Jorge Luis
Myers, Elizabeth Wren
Niver, Randal Dennison
Norausky, Gary F.
Norris, Dale Ann
Obbink, Kathleen M.
O'Brien, Mary Kathleen
Offutt, Eleanor Ann
Onan, Harry Aubrey
Opsal, Steven Robert
Osborne, Mary Townsend
Page, Richard Lynn
Panasiti, Reed Anthony
Pannucci, Louis A.
Paolantonio, Sal Anthony
Paradise, Seth Foss
Patton, William Anthony
Payne, Julianne Suzzette
Pearson, George Richard
Pedersen, Richard Samuel
Peurach, Harry David
Phillips, Clay Edison, III
Pierce, Leeann Kathleen
Ponsolle, George Leopold, Jr.
Powell, Linda Susan
Powell, Steven Mitchael
Powell, Ten Eyck Bronk, III
Prekker, Deborah Kay
Rader, Richard Lyndo A.
Rafferty, Elaine Rhoades
Reddy, Eileen Adee
Reeve, Robert Kirk, Sr.
Reimann, Paul Karl
Renfro, Dennis Dana
Ricksecker, Steven George
Ridlen, Daniel Lee
Ridley, Patsy Ann
Robillard, Edward Laurent
Robinson, Danny Kurby
Rose, Gregory Joseph
Rossi, David Alex
Rothwell, John Patrick
Runco, Mario, Jr.
Russell, Wendy Rae
Russo, Frank Thayer
Sadler, Martha Jane
Samuelson, Scott Eugene
Scalzitti, Larry Thomas
Scheller, Henry Reinhold, Jr.
Schlabaugh, Larry Glen
Schoenberger, Clifford Arthur
Schoener, Catherine Cecilia
Schultz, Sharon Lee
Schusler, Steven James
Schwab, Peter Paul
Seale, Charles Stevens
Seavey, Kevin Powell
Seery, Kevin Alan
Semler, Harry Edwin, III
Sexton, Joanne
Shepperd, Michael Bruce
Sherrill, William Dale
Shield, Kathy Ann
Shook, Tod Jeffrey
Shuman, Gerald Lee
Siege, Steven Theodore
Simmons, Glen Dale
Slade, Kathryn Adele
Smedley, Margaret Rose
Smethers, Richard Eugene, Jr.
Smith, Joyce Hellkamp
Smith, Michael Frederick
Smith, Paul Gilbert
Smith, Sheri Lynn
Soper, Daniel Joseph
Spurr, Richard Patrick
Staats, Richard Lee
Stampler, Glenn Lindsey
Stanley, Sharon Ann
Stapp, Charles Philip
Steiger, Keith Edward
Stephenson, Robert Del
Stevens, Amy Maude
Stewart, Anthony Cedric
Stiffler, Ellen Kathleen
Strausser, Steven Richard
Sumner, Bonnie Lee
Swan, Randall William
Swanson, Geoffrey Scott
Swanson, Robert James
Tanner, Thomas L.
Tate, William Herbert
Taylor, Frances Dixon
Taylor, Thomas Wayne
Thetford, David Dwayne
Thomas, John Waties, Jr.
Thomas, Ronald Louis
Thomas, Terry Lee
Thomas, Uwanna Donzella
Thomasson, Robert John
Thompson, Mark Neal
Thorson, David N.
Thrower, Emerson Leroy, Jr.
Tolton, Christopher John
Tomb, Kimberly Anne
Tochey, Patrick Thomas
Tracy, Albert Edward, III
Trifoglic, Gail Anne
Turok, Michael Joseph
Tyrpak, James NMN
Ulander, Mark Richard
Valenti, Barbara Frances
Visintainer, Randal Henry
Wagner, Michael Edward
Walker, Robert Amos
Walter, John Michael
Warren, James Lee
Washington, Michael Edward
Watness, Kathleen
Weatherbe, Lynn Hemingway
Welancer, Robin NMN
Welch, Thomas Mark
Wemyss, Betsy Ann
Wernz, Glenn Allan
Wertenberger, Thomas Robins
West, Marilyn Beatrice
Westonlyons, Christine Janic
White, Patrick William
Whiting, Pamela Jean
Williams, Jim Franklin
Williams, Mary Edith
Williams, Robert Allen
Williams, Steven Dean
Wills, Susan Elaine
Wills, William E.
Wilson, Arthur Dean
Wilson, Dwight E.
Wilson, Steven Richard
Winter, Deborah Kovacich
Wise, Michael Glynn
Witt, Scott William
Woolway, Thomas Martin
Yarbro, John Frank, Jr.
Yosway, Mark Philip
Zaloga, Leo Thomas
Zelinger, Joan Annette
Ziescpang, Wayne Dennis
Zimmerman, Mary Lyn
Zitney, James Alan

The following-named U.S. Naval Reserve officers to be appointed permanent ensign in the line of the U.S. Navy, subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE

Ensign, line, permanent

Berglind, Jon Eric
Braun, Charles Ralph, Jr.
Browning, David Brian
Dietrich, Edward B.
Earle, Robert Barton
Gaffney, Michael Hugh
Guerrero, Richard
Huttle, Wayne Kevin
Kenney, William Glenn
Krieg, Nancy Kathleen Clark
Looney, Kenneth Tedford
Marsh, Paul Andrew
McBrearty, Joseph Allen
McNamara, Kathryn
Moritz, Martha Grace
Murray, Steven Lee
Napoliello, Gale Virginia
Norris, Kenneth W.
Oldemeyer, Neal Scott
Parker, Kevin Earle
Rideout, Curtis Alan
Speck, Christopher Joseph
Swanson, James Kevin
Trahan, Dickie R.
Trepanier, David Bruce
Ward, Albert John
White, James R., Jr.
Will, Karl Allen

The following-named U.S. Naval Reserve officers, to be appointed permanent captain in the Medical Corps of the U.S. Navy, subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE

Captain, Medical Corps, permanent

McDonough, Edward Richard
Welch, William Calvin

The following-named U.S. Naval Reserve officers, to be appointed permanent commander in the Medical Corps of the U.S. Navy, subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE

Commander, Medial Corps, permanent

Bliss, Donald Lee
Burson, Freddy Earl
Curto, Frank S., Jr.
Daly, Richard

Dodek, Marvin I.
Geren, John J.
Groff, Terry Robert
Horn, John Russell
Imes, Richard Kelly
Kragh, Gero Spencer
Lentz, Ronald Jay
Menon, Padman Achuha
Otten, Richard Heus
Tozer, James Michael
White, Thomas Eugene

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant commander, in the Medical Corps of the U.S. Navy, subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE

Lieutenant commander, medical corps, permanent

Anderson, Michael Jon
Andrus, Kenneth L.
Arribas, Ignacio NMN
Bartok, John H.
Bond, Douglas M.
Brilli, Richard L.
Brook, Itzhak
Cardenas, Jose A., Jr.
Carter, Manley L., Jr.
Cella, John A.
Deline, Carol Compton
Dennett, Douglas E.
Depaulo, Paul S.
Elegado, Benicic Diaz
Feldman, Bruce David
Fellenbaum, Theodore L.
Fredericks, Michael Roy
Gibbia, Candace Lynn
Gibson, Donald Lee
Hall, Lee Davis
Halloran, Thomas J.
Hart, Steven Edward
Haskin, Kenneth Barry
Herdener, Richard Sherman
Hess, Leonard W.
Hill, Robert Bruce
Jacobs, Mark
Julia, Luis M.
Katona, Ildy M.
Kitagawa, Seiji
Kuthiala, Chitra
Maldonadocasillas, Carmen Ju
Mophate, Dennis C.
Mehr, Samuel Harry
Monsanto, Edner C.
O'Brien, William Francis
Puri, Hari Chand
Schmitt, James Kenneth
Shields, Robert J., III
Silverman, Eugene David
Smith, Richard G.
Smyer, Theodore Franklin
Sollock, Ronald Lee
Strosahl, Kurt F.
Taylortyree, Gill Morgan
Teddi, Raul Juan
Thomas, Raymond Milton
Vengrow, Michael I.
Wagner, Charles John
Wagner, Rosalyn Poole
Waldowski, Donald John
Weaver, John Edward
Wurzbacher, Terrie

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant in the Medical Corps of the U.S. Navy, subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE

Lieutenant, Medical Corps, permanent

Acams, Henry George
Beville, Roger H.
Boggeln, Laurence Henry
Carey, Benjamin Arthur
Collins, William Thomas
Craig, James P.
Davis, Nina Sarah
Edelstein, Marc Michael
Feitag, David S.
Hatmaker, David Larry
Holland, Christopher S.
Holmes, Denise Ophelia
Holmes, Elaine Campbell
Jacomo, John Raymond
Jones, Warren Allen
Kaminer, Sharon Jean
Koumjian, Michael P.
Krebs, Jeffrey J.
McGowan, David G.
Musher, Jeremy Seth
Nischica, Dennis Douglas
Opsahl, Michael Scott
Pakzac, Mehdi
Ratcliff, David H.
Rouse, Clyde C., Jr.
Schmidt, Gilbert Francis
Schubert, Ronald L.
Schulz, Angela Marie
Sneed, David L.
Standre, Kenneth Allen
Stone, Coy Barton
Stubenvoll, Robert W.
Swanson, Mark Eugene
Szkotnicki, Michael S.
Talley, James D.
Tucci, James M.
Varga, John H.
Warlick, Steven R.
Wood, Walter H., II

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant in the Supply Corps of the U.S. Navy, subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE

Lieutenant, Supply Corps, permanent

Dehnz, Arthur Frank
Eich, John Robert
Hendrix, Kurt Thomas
Hirman, Joyce Ireva
Jones, Donn Wayne
Keefer, Brian D.
Rach, Daniel Edward
Tichelaar, Irene

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant (junior grade) in the Supply Corps of the U.S. Navy, subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE

Lieutenant (junior grade), supply corps, permanent

Anscombe, Francis Rossiter
Ashlock, John Robert
Bechill, Robert David
Bradley, Kenneth Franklin
Bryant, Michael Bentley
Conde, Henry NMN
Cooper, Lawrence Olin
Giglic, John Pasquale
Gonzalez, Nelson E.
Gough, Garrett St. John, Jr.
Hamilton, Jeffrey Scott
Hendon, John Robert
Hicks, Carl John
Hoge, James Claud
Honeycutt, Thomas William
Lee, Dennis Richard
Martin, Dana Allen
McDonald, Edward Brian
Nieder, James Eugene II
O'Brien, Raymond Mark
Palmitier, Terry J.
Reyes, Nestor M.
Richardson, David William
Sciortino, Robert Charles
Seiden, Neil Edward
Sprow, Dale William
Trujillo, Phillip Manuel
Viellieu, Benjamin Louis
Warkentien, David Jeffery
Webb, Julie Elizabeth

The following-named U.S. Naval Reserve officer, to be appointed permanent ensign in the Supply Corps of the U.S. Navy, subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE

Ensign, Supply Corps, permanent

Riley, Thomas W.

The following-named U.S. Naval Reserve officers, to be appointed permanent commander in the Chaplain Corps of the U.S. Navy, subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE

Commander, Chaplain Corps, permanent

Hary, Melvin Joseph
Krulak, Victor Harold, Jr.
Rafnel, William Gordon
Spatorico, Joseph S.

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant commander in the Chaplain Corps of the U.S. Navy, subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE

Lieutenant commander, Chaplain Corps, permanent

Carter, John Thomas
Murphy, Kenneth J.
Stith, Moses L.

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant in the Chaplain Corps of the U.S. Navy, subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE

Lieutenant, Chaplain Corps, permanent

Guarnieri, Leo Joseph
Lawson, Douglas W.

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant commander in the Civil Engineer Corps of the U.S. Navy, subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE

Lieutenant commander, Civil Engineer Corps, permanent

Currie, Harold Dwayne
Haug, James Charles

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant in the Civil Engineer Corps of the U.S. Navy, subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE

Lieutenant, Civil Engineer Corps, permanent

Desilva, Kumar Gerald
Ingraw, Alison Hardy
Mcbrier, Michael M.
Michlin, Lee Alan
Migliore, Mark Peter
Moreal, Roland Stephen
Obetts, Charles Joseph Jr.
Sherrill, Robert W.
Smith, Frederick Russel
Vandersande, Gary Louis

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant (junior grade) in the Civil Engineer Corps of the U.S. Navy, subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE

Lieutenant (junior grade), Civil Engineer Corps, permanent

Balk, David Michael
Coleman, Bryce C.
Destafney, Thomas M.
Hagemeister, Bonnie Ann
Hollinberger, Thomas S.
Martin, Raymond L.
Mathias, David William
Smith, Martin Edward
Underwood, James M.

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant in the Judge Advocate Generals Corps of the U.S. Navy, subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE

Lieutenant, Judge Advocate Generals Corps, permanent

Bengtson, Dennis Gordon
Cantwell, Laurie Jean
Cave, Philip Douglas
Filetti, Dante M.
Herling, Daniel Joseph
Huard, Robert Francis
Modin, Richard F.
Newman, Melvin Douglas
Shaffer, Craig B.
Swanson, Richard Norris
Tezak, Frank L.

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant commander in the Dental Corps of the U.S. Navy, subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE

Lieutenant commander, Dental Corps, permanent

Elliott, Johnny Edward
Gist, Christopher James
Golder, Bruce Eric
Hill, Thomas Marshall
Huffman, Thomas Dean
Johnson, Mark Paul
Overstreet, Harry L.
Potter, Stephen Conrad
Richardson, Albert Charles
Young, Gary Bruce

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant in the Dental Corps of the U.S. Navy, subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE

Lieutenant, Dental Corps, permanent

Allushuski, Ronald G.
Alvarez, Jorge Luis
Angelillo, Dennis George
Bald, Francis A.
Ball, Ray O., Jr.
Blandy, Bruce N.
Bryan, Steven Clark
Byrne, Kenneth P.
Campbell, Jack Parker
Cardozo, Reginald Horace
Cherry, Carlton Dale
Connelly, Stephen Joseph
Cunningham, Marc Scott
Denunzio, Mark Steven
Depner, John P.
Fox, Steven Charles
Hahn, Richard C.
Hanson, Wesley Louis, Jr.
Hardekopf, James Douglas
Ingalls, Donald Lee
Jacobs, Thomas G.
Jenkins, Arthur R.
Jerome, Charles Edward
Johnson, Jay W.
Johnson, John Franklin II
Keating, Gregory Vail
Knoff, Stephen Bliss
Ludwig, Leah Marie
Mayo, Chester V.
McClain, Micheal Pickard
Middleton, Curtis Thornton
Minke, Pamela N.
Moresi, David Scott
Nelpert, Edward Anthony III
O'Sullivan, Brian P.
Prinsell, Jeffery R.
Pugh, Roy E.
Quattlebaum, James Bryan
Robertson, Charles Leonard J.
Rolf, Kurt Conrad
Schandorff, Mark Edward
Shaffer, Randy Alan
Slepsky, Peter
Smith, Ransom Newell, Jr.
Straymond, Albert Henry III
Tenenbaum, Michael George
Vandercreek, John Arthur
Vogt Joseph A.
Weaver, Thomas
Webb, Paul Elwood

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant in the Medical Service Corps of the U.S. Navy, subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE

Lieutenant, Medical Service Corps, permanent

Berrett, Melvin V.
Bird, Charles Kingsley
Chaffee, Roger Blake
Gintzig, Karen A.
Godwin, Rufus Eugene
Holmberg, Jerry Alan
Hudson, George Michael
Manders, Julian Henry, Jr.
Pollack, Jay Gary
Purk, Kenneth D., Jr.
Rosander, Richard Raymond
Salinas, Anthony Joseph
Saunders, Michael Anthony
Senn, Kenneth Karl
Sherrod, Joyce A.
Stonebraker, Alan Francis
Vontersch, Francis Joseph
Wiles, Larry
Younger, Larry Leroy

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant (junior grade) in the Medical Service Corps of the U.S. Navy, subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE

Lieutenant (junior grade), Medical Service Corps, permanent

Austin, Kathryn Louise
Earley, Gene Effriem
Linville, Rodney Devane
Marko, Kathryn Westfall
Moll, Steven Warren

The following-named U.S. Naval Reserve officers, to be apointed permanent commander in the Nurse Corps of the U.S. Navy, subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE

Commander, Nurse Corps, permanent

Glass, Joan B.
Muszynski, Elizabeth F.

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant commander in the Nurse Corps of the U.S. Navy, subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE

Lieutenant commander, Nurse Corps, permanent

Francis, James Blake
Johnson, Joelle Denman

The following-named U.S. Naval Reserve officers, to be apointed permanent lieutenant in the Nurse Corps of the U.S. Navy, subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE

Lieutenant, Nurse Corps, permanent

Alexander, Olivia C.
Amspacher, Marilynn Leona
Anderson, Muriel Bernadine
Arington, Ronald Gene
Baduini, Nancy Ann
Baker, Barbara Ann
Barnett, Carol Ann
Besselman, Christine
Blanford, Ritchie Don
Bley, Yvonne Marie
Bloomfield, Robert J.
Bowman, Barbara
Braunbeck, Doris Jean
Brittain, Marion Frances
Buchanan, Diane Ruth
Butterworth, Dennis J.
Charters, Kathleen Grace
Christianson, Patricia Lynn
Cohane, Alice Katherine
Conway, Maria Pilar
Cornwell, Douglas Edward
Coughlin, David Joseph
Coulapides, Debora Ann
Dalghenbaugh, Jane Anne
Davis, Donald Edward
Dodson, John Horace, Jr.
Dunlap, Ellyn Mary Doucette
Dyson, Gregory L.
Earhart, Linda Amick
Filley, Jackie Ellen
Gates, Laurie Ann
Geesen, Patricia Margaret
Giljohann, Maryann E.
Green, Matthew Alan
Halton, Lisa Loy
Hanson, Kristine Julia
Hibson, Durinda Jeanette
Holcombe, Elizabeth
Holmes, Diana Mae
Hoogendorn, Raelene Kulenich
Irwin, Lori Kathryn
Jambor, Eva Gabriella
Kent, Deborah C.
Kindred, Jay William
Kingsbury, Erline R.
Kooks, Sharon Rose
Kuhlmeyer, Alison Denise
Lambdin, Christopher Lynn
Landy, Patsy Lee
Lillycrop, Debra Ann
Maher, Mary E.
Malone, Tracy Ann
McKay, Deborah Ann
Misencik, Joan Marie
Monroe, Cynthia Shaun
Moss, Mary Fern
Myers, Deborah Ann
Nason, Mary Margaret
Nelson, Marcia Ann
Norris, Thomas Joseph
Phalen, Joan Marie
Reinertsen, Linda M.
Render, Sharen Lynn
Rhetta, Alice Frances
Ross, Barbara Ann
Schultz, Donna Jean
Stark, Nancy Lee
Staubin, Pamela Ann
Suggs, Amy Lee
Tymensky, Catherine Glenn
Vanstraaten, Jeri Lynn
Wagen, Juliana Marie
Young, Kathleen Joan

The following-named U.S. Naval Reserve officers, to be appointed permanent lieuten-

ant (junior grade) in the Nurse Corps of the U.S. Navy, subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE

Lieutenant (junior grade), Nurse Corps, permanent

Claburn, Paula Lynn
Forcier, Steven Bruce
Kohl, James Edward
Laudolff, Margaret Mary
Otero, Lynn Marie
Reichert, George W.
Rice, Billy Joe
Watt, John William
Williams, Deborah NMN

The following-named limited duty officers to be reappointed permanent lieutenant commander as regular officers in the line of the U.S. Navy, subject to qualifications therefor as provided by law:

LIMITED DUTY OFFICERS, LINE

Lieutenant commander, permanent

Edwards, Kenneth P.
Fawcett, Peter F.

The following-named limited duty officer, to be reappointed permanent lieutenant as a regular officer in the line of the U.S. Navy, subject to qualifications therefor as provided by law:

LIMITED DUTY OFFICER, LINE

Lieutenant, permanent

Calhoun, Michael A.

The following-named temporary limited duty officer, to be appointed permanent lieutenant in the line of the U.S. Navy, subject to qualifications therefor as provided by law:

LIMITED DUTY OFFICER

Lieutenant, line, permanent

Devey, William Sidney, Jr.
Dufeck, Jerry L.
Jefferson, Charles R.

The following-named temporary limited duty officers, to be reappointed permanent lieutenant (junior grade) in the line of the U.S. Navy, subject to qualifications therefor as provided by law:

LIMITED DUTY OFFICER, LINE

Lieutenant (junior grade), line, permanent

Morrison, Robert Edward
Pertle, William Edgar

The following-named U.S. Naval Reserve Chief Warrant Officers, to be appointed permanent chief warrant officer (CWO2) of the U.S. Navy, subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE

Chief warrant officer (CWO2), permanent

Frantzen, Thomas Alan
Stone, Michael Douglas

The following-named temporary L.S. Naval Reserve chief warrant officers, to be appointment permanent chief warrant officer (CWO2) of the U.S. Navy, subject to qualification therefor as provided by law:

TEMPORARY U.S. NAVAL RESERVE

Chief warrant officer (CWO2), permanent

Dawkins, Max R.
France, Robert L.
Kusowski, Edwin T.
Lyle, Astin A.
Reasp, Gary W.
Williams, Glenn E.

The following-named temporary chief warrant officer, to be appointed permanent chief warrant officer (CWO3) of the U.S. Navy, subject to qualifications therefor as provided by law:

Chief warrant officer (CWO3), temporary

Chief warrant officer (CWO3), permanent

Bohannon, Talmadge Wayne

The following-named temporary chief warrant officer, to be appointed permanent chief warrant officer (CWO4) of the U.S. Navy, subject to qualifications therefor as provided by law:

Chief warrant officer (CWO4), temporary

Chief warrant officer (CWO4), permanent

Fiery, John Mulliss, Jr.

EXTENSIONS OF REMARKS

ALABAMA WILL BENEFIT MOST FROM TENN-TOM

HON. BOB EDGAR
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES

Monday, December 6, 1982

● Mr. EDGAR. Mr. Speaker, I would like to bring to the attention of Members an article written several years ago in the Birmingham News which I believe should be valuable in considering appropriations for the Tennessee-Tombigbee Waterway. The article makes the point that the State of Alabama will receive the lion's share of benefits from this project. Yet, Alabama has made a very minimal contribution to financing the Tenn-Tom.

When we consider the fiscal year 1983 energy and water appropriation later this year Representative Pritchard and I will offer an amendment to reduce funding for the Tenn-Tom by $100 million. In order for the project to be kept on the ambitious schedule set by the Corps of Engineers, we would suggest that the States of Alabama and Mississippi provide a reasonable non-Federal financing share toward finishing the project.

The article and a copy of an explanation of my amendment follows:

[From the Birmingham News, Nov. 29, 1978]

ALABAMA WILL PROFIT MOST FROM TENN-TOM

(By Peter Kovacs and Brett Guge)

Most of the Tennessee-Tombigbee Waterway's 232-mile length sprawls north-to-south across sparsely-populated northeast Mississippi.

But economic impact studies indicate the state that will benefit most from Tenn-Tom will be Alabama, home of the southern third of the waterway.

Whether the nation as a whole will come out in the black from Tenn-Tom is one of the major points still being argued. Opponents insist that estimates of the cost and benefits of the waterway developed by the U.S. Corps of Engineers have been misleading.

Alabama will benefit both because its state docks will handle goods hauled on the waterway through Mobile and because the project will create more jobs in Alabama than in any other state, according to William H. (Pete) Kelley, public affairs director for the Tennessee-Tombigbee Waterway Authority.

The authority, funded by Alabama, Mississippi, Florida, Kentucky and Tennessee, is headquartered in Columbus, Miss., the largest (population 30,000) city on the banks of the Tenn-Tom.

It is the principal public relations group and lobbyist for the waterway project.

The authority also coordinates state and federal agencies roles in building the waterway, Kelley says, and works "to promote development on the waterway."

Promoting development, he says, may be the authority's most important job.

"The counties that Tenn-Tom runs through (in both Mississippi and Alabama), with a couple of exceptions, are among the poorest in the country," says Kelley.

"There's a lot of unemployment, but there's even more underemployment."

For instance, he points out, Greene County in Alabama was ranked the second poorest county in the nation in the 1970 federal census.

"It has come up some since," he admits, but adds that in 1970, "not a single manufacturing plant of any kind—nothing" existed in Greene county.

"Mississippi is 50th (among states) in practically everything," says Kelley. "Alabama is 47th in per capita income. There is room for growth, and they (these two states) need some growth. And, they also need some industrial jobs."

Recent studies conducted for the Corps of Engineers indicate that, by 1986, Tenn-Tom will create 14,600 new jobs in Alabama, 3,500 of which will be in Mobile. That is the year the waterway is supposed to go into operation.

By the year 2000, the studies show, Alabama will have reaped nearly 55,000 new jobs and a total economic impact of more than $7 billion—all due to Tenn-Tom.

State and local tax money that will be generated by new jobs and businesses, at projected rates through the year 2000, total $616 million.

All of that comes for a construction cost to the state of Alabama of about $8 million.

That requires some explanation. Technically, the non-federal cost for construction of Tenn-Tom is $137 million—roughly $110 million from Mississippi and another $27 million from Alabama. The states are required to pay for replacing bridges over the proposed waterway.

The Mississippi Legislature approved a $40 million bond issue in 1976 to take care of its share of those bridge relocation expenses. It soon become apparent that was not nearly enough.

U.S. Rep. Jamie L. Whitten of Mississippi went to bat for his state. He persuaded Congress to include in the Federal Aid Highway Act a provision for federal monies to help states relocate bridges that cross federal projects.

For Whitten's provision, Congress allocated $100 million for nationwide use. Nearly all the money ended up going to Alabama and Mississippi for the Tenn-Tom project.

Alabama and Mississippi together either have spent or appear likely to spend $90 million of the original $100 million solely for relocations due to Tenn-Tom.

Mississippi has been given roughly $49 million of the total, and hopes to get $21 million more.

That, coupled with its $40 million bond issue, adds up to the $110 million in relocation costs brought on by Tenn-Tom.

Alabama, which has only three bridges to relocate (Mississippi has 10), already has authorized two bond issues—one for $10 million and one for $25 million—to pay for the work.

But with Mississippi getting federal grant money to help take care of its "state" costs of Tenn-Tom, Alabama applied for some as well.

The state now is going to spend only about $8 million of the original $10 million bond issue for bridge relocation, according to Tom Espey, assistant highway director.

The balance of roughly $20 million for Tenn-Tom bridge relocations in Alabama will come from the federal highway aid fund.

Thus, the Corps lists non-federal expenditures as $137 million, while the states of Alabama and Mississippi actually are spending only about $48 million. The rest is coming out of another federal pocket and is referred to as "grant" money.

The "grant" status means it does not have to be included in federal costs of Tenn-Tom, according to a Corps spokesman.

Espey said Alabama's remaining $27 million in bonds it had planned to sell to finance Tenn-Tom bridge relocations probably never will be sold.

"That's the way I see it at the moment," he said.

The only other state costs related to Tenn-Tom are the annual contributions by the five member states that make up the Tennessee-Tombigbee Waterway Authority.

The authority was formed in 1958 by Alabama and Mississippi, under the administrations of Govs. James E. (Big Jim) Folsom of Alabama and J. P. Coleman of Mississippi.

Tennessee, Kentucky and Florida joined later.

In the intervening years, as of Sept. 30, 1978, Alabama has spent more than $1.3 million to fund the authority; Mississippi has spent $920,000; Tennessee, $686,000; Kentucky, $58,130; and Florida, $7,693.

Mississippi can expect to gain benefits from Teen-Tom similar to Alabama's according to studies conducted by Corps-hired researchers.

The construction phase alone is forecast to produce 2,600 to 5,000 jobs at an annual wage of $12,000 to $15,000. In a 15-county area in northeast Mississippi, as many as 70,000 new residents are expected to settle because of Tenn-Tom by the year 1990.

As many as 32,000 new job are expected in those same counties by 1990. Those jobs, say Corps researchers, will increase income in the 15 counties by $740 million to $880 million.

It is easy to see how Mississippi and Alabama can benefit from Tenn-Tom. Effects on Florida. Tennessee and Kenkucky are more subtle.

Florida is expected to benefit because its own port cities will be that much closer to a waterway route to coal-producing states to the north.

Existing industries in Tennessee, studies show, could save more than $12 million annually in transportation costs by shipping or receiving about 12 million tons of goods on Tenn-Tom.

CUT $100 MILLION FROM THE TENN-TOM

In the upcoming special session of the 97th Congress, we will consider provisions of the FY 1983 Energy and Water Development Appropriations legislation. When the bill comes to the floor we intend to offer an amendment to reduce the $186 million ap-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

propriations request for the Tennessee-Tombigbee Waterway project by $100 million. Our amendment will still leave Tenn-Tom's funding at the highest level for construction of any Army Corps of Engineers project in the nation—$86 million. We remain unconvinced that this project has sufficient merit to command the vast expenditure of funds included in the 1983 budget request, especially in the face of federal budget deficits unprecedented in the nation's history.

Serious questions have been raised about many aspects of this project. At the outset of its funding in 1972, Congress was told the total cost of the project would be only $323 million. The Corps now estimates total costs for the currently authorized project at over $2 billion and ultimate costs to complete the waterway to Mobile Harbor at over $3 billion. These estimates were verified in a GAO study of the project last year. Other costs to the federal government, including major dredging work at Mobile Harbor attributable to the Tenn-Tom, may drive these ultimate cost figures even higher.

Both the GAO study and a study of likely coal traffic by the Congressional Research Service have seriously questioned the benefit claims of the waterway in terms of tonnage and savings to coal shippers—the foundation of the Corps' justification of the waterway. The CRS study points out that labor costs per ton of coal shipped could run as much as ten times that of shipments on the Mississippi River—the Tenn-Tom's chief competitor for barge traffic.

Another troubling aspect of the project is the minimal commitment of the states involved to this enormous undertaking. When the Tenn-Tom was originally authorized, Mississippi and Alabama were made legally responsible for all bridge construction and road relocations associated with the project. In the most recent Corps projections, these costs are estimated at $164 million or approximately 8% of the projected $2 billion cost of construction from Pickwick Lake to Demopolis. However, an amendment to the 1976 Federal Highway Act (Sec. 132, PL 94-280) allowed federal highway funds to be spent on such road and bridge costs. Thus, the federal government picked up $89.5 million of Mississippi's and Alabama's road and bridge obligations. The Appalachian Regional Commission has also spent $11.5 million on Tenn-Tom-affected county roads in Mississippi. When federal highway money is excluded from the local share of Tenn-Tom's costs, we discover that non-federal interests will carry only $74.5 million, or 3.7%, of the total project construction costs.

In an era of reduced federal support for national water development, several states have recognized the need to supplement federal efforts with increased state financing. Examples include Pennsylvania, which authorized a $300 million water development bond issue in 1982, and Washington, which authorized $75 million for water development in 1980. Other states which have recently approved bond issues for water development include: Missouri ($600 million), North Carolina ($300 million), and New Jersey ($350 million). Wyoming now holds a $24 million account for water development based on severance tax revenues.

Meanwhile, the 97th Congress has also moved towards requiring greater non-federal support for water development. For example, an amendment passed by the House on September 30, 1982 will require 20% upfront, non-federal financing for an additional authorization for the Colorado River Basin Project. As Interior Committee Chairman Udall stated at the time, "Things have changed a lot over the past few years, and those of us in the West have got to get used to the idea . . . that there must be cost-sharing."

In light of these events, it is noteworthy that the state of Alabama recently chose to invest heavily in highways, bridges, and waterway construction projects with revenues from $449 million in oil and gas revenues in Mobile Bay. None of this investment, however, is slated for use to offset the costs of the Tennessee-Tombigbee. A Mississippi State University study recently showed that Mississippi will receive $119 million in additional tax revenues from wages associated with construction of the Tenn-Tom.

With federal deficits for FY 1983 projected at well over $100 billion, we can ill-afford to spend $186 million this year on the controversial Tenn-Tom project. Tenn-Tom's share of the water development budget is nearly three times the level of the next largest Corps project. Given the lack of demonstrated urgency to complete the project, cutting the waterway's funding is an ideal way of helping to ease our desperate 1983 budget predicament. By reducing the funding level to $86 million it is hoped that local and state governments and the project's direct beneficiaries will be encouraged to step in with financing assistance if they feel it is necessary to keep the project on the ambitious schedule that the Corps has set.

We hope you will join us in support of this amendment and in an effort to set reasonable national priorities and reduce the federal deficit.

Sincerely,

JOEL PRITCHARD,
BOB EDGAR,
Members of Congress.●

GAS PRICE INCREASES MUST BE STOPPED

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 6, 1982

● Mr. HARKIN. Mr. Speaker, today I am cosponsoring the Temporary Natural Gas Marketing Act of 1982. This act simply requires that a gas pipeline company purchase and provide to its customers the lowest cost gas that is available. Under present industry practices, pipeline companies buy expensive gas, while refusing to use far less expensive gas. The customers are forced to pay the difference.

The pipeline companies take the more expensive gas because of contracts that they signed. The contracts require that the companies take 80, 90, or even 100 percent of the gas that is available, whether they need it or not. These same contracts have provisions which require ever-higher prices for that gas.

The result is dramatically skyrocketing gas bills. The town of Guthrie Center, for example, with 735 residential customers and a little more than 100 commercial users, now expects the price of its gas to go up by more than 32 percent in 1 year. There would be a $100 increase in the cost of gas for every man, woman, and child in the town.

Guthrie Center, a typical farming community, will see $171,000 leave the area. This is crippling to the local economy, which has been badly hurt by low-farm prices and the lowest net income for farmers since the Depression. Across Iowa, we can expect a 20-percent increase in gas prices.

The elderly who live on a fixed income will be devastated by these increases. Their heating bills are increasing to the point where they must decide between heat or food. Many will be forced to give up their homes and their independence.

On the farm, the higher prices for natural gas mean sharply higher costs to farmers. Seventy percent of the production costs of nitrogen fertilizer is for natural gas. It also means sharply higher costs for the drying of grain. In addition, two-thirds of the LP gas used on Iowa farms comes from natural gas. Those prices will also be increasing.

The price of natural gas is rapidly increasing for a number of reasons. Gas was in very short supply in the late 1970's and the producers had the advantage. The pipeline companies did not fight the unreasonable terms that were set. Whatever they paid would be passed on to the ultimate consumer at a profit. The pipeline companies took the attitude that the demand for natural gas would rise, with little regard to price. They thought that price would have a relatively small impact on residential demand, and that conservation would not be able to sharply reduce the need for gas. That was extremely poor judgment. It was, however, a judgment which would tend to increase profits. Furthermore, many pipeline companies own some of the gas wells or are major stockholders in the oil and natural gas companies. This is true of Northern Natural Gas, which supplies most of the natural gas for Iowa. Lastly, the Natural Gas Policy Act, which partially deregulated natural gas, allowed these unconscionable contracts to come into being. The act allows the gas producers to sharply raise the price of some types of gas, regardless of the availability of less expensive gas.

For all of these reasons, we now see cheap gas not being used, while expensive gas costing many times the price of the cheaper gas is still in the ground. Although the pipelines have contracts for that gas, they are not required to take it. They are taking the very expensive gas that they contracted for in the late 1970's. The people who use that gas pay the entire bill. They have no choice.

The bill being introduced today would call an end to this situation for a year. The pipeline companies would

have to use the cheapest gas available. Those who have gas to sell at higher prices could reduce their price; they could sell it to someone else who did not have less expensive gas available; or they could keep the gas in the ground.

If a pipeline company did not use the cheapest gas that was available to it, it would be subject to the fraud and abuse provisions of the law.

By next November, Congress would have the opportunity to examine the laws concerning natural gas and pass a law which is fair to all parties.●

CONCERN ABOUT H.R. 7357

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 6, 1982

● Mr. EDWARDS of California. Mr. Speaker, I continue to have grave reservations about the Immigration Reform and Control Act of 1982, H.R. 7357. My concern about this measure is shared by my California colleague in the Senate, Senator ALAN CRANSTON. I have included for the RECORD Senator CRANSTON'S recent statement on this bill.

I have been informed that the House of Representatives may strip the alien legalization provisions from the immigration bill which was passed by the Senate last summer. This action, if it happened, would be a grievous mistake.

I opposed the immigration bill in the Senate last summer because it would impose expensive, dangerous requirements that every person working in the United States have some form of authorization by the government in order to work. That is a major step toward a police state. There are no emergency conditions in our nation which would justify such an extraordinary imposition upon our people.

But the bill, as objectionable as it was, will be far more so if it is returned to the Senate without the alien legalization provisions.

There is no realistic way our government can round-up and deport the hundreds of thousands, perhaps as many as several million, of unauthorized aliens presently living in the United States. The disruption to communities, families and businesses would be catastrophic. The disorders on our borders and the severe economic dislocations which would take place in Mexico and other countries as jobless immigrants streamed home could shake the very foundations of the already unstable economies of Central America.

Undocumented workers have contributed substantially to the productivity of our economy. They have earned our acceptance. The Senate recognized this when it provided in the alien legalization provisions that those who wish to apply for permanent residence, and who have lived and worked here since 1977 would be eligible to do so. Those who have been here only recently would be eligible to apply for temporary status, should they decide to do so. This provision in the Senate bill offers a way for these people to become lawful residents should they decide to make the proper application.

A stripped down version of the bill containing only penalities against employers who hire unauthorized alien workers, would be harsh, unfair and unwise.

Unless there is some means of verifying that a worker is eligible to work in the United States, an employer is at an unfair risk if he hires someone who might turn out to be an unauthorized alien. Such a situation would lead to racial and ethnic discrimination in hiring—something we have been striving to eliminate for 18 years.

But any scheme to make the employer penalty provisions nondiscriminatory still would be unfair without legalization provisions. Persons who are unauthorized to work under the bill would be subject to deportation. If they remain in the country they would have to work underground. These persons would live in terror of immigration agents. They could be easily exploited and held in virtual peonage by unscrupulous individuals.

I am resolved to resist enactment of immigration legislation which would impose the tragedy of mass deportation and internal police terror in our communities.●

HOWARD MANKINS—AN EXEMPLARY PUBLIC SERVANT

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 6, 1982

● Mr. PANETTA. Mr. Speaker, I would like to bring to the attention of my colleagues the retirement of one of the finest public servants I know, chairman of the San Luis Obispo County Board of Supervisors Howard Mankins.

Howard has served as a member of the county board of supervisors for 10 years. He was designated chairman during the years 1973, 1977, 1978, and 1982, and vice-chairman during 1974 and 1979. Clearly, his colleagues on the board have had as much respect for his abilities as have the voters of San Luis Obispo County.

Howard was born in 1927 in Los Berros and was raised in San Luis Obispo County on his family's ranch. His ancestors arrived in California more than a century ago, in 1876.

In addition to his work as a member of the board of supervisors, Howard has also served as treasurer to the Port San Luis Harbor District, as a member of the county revenue sharing committee, the building space committee, and the economic opportunity commission. He is active in other community organizations as well, being a charter member of the Arroyo Grande Chamber of Commerce and a member of a variety of other community and government organizations.

The people of San Luis Obispo County join me in expressing regret about Howard's retirement, and I know my colleagues will join me in wishing him the best of luck in the years ahead.●

300 CHURCH LEADERS PROTEST U.S. POLICIES IN CENTRAL AMERICA

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 6, 1982

● Mr. EDGAR. Mr. Speaker, As many Members know, December 2 was the second anniversary of the brutal murder of four American churchwomen in El Salvador. The criminals in this case have not yet been sentenced, nor has a full and open investigation of the matter been forthcoming. Our attention remains focused on El Salvador and the brutalities which continue to occur in that troubled country. The Salvadoran authorities have been unable or unwilling to end these abuses and establish peace and justice in El Salvador. Meanwhile concern about American policy in the region continues to grow here at home, especially in the religious community.

As evidence of ths continuing concern, I would like to place in the RECORD an article from last Sunday's New York Times containing the latest in a series of protests against U.S. Central America policies by American Church leaders.

The article follows.

[From the New York Times, Nov. 28, 1982]

300 CHURCH LEADERS PROTEST U.S. POLICIES IN CENTRAL AMERICA

(By Charles Austin)

More than 300 religious leaders in the United States, including 22 Roman Catholic bishops, have issued a message denouncing the Reagan Administration's policies in Central America.

The message, in the form of an ecumenical pastoral letter, comes amid growing concern by American churches over United States involvement in Central America.

"As citizens of the United States we are particularly sensitive to the responsibility that our Government bears in the oppression and violence in Central America," said the letter issued Friday at a news conference in New York.

The letter was distributed by the Inter-Religious Task Force on El Salvador and Central America, supported by more than a dozen religious agencies. In addition to the Catholic bishops, heads of several major Protestant denominations and nine American rabbis signed the appeal.

VIOLATION OF RIGHTS AND DIGNITY

Noting that many churches have already protested military and economic support of governments in Central America, the letter said that "our Government is embarked on a course which we believe will only increase the bloodshed and violation of people's rights and dignity, as well as increase the danger of regional war."

It continued: "We deplore our Government's role in the militarization of Central America, including the slow but steady increase of U.S. military advisers in El Salvador, Honduras and Guatemala."

Americans, the letter said, should seek an end to all military aid and intervention in Central America, an end to covert oper-

ations by the United States Government there, negotiated political solutions to conflicts in El Salvador and between Honduras and Nicaragua, and temporary asylum for Central Americans fleeing oppression.

Bishop Rene Valero of Brooklyn, one of the signers, said he believed there was a "greater awareness among American Catholics than ever before" of the problems the church faces in Central America, partly because of the growing number of American Catholics of Hispanic background.

DISMAYED "BEYOND WORDS"

Ruth Harris, an executive with the United Methodist Church Board of Global Ministries, said that after a recent visit to Nicaragua and Costa Rica she felt "humiliated and angry" about American policy in the Caribbean. The Reagan Administration's policies in Central America "dismayed us beyond words," she said, quoting a letter a delegation of church officials wrote to farmers in Nicaragua after their visit there Nov. 10–22.

Among the signers of the letter were Bishop James Armstrong, president of the National Council of Churches; William P. Thompson, Stated Clerk of the United Presbyterian Church; Dr. Kenneth Teegarden, president of the Christian Church (Disciples of Christ); Dr. Arie Brouwer, general secretary of the Reformed Church in America; Dr. Paul Wee, general secretary of Lutheran World Ministries; Episcopal Bishop John H. Burt of Ohio and Dr. Thelma Adair, national president of Church Women United.●

TEMPORARY NATURAL GAS MARKET CORRECTION ACT OF 1982

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 6, 1982

● Mr. OBERSTAR. Mr. Speaker, members of the Northeast-Midwest Congressional Coalition today introduced emergency legislation to prevent excessive natural gas prices from crushing American consumers and the national economy this heating season.

The Temporary Natural Gas Market Correction Act of 1982 was introduced in both the House and the Senate with bipartisan sponsorship in both Houses.

The situation facing natural gas consumers, residential and commercial, is critical. Natural gas prices are defying traditional laws of supply and demand. The Nation's supplies of natural gas are up, consumption is down; but prices are expected to rise 20 to 60 percent in many areas of the country this winter. That will cost consumers an additional $13 to $20 billion in higher natural gas prices.

Our goal, very honestly, with this bill, is price relief for natural gas consumers.

The members of the Northeast-Midwest Congressional and Senate Coalitions represent the region of the country with the highest energy costs; that is why we have initiated this emergency legislation. The critical situation, however, is not limited to the region we represent. On the contrary, it is a nationwide problem which demands an immediate solution.

Consumers in our region will pay about $21 billion of the Nation's $65 billion price tag for natural gas this year. If our amendment is enacted, new gas bills could be some $7 billion lower; without it, they will pay up to $7 billion more.

We are proposing that solution even in a brief lameduck session, because, to be effective in providing financial relief for consumers, legislative action must occur now, not in March or April. Our approach is not a substitute for the development of a long-term natural gas policy. Such action must await the 98th Congress beginning next month. Rather, we have introduced legislation in response to an emergency which cannot wait for relief next year.

The contradiction of increasing supplies, declining demand, and rising prices is a consequence of take or pay provisions in contracts between pipeline companies and natural gas producers. The effect of these provisions is to require the pipeline company to use more expensive gas, rather than to use available, lower cost natural gas.

Pipeline companies signed these long-term, take or pay contracts with producers in response to shortages in the mid-1970's.

The Federal Energy Regulatory Commission, under the Natural Gas Policy Act of 1978, which I voted against, routinely allows pipelines to pass the higher costs on to gas distribution companies, and, through them, to consumers. On September 29, members of the Northeast-Midwest Congressional Coalition met with FERC Chairman Butler and asked him to take administration action to require modification of these take or pay contracts. At that meeting, Chairman Butler informed the coalition that the Commission had no statutory authority to require renegotiations. Today's legislation is an outgrowth of that meeting.

Our legislation will not only permit renegotiation of such contracts; it will require pipelines to deliver the least cost mix of gas to distribution companies by requiring them to take the maximum amount of least expensive gas they have under contract before taking expensive gas covered by take or pay provisions. A pipeline company will have the authority and legal duty to refuse high-priced gas if less expensive gas is available under existing contracts.

Pipeline companies which do not provide the least cost mix will be subject to the fraud and abuse standard of the natural gas policy act administered by the Federal Energy Regulatory Commission.

The act will take effect 15 days after enactment. It will expire on November 1, 1983. Given the timelag necessary for reduced prices to be passed through, consumers will notice reductions in the natural gas bills this winter, likely in March, with retroactive adjustments in the period beginning 15 days after enactment.

The precedent for statutory requirement of renegotiation is long established. Various Federal price regulation schemes have been upheld judicially as consitutionally valid exercises of the commerce power granted Congress by the Constitution. Courts have upheld similar congressional action in the Natural Gas Policy Act of 1978, the Emergency Petroleum Allocation Act, and the Economic Stabilization Act of 1970, under which, in 1971, then-President Nixon initiated mandatory wage and price controls, which represented significantly greater intrusion into private contractual arrangements than the limited legislation we have introduced today.

We have a good bill which attempts to address the most critical short-term energy problem facing the United States today. It is a bill which addresses national, not regional, concerns. The sponsorship is bipartisan; we expect that the support in both the House and the Senate, and hopefully in the administration, will also be bipartisan.

The list of cosponsors follows:

ORIGINAL COSPONSORS

Mr. James L. Oberstar; Mr. Robert W. Edgar; Mr. Frank Horton; Mr. Silvio O. Conte; Mr. Hamilton Fish, Jr.; Mr. Fernand J. St Germain; Mr. Doug Walgren; Ms. Barbara A. Mikulski; Ms. Mary Rose Oakar; Mr. Tom Harkin; Mr. John F. Seiberling; Mr. Dennis E. Eckart; Mr. William F. Clinger, Jr.; Mr. Edward P. Boland; Mr. Berkley Bedell; Mr. Ed Weber; Mr. Toby Roth; Mr. George C. Wortley; Mr. Parren J. Mitchell; Mr. Bruce F. Vento; Mrs. Lynn Martin; Mr. Matthew J. Rinaldo; Mr. Clarence D. Long; Mr. Steny H. Hoyer; Mr. Donald J. Pease; Mr. Matt McHugh; Mr. Larry Winn; Mrs. Cardiss Collins.

HON. JACK BRINKLEY

HON. CHARLES HATCHER

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. HATCHER. Mr. Speaker, I take this brief opportunity to join with my many colleagues in the Georgia delegation and the rest of the House who have risen in tribute to the Honorable JACK BRINKLEY.

Although I have been privileged to serve with JACK in this body for only the past 2 years, I have come just as others have to respect his wealth of experience and, particularly, his outstanding talents for bringing together those with divergent viewpoints in an environment which permits compromise and understanding.

It seems to me also fitting to mention on this occasion the great respect and warmth held for JACK by those whom he has served in the Congress. My district adjoins JACK's for some 150 miles and, because of this, I have been especially aware of the feelings of his constituents. There is no doubt in my mind but that, had he so chosen, JACK could have been reelected to this body for as long as he desired. This is a remarkable comment upon the great success of his career and his personal accomplishments.

Our delegation and this House will miss JACK BRINKLEY. I hope, however, that our loss will be his gain and that he and his lovely wife, Lois, have the happiest of new lives in Georgia.●

A SALUTE TO CONGRESSMAN ROBERT H. MOLLOHAN

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1982

● Mr. STOKES. Mr. Speaker, I take this opportunity to commend and thank my distinguished colleague, the Gentleman from West Virginia, Mr. RAHALL, for reserving time for this salute to my good friend, Congressman ROBERT H. MOLLOHAN. As we all know, Mr. Speaker, BOB MOLLOHAN will be retiring at the end of the 97th Congress after having served nine terms. Today, I join with my colleagues on both sides of the aisle in commending him for the kind and quality of service he has provided in the House on behalf of the residents of West Virginia's First Congressional District.

Mr. Speaker, the citizens of West Virginia have been the primary benefactors of BOB MOLLOHAN's dedicated service, both before and after he entered the U.S. House of Representatives. It was as Director of the Works Progress Administration during the Depression that he gained an unforgettable impression of what happens to the working person when an economy fails. Later, as a member of the executive committee of the Congressional Steel Caucus, and as a member of the coal group, BOB MOLLOHAN put to use the knowledge gained earlier to avert or alleviate unemployment for West Virginians.

Not only has BOB been an exemplary legislator in the House of Representatives, but he has also performed a yeoman's job in rendering needed constituent services. Since I am aware of what an important priority this has been to BOB, it is a pleasure for me to congratulate him on a job well done. I know that his constituents will miss BOB greatly for this unequaled service and for the generosity of spirit that stood behind it.

Mr. Speaker, in my mind, Congressman MOLLOHAN has not only distinguished himself in his devotion to the needs of his constituents, but he has also made his mark as a lawmaker within the Halls of Congress. During his 18-year tenure in the House of Representatives, he has been what I call a working legislator. That is, Mr. Speaker, BOB MOLLOHAN has been a conscientious worker behind the scenes in constructing legislation that aided all Americans. BOB MOLLOHAN shunned the rhetoric often associated with the floor of the House and substituted for it long hours of work in formulating legislation considered by this body.

As a member of the House Armed Services Committee, BOB serves as a ranking member of the Investigations, Seapower and Strategic and Critical Materials, and the Research and Development Subcommittees. On the committee, Congressman MOLLOHAN gained a reputation as the resident expert in the important areas of shipbuilding and strengthening our Navy. Mr. Speaker, the important caveat here is that BOB MOLLOHAN knew of the importance of the military in this Nation but kept that need in the proper perspective, withstanding efforts to increase our military budget beyond its actual needs.

Mr. Speaker, in addition to being a respected member of the House Armed Services Committee, Congressman MOLLOHAN was one of the key members of the House Administration Committee. Because of his assignment on the committee, I had the opportunity to become better acquainted with him. As many of my colleagues remember, I was the chairman of the House Select Committee on Assassinations. As the chairman of that committee, I was in constant contact with the House Administration Committee in order to secure funds for the operation of our important investigation.

In BOB MOLLOHAN, I found not only a friend, but also a human being deeply committed to the committee's purpose of resolving some of the lingering questions surrounding the assassinations of President Kennedy and Dr. Martin Luther King, Jr. Throughout the committee's investigations, BOB MOLLOHAN was extremely supportive and worked to insure that the committee had all of the financial resources available to complete its task. I am very grateful to BOB for his understanding in this matter.

So, it is with those general and personal remarks, Mr. Speaker, that I join with Mr. RAHALL, the members of the West Virginia delegation, and my colleagues in this tribute to BOB MOLLOHAN. By his dedicated service to his constituents and by his support of just causes in the House of Representatives, he made an indelible mark on this body and the Nation. As the 98th Congress begins, and as we face a world far more uncertain than when our much-admired colleague first took office, I shall miss the quiet leadership and unassuming personality of my good friend, BOB MOLLOHAN. I take this opportunity to publicly thank BOB MOLLOHAN for his contributions to Congress, his colleagues, and Americans citizens.●

HON. JACK BRINKLEY

HON. BILL NELSON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. NELSON. Mr. Speaker, it is an honor to join my friends in paying tribute to a legislator who has served his State and this institution in a manner we can all admire.

As dean of the Georgia delegation, JACK BRINKLEY has provided leadership to us all. For 16 years, the Congress has benefited from his wisdom and guidance. His efforts in military affairs especially have proven invaluable. As chairman of the Subcommittee on Military Installations and Facilities, a leader in civil defense planning, and a compassionate guardian of our veterans' interests, JACK has well represented his constituents in the State of Georgia. JACK BRINKLEY's dedication to the national interest, his distinguished service to all Americans, and his warm friendship will long be remembered by all of us who have had the privilege of working with him. We wish you much success in the new challenges ahead.●

SUPPORT THE STEEL CAUCUS "BUY AMERICAN" AMENDMENT

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 6, 1982

● Mr. OBERSTAR. Mr. Speaker, when the House later today considers H.R. 6211, the Surface Transportation Act of 1982, we will be asking the American people to assume an increased tax burden. In return, the Federal Government through the States will fund a much-needed, long overdue, major rebuilding program for the Nation's transportation infrastructure.

I am honored to be a member of the House Public Works and Transportation Committee which approved H.R. 6211 over 6 months ago. We needed the bill badly then; we need it urgently now. Regrettably, floor action has been delayed because President Reagan wanted to use the increased taxes to reduce his budget deficit, rather than to build highways and bridges; the committee said "no" and shelved the bill until the President

would change his mind—which he has done.

The issue, however, now is not recrimination over delay, but the need for expeditious action on this legislation to rebuild the Nation's highways, bridges, and mass transit systems.

H.R. 6211 is equally important because of its job-creating potential. On Friday, the Department of Labor issued unemployment statistics showing that over 12 million Americans are out of work—10.8 percent of the labor force, the highest level since the Great Depression.

This House must maximize the job-creating potential of this legislation. Those jobs, however, must be in the United States, not Japan or Western Europe. We are asking the American people to assume a significant tax increase. We will not fulfill our duty to them if we fail to insure that the jobs created through their taxes will be for American workers.

For that reason, I urge the House to adopt a vigorous buy American amendment. H.R. 6211 does improve the existing buy American provisions in the 1978 act, raising the differential from 10 to 20 percent. The provision is simply not enough.

I represent the Nation's principal iron ore producing area. Northeastern Minnesota has the second-highest unemployment rate in the United States. Unemployment in the mining sector of our ecomomy has reached 90 percent at times during this year.

That unemployment is the direct result of a general economic slump, the reduced demand for steel, and the entry into the already shrunken domestic market of subsidized, foreign steel.

By adopting an amendment requiring that the material purchased with the funds authorized and raised through H.R. 6211 be American made, we can avoid a disgraceful situation of increasing the gasoline tax, with the result of increasing consumption of foreign steel.

This amendment means jobs for the American people. It is an amendment which both labor and management in the steel industry have helped develop and now enthusiastically support.

It is not an attempt to subsidize American industry, or to protect it from fair foreign competition. Rather, it is a recognition that, in times of unprecedented unemployment in the postwar period, we cannot allow unfair foreign competition to deprive unemployed Americans of the benefits of this legislation. In view of recent decisions by the International Trade Commission and the Department of Commerce regarding dumping of steel in this country, an amendment which provides for only a 20-percent differential is completely unacceptable.

If the House fails to adopt this strong, effective provision, I am deeply concerned about the provision which the House-Senate conference will adopt. In 1978, as many Members of this House will remember, the House adopted a vigorous buy American provision in the 1978 Surface Transportation Act. Unfortunately, the conference, because of the insistence of the Senate, accepted a provision which has proven to be nothing short of pathetic.

In my own district, that weak provision of the Surface Transportation Act of 1978 allowed a Japanese steel producer to win a $7 million contract for structural steel to be used in the construction of the Arrowhead Bridge replacement, funded under the discretionary bridge replacement program.

I am somewhat reluctant to point out the obvious, but, unfortunately, the fact that foreign workers do not pay American income tax and that foreign governments do not pay unemployment benefits for American workers, is usually overlooked when we decide on the use of Federal funds for major construction initiatives. We discuss the situation; we express concern for unemployed American workers; we offer words of encouragement to the American steel industry; but our past experience has been that when the final bill is written, all that discussion and concern lead almost nowhere, because we have not backed our words up with strong protections written in law.

The unemployment rate in this country is 10.8 percent. This time, this House must insist upon a meaningful buy American provision so that when we go to conference with the Senate, we can produce provisions which will insure that subsidized, imported steel does not deprive American workers of the opportunity for meaningful employment funded by their tax dollars.

We are going to spend this money anyway. Let us make sure we spend it in the United States.●

THE FUTURE OF HOUSING: WHAT IS IN STORE FOR THE AMERICAN DREAM?

HON. LARRY E. CRAIG

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1982

● Mr. CRAIG. Mr. Speaker, as we deliberate the problems of our economy and unemployment in these waning days of the 97th Congress, I think it would be appropriate to put the future of one of this country's largest industries into perspective. The homebuilding industry in the Nation has gone through a tramatic period and is only now beginning to show signs of recovery. Yet, it is still the industry that builds America's dreams. Mr. John Fery, chairman and chief executive officer of Boise Cascade Corp., one of the Nation's largest lumber products corporations, made some very astute observations regarding the future of this industry in a speech he made on October 29 of this year. I would like to share those observations with you today by including a copy of his text.

THE FUTURE OF HOUSING: WHAT IS IN STORE FOR THE AMERICAN DREAM?

For generations, families have wanted to buy the house of their dreams. You know what that is. The traditional, detached, single-family home with a yard, a white picket fence, located on a tree-lined street, in a wholesome suburban community. During most of the 1970's, seven of every ten families who wanted to buy that home could do so without undue financial hardship or sacrifice. Three found the cost of home ownership too high, so didn't buy.

Today those numbers are reversed. Today only three of the ten families can achieve their housing desires. The other seven walk away frustrated, having discovered that, for them, houses are unaffordable.

For now, the great American dream of home ownership has become a nightmare. Not only for home buyers, but for everyone associated with housing—home builders, realtors, thrift institutions, even my own forest products industry.

Further, everyone in this room feels the impact. The fate of housing is tied to that of the general economy, traditionally generating more than 10 percent of the gross national product. Housing has served as a bellwether for turns in the economy. When extreme events shake the housing industry, we all feel the tremor.

As a result, the magazine and newspaper articles one commonly reads about housing these days, as well as the news stories on television, are decidedly negative.

Here are some typical headlines:

"A Housing Era Ends"—Nation's Business.

"Housing's Unsheltered Future"—Fortune.

"The Great Housing Collapse"—Newsweek.

"Housing: A Boom That May Never Come"—Dun's Business Month.

My company, Boise Cascade, is a major supplier of building materials to the housing industry. So those dreary reports about home building concern us. We take them seriously. So seriously, in fact, that we recently set out to see whether the fundamental characteristics of housing had really changed so much in so short a time.

Some months ago, our senior management spent three days in an intensive shirt-sleeve session with distinguished, thoughtful authorities on various aspects of housing. We asked those housing experts to give us their best thinking on what the future holds.

That session pulled together a comprehensive body of knowledge about housing. It gave us the facts and the expert value judgments we needed to assess the arguments for and against housing's future.

The current pessimism about the future of housing revolves around three issues—the demand for housing, the method of financing housing and the affordability of housing. Some say that the so-called underlying, pent-up demand for housing is neither underlying nor pent up. Rather, it is non-existent or at least dwindling. Others say that insufficient mortgage money and the lack of acceptable, understandable mortgage instruments will preclude much home-buying activity—no matter what else happens. Still

others say that, even if there's a demand, and if mortgage money is available, the costs of house and mortgage are so high that people can no longer afford them. And included in everyone's consideration is the presence of the federal government and the question of its future role in housing.

Let's examine each of these issues.

DEMAND FOR HOUSING

First, the question of demand for housing—a concern easily dispatched.

Earlier this year, Market Opinion Research Corporation conducted surveys on the subject of home ownership for National Forest Products Association. That research shows that nearly 90 percent of Americans continue to place a very high value on home ownership. When asked about the goals and aspirations they have for themselves and their children, respondents ranked home ownership near the top of the list. While having a job was the most important, home ownership shared second place with quality health care. Further, they defined home ownership as owning a single-family home on its own lot with a lawn.

These findings shouldn't surprise us. They're simply the elements of the American dream that have existed for years. The dream hasn't died, nor even changed much.

Now add to that underlying American concept a number of demographic pressures that are building.

The U.S. population is growing—from 227 million in 1980 to 287 million forecast for the year 2000.

The post-World War II baby boom generation is forming families and will continue to do so throughout the 1980's. More than 1½ million Americans will reach home-building age each year in the 1980's—twice the rate of the 1970's.

People are living longer in the U.S.—nearly four years longer on average than just 20 years ago.

More senior citizens want to remain in their own housing units. In 1970, 16 percent of those 65 and older lived in institutions or with someone else. By 1978, only 10 percent did so.

More single heads of households want their own housing units. People stay single longer. People divorce more often. As a result, the number of people living alone has jumped from more than seven million in 1960 to nearly 18 million in 1980.

Clearly, there's a strong and growing need for housing in this country. Let's examine for a moment how that demand's been exercised and by whom.

During the late 70's, the dominant force in the housing market was the so-called upgrader. This buyer tended to have a growing family, more disposable income and was motivated partly by the investment advantage. He or she traded up from a small single-family home to a larger one. That continual, upward flow acounted for roughly 80 percent of the new housing market during those years. Builders concentrated on supplying the larger, trade-up of house—four bedrooms, 2½ baths and the like.

The upgrade market has diminished significantly, at least for now. Homes are not appreciating at the same rates they were. Homeowners are not willing to give up a reasonable mortgage rate of 7, 8, 9 or 10 percent to swallow a 15 or 16 percent rate. Those folks are sitting on the sidelines until rates come within reach, or have chosen to fix up the old homestead.

The upgraders did do one thing in those years. They left behind their old homes for first-time buyers. If it hadn't been for that housing stock created by the upgrade market, the housing needs of first-time buyers could have been largely ignored.

As prices and interest rates rose in the late 1970's, the number of first-time buyers still in the housing market dropped off considerably. In 1977 first-time buyers purchased 36 percent of all the homes sold, according to the U.S. League of Savings Associations. During 1979, that group purchased less than 18 percent of all the homes sold. In the last few years, we estimate that that number has fallen even more.

So where have the discouraged first-time buyers gone? Some are living with Mon and Dad. (How long can Mom and Dad tolerate that?) Some have doubled up. Some have accepted various multifamily options—townhouses, single-family attached, condominiums and the like. And some are renting (which, in turn, increases the pressure to build more rental units).

Besides first-time buyers, other important elements of the demand picture have also been ignored in recent years. The home buyer whose children are grown—the empty nester—wants to trade down to a smaller home. Other nontraditional buyers—single heads of households, divorcees, senior citizens—seek more modest homes. These potential buyers are standing by, temporarily frozen out of the housing market. But wanting in nonetheless.

Don't doubt it for a minute. The demand for housing is strong!

MORTGAGE FINANCING

That brings us to issue number two—financing. Even if housing demand exists, some say, there's insufficient mortgage money available and inadequate mortgage instruments in place to meet the demand. Let me tell you why I believe mortgage money sources and availabililty won't be a problem long term.

Mortgage financing is undergoing a transformation. The 30-year fixed-rate mortgage, for example, will comprise a smaller portion of the market. More affordable financing vehicles are being created and are gradually being accepted.

In just the past year, several new financing devices have emerged. Some, such as the growing-equity mortgages, are especially promising. These loans typically have a fixed interest rate, but payments increase so that the loans mature in 15 years or less.

In a period of disinflation, the idea of paying off debt quickly has obvious advantages. Some 60 percent of the families in this country now earn two paychecks. These new instruments allow those people to devote more of their income to house payments.

Just as the mortgage instruments will be different, so too the mortgage lending scene is changing. The Garn Financial Institutions Bill, hailed by many as the most significant banking legislation in nearly 50 years, was enacted a few years ago.

The Garn bill deregulates the S&Ls. They can now offer interest rates on savings deposits that will compete with those of money market mutual funds, while having the added advantage of being federally insured. The result will likely be the return of billions of dollars in deposits to the S&Ls, and probably a lowering of mortgage interest rates.

The question of sources of mortgage capital is partially addressed by the changing role of the thrift institutions. In addition, Fannie Mae estimates that the market share of mortgage companies and commercial banks will grow.

But that still may not be enough. Where else will the new money that housing needs come from?

Pension funds, with their vast and steadily growing reservoir of investable funds, will likely play a major role in the secondary market. Mortgage bankers predict that large institutional investors, such as pension funds, will buy up to 70 percent of all new mortgages by 1989.

Another concern with regard to the secondary market is the role of the federal government. It has helped create a healthy home-buying environment over the years through federally supported secondary mortgage institutions like Ginnie Mae and Fannie Mae, as well as FHA, VA and other programs.

This active role of government in housing is under scrutiny in some quarters today. The Administration wants to eliminate all off-budget federal loan guarantee programs—of which Ginnie Mae, for example, is one. I submit that Ginnie Mae is not a drain on the U.S. Treasury. Rather, it provides a financial return, as well as a valuable, needed service. This type of government involvement should continue, and I believe the Administration and Congress will come to recognize this.

In sum, I believe the problems with mortgage money sources, instruments and secondary markets are working their way toward resolution.

AFFORDABILITY

Issue number three is the most difficult—the question of affordability. Even if the demand for housing exists and mortgage money is available, some say, the cost is too high at today's prices and today's interest rates. Let me describe for you some things that are happening, that can happen and that should happen to deal effectively with the problem of affordability.

Here's a typical statistic about housing costs: In 1978, the median price of a new house was $55,700. In August this year, that price hit a record $73,200—a staggering leap. But let's not be misled by number like these.

Largely it is upgraders—the folks who can afford $73,200 and who have dominated the housing market these last several years—who are paying those "median" prices. Upgraders still represent the major share of those folks who are buying. And, builders have been tailoring their work to the large-home desires of upgraders. The median price reflect that.

I'm not suggesting that price are not high. What I am suggesting is that we can meet the needs of major segments of the market at more reasonable prices.

The single greatest cost element in a median-priced single-family home is the labor and nonwood structural materials—34 percent of the total, according to Date Resources Inc. Lumber and plywood comprise only about 12 percent. These percentages have declined slightly over time.

Another major element is the land. The cost of a developed lot, as a proportion of the total price of a house, has risen from 22.6 percent in 1979 to 25 percent this year. Land prices have steadily reflected rising inflation.

The big leap has been in overhead, construction financing and marketing costs. These have grown by nearly half—from 10.7 percent of the price of a mid-range home in 1979 to 15 percent of that price in 1982.

With these percentages growing, you may wonder which ones are dropping. That's not

difficult to figure. The builder's profit declined in the period 1979 to 1982—from 20 percent to 14 percent.

The question is how to lower those costs. Land prices are not likely to shift downward much, although the size of the lot can be reduced. And we can control other elements. We can tailor housing toward the market segments most anxious to participate—the first-time buyer, the empty nester and the single household head, as well as upgraders when they return in force.

Through the Market Opinion research study and the investigations of others, we've learned that people have apparently changed their ideas of what the ideal home is. It's smaller than it was just a few years ago. It may be attached to another unit. It may be on a smaller lot. It appears that people will accept a house that's very close to, but not exactly the same as, the traditional single-family, detached home with a lawn.

So in the housing industry, it's time to think small—less than 1,500 square feet—and think attached. Tomorrow's houses will be smaller, if home buyers choose to reduce housing costs this way. Attached housing or townhouses are growing in popularity. More homeowners will repair, remodel or expand their present homes.

As housing units get smaller, however, how space is used and what amenities are provided become critical factors. The National Association of Homebuilders tells us that buyers demand greater quality if they accept less space—more attention to detail in design, construction and energy efficiency.

As homes are modified, wood will continue to be an important ingredient. Wood is the champion insulator among all structural materials in general use. When it comes to keeping homes as warm or as cool as you like, wood is six times as efficient as brick, 15 times better than concrete or stone, 400 times better than steel and, I'm told, 1,770 times more efficient than aluminum.

In spite of the market adaptations we expect, the affordability issue may cause the number of housing starts to fall short of the two million a year we experienced in the '70s.

That may sound like bad news for the wood products business. Not so. Single-family starts may not return to their former levels, and those homes may be smaller. But we believe that other major domestic markets—multi-family construction and the repair and remodel market—will increase. And the multi-family unit will be larger. Further, world markets for wood products, especially in Japan and Europe, are growing. These expanding markets will be good for the wood business.

In addition, the forest products industry is changing. We're losing capacity as marginally efficient facilities shut down permanently. New capacity is being delayed due to capital constraints and high inherent risks. And, some industry consolidations are occurring due to companies' shortage of capital and/or raw materials. These consolidations will continue as the recession plays itself out. We expect there to be less lumber and plywood capacity in place when these hard times are over.

HIGH MORTGAGE INTEREST RATES

So, what do we know so far? We know that a substantial demand for housing is waiting to be exercised. We've seen that mortgage money can be available and that appropriate mortgage vehicles are gaining acceptance. And we understand that homes must be tailored to potential buyers and that costs must be managed to tap that demand and make homes more affordable.

But there's a major facet of affordability we haven't talked about yet—high mortgage interest rates, probably the key determinant in reestablishing housing's viability.

A good housing market with reasonable mortgage rates requires a good economic environment. And that's where the federal government comes in. A lot of people, particularly in the Reagan Administration, have concentrated—and properly so—on controlling inflation, thus bringing short- and long-term rates down over time and allowing the economy to revive. The trick is to put an end to heavy deficit spending by the federal government.

We must be prepared for the fact that it will take more time. Frankly, more time than most of us thought. But some important elements are in place for rates to gradually decline.

First, inflation is coming under control. Inflation in 1979 ran at 13.4 percent; this year it will be close to 5 percent—and seems to be holding. We are seeing a higher rate of personal savings. Consumer debt is down. And finally, interest rates are trending lower.

Of equal importance, however, is that economic improvement, like beauty, is in the eye of the beholder. The perception must grow that the federal government's deficit spending will be curtailed.

Confidence in a recovery must continue to spread. People aren't likely to make major investments in homes if they're concerned about having jobs next month, or next year. Borrowers and lenders alike must share the view that interest rates will stabilize.

Mortgage rates should then slowly decline, as the recovery spreads, reaching and holding at a more affordable level. We peg that to be in the 12 to 14 percent range.

In my judgment, a lot of pent-up housing demand will then be released—obviously more at 12 percent than at 14 percent. We already have some evidence that it will. A major developer who spoke at our Boise Cascade housing session said, and I quote: "We have a very vital housing market. People are really struggling to find a way to buy. We've had two brief breaks in interest rates in the last two years. During each one, we broke sales records for our entire company for those periods. If we get some reasonable relief in rates, we could have a very strong market." End quote.

We have a fair idea of what the markets for our products will be throughout this decade—and that's a critical piece of knowledge.

But that's not all that's necessary. Another theme has threaded its way through my remarks today, and it's this: Everyone involved in the housing business will have to give a little so that, overall, housing can recover a lot.

Home buyers must diminish their expectations, adjusting to a smaller housing unit on a smaller piece of land. Or they must be willing to devote a large share of their income to housing.

Home builders must concentrate on being more efficient.

The forest products industry must continue working toward improved productivity and efficiency in its wood products mills. Other suppliers must do likewise.

Financial institutions must work harder to market the new instruments now available.

Everyone must do a little, make do with less, work more effectively—and the result will be the revitalized housing industry so important to our nation.

Efficient builders will provide desirable, affordable homes for key segments of the home-buying population. Those homes will be financed through instruments which respond to the needs of both borrower and lender.

The American dream of home ownership is alive, waiting and will be fulfilled, once people can afford to buy. What will do the trick is an overall improvement in the economy and in consumer confidence.

In the meantime, the adaptations a changing housing market requires are taking place—on the part of home buyers, the construction industry, the mortgage finance institutions and building material suppliers.

Traditionally, the housing industry has led America out of recessions. It might not lead this time, but it will certainly follow closely. Home ownership is so woven into the fabric of our social and economic structure that it should be a benchmark of American accomplishment. It has been in the past, and I'm convinced it will be again.●

REMEMBERING JUSTICE MOODY

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1982

● Mr. HERTEL. Mr. Speaker, the sudden death of Michigan Supreme Court Justice Blair Moody, Jr., this Thanksgiving weekend shocked and saddened the people of Michigan. Blair was my good friend and adviser for many years and for the past 2 years I had the privilege of representing him in the U.S. Congress.

It is always a tragedy to lose a devoted public servant but the people of the State of Michigan lost more than that; they lost a close, personal friend. Blair was able to balance the hard work in his profession and the demands in the political world with his family and homelife; he set an example that we should all follow. A charming man with a great sense of humor and an optimistic outlook, he was loved by all who were privileged to know him. Despite his busy schedule he always found time to share with his friends, enjoy his family, and participate in community activities.

Blair was born in Detroit in 1928 and raised in Washington, D.C., where his father worked as a reporter for the Detroit News. Like his father, who was later appointed to the U.S. Senate, Blair started out as a reporter, first at the Detroit News then the Washington Post before getting his law degree from the University of Michigan in 1952. Before embarking on his political career he was a partner in the Detroit law firm of Sullivan, Eames, Moody & Petrillo. He served as a Wayne County Circuit Court judge for 11 years prior to his election as a Supreme Court Justice. During his 6 years on the Supreme Court, Blair

earned the respect of his colleagues by his fair and compassionate interpretation of the law.

Blair was a devoted husband to Mary Lou and loving father of five children: Diane, Blair, Susan, Brian, and Peter.

Michigan Supreme Court Justice G. Mennan Williams delivered a moving eulogy in which he quoted Detroit News columnist Pete Waldmeir's article on Blair, "It seems cruel irony that Blair Moody's heart gave out on him. It never failed anyone else."

Mr. Speaker, before closing I would like to submit this poem that Blair wrote. I think it serves as a self portrait.

The poem follows:

You don't have to tell how you live each day—
You don't have to say if you work or you play.
A tried, true barometer serves in its place,
However you live, it will show in your face.
The false, the deceit that you bear in your heart
Will not stay inside, where it first got a start.
For sinew and blood are a thin veil of lace—
What you wear in your heart, you wear in your face.
If your life is unselfish, if for others you live
For not what you get, but how much you can give;
If you live close to God, in His infinite grace—
You don't have to tell it—it shows in your face.●

GAY RIGHTS IS A FIRST AMENDMENT ISSUE

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1982

● Mr. WEISS. Mr. Speaker, a significant group of Americans—lesbians and gay men—are being denied their most basic first amendment right, the right to say they exist.

Gay rights has been viewed primarily as a privacy issue in the past. Yet, it is also imperative that homosexual men and women be allowed to publicly and freely express themselves without fear of losing their jobs or homes.

Ronald Gold explored this critical issue in an article recently published in Civil Liberties. I commend it to the attention of my colleagues.

[From the Civil Liberties, November 1982]

GAY RIGHTS IS A FIRST AMENDMENT ISSUE

(By Ronald Gold)

A few years back, the National Gay Task Force surveyed 100 major corporations on their policy toward the hiring of homosexuals. A majority of those queried failed to reply, but nonetheless the results seemed encouraging. Some of the country's largest employers did respond, stating that they did not discriminate and considered their employees' sexual orientation a private matter. But a year or so later, when the Moral Majority was urging repeal of an antidiscrimination ordinance in Dade County, Florida, a gay man who'd worked as a Ronald McDonald clown decided to come out publicly, as proof that association with homosexuals causes no harm to children. McDonald's—one of the companies which said it didn't discriminate—sought and obtained an injunction against any further public statements, on the grounds that "association with homosexualty" would bring its Big Mac into public disrepute.

The standard civil libertarian view has been that gay rights is a privacy issue, but the McDonald's case illustrates as well as any other that we are dealing primarily with a First Amendment violation, in which "privacy" is defined differently for homosexuals and heterosexuals. Heterosexuals are free to show affection in public, reveal the names of the movie stars they find appealing and casually mention their spouses or dates. Lesbians and gay men have been required to be "private" at risk of their livelihoods or lives.

By the late 1960s, Jews in America had long ago stopped changing their names and bobbing their noses; blacks had stopped trying to pass or to "act white" in hopes of majority acceptance; and large numbers of women were breaking away from socially prescribed roles. But only a few brave gay people weren't part of a conspiracy to pretend they didn't exist. Then came New York City's Stonewall Riot, in which some of the brave ones resisted police harrassment of a gay bar, and suddenly significant numbers of gay people were declining to join the conspiracy and using the legal system to secure their civil rights.

Since then, quite a bit of progress has been made. There are few places nowadays in which gay people are forbidden to congregate. Two men on two women may now dance together legally (some times even when they're minority on the dance floor). The Federal Civil Service (though not the military, FBI or CIA) has adopted a nondiscrimination policy. Forty-three cities and counties and one state (Wisconsin) have antidiscrimination statutes. The courts have ruled in a variety of contexts that homosexuality isn't tantamount to bad moral character. There have even been positive rulings on First Amendment grounds.

"The Court fully recognizes," a federal district court said in a Delaware case, "that homosexuality is an extremely emotional and controversial topic and that (a gay teacher's) opinions on the subject quite likely represent a minority view. But . . . the fundamental purpose of the First Amendment is to protect from state abridgement the free expression of controversial or unpopular ideas. The decision not to renew (a teacher's) contract because of his public statements contravenes those most basic teachings of the First Amendment and cannot be tolerated."

So much for the good news. The bad news is that the New Right has seized on this progress as its prime evidence of "moral decay" and is using it as the point of its fear-provoking spear. (Most of the mailings from Richard Viguerie's right-wing propaganda mill begin with the "homosexual threat" and end with the MX missile or the Panama Canal.) As usual, the New Right is a lot clearer in defining the issue than its liberal opponents. "We're not going after their jobs," Anita Bryant once said, "as long as they do their jobs and do not want to come out of the closet."

The New Right realized something else civil libertarians weren't aware of: just as there weren't any laws to protect gay people, there also weren't any that mandated silence (laws weren't necessary when social pressures did the job). So they set to the task of framing legislation that would bring back the *status quo ante.*

Take, as a case in point, the section of the infamous Family Protection Act, pending before Congress, which provides that "no Federal funds should be available under any law to any entity for the purpose of advocating, promoting or suggesting homosexuality, male or female, as a lifestyle." This, its proponents declare, doesn't discriminate against homosexuals. It would simply prevent anybody from even "suggesting" that gay people might, on the whole, be a group of reasonably happy, healthy and law-abiding citizens. It would put every university at risk that dares to share with its students the prevailing views of the medical profession and a major segment of organized religion on the psychology and morality of being gay. It could have a devastating effect on all scholarship in the field of human sexuality; threaten schools with gay studies courses or gay groups on campus; dry up funding for gay counseling and health-care services; and end the recently won tax-deductible status of gay-related organizations.

Another section of the Family Protection Act (which was also proposed, and passed by the House of Representatives, as an amendment to the Legal Services Act) provides that no legal assistance may be offered "to promote, defend or protect homosexuality." Congressman Larry McDonald (D-GA), the framer of the amendment, said during the House debate that the purpose of the bill wasn't to prevent all indigent gay people from defending themselves against discrimination—even though he conceded it would have that effect. "If an individual openly professes his conduct and is discriminated against, we do not want him to have legal aid in his defense," he said. "If, on the other hand, he keeps his conduct to himself and does not bring it into issue then he can walk into any legal aid society as a private individual and get help." Translate "open conduct" into "free speech" and you get McDonald's drift.

A good deal of justifiable alarm has been generated by the Arkansas "creationism" law, but considerably less outcry has been raised about an Oklahoma statute that was one of the first New Right victories. It provides that teachers or teachers' aides may be fired for "public homosexual activity," which is defined as "advocating, soliciting, imposing, encouraging or promoting public or private homosexual activity in a manner that creates a substantial risk that such conduct will come to the attention of school children or school employees." At least the Arkansas bill didn't say that teachers had to stop teaching evolution. But this law, in addition to preventing teachers from engaging in political activity or speaking out on a public issue, effectively prohibits them from providing their students with any scientific information on homosexuality.

These and similar statutes are not the only areas in which the conspiracy of silence is being imposed. These days, many parents are denied custody and visitation rights not because they're gay, but because they're open about it. The immigration service no longer excludes all gay people, only those who say they are. Gay prisoners are denied parole unless they declare that they have been rehabilitated—that is, turned into heterosexuals. Gay inmates are also denied gay rights literature on the grounds that

they'd be beaten up for having it. And the currently fashionable argument is not that gay people can't be decent soldiers, firefighters or police officers, but that it would be "detrimental to good order" if people who don't like homsexuals knew there were any around. There is a concerted effort on a variety of fronts to deny gay people their most basic First Amendment right—the right to say that they exist.

The excuse for such an assault on the free interchange of ideas is a familiar one: society, the family, and particularly children, must be "protected" from a harmful point of view. And the reason that this assault has been so successful is that many people who think of themselves as civil libertarians share the New Right's fears. They don't think it's right for gay people to be discriminated against, but they too are afraid of somebody telling their children it's okay to be gay. The only way this situation can fundamentally change is when a majority of the people in this country can sincerely say to themselves, "It *is* okay to be gay—even for my children." And the only way that that can happen is when the truth about gay people is available to every child in the land.

It may seem curious that with fear of homsexuality such a hot item, not one "gay book" has been removed from school libraries or one "pro-gay" text summarily rejected by the state of Texas. (Book selections in Texas, the second largest textbook purchaser in the nation, are heavily influenced by textbook censors Mel and Norma Gabler). Actually there aren't any books about gay people in the school libraries, and no sane publisher would dare submit a rational discussion of homosexuality to the Gablers and their friends. Walt Whitman is revered as America's patriot-poet, but not one high school text—no matter how fulsome its biographies of other famous figures—reveals that Whitman was homosexual or includes any of his magnificent gay love poems. Not one civics text includes the gay movement in its discussion of civil rights. And even in the sex education courses so dear to the hearts of liberals, homosexuality is customarily ignored altogether or included only under such headings as "the misuses of sex."

It is up to civil libertarians not only to resist the efforts of the New Right to codify First Amendment restrictions into law, but to end the restrictions which have festered in our society since its beginnings. The battle for gay civil rights is not about privacy but free speech, and civil libertarians of whatever secual orientation must understand that America's 22 million gay citizens will never have their civil rights if they're not permitted to speak out and be visible.●

THE NEED FOR SOVIET STUDIES

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1982

● Mr. HAMILTON. Mr. Speaker, I would like to call to the attention of my colleagues the following article from Time of November 29.

The U.S.S.R.'s invasion of Afghanistan in 1979 surprised most U.S. Kremlin-watchers. So did Soviet inactivity during the recent war in Lebanon. After Leonid Brezhnev's death two weeks ago, American Kremlinologists were still suggesting the names of his potential successors when Yuri Andropov was chosen.

To be sure, the inner workings of the Politburo have always been obscure to outsiders, but the uncertainty about Andropov underscores the current lack of American expertise on the Soviet Union. Even the Central Intelligence Agency admits that it is having trouble providing the kind of analysis needed by U.S. policymakers. Says a CIA spokesman: "It is becoming more difficult to recruit graduate students who have a real understanding of Soviet internal affairs." Notes Paul K. Cook, the top Kremlinologist at the State Department: "The number of well-trained senior Soviet specialists just suffices for the moment, but within five to ten years they will all be gone. The situation is severe and getting worse."

By all accounts, Soviet studies are in an alarming decline in the U.S. In 1968, 607 colleges and universities offered courses in Russian to about 41,000 students. In the fall of 1980, only 472 institutions provided Russian instruction to 24,000 students. In fact, more American college and graduate students now study Latin than Russian. Says Deming B. Brown, former director of the University of Michigan's Center for Russian and East European Studies: "We are just not turning out enough people who know the Russian language, and that suggests a dangerously condescending attitude toward the Soviet Union." At the graduate level, the decline is more startling. In 1980 about 100 doctorates were awarded in Soviet and Eastern European fields, most of them in literature and history. During the past decade, there has been an average of six dissertations a year on Soviet foreign policy by American graduate students with a working knowledge of Russian.

The Soviet approach to American studies, on the other hand, is systematic and thorough. There are more teachers of English in the U.S.S.R. than there are students of Russian in the U.S. The prestigious Institute of U.S.A. and Canada in Moscow has an estimated 300 staffers doing research on the U.S. One expert says this is more than all the combined total of Slavic faculty members at the dozen U.S. universities that lead in Soviet studies.

Soviet studies did not always have a low priority in the U.S. Immediately after World War II, with the help of the Ford Foundation, Columbia established its Russian Institute and Harvard set up the Russian Research Center to promote study in Soviet history, politics, economics and literature. In 1958, the year after the Soviets' triumphant launch of Sputnik, Congress passed the National Defense Education Act, which provided Government funds for Soviet-studies programs at such universities as Washington, Michigan, Ohio, Illinois, California (Berkeley), Indiana and Stanford. By 1970, however, Government and foundation funds began drying up. Between 1967 and 1976, federal contracts for all foreign affairs research dropped from $40 million to less than $20 million. Détente with the U.S.S.R., a national preoccupation with Viet Nam and the Middle East, and economic crises in higher education all contributed to the decline in Soviet studies.

Discouraged by the high cost of graduate education, the paucity of fellowships, and the unsteady job prospects, students are not rushing into Soviet studies. Slavic languages are not easy to learn, sources are often inaccessible, and the U.S.S.R. is unreceptive to U.S. scholars. Even after years of training, a Soviet specialist's job opportunities was and wane with the climate of détente. The CIA today reports a shortage of Soviet experts, yet it let many go in the '70s. At Harvard's Russian Research Center, Director Adam Ulam is concerned about "the general dearth of specialists" as many of his senior faculty members approach retirement. The center operates on the same $175,000 annual budget that it had in the mid-1960s, which makes it increasingly difficult to fund major research projects. Harvard's Ukrainian Research Institute has fared a little better, only because 10,000 Ukrainian Americans have supported it with gifts of more than $4 million over the past decade. Indiana University's Russian and East European Institute director Alexander Rabinowitch admits, "We're only managing to muddle through. For lack of funding we are losing quality."

There are a few signs, however, of a revitalization of Soviet studies. The Ford Foundation made grants of $7 million for this academic year, and the Rockefeller Foundation is considering a $2 million program to stimulate Soviet foreign policy studies. Columbia's Russian Institute received last month a $10 million gift from W. Averell Harriman, Ambassador to the Soviet Union from 1943 to 1946. Says Harriman: "Policy that is based on ignorance and illusion is dangerous."

There are also new stirrings of congressional concern. In September, Senators Joseph Biden of Delaware, a Democrat, and Richard Lugar of Indiana, a Republican, introduced a bill that would set up a $50 million endowment for Soviet studies. The money will come none too soon. Says Marshall D. Shulman, director of Columbia's newly named Harriman Institute for Advanced Study of the Soviet Union: "The lead time for training a first class specialist on the Soviet Union is longer than the lead time for a new missile." And the product may be more important.●

ALEX ROZSA

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1982

● Mr. RITTER. Mr. Speaker, Alex Rozsa, who was district administrator of my Lehigh Valley offices from 1979 until this past October, always wanted to be in the thick of things. You just could not keep him out of the center of the action. Wherever there was a job to be done, Alex was there—helping out people who were having problems with the Federal bureaucracy, coming up with the answers that nobody else knew, lending a sympathetic ear and giving us good advice, urging us on when we faltered and holding us back when we were about to act hastily, coming up with a joke when we needed to hear one and getting us back on course when we started to wander.

But Alex is no longer with us—he died in October—and he is truly irreplaceable. Nobody was more valuable than Alex; nobody knew more about our community and the people in it.

All of us—his family, his colleagues, his friends—will miss him very, very much.

Before joining my staff, Alex was night assistant managing editor of the Morning Call, an Allentown newspaper. This is a story that the Call wrote about Alex:

ALEX ROZSA DIES; DON RITTER'S AIDE, FORMER CALL EDITOR

Alex S. Rozsa Jr., 54 Lehigh Valley district administrator for U.S. Rep. Don Ritter and former assistant managing editor of The Morning Call, died of a heart attack at noon Wednesday after collapsing in the legislator's Bethlehem office.

Rozsa, who had a previous attack in 1976, went into cardiac arrest at 11:35 a.m. and received immediate cardioipulmonary resuscitation from staff secretary Peggy Micio, who also is a volunteer emergency technician in Wind Gap.

Micio was assisted by Bethlehem police until four paramedics took over in the 10th-floor office at the First Valley Bank Building. Receiving instructions from an emergency physician at St. Luke's Hospital via telemetry, paramedics used drugs and electric shocks in a vain 40-minute effort to save his life.

After further resuscitation efforts in the St. Luke's emergency room Rozsa was pronounced dead.

He was the husband of Joyce M. (Dujack) Rozsa and lived at 123 Miller St. Allentown.

Rozsa and other staff members were in the midst of guiding Ritter's campaign for re-election to the 15th House District seat.

A Northamption County native who knew the Lehigh Valley and community leaders well, Rozsa was regarded by Ritter as "invaluable" in assisting constitutents and solving their problems with the federal bureaucracy.

Recalling that his first two years in Congress were characterized by the usual staff adjustments problems, Ritter said, "Rozsa was a stabilizing influence and a big brother figure to all of us."

He added, "Rozsa's death is not only a terrible loss to his family. It leaves an enormous void, and I'm sitting here today without the foggiest idea of how to fill that void. He will be missed by the entire community that he served so diligently."

Rozsa was a graduate of Liberty High School, Bethleham. He rose through the editorial ranks of The Call to become wire editor, assistant city editor and city editor before being named night assistant managing editor in 1970.

Within the Call-Chronicle organization. Rozsa was known as an acerbic, demanding editor with a good nose for news and a capacity for hard work.

Said George Y. Nehrbas, editorial page editor, yesterday, "I was fortunate to have been closely associated with Alex Rozsa during his 33-years career with The Morning Call. He was a superb newspaperman and a valued friend and adviser. I share with others a deep sense of loss."

A product of the branch training system. Rozsa joined The Call's Bethlehem Bureau in 1945 and worked in the former Lansford bureau before he joined the Army in 1950 after the outbreak of the Korean War. Promoted to sergeant, he was based in Tokyo and assigned as an editor on the Pacific edition of The Stars and Stripes.

Rozsa was night production editor when he left The Call in 1978. He joined Ritter's staff in 1979, his first and only venture into politics.

Rozsa was president of the Pennsylvania Associated Press Managing Editors' Association (APMEA) 1974-1975 and headed a special monthly news coordinating effort that generated many in-depth statewide stories for the Associated Press. Among the topics were employment, urban redevelopment, coal mining and transportation.

Although he was a busy, shirt-sleeved editor, Rozsa found the time to get behind a typewriter and won writing awards conferred by the APMEA and the Pennsylvania Society of Newspaper Editors.

As a writer, Rozsa's forte was the ability to condense many facts into compact, interesting stories. His best articles were the series of exclusives that chronicled the escapades of Allentown adventurer and canoeist Fritz Sprandel, who wound up being a captive of Cuba's Fidel Castro and the subject of an international incident.

Drawing upon research compiled by two Lehighton bureau reporters, Rozsa also won recognition for an article about the residents of Coaldale living with the constant fear of seeing their homes engulfed by coal mine sudsidence.

A member of St. Thomas More Catholic Church in Salisbury Township, Rozsa was instrumental in St. Thomas receiving the Guideposts Magazine award for ecumenical programs. The prize was conferred personally in 1973 by Dr. Norman Vincent Peale, the magazine's editor.

Born in Easton, Rozsa was a son of Laura (Phillips) Mortico of New York City and the late Alex S. Rozsa, Sr.

Surviving with his widow and mother are a stepmother, Mrs. Agnes Rozsa of Easton, and a daughter Renee, at home.

A Mass of Christian Burial will be at 11 a.m., Saturday in the church, 1040 Flexer Ave. Calling hours will be 7-8:30 p.m. Friday in the J. S. Burkholder Funeral Home, 16th and Hamilton streets, Allentown.●

THE MX AND THE ARMS RACE IN SPACE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1982

● Mr. BROWN of California. Mr. Speaker, as we begin debate on the Department of Defense appropriations bill, it is useful to step back and consider the context of our military programs and what our defense strategy is and what it should be. I realize it is unusual for Members of the House to put themselves in this frame of reference, but at a time when there is such a divergence of views, this may be the only sound way to view the debate over individual weapons systems and arms control policies.

I would like to share one such perspective with my colleagues. It is in the form of an excellent paper written by Dr. Robert M. Bowman, a retired Air Force colonel who served in senior policy positions in the Air Force Space Division. While the thrust of his paper is about the arms race in space, the context is the United States-Soviet strategic balance and how certain new weapons systems are destabilizing, whether we have them or the Soviets have them. Dr. Bowman identifies the MX missile as one such destabilizing technology, antisatellite warfare systems as another, and Gen. Daniel Graham's high frontier approach as still another.

It is this type of perspective on the arms race which can help us understand the futility of our present policies. I commend the following paper to my colleagues.

WHY ALL THE FUSS OVER WEAPONS IN SPACE?

(By Dr. Robert M. Bowman)

INTRODUCTION

The title of this paper states a question that seems to be voiced by both peace groups on the one hand and by members of the defense community on the other. The purpose of this paper is to answer that question, hopefully to the satisfaction of both groups.

Those in peace groups, for example, those involved in the nuclear freeze movement, often ask me, "With the everpresent danger of nuclear weapons capable of destroying the planet and all life on it, why should we be concerned with weapons in space, most of which would be targeted at military systems anyway, not people? Why should we dilute our energies by diverting our attention from the menace of earthbound nuclear stockpiles?"

Members of the defense community want to know why someone like me, a member of that community for 30 years—22 in the Air Force, and 8 in industry (4 before and 4 after my military career)—is suddenly on the outside leading a battle against weapons that up until a few years ago I was responsible for developing.

It is hoped that this paper will help answer both questions.

BACKGROUND

When I was in the Air Force, we had a motto: "Peace is Our Profession." Our strategy was built around the objective of preventing a nuclear war, not fighting one. We were selective in the weapons we developed, and deployed, choosing, those which were stabilizing, and shunning those destabilizing weapons which would harm, rather than help, our ability to preserve the peace. There were always a minority in the military who would prefer to emphasize warfighting capability and who would favor any weapon which seemed to provide such capability, no matter how it clashed with our overall strategy.

Now the situation has changed. This minority has succeeded in getting the strategy changed to fit its weapons. The turning point was the MX. A dangerous, destabilizing weapon with no real utility except as a first-strike weapon, the MX forced a restructuring of policy and strategy to support its existence.

Meanwhile, our military forces had become more and more dependent on space systems—for communications, surveillance, warning, targeting, weather, navigation, and other functions in support of earth-based weapons and operations. Once policy and strategy had been changed to accommodate the MX and a protracted, limited nuclear exchange scenario adopted, military strategists realized to their horror that the space systems upon which their "war-fighting" capability depended were strictly peacetime systems, designed to support a strategy of deterrence and not survivable in a conflict

situation. The function for which they were designed was to give early and unequivocal warning of an enemy attack and to support the launching of a retaliatory strike. It was assumed that any attempt to destroy our satellites would constitute warning that an attack was either under way or imminent and would put in motion the retaliatory machinery. The obvious inability of the United States to keep a full set of satellite systems operating for more than a few hours into a nuclear war didn't seem to matter.

The peacetime nature of our space assets was reinforced by the national decision to compel the Air Force to design all its new satellites for launch on the shuttle. Over the vehement opposition of the military, the shuttle was literally crammed down the throats of program offices responsible for operational satellite systems. At the time, this was deemed necessary in order to financially justify the shuttle. Later in the development of the shuttle, the political and financial support of the air force was the only thing saving it from cancellation. Time and again, the Congress was forced to ante up more money to complete the shuttle development because of the total dependence of the Air Force upon it—a dependence thrust upon the Air Force to create just this situation. The shuttle, of course, is so vulnerable to attack, both in orbit and on the ground, and its two coastal launching sites so vulnerable that it is inconceivable that the United States could launch any new or replacement satellites once any hostilities had broken out. Two WWII submarines (or rowboats for that matter) or even two terrorists with hand grenades or mortars could totally wipe out the country's launch capability in seconds. Similarly vulnerable is our capability to communicate with the shuttle and to get data back from it or any of our other satellites. Even the new multi-billion dollar Consolidated Space Operations Center (CSOC) which the Air Force is building in Colorado Springs will be vulnerable to attack or sabotage by the most meager of forces.[1]

It is therefore ironic that at the same time as national decisions are being made which irretrevably limit our space capabilities to the peacetime tripwire role for which they had been designed, other decisions are being made to spend hundreds of billions for weapons whose only usefulness is in a protracted nuclear war, but which depend heavily on space systems not designed for that purpose.

One choice available when this dichotomy was recognized was obviously to abandon the MX and other protracted was weapons and to stick with a policy of war prevention. That choice was not made. Once a system gets so far in the pipeline, it is extremely difficult to kill (witness the B-1, rising from the ashes like a Phoenix). The choice selected was to attempt to up-grade the nation's space capabilities to give them a war-fighting capability.

Increasing the survivability of satellites by hardening them against attack was given much lip service and several millions of dollars, but very little was accomplished. Providing survivable launch capability by returning to expendable launch vehicles was considered for selected systems. But most of the effort went into a program to develop a U.S. anti-satellite (ASAT) system to match that of the Soviets. The rationale evidently was that if they're going to threaten our satellites, then we'll threaten theirs. The fact that we're much more dependent upon our satellites for command and control of strategic forces than they are did not prevent such a decision from being made.[2]

We have now developed a far more sophisticated, far more capable ASAT than that possessed by the Soviets. It is ready to begin operational testing in early 1983 [3].

In the meantime, many in the Air Force have learned to love the shuttle. While those who have satellites to launch on it still grumble about the mountain of interface requirements, redesign, red tape, schedule slips, etc., etc., the advanced planners have come up with a plethora of ideas for things to do with it that sound like they came out of Star Wars. Others, realizing the severe limitations of the shuttle in anything beyond peacetime, have dreamt up new Space Cruisers and a variety of space weaponry [4], much of which is in violation of existing treaties [5].

The darling of a few in the establishment is a proposal by General Daniel Graham (retired) for a space-based anti-ballistic missile (ABM) system. The Heritage Foundation report outlining this so-called "High Frontier" proposal [6] promises that it will end the immoral holding of civilian populations hostage to a deterrent strategy of Mutual Assured Destruction (MAD). If only that were so! Unfortunately, it is a cruel (though I believe well-intentioned) hoax, an empty promise, and a dangerous delusion.

Negotiations with the Soviet Union aimed at preventing an arms race in space were cut off by the United States at the time of Afghanistan. Now, enamored with the possibilities of high tech weaponry in space, our country is reluctant to resume those negotiations in good faith. We have spurned a proposal by the Soviets to ban all kinds of weapons in space [7]. We have proceeded with a massive militarization of NASA [8]. We have emasculated NASA's traditional capability to carry out peaceful space exploration and scientific ventures [9]. And we are flirting with the possibility of embarking on space weapons developments whose eventual cost is on the order of the entire federal debt.

This, then, is the background, very briefly, of where we are now. The question now to be addressed is, "Why does all this matter when the world is faced with destruction by nuclear weapons right here on earth? Why all the fuss over weapons in space?"

THE THREAT TO STABILIZING SYSTEMS

Of all the benefits man has derived from space in the last few decades, the greatest has been peace. The military surveillance systems of the United States and the Soviet Union have contributed immeasurably to peace by denying the element of surprise to an attacker and eliminating any advantage of a first strike. By giving each side the knowledge that they could not be taken by surprise, they have reduced the pressures for pre-emptive strikes and led to a considerable lessening of tension. Space systems provide time for analysis, confirmation, consultation, and deliberation and have made hair-trigger responses unnecessary. They have also provided the technical means of verification which have made arms control possible.

Anti-satellite (ASAT) weapons now threaten to negate this beneficial stabilizing influence.

The current ASAT capability of the Soviet Union is real, but limited. Our most important warning systems are well out of its range. But if the arms race in space continues unchecked, we could find ourselves in an extremely dangerous situation. For years, our policy was to negotiate a ban on ASAT's if at all possible. We recognized the fact that we were more secure in a world without ASAT's than with them—even if ours were superior to the Soviets'.

This truth is now being ignored. We are intent on surpassing the Soviets in the arms race in space and are therefore about to test an ASAT whose deployment (or absence thereof) will be almost impossible to verify. If we were to agree to a ban now, we would be able to tell easily whether or not the Soviets were complying with it. But once we've tested ours, there will be no way for them to know if we are abiding by a ban or not. The testing of our ASAT weapon is therefore an irreversible step which will make it very difficult to return space to the status of a sanctuary for peaceful and non-threatening military support systems.

It is always much easier to ban weapons which do not yet exist than to get rid of those which are already deployed. If we can't agree to prevent the spread of the arms race to space, what makes us think we have any hope for getting rid of nuclear weapons here on earth? The fact of the matter is that as long as there are nuclear weapons and delivery systems for them, the United States and the Soviet Union are going to need space surveillance systems to provide some measure of stability. To allow those systems to be threatened by antisatellite weapons is reckless and foolhardy.

UNFORTUNATE SYNERGY WITH FIRST-STRIKE WEAPONS

As explained above, ASAT weapons are dangerous because they threaten systems which are now supplying both powers with attack warning. Unfortunately this danger is being compounded by our unfortunate pursuit of weapons with a first-strike capability.

Some (but not all) proponents of our new war-fighting strategy have invented second-strike scenarios [10] where silo-busting capability is required, thereby justifying the MX. Others blatantly talk about situations in which the United States, in their opinion, should strike first, destroying Soviet ICBM's in their silos and Soviet command posts and hardened communications centers.[11] This so-called decapitation strike, they hope, will (in consort with a U.S. ABM system and evacuation of the cities) reduce our losses to "maybe as few as 20 million deaths".[12]

There is one minor flaw in this "optimistic" portrayal of victory. It depends on the Russians, when faced with such a capability, continuing their present policy of requiring committee approval before a nuclear strike can be ordered—a very time-consuming procedure. Clearly, if we proceed with the MX, Trident II, and Pershing II, the Soviets, with as little as four minutes warning, will have to go to an automated launch-on-warning (LOW) procedure. This puts the survival of the United States in the hands of the reliability of Russian computers. Our sophisticated and technologically advanced computer warning system has given many false alarms. One of the recent ones was not identified as false until after six minutes had elapsed. If the Russian system did no better, such a fault would bring about the annihilation of the United States.

Administration strategists have the answer to that. "Knock out their surveillance satellites prior to a nuclear attack and they won't have any warning!" [13] Once blinded, what makes such "strategists"

[1] See footnotes at end of article.

think the Soviets will just sit there and let themselves be decapitated?

Herein lies the greatest danger. Once the United States has both a first strike capability and an ASAT capability, what happens if a Soviet warning satellite is struck by a meteor or suffers a catastrophic electrical failure? Might they not reasonably assume that we have just destroyed their satellite so that they will not see the attack we are launching against them? Will they not then be likely to give the order to launch a "retaliatory attack?

The MX is dangerous to our security. The ASAT is dangerous to our security. Together, they are devastating and are very likely to destroy our security by bringing on the war neither we nor the Soviets want—and which neither we nor the Soviets can survive.

SPACE AND INDUSTRIAL CONVERSION

At the moment, defense contractors are fighting to hire people so that they can spend some of the money being thrown at them. Civilian industry, in the midst of a recession, is being stripped of its best talent. Companies are changing their line of business to cash in on the defense bonanza. The Pentagon is wallowing in money. But it may not always be so.

Sooner or later this country will have a president with the vision, the leadership, the statesmanship to meet face to face with the leadership in the Soviet Union, discuss differences, discover common interests, and end the arms race. What would happen to this country right now if peace broke out? What would happen if the bilateral nuclear freeze were suddenly adopted? No more nuclear weapon production. No more delivery systems. No MX. No B-1. No more strategic aircraft, cruise missiles, Pershings, submarines. What would happen to our defense industry? What would happen to our technology?

We should, of course, be working on this problem. We should have a conversion plan.[14] But one of the best things we could have going for us at a time like that would be a healthy civilian space program. But a healthy civilian space program requires a peaceful space environment, and that is, unfortunately, rapidly disappearing. Private industry is not going to make long-range investments in what is destined to be a war zone. Our government has already nearly halted its investment in the "exploration of peaceful uses of outer space". Technology is being hoarded by the military. The French earth observation satellite, SPOT, will have much greater resolution than our LANDSAT system[15]—not because the French technology is better than ours, but because the Department of Defense won't let American industry use the technology it has developed. So another reason why space is important and should be given attention by peace groups is because it is the key to redirecting much of our defense industry into worthwhile civilian pursuits, so that a nuclear freeze will not be accompanied by a massive disruption of industry.

SPACE AND SOVIET-UNITED STATES RELATIONS

Finally, the preservation of peace in space is important because it is an ideal environment in which to bring about true cooperation and joint ventures between the superpowers to increase interdependence, foster understanding, reduce fears, promote friendship between peoples, and gradually eliminate the threat of war.

The Soviets have a manned space station[16] and no reusable transportation system to use in getting men and materiel to and from it. We have a reusable space shuttle transportation system . . . and nowhere to go. The obvious question is, "Why don't we get together?" The Apollo-Soyuz mission proved it could be done. But that was a one-shot mission, a "Gee whiz" stunt. Its effects wore off. What we need for Shuttle-Salyut is an important continuing mission. In July, I proposed a joint U.S.-U.S.S.R. Peace Monitoring System based on the combined capabilities of Shuttle and Salyut[17]. A jointly-manned space command post with access to the surveillance data of both countries would allow us to continue to monitor each other and in addition, keep a joint eye on third parties. The system could be expanded to include other space nations, and gradually take on civilian surveillance missions. There are so many global problems crying out for global solutions—hunger, illiteracy, water shortage, energy depletion, natural disasters, deforestation, pollution. All these problems are amenable to solution by international space systems. With the combined resources of the United States and the Soviet Union, we could transform the lives of people all over the world—provided we don't kill them first. Joint missions in space on behalf of mankind hold out a real hope of breaking the cycle of fear and leading us all out of the threat of destruction. But it will not happen if space becomes an armed camp and space technology is hidden behind classification, restriction, and export control.

RECAP

I have given four reasons why it is important to preserve peace in space: (1) Space systems provide stability essential to prevent nuclear hair-trigger responses. (2) ASAT's and first-strike weapons are a deadly combination to the country possessing them. (3) Space is needed to convert high technology to civilian pursuits once peace breaks out. (4) Space is the ideal arena for cooperation between the superpowers. I would now like to address two common objections to a ban on weapons in space.

COMMON OBJECTIONS

Why ban weapons in space when they can help get rid of weapons on earth by making them obsolete? Besides, space weapons are defensive. They don't kill anybody. They just protect.

This statement usually comes from someone[18] who has heard about laser battle stations in space or some other version of a space-based ABM system, such as General Graham's. It is usually described as an impenetrable shield protecting our homeland. Unfortunately, such weapons (if they work at all) can not make nuclear weapons obsolete, are not just defensive, can kill, and can not protect us.

There are at the moment at least three versions of a space-based ABM system under consideration. Each has its own peculiar problems[19]. And some problems are shared by all. All involve very difficult technology (in spite of claims to the contrary). All would themselves be very vulnerable. All are subject to countermeasures which could be implemented at a small fraction of their cost. All would be enormously expensive (estimates range from about a hundred billion dollars for the cheapest system to about a trillion and a half). All could be completely bypassed by alternative offensive strategies. And all are destabilizing, tending to prompt the other side to make a preemptive strike before they could be completed (assuming the other side had not already implemented countermeasures). By the way, our military is already working on countermeasures capable of rendering such a system useless were the Soviets to have one. A detailed discussion of these points is beyond the scope of this paper. Suffice it to say that for every Maginot line there is a blitzkrieg capable of rendering it useless. It must also be remembered that these "defensive" space weapons could be turned against targets on earth with awesome offensive power, and that the technical problems involved with doing so are not nearly so difficult as those involved in successfully carrying out their defensive tasks.

No, the solution to the problems posed by nuclear arsenals on earth is not to be found in another massive round of the arms race, this time in space. Better to foreclose those options by treaty now, so that we can concentrate on the problems caused by the weapons we already have.

But doesn't the United States need weapons in space, where our technological advantage lies, in order to overcome the great strategic superiority of the Soviets which now exists?

The simple answer to this objection is that Soviet superiority is a myth. From the bomber gap to the missile gap to the megatonnage gap to the window of vulnerability, the American public has been besieged by distortions, exaggerations, imaginations, and outright lies.

The "window of vulnerability" refers to the fact that our Minuteman III's may be vulnerable in the mid-to-late 80's to increasingly accurate Soviet ICBM's. This is used as an excuse for the MX in order to give us a similar silo-busting capability. What is left unsaid is the fact that our landbased ICBM's constitute only about 35 percent of our retaliatory force, while similarly vulnerable Soviet missiles constitute about 96 percent of their force.[20]

Let us assume that the "window of vulnerability" is true and that the Soviets could destroy every single one of our over a thousand ICBM's in their hardened silos. They would then have to content with our B-52 fleet, which would be in the air before their missiles could land.

The aging B-52, as old as it is, has nonetheless the most modern electronics and cruise missiles, against which there is as yet no defense. But let's assume the Soviets developed a defense. Let's assume they found a way to shoot down every B-52 and every cruise missile before it reached its target. That would leave our nuclear submarines, hidden in the ocean depths.

Our scientists cannot foresee any way that the Soviets can detect and track our submerged Polaris and Trident submarines. They are expected to be immune to attack for at least the next couple of decades.[21] But let's assume that some revolutionary technological breakthrough allows the Soviets to build a system capable of seeing through the oceans and that they, in a monumental coordinated attack, destroy all our ICBM's, all our B-52's, all our cruise missiles, and all our submarines—except one.

The Russians would never conceive of being able to pull off a preemptive strike that close to perfection. But let's say they could. What retaliatory capability are we left with in that single submarine? Only enough to destroy about 160 of the largest cities in the Soviet Union.[22] Only enough to devastate everything larger than a hick town from Poland to Korea, from the North Pole to Pakistan. Only about ten times as

much destructive power as was expended by all sides in all of World War II. Should that not be deterrence enough?

With this awesome destructive capability many times over, why do we need more? Why do we need weapons in space, or even the MX, the B-1, the Pershing II, the Trident II? Why are we told that a freeze by both sides would leave us at a dangerous disadvantage?

But I have gone beyond answering questions and begun to ask them. Having stated why I feel that the issue of weapons in space is important, I should briefly address one final question—the question of what should be done about it.

What should the United States do to prevent the extension of the arms race into space?

It is recommended that the following immediate steps be taken:

(1) Announce a unilateral moratorium on the testing of ASAT weapons and on the deployment of any weapon in space pending the outcome of negotiations.

(2) Invite the Soviet Union to join us in bilateral negotiations and, under the auspices of the United Nations, multilateral negotiations aimed at an extension of the 1967 Outer Space Treaty [23] extending the Article IV ban on nuclear weapons and weapons of mass destruction to include all weapons in space and all anti-satellite weapons, whether based in space, in the air, on land, or in the sea.

(3) Invite the Soviet Union to participate in an early shuttle flight, launching a Soviet civil satellite, with a Soviet cosmonaut as mission specialist.

(4) Invite the Soviet Union to join us in a joint engineering endeavor, similar to that preceding Apollo-Soyuz, to define joint missions for Shuttle an Salyut and to define the interfaces and technical responsibilities of each side.

In addition to the above specifically space-related actions, there are several other compatible steps that could be taken and which I support:

(1) Accept an immediate mutual freeze on nuclear weapons and delivery systems as a first step toward arms reductions and the eventual elimination of nuclear armaments.

(2) Establish a U.S. Peace Academy [24] with the charter to investigate innovative ways to bring the world closer to the realization of a secure, just, and lasting peace.

(3) Charge the Department of Defense with a comprehensive re-analysis of strategic doctrine, aimed at replacing unrealistic concepts such as the winnable protracted nuclear war.

(4) Establish a high-level panel to plan the conversion of the armaments industry and to propose specific international space and other high technology programs capable of providing global solutions to global problems and of revitalizing the consumer production capabilities of the United States.

FOOTNOTES

[1] "Consolidated Space Operations Center Lacks Adequate DOD Planning," MASAD-82-14, General Accounting Office, Washington, D.C., 29 January 1982. For an overview of the myriad of problems the Air Force is creating for itself in CSOC, read "A Poor Start for the Militarization of Space", by William J. Broad in Science, Vol. 216, No. 4546, 7 May 1982, pages 599-602. For a more in-depth understanding, look at the RFP released by the Air Force soliciting bids for an integration contractor for CSOC.

[2] One of the first unclassified accounts of the problem of our vulnerable space systems and some of the Pentagon's approaches to it was contained in "The New Military Race in Space", Business Week, June 4, 1979, pages 136-149.

[3] See "Vought Tests Small Antisatellite System", by B.A. Smith, in Aviation Week & Space Technology, Vol. 115, No. 19, 9 November 1981, pages 24, 25. Also see status in "Space Command: Setting the Course for the Future", by Edgar Ulsamer, in Air Force Magazine, August 1982, pages 48-55. Also, "Launch Pylon for Antisatellite System Tested", in Aviation Week & space Technology, Vol. 116, No. 3, 18 January 1982.

[4] For a few of the unclassified ideas, see the proceedings of the AIAA Space Defense Systems Conference, Washington, D.C., May 20-21, 1982, and Boston, Mass., June 7-8, 1982. A more comprehensive, if somewhat more fanciful, view of what the Air Force has up its sleeve can be seen in "Confrontation in space: Wars of the Future will be Fought in Space," by G. Harry Stine, Prentice-Hall, 1981.

[5] For a discussion of some of the treaty implications see "Space-Based Laser BMD: Strategic Policy and the ABM Treaty", by Dr. Keith Payne, National Institute for Public Policy; and "The Growth of Space Law", by Carl O. Christol, in Astronautics & Aeronautics, Vol. 19, No. 12, December 1981.

[6] "High Frontier, A New National Strategy," by Lt. Gen. Daniel O. Graham, USA (Ret.), a project of the Heritage Foundation, 1982.

[7] "Soviets Seek Pacts to Ban Space Arms", Washington Times, 4 August 1982, page 5.

[8] The press has been full of articles on the militarization of NASA. For an uncritical, non-sensationalized report, see "New Space Policy Strong in Defense", in Physics Today, Vol. 35, No. 9, September, 1982, pages 51-52. Also see "Reagan's Space Policy Colored USAF Blue", by George C. Wilson, in Astronautics & Aeronautics, Vol. 20, No. 9, September 1982, pages 15-22.

[9] We have not only cancelled every planetary mission for this decade other than Galileo (and it has been hanging on by a thread), but we have cut off funding to university professors and graduate students, forcing them into other fields. We have reduced JPL's planetary program so far that it may never recover, even if funding were restored. The capability being dismantled took decades to build. It will not be reassembled easily.

[10] Richard Perle, Assistant Secretary of Defense, and other spokesmen for the Reagan Administration have put forward several not very plausible scenarios. An excellent discussion of the new strategy and its supporting scenarios is in "Technology in War and Peace", a special issue of the IEEE Spectrum, Vol. 19, No. 10, October 1982, pages 66-71.

[11] "Victory is Possible", by Colin S. Gray & Keith Payne, in Foreign Policy, summer 1980, pages 14, 27.

[12] Gray. For a rebuttal, see "On Fighting a Nuclear War", in International Security, Spring 1981, pages 13-17.

[13] Although Gray, cited above, has been the most outspoken architect of the new strategy, for a complete account see "Annual Report to the Congress", Caspar W. Weinberger, Fiscal Year 1983, U.S. Government Printing Office, Washington, D.C. 20402.

[14] Though given little publicity, there is actually a great deal going on in the way of conversion planning. Some publications on the subject are:

"The Impact of Military Spending on the Machinists Union", IAMAW, 1300 Connecticut Ave. NW, Washington, D.C. 20036.

"Military Spending: All of Us Pay—Most of Us Lose", The Coalition for a New Foreign and Military Policy, 120 Maryland Ave, NE, Washington, D.C. 20002.

"Converting the Work Force: Where the Jobs Would Be", Employment Research Associates, 400 South Washington, Lansing, Michigan 48933.

"Prosperity in a Demilitarized U.S. Economy: A Program for Conversion", Center for Defense Information, 303 Capitol Gallery West, 600 Maryland Ave, SW, Washington, D.C. 20024.

"The Conversion Planner", A Citizen's Organization for a Sane World, 514 C Street, NE, Washington, D.C. 20002.

[15] "Thorny Questions Over Remote Sensing", by Stephanie Yanchinski, New Scientist, 17 April, 1980; "SPOT Satellite-Based Remote Sensing", CNES, France, 1982; "Imaging the Earth (II): The Politics of LANDSAT", Science, April 2, 1982.

[16] The Soviet space station was on display at Unispace 82 in Vienna, August 5-21, 1982. A cutaway drawing is on page 40 of "Current NASA Space Station Planning", by Philip E. Culbertson, in Astronautics & Aeronautics, Vol. 20, No. 9, September 1982. See also "Space", by James Oberg in Omni, Vol. 5, No. 1, October, 1982, pages 22, 189.

[17] "Space Security System", by R. M. Bowman, Shadow Cabinet Foundation. This proposal was made to NASA, to the U.S. delegation to Unispace 82, and to several members of Congress. The idea was also aired at the Non-Governmental Organization Conference at Unispace 82.

[18] One example of such claims was illustrated by Phyllis Schlafly on the Donahue show August 2, 1982. The transcript is available for $2.50 from Donahue Transcript, Box 2111, Cincinnati, Ohio 45201.

[19] General Graham's original "High Frontier" proposal used High Energy Laser systems in space. The technology problems associated with such a system are many. One example is the pointing and tracking problem. The device would have to detect and track an enemy ICBM, fire a laser beam at it and maintain a direct hit long enough to burn through it (the required angular accuracy is equivalent to hitting a nickel fifteen miles away), then acquire another target, repoint, track, fire, maintain track, etc. The exercise is complicated by the requirement to repoint and fire at a new target about every second and by the fact that this extremely accurate, delicate, telescope-like device is sitting on a chemical laser whose vibrations are similar to those of a jet engine. A government-commissioned study of the space laser system by Kosta Tsipis of M.I.T. calculated that it would take 100 years and 100 billion dollars just to get the chemical fuels for the laser system into space. While this particular study is probably overly pessimistic, it does highlight some real problems. For further reading, see "A Fatal Flaw in the Concept of Space War", by William Broad, in Science, March 12, 1982, and "Laser Weapons", by Kosta Tsipis, in Scientific American, December 1981.

The laser proposal received so much flak from within the defense community that it was modified to make the laser system a follow-on to an initial system of 432 satelites orbiting at about 300 miles. Each satellite would carry, and have the capability to fire and guide to its target ICBM, 40 to 45 self-propelled carrier vehicles, each containing kill vehicles capable of destroying an ICBM or its RV. This system gets around some of the technology problems associated with the laser, but requires a laser or some other more capable system as a second layer. The flexibility of this system is so low that many alternative offensive strategies are available which could render it totally ineffective. Because the theoretical kill range limit is so much less than with the laser system, it is easier to evade the defensive system by depressing the trajectory of the offensive system. Of course, cruise missiles would be totally unaffected by these defensive systems.

The third major type of space-based ABM system attempts to achieve the advantages of the laser system without having to face the overwhelming problems of supporting and operating such a complex system in space. It does this by keeping the laser on the ground and putting mirrors in orbit to reflect the laser beams to their targets. By doing so, it gives up one of the major advantage of putting the laser in space—the absence of an atmosphere to defract or diffuse the beam. Much progress has been made in deformable mirrors which automatically correct the beam for atmospheric effects, but they are far from perfect yet. The major disadvantage of the mirror system, though, seems to be the extremely high quality required in the mirror surface, its huge size, and its vulnerability. It wouldn't take a very exotic ASAT to destroy such a system—a bucket of sand would do the trick. The slightest pitting or spoiling of the mirror surface would cause the reflected laser beam to deteriorate into a harmless beam of light.

[20] According to Herbert Scoville of the Arms Control Association, Admiral Gene La Rocque of the Center for Defense Information, and others, there is much more reason for the Soviets to be concerned about silo-busting, counterforce weapons than for us to be concerned about them. Seventy-five percent of Soviet nuclear warheads are on land-based ICBM's targeted by our systems. Another 21 percent are on submarines in targeted ports. Only 4 percent are in deployed submarines able to ride out an attack. In contrast, only 25 percent of our warheads are on land-based ICBM's and 10 percent in submarines in port. The other 65 percent are not vulnerable, being either on submerged submarines or on bombers on alert.

[21] Many military strategists, citing the invulnerability of the ballistic missile submarines, have recommended scrapping land-based ICBM's and manned bombers altogether. For an unclassified

update on our efforts to keep track of Soviet subs, see "Progress in Detecting Submarines" on page 64 of "Intelligence: Its Technological Base" by Fred Guterl, IEEE Spectrum, Vol, 19, No. 10, October, 1982.

[22] Polaris and Poseidon submarines carry 16 missiles apiece. The Trident submarines carry 24 missiles with 168 to 192 warheads with a total destructive power of about 20 megatons. If the Trident II (D-5) missile is introduced as planned by the administration, the destructive power of a single submarine will go up again. In addition, that upgrade will give our submarines a hard-target first-strike capability matching that of the MX—an unfortunate development that may spur the Soviets to try to find a way to track our submarines.

[23] The full title of the Outer Space Treaty is "Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies." It was signed at Washington, London, and Moscow on January 27, 1967, ratified by the U.S. (Senate advice April 25, 1967, Presidential signature May 24, 1967), and went into effect on October 10, 1967. A copy of the entire treaty was entered into the Congressional Record by Senator Pressler on September 24, 1982.

[24] A proposal to establish a United States Peace Academy, originated by Senator Spark Matsunaga of Hawaii, has been co-sponsored by over half the members of the Senate. More information is available from Senator Matsunaga's office or from National Peace Academy Campaign, 110 Maryland Ave, NE, Suite 409, Washington, D.C. 20002.

FURTHER READING

In addition to the documents cited above, there are a few references which provide a great deal of information on the subject. The following are particularly recommended:

"Maintaining Peace in Outer Space", The Stanley Foundation Report of the Seventeenth United Nations of the Next Decade Conference, June 19-24, 1982, Cooperstown, New York.

"Space: The High Frontier in Perspective", Worldwatch Paper 50, by Daniel Deudney, August 1982.

"Outer Space—A New Dimension of the Arms Race," edited by Bhupendra Jasani, Stockholm International Peace Research Institute (SIPRI), published by Taylor & Francis Ltd., London, 1982.

Testimony Before the Arms Control Subcommittee of the Senate Foreign Relations Committee, by Eugene V. Restow, Director U.S. Arms Control and Disarmament Agency, Dr. Richard D. Delauer, Under Secretary of Defense for Research and Engineering, and Robert W. Buchheim, former Head of the U.S. Delegation to US-USSR Negotiations on anti-satellite matters, September 20, 1982.

"Implications of Space Technology for Strategic Nuclear Competition", The Stanley Foundation, Occasional Paper 25, by Thomas H. Karas, The Stanley Foundation, Muscatine, Iowa, July, 1981.●

PRIVATE EXPRESS STATUTES MUST BE MAINTAINED

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1982

● Mr. CLAY. Mr. Speaker, the private express statutes give the Postal Service a monopoly over the delivery of first-class letter mail. A great debate is emerging in deadly earnest among citizens, public officials and competitors of the Postal Service about the future of these private express laws—and the frightening ramifications of eliminating them.

The rightwing Heritage Foundation says that the private express statutes should be abolished because there is no reason why there should be a publicly supported "national document delivery service." A high official in the Reagan administration challenged others to demonstrate the need for the private express statutes. Some concerned citizens, who are troubled as I am about recent postal rate increases and the declining quality of postal services, argue that private organizations could deliver letters cheaper and more effectively than the Postal Service.

Unfortunately this debate has been long on rhetoric but short on substance. As chairman of the House Subcommittee on Postal Operations and Services, I enjoy a unique vantage point—particularly since my subcommittee recently concluded exhaustive hearings on effectiveness of the Postal Reorganization Act of 1970 which established the Postal Service as a quasi-independent public corporation.

The private express statutes have their roots in our Constitution—in order to provide service to bind every corner of our Nation together—rural, suburban, inner-city communities—at uniform rates. Admittedly private profitmaking business enterprises could deliver mail to densely populated commercial areas more cheaply than the Postal Service. But who would serve the less profitable areas? How much would such profitmaking enterprises charge to send a Mother's Day card from Ocala, Fla., to Coeur d'Alene, Idaho?

Private express statutes protect the American public—not the Postal Service. Repeal of these statutes would be costly to the taxpayer, chaotic to business, and corrosive to the fabric of our democracy. Who would be responsible for forwarding mail to other parts of the country? For protecting the sanctity of our mail? For protecting us against fraudulent use of the mails? For handling the volume of foreign mail? For assuring uniformity of service? Who would want to play Russian roulette with their personal correspondence, their bills, their financial transactions?

I suspect that public concern about repeal of the private express statutes is realy an expression of frustration against rising postal rates and declining quality of Postal Service. The public reminisces about the 6-cent stamp of 1970, before the American people decided to put the Postal Service on a pay-as-you-go basis—with resultant postage increases. But how many want to talk about the $500 million postal deficit and Federal postal appropriation of $2.1 billion in 1970 contrasted with the $16 billion appropriation and estimated postal surplus of $600 million for 1982. How many of these same critics realize that if the postal monopoly were repealed tomorrow, the cost of mail delivery to various communities across the United States would add $100 billion to the national deficit by the mid-1990's?

I take a back seat to no one in seeking to improve the productivity and efficiency of the Postal Service. But, I hope that those who call for dismantling the Postal Service will take some of these facts into consideration before joining the Heritage Foundation and representatives of the Reagan administration in calling for the elimination of the private express statutes.●

A DAY OF SORROW

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1982

● Mr. YOUNG of Florida. Mr. Speaker, on November 7, 1982, the Soviet Union celebrated the 65th anniversary of the Bolshevik Revolution—a revolution that has been marked by bloodshed and continued acts of violence. As members of the Politburo were observing Soviet military weaponry, people in Afghanistan were feeling them in action. The following remarks, as supplied to me by the Congress of Russian-Americans, better illustrates how many others felt on that 65th anniversary.

A DAY OF SORROW

On the 65th anniversary of the "October Revolution", we, as Russian-Americans, wish to remind the Free World that on November 7, 1917 the Bolshevik Communist Party deprived the peoples of Russia of their liberty.

Since that day the Soviet government under the leadership of its Communist Party has continually perpetrated crimes that are an affront to humanity. Among them:

The creation of an Orwellian state founded on a basis of human fear and ignorance and maintained by a ruthless military police;

The "reedification" of the Russian peoples, a policy inaugurated by the heinous murder of the royal family and pursued in the hopes of stripping the Russian peoples of their heritage and thereby creating the ideal human cipher, Homo Sovieticus;

The desecration and destruction of over 50,000 churches and monasteries;

The forcible collectivization of peasants, an act which resulted in the death by starvation of seven million people;

The exploitation of workers and the reduction of peasants to the status of government serfs;

The abandonment of Soviet P.O.W.'s (branded "traitors" by the Soviet regime) in Nazi war camps, resulting in the death of 4,650,000 native sons by starvation and disease;

The forceable repatriation of Soviet citizens remaining in Western European coun-

tries after the war and the subsequent imprisonment of these citizens in concentration camps;

The extermination of tens of millions of people in concentration camps and prisons;

The mental and physical torture of countless millions without regard to human rights or dignities;

The military suppression of any popular uprisings within the Soviet Union or any of its satellite nations, particularly Hungary, Czechoslovakia, and Poland;

The creation, through the wanton exploitation of natural resources and environment, of an aggressive military machine which continues to grow at the expense of the people's needs and aspirations;

The suppression of the freedoms of religion, thought, speech and the press and the persecution of individuals for their religious convictions and their beliefs in basic human rights.

No document can enumerate the countless crimes perpetrated by the Soviet government against its peoples. Only the tears of an anguished and suffering people can serve to measure these atrocities. To these tears we direct our hopes, our prayers, and our actions.

The 7th of November, the day of pompous Soviet celebrations, parades and deceitful proclamations about the "struggle for peace" and about the "joyous life" of Soviet citiens, we designate as a Day of Sorrow and Irreconcilability.

This Day of Sorrow and Irreconcilability has been faithfully observed by Russian-Americans and by all Free Russians for the past six decades. Throughout all these years Russians free in mind and spirit have continually attempted to warn the Free World of the threatening Communist danger, but to no avail.

Once again, we appeal to the government of the United States of America to proclaim this day as a Day of Sorrow and Irreconcilability and we invite the citizens of this country to join us in prayers for those who perished at the hands of Communism and for the deliverance of those presently living under the yoke of Communism.

BOARD OF DIRECTORS,
Congress of Russian Americans.●

LDC DEBT PROBLEM

HON. GREGORY W. CARMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1982

● Mr. CARMAN. Mr. Speaker, I bring to your attention the remarks of Mr. William S. Ogden, vice chairman of the Chase Manhattan Bank in New York City, entitled, "The Nature of the Lesser Developed Country Debt Problem." As the largest contributor to the financial needs of the Third World, I think it is most important that the United States carefully review to so-called LDC debt crisis and what it means to the international financial system and to the world economy. It is a complicated issue, and I applaud Mr. Odgen's ability to reveal the nature of the problem.

THE NATURE OF THE LDC DEBT PROBLEM

(By William S. Ogden)

The most discussed financial issue of the day is the so-called LDC debt crisis. It is wholly appropriate that this problem receive such attention. Yet it is wholly inappropriate that we should be so ill served by much of the discussion of this issue thus far.

In the main, the discussion in the financial and popular press has often missed the point. The key problem is not the viability of the international banking system. The international financial system is fundamentally robust. The key problem is the potential threat to the economic and political stability of much of the Third World—and the intensification and prolongation of the current global recession.

I am not that much happier as to the comments on LDC debt issues coming from the international banking community. What has been said is true enough, but it is only a partial truth. We in the banking world have focused too much on responding to media concerns as to the fragility of the international financial system. I agree that this concern is largely misplaced. But in our irritation at the persistent misperceptions of the nature of the problem, we appear to be denying that a problem exists.

We in fact do have a problem. Its nature—and what we can do about it—is what I want to talk about today. The substance of what I want to say compresses into three points. The first point is one that my colleagues in the banking community have stated repeatedly—but is only beginning to be acknowledged in the media. It is that the current LDC problem is a liquidity problem, not a problem of insolvency.

My second point is that the LDC debt problem is not just a problem for the international banks—it is a problem for the world economy. What is ultimately at stake is the dimensions of the current global recession.

My third point is that it is well within our collective capability to prevent the present liquidity crisis from escalating into a vicious circle of economic and political dislocations that would result in a prolonged period of stagnation of the global economy. Liquidity problems are readily solvable. But they rarely solve themselves if ignored.

A LIQUIDITY RATHER THAN A SOLVENCY PROBLEM

Those are the three points I want to develop. I place great stress on the first one—that the developing countries face a liquidity problem rather than a solvency problem—both because it is fundamental to the construction of an appropriate policy response and because the tone of much of the media discussion seems to imply that LDC debt has been built to levels that simply cannot be serviced. If our time horizon extends beyond the next year or two, that simply is not true.

Undeniably, the levels are high. On the eve of the first oil price shock in 1973, the total foreign debt—public and private, long-term and short-term—of non-OPEC developing countries was slightly less than $100 billion. By the end of 1981, this total had grown to roughly $470 billion, and another $60 billion or so will be added this year. A very large proportion of this increase in debt is accounted for by commercial bank lending and, somewhat unnoticed, the number of banks involved in this lending has grown appreciably. At the end of 1973, the international banking system held 36% of the foreign debt of the non-oil LDCs. By the end of 1981, this proportion had grown to 53%—or $250 billion.

These are extremely large numbers, but they must be put into perspective. They must be compared with increases in the capacity to produce. The fact is that the buildup of developing country debt over the past eight years has been accompanied by a similarly rapid buildup of productive capacity. Relatively little of this increase in debt appears to have been used simply to sustain consumption. Most has underwritten increases in investment.

Over the period 1970-80, the share of GNP allocated to gross domestic investment in the developing economies rose, while the share accounted for by private consumption declined. This shift was particularly pronounced in what the World Bank calls the "Middle-Income" developing economies, the group of countries accounting for almost all of the increase of bank lending to LDCs.

It is thus not true that their debt buildup was used to sustain consumption levels. Nor is it true that it resulted from aggressive loan marketing by banks awash with OPEC deposits. The rapid growth of bank lending to the developing economies in the post-1973 period was the natural response of an increasingly integrated global capital market to the shifts in the global distribution of savings and investment opportunities created—to no small degree—by the oil price shock. Without this lending, the global distribution of capital would have been less efficient, and the growth of the world economy would have fallen significantly.

In saying this I do not want to imply that the level of borrowing by the LDCs has been optimal or that it could have continued growing indefinitely at the pace of recent years. The developing countries as a whole have in fact been far too slow in adjusting their growth ambitions to the realities of a world economy grappling with disinflation. The resources borrowed have not always been utilized efficiently. But the debt buildup has not been wildly imprudent.

What I have said thus far is that the rapid buildup of LDC debt has been accompanied by a similarly rapid buildup of productive capacity. What then is the difficulty? Why is there an LDC debt problem—or to use the media phrase, an LDC debt crisis?

The problem arises out of the difference between debt-service capability in the short run and long run—between the actual ability to export and the capacity to produce for export. Neither borrowers nor lenders anticipated a prolonged recession in the industrialized nations nor did, for that matter, policy makers in the industrialized nations. The fall of commodity prices and the global recession have slowed the growth of exports from the developing countries dramatically and hence temporarily reduced debt-service capacity. The slowness of inflationary expectations in financial markets to respond to disinflationary policies in the industrialized countries has resulted in unusually high real interest rates and thus temporarily increased debt-service flows.

The result has been a rapid deterioration of the conventional measures of the capacity to service public debt. The debt-service ratio for the non-oil developing economies as a whole—the ratio of interest and amortization on medium- and long-term debt to total exports of goods and services—has climbed from roughly 16% in 1980 to an estimated 25% this year. Of even greater significance, the ratio of interest payments on total foreign debt to total exports has increased from less than 8% in 1980 to a projected 14% this year. For some of the major borrowing countries, particularly in Latin America, these indexes of debt-service burden are even higher, with total foreign

interest payments running as much as 45% of total exports.

Even so, the immediate cause of the present liquidity problems of many developing countries is not the increase in gross foreign borrowing requirements resulting from the unanticipated depth and duration of the global recession. Rather, the immediate liquidity problem arises from the increasing unwillingness of the international financial community to lend. The international credit markets have created a self-fulfilling prophecy. In questioning the short-run capability of countries possessing a large foreign debt burden to service that debt, the market has engineered an abrupt, relatively synchronized reduction in the availability of new foreign credits that guarantees the impossibility of normal debt service.

A loss of market confidence is now a reality: For many countries, particularly in Latin America, important segments of the market for foreign lending have virtually disappeared—in particular, regional bank participation in international loan syndication and private placements intermediated by the investment banks. Until debt-service uncertainties are resolved, the flow of available credit will be sharply curtailed, and the resolution of those uncertainties in many instances will entail debt reschedulings that will take a significant period of time to prove their workability.

We thus have now in place each of the basic elements of a classic liquidity squeeze. We have had a rapid buildup of a stock of assets of relatively long maturity funded by the issuance of debt of significantly shorter maturity. We have had an unexpected event—the global recession—that has temporarily thrown into question the ability of the debtor to service those debts. And we have had a scramble on the part of many debt-holders to liquidate their portions of that debt.

We have a problem—a serious problem—but it is a liquidity problem not a solvency problem—unless you believe the industrialized nations are doomed to long-term stagnation. And I certainly don't. In fact, the policies we are following are essentially correct in setting the stage for long-term noninflationary growth.

THE KEY PROBLEM IS NOT THE VIABILITY OF THE INTERNATIONAL BANKS

My second point is that the key problem arising out of the current debt-service difficulties of the developing countries is not the viability of the international banks but the possibility of a significantly worsened performance of the world economy. Under different circumstances, I might even be amused at the media tendency to characterize a possible major deterioration of the world economy strictly in terms of the balance sheets of a handful of international banks.

But today I am not amused. Financial markets are inevitably founded on confidence, and uninformed speculation undermines that confidence. Media comment to the contrary, the international banks face limited risks in sovereign international lending.

This story has been told before, but it is important enough to bear retelling. There is a negligible risk of permanent default or debt denial in sovereign lending because sovereign borrowers cannot cease to exist. Permanent default implies both a long-term loss of access to international private capital markets and a sharply reduced ability to utilize the international financial service network that is essential to the ordinary conduct of foreign trade. It implies that the great bulk of the international trade of a country in permanent default must be carried out on a government-to-government barter basis. Such restrictions would enormously circumscribe the pace of economic development for a country so affected.

The negligible risk of permanent default arises out of the borrowing countries' perceptions of self-interest. There are unstated assumptions behind this conclusion that need to be made explicit, however. The most important of these assumptions is that the borrower is economically capable of servicing debt over the long run. Three circumstances come to mind in which this assumption would not hold: The physical capacity of the economy to produce is catastrophically impaired as the result of civil disorder or invasion; the relative price of that country's main export or exports falls permanently by a significant amount; or, finally, a country suffers a sudden, permanent, and serious deterioration in the quality of its economic management that dooms it to long-term economic stagnation or regression. None of these circumstances applies or is likely to apply to the major borrowing countries in Latin America or Asia. I cannot in all candor say that none of these circumstances applies to any country, but I can say that the exposure of the international banks to the handful of countries for which such risks exist is relatively small.

Another assumption underlying the conclusion that the risks of permanent default in sovereign lending are slight is that the political leadership of a country is not so committed to ideological objectives as to give little if any weight to achieving reasonable long-run performance of the economy.

Yet there are indeed risks in the present environment—risks of significant delays in reestablishing the creditworthiness of a number of borrowing countries—risks of significant delays in securing adequate rescheduling agreements and of failure to adhere to those agreements once negotiated. For the sovereign borrowers, there is a risk of a prolonged period of severely curtailed imports and a serious decline in the overall level of domestic activity. For the international banks, it is a risk of losing the freedom to manage a significant proportion of their asset portfolio and a risk of a moderate, temporary fall in earnings. This latter risk in no sense implies a risk to the viability of the banks. Even in circumstances where the proportion of assets not serviced as to principal would increase well beyond current levels, the proportion of assets not serviced as to interest would be relatively small.

This risk of significant delays in the reestablishment of the creditworthiness of the developing countries arises from two sources. The first is the difficulty in the present global environment of securing sufficient political consensus in the borrowing countries to permit the adoption of more restrictive macroeconomic policies. Such measures, although essential, are never easy, and they are doubly difficult at a time in which the prospects for export earnings are clouded both by global recession and the marked growth of protectionism in the industrialized countries. The temptation to blame the "system" and ignore one's own excesses is extremely strong.

The second major sources of risk in the prompt reestablishment of the creditworthiness of the developing countries is the difficulty—again in the present environment of global recession—of assembling adequate supplies of new credits to these countries. Let there be no presumption that the present debt difficulties of the developing economies can be resolved without the provision of further credits. Balance-of-payments deficits must be reduced sharply. But they cannot be eliminated overnight.

New credits—reduced in volume but still at significant levels—are needed. The proportion of this credit deriving from public and multilateral sources is inevitably going to increase, but relatively large flows of credit from private sources remain essential. Assembling these needed credits in an environment in which important elements of the market want to reduce exposure will be difficult. The major international banks—the institutions with firm long-term commitments to international credit markets—must necessarily take the lead. But these commitments cannot be maintained if those institutions with a peripheral interest in international markets are not patient. Reestablishing the creditworthiness of the developing countries requires the cooperation not only of the countries themselves but of a complex array of financial institutions, many of which are admittedly heavily influenced by the present tone of the discussion in the public media. That necessary degree of cooperation within the financial community is in jeopardy.

The immediate problem is thus not that the banks won't be repaid but that they may not be in a position to continue lending. Yet without significant net new lending to the developing countries, the economic adjustment required of them will be catastrophically abrupt. The economic dislocations entailed in such an adjustment would threaten a breakdown of the political consensus existing in those countries which, in turn, would delay the adoption of those policies needed to reestablish creditworthiness. The impact of such a chain of events would by no means be contained within the developing countries themselves. We are members of an increasingly interdependent global economy. U.S. exports now total nearly one-tenth of our total gross national output, and more than one-third of those exports now go to developing countries that are critically dependent on continued access to private international credit markets. The loss of a significant proportion of those export markets would add markedly to our already appreciable unemployment lines.

WE HAVE THE COLLECTIVE CAPABILITY TO CONTAIN THE PROBLEM

That is not an enviable prospect. Which leads to my final point, that it is well within our collective capability to prevent the present liquidity problems of the developing countries from escalating into a vicious circle of economic dislocations that would deepen and prolong the present global recession. I want to stress the word collective. Containing the present problem is not within the individual capability of any of the major actors—the borrowing governments, the international financial community, or the multilateral institutions and governments of the industrialized nations. But it is well within our collective capability if we each act responsibly. Let me briefly speak of what I see the responsibility of each individual actor to be.

The action required of the borrowing countries in one sense can be described simply. They must take strong measures to reduce their balance-of-payments deficits. It is inevitable that these measures will reduce economic growth—and in some cases actual-

ly lower the current level of economic activity. The present difficulties can be ascribed in large part to the failure of the borrowing countries to foresee the constraints on their feasible growth paths created by the prolonged recession in the industrialized countries. The borrowing countries must lower their growth targets. Their freedom to respond to unexpected increases in their balance-of-payments deficits by borrowing rather than by domestic adjustment no longer exists.

For some countries, this adjustment can be accomplished without the formal commitment entailed in an agreement with the International Monetary Fund. For others, whose internal and external disequilibria are more severe and whose short-term borrowing needs are commensurately larger, the discipline of such an agreement will be necessary. In this respect, I might say that I am not among those who believe either that the Fund record with respect to credit conditionality is inappropriately rigid or inappropriately lax in recent years. Speaking generally, I believe recent agreements have reflected both an understanding of what policy shifts are essential and a sensitivity to the domestic difficulties of changes in economic policy.

I have already alluded to the responsibilities of the private international financial community, and so what I have to say here will be brief. This brevity should not be construed as an index of the relative importance of the private sector's responsibility, however. It is just as critical as the responsibility of governments and multilateral organizations. The key responsibility of the private international financial community is to provide an adequate financing package to the countries with liquidity problems—not solvency problems, liquidity problems. To do so will require the cooperation of all segments of the private market. It cannot be expected that the various segments of this market will provide new credits in the proportions of recent years. The responsibility of the major international banks for new credit will be particularly heavy. But all segments of the market must cooperate. It will mean asset decisions that are difficult in an environment in which many believe that the only prudent investment is to buy Treasury Bills and keep custody.

My final remarks concern the responsibilities of the governments of the industrialized countries and the multilateral organizations. I want to be careful not to exaggerate those responsibilities. The governments of the industrialized countries have no responsibility to guarantee a reasonable rate of growth to the developing economies at a time when the attainable rates of growth of their own economies are unreasonably low. These same governments have no responsibility to protect their banks from the consequences of imprudent behavior. But they do have responsibility—have accepted the principle of responsibility—for the provision of reasonable flows of liquidity on a global basis and for the provision of lender-of-last-resort facilities for their individual national banking systems.

Let me speak to this second responsibility first. Several events of recent months have significantly increased the uncertainty within the international banking community as to how the lender-of-last-resort responsibility would be exercised. This uncertainty has been unnecessarily disruptive of ordinary international financial flows. Since the lender-of-last-resort responsibility is a responsibility to maintain liquidity rather than solvency—and since the distinction between liquidity and solvency problems is not always clear—it is quite impossible to establish rules of central bank behavior that are totally free of uncertainty. Nonetheless, in present circumstances some further clarification of those responsibilities is needed.

The second area of what I perceive to be a public responsibility—the provision of reasonable flows of global liquidity—is more troublesome. This responsibility is exercised by central banks individually or, in some cases, collectively through the Bank of International Settlements and, at the government level, through the International Monetary Fund. The Fund is the keystone institution in this regard. And there is at this moment only the beginnings of a consensus among the governments that are the IMF's chief sources of support as to what level of activity is appropriate for that institution.

Before I comment further, let me clear away some underbrush. First, in saying that the Fund has been given the key responsibility of providing reasonable flows of liquidity to its members I do not mean to imply that it is the international lender of last resort. There are certain parallels between the role of the Fund and the role of central banks, but there are also distinct differences in agreed function. The responsibility of the Fund for providing liquidity is not determined by market conditions but by predetermined limits agreed to by its members. Second, the Fund is not a development institution. Its responsibilities are limited to the provision of credit to members undergoing temporary balance-of-payments difficulties. It is not a responsibility of the Fund to provide credit either on a long-term or subsidized basis.

Having said that, I hope I will not be misunderstood in saying further that the current limitations on the financial resources of the IMF are sufficiently stringent as to threaten its ability to perform its assigned responsibilities. I recognize that there is no strict answer to the question of what level of liquidity provision by the IMF is reasonable. But I submit that there is a very good chance that, without prompt action, the funding constraints operating on the IMF will soon force it into restraints on new credits that are not reasonable.

The Fund's resources need to be enlarged. In my opinion, we need to follow two tracks in that direction. We need to agree quickly as to a relatively large increase in basic quotas. And we need to implement an emergency funding facility such as that proposed by the Reagan Administration. Without these steps, there can be no assurance that the credit program of the IMF can be maintained at a level appropriate to the current world economic environment. And without a commitment to increased levels of multilateral credit to the developing countries in trouble, the availability of credit from private sources will shrink drastically. That would spell trouble for all of us, even the banks.●

THE AMERICA THE BEAUTIFUL FUND MARATHON

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1982

● Mr. GILMAN. Mr. Speaker, for the past several years, it has been my honor and privilege to serve as an honorary member of the board of trustees of the America the Beautiful Fund.

America the Beautiful, headquartered here in Washington, is an organization dedicated to fostering the preservation of our historic and cultural heritage through voluntarism. Although the organization may from time to time provide "seed moneys" to local volunteer groups, the major thrust of the America the Beautiful Fund has been to help with the organization of local volunteer groups from the grassroots level.

This past fall, in a successful effort to encourage the local ABF organizations, and to make new friends, the founder of the America the Beautiful Fund, Paul Bruce Dowling, conducted a coast-to-coast marathon, by bus, truck, and car.

The marathon, which took place from September 30 through October 17, was an unqualified success. Mr. Dowling was greeted with open arms throughout the 15 States that he visited.

In the course or this marathon, Mr. Dowling collected, on a large scroll, the signatures of over a thousand Americans, who subscribe to the inscription on the scroll:

We the people of America the Beautiful believe that the way this country can be saved is the way it was built—town by town, block by block, farm by farm—with creative citizen initiative. We are trying to keep America going by community improvement, solving local problems, and creating new opportunities. We believe that one of the most beautiful things about America is the spirit of public service and sharing among people everywhere, and in witness to this we have set our hands on this document.

We hope to soon be presenting this scroll to the White House.

Mr. Speaker, I am confident that all of our colleagues will join in these sterling sentiments, and join with me in saluting Mr. Dowling and the hard-working executive director of the America the Beautiful Fund, Nanine Bilski, for a job well done.

Mr. Speaker, I ask unanimous consent to have read into the RECORD two documents: First, the statement of purpose issued by the America the Beautiful Fund prior to the 1982 marathon; the second, the observations by Mr. Dowling after the conclusion of the marathon:

REACHING ACROSS AMERICA THE BEAUTIFUL

Americans back home want to exchange personal messages of friendship, sharing and belief in American values with fellow Americans coast to coast.

They are the people in towns, neighborhoods, and villages who vote, work and volunteer to keep America going by community improvement, solving local problems and creating new opportunities.

The Founder of the America the Beautiful Fund, Paul Bruce Dowling, will travel by coast to coast highway across 15 states, from California to Washington, D.C., in a 14

day marathon by bus, truck, and car, to carry the greetings of hometown Americans from state to state and back to the nation's capital.

"It's the best way to see what's going on in America," he stated, "and that's why we are trying to greet as many old friends and meet as many new friends as possible from among the nearly 5,000 local ABF community projects of the past 18 years. They represent the best American "know how" and "how to" get the job done. We need these people right now today to inspire us to get the country moving again."

Each stop along the route will be a celebration of local volunteer accomplishments and each event will be unique to that town and offer an exciting and inspiring display of the beauty of both American heritage and scenery. National Recognition Awards, Project Endorsements, Awards for Good Citizenship and Emergency Loans and "Seed Grants" will be given to projects along the way. Names of people participating in the ABF events will be collected on a scroll to be brought back to Washington as a testimony to the spirit of creative public service in America.

The travel corridor for Dowling's marathon trip is 100 miles wide along Routes U.S. 30, 40 and 50, and Interstates 64, 70 and 80 and towns along the route include Sacramento, Roseville and Placerville, California; Carson City, Nevada; Laramie and Cheyenne, Wyoming; Denver, Colorado Springs and Cascade, Colorado; Grinnell and Salina, Kansas; Independence and St. Louis, Missouri; Olney, Illinois; Evansville, Indiana; Frankfort, Kentucky; Charleston, West Virginia; and Cumberland, Maryland.

OBSERVATIONS ARRIVED AT FROM 1982 ABF MARATHON

1. Citizen initiative is a large untapped source of energy and "know how" available across the length and breadth of America.

2. Solutions to a series of community problems—economic vitality of local commerce areas, rescue of local environments and neighborhoods, public works of streets, curbs, trees, sewers, water, open spaces, landmarks and emergency human services—can grow out of efforts to mobilize local voluntary manpower and local dollar resources. Even in the poorest situations, good volunteer efforts have led to public grants/contracts or private investments.

3. Tight economic times, instead of "encouraging new starts" and new ventures, has depressed the appetite for new volunteer activities and local programs to meet current charitable needs.

4. The Administration's efforts to encourage "volunteerism" have not yet trickled down or awakened widespread response on the municipal, county, state or national level. Likewise, new initiatives on the business, corporate, foundation, large and small charitable level are needed in order to help bring into being new private initiatives, a return to the pioneering of new solutions, or even finding a cure for local economic depressions. A "call for renewal" of our national purposes (even more total in concept than the Bicentennial celebration) needs to echo forth.

5. Charitable efforts on the local level still need to be fully mobilized to meet the psychological drain on people from unemployment and no growth. Emergency funds, revolving loan funds, low budget recreation and social programs could be built up by local churches, clubs, service groups and other local non-profit groups that, because of their diversity, could stimulate a variety of local funding to serve charitable needs.

6. Young people need more employment chances. These are the people who are suffering the most in loss of incentive and encouragement to make their own personal contributions to a better life in their own home communities. Job hot lines, small business loans, youth exemption to minimum wage, and summer internships for public and private business and agency offices and school related part time jobs could correct this waste of human potential.

7. Leadership, both private and public, needs to be recognized and rewarded on a widespread, nationwide scale since people do a great many praiseworthy activities on the local scene and these often go unrecognized and unrewarded by the mass communications and mass consumption networks that often dehumanize our daily lives. Unsung heroes abound in America and their existence deserves to be celebrated more.●

INITIATIVES ON BEHALF OF DISABLED AMERICANS

HON. LARRY WINN, JR.

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1982

● Mr. WINN. Mr. Speaker, in the United States the program of the 1981 International Year of Disabled Persons (IYDP) and the 1982 National Year of Disabled Persons stimulated important new activity to help improve the lives of our Nation's 35 million individuals with disabling conditions. No one anticipated that serious problems of disability would be solved in a year or two. Because we must continue to make progress in this area of human concern, I am especially pleased that the United Nations has now declared the Decade of Disabled Persons—1983-92.

Designations of years and decades, in themselves, do nothing. However, they help provide a climate and an opportunity which can be seized by organizations, governments at all levels, and concerned individuals to further objectives and programs. During the IYDP, the United States established a series of long-term goals of and for disabled persons. The Decade declaration, together with the U.N.'s companion World Program of Action, provide a framework for continuing progress toward the long-term goals of and for disabled Americans.

In these days of fiscal restraint, when all Americans are being asked to do more for themselves and to look to government less, it is especially important that we encourage those institutions and organizations which foster self-reliance and voluntary action. A permanent, private sector organization grew out of the International Year of Disabled Persons and is continuing the nationwide community partnership program developed in that observance. The National Office on Disability includes more than a thousand communities and hundreds of national organizations, and is spearheading the decade observance in this country, in cooperation with many hundreds of organizations, Government agencies, corporations, and all who can contribute. This is an exemplary private sector initiative.

I soon will sponsor a resolution on the Decade of Disabled Persons in cooperation with my colleagues in the House. I was privileged to introduce the House resolution designating 1982 as the National Year of Disabled Persons. Thanks to the work of the National Office on Disability and many other groups, this year has served as a bridge between the IYDP and the decade, which was declared last Friday by the United Nations General Assembly.

Following the General Assembly vote on the Decade of Disabled Persons, one individual was called on to respond to the U.N. initiatives, speaking on behalf of the world's half-billion disabled persons, as well as the United States. In his statement, Mr. Alan Reich, president of the National Office on Disability, urged the United Nations and the world community to continue progress in this important area of human concern.

Mr. Speaker, I ask that Mr. Reich's statement before the U.N. General Assembly be included in the House RECORD.

The statement of Alan A. Reich before the U.N. General Assembly December 3, 1982, follows:

Mr. President and distinguished delegates; thanks to you, fully one-half billion disabled persons of the world now can look forward to a brighter future. The UN, by proclaiming the 1981 international year of disabled persons, aroused the hopes and aspirations of this significant segment of humanity. The continuing vision and leadership of the member nations, Secretary-General Perez de Cuellar, the UN Secretariat, the agencies of the UN system, and the Center for Social Development and Humanitarian Affairs, will have radiating impact reaching people everywhere.

The resolutions you have adopted today for the world program of action for disabled persons and its implementation resolution, including the decade of disabled persons, are marvelous testimony to your humanitarian concern.

As a disabled person myself, I am well aware that your continuing commitment is raising the world's consciousness in the area of disability. You may not fully appreciate it, but people at the grassroots level truly do benefit from your actions. The best testimony to this effectiveness I can cite is a statement my organization, the National Office on Disability, received from one of our more than one thousand community liaisons. Ms. Lee McCoy of Mobile, Alabama wrote, "As chairman of the Mobile program, I request that as you structure your national community program, you think of the UN decade of the disabled as the frontispiece. Local communities need worldwide structures to hang their local programs on effectively. "Geneva UN Program Secretariat Assembly", for example, works magic on the local

level. With an international scope, working members gain in stature. The higher the source, the greater the local response. With this international base and your national plan, we have a total package to take to the community," she stated.

In the United States, as in several other nations, the year 1982 was proclaimed the national year of disabled persons to continue the momentum of the IYDP. President Reagan and the United States Congress issued proclamations to help maintain the public focus on disability issues and secure the support for the programs of organizations committed to improving the lives of disabled Americans. Governors, mayors, and county officials throughout the country have provided leadership for these voluntary, self-help initiatives in States and Communities. Most importantly, many thousands of citizens, both disabled and non-disabled, have joined in a partnership effort to continue what was started during the IYDP. A new era of economic restraint and budget reductions has made these local private initiatives more important than ever.

An outgrowth of the IYDP was the formation of the National Office on Disability, a permanent, private, non-governmental organization. Its purpose is to continue the momentum you have started. It is building on the solid progress achieved during the international year, supporting community level action of and for 35 million Americans with disabilities.

The continuing worldwide response to the IYDP challenge has been significant. More than 130 nations formed national commissions and carried out programs. The IYDP Secretariat in Vienna, under the able direction of Assistant Secretary General Mrs. Leticia Shahani, is spearheading efforts to continue this momentum and has established a UN Trust Fund for Disabled Persons. It has great potential, especially for disabled persons in developing nations. A international organization made up entirely of disabled members, Disabled Persons International, has had its first meeting in Singapore. It serves as a conscience for the disabled throughout the world.

The World Program of Action, which you have adopted today, is the culmination of three years of careful work. This fine document offers great promise and opportunity for all mankind, disabled and non-disabled alike. It will enhance efforts aimed at participation of disabled persons and prevention programs, with enormous humanitarian and economic benefit.

We also are excited about your action today on the Decade of Disabled Persons. Support in the United States for the decade idea has been overwhelming. It will, indeed, help stimulate interest and awaken concern worldwide. It provides the necessary framework for national action.

But, we would not do justice to your initiative and leadership if we did not also recognize another important contribution of your work. By focusing world-wide attention on disabled people, the United Nations has opened an important area of transnational communication across political boundaries on common problems affecting all peoples. This communication will continue. It will further international cooperation and improve the climate for resolving other differences peaceably. Interactions among nations in the area of disability and the worldwide exchanges of information and people will contribute to this climate of peace and cooperation. I am reminded of the words inscribed here at the entrance of the United Nations, "since wars begin in the minds of men, it is in the minds of men that the defenses of peace must be constructed." The Decade of Disabled Persons is an idea born in the minds of men which is helping to build the human foundations for the structure of peace.

These two results of your actions—new commitment to improving the human condition and opening a new area of transnational communication—are inspirational testimony to the moral force of the United Nations. Voluntary response throughout the world to your challenge demonstrates the UN's tremendous capacity to stimulate purposeful action and commitment. With limited funds, the UN has fostered programs with far-reaching implications in all countries.

The IYDP success is not in what was done, but in what was started. By focusing attention over the long-term on the serious problems of disability, the United Nations has created the opportunity. But the opportunity must be seized. This is a challenge to us all.

And, let us no longer question the value of focal year and decade observances. They demonstrates that the UN can unleash tremendous human and organizational potential. As we look ahead to another signal year—the bimillennium in the year 2000—the continuing response you have aroused will be a beacon of hope. The bimillennium will inspire the setting and pursuit of high goals for improving the human condition for all mankind.

I urge you, distinguished member nation representatives and the world community, to intensify your efforts to improve the lives of the one-half billion people with disabilities. By challenging the world and by taking on this responsibility, you have become champions of the disabled. We need you as partners. We need your vision and leadership. We need your continuing concern, compassion and commitment.

You are giving us opportunity. You are inspiring hope. Let's keep up momentum. Together we can make our planet more livable!

Thank you, Mr. President.●

UNITARY TAX

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1982

● Mr. CONABLE. Mr. Speaker, I and 18 other members of the Committee on Ways and Means have introduced H.R. 1983 which would solve the international trade and taxation problems caused by a few States using the worldwide combined reporting method of corporate tax assessment.

Most States use the unitary method of tax assessment for those corporations doing business in more than one State. Under that method, income subject to tax is generally computed on the ratio of payroll, sales, and property in the taxing State compared to all States. When the formula apportionment of the unitary method is carried one step further and overseas affiliated corporations are included, that method of tax assessment has become known as the worldwide combined reporting system.

While the formulary apportionment of the unitary system may work for activities within the United States, its application to overseas activities presents serious problems of very different systems of accounting, languages, currencies, levels of productivity, cost of labor, cost of materials, and elements of risk. The obvious differences in property and labor costs worldwide build in an instant unbalance which can cause unreasonable, if not multiple, taxation.

The Federal Government does not use worldwide combined reporting and neither does any other country. Our failure to enact legislation limiting the use of worldwide combined reporting is exerting additional pressure on the already strained international relations.

The problems caused by the continuing situation of the United States and the rest of the world having one corporate tax policy while a few individual States have their own individual corporate tax policies are clearly spelled out by an article entitled "Tax Fight Next?" in the November-December issue of Europe, the magazine of the European Economic Community. I ask that the article be included in the CONGRESSIONAL RECORD so that my colleagues may have an opportunity to become more familiar with the problems of worldwide combined reporting and of the continuing need to pass legislation such as H.R. 1983 to limit its use.

The article follows:

[From Europe, November-December 1982]

TAX FIGHT NEXT?

EUROPEAN MULTINATIONALS UPSET WITH ASSESSMENT POLICIES OF AMERICAN STATES

By Geoffrey Carroll

Though it is not as emotionally charged and does not command the same front-page headlines as the current pipeline or steel-trade disputes, there is yet another increasingly contentious issue between Western Europe and the United States. Known in general terms as "unitary taxation," it is exerting additional pressure on an already strained trading and investment relationship. At stake is the potential diversion of hundreds of millions of dollars of European investment in the United States, with all the accompanying jobs that would be created.

Many individual US states—27 of the 46 states which tax corporate income—use the unitary method of tax assessment for those corporations doing business in more than one state. Under the method, income subject to tax is generally computed on the ratio of payroll, sales, and property in the taxing state, compared to all states. When the formula apportionment of the unitary method is carried one step further and overseas affiliated corporations are included, that method of tax assessment becomes known as the "worldwide combined reporting system."

At present, 13 states are using the worldwide combined reporting system, but today's

recessionary environment, coupled with the Reagan Administration's reduction of federal funds to the states, is causing many more to seriously consider such a unitary tax as another, much-needed source of revenue. Furthermore, the states that use worldwide combined reporting—California, Indiana, Illinois, New York, Massachusetts, Oregon, Alaska, Idaho, Colorado, Montana, New Mexico, North Dakota, and Utah—represent some of the most populous and commercially important regions in the nation. Since roughly 70 per cent of the direct foreign investment in the United States comes from Western Europe, the burden of the unitary tax falls on European-based corporations.

Essentially, the unitary apportionment system is an arbitrary method of assigning a portion of worldwide income of a group of related companies to each state on a formula basis. In the present international context, the system is an alternative to determining the income actually earned with the state or to determining the total United States income of the corporate group, which may then be apportioned between the states. Using the unitary apportionment system, total worldwide income of all related companies as a group is allocated or apportioned, even though many of the companies may do no business whatsoever in the United States.

The allocation is made by formulas such as one based on the ratio between sales, property, and payroll in the American state and worldwide sales, property, and payroll of the entire corporate group. While the formula apportionment of the unitary system may work for activities within the United States, its application to overseas activities presents serious prolems and insurmountable distortions that result from very different systems of accounting, languages, levels of productivity, commercial laws, cost of labor, cost of materials, elements of risk, and currency fluctuations.

Double taxation inevitably results, since using the unitary tax method on a worldwide combination basis can't help but tax income which is already being taxed by foreign authorities in Europe, and elsewhere, under the international arm's length, separate-accounting principle.

It is true, of course, that even under a consistent international tax structure, multiple taxation may occur. Countries frequently differ on the nature and amount of adjustment needed to reflect arms-length dealings among affiliated corporations and they disagree over the creditability of taxes. However, the common conceptual framework—as well as the provisions of tax treaties which have been jointly hammered out and observed—provide the mechanisms for resolving such disputes as may arise and for eliminating double taxation. Indeed, the international income-tax treaty network is based upon the principle of avoiding double taxation. Such economic double taxation as occurs under the established international tax structure is unfortunate, but that which it is not eliminated through treaty mechanisms reasonably may be viewed as an unavoidable consequence of the interaction of the tax systems of sovereign nations. However, because worldwide combined reporting is antithetical to this established practice, any double taxation which it causes should be considered excessive on policy grounds, and individual American states should not be permitted to adopt a system which results in international multiple taxation merely because the federal, internationally-accepted system may also produce some double taxation at times.

A specific example of this unreasonable tax burden is seen in the case of the current dispute between the Shell petroleum company and the state of California tax board. Shell has engaged for many years in business activities, directly or through its subsidiaries, throughout the United States and in numerous foreign countries. For each of the years 1967 through 1972, Shell states that its California payroll, property, and sales did not exceed 20.5 per cent of its worldwide payroll, property, and sales. Yet in every one of those years the state of California tax board deems Shell to have earned in California an amount equal to at least 50 per cent of Shell's worldwide income. In three of those six years, the amount of income attributed to California by this approach would exceed Shell's consolidated worldwide income as reported to the US Internal Revenue Service, (IRS) and in one year, 1969, the income attributed to California would be more than four times as great as Shell's total consolidated worldwide income, as reported to the IRS. Over the six year period, the approach by the California tax authorities would attribute 92.6 per cent of Shell's worldwide income to California.

The unitary apportionment system is contrary to well established international standards of taxation. Since early in this century, the accepted and honored international understanding has been that each nation is free to tax its own nationals or companies on their income, from whatever source derived. A nation may not tax a foreign company on its worldwide income, but may tax only income generated within the taxing nation. Moreover, the international understanding has been that the taxing authority must treat the domestic subsidiary of a foreign company and the legislative path, in both the US Congress and individual state legislatures. In the 96th Congress, identical bills were introduced in both the House and Senate which would limit the use of the worldwide combined reporting system. Hearings were held on the House bill in March 1980, before the Committee on Ways and Means, and on the Senate bill in June 1980, before the Finance Committee. Neither bill was voted out and identical bills were reintroduced in the House and Senate in 1981 in the 97th Congress. Sen. Robert Dole, Chairman of the Finance Committee, has promised hearings this year and it is very likely they will now occur during the lame-duck session which begins November 29, although no concrete action is expected to be taken.

Congress is reluctant to legislate on this matter while several cases concerning the constitutionality of the worldwide combined reporting system are still pending before the US Supreme Court. The cases in question are the Chicago Bridge & Iron Co. vs Caterpillar Tractor Co. and Container Corporation of America vs Franchise Tax Board. Since Chicago Bridge & Iron was the result of an appeal by an intervenor in the state court action, the factual record of the lower court proceedings between Caterpillar and the state were not before the Supreme Court. This was acknowledged at the hearing before the Supreme Court in April of this year and the court therefore decided to rehear the Chicago Bridge & Iron case later this year, along with the Container Corporation case, for this latter case provided a more appropriate factual situation since multinational corporations involved in non-unitary lines of business were involved. However, arguments will not be heard before November 1982 at the earliest, as an independent entity, and may not combine it upstream with its parent and other affiliates of the parent.

This understanding is embodied in the model conventions of three major international organizations whose work has spanned six decades, in three diplomatic communications from the EC to the U.S. Government, and in a statement of position recently made by the U.S. government to the Supreme Court. The U.S. Federal Government does not use the worldwide combined reporting system and has agreed in over 40 international tax treaties not to do so. Notes attached to treaties recently negotiated with England, France, and Canada make it clear that not only does the Federal Government not use worldwide combined reporting, the contracting countries expect the Federal Government to limit its use by individual States.

No other nation, in fact, uses the worldwide combined reporting system. The separate-accounting, or arm's length, method is used by virtually every other Government in the world. The Organizaton for Economic Cooperation and Development and other international trade organizations, after repeated and exhaustive studies, have consistently concluded that only the separate-accounting system is fair and reasonable in taxing international business. They conclude that the unitary apportionment system applied worldwide results in an unreasonable tax burden, multiple taxation of the same income, and heavy and unnecessary admnistrative costs.

Athough so far the U.S. federal Government and the individual states have not been able to resolve satisfactorily or to defuse the unitary tax question, several attempts have been made and efforts are still continuing to reach an accord, these efforts have been made via the judicial route, in the U.S. Supreme Court, and a decision is not expected until after the first of the year. While it is most difficult to predict the outcome of the Supreme Court rulings, it is likely that they will not provide complete relief from the vagaries of world-wide combined reporting and might not address the plight of overseas parent corporations with US subsidiaries.

With regard to individual state initiatives, Gov. James Thompson of Illinois recently reached a major compromise decision on the use of unitary tax by the state of Illinois which, if adopted by the state legislature, would be a substantial victory for the forces of those opposed to the spread of the worldwide combined reporting system. For many months, Thompson has been considering a bill before him which, if enacted, would have outlawed altogether the use of unitary apportionment of corporate income taxes in Illinois. This particular issue split the very powerful Illinois business community and, in a very difficult political decision, Thompson decided to use an amendatory veto which would abolish the corporate unitary taxing method on out-of-country operations of firms operating within the boundaries of Illinois, but would retain the method for their operations in the United States.

The EC Commission is not against the unitary method of taxation per se. Indeed, it recognizes that there may be some validity and theoretical justification for the unitary approach regarding income earned within a homogeneous economic system, such as the United States. However, this unitary concept begins to lose whatever integrity it has when the formula apportionment of the unitary method is carried one

step further and overseas affiliated corporations are included. It is therefore only the worldwide combined reporting that causes such strenuous objection. The bottom line is that unless the same basic rules for calculating taxable profits are followed generally by the main trading nations, it will be impossible to achieve the essential objective of providing a consistent and coherent international tax framework for trade and investment.

If nothing is done to resolve the current impasse, there will likely be several significant developments. First, within the borders of the United States, the continued use of the world-wide combined reporting method will have a negative influence on investment in those states that continue to embrace this principle. Several European multinationals have already either postponed or abandoned investments that they were considering in California due to that state's particularly aggressive application of worldwide combined reporting. It is common knowledge that European companies are anxious to invest in the US market. The United States offers the world's largest and politically safest consumer market; there are no serious nationalization threats and, compared to Europe, the United States possesses a reasonably mobile and efficient labor force. The potential amounts of capital investment and subsequent job creation resulting from European direct investment are rather substantial.

Roughly two-thirds of all foreign direct investment in the United States is from West European parent corporations. U.S. Department of Commerce figures put total foreign direct investment in the United States at the end of 1981 at about $84.2 billion, of which $55 billion came from European companies. In 1981 alone, European companies put close to $11 billion in new investment into the United States, up from $5.4 billion in 1980. Any policy, therefore, which results in a reduction, or redirection of these investment flows does seem somewhat shortsighted on the part of the states. Thus, far, and for the near future as well, the major effect of the application of worldwide combined reporting may be to discourage foreign investment only in the states which use it. If the application becomes more widespread, however, a broader and more pervasive adverse impact on overall foreign investment in the United States is inevitable.

With regard to effects outside the United States, if the states persist in unfair treatment of foreign-owned corporate groups in this fashion, US companies should realize that they are likely to suffer retaliation, not only from other countries, but from their political subdivisions as well. The international tax-treaty partners of the United States have been receiving assurances from two consecutive Administrations that the United States would quickly resolve this internal unitary tax dispute. Little has actually happened, and as more states examine worldwide combined reporting as an attractive revenue source, pressure is growing simultaneously in foreign legislatures to take "reciprocal" action.

Of even greater concern to the United States should be that other foreign countries, particularly developing countries, may follow the California's lead and adapt the unitary tax concept in such a way as to impose a much greater tax burden on US companies operating worldwide.

If the unitary taxation concept spreads to other countries, US companies may be force to provide confidential financial information and other data, just as certain individual US states are currently seeking from European-based companies. Consider for a moment the impact of an unfriendly nation insisting upon details of US plant costs, US research and development expenses, and other such information from a US company with extensive defense production, or one engaged in nuclear reactor construction. The provision of such information may be contrary to an entire series of US laws, just as the provision of information to any of the American states may violate the laws of the various foreign countries in which a foreign-controlled corporate group may be doing business.

With an international trading and investment system that is already under an inordinate amount of pressure, the strain caused by the unitary tax problem is an unnecessary additional risk. Since no other nation in the world permits the use of worldwide combined reporting, it is hoped that the United States will be able to correct this tax inequity before there is any diversion or curtailment of investment.●

WORLD TRAVELER FLIES PEARL HARBOR FLAG OVER CAPITOL

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1982

● Mr. CLAY. Mr. Speaker, Mr. Nathaniel Joseph Jordan of Washington, D.C., has traveled around the world five times since 1970. He has been to all 7 of the Earth's continents and to all 50 States in the Union. He is known to be the first black to fly across the North Pole during the Alaska Airlines inaugural flight from Anchorage, Alaska to Leningrad, U.S.S.R., on June 12-13, 1971. He also became the first to return to the pole during a repeat performance on June 10-11, 1972.

Mr. Jordan became the first North Pole visitor to visit the grave of Matthew A. Henson in Woodlawn Cemetery in New York City on April 6, 1974. Henson codiscovered the North Pole with Adm. Robert E. Peary, on April 6, 1909.

Mr. Jordan was a pilgrim to the Holy Land and Rome during the 1975 Holy Year and had an audience with the late Pope Paul VI.

In 1976, Mr. Jordan became the first black to make a commercial supersonic flight across the Atlantic on the inaugural flight of the British Concorde from Washington to London on May 25. The next day, he flew to Paris and took the first regular flight of the French Concorde back to the District of Columbia. This flight made him the first person to fly in both Concordes.

In December 1977, Mr. Jordan traveled to Antarctica on the inaugural cruise of the MS *World Discoverer*, the first tourist ship to sail on both sides of the Antarctic Peninsula. He visted the Argentine Admiral Brown Station where he became the first black tourist and member of the tour which set foot on that continent, on December 24.

He also visited the Argentine Esperanza Station on December 28, where the first human birth occurred, on January 7, 1978.

In 1974, on his way to Australia, Mr. Jordan visited Pearl Harbor on March 8. He had his first look at Pearl Harbor from a Japan Airline 747 on a flight from Los Angeles to Tokyo in July 1970. Mr. Jordan also visited the last commissioned ship present during the attack, U.S.S. *Taney*, on December 7, 1981, in the Washington Channel.

In his recent travels, Nathaniel Joseph Jordan has brought with him a special Pearl Harbor commemorative flag. His Pearl Harbor flag was flown over the U.S.S. *Arizona* 1 year ago today. The flag has also been raised over Independence Hall in Philadelphia, Fort McHenry in Baltimore, Times Square in New York City, the 1982 World Fair in Knoxville, the U.S.S. *Arizona* anchored in Phoenix, and Kitty Hawk, N.C. It has been laid on the graves of Franklin Delano Roosevelt and George Washington and the Wright Brothers in Dayton, General MacArthur in Norfolk and Admiral Kimmel in Annapolis.

Today, Nathaniel Joseph Jordan visited Congress and the Pearl Harbor flag was raised over the Capitol in commemoration of the men and women who gave their lives in service to our Nation.●

H.R. 7122 ENCOURAGES PRODUCERS OF NATURAL GAS TO LOWER COSTS

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1982

● Mr. BROWN of Ohio. Mr. Speaker, on September 28, 1982, I wrote to you about H.R. 7122, legislation which I and my colleague from Pennsylvania, Mr. RITTER, introduced on September 16 to do something constructive about natural gas prices. Since that time, a hopper full of natural gas bills has been introduced on both sides of the Hill. More are coming.

I know that many of you are trying to decide which of these bills deserves your support. We have obviously got to do something. I would like to tell you why I and the Members who have already chosen to cosponsor H.R. 7122 believe that it would fundamentally change the operation of the natural gas industry in a way that will help natural gas consumers—not just this winter or this year—but from now on.

Here is the true story that inspired H.R. 7122: How a school board could have cut its natural gas bills in half and a group of small independent pro-

ducers could have found a new market, if the pipeline hadn't been adamant.

A natural gas producer in Athens County, Ohio, named Carl Fout has wells under contract to Columbia Gas Pipeline Co. For 150 days this year, Mr. Fout's wells (and all other Appalachian natural gas wells under contract to Columbia) were shut in by Columbia. These small producers did not have the bargaining power to obtain take-or-pay guarantees in their contracts with Columbia. Thus, they were told Columbia would not buy their gas while it took more expensive gas from the gulf State region.

Since Columbia would not buy Mr. Fout's gas, he and other producers approached individual Ohio industries, school districts, and municipalities and offered to sell gas to these consumers—not at the ceiling price established by the NGPA for their gas, $5.35—but at a price nearly 50 percent less, $2.95. Yet, Mr. Fout's gas stayed shut in and that local school board is paying $4.50 to $5-plus for its gas. Why? Because Columbia maintained that Fout and the others had a contract to sell only to Columbia. Therefore, Columbia would not let them sell to anyone else and refused to transport Mr. Fout's gas to the local industries and school districts which wanted to buy it.

Unfortunately, Mr. Fout's story is not unique. California producers have been relegated to the role of peak suppliers while California consumers choke on high-price Canadian supplies. Producers in Pennsylvania, West Virginia, and New York have also been shut in much of this year even though their gas supplies are cheaper than other supplies being purchased by the natural gas pipelines which serve those areas.

This could not happen if H.R. 7122 were law. Any producer shut in could find another buyer for his gas. The pipeline, for a fair price, would then be obligated to transport the producer's gas to the new buyer.

By providing consumers the ability to purchase the least expensive supplies available, H.R. 7122 puts competitive pressures on the pipelines to hold down their costs. By providing pipelines with the ability to reduce take requirements in contracts of high cost gas by 50 percent, H.R. 7122 encourages producers of high-cost gas to lower their cost to consumers or suffer loss of sales. Both provisions work to induce natural gas prices to ratchet down instead of up, as should be happening in this time of surplus supplies. This is the way markets are supposed to work, and are working in the petroleum industry.

If you would like to return economic sanity to the natural gas markets, please support H.R. 7122.

Mike Boland (5-3641) or Linda Stuntz (6-3400) can provide further information on H.R. 7122 and its cosponsors.●

A SALUTE TO RALPH W. FREY

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1982

● Mr. FAUNTROY. Mr. Speaker, I would like to take this opportunity to commend one of the outstanding citizens of our Nation's Capital. He has been a leader in our business community, a supporter of the many civic activities of our city, and an outstanding voice on behalf of the District of Columbia. Ralph W. Frey, vice president of C&P Telephone, will retire officially on March 31, 1983, after completing over 41 years service.

Since 1966, Mr. Frey has been responsible for running the operations of the District of Columbia's largest private employer, C&P Telephone.

Mr. Frey's managerial ability has enabled C&P to meet the growing telecommunications needs of the residential, business, and Government customers in the District of Columbia. In addition, he has played a key role in insuring that the unique requirements for telephone service of both the President and Congress be fulfilled, as well as the heavy demands of the news media for telecommunications in covering national events. Mr. Frey has been in charge of Washington telephone operations during the past four Presidential inaugurations and 16 years of congressional changeover, including the 1980 general election which resulted in the move of over 5,000 telephones on Capitol Hill—the largest in congressional history.

During this time, the volume of telephones in service in Washington has grown to more than 1 million. Currently, the Nation's Capital has more telephones per 100 people than any other city in the world.

Under Ralph's leadership, the company has made significant progress in introducing new technology to improve customer service. C&P Telephone is one of the leaders in the Nation in implementing electronic switching systems (ESS) that improve call handling.

In 1980, Ralph served as president of the Greater Washington Board of Trade. During his term of office, the board of trade:

Helped generate more than 56 industry relocations and expansions into the Washington, D.C., area. These represent more than 1,000 new jobs, $9.4 million in new personal income, $5 million in new bank deposits, and $4.4 million in new retail sales.

Was awarded a grant by the U.S. Department of Energy to develop and carry out a voluntary, industry-by-industry, energy conservation program for businesses in the Washington area.

Identified more than 11,000 new summer jobs for youths in the area.

Published the area's first economic and business forecast.

Sponsored for the first time in the Nation, a retail anticrime campaign aimed at preventing shoplifting, bad check writing, and credit card fraud.

Ralph is on the board of Suburban Bank; on the Board of Regents, University of Maryland; a director and member of the Executive Committee of the Greater Washington Board of Trade; a member, Board of Trustees, Group Hospitalization, Inc.; a member of the District of Columbia Private Industry Council; a member, task force on international affairs; and a member of the Armed Forces Communications and Electronics Association; leader, adult education class, St. John's Episcopal Church; past president of the Maryland District of Columbia Utilities Association and National Capital Downtown Committee; and past president and member, Board of Trustees, University of Maryland Alumni Association.●

HONORABLE BO GINN

SPEECH OF

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 6, 1982

● Mr. JONES of North Carolina. Mr. Speaker, all Members of Congress have their own individual personalities, but among those with one of the most pleasing and accommodating is that of my good friend, Bo GINN. He has been the type of Representative who always is genuinely interested in his colleague's problems and is willing to assist if at all possible. He has certainly represented his district well, and his people can be eternally grateful for the contribution he has made not only to the State of Georgia, but to the Nation as a whole.

Frankly, I will miss him and his pleasant disposition, and certainly wish for Bo and his family many years of health and happiness in the future.●

PERUVIAN PRESIDENT SPEAKS HIS MIND

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1982

● Mr. SCHROEDER. Mr. Speaker, Peru has long been one of our best friends and allies. It is unfortunate that President Reagan was unable to

include Peru on his recent paseo through Latin America. He might be surprised to learn how many democratic allies we have there.

Peruvian President Fernando Belaunde Terry recently gave an interview to the Associated Press, which was published in the December 2, 1982, Rocky Mountain News.

$1.2 BILLION SOUGHT BY PERU IN COCAINE WAR

LIMA.—President Fernando Belaunde Terry says he needs $1.2 billion in aid from the United States to stop the illegal production of cocaine in Peru. He's getting $18.5 million.

"We have made a big effort with the sacrifice of human lives, we have lost many policemen by assassination, we have burned tons of drugs and made many arrests," the 70-year-old president said in an interview with The Associated Press.

But he added: "U.S. aid is insignificant—that is one of the big mistakes. To send a commission here and promise a loan doesn't solve the problem."

U.S. experts estimate Peru's illegal cocaine industry at about $600 million a year, with $100 million remaining in the country. Bolivia and Peru are the major producers of cocaine paste, funneled to the United States principally through Colombia, the experts say.

The U.S. Agency for International Development has pledged $18.5 million dollars over a five-year period to induce Peruvian farmers to substitute another cash crop for coca leaves.

The Peruvian government has a matching fund of $8 million, but so far there have been few takers, AID officials say. The reason? Farmers can make 10 times as much from illegal coca as they can from rice, coffee, bananas or other alternative crops.

"No less than $400 million a year for three years is needed" to get farmers to switch from coca growing, said Belaunde.

Legal production of coca is fixed at 39.6 million pounds a year, but the government's top narcotics policeman, Brig. Gen. Miguel Cardenas, last month estimated illegal production at 88 million pounds. He complained that he has only 268 narcotics agents to track down growers, middlemen who collect coca leaves or paste from the growers and shippers who pay more than $18,000 a pound for the paste and smuggle it out by plane or boat.

Belaunde said the international drug traffickers, to distract the police, are also financing the terrorism that has taken 127 lives this year.

"The terrorist movement is clearly linked with narcotics trafficking—that's why we call them narco-terrorists—and is financed by drug trafficking," said Belaunde.

He added that foreigners have been involved in some terrorist sabotage. But he would not identify them or their country, saying only, "There are certain nations that export their ideas."

He did not refer by name to Sendero Luminoso (Shining Path), the Maoist-line guerrilla organization waging a campaign of terrorist violence against his government.

He also complained that Peru had lost $50 million in tourist business because of a much-publicized forecast of earthquakes in the country by geologist Brian T. Brady of the University of Denver. He said the forecast proved to be inaccurate.

Belaunde was elected in 1981 as Peru's first civilian president after 12 years of military rule. He accepted an invitation to Washington from President Reagan, then canceled it at the last minute a month ago because of increases in U.S. tariffs on Peruvian textiles.●

TRIBUTE TO MR. JOSEPH S. HYDRUSKO, PEARL HARBOR WAR HERO AND PATRIOT

HON. GREGORY W. CARMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1982

● Mr. CARMAN. Mr. Speaker, I would like to give special recognition to Mr. Joseph S. Hydrusko of Massapequa, N.Y., who worked tirelessly to save fellow sailors after the attack of Pearl Harbor by the Japanese 41 years ago today. Mr. Hydrusko, serving in the U.S. Navy, left his ship, the U.S.S. *Solace*—a hospital ship—and worked through the night of December 7, 1941, and the day of December 8, 1941, to save wounded and trapped sailors aboard the U.S.S. *Nevada*, the U.S.S. *California*, the U.S.S. *West Virginia*, and the U.S.S. *Oklahoma* and returned them to the safety of the U.S.S. *Solace*.

To commemorate the lives that were lost in World War II, Mr. Hydrusko will fly his "Bird," an open cockpit biplane around the Statue of Liberty in New York City and drop American Beauty red roses that have received a Papal blessing. This event takes place at 12:55 p.m. eastern standard time which is 7:55 a.m. Pacific standard time, the exact moment that Pearl Harbor was attacked by the Japanese. Mr. Hydrusko will by joined by seven other men who will also be flying antique planes and are members of the Antique Club of Greater New York. Mr. Hydrusko has led this commemoration for the past 11 years.

For his fine efforts in World War II, Mr. Hydrusko has been awarded the Navy Commendation Medal with Combat Distinguishing Device by the U.S. Navy. I take great pride in noting Mr. Hydrusko's dedication and determination during a time of great crisis, and I join him in honoring the many people who served our country with valor and courage during World War II.●

A TRIBUTE TO DR. WILLIAM S. KISER

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1982

● Mr. MOTTL. Mr. Speaker, I would like to call to the attention of my colleagues in the House, the achievements of a remarkable physician and administrator who serves as chairman of the board of the world-renowned Cleveland Clinic Foundation, Dr. William S. Kiser.

Dr. Kiser began his distinguished medical career after graduating from the University of Maryland. During his career, he has served as senior investigator and staff urologist at the National Cancer Institute, as staff urologist of the Cleveland Clinic Foundation, and as a member, executive secretary, vice chairman, executive vice chairman, and chairman of the Board of Governors of the Cleveland Clinic Foundation.

Dr. Kiser has been a member of the kidney transplant team and has had well over 60 articles published in professional journals including the "American Journal of Cardiology," the "American Surgeon," and the "American Journal of Medicine."

In his position as chairman of the board of governors and chief executive officer of the Cleveland Clinic Foundation, Dr. Kiser is responsible for the administration of the foundation including activities related to medical care, education, and research. Through his guidance, the foundation has maintained its worldwide reputation of excellence in medical care and research.

Dr. Kiser has furthered his education by attending programs at both Case Western Reserve University and the Harvard Graduate School of Business Administration.

On a personal level, I want Bill Kiser to know how much I have appreciated his support and friendship. He is truly an inspiration to all who meet and know him. I salute him for a brilliant career dedicated to serving others and making Cleveland the most respected medical community in the Nation. Cleveland is indeed proud of this exceptional man who has served the area so well.●

HON. JACK BRINKLEY

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. CONTE. Mr. Speaker, I am very pleased to be able to participate in this special order today for my good friend and colleague, JACK BRINKLEY. Also, I want to thank ELLIOTT LEVITAS for taking out this order, because it will be sad to see JACK go.

I must say from the outset that I appreciated JACK'S strong support earlier last year for legislative corrections to the so-called social security "notch" problem, a cause that he championed for the elderly of his district, and of America. As many of us know, the notch problem is a change in social security benefit formulas that effects all persons born after 1917. Because of

bad economic conditions between the time the changes were enacted, in 1977, and the time they went into effect, 1979 the benefit difference between someone born in 1916 and someone born in 1917 can be as much as $110.

Clearly, this is not fair, and some type of plan needed to be devised to resolve the disparity, to more equitably phase in the benefit reduction. Congressman BRINKLEY devised just such a plan, and his legislation received the support of several veterans' groups and elderly people across the Nation.

But, you know, JACK has always been helpful to those groups, and to his constituents as a whole. That is one reason I was always proud to be able to serve with him in the House, from the time he was elected to represent the people of the Third District of Georgia in 1966. As the senior member of the Georgia congressional delegation, JACK has served his people and his State well.

His home district reflects the realities of his committee assignments and his voting record. Serving on both the Armed Services and Veterans' Affairs Committees, he has a unique opportunity to assist in job expansion in his home district with the military bases that are located there. He has been able to assist that area well.

I for one will be sad to see JACK leave the House at the end of this term, but will look back with fondness on his friendship over the years we served together, and with pride at his tireless support for the aged and the less fortunate of our society.●

A SECOND LOOK AT OPERATION JOBS AND IMMIGRATION REFORM

HON. ROBERT GARCIA
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1982

● Mr. GARCIA. Mr. Speaker, the December 5 edition of the Wall Street Journal had a very revealing article on "Operation Jobs"—the administration backed project to oust undocumented workers from so-called higher paying, better jobs.

The article uncovers the fallacy that Americans are being pushed out of jobs now being held by undocumented workers. It also dispels the often held belief that those individuals are a drain on society. They are not; they are productive contributers to our economy and society at large.

As I have said repeatedly, this country was built by immigrants. Their enthusiasm and faith in the American system is far from draining, it's heartening.

I am not advocating a lax immigration policy, but I do support a just and realistic policy that does not scapegoat immigrants. The legalization program, as contained in H.R. 7357, should not be eliminated. It should be expanded, so that we can more effectively harness the energy and labor of our newest immigrants.

Developing effective economic policies is the only way that we will be able to reverse our economic ills. I do not believe that H.R. 7357 is a jobs bill in disguise.

The purpose of any new immigration policy should be to regulate the flow of immigrants to this country, and to assimilate those immigrants already here. Because H.R. 7357 does not look at foreign policy concerns, it falls short on the former issue, and because of some of its more restrictive clauses—most notably a watered down legalization program, and an expanded H-2 program—it does not sufficiently address the latter.

I am submitting the article from the Wall Street Journal, December 6 edition, for the perusal of my colleagues.

[From The Wall Street Journal Monday Dec. 5, 1982]

"DIRTY WORK"—AMERICANS TURN DOWN MANY JOBS VACATED BY OUSTER OF ALIENS

THEY DISDAIN MEAGER PAY, LOW STATUS OF POSITIONS; A CASE OF BELITTLED PRIDE

"It Felt Like Being in Prison"

(By Merle Linda Wolin)

When the U.S. Immiration and Naturalization Service launched "Project Jobs" last spring, its aim was to oust undocumented foreign workers from "better" jobs and thereby open employment opportunities for out-of-work Americans.

In the well-publicized crackdown during the last week in April, agents in nine major cities arrested 5,440 aliens at 500 different work sites. Operating on the assumption that unemployed U.S. workers wouldn't take jobs at the lowest level, the agents largely ignored aliens working as busboys and field hands. The aliens seized in the raids had been earning an average wage of $4.81 an hour.

Joseph Salgado, associate commissioner for enforcement at the immigration service and mastermind of the project, hailed the raids as an "unqualified success." But then, over the summer, the aura of success faded as academic and newspaper surveys in cities such as Los Angeles, New York, Houston and Detroit indicated that most of the vacated positions were once again filled by the arrested aliens or their counterparts.

What went wrong with Project Jobs?

The answer to that question is particularly revelant as supporters of the controversal Simpson/Mazzoli bill push for its final passage during the current lame-duck session of Congress. The proposed law, which cleared the Senate in August and possibly will go before the House this month, makes it unlawful for employers to knowingly hire illegal foreign workers and grants amnesty only to those undocumented aliens who were in the U.S. before 1980.

SHAKY HYPOTHESIS

According to its supporters, the proposed law could create an estimated one million to two million job opportunities for unemployed Americans. But for the legislation to work, Americans must be willing to take the jobs now held by illegals and stick with them—a hypothesis that is contrary to much available evidence. Most local and regional studies, for example, show that the estimated 3.5 million to six million undocumented workers in the U.S. constitute a largely unskilled work force holding jobs that most Americans don't want. And in 1980, the Select Commission on Immigration and Refugee Policy, a blue-ribbon task force appointed by President Carter, concluded there is no strong evidence to support either the idea that illegals take away jobs or, more importantly, that Americans want the work.

And then there are the results of Project Jobs.

Interviews with 26 randomly chosen employers hit by the immigration-service raids in five major cities indicate that nearly all the U.S. workers who took the vacated jobs in their operations left within days. But numbers don't tell the entire story. More revealing are conversations with some of the Americans who actually tried the work and left—conversations that suggest why at least some U.S. workers don't want the so-called better jobs held by illegals, even in times of double-digit unemployment.

DEAD-END JOBS

The 19 workers who were interviewed were culled from employer lists of former workers. Most of those interviewed say they spurned the jobs mainly because they considered them dead-end, demeaning and underpaying. But they also left because they had a backup source of support such as welfare or family. All say they believe Americans simply don't want such jobs (although some say they would reconsider if the pay were better).

Some of those who have studied the U.S. work place suggest that unemployed Americans don't want certain jobs because of certain broad, sociological factors. "We simply don't bring up our children to be manual-service workers," says Wayne Cornelius, head of the center for U.S.-Mexican studies at the University of California at San Diego. He speculates that Americans who took positions opened by Project Jobs and then abandoned them might have been influenced in part by the weakening of the belief that hard work is the vehicle for upward mobility, by rising levels of education in the U.S. and by rising occupational expectations.

The kinds of positions opened up by Project Jobs were viewed as "Mexican jobs or Haitian Jobs," Mr. Cornelius says, adding that he thinks a certain stigma is attached to work held by foreign laborers. He says further: "The attitude is this is the dirty work of society and that people born, brought up and educated in the U.S. shouldn't have to do them."

TALES OF FIVE WORKERS

The stories of five U.S. workers who gained employment as a result of Project Jobs and then left their positions are illustrative. One of those workers is Fred Luttjohann, a 35-year-old Californian who took a job created by the raids on a furniture-assembly line only to quit after two and a half weeks. "I wouldn't have stayed even if the money was better," he says, noting that he earned $3.50 an hour. "I knew what I was getting from the beginning. It was the work."

Mr. Luttjohann, a former carpenter, agreed to work at B.P. John Furniture Co. in Santa Ana because he had been unemployed since December 1981 after a five-and-

a-half year job. "I got tired of doing nothing all day, just watching TV," he explains, sitting on the patio of his parents' small, comfortable Orange County home.

A soft-spoken, divorced father of one daughter, Mr. Luttjohann says he has been living with his parents since he was laid off last year. At the time he took the assembly-line job, he says he was drawing $520 in monthly unemployment-insurance benefits—$80 more than his B.P. John take-home pay.

At B.P. John, a budget to medium-priced furniture maker, Mr. Luttjohann and about 400 other workers—most of whom, he says, couldn't speak English—worked 10-hour days, four days a week. His task was to stand alongside a conveyor belt and put drawers in cabinets. By the third week, he was spent. He says the cabinets rolled too quickly down the line to put in the drawers and there was no help. After lunch on the 13th day, he quit.

"I told the foreman, 'I can't do this anymore,' " he says. " 'My arms are tired, my back is tired. For what you're paying me, and for what I'm doing, I just can't do it.' "

Four months after he left B.P. John, Mr. Luttjohann landed a $7.18-an-hour, part-time job as a bus driver for an elementary school in Huntington Beach. He holds that job today; he likes the work, he says, because he gets along with children and because he likes to drive. "It all turned out for the best," he says.

The Cooper brothers of Houston say the main problem with the jobs they took in the wake of the raids was more with the pay than with the work itself. "It was too much hard work for cheap pay," says Billy Wayne Cooper, 23, of his $4-an-hour job repairing railroad tracks for Earl Campbell Construction Co. "I could've slung hamburgers and made more money than that, out there in the hot sun driving picks."

Terry Cooper, Billy's 20-year-old brother, took the same job. A former truck driver who had earned $5.50 an hour, he says: "I was desperate for a job. But the day they work you eight hours a day, that work is worth $12 an hour. . . . We were like dogs out there. I ain't never been in prison, but it felt that way."

After two days working at what they both described as "hard labor," the Cooper brothers quit. "I would've stayed if they paid more," Terry Cooper says. Billy Cooper, also a former $5.50-an-hour truck driver, says: "You can't live on $3.50 an hour. Maybe Mexicans can, living four to five families in one house. But on that, no way we could live by ourselves."

Both men say they took the work only because they had been unemployed for several weeks before the raids and couldn't find jobs. After they quit, they say, they each depended on savings and part-time jobs. Then in June, Terry landed a $6.50-an-hour job on a Harris County park-maintenance crew. "You couldn't chase me off the work," he says. A month later, Billy found another truck-driving job, also for $6.50 an hour. "I earn more money now, and its not near as hard work," he says.

Another Houston worker, Timothy E. Cochran, spurned work created by the raids more because he didn't like working with Mexicans than because of the job or the pay. The 19-year-old accepted a $4.20-an-hour tree-trimming job at Trees Inc., a large concern that keeps branches away from electrical lines for the utility and telephone companies. After two weeks of climbing trees and hauling brush, he had had enough.

"It's too dangerous," Mr. Cochran says of the work, noting that he simply walked off the job. But in further conversation, he repeatedly makes remarks indicating he quit mainly because he was disturbed about working with Mexicans.

Sitting shirtless in a rickety wooden chair in the small, cluttered living room of his mother's house on Houston's North Side, Mr. Cochran frequently disdains his former co-workers as "wetbacks" and claims they weren't as scared of climbing trees as he was "because they were too stupid." He also seems to have been offended by the fact that co-workers spoke Spanish. (Although he makes contemptuous remarks about blacks, he says he would rather work with them than Mexicans because "at least they speak English.") And he says the only way he would ever go back to Trees Inc. is if the immigration service "hauled off the wetbacks" and the company "started having some white foremen.

"A few Spanish ain't bad," he says. "But overdoing it is overdoing it." (Mr. Cochran says his foreman was white.)

Since his work at Trees Inc., Mr. Cochran says he has held a few odd jobs and earned other money repairing a few cars. "Finding jobs is no problem for me," he says, "The problem is finding one that suits me." He currently lives with his parents who support him. In the future, he says, he plans to get married and look for another job. But he asserts he won't accept minimum wage. "That's woman's pay," he explains.

A MATTER OF PRIDE

The current whereabouts of Jerry Goodman is unknown. When interviewed earlier this fall, he was in Chicago. At that time, he admitted that pride got between him and his $4.35-an-hour shipping-clerk's job at Newly Weds Foods Inc., a private food-processing plant on the city's North Side. On his third day of work, when there was nothing else to do, he said, the foreman asked him to sweep the parking lot.

"That's when I quit," he said. "I just couldn't live with the thought of others seeing me (sweep the parking lot). It belittled my pride. I considered it slave labor."

Mr. Goodman, a 25-year-old bachelor, said he only reluctantly took the Newly Weds job the day after the immigration raids because he previously had earned $8.20 an hour driving a truck and considered $4.35 an hour too low. But his unemployment insurance of $592 a month had run out, and he had no other income. "I had to settle for it," he said.

The first two days were spent loading and unloading trucks with sacks of flour and other baking materials, he said, and were "tolerable." His co-workers, he said, were mostly Mexicans and were friendly and helpful. He called everyone "amigo."

On the third day, he said, before he quit, he thought about the rigors of unemployment because he knew it would be difficult to find another job; still, he couldn't bear to sweep the parking lot. "That the others could see me—that's what I didn't like," he said.

HARD TIMES

After Newly Weds, however, Mr. Goodman fell on hard times. Without an income, he was forced to give up his apartment, sell his car and furniture and move back home with his parents and five younger siblings. For money, he relied on $144 a month in welfare payments. That amount, he said, supplemented the $197 a month that his parents receive from Social Security and food stamps. "It's been very hard for the whole family," he said.

In early September, Mr. Goodman accepted a 30-day trial for a $3.95-an-hour security guard position with a local company. "Worse than Newly Weds," he said at the time but added that he would try to stay on the job. Since that time, however, he has been unreachable. His parents' phone has been disconnected, and the personnel director of the security company said "Jerry who?"

At the time of his interview with this newspaper, Mr. Goodman said that employers know that if Americans don't take low-status, low-paying jobs, "the Mexicans and Puerto Ricans will." And he said he believes the government ought to oust undocumented aliens; the resulting labor shortage, he said, would force employers "to pay more to citizens—to people born here who are entitled to these jobs."

Billy Cooper, the Houstonian, agrees. Creating a labor shortage, he says, is the only way to force employers to pay "a white man's wage." And if employers can't—or won't—pay higher wages? Terry Cooper answers that question: "They need to go out of business."

But Fred Luttjohann, the Californian, says that most Americans simply don't want the kinds of jobs that were opened up by the raids. "I wouldn't think Americans would want to do the work," he says about his furniture-assembly job at B.P. John. "I wouldn't recommend it for anybody, that's for sure. It's too much work for one person."●

ERADICATION OF WORLD HUNGER MUST BE PURSUED

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1982

● Mr. BIAGGI. Mr. Speaker, on October 16 the United States observed World Hunger Day in communities across our Nation. In my home city of New York a major World Food Day Forum on Ending Hunger was conducted which I was honored to participate in.

World hunger represents an international problem of enormous dimension and seriousness. The numbers are staggering. It has been estimated by the Food and Agriculture Organization of the United Nations—nearly half a billion people are malnourished worldwide. One in nine of today's world population suffers from severe systematic malnutrition. Malnutrition causes blindness in some 100,000 children each year.

According to the Presidential Commission Report on World Hunger "the primary cause of world hunger is poverty." This is reflected in the fact that most of the world's hungry live in the desperately poor areas of the Indian subcontinent as well as comparably impoverished areas of Southeast Asia and Sub Saharan Africa. No region of the World including the United States of America is exempt from the prob-

lem of hunger, but one common denominator seems to be the poverty factor. Poverty combined with rapid rising populations spells continued problems for today and tomorrow. Today we know that over 600 million people exist on incomes of under $50 a year. By the year 2000, 470 million persons will live in poverty. Today developing nations grow 87 percent of their own food; by the end of the century this will drop off to 74 percent. By the year 1988 the developing world will have an annual deficit of 85 million tons of wheat, rice and coarse grains.

One could discuss the problem of world hunger ad infinitum. We are reasonably certain of the tragic fact that it will only get worse in the future unless we are prepared to act today. Consider the birth rates in the poorest nations of this world. Every 60 seconds 136 babies are born in Asia, 41 in Africa and 23 in Latin America. These are all new people who need to be fed; yet where will the food come from?

We must address the issue of eradication of world hunger from two vantage points, short-term needs and longer range solutions. We should help develop a food stamp program in the poorer nations. We must concentrate our economic aid toward alleviating malnutrition among infants and preschool children. Finally, we must be prepared to increase our commitment of developmental and economic assistance to meet the growing need caused by world hunger. The United States once was the largest foreign economic assistance donor in the world. Today 12 nations provide a greater share of their gross national product to developmental aid than do we. The United States spends 20 times more on defense than on developmental assistance. One final sobering thought—in the year 1978, the people of the United States lost more money in Las Vegas gambling than we gave in economic developmental assistance.

Yet the mere providing of aid will not solve world hunger unless it is targeted for that purpose. To that end, I support the creation of a global food reserve or a world food bank as well as all efforts of individual countries to create their own reserves.

Finally I believe that U.S. aid should be directed toward those nations who are dedicated to helping alleviate their own hunger problems. U.S. aid should be the catalyst to stimulate self-help initiatives by other nations but it is vital that we reestablish ourselves as the preeminent fighter in the battle to end world hunger.●

JOSEPH C. KRAJSA, EDITOR OF JEDNOTA WEEKLY, HONORED FOR OUTSTANDING SERVICE TO THE CATHOLIC CHURCH AND THE WORLDWIDE SLOVAK COMMUNITY

HON. DON BAILEY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1982

● Mr. BAILEY of Pennsylvania. Mr. Speaker, I am very proud to be able to join members of the First Catholic Slovak Union in commemorating the high honor bestowed by Pope John Paul II on Joseph C. Krajsa for his long and distinguished service to the Catholic Diocese of Harrisburg and the worldwide Slovak community. Pope John Paul II has knighted Joseph to the Order of Saint Gregory the Great, an order to which no more than 300 people can be selected.

The award recognizes the service Joseph has performed as editor of Jednota, the official organ of the First Catholic Slovak Union of America, the largest Slovak fraternal organization in the world. As editor, Joseph has worked unceasingly to promote brotherhood and unity among all peoples and to bring word of the faith to the many hundreds of Slovak communities in the United States, Canada, and more than 27 foreign countries. His leadership and dedication have helped make the Jednota a unifying force for Europeans of all nationalities. While Europe is divided in both its civil and religious aspects, Joseph has struggled for the sake of European cooperation and solidarity and brought his readers the Christian vision of freedom and humanity. His message, and that of the union, are a source of strength and hope for all Slovaks and a reminder to all freedom fighters of the efforts still to be waged.

The formal installation of knighthood and the presentation to Joseph of the insignia and Great Cross of the Order of Saint Gregory the Great will be made in his home parish of the Seven Sorrows of the Blessed Virgin Mary, Middletown, in January. While I would like to add my own words of thanks to Joseph, I know that they cannot match the high award the supreme pastor of the Catholic Church has bestowed in honor of his service. As such, I join the members of the First Catholic Slovak Union in congratulating Joseph and wishing him well in his service to God, our country, and, of course, the Slovak community.●

TWO SPECIAL FRIENDS

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1982

● Mr. CLAY. Mr. Speaker, I would like to take this opportunity to share with Congress the story of a very brave little boy named Marvin Winston and how, with the help of "Uncle" Leonard Lewis, he came to be the ringmaster of the circus.

Marvin Anthony Winston is the 12-year-old son of Rev. and Mrs. J. A. Winston of St. Louis, and is a victim of cancer. He is also an artist, a devout football fan, and a lover of the circus. Earlier this year, Marvin underwent a series of treatments for his illness. The local press ran an article about Marvin and his remarkable courage and determination. The newspaper report mentioned that one of Marvin's greatest wishes was to take a trip to the circus.

Fortunately, "Uncle" Leonard Lewis, president of the Leonard's Muntz Television Center in St. Louis, read about Marvin and his situation. He generously offered to send Marvin to Las Vegas to attend the renowned circus. With the kind help of "Uncle" Leonard, Marvin went to Las Vegas and served as the honorary ringmaster for the famous circus acts. Marvin was accompanied by his mother and his friends, Chris Haliburton and Merdean Fielding.

Mr. Speaker, I am honored to commend both "Uncle" Leonard Lewis and young Marvin Anthony Winston as two of the most spirited citizens in the St. Louis community. Marvin is a courageous fighter and "Uncle" Leonard is a generous helper. Each has demonstrated a genuine respect for the true meaning of life, and together they have achieved a rare and special relationship.●

A TRIBUTE TO DR. DAVID GITLIN

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1982

● Mr. MOTTL. Mr. Speaker, I would like to take this opportunity to pay tribute to an extraordinary citizen in my district, Dr. David Gitlin. To say Dr. Gitlin cares about people would be an extreme understatement.

Dr. Gitlan was one of the initiators of the widespread concern over our air quality. As early as 1961, Dr. Gitlin met with his first, in a long line of public officials, to gain support for his ideas that health is affected by the air we breathe. He believed that there was

a strong definite correlation between one's health and our air quality. It was obvious to him, because of his own patients, that respiratory diseases could be caused by the pollution in the air. Dr. Gitlin's work as an allergist and the presence of a large plant in his community led him to a study of his hypothesis. Through his hard work and perseverance, Dr. Gitlin was able to spark support for an issue which is now one of our major health concerns, but had then been given virtually no attention.

Dr. Gitlin also devoted much of his time to fighting for the rights of nonsmokers in hospital rooms. In addition, he was personally a test case for the very first nonsmoking seat on commercial airplanes. While still recovering from major open heart surgery, Dr. Gitlin was asked to be a passenger on a commercial flight where the airline was going to prohibit smoking in the row occupied by him and his family. This would be the first time a restriction would be put on smoking on an airplane. Before the flight the passengers were asked to please refrain from smoking in the first row of the coach in consideration of one of the passengers who was recovering from a major operation. The request was well received and soon after the idea spread. This action so characterizes Dr. Gitlin's life and work. Even in the moments when his health was failing, Dr. Gitlin was doing what he could for his fellow man.

Dr. Gitlin was also very active in other areas. In the late 1960's he, along with a few other people, formed the Council of Soviet anti-Semitism. The council was very effective in bringing attention to the actions of the Soviet Union which were discriminatory against Soviet Jews. The singling out of Soviet Jews for public humiliation was a practice that was unknown previously to the American public. This human rights organization sensitized the American people to what was actually happening in the Soviet Union. As a result of this publicity, many Jews were permitted to emigrate from the Soviet Union.

At home, Dr. Gitlin was one of the founders of the Berea Council on Human Relations. The council was very effective in the early 1960's when discrimination was prevalent in the community.

Presently, Dr. Gitlin is working to gain support for the nuclear freeze which incorporates the need for human rights and verifiable onsite inspection.

Mr. Speaker, please join me in saluting Dr. David Gitlin, a rare man who believes in and works for his fellow man.●

QUINCENTENNIAL OF CHRISTOPHER COLUMBUS

HON. MANUEL LUJAN, JR.

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1982

● Mr. LUJAN. Mr. Speaker, on October 12, 1992, we will be celebrating the quincentennial anniversary of the trans-Atlantic voyage of Christopher Columbus which resulted in his discovery of America. On October 12, 1492, Columbus completed his long and uncertain voyage, a historic event made possible through the funding and resources provided by Queen Isabella of Spain.

There is currently a process in all of the Americas to begin planning and developing a hemispherewide commemorative celebration for the year 1992. The American quincentennial celebration will demonstrate and celebrate this event which occurred in 1492, bringing together two worlds and different cultures, changing the geography of the then-known world and initiating the process of history that over the past 500 years has made the Americas as we know them today.

This commemorative celebration will involve all the nations of this continent and the explorer nations which include Italy, Portugal, and Spain. The scope of the celebration will cover all phases of existence in the Americas including culture, law, heritage, history, education, politics, academia, business through the private and public sector's travel, arts, technology, ethnicity, and family tradition. It is in this development that we invite all who realize the importance of celebrating our 500th anniversary as the Americas to join in making the American quincentennial in 1992 a reality.●

JOSEPH ERDELAC

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1982

● Ms. OAKAR. Mr. Speaker, one of the finest businessmen in our community has decided to leave the auto business after 50 years of service; he will continue to live a very productive life, but he will be missed in this industry. He was known for his service and integrity. He is a role-model for many of us.

The following is an article which appeared in the Plain Dealer:

PIONEER ERDELAC CLOSES AGENCY

(By Donald Sabath)

Joe M. Erdelac has been in the auto business for 50 years. In many ways, autos have been a way of life for him.

During the stock market crash of 1929 he entered a vocational training program at the Cleveland Trade School. He then worked for auto dealers as a mechanic.

Today, for the first time in 50 years, Erdelac will not be associated with autos. He is closing his dealership, although he still has about 20 used cars remaining to be sold.

In 1938, Erdelac opened his own garage on E. 79th St. between Woodland and Quincy avenues at a dealership which had closed during the Depression.

Since 1958 he has operated his present American Motors Corp. and Renault dealership at 16515 Lorain Ave.

Yesterday, Erdelac watched as packing cases were filled with parts and tools at his store. About 10 employees were cleaning up the back repair shop.

"Sure, I'm going to miss sales and the world of autos," he said. "This has been almost my entire life."

Erdelac, 68, said he wanted to work full-time at his hobby of collecting and selling paintings. He also wants to promote Cleveland painters. He has agreements with 10 local painters and he has opened a studio on Center Ridge Rd., in Rocky River. He stressed he will not be retailing the paintings.

For the past four years, Erdelac said he has had to struggle with falling new car sales. He has had to sell aging AMC models, which have a good reputation of workmanship, but have not achieved the best in fuel economy ratings.

Ironically, this fall, AMC with its French partner Renault, has produced one of the best-selling new AMC models in years, the front-wheel-drive Alliance.

"I have waited three years for this car, and now I won't be able to sell them," he said.

Erdelac is particularly upset because four of his employes have been with him between 34 and 37 years.

"I don't know what they are going to do, but I'm sure they will be able to find jobs—they are good workers," he said.

Erdelac owns the property where his dealership was, and he said he has had talks with people who might want to continue the AMC franchise.

Jerry T. Maloney, AMC zone manager for Cleveland, said the company was trying to put something together soon to get an AMC dealer back on the far West Side.

"We hope to have a dealer there within 30 to 60 days," he said.

Maloney would not confirm if the dealership would be at the Erdelac side.

Erdelac said some customers who had put down payments on 1983 cars would get their deposits back with interest.

He said he would now spend more time with his wife, Elsie and daughter Connie, in his Rocky River home. Connie is an elementary school teacher in Lakewood.

"There is much more to life than autos," he said yesterday. His office walls are lined with Cleveland memorabilia.

"I love art and I have 14,000 jazz records to catalog, and I love my family. It has been a good life."●

TRIBUTE TO GEORGE LEE

HON. GREGORY W. CARMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1982

● Mr. CARMAN. Mr. Speaker, I wish to give special commendation to Mr.

George Lee, an exceptional member of the American Institute in Taiwan. Mr. Lee recently assisted me during a special factfinding mission on behalf of the U.S. House of Representatives Banking Committee to promote international trade.

I was very impressed by the organization of the American Institute in Taiwan. Through Mr. Lee's efforts, my meetings with trade officials in the public and private sectors in Taiwan were very successful.

Sharing with you a little of Mr. George Lee's history is my pleasure. Mr. Lee holds degrees from the University of Hawaii, California State University, and the University of Illinois. He has served as an economic officer for the the Department of State, an assistant professor at the University of Hawaii, and as a consultant at the Institute of International Law and Economic Development. Mr. Lee presently holds the post of chief of the economic unit at the American Institute in Taiwan.

Mr. George Lee's exceptional efforts bring credit to himself, the American Institute in Taiwan, and to the United States. We are truly fortunate to have him as a member of the American Institute in Taiwan staff.●

A CONGRESSIONAL SALUTE TO JACK B. KRUEGER, 1982 PRESIDENT OF THE LONG BEACH DISTRICT BOARD OF REALTORS

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1982

● Mr. ANDERSON. Mr. Speaker, on December 10 the 78th Annual Installation Dinner Dance of the officers and directors of the Long Beach District Board of Realtors will be held aboard the Queen Mary. Among those to be honored is Mr. Jack B. Krueger—1982 President of the Board.

A graduate of UCLA, Jack joined Moore Realty in Long Beach as a training manager and later became general manager. In 1966, Jack became a cofounder of the Real Estate Stores. Today, Jack serves as its president and now has two stores, both located in Long Beach.

For many years Jack has been quite active with the Long Beach District Board of Realtors. In 1969 he served as their first vice president and, the following year, became president. Twelve years later Jack again served as President.

Mr. Speaker, as you well know, I am very proud of the great spirit that exists throughout my home district. Today, I am especially proud to give deserved recognition to one person who symbolizes this special trait.

An eager readiness to contribute and a sincere commitment to community betterment and development have been the hallmarks of Jack's involvement in business and civic affairs. His work with the board has been most notable. The direction he gave as president made his tenure exciting and productive. To his many friends, Jack is recognized as a person always willing to lend a hand. The people he has worked with in the community know his hard work has always been combined with friendliness and genuine concern for others.

Because of his dedication and fortitude, Jack Krueger has made this past year one of the best ever for the Long Beach District Board of Realtors. As he concludes his term, my wife, Lee, joins me in congratulating him on this occasion and expressing the appreciation we share with so many others for his devotion to the community. We also extend to Jack; his wife, Jan; their two daughters, Lianne and Julie; and three sons, Ron, Robin, and Tim, our sincere wishes for many more years of success, happiness, and prosperity.●

HONORING CSD OF SAN BERNARDINO AND MRS. JOAN HUNSAKER

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1982

● Mr. LEWIS. Mr. Speaker, I would like to take this opportunity to commend Ms. Joan Hunsaker, youth coordinator for the Community Services Department of San Bernardino County (CSD). Ms. Hunsaker was honored as "Outstanding Work Supervisor," and CSD was designated "Outstanding Worksite for the City of San Bernardino" by the Inland Manpower Association for the summer youth employment program. Mr. Rodolfo H. Castro, CSD executive director, stated that the selection criteria included program effectiveness, sensitivity and concern for clients.

Other participants in the program included: Theresa Rivas, Venita Lamb, Jeanette Olivas, Adelina Jorden, Mary Dominguez, James Griffin, Redge Moore, Donald Richard, Larry Rosales, Angelina Huerta, Lenette Davidson, Virgil Green, Alex Acevedo, Gerardo Hernandez, and La Vonne Macon. Supervisors and supporting staff were: Martha L. Oehlberg, Sandra Brown, Jackie McIntyre, Ona Shelly, Kathy A. Kivley, Marvel Killins, Norma Castro, John Cook, Maria Atilano, Erlina Kates, Rosita Zuniga, Patricia McGlocklin, Leonard Ramirez, Jodi Jones, Foster Fletcher, Zenaida Ortega, Norma Cervantes, and Elaine Moran.

Mr. Speaker, it is with great pride that I recognize and commend to the House of Representatives Ms. Joan Hunsaker and the Community Services Department of San Bernardino County for their selfless devotion to the youth of the Inland empire. They are truly a reflection of good, humanitarian government.●

AMENDMENT TO FREEZE EXISTING NUCLEAR WARHEAD STOCKPILES

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1982

● Mr. CONYERS. Mr. Speaker, I shall be introducing an amendment to the energy and water development appropriation bill (H.R. 7145) to delete from the national security programs $1.745 billion from the operating expenses account and $488 million from the plant and capital equipment account.

My intention in offering this amendment is to delete funds for any further development and production of new fissionable materials used in new nuclear warheads, any further assembly of new warheads, and any further testing of newly developed or produced warheads. This amendment, however, leaves ample funds to maintain existing plants, equipment, and stockpiles; to upgrade existing plants; and funding for a slower rate of growth in plant expansion.

The purpose of the amendment is to halt further spending on new nuclear warheads, while maintaining existing stockpiles. This amendment speaks to the growing support for the concept of freezing existing nuclear weapons stockpiles in order to create a context for a mutual and negotiated weapons freeze between the U.S. and the U.S.S.R. It proposes that we take a first step—and not an irreversible step—to explore the possibilities for halting the nuclear arms race.

The amendment I am offering would, in effect, freeze our existing nuclear stockpiles. It involves an arms control strategy by mutual example, an independent initiative for a year or two that would demonstrate to the Soviet Union and the world that we are, indeed, serious about nuclear weapons reduction.

I believe the Congress of the United States should have the ability to pass judgment on what is surely the most menacing and overriding international question in our times.

The nations of the world are spending $600 billion this year on arms and armies. Already there are more than 50,000 nuclear weapons in the world, and it is estimated that the world's nuclear stockpile is equivalent to 16,000 million tons of TNT. Each new weap-

ons system is more sophisticated, lethal, and speedier in delivering its explosive power. The prospect of nuclear war through miscalculation or merely technical error grows each year.

Most objective observers agree that the United States and the Soviet Union now have rough parity in their first-strike and deterrence capabilities. The United States has approximately 26,000 nuclear warheads in its arsenal. That level has remained fairly steady throughout the past decade.

Current plans call for United States production of an additinal 23,000 nuclear warheads over the next 10 years and 14,000 more through the mid-1990's. I daresay that the Soviet Union would match this expansion, as they have every previous one. So instead of 50,000 nuclear weapons in the superpowers' stockpile in the 1980's, we will find 100,000 or more stockpiled a decade later.

I firmly believe the time has come to take some bold actions to slow down and ultimately eliminate the nuclear arms race. The status quo and its extension—namely, more of the same and more that is worse—is simply too dangerous to contemplate.

Last month several million Americans in 9 States and 30 localities voted in favor of a nuclear arms freeze. During the past year, numerous opinions have been taken on the subject of a nuclear arms freeze. Regardless of how the questions were worded, and the particular statistical samples polled, the overwhelming majority of Americans strongly favor a nuclear freeze. The voters in November, I believe, voiced the view that their leaders should explore in every possible way the means to curb the nuclear arms race. That is our responsibility.

The amendment I am offering leaves ample funds to maintain our existing nuclear stockpile. We are not about to disarm ourselves. In dollar terms, the $2.23 billion I am proposing be cut from the national security programs in fiscal year 1983 represents roughly 38 percent of the $5.76 billion that the committee has recommended. This is not a drastic cut.

The national security programs embrace a large number of functions and activities. While I have received very helpful assistance in identifying the programs involved, the committee figures do not differentiate between new and existing programs, new and existing warheads. I am told these figures are classified.

For this reason, I have deleted only 50 percent of the funds the committee recommended for both operating expenses and plant and capital equipment expenditures, that pertain directly to warhead development, production, testing and stockpiling. In addition, I propose to delete all funds involving specific new warhead programs—for example, the enhanced-radiation theater weapons; the MX missile warheads; the Pershing missile warheads, and the cruise missile warheads. The figures I am proposing, overall, represent a very conservative modification in the committee's recommendations. However, they do embody a significant principle—to make room for a more stable and nonlethal future for all of mankind.

The amendment I am proposing to the energy and water development appropriations bill follows:

AMENDMENT TO H.R. 7145, AS REPORTED OFFERED BY MR. CONYERS OF MICHIGAN

Page 5, line 11, strike out "$4,454,740,000," and insert in lieu thereof "$2,709,890,000," and on line 12 immediately before the period insert the following ": *Provided*, that none of the funds appropriated or otherwise made available under this paragraph may be obligated or expended for the production of additional fissionable materials, or for the assembly or testing of new warheads.

AMENDMENT TO H.R. 7145, AS REPORTED OFFERED BY MR. CONYERS OF MICHIGAN

Page 5, line 24, strike out "$1,306,841,000," and insert in lieu thereof "$818,741,000" and on line 25, immediately before the period insert the following ": *Provided*, that none of the funds appropriated or otherwise made available in this paragraph may be obligated or expended to increase existing production capacity.●

H.R. 6514

HON. MANUEL LUJAN, JR.

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1982

● Mr. LUJAN. Mr. Speaker, I take this opportunity to convey my concerns regarding the proposed Immigration Reform and Control Act of 1982 (H.R. 6514). I am particularly concerned about the shortcomings of this proposed legislation.

It is apparent to me that although serious attempts have been made to amend this legislation with substantive amendments during markup in the House and Senate, these amendments which sought to improve the bill (H.R. 6514) were not incorporated. My analysis of the legislation clearly reveals that the potential problems with employer sanctions, H-2 guest workers, erosion of judicial review, proposal for a national identification card, lax enforcement of existing labor laws protecting agricultural workers, and the legalization program, have been inadequately addressed as reflected in the House Judiciary Committee report.

Serious concerns about the significance and impact of H.R. 6514 were raised during markup of this legislation in the House Judiciary Committee. The seriousness of these concerns by other Members is reflected in the motion to recommit which was narrowly rejected. Unfortunately, we are being asked to accept this legislation as an answer to a much needed reform of our immigration laws. If the Congress passes this legislation, we would be contributing to the existing problems faced by those that must enforce our immigration laws. Regrettably, if we should vote on this legislation with all of its deficiencies, we will be contributing to creating additional problems and overburden our enforcement agencies.

The consistent and continuous attempts to amend this legislation clearly indicate also that H.R. 6514 does not merit bringing to the floor during this special session of Congress, and we would better serve the interest of this Nation by not considering this legislation during the special session at all. There is no doubt that our immigration laws need reform, but in all candor, we must give immigration reform further attention. I therefore urge the membership to schedule immigration reform on the agenda for the 98th Congress.

Although I have serious reservations with the entire legislation, I have specific concerns regarding the bill's proposed legalization program. My careful analysis of these provisions leads me to conclude that this legislation is in need of a major overhaul legalization program; it needs to include a critical education period whereby providers of legalization benefits will set up a viable and necessary processing mechanism plus educate the public; it needs to include a truly comprehensive and immediate method of reporting on the success of the proposed legalization program; and it must also include specific definitions of "continuous" residency and criteria for eligibility.

My specific concerns regarding the proposed legalization program and the probable impact of this legislation overall prompts me to introduce a number of substantive amendments should this legislation come before us on the floor during our special session.●

THE COST OF DEMOCRACY

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1982

● Mr. LaFALCE. Mr. Speaker, as this Chamber prepares to consider the issue of compensation for its Members, I commend a recent editorial from a newspaper in my western New York congressional district.

I believe this editorial, written by the highly respected editor and publisher of a conservative, small town newspaper represents a voice of reason

crying out amid the roar of demagoguery on this issue.

The editorial follows:

[From the Medina Journal-Record, Nov. 30, 1982]

THE COST OF DEMOCRACY

Sending over 400 congressmen and 100 senators to Washington to create our laws and provide the spark of ignition for the democratic process is the essence of our system, and a sound one. But it is expensive.

When the matter of congressional pay raises comes to the surface, the public in one loud voice registers indignation. And rightly so. The act of complaining, far from being a sign of weakness, is the strength of our system. The people must be heard.

Currently, members of the House of Representatives are due cost-of-living boosts of up to $16,000 from their present salary level of $60,000. To a nation agonizing over a deep recession, this seems like a giant slap in the face.

There are differing opinions among congressional members over whether to block the pay raise, or let it come to pass. But the differences are for the most part involved in the timing of the raise and the exact size in dollars.

The blunt fact is, that for anyone not wealthy in his or her own right, the $60,000 pay is not excessive. A little research produces a picture.

A congressman is involved in the work of government full-time, thus he can not earn a steady income from another job. He pays 35 to 50 percent of his salary back in taxes. It costs him $10,000 to $15,000 yearly to live in Washington on a commuter basis, while facing other costs of keeping a home in his district. And he pays 8 percent of his pay into a contributory pension program.

Add to this another side of the picture. Washington is probably tops in the nation (or nearly so) in the cost of living. A small bedroom efficiency providing only basic shelter can fetch $600 a month or higher. And if the lawmaker chooses to maintain a home in or near the capital city for his family he must pay up to $200,000 for a house that would sell in Western New York for $60,000.

There is no point in creating a big defense for unreasonable congressional pay raises. But if the Congress is not to become a club for the wealthy, salaries in the House and Senate must be sufficient.

Secondarily, if there is profiteering in the major capital cities because of the fact that so many officials and bureaucrats are on taxpayer-supported expense accounts, this is an area which should bear some study.●

AGAINST H.R. 6514 AND H-2

HON. LARRY E. CRAIG

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1982

● Mr. CRAIG. Mr. Speaker, the Immigration Reform Act of 1982, H.R. 6514, constitutes a serious threat to major segments of agriculture. I recognize the need to update the Immigration and Nationality Act, but I am opposed to the temporary (H-2) guest worker program as adopted by the Education and Labor Subcommittee on Labor Standards.

Upon further investigation into the effects of the temporary (H-2) guest worker programs, I find I cannot support them for several reasons. First and foremost, these proposals are not workable or efficient enough to provide the agricultural community the opportunity to secure qualified workers to harvest their crops. They again put the burden of proof on the employer to insure that no U.S. workers are going to be unduly affected. These provisions also do not allow for a discretionary proviso for those crops which do not ripen as expected. The employer is ultimately placed in the position of monitoring and enforcing legislation that runs contrary to his own self-interest. There are no positive incentives in current proposals which might encourage employers to support anything other than the status quo. These provisions increase the employers' costs without providing any alternatives to solving capital and labor needs.

Hand-in-hand with the increased costs go the burdensome recordkeeping documentation that would be required on all future employees, and the stiff penalties which would be incurred for failure to keep such records. I favor reducing the regulatory burden on employers, not increasing it. I believed this when I became a part of a Special Task Force on Regulatory Reform early this year, and I still believe it today.

There are other areas of the program which I believe need to be rectified. I feel the Department of Agriculture must be consulted in the admission of H-2 workers. Who better than this Department knows the agricultural community? I also believe that the prospective employer should have the option to pay a penalty instead of being debarred from hiring temporary workers for up to 3 years. In the case of the farmer who is banned from this practice, this crops would rot in the fields.

Because of my background as a farmer and rancher, I know from long experience that qualified U.S. workers cannot be recruited to fill a large percentage of the seasonal jobs on farms and ranches. Therefore, I would urge that further consideration be postponed on H.R. 6514 until the 98th Congress convenes.

I believe we need an equitable H-2 program which will allow the agricultural community the flexibility to produce and which will halt the flow of illegal immigration. This program does neither.●

CONGRESSIONAL TRIBUTE TO DR. DAVID E. GRAY, VETERAN EDUCATOR

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1982

● Mr. ANDERSON. Mr. Speaker, it is with distinct pleasure that I rise to pay tribute to Dr. David E. Gray, who is retiring this January after 28 years of dedicated service at California State University/Long Beach. Dr. Gray's long association with the university began in 1954, following work with the parks and recreation department of the city of Los Angeles. Since that time he has served the university continuously, with the exception of 1958 and 1959 when he was in London as Chief of Special Services for the U.S. 3d Air Force. He has been professor and chairman of the recreation and leisure studies department, associate dean of the School of Applied Arts and Sciences and, the position which he has held since 1969, vice president for administration and staff coordination.

Dr. Gray served as an infantry officer with the U.S. Army in Europe during the Second World War. He received his bachelor of arts degree in recreation administration from Los Angeles State College in 1950, his master's of science degree in physcal education in 1953 from UCLA, and his doctorate in public administration from USC in 1960.

Among his many achievements in the education field, Dr. Gray has served as an honorary lecturer at Southern Illinois University and at Central Washington University. He is a member of the board of regents at the Pacific Revenue Source Management School. Dr. Gray has served as a visiting professor at USC, the University of North Carolina at Chapel Hill, the University of Massachusetts, the San Jose State University, the Oregon State University, and the University of Hawaii.

Dr. Gray's professional affiliations are both numerous and outstanding. He is a member of the American Academy of Political and Social Sciences; the American Association for the Advancement of Science; the American Association of Health, Physical Education & Recreation; and the American Association of University Professors, as well as being a founding member and first president of the Academy for Leisure Sciences. Dr. Gray also serves as a consulting editor for Wm. C. Brown, Co., publishers; as a member of the editorial board of Leisure Today; and as a member of the editorial policy board of Leisure Sciences. Dr. David Gray has had numerous articles

published and is the recipient of a multitude of honors.

Mr. Speaker, in light of Dr. David E. Gray's numerous outstanding contributions to the education field in general and to California State University at Long Beach in particular, I know you and our colleagues will join me in paying tribute to this most distinguished and deserving man. My wife, Lee, joins me in wishing Dr. Gray, his wife Frances, his children Catherine, Christopher, and Jonathan as well as his four grandchildren Jennifer, Amanda, Andrew, and Nathan only the best in the years ahead.●

KENNY AND MARIANNE ROGERS WORLD HUNGER MEDIA AWARDS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1982

● Mr. GILMAN. Mr. Speaker, I was pleased to have had the opportunity on November 23, 1982, to participate in the 1982 World Hunger Media Awards at the United Nations in New York. These awards, established and endowed by Kenny and Marianne Rogers, honored those in the media whose achievements have helped raise awareness about the critical problem of hunger.

I was honored to be able to participate with my good friend and colleague, the Senator from Vermont, PAT LEAHY, in discussing at that awards presentation, a special achievement award in memory of the late Harry Chapin. Harry, who many of my colleagues will long remember, fought tirelessly to help resolve the world hunger problem. This award, in the amount of $20,000, establishes two fellowships, one in the House and one in the Senate, which will focus on issues relevant to eliminating hunger. My colleague, the gentleman from New York, TOM DOWNEY, and I will work with the House fellow, with Senators LEAHY and BOB DOLE, the Senate fellow.

I commend Kenny and Marianne Rogers for taking this important initiative against hunger, and applaud Marty Rogol, executive director of World Hunger Year, the organization administering the awards program, and Ken Kragen and Co., the management company representing the Rogers, for the very impressive awards program they have arranged.

Mr. Speaker, I insert the announcement concerning the awards program, and statements describing the Harry Chapin Special Achievement Award, and World Hunger Year at this point in the RECORD:

1982 WORLD HUNGER MEDIA AWARDS ANNOUNCED BY KENNY AND MARIANNE ROGERS ON TODAY SHOW

$100,000 AWARDED TO MEMBERS OF THE MEDIA AND SPECIAL AWARDS

NEW YORK CITY.—Kenny and Marianne Rogers announced the winners of the 1982 World Hunger Media Awards on the Today show early this morning. $100,000 in prizes will be presented during an awards ceremony tonight at the United Nations.

Winners in six categories are:

Best Newspaper Coverage, Ann Crittenden, et al., New York Times, for "A World to Feed," a 17-part series, awarded $10,000. Also in that category, Honorable Mentions to Richard Harley, Christian Science Monitor, for "outstanding and continuous coverage" of world hunger, awarded $5,000; and Charles Anzalone, Binghampton Sun-Bulletin, for "Hard Times," a series on local poverty in Broome County, New York, awarded $5,000.

Best Photojournalism, Kent Kobersteen, Minneapolis Tribune, for photography accompanying a piece titled "Global Poverty/ The Darkening Future," awarded $10,000.

Best Magazine Coverage, Gary Gunderson (editor) and Tom Peterson (associate editor), SEEDS, for February 1982 issue on women and world hunger, awarded $10,000.

Best Film, Leigh Wharton, Wharton International Films, and Barbara Gordon, producers of the documentary, "Edge of Survival," aired on PBS and WNET/13, awarded $10,000.

Best Television Coverage, Gene Reynolds, producer/writer/director, "Lou Grant," for the episode, "Hunger", awarded $10,000. Also in that category, Honorable Mentions to Bill Elder, reporter/anchorman, WWL-TV News, New Orleans, for "Haiti, See Why They Run," a five-part series on the evening news, awarded $5,000; and Scott Ferguson, producer/writer, WTBS, Turner Broadcasting System, Atlanta, for the documentary "New Dust Bowl Blues," awarded $5,000.

Best Book, co-winners, Frances Moore Lappé, author of "Diet for a Small Planet," revised 1982, awarded $5,000; and Dr. John R. K. Robson, author of "Famine: Its Causes, Effects and Management."

In addition, a Special Achievement Award of $20,000 will be made to establish two Congressional fellowships in memory of the late Harry Chapin, who was a tireless worker for numerous humanitarian causes, particularly those efforts to end world hunger. These fellowships, one in the House of Representatives and the other in the Senate, will focus on issues relevant to the elimination of world hunger.

Established in March, 1982, by the Rogers, the awards program will honor those members of the media who have made the most significant contribution in bringing public attention to the issue of world hunger. Funding for the program and its administration is provided in its entirety by Mr. and Mrs. Rogers and will be an annual event. They have committed to fund the World Hunger Media Awards for the next 10 years with awards totalling $100,000 each year, plus costs. This brings the total expenditure in excess of their initial commitment of $1 million.

The process of choosing the winners began in the spring of 1982 when over 30,000 invitations to enter the awards were mailed to print and electronic media sources around the United States. Work appearing in the United States between July 1, 1981 and June 30, 1982 was eligible. Judging the entries was a panel of five judges, including Marjorie Benton, Chair of Save the Children; Patricia Carbine, publisher of MS. Magazine; James B. Chapin, Chair of World Hunger Year (the New York-based, nonprofit organization which administers the awards program and was founded by the late performer/humanitarian Harry Chapin); Roy Fisher, Dean of the School of Journalism, University of Missouri, and Tarzie Vittachi, Deputy Director of UNICEF.

The ceremony will be attended by Kenny and Marianne Rogers, who will present the program's recipients with awards and their respective checks. The ceremony will be emceed by Hugh Downs, anchorman of the ABC-TV show "20/20" and Chair of the U.S. Committee for UNICEF. A reception will directly follow the awards ceremony.

In describing how he became interested in creating an awards program, Mr. Rogers referred to Harry Chapin as the person responsible for his involvement. "I was tremendously impressed with Harry's unselfishness and his ability to give so much of his time and I wanted to help. I called Harry last year and asked what he would do with a million dollars. He consulted with a number of his colleagues and suggested the creation of an awards program. Marianne and I felt that, although $1 million is a substantial sum of money, it would have little over-all impact in the war against hunger. We were told that it would hardly feed the hungry people of this country for one day, but recent reports found that public education was the major factor in creating the political will in all the world's people to eliminate the problem of world hunger. And the media was the most-effective tool we could find to reach and influence the public. This awards program will provide us with the opportunity to effectively encourage, honor and reward those members of the media, both print and electronic, who contribute substantially each year in informing the public about this critical issue."

WORLD HUNGER YEAR

World Hunger Year is a non-profit organization devoted to the reality that every year is World Hunger Year until hunger is ended.

As used by WHY, "hunger" is the shorthand term for the field of political, economic and social relations, decisions and policies that determine food production, financing and distribution, which result in or effect malnutrition in the United States and throughout the world. WHY explains, publicizes and seeks to effect policy formation and action on all sectors of the hunger field. Its work is guided by the following propositions: (1) Hunger is primarily offensive because it is unnecessary; (2) hunger is a function of political and economic decisions, rather than a chronic, natural disaster; and (3) hunger is a real and present danger to domestic tranquillity and international peace.

Each of us—individually and together—can make a real difference in affecting those decisions and thus bear personal and collective responsibility to act on them as best we can.

World Hunger Year has three distinct, but somewhat developing, program areas: general public information, media education and public policy formation. The most enduring and substantial of WHY's endeavors to educate the public is the publication of its magazine, Food Monitor. To expand its local outreach, WHY has now created chapters in numerous states, which involve themselves

in local, state and national food issues. WHY manages the World Hunger Media Awards in addition to its other activities.

Public policy formation is the third program area of WHY.

"Although the United States is the biggest producer of food in the world, we have no food policy. At best," explains Marty Rogol, director of World Hunger Year, "policy consists of yearly responses to over production on our farmland. At the same time, farm production is up, farmers are more in debt and more people are hungry. To develop such a food policy, WHY is convening scholars, policy analysts, farmers, trade unionists, consumers and food advocacy groups to fashion a consensus on what goals our food and farm policies should have and what obstacles stand in the way."

WHY's funding comes from three major sources: individual contributions, subscriptions to Food Monitor, and foundation grants.

THE SPECIAL ACHIEVEMENT AWARD, 1982 WORLD HUNGER MEDIA AWARDS

Along with the 1982 World Hunger Media Awards honoring members of the media for specific works, Kenny and Marianne Rogers are also presenting a Special Achievement Award to their late friend, Harry Chapin. This award of $20,000 will create two bipartisan fellowships, one in each house of the United States Congress, whose concentration will be on issues relevant to the elimination of world hunger.

In the Senate, the $10,000 fellow will be assigned to Senators Robert Dole (R-Kan.) and Patrick Leahy (D-Ver.); and will work on the problem of surpluses, our inability to control them or to distribute their bounty. The $10,000 fellow in the House of Representatives will be assigned to Congressmen Benjamin Gilman (R-N.Y.) and Thomas Downey (D-N.Y.); and will address the issues of international trade and development of a Select Committee in the House of Representatives on World Hunger.

Harry Chapin is credited by the Rogers as the inspiration for the World Hunger Media Awards and he was, in his own words, "a man of passion and commitment." His dedication to humanitarian causes led him to devote over 100 personal appearances a year to benefit causes. His lobbying in 1978 moved Congress and President Jimmy Carter to form the Presidential Commission on International, Domestic and World Hunger. Carter then appointed Chapin to a seat on this commission. He was also active in fund raising for cancer and muscular dystrophy research, Democratic and Republican candidates who were "good on food and hunger issues" and Ralph Nader's consumer interest groups as well as many other worthy causes.

Harry Chapin died instantly in an automobile accident on July 16, 1981 on the Long Island Expressway. He was scheduled to perform a benefit concert that evening in Hempstead, Long Island. He had recorded and released 11 albums at the time of his death and was working on a 12th, to be titled "The Last Protest Singer." It dealt with his personal heroes, Paul Robeson, Pete Seeger, Phil Ochs, Wolf Biermann and Victor Jarra.

"The problem with the world hunger issue is that too many of us don't know the truth and without the truth, we make dumb decisions," Harry Chapin said. "The genius of America is knowing the truth."

Harry Chapin is survived by his widow, Sandy, and five children. The Harry Chapin Memorial Fund has been established to continue his humanitarian work.●

FAIR PRACTICES IN AUTOMOTIVE PRODUCTS ACT, H.R. 5133

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1982

● Mr. DINGELL. Mr. Speaker, I am pleased to provide our colleagues with my statement before the House Rules Committee Tuesday on my support of the automobile content bill, H.R. 5133.

With the granting of a rule, it is my hope this bill now can be promptly scheduled for House floor consideration.

Statement follows:

STATEMENT OF HON. JOHN D. DINGELL

Mr. Chairman, I appreciate the opportunity to appear before this committee today in support of a rule for this most important job's protection and enhancement bill, H.R. 5133, the Fair Practices in Automotive Products Act. It will help automobile workers, but it is also a bill that will help many who work for or are looking for jobs with automobile manufacturers, suppliers, and retail dealers located throughout the Nation, as well as others in related industries, such as steel, aluminum, plastics and the like.

On September 21 the bill was reported favorably by a wide margin with an amendment in the form of a substitute. The speaker then referred the bill to the committee on ways and means. That committee was discharged from further consideration of the bill on October 1, 1982 without making any recommendations.

Mr. Chairman, I urge an open rule with one hour debate with the time evenly divided between subcommittee Chairman Florio and the ranking minority member of our committee, Mr. Broyhill. Although I am advised that no waivers regarding the Budget Act are required, if any question is raised, I would request such waivers. While I believe that amendments will be offered, it is a relatively short bill and should not require any special rule provisions. I urge that no specific amendments be recognized or receive special protection in the rule.

This is important legislation for the working people of America—for those who are a part of the motor vehicle industry and for those who are not. Today, unemployment in the U.S. automotive industry exceeds a quarter million workers, and new lay-offs are announced weekly. My State of Michigan, one of the leading automobile and truck producing States, now has an unemployment rate of 17.2 percent.

According to the Labor Department, employment in automobile manufacturing has dropping from 762,400 in December 1978, to just 459,700 in April 1982. In addition, thousands of other workers whose jobs are related to the vehicle manufacturing industry, or who live and work in communities dependent on the vehicle manufacturing industry, have been fired or laid off. Some 800,000 workers in Illinois, Indiana, Michigan, and Ohio have exhausted extended unemployment benefits since January 1980. Many of these workers are a part of the record 10.8 percent national unemployment rate reported last week by the Department of Labor, and others are not even counted in the figures.

The national cost of this devastating unemployment in the automobile industry in terms of lost tax revenues and payment to the unemployed has been estimated at $16 billion for each of the last 2 years—the cost for State and local governments has been enormous as well. The cost of the overall rate of unemployment is equally drastic, since it is estimated that each percentage point rise in the unemployment rate results in a loss of roughly $25 to $30 billion to the U.S. Treasury. As we face a potential deficit in fiscal year 1983 of $200 billion, we must consider this bill and all other means of getting Americans back to work. Until we do that, this deficit will never go away.

H.R. 5133 will put thousands of Americans back to work. It is a fair and balanced response to current problems in the world automobile market. There is no such thing as "Free Trade" today in the automobile industry or, for that matter, in other industries. Germany, France, the U.K., and Italy: All have sharp curbs on Japanese encroachment into their automobile markets. And the Japanese, who flatly prohibited auto imports until the early 1970's, rely now on a system of non-tariff trade barriers to block foreign entry into their market.

The Deputy United States Trade Representative, in a November 10, 1982 report to subcommittee Chairman Gibbons entitled "Japanese Barriers to U.S. Trade and Recent Japanese Government Trade Initiatives," said that the Japanese Ministry of Transportation "has repeatedly turned down a U.S. request to recognize U.S. Manufacturers' self-certification of automobiles to Japanese standards." Yet the U.S. permits, as he points out, "all auto manufacturers to self-certify compliance with U.S. regulations." He also said that despite "a May 1980 commitment" by the Japanese to accept public affirmations of the "dates of manufacture" of U.S. vehicles, which are necessary in Japan to determine which year's regulations tests must be performed on imported cars, the Ministry of Transportation has not yet adopted the necessary implementing procedures.

The only major open market in the world for motor vehicles is the United States, and we have become victims of the Japanese "export economy" . . . A trade philosophy which provides for worker security in Japan . . . and unemployment in the United States.

That's why American labor unions are so supportive of the bill, from the United Auto Workers to the AFL-CIO and steelworkers.

H.R. 5133 simply requires that those who want to sell to the United States market return something to that market in the form of jobs and investment. It does not distinguish foreign manufacturers from domestic manufacturers—it treats them all equally. It does not exclude foreign companies from selling vehicles in the United States, as a quota would do, but allows all companies to sell in the United States on a fair and equal footing. Nor does the bill automatically raise the cost of foreign vehicles in the United States market—as would a tariff.

The bill that was reported to the House by the Committee on Energy and Commerce adopts a carefully considered, administratively workable and a equitable local content requirement. In the 9 days of testimony by over 50 witnesses before the Ways and Means Trade Subcommittee, virtually no criticism was directed at the technical provisions of the bill. It has been carefully craft-

ed, and is much improved over the bill as introduced.

First, the bill has been simplified and is consistent with other legislation relating to the motor vehicle industry. The adoption of the Energy Policy and Conservation Act approach, which is based on U.S. Customs data about imports by each manufacturer, means that the bill will be simple to administer and enforce. The bill works model-year by model-year, so that it takes into account the production schedule of the industry. Moreover, the motor vehicle industry is already familiar with the Energy Policy Conservation Act system, so it can readily adapt its practices to the bill's requirements without the need for complicated and costly accounting systems.

Second, the bill sets a schedule of domestic content requirements which recognize the efficiencies of production in the motor vehicle industry. This bill encourages the production of motor vehicles and parts in the United States—it does not exclude these products from entering the country. In order to achieve this purpose, the bill sets domestic content requirements at a level which can be met by U.S. and foreign manufacturers alike. The "Big Three" U.S. auto companies are today in compliance with the strictest requirement the bill would impose, as are Volkswagen of America, which is producing cars in New Stanton, Pennsylvania, and American Motors Corporation, with both its domestic name-plate cars and its new jointly produced cars with Renault.

The bill allows the manufacturers to take advantage of the efficiencies which come with large-scale production—and does not require them to make inefficient investments just to sell in the United States market. The bill sets no domestic content requirement on manufacturers that sell less than 100,000 vehicles per year—so consumers will continue to have available to them a wide selection of cars available in the world market.

Third, the bill sets fair penalties for violating the law. The penalties provided in the bill "fit the crime". A manufacturer who violates the law is penalized in proportion to the extent of the violation. This provision will also serve to encourage compliance and, unlike the bill as introduced, does not set arbitrary thresholds for dramatic changes in the requirements.

The "local content" requirement which is reflected in H.R. 5133 is a needed and fair response to the invasion of foreign vehicles into the United States marketplace. It is a necessary bill for American workers, and it is a fair bill for American consumers. It will bring jobs and investment into the United States, and it will continue to provide the American consumer with a wide selection at the lowest price.

This bill encourages foreign auto makers to utilize auto parts built in the United States and to build facilities here just as some have already done, like Volkswagen of America and Honda. It does not establish a quota or a trade barrier. It is a fair bill designed to provide more jobs which have been lost in part due to the deep penetration of foreign auto makers into our markets under our free trade policies.●

SENATE—*Wednesday, December 8, 1982*

(Legislative day of Tuesday, November 30, 1982)

The Senate met at 9:15 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Father in Heaven, I pray against discouragement. Our Government may not be the most efficient in the world, but it is certainly the best. It fails often, but it has made possible the strongest, richest, greatest Nation in the world and probably in all history. We thank Thee for the vision of our Founding Fathers which conceived this Republic.

In a situation where there is much more to be done than there is time to do it, give to the Senate leadership and Members the grace of discernment, understanding, and patience. Guide them so that everything that should be accomplished will be. Infuse them with a sense of love and unity and singleness of purpose. Dissolve hostility and drain it from minds and hearts. Make your gracious presence felt in this Chamber. Direct us, in spite of ourselves if necessary, in Thy way. Let truth and justice prevail for the sake of the common good and the glory of God. In the name of the Lord of Life and the Prince of Peace we pray. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. Mr. President, I thank the Chair.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, there are four special orders today in favor of the speaker, the distinguished Senator from Alaska, the occupant of the chair, and the distinguished Senator from Texas (Mr. TOWER).

(Mrs. HAWKINS assumed the chair.)

ORDER AGGREGATING THE TIME AND PLACING IT UNDER CONTROL OF THE PRESIDENT PRO TEMPORE

Mr. BAKER. Madam President, I ask unanimous consent that the time thus provided be aggregated and placed under the control of the distinguished Senator from South Carolina, the President pro tempore, with the understanding that at the request of the minority leader or his designee half of that time may be allocated to Members of his side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. I thank the Chair.

Mr. ROBERT C. BYRD. Madam President, will the distinguished majority leader yield?

Mr. BAKER. I yield.

Mr. ROBERT C. BYRD. This being Mr. THURMOND's idea, the four orders coming from the other side of the aisle, I prefer that the time be under the control of the Senator from South Carolina but that he allot half of it to our side and he control that half. There may not be that many on our side who wish time.

Mr. BAKER. I thought I had put it that way.

Let me make sure that it is clear that the request I made and which is now before the Senate is that the time created by these four special orders, which would be an hour, be placed under the control of the Senator from South Carolina (Mr. THURMOND), but with the understanding that at the request of the minority leader or his designee that up to half of that time could be allocated to Members on his side of the aisle if they wish.

Is that satisfactory?

Mr. ROBERT C. BYRD. That is all right.

Mr. BAKER. I so ask unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. I thank the Chair.

Madam President, after the execution of the special orders, there will be a period for the transaction of routine morning business of 10 minutes in length in which Senators may speak for 2 minutes each.

After that, I believe under the ordinary procedure Radio Marti would recur as the pending business. Is that correct?

The PRESIDING OFFICER. The majority leader is correct.

Mr. BAKER. Madam President, as I have announced now for some time, today is nominations day, so either at that point or shortly after we resume consideration of Radio Marti, depending on the wishes of the principals involved in that debate, I will ask the Senate to go into executive session for the purpose of considering nominations.

Once more Senators should be on notice that it is the intention of the leadership on this side to try to work our way through all the nominees on that calendar, notwithstanding that there are many notations on the calendar on this side and I surmise and suspect there are notations on the calendar on the other side.

Members who have a particular interest in that should be present and be prepared if they wish or to assert their rights as they may require.

Madam President, I have no further need for my time under the standing order, and I see no Senator seeking recognition for the purpose of speaking on leader time and, therefore, I am prepared to yield back that time or to assign it to the minority leader if he has need for it.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The minority leader is recognized.

Mr. ROBERT C. BYRD. Madam President, I have no need for the time so generously offered by the majority leader, so he may yield it back or reserve it.

Mr. BAKER. Let me yield it to the minority leader in the event some Senator wishes to speak, and I do so now.

Mr. ROBERT C. BYRD. I thank the majority leader.

I yield 2 minutes to Senator PROXMIRE.

Mr. PROXMIRE. I thank the minority leader.

ARTISTIC RESPONSE TO THE HOLOCAUST

Mr. PROXMIRE. Madam President, on Sunday, December 5, 1982, the New York Times published a lengthy article called "40 Years After, Artists Still Struggle With the Holocaust." The writer, Michiko Kakutani, examines the tremendous proliferation of art focusing on the Holocaust experience. The depth and range of artistic response to the Holocaust testifies to its jarring impact on our civilization. It was, unquestionably, the major event of this century, shattering our illusions about innocence, challenging our conceptions of good and evil.

Beginning with documentary accounts such as "The Diary of a Young Girl" and memoirs of concentration camp survivors, Holocaust art slowly acquired more fictional elements. Marcel Orphuls' "The Sorrow and the Pity" was the first film masterpiece about World War II, and combined

factual matter with an imaginary representation of the event. Orphuls paved the ground for later cinematic expression dealing with the Holocaust: Resnais' "Night and Fog," Wertmuller's "Seven Beauties," Fassbinder's "The Marriage of Maria Braun."

Literary responses to the Holocaust also underwent this slow evolution, from brutal facts to fact blended with fiction. William Styron's "Sophie's Choice" is an excellent example of this trend. It is written from the point of view of a young man, whose brush with the Holocaust is purely accidental: his love affair with a haunted concentration camp survivor.

There has been an outpouring of Holocaust art in yet a third form: theater. From Arthur Miller's "Incident at Vichy" to Alan Howard's "Good," currently playing on Broadway, dramatists have come to grips with the Holocaust in a variety of ways. Miller's play focuses on a historical event, while Howard's concerns a German professor's surrender to nazism.

Clearly, then, artists have not forgotten the Holocaust. It is still a huge cloud hanging over our civilization, that has inflicted irreparable damage already, and may burst again at any time. Postwar artists have not been content to simply ignore this cloud, but have faced it, and portrayed it, and asked questions about it.

Have we politicians fulfilled our obligation to society in a similar manner? Surely we should make some response to the Holocaust, which still touches on every aspect of our lives. The subject of the Holocaust should not be limited to the artistic sphere; it must be seen in a political context as well.

As legislators, our obligation is to make it impossible for a human horror like the Holocaust to occur again. The very least we can do as a political response to the Holocaust is to make genocide a crime under international law. I call upon the Senate to take a cue from Holocaust artists, and ratify the Genocide Convention without delay.

FIRST, UNDERSTANDING; THEN ACTION

Mr. PROXMIRE. Madam President, Flora Lewis recently wrote an editorial piece for the New York Times entitled "Decoding Nuclear Jargon." In this article she stresses the importance of public understanding of military terms, and calls for speedy diplomatic efforts to reduce the possibility of a "first strike" in a nuclear war.

Lewis points out that military phrases often are barriers separating military experts from the rest of Americans. In order for the American public to compete effectively with the Pentagon in determining defense policy, then, citizens must make certain military terms their own. They must not be confused by strategic concepts that sound more complex than they are.

Lewis believes the difference between "first strike" and "first use" of nuclear arms is unclear to many Americans. A first strike is a surprise nuclear attack designed to destroy the opponent's nuclear arsenal. A first use of nuclear is not quite the same thing. Rather than an offensive military strategy, it is a political term. NATO depends on a threatened first use of nuclear arms to deter Soviet conventional aggression in Western Europe.

The questions facing us today are many and multifold. Should we pursue our current military buildup? Should we enhance our first-strike capacity, or seek a reduction in offensive weapons? Should we change the official NATO policy to one of no first use to reduce the risk of nuclear war?

Of all these issues, Lewis considers the first strike most pressing. Why? If both superpowers develop the capacity to reduce the other to rubble in one blow there will be no such thing as national security. The concept of deterrence, the fragile thread tying mankind to survival, will become an anachronism.

Lewis encorages understanding first, and action second. Everyone must understand what certain military terms mean, and their implications for national defense. Then they should recognize that one term in particular—"first strike"—may spell disaster in the long run. This is why Lewis declares "the most urgent need is to negotiate away fears of a 'first strike.'"

Madam President, I ask unanimous consent that this article in the New York Times be printed in the CONGRESSIONAL RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DECODING NUCLEAR JARGON

(By Flora Lewis)

PARIS, Nov. 25—President Reagan and First Secretary Andropov have made parallel proclamations of continued interest in arms control, and parallel pledges in effect to continue the arms race. Each was trying simultaneously to appease a frightened world and to satisfy his own military-industrial complex.

It might be considered a fancy game, except that the "bargaining chips" are not symbolic. They are many billions of real dollars' worth of real missiles that can really end life as we know it in the real world.

Now it is time for real people to seize the issue. The notion has been spread that they can only deal with simplicities, and that decision must be left to experts to avoid the grave danger of illusion. This idea has been reinforced by the lush growth of jargon among nuclear strategists.

But it isn't impenetrable. The central reasoning is perverse but simple. The vast nuclear arsenals are supposed to deter war by making it clear that launching an attack will assure not victory but ravage to the aggressor. It is Orwellian to call the MX "Peacekeeper," and we are approaching 1984. The effort must be made to decode the jargon.

Perhaps the major element of confusion in the current debate is the difference between "first use" of nuclear weapons and "first strike," and the meaning of "vulnerability." They have precise definitions.

Of course, we are vulnerable to nuclear attack so long as a single atomic weapon exists. There is no defense, in the sense that an antitank weapon can stop a tank before it reaches its target. The strategic concept of "vulnerability," however, refers to the possibility of losing the certain capacity to hit back, after a "first strike."

"First strike" means a surprise, pre-emptive attack trying to establish tremendous nuclear superiority by wiping out a large proportion of the other side's arsenal so it can no longer offer a credible threat.

Some weapons are more usable for a "first strike" than others. Submarine-based missiles aren't considered to have the necessary accuracy to hit enemy silos. Nor are they "vulnerable" to a "first strike" because it's so hard to pinpoint subs.

Intermediate and long-range land-based missiles are the main culprits. The U.S. believes the big Soviet missiles, and for Europe the SS-20's, could deliver a "first strike." It therefore suspects the Soviets plan one because these arms make up most of their nuclear strength.

The MX might or might not survive, nobody can prove or disprove that. But with its accuracy and 10 warheads per missile, it could be used for a "first strike" against the Soviets.

Rep. Albert Gore has proposed a new bipartisan arms control offer, among other things limiting warheads to one per launcher, which would make a "first strike" incredible for either side. So far, the U.S. insists that the fact that it didn't strike the Soviet Union when it had vast superiority is assurance enough that it never will. Not surprisingly, the Russians prefer to rely on their own arsenal now that they have one.

A "first strike" is one way of starting a nuclear exchange, but not the only one. "No first use" means what it says, that the country making the promise will never be first to use any kind of nuclear weapon on any target even during war.

Leonid Brezhnev proclaimed last spring that this is now Soviet policy. U.S. officials did not take it seriously nor probe for details, since they have seen no change in Soviet deployments or procedures to convince them there is more to the pledge than propaganda.

Some allies and former U.S. officials think that is a mistake and that the question should be pursued.

NATO has always planned "first use." That is the meaning of its "sword and shield" symbol. The thesis is that while the Soviets have more conventional force, they can be deterred from using it by the threat of nuclear reprisal.

At first, in the 1950's, NATO planned "massive retaliation" because the U.S. only had big bombs and the Soviets couldn't match them. That is still French strategy, although the French arsenal is tiny compared to that of the superpowers. The French could never give up their plan of "first use" without giving up their claim to independent defense.

Technology and President Kennedy changed NATO's doctrine from "massive retaliation" to "flexible response," a plan to

use small nuclear weapons if early battles were lost, and threaten to "escalate" to bigger and bigger ones if the attack persisted.

Now, NATO's commander, Gen. Bernard Rogers, advocates a shift to "no early first use" by acquiring high technology conventional weapons, which could strike deep in enemy territory to prevent reinforcements. This would substitute for the plan to use short-range nuclear arms at the front. But it would cost a lot more, and the allies have shown little interest in this alternative to the plan for limited nuclear war in Europe.

There is a dilemma, but MX won't solve it. The first urgent need is to negotiate away fears of a "first strike," which could bring war by panicky miscalculation. The jargon shouldn't mask the fact that it is possible to brake the arms race without contemplating surrender.

THE MX: PRELUDE TO A DANCE TOWARD DEATH?

Mr. PROXMIRE. Madam President, on November 26, Louis René Beres published an article in the New York Times, entitled "Reagan Calls It MX; Actually, It's M-Hex." Beres urges the country to consider the question of the MX carefully, before throwing support behind the President's plan to Dense Pack 100 MX missiles in Wyoming at a cost of $26 billion.

The most fundamental consideration is whether the MX will enhance or endanger national security. The purported objective of building the MX is to preserve our deterrence capacity. But does this rationale stand up to close scrutiny? Consider what is needed for effective deterrence: A survivable second strike force. Many defense experts believe we already possess a strong second strike force, which the MX would do little, if anything, to improve. If the Soviets hold the same view, the only conclusion they can draw is that we are masking our real motive for building the MX: developing our capacity for a preemptive first strike.

This may or may not be the administration's motive. Beres is not arguing that point. He is simply pointing out that it could look that way to the Soviets. And, as we all know, perceptions are a key factor in the U.S.-U.S.S.R. arms race. If the Soviets think we are cultivating a first-strike capability, they will waste no time in meeting this real—or imagined—threat.

Beres thinks that the Soviet reaction to the MX will have significant impact on first, the risk of nuclear war, and second, efforts for arms control. It is very possible that the Soviets will respond to the MX by switching to a computer-controlled alert and launching system. Clearly, this would substantially increase the risk of an accidental nuclear war. What a horrible irony it would be if the human race was destroyed by its technological creations: computers and nuclear weapons. Let us diminish that risk by keeping their reins in human hands.

Second, Beres believes the MX "threatens the entire arms control process." Why? The MX would have a potential snowball effect on the arms race, leading to an avalanche burying both superpowers. Consider this hypothetical, but very possible, chain reaction to the MX. The Soviets build a weapon that matches or counteracts the MX. Then, as Beres observes, "this would generate a search for new, even more destabilizing weapons * * * removing any lingering hopes for arms control." Furthermore, we might eventually try to protect the MX with antiballistic missiles, a costly move that might violate both the Anti-Ballistic Treaty and the Nuclear Non-Proliferation Treaty.

In sum, the MX may create more problems than it solves, problems we cannot even fully comprehend at this point. Besides the enormous financial burden it will place on our strained economy, it may be an invitation to Moscow to join us in a dance toward death.

Madam President, I ask unanimous consent that the Beres article from the New York Times be printed in the CONGRESSIONAL RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, November 26, 1982]

REAGAN CALLS IT MX; ACTUALLY, IT'S M-HEX

(By Louis René Beres)

In taking up the proposed MX missile basing plan, the Congress should consider not only whether President Reagan's "dense pack" approach is workable but also whether the MX is needed—or even desirable—for national security.

Administration officials argue that America needs the MX to preserve its deterrence capability, which they contend has been weakened by the Soviet Union's (alleged) ability to destroy our land-based intercontinental ballistic missile force.

But to guarantee deterrence, the Administration need only insure that sufficient strategic forces survive a first strike to effectively destroy the Soviet Union. It need not take new, provocative steps to threaten Moscow's retaliatory forces.

The 100 MX missiles, each with 10 warheads and precision targeting, which President Reagan wants to base in superhardened silos in Wyoming, can pose such a threat.

Taken together with the expansion of other American weapons such as the intermediate-range Pershing 2, the MX would undermine our security because it would add nothing to our survivable retaliatory capability while creating the impression that America might be moving toward a first-strike capability. Faced with this prospect, Soviet decision-makers might well be induced to adopt computer-controlled launch-on-warning policies or to fire first during a crisis. Deployment of the MX would thus significantly increase the risk of war, either by miscalculation or as a result of computer error.

President Reagan's proposals to improve the "hot line" and to provide advanced knowledge of each other's test launchings recognize the dangers of accidental war. But these measures are marginal improvements. A decision to cancel the MX would have done as much, or more, to insure stability in a crisis.

Indeed, America's current strategic plans may produce a permanent incentive for the Kremlin to move toward pre-emption. By encouraging a strategic climate in which the Soviet Union continually and increasingly expects imminent attack, America may compel it to consider striking first.

Why then does the Administration want the MX? The answer seems to lie in a revised definition of nuclear deterrence, one that supplants the idea of mutual assured destruction with the search for the capacity to "prevail" during a "protracted nuclear war." The Administration, of course, does not seek such a war, but it does believe that preparedness to fight one is essential to meet its deterrence objectives.

The Administration considers the MX, with its highly destructive and accurate warheads, a central part of its plan to develop the ability to fight a nuclear war. The MX would be able to destroy selected strategic forces and command centers, thus enhancing our capacity to wage war "rationally."

This reasoning is sorely deficient not only because it increases the risk of accidental war but also because it threatens the entire arms-control process. The prospect of a ballistic missile defense is particularly worrisome in this regard. Because the "dense pack" might easily become vulnerable to Soviet technological developments—if it isn't already—the Administration might be forced to move to an anti-ballistic-missile defense more quickly than it contends is now necessary.

Should the Administration pursue this path—even though such a deployment wouldn't work, according to the best available scientific information—Moscow would almost certainly undertake a parallel deployment. This, in turn, would generate a mutual search for new, even more destabilizing weapons, heating up the arms race and removing any lingering hopes for arms control.

In addition, a United States decision to provide a ballistic-missile defense for its MX missiles would require us to sufficiently modify, if not abrogate, the 1972 Anti-Ballistic-Missile Treaty. Since one article of the Nuclear Non-Proliferation Treaty obligation the superpowers to move expeditiously toward arms control and disarmament, prior abrogation of the A.B.M. treaty would be widely and correctly interpreted as a violation of the Nuclear Non-Proliferation Treaty. Thus, our deployment of ballistic missiles not only would increase superpower tensions but also fatally undermine nonproliferation efforts, which President Reagan now considers essential for our security.

Until measures are found to replace deterrence with a saner system of security, America must continue taking steps to insure the long-term survivability of its strategic forces. But it is clear that this goal will not be served by the MX and associated strategic programs. The expanding search for nuclear war fighting capacities will do more to degrade deterrence than to provide safety.

Mr. PROXMIRE. I thank the minority leader and I yield the floor.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Madam President, I yield the remainder of my time to Mr. THURMOND.

Mr. THURMOND. I thank the Senator very much.

RECOGNITION OF SENATOR THURMOND

The PRESIDING OFFICER. Under the previous order, the Senator from South Carolina is recognized.

TRIBUTES TO DEPARTING SENATORS

SENATOR HARRY F. BYRD, JR.

Mr. THURMOND. Madam President, it is a special privilege for me to pay tribute today to one of our most esteemed colleagues, Senator HARRY F. BYRD, JR., of Virginia, who, after more than 17 years of service in the Senate, is closing out a distinguished political career.

Since I first came to the Senate in 1954, I have had the pleasure of knowing many fine people who have served their States, their country, and the Congress with distinction and honor.

My association with Senator BYRD, and his distinguished father, Senator Harry F. Byrd, Sr., has been a special one, and I consider it a high honor and privilege to have served with men of such stature and integrity.

Madam President, it is only fitting that, in the last days of this Congress, that we pay tribute to a man like Senator BYRD who has served the State and Nation so well. I will always appreciate HARRY BYRD's honesty and friendship, and I will have many fond memories of his service here and of the time we spent together.

The accomplishments of Senator BYRD are too numerous to mention at one standing, but he will always be remembered for his humility, a keen sense of duty to his country, a strong belief in fiscal responsibility, and above all, for his integrity. He is, and always has been, a gentleman in the true sense of the word.

The Senate, and indeed this country, has profited from the service of men like HARRY BYRD and his late father. Their service here has truly been an investment in good government.

William Penn, one of this country's first political thinkers and the man for whom the State of Pennsylvania is named, knew how good government was shaped and molded by men of character and ability. He knew that the people who serve in government ultimately determine the success or failure of nations and republics such as ours, and that, in the final analysis, whether we accomplish great things or merely serve out our terms of office with no purpose or direction.

"Governments," Penn said, "are like clocks; they go from the motions of men. And it is government that depends upon man, not man upon government."

HARRY BYRD's service in this Chamber, and that of his father, stand as an affirmation of Penn's observation. Both men have provided positive leadership in the Congress, and our Government has been their benefactor.

Like his father, HARRY BYRD, JR., has been a vocal opponent of spending policies that have, over the last two decades, slowly eroded the fiscal well-being of this great country.

He was one of the first supporters of statutory restrictions on Government spending, realizing that the Congress had grown incapable of maintaining a balanced Federal budget. He recognized the immense danger of shouldering our children, and the generations that followed, with a staggering national debt.

At the center of HARRY BYRD's service in the Senate was a philosophy that the Government had become too large and unmanageable, and that the enactment of still more laws would not solve the problem.

He has been, like his father, a stalwart guardian of the Federal Treasury—a man who knows the meaning of a dollar and of the pressing need to control the size of a burgeoning and increasingly irresponsible bureaucracy.

Madam President, if I could just quote a passage about Senator BYRD from Congressional Quarterly's book "Politics in America." It reads:

> In an institution where most work is done in committee, BYRD has opted instead for a life on the floor, where he perches at the rear of the Chamber for hours on end, waiting to pounce on a wayward spending proposal or to fight an extension of Federal power into private enterprise.

We should all be lucky enough to merit that kind of remembrance, and, yet, HARRY BYRD gained that reputation not by luck, but through his actions.

As a member of the Senate Armed Services Committee, it has also been my distinct pleasure to serve with Senator BYRD and his father. Their quest for a strong defense, second to none in the world, is worthy of high praise.

In addition, Madam President, HARRY BYRD will be remembered for his attention to constituent services, his gracious attitude toward others, and for his willingness to stand up for the principles in which he believes.

There is no doubt in my mind that if he were alive today, Harry Byrd, Sr., would be very proud indeed of his son's accomplishments.

I know my colleagues join me in wishing Senator BYRD many successes in the years ahead. To his lovely wife Gretchen and his family I want to extend my best wishes. May God bless each of you.

SENATOR SAM I. HAYAKAWA

Madam President, at the conclusion of the 97th Congress Senator SAM I. HAYAKAWA will be leaving this legislative body.

Senator HAYAKAWA came to the Senate after a long and remarkable career in the field of education. SAM HAYAKAWA earned his Ph. D. in 1928, thereafter taught in several major universities, and culminated his academic career by serving with great distinction as president of San Francisco State College from 1968 to 1973. He has also made a name for himself as a columnist and has authored several books on linguistics, an area in which he is an acknowledged expert.

During the past 6 years, Senator HAYAKAWA has served the people of California and the Nation here in the Senate with a devotion that has earned him the respect of all his colleagues. He has been a diligent, knowledgeable Senator and has particularly distinguished himself by his leadership on the Foreign Relations Committee, where he has served as chairman of the East Asian and Pacific Affairs Subcommittee, on the Agriculture Committee, where he has chaired the Forestry Subcommittee, and on the Small Business Committee. In all of his activities, Senator HAYAKAWA has been a pleasure for me and other Senators to work with because of his sincere dedication, understanding, patience and unmatched courtesy.

I shall always think of Senator HAYAKAWA as a friend and remember with pleasure our years together in the Senate. As he leaves these ranks, I wish him and his family good health and prosperity in the years ahead.

SENATOR NICHOLAS BRADY

Madam President, I am pleased today to pay tribute to my colleague, Senator NICHOLAS BRADY, who will be leaving the Senate after serving with us for 8½ months. Although his tenure has been brief, I am sure that his presence and contributions to the Senate will be missed.

Senator BRADY left the business world in which he had achieved remarkable success to come to Washington after being appointed to fill the unexpired term of former Senator Harrison A. Williams, Jr. Because of the unfortunate circumstances surrounding the resignation of his predecessor, and because he accepted the appointment on the basis that he would not be a candidate for the Senate seat in the November election, Senator BRADY faced a unique and difficult challenge. He quickly and effectively showed that he was more than equal to the task, however, and through his hard work and dedication has not allowed himself to be a simple caretaker of the Senate office.

It has been my pleasure to work with Senator BRADY on the Armed Services Committee, and I know he has also been impressive in his work on the Banking, Housing, and Urban

Affairs Committee. His thorough knowledge of the issues, together with his patience, perseverance, and quiet effectiveness have made him a definite asset to the Senate. I am sure the people of New Jersey must be proud of the work he has performed for them during his short tenure here in Washington.

As he leaves this body, I wish him and his lovely wife Katherine good health, happiness, and continued success in the years ahead.

SENATOR HARRISON "JACK" SCHMITT

Madam President, at the conclusion of this Congress, Senator HARRISON "JACK" SCHMITT will be leaving the Senate.

Senator SCHMITT has served his country well as an astronaut and U.S. Senator. In 1972, he flew to the Moon as a member of the Apollo 17 mission. Upon his return to Earth, he first became Assistant Administrator for energy programs of the National Aeronautics and Space Administration, and then was elected by the citizens of New Mexico as a U.S. Senator representing that State.

While Senator SCHMITT served in this body for only 6 years, he distinguished himself as both capable and hardworking. I have had the pleasure of working with him on a number of issues, and found him to be a fine man and an excellent Senator. He has served his Nation and the people of the State of New Mexico well, and his presence will be missed as we continue to face the pressing issues of our time.

In whatever work he pursues in the future, I am sure that JACK SCHMITT will excel, just as he has excelled here in the Senate. Congress will be losing the services of an excellent man and extremely knowledgeable individual, but I am hopeful and confident that our Nation will continue to benefit from his service in other capacities in the days ahead. JACK, we all wish you and your fine family the very best as you depart from the Senate at the end of this Congress.

SENATOR HOWARD W. CANNON

Madam President, Senator HOWARD CANNON will be leaving the U.S. Senate after 24 years of distinguished service, and I am sure that his presence and leadership will be greatly missed.

It has been a privilege and pleasure for me to work with Senator CANNON on numerous issues over the years. As a fellow member of the Armed Services Committee, I have admired his enduring efforts to improve this country's defense posture, as well as his work to enhance living conditions for military personnel.

While chairman of the Commerce Committee, Senator CANNON presided over the enactment of an exceptional array of aviation, trucking, railroad, maritime, communications, and consumer legislation.

For almost a quarter of a century, Senator CANNON rose to meet the many challenges that came before this Chamber. Through his capable and dedicated efforts, he has earned the respect and admiration of the Members of this body and of the citizens of the State of Nevada.

Senator CANNON has served our country well, and I wish him and his lovely wife Dorothy good luck and good health in the years to come.

SENATOR HARRY F. BYRD, JR.

Mr. BAKER. Madam President, I want to take a moment at this time to reflect on a remarkable and legendary man, Senator HARRY F. BYRD, JR. of Virginia. Senator BYRD is leaving the Senate at the end of this session after 18 years of service to Virginia and the Nation. He will be sorely missed.

Senator BYRD has long symbolized the tradition and dedication which the Byrd name has been synonomous with in Virginia for decades. He has been a distinguished colleague, a valued adviser, and above all, a good friend.

Thomas Jefferson once said, "When a man assumes a public trust, he should consider himself as public property." HARRY BYRD has been such a public servant, and I know that I speak on behalf of all my colleagues when I say that his statesmanship and resolve will long be exhibited as a standard for Democrats, Republicans, and Independents alike.

HARRY FLOOD BYRD

Mr. ROBERT C. BYRD. Madam President, a friend and colleague from my neighboring State of Virginia, HARRY F. BYRD, is retiring after three terms in the Senate.

He has had a career truly unique in American politics, continuing a long and proud family tradition of public service at the highest levels.

He has been a friend of the taxpayer, a defender of States' rights, a vigilant and studious supporter of a strong national defense, and an unbending advocate of political freedom for those not as fortunate as we to live in a democracy.

I know his decision to retire was a difficult one. He must and should be proud that his career-long efforts to focus the debate more critically on economy in government has indeed become part of our everyday debate.

I know the people of Virginia, whom he has so conscientiously served, will miss him, as I and my Democratic colleagues will.

I hope the future holds all the best for him in the years ahead.

Mr. GORTON. Madam President, I thank the distinguished President pro tempore for yielding to me for just 1 or 2 moments.

I have no prepared remarks this morning to read as a tribute to our five retiring colleagues. I do, however, have a strong desire to say something briefly about what they have meant to me during the course of my first 2 years as a Member of this body.

Perhaps the great personal feature of our time here together in the U.S. Senate is the way in which it so quickly metamorphoses colleagues into close personal friends. We spend so much time here together and we spend that time under such intense pressures that, for better or worse, our true characters cannot be hidden from those with whom we serve.

In the case of four of our colleagues who are retiring this year, I have had the pleasure and the honor of serving only during a short portion of their time here.

SENATOR HOWARD W. CANNON

Even so, I have had the honor of serving with Senator CANNON from Nevada on the Committee on Commerce. The profound changes, the greater freedom, the deregulation of so many of the businesses of the United States, with some dislocation, but with great impact on the efficiency and effectiveness of the management of our economic system, is, very largely, due to the hard work and to the dedication of HOWARD CANNON, both as a member of the Commerce Committee and as its chairman. He will leave behind him a tribute of an institutional change in the areas over which he had so much jurisdiction and so much influence which will last not just for years but for decades after his retirement. That dedication and that persistence has been used to serve well not only the people of Nevada but of the United States.

SENATOR HARRY F. BYRD, JR.

To have served here during the last 2 years of the long and distinguished career of the senior Senator from Virginia has been a special pleasure to me. While I do not serve on any committees with him, his courtliness and his friendship have been without any parallel. I have learned the true meaning of the phrase "southern gentleman" from Senator BYRD in his helpfulness and his deference to his colleagues. His willingness always to defer to them or to help them out is something which I greatly appreciate.

SENATOR S. I. (SAM) HAYAKAWA

The Senator from California, of course, is a man of great wit, or puckish good humor, who has raised the level of the use of language in this body considerably because of his presence here and by raising the level of that language, has raised the quality and the precision of debate over many, many issues, not only those in which he has had a particular interest. We will especially miss him from here.

SENATOR HARRISON "JACK" SCHMITT

I note the presence on the floor this morning of my friend, the Senator from New Mexico, Mr. SCHMITT, with whom I also serve on one committee.

In my 2 years here I have not met anyone who was more knowledgeable about so many subjects and who was tougher in the use of that knowledge.

I must say that he is difficult to persuade to a particular point of view, but, when persuaded, one could not possibly have a stronger nor more faithful ally.

He, of course, brought to this place a special knowledge and a special background which was of great value to me during the course of these last 2 years, during which time I have come to value his friendship so greatly. I will particularly miss his presence in this Chamber, which I hope may not be permanent, but will last for a short period of time, at least.

SENATOR NICHOLAS F. BRADY

Of course, as I said, in the case of each of these four Senators, I have served as their colleague only during a minority of their service here.

Senator BRADY, I say to the Presiding Officer (Mrs. HAWKINS), is the individual here, who, in one sense, caused both her and myself no longer to be freshmen or to be the most junior Members of this body.

He does hold a special place in our hearts.

He came here by appointment rather than by election. He is, by nature, relatively quiet and diffident, although with what we have all discovered to be a marvelous sense of humor. Under those circumstances, he learned his duties as a U.S. Senator with extraordinary rapidity. A combination of his background, of his character, and his diligence led him to a degree of influence over his colleagues all out of proportion to the number of months he has served here with us. In fact, I think he can leave here with the feeling that he had a significant impact on both the course and the outcome of debates over economics, over budgetary policy, during the year 1982—so much influence that he and his presence will not only be missed in the future as a Member but will be greatly desired as a visitor by all of his colleagues.

The counsel and advice which he has given us during 1982 will be equally applicable in 1983 and future years. But most especially, I want to express my gratitude for his friendship which has been one of the great pleasures and great privileges of this last year to me, also a relatively junior Senator.

The Senator from New Jersey is a wonderful man of high character and a close personal friend. For all of those characteristics I wish to pay tribute and to express my thanks.

Mr. HELMS. Madam President, as I look down the list of Senators who will not be with us except in spirit after the conclusion of this session, I have the same sadness expressed by others. To me, there are very special vignettes relating to each of these fine, able Americans.

SENATOR S. I. HAYAKAWA

Senator HAYAKAWA, for example, has been an inspiration to me in so many ways. We serve together on the Senate Committee on Agriculture, Nutrition, and Forestry, and on the Foreign Relations Committee as well. Senator HAYAKAWA is probably about the most unique gentleman I have ever known.

I remember my first acquaintance with SAM HAYAKAWA. It was a nodding acquaintance. I watched him on television when he told off those rioting students out in California and I nodded. Senator HAYAKAWA has brought a higher level of intellectualism to the Senate. He has always, without fail, been a man of civility and genuineness and cheerfulness. I shall miss SAM; all of us will.

Then there is JACK SCHMITT, one of the more remarkable young men I have known. I recall so vividly the first time I met Senator SCHMITT. He was not then a Senator; he was an American whom all the people of this land honored and respected. They still do. He had just returned from that Moon trip and he and his fellow travelers, if I may put it that way, came by my office and I was impressed with that young man and his knowledge of government and his dedication to American principles. I recall saying to him, "Why don't you run for the Senate?"

SENATOR HOWARD CANNON

As to HOWARD CANNON, I had the privilege for a couple of years of serving with him on the Committee on Armed Services—again, a man of great civility and knowledge. He made an immense contribution to his country. I watched him operate in the Senate and I have learned from him since the day I became a Senator almost 10 years ago.

SENATOR NICHOLAS F. BRADY

NICK BRADY—what a profound influence he has had on the Senate considering the very short time he has been here. This is a man with knowledge of economics based on the principles of this country. I recall, Madam President, an occasion in the policy luncheon of our party when a matter of immense importance was about to come up in the Senate. It was Senator BRADY who brought a sense of perspective to that issue that had eluded the group up until that time.

Each of these four gentleman, each of these four friends, will be missed by us. It is always an emotional experience to say farewell. Fortunately, we do not have to do that, because I have an idea that we shall be seeing SAM HAYAKAWA, JACK SCHMITT, HOWARD CANNON, and NICK BRADY frequently. Certainly, that is my hope. Mrs. HELMS and I extend our deep affection and best wishes to each of them.

SENATOR HARRY F. BYRD, JR.

Madam President, let me address myself at somewhat more length to the fifth Senator who will not be with us come January. I recall that day, months ago, that HARRY FLOOD BYRD, JR., announced that he would not seek reelection to the Senate. Since that time, I have tried to banish from my mind any thought of the U.S. Senate without a HARRY F. BYRD in it. It is a thought that I do not like.

Three decades ago, Madam President, I came to work in Washington for the first time. I did not want to come, but I had been asked to come by the then junior Senator from North Carolina, a great American named Willis Smith, to serve as his administrative assistant.

I recall stating my reluctance to Senator Smith at leaving my home in Raleigh and, as it turned out, my family, because I did not plan to move them here. Dot and I had two little girls at the time. Being a country boy from North Carolina, I did not know what to expect in terms of bringing a young wife and young children to Washington. But Mr. Willis Smith was my friend and I wanted to be helpful to him if I could.

I recall his telling me that it would be good experience for me. "You will meet some great Americans," he said. Then he began to call the roll of some of the giants in the Senate of that day. He began with Harry Byrd, Sr., and added such names as Walter George, Dick Russell, Robert Taft—down the list he went.

Then I recall Mr. Smith saying, "Who knows, you may decide to be a Senator yourself some day." I laughed at that, because I had not the slightest intention or desire to do anything of the sort. But I came to Washington because a man whom I greatly admired insisted that he wanted and needed what little help I could give him.

As it turned out, Madam President, I did get to know the Senators whom Willis Smith had mentioned and whom he admired so greatly. In particular, Harry Byrd, Sr., was always thoughtful to me, always willing to teach me, spend a little time talking about affairs of the Senate, and as one's mind flies backward in time, one appreciates things of that sort.

I recall Alben Barkley, who sat in the chair where the able Senator from Florida is now sitting. He took time with a young fellow from North Carolina.

When I left here in 1953, I never dreamed that I would be a Member of the U.S. Senate and that I would be serving here with HARRY FLOOD BYRD, JR. But on that day, January 3, 1973, when I first walked into this Chamber as a Senator, I made two very special friends—HARRY BYRD and that great

American from Alabama, Jim Allen. They took me under their wings, and how many were the times that we worked together on issues of importance to us and to the Nation.

These two great Senators, HARRY BYRD and Jim Allen, were a constant source of inspiration and encouragement to me. I have never known men of greater character and dedication and I do not overstate the case, Madam President, when I say that my life has been blessed by the friendship of both of them.

As we all know, the Senate bade farewell to Jim Allen a few years ago. Never a day passes that I do not mourn his loss. Sometimes I think I can see him standing over there taking positions, often tough positions, difficult positions, on issues. I think you can understand, Madam President, why I have tried not to think of the retirement of the able and distinguished Senator from Virginia, Mr. HARRY FLOOD BYRD, JR., because this is the second great loss to me personally. This place will not be the same without HARRY BYRD, but as he goes he leaves his imprimatur on all that is good and honest and decent about our system of government. As he goes, let him be aware that his fellow Senators, all of us who have served with him, know that he has upheld the highest principles of the U.S. Senate; he has done so unfailingly and courageously.

I will leave unspoken the remainder of what is in my heart on this occasion, because I have a hunch that HARRY BYRD may be a little bit embarrassed by the accolades; he is that kind of man. But let me say to him that I shall always be grateful for all that he has meant to me personally and for all that he has meant to America, and I shall always be grateful to the people of Virigina for sending to the U.S. Senate over a period of a half century two HARRY BYRDS, father and son, Virginia statesmen and Virginia gentlemen.

Madam President, my wife, Dorothy, and I extend our affectionate best wishes to HARRY and Gretchen and, like so many others across this Nation and around the world, I hope it is not too corny to say that one of my favorite songs is "I'm Just Wild About Harry."

SENATOR HARRY F. BYRD, JR.

Mr. WARNER. Madam President, I rise today to join my colleagues in paying tribute to the senior Senator from Virginia, HARRY F. BYRD, JR.

It has been one of the greatest honors of my career to have served as Senator BYRD's colleague.

I will miss his strong voice and consistent vote for individual freedom and sound fiscal policy. He has served the Commonwealth of Virginia with dignity, distinction, and grace.

All of his colleagues will miss the Senator's true Virginia gentlemanliness when he steps down at the end of the 97th Congress from a great career of public service.

Senator BYRD has contributed mightily to our Nation and to our fellow citizens, standing fast to his principles and accountable for his beliefs.

From my first day as a Senator, Senator BYRD accepted me as a full partner. Our relationship of trust and respect has always enabled us to place Virginians' interests above partisan politics.

That was and is the famous BYRD tradition about which all Americans have heard and read so much. Senator BYRD is a man who is respected by citizens at all stations of our society, from the President down to the average citizen on the main streets of communities throughout Virginia.

The other evening, in Richmond, a group of Senator BYRD's friends met at the John Marshall Hotel to salute him and his distinguished career of public service.

Vice President BUSH, Supreme Court Justice Lewis Powell, Secretary of the Army Marsh, Virginia Governor Charles Robb, former Virginia Governor Albertis Harrison, Douglas Fairbanks, and I were there to express our thanks to Senator BYRD.

In addition to the comments of the many speakers at that program, several letters and statements of greeting were sent to HARRY BYRD. I ask unanimous consent that they be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COLLEAGUES, FELLOW VIRGINIANS PRAISE BYRD'S SERVICE

The Hon. MILLS E. GODWIN, Jr. and J. SMITH FEREBEE—

It is our special privilege to welcome all of you to this testimonial dinner in honor of our retiring United States Senator Harry F. Byrd, Jr. There is no greater tribute from Virginians, as well as other Americans, than your presence here tonight.

Our honoree has devoted 35 years of his life to public service—the first 18 years in the Senate of Virginia and the last 17 in the Senate of the United States. We are gathered here to pay homage to his long record of devotion to the Commonwealth he loves so dearly and to his country for which he has fought courageously and tirelessly.

There are many different reasons why we have chosen to honor the Senator and his lovely wife Gretchen. Many of us are personal friends, others are political allies, still others have even been adversaries. Nevertheless, we all share a mutual respect and trust for this gentleman from Virginia who more than any other living man has become the symbol of his state's integrity and her history of individual freedom from governmental tyranny, which was the very basis for the founding of these United States.

We are grateful for your presence, for it bespeaks your abiding interest in carrying on Virginia's great traditions.

The Hon. RONALD REAGAN—

DEAR HARRY: I am delighted to send warmest greetings as your many friends and colleagues honor you.

For years you have brought tremendous energy and talent to American political life as a member of the Virginia Senate and the United States Senate. I am proud to extend my best wishes and appreciate the opportunity to celebrate a career that has reflected the highest degree of dedication and achievement.

This special gathering recognizes all that you have done for your fellow man, your State, and the nation.

Congratulations on this richly-deserved tribute and all my best for the future.

Sen. DAVID L. BOREN—

Mr. President, recently our colleague Harry F. Byrd, Jr. announced that he would not seek re-election to a fourth term.

The retirement of Harry Byrd will be a great loss to the Senate and to the country. In an age in which self-gratification has too often been a major motivation, Harry Byrd has truly sought to serve and to give of himself. I have never known a person in public life who was less selfserving and more sincerely patriotic than Harry Byrd, Jr.

In an age in which pragmatic relativism is the rule, Harry Byrd is a man of unyielding principle. His integrity is universally respected by political friends and foes alike.

Throughout his career in the Senate he has warned of the dangers associated with excessive government spending. He understood far earlier than most that even the U.S. government could face a liquidity crisis. With interest payments on the national debt running as high as $100 billion per year and government borrowing bidding up interest rates to levels that bankrupt small farmers and businessmen, all of us would do well to listen more carefully to the warnings sounded by Senator Byrd of Virginia. It is tragic that they were not heeded earlier.

Harry Byrd, Jr. deserves to be known as a gentleman as well as a statesman. How much better our country would be if more people practiced his unfailing courtesy and his demonstrated respect for each person with whom he has contact. His career is proof that a decent and good person who refuses to sacrifice either his principles or his humanity can succeed in government and public life.

I am grateful that I have had the chance to come to know Harry Byrd, Jr. and to serve with him in the U.S. Senate. His character and high standards are a challenge to me to do my best to be a good public servant. Those who come to the Senate after his retirement will miss the very rewarding experience of serving with him.

There have been many outstanding men and women in the lines of the Byrd family extending back to the earliest colonial days of Virginia. None has had a clearer sense of public duty or a more unselfish desire to serve than Harry Byrd, Jr.

Sen. ROBERT DOLE—

Mr. President, this is a chamber familiar with history, an institution graced for nearly two centuries by men and women with their country's best interest close to their hearts. Few names on the Senate's long rollcall have earned more luster than Byrd. And few among us have reflected as much credit upon the state of our births as Harry F. Byrd, Jr.

He comes from the Old Dominion of Virginia—a state that has nourished American leadership from the beginning of the repub-

lic. He comes from a family whose years of service to Virginians have created a legend all their own. But Harry Byrd, Jr. has never been content merely to carry on traditions. He has made history of his own. He has written a very personal chapter in the story of this body.

He leaves at a time when his own concerns—the concerns of Virginians for fiscal responsibility and a strong national defense—are national priorities. He leaves at a time when his personal message of conservative government—a message that spanned both major parties in his state—is now accepted as national policy. He leaves knowing that the scale of history has once more come down on Virginia's side. He leaves triumphant.

Sen. WILLIAM L. ARMSTRONG—

. . . For years Harry Byrd has been warning all who would listen, and many who would not, of the dangers and folly in excessive federal spending and unmanageable deficits. We now know all too well how right he has been.

Virginia, which supplied us with Washington, Jefferson and Madison, is accustomed to sending great leaders to Washington. Harry Flood Byrd, Jr. has carried on the proud Virginia tradition. His successor will have very large shoes to fill.

Sen. JOHN W. WARNER—

. . . I will miss your strong voice and consistent vote for individual freedom and sound fiscal policy. You have served the Commonwealth of Virginia with dignity, distinction and grace.

You have contributed mightily to our nation and to our fellow citizens, standing fast to your principles and accountable for your beliefs.

From my first day as a Senator, you accepted me as a full partner. Our relationship of trust and respect has always enabled us to place Virginians' interests above partisan politics . . .

Mr. WARNER. In the program from this salute was a biographical sketch of the distinguished senior Senator. I ask unanimous consent that it be included in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The material follows:

HARRY F. BYRD, JR.: "A CONSERVATIVE CONSERVES"

Harry F. Byrd, Jr., born December 20, 1914, spent his boyhood in the rolling apple country around Winchester. Growing up, he often spent afternoons at the family's Winchester Star and summers in the orchards.

One of the memorable periods of his life began when he was 11. For four years he lived next to the state Capitol while his father was governor. He liked to stay in the shadow of George Washington—literally—for he would climb the hidden stairs inside Crawford's mammoth monument of the general and peer down unseen on the tourists.

He recalls the evening when a guest at the Governor's Mansion requested mustard for his ham at dinner. Finding that the kitchen had none, young Byrd's mother interrupted his dinner to send him to the grocery for a jar.

The guest, then relatively little known, was Winston Churchill.

He also fondly remembers the night in the mansion when his grandmother, father and he talked by radio with his renowned explorer uncle, Admiral Richard E. Byrd, at the South Pole. Governor Byrd expressed wonder to his brother over radio communication; his mother, Mrs. Richard Evelyn Byrd, warned her faraway son to be careful; and young Byrd asked his uncle to bring him back "a few polar bears."

Harry F. Byrd, Jr., at 16 entered Virginia Military Institute and as a cadet forged friendships that would grow throughout his career. He later tranferred to the University of Virginia, where he majored in government.

Even then, he was keenly interested in newspapers, and he has been known to subscribe to—and scan in a day—more than 40. One day in class a professor called on him, but he didn't get the question fully because he had been immersed in The New York Times.

His father, publisher of the Winchester Star and Harrisonburg Daily News-Record, received a letter from young Harry, criticizing the Star's makeup. He replied quickly, "If you don't like the way I'm running the paper, why don't you come home and do it?" Young Byrd did.

The new publisher of the two newspapers became well known throughout the nation in a few years. He became first vice-president of The Associated Press, winning office in the world's largest news organization by a record number of votes from his fellow publishers. As an editor, he was cited by the Freedoms Foundation for foreign correspondence in Iron Curtain countries and for interviews with several heads of state, among them Marshal Tito, General Franco and Sir Winston Churchill. Later he reported the takeover of Cuba by Fidel Castro.

During World War II, young Byrd's newspaper career was interrupted when he entered the Navy. Rising to lieutenant commander, he served as executive officer of a patrol bombing squadron in the Central and Western Pacific.

Returning home, he took charge of the newspapers and worked with the apple business again but soon he had added duties—he was elected to the State Senate in 1947 and remained there without opposition for 18 years.

A highlight of the Byrd State Senate career was his service for four years as chairman of Virginia's economic development program, which played a major role in helping to create 130,000 jobs. New industry, he emphasized all over the state, means "new jobs. New jobs will keep our young men and women in our state."

In November 1965 Governor Albertis Harrison appointed him to succeed his father, who had resigned from the U.S. Senate.

The following fall, Byrd was elected to the U.S. Senate as a Democrat. In 1970 and again in 1976, he was re-elected as an Independent. He is the only person in American history to have won election to the Senate twice as an Independent, and in the 1976 election he received the largest vote ever given a Virginia candidate for any office.

How has he functioned as an Independent in the often partisan environment of the Senate? The evidence of his record shows he has achieved remarkable success in working with members of both parties.

Early in his Senate career he began taking an active and successful role in floor proceedings and debate. Indeed, one national newsmagazine quipped that the Senate had its work cut out for it if it was going to "keep Byrd in hand."

Although amending legislation on the Senate floor is regarded as one of the most difficult ways to win approval of a proposal, Byrd has been successful with 62 out of 95 amendments he has offered—65 percent of the total.

Rarely has he missed the calling of the roll. He has cast more than 7,600 votes over the years, taking part in 96 percent of all recorded votes.

He is a senior member of the Armed Services Committee, serving as ranking member of the Subcommittee on Seapower. On behalf of the committee, he has made fact-finding trips and reported to the Senate on the situations in the Middle East, Europe, Latin America and North Africa.

He also is active on the Finance Committee, which has primary authority for all legislation dealing with taxes, trade and Social Security. He is the ranking member of the Subcommittee on Taxation and Debt Management. Many proposals from the Finance Committee have borne the evidence of his handiwork.

Over the years he has channeled much of his energy into efforts to get federal spending under control. Many of his successful amendments were cutbacks in such programs as foreign aid, and in 1978 he startled veteran observers of the Congress by winning overwhelming approval of a law—still on the books—requiring balanced budgets beginning in 1981.

Unfortunately, as the Senator himself put it recently, "Congress simply refuses to obey its own law."

He now believes only a constitutional amendment can bring about balanced federal budgets.

He is a sponsor of such an amendment, and this year it was passed by the Senate, only to be defeated later in the House of Representatives.

What is the philosophy which has impelled him to these efforts?

In his own words: "I have tried to express and vote my strong conviction that the federal government must cease living beyond its means, that excess federal spending is eroding the purchasing power of our hard-working men and women and mortgaging the future of our young people—and that too much centralization of power in Washington threatens individual freedom."

This philosophy is usually described as "conservative," and Senator Byrd gladly accepts the description. Often he has pointed out that the word "conservative" comes from the same root as the word "conservation."

"That is the key point," he says. "That is what I have worked for: conservation of fundamental principles, of natural resources, of human liberty and of the taxpayer's hard-earned dollar.

Even though huge federal deficits are projected for the next few years, the Senator is optimistic that the conservative philosophy ultimately will prevail.

Once more his own words: "Trusting as I do in the collective judgment of the American people, I feel the people will lead the politicians—not the other way around—to the philosophy that has guided Virginia from Thomas Jefferson's day to our own and has been the beacon I have followed throughout my career."

Mr. WARNER. Many Virginia newspapers and many nationally recognized newspapers recently have written editorials bidding farewell to Senator BYRD. I ask that these editorials be included in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The material follows:

EDITORS BID FAREWELL TO SENATOR BYRD

[From the Richmond Times-Dispatch]

This is a profoundly distressing development. Sen. Byrd has been one of the most constructive and conscientious legislators in Washington, an often lonely but always fervent crusader against the evils of big and extravagant government. He correctly recognizes governmental excesses, both in the exercise of power and in the expenditure of public funds, as major causes of the nation's social and economic problems; and he has devoted most of his energies to efforts to check the statist trends that have been in progress for the past five decades. With his departure, the cause of responsible government will lose one of its most ardent exponents.

All this is said not to apotheosize Harry Byrd but to state the simple truth that men like him are rare in public life. His senatorial career has been based upon an unshakable foundation of principles drawn from the Jeffersonian philosophy of limited government, and he never wavered in the winds of political expediency. Throughout his career, he has remained true to his convictions and true to the promises that he has made to the people of Virginia.

[From the (Lynchburg, Va.) News]

In the past 18 years, those who stood against the collectivist tide have stood all but alone. And because they stood against that tide, they have not made marks for themselves in the form of memorable legislation. Their warnings, their advice, their proposals have been ignored. It is ironically fitting that the landmark legislation of Sen. Byrd's time, much of which he warned against and voted against, stands today as irrefutable proof of his warnings and monuments to the tunnel vision of their makers.

His was always the quiet voice, although it could on occasion rise and strengthen with indignation. He always conducted himself in the highest traditions of a gentleman from Virginia. He minded the public's business and his own with equal care and consideration. In all aspects of his personal and political life he represented us superbly. We don't see many like him in a lifetime; if we did, it would be a considerably better life.

[From the (Fredericksburg, Va.) Free Lance-Star]

This week's decision by Sen. Harry F. Byrd, Jr. to retire from his term when it expires in 1983 caught the political pundits by surprise. That, in itself, seemed oddly appropriate for a man who remained something of a mystery to his constituents despite 15 years as a U.S. senator.

Harry F. Byrd, Jr. carried on his father's reputation for political integrity and devotion to government frugality. That tradition of integrity was particularly welcome during the days of Watergate, when moral standards elsewhere were so noticeably low. The Byrds' attention to fiscal conservatism has become the new political rage of the 1980s.

Again like his father, Sen. Byrd showed a refreshing devotion to principle.

[From the Staunton Leader]

The causes of fiscal restraint, a strong national defense and rational foreign policy will suffer when one of their greatest advocates, U.S. Sen. Harry Flood Byrd, Jr., retires in 1983.

Virginians owe a debt of gratitude to this selfless public servant, the likes of whom are too seldom seen in public life today. A wealthy orchardist and newspaper publisher, Byrd could have led an easier life than that of a U.S. Senator and guardian of conservative public policy. He has given tirelessly of his time, talent and ability to Virginia and the nation since 1947 when he first won a seat in the state Senate.

Although we are selfishly distressed for the state and nation that Harry Byrd has decided to end his distinguished legislative career, he has certainly earned the right to do so. He can hardly be blamed for wanting to spend more time with his wife, two sons, daughter and nine grandchildren after 18 years of what Mrs. Byrd so aptly describes as the "terrible hours in Washington."

[From the Washington Post]

Somewhere it is written in the cherished traditions that a Byrd in Virginia is worth two in any of the 12 other colonies—and so it is little wonder that there are serious people who refuse to believe that Harry Flood Byrd, Jr. is really calling it quits.

They're probably the same people who doubted seriously that "Little Harry" would ever begin to measure up to his father, and who thought Harry the Younger would be merely a seat-warmer for an unexpired term that his father left him after 38 senatorial years. That, of course, was 18 years ago—and if the Byrd "machine" did rust away in that time, the senator's political grasp on constituents showed little loss of strength. When party labels got fuzzy in Virginia, Sen. Byrd came up with the recipe for having your political cake and eating it too: he left the Democratic party, became an "independent," voted with the Democrats to organize the Senate and protect his seniority and then voted almost without exception with the GOP.

Couple this with a low-to-invisible legislative profile—marked by an incredibly consistent lack of interest in ever becoming the author of any significant legislation—and you have the model Virginian in the halls of the federal legislature, never over-promising and, most importantly, never embarrassing the state.

As dean of the School of Limited Government, in which single-minded fiscal tightness turned out to be the secret of political longevity, Sen. Byrd has persevered with dignity, a strong sense of personal honor and a fierce pride in his state. That is why in his retirement he will continue to be a source of political counsel, and to enjoy the respect even of those who—agree with him or not—respect his dedication, integrity and good old political savvy.

[From the Richmond News Leader]

To those of us who chart the trajectory of the zeitgeist, Harry Flood Byrd, Jr., has stood as an admirable reminder of that time—not long ago—when men commonly lived by principle. Does that mean he has been a reactionary? It does not. It means, rather, that he has been consistent and correct.

He has steered a non-partisan course, and one resolutely non-ideological. He has done it while suffering the distinctive loneliness of the dissenting spirit, and with the knowledge that there are few rewards for prevailing in the cause of moderation.

Few rewards, that is, except in continuing the institution begun by his father, and in becoming a pillar of that institution himself—and winning, in the process, the abiding esteem of his grateful countrymen.

[From the Hearst Newspapers]

Senator Byrd does not read the compass precisely as President Reagan does. The Senator would defer the income tax decrease in its third year, a position with which the President disagrees. And while the president is talking about increased defense expenditures, Harry Byrd thinks we should slow down in that sector.

Basically, however, Harry Byrd and Ronald Reagan are fiscal blood brothers. They plot the same course, albeit by different routes. Each in his own way would cut spending, cut taxes, and steer the Ship of State toward a balanced budget. As Kingsbury Smith (National Editor of the Hearst Newspapers) reported:

"I am, and have been, a strong supporter of President Reagan (Byrd said). I think he is making an effort to take the country in the correct direction."

Then he went on to disagree about Pentagon expenditures, and the third year of tax reductions, but in the long run these are minor considerations compared with the importance of "staying the course" of cutting costs and getting the government off the people's backs. President Reagan is losing a loyal and wise ally in the Senate, but gaining one in the private sector.

[From the Richmond News Leader]

THANKS, AND GODSPEED

On today's page we reprint Senator Harry F. Byrd, Jr.'s farewell newsletter. His departure from the Senate next month will end five decades of Byrd representation in the upper house. During his 18 years there, he has been an exemplar—perhaps the most responsibly conservative Washington advocate for the nation's most responsibly conservative state. We have supported him in all his statewide campaigns, as we supported his father before him.

We shall miss his twinkly, silver-haired, arm-pumping, apple-cheeked aplomb. More than that, we shall miss his consistent advocacy, and consistent articulation, of the correct positions on a constellation of issues. His abiding concerns have remained defense and the economy—the two central issues facing every government. In addition:

He authored the measure permitting the importation of Rhodesian chrome. He authored the 1978 measure that Congress approved (but has violated) requiring a balanced federal budget. He won designation of 80,000 acres of Shenandoah National Park as a wilderness area, and the restoration of full citizenship for General Robert E. Lee. He has opposed compulsory busing and certain provisions of the Voting Rights Act. He has proposed legislation to require the reconfirmation of federal judges, he has advocated limiting Senators to three terms and Presidents to one. He has toiled for nuclear carriers and for tax incentives for plant expansion. He stood down a President on appointments to the federal bench.

An unabashed conservative, he believes "the American people want conservative government." And he has fought for it, hard. He has tirelessly championed the interests of "middle America, the broad crosssection of Americana, the people who work and to whom the government must look for taxes . . . the forgotten men and women." His father called them "the people who bear the burdens of government but enjoy few of its blessings," people without a lobbyist in Washington, and without a loophole.

These are times of fanatical mediocrity—of ideological "imperatives" and fashionable

indictments. In opposition to them, Senator Byrd has offered unambiguous arguments and real-world facts. Time and again he has exposed the poverty of egalitarian thought—standing at the post of honor, and keeping his head while so many around him have been losing theirs. He has represented Virginia capably and courageously in the Senate. He has admirably represented as well a family that, for centuries, has served Virginia with distinction.

His detractors—within his party, and without—have dismissed him as a relic, a fuddy-duddy, an anachronism. He has deftly turned aside their carpings, saying, "If I took everything personally, I'd have been out of this business a long time ago." And they haven't known what to do about him, particularly since 1976 when he became the first independent in modern times to win Senate re-election.

Through it all he has called unperturbed—believing, in the words of one of his Senate contemporaries:

"I do not undertake to promote welfare, for I propose to extend freedom. My aim . . . is not to inaugurate new programs, but to cancel old ones that do violence to the Constitution, or that have failed in their purpose, or that impose upon the people an unwarranted financial burden . . . And if I should be attacked for neglecting my constituents' 'interests,' I shall reply that I was informed their main interest is liberty, and in that cause I am doing the very best I can."

The nation needs more Senators like Harry Byrd. We thank him, and we wish him Godspeed.

Mr. WARNER. Finally Madam President, in paying honor to this great American, I believe it is appropriate to conclude with some of his own philosophy: a philosophy which has served Virginia and the Nation well, and a philosophy I pray will always be remembered in the Halls of Congress—wherever people gather to make decisions about the future of our Nation and its Government.

SENATOR BYRD:

I love Virginia—every mountain, every valley, every seashore—every area of our beloved state. I am deeply grateful to the people of Virginia for giving me the opportunity to serve our state and our nation.

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Deficit spending is not a policy. It is a gimmick—for spending programs without the discomfort of voting the taxes to pay for them.

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Virginia's problems are far better understood in Richmond, Virginia, than in the marble palaces of the bureauracy in Washington, D.C. I am convinced that most programs can be run more efficiently and more economically by the states and localities than by the federal government.

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I believe the people truly want to reverse the flow of power to Washington and cut the enormous growth in federal spending. If the people will continue to insist on these goals, they will be achieved.

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Taxes are paid in the sweat of all who labor.

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Truly the future is in our own hands. If citizens will take the time to communicate with their representatives, to study the issues which confront us and to take part in elections, then they can change things for the better.

SALUTE TO SENATORS BRADY, HAYAKAWA, SCHMITT, AND CANNON

Mr. WARNER. I joined Senator BRADY this morning, as did many others, at the Senate prayer breakfast, as one of his final acts in the Senate. Indeed, he has been a breath of fresh air that we have all respected and enjoyed. We regret his departure, together with that of our colleague, Senator HAYAKAWA, who has been a great friend throughout my years in the Senate. His wit, wisdom, and wise council have helped me, and I will miss him.

Senator SCHMITT has brought to the Senate a background in technology and science that will be dearly missed. In a very modest way I have been through some training in engineering and will be one of the few remaining Senators with that background, but I will do my best to carry on in the stead of our distinguished colleague from New Mexico.

Senator CANNON has a long and distinguished career in the Senate. I have been priviledged to serve on two Senate committees with Senator CANNON—as a member of the Rules Committee for the past 2 years and as a member of the Commerce Committee, my first 2 years in the Senate. Senator CANNON was the chairman of the Commerce Committee at that time and provided wise counsel and assistance to me.

I wish each of these Senators the very best.

SENATOR HARRY F. BYRD, JR.

Mr. FORD. Madam President, when the next session of Congress convenes in January, the Senate will surely not be the same without the presence of one of our most vigilant and dedicated Members, our colleague from Virginia (Mr. HARRY F. BYRD, JR.) who is retiring.

This body has not had a more constant or watchful guardian of Federal spending than HARRY BYRD throughout his 17 years of service. He has earned my lasting respect for his constant concern over the growing size of the Federal budget. He has never hesitated to make us mindful of the need to exercise restraint of Federal expenditures.

Mr. BYRD often took positions that were not the most popular of causes, but he never abandoned his conscience, even when the odds of prevailing were overwhelmingly against him.

In recent times, we are seeing more and more of what he warned come to pass, especially as it concerns the national debt. Much of what he did was symbolic, but it forced this body to take a hard look at the need for fiscal restraint and responsibility.

This will be the legacy he leaves behind. I know that I, for one, will always feel the eye of HARRY BYRD looking over his shoulder every time I am called on to vote to increase Federal spending or raise the Nation's debt ceiling.

HARRY BYRD has served his State and Senate well. He has been conscientious and faithful to himself, and I value him both as a colleague and a friend. I say to him now, Godspeed and good luck in the years ahead.

SENATOR HOWARD CANNON

Madam President, it is with a feeling of sadness and regret that I take this opportunity to express my farewell to our very senior colleague, Senator CANNON. I have been privileged to serve on two committees with the vigorous and able Senator from Nevada: Commerce, Science and Transportation, and Rules and Administration.

Since 1959, the people of no State have enjoyed more diligent, dedicated or effective service than that given this body by HOWARD CANNON. Moreover, his keen and profound grasp of the complexities of major national issues has enabled him to serve equally well the people of the entire Nation.

His legislative accomplishments are varied and many. Indeed, it could take the greater part of the day to extol the achievements of Senator CANNON during his long and productive Senate career. Suffice it to say that he has certainly left his mark and that the Senate and the Nation are the better because of his service.

I have learned much from HOWARD CANNON during my 8 years in the Senate. I have treasured his friendship and assistance. His companionship has been a source of pleasure to me. I will miss his leadership and guidance.

I wish him nothing but continued happiness in the years ahead.

SENATOR HARRISON "JACK" SCHMITT

Mr. DOMENICI. Madam President, I rise today to salute one of the most distinguished citizens which my beloved State, the great State of New Mexico, has ever produced. Clearly, Senator SCHMITT's record throughout his life has been one of achievement. He is a dedicated public servant, a faithful public servant, and I can tell you that he is going to be sorely missed in this institution.

His accomplishments are legion.

He is a man who has risen from a modest beginning in southwestern New Mexico to the highest plateaus of human achievement. He has served this august body with distinction. He is a credit to mankind.

Those of us who know Senator SCHMITT will know that from his birth in 1935 in the pine tree-covered hills of Santa Rita, N. Mex., he began a life of achievement which saw honors come quickly. From childhood to manhood, his character has been molded by some of the most noble virtues in our

society—virtues such as hard work, honesty, courage, and duty to country.

In 1957 he graduated from the California Institute of Technology.

In 1957 and 1958 he was a Fulbright Scholar at the University of Oslo in Norway.

In 1964 he received a doctorate of geology from Harvard University.

In 1965 he became one of a unique class of individuals. It was that year that he was named an astronaut in the American space program.

In 1966 he received his Air Force jet pilot wings.

In 1967 he received his Navy helicopter wings.

In the late 1960's he became recognized as one of the leading experts on the history of the terrestrial planets.

Then in 1972 he became a part of history. He walked on the Moon. In all of history, only 12 men have ever done this. Senator SCHMITT is one of them.

Ten years ago this very day, Senator SCHMITT was en route to his rendezvous with destiny—hurtling through the infinite reaches of space at more than 17,000 miles an hour in the cramped space capsule of Apollo 17.

This Saturday marks the 10th anniversary of JACK walking on the Moon. He was the only scientist to go to the Moon. He is the last person to step on the Moon. And he and his partner spent more time on the Moon's surface than any other human being—72 hours.

But those of us who know him well know that his flight to the Moon was merely a single milestone along a sterling path of achievement.

In 1975 he turned his attention from exploring the frontiers of space to determining how he could help mankind here on Earth. He returned to New Mexico to enter politics.

During his service here, he has been a leader in issues dealing with science and technology, energy, space, and many other areas.

Few men can match his extraordinary background—that of a geologist, scientist, astronaut, pilot, administrator, educator, writer, and U.S. Senator.

Clearly, his record is an admirable one. I salute my friend and colleague, JACK SCHMITT, whom I consider to be an outstanding New Mexican, an outstanding American, and most important a fine human being.

(Mr. WARNER assumed the chair.)

SENATOR HOWARD CANNON

Mr. LAXALT. Mr. President, I want to take this opportunity to pay tribute to my colleague, HOWARD CANNON. I welcome this time to tender my respect and admiration, but I find it somewhat difficult to put in words the depth of feeling I have for HOWARD. Words are sometimes a poor vehicle for what we feel.

Over the years Senator CANNON and I have been colleagues, advocates, political opponents, fellow Nevadans, and friends. When one shares as many trails, fights as many battles (both with each other and against each other) and, finally, shared so many years in the same service, one gets to know that person fairly well. HOWARD CANNON is a man of honor, steadfast dedication to his duty, and quick understanding. He has proven that to me and his other colleagues over and over again over the years. I am proud to call him a friend. His wisdom will be missed in this Chamber as we wrestle with the many intractable issues facing this Nation.

I want to put into perspective the long career of Senator CANNON. He retires after 24 years of service in the Senate and ranking seventh overall in terms of service among Senators now serving. He has served the Senate under seven Presidents, beginning in the last term of President Eisenhower. But HOWARD CANNON was serving his country long before he was elected to the Senate. In the early days of World War II, Senator CANNON enlisted in the Air Force at a time when it was woefully inadequate as a fighting force. He served with distinction and was, at one point, shot down behind enemy lines. With the help of Dutch freedom fighters, the Senator and his crew mate successfully made their way back to American lines. The Senator's interest in aviation carried over into his duties in the Senate. It is not without reason that HOWARD CANNON is known affectionately as "Mr. Aviation," well beyond the circle of the Senate. He has developed a deep understanding of aviation and its problems and he has helped guide the growth of aviation steadfastly during his Senate career.

Senator CANNON's wartime experiences also carried over to his Senate duties. He is third ranking member of the Senate Armed Services Committee. He has diligently worked to maintain, modernize, and equip our defense establishment. He has never waivered in his belief in a strong defense as the best means of preserving the peace.

HOWARD CANNON's steadfastness of purpose, quiet effectiveness, and humanity are his heritage from his pioneer ranching family with early roots in Utah and later Nevada. He was taught hard work, dedication to principle, and cooperation. Those have been his trademarks in the Senate. He always diligently researched a problem and its alternative solutions before he acted. He has worked with his colleagues in committee in fashioning a workable bill which accommodated the needs of other sections of the country. But he never faltered on principle, doing those things he felt were proper.

I wish HOWARD Godspeed. He has certainly earned a rest along with the accolades he has won for his many accomplishments. But if I know HOWARD, and I believe I do, he will continue his career on another stage. He likes to work and he likes to contribute. And he is capable of contributing at a high level. Our Nation has not received the last of its gifts from HOWARD CANNON.

Mr. SPECTER. Mr. President, I am pleased to join today in paying tribute to our colleagues in the U.S. Senate who will be terminating their service at the end of the 97th Congress.

SENATOR HARRY F. BYRD, JR.

It has been a real pleasure to know the distinguished Senator from Virginia, the Honorable HARRY FLOOD BYRD, JR., who has carried on such a remarkable tradition in this body. I have come to know Senator BYRD on the floor, in the corridors and in the Senate gym where we frequently meet. It has been interesting to discuss with him some of the vignettes which I have read about his father who preceded him in the Senate. Together their careers have spanned a half century. Senator BYRD has served his State and Nation well, and we shall miss him.

SENATOR S. I. HAYAKAWA

For many years before coming to the Senate, I had read about and admired the Honorable S. I. HAYAKAWA when he was a college president and later the distinguished Senator from California. Senator HAYAKAWA has brought to this body a unique background as a scholar. He is a most gracious and considerate person. There is nothing like a train ride to get to know a man and SAM HAYAKAWA and I spent 2 uninterrupted hours traveling to Philadelphia last fall where he graciously spoke at the Republican City Committee dinner. Many of us were disappointed when he decided not to seek reelection last year and we shall all miss him in the Senate.

SENATOR HOWARD CANNON

I have come to know and respect the distinguished Senator from Nevada, the Honorable HOWARD W. CANNON, during the course of the past 2 years from our rides together on the Senate subway and discussions on the Senate floor. He has served his State and Nation well, spending 24 years in this body with special distinction in his capacity as chairman of the Commerce Committee. We all wish him well in his new endeavors.

SENATOR HARRISON "JACK" SCHMITT

The departure of the distinguished Senator from New Mexico, the Honorable HARRISON "JACK" SCHMITT, will be a significant loss for the Senate. I have come to know Senator SCHMITT well during our work together on the Labor, Health and Human Services, and Education, Subcommittee of the Appropriations Committee. In the capacity of chairman of that subcommittee, he had done an outstanding job balancing the needs of the recipients

of important social programs with the inevitable limitations of the Federal budget. He has already had two distinguished careers: First, as an astronaut, and now as a Senator; and it is obvious that he will be a great success at whatever endeavor he chooses.

SENATOR NICHOLAS F. BRADY

The distinguished Senator from New Jersey, the Honorable NICHOLAS BRADY, has made an extraordinary contribution to the U.S. Senate in a relatively short time. Senator BRADY was especially welcomed by the class of 1980 because some of us saw in his arrival the opportunity to abandon the name "Freshman Senator." NICHOLAS BRADY has made many good friends and impressed many people in his tenure here. He has brought to the floor debate and to our informal discussions a unique grasp of and insight into the Nation's economic problems. It is too bad for his State and the country that he will not be serving longer in the Senate; but I know many of us will be calling on him frequently for his advice in the days ahead.

SENATOR S. I. HAYAKAWA

Mr. MATTINGLY. Mr. President, when a man has reached 70 years of age, and has gained a national reputation as an outstanding scholar and college administrator, he has earned his right to retire. But at that point in his life, my distinguished colleague and good friend S. I. HAYAKAWA began a new career in the U.S. Senate. The choice SAM HAYAKAWA made to continue to serve his country reveals a great deal about the type of man he is.

SAM HAYAKAWA the Senator, like SAM HAYAKAWA the college president, is a man of courage and conviction, a patriot who has demonstrated his love for this country and its heritage. Much of the Nation watched during those chaotic days surrounding the Vietnam conflict, when he fearlessly stepped forward to put an end to riots among students at San Francisco State College. That now famous action was not unusual. SAM HAYAKAWA has always courageouly defended justice. As a Member of the U.S. Senate, the junior Senator from California has taken the lead in seeking justice of another kind. He has worked closely with the League of Families in an effort to gain information about those still classified as "Missing in Action" in Vietnam and to recover the bodies of the American dead.

In addition to being a patriot who works to preserve the principles of the past, SAM HAYAKAWA is also a man of vision. He was among the first to identify the Pacific Basin as area of enormous potential economic growth. His foresight has drawn our attention to its future importance to the United States and has encouraged us to seek trade opportunities with those nations.

It was my privilege earlier this year to work closely with Senator HAYAKAWA on an amendment to the Department of Defense authorization bill. I learned much about the man during that joint effort. Now, at 76, S. I. HAYAKAWA has decided to retire from the Senate. Once again he deserves that retirement. But I believe SAM HAYAKAWA still has much to give this Nation. It is my hope that we will have the insight to continue to draw upon his wealth of knowledge and experience. I am sure that SAM HAYAKAWA, as he always has, will meet the challenge.

SENATOR HARRISON "JACK" SCHMITT

In 1981, as a new member of the Appropriations Committee, I gained much from the advice and wisdom of a fellow committee member—Senator JACK SCHMITT. Just yesterday, as the full committee held the markup on the Labor, Health and Human Services bill, I noted with great respect how the chairman of the subcommittee and manager of the bill, Senator SCHMITT, expertly and fairly worked to insure passage of the legislation. Given these tough economic times, Senator SCHMITT has faced a difficult task. He has succeeded in reducing the growth of spending while still providing for those programs important to the men, women, and children of America. He has done so with compassion.

Ten years ago this week, our colleague and my friend, JACK SCHMITT, piloted the Apollo 17 lunar module to the Moon. Senator SCHMITT's background and technical expertise have been valuable additions to the Senate. He has been a leader and supporter of new technological efforts. His efforts in the field of solar energy have been innovative. My interest, for one, has been sparked by his enthusiasm about the future of solar energy. The Senate needs more innovative, creative, and talented scientists like JACK SCHMITT.

I have heard it said that a happy man is one who can enjoy the scenery when he has to take a detour. As all of us in the political arena know, the votes of our constituents can send us all on an unexpected detour. Senator JACK SCHMITT is the kind of man who will make the most of this detour in his life. We will miss JACK SCHMITT.

SENATOR NICKLAS F. BRADY

It is with great regret that I bid our most junior colleague in the Senate goodbye. Since April when Senator NICK BRADY assumed his Senate seat, he and I have become close personal as well as professional friends. We share a concern for and interest in the most serious problem facing our Nation—our economic condition.

During his first speech on the floor of the Senate, NICK BRADY spoke of his concern about the Federal budget and the economic perils we faced then and face now. At the close of his statement, he said that he was not under the illusion that his colleagues would consider at great length what he had to say. He was wrong. In my short 2 years in the U.S. Senate, I have not heard a more inspired address. I doubt that when I retire from service in this body I will have heard a plea of equal import.

I would like to quote from Senator BRADY's memorable statement:

When I came to Washington three weeks ago, I left an economy in real distress with a populace in confusion. I left a country of people, big and small, who looked to the leaders in this city and most particularly in this great chamber to reassure them as they became fearful about their jobs, their homes and their futures. They needed to hear that politics would be cast aside and that reason and strength would dictate a safe course home.

The last sentence that I just quoted, "They needed to hear that politics would be cast aside and that reason and strength would dictate a safe course home" says it all. If all of us cast each and every one of our votes with only the good of the country in mind—laying aside politics and the thought of self-perpetuation in office—I believe things in this Nation would be better. NICK BRADY heeds his own words.

As we face the close of the 97th Congress and the opening of the 98th, I hope that we will look to the example that NICK BRADY has set. I personally want to thank him for his cooperation and help. I want to thank him, too, for the inspiration he has been.

SENATOR HOWARD W. CANNON

Mr. TOWER. Mr. President, I want to join my colleagues today in paying tribute to Senator HOWARD CANNON, an able and dedicated Senator who has served this body well.

My closest assocation with HOWARD has been in our work on national security issues in the Armed Services Committee. HOWARD had already served on the Armed Services Committee for 6 years when I joined the committee in January 1965. He had a reputation then for being tough, but thorough and fair, in scrutinizing the armed services programs. He certainly has been an outspoken and effective advocate for a strong national defense. He has approached the many important and complex issues to come before us intelligently and fairly. As a result, his colleagues have paid close attention to his views.

HOWARD's national defense expertise spans the spectrum of defense issues, but his speciality is air power. I know my colleagues are aware of HOWARD's outstanding service in World War II. As a C-47 pilot, he dropped troops and supplies in the emergence of the United States as the world's foremost air power.

Teamed with my good friend and Armed Services Committee colleague, BARRY GOLDWATER, HOWARD CANNON

has left his mark on the shape of America's air power today and thanks to Senator CANNON, for the remainder of this century, America will continue to be the premier air power in the world.

I would be remiss in paying tribute to HOWARD CANNON if I did not also mention his able legislative aide, Frank X. Krebs. Frank served with HOWARD in World War II and they have been together since then. Frank has done HOWARD's national defense work for more than 20 years and HOWARD's accomplishments are in no small way a tribute to Frank Krebs.

Mr. President, I will miss HOWARD CANNON. His dedication and statesmanship will continue to serve as an example for us all.

SENATOR HARRY F. BYRD, JR.

Mr. JEPSEN. Mr. President, I am honored to have this opportunity to take a few minutes to express my heartfelt thanks to Senator HARRY FLOOD BYRD, JR., my colleague on the Armed Services Committee, for his valued and long-standing friendship. In his gentlemanly demeanor and carriage and careful attention to the concerns and interests of his colleagues as well as his constituents, and in his personal and political life, he has exemplified what a U.S. Senator should be. His fiscal conservatism is well known and is second to none in the body.

There are many things I could say about this steady and reliable Senator who has literally put principle above party as an independent. But the one thing that stands out most in my mind as characterizing the greatness of this man is a tradition begun by his father which he followed. It was known as the golden silence.

Senator BYRD, as his father before him, never endorsed anyone for President until in 1980, he broke the golden silence and endorsed Ronald Reagan for President. He saw an overwhelming need in this country for a strong leader who would reduce the role of the Federal Government in the lives of its citizens and emphasize the need for a strong national defense to protect our many blessings as a free nation.

My fine colleague from the Commonwealth of Virginia has voted, without fear or favor, in the best interests of the United States of America. I am proud to know him, to have worked closely with him, and to bid him my best wishes as he retires from our Chamber.

SENATOR HOWARD CANNON

Mr. HOLLINGS. Mr. President, in saying goodbye to HOWARD CANNON, we in the Senate are losing one of our most dependable and steady colleagues. Senator CANNON has helped guide this Nation through some of its most difficult hours with his competent, responsible, and compassionate leadership. We shall miss him for that.

But HOWARD CANNON leaves behind him a long record of distinguished service for which he will always be remembered.

In 1973, when this Nation was going through one of its gravest political crises, in the dark days of Watergate, it was HOWARD CANNON who held a firm and responsible hand over conferring Senate approval to then Vice Presidential nominee Gerald R. Ford. Senator CANNON as chairman of the Rules and Administration Committee, helped restore America's faith in its political institutions with the thoroughness of his confirmation proceedings. His efforts in that year to hammer out legislation on Federal election campaign financing similarly helped restore that vital public confidence in our fabric of Government.

Later, as chairman of the Senate Commerce Committee, HOWARD CANNON guided through legislation in a wide range of vital areas, from airline deregulation, maritime trade, consumer safety, and small business promotion, to our space program, highway safety, and communications deregulation. In each case Senator CANNON held a steady hand and acted with great distinction. His role on the Commerce Committee will be hard to fill.

I am proud to have served in the U.S. Senate with HOWARD CANNON, to have called him colleague, and—even more importantly—to have called him friend.

His 24 years as a Senator have seen this country go through great trauma, make important refinements, and discover new horizons. Senator CANNON's legacy in helping us through these times has done him, and his country, proud.

COMMENDATION OF SENATOR HARRY F. BYRD, JR.

Mr. LONG. Mr. President, this morning the Committee on Finance presented Senator HARRY BYRD a resolution honoring him as he nears his retirement from the Senate.

I ask unanimous consent to have printed in the RECORD the remarks of the Senator from Kansas (Mr. DOLE) when he presented the resolution to Senator BYRD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR DOLE—RESOLUTION IN HONOR OF SENATOR HARRY F. BYRD, JR., OF VIRGINIA

The first item of business before the committee this morning is a matter of considerable regret to many of us, because we are losing a close and valued colleague. But this is, more than anything, an occasion for gratitude: gratitude for the service Harry Byrd has given this committee, and the country, in the United States Senate. We have prepared a resolution for adoption by the Finance Committee to acknowledge our debt to Senator Byrd for the example he has set.

But no resolution can adequately convey how important Senator Byrd has been to the Finance Committee, or how great our loss is on the occasion of his retirement. It is nearly 50 years since Harry Byrd, Sr. first joined the Finance Committee, and there has been a Harry Byrd on the committee in almost unbroken sequence since then. The devotion both father and son have shown to the principles of limited government and individual freedom are well known. But for those of us who have the privilege of serving with Senator Byrd, and of learning from him, there is much more, perhaps less well known, that needs to be said.

Harry, we know you as one who chooses your causes because you believe in them; and we know that you have worked to carry out your beliefs, rather than seek partisan advantage. Few members of the Senate have shown your consistent and rigorous dedication to principle; yet few would match your example in the civility and good temper you have shown in pursuit of your goals. Those are qualities we can never have too much of in political life, and they will be missed.

We know, too, that you have had some difficulty over the years with the Treasury Department, under every administration. It may be that Treasury has had some difficulty in determininig how to deal with a member who wanted to argue every bill on the merits. Be that as it may, the record should show that the Treasury is not as unresponsive as you may have thought. During the 97th Congress they actually endorsed at least one tax relief bill that came up for a hearing before the Subcommittee on Taxation: there may have been others that escaped my attention. So the record is not all that bleak

In your capacity as Chairman, and now ranking member, of the Subcommittee on Taxation and Debt Management you have constantly reminded us of the need for fair play for the taxpayer, restraint on the tax burden, and the dangers of excessive public debt. Those concerns are with us today more urgently than ever, and your campaign for governmental restraint is even more relevant today than when you first joined the Senate.

Many commentators have remarked that the Byrd Era is ending with the retirement of Harry Byrd. I would say just the contrary: the Byrd Era in government is just beginning, because the principles Harry Byrd has espoused finally begun to enjoy consensus support on the national level. We now understand all to well the dangers of inflation and unending deficit spending: but Harry Byrd warned us first. We know that there are limits to the areas in which Federal spending can be effective; but Harry Byrd knew that many years ago. We know that the national government and the states must share responsibility for public policy, and that the states have an increasingly important role to play; again, Harry Byrd was there first. No, this is not the end of an era at all.

Nor, I hope, will it be the end of our professional relationships with Harry Byrd. We hope, Harry, to have the benefit of your advice and counsel for many, many years to come. We hope you will also give us your candid opinion of what we do in the years ahead, even if it makes us wince once in a while. You have laways spoken out with conviction, and we know you will continue to do so. And for that I know we are all grateful.

SENATOR HARRISON "JACK" SCHMITT

Mr. PACKWOOD. Mr. President, the Senate learned to know and appreciate a very unique person when New Mexico sent JACK SCHMITT to the Senate. He was trained as a scientist—a geologist specifically—and was the only scientist-astronaut to travel to the Moon. This scientific perspective has proven invaluable to the Senate during deliberations on many critical issues. His ability to recognize the long-range implications of solutions to problems we face today and identify the issues we, as a nation, must face tomorrow.

Senator JACK SCHMITT has served on the Commerce, Science, and Transportation Committee since he was first elected to the Senate 6 years ago. He served first as ranking minority member and later as chairman of the Subcommittee on Science, Technology, and Space.

JACK's leadership and dedication to his subcommittee work has significantly enhanced the national recognition of the Commerce Committee's role in formulating science and technology policy. His commitment to science and technology, in the broadest sense, led the subcommittee to deal with such diverse issues as space policy, patent policy, technology innovation, nuclear waste technologies and alternatives, science education, strategic minerals policy, risk assessment, international cooperation and technology transfer, environmental science and technology, biotechnology, and research and development investment. The enthusiasm and energy JACK exerted in exercising his responsibilities was seemingly limitless at times.

Yet, even with a long agenda, JACK's energy and creativity were not restricted to this subcommittee. Over the years, he was actively involved in many of the issues before the Commerce Committee, including transportation deregulation, telecommunications policy, regulatory reform, aviation, and hazardous materials transportation, to name a few. This list certainly underscores his conviction to the congressional process and the importance of committee activities.

JACK leaves the Senate with a void that will not be easily filled. Perhaps almost as important as the contribution JACK made to this Nation for the past 6 years is guidance in helping his colleagues better understand the technological society in which we live. He will leave his mark on all of us who worked with him.

SENATOR NICHOLAS BRADY

Mr. BIDEN. Mr. President, several months ago Senator NICHOLAS BRADY stood before this body and described himself as "the lamest duck" of all. Nonetheless, he has put his brief stay in the Senate to good use. He noted that he had "no time to learn the art of compromise, no occasion to employ the conventions of parliamentary maneuver, and no need to hedge bets for a stake in future legislative alliances."

He has turned his disadvantage to advantage and spoken his mind freely and ably while among us. Through strength of character and good judgment, he prevailed on all of us to recognize that even in his brief tenure he could impart to his colleagues valuable lessons which he had learned in the business community.

On May 18 of this year, he delivered a thoughful and intelligent address on the economy. He lucidly described the devastating and interlocking effects of high interest rates and swelling budget deficits upon this Nation's financial and general economic structures. In particular, he described, with considerable eloquence, the deleterious effects of current economic conditions upon those hoping to find employment and those who have just lost their jobs.

Shortly, Senator BRADY will return to the business community. I commend him for the tact, the intelligence, and the resourcefulness with which he conducted himself while serving in this body. He has served the State of New Jersey honorably during the past 9 months, and I am sure that he will continue to make important contributions to New Jersey and to the Nation upon his departure from the Senate.

SENATOR HARRISON SCHMITT

Mr. President, HARRISON SCHMITT came to the Senate in 1976 with impressive academic credentials and years of brave and distinguished service in our Nation's space program.

A man of steadfast principles, he has combined intellectual sophistication with political tenacity, and has made his mark while serving among us. I have been his colleague on the Select Committee on Intelligence, where he has served with distinction. As chairman of the Subcommittee on Labor, Health and Human Services, and Education, Senator SCHMITT proved both energetic and evenhanded in considering the difficult problems frequently before us.

HARRISON SCHMITT came to this body with a background rich in variety and experience. He was a Fulbright fellow and holds a Ph. D. in geology, in addition to his impressive achievements as an astronaut. He utilized this blend of experience while in the Senate in fighting for issues which drew his attention and which in turn commanded the attention of us all.

I wish him every success in the future, and I join my colleagues in thanking him for his service to his country.

SENATOR S. I. HAYAKAWA

Mr. President, at the end of the current session, we will see the departure of Senator S. I. HAYAKAWA, who has served with distinction during his 6 years in this body.

Senator HAYAKAWA made the difficult transition from the academic world to politics and Government with minimal difficulty. His distinguished career as a semanticist was punctuated with teaching stints at some of this Nation's most distinguished academic institutions, such as the University of Chicago and the University of Wisconsin. His learned books and articles on semantics have nurtured a generation of students, and assuredly will be widely read for at least another generation.

Born in Canada and a product of that nation's fine university system, he has served our own country well. As a member of an ethnic minority which has contributed greatly to the cultural and intellectual strength of this Nation, he brought a special sensitivity and understanding to his position as chairman of the Subcommittee on East Asian and Pacific Affairs.

We shall miss this gentle and thoughtful man, and I join my colleagues in thanking him for his service to his country and in wishing him well for the future.

SENATOR HARRY F. BYRD, JR.

Mr. President, for 16 years HARRY FLOOD BYRD has served in the Senate with distinction. He came to this body well suited by experience to represent his fellow Virginian, for in his life he has been a newspaper editor, a farmer, and a State senator. His long acquaintance with the problems and issues of Virginia prepared him to represent his constituents' interests and concerns with both knowledge and commitment.

As a fiscal conservative and a budget balancer before there was even a Budget Committee, he alerted many of us to the need to rein in Federal spending to a point where each of us believed expenditures were commensurate with needs, in order that the economic health of our Nation be preserved without sacrificing traditional commitments which each Senator believed to be necessary.

Though we have often been on different sides of various issues, I have always found Senator BYRD to be an honorable—as well as a formidable—opponent. I particularly remember the debate over the designation of a site for the refitting of the *Saratoga* and the *Forrestal.* We found ourselves on opposite sides of the fence, but I could not have hoped for a more gracious and courteous opponent.

Senator BYRD hails from Winchester, a city in a part of Virginia known for its beautiful countryside and peaceful atmosphere. The Senate's loss will be the gain of his many neighbors and friends, for they will welcome in their midst once again this reserved and distinguished gentleman.

SENATOR HOWARD CANNON

Mr. President, Senator HOWARD CANNON and I have had in common the difficulty of representing States with a small population. One must sometimes work hard to persuade one's colleagues that the interests of a small State are just as important and significant as the interests of one of our more populous States. While chairman of the Commerce Committee, Senator CANNON displayed a special sensitivity to the needs of Delaware and other small States along the eastern seaboard. I remember in particular his efforts to assist in the reorganization of a viable railroad system for the Northeast—a system critical to the commercial interests of Delawareans and others who with their ancestors, have been served so well for over a century by the seaboard's evolving railroad systems.

In my first years in the Senate, HOWARD CANNON assured that my efforts to see sunset legislation receive fair and extensive consideration met with success. He encouraged other Senators to give the various sunset proposals careful consideration, and thereby played an important role in awakening the country to the need for periodic careful review of Federal programs.

In the early 1970's, while chairman of the Rules Committee, Senator CANNON was a major force behind the progress of the Budget Act through the Congress. As such, we owe him a great deal in the long struggle to develop a more rational, intelligent budget process.

We shall miss his earthy sense of humor and his 24 years of experience in this body.

TRIBUTE TO DEPARTING SENATORS

Mr. RANDOLPH. Mr. President, I join in expressing tribute to our departing colleagues, although such an occasion evokes both joy and sadness. I understand Senators who seek escape from the pressures of public office. I will miss the counsel and companionship of longtime associates.

The able Senator from Nevada, HOWARD CANNON, is a member of that "Class of '58" in which so many issues-oriented lawmakers were elected and faced the challenges of forming the Great Society. As a veteran member of the Armed Services Committee and the Commerce, Science, and Transportation Committee, he has contributed much to the progress of America.

HARRY FLOOD BYRD, Jr., came to the Senate in 1965; he was reelected for a third term in 1976 with the largest vote ever given any Virginia candidate. He holds the distinction of being only the second person in the history of the Senate to be elected as an Independent. His spirit and sense of honor and fair play has enriched each of us. It was my privilege to have known and worked with his father, Harry Byrd, Sr., who was a native of West Virginia.

SAM HAYAKAWA was sworn in as a U.S. Senator on January 2, 1977, 1 day before his fellow lawmaker, HARRISON SCHMITT, who is leaving this body. A noted scholar, Senator HAYAKAWA provided refreshing insight in the workings of Government.

JACK SCHMITT, as the first scientist-astronaut, is renown for his journey to the Moon aboard Apollo 17 and known to us for his dedication to duty and his devotion to his constituency. I am gratified that my alma mater, Salem College, presented the Senator with an honorary degree as doctor of aeronautical science.

NICHOLAS BRADY is a relative newcomer among us, having been appointed to fill an unexpired term earlier this year. In the short time of his service to the Senate, the gentleman from New Jersey has exhibited a sincerity which invigorates.

Mr. President, these legislators have brought to the Senate excellent characteristics, constructive talents, and well-reasoned perspectives colored by their origins and environments. The U.S. Senate is the forum in which these individuals, with diverse interests and backgrounds, work together and produce policies and legislation to benefit the broad populace of this Nation.

SENATOR HOWARD W. CANNON

Mr. PACKWOOD. Mr. President, HOWARD CANNON is a close personal friend and colleague. I will deeply miss his friendship, leadership, and wisdom when he retires from the Senate at the end of this month. We all will.

As members of the Senate Commerce Committee where we have served together interchanging roles as chairman and ranking member, I have particularly come to know and respect him. It is in that context that I have truly appreciated his spirit of bipartisan cooperation and expertise in the fields of transportation, science, space, communications, and tourism. HOWARD has worked with me and our colleagues fairly, honestly, and with a degree of patience that has enabled us to achieve tremendous legislative accomplishments.

HOWARD CANNON has foresight and is always receptive to new ideas. He sets high goals, is energetic, does his homework, and is ever present when it comes to Senate business. We have all benefited from these qualities and his dogged determination.

While he is best known, perhaps, for his expertise in the field of aviation, becoming widely known as "Mr. Aviation," in fact, HOWARD CANNON is never absent when other issues of transportation, such as Amtrak or hazardous materials are discussed.

He has authored and guided through Congress more legislation to reduce regulation than any Member of Congress in recent memory. HOWARD CANNON's leadership has resulted in legislation to strengthen the Nation's transportation and telecommunications industries, improve transportation safety, promote tourism, streamline regulations and reduce paperwork, enhance industrial innovation and productivity, and maintain the Nation's leadership in space and aeronautics.

HOWARD CANNON represents the best combination of professional and personal qualities. I respect and admire him for his accomplishments and faithful and untiring service as a Member of the Senate, and I care for him as a friend.

The people of Nevada and this Nation have been well served by HOWARD CANNON'S tenure in the Senate since 1958.

SENATOR HARRY FLOOD BYRD, JR.

Mr. MATHIAS. Mr. President, one of the most interesting conversations I ever had was with Adm. Phillippe de Gaulle when the French cruiser *Colbert* paid a visit to Baltimore several years ago. We spoke of the problems encountered by a young man growing up in the shadow of a famous father, a subject on which Admiral de Gaulle spoke as an expert.

But Admiral de Gaulle's experience in life is not unique. In fact, in this Chamber we need look no further than the desk of the Senator from Virginia, Mr. BYRD. He, too, is the son of a famous father, yet he has walked beyond his father's shadow to stand in the sunlight in his own right. Harry Flood Byrd was a commanding figure in Virginia and he lives on in American history. But HARRY FLOOD BYRD, JR., has emerged as a new and independent branch on a historic family tree. Being a conservative in the 1980's is different from being a conservative in the 1940's and HARRY BYRD represents that difference. He has changed with the times but his principles remain constant, a talent which may explain how his family has continued to render important service to Virginia for three centuries.

The name of Byrd is usually associated with Virginia, but actually HARRY BYRD'S father was born in the eastern panhandle of West Virginia, as was my grandmother Elizabeth McCurdy, so we share many common values and experiences. We both know and enjoy the orchards and bluegrass meadows along the Bullskin Run at the foot of the Blue Ridge Mountains.

As a result, I have taken a special interest in watching HARRY BYRD and have always found him a worthwhile object of observation and study, whether I agreed or disagreed.

In personal style and manner he is the model Senator; modest, distinguished and quiet, except when orating. His personal discipline can be read in his face and his gait. He usually

walks at a rapid pace instead of riding the Senate subway at taxpayers expense.

Most important, in the Senate where trust and confidence are essential to the institution, HARRY BYRD is known as a man of his word. Once he has committed himself, no questions about his reliability are asked. There have been days when I wish I could have persuaded him to change a position on some issue and while I was disappointed not to have his support, he never lost my respect.

Just as we have shared many personal interests as a result of the fact that we were neighbors on the Bullskin Run, we have shared many official concerns as neighbors on the Potomac River, particularly in the Washington Metropolitan area. We have worked together in the interest of the civil service and the national capital.

In both a personal and an official sense, HARRY BYRD has been a good neighbor and I shall miss him in the Senate. But I shall hope to see him on the banks of the Bullskin and hope that I shall find him enjoying a full and happy life with Gretchen and his family.

SENATOR NICHOLAS BRADY

Mr. President, most of us look up every night into the skies and see a thousand stars without noticing any one of them individually. But when a meteor or shooting star streaks across the sky we all remember it.

So we shall all remember NICK BRADY.

NICHOLAS BRADY came to the Senate under difficult circumstances. He came to fill a seat vacated as a result of a personal tragedy that had shocked and saddened the Senate. But NICK BRADY's dignity, commonsense and good humor made the change easy for all of us to accept and did credit to Governor Kean and to the people of New Jersey.

It was a coincidence that NICK BRADY should come to the Senate at a time when we most needed information and counsel about the world of finance and investment banking, subjects in which he is a past master. His willingness to share his views and experience with those of us taking a cram course in national economics has been a particular help.

On one issue in which we have a common concern we have not yet achieved a full success. That is the difficult job of convincing American horsemen that hay, oats, and water are an adequate diet for American horses without the contamination of a growing array of drugs. In this instance, however, our failure may have a hidden benefit. Although our Senate association may be interrupted, our partnership in the cause of hay, oats, and water can continue without a break. And I shall look forward to that.

It has been an honor to have Katherine and NICK BRADY as friends and neighbors in Washington and Ann and I shall look upon them as friends and neighbors wherever they are.

SENATOR HARRISON SCHMITT

Mr. President, the Senate will be diminished in an important respect when JACK SCHMITT leaves us. That is his ability to make judgments with an eye to the future and to the real economy of Government.

I could expand on the array of talent that we shall lose with JACK's departure, but this one talent is so important that it deserves special notice if only that he will import it to others before he goes.

I first became aware of JACK SCHMITT's rare judgment when we served together on the Appropriations Committee. It was apparent that he was not satisfied with the standard brand of pennypinching in achieving true economy. He would always look at programs to see how the American people could get their moneys worth. This might mean continuing a program for a few years to reap a harvest not yet quite ripe. Or it might mean spending a few extra thousands in order to save millions. Such decisions demand not only judgment, but also courage. HARRISON SCHMITT has both and I salute him for it.

SENATOR SAM HAYAKAWA

Mr. President, nothing is more reassuring than to sit in the U.S. Senate and to lift one's eyes to the gallery to see the alert, intelligent, and attractive face of SAM HAYAKAWA's mother. It is a reminder that life can hold a variety of interests for a long period of time. It is a token of the probability that SAM HAYAKAWA will be around for a long time in the future doing the kind of interesting things he has always done: Teaching young people, writing books, and quelling the anger of mobs.

I am counting on several more careers for SAM HAYAKAWA and only hope that each of them will encourage him to stay in touch with his friends in the Senate and that some of them will give his mother reason to visit the Senate gallery from time to time.

SENATOR HARRY F. BYRD, JR.

Mr. MITCHELL. Mr. President, when the 98th Congress convenes next January, for the first time in half a century, no Senator HARRY FLOOD BYRD, JR. will take his seat in this Chamber.

That is the end of a tradition of service which has earned Senator BYRD the wholehearted admiration of all his colleagues.

As a newcomer to the Senate, I have had the honor of serving on the Senate Finance Committee with Senator BYRD, and I want to take this opportunity to pay tribute to Senator BYRD's integrity, his consistency, and his unique role in the Senate.

No Senator has been as consistent as Senator BYRD in urging the course of financial prudence, frugality with tax dollars and fiscal responsibility. Even though his efforts were at times directed to programs I support, there has been no doubt of Senator BYRD's sincerity. Senator BYRD has consistently voiced his conviction that the purposes for which tax dollars are appropriated should be carefully and thoroughly scrutinized. He has done so when it was a popular stance, and he has done so when it was not a popular stance. The Senate will miss that consistency and will look far before it finds that depth of conviction again.

In this day of trillion-dollar national debt, Senator BYRD stands alone as the constant voice that has warned of this outcome. He has never feared to raise that voice against the creation of a debt by one generation that will be paid by the next generation. The Senate will miss that strong voice.

And on a more personal level, the Senate will miss the dignity and stature that Senator BYRD brought to his work and his efforts in the Senate. Regardless of the differences of opinion and perspective that Senators bring to the issues, Senator BYRD has never failed to conduct his debate with a dignity and an eloquence that do credit to the Senate as a body and to him personally.

I regret that Senator BYRD has chosen to resign and will not be returning when the 98th Congress convenes next month. I want to pay tribute to his many years of service in this body, and to the special qualities be brought to that service. Senator BYRD has earned the regard, as well as the respect of his colleagues, and he has added luster to the proud tradition of public service for Virginia that began on March 4, 1933.

SENATOR HARRY F. BYRD, JR.

Mr. CHILES. Mr. President, it is with considerable regret that I offer these words of tribute to Senator HARRY F. BYRD, JR., as he leaves the Senate. In the 12 years that I have been in the Senate, I have come to know him as a good friend. I have great respect and effection for him and for his wonderful wife, Gretchen. I will sorely miss them both.

Senator BYRD has devoted the past 35 years of his life to public service: 18 years in the Virginia State Senate where, among other things, he played a major role in helping to create new industry and 130,000 new jobs by his excellent chairmanship of Virginia's economic development program; and 18 years with us in Washington where he has served as a great example to us all as a deligent watchdog over the taxpayer's purse and individual freedom.

His dedication to the role of budgetary watchdog and to fiscal conserava-

tism is not just symbolic either. HARRY BYRD lives by the economic words he preaches. During the period from November 11, 1965, when the Senator first opened his office on Capitol Hill, through September 30 of this year, he has returned to the National Treasury more than $2,927,445 of the funds allocated for his office operations. That is an average of $168,895 every year of citizen moneys saved for other, more important items.

He has also been a model for us in his care to limit the introduction of bills. This in itself is another way he saved public money, aside from curtailing Government growth. The cost of introducing an average bill would buy more than 100 measles and mumps shots for children. Just the printing for one bill is equivalent in costs to a month's stay at a nursing home. It is comparable to the average social security check, to the monthly wage of a private first class. It would pay for keeping a criminal in prison for a month. These are the kinds of priorities that Senator BYRD has had in mind.

HARRY BYRD knows and practices the principles of conservatism he proclaims. He equates his conservatism with "conservation," extolling us to conserve natural resources, human liberty and dignity, and—in his very words—to conserve "the taxpayer's hard-earned dollar."

He has not only tried to lead us by example, he has put his beliefs into law. Public Law 95-435 is a living testimony to his work here. The Byrd law says: "Beginning with fiscal year 1981, the total budget outlays of the Federal Government shall not exceed its receipts." His balanced budget law is the embodiment of the sentiment in a Jefferson quote that the good Senator likes to chide us with. Thomas Jefferson warned us prophetically: "To preserve our independence, we must not let our rulers load us with public debt."

HARRY only leaves our company in body. His spirit will remain with us in every meeting of the Budget Committee and everytime we add one more jot and tittle to the laws of this Nation. HARRY BYRD has, indeed, left his mark on the workings of this body.

I shall personally miss his wise counsel, his sound commonsense, his lessons by example, and most of all the daily contact with such a good and gracious gentleman.

God go with you, HARRY.

SENATOR HARRY F. BYRD, JR.

Mr. PELL. Mr. President, I am pleased to join with my colleagues in a farewell tribute to Senator HARRY F. BYRD, JR.

I am one of only 13 current Members of the Senate who has had the pleasure of serving here in the Senate with both Senator HARRY F. BYRD, JR. and with his distinguished father, the late Senator Harry F. Byrd, Sr.

Between them, Senator HARRY F. BYRD, JR. and his father will have served their beloved State of Virginia and the Nation here in the Senate for nearly 50 years. And the service of both father and son has been distinguished and distinctive.

It was, I suspect, not entirely easy for Senator BYRD to directly succeed his father here in the Senate. But he quickly established his own reputation among his colleagues as a man of exceptional intelligence, as a hard-working and diligent Senator, and as a forceful and effective advocate for the interests of his State and for the fiscal and national policies to which he is so deeply committed.

I regret that Senator BYRD and I did not serve on any Senate committees together, but we do share a deep interest in historical events and that interest has been the foundation for a warm friendship.

Senator BYRD is known in the Senate as a man of unequaled courtesy and unquestioned integrity. I wish him all the best in the years ahead and know how very much my wife and I will miss Gretchen and him.

SENATOR S. I. HAYAKAWA

Mr. President, I wish to join my colleagues in bidding farewell to and paying tribute to SAM HAYAKAWA, the distinguished junior Senator from California. SAM and I have served together as members of the Foreign Relations Committee during these past 6 years, and it has always been a delight to work with him. Although he and I have approached foreign policy issues from somewhat different philosophical perspectives, we have nevertheless been on the same side on many important questions, and I have always valued those occasions when we worked together for a common purpose.

There was a time, Mr. President, when people referred to a particularly distinguished person as a scholar and a gentleman. If ever that expression fitted someone to a tee, it is SAM HAYAKAWA. He was a noted scholar and university president before he entered the Senate, and it is clear that he has always been a gentleman. These qualities have served him well as a legislator. The scholar's objectivity and the gentleman's respect for his colleagues as people were the hallmarks of his career in the Senate.

In his academic years, SAM HAYAKAWA was an acknowledged expert in the field of semantics. There is no doubt that his fame in that field is well-deserved. In an era of bureaucratic and even legislative gobbledegook, SAM HAYAKAWA's prose has been refreshingly clear and precise. One always knew what SAM HAYAKAWA's words meant, and he inspired his colleagues to try to match that clarity.

On a personal level, I know that I will miss SAM very much, and my wife and I wish him and Margedant all the best for the future.

SENATOR HOWARD CANNON

I am pleased to join with my colleagues in a farewell tribute to Senator HOWARD CANNON.

I have had the pleasure of serving in the Senate with HOWARD CANNON for 22 years, and during that time I have been constantly impressed by his diligence and his effectiveness in the work of the Senate.

As a member and then chairman of the Senate Commerce Committee, and as a member and chairman of the Senate Committee on Rules and Administration, Senator CANNON always demonstrated a full and detailed knowledge and an incisive understanding of the issues and legislation that came before those committees.

I served with HOWARD CANNON on the Committee on Rules and Administration and succeeded him as chairman of that committee when he became chairman of the Senate Commerce Committee. As chairman of the Rules Committee, Senator CANNON made very significant contributions to the effective working of the Senate. It was under his skilled leadership that the Senate accomplished a major reorganization and streamlining of the Senate committee system, a task which many said simply could not be done because reorganization involved limiting membership and shifting the jurisdiction of committees, matters highly sensitive to every Senator.

As chairman of the Committee on Rules and Administration, Senator CANNON also played a major role in establishing a new Senate code of ethics and in major revisions of Federal election laws.

Senator CANNON also holds the distinction, unique in the history of the U.S. Senate, of presiding over the hearings on the nominations of the only two appointed Vice Presidents in the history of our Nation—Vice President Gerald Ford and Vice President Nelson Rockefeller. It was, I believe, the unanimous view of the Senate that those hearings were conducted with a thoroughness, dignity, and fairness that made them a great credit to the Senate.

I would add also that Senator CANNON, through his years of service on the Commerce Committee, provided strong and enlightened leadership on transportation issues. In particular, I am grateful to Senator CANNON for his unflagging and important support of the program for improvement of rail service and facilities in the Northeast corridor.

For all of these reasons, I will miss Senator CANNON and know that the entire Senate will miss his ability and leadership. My wife and I wish Doro-

thy and him the best of luck in the years ahead.

SENATOR NICHOLAS F. BRADY

Mr. President, as we approach the end of the 97th Congress, we also draw near the retirement of a colleague whose 9 brief months of service have won for him the respect and friendship of every Member of the Senate.

NICHOLAS BRADY brought to the Senate a record of accomplishment and leadership in the banking and investment community. After graduating from Yale University and Harvard Business School, he joined the New York City investment firm of Dillon, Read & Co., Inc. and became a vice president in 1962. He later served as chairman and managing director of Dillon, Read and as chairman of the board of Purolater, Inc. This background gave Senator BRADY a deep understanding of the economic issues and problems confronting America today, and I know his perspective in this area has been greatly valued by his colleagues on the Banking Committee and all of us who have had the opportunity to hear his remarks on the floor on the economic issues of the day.

At the still very young age of 52, Senator BRADY is a man at the peak of his considerable abilities, and I know he will continue to serve the State and Nation he loves so much in the years to come. When thinking about NICK BRADY's brief career with us, I am reminded of a passage from Emerson: "The reward of a thing well done is to have done it."

NICK BRADY will leave the Senate with the reward that his brief service has been truly well done and has earned him the trust and honor of his colleagues and of the people of New Jersey. I know that I shall miss him.

SENATOR HOWARD CANNON

Mr. NUNN. As a legislator, as a policymaker, and as a friend and colleague, Senator HOWARD CANNON holds a unique place in the Senate.

HOWARD CANNON'S entire distinguished political career exemplifies thoughtful and innovative statesmanship. As a city attorney for Las Vegas and as a U.S. Senator, he has been an effective spokesman for Nevada's citizens, and he has made their interests and concerns his own. His 24 years in the Senate have been marked by accomplishments in transportation policy, vigilance on the American consumer's behalf, and consistent advocacy of increased military preparedness. Many Senators, including myself, have learned to craft sound national policy from HOWARD'S example, and Democrats and Republicans alike have looked to him for leadership on transportation and defense issues.

On the Armed Services Committee, HOWARD CANNON has added a dimension and expertise, based on personal experience, that few can match. He was a decorated fighter pilot during World War II and was shot down over the Netherlands, where he spent 42 days behind enemy lines before the Allies liberated the area. He knows the dangers and sacrifices we ask of our military members, and he has pressed their case before Congress repeatedly. The first major legislation he managed in the Senate, the 1963 military pay raise, was in recognition of our service members' diligence.

HOWARD has also translated his experience as a figher pilot into effective legislation. As subcommittee chairman and later as ranking member on the Armed Services Subcommittee on Tactical Warfare, he has guided policy which has kept our tactical air power the most modern and capable system in the world. When complex issues arose, our Members could always look to HOWARD CANNON for his technical knowledge and considered judgments. Senator CANNON'S and his fellow aviator Senator GOLDWATER'S firsthand understanding of military aviation has proved invaluable to the armed services effort to develop and maintain a comprehensive air defense.

In addition to his accomplishments in defense, Senator CANNON has shaped or influenced a massive array of transportation and consumer legislation. He has served on the Commerce Committee throughout his tenure in the Senate, and he assumed leadership early in policy areas under this committee's jurisdiction. For example, in 1963 he was the principal architect of a bill providing for Federal funding for mass transportation, and he guided the bill's passage through the Senate and into law. Later, as chairman of the Senate Commerce Committee from 1977 to 1980, Senator CANNON presided over a thorough restructuring of the Nation's transportation policy. Under his leadership, the airline and trucking industries were deregulated, and his expertise in transportation led to effective legislation to bring about this change without major economic dislocation to either the consumer or industry. His influence in these areas continued in the 97th Congress, during which he has served as ranking minority member of the Commerce Committee.

We will miss Senator CANNON'S quiet, forceful, and effective leadership in the Congress, but I hope that he will continue to provide us with guidance on national issues.

He and Dorothy have our best wishes for a long, successful, and happy future together.

SENATOR NICHOLAS F. BRADY

Mr. JACKSON. Mr. President, I am delighted to have this opportunity to personally commend and congratulate Senator BRADY for the excellent job he has done representing the State of New Jersey during his brief tenure as a Member of the Senate.

NICK BRADY was appointed during a difficult period and has discharged his duties with great competence. He learned the ways of the Senate quickly and rolled up his sleeves and went right to work.

NICK is a capable and dedicated individual and we will miss him after the 97th Congress adjourns next week. His expertise in economics and finance enabled him to make a major contribution to our deliberations this year in the effort to bring about economic recovery.

I join my colleagues in thanking Senator BRADY for his service and hope that he will not stray too far from Washington, D.C., so that we may continue to draw upon his expertise in the years ahead.

SENATOR HARRISON "JACK" SCHMITT

Mr. President, as we enter the final days of the 97th Congress, I wish to join with my colleagues in honoring and paying special tribute to a distinguished friend and colleague, HARRISON "JACK" SCHMITT of New Mexico.

It has been a pleasure for me personally to serve with JACK and, I believe, his unique combination of scientific, academic, and government experiences brought a new and helpful dimension to this body. He quickly established himself in the Senate on complex technical matters.

JACK'S background is outstanding; he studied at the California Institute of Technology, the University of Oslo as a Fulbright Scholar, and he earned his doctorate in geology at Harvard University.

He won international acclaim and recognition for his work at NASA—both as an astronaut and as an assistant administrator.

I had the special privilege of working closely with JACK on the Select Committee on Intelligence. There he approached problems and highly technical issues with the keen, analytical mind of a seasoned scientist and through this approach, he made invaluable contributions to the committee.

I commend JACK SCHMITT for his service in the U.S. Senate and wish him well in the future. JACK, his family, the people of New Mexico—indeed throughout the Nation, can be proud.

SENATOR S. I. (SAM) HAYAKAWA

Mr. President, when the new Congress convenes next month, we will dearly miss one of our colleagues, Senator HAYAKAWA, who decided earlier this year to retire from the Senate after a single term.

It has been my pleasure to know SAM personally for years—going back before his election to the Senate when he was a good Democrat teaching English in California—and I consider him a close friend. It has been delightful these past 6 years having him as a col-

league in the Senate and I bid him a fond farewell now as the 97th Congress draws close to adjournment.

SAM gave the Senate a special character. He could be witty, sharp and charming— and sometimes all of those at once. His way with words added an important dimension to Senate deliberations—he always seemed to know the right question to ask, at the right time, and in the right way. I always admired that ability.

SAM took his work in the Senate very seriously and provided important leadership on matters ranging from East Asian and Pacific affairs to agriculture. He made a valuable contribution that all of us appreciate.

As a colleague and friend, I thank SAM for his help and counsel over the years and extend to him my best wishes for the future.

SENATOR HARRY FLOOD BYRD, JR.

Mr. President, it is difficult to realize that the Senate will convene next year without the presence in our midst of HARRY BYRD. As long as I have served here, there has been a HARRY BYRD in the Senate.

Standing in the great tradition of his distinguished Virginia family, HARRY BYRD, JR. has been a proud and patriotic American, a persistent independent voice, and a most congenial colleague.

In particular, I respect and honor HARRY BYRD for his extraordinary service on the Senate Armed Services Committee.

For one thing, his basic political-strategic good sense contributes to his excellent grasp of the complex issues of national security. Over and over again, he gets right to the heart of a crucial defense issue.

HARRY BYRD has also had the special advantage of a successful business career with the experience and know-how of managing a big enterprise and coping with limited financial resources. No one on our committee has been more outspoken in pressing for the establishment of sensible priorities in defense spending, and for the prudent use of defense dollars. He has performed an invaluable role in keeping the feet of public officials to the fire, in putting the withering questions to complacent Pentagon policymakers, and regularly uncovering faults and flaws in the management of the big weapons systems.

Above all, the word that best describes HARRY BYRD is "integrity." He is an unfaltering champion of Western values and of a strong, responsible, effective America. His example has been an inspiration. His contribution to the safety of this Nation and the future of freedom will not be forgotten.

SENATOR HOWARD W. CANNON

Mr. JACKSON. Mr. President, during 24 years in the Senate, HOWARD CANNON has been a profoundly respected voice, a dedicated worker, and a wonderful friend to so many of us. I want to say a few words of special appreciation.

During World War II, HOWARD achieved an outstanding military record in the service of his country—5 years in the U.S. Air Force, 20 months overseas, shot down over the Netherlands and evading capture for 42 harrowing days before reaching allied lines. Until recently, he served as a Reserve major general in the U.S. Air Force. It is no mystery why HOWARD brought an exceptional understanding to his work as chairman of the Subcommittee on Tactical Aircraft of the Senate Armed Services Committee. During these critical years, our subcommittee has had the most professional leadership one could ever hope for. And HOWARD has contributed in innumerable ways to the advancement of civil and military aviation during his time in the Senate.

Being an able and experienced lawyer has been another of HOWARD'S special assets. As chairman of the Committee on Rules and Administration, his judgment and skills were indispensable in establishing rules to govern the confirmation of individuals nominated to the Vice Presidency of the United States, and in overseeing the confirmation of Vice Presidents Gerald R. Ford and Nelson Rockefeller.

Also, as chairman of the Senate Committee on Commerce, Science, and Transportation, he bravely led the campaign for Federal deregulation of aviation, trucking, broadcasting, and railroads.

It has been a great privilege to serve here in the Senate for so many years with HOWARD CANNON and to share with him in the fateful struggles for the security of this Nation and the advancement of individual freedom.

He should know that his historic contributions to the Nation will never be forgotten, and that his colleagues look forward to benefiting again and again from his courageous and wise counsel.

SENATOR HARRISON "JACK" SCHMITT

Mr. DOLE. Mr. President, my thoughts as we near the end of the 97th Congress include regret upon the departure of my colleague, JACK SCHMITT, the junior Senator from New Mexico. His efforts during the past 6 years on behalf of his State as well as this Nation have been commendable, and he will certainly be missed.

The variety of background brought to this body by its Members most assuredly adds to its dymanic flavor. The Senator from Kansas has been impressed with the expertise and valuable insight added by Senator SCHMITT as he has drawn upon his knowledge and experience in discussions of defense issues, the armed services, interior affairs, science, and space, among others.

JACK SCHMITT'S willingness to share his practical wisdom is complemented by an eagerness to explore all facets of an issue and by an astute political ability. I am certain that he will remain a friend and colleague in the sphere of public policy. We have yet before us many challenges ranging from our economic dilemma to the frontiers of space and technology. Senator SCHMITT will no doubt employ his distinctive sense of practicality to continue leadership beyond this Chamber.

To my colleague JACK SCHMITT, I wish every success in whatever endeavors lie ahead. You will be missed.

SENATOR SAM HAYAKAWA

Mr. President, when Senator HAYAKAWA came to the Senate 6 years ago, we gained an intellectual and innovative force which will be missed. In areas as diverse and wide ranging as foreign relations and small business, he has added the insight of a distinguished academic and professional. My closest work with him, however, was as a fellow member of the Agriculture Committee, where his fresh approach to farm issues was a valuable asset. On several occasions, the California Senator's incisive questions and remarks gave rise to reflection, clarification, and further research before an issue was resolved.

Oftentimes in the history of this body, a Member has significant impact on its direction and personality. I am honored to have worked beside SAM HAYAKAWA, a Senator who has contributed to a sense of distinction and innovation in the U.S. Senate.

Upon your gracious retirement, colleague, I wish you and your wife all the best as you resume endeavors beyond this Chamber.

SENATOR HOWARD W. CANNON

Mr. President, the Senator from Kansas honors a leader in the Senate for the past 24 years, Senator HOWARD W. CANNON. His influence and political prowess have earned him the respect and admiration of all his Senate colleagues on both sides of the aisle, and his presence will be missed.

Senator CANNON has helped shape much of the Nation's commerce and transportation policy through his leadership in the Senate. In the transportation area alone, he has overseen great advances in both technology and policy. Always with an eye on practicality, Senator CANNON took into consideration all interests involved. Thus, he was an effective legislator.

The Senator from Nevada also added much insight too, during consideration of armed services issues. As a retired major general in the Air Force Reserves, he has afforded us the benefit of his viewpoint and dedication to quality in our military.

These are but a few words to pay tribute to a respected leader and colleague. May his legacy of dedication be an inspiration to us all.

I wish you all the best, HOWARD, as you and your wife meet the challenges that lie ahead.

SENATOR NICHOLAS F. BRADY

Mr. President, we all have a special respect for Senator NICHOLAS BRADY. He filled a difficult position for a brief but crucial period in Senate history. This endeavor has been appreciated by his Senate colleagues who called upon him during the difficult deliberations and decisions occurring in recent months.

The businessman's perspective is a valuable one in our governmental processes. NICHOLAS BRADY brought this to his position here and confirmed this with pragmatism and a keen sense of effective management. Government must draw upon business principles for cost-effective policymaking.

Senator BRADY added distinction to this body, and I hope that he will remain a colleague to whom we may look for a pragmatic outlook.

As you resume your endeavors beyond this Chamber, NICHOLAS, you have all my best wishes for every success.

SENATOR HARRY FLOOD BYRD, JR.

Mr. President, the close of the 97th Congress brings with it the end of a chapter in the tradition of service to this body by the Byrd family of Virginia. HARRY FLOOD BYRD, JR., continued this tradition with distinction. As only the second person in the history of the Senate to be elected as an Independent, he fulfilled the role with true objectivity and pragmatism. Certainly, those of us in politics must admire the political abilities of one successful in the governing role without the traditional party affiliation.

Many have been pleased that, with autonomy and fortitude, HARRY BYRD has often followed the course of responsible and fiscally prudent Government policy. May his help be a pillar in the further reconstruction of our Nation's strength.

The people of Virginia were certainly wise in sending Senator BYRD to Washington for three terms, the last time with the largest vote ever given any Virginia candidate. As an able legislator and an effective representative, his efforts have certainly gained the admiration of his constituents.

This admiration is shared by HARRY BYRD's Senate colleagues. The Senator from Kansas expresses his appreciation to you, HARRY, for your noble efforts and valued friendship. All the best to you and your wife Gretchen as you meet life's next chapter.

SENATOR HOWARD CANNON

Mr. RIEGLE. I rise to pay tribute to one of the most outstanding Senators ever to serve in the U.S. Senate.

During his 24 years here, the achievements of HOWARD W. CANNON have been awesome.

I have been in the Senate only 6 years, but during that relatively short period I have had the privilege of serving under the chairmanship of HOWARD CANNON on the Commerce Committee.

I have learned a tremendous amount about the best this institution has to offer by watching HOWARD in action.

And it is easy for anyone who has served on the Commerce Committee to tick off HOWARD's accomplishments in developing numerous pieces of major legislation which have served consumers by increasing competition in a number of vital sectors of the economy.

He brought increased competition to the airline industry, to the trucking industry, to the railroad industry, and to the broadcasting and telecommunications industry.

He fought for consumers as a defender of the Federal Trade Commission when the Commission was under its harshest attacks.

He worked to increase travel and tourism in the United States.

He has been a consistent and staunch supporter of the U.S. space program.

And he has fought to rebuild the Coast Guard.

But Mr. President, others, I am sure, will speak more comprehensively of Senator CANNON's legendary legislative achievements during his many brilliant years in the U.S. Senate.

I want to digress for a moment and speak of what HOWARD CANNON, a senior and revered Member of this institution, has meant to me as a more junior and younger Member of this body.

Every Senator, I think, comes here with at least one constituency which is of outstanding importance to him or her personally.

It is no secret that the automobile industry is vital to my home State of Michigan. It is also no secret that we in Michigan have been going through some very rough times recently.

Over the past 6 years no issue has been more important to me than the survival of this industry.

I want everyone here to know that HOWARD CANNON has been a tremendous friend of the automobile industry * * * its workers, its management, and its consuming public. Whenever I have needed help in seeking assistance to this industry, whether it be in the form of a vote for the Chrysler Corp. or considering fuel economy legislation, which came through his committee, HOWARD CANNON has been there.

HOWARD, you have been a tremendous friend. I shall miss you very much.

SENATOR HARRY BYRD

Mr. KENNEDY. Mr. President, I am pleased to join my colleagues today in paying tribute to Senator HARRY BYRD, on his retirement after 17 years of distinguished service in the U.S. Senate. These have been productive years of important contributions to the people of Virginia and to the Nation.

Although we did not share committee assignments, I have had the privilege of working with Senator BYRD on a number of issues—especially in such areas as taxation and the establishment of the All-Volunteer Army. Senator BYRD will be warmly remembered by all of us for his integrity and commitment, his unfailing courtesy, and his tireless and eloquent advocacy of the responsible fiscal policies he sought for the Federal Government.

His dedicated efforts for the people of Virginia are well known and widely appreciated, and were continuously reflected in his victorious reelection campaigns for the Senate. Indeed, in 1976, Senator BYRD was reelected with the largest vote ever given any Virginia candidate.

Now, as Senator BYRD returns to Winchester, he carries with him the admiration and respect of his many friends and colleagues in the Senate, and the deep appreciation of the people of Virginia for his record of outstanding service.

SENATOR HARRISON "JACK" SCHMITT

Mr. SIMPSON. Mr. President, it is a real tinge of sadness I have as we note the close of the single Senate term of our friend from New Mexico, HARRISON "JACK" SCHMITT. I first met JACK when I was seeking the office which I now hold. He came to Laramie, Wyo. late in the year 1977 at the time I was considering running for the U.S. Senate. I remember so distinctly his helpful assistance and advice to me. The only serious flaw I came to note in JACK's good counsel and advice to me at that time had to do with his response to a question I posed when I stated, "Jack, what is the impact of 'Senate life' upon spouse and family as one becomes involved in the activities of the U.S. Senate and life in the city of Washington, D.C.?" His answer was most impressive and detailed and quite comforting, I assure you. He talked of responsibilities to wife and child and the fine balance that needed to be touched between the duties of the Senate and familial responsibilities and the necessity to find time for sharing with family. I was most impressed. It was not until weeks later that I found that JACK was childless and spouseless. Then I knew that he was truly a formidable man.

He was of great assistance to me when I came to this place. I shall not forget his many kindnesses and his attentiveness to me in those early confusing months of service in this body. He is a man of dogged persistence and determination with a droll and wry sense of humor. A lasting type of friend and certainly a man of his word in every situation in which he and I had dealings.

We shall miss him here. I commend him for his extraordinary work on the Ethics Committee in years past—his fine insight into issues and problems of the day in his other committee duties—his willingness to confront and probe and learn, America has been well served by his presence in the U.S. Senate and in every single one of his previous efforts on behalf of this country.

It has been my sincere pleasure to come to know JACK SCHMITT. My Senate life has been fuller because of his friendship. It seems wholly trite to "wish him well"—for JACK has always made his own breaks and he will do well in whatever goals he sets for himself. Godspeed to him.

SENATOR NICHOLAS F. BRADY

Mr. President, seldom has a man served here for such a short time and has left such an extraordinary impact. In just this short time—literally weeks—NICK BRADY has left his personal imprint on this body. I have not been fortunate enough to serve with him on committees of mutual interest, but I have enjoyed the opportunity of sharing the "Wednesday Club" luncheons with him. It was here that I saw this remarkably successful businessman able to communicate so clearly his thoughts and feelings to those of us here in the Senate. An erudite and talented man with an earthy sense of humor and an extraordinary grasp of the world of commerce and industry. Many of us still use as a reference source a memorandum he prepared for his colleagues on the issue of interest rates. His counsel to us on his knowledge of the international and national banking situation and some of the ramifications of present attitudes and Governent policies was studded with extraordinary insights.

Here was this wry man with a generous smile, and with a facile mind and a curious bent, pursuing the things that piqued his interest in the U.S. Senate. He gave much to every committee upon which he served. He gave much to the people of his State. He gave much to the leadership of this body in service and in attentiveness. He gave much to his colleagues on both sides of the aisles. I want to state with clarity that my life in the Senate has been richer because of my friendship with NICK BRADY.

Let us not forget the participation of his handsome companion in life, Kitty. We have seen her observe our activities from the family gallery. She has in such a short time left such a great impact on all of us and our spouses. She is a lady of style and intellect and compassionate concern for her fellow human beings. An extraordinary lady.

The Senate will miss his presence. He brought much to us and it is the hope and prayer of all of us that we were able to return something to him.

Coming to know Nick and Kitty has been a deep personal privilege. I wish them well in life's coming endeavors. With their sense of concern and loyalty and fealty to the cause, they bring great honor upon their country, their State and upon the U.S. Senate. I join with so many of my colleagues in expressing to them Godspeed and loving protection. They are lovely people.

SENATORS HARRY F. BYRD, BRADY, JR., SCHMITT, AND HAYAKAWA

Mr. WALLOP. Mr. President, today I join my distinguished colleagues in honoring Senators HARRY F. BYRD, JR., BRADY, SCHMITT, and HAYAKAWA, our colleagues who will not return to this Chamber when the gavel cracks the cold January silence, christening the opening day of the 98th Congress.

This Senate, its Chambers, its Members past and present, has acted since its very inception as a crucible of principled tradition. Some of America's greatest moral and political thinkers, from Jefferson and Lincoln to Russell and Dirksen, have used this vessel decade after decade to devise, reform, and refine some of the greatest social advances in the political history of the world. And, decade after decade those same great minds, having created the country whose field bore the fruits of their labor, wrestled with the defense of liberty at home and abroad. Presidents came from here—Presidents returned here. And, today as tomorrow, we will be here to represent and perpetuate everything America was, is, and hopes to be.

And so, it is with a twinge of sadness that I say goodby to my colleagues, to my friends, who have given so much to this body, their constituents, to every American. Senator HARRY F. BYRD Jr., has spent 18 years in this Chamber representing his fellow Virginians. I have had the pleasure of serving with Senator BYRD in this Chamber and on the Senate Finance Committee as well. His voice will long be remembered as a steadfast proponent of fiscal conservatism and a balanced Federal budget.

Although Senator BRADY has served only a brief term, he has made a substantial contribution by helping us restore confidence in ourselves, our office, and the Senate of the United States. In his 8 months, he has served well the people of New Jersey.

Senator SCHMITT, a fellow Member of the freshman class of 1976, has the distinction of being one of the Members of this Chamber to have made contributions in space exploration as well as in the Earth-bound legislative arena. I also have had the pleasure of working with Senator SCHMITT on the Select Committee on Intelligence, and know of his keen interest and efforts to keep American defense capabilities strong and alert.

And finally, Senator HAYAKAWA—another friend and colleague from the freshman class of 1976—an academician turned politician when called on to do so. His quiet, but firm, voice rang out during his 6 years in office as a true friend to American agriculture and small business.

In honoring my colleagues today, I am reminded of how their varied backgrounds—businessman, investment banker, scientist-astronaut, and scholar from America's east and west—truly illustrate the purpose of this great body. And, that purpose is to serve and represent the diverse interests of the people and regions of our United States.

Our departing colleagues have achieved this goal during their varied years of service to America and her people—and have done it splendidly. Recalling the words of President Theodore Roosevelt, "The first requisite of a good citizen in this Republic of ours is that he shall be able and willing to pull his weight." Gentlemen, you have done that and more. This body will certainly feel the loss of your collective weight and your willingness to contribute to the life of our country and to the tradition of the U.S. Senate. I wish you all the best in the years ahead.

SENATOR HARRISON "JACK" SCHMITT

Mr. STEVENS. Mr. President, it has been a great privilege for me to serve in the U.S. Senate with JACK SCHMITT. I had the opportunity to work closely with him on both the Appropriations and Commerce Committees and will sorely miss the energy with which he attacked problems and sought answers.

His contributions both to the Senate as an institution and the country as a whole have improved both. He brought to the Senate both a technical expertise and a sense of public responsibility. He handled a number of difficult assignments with wisdom and with tact. He never tried to duck the hard issues and invariably sought practical solutions.

Because of JACK, major policy changes have been implemented which will reduce the level of Government spending and provide incentives to businesses across the Nation.

Many Members forget the unique needs of the West. JACK SCHMITT has always protected those needs and interests. He understands resources, technology, people, and the process by which change may be made. His enthusiasm will be missed by all of his colleagues.

SENATOR S. I. HAYAKAWA

The junior Senator from California will be returning home at the end of the 97th Congress.

SAM HAYAKAWA has always been a friend. More than once I have sought his thoughtful advice on an approach to a problem. His wisdom is exceeded only by his modesty.

A Senator's integrity is his most valuable asset. In this respect, Senator HAYAKAWA is worth his weight in gold. He has taken strong stands on economic, agricultural, defense, foreign relations, and natural resource issues. I am particularly grateful to Senator HAYAKAWA for the sincere interest he took in the Alaska lands bill. We traveled together throughout my State in order to assess the Federal land policy situation. He spent many hours learning about the problems and issues involved and was quite persuasive in his efforts to educate those who did not understand the unique qualities of my State.

The Senate as a whole, and this Senator in particular, will miss Senator HAYAKAWA's sincerity and courage in representing the needs of his constituents and the people of this country.

SENATOR NICHOLAS BRADY

Although NICK BRADY has not been in the Senate long, he has certainly gained the respect and admiration of many of his colleagues. He came to the Senate under difficult circumstances—at a time when public perception of the Congress was low. I can say without equivocation that Senator BRADY performed his duties with dedication, enthusiasm, effectiveness, and honor. In my opinion he helped to restore public confidence in the Senate as an institution.

The experience and insight that Senator BRADY brought to this body was a breath of fresh air. He is a businessman by profession. He knows firsthand the impact of inflation, high interest rates, and unemployment. He understands the implications of tax policy upon the business world.

I will never forget Senator BRADY's first speech on the Senate floor. He warned us of the economic condition of the country and the significance of factors such as interest rates that affect it so greatly. He warned us of the need to take action expeditiously. His points were well taken.

I am most appreciative of Senator BRADY's willingness to be a team player. The leadership depended on his support and advice on critical legislation affecting defense, employment, Federal spending, and foreign policy.

Mr. President, a Senator is only as strong as his family. I would like to commend Senator BRADY's wife, Kitty, his daughter Kim and his sons Nicholas, Anthony, and Christopher for their support over the past 8 months. I cannot count the number of late night sessions that I have seen Kitty watching the Senate proceedings from the family gallery.

We will miss NICK BRADY in the Senate. He has done us a great service for the Senate and for the country.

SENATOR HOWARD CANNON

Mr. President, few Senators have made their mark on the Senate during their tenure as has the senior Senator from Nevada, HOWARD CANNON. He has served with distinction throughout his 24 years in the U.S. Senate.

I have had the privilege of working with Senator CANNON many times in his capacity as chairman and later as ranking member of the Senate Commerce Committee. His foresight is evident in major legislative areas such as transportation, trade, communications, and commerce policy.

The people of the State of Nevada can be proud of the work Senator CANNON has done. Their interests were always protected and their ideas implemented through his legislative skill.

Senator CANNON is a true westerner. He represented Nevada during a crucial period for the West and he had a significant impact on its growth and development. I think the leadership and foresight he demonstrated was an example for all to follow.

His contribution to the institution of the Senate will be missed in the Congresses to come, but his record of the past will always stand strong.

SENATOR HARRY F. BYRD, JR.

Mr. President, the 97th Congress is near adjournment. The end of this Congress will mark the end of a distinguished and illustrious service in the U.S. Senate for the senior Senator from Virginia, HARRY F. BYRD, JR.

The Senate is a better place because of the contribution Senator BYRD has made to this body. As an appointed Senator in 1965, he quickly learned the legislative process and gained the respect and admiration of his colleagues. As a member of the Armed Services Committee and the Finance Committee, Senator BYRD always believed in a strong defense and in a tax policy that dealt equitably with all Americans.

Throughout his years in the Senate, Senator BYRD displayed his tenacious and fierce independence. The votes he cast were votes that he firmly believed were for the good of his country.

Senator BYRD was only the second person in history to be elected to the U.S. Senate as an independent. That feat alone exemplifies the respect and confidence that was bestowed upon him by the people of Virginia.

Senator BYRD has spoken honestly and frankly about some very complex issues which face our Nation. He has brought the issue of the economy into focus. He has not relented in his concern about high interest rates. He has tirelessly examined the expenditures of the Federal Government in an effort to reduce the burden to taxpayers.

The Senate will miss his leadership and dedication. He has been, and is, an example for all of us in the Senate.

SENATOR HOWARD CANNON

Mr. ROBERT C. BYRD. Mr. President, it is inevitable, in an elected body, for the day to come when it is necessary to say goodbye to valued colleagues, and to welcome new ones. The feelings on such a day are always mixed—good feelings in reflecting back on shared struggles and victories, and good feelings in anticipation of new friendships, but sad, or should I say reflective, feelings on knowing we will miss the companionship and assistance of old friends.

HOWARD has served the Senate since 1958. His accomplishments are many, and known to many as well. I recall, in particular, his willingness to tackle complex, and sometimes controversial issues in the Rules Committee, like the disputed New Hampshire election. He handled that delicate assignment with fairness and dispatch. He used the same committee to work on the unglamorous but difficult and extremely important Federal election laws, which are necessary to the proper functioning of our electoral democracy.

I am sure that other Senators will describe, rightly, his more visible and major contributions in the areas of the space program, telecommunications, and national transportation. In each of these, he has been a leader, and left behind a legacy of improved public policy.

He will be missed. I wish him the best.

Mr. BAKER. Mr. President, there is time remaining, I believe, under the aggregated special orders, is there not?

The PRESIDING OFFICER. The majority leader is correct.

Mr. BAKER. No Senator is now seeking recognition.

So that we can get on with the business of the Senate, I am going to take the liberty of asking consent that I may yield back that time in view of the fact that we are going to keep the RECORD open for the insertion of statements until the hour of 6 p.m. today in any event.

I see no need to keep the Senate in a delaying quorum.

I ask unanimous consent that it may be in order to yield back the time remaining under the aggregated special orders.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I yield back that time.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, is there now an order for the transaction of routine morning business?

The PRESIDING OFFICER. The majority leader is correct.

Under the previous order there will now be a period for the transaction of routine morning business for not to exceed 10 minutes with statements therein limited to 2 minutes each.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

89-059 O-86-36 (Pt. 21)

The PRESIDING OFFICER (Mr. HELMS). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MAMIE K. TAYLOR

Mr. NUNN. Mr. President, Mamie K. Taylor was a remarkable woman from Georgia whose death October 23 was mourned by all those who knew her.

Mrs. Taylor has been described by State and community leaders as "Georgia's indispensable citizen," its "prime volunteer." Indeed, through her dedication to community projects, her active participation in the political process and her staunch support of women's rights, Mrs. Taylor's service to her State and country is immeasurable.

Although Mrs. Taylor retired in 1965 after 44 years as an executive with the Georgia Power Co., she never really stopped working. Throughout her 82 years, Mrs. Taylor's energy was inexhaustible. During World War II, she sold war bonds and ran civil defense centers. Later, she organized veterans' relief programs, directed fund drives for muscular dystrophy, and fought for legislation prohibiting the jailing of minors.

Mrs. Taylor served as a mentor and role model for many young women. Always a champion for women's rights, Mrs. Taylor lobbied for the original equal rights amendment when it was first introduced in Congress in 1923. She served as president of the Atlanta Business and Professional Women's Club and, as head of former Governor Carl Sanders' Commission on the Status of Women, she drafted some of Georgia's first women's rights bills.

Throughout her long life of public service, she exhibited the wisdom, patience, and determination that make for sound leadership. Not only was she a leader and a fighter, but above all, throughout her life, she always conducted herself with the grace, charm and dignity of a fine southern lady.

Although Mrs. Taylor never lived to see what she said was her fondest hope—the ratification of the equal rights amendment—she left a legacy of strength and determination that will be emulated by generations to come.

As tribute to Mrs. Taylor, I ask unanimous consent that the following article from the Atlanta Constitution by Carole Ashkinaze be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE LEGACY OF MAMIE K. TAYLOR

(By Carole Ashkinaze)

It's hard to understand why some people try to bury their grief along with their friends. "Don't cry," they admonish one another. Or even worse, "Don't think about it."

I'm no expert, having had blessedly little contact with death and dying in my more than 30 years. But it seems to me a sensible and healthy thing to take stock at such times: to know precisely what you have lost, to measure it, to ponder the gap it will leave in your life and, of course, to cry. How else do you deal with it, and move on?

When I heard that Mamie K. Taylor, the grand champion of women's rights and one of the original suffragists, had died last weekend at 82, I cried. But I was better acquainted with the legend than the person, having met her only in the last few years.

"Don't you worry, dear girl," she told me at a rally for the Equal Rights Amendment on the steps of the state Capitol in the summer of 1981, in a voice no stronger than a whisper. "It's going to be the law of the land." She was very convincing.

She was a Southern lady "to her fingertips," as her friend Dotsie Holmes, a former vice president of the League of Women Voters, has described her; very concerned with proper manners, proper dress and "doing the proper thing," which was how she managed to gain the ears of those hidebound legislators who looked down their noses at her more strident sisters, according to the University of Georgia's Jim Parham, who in the 1960s campaigned with her against the jailing of minors. But she chose her causes with care, and once "boxed Carl Sanders into a corner," Parham chuckles. "Will you support appropriations to build regional juvenile detention centers to get the children out of common jails, or not?" she demanded at a public meeting, during his 1962 campaign for governor. "Yes, Ma'am," the startled Sanders replied. "And she held him to it," Parham says.

Redneck legislators were always apologizing to Mamie for voting against the so-called women's bills, says her friend Dottie Gibson, who worked with her on Gov. Carter's Commission on the Status of Women. "'I don't want to hurt you, Mamie, but I've got to vote against this,' they'd tell her."

Always active in politics, Mamie had lobbied for the ERA since 1923, the year it was introduced in Congress. It was "simple justice," she said.

She was also a "yellow dog Democrat," who preferred Carl Sanders to Jimmy Carter and bit the bullet to vote for her party's choice for governor in 1970. "It was ironic," Ms. Gibson says, "Jimmy Carter was the only governor that really made an effort to fund that commission, but she didn't like him." She was also a "great supporter of George Busbee," though he moved slowly to implement her recommendations for ridding the state code of discriminatory laws and language, she says.

And though many women looked to her for guidance in the current campaign, Mamie had little to say after her candidate for governor, Norman Underwood, was defeated in the primary. Her death appears to have been Republican Bob Bell's loss, however. Her good friend Mary Kate Duskin recently asked if she would vote for Joe Frank Harris despite his opposition to the ERA, and was told, "I just am not going to do that. He's not the person we need." She "wasn't ugly about it, but she had made her decision," her friend recalls.

She was a "role model" and "mentor" to several generations of Georgians, including Jeanne Cahill, who chaired the CSW under Carter and later served on his White House Conference on Families; to Ms. Holmes, who says Mamie "saw no conflict between being a feminist and a happily married woman"; and to state Rep. Eleanor Richardson, who has taken to heart her warnings to "be careful you don't alienate people in the House and Senate on any one bill, as there will be others you'll want passed."

Ms. Cahill remembers attending a luncheon marking the end of an exhausting first and, she hoped, last year as a director of the Clairmont Women's Club in the 1960s. "I had little children at home," she says. "But it was my fate to be seated next to Mamie, who said 'Jeanne, the future of this club is in the hands of leaders like you.'" Ms. Cahill stayed, and wound up taking on much greater responsibility.

Not until much later, wondering how she had been persuaded she was such a valued leader, did it dawn on her. "*Mamie* was the leader," she chuckles. "That's how she operated."

WALTER RUNDELL, JR.

Mr. MATHIAS. Mr. President, during the recess I was deeply saddened to learn that Prof. Walter Rundell, Jr., of the University of Maryland Department of History had died. At the time of his death on October 25, Professor Rundell had just returned from the annual meeting of the Western History Association where he had been installed as that organization's president.

Although only 53 years old when he died, Professor Rundell left behind an impressive record of academic excellence and scholarly achievement. He had published five books and dozens of articles in fields of specialization that included frontier history, historical methodology, early oil exploration, and archival practice. In addition to serving as president of the Western History Association, he had presided over the Society of American Archivists in 1977-78 and was about to assume the presidency of the local Potomac Corral of Westerners International, another Western History Association. He had been instrumental in developing historical programs related to the Federal Government. In that connection, Professor Rundell had served as vice president of the U.S. Capitol Historical Society since 1971 and played an essential role in guiding the work of the Senate Historical Office.

Before assuming the post of chairman at the University of Maryland History Department in 1971, Professor Rundell had held a similar position at Iowa State University. He had also taught at Columbia and Emory Universities, the University of Oklahoma and, in his native Texas, Del Mar College and Texas Woman's University.

At the University of Maryland, Walter Rundell was known to legions of undergraduates as an inspiring and highly effective classroom teacher. Recently he won the university's Student Award for Outstanding Teaching. As chairman until 1976, he brought enlightened and effective direction to the department, one of the Nation's largest. Within that department, he built a strong academic program in western history, capitalizing on the unparalleled documentary riches on the American West available within the National Archives.

Professor Rundell's appreciation of the value of archival sources extended back nearly three decades to his own doctoral studies at American University. While serving as assistant executive secretary of the American Historical Association in 1965, he was chosen to direct a national survey on the use of original source materials in the teaching of American history. From that study came his award-winning book "In Pursuit of American History" and his determination to work for a strengthened National Archives—one worthy of the rich documentary heritage it houses. One of his greatest recent contributions was the fight he waged against changes that threatened the quality of services offered by the National Archives. In that battle, he and I were allies and it was my pleasure on several occasions to receive his testimony.

Walter Rundell's death is a great loss to the University of Maryland as well as to his many students and colleagues across the Nation. My deepest sympathy goes to his wife, Deanna and to his three children, Shelley, David, and Jennifer.

WASHINGTON SEMESTER PROGRAM

Mr. MATHIAS. Mr. President, in 1947, the American University, in conjunction with five other institutions, established the Washington semester program to bring undergraduate students to the Nation's capital to study government through firsthand experience and contact with political, business, and community leaders. Throughout its 35-year history, the program has blended the traditional academic environment with experimental learning. It offers students throughout the United States a rare opportunity to live, work, and learn in Washington, D.C.

The success of the program can be measured by its remarkable growth in enrollment. From an initial membership of five colleges and universities—Oberlin, Wooster, Allegheny, Ohio Wesleyan, and Westminster—the program has expanded to serve students from some 200-member institutions in 41 States, Puerto Rico, and Canada. The first class included 12 students, and now nearly 9,000 students have completed the program, 60 percent within the last 10 years. In the academic year 1973-74, 285 students participated in the program. Some 765 students are projected for 1982-83.

Its success also can be attributed to the enthusiastic participation of the Members of Congress, Supreme Court Justices, members of the White House staff and executive agencies, trade association and corporate leaders, and journalists who have served as guest lecturers.

In response to students' interests, the program has expanded to include eight specializations:

The Washington semester in American national government and politics, the original Washington semester, which focuses on the institutions and processes shaping the Nation's public policy;

The Washington urban semester, which concentrates on urban policymaking and the local/national relationship in problem solving;

The Washington economic policy semester, which involves the analysis of domestic and international economic policy;

The Washington foreign policy semester, which focuses on the analysis of current foreign policy issues;

The Washington justice semester, which emphasizes the criminal justice system and the growing impact of intergovernmental relationships on agencies charged with creating and administering criminal law;

The Washington semester in arts and humanities, which focuses on the cultural and historical development of the Nation and its capital city;

The Washington journalism semester, which examines the role of journalism and communications as these relate to public affairs; and

The Washington semester in public administration, which emphasizes the role of the bureaucracy in the formulation and implementation of public policy decisions.

Each student's core curriculum includes three distinct yet interrelated elements: seminars, research, and internships. The seminars provide students with the opportunity to discuss processes, issues, and politics with practitioners and public officials intimately involved with the areas under investigation. The research element, similar in nature to a senior thesis, allows students the opportunity to delve into Washington's vast resources to investigate current issues or public policy concerns. The internships enable students to explore career opportunities and test skills in an entry-level staff job. Recent internship placements have included the White House; the Supreme Court; the Office of the Secretary of Labor; the Departments of Agriculture, Commerce, Energy and Housing and Urban Development; the General Accounting Office; the Congressional Budget Office; the Organization of American States; the Institute for Policy Studies; the American Petroleum Institute; plus a host of positions with Members of Congress and congressional committees. Full-time American University faculty are responsible for teaching and supervising the students' work in each element of the program. For its future development, the program is applying the successful Washington semester model to study in foreign capitals.

Dr. David C. Brown, dean of the Washington semester program, has been involved with the program since 1972. Over the 35 years of its existence, the Washington semester program has established a tradition of excellence for a variety of reasons. It develops the student intellectually, it offers a basis for challenging simplistic judgments about politics and economics which the atmosphere of the classroom fosters, and it advances many students toward career opportunities and goals in ways that have a lifetime impact. Above all, the program represents an unrivalled opportunity to compare the theories of the textbook with the operational realities of political and economic life in Washington.

I want to commend Dr. Brown for his professional dedication to Washington Senator and to wish him continued success in bringing bright young men and women to the center of their National Government. Both they and our Nation can only benefit from this experience.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

BUDGET WAIVER FOR RADIO MARTI

The PRESIDING OFFICER. The pending business is on agreeing to the motion to waive section 402(a) of the Budget Act with respect to the consideration of H.R. 5427.

Under the previous order, the distinguished Senator from Nebraska is recognized.

ORDER OF PROCEDURE

Mr. ZORINSKY. Mr. President, I ask unanimous consent to yield the floor to the distinguished majority leader for the purpose of his comments without losing my right to the floor and without this being considered the end of a speech for the purpose of the two-speech rule, and I ask that I again be recognized at the conclusion of the remarks of the Senator from Tennessee.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. I thank the Senator.

Mr. President, as I indicated earlier, and as I have discussed with the majority leader, it is my intention now to go to nominations on the Executive Calendar.

Before I do so, however, may I ask the Senator from Nebraska if he will permit me to extend his unanimous-consent request this way:

I ask unanimous consent that I may be recognized in my own right with the understanding that I will now attempt to put the Senate into executive session, that the conditions described by the Senator will apply as to his re-recognition under the two-speech rule and other provisions when we return to legislative session, and if we return to legislative session on more than one occasion during the course of this calendar day, the same conditions will apply.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I think I know what the majority leader is trying to do. I do not believe his request would quite accomplish it, if the Senator will pardon me for saying so.

I would think the point should be made clear that any return to legislative session for the purpose of going back into executive session would not automatically trigger the return to the legislation which the distinguished Senator from Nebraska is speaking on.

I think I shall support that legislation, but I want to protect him. I also want to help the majority leader carry out his obligations.

Mr. BAKER. Mr. President, that is an interesting point because, in consulting with the Parliamentarian, I believe there was no precedent found that I can identify or that he can make me aware of for returning to a legislative session for a specific purpose. I should like to do that. I think the precedent the distinguished Senator from West Virginia established of going into executive session for a particular purpose has equal appeal to going out of legislative session into executive session and then back to legislative session for a particular purpose. If there is no objection at this time, I shall attempt to establish that precedent. I would like to see it done.

Mr. ROBERT C. BYRD. I do not think it requires a precedent. I think the majority leader is attempting to do what I would attempt to do if I were in his position. That is, once one nomination is disposed of, I would move to go back to legislative session, immediately seek recognition because I can get, as he can get it, and seek to go back into executive session for the purpose of going back to the next nomination. But if we go back into legislative session under the request, I am afraid that Mr. ZORINSKY would have a legitimate reason to expect to be recognized ahead of the majority leader.

Mr. BAKER. Mr. President, I was relying then on the priority recognition rule. Let me modify the request so that, as we return to legislative session, when we return to legislative session and as many times as we may return to legislative session during this day, notwithstanding this provision that gives the Senator recognition first, I may be recognized solely for the purpose of putting us back into executive session. I believe that would protect the Senator from Nebraska, which I was attempting to do, and take care of the very valid point made by the minority leader, which, after all, is for my protection. So I amend the request in that respect.

The PRESIDING OFFICER (Mr. MATTINGLY). Is there objection?

Mr. ZORINSKY. Will the majority leader yield?

Mr. BAKER. Yes.

Mr. ZORINSKY. This, then, would differentiate from going back to legislative session for the purpose of going into executive session as opposed to seriously returning to the budget waiver request?

Mr. BAKER. Yes, Mr. President, it would. And when we return to legislative session to transact legislative business other than returning to executive session, then the Senator, under this order, would be first recognized.

Mr. ZORINSKY. I thank the majority leader.

Would the majority leader be in a position to indicate his feeling for the success of continuing with the executive session process for the nominations, timewise?

Mr. BAKER. I wish I could, Mr. President. Every time I inquire of Senators about how long it will take to complete this calendar, I get a bleary-eyed response. I am afraid to even estimate, Mr. President, how long it might take, but we shall do the best we can.

I assure the Senator that nobody is—certainly I am not—going to take advantage of him in terms of time. I shall make it my business to consult with the majority leader. I am certain he will make sure that the Senator from Nebraska is on the floor.

Mr. ZORINSKY. I thank the majority leader and the minority leader for their kind consideration.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

MR. BAKER. Mr. President, before I make the request to go into executive session, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now go into executive session for the purpose of considering nominations.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. Reserving the right to object, if the Chair will bear with the Senator from North Carolina.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The majority leader is recognized.

Mr. BAKER. Mr. President, I have stated the unanimous-consent request.

The PRESIDING OFFICER. Is there objection?

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nomination will be stated.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

NOMINATION OF ROBERT THADDEUS GREY, JR., OF VIRGINIA, TO BE DEPUTY DIRECTOR

The legislative clerk read the nomination of Robert Thaddeus Grey, Jr., of Virginia, to be Deputy Director.

Mr. BAKER. Mr. President, the distinguished chairman of the Committee on Foreign Relations is necessarily absent from the Senate. I ask unanimous consent that a statement by him in respect of this nomination may appear first in the RECORD of the consideration of this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE NOMINATION OF ROBERT T. GREY, JR.

● Mr. PERCY. Mr. President, on March 16, 1982, Robert T. Grey, Jr., appeared before the Foreign Relations Committee as nominee for the post of Deputy Director of the Arms Control and Disarmament Agency. He was ordered reported favorably 1 week later, on March 23, 1982, by a vote of 10 to 0, with one Senator voting present.

I believe it is important to support the policy of the President in moving rapidly toward significant and verifiable arms control agreements. In this, we in the Senate can give no clearer sign of our commitment to this endeavor than by giving Senate endorsement of his nominees to key positions within the Arms Control and Disarmament Agency.

Mr. President, the United States is currently handicapped in its dealings with the Soviets in moving toward significant and verifiable arms control

agreements. While the Soviet Union's key arms control staff is in place, President Reagan has few of his arms control managers confirmed. In addition to the delay on the Grey confirmation, only 1 of 4 Assistant ACDA Directors are confirmed.

In June 1981, the committee and then the Senate executed their responsibilities by confirming Dr. Eugene V. Rostow as Director of the Arms Control and Disarmament Agency, after a careful scrutiny of Dr. Rostow's background and of his views on arms control issues.

In the same vein, the Foreign Relations Committee conducted a thorough review of Mr. Grey's views and background to expedite the process of confirming the administration's choice for the second most important position within the Agency. It is now nearly 9 months since Mr. Grey's nomination cleared the committee. The failure to confirm this nominee has harmed the effective operation of that Agency and to that extent it has weakened prospects for arms control. It has also undermined the committee's ability to gain authoritative judgments from the Agency on arms control issues of concern to the Senate.

Let me illustrate the problems. At the current time Dr. Rostow is in the hospital recuperating from major surgery. Mr. President, I know that the Senate wishes him well during his recovery. But during his recovery, the Agency is without an authoritative spokesman and this has undermined the committee's ability to assure the Agency's accountability on several arms control issues. Next week, for instance, the committee has scheduled a consultation on the administration's review of two important arms control accords, the threshold test ban (TTB) and the peaceful nuclear explosions (PNE) treaties. Although the Arms Control and Disarmament Agency has played a key role in the administration's assessment, we cannot hope to gain its testimony on this issue while Dr. Rostow recuperates and while Mr. Grey is unconfirmed. In sum, the failure to confirm Robert T. Grey, Jr., is hampering the Senate in the execution of its duties.

It is important that the Arms Control and Disarmament Agency's unique perspective must be given full weight in the administration's deliberations on arms control and security policy. But that is difficult to achieve when a senior arms control official, who frequently must act on behalf of the Agency, has yet to be approved by the Senate.

I believe that it is also important that we give due respect to the wishes of ACDA Director Dr. Eugene V. Rostow. Robert Grey has the total endorsement and holds the highest confidence of the ACDA Director. They have a close working relationship and we should allow the Director to have in place a confirmed deputy with whom he works well.

I urge that the Senate now act expeditiously to confirm this nominee and, thereby, allow the Arms Control and Disarmament Agency to get on with the business of arms control.●

Mr. BAKER. Mr. President, I see the distinguished Senator from North Carolina is on his feet. I surmise from that and his previous conversation with me that he may be seeking recognition to speak on this nomination.

Mr. HELMS. Mr. President, I am.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I thank the distinguished majority leader.

I simply wish to say on the nomination of Mr. Grey that the least said the better. I further say to my leader that if the intent of the Senate is to seriously consider this nomination, I have about 8 or 10 hours of material which I wish to discuss and various other Senators have indicated that they wish to discuss the matter at some length.

I point out to the Senate that, at this moment, Senators GRASSLEY and SYMMS are tied up in the gas tax hearing, but they have indicated that they will come immediately to this floor in connection with this nomination and at least one other that is on the calendar.

The same thing is true of Senators JEPSEN and DENTON, who are involved in the MX hearing. They, too, will come to this floor. I really do not think the majority leader wants to put those Senators in the position of having to come here to extend a debate which is going to be exceedingly lengthy with respect to Mr. Grey, whose nomination may very well be withdrawn by the White House later today, and another nominee.

I say to my friend from Tennessee that I hope that I can help him avoid an exercise in futility because there are some of us who are prepared to discuss this and other nominations at some length.

That is not a threat. It is just a friendly signal that I send to the majority leader. I will accommodate him in any way I can within those parameters.

Mr. BAKER. I thank the Senator.

Mr. President, as Members will surmise, this comes as no great surprise to me; the Senator is not in the habit of hiding his light under a bushel, and he has always been candid and frank with me in his statements and views on nominees and on nominations. I am always deeply grateful for that.

Mr. President, there are a number of nominations to be dealt with, and in a moment I am going to ask the Chair to state the next nomination on the calendar. This does not necessarily mean that the Grey nomination is disposed of by inaction. It is perhaps possible in other ways to return to that nomination. But in view of the statement just made by the distinguished Senator from North Carolina and in view of my desire to consult and confer with the President on this subject, I will not at this moment press the debate on that subject in an effort to conclude Senate action.

Mr. HELMS. Will the Senator yield?

Mr. BAKER. Yes.

Mr. HELMS. I know that the majority leader, in the event that an effort is made to consider the Grey nomination, will advise us in advance so that we can be on the floor.

Mr. BAKER. Yes; I will indeed.

Mr. HELMS. I thank the Senator.

LEGAL SERVICES CORPORATION

WITHDRAWAL OF NOMINATIONS

Mr. BAKER. Mr. President, in view of that, in a moment I will ask the Chair to state the next nomination, but before I do so I have advised the minority leader and I now wish to announce to the Senate that the President of the United States has withdrawn the nominations under Legal Services Corporation, which are Calendar Orders No. 845 through 852. The certificate of withdrawal has been signed by the President and has been transmitted to the President of the Senate. I have been advised of that action.

Therefore, I ask that the Chair may state the next nomination following on after the withdrawn names.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

NOMINATION OF ELMO RUSSELL ZUMWALT, JR. OF VIRGINIA, TO BE A MEMBER OF THE GENERAL ADVISORY COMMITTEE

The PRESIDING OFFICER. The next nomination will be Mr. Elmo Russell Zumwalt, Jr., of Virginia, to be a member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency.

Without objection, the clerk will report.

The legislative clerk read the nomination of Elmo Russell Zumwalt, Jr., of Virginia, to be a member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Neither Senator from Virginia is on the floor at this time. I happen to know that both of them are engaged in committee work. I have indicated that I would let them know when we reached this nomination. We have done so earlier than planned because of the President's withdrawal of the Legal Services nominees. In order

to invite them to attend and participate in this debate, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum called be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I see the distinguished Senators from Virginia are on the floor. The item next on the Executive Calendar is the Zumwalt nomination. Has the clerk stated that nomination?

The PRESIDING OFFICER. The clerk has reported the nomination?

Mr. BAKER. Yes.

May I inquire of the two Senators from Virginia if they are prepared to respond as to how they wish to proceed on this side?

Mr. WARNER. Mr. President, I thank the majority leader and the Members of the Senate for their indulgence in this matter. I was delayed at a hearing in the Senate Armed Services Committee because my questioning of the Secretary of Defense was underway and thereby I delayed coming to the Chamber.

It is my intention to state opposition to this nomination for the reason that a hearing has not been held by the Senate affording Members of the Senate to inquire into the qualifications of the nominee.

Mr. President, the history of the nomination is well known by my colleagues in the sense that it was sent here, and neither the senior Senator from Virginia nor myself was notified of the nomination and the fact that it was pending on the calendar of the Committee on Foreign Relations. That committee—and I will allow the members of that committee to state the reasons—did not hold hearings on this nomination, and when I learned of that, I promptly wrote the chairman, dated September 28, 1982, the following letter. It is addressed to Hon. CHARLES PERCY, chairman of the Committee on Foreign Relations. It reads as follows:

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing in regard to the nomination of Admiral Elmo R. Zumwalt to the General Advisory Committee of the Arms Control and Disarmament Agency.

The law which established the Arms Control and Disarmament Agency provides for a General Advisory Committee, not to exceed 15 members, appointed by the President by and with the advice and consent of the Senate. This General Advisory Committee is to advise the President, the Secretary of State and the Director of the Arms Control and Disarmament Agency on matters which affect arms control, disarmament and world peace.

It is my understanding that periodically the Advisory Committee, on a classified basis, submits their reports to the Director, the Secretary of State and the President. Since the duties of the members of the Committee involve very sensitive and important issues relating to our defense and national security, members of the Committee have access to and share in views on classified information.

Today, I discussed with your staff the Act establishing the Committee, how the nominations were handled, and my concerns which are:

(1) Is there precedent for a syndicated columnist, specializing on national security issues, serving on this particular advisory committee, or other comparable advisory committees serving in the sphere of national defense, intelligence and security?

(2) Is there a potential conflict of interest in allowing a columnist to have access to classified government documents; and, presumably, access to classified contributions and discussions by other members of the Advisory Committee? Does the presence of a columnist inhibit free discussion?

(3) Does such an appointment provide the columnist an advantage over other members of the journalism profession? Since the column is commercial—for a profit—does committee membership enhance marketability?

(4) How did Admiral Zumwalt disclose and characterize his work as a practicing columnist in the official documents relating to conflict of interest submitted to the Committee?

(5) Was there any representation, or inquiry by the Committee, to the effect that he would suspend his work as a columnist while serving on the Committee?

I might interject here at this point, Mr. President, that I will put into the RECORD the statement by another designated member of the general advisory committee to the effect that he would forgo his work as a journalist in view of his appointment. That is a representation which has not been made by Admiral Zumwalt.

A preliminary examination by your staff of your Committee's files provided no information which they deemed adequate. They were very helpful but understandably need and asked for more time. I then decided to formalize this request by letter.

As you may recall, we briefly touched on these questions when we met in your office on the night Senator BYRD and I sought to have the nomination returned to the calendar.

And also Senator HARRY F. BYRD was in that discussion.

Once the nomination was returned to the calendar, I promptly called—as a courtesy—Eugene Rostow, Director of the Arms Control and Disarmament Agency, to inform him of the action unanimously taken by the Senate.

Namely to have the nomination not signed by the President—

I offered to meet with him in the event he desired additional details.

The press queried my office yesterday and this reply was given:

"The Virginia Senators were not advised that the final Senate action on the nomination of Admiral Zumwalt was imminent.

"They feel that there should be more time for consideration of this matter."

Press reports today infer that past professional and personal relationships may become a part of this inquiry. My questions to the Committee, Mr. Chairman, are limited to those recited in this letter, for these reasons.

As you know, for over five years I served in the positions of Under Secretary and Secretary of the Navy and Admiral Zumwalt, as Chief of Naval Operations, worked with me for much of that period.

The relationships between Service Secretaries and their senior military partners are often competitive—at times adversarial—therein lies one of the strengths of our system of civilian control of the military. It is unique in government. It provides a freedom—which is essential—for senior military officers to advocate strongly positions on behalf of their respective Services.

In the interest of national defense and the integrity of the Services, and to enable successive teams of senior management to continue working within an environment of trust and confidentiality, both senior civilian and uniformed defense officials traditionally, and understandably, refrain from commenting publicly on personal differences they may have had. I have strictly adhered to that policy and will continue to do so.

I have strictly adhered to that policy; I strictly adhere to it at this time and will not bring it up on the Senate floor today.

Therefore, Mr. President, I submit this letter for the RECORD in its entirety. The essence of it is that I asked the chairman of the Committee on Foreign Relations to put certain questions to Admiral Zumwalt and, at the same time, I asked that a hearing be held.

At this time, Mr. President, although I have further remarks, I see my senior colleague is here, and I will suspend for whatever period of time he desires and then I will resume my remarks.

Mr. HARRY F. BYRD, JR. I thank my distinguished colleague from Virginia. I would suggest that, perhaps, he might care to finish his remarks and then I will make my statement.

Mr. WARNER. Mr. President, I again wrote the chairman of the Senate Foreign Relations Committee on September 30, 1982, in a letter addressed to Hon. Charles Percy, chairman of the Committee on Foreign Relations:

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for meeting promptly with me yesterday with respect to the pending nomination of Admiral Elmo R. Zumwalt. Your staff, in attendance, likewise provided helpful guidance.

As I expressed yesterday, it is my desire that this nomination be given expeditious and fair consideration by the Senate in accordance with our standard procedures. Accordingly, I pledge my full cooperation.

At our meeting, it was mentioned that Admiral Zumwalt could come to the Hill for an informal meeting with interested Senators,

the expectation being that he could provide such information as might be required.

I recommend against this procedure. There are important issues raised by this nomination, which should not be resolved in private. While I have not had access to the Committee's file on this nominee—

And I point out Mr. President, I still have not availed myself of that time—

and have had little time for independent research in two days of other intensive Senate work, I am of the view that this case may be one of first impression. The uniqueness arises from Admiral Zumwalt's declaration to the Committee, so I am informed, that he intends to continue commercial writing on national security subjects.

This distinguishes this nominee from other professionals who have suspended their journalistic activities while serving the Federal Government.

Therefore, I strongly recommend that we have an open hearing following the standard procedures of the Committee. This will provide a written record for all Senators to make a judgment on the nominee's qualifications, any conflict of interest, and any question of fairness, bias or "stalling tactics" connected with this nomination.

A fundamental issue in this nomination is the degree to which the Executive branch can utilize the talents and expertise of a recognized professional on national defense—

And, indeed, Admiral Zumwalt is a recognized professional on national defense—

while that individual is activity pursuing—on a commercial basis—the writing of a column, articles, and lecturing on national security issues. Does this raise an actual or perceptive conflict of interest?

The journalism profession offers a reservoir of exceptional talent valuable to our government and there are many examples of exemplary service. But a question arises when we are dealing in the area of sensitive matters of national security where the individual will be given access to classified data and participate in the free exchange of such information between members of an Advisory Committee and the Executive Branch.

The Senate Executive Calendar for today, page 5, notifies Senators of the pending nomination of Elmo Russell Zumwalt, Jr. to be a Member of the General Advisory Committee of the United States Arms Control and Disarmament Agency. Further, the Calendar states that the nominee has made a "commitment to respond to requests to appear and testify before any duly constituted committee of the Senate". My request, Mr. Chairman, is that the Senate offer the nominee the opportunity to appear in an open Committee hearing.

When a hearing is scheduled, I respectfully request access to the Committee's files on this nominee.

On September 30, the chairman of the Foreign Relations Committee sent the following letter to the Honorable Eugene V. Rostow, Director of the U.S. Arms Control and Disarmament Agency:

DEAR GENE: I have received a letter from Senator John Warner raising a number of questions regarding Admiral Elmo R. Zumwalt's nomination to the General Advisory Committee on the Arms Control and Disarmament Agency.

I feel three of the questions which he has raised could be best answered by you:

(1) Is there precedent for a syndicated columnist, specializing in national security issues, serving on this particular advisory committee, or other comparable advisory committees serving the sphere of national defense, intelligence and security?

(2) Is there a potential conflict of interest in allowing a columnist to have access to classified government documents; and, presumably, access to classified contributions and discussions by other members of the Advisory Committee? Does the presence of a columnist inhibit free discussion?

(3) Does such an appointment provide the columnist and advantage over other members of the journalism profession? Since the column is commercial—for a profit—does committee membership enhance marketability?

In order to facilitate Senate confirmation of Admiral Zumwalt's nomination, I would appreciate your response as quickly as possible.

Sincerely,

CHARLES H. PERCY,
Chairman.

On October 14, 1982, Mr. Rostow directed the following letter to the chairman of the Senate Foreign Relations Committee:

DEAR MR. CHAIRMAN: Before addressing Senator Warner's questions concerning Admiral Zumwalt's nomination to be a member of the General Advisory Committee on Arms Control and Disarmament in your letter of September 30, 1982, I wish to reiterate the importance I attach to the General Advisory Committee. The need for independent analysis in the area of arms control is critical. Admiral Zumwalt's extensive professional national security experience and detailed knowledge of the issues would be a valuable asset for both the General Advisory Committee and myself.

In answer to the first question, we are unaware of any specific precedents concerning a syndicated columnist. However, journalists and editors have served on the General Advisory Committee in the past. John Cowles, editor and president of the Minneapolis Star and Tribune Company, Ralph McGill, editor of the Atlanta Constitution, and James Chambers, president of the Dallas Times Herald, all have served on this Committee. Historically, members of the General Advisory Committee have come from a broad range of occupations, including business, industry, labor, law, science, the military, technology, and education. It is important to note, however, that Admiral Zumwalt has been nominated to serve on the Committee because of his extensive experience in national security affairs, rather than because he writes a syndicated column.

As to a potential conflict of interest raised in the second question, Admiral Zumwalt, like other nominees to the General Advisory Committee, submitted the proper forms addressing this subject. The Office of Government Ethics found no conflict of interest in the Admiral Zumwalt nomination that has been submitted to the Senate. The members of the General Advisory Committee, like all employees, are subject to security procedures applicable to the protection of classified matters. Thus, the meetings of the Committee are usually required to be closed to the public and the work of the Committee and contributions and discussions by its other members are protected from unauthorized use and disclosure. In view of these facts and Admiral Zumwalt's demonstrated qualifications, I believe his presence on the GAC will enhance, rather than inhibit, free discussion.

In response to the last question, service on the General Advisory Committee would not, in my judgement, confer a journalistic advantage or enhance the marketability of the Zumwalt-Bagley Report. Admiral Zumwalt's already well established reputation in the national security field, makes it unlikely that his membership on the GAC would enhance the marketability of his column.

I hope these answers resolve the concerns expressed by Senator Warner and clear the way for the confirmation of Admiral Zumwalt to the General Advisory Committee.

Respectfully yours,

EUGENE V. ROSTOW.

The next correspondence relevant to this matter, Mr. President, was dated November 29, 1982, addressed to Admiral Zumwalt and signed by CHARLES PERCY, chairman of the Foreign Relations Committee.

DEAR ADMIRAL ZUMWALT: As you know, some serious concerns have been raised in the Senate regarding your nomination to be a member of the General Advisory Committee on Arms Control and Disarmament and the potential for conflict between your participation in the GAC and your work as a syndicated columnist writing about national security issues. In an effort to clarify the situation, the Director of the Arms Control and Disarmament Agency, Eugene Rostow, provided the Committee on Foreign Relations with information about the backgrounds and activities of past GAC members and the security procedures that would apply to your participation in the GAC.

However, I believe it is essential that the Committee explore your own views as to your responsibilities as a member of the GAC in order to complete its record with respect to your nomination. Therefore, I invite your response to the following questions at your earliest convenience:

(1) If confirmed as a member of the GAC, what do you understand your responsibilities to be regarding access to and use of classified and national security information?

(2) Under what circumstances, if any, do you believe it may be necessary to excuse yourself from participating in the work of the GAC?

(3) In what ways will you safeguard against there being an actual or even an appearance of a conflict of interest between your work as a member of the GAC and your work as a journalist/columnist?

Your cooperation in this matter is appreciated.

Sincerely,

CHARLES H. PERCY,
Chairman.

By hand delivery and messenger, dated the 3d of December 1982, the following was transmitted to Senator PERCY by Admiral Zumwalt:

DEAR SENATOR PERCY: I am pleased to respond to your letter of November 29, 1982, which I will do in question and answer form:

(1) Question: "If confirmed as a member of the GAC, what do you understand your responsibilities to be regarding access to and use of classified and national security information?"

Answer: If confirmed by the Senate to become a member of the General Advisory Committee, I would be subject to security procedures applicable to the protection of classified matters. The meetings of the

Committee are usually required to be closed to the public and the work of the Committee and contributions and discussions by its other members are protected from unauthorized use and disclosure. I would abide strictly by those constraints.

(2) Question: "Under what circumstances, if any, do you believe it may be necessary to excuse yourself from participating in the work of the GAC?"

Answer: In view of my answer to Question (1), I do not visualize any circumstances under which it would be necessary for me to excuse myself from participating in the work of the GAC.

(3) Question: "In what ways will you safeguard against their being an actual or even an appearance of a conflict of interest between your work as a member of the GAC and your work as a journalist/columnist?"

Answer: As a government servant, I have had many years of experience in having access to highly classified matters. As you know, during those years I have had the occasion to make many speeches, public appearances, media briefings, and to testify in public and unclassified hearings before Congressional Committees. I have therefore had many years of experience in distinguishing between those matters which are classified and those which may properly be discussed. I know of no instances where I have committed a breach of security. I would propose, if serving as a member of the GAC, to apply the same rigid standards which I applied while serving on active duty. If there arose any question in my own mind about whether a specific matter which I was planning to use in a speech, radio or TV appearance, press briefing, article, or syndicated column might be classified, I would not use it until and unless I had assured myself by consultation with the appropriate official in government that it was not, in fact, classified.

I appreciate this opportunity to complete the record of your Committee.

All best wishes.

Sincerely.

E. R. ZUMWALT, Jr.

That letter is signed by Admiral Zumwalt.

Mr. President, I return to the procedural aspect of this case. As I say, my objections at the present time are predicated on procedural aspects, namely that the Senate has not been allowed an opportunity to hold a hearing on this very important nomination. I reiterate the necessity, in my judgment, for the Senate to have such a hearing prior to taking any action on this nomination. We have a very important precedent in this case. It is reflected in Senator PERCY's opening statement in the letter of November 29, 1982, in which he said:

As you know, some serious concerns have been raised in the Senate regarding your nomination to be a member of the General Advisory Committee on Arms Control and Disarmament.

Therefore, Mr. President, at this time I yield the floor to my distinguished colleague and ask again that the Senate reconsider this nomination in view of the precedent.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, my distinguished colleague from Virginia has given the Senate a detailed report on the procedures dealing with this nomination. He has devoted a great deal of time to it. He has presented to the Senate quite a number of letters dealing with this nomination. He has pointed out that there has been no public hearing on the nomination.

He further requests that before the Senate acts on the nomination that there be a public hearing.

It seems to me that that is totally appropriate. I have felt through the years that where a nomination is concerned or where important legislation is concerned, if a Member or Members of the Senate request and feel the need for public hearings, such a request should be honored.

I join with my distinguished colleague from Virginia (Mr. WARNER) in requesting that before the Senate acts on this nomination, and which is usually the case, an appropriate public hearing be held so that questions raised by my colleague can be addressed in open session by the nominee.

I am glad to join with him in making that suggestion or request to the Senate.

Mr. WARNER. Mr. President, I thank the distinguished senior Senator from Virginia. There are other Members of the Senate who have expressed concern on this nomination and in all likelihood we would be joined in such a hearing by a number of other Senators who are equally concerned about this nomination as we are and the need for a hearing.

Mr. HARRY F. BYRD, JR. I might say to the distinguished Senator that this Senator from Virginia also has received comments from other Senators feeling that a hearing would be not only appropriate but desirable.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, as a part of the record on this nomination, I ask unanimous consent that various newspaper articles and other editorial material written by the nominee be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Times, Sept. 30, 1982]

GENEVA: MOSCOW GOES AFTER U.S. SEA-BASED MISSILES

(By Elmo Zumwalt and Worth Bagley)

Soviet positions in the Geneva strategic nuclear arms talks are beginning to leak through the official secrecy screen. According to the *Los Angeles Times*, Moscow wants to limit U.S. sea-based submarine-launched ballistic missiles and totally ban Cruise missiles.

In return, Moscow would cut its own strategic missile and bomber force by 25 percent and accept a 10 percent reduction in U.S. nuclear arms. In contrast, the Reagan plan would reduce Soviet ballistic missile strength 65 percent and our own 50 percent, excluding bombers or Cruise missiles.

We have predicted repeatedly that Moscow would have to demand that America stop planned sea-based missile development and procurement because it represents the only U.S. counter to Soviet nuclear supremacy.

Current U.S. programs will deploy the Trident II ballistic missile in Trident submarines by 1988 or 1989. The Trident II missile will be suitably armed and accurate enough to destroy Soviet ballistic missile silos on land while the Trident submarine from which it is launched retains invulnerability to Soviet preemptive attacks.

Faced with that prospect, Soviet forces that rely on large land-based ballistic missiles would have to be restructured, giving up silo missiles for new mobile ballistic missiles at great cost in funds and time. We have pointed out that this process would restore nuclear stability because neither side could then preempt the other side's capability for nuclear retaliation against missiles retained in reserve.

Our planned nuclear-armed Cruise missiles add to that foreseeable stability. They improve bomber survivability because they strike from long range and because they add nuclear strike capability to ships and to submarines other than the Trident. Thus if our Trident submarines unexpectedly were to become vulnerable, we would have other accurate nuclear weapons and launchers able to sustain the stable deterrent.

Without these emerging sea-based options, the U.S. would have to rely on the land-based MX ballistic missile. After development and lengthy tests, the MX should have accuracy comparable to that of the Trident II submarine-launched ballistic missile. But no survivable basing arrangement for the MX has been devised. It would invite a Soviet preemptive strike and thus would deny the nuclear-force stablity and the protection against nuclear blackmail attainable with our planned sea-based nuclear arms.

A credible U.S. sea-based nuclear force also offers the best alternative to the NATO intermediate-range land-based cruise and ballistic missiles that may begin to be deployed in 1984. That deployment is being discussed with Moscow in separate Geneva arms control talks designed, for the West, to eliminate the Soviet SS-20 ballistic missile threat to Western Europe.

But the NATO nuclear missile deployment may be unilaterally disapproved by two or more of the NATO countries in which the missiles are planned to be based. The evolving political attitudes in these countries may cause them to disapprove missile deployment before the U.S., Soviet arms control negotiations can run their course.

If the proposed missile-basing is reduced in numbers, types and locations by such national decisions, the remaining missile deployment would become less useful to NATO as a whole. If, at the same time, the Soviets persuaded the U.S. to forgo accurate sea-based nuclear weapons, NATO would

have no deterrent to the feared Soviet SS-20 intermediate-range ballistic missiles.

These considerations result in one simple proposition for the U.S. and those who fervently want stability in strategic nuclear arms to reduce the risks of nuclear war: the U.S. sea-based nuclear arsenal must be protected from negotiating concessions and its planned strengthening must be the first priority in U.S. nuclear arms policy.

[From the Washington Times, Sept. 16, 1982]

SPY VERSUS COUNTER-SPY

(By Elmo Zumwalt and Worth Bagley)

Sensible presidential decisions on international policies and actions require good intelligence. But public discussions generally are conducted without adequate intelligence information and estimates. One result is unproductive public debate about what defense strength we require. Other consequences, suggested by recent events, are questions about whether our intelligence is good enough and whether we are prevailing in the undercover contest of counter-intelligence.

Quickly suppressed news reports a month ago revealed that a well-placed person in the British communications intelligence organization was found to be a Soviet spy. The U.S. and Britain coordinate closely on intelligence collection, exchanging data as well as judgments on its implications. Thus the Soviets may have known for some time what we thought about their defense capabilities and vulnerabilities.

Because our conclusions might spur altered U.S. forces and tactics, the Soviets would have sought with bogus intelligence sources to cast doubt on accurate information we collected. We must now question the intelligence sources we thought useful before the British spy was uncovered. We must now re-examine past decisions about what armed power and weapons systems would best serve the Western nations.

Beyond those uncertainties, there is evidence that our strategic intelligence is either deficient or subject to uncorrectable limitations against which our foreign and security policies should guard.

The U.S. declared surprise at the Israeli invasion of Lebanon and at Argentine aggression against the Falkland Islands. We were insufficiently alerted about the Soviet attacks in Afghanistan. We warned Moscow against Soviet armed repression in Poland, and the Polish army did it instead.

Unpublicized alarms about potential aggression in other areas originate from faulty information and analysis. We justify our embargo against the Soviet gas pipeline into Western Europe, in part, on hurting the Soviet economy. Yet our allies using similar economic and political information conclude that a coercive Soviet bureaucracy retain effective options. Faced, in Iran, with the same Soviet political motivations that led to the Afghanistan invasion, we have no visible policy apparently because our intelligence in Iran is inadequate.

Each of these troubling examples poses current or foreseeable problems for U.S. strategic interests. Continued effort go forward to improve the quality of our intelligence sources and estimates, but conditions in this age ae such that a warning of crisis will be short and often unclear. Modern experience shows aggression across borders or internal subversion may materialize after ambiguous signals that delay responses until the ten-undeterred action occurs.

Deception or disinformation, both Soviet skills, may be used to extend and exaggerate warning ambiguities. If we react to one impending crisis by readying and deploying military forces from afar, a clever foe may take advantage of weaknesses then created at other points.

In these circumstances, it is doubtful if American foreign interest can have the protection of armed power unless we are able to deploy peacetime forces continuously in regions of importance. Such regional forces may help deter preparations for aggression or subversion and, if hostile action nevertheless occur, provide defenses that otherwise might be critically delayed because warning was short or ambiguous. That policy requires more capable U.S. and allied armed forces and gives credence to Reagan defense budgets.

The question of the best form for those defense forces and capabilities is another matter, particularly since decision-makers may be confused by inadequate or bogus intelligence information. Both our technical and human sources of intelligence can be fooled.

The uncovering of the most recent British spy is but one of a series of defections in NATO Europe that suggests Moscow has enough information on what we know to carry out useful campaigns of deception and disinformation. We have no choice other than strengthening our own counter intelligence activities, improving the security of our information, and diversifying our intelligence sources.

Finally, there is the issue of providing requisite intelligence support so that a policy can be developed for keeping the Soviets out of strategically critical Iran. Soviet control in that country would be a disaster for our security and influence in the Persian Gulf and throughout the Middle East. The only thing worse than mistaken policies is no policy at all.

[From Newsweek, Sept. 20, 1982]

A NEW INDICTMENT FOR WILSON?

Former CIA agent Edwin Wilson, already under indictment in Washington and Houston for illegal arms transfers to Libya, may soon face another set of charges. Sources closely involved in the case say that prosecutors in Alexandria, Va., will seek to charge Wilson with smuggling four handguns abroad—including a weapon later used to assassinate a Libyan dissident in Bonn. Wilson's lawyer, Herald Price Fahringer, has denied the charges. A former Green Beret, Wallace L. Klink, has already pleaded guilty to helping to ship the pistols to Europe.

[From the Washington Times, Sept. 6, 1982]

CAN WE PREVENT THE ATTACK ON IRAQ?

(By Elmo Zumwalt and Worth Bagley)

Last week we stated that the best way to preserve the regimes of our vital allies on the Arabian peninsula is for the United States to seek a position of influence with Iran. Here is our analysis of how the United States should seek to make a pro-Iranian policy successful.

We have been briefed by a senior member of the Iranian resistance on the situation in Iran which makes it clear that Khomeini's expansion beyond Iran's borders into Iraq, about which we expressed concern, is now imminent. Khomeini is reportedly ready to issue orders for a one- or two-pronged invasion of Iraq. One possible prong would move into Iraq's northern oil field. The other would seize two cities in southern Iraq considered holy by the Shi'ite Moslems. Khomeini has 180,000 troops along a 300-mile border between Iran and Iraq, some 80,000 of which are to be committed to one or both prongs, leaving 100,000 in reserve.

Khomeini operatives are in close touch with their major ally in the war with Iraq—Syria—and are giving consideration to the establishment of a land corridor between Iran and Syria. There would be a campaign in which Syrian forces would move into northeast Iraq and join forces with the Iranian northern oil field thrust.

Khomeini's regime has already approved a constitution for an Iraqi Shi'ite theological state to be imposed by the two victorious Shi'ite powers—Syria and Iran.

To keep his own people under tight control, Khomeini is spreading terror in a manner similar to that imposed by communist regimes in their takeover years. Recently 200 hostages were shot in groups of five or six, at points around Iran selected to best demonstrate the discipline of terror to hostile crowds. The head of Iranian military intelligence recently submitted a letter to his chief of staff and civilian authorities stating that Soviet KBG agents operating throughout Iran were too numerous to control and that the only place where even marginal control could be maintained was within the confines of Tehran.

Given his dangerous internal situation, one cannot be sure that Khomeini will actually carry out his invasion, but we think the chances are 60 percent that he intends to and that the time available to dissuade him is fleeting.

Here is what we would do:

1. Initiate the most intensive possible propaganda campaign through the Voice of America, Radio Free Europe and underground taped messages (of the type that Khomeini used so successfully against the shah) to alert the Iranian people to the increasingly pervasive Soviet influence. This campaign should be designed to make it clear that while Khomeini and his regime are focusing on Iraq, they are surrendering Iran's future to the Soviet empire.

2. Coordinate urgently with NATO and Middle East allies the economic and political sanctions to be taken against Iran in the event of its incursion into Iraq.

3. Similarly, coordinate with the same allies the actions to be taken against the Soviet Union if it assists Iran in this invasion. Privately inform Moscow that its overt political support for Iraq is essential to keep the Mideast from exploding and drawing the United States into other actions.

4. Makes it clear to Syria that its participation in such an invasion will lead the United States to release its restraining hand on Israel, restraint which has to date saved Syria from major Israeli incursions linked to the Lebanon conflict.

5. Encourage and assist the six Gulf states—Saudi Arabia, Kuwait, Bahrain, Oman, Quatar, United Arab Emirates—to accelerate their efforts to coordinate their military forces to improve their mutual defense.

6. Initiate immediate efforts to establish the strongest possible support for the Iranian nationalists operating inside and outside Iran in opposition to Khomeini, including plans for the covert training of thousands of expatriate military personnel.

7. Deploy major elements of the Pacific and Atlantic fleets to the Indian Ocean as a deterrent.

8. Having initiated all the foregoing anti-Khomeini initiatives—all of which will be known to Khomeini either directly or through his own intelligence penetrations—privately makes known to him that the following alternatives are available if he demonstrates restraint at Iran's pre-war borders:

The Gulf states are prepared (indeed, they have already reportedly so indicated) to provide in excess of $28 billion to Iran for post-war reconstruction as part of their own efforts to atone for their mistake in supporting the loser in the Iran-Iraq war.

The United States is prepared to resume the flow of military aid which their military forces badly need after the rigors of war, including spare parts, replacement equipment and technicians.

The United States is prepared to provide economic aid to assist in the rebuilding of Iran's war-torn economy.

The United States is prepared to liquidate its anti-Khomeini actions of the types discussed above in response to Khomeini's restraint.

In essence our analysis suggests that Khomeini is too fanatical to be wooed and won by benevolent measures alone, but probably is too rational to plunge headlong into an array of anti-Khomeini measures when faced with both those measures and benevolent alternatives.

Mr. WARNER. Mr. President, I would like to refer to an article in the Washington Times dated October 5, 1982, entitled "Percy Raises Questions in Zumwalt Flap," and read the following to the Senate:

John P. Roche, another well-known newspaper columnist asked by Reagan to serve on the same advisory panel, decided to stop writing his column in order to accept the Presidential appointment and avoid the appearance of conflict, the Times learned.

Roche started writing for King Features Syndicate in New York 14 years ago after serving President Lyndon B. Johnson as a national security assistant and adviser on the Vietnam war. His column appeared three times a week in 140 newspapers nationwide. Roche's nomination was confirmed by the Senate September 22.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. KASSEBAUM). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF STATE

NOMINATION OF RICHARD R. BURT, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY

Mr. BAKER. Madam President, in view of the statements made by the distinguished Senators from Virginia and other statements made to me, I ask unanimous consent that the Chair proceed to the next nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

The assistant legislative clerk read the nomination of Richard R. Burt, of the District of Columbia, to be an Assistant Secretary of State.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Madam President, on behalf of Senator GOLDWATER, chairman of the Intelligence Committee, speaking for the Intelligence Committee, I rise to express his and my grave opposition to this nomination. It is never pleasant to rise in opposition to somebody who has been willing to have his name put into the public arena for a position of high public trust, but it is the position of high public trust which so significantly concerns Senator GOLDWATER and this Senator from the Intelligence Committee which make it possible to speak in opposition to the nomination. Suffice it to say that those areas of concern of the Intelligence Committee are matters which deal with the most closely guarded secrets of the United States upon which our survivial and, indeed, upon which much of the world's survival depends.

During the course of the hearings on this nomination, it became obvious to us that there had occurred through the writings of Mr. Burt serious disclosures of classified and highly sensitive material of this country. Moreover, it is an event that has occurred more than once. With all due respect to the President's desire to have this person nominated for his position, the purpose of the Senate confirmation is just that, that Senators look to the specific qualifications and, if they can be accommodated in a general way, I am entirely for the nominations of the President of the United States. I have more than once gone along with nominees of this President and President Carter, people who I would much preferred not to have been nominated, but I thought it was their right basically to have whomsoever they selected. However, we do have this confirmation process for a very specific purpose. I think this is one of those most specific purposes. Speaking for myself and Senator GOLDWATER and for other members of the Intelligence Committee, we are prepared to discuss this issue for a considerable period of time and, if necessary, to ask for a closed and secret session of the Senate to provide the Members of this body who are not on that committee with the opportunity to know in fairly specific detail the concerns which we on that committee have.

With that, I am prepared at the moment to yield to the Senator from North Carolina for comments which he may choose to make.

Mr. HELMS. Madam President, I thank the distinguished Senator from Wyoming. As Senator WALLOP has indicated, none of us enjoys opposing any nominee of any President. Generally speaking, I agree with the principle that the President is entitled to have the people that he wants serving in his administration. But the advise and consent requirement imposed by the Senate is not something I take idly. Either we ought to advise and consent or that constitutional responsibility ought to be lifted from our shoulders.

I happen to be the only Senator who could not vote in favor of reporting out of the Foreign Relations Committee the nomination of Mr. Burt. It may be that I did a little more homework in connection with this nomination than others were able to do at that time. But for whatever reason, the Senator from North Carolina felt obliged to stand alone in opposing this nomination in committee.

Let me tell the Senate why, and I shall be as brief as I can.

On July 29, 1979, during the Carter administration, Mr. Burt, who was then a reporter for the New York Times, published an article in that newspaper which did grave security damage to this country. In that article and in others, Mr. Burt revealed highly classified information.

But with particular respect to the June 29, 1979, article, Mr. Burt revealed highly classified information as to the existence, the purpose, and the capability of a very expensive satellite reconnaissance system intended to assist in the verification of the Soviet treaty compliance.

The publication of that information, Madam President, also compromised the position of the United States with regard to a NATO partner. That last point alone raises questions as to how a person who was responsible for such an act could now conduct U.S. relations with our European allies.

The Senate Select Committee on Intelligence did an assessment of the damage which Mr. Burt did on June 29, 1979, and concluded that the information he released fit the literal definition of "top secret"—that is, information the release of which could be expected to do exceptionally grave damage to national security. In the intelligence business, it is seldom possible to estimate the material damage of disclosures. It is enough to say, however, that if the release of the information about this intelligence-gathering system is not gravely damaging, then we can safely open up every safe in the CIA to Soviet inspection.

But beyond the substantive issue, we must examine the overall question of public policy on such disclosures. It has been argued that Mr. Burt was only doing what a good newspaperman should do and that the person who was really guilty was the person or persons who gave him the classified information. Mr. Burt is not on trial. His actual guilt or innocence would be a matter for judicial decision. He admit-

ted, however, before the Foreign Relations Committee that he was aware that the information he published was sensitive. The law provides that not only the person who releases the information, but also the person who publishes the information, or who conceals or harbors someone who releases such information without authorization, is in violation. Mr. Burt declined to tell the Foreign Relations Committee who provided him with the unauthorized information.

Madam President, this past week in an effort to be accommodating to the administration, I, along with a few other Senators, met with Mr. Burt. We met in the Vice President's office for the better part of an hour. Frankly, I was hopeful that Mr. Burt might be able to resolve some or all of my concerns.

Instead of resolving my concerns, he added to them. I say that in that context, I do not know Mr. Burt personally. If I have seen him more than twice in my life, I do not recall when it was. So there is nothing personal with respect to Mr. Burt in my opposition to his nomination.

But Mr. Burt, I say again, declined to tell the Foreign Relations Committee who provided him with the unauthorized information. He declined even to discuss it in that private meeting in the Vice President's office just outside of this Chamber.

Madam President, I guess the bottom line is that we have a prima facie case that Mr. Burt violated the law.

The question then arises whether or not any news reporter should be exempt from the espionage laws under the first amendment.

It would be useful to have the opinions of experts from the Senate Intelligence Committee or the Judiciary Committee, or both, as to whether news reporters, editors, or publishers have or are entitled to a special exemption.

I come from the news business. I spent most of my life in it.

I will say, Madam President, if they do have such an exemption, then no issue of national security can be protected and this Nation stands defenseless.

What does the relevant law say about it? 18 U.S.C. 798 provides:

> . . . whoever knowingly and willfully communicates, furnishes . . . or publishes . . . any classified information . . . concerning the design, construction, use or repair of any device, apparatus or appliance used or prepared or planned for use by the United States or any foreign government for cryptographic or communications intelligence purposes; or concerning the communications intelligence activities of the United States or any foreign government . . . shall be fined not more than $10,000 or imprisoned not more than ten years or both.

In addition, there is 18 U.S.C. 792, which punishes anyone for

> . . . harboring or concealing a person (who a person has reason to believe has or will violate one of the espionage laws, which prohibit distributing classified information to unauthorized persons).

The espionage laws referred to can be found at 18 U.S.C. 793 (e), (g), and 18 U.S.C. 798.

So the law is quite explicitly applicable not only to those who give such information to journalists but also to journalists themselves, i.e., whoever publishes. The words "furnishes" and "communicates" in the statute close off any possible misinterpretation. The law reaches not only those who have sworn to protect the secrets of this Nation, but also those who receive them without authorization and publish, furnish, or communicate them. Not only is the person who breaks his oath guilty, but so is anyone in the subsequent chain of responsibility leading to the appearance of such information in a newspaper on the street, or broadcast on the air.

On June 29, 1979, Mr. Burt wrote, and this story was published, in the New York Times on that date that the U.S. Government had a currently operational intelligence satellite system, code-named Chalet. He let it be known that although this satellite was similar to the U.S. geosynchronous telemetry collection satellite the Soviets knew about, Chalet was different because, although it was capable of intercepting Soviet telemetry signals, it was really intended for other purposes. He also revealed that the antennas were located at a base in Norway, thereby jeopardizing that nation's delicate relations with the Soviet Union, and straining our own relationship.

I can see that, as a journalist, Mr. Burt may have sincerely believed that he had the right, or even the duty, to publish such information, even though to do so was a prima facie violation of the law. But in so acting as a journalist, this Senator believes that Mr. Burt placed himself in a category that, in the opinion of a number of us in the Senate, ought to disqualify him from receiving the distinct honor of confirmation to an office in the U.S. Government of high trust and responsibility. Obviously, Mr. Burt's problem is not that he acted as a journalist, but that he acted as a journalist in defiance of the espionage laws. The Senator from North Carolina spent many years as a journalist hemself, both in the print media and in broadcasting.

I say again that I am especially sensitive to issues of the freedom of the press. It may be that I have somewhat more practical experience in this area than the majority of my colleagues in the Senate, but I will say this, Madam President, I would never uphold an absolute right of Government to secrecy.

But the espionage laws represent a special case in which the Constitution must be interpreted to allow the Nation to protect the secrets which make national survival possible. Any other interpretation would render the Constitution itself inoperative. It is my conclusion that Mr. Burt's action itself undermines the Constitution.

His action also undermined the security of the country. As Senator WALLOP has indicated the full case cannot be made in public because the matters Mr. Burt revealed are part of a top-secret mosaic, parts of which we hope the Soviets do not know. These matters can only be discussed in a secret session of the Senate.

And I have advised the majority leader earlier this morning that it is my intent if this nomination is pushed or not withdrawn, that I will ask for such a closed session of the Senate.

Mr. Burt's untimely disclosure occurred during the previous administration. The then Director of Central Intelligence said at that time that Mr. Burt's disclosures "are having extremely detrimental effects on the capability of the intelligence community to perform its functions." What would be the impact throughout the executive branch if the Senate should confirm to a post of high honor a person who has prima facie engaged in the flouting of the espionage laws? Does anyone think respect for security would be strengthened by the confirmation of this individual? What would those in lower echelons of Government think if we were tempted to disclose national security information without authorization? Would not the result be for the lower echelon personnel to conclude that they, too, can participate in national security leaks if the executive branch and the Senate condone apparent violation of the espionage laws by persons nominated to higher office?

I say again that I have nothing personal against Mr. Burt. I am really not acquainted with him beyond the hearing process in the Committee on Foreign Relations, of which I am a member, and beyond the meeting last week just off this Chamber. I really do not know the man. I do not dispute his ability. I do not dispute his other qualifications to office, but I do say, Madam President, that Mr. Burt is caught in a formal contradiction between the posture he assumed in his past profession and the requirements now for high Government office.

Indeed the question is relevant: how could Mr. Burt even be effective in the post of Assistant Secretary for European Affairs where he would have to deal on an official level with the allies whose interests he betrayed while he was a journalist? Mr. Burt cannot have it both ways and, Madam President, neither can the administration, and certainly the U.S. Senate cannot

and should not attempt to have it both ways.

I thank the Chair.

Mr. MATHIAS. Madam President, I think the time has come to look at the record in this matter. Part of that record is the fact that the President of the United States sent to the Senate the nomination of Richard R. Burt to be Assistant Secretary of State for European Affairs not on the 20th of January 1981 or any date like that early in the administration but, in fact, sent this nomination to the Senate 3 days before the Labor Day recess of this year. So the President had a long time to think about it; the leadership of the State Department had a long time to think about it, and nothing that has been said today by the Senator from North Carolina or the Senator from Wyoming was a secret at the time that nomination came to the Senate. All of those matters had been thought about and weighed and a judgment made by the President of the United States before the nomination came here.

So I think we need to look at the record and see the basis upon which the President made the nomination and, in my judgment, having looked at the record the Senate will conclude that the nomination should be confirmed.

The chairman of the European Affairs Subcommittee of the Committee on Foreign Relations, the Senator from Indiana (Mr. LUGAR), heard testimony from the nominee very shortly after the Senate came back from the Labor Day recess—I believe the date was the 15th of September—and at this hearing Mr. Burt, as would be expected, gave his views on a very wide variety of issues relating to the relations between the United States and Europe, and that included the competitive nature of Soviet-American relations; it included the utility of an aggressive American public information policy in competing with the Soviet Union; it included the implications for the United States of the Soviet Union's economic difficulties; it included the administration's differentiation of strategy to encourage pluralism in Eastern Europe; it included President Reagan's arms control strategy; it included the importance of effective consultative mechanisms and precise treaty language to support effective verification of arms control agreements; prospects for intermediate range nuclear force arms control talks, for the deployment of modernized NATO intermediate nuclear weapons, the advisability of the U.S. sanctions relating to the imposition of martial law in Poland, the importance of close consultation with our European allies to develop a consensus on economic policy toward the U.S.S.R.

So I submit to the Members of the Senate that Mr. Burt displayed knowledge, experience, and judgment on a very wide range of subjects relating to the office for which he has been nominated.

I think in Washington we sometimes throw the word "expert" around loosely, but I do not think it would be inappropriate to apply that to this nominee for this office. It is an area in which he has worked, of which he has knowledge and experience, and I think he could be said to be an expert, and I think the President is fortunate to have available a person of this capacity and competence.

From January 1981 to May 1982 Mr. Burt served as the Director of Politico-Military Affairs of the Department of State. He has served as a consultant to the House Republican Wednesday Group. However, I suppose that his principal experience has been outside of Government, including his career as a correspondent for the New York Times right here in Washington from 1977 to 1980; as a research associate and later as an assistant director of the International Institute of Strategic Studies in London, one of the most highly regarded institutions for the study of international relations in the world; and his work as a senior research associate at the U.S. Naval War College, which has the highest reputation for professionalism and academic excellence.

During Mr. Burt's nomination hearing on the 15th of September the distinguished Senator from North Carolina expressed, as he has here today, some concern about an article that appeared in the New York Times with Mr. Burt's byline on the 29th of June 1979 which discussed certain possible means available to the U.S. Government for monitoring Soviet compliance with the SALT II agreement which was then pending. At this same hearing Mr. Burt was asked by the chairman (Mr. LUGAR) and by Senator PRESSLER a number of questions that concerned this article and that concerned the circumstances of its writing and of its publication.

Mr. Burt responded to these questions and to additional written questions of Senator PRESSLER.

I think it is fair to state that, in accordance with the traditions of professional journalism, he did not disclose the sources and, frankly, that does not surprise me personally. But, in any event, Senator HELMS pursued the matter and at his request the chairman of the Foreign Relations Committee and the ranking minority member, Senator PERCY and Senator PELL, wrote a letter to the chairman of the Intelligence Committee on the 16th of September, asking the Intelligence Committee to make a damage assessment of the possible damage to the U.S. national security interests that resulted from the publication of the article by Mr. Burt. That really is the crux of this discussion here today.

The Intelligence Committee was directed by Senator GOLDWATER, the chairman, to undertake that assessment. It made the assessment. It made its findings. And those findings are available to Members of the Senate.

Now we are at some disadvantage in this discussion today, because, as Senator WALLOP and Senator HELMS have pointed out, the full case cannot be made public. There is a veil of classification that has been cast over these findings. And I am not at liberty to discuss them even in summary here.

But I am not afraid of them, and Mr. Burt should not be afraid of them. The real test is for every Member of the Senate to go read those findings. Not only have I no hesitation in suggesting that Members of the Senate go read those findings, I urge them to go read the findings. Members of the Senate have access to that file and I think, in judging the issue before us, the confirmation of Mr. Burt to be Assistant Secretary of State, we not only have access, we have a duty to go read those findings. It is my judgment that, having read those findings Members would come back to the Senate and address the issue of this confirmation without very much difficulty.

There was a subsequent meeting of the Foreign Relations Committee on September 28 at which the Burt nomination was discussed, including the question of whether his part in the appearance of the publication of the June 29 article might appear to call into question his professional judgment and his suitability for a post of the high sensitivity and the great responsibility of Assistant Secretary of State of European Affairs.

I call to the attention of Senators the fact that the committee made a report on the nomination, included extensive extracts from comments of members of the committee who had heard the testimony or who had an opportunity to study the transcript, and concluded that the nomination should be reported favorably to the Senate. Now we all know that committee reports are not conclusive of what the action of the Senate will be, but at least it deserves, I think, some evidential value in making the judgment of the Senate. And in this case I hope it will be the dominant voice and dominant influence in confirming Mr. Burt.

I had no trouble in supporting Mr. Burt's nomination because, as I say, I think he is personally qualified as a matter of education, as a matter of experience, and as a matter of judgment. I continue to support him. Even if I had a question in my mind about this so-called security violation—which did not occur while he was a Government employee or official, which occurred at a time, in fact, when he was a newspaperman—even if I had concern about that, my mind would feel considerably

reassured by the fact that he has voluntarily undertaken to execute the oath which is required and which deals specifically with this subject.

He has, among other things, agreed, as to article III of this particular assurance:

> I shall not publish nor reveal to any person, either during or after my employment, any classified or administratively controlled information or other information transmitted to me in confidence in the course of my official duties, except in accordance with these official instructions or regulations or except as may hereafter be authorized by officials empowered to grant such authority.

I believe Mr. Burt is an honorable man. The President obviously has confidence in his integrity. He has made this assurance and I am willing to allow him to have an opportunity to prove his sincerity on that subject. It is a pledge which has been carefully crafted, after years of Government experience in these matters. I think it is comprehensive and I believe that I should give the Senate a great deal of assurance in approving this nomination.

I think further, Madam President, that in dealing with this matter, it is very difficult not to speculate from where the information originally came. I think it is at least a reasonable speculation to think about from where this information may have come.

Now there is a practice which is current in Washington, in fact, it is one of the recognized tools of Government—I say it is a recognized tool of Government; I do not claim it to be an approved tool of Government—but it is not unknown that high Government officials, usually undisclosed, employ what has come to be known as the executive leak.

Mr. Burt has not told me that the source of the information in this article was an executive leak. To my knowledge, he has not said that to anybody else. He certainly did not say it in the committee. But it would not be a great surprise to me if I were some day to find out that that were, in fact, the case, a case of instant declassification by a competent authority.

The Senator from North Carolina has said that the article was published without authorization.

We do not know that. I do not know whether he is right or whether he is wrong. But I do know that there are cases where competent authority on a background basis use the press, employ the press. Whether or not this is such a case is not necessary to decide for the purposes of acting on this nomination. I do think as we consider the kind of charges that have been made here against Mr. Burt, we also ought to consider the climate in which Mr. Burt was writing as a journalist, and at least consider that as a possiblity.

Madam President, we are in a very difficult period of history in the Atlantic Alliance. The newspaper today reports that Denmark is reconsidering some of the commitments to NATO.

The Secretary of State is undertaking a visit to Europe of about 2 weeks' duration in which he will deal with heads of governments, in which he will try to repair the somewhat tattered remants of our alliance, to try to knit up the alliance.

I have recently been in Europe as a member of the Senate delegation to the NATO Assembly and saw and heard the kind of tensions that exist within the NATO Alliance. I find it very difficult to believe that it is in the best interests of the United States to withhold from the President and to withhold from the Secretary of State the services of an experienced, knowledgeable, and competent Assistant Secretary for Europe.

The mutual interests, the common goals that we share with our European allies, with our friends in Europe, are now and have been the very foundation of American foreign policy, and that foundation is being shaken by painful disputes on trade, debates on economic policy, debates that grow more angry as the recession gets deeper and squeezes the flexibility out of policy.

The Secretary General of the OECD reports that by next July unemployment in Europe will rise from the current level to about 15.5 million men and women out of work, and that will increase, rather than decrease, the kind of problems the exist between this side of the Atlantic and the other side of the Atlantic.

The continuing debate over an equitable sharing of the burden of common defense and the appropriate mixture of modern nuclear and conventional forces is intense debate. It is heated up by the political atmosphere.

I think it is impossible not to recognize that we are handicapping ourselves if we are handicapping the President, that we are handicapping the United States in a complex and troubled period by being for 9 long months without the authoritative leadership of a confirmed Assistant Secretary of State for European Affairs.

I think the Senate should consent to this nomination. I think we should do that out of personal fairness to Mr. Burt. But, more importantly, out of concern for one of the most vital and one of the most challenged areas of interest of the American people: our relationship with Europe.

So, Madam President, I hope the Senate will, without further delay, confirm this nomination.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, I object to the confirmation of Richard Burt because the questions which I asked Mr. Burt on Friday have not yet been answered. Mr. Burt is presently on a trip to Europe, or at least that is my understanding.

I would like to mention to my colleagues that Mr. Burt requested that my questions be given to him, and he indicated that he would be most willing to provide answers.

My questions, which I will list in a moment, pertain to new information that came to light after the Senate Foreign Relations Committee hearing on Mr. Burt's nomination. These matters need to be thoroughly investigated prior to the consideration of Mr. Burt's nomination. I see no real reason for urgency in considering Mr. Burt's nomination at this particular time, although I understand why the Secretary of State and others would like to have this completed as soon as possible.

I strongly urge my colleagues to postpone the consideration of Mr. Burt's nomination until the 98th Congress. I am speaking, I might add again as others have today, on behalf of Senator GOLDWATER and Senator DENTON as well, neither of whom could be here, Senator GOLDWATER, recuperating in Arizona as a result of surgery, and, of course, Senator DENTON, who is unable to come to the floor. I might add there are others who have been chatting with me about this particular issue and this particular nomination who could not be here today to state their objections.

Madam President, I would like to say that I regret that this matter has become public because of an unfortunate leak. However, I will insert into the RECORD my questions to Mr. Burt that I sent to all steering committee Senators last Friday as well as the Washington Post coverage of this issue.

These questions are stated in the form of statements, and I hope Mr. Burt will be able to provide evidence that they are not true.

Madam President, I will also insert in the RECORD columns about Mr. Burt by columnist John Lofton which appeared in the Washington Times.

The questions are questions that have been raised by various Senators and various staff members, and, I might add, various people within the administration concerning some of the things which have occurred.

I think they are sincere statements that may or may not have great significance in all cases but I believe, in some cases, have tremendously great significance with regard to the choice and selection of Mr. Burt for this very important position.

I might also add that I personally like Mr. Burt and have no question

about his intelligence or his ability to understand this job and his desire to do so.

Let me list these questions. I reiterate that these questions are in the form of statements which I hope will be answered very soon.

1. You opposed the zero option for the INF talks before the President's decision overruled you, both with respect to ruling out any fallback position and with respect to our NATO allies' views on the zero option which you had incorrectly predicted would not support the zero option. According to your colleagues, you made matters worse by stating publicly at a conference in Germany the day Secretary Haig resigned that you could see four fallback options for the INF negotiations even after the President had decided that there would be no discussion of fallback options.

2. You opposed the production decisions on both chemical weapons and enhanced radiation warheads in memoranda you wrote, but the President overruled your recommendations on these issues.

3. You opposed raising any Soviet violations of any SALT agreement at the SCC talks in Geneva, and you personally determined at the SALT Inter-agency Group in April 1981 that the working group findings should be rejected despite the fact that the findings were that the Soviets had violated SALT agreements. Your colleagues claim that your efforts to expose Soviet use of biological warfare amounts to an effort to cover up your refusal to face the issue of SALT violations as called for in the Republican Party Platform.

4. You opposed continuing the pipeline sanctions and the European bureau sent a memorandum to the Secretary of State cautioning that the issue of Soviet slave labor on the pipeline should be played down, and could not be proved.

5. You opposed any decision to deploy submarine-launched nuclear cruise missiles in a memorandum to Secretary Haig in February 1981, but the President overruled you.

6. With respect to the START negotiations on which much of the President's credibility in arms control depends, you repeatedly opposed any provisions to limit Soviet throw-weight and finally settled for this provision to be included vaguely in a second phase of START. This contravenes Senator Jackson's 1972 concern, embodied in statute about equal levels of arms. You argued in memoranda that any mention of throw-weight limits would never be accepted by the Soviets, and your argument has now been used by the media to undermine the President's START proposals.

7. You wrote memoranda to Secretary Haig discussing how to evade the intent of Congress with respect to the Taiwan Relations Act, and participated actively in the Taiwan Communique debates on the side of the career officers who insisted on a cut off of all arms sales to Taiwan at a date certain—which was personally rejected by Judge Clark and the President.

8. Now that the INF talks have recessed for the winter, you have proposed that the earlier idea of equal numbers at significantly reduced levels now be revived, in direct opposition to the President's decisions. Your Bureau has asked for consideration of a Soviet offer about SS-20 deployments beyond the Urals as an acceptable basis for compromise.

9. You signed a memorandum to the Secretary of State calling for a lifting of the pipleine sanctions—in contrast to what I may have misunderstood you to be saying this morning that you were not involved in this issue.

10. You opposed the effort within the Administration to advise the President that the SS-16 activities of the Soviets constituted a specific "violation" of SALT Agreements this spring. In fact, you only consented to raise any issues at the SCC in Geneva under pressure from other officials.

11. You drafted the cable (and are so indicated on that cable) that rebuked Navy Secretary John Lehman in early 1981 for criticizing the SALT II agreement and that made it policy to abide by that agreement. This cable was not cleared or even shown to the Defense Department or the NSC staff or Dick Allen, not to mention President Reagan.

12. You wrote memoranda and briefed Department officials on the need to either circumvent Dick Allen and the NSC staff or to encourage the departure of Dick Allen so as to give Al Haig a free hand in foreign policy, to include contacts with the media on this topic.

13. You briefed the media aboard Secretary Haig's aircraft while in Asia in order to undercut Ambassador Jeanne Kirkpatrick's role in negotiating with the Iraqi Ambassador to the UN, and your role was revealed in the press as were White House aide's calls for your resignation at the time. The President telephoned Mrs. Kirkpatrick in France to apologize to her for the news articles that you had generated.

(Mr. HAYAKAWA assumed the chair.)

Mr. HATCH. At this point, Mr. President, I ask unanimous consent that an article by Mr. Murray Marder of the Washington Post, entitled "Senate Opposition Demands Records About Diplomat" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Dec. 8, 1982]

SENATE OPPOSITION DEMANDS RECORDS ABOUT DIPLOMAT

(By Murrey Marder)

Senate challengers of Richard R. Burt's confirmation as assistant secretary of state for European affairs, suspecting that he has undercut tough negotiations with communist countries, are demanding the records of policy positions taken by the State Department in meetings with the National Security Council and other agencies.

The Burt nomination is one of several disputed nominations scheduled to be called up today on the Senate floor amid threats of a filibuster.

In preparation for a possible showdown today, Sen Orrin G. Hatch (R-Utah), speaking for himself and "my colleagues" among conservative Republicans, submitted a 13-point broadside of accusations against Burt. They question his positions on nuclear arms control policy, sanctions on trade with the Soviet Union in the pipeline dispute and limitations on arms sales to Taiwan, among others.

Hatch said yesterday that he wrote two letters to Burt last Friday following a meeting of the Senate Steering Committee, an unofficial group of Republicans, with Burt and Powell Moore, assistant secretary of state for congressional relations.

In one letter, Hatch said "long-term supporters of President Reagan like ourselves have been appalled at these reports of the positions you have taken." Hatch said the only way "to satisfactorily refute" the accusations "would be to provide us with copies of the State Department positions submitted to NSC or inter-agency meetings about these issues."

It is standard practice in the executive branch to deny requests for records of inter-agency policy debates on grounds of executive privilege, and the State Department yesterday declined to comment on any of the issues raised in Hatch's letters.

Hatch was in a Salt Lake City hospital yesterday recuperating from surgery, but said he expects to be in the Senate today and awaits responses. According to Hatch, Burt answered "three or four" questions Friday, denied those accusations, and said he is prepared "to answer all questions." Burt is traveling with Secretary of State George P. Shultz in Europe.

Among the matters that Hatch said await answers are charges that Burt, inside the administration, originally opposed "the zero option" in negotiations with the Soviet Union on limiting European-based nuclear weapons, "opposed raising any Soviet violations" of agreements on limiting intercontinental nuclear missiles, and opposed continuing sanctions on allied nations helping to equip the Soviet natural gas pipeline.

Burt also was questioned by Hatch about meetings with New York Times reporter Judith Miller and her "articles on arms control appearing so soon after your own meetings with her." Other sources have said that Burt, who has declined public comment on the accusations, denied leaking any stories to Miller and denied the other charges by the Senate critics.

Mr. HATCH. Mr. President, I ask unanimous consent that three articles by columnist John Lofton—one dated September 27, 1982, entitled "Old Leak May Sink Burt Nomination"; two dated October 6, 1982, and entitled "Senate 'Dogs' Sniff at Nominee's Record"; and three dated October 22, 1982, entitled "Nominee Burt Misscores Again"—be printed in the RECORD at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Times, Sept. 27, 1982]

OLD LEAK MAY SINK BURT NOMINATION

(By John Lofton)

A white-hot, knock-down-drag-out, behind-the-scenes battle is rapidly coming to a head over the nomination of former New York Times correspondent Richard Burt to be assistant secretary of state for European affairs. The issue: should an ex-reporter who wrote a story containing classified information damaging to the national security be named to such a high government post?

The critics of Burt include:

Intelligence Committee Chairman Sen. Barry Goldwater, R-Ariz., who on July 21 wrote a top secret code word letter to Secretary of State George Schultz asking that Burt's nomination be withdrawn. Inexplicably, Goldwater's request was neither acknowledged nor answered. And Burt's nomination was sent forward to the Foreign Relations Committee.

Sens. Jesse Helms, R-N.C., Don Nickles, R-Okla., John East, R-N.C., Orrin Hatch R-Utah, and James McClure R-Idaho, all of whom wrote a letter about Burt on September 15 to Foreign Relations Committee Chairman Sen. Charles Percy R-Ill. In this letter the senators call Percy's attention to two things: (1) "the most serious questions" raised by a three-year old Burt article in the Times and (2) "a record of indiscretions committed by Mr. Burt," a record supposedly compiled by the State Department's Security Bureau. Burt denies any such indiscretions.

And finally, although its recommendation was ignored by Secretary Shultz, the White House Presidential Personnel Office also opposed Burt's nomination.

Among Burt's defenders are: U.S. Deputy Permanent Representative to the U.N. Ken Adelman; former Kissinger protege Helmut Sonnenfeldt; and Deputy Assistant Secretary for European Affairs Mark Palmer. In recent weeks, all three have phoned various Senate staffers to lobby for Burt's nomination.

In separate interviews, here's what I've been told. Adelman says the case against Burt rests on "lousy grounds" Sonnenfeldt thinks Burt is getting a "bum rap." And Palmer believes the issues being raised against Burt are "outrageous." Burt refuses to talk on-the-record about his situation.

So, what is the beef about Burt? Well, the central controversy revolves around an article he wrote for the Times on June 29, 1979. In this piece, quoting only "officials," Burt reported in detail how the Carter administration—concerned that Turkey might not allow U-2 reconnaissance planes over its territory—was preparing an alternative plan for verifying the new strategic arms treaty with Moscow. This plan, it was said, called for several improvements to existing methods for monitoring Soviet missile tests, including the upgrading of an electronic listening post in Norway and the use of a satellite that was programmed to collect other information.

Now, there's no doubt that the information in Burt's story was classified. When asked this question directly in his confirmation hearing on Sept. 15 before the Foreign Relations Committee, Burt replied: "Well, I will be quite honest. I assumed that it probably was (classified material) . . . I presumed it was sensitive information." In fact, Burt said that following the publication of his article he was made aware "by people" that his story had created "concern" within the intelligence community. Noting that he was "somewhat alarmed" by this, Burt says he "immediately sought appointments with (at the time CIA Director) Stansfield Turner about this problem.

A source I consider reliable, says that Burt's story compromised one of this country's "most secret and fragile" intelligence gathering systems. It did this in three ways, according to another equally reliable source: (1) It named the satellite; (2) it named its original mission; and (3) it revealed that this satellite could be reprogrammed.

Tomorrow the Senate Intelligence Committee will turn over to the Foreign Relations Committee a damage assessment report which will evaluate the damage done by Burt's three-year-old article. My sources say that while this report will be understated, it will be "devastating" to the contention by Burt and his backers that his Times story did no real harm to U.S. national security. Even Ken Adelman, one of Burt's defenders, tell me he has "no doubt" that the information Burt published "damaged the national interest."

What's astounding about this whole affair is the nonchalance on the part of Burt's backers regarding the very serious issue of his having disclosed classified information. Adelman argues that Burt was just "doing his job" and "that's what happens in Washington—people are given information and publish it." Sonnenfeldt says he doesn't see how a defense or national security reporter "who is given stuff" can avoid publishing it. He observes:

"It would be a shame if Rick was singled out. If journalists once get pilloried for having used stuff given to them by people with access to classified or sensitive information, it's going to go a long way—maybe even to some of the people attacking this particular journalist."

Mark Palmer, who says he doesn't want to go into who he has called in Burt's behalf, says only that the charges against Burt are "outrageous." Both Adelman and Sonnenfeldt readily admitted that they had not investigated thoroughly just how damaging Burt's article in the Times was. At Burt's confirmation hearing before the Foreign Relations Committee, Sen Joe Biden, D-Del.,— who is also a member of the Intelligence Committee—treated the whole subject as a joke. He got a laugh when he said that he had heard it rumored that on occasion senators have leaked sensitive information for political purposes."

Ha-ha.

Just exactly how the flap over Richard Burt's nomination will turn out remains to be seen. But, the relevant question has been raised by Sen. Claiborne Pell, D-R.I., who asks: is Burt's article in the Times material to the consideration of his appointment? The answer must be: it most certainly is and Burt's critics are absolutely correct in raising this issue.

[From the Washington Times, Oct. 6, 1982]

SENATE "DOGS" SNIFF AT NOMINEE'S RECORD

(By John Lofton)

An urgent phone call last Friday night from Secretary of State George Shultz to Senator Orrin Hatch, R-Utah, requesting that he, in effect, call off the dogs concerning the nomination of Richard Burt to be assistant secretary for European affairs, has been ignored for very good reasons: the dogs are on to something. In fact, the dogs are hot on the trail of a lot of things. Hatch was called by Shultz because he is vice chairman of the Senate Steering Committee, which has placed a hold on Burt's nomination.

Originally, hardline Reaganites were on Burt's case because of an article he wrote on June 29, 1979, when he was a reporter for the New York Times, an article which Senator Jesse Helms, R-N.C., says did "grave security damage to his country." This story revealed highly classified information as to the existence, purpose and capability of a very expensive satellite reconnaissance system intended to assist in the verification of Soviet compliance with certain treaties.

Helms says a prima facie case can be made that Burt broke the law. He also says Burt's article "compromised the position of the U.S. with regard to a NATO partner a point alone which raises questions as to how a person who was responsible for such an act could conduct relations with our European allies."

In his confirmation testimony before the Senate Foreign Relations Committee in mid-September, Burt said that prior to publishing his controversial article he checked with no one to see if its publication might be harmful to U.S. national security. But now, in a stunning revelation, in an Oct. 1 letter to Sen. Hatch, Burt says:

"In the specific case of the June 29, 1979 article . . . I was warned by an official that an item of information provided to me should not be compromised. I agreed, and omitted that information from the article."

In recent days, the firestorm of reaction against Burt's nomination has been fueled by other concerns in the area of policy. According to sources familiar with Burt's positions, these policy areas include the following:

Intermediate Range Nuclear Forces in Europe. Burt is said to have opposed, before it was policy, the administration's "zero option" nuclear weapons plan favoring instead a plan that would have seriously limited U.S. deployment options in Europe. At a recent SALT/INF Backstop Committee meeting at State, Burt reportedly advocated immediate consideration of a Soviet proposal concerning the Russian SS-20 missiles, which hardline Reaganites ridiculed and wanted to reject.

START (Strategic Arms Reduction Talks). Burt has persistently pushed policies that would have resulted in the retention of Soviet superiority over the United States. Burt hastily and successfully rammed through the current U.S. START plan now on the table in Geneva, a plan which because it was hurried through to appease the European peace movement, has not been certified as verifiable by the intelligence community.

SALT Violations. Burt was a key architect of the administration's present policy that is to, de facto, adhere to the SALT II Treaty, which candidate Reagan denounced as "fatally flawed," Burt had fought against the idea of challenging and revealing Soviet violations of SALT—something that was promised in the 1980 GOP Platform.

Soviet Pipeline. Burt originally opposed any sanctions against those who wanted to help build the Soviet natural gas pipeline to Western Europe. Lately he has advocated softening those sanctions that were imposed.

NATO Defense Spending. Burt has opposed suggesting publicly or privately that our NATO allies pay a larger share of the defense cost of protecting Western Europe.

To a man, several sources I talked to who have seen Burt work, say that he is not a Reaganite, that he is far too pragmatic and that he is too willing to compromise the Reagan foreign policy agenda for reasons of political expedience.

In late November, Rick Burt will appear before the Senate Steering Committee to answer these charges. It should be quite a show.

Footnote: Burt refuses to discuss these matters on-the-record.

[From the Washington Times, Oct. 22, 1982]

NOMINEE BURT MIS-SCORES AGAIN

(By John Lofton)

Having already gotten himself in crossways with a number of conservative Republican senators—for reasons elaborated on here on two previous columns—Richard Burt has now angered the White House Office of Presidential Personnel. Burt is the president's nominee to be the assistant secretary of state for European affairs. Here's the inside story:

In early September, even before Burt himself had been confirmed by the Senate for

his own job, the State Department notified the White House personnel shop that Burt intended to appoint three people to be his deputy assistant secretaries. These individuals are all careerists and they are: Mark Palmer, Robert Blackwell and James Dobbins. None of these three gentlemen is, by any stretch of the imagination, a Reaganite.

Blackwell first went to work at the department under President Johnson in 1967. He was a special assistant to Henry Kissinger's protege Helmut Sonnenfeldt from 1973 to 1975. And from 1979 to January 1981, he was a senior staff member of President Carter's National Security Council. One knowledgeable source tells me Blackwell was one of the "architects of Carter's foreign policy." Dobbins also came to the State Department under the Johnson administration in 1967.

Now, what has angered the folks in White House Presidential personnel is the fact that Burt's three choices for these senior executive service slots have been presented to the White House as a fait accompli on a take-it-or-leave-it basis. This was done despite well-known White House preference that this not be done. What the White House personnel people want is an opportunity to suggest their own choices for jobs like the ones Burt has already picked people for. And Burt did not give them this opportunity.

When I asked Burt why he had ignored the desires of the White House personnel office regarding his three deputy assistant secretaries, he said he was not aware that the White House wanted a chance to fill these jobs with non-careerists.

Me: But, why wouldn't you have asked the White House if the president had any people to hire as your assistants?

Burt: "Because I wanted—it just—I wanted people I could work with. I wouldn't have chosen these people if I thought they were unacceptable to the president."

Me: Would White House opposition to your choices for these jobs have made any difference?

Burt: "I don't know. I want to be loyal to the White House, to the president."

Burt says that "professionally" he doesn't report to the White House, that he has "nothing to do with them" and this would be "going out of channels." It's not his job, he says, to ask the White House for the names of possible appointees.

Burt's responses to my questions are preposterous on their face. After all, Burt himself is a presidential appointee! Therefore, it is incumbent upon him—or so it would seem—to look out for the interests of both the president and the White House personnel office, which operates in his behalf. This has not been done.

Burt may indeed be loyal to the White House and the president. But, by admitting he has "nothing to do with them" and, by his actions, demonstrating that he doesn't care whom the president wants named to high State Department posts, Burt sure has a strange way of showing is loyalty.

Footnote: Burt may believe he's going to get his way with Palmer, Blackwell and Dobbins. But, the White House personnel office is going to wage war on this one. And Burt himself may well be part of the final body count.

Mr. HATCH. Mr. President, I am trying not to pass judgment on Mr. Burt. I personally have reviewed some of the Intelligence committee's report on the Burt nomination. It is my understanding from looking at the report tht not one of the 12 members of the Committee on Foreign Relations who voted for Mr. Burt has reviewed those records. Be that as it may, I do think that the charges which have been raised by some Senators, by some people on the Hill and by others in the administration, are charges that need to be removed. They need to be explained away. They need to be resolved.

That does not mean that Mr. Burt has to agree philosophically with anybody in the U.S. Senate. I am the last to make that a requisite. As a matter of fact, I have a general record of supporting whoever is nominated by whichever President under whom I have served as a U.S. Senator. I believe that a President should be given great leeway in his nominations and, even though I might differ philosophically, I will say that for the most part, I have tried to support those nominations or have at least not raised objections against them.

I believe the questions raised in this letter, which Mr. Burt—at least I thought—had agreed he would answer, are important questions. They do not have to be answered satisfactorily to me nor do I suppose that they have to be answered satisfactorily to any other Senator. But they are important. Some of them are important because I asked three or four of them of Mr. Burt during our special meeting. He answered them and in subsequent checking, there is some indication that some of the answers he gave were, if not false, at least inaccurate.

That bothers me as a Senator.

I have also been to every arms control negotiation over this past recess, the purpose of which was to examine these arms control negotiations and be as informed as possible on not only the importance of them, which I sincerely declare at this time, but also to be as informed as possible on the significance of each stage of those negotiations. I personally believe that this President has done as much if not more than other Presidents to advance the cause of peace and the cause of real negotiation with our adversaries, and in particular our Russian adversaries, in the hopes of furthering world peace and the reduction of nuclear weaponry. I believe that headway can be made, but I also believe that he needs a team that will help him in this regard. I sometimes think that without Richard Nixon, China never would have been opened. It took a Republican President, who had somewhat of a conservative reputation, even though there are those who would disagree with that characterization, with guts to open up that very important relationship, which is very important and very much supported by many of us in the Senate.

I personally believe that we have an opportunity second to none, because of this President's great desire to further the cause of arms control negotiations, while at the same time strengthening Americas to at least a parity with Russia, to accomplish more than has been accomplished at any time with regard to arms control.

I believe he deserves and needs people who will aid him in those endeavors. There is no doubt in my mind that Mr. Burt has the intelligence to do so. I do have some doubts as a result of the information which has come to me through other Senators and through other people who are informed, or at least are in positions to be informed, concerning whether or not Mr. Burt will work consistently with the other members of the administration to obtain the breakthroughs that all of us hope can be obtained. I think he can resolve these problems in a great sense by answering these simple questions.

I again state for Mr. Burt's benefit as well as others at the State Department that he does not have to answer them all to my pleasure or to my satisfaction in the sense of agreement with me. But he does have to answer them to my satisfaction as far as honesty is concerned. I believe that has to be done, and I will oppose this nomination until it is. So I not only represent my own point of view here, I represent a number of other Senators who are concerned about this matter and who do want this matter resolved as quickly as possible, and hopefully it will be resolved in favor of Mr. Burt. If that is the case, nobody will be happier about that than I.

On the other hand, if it cannot be resolved in his favor because of various matters, then I suppose the country will have been done a service. I personally disagree with the compromise of classified, and I might add highly classified, information which was the case here in the public media, and especially by people who have had great experience in knowing what is or is not or what should or should not be classified information. In this case Mr. Burt certainly meets those criteria.

There have been those in high positions in Government today who personally feel that Mr. Burt made his choice, whether somebody who knows better, in compromising some of the information which Senators on the floor today claim has been compromised and which I know has been compromised.

Even so, perhaps, this matter can be resolved, and in a reasonable and good way, satisfactorily to the administration, Secretary Shultz, Mr. Burt, and everybody else. But I hope that these questions will be answered, and I will oppose this nomination until they are.

Mr. MATHIAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. MATHIAS. Mr. President, first let me thank the Senator from Idaho who deferred so I could respond immediately to the remarks of the Senator from Utah, because I have listened with great attention and with great interest to the questions that the Senator from Utah has posed to Mr. Burt. Many of them are substantive and pertinent questions, but I would hope that he would not press Mr. Burt on the subject of the infighting around Richard Allen.

Mr. HATCH. I will not do that.

Mr. MATHIAS. I hope he would not do that because, after all, Mr. President, that was not a happy scene. He has received a lot of publicity. I consider myself a friend of Richard Allen. I think we all regret the nature of that tragedy for him, but however that may have been Richard Allen has left the public service, Alexander Haig has left the public service. The question of who was right and who was wrong is now committed to the pens of historians who will be corrected by semanticists, so that is not something that we have to inject into this confirmation proceeding. Let us judge it on the merits of the nominee.

Mr. HATCH. Will the Senator yield on that point?

Mr. MATHIAS. I think on the question of the merits of the nominee, the evidence is overwhelmingly in favor of the President's choice.

I will yield for a question.

Mr. HATCH. If the Senator will yield for a statement, I have no intention of dredging up the Richard Allen problem. As far as I am concerned, that is by the boards, and I am more interested in the substance of the nomination.

Mr. MATHIAS. Then we can advise Mr. Burt to strike the Richard Allen question?

Mr. HATCH. Not the question but any concern about why Richard Allen resigned.

Mr. SYMMS. Mr. President, I rise to associate myself with not only the eloquent remarks but the position that was taken by my distinguished colleague from the State of Utah, Senator HATCH.

I make the same request, that before Mr. Burt comes before the Senate for confirmation he should answer those questions that have been posed in the two letters from our good colleague from Utah, Senator HATCH. I request unanimous consent that both of Senator HATCH's letters to Mr. Burt dated December 3, 1982, be printed into the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

SENATE STEERING COMMITTEE,
Washington, D.C., December 3, 1982.

Hon. RICHARD BURT,
Assistant Secretary of State for European Affairs-designate, Department of State, Washington, D.C.

DEAR RICH: I appreciate your taking the time to meet with the Steering Committee Senators this morning and to reply to our many questions.

As I promised you and Powell Moore, these are the key questions that my colleagues and I believe you will have to resolve to avoid a major Senate debate on your confirmation because we have been repeatedly informed by your colleagues in the Reagan Administration that your policy positions and conduct run counter to the best interests of President Reagan, the national security community, and the Department of State. The only way to satisfactorily refute these comments from your colleagues would be to provide us with copies of the State Department positions submitted to NSC or inter-agency meetings about these issues. I am sure you can understand why long-term supporters of President Reagan like ourselves have been appalled at these reports of the positions you have taken. In other words, my colleagues and I will have to oppose your confirmation unless you can show you support the President's policies.

1. You opposed the zero option for the INF talks before the President's decision overruled you, both with respect to ruling out any fallback position and with respect to our NATO allies' views on the zero option which you had incorrectly predicted would not support the zero option. According to your colleagues, you make matters worse by stating publicly at a conference in Germany the day Secretary Haig resigned that you could see four fallback options for the INF negotiations even after the President had decided that there would be no discussion of fallback options.

2. You opposed the production decisions on both chemical weapons and enhanced radiation warheads in memoranda you wrote, but the President overruled your recommendations on these issues.

3. You opposed raising any Soviet violations of any SALT agreement at the SCC talks in Geneva, and you personally determined at the SALT Inter-agency Group in April 1981 that the working group findings should be rejected despite the fact that the findings were that the Soviets had violated SALT agreements. Your colleagues claim that your efforts to expose Soviet use of biological warfare amounts to an effort to cover up your refusal to face the issue of SALT violations as called for in the Republican Party Platform.

4. You opposed continuing the pipeline sanctions and the European bureau sent a memorandum to the Secretary of State cautioning that the issue of Soviet slave labor on the pipeline should be played down, and could not be proved.

5. You opposed any decision to deploy submarine-launched nuclear cruise missiles in a memorandum to Secretary Haig in February 1981, but the President overruled you.

6. With respect to the START negotiations on which much of the President's credibility in arms control depends, you repeatedly opposed any provisions to limit Soviet throw-weight and finally settled for this provision to be included vaguely in a second phase of START. This contravenes Senator Jackson's 1972 concern, embodied in statute about equal levels of arms. You argued in memoranda that any mention of throw-weight limits would never be accepted by the Soviets, and your arguments has now been used by the media to undermine the President's START proposals.

7. You wrote memoranda to Secretary Haig discussing how to evade the intent of Congress with respect to the Taiwan Relations Act, and participated actively in the Taiwan Communique debates on the side of the career officers who insisted on a cut off of all arms sales to Taiwan at a date certain—which was personally rejected by Judge Clark and the President.

8. Now that the INF talks have recessed for the winter, you have proposed that the earlier idea of equal numbers at significantly reduced levels now be revived, in direct opposition to the President's decisions. Your Bureau has asked for consideration of a Soviet offer about SS-20 deployments beyond the Urals as an acceptable basis for compromise.

9. You signed a memorandum to the Secretary of State calling for a lifting of the pipeline sanctions—in contrast to what I may have misunderstood you to be saying this morning that you were not involved in this issue.

10. You opposed the effort within the Administration to advise the President that the SS-16 activities of the Soviets constituted a specific "violation" of SALT Agreements this spring. In fact, you only consented to raise any issues at the SCC in Geneva under pressure from other officials.

11. You drafted the cable (and are so indicated on that cable) that rebuked Navy Secretary John Lehman in early 1981 for criticizing the SALT II agreement and that made it policy to abide by that agreement. This cable was not cleared or even shown to the Defense Department or the NSC staff or Dick Allen, not to mention President Reagan.

12. You wrote memoranda and briefed Department officials on the need to either circumvent Dick Allen and the NSC staff or to encourage the departure of Dick Allen so as to give Al Haig a free hand in foreign policy, to include contacts with the media on this topic.

13. You brief the media aboard Secretary Haig's aircraft while in Asia in order to undercut Ambassador Jeane Kirkpatrick's role in negotiating with the Iraqi Ambassdor to the UN, and your role was revealed in the press as were White House aide's calls for your resignation at the time. The President telephoned Mrs. Kirkpatrick in France to apologize to her for the news articles that you have generated.

These seem to be the main questions, Rick, and I remain confident that you can refute these allegations and silence once and for all your critics within the Administration. It would help if you had deputies named by the White House rather than from the Foreign Service and if you could lay to rest the rumors about Judith Miller's articles on arms control appearing so soon after your own meetings with her, but these are less important to my colleagues and me than the substantive issues.

An attached letter raises another set of issues that I hope you can address with a separate codeword response.

Thanks for your frankness.

Sincerely,

ORRIN G. HATCH,
Vice Chairman for Foreign Policy.

U.S. SENATE,
Washington, D.C., December 3, 1982.

Hon. RICHARD BURT,
Assistant Secretary for European Affairs-designate, State Department, Washington, D.C.

DEAR RICK: I and several colleagues would very much appreciate receiving your answers to the following questions before we proceed with further consideration of your nomination.

1. What is the primary function of the CHALET satellite?

2. What other means does the U.S. have to gain that kind of information?

3. What did the Soviets learn from Geoffrey Prime about our ability to intercept their telephone communications?

4. What do you think that your article of June 29, 1979 added to the Soviets' knowledge of our space-based intercept system?

5. Do you know that the COMINT statute, Sec. 798, 18 USC says that anyone who publishes, transmits, or discloses classified information about the COMINT system of the United States can be prosecuted? Why should that not apply to you?

6. Do you know that Sec. 792, 18 USC mandates that anyone who, knowing who has disclosed such information, conceals his identity can be prosecuted?

7. Are you willing to publicly disclose the chain of people through whom the information about CHALET reached the Soviets?

8. If you are confirmed, what should the Government answer to the defense lawyer for the next person accused of violating the COMINT statute? That lawyer will argue that your confirmation was tantamount to a repeal of the law. How could anyone be prosecuted under that law if you are awarded this position of great honor and responsibility?

Sincerely,

ORRIN G. HATCH,
U.S. Senator.

Mr. SYMMS. Mr. President, Senator HELMS made some very excellent points this morning. I will not belabor the Senate to go back over that old ground, but it is very difficult to think for the dedicated public servant at a lower level of Government to have a person dealing with matters sensitive to national security cloud their reputation and then ask the Senate to go ahead and give advice and consent to that confirmation. If we had all these questions answered, it may not be a difficult thing for us to decide. But where we do not have the questions asked and answered I think we are questioning the very system that we all cherish a great deal, if this man were confirmed today—and I have nothing personal against him either.

But then, if later on it comes up that laws and procedures pertaining to security have been violated and there were problems, it sets a very bad example for those people who work in those agencies and deal with those very sensitive matters on a daily basis as to what their response and what their possible solution should be. Senate confirmation of Mr. Burt could set a very bad precedent for enforcing our laws and procedures pertaining to security.

So having said that, Mr. President, I thank the Senator from Utah and the Senator from North Carolina and say here there are many other Senators who are also interested in this. There are not only two or three people. It is a concerted concern I think very sincerely on our part that we simply wish the questions answered that were posed in the letters that Senator HATCH sent to Mr. Richard Burt, and I think that is a fair request.

Then I think after that has happened, we could reconsider this whole situation.

I ask unanimous consent to have printed in the RECORD three articles from the Washington Times, one dated September 27, by John Lofton, dealing with this subject, then on October 6, another Washington Times article by John Lofton, and again on October 22, another article by John Lofton.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Times, Sept. 27, 1982]

OLD LEAK MAY SINK BURT NOMINATION

A white-hot, knock-down-dragout, behind-the scenes battle is rapidly coming to a head over the nomination of former New York Times correspondent Richard Burt to be assistant secretary of state for European affairs. The issue: should an ex-reporter who wrote a story containing classified information damaging to the national security be named to such a high government post?

The critics of Burt include:

Intelligence Committee Chairman Senator Barry Goldwater, R-Ariz., who on July 21 wrote a top secret code word letter to Secretary of State George Shultz asking that Burt's nomination be withdrawn. Inexplicably, Goldwater's request was neither acknowledged nor answered. And Burt's nomination was sent forward to the Foreign Relations Committee.

Senators Jesse Helms, R-N.C., Don Nickles, R-Okla., John East, R-N.C., Orrin Hatch, R-Utah, and James McClure, R-Idaho, all of whom wrote a letter about Burt on September 15 to Foreign Relations Committee Chairman Senator Charles Percy, R-Ill. In this letter the senators call Percy's attention to two things: (1) "the most serious questions" raised by a three-year old Burt article in the Times and (2) "a record of indiscretions committed by Mr. Burt," a record supposedly compiled by the State Department's Security Bureau. Burt denies any such indiscretions.

And finally, although its recommendation was ignored by Secretary Shultz, the White House Presidential Personnel Office also opposed Burt's nomination.

Among Burt's defenders are: U.S. Deputy Permanent Representative to the U.N. Ken Adelman; former Kissinger protege Helmut Sonnenfeldt; and Deputy Assistant Secretary for European Affairs Mark Palmer. In recent weeks, all three have phoned various Senate staffers to lobby for Burt's nomination.

In separate interviews, here's what I've been told. Adelman says the case against Burt rests on "lousy grounds." Sonnenfeldt thinks Burt is getting a "bum rap." And Palmer believes the issues being raised against Burt are "outrageous." Burt refuses to talk on-the-record about his situation.

So, what is the beef about Burt? Well, the central controversy revolves around an article he wrote for the Times on June 29, 1979. In this piece, quoting only "officials," Burt reported in detail how the Carter administration—concerned that Turkey might not allow U-2 reconnaissance planes over its territory—was preparing an alternative plan for verifying the new strategic arms treaty with Moscow. This plan, it was said, called for several improvements to existing methods for monitoring Soviet missile tests, including the upgrading of an electronic listening post in Norway and the use of a satellite that was programmed to collect other information.

Now, there's no doubt that the information in Burt's story was classified. When asked this question directly in his confirmation hearing on Sept. 15 before the Foreign Relations Committee, Burt replied: "Well, I will be quite honest. I assumed that it probably was (classified material) . . . I presumed it was sensitive information." In fact, Burt said that following the publication of his article he was made aware "by people" that his story had created "concern" within the intelligence community. Noting that he was "somewhat alarmed" by this, Burt says he "immediately sought appointments with (at the time CIA Director) Stansfield Turner about this problem."

A source I consider reliable, says that Burt's story compromised one of this country's "most secret and fragile" intelligence gathering systems. It did this in three ways, according to another equally reliable source: (1) It named the satellite; (2) It named its original mission; and (3) It revealed that this satellite could be reprogrammed.

Tomorrow the Senate Intelligence Committee will turn over to the Foreign Relations Committee a damage assessment report which will evaluate the damage done by Burt's three-year-old article. My sources say that while this report will be understated, it will be "devastating" to the contention by Burt and his backers that his Times story did no real harm to U.S. national security. Even Ken Adelman, one of Burt's defenders, tells me he has "no doubt" that the information Burt published "damaged the national interest."

What's astounding about this whole affair is the nonchalance on the part of Burt's backers regarding the very serious issue of his having disclosed classified information. Adelman argues that Burt was just "doing his job" and "that's what happens in Washington—people are given information and publish it." Sonnenfeldt says he doesn't see how a defense or national security reporter "who is given stuff" can avoid publishing it. He observes:

"It would be a shame if Rick was singled out. If journalists once get pilloried for having used stuff given to them by people with access to classified or sensitive information, it's going to go a long way—maybe even to some of the people attacking this particular journalist."

Mark Palmer, who says he doesn't want to go into who he has called in Burt's behalf, says only that the charges against Burt are "outrageous." Both Adelman and Sonnenfeldt readily admitted that they had not investigated thoroughly just how damaging Burt's article in the Times was.

At Burt's confirmation hearing before the Foreign Relations Committee, Senator Joe Biden, who is also a member of the Intelligence Committee—treated the whole sub-

ject as a joke. He got a laugh when he said that he had heard it rumored "that on occasion senators have leaked sensitive information for political purposes."

Ha-ha.

Just exactly how the flap over Richard Burt's nomination will turn out remains to be seen. But, the relevant question has been raised by Senator Claiborne Pell. Who asks: is Burt's article in the Times material to the consideration of his appointment? The answer must be: it most certainly is and Burt's critics are absolutely correct in raising this issue.

[From the Washington Times, Oct. 6, 1982]

SENATE "DOGS" SNIFF AT NOMINEE'S RECORD

An urgent phone call last Friday night from Secretary of State George Shultz to Senator Orrin Hatch, R-Utah, requesting that he, in effect, call off the dogs concerning the nomination of Richard Burt to be assistant secretary for European affairs, has been ignored for very good reasons: the dogs are on to something. In fact, the dogs are hot on the trail of a lot of things. Hatch was called by Shultz because he is vice chairman of the Senate Steering Committee, which has placed a hold on Burt's nomination.

Originally, hardline Reaganites were on Burt's case because of an article he wrote on June 29, 1979, when he was a reporter for the New York Times, an article which Senator Jesse Helms, R-N.C., says did "grave security damage to his country." This story revealed highly classified information as to the existence, purpose and capability of a very expensive satellite reconnaissance system intended to assist in the verification of Soviet compliance with certain treaties.

Helms says a prima facie case can be made that Burt broke the law. He also says Burt's article "compromised the position of the U.S. with regard to a NATO partner a point alone which raises questions as to how a person who was responsible for such an act could conduct relations with our European allies."

In his confirmation testimony before the Senate Foreign Relations Committee in mid-September, Burt said that prior to publishing his controversial article he checked with no one to see if its publication might be harmful to U.S. national security. But now, in a stunning revelation, in an Oct. 1 letter to Sen. Hatch, Burt says:

"In the specific case of the June 29, 1979 article . . . I was warned by an official that an item of information provided to me should not be compromised. I agreed, and omitted that information from the article."

In recent days, the firestorm of reaction against Burt's nomination has been fueled by other concerns in the area of policy. According to sources familiar with Burt's positions, these policy areas include the following:

Intermediate Range Nuclear Forces in Europe. Burt is said to have opposed, before it was policy, the administration's "zero option" nuclear weapons plan favoring instead a plan that would have seriously limited U.S. deployment options in Europe. At a recent SALT/INF Backstop Committee meeting at State, Burt reportedly advocated immediate consideration of a Soviet proposal concerning the Russian SS-20 missiles, which hardline Reaganites ridiculed and wanted to reject.

START (Strategic Arms Reduction Talks). Burt has persistently pushed policies that would have resulted in the retention of Soviet superiority over the United States. Burt hastily and successfully rammed through the current U.S. START plan now on the table in Geneva, a plan, which because it was hurried through to appease the European peace movement, has not been certified as verifiable by the intelligence community.

SALT Violations. Burt was a key architect of the administration's present policy that is to, de facto, adhere to the SALT II Treaty, which candidate Reagan denounced as "fatally flawed." Burt had fought against the idea of challenging and revealing Soviet violations of SALT—something that was promised in the 1980 GOP Platform.

Soviet Pipeline. Burt originally opposed any sanctions against those who wanted to help build the Soviet natural gas pipeline to Western Europe. Lately he has advocated softening those sanctions that were imposed

NATO Defense Spending. Burt has opposed suggesting publicly or privately that our NATO allies pay a larger share of the defense cost of protecting Western Europe.

To a man, several sources I talked to who have seen Burt work, say that he is not a Reaganite, that he is far too pragmatic and that he is too willing to compromise the Reagan foreign policy agenda for reasons of political expedience.

In late November, Rick Burt will appear before the Senate Steering Committee to answer these charges. It should be quite a show.

Footnote: Burt refuses to discuss these matters on-the-record.

[From the Washington Times, Oct. 22, 1982]

NOMINEE BURT MIS-SCORES AGAIN

Having already gotten himself in crossways with a number of conservative Republican senators—for reasons elaborated on here on two previous columns—Richard Burt has now angered the White House Office of Presidential Personnel. Burt is the president's nominee to be the assistant secretary of state for European affairs. Here's the inside story:

In early September, even before Burt himself had been confirmed by the Senate for his own job, the State Department notified the White House personnel shop that Burt intended to appoint three people to be his deputy assistant secretaries. These individuals are all careerists and they are: Mark Palmer, Robert Blackwell and James Dobbins. None of these three gentlemen is, by any stretch of the imagination, a Reaganite.

Blackwell first went to work at the department under President Johnson in 1967. He was a special assistant to Henry Kissinger's protege Helmut Sonnenfeldt from 1973 to 1975. And from 1979 to January 1981, he was a senior staff member of President Carter's National Security Council. One knowledgeable source tells me Blackwell was one of the "architects of Carter's foreign policy." Dobbins also came to the State Department under the Johnson administration in 1967.

Now, what has angered the folks in White House presidential personnel is the fact that Burt's three choices for these senior executive service slots have been presented to the White House as a fait accompli on a take-it-or-leave-it basis. This was done despite well-known White House preference that this not be done. What the White House personnel people want is an opportunity to suggest their own choices for jobs like the ones Burt has already picked people for. And Burt did not give them this opportunity.

When I asked Burt why he had ignored the desires of the White House personnel office regarding his three deputy assistant secretaries, he said he was not aware that the White House wanted a chance to fill these jobs with non-careerists.

Me: But, why wouldn't you have asked the White House if the president had any people to hire as your assistants?

Burt: "Because I wanted—it just—I wanted people I could work with. I wouldn't have chosen these people if I thought they were unacceptable to the president."

Me: Would White House opposition to your choices for these jobs have made any difference?

Burt: "I don't know. I want to be loyal to the White House, to the president."

Burt says that "professionally" he doesn't report to the White House, that he has "nothing to do with them" and this would be "going out of channels." It's not his job, he says, to ask the White House for the names of possible appointees.

Burt's responses to my questions are preposterous on their face. After all, Burt himself is a presidential appointee! Therefore, it is incumbent upon him—or so it would seem—to look out for the interests of both the president and the White House personnel office, which operates in his behalf. This has not been done.

Burt may indeed be loyal to the White House and the president. But, by admitting he has "nothing to do with them" and, by his actions, demonstrating that he doesn't care whom the president wants named to high State department posts, Burt sure has a strange way of showing his loyalty.

Footnote: Burt may believe he's going to get his way with Palmer, Blackwell and Dobbins. But, the White House personnel office is going to wage war on this one. And Burt himself may well be part of the final body count.

Mr. SYMMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SPECTER). Without objection, it is so ordered.

NOMINATION OF RICHARD T. M CORMACK, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF STATE

Mr. BAKER. Mr. President, I will not do so at this moment, but shortly I will ask the Chair to proceed to the next nomination. It appears we are unlikely to resolve the debate and finally determine the issue on the Senate.

So that other Senators may be on the floor if they wish to do so, the next item will be Richard T. McCormack, of the District of Columbia, to be an Assistant Secretary of State. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, as I have observed in a distressing number

of cases so far, it does not appear that the Senate will be able to complete action on this matter. Since there are other matters on the calendar that must be dealt with, I ask unanimous consent that the Chair now lay before the Senate the next nomination on today's Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered. The nomination will be stated.

The legislative clerk read the nomination of Richard T. McCormack, of the District of Columbia, to be an Assistant Secretary of State.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, there has been some talk in the cloakroom that this nomination may be held hostage to the Burt nomination and perhaps the Grey nomination. I do not believe that. But if it is so, so be it. "The opera isn't over until the fat lady sings."

I would point out, in connection with Mr. Burt, I was not among those who had a hold on his nomination. I did vote against him at the time the Foreign Relations Committee reported favorably his nomination to the Senate.

As for Mr. McCormack, just a few words about him and his nomination to be Assistant Secretary of State for Economics and Business.

Mr. McCormack has had a long and distinguished career in government. He began his career in the Peace Corps, following which he served on the staff of our distinguished colleagues from Pennsylvania and present occupant of the chair, Mr. SPECTER, when Mr. SPECTER ran for mayor of Philadelphia in 1967.

In 1969 he served as special assistant to former Pennsylvania Governor, William Scranton, during the Intelsat negotiations at the State Department, before accepting a senior staff position in the Executive Office of the President. In this capacity he drew up the plans for establishing the White House Council for International Economic Policy. Later he was named Deputy to the Assistant Secretary of the Treasury for International Economics.

In 1975 He served as a consultant to the White House Trade Office, where he did analyses on potential international commodity agreements. He then spent 2 years at the American Enterprise Institute doing reserch and writing on international economic policy, and other foreign policy issues.

I had the pleasure of having Mr. McCormack on my staff for a while, from 1979 through 1981, and he served me well in the foreign policy area. And in this capacity, as Senator PERCY noted during Mr. McCormack's confirmation hearings, Mr. McCormack was held in the highest regard by the staff members of the Foreign Relations Committee who worked with him on a daily basis.

A number of Senators have been active on behalf of Dick McCormack's nomination, including Senators DURENBERGER, LUGAR, and others. Senator PERCY, the distinguished chairman of the Foreign Relations Committee, has spoken very highly of this nominee. The support for Mr. McCormack is broader than any one wing of the Republican Party—both moderate and conservative praise his professionalism and his integrity.

He is highly qualified for the position for which the President has nominated him. Needless to say, I hope that this Senate will confirm him.

Mr. President, I ask unanimous consent that responses to questions posed of Dr. McCormack by the distinguished chairman of the Foreign Relations Committee (Mr. PERCY) be printed in the RECORD. This would include a letter of transmittal to Senator PERCY from Powell A. Moore, Assistant Secretary for Congressional Relations.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF STATE.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate.

DEAR MR. CHAIRMAN: I am pleased to forward the responses to the questions you and Senator Biden requested in connection with Mr. Richard T. McCormack's confirmation hearings.

With cordial regards,
Sincerely,

POWELL A. MOORE,
Assistant Secretary for Congressional Relations.

SENATOR PERCY'S QUESTIONS AND RESPONSES BY MR. MCCORMACK

Question. More and more Illinois companies are telling me how they are being affected by competitive pressures from Japanese exporters. One aspect of this concern . . . and one which I've been hearing on an increasing basis relates to the relative value of the Japanese Yen in comparison to the dollar. These Illinois companies . . . both domestically-oriented as well as exporters . . . point to the Yen as a major contributor to the deterioration of markets for U.S. products. I am told there is growing awareness that the currently undervalued nature of the Yen may be a direct result of manipulation by the Japanese government.

My question to you is—do you view the relative strength of the Yen as an artifically induced condition? And is this situation . . . whether it's real or perceived . . . of sufficient importance to warrant your attention as Assistant Secretary of State?

Answer. It seems likely that the value of the Japanese Yen relative to the dollar is lower than consistent with medium-term payments equilibrium, although the exact extent of the undervaluation is very difficult to measure. There are clearly many factors which have currently made the dollar very strong relative to foreign currencies, including interest rate differentials (which are being reduced as U.S. rates fall), confidence in President Reagan's economic policies, our success at reducing inflation, and political and economic uncertainties abroad.

In any case, such a condition clearly adversely affects the competitive position of U.S. companies relative to Japanese industry, and tends to aggravate trade tension between our countries. I believe the exchange-rate question is therefore a very important one.

Question. Your predecessor, Bob Hormats, was one of the strongest proponents of value-added exports—particularly agricultural products with a high value-added component. He worked very closely EPIC—the business/labor group formed to boost our value-added exports. Could you tell us your ideas about the importance of these exports to the U.S. economy and what course you might initiate to boost these exports.

Answer. I concur fully with Mr. Hormats' emphasis on increasing exports of value-added agricultural products. Such exports benefit our economy by stimulating economic activity, creating jobs, and earning foreign exchange. The U.S. has only about a 10 percent share of the market for high value agricultural products, and the unit value of our agricultural products has been declining in recent years. Increased sales of value-added products should be an important goal of our agricultural export promotion policies of the Eighties.

Export promotion programs which familiarize overseas buyers with the range and quality of available U.S. food products can make a significant contribution to value-added exports. An example is the National Food and Agriculture Exposition to be held in Atlanta next Spring for foreign buyers of food products. We are in the process of preparing a joint message from Secretaries Shultz and Block to chiefs of mission at our overseas posts asking for their cooperation in encouraging attendance at the show. I believe we need to involve our embassies as well as the Congress and Washington agencies in our efforts to increase value-added exports.

The private sector has a unique and major role to play in increasing our sales of value-added products. I look forward to working closely with the Export Processing Industry Coalition, the leading private sector advocate for value-added exports.

Mr. HELMS. I thank the Chair, and I thank the majority leader.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, the Assistant Secretary of State for Economic and Business Affairs is a very important post, particularly at a time of a threatening worldwide financial collapse and with trade wars looming on the horizon.

I do not think we should act very hastily until we are quite sure of the nominee and the policies he may wish to carry out.

Before we vote on this nomination, I think the Senate should be fully aware of Mr. McCormack's background and of his answers to questions posed to him in the committee hearing.

Before I go into his background and the answers, let me talk about the job.

The functions and responsibilities of the Assistant Secretary of State are that the Assistant Secretary formulates and implements policy regarding

foreign economic matters, trade promotion and business services of an international nature, and, in this connection, negotiates agreements. He is responsible for departmental guidance and representation with respect to the United States and other public international lending institutions.

He is responsible for all departmental activities necessasry to advise and assist the office of U.S. Trade Representative, in accordance with the Trade Act of 1974.

He insures, in coordination with the Assistant Secretaries of the regional bureaus, the provision of an adequate and regular flow of information concerning the U.S. Government's multilateral economic and commercial policies, policy deliberations, legislative developments, and diplomatic exchanges, especially in matters that may result in negotiations and representations abroad.

During the past decade, the U.S. economy became increasingly linked with the rest of the world. Trade grew rapidly as a share of GNP, from 6 percent to around 12 percent. Industry became increasingly reliant upon imported raw materials, petroleum becoming a critical problem.

International flows of capital and investment made isolated monetary policies difficult if not impossible to pursue. Stagnant economies in the industrial West, cries for help from industries beleaguered by imports, concern about increasing debt problems in the Third World and in the Eastern bloc, and use by the United States of economic sanctions to pursue foreign policy objectives, have all placed a considerable strain on relations among the industrial nations of the West.

I should note parenthetically that we have finally acknowledged what was written in the report generated about 5 years ago, by a staff member of the Foreign Relations Committee, a fellow named John Ritch, talking about the Polish debt and Eastern European debt. Now, all of a sudden, we are waking up to the fact that major worldwide banking institutions may be in peril, that entire economies are in jeopardy, and there is a need, as recognized by Secretary Regan as recently as 2 days ago, to consider the possibility of assembling the industrial nations of the West in a circumstance not unlike Bretton Woods, which was in 1944, to consider what everyone has acknowledged is a pressing and difficult problem.

In this morning's press there was mentioned the question of whether or not the American public and American industries were long going to tolerate the Reagan administration's position with respect to subsidizing the American banking industry, to hedge them against potential colossal American losses.

At the same time, they continue to suggest, and I am not arguing the merits but the difficulty, that we should continue to bail out American corporations, American cities, American States.

So there is a very, very serious problem in terms of domestic impact and the international financial situation, the incredibly high debt ratio that the underdeveloped world is carrying, and the continued recession in the Western World.

We also have the serious problem, the serious domestic policy question, and the serious foreign policy question, of the role of economic sanctions, if any, in a very increasingly complicated world. Is it consistent to sell grain and not go along with the pipeline deal? Is it wise to have changed our mind with regard to the pipeline? What do we do now with regard to lessening sanctions against Poland? Do we do it on a unified basis with our Western European allies? Do we go it alone?

These are all very, very difficult questions.

The United States has a long history of using economic controls on international commerce to pursue foreign policy objectives. For nearly a quarter of a century we restricted almost all commerce to Cuba. In the last administration, the Carter administration, they imposed sanctions against Iran and the Soviet grain embargo. This administration at various times and stages has announced various restrictions on the sale of gas- and oil-related equipment that would go to the Soviet Union.

In June controls that were put on were particularly frustrating to and frustrated by the Europeans and Japanese who believed we were ignoring not only their economic interest but even their sovereignty, given the extraterritorial nature of those sanctions.

What has been the effectiveness of the economic sanctions over the past three or four administrations in bringing about desired foreign policy objective?

Another question we have to ask ourselves is the current sanctions against European shipments, which are now lifted, of equipment produced under U.S. license appear to have had little impact either in preventing such shipments or altering Soviet policy vis-a-vis Poland. Although that has been lifted, I suspect we should come to a resolution of whether or not it was working. Would it make sense again? Did it make sense when it was proposed? The United States-European political relations have been seriously damaged as a consequence of that and other matters.

How do we see this current impasse being resolved? Obviously, the lifting of the sanctions has resolved part of the impasse, but still we are in serious disagreement on many issues with our European allies.

What is the impact on U.S. business and agriculture of economic restrictions imposed for foreign policy reasons? The United States has argued strongly that our companies with investment overseas should be given at least as favorable treatment as national companies.

One of the questions we have is how did the nominee defend the position giving the U.S. claims of extraterritorial control over U.S. business subsidiaries, even over U.S. licensed technology?

As we pursued these issues with the nominee we received some enlightening and not so enlightening answers.

Let me read some of the questions that should have been directed to the nominee.

With regard to financial loans, the United States has traditionally supported the free flow of capital through lending and investment. Since the early 1970's, there has been a mounting concern over the growth of external private debts in a number of developing countries.

Recent events in Mexico and Argentina, countries which are among the largest debtors, have called into question the stability of the entire financial system. The problems in Poland and Romania have focused attention on debt levels in Eastern bloc countries.

One of the questions which should have been asked with regard to these financial flows was:

Private debt held by developing countries has now passed $360 million. Relatively slow growth in the industrial world compiled with high interest rates have made servicing that debt particularly difficult. We wondered whether the nominee foresaw any major defaults ahead.

Another question to be asked was: "Specifically, would you inform the committee of the current status of discussions with Argentina and Mexico to help alleviate their financial difficulties?"

Mr. President, we had this hearing on September 27; we went home to determine who was going to come back. Then we had a lameduck session and there has been a lot of change in the world since we had the chance to ask the nominee these questions. So we would, if we had him back again, be asking him questions not merely about Mexico, and Argentina, and Eastern bloc countries, but also the relative impact on U.S. foreign policy of the exorbitant amount of outstanding loans of our Western European allies to some of these very countries, too.

For, even if we could hold ourselves harmless if our European allies were to find themselves in serious economic

straits as a consequence of default, what impact would that have on the United States of America? We never got into that very thoroughly, and I think we should have.

Another question to be asked was:

Several times in the past decade concern has been expressed as to whether private banks can recycle funds to the developing countries. Each time they have done so. In recent months this issue has once again gained prominence. Do you believe we are finally reaching a point where private banks will be increasingly wary of extending their exposure in developing countries? If so, what policy response is called for?

I am not sure that in fact, in the past several months, that has happened. I would still like to know what the administration policy calls for.

Another question to be asked is: "This administration appears to share some of the concern over the system."

I should note, parenthetically, that, obviously, the administration not only shares some of the concern, it shares an incredible amount of concern over some of the statements made by the Secretary of the Treasury within the last few days.

Back to the question: "Would you explain the intent and nature of the U.S. proposal floated in Toronto at the IMF annual meetings for a new special facility within the IMF?"

In the light of some of the Treasury Secretary's recent statements, I would ask him the same question in light of the proposals floated by the Secretary of the Treasury.

A second question:

Some critics of our Polish policy have argued that we should force the Poles into default, to call attention to the sorry state of Eastern bloc economies and to discourage private banks from increasing their lending to those economies. What is your view?

Another question to be asked was, "Do you believe any further controls are needed on foreign investment in the United States?"

Then there is the issue of trade.

The United States has expressed frustration over barriers to the Japanese market and subsidies provided to export industries by European countries and some developing countries. Japan believes it is being made a scapegoat because of the inefficiencies of other countries' industries. The European Community, which runs a roughly $10 billion trade deficit with the United States, reacts strongly to actions such as the U.S. complaints against subsidies to their steel industries.

I should again note that just within the last 3 weeks, the British have made some significant decisions with regard to their steel industry. They essentially said they are not going to play any more. What impact does that change have?

Developing countries believe they were discriminated against in the Tokyo Round of trade negotiations. Against the background of mutual recrimination, there will be a ministerial level meeting of the General Agreement on Tariffs and Trade this November.

Those have occurred. A lot did not occur. The meeting—I think it would be too strong to say it was a disaster, but it is not too strong to suggest that it was not successful, and everyone is incredibly worried.

In the light of that backdrop, Mr. President, we still need to ask some of these questions. He did not have the benefit, nor did we, of knowing of the failure of the GATT discussions in November.

1. Are you satisfied with recent steps Japan has taken to open their market? Is the problem Japanese barriers, or lack of aggressiveness by U.S. industry?

2. A number of European and U.S. industries are in deep trouble. Competition from imports is part of the problem. How can we deal with the real domestic problems of those industries, while maintaining a reasonably open trading system?

That question is going to be debated at length, I suspect, soon. As a matter of fact, it is going to be debated in the House very soon, probably today or tomorrow. We could talk about the content of the bill when we ask him about his views on that.

The third question we asked him is:

The U.S. urges developing countries to rely on market forces, yet we have extended the restrictive international textile agreement and imposed tighter controls on the import of sugar—thereby limiting two critical developing country exports. How do you justify these seemingly contradictory policies?

Since World War II, the U.S. has argued against preferential trading arrangements, pressing rather for an open trading system. Yet the Caribbean Basin Intiative includes a one-way free trade zone. Do you see this as marking a major departure from traditional U.S. policy? Are there situations where such departures from general policy may be justified?

We want to know about that, because that is a major issue facing this body and industry.

The fifth question:

Do you see any real possibility of phasing out official export credit subsidies? Can we bring real pressure to bear on other countries when we are reducing our own Export-Import Bank's activities?

That question may not be particularly relevant right now, because I am not sure what our policy on the Eximbank is going to be. It may very well be changing in light of the Secretary's statement.

The other question was, "What do you expect from the GATT ministerial?"

Well, that would be a fascinating answer, which I shall get to in a while, because we have already had the GATT ministerial.

What do you expect from the GATT ministerial? Is it realistic to hope for real progress in obtaining new international guidelines on service and high technology industries? Will recent disagreements with Europe over such economic issues as the Soviet pipeline and steel exports impede progress at the GATT?

I suspect we all know the answer to that, but it would be interesting to get an insight as to how insightful the nominee is when I get to reading the answers to those questions.

The other thing we asked about as a general subject matter was managing the system.

Following World War II, the Bretton Woods Institutions were established to help with rebuilding Europe and maintaining a financial and trading system primarily involving Europe and the United States. In the last decade this system has come under increasing strain as it has had to absorb many new members, deal with floating exchange rates, and devote considerable attention to development problems.

A series of economic summits were begun among the Western world's major economies, but those, too, have not lived up to the expectations of some. I suspect they have not lived up to the expectations of most. And one of the questions still to be asked is:

Trade disputes seem increasingly to be handled on a bilateral basis rather than through the GATT; developing countries complain that the IMF is ill-equipped to deal with the problems faced by developing countries; and this administration has indicated that in the development assistance area it intends to place more attention on bilateral programs than on the multilateral development banks.

Which I should note I think is a bad idea.

If so, could we slip back into the kind of beggar-thy-neighbor nationalistic economic policies which helped lead to the Great Depression?

Mr. BAKER. Mr. President, will the Senator yield to me at this point?

Mr. BIDEN. Yes, I would be happy to yield.

Mr. BAKER. Mr. President, once again I have monitored the debate on this issue, and it would appear that there is no likelihood that we are going to be able to deal with it in anything like a reasonable time, and I am going to propose in a minute that we move onto the next item, which will be Orville G. Bentley, of Illinois. But before I do so, perhaps some other Member wishes to make a statement or comment on this nomination.

Mr. BIDEN. Will the Senator yield just 30 seconds?

Mr. President, I ask unanimous consent that the series of questions which I personally submitted to the nominee and his answers be placed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

1. Q. Dr. McCormack, your biographical materials indicate that when you worked in the Executive Office of the President from 1968 through 1971, you conducted a "major study on ways and means of managing bureaucracies on the part of senior political appointees."

What conclusions did you reach that can assist you in your new post?

A. The basic conclusion of this report was that the career people and the political appointees should not regard each other distrustfully or as adversaries. Instead, the political appointees and the career officials should recognize the strengths which they both have, and harness together for the benefit of the American people. Please see the attached letter dated June 18, 1970, from former Under Secretary Richardson.

2. Q. In 1980, you traveled to Rhodesia as a Senate staff member and personally observed the elections that brought Robert Mugabe to power. Subsequently, you wrote a report entitled "The Rhodesian Debacle" which was printed in the CONGRESSIONAL RECORD.

Based upon your experiences as a Congressional observer, what do you think is the appropriate role for Senators, Congressmen, and their staffs to play in the policymaking or diplomatic process?

A. The Congress of the United States has a constitutional mandate to advise and consent on matters of foreign policy. More broadly, the Executive Branch needs to consult the Congress and to take Congressional views into account. Otherwise, needless errors might transpire, and Congress might refuse to provide funds to support Executive Branch initiatives.

Staff members serve as eyes and ears for elected members of the Congress, as one source of information upon which Congressmen and Senators draw to assist in gaining perspective on individual foreign policy issues.

3. Q. In your 1980 report, you concluded that "over the next several years, the Rhodesia of today will, in all likelihood, slowly fade away."

What did you mean by this statement?

A. I felt that Robert Mugabe would probably implement economic policies which would discourage investment and, over the long haul, would prevent Zimbabwe from reaching its enormous economic potential. I believed there was a great danger that economic levels could actually deteriorate, over time.

I carry no brief for racism in any form as you may see from both my own past record in this area. But I felt that some form of coalition alternative to Mr. Mugabe and his party had a higher probability of providing wise policies and a better future for the people of Zimbabwe.

4. Q. In your 1980 report, you predicted that "within two years, Rhodesia's economy is likely to be nationalized, piece by piece." To what extent have your predictions come true? In your personal view, what have been the effects of the Zimbabwe government's policies on economic performance? In your own view, what is the current state of Zimbabwe's economy?

A. While there has been some increase in government participation in the private sector, wholesale nationalizations have not occurred. The business community is, however, watching closely the development of the Zimbabwe government's economic policies, and naturally does not agree with a number of steps which have been taken.

After two years of growth, the Zimbabwe economy will be slowing down in 1982 due to a number of internal and external factors. Zimbabwe has, however, the potential to be one of the stronger economies of Africa.

5. Q. As Assistant Secretary for Economic and Business Affairs, in what ways—if any—would you seek to promote an expanded role for U.S. trade and investment in Zimbabwe?

A. I think that the U.S. Government has a role to play in underlining the concerns of the U.S. business community to the Zimbabwe Government, and when appropriate, in encouraging the Zimbabweans to take specific steps which meet these concerns. For example, I think it entirely appropriate that we emphasize to the Zimbabweans the interest of U.S. companies in seeing an investment code in Zimbabwe.

In the end, of course, there is only so far that we can go. While we can encourage the development of a general climate in Zimbabwe conducive to foreign investment, the "go-no go" decision has to be made by the companies themselves.

6. Q. The Administration has indicated that an internationally acceptable settlement in Namibia may be quite close. In your view, what would be the appropriate role for U.S. trade and investment in a newly independent Namibia? Would your answer differ if Namibia were ruled by an elected government of the Southwest Africa People's Organization (SWAPO)?

A. We of course feel that U.S. trade and investment can be a positive influence in any developing nation. Namibia is no exception.

It would be premature to go into specifics on this issue. At this stage of the negotiations for Namibian independence it would be difficult to speculate on what our approach to any particular post-independence government would be.

7. Q. During last year's debate on the repeal of the Clark Amendment, which bans overt or covert U.S. operations in Angola, a number of major U.S. companies doing business in Angola argued against repeal. As Assistant Secretary, to what extent would you argue, during the deliberative process, that trade and investment concerns should play a significant role in the formulation of policies such as the repeal of the Clark Amendment or diplomatic recognition of Angola?

A. Our goal is to achieve full normalization of relations based on a cooperative approach to regional peace and stability.

We favor repeal of the Clark Amendment as a matter of principle to remove unwarranted restraints on the President's ability to conduct foreign policy. The Administration is on record as having no plans to aid any opposition group. Our efforts to repeal the Clark Amendment do not mean that we have any such plans.

8. Q. In your view, what is the role for U.S. private trade and investment in countries with avowedly Marxist governments?

A. Private trade on commercial terms in areas which do not violate the COCOM agreements, related national security strictures or other national policies are mutually advantageous. This is true regardless of the form of government of the other trading partner. It is not, however, clear to me how great the opportunities for investment will be in most Marxist societies. Investors are reluctant to put long-term fixed investments in countries where the leadership is actively discussing policies which could compromise the viability of these investments. But this is a matter for private, not government, decisions. Private investors are, as a general rule, very aware of local conditions and risks where they are considering making investments.

9. Q. As Assistant Secretary, would you seek to promote trade and investment with such countries around the world?

A. With respect to these countries, I would not be comfortable either encouraging or discouraging individual exporters or investors, wherever they may be considering investing or trading, beyond providing them with whatever factual information the Department of State has at its disposal which might have a bearing or risk assessment or opportunities.

10. Q. Please describe in your own words the present U.S. policy of "constructive engagement" toward South Africa, with particular regard to the trade and investment components of that policy.

A. President Reagan has stated on several occasions that we find apartheid repugnant but that we would support those many South Africans trying to move away from apartheid. I would associate myself with the President's views which are a succinct statement of what constructive engagement stands for.

The United States supports an arms embargo against South Africa and has imposed other unilateral restraints on sales to the police and military. We are opposed to Congressional legislation which would limit new U.S. investment, ban the sale of Krugerrands, ban U.S. bank loans, and force compliance with a set of now voluntary fair employment principles for U.S. firms operating in South Africa. We do not believe such punitive measures will at this point encourage the government in South Africa to change. We also believe that these economic relations give the U.S. important leverage and a means of communicating to South Africa U.S. support for peaceful change in South Africa.

11. & 12. Q. To what extent, if any, have changes in U.S. trade policy and export controls for South Africa been tied to South African cooperation in securing an internationally acceptable Namibia settlement or changes in apartheid policy?

A. Changes in Commerce Department Commodity Control list regulations on trade with South Africa were made for three reasons.

First, the law requires that the controls be reviewed on an annual basis and either renewed, modified or dropped altogether.

Second, the regulations as drafted were not appropriate in terms of their stated objective of distancing ourselves from the practice of apartheid.

Third, as events in South Africa over the past year have demonstrated, there is a process of change underway there.

These considerations remain the prime determinants of U.S. trade policy toward South Africa.

13. Q. Do you feel that any such linkage of trade and investment policy to other foreign policy consideraitons is appropriate?

A. In general, we believe that trade and investment issues should be decided on their own merits and should not be subjected to other considerations. Clearly, where major foreign policy implications arise it may be appropriate, and even necessary, to subordinate them to these broader interests.

14. Q. In your report on the Rhodesian elections, you noted that British policy toward Rhodesia was influenced by economic pressures from other African states, particularly Nigeria.

To what extent do you feel that it is appropriate for U.S. policies to be directed by real or perceived economic pressures from other countries?

A. American policies should be aimed at advancing the interests of the American people in the broadest possible sense. They must also take into account our moral values. To the extent that external economic pressures are realities, they must be con-

sidered in the overall formulation of our policies. But broader perspectives must also be factored into any final policy decisions.

15. Q. (a) In your view, to what extent is the United States dependent upon imports of "strategic minerals" from South Africa?

A. The Republic of South Africa is an important source of U.S. imports of chromium, platinum group metals, manganese, vanadium, and ferrochromium.

Q. (b). Should U.S. policy toward South Africa be shaped in any way by such dependence?

A. In the long run, our best insurance against a cutoff of strategic minerals from South Africa is helping it find peaceful solutions to its problems. A politically moderate and economically viable South Africa is more likely to be a dependable source of critical materials for the West than one beset by economic stagnation and political tension. The Administration has adopted a policy of constructive engagement in South Africa. Our interests are served neither by a maintenance of the status quo of the apartheid system nor by violence and the destruction of South Africa's economic system.

16. Q. What is the impact on U.S. business and agriculture of economic restrictions imposed for foreign policy reasons?

A. U.S. business and agriculture are largely opposed to the use of restriction of trade as an instrument of foreign policy, and have not been reluctant to air this opinion before the Congress or the Administrations imposing the sanctions. For the years 1979 through 1981, the Department of Commerce estimates that USG economic sanctions cost U.S. companies some $1 billion. Grain sales during 1979–1980 were expected to be about 25 million tons. Actual sales were limited to 8 million tons, a loss of 17 million tons. However, since this administration lifted the grain embargo, sales to the USSR in July 1981–June 1982 market year reached a record of 15.4 million tons.

We regret that the sanctions on oil and gas equipment, and technology will cause economic hardships and we are sympathetic to the sacrifices required of U.S. industry and firms abroad as a result of the measures we have had to take. The President fully understands the objections to the sanctions policies, but is not persuaded to reduce the impact of the sanctions absent significant progress in Poland. Secretary Shultz will have meetings with a number of them during the opening days of the current U.N. General Assembly session. Meanwhile, we intend to implement the sanctions consistently and firmly.

17. Q. The U.S. has argued strongly that our companies with investment overseas should be given at least as favorable treatment as national companies. How do you then defend this position given U.S. claims of extraterritorial control over U.S. subsidies, and even over U.S. licensed technology?

A. A principal foundation of U.S. policy toward international investment is the treatment of foreign investment on terms no less favorable than treatment received by domestic investment. We argued strongly not only for national treatment of our investment overseas but for national treatment for foreign investment in the U.S. as well. Every country, of course, maintains certain sectors in which it does not accord national treatment, largely on national security grounds. Foreign policy problems have occasionally arisen and will continue to arise in a number of areas as a result of the application of U.S. law to commercial conduct outside our territory. National security constitutes a key reason for U.S. claims of control over certain conduct abroad by both U.S. and foreign-owned companies. We are also concerned about the economic impact on the U.S. of actions which take place outside our territory. This is the inevitable result of an increasingly interdependent world economy.

18. Q. This Administration appears to share some of the concern over the system. Would you explain the intent and nature of the U.S. proposal floated in Toronto at the IMF annual meetings for a new "Special Facility" within the IMF?

A. The Administration does share some of the growing concern over the international financial system. We look to a strengthened IMF to play a continued important role in smoothing/promoting balance of payments adjustment and in cushioning shocks to the system.

At Toronto, the U.S. raised the idea of a new, permanent borrowing arrangement for the IMF, which would be in addition to any quota increase agreed upon. In concept, the quota increase would be designed to meet temporary balance of payments financial requirements under normal circumstances. The borrowing arrangement would be activated on a contingency basis and could be drawn upon by the Fund to finance country drawings in extraordinary circumstances.

The U.S. suggestion will be developed further and considered by IMF members in coming months. We will keep the Congress fully informed on this issue.

19. Q. Please list all the steps that the U.S. has taken in the past year and a half to pressure the Japanese to lower trade barriers.

A. This Administration has pressured the Japanese continually to reduce barriers to U.S. exporters to Japan. Virtually every bilateral or multilateral meeting where U.S. officials encounter their Japanese counterparts includes discussion of the need to lower Japanese trade barriers. In addition, public statements by U.S. officials are often an effective means of pressuring the Japanese for trade liberalization. It is not practical to list every such occasion, but the following are some key events in the past year and a half.

June 1981 Meetings of the U.S.-Japan Lumber Trade Promotion Committee.

July 1981 USTR Brock presents trade policy focusing on reduction of foreign trade barriers to the Senate Subcommittee on International Trade.

July 1981 Ottawa Summit.

July 1981 Secretary Baldrige upgrades U.S.-Japan Trade Facilitation Committee.

September 1981 U.S.-Japan Subcabinet-level talks on trade.

September 1981 USTR Brock testimony to JEC calls for liberalization of Japanese agricultural imports.

October 1981 U.S.-Japan Agricultural products meeting in Tokyo.

October 1981 Secretary Baldrige visit to Tokyo.

November 1981 U.S. delivers a formal request for reduction of tariffs and non-tariff barriers.

December 1981 Subcabinet-level talks on lists presented in November.

March 1982 Subcabinet-level talks in Tokyo to follow up on first trade liberalization package.

July 1982 Follow-up meetings on second Japanese trade package.

August 1982 Follow-up group meets again in Tokyo.

August 1982 Japanese are informed about GATT cases.

September 1982 Further follow-up meetings, initial consultations under GATT.

Later this year we will be continuing our follow-up to the trade liberalization measures announced by the Japanese as well as seeking additional reductions of Japanese trade barriers.

20. Q. Since World War II, the U.S. has argued against preferential trading arrangements, pressing rather for an open trading system. Yet the Caribbean Basin Initiative includes a one-way free trade zone. Do you see this as marking a major departure from traditional U.S. policy? Are there situations where such departures from general policy may be justified?

A. The U.S. has in no way abandoned our overall opposition to non-discrimination. We recognize the inconsistency of the preferential trade aspects of the CBI with our well established position on non-discrimination, but believe that the serious economic deterioration in the Caribbean Basin justifies this temporary departure. With this temporary assistance, we expect the Basin to be able to develop to the point where preferences will no longer be necessary. We plan to present the CBI to the appropriate GATT review, and have no plans to extend preferential arrangements to other areas of the world.

21. Q. Trade disputes seem increasingly to be handled on a bilateral basis rather than through the GATT; developing countries complain that the IMF is ill-equipped to deal with the problems faced by developing countries; and this Administration has indicated that in the development assistance area it intends to place more attention on bilateral programs than on the multilateral development banks. If so, could we slip back into the kind of beggar-thy-neighbor nationalistic economic policies which helped lead to the Great Depression?

A. The U.S. continues strongly to support a multilateral approach to the resolution of international economic problems. We participated actively in several rounds of tariff negotiations under GATT auspices and hope that the upcoming GATT Ministerial will give new impetus to trade liberalization. The U.S. does not accept the hypothesis the IMF is ill-equipped to deal with the problems faced by the LDCs. Indeed, we look to a strengthened IMF to play a continued important role in promoting balance of payments adjustment and in cushioning shocks to the financial system. While this Administration has placed increased relative emphasis on bilateral assistance, our commitment to the multilateral development lending institutions remains firm.

22. Q. At both the Cancun and Versailles Summits, the President gave conditional agreement to Global Negotiations between North and South in the UN framework. Please describe the details of discussions on this issue. Do you expect anything to come of this process? Can the sterile debate on procedure be overcome, and are there areas which you believe substantive progress can be made on economic issues through such negotiations?

A. At Versailles the seven summit leaders agreed to move forward with Global Negotiations provided the independence of specialized agencies such as the GATT, IMF, and IBRD is protected. The Summit leaders proposed amendments to the G-77 draft UN resolution on GNs to assure a sound basis for proceedings. These amendments were presented to the G-77 in New York.

Although the majority of G-77 members were prepared to accept the Versailles amendments, several radical members led by Algeria, persuaded the G-77 to reject key portions of the amendments, and to propose substitute language. The substituted language is unacceptable to us because it does not protect the existing agencies. We and our Versailles summit partners continue to firmly support the Versailles amendments as the only basis for proceeding. Despite continuing discussions in New York, the G-77 has not accepted the Versailles language.

The issue is not merely one of procedures. The U.S. believes that existing multilateral institutions such as GATT, IMF, IBRD and the regional development banks have served the international economy well, and have evolved to meet the changing needs of both developing and developed nations. In contrast, some developing countries are pushing for widespread changes in the structure of the international economy which are not soundly based, and which would be harmful to existing institutions and to the economic interests of all the non-communist countries.

Despite these concerns, the U.S. is prepared to engage in Global Negotiations on the basis set forth at the Versailles Summit. If GNs do occur on this basis, the U.S. would seek realistic and practical discussions on development issues in the 1980s.

In particular, we would plan to discuss the mutual interests of developed and developing countries regarding energy. There is no existing agency in which both developed and developing countries meet to discuss energy issues and Global Negotiations would provide a forum for exchanging views in order to improve mutual understanding of the oil and energy situation. This could contribute to greater stability in the world energy situation.

23. Q. Now that the United States has given its tentative approval to global negotiations, what are the prospects for structural changes in the international financial institutions, long a goal of the Group of 77?

A. When the U.S. Government agreed to consider global negotiations at Cancun, we made it clear that we would not consider any fundamental changes in the structure of the international financial institutions. We have maintained this position in all subsequent discussions of the issue. We see no reason to alter radically institutions which are serving well the purposes for which they were developed.

24. Q. If confirmed, what role do you expect to play in reviewing and in determining levels of bilateral aid in our foreign assistance program?

A. Under the President's directive, this administration has carefully scrutinized and fully integrated all foreign assistance resources to ensure that they are directed to the most vital goals of American foreign policy, an essential criterion in this period of tight fiscal constraints. I will ensure that we continue to work closely with all bureaus and agencies involved in development of the foreign assistance budget so that a country's economic situation is fully taken into account when the type and level of aid is under consideration. I believe, as does this administration, that foreign assistance in all its forms, while of great significance to development, can never substitute for a country's own efforts. I will endeavor to see that the formulation of bilateral aid programs reflects that view. At the same time we will ensure that there is a cogent rationale for the overall assistance package and for individual priorities.

25. Q. In your article, "The Twilight War," published in Army magazine in January, 1979, you wrote: "About 1970, however, guilt and fatigue over the American effort in Vietnam, fueled by an unparalleled Soviet propaganda effort, soured many Americans on the role of world policeman." What are your personal views on U.S. fulfilling this role of world policeman?

A. My views on this subject are spelled out in detail in the article, "The Twilight War", which has been supplied to the Committee. Basically, it proposed recognizing that the Soviet Union and her allies were providing guns, training, and financial support to a variety of marxist guerrila and terrorist groups preying upon small third world countries. The article advocated providing some American assistance, where appropriate and practical, to help counter these Soviet efforts.

26. Q. In that some article, you wrote: * * * "not since the end of World War II has the American State Department contained a greater number of senior individuals actively disposed toward seeking a permanent and friendly accommodation, not only with the Soviet Union, but also with Cuba, North Korea and Vietnam." What proof do you have for this statement? How has this disposition changed over the past 40 years?

A. This was a value judgment on my part based on the intensive efforts mounted by some of President Carter's appointees in the State Department during its first two years in office to reach accommodation with the Soviet Union on a broad range of issues, and to remove some of the perceived impediments to better relations with Cuba, Vietnam, North Korea, etc. The point in my article was that the Carter State Department went the extra mile to indicate non-hostile intentions towards the Soviet Union during those first years in office, and it was not clear to me that the Soviet Union was responding in the same spirit.

This article was a summary of memorandum which I wrote for private distribution to some of my friends then working in the State Department and NSC to call their attention to what I felt was their overly optimistic assessment of what could be expected of Soviet policy makers in the then current circumstances.

27. Q. You also wrote: "Many Westerners have never fully understood that true detente holds far more risks for the Soviet Union than it would be for us." Do you favor such "true detente"? What policies of the Reagan Adminsitration seek to promote such "true detente"?

A. I certainly favor a complete relaxation of tensions between the United States and the Soviet Union, and I am hopeful that the new generation of leadership within the Soviet Union will gradually adopt policies more in keeping with this spirit. On the other hand, we would be unwise to ignore some of the developments that have caused successive American administrations to lower exaggerated expectations, and take a clearer eyed view of the Soviet arms buildup and activities in the Third World since the policy of detente was initiated by President Nixon.

The challenge facing all of us is to keep up our defenses, military and otherwise, while hoping for some change of heart by Soviet leaders. We need some kind of code of conduct for detente, without which Soviet leaders are potentially in a position to reap the benefits of detente, while continuing activity that is profounding destabilizing to many parts of the third world, and to East-West arms balances.

As a general rule, I would say that we must move on a parallel track: maintaining our strength, while at the same time indicating our readiness to talk with the Soviet Union on matters where we can, hopefully, get agreement, such as at the START talks now underway in Geneva.

28. Q. You write that "present tensions between East and West . . . are serving the Soviet Empire as a sort of psychological cement, holding its system together." What do you plan to do, and can you do in the position for which you have been nominated, to reduce those tensions and weaken that "cement"?

A. A major purpose of my article was to indicate that it appeared to me that the Soviet leadership saw important internal political advantages in maintaining a degree of tension between East and West.

We can only change this situation in limited ways, since the Soviet Union chooses to portray us to their own people as a menace to justify internal disciplines, austerity, and vast military expenditures.

The overall policies of this administration, of which I will play a modest part, are geared to striking a balance between maintaining a strong deterrent on one hand, and offering an olive branch at the START talks on the other. Quiet American strength is the appropriate stance.

29. Q. In the Army article, you wrote: "The crucial role played by multinational corporations in the interlocking economy of the West has made them a particular target for Soviet propagandists and agitators." Where has the USSR been most successful in this regard? What do you believe should be done to blunt that success?

A. Soviet propaganda and local marxist agitation against multinational corporations has been most visible in the third world, where kidnapping of the children of local company officials, disruption of harvests, etc., have been a frequent pattern. There is no single solution to this problem, as I outlined in the article which you quote. The solution requires a combination of enlightened management and fair treatment of workers, on one hand, combined with prudent security measures on the other.

30. Q. In that same article, you wrote, "The credibility of our principal alliance structure, NATO, would in all likelihood not survive intact should communists enter the governments of our allies." Would you, with hindsight, alter that opinion on the basis of the recent experience in France?

A. President Mitterand has made significant efforts to isolate communists from participation in the activities most vital to the NATO effort. To the extent these efforts are successful, it will reduce the concerns which President Ford, Henry Kissinger, and others expressed concerning the security problem which communist participation in the government of a NATO ally would cause.

30. Q. In order "to unlock private capital on a worldwide basis" you urge "helping to provide greater physical security for societies now being preyed upon by the Soviet Union, terrorists, guerrillas and Cubans." Which countries are most urgently in need of such enhanced security? Is such help an absolute prerequisite before private investment can be effective?

A. The recent hostage action in Honduras, where marxist sympathizers held more than a hundred business and financial leaders, dramatizes the general security problem in various parts of Central America and elsewhere. Every week the New York Times car-

ries articles of other terrorist actions. To the extent that local people feel threatened and insecure, they are reluctant to tie down their potentially liquid assets in long-term, job producing investments in unstable areas.

The greater the degree of physical and economic security, the greater the extent that individuals will invest locally.

32. Q. At one point in your biographical information form, you say that you worked for Senator Helms "1979-1981" and at another point you say "March 1979-present." What were your precise dates of employment in the U.S. Senate? What jobs and specific duties have you had since leaving the U.S. Senate?

A. I left the Senate staff in November of 1981, and have been a consultant on international economics at the State Department since that time, working closely with the former Assistant Secretary of Economics and Business, Robert Hormats, on a wide variety of international economic negotiations and issues. For example, I was part of the delegation which negotiated the new airline agreement with Japan. I attended the African Development Bank and Fund meeting in Lusaka. Finally, I represented the State Department at a broad range of other meetings, here and abroad, on matters relating to international economic policy.

33. Q. The biographical information also says "Did small amount of outside consulting for Connally for President, June 1979-Dec. 1979." Were you compensated for such consulting? Did you comply with the applicable rules governing Senate employees with regard to outside employment and political activities?

A. I did receive a small amount of compensation from the Connally Committee. My employment arrangement with the Senate was to cover ⅘ of my time. I was free to use the additional ⅕ of my time for other consulting activities, consistent with the rules of the Senate. I made very sparing use of the ⅕ of my time that was potentially free for outside activities, devoting the vast bulk of it to the Senate's work without additional charge.

34. Q. What specific experience did you gain as a Senate employee which is directly relevant to the duties to the position for which you have been nominated?

A. The most important thing I gained as a member of the Senate staff as far as the performance of my present duties at the State Department is concerned was an understanding of the way the legislative process works, and gaining the trust and confidence of those Senators and Staff members with whom I dealt.

35. Q. What specific insights into the policymaking process and into legislative-executive relations on foreign policy matters did you derive from your work as a Senate employee?

A. I learned the vital importance of consulting with the Congress in advance to the maximum extent feasible before taking decisions or making recommendations.

36. Q. Among the duties of the position for which you are nominated are to negotiate certain agreements and to represent the United States with respect to international lending institutions. What personal experience have you had of negotiating agreements of making representations to foreign government or international organizations?

A. I was assistant to former Governor Scranton at the INTELSAT negotiation in 1969, and was later involved in another stage of that negotiation at the Office of Telecommunications Policy. During the past year, I have represented the Department of State on a number of international economic conferences and negotiations, to the general satisfaction of the Department.

37. Q. In your personal judgment, are the duties of the Assistant Secretary for Economic and Business Affairs essentially nonpartisan? Or are there specific campaign themes or commitments by President Reagan which will guide your performance of your duties?

A. It is important in forming decisions regarding economic and business-related matters to consult in advance, to the maximum extent possible, with members of Congress and involved interests on a non-partisan basis. This has been and will continue to be my overall mode of operation. I am also a member of President Reagan's Administration, a role not inconsistent with the principle of bipartisan consultation. President Reagan is hoping to revitalize the American economy, defeat inflation, and stimulate investment and trade. I am anxious to assist in the achievement of these objectives.

38. Q. In your January 1979 article in Army magazine, you are identified as "Most recently * * * in charge of Saudi Arabian policy and operations as Deputy to the Assistant Secretary of the Treasury." Please amplify on your duties in that position. What insights did you gain from that experience that are directly relevant to the duties of the post for which you have been nominated?

A. My job at the Treasury in 1974 was to help with the Joint U.S.-Saudi Arabian Economic Commission. This involved arranging plans for some fully reimbursible technical assistance projects. At that time, we had just gone through an oil embargo, and we were most anxious to keep the communications channels between the U.S. Government and the Government of Saudi Arabia very open to avoid a renewed oil embargo. The Commission was a modest part of the process. I participated in a number of discussions with Saudi Arabian officials, as part of delegations, during that period.

In the course of this job, I inevitably learned something about energy policy and economic development which are relevant to my current responsibilities.

Mr. BAKER. Mr. President, I see no other Senator seeking recognition on this nomination. However, in order to give Senators who may wish to come to the floor just a brief moment to do so, I say once again it is my intention in the next few moments to ask the Senator to turn to the consideration of Orville G. Bentley, of Illinois, to be an Assistant Secretary of Agriculture.

While Senators consider the request which I am about to make, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, as I indicated as few moments ago, just prior to the call of the roll to establish the presence of a quorum, the next item on the list of nominees is Orville G. Bentley, of Illinois, to be an Assistant Secretary of Agriculture, which is Calendar Order No. 1053.

Mr. President, I ask the Chair to now lay before the Senate that nomination.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. There is no objection.

The PRESIDING OFFICER. Without objection, the nomination will be stated.

DEPARTMENT OF AGRICULTURE

NOMINATION OF ORVILLE G. BENTLEY, OF ILLINOIS, TO BE AN ASSISTANT SECRETARY

The legislative clerk read the nomination of Orville G. Bentley, of Illinois, to be an Assistant Secretary of Agriculture.

Mr. ROBERT C. BYRD. Mr. President, I am advised there is no objection to this nomination on this side of the aisle.

Mr. BAKER. Mr. President, I thank the minority leader.

Could I inquire, Is the majority manager then prepared to go forward with the nomination?

Mr. HELMS. Yes.

Mr. President, it is indeed an honor to speak in behalf of the nomination of Orville G. Bentley to be Assistant Secretary for Science and Education at the U.S. Department of Agriculture. This position was created by the 1981 farm bill to emphasize the need for continuing advances in agriculture, research, teaching, and extension programs.

In choosing Dr. Bentley, the President has selected a scientist who knows agriculture and who knows, and is preeminent in, agriculture research and education. Dr. Bentley is a noted biochemist as well as a college administrator. He has managed research programs and has developed a world of experience in transferring grassroots research requirements into national agricultural research policy that has guided agricultural progress not only in the United States but in many of the world's developing countries.

Prior to the election recess, the Senate Committee on Agriculture, Nutrition, and Forestry held a hearing on Mr. Bentley's nomination. Senators PERCEY and DIXON, Congressmen DAN CRANE and WILLIAM WAMPLER testified in support of his appointment. The committee unanimously approved the nomination. Unfortunately, the Senate was not able to confirm Mr. Bentley before it adjourned, and President Reagan made a recess appointment. I urge the Senate to ratify the appointment of this well-qualified gentleman.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, the next item on the agenda before the clerk reports is the nomination of Martin S. Feldstein, of Massachusetts, to be a member of the Council of Economic Advisers.

My estimate is that a number of Senators will wish to speak on this and once again it is my intention at this point to suggest the absence of a quorum so Senators who have particular interest in that nomination might come to the floor. I hope that we can get a time agreement or some sort of arrangement to complete the consideration of Dr. Feldstein this afternoon.

After that, I wish to complete the call of the calendar through the remaining three nominations under new reports.

I think the minority leader could consider whether he could do that this afternoon. It is possible that we might confirm those three in advance of the Feldstein nomination which I expect will take some time.

Mr. ROBERT C. BYRD. Mr. President, I think that would be possible.

The majority leader has not asked to go to the Feldstein nomination yet, has he?

Mr. BAKER. Not yet.

Mr. ROBERT C. BYRD. All right.

Mr. BAKER. Before I do so is the minority leader prepared to consider the three under new reports at this time?

Mr. ROBERT C. BYRD. We will check again.

Mr. BAKER. All right.

Mr. President, in the meantime, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, as I indicated prior to the quorum call, it is my intention to proceed down the list as we can.

I now ask that the Chair lay before the Senate Calendar Order No. 1056, the nomination of Martin S. Feldstein, of Massachusetts, to be a member of the Council of Economic Advisers.

The PRESIDING OFFICER. The nomination will be stated.

EXECUTIVE OFFICE OF THE PRESIDENT

NOMINATION OF MARTIN S. FELDSTEIN, OF MASSACHUSETTS, TO BE A MEMBER OF THE COUNCIL OF ECONOMIC ADVISERS

The assistant legislative clerk read the nomination of Martin S. Feldstein, of Massachusetts, to be a member of the Council of Economic Advisers.

Mr. BAKER. Mr. President, the distinguished Senator from Utah, the chairman of the Banking Committee, will manage this bill. I yield the floor.

Mr. GARN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GARN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARN. Mr. President, President Reagan has nominated Dr. Martin Feldstein to be his chief economic counselor as Chairman of the Council of Economic Advisers. Dr. Feldstein has an outstanding professional background, he is brilliant and talented, and he is well respected among other economists. Also, he has a special talent which is particularly necessary for an economic adviser: he can reduce technical data and jargon into clear facts and commonsense. Because of his excellent training, experience, and attainments his nomination should be confirmed.

No one questions Dr. Feldstein's qualifications or professional reputation. He was graduated from Harvard with a B.A. and from Oxford with a Ph. D. in economics where he received numerous fellowships and scholarships. He is presently a professor at Harvard, where he has taught economics for the past 17 years. He also heads the National Bureau of Economic Research, which gathers and produces statistics about the Nations economy, and is president of his own economic analysis company. His nearly 200 scholarly articles, as well as numerous articles published in such papers as the Los Angeles Times and the Wall Street Journal, have established him as one of America's foremost economists.

Dr. Feldstein is highly regarded by his contempories. He is regarded as a fighter, a strong leader, someone who will give greater policy importance to the Council of Economic Advisers, a strong-minded, technically competent, pragmatic adviser.

Dr. Feldstein has been criticized because he is a forceful and persuasive voice for saving and investing in capital goods. This has offended some who have perhaps not understood his position, which is that if more of our money is saved and invested, rather than consumed, we will have greater capital formation for housing, business plant and equipment, and all other investments.

All in all, Mr. President, Dr. Feldstein should be confirmed because he is the President's choice, because he is a respected and capable professional, because he supports saving and investment to make our Nation's economy grow, and because his economic skills well qualify him to advise the President on the critical economic issues confronting our Nation.

Mr. President, I ask unanimous consent that a statement in support of Chairman Feldstein's nomination be included in the RECORD.

There being no objection, the statement was order to be printed in the RECORD, as follows:

STATEMENT

On September 14, 1982, President Reagan nominated Dr. Martin S. Feldstein to be a member of the Council of Economic Advisers. The President also stated his intent to appoint Dr. Feldstein as chairman of the Council.

The Employment Act of 1946 created the Council of Economic Advisers and stated that the Chairman of the Council, along with the other 2 members "shall be a person who as a result of his training, experience and attainments is exceptionally qualifed to analyze and interpret economic developments, to appraise programs and activities of the government, and to formulate and recommend national economic policy and to promote employment, production and purchasing power under free competitive enterprise." After establishing the qualifications of the advisers, the Employment Act sets forth in the Council's charter five specific duties for the advisers to accomplish. They are:

1. to assist and advise the President in the preparation of (a yearly economic report to Congress)

2. to gather timely and authoritative information . . .

3. to appraise the various programs and activities of the federal government . . .

4. to develop and recommend to the President national economic policies to foster and promote free competitive enterprise to avoid economic fluctuations or to diminish the effects thereof and to maintain employment, production and purchasing power;

5. to make and furnish studies, reports thereon and recommendations . . . as the President may request.

Dr. Feldstein qualifies eminently under these standards to serve as Chairman of the Council and to perform the duties listed in the charter. He has a distinguished record of intellectual, academic and professional accomplishments which have prepared him well for the demands of that position. Dr. Feldstein's achievements include the following: He completed a B.A. degree at Harvard College on a Harvard scholarship, and earned B. Litt., M. Litt. and D. Phil. degrees in economics from Oxford University on a Fulbright Scholarship. While a student in England working for his doctorate, he lectured at Oxford, and published 15 monographs in scholarly journals analyzing the social and economic aspects of the British national health care system. He began teaching at Harvard University as an assistant professor and was granted a full tenured professorship there after only 2 years. He

has since had a distinguished career at Harvard, spanning 15 years, as Professor of Economics. In 1977, at age 38, Dr. Feldstein was awarded the John Bates Clark Medal, awarded to the most promising American economist under 40, by the American Economic Association. Since 1977, Dr. Feldstein has presided over the prestigious National Bureau of Economic Research, a private non-partisan, non-profit organization which sponsors and publishes the writings of economic scholars from such respected universities as Yale, Chicago, Massachusetts Institute of Technology, Harvard, and Stanford, and conducts economic research on the national economy. He has served as a private economic consultant, as a lecturer and as a columnist. He is a member and leader of the American Economic Association, the Econometric Society, the American Statistical Association and the Royal Economic Society. Through the last year and a half, he has served as a member of the President's Commission on Productivity.

Throughout his outstanding career as professor and student, Dr. Feldstein has published a steady stream of scholarly analytical articles, at least 184 in number, covering a broad spectrum of economic issues in such respected economic journals as the Review of Economic Studies, the American Economic Review, and the Quarterly Journal of Economics, and has written monthly editorial articles for the Wall Street Journal and a regular column for the Los Angeles Times Syndicate.

In his writings, Dr. Feldstein has been a careful, thoughtful analyst of federal social programs, monetary policy and of both the spending and tax aspects of fiscal policy. He has published numerous articles discussing such topics as reducing the permanent rate of unemployment, especially teenage unemployment, stimulating private savings, the effects of inflation on the economy, the economic structure of Social Security, monetary policy, hospitals and health care costs, the stock market, and macroeconomic analysis. His published studies have been thorough and comprehensive, and are technically and professionally well respected.

In his confirmation hearing, Dr. Feldstein disabused the Committee of any notion that he is "anti-housing." This misconception apparently arose because of his concern over inadequate U.S. investment in new factories and equipment, given the relatively low level of savings in our economy. Dr. Feldstein's solution to this problem is not to deny funds for housing but to increase the over-all pool of savings for both housing and productivity-enhancing capital investments. As he told the Committee: "If we have more saving, we'll have more capital formation of all kinds, including housing, as well as business plant and equipment."

Because of his accomplishments, particularly his academic achievements and large body of scholarly publications, Dr. Feldstein is extremely well regarded by his fellow economists. Such economists have said in the press that Dr. Feldstein is a "strong" leader, a "fighter", someone who will give "greater policy importance to the Council of Economic Advisers," a "strong minded, technically competent, pragmatic adviser." The New York Times noted "he is well respected among his fellow economists."

Among his other talents, Dr. Feldstein has a unique human skill, the capacity to reduce arcane technical data and jargon into understandable concepts and clear facts, to make clear and straightforward the mystical and abstruse. Such skill is necessary for a man who will be a spokesman to the public for the Administration, and adviser to the President and the producer of economic reports for the Congress.

In view of the above, there remains no question that Dr. Feldstein's attainments, experience, and training fully qualify him, by the standards of the Employment Act which established the Council, to serve as the President's Chief Economic Adviser and to meet the goals of the Act of maintaining employment, increasing production and promoting competitive free enterprise. His training at Oxford and Harvard, his attainments of scholarships, fellowships, awards and a huge scholarly publishing record, and his experience as an economics professor, consultant, President of the National Bureau of Economic Research, member of the Presidential Economic Advisory Commission, and member and leader of professional economic societies well qualify him to "advise the President, to appraise federal programs, to develop national economic policies and to make studies and recommendations" to President Reagan, as his chosen advisor. The Committee, therefore, recommends that the Senate confirm Dr. Feldstein's nomination.

Mr. GARN. Mr. President, I yield the floor.

Mr. RIEGLE. Mr. President, I yield myself such time as I require.

Mr. President, there are several members of the committee who will speak in opposition to this nomination, so I will, in my opening remarks, attempt to lay a foundation as to why there is serious opposition to this nomination.

I might say that on the minority side there were no votes cast in favor of this nomination in the Banking Committee. The minority views which we submitted and which are part of the report, are signed by all the Members of the minority side.

I ask unanimous consent that those minority views be printed in the RECORD in full at the conclusion of my opening statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. RIEGLE. In addition, and it is quite unusual for this to be the case, the National Association of Homebuilders strongly opposes this nomination. However, this very important, thoughtful national organization, the National Association of Homebuilders, has looked at this nomination carefully, and have found it so disturbing that it not only opposed it openly but appeared before the committee to express its active opposition.

I think this organization's opposition is well-founded. I think it has a persuasive case to make.

One might wish to look at the reasoning and arguments of this organization in the formal document that we have in the way of the hearing record from the Banking Committee pertaining to this nomination.

I would say further that as one who once served in the other party, I have been privileged to know over the years a number of noted economists who would have been thought of as Republican economists, who were traditional, conservative economists, of various sorts. People like Arthur Burns, Alan Greenspan, and others, would tend to fall in that category.

In my opinion, Dr. Feldstein does not fall into that category, I think clearly if I were to try to decide a descriptive category, it would be that he, in my view, is a radical conservative economist, not a mainstream conservative economist. He has, over a long period of years, put forward a number of very controversial recommendations and ideas that I think not only would be harmful to the country but are profoundly naive.

For one as intelligent and as professionally competent as Dr. Feldstein is, it is troubling to me that we have a nominee who comes forward with ideas whose practical effect in everyday life would be so harmful, I think, to the economy as a whole and to millions of Americans that he really has no business being considered for this position let alone being on the verge of receiving an official Senate confirmation to the position of Chairman of the Council of Economic Advisers.

Just to give you one illustration that is current, within the last 3 weeks everyone who follows the news would be aware of the fact that there was a proposal made within the Reagan administration to tax the unemployment benefits of unemployed workers in this country. It was a terrible idea and an insulting proposal. After it surfaced and was kicked around for a period of days, it was such an embarrassment to the White House that the President himself felt compelled to clearly indicate that he would oppose the idea and that it would receive no further consideration.

This ill-fated proposal was Dr. Feldstein's idea. He had written about it as early as 1973, so this is not something that he has just recently considered. He has been identified in news stories as the person who was the originator of the idea at the highest levels of economic advice in the administration. He was the person who came forward with it and was clearly the person who feels that, as far as I know, it would make good sense to put a new tax on unemployment benefits for those out of work. He has some sort of misguided notion that this will, in some way, solve our problems, drive people into jobs, or whatever the thinking may be.

Clearly, Mr. President, this is as clear a current example of the kind of economic nonsense that has been practiced in too many instances by this administration over the last 2 years. We do not need any more of it.

What we need are changes in economic policy that can put people back to work so that they not only not re-

quire unemployment compensation benefits, but are not further threatened by the prospect of being unemployed and having people like Dr. Feldstein leading the charge for new taxes on unemployment compensation benefits.

Clearly, Mr. President, if there was ever an impractical, unsound, insensitive proposition to be put forward, at a time when we have nearly 12 million people unemployed in this country, it was the idea of the tax on unemployment benefits. That concept, that idea, that push has come directly from the nominee that is before the Senate at this time.

I dare say, Mr. President, that in the future, I think we can anticipate, if he is confirmed, that we shall see more ideas like this we will see more ideas as flawed, as insensitive and as impractical as this particular one is.

I might say further, Mr. President, that Dr. Feldstein has achieved some notoriety and is well known for proposals that have called for cuts in social security benefits. I know there are not too many people around here right now who would be prepared to stand up and call for cuts in social security benefits. And that there are some of us who are very strongly, adamantly opposed to cuts in social security benefits. But, Dr. Feldstein has been out front on proposals to cut social security benefits for some period of time.

He has written about it. His views have been widely circulated. They have been published as the views of one of the leading advocates of the need for cuts in future social security benefits. I would think that any Senator who has reservations about those kinds of proposals, who, in fact, may oppose cuts in social security, will want to very carefully consider what Dr. Feldstein has had to say in this area and to examine the radical nature of many of the proposals he has put forward which, in my view—and I think the view of others of us who opposed his nomination in the committee—would not only damage the social security system but would put it into greater jeopardy.

In addition to that, Dr. Feldstein has been out front on other controversial proposals, such as the subminimum wage. He is on record as saying in a variety of forums and in written remarks that the minimum wage creates economic problems and that one of the ways to deal with those would be to move in the direction of a subminimum wage for certain categories of workers. Again, there is not only a pervasive kind of insensitivity in the recommendations that he has made, but there is an absence of practical analysis as to how this would actually impact upon the lives of people, let alone the economy in the aggregate. I shall give a couple of illustrations later in my remarks taken from the cross-examination and the testimony we had in the committee when he was there as a witness.

In addition to that, Mr. President, the basis of the opposition of the National Association of Homebuilders to his nomination can be traced to very well-publicized pronounced views that Dr. Feldstein has to the effect that, and I quote him here, "Our Nation today is overhoused." He has this notion that we spend too much in the United States on housing, and that the American people have been too generous to themselves with their standard of living by affording themselves the degree of privately owned housing that we presently have in the United States.

I happen to strongly disagree with that. I think we have today, in fact, a housing crisis. I think we are underhoused. I think we have tens of millions of people who need better housing than they have, or need to acquire private housing, because they presently do not have it. The industry to provide these things is literally in depression circumstances which in part is pulling down the whole national economy. Yet we have here this particular professor who is now before us as a nominee who says that the country is overhoused, and he argues very strongly that there needs to be a shift to less emphasis in this area at the very time when many of us feel strongly that exactly the reverse is true, and that it is time to put more emphasis in this area.

As a matter of fact, Mr. President, it was the U.S. Senate that passed, by an overwhelming vote, the Lugar housing proposal, with strong bipartisan support to try to do something about the housing crisis in the United States at this time. As a matter of fact, that legislation, which passed the House and the Senate with bipartisan support, would be law today except for the veto of the President of the United States.

This man who now stands before us as a nominee brings us that kind of view, I dare say if one compares those views to the views we have seen over the years from a broad group of traditional, conservative Republican economists, these views go substantially beyond what we have seen or heard before. They are radical notions and they are harmful notions. Perhaps the most troubling of all in terms of weighing the implications of these kinds of policy notions that this nominee holds is not only the fact that he will be the Chairman of the Council of Economic Advisers and, therefore, presumably one with a disproportionate influence and weight on the policy process but, based on those very radical proposals, whether he really had a deep awareness and personal understanding of what the meaning of these things would be in terms of their impact on people across the United States. So in the committee hearing I began by asking a series of questions that I must say I did not imagine would proceed finally in the fashion that they did.

I thought he would be able to come forward with ideas that were clear and demonstrated an awareness and a sensitivity that would at least give some greater sense of depth to indicate that he knew or had thought through what the implications of his proposals would be in terms of real-life circumstances facing the American people.

I do not want to dwell on this, Mr. President, but I want to touch on it. We had quite an exchange. It is an exchange that I would ask people who are interested in it to take a look at.

I started out by asking Dr. Feldstein what I felt was a very innocent question. I meant for it to be. I asked him if his net worth were in excess of $1 million.

I knew for a fact it was, because he had submitted his financial documents to the Senate committee and the documents which he had prepared, or were prepared at his direction, which he had signed and submitted to the committee, clearly indicated a net worth well in excess of a million dollars. By that, I mean some number of hundreds of thousands of dollars above a million, without going into the precise number. So the committee knew this.

The committee knew this, and he was aware of it; he had submitted the documents. And so I asked the question if he had a net worth in excess of a million dollars.

I expected him to acknowledge that in fact that was the extent of his net worth and to go on from there, but he responded by saying no, that his net worth was not above a million dollars and as a matter of fact was substantially less than that.

I was quite unprepared for that answer because it was at odds with the fact, and so we had an exchange and finally established over a period of a few minutes that in fact his net worth was well above a million dollars. He indicated that it was originally at odds with the fact for a variety of reasons, either that it was unclear in his mind or his recollection of what he was worth was different. But the critical issue is, and what I said at the time was this: It does not matter in the end what his net worth is, assuming, of course, that he is truthful in presenting it to us both in his submitted statements and his actual verbal testimony. That is important but what is more important than that is I was interested in knowing if he could demonstrate a sensitivity, an awareness of what the meaning of his proposals would be on the lives of people in this country who do not have the financial strength and wherewithall that is available to him

and to others as well situated in this country.

I must say that as we began to try to establish the facts in this area I thought his responses were appalling, and I choose that word with some care.

I mentioned earlier that this gentleman has professionally advanced some of the most radical notions in journals and in verbal statements with respect to cuts in social security, so I asked a very simple question. I asked if he was aware of what the average person on social security now receives each month. Again I wanted to start from the point of trying to be able to identify his awareness, and for that matter the awareness on the record as well, as to what the practical impact of his proposals would be on the lives and well-being of people today who are on social security.

Do you know what his answer was? He had no idea—no idea—what people in terms of averages receive today for social security payments. I said, "Come on, you must have some notion. How can anybody even analyze a proposal for cuts in social security without starting with some kind of baseline factual assessment of what people now get?" But he was frank to say, and I suppose he gets high marks for candor at least on this question, that he did not know.

I said, "Well, you must have some idea. Would you be prepared to make an estimate?" He was not prepared to make an estimate. So I finally had to make an estimate for him.

But what does this mean? In the area of social security it means we have here a highly ideological nominee, a person who has advanced a number of radical views, who is out advocating those views at the present time, and who at the same time is not able to demonstrate any clear understanding or specific knowledge of what those views would mean in practical fact to the people that would be affected by these policy decisions.

Most people on social security are just scraping by. They are not getting fat. In fact, many of them are sliding backward right now in terms of their living standard because there are a lot of highly inflationary items that face older people, utility bills being one. We are having something of a crisis now with an alarming rise in natural gas prices, and the same thing is true for medicines and medical costs and things of this sort. Millions and millions of our elderly people on social security are under terrible financial stress and pressure and they are worrying day and night how they are going to meet their bills today, tomorrow, and the next day.

We have some obligation as Senators to consider very carefully any changes in social security or other things that bear directly on that group of our citizens. But the Chairman of the Council of Economic Advisers to the President of the United States has that same obligation, in my view, and has the same requirement to understand fully and carefully what the practical consequences would be of radical proposals for cuts in social security benefits that he may think are necessary or he may be prepared to advocate.

When I see those proposals being put forward with all the weight and strength of professional credentials, Harvard professor, and all the rest of it, and then on cross-examination find he does not have the slightest notion, when asked a direct question, as to what the average benefit payments level is for people on social security, I find that an insulting response to the country and to social security recipients; I find it worrisome. I think we have too many people like this in the Government now. There are too many of these people in the Reagan administration at the present time, and I mean by that people who are in very good financial circumstances. And they come along with these absurd notions and proposals never designed to hurt them, I might say, never cutting benefits that they might be receiving, but usually going out and finding somebody on social security or some unemployed worker or somebody else to take it from. We have too many people like that in this administration, and we do not need another one.

(Mr. HAYAKAWA assumed the chair.)

Mr. RIEGLE. Mr. President, I wish to pursue this question of sensitivity and awareness because this lies at the heart, I think, of his ability not only to have ideas but to understand what the meaning and the impact of those ideas would be upon the lives of people, upon the entire economic system, and upon our country as a whole.

In trying to get to the issue of the meaning of cuts in social security benefits, I tried to construct with Dr. Feldstein in the cross-examination some understanding with him as to what monthly costs people face in this country, social security recipients, and all other families, for that matter.

We got into the area of heating costs because I wanted to see if he had some sense of what is happening in that area in terms of the degree to which rising utility bills are eating up what is a very small income from social security for millions of Americans.

I assumed that Dr. Feldstein lives somewhere in Cambridge as a professor from Harvard so I asked him about that.

I am paraphrasing, but the thrust of what I said was along these lines:

I said:

I assume you live in Cambridge in a home somewhere in that area and that as you carry out your duties there at Harvard University and your private business duties, and so forth, you know what are you seeing happening with your own utility bills.

Take last winter, for example, in the dead of winter—you are in Massachusetts, a northern State—you have hard winters as we do in Michigan.

What were your own utility bills running, say, in the coldest months of last year? I mean in what range would they have been running? Do you have any idea what utility bills are that you are paying or others in your situation would be paying?

And he had to frankly say, and I assume he was being honest, that he had no idea what his utility bills were in those months or any other months. It just was not anything that he had any awareness of.

I said:

Look, I am not trying to find out to the dollar. I am interested in sort of a general level. Are you paying $50 a month, are you paying $100 a month, are you paying $200 a month, $250 a month?

The reason I asked the question is that I have people in Michigan who are getting social security payments of maybe $250 a month or $300 a month and who have utility bills that are higher than the entire social security payment. People are getting monthly utility bills in the dead of winter of $300 a month, $350 a month, and I was interested in knowing from a person who is going to be the Chief Economic Adviser to the President and who is proposing cutting social security benefits if he had any understanding of what the cost of living was like for basic items like utility bills for people who have to try to get by on social security.

He did not have the slightest idea, and he was frank to admit it in the committee.

I am not here to rest this whole case on the issue of whether he did or did not have any semblance of a notion as to what his utility bills might have been during the winter of last year. What I was looking for is whether he has any practical understanding of what life is like for average people, whether he has any sense of awareness of what life is like and how tough it is to get by these days if you are living on a limited income.

And I have to come to the floor of the Senate and report that this man did not show 1 ounce of understanding. He did not show any awareness. His responses were pathetic in this respect.

So I am not surprised that he continues to advance these radical economic notions. I was not surprised to read in the paper 10 days ago that this is the person advising the President of the United States to tax unemployment compensation benefits.

I was not surprised at all because this man demonstrated no understanding and no sensitivity to these kinds of issues in practical fact in his appearance before our committee.

And I think it is a shame because I think the country deserves something better than that.

Mr. President, lest you think that the answers to other questions of a different sort were answered more fully than what I have just described, let me give you some other examples on completely different kinds of issues.

Let me take the constitutional amendment to balance the budget. Many people here favor that approach. This question was put to Dr. Feldstein:

What are your views on a constitutional amendment to balance the budget?

His answer:

I don't have a professional view on that at all.

Question. What is your personal view?

Answer. I really don't have an informed view on that question.

So much for the constitutional amendment to balance the budget.

On the issue of Federal assistance to State and local government, he was asked this question:

What are your views on Federal assistance to State and local governments for such functions as education, community development and job training?

His answer:

I do not currently have views on the subject of Federal aid to State and local governments for these functions.

On the issue of Government's role in housing, mass transportation, and urban development, he was asked this question:

What do you believe should be the Government's role in stimulating (1) housing, (2) mass transportation, and (3) urban development?

His answer:

I do not currently have views on the Federal Government's role in stimulating housing, mass transport, and urban affairs.

Defense. This is the question:

Do you think it is wise, given our present level of deficits, the projected level of deficits, that as a general proposition we reduce defense spending? Yes or no?

Answer. I think I really have to look at that.

As to recovery in terms of the economy, the question was:

When do you expect the strong recovery promised by the administration last spring?

This is the person who will become the Chairman of the Council of Economic Advisers if confirmed today, and his answer was:

Because of the nature of the position for which I have been nominated, I believe it is inappropriate for me to make public forecasts at this time. Projections will, of course, be made by the Council through our report at the appropriate time.

It goes down through the area of social security, minimum wage, and so forth and so on. I have mentioned some of these previously.

So I think what we have here is exactly what we do not need. We have got the wrong person for the wrong job at the wrong time. We need somebody very different from Dr. Feldstein to try to engineer an economic recovery in this country, to give some sensitive, practical, and humane advice on economic policy to the President and to the country.

We do not need someone who comes in with a briefcase full of exotic propositions designed to hurt many people in this country, all of whom are in circumstances quite different from his, and where he is not able to bring to the committee under cross-examination any sense of an understanding of or an awareness of what his policy proposals would mean in practical effect in the lives and circumstances of the people of our country.

So I would just say to the Senators listening, Senators present, and to the American people if this confirmation goes forward today—as it likely will—I think we should brace ourselves for some disappointments from this nominee. I think we should brace ourselves for other proposals such as the tax on unemployment benefits, which came from him a matter of days ago. I think we can expect to see him in the vanguard of those trying to cut social security benefits; I think we can see him fighting to try to erode, change, and lower the minimum wage in this country because these are all propositions he has advanced numerous times and is well known for advocating. It is not what the country needs.

I will conclude by saying this: Much publicity has been given in different quarters, from columnists, magazines, and so forth, to the colloquy that Dr. Feldstein and I had in the committee with respect to his financial disclosure statement and his net worth, and so forth. I want to emphasize again the fact that this man has a net worth of well in excess of $1 million by no means disqualifies him from good and sound service in this position or in any other position in Government, and I do not want to have my position either misstated or distorted on that issue.

What I am concerned about is something different and it is this: If people of enormous wealth who, at the same time, had an awareness of what life is like for the great majority of the American people who do not have enormous wealth, then I would think they could bring the fairness, the sensitivity, and the understanding to these decisions that they require.

At a time of extreme national hardship, where today we meet under conditions where we have to go back 50 years to find economic conditions as bad or as desperate as they are this very minute, we need someone with understanding and compassion and humanity, yes, and brains and talent and professional standing, and we should not have to settle for less. We can find people with all those qualities. We do not have to go with someone who has the professional standing but brings no evidence of any awareness of what his propositions and proposals would mean to people in this country.

We should not settle for that, and the fact that the President of the United States may be comfortable with that means nothing at all. That is why we have the confirmation process; that is why our laws require that these candidates have to pass muster here in the U.S. Senate because Presidents do make mistakes and Presidents of both parties in the lifetimes of all of us in this room have made more mistakes than we care to even have to try to acknowledge at this time.

This nomination is a clear mistake, and the country will not be well served. This nomination ought to be turned down. I yield to the Senator from Maryland.

EXHIBIT 1

MINORITY VIEWS OF MESSRS. RIEGLE, PROXMIRE, CRANSTON, SARBANES, DODD, DIXON, AND SASSER

We acknowledge Martin S. Feldstein's technical qualifications as an economist, but have deep reservations about his nomination to be Chairman of the Council of Economic Advisers because: (1) his statements suggest that he is insufficiently sensitive to the economic distress facing the country today; and (2) he has not been fully responsive to questions about his views on the major public policy issues raised by the deteriorating economic situation.

The Chairman of the Council of Economic Advisers (CEA) plays a key role in the formulation of the Administration's economic policies. He is the top adviser to the President and chief spokesman for the Administration on the state of the economy. The Chairman is the author of the Economic Report of the President and is directly reponsible for the Annual Report of the Council of Economic Advisers.

The Chairman of CEA must be more than a technical adviser to the President. He must provide the Congress and the American people with comprehensive, responsive, and accurate statements on economic conditions and policies. Unlike the President's national security adviser, the CEA Chairman is subject to Senate confirmation and testifies frequently before Congress. The position requires more than an economist whispering adivce in the White House. The CEA Chairman must be held accountable for his views and recommendations on economic policy, especially in the present economic situation.

The current state of the economy is the worst since the Great Depression. The jobless rate is the highest since 1940. The report on September unemployment, published by the Department of Labor, confirmed that 11.3 million Americans are out of work, almost three million more than a year ago. These figures do not count the record total of 6.6 million workers who are partially unemployed because their hours have been cut, and the 1.6 million who are so discouraged that they have stopped looking for jobs. When these categories are added to the 10.1 percent officially counted

as unemployed, the total becomes more than 17 percent.

Over the last two years, record high interest rates have devastated housing, automobile sales, small business, agriculture, and other interest-rate sensitive sectors of the economy. Business failures during September averaged 549 per week. Factory output and capacity utilization declined again in September—less than 70 percent of U.S. manufacturing capability is being used. Auto sales are at the levels of the early 1960's Housing starts remain at recession level despite a flurry of Federally stimulated activity in September. The total Gross National Product in real dollars is less now than it was at the end of 1979.

At his confirmation hearing, Dr. Feldstein was asked whether he thought "today's monetary policy and fiscal policy are in conflict." He responded: "No, I don't agree with that. I think that the two policies are moving in a coordinated way."

We find that answer incredible. Fiscal policy has been too expansionary (record Federal Budget deficits); monetary policy has been too restrictive (record high real interest rates); and the sharp conflict between the two has been tearing the economy apart. A nominee for the Chairmanship of the Council of Economic Advisers ought to address candidly the conflict between fiscal and monetary policies, when all available evidence demonstrates that a conflict exists.

Many economists and businessmen believe the economy would have recovered from the recession and unemployment could have been reduced, instead of increasing, if the Federal Reserve had pursued a less stringent monetary policy and if the budget deficits had been reduced. Feldstein, however, stated: "I generally support the broad thrust of the Federal Reserve Board's approach to the conduct of monetary policy." When asked whether monetary policy was too tight, Feldstein replied:

"I think that monetary policy is correctly focusing on the inflation rate. I think its failure to focus on holding the growth of nominal GNP is the source, one of the key sources, of our increasing inflation in the past and that the monetary policy is appropriately aimed."

Other statements by Dr. Feldstein suggest that he does not recognize the profound economic distress in our Nation. From his response to questions submitted at his confirmation hearing, it is clear that Mr. Feldstein is willing to accept current high levels of unemployment and interest rates in an attempt to eliminate inflation and redirect capital investment. This costly experiment has shown few signs of success, however, and we believe less draconian measures would produce better results.

UNEMPLOYMENT

On May 11, 1982, Feldstein termed the recession "relatively modest thus far." On September 24, 1982, he passed up an opportunity to change his description of the economic situation and, instead, noted that the unemployment increase to that date from "the business cycle peak in July 1981" was "a smaller increase in the unemployment rate than was true on average in the previous recessions." While technically correct as of September 24th (September's 10.1 percent unemployment rate had not been reported), Feldstein's answer is based on the notion that the unemployment rate of 7.2 percent in July 1981 was a "business cycle peak" level. In fact, the average unemployment rate during business cycle peaks at the seven previous expansions in the postwar period was 4.8 percent, 3 percent lower than the July 1981 level.

Feldstein's response can be viewed as part of a pattern of statements intended to minimize public concern (and the Federal Government's responsibility) for extraordinarily high levels of unemployment by portraying high unemployment as a "natural" product of the business cycle. If high unemployment can be shown to be normal, then the Federal Government is relieved of any responsibility to use macroeconomic policy instruments (fiscal and monetary policy) to reduce unemployment by providing a better mix of policies to stimulate economic growth. Indeed, if 7.2 percent unemployment were a normal level of unemployment for a business cycle peak, the use of stimulative fiscal and monetary policy to reduce unemployment below that level could be inflationary. That is the implication of Feldstein's reply to a question submitted to him by Senator Riegle:

"What do you consider an acceptable level of unemployment? In Michigan, the current unemployment rate, as of August 1982, is 15.2 percent. Is that an acceptable level of unemployment? What, in your opinion, is the "full employment" rate of unemployment?"

Feldstein's reply:

"As a long-run goal, the unemployment rate should exceed zero only by the "fractional" unemployment required for healthy job search. It would clearly be better to have a rate lower than that which recently prevailed in Michigan. The "full employment" rate of unemployment is a technical term used by economists to denote the lower unemployment rate which, with the existing structure of labor markets and worker incentives, can be sustained without an increase in inflation. Econometric research generally places this unemployment rate in the 6 to 7 percent range."

Economists disagree, in fact, about the "full employment" or "natural" rate of unemployment, but most choose a lower figure than Feldstein uses. Professor Robert Eisner of Northwestern University says the rate is 4 percent; his colleague, Robert J. Gordon, says 6 percent, as does Walter W. Heller of the University of Minnesota. The consensus estimate, according to Professor Donald Ratajczak of Georgia State University is 5½ to 6 percent. Feldstein's reference to "the 6 to 7 percent range" is clearly on the high side.

Feldstein's statements imply his support for macroeconomic policies which would tolerate still higher levels of unemployment "temporarily" (presumably levels well above 7 percent) in an attempt to reduce the inflation rate.

Feldstein was quoted in the Washington Post of August 15, 1982 as believing that "if the inflation rate is above its optimal level, the economy should then be deflated to reduce the inflation rate, regardless of the temporary consequences for unemployment."

Feldstein's views on structural unemployment suggest the same tendency to understate the magnitude of the problem and the lack of sound and acceptable policy prescriptions evident in his comments on unemployment generally. Senator Riegle asked Feldstein about youth unemployment:

"You have concluded in past studies of youth unemployment that the problem is concentrated in a relatively small group of disadvantaged workers whose low productivity prevents employers from hiring them at the minimum wage. If the problem is concentrated in a relatively small group, how do you explain the Federal Reserve Board's Mid-Year Monetary Policy Report figure that 'black male teenagers experienced an unemployment rate of nearly 60 percent in June 1982'?"

Feldstein replied:

"Unemployed black male teenagers are clearly a disadvantaged group. The vast majority of teenagers are either students, or working, or both. The unemployed non-students constitute a small portion of all teenagers. The high unemployment rate in any subgroup reflects the exclusion of the out-of-the-labor-force students from the denominator."

Elsewhere Feldstein has called attention to changes which may reduce the measured rate of unemployment, but fail to address the plight of the unemployed.

"I think we will see a variety of small changes in market incentives which will allow the labor markets to be slack without registering 8½, 9, 9½ percent unemployment rates. [A] very subtle change that occurred October 1, [1981] was the sharp reduction in long term unemployment insurance benefits, reducing from 39 to 26 weeks. A lot of people who were previously counted as unemployed will not be counted as unemployed now. Some of them will go back and find jobs. Some of them will drop out of the labor force. They won't show up in the official statistics as unemployed."

SOCIAL SECURITY

Feldstein has targeted Social Security for budget cuts:

"Where will these budget cuts occur? Revenue sharing that transfers money through Washington back to States and localities. In federal matching programs that distort local decisionmaking. The Medicare and Medicaid programs that inflate the cost of medical care for everyone. And a variety of welfare type programs that provide inappropriate benefits to middle income families for such things as school lunch subsidies and food stamps and so on. And although the Administration's poorly designed proposal to reduce Social Security benefits for new retirees has temporarily made Social Security a politically hypersensitive taboo area, I believe that a way will be found to slow the growth of Social Security, thereby providing substantial reductions in future government outlays."

Feldstein has advocated "an immediate start to slowing the growth of benefits." Testifying at a Joint Economic Committee hearing on Social Security last September, he said that "the proposals for doing so have generally been far too timid." His recommendation is entirely consistent with his view that we have "a Social Security program that makes saving virtually unnecessary to the majority of the population."

We do not agree that Social Security benefits are go generous that most people need not save for retirement. Many retirees, in fact, find Social Security benefits so meager that they are forced to return to work. We wonder whether the nominee is thoroughly familiar with the practical impact of his proposals. He was asked by Senator Riegle:

"Do you know, offhand, what the average person on Social Security would be receiving or what the median benefit level would be for a person now collecting Social Security benefits under the system?"

Dr. Feldstein replied: "No, I do not know that number offhand."

HOUSING

Feldstein has described (and supported) the Administration's strategy as "a coordinated mix designed to twist the composition of spending away from housing, away from consumer durables, and into plant and equipment." He has said that "As a nation we are overhoused." He has said that he believes "housing is going to continue to be in trouble" and that as far as he is concerned, "that's all good news from my point of view, but it doesn't exactly lead to a buoyant economy."

We find these statements astonishing in view of the fact that more than 41 million people will reach their 30's in this decade, creating an unprecedented increase in the number of potential first-time homebuyers. An addition of 13 million persons to the 35 to 64 age group will keep demand high in the "buy-up" market as well.

We view the fact that the housing industry is producing at the lowest level since the 1940's as bad news, not good news, for the U.S. economy. We fear that continuation of the depression in home-building will prevent many Americans from realizing their dream of home ownership.

The "baby boom" generation may be unable to afford the housing which is available, if the Administration's policies continue. "Creative financing" assumes that the homebuyer's income rises over time, but the National Journal estimates that one of the central consequences of the Reagan Administration's policies is that: "Income in the United States will be distributed more unevenly than before between the rich and the poor." Families at the bottom one-fifth of the income scale will receive lower average incomes and a smaller share of the total national income. Only the rich will gain substantially. With declining or fixed income levels, millions of Americans could find themselves underhoused and overborrowed, if the policies advocated by Dr. Feldstein continue.

The National Association of Homebuilders testified before the Committee on September 22, 1982 in opposition to the Feldstein nomination. NAHB President Fred Napolitano said he was deeply troubled by Feldstein's remarks: "I feel that these views are so antihousing that they would impair Dr. Feldstein's ability to provide advice to the President in the critical area of housing and economic policy."

VIEWS ON OTHER ECONOMIC PROGRAMS

Feldstein's oral testimony and written submissions to the Committee were not forthcoming with respect to his views on many economic policies and programs. He was asked about Federal assistance to State and local governments for education, community development, and job training, and about the Government's role in housing, mass transportation, and urban development. He replied: "I do not currently have views on [these] subjects.

The nominee's statements raise serious doubts about his ability to relate theoretical economics to real economic conditions and specific economic programs. The recurrent theme in Feldstein's views is the necessity for enduring a painful economic period in the hope of some eventual improvement. He has said:

"Unemployment must rise, industries must suffer, profits decline, and the current beneficiaries of government programs must feel the effects of reduced government spending."

We find this perspective too callous and shortsighted to be an acceptable approach to economic recovery.

Mr. DIXON. Mr. President, I thank my distinguished colleague for yielding. I rise in opposition to the nomination of Martin S. Feldstein to be Chairman of the Council of Economic Advisers.

My general position regarding Presidential nominations is that the President is entitled to have as his chief advisers those persons he believes would be the most effective advocates for his programs.

However, in addition to playing a key role in formulating the administration's economic policies, the Chairman of the CEA must analyze and appraise programs and activities of the Government. The Chairman must provide the Congress and the American people with statements on economic policies.

Therefore, given the current deplorable state of the economy, the worst since the Great Depression, I believe the Senate must take more than a cursory look at the philosophy as well as the technical qualifications of the nominee to chair the CEA.

There is no doubt that Dr. Feldstein has acquired an outstanding education and qualifies eminently under the standards of achievements and training. My opposition to Dr. Feldstein's nomination relates to what I believe to be his insensitivity to the "real" economic sufferings of our citizens.

In Dr. Feldstein's confirmation hearing, it became clear from his response to questions that he is willing to accept high levels of unemployment and interest rates as a means of eliminating inflation and redirecting capital investment.

Dr. Feldstein has expressed the view that the social security program "makes saving virtually unnecessary to the majority of the population." Unfortunately, Dr. Feldstein apparently is not aware that of the 36 million Americans receiving social security benefits, 40 percent rely on these benefits for three-fourths of their household income.

Additionally, in Dr. Feldstein's confirmation hearing, he stated that "As a nation we are overhoused." He has said that he believes "housing is going to continue to be in trouble" and that, as far as he is concerned, "that's all good news from my point of view, but it doesn't exactly lead to a buoyant economy."

I find these statements utterly appalling. In my own State of Illinois, multifamily and single family housing starts for 1977 were 83,800. Just 5 years later, it is estimated that these same starts will be down to 18,000 units. This places Illinois as the second leading State in the Nation with its housing downturn of 78.5 percent.

I fear that with Dr. Feldstein's antihousing attitude, he cannot give unbiased advice to the President on the housing sector of our economy.

Mr. President, these are examples of Dr. Feldstein's insensitivity to the economic distress facing the United States today. I believe that should the Senate confirm Dr. Feldstein as Chairman of the CEA, it gives a stamp of approval to a person who has demonstrated a lack of feeling for those citizens who are suffering most due to the economic conditions of our society.

I thank my distinguished friend from Michigan for yielding to me and I join him in his excellent opposition to the nomination of Dr. Feldstein and confirmation of Dr. Feldstein.

The PRESIDING OFFICER (Mr. HAYAKAWA). The Senator from Maryland.

Mr. SARBANES. Mr. President, I thank the distinguished Senator from Michigan, the ranking minority member of the Senate Banking, Housing and Urban Affairs Committee.

Before I start on my remarks, I simply want to make the observation that I think the Senator's last point is an extremely important one. The economic policy being pursued by the administration is clearly beneficial to the very wealthy, including those serving in the President's administration and most of the members of the President's Cabinet, but is placing burdens on middle income and working people in this country.

There is not a single element of the President's economic program that requires any sacrifice on the part of those at the top of the income scale. In fact, the program means enormous benefits for the very wealthy in this country at a time when unemployment is at its highest rate since the Great Depression, and when the squeeze on middle-income individuals and families is being greatly intensified.

Mr. President, I want now to address another aspect of Mr. Feldstein's conduct, and that is his refusal to appear before duly constituted committees of the Congress.

In his confirmation hearing before the Senate Banking Committee the distinguished chariman of our committee, the Senator from Utah, put to Mr. Feldstein this question, and I now quote:

Will you be willing to appear before this committee or other committees of the Congress when requested?

Mr. Feldstein replied, and I quote:

I will happily.

Mr. President, last Friday the Joint Economic Committee held its regular monthly session to receive the latest unemployment figures, and Mr. Feldstein was requested to come before the committee at that hearing. He indicated he would not be able to do so. The

chairman then set another hearing for Monday at 2 o'clock. Mr. Feldstein declined to appear then, and the chairman, Chairman REUSS, the distinguished Representative from Wisconsin, indicated that other times could be arranged to accommodate Mr. Feldstein because it was felt that, given the economic situation and the need to address it, it was important for Congress to hear from the Chairman of the Council of Economic Advisers.

We should recall that the figure announced at Friday's hearing with respect to the unemployment rate was 10.8 percent. It was 10.4 percent the month before that, and 10.1 percent the month before that, and 7.2 percent in July of 1981.

So in the period between July of 1981 and last Friday, unemployment in this country has increased 50 percent with the rate rising from 7.2 percent to 10.8 percent.

I want to read the letter that Mr. Feldstein sent to Chairman REUSS with respect to appearing before the Joint Economic Committee. Mr. President, I ask unanimous consent that the full text of the letter be included in the RECORD and that immediately preceding that letter a letter from Chairman REUSS to Mr. Feldstein asking him to appear be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

CONGRESS OF THE UNITED STATES,
JOINT ECONOMIC COMMITTEE,
Washington, D.C., November 30, 1982.

Hon. MARTIN FELDSTEIN,
Chairman, Council of Economic Advisers, Executive Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Because of the importance of the economic issues facing this session of Congress, we would appreciate your appearing before the Joint Economic Committee at 10:00 a.m. this Friday morning, December 3. If you are able to present a prepared statement, we would be happy to receive it; if, however, you find that inconvenient, we can proceed without such a statement. I look forward to hearing from you.

Sincerely,

HENRY S. REUSS,
Chairman.

THE CHAIRMAN OF THE
COUNCIL OF ECONOMIC ADVISERS,
Washington, D.C., December 3, 1982.

Hon. HENRY S. REUSS,
Chairman, Joint Economic Committee, Washington, D.C.

DEAR CHAIRMAN REUSS: Thank you for recent invitation to testify before the Joint Economic Committee on the problem of unemployment.

I am terribly concerned about the problem of unemployment and the unemployment numbers that came out this morning. As you know, reducing the problem of unemployment is one of the Administration's key priorities. I am working with other members of the Administration to supplement our initiatives in this area.

In the next several weeks the Administration must formulate both its fiscal year 1984 budget proposals and its agenda for major Presidential initiatives in the coming year. Both of these activities will require nearly all of my time throughout December. Additionally, I will be spending time in developing the President's 1983 Economic Report of the President to be released January 24. As I am sure you can appreciate, particularly in light of recent unemployment figures, formulation and refinement of sound economic policy by the Administration have become especially imperative.

Quite apart from these demands on my time, as a matter of Administration policy I should not testify until I have been confirmed by the Senate. As you are aware, my confirmation by the Senate has not yet occurred.

As a consequence, I will not be able to appear before your Committee before the first of next year. I regret that I will miss this opportunity, but I do look forward to testifying before the Joint Economic Committee frequently in the months and years ahead.

Thank you again for your invitation.

Sincerely yours,

MARTIN FELDSTEIN.

Mr. SARBANES. The letter from Chairman REUSS of the Joint Economic Committee to Mr. Feldstein, dated November 30, 1982, reads as follows:

The Honorable Martin Feldstein, Chairman, Council of Economic Advisers, Executive Office Building, Washington, D.C.

I just state parenthetically that the Chairman of the Council of Economic Advisers is the principal economic adviser to the President. In that letter Chairman REUSS said:

DEAR MR. CHAIRMAN: Because of the importance of the economic issues facing this session of Congress, we would appreciate your appearing before the Joint Economic Committee at 10:00 a.m. this Friday morning, December 3. If you are able to present a prepared statement, we would be happy to receive it; if, however, you find that inconvenient, we can proceed without such a statement. I look forward to hearing from you.

As I indicated, Mr. Feldstein communicated, apparently orally, that he would not be able to attend. It was then indicated that the hearing could be scheduled for Monday afternoon. He again indicated he was not going to attend and Chairman REUSS indicated other times could be worked out. He was anxious for the committee to hear from the administration's chief economic spokesman.

On December 3, Mr. Feldstein sent the letter which has just been included in the RECORD to Chairman REUSS. I want to quote from that letter.

DEAR CHAIRMAN REUSS: Thank you for your recent invitation to testify before the Joint Economic Committee on the problem of unemployment.

I am terribly concerned about the problem of unemployment and the unemployment numbers that came out this morning. As you know, reducing the problem of unemployment is one of the Administration's key priorities. I am working with other members of the Administration to supplement our initiatives in this area.

Then he declares that the administration has to formulate its 1984 budget proposals, its agenda for major Presidential initiatives, and developing the economic report.

Then he states:

Quite apart from these demands on my time, as a matter of Administration policy I should not testify until I have been confirmed by the Senate. As you are aware, my confirmation by the Senate has not yet occurred.

As a consequence, I will not be able to appear before your Committee before the first of next year.

Mr. President, I want to take the two reasons that he gives in order, beginning with his assertion that the demands on his time prevent him from appearing before a duly constituted congressional committee. First of all, it is a major responsibility of an executive branch official, particularly one requiring the confirmation of the Senate, to appear before the Congress. Mr. Feldstein is obviously insensitive to that responsibility.

But second, the assertion that he makes about the demands on his time, citing work that he is doing within the administration with respect to the preparation of the economic program, is directly contradicted by Mr. Feldstein's own public activities.

Let me quote from an article which appeared on Monday of this week in the New York Times, giving what is termed a working profile of Martin S. Feldstein. That article states as follows:

He did a press breakfast and two speeches on Monday, a half hour televison interview Tuesday, another press breakfast Wednesday, a speech Thursday night to the Directors of the 12 Federal Reserve Banks, and an address Saturday to the British North American Committee, a business group. Even by White House standards, that is a whirlwind agenda of outside appearances.

Now, here is Mr. Feldstein telling the Congress that he is so busy—working on the agenda for the Presidential initiatives and developing the economic report to be released on the 24th of January, more than 6 weeks from today, so busy engaged in that activity that he cannot respond to the invitation of the Joint Economic Committee to appear last Friday morning, to appear Monday afternoon, or to appear on any other occasion mutually convenient to testify with respect to the administration's economic policy. And yet, while he is so busy in these endeavors, which he lists in his letter of December 3, he has the time to do a press breakfast and two speeches on Monday, a half-hour television interview on Tuesday, another press breakfast on Wednesday, a speech on Thursday night to the Directors of the Federal Reserve banks, and an address Saturday to the British North American Committee. And those are not the only public appearances which Mr. Feldstein has made.

How long are the Members of the Congress going to tolerate the refusal of high-ranking members of the administration to appear before congressional committees to discuss national economic policy, at the very same time that they are making a series of public appearances before the television, with the press, and at major dinner addresses, as Mr. Feldstein has done in this instance?

Now, as to his assertion that he holds a recess appointment and ought not to appear for that reason, there is no basis whatever for it. A recess appointee exercises the powers of his office. Other recess appointees have appeared before congressional committees to discuss issues of concern to the Congress during the course of their recess appointment. The very notion that because you hold a recess appointment you can duck from the obligation of appearing before congressional committees is an insult to the Congress.

It is no wonder that Chairman REUSS, in his statement on this matter, declared:

Chairman Feldstein owes an obligation to the Joint Economic Committee and to any other Committee of Congress to appear when called. He is the duly-constituted, recess-appointed holder of the Office of the Chairman of the Council of Economic Advisers. As such, he is subject to all the duties and responsibilities of that Office, including accountability to Congress. Indeed, on Friday the White House Counsel's office informed our staff that no policy against congressional testimony by recess appointees exists.

As for Chairman Feldstein's schedule, I note that it has not prevented him from making appearances within the last few days before the Commercial Club of Boston, the British-North American Committee, the Directors of the Federal Reserve Banks, "Meet the Press," the "McNeil-Lehrer Report," and groups of working press. He is scheduled to appear before the National Press Club on December 13.

Chairman REUSS went on to say:

Chairman Feldstein's refusal to appear is indefensible. It is an insult to the whole Congress, including the Senate which has yet to act on his nomination.

The Nation needs an economic adviser, not an artful dodger.

This Congress has many questions today for Chairman Feldstein. We want to know whether it is true that the administration is now prepared to accept unemployment above 7 percent for the indefinite future. We want to know whether the adminstration believes that taxing unemployment compensation would help reduce unemployment. We want to know whether the administration is promoting its gasoline tax in full knowledge of the fact that it will cost thousands of productive private sector jobs. All of these stories have been associated with Chairman Feldstein's name in recent weeks. Congress must have an opportunity to find out whether they are the awful truth.

Mr. President, there is no basis whatever on which Mr. Feldstein can justify his refusal to come before the Congress.

As I considered this refusal, and thought further about the comments which the distinguished Senator from Michigan has made—about the insensitivity reflected by Mr. Feldstein in his testimony before the committee on the economic questions of the day about the effects of the policies he advocates on the unemployed, the recipients of social security, those engaged in the housing industry, that there was a kind of arrogance of wealth that fails to be sensitive to these concerns. It was also clear to me that Mr. Feldstein is now reflecting an arrogance of power by his rejecting the invitation to the Joint Economic Committee to come before them and testify.

He had earlier responded to the chairman of a committee, to a specific question. I will now quote the chairman of the Banking Committee, the distinguished Senator from Utah.

Will you be willing to appear before this committee and other committees of the Congress when requested?

Mr. FELDSTEIN. I will, happily.

What did he mean when he said that, in light of the conduct which I have just outlined to the Members of the Senate?

It is an outrageous response, Mr. President, for him to make. It is incredible that he should be making this string of public appearances and then have the temerity to say to a congressional committee that he is too busy to appear before them. I defy any Member of this Senate to take the floor in defense of Feldstein's refusal to appear to testify. I invite any of my colleagues to take the floor—I am prepared to yield time to them now or later, if I have the floor—to make any case for Feldstein's refusal to go before a congressional committee, particularly in view of the fact that he is running not only all over town, but all over the country giving speeches and holding interviews.

I do not begrudge him doing that, but he has a responsibility to the Congress, which he appears to recognize in his confirmation hearing. Or was he simply playing a game with the members of the committee? How does Mr. Feldstein himself square this response to the chairman's question, which is put as a standard matter of procedure? How does he square his response to that question with his refusal now not only to respond to the invitation to come on Friday at the time of the unemployment hearing, or to come on Monday, but to the further invitation held out to him by Chairman REUSS to appear at some other time mutually convenient?

What Mr. Feldstein says in his letter is that he is so busy, and that he holds a recess appointment, and "as a consequence I will not be able to appear before your committee before the first of next year."

Mr. President, there is a lengthy statement by the minority members of the Banking Committee in the report with respect to Mr. Feldstein's views on a range of issues. I agree with those of my colleagues who have spoken before and who I anticipate will speak afterwards with respect to the insensitivity and the callousness revealed his positions on important economic questions. But I submit to the Members of this body that in his conduct over the last few days he has reflected a very distrubing view of his relationship with the Congress of the United States, to which Members must respond by sending a clear message that we do not intend to accept this kind of conduct; and he has refused to come before a duly constituted committee of the Congress, despite his own prior assurances at his confirmation hearing that he would do so.

Can you imagine how the committee would have reacted in that hearing had he at that time answered "no" to the question of the chairman of the Banking Committee? Suppose when Mr. Feldstein was asked, "Would you be willing to appear before this committee and other committees of the Congress when requested," if instead of saying, "I will, happily," he had said, "No, I will not."

What do you think would have happened at that point? He would have been turned down by the committee, I have no doubt, and in my judgment that is what ought to happen at this point by the Senate of the United States.

Mr. PROXMIRE. Will the Senator yield?

Mr. SARBANES. I yield.

Mr. PROXMIRE. I would like to ask the Senator, is it not true that the Council of Economic Advisers was created in 1946 by an act which at the same time created the Joint Economic Committee, with the concept that they would run in tandem, that they would work together, that they would be independent; that the primary purpose of the Council of Economic Advisers is preparing an economic report and keeping the President informed of economic policy, advising him on it, with the Joint Committee having the same function with respect to Congress, with the idea that they should work together, work in tandem, and certainly the chairman of the Council of Economic Advisers should report to the Joint Economic Committee on request? Is that not the concept of the whole law?

Mr. SARBANES. The Sentor is absolutely correct. In fact, the committee of the Congress with which the Chairman of the Council of Economic Advisers interacts most closely is the Joint Economic Committee. They were both established by the Employment Act of 1946. It is the Joint Economic Commit-

tee that considers the economic report of the President and the report of the Council of Economic Advisers. It is to that committee which the Council of Economic Advisers has traditionally reported and with which it has traditionally had a close and continuing relationship.

The nomination is, by necessity, before a standing committee of the Senate. It could not constitutionally go before a joint committee of the Congress, even though under the statute much of the reporting by the Council is done by the Joint Economic Committee.

The nomination had to come through the Banking Committee, but the committee of Congress with which the Chairman of the Council of Economic Advisers most closely interacts is the Joint Economic Committee.

Mr. PROXMIRE. Is it not also true that the Congress can hardly expect nominees to keep their word that they will appear when, under these circumstances, a nominee whose nomination is, in effect, pending before the Senate, simply says that he refuses to appear? It seems to me of all the times when a nominee should be on his good behavior, this is a time we should expect him to keep this kind of commitment. I wonder if the Senator from Maryland can enlighten me on how the Congress can expect to be respected by the executive branch if we simply meet this kind of arrogant refusal to appear, first, in view of his promise that he would; second, in view of the fact that he knows that this body is going to act on his nomination or has to before he is confirmed, if we do not show concern at this time, indicate our strong dissapproval. We shall do so, I hope, in the vote that we cast on this nominee.

It seems to me there is no way Congress should expect to be respected. Is that not correct?

Mr. SARBANES. I think the Senator is absolutely correct. The way to make it clear that this kind of conduct will not be accepted is to register a very definitive judgment as we consider this nomination.

I want to emphasize again that it is not as though Mr. Feldstein had disappeared into the deep recesses of the Executive Office Building and said:

> I am just overwhelmed with the work down here. I have reports to get through and statements to write, and the President is calling on me morning, noon, and night. I was in the Oval Office early yesterday morning, again at lunchtime, late in the evening. You do not know how I am being pushed to the very limit of my energy and my abilities, and I simply cannot come up before the committee; I just do not have the time to do that.

I frankly do not think that would be good enough, because as the President's appointment to be Chairman of the Annual Economic Advisers, Mr. Feldstein has an important responsibility. We need to discuss these matters with a co-equal, separate branch of the Government to air economic policy. That is the number one item now on the national agenda.

But that is not what Mr. Feldstein has been doing. He has been running all over the country holding television interviews, holding press conferences, giving speeches. He is to go before the National Press Club on the 13th of December, and he cannot appear before the Joint Economic Committee.

It was not an invitation that said, "Come now or not at all." It said, "Come Friday morning." He could not do it.

"Come Monday afternoon." He refused to do it.

"Come some other time, we will work it out."

The letter states in very absolute terms: "As a consequence, I will not be able to appear before your committee before the first of next year."

The Chairman of the Council of Economic Advisers cannot come before the committee which has on its own agenda right now important matters involving national economic policy. He refuses to come before them and testify. What does his assertion before the committee mean, in response to the very direct question put by the chairman of the Banking Committee, the Senator from Utah (Mr. GARN), who, to his credit, puts this question to every nominee who appears before us, recognizing its importance to the relationship between the executive and the legislative branch of the Government?

It is, as has been said by Chairman REUSS and others, an insult to the Congress. It is an insult to the Congress.

Mr. Feldstein is refusing to come here and testify, yet he is appearing on television shows, holding press conferences, addressing the Board of Governors of the Federal Reserve Bank, addressing the Commercial Club of Boston, addressing the British North American Committee, Meet the Press, the MacNeil-Lehrer Show—but not the Joint Economic Committee.

Mr. Feldstein is insensitive, clearly, to his responsibilities to the legislative branch of our Government, an equal, coordinate branch of the National Government.

It seems to me that his response to the Joint Economic Committee ought to be a matter of very deep and serious concern to each Member of this body. I do not think it can be explained away, and I think it is of such consequence that it requires Members, in effect, to say that he has exhibited conduct that will lead them to conclude that he ought not to be confirmed for this nomination.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. PROXMIRE. Mr. President, I join the distinguished Senators from Michigan, Maryland, and Illinois in opposing the nomination of Martin Feldstein to become Chairman of the Council of Economic Advisers. I oppose him because, based on his prior record and his statements before the Banking Committee, the evidence shows that he has a fundamental disregard for the consequences of the economic policies of high Government deficits and tight monetary policy, of a devastated housing industry, of the unacceptably high numbers of those now unemployed, and of the important public policies embodied in the social security system.

I am sure it will be argued most persuasively that Mr. Feldstein's background suits him for this position and that the President should not be denied his choice, short of the choice being a convicted felon or something. I cannot go along with that philosophy. The Constitution gives this body the responsibility to advise and consent to Presidential nominations. Wielding a rubber stamp is not what the Constitution envisioned for the Senate.

It is true that Mr. Feldstein has been an economic professor at Harvard, that he has served as the president of the National Bureau of Economic Research, has written extensively about social security, about housing policy, about unemployment. His statements concerning these vital areas of economic policy are enough to make your hair stand on end.

The National Association of Home Builders testified before the Banking Committee against Mr. Feldstein's nomination. Why? Because, quoting the witness from the National Association:

> I am concerned about his—
>
> Feldstein's—
>
> views regarding housing and the economy, his basic philosophy of the administration's economic program, and, in particular his views on housing and how it affects the people of this country who need housing very desperately.

Mr. President, it is spectacularly rare for a trade association to oppose the President on a key nominee. In fact, it is so unusual that it must convey to the Senate, I feel, the depth of concern felt by the homebuilders of America over this nominee. I have been in the Senate 25 years and have been on the Banking Committee for all those 25 years. I have been on other committees. I have listened to a number of other nominees who have been sent by a variety of Presidents—seven Presidents. I cannot remember another occasion when a major trade association appeared in opposition to a Presidential nominee. Of course, there have been occasions when an association has been unhappy, but they did not come forward, because they felt

the President had the right to make his choice.

Mr. President, the Chairman of the Council of Economic Advisers is a key player in the administration's development of economic strategy for the economy. He is a chief spokesman on economic matters for the administration. He is a personal adviser to the President on economic matters. He is no technocrat. He does not merely whisper into the ear of the President. He is the author of the economic report of the President. He is responsible for the production of the annual report of the Council of Economic Advisers. As a person occupying such an exalted economic post Mr. Feldstein must be held accountable by the Senate for his views.

Here are my reasons for opposing Mr. Feldstein:

No. 1. We are 180 degrees apart on the matter of the fiscal and monetary policies of this administration. Mr. Feldstein actually testified before the Banking Committee that he saw no conflict—get this—between the fiscal and monetary policies of this Government, and he saw the two moving forward in a coordinated way.

Perhaps only a Ph. D. economist or a Harvard professor could make such a statement with a straight face. In fact, Mr. President, in my view the fiscal and the monetary policies of this administration could not be more uncoordinated, could not be more contrary, could not be more opposed to one another. These policies are wreaking havoc on the economy and, more specifically, on the homebuilders and the unemployed. If Mr. Feldstein cannot see that, then I think he cannot see very much. With that kind of eyesight, thank the Lord he is not an umpire at the ball park calling balls and strikes.

It should be as plain as day that Federal fiscal policy, with its huge deficits—think how big they are: We just had in the year we have concluded, on September 30, a $110 billion deficit, the largest deficit by far in the history of our country, by far. We are told that the deficit will be at least $150 billion in the current fiscal year that will end next September. We can anticipate further deficits in fiscal 1984. How can anybody consider this to be a restrained fiscal policy in any sense? It is the most expansionary, inflationary policy this country has followed in its history.

It should be as plain as day that Federal fiscal policy, with its huge deficits, presents a claim on the money markets that drives interest rates through the roof. The reason is simple. The monetary policy of this Nation has been restrictive. The capital markets have been burdened with demands for funds. Real interest rates are still sky high, at least for long-term obligations. They have come down sharply for short-term obligations, but they are still high in the long-term area and they are certain to go back up as soon as we begin to have a recovery, and before it is choked off by high interest rates once again.

The only reason nominal interest rates have fallen during the tenure of this administration is because housing and the economy are flat on their backs. People have not been borrowing money to buy cars and homes. There has been a small pickup lately, but they are still far, far below the level which would provide for anything like reasonable employment in the homebuilding industry and in the automobile industry.

The administration has turned the fiscal deficit heat up to 100°, turned it up, and the monetary air-conditioning policy down to zero. They then wonder why the economy is operating at 50° and the electric bill is so high. There my disagreement with Mr. Feldstein is fundamental.

Second, Mr. Feldstein's views on housing are downright irresponsible. Mr. Feldstein argues that the ultimate goal of the Nation's monetary and fiscal policy should be—and these are his own words of what the ultimate goal in monetary and fiscal policy should be—"to twist the composition of spending away from housing and into plant and equipment." He thinks that "as a Nation we are overhoused." Overhoused. Vacancy rates are very, very low. How anybody can argue that we are overhoused is absolutely beyond me.

Furthermore, he says it is "good news" that housing is going to be in trouble in the coming years. His statements demonstrate an antihousing bias that gives me great concern and that caused the National Association of Homebuilders to oppose his nomination. I hope it would give each Member of the Senate reason to oppose his nomination.

Mr. Feldstein's testimony before the committee gives no one any comfort that his antihousing bias has lessened.

Mr. President, I find Mr. Feldstein's views shocking at a time when the housing industry is on its back, dragging down the rest of the economy along with it. We built 1.1 million houses last year, which was the lowest annual figure since 1946. Think of that. Think how much bigger our country is.

I recognize that 1946, of course, was still very close to World War II. We had not been able to redirect our great resources. Since 1946, in all that time, 36 years, we have never had housing starts as low as they were last year. Not only is the supply of housing diminishing, but the need for more housing will continue to grow throughout the eighties. I think it is becoming clear that housing needs to be a top economic priority. The Nation is not overhoused, it is underhoused. Anybody watching the nightly news would see that this is so obvious. While a very few families with children who have graduated from college and moved away from home live in large houses—arguably too large for their needs—it is clear that for younger Americans the dream of homeownership is becoming a nightmare. This Nation has been served well by young people finding a stake in society by owning a home. Will this Nation remain as stable with the price of interest rates to the next generation of homeowners?

Mr. President, I do not think there is any element that is more stabilizing in the best sense of the word, more conservative, than homeownership. It gives people a stake in society. It gives them a stake in their community. It gives them a reason for having community interest.

What distinguishes this Nation more than almost any other element is we have a larger portion of our families as homeowners than any nation in the world. It is very close to 70 percent. But it has been declining lately, and it is going to continue to decline with the policies that we are following and the policies that Mr. Feldstein particularly would encourage. Millions of young people will reach their thirties in this decade of the 1980's. The number of people between 25 and 34, those most likely to want to buy a house, will increase by 5 million. The number of married persons will increase by 6 million. Some existing housing will deteriorate, and will need to be replaced. In the last few years we have built no more than 1.5 million housing units in any year. This Nation will need millions of additional housing units every year in this decade to adequately meet the coming demand and to make up for the ground that we have lost during the past several years. Clearly we need to take serious action to help build an adequate number of houses for the next generation of home buyers. I cannot think of anything, Mr. President, that would do more to stimulate this economy, put people to work in a constructive way with the most wholesome kind of objective than homebuilding. After all, the American people spend more on homebuilding, more on housing, more on those expenditures relating to housing than anything. If you look at the Consumer Price Index, made up on the basis of very careful analysis of top economists, of how people spend their money, you will find as much as 45 percent, almost half, far, far more than any other expenditure, is for housing and housing-related expenditures.

Mr. Feldstein would not recommend such action as the Chairman of the Council of Economic Advisers. He does not hide the fact that he thinks we

cannot afford to build as many houses as we have now. Where, in the world, will his views on housing take us in the formulation of economic and public policy? He considers investment in plants ultimately more beneficial to our country than investment in a home. I disagree with Mr. Feldstein; he is wrong on two counts, first, on economic grounds and, second, as a matter of social policy or value judgment.

The National Association of Homebuilders also disagreed with Mr. Feldstein, testifying as follows. This is the witness for the homebuilders:

> But I don't believe that if you take money away from housing and put it into other areas, we're going to have the production in this country that everybody claims we will. He talks about putting money into more productive areas as plants and equipment.
>
> I would like to remind the Senator and the Committee that the homebuilding industry is made up of about 3,000 different items that go into homes. These are all manufactured, for the most part, in some plant in this country. So plants and equipment, when you talk about that, is housing.

That is the purpose. What do we want plants and equipment for? Do we want them to build Yo-Yo's? Do we want them to build aircraft carriers? We do, we need that, but there is a certain limit on how much we are going to spend on military weapons. Certainly the most constructive end product of which I can conceive in our society would be homes.

To go on with the quotation from the witness from the homebuilders:

> So, if you want to build up the economy, you must build up housing. The gypsum companies, the lumber mills, the roofing companies—these are all plants that we're talking about. This is the plant and equipment I assume we're talking about in this country, not just steel mills. That's not all we're talking about.
>
> So, if we want to build up plants and equipment, get housing moving again. Put money back into housing as a priority and the economy will begin to move, much more rapidly than it's moving at the present time.

I could not agree more with the homebuilders or disagree more with Mr. Feldstein.

It appears to me that Mr. Feldstein is making an unwise value judgment when he indicates that housing is less important than other things. After all, why do we want productivity? Just so we will look good? Is that just a matter of kind of flexing our muscles in the mirror? Or do we want productivity so we can produce more efficiently at lower costs to have the things we want without inflation? That is what productivity is all about.

Why do we want production in various areas? Because of the end product. Is housing less important than soft drinks? Is housing less important than entertainment? Than armaments? We need other things, but we need housing, too. Public policy should not denigrate housing or make it take a back seat.

Dr. Feldstein would have us believe that housing is a losing investment. He hopes that we will never again reach the housing production level of the 1960's and the 1970's. He does not pause to consider that housing encompasses all sorts of industries—construction, plumbing, supplies—and offers jobs to workers in the industrial and service sectors. He does not take into account that housing is the major investment for many Americans. He ignores the social implications of a decline in housing production. If more and more people are crowded into smaller quarters, or forced to rent because they cannot afford a down payment on a house, they will feel less committed to their neighborhood and to the community. Social values and morale would be significantly undermined. If the American people are underhoused, they will feel as though their policymakers do not have their best interests at heart, and that the American dream—a house—is a far cry from the American reality—renting. If their policymakers are people like Mr. Feldstein, they will be absolutely right. On the grounds that Mr. Feldstein would try to divert more and more of our Nation's resources away from housing, and because Mr. Feldstein does not indicate any sensitivity to the economic policy issues involved in formulation of housing policy, I urge the Senate to vote against his confirmation.

Mr. Feldstein evidences a callous disregard for the unemployment situation, the deplorable, outrageous unemployment situation we are suffering in this country today. Here is an excerpt from one of his speeches:

> Moreover, I think we will see a variety of small changes in market incentives which will allow the labor markets to be slack without registering 8½, 9 and 9½ percent unemployment rates. A very subtle change that occurred October 1 was the sharp reduction in long term unemployment insurance benefits, reducing them from 39 to 26 weeks. A lot of people who were previously counted as unemployed will not be counted as unemployed now. Some of them will go back and find jobs. Some of them will drop out of the labor force. They won't show up in the official statistics as unemployed.

Mr. Feldstein confuses real progress on unemployment with the gimmickry of statistics.

He also overlooks the fact that the statistics that we rely on for unemployment do not come from the establishment survey that he is talking about here but from the neighborhood survey which is much more comprehensive and includes more than 50,000 individual homes and which will include all the unemployed who have looked for work during the preceding week. And there is no way that the fact that people are no longer getting unemployment compensation benefits will mean they are not unemployed if they want a job. They will be unemployed. So technically, also, Mr. Feldstein is wrong.

Should this Nation find solace in an unemployment figure that does not take into account millions of people who drop out of the labor force because the economy is so bad? Do we want a Chairman of the Council of Economic Advisers who closes his eyes to what is really taking place in the economy? Apparently, he thinks it is a good thing that some workers are so discouraged in the search for employment that they have ceased to look for a job, thereby bringing our unemployment figures down slightly. He favored the reduction in unemployment insurance effective in October 1981 for the same reason: Many people who were previously counted as being unemployed will not be counted as being unemployed now. Whether or not these people are officially counted as being unemployed is not the issue at question here. What matters is that an alarming percentage of Americans who are willing and able to work cannot find employment. This is the fact the Chairman of the Council of Economic Advisers must face, and this is the fact that he must do something about. He cannot be complacent about high unemployment figures, nor can he be relieved when the unemployment figures are lower because people have dropped out of the labor force. This Nation's Chairman of the Council of Economic Advisers needs, instead, to focus his concern on developing policies to counteract a recession so severe that large numbers of workers are discouraged from looking for work.

On August 15, 1982, Mr. Feldstein was quoted in the Washington Post as having argued that "if the inflation rate is above its optimum level, the economy should then be deflated to reduce the inflation rate, regardless of the temporary consequences for unemployment."

What a cruel set of policies Mr. Feldstein's philosophy would set in motion. Not a word about fairness to society as a whole, who gets hurt, and who benefits. In short, Mr. Feldstein ignores that it is the basic mix of fiscal and monetary policies that needs to be addressed. He would simply take inflation out on the hide of the unemployed. That is too callous an approach for most Members of the Senate. I hope the Senate will reject this nominee on grounds of insensitivity to the workers of this Nation.

Mr. Feldstein's views on social security should concern every person who is retired or who ever expects to retire. Mr. Feldstein has been an outspoken critic of the social security system. He has called for a major revamping of the social security system, including

raising the retirement age and reducing the cost-of-living adjustments. He testified before Congress in 1981 that proposals for slowing social security benefits "have generally been far too timid." He has stated that "a slowdown in the growth of benefits would be appropriate." "Moreover, because high social security benefits reduce private saving and private pension accumulation, slowing the growth of benefits would increase capital formation as well as reducing Government outlays." "Fortunately," he says—"Fortunately, social security is in such a financial mess, the problems are so severe, that serious financial reform cannot be avoided in the next few years." Fortunately. How do you like that?

I find these statements by Mr. Feldstein to be shocking and encompassing a bias against the social security system that I find appalling. Does Mr. Feldstein regard the program as something of a luxury rather than as an important national institution—an expendable fringe that we will have to trim if policymakers find the load too burdensome instead of acknowledging the real need for our senior citizens? When Mr. Feldstein speaks disapprovingly of the "unprecedented explosion of social security benefits in the last decade," he makes it sound as though we allow our senior citizens to live in luxury while the rest of us scrape to get by. In fact, the average retired male worker receives $416 in benefits monthly, and that is not much more than $5,000 a year, and that is pretty close to the poverty level. That is the average retired male worker in this country. That is hardly a ride to Easy Street, especially in these times of rising energy costs, high interest rates, and escalating property taxes.

Mr. President, it is easy for those of us who enjoy a good life, salaries of $60,000 a year and more, to consider social security as something that can be cut, ought to be cut, must be cut. We certainly, Mr. President, ought to consider what income people on social security receive, and also the fact that a great proportion of people on social security have no other income. That is it. That is what they get. That is what they have to live on.

We also ought to recognize that there is no country, no other developed countries, no country in Europe, for example, that provides such a small proportion of its gross national product for social security as does the United States. We can afford it, Mr. President, and we should also not forget the fact that social security provides the floor that keeps this economy from dropping out of a recession into a truly deep depression of the kind we had in the thirties when we did not have social security, and when we suffered the ravages of 25 percent unemployment.

Thirty-six million people depend on social security benefits today, Mr. President. Ninety percent of the work force now pays into the system, and rightfully looks forward to just compensation in their retirement years. How do you tell 36 million retirees and 90 percent of the work force that, after financially paying into the social security fund, they can expect a substantial reduction in future Government outlays? Those are Mr. Feldstein's words. Adopting Mr. Feldstein's approach would be a betrayal of both the public's trust and the firm commitment the Government has made thus far to the social security program since its inception during the Great Depression.

Mr. President, the social security program is not a fringe in our national budget. Its goal lies at the very heart of our national purpose: To provide a decent living for our senior citizens when they retire from the work force. What program could be more fundamental to our Nation than that? It is worth preserving, and worth fighting for. If we as a nation face troubles on the economic front, do we want to destroy the country's morale by threatening to tinker with social security benefits?

I cannot vote in favor of a Chairman of the Council of Economic Advisers who finds it fortunate—that is his word—that social security is in a financial mess, as he terms it. And I do not agree that the social security system reduces the rate of savings. Our rate of savings is low, primarily because savers have been required to subsidize borrowers. Fortunately, Congress has altered that system of subsidies by requiring that regulation Q be phased out. I urge my colleagues to vote against Mr. Feldstein's obvious bias against social security.

Mr. President, I have outlined the reasons why I oppose Martin Feldstein. I think we need to send a strong signal to the administration on this nominee. By rejecting Mr. Feldstein, the Senate will be on record as wanting a better mix of economic policies, and that it wants to stop using housing, social security, and unemployment as scapegoats for our economic ills.

Mr. President, I yield the floor.

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, I commend the Senator from Wisconsin for his very fine and illuminating statement and the care with which he has documented in instance after instance the positions Dr. Feldstein has taken that I think the Senate would not support. So I think it is important for Senators to consider exactly what this nominee stands for, advocates and would attempt and has been attempting to do even during the time he has been serving in this recess appointment.

I have no doubt in my mind, I might say to the Senator from Wisconsin, if the American people could be convened as a body and listen to the debate on this nominee, and we could put it to a vote today, Feldstein would not be confirmed to this position because this is not what the people of the country want. The people know we need something quite different, and this would not be a nomination that would survive a public referendum during which people would have a chance to weigh the specifics of what this particular person advocates in positions he has taken in attempting to make national policy in this administration.

I might add in addition here for the record the statement of the president of the National Association of Home Builders, Fred Napolitano, who said he was deeply troubled by Feldstein's opinions, and then stated:

> I feel that these views are so antihousing that they would impair Dr. Feldstein's ability to provide advice to the President in the critical area of housing and economic policy.

That comes from the elected president and head of the National Association of Home Builders, representing all homebuilders in the United States. Of course, this organization has come forward has actively opposed the nomination, and has testified against it before the committee. But I think that is a very sobering bottom line judgment by the president of an important national organization.

I might further acknowledge another comment by Dr. Feldstein when he was speaking before the Washington Press Club on November 29 of this year. In the course of his remarks he said:

> A faster recovery runs the risk of accelerating inflation and, therefore, of an expansion that comes to a premature end.

There is a clear inference there that we dare not have a fast recovery, and none of the policies he has put forward suggests that he either wants to see or believes we ought to have a faster recovery.

He was also quoted in the Washington Post of August 15, 1982, as believing—and this is a quote—

> If the inflation rate is above its optimal level the economy should then be deflated to reduce the inflation rate regardless of the temporary consequences for unemployment.

That is about as pure a statement—there is a little bit of professorial language used here, but this is probably as clear a quotation of the view that says in the search for whatever this so-called optimal inflation rate is that if that means a higher level of unemployment, so be it, that we will trade off joblessness to try to do something in terms of lowering the inflation rate.

This administration has pursued that line of reasoning now to the point where we have about 12 million people unemployed whom we can list by name, and probably another 5 million whom we can no longer identify. We cannot identify those people who are just out roaming the country looking for jobs or looking for some way to just scratch out a living day to day. So we know where that kind of logic and position has taken us.

I must say I am distressed to think about having somebody running the policy, economic policy, area for the administration who holds that view. I will mention other things in a moment.

Dr. Feldstein on another occasion in an issue of the Harvard Business Review for July-August of 1979 made this comment:

The most important economic effect—

He is referring here now to social security—

is a reduction in the Nation's rate of saving. Social security is the real root of our capital scarcity problem.

I think that is an extreme statement, if I have ever heard one. That is my comment. Dr. Feldstein's comment, continuing the quotation:

Social security is the real root of our capital scarcity problem. Although tax incentives for greater savings and investment can boost the rate of capital formation, that rate will continue at a very low level until we can reduce our dependence on social security.

This man is as clearly antisocial security as anybody I have ever seen. And to put him in charge of economic policy formulation in this administration, which has a very bad record on social security in the country, as everyone now knows, really makes no sense at all.

I understand the Senator from Virginia is on the floor and wishes to speak, so I will yield the floor so that he might seek the floor.

Mr. HARRY F. BYRD, JR. I thank the Senator.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. HARRY F. BYRD, JR. Mr. President, I rise to make a few comments in regard to the appointment of Martin S. Feldstein, of Massachusetts, to be a member of the Council of Economic Advisers.

The able Senator from Michigan has quoted a number of newspaper articles in regard to reported comments of Dr. Feldstein. I certainly do not associate myself with every statement that Dr. Feldstein has made or certainly not with all the newspaper reports that have been made as to his views. I suppose I disagree with him on a number of issues. Certainly if he is accurately reported in regard to social security matters, I am in disagreement.

But I rise today to support his nomination and to say a word in his behalf for one simple reason. He is one of the few persons in high position in recent weeks to speak publicly and to tell the Congress in his testimony before congressional committees that this Government simply must get Federal spending under control.

He asserted time and again that we will not have a sustainable economic recovery until the Congress is willing to face the issue of Federal spending. Now, Congress does not like to hear that. Congress does not like to be told that spending must be curtailed. But I think he is totally correct in his assertions that if we are to have a sustainable recovery, Congress must control its appetite for spending, and we must get back to a balanced budget. That is what he has been telling the American people. That is what he has been telling the Congress. As I indicated earlier, he is one of the few persons in high position to so assert.

So I just want to commend him for being willing to speak out in that regard. I think our fiscal problems are of a very serious nature.

Yesterday, the chairman of the Senate Appropriations Committee, the distinguished Senator from Oregon (Mr. HATFIELD) told the Senate that the budget deficit for fiscal 1983 will be 50 percent greater than the budget resolution called for when it passed the Senate and the House of Representatives last May—a 50-percent increase in the deficit since the Senate passed the budget resolution last May.

I think we are living in a fool's paradise. The Congressional Budget Office has estimated that the deficit for fiscal 1983 will be $155 billion. The Assistant Secretary of the Treasury for Economic Affairs testified before the Senate Finance Committee today, and when I queried him as to what the budget deficit would be, he put it at $150 billion or upward. So this Nation is faced with gigantic deficits. And I see no evidence—no evidence—that either the House of Representatives or the Senate of the United States is facing the issue, which I think is a fundamental issue, that we cannot go on year after year with these huge and accelerating deficits.

I must say I do not know Dr. Feldstein. I must say I have not searched his record to the degree that the able Senator from Michigan has. But I am impressed with his testimony before the Congress this past week. I feel that he needs to be encouraged to speak out as he has urging the Congress to curb its appetite for spending and to reduce substantially the huge deficits which this country faces in fiscal 1983, in fiscal 1984, in fiscal 1985, and probably in fiscal 1986. We are headed for disaster if we do not take affirmative action in that regard.

Mr. RIEGLE. Will the Senator yield just briefly?

Mr. HARRY F. BYRD, JR. Certainly.

Mr. RIEGLE. I may have misunderstood the Senator. I just wanted to clarify this. Did I understand the Senator to say that Dr. Feldstein testified before the Congress sometime within the last week?

Mr. HARRY F. BYRD, JR. I gathered from the news accounts that he testified before the Joint Economic Committee, was it not?

Mr. RIEGLE. No. I think the problem is that they have asked him to testify and he has said he is unwilling to testify or that he cannot find the time to do that right now and something of a controversy has arisen. We have had some difficulty getting him before committees of the Congress in the recent period. That is why I wondered if perhaps he had appeared somewhere that did not come to my attention, because, if that were so, I wanted to know that.

Mr. HARRY F. BYRD, JR. Well, I will withdraw that statement. I may have misread the newspaper.

Mr. GARN. Will the Senator yield just for a clarification?

Mr. HARRY F. BYRD, JR. Yes.

Mr. GARN. The Senator from Michigan is correct. He did decline to appear before the Joint Economic Committee. His reasoning—which I frankly said in committee yesterday I did not agree with; I think he should have appeared—but his reason was that he had not yet been confirmed in the position and wanted to wait until he had been confirmed, then he would accept the invitation.

That is the one thing that I agree with the minority views on. I totally disagree with their opposition to his appointment, but I do agree with them that he should have appeared. But that was the reason. It was not just a blind refusal. He did give that reason that he had not yet been confirmed and would not appear until he had been.

Mr. HARRY F. BYRD, JR. I am pleased to have the clarification by the distinguished Senator from Utah and the distinguished Senator from Michigan. I stand corrected. I do not know where these statements were made, but they were published, the statements I have been commenting on that he made in regard to Federal spending and a balanced budget. But, obviously, I was in error when I said they were made before a congressional committee. But there were apparently public statements attributed to him and quoting him in the public press. I thank the Senator from Michigan for getting that point cleared up.

Mr. RIEGLE. I thank the Senator for yielding.

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. KENNEDY. Mr. President, as I understand, there is no time limitation.

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. Mr. President, I will vote against the confirmation of Martin Feldstein as Chairman of the Council of Economic Advisers. I believe in general that the President is entitled to advisers of his own choosing, so long as his choices do not display grave insensitivity to serious national problems and human needs. Professor Feldstein has displayed just such an insensitivity to the pain of our current economic situation. He favors an economic policy that at its best would not bring unemployment down even to the 6- or 7-percent range for the next 5 or 6 years.

Early this summer, when over 10 million Americans were unemployed, Professor Feldstein termed the recession "relatively modest thus far." In September of this year, with another 1 million Americans unemployed, he repeated his earlier view.

In recent weeks, Professor Feldstein has suggested that we increase the pain of unemployment by taxing unemployment benefits. He has suggested that we increase the burdens on already strapped workers and small businesses by taxing the value of employer-paid health insurance. His disregard for the economic suffering which now afflicts our country is persistent and unyielding. I do not question the fact that Professor Feldstein is a talented economist. But I am convinced that he is profoundly wrong about the direction of national policy and profoundly insensitive to the human costs of the course which he advocates.

At a time when the economy is experiencing its greatest trouble since the Great Depression, the President needs economic advice which will urge him to change the course and to embark on policies designed to insure growth and full employment. Nothing in Professor Feldstein's record holds out the prospect that he is even open minded on this question.

Professor Feldstein recently said, "unemployment must rise, industries must suffer, profits decline, and the current beneficiaries of government programs must feel the effects of reduced government spending." Those are not the views or the values that America now needs in the Chairman of the Council of Economic Advisors.

I urge my colleagues to vote no on this nomination.

Mr. SASSER. Mr. President, in the course of the debate on the matter of the nomination of Martin Feldstein to be the Chairman of the Council of Economic Advisers, both in the Senate Banking Committee, on which I serve, and on the floor today, I have heard the arguments in support of the nomination and the arguments in opposition set forth so eloquently by my colleagues on the Banking Committee.

As I indicated by my vote in committee against this nomination, my own study of Dr. Feldstein's record, his philosophy, his outlook, coupled with the arguments brought out here today in the debate, convinced me that this nominee should not be confirmed by the U.S. Senate.

Most of Dr. Feldstein's most notable departures from economic and political commonsense have been reported over and over again. His statement, for example, that he is pleased to see the continuation of the depression in the homebuilding industry is one such departure, in view of the staggering unemployment rates in residential construction and the inability of the great majority of American families to enter the market. "Housing is going to continue to be in trouble * * * and that's all good news from my point of view, but it doesn't exactly lead to a buoyant economy," was how he expressed it.

On unemployment generally, Dr. Feldstein has demonstrated a marked lack of sensitivity about the meaning behind the statistics showing that over 10 million Americans are out of work.

That is 10 million Americans—over 10 million Americans—that we can count that are out of work. That does not include what some statistics estimate to be approximately 2 or 3 million who are not in these figures, who have quite looking for work because they have become discouraged, and those numbers have fallen from the list.

It does not include some estimates of 5 to 6 million people who are underemployed, those who, last year, might have been working 40 hours a week or occasionally getting overtime for 45 hours a week, who now find they are reduced to working perhaps 20 to 25 hours a week; or those who, last year, had good-paying jobs which they have since lost and are now working at jobs, perhaps, at the minimum wage.

When you add the unemployed that we can count, the unemployed that we cannot count, and those who are underemployed, you are approaching close to 20 million people, a very substantial percentage of the work force of this country.

Dr. Feldstein noted that:

> A lot of people who were previously counted as unemployed . . . some of them will drop out of the labor force. They won't show up in the official statistics as unemployed.

Are we then, Mr. President, to find solace in lower unemployment statistics that result form the adject despair of hundreds of thousands of our fellow citizens who are out of work? Second, there is not a Member of this body—and I trust there are not many people across the country—who have yet forgotten the ill-fated and ill-advised Thanksgiving Day proposal from the White House to tax unemployment benefits. We have an opportunity in the Senate today to express our opinion in opposition to that kind of economic advice.

Perhaps the most egregious examples of Dr. Feldstein's insensitivity to the economic needs of most of the population of this country can be found in his remarks on social security. His view is that we have "a social security program that makes saving virtually unnecessary to the majority of the population."

I certainly commend for Dr. Feldstein's perusal some letters that I get with regularity from constituents in my home State of Tennessee who indicate to me that they are not doing very well on the social security payments that they are presently getting. As a matter of fact, some of them in the wintertime tell me they are having to choose between staying warm or getting adequate nourishment.

This kind of insensitivity might not make as much difference in other departments or agencies of this Government of ours. But the Chairman of the Council of Economic Advisers, according to the Council's charter, is the chief individual in this Government responsible for:

> Developing and recommending to the President national economic policies to foster and promote free competitive enterprise to avoid economic fluctuations or to diminish the effects thereof and to maintain employment, production and purchasing power. . . .

I have great confidence in Dr. Feldstein's ability to avoid fluctuations; if his policies were to remain in effect, the vast majority of our population would, at best, continue to scrape along the bottom of the economic barrel, where he seems to be most comfortable with their presence.

Adding insult to injury is Dr. Feldstein's refusal to appear before the congressional committees charged with oversight responsibility over the Nation's economy. We are told that the press of business and a full schedule have kept this very busy individual from appearing before congressional committees that have jurisdiction over problems dealing with this Nation's economy. Interestingly enough, the press of business and a full schedule

have not kept Dr. Feldstein off nationally televised interview programs, have not kept him from making various speeches around the country to a number of different groups, and he has used these appearances as excuses to avoid appropriate inquiry from duly elected Members of the Congress. By his actions in this regard, I fear that Dr. Feldstein becomes very close to demeaning the office of the Chairman of the Council of Economic Advisers.

Mr. President, I have followed a policy since I have been in the Senate of supporting nominees of the Presidents of either party in the general belief that the Chief Executive should be able to choose those he would have serve with him in carrying out his executive responsibilities.

Only in extreme cases have I opposed any Presidential nominee. But I regard this as one such case. Dr. Feldstein has a fine intellect. He is an accomplished researcher. He is a good citizen. However, his economic views, in my judgment, do not show any awareness of the harm that is being inflicted on the American people and in the long range perhaps irreparable damage to our economy that is occasioned by this administration's economic policies.

I firmly believe that Mr. Feldstein is an inappropriate choice at this crucial time for the chairmanship of the Council of Economic Advisers. I rise today to uge my colleagues to oppose his nomination.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. RUDMAN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GARN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARN. Mr. President, one of the most difficult items on behalf of the minority in their objection to Mr. Feldstein was the fact that he had not agreed to appear before the Joint Economic Committee last week. And although, as I have stated earlier, I think he is eminently qualified for this particular position and disagree with what the minority has said in opposition to their other points of disagreement with him, nevertheless, I stated in the Banking Committee, and will do it here again today, that I think he was not wise in not appearing before the Joint Economic Committee.

I do believe we have that particular problem resolved. I have just gotten off the phone with Mr. Feldstein. He has called the chairman of the Joint Economic Committee, Congressman REUSS, the former distinguished chairman of the House Banking Committee. He will appear before the Joint Economic Committee at 10 a.m. tomorrow morning. So I am pleased at his quick response to my request and that of the minority that he appear before the Joint Economic Committee, and especially pleased that he agreed to appear that promptly. I, frankly, had not anticipated that they could have set it up. But he and Chairman REUSS have agreed that he will appear at 10 a.m. in the morning.

So with that assurance, I would hope that we could proceed with the vote as soon as the minority is finished with their comments.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I wish to commend the chairman of the Senate Banking Committee for his efforts in this matter. I must say to him I think that it is an impressive exercise of one's responsibilities, both as chairman and as a Member of the Congress of the United States. I am very pleased that Mr. Feldstein is appearing before the Joint Economic Committee tomorrow morning at 10 o'clock.

In view of that, I, of course, am quite prepared to go to a vote on Mr. Feldstein. I intend, as I indicated earlier, to vote against him.

I have a number of difficulties with him. They are outlined, of course, in the minority report to the committee report. Of course, I remain troubled by his initial position on appearing before the committee, although I am pleased that in view of the communication made to him by the chairman of our committee, and I gather others on that side, that he will be appearing tomorrow morning.

I think that it is very important that that should have been resolved in terms of the role of the Congress in relation to the executive branch, and particularly with regard to Mr. Feldstein's responsibilities to the Congress, to the Senate Banking Committee, the Joint Economic Committee, and any other properly constituted committee. I think the chairman for his effort and I am prepared to go to a vote on Mr. Feldstein when other Members have completed their comments.

Mr. RIEGLE. Mr. President, I commend the chairman of the Banking Committee for his efforts and leadership in endeavoring to work this matter out, which he has been successful in doing.

I further commend the majority leader for his help, because he also was constructively involved in these discussions this afternoon.

I want to particularly commend the Senator from Maryland because the Senator from Maryland, I think, throughout the day, helped to bring to light the importance of this particular issue, the need that we have here within the Congress to have appointees of this consequence available to respond affirmatively to a proper request by the committees of Congress to have them appear as witnesses. I think the Senator from Maryland has rendered a great service to the Senate and to the Congress by pressing forward on this very proper point.

I will conclude by saying that I want to remind colleagues again that all of the members on the minority side of the committee joined in the dissenting views, the minority views, in opposition to this candidate. We are certainly prepared to discuss those points in opposition with Members as they arrive for a vote.

I say again that the candidate is opposed actively and openly by the National Association of Homebuilders and others.

With that, I am prepared to yield the floor.

Mr. GARN. Mr. President, I certainly do not intend to take any more than just a minute or two. I certainly do not intend to get into any debate to rebut what the opposition said today. That was all done in the committee and my views are very well known and certainly do not need repeating.

There is one point that the distinguished ranking minority member from Michigan mentioned that I simply cannot let go, when he referred to Mr. Feldstein as a radical conservative. That was very interesting to me because when I first got here I was told that the way economists got to Washington was to attend Harvard and turn left.

I did not know that Harvard ever produced a student or a 17-year professor that was a radical conservative. I have learned something today that absolutely startles me.

Mr. SARBANES. Will the chairman yield at that point?

Mr. GARN. I am happy to yield.

Mr. SARBANES. There is an adage about Harvard that you can tell a Harvard man but you cannot tell him much. [Laughter.]

Mr. GARN. The second point I would like to make is simply that I do not think anybody, as I said in my opening remarks, disputes the professional qualifications within the economic community of Mr. Feldstein. He is widely and highly respected. The opposition today is primarily a matter of disagreement with some of his views.

I would only state that I do not think that is a sufficient reason to oppose a Presidential nominee. Most of the time I have been in the Senate I have served in the minority, and the majority of the time with a President of the opposite party. There were many nominees that came before the Banking Committee for confirmation with whom I disagreed totally on their views. They had liberal economic

views. Mine are well know to be conservative. My judgment as to whether they were professionally and ethically qualified fit in that position. I have not opposed or supported nominees from either Republican or Democratic Presidents on the basis of their views alone because I disagreed, only judging their character and their professional ability to do so.

Certainly, my colleagues have the right to disagree with their views of this nominee or any other, and I respect that right for them to do so. But I do believe that Mr. Feldstein is very well qualified for this position and I certainly hope that the Senate will confirm him today.

Mr. President, I know of no one else who wishes to speak, but I would suggest the absence of a quorum. We need to inform some people that a vote is about to take place.

Mr. President, I will withdraw that request. We are ready to proceed to a vote. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Martin S. Feldstein, of Massachusetts, to be a Member of the Council of Economic Advisers? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), The Senator from Illinois (Mr. PERCY), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that , if present and voting, the Senator from Illinois (Mr. PERCY) would vote "yea."

Mr. CRANSTON. I announce that the Senator from Hawaii (Mr. INOUYE) and the Senator from Colorado (Mr. HART) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 77, nays 18, as follows:

[Leg. Rollcall Vote No. 398]

YEAS—77

Abdnor	Danforth	Heflin
Andrews	DeConcini	Heinz
Armstrong	Denton	Helms
Baker	Dole	Hollings
Bentsen	Domenici	Huddleston
Biden	Durenberger	Humphrey
Boren	Eagleton	Jepsen
Boschwitz	East	Johnston
Bradley	Exon	Kassebaum
Brady	Ford	Kasten
Bumpers	Garn	Laxalt
Byrd, Harry F., Jr.	Glenn	Leahy
	Gorton	Long
Chafee	Grassley	Lugar
Chiles	Hatch	Mathias
Cochran	Hatfield	Mattingly
Cohen	Hawkins	McClure
D'Amato	Hayakawa	Mitchell
Moynihan	Randolph	Stevens
Murkowski	Roth	Symms
Nickles	Rudman	Thurmond
Nunn	Schmitt	Tower
Packwood	Simpson	Tsongas
Pell	Specter	Wallop
Pressler	Stafford	Warner
Quayle	Stennis	Zorinsky

NAYS—18

Baucus	Dodd	Proxmire
Burdick	Jackson	Pryor
Byrd, Robert C., W. Va.	Kennedy	Riegle
	Levin	Sarbanes
Cannon	Matsunaga	Sasser
Cranston	Melcher	
Dixon	Metzenbaum	

NOT VOTING—5

Goldwater	Inouye	Weicker
Hart	Percy	

So the nomination was confirmed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. LUGAR). The clerk will report the next nomination.

DEPARTMENT OF ENERGY

NOMINATION OF DONALD P. HODEL, OF OREGON, TO BE SECRETARY OF ENERGY

The assistant legislative clerk read the nomination of Donald P. Hodel, of Oregon, to be Secretary of Energy.

Mr. BAKER. Mr. President, if I could have the attention of the Senate for a moment, there are three more nominations on the Executive Calendar and it would be the intention of the leadership on this side to try to finish them. I would hope we can do that promptly.

The nomination that is now before the Senate is Mr. Hodel to be the new Secretary of the Department of Energy. I understand there may be a request for rollcall vote on that nomination. If that is the case, I wonder if there be such a demand made at this time.

Mr. ROBERT C. BYRD. Mr. President, I will respond, if I may, if the Senator will yield. There are Senators on this side who support the nomination but who, nevertheless, because it is a Cabinet level nomination believe that there should be a rollcall vote on such a nomination. Therefore, we would request one.

Mr. BAKER. I thank the Senator.

In that situation, then I ask for the yeas and nays on this nomination.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BAKER. Mr. President, I certainly do not want to truncate the debate and abbreviate anyone's comments. But I do hope that at 6:25 in the evening we might be able to proceed with some dispatch on the remaining three nominations.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The floor is open for debate on the nomination.

Mr. McCLURE. Mr. President, I do not know of anyone who wishes to actively debate the nomination. I have a statement which I will read in the RECORD. If other Members are of the same frame of mind, we could then go to the vote on the nomination immediately.

Mr. President, I rise in support of the President's nomination of Donald P. Hodel to be Secretary of Energy. Mr. Hodel has been serving as Secretary of Energy since November 5, pursuant to a recess appointment by President Reagan. The President's nomination of Mr. Hodel, which the Senate is considering today, was submitted to the Senate on November 15.

Both the Congress and the President are most fortunate to be able to turn to an individual who is so highly qualified to provide new and effective leadership in setting our national energy policy and carrying out that policy. At the outset, I note that Mr. Hodel has a broad knowledge of energy issues, and he also has extensive management experience within the Federal Government. These qualifications, combined with his well-known ability as a highly capable and very articulate administrator, leave no doubt whatsoever that Mr. Hodel is well suited for the position of Secretary of Energy. Therefore, Mr. President, it is with a great deal of personal pleasure that I urge my colleagues to support his prompt confirmation.

On December 7, the Committee on Energy and Natural Resources favorably reported the nomination of Mr. Hodel. The vote was 19 to 1. The committee's action followed a full review of Mr. Hodel's personal and professional background, and in particular, his record as Administrator of the Bonneville Power Administration, and Under Secretary of the Interior.

At his nomination hearing, which was held on December 1, Mr. Hodel presented prepared testimony that outlined, in considerable detail, his views on a broad range of energy policy issues and his plans for managing the Department of Energy. Mr. Hodel also responded to oral questioning from a number of committee members. In addition, the committee received oral and written testimony from witnesses representing a number of special interest organizations and environmental groups. They expressed a full range of views on Mr. Hodel's nomination. That is not surprising, considering that a similar range of views applies to the policies of the Federal agencies with which Mr. Hodel has been associated.

After the nomination hearing, a number of committee members sub-

mitted written questions to Mr. Hodel. Responses to the questions were provided prior to the committee's consideration of Mr. Hodel's nomination on December 7.

Mr. President, I ask unanimous consent that at this point in my remarks, there be inserted in the RECORD the biography of Mr. Hodel prepared by the Department of Energy.

In his testimony before the committee, Mr. Hodel provided an overview of what he termed his "energy perspectives", He stated:

It is my perspective, based upon these experiences, that energy has an importance far beyond that of most commodities. it is a significant component of every aspect of the U.S. economy. Without energy, our economy does not run; without a viable economy, this nation cannot be strong and its people united; without a strong and united nation, the defense of the free world is threatened. It is clear to me that energy is intimately bound up in maintaining the free society that we cherish.

Consequently, energy policy is not something any of us ought to take for granted. A purposeful energy policy is crucial for this country and for the rest of the world. What Congress and the Administration do about energy has global implications, for although what we do in the United States may cause only ripples on the energy shores of our society, it may cause tidal waves on the energy shores of other nations, especially in the developing countries.

In discussing the need for a balanced approach to energy resources, Mr. Hodel pointed out:

If we have learned anything from the 1970's, it is that overreliance on any one energy source is unwise. The oil embargo of 1973 and the price shock of 1979 made the nation dramatically aware of its dangerous dependence on foreign oil. For nearly a decade, the country has struggled to work its way out of that dependence.

I have argued before, and believe now, that no one approach and no one fuel can or ought to be depended upon to meet all the needs of a diverse country such as ours. What works in New England may not work in the Southwest. Resources available in the Pacific Northwest may not be available in the South. I happen to believe that recognition of the inherent value of diversity should be one of the bases upon which we can build an energy consensus in this country.

Mr. Hodel's testimony also emphasized the importance of energy conservation and reliance on renewable energy sources. He pointed out that as far back as 1974, he had publicly stated that "Energy conservation has become a national imperative." He also expressed to the committee his view that there should and can be an appropriate Federal role in the area of conservation and renewable resources. He made a commitment to working with the Congress in a common effort to articulate and fund that Federal role.

In discussing the proper management of the Department of Energy, Mr. Hodel stated:

I come with an acute awareness of the need to provide strong management and strong leadership. If there is anything I hope I have acquired during my years as administrator at BPA and as Under Secretary of the Department of the Interior, it is the skills needed to manage large, multi-goal organizations. I hope to use those skills to make the Department of Energy an agency in which we all can take pride.

I intend to conduct the Office of Secretary in a collegial, open manner—and to be available to all viewpoints and to all organizations. Ultimately, I intend to employ a management style which is conducive to forging an energy consensus. But I also intend to be decisive, to make decisions and recommendations, and to implement those which are my responsibility as quickly as is appropriate.

Mr. Hodel also discussed the issue of the status of the Department of Energy. He testified:

The manner in which we organize the Federal effort to assist in the meeting of national energy objectives necessarily will change as circumstances and the basic thrust of Federal policies evolve. Just as the creation of the Department of Energy added a dimension to energy policymaking unavailable to the government within either the FEA or ERDA, I feel that, although we continue to need an agency devoted to energy matters, it no longer should be a separate cabinet-level agency devoted only to energy.

From the beginning of his administration, President Reagan has stressed that his economic and trade policies are inseparable from his energy policy and that each of these policies must be developed in concert with the others. The organizational separation of the government's energy activities has made this needlessly difficult. The solution, it became clear to us, was fusion of the Department of Energy with economic and trade policy through merger with the Department of Commerce.

Although the Reagan administration continues to advocate merger of the Department of Energy into the Department of Commerce, Mr. Hodel assured the committee that pending legislative enactment of the President's proposal, "I shall administer the Department of Energy in conformance with the statutes which govern its structure and operations."

Mr. President, Mr. Hodel's nomination has been the subject of some critical commentary and even the opposition of some witnesses and groups. All of that commentary has focused on Mr. Hodel's performance of his responsibilities in prior Federal service as the Administrator of the Bonneville Power Administration in the middle 1970's and as the Under Secretary of the Interior since the beginning of 1981. The critical comments received by the committee were largely covered in the extensive questions for the record to which Mr. Hodel responded prior to the committee business meeting on December 7, 1982. The following questions and Mr. Hodel's answers address the specific comments. I ask unanimous consent that these materials be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INSERT FOR TRANSCRIPT OF HEARING

Senator Bumpers asked a series of questions regarding my involvement in the Powder River coal sale and specifically about whether certain information was seen by coal companies prior to the sale. The Senator inquired whether such circumstances in any way compromised the sale, and asked that a full explanation be provided relative to this matter. In response to the Senator's inquiry, I have obtained from the Department of the Interior a number of documents:

1. Letter to Senator Jackson signed by me, dated July 14, 1982, transmitting answers to 28 questions covering a wide range of matters relating to the Powder River Sale, including detailed questions and answers relating to fair market value, need for coal, and leaks of data relating to Minimum Acceptable Bids.

2. Copy of prepared testimony by Assistant Secretary Garrey E. Carruthers, "Before the Mines and Mining Subcommittee, Committee on Interior and Insular Affairs, U.S. House of Representatives, on H.R. 5895, A Bill to Amend the Mineral Leasing Act of 1920 . . .," dated June 10, 1982. This testimony appears to have been in further response to question number 28 from Senator Jackson. A portion of the testimony deals with Interior's views on diligent development.

3. Letter to Senator Bumpers signed by me, dated July 14, 1982, transmitting answers to 13 questions covering a wide range of matters relating to the Powder River Sale, including detailed questions and answers on coal volumes, bid comparisons, fair market value determinations, and leaks of data.

4. Letter to Congressman Markey signed by me, dated July 14, 1982, responding to questions regarding the Powder River Sale and attaching copies of:

(a) My concurrence in the establishment of post-sale evaluation procedures for the Powder River Sale, dated April 27, 1982;

(b) The proposal for such procedures, dated April 23, 1982; and

(c) A June 21, 1982 memorandum to the Deputy Director of the Minerals Management Service from the Associated Director for Onshore Minerals Operations.

5. Testimony of David C. Russell, Deputy Director, Minerals Management Service, Department of the Interior before the House Committee on Interior and Insular Affairs, Subcommittee on Mines and Mining, July 15, 1982, in which he discussed the fair market value process and the Powder River Sale.

I am submitting copies of the foregoing documents for the record as part of the Appendix hereto.

My involvement clearly was as Chairman of the Minerals Management Board and as Under Secretary. I believe the answers provided in the various letters and testimony set forth Interior's and my views in the matter in great detail. It is my further belief the GAO has inquired into some aspects of this matter, but that, as yet, no report has been issued.

In the Department's July 14, 1982 letter to Senator Bumpers, it is stated that MMS in Reston was directed to initiate an investigation into the issue of a leak. I have contacted MMS regarding this direction and have indicated that it has a continuing obli-

gation to pursue this matter. I have been assured by MMS that it will report the results of its inquiry directly to you.

Finally, a question was raised regarding the delay in responding to your letter of May 18, 1982, in which it was suggested that it would have been helpful if a telephone contact had been made with your office explaining the delay. I am informed that the staff of the Office of Congressional and Legislative Affairs at the Department of the Interior was in communication with the staff of your office regarding our response and had indicated the difficulty in assembling all the information required to respond to the various Congressional requests on this subject. Nevertheless, as a matter of standard operating procedure, I am hopeful that delays of this sort can be eliminated at the Department of Energy.

RESPONSE TO QUESTIONS FROM SENATOR MAX BAUCUS

1. What was your role in the five WPPSS nuclear plants? Did you promote their construction? Did you urge utilities and cooperatives to participate in them? Did you issue notices of insufficiency that may have encouraged participation in the plants? Please provide appropriate documentation for your answers.

Answer. In addressing my role in the five Washington Public Power Supply System (WPPSS) nuclear plants, we first must distinguish between the projects themselves. The WPPSS Projects Nos. 1, 2 and 3 were intended to be directly related to the Bonneville Power Administration (BPA) in both financial and power supply relationships in accordance with the Congressional mandates included in the 1970 and 1971 Public Works Appropriation Acts. In essence, BPA was not intended to have a direct relationship with WPPSS Projects Nos. 4 and 5 other than providing some transmissions system and reserve support services. My answers, therefore, are divided into the two categories Projects Nos. WPPSS 1, 2 and 3 and separately Projects Nos. WPPSS 4 and 5.

WPPSS PROJECTS NOS. 1, 2, AND 3

In November 1966 (three years before I became Deputy Administrator at BPA), 108 public and private electric utilities in the Pacific Northwest and BPA formed the Joint Power Planning Council (JPPC) to develop a program to meet the region's estimated power needs over the next 20 years. After two years of consultation, in October 1968 the JPPC announced the Hydro-Thermal Power Program-Phase 1 (HTPP-1), which, among other things, provided for the construction of one nuclear plant essentially by investor-owned utilities (shared 70 percent investor-owned and 30 percent publicly-owned utilities) and of three nuclear power plants by the Washington Public Power Supply System (one plant shared 70 percent public and 30 percent investor-owned, two plants 100 percent public). The WPPSS is a corporate consortium of 23 State of Washington municipal and public utility district systems formed under Washington state law. The capability of the portions of these plants owned by municipalities, public utility districts and rural electrical cooperatives (called "preference customers" of BPA) was to be integrated into BPA's power distribution system through net billing agreements with those utilities, which Congress approved in appropriations acts in 1969 and 1970 for the fiscal years 1970 and 1971, respectively.

I became Deputy Administrator of BPA in October 1969, a year after HTTP-1 was announced and 23 days before the then-Secretary of the Interior announced Administration approval of the program. I became Administrator in December 1972, about three years after Congress approved BPA's involvement in this effort. Two of the three-party net billing agreements between BPA, WPPSS, and the participating public utility members (participants) in regard to WPPSS Project Nos. 1, 2 and 3 were signed during my tenure as Administrator. Under the net billing and companion agreements, WPPSS had the contractual responsibility to design, construct, operate, and maintain these plants. The concept was that funding for these three plants was to be provided by WPPSS' issuing and selling its bonds in the municipal bond market. The actual debt service payment was to be the responsibility of BPA acting through what was called "the net billing process." Fundamentally, the participating utilities acquired shares of these projects and assigned their rights to BPA. They were obligated to pay WPPSS for their respective shares. In exchange, the participants received credits against their purchases from BPA of electric power and services marketed by BPA—their WPPSS payment was "netted" against their BPA bill.

The notice of insufficiency had no bearing on the initiation of these projects since it followed Congressional action on these projects by more than five years.

WPPSS PROJECT NOS. 4 AND 5

BPA does not have any direct contractual relationships with Projects Nos. 4 and 5 nor any responsibility for their operation and oversight; however, those two projects were a part of a regional program to meet the collective needs of the utilities in the Pacific Northwest region. This program was a follow-on program to the Hydro-Thermal power program described above. It came to be known as Phase 2 of the Hydro-Thermal power program. Phase 1, which included Projects Nos. 1, 2 and 3, became not feasible to continue as a practical matter following an IRS ruling on the tax exempt status of such financial arrangements in 1972. At that time, efforts began to go foward toward the development of Phase 2.

The region's electric utilities, both public and private, the BPA, members of the Pacific Northwest Congressional delegation, and other elected officials and leaders in the region concurred that additional generation development was necessary to meet the expected electrical energy needs of the 1980's and beyond. Discussions began in 1972 to determine what was an appropriate follow-on program to Phase 1, utilizing the efficiencies inherent in developing base load thermal generation and integrating that with the Federal Columbia River Power System. By letter dated March 12, 1973, the Secretary of Interior wrote to me with instructions to work toward the development of such a follow-on program or issue a legal notice of insufficiency in order to protect the Federal Government's interests. Because of the lead times which BPA's preference customers would need to seek and to arrange for non-federal resources if the notice of insufficiency eventually had to be issued, the Secretary's letter was generally communicated to BPA's utility customers. By late 1973, a general agreement outlining Phase 2 principles was completed and work began developing the contractual relationships among utilities and the sizing and siting of generating resources.

The notice of insufficiency was a legal term provided for in the power sales contracts that BPA had with its preference customers. Essentially, it provided that, upon an 8-year notice, BPA could limit its legal obligation to meet the load growth requirements of its preference customers. (In 1973, BPA had notified its investor-owned utility customers that it would not renew their expiring power supply contracts.) Work on the necessary Phase 2 principles had to lead to project agreements in order to assure BPA that a combination of generation developed by its customers plus the power marketed by BPA would be adequate to meet preference customer needs and would protect the federal government's obligations and interests. It was apparent that this work would take such time that a notice of insufficiency nevertheless might have to be given. Therefore, late in 1974 and early in 1975, contracts with all of BPA's preference customers were amended by mutual agreement to allow a delay of one year in the notice of insufficiency, i.e., shortening the notice period from eight years to seven. This also increased the risk that if the program did not go together there might not be enough time to develop an alternative.

In 1975, as a result of court action under the National Environmental Policy Act, BPA was enjoined from moving forward on agreements among its customers which, the courts held, would have enabled Phase 2. The courts basically directed BPA to develop an Environmental Impact Statement on its role in power planning and development in the Pacific Northwest region including, specifically, Phase 2 of the Hydro-Thermal Power Program (Role EIS).

As a result of these court actions, coupled with the sharply increasing costs of new resource development being experienced within the Pacific Northwest as well as throughout the country, the principles supporting Phase 2 were unable to be implemented on a timely basis. Many of the leaders who were involved in the electric utility activities within the region agreed that the Pacific Northwest was facing serious electric energy supply problems. On the basis of an analysis of the data then available to the region and following discussions with its customers, I issued in June 1976 the notice of insufficiency which would limit BPA's obligations to meet load of its preference customers beyond July 1, 1983. While some have suggested that this notice in and of itself encouraged the commitment to Projects Nos. 4 and 5, it must be recognized that it was merely a reflection of the energy deficits then projected and discussed throughout the region as part of the development of Phase 2.

The initiation and progress toward commitments to Projects 4 and 5 proceeded as early as September of 1974, well prior to the June 1976 notice of insufficiency. In October 1974, WPPSS had announced a $2.1 billion financing program for Projects Nos. 4 and 5. Throughout 1975 and into early 1976, negotiations between preference customers and WPPSS were underway on Projects Nos. 4 and 5. Since, by July 1976, all Project Nos. 4 and 5 agreements in fact had been signed by the 88 participants, it would appear they must have been completely negotiated and submitted for signature well prior to that date and well prior to issuing the notice of insufficiency.

Throughout the development of Phase 2, I did actively participate in the Development of a cooperative, unified approach to the development of energy supply which

could lead to an adequate, reliable and low-cost supply of power for the Pacific Northwest region. As a part of that effort, Projects Nos. 4 and 5 were identified by the utilities and WPPSS and, as such, were supported by me.

For example, based on the best information then available to me, in November 1974 I informed BPA's preference customers of my judgment that these two plants were necessary to meet the utilities' projected load growth in the mid-1980's, that major financing for the plants would be required in 1975 if the construction schedules were to be met, and that, therefore, execution of the participant's contracts for the facilities was necessary at the time if the construction were to be completed on a schedule sufficient to meet then-projected loads after July 1, 1983. At the March 1976 annual meeting of the Bonneville Regional Advisory Council, I publicly stated my view that it would be desirable to continue to try to have WPPSS Projects Nos. 4 and 5 on schedule.

Since the technology and best information at that time suggested the develpment of large-scale nuclear electric generating facilities, the possibility of establishing twin units with other large nuclear plants was explored and finally adopted by the utilities—not including BPA since it was not a participant. Project No. 4 is a twin unit (the same design, size and site location) to Unit No. 1 at the Hanford Site in the State of Washington. Project No. 5 similarly was a twin unit with WPPSS Project No. 3 at the Satsop site in Western Washington. It was anticipated that significant cost savings and operational safety and protection could be obtained by this effort. At the request of WPPSS and BPA customers, and following discussion with the Appropriations Committees of Congress in 1973, 1974, and 1975, I approved of this concept and approach insofar as it affecterd BPA's obligations in Project No. 3. This was believed by the sponsors to be the most efficient and the least costly approach to meeting the power supply "public utility responsibilities" of our customers. I agreed that they should consider it carefully Also during this period, I, along with virtually all other power system managers within the region, continued to inform people of the serious power supply situation forecast by the PNUCC.

The Role EIS prepared by BPA is an excellent source for background material and discussion of the issues and options surrounding Phase 2 of the HTPP of which Projects Nos. 4 and 5 initially were a part. That document, although published in final form in December of 1980, was first released as a draft by the President's Council on Environmental Quality in July 1977 when I was Administrator. A GAO report entitled "Bonneville Power Administration and Rural Electrification Actions and Activities Affecting Utility Participation in Washington Public Power Supply System Plants 4 and 5," dated July 20, 1982, and a September 8, 1982 letter from present BPA Administrator Johnson to Congressman George Hansen, together with a "Chronology of Events Regarding the Supply System Nuclear Projects" prepared by BPA and referred to in such letter, also constitute comprehensive sources of information. I was interviewed by GAO during preparation of the July 20, 1982 GAO report, and my comments and GAO's evaluation of my role are reflected in that report. Copies of the introductory portions to the final Role EIS (including introduction, table of contents, summary and "overview") and of the other documents I have mentioned are included for the record in the Appendix hereto.

2. Please explain the BPA/WPPSS relationship regarding the WPPSS nuclear plants 1 through 3. Was BPA obligated to pay the full costs of these plants whether they were completed or not?

Answer. The WPPSS Projects Nos. 1, 2 and 3 are contractually related to BPA in both financial and power supply relationships. Through those agreements, BPA is completely obligated to pay the full costs of these plants whether completed or operable or not. This relationship grew out of BPA's participation in the Hydro-Thermal Power Program as discussed in Question 1, above. This relationship had express Executive Branch and Congressional approval. Specifically, BPA explained its proposed participation to the House and Senate appropriations Committees in 1968, 1969 and 1970. (The first of these preceded my 1969 appointment as Deputy Administrator, and all of them preceded my 1972 appointment as Adminstrator). In 1969, Congress approved BPA's participation in two of the thermal projects under the program. In 1970, Congress approved BPA's participation in the remaining projects, including WPPSS Projects Nos. 1, 2 and 3. Recently, Congress reaffirmed its approval of the integrated participation of these plants into the BPA system in the Pacific Northwest Electric Power Planning and Conservation Act. (P.L. 96-501). The further details of this relationship are provided in answers to the subparts of this question A. through E.

2A. The bond statement for WPPSS plants 1, 2 and 3 provide as follows: "Bonneville is obligated to pay . . . the total annual costs of each net billed project, including the debt service on the net billed bonds, whether or not the net billed project is completed, operable or operating and notwithstanding the suspension, reduction or curtailment of project output." Are you aware of any other arrangment in the U.S. where a federal agency has entered into such a contract?

Answer. I am not aware that there are or are not any other arrangements in the United States where a federal agency has entered into a similar contract. I will request the Department staff to research this question further.

2B. What were the contractual arrangements under which BPA exercised oversight to the net-billed WPPSS plants? Or is it your position that BPA was empowered only to exercise discretionary review of WPPSS?

Answer. The nature and extent of BPA's oversight or review authority in regard to the net-billed plants (WPPSS Projects Nos. 1, 2 and 3) is specifically contained in two agreements. Principally, they are contained in what is called the Project Agreement between BPA and WPPSS. Some additional, although lesser, criteria are provided in the net-billing agreements between BPA, the participants, and WPPSS. Although these agreements very slightly between Projects Nos. 1, 2 and 3, in the essential areas regarding oversight there is not any appreciable distinction. Therefore, I have included for the record as part of the Appendix hereto a Project Agreement and a Net-Billing Agreement for Project No. 3. These contracts provided very carefully defined review authority and limited enforcement rights for BPA to modify or to make adjustments to the operation and activities of these projects.

The contracts basically provided that the duties of WPPSS to design and to construct Projects Nos. 1, 2 and 3 were to be carried out "in accordance with prudent utility practice," a term which, by the contracts, required, among other things, the exercise of reasonable judgment in light of the facts known at the time, taking into account practices engaged in or approved by the electrical utility industry. The contracts established a Participants' Review Board, consisting of nine representatives of the participating utilities (virtually all of BPA's preference customers), which had the responsibilities of reviewing WPPSS' construction and annual budg- ets, as well as all bids, bid evaluations, and proposed contract awards for amounts exceeding $500,000.

After adoption by the WPPSS Board of Directors, the annual and construction budgets of WPPSS, generally after review by the Participants' Review Board, formally were submitted to the BPA Administrator for approval, rejection, or modification, but solely on the basis of whether the WPPSS proposal was or was not consistent with prudent utility practice. However, the contracts also provided for ultimate review and decision by a "Project Consultant" of any disapprovals by the BPA Administrator of WPPSS proposals. The resolution was to be on the ground of consistency with prudent utility practice.

It should be noted that WPPSS is governed by a Washington State Board of Directors made up of Public Utility Districts and municipal utilities of the State of Washington. These board members essentially represent the same consumers who, in the final analysis, pay the BPA rates covering the costs of these projects. The WPPSS Board of Directors and the Participants' Review Board ultimately are accountable to several hundred publicly elected utility officials throughout the Pacific Northwest region. In the circumstances, BPA's relationship with WPPSS was not similar to that with a private contractor.

I am informed that in 1980 BPA and WPPSS executed an agreement increasing BPA's oversight role.

2C. What caused the massive WPPSS cost overruns?

Answer. I cannot identify specifically those items which may have resulted in the WPPSS cost overruns. The substantial increases in the projected completion costs of Projects Nos. 1, 2 and 3 are generally attributable to various factors including, primarily, slippages in the construction schedules. Every construction delay—whether attributable to lack of adequate foresight concerning the difficulties in constructing such facilities, labor disputes, the need to conform design to newly-acquired knowledge concerning plant safety, regulation changes, and other technological advances or otherwise—increases cost because of, among other things, the carrying cost of money and the inflationary pressures on costs that were experienced throughout the 1970's and into the 1980's. There have been numerous evaluations of cost overruns, not only at Projects Nos. 1, 2 and 3, but at other projects being developed by utilities throughout the United States. BPA did evaluate the WPPSS cost overruns, and it is my recollection that the cost of the WPPSS Projects Nos. 1, 2 and 3 tracked in general the cost increases that other utilities were experiencing with their nuclear projects. This was particularly true when the costs of the WPPSS projects in this comparison were adjusted for a major labor dispute that occurred at the Hanford site and the higher labor costs in general that were attributable

to costruction in the Hanford location in the State of Washington. While I was administrator at BPA, we discussed the possible need for an independent review of the WPPSS management systems in order to evaluate to what extent management in and of itself may have contributed to those cost overruns. Those discussions finally culminated in the Theodore Barry and Associates Study commissioned by BPA shortly after I left.

2D. Do you think that BPA oversight of WPPSS was adequate?

Answer. I believe that the thrust of your concern relates to the problems of WPPSS Projects Nos. 4 and 5. BPA's contract responsibility for oversight of WPPSS relates only to Projects Nos. 1, 2 and 3. Even as to Projects Nos. 1, 2 and 3, it is difficult to assess fully whether BPA oversight was adequate. Certainly, knowing what we know now, there are things we should have done differently—different contracts, different procedures, and, likely, even different institutional arrangements. Perhaps, even the State of Washington and the preference customer participants should have structured WPPSS differently. However, the question should, in all fairness, be judged by what was known and perceived at the time.

The following remarks relate to projects Nos. 1, 2, and 3:

The oversight provisions of the contracts were established on the fundamental principle that the Washington State Board of Directors of WPPSS, and the participants and BPA all had the same interest in mind and essentially the same consumers to whom they were responsible. Furthermore, the NPR project at Hanford had just been completed under a similar arrangement and had come in ahead of schedule and below budget. The normal, arms-length oversight relationship that would exist with a private contractor simply was felt by the parties not to be appropriate in this circumstance and, possibly, in the atmosphere at the time might not have been able to be negotiated.

Throughout the progress of construction, the relationship on oversight was continuously reviewed and adjusted. The basic premise of a common motivation with the WPPSS Board and the participants remained. As costs overran estimates and delays were experienced, greater and greater pressure was exerted by BPA. However, in the early years, these explanations regarding these impacts were felt reasonable by the region's utilities, the Board of Directors, the Participants' Review Board, and BPA senior staff.

In retrospect, neither WPPSS, its State Board of Directors, nor the participants during that time were adequately situated to deal with a construction project of such immensity and complexity. In such an atmosphere, BPA, before, during and after my tenure as Administrator, saw its role as one not just of oversight, but one of helping them in their efforts to move these projects forward. It will be remembered that the region, including BPA, believed we were facing serious power supply deficits and needed to act in such a way that we did not add to the delays of these projects.

Subsequently, the GAO, Theodore Barry and Associates, the Washington State legislature and others have looked back and suggested what might have been done. They also will play a part in the judgment about whether BPA oversight of WPPSS was adequate. I am advised that the GAO currently is updating its report which will add to the views on this subject.

2E. During your tenure at BPA did your office have an auditor at the WPPSS facilities? What was his name? Could you submit for the record his reports and your responses to him and to your deputies as to what responses should be made to his reports?

Answer. I am not aware whether or not throughout the period of time when I was in office as Administrator, BPA had an auditor at the WPPSS facilities. BPA did, however, have an engineer or other suitable technical person at each of the project sites able to review the technical construction and design activities. At the BPA Headquarters Office, there were several other engineers and auditors who dealt with the WPPSS construction and budget activities. I have initiated a request to determine the specific nature of the then-existing BPA auditing activity, the names of the person(s) primarily responsible for such activites at the time, and a review of the BPA files for reports and responses.

3. What is your view of prospective solutions to the WPPSS debacle? What is likely to occur in the event of a default? Would you be willing to prepare a departmental overview of WPPSS—the causes and possible solutions—for submission to Congress? When could you complete such a project?

Answer. There is no basis for a government bail out of WPPSS at this time. I believe there is the capability within the region to resolve these issues if there is the will to cooperate.

I am not personally or technically aware of all the ramifications that may be associated with a default on the bonds to pay for Projects Nos. 4 and 5. There has been a great deal of discussion and speculation on that issue. A July 2, 1982 GAO report on this subject to Congressman Weaver is believed by me to be the most definitive piece covering the whole spectrum of views currently available. I am including a copy of that July 2, 1982 GAO report for the record as part of the Appendix hereto.

I am willing to undertake any reasonable or appropriate studies which the Committee might request. The date of completion would be an outgrowth of the scope and complexity. In this case, however, I respectfully urge the Committee not to request a study of the type about which this question inquired. A critical situation exists. Litigation is active. All parties have inordinate demands on their time. A review such as the one asked about in the question undoubtedly would divert important management resources at BPA, WPPSS, the Pacific Northwest Regional Power Council and the utilities away from discharging their respective responsibilities to the region in the weeks and months ahead. Moreover, WPPSS is a legal entity organized under special statutes of the State of Washington and, apart from the contractual provisions concerning WPPSS Projects Nos. 1, 2, and 3, is not subject to direct oversight by BPA or DOE. Any Departmental oversight efforts should be conducted carefully to reflect appropriate respect for the legal status of WPPSS.

4. Do you have any observations concerning the polarization that occurred in the region's energy debate—particularly around the time of your speech to the City Club of Portland in which conservation groups were severely castigated? What did you learn from that experience? How will things be different in your work as Secretary of Energy?

Answer. Rather than encouraging debate, the polarization resulting from what were perceived as personal attacks crippled dialogue on most fronts. I have learned that if we seek a dialogue, as I do, it is essential to try to reduce polarization. A big difference at DOE will be my determination, to the best of my ability, to seek areas of agreement in order to foster the ability to communicate. This effort is already underway with encouraging beginnings.

5. In 1976, BPA received a contracted energy conservation study from Skidmore, Owings and Merrill. The study concluded that conservation could reduce, if not eliminate, the need for new power plants. Were the study findings circulated to customers in order to encourage them to undertake conservation activities? Was it made available in time for review by those considering participation in the WPPSS projects? Since the question has arisen whether BPA tried to withhold the report from public scrutiny, please supply copies of statements and memoranda which deal with public release or discussion of the report. Did you make or authorize an effort to slow release of the report?

Answer. The Skidmore, Owings and Merrill (SOM) Report was a study contracted by BPA in January 1976 for use in preparing BPA's "Role" environmental impact statement. The draft report was completed by SOM in May 1976, and the final report was submitted by SOM to BPA on July 20, 1976. On August 18, 1976, the final SOM report was distributed by BPA to participants in the BPA "Role" EIS process, including the Public Power Council, conservation and other public interest groups, and the Pacific Northwest states. After a thorough review by BPA staff, the final SOM report, together with BPA's analysis, were the subject of a BPA press conference on October 4, 1976.

With respect to the issue of whether the results of the SOM report were available to the utilities participating in WPPSS Projects Nos. 4 and 5 before they signed their participants' contracts, it will be recalled that negotiations on WPPSS Projects Nos. 4 and 5 leading to contract signatures had been going on throughout 1975, with the final agreements all being signed by July 14, 1976, which was prior to SOM's submission to BPA of its final report.

At BPA's instigation, the preliminary conclusions and approach by SOM were discussed even prior to the draft SOM report. Such an advisory meeting of BPA preference and other customers was held on April 19, 1976, under the sponsorship of the Northwest Public Power Association. A substantial number of customers attended, together with SOM representatives, to discuss the report SOM was preparing. On April 27, 1976, a similar meeting was held with the staff of the Northwest Energy Policy Prcject, an energy policy group commissioned by the Governors of Oregon, Washington, and Idaho.

A member of the SOM group preparing the report publicly discussed the draft conclusions of the report in May 1976, prior even to the time BPA had the opportunity to complete its analysis and review of the draft. There was very substantial media coverage of the findings and recommendations of that draft because of their controversial nature. It is inconceivable to me that the 88 utilities which eventually signed WPPSS Project Nos. 4 and 5 contracts in July 1976 were unaware of the existence of the SOM report and of its views on the subject of conservation as an alternative to construction of new nuclear plants.

At the time of this early release of SOM's views and subsequently, BPA expressed its concern that the draft could be or was misleading in the sense that a substantial portion of the conservation savings identified by SOM might or might not be capable of realization because they depended upon mandatory conservation through laws, the enactment of which could not be assumed. An example of one such conservation option which was a part of SOM's projected savings, as I recall, required homeowners to weatherize their homes before they would be allowed to sell them. BPA and I were concerned that the projected energy savings from that and similar mandatory measures could not be relied upon safely by utilities which had an obligation to make the necessary plans to provide an adequate power supply prior to the time there could be confidence that the required laws would be enacted. In my view, the utilities' awareness of the views of SOM could only have been heightened by the debate surrounding these matters which was carried on at numerous gatherings of utility groups, much less in the media.

I do not recall in any way making or authorizing any effort to slow the release of the final SOM report together with BPA's analysis which, in the circumstances, was believed by BPA to be necessary to minimize the risk that the public otherwise might be misled in drawing conclusions from the report.

The inference that I might suppress a report favorable to conservation as an alternative to development of additional generating capacity runs counter to my long-standing, publicly articulated advocacy of conservation as a necessary resource. My opening statement to the Committee refers to some of my public remarks as far back as two years before the SOM report. Indeed, during the year which preceded execution of the contracts for WPPSS Projects Nos. 4 and 5, I referred in a major speech in Seattle to "the overriding need for energy conservation." In December 1975, I stressed that "energy conservation is an essential first step in solving the energy crisis which confronts both this region and the United States;" and, contemporaneously with the draft SOM report, I publicly urged that "conservation is essential, and we strongly emphasize that it must become a way of life." Therefore, in light of material supplied for the record by one of the public witnesses, I have initiated an inquiry to identify what copies of statements and memoranda may be available in response to this question.

RESPONSE TO QUESTIONS FROM SENATOR BUMPERS

4. Projections of the future demand for electricity have, in recent years, been far higher than the actual demand, haven't they? Wasn't this the case with the Washington Public Power Supply Service? What was your role in this matter? Did you consider the alternative of promoting conservation? If not, why not? If so, why was that alternative rejected? In retrospect, how might the WPPSS problem have been avoided? Does this experience show that we have greatly underestimated the value of conservation?

Answer. In recent years, utilities' forecasts indicate diminishing future load growth. Recognizing that these forecasts are projections for several years in the future, if you compare the actual load in each of the recent years with that forecast ten years earlier, it is apparent the forecasts have been significantly higher than the actual demand in those years. This should not be too surprising in view of the increases in energy costs plus the economic situation, both of which were not contemplated in the earlier forecasts. This has also been the case with the projections of power supply requirements in the Pacific Northwest, which impacts directly on the need for the Washington Public Power Supply System projects.

While Administrator at Bonneville, we had a limited responsibility in the area of load forecasting. In general, we forecasted, as a service, the loads for many of the very small public utility and cooperative utility customers. The larger preference customer utilities and all the investor-owned utilities were responsible for forecasting their own loads as a part of their individual utility responsibilities. BPA participated with all of the utility customers in putting together a sum of all of the utility forecasts within the Pacific Northwest region. In the mid to late 70's, this was done under the auspices of the Pacific Northwest Utilities Conference Committee.

I did, in fact, actively promote conservation as evidenced only in part by my early speeches to which I referred in my opening statement to the Committee. I continued that effort while I served as BPA Administrator. I can only speculate as to why conservation was not given greater attention by utility planners. The year 1974 was at the end, in retrospect, of a long period where additional power generation resulted in a net overall decrease in price in real terms. That investing directly in the saving of energy as a resource in the end would result in lower cost power and lower rates to consumers was, as yet, an untested concept. I am pleased to note, however, that through the intervening years the conservation approach has flourished and has become a meaningful part of our Nation's energy management activities.

At the time WPPSS Projects Nos. 1, 2 and 3 were planned and arranged for, there was a very clear indication of need. As yet, I am unaware of any evidence that would question the need for those projects. It is my understanding that recently BPA recommended to WPPSS, and that the WPPSS Board has agreed, that construction of Projects Nos. 2 and 3 even now should proceed at full pace to maintain or to improve existing construction schedules on those projects and that the schedule for construction of Plant No. 1 be extended for up to five years to parallel more closely the expected requirements for power from Project No. 1 based on recent forecasts of demand over the next decade, including BPA's first independent regional demand forecast pursuant to the Pacific Northwest Power, Planning and Conservation Act of 1980. No information has been called to my attention which presently causes me to believe that there was any mistake as to need in undertaking the construction of these three projects.

Projects Nos. 4 and 5 have been terminated. Although the need for this power has been questioned, I must speculate that a basic reason for their termination is their extensive cost overruns and an associated inability to finance the projects economically.

It is difficult to assess realistically whether we have greatly underestimated the value of conservation. Certainly as costs of energy have increased sharply since the late 1970's, there has been a corresponding reponse in the conservation of energy. It should be noted, however, that had the cost of energy stayed as projected, such as the initial estimates of the WPPSS projects, then the resultant cost of energy would have been significantly lower and the resulting economically motivated conservation also would have been less.

15. In 1975, you said the environmental movement had fallen into the hands of a "small, arrogant faction which is dedicated to bringing our society to a halt." Do you still think that?

Answer. The speech to which the question refers was made by me at a time when Bonneville Power Administration (BPA) and I, as its Administrator, were experiencing an enormous sense of frustration arising from a series of lawsuits which we felt were aimed not so much at achieving the true intent of the National Environmental Policy Act—preservation of a clean and wholesome environment—as at bringing to a halt virtually every effort on the part of BPA and the publicly- and investor-owned electric utilities in the Pacific Northwest to provide energy to the people of the region. At the time, virtually every participant in the regional power systems foresaw the prospect of a severe shortfall in energy resources during the decade ahead, yet litigation brought under NEPA threatened the very existence of Phase 2 of the Hydro-Thermal Power Program, which BPA and its over 100 customers with diverse interests carefully had worked out to the end that people could have jobs and the other social benefits of an adequate energy supply.

In that speech, I urged my audience "to take up this dialogue." To my chagrin, I learned that verbal challenges as I issued that day can be counter-productive. I now realize that, regardless of the amount of frustration one feels when those programs and policies in which he earnestly believes are sidetracked by antagonists who have equally earnestly held convictions, dialogue is better served by lowering the temperature of the rhetoric.

I am acutely aware that, to be successful as Secretary of Energy, I first must succeed in the commitment I made to the Committee in my opening statement—"to work with you and others toward a broadened energy consensus in the United States." In my first four weeks as Secretary of Energy, I already have begun that effort by, among other things, meeting with a substantial number of leaders of environmental and conservation organizations to engage in an exchange of views concerning a broad range of energy issues. The discussions have been cordial, straightforward, and I believe, beneficial for all concerned. I have asked my staff to try to arrange follow-on meetings in the near future.

In all fairness, I suggest it would be appropriate to note that the persons who bore the brunt of my remarks over seven years ago purposefully were described by me as being a small faction—in contrast to what I termed "the responsible majority of environmentalists." I am satisfied that, while the present leadership of environmental and conservation organizations may have some policy disagreements with me, we can interact with each other in a manner which, based on mutual respect, will produce the broadened energy consensus I seek.

RESPONSE TO QUESTIONS FROM SENATOR JACKSON

6. Among your publications you list a speech you gave at the City Club of Portland on July 11, 1975, in which you stated: "The greatest threat to the environmental movement is the environmental movement itself. Over the past several years, it has fallen into the hands of a small, arrogant faction which is dedicated to bringing our society to a halt. I call this faction the Prophets of Shortage. They are the antiproducers, the antiachievers. The doctrine they preach is that of scarcity and self-denial." Do you still stand by those words?

Answer. The speech to which the question refers was made by me at a time when Bonneville Power Administration (BPA) and I, as its Administrator, were experiencing an enormous sense of frustration arising from a series of lawsuits which we felt were aimed not so much at achieving the true intent of the National Environmental Policy Act—preservation of a clean and wholesome environment—as at bringing to a halt virtually every effort on the part of BPA and the publicly- and investor-owned electric utilities in the Pacific Northwest to provide energy to the people of the region. At the time, virtually every participant in the regional power systems foresaw the prospect of a severe shortfall in energy resources during the decade ahead, yet litigation brought under NEPA threatened the very existence of Phase 2 of the Hydro-Thermal Power Program, which BPA and its over 100 customers with diverse interests carefully had worked out to the end that people could have jobs and the other social benefits of an adequate energy supply.

In that speech, I urged my audience "to take up this dialogue." To my chagrin, I learned that verbal challenges as I issued that day can be counter-productive. I now realize that, regardless of the amount of frustration one feels when those programs and policies in which he earnestly believes are sidetracked by antagonists who have equally earnestly held convictions, dialogue is better served by lowering the temperature of the rhetoric.

I am acutely aware that, to be successful as Secretary of Energy, I first must succeed in the commitment I made to the Committee in my opening statement—"to work with you and others toward a broadened energy consensus in the United States." In my first four weeks as Secretary of Energy, I already have begun that effort by, among other things, meeting with a substantial number of leaders of environmental and conservation organizations to engage in an exchange of views concerning a broad range of energy issues. The discussions have been cordial, straightforward, and I believe, beneficial for all concerned. I have asked my staff to try to arrange follow-on meetings in the near future.

In all fairness, I suggest it would be appropriate to note that the persons who bore the brunt of my remarks over seven years ago purposefully were described by me as being a small faction—in contrast to what I termed "the responsible majority of environmentalists." I am satisfied that, while the present leadership of environmental and conservation organizations may have some policy disagreements with me, we can interact with each other in a manner which, based on mutual respect, will produce the broadened energy consensus I seek.

RESPONSE TO QUESTIONS FROM SENATOR WILLIAM PROXMIRE

4. In 1975 and 1976 did you ask members of the public to write their members of Congress to ask for changes in the National Environmental Policy Act? Did you use federal funds for this purpose?

Answer. To my very best recollection, I have not asked members of the public to write their members of Congress to ask for changes in the National Environmental Policy Act (NEPA). This question, however, may have reference to a July 1975 speech I delivered. In that speech I stated: "I have no quarrel with that Act [NEPA] or what I believe to be its intent. We have a right to demand both a clean environment and economic opportunity." But I described in some detail what appeared to be the efforts of some at that time to use—misuse, in my view—NEPA "to obstruct the orderly progress of obtaining the power supply this [Pacific Northwest] region must have if we are to continue to provide for a reasonable lifestyle for ourselves, our children and the generations to come."

I believe that the speech clearly indicated my support for environmental laws of our nation. Several options came to mind for alleviating some of the problems I had described, which I outlined without advocating any particular action. These were offered simply to provide some ideas for consideration in the public debate on this subject. I stated:

"I do not have a set of pat solutions, but we might consider the following: (1) a legal or regulatory point of final decision where a project is either approved or disapproved, and no further complaints are permitted, (2) an obligation on the part of a plaintiff who abuses the NEPA process to pay the damages caused by his actions, and (3) a statute of limitations on lawsuits which challenge the adequacy of Environmental Impact Statements."

The audience before which I spoke consisted of opinion leaders from all segments of the Portland, Oregon community. After a discussion of the problems we faced, I urged the listeners:

" . . . [T]o take up this dialogue. If you belong to an environmental organization, scrutinize its polices and how your dues are being spent. If you have friends who are members, ask them if they know what is being done in their names. Urge them to blend their best efforts to getting their club or association back on its original, constructive course.

"Talk to you business colleagues, talk to our State and local office holders. Write to your Congressmen. Tell them these delays are costing jobs now and for the future. Tell them we're jeopardizing our economy and our way of life."

The speech triggered a spirited and sharply mixed reaction. There were numerous requests for copies of the speech, so BPA printed copies accompanied by an introductory letter from me in which I said to people who had asked "What can I do?" that they should send me their written comments, with the understanding I would bring them to the attention of the Pacific Northwest Congressional delegation. It was my hope to foster an increased public debate on the issues facing the region and to provide my good offices in facilitating communication between the citizens of the Northwest and their elected officials.

RESPONSE TO QUESTIONS FROM SENATOR TSONGAS

9. On July 11, 1975, you made a speech before the City Club of Portland, Oregon, widely referred to as the "Prophets of Shortage Speech," in which you launched a major attack on the motives of this Nation's conservation movement. Let me refresh your memory with a few quotes from that speech: "It is no longer just a conservation movement, but a crusade to stop all development in this country." "The greatest threat to the environmental movement is the environmental movement itself. Over the past several years, it has fallen into the hands of a small, arrogant faction which is dedicated to bringing our society to a halt. I call this faction the prophets of shortage. They are the anti-producers, the anti-achievers." Are these statements still an accurate portrayal of your attitude towards those people and organizations in this country who feel that energy conservation and the development of renewable energy sources are viable alternatives to building nuclear power plants? In this same speech you characterized the requirement to prepare an environmental impact statement, as required by the National Environmental Policy Act a "burdensome requirement upon a Federal agency . . . ." Did you in fact oppose the request of several environmental organizations that you prepare an environmental impact statement on the Bonneville Power Administration's proposed Hydro-Thermal Phase Two Program? What was the final disposition of any litigation on this issue of BPA's EIS on the Hydro-Thermal Power Plant II? Can you provide any relevant court judgments and opinions for the Committee record?

Answer. The speech to which the question refers was made by me at a time when Bonneville Power Administration (BPA) and I, as its Administrator, were experiencing an enormous sense of frustration arising from a series of lawsuits which we felt were aimed not so much at achieving the true intent of the National Environmental Policy Act—preservation of a clean and wholesome environment—as at bringing to a halt virtually every effort on the part of BPA and the publicly- and investor-owned electric utilities in the Pacific Northwest to provide energy to the people of the region. At the time, virtually every participant in the regional power systems foresaw the prospect of a severe shortfall in energy resources during the decade ahead, yet litigation brought under NEPA threatened the very existence of Phase 2 of the Hydro-Thermal Power Program, which BPA and its over 100 customers with diverse interests carefully had worked out to the end that people could have jobs and the other social benefits of an adequate energy supply.

In that speech, I urged my audience "to take up this dialogue." To my chagrin, I learned that verbal challenges as I issued that day can be counter-productive. I now realize that, regardless of the amount of frustration one feels when those programs and policies in which he earnestly believes are sidetracked by antagonists who have equally earnestly held convictions, dialogue is better served by lowering the temperature of the rhetoric.

I am acutely aware that, to be successful as Secretary of Energy, I first must succeed in the commitment I made to the Committee in my opening statement—"to work with you and others toward a broadened energy consensus in the United States." In my first four weeks as Secretary of Energy, I already

have begun that effort by, among other things, meeting with a substantial number of leaders of environmental and conservation organizations to engage in an exchange of views concerning a broad range of energy issues. The discussions have been cordial, straightforward and, I believe, beneficial for all concerned. I have asked my staff to try to arrange follow-on meetings in the near future. I am satisfied that, while the present leadership of environmental and conservation organizations may have some policy disagreements with me, we can interact with each other in a manner which, based on mutual respect, will produce the broadened energy consensus I seek.

In all fairness, I suggest it would be appropriate to note that the persons who bore the brunt of my remarks over seven years ago purposefully were described by me as being a small faction—in contrast to what I termed "the responsible majority of environmentalists," and that I specifically stated: "I have no quarrel with that Act (NEPA) or what I believe to be its intent. We have a right to demand both a clean environment and economic opportunity." Neither should one lose sight of my warning that we must avoid both excesses—unrestrained development and abuse of the NEPA process—and that I wholeheartedly endorsed the suggestion of the then-Governor of Oregon, with whom I otherwise had political differences, that we as a society must adopt a "common sense" approach to development and environmental problems.

I have no personal quarrel with the people and organizations whom the question describes as feeling that "energy conservation and the development of renewable energy sources are viable alternatives to building nuclear power plants." As my opening statement to the Committee made plain, those are exceptionally important energy resources which I long have supported and intend to continue to support at the Department of Energy. Nevertheless, as I stated to the Committee, I believe in "the need for a broad mix of energy resources, ranging from conventional to renewable to exotic."

It is true that the Natural Resources Defense Coucil and other environmental organizations did request BPA to prepare an environmental impact statement (EIS) in regard to Phase 2 of the Hydro-Thermal Power Program referred to in my 1975 speech. BPA already had prepared a draft EIS, entitled "BPA Participation in Regional Interutility Cooperation," which it believed was appropriate, although the Chairman of the Council on Environmental Quality later disagreed. More importantly, the BPA legal staff and the attorneys representing one of the major BPA customers scheduled to sign a contract implementing Phase 2 (known as the Umatilla contract) were of the strong and unanimous view that no EIS was required because, since Phase 2 was a cooperative enterprise between BPA and wholly nonfederal participants, it was not within the scope of NEPA. On the basis of that legal advice, I rejected the abovementioned request for an EIS on Phase 2.

Subsequent litigation held that, because of "federal enablement" of the regional power program, an EIS should be prepared. In one of those cases the court specifically determined: "The record indicates that defendants acted in good faith in not preparing an EIS before signing the Umatilla contract. Another federal court had ruled in their favor in related circumstances." *Port of Astoria* v. *Hodel*, 5 ELR 20657, 20660 (D.Or. 1975) (emphasis added), affirmed 595 F.2d 467 (9th Cir. 1979).

The trial and appellate court opinions in the two, separate cases involving these matters are included for the Committee record in the Appendix hereto. In compliance with court directives to prepare EISs, BPA did so, and the litigation thereafter was dismissed.

Mr. McCLURE. Mr. President, in addition to the extensive discussion of these issues contained in the previous answers, Mr. Hodel at my request also submitted to the committee a letter of December 8, 1982, containing a narrative response to critical comments contained in the testimony of other witnesses at his nomination hearing. I ask unanimous consent that a copy of Mr. Hodel's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF ENERGY,
Washington, D.C., December 8, 1982.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources,
Washington, D.C.

DEAR MR. CHAIRMAN: On Monday, I delivered to the Committee some additional materials in response to certain questions asked of me at my December 1, 1982 confirmation hearing, as well as my responses to written questions which some Committee members and other Senators propounded after the hearing.

At the confirmation hearing, Senator Baucus expressed various concerns he had about my nomination. He was kind enough to direct written questions to me concerning the issues raised in his testimony, thereby affording me the opportunity to respond to his concerns. The materials I delivered for the record contain what I trust is an appropriate and adequate response to those questions from Senator Baucus.

Certain outside witnesses also testified at my confirmation hearing. Some of them based their views concerning my nomination of their opposition to the Administration's policies concerning energy. My opening statement to the Committee and my responses to the oral and written questions make plain my support for the President's position on energy policy. I have stated my intention to review the Department's FY 1984 budget recommendations to the President, including my focusing on the proper level and the priorities of future federal expenditures concerning energy programs. My opening statement emphasizes, among things, my long-standing philosophical commitment to the need for a broad mix of energy resources, ranging from conventional, to renewable to exotic.

A few of the outside witnesses who testified concerning my nomination made some rather sweeping, conclusory remarks about me. The broadened energy consensus which I seek would not be served by my replying to such clearly rhetorical, generalized characterizations which do not go to the substance of issues. Nevertheless, certain aspects of some outside witnesses' testimony so completely mischaracterized my actions as former Administrator of the Bonneville Power Administration (BPA) and/or my views on important energy issues that I would like to use this letter to comment specifically upon some of them.

BPA OVERSIGHT OF WPPSS PROJECTS NOS. 1, 2 AND 3

In his testimony, Mr. Scott, the Director of Federal Affairs for the Sierra Club, accused me of having "apparent disinterest" in regard to BPA oversight of the first three nuclear projects of the Washington Public Power Supply System (WPPSS). Question 2(D) from Senator Baucus asked for an explanation of the contractual arrangements governing BPA oversight responsibilities of those projects, and his question 2(E) asked whether I thought BPA oversight was adequate. My response to those two questions outlines the then-existing contractual limitations upon BPA oversight, the relationship between BPA, WPPSS, and the participating utilities, and some of my thoughts as to what might have been done differently, knowing what we know now. I am confident there is no factual basis for the suggestion of "apparent disinterest" in oversight on my part or on the part of the rest of BPA management.

Mr. Scott goes on to suggest that the dramatic increase in WPPSS construction costs is evidence of "neglect in performance" of BPA's oversight responsibilities. My views as to the likely causes of cost overruns on WPPSS Projects Nos. 1, 2 and 3 are set forth in my answer to Question 2(C) from Senator Baucus. The cost increases in no way establish lack of oversight, for I pointed out in my answer to that question from Senator Baucus that BPA did evaluate the WPPSS cost overruns and that, as I recall, they tracked in general the cost increases other utilities were experiencing with their nuclear projects. The BPA certainly had no responsibility for the slippages in the construction schedules of WPPSS (whether caused by its labor disputes, the need to conform designs to newly promulgated regulations or new technology, or otherwise) nor for the inflationary pressures on costs felt by those WPPSS projects and other major construction projects in the Nation during the 1970's.

Referring to testimony of Mr. Sterling Munro, my successor as BPA Administrator, Mr. Scott attempts to create the impression that the BPA staff had been aware of the difficulties in regard to oversight of WPPSS Projects 1, 2 and 3, but that I had been unwilling to do anything about it. Mr. Munro's testimony suggests no such thing; neither do the facts. As I pointed out in my answer to Questions 2 (D) and (E) from Senator Baucus, the relationship on oversight was continuously reviewed and adjusted throughout construction and, while I was BPA Administrator, we had discussed the possible need for an independent review of the WPPSS management systems. Those discussions culminated in an independent study commissioned by BPA shortly after I left. There were, of course, other outside studies of WPPSS management made after my tenure as BPA Administrator. Interestingly, one of them (rendered by Decision Planning Corporation in 1980) indicates that the inherent institutional problems which confronted BPA while I was Administrator remained difficult to resolve despite diligent effort of the parties.

THE WPPSS DECISION TO BUILD PROJECTS NOS. 4 AND 5

Role of BPA

In his testimony, Mr. Scott accuses me of having engaged in "polite coercion" of utilities in the Pacific Northwest to agree to Phase 2 of the region's Hydro-Thermal Power Program (HTPP), which included

construction of WPPSS Projects Nos. 4 and 5. Among other things, he plainly suggests that the Notice of Insufficiency issued by me to BPA's preference customers was part of that effort.

My response to Question 1 from Senator Baucus contains comments from me on the historical background of the development of the Hydro-Thermal Power Programs, my active participation in the development of a cooperative regional program as a follow-on to Phase 1 of the HTPP, my support for WPPSS Projects Nos. 4 and 5 as part of Phase 2 of the HTPP, and the need for the Notice of Insufficiency both to protect the federal government's obligations and interests and to give BPA's preference customers sufficient lead time to prepare for the day when BPA no longer could be committed to meeting their load growth because of the insufficiency of federal electric power system resources.

The July 20, 1982 report of GAO on the subject of BPA actions affecting utility participation in WPPSS Projects Nos. 4 and 5, which is included in the Appendix to my responses for the record, does not suggest any coercion on the part of BPA.

Regional power forecasts and conservation

Mr. Scott proceeds to attack the accuracy of the regional forecasts of electricity demand while I was BPA Administrator. He did not mention, as I did in my response to Question 4 from Senator Bumpers, the limited responsibility BPA had at the time in load forecasting, *e.g.*, the larger preference customers and all of the investor-owned utilities forecasted their own loads, and it was not until after enactment of the Pacific Northwest Power Planning and Conservation Act of 1980 (three years after I left BPA) that BPA engaged in its first independent regional forecast. Nor was there any acknowledgement of the difficulties inherent to forecasting a decade in advance, which included, insofar as the early and mid-1970's were concerned, not contemplating the economic downturn which began later on.

More important, however, is that Mr. Scott wholly erroneously suggested that I did not "warn" the region's utilities "about alternatives such as energy conservation" and that, as a consequence, those utilities which decided to participate in WPPSS Projects Nos. 4 and 5 on the basis of the regional forecasts somehow were let down by me. He quotes from an editorial about a 1974 speech I made about the need for additional generating capacity in the Pacific Northwest by the year 2000. Ironically, he did not tell the Committee that, in that very same speech, I plainly told my audience:

"There are a number of possibilities. We can substantially intensify the Nation's paltry research efforts into new and better ways to obtain energy. We can expand the Nation's fledgling energy conservation program to abate the high growth rate of overall energy use. We can prohibit or penalize some kinds of energy use that society deems frivolous and wasteful. We can set minimum performance levels of efficiency for energy-consuming products. We can amend the building codes to require better insulation so as to reduce space heating requirements in winter and cooling requirements in summer. We can allow energy prices to rise sufficiently to cover social costs by removing subsidies and other cozy institutional arrangements that have kept those prices artificially low relative to the prices of other products and thereby encouraged extravagant demand. We can remove barriers to entry into the energy business so as to encourage more competitive behavior. We can concoct a variety of incentives designed to expand development and use of plentiful fuels and discourage use of scarce and uncertain supplies. All of these possibilities and more are available as policy levers to ease us through the period of transition from the era of cheap and abundant oil and gas to the era of cheap and abundant solar energy or fusion energy."

Mr. Scott's referring to my public comments out of context is one thing, but I frankly would not feel comfortable, Mr. Chairman, if I ignored his charge that my "handling" of a study by Skidmore, Owings and Merrill (SOM) of potential energy savings through conservation "demonstrates * * * the lengths to which [I] wil go in order to bury facts which conflict with [my] proposals." Question 5 from Senator Baucus asked for my comments on BPA's handling of the SOM report, and my answer set forth a considerable amount of information which demonstrates that, rather than having been "buried," the views of SOM were the subject of rather considerable awareness and discussion on the part of utilities and the public both before and after utilities committed by contract to WPPSS Projects Nos. 4 and 5.

In my answer to Senator Baucus, I pointed out that, in April 1976, a meeting of BPA preference and other customers was held with SOM at the instigation of BPA. The Northwest Public Power Association (NWPPA) sponsored the meeting. In the announcement to its members, NWPPA stated that the session with SOM had been called, for among other reasons, to "inform Bonneville customers of the elements and progress of the [SOM] study" and to "review suggested conservation programs and recommend ways to make them effective." That meeting, which took place in the BPA auditorium, was attended by a broad spectrum of BPA preference customers, ranging from the largest municipal and public utility district systems to some of the smallest REA cooperatives.

Mr. Scott states the final SOM report was not made publicly available until after it was "leaked" in August 1976 and reporters asked me about it in September. He was mistaken. Records of BPA show that the SOM report was mailed on August 19, 1976, under transmittal letter of August 18, to the designated energy representatives of the Pacific Northwest Governors, the directors of the Public Power Council (which represents BPA's preference customers), investor-owned utilities, BPA industrial customers, and a number of environmental and other public interest groups including the Natural Resources Defense Council, Inc. and the Sierra Club, of which Mr. Scott then and now was an official. He states that BPA's transmittal letter (copy of which, along with the mailing list, are enclosed) expressed reservation about the SOM report. Properly so, in my view; but it did more than that, which Mr. Scott's testimony did not mention. The BPA said: "However, regardless of any apparent shortcomings or differences of opinion, the Skidmore, Owings and Merrill report provides input to an evaluation of the potentials of electric energy conservation. It can be a positive springboard for exploring various techniques which could open up avenues for achieving significant energy savings."

I do not believe I need take second place to anybody among those in the electric utility industry or in government at the time for publicly and repeatedly having urged the imperative nature of conservation. As my opening statement to the Committee points out and as my answer to Question 5 from Senator Baucus elaborates, the strong emphasis I placed in my speeches as Administrator on conservation and the need to treat it as a resource began long before it was fashionable to do so and continued right on to and through the time the region's utilities decided to go forward with the WPPSS projects in question. My personal commitment to cost-effective conservation as a way of life is no less strong today, and I intend to use my position as Secretary of Energy to continue to make the public aware of its benefits.

THE BPA DECISIONMAKING PROCESS AND THE PUBLIC

The testimony of Mr. Scott continues with the theme that I tried to keep the public from considering the effects of Phase 2 of the Hydro-Thermal Power Program by consistently "thumb [ing] [my] nose at NEPA's requirements" for an EIS in regard to the Program. My answer to Question 9 from Senator Tsongas deals with that issue by explaining that an EIS was not prepared because of the strong and unanimous view of BPA's legal staff, supported by numerous industry counsel, that no EIS was required because of the cooperative nature of the Program with non-federal entities. The federal court which later disagreed with that view nevertheless explicitly determined that BPA had "acted in good faith in not preparing an EIS" and that another federal court had ruled in BPA's favor in related circumstances.

Mr. Scott accuses me of a "penchant for decisionmaking behind closed doors * * *." For example, he points to a series of non-public meetings between BPA and its customers in early 1977 in which an attempt was made, following the region's inability to proceed with HTPP Phase 2, to figure out what could be done to meet the region's future power needs. Those meetings were called by the Pacific Northwest Utilities Conference Committee (PNUCC), of which BPA was not a member, to which BPA was invited because of the major role it historically had played in the Pacific Northwest. In response to requests, including the Sierra Club's, to attend those meetings, I personally established the policy that no BPA personnel would be allowed to accept the PNUCC invitations to attend meetings not open to interested members of the public. I am pleased that I was abled to use my good offices as BPA Administrator to broaden the participation in those meetings and, for example, that representatives of the Governors not only came to these meetings latter on, but they played an active role in the discussions.

Further mischaracterization by Mr. Scott's testimony of the BPA decisionmaking process occurred when he charged that "in 1979 it was finally disclosed that Bonneville had secretly agreed with Montana Power Company during Mr. Hodel's tenure to build a BPA-owned line to service a Montana powerplant under construction, at a time when it was telling local officials that the construction of such a line by BPA was only an 'option.'" The powerplant in question, as well as routing of the utility's then-proposed transmission lines, had been approved by the State of Montana on July 22, 1976. Because the proposed lines would cross federal lands, an EIS was begun in November 1976, with BPA as lead agency. I am informed that, in late August 1977, over

1,200 interested public parties were mailed a brochure describing the transmission route selection process and that news releases informed the public of the availability of the brochure. BPA did not have independent authority to build the transmission line, and it was not until December 2, 1977 that BPA formally agreed to seek Congressional authorization for that project. I am advised that the authorizaiton request was in the form of a specific budget line item, which was approved by Congress on October 18, 1978, several months after I left BPA.

CONCLUSION

I have nothing but profound respect, Mr. Chairman, for the democratic processes which enable persons and organizations to state their views to the Congress on matters of public interest, including nominations to the President's Cabinet. Hopefully, this letter will place in factual perspective some of the comments made in regard to me. Thank you for the opportunity to have done so.

Sincerely yours,

DONALD PAUL HODEL.

Enclosure.

August 18, 1976.

LETTER NO. 2 (SEE ATTACHED LIST FOR DISTRIBUTION)

In the preparation of its comprehensive Role Environmental Impact Statement, the Bonneville Power Administration has retained a number of consultants to develop analyses and base data reports as imput for the various sections of the EIS. Enclosed is one of these reports prepared by Skidmore, Owings & Merril on the potential for electric energy savings in the Pacific Northwest.

Our EIS section on conservation will draw upon this document as well as other regional and national, documents for source material. We expect the draft conservation section to be distributed through our normal review process for preliminary comment during September. Meanwhile, we recognize the regional interest in varied methods of conservation, and because of inquires on this subject, we believe an early distribution of this interesting report is warranted.

We caution the readers of this report that, although it addresses conservation through a presentation of seven strategies, the report itself is not complete when viewing the future electric needs of the region. For example, it is silent on the important question of the switch from other energy sources to the use of electricity and does not reflect conservation results already achieved through existing voluntary efforts. In addition, the reader should recognize that many of the proposals require new legislation for the incentive and mandatory features used as a basis for speculating on conservation results as well as a predicted net increase in employment.

The report may stimulate considerable controversy over assumptions, changes in individual lifestyle, social changes and basic data. We at BPA have reservations about many elements of the report and its conclusions. However, regardless of any apparent shortcomings or differences of opinion, the Skidmore, Owings & Merrill report provides input to an evaluation of the potentials of electric energy conservation. It can be a positive springboard for exploring various techniques which could open up avenues for achieving significant energy savings.

Let me repeat, however, that this report shold not be construed as a prediction that the need for electricity in the Pacific Northwest will be less than forecasted. New loads not now foreseen, coupled with the previously mentioned switchovers to electric energy from other energy forms, may increase the growth of electricity needs beyond that now forecasted. However, such important conclusions must await an in-depth study of may factors, including electric energy conservation.

Sincerely yours,

RAY FOLSOM,
Deputy Administrator.

GOVERNORS

Mr. LeRoy Hemmingway, Esq., Public Utility Commission, 3425 NE. 25th, Portland, Oreg.

Mr. Keith Sherman, Director, Washington State Energy Office, 1000 S. Cherry, Olympia, Wash.

Mr. Mike Mills, Office of Program Planning and Fiscal Management, House Office Building, Olympia, Wash.

Mr. Fred Adair, Executive Director, Office of Nuclear Energy Development, Department of Commerce and Economic Development, General Administration Building, Olympia, Wash.

Dr. Albert Tsao, Administrator, Energy Planning Division, Department of Natural Resources and Conservation, 25 South Ewing, Helena, Mont.

Mr. Keith Higginson, Director, Department of Water Resources, Statehouse, Boise, Idaho.

Mr. Matthew Mullaney, Office of the Governor, Statehouse, Boise, Idaho.

PUBLIC POWER COUNCIL—8/19/76

Mr. Robert B. Smith, Manager, Washington Rural Electric Corp. Association, South 222, Scott Street, Spokane, Wash.

Mr. Robert Gillette, Public Power Council, P.O. Box 1307, Vancouver, Wash.

Mr. Ron Chitwood, Washington Public Power Supply System, P.O. Box 968, Richland, Wash.

Mr. Peter Henault, Seattle City Light, 1015 Third Ave., Seattle, Wash.

Mr. Keith Parks, Eugene Water and Electric Board, P.O. Box 10148, Eugene, Oreg.

Mr. Edward Morris, Clark County PUD, P.O. Box 1626, Vancouver, Wash.

Mr. Thomas Wendt, Grant County PUD, P.O. Box 878, Ephrata, Wash.

Mr. Richard Downie, Snohomish County PUD, P.O. Box 1107, Everett, Wash.

Mr. Gene Lubking, Chelan County PUD, P.O. Box 1231, Wenatchee, Wash.

PRIVATE UTILITIES

Mr. R. B. Lisbakken, Vice-President, Power Resources, Pacific Power & Light Co., 920 S. W. 6th, Portland, Oreg.

Mr. Glenn Nogle, Superintendent, Power Operation, P. O. Box 3727, Spokane, Wash.

Mr. Glen E. Bredemeier, Portland General Electric Co., 621 S. W. Alder, Portland, Oreg.

Mr. L. E. Garlinghouse, Assistant Vice-President, Power Operations, Idaho Power Co., Box 70, Boise, Idaho.

Mr. David Knight, Puget Sound Power & Light Co., Puget Power Building, Bellevue, Wash.

Mr. R. A. Hofacker, Vice President, Engineering, Montana Power Co., P. O. Box 1338, Butte, Mont.

Mr. D. L. Bryner, Utah Power & Light Co., P. O. Box 899, Salt Lake City, Utah.

Mr. E. F. Timme, Director, Intercompany Pool, P. O. Box 3727, Spokane, Wash.

INDUSTRIES

Mr. Jack Holtzapple, Kaiser Aluminum and Chemical Corp., 300 Lakeside Drive, Oakland, Calif.

Mr. L. J. Harris, Aluminum Company of America, P.O. Box 120, Vancouver, Wash.

Mr. Bernie Goldhammer, Suite 310, Lloyd Building, 710 N.W. Multnomah, Portland, Oreg.

Mr. T. D. Briggs, Vice President, Intalco Aluminum Corp., P.O. Box 937, Ferndale, Wash.

Mr. Eric Redmond, 200 IBM Building, Seattle, Wash.

SPECIAL PEOPLE

Mr. Norman A. Stoll, Oregon National Building (1212), Portland, Oreg.

Mr. Lloyd K. Marbet, Forelaws on Board, 732 Southwest 3rd, Portland, Oreg.

Western Environmental Trade Association Inc., Suite 200, 2400 Southwest 4th, Portland, Oreg.

Mr. Donald H. Pearlman, Keane, Harper, Pearlman and Copeland (Attorneys), 3500 First National Tower, Portland, Oreg.

Mr. Thomas C. Lee, Asst. U.S. Attorney, Dept. of Justice, 506 U.S. Courthouse, P.O. Box 71, Portland, Oreg.

Mr. Larry Gutteridge, Lands Division, Justice Department, Appellate Division, Washington, D.C.

Mr. Myron R. Katz, Project Director, NW Energy Policy Project, 1096 Lloyd Building, 700 N. E. Multnomah, Portland, Oreg.

Mr. Daniel Steinborn, U.S. Environmental Protection Agency, Region X, 1200 Sixth Ave., Seattle, Wash.

REPRESENTATIVES

Mr. James Blomquist, Sierra Club, 4534½ University Way, NE., Seattle, Wash.

Mr. Larry Williams, Oregon Environmental Council, 2637 S.W. Water Ave. Portland, Oreg.

Dr. Ray Wolfe, 1926 Potter St., Eugene, Oreg.

Mr. Scott Reed, P.O. Box A, Coeur d'Alene, Idaho.

Mr. Terry Lash, Natural Resources, Defense Council, Inc. 2345 Yale St., Palo Alto, Calif.

Ms. Donna Klemka, 1711 37th, Seattle, Wash.

Mr. McCLURE. Mr. President, I am sure that any thoughtful reviewer of the materials provided to the committee by Mr. Hodel would agree that his answers reflect a striking demonstration of balance, integrity, and sensitivity. All of those traits qualify Mr. Hodel well for the Cabinet position of Secretary of Energy. I believe that these materials also should allay the expressed reservations of some regarding his suitability for this position.

Mr. President, the comments of one of our distinguished colleagues from Mr. Hodel's home State of Oregon at the nomination hearing add materially to the committee's confidence that Mr. Hodel will bring great credit to his position as Secretary of Energy. I should note that the Senate has known Mr. Hodel well throughout his professional career. Let me quote briefly from his remarks.

Senator PACKWOOD remarked:

I can simply say to those who will testify in opposition to Don that they will first find a perpetual open door in his office no matter how hard they may have fought his nomination. Secondly, they will be, I think, pleased to discover that they have many things that they will agree upon and when

they do, they will not have a more tenacious ally than Don Hodel. They will have a number of things that they will disagree on and they will find that they will seldom have a tougher opponent but I think in honesty they would have to say they will never have a fairer one or one who ever did an indecent thing in terms of the battle.

The government is lucky to have a man of his caliber. I would urge this committee to give this nomination speedy consideration and refer to the Senate floor so the country may have the privilege of this man occupying the office with the full confirmation of the Senate.

Thank you.

Mr. President, on the basis of the information and testimony that Mr. Hodel has provided to the committee, I have concluded that he is clearly well-suited for the job of Secretary of Energy. On behalf of the Committee on Energy and Natural Resources, I am pleased to recommend Senate approval of Mr. Hodel's nomination.

Mr. HATFIELD. Mr. President, I wish to associate my remarks with those who support the nomination of Donald P. Hodel to be Secretary of Energy.

It is a distinct pleasure to know Don Hodel personally and to have worked with him in State, regional, and now national politics for over 15 years. Regardless of my personal feelings, however, it would have been difficult for the President to have nominated a more qualified professional or a more competent individual to be our next Secretary of Energy.

Mr. President, Don Hodel's background and understanding of national energy markets and public policies affecting private energy production, research, and development are unique. These qualifications will prove invaluable as Don Hodel must now begin to weigh all the political, social, economic, and technical uncertainties which confront our national energy policies.

I am confident, Mr. President, that Don Hodel has the capability to become an outstanding Cabinet member and that his decisions as Secretary of Energy will indeed reflect a balance toward our national energy needs.

Mr. PACKWOOD. Mr. President, today, the Senate is asked to approve the appointment of Donald Hodel as the new Secretary of Energy. It is my hope that his appointment will be approved by the Senate without hesitation.

I have known Don Hodel for 35 years, since we met in high school. In 1969, he was appointed deputy Administrator of the Bonneville Power Administration, then under the direction of Russ Richmond. Russ Richmond was an excellent Administrator, well liked by all who had the opportunity to work with him. When he announced his intent to retire, everyone knew his shoes would be difficult to fill. Don Hodel was asked to replace Russ Richmond as the Administrator of BPA. No one could have done a better job.

Don Hodel is, by all counts, an extremely capable administrator. He has proven this throughout his years as Administrator of the Bonneville Power Administration and again as Under Secretary of the Interior with the current administration. I have found that those who have worked with him and under him have the highest respect for him personally and professionally.

I believe it is important for us to consider Don Hodel's excellent qualifications to be Secretary of Energy. In addition to being a very able and accomplished administrator, Don Hodel is experienced in energy matters and is personally a man of the highest integrity. Most important, all interested groups will find that Don Hodel maintains an open door to his office.

I wholeheartedly support the appointment of Don Hodel as the new Secretary of Energy. I hope the Senate will act quickly in approving this nomination.

Mr. THURMOND. Mr. President, I rise today in support of the nomination of Donald P. Hodel as Secretary of Energy.

In his years of public service as Administrator of the Bonneville Power Administration and Under Secretary of the Interior, Mr. Hodel distinguished himself as a capable and hard-working administrator. As Secretary of Energy, he will follow upon the heels of another capable and hard-working public servant, my good friend and fellow South Carolinian, James B. Edwards.

Secretary Edwards accepted his Cabinet position with the express purpose of working himself out of the job. While Congress has not as yet seen fit to abolish the Department of Energy and transfer its essential functions to other departments and agencies where they might be more efficiently administered, the list of major accomplishments during Secretary Edwards' tenure is quite impressive. I ask unanimous consent that a copy of this list appear in the RECORD immediately following my remarks.

The PRESIDIING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. THURMOND. I call upon my colleagues for their support of the nomination of Donald P. Hodel as Secretary of Energy, as I am sure he will prove to be an outstanding member of the President's Cabinet in every respect. I would also like to take this opportunity to wish Secretary Edwards well in his new post as president of the Medical University of South Carolina.

EXHIBIT 1

MAJOR ACCOMPLISHMENTS—CONGRESSIONAL, INTERGOVERNMENTAL, AND PUBLIC AFFAIRS

A large number of the Congressional office's accomplishments since President Reagan's inauguration were on Capitol Hill. The following examples show the many issues they pursued:

Approval of continued funding of the Clinch River Breeder Reactor was attained.

Efforts to keep the Congress from restoring Carter levels of funding were successful; the three fiscal year reduction is over $10 billion.

The off-gas provisions of the Fuel Use Act were repealed, and a dividend reinvestment provision enacted into law, both of which helped the plight of the Nation's utilities.

Throughout 1981 and 1982, groundwork was laid in industry and in Congress for the deregulation of natural gas, so that when the President makes his decision to go forward, the Administration will be ready.

Approval was obtained for the President's request on the Alaska Natural Gas Transportation System.

DOE responded to 8,787 Congressional letters, and 588 Departmental witnesses appeared before 296 committees, second only to the Department of Defense.

The Senate passed a comprehensive nuclear waste bill, and the House is close, with prospects good for a bill to be signed into law this year.

The President's position on price and allocation authority prevailed, and his veto of the Standby Petroleum Allocation Act was sustained.

In the areas of Public, Intergovernmental, and Consumer Affairs, again many concerns were addressed:

The Intergovernmental Affairs office led a successful effort to reform the method by which Federal agencies dealt with Indian tribes and the Marshallese Government.

The Consumer Affairs office was dramatically reduced, and the policies brought in line with those of the Administration.

The Department saved $12 million in films and $4.7 million on unnecessary publications.

More than 125 individual interviews were held with the Secretary and the Department's top officials.

Many efficiencies were accomplished by combining five offices under one Assistant Secretary. Staffing was reduced from 216 to 128 currently. Spending in the program was cut from $16.8 million to $7.5 million despite increased participation on Capitol Hill.

MAJOR ACCOMPLISHMENTS—CONSERVATION AND RENEWABLE ENERGY

In the Conservation area, DOE has completed a number of exciting tests for translation into the commercial market by industry. Examples are:

Assisted a major U.S. auto manufacturer in determining the optimum spark plug location for improving performance of internal combustion engines.

Successfully inspected and corrected hot steel slabs by heat sensor scanning without cooling, eliminating reheat and rolling operations.

Major advancements achieved in shape, fabrication, and materials strengths of structural ceramics, aiding Ford and GM in rotor construction.

Fuel economy improvement of 9 to 10 percent for heavy duty turbo-compound diesel demonstration.

Successful DOE-funded and directed development and test-marketing of high-efficiency refrigerator-freezer led to Amana production run of 1,000 units.

Several completed projects rapidly being implemented by the private sector:

Foam finishing of textiles on-line in 18 mills.

Advanced ceramic recuperator with 177 units on-line.

In the field of Renewable Energy, many alternative forms of energy are being explored and utilized. These are samples of progress:

The Sky Harbor Airport Project in Phoenix, Arizona, is the largest concentrator photovoltaic system in operation in the United States.

The Ten Megawatt Solar Thermal Power Plant at Barstow, California, is the largest in the world and it will demonstate the technical feasibility of solar thermal electric power generation in centralized application.

Installed and completed testing of the first cluster of multi-megawatt wind turbines; successfully synchronized into the Northwest power grid in the spring of 1982.

Photovoltaic sales have doubled. The solar hot water industry includes over 70 major solar equipment manufacturers and 1,800 installation firms, with estimated sales of $325 million.

Industry is actively commercializing the recovery of methane from landfills, with systems producing 9 megawatts and 21 million cubic feet of gas per day.

Within the Conservation and Renewable Energy program office, the following accomplishments have been achieved:

Reduction of the budget from $1,817 million to $1,016 million in FY 1982.

Personnel reduced from 691 to 416 in May 1982.

Selected 11 finalists in the Alcohol Fuels Loan Guarantee Program.

Reduced the regulatory impact on industry by:

Publishing a new Notice of Proposed Rulemaking which proposes no standards for eight appliances.

Reducing building energy performance standards from mandatory requirements to guidelines

Revising Residential Conservation Service regulations to minimize the regulatory input but still meet the legislative mandate.

MAJOR ACCOMPLISHMENTS—DEFENSE PROGRAMS

In the Nuclear Weapons Program, considerable progress since January 1981 has meant:

Meeting production goals for such strategic systems as Trident, Minuteman, Lance, and the Air-Launched Cruise Missile, always improving features, and enhancing safety and security while retiring older weapons.

Establishing the Coordination Information Center for all documents dealing with atmospheric nuclear testing and fallout in Las Vegas, Nevada, which is open to the public.

Increasing our cooperative efforts with the United Kingdom through testing and assistance with the Trident missile system.

Several achievements in the Nuclear Materials Production Program are:

Producing weapons-grade plutonium and tritium in excess of production goals.

Savannah River gained 159 extra operating days by operating 38 percent more efficiently.

Similarly, Richland gained 16 operating days.

Initiatives at several plants to increase nuclear material production capacity.

A ten-year extension of the agreement between DOE and Washington Public Power Supply System for the sale of N Reactor by-product steam, increasing Federal Government revenues by 69 percent from $37 million to $60 million in 1983.

The Inertial Fusion Program saw continued construction of three major high energy fusion driver facilities and substantial progress in our understanding of the laser beam.

In the vital area of Verification and Control Technology, DOE:

Continued its national multiple-technology nuclear test monitoring.

Developed, produced, and delivered space-borne nuclear explosion detection instrumentation.

Through identification of remaining vulnerabilities at critical facilities, the Department improved Safeguards and Security Systems for greater protection.

In support of the Defense Nuclear Wastes and By-Products Program, DOE:

Completed 25 new double shell tanks for interim storage.,

Began hot operations of the New Hydrofracture Facility and the New Waste Calcining Facility.

Completed drilling of 6-feet and 12-feet diameter WIPP shafts for continuous mining.

Completed cost reduction review of WIPP project generating savings of $200 million in construction and 20 percent in operating costs.

Completed environmental assessment selecting glass as the DWPF waste form.

Improvements were made in Classification Procedures by the Defense Program including a new approach for preparing classification guides and a major effort to improve the effectiveness of the DOE Classification Program.

MAJOR ACCOMPLISHMENTS—ECONOMIC REGULATORY ADMINISTRATION

Within the Enforcement Program, significant progress has been made as:

The working inventory of 1,031 cases was reduced to 660 cases, projected to be 173 by September 30, 1982.

The 365 cases involving 254 non-majors, 22 majors, and 52 special investigations were resolved.

Negotiations with six major companies (Ashland, Chevron, Fina, Getty, Union, Conoco, and Champlin) resulted in collection of $928 million.

Eighty-four non-major companies from crude producers to reseller/retailers negotiated settlements of $94 million.

Seventeen cases were referred to the Department of Justice.

Eighty-three Proposed Remedial Orders were issued alleging $3 billion in violations.

The size of the agency was reduced from approximately 1,800 to 589.

And 39 of 47 field offices were closed.

In order to greatly reduce the administrative burden on industry, the Fuels Conversion Program:

Made major modifications of the Fuel Use Act regulations enacted in 1981, simplifying the procedures under which the program is administered and giving utilities and industrial firms access to a greater choice of fuels without the cumbersome regulatory burden.

Initiated a study on the environmental impacts of the potential conversion to coal of 28 power plants at 15 generating stations in Florida. The purpose of the study is to assess the effect of a large number of plants switching from oil to coal.

In the Oil and Gas Imports Office, efficiency was increased through a new automated petroleum import licensing and accounting system designed and implemented to streamline industry reports on oil imports.

MAJOR ACCOMPLISHMENTS—ENERGY INFORMATION ADMINISTRATION

A great number of improvements have been effected in the areas of Data Collection and Statistical Reporting, including:

Redesign and consolidation of publications to reduce costs. An example is the Petroleum Supply Annual, which replaces four previous annuals.

A redesign of the petroleum marketing information system to more efficient, less costly, and less burdensome statistical collections, to be operational in January 1983. A similarly new petroleum supply data collection is to be operational in early 1984, and a study redesigning electric power data collection will be complete in September 1982.

Reducing the reporting burden by 6.3 million person-hours.

The Energy Information Administration repeatedly used its analytical resources on a variety of key energy issues as:

Energy projections up to five to seven years in the future.

Deregulation of natural gas.

The domestic uranium industry.

The Strategic Petroleum Reserve Sizing Report.

Coal production, emergency preparedness, and others.

Gathering information is not enough. Access to information is a necessary corollary. This important aspect has been enhanced by:

A weekly pre-publication recording for the public.

Development of a public use computer tape with 800 energy-related statistics for the public.

Completion of a Data Resources Directory, a comprehensive single-source inventory.

Concurrently, new methods of information quality assurance have been instituted to guarantee that the information product is improved, consistent, and periodically reassessed.

Finally, in the organization and management of EIA, significant improvement has come from:

Reducing the staff level by 300 and the budget by about one-half from $104 million in fiscal year 1982 to $55 million in 1983.

Establishing a Planning and Policy Review Board and an Annual Operating Plan for monitoring resource expenditures by project.

Consolidated contracts management to reduce administrative overhead.

MAJOR ACCOMPLISHMENTS—ENERGY RESEARCH

In support of the Department of Energy's focus toward long-range, high-risk technology research, the Office of Energy Research has accomplished major steps. The following are examples in the field of High Energy Physics:

Significant progress has been made toward the Spring 1983 completion of an upgrade of the accelerator at Fermilab. This Energy Saver project will allow the accelerator tunnel to operate at reduced electric power consumption and at a higher energy with savings of $5 million or more.

The Tevatron II construction project will give Fermilab a world-wide unique set of secondary beams with energies and intensities which will permit a significant extension of high energy physics experimental capabilities to new frontiers in research.

Recent progress in high energy theory has led to the astounding prediction that the

lifetime of the proton is so long that it is at the boundary of experimental limits for determination. Two new large water Cerenkov detectors have been assembled to detect proton decay events.

In the field of Nuclear Physics, great strides have been made in the past 18 months.

During a test in May 1982, scientists at Lawrence Berkeley Laboratory (LBL) accelerated uranium nuclei to an energy of 100,000 million electron volts, 20 times higher than the highest energy to which uranium nuclei had previously been accelerated on earth.

At the Bates Linear Accelerator Facility, the energy of electron beams was increased from 400 million to 700 million electron volts by recirculation through the same linear accelerator, almost doubling the beam at a small cost increase. This new research capability will be used to measure electric and magnetic fields inside nuclei.

In Basic Energy Sciences, progress occurred in construction of facilities and basic research. Some examples are:

In 1981, the construction of the Combustion Research Facility was completed. Work done at this facility has implications for improved fuels, higher efficiency engines, cleaner and more efficient coal combustion, and greater knowledge of pollutants.

The High voltage Electron Microscope (HVEM) was installed at LBL. This microscope, the most powerful and versatile in the United States, can allow direct observation of corrosive and high temperature phenomena impossible in a lower voltage instrument.

Development of a new method of fabricating a class of less brittle intermetallic compounds with applications in the automotive and industrial fields.

Discovery of a new class of compounds to be used to recover valuable elements like palladium from nuclear waste solutions.

Discovery of a micro-organism that is capable of converting the waste gas, carbon monoxide, into commercially-valuable compounds such as acetic acid.

In Health and Environmental Research:

Determined that classes of organic compounds in coal liquids are responsible for mutagenicity/carcinogenicity, and that these hazardous chemicals in shale oil and coal liquids can be markedly reduced.

Developed an improved scanning technique for bone cancer which has raised two-year survival rates six-fold.

Developed improved imaging systems and short-lived tracers making possible dynamic organ function studies of the heart, lung, thyroid, and kidney under normal and impaired states.

MAJOR ACCOMPLISHMENTS—ENVIRONMENTAL PROTECTION, SAFETY AND EMERGENCY PREPAREDNESS

A substantial effort was made to enhance our energy security through the Strategic Petroleum Reserve which produced:

An average daily fill rate of 300,000 barrels per day for seven months of 1981 with the highest rate of 513,000 barrels per day achieved in May 1981.

A long-term commercial contract, signed in August 1981, with Petroleos Mexicanos, the Mexican state oil company, for delivery of crude oil through July 1986.

An SPR total of 250 million barrels in April 1982 and nearly 160 million barrels added by July 1, 1982.

The NPR produced revenues of $2,413 million in this 18-month period, with oil production dedicated to the Department of Defense and military preparedness.

In the environmental analysis area of the Department, achievements include:

Technical analyses focused on proposed changes to the Clean Water Act, Clean Air Act, and acid precipitation issues.

The costs and benefits of technology-based standards and associated monitoring requirements regarding wastewater effluent permits issued by EPA were documented.

Medical care and radiological monitoring of Marshall Islands people continued, and a final report was completed for the Radiological Survey.

Comprehensive surveys to establish priorities for cleanup and cleanup progress of uranium mill tailing sites continued.

The area of Emergency Preparedness shows significant progress through:

Developed analytical data and interim procedures to support a market-based emergency energy preparedness position.

Supported and participated in a number of emergency preparedness and national security activities, including the Emergency Mobilization Preparedness Board, the REX series of government exercises, and NATO energy activities.

Established the Alert Coordination Officer System, the Energy Situation Reporting System, and the Emergency Response Working Group to enhance DOE preparedness.

In line with the Administration's effort to streamline the Federal Government, the Assistant Secretary for Environmental Protection, Safety and Emergency Preparedness:

Rescinded parts of the EECA Standby Federal Plan, coal allocation regulations, and the funding plan for state EECA grants.

Reduced data collection requirements from 296,000 to 36,000 manhours.

MAJOR ACCOMPLISHMENTS—FOSSIL ENERGY

The Administration's new tax and regulatory policies together with establishment of the Synthetic Fuels Corporation have made it possible for Fossil Energy to transfer responsibility for the commercial development of major synthetic fuel conversion processes to private industry. This action has avoided potential government outlays of over $8 billion over the next ten years for the construction and operation of demonstration plants.

The continuing government role for research and development has been clarified, and the Fossil programs have been redirected to focus on long-term, high-risk, high payoff generic research and technology base development. Examples of such research are:

Design of the SRC-1 demonstration module, allowing the private sector to pursue further development.

Operational testing of the Exxon Donor Solvent and H-Coal direct liquefaction processes at pilot plant scale has been completed.

As a participant in the National Fuel Cell Program, we achieved significant technology improvements in phosphoric acid, molten carbonate, and solid oxide systems. Commercialization is anticipated in the near future.

Technical feasibility of coal-oil and coal-water mixtures as substitutes for boiler fuel in utility applications could potentially displace 2-3 million barrels of oil per day.

Significant achievements in extraction, conversion, and combustion technologies achieved recently include:

Large scale testing of pressurized fluidized-bed approach to direct combustion with our British and German partners.

Testing of the methanol-to-gasoline conversion process by the United States and Germany in partnership with Mobil Oil.

Three atmospheric fluidized-bed industrial boiler demonstration projects have completed operational testing and await commercial offerings by industry.

Long-term field testing of the downhole stream generator has demonstrated commercial feasibility for enhanced oil recovery.

Fossil Energy has also: awarded a $2 billion loan guarantee to the Great Plains Gasification Plant to produce pipeline quality gas from lignite coal.

Concluded a price support agreement with Union Oil which will result in the production of jet fuel from oil shale.

MAJOR ACCOMPLISHMENTS—INSPECTOR GENERAL

Major accomplishments of the Office of Inspector General, in their oversight role at the Department of Energy, include:

During the first six months of fiscal year 1982 the Department sustained Inspector General recommendations to avoid spending over $30 million in one-time costs and realized another $17 million in annual recurring savings. The Department is also seeking to recover an additional $5 million based on Inspector General findings and recommendations. Six indictments, five convictions and seventeen reprimands, suspensions, and terminations were issued during this time period.

Issued 71 Audit and Inspection reports to date in calendar year 82, compared to 52 reports for the entire calendar year 81. In addition, 51 investigation cases were referred to other Federal investigative and prosecutive authorities.

Increased the available audit staff by 46 positions, which represents a doubling of the audit staff.

Established three field offices and quadrupled the field audit staff. This move away from the predominant Headquarters operation placed the limited audit resources closer to the Department's operations and programs.

Conducted vulnerability assessments of the management of a major Federal assistance program and one Energy Technology Center. The results from these pilot vulnerability assessments have been used by the DOE in implementing OMB Circular A-123 to improve internal controls in DOE.

Increased the number of issued Inspector General's Policy and Procedures Directives from 24 to 68, an increase of over 175 percent.

MAJOR ACCOMPLISHMENTS—INTERNATIONAL AFFAIRS

The International Affairs office has worked in support of a number of issues important to the Department of Energy. Some of these efforts are highlighted here.

United States/Mexican energy relations were significantly enhanced on a long-term basis as a result of a series of high-level exchanges.

The climate for nuclear energy is improved at the Nuclear Energy Agency with the appointment of a Director General from the United States and a commitment to focus on technical policy.

The subsequent arrangements process for transfer of nuclear material of U.S. origin from country to country has been streamlined. This has removed the backlog of outstanding requests and resulted in more timely and less costly processing.

At the International Energy Agency (IEA), the petroleum concerns focus on emergency response during a major (7 percent or greater) shortfall, relying primarily on market forces and national stockpiles. Line offices have increased their participation leading to improved understanding of obligations and ability to respond.

The IEA Committee on Research and Development (CRD) has been encouraged to concentrate on their government's focus on long-term, high-risk R&D and leave other efforts in the private sector.

Additionally, DOE program elements have increased their participation in the CRD leading to greater harmony between the United States Government and the IEA Committee on Research and Development.

Administratively, the International Affairs program office has reduced its staff from 152 to 60.

MAJOR ACCOMPLISHMENTS—MANAGEMENT AND ADMINISTRATION

In the area of general management, the office of Management and Administration took major steps to comply with the Administration policy of reducing government spending. Examples are:

Implemented improved internal controls within DOE as a deterrent to waste, fraud, and error.

Ensured timely actions were taken by DOE programs to resolve findings of GAO audit studies.

Provided staff support in Headquarters and field reorganization.

Consolidated office space for 4,000 personnel in the Forrestal Building.

Took the lead in an interagency task force recommending changes to the Davis-Bacon Act and Service Contract Act. The Davis-Bacon regulations were issued and will substantially reduce construction costs to the government.

In the area of Financial Management, improvement included:

Better credit management to prevent debt delinquencies and defaults.

Developed a comprehensive plan to terminate non-essential Departmental activities in the absence of an appropriation, continuing resolution, or other source of funds.

Acquisition Management efficiencies include the following:

Increased the use of competitive contracting.

Performed a comprehensive assessment of DOE procurement and assistance regulations to remove unnecessary burden.

Managed a program which exceeded the Department's Small Business goals by more than $300 million.

In the management of manpower, DOE accomplished important steps. Some of these are:

Provided staff support to the Secretary in the development and implementation of plans to streamline the DOE Headquarters structure resulting in abolishment of two Assistant Secretary level components, the restructuring and consolidation of management and support functions, and overall reduction in the number of organizations reporting directly to the Office of the Secretary from 27 to 9.

Redirected and strengthened the Department's implementation of OMB Circular A-76, Commerical and Industrial Services.

Conducted the analysis and developed the transition plan for the transfer of support functions from DOE to FERC targeted for FY 1983.

Program and Project Management improvements include:

Coordinated and requested the authority from the General Services Administration to intervene in utility rate cases before public service commissions and other rate making bodies in order to protect DOE interests as a consumer of utilities. These intervention efforts have yielded a savings to DOE of approximately $9.2 million per year.

Issued upgraded Departmental management directives to enhance safety and management of DOE nuclear facilities.

Finally, in the area of Information Management, DOE efficiencies are:

Development of the Department's first Information Resources Management Plan in response to OMB guidance.

Expansion of the Energy Data Base to include over 209,000 new descriptions of R&D results. This is an increase of items in the Technical Information Center energy data files to over 1.5 million entries available to DOE scientists, engineers, and program managers in support of their R&D programs. This integrated database saves DOE over $3.6 billion in time and materials and increases productivity over 50 percent.

MAJOR ACCOMPLISHMENTS—NUCLEAR ENERGY

In line with an overall energy policy of greater reliance on private enterprise and marketplace forces, Nuclear Energy programs have been restructured to pursue fewer, larger objectives tied clearly to national goals as expressed in the President's Nuclear Policy Statement. Examples of progress through restructuring:

The Fast Flux Test Facility has successfully accomplished full power test operation.

The Advanced Space Reactor Development Program was initiated in October 1981.

The Large Developmental Plant progressed from conceptual design in March 1981 to a Memorandum of Understanding for cooperative effort signed by the DOE and EPRI in July 1982.

Moved from responsibility for the West Valley Demonstration Project assumed in February 1982 to the final Environmental Impact Statement in July 1982.

In the area of Waste Management, a number of important steps include:

Prepared a record of decision selecting mined geologic repositories for disposal of commercial high level waste.

Successfully screened salt and tuff repository sites.

Completed conceptual designs for spent fuel and high-level waste packages for basalt, tuff, and salt.

Accelerated the date of the first permanent repository to 1998.

The role of the DOE in Three Mile Island Cleanup moved ahead in advance of schedule as:

A cooperative agreement was signed between DOE, GPU, and State of Pennsylvania on respective roles and funding levels.

Decontamination produced reduced rad levels.

TMI-2 reactor vessel explored by camera in July 1982.

Submerged demineralization liner vitrified into glass logs.

The Gaseous Centrifuge Enrichment Plant, the largest construction project in the U.S., remains on schedule and in budget as construction of process building #2 was initiated.

In the area of Uranium Enrichment:

New contracts have been signed with Egypt and Switzerland, with expected revenues of more than $1.5 billion.

Cascade improvement and uprating programs were completed at gaseous diffusion plants which will increase the separation capacity by about 60 percent.

MAJOR ACCOMPLISHMENTS—POLICY, PLANNING AND ANALYSIS

The diversity of studies and papers prepared by the Office of Policy, Planning and Analysis shows the great number of issues which they analyzed:

Published study entitled "A Study of Alternatives to the Natural Gas Policy Act" on the deficiencies of the NGPA, and directed the drafting of legislation to correct the deficiencies.

Issued the National Energy Policy Plan on July 17, 1981.

Completed the Sunset Review required under Title X of the DOE Organization Act of 1977.

Developed U.S. energy projections for submission to the International Energy Agency's Study Group on Long-Term Cooperation.

Completed the fiscal year 84-88 Strategic Program Planning Cycle for the Department.

Sponsored work group effort which brought about Cabinet Council mandate to investigate Federal role in problems of electric utility industry. This is a large ongoing effort targeted for policy positions in late 1983.

Published study entitled "Effects on Investment in Energy Conservation of DOE's Programs and Market Forces."

Prepared submission to FERC on a proposed incentive price for near-deep gas (between 10,000-15,000 feet).

Within the Administration, the single office most responsible for stopping the momentum established at EPA and State concerning Acid Rain agreements (with Canada) and a host of biased reports that would have seriously compromised the Administration. Also, published a report which clearly calculates the cost of controlling SO_2 from the utility sector and is being used as an important document to support the Administration's position on acid rain.

Responsible for the Department's position on the Clean Air Act which enabled the Secretary to be first to table, at the Cabinet Council, a set of comprehensive recommendations.

Provided support to the Secretary on Coal Slurry Pipeline, Clean Water Act and Coal Export Policy for the Cabinet Council.

Coordinated joint DOE/DOI OCS Leasing Announcement.

Developed (with Fossil Energy) DOE synfuels policy for the Secretary as Chairman of the SFC Advisory Board.

MAJOR ACCOMPLISHMENTS—OFFICE OF GENERAL COUNSEL

REGULATORY REFORM

Implemented the President's 1981 Order decontrolling oil, eliminating 203 separate sections of 10 CFR, and reducing the industry reporting burden by over 1 million reporting hours.

Substantially reduced federal regulation of industrial and utility fuel choice under the Fuel Use Act.

Reduced, in some instances by over half, regulations imposing federal control over energy conservation and reversed a proposal to impose federal efficiency standards for appliances, proposing instead a "no-standard" standard.

Conducted a Department-wide review of proposed and existing regulations to determine those appropriate for rescission or modification. As of late April, 70 regulations were targeted for further action, of which 8 existing had been rescinded, 12 proposed withdrawn, and 8 existing or proposed modified.

Developed in coordination with other agencies and industry a legislative proposal for nuclear licensing reform and obtained Administration approval.

PROGRAM SUPPORT

Negotiating and preparing contract, financial, and legal documentation for the Great Plains, TOSCO, and Union synfuels projects.

Implementation of the West Valley Demonstration Project Act, to permit transfer of the West Valley waste management project to DOE.

Pursuit of licensing for the Clinch River Breeder Reactor, resulting in the July 82 work authorization by the NRC to commence site preparation in advance of a limited work authorization.

Drafting, negotiating, and finalizing 23 new international research and development agreements.

LEGISLATIVE ISSUES

Federal Energy Reorganization Act.

Waivers for the Alaska Natural Gas Transportation System.

Standby Petroleum Allocation Act of 1982 (veto) and Energy Emergency Preparedness Act.

Comprehensive nuclear waste management legislation.

Assertion and defense of the principle that Congressional Committees may not participate in the negotiation of contracts by Executive Branch agencies.

LITIGATION-RELATED MATTERS

Numerous court decisions or settlements to return many millions of dollars in overcharges and interest under the oil pricing enforcement program. The largest such case is the stripper well litigation involving more than $1 billion.

Judicial reversal of laws in Illinois and Washington that would have prohibited transportation and storage of nuclear wastes.

Metzenbaum v. DOE, which upheld the President's authority to decontrol oil.

Judicial reversal of Washington State law that would have subjected bond issues for power plants to local referenda.

Settlement of a major class action sex discrimination case, Chewning vs. Edwards.

Negotiation of a compact with the Government of the Marshall Islands to settle radiation injury claims against the U.S., which will now go to the Marshallese residents for ratification.

Representation of DOE in approximately 90 RIF appeals. DOE has sustained in over 70 percent of the Merit Systems Protection Board opinions to date.

PATENT PROGRAM

In addition to several important victories in patent litigation, the General Counsel authorized a class waiver to encourage private sponsorship of research and development at DOE facilities.

MAJOR ACCOMPLISHMENTS—OFFICE OF MINORITY ECONOMIC IMPACT

A great number of efforts were undertaken by the Office of Minority Economic Impact to encourage the participation of minorities in opportunities in energy. Examples include:

Developed and implemented a DOE-wide Historically Black Colleges and Universities (HBCU) Plan to increase the participation of HBCU's in DOE programs and activities.

Began a National Information Clearinghouse on Minorities and Energy.

Enrolled 79 banks in the Minority Bank Deposit Program and increased the program from $17 million to $25.5 million.

Selected sites to establish energy-related Minority Vocational Training targeted towards Native Americans, American Blacks, and American Hispanics.

Issued final loan regulations for Minority Business Enterprises Loan Program and initiated operation of the program.

Identified Minority Business Enterprise Opportunities in DOE Program areas.

Initiated ten regional socio-economic impact analyses of energy on minorities. Five were completed.

Made recommendations for development of energy industry occupations for minorities.

Initiated market research, planning, economic, and business analyses for minority business enterprises.

Formulated a minority energy assessment model.

Instituted programs to increase joint activities between DOE National Laboratories and Historically Black Colleges and Universities. An agreement between Argonne National Laboratory and Atlanta University was signed on July 30, 1982.

Completed a solicitation request for a cooperative development energy program between industry, minority businesses and minority educational institutions.

MAJOR ACCOMPLISHMENTS—OFFICE OF HEARINGS AND APPEALS

During 1981 and 1982, the Office of Hearings and Appeals was responsible for a broad range of precedential decisions and orders concerning DOE. Administratively, the OHA office:

Reduced its inventory of pending cases from 677 to 535 cases, or 21 percent.

Established a new computer tracking system for refund applications.

Significantly improved its hiring and promotions of women (44 percent of the staff) and minorities.

Developed and implemented a new type of administrative proceeding; the special refund process for distributing refunds to persons injured by alleged regulatory violations which were settled by consent orders. Proposed or final refund procedures were established in 97 of 98 cases pending. In the first and most significant decision, refunds from the consent order were directed to be paid to 234 small, midwestern gasoline retailers.

The following cases constitute a representative sampling of OHA's primary function of analyses and adjudication:

Union Oil Company of California. This case represents the first occasion that the Nation's 14 largest domestic refiners were ordered to supply large volumes of crude oil to alleviate a disparity resulting from foreign contract and foreign spot market divergences.

In the Ashland Oil case, OHA ordered nine large domestic refiners to supply Ashland with 5,470,000 barrels of crude oil to alleviate a supply shortage that occurred when the President banned the importation of crude oil from Iran, preventing serious economic dislocations in Ashland's market area.

Phillips Petroleum Company was denied permission to file an amended entitlements reporting form by OHA because public policy and administrative efficiency require strict adherence to the specified reporting period.

States of California, Michigan and New York challenged consent orders agreed to by ERA and Standard Oil and Western Crude Oil. OHA upheld the integrity of the enforcement process and the finality of consent orders in particular.

Austral Oil Company, Inc. This decision finalized a proposed remedial order determining Austral to be liable for over $1,780,000 in pricing overcharges.

Chuck Hansen. In a Freedom of Information Act Appeal, an individual named Chuck Hansen sought a document entitled "weapons development during June 1958". OHA found that inadvertent inclusion of a classified portion with a declassified portion of the same document on the publicly accessible shelves does not cause the classified portion to lose its Restricted Data protection.

State of Delaware filed an Application for Exception which, if granted, would permit it to receive additional funds for expenses incurred in administering Cycle IV of the DOE Institutional Building Grant Program. After considering Delaware's submission regarding four criteria, the OHA found that the State had met these criteria and approved exception relief increasing its Cycle IV administrative grant to 10 percent of its program grant.

MAJOR ACCOMPLISHMENTS—BOARD OF CONTRACT APPEALS

The Board of Contract Appeals is a quasi-judicial tribunal established under the Contract Disputes Act of 1978 (P.L. 95-563). Significant accomplishments by the Board can be measured as they relate to the Board's caseload and their means of coping with it. Thus progress includes:

In response to a request made under its statutory mandate, the Board called to the attention of Office of Federal Procurement Policy (OFPP), OMB the fact that its workload has increased by more than 40 percent since October 81, and more than 465 percent since its last report to OFPP in October 78. All of this additional workload has been handled without an increase in the membership of the Board.

The Board heard and resolved a number of very large cases requiring the use of the "Manual for Complex Litigation." This is significant since it is generally assumed that one such case consumes one Administrative Judge year of effort. In addition to this workload, the Board is on final decision, or has disposed of 52 cases so far in 1982. This is equally significant because the Board's cases average the largest dollar claims before any Board of Contract Appeals in Government.

The Board's rate of settling cases continues to be the highest rate of any Board in Government, approximately 80 percent.

The Board assisted MA and OGC in the development and preparation of a new system for resolving employee discrimination litigation. The proposed new system reduces 4 levels of appeal and review into one final agency action and eliminates an estimated 75 percent of the time and effort involved.

The Board has been delegated a new function as the Patent Compensation Board. It assisted OGC in the preparation of applicable rules.

MAJOR ACCOMPLISHMENTS—ALBUQUERQUE OPERATIONS OFFICE

Significant accomplishments in the Albuquerque Operations Office occurred in several areas. In the Weapons Program:

First production unit of W-70-4 LANCE warhead achieved.

First production of W-70-3 LANCE warhead achieved.

Hot startup achieved on new $215 million plutonium Recovery and Waste Treatment Facility at Rocky Flats Plant. This unique facility was under construction for 10 years, and incorporates advances in technology gained from 25 years of experience in processing plutonium.

Started production of W-79 (8-inch artillery shell) warhead.

Started production of W80-1 (Air Launched Cruise Missile) warhead.

Met all quantitative year-end warhead production commitments contained in the Presidential Stockpile Directive by September 1982.

In the Waste Isolation Pilot Plant Project, progress was achieved by:

Value engineering study reduced project total estimated cost by $200 million (nearly 30 percent) and advanced projected completion date by 6 months.

Consultation and cooperation agreement concluded with State of New Mexico, first of a kind, leading to much improved political and public relations climate for the project.

Site and preliminary design validation phase of project progressing well within cost and ahead of schedule.

In resolution of the Uranium Mill Tailings Remedial Action Project, the Albuquerque Operations Office initiated vicinity site cleanup actions at Salt Lake City and Canonsburg, Pennsylvania, under interim cleanup standards.

MAJOR ACCOMPLISHMENTS—CHICAGO OPERATIONS OFFICE

As part of the April 1981 field reorganization, the Chicago Operations Office integrated within its management system four former Regional Offices, the Environmental Measurements Laboratory in New York, and the National Waste Terminal Storage Program Office in Columbus, Ohio, becoming the largest procurement center in the field, with 2,500 contracts and 4,000 grants.

Major organizational accomplishments:

Eliminated 100 positions, primarily from regional offices.

Established a new Chicago Operations Headquarters.

Increased minority representation to 17.1 percent.

Established the organization, plan, and procedures for monitoring the Great Plains Gasification Loan Guarantee and authorizing the disbursement of funds for this estimated $2.7 billion project.

Completed the phase-out of the four Regional Solar Energy Centers.

Major procurement, program, and project management accomplishments:

Important contributions to the Liquid Metal Fast Breeder Reactor program.

Major developments in the Battery and Fuel Cell Programs.

Major responsibility for field execution of the Industrial Cogeneration Program.

Achieved important technical milestones in diverse elements of the Magnetohydrodynamics Program.

Completed Decontamination and Decommissioning of six major facilities.

Significant milestones in important construction projects:

Completed the National Synchrotron Light Source at Brookhaven National Lab.

Completed conventional construction for ISABELLE and successful testing of the new Palmer cable superconduction magnet.

Fermilab was authorized to begin design and construction of Tevatron II.

The Tokamak Fusion Test Reactor nears completion.

Completion of construction of conventional facilities at the National Superconducting Cyclotron Laboratory, Michigan State University.

Progress was made in the development of a repository site in salt media for nuclear waste as part of the National Waste Terminal Storage Program.

Managed grant-in-aid programs in energy-related areas providing financial and technical assistance to state, local, and tribal governments in 10 states, the District of Columbia, and two territories, involving more than 8,000 grants over the last 18 months.

MAJOR ACCOMPLISHMENTS—HANFORD OPERATIONS OFFICE

Areas of greatest progress include:

Construction and startup testing were completed on the $647 million Fast Flux Facility, the world's largest and most sophisticated facility for testing fuels and materials for liquid metal fast breeder reactors. This represented the successful culmination of a 15-year engineering, construction and testing effort. The plant is now performing its test mission.

A two-year program has been completed using the Near Surface Test Facility located in Gable Mountain to determine the response characteristics of the Hanford basalts when exposed to the high temperatures associated with spent fuel and high-level wastes from commercial nuclear plants. Site characterization work continues.

The conversion of N Reactor to weapons grade plutonium production began in Feb. 82, and will be completed in Oct. 82. The 860 MWe equivalent reactor is scheduled to continue producing weapons grade plutonium at least through the 80's, while providing by-product steam for the production of electricity in the Pacific Northwest.

A ten-year contract extension running to 1993 has been executed for the sale of the N Reactor steam to the Washington Public Power Supply System (WPPSS). Since 1966, over 50 billion kwhr of electricity has been delivered to the Pacific Northwest from the DOE/WPPSS facilities.

Significant progress was achieved toward the Spring, 1984 restart of the PUREX (Plutonium-Uranium Extraction) Plant which has been in a standby condition since 1972. When operational, PUREX will process fuel from the N Reactor to recover plutonium and uranium. A major milestone in the restart effort was the initiation of Enhanced Readiness Testing in July 1982. This testing is a subsystem by subsystem operation of the PUREX solvent extraction system using previously processed uranyl nitrate and, later, unirradiated fuel.

Containers of zeolite from the Three Mile Island Unit 2 were shipped to Hanford where Battelle-Pacific Northwest Laboratory is demonstrating the process of solidifying the inorganic resin, utilizing an adaption of the radioactive waste vitrification process. The zeolite is being used to remove the radioactive cesium and strontium from the contaminated water at Three Mile Island.

Construction was completed on the Commercial Nuclear Steam Generator Examination Facility and operations initiated in January 82. A 200-ton steam generator from the Surry (Virginia) Nuclear Plant has been placed in the facility for evaluations to determine why it failed prematurely. Nondestructive testing and decontamination studies will be performed which will help to better understand corrosion problems and develop techniques to better evaluate the integrity of the steam generator tubing. The NRC and international sponsors will jointly fund the research effort over the next five years.

MAJOR ACCOMPLISHMENTS—IDAHO OPERATIONS OFFICE

Loss of Fluid Test Facility—Continued successful testing included such tests as large-break, loss-of-coolant experiments, reactor shutdown without control rod insertion, and restarting of primary coolant pumps.

Advanced Test Reactor Operations—ATR, used in developing advanced nuclear fuel system and materials for power reactor programs, set a new record for running at effective full power.

DOE formally assumed responsibility for the West Valley Demonstration Project site on Feb. 25, 1982. West Valley Nuclear Services Company (a Westinghouse subsidiary), under the administration of the Idaho Operations Office, will proceed with evaluations of removing the high-level waste from tanks and evaluating the option of utilizing the existing facilities for the waste solidification equipment.

The Waste Calcining Facility (WCF) was retired on March 16, 1982 after 18 years service. September 1982 marks the dedication of the New Waste Calcining Facility (NWCF). It will incorporate the basic WCF process with many improvements and have approximately 30 percent more waste processing capacity.

Technical reviews of various issues have been conducted on nearly 70 commercial power plants, including some CRBR Preliminary Safety Analysis Report sections.

An initial "quick look" examination of the TMI-2 core was accomplished on July 21, 1982, by a miniature camera lowered through an opening in the central control rod assembly. This examination showed no evidence of any melting of the fuel or structural materials.

The Power Burst Facility has been used to conduct numerous tests for NRC, following the TMI-2 accident, providing data from such scenarios as the Power-Cooling-Mismatch test series, the Loss-of-Coolant Accident test series, and the Operational Transient test series. Approximately 40 high-priority tests have been conducted to date since the accident.

Completed irradiation experiments in the Engineering Test Reactor's Sodium Loop Safety Facility. This in-pile sodium loop was designed to provide prototypic fast reactor safety-related phenomena.

Low-Head Hydroelectric Demonstration Projects—The Department of Energy's participation in a hydropower project has been completed as marked by the dedication of the City of Idaho Falls' Bulb Turbine Project as the second of three bulb turbines came on line in July 82. The final plant will come on line in September 82. The City was the first in the United States to utilize bulb turbine technology. The entire project will be completed at a cost of approximately $58 million of which $7.3 million has been provided by a cooperative agreement with

DOE. Idaho Falls power costs about two-cents/KWH.

Since construction was completed in FY 81, the Component Development Integration Facility, which is operated for DOE by Mountain States Energy, Inc., has been conducting a successful series of tests on MHD components.

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MAJOR ACCOMPLISHMENTS—NEVADA OPERATIONS OFFICE

The prime mission of the Nevada Operations Office is managing and conducting the underground nuclear testing program designed to assure the successful development of the nuclear arsenal for the military services. All such tests have been executed in accordance with international treaties; no leakage of radioactivity has been detected beyond the boundaries of the test site and no unacceptable environmental damage has been incurred.

In order to support the Air Force mission, the Nevada Operations Office mobilized its contractors to execute a construction program for facilities in Central Nevada valued over $100 million. The projects were completed on schedule and within cost ceilings. NV has also supported construction of test projects for the MX missile and has participated in nuclear weapons tests designed to aid the DOD in understanding the effects of nuclear weapons on various materials, equipment, and weapons components.

Research and development on radiation detection equipment; the development of new techniques and procedures for logistical movement, enlargement and repackaging of communications equipment and capability; and more rapid evaluation of threat messages are recent steps to enhance the rapid deployment and efficient operations of the DOE's nuclear emergency search team.

New attention toward NV's programs for test treaty verification includes plans and procedures for deployment to Russia of a DOE team of highly-skilled scientists and technicians with modern equipment designed to monitor nuclear tests by the U.S.S.R. for compliance with yield constraints contained in the treaties.

NV has developed a system for enhancing U.S. national detection means. A network has been established for measuring and recording seismic data via satellite communications.

NV has been investigating various means for interim retrievable storage of spent fuel in both surface and subsurface environments, and for long-term disposal of all forms of high-level waste in deep geologic formations of tuff, a hard rock of volcanic origin. Studies thus far on tuff as apotential disposal/isolation media look very encouraging. It is planned to construct a deep exploratory shaft into the tuff formation next year to study further the acceptability of this media as a location for a high-level waste repository.

An on-going experiment at the Nevada Test Site is measuring the reaction on a host granite formation of 11 spent reactor fuel elements placed in a tunnel 1,400 feet beneath the Earth's surface. This facility has proven the technical feasibility for remote handling and emplacement of these elements.

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MAJOR ACCOMPLISHMENTS—OAK RIDGE OPERATIONS OFFICE

General accomplishments include:

Administration of 292 uranium enrichment contracts exceeding $2.8 billion.

Management of seven research facilities and administration of 700 contracts for offsite R&D.

Excluding the Gaseous Centrifuge Enrichment Plant (GCEP) and the Clinch River Breeder Reactor Plant Project, management of construction work involving 68 active Line-Item Projects.

Some specific programmatic accomplishments are:

For the Clinch River Breeder Reactor Plant Project, overall plant design is 88 percent complete and R&D work is approximately 97 percent complete. Firm fixed-price contracts for site work and the plant steam generators have been awarded.

Continued engineering development and construction of the $7.5 billion GCEP on schedule and within cost estimates. The GCEP Demonstration Facility was completed ahead of schedule and is operating with the process gas, Uranium Hexafluoride.

Gaseous diffusion plants resulted in $2.8 billion in revenues to DOE since January 1981.

Weapons production commitments have been met on a timely basis including process on five new weapons systems.

Excellent progress has been made in planning for and execution of a major utilities and equipment restoration program at the Oak Ridge Y-12 Plant.

Production commitments in support of increased reactor operations at the Savannah River and Richland sites have been met on a timely basis.

Efforts to develop a high quality alloy for breeder and fossil applications were particularly successful in fiscal year 81 by development of industrial and utility support for the alloy which is called 9 Cr-1 Mo and has superior high temperature structural qualities.

Studies determined a method for screening nitrosamine bearing foods for potential cancer producing agents that should be easier and more economical than current methods.

The Institute for Fusion Studies was established at the University of Texas at Austin as a center of excellence for theoretical studies with emphasis on fundamental plasma physics issues. The $10 million project cost is shared equally by the University and DOE.

Work has begun on cleanup at 14 of the 35 Formerly Utilized Sites Remedial Action Program (FUSRAP) sites.

Surplus Facility Management Program (SFMP) has completed design and construction of the most critical remedial actions at the Niagara Falls Storage Site to obtain control of radiation.

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MAJOR ACCOMPLISHMENTS—SAN FRANCISCO OPERATIONS OFFICE

SCIENTIFIC AND ENGINEERING BREAKTHROUGHS

Energy Materials Research Co. has developed bonding of infrared reflective materials which would allow passive, radiative cooling during hot weather.

SUNTECH IV, developed by Sun Oil Co. for DOE, will be offered commercially as a foaming chemical for improving steamflood performance in heavy oil recovery.

Lawrence Berkeley Laboratory demonstrated a very high success rate of cancer treatment using heavy ion radiation where other treatment was difficult or impossible.

CONSTRUCTION

In April 1982, the Barstow Ten Megawatt Solar Thermal Central Receiver Pilot Plant generated 8.9 MWe net electric power to the Southern California Edison (SCE) grid. It is the world's largest solar central receiver power plant.

The Sodium Reactor Experiment (SRE) was successfully decommissioned and decontaminated in June 82. It was a "first" because it demonstrates the feasibility of reclaiming buildings and sites previously used for nuclear projects.

The time projection chamber built at LBL was rolled into the beam line at the PEP accelerator at SLAC in January 82.

A five-year joint DOE/State of Hawaii effort culminated in the 3 MWe Geothermal Power Plant in Hawaii.

The NOVA high energy laser conventional facilities were completed.

In early FY 82 successful operation of the Mirror Fusion Test Facility superconducting magnet along with its supporting cryogenic, vacuum and computer control systems was achieved.

The Laser Fusion Target Development Facility of LLNL was completed in July 82 at a cost of $7.6 million.

Phase A construction of the Sodium Pump Test Facility (SPTF) was completed.

The High Explosives Flash Radiography Facility was completed. This facility houses the Nation's most powerful linear-induction electron beam accelerator.

Magnetic Fusion Major Device Facility (TMX-U) was completed at LLNL in Dec. 82.

SIGNIFICANT TEST ACCOMPLISHMENTS

Sandia's air-fired downhole steam generator in California's Wilmington oil field logged 3½ months of run time. The City of Long Beach estimates that 1.8 billion barrels may be recovered using downhole steam generator technology.

A one-year field test of the injection of a temperature resistant chemical with compressed air and steam resulted in a four-fold increase in oil production rates.

The Clinch River Breeder Reactor (CRBR) prototype steam generator was installed in April 82 at the Energy Technology Engineering Center.

The Magnetic Fusion Doublet III Tokamak injected 5 megawatts of neutral beam power when all four ion sources were fired simultaneously.

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MAJOR ACCOMPLISHMENTS—SAVANNAH RIVER OPERATIONS OFFICE

In the operations of the plant, progress was recorded as:

The production reactors performed with an Innage (percentage of clock time reactors were operating) of more than 80 percent, highest since 1974.

Fiscal year 1982 materials production was the highest since 1974, and 143 percent of the program milestone.

Reactors downtime has been minimized: reloading time in several reactors was the shortest in a decade.

33 percent increased production has been achieved by producing high purity plutonium for blending into weapons grade material.

A new fuel charge for the reactor will permit a 25 percent production increase.

In the separations process, plutonium processing levels achieved new highs and plutonium-238 heat source production was completed for qualification of flight thermoelectric generators for NASA's Project Galileo.

Concerning progress in the weapons facility:

On time delivery of weapon components to the military and weapon assembly plant.

The Reclamation Facility received an "Award of Excellence" upon completing its 50,000th reclamation; savings now exceed $100 million.

In the area of waste management:

Completed last 14 of 27 new waste tanks and achieved a significant reduction in the volume of waste generated per unit of product.

Developed a decontamination of waste salt solution using $50 million facility rather than previously required $600 million facility.

Shutdown the heavy water extraction facility to achieve a savings of about $10 million per year.

A number of safety improvements include:

Operated with no nuclear overexposures to personnel and extremely small releases to the environment.

Achieved no serious industrial accidents and lowest lost time injury rate compared to DOE Headquarters and all field organizations.

Several facility improvements:

Procurement of a reactor simulator to achieve more realistic and in-depth reactor operator training.

Installation of equipment to diagnose the most important causes of multiple alarms in the reactor control rooms.

A number of important environmental papers have been published in support of the National Environmental Policy Act.

Mr. KENNEDY. Mr. President, I oppose the nomination of Donald Hodel to be Secretary of Energy.

This nomination is a distressing continuation of this administration's record of dismal appointments in the area of environment and energy. First came James Watt, whose extremist attacks on our precious lands, air, and water have been repudiated by Congress and all citizens who share our obligation to preserve a nation that can truly be called "America the Beautiful" by the generations that will follow us.

Next came Anne Gorsuch, who has presided over the administration's efforts to decimate the Environmental Protection Agency, who has advocated a dangerous weakening of our laws for clean air and clean water, and who has refused to deal with the growing national crisis of hazardous wastes.

Then we had the nomination of James Crowell, whose previous association with the timber industry made a mockery of his responsibility to protect the Nation's forests.

Finally, there was Secretary Edwards. For the past 2 years, Mr. Edwards has been the point man for the administration's crusade to eliminate all support for conservation and alternate energy, while pushing multibillion dollar white elephants like the Clinch River breeder reactor. The energy policy of our Nation is in disarray. As a result of administration actions, including the veto of the Standby Petroleum Allocation Act and the failure to provide an adequate fill-rate for the standby petroleum reserve, we are unprepared to meet an energy emergency that would be caused by a new cutoff of imported oil. Natural gas prices are skyrocketing by as much as 40 percent; yet the administration's only response is to push for faster decontrol—which will mean more hardship for our senior citizens and a devastating blow to our already depressed economy. The administration has turned its back on conservation—the most cost-effective means of meeting our energy needs. And they have abandoned support of alternative energy sources—solar, wind, ocean, geothermal, that hold such promise for the future.

In the face of the dismal record of these three nominees, the nomination of Mr. Hodel is particularly disturbing. Mr. Hodel completes the front four of the administration line against the environment. During his years as Administrator of the Bonneville Power Administration, Mr. Hodel demonstrated a clear indifference to the interests of consumers in energy policy, and a hostility to conservation as an effective means of meeting energy needs.

As Under Secretary of the Interior, Mr. Hodel has been responsible for the day-to-day operations of the Department. He bears direct responsibility, along with Secretary Watt, for the disastrous policies which threaten our oceans, coastlines, parks, and Federal lands. As Chairman of the Minerals Management Board he has been directly involved in the administration's giveaway proposals for leasing public lands, including the Powder River Basin sale.

Mr. Hodel now claims to be an advocate and a friend of conservation. Yet in the past 2 years, a House subcommittee recently found that the Department of the Interior's own in-house conservation program has been seriously underminded.

The record is clear. Congress should not approve yet another Cabinet official who is insensitive to the future of our environment, and to the energy security of our country. In light of Mr. Hodel's own record and the administration's persistence in nominating individuals whose policies are contrary to the interest of the Nation, I must oppose this nomination.

SEVERAL SENATORS. Vote!

Mr. McCLURE. If there is no objection, let us proceed to the rollcall vote.

Mr. ROBERT C. BYRD. Mr. President, I think I should say that there is no desire for a rollcall so far as I know on the remaining two nominations on the calendar. That being the case, the Senate, following the rollcall on this, I assume would have the understanding that there would be no rollcall votes on the other two nominations, if the majority leader would wish to dispose of them by unanimous consent first to clarify the matter for everyone.

Mr. BAKER. Mr. President, I thank the minority leader.

Mr. President, I would be most pleased to do that.

Let me put this request then, if I may.

Mr. President, in respect to Calendar Orders No. 1058 and 1059, nominations of Martha O. Hesse, of Illinois, and Henry R. Folsom, of Delaware, I ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations considered en bloc are as follows:)

The PRESIDING OFFICER. The nomination will be stated.

DEPARTMENT OF ENERGY

The assistant legislative clerk read the nomination of Martha O. Hesse, of Illinois, to be an Assistant Secretary of Energy.

Mr. McCLURE. Mr. President, on December 7, the Committee on Energy and Natural Resources favorably reported the nomination of Martha O. Hesse to be Assistant Secretary of Energy for Management and Administration. The vote was 19 to 0. Miss Hesse appeared before the committee at the nomination hearing held on December 1.

The Assistant Secretary for Management and Administration has the responsibility for the full range of management activities within the Department, including personnel management, organization and systems analysis, manpower planning and analysis, budget and financial management, contracting and procurement, administrative services, management information systems, equal employment programs, and the activities of the Technical Information Center located at Oak Ridge, Tenn.

Since February of last year, Miss Hesse has served in two management positions within the Federal Government. She was Associate Deputy Secretary of the Department of Commerce, and beginning in May of this year, she served as Executive Director of the President's Task Force on Management Reform. Miss Hesse holds an MBA degree from the University of Chicago, and she has 15 years of management experience in the private sector. For 12 years she was director and chief operating officer of SEI Information Technology, a data processing consulting company located in Chicago.

In her testimony before the committee, Miss Hesse described how she intends to carry out the responsibilities she will assume as Assistant Secretary for Management and Administration. She stated:

I have come here today to tell you not that I am a government manager, but that I am a business executive who will utilize sound business practices in improving the operations for which I will be responsible. I

am committed to effectively managing the ongoing energy programs of the Department.

I believe my experience in the government is useful and demonstrates my commitment to manage well, using members of the career service who are the backbone of the management operations of government.

Mr. Chairman, I recognize that because of the continuing debate over the future of the Department of Energy, you and the other members of this committee are particularly concerned about the ongoing management and operation of the Department. Although the President has proposed to transfer the authorities and responsibilities of the Department of Energy to the Department of Commerce, and some other Federal agencies, I want to emphasize that as long as it remains as a separate department, I will do my best, within my areas of responsibility, to implement the energy policies and programs of the Reagan Administration, to fully discharge the Department's statutory responsibilities, and to act in accordance with the statutes that govern the structure and operation of the Department.

Mr. President, Miss Hesse has fully complied with the committee's rules requiring submittal of a financial disclosure report and a detailed information statement. On behalf of the Committee on Energy and Natural Resources, I am pleased to recommend Senate approval of the Presidential nomination of Martha O. Hesse to be Assistant Secretary of Energy for Management and Administration.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The next nomination will be stated.

POSTAL RATE COMMISSION

The assistant legislative clerk read the nomination of Henry R. Folsom, of Delaware, to be a commissioner of the Postal Rate Commission.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nominations were confirmed.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEPARTMENT OF ENERGY

NOMINATION OF DONALD P. HODEL, OF OREGON, TO BE SECRETARY OF ENERGY

Mr. BAKER. Mr. President, there is only one nomination remaining. The yeas and nays have been ordered. As soon as that rollcall is disposed of there will be no further rollcall votes tonight.

The PRESIDING OFFICER. The question is on agreeing to the confirmation of Donald P. Hodel to be Secretary of the Department of Energy.

On this question, the yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Illinois (Mr. PERCY), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that, if present and voting, the Senator from Illinois (Mr. PERCY) would vote "yea."

Mr. CRANSTON. I announce that the Senator from Virginia (Mr. HARRY F. BYRD, Jr.), the Senator from Colorado (Mr. HART), and the Senator from Hawaii (Mr. INOUYE), are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote who have not cast a vote?

The result was announced—yeas 86, nays 8, as follows:

[Rollcall Vote No. 399 Leg.]

YEAS—86

Abdnor	Exon	Metzenbaum
Andrews	Ford	Mitchell
Armstrong	Garn	Moynihan
Baker	Glenn	Murkowski
Bentsen	Gorton	Nickles
Biden	Grassley	Nunn
Boren	Hatch	Packwood
Boschwitz	Hatfield	Pell
Bradley	Hawkins	Pressler
Brady	Hayakawa	Proxmire
Bumpers	Heflin	Pryor
Burdick	Heinz	Quayle
Byrd, Robert C.	Helms	Randolph
Cannon	Hollings	Roth
Chafee	Huddleston	Rudman
Chiles	Humphrey	Sasser
Cochran	Jackson	Schmitt
Cohen	Jepsen	Simpson
D'Amato	Johnston	Specter
Danforth	Kassebaum	Stafford
DeConcini	Kasten	Stennis
Denton	Laxalt	Stevens
Dixon	Long	Symms
Dodd	Lugar	Thurmond
Dole	Mathias	Tower
Domenici	Matsunaga	Wallop
Durenberger	Mattingly	Warner
Eagleton	McClure	Zorinsky
East	Melcher	

NAYS—8

Baucus	Leahy	Sarbanes
Cranston	Levin	Tsongas
Kennedy	Riegle	

NOT VOTING—6

Byrd, Harry F., Jr.	Hart	Weicker
Goldwater	Inouye	
	Percy	

So the nomination was confirmed.

Mr. STEVENS. Mr. President, I ask that the President be immediately notified of the confirmation of all nominees who were confirmed in today's session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, has there been a motion to reconsider all the nominations which were confirmed today?

The PRESIDING OFFICER. No.

Mr. STEVENS. Mr. President, I move to reconsider the vote on all nominations which were confirmed today.

Mr. SCHMITT. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEGISLATIVE SESSION

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER (Mr. ARMSTRONG). Without objection, it is so ordered.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION APPROPRIATIONS, 1983

EXPLANATION OF RECOMMENDATIONS OF COMMITTEE ON APPROPRIATIONS

Mr. SCHMITT. Mr. President, today the Labor, Health and Human Services, and Education appropriations bill for fiscal year 1983 (H.R. 7205) was reported to the Senate. Because of the limited time remaining in this lame-duck session, the committee agreed that it would not be possible to file a written report of its recommendations, await expiration of the required 3 days, and expect full floor debate and consideration of the measure, and also reach agreement in a conference on a bill with the House.

While the bill is not accompanied by a written report, the committee has prepared an extensive explanation of the measure and each recommended change. This explanation closely follows the format of a committee report, had one been filed, and in the absence of a written report, represents the intent and views of the committee. It should be made absolutely clear to all Federal agencies, that each directive, earmark, and request contained in this explanation is as applicable as if this were the actual committee report.

Mr. President, I ask unanimous consent that the full text of this explanation be printed in the RECORD so my colleagues may have the benefit of that information prior to floor consideration should it occur later this week.

There being no objection, the material was orderd to be printed in the RECORD, as follows:

EXPLANATION OF THE RECOMMENDATIONS OF THE SENATE COMMITTEE ON APPROPRIATIONS ON THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION AND RELATED AGENCIES APPROPRIATION BILL, 1983 (H.R. 7205)

The Committee on Appropriations, to which was referred the bill (H.R. 7205), making appropriations for the Departments of Labor, Health and Human Services, and Education and related agencies for the fiscal year ending September 30, 1983, and for other purposes, reports the same to the Senate with various amendments and presents herewith information relative to the changes recommended.

Amount of comparable house bill (current year only)	$79,256,259,000
Amount of Senate bill over comparable House bill	5,975,737,000
Total bill as reported to Senate (current year only)	85,231,996,000

Amount of comparable appropriations, 1982	84,607,428,000
Budget estimates, 1983 (current year only)	73,965,761,000
The bill as reported to the Senate:	
Over the comparable appropriations for 1982	+624,568,000
Over the Presidential estimates for 1983	+11,266,235,000

BUDGET ESTIMATES

This report reflects all the budget requests submitted by the President to date, including proposals for later transmittal appearing in the appendix to the President's budget which have not yet been formally transmitted. In some instances, the program structure proposed by the administration has been adjusted to reflect current law, instead of legislative recommendations which have not yet been adopted. In the process of making this translation to current law appropriations structure, it has been necessary to make certain assumptions about allocating portions of the budget request to the current law format. Adjustments have also been made to delete amounts requested for items previously appropriated for the entire fiscal year in the current continuing resolution.

NEW PROGRAMS

The Committee did not consider funding for several newly authorized programs. Although budget amendments for some of these programs are or will be submitted, the Committee has not had sufficient time to study these proposals, which are normally examined through public hearings. Funding for newly authorized programs will be considered in a subsequent appropriations bill.

NEW GENERAL PROVISION

The current continuing resolution, Public Law 97-276, previously appropriated $105,000,000 for the entire fiscal year for five activities: immunization of children against communicable diseases, training of practitioners of family medicine and general dentistry, operation of the Runaway and Homeless Youth Act, support of the Chappie James Center at Tuskegee University, and nursing research. The Committee has therefore not included appropriations for these purposes in this regular bill, H.R. 7205. The Committee has also excluded these amounts from the relevant levels that this report shows for comparative purposes; i.e., from the tables and text intended to display the budget request and the House and Senate allowances for each relevant appropriation account.

It has, however, added to the bill a general provision (section 512) to ensure that the amounts previously appropriated for these five activities are not charged against other amounts in the bill (as would otherwise be required by the continuing resolution). The section is a technical one intended only to prevent bookkeeping mechanics that could inadvertently result in the loss of these five appropriations provided in the continuing resolution.

HIGHLIGHTS OF THE BILL

Community service employment for older Americans.—$286,800,000 is recommended, to provide an estimated 56,100 jobs for low-income, unemployed individuals over age 55; this is an increase of 1,900 jobs over the current level.

Veterans employment.—An earmark of $58,100,000 within funding for the Employment Service is recommended, for an estimated 2,000 staff to maintain the Disabled Veterans Outreach Program. In addition, $8,535,000 is included for the Veterans Employment Service, compared to $7,137,000 provided in fiscal 1982.

Health services.—$1,027,846,000 for health services activities, including the Primary Care and Maternal and Child Health block grants.

Centers for Disease Control.—$290,368,000 for disease control activities, including the Preventive Health Services block grant.

National Institutes of Health.—$3,999,887,000, including sufficient funds to maintain at least the 1982 level of new and competing research grants and training positions, and to pay full indirect costs.

Alcohol, drug abuse and mental health.—$858,561,000, including block grant funding and St. Elizabeths Hospital.

Health resources.—$194,338,000 for assistance to students and institutions to maintain the supply of trained health professionals.

Low income energy assistance.—$1,850,000,000 is included for the Low Income Energy program, $550,000,000 more than the requested level.

Social services block grant.—$2,450,000,000 is included, the full amount required by law for this entitlement program.

Human development services.—$1,754,194,000 is included to maintain current services for Head Start, and provide increases for selected programs serving the elderly and the developmentally disabled.

Child welfare services.—$572,669,000 is included to maintain the current level of child welfare assistance programs, and fully fund adoption assistance and foster care entitlement activities.

Community services block grant.—$348,000,000 is recommended to maintain the current level of grants to States for anti-poverty services.

Compensatory education for the disadvantaged.—$3,207,500,000, including $2,727,360,000 for grants to local education agencies.

Impact Aid.—$475,000,000 for school assistance in federally affected areas, the full amount authorized.

Education for the handicapped.—$1,110,252,000, included $970,000,000 for the State grant program.

Rehabilitation services and handicapped research.—$1,036,727,000, to maintain the current level of research, training, and special projects, while providing an increase for basic State grants.

Vocational and adult education.—$803,500,000, including $558,155,000 for basic State grants, $60,875,000 more than the fiscal 1982 level, and $95,000,000 for adult education.

Student aid.—$3,567,800,000 for student financial assistance programs, including Pell grants and work study.

Higher and continuing education.—$374,940,000, including special programs for the disadvantaged and strengthening developing institutions.

Libraries and learning resources.—$80,320,000, including $60,000,000 for public library services.

Corporation for Public Broadcasting.—$130,000,000 in FY 1985 advance funding, the authorized amount and the same as the House level.

Entitlement programs.—$60,223,313,000 is included for programs whose funding is considered mandatory under terms of existing laws. This is an increase of $5,816,557,000 over the House, which funded entitlement programs in anticipation of subsequent supplemental appropriations. Together with $1,924,341,000 of fiscal 1982 advances against fiscal 1983 appropriations, the total for mandatory items is $62,147,654,000.

TITLE I—DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

PROGRAM ADMINISTRATION

1982 comparable appropriation	[1] $91,465,000
1983 appropriation request	[1] 78,211,000
House allowance	Not considered
Committee recommendation	Not considered

[1] Excludes funding for the Work Incentives Program.

The Committee concurs with the House in deferring action on this appropriation, which provides for Federal administrative costs of the Employment and Training Administration. Funding for these activities will be considered together with the Employment and Training Assistance appropriation, which is also being deferred due to late enactment of authorizing legislation. In the interim, funding is being provided through a continuing resolution.

EMPLOYMENT AND TRAINING ASSISTANCE

1982 comparable appropriation	$3,031,844,000
1983 appropriation request	2,387,000,000
House allowance	Not considered
Committee recommendation	Not considered

The Committee concurs with the House in deferring action on this appropriation, which provides support for activities primarily authorized by the Job Training Partnership Act. Since this legislation was not enacted until October 13, 1982, the Committee has not yet held hearings to consider funding recommendations. Furthermore, the administration's budget request is based on a legislative proposal that was not enacted by Congress; no new budget request has yet been proposed under the Job Training Partnership Act. In the interim, funding for existing employment and training programs is being provided through a continuing resolution.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

1982 comparable appropriation	$277,100,000
1983 appropriation request	
House allowance	277,100,000
Committee recommendation	286,800,000

The Committee recommends an appropriation of $286,800,000 for Community Service Employment for Older Americans. This is $9,700,000 more than both the House allowance and the fiscal year 1982 comparable appropriation.

The administration made no fiscal year 1983 request for this program, which provides part-time jobs for unemployed low income persons aged 55 and over.

The Committee action will support an estimated 56,100 slots for the period July 1, 1983 through June 30, 1984, an increase of 1,900 over the current jobs level of 54,200.

The Committee concurs with the House in earmarking 78 percent of these funds for national contractors and 22 percent for

States. Such a split is equivalent to the current distribution of the program's funding.

The Committee urges the Department to seriously consider funding a national organization which would address the unique needs of Pacific Island/Asian American elderly under the Community Service Employment for Older Americans Program. The Committee understands that these citizens have significant problems due to their frequent limited English-speaking ability and that they are not represented satisfactorily by any of the current minority national organizations.

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

1982 comparable appropriation	$306,000,000
1983 appropriation request	35,000,000
House allowance	35,000,000
Committee recommendation	280,000,000

The Committee recommends an appropriation of $280,000,000 for Federal Unemployment Benefits and Allowances. This is $245,000,000 more than both the administration request and the House allowance. The recommendation is $26,000,000 less than the fiscal year 1982 comparable appropriation of $306,000,000.

The Committee's recommendation is based on the need for these mandatory benefits and allowances as estimated by the Congressional Budget Office. The Congressional Budget Office estimates that $172,000,000 is needed to operate the programs extant at the time the budget was prepared. This compares to the budget request estimate of $178,000,000. It should be noted that the Administration included an offset of $143,000,000 in this account for proposed legislation which was never enacted and which should, therefore, be disregarded in the appropriation of funds.

In addition to the $172,000,000 recommended for the above programs, the Committee recommends $108,000,000 for the newly-enacted increase in benefits for ex-servicemembers. No estimate of the costs for this program have been received from the Administration and current Congressional Budget Office estimates are being used.

This appropriation provides unemployment compensation benefits to special worker groups, including unemployment payments for former servicemembers, trade adjustment assistance payments for those affected by imports and payments made under other Federal programs which includes, in 1983, only payments made under title II of the Redwood National Park Expansion Act of 1978 to those displaced by the provisions of this Act. In 1982, unemployment insurance payments were also provided on the basis of public service employment.

The Committee recommendation is composed of $205,000,000 for ex-servicemembers, including funds for those benefits recently enacted, $65,000,000 for trade adjustment assistance and $10,000,000 for those affected by the Redwood Act.

GRANTS TO STATES FOR UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICES

1982 comparable appropriation	$39,272,000
1983 appropriation request	22,200,000
House allowance	22,200,000
Committee recommendation	22,200,000

The Committee recommends an appropriation of $22,200,000 for Grants to States for Unemployment Insurance and Employment Services. This is the same as the House allowance and the Administration's request and $17,072,000 less than the fiscal year 1982 comparable appropriation of $39,272,000. In addition, $2,454,300,000 is recommended to be expended from the Employment Security Administration account in the Unemployment Trust Fund, which is $131,100,000 over the Administration's request of $2,323,200,000 and $75,400,000 over the House allowance.

Employment Service

The total recommended for the Employment Service is $825,600,000 including both Federal and trust funds. This recommendation is the same as the House allowance and $93,177,000 more than the comparable amount for fiscal year 1982 of $732,423,000 and $84,800,000 more than the President's budget request of $740,800,000. These amounts include contingency funds of $55,400,000 in fiscal year 1982 and $91,200,000 in fiscal year 1983, $9,800,000 over the President's request.

The Employment Service provides State assistance to job seekers, including job findings and placement, counseling, testing and other services to workers. State Employment Service Agencies also assist employers through labor market information, manpower planning, and information on job modification and personnel practices. Although funded primarily with trust fund resources, Federal funding is required for services to persons not covered by State unemployment compensation laws and for whom unemployment taxes, from which the tust funds are derived, are not paid.

The Committee recommends that an additional $84,800,000 in trust funds over the request be provided for the Employment Service to maintain the Service at 24,800 staff years. Approximately 21,800 staff years were requested in the President's 1983 budget, a reduction of 8,200 from the approximately 30,000 staff years realized in 1981. A further reduction in 1983 in the level of effort to the job market in these times of high unemployment is not warranted and appears to this Committee to be counter-productive. In fiscal year 1982, the administration estimates an average of 23,350 to 24,800 Employment Service staff years will be realized. The amount recommended for the Employment Service includes $58,200,000 and an estimated 2,000 staff to maintain the Disabled Veterans Outreach Program.

Unemployment Insurance Service

The total recommended for the Unemployment Insurance Service is $1,650,900,000 in the trust funds an increase of $75,400,000 over the House allowance. This is $112,377,000 more than the fiscal year 1982 comparable amount of $1,538,523,000 and $46,300,000 more than the President's budget request of $1,604,600,000. No Federal funds are recommended for this activity. In fiscal year 1982, $20,000,000 was provided in a supplemental appropriation for the operation of a Federal Supplemental Compensation program. The Committee has included an additional amount of $46,300,000 for the operation of the Federal Supplemental Compensation program in 1983. This is the same as the Administration's estimate and $3,800,000 over the House allowance. The recommended amounts include contingency funds of $511,144,000 in fiscal year 1982 and $535,976,000 for fiscal year 1983. The contingency amount for fiscal year 1983 is $46,300,000 over the President's budget request.

The Unemployment Insurance Service administers State unemployment compensation laws, with two major functions: the collection of unemployment taxes from employers and the payment of unemployment benefits. For fiscal year 1983 the State agencies are expected to collect $14,300,000,000 in State taxes and pay $19,900,000,000 in benefits to 9,200,000 beneficiaries under the Federal and State regular and extended compensation programs.

The Committee approves the request for an additional $6,200,000 for an enhanced Random Audit Program. The Random Audit process will provide resources for 20 State Employment Security Agencies to implement a random audit system of monitoring the rates of improper payments, identifying specific causes, and providing information to use in designing systems and procedures to significantly reduce the level of overpayments. The Committee also approves the President's request to add $425,000 to implement a limited number of automated systems that will reduce and help prevent fraud, waste, and abuse in unemployment benefit payments. The request reflects a reduction in reporting requirements and a redesign of essential national data systems. The Committee continues to look favorably on the added emphasis directed to improving the integrity of the unemployment insurance system.

The Committee also approves the reductions proposed by the President of $1,900,000 for unemployment cost model management and of $27,980,000 to increase productivity while still being able to maintain a high level of efficient and effective delivery of services for all claimants.

In the event economic conditions result in the need for increased appropriations to process mandatory workload of the Unemployment Insurance Service, the Labor Department is urged to promptly notify the Committee and seek whatever additional amounts are necessary. Unemployment Insurance Service staff should be adjusted quickly to insure expeditious handling of unanticipated workload increases; this should be done without diverting Employment Service staff, to avoid disruption of important job-finding activities.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

1982 comparable appropriation	$4,318,000,000
1983 appropriation request	4,572,000,000
House allowance	3,798,000,000
Committee recommendation	5,411,000,000

The Committee recommends an appropriation of $5,411,000,000 for advances to the unemployment trust fund and other funds. This is $839,000,000 higher than the budget request and $1,613,000,000 higher than the House allowance. The recommendation is $1,093,000,000 higher than the fiscal year 1982 comparable appropriation. The Committee recommendation, taken together with $1,361,000,000 in unused 1982/1983 budget authority, will provide a total availability in 1983 of $6,772,000,000.

The advances to the unemployment trust fund and other funds account makes repayable advances to the extended unemployment compensation account, to the Federal unemployment account and to the Federal

employees' compensation account in the unemployment trust fund. Repayable advances are also authorized to be made to the black lung disability trust fund. Nonrepayable advances are also authorized to be made to the extent necessary to the Federal unemployment benefits and allowances account from which unemployment benefits are paid under various Federal unemployment compensation laws. Effective September 12, 1982, non-repayable advances are also authorized to be made to the Unemployment Trust Fund for the newly-enacted Federal Supplemental Compensation program.

The Committee recommendation is based on the budget request of $4,572,000,000 submitted in January, 1982 offset by $1,361,000,000 in unused 1982/1983 funds. The Committee further recommends adding $2,200,000,000 for the newly-enacted Federal Supplemental Compensation program which was enacted subsequent to the budget submission. The House allowance also includes this addition.

The House allowance is based on the Administration's mid-term review estimates for new budget authority and unused 1982/1983 funds. The Committee notes, however, that actual unused 1982/1983 funding available for 1983 programs is $1,361,000,000, $353,000,000 less than the $1,714,000,000 projected in July, 1982.

The Labor Department is urged to promptly notify the Committee in the event additional amounts appear to be necessary for the advances appropriation.

LABOR-MANAGEMENT SERVICES ADMINISTRATION

SALARIES AND EXPENSES

1982 comparable appropriation	$54,910,000
1983 appropriation request	60,153,000
House allowance	56,002,000
Committee recommendation	60,153,000

The Committee recommends an appropriation of $60,153,000 for the Labor-Management Service Administration, the same as the Administration's request and $4,151,000 over the House allowance. The recommendation is $5,243,000 more than the fiscal year 1982 comparable appropriation of $54,910,000.

The Labor-Management Service Administration provides assistance to unions, employers, and State and local governments in labor-management relations matters. It also audits and investigates labor organizations for compliance with Federal laws, including election and embezzlement investigations. Other responsibilities include administering veterans reemployment rights programs and pension and welfare benefit programs.

The Committee recommends restoring the House reduction of $4,151,000 and 150 positions to perform additional embezzlement investigations and financial audits in the Labor-Management Standards Enforcement Activity.

The Committee concurs with the House in allowing increases totaling $2,154,000 for such mandatory items as within-grade promotions, annualization of the Federal pay raise of October 1981, working capital fund charges, and supplies. The increases are partially offset by decreases totaling $1,819,000.

PENSION BENEFIT GUARANTY CORPORATION

1982 comparable appropriation	$91,075,000
1983 appropriation request	106,693,000
House allowance	106,693,000
Committee recommendation	106,693,000

The Committee recommends $106,693,000 for the Pension Benefit Guaranty Corporation. This is the same as the administration's request and the same as the House allowance. The recommendation is $15,618,000 more than the fiscal year 1982 comparable appropriation of $91,075,000.

The Committee recommends allowing the bill language requested in the President's budget, authorizing expenditures within the limits of funds and borrowing available to the Corporation. The Pension Benefit Guaranty Corporation's budget program for fiscal year 1983 includes benefit payments of $75,902,000, multiemployer financial assistance payments of $2,800,000 and administrative costs of $27,991,000. This includes an increase of 40 positions to enable the Corporation to adequately address major priorities and objectives in fiscal year 1983.

The purposes of the Corporation include encouraging continuation of voluntary private pension plans and guaranteeing payment of pension benefits to participants covered by plans that terminate.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

1982 comparable appropriation	$157,909,000
1983 appropriation request	169,296,000
House allowance	169,296,000
Committee recommendation	169,296,000

The Committee recommends an appropriation of $169,296,000 for the Employment Standards Administration. This is the same as the administration's request and the same as the House Allowance. The recommendation is $11,387,000 more than the fiscal year 1982 comparable appropriation of $157,909,000. In addition, the amount of $347,000 is recommended to be expended from the special fund in accordance with the Longshoremen's and Harbor Workers' Compensation Act. There is also $21,192,000 recommended to be transferred from the Black Lung Disability Trust Fund for expenses of operation and administration of the black lung benefits program.

This agency administers Fair Labor Standards Act legislation, including enforcement of minimum wage and compliance activities. It also administers worker's compensation programs, as well as Davis-Bacon and Services Contract Acts, which require determinations of "prevailing wages" to be paid under Government contracts. Also, included within the agency is the Office of Federal Contract Compliance Programs which enforce statutes and Executive orders prohibiting employment discrimination by Federal contractors.

Included in the recommendation is a program increase of $3,985,000 for increased ADP support for the agency. This increase is part of a five-year plan to integrate all of the agency's programs into a common system. This will provide managers and staff with the capacity to track cases or claims, provide management information, and provide daily operational capability to the employee benefit claims program. The remainder of the increases reflects such mandatory items as increased pay costs, annualization of the Special Targeted Enforcement Program and various increased miscellaneous costs.

The Committee notes that the Secretary of Labor, during fiscal year 1983 budget oversight hearings before the Senate Appropriations Subcommittee on Labor, Health and Human Services, Education and Related Agencies, testified that there were no plans to close black lung field offices. The Secretary further testified that the cost savings to be derived from closing black lung field offices would be $6,000 or less—the cost of building rental, and that if the closings necessitated additional staffing at the district level, no or little savings would be realized.

There are currently twenty-five black lung field offices which process telephone and walk-in inquiries for black lung beneficiaries and claimants. There are currently 26,500 black lung claims awaiting processing by the Department of Labor. The District Offices are already understaffed and claims are backlogged.

Despite the above, rumors persist and studies continue to be done on the closing of black lung field offices. In view of the above, the Committee directs that the Department of Labor take no action to close black lung field offices.

SPECIAL BENEFITS

1982 comparable appropriation	$348,892,000
1983 appropriation request	339,600,000
House allowance	339,600,000
Committee recommendation	339,600,000

The Committee recommends an appropriation of $339,600,000 for Special Benefits. This is the same as the administration's request and the same as the House allowance. The recommendation is $9,292,000 less than the fiscal year 1982 comparable appropriation of $348,892,000.

The special benefits appropriation provides resources necessary to meet required payments for compensation, medical costs, vocational rehabilitation and other benefits to those individuals eligible for assistance under the Federal Employees Compensation Act (FECA), and the Longshoremen's and Harbor Workers' Compensation Act.

Total estimated obligations for the FECA program are $1,089,000,000, which is $126,000,000 above the estimated fiscal year 1982 obligations of $972,000,000. Obligations in the FECA program are offset by collections from Federal and non-Federal agencies for costs of compensation and medical care incurred by the Department on behalf of the FECA recipients. FECA collections are estimated to be $762,000,000 in fiscal year 1983.

Total estimated obligations for the Longshoremen's and Harbor Workers' program are $3,600,000, which is $366,000 below the fiscal year 1982 obligations of $3,966,000.

BLACK LUNG DISABILITY TRUST FUND

1982 comparable appropriation	$769,450,000
1982 appropriation request	674,300,000
House allowance	674,300,000
Committee recommendation	674,300,000

The Committee recommends an appropriation of $674,300,000 for the Black Lung Disability Trust Fund. This is the same as the administration's request and the House Allowance. The recommendation is $93,055,000 less than the fiscal year 1982 comparable appropriation.

The Black Lung Benefits Revenue Act of 1977, companion legislation to the Black Lung Benefits Reform Act of 1977, established this Government-administered trust fund and shifted the fiscal responsibilities

of the program from the Federal Government to this trust fund. The Black Lung Disability Trust Fund will pay all black lung compensation, medical, and survivor benefit expenses when no responsible mine operator can be assigned liability for such benefits, or when coal mine employment ceased prior to 1970, in addition to all administrative costs associated with the operations of the program.

The Black Lung Benefits and Revenue Amendments of 1981, enacted December 29, 1981, legislates certain changes in the Black Lung program, intended to remedy the continuing deficit in Trust Fund expenditures and place the Black Lung program on a sound financial basis. Among the changes was a doubling of the excise tax on mined coal from which the trust fund is financed. It is estimated that with this tax increase, receipts will total $602,300,000 for fiscal year 1983. The $72,000,000 difference between the receipts and Trust Fund expenditures will be financed by advances to the Trust Fund by the Treasury. It is estimated that the 1981 amendments will eliminate the need for advances to the Trust Fund by fiscal year 1985 and enable the repayment of the advances back to the Treasury by fiscal year 1994.

The budget authority of $674,300,000 provides $463,455,000 for benefit payments to the 191,340 beneficiaries, $175,800,000 for interest payments on repayable advances, and $35,045,000 for administrative expenses.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

1982 comparable appropriation	$195,465,000
1983 appropriation request	206,256,000
House allowance	206,256,000
Committee recommendation	204,256,000

The Committee recommends an appropriation of $204,256,000 for the Occupational Safety and Health Administration. This is $2,000,000 less than the House allowance and budget request. The recommendation is $8,791,000 more than the fiscal year 1982 comparable appropriation of $195,465,000.

The Committee has approved the requested program increases totaling $6,340,000 to provide for: training of field compliance personnel, increases in funding for regulatory analyses of proposed rulemakings, and increases in on-site consultation services to employers in States and jurisdictions.

This agency assures compliance with safety and health laws through inspections of business establishments, citations for violations and, where appropriate, financial penalties; develops standards upon which inspections are based; and provides consultative services for employers seeking information on how to voluntarily comply with the law.

The Committee also recommends including the appropriation language restrictions contained in the budget request. First, the bill includes the requested language which prohibits the assessment of penalties for first instance non-serious violations unless there are 10 or more such violations. Second, the bill includes the requested provision prohibiting the use of any funds for the proposal or assessment of any penalty against an employer of 10 or fewer employees in cases where the employer has previously requested on-site consultation and is in the process of making a good faith effort to correct the violations found during the on-site consultation. Third, the bill includes a new requested provision prohibiting the obligation or expenditure of funds to enforce or prescribe as a condition for initial, continuing, or final approval of State plans under Section 18 of the Occupational Safety and Health Act of 1970, State administrative or enforcement staffing levels which are greater than levels which are determined by the Secretary of Labor to be equivalent to Federal staffing levels.

There is included in the budget request new language limiting the amount of funds available to States for grants under Section 23(g) of the Act to $47,625,000, an increase in limitation of $3,925,000, to provide for mandatory increases, and specifying that these grants shall fund no less than 50 percent of the costs which the States are required to incur under plans approved by the Secretary. The Committee approves this request.

The Committee is concerned about the use of Federal funds for contract work, and has reduced the appropriation request by $2,000,000. With the reduction in funding, its is expected that contracts will be limited to only the most essential activities, such as those necessary to give the agency access to highly technical data that might not otherwise be available, so as not to adversely affect the quality and timeliness of standards proposals. In the past, these funds have supported interagency agreements with the National Bureau of Standards, the National Academy of Sciences and the Department of Agriculture.

MINE SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

1982 comparable appropriation	$149,313,000
1983 appropriation request	153,828,000
House allowance	153,828,000
Committee recommendation	153,828,000

The Committee recommends an appropriation of $153,828,000 for the Mine Safety and Health Administration (MSHA), the same as the administration's request and the same as the House allowance. The recommendation is $4,515,000 more than the fiscal year 1982 comparable appropriation of $149,313,000.

Mine safety and enforcement functions were transferred from the Interior to the Labor Department in March 1978 as part of legislation mandating expanded activities. Activities include inspections of mines, health and safety standards, investigations of serious mine accidents, rescue operations, reducing work hazards, education and safety.

The Committee recommends $75,025,000 for the inspection of coal mines. This is the level of the budget request. Also recommended is $29,331,000, the level of the budget request, for the inspection of metal/nonmetal mines.

The Committee recommendation includes increases for such mandatory items as within-grade promotions, GSA space rentals, scheduled replacement of motor vehicles and other equipment, the annualized costs for the additional coal inspectors, and funding for staff years associated with the return of sand and gravel responsibilities to MSHA.

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

1982 comparable appropriation	$113,067,000
1983 appropriation request	120,143,000
House allowance	122,643,000
Committee recommendation	120,143,000

The Committee recommends an appropriation of $120,143,000 for the Bureau of Labor Statistics. This is the same as the administration's request, and $2,500,000 lower than the House allowance. The recommendation is $7,076,000 more than the fiscal year 1982 comparable appropriation of $113,067,000.

Activities of the Bureau include statistical surveys in the areas of: the labor force; prices and the cost of living; wages and industrial relations; productivity and technology; and economic growth and employment projections.

The request for 1,790 positions in fiscal year 1983 represents no change from the fiscal 1982 level. Each program conducted by the Bureau will retain the same number of positions as provided in the previous year.

The recommendation includes an increase of $7.1 million to meet the higher mandatory costs of space rental, telephone service, mail, data collection services, and other administrative expenses. The fiscal year 1983 request will allow the Bureau to maintain the quality and timeliness of the basic core of economic indicator for which it is responsible.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

1982 comparable appropriation	$89,882,000
1983 appropriation request	91,705,000
House allowance	91,705,000
Committee recommendation	91,864,000

The Committee recommends an appropriation of $91,864,000 for Departmental Management. This is an increase of $159,000 over both the administration's request and the House allowance. The recommendation is $1,982,000 more than the fiscal year 1982 comparable appropriation of $89,882,000.

In addition to the above there is to be transferred to this appropriation $8,752,000 from the Employment Security Administration Account, Unemployment Trust Fund and $13,097,000 to be derived from the Black Lung Disability Trust Fund account. Within these amounts $8,535,000 is included for the Veterans Employment Service, an increase of $1,398,000 over the fiscal 1982 level of $7,137,000.

This program includes salaries for Federal staff to direct all programs and functions assigned to the Labor Department. Activities include legal services, international labor affairs, promoting employment of the handicapped, civil rights enforcement, Women's Bureau, and the Veterans Employment Service.

The Committee has added $159,000 and 9 positions to the House allowance, in order to maintain the fiscal 1982 level of 79 positions for the Women's Bureau. The staff restored would strengthen the ability of the Women's Bureau to provide technical assistance to address the needs and concerns of women in the work force. It would also allow continuance of the women in apprenticeship initiative, providing training sessions on the most effective means of recruiting, placing, and retraining women in apprenticeship programs.

The Labor Department is directed to fill all Women's Bureau fulltime positions approved by Congress for fiscal year 1983, without making offsetting reductions in other Labor Department staff.

SPECIAL FOREIGN CURRENCY PROGRAM

1982 comparable appropriation	$67,000
1983 appropriation request	200,000
House allowance	67,000
Committee recommendation	67,000

The Committee recommends an appropriation on $67,000 which is the same as the House allowance and $133,000 below the appropriation request.

This program provides for direct funding from foreign currencies determined by the Treasury Department to be in excess of normal requirements of the United States for foreign service conference and consultations. These conferences help foreign service officers stay informed of current Department of Labor needs.

The $67,000 allowance will support a regional conference for all Labor Attachés.

OFFICE OF THE INSPECTOR GENERAL

1982 comparable appropriation	$32,755,000
1983 appropriation request	38,133,000
House allowance	38,133,000
Committee recommendation	38,133,000

The Committee concurs with the House Allowance which provides for a separate appropriation of $38,133,000 for the Office of the Inspector General. The recommendation is $5,378,000 more than the fiscal year 1982 comparable appropriation of $32,755,000.

In addition to the above amounts, there is to be transferred to this appropriation $6,835,000 from the Employment Security Administration, Unemployment Trust Fund.

The Committee recommendation also includes an increase of 52 positions and $4,855,000 to provide for increased audit and investigation staff and audit contracts.

TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH SERVICES ADMINISTRATION

HEALTH SERVICES

1982 comparable appropriation	$1,196,912,000
1983 appropriation request	937,732,000
House allowance	1,002,997,000
Committee recommendation	1,027,846,000

The Committee recommends an appropriation of $1,027,846,000 for the Health Services Administration (HSA). This is $90,114,000 more than the administration request and $24,849,000 more than the House allowance. The recommendation is $169,066,000 less than the fiscal year 1982 comparable appropriation of $1,196,912,000.

The Committee did not consider the administration's request based on proposed legislation which has not been adopted by Congress to date. The proposed legislation would have consolidated the Black Lung Clinics, Migrant Health, and Family Planning categorical programs into the Primary Care Block Grant and would have added the Women, Infants, and Children and Commodity Supplemental Food programs to the Maternal and Child Health Block Grant. These legislative changes have not been acted upon by the authorizing committees of Congress. The Committee therefore is providing funding for the currently authorized health services programs in 1983 and is doing so for fiscal 1983 under the account structure that preceded the recent consolidation of HSA and the Health Resources Administration.

Primary care block grant

The Committee has provided $302,500,000, which is the total amount authorized, for the Primary Care Block Grant program in fiscal year 1983. This is an increase of $52,180,000 over the President's request under current legislation and is an increase of $21,283,000 over the 1982 level of $281,217,000. The House maintained the fiscal 1982 level in fiscal year 1983.

The Committee directs the Department to give consideration in allocating these funds to restoring inpatient services for the needy at centers which previously provided this service to patients in the neediest areas.

The Primary Care Block Grant program supports funding for 588 community health centers which provide a broad range of primary health care services to medically underserved populations. Prior to 1983, these centers were funded and administered directly by the Federal Government. Beginning in 1983, the States will have the option to receive a block grant and assume responsibility for managing these centers.

The Committee recommendation will provide $277,700,000 to maintain primary care activities in existing Community Health Centers at the 1982 services level. Of the $277,700,000, $11,200,000 is projected savings from the phaseout of approximately 125 projects in 1982 which will be available to projects which receive continuing funding in 1983. The Committee recommendation will permit $265,200,000 to be awarded to about 520 projects through direct Federal grants and $12,500,000 for block grants to the two States and one territory which have exercised their option for the Block Grant. Approximately 4.4 million users will be served nationwide.

An additional $10,000,000 is included for promotion/prevention activities started in 1982. This will allow for continuation of the screening detection activities started in the last fiscal year and for implementation of services intended to support efforts to reduce long-term health care costs through comprehensive treatment of chronic health problems.

A total of $8,800,000 is provided to fund high priority medical service expansions based on both need and demand at 20 existing community health centers. This service expansion will include the development of increased service capacity at existing centers and satellites and a limited number of new satellite center openings.

An additional $6,000,000 is provided to restore supplemental services delivery capacity in an additional 165 centers where restorations could not be made even with supplemental funds provided in 1982. This restoration will allow for the provision of such services as dental, vision, nutrition, and health education to an additional 350,000 persons.

Black lung

The Committee has provided $3,240,000 for black lung clinics in 1983, the same amount as provided in fiscal 1982. This amount will support 38 black lung clinics providing services to 47,500 persons. The House allowance was $3,000,000.

The program makes grants to develop a network of clinics to provide services to victims of black lung disease.

Migrant health

The Committee has agreed to provide $38,208,000 for the Migrant Health program in 1983. This is the same as the 1982 level. The funds will provide primary health care services to 394,000 migrants and seasonal farmworkers and their families through 128 migrant health projects; support two birthing centers; provide hospitalization services to 2,858 high-risk mothers and infants; and continue sanitation activities and support the pesticide program in all migrant centers.

Family planning

The Committee recommends $124,176,000 for the Family Planning program in 1983. This is the same as the 1982 level, but $176,000 more than the House allowance. The appropriation provides $119,906,000 to support 95 comprehensive family planning services grants with 4,100 clinics. These clinics would provide services to some 3.3 million persons.

The Committee recommendation also includes $1,000,000 to support 9 services delivery improvement projects; $2,700,000 to fund 15 continuing professional education projects which will provide training for approximately 9,800 clinic staff; and $570,000 to fund 4 information and education projects.

Maternal and child health block grant

The Committee recommends $373,000,000, which is the total amount authorized, for the MCH Block Grant program in 1983. This is the same as the House allowance and a decrease of $750,000 below the 1982 level of $373,750,000, but is $23,000,000 more than the administration's request.

The Committee expects the Department to maintain as much as possible the level of support for those training projects that demonstrate effectiveness in improving state diagnostic and treatment services to children with handicapping conditions. This provision is also intended to continue support for a nationwide network of University Affiliated Facilities (UAFs) and Pediatric Pulmonary Centers which has been carefully established to provide assistance to states and providers and training to professionals in all regions of the country. The network concept is critical to improved service delivery through its ability to disseminate new knowledge and research advances into practice.

The Committee recommendation would provide $317,050,000 to be distributed to the States as block grants and $55,950,000 to support projects of regional and national significance. The Committee directs that the full 15 percent authorized for these projects be made available.

The Committee has learned of the rapid forward movement of the regional programs relating to Cooley's Anemia, which have been ongoing in New York State and in the New England regional areas. That program, which is funded as part of the 15 percent "set aside" in the Maternal and Child Health Administration, in the Health Services Administration, should be continued, as funds for that program become available.

Bureau of Community Health Services—Program support

The Committee has provided $23,443,000 for the program support activity of the Bureau of Community Health Services in fiscal year 1983. This is an increase of $2,748,000 over the President's request under current legislation but is $436,000 less than the fiscal year 1982 funding level. The

House allowance was $22,000,000 for this activity.

The Committee has provided support for 500 full-time permanent positions and related expenses. This is an increase of 75 positions over the President's request, but a decrease of 64 positions compared to the 1982 level. The Committee allowance will be required to support the Bureau's program under current legislation.

The Committee understands that the Bureau has received a significant number of requests for professional consultation and technical assistance from the States, particularly with respect to maternal and child health activities. Within the 500 positions provided, the Committee has included a sufficient number of slots to insure that the Bureau will be capable of responding to these requests from the States

National Health Service Corps

The Committee recommends $93,782,000 for the National Health Service Corps (NHSC) in fiscal year 1983. This is $9,656,000 less than the President's request of $103,438,000 and $1,296,000 less than the 1982 appropriated level of $95,078,000. The Committee allowance will support a federally employed field strength of 2,115 professionals.

Overall, the lower budget requirement for fiscal year 1983 was brought about by a greater number of former scholarship recipients electing to serve under the private practice option (PPO) in 1982, consequently reducing the number of federally employed health professionals serving in the NHSC at the outset of 1983. The Committee commends the program for its vigorous placement of health providers under the PPO which provides services to the underserved at minimal cost to the Federal Government.

The Committee continues to be concerned about the problem of avoiding protracted uncertainty and delay in approving requests to extend the duty tours of NHSC voluntary providers who wish to remain in rural, underserved areas where their services are needed and they have established strong practices. The Committee believes prompt and favorable consideration should be given to the requests for voluntary continuation of such providers with satisfactory performance ratings, especially including evidence of community support, who also reside in rural and other sites meeting the need/demand criteria. To this end, the Committee requests that the Department speedily implement established procedures to assure that in such cases there will be simplified and expedited decision-making by regional officials without the necessity of further review of Washington headquarters.

The Committee has included requested bill language to exclude new Corps personnel from receiving special retention pay if they are serving a period of obligated service. The Committee did not approve language making this retention pay optional for all Public Health Service personnel. NHSC volunteers will continue to receive the special day.

National Health Service Corps scholarships

The Committee recommends $11,042,000 for National Health Service Corps Scholarships Activity, the same as the President's request and $25,316,000 less than the 1982 level. The recommended level will support 953 continuation awards. The scholars to be supported in fiscal year 1983 have previously received NHSC scholarship awards and will be in their final year of funding. In recommending this allowance, the Committee concurs with the House action in reducing the stipend portion of the scholarship and in eliminating the financing of indirect educational costs. This will enable the program to fully fund the tuition and direct fees expense which represents the most critical element of a student's education.

Health professions student loans

The Committee has provided no additional funds for the Health Professions Student Loan program. With approximately $42,800,000 in the program's revolving fund, up $13,800,000 over last year, the Committee believes that sufficient funds are available for loans to those who need them most.

Health professions loan cancellations

The Committee has provided $50,000 for health professions loan cancellations. This is $50,000 more than the administration's request. The funds are required to reimburse health professions schools for their portion of cancelled loans for borrowers who serve in underserved areas.

Exceptional financial need scholarships

The Committee has provided $4,700,000 for exceptional financial need scholarships. This is $4,700,000 more than the administration's request and is the same as the 1982 level.

The Exceptional Financial Need Scholarship program encourages persons with limited resources to enter a health professions school. The scholarships assist students in their first year of post-baccalaureate study without their incurring a service obligation. The Committee recommendation would support approximately 300 scholarships.

Health education assistance loans (HEAL)

The Committee has not approved bill language requested in the budget to limit the amount of loans guaranteed under the Health Education Assistance Loan program (HEAL) to $80,000,000 since Public Law 97-35 established a limit of $225,000,000 in the basic statute.

The Committee is concerned with the need to increase the number of family practitioners available for service, particularly in rural areas, and the need to increase the number of medical graduates available to enter the medical research areas. The Committee requests the Department of Health and Human Services to review the legislation authorizing the Health Educational Assistance Loan program (HEAL) and to submit to the Committee its views on the administrative flexibility which currently exists, if any, to target funding under the HEAL program to such medical students. If such flexibility is not available administratively, the Department should advise the Committee which legislative changes would be necessary in order to accomplish the goal of targeting HEAL funds to students likely to become family practitioners who will serve in rural areas, or to students interested in pursuing research careers.

Nursing student loans

The Committee has provided $1,720,000 for the Nursing Student Loan program. This is $1,720,000 more than the administration's request and the House action which provided no new funds. The administration's request would have maintained only the revolving fund as a source of funding and would have decreased the total number of students assisted from 23,850 in 1982 to 16,250 in 1983.

The Committee allowance, together with the increased nursing student loan revolving fund of $18,800,000, will support a total of 25,650 students, an increase of 1,800 over the fiscal 1982 level and 9,400 over the 1983 budget estimate.

Nursing loan cancellations

The Committee has provided $1,500,000 for nursing loan cancellations. This is $1,500,000 more than the administration's request and $560,000 more than the 1982 level of $940,000. The funds are necessary to reimburse nursing schools for their portion of cancelled loans.

Bureau of Health Personnel Development and Service—Program support

The Committee recommends $17,411,000 to maintain 325 positions for the program support activity of the Bureau of Health Personnel Development and Service (BHPDS) in 1983. The Committee's recommendation is an increase of $647,000 and 20 positions over the President's request and House allowance.

The Committee is pleased with the substantial increase of monies (from $3.5 million in fiscal year 1981 to a projected level of $11 million in fiscal year 1982) returned to the Treasury through the National Health Service Corps site reimbursements and collection. The additional positions provided will be used for debt collection and monitoring efforts in all of the BHPDS programs.

Hansen's Disease Center

The Committee recommends an appropriation of $17,876,000 for the operation of the National Hansen's Disease Center in fiscal year 1983. This amount is the same as the administration's request and is $1,929,000 more than the fiscal year 1982 appropriation of $15,947,000. The increased funds provided for 1983 will be used to meet the mandatory operations costs of the program.

Under the Hansen's disease program, the Federal Government operates the National Hansen's Disease Center in Carville, La., and provides care for persons afflicted with Hansen's disease who had previoulsy received care through the Public Health Service hospitals and clinics system. The Committee believes the Hansen's disease program is beneficial and is in the public's interest.

Federal employees occupational health

The Committee recommends an appropriation of $974,000 for the Federal Employee Occupational Health program. This amount is the same as the administration's request, and is $11,000 less than the fiscal year 1982 appropriation of $985,000.

Under the Federal Employee Occupational Health program, Federal agencies are provided advice on employee occupational health. This program also organizes and operates Federal employee health units for Federal agencies on a reimbursable basis.

Payment to Hawaii

The Committee recommends an appropriation of $1,732,000 for the payment to Hawaii for the treatment of persons afflicted with Hansen's disease. This amount is the same as the budget request and the House allowance.

Payments are made by the Federal Government to the State of Hawaii to assist in the care and treatment of persons with Hansen's disease. Expenses above the amount provided by the Federal Government are borne by the State of Hawaii.

Buildings and facilities

The Committee recommends $3,292,000 for the buildings and facilities activity for fiscal year 1983. This is the same as the ad-

ministration's request and is $1,408,000 less than the fiscal year 1982 appropriation of $4,700,000.

This activity provides for the renovation of patient dormitories, general repairs and improvements, and energy conservation improvements at the National Hansen's Disease Center in Carville, La.

Program management

The Committee recommends $9,200,000 and 179 positions for the Health Services Administration (HSA) program management and administrative activities. This is an increase of $2,325,000 over the administration's request but a decrease of $2,168,000 from the 1982 estimated obligations.

The Committee notes that the HSA has reduced its program management staff from 310 in 1981 to 197 in 1982. The Committee has included funds to support a level of 179 positions in fiscal year 1983.

The Committee allowances includes 160 positions for program management activities and 19 positions for the Uniformed Services University of the Health Sciences. The Committee believes that this level is adequate to manage the HSA programs as they presently are structured.

CENTERS FOR DISEASE CONTROL

PREVENTIVE HEALTH SERVICES

1982 comparable appropriation	$278,362,000
1983 appropriation request	270,918,000
House allowance	286,165,000
Committee recommendation	290,368,000

The Committee recommends an appropriation of $290,368,000 for Prevention Health Services. This is $19,450,000 more than the administration request and $4,203,000 more than the House allowance. The recommendation is $12,006,000 more than the fiscal year 1982 comparable appropriation of $278,362,000.

The Preventive Health Services appropriation provides support for the Centers for Disease Control (CDC), the Public Health Service agency which is the Nation's center of competence in the prevention and control of diseases and certain other conditions. The major goal of CDC is to lead public health efforts to prevent unnecessary disease, disability and death. CDC pursues this goal through: prevention and control of infectious diseases; prevention of disease, disability, and death associated with environmental and workplace hazards; prevention and control of chronic diseases; and the provision of quality support to local, State, academic and national efforts in disciplines basic to such efforts, i.e., epidemiology, laboratory sciences, health, education, and training.

Preventive health services block grant

For the Preventive Health Services block grant, the Committee proposes a level of $90,000,000, $7,400,000 more than the House level and budget request. The fiscal 1982 level was $81,600,000, which included $2,500,000 for administration expenses and block grant transitional costs.

In fiscal year 1983, the Preventive Health Services block grant will be in its second year of operation. Included in this consolidation were the authority for several formerly categorical programs including health incentive grants, risk reduction and health education, rat control, fluoridation grants, home health services, high blood pressure control, and emergency medical services. A total of $3,000,000 is to be used for services to rape victims and rape prevention. Tuberculosis efforts are also allowable under the block grant.

The level provided would enable the Centers for Disease Control to comply with anticipated State requests to furnish prevention experts in lieu of cash. The Committee also directs that of the total provided, $1,000,000 and 20 positions be used for administration and technical assistance to States on the implementation of prevention programs supported by block grant funds.

The Committee concurs with House action to retain the administration of the block grant program within CDC instead of moving it to the Office of the Assistant Secretary for Health (OASH) as proposed by the Department.

The Committee finds that the change from categorical to block grants has not eliminated the need for information at the Federal level about the uses of these funds. It is the Committee's belief that uniform, national data on State use of Federal block grants is important to evaluate the effectiveness of health programs and specifically about the uses of the block grant funding. The Committee encourages the Department to work with the States in developing plans to fill this gap in our knowledge about public health programs and, in particular, about uses of the block grant funds.

Risk reduction and health education

The Committee recommends $1,349,000, the same as the budget request and House allowance, for health education and risk reduction. In 1982 this program was funded with the support funds provided by the Preventive Health and Health Services block grant activity. This effort is to educate individuals and families to the responsibility they have for their own health and to provide the knowledge and skills they need to make decisions which will ultimately reduce unnecessary disease and premature death, improve their quality of life, and make a major impact on the cost of care.

States receiving Preventive Health and Health Services block grants have allocated significant portions of the grant to support health education/risk reduction programs. CDC provides technical assistance to improve the effectiveness and efficiency of programs in this relatively new area of prevention activity, and develops, tests, and disseminates improved methods that can be used by community agencies to accomplish the goals of improved health.

Venereal diseases

For the control of venereal diseases in the United States, the Committee recommends a total of $47,335,000. Included in this amount is $40,000,000 for grants to States, which is $40,581,000 more than the 1982 level, but the same as the budget request and the House allowance. The Committee continues to be concerned about sexually transmitted diseases which spread across State lines and threaten the health of more than 10 million Americans each year. Moreover, some of these diseases are becoming treatment resistant. Grants are awarded to reduce the morbidity and mortality from venereal diseases through the development of prevention and control programs.

Since the beginning of Federal assistance and efforts to control venereal disease, the number of reported cases of syphilis has declined from an all-time high of 575,593 in 1943 to 71,474 in 1981—a reduction of more than one-half million cases. Federally assisted State and local gonorrhea control programs have resulted in a reduction in the growth rate of reported cases of that disease as well.

During 1983, the Committee expects that continued monitoring, screening, contact-referral services and other outreach efforts will provide venereal disease services to an estimated 9.3 million adolescents and young adults. These efforts should result in the treatment of more than 760,000 venereal disease patients and prevent an estimated 6,000 cases of syphilis and more than 230,000 cases of gonorrhea.

Also included in the Committee's recommendation is $7,335,000, the same as the fiscal 1982 level, a slight decrease from the House level by $1,690,000 more than the budget request for venereal disease program operations. This level will support national disease surveillance, technical assistance, operational research, and the development of prevention strategies, technologies, and methods used by the States to implement their venereal disease preventive health strategies more effectively. Funds are also included to reinstate important herpes control activities, such as the implementation of a national surveillance system for congenital herpes, and other previously planned strategies and control efforts to address this serious and growing public health menace.

Childhood immunization

Included in Public Law 97-276, the Continuing Resolution for fiscal 1983, is a level of $39,000,000 for immunization activities. Of that amount, $32,000,000 is for grants, which is the fully authorized level and $7,000,000 is for direct operations.

The Committee recognizes the childhood immunization program as one of the most beneficial and cost-effective of our Federal prevention efforts. The amount appropriated will provide a 95-percent level of vaccinations for children entering school under age 15, will fund efforts to eliminate indigenous measles from the United States and initiate a stockpile of commonly used vaccines.

Fluoridation

The Committee concurs with the House and the fiscal 1982 funding level in providing $1,100,000 for an in-house technical effort at CDC to assist State and local communities, when requested, with their fluoridation programs. There was no budget request for fluoridation technical assistance activities. Funds from the Preventive Health Services block grant may be used by State and local health departments to initiate fluoridation of fluorine-deficient water supplies. The Committee believes that this limited Federal effort to provide technical assistance complements the block grant funding in this area.

Chronic diseases

For Chronic Diseases, the bill includes $21,003,000, which is $1,500,000 more than the budget request and House allowance. This amount is $354,000 more than the final fiscal 1982 level of $20,649,000.

Programs supported under this activity assist in reducing or preventing the burden of illness and in improving the quality of life associated with certain chronic diseases and other conditions by (1) providing technical and financial assistance to States for the purpose of planning, organizing, conducting, and evaluating community-based demonstration programs aimed at reducing morbidity and mortality for complications of diabetes, (2) monitoring births for trends

in birth defects and performing epidemiologic studies on data generated, (3) collecting and analyzing data on genetic disorders, (4) conducting epidemiologic studies and investigations on certain cancers, (5) defining nutrition-related problems and trends and improving nutrition monitoring procedures, and (6) providing surveillance and technical assistance in directing tuberculosis control programs.

To the extent possible, funding should be continued for planned field evaluations of new shorter term (6 months) therapy schedules for tuberculosis. The Committee feels that since great progress is being made in this area, a delay of funding for this program would diminish the ability of CDC to make a determination as to the clincial merits of this shorter term tuberculosis therapy.

The Committee continues to be concerned about the increasing incidence of the serious and often fatal condition known as Acquired Immune Deficiency Syndrome (AIDS). In fiscal 1982, the Congress appropriated $500,000 to enable CDC to begin investigation and surveillance efforts on the nature of this illness which attacks people whose immune systems are weakened. Through recent studies, our knowledge of this illness has grown and it is now apparent that the illness is caused by infectious agents. For further investigations on AIDS, the Committee provides $1,500,000 and twenty-five positions. Of that amount, the CDC is directed to use $1,000,000 to replace resources which had been transferred from virus and venereal disease activities. The remaining $500,000 is to be used to increase epidemiology and laboratory investigations and to expand the surveillance cooperative agreements to at least two other cities reporting a high incidence of AIDS cases. As a separate program, the House has provided CDC with $2,600,000 for AIDS activities.

Environmental health

For environmental health, the Committee recommends $3,746,000, which is the same as the budget request, and $385,000 less than the 1982 appropriation. This amount is $533,000 less than the House level.

CDC's environmental health program assists States and local health departments to improve their capabilities to meet an increasing demand for evaluating the impact of toxic or other hazardous substances in the environment, on the health of the community and the effects of such exposures on unborn children. To this end, technical advice and assistance is provided in the area of epidemiologic and other health effects studies. Laboratory support to test for the presence of toxic substances in exposed persons, and to measure the effects of toxic exposures on human health is also provided.

The medical, scientific and other technical staff supported by this budget item provide the core personnel for coordinating the Public Health Service's response to environmental emergencies.

The Committee does not concur with the House action to provide $533,000 and 10 positions in excess of the President's budget for lead poisoning services. Funding for these services is provided both in the Preventive Health and Health Services and the Maternal and Child Health Block Grant.

Tuberculosis grants

The bill also includes $2,000,000 for the first year of funding for the tuberculosis control program. The House would provide a level of $5,000,000 for this new categorical grant activity, although there was no budget request.

The Committee continues to be concerned about the incidence of this major health problem and with this appropriation indicates its commitment to attempt a reversal in recent trends toward increases in new cases of tuberculosis. The Committee is disturbed by reports of more than 27,000 new cases of the disease in 1981, with an 18-percent increase noted in children under 5 years of age.

The Committee directs that priority for use of the funds should be in such areas as (1) the transmission of tuberculosis to children; (2) problems of drug-resistant tuberculosis; (3) increases in TB-related morbidity; and (4) the significant levels of tuberculosis among foreign born residents.

Other Federal programs offering technical assistance and grant funding for tuberculosis activities in addition to this appropriation include the Preventive Health Services Block Grant, the Department's refugee health program and the Chronic Diseases program.

Occupational safety and health

The Committee recommends $56,281,000 for the Center's occupational safety and health activities. The amount is the same as the House amount and $5,760,000 more than the budget request.

This activity supports the National Institute for Occupational Safety and Health (NIOSH) programs designed to protect the American worker from occupational illness and injury through identification, evaluation, and control of occupational diseases and hazards, and to reduce the high economic and social cost of these illnesses and injuries.

For Occupational Safety and Health research, the Committee concurs with the House in recommending $48,436,000, a decrease of $3,404,000 from the comparable 1982 appropriation and the same as the budget request. This activity supports research into the identification and control of occupational health problems, as well as the development of scientific criteria for standards setting in the Occupational Safety and Health Administration and the Mine Safety and Health Administration. The research program decrease reflects the need to support activities in higher priority areas

The Committee recommends $5,760,000 for Occupational Safety and Health training, the same as the 1982 appropriations and the House allowance. The administration proposed elimination of this activity. Funds should be used to continue operation of the Educational Resource Centers (ERC) for the training of occupational safety and health personnel.

The Committee is supportive of the efforts of NIOSH to provide resources for the advanced training of occupational health nurses who work within private industry settings in order to insure that our Nation's workplaces are as safe and as healthy as possible. To the extent possible within available funding, NIOSH should consider giving greater priority to targeting its training efforts toward nurses.

The Committee also recommends $2,085,000 for scientific and technical services, a decrease of $646,000 from the comparable 1982 appropriation and the same as the budget request and House level.

The Committee does not concur with House action to continue the prohibition against completing the NIOSH headquarters move to Atlanta. The Committee believes that the move should be completed to improve the operation of occupational safety and health programs. The Committee would allow this move to eliminate duplicative administrative services so more of the Institute's limited financial resources could be devoted to its mandated programs.

Epidemic Services

The bill includes $34,757,000, as requested in the budget, for epidemic services, and an increase of $429,000 over the 1982 level.

This activity maintains nationwide surveillance systems and laboratory competence leading to (1) the prevention and control of infectious and vector-borne diseases, and (2) the assessment and evaluation of morbidity and mortality associated with human reproduction. Included in this activity are regulatory responsibilities in the prevention of disease importation from other countries. Efforts focus on three key elements in preventing and controlling diseases: disease surveillance and epidemic aid; disease investigations and studies; and laboratory analysis. This activity will also contribute to the achievement to the 1990 national prevention objectives, and will assist States in setting their priorities and achieving measurable gains in preventing illness and improving health. Priority areas include: surveillance and control of infectious deseases; pregnancy and infant health; misuse of alcohol and drugs; family planning and violence.

The epidemic services activities are an important part of this Nation's approach to protecting its civilian population from epidemics and from deliberate or accidental misuse of biological agents. These programs are carried out by maintaining surveillance systems, epidemic investigators, and laboratory capability for identifying potential problems, and recommending appropriate actions to protect the health and lives of the American people.

Technology development and application

For technology development and application, the Committee recommends $28,142,000, the same as the budget request and House allowance, and an increase of $360,000 over the 1982 level. This activity supports CDC efforts with States, communities, hospitals and other parts of the Nation's health care system to bring about more speedy and general application of disease prevention technology to lower unnecessary sickness and premature death. Activities range from the clinical laboratory improvement and the hospital infection control programs to the provision of commercially unavailable disease reference, research and diagnostic reagents to laboratories. New laboratory procedures and testing procedures are disseminated through training sessions, technical consultation and scientific presentations covering a variety of areas such as laboratory management and safety, bacteriology, clinical chemistry, immunology, mycology, parasitology and virology.

Buildings and facilities

The recommendation includes $2,050,000, the same as the House amount and the budget request, for buildings and facilities projects, an increase of $610,000 over the comparable 1982 appropriation. Of these funds, $305,000 will be used for energy saving projects, and $1,520,000 will fund repair and improvement projects to prevent the deterioration of CDC facilities.

Program management

The Committee recommends $2,605,000, an increase of $89,000 over the comparable 1982 appropriation and the same as the budget request, for program management.

This activity provides for the overall planning and direction of the Centers for Disease Control and for the biosafety of its facilities. The House provided a level of $1,105,000, a 60 percent reduction from the budget request. At that allowance, it is expected that 47 positions would be eliminated. These positions are essential for the effective planning and managing of the Centers' resources to provide the maximum preventive health services to the people of the United States and to provide for the safety of the facilities and employees. At the House level, funds from other essential prevention efforts would have to be redirected to provide these essential managerial and security functions.

NATIONAL INSTITUTES OF HEALTH

1982 comparable appropriation	$3,641,875,000
1983 appropriation request	3,748,771,000
House allowance	4,004,075,000
Committee recommendation	3,999,887,000

The Committee recommends an appropriation of $3,999,887,000 for the National Institutes of Health (NIH). This is $251,116,000 more than the administration request and $4,188,000 less than the House allowance. The recommendation is $358,012,000 more than the fiscal year 1982 comparable appropriation of $3,641,875,000.

Research project grants

The Committee has received a considerable amount of data and testimony over the past few years supporting the need for a stable level of research project grants. This is a time of great promise in biomedical research, and the Committee believes it would be in the national interest to maintain the momentum of Federal support for basic research efforts. This potential for saving lives and alleviating suffering carries with it a sizable potential for reducing health care costs and economic losses from illness.

The Committee has provided funds to support at least 4,779 new and competing research project grants so that each institute would be able to fund no less than its 1982 number of these grants. However, there are sufficient funds and flexibility available within the full NIH appropriation to raise the total of new and competing grants nearer to the 5,000 level which the Committee regards as an important standard of stability. The Committee recommendation also would largely restore the proposed 4 percent reductions in noncompeting grants, and would begin to address the problem of average cost projections for 1983 new and competing grants higher than the levels contained in the 1983 President's budget.

Indirect costs

The 1983 budget request contains a proposal to reduce indirect cost reimbursements by 10 percent from the rate negotiated for each institution. These institutions, mostly universities, would be required to absorb the reductions in the same proportion, regardless of an institution's record of cost-consciousness. That is, the proposal contains no incentive for containing indirect cost expenditures and applies without regard to institutional differences in accounting systems and physical plant configuration.

The Committee has provided sufficient funds to restore the proposed reductions in indirect costs. The Committee recognizes that indirect costs are a legitimate and proper component of biomedical research and should not be reduced in an across-the-board, arbitrary manner.

The Committee, of course, recognizes that indirect costs, as a percentage of total costs of research, have increased from 20.5 percent in 1972 to 29.5 per cent in 1981. Some concern has been expressed about the impact of this increase on the total resources that are available for the direct costs of doing biomedical research. The Committee is concerned about the strains this may cause within the biomedical research community and about its possible effects upon the essential work that is being done. The Committee hopes that the parties—governmental and nongovernmental—will work to ameliorate differences and find equitable, long-term solutions. Meantime, the Department should be prepared to fully discussion the matter, including any alternatives developed with the cooperation of interested parties, at the fiscal year 1984 hearings on NIH.

Research training

The Committee long has been concerned about the continuing need to maintain research training at a level that will ensure an adequate supply of well-qualified investigators. To continue to nurture the Nation's biomedical research training programs, funds are provided to support approximately 9,722 trainees. This will enable each institute to support at least its 1982 number of trainees.

Disease prevention

The Committee is encouraged by the recent advances in the area of disease prevention, especially with the progress made by focusing on the relationship of eliminating lifestyle "bad habits" to overall health. The recent report of a study by the Institute of Medicine, "Health and Behavior: Frontiers of Research in the Behavioral Sciences," cites scientific evidence that modification of lifestyle and behavior may improve the health status of our Nation and help slow down the rapid increase of health care costs. The report stated: "As much as 50 percent of mortality from the 10 leading causes of death in the United States can be traced to life style." The report said that known behavioral risk factors "include cigarette smoking, excessive consumption of alcoholic beverages, use of illicit drugs, certain dietary habits (and) reckless driving," among others. The report pointed out that preventive action by society to improve health "may well reduce, rather than add to, the immense costs of modern health care", but that much remains to be learned about how to motivate people to make permanent changes in their lifestyles. The Committee believes that NIH and ADAMHA need to look very carefully at this matter to determine how research in the life sciences can be broadened to embrace the role of human behavior in preventing and curing disease. One example of disease prevention research by the NIH is the recent epidemiologic evidence that diet may play a role in the prevention of cancer. Worldwide epidemiological studies indicate that there appears to be a significantly lower incidence of cancer in people who consume large quantities of vegetables whose principal component is beta carotene, the precursor to vitamin A. The Committee is pleased that the National Cancer Institute and the National Heart, Lung and Blood Institute are jointly funding a study to examine the effects of beta carotene and encourages such cooperative efforts in the area of disease prevention.

The National Heart, Lung and Blood Institute's High Blood Pressure Education program has provided valuable guidance for the treatment of patients with high blood pressure—the most potent risk factor for stroke. With assistance from the Institute, several major companies have developed programs for their employees to emphasize health promotion through cardiovascular risk reduction. Public awareness of heart disease risk factors has caused changes in lifestyle "bad habits" and this is thought to have contributed to a decreasing incidence of heart disease. The Committee supports such public education efforts to encourage behavior and a lifestyle that will minimize that risk of cardiovascular and pulmonary diseases.

Among other important NIH prevention activities, the National Institute of Allergy and Infectious Diseases continues its efforts to accelerate the development of new vaccines. The Committee hopes that such efforts will lead to effective vaccines against such diseases as genital herpes, gonorrhea, meningitis, and malaria since immunization is one of the most cost effective ways to ease the burden of infectious diseases upon our society.

Striking advances have been made in treating certain allergies including the development of safe and effective allergy shots for individuals who are sensitive to wasp and bee stings and who may experience potentially fatal shock reactions. Moreover, improvements in the chemical contents of allergy shots have done much to help patients suffering from hay fever and seasonal asthma. Through basic research on ways to regulate the immune system by suppressing production of the immunoglobulin E antibodies that trigger the allergy attack, new opportunities to prevent and/or treat these illnesses may emerge.

The Committee has learned of the progress being made in hematologic research in three institutes—Heart, Lung and Blood, Arthritis and Cancer. It understands that the Division of Blood Diseases and Resources of the NHLBI is most concerned with fundamental hematologic research and its clinical applications, while the NIADDK's blood program emphasizes the mechanisms of normal blood cell function and their alterations in disease processes. The NCI is deeply involved with research on malignant alterations of blood cells and how both to treat these disorders and support the patients while they receive anti-cancer therapy. The Committee expects that hematologic research will continue to be supported by all to these Institutes.

Animal research facilities

The Committee is aware that both major animal facility renovations and animal resource improvements are necessary to the conduct of biomedical research using animals. Data from a National Research Council survey show very large funding needs for replacement, renovation, and acquistion of animal facilities space. This problem is of major concern to the Committee. Consequently, the NIH is requested to provide a report prior to the fiscal year 1984 appropriation hearings containing current information on the magnitude of the problem and strategies for its resolution.

Endocrinology

In 1978, a comprehensive evaluation of research needs in endocrinology and metabolism was requested by this Committee, and in late 1979 this report was completed and made available to us. Since that time, no

report has been made on progress in this very important area of biomedical investigation in regard to research support and funding.

Accordingly, the Director of NIH (acting through the Director of NIADDK and in consultation with the Director of NICHD—the two institutes which provide approximately 50 percent of the NIH support for endocrine research) shall within 180 days provide a report to the Committee of the NIH response to the 1979 evaluation, including the amounts that each institute at NIH has spent since 1979 on endocrine research and the percentage of grants funded, by year. In addition, a plan to coordinate efforts in this high priority area should be presented with the report.

Possible land acquisition

The Committee understands that the remaining adjacent land which is privately owned on the NIH campus may possibly be purchased. The Committee requests a report from the NIH discussing its recommendations as to the feasibility of acquiring this property. It would be expected in developing this report that the NIH recognizes its long-term requirements for expansion.

NATIONAL CANCER INSTITUTE

1982 comparable appropriation	$943,029,000
1983 appropriation request	955,449,000
House allowance	981,441,000
Committee recommendation	985,711,000

The Committee recommends an appropriation of $985,711,000 for the National Cancer Institute (NCI). This is $30,262,000 more than the administration request and $4,270,000 more than the House allowance. The recommendation is $42,682,000 more than the fiscal year 1982 comparable appropriation of $943,029,000.

The Committee has allowed sufficient funding to provide the budget request level for new and competing research project grants, to restore training slots to at least their fiscal 1982 levels, and to largely restore the proposed 4 percent cut in noncompeting continuation grants. Additional funds have been provided to pay the indirect costs of research at 100 percent of their negotiated level.

On the 10th anniversary of the national cancer program, the Committee notes recent encouraging data on cancer survival. The first full 5-year survival data gathered by NCI's Surveillance, Epidemiology and End Results (SEER) program show a relative survival rate of 45 percent for all patients diagnosed with cancer between 1973 and 1979. This contrasts with a study done (1967-1973) before SEER was established, a study which showed a relative survival rate of 40 percent. Such a 5 percent change in survival data means, according to NCI, that approximately 320,000 individuals diagnosed in the 1970's have a very good chance of being cured of cancer.

The Committee notes recent efforts at NCI to assure continued support for the most worthy research despite budgetary constraints. This support is especially critical in view of the revolutionary strides taking place in fundamental biology today. In order to maintain an effective level of support for this research, NCI has adopted several streamlining measures, including a reallocation of resources, where appropriate. The Committee hopes these measures will be effective and requests that NCI provide it with periodic management reports on the progress of its efforts and the impact on research.

The testimony presented to the Committee has reaffirmed that finding the causes of cancer and the means to prevent its occurrence remain among the highest priorities of the NCI. Epidemiological studies have been able to show areas of the United States where particular cancers are most common. This data has led to further studies of the precise cause of cancer in a given area and could lead to an understanding of how to intercede in, or prevent, the cancer process.

A major new initiative of the NCI seeks to establish closer links between local community physicians and hospitals with large cancer centers and cooperative research groups which conduct NCI clinical treatment research. This effort to more closely serve the American public by making available the latest treatment, drugs, expertise, and overall knowledge about cancer is called the Community Clinical Oncology Program (CCOP). NCI hopes to establish 100-200 community programs within the next year, geographically located in such a way as to conveniently serve most Americans. The Committee hopes that programs of this type will be instrumental in achieving further improvements in 5-year survival data.

NCI continues to support basic cell research which has been instrumental in recent advances made against cancer. Fundamental studies have yielded clues as to why a normal cell becomes cancerous.

The Committee is also impressed with reports on the new hybridoma technology and believes this should continue to receive adequate support. Through this technology, scientists can grow cells in the laboratory that make pure antibodies which can be specifically targeted to cancer cells. These so-called "monoclonal" antibodies, it is hoped, will form the basis for greatly improved diagnostic and treatment methods. NCI is also continuing efforts to evaluate the efficacy of biological response modifiers. Phase I clinical studies, in which therapeutic dosage and side effects are determined, have been completed for genetically produced interferon and are nearly complete for natural interferon and other substances. The Committee continues to urge study in this area.

In the area of treatment, NCI's continued support of drug development and clinical trials have led to substantial gains, the Committee is advised. NCI has played a major role in development of anti-cancer drugs, participating in clinical trials of all drugs which later became available to the public. The Committee notes that the Institute has eliminated its plant collection program on grounds that it receives a large number of plant products for testing at no cost. The Committee wishes to be kept informed as to whether this change has produced the results expected of it.

The new radiation research program launched by NCI consolidates all extramural research in this field, including low-level radiation, radiation therapy, diagnostic imaging, and the transfer of radiation grants from the National Institute of General Medical Sciences. This new program provides a distinct area and structure not only for current radiation-related research but also for any further responsibilities delegated to the Institute in this field.

The administration budget proposed that the NCI's bioassay program for testing chemical compounds be transferred to the National Institute of Environmental Health Sciences. The result will be to center the National Toxicology program in NIEHS and to avoid the previous joint management approach which apparently has proved cumbersome. The Committee has approved this shift but will expect NCI to maintain close contact with the consolidated program to assure its research takes account of the work NTP does.

The Committee directs the National Cancer Institute to continue the present level of annual investment in the organ site program focusing on cancer research in large bowel, pancreas, prostate, and bladder which has proven to be effective. However, the Committee is cognizant of certain concerns about the task forces that have been raised by NCI and the National Cancer Advisory Board. These relate, among other matters, to the reviews required, review costs, staffing of project headquarters, and cost of staff. The Committee intends to review the program carefully during its fiscal year 1984 hearings.

The Committee is impressed by the progress in cancer research and patient care that has been, and is being, achieved in Cancer Centers nationwide. Much of the basic research in cancer, as well as in the treatment and prevention of this disease, is being accomplished in NCI-supported Cancer Centers. The Cancer Center support grants (core grants) awarded by the National Cancer Institute to Cancer Centers are neither more nor less important than individual research grants and program project support; the Center core grants are in fact the "glue" that holds grant-supported projects in Cancer Centers together, and helps them to function efficiently and effectively.

The Committee has heard from witnesses that since 1977 the proportion of NCI budget dollars devoted to core grants for Centers seems to have fallen steadily, and the Committee urges the NCI leadership to review this trend, and report to the Committee on the matter in time for hearings on the fiscal year 1984 appropriations.

The Committee notes that the budget request contains $200,000 for exploratory grants to be used to develop new cancer centers. The Committee is concerned that existing cancer centers are unevenly distributed throughout the country and hopes NCI will seek to rectify this geographic maldistribution through means of awarding an exploratory grant if an application receives favorable review by the Institute.

The Committee is greatly encouraged by recent research advances in viral carcinogenesis, particularly the recent isolation of the first human RNA tumor virus, and expects the Institute to expand its Biological Carcinogenesis Program of identifying viral transforming genes and their cellular counterparts that are responsible for malignant transformation of normal cells. Research in this area offers an unparalleled opportunity to develop a unified approach to control or reversal of the cancer process including possible prevention of cancer in endemic areas through immunization.

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

1982 comparable appropriation	$559,637,000
1983 appropriation request	577,143,000
House allowance	620,947,000
Committee recommendation	624,542,000

The Committee recommends an appropriation of $624,542,000 for the National Heart, Lung, and Blood Institute (NHLBI).

This is $47,399,000 more than the administration request and $3,595,000 more than the House allowance. The recommendation is $64,905,000 more than the fiscal year 1982 comparable appropriation of $559,637,000.

The Committee has provided sufficient funding to restore new and competing research project grants and total training slots to at least their fiscal 1982 levels, and to largely restore the proposed 4 percent cut in noncompeting continuation grants. Additional funds have been provided to pay the indirect costs of research at 100 percent of their negotiated level.

The decline in deaths from heart attack and stroke—a decline that became evident in the late 1960's—continues today. Since 1968, there has been a 30 percent age-corrected mortality decrease in cardiovascular disease and a 45 percent decrease in stroke mortality. In spite of this promising overall trend, the toll for diseases of the heart, blood vessels, lungs, and blood continues to be large. Heart disease alone is responsible for three quarters of a million deaths each year and continues to be America's number one killer. The economic burden on the nation as a result of cardiovascular disease is a substantial one. Thus, it is imperative that the momentum that has been gained in combating cardiovascular and pulmonary diseases within the past decade be maintained.

It was only a decade ago that the research mandate of the Institute was expanded to include the lung and that a concerted strategy to address lung disease was initiated. Lung diseases are now the sixth leading cause of death in the United States (chronic obstructive pulmonary disease is the fastest rising among the leading causes of death) and account for more than 100,000 deaths each year, 46 million days lost from work, and 40 million days of bed-restricted activities, according to the Institute. In addition, such diseases cost the economy billions of dollars annually in lost productivity and wages in medical care costs.

The true impact of disorders of the blood is far greater than the death rates attributed to blood diseases. The clotting of blood is centrally involved in a vast array of diseases ranging from myocardial infarction ("coronary thrombosis"), many strokes, and pulmonary embolism, to the fundamental process whereby arteriosclerosis forms.

It is clear from these facts and figures that the task before the Institute is a major one. Certainly its approach must attack the problem of life style "bad habits" that contribute in particular to heart and lung diseases. For example, the Institute's testimony called attention to the "devastating effects of smoking in causing lung and other cancers." The Institute pointed out that chronic obstructive pulmonary disease is "at least 10 times as common" in the smoker as in the nonsmoker and that cigarette smoking doubles the risk of coronary heart disease. The whole area of lifestyle "bad habits," including improper diet and other matters, must be made a priority by the Institute in carrying out a comprehensive program.

While the magnitude of these problems before the Institute remains a real challenge, the Committee notes a number of major advances as a result of the Institute's activities which have provided the bases for future research approaches and opportunities. Among these were the successful conclusion of three major clinical trials, two relating to drugs to deal with heart problems and the third involving a new vaccine to prevent type-B hepatitis.

Although a major portion of the funds managed by the Institute is directed to basic research, which is the Institute's first priority, the NHLBI is also concerned with the immediate alleviation of pain and suffering and the ultimate goal of preventing premature death among the American population.

As such, the Committee has observed with interest the Institute's prevention and education activities. In particular, over the past several years, there has been progress in the National High Blood Pressure Education program whose purpose is to facilitate more effective control of high blood pressure in our population. Building upon relationships developed in this program with the private sector, the Institute has striven to stimulate cardiovascular risk reduction programs at the worksite. It now has worked with more than 50 private sector organizations to promote cardiovascular risk factor reduction. Other encouraging and effective prevention and education activities involve programs in such areas as asthma, which affects millions of children each year, and sickle cell disease, where the Institute has developed an academic tutorial program for children with the sickle cell disease or trait.

The Committee expects the National Heart, Lung, and Blood Institute to set aside an additional $2,000,000 for Sickle Cell centers to permit support of 10 centers, the same as the number supported in 1982.

Cystic fibrosis is among the most serious respiratory diseases affecting our nation's youth, and ranks as one of this nation's top genetic killers. NHLBI has long had an active program of research in CF, with particular emphasis on lung infections. The Committee is optimistic that continued research in this and other Institutes at NIH will soon allow improved treatment and prognosis for those with cystic fibrosis.

The NHLBI has made substantial progress in its mission to understand, treat, and prevent heart, lung, and blood diseases. There are, however, still multiple opportunities in fundamental and clinical research, including development of noninvasive diagnostic techniques, which can be addressed to continue the important research progress; the Committee will also want to be kept abreast of the Institute's findings as it proceeds with its examination of the impact on life expectancy and quality of life of coronary bypass surgery.

NATIONAL INSTITUTE OF DENTAL RESEARCH

1982 comparable appropriation	$71,983,000
1983 appropriation request	74,462,000
House allowance	80,304,000
Committee recommendation	77,416,000

The Committee recommends an appropriation of $77,416,000 for the National Institute of Dental Research (NIDR). This is $2,954,000 more than the administration request and $2,888,000 less than the House allowance. The recommendation is $5,433,000 more than the fiscal year 1982 comparable appropriation of $71,983,000.

The Committee has provided sufficient funding to restore new and competing research project grants and total training slots to at least their fiscal year 1982 levels, and to largely restore the proposed 4-percent cut in noncompeting continuation grants. Additional funds have been provided to support the higher average costs of research project grants and to pay the indirect costs of research at 100 percent of their negotiated level.

NIDR continues to conduct and support research related to the cause, prevention and methods of diagnosis and treatment of oral diseases and conditions. To pursue this goal, NIDR provides grant and contract support for the conduct of research and for training research manpower, as well as engaged in its own program of intramural research primarily focusing upon basic science. Six categorical program areas provide the core for NIDR's research program strategy.

The Committee has been particularly supportive of the NIDR's efforts to deal with dental caries which still exact a health cost in the billions of dollars. The Committee was pleased to hear testimony indicating that there has been an estimated 25-30 percent decrease in the prevalence of dental caries among school-aged children in about the last decade. The Committee also notes that progress continues to be made toward developing a safe vaccine against caries. The Institute should press ahead with its studies to define the characteristics of foods and eating patterns that can lead to caries in school-age children.

The Institute is planning studies related to establishing better attitudes needed to prevent oral diseases. In its testimony, the Institute stated that the public does not take full advantage of known preventive measures, such as use of fluorides and diet modification. This can be an important area for disease prevention which the Institute should pursue. It also should pursue its finding that an estimated 10 percent of the population "avoids needed dental treatment because of excess fear." Here again, there may be an opportunity to strengthen the disease prevention effort through research and bring needed care to a significant portion of our population.

The Institute's research directed toward periodontal diseases has contributed greatly to the understanding of the causes and progression of these diseases. Studies have continued to make progress in the identification of bacteria implicated in the initiation of these diseases, and are now beginning to reveal some of the mechanisms by which these bacteria may be a causative factor.

Investigations in craniofacial anomalies pursue the areas of congenital anomalies, denotofacial malrelations, and acquired defects. The Committee is pleased to note that significant advances have been made in understanding of developmental processes. These include studies of factors regulating the proliferation, the migration, and the localization of cells during development at the functional, the biochemical and the molecular levels. The Committee is supportive of the Institute's program in pain research where new advances have been made in understanding of the brain stem and spinal cord neural circuits involved in pain transmission.

The Committee notes that progress has been made in the area of prevention and treatment of human herpes virus infections. The possibility of developing a safe effective vaccine has been greatly enhanced by the development of new methods to purify virus glycoproteins. Also, in an attempt to improve the effectiveness of potential therapeutic agents for the treatment of herpes infections, investigators are testing a new method of drug application to the skin. When applied to patients with herpes infections of the lips, the method appears to result in the reduction in pain and duration of the ulcer.

NATIONAL INSTITUTE OF ARTHRITIS, DIABETES, AND DIGESTIVE AND KIDNEY DISEASES

1982 comparable appropriation	$368,191,000
1983 appropriation request	379,422,000
House allowance	408,508,000
Committee recommendation	415,856,000

The Committee recommends an appropriation of $415,856,000 for the National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases (NIADDK). This is $36,434,000 more than the administration request and $7,348,000 more than the House allowance. The recommendation is $47,665,000 more than the fiscal year 1982 comparable appropriation of $368,191,000.

The Committee has provided sufficient funding to restore new and competing research project grants and total training slots to at least their fiscal year 1982 levels, and to largely restore the proposed 4 percent cut in noncompeting continuation grants. Additional funds have been provided to support the higher average costs of research project grants, a problem of significant proportions at this Institute, and to pay the indirect costs of research at 100 percent of their negotiated level.

The Institute is responsible for research and research training on many of the most debilitating and costly diseases affecting the public health: arthritis, diabetes, musculoskeletal diseases, skin diseases, digestive diseases, nutritional disorders, and kidney and urinary tract diseases as well as endocrine and metabolic disorders. NIADDK therefore supports much of the clinical research on diseases of internal medicine and related subspecialties as well as a strong basic science effort to sustain the productivity of the Institute's disease-related programs.

The diseases encompassed by NIADDK research programs affect tens of millions of people of every age, sex, race, and geographic locale. The economic burden borne by society because of these diseases is enormous.

The importance of the Institute's research programs is reflected in NIADDK's recent elevation from institute to bureau status, with four divisions—arthritis, diabetes, digestive diseases, and kidney diseases. NIADDK is also noted for its intramural research program and facility. By providing leadership and coordination, the Institute contributes to the strengthening of all Federal programs in arthritis, diabetes, and digestive diseases.

More than 37 million Americans, including 250,000 children, are estimated to suffer from the 100 or more different forms of arthritis and musculoskeletal diseases. The most common crippling disability, inflicting pain and sometimes death, arthritis costs the Nation billions each year for medical care and lost productivity. A strong program of fundamental research on such factors as the immunologic basis and underlying mechanisms of inflammation in arthritis and related diseases is essential for improving care and rehabilitation and ultimately preventing these diseases.

The Committee notes the significant discoveries made recently on immune system defects implicated in rheumatic diseases. The importance of these findings was highlighted by the success of total lymphoid irradiation. The Institute advises that this experimental therapy produces marked clinical improvement in patients with severe, active rheumatoid arthritis who are unresponsive to conventional treatment.

Continued research is needed on the cause and treatment of rheumatoid arthritis and other rheumatic diseases, particularly osteoarthritis, which involves progressive degeneration of the joints in approximately 16 million people in the United States. Another important area of research which the Institute should vigorously pursue is juvenile arthritis.

The Committee wishes to be kept apprised of the Institute's research into mycoplasma related causes of rheumatoid arthritis. The Committee expects the Institute to examine relevant clinical data and report back within the year its assessment of whatever lines of inquiry may be suggested. Such a review should take into account the possible importance of duration of treatment as a variable in evaluating the mycoplasma perspective.

The Institute is also expected to strengthen its efforts in musculoskeletal disease research. NIADDK has initiated a major clinical study of osteoporosis, the most common disease of the bone, predominantly in older women. This and other studies are aimed at identifying the factors which characterize osteoporosis. Of special importance to patients with both rheumatic and musculoskeletal diseases, the development of artificial joints has resulted in relief of pain and increased mobility for more than 150,000 Americans each year. Improving the function and durability of these prostheses should remain a strong NIADDK research emphasis. The Institute should intensify its research effort on the cause and treatment of low back pain.

Diabetes affects an estimated 10 million Americans and is the fifth leading cause of death by disease in this country. If vascular complications are taken into consideration, diabetes may be responsible for as many as 300,000 deaths each year, making it one of the most serious public health problems in the U.S. The Committee has consistently supported diabetes research and welcomes the recent advances made. Because of one of the most striking of these advances, the synthetic production of human insulin using recombinant DNA techniques, unlimited quantities of this hormone will soon be available for treatment of diabetes and additional research. These techniques have also produced human growth hormone for the treatment of growth disorders in children.

New progress in transplantation of pancreas islet cells in animals may prove fundamental to the future development of improved treatment of diabetes and its complications. The Institute also reports rapid improvement in the day-to-day treatment of diabetes, including new techniques for more reliable monitoring of blood glucose control, home monitoring methods for patients, and a variety of new automated systems, including insulin pumps, developed by Institute grantees for the delivery of insulin. The Committee is glad to note that there appears to be increasing private sector interest in development of this technology.

The Committee is advised that these and other advances have so improved blood glucose control that the Institute is now able, for the first time in over 50 years of diabetes research, to design and undertake a long-term study to resolve whether strict control of blood glucose levels will prevent, postpone or lessen the severe complications of diabetes.

Given the debilitating and potentially tragic consequences of diabetes for patients and their families, the Committee supports NIADDK's diversified program on the causes of diabetes and prevention of its complications. The Committee also has been most concerned about careful coordination among all of the Institutes investigating diabetes to assure that the best results are achieved. The Committee reiterates its determination that careful coordination be maintained.

Digestive diseases, including hepatitis, cholesterol gallstones, and peptic ulcers, are major world-wide public health problems, causing more hospitalization than any other group of diseases. The Committee is interested in the treatment implications of a new finding: that hepatitis B viral DNA in the nucleus of liver cells of patients with chronic active hepatitis may be associated with the development of cancer of the liver. The ultimate aim of future research would be to determine whether it is possible to intervene in this process and thus lower the risk of liver cancer.

The Institute's recent completion of a long-term clinical trial on treatment of cholesterol gallstones has given a more precise understanding of the benefits and risks of a potentially important drug and will help to prevent its inappropriate use. The Committee supports NIADDK's commitment to an intensified research effort on alternatives to surgical treatment of cholesterol gallstones. The Committee is also pleased with NIADDK's innovative efforts in nutrition research, an area of great public interest and importance.

Although the lives of nearly 10,000 new kidney disease patients are saved by dialysis or kidney transplants each year, kidney disease still claims the lives of 45,000 Americans annually. The Committee supports the NIADDK's aims in kidney research which emphasize basic investigations into the cause, course of progression, and mechanisms of the several diseases of the kidney which lead to end-stage renal disease. It is vital that these diseases be prevented or more effectively treated, thereby reducing the number of individuals who must depend on artificial kidney substitutes.

Scientists at NIADDK supported centers have developed treatment regimens using diet and drugs which can prevent recurrence of kidney stones. The Committee also looks forward to continued progress by Institute researchers on sickle cell disease and Cooley's anemia, two of the most common and serious inherited blood disorders. The Committee also urges the Institute to continue and strengthen its research into cystic fibrosis.

The Committee has been pleased to learn that the Report on Research Needs and Priorities in Dermatology issued in 1979 at the request of the Committee has contributed substantially to upgrading research in skin diseases. Since all such reports eventually become out of date and thus become less useful, the Institute is encouraged to support the revision of that document to reflect the changing needs and priorities for skin diseases research.

The Committee continues to support the Institute's efforts to learn more about the cause of lupus erythematosus, a disease of the connective tissue.

NATIONAL INSTITUTE OF NEUROLOGICAL AND COMMUNICATIVE DISORDERS AND STROKE

1982 comparable appropriation	$265,901,000
1983 appropriation request	274,505,000
House allowance	294,361,000
Committee recommendation	297,077,000

The Committee recommends an appropriation of $297,077,000 for the National Institute of Neurological and Communicative Disorders and Stroke (NINCDS). This is $22,572,000 more than the administration request and $2,716,000 more than the House allowance. The recommendation is $31,176,000 more than the fiscal year 1982 comparable appropriation of $265,901,000.

The Committee has provided sufficient funding to restore new and competing research project grants and total training slots to at least their fiscal year 1982 levels, and to largely restore the proposed 4-percent cut in noncompeting continuation grants. Additional funds have been provided to support the higher average costs of research project grants and to pay the indirect costs of research at 100 percent of their negotiated level.

NINCDS conducts and supports research and research training on an array of brain and nervous system disorders, and problems of language development, speech, and hearing. Many of these disorders are severely disabling and chronic; they victimize Americans from newborns to the aged, exacting a national economic and emotional toll beyond calculation. In its testimony, the NINCDS presented evidence for optimism concerning basic understanding of normal and abnormal brain function and the ultimate conquest of nervous system disease.

The NINCDS continues to commit a major portion of its efforts and funds to basic research to develop the insights and methods needed for more specific disease-oriented studies. The Committee is encouraged to learn that important new knowledge and techniques—developed largely through funds appropriated to the NINCDS in the past—engender hope that biomedical science may be on the threshold of discovering how the central nervous system works and why it sometimes fails. Major research efforts using positron emission transverse tomography (PETT) are under way with NINCDS support at 11 U.S. institutions. Already this new technology is helping scientists identify the precise areas of the brain involved in stroke, and to assess to the extent of pathology and the potential for recovery. PETT has also proven to be valuable in localizing the region where pathology develops in Alzheimer's disease and other dementias, and in measuring altered metabolic activity associated with head trauma, brain tumors, and epileptic seizures.

While the piecing together of basic information progresses, clinical investigators are focusing their efforts on preventing those neurological and communicative disorders that are somewhat better understood, or minimizing their effects. According to the NINCDS National Survey on Stroke, for example, Americans can expect to see a continued decline in the incidence of stroke, largely as a result of the reduction of stroke risk factors. Nevertheless the Committee is concerned that stroke remains the number one neurological problem in the United States, and that while stroke mortality is declining, morbidity is on the rise. Too many stroke survivors must live with lifelong disabilities. Mindful of the charge to NINCDS-supported stroke clinical research centers to identify risk factors whose control can prevent stroke, the Committee expects the Institute to continue these prevention research activities, and to intensify its search for ways to protect brain cells during the acute stroke episode so that there can be a maximum return of function. The Committee also urges the continued development of improved pharmacological and surgical therapies, and of diagnostic tools to help clinicians identify the type of stroke a patient has suffered.

The Institute reports considerable strengthening of its Communicative Disorders program, whose responsibilities encompass research on hearing loss, speech and language impairment, and disorders of smell and taste. A new intramural laboratory is being established for clinical research, and the NINCDS is funding extramural communicative disorder and sensory disorder research centers to address the poorly understood problems of hearing loss and sensory deprivation. A second purpose of these new initiatives is to recruit and develop the clinical and basic investigators needed for an expanded effort to treat communicative and sensory disorders. Already, new methods developed by NINCDS grantees to treat otitis media, a middle ear disease, have substantially reduced the risk of permanent hearing damage. The Institute looks forward to similar awards from the continued development of the cochlear prosthesis.

The Committee observes that accidents are the fourth major cause of death in the United States, with traumatic injury to the brain and spinal cord a leading factor in these deaths. Even when trauma is not fatal, the victim often is left permanently paralyzed and disabled. Several years ago the Committee asked the Institute to designate neuronal regeneration as a research area of focused attention, with the aim of finding ways to reestablish functional connections within the central nervous system. The Committee is advised that research progress continues to be encouraging. It is now known that injured axons in special areas of the central nervous system of higher animals can regenerate. However, information is still lacking on why, in the human spinal cord, regenerating neuronal fibers will not grow across the injured area to make functionally useful connections. Other encouraging reports come from NINCDS-supported clinical studies which show that patients with severe head and spinal cord injuries survive best and have the best chance to regain function when there is prompt medical intervention to reduce the swelling of nervous system tissue and to improve blood flow. The Committee is well aware of the complexity of central nervous system research, but expects the Institute to press ahead with this urgent work so as to find more effective treatment and an eventual cure for paraplegia.

The Committee also wishes to receive an early report on current work with the pharamaceutical industry to develop and evaluate "orphan drugs" to treat certain types of epilepsy that do not respond to traditional therapies. It is the Committee's hope that the Institute will continue to take a similar approach to developing drugs to treat movement disorders such as Parkinsonism and Tourette syndrome, as well as developmental and genetic disorders such as autism and Huntington's disease.

The Committee's desire that the Institute magnify its commitment to research on autistic children has resulted in the establishment of a section on autism and behavorial disorders within the NINCDS Neurological Disorders program, and the appointment of a section chief. This positive move will expedite long-needed research on the neurobiological aspects of autism and related disorders. Newly reported advances in communicating with autistic children through words and signs, and new language-training approaches to overcoming the autistic child's speech rhythm and sentence structure difficulties, give hope that this NINCDS research effort will prove to be exceptionally fruitful.

The Institute reports an increase in research activity directed toward the problem of Reye's syndrome. The Committee hopes for favorable findings from current evaluations of two possible treatment regimens, and from a variety of basic studies. The Committee urges continued dissemination of information to the public and to health care professionals as one way to promote early identification and treatment of this lethal disorder.

Because of the opportunities available in research on the nervous system, the Committee finds it necessary to have an evaluation completed by a non-government agency of the research opportunities and research needs of the NINCDS.

The Committee requires therefore that a review of research opportunities and research needs of the Institute be studied by the Institute of Medicine or a similar institute, and that a report be made to the Committee six months thereafter.

The Committee anticipates that the study would cost approximately $800,000 and directs that these funds be made available for this purpose.

The Institute also reports new hypotheses regarding abnormalities of brain lipids and decreased serum testosterone levels in patients with amyotrophic lateral sclerosis. These clues should be pursued vigorously, along with continued research on animal models.

Also of considerable scientific interest is NINCDS-supported research on a group of Venezuelan families who show an extremely high incidence of Huntington's disease. Work should also continue on the development of animal models for Huntington's disease and on a reliable early diagnostic test.

Batten's Disease is a progressive neurological disorder, inherited as a recessive genetic disease affecting children causing deterioration in vision, coordination, mental faculties, and ending in death by the late teens or early twenties. Batten's Disease may have an incidence as high as PKU or Huntington's chorea. The cause and cure for this disease are unknown.

The Committee expects the Institute to expand the research effort on Batten's Disease and related areas within the limits of high quality research available.

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

1982 comparable appropriation	$235,895,000
1983 appropriation request	246,043,000
House allowance	276,367,000
Committee recommendation	270,795,000

The Committee recommends an appropriation of $270,795,000 for the National Institute of Allergy and Infectious Diseases (NIAID). This is $24,752,000 more than the administration request and $5,572,000 less than the House allowance. The recommendation is $34,900,000 more than the fiscal year 1982 comparable appropriation of $235,895,000.

The Committee has provided sufficient funding to restore new and competing research project grants and total training slots to at least their fiscal year 1982 levels, and to largely restore the proposed 4 percent cut in noncompeting continuation grants. Additional funds have been provided

to pay the indirect costs of research at 10 percent of their negotiated level.

The Institute conducts and supports research on microbiology and immunology, on a wide range of infectious diseases, and on disorders of the immune system, such as asthma and other allergic, immuno-deficiency and autoimmune diseases. The Institute is the principal, and in many cases the only, source of Federal grants for research on certain diseases including allergic disorders, the common respiratory and gastrointestinal infections, sexually transmitted diseases such as genital herpes, bacterial pneumonias and meningitis, and infectious diseases of international importance.

Infectious diseases remain one of the major health problems of the Nation and one of the leading causes of absenteeism from work and school. A recent Federal report attributed at least 156 million days lost from work each year to infectious diseases, with a cost for treatment and lost productivity of at least $24 billion.

Much of the Institute's research to combat infectious diseases is in the area of prevention, particularly on protective vaccines. Historically, the Committee has shown strong interest and support for the Institute's efforts to develop successful vaccines for meningitis, pneumococcal pneumonia, rabies and rubella. Last year, the Institute described a program for the accelerated development of new vaccines for those infectious diseases with the greatest need and the most promise for success. These included vaccines for a major cause of meningitis in children; gonorrhea; serious respiratory infections in infants and children caused by certain respiratory and parainfluenze viruses; and childhood diarrhea caused by rotaviruses.

The Committee was glad to learn that the Institute has strengthened its attack on sexually transmitted diseases (STD) and is coordinating its research program with the VD prevention and control activities of the Centers for Disease Control. It notes that investigators are pursuing two different types of vaccines for gonorrhea. Both are undergoing evaluation in volunteers.

An NIAID intramural laboratory in Montana now has a program focusing on the gonococcus and chlamydia, two prominent microorganisms causing STD. The opening of the Ambulatory Care Research Facility on the NIH Bethesda campus has allowed the Institute to expand its research related to genital herpes. The Committee expects the Institute to press strongly ahead with efforts against genital herpes for which no cure presently is available.

The Committee continues to follow the work the NIAID's network of asthma and allergic disease centers. Scientists and physicians at these centers continue to report important advances, including improved materials and methods for immunizing patients with hay fever and seasonal asthma, sensitivity tests to diagnose those at risk of developing asthma 2 to 3 years before its clinical appearance, and safe and effective immunization procedures to prevent potentially fatal, allergic shock reactions to the venoms of bee and wasp stings.

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

1982 comparable appropriation	$335,462,000
1983 appropriation request	345,621,000
House allowance	367,009,000
Committee recommendation	372,114,000

The Committee recommends an appropriation of $372,114,000 for the National Institute of General Medical Sciences (NIGMS). This is $26,493,000 more than the administration request and $5,105,000 more than the House allowance. The recommendation is $36,652,000 more than the fiscal year 1982 comparable appropriation of $335,462,000.

The Committee has provided sufficient funding to restore new and competing research project grants and total training slots to at least their fiscal year 1982 levels, and to largely restore the proposed 4 percent cut in noncompeting continuation grants. Additional funds have been provided to support the higher average costs of research project grants and to pay the indirect costs of research at 100 percent of their negotiated level.

NIGMS supports basic research studies, most of which are designed to provide insights into the structure, function, and related processes of the most fundamental units of biology: cells and molecules, chromosomes and genes. This basic research serves as the foundation essential to further more targeted studies relating to the prevention, diagnosis, and treatment of disease and disability. In addition, the concepts and research techniques developed during the course of this basic research often become vital tools for a broad range of research activities. One noteworthy recent example of this is the development of recombinant DNA technology. The use of this technology is growing in biomedical research studies, as well as in commerical applications such as the production of drugs, and other biologically important substances, and certain chemicals used in agriculture and industry.

The research efforts funded by NIGMS are administered by four major programs—genetics, cellular and molecular basis of disease, pharmacological sciences, and physiology and biomedical engineering. All these programs emphasize the support of investigator-initiated research project grants.

The Committee is aware of the discoveries emerging from research in the field of genetics. Studies of the mechanisms that control the activity of genes, the dynamic nature of DNA, the location and function of specific genes on chromosomes, and the effects on genes of chemicals and other environmental agents are among those which promise to expand our understanding of human inheritance. Such understanding is critical to efforts to prevent or treat specific genetic diseases and to determine the genetic factors associated with such diseases as cancer, hypertension, arthritis and diabetes.

The research supported by the cellular and molecular basis of disease program complements genetic studies by focusing on molecular, subcellular, and cellular structures, functions and processes in both their normal and diseased states. At times, these studies explore the relationships between genetic expression and the proper functioning of a vital protein, an enzyme, a cell organelle, or a cell membrance. Other studies concentrate on improving our understanding of the various individual components of the cell. All this work produces basic findings useful in determining how normal cellular activity prevents disease and how abnormal cellular activity contributes to disease.

The Committee notes that the pharmacological sciences program continues to support important research on the chemical and molecular processes involved in the actions of therapeutic drugs. Findings from studies involving targeting drugs to particular disease sites, examining the interactions of drugs in the body, and determining the factors which influence drug metabolism are among those which eventually may be applied to the development of safer, more effective drugs or treatment strategies.

The physiology and biomedical engineering program supports diverse research activities which apply the physiological, chemical, physical and engineering sciences to the solution of biomedical problems. The continuing refinement and testing of an artificial skin to be used on extensive burn wounds is a noteworthy example of such research. The Committee observes that the development of improved research instrumentation and the NIGMS shared instrumentation initiative are other important efforts of this program.

To assure that biomedical research flourishes in the future, NIGMS continues its significant investment in research training programs. By emphasizing broad, multidisciplinary predoctoral training, the Institute's grantees prepare bright young investigators for research careers in many biomedical fields. Two special NIGMS-supported training programs—the medical-scientist (M.D.-Ph.D.) training program and the minority access to research careers (MARC) program—address shortages in clinical investigators and minority biomedical scientists, respectively. The Committee's interest in all the research training programs of NIGMS continues.

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

1982 comparable appropriation	$226,309,000
1983 appropriation request	233,575,000
House allowance	251,561,000
Committee recommendation	255,749,000

The Committee recommends an appropriation of $255,749,000 for the National Institute of Child Health and Human Development (NICHD). This is $22,174,000 more than the administration request and $4,188,000 more than the House allowance. The recommendation is $29,440,000 more than the fiscal year 1982 comparable appropriation of $226,309,000.

The Committee has provided sufficient funding to restore new and competing research project grants and total training slots to at least their fiscal year 1982 levels, and to largely restore the proposed 4 percent cut in noncompeting continuation grants. Additional funds have been provided to pay the indirect costs of research at 100 percent of their negotiated level.

NICHD supports and conducts research to improve the health and well-being of the developing infant and child to prevent problems that have their origins early in life and lead to adult disabilities and early death.

Problems associated with reproduction and development such as birth defects, premature birth, and mental retardation are among the most significant and costly health problems of our society. To prevent or ameliorate these problems, the NICHD supports and conducts a comprehensive research program that combines maternal and child health research with a full range of population studies that focus on the complexities involved in contraception, childbearing, and childrearing. The NICHD program includes biomedical, behavioral and social sciences projects.

The Foundation of the Institute's research program is a plan based on these research areas: fertility and infertility; pregnancy, birth, and the infant; nutrition; Sudden Infant Death Syndrome; congenital defects; mental retardation; child and adolescent development; contraceptive development; contraceptive evaluation; and population dynamics.

An important area for NICHD research is the prevention of premature birth, one of the most common causes of neonatal mortality and morbidity. Infants born with low birth weight (less than 5.5 pounds) or after short gestation account for two-thirds of the 45,000 infants who die in the United States each year.

Institute figures show that improvements in the treatment of premature infants and other research advances have contributed to a decline in infant mortality since 1976, though the infant mortality rate in the U.S. remains too high. A number of NICHD-supported research projects focus on the basic question of what triggers the start of labor. When this answer is found, more progress can be made in preventing prematurity, according to the Institute. One promising line of study investigates the role that infection may play in triggering premature labor. If infection is confirmed to be a major cause of prematurity, this knowledge could lead to treatment that substantially reduces the incidence of prematurity.

The nutrition research program of the NICHD is designed to provide information on the interrelationships of food, nutrition, and human development and to develop new understandings of nutritional imbalances and interactions in early life that may lead to diseases and disability in later life. This program includes research on breast-feeding and the causes of intrauterine growth retardation (IUGR). NICHD-supported investigators have recently developed an animal model of IUGR in which nutrients are delivered directly to the fetus through the amniotic fluid. If this treatment proves successful, infant mortality and morbidity associated with IUGR can be reduced, the Institute advises.

The NICHD continues its comprehensive research program into Sudden Infant Death Syndrome (SIDS). The Institute recently reported the first findings from its Cooperative Epidemiologic Study of Risk Factors, a large multicenter study designed to identify factors which differentiate SIDS infants from non-SIDS infants. The Committee is advised that early data confirm many of the findings from other SIDS research. For instance, it was found that those who appear to be at increased risk of SIDS are: male infants, premature or low birthweight infants, babies from a low socioeconomic background, and babies born to mothers who smoked or were anemic or had an amniotic fluid infection during pregnancy. In addition, preliminary data were released from this study to allay fears over a reported association between SIDS and DPT vaccination. The Institute states that the study has found no such association. It is hoped that other findings from this study will in the future enable physicians to identify infants at increased risks for SIDS and to take preventive measures. The risk factor study and other SIDS studies continue with this goal in mind.

Some 150,000 newborns in this country have significant congenital malformations or hereditary disorders. While representing 3 to 5 percent of all births, they account for approximately 20 percent of infant mortality and account for many cases of mental retardation, physical disability, blindness and deafness, and developmental disabilities. For the great majority of congenital and developmental defects, the cause remains unknown. Thus, an important priority of the Institute is research on the causes, prevention, alleviation and treatment of these problems.

An important priority of the Committee is research on mental retardation, a condition which affects nearly 7 million Americans. As urged by the Committee, Institute-supported scientists have developed an important research tool—an animal model for the specific chromosomal defect most often responsible for Down's syndrome. Down's syndrome is the most common and readily identifiable genetic condition associated with mental retardation. Using this animal model, scientists are able to conduct experiments which would not be feasible using human subjects. The NICHD recently announced the availability of this new animal model to the research community and anticipates an acceleration of research relating to Down's syndrome.

The Institute maintains significant research interest in the behavioral and social aspects of human development as well as the physical aspects. Institute-supported scientists are studying the response and interaction of infants to their environment. Studies on the development of learning ability make it possible to assess the condition of infants who are born at risk for abnormal development and to evaluate environmental effects and the impact of special programs on these infants. NICHD-supported researchers also study learning disabilities such as dyslexia, and impairment of reading ability. Tests developed with Institute support are useful for both diagnosing and prescribing remedial procedures for reading disability.

The Committee has closely followed NICHD's efforts in the areas of regulation of fertility, alleviation of infertility, and treatment for reproductive diseases that rest on understanding basic reproductive biology. Research in this area by NICHD intramural scientists and by grantees has led to the discovery of a basic hormone in the brain which regulates reproductive functions in both men and women. According to the Institute, this hormone has been used successfully to treat specific causes of infertility in both men and women and is currently being investigated as a new contraceptive agent for women and the first chemical contraceptive for men.

The primary objective of the NICHD contraceptive development program is to make available effective, safe, and acceptable means of contraceptive by developing new methods and improving the technology of fertility regulation. The Committee notes that research is continuing on improving traditional methods of contraception such as diaphragms, and clinical trials are underway to test the efficacy of cervical caps. Studies are also supported on natural family planning methods.

Research continues on the health effects of currently used contraceptive methods such as oral contraceptives and vasectomy. Research has shown that the most important side effect of oral contraceptive use is increased risk of cardiovascular disease, especially for women over the age of 35 who smoke. On the other hand, very recent research reports indicate that oral contraceptive use may offer some protection against the development of ovarian cancer, according to the Institute. Research on this and other issues related to oral contraceptive use should continue.

The NICHD also maintains a research program in population dynamics. Behavioral and demographic studies are supported on the relation between women working outside the home and their decisions regarding childbearing, the cost of raising a child, and changes in population patterns due to migration and social factors such as the increasing divorce rate.

NATIONAL EYE INSTITUTE

1982 comparable appropriation	$127,374,000
1983 Appropriation request	131,550,000
House allowance	138,763,000
Committee recommendation	144,360,000

The Committee recommends an appropriation of $144,360,000 for the National Eye Institute (NEI). This is $12,810,000 more than the administration request and $5,597,000 more than the House allowance. The recommendation is $16,986,000 more than the fiscal year 1982 comparable appropriation of $127,374,000.

The Committee has provided sufficient funding to restore new and competing research project grants and total training slots to at least their fiscal year 1982 levels, and to largely restore the proposed 4 percent cut in noncompeting continuation grants. Additional funds have been provided to support the higher average costs of research project grants and to pay the indirect costs of research at 100 percent of their negotiated level.

Eye disease and blindness cause suffering, disability, and loss of productivity for millions of people throughout the world. In the United States alone, more than 10 million people suffer from visual impairment that cannot be corrected by eyeglasses or contact lenses. Added to the physical pain and emotional hardship that vision disorders cause is their staggering economic burden, estimated in the billions of dollars.

Over the past 14 years support for vision research provided by NEI has led to numerous accomplishments and discoveries that have greatly advanced the fight against blindness and visual disability. Most recently a nationwide clinical trial demonstrated that laser treatment can be highly effective in preventing or retarding severe visual loss from one of the leading causes of blindness, age-related maculopathy.

Intensive research has led to dramatic improvements in the diagnosis and treatment of eye diseases, and in some cases to means of restoring the visual loss they cause. However, the fact that most of the more common and serious diseases are still poorly understood underscores the need for continued and intensified research.

Diabetes affects a number of eye tissues, but exerts its most harmful effects of the tiny blood vessels of the retina where it triggers a series of events which may lead to severe and irreversible visual loss. The Committee understands that timely laser treatment can halt the progress of diabetic retinopathy and forestall blindness in a large percentage of cases. In some instances, impaired vision can be improved through a surgical procedure known as vitrectomy. As impressive as these findings are, however, much more research is needed to find better ways of treating this disease. The Institute should continue the search for better meth-

ods of treatment and for ways of preventing and curing diabetic retinopathy.

Herpes simplex virus is the leading infectious cause of corneal blindness and impairment in the United States. Acute ocular herpes infections are difficult to treat, but a number of effective antiviral drugs are now available. In fact, most of the anti-herpes drugs now on the market were first tested and proven effective in the eye, and research on ocular herpes and its treatment has made a major contribution to knowledge and treatment of herpes infections generally. Unfortunately, none of the present agents can prevent recurrences of ocular herpes, because the virus remains latent within nerve tissues behind the eye. Therefore, the Committee believes that further research on this painful and disabling condition is a high priority.

The National Eye Institute devotes most of its funding in the cataract program to research aimed at developing means of preventing or slowing cataract development or of treating it nonsurgically. It has been estimated that if it were possible to slow the progression of cataracts enough to delay the need for surgery by only 10 years, the number of cataract operations performed in the United States could be reduced by 45 percent annually and more than $530 million per year could be saved, according to the Institute.

In the search for a cure for glaucoma, an understanding of the normal cellular processes that regulate the flow of aqueous humor through the eye, and how drugs act upon them, is essential, as is determining how optic nerve damage is related to intraocular pressure. Research to improve our understanding of the basic processes in the optic nerve which are affected in glaucoma should continue. This, the Committee is advised, may lead eventually to the development of ways to protect the optic nerve and perhaps to a means of reversing nerve damage and subsequent blindness from glaucoma.

The Committee is pleased that two NEI-supported grantees shared the 1981 Nobel Prize in medicine or physiology. Their basic research has been translated into clinical situations and has saved many children from lifelong blindness caused by congenital cataract and strabismus. Basic neurobiology and clinical research on the structure, function, and development of those parts of the brain and extra-ocular muscle system that make vision possible should be further emphasized in fiscal 1983.

The NEI intramural program is also pursuing several promising areas of investigation. One of these is uveitis, and inflammatory disease of the inner eye which is responsible for 10 percent of all visual impairment in the United States. A new drug, cyclosporin A, is being tested in a clinical trial to determine its effectiveness in treating uveitis. Initial results indicate that the drug is successful in treating some forms.

The Committee also notes that there will be increased opportunity for collaborative efforts with the shift of NEI intramural scientists to contiguous space. The Committee hopes that the consolidation of scientists in this setting will produce even more effective research results in behalf of the visually impaired.

In another branch of the intramural program, basic scientists are gaining many insights into the mechanisms by which aldose reductase causes damage. Studies have shown that aldose reductase is responsible for cataract formation in diabetic rats. Perhaps more important new evidence points to the possibility that aldose reductase may be involved in the manifestation of other complications of diabetes, such as neuropathy and retinopathy as well. Finally, the Laboratory of Molecular and Developmental Biology is looking at ways to correct major disorders, particularly those that are congenital or hereditary, by correcting defects at the gene level. These investigations may pave the way for novel approaches to treating congenital ophthalmic disorders. Studies such as these will increase the opportunity to prevent as well as treat vision disorders.

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

1982 comparable appropriation	$154,258,000
1983 appropriation request	157,448,000
House allowance	162,695,000
Committee recommendation	166,040,000

The Committee recommends an appropriation of $166,040,000 for the National Institute of Environmental Health Sciences (NIEHS). This is $8,592,000 more than the administration request and $3,345,000 more than the House allowance. The recommendation is $11,782,000 more than the fiscal year 1982 comparable appropriation of $154,258,000.

The Committee has provided sufficient funding to restore new and competing research project grants and total training slots to at least their fiscal year 1982 levels, and to largely restore the proposed 4 percent cut in noncompeting continuation grants. Additional funds have been provided to support the higher average costs of research project grants and to pay the indirect costs of research at 100 percent of their negotiated level.

NIEHS conducts and support research on the effects of environmental agents on human health. This research serves the practical purpose of identifying toxic agents and improving understanding of the manner in which they cause cancer, birth defects, and other damage to human biological systems. This is the necessary first step in preventing disease. Such information is transmitted to other scientists, physicians, and interested Federal agencies as the first step in risk reduction.

In the past 2 decades much has been learned about the potential adverse health effects of chemicals. Increases in many diseases have been linked to specific environmental agents. However, many compounds still remain to be identified and their effects understood.

Two areas of particular environmental concern, according to the Institute, are the contamination of drinking water sources by synthetic organic chemicals. The second involves some 50,000 sites where chemical wastes are buried. The Committee will wish to thoroughly explore these problems with the Institute during fiscal 1983 hearings.

A significant portion of the NIEHS research effort goes into the National Toxicology program (NTP) which is one of the primary mechanisms the Federal Government has to identify and characterize toxic chemicals. In fiscal year 1983 the NTP will continue efforts to test chemicals for a variety of toxic effects and to develop realistic alternatives to the costly and time-consuming test methodologies now available. The NTP expected to have approximately 205 comprehensive bioassay tests under way to determine carcinogenic effects and to provide more complete toxicological profiles of the chemicals under study. Additionally, there will be approximately 380 ongoing tests of specific compounds to determine their ability to induce genetic mutations and 12 tests ongoing to determine the chemicals' ability to cause birth defects.

As the Toxic Substances Control Act is implemented and the burden for testing single chemical compounds shifts from the Federal Government to the private sector, NTP will place increasing emphasis on developing faster, less expensive methods to replace the current long-term bioassay now used. The NTP will also become increasingly involved in designing tests for mixtures of chemicals, and in developing the methodology needed to assess the risk posed by chemicals. The Government needs to be able to determine the risk posed by multiple toxic chemicals if it is to rationally regulate their use.

The NIEHS plays a significant role in the training of environmental toxicologists, epidemiologists, pathologists, and biostatisticians through fellowship and training grant awards. These scientists meet a growing need in the private sector, academic research institutions, and government agencies to develop new knowledge about the many and varied environmental health problems the Nation faces.

The laboratory portion of the new NIEHS facility was scheduled for occupation this year. These modules will provide up-to-date work space for the Institute's laboratory programs.

NATIONAL INSTITUTE ON AGING

1982 comparable appropriation	$81,903,000
1983 appropriation request	84,556,000
House allowance	96,104,000
Committee recommendation	91,887,000

The Committee recommends an appropriation of $91,887,000 for the National Institute on Aging (NIA). This is $7,331,000 more than the administration request and $4,217,000 less than the House allowance. The recommendation is $9,984,000 more than the fiscal year 1982 comparable appropriation of $81,903,000.

The Committee has provided sufficient funding to restore new and competing research project grants and total training slots to at least their fiscal year 1982 levels, and to largely restore the proposed 4 percent cut in noncompeting continuation grants. Additional funds have been provided to pay the indirect costs of research at 100 percent of their negotiated level.

The number of elderly in the United States is expected to reach 30 million in this decade and to exceed 40 million by 2020. Only by knowing more about aging and the difficulties and changes that occur as the Nation's population grows older, can we promote the health and well-being of the aged and the aging. This is the job of the NIA and it is an important one indeed.

The Committee, recognizing the demographic impact of an aging population, fully supports research into the processes of aging and the causes and prevention of diseases and disorders associated with aging. Such research has great potential for reducing the incidence of the debilitating conditions of old age. Thus, new knowledge provides a better understanding of the mechanisms of aging and how to prevent and treat age-related disorders. For example, significant progress has been made toward improved understanding of senile dementia, a

condition of high incidence among the elderly population and of enormous social cost. Approximately 3 to 4 million elderly Americans suffer from some type of dementia. Some 1,500,000 of these have senile dementia of Alzheimer's type with intellectual deterioration and inability to carry out the normal tasks of daily living.

One of the most recent scientific leads concerning Alzheimer's disease comes from scientists working with slow viruses. These viruses typically require between 10 and 20 years to produce their damaging effects on the nervous system. The recent discovery of a virus-like particle that does not appear to contain nuclear material—referred to as prion—may give scientists a significant lead to a possible cause of senile dementia of the Alzheimer's type, according to the Institute.

The Committee is anxious to see that Alzheimer's Disease research efforts now under way at various Institutes and other agencies of government have strengthened coordination and cooperation. The Committee directs that, prior to next year's hearing, a report be submitted to the Committee on the state of the science of Alzheimer's Disease, as well as on the efforts undertaken to ensure better coordination among the Institutes and other agencies of government.

The NIA has initiated a small clinical research program at the Warren G. Magnuson Clinical Center to strengthen the research capabilities of its laboratory of neurosciences. The clinical program, working with the basic research program, will examine cerebral changes as they relate to aging and dementia. The Committee notes the progress being made, and encourages the Institute to expand this program when the six-bed clinical research unit is made available. The Committee has supported establishing such a research unit.

In 1981, the NIA proposed the creation of a teaching nursing home award to speed clinical investigation and training in specific disorders that bring a need for long-term care of the elderly population. The Nation's expenditures for nursing homes are nearing $22 billion annually and will more than triple by 1990. These high costs are in part a reflection of the lack of knowledge about effective and cost-saving methods of management and treatment of many of the disorders of the elderly. The research will focus on senile dementia, incontinence, gait disorders, prevention and management of bedsores, behavioral and organizational interventions to improve patient functioning, and drug interactions. The Committee understands that the teaching nursing home award is an important component of an overall effort to develop a research program in geriatric medicine to increase the body of knowledge in this area, and encourages the Institute to strengthen its commitment with a portion of the additional funds made available.

The emphasis being placed on developing and validating indices of human performance along functional rather than chronological age lines is encouraging. The Committee understands that studies will be directed at examining technological changes in work and their impact upon work roles, aging, and human performance; specifying the conditions that can sustain the health, well-being, and independence of older persons; and how timing and sequencing of life events are influenced by industrialization, urbanization, and other changes in institutions and populations.

Research done over a number of years at the NIA's Gerontology Research Center with experimental animals has resulted in the development of a technique which opens up the blood-brain barrier. This normal barrier is selectively permeable to substances circulating in the blood stream. Thus, the opening-up technique may prove valuable in enhancing the effectiveness of drugs used to treat conditions in the elderly such as senile dementia of the Alzheimer's type, certain nervous disorders, and perhaps even brain tumors. The opening-up technique has been shown to cause no neurological changes and to be reversible. Trials for the use of the technique in the treatment of brain tumors are underway. Trials for use of the technique with other age-related disorders are currently being considered for feasibility.

RESEARCH RESOURCES

1982 comparable appropriation	$184,177,000
1983 appropriation request	191,024,000
House allowance	227,642,000
Committee recommendation	199,967,000

The Committee recommends an appropriation of $199,967,000 for the Division of Research Resources (DRR). This is $8,943,000 more than the administration request and $27,675,000 less than the House allowance. The recommendation is $15,790,000 more than the fiscal year 1982 comparable appropriation of $184,177,000.

The Committee has provided sufficient funding to maintain research project grants and training positions at their fiscal 1982 levels. Additional funds have been provided to pay the indirect costs of research at their full negotiated level and to restore funding for the six general clinical research centers proposed to be closed.

The Division of Research Resources (DRR) is unique among the components of the National Institutes of Health. DRR is the organization charged with the responsibility for strengthening and enhancing the research environments of institutions engaged in health-related research. This is done through developing and sustaining a wide variety of resources essential to the conduct of biomedical research. Such resources are used by a broad spectrum of investigators in helping to carry out the mission of the NIH. Approximately 30 percent of all NIH grants and 25 percent of the total of NIH extramural funds are held by research investigators who are users of the DRR resources. These resources are multicategorical in nature, and the investigators using them are conducting research that covers virtually all disciplines of biomedical science.

Through its extramural programs, the Division develops and supports biotechnology resources that provide access to the latest technologies from the physical sciences, mathematics, and engineering; general clinical research centers that are specialized clinical research environments within larger teaching hospitals; and animal resources that support projects resulting in the most effective use of animals in research. In addition, it supports the seven national primate research centers and a number of valuable animal colonies. The Division also awards minority biomedical research support grants to increase the participation of ethnic minority students and faculty in the biomedical sciences and health professions; and biomedical research support grants that enable institutions to more efficiently and effectively conduct their biomedical research programs through the use of flexible funds and local decisionmaking.

As a result of the work of the general clinical research centers there have been developed artificial kidneys, insulin pumps and heart pacers, as well as new techniques for certain organ transplantations. In addition, new drugs and diets have been developed for the effective treatment of atherosclerosis, coronary artery disease, hypertension, obesity, diabetes, arthritis, viral disease, and psychiatric disorders. The clinical research environments provided by these centers are vital in translating basic research findings into clinical applications leading to the prevention of disease in man. The Committee recommendation will provide support for 71 general clinical research centers and affiliated activities in 1983. DRR, where possible and appropriate, should continue to encourage research involving outpatients rather than hospitalized patients in an effort to hold down rapidly rising hospital care costs.

The biotechnology resources program is designed to develop new technologies and provide access to sophisticated research instrumentation for use by biomedical scientists. In addition to developing new research technologies and methods, this program also can help alleviate instrumentation shortage and obsolescence in laboratories conducting federally-supported biomedical research. Biotechnology resources are regional and national in scope and provide a unique opportunity for researchers to have access to specialized technologies often not available at their own institutions. Technological capabilities are provided in this way to overcome restraints of cost, complexity, or scarcity.

The Committee is interested in DRR activities involving industry and other federal agencies in the development of research resources and new technologies. DRR staff should continue efforts to bring together the knowledge bases and resources of the private and public sectors for overall benefits to health research. Of particular interest to the Committee is the PROPHET Computer Network, which is being used by several pharmaceutical houses as well as the Food and Drug Administration for drug development and testing purposes, and the CLINFO System, which was developed by DRR and is now being made available commercially to provide clinical researchers with a tool to efficiently manage clinical data. The Committee also notes the cooperation that DRR has received from other components of the NIH in providing support for Minority Biomedical Research Support grants. The Committee regards the MBRS program as worthy of continued support.

The Biomedical Research Support Program is designed to enhance the ability of institutions to conduct research by providing flexible funds on which to draw to support new research efforts, bright young investigators who have not yet obtained direct grant support, and pilot projects. Additionally, these funds provide a portion of the cost of shared research equipment and research facilities.

The Committee is concerned about the Department's decision to increase the threshold to qualify for biomedical research support grants. The Committee is particularly concerned about the impact this revision (raising the eligibility threshold from $200,000 to $500,000) will have on small research institutions. It was informed that a number of nursing, dental and pharmacy schools will not receive BRSG support in

fiscal 1983, thus adversely affecting research programs at these schools.

In the interest of maintaining high quality research, the Committee intends to examine the impact of this proposal on the smaller research institutions during its fiscal 1984 hearings. The proposed threshold requirement therefore should not be implemented until this review is completed and the results are evaluated by the Committee.

The Committee takes note of the report on shortages in research equipment and instrumentation that was submitted by the NIH. The report estimates that the NIH community of scientists, given the opportunity, would demonstrate a substantial need for shared research instrumentation. To meet this need, DRR initiated a new shared instrument grant program in 1982 which generated considerable interest in the biomedical research community. This brought some $40,000,000 in applications from more than 200 institutions seeking new research equipment or upgrading obsolete instrumentation. The Division was able to fund 22 of these applications at a cost of $3,700,000. In light of this demonstrated need, the Committee believes that DRR, to the extent possible, should set-aside a portion of program funds for grantee institutions participating in the Minority Biomedical Research Support program.

The Committee notes that DRR has come up with a biomedical research model development to better serve the needs of investigators who require appropriate research models, and to meet the concerns of animal welfare groups which are urging the Federal Government to find alternatives to the use of laboratory animals for research. In fiscal 1983, this activity will consist of initiating planning efforts through workshops and conferences aimed at understanding the problems and identifying areas of research and technology most likely to benefit from the development of models.

JOHN E. FOGARTY INTERNATIONAL CENTER

1982 comparable appropriations	$9,205,000
1983 appropriation request	10,147,000
House allowance	10,147,000
Committee recommendation	10,147,000

The Committee recommends an appropriation of $10,147,000 for the John E. Fogarty International Center for Advanced Study in the Health Sciences. This is the same as the administration request and the House allowance. The recommendation is $942,000 more than the 1982 comparable appropriation of $9,205,000.

The John E. Fogarty International Center for Advanced Study in the Health Sciences is the organizational component of the NIH that promotes and coordinates international cooperation in significant areas of biomedical research. Through its postdoctoral research fellowships in the United States and abroad, exchanges of senior scientists with other countries, and international conferences and seminars, the Fogarty International Center (FIC) provides a bridge to facilitate the development and communication of new technologies and discoveries that bear on health problems of the American people. In addition, the Fogarty International Center is the liaison between the NIH and the PHS Office of International Health, the Department of State, foreign governments, and international health organizations.

The Fogarty International Center currently discharges its responsibilities through four programs—Advanced International Studies, International Research and Awards, International Coordination and Liaison, and Foreign Scientists Assistance. The common goal of these programs is to assure better scientific communication and to foster exchange of information and data between our scientists and researchers in foreign countries.

The Advanced International Studies Program utilizes the unique resources of the Fogarty Scholars-in-Residence and conferences and seminars to focus attention on critical and rapidly developing areas of research. Fogarty Scholars are world-renowned investigators who spend up to a year at the NIH writing and lecturing, and participating in collaborative research projects with NIH scientists. During their residency, these scholars organize conferences and workshops designed to communicate up-to-date information on topics of far reaching importance, assess the state of the science, and develop areas for future investigation. During the past year the Fogarty International Center hosted 10 scholars. The Center is reviewing the Scholars Program to determine whether a broader range of disciplines should be included—such as epidemiologists and behavioral scientists; whether some scholars, who cannot come for a full term of residence, should be invited for shorter periods; and whether changes in the nominating procedure are desirable.

International conferences and symposia facilitate the exchange of current research information, serve as a forum to develop new hypotheses, provide the means to assess the value and direction of past and present research in a given field, and identify gaps in knowledge for future research undertakings. The FIC provides a central role in planning and organizing these conferences and, in conjunction with NIH Institutes and other organizations, provides funds to support them.

A third component of the Advanced International Studies Program is the study of biomedical research issues that deal with specific health problems of international concern. One such issue—the eradication of specific diseases—is underway. Two problems to be addressed by the International Issues-Study Progam are the feasibility of the eradication of measles and poliomyelitis.

The International Research and Awards Program provides fellowships to scientists at various stages of their careers to pursue collaborative research projects in the United States and abroad. Senior International Fellowships are awarded to productive American scientists to permit them to work in foreign laboratories with scientists who have similar interests. The International Research Fellowships are designed to bring to the United States bright, young foreign scientists, nominated by expert committees in their home country and reviewed by NIH study sections, to share their ideas with investigators in American institutions.

The International Coordination and Liaison Program of the Fogarty International Center serves as the link between the NIH and the biomedical research communities in other countries and international organizations concerned with medical research. Advice is also provided to the Director, NIH, and to the Directors of NIH Bureaus, Institutes, and Divisions for development of international policies, procedures and activities. There are currently 41 bilateral agreements which involve NIH with 26 countries in three types of agreements: agreements made at the government-to-government level which promote broad science and technology objectives; agreements between Department-level agencies which may have general preventive health or health-maintenance objectives, as well as concerns with specific disease issues; and agreements between NIH and a foreign counterpart in which specific components of NIH are identified and participating in particular disease or biomedical research areas. The provisions of bilateral agreements include visits and consultations, conferences and workshops, collaborative or coordinated research, and the cost sharing of scientific exchange. Major agreements are with China, U.S.S.R., other Eastern European countries, Japan, Egypt, Israel, India, and Nigeria.

The Fogarty International Center also serves as the administrative channel for funds appropriated by the Congress of the Gorgas Memorial Institute for the maintenance and operation of the Gorgas Memorial Laboratory in Panama. The Committee wishes to know whether it would be possible to obtain, more participation from other countries in the Central American region in contribution to the support of this laboratory. The Fogarty International Center should make the necessary inquires through the appropriate channels toward this end, and should provide the Committee with a report prior to the beginning of fiscal 1984 hearings.

NATIONAL LIBRARY OF MEDICINE

1982 comparable appropriation	$45,035,000
1983 appropriation request	46,043,000
House allowance	46,043,000
Committee recommendation	46,043,000

The Committee recommends an appropriation of $46,043,000 for the National Library of Medicine (NLM). This is the same as the administration request and the House allowance. The recommendation is $1,008,000 more than the fiscal year 1982 comparable appropriation of $45,035,000.

The National Library of Medicine is the Nation's principal resource for information used in biomedical research, health education, and health care delivery. It is in the forefront of developing the information services required to provide the health community with rapid access to the world's scientific and scholarly biomedical literature. As a major biomedical-communication center, NLM is applying the latest computer and communications technologies to health information transfer problems.

The health community relies heavily upon NLM's online computerized MEDLARS (Medical Literature Analysis and Retrieval System) system to aid in the identification and dissemination of the professional literature. MEDLINE, the most frequently used of the Library's online date bases, recently marked its tenth anniversary. Initiated with a group of 25 health science institutions in 1971, the NLM online network today comprises 1,800 centers in the United States and abroad located within universities, medical schools, hospitals, government agencies, and commercial organizations. In fiscal year 1982, users of the network generated over two million searches.

Concerns have been raised that some NLM services unfairly compete with similar services provided by the private sector since NLM's prices fail to recover the full cost of creating and providing MEDLARS services.

NLM's current policy is to charge the full cost to access its system but its pricing does not include all other costs such as the costs of data creation. In a time of fiscal restraint it is important to examine these complex public/private sector issues. The Committee notes that the OTA has completed its study of NLM's MEDLARS pricing policies and generally concluded that NLM's pricing policies are consistent with existing statutes and regulations. GAO has also studied this issue. While generally finding NLM's pricing policies to be reasonable and legal, GAO recommended total full cost pricing of MEDLARS to certain non-health-related users.

The Department of Health and Human Services is currently studying the MEDLARS pricing issue, among others, regarding the NLM, and intends to issue a report in September 1983. The Committee believes it would be useful to have a report from the Department, as well as the OTA report and completed GAO study of the pricing issue, in time for the first budget resolution of May 1983. This would permit the Committee sufficient time to consider taking legislative action.

In fiscal year 1983, NLM will continue the development of a third-generation computer-based system for library and information services. The primary goal of this evolving system, known as MEDLARS III, is to automate more fully such internal functions as acquisitions, cataloging, and indexing. MEDLARS III has great potential for reducing the cost of handling literature and for speeding the delivery of biomedical information to professionals who require it.

The Medical Library Assistance Act provides support for developing health information services for the Nation's health professionals. One major activity authorized by this Act, the Regional Medical Library Program, has created a biomedical communications network through which comprehensive medical information is provided to the Nation's health professionals. This program has developed an effective and efficient document delivery system through which more than two million interlibrary loans were provided to the health community in fiscal year 1981. The network soon will be reduced from eleven to seven regions. The Committee encourages the continued development of a cost effective system, but cautions that such a reconfiguration must ensure that the quality of service to health professionals is sustained. The Committee also assigns a high priority to NLM's computers-in-medicine research program, an activity that is effectively integrating computer technology into clinical medicine.

The Lister Hill National Center for Biomedical Communications conducts applied research and development in the fields of computer science and communications technology to improve health care delivery, health science education, and biomedical research. Programs are aimed at developing new systems to provide health professionals with better access to the knowledge contained in books, journals, and reports. The Committee recognizes that improvement in the dissemination of research results is heavily dependent on innovative research on the application of new technologies for information handling.

The National Medical Audiovisual Center, which is dedicated to improving the transfer of biomedical information through creative use of audiovisual materials and technology, will be organizationally merged with the Lister Hill Center in fiscal 1983. The Committee hopes this will result in more efficient operation of these programs.

The Toxicology Information Program, through creative specialized information services, provides users in government, educational institutions, and industry with rapid access to information about the effects of drugs, chemicals, and other toxic substances on humans and the environment.

OFFICE OF THE DIRECTOR—NIH

1982 comparable appropriation	$23,618,000
1983 appropriation request	24,283,000
House allowance	24,683,000
Committee recommendation	24,683,000

The Committee recommends an appropriation of $24,683,000 for the Office of the Director. This is the same as the House allowance. The recommendation is $1,065,000 more than the fiscal year 1982 comparable appropriation of $23,618,000.

The Office of the Director provides the overall direction for the National Institutes of Health. The appropriation funds those offices responsible for intramural and extramural research policy development, medical applications of research, communications, program planning and evaluation, equal opportunity, contract and grant administration, management policy, investigation and review, protection from research risks, and financial and personnel management.

The increase over the 1982 level is for mandatory expenditures and for the cost of the October 1981 pay raise.

NIH BUILDINGS AND FACILITIES

1982 comparable appropriation	$9,898,000
1983 appropriation request	17,500,000
House allowance	17,500,000
Committee recommendation	17,500,000

The Committee recommends an appropriation of $17,500,000 for NIH buildings and facilities. This is the same as the administration request and the House Allowance. The recommendation is $7,602,000 more than the fiscal year 1982 comparable appropriation of $9,898,000.

This appropriation provides for the design, construction, improvement, and major repair of the building and support facilities of the National Institutes of Health.

Of the total amount provided, $6,600,000 is for the program to renovate the main part of the Clinical Center in Bethesda, a facility which has been operational for more than 25 years and is in need of life safety code and other work.

Funds of $5,000,000 are provided for the first phase in the expansion/renovation of Building 8. This is part of a long-term rehabilitation effort to upgrade six laboratory buildings which have been operational for approximately 40 years.

Funds of $1,000,000 are for the construction of an addition to Building 21 to handle hazardous chemical and radioactive wastes and $700,000 provides for the installation of sun screens and double-glazing of windows on Building 31C, an essential factor in reducing the cooling load and in saving energy.

Funds for routine repair and improvements in the electrical, mechanical, and structural components of buildings at NIH installations at Bethesda, the Poolesville animal farm, the Gerontology Research Center in Baltimore, the Rocky Mountain Laboratory at Hamilton, Mont., and at other NIH field stations, total $1,620,000. The appropriation also includes $2,580,000 for repairs and improvements to meet program requirements resulting from changes in research activities. The total repair and improvement funds are $4,200,000.

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

1982 comparable appropriation	$768,037,000
1983 appropriation request	738,177,000
House allowance	768,106,000
Committee recommendation	782,056,000

The Committee recommends an appropriation of $782,056,000 for alcohol, drug abuse, and mental health activities. This is $43,879,000 more than the administration request and $13,950,000 more than the House allowance. The recommendation is $14,019,000 more than the fiscal year 1982 comparable appropriation of $768,037,000.

The mission of the Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA) is to develop an understanding of and to address alcoholism, drug abuse, and a range of mental illnesses. Toward these goals, ADAMHA maintains intramural research facilities and awards project grants and contracts in support of extramural research, research training, and prevention programs. Additionally, ADAMHA provides technical assistance to States and communities as they establish and operate alcohol, drug abuse, and mental health programs, and serves as the major federal agency in educating the public about these problems.

The agency consists of three Institutes with direct programmatic responsibility for the ADAMHA health areas and providing policy guidance in the development and administration of ADAMHA programs. They are: the National Institute of Mental Health (NIMH), the National Institute on Drug Abuse (NIDA), and the National Institute on Alcohol Abuse and Alcoholism (NIAAA). Each of these institutes is divided into research, training, and program support components. In fiscal 1983, the Alcohol, Drug Abuse and Mental Health block grant will continue to be administered within ADAMHA. Separate budget activities are also provided for overall agency administration, for the ADAMHA services block grant, and for intramural research facilities repair and renovation.

Alcohol, drug abuse and mental health block grant

For the Alcohol, Drug Abuse and Mental Health Block Grant, the Committee recommends $446,000,000, an increase over the budget request and House allowance of $14,000,000. This block grant was established by the Congress as part of the Omnibus Budget Reconciliation Act of 1981, at which time all mental health and substance abuse service programs were consolidated into this block grant, to be administered by the States. It was believed that this approach would allow States the opportunity to develop appropriate treatment and prevention programs tailored to the special needs of their population. The Committee, by recommending an increase, recognizes the seriousness and complexity of our societal problems in these areas and expresses its confidence in the capacity of the States and localities to serve the appropriate population.

Mental health community support program

The Committee concurs with the administration in providing no funds for the categorical community support program, although the House has recommended $8,000,000, a $2,240,000 increase over the 1982 level. The Committee understands that, in establishing the ADAMHA block grant, the intent of Congress was to consolidate all formerly categorical service programs in the alcohol, drug abuse and mental health areas, and does not believe it appropriate to continue this separate categorical program.

The Committee recognizes that the Community Support Program has been successful in demonstrating effective ways to care for chronic mental patients who are deinstitutionalized into local communities. In providing an increase for the ADAMHA block grant, the Committee wishes to emphasize that the States may use funds provided within the block grant either to continue CSP demonstrations on their own, or to implement successful examples of the program, to the extent possible within current law.

Mental health research

The Committee recommends an appropriation of $152,300,000 for mental health research, the same as the House level. This is an increase of $11,147,000 over the comparable fiscal year 1982 level, and is $2,338,000 more than the administration's budget request.

One of the highest priorities of the Committee is to ensure continuity in the number of new and competing research awards. The amount over the budget request will restore the proposed 10-percent reduction in indirect costs for regular research grants. At the recommended level, grants will be awarded and research conducted to include such priority areas as brain and behavior; prevention; childhood disorders; schizophrenia; and depression. The Committee directs the National Institute of Mental Health (NIMH) to emphasize basic and applied research in the neurosciences; behavioral sciences; psychopharmacology; clinical investigations; and evaluations of treatments and services.

The Committee recommendation includes sufficient funds to purchase a positron emission tomography scanner for use in the intramural research laboratories. This will allow the program to continue developing the technique, for which it earned national awards and recognition, for visually mapping metabolism in the brain. This investment can reap considerable rewards through the continued clarification of the basic processes underlying mental illness. The Committee also approves the budget request to allow three additional positions to be added to the intramural program in support of this breakthrough.

Mental health training

For Research Training, the Committee recommends $15,360,000, the same as the fiscal 1982 level, but $950,000 more than the budget request and House allowance. This level will support an additional 50 trainees over the number supported by the President's budget and House allowance. At a time when the research budget is being increased, the Committee believes it is unwise to reduce the research training effort.

For Clinical Training, The Committee provides $25,000,000, a level that is $7,000,000 more than the House amount. The budget proposed a total elimination of clinical training funds in fiscal 1983.

The Committee cannot agree with the administration's proposal for phasing out this important program in view of the documented demand for care. The Committee expects that the agency will fund an equitable proportion of grants from the four core disciplines: psychiatry, psychology, nursing, and social work. Further, the Committee is especially concerned that priority be given to training minority mental health professionals and the Minority Fellowship Program in particular, as well as prevention and child-oriented training programs. The Committee in general concurs with the House in its method of distributing funds for clinical training, focusing on mental health shortage areas, minorities and disadvantaged students and supporting State manpower development programs. The Committee also directs NIMH to continue support of the paraprofessional/mental health worker to the extent possible within available funding.

While the Committee agrees with the House on the principle of establishing a new Clinical Training program in fiscal year 1983, the Committee believes that existing continuation grants which are consistent with priorities and are of exemplary and innovative quality should be carefully considered in the new program.

The Committee expects the clinical training program to address the needs of underserved rural areas. In addition, the Committee is interested in clinical training of mental health professionals participating in the "payback" provision which requires trainees to serve in designated shortage areas in return for support for their training.

Mental health program support

The Committee recommendation for program support is the same as the House level and the administration request of $31,411,000, an increase of $3,306,000 over the 1982 level. This will permit NIMH to meet all cost of living increases, and enable it to track national trends in service needs and utilization of mental health personnel; to support initiatives relating to prevention of mental illness; and to ensure that the dollars invested in research are translated into findings which are quickly made available to the mental health community.

The Committee expects ADAMHA to be responsive to the Committee's continuing interest in insuring an increase in the participation of professional nurses in the Institutes' advisory committees. The Committee is aware that during the past year, the names of a number of highly competent nurses from across the nation have been brought to the attention of ADAMHA, and again urges ADAMHA to continue to seek and appoint qualified nursing candidates to its advisory committees.

Drug abuse research

For drug abuse research, the Committee recommends $47,374,000, the same as the House amount and $1,018,000 over the budget request. The increase over the budget will reinstate the proposed 10 percent reduction in indirect costs to the 1982 level. The fiscal 1982 level for research was $41,026,000.

Research to be supported will focus on selected new initiatives on the biological, behavioral, and psychological factors involved in drug abuse; the collection and analysis of epidemiological data; and the development of more effective prevention and treatment methodologies. These initiatives will include research focusing on the health effects of marijuana use, with particular emphasis on studies of the behavioral and performance effects (e.g., driving and work safety) of chronic marijuana use. Another major initiative will involve an expansion of ongoing research to develop portable drug detection systems that can be used by the private sector, police departments, and the military. Other initiatives include the development of more effective approaches to the prevention of drug abuse, studies of drug effects on the brain and nervous system, the development of more effective treatment agents for opiate abuse and other abused drugs, clarification of the health effects of opiate use, the pharmacokinetics of cocaine, and studies of drug interactions.

Drug abuse training

The Committee approves the budget request and House allowance of $891,000 for drug abuse research training, an increase of $75,000 over the comparable fiscal year 1982 level. This amount will enable the Institute to maintain a research training program comparable in numbers of researchers being trained to that of fiscal year 1982. This will ensure the continued development of skilled researchers in the biomedical and behavioral sciences.

Drug abuse program support

The Committee recommends an appropriation of $13,087,000 for drug abuse program support. This is an increase of $360,000 over the comparable fiscal year 1982 level. This level of funding will provide mandatory and programmatic increases necessary to restore essential management and data processing functions in support of the Institute's research program and the drug abuse information needs of the Nation.

Alcoholism research

In an area of alcoholism research, the Committee recommends $33,484,000, the same as the House level but $573,000 over the budget request. The increase will, as in the other research areas, restore indirect costs of research grants to their 1982 level. The 1982 research funding level was $23,413,000.

The Committee recognizes the enormous impact of alcohol abuse and alcoholism on the health, well being and safety of people; on job performance and productivity; and on the family and other social units. The economic costs of alcoholism and alcohol abuse were nearly $50 billion annually according to estimates for 1977, with lost employment and reduced productivity accounting for more than half this amount. Motor vehicle accidents are the leading cause of death for young people between the ages of 15 and 24—and alcohol is very often involved. Alcohol also accounts for an estimated 35,000 accidental deaths each year, and it is a common antecedent to a myriad of major health problems, including such serious illnesses as cirrhosis of the liver, heart disease, and hepatitis.

With their budget increase in 1983, the National Institute of Alcohol Abuse and Alcoholism (NIAAA) will continue its efforts to reduce the incidence of alcohol-related problems with an aggressive research agenda. Areas under study will include: effects on the fetus, impaired adolescent development, highway fatalities, child and spouse abuse, aggressive and criminal behavior, disrupted family life and alcohol-related medical problems incuding various heart diseases, cirrhosis, gastrointestinal disorders and malnutrition.

The Committee is interested in seeing that NIAAA give special attention to quality

applications that would address the unique alcoholism needs of our Nation's native Hawaiians and other Native American Pacific Islanders. Earlier congressional directives request NIAAA to provide priority for this population during its last two reauthorization acts. The Committee believes there is a special Federal responsibility to see that the problem of native American peoples in these areas is addressed in a timely fashion.

Alcoholism training

The Committee's recommendation for research training of $1,086,000 will permit that program to continue funding 22 ongoing projects. It will enable NIAAA to meet its commitments to provide a cadre of well-trained alcohol researchers, and will support a total of 66 trainees. This level is the same as the budget request and the House allowance.

Alcoholism program support

The Committee's recommended level of $9,040,000, is a decrease of $880,000 from the fiscal year 1982 level for program support. This amount should be sufficient to support 3 new positions related to the increased level of responsibilities in the extramural research program, as well as proved mandatory costs for existing program support activities. This is the same as the budget request and House amount.

Buildings and facilities

The Committee has provided $100,000 for routine repairs to ADAMHA intramural research facilities. Specifically, this will support improvements to NIAAA's research laboratory, including renovations of the heating, air conditioning and fire prevention and sprinkler systems. Extensive renovations to the mental health and drug facilities have been recently completed with funds appropriated in fiscal year 1982.

Program management

The Committee concurs with the House and budget request in providing $6,923,000 for program management, an increase of $729,000 over the comparable fiscal year 1982 level. This activity provides overall leadership and general support services to the ADAMHA components. Funds provided would allow the agency to cover mandatory increases for pay raises, telecommunications, computer services, space rental, and other essential central services.

ST. ELIZABETHS HOSPITAL

1982 comparable appropriation	$92,592,000
1983 appropriation request	67,505,000
House allowance	76,505,000
Committee recommendation	76,505,000

The Committee concurs with the House recommendation of $76,505,000 for St. Elizabeths Hospital in fiscal year 1983, $9,000,000 more than the administration request and $16,087,000 less than the fiscal 1982 appropriation of $92,592,000.

Funds are provided for the treatment and care of the mentally ill who are either residents of the District of Columbia (90% of patients) or who are Federal beneficiaries. The Hospital operates inpatient and outpatient programs, as well as a security treatment facility. In addition, it conducts clinical research and training programs and administers a community mental health center serving approximately 160,000 of the District of Columbia.

The Committee generally endorses the concept of reducing the direct Federal appropriation by requiring reimbursement from those who directly benefit from the Hospital's services, and through other Federal payments and District of Columbia Medicaid receipts. In this regard, the Committee believes that the District of Columbia government should begin to assume greater financial responsibility for D.C. residents of the Hospital. However, it questions whether the D.C. government can increase its financial support of the Hospital as rapidly as the administration proposed, and therefore agrees with the House in providing an additional $9,000,000 over the budget request to ensure that no shortfall in funding occurs.

HEALTH RESOURCES ADMINISTRATION

HEALTH RESOURCES

1982 comparable appropriation	$197,724,000
1983 appropriation request	111,828,000
House allowance	183,293,000
Committee recommendation	194,388,000

The Committee recommends an appropriation of $194,388,000 for Health Resources. This is $82,510,000 more than the administration request and $7,673,000 more than the comparable House allowance. The recommendation is $3,386,000 less than the fiscal year 1982 comparable appropriation of $197,724,000. Figures have been adjusted to exclude amounts previously appropriated in the continuing resolution.

Health planning

The Committee strongly supports the continuation of the health planning program as it is now constituted in the absence of the enactment of legislation which would determine the program's future. The Committee has deferred funding consideration of the program in this bill because funds to maintain activities and staffing levels are contained in the continuing resolution. The committee intends to provide a new appropriation when legislative action is completed.

Health teaching facilities

The Committee has approved $40,500,000 for health teaching facilities for fiscal year 1983. This amount is $31,887,000 more than the administration request and $568,000 less than the House allowance. Of the total, $1,500,000 will permit the Bureau of Health Facilities to continue support of loan guarantees and interest subsidy payments in connection with construction of health professions teaching facilities and to continue to promote the effective utilization of these facilities. Interest subsidy payments are included for four loans which were guaranteed in prior years by the Federal Government.

The Committee concurs with the House in providing $5,000,000 over the Administration request for construction grants in order to permit support to Morehouse Medical college in Atlanta. These funds are a one time grant to permit the construction of teaching facilities necessary for the school to convert from a two-year to a four-year medical school.

The Committee has approved $5,000,000 and 139 positions for health facilities program support activities in fiscal year 1983. This amount is $568,000 less than the House allowance and $813,000 less than the Administration request. The fiscal year 1982 amount was $5,175,000.

Loan repayment

The Committee agrees with the House in providing $29,000,000 to pay the outstanding balance of a federally guaranteed loan used to finance the construction of Hubbard Hospital at Meharry Medical College in Nashville, Tennessee. Meharry is one of three institutions in the country which primarily train black physicians. Almost half of all black physicians in the United States are educated at Meharry. Because of financial problems at Meharry, an intergovernmental task force was established in June of this year. The task force recommended that the Department of Health and Human Services pay off the outstanding balance of the hospital loan. The President agreed with the task force recommendation. Accordingly, the Committee has approved $29,000,000 but recognizes that the exact amount may vary from that and could in fact be somewhat lower. In light of the Committee allowance, it has deducted from the Interest Subsidies appropriation the $1,300,000 requested to make the annual default payment for 1983.

The Committee agrees with the House in providing $7,286,000 for the Advanced Financial Distress program for fiscal year 1983. This recommendation is $1,686,000 more than the Administration request and $182,000 more than the fiscal year 1982 appropriation. Under the new provisions of the law, the Advanced Financial Distress program provides Federal assistance to health professions schools in the form of multi-year support grants or cooperative agreements to meet incurred or prospective costs of operation to the extent essential to remove schools from serious and longstanding financial instability.

The Financial Distress program has helped in maintaining quality training or preventing the closure of health professions schools. Currently there are several health professions schools which meet the eligibility criteria necessary for advanced financial distress assistance. These include Meharry (medical and dental), Tuskegee and Xavier.

The Committee recognizes the need to insure the operation of these four schools which primarily train minorities and to assist them in achieving financial independence.

Startup/conversion

In assisting Morehouse Medical College, a two-year school, to convert to a four-year school program, the Committee has approved $800,000 for the conversion grant program. This amount is the same as the House allowance and $800,000 more than the Administration request.

Public health and health administration capitation

The Committee recommends $4,176,000 for Public Health Capitation grants. This amount is the same as the 1982 level and the same as the House allowance. No funds were requested by the Administration for this activity for fiscal year 1983.

This program provides grants to some 23 schools of public health to help them meet the costs of their educational programs. These schools are at the forefront in carrying out national needs in the public service areas of health promotion and disease prevention.

Traineeships

The Committee has approved $2,500,000 for the Public Health Traineeships program in fiscal year 1983. This amount is the same as the Administration request and the House allowance and is $380,000 less than the fiscal year 1982 level.

Public health traineeships focus on stengthening graduate level preparation for health professionals. This program supports graduate or specialized training of health personnel in high-priority targeted public health fields much as biostatistics, epidemiology, dietetics, nutrition, environmental health, health administration and planning, health policy analysis and maternal and child health.

These funds will be used to provide support to students pursuing graduate training in these fields. Over 700 students enrolled in a variety of graduate level programs in 23 schools of public health will be supported.

Special projects

The Committee provided no funds for the Public Health/Health Administration Special Projects program for fiscal year 1983 because the legislative proposal to reestablish authority for this program has not been enacted into law.

Health administration grants

The Committee recommends an appropriation of $1,440,000 for the Health Administration grants program. This amount is the same as the fiscal year 1982 level and the same as the House allowance. The Administration did not request funds for this activity.

These funds will be used to provide grants to public or non-profit private educational entities, but excluding schools of public health, in order to support the expansion and improvement of graduate programs in health administration, hospital administration and health planning.

The management of the health care system has become increasingly complex and has revealed the need to strengthen the educational curricula in important areas such as financial management, health economics and health planning.

Health administration traineeships

The Committee recommends an appropriation of $480,000 for the Health Administration Traineeships Program. This amount is the same as the fiscal year 1982 level and the House allowance. The Administration did not request funds for this activity.

These funds will be used to provide grants to public or non-profit graduate programs, excluding schools of public health, in health administration, hospital administration or health policy analysis and planning.

These awards will provide assistance support for graduate students engaged in these areas.

The Committee believes that health and hospital administrators and health planners must be as thoroughly trained as possible in order to operate and manage complex hospital and health care programs in a more cost effective manner to combat spiraling health care costs that are affecting all Americans.

Family medicine

The Committee has provided no funds for the Family Medicine programs in this bill because $34,000,000, the authorized level, was appropriated in the continuing resolution for this activity for fiscal year 1983.

Family medicine departments

The Committee has recommended $10,000,000 for the family medicine department programs for fiscal year 1983. This amount is $2,320,000 more than the 1982 level and the House allowance. This figure is $2,952,000 more than the amount requested by the Administration.

This program provides for project grants to schools of medicine to establish and maintain academic administrative units to provide clinical instruction in family medicine. As family medicine units currently lack the necessary resources to provide a comprehensive approach to the training of family physicians which is comparable to other medical specialties, the Committee hopes that these funds will aid in strengthening the effort to maintain and expand family medicine clinical instruction at the undergraduate level.

General internal medicine and pediatrics

The Committee has approved $11,412,000 for the general internal medicine and pediatrics program for fiscal year 1983. This amount is the same as the Administration request and the House allowance. The recommendation is $4,908,000 less than the fiscal year 1982 level.

This program provides grants and contracts to hospital and medical schools to support residencies in general internal medicine and general pediatrics.

Physicians assistants

The Committee has provided $4,800,000 for the physicians assistants program for fiscal year 1983. This amount is the same as the fiscal year 1982 level and the House allowance. The recommendation is $495,000 more than the Administration request.

This program supports physician assistant training programs through grants or contracts to schools of medicine and osteopathy and other public or nonprofit private entities. Studies have shown that physician assistants in the health care system can provide cost-effective, primary health care services in geographic areas previously underserved or not served.

Area health education centers

The Committee has provided $17,920,000 for the Area Health Education Center (AHEC) program. This amount is $4,000,000 more than the Administration request and the same as the House allowance. The recommendation is $320,000 less than the fiscal year 1982 level.

The AHEC program serves to attract and retain primary care health professionals in shortage areas by linking the academic resources of health science centers to the clinical resouces of underserved communities for training and educational purposes.

Studies have shown that AHECs improve accessibility and availability of primary medical personnel in needy areas. AHECs have also served to improve the attraction and retention of health professionals in shortage areas.

Manpower supply and distribution analysis

The Committee has provided $2,962,000 for the Manpower Supply and Distribution analysis program for fiscal year 1983. This amount is the same as the fiscal year 1982 level and the House allowance. The recommendation is $462,000 less than the administration request.

This activity provides information and data on the health professions not available through other sources. The identification, designation and review of health professions shortage areas throughout the United States are also the responsibility of this program, in coordination with the states, local communities and professional groups.

For the past two sessions, the Committee has expressed its concern that the Health Resources Administration has been unable to establish criteria for the designation of "mental health manpower shortage areas." The Committee was, therefore, most pleased to learn in reviewing the Department's budget request that funds have been allocated to collect data pursuant to the Committee's request.

Disadvantaged assistance

The Committee has approved $17,240,000 for the Disadvantaged Assistance program for fiscal year 1983. This amount is the same as the administration request and the House allowance. The recommendation is $358,000 more than the fiscal year 1982 level.

This program is the principal direct Federal training program for underrepresented minorities and other students who are financially or otherwise disadvantaged and who are interested in pursuing a health career. This program helps assure that opportunity for health professions education is not inappropriately limited. Funds are awarded through grants and contracts directly to public and nonprofit private health or educational entities to support motivation, recruitment, admissions, retention and placement of students.

The Committee allowance will support about 116 projects benefiting some 20,300 minority or low-income individuals.

Preventive medicine residencies

The Committee has provided $1,000,000 for the Preventive Medicine Residencies program for fiscal year 1983. This amount is the same as the administrtation request and the House allowance. No funds were appropriated for this new program in fiscal year 1982.

In today's economic climate of high health care costs, the Committee believes that this program is a vital health activity that should be implemented. Preventive medicine, a proven cost-effective and efficient health care measure, should be taught and practiced throughout the entire health care system.

The major goals of the program are: to assure a sufficient number of high quality trained physician personnel in preventive medicine in order to address national goals for reducing death and disability and enhancing over all health; to encourage the selective placement of physicians trained in preventive medicine; and to provide training opportunities which emphasize preventive measures necessary to improve the general health, reduce risk of disease and disability and ultimately reduce overall health care costs.

Special Health Professions Initiatives

The Committee has provided $4,000,000 for the Special Health Professions Initiative Program for fiscal year 1982. This amount is $405,000,000 less than the administration request and $4,000,000 more than the House allowance. No funds were appropriated for this program in fiscal year 1982.

The Committee believes that the Health Professions Curriculum Development Program can make an important contribution to solving many health care problems. This program provides broad authority by supporting projects in a variety of high priority areas. The program should focus on: a strategy to increase primary care practitioners for shortage areas; projects to support curriculum improvment for the better preparation of allied health personnel in the fields of health promotion and disease prevention; and continuing education projects ensuring the continuing competency of health professionals.

The Committee directs that curriculum development in geriatric medicine be included among the high priority projects for fiscal year 1983 funding. Considering the

growing number of elderly who will be needing medical care in the coming years, the Committee believes this area deserves special attention. The Committee also urges the Department to continue to encourage development of support systems for practicing professionals in underserved areas.

In addition, the Committee urges that every consideration be given by the Department to funding projects that emphasize using allied health personnel within the Special Health Professions Initiatives activity. The Committee also continues to be very interested in the Department's developing a comprehensive approach to its unique federal responsibilty for the Pacific Basin region, based on our treaty obligations. The Committee directs that a health professions training plan be developed this fiscal year and that the Department report on its recommendations during the Committee's forthcoming hearings. The Committee would especially be interested in learning whether the Area Health Education Center program might be an appropriate mechanism.

Advanced nurse training

The Committee has approved $15,000,000 for the advanced nurse training program for fiscal year 1983. This amount is $3,480,000 more than the fiscal year 1982 level and the House allowance. The recommendation is $13,855,000 more than the administration request.

This program provides institutional support through grants or contracts to nursing schools to strengthen and expand graduate nurse training at the masters or doctoral level leading to the development of clinical nurse specialists, teachers, administrators and supervisors.

Nurse Practitioner

The Committee recommends $12,000,000 for the Nurse Practitioner Program for fiscal year 1983. This amount is $480,000 more than the fiscal year 1982 level and the House allowance. The recommendation is $6,274,000 above the administration request.

This program provides grants to public or non-profit hospitals and other entities to train nurse practitioners in primary health care and improve educational programs to assure competency of primary health care providers. Students are trained to work in collaboration with other health care providers and agencies in both urban and rural settings where shortages of primary care health professionals exist.

Nursing special projects

The Committee recommends $7,000,000 for the nursing special projects program for fiscal year 1983. This amount is $1,333,000 more than the administration request and the House allowance. The recommendation is $825,000 more than the fiscal year 1982 level.

This program provides grants and contracts to nursing schools and other institutions to develop innovative nursing methods especially for treating high-risk groups, such as the elderly, children, and pregnant women. The program is also aimed at increasing nursing education for individuals from disadvantaged backgrounds and addressing other areas emphasizing primary care, bedside nursing, and specialized nursing skills.

Traineeships

The Committee recommends $9,600,000 for the Professional Nurse Traineeships Program for fiscal year 1983. This amount is the same as the 1982 level and the House allowance. The Administration requested no funds for this program for fiscal year 1983.

This program provides support to eligible public or nonprofit institutions which in turn award traineeship grants to professional nurses receiving advanced educational preparation for leadership positions. These traineeships prepare the professional nurse to teach in various fields of nursing, to serve in administrative or supervisory capacities, or to serve in other professional nurse specialties.

Fellowships

The Committee recommends $960,000 for the Nursing Fellowship program for fiscal year 1983. This amount is the same as the fiscal year 1982 level and the House allowance. The administration requested no funds for this program for fiscal year 1983.

This program provides grants to individuals and institutions in support of fellowships. Awards are made for predoctoral and postdoctoral nurse fellowships for specified research training to prepare professional nurses to conduct independent research, and to collaborate in interdisciplinary research.

Research grants

The Committee provided no funds for the nursing research grants program in this bill because $5,000,000 is appropriated for this program in the Continuing Resolution for fiscal year 1983.

Health professions program support

The Committee has provided $13,381,000 and 270 positions for the Health Professions and Nursing Program support activities for fiscal year 1983. This is an increase of $4,358,000 and 70 positions above the administration request and the same as the House allowance. The recommendation is $767,000 more than the amount appropriated for fiscal year 1982. The Committee has allowed the same number of positions as were provided in 1982.

It is essential to have available an adequate number of experienced staff to administer these programs so important to the health needs of our nation.

Program Management

The Committee recommends $9,881,000 and 100 positions for the program management activities of the Health Resources Administration for fiscal year 1983. This amount is $1,681,000 and 10 positions more than the administration request and the same as the House allowance. The recommendation is $371,000 more than the fiscal year 1982 appropriation. The Committee allowance maintains the fiscal year 1982 staffing levels for these activities.

MEDICAL FACILITIES GUARANTEE AND LOAN FUND

1982 comparable appropriation	$22,000,000
1983 appropriation request	32,000,000
House allowance	32,000,000
Committee recommendation	32,000,000

The Committee recommends an appropriation of $32,000,000 for the Medical Facilities Guarantee and Loan Fund. This is the same as the administration request and the House allowance. The recommendation is $10,000,000 more than the fiscal year 1982 comparable appropriation of $22,000,000.

These funds are used to pay interest subsidies on loans guaranteed in prior years for hospital modernization, construction, and conversion.

OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH

SALARIES AND EXPENSES

1982 comparable appropriation	$104,559,000
1983 appropriation request	109,563,000
House allowance	98,676,000
Committee recommendation	94,713,000

The Committee recommends an appropriation of $94,713,000 for the Office of the Assistant Secretary for Health. This is $14,850,000 less than the administration request and $3,963,000 less than the House allowance. The recommendation is $9,846,000 less than the fiscal year 1982 comparable appropriation of $104,559,000.

The Committee understands that the Assistant Secretary for Health, through the Alcohol, Drug Abuse and Mental Health Administration, has begun to address the Committee's concern that serious consideration be given to reviewing the current mental health benefit under Medicare and Medicaid while, at the same time, insuring that only appropriate and efficacious forms of psychotherapy be reimbursed. The Committee was pleased to learn of the Department's responsiveness and looks forward to receiving a report at the appropriate time.

Health services research

The Committee has approved $10,506,000 for the National Center for Health Services Research for fiscal year 1983. This amount is the same as the administration request and the House allowance. The recommendation is $760,000 more than the appropriation for fiscal year 1982.

The Center is the principal source of support for general research to improve the delivery of health services. The Center undertakes and supports research, demonstrations, and evaluations on problems in the organization, delivery, and financing of health care services; serves as the focal point for coordination of health services research within the Public Health Service; and disseminates the findings of health services research to policy and decision-makers in the public and private sectors.

The Committee recommendation includes support for commitments to such high priority research areas as institutional productivity, competition in health care and medical technologies.

It is the intention of the Committee that the National Center's User Liaison Program continue, improve, and strengthen working relationships with State and local governments by continuing workshops and developing syntheses, as well as the initiation in fiscal year 1983 of at least two projects of directed contract research designed and monitored in close collaboration with State and local officials. Such projects should address current pressing health care delivery and financing issues and problems identified by State and local officials.

Program support

The Committee has provided $5,615,000 for Health Services Research Program Support activities for fiscal year 1983. This amount is the same as the administration request and the House allowance. The recommendation is $839,000 less than the fiscal year 1982 appropriation.

This program provides support for management activities including special studies, technical assistance, and evaluation of the design and conduct of program activities.

The Committee believes that the efforts of the National Center for Health Services Research are very much in the long term interest of the Department and, accordingly, wants the current position level to be maintained in order for the Center to meet its objectives.

Health Statistics Program Operations

The Committee recommends $37,254,000 for Health Statistics program operations for fiscal year 1983. This amount is the same as the administration request and the House allowance. The recommendation is $2,434,000 more than the fiscal year 1982 appropriation.

This activity is the focal point for collection and maintenance of national health statistics on illness, disability, health hazards and other health data in the United States. The Committee recommendation provides an increase of funds for two major surveys. The first allows the expansion of the Hispanic Health and Nutrition Examination Survey (HANES) to include Puerto Rican Americans and Cuban Americans, in addition to Mexican-Americans in the Southwest. The allowance also provides for the orderly growth of the National Health Interview Survey to allow the collection of important trend data and special health topic data.

Program support

The Committee has approved $3,040,000 for Health Statistics Program Support activities in fiscal year 1983. This amount is the same as the administration request and the House allowance. The recommendation is $328,000 less than the appropriation for fiscal year 1982.

This program provides for the planning, coordination, management, and evaluation of vital health, and health related statistical programs. Emphasis will continue to be placed on developing more efficient and effective resource allocation and utilization, and improved performance reporting and monitoring.

HMO Management Training and Technical Assistance

The Committee has approved $480,000 for Management Training and Technical Assistance for fiscal year 1983. This amount is the same as the budget request and the House allowance.

Technical assistance is provided to expedite the development of new HMOs and resolve operating problems that may be encountered. Management training is designed to alleviate the shortage of skilled HMO managers which has been a serious problem in the development of the HMO industry. Technical assistance and management training are the most productive tools available for increasing the probability of success in HMOs and thus protecting the Federal investment of $145,000,000 in grants and $193,000,000 in loans.

Program support

The Committee has provided $4,220,000 for program support activities for fiscal year 1983. This amount is the same as the budget request and the House allowance. The recommendation is $51,000 more than the fiscal year 1982 appropriation.

This activity is responsible for monitoring the operations of qualified organizations to assist them in meeting the requirements of the program. The program assists the development of HMOs and monitors loans and loan guarantees.

Smoking and Health

The Committee recommends $2,098,000 for Smoking and Health activities for fiscal year 1983. This amount is the same as the administration request and the House allowance. The recommendation is $154,000 more than the fiscal year 1982 appropriation.

The recommended level of funding will permit the Office of Smoking and Health to continue efforts to reduce death, disability and health care costs associated with cigarette smoking. Efforts will focus on strengthening public and technical information activities.

Health Promotion

The Committee recommends $2,326,000 for the health promotion program for fiscal year 1983. This amount is the same as the administration request. The recommendation is $1,000,000 more than the House allowance and $1,156,000 more than the fiscal year 1982 appropriation.

This program increase will support high priority prevention efforts within the Department including the National Health Information Clearinghouse and the National Health Promotion Media Campaign. In addition, cooperative agreements will be established with major national organizations to develop a health promotion training network.

Physical fitness and sports

The Committee has approved $1,100,000 for the physical fitness and sports program for fiscal year 1983. This amount is the same as the administration request and the House allowance. The recommendation is $91,000 more than the fiscal year 1982 appropriation.

The objective of this activity is the promotion of a national program of physical fitness and sports. Staff support and assistance is provided to the President's Council on Physical Fitness and Sports which is the focal point for Federal efforts to encourage physical fitness.

Adolescent family life

The Committee has approved $11,037,000 for the adolescent family life program for fiscal year 1983. This amount is the same as the fiscal year 1982 appropriation. The recommendation is $4,963,000 less than the administration request and the House allowance.

The objective of this program is to find effective means of addressing the problems associated with adolescent premarital sexual activity, pregnancy, and childbearing, giving particular attention to the role of the family in these matters. In order to accomplish these objectives, the program supports and evaluates model demonstration projects to identify effective service delivery programs for use by States and local communities and by supporting research, evaluation, and dissemination efforts.

Public Health Service management

The Committee has approved $17,037,000 for the Public Health Service management activity for fiscal year 1983. This amount is the same as the budget request and the House allowance. The recommendation is $1,641,000 less than the fiscal year 1982 appropriation.

This activity provides funding for regional and headquarters offices that support the Assistant Secretary for Health in discharging responsibilities for planning and directing the activities and mission of the Public Health Service.

PHS termination costs

The Committee provided no funds for the PHS termination costs activity for fiscal year 1983.

The Committee has approved funds to maintain positions within the Health Services Administration, the Health Resources Administration and the Office of the Assistant Secretary for Health. Therefore, funds are not required within this activity to cover costs associated with reductions in force.

HMO loan and loan guarantee fund

The HMO Loan and Loan Guarantee Fund was established to make direct loans to public and non-profit HMOs to cover initial operating deficits and for the acquisition or construction of ambulatory health care facilities. Funds are also used to acquire equipment for those facilities.

In 1983, it is anticipated that eight initial operating loans will be made.

It is the Committee's understanding that the Supplemental appropriation of $17,500,000 provided during fiscal year 1982 was sufficient to cover requirements of the Fund for the foreseeable future. While it appears that additional funds will be required at some future point, the Committee has recommended that no additional capital for the Fund be included at this time. However, funds will be provided when the Department has a definite estimate of what the actual requirements will be.

RETIREMENT PAY FOR COMMISSIONED OFFICERS

1982 comparable appropriation	$106,172,000
1983 appropriation request	85,433,000
House allowance	78,861,000
Committee recommendation	78,861,000

The Committee recommends an appropriation of $78,861,000 for Retirement Payments for Public Health Service Commissioned Officers. This is $6,572,000 less than administration request and the same as the House allowance. The recommendation is $27,311,000 less than the fiscal year 1982 comparable appropriation of $106,172,000.

Retirement Pay

The Committee has approved $59,943,000 for Retirement Payments for Public Health Service Commissioned Officers for fiscal year 1983. This amount is the same as the administration request and the House allowance. The recommendation is $10,797,000 more than the fiscal year 1982 appropriation.

This activity provides for mandatory payments to commissioned officers of the Public Health Service who have been retired for age, disability or specified length of service.

Survivors' Benefits

The Committee recommends $1,862,000 for Survivors benefits for fiscal year 1983. This amount is the same as the administration request and the House allowance. The recommendation is $1,243,000 less than the fiscal year 1982 appropriation.

This activity provides for the payment of annuities to survivors of retired officers of the Public Health Service who had elected to receive reduced retirement payments under the retired serviceman's family protection plan and survivors benefit plan.

Medical Care

The Committee has approved $17,056,000 for the Medical Care activity for fiscal year 1983. This amount is the same as the administration request and the House allowance. The recommendation is $36,865,000 less than the fiscal year 1982 appropriation.

The medical care activity provides for the cost of medical care rendered in non-Federal and in uniformed service facilities to active duty and retired members of the Public

Health Service Commissioned Corps and dependents of active duty, retired, and deceased members.

The reduction from fiscal year 1982 is accounted for by the transfer of medical care costs for the Coast Guard and the National Oceanic and Atmospheric Administration to those agencies' own budgets in 1983. The Committee did not concur with the administration's rationale for including a contingency reserve and has not provided $6,572,000 which was requested.

HEALTH CARE FINANCING ADMINISTRATION

GRANTS TO STATES FOR MEDICAID

1982 comparable appropriation	$17,539,843,000
1983 appropriation request	17,895,162,000
House allowance	17,895,162,000
Committee recommendation	19,652,750,000

The Committee recommends an appropriation of $19,652,750,000 for Grants to States for Medicaid. This is $1,757,588,000 more than the administration request and the House allowance. The recommendation is $2,112,907,000 more than the fiscal year 1982 comparable appropriation.

Medicaid funds vendor payments to health care providers and pays for State and local administration of the program and for State certification of health care providers. The percentage of costs which these funds cover varies from 50 percent to 83 percent, based on a formula that measures a State's average per capita income relative to the national average per capita income.

The Committee recommendation takes into account the effects of legislative action for fiscal year 1983. The effect is to reduce Federal costs by an estimated $167,000,000. Major savings result from: permitting States to impose copayments on additional services; modifications in lien provisions for long-term care; and 3 percent error rate tolerance.

In addition, savings are reflected in this account as a result of changes in the SSI and AFDC programs.

The Committee recommendation includes $1,089,075,000 for State and local administration of Medicaid. It is necessary to make these funds available under this account since Congress did not agree to administration proposals for a Combined Welfare Administration Block Grant.

The bill also provides an advance appropriation of $5,105,600,000 for the first quarter of fiscal year 1984, as requested by the administration.

PAYMENTS TO HEALTH CARE TRUST FUNDS

1982 comparable appropriation	$14,338,000,000
1983 appropriation request	15,576,000,000
House allowance	15,576,000,000
Committee recommendation	15,743,000,000

The Committee recommends an appropriation of $15,743,000,000 for Payments to Health Care Trust Funds. This is $167,000,000 more than the administration request and the House allowance. The recommendation is $1,405,000,000 more than the fiscal year 1982 comparable appropriation of $14,338,000,000.

This appropriation covers payments to three activities: Federal payments for military service credits, which reimburse the hospital trust fund for benefits to veterans based on military service for which no contributions to the fund were made from 1946 to 1956; funds for supplementary medical insurance (Medicare Part B), which provide the Federal matching contribution for the monthly premium payment made by every participant in the Medicare Part B program; and payments for hospital insurance for the uninsured, which reimburse the hospital insurance trust fund for the cost of medical care for individuals over age 65, whom Congress included in the medicare program despite the fact they have not contributed to the medicare trust fund.

For military service credits, the Committee recommends an appropriation of $207,000,000, the same amount requested by the administration and appropriated in fiscal year 1982.

For supplementary medical insurance, the Committee recommends $14,669,000,000. The increase of $189,000,000 above the administration's request results from a more current estimate of need as developed by the Congressional Budget Office. The amount allowed represents an increase of $1,346,000,000 over the fiscal year 1982 level. The Committee recommendation takes into account the effects of legislative action for fiscal year 1983. Major savings result from revising reimbursement of provider-based physicians, prohibiting reimbursement for assistants at surgery in specified instances, and eliminating duplicate overhead payments for outpatient services.

The Committee recommends an appropriation of $867,000,000 for hospital insurance for the uninsured. The decrease of $22,000,000 from the administration's request is due to fiscal year 1983 legislative savings relating to hospital reimbursement. This represents an increase of $59,000,000 over the fiscal year 1982 appropriation.

PROGRAM MANAGEMENT

1982 comparable appropriation	$81,777,000
1983 appropriation request	89,405,000
House allowance	92,905,000
Committee recommendation	92,905,000

The Committee recommends an appropriation of $92,905,000 in federal funds for Program Management. This is the same as the House allowance. The recommendation is $11,128,000 more than the fiscal year 1982 comparable appropriation.

In addition, the Committee authorizes the transfer of $969,671,000 in trust funds for Program Management.

The following table shows the distribution of funds in this account:

	1982 comparable	1983 budget request	1983 House	Committee recommendation
Professional standards review organizations non-hospital activities: Trust funds	($24,409,000)	($5,000,000)	Defer	($25,000,000)
Research, demonstration, and evaluation:				
Federal funds	11,500,000	20,000,000	$20,000,000	20,000,000
Trust funds	(18,000,000)	(10,000,000)	(10,000,000)	(10,000,000)
Subtotal	29,500,000	30,000,000	30,000,000	30,000,000
Medicare contractors: Trust funds [1]	(711,000,000)	(704,000,000)	(755,000,000)	(755,000,000)
Contingency fund			0	(20,000,000)
State certification:				
General program support Federal funds	535,000	535,000	535,000	535,000
Medicare certification trust funds	(13,591,000)	(18,700,000)	(32,300,000)	(32,300,000)
Subtotal	14,126,000	19,235,000	32,835,000	32,835,000
ESRD Councils: Trust funds	(4,546,000)	(4,546,000)	(4,546,000)	(4,546,000)
Federal administration:				
Federal funds	69,742,000	68,870,000	72,370,000	72,370,000
Trust funds	(115,287,000)	(113,325,000)	(122,825,000)	(122,825,000)
Subtotal	185,029,000	182,195,000	195,195,000	195,195,000
Total program management:				
Federal funds	81,777,000	89,405,000	92,905,000	92,905,000
Trust funds	(886,833,000)	(855,571,000)	(924,671,000)	(969,671,000)

[1] Does not include $45,000,000 made available separately in fiscal year 1983 by Public Law 97-248.

Professional standards review organizations

For the Professional Standards Review Organization (PSRO) program, the Committee authorizes a trust fund transfer of $25,000,000. This is $20,000,000 more than the request of $5,000,000. The House deferred action on this item. Funds appropriated under the program management account cover the direct operating costs of PSROs.

Additional amounts needed for medicare hospital utilization review are provided directly from the trust funds. The continued growth in hospital costs and admissions requires a continued investment in monitoring the appropriateness of expensive hospital care. Congress has recognized this need and mandated hospital reviews in this year's reform of the PSRO program. The Administration based its 1982 estimate of $47,908,000 for PSRO hospital reviews on an activity level of 5.3 million reviews. Since recent evidence indicates that the actual admissions subject to PSRO review exceeded 8,000,000, the Committee anticipates that at least the 1982 level of spending will be required for hospital reviews in 1983. The provisions of Public Law 97-248 prevent a reduction of PSRO reviews to the lower 1983 level of $20,000,000 originally proposed by

the Administration. The Committee therefore directs the Department to maintain the current admissions review rates for both focused and retrospective reviews without imposing any substantial reduction in average expenditure per review, and report to the Committee by May 1 on the estimated costs to the trust funds of the reviews required under Public Law 97-248.

If a State elects to have a PSRO perform medicaid hospital utilization review, those costs will continue to be paid out of the grants to States for medicaid account at a 75 percent Federal matching rate.

As a result of enactment of Public Law 97-248, Congress has instituted changes which repeal the PSRO program and establish a program of utilization and quality control peer review. Congress, however, has prohibited the Secretary from terminating a PSRO in effect until a contract with a peer review organization is established in that geographical area. This requires continuation of the funding of currently funded PSROs until a peer review program is implemented. The Committee bill provides funding for 145 PSROs at about the fiscal year 1982 level. The Committee estimates that the actual transition from PSROs to the new peer review organizations will not take place until fiscal year 1984; therefore, it has not appropriated money for the new peer review orgnizations during fiscal year 1983.

The Committee expects the Department, in its fiscal year 1984 budget, to make realistic estimates of the amounts needed to effectively support peer review organizations and to provide a thorough analysis of how the transition from PSROs to peer review organizations will be implemented.

Research, demonstration and evaluation

For Research, Demonstration and Evaluation, the Committee recommends an appropriation of $30,000,000, which is the same as the fiscal year 1982 funding level, and consists of $20,000,000 in Federal funds and $10,000,000 in trust funds.

The Committee believes that research efforts should focus on ways to hold down both Federal and private sector health care costs. When the Department comes before Congress for its fiscal year 1984 budget, the Committee expects HCFA officials to be prepared to answer questions about measurable ways in which research and demonstration activities funded under this account have helped to improve health care management and to reduce costs. In addition, the Committee will want to know in what way projects funded herein have a bearing on increasing competition in the health care area, one of this administration's stated priorities.

Medicare contractors

The Committee has included $755,000,000 for medicare contractors in fiscal year 1983 for the purpose of processing medicare claims and for audit and medical review. This is the same level as the House allowance. The Committee allowance provides for $755,000,000 in trust fund transfers in addition to $45,000,000 for the contractors made available separately by section 118 of Public Law 97-248. This total of $800,000,000 is identical to the annual operating level for medicare contractors provided in the First Continuing Resolution of 1983.

The Committee recognizes, however, that the program may encounter unanticipated workload costs as it moves to deal with an expected substantial increase in the volume of claims. To assure that HCFA is able to handle this potential workload and provide for timely processing of claims, the Committee has included bill language making $20,000,000 available from the trust funds as a contingency fund for this purpose.

The Committee continues to encourage HCFA to reduce any overly restrictive requirements placed upon the medicare contractors. It supports HCFA's efforts to streamline the existing functions required of medicare contractors in administration of the program and to restructure present medicare operations to effect increased efficiency. Further, the Committee expects officials of the Department of Health and Human Services to be able to identify savings targets, and evaluate the progress of the medicare contractors in meeting these targets, when the Department comes before Congress for the fiscal year 1984 budget.

State certification

The Committee recommends a total appropriation for State certification of medicare providers of $32,835,000, the same as the House level. Of this amount, $535,000 is a direct appropriation and $32,300,000 is a transfer from the medicare trust funds. This funding level represents an increase of $13,600,000 above the budget request.

The purpose of this program is to assure that health care providers and institutions meet standards of quality and safety to give Federal beneficiaries an acceptable level of care. The budget request would provide only approximately 50% survey coverage of all facilities requesting medicare eligibility. The recommended increase would provide coverage of more facilities and more beneficiaries than the proposed budget. The Committee believes its level is needed to protect a most vulnerable population in nursing homes.

Moreover, Congress, in enacting the 1982 Tax Equity Act and the First Continuing Resolution of 1983, placed a lengthy moratorium on HHS issuing new survey and certification regulations for nursing homes. This action was taken to permit more time for Congress and the public to comment on the Department's proposals. This delay will result in an increase in the number of surveys that must be done and will boost costs commensurately.

The Committee allowance also provides funds for surveys of newly authorized provider groups including ambulatory surgical centers and comprehensive outpatient rehabilitation facilities.

ESRD network coordinating councils

The Committee recommends a trust fund transfer of $4,546,000 as requested by the administration for End Stage Renal Disease Network Coordinating Councils. Fiscal year 1983 marks the first year that funding for the Councils is shown as a separate line item in Program Management rather than as a part of medicare benefit payments. The Committee allocation is the same as the House level.

Administration

The Committee recommends a total of $195,195,000 for HCFA administration. Of this amount, $72,370,000 is a direct appropriation and $122,825,000 is a transfer from the medicare trust funds. These funds cover payroll and operating costs for the Health Care Financing Administration (HCFA). It is the Committee's intention that these amounts maintain HCFA at an adequate staffing level without the necessity of any reductions-in-force.

The administration had proposed a reduction of 730 positions (from 4,719 to 3,989) in fiscal year 1983. This would have come on top of a substantial loss of staff within the agency since fiscal 1981. The Committee recognizes the complex workload carried by the agency, including implementation of the sweeping legislative changes made in medicare and medicaid by the Tax Equity Act. In light of this, HCFA will need a stable workforce over the next fiscal year, and this is the basis of the Committee recommendation.

Office of Demonstrations

The Committee was pleased to learn that during the past year the Office of Demonstrations has been giving serious consideration to addressing the issues of interprofessional competition (i.e., the use of alternative health care providers such as geriatric nurse practitioners) and also the relationship between providing mental health services and overall physical health care costs. Both of these initiatives could demonstrate considerable cost-savings and the Committee would appreciate being kept informed of HCFA's efforts in these areas.

SOCIAL SECURITY ADMINISTRATION

PAYMENT TO SOCIAL SECURITY TRUST FUNDS

1982 comparable appropriation	$844,698,000
1983 appropriation request	855,213,000
House allowance	855,213,000
Committee recommendation	855,213,000

The Committee recommends an appropriation of $855,213,000 for Payment to Social Security Trust Funds. This is the same as the administration request and the House allowance. The recommendation is $10,515,000 more than the fiscal year 1982 comparable appropriation of $844,698,000.

The Payment reimburses the trust funds for the cost of crediting beneficiaries for periods of military service; for qualified beneficiaries who were too old to have established eligibility before retirement; and for SSA's costs related to providing individuals with their vested pension rights under the Pension Reform Act (Public Law 93-406). The appropriation restores the trust funds to the same financial position they would have been in had they not incurred the costs of benefits or administrative expenses from these categories of eligible beneficiaries.

The appropriation request for fiscal year 1983 is higher than that of 1982 due to the increase in the number of veterans, as well as their dependents, who are entitled to OASDI benefits for military service prior to 1956.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

1982 comparable appropriation	$1,098,765,000
1983 appropriation request	1,102,000,000
House allowance	1,102,000,000
Committee recommendation	1,093,000,000

The Committee recommends an appropriation of $1,093,000,000 for Special Benefits for Disabled Coal Miners. This is $9,000,000 less than the administration request. The recommendation is $5,765,000 less than the fiscal year 1982 comparable appropriation of $1,098,765,000.

The funds under this program are used to provide monthly benefits to coal miners disabled by Black Lung disease, as well as to their widows and certain other dependents. The Social Security Administration is responsible for processing and paying benefits for claims filed between December 30, 1969

and June 30, 1973, and for those claims filed within 6 months following the death of a miner or window already on the beneficiary rolls. The Department of Labor bears the responsibility for Black Lung claims filed after June 30, 1973.

Of the total amount provided, $1,082,000,000 is for benefit payments, and $11,000,000 is for administration. The basic Black Lung Benefit is one-half of the amount paid to disabled Federal Employees in GS–2, step 1. The Committee recommendation for this program is based on the Congressional Budget Office's most recent estimates which anticipate lower program costs from continued low rates of inflation.

SUPPLEMENTAL SECURITY INCOME

1982 comparable appropriation	$7,772,388,000
1983 appropriation request	8,919,495,000
House allowance	8,571,749,000
Committee recommendation	8,543,616,000

The Committee recommends an appropriation of $8,543,616,000 for Supplemental Security Income. This is $375,879,000 less than the administration request and $28,133,000 less than the House allowance. The recommendation is $771,228,000 more than the fiscal year 1982 comparable appropriation of $7,772,388,000.

The Committee recommendation for Federal Benefit payments is based upon the Congressional Budget Office's most recent estimate for this program. CBO estimates lower average benefit payments per recipient and larger savings from the 1981 Reconciliation Act than the Administration. According to CBO, recent spending in the program has fallen below expected levels.

Of the total recommendation, $7,637,254,000 is for Federal Benefit payments. These payments provide assistance to aged, blind, and disabled persons. There are approximately 3.6 million recipients of Federal SSI benefits; the average monthly benefits for an aged person is $138 and $227 for the blind or disabled. The average benefit is higher for the latter group as its nonassistance, earned income is lower. The recommended amount reflects 13 months of payments in compliance with the accelerated check provision of the Social Security Act (P.L. 95–216). This part of the law provides for the delivery of checks a day earlier than regularly scheduled when that day falls on a Saturday or a Sunday. A 7.4 percent cost-of-living increase was effective in July 1982.

Some $15,300,000 of the amount recommended is for hold harmless payments. This represents the second year of a three-year phase-out of hold harmless payments to two States, Wisconsin and Hawaii.

The Committee recommends $4,616,000 for Beneficiary Services. This provides funds for two activities:

Vocational rehabilitation. Reimbursement is provided for rehabilitation providers for reasonable and necessary costs for services which enable disabled SSI recipients to perform substantial gainful activity.

Drug addicts and alcoholics. This program monitors the treatment of certain disabled SSI recipients who are drug addicts or alcoholics.

Of the total amount recommended, $20,737,000 is provided for federal fiscal liability. This is paid to States for errors the Federal Government made in administering State supplemental payments. Currently, the Federal Government administers supplemental payments programs for 26 States and the District of Columbia.

A total of $865,709,000 is recommended for Administration of the Supplemental Security Income program.

ASSISTANCE PAYMENTS

1982 comparable appropriation	$7,115,854,000
1983 appropriation request	5,284,635,000
House allowance	5,284,635,000
Committee recommendation	6,684,207,000

The Committee recommends an appropriation of $6,684,207,000 for Assistance Payments. This is $399,572,000 more than the administration request and the House allowance. The recommendation is $431,647,000 less than the fiscal year 1982 comparable appropriation of $7,115,854,000.

Maintenance assistance

The Committee recommendation includes $7,291,231,000 for the basic Aid to Families with Dependent Children (AFDC) Program. This basic assistance benefit is expected to provide 3,802,000 families and over 11,000,000 individuals with cash and other assistance. Under AFDC, States are given broad flexibility to design their own welfare and assistance programs for which they receive a Federal matching payment.

The Committee has also approved $951,000,000 to reimburse State and local governments for costs of administering AFDC. This is substantially above the Administration's request primarily because the proposed Combined Welfare Administration Block Grant, designed to produce economics in administration, was not agreed to by Congress. The Committee recommendation also includes $13,350,000 for Adult Categories. These provide benefits for aged, blind, and disabled persons in Puerto Rico, Guam, and the Virgin Islands who were not federalized into the Supplemental Security Income Program in 1974. Also included is $6,716,000 for administration and training in Puerto Rico, Guam, and the Virgin Islands.

The Committee has provided $49,000,000 for Emergency Assistance. There was no request for this program as the Administration proposed to combine this activity with the Low Income Energy Assistance Program—a step Congress rejected. The Committee has also recommended $1,801,000 for repatriation. This program provides temporary assistance to mentally ill or destitute Americans returning from foreign countries.

It has come to the Committee's attention that, in implementing new AFDC and Medical Assistance regulations, some states are considering mineral acre/surface Indian trust lands as available resources for the purpose of determining eligibility for programs administered by those states under the Social Security Act, including AFDC under Title IV and Medical Assistance under Title XIX, thereby compelling Native Americans either to sell or attempt to sell their mineral acre/surface lands or forgo participation in these programs. The Committee believes that Indian trust land, by virtue of its legal nature, does not constitute a currently available resource. This has been the policy of the BIA since 1961, and the Committee urges that HHS work with the Department of the Interior to clarify treatment of Indian trust lands and make sure that the policies of the two departments are uniform.

Research

The Committee has approved $2,950,000 for research and evaluation. Through this program, the Social Security Administration explores new avenues to prevent or reduce dependency and to provide better coordinated and more efficient administration of programs under the Social Security Act.

Administrative expenses

The Committee has provided $32,000,000 for Federal Administration of the Assistance Payments program. This is the same as the request and House level and $4,400,000 more than last year's level.

Advance appropriation

The bill includes an advance appropriation of $1,718,000,000 for the first quarter of fiscal year 1984.

CHILD SUPPORT ENFORCEMENT

1982 comparable appropriation	$510,457,000
1983 appropriation request	284,877,000
House allowance	284,877,000
Committee recommendation	347,500,000

The Committee recommends an appropriation of $347,500,000 for the Child Support Enforcement Program. This is $62,623,000 more than the administration request and the House allowance. The recommendation is $162,957,000 less than the fiscal year 1982 comparable appropriation of $510,457,000.

The Committee recommendation is in addition to the $123,500,000 previously approved for Child Support Enforcement activities as part of the fiscal year 1983 advance appropriation for Assistance Payments. This is a new account in fiscal year 1983; in prior years, funds for this program were requested as part of the Assistance Payments appropriation.

The Committee recommendation reflects the Congressional Budget Office's most recent estimate of the needed program level. The recommendation is higher than that of the request level since the Administration assumed savings which have not been enacted.

The Child Support Enforcement Program attempts to ensure that absent parents meet their responsibility of providing support for their children.

The Committee supports the goals of Child Support Enforcement, but strongly recommends that the Administration and Congress initiate steps to improve the efficiency and fiscal posture of the program.

Advance appropriation

The Committee recommends an advance appropriation of $118,000,000 for the first quarter of fiscal year 1984.

LOW-INCOME ENERGY ASSISTANCE

1982 comparable appropriation	$1,875,000,000
1983 appropriation request	1,300,000,000
House allowance	1,850,000,000
Committee recommendation	1,850,000,000

The Committee recommends an appropriation of $1,850,000,000 for the Low Income Energy Assistance program. This is $550,000,000 more than the administration request and the same as the House allowance. The recommendation is $25,000,000 less than the 1982 comparable appropriation.

Of the amount, the Committee recommendation includes $1,847,800,000 for grants to States and $2,200,000 for administration. This program is administered principally through grants to States which may provide energy assistance through a variety of mechanisms including the direct provision

of fuel, payments for energy through a vendor line of credit or direct financial assistance.

As provided by law, States may transfer up to 10 percent of the amount they receive to other block grants. States are authorized to use up to 15 percent of their allocation for low-cost weatherization work in low-income households. States may also carry over up to 25 percent of their allocation to the next year.

The Committee urges both the Department and OMB to apportion funds to States under this program in a way that permits States the use of low income energy funds when they are most needed. The Committee believes the Department should behave flexibly in this matter. It is clear, for example, that warmer States will require less money in the early part of the fiscal year than colder States, and the Department should take these factors into consideration when making apportionments.

OFFICE OF REFUGEE RESETTLEMENT

REFUGEE AND ENTRANT ASSISTANT

1982 comparable appropriation	$670,670,000
1983 appropriation request	532,152,000
House allowance	Not considered
Committee recommendation	Not considered

The Committee has deferred consideration of the Office of Refugee Resettlement pending a further budget request or budget amendment based upon new legislation. This program was not re-authorized until October 1, 1982 at which time the Senate accepted, without amendment, the House bill H.R. 5879. The House report accompanying H.R. 5879 notes that the House "made substantial changes" in the administration's proposed legislation upon which the original budget request was based. The Refugee programs will operate on a continuing resolution until a further request is provided.

The Committee looks forward to receiving such a request in the near future.

LIMITATION ON ADMINISTRATIVE EXPENSES

1982 comparable appropriation	$3,131,000,000
1983 appropriation request	3,408,451,000
House allowance	3,408,451,000
Committee recommendation	3,408,451,000

The Committee includes authority to spend $3,408,451,000 for expenses of administering programs in the Social Security Administration. This is the same as the administration request and the House allowance. The recommendation is $277,451,000 more than the fiscal year 1982 comparable appropriation of $3,131,000,000.

This budget pays for roughly 74,000 full-time permanent and 8,000 temporary and part-time social security employees, computer support, and other costs of running the Social Security Administration.

The Committee has provided $47,026,000 for construction projects. This amount is $9,000,000 less than the House allowance and the request level. The Committee understands that SSA will proceed with only three of nine construction projects in the request and that the other six projects will be accommodated through alternative means such as rental or expansion. The Committee has earmarked $151,625,000 for automated data processing and telecommunications activities. This will provide: improved telecommunications linkage between SSA field offices and the central computer facility, replacement of magnetic tape files with disk storage, expanded program test and development systems in order to meet software improvement goals, replacement of obsolete peripheral card reading equipment and central processing equipment used for case control, and replacement of outdated central processing hardware.

The Committee is pleased to see the Department undertaking a Systems Modernization Plan to upgrade its outmoded computer systems. An adequate computer system is necessary to insure that Social Security benefits are paid in a timely fashion and that they are calculated accurately.

However, the Committee is concerned about several deficiencies in the Systems Modernization Plan (SMP) which have been pointed out in a recent GAO review. The General Accounting Office estimates the SMP will take from seven to ten years to complete, but it contains no flexibility to accommodate major legislative changes. The Committee notes that major legislative changes have occurred every three or four years in the past, and that the current fiscal condition of the Trust Funds makes it clear that further legislative changes will be needed in the future. The Committee therefore directs the Department to modify the SMP to provide for flexibility to accommodate legislative changes, and to report to the Committee on the modification no later than June 30, 1983.

The GAO review was also critical of the SMP for not spelling out any plans to improve privacy and security, pointing out that the computer system is "vulnerable to fraud and abuse perpetrated by SSA employees." The Committee believes that such vulnerability is not tolerable for a system as large and important as Social Security, and directs the Department to include improved security measures, such as issuing Personal Identification Numbers to computer system users, and report to the Committee on such changes by June 30, 1983.

In order to facilitate the implementation of the SSA systems modernization plan which will improve service to beneficiaries and safeguard the timely and accurate disbursal of Social Security checks, the Committee approves new language which will permit SSA to carry over into the next fiscal year all unobligated balances from this account to provide funding flexibility for automatic data processing and telecommunications leases, purchases or contracts for the purpose of modernizing SSA's systems, and will provide authority to use the $50,000,000 contingency for administrative expenses for automation projects after maximum absorption of such costs within the remainder of the existing limitation.

The Committee acknowledges the Administration's plan to review the Social Security Disability rolls in compliance with Section 311 of P.L. 96-265; however, the Committee is disturbed by reports of wrongful termination of persons on the disability rolls. The Committee understands that the Administration has recently reduced the number of planned reviews in Fiscal 1983 to 640,000 from 806,000, and that the Administration now requires face-to-face interviews before termination of benefits as a measure to reduce wrongful termination. The Committee urges the Administration to act quickly in reducing the backlog of appeals from decisions adverse to persons on the disability rolls and to make every effort to insure that termination of benefits is justified, particularly when the benefits represent a major source of income for an individual.

The Committee also expects the Administration to report to the Committee on the Administration's review of the disability rolls before the Committee begins hearings on the fiscal year 1984 bill.

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES

SOCIAL SERVICES BLOCK GRANT

1982 comparable appropriation	$2,400,000,000
1983 appropriation request	1,974,126,000
House allowance	1,974,126,000
Committee recommendation	2,450,000,000

The Committee recommends an appropriation of $2,450,000,000 for the Social Services Block Grant, the full entitlement funding level mandated by law. This is $475,874,000 more than the administration request and the House allowance. The recommendation is $50,000,000 more than the fiscal year 1982 comparable appropriation of $2,400,000,000.

Social Services block grant funds enable States to provide services to assist low-income persons achieve or maintain self-sufficiency, including recipients of aid to families with dependent children, supplemental security income, and medicaid program funds. These services are intended to prevent, reduce or eliminate abuse or exploitation of children and adults; to prevent or reduce inappropriate institutional care; and to secure admission or referral for institutional care when other forms of care are not appropriate.

The House, while including only the $1,974,126,000 budget request level, did not include the proposed legislative language to cap this entitlement program at less than the required $2.450,000,000 level. While this would appear to necessitate a supplemental appropriations bill to provide the remaining $478,874,000, the Committee recommends funding the entire amount at this time. By removing uncertainty over availability of funding, the Committee's action would avoid possible deterioration of services which might otherwise result. The Committee does not wish to see confusion over funding levels, causing eligible individuals to shy away from necessary services.

HUMAN DEVELOPMENT SERVICES

1982 comparable appropriation	$1,716,705,000
1983 appropriation request	1,605,104,000
House allowance	1,751,697,000
Committee recommendation	1,754,194,000

The Committee recommends an appropriation of $1,754,194,000 for Human Development Services programs. This is $149,090,000 more than the comparable administration request and $2,497,000 more than the House allowance. The recommendation is $37,489,000 more than the fiscal year 1982 comparable appropriation of $1,716,705,000. Excluded from these amounts is $18,000,000 for the Runaway Youth Program, previously appropriated for fiscal year 1983 under the terms of the continuing resolution.

Children and youth

For Head Start, the Committee recommends the budget request and House allowance of $912,000,000, an increase of $300,000 over the amount appropriated in fiscal year 1982. Funds for this program are used to provide direct comprehensive child development services, including education, health, nutrition, and social services, to pre-school

children from low-income families. Emphasis in 1983 will be on maintaining services to 377,300 preschool children and their families, the same number supported in 1982. At least 10 percent of the fiscal year 1983 Head Start enrollment, or 37,730 children, will be handicapped.

The Committee recommends last year's level of $16,199,000 for child abuse prevention programs, the same as the House allowance, but $11,579,000 more than the budget request. This includes $6,720,000 for State grants to prevent and treat child abuse and neglect, as well as $9,479,000 for discretionary activities such as research and demonstration projects.

Aging programs

For aging programs, the Committee recommends $671,726,000, the same as the House allowance, an increase of $35,263,000 over the comparable 1982 appropriation, and $103,590,000 over the comparable budget request. The Administration on Aging will continue to implement programs which foster independence of the elderly, with emphasis on providing services to those who are socially and economically needy and on providing alternatives to institutionalization. The vulnerable elderly—those who are chronically impaired, those over 75, those who live alone, and minorities, will continue to be priorities of services provided.

For State agency activities, the Committee recommends $21,673,000, the same as both the House allowance and the fiscal 1982 level, but $1,745,000 over the administration's request. These funds are awarded by formula to each State with an approved plan. Funds are used to assist State evaluation, service development and leadership responsibilities. The system is implemented at the community level by a network of area agencies.

For supportive services and senior centers, the Committee recommends $240,869,000, the same as both the House allowance and the fiscal 1982 appropriation, but $24,670,000 over the administration's request. These funds are awarded by formula to each State with an approved plan. The funds pay up to 85 percent of the cost of operating and establishing supportive services and multipurpose senior centers. Supportive services designed to foster economic and personal independence for elderly persons include access services, in-home services, community and neighborhood services, and services to residents of care-providing facilities.

For nutrition services, the Committee recommends $381,099,000 consisting of $319,074,000 for congregate meals and $62,025,000 for home-delivered meals. This recommendation is $37,000,000 above the fiscal 1982 level, and $74,824,000 above the budget request, but the same as the House allowance. These funds are awarded by formula to States for both congregate and home-delivered meal services. The funds provided, together with non-Federal resources, will support about 678,000 meals per day, compared to about 653,000 average daily meals supported in 1982. The Committee concurs with the House in not approving requested bill language to transfer $84,022,000 in Department of Agriculture cash/commodity funds to the Department of Health and Human Services.

The Committee recommends last year's level of $5,735,000 for grants to Indian tribes, the same as allowed by the House. Approximately 84 awards will be made directly to eligible Indian tribes to promote the delivery of social services and nutrition services.

The Committee recommends the House allowance and last year's level of $22,175,000 for research, training and discretionary projects, an increase of $1,868,000 over the budget request. Emphasis will be on services systems development, management improvements, and development of indirect-service approaches. These activities are designed to further the well-being of older persons.

The Committee has also provided $175,000 for the Federal Council on Aging, the same as the budget request and House allowance, and a decrease of $16,000 from the comparable 1982 appropriation of $191,000. The Council will continue in its advisory role to the President, Secretary of HHS, Commissioner on Aging, and the Congress.

The Committee recommends that the Administration on Aging continue the career manpower development program and State education and training activities funded under Title IV-A of the Older Americans Act at their fiscal year 1982 levels. Federal training dollars are essential in stimulating support from other State, local, and private resources. The experience and personnel already developed by institutions of higher education and State and local offices on aging make them the logical focal points for conducting these training activities. Without Federal support to these institutions directly or to those purchasing the training, these programs may be discontinued, thereby increasing the severe shortage of trained personnel.

Developmental disabilities

The Committee recommends $61,180,000, the full amount authorized, for activities under the Developmental Disabilities Assistance and Bill of Rights Act. This consists of $43,180,000 for basic grants, $8,000,000 for protection and advocacy programs, and $2,500,000 for special projects and $7,500,000 for university affiliated facilities. The House allowed $58,683,000 for these activities, the same as the fiscal 1982 appropriation, compared to the $31,977,000 budget request. The Committee recommendation represents a 4-percent increase over the fiscal 1982 level, and is intended to offset the impact of inflation to at least maintain the current level of services.

The Secretary of Health and Human Services is expected to work with the university affiliated facilities to explore productive means for increasing personnel training with respect to diagnosis and treatment of autistic children.

Native Americans

The Committee recommends $28,000,000, the same amount appropriated in fiscal year 1982, for Native American programs. This is the same as the House allowance, and $4,718,000 over the budget request. The funds provided are intended to promote economic and social self-sufficiency for Native Americans. Emphasis will continue on strengthening capabilities of tribal governments and Native American organizations to develop and promote stable economies or activities which provide jobs, reduce dependency on welfare and otherwise enhance the well-being of Native Americans.

Program direction

For the salaries and expenses of Federal employees administering programs of the Office of Human Development Services, the Committee recommends $65,089,000, the same as the budget request and House allowance. The funds provided are intended to support 1,260 full-time permanent positions and 125 other-than-permanent full-time equivalents. The amount provided also includes built-in increases.

CHILD WELFARE SERVICES

1982 comparable appropriation	$477,669,000
1983 appropriation request	410,920,000
House allowance	410,920,000
Committee recommendation	572,669,000

The Committee recommends $572,669,000, an increase of $161,749,000 over the budget request and House allowance, and $95,000,000 above the comparable fiscal 1982 appropriation for child welfare services activities.

Entitlement activities

The Committee recommends $395,000,000 for foster care and $5,000,000 for adoption assistance, the full amount estimated to meet requirements under existing law for these entitlement programs. The House included only $238,251,000 for these activities in its version of the bill, the same as the budget request level, while indicating it expected the need for a supplemental to meet the full entitlement costs. However, without having the full amount needed early in the fiscal year, the level of services could be curtailed due to uncertainty over appropriations.

Discretionary Activities

The Committee concurs with the House in recommending the following amounts for discretionary child welfare services: $156,326,000 for child welfare assistance, $1,912,000 for adoption opportunities; $3,823,000 for child welfare training; and $10,608,000 for child welfare research. These amounts are the same as the fiscal 1982 appropriations for these activities. Within the child welfare research activity, bill language has been added to permit funding of social services research projects, authorized under sections 1110 and 1115 of the Social Security Act, at $3,555,000. These projects provide funding for research and demonstration projects in the area of social services delivery and management projects which affect more than one of the target populations of the Office of Human Development Services.

WORK INCENTIVES

1982 comparable appropriation	$280,760,000
1983 appropriation request	
House allowance	280,760,000
Committee recommendation	260,760,000

The Committee recommends an appropriation of $260,760,000 Work Incentives. This is $20,000,000 less than both the fiscal 1982 appropriation and the House allowance. The Administration did not request funding for this program, which it proposed for block grant consolidation.

The Work Incentive Program is designed to assist welfare recipients achieve self-support through job training, work experience, child care, and other supportive services. It is jointly administered at the Federal level between the Department of Labor and Health and Human Services, but operated through State agencies at the local level.

The $260,760,000 recommended, together with available carryover funds, is intended to approximately maintain the current level of services, which annually help about 200,000 individuals enter employment. The

Committee does not anticipate any further reductions in the WIN program in fiscal year 1983 and expects the program to stabilize after last year's cuts. If it becomes apparent later that the proposed appropriation plus the funds carried over from fiscal year 1982 are not adequate to achieve this objective, additional funding will be considered.

The Committee concurs with the House in not approving the proposed consolidation of the WIN Program into the social services block grant. Instead, efforts should be made to improve administration of the program, such as correcting deficiencies cited in a recent General Accounting Office report.

COMMUNITY SERVICES BLOCK GRANT

1982 comparable appropriation	$366,075,000
1983 appropriation request	103,500,000
House allowance	360,500,000
Committee recommendation	360,500,000

The Committee recommends an appropriation of $360,500,000 for the Community Services Block Grant. This is $257,000,000 more than the administration request and the same as the House allowance. Included in the recommendation is $348,000,000 for block grant activities, the same as the fiscal 1981 level, and $12,500,000 for administrative costs. The Committee concurs with the House in not approving the requested transfer of $9,000,000 from the Rural Development Loan Fund.

Community Services block grant funds may be used for a wide variety of anti-poverty activities, such as promoting self-sufficiency of low-income individuals, and providing emergency food and nutrition services.

The Committee agrees with House bill language earmarking $31,320,000 for Secretary's discretionary activities, as follows: rural housing and community facilities, $3,840,000; assistance for migrants and seasonal farmworkers, $2,880,000; community economic development, $18,840,000; and national youth sport, $5,760,000.

The Committee has deleted House bill language to pass through 90 percent of block grant funds to Community Action Agencies, since this language is redundant to a provision carried in the current continuing resolution. However, the Committee has included a modification to the 90 percent pass-through provision under the Community Services Block Grant Act contained in Public Law 97-276, the current Continuing Resolution for fiscal year 1983, to accommodate unique problems in the States of Wyoming, Utah, Colorado, and Nevada with respect to the delivery of community services in those four States:

The Committee anticipates States will be fully capable of assuming complete responsibility according to the terms and conditions of the community services block grant legislation beginning October 1, 1983.

In view of the fact that the Committee recommended maintaining block grant funds at fiscal year 1982 levels, the Secretary shall ensure that funds are expended during this fiscal year to staff the Office Community Services, at a level not lower than the number of on-board staff as of October 1, 1982.

The Secretary shall ensure that former Community Services Administration employees be assured of priority placement within HHS consistent with their rights as separated Federal employees and the regulations governing reemployment placement priorities within the Department.

Pursuant to the direction of this Committee, the Secretary committed in fiscal 1982 to expend $5,000,000 in Rural Development Loan Funds (RDLF) and $1,600,000 in Community Development Credit Union Revolving Loan Funds. The Committee is distressed by the Department's failure to carry out this commitment. Accordingly, the Committee directs the Secretary to make loans totaling $5 million from the Rural Development Loan Fund for fiscal 1982 plus a like amount for fiscal year 1983; and expenditures from the Community Development Credit Union Revolving Loan Fund totaling the entire unexpended balance thereof. RDLF loans should be made to nonprofit organizations with previous experience in administering RDLF funds and which had, by the end of fiscal 1982, disbursed half or more of their available RDLF funds, Community Development Credit Union Revolving Loan Fund expenditures should be made in a manner which ensures the availability of appropriate management and technical assistance to eligible low-income credit unions.

DEPARTMENTAL MANAGEMENT

GENERAL DEPARTMENTAL MANAGEMENT

1982 comparable appropriation	$146,709,000
1983 appropriation request	158,143,000
House allowance	158,143,000
Committee recommendation	158,143,000

The Committee recommends an appropriation of $158,143,000 for General Departmental Management. This is the same as the administration request and the House allowance. The recommendation is $11,434,000 more than the fiscal year 1982 comparable appropriation of $146,709,000.

Also included is an authorization to transfer $8,000,000 from the Social Security Trust Fund. This is the same as the request level and $320,000 more than last year's transfer.

This appropriation supports two basic kinds of activities:

Departmental direction involves those activities related to the Secretary's overall responsibilities for the management of the Department such as budget formulation, personnel management, grants and contracts management, policy analysis, and selected legal activities including drafting and reviewing regulations.

Departmental operations involves services which meet work requirements directly resulting from agency program operations including legal services provided to the Social Security Administration; enforcement of long-term nursing home care standards; and facilities engineering and surplus property functions.

The Committee concurs with the effort being made to reduce the staff resources requested for this appropriation and approves the administration's request for a reduction of 284 positions. The Committee also recognizes the need to support the management improvements and built-in cost-of-living increases, comprised principally of pay-related and space and building management increases, and has approved the request for these funds accordingly.

OFFICE OF THE INSPECTOR GENERAL

1982 comparable appropriation	$69,983,000
1983 appropriation request	71,267,000
House allowance	71,267,000
Committee recommendation	71,267,000

The Committee recommends an appropriation of $71,267,000 for the Office of the Inspector General. This is the same as the House allowance and the administration request. The recommendation is $1,284,000 more than the fiscal year 1982 comparable appropriation of $69,983,000.

In addition, the Committee recommends a transfer of $6,000,000 from the Social Security Trust Funds which is $240,000 more than last year's transfer.

The Office of the Inspector General (OIG) was created by law to provide leadership and coordination of the Department's efforts to promote efficiency and economy and to prevent fraud and abuse in its programs. The major functions of OIG in combating fraud, abuse, and waste are to:

Conduct audits and investigations;

Coordinate activities of the Department's principal operating divisions in the prevention and detection of fraud, waste, and abuse; and

Coordinate relationships with the other governmental and non-governmental entities.

The Committee recognizes the important nature of the work of the Office of the Inspector General and has approved funding sufficient to maintain a vigorous, effective program to promote economy and efficiency and prevent fraud, waste, and abuse in the Department's programs. In addition, the resources approved will fully fund the costs of the Federal portion of the State Medicaid Fraud Control Units program The Committee approves a fiscal year 1984 advance appropriation of $10,000,000. This will simplify a complex borrowing device now used to fund first quarter grant awards. The total new budget authority for OIG, including advance, is $81,267,000.

OFFICE FOR CIVIL RIGHTS

1982 comparable appropriation	$17,460,000
1983 appropriation request	19,163,000
House allowance	19,163,000
Committee recommendation	19,163,000

The Committee recommends an appropriation of $19,163,000 for the Office of Civil Rights. This is the same as the administration request and the House allowance. The recommendation is $1,703,000 more than the fiscal year 1982 comparable appropriation of $17,460,000. In addition, the Committee recommendation includes a transfer of $2,350,000 from the Social Security Trust Fund which is $94,000 more than last year's transfer.

The role of this office is to rectify racial and national origin discrimination prohibited by Civil Rights statutes. To enforce these anti-discrimination statutes the Office of Civil Rights investigates complaints of discrimination; conducts comprehensive reviews of programs to correct discriminatory practices; conducts outreach initiatives and provides technical assistance to encourage voluntary compliance among health and human services providers and constituency groups; and establishes compliance standards and procedures to clarify the application of the civil rights laws and regulations to particular programs or practices.

The amount approved provides built-in cost-of-living increases principally to cover the cost of pay-related and space and building management increases.

POLICY RESEARCH

1982 comparable appropriation	$13,440,000
1983 appropriation request	14,718,000
House allowance	13,440,000
Committee recommendation	14,718,000

The Committee recommends an appropriation of $14,718,000 for Policy Research. This is the same as the administration request and $1,278,000 more than the House allowance and the fiscal year 1982 comparable appropriation of $13,440,000.

This program is authorized by section 1110 of the Social Security Act. The program is one of the Department's principal sources of policy-relevant data and research on income sources of the low-income population; on the impact, effectiveness and distribution of benefits under existing or proposed programs; and on other issues that cut across HHS agency lines. It is used to analyze issues that cannot be covered in other departmental research programs or under existing evaluation activity.

The Committee recommendation restores $1,278,000 which was deleted by the House. That amount provides built-in cost-of-living increases which would allow continuation of this program at the fiscal 1982 level.

The Committee has added language to the bill directing the Office of Policy Research to continue funding the Institute for Research on Poverty at a level of $1,500,000. The Institute has provided independent and objective analyses about issues affecting poverty for nearly twenty years. It is the only research organization focusing exclusively on poverty issues and the Committee believes its important work must be continued.

TITLE III—DEPARTMENT OF EDUCATION

COMPENSATORY PROGRAMS FOR DISADVANTAGED STUDENTS

1982 comparable appropriation	$3,040,980,000
1983 appropriation request	1,942,000,000
House allowance	3,040,980,000
Committee recommendation	3,207,500,000

The Committee recommends an appropriation of $3,207,500,000 for Compensatory Programs for Disadvantaged Students. This is $1,265,500,000 more than the administration request and $166,520,000 more than the House allowance and the fiscal year 1982 comparable appropriation.

Since the passage of the landmark Elementary and Secondary Education Act (ESEA) of 1965, the Federal government has assumed a responsibility to assist State and local education agencies with the costs of special educational services to children most in need of improved academic performance. Along with this support has been the recognition that by assisting disadvantaged children with their level of educational achievement, their opportunities to participate more fully in society and obtain productive employment will be improved.

The main source of Federal support for disadvantaged children in elementary and secondary schools has been through title 1 of the ESEA, recently modified to become chapter 1 of the Education Consolidation and Improvement Act (ECIA) of 1981, which continues this policy of serving the most needy of educationally-deprived children through funded programs to the States and local school districts.

Through its recommended appropriations levels for the Education Consolidation and Improvement Act program, the Committee is reaffirming its commitment to the value of educational gains and enhancement for all children throughout the Nation. The programs authorized under chapter 1 are advanced-funded: that is funds appropriated in fiscal year 1983 become available on July 1, 1983 for use in school year 1983–84. The following table provides a breakdown of the Committee's recommendations for the ECIA chapter 1.

	Fiscal year 1982 comparable enacted	Fiscal year 1983 estimates	House recommendation	Committee recommendation
COMPENSATORY EDUCATION FOR THE DISADVANTAGED				
Grant for the disadvantaged chapter 1:				
Grants to local educational agencies	2,562,754,000	1,726,256,000	2,562,754,000	2,727,360,000
State agency programs:				
Migrants	255,744,000	167,012,000	255,744,000	255,744,000
Handicapped	146,520,000		146,520,000	146,520,000
Neglected and delinquent	32,616,000	21,886,000	32,616,000	32,616,000
State administration	30,575,000	22,100,000	30,575,000	32,000,000
Evaluation and studies	5,760,000	4,746,000	5,760,000	5,760,000
Total, title I	3,033,969,000	1,942,000,000	3,033,969,000	3,200,000,000
Migrant education:				
High school equivalency program	5,851,000		5,851,000	6,300,000
College assistance migrant program	1,160,000		1,160,000	1,200,000
Total, compensatory education programs	3,040,980,000	1,942,000,000	3,040,980,000	3,207,500,000

For basic Grants to Local Education Agencies, the Committee proposes a level of $2,727,360,000, an increase of $164,606,000 over the final fiscal 1982 level and the House allowance. That amount is also $1,001,104,000 more than the budget request. This amount will provide financial assistance to nearly 14,000 school districts, approximately 90 percent of all districts, to support supplementary compensatory education services for an estimated 5,185,000 children in school year 1983–84 compared with 4,872,000 served at the House level. The Committee has assumed an average cost per pupil of $526, which is $126 greater than the administration's assumption of $400 per child.

Programs funded by Basic Grants to Local Education Agencies focus on young children in elementary schools. Estimates indicate that approximately 71 percent of the chapter 1 participants will be elementary school students in grades 1–6 and another 7 percent will in preschool and kindergarten programs. The remaining 22 percent are students in junior and senior high school.

Local education agencies will use approximately 75 percent of their funds to support compensatory instructional services, focusing primarily on the basic skills of math and reading. About 20 percent of their funds will be used to cover fixed charges, operation and maintenance of physical plant, and capital outlay. The remaining 5 percent will go for auxiliary services such as health and counseling services.

In 1982 a supplementary amount of $148,000,000 was provided to protect States from a sudden loss of funds due to the uncertainty over whether 1970 or 1980 census data were to be used in making chapter 1 allocations to the school districts. Education agencies received awards based on the higher allocation they would receive under either the 1970 or 1980 data base. This supplemental amount is no longer needed as a hold-harmless provision, and so will be included, along with the increase provided, in the overall total for chapter 1 for distribution according to the mandated formula.

State agency programs

For the three State Agency programs, the Committee recommends the same amounts as the 1982 levels and the House amounts.

At the recommended level of $255,744,000 for the State Agency Migrant program, approximately 468,300 children would be served at an average Federal contribution of $531 per child. Compared with the budget request of $167,012,000, an additional 163,200 children would be served at the recommended amount. The level would support migrant coordination activities such as the Migrant Record Transfer System at approximately $7,065,000 in the 1983–84 academic year.

An amount of $146,520,000 would be provided for the State Agency Handicapped program. The administration requested no funds in fiscal 1983 for this activity, but proposed instead that it be consolidated under the block grant for handicapped services. At the Committee's recommended funding level, about 245,000 children would be served at an average cost to the Federal Government of $598 per student. These funds provide partial support for the education of handicapped children who are served by, or who have in the past been served by, programs operated or supported by the States, funds for which are awarded on the basis of formula grants to the States.

The Committee also recommends $32,616,000 for the State Agency Neglected and Delinquent program. It is expected that this level will serve about 47,000 students in institutions for neglected and delinquent children, at an average Federal expenditure of $694 per student. This level would serve 9,000 more students than at the amount requested by the administration.

For Chapter 1 State Administration, the Committee includes $33,014,000, an increase of $2,439,000 over fiscal year 1982 and the House level, and $10,914,000 more than the budget request. It is the intent of the Committee that these additional funds will be used to permit the Department to fund a State's administrative costs up to the one-percent of a State's Chapter 1 allocation as provided by law.

For Evaluation and Studies, the Committee provides $4,746,000, the budget request level and $1,014,000 less than the House level. With these funds, approximately $4,416,000 will support ten technical assistance centers, with the remaining funds being used for national evaluations of the Chapter 1 program.

Migrant education

The Committee recommends a total of $7,500,000 for the High School Equivalency Program (HEP) and College Assistance Migrant Program (CAMP), an amount that is $489,000 more than the House and 1982 total of $7,011,000. The administration proposed to eliminate these two programs in fiscal 1983.

The HEP program provides grants to institutions of higher education to assist migrant and seasonal farmworkers beyond the age of compulsory school attendance to complete courses necessary to receive a high school diploma or its equivalent. Career and personal counseling services are provided, as well as placement assistance.

CAMP assists migrant students enrolled in their first undergraduate year at a postsecondary institution through provision of tuition scholarships and stipends. Tutoring and counseling services are also provided.

SPECIAL PROGRAMS AND POPULATIONS

1982 comparable appropriations	$536,880,000
1983 appropriation request	433,000,000
House allowance	538,920,000
Committee recommendation	530,080,000

The Committee recommends an appropriation of $530,080,000 for Special Programs and Populations. That is $97,080,000 more than the administration request and $8,840,000 less than the House allowance. The recommendation is $6,800,000 less than the fiscal year 1982 comparable appropriation of $536,880,000.

Included under this account are the Education Block Grant (Chapter 2 of the Education Consolidation and Improvement Act) and a number of categorical programs which the administration proposed to eliminate as individual programs in fiscal year 1983.

The actual appropriation level for the block grant was $470,400,000, but because three formerly categorical programs—law-related education, career education, and the biomedical sciences program—were mandated for inclusion into the block grant in fiscal 1983, a comparable 1982 amount has been computed to reflect the addition of these programs in the block grant.

For the block grant, the Committee includes $475,000,000, which is $4,600,000 more than the actual 1982 appropriation of $470,400,000, but $8,840,000 less than the comparable 1982 level of $483,840,000, computed to reflect the inclusion of three formerly categorical programs in the block grant at a 1982 total of $13,440,000. Of the total provided, $446,500,000 will go for State activities, at least 80 percent of which must be passed through to local education agencies. There is a 1-percent set-aside for the territories and a 6-percent set-aside of the total for the Secretary's discretionary fund.

Block grant funds will be used in accordance with local priorities to carry out activities in the areas of basic skills development, educational improvement and support services, and special projects similar to the activities previously funded from nearly thirty separate programs. It is hoped that the block grant approach will eliminate duplicative paperwork and administrative overhead while granting State and local education agencies greater control to design and provide educational programs which best meet local needs.

The Committee provides the full 6 percent, or $28,500,000 for the Secretary's discretionary activities. This is $1,580,000 more than the administration requested and $530,000 less than the House allowance. This level provides support for three mandated programs: the inexpensive Book Distribution Program (Reading is Fundamental); Programs of National Significance under Arts in Education; and Alcohol and Drug Abuse Education. The recommended level for 1983 is as follows: Reading is Fundamental, $5,850,000; Arts in Education, $2,025,000; and Alcohol and Drug Abuse Education, $2,850,000.

The remaining funds in the discretionary allowance would be used to support the National Diffusion Network, Educational Television and Technology and other special initiatives. The allowance also provide for evaluation studies of Block Grants for Improving School Programs. This is the first block grant program in education and the Committee believes that a thorough analysis of its operation and effectiveness should be undertaken.

The Committee continues to have a strong interest in and support for the National Diffusion Network. This program is the only federally sponsored program designed to improve educational quality by disseminating information on exemplary programs directly to school districts throughout the country. Therefore, the Committee expects that the Secretary will maintain the program's activities at approximately the same level as in fiscal 1982.

The Committee encourages the Department to continue its funding of such educational television series as the Children's TV Workshop "3-2-1 Contact". These programs are especially important in helping to meet our nation's growing need for more science and mathematics education.

Other programs

The Committee concurs with the House in including funding at approximately the fiscal 1982 levels for each of six categorical programs: Civil Rights Training and Advisory Services, Follow Through, Territorial Teacher Training Assistance, General Assistance to the Virgin Islands, Ellender Fellowships, and Women's Educational Equity. The administration requested no funding for these programs in fiscal 1983.

For the Training and Advisory Services authorized by title IV of the Civil Rights Act, the Committee recommends $24,000,000. With this amount, State and local educational agency civil rights units and 40 desegregation assistance centers would be supported.

The Committee recommends $19,440,000 for Follow Through, to improve the quality of educational and educational-related services for economically disadvantaged children in kindergarten through early elementary grades. At this level, awards would be made to approximately 69 projects. Funds will primarily be directed toward the continuation of existing service projects in local school districts, along with ongoing support for sponsoring institutions and resource centers. About 30,000 children would be served at an average cost of $545 per child. By law, Follow Through is to be phased into the Education Block Grant at the end of fiscal year 1984.

For General Assistance to the Virgin Islands, the Committee includes $1,920,000 to improve elementary and secondary education. Funds have been used primarily for the expansion of school facilities to accommodate an expanding school age population and for curriculum development.

For Territorial Teacher Training, the Committee recommends $960,000. At this level, awards will be made to departments of education in the Virgin Islands, Northern Mariana Islands, and the Trust Territory of the Pacific Islands to provide training for elementary and secondary school teachers, based upon need and performance.

The Committee also concurs with the House in recommending $3,000,000 for the Ellender Fellowships, of which $1,500,000 is provided for each of fiscal years 1983 and 1984. The Committee has chosen therefore not only to increase the annual appropriation by $540,000 over the 1982 level, but also to allow for a transition to forward funding for this program. At the Committee level, a sole source contract of $1,500,000 will be awarded to the Close-Up Foundation of Washington, D.C. to assist with the expenses of sending approximately 3,000 economically disadvantaged students and their teachers per year to the Nation's Capital for 1 week comprehensive seminars on the functioning of the Federal Government. The major portion of the program's costs are provided by community and private sources.

For the Women's Educational Equity Act program, the Committee provides $5,760,000 for grants and contracts to public agencies, private and nonprofit organizations and to individuals for the development, demonstration and dissemination activities to promote educational equity for women and girls at all educational levels. Grants are awarded on a competitive basis with applications reviewed by panels of Federal and non-Federal experts in the area of educational equity.

The Committee expects that funds appropriated for the Women's Educational Equity Act (WEEA) program will be used in accordance with existing priorities and current WEEA regulations.

The Committee earlier directed the Department to prepare a comprehensive report identifying those programs which could effectively address the unique educational needs of native Hawaiians. The Committee has been most pleased with the considerable progress that has been made to date and looks forward to receiving this report upon its completion.

With regard to the Washington Workshops program, the Committee is impressed with the preliminary information provided about the important work that Washington Workshops performs in bringing senior high school students to the nation's capital to study the federal government and observe it first-hand. However, the Committee is reluctant to move ahead on an item for which there is no existing authorization and on which it has not been able to hold a hearing. The Committee intends to explore the role of the Washington Workshops program at its next round of hearings and hopes to be able to act favorably on providing funds at a later date.

BILINGUAL AND MINORITY LANGUAGE EDUCATION

1982 comparable appropriation	$138,057,000
1983 appropriation request	94,534,000
House allowance	138,057,000
Committee recommendation	138,057,000

The Committee recommends an appropriation of $138,057,000 for Bilingual and

Minority Language Education. This is $43,523,000 more than the administration request and the same as the House allowance. The recommendation is the same as the fiscal year 1982 comparable appropriation.

Grants to school districts

The Committee recommends $84,126,000 for grants to school districts for fiscal year 1983. This amount is $23,602,000 above the adminstration's request, $504,000 above the House allowance, and $4,904,000 more than the fiscal year 1982 approriation.

Activities carried out under this program are intended to assist children of limited English proficiency to improve their ability to read, write and speak English while progressing in classroom subject matter.

Training grants

The Committee recommends $31,288,000 for training grants in fiscal year 1983. This amount is $5,788,000 more than the administration requested, and $2,452,000 more than the House allowance and the fiscal 1982 appropriation.

The Committee believes that training continues to be a high priority activity, since the lack of trained personnel has consistently been identified as a major problem. A variety of training activities will be supported during fiscal year 1983, which include fellowships, stipends and aid to universities for support of both graduate and undergraduate programs in bilingual education. Professional development of teachers and State agency personnel, and training and technical assistance programs carried out in bilingual service centers will also be supported.

Support services

The Committee has provided $18,957,000 for the support services activity in fiscal year 1983. This amount is $10,447,000 above the administration's request and $4,400,000 more than the House allowance. The recommendation is the same as the fiscal year 1982 appropriation.

A variety of activities are carried out within this program which supports operations of the other bilingual education programs. Some of the projects which are supported include grants to State educational agencies for coordination and technical assistance, evaluation and research studies, a clearinghouse to disseminate research findings, and an advisory committee.

Bilingual desegregation grants

No funding is provided for bilingual desegregation grants for fiscal year 1983. This recommendation is the same as the administration's request, and $7,356,000 less than the House allowance and the fiscal year 1982 appropriation.

Many districts undergoing desegregation are already funded under the basic grants program. Consolidation will reduce duplication and effect a cost savings.

Bilingual vocational training

The Committee recommends $3,686,000 for the bilingual vocational training activity for fiscal year 1983. This amount is the same as the House allowance and the appropriation for fiscal year 1982. The administration proposed making these funds available under the grants to school districts activity.

This program provides bilingual vocational training and occupational-related English language instruction to out-of-school and unemployed or underemployed youth and adults.

SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS

1982 comparable appropriation	$456,200,000
1983 appropriation request	286,880,000
House allowance	475,000,000
Committee recommendation	475,000,000

The Committee recommends an appropriation of $475,000,000 for Impact Aid. This is $188,120,000 more than the administration request and the same as the House allowance. The recommendation is $18,800,000 more than the fiscal year 1982 comparable appropriation of $456,200,000. The funding included in the bill for this program represents the full amount authorized.

Impact Aid is a program to help compensate local school districts for the cost of educating children where availability of revenue from local taxes has been adversely affected by the presence of Federal activities.

The full amount authorized, a total of $435,000,000, is recommended for "A" and "B" payments under section 3. "A" payments are made to school districts for children who live and whose parents work on Federal property or are on active duty in the uniformed services. "B" payments are made to school districts for children whose parents work on Federal property or are on active duty in the uniformed services. The allowance for these payments represents an increase of $17,400,000 over the amount available in fiscal year 1982 and is the same as the House level. The distribution of payments for "A" and "B" children would follow generally the same pattern as used for fiscal year 1982.

Payments for "A" children would be calculated by prorating the funds according to the amount each school district received in 1981. In recognition of the particular hardships faced by school districts impacted heavily with "A" children, in addition to the phase-out of payments for "B" children with no authorization provided for "B" payments in fiscal year 1984, mandated by the Omnibus Reconciliation Act of 1981, the Committee provides 100 percent of their fiscal year 1981 payments to the so-called Super "A" districts (school districts having 20 percent or more "A" children). "A" payments to districts which do not meet the 20 percent "A" criteria are provided at 90 percent of the fiscal year 1981 payments, the same level recommended by the House and more than three percent in excess of the amount these districts received in fiscal year 1982. Payments are to be made for "B" children, in districts where they comprise 20 percent or more of total enrollment, at approximately 48 percent of the 1981 payment. In districts where "B" children comprise less than 20 percent of total enrollment, payments would be at approximately 14.6 percent of the 1981 payment.

Under the proposed formula, any school district whose total payment would be less than $5,000 would receive no payment.

While the Committee recognizes the severe hardship borne by those school districts which are very heavily impacted by federally-connected children, it believes that a limit must be placed on the amount of funds available under section 3(d)(2)(B). Estimates presented to the Committee by the Department on the number of potentially eligible districts under this section vary greatly. In addition, the Committee is deeply concerned about how the money is distributed. Accordingly, the Committee directs the Department to conduct a thorough review of the provisions of this section toward the goal of determining what changes are necessary in order to ensure the targeting of funds to those districts most in need. The Committee expects a full report on this matter within forty-five days from the time of issuance of this report.

The Committee directs the Secretary to develop expeditiously a comprehensive policy which fulfills the federal government's commitment to those school districts which are impacted by the presence of federal facilities. In particular, the Secretary should work, in cooperation with the Secretary of Defense, to aid school districts whose tax bases are reduced by the existence of Federal military installations.

The Highland Falls-Fort Montgomery School District, adjacent to the United States Military Academy at West Point, is a perfect example of a school district for which the Committee expresses a real concern. Over 93 percent of the taxable land in the school district now belongs to West Point. However, the federal government has, over the last several years, reduced assistance to the school district. For the well-being of the students in Highland Falls as well as the promotion of good relations between the community and the Academy, the Committee believes that a firm policy must be developed.

Special provisions (section 2)

The Committee recommends an appropriation of $10,000,000 for Section 2 districts which are heavily impacted by Federal Government removal of properties from the tax base. This is the maximum amount authorized by Reconciliation and is an increase of $1,200,000 over the budget request. The recommendation is $400,000 over the fiscal year 1982 and is the same as the House allowance.

The Committee again calls attention to the Douglas School District in Box Elder, S. Dak., which is responsible for educating large numbers of children whose parents work and/or live on the Ellsworth Air Force Base.

In addition to its regular section 3 payments, this district, which is taxing at the maximum rate allowed and which will reach shortly its legal debt limit, has relied extensively both on section 3(d)(2)(B) and section 2 payments.

Consequently, notwithstanding any proration of section 2 payments, the Committee has included statutory language to ensure that Douglas will receive 100 percent of its section 2 entitlement in fiscal year 1983.

Disaster assistance

The Committee recommends an appropriation of $10,000,000 for Section 7 Disaster Assistance, the maximum authorized by Reconciliation. This is an increase of $200,000 over the fiscal 1982 level. The recommendation is the same as the House allowance.

Construction

The Committee recommends an appropriation of $20,000,000 for Impact Aid construction, the maximum authorized by Reconciliation. This is an increase of $17,000,000 over the 1983 request, and $800,000 over the fiscal year 1982 level. The recommendation is the same as the House allowance.

Bill language is proposed to give priority to schools attended by children residing on Indian lands (Section 14) and schools for children residing on Federal property where

legal or other reasons prevent local school districts from fulfilling this need (Section 10).

EDUCATION FOR THE HANDICAPPED

1982 comparable appropriation	$1,068,580,000
1983 appropriation request	845,668,000
House allowance	1,103,680,000
Committee recommendation	1,110,252,000

The Committee recommends an appropriation of $1,110,252,000 for Education for the Handicapped. This is $264,584,000 more than the administration request and $6,572,000 more than the House allowance. The recommendation is $41,672,000 more than the fiscal year 1982 comparable appropriation of $1,068,580,000.

In its budget presentation, the Department of Education indicated that legislation would be proposed to revise the State Grant program and to streamline discretionary activities under a single Special Purpose Funds authority. This legislation was not enacted and the Committee has once again based its recommendations on existing authorities for two formula programs (Basic State Grants and Pre-school Incentive Grants) and for the several separate discretionary activities.

State grant program

The Committee recommends an appropriation of $970,000,000, an increase of $38,992,000 over FY 1982 level.

The primary purpose of the State Grant program is to provide assistance to State in carrying out the mandate of the Education for All Handicapped Children Act in providing handicapped children with a free, appropriate public education. Each State is entitled to receive an amount equal to the number of handicapped children aged 3-21 receiving special education and related services multiplied by a percentage of the national average per pupil expenditure.

The Committee recommendation should serve approximately $4,050,000 students and will provide a Federal contribution of 9.3% of the average per pupil expenditure toward the education of these children in school year 1983-84 under this advance funded program.

Pre-School incentive grants

The Committee recommends full funding, or $25,000,000, for Preschool incentive grants. No funds had been requested since this program was proposed to be folded into a State Block Grant program. The House allowance is $24,000,000, the same as the FY 1982 level.

This program is designed to stimulate State and local education agencies to expand educational services to handicapped pre-school children, ages 3-5, thereby increasing their opportunities to benefit from early education intervention. The amount recommended would provide approximately $103 per child for this purpose, given an estimated enrollment of 243,000 children.

Deaf-Blind Centers

To fund single and multi-State centers, which coordinate the delivery of services to 6,100 deaf-blind children who have been identified in this country, as well as to support a limited number of demonstration projects, $15,360,000 has been recommended. This is the same as the fiscal year 1982 and the House levels. Given the age of the majority of these children, many of whom were victims of the rubella epidemic of 1965, the Committee is interested in the extent to which funded centers work in conjunction with other appropriate governmental units and with the State agencies funded by the Rehabilitation Services Administration to plan for a continuum of services and training after the age of 21. The Committee expects future budget submissions to address this concern.

Severely handicapped projects

Level funding of $2,880,000 is proposed, the same amount available in fiscal year 1982 and the House allowance. This program awards contracts to State Departments of Education, colleges and universities and other institutions, to develop and disseminate model projects demonstrating the best methods of educating severely handicapped children in order to develop their self-reliance and reduce their need for institutional care.

Early childhood education

The Committee recommends $16,800,000, the same as the final 1982 and House levels. The Early Childhood Education programs supports grants and contracts for demonstration projects to develop and disseminate effective models of educational services to pre-school age handicapped children. The Committee recognizes the value of early intervention in limiting the effects of a handicapping condition and applauds the goals of this program and of the Pre-school incentive program. The Committee notes with interest the extent to which demonstration projects had been maintained with local funds after special Federal support had concluded. The Committee would like to learn more about the procedures whereby States are informed about models developed under this program and if the Department is able to identify the extent to which models have been adopted, in whole or in part, nationally. These concerns may be addressed in forthcoming hearings.

Recruitment and information

This program supports contracts to provide information on educational resources for handicapped children and on employment opportunities in the field of special education. Funds are awarded on a competitive basis to operate a National Information Center for the Handicapped and to issue public service announcements in the media on the needs of the handicapped. The Committee recommendation is to maintain funding at $720,000, the same as the fiscal year 1982 level and the House amount.

Special education personnel development

The Committee recommends a level of $49,300,000, the same as the 1982 level and that of the House. This program addresses the need to train an adequate supply of educational personnel competent to deal with the special education needs of handicapped children. Grantees include institutions of higher education, State education agencies, and other appropriate nonprofit agencies.

The Committee encourages the Department to work with participating institutions to see that funds be targeted on retraining existing educational personnel needing employment to enable them to re-enter the work force as special education teachers. A report on this issue, requested in Senate Report 97-516, will receive the Committee's close attention.

Special studies

The Committee recommends maintaining funding at the fiscal year 1982 level of $480,000 to ensure the collection and analysis of sufficient data to adequately reflect the effectiveness of Federal, State, and local efforts to provide a free, appropriate public education to all handicapped children. These studies are reflected in the required annual report to Congress on the implementation of Public Law 94-142.

Regional, vocational, adult, and postsecondary programs

The Committee recommends $2,832,000, the same amount available under this 1982 Continuing Resolution. As a result of report language in authorizing and appropriations bills in fiscal year 1974 and 1975, most of the funds each year have been spent on programs for the deaf in four postsecondary schools: Seattle Community College, California State University at Northridge, St. Paul Vocational Technical Institute, and Delgado College in New Orleans. The Community endorses the Department's plans to make these awards in fiscal year 1983 on a competitive basis to enable other eligible schools to participate in this program, which provides direct services to disabled students.

Innovation and development

The Committee has included $12,000,000 for Innovation and Development, the same as the House level and $1,200,000 more than the fiscal year 1982 comparable appropriation. This program funds research and development and model program activities. The Committee is pleased with its success in promoting educational achievement by handicapped children through the development of inventions, curriculum materials, and diagnostic/assessment instruments for a range of disabilities.

Media services and captioned films

An amount of $12,000,000 is included, an increase of $480,000 over the fiscal year 1982 level, and $2,000,000 less than the House. Under this program, media projects such as film captioning, the National Theater for the Deaf, and Recordings for the Blind, Inc., are supported.

Regional resource centers

The Committee recommends maintaining support for this program at the 1982 level of $2,880,000. Center activities include testing and diagnosis, training personnel in state departments of education, direct referral services, and the development of individualized education programs.

REHABILITATION SERVICES AND HANDICAPPED RESEARCH

1982 comparable appropriation	$952,171,000
1983 appropriation request	650,000,000
House allowance	1,035,227,000
Committee recommendation	1,036,727,000

The Committee recommends an appropriation of $1,036,727,000 for Rehabilitation Services and handicapped Research, an increase of $1,500,000 over the House allowance. The recommendation is $84,556,000 more than the fiscal year 1982 comparable appropriation of $952,171,000.

For fiscal year 1983, legislation was proposed for the administrative simplification of the Basic State Grants program and to consolidate several discretionary authorities into a special purpose fund. These proposed amendments to the Rehabilitation Act have not been enacted. The Committee has, therefore, based its recommendations on the existing legislation which includes separate authorities for several categorical programs. For these categorical programs, the Committee has recommended $62,574,000,

the same as the House allowance, which is $18,834,000 more than the comparable amount requested for the proposed Special Purpose Fund. At this funding level, 1,500,000 clients will be served, 100,000 more than in fiscal year 1982. An estimated 229,000 disabled individuals will be rehabilitated compared to 226,000 in fiscal year 1982.

Basic State grants

For Basic State Grants, the Committee recommends $943,900,000, the full amount authorized for fiscal year 1983 by the Omnibus Reconciliation Act of 1981. This is $80,860,000 more than was made available in fiscal year 1982 under the Continuing Resolution, and the same as the House allowance.

The Basic State Grants program provides an 80 percent Federal match to State vocational rehabilitation agencies for the provision and administration of programs to prepare disabled individuals to engage in gainful employment. A statutory requirement gives priority in the provisions of services to severely handicapped individuals.

Funding at the authorized ceiling is recommended to help reverse the decline in the number of disabled men and women rehabilitated that has occurred in recent years as a result of inflation and the priority to serve disabled clients who are more costly to rehabilitate. Moreover, as a result of amendments to the Social Security Act in the 1981 Omnibus Reconciliation Act, funds from the Supplemental Security Income (SSI) program and the Beneficiary Rehabilitation program are no longer transferred to the State vocational rehabilitation agencies at levels comparable to those of previous years. The amount advanced to the agencies by the Social Security Administration in fiscal year 1982 was approximately $3,500,000. In the previous year, $124,050,000 was transferred from the SSI program and the trust funds for the purpose of rehabilitating eligible clients and beneficiaries.

Service projects

The Committee recommends $26,094,000, the same as the House allowance, for the various discretionary programs within the service projects activity. This is an increase of $2,200,000 over the fiscal 1982 appropriation level. Of this amount, $8,000,000 shall be set aside for the Projects With Industry program. Bill language has been included, as in fiscal years 1981 and 1982, earmarking $650,000 to maintain the Navajo Vocational Rehabilitation project.

Service projects assist individuals who have unique disabling conditions, develop new and innovative approaches to meeting their needs, and provide clients with special training and employment opportunities. The main types of service projects are: Projects With Industry; Severely Disabled; Migratory Workers, Indians; Helen Keller Center; Recreation Programs; and Client Assistance.

Independent living

The Committee recommendation of $17,280,000 for independent living projects is the same as the 1982 level, as well as the House allowance. Appropriated funds support centers which provide a wide range of services designed to better enable severely handicapped individuals live more independently in family and community settings as a more cost-effective, personally satisfying alternative to institutionalization.

The Committee has included bill language to protect centers and projects funded through the Independent Living and Projects With Industry programs. This language is intended to make available such amounts as are necessary for fiscal 1983 to fund all projects and centers which received assistance through the Independent Living and Projects With Industry programs in fiscal 1981. The purpose of this language is to allow the authorizing committee to review these two programs early next year and to determine if and/or how the present grantees ought to be changed. Without assured continued support this option would be lost to the Congress.

Training

For rehabilitation training, the Committee recommends $19,200,000, the same as both the House allowance and the fiscal year 1982 appropriation.

The purpose of the training program is to increase the numbers and improve the skills of rehabilitation personnel.

It is the Committee's understanding that the Department has complied with its directive to maintain funding for prosthetic and orthotic education in fiscal year 1982 at the fiscal year 1980 level. It directs the Secretary to maintain that level in fiscal year 1983 in order to address the severe manpower shortage in the professions which contribute significantly to reducing the cost of hospital care and to expediting the return of physically impaired citizens to productive lives. The Committee directs that training activities in the field of physical therapy be maintained at the fiscal year 1981 levels.

National Institute of Handicapped Research

The Committee recommends an appropriation of $30,060,000 for the National Institute of Handicapped Research, an increase of $1,500,000 over the House allowance and the fiscal year 1982 comparable appropriation. This increase reflects the Committee's deep concern over the erosion of resources devoted to research regarding rehabilitation and the needs of handicapped Americans in the past three years.

The National Institute of Handicapped Research supports research through two major center programs, Rehabilitation Research and Training Centers located at major university research centers throughout the country, and seventeen Rehabilitation Engineering Centers. In addition, a small part of the Institute's budget supports individual R&D projects.

The Committee remains interested in the NIHR's efforts to address the unique rehabilitation needs of the Pacific Basin region and also that of other Native American peoples under their research and training center authority. The Committee understands that NIHR has made a special effort to obtain appropriate applications from these special populations, and is planning on providing the necessary technical assistance to insure that quality applications are submitted. The Committee is pleased with the responsiveness of NIHR to this important area.

The Committee requests the NIHR to conduct a study for determining appropriate training methodology for use by State rehabilitation personnel in the provision of vocational training services to persons with Autism and their particular needs.

National Council on the Handicapped

The National Council on the Handicapped establishes general policies regarding Federal activities concerning the rehabilitation of handicapped individuals. This Committee agrees with the fiscal year 1983 budget request and House allowance of $193,000 for the operations of the Council, compared to $197,000 available in fiscal 1982.

VOCATIONAL AND ADULT EDUCATION

1982 comparable appropriation	$735,025,000
1983 appropriation request	500,000,000
House allowance	829,500,000
Committee recommendation	803,500,000

The Committee recommends an appropriation of $803,500,000 for Vocational and Adult Education. This is $303,500,000 more than the administration request and $26,000,000 less than the House allowance. The recommendation is $68,475,000 more than the fiscal year 1982 comparable appropriation of $735,025,000. No individual amounts were requested by the administration for specific items in this account. The budget request was based on a proposal to consolidate and repeal the Vocational Educational Act and the Adult Education Act. The Committee recommendations are based on current law, as Congress has taken no action on these legislative proposals.

The Committee directs the Department to give attention to the problem of training and re-training youth and adults in this time of increasing unemployment. While many factors contribute to unemployment, it is known that training assists displaced workers and disadvantaged youth and adults to make the transition to a new job, or to gain initial employment.

The Committee finds that (1) skilled worker shortages are alarmingly high and many industries report a growing need for advanced level workers; (2) technological innovations are making worker skills obsolete and creating a need for training; (3) retraining of displaced workers is required so that they are sufficiently skilled to build, operate and maintain sophisticated new machinery required by high technology industries.

While the State's vocational education agencies and institutions conduct training under collaborative agreements with private sector employers, the need for training is greater than current funding will allow. A current 20 State survey shows that approximately 300,000 people wish to, but are not able to, enroll in vocational training. The Committee has, therefore, provided additional funding to assist vocational education agencies and institutions to train youth and adults and place them in jobs available in the private sector.

The Committee believes that vocational and adult education must play a significant role in the country's economic revitalization. Moving to higher levels of industrial technology will create increased need for highly skilled workers. Shortages of skilled laborers are already placing ecoomic hardships on certain areas and are likely to increase as we attempt to resume rapid economic growth. Although the Federal contribution accounts for only a small protion of total expenditures for vocational and adult education at all levels, it can have major value in supporting program improvement and attention to economic development and skilled workforce training.

Basic grants

The Committee has provided $558,155,000 for the vocational education basic grants. This amount is $60,875,000 more than the fiscal 1982 appropriation, and the same as the House allowance.

These funds help to promote the development of a prepared workforce. This activity

provides grants to states to extend, maintain and improve vocational education training for persons who need or desire such training. At this funding level, approximately 13,000,000 students will be served.

Program improvement and supportive services

The Committee has provided $89,590,000 for the program improvement and supportive services activity for fiscal year 1983. The recommendation is the same as the appropriation for fiscal year 1982 and $20,000,000 less than the House allowance.

The Committee continues to urge the Department to focus on upgrading the technological level of vocational education training and on the continued development of vocational programs in new and emerging occupational areas.

Programs of national significance

The Committee recommends $7,178,000 for programs of national significance. This amount is $1,000,000 less than the appropriation for fiscal year 1982 and the House allowance. It is the intention of the Committee that the $1,000,000 reduction be taken from the National Center for Research in Vocational Education. The Committee understands that an evaluation of the Center was recently completed and believes that funds for the Center should be limited until such time as the Committee has the opportunity to review the report and its recommendations.

Special programs for the disadvantaged

The Committee recommends $14,356,000 for special programs for the disadvantaged. This amount is the same as the House allowance and the fiscal year 1982 level.

Consumer and homemaking education

The Committee has provided $29,133,000 for consumer and homemaking education. The recommendation is the same as the appropriation for fiscal year 1982 and $5,000,000 less than the House allowance.

State advisory councils

The Committee recommends $6,500,000 for State advisory councils. This amount is the same as the fiscal year 1982 appropriation and the House allowance.

State planning

The Committee recommends $3,588,000 for State planning activities. This amount is the same as the House allowance and the fiscal 1982 appropriation.

Adult education

The Committee has provided $95,000,000 for adult education programs. The recommendation is $8,600,000 more than the fiscal year 1982 level and the same as the House allowance.

This program has proven its effectiveness in assisting the States in combatting illiteracy among the Nation's adults, 16 years of age and older. Those funds will support programs that assist educationally disadvantaged adults to develop into members of a skilled and literate workforce.

STUDENT FINANCIAL ASSISTANCE

1982 comparable appropriation	$3,569,480,000
1983 appropriation request	1,800,000,000
House allowance	3,569,480,000
Committee recommendation	3,567,800,000

The following table shows the distribution of the Committee allowance.

[In thousands of dollars]

	Fiscal year 1982	President's request, fiscal year 1983	House allowance	Committee recommendation
Pell grants	2,419,040	1,400,000	2,419,040	2,419,040
Supplemental educational opportunity grants	355,400		355,400	355,400
Work-study	528,000	397,500	528,000	550,000
Direct loans:				
Federal capital contribution	178,560		178,560	178,560
Teacher cancellations	14,800	2,500	14,800	14,800
Subtotal, direct loans	193,360	2,500	193,360	193,360
State student incentive grants	73,680		73,680	50,000
Total, student financial assistance	3,569,480	1,800,000	3,569,480	3,567,800

Pell Grants

The Committee recommends an appropriation of $2,419,040,000 for the Pell Grant program, the same as the fiscal 1982 level and the House allowance and $1,019,040,000 more than the administration requested. The Pell Grant program provides direct grants to financially needy undergraduate students who are enrolled at least half-time at the nearly 7,000 participating postsecondary institutions.

Students apply directly to the Federal government for a determination of eligibility based upon a national needs analysis system. Student need is the difference between educational cost and expected family contribution. Pell Grants may be distributed to the student by the institution or directly from the Federal government.

It is estimated that 75 percent of Pell Grant recipients are from families with incomes at or below $15,000, while 50 percent of the beneficiaries are from families living below the poverty line. Approximately 2.6 million students received Pell Grants in academic year 1982-83.

The Committee has included appropriation language which will maintain the maximum award at $1,800. The Committee has rejected the administration's language which would have lowered the maximum award to $1,600 and allowed the Department of Education to use a new needs analysis system for the Pell Grant program. The Committee also disapproves language which would have permitted the Secretary of Education to establish the cost of attendance used in the calculation of the amount of a Pell Grant a student will receive.

The Committee has adopted language similar to the House provision which continues previous Pell Grant eligibility to veterans also receiving veterans' education benefits.

Supplemental education opportunity grants

The Committee recommends that $355,400,000 in appropriations be provided for the Supplemental Educational Opportunity Grant program in fiscal year 1983, the same amount provided in fiscal year 1982, and approved by the House. No funds were requested by the administration.

The Committee recognizes the need to fund this program, which serves as a supplement to the Pell Grant program for needy students. Funds are distributed to students by the postsecondary institution they attend. After demonstrating financial need, through a needs analysis system, students may receive up to $2,000 per year. There are 3,700 institutions of higher education which participate in the SEOG program serving approximately 650,000 students.

Work-study

For Work-Study, the Committee recommends an appropriation of $550,000,000. This is $152,500,000 above the level requested by the administration, and $22,000,000 more than the 1982 appropriation and the House allowance.

The Committee in providing additional funding recognizes the ever-increasing importance which self-help must play in the financing of postsecondary education.

The program is administered by the postsecondary institutions participating in the program. Students in need of financial assistance are provided with part-time jobs at their schools, with Federal, State or local agencies or with nonprofit organizations. This program provides grants to eligible institutions for partial reimbursement of wages paid to students. Federal funds may be used to pay up to 80 percent of the student's wages. Over 950,000 students will be assisted in 1983.

The Committee has been advised of possible discrepancies among some States in the allocation of funds for College Work Study, National Direct Student Loan and the Supplemental Education Opportunity Grant programs. In comparing allocations to States of relatively equal student populations, per capita income and state population, significant discrepancies may exist in the campus-based allocations. Taking into account the differences in total cost of education, discrepancies may still be apparent. Therefore, the Committee directs the Secretary of Education to undertake a comparative study of the allocation formula and the actual dollar allocation in these programs and to report to the Committee his findings and recommendations for correcting any inequities in time for consideration of this matter at the fiscal year 1984 Labor-HHS-Education hearings.

Direct loans

The Committee recommends that $178,560,000 be provided for Federal capital contributions to the National Direct Student Loan funds. This is the same as the 1982 appropriation and the House allowance. The administration had requested no funding for Federal capital contributions.

The Committee recommends that funds be provided for the program because it helps to ensure adequate loan availability to financially needy students. The appropriation will add new Federal capital contributions and continue to provide new loans to students through institutional revolving funds. In fiscal year 1983, due to repayment on prior year loans, as well as this appropriation, some 800,000 students will receive National Direct Student Loans totaling $6,000 for under-graduates and $12,000 for graduate students.

Teacher cancellations

The Committee recommends $14,800,000 for Teacher Cancellations, the same as the House allowance and the fiscal 1982 appropriation, and $12,300,000 over the administrations request. These funds are used to reimburse institutions for up to 100 percent of the principal of a student's loan, if the student agrees to teach in low-income areas, or to teach handicapped children.

State student incentive grants

The Committee recommends an appropriation of $50,000,000 for the State Student Incentive Grant (SSIG) program, a decrease of $23,680,000 below the House level and the fiscal 1982 appropriation. The ad-

ministration had requested that no funds be provided.

Under the 50-50 matching requirement of the State incentive program, most States considerably overmatch the Federal contribution, suggesting considerable State level commitment regardless of Federal expenditures. Of 41 States which overmatched Federal funds, 23 provided at least 62 percent more need-based grant aid than is required to match Federal funds. The Committee believes this program has succeeded in encouraging States to use their own funds to help finance postsecondary education. The Committee feels, therefore, the Federal contribution to SSIG can be phased down but should not be be abruptly discontinued.

The Committee has included "ratable reduction" language to insure that the funds appropriated will be apportioned to States in relation to the amount they received in fiscal year 1982. This is needed to insure that the reduction in funding will be distributed fairly and will not disproportionately affect any State.

STUDENT LOAN INSURANCE

1982 comparable appropriation	$3,073,846,000
1983 appropriation request	2,484,631,000
House allowance	2,484,631,000
Committee recommendation	3,100,500,000

The Committee recommends an appropriation of $3,100,500,000 for the Guaranteed Student Loan (GSL) program. This is $615,869,000 above the administration's request and the House allowance.

The Committee's action does not assume enactment of the administration's proposed statutory changes in the GSL program, which would have significantly altered the program and placed a heavier financial burden on students pursuing graduate education. The Committee maintains the program with the changes made in 1981 under the Omnibus Budget Reconciliation Act.

The Committee bases its recommendation on the most up to date estimates of GSL costs and changes in the interest rate and loan volume for fiscal year 1983. It is possible that economic changes may require additional funding through a supplemental appropriation during the course of the year.

The Guaranteed Student Loan program provides Federal insurance, reinsurance, and interest subsidies for educational loans made to students and parents. These loans are made at low-interest rates by banks and other lenders.

In almost all States, the program is administered through State and private nonprofit "guarantee agencies" which serve as intermediate insurors of these loans. Federal advances, reinsurance payments and administrative allowances are provided to these guarantee agencies to support their insurance of student and parent loans.

The Federal Government pays an "interest benefit" subsidy, equal to the borrower's interest rate, on behalf of GSL student borrowers while they are in school and during certain grace and deferment periods. For purposes of this subsidy, students with adjusted gross family incomes above $30,000 must demonstrate need. A Federal "special allowance" is also paid to banks and other lenders which assures them a total yield, based on outstanding loan volume, equal to the most recent quarterly average 91-day Treasury bill rate plus 3.5 percent. Students are currently charged a 5 percent origination fee which helps offset these Federal subsidy costs.

HIGHER AND CONTINUING EDUCATION

1982 comparable appropriation	$382,156,000
1983 appropriation request	262,352,000
House allowance	391,990,000
Committee recommendation	374,940,000

The Committee recommends an appropriation of $374,940,000 for Higher and Continuing Education. This amount is $17,050,000 less than the House allowance, $7,216,000 less than the comparable fiscal year 1982 appropriation, and $103,588,000 more than the budget request.

Special programs for the disadvantaged

For Special Programs for the Disadvantaged, also known as the TRIO programs, the Committee recommends $150,240,000, which is the same amount as the 1982 appropriation. The Committee allowance, would continue funds for the Upward Bound program, an on-campus program designed to identify youths capable of completing secondary and postsecondary education, Special Services, an on-campus education program that provides counseling and tutorial services for postsecondary students, and the Talent Search, Educational Opportunity Centers and Staff Training programs. The recommended funding level will support approximately the same number of projects and serve the same number of disadvantaged youth as in fiscal year 1982.

Veterans cost of instruction

The Committee agrees with the budget request to eliminate funding for the Veterans Cost of Instruction (VCIP) activities authorized under title IV of the Higher Education Act. In 1982, $4,800,000 was appropriated, the same as the House allowance.

The Veterans Cost of Instruction program provided grants to institutions of higher education to support outreach, recruitment, special educational services, and counseling to veterans. The program was created to respond to the special adjustment needs of the Vietnam era veterans. The Committee believes that veterans' need of these services has declined from its post-Vietnam peaks and that funds are not longer needed for this program. Moreoever, the same services can be provided under the TRIO program, which the Committee has provided a level of $150,240,000 for fiscal 1983.

Institutional aid programs

The Committee recommends $129,600,000 for Institutional Aid Programs (formerly Strengthening Developing Institutions), the fully authorized level, and the same as the budget request and the House allowance. This is $4,816,000 less than the fiscal 1982 amount. The funds will be for continuation awards to assist over 400 postsecondary institutions solve problems that threaten their ability to survive and to stabilize their management and fiscal operations so that they may achieve self-sufficiency. Programs funded under this head fall into three categories: Strengthening institutions (Part A) and to institutions with special needs (Part B) and challenge grants (Part C). The Committee acknowledges the effort the Department has recently made to provide technical assistance to institutions which have large enrollments of Hispanic and Native American students and expects that effort to be continued.

Minority institutions science improvement program

The Committee recommends $4,800,000 for the Minority Institutions Science Improvement program, the same as the budget request and the House allowance. These funds will help postsecondary institutions with a minority enrollment of at least 50 percent to upgrade their science, mathematics and engineering programs through the purchase of needed equipment, the development of curricular materials, and the training of faculty at approximately 100 institutions.

Cooperative education

The Committee recommends $14,400,000 for the Cooperative Education program, the same amount as provided in 1982 and the House allowance, and disagrees with the budget request to eliminate funding for the program, which is authorized under title VIII of the Higher Education Act.

This program provides assistance to help postsecondary institutions offer students paid work experiences closely related to their academic studies and career pursuits. The recommended level will support 179 administration grants for operating costs of campus based programs, 8 demonstrations and 9 training grants. The Committee believes that past successes of this program warrant its continuation.

International education

For International Education programs, the Committee recommends a total appropriation of $26,000,000, an increase of $2,000,000 above the fiscal year 1982 appropriation. This amount is $1,000,000 more than the House level and $15,686,000 more than the budget request. Of this total, $21,000,000 will fund domestic programs and $5,000,000 will fund overseas programs.

The Committee strongly disagrees with the Administration's proposed spending reduction of 58 percent in this program. A reduction of this magnitude would seriously impair our Nation's inter-cultural knowledge base by reducing the number of National Centers by half and the number of Foreign Language and Area Study Fellowships to 300 from 800. The United States has a pressing need for language and area specialists, as well as for a public that is sophisticated about U.S. international needs and commitments. The reduction of these funds is shortsighted, counterproductive in both the long and short run, and weakens our Nation's security.

The Committee also wishes to restate its strong position of previous years that these funds should not be limited for advanced work only, but should also be used to improve undergraduate and secondary school instruction in foreign languages and cultures. The Committee clearly intends that funding be continued for the Undergraduate Program and the Foreign Curriculum Consultant Program.

Under domestic programs, the funds will support National Resource Centers, Exemplary programs, Foreign Language Area Studies Fellowships and Research projects. Under overseas programs, the funds will support approximately 795 participants, about the same as the fiscal 1982 level in group projects abroad, Fellowships for Faculty Research Abroad, Fellowships for Doctoral Dissertation Research Abroad, and Special Bilateral Projects.

The Committee is also providing $1,000,000 for the funding of Part B—International Business Education Programs. The Committee believes that the funding of Part B would be cost-effective, eventually resulting in the improvement of the U.S. export activities and the international competitive position of U.S. businesses. The Committee

notes that this program is a matching grant program and should generate substantial activities beyond its modest dollar contribution.

Graduate support—Fellowships for graduate and professional study

The Committee recommends $10,000,000 for this program, disagreeing with the budget request for its termination. This is $1,360,000 above the fiscal 1982 level, and the same as the House allowance. The Committee believes that graduate support in these areas continues to be an important priority in light of the assistance it provides to women and minorities in the pursuit of their professional education. At the recommended level, 1,190 fellowships for minorities and women will be supported, an increase of 155 over the 1982 level.

Graduate support—Public service fellowships

The Committee is recommending $1,000,000 for Public Service Fellowships, which is $920,000 less than the House and the fiscal 1982 levels, but $1,000,000 more than the budget request. The Committee, while rejecting the elimination of this program, as proposed by the administration, recommends a phase-out. At present, many institutions currently offer high quality graduate programs in such areas as public administration, and there is evidence of a substantial supply of qualified persons to fill public service jobs. Moreover, the number of Masters degrees in these areas awarded in the last decade increased by more than 140 percent, and doctoral degrees awarded in that period increased by 107 pecent.

Graduate students in public service are eligible to receive assistance through a number of Federal student aid programs. In addition, the Committee understands that increasingly, Federal, State, and local government offices are recruiting personnel for jobs among those with more specialized degrees such as law, economics, and engineering. Therefore, the need to maintain the previous level of Federal involvement in this particular program is questionable.

Construction—Interest subsidy grants

The Committee recommends $25,000,000 for construction interest subsidy grants, the same as the House allowance and the budget request. This is a mandatory appropriation required to meet the Federal commitment to pay interest subsidies on 615 prior year loans for the construction of academic facilities. Federal subsidy grants pay the difference between the rate of interest secured by an institution in commercial markets and the 3 percent interest rate charged by the program. No new awards have been made since 1973, and there will be no new awards in 1983.

Special endowments—General Daniel "Chappie" James Memorial

Included in Public Law 97-276, the Continuing Resolution, is $9,000,000 for the General Daniel "Chappie"' James Memorial Education Center at Tuskegee Institute. This amount will enable establishment of an aerospace science and health education center in honor of the first black four-star general in the U.S. Air Force. It is hoped that this Center will significantly increase the enrollment of black professionals in the areas of science, technology, engineering and other related fields.

Robert A. Taft Institute of Government

The Committee concurs with the House in providing $750,000 for the Robert A. Taft Institute of Government. Grants will be awarded by the Department of Education to the Robert A. Taft Institute of Government in New York City. The Institute is a nonprofit educational organization which conducts bipartisan seminars for high school teachers on college campuses throughout the Nation. The main emphasis of this popular program is to stimulate a broader understanding of our two-party system of government.

Wayne Morse Chair of Law and Politics

The Committee has agreed to include bill language requested by the administration and adopted by the House extending the availability of unobligated matching funds through the end of fiscal year 1985 for the Wayne Morse Chair of Law and Politics.

Legal training for the disadvantaged

The Committee recommends $1,000,000, disagreeing with the budget request of no funding for Legal Training for the Disadvantaged. This is an increase $40,000 above the fiscal year 1982 level, and the same as the House allowance. Funds will support the continuation of the program's effectiveness in increasing the number of disadvantaged youth who enter and complete law school.

Law school clinical experience

For Law School Clinical Experience, the Committee recommends $250,000, which is $250,000 more than the budget request but $710,000 less than the House allowance. The Committee recommendation would provide for an orderly phase-out for this program. The Committee believes that the concept of clinical legal education and programs are being supported at most accredited law schools. Federal appropriations have provided a total of $10,000,000 for these activities, which also enjoy the support of corporate contributions. Those institutions considering the program valuable should seek community or private support in order to continue.

Fund for the improvement of postsecondary education

The Committee recommends $11,900,000 for the Fund for the Improvement of Postsecondary Education (FIPSE), the same as the budget request. This is $380,000 higher than the 1982 appropriation and the House allowance.

The Fund was established to improve the effectiveness of postsecondary education through the support of innovative projects. Many FIPSE projects have been successfully disseminated and replicated with local funding after Federal support has ended. With the increase in funds, the Committee encourages support of projects in computer technology and telecommunications. The amount included will support over 100 continuation awards and approximately 80 new projects.

HIGHER EDUCATION FACILITIES LOAN AND INSURANCE FUND

1982 comparable appropriation	$11,096,000
1983 appropriation request	20,143,000
House allowance	20,143,000
Committee recommendation	20,143,000

The Committee recommends an appropriation of $20,143,000 for the Higher Education Facilities Loan and Insurance Fund. This is the same as the administration request and the House allowance. The recommendation is $9,047,000 more than the fiscal year 1982 comparable appropriation of $11,096,000. A permanent indefinite appropriation, now estimated at $134,000, will also be available for fiscal year 1983. In fiscal year 1983, the outstanding balance of direct loans under this program will be approximately $400,000,000.

No new loans have been made in this program since fiscal year 1981. The 1983 appropriation will be used to cover mandatory operating costs. The permanent indefinite appropriation of $134,000 is required for interest insufficiencies on participation certificates sold in 1967. The annual appropriation of $20,143,000 will be used to pay interest owed to the Treasury on the outstanding balance of direct loans. Other operating expenses of the program will be financed from loan repayments and other income. In fiscal year 1983, the outstanding balance of direct loans under this program will be approximately $400,000,000.

COLLEGE HOUSING LOANS

The Committee concurs with the House allowance and the budget request in recommending no annual appropriation for College Housing Loans. No funds were provided under the annual appropriation in fiscal 1982. The Committee concurs with House language, however, which will make available $40,000,000 for new loan commitments in fiscal year 1983 using loan payments and other income in this account. The President's budget has asked that no new loans be made. Loan repayments also will be used to retire the program's debt to the Government National Mortgage Association and to pay other mandatory operating expenses associated with prior year loans. In 1983, the outstanding loan volume in this program will be approximately $3,000,000,000.

A permanent indefinite appropriation, now estimated at $40,000,000 will be available in fiscal 1983 to pay interest insufficiencies on participation certificates sold in 1967 to provide capital for new loans.

EDUCATIONAL RESEARCH AND STATISTICS

1982 comparable appropriation	$61,978,000
1983 appropriation request	62,392,000
House allowance	61,978,000
Committee recommendation	64,203,000

The Committee recommends an appropriation of $64,203,000 for Educational Research and Statistics including both the National Institute of Education and the National Center for Education Statistics. This is $1,811,000 more than the administration request and $2,225,000 more than the House allowance and the fiscal year 1982 comparable appropriation of $61,978,000.

National Institute of Education

For the National Institute of Education, the Committee recommends an appropriation of $55,614,000, an amount which is $1,969,000 more than the Administration's request and $2,225,000 greater than the House allowance and the fiscal year 1982 comparable appropriation.

The National Institute of Education (NIE) is the primarly vehicle within the Department of Education for research on the problems faced by our educational institutions, teachers and students. The Institute's three major programs focus on teaching and learning, the dissemination of research findings and improvement of practices, and educational policy and organization. NIE was created by Congress in 1972.

The Committee expects that the Institute's fiscal year 1983 activities will continue to build upon past work on such major issues as the characteristics of effective

schools, and improving instruction in reading and writing, science, and mathematics. The Committee directs the Institute to continue support for the National Assessment of Educational Progress (NAEP) and the Educational Resources Information Centers (ERIC).

The Committee also directs the Department to continue support for the work of eight regional education laboratories and nine national research centers at a fiscal 1983 level of not less than $28.2 million. These laboratories and centers were established by the Congress to engage in research and development to enhance the quality of American education.

Of the amount appropriated for the laboratories and centers, sufficient funds should be used to establish and maintain, through a competitive process, a new central midwestern regional educational laboratory. The competition should insure that the laboratory is chosen consistent with the intent of section 405(f) of the General Education Provisions Act and operated under terms and conditions of the Long-term Special Institutional Agreement.

The Department also should work with the laboratories and centers to develop a set of regulations for the fiscal year 1984 recompetition of these institutions, consistent with Section 405(f) of the General Education Provisions Act.

In forthcoming hearings, the Committee intends to explore the ability of the labs and centers to address the special educational needs of areas which may not be served by these 17 institutions due to geographic distances, such as may be the case with the Pacific Basin region.

National Center for Education Statistics

For the National Center for Education Statistics (NCES), the Committee recommends $8,589,000 which is $158,000 less than the Administration's request but the same as the House allowance and the fiscal 1982 level. NCES collects and analyzes data and disseminates information on the condition of education. NCES also assists States in implementing standard statistical systems. NCES was established by Congress in 1974.

The Committee expects that the Center's fiscal year 1983 activities will continue to build upon past work including the core data collection activities for such publications as "The Condition of Education", the Higher Education General Information Survey (HEGIS), and the longitudinal study High School and Beyond.

EDUCATIONAL, RESEARCH, AND TRAINING ACTIVITIES OVERSEAS

1982 comparable appropriation	$960,000
1983 appropriation request	516,000
House allowance	516,000
Committee recommendation	516,000

The Committee recommends an appropriation of $516,000 for Educational, Research, and Training Activities Overseas. This is the same as the administration request and the House allowance. The recommendation is $444,000 less than the fiscal year 1982 comparable appropriation of $960,000. These funds will support the Grants to American Institutions program, which enables U.S. educational personnel to study and conduct educational research abroad in the Middle East and Indian subcontinent.

The Committee recommends that no appropriation be provided for the Research and Demonstration program which supports overseas research projects concerning rehabilitation of handicapped persons. Unobligated funds carried forward from fiscal year 1982 will remain available to support projects in Burma, Guinea, India, and Pakistan.

The activities supported under this account are funded solely from excess foreign currencies held by the U.S. Treasury which are determined to be in excess of other requirements. No U.S. dollars are expended.

LIBRARIES

1982 comparable appropriation	$80,080,000
1983 appropriation request	
House allowance	80,080,000
Committee recommendation	80,320,000

The Committee rejects the Administration's proposal to eliminate federal funding for the Libraries account and instead, includes $80,320,000 in the bill, $240,000 more than the House allowance and the fiscal 1982 level. Federal library funds are used to assist the states in efforts to extend and improve their services. The Federal appropriation also supports resource sharing efforts among libraries, programs for personnel training and the improvement of services, aid to college libraries and support for research libraries.

The Federal contribution for libraries represents only a fraction of the operating budgets for libraries, but these funds are directed to programs which increase library access to individuals and groups with special needs.

The recommendation of the Committee is as follows:

Public Library Services

The Committee recommends $60,000,000 for aid to public libraries to strengthen and improve programs in states where services are inadequate. This level is the same as the House and the fiscal 1982 amount.

Efforts supported by this program make services more accessible to persons who, by reason of distance, residence, physical handicap or other disadvantageous situations, might not have the opportunity to benefit from the information and educational services of the public library. Among those targeted by the Federal program are the homebound, the institutionalized, the rural and urban disadvantaged, the physically handicapped and those with limited English speaking ability. Funds are distributed to the states on the basis of a formula grant and are administered by the officially designated State library agency. The Committee, in continuing this limited Federal investment in public libraries, recognizes that inflation and eroding tax bases increasingly place burdens on library budgets. Millions of people still are without access to those services at a time when states and communities are unable to provide additional resources. The Committee wishes to emphasize that it views the public library as a key component in our nation's system of public education and in the commitment to lifelong learning.

Interlibrary cooperation

The bill includes $11,520,000, the same as the fiscal 1982 and the House level for Interlibrary Cooperation. Projects funded under this formula grant program are aimed at improving the efficiency and effectiveness of the nation's library system through networking and other cooperative activities.

A 1978 evaluation study indicated that this program was a major factor behind the development of multi-type library cooperation and networking in 46 states.

College library resources

The Committee has included $1,920,000 for college library resources, the same as the House allowance and the fiscal 1982 level. At this level, the 2,600 eligible institutions would receive a grant of about $798 to purchase books, periodicals and other library material.

The Committee wishes to indicate, however, that future funding for this program may depend upon the establishment of a needs criteria so that only the most deserving institutions would receive an award sufficient to provide a meaningful supplement to the library materials budget. At present there is no established needs eligibility and 2,600 institutions receive the same amount regardless of their financial capacity or need.

Training and demonstrations

The Committee recommends $880,000 for the jointly authorized library career training and demonstrations program, the same as the House and fiscal 1982 levels. This discretionary grant program assists higher education and library organizations to train or retrain individuals for service in all types of library and information centers. The objectives are to increase career opportunities in these areas for minorities and disadvantaged individuals and to assist in the upgrading of skills for those in the field. In the past 10 years, over 60 percent of the awards have been made to members of minority groups. The program also awards grants and contracts to encourage research and demonstrations leading to improved library services, including the development of computer assisted institutional programs.

Research Libraries

The Committee recommends $6,000,000 for research libraries, an amount that is $240,000 more than the House allowance and the fiscal year 1982 level. The purpose of this program is to strengthen major research library collections, both private and public and to make these collections available to individual researchers, scholars and to other libraries. Program objectives include: the acquiring of distinctive research materials, preserving of unique collections, new research projects, and the promotion of interinstitutional cooperative activities.

Since the beginning of the program in 1978, about half of the project funds have been used in the area of bibliographic control, making unique collections more accessible to scholars, and the other half has been divided equally between developing collections and preserving existing collections.

The Committee believes it is critical to maintain a small but significant Federal effort in the preservation and development of priceless collections which otherwise might be lost to society.

SPECIAL INSTITUTIONS

AMERICAN PRINTING HOUSE FOR THE BLIND

1982 comparable appropriation	$5,000,000
1983 appropriation request	4,924,000
House allowance	5,000,000
Committee recommendation	5,000,000

The Committee recommends an appropriation of $5,000,000 for the American Printing House for the Blind. This is the same as the House allowance and the fiscal year 1982 level. The recommendation is $76,000 more than the budget request.

The American Printing House for the Blind, which is located in Louisville, Kentucky, provides materials to legally blind students, below the college level through an

annual Federal appropriation. The materials are distributed to the schools and States through established per capita allotments based on the total number of blind students. The recommended level will provide a per capita allotment of $121.35 for 38,400 eligible blind students.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

1982 comparable appropriation	$26,300,000
1983 appropriation request	26,297,000
House allowance	26,300,000
Committee recommendation	26,300,000

The Committee recommends an appropriation of $26,300,000 for the National Technical Institute for the Deaf (NTID). This is the same as the House allowance and the fiscal year 1982 level, but $3,000 more than the administration request.

The National Technical Institute for the Deaf is located on the campus of the Rochester Institute of Technology (RIT) in Rochester, N.Y. It was established by Congress, under Public Law 89-36 as a postsecondary institute for young adults, providing educational and technical training and has an impressive record with regard to job placement. In fiscal year 1983, the Institute expects an enrollment of approximately 1,000 students.

To serve the Nation's deaf population, NTID also trains professional manpower and conducts applied research in communications, economic, employment and social factors associated with deafness.

GALLAUDET COLLEGE

1982 comparable appropriation	$52,000,000
1983 appropriation request	52,000,000
House allowance	52,000,000
Committee recommendation	52,000,000

The Committee recommends an appropriation of $52,000,000 for Gallaudet College. This is the same as the administration request, the House allowance and the fiscal year 1982 appropriation.

Within the appropriation for Gallaudet College, funds are provided for Gallaudet, the Model Secondary School for the Deaf and the Kendall Demonstration Elementary School.

Gallaudet College, located in Washington, D.C., is a private nonprofit educational institution providing college preparatory, undergraduate and continuing education programs for the deaf, and a graduate program in fields related to hearing impairment. In fiscal year 1983, the college expects an on-campus enrollment of approximately 1,700 degree students—undergraduates and graduates—and 2,400 nondegree students. In addition to the on-campus programs, the college offers a number of public service prgrams throughout the country.

The Committee recommends $33,910,000 for the college, an amount which is $1,600,000 more than the fiscal year 1982 level. This amount is the same as the budget request and the House allowance. The increase will be used for faculty and facilities operation and maintenance costs. These funds are also needed to meet the educational needs of an expanded enrollment of college-age students born during the rubella epidemic nearly two decades ago.

A total of $11,700,000 is included for the Model Secondary School for the Deaf which is the same as the Administration request and the House allowance. The Model Secondary School for the Deaf serves as a laboratory for educational experimentation and development, disseminates models of instruction for the deaf, and prepares deaf adolescents for postsecondary academic or vocational education. The Model Secondary School for the Deaf is funded entirely through annual Federal appropriations.

The bill also includes $6,390,000 for Kendall Demonstration Elementary School for the Deaf an amount equal to the Administration request and the House allowance. The Kendall school develops exemplary educational programs and on-site instruction for children from infancy through age fifteen and is funded entirely through annual Federal appropriations.

No funds are provided for construction for which $1,600,000 was appropriated in 1982. Some of Gallaudet's housing and office space needs have been met by the acquisition of the old Marjorie Webster College campus and buildings.

HOWARD UNIVERSITY

1982 comparable appropriation	$145,200,000
1983 appropriation request	145,200,000
House allowance	145,200,000
Committee recommendation	145,200,000

The Committee recommends an appropriation of $145,200,000 for Howard University. This is the same as the administration request, the House allowance and the fiscal year 1982 appropriation.

Howard University, located in the District of Columbia, has for the past 115 years offered higher education opportunities to all students, without regard to race, sex, creed, national origin, or religion. The university offers undergraduate and graduate degrees and consists of 17 schools and colleges. The University also administers the Howard University Hospital.

The Committee recommends $123,094,000 for the academic program. This is the same as the Administration request and the House allowance, and is $13,500,000 above the 1982 level. These funds will be used for built-in increases in faculty and staff salaries and benefits, as well as increases in the various academic departments.

For the Howard University Hospital, the Committee recommends $22,106,000 the same as the fiscal year 1982 level. The hospital provides both in-patient and out-patient care, as well as training in the health professions. Increases in operating costs will be financed by an increase in revenues from patient care receipts. These receipts are to be obtained from further improvements in collection procedures.

No new funds are provided for construction which received $13,500,000 in 1982. The construction projects funded in 1982 and prior years are non-recurring, and there are sufficient unobligated balances to continue them in 1983.

OFFICE FOR CIVIL RIGHTS

SALARIES AND EXPENSES

1982 comparable appropriation	$45,038,000
1983 appropriation request	44,868,000
House allowance	44,868,000
Committee recommendation	44,868,000

The Committee recommends an appropriation of $44,868,000 for the Office for Civil Rights. This amount is the same amount as the budget request and the House allowance. The recommendation is a decrease of $170,000 from the fiscal year 1982 comparable appropriation.

The Office for Civil Rights enforces Federal prohibitions against discrimination in programs and activities funded by the Department of Education. The Office investigates complaints, initiates compliance reviews, monitors remedial plan agreements, provides technical assistance and conducts research in areas involving discrimination.

The Office for Civil Rights operates under the following legislative and court mandates: Title VI of the Civil Rights Act (racial and ethnic discrimination); Title IX of the Education Amendments of 1972 (sex discrimination); Section 504 of the Rehabilitation Act of 1973 (discrimination against the handicapped); Age Discrimination Act of 1975 (age discrimination); *Adams* vs. *Hufstedler* which requires that complaints be investigated within an established time frame; and *Lau* vs. *Nichols* which requires monitoring of compliance plans that ensure equal education opportunity for children whose first language is not English.

The slight decrease is the net change after increases of approximately $1,600,000 for annualization of the 1983 costs of the 1982 pay raise, rate increases for rent, telecommunications and mail, and expanded technical assistance contracts offset by decreases of approximately $1,800,000 for reductions in employment, equipment, travel, and other items.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

1982 comparable appropriation	$226,950,000
1983 appropriation request	222,000,000
House allowance	222,000,000
Committee recommendation	222,000,000

The Committee recommends an appropriation of $222,000,000 which is the same as the budget request and the House allowance. The recommendation is a decrease of $4,950,000 from the comparable 1982 appropriation.

Departmental Management, Salaries and Expenses is a consolidated administrative account for the Department of Education which is the source of funds and positions for the administration of over 100 programs and 13 offices. This includes support for Advisory Committees and for Program and Management Evaluation. The funds in this account provide for personnel compensation, benefits, travel, rent, communications, utilities, printing, automated data processing, contracts, equipment, supplies, and other services.

Program Administration

Of the total appropriation, $217,900,000 is for the Program Administration activity which will support the salaries of 3,752 full-time equivalent positions and operating expenses for the administration of the Department's offices and programs. This amount is $4,950,000 less than the fiscal year 1982 funding level primarily due to the savings associated with the reduction of 501 full-time equivalent positions which will be achieved through attrition. Offsetting this major decrease are increases in the rates for rent, telephones and mail, and an increase in funding automated data processing for the Student Financial Aid Program

Advisory Committees

The Committee recommends $1,750,000 for the operating expenses of the Advisory Committees which is the same as the budget request and the comparable 1982 level. This amount will support continuation activities of eight advisory committees.

Program and Management Education

The Committee recommends $2,350,000 for Program and Management Evaluation, which is the same as the comparable fiscal 1982 funding level. This activity provides studies and evaluations to provide current information on the operations and effects of education programs.

OFFICE OF THE INSPECTOR GENERAL

1982 comparable appropriation	$11,994,000
1983 appropriation request	12,840,000
House allowance	12,840,000
Committee recommendation	12,840,000

The Committee recommends an appropriation of $12,840,000 for the Office of the Inspector General. This is the same as the administration request and the House allowance. The recommendation is $846,000 more than the fiscal year 1982 comparable appropriation.

The Office of the Inspector General has authority to inquire into all program and administrative activities of the Department and the related activities of all parties performing under contracts, grants or other fiduciary agreements with the Department. These inquiries may be in the nature of audits, investigations, or such other reviews as may be necessary.

The recommended funding level will continue to fund the salaries and expenses of 304 full-time equivalent positions, the same number of positions as in 1982. The increase in the funding level will support primarily full-year cost in 1983 of the 1982 pay raise, rate increases for rent and communications, and $305,000 for the first full-year operating cost of an automated case tracking system.

The Committee has included a technical bill language amendment to bring the structure of the Inspector General appropriation account into conformance with the Department of Health and Human Services format.

TITLE IV—RELATED AGENCIES

ACTION

DOMESTIC PROGRAMS

1982 comparable appropriation	$131,866,000
1983 appropriation request	117,721,000
House allowance	129,073,000
Committee recommendation	125,490,000

The Committee recommends an appropriation of $125,490,000 for ACTION domestic programs. This is $7,769,000 more than the administration request and $3,583,000 less than the House allowance. The recommendation is $6,376,000 less than the fiscal year 1982 comparable appropriation of $131,866,000.

The Committee has included language which prohibits ACTION from closing any state offices or reducing personnel in the state offices. The Committee understands that ACTION had planned a reduction in force of 89 positions together with closing or greatly reducing state offices. Under the language included, ACTION must maintain state offices at the current personnel level. The Committee urges ACTION to find savings in other areas including a review of its non-career personnel requirements.

VISTA

The Committee recommendation of $8,000,000 for Volunteers in Service to America is an increase of $7,769,000 over the budget request and $3,831,000 less than the House allowance. An $8,000,000 appropriation floor for VISTA was established by Public Law 97-35. This marks the second year of a 2 year phase-out of this program.

It is the intent of this Committee that VISTA volunteers in service be maintained at a level of not less than 1,800 volunteers throughout the entire 1983 fiscal year. The Committee has included this directive in order to give the authorizing committees an opportunity to act on reauthorization or sunset.

Service-learning programs

The Committee recommends an appropriation of $1,830,000 for service-learning programs. This is the budget request level and $73,000 over the House recommendation.

Older Americans volunteer programs

For ACTION's Older Americans Volunteer Programs the Committee recommends a total of $87,861,000, the same as the House level. The Committee bill includes $27,445,000 for the Retired Senior Volunteer program (RSVP), which is the same as the House allowance and the budget request, and $1,057,000 above the fiscal 1982 level. This program provides part-time volunteer service opportunities for persons 60 years of age and over. Volunteer recruitment, development, and placement is provided through grants awarded to local sponsoring organizations. $26,511,000 will be used to continue 727 projects and 345,000 volunteers. Also, the Committee has provided $738,000 for training and technical assistance and $196,000 for program evaluation.

The bill includes $48,400,000 for the Foster Grandparent Program. This is the requested amount and $2,321,000 above last year's allowance. This program provides meaningful assistance for two groups—older Americans and disadvantaged youths. The program provides service opportunities for low-income persons over 60 who assist children with special needs in a variety of settings. $47,952,000 will be used to continue 233 existing projects and 18,100 volunteers. Also, the Committee has provided $238,000 for support and training and $210,000 for program evaluation.

For the Senior Companion program, the Committee provides $12,016,000, which is the same as the budget request and the House allowance and $154,000 below the 1982 appropriation. This program provides a vehicle for persons 60 years of age and over to assist elderly persons with physical, mental, or emotional impairments in a variety of private and institutional settings. $11,854,000 is for 77 existing projects and 4,200 volunteers. In addition, the Committee has provided $72,000 for training and technical assistance and $90,000 for program evaluation.

The Committee has provided $1,984,000 for Citizen Participation and Volunteer programs which is the same as the request level and $175,000 more than the House allowance and last year's appropriation. The Committee believes this increase necessary to maintain the programs which provide support and technical assistance for voluntary citizen participation activities.

The bill includes $25,815,000 for program support which is the budget request level, but $1,848,000 below last year's level. This activity provides for the management and direction of ACTION's programs.

CORPORATION FOR PUBLIC BROADCASTING

1982 comparable appropriation	$130,000,000
1983 appropriation request	85,000,000
House allowance	130,000,000
Committee recommendation	130,000,000

The Committee recommends an appropriation of $130,000,000 for the Corporation for Public Broadcasting. This is $45,000,000 more than the administration request, but the same as the House allowance, and the fiscal year 1982 comparable appropriation.

The Corporation for Public Broadcasting is the primary vehicle for providing Federal financial assistance to the radio and television stations which currently compose the noncommercial broadcasting system.

The amount provided is the authorized level, and the Committee believes that the sum will enable public broadcasting to undertake long-range planning and production commitments.

FEDERAL MEDIATION AND CONCILIATION SERVICE

1982 comparable appropriation	$24,552,000
1983 appropriation request	20,190,000
House allowance	21,721,000
Committee recommendation	21,321,000

The Committee recommends an appropriation of $21,321,000 for the Federal Mediation and Conciliation Service. This is $1,131,000 more than the administration request and $400,000 less than the House allowance. The recommendation is $3,231,000 less than the fiscal year 1982 comparable appropriation of $24,552,000.

The Federal Mediation and Conciliation Service provides skilled professional mediators to prevent and minimize work-stoppages. The service also offers technical assistance and training in the development of management-labor relations and practices.

The Committee has provided $488,000 to continue the arbitration program and $643,000 for the labor-management co-operative program, the same as the House allowance.

The Committee has approved 362 permanent positions, which is the number requested and 10 less than the number provided by the House, resulting in a reduction of $400,000 below the House allowance.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

1982 comparable appropriation	$3,544,000
1983 appropriation request	3,686,000
House allowance	3,686,000
Committee recommendation	3,686,000

The Committee recommends an appropriation of $3,686,000 for the Federal Mine Safety and Health Review Commission. This is the same as the administration request and the House allowance. The recommendation is $142,000 more than the fiscal year 1982 comparable appropriation of $3,544,000.

The Commission adjudicates disputes between the Labor Department's Mine Safety and Health Administration and Employers or employees to whom MSHA has issued a citation charging a violation.

The Committee recommendation provides for 70 full-time positions, six less than last year.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

1982 comparable appropriation	$674,000
1983 appropriation request	0

House allowance	674,000
Committee recommendation	674,000

The Committee recommends an appropriation of $674,000 for the National Commission on Libraries and Information Science. This is $674,000 more than the administration request and the same as the House allowance. The recommendation is the same as the fiscal year 1982 comparable appropriation of $674,000.

This permanent, independent agency advises the President and Congress on national library needs, and acts as a coordinator of national, State, and local activities in meeting national library priorities.

NATIONAL COMMISSION ON STUDENT FINANCIAL ASSISTANCE

1982 comparable appropriation	$960,000
1983 appropriation request	840,000
House allowance	345,000
Committee recommendation	840,000

The Committee recommends an appropriation of $840,000 for the National Commission on Student Financial Assistance. This is the same as the administration request, as amended by the November 12, 1982 budget amendments, and $495,000 more than the House allowance. The recommendation is $120,000 less than the fiscal year 1982 comparable appropriation of $960,000.

The Commission, authorized by the Education Amendments of 1980 (Public Law 96-374), is charged with studying student aid issues and reporting to Congress. Nineteen studies are planned for 1983, and their results and the Commission's recommendations are due to the Congress and to the President no later than July 1, 1983.

The amount recommended by the Committee would provide sufficient funds for the Commission's reports and final recommendations and all close-out costs.

NATIONAL LABOR RELATIONS BOARD

1982 comparable appropriation	$117,600,000
1983 appropriation request	133,000,000
House allowance	124,045,000
Committee recommendation	124,045,000

The Committee recommends an appropriation of $124,045,000 for the National Labor Relations Board. This is $8,955,000 less than the administration request and the same as the House allowance. The recommendation is $6,445,000 more than the fiscal year 1982 comparable appropriation of $117,600,000.

The Committee approves the request of 3,213 permanent positions for the Board, the same as last year. The $6,445,000 increase over fiscal year 1982 is for salary increases and a number of deferred items such as printing, training, and office furniture. The Committee did not approve a further increase of $8,955,000 which was requested in anticipation of an increase in cases coming before the Board. The increase of cases has not materialized.

The Board resolves representation disputes in industry and remedies and prevents unfair labor practices by both labor unions and employers.

NATIONAL MEDIATION BOARD

1982 comparable appropriation	$4,758,000
1983 appropriation request	3,618,000
House allowance	5,468,000
Committee recommendation	5,468,000

The Committee recommends an appropriation of $5,468,000 for the National Mediation Board. This is $1,850,000 more than the administration request and the same as the House allowance. The recommendation is $710,000 more than the fiscal year 1982 comparable appropriation of $4,758,000.

The Committee has approved sixty permanent positions, one less than last year. An increase of $333,000 over fiscal 1982 is for mandatory increases such as salaries, office space costs, and travel costs. Also, the Committee has approved an increase of $400,000 for activities authorized under the 1981 Reconciliation Act (Public Law 97-35) which includes fact finding panels and 5 emergency boards created under section 9A of the Railway Labor Act dealing with commuter carriers.

The Committee has not approved a decrease of $1,850,000 which was to be made up through user fees. The Committee does not believe an appropriations bill is the appropriate vehicle for such legislative changes and has, without prejudice, not included the necessary language.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

1982 comparable appropriation	$7,092,000
1983 appropriation request	6,316,000
House allowance	6,316,000
Committee recommendation	6,316,000

The Committee recommends an appropriation of $6,316,000 for the Occupational Safety and Health Review Commission. This is the same as the administration request and the House allowance. The recommendation is $776,000 less than the fiscal year 1982 comparable appropriation of $7,092.00.

The Commission adjudicates disputes between the Occupational Safety and Health Administration (OSHA) and employers or employees to whom OSHA has issued citations.

The Committee has approved 121 permanent positions, a reduction of five from last year.

RAILROAD RETIREMENT BOARD

1982 comparable appropriation	$390,200,000
1983 appropriation request	350,000,000
House allowance	430,000,000
Committee recommendation	430,000,000

The Committee recommends an appropriation of $430,000,000 for the Railroad Retirement Board. This is $80,000,000 more than the administration request and the same as the House allowance. The recommendation is $39,800,000 more than the fiscal year 1982 comparable appropriation of $390,000,000.

The Committee recommendation will fully fund the Railroad Retirement "windfall" benefit for all of the more than 400,000 recipients.

This account was created in 1981 to fund dual benefits for railroad retirees eligible for Railroad Retirement and Social Security benefits.

LIMITATION ON ADMINISTRATION

1982 comparable appropriation	$47,032,000
1983 appropriation request	44,080,000
House allowance	46,361,000
Committee recommendation	46,361,000

The Committee recommends an appropriation of $46,361,000 for limitation on administration for the staff of the Railroad Retirement Board. This is $2,281,000 more than the administration request and the same as the House allowance. The recommendation is $671,000 less than the fiscal year 1982 comparable appropriation of $47,032,000.

This account is funded from the Railroad Retirement Trust Fund and represents a limitation on the amount of trust funds which may be used to pay the expenses of administering that fund. The amount recommended by the Committee will provide for the needed level of effort for administration of railroad retirement payments to 974,000 beneficiaries and will provide 1,104 permanent positions.

The Committee has approved House language which mandates a staffing level of 1,162 full-time equivalent positions and bill language mandating an apportionment to the Railroad Unemployment Insurance Limitation Account.

MILWAUKEE RAILROAD RESTRUCTURING ADMINISTRATION

1982 comparable appropriation	$240,000
1983 appropriation request	250,000
House allowance	250,000
Committee recommendation	250,000

The Committee recommends an appropriation of $250,000 for Milwaukee Railroad Restructuring Administration. This is the same as the administration request and the House allowance. The recommendation is $10,000 more than the fiscal year 1982 comparable appropriation of $240,000.

The recommended appropriation will fund administrative expenses incurred by the Railroad Retirement Board in carrying out its responsibilities under both the Milwaukee Railroad Restructuring Act and the Rock Island Railroad Transition and Employee Assistance Act. Appropriations for the amount payable for benefits under these two acts are transferred to the Board for disbursement. The Board's administrative expenses are incurred for the process of determining eligibility for and entitlements to benefits.

UNITED STATES SOLDIERS' AND AIRMEN'S HOME

1982 comparable appropriation	$24,421,000
1983 appropriation request	26,718,000
House allowance	26,718,000
Committee recommendation	26,718,000

The Committee recommends an appropriation of $26,718,000 for the Soldiers' and Airmen's Home. This is the same as the administration request and the House allowance. The recommendation is $2,297,000 more than the fiscal year 1982 comparable appropriation of $24,421,000.

The increase in the Home's appropriation over fiscal year 1982 is accounted for by increases in mandatory expenses such as salaries and material costs. The recommendation will provide 835 permanent positions.

The Committee is aware of certain badly needed repairs to the Home's physical plant. Of special concern, are several poorly operating elevators. The Committee urges the House to correct these problems to the extent possible within available funds. If these prove to be insufficient, the Home should submit a supplemental budget request.

COMPLIANCE WITH PARAGRAPH 7 RULE XVI, STANDING RULES OF THE SENATE

Paragraph 7 of rule XVI requires that the Committee identify in its report each Committee amendment to the House bill "which proposes an item of appropriation which is not made to carry out the provisions of an existing law, a treaty stipulation, or an act or resolution previously passed by the Senate during the session." There are no items in the Committee bill requiring such identification pursuant to this requirement.

BUDGETARY IMPACT OF H.R. 7205—PREPARED BY THE CONGRESSIONAL BUDGET OFFICE PURSUANT TO SECTION 308(a) OF PUBLIC LAW 93-344

[In millions of dollars]

	Budget authority		Outlays	
	Committee allocation	Amount in bill	Committee allocation	Amount in bill
I. Comparison of amounts in the bill with the Committee allocation to its subcommittees of amounts in the First Concurrent Resolution for 1983: Subcommittee on Labor-HHS-Education and related agencies	90,400	[1] 87,261	101,400	[1] [2] 100,194
II. Projections of outlays associated with budget authority recommended in the bill:				
1983				[3] 78,159
1984				11,413
1985				2,055
1986				372
1987 and future year				48
III. Financial assistance to State and local governments for 1983 in the bill		36,145		29,162

[1] Includes previously enacted items.
[2] Includes outlays from prior-year budget authority.
[3] Excludes outlays from prior-year budget authority.

[Additional Views of Senator Andrews]

NATIONAL INSTITUTE ON NEUROLOGICAL AND COMMUNICATIVE DISORDERS AND STROKE

There have been exciting developments in the field of neurological and communicative disorders during the past 10 years. Prior to this the field of neurological disorders in particular was fraught with frustration and staggering unknowns. This was primarily due to the fact that the brain and nervous system were buried within a sheath of bone covering that defied use of the x-ray technology available at that time for diagnosis of the brain and nervous system disorders. Diagnosis, therefore, was imprecise and when surgical exploration was necessary, carried with it associated risks. Therefore, NINCDS funds were invested primarily in research to understand the basis for disorders as a foundation upon which to develop promising leads, information, and opportunities for clinical research. Funding was erratic as was support. Now in the past five years there has been an explosion in knowledge. An example of this lies in the area of stroke. In the late 60's and early 70's the characteristics of the several types of stroke had not been defined and it was extremely difficult to diagnose exactly what kind of a stroke had occurred. With the development of the CAT scanner, and now the PET scanner, we can now diagnose stroke type with some precision. Furthermore, work has begun on development of the best treatment for the particular stroke type. Similar progress has taken place in other areas of research concern.

However, funding of the NINCDS has not kept pace with this acceleration of technological and other research breakthroughs in the field. Since the government carries about 67 percent of the funding burden—closer to 95 percent of the burden for basic research—and since no private agency, whether nonprofit or for-profit, has the resources to conduct research beyond its particular disorder of concern, or its commercial interest, the field is hungry for the funds necessary to catch up with its most pressing needs.

A quantum jump in funding of sufficient magnitude would be a great boon to the field and produce concrete results far in excess of the usual expectation. This is a moderate amount of request for a field that has produced enzyme-replacement therapy as a preventive measure in the treatment of certain genetic disorders, such as Tay-Sachs disease; new medications in Parkinson's Disease therapy, and new devices to assist those who must master speech after the removal of a cancerous larynx, to name just a few.

In brain and central nervous system research lies the key to many problems in everything from immunology to genetic disorders, from aphasia to deafness. The brain is the conductor and the director of the multiplicity of organs and activities that must work together to produce a healthy functioning human being. If we can but learn its mechanisms and map it, then it follows that we can produce the means necessary to alleviate a great deal of pain and suffering associated with the lives of many Americans who are disabled.

Similarly, the ears and mouth are the basic instruments of communication. Without hearing or with only partial hearing, it is very difficult to respond to the requests or statements of others. Without the capability to speak, and speak in a fashion that is understandable, it becomes extremely difficult to let others know what our requests are and what our responses to their requests mean.

And finally, without the ability to move and walk, we cannot interact satisfactorily with our fellow human beings and must face constant frustration in just carrying out the daily activities in which we must engage from our very first waking rituals in the morning to our last chores before retiring.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1982 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1983

[Amounts in dollars]

Item	1982 appropriation	Budget estimate	House allowance	Committee recommendation	Senate committee recommendation compared with (+ or −)		
					1982 appropriation	Budget estimate	House allowance
1	2	3	4	5	6	7	8
TITLE I, DEPARTMENT OF LABOR							
EMPLOYMENT AND TRAINING ADMINISTRATION							
Program Administration (late authorization):							
Federal funds	(101,209,000)	(81,068,000)	Defer	Defer	Defer	Defer	Defer
Trust funds	(29,438,000)	(41,467,000)	Defer	Defer	Defer	Defer	Defer
Employment and training assistance (late authorization) [1]:							
Block Grants	(1,542,538,000)	(1,800,000,000)	Defer	Defer	Defer	Defer	Defer
(Deferral, nonadd)	(606,672,000)				(−606,672,000)		
Summer youth employment program	(676,106,000)		Defer	Defer	Defer	Defer	Defer
(Deferral, nonadd)	(39,548,000)				(−39,548,000)		
Dislocated workers	(25,000,000)		Defer	Defer	Defer	Defer	Defer
National programs	(178,600,000)	(200,000,000)	Defer	Defer	Defer	Defer	Defer
(Deferral, nonadd)	(46,881,000)				(−46,881,000)		
Target jobs tax credit	(20,000,000)		Defer	Defer	Defer	Defer	Defer
Job Corps	(589,600,000)	(387,000,000)	Defer	Defer	Defer	Defer	Defer
Total, employment and training assistance [1]	(3,031,844,000)	(2,387,000,000)	Defer	Defer	Defer	Defer	Defer
Community Service Employment for Older Americans	277,100,000		277,100,000	286,800,000	+9,700,000	+286,800,000	+9,700,000
FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES							
Payments to ex-servicemen	125,000,000	20,000,000	20,000,000	205,000,000	+80,000,000	+185,000,000	+185,000,000
Trade adjustment assistance	75,000,000	10,000,000	10,000,000	65,000,000	−10,000,000	+55,000,000	+55,000,000
Unemployment assistance and payments under other Federal unemployment programs	106,000,000	5,000,000	5,000,000	10,000,000	−96,000,000	+5,000,000	+5,000,000
Total, FUBA	306,000,000	35,000,000	35,000,000	280,000,000	−26,000,000	+245,000,000	+245,000,000
GRANTS TO STATES FOR UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICES							
Unemployment insurance service:							
Federal funds	20,000,000				−20,000,000		
Trust funds	(1,027,379,000)	(1,114,924,000)	(1,114,924,000)	(1,114,924,000)	(+87,545,000)		
Employment services:							
Federal funds	19,272,000	22,200,000	22,200,000	22,200,000	+2,928,000		
Trust funds	(657,751,000)	(637,200,000)	(712,200,000)	(712,200,000)	(+54,449,000)	(+75,000,000)	
Subtotal, employment services	677,023,000	659,400,000	734,400,000	734,400,000	+57,377,000	+75,000,000	
Contingency fund	(566,544,000)	(571,076,000)	(551,776,000)	(627,176,000)	(+60,632,600)	(+56,100,000)	(+75,400,000)
Total, grants to States	2,290,946,000	2,345,400,000	2,401,100,000	2,476,500,000	+185,554,000	+131,100,000	+75,400,000
Federal funds	39,272,000	22,200,000	22,200,000	22,200,000	−17,072,000		
Trust funds	(2,251,674,000)	(2,323,200,000)	(2,378,900,000)	(2,454,300,000)	(+202,626,000)	(+131,100,000)	(+75,400,000)

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1982 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1983—Continued

[Amounts in dollars]

Item	1982 appropriation	Budget estimate	House allowance	Committee recommendation	Senate committee recommendation compared with (+ or −)		
					1982 appropriation	Budget estimate	House allowance
1	2	3	4	5	6	7	8
Advances to unemployment trust fund and other funds	4,318,000,000	4,572,000,000	3,798,000,000	5,411,000,000	+1,093,000,000	+839,000,000	+1,613,000,000
Total, Employment & Training Administration	7,192,046,000	6,952,400,000	6,511,200,000	8,454,300,000	+1,262,254,000	+1,501,900,000	+1,943,100,000
Federal funds	4,940,372,000	4,629,200,000	4,132,300,000	6,000,000,000	+1,059,628,000	+1,370,800,000	+1,867,700,000
Trust funds	(2,251,674,000)	(2,323,200,000)	(2,378,900,000)	(2,454,300,000)	(+202,626,000)	(+131,100,000)	(+75,400,000)
LABOR-MANAGEMENT SERVICES ADMINISTRATION							
SALARIES AND EXPENSES							
Labor-management relations policy and service	3,291.000	2,843,000	2,843,000	2,843,000	−448,000		
Labor-management standards enforcement	18,071,000	22,432,000	18,281,000	22,432,000	+4,361,000		+4,151,000
Veterans reemployment rights	2,523,000	2,609,000	2,609,000	2,609,000	+86,000		
Pension and welfare benefit programs	26,712,000	27,813,000	27,813,000	27,813,000	+1,101,000		
Executive direction, management and support	4,313,000	4,456,000	4,456,000	4,456,000	+143,000		
Total, LMAS	54,919,000	60,153,000	56,002,000	60,153,000	+5,243,000		+4,151,000
EMPLOYMENT STANDARDS ADMINISTRATION							
SALARIES AND EXPENSES							
Improving and protecting wages	64,978,000	69,436,000	69,436,000	69,436,000	+4,458,000		
Elimination of discrimination in employment	41,415,000	42,614,000	42,614,000	42,614,000	+1,199,000		
Workers' compensation	39,413,000	44,651,000	44,651,000	44,651,000	+5,238,000		
Trust funds	(360,000)	(347,000)	(347,000)	(347,000)	(−13,000)		
Program development and administration	12,103,000	12,595,000	12,595,000	12,595,000	+492,000		
Total, salaries and expenses	158,269,000	169,643,000	,69,643,000	16,643,000	+11,374,000		
Federal funds	157,909,000	169,296,000	169,296,000	169,296,000	+11,387,000		
Trust funds	(360,000)	(347,000)	(347,000)	(347,000)	(−13,000)		
SPECIAL BENEFITS							
Federal Employees Compensation Act benefits	344,926,000	336,000,000	336,000,000	336,000,000	−8,926,000		
Longshore and harbor workers' benefits	3,966,000	3,600,000	3,600,000	3,600,000	−366,000		
Total, special benefits	348,892,000	339,600,000	339,600,000	339,600,000	−9,292,000		
BLACK LUNG DISABILITY TRUST FUND							
Benefit payments and interest on advances	734,149,000	639,255,000	639,255,000	639,255,000	−94,894,000		
Employment Standards Administration salaries and expenses	23,752,000	21,192,000	21,192,000	21,192,000	21,192,000	−2,560,000	
Departmental management, salaries and expenses	10,793,000	13,097,000	13,097,000	13,097,000	+2,304,000		
Total, black lung disability trust fund	768,694,000	673,544,000	673,544,000	673,544,000	−95,150,000		
Portion funded from advances account	(264,000,000)	(62,000,000)	(72,000,000)	(72,000,000)	(−192,000,000)	(+10,000,000)	
Treasury administrative costs (indefinite)	756,000	756,000	756,000	756,000			
Total, Employment Standards Administration	1,276,611,000	1,183,543,000	1,183,543,000	1,183,543,000	−93,068,000		
Federal funds	1,276,251,000	1,183,196,000	1,183,196,000	1,183,196,000	−93,055,000		
Trust funds	(360,000)	(347,000)	(347,000)	(347,000)	(−13,000)		
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION							
SALARIES AND EXPENSES							
Safety and health standards	6,802,000	6,841,000	6,841,000	6,841,000	+39,000		
Enforcement:							
Federal enforcement	76,005,000	76,004,000	76,004,000	76,004,000	−1,000		
State programs	47,238,000	51,481,000	51,481,000	51,481,000	+4,243,000		
Technical support	13,678,000	14,207,000	14,207,000	12,207,000	−1,471,000	−2,000,000	−2,000,000
Compliance assistance	36,812,000	42,693,000	42,693,000	42,693,000	+5,881,000		
Safety and health statistics	8,912,000	8,998,000	8,998,000	8,998,000	+86,000		
Executive direction and administration	6,018,000	6,032,000	6,032,000	6,032,000	+14,000		
Total, OSHA	195,465,000	206,256,000	206,256,000	204,256,000	+8,791,000	−2,000,000	−2,000,000
MINE SAFETY AND HEALTH ADMINISTRATION							
SALARIES AND EXPENSES							
Enforcement:							
Coal	64,634,000	75,025,000	75,025,000	75,025,000	+10,391,000		
Metal/nonmetal	27,366,000	29,331,000	29,331,000	29,331,000	+1,965,000		
Standards development	1,045,000	1,126,000	1,126,000	1,126,000	+81,000		
Assessments	4,545,000	2,705,000	2,705,000	2,705,000	−1,840,000		
Technical support	23,237,000	18,932,000	18,932,000	18,932,000	−4,305,000		
Program administration	13,580,000	14,099,000	14,099,000	14,099,000	+519,000		
Educational policy and development	14,906,000	12,610,000	12,610,000	12,610,000	−2,296,000		
Total, Mine Safety and Health Administration	149,313,000	153,828,000	153,828,000	153,828,000	+4,515,000		
BUREAU OF LABOR STATISTICS							
SALARIES AND EXPENSES							
Labor force statistics	38,602,000	39,967,000	41,467,000	39,967,000	+1,365,000		−1,500,000
Prices and cost of living	41,913,000	44,117,000	44,117,000	44,117,000	+2,204,000		
Wages and industrial relations	13,705,000	14,819,000	15,819,000	14,819,000	+1,114,000		−1.000,000
Productivity and technology	3,630,000	4,036,000	4,036,000	4,036,000	+406,000		
Economic growth and employment projections	2,529,000	2,758,000	2,758,000	2,758,000	+229,000		
Executive direction and staff services	12,688,000	14,446,000	14,446,000	14,446,000	+1,758,000		
Total, Bureau of Labor Statistics	113,067,000	120,143,000	122,643,000	120,143,000	+7,076,000		−2,500,000
DEPARTMENT MANAGEMENT							
SALARIES AND EXPENSES							
Executive direction	10,136,000	10,643,000	10,643,000	10,643,000	+507,000		
Legal services	35,639,000	34,792,000	34,792,000	34,792,000	−847,000		
Trust funds	(221,000)	(217,000)	(217,000)	(217,000)	(−4,000)		
International labor affairs	3,292,000	3,346,000	3,346,000	3,346,000	+54,000		

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1982 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1983—Continued

[Amounts in dollars]

Item	1982 appropriation	Budget estimate	House allowance	Committee recommendation	Senate committee recommendation compared with (+ or −)		
					1982 appropriation	Budget estimate	House allowance
1	2	3	4	5	6	7	8
Administration and management	23,186,000	25,011,000	25,011,000	25,011,000	+1,825,000		
Adjudication	8,274,000	9,920,000	9,920,000	9,920,000	+1,646,000		
Promotions employment of the handicapped	1,901,000	1,973,000	1,973,000	1,973,000	+72,000		
Women's Bureau	3,624,000	3,594,000	3,594,000	3,753,000	+129,000	+159,000	+159,000
Civil rights activities	2,563,000	2,426,000	2,426,000	2,426,000	−137,000		
Veterans Employment Service	1,267,000				−1,267,000		
Trust funds	(7,137,000)	(8,535,000)	(8,535,000)	(8,535,000)	(+1,398,000		
Total, salaries and expenses	97,240,000	100,457,000	100,457,000	100,616,000	+3,376,000	+159,000	+159,000
Federal funds	89,882,000	91,705,000	91,705,000	91,864,000	+1,982,000	+159,000	+159,000
Trust funds	(7,358,000)	(8,752,000)	8,752,000	(8,752,000)	(+1,394,000)		
Special foreign currency program	67,000	200,000	67,000	67,000		−133,000	
Total, departmental management	97,307,000	100,657,000	100,524,000	100,683,000	+3,376,00	+26,000	+159,000
Federal funds	89,949,000	91,905,000	91,772,000	91,931,000	+1,982,000	+26,000	+159,000
Trust funds	(7,358,000)	(8,752,000)	(8,752,000)	(8,752,000	(+1,394,000		
OFFICE OF THE INSPECTOR GENERAL							
SALARIES AND EXPENSES							
Office of the Inspector General	32,755,000	38,133,000	38,133,000	38,133,000	+5,378,000		
Trust funds	(6,004,000)	(6,835,000)	(6,835,000)	(6,835,000	(+831,000)		
Total, Labor Department (excluding late authorizations)	9,117,478,000	8,821,948,000	8,378,964,000	10,321,874,000	+1,204,396,000	+1,499,926,000	+1,942,910,000
Federal funds	6,852,082,000	6,482,814,000	5,984,130,000	7,851,640,000	+999,558,000	+1,368,826,000	+1,867,510,000
Trust funds	(2,265,396,000)	(2,339,134,000)	(2,394,834,000)	(2,470,234,000)	(+204,838,000)	(+131,100,000)	(+75,400,000)
TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES							
PUBLIC HEALTH SERVICE HEALTH SERVICES ADMINISTRATION							
HEALTH SERVICES							
Community health services:							
Primary Care:							
Expanded Block Grant		416,760,000				−416,760,000	
Community health centers (existing block) [2]	281,217,000		281,217,000	302,500,000	+21,283,000	+302,500,000	+21,283,000
Black lung services [2]	3,240,000		3,000,000	3,240,000		+3,240,000	+240,000
Migrant health [2]	38,208,000		38,000,000	38,208,000		+38,208,000	+208,000
Family planning [2]	124,176,000		124,000,000	124,176,000		+124,176,000	+176,000
Research and demonstration centers [3]	1,920,000				−1,920,000		
Subtotal, primary care	448,761,000	416,760,000	446,217,000	468,124,000	+19,363,000	+51,364,000	+21,907,000
Maternal and child health block grant [4 5]	373,750,000	350,000,000	373,000,000	373,000,000	−750,000	+23,000,000	
Program support	23,879,000	8,979,000	22,000,000	23,443,000	−436,000	+14,464,000	+1,443,000
Subtotal, community health services	846,390,000	775,739,000	841,217,000	864,567,000	+18,177,000	+88,828,000	+23,350,000
Health professions education and services:							
National Health Service Corps:							
NHSC scholarships	36,358,000	11,042,000	11,042,000	11,042,000	−25,316,000		
NHSC field	95,078,000	103,438,000	93,000,000	93,782,000	−1,296,000	−9,656,000	+782,000
Subtotal, NHSC	131,436,000	114,480,000	104,042,000	104,824,000	−26,612,000	−9,656,000	+782,000
Health professions student assistance:							
Loans	5,640,000		2,000,000		−5,640,000		−2,000,000
Revolving fund (nonadd)	(34,680,000)	(29,000,000)	(44,000,000)	(42,800,000)	(+8,120,000)	(+13,800,000)	(−1,200,000)
Loan repayments	3,100,000			50,000	−3,050,000	+50,000	+50,000
Exceptional need scholarships	4,700,000		6,500,000	4,700,000		+4,700,000	−1,800,000
Nursing student assistance:							
Loans	6,720,000			1,720,000	−5,000,000	+1,720,000	+1,720,000
Revolving fund (nonadd)	(19,080,000)	(14,500,000)	(18,800,000)	(18,800,000)	(−280,000)	(+4,300,000)	
Loan repayments and cancellations	940,000			1,500,000	+560,000	+1,500,000	+1,500,000
Program support	17,411,000	16,764,000	16,764,000	17,411,000		+647,000	+647,000
Subtotal, health professions education and services	169,947,000	131,244,000	129,306,000	130,205,000	−39,742,000	−1,039,000	+899,000
Patient care and spec. health services:							
PHS hospitals and clinics	145,685,000				−145,685,000		
National Hansen's Disease Center (Carville)	15,947,000	17,876,000	17,876,000	17,876,000	+1,929,000		
Federal employee health	985,000	974,000	974,000	974,000	−11,000		
Payments to Hawaii	1,890,000	1,732,000	1,732,000	1,732,000	−158,000		
Subtotal	164,507,000	20,582,000	20,582,000	20,582,000	−143,925,000		
Buildings and facilities	4,700,000	3,292,000	3,292,000	3,292,000	−1,408,000		
Program management, HSA	11,368,000	6,875,000	8,600,000	9,200,000	−2,168,000	+2,325,000	+600,000
Total, health services	1,196,912,000	937,732,000	1,002,997,000	1,027,846,000	−169,066,000	+90,114,000	+24,849,000
Loan limitations:							
Health professions graduate student loans [6]	(200,000,000)	(80,000,000)	No limit	No limit	No limit	No limit	No limit
NHSC private practice loans		(1,000,000)	(1,000,000)	(1,000,000)	(+1,000,000)		
CENTERS FOR DISEASE CONTROL							
PREVENTIVE HEALTH SERVICES							
Preventive health services block grant [7]	81,600,000	82,600,000	82,600,000	90,000,000	+8,400,000	+7,400,000	+7,400,000
Risk education and health education		1,349,000	1,349,000	1,349,000	+1,349,000		
Disease prevention program:							
Venereal diseases:							
Grants	35,419,000	40,000,000	40,000,000	40,000,000	+4,581,000		
Direct operations	7,335,000	5,645,000	7,399,000	7,335,000		+1,690,000	−64,000
Immunization:							
Grants (previously appropriated in continuing resolution)	(27,817,000)	(21,928,000)	(27,928,000)	(32,000,000)	(+4,183,000)	(+10,072,000)	(+4,072,000)
Direct operations (previously appropriated in continuing resolution)	(6,770,000)	(6,946,000)	(6,946,000)	(7,000,000)	(+230,000)	(+54,000)	(+54,000)
Fluoridation (Federal activities)	1,100,000		1,100,000	1,100,000		+1,100,000	
Control of chronic conditions:							
Chronic diseases	20,649,000	19,503,000	19,503,000	21,003,000	+354,000	+1,500,000	+1,500,000
Environmental hazards	4,131,000	3,746,000	4,279,000	3,746,000	−385,000		−533,000
Tuberculosis grants			5,000,000	2,000,000	+2,000,000	+2,000,000	−3,000,000
Acquired immune deficiency syndrome (AIDS)			2,600,000				−2,600,000
National Institute of Occupational Safety and Health:							
Research	53,486,000	48,436,000	48,436,000	48,436,000	−5,045,000		

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1982 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1983—Continued

[Amounts in dollars]

Item	1982 appropriation	Budget estimate	House allowance	Committee recommendation	Senate committee recommendation compared with (+ or −)		
					1982 appropriation	Budget estimate	House allowance
1	2	3	4	5	6	7	8
Training	5,760,000		5,760,000	5,760,000		+5,760,000	
Program support	2,816,000	2,085,000	2,085,000	2,085,000	−731,000		
Subtotal, NIOSH	62,062,000	50,521,000	56,281,000	56,281,000	−5,781,000	+5,760,000	
Epidemiology services	34,328,000	34,757,000	34,757,000	34,757,000	+429,000		
Technology development and application	27,782,000	28,142,000	28,142,000	28,142,000	+360,000		
Buildings and facilities	1,440,000	2,050,000	2,050,000	2,050,000	+610,000		
Program management	2,516,000	2,605,000	1,105,000	2,605,000	+89,000		+1,500,000
Total, preventive health services	278,362,000	270,918,000	286,165,000	290,368,000	+12,006,000	+19,450,000	+4,203,000
NATIONAL INSTITUTES OF HEALTH							
National Cancer Institute	943,029,000	955,449,000	981,441,000	985,711,000	+42,682,000	+30,262,000	+4,270,000
National Heart, Lung, and Blood Institute	559,637,000	577,143,000	620,947,000	624,542,000	+64,905,000	+47,399,000	+3,595,000
National Institute of Dental Research	71,983,000	74,462,000	80,304,000	77,416,000	+5,433,000	+2,954,000	−2,888,000
National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases	368,191,000	379,422,000	408,508,000	415,856,000	+47,665,000	+36,434,000	+7,348,000
National Institute of Neurological and Communicative Disorders and Stroke	265,901,000	274,505,000	294,361,000	297,077,000	+31,176,000	+22,572,000	+2,716,000
National Institute of Allergy and Infectious Diseases	235,895,000	246,043,000	276,367,000	270,795,000	+34,900,000	+24,752,000	−5,572,000
National Institute of General Medical Sciences	335,462,000	345,621,000	367,009,000	372,114,000	+36,652,000	+26,493,000	+5,105,000
National Institute of Child Health and Human Development	226,309,000	233,575,000	251,561,000	255,749,000	+29,440,000	+22,174,000	+4,188,000
National Eye Institute	127,374,000	131,550,000	138,763,000	144,360,000	+16,986,000	+12,810,000	+5,597,000
National Institute of Environmental Health Sciences	154,258,000	157,448,000	162,695,000	166,040,000	+11,782,000	+8,592,000	+3,345,000
National Institute on Aging	81,903,000	84,556,000	96,104,000	91,887,000	+9,984,000	+7,331,000	−4,217,000
Research resources	184,177,000	191,024,000	277,642,000	199,967,000	+15,790,000	+8,943,000	−27,675,000
John E. Fogarty International Center	9,205,000	10,147,000	10,147,000	10,147,000	+942,000		
Subtotal	3,563,324,000	3,660,945,000	3,915,849,000	3,911,661,000	+348,337,000	+250,716,000	−4,188,000
National Library of Medicine	45,035,000	46,043,000	46,043,000	46,043,000	+1,008,000		
Office of the Director	23,618,000	24,283,000	24,683,000	24,683,000	+1,065,000	+400,000	
Buildings and facilities	9,898,000	17,500,000	17,500,000	17,500,000	+7,602,000		
Total, National Institutes of Health	3,641,875,000	3,748,771,000	4,004,075,000	3,999,887,000	+358,012,000	+251,116,000	−4,188,000
ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION							
ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH							
Alcohol, drug abuse, and mental health block grants [8]	432,000,000	432,000,000	432,000,000	446,000,000	+14,000,000	+14,000,000	+14,000,000
Mental health:							
Mental health services demonstrations, CSP	5,760,000		8,000,000		5,760,000		−8,000,000
Research	141,153,000	149,962,000	152,300,000	152,300,000	+11,147,000	+2,338,000	
Research training	15,360,000	14,410,000	14,410,000	15,360,000		+950,000	+950,000
Clinical training	42,238,000		18,000,000	25,000,000	−17,238,000	+25,000,000	+7,000,000
Program support	29,667,000	31,411,000	31,411,000	31,411,000	+1,744,000		
Subtotal, mental health	234,178,000	195,783,000	224,121,000	224,071,000	−10,107,000	+28,228,000	−50,000
Drug abuse:							
Research	41,026,000	46,356,000	47,374,000	47,374,000	+6,348,000	+018,000	
Research training	816,000	891,000	891,000	891,000	+75,000		
Clinical training	2,777,000				−2,777,000		
Program support	12,727,000	13,087,000	13,087,000	13,087,000	+360,000		
Subtotal, drug abuse	57,346,000	60,334,000	61,352,000	61,352,000	+4,006,000	+1,018,000	
Alcoholism:							
Research	23,413,000	32,911,000	33,484,000	33,484,000	+10,071,000	+573,000	
Research training	1,152,000	1,086,000	1,086,000	1,086,000	−66,000		
Clinical training	934,000				−934,000		
Program support	9,560,000	9,040,000	9,040,000	9,040,000	−520,000		
Subtotal, alcoholism	35,059,000	43,037,000	43,610,000	43,610,000	+8,551,000	+573,000	
Buildings and facilities	3,260,000	100,000	100,000	100,000	−3,160,000		
Program management, ADAMHA [9]	6,194,000	6,923,000	6,923,000	6,923,000	+729,000		
Total, alcohol, drug abuse, and mental health	768,037,000	738,177,000	768,106,000	782,056,000	+14,019,000	+43,879,000	+13,950,000
St. Elizabeths Hospital	92,592,000	67,505,000	76,505,000	76,505,000	−16,087,000	+9,000,000	
Total, ADAMHA	860,629,000	805,682,000	844,611,000	858,561,000	−2,068,000	+52,879,000	+13,950,000
HEALTH RESOURCES ADMINISTRATION							
HEALTH RESOURCES							
Health planning and resources development:							
Health planning (unauthorized, not considered)	(64,432,000)	(2,083,000)	Defer	Defer	Defer	Defer	Defer
Health facilities financing, compliance and conversion:							
Health teaching facilities:							
Interest subsidies	4,128,000	2,800,000	1,500,000	1,500,000	−2,628,000	−1,300,000	
New facility grants	42,790,000		5,000,000	5,000,000	−37,790,000	+5,000,000	
Loan repayment			29,000,000	29,000,000	+29,000,000	+29,000,000	
Program support	5,175,000	5,813,000	5,568,000	5,000,000	−175,000	−813,000	−568,000
Health professions education:							
Institutional assistance:							
Financial distress	7,104,000	5,600,000	7,286,000	7,286,000	+182,000	+1,686,000	
Start-up/conversion	768,000		800,000	800,000	+32,000	+800,000	
Public health and health administration:							
Public health capitation	4,176,000		4,176,000	4,176,000		+4,176,000	
Public health traineeships	2,880,000	2,500,000	2,500,000	2,500,000	−380,000		
Special projects		2,500,000				−2,500,000	
Health administration grants	1,440,000		1,440,000	1,440,000		+1,440,000	
Health administration traineeships	480,000		480,000	480,000		+480,000	
Primary care:							
Family medicine/general dentistry residencies and training (previously appropriated in continued resolution)	(26,880,000)	(22,500,000)	(26,880,000)	(34,000,000)	(+7,120,000)	(+11,500,000)	(+7,120,000)
Family medicine departments	7,680,000	7,048,000	7,680,000	10,000,000	+2,320,000	+2,952,000	+2,320,000
General internal medicine and pediatrics	16,320,000	11,412,000	11,412,000	11,412,000	−4,908,000		
Special manpower initiatives:							
Physician assistants	4,800,000	4,405,000	4,800,000	4,800,000		+395,000	
Area health education centers	18,240,000	13,920,000	17,920,000	17,920,000	−320,000	+4,000,000	
Manpower supply and distribution analysis	2,962,000	3,424,000	2,962,000	2,962,000		−462,000	
Disadvantaged assistance	16,882,000	17,240,000	17,240,000	17,240,000	+358,000		
Preventive medicine residences		1,000,000	1,000,000	1,000,000	+1,000,000		
Special health professions initiative		4,405,000		4,000,000	+4,000,000	−405,000	+4,000,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1982 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1983—Continued

[Amounts in dollars]

Item	1982 appropriation	Budget estimate	House allowance	Committee recommendation	Senate committee recommendation compared with (+ or −)		
					1982 appropriation	Budget estimate	House allowance
1	2	3	4	5	6	7	8
Nursing programs:							
Institutional assistance:							
Advanced nurse training	11,520,000	1,145,000	11,520,000	15,000,000	+3,480,000	+13,855,000	+3,480,000
Nurse practitioner	11,520,000	5,726,000	11,520,000	12,000,000	+480,000	+6,274,000	+480,000
Special projects	6,175,000	5,667,000	5,667,000	7,000,000	+825,000	+1,333,000	+1,333,000
Student assistance:							
Traineeships	9,600,000		9,600,000	9,600,000		+9,600,000	
Fellowships	960,000		960,000	960,000		+960,000	
Research grants (previously appropriated in continuing resolution)	(3,400,000)		(3,400,000)	(5,000,000)	(+1,600,000)	(+5,000,000)	(+1,600,000)
Subtotal nursing programs	39,775,000	12,538,000	39,267,000	44,560,000	+4,785,000	+32,022,000	+5,293,000
Health professions program support	12,614,000	9,023,000	13,381,000	13,381,000	+767,000	+4,358,000	
HRA program management	9,510,000	8,200,000	9,881,000	9,881,000	+371,000	+1,681,000	
Total, health resources	197,724,000	111,828,000	183,293,000	194,338,000	−3,386,000	+82,510,000	+11,045,000
Medical facilities guarantee and loan fund	22,000,000	32,000,000	32,000,000	32,000,000	+10,000,000		
Total, Health Resources Administration	219,724,000	143,828,000	215,293,000	226,338,000	+6,614,000	+82,510,000	+11,045,000
OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH							
HEALTH SERVICES MANAGEMENT							
Research, statistics and technology:							
Health services research:							
Research	9,746,000	10,506,000	10,506,000	10,506,000	+760,000		
Program support	6,454,000	5,615,000	5,615,000	5,615,000	−839,000		
Subtotal	16,200,000	16,121,000	16,121,000	16,121,000	−79,000		
Health statistics:							
Program operations	34,820,000	37,254,000	37,254,000	37,254,000	+2,434,000		
Program support	3,368,000	3,040,000	3,040,000	3,040,000	−328,000		
Subtotal	38,188,000	40,294,000	40,294,000	40,294,000	+2,106,000		
Health maintenance organizations:							
Management training and technical assistance	480,000	480,000	480,000	480,000			
Program support	4,169,000	4,220,000	4,220,000	4,220,000	+51,000		
Subtotal, health maintenance organizations	4,649,000	4,700,000	4,700,000	4,700,000	+51,000		
Special health initiatives:							
Smoking and health	1,944,000	2,098,000	2,098,000	2,098,000	+154,000		
Health promotion	1,170,000	2,326,000	1,326,000	2,326,000	+1,156,000		+1,000,000
Physical fitness and sports	1,009,000	1,100,000	1,100,000	1,100,000	+91,000		
International health	555,000				−555,000		
Adolescent family life	11,037,000	16,000,000	16,000,000	11,037,000		−4,963,000	−4,963,000
Subtotal, special health initiatives	15,715,000	21,524,000	20,524,000	16,561,000	+846,000	−4,963,000	−3,963,000
Public Health Service management	18,678,000	17,037,000	17,037,000	17,037,000	−1,641,000		
PHS termination costs, salaries and expenses	10,317,000	9,887,000			−10,317,000	−9,887,000	
Total, salaries and expenses	103,747,000	109,563,000	98,676,000	94,713,000	−9,034,000	−14,850,000	−3,963,000
HMO loan and loan guarantee fund:							
New capital contribution	17,500,000	2,500,000			−17,500,000	−2,500,000	
(Limitation on direct loans)	(75,500,000)	(24,500,000)	(24,500,000)	(24,500,000)	(−51,000,000)		
(Limitation on guaranteed loans) [10]	(75,500,000)				(−75,500,000)		
Retirement pay and medical benefits for commissioned officers:							
Retirement payments	49,146,000	59,943,000	59,943,000	59,943,000	+10,797,000		
Survivors benefits	3,105,000	1,862,000	1,862,000	1,862,000	−1,243,000		
Dependent's medical care	53,921,000	17,056,000	17,056,000	17,056,000	−36,865,000		
Contingency		6,572,000				−6,572,000	
Total, retirement pay and medical benefits	106,172,000	85,433,000	78,861,000	78,861,000	−27,311,000	−6,572,000	
Total, Public Health Service	6,424,921,000	6,104,427,000	6,530,678,000	6,576,574,000	+151,653,000	+472,147,000	+45,896,000
HEALTH CARE FINANCING ADMINISTRATION							
GRANTS TO STATES FOR MEDICAID							
Grants to States: [11]							
Benefits [12]	16,684,843,000	17,006,162,000	17,006,162,000	18,563,675,000	+1,878,832,000	+1,557,513,000	+1,557,513,000
State and local administration [13]	855,000,000	889,000,000	889,000,000	1,089,075,000	+234,075,000	+200,075,000	+200,075,000
Subtotal, appropriations	17,539,843,000	17,895,162,000	17,895,162,000	19,652,750,000	+2,112,907,000	+1,757,588,000	+1,757,588,000
Appropriation available from subsequent year	4,745,585,000				−4,745,585,000		
Appropriation available in prior year	−4,093,355,000	−4,081,000,000	−4,081,000,000	−4,745,585,000	−652,230,000	−664,585,000	−664,585,000
Total adjusted appropriation including borrowing	18,192,073,000	13,814,162,000	13,814,162,000	14,907,165,000	−3,284,908,000	+1,093,003,000	+1,093,003,000
Fiscal year 1984 advance appropriation		4,470,000,000	4,470,000,000	5,105,600,000	+5,105,600,000	+635,600,000	+635,600,000
PAYMENTS TO HEALTH CARE TRUST FUNDS							
Military service credits	207,000,000	207,000,000	207,000,000	207,000,000			
Supplemental medical insurance	13,323,000,000	14,480,000,000	14,480,000,000	14,669,000,000	+1,346,000,000	+189,000,000	+189,000,000
Hospital insurance for uninsured	808,000,000	889,000,000	889,000,000	867,000,000	+59,000,000	−22,000,000	−22,000,000
Total, payment to trust funds	14,338,000,000	15,576,000,000	15,576,000,000	15,743,000,000	+1,405,000,000	+167,000,000	+167,000,000
PROGRAM MANAGEMENT							
Professional standards review organizations:							
Hospital review [14] (non-add)	(47,908,000)	(20,000,000)		(47,908,000)		(+27,908,000)	(+47,908,000)
Nonhospital activities:							
Trust funds	(24,409,000)	(5,000,000)		(25,000,000)	(+591,000)	(+20,000,000)	(+25,000,000)
Total, PSRO program	(47,908,000)	(20,000,000)	DEFER	(47,908,000)	DEFER	DEFER	DEFER
Research, demonstration, and evaluation:							
Federal funds	11,500,000	20,000,000	20,000,000	20,000,000	+8,500,000		
Trust funds	(18,000,000)	(10,000,000)	(10,000,000)	(10,000,000)	(−8,000,000)		
Subtotal, research and evaluation	29,500,000	30,000,000	30,000,000	30,000,000	+500,000		
Medicare contractors (trust funds) [15]	(711,000,000)	(704,000,000)	(755,000,000)	(755,000,000)	(+44,000,000)	(+51,000,000)	

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1982 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1983—Continued

[Amounts in dollars]

Item	1982 appropriation	Budget estimate	House allowance	Committee recommendation	Senate committee recommendation compared with (+ or −)		
					1982 appropriation	Budget estimate	House allowance
1	2	3	4	5	6	7	8
Contingency fund (trust fund)				(20,000,000)	(+20,000,000)	(+20,000,000)	(+20,000,000)
State certification:							
General program support, Federal funds	535,000	535,000	535,000	535,000			
Medicare certification, trust funds	(13,591,000)	(18,700,000)	(32,300,000)	(32,300,000)	(+18,709,000)	(+13,600,000)	
Subtotal, State certification [16]	14,126,000	19,235,000	32,835,000	32,835,000	+18,709,000	+13,600,000	
End stage renal disease (ESRD) networks (trust funds)	(4,546,000)	(4,546,000)	(4,546,000)	(4,546,000)			
Federal administration:							
Federal funds	69,742,000	68,870,000	72,370,000	72,370,000	+2,628,000	+3,500,000	
Trust funds	(115,287,000)	(113,325,000)	(122,825,000)	(122,825,000)	(+7,538,000)	(+9,500,000)	
Subtotal, Federal administration	185,029,000	182,195,000	195,195,000	195,195,000	+10,166,000	+13,000,000	
Total, program management:							
Federal funds	81,777,000	89,405,000	92,905,000	92,905,000	+11,128,000	+3,500,000	
Trust funds	(886,833,000)	(855,571,000)	(924,671,000)	(969,671,000)	(+82,838,000)	(+114,100,000)	(+45,000,000)
Total, Health Care Financing Administration:							
Federal funds:							
Current year	32,611,850,000	29,479,567,000	29,483,067,000	30,743,070,000	−1,868,780,000	+1,263,503,000	+1,260,003,000
1984 advance		4,470,000,000	4,470,000,000	5,105,600,000	+5,105,600,000	+635,600,000	+635,600,000
Trust funds	(886,833,000)	(855,571,000)	(924,671,000)	(969,671,000)	(+82,838,000)	(+114,100,000)	(+45,000,000)
SOCIAL SECURITY ADMINISTRATION							
Payments to social security trust funds	844,698,000	855,213,000	855,213,000	855,213,000	+10,515,000		
SPECIAL BENEFITS FOR DISABLED COAL MINERS							
Benefit payments	1,090,865,000	1,095,000,000	1,095,000,000	1,082,000,000	−8,865,000	−13,000,000	−13,000,000
Administration	7,900,000	7,000,000	7,000,000	11,000,000	+3,100,000	+4,000,000	+4,000,000
Total, black lung	1,098,765,000	1,102,000,000	1,102,000,000	1,093,000,000	−5,765,000	−9,000,000	−9,000,000
SUPPLEMENTAL SECURITY INCOME							
Federal benefit payments [17]	6,943,529,000	8,013,133,000	7,665,387,000	7,637,254,000	+693,725,000	−375,879,000	−28,133,000
Hold harmless payments [18]	21,600,000	15,300,000	15,300,000	15,300,000	−6,300,000		
Beneficiary services	3,116,000	4,616,000	4,616,000	4,616,000	+1,500,000		
Federal fiscal liability	15,600,000	20,737,000	20,737,000	20,737,000	+5,137,000		
Administration	788,543,000	865,709,000	865,709,000	865,709,000	+77,166,000		
Total, supplemental security income	7,772,388,000	8,919,495,000	8,571,749,000	8,543,616,000	+771,228,000	−385,879,000	−28,133,000
Appropriation available from subsequent year	28,133,000				−28,133,000		
Appropriation available in prior year	−2,952,000	−28,133,000	−28,133,000	−28,133,000	−25,181,000		
Total adjusted appropriation including borrowing	7,797,569,000	8,891,362,000	8,543,616,000	8,515,483,000	+717,914,000	−375,879,000	−28,133,000
ASSISTANCE PAYMENTS [19]							
AFDC benefit payments [20]	6,186,000,000	6,125,659,000	6,125,659,000	7,291,231,000	+1,105,231,000	+1,165,572,000	+1,165,572,000
State and local administrations [19 21]	824,194,000	766,000,000	766,000,000	951,000,000	+126,806,000	+185,000,000	+185,000,000
Administration and training, territories	6,406,000	6,716,000	6,716,000	6,716,000	+310,000		
Adult categories	13,350,000	13,350,000	13,350,000	13,350,000			
Emergency assistance [22]	55,181,000			49,000,000	−6,181,000	+49,000,000	+49,000,000
Repatriation	1,653,000	1,801,000	1,801,000	1,801,000	+148,000		
Research and evaluation	1,470,000	2,950,000	2,950,000	2,950,000	+1,480,000		
Federal administration	27,600,000	32,000,000	32,000,000	32,000,000	+4,400,000		
Less fiscal year 1983 funds advanced in fiscal year 1982		−1,663,841,000	−1,663,841,000	−1,663,841,000	−1,663,841,000		
Total, assistance payments, appropriation	7,115,854,000	5,284,635,000	5,284,635,000	6,684,207,000	−431,647,000	+1,399,572,000	+1,399,572,000
Appropriation available from subsequent year	708,659,000				−708,659,000		
Appropriation available in prior year	−1,938,059,000	−728,659,000	−728,659,000	−708,659,000	−1,229,400,000	+20,000,000	+20,000,000
Advance appropriation 1st quarter fiscal year 1984		1,327,203,000	1,327,203,000	1,718,000,000	+1,718,000,000	+390,797,000	+390,797,000
CHILD SUPPORT ENFORCEMENT							
Program level [23]	510,457,000	408,377,000	408,377,000	471,000,000	−39,457,000	+62,623,000	+62,623,000
Less fiscal year 1983 funds advanced in fiscal year 1982		−123,500,000	−123,500,000	−123,500,000	−123,500,000		
Current appropriation, child support enforcement	510,457,000	284,877,000	284,877,000	347,500,000	−162,957,000	+62,623,000	+62,623,000
Appropriation available from prior year	−101,624,000				+101,624,000		
Advance appropriation, fiscal year 1984		112,500,000	112,500,000	118,000,000	+118,000,000	+5,500,000	+5,500,000
LOW INCOME HOME ENERGY ASSISTANCE							
Energy assistance block grant	1,872,000,000	1,297,800,000	1,847,800,000	1,847,800,000	−24,200,000	+550,000,000	
Federal administration	3,000,000	2,200,000	2,200,000	2,200,000	−800,000		
Subtotal, energy assistnce	1,875,000,000	1,300,000,000	1,850,000,000	1,850,000,000	−25,000,000	+550,000,000	
OFFICE OF REFUGEE RESETTLEMENT							
Refugee and entrant assistance (late authorization)	(670,670,000)	(532,152,000)	Defer	Defer	Defer	Defer	Defer
Limitation on administrative expenses (trust funds)	(3,131,000,000)	(3,408,451,000)	(3,408,451,000)	(3,408,451,000)	(+277,451,000)		
Total, Social Security Administration:							
Federal funds:							
Current year	17,911,319,000	16,989,428,000	17,191,682,000	18,636,744,000	+725,425,000	+1,647,316,000	+1,445,062,000
Fiscal year 1984 advance		1,439,703,000	1,439,703,000	1,836,000,000	+1,836,000,000	+396,297,000	+396,297,000
Trust funds	(3,131,000,000)	(3,408,451,000)	(3,408,451,000)	(3,408,451,000)	(+277,451,000)		
ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES							
Social services block grant (Title XX) [24]	2,400,000,000	1,974,126,000	1,974,126,000	2,450,000,000	+50,000,000	+475,874,000	+475,874,000
HUMAN DEVELOPMENT SERVICES							
Programs for children, youth, and families:							
Head Start	911,700,000	912,000,000	912,000,000	912,000,000	+300,000		
Child abuse:							
State grants	6,720,000	4,620,000	6,720,000	6,720,000		+2,100,000	
Discretionary activities	9,479,000		9,479,000	9,479,000		+9,479,000	
Runaway youth (previously appropriated in continuing resolution)	(10,514,000)	(6,600,000)	(10,514,000)	(18,000,000)	(+7,486,000)	(+11,400,000)	(+7,486,000)
Subtotal, calendar year and families	927,899,000	916,620,000	928,199,000	928,199,000	+300,000	+11,579,000	

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1982 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1983—Continued

[Amounts in dollars]

Item	1982 appropriation	Budget estimate	House allowance	Committee recommendation	Senate committee recommendation compared with (+ or −)		
					1982 appropriation	Budget estimate	House allowance
1	2	3	4	5	6	7	8
Programs for the aging:							
State agency activities	21,673,000	19,928,000	21,673,000	21,673,000		+1,745,000	
Social services and centers	240,869,000	216,199,000	240,869,000	240,869,000		+24,670,000	
Grants to Indians	5,735,000	5,252,000	5,735,000	5,735,000		+483,000	
Nutrition:							
Congregate meals	286,749,000	258,133,000	319,074,000	319,074,000	+32,325,000	+60,941,000	
Home-delivered meals	57,350,000	48,142,000	62,025,000	62,025,000	+4,675,000	+13,883,000	
Research, training, and special projects	22,175,000	20,307,000	22,175,000	22,175,000		+1,868,000	
Federal Council on Aging	191,000	175,000	175,000	175,000	−16,000		
National clearinghouse	1,721,000				−1,721,000		
Subtotal	636,463,000	568,136,000	671,726,000	671,726,000	+35,263,000	+103,590,000	
Developmental disabilities program:							
Basic grants and advocacy	49,133,000	31,977,000	49,133,000	51,180,000	+2,047,000	+19,203,000	+2,047,000
Special projects	2,350,000		2,350,000	2,500,000	+150,000	+2,500,000	+150,000
University affiliated facilities	7,200,000		7,200,000	7,500,000	+300,000	+7,500,000	+300,000
Subtotal, developmental disabilities	58,683,000	31,977,000	58,683,000	61,180,000	+2,497,000	+29,203,000	+2,497,000
Native American programs	28,000,000	23,282,000	28,000,000	28,000,000		+4,718,000	
Program direction	65,660,000	65,089,000	65,089,000	65,089,000	−571,000		
Total, special populations	1,716,705,000	1,605,104,000	1,751,697,000	1,754,194,000	+37,489,000	+149,090,000	+2,497,000
CHILD WELFARE SERVICES							
Entitlement activities:							
Foster care	300,000,000		233,251,000	395,000,000	+95,000,000	+395,000,000	+161,749,000
Adoption assistance	5,000,000		5,000,000	5,000,000		+5,000,000	
Consolidated programs (requires legislation) [25]		250,000,000				−250,000,000	
Discretionary activities:							
Child welfare assistance	156,326,000		156,326,000	156,326,000		+156,326,000	
Adoption opportunities	1,912,000		1,912,000	1,912,000		+1,912,000	
Child welfare training	3,823,000		3,823,000	3,823,000		+3,823,000	
Child welfare research	10,608,000		10,608,000	10,608,000		+10,608,000	
Consolidated program (requires legislation) [25 26]		160,920,000				−160,920,000	
Total, child welfare block grant	477,669,000	410,920,000	410,920,000	572,669,000	+95,000,000	+161,749,000	+161,749,000
WORK INCENTIVES							
Grants to States	266,760,000		266,760,000	246,760,000	−20,000,00	+246,760,000	−20,000,000
Program direction and evaluation	14,000,000		14,000,000	14,000,000		+14,000,000	
Total, work incentives	280,760,000		280,760,000	260,760,000	−20,000,000	+260,760,000	−20,000,000
COMMUNITY SERVICES BLOCK GRANT							
Grants to States	348,000,000	100,000,000	348,000,000	348,000,000		+248,000,000	
CSA close out	18,075,000	6,200,000	6,200,000	6,200,000	−11,875,000		
Program support		6,300,000	6,300,000	6,300,000	+6,300,000		
Subtotal, program level	366,075,000	112,500,000	360,500,000	360,500,000	−5,575,000	+248,000,000	
Less, transfer from rural development loan fund		−9,000,000				+9,000,000	
Total, community services appropriation	366,075,000	103,500,000	360,500,000	360,500,000	−5,575,000	+257,000,000	
Total, Assistant Secretary for Human Development	5,241,209,000	4,093,650,000	4,778,003,000	5,398,123,000	+156,914,000	+1,304,473,000	+620,120,000
DEPARTMENTAL MANAGEMENT							
General departmental management:							
Federal funds	146,709,000	158,143,000	158,143,000	158,143,000	+11,434,000		
Trust funds	(7,680,000)	(8,000,000)	(8,000,000)	(8,000,000)	(+320,000)		
Total, departmental management	154,389,000	166,143,000	166,143,000	166,143,000	+11,754,000		
Office of the Inspector General:							
Federal activities:							
Federal funds	40,825,000	44,921,000	44,921,000	44,921,000	+4,096,000		
Trust funds	(5,760,000)	(6,000,000)	(6,000,000)	(6,000,000)	(+240,000)		
State medicaid fraud units	29,158,000	36,346,000	36,346,000	36,346,000	+7,188,000		
Total, Inspector General:							
Federal funds	69,983,000	81,267,000	81,267,000	81,267,000	+11,284,000		
Trust funds	(5,760,000)	(6,000,000)	(6,000,000)	(6,000,000)	(+240,000)		
Appropriation available from subsequent year	10,000,000				10,000,000		
Appropriation available in prior year	−11,625,000	−10,000,000	−10,000,000	−10,000,000	+1,625,000		
Total adjusted appropriation including borrowing	68,358,000	71,267,000	71,267,000	71,267,000	+2,909,000		
Fiscal year 1984 advance appropriation		10,000,000	10,000,0000	10,000,000	+10,000,000		
Office for Civil Rights:							
Federal funds	17,460,000	19,163,000	19,163,000	19,163,000	+1,703,000		
Trust funds	(2,256,000)	(2,350,000)	(2,350,000)	(2,350,000)	(+94,000)		
Total, civil rights	19,716,000	21,513,000	21,513,000	21,513,000	+1,797,000		
Policy research	13,440,000	14,718,000	13,440,000	14,718,000	+1,278,000		+1,278,000
Total, departmental management:							
Federal funds	245,967,000	273,291,000	272,013,000	273,291,000	+27,324,000		+1,278,000
Trust funds	(15,696,000)	(16,350,000)	(16,350,000)	(16,350,000)	(+654,000)		
Total, Department of Health and Human Services, Federal funds:							
Current year [27]	62,435,266,000	56,930,363,000	58,245,443,000	61,617,802,000	−817,464,000	+4,687,439,000	+3,372,359,000
1984 advance		5,919,703,000	5,919,703,000	6,951,600,000	+6,951,600,000	+1,031,897,000	+1,031,897,000
Trust funds	$4,033,529,000)	(4,280,372,000)	(4,349,472,000)	(4,349,472,000)	(+360,943,000)	(+114,100,000)	(+45,000,000)
TITLE III—DEPARTMENT OF EDUCATION							
COMPENSATORY EDUCATION FOR THE DISADVANTAGED							
Grants for the disadvantaged (title I):							
Grants to local educational agencies	2,562,754,000	1,726,256,000	2,562,754,000	2,727,360,000	+164,606,000	+1,001,104,000	+164,606,000
State agency programs:							
Migrants	255,744,000	167,012,000	255,744,000	255,744,000		+88,732,000	

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1982 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1983—Continued

[Amounts in dollars]

Item	1982 appropriation	Budget estimate	House allowance	Committee recommendation	Senate committee recommendation compared with (+ or −)		
					1982 appropriation	Budget estimate	House allowance
1	2	3	4	5	6	7	8
Handicapped [28]	146,520,000		146,520,000	146,520,000		+146,520,000	
Neglected and delinquent	32,616,000	21,886,000	32,616,000	32,616,000		+10,730,000	
State administration	30,575,000	22,100,000	30,575,000	33,014,000	+2,439,000	+10,914,000	+2,439,000
Evaluation and studies	5,760,000	4,746,000	5,760,000	4,746,000	−1,014,000		−1,014,000
Total, title I	3,033,969,000	1,942,000,000	3,033,969,000	3,200,000,000	+166,031,000	+1,258,000,000	+166,031,000
Migrant education:							
High school equivalency program	5,851,000		5,851,000	6,300,000	+449,000	+6,300,000	+449,000
College assistance migrant program	1,160,000		1,160,000	1,200,000	+40,000	+1,200,000	+40,000
Total, compensatory education programs	3,040,980,000	1,942,000,000	3,040,980,000	3,207,500,000	+166,520,000	+1,265,500,000	+166,520,000
SPECIAL PROGRAMS							
Block grant:							
State activities	455,616,000	406,080,000	454,810,000	446,500,000	−9,116,000	+40,420,000	−8,310,000
Secretary's discretionary fund:							
Inexpensive book distribution (including RIF)	5,850,000	5,372,000	5,850,000	5,850,000		+478,000	
Arts in education	2,025,000	1,860,000	2,025,000	2,025,000		+165,000	
Alcohol and drug abuse education	2,850,000	2,617,000	2,850,000	2,850,000		+233,000	
National diffusion network	10,000,000		10,700,000		−10,000,000		−10,700,000
Law related education	960,000		1,000,000		−960,000		−1,000,000
Discretionary projects	6,539,000	16,071,000	6,605,000	17,775,000	+11,236,000	+1,704,000	+11,170,000
Evaluation		1,000,000				−1,000,000	
Subtotal, Secretary's discretionary fund	28,224,000	26,920,000	29,030,000	28,500,000	+276,000	+1,580,000	−530,000
Subtotal, block grant	483,840,000	433,000,000	483,840,000	475,000,000	−8,840,000	+42,000,000	−8,840,000
Training and advisory services (civil rights IVA)	24,000,000		24,000,000	24,000,000		+24,000,000	
Follow Through	19,440,000		19,440,000	19,440,000		+19,440,000	
Territorial teacher training assistance	960,000		960,000	960,000		+960,000	
General assistance for the Virgin Islands	1,920,000		1,920,000	1,920,000		+1,920,000	
Ellender fellowships [29]	960,000		3,000,000	3,000,000	+2,040,000	+3,000,000	
Women's educational equity	5,760,000		5,760,000	5,760,000		+5,760,000	
Total, special programs	536,880,000	433,000,000	538,920,000	530,080,000	−6,800,000	+97,080,000	−8,840,000
BILINGUAL EDUCATION							
Grants to school districts	79,222,000	60,524,000	83,622,000	84,126,000	+4,904,000	++23,602,000	+504,000
Trained grants	28,836,000	25,500,000	28,836,000	31,288,000	+2,452,000	+5,788,000	+2,452,000
Support services	18,957,000	8,510,000	14,557,000	18,957,000		+10,447,000	+4,400,000
Bilingual desegregation grants	7,356,000		7,356,000		−7,356,000		−7,356,000
Bilingual vocational training	3,686,000		3,686,000	3,686,000		+3,686,000	
Total	138,057,000	94,534,000	138,057,000	138,057,000		+43,523,000	
SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS							
Maintenance and operations:							
Payments for "a" children	345,000,000	275,080,000	362,400,000	384,000,000	+39,000,000	+108,920,000	+21,600,000
Payments for "b" children	72,600,000		72,600,000	51,000,000	−21,600,000	+51,000,000	−21,600,000
Special provisions (section 2)	9,600,000	8,800,000	10,000,000	10,000,000	+400,000	+1,200,000	
Disaster assistance	9,800,000		10,000,000	10,000,000	+200,000	+10,000,000	
Subtotal	437,000,000	283,880,000	455,000,000	455,000,000	+18,000,000	+171,120,000	
Construction	19,200,000	3,000,000	20,000,000	20,000,000	+800,000	+17,000,000	
Total	456,200,000	286,880,000	475,000,000	475,000,000	+18,800,000	+188,120,000	
EDUCATION FOR THE HANDICAPPED [30]							
Education for the handicapped:							
Special education block grant [31]		771,685,000				−771,685,000	
Special purpose funds [31]		73,983,000				−73,983,000	
State assistance:							
State grant program	931,008,000		962,428,000	970,000,000	+38,992,000	+970,000,000	+7,572,000
Preschool incentive grants	24,000,000		24,000,000	25,000,000	+1,000,000	+25,000,000	+1,000,000
Deaf-blind centers	15,360,000		15,360,000	15,360,000		+15,360,000	
Special population programs:							
Severely handicapped projects	2,880,000		2,880,000	2,880,000		+2,880,000	
Early childhood education	16,800,000		16,800,000	16,800,000		+16,800,000	
Regional, vocational, adult, and postsecondary programs	2,832,000		2,832,000	2,832,000		+2,832,000	
Innovation and development	10,800,000		12,000,000	12,000,000	+1,200,000	+12,000,000	
Media and resource services:							
Media services and captioned films	11,520,000		14,000,000	12,000,000	+480,000	+12,000,000	−2,000,000
Regional resource centers	2,880,000		2,880,000	2,880,000		+2,880,000	
Recruitment and information	720,000		720,000	720,000		+720,000	
Special education personnel development	49,300,000		49,300,000	49,300,000		+49,300,000	
Special studies	480,000		480,000	480,000		+480,000	
Total [30]	1,068,580,000	845,668,000	1,103,680,000	1,110,252,000	+41,672,000	+264,584,000	+6,572,000
REHABILITATION SERVICES AND HANDICAPPED RESEARCH							
Rehabilitation services:							
Basic State grants	863,040,000	579,536,000	943,900,000	943,900,000	+80,860,000	+364,364,000	
Special purpose funds		43,780,000				−43,780,000	
Service projects	23,894,000		26,094,000	26,094,000	+2,200,000	+26,094,000	
Independent living	17,280,000		17,280,000	17,280,000		+17,280,000	
Training	19,200,000		19,200,000	19,200,000		+19,200,000	
Subtotal	923,414,000	623,316,000	1,006,474,000	1,006,474,000	+83,060,000	+383,158,000	
National Institute for Handicapped Research	28,560,000	26,491,000	28,560,000	30,060,000	+1,500,000	+3,569,000	+1,500,000
National Council on the Handicapped	197,000	193,000	193,000	193,000	−4,000		
Total [32]	952,171,000	650,000,000	1,035,227,000	1,036,727,000	+84,556,000	+386,727,000	+1,500,000
VOCATIONAL AND ADULT EDUCATION							
Consolidated (block) grant [33]		500,000,000				−500,000,000	

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1982 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1983—Continued

[Amounts in dollars]

Item	1982 appropriation	Budget estimate	House allowance	Committee recommendation	Senate committee recommendation compared with (+ or −)		
					1982 appropriation	Budget estimate	House allowance
1	2	3	4	5	6	7	8
Vocational education:							
State grants and innovative programs:							
Basic grants	497,280,000		558,155,000	558,155,000	+60,875,000	+558,155,000	
Program improvement and supportive services	89,590,000		109,590,000	89,590,000		+89,590,000	−20,000,000
Programs of national significance	8,178,000		8,178,000	7,178,000	−1,000,000	+7,178,000	−1,000,000
Special programs for the disadvantaged	14,356,000		14,356,000	14,356,000		+14,356,000	
Consumer and homemaking education	29,133,000		34,133,000	29,133,000		+29,133,000	−5,000,000
State advisory councils	6,500,000		6,500,000	6,500,000		+6,500,000	
State planning	3,588,000		3,588,000	3,588,000		+3,588,000	
Subtotal, vocational education	648,625,000	500,000,000	734,500,000	708,500,000	+59,875,000	+208,500,000	−26,000,000
Adult education	86,400,000		95,000,000	95,000,000	+8,600,000	+95,000,000	
Total [34]	735,025,000	500,000,000	829,500,000	803,500,000	+68,475,000	+303,500,000	−26,000,000
STUDENT FINANCIAL ASSISTANCE							
Pell grants:							
Program funds	2,419,040,000	1,400,000,000	2,419,040,000	2,419,040,000		+1,019,040,000	
Campus based programs:							
Supplemental opportunity grants	355,400,000		355,400,000	355,400,000		+355,400,000	
Work study	528,000,000	397,500,000	528,000,000	550,000,000	+22,000,000	+152,500,000	+22,000,000
Direct loans:							
Capital	178,560,000		178,560,000	178,560,000		+178,560,000	
Cancellations	14,800,000	2,500,000	14,800,000	14,800,000		+12,300,000	
Subtotal, Direct loans	193,360,000	2,500,000	193,360,000	193,360,000		+190,860,000	
State student incentive grants	73,680,000		73,680,000	50,000,000	−23,680,000	+50,000,000	−23,680,000
Total	3,569,480,000	1,800,000,000	3,569,480,000	3,567,800,000	−1,680,000	+1,767,800,000	−1,680,000
GUARANTEED STUDENT LOANS							
Guaranteed student loan program:							
Insurance costs (net)		74,300,000				−74,300,000	
Reinsurance costss (net)		295,300,000				−295,300,000	
Interest subsidies (net)		2,008,231,000				−2,008,231,000	
Other subsidies		106,800,000				−106,800,000	
Undistributed	3,073,846,000		2,484,631,000	3,100,500,000	+26,654,000	+3,100,500,000	+615,869,000
Total [35]	3,073,846,000	2,484,631,000	2,484,631,000	3,100,500,000	+26,654,000	+615,869,000	+615,869,000
HIGHER AND CONTINUING EDUCATION							
Student services:							
Special programs for the disadvantaged	150,240,000	82,251,000	159,240,000	150,240,000		+67,989,000	−9,000,000
Veterans cost of instruction	4,800,000		4,800,000		−4,800,000		−4,800,000
Program development:							
Strengthening developing institutions	134,416,000	129,600,000	129,600,000	129,600,000	−4,816,000		
Minority institutions science improvement	4,800,000	3,287,000	4,800,000	4,800,000		+1,513,000	
Cooperative education	14,400,000		14,400,000	14,400,000		+14,400,000	
International education and foreign language studies:							
Domestic programs	19,200,000	8,767,000	20,000,000	21,000,000	+1,800,000	+12,233,000	+1,000,000
Overseas programs	4,800,000	1,547,000	5,000,000	5,000,000	+200,000	+3,453,000	
Graduate support:							
Graduate/professional educational opportunities	8,640,000		10,000,000	10,000,000	+1,360,000	+10,000,000	
Public service grants and fellowships	1,920,000		1,920,000	1,000,000	−920,000	+1,000,000	−920,000
Construction:							
Interest subsidy grants	25,500,000	25,000,000	25,000,000	25,000,000	−500,000		
Special endowments:							
General Chappie James Memorial, Tuskegee (previously appropriated in continuing resolution)		(9,000,000)	(9,000,000)	(9,000,000)	(+9,000,000)		
Unspecified			3,000,000				−3,000,000
Taft Institute			750,000	750,000	750,000	750,000	
Law related education:							
Legal training for disadvantaged	960,000		1,000,000	1,000,000	+40,000	+1,000,000	
Law school clinical experience	960,000		960,000	250,000	−710,000	+250,000	−710,000
Fund for the improvement of postsecondary education	11,520,000	11,900,000	11,520,000	11,900,000	+380,000		+380,000
Total	382,156,000	262,352,000	391,990,000	374,940,000	−7,216,000	+112,588,000	−17,050,000
Higher education facilities loans and insurance	11,096,000	20,143,000	20,143,000	20,143,000	+9,047,000		
EDUCATIONAL RESEARCH AND STATISTICS							
National Institute of Education	53,389,000	53,645,000	53,389,000	55,614,000	+2,225,000	+1,969,000	+2,225,000
National Center for Educational Statistics	8,589,000	8,747,000	8,589,000	8,589,000		−158,000	
Total	61,978,000	62,392,000	61,978,000	64,203,000	+2,225,000	+1,811,000	+2,225,000
EDUCATIONAL, RESEARCH, AND TRAINING ACTIVITIES OVERSEAS							
Grants to American institutions	960,000	516,000	516,000	516,000	−444,000		
Total	960,000	516,000	516,000	516,000	−444,000		
LIBRARIES AND LEARNING RESOURCES							
Public libraries:							
Services	60,000,000		60,000,000	60,000,000		+60,000,000	
Interlibrary cooperation	11,520,000		11,520,000	11,520,000		+11,520,000	
College library resources	1,920,000		1,920,000	1,920,000		+1,920,000	
Training and demonstrations	880,000		880,000	880,000		+880,000	
Research libraries	5,760,000		5,760,000	6,000,000	+240,000	+6,000,000	+240,000
Total	80,080,000		80,080,000	80,320,000	+240,000	+80,320,000	+240,000
SPECIAL INSTITUTIONS							
American Printing House for the Blind	5,000,000	4,924,000	5,000,000	5,000,000		+76,000	
National Technical Institute for the Deaf:							
Educational programs	23,300,000	26,297,000	26,300,000	26,300,000	+3,000,000	+3,000	
Construction	3,000,000				−3,000,000		
Total, National Technical Institute for the Deaf	26,300,000	26,297,000	26,300,000	26,300,000		13,000	
Gallaudet College:							
College programs	32,310,000	33,910,000	33,910,000	33,910,000	+1,600,000		

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1982 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1983—Continued

[Amounts in dollars]

Item	1982 appropriation	Budget estimate	House allowance	Committee recommendation	Senate committee recommendation compared with (+ or −)		
					1982 appropriation	Budget estimate	House allowance
1	2	3	4	5	6	7	8
Model Secondary School for the Deaf	11,700,000	11,700,000	11,700,000	11,700,000			
Kendal Demonstration Elementary School	6,390,000	6,390,000	6,390,000	6,390,000			
Construction	1,600,000				−1,600,000		
Total	52,000,000	52,000,000	52,000,000	52,000,000			
Howard University:							
Academic program	109,594,000	123,094,000	123,094,000	123,094,000	+13,500,000		
Howard University hospital	22,106,000	22,106,000	22,106,000	22,106,000			
Construction	13,500,000				−13,500,000		
Total	145,200,000	145,200,000	145,200,000	145,200,000			
OFFICE FOR CIVIL RIGHTS, SALARIES AND EXPENSES							
Office for civil rights	45,038,000	44,868,000	44,868,000	44,868,000	−170,000		
DEPARTMENT MANAGEMENT, SALARIES AND EXPENSES							
Program administration	222,850,000	217,900,000	217,900,000	217,900,000	−4,950,000		
Advisory committees	1,750,000	1,750,000	1,750,000	1,750,000			
Program and management evaluation	2,350,000	2,350,000	2,350,000	2,350,000			
Subtotal, Federal funds	226,950,000	222,000,000	222,000,000	222,000,000	−4,950,000		
Trust funds	(576,000)		(576,000)		(−576,000)		(−576,000)
OFFICE OF THE INSPECTOR GENERAL, SALARIES AND EXPENSES							
Office of the Inspector General	11,994,000	12,840,000	12,840,000	12,840,000	+846,000		
Undistributed S&E reduction	−8,500,000				+8,500,000		
Total, Department of Education	14,612,047,000	9,890,245,000	14,278,966,000	15,017,746,000	+405,699,000	+5,127,501,000	+738,780,000
Federal funds	14,611,471,000	9,890,245,000	14,278,390,000	15,017,746,000	+406,275,000	+5,127,501,000	+739,356,000
Trust funds	(576,000)		(576,000)		(−576,000)		(−576,000)
TITLE IV—RELATED AGENCIES							
ACTION (domestic programs):							
Volunteers in Service to America:							
VISTA operations	16,000,000	231,000	11,831,000	8,000,000	−8,000,000	+7,769,000	−3,831,000
Service learning	1,757,000	1,830,000	1,757,000	1,830,000	+73,000		+73,000
Subtotal	17,757,000	2,061,000	13,588,000	9,830,000	−7,927,000	+7,769,000	−3,758,000
Older Americans volunteer programs:							
Foster Grandparents program	46,079,000	48,400,000	48,400,000	48,400,000	+2,321,000		
Senior companion program	12,170,000	12,016,000	12,016,000	12,016,000	−154,000		
Retired senior volunteer program	26,388,000	27,445,000	27,445,000	27,445,000	+1,057,000		
Subtotal, Older Volunteers	84,637,000	87,861,000	87,861,000	87,861,000	+3,224,000		
Citizen participation and volunteer demonstration programs	1,809,000	1,984,000	1,809,000	1,984,000	+175,000		+175,000
Program support	27,663,000	25,815,000	25,815,000	25,815,000	−1,848,000		
Total, ACTION	131,866,000	117,721,000	129,073,000	125,490,000	−6,376,000	+7,769,000	−3,583,000
Corporation for Public Broadcasting:							
Fiscal year 1985 advance (current request) [36]	130,000,000	85,000,000	130,000,000	130,000,000		+45,000,000	
Federal Mediation and Conciliation Service	24,552,000	20,190,000	21,721,000	21,321,000	−3,231,000	+1,131,000	−400,000
Federal Mine Safety and Health Review Commission	3,544,000	3,686,000	3,686,000	3,686,000	+142,000		
National Commission on Libraries and Information Science	674,000		674,000	674,000		+674,000	
National Commission on Student Financial Assistance	960,000	840,000	345,000	840,000	−120,000		+495,000
National Labor Relations Board	117,600,000	133,000,000	124,045,000	124,045,000	+6,445,000	−8,955,000	
National Mediation Board	4,758,000	3,618,000	5,468,000	5,468,000	+710,000	+1,850,000	
Occupational Safety and Health Review Commission	7,092,000	6,316,000	6,316,000	6,316,000	−776,000		
President's Commission on Ethical Problems in Medicine	1,749,000				−1,749,000		
Railroad Retirement Board:							
Dual benefits payments account	390,200,000	350,000,000	430,000,000	430,000,000	+39,800,000	+80,000,000	
Limitation on administration	(47,032,000)	(44,080,000)	(46,361,000)	(46,361,000)	(−671,000)	(+2,281,000)	
Milwaukee Railroad restructuring, administration	240,000	250,000	250,000	250,000	+10,000		
Soldier's and Airmen's Home (trust fund appropriation):							
Operation and maintenance	24,421,000	26,718,000	26,718,000	26,718,000	+2,297,000		
Capital outlay	953,000				−953,000		
Total, related agencies:							
Federal funds	838,609,000	747,339,000	878,296,000	874,808,000	+36,199,000	+127,469,000	−3,488,000
Current year	708,609,000	662,339,000	748,296,000	744,808,000	+36,199,000	+82,469,000	−3,488,000
Fiscal year 1984 advance	130,000,000	85,000,000	130,000,000	130,000,000		+45,000,000	
Trust funds	(47,032,000)	(44,080,000)	(46,361,000)	(46,361,000)	(−671,000)	(+2,281,000)	
SUMMARY							
Title I—Department of Labor:							
Federal funds	6,852,082,000	6,482,814,000	5,984,130,000	7,851,640,000	+999,558,000	+1,368,826,000	+1,867,510,000
Trust funds	(2,265,396,000)	(2,339,134,000)	(2,394,834,000)	(2,470,234,000)	(+204,838,000)	(+131,100,000)	(+75,400,000)
Title II—Department of Health and Human Services:							
Federal funds:							
Current year	62,435,266,000	56,930,363,000	58,245,443,000	61,617,802,000	−817,464,000	+4,687,439,000	+3,372,359,000
Fiscal year 1984 advance		5,919,703,000	5,919,703,000	6,951,600,000	+6,951,600,000	+1,031,897,000	+1,031,897,000
Trust funds	(4,033,529,000)	(4,280,372,000)	(4,349,472,000)	(4,394,472,000)	(+360,943,000)	(+114,100,000)	(+45,000,000)
Title III—Department of Education:							
Federal funds	14,611,471,000	9,890,245,000	14,278,390,000	15,017,746,000	+406,275,000	+5,127,501,000	+739,356,000
Trust funds	(576,000)		(576,000)		(−576,000)		(−576,000)
Title IV—Related agencies:							
Federal funds	838,609,000	747,339,000	878,296,000	874,808,000	+36,199,000	+127,469,000	−3,488,000
Trust funds	(47,032,000)	(44,080,000)	(46,361,000)	(46,361,000)	(−671,000)	(+2,281,000)	
Total, all titles:							
Federal funds	84,737,428,000	79,970,464,000	85,305,962,000	92,313,596,000	+7,576,168,000	+12,343,132,000	+7,007,634,000
Current year [37]	(84,607,428,000)	(73,965,761,000)	(79,256,259,000)	(85,231,996,000)	(+624,568,000)	(+11,266,235,000)	(+5,975,737,000)
1984 advance		(5,919,703,000)	(5,919,703,000)	(6,951,600,000)	(+6,951,600,000)	(+1,031,897,000)	(+1,031,897,000)
1985 advance	(130,000,000)	(85,000,000)	(130,000,000)	(130,000,000)		(+45,000,000)	
Trust funds	(6,346,533,000)	(6,663,586,000)	(6,791,243,000)	(6,911,067,000)	(+564,534,000)	(+247,481,000)	(+119,824,000)
Not considered / previously appropriated in continuing resolution	(3,973,550,000)	(3,110,744,000)	Defer	Defer	Defer	Defer	Defer
Federal funds	(3,943,536,000)	(3,069,277,000)	Defer	Defer	Defer	Defer	Defer
Trust funds	(29,438,000)	(41,467,000)	Defer	Defer	Defer	Defer	Defer

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1982 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1983—Continued

[Amounts in dollars]

Item	1982 appropriation	Budget estimate	House allowance	Committee recommendation	Senate committee recommendation compared with (+ or −)		
					1982 appropriation	Budget estimate	House allowance
1	2	3	4	5	6	7	8
Current year budget authority (new:)[37]							
Mandatory	(60,226,848,000)	(55,546,823,000)	(54,406,756,000)	(60,223,313,000)	(−3,535,000)	(+4,676,490,000)	(+5,816,557,000)
Discretionary	(24,380,580,000)	(18,418,938,000)	(24,849,503,000)	(25,008,683,000)	(+628,103,000)	(+6,589,745,000)	(+159,180,000)

[1] Fiscal year 1983 estimate proposed for later transmittal; no budget request yet proposed under new legislation enacted Oct. 13, 1982. [2] Budget proposes legislation to merge these activities into the primary care block grant. [3] Authorization repealed Public Law 97–35. [4] 19 percent set-aside for programs of national significance, hemophilia and genetic diseases. [5] The budget proposed legislation to transfer the women, infants, and children program from the Department of Agriculture to the MCH block grant and included an additional $650 million for this activity. This request has been considered under the fiscal year 1983 agriculture appropriation bill. [6] Fiscal year 1982 and fiscal year 1983 limitation included in Omnibus Reconciliation Act. [7] $82.6 million for this activity and related administrative costs requested in the President's budget under a new "health block grant" account not approved by the committee. [8] $433 million for this activity and related administrative costs originally requested under a new "health block grant" account not approved by the committee. [9] $433 million for this activity and related administrative costs originally requested under a new "health block grant" account not approved by the committee. [10] No limitation proposed for fiscal year 1983. [11] Funds for State and local administration proposed for transfer to new combined welfare administration block grant in fiscal year 1983 in President's budget not approved. [12] President's fiscal year 1983 budget assumes legislative savings of $1,883 million. [13] President's fiscal year 1983 budget assumes legislative savings of $139 million. [14] Includes medicare and medicaid funds not directly apropriated, but made available for PSRO. [15] Excludes $45 million made available in fiscal year 1983 by Public Law 97–248. [16] Does not include funds for State medicaid certifications. [17] President's budget assumes legislative savings of $270,400,000. [18] 2d year of 3-year phaseout. [19] Funds for State and local administration requested in combined welfare administration block grant in fiscal year 1983. [20] President's budget assumes legislative savings of $1,095,000,000. [21] President's fiscal year 1983 budget request assumes legislative savings of $120 million. [22] Authority for this proposed to be repealed by the President, but retained by the Congress. [23] President's fiscal year 1983 budget request assumes legislative savings of $145 million. [24] Currently an entitlement for fiscal year 1983 of $2,450,000,000. [25] Single consolidated request of $380.1 million in budget requests. [26] Also included here is request of $30,800,000 requested in budget under "Human Resources Research and Demonstrations." [27] Does not include $1,787,341,000 of fiscal year 1983 funds advanced in fiscal year 1982. [28] Proposed to be transferred to special education block grant. [29] Includes initial forward funding of $1,500,000. [30] Fiscal vear 1983 estimate proposed for later transmittal. [31] Requires legislation. [32] Fiscal year 1983 estimate originally proposed under A/S for human development HHS; classified as mandatory by the House, but discretionary by the Senate. [33] Requires legislation. [34] Fiscal year 1983 estimate proposed for later transmittal. [35] Assumes legislative savings of $912,369,000 in fiscal year 1983. [36] Fiscal year 1982 appropriation advanced in fiscal year 1980 was $172 million, fiscal year 1983 appropriation advanced in fiscal year 1981 was $137 million, fiscal year 1984 appropriation advanced in fiscal year 1982 is $130 million. [37] Does not include fiscal year 1983 funds advanced in previous year; $1,787,341,000 for assistance payments and $137,000,000 for CPB.

LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION APPROPRIATIONS, 1983—(H.R. 7205)

Mr. HATFIELD. Mr. President, the Labor, Health and Human Services, and Education appropriations bill for fiscal year 1983 (H.R. 7205) was reported to the Senate today, without written report. In lieu of a written report, the committee prepared a thorough explanation of its recommendations which will be printed in the RECORD.

Mr. President, this is a very unusual procedure, but one which is necessary to permit the early consideration of this very important measure. Under similar time constraints last year, the committee twice reported bills without written report, but with statements in explanation of the committee recommendations. By inserting the explanation of the committee's recommendations in the record we can be assured of rapid and full dissemination of what changes are proposed to the House passed bill so that Senators and their staff can prepare for the floor consideration of the measure.

Mr. President, it is with some reservations that the committee chose this procedure. It would have been preferable to issue a printed report in accordance with normal practice, however, under the circumstances we could find no other alternative. When we began this postelection session, only 6 of the 13 regular appropriations bills for fiscal year 1983 had passed the House, and only 4 had passed the Senate. In the last week and a half the House has passed three additional bills, the Senate two. Today the committee is reporting one of the bills passed by the House last week and ordered reported another bill as well, the Interior appropriations bill. Unfortunately, we have only another week and a half if Congress is to adjourn on the 17th of December.

If the normal 3-day waiting period for a written report prior to floor consideration is observed, action on these measures would be virtually precluded since I anticipate that most of next week will be devoted to the consideration of the continuing resolution and other urgent business.

Mr. President, again, I wish that we could have followed our normal procedure but under the circumstances I believe that our explanation in lieu of written report will fully satisfy concerns that Members of this body be informed of our recommendations.

FEDERAL-AID HIGHWAY IMPROVEMENT ACT OF 1982—S. 3043

Mr. STAFFORD. Mr. President, as in legislative session, I ask unanimous consent that I may, for the Committee on Environment and Public Works which today so ordered, report S. 3043, the Federal-Aid Highway Improvement Act of 1982.

Because of the expedited schedule for consideration of the text of this bill, I believe it would be useful for the text of the legislation ordered reported by the committee to be printed in the RECORD.

I ask unanimous consent that the text of S. 3043 be printed at this point in the RECORD.

There being no objection, the text was ordered to be printed in the RECORD, as follows:

TEXT OF S. 3043

To authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal-Air Highway Improvement Act of 1982".

REVISION OF AUTHORIZATION FOR APPROPRIATIONS FOR THE INTERSTATE SYSTEM

SEC. 102. Subsection (b) of section 108 of the Federal-Aid Highway Act of 1956, as amended, is amended by striking out "the additional sum of $3,225,000,000 for the fiscal year ending September 30, 1984", and all that follows through the period at the end of the sentence and by inserting in lieu thereof the following: "The additional sum of $3,625,000,000 for the fiscal year ending September 30, 1984, the additional sum of $3,800,000,000 for the fiscal year ending September 30, 1985, the additional sum of $3,800,000,000 for the fiscal year ending September 30, 1986, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1987, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1988, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1989, and the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1990.".

HIGHWAY AUTHORIZATIONS

SEC. 103. (a) For the purpose of carrying out the following provisions of title 23, United States Code, the following sums are authorized to be appropriated out of the Highway Trust Fund:

(1) For the Federal-aid primary program not to exceed $1,700,000,000 for the fiscal year ending September 30, 1983, $2,100,000,000 for the fiscal year ending September 30, 1984, $2,400,000,000 for the fiscal year ending September 30, 1985, and $2,400,000,000 for the fiscal year ending September 30, 1986, and $2,600,000,000 for the fiscal year ending September 30, 1987.

(2) For the Federal-aid rural program not to exceed $614,520,548 for the fiscal year ending September 30, 1983, and $700,000,000 for the fiscal year ending September 30, 1984, $700,000,000 for the fiscal year ending September 30, 1985, $700,000,000 for the fiscal year ending September 30, 1986, and $700,000,000 for the fiscal year ending September 30, 1987.

(3) For the Federal-aid urban program not to exceed $629,041,096 for the fiscal year ending September 30, 1983, and $800,000,000 for the fiscal year ending September 30,

1984, $800,000,000 for the fiscal ending September 30, 1985, and $800,000,000 for the fiscal year ending September 30, 1986, and $800,000,000 for the fiscal year ending September 30, 1987.

(4) For forest highways not to exceed $50,000,000 for the fiscal year ending September 30, 1983, $50,000,000 for the fiscal year ending September 30, 1984, $50,000,000 for the fiscal year ending September 30, 1985, and $50,000,000 for the fiscal year ending September 30, 1986, and $50,000,000 for the fiscal year ending September 30, 1987.

(5) For public lands highways not to exceed $50,000,000 for the fiscal year ending September 30, 1983, $50,000,000 for the fiscal year ending September 30, 1984, $50,000,000 for the fiscal year ending September 30, 1985, and $50,000,000 for the fiscal year ending September 30, 1986, and $50,000,000 for the fiscal year ending September 30, 1987.

(6) For parkways and park highways $75,000,000 for the fiscal year ending September 30, 1983 and $100,000,000 per fiscal year for each of the fiscal years ending September 30, 1984, September 30, 1985, September 30, 1986, and September 30, 1987.

(7) For bridge replacement and rehabilitation under section 144 of title 23, United States Code, not to exceed $1,700,000,000 for the fiscal year ending September 30, 1983, and $1,700,000,000 for the fiscal year ending September 30, 1984, $1,800,000,000 for the fiscal year ending September 30, 1985, and $2,000,000,000 for the fiscal year ending September 30, 1986, and $2,000,000,000 for the fiscal year ending September 30, 1987.

(8) For the highway safety improvement program not to exceed $316,657,534 for the fiscal year ending September 30, 1983, and $400,000,000 for the fiscal year ending September 30, 1984, $400,000,000 for the fiscal year ending September 30, 1985, and $400,000,000 for the fiscal year ending September 30, 1986, and $400,000,000 for the fiscal year ending September 30, 1987.

(9) For Indian reservation highways $75,000,000 for the fiscal year ending September 30, 1983 and $100,000,000 per fiscal year for each of the fiscal years ending September 30, 1984, September 30, 1985, September 30, 1986, and September 30, 1987.

(b) The unapportioned or unallocated balance of sums authorized by sections 4 and 5 of the Federal-Aid Highway Act of 1982 is rescinded.

(c)(1) For each of the fiscal years 1984, 1985, 1986, 1987, and 1988, no State, including the State of Alaska, shall receive less than one-half of 1 per centum of the total apportionment for the Interstate System under section 104(b)(5)(A) of title 23, United States Code. Whenever amounts made available under this subsection for the Interstate System in any State exceed the estimated cost of completing that State's portion of the Interstate System, and exceed the estimated cost of necessary resurfacing, restoration, rehabilitation, and reconstruction of the Interstate System within such State, the excess amount shall be eligible for expenditure for those purposes for which funds apportioned under paragraphs (1), (2), and (6) of such section 104(b) may be expended.

(2) Subsection (g) of section 144 of title 23, United States Code, is amended as follows:

"(g) Of the amount authorized per fiscal year, for each of the fiscal years ending September 30, 1983, September 30, 1984, September 30, 1985, September 30, 1986 and September 30, 1987, all but $300,000,000 for fiscal years 1983, 1984, 1985, 1986, and 1987 shall be apportioned as provided in subsection (e) of this section; $300,000,000 for fiscal years 1983, 1984, 1985, 1986, and 1987 of the amount authorized shall be available for obligation on the date of each such apportionment in the same manner and to the same extent as the sums apportioned on such date except that the obligation of such sums shall be at the discretion of the Secretary and shall be only for projects for those highway bridges and replacement and rehabilitation cost of each of which is more than $10,000,000 and for any project for a highway bridge replacement or rehabilitation cost of which is less than $10,000,000 if such cost is at least twice the amount apportioned to the State in which such bridge is located under subsection (e) of this section for the fiscal year in which application is made for a grant for such bridge. Not less than 15 per centum of the amount apportioned to each State in a fiscal year shall be expended for projects to replace or rehabilitate bridges located on public roads, other than those bridges on public roads functionally classified as arterials or major collectors. The Secretary after consultation with State and local officials may, with respect to a State, reduce the requirement for expenditure for bridges not on public roads functionally classified as arterials or major collectors when he determines that such State has inadequate needs to justify such expenditure.".

(d) Of the sums apportioned to each State under subsections (a)(1), (a)(2), and (a)(3) of this section, beginning with fiscal year 1984, not less than 60 per centum of such program funds shall be expended by the States on projects for resurfacing, restoring, rehabilitating, and reconstructing existing highway facilities for the purpose of preserving or enhancing the operational integrity, efficiency, and safety of such existing highways unless the State certifies to the Secretary that such percentage of funds are in excess of the resurfacing, restoring, rehabilitating, and reconstructing needs of existing highways in the State and the Secretary accepts such certification.

DISCRETIONARY BRIDGE CRITERIA

SEC. 104. The Secretary of transportation shall develop a selection process for discretionary bridges authorized to be funded under section 144(g) of title 23, United States Code, and shall propose and issue a final regulation no later than six months after the date of enactment of this Act, including a formula resulting in a rating factor based on the following criteria for such process. Such criteria shall give funding priority to those discretionary bridges already eligible under section 144(g) of title 23, United States Code. Eligible bridges after the issuance of a final regulation shall only include those with a rating factor of one hundred or less, based on a scale of zero to infinity. The criteria for such additional bridges which the Secretary shall consider are:

(1) sufficiency rating computed as illustrated in appendix A of the Recording and Coding Guide for the Structure Inventory and Appraisal of the Nation's Bridges, USDOT/FHWA (latest edition);

(2) average daily traffic using the most current value from the national bridge inventory data;

(3) average daily truck traffic;

(4) defense highway system status;

(5) the State's unobligated balance of funds received under section 144 of title 23, United States Code, and the total funds received under section 144 of title 23, United States Code;

(6) total project cost; and

(7) special consideration should be given to bridges closed to all traffic or restricted to loads less than ten tons. Other unique considerations and the need to administer the program from a balanced national perspective should also be considered.

INTERSTATE SYSTEM RESURFACING APPORTIONMENT

SEC. 105. (a) Section 104(b)(5)(B) of title 23, United States Code, is amended (1) by striking the number "55" and inserting in lieu thereof "60" and (2) by striking the number "45" and inserting in lieu thereof "40".

(b)(1) The Secretary of Transportation shall make a full and complete study regarding the procedures for distributing Federal financial assistance for resurfacing, restoring, rehabilitating, and reconstructing routes on the Interstate System in order to maintain a high level of transportation service. The study shall analyze current conditions and factors including, but not limited to, volume and mix of traffic, weight and size of vehicles, environmental, geographical, and meteorological conditions in various States, and other pertinent factors that can be utilized to determine the most equitable and efficient method of apportioning available Interstate 4R funds to the several States. In conducting the study the Secretary shall consider such criteria as need, national importance, impact on individual State highway programs, structural and operational integrity, and any other relevant criteria, to determine the most equitable method of distribution.

(2) In conducting this study the Secretary shall consult with other agencies of the Federal Government, the States and their political subdivisions, and other interested private organizations, groups, and individuals.

(3) The Secretary shall report to Congress not later than six months after the date of enactment of this section the results of such study together with recommendations for necessary legislation.

INTERSTATE SYSTEM RESURFACING AUTHORIZATION

SEC. 106. Section 105 of the Federal-Aid Highway Act of 1978 is amended to read as follows: "In addition to any funds authorized to be appropriated, there is authorized to be appropriated out of the Highway Trust Fund, not to exceed $175,000,000 per fiscal year for each of the fiscal years ending September 30, 1980, and September 30, 1981, not to exceed $275,000,000 for the fiscal year ending September 30, 1982, not to exceed $800,000,000 for the fiscal year ending September 30, 1983, not to exceed $1,800,000,000 for the fiscal year ending September 30, 1984, not to exceed $2,400,000,000 for the fiscal year ending September 30, 1985, not to exceed $2,800,000,000 for the fiscal year ending September 30, 1986, not to exceed $3,200,000,000 for the fiscal year ending September 30, 1987, and not to exceed $3,400,000,000 for the fiscal year ending September 30, 1988. Such sums shall be obligated for projects for resurfacing, restoring, rehabilitating, and reconstructing routes of the Interstate System designated under section 103 and 139(c) of title 23, United States Code (other than those on toll roads not subject to a Secretarial agreement provided for in section 105 of the Federal-aid Highway Act of 1978), except that where a State certifies to the Secretary that any part of

such sums are in excess of the needs of such State for resurfacing, restoring, rehabilitating, and reconstructing the Interstate System and the Secretary accepts such certification, such State may transfer sums apportioned it under section 104(b)(5)(B) to its apportionment under section 104(b)(1) of title 23, United States Code. Such sums may also be obligated for projects for resurfacing, restoring, rehabilitating, and reconstructing a toll road which has been designated as a part of the Interstate System if an agreement satisfactory to the Secretary of Transportation has been reached with the State highway department and any public authority with jurisdiction over such toll road prior to the approval of such project that the toll road will become free to the public upon the collection of tolls sufficient to liquidate the cost of the toll road or any bonds outstanding at the time constituting a valid lien against it, and the cost of maintenance and operation and debt service during the period of toll collections. The agreement referred to in the preceding sentence shall contain a provision requiring that if, for any reason, a toll road receiving Federal assistance under this section does not become free to the public upon collection of sufficient tolls, as specified in the preceding sentence, Federal funds used for projects on such toll road pursuant to this section shall be repaid to the Federal Treasury.".

INTERSTATE SUBSTITUTION AUTHORIZATION

SEC. 107. (a) In addition to any funds authorized to be appropriated out of the general fund, there is authorized to be appropriated, out of the Highway Trust Fund, for substitute highway projects under section 103(e)(4) of title 23, United States Code, $500,000,000 for the fiscal year ending September 30, 1983, $600,000,000 for the fiscal year ending September 30, 1984, $600,000,000 for the fiscal year ending September 30, 1985, and $650,000,000 for the fiscal year ending September 30, 1986, and $650,000,000 for the fiscal year ending September 30, 1987. Funds authorized to carry out this section shall be available for obligation in the same manner and to the same extent as if such sums were apportioned under chapter 1 of title 23, United States Code.

(b)(1) The first sentence of section 103(e)(4) of title 23, United States Code is amended by striking "which is within an urbanized area or which passes through and connects urbanized areas within a State and".

(2) The second sentence of Section 103(e)(4) of title 23, United States Code is amended by striking "which will serve the urbanized area and the connecting nonurbanized area corridor from which the interstate route or portion thereof was withdrawn, which are selected by the responsible local officials of the urbanized area or area to be served, and which are submitted by the Governor of the State in which the withdrawn route was located." and inserting in lieu thereof, "which will serve the area or areas from which the interstate route or portion thereof was withdrawn, which are selected by the responsible local officials of the area or areas to be served, and which are selected by the Governor or the Governors of the State or the States in which the withdrawn route was located if the withdrawn route was not within an urbanized area or did not pass through and connect urbanized areas, and which are submitted by the Govenors of the States in which the withdrawn route was located.".

(c)(1) The second sentence of section 103(e)(4) of title 23, United States Code, is amended by inserting in the second sentence after the words "approved by Congress," the words "or up to and including the approved 1983 interstate cost estimate, whichever is earlier,".

(2) The second sentence of section 103(e)(4) of title 23, United States Code, is amended by striking in the second sentence the phrases "the date of enactment of the Federal-Aid Highway Act of 1976 or" and "whichever is later, and in accordance with the design of the route or portion thereof that is the basis of the latest cost estimate,".

(3) The second sentence of section 103(e)(4) of title 23, United States Code, is amended by inserting in the second sentence after the words "approval of each substitute project under this paragraph," the words "or the date of approval of the 1983 interstate cost estimate, whichever is earlier,".

(d) Section 103(e)(4) of title 23, United States Code, is amended by adding at the end of such subsection the following: "Any route or segment thereof added to the Interstate System after March 7, 1978, pursuant to specific legislation will not be eligible for withdrawal and substitution under this subsection.".

(e) The first sentence of section 120(d) of title 23, United States Code, is amended by inserting after the words "traffic control signalization," the following: "including traffic control signalization projects under section 103(e)(4) of this title, notwithstanding the provisions of the fifth sentence of section 103(e)(4),".

FEDERAL-AID PRIMARY PROGRAM

SEC. 108. (a) Section 104(b)(1) of title 23, United States Code, is amended by (1) striking out "and priority primary routes" in the first sentence, and by (2) striking out "(other than the District of Columbia)" in the second sentence.

(b) Section 147 of title 23, United States Code, is repealed.

(c) Effective on October 1, 1982, any unobligated amount authorized under subsection (c) of section 104 of the Federal-Aid Highway Act of 1978 shall be apportioned by the Secretary of Transportation in the same manner as funds apportioned under section 104(b)(1) of title 23, United States Code, for the Federal-aid primary system, and shall thereafter remain available for obligation for the same period as such apportionment.

(d) The analysis of chapter 1 of title 23 is amended by deleting

"147. Priority Primary Routes."

and inserting in lieu thereof

"147. Repealed.".

FEDERAL-AID URBAN PROGRAM

SEC. 109. Section 103 of title 23, United States Code, is amended by deleting subsection (d) and inserting in lieu thereof the following:

"(d) The Secretary may approve Federal-aid urban programs in urban areas which programs shall be selected by the appropriate local officials so as to serve the goals and objectives of the community, with the concurrence of the State highway department, as provided in section 105 of this title. The programs shall facilitate transportation in the urban area and include projects to: reduce congestion and improve the flow of traffic on arterial and collector routes, aid integration of different transportation modes to and from airports and other terminals and business districts, support clean air and energy conservation objectives, make highway capital improvements, improve highway safety, eliminate safety hazards and roadside obstacles, implement transportation systems management activities and serve other national goals and objectives. All public roads in urban areas are eligible except those on the primary system and the Interstate System. The applicable provisions of chapters 1 and 3 of this title, including provisions applicable to Federal-aid systems, shall apply to urban programs, except those provisions determined by the Secretary to be inconsistent with this subsection. The Secretary shall not waive the applicability of the planning requirements of section 134 of this title.".

FEDERAL-AID RURAL PROGRAM

SEC. 110. Section 103 of title 23, United States Code, is amended by deleting subsection (c) and inserting in lieu thereof:

"(c) The Federal-aid rural program shall be selected by the State highway agencies and the appropriate local road officials in cooperation with each other, subject to approval by the Secretary as provided in subsection (f) of this section and section 105 of this title. In making such selections, the needs of agriculture roads, rural mail routes, public school bus routes, local rural roads, airport and water port access roads, and goods movement shall be considered. All public roads, except those in the primary system, the Interstate System, and those in urban areas are eligible. Projects to improve highway safety and nonurbanized public transportation projects, including facilities and technical assistance, are also eligible for assistance under this section. The applicable provisions of chapters 1 and 3 of this title, including provisions applicable to Federal-aid systems, shall apply to rural programs, except those provisions determined by the Secretary to be inconsistent with this subsection.".

TRANSFERABILITY

SEC. 111. Paragraphs (1) and (2) of subsection (d) of section 104 of title 23, United States Code, are amended by striking out "50" each place it appears and inserting in lieu thereof at each such place "100".

HIGHWAY SAFETY IMPROVEMENT PROGRAM

SEC. 112. (a) Section 151 of title 23, United States Code, is amended to read as follows:

"§ 151. Highway safety improvement program

"(a) The Secretary, in cooperation with the States, shall establish a highway safety improvement program for projects on any public road or street in rural or urban areas. Assistance shall be available under this program for highway safety improvement projects, as defined in subsection (a) of section 101 of this title; for railway-highway crossing projects as provided for in section 130 of this title; for the implementation of highway-related safety requirements and guidelines issued by the Secretary under section 402 of this title; and for the development, implementation, and evaluation of the highway safety improvement program required under subsection (b) of this section.

"(b) Each State shall develop and implement on a continuing basis a highway safety improvement program including procedures for the planning, implementation, and evaluation of highway safety improvement projects on all highways, with the specific objective of reducing the number and severity of highway traffic accidents. Each State shall have a process for collecting, maintain-

ing, and analyzing accident, traffic, and highway data; for conducting engineering studies of hazardous locations, sections and elements, for assigning priorities to the various types of hazards identified; for implementing safety improvement projects in accordance with the priorities developed; and for the evaluation of the safety benefits obtained.

"(c) Of the funds authorized to carry out this section each State shall expend 35 per centum of the sums apportioned for projects under section 203 of the Highway Safety Act of 1973 unless the State requests the Secretary to waive this minimum and the Secretary finds other safety projects are of a higher priority.

"(d)(1) Funds authorized to carry out this section shall be available for expenditure for projects on any public road (other than the Interstate System).

"(2) The Federal share payable on any project under this section shall not exceed 90 per centum of the cost thereof except that the Federal share of safety improvement projects for the elimination of hazards of rail-highway crossings shall not exceed that as provided in section 120(d) of this title.

"(3) The unobligated balance of contract authority established prior to enactment of this section for carrying out section 402 by the Federal Highway Administration shall remain available for obligation as provided prior to enactment of this section and shall lapse not later than September 30, 1984.

"(e) Funds authorized to be appropriated to carry out this section shall be apportioned to the States as follows: 60 per centum in the ratio which the population of each State bears to the total population of all States, and 40 per centum in the ratio which the public road mileage in each State bears to the total public road mileage in all States. The annual apportionment for each State shall not be less than one-half of 1 per centum of the total apportionment. Such sums shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under section 104(b)(1), except that the Secretary is authorized to waive such provisions of this title that he deems inconsistent with the purposes of this section.

"(f) In any State wherein the State is without legal authority to construct or maintain a project under this section, such State shall enter into a formal agreement for such construction or maintenance with the appropriate local officials of the country or municipality in which such project is located.

"(g) One-half of 1 per centum of funds authorized for carrying out this section shall be made available to the Secretary of the Interior, who shall exercise the responsibilities assigned to States under subsection (b) of this section in carrying out this section on Indian reservations. Such funds shall be subject to a deduction of not to exceed 5 per centum for the necessary costs of administering the provisions of this section.

"(h) Each State shall report to the Secretary of Transportation not later than December 30 of each year, on the progress being made to implement the highway safety improvement program and the effectiveness of safety improvements in reducing the number and severity of accidents. The Secretary of Transportation shall submit a report to the Congress not later than April 1 of each year on the progress being made by the States in implementing the highway safety improvement program.".

(b) Section 152 of title 23, United States Code, is repealed.

(c) The analysis of chapter 1 of title 23, United States Code, is amended by deleting

"151. Pavement marking demonstration program.", and

"152. Hazard elimination program.",

and inserting in lieu thereof

"151. Highway safety improvement program.", and

"152. Repealed.".

(d) Section 203(e) of the Highway Safety Act of 1973 (Public Law 93-87), as amended by the Congressional Reports Elimination Act of 1980 (Public Law 96-470), is repealed.

HIGHWAY BRIDGE REPLACEMENT AND REHABILITATION PROGRAM APPORTIONED FUNDS

SEC. 113. (a) Subsection (e) of section 144 of title 23, United States Code, is amended to read as follows:

"(e) Funds authorized to carry out this section shall be apportioned among the several States on October 1 of the fiscal year for which authorized according to the following formula: All deficient bridges will be divided into four categories: (1) Federal-aid system bridges, and bridges on public roads functionally classified as arterials or major collectors, eligible for replacement, (2) Federal-aid system bridges, and bridges on public roads functionally classified as arterials or major collectors, eligible for rehabilitation, (3) off-system bridges, and bridges on public roads not functionally classified as arterials or major collectors eligible for replacement, and (4) off-system bridges and bridges on public roads not functionally classified as arterials or major collectors eligible for rehabilitation. The square footage of deficient Federal-aid system bridges, or bridges on public roads functionally classified as arterials or major collectors, both those eligible for replacement and those eligible for rehabilitation, shall be multiplied by a factor of two. The square footage of deficient bridges in each category shall be multiplied by the average national unit cost, on a State-by-State basis, as determined by the Secretary; and the total cost of each State divided by the total cost of the Nation's deficient bridges shall yield the apportionment factors. No State shall receive more than 9.25 per centum or less than 0.25 per centum of the total apportionment for any one fiscal year. The Secretary shall make these determinations based upon the latest available data, which shall be updated annually. Funds authorized to carry out this section which are apportioned under this section shall be available for expenditure for three years after the close of the fiscal year for which they are authorized.".

(b) Notwithstanding any other provision of law or Federal regulation, any new bridge which is to be constructed pursuant to section 144 of title 23, United States Code, in tandem with any existing major structure built after June 28, 1969, with no more than 2.7 miles of highway between them need not carry a roadway width in excess of 69 feet.

FEDERAL LANDS HIGHWAYS PROGRAM

SEC. 114. (a) Section 202 of title 23, United States Code, is amended to read as follows:

"SEC. 202. ALLOCATIONS.—(a) On October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for such fiscal year for forest highways according to the relative needs of the various elements of the national forest system as determined by the Secretary, taking into consideration the need for access as identified by the Secretary of Agriculture through renewable resource and land use planning, and the impact of such planning on existing transportation facilities.

"(b) On October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for such fiscal year for forest development roads and trails according to the relative needs of the various national forests. Such allocation shall be consistent with the renewable resource and land use planning for the various national forests.

"(c) On October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for such fiscal year for public lands highways among those States having unappropriated or unreserved public lands, nontaxable Indian lands or other Federal reservations, on the basis of need in such States, respectively, as determined by the Secretary upon application of the State highway departments of the respective States. The Secretary shall give preference to those projects which are significantly impacted by Federal land and resource management activities.

"(d) On October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for such fiscal year for park roads and parkways each according to the relative needs of the various elements of the national park system, taking into consideration the need for access as identified through land use planning and the impact of such planning on existing transportation facilities.

"(e) On October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for such fiscal year for Indian reservation roads according to the relative needs of the various reservations as jointly identified by the Secretary and the Secretary of the Interior.".

(b) Section 204 of title 23, United States Code, is amended to read as follows:

"SEC. 204. FEDERAL LANDS HIGHWAYS PROGRAM.—(a) Recognizing the need for all Federal roads which are public roads to be treated under the same uniform policies as roads which are on the Federal-aid systems, there is established a coordinated Federal lands highways program which shall consist of the forest highways, public lands highways, park roads, parkways, and Indian reservation roads as defined in section 101 of title 23, United States Code.

"(b) Funds available for forest highways and public lands highways shall be used by the Secretary to pay for the cost of construction and improvement thereof. Funds available for park roads, parkways, and Indian reservation roads shall be used by the Secretary of the Interior to pay for the cost of construction and improvement thereof. In connection therewith, the Secretary and the Secretary of the Interior, as appropriate, may enter into construction contracts and such other contracts with a State, or civil subdivision thereof as deemed advisable. In the case of Indian reservation roads, Indian labor may be employed in such construction and improvement under such rules and regulations as may be prescribed by the Secretary of the Interior.

"(c) Before approving as a project on an Indian reservation road or bridge any project on a Federal-aid system in a State, the Secretary must determine the obligation of funds for such project is supplementary to and not in lieu of the obligation, for projects on Indian reservation roads and bridges, of a fair and equitable share of funds apportioned to such State under section 104 of this title.

"(d) Cooperation of States, counties, or other local subdivisions may be accepted in construction and improvement, and any funds received from a State, country, or local subdivision shall be credited to appropriations available for the class of Federal lands highways to which such funds were contributed.

"(e) Construction of each project shall be performed by contract awarded by competitive bidding, unless the Secretary or the Secretary of the Interior shall affirmatively find that, under the circumstances relating to such project, some other method is in the public interest.

"(f) All appropriations for the construction and improvement of each class of Federal lands highways shall be administered in conformity with regulations and agreements jointly approved by the Secretary and the Secretary of the appropriate Federal land managing agency.

"(g) The Secretary shall transfer to the Secretary of Agriculture from appropriations for forest highways such amounts as may be needed to cover necessary administrative expenses of the Forest Service in connection with forest highways.

"(h) Funds available for each class of Federal lands highways shall be available for adjacent vehicular parking areas and scenic easements.".

(c)(1) The definition of "park roads and trails" in section 101(a) of title 23, United States Code, is amended to read as follows: "The term 'park road' means a public road that is located within or provides access to an area in the national park system.".

(2) The term "Indian reservation roads and bridges" in section 101(a) of title 23, United States Code, is amended to read as "Indian reservation roads"; and the definition of such term is amended by deleting the words "and bridges" each place they appear and by inserting the word "public" before "roads" the first place it appears.

(3) Section 101(a) of title 23, United States Code, is amended by adding after the definition of the term "forest development roads and trails" the following new definition: "The term 'Federal lands highways' in accordance with section 204 of this title means forest highways, public lands highways, park roads, parkways, and Indian reservation roads which are public roads.".

(d) Sections 206, 207, 208, 209, and 214(c) of title 23, United States Code, are repealed.

(e) The analysis of chapter 2 of title 23, United States Code, is amended by deleting the following headings:

"202. Apportionment or allocation.";
"204. Forest highways.";
"206. Park Roads and trails.";
"207. Parkways.";
"208. Indian reservation roads."; and
"209. Public lands highways."

and inserting in lieu thereof:

"202. Allocations.";
"204. Federal Lands Highways Program.";
"206. Repealed.";
"207. Repealed.";
"208. Repealed."; and
"209. Repealed.".

(f) Section 203 of title 23, United States Code, is amended by striking out the term "park roads and trails" wherever it appears and inserting in lieu thereof the term "park road".

PROGRAM CONSOLIDATION

SEC. 115. (a)(1) Sections 143, 148, 155, and 156 of title 23, United States Code, are repealed.

(2) Section 163 of the Federal-Aid Highway Act of 1973, as amended, is repealed.

(b)(1) Any unobligated balance of contract authority established by any Act prior to enactment of subsection (a) of this section for carrying out sections 143 and 148 of title 23, United States Code, shall remain available for obligation under the conditions applicable prior to such enactment.

(2) The unexpended balance of sums appropriated prior to enactment of subsection (a) of this section for carrying out sections 155 and 156 of title 23, United States Code, and section 163 of the Federal-Aid Highway Act of 1973, as amended, shall remain available for expenditure under the conditions applicable prior to such enactment.

(3) The unappropriated balance of sums authorized prior to enactment of subsection (a) of this section for carrying out sections 148, 155, and 156 of title 23, United States Code, is rescinded.

(c) The analysis of chapter 1, United States Code, is amended by striking

"143. Economic growth center development highways."

and inserting in lieu thereof

"143. Repealed.";

by striking

"148. Development of a national scenic and recreational highway."

and inserting in lieu thereof

"148. Repealed.";

by striking

"155. Access highways in public recreation areas on certain lakes."

and inserting in lieu thereof

"155. Repealed.";

and by striking

"156. Highways crossing Federal projects."

and inserting in lieu thereof

"156. Repealed.".

CARPOOL AND VANPOOL PROJECTS

SEC. 116. (a) Section 120(d) of title 23, United States Code, is amended by inserting before the words "may amount to 100 per centum" the words "or commuter carpooling and vanpooling".

(b) The Secretary of Transportation is authorized and directed to expend such sums as are necessary out of the administrative funds authorized by subsection (a) of section 104, title 23, United States Code, to carry out the provisions of subsection (d) of section 126 of the Federal-Aid Highway Act of 1978.

PUBLIC TRANSPORTATION

SEC. 117. Section 142 of title 23, United States Code, is amended as follows:

(1) In subsection (a)(1) delete in the first sentence the words "bus lanes" and insert in lieu thereof the following: "high occupancy vehicle lanes" and delete the words "bus and other" and insert in lieu thereof the following: "high occupancy vehicle and".

(2) In subsection (b) delete the word "bus" and insert in lieu thereof "high occupancy vehicle".

(3) In subsection (f) delete the words "public mass transportation systems" and insert in lieu thereof "high occupancy vehicles".

FRINGE AND CORRIDOR PARKING

SEC. 118. Section 137 of title 23, United States Code, is amended by inserting the following new subsection (f):

"(f)(1) The Secretary may approve for Federal financial assistance from funds apportioned under section 104(b)(5)(B) of this title, projects for designating existing facilities, or for acquisition of rights of way or construction of new facilities, for use as preferential parking for carpools, provided that such facilities (1) are located outside of a central business district and within an interstate highway corridor, and (2) have as their primary purpose the reduction of vehicular traffic on the interstate highway.

"(2) Nothing in this subsection, or in any rule or regulation issued under this subsection, or in any agreement required by this subsection, shall prohibit (1) any State, political subdivision, or agency or instrumentality thereof, from contracting with any person to operate any parking facility designated or constructed under this subsection, or (2) any such person from so operating such facility. Any fees charged for the use of any such facility in connection with the purpose of this subsection shall not be in excess of the amount required for operation and maintenance, including compensation to any person for operating the facility.

"(3) For the purposes of this subsection, the terms 'facilities' and 'parking facilities' are synonymous and shall have the same meaning given 'parking facilities' in subsection (c) of this section".

EMERGENCY RELIEF

SEC. 119. (a)(1) The first sentence of subsection (a) of section 125 of title 23, United States Code, is amended by striking the first sentence thereof and inserting in lieu thereof the following: "An emergency fund is authorized for expenditure by the Secretary, subject to the provisions of this section and section 120 of this title, for the repair or reconstruction of highways, roads, and trails which the Secretary shall find have suffered serious damage as the result of (1) natural disaster over a wide area such as by floods, hurricanes, tidal waves, earthquakes, severe storms, or landslides, or (2) catastrophic failures from any external cause, in any part of the United States. In no event shall funds be used pursuant to this section for the repair or reconstruction of bridges which have been permanently closed to all vehicular traffic by the State or responsible local official because of imminent danger of collapse due to structural deficiencies or physical deterioration.".

(2) Subsection (a) of section 125 of title 23, United States Code, is further amended by inserting in the second sentence, as that sentence read prior to the amendments made by paragraph (1) of this subsection, after the word "appropriated" the words "from the Highway Trust Fund".

(b) Notwithstanding any other provision of law, all expenditures made under section 125 of title 23, United States Code, prior to the fiscal year ending September 30, 1978, are authorized to have been appropriated from the Highway Trust Fund.

(c) Subsection (a) of section 125 of title 23, United States Code, is amended by inserting in the second sentence after the words "after September 30, 1976," the words "and not more than $100,000,000 is authorized to be expended in any one fiscal year commencing after September 30, 1980,".

(d) Subsection (b) of section 125 of title 23, United States Code, is amended by striking the period at the end of the first sentence, inserting a colon in lieu thereof, and by adding the following: *"Provided,* That obligations for projects under this section, including those on highways, roads, and trails mentioned in subsection (c) of this section, resulting from a single natural disaster or a single catastrophic failure shall not exceed $30,000,000 in any State.".

(e) The amendments made by subsection (d) of this section shall apply to natural disasters or catastrophic failures which the Secretary finds eligible for emergency relief subsequent to the date of enactment of this section.

(f) Subsection (f) of section 120 of title 23, United States Code, is amended to read as follows:

"(f) The Federal share payable on account of any repair or reconstruction provided for by funds made available under section 125 of this title shall not exceed 75 per centum of the cost thereof: *Provided*, That the Federal share payable on account of any repair or reconstruction of forest highways, forest development roads and trails, park roads and trails, parkways, public lands highways, public lands development roads and trails, and Indian reservation roads may amount to 100 per centum of the cost thereof. The total cost of a project may not exceed the cost of repair or reconstruction of a comparable facility. As used in this section with respect to bridges and in section 144 of this title, 'a comparable facility' shall mean a facility which meets the current geometric and construction standards required for the types and volume of traffic which such facility will carry over its design life.".

(g) All obligations for projects resulting from a natural disaster or catastrophic failure which the Secretary finds to be eligible for emergency relief subsequent to the date of enactment of this subsection shall provide for the Federal share required by subsection (f) of section 120 of title 23, United States Code, as amended by this section.

(h)(1) Subsection (b) of section 125 of title 23, United States Code, is amended by striking the words "the Federal-aid highway systems, including the Interstate System" and by inserting in lieu thereof the words "the Interstate System, the Primary System, and on any routes functionally classified as arterials or major collectors," in the two places the stricken words appear.

(2) Subsection (c) of section 125 of title 23, United States Code, is amended by striking the words "on any of the Federal-aid highway systems" and inserting in lieu thereof the words "routes functionally classified as arterials or major collectors".

BICYCLE TRANSPORTATION PROGRAM

SEC. 120. Section 217 of title 23, United States Code is amended—

(1) by striking in the first sentence of subsection (a), the words "and the multiple use of highway rights-of-way" and "on or in conjunction with highway rights-of-way";

(2) by inserting after the first sentence in subsection (a) the following: "Federal-aid highway projects may include nonconstruction programs or projects which can reasonably be expected to enhance the safety and use of bicycles.";

(3) by striking out in subsection (b) the words "that provided in section 120 of this title" and inserting in lieu thereof "100 per centum"; and

(4) by striking out subsection (e).

HIGHLAND SCENIC HIGHWAY

SEC. 121. Section 161(f) of the Federal-Aid Highway Act of 1973, as amended by section 21 of Public Law 96-106, is further amended to read as follows:

"(f) The Highland Scenic Highway as authorized by subsection (a) of this section and all associated lands and rights-of-way shall be managed as part of the Monongahela National Forest for scenic and recreational purposes. Vehicle use shall be confined to passenger cars, recreational vehicles, and limited truck traffic to the extent such use is compatible with the purpose for which the highway was constructed. Commercial use by trucks shall be limited and controlled by permit.".

ALLOCATION OF URBAN FUNDS

SEC. 122. Section 150 of title 23, United States Code, is amended by adding the following sentence at the end thereof: "Funds allocated to an urbanized area under the provisions of this section may, at the request of the Governor and upon approval of the appropriate local officials of the area and the Secretary, be transferred to the allocation of another such area in the State or to the State for use in any urban area.".

CERTIFICATION ACCEPTANCE

SEC. 123. (a) Subsection 117(a) of title 23, United States Code, is amended by striking out "projects on Federal-aid systems, except the Interstate System," and inserting in lieu thereof "Federal-aid projects on systems other than the Interstate System" and by adding at the end thereof the following new sentence: "Notwithstanding the above, the Secretary may discharge any of his responsibilities under this title relative to the physical construction phase of Interstate resurfacing, restoration, rehabilitation, and reconstruction projects using the procedures of this section.".

(b) Subsection 117(b) is amended by striking out "make a final inspection of each subject project upon its" and inserting in lieu thereof "establish procedures for the inspection of such projects upon".

(c) Subsection 117(f)(1) is amended by striking out the words "the Federal-aid secondary system," when they first appear and inserting in lieu thereof "projects, as defined by the Secretary and which are not on the Interstate System," and by striking out "all projects on the Federal-aid secondary system" and inserting in lieu thereof "such projects".

(d) Subsection 117(f)(3) is revised to read as follows:

"(3) Paragraphs (1) and (2) of this subsection shall not be construed to relieve the Secretary of his obligation to establish procedures for the inspection of such projects upon completion and to require an adequate report of the estimated and actual cost of construction as well as other information as he determines necessary.".

(e) Subsection 105(b) of title 23, United States Code, is amended by striking out "projects on the Federal-aid secondary system" and inserting in lieu thereof "projects, as defined by the Secretary and which are not on the Interstate System except for the construction phase of Interstate resurfacing, restoration, rehabilitation, and reconstruction projects".

(f) Subsection 106(b) of title 23, United States Code, is amended to read as follows:

"(b) In addition to the approval required under subsection (a) of this section, proposed specifications for projects for construction, as defined by the Secretary and which are not on the Interstate System except for the construction phase of Interstate resurfacing, restoration, rehabilitation and reconstruction projects, except in States where all public roads and highways are under the control and supervision of the State highway department, shall be determined by the State highway department and the appropriate local road officials in cooperation with each other.".

(g) Subsection 112(e) of title 23, United States Code, as amended by striking out "projects on the Federal-aid secondary system" and inserting in lieu thereof "projects, as defined by the Secretary and which are not on the Interstate System except for the construction phase of Interstate resurfacing, restoration, rehabilitation, and reconstruction projects,".

DEFENSE ACCESS ROAD

SEC. 124. Section 210(c) of title 23, United States Code, is amended by striking "Not exceeding $5,000,000 of any funds appropriated under the Act approved October 16, 1951 (65 Stat. 422)", and inserting in lieu thereof "Funds appropriated for defense maneuvers and exercises".

MAINTENANCE

SEC. 125. (a) Subsection (a) of section 116 of title 23, United States Code, is amended by striking the second sentence.

(b) Subsection (b) of section 116 of title 23, United States Code, is amended by striking "constructed on the Federal-aid secondary system or within a municipality,".

(c) The second sentence of subsection (c) of section 116 of title 23, United States Code, is amended to read as follows: "If, within ninety days after receipt of such notice, such project has not been put in proper condition of maintenance, the Secretary shall withhold approval of further projects of all types on one or more of the Federal-aid systems or programs in the State highway district, municipality, county, other political or administrative subdivision of the State, or the entire State, in which such project shall be located, as the Secretary deems most appropriate until such project shall have been put in proper condition of maintenance.".

(d) Section 109 of title 23, United States Code, is amended by striking subsection (m) and by relettering subsection (n) as (m).

(e) Section 116 of title 23, United States Code, is amended by adding subsection (f) as follows:

"(f) The Secretary shall issue guidelines describing the criteria applicable to the Interstate System in order to insure that the condition of these routes is maintained at the level required by the purposes for which they were designed.".

(f) Section 119 of title 23, United States Code, is amended by striking subsection (b).

(g) Section 116 of title 23, United States Code, is amended by adding subsection (g) as follows:

"(g) Not later than one year after the date of issuance of initial guidelines under subsection (f) of this section each State shall have a program for the Interstate System in accordance with such guidelines. Each State shall certify on January 1 of each year that it has such a program and the Interstate System is maintained in accordance with the program. If a State fails to certify as required or if the Secretary determines a State is not adequately maintaining the Interstate System in accordance with such program, the next apportionment of funds to such State for the Interstate System shall be reduced by amounts equal to 10 per centum of the amount which would otherwise be apportioned to such State under section 104 of this title. If, within one year from the date the apportionment for a State is reduced under this subsection, the Secretary determines that such State is maintaining the Interstate System in accordance with the guidelines the apportionment of such State shall be increased by an amount equal to the reduction. If the Secretary does not make such a determination within such one year period, the amount

withheld shall be reapportioned to all other eligible States.".

CONSTRUCTION

SEC. 126. (a) Subsection (a) of section 114 of title 23, United States Code, is amended to read as follows:

"(a) The construction of any highways or portions of highways located on a Federal-aid system or under a Federal-aid program shall be undertaken by the respective State highway departments or under their direct supervision. The construction work and labor in each State shall be in accordance with the laws of that State and applicable Federal laws. Except as provided in section 117 of this title, the Secretary shall establish procedures for the inspection and approval of such construction. Construction may begin as soon as funds are available pursuant to subsection (a) of section 118 of this title. The State highway department shall not erect any information signs other than official traffic control devices conforming with standards developed by the Secretary on any project where actual construction is in progress and visible to highway users.".

(b) Subsection (a) of section 113 of title 23, United States Code, is amended to read as follows: "The Secretary shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors or subcontractors on the construction work performed on highway projects on the Federal-aid systems, the primary as well as its extensions in urban areas, and the Interstate System, or under the Federal-aid programs, authorized under the highway laws providing for the expenditure of Federal funds upon the Federal-aid systems and programs, shall be paid wages at rates not less than those prevailing on the same type of work on similar construction in the immediate locality as determined by the Secretary of Labor in accordance with the Act of August 30, 1935, known as the Davis-Bacon Act (40 U.S.C. 267a)."

(c) Subsection (c) of section 121 of title 23, United States Code, is amended by striking the words "following inspections".

RESEARCH AND PLANNING

SEC. 127. (a) Subsection (c) of section 307, title 23, United States Code, is amended by adding paragraph (5) as follows:

"(5) The sums provided pursuant to paragraph (2) of this subsection shall be combined and administered by the Secretary as a single fund which shall be available for obligation for the same period as funds apportioned under section 104(b)(1) of this title.".

(b) Subsection (c)(2) of section 307, title 23, United States Code, is amended by striking "1964" and inserting in lieu thereof "1983", and by striking "section 104" and inserting in lieu thereof "sections 104 and 144".

(c) Section 120 of title 23, United States Code, is amended by adding a subsection (i) as follows:

"(i) The Federal share payable on account of any project financed under section 307(c) of this title shall be 85 per centum, except that in the case of any State containing nontaxable Indian lands, individual and tribal, and public domain lands (both reserved and unreserved) exclusive of national forests and national parks and monuments, exceeding 5 per centum of the total area of all lands therein, the Federal share shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in such State is of its total area, except that such Federal share payable on any project in any State shall not exceed 95 per centum of the total cost of any such project.".

(d) Section 307(c)(1) of title 23, United States Code, is amended by adding in the last sentence after the words "highways and highway systems" the words "and for study, research and training on engineering standards and construction materials, including evaluation and accreditation of inspection and testing,".

NONDISCRIMINATION

SEC. 128. (a) The first and third sentences of subsection (a) of section 140 of title 23, United States Code, are amended by striking the words "or national origin" and inserting in lieu thereof the words "national origin or sex".

(b) Section 140 of title 23, United States Code, is amended by adding new subsection (c) as follows:

"(c) The Secretary, in cooperation with any other department or agency of the Government, State agency, authority, association, institution, corporation (profit or nonprofit), or any other organization or person, is authorized to develop, conduct, and administer training programs and assistance programs in connection with any program under this title in order that minority businesses may achieve proficiency to compete, on an equal basis, for contracts and subcontracts. Whenever apportionments are made under subsection 104(a) of this title, the Secretary shall deduct such sums as he may deem necessary, not to exceed $10,000,000 per fiscal year, for the administration of this subsection. The provisions of section 3709 of the Revised Statute, as amended (41 U.S.C. 5), shall not be applicable to contracts and agreements made under the authority herein granted to the Secretary notwithstanding the provisions of 41 U.S.C. 252(e).".

(c) The title of section 140 of title 23, United States Code, is amended to read:

"§ 140. Nondiscrimination"

and the analysis of chapter 1 of title 23, United States Code, is amended by striking out

"140. Equal employment opportunity."

and inserting in lieu thereof

"140. Nondiscrimination.".

INTERAGENCY AGREEMENTS

SEC. 129. (a) Chapter 1 of title 23, United States Code, is amended by adding after section 156 the following new section:

"§ 157. Interagency agreements

"Not later than one hundred and eighty days after the date of enactment of this section, the Secretary shall enter into agreements with the Secretaries of the Departments of Interior and Defense, the Administrator of the Environmental Protection Agency, and the heads of such other Federal departments, agencies, and instrumentalities as the Secretary determines, to minimize, to the greatest extent possible, duplication, paperwork, and delays in the development and approval of projects under this title and any other provision of law relating to the Federal highway programs. Notwithstanding any other provision of law, such agreements shall provide that actions on applications or requests for permits, licenses, findings, and other approvals and determinations required for such projects will be fully coordinated by the Department of Transportation with the review process established under the National Environmental Policy Act of 1969, as amended, and, to the greatest extent practicable, that a decision with respect to each such application or request will be made contemporaneously with approval of the environmental impact statement, finding of no significant impact, or categorical exclusion required for such project, but in no event later than one hundred eighty days after the date of approval of such environmental review document.".

(b) The analysis of chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following:

"157. Interagency agreements.".

OBLIGATION LIMITATION AND ALLOCATION FORMULA

SEC. 130. (a) Notwithstanding any other provision of law, the total of all obligations for Federal-aid highways and highway safety construction programs for fiscal year 1983 shall not exceed $12,000,000,000, for fiscal year 1984 shall not exceed $12,800,000,000, for fiscal year 1985 shall not exceed $13,600,000,000, for fiscal year 1986 shall not exceed $14,500,000,000, and for fiscal year 1987 shall not exceed $14,900,000,000. These limitations shall not apply to obligations for emergency relief under section 125 of title 23, United States Code, section 9 of the Federal-Aid Highway Act of 1981, and section 118 of the United Station Redevelopment Act of 1981. No obligation constraints shall be placed upon any ongoing emergency project carried out under section 125 of title 23, United States Code.

(b) For the fiscal years 1983, 1984, 1985, 1986, and 1987, the Secretary shall distribute the limitation imposed by subsection (a) by allocation in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to each State for such fiscal year bears to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to all the States for such fiscal year.

(c) During the period October 1 through December 31, 1982, no State shall obligate more than 35 per centum of the amount distributed to such State under subsection (b), and the total of all State obligations during such period shall not exceed 25 per centum of the total amount distributed to all States under such subsection.

(d) Notwithstanding subsections (b) and (c), the Secretary shall—

(1) provide all State with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction which have been apportioned or allocated to a State, except in those instances in which a State indicates its intention to lapse sums apportioned under section 104(b)(5)(A) of title 23, United States Codes;

(2) after August 1, 1983, August 1, 1984, August 1, 1985, August 1, 1986, and August 1, 1987, respectively, revise a distribution of the funds made available under subsection (b) if a State will not obligate the amount distributed during that fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year. In revising such distributions, the Secretary shall give priority to those states which, because of statutory changes under Amendments and under P.L. 97-134, have experienced substantial proportional reductions in their apportionments and allocations; and

(3) not distribute amounts authorized for administrative expenses and forest highways.

CERTIFICATION OF STATE PROCEDURES

SEC. 131. (a) The Secretary of Transportation in cooperation with the State of Vermont shall carry out a project to demonstrate the feasibility of reducing the time and the cost required to complete highway projects, other than projects on the Interstate System, in areas that require improved access between rapidly growing suburban areas and established urban core areas, by extending the coverage of State certifications under section 117(a) of title 23 of the United States Code, to any Federal law, regulation, or policy that applies to such projects.

(b) In implementing this section, the Secretary shall review applications for projects submitted by the State of Vermont with respect to which the State agrees to assume the responsibility of the Secretary with regard to any such Federal law, regulation, or policy. The Secretary shall be deemed to have fulfilled his reponsibility under such law, regulation, or policy, provided that—

(1) the Secretary finds that the State has procedures which are sufficient to assure that the project will be carried out in accordance with the provisions of such law, regulation, or policy;

(2) the State highway department is authorized and consents to accept the jurisdiction of the Federal courts in any suit brought to enforce any such Federal law or regulation; and

(3) the State highway department certifies that the project has been carried out in accordance with the procedures specified under subsection (b)(1) of this section.

(c) In carrying out the demonstration project authorized under this section, the Secretary may continue to discharge his responsibilities directly with respect to those laws, regulations, and policies for which he finds State procedures are not sufficient.

(d) In implementing this section, the Secretary shall consider the procedures developed pursuant to section 141 of the Federal-Aid Highway Act of 1976, as amended, and shall encourage the State to carry out its responsibilities in cooperation with appropriate political subdivisions of the State.

(e) There is authorized to be appropriated out of the Highway Trust Fund to carry out the project authorized under this section a sum not to exceed $50,000,000.

(f) Funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this section shall be 100 per centum of the total cost thereof and such funds shall remain available until expended.

(g) Not later than six months after the completion of such project, the Secetary shall submit a report to Congress which includes, but is not limited to, a description of the methods used to accomplish the project and the changes, if any, required to adopt expanded certification. The report should also contain recommendations for applying the methods to other highway projects, and any changes to existing law which may be necessary to permit more widespread use of expanded certification acceptance.

ALASKA HIGHWAY

SEC. 132. (a) Subsection (a) of section 218 of title 23, United States Code, is amended by adding after the second sentence the following: "In addition to such funds, the State of Alaska is authorized to expend on such highway any Federal-aid highway funds apportioned to the State of Alaska under this title as its Federal share. Notwithstanding any other provision of law any obligation limitation enacted for fiscal year 1983 or for any fiscal year thereafter shall not apply to projects authorized by the previous sentence.".

(b) This amendment shall be effective upon the date of the enactment of this Act.

TERRITORIAL HIGHWAY PROGRAM

SEC. 133. (a) Section 215 of title 23, United States Code, is hereby repealed.

(b)(1) The unobligated balance of sums appropriated prior to enactment of subsection (a) of this section for carrying out section 215 of title 23, United States Code, shall remain available for obligation under the conditions applicable prior to such enactment.

(2) The unappropriated balance of sums authorized prior to enactment of subsection (a) of this section for carrying out section 215 of title 23, United States Code, shall remain available until expended under the conditions applicable prior to such enactment.

(c) Section 120(i) of title 23, United States Code, repealed.

(d) Section 401 of title 23, United States Code, is amended by deleting the second thereof.

(e) The sixth sentence of section 402(c) of title 23, United States Code, is amended to read as follows: "The annual apportionment to each State shall not be less than one-half of 1 per centum of the total apportionment.".

(f) The analysis of chapter 2 of title 23, United States Code, is amended by deleting:

"215. Territories highway development program."

and inserting in lieu thereof:

"215. Repealed.".

ACCELERATION OF BRIDGE PROJECTS

SEC. 134. Section 147 of the Surface Transportation Assistance Act of 1978, as amended by section 15 of Public Law 96-106 (93 Stat. 798) is repealed. Funds previously set aside in accordance with such section 147 shall be available for obligation for a period of two years from the date of enactment of this Act. Such funds may be obligated under the same conditions which existed prior to the repeal of such section 147. Funds not obligated within that period of availability shall be permanently withdrawn and such funds shall be apportioned by the Secretary to the several States in accordance with section 144(e) of title 23, United States Code.

LAKE ROAD EROSION DEMONSTRATION

SEC. 135. (a) The Secretary of Transportation is authorized to carry out demonstration projects in and around Devils Lake, North Dakota, for the purpose of demonstrating construction techniques to prevent wave erosion on closed basin lakes with grade level highway crossings.

(b) The Secretary is authorized to reimburse from funds authorized by subsection (c) the State of North Dakota for funds previously expended on projects described in subsection (a).

(c) There is authorized to be appropriated, out of the Highway Trust Fund, to carry out this section not to exceed $4,500,000 for the fiscal year ending September 30, 1983.

(d) Funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this section shall not exceed 75 per centum of the total cost thereof and such fund shall remain available until expended.

TRUCK SAFETY DEMONSTRATION

SEC. 136. The Secretary of Transportation, in cooperation with the State of Idaho, shall conduct a project on a primary segment of highway experiencing a high incidence of truck accidents. The study shall include an analysis of factors contributing to truck accidents such as weather conditions, sight distance, road curvature, roadway width, and gradient. The study shall also include an analysis of the benefit-cost ratio of certain safety improvements implemented to correct hazards contributing to truck accidents.

(b) There is authorized to be appropriated, out of the Highway Trust Fund, to carry out this section not to exceed $6,500,000.

(c) Funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost if any project under this subsection shall be 100 per centum of the total cost thereof and such funds shall remain available until expended.

(d) The Secretary of Transportation shall submit to Congress a report on the results of the demonstration project not later than one hundred eighty days after completion of such project.

DEFINITION

SEC. 137. The definition of the term "construction" in section 101(a), title 23, United States Code, is amended by striking the period at the end thereof and inserting in lieu thereof the following: "and also includes costs incurred by the State in performing Federal-aid project related audits which directly benefit the Federal-aid highway program."

REPORTS

SEC. 138. (a) Section 307 of title 23, United States Code, is amended by adding a new subsection (e) as follows:

"(e) The Secretary shall report to the Congress in January 1983, and in January of every second year thereafter, estimates of the future highway needs of the Nation."

(b) Section 3 of Public Law 89-139, 79 Stat. 578, August 28, 1965, and section 17 of the Federal-Aid Highway Act of 1968 are hereby repealed.

CONSTRUCTION BY STATES IN ADVANCE OF APPORTIONMENT

SEC. 139. (a) Section 115(a) of title 23, United States Code, is amended to read as follows:

"(a)(1) When a State has obligated all funds apportioned or allocated to it under sections 103(e)(4), 104, or 144, of this title, other than Interstate funds, and proceeds to construct any highway substitute, Federal-aid system or program or bridge project, other than an Interstate project funded under section 104(b)(5) of this title, without the aid of Federal funds in accordance with all procedures and all requirements applicable to such a project, except insofar as such procedures and requirements limit a State to the construction of projects with the aid of Federal funds previously apportioned to it, the Secretary is authorized to pay to such State the Federal share of the costs of construction of such project when addition-

al funds are apportioned to such State under sections 103(e)(4), 104, or 144 of this title if—

"(A) prior to the construction of the project the Secretary approves the plans and specifications therefor in the same manner as other projects, and

"(B) the project conforms to the applicable standards adopted under section 109 of this title.

"(2) The Secretary may not approve an application under this section unless an authorization is in effect for the fiscal year for which the application is sought beyond the currently authorized funds for such State. No application may be approved which will exceed the State's expected apportionment of such authorizations.".

(b) Section 115(c) of title 23, United States Code, is amended by striking "104" and inserting in lieu thereof "103(3)(4), 104, or 144".

DESIGN AND CONSTRUCTION QUALITY ASSURANCE STUDY

SEC. 140. (a) The Secretary of Transportation is directed to coordinate a study with the National Bureau of Standards, the American Society for Testing and Materials, the Office of Technology Assessment, and other organizations as deemed appropriate, to examine (1) to determine the existing quality of design, construction, products, use, and systems for highways and bridges; (2) to determine the need for uniform standards and criteria for design, processing, products, and applications, including personnel training and implementation of enforcement techniques; and (3) to determine the manpower needs and cost of developing a national system for the evaluation and accreditation of testing and inspection agencies.

(b) The Secretary shall submit such study to the Congress not later than one year after the date of enactment of this section.

VENDING MACHINES

SEC. 141. Notwithstanding section 111 of title 23, United States Code, before October 1, 1983, any State may permit the placement of vending machines in rest and recreation areas and in safety rest areas constructed or located on rights-of-way of the National System of Interstate and Defense Highways in such State. Such vending machines may only dispense such food, drink, and other articles as the State highway department determines are appropriate and desirable. Such vending machines may only be operated by the State. In permitting the placement of vending machines under this section, the State shall give priority to vending machines which are operated through the State licensing agency designated pursuant to section 2(a)(5) of the Act of June 20, 1936, commonly known as the Randolph-Sheppard Act (20 U.S.C. 107(a)(5)). The costs of installation, operation, and maintenance of vending machines under this section shall not be eligible for Federal assistance under title 23, United States Code.

RELOCATION OF UTILITY FACILITIES

SEC. 142. (a) Section 101(a) of title 23, United States Code, as amended by section 106 of this Act, is amended by inserting the phrase "and utility appurtenances," after the word "crossing," in the definition of "construction."

(b) Section 123 of title 23, United States Code, is amended—

(1) by striking in subsection (a) "the Federal-aid primary or secondary systems or on the Interstate System, including extensions thereof within urban areas," and inserting in lieu thereof "a Federal-aid system or under a Federal-aid program,"; and

(2) by adding a new subsection (d) at the end thereof to read as follows: "(d) When a State relocates utilities solely to correct hazards to the traveling public from utility appurtenances on or near the right-of-way of Federal-aid projects, the Secretary may waive the provisions of subsection (a) of this section to the extent such provisions restrict Federal participation in such work if the Secretary determines such waiver would serve a public purpose by facilitating the State's safety improvement program."

TECHNICAL AMENDMENTS

SEC. 143. (a) Section 101(a) is amended as follows:

(1) In the tenth sentence, by inserting the words "or under one of the Federal-aid programs" immediately after the words "Federal-aid systems";

(2) In the nineteenth sentence, by striking the period at the end thereof and adding the words "or under the Federal-aid programs.";

(3) In the thirtieth sentence, by deleting the words "secondary system" and inserting in lieu thereof the words "rural program", and by deleting the word "system" and inserting in lieu thereof the word "program";

(4) In the thirty-first sentence, by deleting the word "system" each time it appears and inserting in lieu thereof the word "program"; and

(5) By adding after the twenty-eighth sentence the following sentence: "The term 'Federal-aid program' means any one of the Federal-aid highway programs described in section 103 of this title.".

(b)(1) Section 103 is amended by adding to the title the words "and programs" after the words "Federal-aid systems";

(2) Section 103(a) is amended to read as follows: "For the purpose of this title, the Federal-aid systems, which consist of the primary system and the Interstate System, along with the Federal-aid programs, which consist of the Federal-aid rural program and the Federal-aid urban program, are established and continued pursuant to the provisions of this section.";

(3) Section 103(f) is amended to read as follows: "The Secretary shall have authority to approve in whole or in part the Federal-aid primary system, the Federal-aid rural program, the Federal-aid urban program, and the Interstate System, as and when such systems and programs or portions thereof are designated, or to require modifications or revisions thereof. No Federal-aid system or program or portion thereof shall be eligible for projects in which Federal funds participate until approved by the Secretary.";

(4) Subsections (g) and (h) of section 103 are repealed; and

(5) The analysis of chapter 1 of title 23 is amended by deleting

"103. Federal-aid systems."

and inserting in lieu thereof

"103. Federal-aid system and programs.".

(c) Section 104 is amended as follows:

(1) In subsections (a) and (b)(1), by inserting the words "and programs" immediately after the words "Federal-aid systems" each time they appear;

(2) In paragraph (2) of section 104(b), by deleting the words "secondary system" and inserting in lieu thereof the words "rural program";

(3) In paragraph (6) of section 104(b) by deleting the word "system" and inserting in lieu thereof the word "program";

(4) In subsection (c)(1), by deleting the phrase ", commencing with the apportionment of funds authorized to be appropriated under subsection (a) of section 102 of the Federal-Aid Highway Act of 1956 (70 Stat. 374),"; and

(5) In subsection (f)(1), by inserting the words "and programs" immediately after the words "Federal-aid systems".

(d) Section 105 is amended as follows:

(1) In the first sentence of subsection (a) by inserting the words "and programs" after the words "Federal-aid systems", and by deleting in the third sentence the comma and all that follows and inserting a period after the word "part"; and

(2) In subsection (d) by deleting the words "programs for", and by deleting the words "on the Federal-aid urban system" and inserting in lieu thereof the words "under the Federal-aid urban program".

(e) Section 106 is amended as follows:

(1) Section 106(b) is amended by striking the word "on" and inserting in lieu thereof the word "under," and by striking the word "system" each place it appears and inserting in lieu thereof the word "program".

Section 106(d) is amended by inserting the words "or under any Federal-aid program" immediately after the words "Federal-aid system".

(f)(1) Section 108(a) is amended by inserting the words "or under any of the Federal-aid highway programs," immediately after the words "Interstate System," the first time they appear, and by inserting the words "and programs" immediately after the words "Federal-aid highway systems" the second time they appear;

(2) Section 108(c)(2) is amended by inserting the words "or under any Federal-aid program" immediately after the words "Federal-aid system"; and

(3) The last sentence of section 108(c)(3) is amended by inserting the words "or under the Federal-aid program" immediately after the words "Federal-aid system".

(g)(1) Section 109(a) is amended by inserting the words "or under any Federal-aid program" immediately after the words "Federal-aid system";

(2) Section 109(c) is amended by deleting the words "Projects on the Federal-aid secondary system" and inserting in lieu thereof the words "Federal-aid rural program projects";

(3) Section 109(e) is amended by deleting the phrase "No funds shall be approved for expenditure on any Federal-aid highway," and inserting in lieu thereof the following phase: "No funds shall be approved for expenditure on any highway on the Federal-aid highway system or under the Federal-aid highway program,";

(4) Section 109(h) is amended by inserting the words "or under any Federal-aid program" immediately after the words "Federal-aid system";

(5) Section 109(i) is amended by inserting the words "or under any Federal-aid program" immediately after the words "Federal-aid system" each time they appear in the first and second sentences, by inserting the words "or under a Federal-aid program" immediately after the words "Federal-aid system" in the third sentence, by inserting the words "or program" immediately after the words "Federal-aid system" in the fifth sentence, and by inserting the words "or under" immediately after the word "in such sentence; and

(6) Section 109(l)(1) is amended by inserting the words "or under any Federal-aid

program" immediately after the words "Federal-aid system".

(h)(1) Section 113(a) is amended by deleting the words "the primary and secondary, as well as their extensions in urban areas, and the Interstate System, authorized under the highway laws providing for the expenditure of Federal funds upon the Federal-aid systems," and inserting in lieu thereof the words "the primary as well as its extensions in urban areas, and the Interstate System, or under the Federal-aid programs, authorized under the highway laws providing for the expenditure of Federal funds upon the Federal-aid systems and programs,"; and

(2) Section 113(b) is amended by inserting the words "or under any of the Federal-aid programs" immediately after the words "Federal-aid systems".

(i) Section 115(a) is amended to read as follows:

"(a) When a State has obligated all funds for the primary system or for any of the Federal-aid programs, other than the Interstate System, apportioned to it under section 104 of this title, and proceeds to construct any projects without the aid of Federal funds, including one or more parts of any project, on the primary system or under any of the Federal-aid programs in such State, other than the Interstate System, as that system may be designated or any of those programs may be comprised at that time, in accordance with all procedures and all requirements applicable to projects on the primary system or under any such program, except insofar as such procedures and requirements limit a State to the construction of projects with the aid of Federal funds previously apportioned to it, the Secretary, upon application by such State and his approval of such application, is authorized to pay to such State the Federal share of the costs of construction of such project when additional funds are apportioned to such State under section 104 of this title if—

"(1) prior to the construction of the project the Secretary approves the plans and specifications therefor in the same manner as other projects on the Federal-aid system or under the Federal-aid program involved, and

"(2) the project conforms to the applicable standards adopted under section 109 of this title.

The Secretary may not approve an application under this section unless an authorization is in effect for the fiscal year for which the application is sought beyond the currently authorized funds for such State and that no application may by approved which will exceed the State's expected apportionment of such authorization.".

(j) Section 118(d) is amended by inserting the words "or under a Federal-aid program" immediately after the words "Federal-aid system".

(k)(1) Section 120(a) is amended by deleting in the first sentence all of the words between "(a)" and "(A)" and inserting in lieu thereof the words "Subject to the provisions of subsection (d) of this section, the Federal share payable on account of any project, financed with primary, rural, or urban funds, on the Federal-aid primary system, under the Federal-aid rural program, and under the Federal-aid urban program shall either"; and

(2) Section 120(g) is amended by deleting the words "Federal-aid highways" and inserting in lieu thereof the words "Federal-aid projects".

(l) Section 121(c) is amended by inserting the words "or under a Federal-aid program" immediately after the words "Federal-aid system".

(m) Section 123(a) is amended by deleting the words "the Federal-aid primary or secondary systems or on the Interstate System, including extensions thereof within urban areas," and inserting in lieu thereof the words "a Federal-aid system or under a Federal-aid program,".

(n) Section 124(a) is amended by inserting the words "or under any of the Federal-aid programs," immediately after the phrase "including the Interstate System,".

(o) Section 129 is amended as follows:

(1) In subsection (c), b inserting the words "and programs" immediately after the words "Federal-aid highway systems";

(2) In subsections (f) and (g)(2), by inserting the words "or programs" immediately after the words "Federal-aid systems" each time they appear; and

(3) In subsection (i), by deleting the words "Federal-aid system, other than the Interstate System," and inserting in lieu thereof the words "Federal-aid project other than one of the Interstate System,".

(p) Section 135(b) is amended by placing a period after the word "flow" and deleting the remainder of the sentence.

(q) 137(a) is amended by deleting the words "project on the Federal-aid urban system" and inserting in lieu thereof the words "project under the Federal-aid urban program".

(r) Section 140(a) is amended by inserting the words "or under any of the Federal-aid programs" immediately after the words "Federal-aid systems".

(s) Section 141(b) of title 23, United States Code, is amended to read as follows:

"(b) Each State shall certify to the Secretary before January 1 of each year that it is enforcing in accordance with section 127 of this title all State laws respecting maximum vehicle size and weights permitted on all roads receiving funds under the Federal-aid program, including the primary system, the Interstate System, and is a route functionally classified as an arterial or major collector.".

(t) Section 142 is amended as follows:

(1) In subsection (a)(1) by inserting the words "and highways under the Federal-aid programs" immediately after the words "Federal-aid systems", and by deleting the words "as a project on any Federal-aid system";

(2) In subsection (a)(2) by deleting the words "project on the Federal-aid urban system" each place it appears and inserting in lieu thereof "project under the Federal-aid urban program"; and

(3) In subsection (e)(2) by deleting the words "projects on the Federal-aid urban system" and inserting in lieu thereof "projects under the urban program".

(u) Section 149 is amended by inserting the words "or under any Federal-aid program" immediately after the words "Federal-aid system".

(v) Section 150 is amended as follows—

(1) By deleting the word "system" in the title and inserting the word "program" in lieu thereof.

(2) By amending the analysis of chapter 1 of title 23, United States Code, by deleting:

"150. Allocation of urban system funds.".

and inserting in lieu thereof:

"150. Allocation of urban program funds.".

(w) Section 302(b) is amended by deleting the words "on the Federal-aid secondary system," and inserting in lieu thereof the words "under the Federal-aid rural program", and by deleting the words "secondary funds," and inserting in lieu thereof the words "rural funds,".

(x) Section 304 is amended by inserting the words "and highways under the Federal-aid programs" between the word "systems" and the comma.

(y) Section 317(d) is amended by inserting the words "or under a Federal-aid program" immediately after the words "Federal-aid system".

(z) Section 320(a) is amended by inserting the words "or programs" immediately after the words "highway systems" in the second sentence.

(aa) Section 322 is amended as follows:

(1) In subsection (c)(1) by deleting the words "any Federal-aid system," and inserting in lieu thereof the words "the Interstate System, the Primary System, or is a route functionally classified as an arterial or major collector,"; and

(2) In subsection (c)(2) by deleting the words "any Federal-aid system," and inserting in lieu thereof the words "the Interstate System, the Primary System, or is not a route functionally classified as an arterial or major collector,".

(bb) Section 402(d) is amended by inserting the words "and programs" immediately after the words "Federal-aid systems".

TEMPORARY MATCHING FUND WAIVER

SEC. 144. (a) Notwithstanding any other provision of law, the Federal share of any qualifying project approved by the Secretary of Transportation under section 106(a), and of any qualifying project for which the United States becomes obligated to pay under section 117, of title 23, United States Code, during the period beginning on the date of enactment of this Act and ending September 30, 1983, shall be such percentage of the construction cost as the State highway department requests, up to and including 100 per centum.

(b) For purposes of this section, the term "qualifying project" means a project approved by the Secretary of Transportation under section 106(a) of title 23, United States Code, or a project for which the United States becomes obligated to pay under section 117 of title 23, United States Code, for which the Governor of the State submitting the project has certified, in accordance with regulations established by the Secretary, that sufficient funds are not available to pay the cost of the non-Federal share of the project.

(c) The total amount which may be obligated for qualifying projects in any State under subsection (a) shall not be greater than the excess of—

(1) The amount of obligation authority distributed to such State for fiscal year 1983 under section 104(b) of this Act, or

(2) the amount of obligation authority distributed to such State for fiscal year 1982 under section 3(b) of the Federal-Aid Highway Act of 1981.

(d) The total amount of such increases in the Federal share as are made pursuant to subsection (a) for any State shall be repaid to the United States by such State on or before September 30, 1984. Such payments shall be deposited in the Highway Trust Fund and such repaid amounts shall be credited to the last apportionment made for the category of funds for which the money so used was originally apportioned.

If a State has not made the repayment as required by subsection (d) of this section, the Secretary shall deduct from funds apportioned to a State under section 104(b) of

title 23, United States Code, except for section 104(b)(5)(A), in each of the fiscal years ending September 30, 1985, and September 30, 1986, a pro rata share of each category of such apportioned funds, the total amount of which shall be equal to 50 per centum of the amount needed for repayment.

MINIMIZATION OF CONTRIBUTIONS

SEC. 145. (a) On October 1, the Secretary of Transportation shall allocate among the States, as defined in title 23, United States Code, amounts sufficient to insure that a State's percentage of apportionments in each such fiscal year of primary, secondary, Interstate, urban, bridge replacement and rehabilitation, hazard elimination, and rail-highway crossings funds under sections 104(b), 144 and 152 of title 23, United States Code and section 203 of the Highway Safety Act of 1973, as amended, shall not be less than 85 per centum of the percentage of estimated tax payments attributable to highway users in that State paid into the Highway Trust Fund, excluding the Mass Transit Account, in the latest fiscal year for which data is available.

(b) Amounts allocated pursuant to subsection (a) of this section shall be available for obligation when allocated for the year authorized plus three fiscal years, shall be subject to the provisions of title 23, United States Code, and may be obligated for primary, secondary, Interstate, urban, bridge replacement and rehabilitation, hazard elimination, and rail-highway crossings projects. Obligation limitations for Federal-aid highways and highway safety construction programs established by this Act or any subsequent Act shall not apply to obligations made under this section except where the provision of law establishing such limitation specifically amends or limits the applicability of this sentence. Sums allocated pursuant to this section shall not be considered to be sums allocated for purposes of section 104(b) of this Act.

(c) In order to carry out this section there is authorized to be appropriated, out of the Highway Trust Fund, excluding the Mass Transit Account, $526,000,000 for the fiscal year ending September 30, 1983, and such sums as may be necessary for each of the fiscal years ending September 30, 1984, September 30, 1985, September 30, 1986, and September 30, 1987.

COMMERCIAL MOTOR VEHICLE SIZE AND WEIGHT

SEC. 146. Section 127 of title 23, United States Code, is amended by striking the words "that such overall gross weight may not exceed eighty thousand pounds," following "*Provided*" and inserting in lieu thereof the following:

(1) "That each State shall establish a maximum gross weight of eighty-thousand pounds, a single axle weight of twenty thousand pounds, a tandem axle weight of thirty-four thousand pounds,"; and

(2) By striking the words "thereof that could" immediately following "combinations" and insert "which the States determined could".

INNOVATIVE TECHNOLOGIES

SEC. 147. (a) The Congress hereby finds and declares that it is in the national interest to encourage and promote utilization by the States of highway and bridge surfacing, resurfacing, or restoration materials which are produced from recycled materials or which contain asphalt additives to strengthen the materials. Such materials conserve energy and reduce the cost of resurfacing or restoring our highways.

(b) The Secretary of Transportation is hereby authorized for each of the fiscal years through September 30, 1985, to increase the Federal share as provided in sections 119, 120 and 144 of title 23, United States Code, by five per centum of any project submitted by the State highway departments which contains in the plans, specifications, and estimates submitted, pursuant to section 106, of title 23, United States Code, the use of the materials described in subsection (a). To be eligible for such supplemental Federal assistance, significant amounts of asphalt additives or recycled materials must be used in each project approved by the Secretary.

ENERGY IMPACTED ROADS

SEC. 148. (a) Section 105 of title 23, United States Code, is amended by adding at the end thereof the following new subsection—

"(h) In preparing programs to submit in accordance with subsection (a) of this section, the State highway department may give priority to projects for the reconstruction, resurfacing, restoration, or rehabilitation of highways which are incurring a substantial use as a result of transportation activities to meet national energy requirements and which will continue to incur such use, and in approving such programs the Secretary may give priority to such projects."

(b) Section 120 of title 23, United States Code, is amended by adding at the end thereof the following new subsection—

"(k) Notwithstanding any other provision of this section, the Federal share payable on account of any project under this title to reconstruct, restore, and rehabilitate any highway which the Secretary determines, at the request of any State, is incurring a substantial use as a result of transportation activities to meet national energy requirements and will continue to incur such use is 85 per centum of the cost of such project.".

DEMONSTRATION PROJECT—DOWNTOWN CONGESTION RELIEF

SEC. 149. (a) The Secretary of Transportation is authorized to carry out a demonstration project on the Federal-aid urban system for the construction of a high level bridge over a high volume intercoastal waterway segment. The project shall demonstrate the reduced congestion resulting in the downtown area from the construction of such a bridge which serves a major port. Such project shall be subject to the provsions of chapter 1 of title 23, United States Code, applicable to highway projects on the Federal-aid system.

(b) There is authorized to be appropriated to carry out this section, out of the Highway Trust Fund, not to exceed $23,000,000 for the fiscal year ending September 30, 1983. Funds authorized to carry out this section shall be available in the same manner and to the same extent as if such funds were apportioned under Chapter 1 of title 23 U.S. Code, except that such funds shall remain available until expended. Obligations for this project shall not be subject to any obligation limitation for Federal-aid highways.

(c) In carrying out this section, the Secretary shall consult with the Secretary of the Army and the Commandant of the Coast Guard concerning permit procedures which will expedite completion of this bridge.

(d) The Secretary shall report to Congress upon completion of the project the results of this demonstration project, together with any recommendations the Secretary deems necessary.

ORDER FOR RECESS UNTIL 9:45 TOMORROW

Mr. STEVENS. Mr. President, I ask unanimous consent that when the Senate completes its business this evening, it stand in recess until the hour of 9:45 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

SCHEDULE FOR TOMORROW

Mr. STEVENS. Mr. President, the majority leader has asked me to state that tomorrow we shall possibly consider S. 2411, the Justice Assistance Act; S. 2000, the Bankruptcy Act; H.R. 6211, the highway gas tax bill; and one or more appropriation bills.

ORDER FOR RECOGNITION OF SENATOR ZORINSKY WITH CERTAIN CONDITIONS

Mr. STEVENS. Mr. President, I ask unanimous consent that when the Senate returns to the Radio Marti bill, Senator ZORINSKY be recognized and that it not count as a second speech under the second-speech rule.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator will be so recognized.

PRINTING OF "GUIDE TO RESEARCH COLLECTIONS OF FORMER UNITED STATES SENATORS, 1789-1982" AS SENATE DOCUMENT

Mr. STEVENS. Mr. President, I send to the desk a resolution in behalf of the distinguished majority and minority leaders and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A Senate resolution (S. Res. 506) authorizing the printing of a compilation of materials entitled "Guide to Research Collections of Former United States Senators, 1789-1982" as a Senate document.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Alaska for consideration of the resolution?

There being no objection, the resolution was considered and agreed to, as follows:

S. RES. 506

Resolved, That a compilation of materials entitled "Guide to Research Collections of Former United States Senators, 1789-1982", prepared by the Senate Historical Office, be printed, with illustrations, as a Senate document, and that five thousand additional copies of such document be printed for the use of the Office of the Secretary of the Senate.

SEC. 2. The document specified in the first section of this resolution shall be printed and bound with a paperback cover of the style, design, and color as the Secretary of the Senate shall direct.

Mr. STEVENS. I move to reconsider the vote by which the resolution was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZATION FOR SECRETARY OF THE SENATE TO RECEIVE MESSAGES FROM THE HOUSE

Mr. STEVENS. Mr. President, I ask unanimous consent that during the recess of the Senate until Thursday, December 9, 1982, messages from the House of Representatives may be received by the Secretary of the Senate and appropriately referred.

The PRESIDING OFFICER. Without objection, it is so ordered.

INDIAN MINERAL DEVELOPMENT ACT OF 1982

Mr. STEVENS. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1894.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1894) entitled "An Act to permit Indian tribes to enter into certain agreements for the disposition of tribal mineral resources, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert: That this Act may be cited as the "Indian Mineral Development Act of 1982".

SEC. 2. For the purposes of this Act, the term—

(1) "Indian" means any individual Indian or Alaska Native who owns land or interests in land title to which is held in trust by the United States or is subject to a restriction against alienation imposed by the United States;

(2) "Indian tribe" means any Indian tribe, band, nation, pueblo, community, rancheria, colony, or other group which owns land or interests in land title to which is held in trust by the United States or is subject to a restriction against alienation imposed by the United States; and

(3) "Secretary" means the Secretary of the Interior.

SEC. 3. (a) Any Indian tribe, subject to the approval of the Secretary and any limitation or provision contained in its constitution or charter, may enter into any joint venture, operating, production sharing, service, managerial, lease or other agreement, or any amendment, supplement or other modification of such agreement (hereinafter referred to as a "Minerals Agreement") providing for the exploration for, or extraction, processing, or other development of, oil, gas, uranium, coal, geothermal, or other energy or nonenergy mineral resources (hereinafter referred to as "mineral resources") in which such Indian tribe owns a trust or restricted interest, or providing for the sale or other disposition of the production or products of such mineral resources.

(b) Any Indian owning a trust or restricted interest in mineral resources may include such resources in a tribal Minerals Agreement subject to the concurrence of the parties and a finding by the Secretary that such participation is in the best interest of the Indian.

SEC. 4. (a) The Secretary shall approve or disapprove any Minerals Agreement submitted to him for approval within (1) one hundred and eighty days after submission or (2) sixty days after compliance, if required, with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C) or any other requirement of law, whichever is later. Any party to such an agreement may enforce the provisions of this subsection pursuant to section 1361 of title 28, United States Code.

(b) Not later than thirty days prior to formal approval or disapproval of any Minerals Agreement, the Secretary shall provide written findings forming the basis of his intent to approve or disapprove such agreement to the affected Indian tribe. Notwithstanding any other law, such findings and all projections, studies, data or other information possessed by the Department of the Interior regarding the terms and conditions of the Minerals Agreement, the financial return to the Indian parties thereto, or the extent, nature, value or disposition of the Indian mineral resources, or the production, products or proceeds thereof, shall be held by the Department of the Interior as privileged proprietary information of the affected Indian or Indian tribe.

(c) The authority to disapprove agreements under this section may only be delegated to the Assistant Secretary of the Interior for Indian Affairs. The decision of the Secretary or, where authority is delegated, of the Assistant Secretary of the Interior for Indian Affairs to disapprove a Minerals Agreement shall be deemed a final agency action.

SEC. 5. In approving or disapproving a Minerals Agreement, the Secretary shall determine if it is in the best interest of the Indian tribe and, in connection therewith, shall consider, among other things—

(1) the economic return provided in the agreement in relation to the economic potential of the mineral resource involved;

(2) the nature of the advice and technical assistance available to the Indian tribe in the negotiation of the agreement;

(3) the potential environmental, socioeconomic, and cultural effects of the implementation of the agreement on the tribe and its members;

(4) any provisions in the agreement for tribal access to management, financial, production and other operating information;

(5) any provisions in the agreement relating to diligent exploration and development or tribal monitoring, review, and amendment; and

(6) any provisions in the agreement for resolving disputes which may arise between the parties over the terms or implementation of the agreement:

Provided, That the Secretary shall not be required to prepare any study regarding environmental, socioeconomic, or cultural effects of the implementation of a Minerals Agreement apart from that which may be required under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C).

SEC. 6. (a) Mineral Agreements, which by their terms do not purport to be leases, entered into by any Indian tribe and approved by the Secretary after January 1, 1975, but prior to the enactment of this Act, shall be processed as provided in this section.

(b) Where an Indian tribe has requested ratification of the Secretary's authority to approve an agreement covered under subsection (a) of this section by notifying the Senate Select Committee on Indian Affairs and the House Committee on Interior and Insular Affairs after July 27, 1982, but prior to enactment of this Act or by notifying the Secretary within thirty days after enactment of this Act, such authority is hereby ratified: *Provided,* That such ratification shall not constitute a congressional determination of the validity or legality of any particular provision of such agreement.

(c) Where an affected Indian tribe does not provide notice as provided in subsection (b) of this section, the Secretary shall review, within one hundred and twenty days after enactment of this Act, any such prior agreement to determine if it complies with the purposes of this Act and other appropriate provisions of law. Where the Secretary fails to act within the alloted time, the previous approval of the Secretary shall be deemed ratified as provided in subsection (b) of this section.

SEC. 7. Nothing in this Act shall affect, nor shall any Minerals Agreement approved pursuant to this Act be subject to or limited by, the Act of May 11, 1938 (52 Stat. 347; 25 U.S.C. 396a et seq.), as amended, or any other law authorizing the development or disposition of the mineral resources of an Indian or Indian tribe.

SEC. 8. Any Indian tribe, subject to the approval of the Secretary, may enter into an agreement to pledge or hypothecate its interest in mineral resources which have been lawfully severed from the land, or their production, products or proceeds, as security for the repayment of funds provided to Indian tribes to finance the cost of development of its mineral resources. The pledge or hypothecation agreement may be enforced only against the specified pledged severed mineral resources, or the pledged production, products or proceeds, and only in accordance with the terms and conditions of the agreement. The United States shall not be deemed a necessary party in any action to enforce such agreement.

SEC. 9. In carrying out the obligations of the United States, the Secretary shall ensure that upon the request of an Indian tribe and to the extent of his available resources, such tribe shall have available advice, assistance, and information during the negotiation of a Minerals Agreement. The Secretary may fulfill this responsibility either directly through the use of Federal officials and resources or indirectly by providing financial assistance to the Indian tribe to secure independent assistance.

SEC. 10. (a) Within one hundred and eighty days of the date of enactment of this Act, the Secretary of the Interior shall promulgate rules and regulations to facilitate implementation of this Act. The Secretary shall, to the extent practicable, consult with national and regional Indian organizations and tribes with expertise in mineral development both in the initial formulation of rules and regulations and any future revision or amendment of such rules and regulations. Where there is pending before the Secretary for his approval a Minerals Agreement of the type authorized by section 3 of this Act which was submitted prior to the enactment of this Act, the Secretary shall evaluate and approve or disapprove such agreement based upon section 4(b) and section 5 of this Act, but shall not withhold or delay such approval or disapproval on the grounds that the rules and regulations im-

plementing this Act have not been promulgated.

(b) Where the Secretary has approved a Minerals Agreement in compliance with the provisions of this Act and any other applicable provision of law, the United States shall not be liable for any losses sustained by a tribe or individual Indian as a result of changes in markets for any minerals subject to such Minerals Agreement or as a result of decisions made by the parties to the agreement in the course of doing business pursuant to the terms of such agreement: *Provided,* That the Secretary shall continue to have a trust obligation to ensure that the legal rights of a tribe or individual Indian are protected in the event of a violation of the terms of any Minerals Agreement by any other party to such agreement.

(c) Nothing contained in this Act shall absolve the United States from any responsibility to the Indians, including those which derive from the trust relationship and from any treaties, Executive orders, or agreements between the United States and any Indian tribe.

SEC. 11. Nothing in this Act shall impair any right of an Indian tribe organized under section 16 or 17 of the Act of June 18, 1934 (48 Stat. 987), as amended, to develop their mineral resources as may be provided in any constitution or charter adopted by such tribe pursuant to that Act.

Mr. STEVENS. Mr. President, I ask that the Senate concur in the amendment of the House, with an amendment by the Senator from Montana.

There is an amendment here to go to the House in behalf of the Senator from Montana. I see that he is here. Perhaps he wishes to submit this in his own behalf.

UP AMENDMENT NO. 1418

Mr. STEVENS. Mr. President, I send an amendment to the desk in behalf of Senator MELCHER.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS), for the Senator from Montana (Mr. MELCHER) proposes an unprinted amendment numbered 1418.

On page 1, line 5, after the phrase "interests in land" insert the word "the".

On page 2, line 11, delete the word "trust" and insert in lieu thereof the word "beneficial".

On page 2, on line 14, delete the word "trust" and insert in lieu thereof the word "beneficial".

On page 2, on line 24, after the word "of" insert the word "federal".

On page 3, after line 2, insert a new subsection (b):

"(b) In approving or disapproving a Minerals Agreement, the Secretary shall determine if it is in the best interest of the Indian tribe or of any Individual Indian who may be party to such agreement and shall consider, among other things, the potential economic return to the tribe; the potential environmental, social and cultural effects on the tribe; and provisions for resolving disputes that may arise between the parties to the agreement: *Provided,* That the Secretary shall not be required to prepare any study regarding environmental, socioeconomic, or cultural effects of the implementation of a Minerals Agreement apart from that which may be required under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)."

On page 3, line 3, delete "(b)" and insert in lieu thereof "(c)".

On page 3, line 16, delete "(c)" and insert in lieu thereof "(d)".

On page 3, line 20, after the word "Affairs" insert a comma (,).

On page 3, line 21, after the period (.), add the following new sentence and a new subsection (e). "The district courts of the United States shall have jurisdiction to review the Secretary's disapproval action and shall determine the matter de novo. The burden is on the Secretary to sustain his action."

"(e) Where the Secretary has approved a Minerals Agreement in compliance with the provisions of this Act and any other applicable provision of law, the United States shall not be liable for losses sustained by a tribe or individual Indian under such agreement: *Provided,* That the Secretary shall continue to have a trust obligation to ensure that the rights of a tribe or individual Indian are protected in the event of a violation of the term of any Minerals Agreement by any other party to such agreement: *Provided further,* That nothing in this Act shall absolve the United States from any responsibility to Indians, including those which derive from the trust relationship and from any treaties, Executive orders, or agreement between the United States and any Indian tribe."

On page 3, beginning on line 22, strike Sections 5 and 6 (through the end of line 24 on page 5).

On page 5, after line 24, insert the following new Section 5:

"SEC. 5. (a) The Secretary shall review, within ninety days of enactment of this Act, any existing Minerals Agreement, which does not purport to be a lease, entered into by any Indian tribe and approved by the Secretary after January 1, 1975 but prior to enactment of this Act, to determine if such agreement complies with the purposes of this Act. Such review shall be limited to the terms of the agreement and shall not address questions of the parties' compliance therewith. The Secretary shall notify the affected tribe and other parties to the agreement of any modifications necessary to bring an agreement into compliance with the purposes of this Act. The tribe and other parties to such agreement shall within ninety days after notice make such modifications. If such modifications are not made within ninety days, the provisions of this Act may not be used as a defense in any proceeding challenging the validity of the agreement.

"(b) The review required by subsection (a) of this section may be performed prior to the promulgation of regulations required under Section 8 of this Act and shall not be considered a federal action within the meaning of that term in section 102(2)(C) of the National Environmental Protection Act of 1969 (42 U.S.C. 4332 (2)(C))."

On page 6, line 1, delete "SEC. 7" and insert in lieu thereof "SEC. 6".

On page 6, beginning on line 7, strike all of Section 8 (through end of line 18 on page 6).

On page 6, line 19, delete "SEC. 9" and insert in lieu thereof "SEC. 7".

On page 6, line 21, after the word "tribe", insert the following: "or individual Indian".

On page 6, line 22, after the word "tribe", insert the following: "or individual Indian".

On page 7, line 1, after the word "tribe", insert the following: "or individual Indian".

On page 7, line 3, delete "SEC. 10. (a)" and insert in lieu thereof "SEC. 8".

On page 7, line 15, delete "section 4(b) and section 5" and insert in lieu thereof "section 4".

On page 7, delete lines 19 through page 8, line 10.

On page 8, line 11, delete "SEC. 11" and insert in lieu thereof "SEC. 9".

Mr. MELCHER. Mr. President, I am pleased that the Senate is adopting final amendments to the Indian Mineral Development bill, S. 1894. I hope that the House will quickly follow suit so that this important bill can be cleared for the President's signature.

These amendments have been reviewed by House Interior Committee staff. The amendments assure that congressional intent is clear and the bill permits the latitude necessary for Indian tribes to develop agreements with other parties for energy development and production while still insuring a continuing trust oversight and responsibility by the Federal Government.

The legislation will give Indian tribes and, under certain conditions, individual Indians the needed authority to enter into joint venture or other agreements for development of their mineral resources. Under existing law only leases are permitted. The current Indian leasing laws are restrictive and can result in very low monetary returns to Indian Tribes. The bill broadens the opportunity for Indian Tribes to use joint venture contracts or similar agreements whereby tribes can enter into energy development enterprises. Passage of S. 1894 allows that flexibility for Indian tribes. Such development may result in economic benefits for tribes as well as increased job opportunities for Indians. The agreements will be reviewed by the Secretary of Interior to determined if they are in the best interest of the tribe. He must inform the tribe of potential economic risks.

The trust responsibility of the Federal Government with respect to tribal mineral resources remains unaltered by the bill. In fact, the Secretary of the Interior has an obligation to assist tribes from the very inception of agreements and his responsibility to protect their interests will continue for the duration of the agreement. The Secretary will not, however, be held responsible for losses tribes may incur after entering into the agreement.

There has been a great deal of interest in the measure both from Indian tribes and from energy developers who wish to participate with tribes in resource development on their tribal lands.

I am pleased to have had the opportunity to participate in developing this legislation, and look forward to seeing the benefits both to Indian tribes and to the Nation. Development of tribal

resources should help tribes become economically self-sufficient and the rest of the Nation to become less dependent upon foreign energy sources.

Mr. STEVENS. I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendments en bloc.

The amendments were agreed to en bloc.

Mr. STEVENS. I move to reconsider the vote by which the amendments were agreed to en bloc.

Mr. MELCHER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The motion to concur in the amendment of the House with the amendment of the Senate (UP 1418) was agreed to.

CONGRESSIONAL REPORTS ELIMINATION ACT OF 1982

Mr. STEVENS. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of H.R. 6005, the Congressional Reports Elimination Act of 1982, and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 6005) to discontinue or amend certain requirements for agency reports to Congress.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered, ordered to a third reading, was read the third time, and passed.

Mr. STEVENS. I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

USE AND DISTRIBUTION OF THE FUNDS AWARDED TO THE SHAWNEE INDIAN TRIBE

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be discharged from further consideration of H.R. 5795, a bill pertaining to the Shawnee Indian Tribe, and ask for its immediate consideration.

Mr. ROBERT C. BYRD. Mr. President, there is no objection to the consideration of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 5795) to provide for the use and distribution of the funds awarded to the Shawnee Tribe of Indians.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 5795) was ordered to a third reading, was read the third time, and passed.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

USE AND DISTRIBUTION OF MIAMI INDIANS JUDGMENT FUNDS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be discharged from further consideration of H.R. 5553, and I ask for its immediate consideration.

Mr. ROBERT C. BYRD. Mr. President, there is no objection to the discharge of the bill from the committee, and there is no objection to proceeding to the consideration of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 5553), to provide for the use and disposition of Miami Indians judgment funds.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 5553) was ordered to a third reading, was read the third time, and passed.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

USE AND DISTRIBUTION OF FUNDS TO THE WYANDOT TRIBE OF INDIANS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be discharged from further consideration of H.R. 6403, a bill pertaining to funds awarded to the Wyandot Indian Tribe.

Mr. ROBERT C. BYRD. Mr. President, I do not object to the discharge of the committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask for the immediate consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, there is no objections to the immediate consideration of the bill.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 6403) to provide for the use and distribution of funds to the Wyandot Tribe of Indians.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 6403) was ordered to a third reading, was read the third time, and passed.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay the motion on the table.

The motion to lay on the table was agreed to.

NATIONAL JAYCEE WEEK

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of Senate Joint Resolution 240, a joint resolution to authorize and request the President to designate the week of January 16, 1983, through January 22, 1983, as National Jaycee Week, and I ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to the request?

Mr. ROBERT C. BYRD. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered. The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 240) to authorize and request the President to designate the week of January 16, 1983, through January 22, 1983, as "National Jaycee Week."

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The joint resolution (S.J. Res 240) was orderd to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

S.J. RES. 240

Whereas the Jaycees idea began with a handful of young men in Saint Louis, Missouri, sixty-three years ago;

Whereas the Jaycees idea embraces today approximately three hundred thousand members in seven thousand five hundred American communities that have chapters in the United States Jaycees;

Whereas the Jaycees idea enriches the lives of communities around the world through affiliation in Jaycees International;

Whereas the Jaycees organization retains a youthful outlook, even in its maturity, and continues to build on the individual member, even with its global scope—first, helping him be the best man he can be, then helping him help his fellow man in need, one to one;

Whereas the Jaycees cares about people, and he shows it;

Whereas the Jaycees cares about progress, and he does something about it;

Whereas the Jaycees lives by the creed that "service to humanity is the best work of life", and throws himself into that work both in his vocation and avocation;

Whereas the Jaycees is the kind of young man this country will need in great numbers to help meet the challenges of our times and the coming century; and

Whereas it is fitting that we should give special recognition and encouragement to the Jaycee and his organization: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the week of January 16, 1983, through January 22, 1983, as "National Jaycee Week", and calling upon all Government agencies and people of the United States to observe the week with appropriate programs, ceremonies, and activities.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COLORADO RIVER BASIN PROJECT AMENDMENTS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House on S. 2177, the Colorado River Basin Project Act.

Mr. ROBERT C. BYRD. Mr. President, there is no objection to the immediate consideration of the measure.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2177) entitled "An Act to amend title III of the Colorado River Basin Project Act, Public Law 90-537 (82 Stat. 885), as amended by Public Law 95-578 (92 Stat. 2471), and Public Law 96-375 (94 Stat. 1505)", do pass with the following amendments:

(1) Page 1, line 7, strike out "There," and insert: *"Effective October 1, 1983, there*

(2) Page 2, line 2, after "Act", insert: *: Provided, That the Secretary shall enter into agreements with non-Federal interests to provide not less than 20 per centum of the total cost of such facilities during the construction of such facilities*

UP AMENDMENT NO. 1419

Mr. STEVENS. Mr. President, I move to concur in the House amendment with a further Senate amendment, which I send to the desk on behalf of Senator McCLURE.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS), for Mr. McCLURE proposes an unprinted amendment numbered 1419.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, line , insert the following:

Strike "Effective October 1, 1983, there" and insert in lieu thereof, "There".

Mr. McCLURE. Mr. President, the amendment eliminates a technical problem which was inadvertently created when the measure was amended in the House. My amendment has been cleared with the sponsors of the bill and the appropriate members of the House Committee on Interior and Insular Affairs. As my colleagues will note, the House version of S. 2177 would mistakenly reauthorize an already existing program, when what was really intended was a modification of that authorization as contained in the Colorado River Basin Project Act of 1978. I should also point out that adoption of this amendment will restore the affected portion of the bill to the original language as passed by the Senate on May 19, 1982. Other than correcting a technical problem, the amendment has no impact on the intent of the legislation.

Mr. MURKOWSKI. Mr. President, I express my strong support for Senate approval of S. 2177 the so-called central Arizona project indexing bill. As chairman of the Subcommittee on Water and Power of the Committee on Energy and Natural Resources, it was my duty and privilege to preside over the subcommittee hearing on this legislation.

But, I would like to lend my support to the chairman of the Energy and Natural Resources Committee and his remarks expressing concern regarding the requirement in the House-passed version of S. 2177 for non-Federal financing during construction of the facilities. It is my understanding that this requirement is acceptable to most of the would-be project participants, but there are some for which that 20-percent requirement as contained in the House version is just too much and they may not be able to participate. In turn, this will lead to higher costs for those who do remain active in the project and will also lead to continued ground water pumping.

Many of you will recall earlier this year when, on October 1, the Senate passed S. 2443, my bill to authorize feasibility investigations of potential water resource projects by the Bureau of Reclamation. During the debate on the measure, the potential for non-Federal cost sharing of such studies was discussed. At the time, I proposed that my Subcommittee on Water and Power, in cooperation with the Environment and Public Works Committee's Subcommittee on Water Resources, schedule a joint hearing to examine that role that cost sharing could play in future Federal water resource studies. Unfortunately, because of scheduling conflicts that hearing has not been held, but my interest remains strong and I look forward to a hearing in the 98th Congress.

I agree with the chairman that in the case of this project and S. 2177, the non-Federal financing requirement may be desirable. However, I would remind my colleagues that both the Senate and House Appropriations Committees have spoken to the issue of cost sharing or up-front financing in the respective committee reports on H.R. 7145, the Energy and Water Appropriations bill for fiscal year 1983.

Both committees recognize the need to review projects on their individual merits and not on the basis that "if you have money your project will go to the top of the list." Both committees share the concern that there has not been adequate examination by the Congress of the issues involved in cost sharing and so-called up-front financing of water resource projects by non-Federal entities.

I wholeheartedly support the views of the Appropriations Committees and do not believe that we should precipitately initiate a policy which could have extraordinary effects on the future of water resource development. Therefore, I consider this measure to be unique at this time and certainly not a precedent as far as future project authorizations are concerned.

Mr. McCLURE. Mr. President, I urge the passage of S. 2177.

As my colleagues will recall, S. 2177 was initially approved by the Senate on May 19, 1982. The bill was subsequently amended and passed by the House on September 30.

Basically, both the House and Senate versions of S. 2177 would amend section 309(b) of the Colorado River Basin Project Act to allow indexing of the existing authorization for the appropriation of $100 million for construction of distribution and drainage facilities for the central Arizona project to reflect changes in costs due to inflationary trends or normal fluctuations in costs for construction of facilities of a similar nature.

As both the House and Senate reports on the legislation point out, construction of the distribution and drainage systems are crucial to the success of the central Arizona project. They must be constructed to allow the utilization of previously constructed facilities and to help alleviate a serious problem of groundwater mining.

I am strongly in favor of passage of this measure so that we may continue the orderly development of our scarce water resources. However, I must also express a degree of reluctance in accepting the House version of the bill.

During consideration of S. 2177 of the floor of the House, an amendment was adopted which would require non-Federal interests to provide not less than 20 percent of the total cost of such facilities during the construction of such facilities.

It is my understanding that this amendment is agreeable to the project participants and to the members of the Arizona delegation. That is very well as far as the circumstances surrounding this particular project and these particular participants go—in fact, I applaud their willingness and ability to make a major financial contribution toward the costs of the facilities at the time of construction. As I said, this concept may work for a particular project and a certain set of circumstances; but my support of this legislation should in no way be considered as a blanket endorsement of a policy which would require financial contributions as a prerequisite for requirement prior to authorization of all reclamation projects.

Traditionally, the Senate Committee on Energy and Natural Resources and the Congress have examined each reclamation project individually. It is my intention to continue to do so and to craft each project authorization to conform with the physical and economic characteristics that dictate the viability of a given project.

Mr. President, great attention has been given by the press and the water resources community to the President's Cabinet Council on Natural Resources' recommendation for some form of up-front cost sharing as a requirement for the construction of water resource projects. My support for passage of S. 2177 with the House cost requirement is not to be viewed as condoning in any way what is at best a proposal that has neither been approved by the President nor forwarded to Congress with his recommendations.

Throughout the history of the reclamation program, contributions by non-Federal entities toward project costs have been encouraged. Many projects have benefited from non-Federal contributions. Two recent examples would be the contribution by the State of Washington of $15 million toward the construction of the Second Bacon Siphon and Tunnel on the Columbia Basin project in eastern Washington and the expressed intent by the State of Wyoming to contribute substantially for the modification of the Buffalo Bill Dam and Powerhouse as recently authorized in Public Law 97-293. Irrigation water users on reclamation projects already pay operation and maintenance costs under current law and also repay a portion of construction costs. Those capital costs which they are unable to repay are returned to the Federal Government as part of power revenues or charges for municipal and industrial water supplies. As all of us know who were here during the recent debate on the Reclamation Reform Act of 1982, it is estimated that of the $7.3 billion which has been invested in the reclamation program over the past 80 years, 84 percent of the capital costs will be returned to the Treasury. Each year, the reclamation program generates an estimated $3 billion in taxes to the Federal Treasury.

Mr. President, my concerns are for the future of water resource development in the West, and indeed, the entire Nation. The Congress must continue to exercise its authority and responsibility in identifying, authorizing, and funding sound water resource projects. The requirement contained in S. 2177 for a non-Federal contribution should be viewed in the context of the central Arizona project and not as a precedent for projects or policies that have yet to be examined by the Congress.

(By request of Mr. STEVENS, the following statement was ordered to be printed in the RECORD:)

● Mr. GOLDWATER. Mr. President, I am delighted that the Senate is today considering S. 2177, to index funds authorized to correct the distribution systems for water to be received from the main central Arizona project canals. This water will be used for irrigation purposes.

Other costs associated with the central Arizona project were indexed in the original 1968 authorization legislation, but for some inexplicable reason, the $100 million for the distribution systems was not indexed to provide for the increased costs caused by inflation. The Bureau of Reclamation had previously estimated that the total cost to construct all of the CAP distribution systems for non-Indian lands will be $552 million in 1982 dollars; $452 million more than was authorized for this purpose in 1968.

However, the Arizona irrigation districts have done an outstanding job in reducing these projected costs by creative thinking and cooperation. Also, the local users currently have plans to raise a portion of the costs by local financing.

The Senate bill adopts a cost sharing feature passed by the House when it considered this bill. The bill now before the Senate retains this provision. Arizonans have waited a long time for the promise of CAP water supplies. That promise is now within sight. Immediate enactment of this legislation is critical and will enable us to move the water from the main canals to the fields where it is needed, otherwise we will have the water with no way to deliver it.●

Mr. JACKSON. Mr. President, I rise in support of S. 2177. I am pleased that the bill corrects an earlier oversight by amending title III of the Colorado River Basin Project Act to provide for cost indexing for the authorization of the non-Indian distribution systems of the Central Arizona project.

I would like to make some brief comments regarding the cost-sharing amendment adopted on the House floor. That amendment requires that non-Federal interests provide not less than 20 percent of the costs of constructing the non-Indian distribution facilities of the CAP.

To my knowledge, this is the first time that Congress has established a specific level of required cost-sharing on a Bureau of Reclamation project. Although it appears that 20 percent is an appropriate amount in the case of the CAP, I want to stress that there is no magic in the 20-percent figure. An equitable level of cost-sharing can only be established on a project-by-project basis after examining the economic circumstances of the particular project. In some cases it may be appropriate to impose cost-sharing at a level greater than 20 percent; in other cases I am sure that it would be appropriate to impose no cost-sharing whatsoever. The essential point is that one cost-sharing formula does not fit all projects.

In my view, S. 2177 is a commendable example of cost-sharing tailored to the economic circumstances of a specific project. The bill is not precedence for establishing a particular level of cost-sharing on a program-wide basis, nor is it precedence for requiring cost-sharing with regard to every project. For these reasons, I urge my colleagues to join me in supporting passage of this measure.

Mr. STEVENS. Mr. President, I now ask for the consideration of the Senate amendment.

The motion to concur in the House amendment with the Senate amendment (UP No. 1419) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER TO RETURN H.R. 6758 TO THE SENATE

Mr. STEVENS. Mr. President, I ask unanimous consent that the Secretary of the Senate be directed to request the House of Representatives to return to the Senate H.R. 6758.

The PRESIDING OFFICER. Is there objection to the motion?

89-059 O-86-40 (Pt. 21)

Mr. ROBERT C. BYRD. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO CORRECT H.R. 6758

Mr. STEVENS. Mr. President, I further ask unanimous consent that if and when the House returns H.R. 6758, the Senate Enrolling Clerk be directed to correct the bill as follows: On page 4, line 14, after the word "available" insert "only from United States Government Sources or are not available."

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. It is my understanding that after that correction is made, the Secretary of the Senate would be directed to return that bill to the House of Representatives, is that correct?

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION AND 55 MPH NATIONAL SPEED LIMIT

Mr. HAYAKAWA. Mr. President, I wish to congratulate the Reagan administration and particularly National Highway Traffic Safety Administration head Raymond Peck on the significant improvement in highway safety of the past 2 years. The NHTSA effort under President Carter and Joan Claybrook sunk huge sums of money into enforcing a national speed limit on our safest roads, the interstates, while forcing States to withdraw critical policing from all other roads, the latter being much more dangerous. In fact, Department of Transportation statistics reveal that in a recent year the interstate system carried 18 percent of U.S. traffic on 1 percent of all highway miles, yet accounted for only 8 percent of traffic fatalities.

The current administration's dedication to getting the drunk driver off our roads is certainly more appropriate than forcing States to spend big bucks on radar traps in order to qualify for highway funds. Despite the current increase in those driving over 55 on the interstates, Mr. Peck's elimination of ineffective regulations and concentration on the most significant components of traffic safety have brought him closer to fulfilling the expectation we should have for the administrator of NHTSA. During his tenure, highway fatality rates have fallen steadily. In stark contrast, fatality rates rose dramatically during Ms. Claybrook's term at NHTSA, despite her emphasis on "drive 55 and stay alive." Surely the myth of increased safety through the national speed limit has been shattered.

I ask that an article by Roger Johnson which appeared in the Washington Times on September 28, 1982, be printed in the RECORD. The article further supports my argument to repeal the 55 national speed limit which would be accomplished by passage of my bill S. 54.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Times, Sept. 28, 1982]

HIGHWAY SAFETY IMPROVES UNDER REAGAN

(By Roger Johnson)

Question: Whose administration has a better record on highway safety, Jimmy Carter's or Ronald Reagan's?

Answer: Ronald Reagan's.

Surprised? So are Ralph Nader and Joan Claybrook, self-proclaimed auto safety experts. Claybrook, you may recall, was Nader's protege and the head of the National Highway Traffic Safety Administration under President Carter. She was the one whose obsessive preoccupation with enforcement of the 55 mph speed limit led her to equip America's state troopers with millions of dollars' worth of radar units and to direct the majority of the police onto the interstate highways.

It was of little concern to her, of course, that interstates had never accounted for more than 10 percent of the total traffic fatalities in any given year. Meanwhile, deaths and injuries soared on the other, now underprotected, streets and highways. In the year before Claybrook took over the NHTSA, 45,500 people died on the nation's highways; in her last year at NHTSA, 51,100 people died. By the time her tenure at the NHTSA had expired, 5,600 more people were dying on the highways each year than when she started.

In contrast to the shameful legacy of Claybrook's failed policies, the situation is improving substantially under her successor, Raymond Peck. Over 1,500 fewer people died in traffic accidents during Peck's first year than during Claybrook's last year. And if present trends continue, deaths this year will fall to about 43,500, their lowest level in nearly two decades.

Furthermore, the highway fatality rate, a measure of relative safety, is likely to drop below 3 deaths per 100 million vehicle-miles (the common means of expressing the rate) for the first time. This is a magnificent achievement by any standard, especially considering that the rate had risen during each year that Claybrook headed the NHTSA. What all this means is that there will have been about 9,500 fewer traffic deaths during the first two years with Ronald Reagan than there were during the last two years under Jimmy Carter. Highway travel today is significantly safer than it was two years ago.

The reasons for this improvement are as remarkable for what hasn't happened as for what has. Highway travel hasn't decreased; quite the opposite, in fact. There is, as yet, no evidence that seatbelt usage has improved. Airbags are nowhere in evidence, much to the chagrin of Nader and pals. Perhaps most amazing of all, and contrary to what most so-called "experts" would predict, highway speeds have increased dramatically. The number of drivers violating the 55 mph speed limit is now so great that well over half the states may face the imposition of federal funding sanctions.

Ironically, increased highway speeds are indicative of the major reason for the recent decrease in fatalities. One of the first things Ray Peck did when he came to the NHTSA was to moderate his predecessor's fanatical enforcement of the 55 MPH speed limit, thus freeing valuable police resources for more pressing problems such as apprehending drunk drivers.

Peck's NHTSA has gotten serious about drunk drivers while Claybrook's never could. She was much too busy lambasting the auto industry and requiring cars to be equipped with speedometers that highlighted her beloved 55 to worry about such mundane things as drunks on the highways. Alcohol has always been the leading cause of traffic fatalities while excessive speed ranks much lower. Little wonder, then, that traffic deaths are now declining.

The sad thing is that Claybrook knew these facts yet chose to ignore them. Professor Martin Whol of Carnegie-Mellon University and a recognized expert on traffic safety, had warned in June 1977 of the inherent risks of overzealous speed limit enforcement. In 1979 Terry Dawson, a transportation planner with eleven years experience, had noted in a Federal Highway Administration publication that most of the fatality reductions during 1974, when 55 was first imposed, occurred on roads where the speed limit was already under 55 mph.

He also warned against concentrating excessively on speed reductions. State police agencies around the country reacted with growing alarm as their resources were siphoned from more dangerous roads and placed, radar in hand, on the safer interstates. Claybrook scorned them all and the bodies piled up.

Maryland provides a perfect example of what happened. In 1980, Gov. Harry Hughes directed his state police superintendant, Col. Thomas Smith to begin a massive and well-publicized crackdown on speeders. Hughes, a Democrat, launched this drive in the hopes of making Maryland a model for other states. Claybrook, sensing the political advantages of Hughes' support during a presidential election year, poured extra NHTSA funds into Maryland. Unmarked patrol cars, semi-trailers, and airplanes were employed. The "Yellow Jackets" were formed, an elite group of radar-toting state police. The number of citations issued for 55 speed limit violations jumped.

Those who were lucky paid with their money, the unlucky paid with their lives. Traffic deaths for 1980 skyrocketed by 10 percent, the largest absolute increase since 1968. This was not some act of fate. It was the result of stubbborn adherence to official dogma. By contrast, with this year's reduced emphasis on 55 mph violations and a renewed effort against drunk drivers, highway deaths in Maryland are already down by 30 percent. Claybrook's efforts, however, were not totally in vain. Maryland was one of the few states where the majority voted for Carter.

Peck's achievements deserve the gratitude of every person in the country. By eliminating ineffective regulations and redirecting his agency's priorities toward drunk drivers and increased seatbelt usage, he has radically improved the highway safety environment. But don't expect any acclaim for either him or Reagan from the Naderites. That bunch of fractious old malcontents are

too occupied plugging their twin nostrums of airbags and absurdly low speed limits to appreciate that Peck has succeeded where they failed. Trouble is, Peck has not yet publicized his triumphs. Perhaps it's time he does.

END THE VIOLENCE IN NORTHERN IRELAND

Mr. KENNEDY. Mr. President, I join all those who support the cause of peace and an end to the violence in Northern Ireland in condemning the cruel and savage bombing of a disco pub last Monday in Ballykelly, Northern Ireland, in which 11 British soldiers and 5 civilians were killed and over 60 others were injured.

As I have stated many times over the past decade in the course of this tragic conflict in Northern Ireland, there is no justification whatever for resort to violence. I have consistently and repeatedly condemned the killing and the destruction on both sides, and I do so again today.

This latest act of incredible brutality shocks the conscience of all who seek a responsible settlement of the conflict. I extend my deepest sympathy to the families of the victims of this tragedy, and I pray for the quick recovery of those who have been injured.

DR. WOLFGANG PANOFSKY CITES ARMS CONTROL DANGERS OF THE MX/CSB SCHEME

Mr. CRANSTON. Mr. President, one of the Nation's most distinguished nuclear physicists and arms control experts, Dr. Wolfgang Panofsky, director of the Stanford linear accelerator, has written me to express his strong opposition to the Reagan administration plan to deploy MX missiles in the CSB—closely spaced basing—mode.

Dr. Panofsky notes the critical fact that—

> Deployment of the Dense-Pack MX system is in direct contradiction to the provisions of SALT II * * * President Reagan (has) committed himself "not to undercut" the provisions of SALT II unless the Soviets did so first. The MX deployment clearly would contradict this commitment to the world.

Dr. Panofsky also notes that—

> Considering the obvious technical flaws of the Dense Pack proposal, it will generate pressures to abrogate or unilaterally modify the provisions of the ABM Treaty and its Protocol and of the Limited Nuclear Test Ban Treaty.

I commend the full text of Dr. Panofsky's letter to the attention of each of my colleagues. It is a serious analysis of an issue vital to our security as a nation; the urgent need to halt the MX Dense Pack deployment proposed by the Reagan administration.

Mr. President, I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STANFORD LINEAR ACCELERATOR CENTER,
Stanford, Calif., November 23, 1982.

Hon. ALAN CRANSTON,
U.S. Senate,
Russell Senate Office Building,
Washington, D.C.

DEAR ALAN: It is my understanding that discussion and possible action of the President's MX Dense-Pack proposal, delivered in his address of November 22, 1982, will be high on the agenda of the "Lame Duck" session of Congress. I would like to communicate to you my views on the arms control impact of that proposal, hoping you will find them of interest. These views are additional to my evaluation of the military technical effectiveness of the system which, if you so desire, I would be happy to communicate through a separate letter.

MX DENSE-PACK AS ARMS CONTROL "BARGAINING CHIP"

President Reagan proposed deployment of the MX as a "bargaining chip" to aid his quest for equitable arms control. It is my conviction that this approach of "increasing arms in order to reduce them" is counterproductive, and that the MX Dense-Pack deployment in itself is a major threat to arms control. I am making these observations separate from the very serious doubts, which I share, whether the proposed MX basing is even as survivable to attack as is the current Minuteman deployment.

The "bargaining chip" argument which is being advanced by the President as serving the interests of arms control is based on the false premise of current Soviet strategic superiority. I would like to remind you that the very same argument prevailed when by one vote the Senate passed appropriations for the deployment of the Safeguard I ABM System. Only after the expenditure of over $7 billion (much more in today's dollars!) the U.S. Government acknowledged the military uselessness of the system and discontinued it altogether.

SALT II

Notwithstanding statements by members of the Administration, I conclude that deployment of the Dense-Pack MX system is in direct contradiction to the provisions of SALT II. Article IV of the SALT II Treaty, as signed by the Presidents of the United States and the Soviet Union on June 18, 1979, provides that:

(1) Each party undertakes not to start construction of additional fixed ICBM launchers.

(2) Each party undertakes not to relocate fixed ICBM launchers.

During this year's Memorial Day address on May 31, 1982, President Reagan committed himself "not to undercut" the provisions of SALT II unless the Soviets did so first. The MX deployment clearly would contradict this commitment to the world.

THE ABM TREATY

Many Administration spokesmen have agreed that the proposed Dense-Pack deployment would not be survivable for any substantial period of time after its deployment unless it was defended by antiballistic missile defense. Together with most other members of the technical defense community, I am even extremely dubious that it is survivable even at the time of deployment. Therefore, pressure for deploying ABM defenses around the Dense-Pack system will commence immediately as soon as the Congress has taken favorable action on the deployment (which I counsel it shall not do).

Deployment of ABM around a missile site other than the original Grand Forks, North Dakota base is explicitly prohibited by Articles I and II of the Protocol to the ABM Treaty which was signed by the Presidents of the United States and the Soviet Union on July 3, 1974, and entered into force on May 24, 1976, after ratification by both nations.

Article I of the Protocol states: "1. Each party shall be limited at any one time to a single area out of the two provided in Article III of the Treaty for Deployment of Antiballistic Missiles (ABM systems) . . ."

Article II of the Protocol explicitly permits the U.S. to dismantle a deployed ABM system defending a missile site and to redeploy it to defend the national Capitol; however, dismantling an ABM defending one missile site and redeploying it at another missile site is forbidden. Thus the past termination of the ABM Safeguard system at Grand Forks does not lead to permission to defend the proposed Dense-Pack system.

The ABM Treaty Protocol would prohibit deployment of ABM around any new ICBM site, even if only a small number of ABM interceptors were required. Should a number above one hundred interceptors be required, which I believe would be the case, then such a deployment would be in violation of the basic ABM Treaty which was signed on May 26, 1972 by the Presidents and entered into force on October 3, 1972, after due ratification.

This ABM Treaty and its Protocol have served the security needs of the United States well. They have prevented ABM buildup by the Soviet Union and thus have assured penetration of the deterrent missiles of the United States, those of our allies, and of China. Thus abrogating the Treaty and its Protocol in the interest of protecting the ill-conceived Dense-Pack system would be a major loss to U.S. security. There is no basis for the belief that modifications of that Treaty would be negotiable for the Soviet Union without paying a very high price.

THE LIMITED TEST BAN TREATY

The claims for the technical performance of the Dense-Pack system are based on extremely speculative assumptions. One assumption relates to "fratricide" among incoming missiles and the other to the feasibility of attaining extreme silo hardness. Experimental data on fratricide are scanty and derive from a few early atmospheric nuclear tests. Claims for projected silo hardness made in conjunction with the Dense-Pack system by various spokesmen run as high as 100,000 pounds per square inch (!), yet reasonable analysis indicates that hardness beyond 5,000 pounds per square inch is difficult to substantiate.

In view of these uncertainties I strongly surmise that once the Dense-Pack deployment is permitted to proceed, pressures would increase that in the name of national security we must abrogate or modify the Limited Nuclear Test Ban Treaty, signed by the Secretaries of State of the United States, the Soviet Union, and the United Kingdom on August 5, 1963, and entered into force on October 10, 1963, after due ratification process. This Treaty in its Article I explicitly prohibits nuclear test "if such explosion causes radioactive debris to be present outside the territorial limits of the state under whose jurisdiction such explosion is conducted." Nuclear tests de-

signed to examine fratricide phenomena or to verify claimed hardness of silos would be a clear violation of this Treaty. Again, this Treaty has served the security and also the environmental health of this nation well. It has been a factor in limiting proliferation of nuclear weapons and it has reduced the radioactivity levels to which citizens of the United States were exposed from early atmospheric testing by a factor of about one hundred.

SUMMARY

In summary, I consider Dense-Pack deployment to be a direct reversal of the President's earlier commitment "not to undercut" SALT II. Moreover, considering the obvious technical flaws of the Dense Pack proposal, it will generate pressures to abrogate or unilaterally modify the provisions of the ABM Treaty and its Protocol and of the Limited Nuclear Test Ban Treaty. Thus the potential deployment of Dense-Pack poses a grave threat to those arms control efforts this nation has successfully enacted and to those which it intends to pursue in the future. Attainment of increased national security at lower levels of armament through negotiated arms control remains the most prudent course for this nation to pursue to avoid the dangerous extremes of unilateral disarmament on the one hand, and an all-out arms race, on the other.

Please let me know whether I can be of any further help in assisting you in dealing with this complex issue.

With best personal regards,

WOLFGANG K. H. PANOFSKY.

BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS AGENTS RIOS AND D'ATRI—TWO PROFILES IN COURAGE

Mr. DECONCINI. Mr. President, on December 2, 1982, two special agents of the Bureau of Alcohol, Tobacco, and Firearms, assigned to the Miami Drug Task Force in south Florida, were shot during an undercover operation infiltrating a drug and weapons "buy" at a Miami hotel. Special Agent Ariel, 28 years old, married with children, was killed and Special Agent Group Supervisor Alexander D'Atri, 36, married with children, was critically wounded in a gun battle during the attempted arrest of several suspects by a BATF support team that had been waiting outside of the hotel. Agent D'Atri is in critical but stable condition.

Mr. President, as the President embarks on his major initiative to establish organized crime drug enforcement task forces in 12 regions of the country, I believe that the Senate should take a moment to pay tribute to these two brave men, in particular, and to the other heroic men and women who lay their lives on the line day in and day out in the vicious battle against drug traffickers and other criminal elements in every part of this country. Special Agent Rios was on assignment to the Miami Task Force from his post of duty in New Haven, Conn., and had been a part of the task force since July of this year. He had been with the BATF since 1978. He had apparently signaled for the rest of the agents on surveillance to move in to make the arrests when shooting occurred and Mr. Rios was fatally wounded.

Special Agent and Group Supervisor D'Atri was also on assignment to the Miami Task Force from his post of duty in New York City and had been with BATF since 1969. Mr. D'Atri was critically wounded as the other agents attempted to apprehend the suspects in the hotel.

Mr. President, all too often we tend to take it for granted that when we call the police for assistance they will respond and take care of the problem with little thought given to the risk that they incur every day. So, too, do we take for granted the job our Federal law enforcement officers take in the line of duty, often operating undercover where the slightest mistake or blink of an eye could mean instant death. Special Agent Rios and Special Agent D'Atri are heroes in the finest sense of the word. Special Agent Rios is dead and Special Agent D'Atri critically wounded because they had the courage to risk their lives to help us rid this country of the criminals who deal in drugs that are killing our children and weapons that end up in the hands of thieves and terrorists, both in this country and abroad. For their sacrifice, for their courage, we owe them a tremendous debt of gratitude.

Mr. President, the death of Mr. Rios and the injury to Mr. D'Atri should give each and every Member of this body an extra incentive to double his or her efforts to eradicate the incentives that make criminal trafficking so lucrative for organized crime elements and to accelerate our national effort to drive the drug smugglers and weapons peddlers from our shores. My sympathies go out to the families of these brave men and I thank them for the sacrifice they have made so that this country will be a safer place for my children now and in the future.

Mr. President, I ask unanimous consent that a memorandum concerning this matter be printed in the RECORD.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

To: Assistant Director Criminal Enforcement,

Attention: Chief Investigation, RDI, Southeast Region, SAC, Miami

REGARDING SHOOTING OF TASK GROUP SPECIAL AGENTS

On December 2, 1982, two special agents assigned to the Miami Task Group were shot during an arrest situation at the hurricane motel in Miami, Florida. Special agent Ariel Rios received a fatal gunshot wound to the face. Special agent group supervisor Alexander D'Atri received numerous gunshot wounds and is in critical but stable condition at this time.

The scenario of this investigation unfolded as follows: on December 1, 1982, acting on prior information provided by a task group informant, undercover agents met with two individuals known as Rolando Rios, and Ramon Raymond. Through prior meetings, arrangements had been made to purchase two kilos of cocaine and several automatic weapons. The meeting was held at approximately 6:00 p.m. After a couple of hours delay, the suspects stated that they could not deliver the cocaine or weapons and that contact should be made with them the following day. During negotiations, Raymond contacted an individual known only as Macho by telephone. The special agents were told that Macho could also be contacted the following day as a source of narcotics.

Later that evening, connections were made with another cocaine source and two people were arrested with four kilos of cocaine and a firearm.

On December 2, 1982, contact was made with suspects Raymond, Rios and Macho. They stated they could deliver cocaine that afternoon. Arrangements were made to meet Macho at the Hurricane motel located at 4911 W. Flagler St., Miami, Fla.

It should be noted that earlier in the investigation, after the offer of the cocaine had been made, the DEA/Customs South Florida joint task force had been contacted. They provided the flash roll for the purchase of the cocaine and four of their agents were on the surveillance which was established. It was also believed that the suspects would be in possession of firearms.

Special agents D'Atri and Rios proceeded to the Hurricane Motel at approximately 1:00 PM. They were being covered by a total of ten special agents. It was expected that two to three suspects would be involved in the transaction. As the meeting was underway, it was realized that at least six suspects, including lookouts, were involved. Four more special agents from the task group were sent to the scene, bringing the total number of agents on the scene to sixteen.

At approximately 3:00 PM, special agents D'Atri and Rios departed from the scene and advised surveillance agents that the delivery of cocaine would be made at approximately 4:00 PM.

At approximately 4:00 PM special agents D'Atri and Rios returned to the Hurricane Motel. They entered the building. One of the suspects came out of the building and went to the trunk of his car, obtained a package and re-entered the building. Special agent Rios exited the building, went to his vehicle, lifted the trunk of the car and went back into the building. This was the signal for agents to move in.

Agents got to the door that Rios entered, identified themselves as Federal agents and attempted entry. At that time gunfire broke out from within the building. One of our agents blew the door open with a shotgun. The shooting then continued. Two of the suspects were shot and wounded. Two others were arrested. Two to three other suspects were not at the scene when delivery was made.

A call was made to task group headquarters for ambulances. The Miami police were notified. The SAC of the Miami district office was advised of what little information that was available.

Descriptions of the other persons and vehicles involved in the violation were provided to the Miami Police Department. Approximately one to two hours after the shooting, one of the vehicles was located not far from the scene. Three men were then apprehended. Identifications are being made at this time.

It should be noted that while this incident was taking place, suspects Raymond and Rios were being arrested by task group agents at a separate location. Further arrests are expected.

More details will be forwarded including the names of those arrested shortly.

A WISE WOMAN

Mr. HARRY F. BYRD, JR. Mr. President, it has been said that behind every good man is a good woman. In the case of Ralph Sampson, the immensely talented center of the University of Virginia basketball team, that woman may very well be his mother.

Sampson, as my colleagues may recall, choose education over immediate wealth when he decided earlier this year to stay in college and earn his degree rather than go pro. As a recent editorial in the Catholic Virginian newspaper points out, the values that led him to that very wise decision obviously came from home.

Sampson's mother, recalling that her ancestors had at one time been slaves, notes that education, not wealth, makes a man free. She is indeed a wise woman.

I ask unanimous consent that the Catholic Virginian editorial, entitled "Scales of Value," be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Catholic Virginian]

SCALES OF VALUES

As everyone in the solar system is aware, Ralph Sampson is a very tall young man from Harrisonburg who has won justifiable acclaim for his outstanding ability as a basketball player.

What the 7-foot-4 senior at the University of Virginia can do on a basketball court is astonishing. Sampson blocking an opponent's shot at one end of the floor and micro-seconds later scoring with a slam-dunk at the other is, well, awesome.

But there is a lot more to Ralph Sampson than his stupendous athletic ability. It has to do with the values the man has displayed, values that obviously were transmitted from the home.

Throughout his three years at the University of Virginia Sampson has been under enormous pressure to quit school for professional basketball. He resisted the pros and their millions, saying, "There's lots of time to pay the bills." Education came first.

University of Virginia Coach Terry Holland a few days ago recalled something Sampson's mother had said when the pros were trying to entice her son with a ton of money: "She said that years ago her ancestors had been owned by other people and, when you think about it, professional athletics, in which players are bought and sold, come close to being a kind of slavery. 'The only thing that makes a man free is education,' she said."

Awesome.

L. H. FOUNTAIN LEAVES THE CONGRESS: THE NATION IS IN HIS DEBT

Mr. SASSER. Mr. President, Congress is losing, at the end of this year, a courtly southern gentleman named L. H. FOUNTAIN. For the last three decades, Congressman FOUNTAIN represented the Second District of North Carolina. Now, he has chosen to retire from the Congress to devote more time to other pursuits.

I take this moment to pay tribute to Representative FOUNTAIN. He has chaired the House Intergovernmental Relations Subcommittee ever since it was created.

As the ranking Democrat on the Senate Subcommittee on Intergovernmental Relations, I have worked closely with Congressman FOUNTAIN on many issues. We also served together on the Advisory Commission on Intergovernmental Relations, the prestigious research organization that has had an impact on every major decision on Federalism made since it was founded—by L. H. FOUNTAIN and Senator Ed Muskie—22 years ago.

I am sure that the people of North Carolina have benefited from Congressman FOUNTAIN's service in the Congress. But so have the people of the entire country.

The general revenue-sharing program, which has become the model for Federal aid to the Nation's cities, counties, and towns, would not exist except for L. H. FOUNTAIN's work on its behalf in the Congress.

As a recognized congressional leader in the field of intergovernmental relations, L. H. FOUNTAIN has been in the vanguard of other efforts to improve and streamline the Federal assistance system. Representative FOUNTAIN also was instrumental in putting the Inspector General program in place in 17 Federal agencies. This major legislative achievement in the war on fraud, waste, and abuse in the Federal Government has already resulted in substantial savings to the American taxpayer. These independent watchdogs have conducted numerous investigations that have resulted in Federal prosecutions of fradulent practices and resulted in improved administrative procedures and laws.

It has been my pleasure to strive on the Senate side of Capitol Hill on behalf of many measures with which L. H. FOUNTAIN is so closely identified in the House. We share a strong interest in bringing about greater efficiency in Government and restoring the proper balance to the Federal system.

INSURING THE SURVIVAL OF THE WHALE

Mr. CRANSTON. Mr. President, 10 years ago, the United Nations called unanimously for a moratorium on all commercial whaling. This appeal to protect the last of the great whales has been ignored by a handful of nations. Since then, more than 300,000 whales have died by the harpoon. This year the International Whaling Commission adopted a moratorium on all commercial whaling, to begin in 1986.

Unfortunately, Japan, the Soviet Union, Norway, and Peru—the major whaling nations—have announced their defiance of this ban.

Sixty-six Senators, in a letter last August, called for the U.S. Government to use existing fisheries laws to achieve compliance with the IWC regulations. I understand that there is firm agreement now between the Congress and the administration that the fishery allocation process that comes under this legislation will be used to its fullest to insure compliance.

For more than 10 years, the United States has been committed to a policy of ending the slaughter of the magnificent whales. I shall lend my efforts to those of the administration to make this a reality.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry withdrawals which were referred to the appropriate committees.

(The withdrawals received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:16 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 1735. An act to provide for the use and distribution of funds awarded the Pembina Chippewa Indians in dockets numbered 113, 191, 221, and 246 of the Court of Claims.

The message also announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 1986. An act to provide for the use and distribution of funds awarded the Blackfeet and Gros Ventre Tribes of Indians and the Assiniboine Tribe of the Fort Belknap Indian Community, and others, in dockets numbered 250-A and 279-C by the United States Court of Claims, and for other purposes.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 6243. An act to provide for the distribution of Warm Springs judgment funds awarded in docket numbered 198 before the Indian Claims Commission, and for other purposes;

H.R. 7155. An act to settle certain Indian land claims within the State of Florida, and for other purposes; and

H.R. 7377. An act to designate the Lakeview Lake project, Mountain Creek, Tex., as the "Joe Pool Lake."

At 7:19 p.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 7355. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1983, and for other purposes.

HOUSE BILLS REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 6243. An act to provide for the distribution of Warm Springs judgment funds awarded in docket numbered 198 before the Indian Claims Commission, and for other purposes; to the Select Committee on Indian Affairs.

H.R. 7155. An act to settle certain Indian land claims within the State of Florida, and for other purposes; to the Select Committee on Indian Affairs.

HOUSE BILL PLACED ON CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 7355. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1983, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4649. A communication from the Secretary of the Air Force transmitting, pursuant to law, a confidential report on the weapon system HARM exceeding its baseline unit cost by more than 25%; to the Committee on Armed Services.

EC-4650. A communication from the Assistant Secretary of the Army for Installations, Logistics, and Financial Management transmitting, pursuant to law, a report on the intention of the U.S. Army to move certain chemical agents from Newark, Ohio to Rocky Mountain Arsenal for destruction; to the Committee on Armed Services.

EC-4651. A communication from the Assistant Secretary of the Army for Installations, Logistics, and Financial Management transmitting, pursuant to law, a report on the destruction of certain chemical agent munitions at Chemical Systems Laboratory, Aberdeen Proving Ground, Maryland; to the Committee on Armed Services.

EC-4652. A communication from the Principal Deputy Assistant Secretary of the Navy for Shipbuilding and Logistics transmitting, pursuant to law, a report on a decision to convert the custodial services function at the Naval Air Rework Facility, Almeda, CA to performance under contract; to the Committee on Armed Services.

EC-4653. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Examination of Financial Statements of the Panama Canal Commission for the years ended September 30, 1981 and 1980; to the Committee on Armed Services.

EC-4654. A communication from the Vice President of AMTRAK for Government Affairs transmitting, pursuant to law, a report on itemized revenues and expenses of the Corporation for August 1982; to the Committee on Commerce, Science, and Transportation.

EC-4655. A communication from the Administrator of the Federal Aviation Administration transmitting, pursuant to law, a report entitled "National Airspace System Plan"; to the Committee on Commerce, Science and Transportation.

EC-4656. A communication from the Assistant Secretary of the Interior for Fish and Wildlife and Parks transmitting, pursuant to law, a list of areas on the Registry of Natural Landmarks and of Historical Significance included in the National Register of Historic Places, which exhibit known or anticipated damage or threats to the integrity of their resources; to the Committee on Energy and Natural Resources.

EC-4657. A communication from the Director of the Minerals Management Service transmitting, pursuant to law, a report on a refund of excess royalty payments to Shell Oil Co., Mobil Oil Corp., Union Oil Co. of Calif., and ARCO Oil and Gas Co.; to the Committee on Energy and Natural Resources.

EC-4658. A communication from the Secretary of Health and Human Services transmitting, pursuant to law, a report on research activities of relevance to the Clean Air Act; to the Committee on Environment and Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary, without amendment:

S. 2863: A bill to amend title 28 to provide protection to all jurors in Federal cases to clarify the compensation of attorneys for jurors in protecting their employment rights, and authorizing the service of jury summonses by ordinary mail (Rept. No. 97-674).

By Mr. McCLURE, from the Committee on Energy and Natural Resources, without amendment:

S. 2568: A bill to provide for confirmation of the repayment contract of the Dallas Creek participation project of the Upper Colorado storage project (Rept. No. 97-675).

By Mr. THURMOND, from the Committee on the Judiciary, without amendment:

H.R. 2329: A bill conferring jurisidiction on certain courts of the United States to hear and render judgment in connection with certain claims of the Cherokee Nation of Oklahoma.

H.R. 5858: A bill for the relief of Mocatta & Goldsmid, Ltd., Sharps, Pixley & Co., Ltd., and Primary Metal and Mineral Corp.

By Mr. SCHMITT, from the Committee on Appropriations, with amendments:

H.R. 7205: A bill making appropriations for the Department of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1983, and for other purposes.

By Mr. DOMENICI, from the Committee on the Budget, without amendment:

S. Res. 484: A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2719.

By Mr. PERCY, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Res. 500: Resolution commending the Government of Zimbabwe.

By Mr. THURMOND, from the Committee on the Judiciary, without amendment:

S. Res. 504: An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2863; referred to the Committee on the Budget.

S. Res. 505: An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 5858; referred to the Committee on the Budget.

By Mr. THURMOND, from the Committee on the Judiciary, without amendment:

S. 3048: A bill to amend title 18, United States Code, to combat, deter, and punish individuals who adulterate or otherwise tamper with food, drug, cosmetic, and other products with intent to cause personal injury, death, or other harm.

By Mr. PERCY, from the Committee on Foreign Relations, without amendment:

S. 3073: A bill to provide for the distribution within the United States of the United States Information Agency film entitled "Dumas Malone: A Journey with Mr. Jefferson".

By Mr. PERCY, from the Committee on Foreign Relations, with amendments and an amended preamble:

S. Con. Res. 131. A concurrent resolution to express the sense of the Congress concerning Americans missing and unaccounted for in Southeast Asia.

By Mr. McCLURE, from the Committee on Appropriations, with amendments:

H.R. 7356. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1983, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary:

Frank X. Altimari, of New York to be U.S. district judge for the Eastern District of New York;

Frank W. Bullock, Jr., of North Carolina, to be U.S. district judge for the Middle District of North Carolina;

Paul E. Plunkett, of Illinois, to be U.S. district judge for the Northern District of Illinois;

John W. Bissell, of New Jersey, to be U.S. district judge for the District of New Jersey;

Christine Cook Nettesheim, of the District of Columbia, to be a judge of the U.S. Claims Court for a term of 15 years;

Lawrence S. Margolis, of Maryland, to be a judge of the U.S. Claims Court for a term of 15 years.

Reginald W. Gibson, of Illinois, to be a judge of the U.S. Claims Court for a term of 15 years;

Haldane Robert Mayer, of Virginia, to be a judge of the U.S. Claims court for 15 years;

Daniel F. Lopez Romo, of Puerto Rico, to be U.S. attorney for the District of Puerto Rico for the term of 4 years;

Peter K. Nunez, of California, to be U.S. attorney for the Southern District of California;

Anthony Bertoni, of Michigan, to be U.S. marshal for the Eastern District of Michigan for the term of 4 years;

Edward M. Camacho, of Guam, presently U.S. marshal for the District of Guam, to be also U.S. marshal for the Northern Mariana Islands for the term expiring September 14, 1986;

Romolo J. Imundi, of New York, to be U.S. marshal for the Southern District of New York for the term of 4 years;

Charles E. Healey, of New York, to be U.S. marshall for the Eastern District of New York for a term of 4 years;

Daniel B. Wright, of New York, to be U.S. marshal for the Western District of New York for the term of 4 years;

Matthew Chabal, Jr., of Pennsylvania, to be U.S. marshal for the Middle District of Pennsylvania for the term of 4 years;

Dwight G. Williams, of Mississippi, to U.S. marshal for the Northern District of Mississippi for the term of 4 years;

J. Raymond Bell, of the District of Columbia, to be Chairman of the Foreign Claims Settlement Commission for the term expiring September 30, 1985;

James K. Stewart, of California, to be Director of the National Institute of Justice;

Victor M. F. Reyes, of Texas, to be Commissioner of the U.S. Parole Commission for a term of 6 years; and

Katherine D. Ortega, of New Mexico, to be a Commissioner of the Copyright Royalty Tribunal for a term of 7 years from September 27, 1982.

By Mr. HATCH, from the Committee on Labor and Human Resources:

Caroline H. Hume, of California, to be a member of the National Museum Services Board for a term expiring December 6, 1985, to which position she was appointed during the last recess of the Senate;

Liles B. Williams, of Mississippi, to be a member of the National Museum Services Board, for a term expiring December 6, 1985; and

William E. Mayer, to be Senior Surgeon (for personnel action in the regular corps of the Public Health Service subject to qualifications therefor as provided by law and regulations).

(The above nominations were reported from the Committee on Labor and Human Resources with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. BAKER (for Mr. PERCY), from the Committee on Foreign Relations:

Manfred Eimer, of Maryland, to be an Assistant Director of the U.S. Arms Control and Disarmament Agency;

Kenneth Y. Tomlinson, of New York, to be an Associate Director of the U.S. Information Agency;

Victor Blanco, of California, to be a member of the Board of Directors of the Inter-American Foundation for a term expiring September 20, 1988;

Jerome W. Van Gorkom, of Illinois, to be Under Secretary of State for Management;

E. Robert Wallach, of California, to be a member of the U.S. Advisory Commission on Public Diplomacy for a term expiring July 1, 1985;

W. Allen Wallis, of New York, to be U.S. Alternate Governor of the International Bank for Reconstruction and Development for a term of 5 years; U.S. Alternate Governor of the Inter-American Development Bank for a term of 5 years; U.S. Alternate Governor of the Asian Development Bank and U.S. Alternate Governor of the African Development Bank;

William G. Simpson, of Illinois, to be a member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 1984;

Edward Lionel Peck, of California, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Islamic Republic of Mauritania:

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Edward L. Peck.

Post: Mauritania.

Contributions: None.

Lev E. Dobriansky, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Commonwealth of the Bahamas:

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Lev E. Dobriansky.

Post: Ambassador.

Contributions, amount, date, and donee:

1. Self only: $15, March 30, 1978, Republican National Committee; $100, November 30, 1978, Flood Reception Committee; $15, December 2, 1978, Republican National Committee; $30, January 11, 1979, Warner for Senate Committee; $15, December 28, 1979, Republican National Committee; $15, January 16, 1980, Alan Mackay for Congress; $25, July 3, 1980, Goldwater for Senate Committee; $25, September 27, 1980, Republican National Committee; $60, April 14, 1981, D.C. Heritage Council; $25, May 11, 1981, Republican National Committee; $25, December 5, 1981, Goldwater for Senate Committee; $25, December 24, 1981, Republican National Committee; $25, January 29, 1982, National Republican Heritage Council; and $100, February 6, 1982, Citizens for Derwinski Committee.

Samuel Friedlander Hart, of Virginia, a Career Member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States to Ecuador:

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Samuel F. Hart.

Post: Ecuador.

Contributions, amount, date, and donee:

1. Self: None.

2. Spouse: N/A.

3. Children and spouses names: None.

4. Parents names: None.

5. Grandparents names: None.

6. Brothers and spouses names, (brother): $250 a year to Sears Roebuck PAC. He has no control over contributions to individual candidates.

7. Sisters and spouses names: None.

John Herbert Holdridge, of Maryland, a Career Member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Indonesia:

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: John H. Holdridge.

Post: Indonesia.

Nominated: October 12, 1982.

Contributions: None.

Richard T. Kennedy, of the District of Columbia, to be Ambassador at Large:

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Richard Thomas Kennedy.

Post: Ambassador-at-Large.

Contributions, amount, date, and donee:

1. Self (joint w/wife): $100, February 8, 1982, Republican National Committee; $40, April 22, 1982, Election Committee for Lois DeVecchil.

2. Spouse (joint w/husband): $100, February 12, 1982, Republican National Committee; $100, October 26, 1980, Republican National Committee; $100, January 15, 1980, Republican National Committee; $50, January 16, 1979, Republican National Committee; $25, October 14, 1978, Republican National Committee; and $30, February 4, 1978, Republican National Committee.

3. Children and spouses names: None.

4. Parents names: N/A.

5. Grandparents names: N/A.

6. Brothers and spouses names: None.

7. Sisters and spouses names: Margaret Krizanosky and Andrew Krizanosky: $5, January 1980, Howard Baker Committee; $10, 1980 Florida Tele. Corp.; $10, 1981, Florida Tele. Corp. (Employees Uniting for Better Govt Florida).

(The above nominations were reported from the Committee on Foreign Relations with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. DOLE, from the Committee on Finance:

Manuel H. Johnson, Jr., of Virginia, to be an Assistant Secretary of the Treasury, to which he was appointed during the last recess of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first

and second time by unanimous consent, and referred as indicated:

By Mr. DODD:

S. 3087. A bill to amend the Solid Waste Disposal Act to insure protection of public health and environmental safety in the Environmental Protection Agency's regulations for the delisting of hazardous wastes, and to require the Environmental Protection Agency to establish a timetable for determining whether additional wastes are hazardous wastes which should be subject to the requirements of such act; to the Committee on Environment and Public Works.

By Mr. CHAFEE (for himself and Mr. PELL):

S. 3088. A bill to create competitive conditions in natural gas pricing by prohibiting certain anticompetitive clauses in natural gas contracts; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. THURMOND:

S. Res. 504. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2863; from the Committee on the Judiciary; to the Committee on the Budget.

S. Res. 505. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 5858; from the Committee on the Judiciary; to the Committee on the Budget.

By Mr. BAKER (for himself and Mr. ROBERT C. BYRD):

S. Res. 506. A resolution authorizing the printing of a compilation of materials entitled "Guide to Research Collections of Former United States Senators, 1789-1982," as a Senate Document; considered and agreed to.

By Mr. CRANSTON (for himself, Mr. BAUCUS, Mr. CANNON, Mr. CHAFEE, Mr. CHILES, Mr. DECONCINI, Mr. DODD, Mr. HEINZ, Mr. INOUYE, Mr. KENNEDY, Mr. LEVIN, Mr. MATSUNAGA, Mr. METZENBAUM, Mr. MITCHELL, Mr. MOYNIHAN, Mr. RANDOLPH, Mr. RIEGLE, Mr. SARBANES and Mr. SASSER):

S. Con. Res. 132. Concurrent resolution expressing the sense of the Congress that the United States should maintain effective programs to assist in providing disabled persons with opportunities for full, productive lives and to protect such persons from unfair discrimination in Federal and Federal-assisted programs and activities and that disabled persons should receive fair treatment in the administration of disability benefits; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DODD:

S. 3087. A bill to amend the Solid Waste Disposal Act to insure protection of public health and environmental safety in the Environmental Protection Agency's regulations for the delisting of hazardous wastes, and to require the Environmental Protection Agency to establish a timetable for determining whether additional wastes are hazardous wastes which should be subject to the requirements of such act; to the Committee on Environment and Public Works.

HAZARDOUS WASTE IDENTIFICATION IMPROVEMENT ACT

● Mr. DODD. Mr. President, today I am introducing the Hazardous Waste Identification and Improvement Act, to amend the Resource Conservation and Recovery Act (RCRA) in an effort to correct serious deficiencies in that act's ability to readily identify hazardous substances and prevent their pollution of the environment.

Hazardous waste is a byproduct of many industrial processes. Today, over 750,000 facilities produce hazardous waste in some form.

In fact, each day American industry produces enough waste to fill the New Orlean's Superdome—floor to ceiling—five times over. Almost 90 percent of this waste is hazardous. From Love Canal to the Valley of the Drums, history has shown us that the safe disposal of hazardous waste is a problem we cannot afford to ignore.

In fact we have not ignored it. In 1976, Congress passed the RCRA with the intention of providing "cradle to grave" guidelines for the treatment and storage of hazardous wastes. But now, 6 years later, the act's original intentions are still not fulfilled by its regulations. Although RCRA's basic regulatory framework is in place, some key final regulations remain unpromulgated. Others contain loopholes that allow dangerous waste to go unchecked.

As pointed out in the House Energy and Commerce Committee report on RCRA, as much hazardous waste escapes proper control today through regulatory loopholes as receives proper attention under RCRA. That amounts to the staggering total of almost 40 million metric tons of wastes which escapes every year—the result of deficiencies in RCRA.

Yet if RCRA is not adequately controlling wastes, then we are only creating new hazardous waste sites which will ultimately require future cleanup. Congress did pass the Superfund, which can finance the cleanup of hazardous waste sites. But we cannot count on one piece of legislation to account for another's deficiencies. If we do not act to strengthen RCRA now, we will only pay—many times over—through Superfund cleanup in the future.

This year's House-passed bill reauthorizing RCRA worked to close many of the loopholes to which I have referred. But at least two major weaknesses remain. My bill addresses them. The first is that EPA regulations do not cover many hazardous wastes: EPA has either not listed them as hazardous or they do not exhibit any of the established hazardous waste characteristics. The second is that due to a regulatory lapse, wastes that still contain hazardous constituents in significant concentrations can become exempt from RCRA regulations through a so-called delisting procedure.

Mr. President, it is my hope that by closing these loopholes we can make RCRA live up to its legislated purpose: "To promote the protection of health and the environment by * * * regulating the treatment, storage, transportation, and disposal of hazardous wastes. * * *"

Under RCRA, it is EPA's responsibility to identify, characterize, test, and ultimately list all wastes that pose a threat to public health or the environment. So far, the EPA has developed four major tests for characterizing a waste as hazardous, and has produced a catalog of several waste types.

This is a good beginning. But the Agency has not gone far enough. Many demonstrably dangerous wastes remain unlisted or unidentified and consequently unaddressed by RCRA regulations, and the characteristics, or tests, developed to identify wastes as hazardous entirely ignore many of our most dangerous industrial products. The result is that many wastes containing, for example, significant levels of dioxins, chlorinated organics, or pesticides, are not even considered hazardous under EPA's regulations.

This lack of adequate coverage has endangered both public health and the environment. This year it was discovered that it was possible—and even legal—for dioxin-laced waste oil to be used for dust control in Missouri. Dioxin, a cancer-linked chemical renowned as a component of agent orange, has since been discovered in at least 15 and as many as 50 additional sites in that State. It has also appeared in fish in the Hudson River and in Lake Ontario. Cleanup costs may approach $30 million, according to one source.

I respect EPA's need to move with scientific caution in determining which wastes are hazardous. But caution should not mean paralysis: EPA has not listed any new wastes since July of 1980, and has missed its own published deadlines for completing determinations for listing some hazardous wastes.

I ask unanimous consent that appendix I of House Report No. 97-570 be printed in the RECORD at this point to make clear the full record of the missed deadlines.

There being no objection, the appendix was ordered to be printed in the RECORD, as follows:

APPENDIX I

Status		Estimated completion date [1]
Organic waste streams under review for possible listing:		
Arylphosphate production residues.	Listing background document in preparation.	September 1982.
Chlorinated dibenzo-p-dioxin and dibenzofuran containing wastes.	Sampling and analysis of chlorophenol production residues for "dioxins" and "furans" being conducted as part of noncarbomate pesticide study. Proposal of listing based on currently available data is contemplated.	Do.
Aliphatic chlorocarbon production residues.	Sampling and analysis almost completed. Preparation of listing background document underway. Preparation of health and environmental effects Profiles on contaminants found in residues just beginning.	October 1982.
Carbamate pesticides and rubber processing chemicals production residues.	Sampling and analysis almost completed.	December 1982.
Coke production wastes.....	Presampling studies now underway.	Do.
Organopbromine production residues.	Sampling and analysis almost complete.	Do.
Generic solvents listing	Listing background document in preparation.	Do.
Dyes and pigments production residues.	Presampling studies now underway. Complexity of both categorization and analysis of residuals makes it impossible to predict study completion date.	
Noncarbamate pesticide production residues.	Sampling studies now underway.	March 1983.
Residues from production of organometallics.	Presampling studies now underway.	September 1983.
Miscellaneous wastes under review for possible expansion of listing:		
Lime sludge from stainless steel finishing.	Sampling and analysis almost completed.	September 1982.
Wastes resulting from the production of paints.	Initial rangefinding studies completed. Selection of wastes and manufacturing locations to be sampled scheduled for April 1982.	

[1] Decision to propose (including support documentation) or that the waste does not need to be listed.

Source: EPA, Office of Solid Waste and Emergency Response.

Mr. DODD. Mr. President, the bill I am introducing requires EPA to develop a 2-year plan for its overall work on the identification and listing of wastes. It requires EPA to include four determinations in this plan, including:

First, any decisions or plans for listing those wastes not as yet listed by the agency as hazardous;

Second, any plans by EPA for expanding or revising existing characteristics, or tests, used to detemine if a waste is hazardous;

Third, a final determination on the listing of dioxin and the organic and inorganic waste streams listed in the appendix listed above; and

Fourth, a determination by EPA as to what concentration levels of known hazardous constituents—to be chosen by the agency—would render a waste hazardous. Progress reports on this plan will be tied to the submission of the EPA budget every year in order to insure adequate budgetary consideration for the relevant EPA programs.

It is my hope that requiring EPA to draft a 2-year plan will aid the agency is setting priorities and allocating resources for its programs on the identification and listing of hazardous wastes. It is also my hope that EPA will include in its report to Congress an indication of reasonable timetables for much of the work which remains to be done in this area.

It is essential that known or suspected hazardous wastes be brought under the scope of RCRA as quickly as possible. With 57 million metric tons of hazardous waste produced by industry each year, we need to make the best use of EPA resources to determine which wastes are hazardous and to bring them under regulation.

The second section of my bill addresses those wastes which are currently regulated by RCRA but which can elude the RCRA regulatory system. It now is possible for a facility to exempt this waste from regulations through a process known as delisting. In many instances, hazardous wastes are slipping through this delisting process and escaping regulations.

As I mentioned earlier, EPA lists wastes as hazardous. Generally, the lsiting process is a general screening to determine that a kind of waste typically can cause harm to human health and the environment if mismanaged. The delisting process allows petitioners, and/or individual hazardous waste generators, the opportunity of showing that their wastes are significantly different—because of treatment, or because they are generated in a different process—from listed wastes of the same type. Consequently, they should be excluded—delisted—from the hazardous waste lists. EPA will delist those wastes which do not, or no longer, meet the criteria for which the waste was listed.

What the regulations do not address is the fact that wastes are frequently composed of numerous hazardous constituents. In some instances, these additional constituents may not have been taken into consideration when the waste was originally listed. Or in some treatment process, these additional wastes may not have been sufficiently rendered nonhazardous, or these wastes contain dangerous elements which have still not been listed by EPA as hazardous. In either case, EPA's regulations do not allow the agency to reject a delisting petition if the petitioner's waste contains hazardous constituents in addition to those for which it was originally listed. This is not merely a potential danger. It historically has resulted in wastes which are still hazardous being exempted from hazardous waste lists, and consequently, from RCRA regulations.

The consequences of this loophole are frightening.

In my own home State of Connecticut, for example, a temporary delisting was granted to a facility for a sludge pile resulting from a treatment process at a facility. Although the temporary delisting was ultimately revoked on technical grounds, it since has been discovered that the sludge contained PCB's and organics. Neither was the reason why the sludge pile was originally listed. If the pile had been given a final delisting, these hazardous wastes possibly could have ended up in a Connecticut sanitary landfill.

In certain stainless steel operations, the resulting waste is listed as hazardous for containing the heavy metals chromium and lead. But this waste also contains nickel—a heavy metal—which would go untreated if this waste were delisted.

Some petroleum industry treatment processes produce an oil-sludge mix which is listed as hazardous for containing heavy metals. Yet the process also contains certain organic compounds. Organics as yet are not covered by RCRA regulations. Even if they were, they are not the factor which caused the waste to be listed as hazardous. Consequently, they are not covered by RCRA regulations, and, if delisted, could be released untreated into the environment at large.

I do not cite these examples to point an accusatory finger at the industries concerned. They are living up to the letter of existing regulations. But the regulations contain a dangerous loophole which must be closed.

Under the legislation I am introducing, we would no longer take the risk that delisting a waste means releasing additional hazardous wastes from regulation. Instead, EPA will have the authority to consider additional constituents or other relevant factors when evaluating a delisting petition. If the agency has reason to believe that there are additional hazardous constituents present in the waste in potentially significant concentrations, they can ask the petitioner to demonstrate that is not the case. After sufficient comment period for the petitioner, EPA has the right to grant or deny a delisting petition based not only on the original constitutent for which the waste was listed, but also on any additional hazardous constituents.

I believe this approach will better protect public health and environment. It may also simplify matters for the industries concerned. If a delisted waste proves to remain hazardous, the responsible industry could still be liable under common law for any damage to health and the environment. In fact, for just that reason, many industries will not even use the delisting procedure. In some States, industries prefer to use the State delisting procedure, as it is frequently stricter than EPA's.

No matter what approach we take to the safe handling of hazardous wastes, there are costs involved. There is cost

for industry, for Government, for individual citizens. Our only choice is when to incur those costs, and how to invest money to insure protection of both health and the environment.

I believe the time for that investment is now, not later. It will be far more cost effective to work to insure that our existing regulations are sound than to postpone their solution—and charge its costs to some future account. If we do not act now to close the loopholes in RCRA, we are only creating future Superfund sites.

The choice is ours. By investing now in a more credible delisting procedure and in a plan to identify and list hazardous wastes, I believe we are making a sound investment for the years ahead.

Mr. President, hazardous waste is the inevitable byproduct of an industrialized society. Protection from its dangers are the concomitant responsibility of a civilized society. I believe our society is both. This bill is an attempt to help us better play that dual role.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3087

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Hazardous Waste Identification Improvement Act".

(b) Section 3001 (b) of the Solid Waste Disposal Act (42 U.S.C. 6921) is amended by adding at the end thereof the following new paragraphs:

"(4) The regulations promulgated under paragraph (1) shall provide that, when evaluating a petition to exclude a waste generated at a particular facility from being listed as a hazardous waste, the Administrator shall consider criteria other than those for which the waste was listed if the Administrator has a reasonable basis to believe that such additional criteria could cause such waste to be listed as a hazardous waste. The Administrator shall grant or deny such petition only after the petitioner and all interested parties have been given notice and opportunity for public hearing with respect to such additional criteria and to demonstrate whether such waste meets such criteria.

"(5) For the purpose of ensuring the timely revision of the characteristics for identifying hazardous waste as required under subsection (a), and the listing of particular hazardous wastes as required under paragraph (1) of this subsection, the Administrator shall develop, and submit to the Congress not later than July 1, 1983, a two-year plan for (A) revising or adding new characteristics for identifying hazardous waste, (B) the listing of those hazardous wastes which are not so listed on the date of the enactment of this paragraph, with a determination with respect to the listing of dioxin and the organic and inorganic waste streams described in Appendix I of House Report 97-570 to be made prior to March 1, 1983, and (C) an evaluation of possible determinations as to the levels of certain hazardous constituents which may cause wastes to be hazardous per se. The Administrator shall submit progress reports on such program on January 1, 1984, and January 1, 1985, in conjunction with the submittal of the proposed budget for the Environmental Protection Agency, to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives.".

(c) The amendment made by subsection (b) shall become effective on the date of the enactment of this Act, and regulations required to be promulgated by reason of such amendment shall be promulgated within 180 days after such date of enactment.●

By Mr. CHAFEE (for himself and Mr. PELL):

S. 3088. A bill to create competitive conditions in natural gas pricing by prohibiting certain anticompetitive clauses in natural gas contracts; to the Committee on Energy and Natural Resources.

NATURAL GAS PRICING

● Mr. CHAFEE. Mr. President, I am pleased today to join my distinguished colleague, the senior Senator from Rhode Island, in introducing a bill that would create competitive conditions in natural gas pricing by prohibiting certain anticompetitive clauses in natural gas contracts.

As we approach the coming winter, we face an extraordinary, perhaps unprecedented, situation. Simultaneously, we are experiencing a surplus of natural gas, a surplus so large that excess supplies are being flared; at the same time, the prices that gas consumers must pay are rising, particularly in the Northeast and the Midwest, at dramatic rates. Clearly market forces in natural gas are not functioning. This situation forces us to confront the cause of such a drastic malfunction.

To find the cause, we look immediately to the 1978 Natural Gas Policy Act. I voted for this act because I believed that phased decontrol of natural gas would lead to greater supplies, and ultimately to an end of Government control of this market. While it stimulated new supplies, the act contained requirements which have again caused a distortion of the gas market.

The first step in the history of Federal Government regulation of gas was in the 1938 Natural Gas Act. It and successive legislation and court interpretations created a growing disincentive to production. Supplies began to grow short. Indications of supply shortfalls began to appear in 1968 when, for the first time in 50 years, more natural gas was consumed in 1 year than was added to inventory. By the end of 1973, the deficit between new inventories and consumption had grown to 16.1 trillion cubic feet. The handwriting was clearly on the wall. But Congress continued to ignore the warnings until in the harsh winter of 1976 and 1977 extreme shortages occurred, forcing the closing throughout the Northeast and Midwest of factories and businesses and resulting in the temporary loss of millions of jobs.

Finally, Congress responded to the crisis in the 1978 act. That act, of course, provided phased decontrol of new gas. Incentives were created which resulted in large new supplies, particularly of so-called deep gas. At the same time, however, the act, by setting ceilings on the prices of certain categories of new gas and by providing that increased prices may be passed through the distribution stream to ultimate consumers, forced a situation in which prices to consumers have risen sharply in the face of oversupply. In part, this effect is achieved through what are called take-or-pay clauses in the pipelines' contracts with producers, and in contract provisions which mandate automatic increases in price.

So-called take-or-pay clauses require natural gas pipeline companies to pay for a large percentage of the gas they have under contract, whether they are able to sell that gas at the mandated price or not.

Price escalator clauses in many contracts provide that, upon decontrol in 1985, the price of natural gas can be linked to the price of imported fuel oil in given markets, and that under so-called area pricing escalator clauses, prices of cheaper gas can be raised to match higher priced gas emanating from wells in related producing areas.

Mr. President, in my view the correct response to this problem is not to attempt now to halt the gradual decontrol of gas. This one element of certainty should be maintained because under decontrol, even limited in nature, there has been a rush of supply. We do not wish to take steps now that would create such uncertainties amongst producers that would cause them to cease exploration and potentially again result in severe supply shortages. It is my strong belief that now that we have set out on the course of decontrol, we should permit the decontrol process to unroll.

Rather, Mr. President, I believe that we should now, as an immediate step, look to the contracts between the pipeline companies and the producers. These contracts, which require that pipelines buy gas at high prices while ignoring lower priced gas which is subsequently wasted or stored, have forced serious hardship. I believe that we should pass emergency legislation that would permit pipeline companies to abrogate their take-or-pay and escalator clauses in their contracts with the producers. This does not mean that the pipelines will simply walk away from the suppliers. It does mean that we would be giving the pipelines the power to renegotiate their contracts with the producers in much more realistic price terms.

This legislation is of an emergency nature. What is really required is a

review of the Natural Gas Policy Act of 1978 which I hope we will begin early next year. Therefore, the bill that the senior Senator from Rhode Island and I are introducing today provides that pipeline companies may abrogate take-or-pay and automatic price escalator clauses in their contracts with producers. This provision applies only to new gas, not to gas produced prior to the enactment of the 1978 Natural Gas Policy Act.

I do not advocate Government sanction of the abrogation of private contracts lightly, Mr. President. It is my understanding, however, that the Emergency Petroleum Allocation Act, the Economic Stabilization Act of 1970, and other laws have permitted such abrogations, and that these have been upheld.

There would also seem to be merit in the argument, well expressed in a recent policy statement by the CATO Institute, that the contracts in question are hardly the product of the operation of an open market. According to this analysis, "these contracts are not the product or manifestation of a free-market system. all of the present contracts were entered into within the framework of pervasive administrative regimentation of the natural gas industry."

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3088

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subtitle B of title III of the Natural Gas Policy Act of 1978 (15 U.S.C. 3371-3375) is amended by inserting after section 315 the following new section:

"SEC. 316. CLAUSES INVOLVING TAKE-OR-PAY AND INDEFINITE PRICE ESCALATORS

"(a) UNENFORCEABLE CLAUSES.—Any provision of any contract for the first sale of natural gas, including any contracts in existence on the day before the date of enactment of this section, is hereby declared against public policy and unenforceable if such provision includes:

"(1) a take-or-pay clause which commits the purchaser to take delivery of a minimum volume of natural gas for a period of more than one year; or

"(2) an indefinite price escalator clause as defined in section 105(b)(3)(B) of this Act.

"(b) EXCLUSION.—Paragraph (a)(1) shall not apply to any contract for the first sale of natural gas committed or dedicated to interstate commerce on November 8, 1978, and for which a just and reasonable rate under the Natural Gas Act was in effect on such date for the first sale of such natural gas.".●

● Mr. PELL. Mr. President, I am pleased to join with my colleague, Senator JOHN CHAFEE, today in introducing legislation to address the problem of the extraordinary rise in natural gas prices for Rhode Island consumers this fall.

Throughout New England and many other States across the Nation, consumers are being forced to pay unreasonably high prices for natural gas due in large part to a provision in the Natural Gas Policy Act of 1978 which requires pipelines having a take-or-pay clause in their contract with natural gas producers to accept the high-priced gas even though lower priced gas may be available from the same gas producers.

In my opinion, the sudden increase in the cost of natural gas for consumers this winter should not exist considering today's depressed natural gas market conditions. As a result of vigorous energy conservation on the part of consumers, general domestic economic conditions and our favorable weather conditions thus far, the nationwide demand for natural gas, along with other fuels, is down dramatically. These factors combined have resulted in a significant surplus of natural gas supplies across the Nation.

Unfortunately, however, these same factors have failed to cause the natural gas market to respond to the current conditions of oversupply. Natural gas prices instead of becoming more competitive have risen to excessive levels for consumers—all primarily as a result of the take-or-pay contracts. These contracts, enacted during a period of supply shortages in the 1970's, required pipelines to purchase a significant percentage of natural gas at a certain rate whether pipelines had a market for the gas at that rate or not. Consequently, pipelines under existing take-or-pay contracts are required to accept the high-priced gas while shutting off the options for available lower cost gas. Without question, this complex contract issue is one which is unfair to consumers and deserves the immediate attention of Congress during the remaining few weeks of the 97th Congress.

Mr. President, the legislation proposed by Senator CHAFEE and me today responds to the natural gas take-or-pay dilemma in a timely and responsible manner. Briefly, the legislation voids existing take-or-pay clauses in producer pipeline contracts thereby freeing the pipelines from the obligation to pay automatically for the high-priced natural gas from producers. In addition, take-or-pay clauses for old gas would be excluded from this provision as they remain in the public interest and would help insure that the most reasonable gas is distributed first to consumers. This bill also repeals the controversial indefinite price escalator clauses which presently tie the price of gas in a particular location to the price of oil or the price of gas in other parts of the country.

Mr. President, I understand that a discussion of only certain provisions of the Natural Gas Policy Act at this time is highly controversial and will not respond to the broader concerns of many of my colleagues troubled over provisions of the act enacted in 1978. I understand very much their desire to review the entire Natural Gas Policy Act legislation as soon as possible in view of the uncertainties facing the natural gas industry.

I support a full and early discussion of these concerns at both the Federal and local levels during the 98th Congress. These discussions should certainly include hearings by the Federal Energy Regulatory Commission (FERC) in the regions most affected by the review of the Natural Gas Policy Act. I hope, however, that prompt attention by Congress on the take-or-pay issue will not be delayed because of the complex issues and concerns over the Natural Gas Policy Act. Consumers across the country should not be penalized any further with high natural gas bills because of congressional inaction. I urge my colleagues to carefully examine this issue and to act promptly to repeal the take-or-pay clause for the benefit of consumers this winter.

I ask unanimous consent, Mr. President, that an article from the Providence Journal on the subject of natural gas pricing be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Providence Journal, Sept. 23, 1982]

NATURAL GAS PRICES RISING TO LEVEL OF FUEL OIL RATES

(By Doug Cumming)

This winter, it will be as expensive to heat your home or business with natural gas as with fuel oil.

The price advantage for natural gas in Rhode Island, which began when oil skyrocketed in 1978 and which drove thousands of homeowners to convert their oil burners to gas burners, is ending abruptly next week for Providence Gas Co.

Providence Gas, which serves 68 percent of the 102,000 homes that heat with gas in the state, will increase its rate on Friday, Oct. 1, by about 21 percent above last year's average rate.

With the new rate, gas customers will pay about $1.22 for the amount of gas that yields the same amount of heat as a gallon of oil. The comparison can very, depending on who does the figuring. Providence Gas officials say their new price is equal to oil priced at $1.20 a gallon. State officials say it's between $1.22 and $1.24.

In any case, the average cost of No. 2 fuel oil, the most widely used home heating fuel in Rhode Island since the 1940s, is now $1.22 a gallon, according to Santo Amato, state fuel allocation officer.

The rates of the three other gas companies in Rhode Island are rising to similar levels this winter, mostly because of the increasing wholesale costs of deregulated gas in the South and Midwest. Valley Gas Co., serving the Blackstone Valley, is also seeking a 9.7 percent rate increase for its own cost of doing business.

Local fuel oil dealers relish being back on an equal footing.

"I feel sorry for the few thousand people who converted, if they thought they would save money," said Robert E. DeBlois president of DeBlois Oil Co. "I think this winter we'll get the advantage back again."

The suddenness of the jump in Providence Gas' rate results from a complicated change in the way the company figures its own costs. In past years, the company used a Purchased Gas Adjustment (PGA) surcharge that would change throughout the year depending on wholesale costs and the higher costs of supplemental fuels used during the winter (liquefied and synthetic natural gas and propane).

This winter, the company is estimating its PGA for the entire coming year and making it a part of the basic rate. The estimate can be adjusted periodically. It is to go into effect Oct. 1 after a routine hearing tomorrow before the state Public Utilities Commission.

Louis R. Hampton, president of Providence Gas, said that the new year-long rate of $9.01 per thousand cubic feet is better for customers because it lessens the impact of high winter bills. Previously, rates were higher in the winter because of the use of supplemental fuels.

The new method of assessing the PGA is part of a rate increase granted last June 23 by the PUC. The increase was for 5.7 percent, or about $54 a year added to an average heating bill.

However, when last winter's average rate from October to April, $7.45 per cubic foot, is compared with the rate from now until next Sept. 30, the increase is 21 percent.

Edward F. Burke, PLUC chairman, said that Providence Gas rates will actually go up 23.5 percent this winter, counting the estimated $4.5 million that is due the company because of a state Supreme Court order.

Providence gas officals say they are not worried about competition from fuel oil.

"We've known what it is to sell against lower prices (for oil)," Hampton said. "We've done it for years."

Natural gas began making inroads as a New England heating fuel in the 1950s, despite the higher cost, because it is a clean, dependable fuel, Hampton said. Today, the supply is extremely good, mainly because of increased production that followed the rising prices of the Natural Gas Deregulation Act of 1978, he said.

He said it is hard to make customers understand that most of the price increases result from rising costs at the wellhead and along the pipeline, far from Rhode Island.

But Hampton said the natural gas will still be able to compete with other heating fuels.

Indeed, Providence Gas Co. advertised in the *Journal-Bulletin* two weeks ago that "now is the best time to switch to gas heat." The ad offered a guarantee to anyone who converts from oil to gas, saying the company would refund the cost of the burner conversion if the customer is dissatisfied before next July. The offer expires Oct. 15.

Two years ago the company was putting more stress on the price advantage, advertising that gas was "the best energy buy in town." In 1981, when fuel oil peaked at an average of $1.31 a gallon, the equivalent for gas was about 82 cents.

Providence Gas added about 4,000 new customers that year, after adding 5,000 new customers the year before, most of them former oil-heating customers. The conversions cost the customers an average of $700 each.

Now, a few homeowners are converting back by restoring their old oil burners, according to DeBlois.

"We've been through a bad period recently," DeBlois said of the fuel oil business. "But people of the United States seem to rely on petroleum for their fuel, particularly in the northeast."

The average cost of No. 2 fuel oil—now at $1.22 a gallon—will probably rise to about $1.25 this winter, DeBlois said. Despite worries expressed by Governor Garrahy several months ago, supplies seem to be plentiful now, according to both DeBlois and Amato.

But meteorologists are predicting a record cold in New England this winter.

"The amount and timing of the cold will determine what happens to the price," DeBlois said, "Our price goes on a supply-and-demand basis."●

ADDITIONAL COSPONSORS

S. 2631

At the request of Mr. KASTEN, the name of the Senator from Indiana (Mr. QUAYLE) was added as a cosponsor of S. 2631, A bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes.

S. 3048

At the request of Mr. THURMOND, the names of the Senator from Nevada (Mr. LAXALT), the Senator from New York (Mr. MOYNIHAN), the Senator from New Hampshire (Mr. HUMPHREY), the Senator from Nebraska (Mr. ZORINSKY), the Senator from Alabama (Mr. HEFLIN), the Senator from Utah (Mr. HATCH), the Senator from Iowa (Mr. GRASSLEY), the Senator from West Virginia (Mr. ROBERT C. BYRD), the Senator from Pennsylvania (Mr. SPECTER), and the Senator from Kansas (Mr. DOLE) were added as cosponsors of S. 3048, a bill to amend title 18, United States Code, to combat, deter, and punish individuals who adulterate or otherwise tamper with food, drug, cosmetic and other products with intent to cause personal injury, death, or other harm.

S. 3060

At the request of Mr. HATFIELD, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 3060, a bill to amend section 7(b) of the Wild and Scenic Rivers Act.

S. 3069

At the request of Mr. EAGLETON, the names of the Senator from Tennessee (Mr. SASSER), the Senator from Maryland (Mr. SARBANES), the Senator from Ohio (Mr. METZENBAUM), and the Senator from Michigan (Mr. RIEGLE) were added as cosponsors of S. 3069, a bill to amend the Natural Gas Policy Act of 1978 to prohibit increases in the wellhead prices of natural gas, and for other purposes.

S. 3077

At the request of Mr. EAGLETON, the name of the Senator from Missouri (Mr. DANFORTH) was added as a cosponsor of S. 3077, a bill to establish the Harry S. Truman National Historic Site in the State of Missouri, and for other purposes.

SENATE JOINT RESOLUTION 254

At the request of Mr. JEPSEN, the names of the Senator from Florida (Mrs. HAWKINS), the Senator from Maryland (Mr. SARBANES), and the Senator from Alabama (Mr. DENTON) were added as cosponsors of Senate Joint Resolution 254, joint resolution designating September 22, 1983, as "American Business Women's Day."

SENATE JOINT RESOLUTION 263

At the request of Mr. THURMOND, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of Senate Joint Resolution 263, a joint resolution to authorize the President to issue a proclamation designating the week beginning on March 13, 1983, as "National Surveyors Week."

SENATE JOINT RESOLUTION 265

At the request of Mr. DENTON, the names of the Senator from Michigan (Mr. RIEGLE), the Senator from Indiana (Mr. LUGAR), and the Senator from Nevada (Mr. CANNON) were added as cosponsors of Senate Joint Resolution 265, joint resolution to authorize and request the President to proclaim 1983 as the "National Year of Voluntarism."

SENATE CONCURRENT RESOLUTION 104

At the request of Mr. DODD, the names of the Senator from Massachusetts (Mr. TSONGAS), and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of Senate Concurrent Resolution 104, a concurrent resolution condemning the use by the Government of the United Kingdom of plastic rubber bullets in Northern Ireland, and for other purposes.

SENATE CONCURRENT RESOLUTION 131

At the request of Mr. HAYAKAWA, the names of the Senator from Kansas (Mrs. KASSEBAUM), the Senator from Wisconsin (Mr. KASTEN), and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of Senate Concurrent Resolution 131, a concurrent resolution to express the sense of the Congress concerning Americans missing and unaccounted for in Southeast Asia.

AMENDEMENT NO. 3637

At the request of Mr. JEPSEN, the name of the Senator from New York (Mr. D'AMATO) was added as a cosponsor of amendment No. 3637 intended to be proposed.

SENATE CONCURRENT RESOLUTION 132—CONCURRENT RESOLUTION RELATING TO DISABLED PERSONS

Mr. CRANSTON (for himself, Mr. BAUCUS, Mr. CANNON, Mr. CHAFEE, Mr. CHILES, Mr. DECONCINI, Mr. DODD, Mr. HEINZ, Mr. INOUYE, Mr. KENNEDY, Mr.

LEVIN, Mr. MATSUNAGA, Mr. METZENBAUM, Mr. MITCHELL, Mr. MOYNIHAN, Mr. RANDOLPH, Mr. RIEGLE, Mr. SARBANES, and Mr. SASSER) submitted the following concurrent resolution; which was referred to the Committee on Labor and Human Resources:

S. CON. RES. 132

Whereas during the decade of the Seventies the Congress, with broad bipartisan support and in concert with Republican and Democratic Administrations, established and improved programs to help handicapped Americans to become as productive and independent as possible and have the opportunities for participation in our society that should be each citizen's due;

Whereas these programs have made much progress toward ensuring that handicapped children receive free appropriate public education; toward making adequate vocational rehabilitation services available to meet the needs of handicapped persons; toward eliminating architectural and transportation barriers which exclude handicapped persons from many employment, educational, recreational, social, and other opportunities that other Americans enjoy and from full participation in our society's institutions; and toward protecting handicapped persons from unfair discrimination;

Whereas various proposals have been made to repeal major laws establishing disability programs, to reduce substantially Federal funding for and certain benefits in such programs, and to weaken regulations implementing such laws;

Whereas the social security disability insurance benefits of thousands of disabled persons have been precipitously terminated; and

Whereas these proposals and actions are particularly burdensome for handicapped persons already suffering hardship as a result of cutbacks in major health, nutrition, and social programs: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that:

(1) Federal programs designed to ensure that disabled Americans are provided with the opportunities for the education and rehabilitation services and the access to public facilities and services they need to achieve their full human potential and live as independently and productively as possible should be maintained and funded at not less than current programmatic levels and should be enhanced where cost-effective restoration, growth, or expansion would be achieved.

(2) Changes in permanent regulations implementing Federal laws relating to the education and civil rights of handicapped individuals should be limited to changes that are necessary to conform to authoritative judicial decisions interpreting those laws and to improve program efficiency and effectiveness without diluting the individual rights and protections provided under current regulations.

(3) The reviews of the continued eligibility of disabled recipients of social security disability insurance benefits should be conducted in a manner ensuring that each recipient is apprised of the nature and purpose of the review; that determinations of ineligibility do not occur as the result of erroneous interpretations of law or of failures to give full and fair consideration to all pertinent evidence, including the recipient's medical history and evidence available from the treating physician or other licensed practitioner; and that mentally impaired recipients are provided the assistance needed to respond to the administrative requirements of such reviews and to exercise their rights in connection therewith.

(4) The level of veterans' disability compensation benefits for service-connected conditions should be maintained.

CONGRESSIONAL SUPPORT OF PROGRAMS FOR HANDICAPPED PERSONS

Mr. CRANSTON. Mr. President, I am today submitting S. Con. Res. 132, expressing the sense of the Congress that the Federal Government should maintain effective programs to assist in providing disabled persons with maximum opportunities for fuller, more productive and independent lives. This concurrent resolution is cosponsored by 18 Senators: Mr. BAUCUS, Mr. CANNON, Mr. CHAFEE, Mr. CHILES, Mr. DECONCINI, Mr. DODD, Mr. HEINZ, Mr. INOUYE, Mr. KENNEDY, Mr. LEVIN, Mr. MATSUNAGA, Mr. METZENBAUM, Mr. MITCHELL, Mr. MOYNIHAN, Mr. RANDOLPH, Mr. RIEGLE, Mr. SARBANES, and Mr. SASSER.

Mr. President, I want to emphasize that the preservation of these programs is not a partisan issue. In fact, broad bipartisan support in Congress during Republican and Democratic administrations brought about major advances in these programs during the 1970's to provide disabled persons with the assistance and opportunities they need to participate more fully in our society and to become as productive and self-sufficient as possible.

Moreover, many leaders on both sides of the aisle in both Houses of Congress have worked hard during this, the 97th Congress to preserve programs for handicapped persons and to insure that these individuals receive fair treatment under them.

Nevertheless, the need for this concurrent resolution has arisen because the number and range of proposals and resulting actions in the past 2 years to eliminate or reduce these programs have created hardships for many disabled persons and caused deep concern among all those interested in assuring fair treatment for handicapped Americans.

In a November 24, 1982, letter that I sent to each of my colleagues in the Senate, I outlined some of the major causes of concern. They are as follows:

First, proposals to block grant the Education for All Handicapped Children Act of 1975, to reduce appropriations for education programs for handicapped children by 30 percent in fiscal year 1983, and to weaken substantially the regulations implementing this law.

Second, proposals to block grant the Federal-State vocational rehabilitation program under the Rehabilitation Act of 1973, to reduce appropriations for rehabilitation programs by about one-third in fiscal year 1983, and to eliminate the National Institute for Handicapped Research.

Third, the virtual elimination of the social security beneficiary rehabilitation programs under which State agencies received $124 million in fiscal year 1981 and only $3.5 million in fiscal year 1982 for the rehabilitation of disabled Social Security Act beneficiaries.

Fourth, proposals to repeal the Developmental Disabilities Assistance and Bill of Rights Act and to reduce developmental disabilities services and advocacy funding by more than one-third in fiscal year 1983.

Fifth, proposals to eliminate the Architectural and Transportation Barriers Compliance Board, to rescind the minimum guidelines and requirements that the Board had adopted for public building accessibility, and to dilute these guidelines and requirements.

Sixth, the premature mounting of a massive review of the eligibility of disabled persons for social security disability benefits that has resulted in overworked State agencies conducting unfair, inadequate reviews, causing the Senate Governmental Affairs Subcommittee on Oversight of Government Management to conclude that benefits had been terminated for thousands of severely disabled persons who deserve to remain in the program.

Seventh, proposals under consideration in the executive branch to weaken basic governmentwide regulations for implementing section 504 of the Rehabilitation Act, the civil rights charter for handicapped Americans, which prohibits discrimination against qualified handicapped persons in Federal and federally assisted programs.

Eighth, the July 1981 adoption by the Department of Transportation of an interim final rule—replacing its section 504 regulations—regarding transportation for handicapped persons that provides no assurance of continuing progress toward the provision of adequate, accessible transit services for handicapped persons.

Ninth, proposals to reduce certain veterans' service-connected disability compensation benefits by more than $400 million in fiscal year 1984.

Tenth, the suffering, because of their particular vulnerability, of handicapped persons from cutbacks in a wide range of social programs, such as health care, housing, nutrition, and social and legal services.

Clearly, Mr. President, we have now reached the point where it is essential for the Congress to assert strongly that it stands behind programs that offer handicapped individuals opportunities to overcome or minimize their disabilities and live fuller, more productive, independent lives in our communities and that provide subsistence-level support for those who have no other means of existence. This con-

gressional declaration would help to dispel the great anxiety, frustration, and hopelessness that the cuts and proposed reductions in disability programs have already created and that any proposals for fiscal year 1984 budget cuts in these programs would aggravate.

Thus, I urge my colleagues to support this concurrent resolution and, by its adoption, send a message of hope to those who are despairing—as well as a message, to those who would attempt to erode disability programs, of strong congressional resolve to defeat such efforts.

Mr. President, I intend to offer the provisions of this concurrent resolution as an amendment to the continuing resolution next week.

SENATE RESOLUTION 504—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. THURMOND, from the Committee on the Judiciary, reported the following original resolution; which was referred to the Committee on the Budget:

S. RES. 504

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to consideration of S. 2863. Such waiver is necessary because S. 2863, as reported, authorizes the enactment of new budget authority which would first become available in fiscal year 1983, and such bill was not reported on or before May 15, 1982, as required by section 402(a) of the Congressional Budget Act of 1974 for such authorizations.

This budget waiver will allow Senate consideration of S. 2863 which extends to all Federal jurors eligibility for Federal workers' compensation, provides for the taxing of attorneys fees in certain actions brought by jurors, and authorizes the service of jury summonses by ordinary mail. After hearings in the Agency Administration Subcommittee, S. 2863 was reported favorably by all members of the Subcommittee October 1, 1982.

S. 2863 indirectly authorizes the appropriation of an estimated $100,000 to compensate jurors suffering duty related injuries. However, enactment of the regular mail option for the service of jury summonses is anticipated to save $300,000 to $500,000 a year resulting in an estimated net gain of between $200,000 and $400,000.

S. 2863 was not reported on or before May 15, 1982 because it was not introduced until August 19, 1982.

SENATE RESOLUTION 505—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. THURMOND, from the Committee on the Judiciary, reported the following original resolution; which was referred to the Committee on the Budget:

S. RES. 505

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to consideration of H.R. 5858. Such waiver is necessary because H.R. 5858, as reported, authorizes the enactment of new budget authority which would first become available in fiscal year 1983, and such bill was not reported on or before May 15, 1982, as required by section 402(a) of the Congressional Budget Act of 1974 for such authorizations.

This budget waiver will allow Senate consideration of H.R. 5858 which is a private relief bill for the relief of Mocatta and Goldsmid, Ltd,. et al. H.R. 5858 was reported by the members of the Subcommittee on Agency Administration on December 2, 1982.

H.R. 5858 authorizes the appropriation of the following amounts to the silver dealers enumerated below:

Mocatta & Goldsmid, Ltd.	$1,502,642
Sharps, Pixley & Co	1,001,641
Primary Metal & Mineral Corp	851,395

These awards compensate dealers for losses they sustained when the United States Treasury failed to honor their telephone orders for silver on May 18, 1967.

H.R. 5858 was not reported on or before May 15, 1982, because the Senate did not receive the bill from the House of Representatives until after September 21, 1982.

SENATE RESOLUTION 506—RESOLUTION AUTHORIZING THE PRINTING OF A BROCHURE ON RESEARCH COLLECTIONS OF FORMER SENATORS

Mr. BAKER (for himself and Mr. ROBERT C. BYRD) submitted the following resolution; which was considered and agreed to:

S. RES. 506

Resolved, That a compilation of materials entitled "Guide to Research Collections of Former United States Senators, 1789-1982", prepared by the Senate Historical Office, be printed, with illustrations, as a Senate document, and that five thousand additional copies of such document be printed for the use of the Office of the Secretary of the Senate.

SEC. 2. The document specified in the first section of this resolution shall be printed and bound with a paperback cover of the style, design, and color as the Secretary of the Senate shall direct.

AMENDMENTS SUBMITTED FOR PRINTING

FEDERAL AID HIGHWAY IMPROVEMENT ACT

AMENDMENT NO. 4978

(Ordered to be printed and to lie on the table.)

Mr. CRANSTON submitted an amendment intended to be proposed by him to the bill (H.R. 6211) to authorize appropriations for construction of certain highways in accordance with title 23, United States Code, for highway safety, for mass transportation in urban and rural areas, and for other purposes.

Mr. CRANSTON. Mr. President, I am introducing an amendment to the Federal Aid Highway Improvement Act to provide a 10-percent set-aside for minority business concerns to assure participation of these businesses in this massive public works program being financed from gasoline tax funds.

I share the deep concern of my constituents and others in regard to the astoundingly high-unemployment levels which continue to haunt this Nation. Last week the November unemployment figures were released—10.8 percent of Americans are out of work. This translates to approximately 12 million men and women who have no hope of providing their families with the necessities of life. While 10.8 percent of America are without jobs, the percentage of unemployed black Americans is at 20 percent, and black teenage unemployment is hitting the 40-percent level. These percentages do not reflect the number of men and women who have given up hope and are, thus, no longer seeking employment and women who have not worked who now need employment. These numbers pose dire consequences for the future of our country and we must explore every avenue to reverse this situation.

The measure before us today will create nearly 300,000 jobs, and I am deeply concerned that these funds reach those that are most directly affected by this situation. The set aside is the most direct way to assure that black, Hispanic, women, Asian-Americans, and other disadvantaged business owners participate to the fullest possible extent possible in these benefits. We must make sure that they have an opportunity to help get this Nation going again.

The minority set-aside program has a proven record. In 1977, the Congress passed a similar amendment to the local public works bill, requiring a 10-percent set aside for minority contractors. As a result over $600 million in contracts were awarded to minority businesses, and this resulted in the creation of many jobs where they were most needed. We must assure that tax dollars taken from the people be used in the most efficient manner possible. My amendment, by specifically directing that not less than 10 percent of the amount authorized to be appropriated under this bill shall be expended directly with small business concerns owned and controlled by socially and economically disadvantaged businesses, goes right to the heart of the disproportionate unemployment problem that plagues minority communities around the country and the minority businesses that serve these communities.

The small and minority business sector of our economic system has a

proven track record in creating jobs. This amendment will make sure that the women, black, Hispancies, business owners, and others as defined in the Small Business Act will have the tools to significantly reduce the 20-percent unemployment in their communities and thus in the country as a whole.

I urge my colleagues to support my amendment.

NOTICES OF HEARINGS

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. COHEN. Mr. President, I wish to announce that the Senate Oversight of Government Management Subcommittee will hold oversight hearings on computer matching programs to detect fraud and mismanagement in government programs on Wednesday and Thursday, December 15 and 16, at 9:30 a.m., in room 3302 of the Dirksen Senate Office Building.

The subcommittee's hearings will focus on the recent efforts by the Federal Government to promote computer matching at both the Federal and State levels of government.

SUBSOMMITTEE ON PUBLIC LANDS AND RESERVED WATER

Mr. WALLOP. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of a public hearing before the Subcommittee on Public Lands and Reserved Water to consider S. 1584, to designate certain public lands in the State of California, and for other purposes; and H.R. 4083, to designate certain public lands in the State of California as wilderness, and for other purposes.

The hearing will be held on Wednesday, December 15, beginning at 9 a.m. in room 3110 of the Dirksen Senate Office Building.

Those wishing to testify or who wish to submit written statements for the hearing record should write to the Subcommittee on Public Lands, room 3104, Dirksen Senate Office Building, Washington, D.C. 20510 or call Mr. Tony Bevinetto of the subcommittee staff at 202-224-5161.

Witnesses are requested to provide the subcommittee with 25 copies of their written testimony 24 hours before the hearing, as required by the rules of the committee. Witnesses may be arranged in panels and are requested to limit their oral testimony to 5 minutes.

For further information regarding this hearing, please contact Mr. Bevinetto at the above listed number.

COMMITTEE AUTHORITY TO MEET

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to have met during the session of the Senate on Tuesday, December 7, at 2:30 p.m., to consider the nominations of Geoffrey Alprin and Virginia Riley to be associate judges, District of Columbia Superior Court.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGRICULTURAL PRODUCTION, MARKETING, AND STABILIZATION OF PRICES

Mr. STEVENS. Mr. President, I ask unanimous consent that the Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices of the Committee on Agriculture, Nutrition, and Forestry, be authorized to meet during the session of the Senate on Thursday, December 9, at 9 a.m., to hold a hearing on farm program alternatives.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet in executive session during the session of the Senate on Wednesday, December 8, to consider the gas tax bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY, NUCLEAR PROLIFERATION AND GOVERNMENTAL PROCESSES

Mr. STEVENS. Mr. President, I ask unanimous consent that the Subcommittee on Energy, Nuclear Proliferation and Governmental Processes of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Monday, December 13, at 10 a.m., to hold a hearing on internal controls in Federal agencies.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE MIRAGE OF EFFICIENCY

● Mr. KENNEDY. Mr. President, too often, it seems that the country must learn its lessons of economic policy the hard way. This type of education is often the result of repeated mistakes.

As Prof. Allan J. Lichtman of the American University points out in his essay "The Mirage of Efficiency," which appeared in the Christian Science Monitor on October 6, 1982, the country is learning yet another painful lesson about a kind of fiscal irresponsibility not seen since the early 1950's. As Professor Lichtman suggests, the indiscriminate nature of the reductions in force program is proving in 1982, just as it proved in 1953, to be a severe waste of time, money, and talent.

I commend Professor Lichtman's insightful essay, and I recommend it to my colleagues as necessary reading before we enter yet another debate over fiscal efficiency. I ask that the full text of Professor Lichtman's article be included in the RECORD.

The article follows:

[From the Christian Science Monitor, Oct. 6, 1982]

THE MIRAGE OF EFFICIENCY

(By Allan J. Lichtman)

As the simplest of its simple remedies for the ills of government, the new Republican administration promised to thin the ranks of a swollen bureaucracy. Within a year, however, the mirage of vast savings through a flurry of pink slips had disappeared from the political horizon.

The actual practice of RIFs (reductions-in-force) had shown that they allowed allegedly dismissed workers to "bump" those below them, moving into jobs for which they were overpaid and undertrained. For every worker fired several were reassigned, defying organizational logic and subverting morale by sending tremors of alarm throughout the bureaucracy. Heralded as an austerity measure, the RIF procedure failed even to pay for itself as paper work and separation costs canceled budgetary savings, and agency productivity declines.

Sounds like old news? Perhaps older than one might think: these reports are from 1953 and the new Republican President was Dwight Eisenhower. Yet in the spring of 1982 the Reagan administration confessed the failure of an almost identical program for paring budgets by riffing the federal work force. Replaying the Republican script of 30 years before, Office of Personnel Management (OPM) Director Donald J. Devine admitted that the RIF procedure "is inefficient . . . complex, sometimes inequitable, and cumbersome."

The avowed purpose of RIFs, often lost in the fog of controversy, is not just to pare expenses but to improve the efficiency of government. Yet the evidence suggests that this slash-and-burn method for reorganizing government subverts the goal it is designed to achieve. The OPM confessed as much when it recently balked at thinning the ranks of its own employees. In an internal memo, Michael Sanera, assistant director for planning and evaluation, noted that although a RIF at OPM is supposed "to improve organization efficiency . . . quite the opposite result is a far more likely occurrence." RIFs have contributed to a poisoned atmosphere for federal service, reflected during 1981 in more than a doubling of the rate at which senior career executives resigned from government.

Reductions-in-force have been especially detrimental for women and minority workers, whose recent gains in employment leave them lacking in seniority protection. Despite candidate Reagan's commitment to particular initiatives for women in lieu of the Equal Rights Amendment, his managers have sacked women in professional and administrative positions at a rate more than 60 percent greater than their male counterparts. Minorities in these positions have faced even grimmer prospects, losing their jobs at a rate more than twice that of nonminority employees.

After his belated rediscovery of the inefficiency of the RIF procedure, OPM Director Devine proposed not to halt RIFs, but to explore new procedures "with more emphasis on merit in the separation process and less on seniority." In fact, although the RIF controversy no longer sizzles in the media, a recent survey disclosed that more federal

workers were dismissed during the first half of fiscal 1982 than during all of fiscal 1981.

Devine's new approach, moreover, would spark bitter warfare with the federal employees' unions without eliminating the disruptive effects of reductions-in-force. The lack of a tested, uniform, and objective evaluation tool would also heighten fears of politically motivated sackings. Even Republican congressmen representing substantial numbers of federal workers have sought to dissuade OPM from issuing its new RIF procedures . . . at least until after November.

More promising than Devine's nonsolution is legislation drafted by the Federal Government Service Task Force, a bipartisan, bicameral coalition chaired by Rep. Michael Barnes (D) of Maryland. Following the precedent set in private industry, the bill mandates labor-management bargaining on alternatives to RIFs. Should negotiators fail to reach agreement within 45 days, arbitration procedures would result. Ultimately no RIF program could take place without both a favorable ruling from the arbitrators and certification by the OPM and the GAO that its benefits justify its costs.

Aside from exposing flaws in the RIF procedure, experience during the Eisenhower years also failed to reveal any means for slashing the costs of government without cutting real services and benefits. This despite extensive studies of the federal administration, including the second Hoover Commission Report. As journalist Edwin J. Dale Jr. (now ironically spokesperson for David Stockman's Office of Management and Budget) wrote in a retrospective on the 1950s, "the pragmatists among the conservatives in power discovered that . . . the search for efficiency" was simply "not the road to lower federal spending."

Beyond just disdain for history, administration personnel policies reflect an ideology that stresses minimum constraint for management and maximum control over workers. In addition to RIFs, the record includes financial support for union-busting campaigns, the abrupt transfer of civil servants from one part of the country to another, and opposition to programs of flexible work hours. Like the failure to spend appropriated funds (a practice that has vastly increased since Reagan's inauguration) RIFs are also a useful tool for circumventing statutory mandates without changing the laws themselves. It is not by accident that RIFs have fallen with special force on agencies that enforce federal regulations and those that disseminate information to the public.●

THE BAILOUT OF BIG BANKERS

● Mr. EAST. Mr. President, for over a generation the American taxpayers have paid the bills for extravagant foreign aid to nations all over the world. We have not bought any friends with all those billions of dollars. Now the liberal foreign policy establishment wants the American taxpayers to bail out the big bankers in New York and elsewhere who have made unwise loans to Third World countries. Today's Washington Post contains an excellent article by Rowland Evans and Robert Novak shedding light on this latest raid on the U.S. Treasury. I ask that the article be printed in the RECORD.

The article follows:

[From the Washington Post, Dec. 8, 1982]

BAILING OUT THE BANKERS

(By Rowland Evans and Robert Novak)

The Reagan administration's decision to use tax money to bail out international bankers can be traced to a rare Oct. 28 visit by Paul Volcker, chairman of the Federal Reserve Board, to a meeting of senior officials at the White House.

Normally guarded in revealing his opinions, central banker Volcker was a passionate advocate. To preserve the world financial structure, he said, the United States must radically increase its contribution to the International Monetary Fund to prevent Third World countries from defaulting on reckless loans from the big banks. "Volcker left no doubt that the sky was falling," one administration official told us. His visit terminated rear-guard action by budget director David Stockman to forestall the bailout.

Early in 1981, the State Department's effort to fulfill Jimmy Carter's promises of more U.S. financing were forestalled by an alliance of Stockman's Office of Management and Budget and the Treasury. But those forces were depleted when growth-oriented supply-siders, who consider the IMF's high-tax austerity programs a formula for world depression, left the Treasury.

By last summer's IMF meeting in Toronto, Treasury Undersecretary Beryl Sprinkel had become a special pleader for boosting the IMF quota. He complained to administration colleagues how embarrassing it was to be confronted at international conferences by finance ministry counterparts from other Western countries, angry at U.S. reluctance. Stockman, insisting that bankers should suffer the consequences of their follies, held out.

Enter Volcker. His White House audience was the same group of officials, chaired by Chief of Staff James Baker, that has been making most domestic policy decisions the past year. When Volcker left, it was clear the United States would increase its IMF contribution by $7.5 billion (though officals said it would "bubble up" to $10 billion). With extra add-ons for Mexico and Brazil, never to be repaid, the figure is likely to exceed $15 billion.

Thanks to the wonders of federal accounting, much of this will not be recorded in the budget as government spending. Still, there will be questions from congressmen of both parties, echoing Sen. William Proxmire, a longtime Democratic Fedbaiter. He accused Volcker at a recent hearing of a "double standard." Noting that Volcker had encouraged new loans enabling a foreign country to "service its international debt in an orderly manner," Proxmire commented: "I had not heard you encourage banks to lend to American farmers, home-builders or other small businesses. Are you applying a looser supervisory standard to bank loans to foreigners than to loans for Americans?"

"No, sir," Volcker replied. "I do not think so." But administration officials may be hard-pressed to answer the same question from their own Republican congressmen as unemployment brushes 11 percent.●

PROPOSED ARMS SALES

● Mr. PERCY. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive prior notification of proposed arms sales under that act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulated that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with the committee's intention to see that such information is available to the full Senate, I ask to have printed in the RECORD the notifications which have been received. The classified annex referred to in one of the covering letters is available to Senators in the office of the Foreign Relations Committee, room 4229, Dirksen Building.

The notifications follow:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., December 6, 1982.
In reply refer to I-04592/82ct.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 83-10, concerning the Department of the Army's proposed Letter of Offer to Greece for defense articles and services estimated to cost $26 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

You will also find attached a certification as required by Section 620C(d) of the Foreign Assistance Act of 1961, as amended, that this action is consistent with Section 620C(b) of that statute.

Sincerely,

PHILIP C. GAST,
Director.

TRANSMITTAL No. 83-10

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective purchaser: Greece.

(ii) Total estimated value:

	Millions
Major defense equipment[1]	$21
Other	5
Total	26

[1] As defined in Section 47(6) of the Arms Export Control Act.

(iii) Description of articles or services offered: One hundred ten M113A2 armored personnel carriers with ancillary equipment and concurrent spare parts.

(iv) Military Department: Army (WNP).

(v) Sales Commission, fee, etc., paid, offered, or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: None.

(vii) Section 28 report: Included in report for quarter ending 30 June 1982.

(viii) Date report delivered to Congress: 6 Dec. 1982.

POLICY JUSTIFICATION

GREECE—M113A2 ARMORED PERSONNEL CARRIERS

The Goverment of Greece has requested the purchase of 110 M113A2 armored per-

sonnel carriers with ancillary equipment and concurrent spare parts at an estimated cost of $26 million.

This sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of Greece; furthering NATO rationalization, standardization, and interoperability; and enhancing the defenses of the Western Alliance.

These vehicles are required by the Government of Greece to further upgrade similar equipment already in existence in the Hellenic Army. The Hellenic Army will have no difficulty in absorbing these vehicles. These defense articles will be furnished in accordance with, and subject to, the limitations on use and transfer provided for under the Arms Export Control Act, as embodied in the terms of sale. The sale would not affect the military balance in the region or our efforts for a peaceful settlement of the Cyprus question.

The prime contractor will be FMC of San Jose, California.

Implementation of this sale will require the assignment of three additional U.S. Government personnel to Greece for five days.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

U.S. DEPARTMENT OF STATE, UNDER SECRETARY OF STATE FOR SECURITY ASSISTANCE, SCIENCE AND TECHNOLOGY,
Washington, D.C., November 30, 1982.

Pursuant to section 620c(d) of the Foreign Assistance Act of 1961, as amended (the Act), and the authority vested in me by Department of State Delegation of Authority No. 145, I hereby certify that the provision to Greece of 110 M113A2 armored personnel carriers is consistent with the principles contained in section 620(b) of the Act.

This certification will be made part of the certification to the Congress under Section 36(b) of the Arms Export Control Act regarding the proposed sale of the abovenamed articles and is based on the justification accompanying said certification, and of which such justification constitutes a full explanation.

WILLIAM SCHNEIDER.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., December 6, 1982.
In reply refer to I-04624/82ct.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 83-11 and under separate cover the classified annex thereto. This transmittal concerns the Department of the Navy's proposed letter of Offer to the Federal Republic of Germany for defense articles and services estimated to cost $23 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the classified portion of this Transmittal.

Sincerely,

PHILIP C. GAST,
Director.

TRANSMITTAL No. 83-11

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective purchaser: Federal Republic of Germany.

(ii) Total estimated value:

	Millions
Major defense equipment [1]	$21
Other	2
Total	23

[1] As defined in Section 47(6) of the Arms Export Control Act.

(iii) Description of articles or services offered: One hundred twenty-six RIM-7M SEASPARROW missiles with associated support and publications.

(iv) Military department: Navy (AGO).

(v) Sales commission, fee, etc., paid, offered, or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: See Annex under separate cover.

(vii) Section 28 report: Included in report for quarter ending 30 September 1982.

(viii) Date report delivered to Congress: 6 Dec. 1982.

POLICY JUSTIFICATION

FEDERAL REPUBLIC OF GERMANY—RIM-7M MISSILES

The Government of the Federal Republic of Germany (FRG) has requested the purchase of 126 RIM-7M SEASPARROW Missiles with associated support and publications at an estimated cost of $23 million.

This sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of the FRG; furthering NATO rationalization, standardization, and interoperability; and enhancing the defenses of the Western Alliance.

These missiles are being purchased to improve existing short range, sea-based surface-to-air missile capabilities of the German Navy (GN). The GN already has similar missiles in its inventory, and the training and maintenance facilities to support these missiles.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be the Raytheon Company of Lowell, Massachusetts.

Implementation of this sale will not require the assignment of any additional U.S. Government or contractor personnel to the FRG.

There will be no adverse impact on U.S. defense readiness as a result of this sale.●

HENRY G. PARKS

● Mr. SARBANES. Mr. President, the city of Baltimore's deserved recognition for its urban renaissance reflects the vitality and creativity of its citizens. One of those individuals who has been responsible for this great achievement is Henry G. Parks.

Henry Parks has been an influence for decency, commercial innovation, and leadership, not only in Baltimore but nationally as well. His activities span the entire range of public and private endeavor. A former member of the Baltimore City Council, he played a crucial role in bringing the Baltimore community together during a critical period of transition. His breadth of vision and commitment was an important element in forming a coalition of Baltimore citizens united behind municipal progress, public decency, and opportunity for all. His philanthropic endeavors have directly helped many individuals in the community. Henry Parks is indeed a man of great versatility and leadership.

As founder and chairman of the board of H. G. Parks, Inc., Henry Parks has established himself as a major entrepreneur known across the Nation for his innovative and dynamic leadership. From humble beginnings, he built his Parks Sausage Co. into a $15 million business. His products are sold in more than 12,000 stores and have made Parks a national household name.

Mr. President, on December 9, Henry Parks will be honored by the Baltimore Marketing Association, a nonprofit professional association, for his accomplishments and contributions to his community. I ask my colleagues to join me in saluting Henry Parks, a distinguished American whose pioneering and pathbreaking efforts have enormously enhanced the civic and commercial life of Baltimore.●

THE NUCLEAR FREEZE MOVEMENT

● Mr. EAST. Mr. President, while the controversial nuclear freeze movement continues to dominate much of the political debate in our country, it would be wise for us to keep this controversy in proper perspective. To that end, I would like to call my colleagues' attention to the following background paper on the World Peace Council published by the U.S. Department of State in April 1982. The article follows:

WORLD PEACE COUNCIL: INSTRUMENT OF SOVIET FOREIGN POLICY

The World Peace Council (WPC) was founded in 1949 as the World Committee of Partisans for Peace and first adopted its present title in 1950. It was based in Paris until 1951 when it was expelled for what the French Government termed "fifth column activities." It moved to Prague and then in 1954 to Vienna, where it remained until banned in 1957 by the Austrian Interior Minister for "activities directed against the Austrian state." However, it continued to operate in Vienna under the legal cover of the newly established International Institute for Peace until its move to its present location in Helsinki in 1968. The International Institute for Peace subsequently emerged as a separate Soviet front with strong links to the WPC.

In recent years, the WPC has expanded its activities while trying to broaden its appeal and sound less like a cold war propaganda vehicle. It has sought support in the Third World by posing as an independent body identifying with such causes as opposition to U.S. "aggression" in Vietnam, anticolonialism, and assistance to "liberation movements." In NATO countries, it has exploited fears of nuclear war by stimulating and/or sponsoring antinuclear rallies and advocating Soviet-supported disarmament policies.

The WPC and similar fronts periodically have faced internal problems because their

Soviet affiliation cannot always be reconciled with the desired image of independence and nonalignment. In 1949, following the expulsion of Yugoslavia from the Cominform, the WPC expelled its Yugoslav representatives. Similarly, the Sino-Soviet dispute led to the WPC's ostracism of China, which later became a major critic of all Soviet fronts. Nikita Khrushchev's revelations of Stalinist excesses at the 20th Soviet Communist Party Congress in February 1956 and the suppression of the Hungarian uprising by Soviet troops the following November cost the fronts considerable popular support. After the Soviet-led invasion of Czechoslovakia in August 1968, Moscow, in order to restore discipline, replaced nearly all major Communist-front officials. Although opposition to Soviet control occasionally occurs within the WPC, the leaders are usually able to confine dissent to private meetings of commissions or subcommissions. Dissenting views seldom find their way into the large-scale WPC-sponsored public gatherings. When, for example, Soviet human rights activist Andre Sakharov sent a message in 1976 to a WPC-sponsored forum on disarmament in York, Great Britain, it was not read to delegates as Sakharov had requested. At meetings in 1977, non-Communist participants embarrassed WPC leaders by asking questions about human rights violations in the U.S.S.R., but none of this found its way into the official reports. More recently, the December 1979 Soviet invasion of Afghanistan apparently once again generated dissension within the WPC. Two months elapsed before the WPC issued a statement endorsing the Afghan invasion.

MEMBERSHIP AND ORGANIZATION

The WPC has attracted the support of some prestigious non-Communist figures—literary, humanitarian, scientific, religious, and others—who are motivated by a genuine concern for peace and not dissuaded by the preponderance of Soviet and pro-Soviet personnel in key WPC leadership and decision-making positions. Total membership information has never been made public. Most of the members, moreover, do not belong to the WPC itself, but to affiliates at the national level. The WPC claims that 135 national "peace committees"—e.g., the U.S. Peace Committee, the Soviet Peace Committee, the Syrian Peace Committee—make up its network of local chapters.

Historically, it has been the function of the fronts to mobilize those elements of society not normally reached by local, Moscow-linked Communist parties—for example, sympathizers not wishing to commit themselves entirely to party discipline and those interested only in particular issues or moved by certian emotional appeals. Lenin saw the potential of international mass organizations as a means to marshal public support for party directives. In the 1930s during the "popular front" period, Willi Munzenberg, a veteran Communist organizer working for the Comintern, spoke cynically of international front organizations as "innocents' clubs."

The WPC is organized into four principal bodies.

The Council, which meets every 3 years, is the organization's highest authority comprising representatives of cooperating international organizations and national peace committees.

The Presidential Committee, elected by the Council, is nominally responsible for running the WPC between Council sessions. The Presidential Committee has 26 vice presidents (of which 11 are known to be members of pro-Soviet Communist parties) and 146 members. It holds regular annual and occasional emergency meetings. WPC President Romesh Chandra, a member of the Politburo of India's Moscow-line Communist party, chairs the Committee.

A Bureau of the Presidential Committee, consisting of the WPC president, vice presidents, and representatives of selected national peace committees, implements decisions and plans future activities and "programs of action." It meets three to four times a year.

The Secretariat, a full-time executive staff appointed by the Presidential Committee, is responsible for proposing new activities and for implementing Council, Presidential Committee, and Bureau decisions.

FUNDING

The WPC claims to be funded by contributions from national peace committees, donations to its World Peace Fund, and special collections. The evidence, however, strongly suggests that the bulk of its expenses are met by the Soviet Union. In addition, East Germany, Czechoslovakia, Bulgaria, Hungary, Poland, and Cuba provide material and financial support to the WPC, usually in the form of airline service and hotel expenses.[1]

According to the Soviet English-language weekly Moscow News (No. 19, 1981), the Soviet Peace Fund helps to finance "some" of the WPC's "large public initiatives."[2] Writing in 20th Century and Peace (April 1980), Soviet Peace Fund Chairman Boris Polevoi asserted that his clients include "the leaders of the international democratic organizations working for peace: The Fund regularly gives them assistance in organizing their undertakings." Polevoi also revealed that the Fund works closely with the Soviet Peace Committee, which aims "to render financial aid to the organizations, movements and personalities fighting for stronger peace, national independence and freedom." Referring to the October 1973 World Congress of Peace Forces in Moscow, an event organized jointly by the WPC and the Soviet Peace Committee, the November 1973 issue of the WPC's Peace Courier reported that "Soviet public organizations . . . covered all the delegates' maintenance expenses in Moscow. Soviet citizens donated to the Soviet Peace Fund—which covered the delegates' maintenance expenses—about $200,000. Moscow's Patriarchate also donated 3 million rubles."

At a February 9-19, 1981, session of the U.N. Committee of Non-Governmental Organizations, the WPC was forced to withdraw its application for upgrading its consultative status with the U.N. Economic and Social Council (ECOSOC) in the face of adverse criticism from ECOSOC members. WPC President Chandra said in response to questioning that the WPC's accounts were not independently audited but rather were reviewed by the WPC itself. In addition, he reported that the financial statements submitted to ECOSOC represented only a fraction of his organization's actual income and expenditure. Chandra made these statements while avoiding committee questions regarding the source of WPC financial contributions. According to the ECOSOC Report (March 16, 1981), ECOSOC members concluded that the WPC "had received large-scale financial support from government sources, and had gone to great lengths to conceal that fact from the committee."

EXTENT OF SOVIET CONTROL

In June 1981, at a Kremlin ceremony, Soviet President Leonid Brezhnev presented Chandra, WPC president since 1977, with the Order of Lenin. Citing Chandra's service to the "ideals of peace, his selflessness in the bitter struggle against the forces of militarism and aggression," Brezhnev expressed gratification that the Soviet "peace program" for the 1980s met with "full understanding" from such an "authoritative movement as the movement of peace champions" (20th Century and Peace, August 1981). This act symbolizes the importance the Soviets attach to the WPC: The Order of Lenin is one of the most prestigious Soviet awards and is presented personally by Brezhnev only on rare occasions.

Control is exercised over the WPC by the Communist Party of the Soviet Union's (CPSU) Central Committee through its International Department (ID), which is headed by Central Committee Secretary and Politburo candidate member Boris Ponomarev. The ID maintains a special branch, known as the International Social Organizations Sector, which is responsible exclusively for front organizations. The special branch falls under the general responsibility of Vitaliy Shaposhnikov, a deputy ID chief who is at the same time a member of the WPC's Presidential Committee. Georgiy Zhukov, also a member of the WPC's Presidential Committee, is a candidate member of the CPSU Central Committee, a member of the U.S.S.R. Parliamentary Group, a deputy-chairman of the U.S.S.R.-U.S.A. Society, and the chairman of the Soviet Peace Committee—the U.S.S.R.'s national affiliate of the WPC. Through such direct lines to key WPC officials, the CPSU can often control decisions on WPC projects and activities as well as the content of statements, communiques, and resolutions stemming from WPC events.

Since its original "Stockholm Appeal" for "banning the bomb" in 1950, the WPC has consistently advanced Soviet positions on controversial international issues.

For example, in conjunction with other front organizations, it established the "Stockholm Conference on Vietnam," active from 1967-68 until the withdrawal of U.S. troops from Indochina in 1973. It supported the "International Commission of Inquiry into U.S. War Crimes in Vietnam," created in 1970 as a subsidiary of the Stockholm Conference. Throughout the Vietnam war, the WPC sent many "peace" delegations to North Vietnam and regularly issued statements supporting Soviet policy on the war. More recently, in March 1979, the WPC staged an "International Conference on Vietnam" to condemn the Chinese, and in May 1980 it organized a "special conference" in Hanoi to mark the 90th anniversary of the birth of Ho Chi Minh.

[1] In a letter published in the New Statesman (October 17, 1980), a correspondent identified as Ruth Tosek, a "former senior interpreter for several of the Moscow-controlled organizations," stated that "all funds of these organizations, in local and in hard currency, are provided above all by the Soviet Union, but also by other East European satellite countries on the basis of set contribution rates, paid by the governments of these countries through various channels."

[2] The Soviet Peace Fund is a nationwide organization with the representatives scattered throughout most of the U.S.S.R.'s cities, towns, and villages. A common method by which money is collected for the Soviet Peace Fund is for individual factories, plants, and collective farms to hold a 1-day "work shift for peace." According to the Soviet publication 20th Century and Peace (December 1981), the Krasnoyarsk Peace Committee received 2 million rubles in donations for the Soviet Peace Fund in 1981.

The anti-"neutron bomb" campaign initiated by the Soviets in mid-1977 provided the WPC and affiliated fronts with an opportunity to revive ban-the-bomb agitation and to claim that the United States was pursuing military policies which disregarded the interests of its European allies. The WPC proclaimed August 6-13, 1977, a Week of Action against the bomb and organized and helped orchestrate several peace and anti-bomb demonstrations in Europe, Africa, Latin America, and the Near East. President Carter's decision to postpone development of the neutron warhead was then touted as a victory for world "peace forces."

The December 1979 NATO decision to modernize its intermediate-range nuclear forces (INF) in response to the deployment of Soviet SS-20 missiles targeted on Europe now serves the WPC as the focus of a vigorously conducted campaign for "peace, disarmament and detente" designed to influence European public opinion against NATO's plans. At the same time, the WPC avoids criticizing or even discussing Soviet and Warsaw Pact military deployments. Instead, during the past year, it has promoted Brezhnev's proposals for negotiations, organized "peace" rallies, and issued formal condemnations of NATO defense policies.

Some 200 representatives of 85 organizations from 30 European countries, the United States, and Canada, as well as from 13 international organizations, attended a WPC-organized "International Conference Against the Arms Race" in Stockholm, June 6-8, 1981. Discussions focused on the modernization of medium-range U.S. missiles in Europe, the "neutron bomb," and the consequences of nuclear war; Soviet SS-20 missiles were not mentioned. The conferees proposed sending a delegation to the United States to "report the mood of European public opinion" regarding U.S. nuclear policies; a conference communique also condemned NATO's INF plans.

WPC's Chandra and representatives of a number of other Soviet-controlled international fronts staged a September 12-13, 1981, "International Organizations Meeting" in Prague on "ways of averting nuclear war."

Some 60 participants, representing peace committees from 21 European countries, attended an October 2-4, 1981, "European Peace Committees Meeting" in Kosice, Czechoslovakia. Held under the slogan "For a Europe of Peace and Without Nuclear Arms," the meeting was organized by a WPC affiliate, the Czechoslovak Peace Committee, as a continuation of the June 1981 Stockholm Conference on Disarmament and Military Detente in Europe.

Chandra told a press conference in New Delhi on November 30, 1981, that the WPC was seeking a "winter offensive" in support of the "mass movement for disarmament" in Europe.

The current priority of Soviet diplomacy is to prevent INF modernization in Western Europe, and the WPC is expected to concentrate its efforts on this issue. Nevertheless, in line with its past record, the WPC will seek to operate however Soviet foreign policy interests dictate. As Romesh Chandra put it when speaking in Moscow in 1975: "The Soviet Union invariably supports the peace movement. The World Peace Council in its turn positively reacts to all Soviet initiatives in international affairs." [3]●

[3] New Times, Moscow, July 1975.

HOUSE SHOULD ACT ON SOCIAL SECURITY DISABILITY LEGISLATION—H.R. 7093

● Mr. SASSER. Mr. President, I rise today to commend the recent passsage of the Cohen-Levin social security disability legislation, H.R. 7093. This legislation will help to alleviate the needless pain and suffering experienced by a large number of our Nation's disabled due to faults in the disability determination system.

The social security disability determination system is itself severely disabled and in need of major repair. Deficiencies in the process are widespread and affect disabled beneficiaries in every State in the Union. In my own State of Tennessee it has been estimated that as many as 2,500 disability recipients have been erroneously terminated from the disability rolls. Disabled persons are being indiscriminately terminated in many cases without so much as the benefit of a medical examination.

Indeed, it was reported in the October 30, 1982, issue of the Nashville Banner that the administrator of the Tennessee disability determination section indicated that "there is an element of truth" in assertions that State officials disregard pain and do not consider multiple, nonsevere impairments as total disability. It must also be remembered that disabled individuals, once terminated, lose what is often their only source of income, even if they appeal the initial decision.

For a number of those who do appeal the decision to terminate their benefits, the traumatic impact coupled with anxiety, fear, and the loss of income has resulted in heart attacks and even death. A class-action suit recently filed in Memphis alleges that the Social Security Administration and the State agency have established illegal, restrictive standards of eligibility for determination of disability benefits. There are currently numerous lawsuits pending in various States which cite the current disability system in violation of the Social Security Act, Federal regulations, Federal case law, and the 5th and 14th amendments' due process clauses. Clearly the need for major revision of the system is warranted. H.R. 7093 goes a long way in answering this need.

Some may argue that this legislation will substantially alter the disability system by undercutting the original intention of the 1956 disability amendments. This is not so. The intention of this legislation is merely to reaffirm the Congress commitment to protection of the disabled.

Some may argue that H.R. 7093 will signal a retreat from the changes effected by the 1980 disability amendments. This is not so. This legislation merely strengthens the resolve of those amendments, which I wholeheartedly supported.

The 1980 amendments were adopted largely in response to the dramatic growth of the disability program in the decade of the 1970's. Although the exact reasons for this growth were never empirically documented, there was widespread consensus that there were many individuals on the disability rolls who were no longer eligible. Thus, the disability amendments required the Social Security Administration, beginning in January 1982, to review the cases of disabled workers on the disability rolls at least once every 3 years. These so-called continuing disability investigations were logical and made good sense. The provision, however, was never intended to be used as justification for the wholesale and wanton elimination of disability beneficiaries. But this is exactly what has happened.

In March of last year, the Reagan administration decided to accelerate these continuing disability investigations some 9 months ahead of the January 1982 implementation date. This was done despite the lack of appropriate resources with which to handle the large increases in State agency caseloads. To a great extent this has contributed to the inequitable treatment and erroneous treatment of a substantial percentage of the disabled population.

H.R. 7093 attempts to remedy some of the gross inequities which are currently plaguing the social security disability review process. While this bill is not intended as a comprehensive remedy to these problems, and while such comprehensive remedy will be required, the bill does provide for much-needed relief to those who are being adversely affected by an unacceptable number of erroneous terminations which are occurring daily.

In many cases there may be sufficient justification for removing individuals from the disability rolls. If they do not belong on the rolls, then they should be removed. However, it is apparent that the rights of disability beneficiaries are being callously disregarded and abused through the hasty and inefficient administration of unfair and unjust policies. The Reagan administration has just recently reacted to this problem and has made modest attempts to modify the initial phase of the review process by allowing for a face-to-face interview beginning October 1 of this year. This interview, however, will mainly serve an informational function. While this is certainly a move in the right direction, we need to take more positive and concrete action to remedy the injustices in the current administration of the system. H.R. 7093 will do just that.

H.R. 7093 will allow for the continuation of benefits through the administrative law judge level of appeal and

will effectively slow down the number of cases to be reviewed by the State agencies. It also includes a provision requiring the Secretary of the Department of Health and Human Services to report to Congress every 6 months facts and figures as they relate to the disability review process. This provision was included in the social security disability bill I introduced last June.

Currently, it is extremely difficult to determine the scope and depth of the inequities which exist in the disability review process. No one individual or agency is at present charged with the responsibility for collecting and assimilating data on the number of terminations as they occur through the appeals process.

The purpose of H.R. 7093 is to make this data readily available to both Congress and the Secretary of Health and Human Services so that each has the ability to properly judge the performance of the disability review system. It will also make it much easier to identify existing and potential bottlenecks and inequities in the review process. These reports will enable both the Secretary and Congress to assess needed changes in the system as they become necessary.

Mr. President, it is my hope that the House of Representatives will take quick action in passing H.R. 7093 and send it on to the President for his signature.●

A CONNECTICUT COMMUNITY PROGRAM FOR MENTALLY RETARDED ADULTS

● Mr. WEICKER. Mr. President, I want to call my colleagues attention to an outstanding community program for mentally retarded adults in the State of Connecticut that exemplifies what can be achieved when the private sector in conjunction with local and State government coordinate efforts in the development of community living alternatives. On January 1, 1983, a community group home sponsored by Funding Alternatives for Tomorrow will become a reality for six mentally retarded adults in Hamden, Conn. This home began with contributions of seven parents of retarded citizens who strongly believed that these adults should be allowed the opportunity of living and working in a community setting. What is even more important is that the opening of this group home is only the beginning. There are plans to open up to eight additional group homes that will serve a wide range of persons with disabilities.

I commend the people of Funding Alternatives for Tomorrow for their efforts on behalf of the disabled citizens of Connecticut and extend my best wishes for continued success in meeting the needs of the disabled.●

STOPGAP RELIEF FROM NATURAL GAS PRICE INCREASES

● Mr. EAGLETON. Mr. President, before this lameduck session is over, Senator DANFORTH and myself, together with other cosponsors will seek a vote on legislation to provide stopgap relief from natural gas price increases which are crushing millions of family budgets around the country.

I know first hand about the problem in Missouri where increases this winter range from 25 percent in the St. Louis area to 37 percent in the Kansas City area. But, it is a national problem affecting virtually every State in the Union. According to a Department of Commerce report which I will have printed in the RECORD at the end of my remarks, 53 percent of the housing units of this country—some 42 million households—are heated by gas as are millions of commercial establishments. The average price increase between October 1981 and October 1982 for all cities is 20.4 percent. The highest regional increases have not even been in my part of the country, but in the South which has experienced a 27.5-percent increase over the past year. That compares with the 20.3-percent increase in the North Central region of which Missouri is part.

Some cities are worse off than others this winter but no part of the country has been spared a rapid runup of gas prices since passage of the Natural Gas Act in 1978. According to the Congressional Research Service (CRS) the city of Cleveland, Ohio, has had a 28.6-percent increase in the past year alone and a 105.2-percent increase since November 1978. Denver-Boulder, Colo., has seen prices go up 60 percent this year and 146 percent since 1978. Kansas City has experienced a 42-percent increase in the past year and 135 percent since 1978.

Mr. President, these are typical examples. We face a national crisis and I am determined that Congress will face up to the issue before it goes home for the holidays. I hope every Member of this body will read these tables and understand the misery that lies behind them for their constituents and will support a freeze on further increases until Congress can act more substantively on the problem.

Mr. President, I ask that two reports, one based on Commerce Department data concerning gas-heated housing units, and the other, a CRS survey of average gas prices in selected cities and regions, be printed at this point in my remarks.

The reports are as follows:

CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., December 1, 1982.

To: Hon. Thomas Eagleton. Attention: Kirk Robertson.

From: David J. Cantor, specialist in industry economics, Economics Division.

Subject: Change in average residential price of natural gas in selected urban areas and regions, November 1978–October 1982.

This memorandum responds to your request for data on average residential prices of natural gas and their percentage changes from 1978 to the present. The information requested is in the attached table.

The data cover the period from November 1978 through October 1982. The price data have been compiled by the Bureau of Labor Statisitcs (BLS) for selected urban areas. CRS calculated the percentage changes for two periods: November 1978 to October 1982, and October 1981 to October 1982. We enclose the BLS definitions of the regions and cities in which their surveys were conducted.

We trust this information is responsive to your request. If you have further questions, please call us at 287-7740.

AVERAGE RESIDENTIAL PRICE OF NATURAL GAS IN SELECTED URBAN AREAS AND REGIONS: NOVEMBER 1978–OCTOBER 1982 [1]

Area and region	Average price (cents per therm) [2]		Percentage change	
	November 1978	October 1982	November 1978 to October 1982	October 1981 to October 1982
U.S. city average [3]	30.4	60.2	98.0	20.4
Anchorage, Alaska	16.7	18.0	7.8	−5.8
Atlanta, Ga	34.9	60.2	72.5	6.7
Baltimore, Md	39.7	70.6	77.8	18.7
Boston, Mass	45.0	85.1	89.1	9.7
Buffalo, N.Y	30.4	66.1	117.4	39.5
Chicago, Ill.-northwestern Indiana	27.9	46.0	64.9	8.5
Cincinnati, Ohio, Kentucky, Indiana	28.8	61.2	112.5	33.9
Cleveland, Ohio	26.7	54.8	105.2	28.6
Dallas-Fort Worth, Tex	24.8	66.5	168.2	69.6
Denver-Boulder, Colo	26.9	66.2	146.1	60.3
Detroit, Mich	29.6	51.1	72.6	15.9
Honolulu, Hawaii	127.4	217.0	70.3	−.7
Houston, Tex	32.0	51.4	60.6	21.2
Kansas City, Mo.-Kans	21.3	50.1	135.2	41.9
Los Angeles-Long Beach, Anaheim, Calif	22.3	55.7	149.8	28.3
Miami, Fl	61.7	76.8	24.5	−2.5
Milwaukee, Wis	30.9	61.8	100.0	18.9
Minneapolis-St. Paul, Minn.-Wisconsin	29.5	58.8	99.3	31.5
New York, N.Y.-northeastern New Jersey	55.4	96.6	74.4	19.4
Northeast Pennsylvania	46.0	71.2	54.8	14.1
Philadelphia, Pa.-New Jersey	43.0	77.8	80.9	37.7
Pittsburgh, Pa	24.8	46.2	86.3	22.6
Portland, Oreg.-Washington	39.6	69.0	74.2	8.2
St. Louis, Mo.-Illinois	32.0	59.9	87.2	24.0
San Diego, Calif	23.9	61.1	155.7	36.4
San Francisco-Oakland, Calif	20.3	49.1	141.9	−6.7
Seattle-Everett, Wash	38.8	77.1	98.7	5.0
Washington, D.C.-Maryland-Virginia	42.7	73.6	72.4	23.3
Northeast region	42.6	80.2	88.3	22.4
North Central region	28.3	52.7	86.2	20.3
South region	33.6	63.6	89.3	27.5
West region [3]	22.9	54.9	139.7	14.1

[1] The urban areas, identified are standard metropolitan statistical areas (SMSA's) or consolidated areas as defined by the Bureau of Labor Statistics.
[2] 1 therm is the quantity of gas supplying 100,000 Btu's of energy.
[3] Honolulu, Hawaii, is not included in the U.S. city or West region average price.

Source: Compiled by CRS using Bureau of Labor Statistics data.

TABLE I.—HOUSING UNITS HEATED BY NATURAL GAS

State	Occupied housing units	Units heated by utility gas	Percent
United States, total	80,389,673	42,876,081	53.3
Alabama	1,341,856	649,775	48.4
Alaska	131,463	46,139	35.1
Arizona	957,032	542,524	56.7
Arkansas	816,065	458,628	56.2

TABLE I.—HOUSING UNITS HEATED BY NATURAL GAS—Continued

State	Occupied housing units	Units heated by utility gas	Percent
California	8,629,866	6,810,859	78.9
Colorado	1,061,249	867,639	81.8
Connecticut	1,093,678	239,451	21.9
Delaware	207,081	56,715	27.4
District of Columbia	253,143	151,541	59.9
Florida	3,744,254	435,138	11.6
Georgia	1,871,652	1,023,009	54.7
Hawaii	294,052	13,463	4.8
Idaho	324,107	87,951	27.1
Illinois	4,045,374	3,337,394	82.5
Indiana	1,927,050	1,181,852	61.3
Iowa	1,053,033	702,764	66.7
Kansas	872,239	708,783	81.2
Kentucky	1,263,355	648,439	51.3
Louisiana	1,411,788	968,580	68.6
Maine	395,184	6,032	1.5
Maryland	1,460,865	680,519	46.6
Massachusetts	2,032,717	658,814	32.4
Michigan	3,195,213	2,445,495	76.5
Minnesota	1,445,222	855,696	59.2
Mississippi	827,169	376,435	45.5
Missouri	1,793,399	1,160,412	64.7
Montana	283,742	172,634	60.8
Nebraska	571,400	420,742	73.6
Nevada	304,327	146,521	48.1
New Hampshire	323,493	39,113	12.1
New Jersey	2,548,594	1,133,149	44.5
New Mexico	441,466	337,602	76.5
New York	6,340,429	2,395,493	37.8
North Carolina	2,043,291	332,542	16.3
North Dakota	227,664	91,103	40.0
Ohio	3,833,828	2,732,487	71.3
Oklahoma	1,118,561	784,573	70.1
Oregon	991,593	234,201	23.6
Pennsylvania	4,219,606	2,068,897	49.0
Rhode Island	338,590	109,233	32.3
South Carolina	1,029,981	276,281	26.8
South Dakota	242,523	101,390	41.8
Tennessee	1,618,505	453,968	28.0
Texas	4,929,267	3,156,021	64.0
Utah	448,603	360,452	80.4
Vermont	178,325	10,427	5.8
Virginia	1,863,073	567,648	30.5
Washington	1,540,510	350,967	22.8
West Virginia	686,311	402,547	58.7
Wisconsin	1,652,261	960,338	58.1
Wyoming	165,624	123,705	74.7

Source: U.S. Department of Commerce, Bureau of the Census, Provisional Estimates of Social, Economic, and Housing Characteristics table H-3, Fuels and Financial Characteristics of Housing Units: 1980, pp. 90-95.●

FAULTY IMMIGRATION LAW REFORM

● Mr. HAYAKAWA. Mr. President, the Senate made a terrible mistake last August when we passed the Immigration Reform and Control Act of 1982. Indeed, we need to reform our immigration policies, but our best efforts this year produced a crude, discriminatory law which is punitive and very unrealistic.

The Congress must look beyond the simple rhetoric which exclaims we must get control of our borders. While I agree that something must be done, I cannot sit by and watch us stumble into the creation of a police state for the enforcement of our immigration laws. The failings of the bill which we passed far outweigh the rhetoric which propelled the measure through our Chamber.

The Mexican American community remains opposed to the bill because of its discriminatory employer sanctions. The agricultural community is opposed because it fails to deal realistically with their legitimate reliance on temporary alien workers. And nations all around the globe are looking on in disbelief as we close the door to those who wish to emigrate to this great land of the free. I am ashamed of what we are becoming.

What concerns me most is that if the bill is passed and signed into law, it will not work. The employer sanctions will be circumvented, the identification system will fail, and the immigrants will become the target of vicious racism as America vents her collective frustration over unacceptable unemployment levels.

We need to begin now to organize ourselves for another attempt at reform. Let us learn from our mistakes this year and start over. Next time though, let us take a different approach. We must deal incrementally with the problem and address the separate and independent questions in isolation. It is too simplistic to think that we can lump all of the matters into a single package and do them justice.

I am bitterly disappointed, Mr. President, in the mean approach this body chose to take in the reform of our immigration laws. The House of Representatives must not follow our lead.

I ask unanimous consent that several articles on this subject be printed in the RECORD as I believe they are insightful and interesting.

The articles follow:

[From USA Today, Sept. 29, 1982]

(By Antonia Hernandez)

THIS BILL WON'T HALT IMMIGRATION FLOW

WASHINGTON.—When Hispanic leaders are asked to describe the House version of the new immigration bill, three words come to mind: Contradictory, ineffective and anti-Hispanic.

This bill is very contradictory. Congress says it wants to stop massive illegal immigration and free jobs that aliens take from citizens. Yet legislators say the bill could let 175,000 to 1 million foreign workers into the country.

Like the Mexican workers in the bracero program that began in the 1940s, these laborers have a few legal protections. The braceros lived in unsanitary hovels, worked for low pay and faced numerous abuses in the workplace.

Opening the gates to a new tide of temporary workers will bring on similar abuses. Congress apparently feels the nation needs immigrant workers, but simply doesn't want to treat them like human beings.

The current program known as H-2 allows growers to bring small numbers of temporary workers into the country to gather crops. Employers must go through a long and complex process to apply.

But this legislation simplifies that process and gives employers wide access to temporary workers. Research shows that once temporary workers are let into a country, they are very likely to stay—even without the proper documents.

There are also some glaring civil rights problems:

Restrictions on amnesty. Workers here since 1977 could be permanent legal residents, but would be ineligible for public aid, like food stamps, for three years. Those here since 1980 could be temporary legal residents, but would be denied public benefits for six years. Many undocumented workers won't come forward, and the 1980 cutoff date will leave much of the undocumented population without access to citizenship.

Employer sanctions. The penalties to keep employers from hiring aliens will increase discrimination against Hispanics. Hispanic citizens who don't have the right documents may be denied jobs by employers who claim they thought they were aliens.

Worker ID cards. The bill requires creation of a worker ID system in three years. That poses a great risk of invasion of privacy to all citizens.

Immigration reform is long overdue. The Simpson-Mazzoli bill, however, will create enormous problems for employers, for Hispanic citizens and legal aliens, and for the general public. And it will fail at what it was created to accomplish: curbing the immigration flow.

[From the New York Times, Sept. 30, 1982]

STUDY SEES FLAWS IN LAWS ON ALIENS—20-NATION SURVEY FINDS CURBS ON HIRING ILLEGAL FOREIGNERS HAVEN'T BEEN EFFECTIVE

(By Robert Pear)

WASHINGTON, September 29.—Laws establishing penalties for employers of illegal aliens have generally not been effective in foreign countries, according to a study issued today by the General Accounting Office, an investigative arm of Congress.

The study was requested by Senator Alan K. Simpson, Republican of Wyoming, to give guidance to Congress as it considers enacting such a law for the United States.

The study was based on questionnaires answered by officials of 20 countries, follow-up visits to Canada, France, Switzerland and West Germany, and data provided by United States embassies.

"Although each country had laws penalizing employers of illegal aliens, such laws were not an effective deterrent" to the hiring of illegal workers for two main reasons, the report said.

REASONS FOR PROBLEMS

"First, employers either were able to evade responsibility for illegal employment or once apprehended, were penalized too little to deter such acts," it said. "Second, the laws generally were not being effectively enforced because of strict legal constraints on investigations, noncommunication between government agencies, lack of enforcement resolve and lack of personnel."

The immigration authorities in the United States have said that they faced similar problems, including legal constraints and limits on personnel.

Many countries in the study issue official identification documents to citizens or alien workers or both. In most of the countries, employers hiring illegal aliens are subject to fines or prison terms. Canada, West Germany, France, Switzerland, Greece, Hong Kong and Sweden all reported that they had laws authorizing prison sentences. But the report said it was extremely rare for employers of illegal aliens to be sent to prison in their country.

Richard W. Day, chief counsel of the Senate Judiciary Subcommittee on Immigration, said that neither he nor Senator Simpson, the chairman of the subcommittee, had read the report, which arrived too late to affect the comprehensive immigration bill passed by the Senate last month.

U.S. JOBS ATTRACT ALIENS

The bill would establish fines and prison terms for employers who hire illegal aliens.

Mr. Simpson and many other experts on the subject say that employment is a "magnet" drawing aliens to this country. The bill would also offer an amnesty to several million illegal aliens who entered the United States before Jan. 1, 1980.

Representative Romano L. Mazzoli, Democrat of Kentucky, the sponsor of a similar bill approved by the House Judiciary Committee, said in an interview today that he had not read the Congressional agency's report. "The implementation of any program is always going to be less good than the program designers had intended," he said. But he said that if the bill became law he would do his best to insure that it was enforced "enthusiastically"

Representative Peter W. Rodino Jr., Democratic of New Jersey, the chiarman of the Judiciary Committee, has a "strong desire" to see the immigration bill considered by the full House, according to a spokesman. The spokesman, John M. Russonello, said that the Speaker of the House, Thomas P. O'Neill Jr., in a conversation with Mr. Rodino, had "indicated a willingness to take the bill up in the lame-duck session."

Mr. O'Neill, a Massachusetts Democrat, referred the bill today to four other House committees, with instructions to complete work on it by Nov. 30, the day after Congress is scheduled to reconvene after recessing for the Congressional elections.

In Canada, law enforcement officials told the Congressional agency that laws penalizing employers of illegal aliens had not reduced the size of the illegal worker problem. Only one out of four companies found to be employing illegal workers has been prosecuted, the study said.

West Germany recently doubled the maximum fine for employment of illegal aliens, to about $40,000 for a serious violation. But employers, on appeal, usually obtain a substantial reduction of fines because "judges have not considered the hiring of illegal aliens a serious violation" and so the fines have "little deterrent effect," the study said.

In France, immigration officials said that their agency imposed fines on almost all employers found to have hired illegal aliens. In addition, the Ministry of Justice reportedly prosecutes 85 percent of all employers caught violating the law. However, the study said, judges tend to impose light penalties that are "no deterrent to employers"

[From the Washington Post, Sept. 10, 1982]

THIS BILL WILL CAUSE BIAS AGAINST HISPANICS

(By Joaquin Avila)

The Simpson-Mazzoli immigration bill was rammed through the Senate last month and is now nearing a vote in the House. As the Senate was preparing to act, the Mexican American Legal Defense and Educational Fund, joined by other civil rights groups and lawyers, filed a lawsuit in San Francisco that clearly shows why this bill should not be passed. The bill will encourage discrimination against minorities, chiefly Hispanics.

MALDEF's San Francisco suit, *International Molders* v. *Nelson*, was brought on behalf of factory workers and employers against the Immigration and Naturalization service for violation of rights during "Project Jobs" last April. The suit charges that raiding INS officers violated the Fourth, Fifth and Sixth amendments to the Constitution. Officers entered work places without warrants or consent, and detained workers without probable cause simply because they looked Hispanic. They either failed to advise these detainees of their rights to counsel and to remain silent or forced them, some with threats of physical harm, to give up their rights. The four employers who are plaintiffs in the suit charge that the raids substantially interfered with business operations and resulted in damage to their premises.

By INS's own admission, Project Jobs was very carefully planned, orchestrated and publicized in advance. Yet the actual raids were carried out in a manner that ran roughshod over the rights of Hispanic citizens, aliens and their employers, abuses that are a shockingly common part of INS work place sweeps.

Employers and Hispanics have many things to fear from immigration raids in the work place. Unfortunately, we can expect such raids to continue and even increase if the Simpson-Mazzoli bill is enacted, for several reasons.

The bill calls for sanctions against employers who knowingly hire undocumented aliens, and requires that employers verify the legal status, of their employees. This provision dramatically shifts the burden of enforcement from the INS to the employer, making the employer a "surrogate" INS officer, and making the work place an INS clearance station.

The new immigration law would be enforced, as the current one is, by the INS. The INS has received much blame for the failure of the current law, and will be under great pressure to make a new one work. Therefore, we can expect intensified enforcement activities, including work place raids.

The abuses engendered by work place raids have persisted despite lawsuits and prohibitions imposed by federal courts. It is unlikely that these raids will be reduced under a new law that emphasizes work place enforcement.

Beyond the disruption and lowered productivity associated with work place raids, employers and Hispanics have something else to fear from employer sanctions. As even the most honest taxpayer fears an IRS audit, so an employer is sure to dread a compliance check by the INS. No one willingly chooses to be on the hot seat of governmental inspection. One way to avoid inviting both inspections and raids is not to employ too many Hispanics. Contrary to claims made by the bill's supporters, employer sanctions would be burdensome indeed. Their weight would fall most heavily upon employers and upon Hispanics who already bear an unfair share of this country's 9.8 percent unemployment rate.

In passing the Simpson-Mazzoli bill, the Senate has missed an important opportunity to bring about real, positive immigration reform that addresses the causes of migrant flow rather than just effects and political expediency. Even employer sanctions, even high unemployment here, even the worst that the INS can offer will not deter people who are forced to leave behind their homes and families because they have no option.

Our country's so-called immigration problem is economic at base. Simpson-Mazzoli will fail because it does not address the need for economic development assistance for Mexico and other of our neighbors in this hemisphere. The House still has the opportunity to move responsibly to remedy the glaring faults in the bill now before it. It should do so.

[From the Wall Street Journal, Oct 9, 1982]

EMPLOYER SANCTIONS DON'T WORK

The fundamental premise of the Simpson Mazzoli immigration bill, passed by the Senate, has been shattered. Proponents of the bill argue that the most effective way to clamp down on illegal immigrants is to penalize businesses that hire them. Opponents such as the U.S. Chamber of Commerce and Mexican-American groups, say employer sanctions will only impose an additional regulatory burden on businesses, particularly small businesses, without solving the problem. The skeptics now have backing in a report from the General Accounting Office on the experience of employer sanctions in other countries.

Canadian employers, according to the GAO, are subject to fines of $4,000 and/or two years' imprisonment if they are convicted of "knowingly" employing an illegal alien. And yet officials of the Royal Canadian Mounted Police estimate that between 500,000 and one million aliens are in Canada illegally and that most of them work.

France has an estimated 150,000 to 350,000 illegal alien workers, despite employer sanctions. In West Germany, according to unofficial estimates, between 200,000 and 500,000 illegal aliens work. Even in Switzerland, with perhaps the stiffest immigrantion laws in Europe, officials concede that there are tens of thousands of illegal aliens in a country with less than one twentieth the population of the U.S.

Conversely, Japan has no employer sanctions, and it seems to be the one major industrial country without much illegal immigration—estimates there run from 50,000 to 60,000, with a heavy emphasis on bar hostesses and nightclub dancers, Japan, of course, is surrounded by water, making it harder to sneak into. But one might speculate that the Japanese have been more successful in controlling illegal immigration largely because of their insular traditions.

The reasons given in the GAO report to explain why sanctions haven't worked in Canada are illuminating. In some cases, according to Canadian officials, illegal workers are employed by relatives. Court backlogs and legal delays have forced officials to limit prosecutions. The legal requirement that, to be convicted, an employer must "knowingly" engage an illegal worker, makes enforcement more complicated. Policing aliens in the workplace has not been a high priority among law enforcement agencies. And judges' sentences of convicted employers have been lenient.

All of these factors are likely to work even more strongly in the U.S. where attitudes toward illegal aliens are especially ambivalent. On the one hand, there is a widespread belief that something must be done to curb illegal immigration in general. On the other hand, there is widespread sympathy for individual illegals, and a legal system that offers considerable opportunity to play on those sympathies. In addition, our law enforcement agencies have much more serious problems to worry about employers whose only crime is to hire someone who wants to work. And the large base of immigrants already legally here means that there will be strong community support for relatives and friends who come here illegally.

Employer sanctions, in short, are even less likely to be effective in the U.S. than in Canada, France and Germany. Opponents of the Simpson-Mazzoli bill are right to complain that it will add new costs to busi-

ness without achieving what it is intended to achieve.

AND THEN WE'LL ALL FEEL ALIEN

(By William Safire)

In a well-meaning effort to curb the employment of illegal aliens, and with the hearty good wishes of editorialists who ordinarily pride themselves on guarding against the intrusion of government into private lives. Congress is about to take this generation's longest step toward totalitarianism.

"There is no 'slippery slope' toward loss of liberties," insists Sen. Alan Simpson of Wyoming, author of the latest immigration bill, "only a long staircase where each step downward must be first tolerated by the American people and their leaders."

The first step downward on the Simpson staircase to Big-Brotherdom is the requirement that within three years the federal government come up with a "secure system to determine employment eligibility in the United States."

Despite denials, that means a national identity card. Nobody who is pushing this bill admits that—on the contrary, all sorts of "safeguards" and rhetorical warnings about not having to carry an identity card on one's person at all times are festooned on the bill. Much is made of the use of passports, Social Security cards and driver's licenses as "preferred" forms of identification, but anyone who takes the trouble to read this legislation can see that the disclaimers are intended to help the medicine go down.

Most American citizens are being led to believe that only aliens will be required to show papers. But how can a prospective employer tell who is an alien? If the applicant could say, "I'm an American, I don't have any card," the new control system would immediately break down. The very basis of the proposed law is the notion that individuals must carry verifiable papers—more likely, a card keyed to a new government data bank—to prove eligibility for work.

No big deal, say those who consider illegal immigration more fearsome than the coming of an internal passport, if you're legitimate, you shouldn't object. And shucks, law-enforcement officials won't use it for anything else, nosirree—at least not until the nation is ready for another legislated step down the staircase.

Most Americans see no danger at all in a national identity card. Most people even, like the idea of a piece of plastic that tells the world, and themselves, who they are.

"I'm me," says the little card. "I'm entitled to all the benefits that go with being provably and demonstrably me." Good citizens—the ones who vote regularly, and who don't get into auto accidents—might get a gold card.

Once the down staircase is set in place, the temptation to take each next step will be irresistible. Certainly every business would want to ask customers to insert their identity cards into the whizbang credit checker. Banks, phone companies, schools, hotels would all take advantage of the obvious utility of the document that could not be counterfeited. Law enforcement and tax collection would surely be easier, because the federal government would know at all times exactly where everybody was and what they were spending.

And then you might as well live in the Soviet Union. One of the great differences between free and enslaved societies is the right of the individual to live and work without the government knowing his every move. There can sometimes be privacy without freedom, as those in solitary confinement know, but there can be no freedom without privacy.

When Patty Hearst managed to remain a fugitive for 591 days, that did not mean the FBI was bad at catching fugitives; it meant that America was a free society. In China or the Soviet Union she would have been captured in days, because it is impossible for ordinary citizens to move about without permission. If our values mean anything at all, they mean that it is better to tolerate the illegal movement of aliens and even criminals than to tolerate the constant surveillance of the free.

We are entering the computer age. Combined with a national identity card—an abuse of power that Peter Rodino professes to oppose in the House, as he makes it inevitable—government computers and data banks pose a threat to personal liberty. Though aimed against undocumented workers, the computer tattoo will be pressed on you and me.

[From the Los Angeles Times, Aug. 29, 1982]

RESTRICTIONISTS WIN A BORDER BATTLE, BUT THE WAR IS FAR FROM ENDED

(By Frank Del Olmo)

When the U.S. Senate voted this month to approve the most sweeping revision of this country's immigration laws in the last 30 years, the news was played on the front pages of most newspapers—a reflection of how immigration, especially illegal immigration, has imprinted itself on the public mind in the last few years as a major social problem.

Ironically, on the same day most of those newspapers also carried front-page articles on the current economic crisis in Mexico, where runaway inflation and jolting peso devaluations have exacerbated an already severe unemployment problem. Most of the people who enter this country illegally come from Mexico, and the crisis in that country is expected to stimulate even more illegal entries across our southern border.

Those two stories belonged together. For the Senate's action—which must still be ratified by the House and signed into law by President Reagan—could become an exercise in futility if the worst possibilities of the Mexican crisis come to pass.

The bill (S 2222) approved by the Senate was an amalgam of several proposals that have been suggested in the last 10 years as ways of limiting immigration, both legal and illegal. The Immigration Reform and Control Act of 1982 is also commonly referred to as the Simpson-Mazzoli bill, after its co-authors, Sen. Alan K. Simpson (R-Wyo.) and Rep. Romano L. Mazzoli (D. Ky.), the chairman of the immigration subcommittees in the Senate and House.

The key provision is a law that would prohibit employers from hiring illegal immigrants, laying out a graduated series of civil and criminal penalties for violators. It is generally assumed that jobs are what lure immigrants to this country, and that employer sanctions would end that attraction.

To help employers distinguish between illegal aliens and persons eligible to work, the bill requires that the President set up within three years a secure, nationwide worker-identity system. It appropriates $10 million to study possible systems, which some critics have estimated could cost as much as $1.5 billion.

Although the Reagan Administration supports the idea of employer sanctions, it has opposed the national identity system as too costly. Atty. Gen. William French Smith has said the Justice Department would allow employers to determine employee eligibility on the basis of documents like drivers' licenses, Social Security cards and birth certificates. The bill would permit the use of such commonplace documents only until the new worker-identity system is in place.

The legislation also includes a complex legalization procedure for those illegal immigrants who have been in the United States at least since Jan. 1, 1980, and who are willing to turn themselves in to federal immigration officials. No one is sure how many people this so-called amnesty provision would effect. Estimates of the number of illegal immigrants in this country range from 3.5 million to 6 million. Immigrants who arrived before Jan. 1, 1977, would become permanent resident aliens, eligible to become U.S. citizens after five years. Immigrants who arrived between 1977 and 1980 would be given temporary resident status; they could work but would be ineligible for most forms of public assistance, such as welfare and food stamps. They would become eligible for permanent resident status after three years.

The bill also limits legal immigration to the United States, changing the categories of persons allowed to enter this country and setting a ceiling of 425,000 immigrants per year, excluding refugees. These same provisions set an annual quota of 20,000 immigrants from any one country, with the exception of Mexico and Canada, which share a quota of 80,000 immigrants per year.

Although the Senate approved the wide-ranging bill 81 to 18, the vote was not an accurate reflection of the controversy generated by the debate over immigration. The final vote was preceded by 22 attempts to amend the bill, some of which were only narrowly defeated.

Those wanting to restrict immigration, including organized labor, environmental and population-control groups, tried to have the bill made even more restrictive, arguing for numerical limits on refugees and a 1973 amnesty date. Despite their setbacks, however, spokesmen for groups like the Federation for American Immigration Reform (FAIR), said they were "quite pleased" with the Senate bill.

Opponents tried to water it down. The U.S. Chamber of Commerce objected to employer sanctions as yet another government intrusion on business operations. Latino groups charged that the sanctions could lead employers to discriminate against Latinos and others who might appear to be foreigners. The American Civil Liberties Union warned that a worker identification system could evolve into a national identity card.

Farm groups suffered a setback when an amendment by Sen. John Tower (Tex.) to create a guest-worker program for agriculture was defeated. The final bill does include provisions to streamline the current H-2 visa program under which farmers can import foreign workers for short periods of time.

Proponents and opponents of the bill are now marshaling their forces for another round in the House after the Labor Day recess. Mazzoli will carry his version of the bill before the House Judiciary Committee on Sept. 14.

The chairman of the committee, Rep. Peter W. Rodino Jr. (N.J.), favors employer sanctions, and introduced similar bills in previous sessions of Congress. Although he

is troubled by provisions of the Senate bill that limit the right of legal immigrants to petition for the immigration of family members, Rodino has said he will not block Mazzoli's bill.

It is unclear, however, whether Rodino and other Democratic leaders in the House have any real enthusiasm for the Simpson-Mazzoli bill, according to Capitol Hill observers on both sides of the immigration issue.

That could prove important, because Congress will have only 21 working days to conduct its business before adjourning for good in October. So even assuming that Rodino's committee approves the Simpson-Mazzoli bill, there is no guarantee that he and House Speaker Thomas P. (Tip) O'Neill Jr. will push it rapidly to the House floor for a vote. Congressional leaders may be in no mood for a bitter debate over an emotional issue with the November election so near.

One factor that may work in favor of the Simpson-Mazzoli bill is the fact it appropriates virtually no money for the broad reforms it lays out, other than the $10 million to study worker-identification systems. There is, for example, no additional money for the already overworked U.S. Immigration and Naturalization Service that would have to administer the amnesty program.

Another factor in favor of the bill, in the view of both opponents and proponents, is its momentum. Latino groups in particular, are concerned that there is a restrictionist mood in the country these days, fed by discontent over high U.S. unemployment and the recession. They argue that immigrants have been similarly scapegoated before in U.S. history, usually in times of economic trouble.

As proofs of this restrictionist mood, one top lobbyist for the Mexican-American Legal Defense and Education Fund (MALDEF) cited the 78-to-21 Senate vote in favor of a non-binding amendment to the Simpson-Mazzoli bill introduced by Sen. S. I. Hayakawa (Calif.). The Hayakawa amendment was a resolution expressing the Senate's support for the designation of English as the official language of the United States. Although the resolution had no impact on the bill itself, it was perceived as a gratuitous slap at immigrants and the foreign languages they speak.

"That represents the mood the Senate was in," the MALDEF lobbyist said. "The underlying tone of the debate was anti-immigrant. Keep the Mexicans and their language out. Protect the country from the alien invasion."

But a leading lobbyist in favor of the bill saw the heavy vote in its favor as a sign that a "national consensus" has been reached on the immigration issue.

Both views are correct. A national consenus on immigration reform has indeed evolved during the last few years. And it is a consensus in favor of restrictions.

That consensus is reflected not only in the Senate vote, but in public-opinion polls indicating that the majority of U.S. citizens believe immigration to this country is out of control, and must be severely limited if not totally stopped.

This attitude is not surprising, given the tendency of people in this country to think of immigration, particularly illegal immigration, as a "problem." The reality is much more complicated than that. Immigration is better understood if it is seen as a historic phenomenon, with both attendant problems (the exploitation of illegal alien workers, for example), and attendant benefits (the reduction of political tension in Mexico, cheaper goods and services in the United States).

This phenomenon is the product of economic and even cultural forces that are largely beyond the ability of governments to control. That is why Congress' effort to legalate against illegal immigration may come to naught. The pressures that cause people to migrate from places of economic scarcity like Mexico to places of economic prosperity, like the United States are simply too strong to be legislated away.

And that is why it is especially ironic for Congress to be acting so assertively to stem illegal immigration just as Mexico slips into its most serious economic crisis in 50 years.

One can argue over who is to blame for the current crisis in Mexico—Whether it is Mexican politicians who were selfish, corrupt or shortsighted (choose one or any combination), or the international bankers who lent so much, so willingly, to those politicians and Mexican businessmen. But there is no arguing about the impact when the prices of staple food items like tortillas, beans and milk rise rapidly in a country that already has massive unemployment.

When that happens, ambitious Mexicans will look where they always have for opportunity when their own country does not offer it—*el norte*. And short of a 2,000-mile-long, fortified wall, nothing can completely stop them.

This is not to say that the Simpson-Mazzoli legislation will have no effect at all. It will cause some disruption in this traditional migratory pattern. But it will not stop it, any more than the Volstead Act got people to stop drinking alcoholic beverages in the 1920s and 1930s. The most significant effect of this country's ill-fated experiment with Prohibition was to force a legitimate economic demand underground: providing profitable opportunities for the dishonest entrepreneurs who manufactured and sold bootleg liquor.

In the same way, the most immediate effect of the Simpson-Mazzoli bill, presuming it is enacted into law, will be to provide even more opportunities for the smugglers and other criminals who help people enter the United States by stealth from abroad.

Those who question this pessimistic assessment might consider the experience California had in 1971 with an employer-sanctions law similar to the Simpson-Mazzoli bill.

The Dixon Arnett Act, named after the Republican assemblyman who sponsored it, also prohibited the knowing employment of illegal aliens. It never had a substantial impact in California, and the reasons why are still in dispute.

Proponents claim it was never actively enforced because of various legal challenges and because of Latino pressure on the administration of Gov. Edmund G. Brown Jr. The U.S.-Mexican Studies Center at UC San Diego has recently published an intriguing study by Prof. Kitty Calavita of Vermont's Middlebury College, in which she suggests the Arnett Act was never intended to work—it was a "symbolic law," full of loopholes and with no funding for its implementation.

Whatever the reasons, one definite effect the law had was to prompt smugglers of people—*coyotes* in the Spanish slang of the borderlands—to begin counterfeiting phony immigration documents that illegal entrants could use as proof of legal residency when applying for jobs. Ten years ago I reported that trend for The Times, and even went into Tijuana to purchase a fake resident-alien card. It took me, an inexperienced young Mexican-American, less than two days to find a counterfeiter. The cost was $200.

A similar card would cost a lot more today. But it probably won't be any harder for would-be immigrants to find counterfeiters willing to produce them. They must be smacking their lips in anticipation of the profits they will soon be making, thanks to the well-meaning efforts of the U.S. Congress.

[From the Washington Post, July 18, 1982]

MANY TEXAS EMPLOYERS RAIDED BY INS—REPORT U.S. WORKERS ARE HARD TO FIND

(By Dan Balz)

AUSTIN, TEX., July 17.—Many of the Texas companies raided by the Immigration and Naturalization Service during a massive national roundup of illegal aliens last April called Project Jobs report they have had trouble finding U.S. citizens to fill the positions.

Representatives of these companies say that American citizens appear unwilling to work at these jobs, despite government claims to the contrary at the time of the raids.

According to an internal INS survey, many of these companies reported to INS in mid-May that they were experiencing considerable turnover among new workers hired to fill vacancies created by the raids. Others refused to tell INS whether they had replaced the apprehended workers with citizens or legal immigrants.

INS billed Project Jobs as an operation designed to remove illegal aliens from high paying jobs that would be "attractive to unemployed workers" and reported during the raids that thousands of citizens had showed up to fill them.

But many of those applicants have since decided they did not like the jobs, some of which paid $3.50 to $4.50 an hour, and have quit.

Not all companies raided have had difficulty filling the vacancies, however. Such problems occur most often in Houston and Dallas-Fort Worth, according to the INS memo. Officials of companies in Los Angeles and Chicago reported to INS in May that they had successfully filled the openings with legal immigrants or U.S. citizens, and said this week their turnover rates were no greater than normal.

In addition, the raids have prompted some companies to alter their hiring practices to guard against giving jobs to undocumented workers.

INS officials defended Project Jobs as successful and said they were not surprised that some firms had complained about the difficulty of finding American citizens to fill the vacancies.

"Many of the Companies [in Houston and Dallas] were targets of earlier INS raids," said Richard Norton, national coordinator of Project Jobs. "They would be the ones most likely to point out that it was an ineffective program."

Norton said the apprehensions had opened up many jobs for U.S. citizens. "We were encouraged that these companies went out and hired a large number of lawful citizens," he said.

The 9th U.S. Circuit Court of Appeals ruled Thursday that INS raids on businesses and factories violated the constitutional rights of workers. The INS announced Friday it would suspend such raids in four

states—California, Arizona, Nevada and Hawaii—while it studies the opinion.

The particular case before the 9th Circuit grew out of raids conducted by INS in 1977 in Los Angeles, but it could have a widespread effect on INS operations, because such raids are common throughout the country. Project Jobs differed from normal operations in part because INS referred job openings created by the raids to state employment commissions.

The Project Jobs raids, carried out April 26-30 with great publicity at 560 jobs sites in New York, Newark, Chicago, Detroit, Denver, Los Angeles, Dallas-Fort Worth and Houston, were extremely controversial, especially among Mexican Americans, who criticized INS for attempting to make undocumented workers scapegoats for the high level of unemployment in the country.

INS estimates that 87 percent of the 5,540 persons apprehended during the five days of raids were from Mexico. Within a week after the raids, 4,071 had been returned to their home countries.

On May 14, INS employes surveyed at random some of the firms in Chicago, Los Angeles, Houston and Dallas-Fort Worth—the cities that produced the largest number of undocumented workers—to find out how many of the vacancies had been filled.

A copy of the survey's results was made available to The Washington Post, and many of those firms were contacted independently this week.

Norton said INS does not have updated statistics on what has happened to the workers it apprehended in April or on how the companies that were raided have chosen to fill the vacancies.

But officials of some of the affected firms scoffed this week at the INS raids, calling them a political and publicity stunt that had disrupted their operations. They said the only way to stop many companies from hiring undocumented workers was through employer sanctions, such as fines.

"I would prefer to hire American citizens," said Paul Boyd, president of East-West Pipe Co. in Houston. "I'm a good American, I served in the Army. But for them to think they accomplished anything [in Project Jobs] is naive . . . . I know my competitors did not say, "Gee, we'd better not hire illegal aliens.' "

Boyd said he hired a forge crew of 11 U.S. citizens to replace some of the undocumented workers apprehended. "It's real hot and cruddy work. They lasted one day."

Robin Denke, personnel manager at Trinity Steel in Fort Worth, said the company has hired about 60 new people to fill the vacancies created by the raids, "but only 15 to 20 have stayed, at most."

"We've tried to find people, but when we check references they've got poor attendance records or bad attitudes," she said.

Another Trinity Steel employee said the company was behind in its work because of the problem of finding new workers. "There are a lot of people who don't want to do the work," he said. "It's hot, dirty work. They show up and work for half a day and then quit."

INS records show that 114 illegal aliens were apprehended at Trees Inc., in Houston during Project Jobs. "We hired 200 people after the raids," said Rudy Reyes, vice president of Trees. "Only about seven stayed on the job."

One of the biggest raids took place at Melody Homes in Fort Worth, where, according to INS, about 170 undocumented workers were captured. "Initially, we had a very large turnover rate," said Gordon Trantham. "It was difficult to find people willing to do the work." He said turnover had slowed in recent weeks.

One Houston firm hired 92 people to fill 55 vacancies created by the raids, and 68 had quit by the time INS did a followup survey in May. "They didn't like the pay and they didn't like the work," said Christian Goddard of Krest Mark Inc., a window-assembly company.

Asked if that kind of turnover was normal, Goddard said, "It's not normal when we had the illegals. They're pretty steady."

Several companies reported they had deliberately replaced only a fraction of the number of undocumented workers apprehended because of the recession.

Other firms, however, said the recession had made it easier to find new employees. The personnel mamager of a Los Angeles furniture manufacturing plant said he quickly replaced 120 undocumented workers captured at his plant and said turnover was no higher than normal.

Ralph Bennett, vice president of Marilyn Belts and Bags in Dallas, said his company is just beginning to replace the 81 illegal aliens apprehended during Project Jobs and predicted that rising unemployment in Texas would make it easy to fill the vacancies.

"In normal times, we cannot get people to take a lot of these jobs," Bennett said. "It's hard to find people to work five days a week. The Latin Americans will work five days; the others might not."

Bennett was asked if the raids had made him less likely to hire undocumented workers. "No," replied. "We don't ask anybody what nationality they are. When we need people, we need people, and we hire whoever comes through the door."

Some firms, however, report that Project Jobs had forced them to alter hiring practices.

"We changed our policy," said Bill Ellis of A. Brandt Mfg., in Fort Worth, "After the raid, we met with INS people and told them we would not hire any more undocumented workers." ●

SOCIAL SECURITY TITLE II DISABILITY PROGRAM

● Mr. LEVIN. Mr. President, on Friday, December 3, the Senate passed and sent to the House H.R. 7093, a bill which contains important provisions regarding the social security title II disability program. That bill is urgently needed. Severely disabled persons are being terminated unjustly and at great personal cost from the disability program.

I ask that a letter and the accompanying enclosures I received from Attorney Elena Ackel of Los Angeles, Calif., be included in the RECORD immediately following my remarks. The letter describes two very unfortunate results of the disability review process.

The material follows:

LEGAL AID FOUNDATION
OF LOS ANGELES,
Los Angeles, Calif., November 30, 1982.

Re social security tragedies.

Senator CARL LEVIN,
Washington, D.C.

DEAR SENATOR LEVIN: As you indicated that you are interested in social security cut off examples other than deaths, I am forwarding the following examples and will send more later. The first attachment regards the case of Kimberly Bailey SSN 444-46-5275 who is mentally without any evidence on June 1, 1981. Her disability benefits stopped as of that time. She requested and was denied on reconsideration. Shortly thereafter Ms. Bailey attempted to commit suicide by jumping off a cliff and falling 200 feet. She sustained numerous injuries. A hearing was not held in her case until June 1982. A favorable decision was received on July 13, 1982. Yet despite the favorable decision, Ms. Bailey still has not had her benefits reinstated. She has gone over 18 months without disability benefits and is currently living in a shed in the hills above Santa Barbara in Central California. She doesn't have enough money to complete the shed and has been drenched several times when it has rained. A xerox of the photo of the shed is attached.

The next attachment concerns the ultimate snafu on the part of Social Security. This man was terminated from disability on the basis of someone else's medical records. The injuries that the claimant was alleged to have recovered were ones he never had. Further the disabilities he did have including mental retardation had not changed.

I will send more information about additional information I received about two Fresno, California social security disability cases tomorrow.

Land & Liberty, Jobs & Justice,

ELENA H. ACKEL,
Senior Attorney.

FRANKEL & FINKELBERG,
Los Angeles, Calif., November 19, 1982.

EILEEN SWEENEY,
National Senior Citizen Law Center,
Washington, D.C.

DEAR MS. SWEENEY: Elena Ackel has asked me to write you concerning the following information:

CASE OF KIMERLY BAILEY, SSN 444-46-5275

Kimberly Bailey was awarded Disability Insurance Benefits pursuant to notice of hearing decision dated 10/12/78. This decision was based on well documented medical data confirming severe mental disorder—schizophrenia, paranoia, severe depression, with onset data determined to be 5/15/74.

On 6/1/81, without any medical evidence, the Administration terminated Ms. Bailey's benefits. Ms. Bailey filed a request for Reconsideration on 6/11/81 and subsequent request for hearing on 10/28/81.

Every effort possible was made to obtain a prompt hearing for Ms. Bailey.

While awaiting a hearing, Ms. Bailey was forced to go on General Relief. In addition to having a severe mental impairment, Ms. Bailey suffers from a severe disorder of the immune system which causes her to react adversely to a great many foods and environmental substances. Her reactions are severe and involve extreme weakness, nausea, confusion, stupor, narcolepsy, difficulty breathing, abnormal drooling, difficulty concentrating, migraine headaches, chills, sweats, diarrhea, and painful throat. It was impossible for her on her General Relief income to follow the special diet she required.

In October, 1981, acting on impulse, Ms. Bailey attempted to commit suicide by jumping off a cliff and falling 200 feet. Now, in addition to her other documented illnesses, she suffers painful residuals of bilateral fracture of the mandible, loss of teeth, broken teeth and knee injuries.

Ms. Bailey was finally allowed to have her hearing on June 23, 1982. Pursuant to his decision of July 13, 1982, the administrative law judge found that Ms. Bailey continues to remain disabled since May 15, 1974.

Now, 18 months since Kim Bailey has not received any money from her Disability Insurance Benefits, she continues to wait for reinstatement of her benefits which were wrongfully terminated.

The County where she lives, Santa Barbara County, has threatened to terminate her General Relief. Medi-Cal benefits, especially for psychiatric treatment, have been reduced.

Ms. Bailey is currently living in an unfinished shed in the hills above Santa Barbara. Enclosed is a photocopy of the shed where she lives. She does not have enough money to complete the shed, and she has been drenched several times in the rain.

Although we have made numerous contacts with the Social Security Administration, we are still uninformed as to when Ms. Bailey's benefits will be reinstated. I hope she will start receiving her benefits again, along with her Medi-Care, before it is too late.

Thank you for your attention to this matter.

Sincerely,

ELLEN S. FINKELBERG.

LEGAL AID SOCIETY OF
SANTA CRUZ COUNTY, INC.,
Watsonville, Calif., November 23, 1982.

Re disability cut tragedies.

Attorney ELENA ACKEL,
Legal Aid Foundation of Los Angeles,
Los Angeles, Calif.

DEAR ELENA: Attached is a Notice of Cessation my client, a 32 yr. old retarded man who has been on SSI and ATD since 1972, received. This notice informs my client that he is recovering well from an accident which seems to have injured his left arm and right wrist. My client is retarded, has asthma and allergies, hearing loss and emotional problems, and has never injured his left arm, right wrist, or sustained lacerations and fractures. Clearly, Social Security took my client off benefits by looking at someone else's medical records.

JULIE SILLIMAN,
Paralegal.

SANTA CRUZ, CALIF.,
September 30, 1981.

SUPPLEMENTAL SECURITY INCOME NOTICE OF PLANNED ACTION—MEDICAL

To: Andrew C for Michael C.

From: Department of Health, Education, and Welfare, Social Security Administration.

Your payments (or those of the individual named above) will be changed as follows: Based on the evidence in your case, including review by a physician of an agency of your state, it has been found that your medical condition was not disabling effective with August, 1981. If you meet all other requirements of the law, you can receive Supplemental Security Income payments based on disability for a two month period after disability ends. Therefore October, 1981 is the last month you could be eligible for payments.

Medical evidence reveals that you have regained the functional capacity to perform light work. The lacerations and fractures that you sustained have completely healed and no longer present a severe impairment. Although you do have some residual restrictions of the left arm and right wrist, they are not as severe as to prevent you from engaging in work activity. Your neurological problems have improved significantly since your injury, and although you do have some mild speech difficulty, you are readily understandable and can communicate your thoughts. A recent psychiatric evaluation revealed that you were not severely impaired mentally. You retain the capacity to understand simple direction, follow simple direction, and retain the capacity to relate to others. Disability is therefore being ceased as of August, 1981, the month of medical recovery sufficient enough to permit substantial gainful work activity.

This decision refers only to your claim for Supplemental Security Income payments. Any decision about your benefits under the Social Security Disability Insurance program will be sent to you in a separate notice.

For information about any change in your Medicaid eligibility caused by this action, you should get in touch with your County Welfare Department.

To get Supplemental Security Income payments, you must be found disabled under Federal rules or the rules of your State. We have found that you are not disabled under either the Federal or State rules.●

TRIBUTE TO ROSS DAVIDSON

● Mr. HAYAKAWA. Mr. President, I would like to commend Mr. Ross Davidson of Carmichael, Calif. for his many personal achievements and contributions to his community, State, and Nation. Throughout his life, Mr. Davidson has been a leader and patriot.

Now a retired air force colonel, Mr. Davidson served as a combat pilot in both WW II and Vietnam. He flew a total of 87 combat missions, during which his aircraft was hit by enemy fire on 30 occasions and was six times forced to crash land. In addition, he was an experimental test pilot having flown and tested over 50 different types of aircraft ranging from helicopters to gliders.

Mr. Davidson gained national recognition after successful establishment of a $1 billion early warning radar system stretching 3,000 miles from Alaska to Greenland. In recognition of the 6 years of Arctic exploration it required, Mr. Davidson was made a member of the famed Explorers Club which includes other notables such as Admiral Byrd and Admiral Peary. In 1970, Mr. Davidson retired after having earned 49 United States and foreign awards and decorations including the Legion of Merit and two Presidential Citations.

Even after retirement, Mr. Davidson has continued to serve on governmental and civic boards at the city, county, and State levels. He has been president of two State advisory boards and the Carmichael Chamber of Commerce. He holds many honorary titles including: Mayor emeritus in perpetuity of Carmichael, district Governor of Carmichael, and judge of the California State Court of Appeals. Mr. Davidson is truly a fine American and an asset to both the State of California and our Nation. I encourage my colleages to join me in commending Mr. Davidson for his outstanding accomplishments.

Mr. President, I ask that an article which appeared in the Sacremento Bee on March 18, 1982 by Kathryn Eaker be printed in the RECORD.

The article follows:

[From the Sacramento Bee, Mar. 18, 1982]

DAVIDSON'S LIFE AN ADVENTURE

(By Kathryn Eaker)

When Ross Davidson stepped down as honorary mayor of Carmichael last month, he polished off one more facet of a brilliant life that has propelled him around the world and soon into "Who's Who in America."

For an ol' boy from Springville, Ala., Davidson has done all right.

This internationally recognized arctic explorer, World War II hero, preeminent civic leader, accomplished musician, scholar and successful business man has an itch he can't scratch.

"I get bored easily, have a short attention span, that's why I've led such a varied life," he said, continuing without a trace of false modesty to chronicle the events of his 61 years.

Davidson was attending the University of Alabama on a music scholarship when the United States entered World War II. For him, the war couldn't have come at a better time. He was restless. Dreams of a musical career had paled.

While on tour with several big bands, this promising trombonist sickened of one-night stands in obscure towns.

"The alternative was teaching music and I couldn't see myself as the bandmaster in a small southern town, saying, 'That's nice Orville; that's nice,' " he drawled with pseudo-boredom.

Along came a U.S. Army Air Corp recruiter. "You, too, can wear silver wings and fly bombers," he promised the "immature, naive, innocent" 21-year-old Davidson.

Within months, he was a second lieutenant flying bombers over Germany from a base in England.

"On our first mission, three planes returned out of 18. I sat down and thought, 'A guy could get killed this way. There must be a better way to make a living.' "

Thirty-four missions later—after being blasted out of the sky twice and sustaining direct hits on four other missions—he returned home with a chestful of medals and an attitude that has underpinned his life.

"As I walked out of the hospital (he was wounded in the leg on his second-to-last mission), I thought, 'I'm home alive, with both arms and legs!' I was so happy, I started grinning and haven't stopped since."

Typically, Davidson approached his Air Corps career with a hunger for variety.

He flew and tested every type of aircraft from gliders to jets; served in every major career field in every theater of operation in the world—including Vietnam—and at every level of command from squadron commander to the Pentagon.

But his most significant experience occurred in the early 1950s when he was assigned to establish the Dewline—an early warning radar system that stretched from Alaska to Greenland.

For six years, often flying alone, he explored and surveyed remote portions of the North Polar basin searching for radar sites and checking ice conditions, landing on glaciers and mountain peaks in a plane on skis.

"Looking back it scares me to death," he said. "No navigational aids, no radio and no one knew where I was. And I was might dependent on a little single engine that if it hadn't started, I'd be there yet."

Recalling the emotional impact, Davidson observed, "If you ever want to feel small and insignificant, go some place where no one has ever stood and where there is no human being for 500 miles in any direction."

Subsequently, Davidson was invited to join the exclusive, international Explorers Club, an honor shared by such notables as Sir William Edward Parry, Adm. Richard Byrd, Lowell Thomas, Thor Hyerdahl and Sir Edmond Hillary.

"I don't mean to boast," said Davidson, with a rare straight face, "but when Adm. Byrd and all those ol' boys died, I became recognized as the leading arctic explorer."

Consequently, Davidson's name will be listed in the next editions of "Who's Who in America," and "Who's Who in the West," he noted.

Life is tame today by comparison. Since retiring in 1970, Davidson has immersed himself in civic organizations and real estate ventures. He and his wife, Mickey, travel extensively and spend weekends with friends at a second home near Georgetown.

Recently, in recognition of Davidson's service to the Carmichael Chamber of Commerce and on a plethora of state, county and local commissions, boards and committees, the Sacramento Board of Supervisors granted him the honorary titles of mayor of Carmichael emeritus and governor of the District of Carmichael.

TAXES ON TRUCKS

● Mr. EAST. Mr. President, in the last several days, I have been hearing the views of my constituents about provisions within the "job-creating highway, bridge and mass transit improvements" bill. For the most part, these comments have been in opposition to this bill.

As Congress scurries to forward legislation that would shift $5.5 billion from the private sector to a public sector construction program, I ask my fellow colleagues to share a letter I recently received from Mr. John Fraley, chief executive officer of Carolina Freight Carriers Corp. I ask that Mr. Fraley's letter be placed in the RECORD.

The letter follows:

CAROLINA FREIGHT CARRIERS CORP.,
Cherryville, N.C., December 3, 1982.

Hon. JOHN P. EAST,
U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR JOHN: We urge that you oppose the shocking, absurd bill approved by the House Ways and Means Committee yesterday to increase unbelievably the taxes on trucks and the people who own and operate trucks!

This bill would increase our Federal truck and fuel taxes by an astounding 143 percent. Our Federal truck and fuel taxes would increase by $3,485,000 per year to $5,929,000 compared with $2,444,000 in 1982. These taxes of course, are in addition to all of the state fuel and truck taxes that we pay for the use of highways.

As a thinking, highly capable Senator, John, you probably only need to look at the 143 percent increase to realize the ridiculousness of this bill! We are not opposed to reasonable tax increases coupled with more realistic truck size and weight limits. The latter will improve transportation productivity and give a boost to our nation's economy.

The timing of this truck and fuel tax bill could not be worse. We are a general commodities motor carrier. Sixteen of the twenty-five largest motor carriers of general commodities lost money in the first half of this year. This bill would put many truckers—ranging from large carriers to individual owner-operators—out of business. It would cause the elimination of many jobs at a crucial time when this is certainly not in our nation's best interests. At the same time, it will push up inflation since transportation is a substantial portion of the costs of goods at a time when we certainly do not need higher inflation rates.

A number of prominent economists have stated that the lost jobs will exceed the new highway construction jobs if this bill passes. It is our sincere hope that our lawmakers are listening to these learned gentlemen.

For the sake of fair play for all segments of the economy and for the best interests of our nation, we strongly request your opposition to this bill.

Sincerely yours,
JOHN L. FRALEY,
Vice Chairman and Chief Executive Officer.
K. G. YOUNGER,
President and Chief Operating Officer.●

INDIANA HIGH SCHOOL BASKETBALL

● Mr. LUGAR. Mr. President, I do not need to tell the Senate that Indiana is famous for basketball. The number of great Indiana athletes in this sport at both the college and high school levels is almost endless. Basketball in Indiana has contributed to the building of many fine young men and women leaders in our State and Nation, and to the enjoyment and community spirit of many Hoosier cities and towns.

One man who knew more about Indiana basketball, and the sport in general, than most others is Bob Williams of the Indianapolis Star. I am proud that the Honorable William Hudnut, the major of Indianapolis, recently made November 22 "Bob Williams Day" in honor of Bob's long service and the publication of his book "Hoosier Hysteria! Indiana High School Basketball."

I know that my colleagues in the Senate will join with me in honoring Bob Williams for his great achievements.●

POLISH SOLIDARITY DAY

● Mr. HAYAKAWA. Mr. President, I am very pleased and proud to have cosponsored Senate Resolution 501 reaffirming our commitment to the people of Poland and designating December 12, the eve of the first anniversary of the imposition of martial law, as a day of solidarity with our friends in Poland. We abhor and condemn the actions of the Polish military and government authorities to repress the dignity, freedom, and basic human rights of the Polish people and, in particular, their attempts to silence the voice of the Solidarity trade union and its leader, Lech Walesa.

While Americans should welcome the recent release from jail of Mr. Walesa, we must continue to strongly express our hopes for the release of all Polish citizens who have been detained and incarcerated for the crime of self-expression. Despite the apparent easing of certain civil restrictions, the Government of Poland must, once again, be made aware of our expectations both for the full restoration of human rights and civil liberties to the people of Poland and for the resumption of discussions with the church and the Solidarity trade union.

Mr. President, the resolution is a reaffirmation of that American commitment to the future of Poland and her people.●

UNFAIR AGRICULTURAL TRADE PRACTICES OF THE EEC

● Mr. EAST. Mr. President, an article pointing out some of the unfair agricultural trade practices of the European Economic Community and recommending steps to challenge these practices appeared in the December 5, 1982, issue of the New York Times. This article was written by Senator JESSE HELMS, who was a recent participant at the Conference of the General Agreement on Tariffs and Trade. I ask that his article be printed in the RECORD.

The article follows:

[From the New York Times, Dec. 5, 1982]

THE EEC CAN'T PLOW US UNDER

(By Jesse Helms)

WASHINGTON.—If the United States achieved anything substantial at the conference of the General Agreement on Tariffs and Trade in Geneva, it probably falls under the category of reminding the European Economic Community that its "right" to swing its agricultural-subsidy fist ends at Uncle Sam's nose.

Nobody in Congress more strongly rejects protectionism than I do. Open and fair trade is essential. But the key word is "fair."

The European Economic Community might as well understand, now, that Congress won't stand idly by in the face of predatory trade practices by the E.E.C.—or anybody else—that undermine the American farmer.

Let's be frank: The situation is intolerable. As a Congressional spokesman on agricultural matters at the GATT conference, I made it clear that Congress is willing to do whatever is necessary to change things.

For a great while, America complained to the European Economic Community about its agricultural-trade practices, but we tolerated the situation because our agriculture was not highly dependent on foreign mar-

kets, and the Community was not a major competitor.

But by the mid-70's, the situation had changed, and today our farmers, now highly dependent on foreign customers, are suffering through their third year of severely depressed commodity prices. America possesses enormous stocks of surplus farm commodities. Yet our farm exports are declining for the second straight year. And, through the use of predatory export subsidies, the E.E.C. has gone from being a net importer to a net exporter of grains, beef, poultry, sugar and other commodities.

America would have no legitimate complaint if the Community had gained these markets fairly. It has not. American farmers are the most productive and most efficient producers of most commodities. They hold a natural comparative advantage on the world market. The Community can export its farm products only with the use of large-scale subsidies that undercut the prices of all competitive countries.

The Congressional delegation's message in Geneva was that these predatory subsidies are unacceptable. We asked for establishment of a panel to undertake a work program aimed at reducing them.

But the European Economic Community's own delegation stubbornly refused even to discuss the question of subsidies or to agree to later discussions aimed at their elimination. GATT's final communique committed the signers only to "resist" application of new protectionist measures. And the Community's delegation annnounced later that the Community would not be bound even by that watered-down statement.

America's Special Trade Representative, Bill Brock, finds some comfort in the fact that the world trade system is still intact, despite overwhelming economic and political pressures. But in the area of agriculture, the communique fell far short of reflecting the basic agreement necessary to preclude Congressional action.

Sadly, the prospect of reaching a fair, rational agreement has gone by the board. Thus, Congress must take decisive steps to counter subsidies and give our farmers a fair shake. We must not, of course, engage in the kind of protectionism that constitutes restraint of trade. But GATT teaches us that action is warranted.

First, the Reagan Administration should fully use the remaining $90 million earmarked to enhance agricultural exports in fiscal 1983 and made available by an amendment to the 1982 budget reconciliation act. The money can provide direct and credit subsidies to offset predatory practices.

Second, Congress should encourage Secretary of Agriculture John Block to consider releasing surplus dairy products into international markets. This would clearly signal our resolve—and also relieve the taxpayer of the cost of carrying these stocks. This should be done, to the greatest extent possible, in a way that protects countries that have supported and encouraged free, fair trade.

Third, Congress should mandate that the proceeds from the sale of these dairy products be used for additional measures to export farm products.

Fourth, it is time to re-evaluate the criteria for dispensing United States Treasury benefits overseas. Perhaps their use of export subsidies should make countries ineligible for International Monetary Fund loans. America should even consider whether to deprive countries engaging in predatory practices of most-favored-nation status.

There are countless other possibilities. Every Senator and many Representatives have agricultural constituencies. Accepting the status quo would signal that America is willing to shrink its agricultural base; this, in turn, would encourage predatory practices in other fields of trade.

Congress mood, as I see it, is to draw the line here and now—and, if necessary, fight fire with fire.

I hope it won't be necessary, because there are no winners in a brawl, economic or otherwise.●

GASOLINE TAX INCREASE

● Mr. EAST. Mr. President, much of America's goods move by truck—90 percent of everything we eat, wear, or use travels by the highways. Yet, H.R. 7360, the gasoline tax increase, would impose a crushing burden on our Nation's trucking industry, just getting back on its feet after deregulation.

I received a mailgram from Mr. Mike Parkhurst, president of the Independent Truckers Association, urging greater study of this proposal. I agree that hasty action could cripple a vital segment of our economy—and increase the cost of almost every product the American people buy. I ask that Mr. Parkhurst's mailgram be placed in the RECORD.

The mailgram follows:

[Mailgram, Dec. 7, 1982]

We are looking to Senate wisdom to stop legislation that would force layoff of tens of thousands in already depressed trucking and truck manufacturing industries. H.R. 7360 is tax burden that exceeds total trucking industry profits for past four years combined. Hardest hit, the independent, simply cannot afford to pay $9,600 sales tax based on $80,000 rig, in addition to 900 percent increase in highway use taxes, plus other severe penalties. Suggest your aides immediately research our posture and potential. We look forward to working with the 98th Congress where meaningful legislation may be passed, but legacy of 97th Congress should not be unaffordable taxes.—Mike Parkhurst; Editor-Publisher, Overdrive magazine and President, Independent Truckers Association, Los Angeles, California.●

SENATE AGENDA

Mr. STEVENS. Mr. President, again I remind the Senate that there will be a busy day tomorrow starting at 9:45 a.m.

Are there any special orders entered?

The PRESIDING OFFICER. No special orders have been entered.

Mr. ROBERT C. BYRD. Mr. President, does the distinguished acting majority leader have any idea as to what time the first rollcall will occur on tomorrow?

Mr. STEVENS. I might say to my good friend that that has not been determined. It is my understanding that the distinguished majority leader will attempt to bring before the Senate one of the bills I mentioned, either S. 2411, S. 2000, or H.R. 6211, the Justice Assistance Act, or the Bankruptcy Act, or the highway gas tax bill.

I have also requested that consideration be given to the defense appropriations bill as soon as possible. It will be received by the Senate this evening. The House of Representatives has passed that bill. We are hopeful that we will be able to proceed with one of those bills, and it is my understanding the majority leader may ask to set aside a bill if one is commenced and it runs into an unseeming delay.

So the time for the first time vote I think will be before noon.

We do anticipate some possibility of votes on the highway bill and I would anticipate that if we do call up the defense bill, we will be seeing amendments before the Senate tomorrow.

I do not know whether we will get to the defense bill tomorrow, but we do not have any agreement as to when the first vote will occur.

Mr. President, there is an important message from the House of Representatives.

(The Senate received a message from the House of Representatives on H.R. 7355, an act making appropriations for the Department of Defense for the fiscal year ending September 30, 1983.)

Mr. STEVENS. Mr. President, it is my understanding that since there is a companion bill on the calendar that still will go immediately to the calendar; is that correct ?

The PRESIDING OFFICER. The Senator is correct.

THE POSSIBLE TRAFFIC PROBLEM TOMORROW

Mr. STEVENS. Mr. President, the distinguished Democratic leader has reminded the Senate, reminded me, and I think we should remind the Senate, that there is a pending problem at the Washington Monument and that traffic may be a little difficult in the morning.

We are hopeful that all Members of the Senate are notified that the convening hour is at 9:45 a.m., and there are no special orders tomorrow. So after the time set aside for the two leaders, it is possible that we will proceed to matters, that could be controversial, immediately. I am sure that matter will be taken into account, but I do think that both of the cloakrooms ought to notify Senators on both sides of the aisle of the problem that exists, and we will take into consideration the problem of traffic should that occur.

Is there any further business to come before the Senate? Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. STEVENS). Without objection, it is so ordered.

THE GASOLINE TAX BILL

Mr. ARMSTRONG. Mr. President, I do not know if other Senators are getting the same general sense of the direction of things that I am, but I just want to make an observation upon the progress of the gas tax bill.

When this notion was first suggested, I greeted it with some enthusiasm because I think the need to do something for the roads and bridges of the country is pretty acute, and I am impressed with the general policy of having the people who benefit from and use the roads and highways pay for it.

So when I began to hear talk that we were going to seriously undertake a highway user fee tax bill in the lame-duck session it seemed like a reasonable idea.

But I would just like to say to my colleagues that the general handling of the bill to date, including the notion that we might begin debate on this tomorrow which, frankly, I doubt very seriously we will, despite what has been said by the distinguished assistant Republican leader, is causing my own appreciation for this legislation, my own willingness to support it, my own expectation that we will finally adopt it, to erode very seriously.

It appears to me that what started out as a very simple matter has become very complex indeed, and as more and more extraneous elements are added on to it the likelihood that I am going to support it gets less and less.

My nose is a long ways out of joint by the fact that we are monkeying around with the allocation formula, that an unnecessary controversy regarding truck taxation has been introduced, and by the possibility that the Senate Finance Committee, which has not yet reported the bill—in fact, so far as I know, is still upstairs in the Dirksen Building working on the markup—may try to report a bill and then take it up tomorrow. I think that would be premature. I think it cuts out of the process the opportunity for comment by those who are well informed about the legislation, which I judge that most Senators as a matter of fact are not.

I think it would be well if we did not rush into the passage of this legislation tomorrow but at least allow a day or two for highway commissioners and highway users and local officials to comment on it before it is taken up.

So at least as one Senator I hope we will not rush to judgment on that matter. We can well occupy our time with the defense appropriations bill and other appropriations bills pending.

I thank the Chair, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ARMSTRONG). Without objection, it is so ordered.

RECESS UNTIL 9:45 A.M. TOMORROW

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate now stand in recess in accordance with the previous order.

There being no objection, the Senate, at 7:24 p.m. recessed until Thursday, December 9, 1982, at 9:45 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 8, 1982:

EXECUTIVE OFFICE OF THE PRESIDENT

Martin S. Feldstein, of Massachusetts, to be a Member of the Council of Economic Advisers.

DEPARTMENT OF AGRICULTURE

Orville G. Bentley, of Illinois, to be an Assistant Secretary of Agriculture.

DEPARTMENT OF ENERGY

Donald P. Hodel, of Oregon, to be Secretary of Energy.

Martha O. Hesse, of Illinois, to be an Assistant Secretary of Energy (Management and Administration).

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

POSTAL RATE COMMISSION

Henry R. Folsom, of Delaware, to be a Commissioner of the Postal Rate Commission for the term expiring October 14, 1988.

WITHDRAWALS

Executive nominations withdrawn from the Senate December 8, 1982:

The following-named persons to be Members of the Board of Directors of the Legal Services Corporation for the terms indicated:

For terms expiring July 13, 1983, to which positions they were appointed during the last adjournment sine die of the Senate, which were sent to the Senate on March 1, 1982:

Harold R. DeMoss, Jr., of Texas, vice Steven L. Engelberg, term expired.

Clarence V. McKee, of the District of Columbia, vice Hillary Diane Rodham, term expired.

For a term expiring July 13, 1983, to which position she was appointed during the last adjournment sine die of the Senate, which was sent to the Senate on April 19, 1982:

Annie Laurie Slaughter, of Missouri, vice Cecilia Denogean Esquer, term expired.

For terms expiring July 13, 1984, to which positions they were appointed during the last adjournment sine die of the Senate, which were sent to the Senate on March 1, 1982:

Howard H. Dana, Jr., of Maine, vice Robert J. Kutak, term expired.

William F. Harvey, of Indiana, vice Howard R. Sacks, term expired.

William J. Olson, of Virginia, vice F. William McCalpin, term expired.

George E. Paras, of California, vice Michael Kantor, term expired.

Robert Sherwood Stubbs II, of Georgia, vice Ramona Toledo Shump, term expired.

For a term expiring July 13, 1984, which was sent to the Senate on March 1, 1982:

William L. Earl, of Florida, vice David E. Satterfield III.

HOUSE OF REPRESENTATIVES—*Wednesday, December 8, 1982*

The House met at 2 p.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Teach us, O God, that when we relate to others, we do so with a spirit of respect and concern. Help us to try to understand the motivation of others and seek to be sensitive to their needs. Give us strength to speak as we ought to speak, to act as we ought to act, even as we are open to the voices and actions of colleagues and friends. Bless us this day and keep us always in Your grace. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 5121. An act to improve the collection of Federal royalties and lease payments derived from certain natural resources under the jurisdiction of the Secretary of the Interior, and for other purposes; and

H.R. 7144. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1983, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 7144) entitled "An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1983, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. D'AMATO, Mr. SPECTER, Mr. WEICKER, Mr. HATFIELD, Mr. LEAHY, Mr. BUMPERS, and Mr. PROXMIRE to be the conferees on the part of the Senate.

PERMISSION FOR COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO SIT DURING CONSIDERATION OF H.R. 7355, DEPARTMENT OF DEFENSE APPROPRIATION BILL, 1983

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that during the consideration of H.R. 7355, the Defense Appropriations Bill, the Committee on Interior and Insular Affairs be permitted to sit.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

Mr. WHITTAKER. Mr. Speaker, I object.

The SPEAKER. The rule requires 10 objectors; 10 not being present, permission is granted.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 7357, REVISING AND REFORMING IMMIGRATION AND NATIONALITY ACT

Mr. BONIOR of Michigan, from the Committee on Rules, submitted a privileged report (Rept. No. 97-947) on the resolution (H. Res. 623) providing for the consideration of the bill (H.R. 7357) to revise and reform the Immigration and Nationality Act, and for other purposes, which was referred to the House Calendar and ordered to be printed.

GENERAL LEAVE

Mr. ADDABBO. Mr. Chairman, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill (H.R. 7355) making appropriations for the Department of Defense for the fiscal year ending September 30, 1983, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

DEPARTMENT OF DEFENSE APPROPRIATION BILL, 1983

Mr. ADDABBO. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 7355) making appropriations for the Department of Defense for the fiscal year ending September 30, 1983, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from New York (Mr. ADDABBO).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 7355, with Mr. BAILEY of Pennsylvania (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Tuesday, December 7, the remainder of title IV, beginning on line 21 on page 18, was considered as having been read and open to amendment at any point.

Are there any further amendments to title IV?

AMENDMENT OFFERED BY MR. ADDABBO

Mr. ADDABBO. Mr. Chairman, I offer an amendment.

The portion of the bill to which the amendment relates is as follows:

SHIPBUILDING AND CONVERSION, NAVY

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended, as follows: for the Trident submarine program, $1,509,900,000; for the CVN aircraft carrier program, $6,559,500,000; for the SSN-688 nuclear attack submarine program, $1,420,200,000; for the reactivation of the U.S.S. Iowa, $300,800,000; for the reactivation of the U.S.S. Missouri, $94,000,000; for the aircraft carrier service life extension program, $680,300,000; for the CG-47 AEGIS cruiser program, $2,901,700,000; for the LSD-41 landing ship dock program, $415,600,000; for the FFG guided missile frigate program, $666,400,000, of which not less than $40,000,000 shall be available only for an X-band phased array radar, and in addition, $35,000,000 shall be derived by transfer from the "FFG guided missile frigate program" of "Shipbuilding and Conversion, Navy, 1982/1986"; for the T-AO fleet oiler ship program, $179,600,000; for the T-AKRX fast logistics ship program, $44,000,000; for the T-AHX hospital ship program, $300,000,000, however, none of these funds may be obligated or expended until such time as the Department of the

Navy provides a budget quality cost estimate, based upon a completed contract design which supports the original hospital ship requirements as presented to the Congress; for craft, outfitting, post delivery, cost growth, and escalation on prior year programs, $878,000,000; and reductions in the amounts, as follows: $5,900,000 for personnel security clearances; $21,000,000 for consultant, studies and analyses; and $5,100,000 for industrial plant equipment; in all: $15,918,000,000, and in addition, $35,000,000 to be derived by transfer, to remain available for obligation until September 30, 1987: *Provided*, That none of the funds herein provided for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign shipyards for the construction of major components of the hull or superstructure of such vessel: *Provided further*, That none of the funds herein provided shall be used for the constuction of any naval vessel in foreign shipyards.

The Clerk read as follows:

Amendment offered by Mr. ADDABBO: On page 21 of the bill, line 6, strike out "$6,559,500,000" and insert in lieu thereof, "$3,000,000,000".

On page 22 of the bill, line 6, strike out "$15,918,000,000" and insert in lieu thereof, "$12,358,500,000".

Mr. ADDABBO. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto end at 2:35, the time to be equally divided between myself and the ranking minority member, the gentleman from Alabama (Mr. EDWARDS).

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. ADDABBO. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I offer this amendment to delete one of the two aircraft carriers that are in this appropriation bill for several reasons. One is the cost. The Navy has requested a total of $7,270,300,000 to purchase two nuclear aircraft carriers, which equates to over $3.6 billion for a single carrier. This represents an increase of more than 45 percent over the original cost estimate for the aircraft carrier that was funded just 3 years ago.

According to the Navy's own cost estimates, the funds being requested are just a downpayment. The total investment and life cycle costs to operate for 30 years one nuclear carrier, its combat escorts, its air wing and underway replenishment ships and support ships is nearly $42 billion. This is a conservative Navy estimate and it is based on fiscal year 1982 constant dollars, not then-year dollars. So, my colleagues, it will cost the taxpayers a total of $83.8 billion just to save $750 million if we proceed with the funding of two aircraft carriers in the 1983 Defense appropriation bill.

Mr. Chairman, we saw the fate of the large ships in the recent war in the Falklands. Can we visualize the vulnerability of this aircraft carrier about 8 years from now, because that is as long as it will take to build this aircraft carrier and deliver it to the fleet. In 8 years we will have this big floating target as long as three football fields—will be sitting there ready to be destroyed by a relatively inexpensive missile launched by an enemy.

I mentioned $42 billion as the total cost. Most of the escort and support ships and airplanes aboard an aircraft carrier are simply there to protect that aircraft carrier. I believe the dollars for this carrier can be better used not only on other national defense programs, but for other conventional programs.

We have funded in the continuing resolution one aircraft carrier. I believe this second aircraft carrier, if there ever should be one, and I hope that will not happen, should be left to the decision of the next Congress and not be made by this Congress, particularly at a time when we must spend our defense dollars more wisely and when we face such high deficits.

There has been a lot of publicity with respect to the amount of money and the number of jobs that will go to each State if two carriers are funded. Well my friends, the Pentagon has done it again. I was very skeptical when this information crossed my desk, particularly since the Air Force's lobbying efforts on the C-5 program had raised much suspicion. I asked the Appropriations Committee's investigative staff to look into the propaganda that was distributed by the Navy and determine whether the information was accurate.

The investigative staff found that:

The Navy did prepare an analysis based on many assumptions that represented a "gross approximation."

The information you received was in the Navy's own words, a "seat of the pants calculation" and that none of the assumptions used were totally correct.

The Navy's economic impact package contained the potential employment flowdown. The number of jobs cited were computed by assuming that each job equates to a $15,000 wage/salary per year, and the Navy divided that into the total value of the contracts.

My colleagues, the information provided to you on the number of jobs is grossly misleading. The Navy simply divided the $15,000 assumed salary in the total value of the contract without taking out costs for materials, overhead, et cetera.

In essence, the economic impact was a total fabrication and grossly misleading.

I believe that providing such inaccurate information is a disservice to my congressional colleagues.

We presently have 13 deployable carriers and 1 under construction. With this in mind, one question keeps coming up in my mind. Why do we need 15 carrier battle groups? We have 14 carriers, and we are in the process of establishing 4 battleship battle groups. How much is enough?

What we need is more Navy aircraft, missiles, surface ships, and submarines to adequately threaten the Soviet Navy.

Just the other day, ex-Defense Secretary Laird stated that "the Navy is going wild making all these commitments on ships," and he added that the Navy does not need a large Navy and that we just cannot afford it.

It requires about 5,000 men to operate one nuclear carrier, and 7,800 men are needed to operate one carrier battle group.

The Navy has a shortage of 20,000 petty officers. Nuclear specialists are also in short supply.

These two carriers will not be available for at least 7 years. Soviet satellites today have the ability to locate aircraft carriers in the world's oceans. In an age of fast moving technology, the vulnerability of these carriers will increase dramatically in 7 years.

I believe we need to increase our submarine force instead of building large carriers. Submarines are less costly, require less manpower, and are virtually invulnerable.

I would, therefore, ask for support of my amendment.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield 10 minutes to the gentleman from Texas (Mr. WILSON) and I presume the gentleman will yield a little time to some other Members.

Mr. WILSON. Mr. Chairman, I really believe that on this issue everybody's mind is made up and that debate is fairly useless, but I do feel a historical necessity to correct my chairman on some of his more apparent misleading statements.

No. 1, the British have done a complete study of their war in the Falklands and they have determined that if they had had a big-deck carrier, they would have suffered no ship losses, no ship losses whatsoever, because the Argentine airplanes would never have gotten to their fleet.

No. 2, there are not enough Exocet missiles in inventory in the world to sink one of these aircraft carriers because of its vast amount of armor and the fact that it has 2,000 separate compartments.

In addition to that, no airplane can get close enough to fire an Exocet missile at one of these carriers because of our ability to completely dominate the battlefield. These carriers give us the ability to push the scrimmage line way out away from our forces, not like the case in the Falklands where the battle was fought over the naval forces of the British.

We have the ability to push the battle out hundreds of miles from the carrier.

We have the F-14, which is in my opinion the world's best fighter plane. It is to be reengined to make it a better fighter plane.

We have the Aegis missile, which has a 100-mile range.

We have the SM-2, which is the mid-range antiaircraft missile.

We have the Sea Sparrow, which is the close-in-range antiaircraft missile, and if by any chance an airplane were to penetrate those defenses, and the chances are absolutely none that they would do that, then we have the Phalanx system, which is, of course, the Gatling gun. This is an extremely defensible weapon.

Second, it is an extremely useful weapon. All of us know the problems that some of our Arab friends have with American protection being too evident. The carrier task force is the only way that we can provide an over-the-horizon force to protect our friends in the Middle East that we must protect.

Also, I would like to remind the Members in the Chamber that we have never had an aircraft carrier captured. We have never put a large investment into an aircraft carrier and then had it used by enemy forces.

I am speaking, of course, of Wheeling Air Force Base, in which we had an enormous investment, that is now being used by the Soviet Union in Libya.

I am speaking of Camrank Bay, in which we had an intense investment, that is now being used by the enemy in Vietnam.

There has never been an aircraft carrier used by the enemy and there never will be.

We need 15 carrier battle groups. There is nobody in the Navy, nobody in the retired Navy, except Admiral LaRoche that I know of that does not believe that we need 15 active carrier battle groups in order to fulfill our treaty obligation, and according to everybody in the Navy which will fulfill our war fighting requirements and the commanders in the field.

I think there is very little more to say on this issue, so I yield to my good friend, the gentleman from Arizona.

Mr. RUDD. Mr. Chairman, I thank the gentleman for yielding.

May I ask just one question?

Mr. WILSON. Yes.

Mr. RUDD. Is there not a savings by building this carrier?

Mr. WILSON. I am glad that my good friend pointed out my carelessness in not mentioning the most important point.

The Navy saves $754 million by building two carriers at once on these two carriers and the Navy saves $150 million on the *Theodore Roosevelt,* which is presently under construction.

Mr. RUDD. Mr. Chairman, I thank the gentleman for yielding.

Mr. LATTA. Mr. Chairman, will the gentleman yield?

Mr. WILSON. I yield to the gentleman from Ohio.

Mr. LATTA. Mr. Chairman, let me commend the gentleman for the statement that he is making and for his opposition to this amendment.

I am beginning to wonder what is happening around this place. Apparently some people think that we can defend ourselves with a slingshot and a rowboat. We cannot do that. We are living in a different age.

I think it is time that we take stock of what we are attempting to do. I commend the gentleman for the statement that he has made, particularly since I want to save a buck and I need not tell the people of this House that I want to do that.

The statement the gentleman just made about saving three-quarters of a billion dollars—three-quarters of a billion dollars by going forward with this project to build two instead of one carrier is absolutely correct.

Now, I do not think we have three-quarters of a billion dollars to waste, and certainly we might lose more than that if we delay the time for building this carrier, because with inflation you are going to see the cost go up.

Certainly we are talking also about jobs. We need jobs in America today.

□ 1415

And by building two carriers instead of one, we are going to produce more jobs at a time when we need those jobs.

Mr. WILSON. Mr. Chairman, I would like to add that most of those jobs are not in Virginia. These jobs are scattered throughout the country with some contractors.

Mr. LATTA. Let me just direct my statement now particularly to the Members from Ohio who might be thinking of voting for the Addabbo amendment: There are about 61,000 jobs involved in the State of Ohio, 61,000 jobs and $915 million.

Let me repeat that to my friends from Ohio: $915 million worth of contracts going to the State of Ohio by building this carrier, and 61,030 jobs are involved.

Mr. WILSON. I thank the gentleman for his statement.

Mr. Chairman, I would also like to remind the Committee that this is really not two carriers, this in one carrier plus the one that President Carter vetoed.

Mr. BADHAM. Mr. Chairman, will the gentleman yield to me?

Mr. WILSON. I yield to the gentleman from California.

Mr. BADHAM. I thank the gentleman for yielding.

Mr. Chairman, I commend the gentleman on his statement and associate myself with his remarks.

I would just like to add that, as the gentleman pointed out, I would like to stress that had the United Kingdom been aware of the true situation and the value of a big-deck carrier and had had one in the Falklands incident, that that war or incident would have been over practically before it started.

Mr. WILSON. It perhaps never would have started.

Mr. BADHAM. I think the gentleman is correct in that. The big-deck carrier is a force projection that is absolutely essential to the conventional defense and protection and security of the United States of America.

When we, at the request of the balance of the free world, took on the responsibility for nonproliferation and the nuclear security for the world, we took on a global responsibility.

Either now, in this kind of amendment, or the kind of amendment that we had yesterday, it is here that we freely acknowledge the responsibility that we took upon ourselves at the request of others and one that we have met soundly and fully for the past 40 years, whether or not we will continue to be the bastion of freedom in this world.

The British found that out in the Falkland Islands and depend on us now for seapower. Either we will have seapower or we will be a second-rate Nation.

As the gentleman says, this has a savings of three-quarters of a billion dollars while providing defense and security for the United States in a way that will project air defense to any corner of this globe.

Mr. WILSON. I thank the gentleman for his comments.

The CHAIRMAN pro tempore. Does the gentleman yield back the balance of his time?

Mr. WILSON. Mr. Chairman, I reserve the balance of my time.

Mr. ADDABBO. Mr. Chairman, at this time I yield 5 minutes to the gentleman from California (Mr. DELLUMS).

Mr. DELLUMS. Mr. Chairman, I do have a few comments I would like to make, but first I want to comment on a couple of statements made by those who oppose this amendment.

My distinguished colleague from Texas said we need 15 carriers, as if in some way that is rooted in stone, as if in some way 14 carriers or 13 carriers or 12 carriers would render us vulnerable, and in some way the Soviet Union would magically come to attack the United States because we did not have 15 carriers.

That is a gross overstatement and in one sense it is an insult to our intelligence.

My colleague on the other side of the aisle suggests there are 61,000 jobs involved in building 1 carrier. I would suggest that if it takes 61,000 people to

build 1 carrier, that is an incredible level of inefficiency and ineffectiveness that we ought to look into.

Mr. WILSON. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I will yield in just a moment, because I do have a few other comments I would like to make.

First of all, large carriers are literally sitting ducks on the high seas. In the event of a nuclear war, a nuclear aircraft carrier would draw early and heavy fire from the Soviet Union. They are really only effective for two reasons: To show the flag on the high seas, a political show of force, and fighting against lightly armed opponents; namely, Third World adventurisms, which I think we ought to reject.

Carriers require an incredible amount of ships to protect them. In fact, my distinguished colleague has a chart that, if shown, would dramatically draw your support to the amendment of my distinguished colleague from New York.

This armada of ships costs money and they certainly can be used in some other more effective way than protecting and defending this floating battlefield.

Mr. Chairman, while the procurement price of a nuclear carrier may be somewhere between $3 and $4 billion, when you replenish it with planes, when you have ships that supply it, when you have ships to defend it, that figure dramatically rises at a level of at least 10 times, to roughly $30 billion.

So this $3.8 billion expenditure rapidly increases to well over $30 billion.

Mr. Chairman, we have always been a seapower due to our geography. We all understand that. We understand that our Navy at one level is important, but there is no way that surface ships can defend the sealanes in a nuclear war. We do not need all these ships in a nuclear exchange with the Soviet Union, if that is the scenario you are anticipating. If you are not anticipating that, then why do we need a nuclear carrier to beat up on Third World countries? It is not necessary.

It is a travesty to spend taxpayers' money on such expensive and exotic and unnecessary ships at a time of incredible human misery in this country and human misery throughout the world.

For all these reasons, Mr. Chairman, I urge my colleagues to support the amendment on the floor.

Mr. WILSON. Mr. Chairman, will the gentleman yield to me?

Mr. DELLUMS. I yield to the gentleman from Texas.

Mr. WILSON. I thank the gentleman for yielding.

Mr. Chairman, I would like to point out a mistake that I am sure the gentleman did not realize he made. But the gentleman from Ohio was saying 65,000 jobs in Ohio alone. It is more than 300,000 jobs nationwide.

Mr. DELLUMS. As I understand it, the gentleman said 60,000-some-odd jobs are involved in building 1 additional carrier. If that was not what the gentleman said, I will yield to the gentleman from Ohio and he can make his own statement, but as I understood the gentleman, he said there were over 61,000 jobs in building 1 additional carrier.

I am saying if it takes 61,000 people to build 1 ship, that is a level of ineffectiveness and inefficiency that speaks to the detriment of the American economy.

Mr. LATTA. Mr. Chairman, will the gentleman yield to me?

Mr. DELLUMS. I certainly will yield to the gentleman from Ohio. I do not want to misrepresent the gentleman.

Mr. LATTA. I thank the gentleman for yielding.

Mr. Chairman, we are talking about all of the subcontractors that are involved. I will be happy to insert in the RECORD all the amounts to subcontractors involved in the State of Ohio and by congressional district.

CONTRACTOR AND NAVY PURCHASED MATERIAL FOR CVN 72 AND 73 FROM OHIO BY DISTRICT

	Ohio CFE and GFE by district		Total value
	CFE	GFE	
District:			
1,2	$2,106,877	$150,000,000	$152,106,877
3	81,561	68,237,000	68,318,561
4	13,340	1,000,000	1,013,340
5	0	0	0
6	0	0	0
7	7,351	0	7,351
8	2,521,095	49,000,000	51,521,095
9	450	800,000	800,450
10	2,283	0	2,283
11	238,561	1,150,000	1,388,561
12	0	214,000	214,000
13,14	1,926,470	360,065,000	307,991,470
15	0	200,000	200,000
16	58,204	0	58,204
17	0	0	0
18	123,509	0	123,509
19	365,748	0	365,748
20 to 23	13,006,151	318,334,000	331,340,151
Total			915,451,600

Mr. DELLUMS. I appreciate that.

Mr. Chairman, in conclusion, I would simply suggest that to speak about jobs as we build a monument to military madness is an absurdity. There are many cities throughout this country in the last election that said, "We ought to have jobs for peace. We do not need to continue to build more weapons of destruction as a way of providing jobs."

Numerous studies have been done that point out that for every dollar we spend in the military budget we lose jobs; we do not increase jobs.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The gentleman from Texas (Mr. WILSON) has 1½ minutes remaining.

Mr. WILSON. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Louisiana (Mrs. BOGGS).

The CHAIRMAN pro tempore. Without objection, the gentlewoman from Louisiana (Mrs. BOGGS) is recognized for 1½ minutes.

There was no objection.

Mrs. BOGGS. I thank the gentleman for yielding this time to me.

Mr. Chairman, I support the committee's recommendation with regard to procurement of the two nuclear-powered aircraft carriers.

I have worked on a number of issues relating to American shipbuilding, both civilian and naval. Our shipyards and the support industries are in serious trouble. I would like to urge everyone to give some attention to the support industries: The steel manufacturers, the reactor and boiler manufacturers, the wire and tubing manufacturers, et cetera. These key suppliers in the manufacturing sector will receive a large amount of work as a result of the construction of these two ships.

The Navy says it will cost $6.8 billion to build these two carriers. It is estimated that some $4.5 billion of the procurement costs of these two ships will be subcontracted nationwide. I am informed that among this procurement costs are some $2.8 billion or 62 percent will be spent in the Northeast, to the very manufacturing industries that are bearing the brunt of the current recession. Building these carriers will mean jobs for many workers in the industrial heartland of our country.

According to Navy projections, which are estimates based on past procurement patterns on other ship contracts, as Mr. LATTA has pointed out—$915 million would be spent in Ohio; $830 million would be spent in Pennsylvania; $401 million would go to New York; $202 million would be used to buy equipment in Indiana; $182 million would be spent on goods and services in Maryland; $142 million would go to Massachusetts; $100 million would be spent in New Jersey; and Connecticut would see some $56 million in purchases.

This is a jobs bill. This is money badly needed in the industrial Northeast to help keep people working in our industrial sector.

In addition, after the decision by this House to defer on the production of the MX missile, I think it would be unwise to send a signal that we are uncertain about our commitment to preparedness for conventional warfare in the future.

I urge defeat of the amendment.

Mr. WILSON. I thank the gentlewoman.

The CHAIRMAN pro tempore. The time of the gentleman from Texas (Mr. WILSON) has expired.

The gentleman from New York (Mr. ADDABBO) has 6 minutes remaining.

Mr. ADDABBO. Mr. Chairman, I yield 3 minutes to the gentleman from Florida (Mr. BENNETT).

Mr. BENNETT. Mr. Chairman, I appreciate this opportunity.

Mr. Chairman, I am chairman of the Subcommittee on Sea Power and Strategic and Critical Materials of the Committee on Armed Services and, therefore, have studied these ships in some detail.

I rise in opposition to the amendment.

The reasons for appropriating funds for two *Nimitz*-class nuclear-powered aircraft carriers in this budget are, in my opinion, compelling. These reasons include:

Two World War II-era carriers, *Midway* and *Coral Sea*, will reach end of service life—45 years—by the end of the decade. Replacements must be ordered now to avoid dropping below the current 13 deployable carrier battle groups.

Appropriations for two ships in fiscal year 1983 offers a cost savings of three quarters of a billion dollars as compared to buying the ships one at a time.

Nimitz-class carriers are the most cost effective alternative: More cost effective than smaller carriers.

Nimitz carriers can carry very capable aircraft that cannot be carried on small carriers: early warning aircraft (E-2C); F-14 aircraft with the capability to engage attacking aircraft hundreds of miles from the task force.

Nimitz carriers, by virtue of their size, can incorporate passive defense techniques in construction that make them much less vulnerable to disabling damage than smaller ships.

The events in the Falkland Islands have caused many Members to question whether the U.S. Navy is prepared to fight and win against the new and sophisticated weapons of war and to question the survivability of large ships.

Let me point out that the weapons used in the Falklands were no surprise. Navy forces have been changing in response to the threat of cruise missiles for more than a decade. The *Nimitz*-class nuclear-powered aircraft carriers with long range aircraft, the Aegis cruiser, and missile defense systems have been developed and built to provide the defense in depth that is necessary to provide high confidence that attacking forces can be defeated and that U.S. naval forces will be able to carry out their assigned missions.

The damage done to British ships in the Falklands was not unexpected. The ships were small and vulnerable to devastating damage if hit by a single missile. Because the British Fleet could not maintain an adequate defense in depth, the likelihood of being hit was increased.

But the destruction of a small escort ship by a missile, as happened in the Falklands, does not mean that an aircraft carrier will be incapacitated or destroyed by a single missile. Logic and experience tell us that the carrier can withstand far greater damage and still survive and fight.

I also want to point out to my colleagues that there is no practical alternative to surface ships. The vast majority of goods and materials in both peace and war, that travel between the United States and our trading partners and allies, moves in ships. Neither aircraft nor submarines can be used for this function. Surface ships are the only way that it can be done, and the surface ships of the Navy are essential to protect these ships in time of war.

Mr. Chairman, to those in the House who might be tempted to vote for this amendment solely to further reduce the defense budget, I would point out that the bill before us has reduced the President's request for ships by $2.7 billion, or about 15 percent. In my view further reductions should not be made.

The continued modernization of the Navy, to achieve a fully capable and modern fleet of about 600 ships, will require appropriations equal or greater than those contained in this bill before us.

The other body, in committee action, has deleted funds for reactivation of the third battleship and funds for the fleet oiler. The reactivation of the *New Jersey*, funded in fiscal year 1982, is now nearing completion with delivery of the ship scheduled for the 17th of this month. This is ahead of schedule. Sea trials on the ship have been successfully completed. The most recent cost estimates indicate that reactivation will be completed within the congressionally approved funding. The fleet oiler is essential to support the worldwide operations of the fleet. The committee bill before us would fund both of these urgently needed programs. I would hope that in defeating this amendment today a strong message of support for the shipbuilding program will occur.

Most people who analyze the military strength of the United States come to the conclusion that one of the things we greatly need to do is move to a stronger Navy posture. And they say we ought to do this promptly and efficiently. I agree.

Mr. Chairman, I again urge my colleagues to defeat the amendment and to support the committee bill.

● Mrs. BOUQUARD. Mr. Chairman, in preparing for my membership on the Armed Services Committee, I visited the naval facilities at Norfolk several months ago. During that visit I had a great opportunity to understand the principle of the large carrier role in the battle group concept and the need for force projection by the U.S. Fleet around the globe. Certainly, the recent experience in the Falklands has reinforced the critical need for the large carrier in conflict far from home. These CVN's are complex structural marvels and require long lead times for procurement of fabrication materials and hardware. The funding in this appropriations bill provides this money up front so that hundreds of millions of dollars can be saved in the long run on these procurements.

Mr. Chairman, I urge defeat of the amendment. This bill assures our future maritime presence around the globe at a genuine cost savings.●

The CHAIRMAN pro tempore. The gentleman from Alabama (Mr. EDWARDS) has 4 minutes remaining.

Mr. EDWARDS of Alabama. Four minutes? I only yielded 10 minutes.

The CHAIRMAN pro tempore. The time has been equally divided between the gentleman from New York (Mr. ADDABBO) and the gentleman from Alabama (Mr. EDWARDS). We had 28 minutes. The gentleman from Alabama was recognized for 14 minutes. The gentleman has 4 minutes remaining.

Mr. MONTGOMERY. Mr. Chairman, will the gentleman from Alabama yield to me?

Mr. EDWARDS of Alabama. I yield such time as he may consume to the gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Chairman, I rise in opposition to the amendment to strike one of the two *Nimitz*-class nuclear-powered aircraft carriers.

The construction of a carrier is a complex and time-consuming task—taking 8 or more years from authorization. Funding two carriers this year will permit investment in improved construction techniques and more efficient use of men and facilities resulting in an estimated savings of three-quarters of a billion dollars and a reduction of the usual building period. With the benefit of this reduced building period, the first of the two carriers could be delivered in this decade and the second about 2 years later.

These carriers are the most cost effective alternative for the sea-based projection of air power. The aircraft carrier has been consistently demonstrated to be one of the most flexible and most effective instruments of U.S. military power in peace and in war. There is no alternative available that can offer the capabilities of the carrier.

The amendment, if adopted, would result in an unacceptable gap in naval forces. There are currently 13 deployable carriers in the Navy, including two World War II carriers—the *Midway* and the *Coral Sea*—that will reach the end of their service life by the end of the decade. By 1990 both of these ships will be 45 years old.

The *Nimitz*-class carrier can carry aircraft that cannot be carried on small carriers like those operated by the British that some would have the

Navy buy. For example, the early warning aircraft, such as the E-2C that can provide radar coverage at a range of 1,000 miles and the F-14 which can interrupt attacking aircraft at ranges of hundreds of miles, can only be carried on large carriers.

Nimitz carriers, by virtue of their size, incorporate construction features, so-called passive defense features, that make them much less vulnerable to disabling damage than a smaller ship.

Mr. Chairman, funding for both of these ships is necessary to maintain existing naval force levels and can save three-quarters of a billion dollars. I urge my colleagues to reject the amendment and support an orderly replacement of aging World War II carriers.

Mr. REGULA. Mr. Chairman, will the gentleman yield to me?

Mr. EDWARDS of Alabama. I yield 1 minute to the gentleman from Ohio.

Mr. REGULA. I thank the gentleman for yielding.

Mr. Chairman, I would point out, as a member of the Military Construction Subcommittee, that the stability of our bases around the world is very tenuous at best. Most of our bases on foreign soil are on short-term leases or agreements. Therefore, the knowledge that the United States has alternate platforms for our aircraft in the form of a carrier force helps us in negotiations to continue access to these land bases. It certainly gives stability to our basing in the hot spots of the world.

I would urge that we support funding for the second carrier. It is the most cost-effective way to get the needed facility in terms of equipment and to provide the air support that we need in many areas.

It is also vital for the protection of the sealanes, necessary for support of our forces in Europe and the Pacific.

□ 1430

Mr. EDWARDS of Alabama. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia (Mr. ROBINSON).

Mr. ROBINSON. Mr. Chairman, I rise in opposition to this amendment.

Mr. Chairman, I rise in support of the proposed funding to initiate procurement of two additional nuclear aircraft carriers for the Navy, not one as this amendment would suggest.

My conviction is that it is essential that we go forward on such procurement. Our Navy is not adequate to the challenges of the time. I regret that these challenges are so dangerous and costly, but these are the realities with which we now must contend.

Very few Members of this House, by my inquiry and estimate, oppose the maintenance of an aircraft carrier force competent to deal with present and prospective threats. The only question of consequence before us at this time is whether we should initiate the building of two additional top-rank carriers or only one.

The easy answer is to say, "Let us build one, and let us think about another in the next Congress."

First, we should look at the rationale for the two-carrier request. Even if we settle on a carrier force of 13, and do not go to the very defensible 15-carrier battle group concept, we will need two new carriers to replace the *Coral Sea* and the *Midway,* built during World War II. Let us keep this in mind: These two carriers, now with the fleet, will be 45 years old when the new carriers we are now proposing to fund join the fleet in 1989 and 1991.

I hope and pray that we may not be required to fight a war in 1989 or 1991—or, for that matter, in any other year. But I submit to those who may be thinking in this House today that they are disinclined to support funds to construct two new aircraft carriers this question: "Are you prepared to tell the American people that you are satisfied to send 45-year-old World War II carriers to war?"

As I indicated at the outset, it may be easy to say, "Let's compromise; let's order up one new carrier now and think about the other one later."

What we do, if we go in that direction, is to forgo not only carrier strength preparedness at the earliest practical date, but also considerations of economy—something that all of us in this House have been made conscious of, I think, by the temper of the taxpayers.

It should be clear to anyone in this House who has had any exposure to the buying process for Government programs, or for private sector programs, that a series production produces economies of scale, in contrast to unique procurement of a single item, whether it be an aircraft carrier, another weapons system or a very simple item.

In this regard strongly supported argument suggests that a multiple procurement decision at this time could insure us a savings of at least three-quarters of a billion dollars—perhaps very substantially more.

I urge the rejection of the amendment, and support of funding for the commitment to two new CVN's.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania (Mr. CLINGER).

Mr. CLINGER. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I am not competent to really speak about the military justification for this augmenting the carriers, but I would like to talk briefly about what I see as a very serious problem which this program will accommodate. That is the shrinkage of the defense industrial base which is reaching a very perilous condition.

This program, with a cost of over $7 billion, is going to help the shipbuilding industry, clearly, but it is going to have much broader ramifications than that. It is going to do a great deal to repair this shrinking industrial base not only in the shipbuilding industry, but also in the heavy industry of this country.

About $4.4 billion of it is going to be subcontracted to heavy industries throughout the country. Substantial amounts of that will be in the heavily industrialized Northeast, but I think this should be taken into account in the debate. We are not just talking about shipbuilding, but we are also talking about repairing the industrial base, which is in bad shape.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield 30 seconds to the gentleman from Ohio (Mr. LATTA).

Mr. LATTA. Mr. Chairman, as I mentioned earlier, there is going to be $915 million spent by subcontractors in the State of Ohio under these two contracts. Let me say that in the 1st and 2d Districts, $152 million; in the 3d District, $68 million; in the 8th District, $51 million; in the 13th and 14th Districts, $307 million; and in the 20th and 23d Districts, $331 million—a third of a billion dollars to go into the Cleveland area under these contracts.

Mr. ADDABBO. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida (Mr. CHAPPELL).

Mr. CHAPPELL. Mr. Chairman, I rise in opposition to the amendment.

Mr. ADDABBO. Mr. Chairman, I yield 30 seconds to the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Chairman, let me just say that the vote on the MX system on yesterday made it clear that this House is electing not to go the nuclear route to protect our interests. Therefore, we have got to go even harder on the conventional route, and there is no better way to protect U.S. interests conventionally than on the high seas with the kind of nuclear carriers the British did not have in the Falkland Islands, and which in the U.S. Navy's hands have done such valuable deterrent services.

Moreover we can buy two for a much cheaper price. We can order them together, just like a Christmas sale.

I oppose the pending amendment.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield such time as he may consume to the gentleman from Arizona (Mr. RUDD).

Mr. RUDD. Mr. Chairman, part of the Defense Department appropriations bill that we are considering for fiscal year 1983 covers procurement of naval vessels.

Contained in this bill is a revolutionary proposal by the administration to procure two *Nimitz*-class carriers at the same time.

The advantages of this revolutionary procurement proposal are many: First, it will reduce the overall cost of acquiring this necessary fleet strength by over $750 million; it will allow the Navy to receive the services of these two ships a total of 2 years ahead of normal delivery schedules; and will speed up delivery of the *Nimitz*-class carrier *Theodore Roosevelt* now under construction by 14 months. Most importantly, delivery of the two carriers will give the Navy what it has declared its needs to fulfill its missions of sea control and power projection—a 15-battle group Navy with the large deck carrier as the centerpiece of the battle group.

The threat we face is enormous and grows almost daily. The Soviet fleet, which just 20 years ago was largely a coastal patrol navy, is now a blue ocean navy supporting Soviet adventurism all over the globe.

The use of Soviet fleet components at Cienfuegos Bay in Cuba and Cam Rahn Bay indicate the Soviets understand that the oceans of the world are the routes of our trade, commerce; in short our lifelines. Their concentration in strategic "choke points" along our lifelines dramatically underscores the need for a strong Navy capable of protecting American interests on a global scale.

The large deck and particularly, the *Nimitz*-class carrier is the most potent and survivable force structure for dealing with our ocean threat. The recent battle in the South Atlantic would have had quite a different tone had the British had the *Nimitz*-class capability of a defensive zone of 450 miles and the offensive punch to project force on enemy territory.

I urge my colleagues to carefully consider not just the cost of the two carriers, their cost in terms of the security that they will buy.

Admiral Rickover is fond of relating an old chinese proverb: "The more you sweat in peace, the less you bleed in war." I think it is imperative that we sweat this revolutionary proposal to insure our survival.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I think it comes right down to this: Are we going to have two new carriers, or are we not? I am convinced that we will in fact start to procure two new carriers either this year or in the next year or two or so.

It seems to me to make good sense, if in fact that is true, to buy the two new carriers at one time and save some $750 million in procurement costs in the process, because we can buy them cheaper that way and move on.

If I had any question in my mind that we were not going to go forward with the new carriers I would not be proposing this, but I think that is in fact what we are going to do. We have a commitment from the Secretary of the Navy, and so long as I am here I am looking to hold his feet to the fire, that these will be the last carriers he needs to buy for the next 10 years or so.

So, I think that is the wise thing to do, get them both at the same time and save some $750 million in the process.

Mr. ADDABBO. Mr. Chairman, I know the mood in the House and I know that I do not have the votes to carry this amendment, but I feel that we have to develop legislative history today so that the next Congress can determine whether these alleged savings will actually become a reality. As I listened to the claim that we will save $750 million, I kept thinking of my wife every time she goes shopping. She says, "I got a bargain. I can save $5."

I keep looking for that $5. Many families go broke on those types of reported savings.

As I stated before, when we look at $750 million in proposed savings, it is going to cost the taxpayer nearly $84 billion for the Navy to realize that $750 million savings.

We hear about 61,000 jobs. As I stated earlier, let me show you just how misleading the Navy's information was with respect to the jobs that will be created by funding two carriers. The Navy assumed that each job equates to a $15,000 wage/salary per year. The Navy then simply divided the $15,000 assumed salary in the total value of the contract without subtracting the cost of the materials, overhead, and so forth. In essence, the economic impact was a total fabrication.

Another thing, my colleagues, we talk about this carrier as if it is going to be here tomorrow, or within the year. We are speaking of a carrier that will be funded in fiscal year 1983, but will not be delivered for at least 8 years, and that is what concerns me. What will be the nature of our enemies' technological advancements in 8 years?

There was a graphic display circulated here for some time which was produced by the Navy. This picture showed all the ships, planes, armaments and all other weapons systems which are necessary to protect the carrier and the carrier was sitting right there out in the middle of it all. That picture suddenly disappeared, my colleagues, do you know why? It disappeared because it showed just how vulnerable a carrier could be. That is all I am saying, why waste money on such a vulnerable weapon?

The CHAIRMAN pro tempore. All time has expired.

The question is on the amendment offered by the gentleman from New York (Mr. ADDABBO).

The amendment was rejected.

AMENDMENT OFFERED BY MR. EDWARDS OF ALABAMA

Mr. EDWARDS of Alabama. Mr. Chairman, I offer an amendment.

The portion of the bill to which the amendment relates is as follows:

AIRCRAFT PROCUREMENT, AIR FORCE

(INCLUDING TRANSFER OF FUNDS)

For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land without regard to section 9774 of title 10, United States Code, for the foregoing purposes, and such lands and interest therein, may be acquired, and construction prosecuted thereon prior to the approval of title as required by section 355, Revised Statutes, as amended; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $17,588,600,000, of which $186,100,000 shall be available for contribution of the United States share of the cost of the acquisition by the North Atlantic Treaty Organization of an Airborne Early Warning and Control System (AWACS) and, in addition, the Department of Defense may make a commitment to the North Atlantic Treaty Organization to assume the United States share of contingent liability in connection with the NATO E-3A Cooperative Programme; $1,934,900,000 shall be available only for purchase of F-16 aircraft under a multiyear contract; $795,000,000 shall be available only for purchase of KC-10 aircraft under a multiyear contract; and in addition $50,000,000 shall be derived by transfer from the "wide bodied aircraft" program in "Aircraft Procurement, Air Force, 1982/1984" to be applied to the "C-5B" program; and in addition, $84,800,000, of which $37,100,000 shall be derived by transfer from the "CRAF" program in "Aircraft Procurement, Air Force, 1981/1983" and $47,700,000 shall be derived by transfer from the "CRAF" program in "Aircraft Procurement, Air Force, 1982/1984" to be applied to the wide bodied aircraft program; and in addition, $120,000,000 shall be derived by transfer from "Aircraft Procurement, Air Force, 1982/1984", and shall be available only for the purchase of KC-10 aircraft under a multiyear contract, notwithstanding the provisions of the language contained in the Supplemental Appropriations Act, 1982; to remain available for obligation until September 30, 1985.

The Clerk read as follows:

Amendment offered by Mr. EDWARDS of Alabama: On page 21, on line 25, after Congress; insert for the LHD-1 amphibious assault ship program, "$55,000,000".

On page 22, on line 6, strike "$15,918,000,000" and insert in lieu thereof "$15,973,000,000".

The CHAIRMAN pro tempore. The gentleman from Alabama (Mr. EDWARDS) is recognized for 5 minutes in support of his amendment.

Mr. ADDABBO. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Alabama. I yield.

Mr. ADDABBO. Mr. Chairman, I thank the gentleman for yielding. When the issue of funding advance procurement for the LHD-1 was before the committee in markup, we did not have a full accounting of LHD-1 unobligated balances. We now have the necessary information. I have been notified that funds are now being obligated, so I will now accept the amendment on behalf of the committee.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Alabama (Mr. EDWARDS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ADDABBO

Mr. ADDABBO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ADDABBO: On page 24 of the bill, line 20, strike out "$17,588,600,000" and insert in lieu thereof "$13,555,100,000".

Mr. ADDABBO. Mr. Chairman, I ask unanimous consent that all debate on this amendment and amendments thereto end at 3:10, the time to be equally divided and controlled by myself and the gentleman from Alabama (Mr. EDWARDS).

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN pro tempore. The gentleman from New York (Mr. ADDABBO) will be recognized for 15 minutes, and the gentleman from Alabama (Mr. EDWARDS) will be recognized for 15 minutes.

The Chair recognizes the gentleman from New York (Mr. ADDABBO).

Mr. ADDABBO. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, my amendment would delete just over $4 billion for the procurement of the B-1B bomber; $3.4 billion for procurement of the B-1; $475 million for advance procurement; and $165 million for initial spares.

Mr. Chairman, we are at that point in time where we must decide whether we are going to actually fund weapons which will give us the defenses we need in the outyears in the most cost-effective manner. The B-1B bomber may be a good weapon today. The B-1B bomber has many differences from the original B-1A. However, the earliest we can expect to see it in the Air Force inventory in numbers is maybe 1986. Some 34 will be delivered after 1987. We have received testimony that it might be good for another year or so as a penetrating bomber. That penetrating capability can be easily done by the B-52 with cruise missiles well into the 1990's.

By about 1988, it will become the most expensive cruise missile carrier in the world, because that is what it would be relegated to—a cruise missile carrier.

The Air Force has estimated the cost of this program as 100 B-1B bombers at $20.5 billion in fiscal year 1981 constant dollars—$205 million a plane. The cost estimate by the Cost Analysis Independent Group of the Office of the Secretary of Defense, states the B-1B will cost $26 billion for 100 planes in fiscal year 1981 constant dollars, or $260 million for each bomber. In our hearings, we found that millions of dollars are not being attributed to the B-1B just to try to keep its cost down to that $20.5 billion figure.

But, even if we take that $26 billion, or $260 million a copy, and express that estimate in "then years" dollars, we will see that this plane will cost $41 billion for 100 planes, or $410 million per copy—just for a cruise missile carrier. We have B-52; we continue to enhance the B-52. That is good into the 1990's. If we stop this foolish "toy" of the Air Force and bring the Pentagon back to their senses and properly fund the next generation bomber, we will then be funding a weapon which will give us the proper defense well past the year 2000.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. BADHAM).

Mr. BADHAM. Mr. Chairman, we are here again debating the future and the fate of the B-1. It has been ready to go into production since 1972. It has been delayed, it has been canceled, it has been revived, and we have it again before us in production mode. Metal is being bent at this time in California for the production of this bomber.

This is a bomber that is well needed because I think it is obvious to even the most casual observer that the B-52, which is the next thing to shot, they are dropping out of the skies one-by-one as if by accident, but literally by old age.

So, we need a new penetrating bomber and we have one. It is the B-1 bomber which is ready to go into production, and indeed is in production at the present time. It is not as if this 1960, 1970 design is one that has remained static. It is now a state-of-the-art airplane, and is the finest penetrating strategic weapon carrier anywhere in the world.

It will be available for penetration, if necessary, well into the 1990's, but I would say as a word of caution to those who would delay our carriers, to those who would delay our missile systems, and to those who would delay the B-1 bomber some more, I could say without threat of being called wrong, I am sure, that those who would delay the B-1 bomber now, if we canceled it, the minute we had an advanced technology bomber, they would delay that because indeed some day that would be also vulnerable. But indeed, either we are going to strip our defenses upon which the free world and the free peoples of the world depend, or we are going to proceed with the construction of this needed weapons system.

I ask that the amendment be defeated.

Mr. ADDABBO. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. PEYSER).

Mr. PEYSER. Mr. Chairman, I thank the Chairman for yielding this time to me. I think it is important for all of us to remember that this is not a new issue for this Congress; I remember in 1971, I voted for the B-1 bomber. In 1971, I voted for the B-1 bomber. This is 1982, and I would not vote for the B-1 bomber this year. We have passed the time for the B-1 bomber.

□ 1445

I think we could nickname this the "bum bomber" because its time has passed. Ten years ago it might have made sense. Today it makes no sense.

I think it is also important that we remember what we did in this Congress just yesterday. The President said that this Congress was "sleepwalking into the future." I do not think that is the case at all. I think in truth what this Congress did yesterday was to give the world a chance for a future. It said by its action in halting the MX missile that the world can look forward to having a realistic future.

This Congress certainly defends in every way it can the right to freedom of all Americans. I am convinced that we would fight for it and we would die for it, but the way we have been going with proposals such as the MX missile, today, the B-1 bomber is not the way of guaranteeing our freedom. It is certainly not the course of action we should take.

Mr. Chairman, I hope that when this vote comes up today, we will show the same courage and the same determination to stop this program as we did yesterday in bringing about a halt to the MX missile.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. CHAPPELL).

Mr. CHAPPELL. Mr. Chairman, as we listen to this debate today I am reminded that there are those Members of the House who would avoid buying weapons ready for production by supporting concepts still on the drawing board. That statement was made by another—but how true.

There are those of us who want to carry on with the old B-52, an airplane older than the pilots flying them. I do not know of any person in this House who would want his son to fly the B-

52 bomber on a penetrating mission in the Soviet Union.

There are those who would stop the B-1 bomber program and go to the Stealth. The Stealth is a paper airplane; the B-1 bomber is a real airplane with the most up-to-date technology. It has the capacity to fly faster and farther than the paper claims for the Stealth and carry a bigger payload. It has the capacity to carry both conventional and strategic weapons. It is a weapon we need now. We can keep talking on and on forever in trying to bring everything right to the last moment of perfection and we will never have hardware in the inventory.

Mr. Chairman, it is time we go forward with this bomber. It is needed in the inventory; it is needed to carry out the policies and missions of our Nation. I hope we will again vote down this amendment to stop the B-1.

Mr. ADDABBO. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. DELLUMS).

Mr. DELLUMS. Mr. Chairman, the gentleman from New York (Mr. ADDABBO), the chairman of the subcommittee and the author of the amendment that is presently before the body, has with eloquence, magnificence, and specificity laid out the arguments in opposition to the B-1 bomber. I would simply like to focus on another area. A few short moments ago a number of our colleagues attempted to justify the expenditure of several hundred millions of dollars on the notion that it would produce jobs. I am sure many of my colleagues have rationalized their vote on the B-1 bomber on the ground that it has produced jobs.

Let me tell the Members a brief story. Back several years ago, when the B-1 bomber was a very live and controversial issue, a number of contractors from California came to the California delegation, the Democratic Caucus of the California delegation, to make a very sophisticated presentation with respect to the merits of the B-1 bomber.

I happened to be the only "minority" representative at that time at that particular meeting, and so when they came to the flip chart heading "jobs," the lobbyist said, "Mr. Dellums, I am sure you would be personally very interested in this because it deals with jobs." He said that as if in some way I had no interest in the tactical or strategic questions or whatever but was just interested in jobs.

He said, "this is going to be a $20.5 billion program, and it is going to generate 138,000 jobs."

So I did some rather quick calculations and I indicated to the gentleman that if we employed people at $10,000 a year, we could hire 2 million human beings, and if we employed them at $20,000 a year, to work at myriad projects around the country; we could hire a million people and even have a half a billion dollars to administer the program. I asked, "how do you justify 138,000 jobs on the one hand as against 1 million or 2 million jobs on the other?"

The gentleman said, "the gentleman from California makes a very good point. We should never attempt to justify a weapon system on the basis of how many jobs it produces, but whether or not we need that weapons system."

The bottom line of my discussion is that we do not need this weapons system. This is an absurd, obsolete weapon. It makes no sense whatsoever.

As I said, my distinguished colleague, the gentleman from New York (Mr. ADDABBO), has very eloquently laid it out. The decision to build 100 B-1 bombers is not a tactical issue, it is not a military consideration. It was a political consideration on the part of the White House. It has no military value whatsoever. This is a political decision, and depending on what analysis one makes, it is, rather, a $40 billion or a $45 billion "turkey" to build 100 planes that will be obsolete by the year 1990. We cannot build them before 1989 or 1990, so we are going to spend $40 billion to $45 billion of American taxpayers' funds for a program that may be effective for 1 year or a maximum of 2 years.

As the gentleman pointed out, after 1990 they said it can be a cruise missile carrier. This is the most expensive, overly designed, extraordinary missile carrier that one can have. We can buy L-1011's or 747's as cheap as 10 times the price. The B-1 bomber to carry cruise missile is an absurdity.

For all these reasons, Mr. Chairman, I urge my colleagues to support the amendment to delete the funds for the B-1 bomber. If there is in the madness of someone's mind a scenario where we ever end up in a nuclear war, perhaps the most protective cover one can be in is a B-1 bomber because the whole damned thing will be over by the time it gets to where it is supposed to be.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. DORNAN).

Mr. DORNAN of California. Mr. Chairman, here is the harsh economic impact study on the State of California if this house is to foolishly once again cancel the B-1 "Peacemaker" strategic bomber. However, I agree with one point and only one point that the preceding speaker from California made, and that is: that we should never justify this defense system of any defense system as though it were a public works project.

I have always said throughout my 6 years here that the B-1 stands on its merits as a magnificent defense system to help keep our fragile peace.

Let us reflect on one of President Jimmy Carter's major blunders. Here are the opening lines from the Los Angeles Herald Examiner lead editorial of July 1, 1977:

> President Carter's decision to scrap production of the B-1 bomber is a grave mistake that endangers the free world.
>
> He made his shocking announcement at a time when the Soviet Union has been building its strategic arsenal at a rate which confounds the West.

Well, since I was last in the well on the B-1, we, thank God, have had a small part of the superb John T. Hughes briefing on the Soviet threat, that is, "Soviet Military Trends and Capabilities." declassified. Now, as I can say, "RAM-P." The Soviets are flying the RAM-P, a huge mach-II strategic bomber. It is their B-2 and it is flying in a research and development program. It now has a NATO code name the Blackjack. They get a B-1 "Backfire" and a B-2 "Blackjack" and we get "jack-crapout". Is that the gamble you want here today. They get the Backfire at the production rate of 3½ aircraft per month and you want to kill the B-1 replacement for our oldest B-52's.

Well, I tell my distinguished friend, the gentleman from New York, Mr. ADDABBO, that I do not think you could do this if you ever went to a U.S. Air Force SAC base and looked into the faces of the young crews of our B-52's and told them they cannot have this new aircraft when we know they will be expected to defend our country if, God forbid, they are called upon to fight and die in that former "queen of the skies," the B-52.

The B-52 has been referred to, in front of me, by the aircrews, as a "kamikaze mission aircraft" because it is more than obsolete, it is a museum piece. It has seen its day, and as those of us most knowledgeable in military aviation have said over and over in this well, it is older than most of the crewmembers that fly it.

Mr. Chairman, here is the old B-1A production schedule. It is very sad indeed. This production schedule shows that by this very month, if President Carter had not made his blunder of cancellation we would be receiving four B-1's per month for 51 great months.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. DORNAN) has expired.

Mr. ADDABBO. Mr. Chairman, I yield 30 additional seconds to the gentleman from California (Mr. DORNAN).

Mr. DORNAN of California. Mr. Chairman, I appreciate the fairness on the part of the gentleman.

Mr. Chairman, we would be receiving as of April past of this year, 1982, four "Peacemaker II" B-1's a month to strengthen that part of the Triad that is air breathing. We would have had in place 240 B-1A's by mid-1986. The

very first of 100 B-B1's, of which we will be taking initial delivery will not come on line until mid-1986. This better B-1B with much Stealth technology incorporated will still have the capacity to defend the free world and to justify its principal obligation: deterring war so that it never will have to be used, as the B-36 "Peacemaker I" was never used, in anger, at any time during its long life of service in SAC.

I have here a list of Members that I will be checking at the doors, if this comes to a vote, to remind those who in prior votes supported a new aircraft for our SAC combat crews. Do not desert at the 11th hour. I recommend a no vote on the Addabbo amendment, Mr. Chairman, and again, I thank the subcommittee chairman for his courtesy in yielding me additional time.

Mr. Chairman, the full Herald Examiner editorial to which I have referred follows. It is even more relevant today if that is possible:

Mr. EDWARDS of Alabama. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. ROBINSON).

Mr. ROBINSON. Mr. Chairman, why is it realistic to be looking at this situation as we do today when we are talking about both the ATB and the B-1B in one package? I will tell the Members why.

It is because we are going to need the B-1B when the ATB comes online. No one can tell me the Russians are in the habit of fielding a vehicle or a weapons system that is already obsolete. The previous speaker has just mentioned the RAM-P bomber that they are proceeding to deploy at the present time. If that is so obsolete, why are they willing to spend billions of dollars building it? Because the Soviets know they must have a modern, conventional, long-range manned bomber and so do we. We need a weapons system, a delivery vehicle, that will do more than just deliver strategic weapons, which is all the ATB is going to do. That is all it is prepared to do. It will not carry the bomb load, it will not fly far enough and it will not fly fast enough or high enough. That is the reason we need a weapon that will take over for the B-52 and fill the conventional role into the future, way after the 1990's, as the B-52 has done for us until this present time.

Further than that, why can we not go to the ATB right now? It is because the technology with regard to the ATB is changing everyday. We are not prepared to start into production on the ATB. We are finding out new things about how to handle that technology everyday, and we need to have the best ATB we know how to build. The longer we wait to build it, the better off we are going to be.

Mr. Chairman, that is why it makes sense to go ahead now with the B-1B and let the ATB come along in its own time when it, too, will be the best aircraft of its kind in the world.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Chairman, this is another one of these issues we have been debating here in this well on a number of occasions. I cannot recall exactly the last time we had the B-1 amendment before us. I think it was when we were on the authorization bill.

But I remember that those who were taking the same position as our distinguished chairman of the Appropriations Subcommittee is taking today asked why do we need the B-1? We have got the Stealth bomber coming along; we have got the B-52's. We can fix those up. So why do we not just scrap the B-1 and wait until Stealth is available?

But it turns out, as was demonstrated in a front page story in the Albany Times Union last Sunday, December 5, based on the Hearst Bureau report here in the city of Washington, that the Stealth program is now alleged to be a phony, there is not really any Stealth bomber. There is only a small Stealth airplane, so the story went; and besides, it does not actually hide from the latest Soviet radar. Even Dr. Edward Teller of nuclear fame has said that the Stealth aircraft is not invisible.

□ 1500

Well, this is exactly the reply we used the last time. I recall pointing out that the Stealth airplane was still just a paper plane. Nobody really knows how well it will work. Nobody knows how big or how fast it will be.

The gentleman from Virginia (Mr. ROBINSON) has already indicated that the Stealth aircraft is not exactly in a class with the B-1.

What we need therefore is not a paper plane but a weapon that will support the bomber leg of the Triad.

We have already destroyed, in the vote yesterday, our land-based leg. That means we have to make the other two legs that much stronger. The only way to do that is with a modern jet airplane.

The Soviets are entranced with the B-1; they are building a copy of the B-1. So let us reject this latest Addabbo amendment once again.

Mr. ADDABBO. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. DOWNEY).

Mr. DOWNEY. It is hard to get excited about the B-1 bomber. It is simply too expensive a weapon system. It is not a first-strike weapon, so we need not worry about it being provocative.

The question is what will be its mission.

There are those here who suggest that we will take this airplane and use it in a conventional mode once we get the advanced technology bomber, the Stealth. Just think about that for a minute. This airplane is going to cost anywhere between $265 million a copy to $410 million a copy depending on whose figures you want to believe, the administration's or the Congressional Budget Office. Is anyone seriously suggesting that we are going to use this expensive an asset over a conventional battlefield where it could be shot down by a $50,000 missile?

You could fire a lot of $50,000 missiles at one B-1 before you start losing money. So we are not going to risk this airplane in a conventional mode. That would be folly.

As for the mission of the air breathing leg of the triad, the B-52's, you have heard over and over again how the crews are younger than the plane. So what? If the plane can do its job, if it can fly over the Soviet border, if it can penetrate, shoot its SRAM missiles, I can assure you the Russians are not going to care how old the airplane is that is blowing them to smithereens. It can do its job and it can do its job into the early 1990's when the Stealth technology, the next generation of technology, will be available.

I suggest that the B-1 has seen its day, that we can save an enormous amount of money by just scrapping it and finding another system, other conventional systems, as a place to put this money.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. White).

Mr. WHITE. Mr. Chairman, this debate somewhat appalls me because I think we have been over this ground many, many times.

Just yesterday we had arguments on both sides espousing the principle of the triad, how important the triad is, because each leg of the triad requires a different time lapse and therefore any would-be attacker could not knock out all aspects of our defense.

Yet, the House yesterday put aside the procurement of the MX missile, thereby affecting one leg of our triad.

The Carter administration made the mistake of stopping the procurement of the B-1 bomber and thereby escalated the eventual costs, at a time when we needed a manned penetrating supersonic bomber.

The B-1 is a supersonic bomber and the B-52 is subsonic. The B-1 bomber is the only manned supersonic plane we have that can penetrate Soviet air defenses.

If we are fearful of a mistake in launching an attack, this is the only weapons system that can be recalled. We cannot recall missiles once they are fired. We can only explode them.

The B-52's are older than the pilots that man them. Would you want to send your sons to battle in the B-52, a sitting duck that cannot even go over the land mass of the Soviet Union and would be a coffin to those who are flying it?

I think it is important that we continue what I think is a very important and essential defense system that we have in the triad. The only way that we can maintain a viable triad and not have it strictly on paper, as we have done for so many weapons systems, is to go forward with the B-1 bomber at this time.

Let us not make this mistake again, on again, off again, on again, off again. This is not the proper signal to our allies. This is not the proper signal to our would-be adversaries.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. SOLOMON).

Mr. SOLOMON. I thank the gentleman for yielding.

My colleagues, in listening to this debate the last couple of days I decided to review the CONGRESSIONAL RECORD of the debate on the defense appropriation bill that took place 41 years ago just 3 days before the sneak attack on Pearl Harbor because it was mentioned so much in this debate.

I want to read to my colleagues a little excerpt that took place on December 4, 1941, 3 days before Pearl Harbor. I am reminded of this because what I am about to read is what I have been hearing from the Democrats all day long, particularly from the gentleman from California and the gentleman from New York and all of you people that want to cut the legs out from under our national defense in this country.

This debate 41 years ago went on, and this was a Republican making this statement. I want my colleagues to listen, a Republican from Kansas made this statement.

He said, "I am not going to support the defense budget before us today because it is not our defense. There is not anybody worrying about Hitler coming over here and attacking us. There is not anybody worrying about Japan coming over here and attacking us."

That was December 4, 1941.

Fortunately, as my colleagues know, we won that war. Fortunately that Republican Congressman from Kansas was defeated in the next election as were a lot of others who opposed the defense appropriation bill that day.

But, unfortunately, there may not be another time if we do not have an MX missile, if we do not have a B-1 bomber, if we do not have a triad system that will provide guaranteed protection from our enemies. Listen to this statement by someone we all know and respect, Adm. Thomas H. Moorer:

At the end of World War II, I was in Japan and since I was present during the Japanese attack on Pearl Harbor on December 7, 1941, I was assigned to a group that was given the task, among other things, of developing the full answer to the question "Why did the Japanese attack Pearl Harbor?" We interviewed the Prime Minister, General Tojo, and most of the senior officers involved in the planning and execution of this operation. Without fail they all said the following:

a. The United States Congress passed the draft law by only one vote;

b. The Congress refused to fortify Wake and Guam Islands, and

c. The support of the military forces was at such a low level that they noted that the U.S. Army was training in Louisiana with wooden guns.

Consequently, said all of the Japanese, their perception of the United States was a nation who did not have the means or the will to protect their areas of interest.

Never mind that the Japanese made a terrible mistake, as evidenced by the total destruction the United States levied upon them, the point is that wars are begun by weakness, and if a potential enemy perceives in his own mind that a nation is weak deterrence—which in fact is a state of mind—breaks down and military actions are likely.

Mr. Chairman, I believe this statement tells the real story. The best and only way to guarantee the continued freedom of the American people is to maintain a strong national defense. The only thing the Russians understand or respect is strength. Peace through strength is the only answer. Do not cut the legs out from under our national defense. Do not wreck our triad defense system.

Mr. DELLUMS. Mr. Chairman, I think that it is a violation of the House rules to impugn the motives of any of our colleagues. If we are going to engage in a colloquy and a debate here then let us argue on the merits of the issue.

But my integrity has been impugned and I move that the gentleman's words be taken down.

Mr. SOLOMON. I do not think I referred to any gentleman.

Mr. DELLUMS. You said the gentleman from California and the gentleman from New York, whose motives have been impugned, and you have no right to do that.

The CHAIRMAN. The gentleman will suspend.

Does the gentleman from California ask that the words be taken down?

Would the gentleman from New York ask unanimous consent to modify his remarks for the RECORD?

Mr. SOLOMON. If the gentleman had asked me to yield I would have yielded because I was not impugning any Member of Congress nor would I do so. I have the greatest respect for the gentleman and he and I have discussed this on many occasions.

Mr. DELLUMS. I thank the gentleman and I am satisfied, Mr. Chairman.

The CHAIRMAN. The Chair thanks the gentleman from California (Mr. DELLUMS) and the gentleman from New York (Mr. SOLOMON).

The Chair recognizes the gentleman from Alabama (Mr. EDWARDS) for 1 minute to conclude his time.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. MILLER).

Mr. MILLER of Ohio. Mr. Chairman, I rise in opposition to the amendment to delete funding for the B1-B bomber.

In all the debate about various weapons systems and their costs, we sometimes stand in danger of losing sight of the fact that "providing for the common defense" and "securing the blessings of liberty to ourselves and our posterity" constitute one of our major responsibilities as Members of Congress.

I suggest to my colleagues that we will be failing in our constitutional responsibility to provide adequately for our defense against the forces that threaten liberty in the world today if we put our Nation in the position of facing the years ahead with no penetrating bomber other than the outdated B-52's and a paper bomber still on the drawing board. This simply is not good enough in these dangerous times.

We are all familiar with the phrase "A bird in the hand is worth two in the bush." Well, a bomber in our defense arsenal is worth two on the drawing board. The fact of the matter is that the advanced technology bomber (ATB) is not yet a reality. The concepts of the ATB show promising potential, but we would be seriously misleading the American people if we led them to believe that this potential aircraft could meet our needs in the immediate future. Meanwhile, the B1-B is proceeding ahead of schedule. This is a good bomber that we can—and must—add to our defense arsenal now.

Opponents of the B1-B say that we should not proceed with procurement of this bomber—even though all the R&D has been done on it—because the ATB technology when it is finally completed will be more advanced. I would point out that this line of reasoning could be used to prevent us from ever acquiring any military hardware. There is always more advanced technology awaiting us in the future. We cannot shirk our responsibility to provide for our immediate and near-term national defense needs, simply because more advanced technology lies in the long-term future.

But that is not the only reason to oppose this amendment to delete funding for the B1-B. The fact of the matter is, that there will still be a need for the B1-B even if we do eventually develop a satisfactory ATB. The

two aircraft are not mutually exclusive, but rather complimentary. The B1-B will be our replacement bomber for the B-52, and will be able to penetrate Soviet defenses well into the 1990's. Over its 30 years of service life, it will be able to perform as an effective cruise missile carrier and conventional carrier. So we are talking about an aircraft that has a vital place in our defense arsenal well into the next century.

Again, I urge my colleagues to oppose this amendment.

Mr. EDWARDS of Alabama. Mr. Chairman, this is another one of those weapons systems that I guess you would like to try to avoid if you could. I would like to jump over the B-1 and go to the ATB but I have studied this thing from every way I can look at it and I am convinced that there is no way we can fill that gap.

I think we must go forward with the B-1 and I therefore oppose the amendment and urge Members to oppose the amendment.

Mr. ADDABBO. Mr. Chairman, the contractor on this B-1 "bummer" has done his job well. He has spread out the subcontracting through, I would say, three quarters of the States of this Nation.

With unemployment as it is, and in taking nose counts of the House, I know I do not have the votes today to stop this wasteful expenditure of buying a bomber which will be nothing but a cruise missile carrier at $410 million a copy when it becomes operational in the late 1980's

□ 1510

It is an expensive price to pay. The American people know that.

A recent Harris poll showed stronger opposition to the B-1 bomber than to the MX. The poll showed 65 percent against the B-1 to 27 percent for it. This is what the American people are telling us.

I know Congress is not listening to them on this issue today. Therefore, I have to make this legislative history. When the next Congress comes forward it should not be said that we permitted the contract to be awarded without any opposition. This program should be canceled today by this Congress. This money should be put into the next generation bomber, which will give us the needed capability that we hear about today for national defense.

The B-1 is not available today. It is years from now. We have to look at this time in forming our national defense and decide whether we are buying a useful weapon for defense in this period of time or whether we are buying another toy for the Air Force generals.

● Mr. OTTINGER. Mr. Chairman, I rise in support of the amendment to delete $3.9 billion in procurement funds for the B-1B bomber. Once again, the Reagan administration is seeking to spend vast sums of money on a weapons system which will not enhance our security at all, and, in fact, may retard the progress of other, more reliable and less expensive weapons systems.

The Congressional Budget Office has estimated that the B-1 program will cost $40 billion for 100 planes, or $410 million for each aircraft. At the same time, the Department of Defense itself admits that the B-1 will be operational for only a few years before it is replaced with an advanced technology bomber, such as the Stealth.

It is incredible to me that we would spend massive amounts of money on the B-1 and ignore a more effective use of our funds for more practical bombers. I believe that we can better maintain this essential leg of our strategic force with higher confidence and at lower cost by using a combination of current technology cruise missiles and bombers, while proceeding with a full-scale research and development program for the advanced technology bomber. We can also consider deployment of the FB-111 aircraft—155 of which would have a payload and target coverage similar to 100 B-1's, but at much lower cost.

I urge my colleagues to reject the expensive and impractical B-1 bomber, and support this measure to delete its procurement funds.●

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New York (Mr. ADDABBO).

The amendment was rejected.

The CHAIRMAN pro tempore. Are there further amendments to title IV?

The Clerk will read.

The Clerk proceeded to read title V.

Mr. ADDABBO (during the reading). Mr. Chairman, I ask unanimous consent that title V be considered as read and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN pro tempore. Are there any points of order against title V?

AMENDMENT OFFERED BY MR. ADDABBO

Mr. ADDABBO. Mr. Chairman, I offer an amendment.

The portion of the bill to which the amendment relates is as follows:

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, AIR FORCE

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $10,246,361,000, of which $600,000,000 may not be obligated or expended for research, development, test, and evaluation of basing modes for the MX missile until March 15, 1983, to remain available for obligation until September 30, 1984.

The Clerk read as follows:

Amendment offered by Mr. ADDABBO: On page 29 of the bill, strike out lines 24 and 25, and on page 30 of the bill, strike out lines 1, 2, and 3, and insert in lieu thereof the following: "equipment, as authorized by law; $8,737,029,000, of which not more than $500,000,000 may be available for research, development, test, and evaluation of the MX missile and not more than $500,000,000 may be available for research, development, test, and evaluation of MX basing modes, to remain available for obligation until September 30, 1984: *Provided*, That $450,000,000 of the amount made available for research, development, test, and evaluation of MX basing modes may not be obligated or expended until March 15, 1983.".

Mr. ADDABBO. Mr. Chairman, I ask unanimous consent that all time on this amendment and all amendments thereto end at 3:40 p.m. and that the time be equally divided between myself and the gentleman from Alabama (Mr. EDWARDS).

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN pro tempore. The gentleman from New York (Mr. ADDABBO) will be recognized for 13 minutes, and the gentleman from Alabama (Mr. EDWARDS) will be recognized for 13 minutes.

The Chair recognizes the gentleman from New York (Mr. ADDABBO).

Mr. ADDABBO. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, this amendment reduces the funding for the MX research and development from $1.73 billion on the missile to $500 million, and on the basing modes from $775 million to $500 million.

This does not kill the program. It will give the Congress more time to examine the so-called Dense Pack, and the need for and the use of the MX missile.

The recent Townes panel report on the Dense Pack, of September 1982, which was written by a team of independent experts, was just released by the Pentagon to the committee last Friday, December 3. There was a disturbing conclusion which stated:

The CSB (that is, Dense Pack) concept is in an early stage of development. Consequently, cost, time, and effectiveness estimates are still not firm as this report is being written. In particular, several of the key parameters of the concept are still changing.

In addition, a letter from Dr. Townes to Secretary Weinberger of September 22, which was released to the committee just this past Monday, reveals that Dr. Townes has strong reservations about the two theories, fratricide and superhardening, on which Dense Pack is based.

Mr. Chairman, the $1 billion that I am leaving for MX research and devel-

opment will, as far as I am concerned, give the President and our negotiators their bargaining chip. I think that is an expensive enough bargaining chip to be given. Is shows the Russians that if they persist in their attitude that we are looking at next generation basing modes. I do not believe that the Dense Pack or the MX missile, as presently designed to fit into Dense Pack deployment, should go ahead at $1.73 billion for R&D on the missile of the $775 million on the R&D on the basing modes. Therefore, I ask my colleagues to accept this amendment.

AMENDMENT OFFERED BY MR. EDWARDS OF ALABAMA AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. ADDABBO

Mr. EDWARDS of Alabama. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. EDWARDS of Alabama as a substitute for the amendment offered by Mr. ADDABBO: On page 29 of the bill strike out lines 24 and 25 and on page 30 of the bill strike out lines 1, 2, and 3, and insert in lieu thereof: "equipment, as authorized by law: $10,246,361,000 of which not more than $775,000,000 may be available for research, development, testing and evaluation of MX basing modes to remain available for obligation until September 30, 1984: *Provided*, That $560,000,000 of the amount made available herein for research, development, testing, and evaluation of MX basing modes may not be obligated or expended until April 30, 1983.".

Mr. EDWARDS of Alabama. Mr. Chairman, before I discuss the amendment, this may be an appropriate time to say to this body that the gentleman from New York (Mr. ADDABBO), I think, had a great personal victory yesterday in his battle to knock out the MX procurement. The gentleman is my very good friend. We disagree very much on that issue. But I think it would be inappropriate to let the day go by without at least commending him for the hard work he put into his cause, what he believed in, for the way he went about it, and I think all Members have great appreciation for the gentleman from New York. Certainly this Member from Alabama does.

Mr. Chairman, the truth is that the MX procurement was knocked out yesterday. And in a sense, I think what the House was saying to the Pentagon is, "You fellows better go back to the drawing board and do a little more work."

I think what the House was saying to the Pentagon yesterday was, "At this point, Dense Pack will not fly."

I think what the House was saying to the Pentagon yesterday was, "We want to know more about Dense Pack, we want to know a lot more about basing, we want to know a lot more about what you are going to do with this missile before we go forward with it."

And it is in that sense and in that attitude that I present this substitute today. What this substitute does, Mr. Chairman, is to restore the MX money to R&D that the chairman would cut out in his amendment. At the same time, it would recognize that there are $775 million in the budget for basing. It would allow $215 million of that money to go forward in R&D on basing. It would fence $560 million until April 30 of next year for the purpose of allowing the Congress to take a good look at the Dense Pack proposal, to perhaps expand its views into other basing modes; it would give the Pentagon time to go back to the drawing board, to come to the Congress with further support for Dense Pack or for other proposals that it may care to carry out.

I would remind the House that the President did in fact meet the requirements of the Congress by submitting the plan on or before December 1. That plan is now before us, and the time is here, I think, for the Congress to take a good look at it.

And so it is in that sense, Mr. Chairman, that I offer this substitute, and I ask that it be adopted.

Mr. ADDABBO. Mr. Chairman, I yield myself 3 minutes.

□ 1520

Mr. Chairman, I thank my colleague from Alabama for his kind words. I felt yesterday's victory was not a personal victory, but actually a victory for the people of the United States, expressing the voice they raised on November 2 when they spoke to Congress loud and clear.

With all due respect to the President, I am sorry to say that with respect to the MX vote yesterday, the sleepwalkers are in the Pentagon, and not in this House. A majority of the Congress is wide awake, as shown by the MX vote of yesterday of 195 Democrats and 50 Republicans.

Mr. Chairman, I have discussed with the gentleman the amendment offered by my colleague from Alabama. For the purposes of legislative history, I would ask my colleague, does he feel that if we do accept the substitute amendment as offered by the gentleman from Alabama, that this will give the Congress time to look at all the information, rather than just rely only on the brief testimony we have received so far on MX basing modes? If so, we can look at all the various types of basing modes and proposed uses in connection with the MX. Unfortunately, we cannot put sufficient language in the amendment to cover everything because it would be considered legislation on an appropriations bill, and the amendment would not be acceptable? It appears that this amendment would give the various committees an opportunity to carefully analyze all the information and receive testimony and act on the spending of these funds in the next Congress.

Mr. EDWARDS of Alabama. I agree with the gentleman. And that is the reason that I proposed April 30 as opposed to March 15. I think that if Congress is going to do an adequate job of looking at this proposal, the basing proposal, that it needs more time than just to March 15.

It would be my hope that both the Armed Services Committees of this body and the other body and the Defense Appropriations Committees of this body and the other body would take the time to look into these basing proposals, both the Dense Pack and any other that the Pentagon may care to send forward, give careful scrutiny to them, and to work with the Pentagon and with the White House to try to find the right approach.

And I think that is the inherent value in moving the date to April 30.

Mr. ADDABBO. With that legislative history, Mr. Chairman, I for myself will be accepting the substitute.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio (Mr. REGULA).

Mr. REGULA. Mr. Chairman, I want to compliment the gentleman on the amendment. In the committee I had offered an amendment to make it March 15. I think April 30 is a better date. It provides more time. And also I would point out that the Dense Packing issue will be before the Military Construction Subcommittee of the Committee on Appropriations. I am confident that there will be extensive hearings on that subject. It does involve construction and therefore will require that our committee take an extensive look at the whole proposal.

For this reason, the April 30 date does provide time for the subcommittee to address the problem of whether or not we should recommend to the full committee and to the House funding for the beginning of the Dense Pack construction.

I am pleased that the gentleman from New York has indicated that he would accept this amendment. I think that the language provided and the time element is a welcome addition to the bill, to give all of us, including the Members of the 98th Congress, an additional time to evaluate the basing proposal that we have only received recently from the President.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, the gentleman from Ohio makes a valid point. I regret that I omitted to comment on the fact that the Military Construction Subcommittee should be looking at this as well as the others.

Second, Mr. Chairman, I think that the Members should know that it was the gentleman from Ohio (Mr. REGULA) who basically crafted the fencing provision which we now are

enlarging upon. We are indebted to him for his work in the full committee, as we tried to bring this bill to the floor.

Mr. ADDABBO. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin (Mr. ASPIN).

Mr. ASPIN. Mr. Chairman, I would like to ask a couple of questions of the gentleman from Alabama so I understand his substitute.

How much money is the gentleman proposing that we spend on the missile R&D program? Is he cutting that? According to the gentleman's amendment, would the gentleman cut it at all?

Mr. EDWARDS of Alabama. Mr. Chairman, will the gentleman yield?

Mr. ASPIN. I yield to the gentleman from Alabama.

Mr. EDWARDS of Alabama. I thank the gentleman for yielding.

I am not cutting the missile R&D program at all.

Mr. ASPIN. The gentleman from New York would spend only $500 million on missile R&D, but the gentleman from Alabama would spend the full amount, the $1.7 billion; is that correct?

Mr. EDWARDS of Alabama. That is correct.

Mr. ASPIN. Second, the gentleman would spend the full amount of the basing R&D, except that the gentleman would fence off $560 million of that to be spent only after April 30. Is my understanding correct?

Mr. EDWARDS of Alabama. That is correct.

Mr. ASPIN. So in fact in the amendment of the gentleman from New York, we are cutting total R&D from $2.5 billion to $1 billion, and under the substitute amendment of the gentleman from Alabama we would still be spending the full $2.5 billion on missile R&D and basing R&D except that the gentleman from Alabama would fence off $560 million for basing until after April 30.

Mr. EDWARDS of Alabama. The gentleman is correct.

Mr. ASPIN. What would have to be decided by April 30 in order for the $560 million to be spent?

Mr. EDWARDS of Alabama. Well, I cannot tell the gentleman that anything more would have to be decided than would have had to have been decided under the amendment of the gentleman from New York. What we hope is and what we have tried to make clear in our colloquy is that we would fully expect all relevant committees of both bodies to delve into this subject at great length.

The CHAIRMAN pro tempore. The time of the gentleman from Wisconsin (Mr. ASPIN) has expired.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield 1 additional minute to the gentleman from Wiconsin.

If the gentleman will continue to yield, it is obviously a matter of great importance. It is obviously something that has got to be resolved. And so it is in that context that we have gone beyond in my proposal what the gentleman proposed as far as fencing time is concerned.

It would be our hope that as a result of all of this, we could in concert, with the Pentagon, with the White House, start to resolve the question of basing.

Mr. ASPIN. I would like to ask one more question.

Do I understand at the end of all of this, having voted against the procurement money in the bill yesterday on the motion of the gentleman from New York, and even accepting the Edwards amendment to the R&D bill here, what we have done to the whole MX program is to say we are not going to go ahead with production now, but we are keeping all our options open; is that correct?

The CHAIRMAN pro tempore. The time of the gentleman from Wisconsin (Mr. ASPIN) has again expired.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield 1 additional minute to the gentleman from Wisconsin.

Mr. Chairman, the gentleman is correct. We not only knocked out yesterday in procurement money for missiles, we also knocked out $158 million in money for basing procurement. All of that is gone now. And so we are back at the R&D level.

We are trying to find the best way to go. And it is this gentleman's view that if we are going to do that properly, we cannot do it by cutting back on the R&D effort. We need to go forward. I would hope the Members would agree.

Mr. ASPIN. If one were for the MX missile, if one were for Dense Pack, those options are all still alive now as we complete the bill; am I correct?

Mr. EDWARDS of Alabama. They are alive today as they would be under the chairman's original amendment or as they would be under the bill without either one of our amendments.

Mr. ASPIN. That is what I wanted to make clear.

I thank the gentleman.

Mr. ADDABBO. Mr. Chairman, I yield 2 minutes to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Chairman, what this substitute would do would be to allow for a complete review of the viability of Dense Pack and all other possible basing options. Hopefully by April 30 we will be in a better position to make a judgment. The President's decision was not made until November 22. Many of us feel that because of the scientific concerns about the survivability of Dense Pack that we ought to take some time and continue to examine the various options including Dense Pack.

I think the gentleman's amendment is very constructive. I intend to support it as a substitute. It also gives us a chance to continue R&D on the missile. Hopefully early next year we can make a judgment on whether this system can in fact be a credible part of our strategic force.

□ 1530

Mr. EDWARDS of Alabama. Mr. Chairman, if the gentleman will yield further, I may be just a little facetious, but I would say that it will give us all something to do while we are waiting on the Budget Committee to get on with its work; so we will have some time there to do our work.

Finally, I think the point should be made, as I tried to make yesterday, that in complying with the requirement of the Congress the President met the deadline of December 1 on submitting his basing proposal.

The obvious problem with that, and it was evident yesterday, is that most Members of Congress have not the foggiest notion what Dense Pack is all about. It may be the greatest thing in the world or it may be the lousiest thing in the world, but most Members here have no way of making that judgment.

The CHAIRMAN pro tempore. The time of the gentleman from Washington (Mr. DICKS) has expired.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield myself 1 minute.

Because most of us did not get a chance to study it in any great depth. The Appropriations Subcommittee was briefed on it because we were getting ready to mark it up. I cannot say even all the subcommittee members were briefed.

The Armed Services Committee basically never really saw Dense Pack.

The Military Construction Subcommittee basically never saw Dense Pack.

So I think it is important that we understand what it is we are about to approve or disapprove. It is in that sense that I offer this substitute amendment.

Mr. ADDABBO. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. DELLUMS).

Mr. DELLUMS. Mr. Chairman, I think it is terribly important to reiterate how we got here. Dense Pack is only the latest proposal on developing some kind of a survivable basing mode.

I would like to assert, Mr. Chairman, No. 1, that we have studied this matter for 10 years.

No. 2, that the greatest scientific and engineering minds in this country have dedicated themselves to trying to develop a "survivable" basing mode for the MX missile.

Yesterday I read you what I referred to as the litany of lunacy. I love to read it. It is incredibly comical, but I would not do it today.

Dense Pack is only the last of 34 different efforts—34, not 3, not 10, not 20, but 34 in 10 years with the most

brilliant, scientific, and engineering minds in the country.

The bottom line of my argument is this. There is no such animal as a survivable basing mode. We are kidding ourselves. We ought to cut all this money out and stop this madness. We are engaging in political game-playing here. For anyone to think that in the 11th year we are going to find some magical 35th survivable mode is an absurdity. Thirty-four different efforts, 10 years, brilliant scientific minds—you are not going to find a survivable basing mode.

Let us get rid of the MX missile, get rid of the MX basing mode and let us take those multibillions of dollars and build a quality of life that is worthy of human beings.

We do not need the MX missile. You are not going to find a basing mode, so let us stop playing these political games.

I wish that this amendment were a clean amendment that simply said, let us knock all the RDT&E out of this bill because we are never going to find it. If brilliant minds have not done it in 10 years, we are certainly not going to do it in the next 10 weeks or the next 10 months.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I yield to my colleague, the gentleman from Washington.

Mr. DICKS. Mr. Chairman, the only point I was going to make to the gentleman is that the other night I was on a radio show. I used the gentleman's figure of 32 or 33 basing modes and a gentleman called in from California, the gentleman's State, and corrected me. He said at Rand they had studied 242 different basing modes and wanted me to be aware of that fact.

Mr. DELLUMS. Usually the Members of Congress are the last people to get full information. We just have the 34 and I imagine the gentleman is absolutely correct.

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I yield to the gentleman from California.

Mr. JOHN L. BURTON. Mr. Chairman, I would like to associate myself with the remarks of the gentleman from California.

We just ought to stop wasting time and money discussing working on this missile and start worrying about the quality of life for the people of this Nation.

Mr. DELLUMS. Mr. Chairman, I yield briefly to my colleague, the gentleman from Wisconsin.

Mr. ASPIN. Mr. Chairman, let me say that I agree with the judgment of the gentleman from New York that we ought to accept the substitute amendment offerred by the gentleman from Alabama. I think that is the best thing we can possibly do.

I hope the Members of this Congress understand what we are doing by all this, that we are leaving all the options open in the future.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I would like to be the first to invite the gentleman from California (Mr. DELLUMS) to appear before our subcommittee and tell us all he knows about the Dense Pack and why it should not be the basing mode that we use.

Mr. DELLUMS. I accept the gentleman's invitation. I deeply appreciate it. It makes me feel that I am becoming a mainstream Member of the Congress.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Chairman, yesterday I supported the gentleman from New York (Mr. ADDABBO) on his amendment to stop or halt the procurement of the MX missile. I have great misgivings about both the MX missile and the basing mode; but the gentleman from Alabama has now made a motion that we at least keep research and development alive. A year ago I had supported making an across-the-board reduction in research and development in the military expenditures because I thought we ought to spend more money in certain economic recovery programs of this country; but today this missile question is still very much in doubt. It seems to me the reasonable and fair thing to do, in view of our action yesterday, is to at least keep R&D alive. I think the gentleman has come up with a reasonable substitute at this time. Next March that may be open for review again; but at this time I think in fairness to all the people who are concerned about this very serious question, we ought to at least go ahead with the research and development as offered by the gentleman's substitute.

Mr. NELSON. Mr. Chairman, the future of this country may very well rest upon the decisions we make today regarding our commitment to a strong national defense. The most controversial aspect of this commitment is the development of an adequate deterrent to the Soviet first-strike capability. I am convinced that the development and production of the MX missile is the best way we can provide for an adequate deterrent to the Soviets. After extensive briefings by experts both inside and outside of the Defense Department, I have concluded it is worth proceeding with Dense Pack as a potential basing mode for the MX. New technological breakthroughs can make the Dense Pack work. Deployment of the MX in a survivable basing mode would thus enhance deterrence while providing an incentive for the Soviets to pursue negotiations for a genuine mutual arms reduction. Postponement of MX production and deployment can only exacerbate our present lessened ability to deter a Soviet first strike and to convince the Soviets that they must join us in an arms reduction treaty.

We cannot hesitate any longer

● Mrs. BOUQUARD. Mr. Chairman, as the least senior member of the Armed Services Committee, I have made a diligent effort to acquaint myself with both the specifics and the general issues that we are debating in the legislation. I supported my friend from New York on the procurement amendment. The Dense Pack basing system simply leaves far too many unresolved questions. Some of them highly technical and virtually speculative, others more mundane. Under these circumstances, a decision to move to production of the MX missile while the basing system remains in doubt poses an unacceptable level of risk to the design, engineering and capability of the entire weapon system.

Having said this, I must respectfully oppose my friend from New York in this second amendment. Technological development is moving forward at an unprecedented pace. If we fail to retain a strong RDT&E effort on the MX missile, we run precisely the same risks as we would with an unsound deployment system.

Others have argued that doubts and questions over the MX configured in the Dense Pack basing mode should be dismissed since MX itself is a bargaining chip to be bartered away in the START or some follow-on arms limitation discussions. I do not accept this argument: The MX deployed in a strategically sound mode is a valuable addition to our deterrent capability. But, I would say to those who would argue that MX is an important bargaining chip, you will retain, and even improve its value by maintaining the RDT&E support program.

Technology does not stand still, and in today's environment technology determines strategy. If we fail to maintain the solid RDT&E foundation for the MX, we will weaken not only our direct security, but also our ability to negotiate a meaningful arms limitation agreement.●

Mr. EDWARDS of Alabama. Mr. Chairman, I yield back my time.

The CHAIRMAN pro tempore. All time has expired.

The question is on the amendment offered by the gentleman from Alabama (Mr. EDWARDS) as a substitute for the amendment offered by the gentleman from New York (Mr. ADDABBO).

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN pro tempore. The question is on the amendment offered

by the gentleman from New York (Mr. ADDABBO), as amended.

The amendment, as amended, was agreed to.

Mr. REGULA. Mr. Chairman, I move to strike the last word.

(By unanimous consent, Mr. REGULA was allowed to proceed for an additional 5 minutes.)

The CHAIRMAN pro tempore The gentleman from Ohio is recognized for 10 minutes.

Mr. REGULA. Mr. Chairman, I think the debate that we have just completed points out very clearly that the Congress is confronted with some difficult policy decisions and that we need the best information possible. Certainly the issues surrounding the MX debate concern not only the missile system, but our entire land based nuclear force. This logically extends to questions concerning our triad and whether we really need to maintain this three-legged defense concept. In order to fully examine the question before us, it is essential that some basic facts be made available today as part of the RECORD. Obviously, the 98th Congress will be faced with these issues, therefore it is my desire that the information which follows in a colloquy that I will request with the gentleman from Alabama be made available to all Members so that a careful consideration of these issues is possible between now and April 30, as provided in the amendment.

I would like to address some questions of an informational nature on the MX system to the gentleman from Alabama.

The first question is, What do we currently have in terms of Minuteman silos and missiles?

Mr. EDWARDS of Alabama. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield.

Mr. EDWARDS of Alabama. There are 1,000 Minuteman silos; 450 Minuteman II's, and 550 Minuteman III's.

Mr. REGULA. What cost savings would be reflected in putting the MX missiles in Minuteman silos, rather than proceeding with the Dense Pack basing mode for MX?

I yield to the gentleman.

Mr. EDWARDS of Alabama. The savings would be approximately $9 billion in fiscal year 1982 dollars over the next 6 years.

□ 1540

Mr. REGULA. What are the advantages of developing the MX over improving the Minuteman (and calling it Minuteman IV)?

I yield to the gentleman from Alabama.

Mr. EDWARDS of Alabama. The MX missile is a modern, inherently more capable and cost-effective missile than the Minuteman. The MX can deliver 10 warheads rather than 3. The MX has been developed to be twice as accurate as Minuteman. The MX is more capable of withstanding nuclear effects in flight than the Minuteman. Taken together, these characteristics modernize the current ICBM force.

While it is possible to improve the Minuteman force to be as accurate as MX and to be as survivable to nuclear effects, the Minuteman would have to be developed anew and would be both costly and take additional time to develop. The resulting system would be less capable than MX and less cost effective.

Mr. REGULA. Why is a missile with the accuracy of MX necessary for the U.S. strategic force if we are committed to no first strike?

I yield to the gentleman from Alabama.

Mr. EDWARDS of Alabama. It is necessary to threaten Soviet hardened targets—that is, missile silos and command and control facilities—so that the United States will have a credible retaliatory capability against these highly valued sanctuaries. Without such capability, the Soviets will remain immune from attack and command substantial leverage in a crisis or bargaining situation. I yield.

Mr. REGULA. At what test phase is the MX?

Mr. EDWARDS of Alabama. The MX missile has undergone 41 component tests and will be test flown in early 1983 for the first time.

Mr. REGULA. Why can we not rely on Trident II for leverage in Geneva? I yield.

Mr. EDWARDS of Alabama. The Trident II does not restore land based missile capability, nor is it to be deployed in the near term. Arms control negotiating leverage stems from developing a position of strength. While Trident II adds to that position, it cannot make up for current ICBM deficiencies and does not by itself restore a strategic balance. MX is needed to insure that position.

Mr. REGULA. The main advantage of ICBM's over Trident is the communication factor. The MX's command and control faculties are seriously weak with Dense Pack. How can the communications problems for this basing mode be combated? I yield.

Mr. EDWARDS of Alabama. MX Dense Pack command and control is a multilayer redundant system. The most survivable element is the airborne launch control system with low-frequency radios that can transmit through high density material (ground) and through nuclear effects. The antennas will be embedded in the superhard silos.

Mr. REGULA. We heard BMD discussed yesterday. What are the plans for BMD with regard to MX? I yield.

Mr. EDWARDS of Alabama. BMD is to be maintained as an option for long-term deployment, with a low level R&D program, and no decision on full-scale development will be made until observation of Soviet threat developments is made.

I must say that BMD is continuing to be carried in our bill at generally what we call a level of effort, research and development. It is an ongoing thing, hoping to keep it current, but it is certainly not at a stage where it is about to be used in anyway.

Mr. REGULA. How survivable is MX without BMD? I yield.

Mr. EDWARDS of Alabama. MX is closely spaced basing is highly survivable—75 to 80 percent—in all cases against the Soviet current and projected threat, and the near-term responsive threat, without BMD. In the far term—mid to late 1990's—MX could be enhanced to retain its high survivability using BMD or other features such as deceptive basing or simple countermeasures.

Mr. REGULA. How does the MX program meet the limitations of SALT I and II? I yield.

Mr. EDWARDS of Alabama. SALT did not envision an ICBM deployment with the characteristics of Dense Pack. MX in Dense Pack is neither a purely fixed nor a purely mobile system, and, therefore, is not precisely covered in existing agreements.

Mr. REGULA. Mr. Chairman, I thank the gentleman from Alabama for putting these answers and this information into the RECORD.

I think it is going to be very important, as this body debates the whole policy question of whether we still want to maintain the triad and, if so, what form our land-based leg of the triad should take. We presently have a thousand ICBM's as pointed out by the gentleman from Alabama. Certainly it is a serious policy question as to maintaining the triad as well as to what we will do by way of modernization of our land-based deterrent system.

Mr. DICKS. Mr. Chairman, will the gentleman yield to me?

Mr. REGULA. I yield to the gentleman from Washington.

Mr. DICKS. I thank the gentleman for yielding.

Mr. Chairman, I understand the colloquy and I just want to make the observation that many of us would raise serious questions about this basing mode's compliance with the the SALT agreements. There is a very distinct difference of opinion amongst Members of this body on that issue.

So I would not want anyone reading the RECORD to get the impression that all of us agree that MX does not have a SALT implication of a SALT problem.

Mr. REGULA. I thank the gentleman for his contribution. I think that is a legistimate issue that will be debated at great length as we deal with

the whole question of basing in the months ahead.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. Are there further amendments to title V?

The Clerk will read.

The Clerk read as follows:

TITLE VII

GENERAL PROVISIONS

Mrs. BOGGS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to enter into a little colloquy with the Chairman of the Subcommittee on Defense of the Committee on Appropriations.

I was contacted by the adjutant general of the State of Louisiana and he is very concerned about the committee's recommendation regarding the conversion of vacant National Guard technical positions to full-time military positions. Could the gentleman please explain the committee's action and the reason for this recommendation?

Mr. ADDABBO. Mr. Chairman, will the gentlewoman from Louisiana yield to me?

Mrs. BOGGS. I yield to the gentleman from New York.

Mr. ADDABBO. I thank the gentlewoman for yielding.

Mr. Chairman, in fiscal year 1982 the committee directed the Department to let each reserve component be free to determine the appropriate mix of full-time military and civilian technicians. Since then we have heard nothing but complaints about the manner in which the committee directives were being implemented.

First, it came to our attention that this language has been interpreted to mean that cost should not be a principal factor in the determination of the appropriate mix. That, of course, is contrary to Public Law 93-365 (DOD Appropriation Authorization Act of 1975), which directed DOD to "use the least costly form of manpower that is consistent with military requirements and other needs of the Department of Defense." This is particularly the case since: First, the quality of cost comparisons previously presented to the Congress has been called into question by the General Accounting Office; and second, Congress has approved significant pay increases for the military since the last comprehensive comparative cost assessment of conversions.

The committee has also learned that a substantial number of the conversions that occurred in the fiscal year 1983 budget came about as a result of the pressure downward of civilian personnel ceilings, not on the basis of relative cost and relative effect on readiness.

Furthermore, under current regulations the Active Guard/Reserve (AGR) personnel involved with conversions are not assets that are deployable with their units. And that is also in contradiction to congressional report directives.

What did we do about these problems? In summary, the committee's actions establish a floor for the number of civilian technicians for each component at fiscal year 1982 strength levels, and direct the Secretary to use available authority to exceed personnel ceilings and hire the civilian positions the committee is funding.

For the future, the committee requires each component to develop a plan for managing its full-time support personnel, and directs the Department to take the necessary steps to insure that future growth of full-time support personnel is determined on the basis of cost-effectiveness consistent with readiness requirements. Pages 29 through 31 of the committee report explains the committee's position in greater detail. I shall place them in the RECORD at this point:

The Continuing Resolution for Fiscal Year 1983 included a section prohibiting further conversions of military technicians, and it included the following explanation of the conferees' action in the Statement of the Managers:

In fiscal year 1982, congressional report language directed the Department of Defense to let each reserve component be free to determine the appropriate mix of full time military and military technicians. It has come to the managers' attention that this language has been interpreted to mean that cost should not be a principal factor in the determination of the appropriate mix. The managers wish to reaffirm that cost is clearly intended to remain a principal factor in this determination as set forth in Public Law 93-365 (DOD Appropriation Authorization Act of 1975), which directed DOD to "use the least costly form of manpower that is consistent with military requirements and other needs of the Department of Defense." This is particularly the case since (1) the quality of cost comparisons previously presented to the Congress has been called into question by the General Accounting Office; and (2) Congress has approved significant pay increases for the military since the last comprehensive comparative cost assessment of conversions. Furthermore, the managers understand that a significant portion of the conversions planned for fiscal year 1983 are principally responsive to the requirement to reduce the number of civilian personnel to achieve personnel ceiling objectives, rather than considerations of relative cost and relative effect on readiness. Finally, the managers understand that in some components the Active Guard/Reserve personnel involved in these conversions are not deployable assets, which is also in contradiction to congressional report directives.

"The language in the joint resolution is intended to put a stop to conversion of military technicians, by whatever means that may be accomplished administratively. It, therefore, is intended specifically to cover the 43 military technician Senior Staff Administrative Assistant positions in the Army Reserve now scheduled to be eliminated by October 1, 1982."

The Department has advised the Committee that the revised language included in this bill will better accomplish its purpose, which is to establish a floor for the strength of military technicians for each component at the September 30, 1982 levels. Those levels are as follows:

Army Reserve	6,753
Air Force Reserve	7,283
Army National Guard	22,557
Air National Guard	21,834

Setting the floor at these strength levels means that the 1,200 conversions planned for fiscal year 1983 cannot take place. Accordingly, the Committee has reduced military personnel accounts to reflect the lower requirement for Active Guard/Reserve (AGR) personnel. Furthermore, it has increased the operations and maintenance accounts to reflect a comparable increase in military technician personnel. The net effect is to approve the same total strength as was budgeted for fiscal year 1983.

Growth in the full-time support personnel required by National Guard and Reserve units is to be provided by the least costly form of manpower, which is consistent with readiness requirements. Each component is directed to submit a cost-benefit analysis in support of future budget submissions, justifying the mix of (AGR) personnel and military technicians proposed by that component. These analyses should cover at least full life cycle costs to the government, including insurance and retirement programs, fringe benefits, medical care costs, and other relevant items, as well as direct pay. Each analysis should also describe in detail how readiness is best improved through the mix of personnel proposed. To assist the Committee in its deliberations, the General Accounting Office will report its views on these analyses submitted to the Committee by the components.

The Committee directs the Secretary to use authority available to him to exceed the civilian personnel ceilings of the Department and hire the additional Army and Air National Guard civilians funded by the Committee. For future years the Committee urges the Department to submit legislation streamlining the programming and budgeting process for all components of both the AGR and military technicians of the full-time support. Presently the AGR have specific limitations, but are not counted against overall active end strength. Military technicians are also subject to specific ceiling limitations, but more importantly fall under overall civilian ceilings of the Department. Earlier studies of the military technician conversion program and recent GAO reports indicate that overall personnel ceilings are a major factor affecting proposals to convert military technicians to AGR status. This conversion program provides, at least, an administrative path of least resistance by permitting reductions in civilian personnel ceilings, while at the same time acquiring strength to meet requirements through alternative sources. The Committee's concern is that this situation denies prominence to cost effectiveness and readiness in manpower decisionmaking. It seems that a streamlined approach would remove military technicians from overall ceilings to permit the determination of appropriate mix for each component on the basis of cost effectiveness and combat readiness.

The Committee believes that cost effectiveness and combat readiness also will be enhanced if each component develops a plan for the management of its full time support personnel. These management plans must insure at a minimum that:

Military technicians may change to AGR status only voluntarily. No involuntary conversion or change of status is allowed.

No military technician or civilian position will be abolished while incumbered for the purpose of reestablishing it as an AGR position.

Military technicians and AGR personnel are employed in approved, validated full-time positions.

Every position incumbered by AGR personnel has a maximum authorized military grade that is consistent with the day-to-day responsibilities and skill level required for the position.

The annual AGR grade ceilings authorized for each component are not exceeded.

□ 1550

Mrs. BOGGS. I thank the gentleman for his reply. Does he expect this conversion effort to eventually go forward without adversely affecting Guard strength?

Mr. ADDABBO. The position of the committee is that we are establishing a floor on civilian technician strength at the September 30, 1982 levels. The committee is anticipating that full-time support for the Army National Guard and U.S. Army Reserves is on a rapid growth plane. The full time manning program alone illustrates this point.

The program was authorized in 1977. By 1980 it grew to about 3,000 personnel. In 1981, it was about 5,000. For fiscal year 1983 it would grow to over 16,000, and by 1988 to 28,000. So, it is quite important that we straighten out management problems early if we are to get readiness in exchange for the dollars we will be paying these personnel.

I wish to make it clear that the committee is not opposed to the growth of full-time support. We do, however, want readiness to be improved when it is promised. And we do want it delivered in a cost-effective way. That is our concern. The committee wants cost effective and readiness analysis to be a part of the decision as to what type of full time personnel will best enhance the Guard's strength as the full-time support program grows over the years.

Mrs. BOGGS. I thank the gentleman for his usual attention.

The CHAIRMAN pro tempore. The Clerk will resume reading of title VII.

Mr. ADDABBO. Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

POINT OF ORDER

Mr. AKAKA. Mr. Chairman, a point of order.

The portion of the bill to which the point of order relates is as follows:

SEC. 781. None of the funds appropriated by this Act shall be available for paying civilian employees in non-foreign areas outside the continental United States a cost-of-living allowance in excess of that based upon spendable income.

The CHAIRMAN pro tempore. The gentleman will state his point of order.

Mr. AKAKA. Mr. Chairman, I would like to present this point of order on behalf of myself and my colleague from Hawaii (Mr. HEFTEL).

Mr. Chairman, section 5941 of title 5 authorizes the payment of a cost-of-living allowance to Federal employees in non-Federal areas that are subject to abnormally high prices. Section 781 is clearly legislation on an appropriations bill since it redefines the method by which the cost-of-living allowance is calculated. It also requires affirmative duties on the part of the Secretary of Defense since he must prepare information on spendable income for DOD employees which is neither easily available nor prepared by them pursuant to law. Moreover, the Office of Personnel Management is responsible for such matters—not the Department of Defense.

Mr. Chairman, I make a point of order against section 781 since it is obviously legislation on an appropriations bill.

The CHAIRMAN pro tempore. The gentleman from Hawaii has made a point of order against section 781, title 7.

Is there discussion on the point of order?

Mr. ADDABBO. Mr. Chairman, I must reluctantly agree with my colleague from Hawaii.

The congressional budgetary constraints placed on the committee dictated that we look at many issues not properly under our jurisdiction in order to meet the section 302 allocation for Defense. While section 781 retrenches expenditures, it places additional responsibilities on the Secretary of Defense and legislates a new definition for cost-of-living allowances based on spendable income, not gross income as is permitted in section 5941 of title 5.

Mr. Chairman, I concede the gentleman's point of order striking section 781.

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

Mr. ADDABBO. I yield.

Ms. OAKAR. Mr. Chairman, I thank the gentleman for his opinion about the point of order, and I just wanted to assure the gentleman, since I believe our subcommittee and full committee has jurisdiction over the matter, that we would be happy to cooperate with him at any time.

I thank my colleague for raising the point of order.

The CHAIRMAN pro tempore. The gentleman from New York has conceded the point of order.

The Chair sustains the point of order for the reasons stated.

Are there further points of order raised against the remainder of the bill?

POINT OF ORDER

Mr. NICHOLS. Mr. Chairman, I have a point of order.

The portion of the bill to which the point of order relates is as follows:

SEC. 793. Of the funds available to the Department of Defense, $200,000 shall be transferred to the Department of Education which shall grant such sum to the Board of Education of the Highland Falls-Fort Montgomery, New York, central school district. The funds transferred by this section shall be in addition to any assistance to which the Board may be entitled under subchapter 1, chapter 13 of Title 20 United States Code.

The CHAIRMAN pro tempore. The gentleman will state his point of order.

Mr. NICHOLS. Mr. Chairman, I make a point of order against section 793, which provides appropriations without authorization, and constitutes legislation on an appropriation bill, which I believe to be in violation of clause 2 of rule XXI.

The CHAIRMAN pro tempore. The point of order has been raised. Is there further discussion on the point of order?

Mr. ADDABBO. Mr. Chairman, I would like to speak on the point of order.

Mr. Chairman, the section is subject to a point of order, but this is a special case. These are children of men and women at West Point who are attending the public schools. If these funds are not allocated, the school will close and there will be no school for these young people to attend.

What we would have to probably do is go to the Military Construction Committee and have a school built for them at a greater cost to the Government than this item. This is a particular case. It has been cleared with the Committee on Education and Labor, and it is not setting any type of precedent. So, I would respectfully request that the gentleman, although the point of order would lie, request that the gentleman withdraw his point of order.

The CHAIRMAN pro tempore. The gentleman from Alabama has raised a point of order against section 793. The gentleman from New York was recognized by the Chair and requested a response from the gentleman from Alabama.

Would the gentleman from Alabama care to respond?

Mr. NICHOLS. Mr. Chairman, let me say to my distinguished chairman that I am certainly moved by the situtation he brings to my attention, but I would have to say to the gentleman that similar conditions would seem to exist in other places throughout the country, including in my own State, in Montgomery, Ala., where we have a situation there that has been brought to my attention.

I regretfully must advise that I would have to keep my point of order, Mr. Chairman.

The CHAIRMAN pro tempore. The Chair controls the time. The gentleman from Massachusetts (Mr. CONTE) will be recognized, and then the Chair will recognize the gentleman from New York (Mr. STRATTON).

Mr. CONTE. Mr. Chairman, I join with the gentleman from New York and hope my good friend, Mr. NICHOLS, would withdraw the point of order. This is an amendment accepted in full committee without any dissenting votes. It is a very, very unique situation and a unique problem. As a result of the Gramm-Latta budgetary restraints and cutting back on the impact aid areas, this little hamlet, which is right outside West Point, was cut back on impact aid. They educate about 150 West Point children out there. It is almost like a private school—it is a private school.

If this money is not in here, then they are going to have to build a school right on the grounds at West Point, which will cost the taxpayers a tremendous amount of money for construction, teachers, and the whole thing.

I hope the gentleman will withdraw his point of order, and then work with Congressman FISH of New York, who represents that district, and with others in trying to reach a solution.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Chairman, I thank the Chair. I just wanted to join in the colloquy with my good friend from Alabama. I happen to have in my district the attorney for the school district involved, the Highland Falls school district. In fact, last Saturday I met with the attorney so that he could explain this problem to me. I told him that I would look into it, and when I walked out and picked up a copy of the New York Times, I found that the House Committee on Appropriations had already passed out this section of the bill.

As the gentleman from New York (Mr. ADDABBO) and the gentleman from Massachusetts (Mr. CONTE) have already indicated, this is a very unique situation. Virtually every piece of ground of this town of Highland Falls is controlled by the Federal Government, and I think the only piece that has not been taken over by the military was recently taken over to build a girls' school.

□ 1600

So that there is no possible source of revenue except from what might come from the Academy, and while it is true that there are other situations similar to this, nothing is at least quite as bad or as impossible to solve in any other way than the one at Highland Falls.

But it was my understanding that this was going to be kind of test, with the expectation that in the meantime we look over other situations where the numbers of personnel whose families actually live on the base represent a serious charge against the school districts.

Mr. NICHOLS. Mr. Chairman, may I be heard further?

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Alabama (Mr. NICHOLS).

Mr. NICHOLS. Mr. Chairman, let me say again that I appreciate what my friend, the gentleman from Massachusetts (Mr. CONTE), and my friend, the gentleman from New York (Mr. STRATTON) have had to say. Perhaps it is a unique situation, but I again say that I think we would be establishing a precedent and I do not know just where this would stop.

I again say, with a great deal of reluctance, that I must insist on my point of order. I hate to be put in this position, Mr. Chairman. I will try to assist the Members in any way I can.

The CHAIRMAN pro tempore (Mr. BAILEY of Pennsylvania). The gentleman insists on his point of order, and the Chair is ready to rule.

The Chair will have to rule that, for the reasons conceded, the point of order to section 793 as stated by the gentleman from Alabama (Mr. NICHOLS) is sustained.

The Chair will inquire, are there other points of order to the remainder of the bill?

The Chair hears none.

Mr. ADDABBO. Mr. Chairman, I ask unanimous consent that all debate on the bill and all amendments thereto conclude at 5 p.m.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

Mr. KAZEN. Reserving the right to objection, Mr. Chairman, may I inquire, How many amendments do we have remaining?

Mr. ADDABBO. Mr. Chairman, if the gentleman will yield, I believe there are three amendments at the desk.

Mr. KAZEN. Then I believe 1 hour will be enough.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

Mr. COURTER. Mr. Chairman, reserving the right to object, I would just ask the Chair, what would happen, for example, if we debate one of those three amendments—and perhaps there might be another that the gentleman is not aware of—for an hour and it might develop that we have only 5 or 10 minutes to debate the balance of the two amendments; is there any way to apportion the time between those two amendments?

The CHAIRMAN pro tempore. The Chair will state that all the amendments that have been printed in the RECORD are protected under the 5-minute rule, so they would be added to that time.

Mr. COURTER. Mr. Chairman, I know that, but there might be some that were not printed in the RECORD, and I wonder if it is fair to take a great deal of time on one amendment and find we have very little time left to debate two or three others that are not printed in the RECORD.

Mr. ADDABBO. Mr. Chairman, if the gentleman will yield, we know of none. The committee has not received any notice other than those amendments that are at the desk.

Mr. COURTER. Reserving the right to object, Mr. Chairman, the gentleman is saying that he knows of only three amendments?

Mr. ADDABBO. At the present time, that is correct.

Mr. COURTER. Were those amendments printed in the RECORD or not?

Mr. ADDABBO. Yes; they were, those on which we have received notice.

Mr. COURTER. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. ADDABBO. Mr. Chairman, I ask unanimous consent that all debate on this bill and all the amendments thereto conclude at 5:30 p.m.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

Mr. KAZEN. Reserving the right to object, let me ask the subcommittee chairman if he would not take this amendment by amendment. I understand that there may be an amendment on troop reductions, and if that is the last amendment to be offered and we have only about 10 minutes left, it will not be debated sufficiently and it has tremendous consequences.

I would go along with the gentleman on limiting time amendment by amendment as they come up. I would agree to limit the time on them individually.

Mr. ADDABBO. Mr. Chairman, I withdraw my unanimous-consent request. We will be here all night, then.

The CHAIRMAN pro tempore. The gentleman from New York (Mr. ADDABBO) withdraws his unanimous-consent request.

AMENDMENT OFFERED BY MR. ADDABBO

Mr. ADDABBO. Mr. Chairman, I offer an amendment.

The portion of the bill to which the amendment relates is as follows:

SEC. 741. None of the funds contained in this Act available for the Civilian Health and Medical Program of the Uniformed Services under the provisions of section 1079(a) of title 10, United States Code, shall be available for (a) services of pastoral counselors, or family and child counselors, or marital counselors unless the patient has been referred to such counselor by a medical doctor for treatment of a specific problem

with results of that treatment to be communicated back to the physician who made such referral; (b) special education, except when provided as secondary to the active psychiatric treatment on an institutional inpatient basis; (c) therapy or counseling for sexual dysfunctions or sexual inadequacies; (d) treatment of obesity when obesity is the sole or major condition treated; (e) surgery which improves physical appearance but which is not expected to significantly restore functions including, but not limited to, mammary augmentation, face lifts and sex gender changes except that breast reconstructive surgery to correct serious deformities caused by congenital anomalies, accidental injuries and neoplastic surgery are not excluded; (f) reimbursement of any physician or other authorized individual provider of medical care in excess of the eightieth percentile of the customary charges made for similar services in the same locality where the medical care was furnished, as determined for physicians in accordance with section 1079(h) of title 10, United States Code; or (g) any service or supply which is not medically or psychologically necessary to prevent, diagnose, or treat a mental or physical illness, injury, or bodily malfunction as assessed or diagnosed by a physician, dentist, clinical psychologist, optometrist, podiatrist, certified nurse-midwife, certified nurse practitioner, as appropriate, except as authorized by section 1079(a)(4) of title 10, United States Code: *Provided*, That any changes in availability of funds for the Program made in this Act from those in effect prior to its enactment shall be effective for care received following enactment of this Act.

The Clerk read as follows:

Amendment offered by Mr. ADDABBO: On page 54, on line 6, after the word "practitioner," insert the following: "or certified clinical social worker,".

Mr. ADDABBO. Based on the successful pilot program during fiscal years 1981 and 1982, my amendment would provide for the direct reimbursement of certified clinical social workers who provide mental health care. CHAMPUS reports demonstrate that in the majority of States the comparative prevailing fee profiles for social workers' psychotherapy sessions are lower than those for psychiatrists. DOD reports that no quality of care problems have arisen.

My language is identical to that carried in the previous appropriation acts. I urge the adoption of the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New York (Mr. ADDABBO).

The amendment was agreed to.

AMENDMENT OFFERED BY MRS. ROUKEMA

Mrs. ROUKEMA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. ROUKEMA: At the end of title VII (page 73, after line 16), add the following new section:

SEC. 794. Notwithstanding the total of the amounts appropriated under title IV, the total amount obligated under that title may not exceed $77,090,233,000. In making reductions in order to comply with this section, no reduction may be made in amounts available for spare parts, repair parts, or ammunition.

Mrs. ROUKEMA. Mr. Chairman, my amendment would impose a $77 billion cap on spending for procurement in fiscal year 1983—a 3.3-percent or $2.7 billion reduction from the committee bill. The amendment would effectively limit overall real growth within the defense bill to 5 percent for fiscal year 1983, in contrast to the 6.2-percent growth contained in the bill.

Even with the proposed reduction, procurement will still grow by 10.3 percent between fiscal year 1982 and fiscal year 1983. It protects our readiness capability by prohibiting reductions in funding for spare parts, repair parts, or ammunition. In addition, the amendment includes no reductions in operations and maintenance, military pay, military personnel, or military training.

My colleagues, we are facing a ticking time bomb ready to explode with the growth of a new set of defense entitlement costs—the bills for which will come due throughout the decade. Thus, we have reached a critical point in determining not only how much to increase defense spending but also how we can best plan for an improved military capability. I would suggest that current plans for a 7-percent real growth in defense spending are unrealistic and irresponsible in light of projected budget deficits in excess of $150 billion.

To bring real growth down to a 5-percent level may very well sound arbitrary. However, it is no more arbitrary than a 7-percent growth level. The key difference between the two numbers is that when the 7-percent level was established, assumptions were made about the economy and inflation which have since been disproven. We are not even close to the balanced budget we assumed 2 years ago.

Furthermore, since the 7-percent growth level was established, we have witnessed a notable lack of coherence, discipline or realism in defense strategy at the Pentagon. Murray Weidenbaum has described the situation well:

Official projections of future military outlays, in real terms, have risen successively during the last 2 years from 5 percent to 7 percent to 9 percent or more per annum. There seems to be little justification offered of the economic feasibility of this sharply upward movement . . . intensive analysis should be given to the military budget, comparable to the tough-minded attitude quite properly taken toward many civilian spending activities of the Federal Government.

Therefore, I propose that, as a compromise, we now face economic reality and establish a 5-percent real growth rate, which still exceeds the 3-percent level that had been operative 3 years ago. Furthermore, we must not lose sight of the fact that, over the past 2 years, we have already achieved a real growth of 11 to 12 percent each year.

In making the necessary reductions in the bill, procurement is the most logical place to start. First, it has been cited on numerous occasions for wasteful and excessive spending. Countless GAO reports provide compelling evidence of major cost overruns on weapons systems. This has also been confirmed by the 1981 Selected Acquisition Report from the Department of Defense; second, procurement has already received more than half of the increase in defense spending in the past 2 years—a 25.1 percent average real growth per year compared to a mere 7.5 percent for operations and maintenance and 11.8 percent for research and development; and third, looking further down the road, the Congressional Budget Office has recently estimated that the procurement account will grow from 26 percent in fiscal year 1981 to 38 percent of the defense budget by 1987. In other words, the procurement account will total more than $150 billion in budget authority by fiscal year 1987—almost double the amount in the current year—largely because of what has been referred to as a "bow wave" or "procurement bulge." This means that, as a result of commitments we have made for weapons in the procurement account in the past 2 or 3 years, the bills will really start coming due in the next few years after production gets underway. By that time, it will be too late to effectively put a stop to the explosive growth in the procurement account.

What all of this means is that, if we are to affect future year budget deficits, we must reduce the growth in procurement now and we must continue year after year until we have a budget that is under control.

My amendment is not an across-the-board reduction per se. Rather, it is targeted at those areas where wasteful and unnecessary spending exist by saying to DOD:

Face up to this responsibility now. Set out a coherent strategy and set priorities or the consequence will be confiscatory high taxes, unacceptably large deficits—or both.

While some would suggest that a $2.7 billion reduction in an overall defense bill of $230 billion is a small amount, I would compare it with some of the important domestic programs whose funding levels are under constant scrutiny. For example, the Older Americans Act costs about $1 billion; Guaranteed Student Loans are funded at $3.1 billion, and Education for the Handicapped receives about $1 billion annually. Compare the $3.7 billion to the $5.5 billion transportation bill recently adopted by the House. Anyway you look at it, we must slow down the runaway growth of the procurement budget or pay the price in the rest of our Federal budget.

In addition to the damage to the economy of uncontrolled defense spending, we must not lose sight of the fact that the American people have become increasingly wary of huge defense increases combined with out-of-control deficits. If quick action is not taken, the resulting backlash could bring in dangerously sharp reductions in defense spending at the expense of manpower, training, ammunition, and other essential components of our readiness capability.

If my amendment is adopted, overall defense spending will still grow by $22.1 billion or 5 percent after inflation. In addition, we will be providing substantial increases for weapons procurement, which should assure our adversaries of our firm resolve for a strong national defense posture.

I urge my colleagues to support this amendment. It is a small, but necessary, step designed to help defuse a ticking time bomb.

□ 1610

Mr. EDWARDS of Alabama. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, first I want to commend the gentlewoman from New Jersey for her genuine interest in what is in the defense bill, her genuine interest in the level of defense spending. It was evident last year that she was greatly concerned about this.

While I may disagree with her final result and the way she has come out, I think the work she has done and the interest she has shown is highly commendable.

Mr. Chairman, when we brought this bill to the floor it had in it cuts of some $18 billion from the President's budget. We cut another billion during the debate on MX procurement.

When we came here we had a bill that cut 9.8 percent in procurement from the President's budget. After the MX was cut the procurement cut is now some 10.6 percent.

My point is, and I would say to the gentlewoman that we have made some substantial progress in the direction in which she would have us go, we are now in the overall bill at a point of less than 6 percent real growth from a point when we had the bill presented to us of some 13 percent real growth.

So while I would not stand here and argue that the committee has done the perfect job, I would argue that as defense subcommittees go we have cut more than any subcommittee has cut from a President's budget in the last 22 years.

So it seems to me that with the work of the committee, supplemented by the work of this Committee of the Whole and the cuts it has made, we have cut an ample amount from the President's budget.

Let me say this to the gentlewoman and to my colleagues: It has been my concern for some time, and I do not mean with this President and this Secretary of Defense, but with Presidents and Secretaries of Defense generally, that too often the Congress ends up trying to make defense policy because we, in our committee, have to try to make serious cuts from time to time in the way we operate.

For example, if we were going to cut out the A-18, as was suggested here yesterday, we do not have the ability in our subcommittee then to substitute some other plane for the 18. The most we can really do is cut, send it back to the Pentagon ultimately, and they may finally make some correction after we act.

My point is that I would hope that the Pentagon in years to come would take a good look at what we have done in this bill, would take a good look at the approach of the gentlewoman from New Jersey, and would try to deal with priorities in a better way, would try to cut out duplication, would try to go about paring down the defense budget in an appropriate way without reducing defense.

This Congress then could do a much better job, I would argue, in dealing with the defense budget.

I think a lot should be done there and I hope that over the next year or so I can maybe take the floor a few days and talk about some of the things that need to be done in the Pentagon.

Again I commend that gentlewoman for her effort but I do believe that the committee has done a yeoman's job in the cause of cutting. I would urge the House to not vote for the gentlewoman's amendment.

Mr. DICKS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as much respect as I have for the gentlewoman from New Jersey, and I think she is a valued Member of the House and someone whom I have enjoyed working with, I really believe that this year our committee has very carefully scrutinized the defense budget. We have cut about $17.5 billion in budget authority, a very substantial cut.

We have made adjustments in outlays and we have taken a very careful look at procurement.

If we give the Defense Department the kind of leeway this amendment provides, what they will do is go back and cut whatever adjustments have been made by the Armed Services Committee and our committee so the actual input from the Congress will be substantially reduced.

What I would suggest to the gentlewoman is that next year she might come to our committee and present us with some areas in procurement that she thinks ought to be considered for reduction and give us the specific rationale rather than calling for an across-the-board cut.

The reason I think that is so important is because I honestly believe that our committee this year has given this bill real scrutiny and I think we have done a good job and it should be supported here on the floor.

Mrs. ROUKEMA. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I will be delighted to yield.

Mrs. ROUKEMA. I concede the point that the committee has done a commendable job and, as the gentleman knows, I had originally expected to include R&D, but decided against inclusion because of the excellent craftsmanship of the committee in reducing the Pentagon requests.

I would suggest to the gentleman that I recognize this proposal for reduction in procurement is one of last resort. I must emphasize despite the job that has been done by the committee, which is commendable, we must recognize the time-bomb effect of future growth in spending that the committee should take up beginning with its initial discussions with the Pentagon. I cannot stress strongly enough that it is the bow-wave effect or procurement bulge, if you will, that is going to cause us not only to lose credibility with the American people but, beyond that, is going to put us in a position of deficits that will require either drastic cuts in other areas of the budget, drastic cuts in defense, or living with confiscatory taxes, because there will be no way to pay for the bills in 1985 and 1987 in the absence of a very lean budget from the Defense Department.

Mr. DICKS. I would just say to the gentlewoman that I think the way those kinds of decisions are going to be made in the procurement area is to go in and make reductions in certain weapons systems because if you get a cut like this it will be administered across the board and it will mean that we will be able to procure even fewer of each weapon and that would drive the unit cost up and in a way will be self-defeating.

□ 1620

So I think if you are going to make the kind of tough judgments, you are going to have to select those marginal systems in procurement and eliminate them, not do an across-the-board kind of cut that makes our procurement problem even worse.

The CHAIRMAN pro tempore. The time of the gentleman from Washington (Mr. DICKS) has expired.

(By unanimous consent, Mr. DICKS was allowed to proceed for 1 additional minute.)

Mr. DICKS. That is what happens when you do an across-the-board cut; it means that they will just divide it across all of these major systems, and we will have less money for each, and

that drives up the unit cost. So we wind up getting less and paying more.

Again, so what I would recommend is that the gentlewoman come to our committee next year and make some suggestions about other areas in procurement that we ought to eliminate, and we will give the gentlewoman every consideration. But to do an across-the-board amendment I think is a mistake at this point.

Mr. ASPIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me get into a little bit of colloquy, if I might, with the author of the amendment, and also the chairman of the committee and the ranking minority member.

As I understand it, the committee has already cut this bill by a significant amount of money. And I think that is very clear. I think everybody ought to understand that the Congress treatment of this 1983 budget is very different from the treatment given the 1981 and 1982 budgets.

Mrs. ROUKEMA. Yes; and that is commendable.

Mr. ASPIN. In 1982, we had a 12.7-percent real increase in defense budget authority over 1981. In 1981 we had a 10.9-percent real increase over 1980. So, 2 years, 10.9-percent growth, 12.7-percent growth. The request for this year was a 13.3-percent real increase, all in real terms, above the rate of inflation. For 1983 this would have meant an appropriation bill of $249.6 billion.

Now, as the gentleman from Alabama pointed out, the subcommittee and the committee cut that amount by $18 billion. That is not counting the amendment of the gentleman from New York, which cut almost another billion dollars yesterday. More than $18 billion was cut out of this bill. In terms of real growth, what are we left with? The original request would have been, had it passed, a 13.3-percent real increase in defense spending over 1982. But that was cut by the committee by $18 billion.

I will ask the chairman or the ranking minority member, what does that leave in the rate of a real growth?

Mr. EDWARDS of Alabama. It leaves a little bit less than 6 percent real growth.

Mr. ASPIN. A little bit less than 6 percent real growth. And the amendment of the gentlewoman from New Jersey would cite it further, to leave a 5-percent real growth; is that correct?

Mrs. ROUKEMA. That is correct.

Mr. ASPIN. In dollar terms, yours would be a cut of $2.5 billion?

Mrs. ROUKEMA. 2.7.

Mr. ASPIN. And it would or would not count the amendment from yesterday?

Mrs. ROUKEMA. Counting the amendment that passed yesterday.

Mr. ASPIN. So it is in addition? Including it?

Mrs. ROUKEMA. Yes, 2.7 in addition.

Mr. ASPIN. In addition. On top of the cut that the committee has made.

Mrs. ROUKEMA. Correct.

Mr. ASPIN. And the $900-plus billion cut by the amendment of the gentleman from New York, it would be additional to the cut of 2.7.

Basically, I think it is a judgment call. I think you can argue it both ways. Clearly the committee has done a much, much better job of overseeing this bill than has been done in other recent years, and the mood is different. I think the gentlewoman would like to go to a 5-percent real growth. The committee is something a little less than 6 percent real growth. I guess that is the issue that faces the committee.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. ASPIN. I yield to the gentleman from Washington.

Mr. DICKS. I think we have even cut more than the Armed Services Committee; is that not correct?

Mr. ASPIN. Oh, there is no question, you cut more than the Armed Services Committee. But that is not hard. I point out to the gentleman from Washington that if he cannot cut more than the Armed Services Committee, he is blind.

Mr. Chairman, I think you can make a good argument for an amendment like this. I think the issue this amendment raises is an issue we have to address, and that is: What is the rate of real growth that we ought to have in defense spending? What is the proper level of real growth of defense spending that we ought to have that is consistent with getting as strong a defense as we can but also consistent with the other demands for the money and the economic situation the country faces?

I think the gentlewoman has raised a very, very important issue with this amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentlewoman from New Jersey (Mrs. ROUKEMA).

The amendment was rejected.

Mr. ADDABBO. Mr. Chairman, I ask unanimous consent that all debate on the bill and all amendments thereto end at 6 p.m.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

AMENDMENT OFFERED BY MR. GARCIA

Mr. GARCIA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GARCIA: At the end of title VII (page 73, after line 16), insert the following new section:

SEC. . None of the funds appropriated by this Act may be used—

(1) to operate, maintain, or provide personnel support services for the dining room of the Secretary of Defense in the Pentagon;

(2) for the pay of enlisted members of the Armed Forces assigned to duty as personal aides to general and flag officers; or

(3) for the provision of veterinary care for pets of members of the Armed Forces or their dependents.

Mr. GARCIA. Mr. Chairman, this amendment is one that I also offered when we were discussing the armed services bill, H.R. 629, which was cosponsored by about 18 Members of the House. What the bill is primarily aimed at is reducing the flagrant spending practices of the military.

It is interesting that yesterday we talked about close to $1 billion for the MX, and today we talked about the B-1 and several other very high priced pieces of hardware for our Armed Forces. The fact is that there are other parts of the defense budget which I believe we should look at very closely.

No. 1, there is no question in my mind that presently we are subsidizing the Secretary of Defense Caspar Weinberger's private dining room, and what this bill would do would eliminate the subsidizing of personal aides to about 300 senior officers in the armed services and eliminate subsidizing veterinary care for pets of military personnel.

Based on the Congressional Budget Office estimate, this amendment, which is small in comparison, but I think it is symbolic, because we are talking about those services dealing with meals, dealing with pets, dealing with personal valets, we have asked Americans across this country, the poor, the low- and middle-income person to accept cuts in education, to accept cuts in health, to accept cuts in social services. And here we have generals, and admirals, spending taxpayers money to the tune of $6.4 million in 1983 and about $7.7 million in 1987.

Many of my colleagues may think I am nitpicking, I represent one of the poorest areas in the country, and they have been brutalized by budget cuts over the last 2 years. At the same time, we have constantly spent more on defense, defense and more defense. What I am trying to do is to bring some justification into this madness.

Mr. ADDABBO. Mr. Chairman, will the gentleman yield?

Mr. GARCIA. I yield to the gentleman from New York.

Mr. ADDABBO. Mr. Chairman, I would ask the gentleman from New York, my colleague who I admire greatly and who has done a great job in representing his people, to withdraw his amendment, because I would not like to see action taken on this amendment. It might very likely be voted down.

I would assure the gentleman that this committee has been very interested in this problem. We have carefully

watched it, have held hearings on it, and if there are still abuses, I assure the gentleman today that I will advise my committee and my staff right now to ask that GAO immediately reinstitute an investigation of all of these allegations, if any abuse is found, I will assure the gentleman from New York that this committee will take proper action—as soon as we can—and stamp out any abuses.

□ 1630

Mr. GARCIA. Mr. Chairman, let me say to my colleague and the chairman of the subcommittee, because of my tremendous respect for him and because these days that have been very long and difficult for him, the pressures that have been brought upon him by many forces, I will accept his recommendation. But in doing so, I think what we have done, when we offered the amendment to the original armed services bill, H.R. 6229, in that amendment I had a section dealing with the teletype service and the electronic connections between military bases around the world which were being abused.

I am delighted to say that from that point to where we are today, some of those abuses have already been corrected. And so in deference to my colleague from the State of New York, and knowing that he will look into it, and knowing that he has been diligent, I will withdraw the amendment. And I will say that I, too, will be monitoring it as well. Myself and my staff have looked into this. We put many hours in this issue because we feel if we are asking the poor to pay the price, the military should also pay their dues as well.

Mr. ADDABBO. Mr. Chairman, will the gentleman yield?

Mr. GARCIA. I yield to the gentleman from New York.

Mr. ADDABBO. Mr. Chairman, I would ask the gentleman and recommend that his staff meet with our staff and we will jointly monitor this matter.

Mr. GARCIA. Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

AMENDMENT OFFERED BY MR. COURTER

Mr. COURTER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COURTER. At the end of the bill (page 73, after line 16), add the following new section:

SEC. 794. Notwithstanding the total amount appropriated under title V for research, development, test, and evaluation for the Army, not more than $3,705,275,000 of such amount may be obligated or expended, of which not more than $259,000,000 is available for the ballistic missile defense (BMD) system technology program.

PARLIAMENTARY INQUIRY

Mr. ADDABBO. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state his parliamentary inquiry.

Mr. ADDABBO. Mr. Chairman, which section is this?

Mr. COURTER. Mr. Chairman, will the gentleman yield?

Mr. ADDABBO. I yield to the gentleman from New Jersey.

Mr. COURTER. This is the amendment on title VII, relative to the ABM system.

Mr. Chairman, the amendment is an easy one to understand. Basically it has to do with a line item in the original budget having to do with the ballistic missile defense system. It is interesting to note that the Armed Services Committee, during its deliberations and as part of its report, recommended that $117,543,000 be deleted in the line item that I am mentioning today.

The reason that ballistic missile defense money was recommended to be deleted by the Armed Services Committee was because at that particular time we were unsure of the basing mode for the MX missile.

Today we are not only unsure of the exact basing mode of the MX missile, but I suppose in a greater sense we are unsure of the missile itself.

It seems to me that if in the wisdom of the Armed Services Committee it was appropriate to reduce by over $100 million the ballistic missile defense system, then in light of the amendment on MX that was adopted yesterday in this body, there is greater logic to embodying that particular wish of the Armed Services Committee today.

Mr. EDWARDS of Alabama. Mr. Chairman, will the gentleman yield?

Mr. COURTER. I yield to the gentleman from Alabama.

Mr. EDWARDS of Alabama. I thank the gentleman for yielding.

Would the gentleman explain to me how much he would leave in the bill for ballistic missile defense?

Mr. COURTER. Yes; I do not have my notes in front of me but I believe I leave approximately $260 million for ballistic missile defense, and I believe as well the ballistic missile advanced technology funds of $143 million. That is untouched.

There are two line items directed to ballistic missile defense moneys. One has to do with advanced technology, which I do not touch, and which the Armed Services Committee did not want to touch. The funds that I touch have to do with systems technology. Basically what we are talking about is a savings of substantial sums of money, because we do not know exactly what type of basing mode the MX will have at this particular juncture.

As I suggested before, the Armed Services Committee requested that money be reduced by exactly the sum that I mentioned, and I know that the other body requested a reduction as well.

The conference, however, came out with a figure between what was suggested by the House Armed Services Committee and what the other body wanted. My amendment places this back to what was originally requested by the House Armed Services Committee.

Unless there is further inquiry from me, I yield back the balance of my time.

Mr. EDWARDS of Alabama. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, we are all furiously trying to find the numbers that are involved here. I have tried to look back through my notes. In looking at my notes, it appears that the President budgeted $727,311,000 for BMD. The authorization committee cut out $350 million. Is that correct?

Mr. COURTER. If the gentleman will yield, that is correct.

Mr. EDWARDS of Alabama. Then we therefore appropriated $377,311,000. I notice staff saying yes.

Now, then, the difference is between $377 million and $259 million.

Mr. COURTER. I think that really means, and I misstated it before—what I am asking for is a reduction of $117.543 million. I think that is the correct figure.

Mr. EDWARDS of Alabama. Would the gentleman kindly advise me again where the $117 million comes from? Why is the gentleman proposing to cut $117 million?

Mr. COURTER. If the gentleman will continue to yield, that figure comes from a line item in the report under ballistic missile defense systems. There are two line items in the budget with regard to ballistic missile defenses. I am taking money from the second one only that deals with systems.

Mr. EDWARDS of Alabama. Well, Mr. Chairman, the committee looked at this thing very carefully. We understood, we thought, why the authorization committee cut $350 million. We believed that what we were doing was going forward with what has generally been called a level of effort for ballistic missile defense being stepped up to the extent that it might in fact be ready somewhere down the road.

But it seems to me that cutting the President's request in half certainly has been sufficient. Unless the gentleman can suggest some more basic reason for proposing the cut, I simply have to oppose it. The subcommittee worked its will on this number. I do not know anybody who has any real argument with it.

Mr. Chairman, may I just read from the notes on the authorization conference which perhaps the gentleman was a member of.

The conferees approved $377.311 million. They also requested a report detailing the BMD role in the selected basing system, the technologies to be utilized and a plan for their deployment. The conferees expect the Army and Air Force to cooperate in the analysis for the requested report.

That certainly does not suggest the need to cut anything further. I would again oppose the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New Jersey (Mr. COURTER).

The amendment was rejected.

□ 1640

Mr. ASPIN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I just rise to address the committee for a moment to talk about an amendment that I was going to offer to the bill, but will not offer partly because the hour is late and partly because the amendment itself would have some problems against a point of order should one be raised against it; but I think the point raised by my amendment is a very important one.

We have, as our discussion on the Roukema amendment earlier indicated, done a very, very credible job. We—I say we, the members of the committee have done a credible job. We have changed this bill very little on the floor during these last 2 days. The members of the committee have done a very credible job of dealing with the defense bill this year.

The real increase in defense spending over last year is something on the order of a little less than 6 percent, as the gentleman from Alabama has pointed out previously.

However, there is a problem that we have in the defense budget process. That is the massive increases in procurement that went into the budget in 1981 and 1982. What we did was to increase defense spending, particularly in the procurement areas, by very large amounts in those 2 years, such that the real growth of total defense spending was higher in those 2 years than the President's original plan. The President's original plan was for a 7-percent real increase in defense spending every year in the 5 years of his plan; but because inflation was lower than anticipated when those plans were drawn up, we, in fact, had a real increase in defense spending of 10.9 percent in 1981 and 12.7 percent in 1982; very, very large increases. Almost all of that was in procurement, in the area of modernization, modernizing the forces, replacing older equipment with newer equipment, planes, tanks, ships, and whatnot.

There are several difficulties created by doing that this way. One of those is systems' overload. We have under development a whole bunch of systems, which means they are getting less scrutiny by the Pentagon and by the armed services than they otherwise would. A typical case is the problem in the Army. The Army has a major screwup with almost all its procurement programs, the tanks, the helicopters, the armored personnel carriers, et cetera.

When you have so many systems coming down the line, you have cost overruns and problems just because of systems' overload.

The second problem created by jamming so much procurement in those first 2 years is that we are likely to set off sporadic increases in inflation because of bottlenecks created by procurement. You are likely to offset any advantages, such as the reduction in unit costs, by additional inflation. That is the second problem.

The third problem is that 3 years from now, when the production starts on these things, outlays are going to go up.

We have got a time bomb built into these budget authority numbers which is going to mean big increases in outlays in 1984, 1985, and 1986. When that happens, we are really going to have a crunch because unless we have done something about the deficit, we will be desperately looking around for places to cut the budget. At that point we will be faced with these big outlay figures that will stem from these procurement budgets we approved in 1981 and 1982 and, to a certain extent, in 1983.

What that means is that we are likely, in future years, to cut defense in exactly the places where we cut it, unfortunately, in the past, which is in the readiness, the O&M area, the training, ammunition, spare parts, all of the things that can spend budget authority fast. I see really big problems with that.

I rise to draw the attention of the committee to that because, unfortunately, we did not do with the defense budget in 1981 and 1982 what we did this year. I commend the committee.

The CHAIRMAN pro tempore (Mr. PANETTA). The time of the gentleman from Wisconsin has expired.

(By unanimous consent, Mr. ASPIN was allowed to proceed for an additional 5 minutes.)

Mr. ASPIN. Mr. Chairman, I will be happy to yield to other Members; but I just point out that had we done in 1981 and 1982 what we did with the budget this year, we would not be facing this problem; but having not done that, we face a serious problem.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. ASPIN. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I think the gentleman has raised a very important point, because I believe we do face an affordability problem in procurement.

I might suggest to the gentleman that it might be a subject that the Armed Forces Committee could spend a little more time on.

This year alone the cost of the 47 major weapons systems we are procuring jumped from $318 billion to $455 billion according to the Selected Acquisition Report, the SAR. What that indicates to me is that we do have a tremendous problem. We are going to have major increases in these programs and what is going to happen, as we know, is that we are going to cut back on the number of units that we are going to buy and what that does is drive up the cost even higher.

So I believe we are going to have to make some tough hard decisions in procurement—not across-the-board cuts, by the way, but making tough decisions on individual weapons systems or we are never going to get this affordability problem under control.

Now, I have talked to a large number of contractors about the inflation issue that the gentleman has raised. They tell me that they are not seeing a dramatic decrease in the prices that they are getting from subcontractors, but they do tell me that there are a lot more subcontractors available today to compete on the various major systems.

So one of the problems that we have been worried about in the past, the industrial base issue, may be partially resolved.

I think the gentleman is correct. I think this is an area that deserves attention.

I think that when you see over the decades how we used to get 20 or 30 or 40,000 tanks; then it was 20,000 in the sixties and seventies and now in the eighties all we can buy is 8,000 or 9,000. That is because the unit cost has risen so dramatically.

The same thing is true of planes and ships; but I think it is a problem that the Armed Services Committee, quite honestly, is going to have to spend a lot of time addressing and looking at whether the Carlucci initiatives have had any impact at all.

Now, another point is that 60 percent of the procurement today is still done sole source without competition and that is something that the gentleman's committee has jurisdiction over as well. I think having competition in procurement, even competition through procurement can be a valid way of reducing expenditures.

Look, for example, at the example of the F-100. The Congress went ahead and certified going ahead with the F-101X and that created real competition through procurement.

Now we see that Pratt-Whitney has fixes on the F-100. They have come in

with a multiyear program which is going to save us a billion dollars.

So competition, I think, is an important part of the answer. When we have 60 percent of the budget being sole source, we are not going to get competition. We are going to get escalated administered prices.

Now, I would say to the gentleman with respect to the Army, and I spent some time on this, that I think Secretary Ambrose has done a commendable job in trying to get a handle on the three programs that the gentleman mentioned; but clearly, reform of procurement processes, multiyear procurement, competition through procurement, all these things I think deserve consideration in order to get a handle on this, or we are going to wind up just having a few weapons that are very, very expensive and we are going to wind up with a self-defeating situation.

Mr. ASPIN. Mr. Chairman, I appreciate the comments of the gentleman from Washington. I agree with what he said.

The amendment that I was thinking about offering was one that would go back and recapture some of the unobligated balances, some of the money that we had appropriated in previous years but had not yet been obligated in the form of contracts. These unobligated balances have gone up dramatically. It is a subject that I know is near and dear to the hearts of the chairmen of the Appropriations Committees and the person who chairs the Defense Subcommittee of the Appropriations Committee.

It is a problem that is shown in a bulge there. That bulge in unobligated balances is, of course, eventually going to result in a bulge in the outlays that are coming down the line.

I appreciate the comments of the gentleman. I agree with what the gentleman from Washington has said.

Mrs. ROUKEMA. Mr. Chairman, will the gentleman yield?

Mr. ASPIN. I yield to the gentlewoman from New Jersey.

Mrs. ROUKEMA. Mr. Chairman, I want to commend the gentleman from Wisconsin and my colleague, the gentleman from Washington (Mr. DICKS) for everything these gentlemen have said, and wholeheartedly endorse their statements.

I would also like to ask a question of my colleague, the gentleman from Wisconsin. Is it not also true in addition to what has thus far been said that there is a very fundamental problem here and that is a question of making choices at the most basic level on behalf of the Defense Department, choices between some new exotic weapons systems that may have great appeal.

The CHAIRMAN pro tempore. The time of the gentleman from Wisconsin has again expired.

(By unanimous consent, Mr. ASPIN was allowed to proceed for 2 additional minutes.)

□ 1650

Mrs. ROUKEMA. I ask this question because I do not think that we can get to the point that the gentleman has correctly directed us to unless the questions on strategic and conventional new weapons are resolved. Unless those questions are answered, and they can only be answered by the Defense Department.

Some of the critics of my amendment, the gentleman from Wisconsin (Mr. ASPIN) not included, but some of the critics of my amendment have said that we will have to make those choices and target the weapons for deletion.

That is very easily said, but unfortunately the reality of the situation is that when we come on the floor it is rare that we can get a consensus without the approval of the Defense Department and the Committee on Armed Services for any one particular defense system to be deleted.

Therefore, if we are not going to have the backlash that is predicted because of the deficit crunch that we are inevitably facing in 1985 and 1987, we are going to have a very crude kind of cut here on the floor of the House that may be detrimental to the defense posture of this Nation and to our national security, and we are going to find that the American people are not willing to vote into office those people who stand up for a strong national defense.

The gentleman from Wisconsin (Mr. ASPIN) has correctly outlined the problem, but the Defense Department, shows no willingness to make the choices. Therefore we will have to make the choices for them on the floor.

Mr. ASPIN. Mr. Chairman, I say to the gentlewoman if the Defense Department does not make the choices, it certainly makes it a lot more difficult.

Mr. ADDABBO. Mr. Chairman, will the gentleman yield to me?

Mr. ASPIN. I yield to the gentleman from New York.

Mr. ADDABBO. I thank the gentleman for yielding, and I thank the gentleman and the gentlewoman for bringing these points out.

I agree with the gentlewoman, with my colleague from Washington, and with the gentleman from Wisconsin.

The Pentagon should have gotten the message yesterday on the MX vote that defense spending must be curtailed. The bureaucrats at the Pentagon have almost abrogated their entire responsibility on spending oversight to the military, and if they cannot properly carry out this responsibility the Congress will do it for them on individual programs.

Mr. WRIGHT. Mr. Chairman, the discussions we have had in the last few minutes concerning costs and affordability of weapons systems is very interesting. Nothing could be more relevant to all that we do today.

I want to commend the committee. I believe we have spent 2 days wisely and very well.

Let us see if we can get some of these figures in perspective. Then, having done that, let us see if we can reach any conclusions.

This bill, as it presently stands, appropriates some $230 billion for fiscal year 1983 for military purposes. That amounts to a reduction of some $19 billion below the total amount requested by the administration. The administration requested $249 billion, just almost a quarter of a trillion dollars, for the fiscal year. This bill represents some $5 billion less than the amount contained in the bill approved by the Senate committee and reported to the floor of the Senate.

Yet it represents approximately $25 billion more than the amount that was appropriated last year. This increase of some $25 billion amounts to an increase of approximately 11 percent over last year's defense budget.

We could quarrel about what that means in real terms. I do not know precisely how we attribute the cost factors of inflation. I think this bill may represent an 8-percent increase in real terms.

What can we conclude from these figures? I think the first thing we have to conclude is that this is an adequate figure. Obviously, the Nation needs an adequate defense. Obviously, we cannot afford to place ourselves at the mercy of those who would have no mercy. In a world in which only the strong may stay free, we have the responsibility to be strong.

It should be adequate certainly to increase last year's figure in real terms by some 8 percent—particularly when other expenditures are being rather severely cut.

The second thing I think we have to conclude is that this is just about all we can afford under the present circumstances. I think what was done by this committee yesterday was wisely done. The reductions are prudent reductions. Yesterday I talked with the President and he asked me to do what I could to see that he was not embarrassed. I told him that I felt sure the House could not embarrass him; that I did not believe we were going to leave him bereft in his negotiations with the Soviet Union for mutual arms reductions, and I do not believe that we have done that.

I do think that what we are spending is about all we can afford as a Nation. When we are spending close to a quarter of a trillion dollars for defense, with only 67 or 68 percent of

our industrial capacity operating, when almost a third of our productive capacity lies idle, when one family out of four has someone who is either unemployed or who is underemployed, it would be difficult to justify a larger increase for military spending.

If you put into perspective what we are doing increasing defense by 11 percent at a time when we have had two successive reductions in educational programs amounting to some 28 percent, it takes on some meaning. We need to recognize that we are not going to be preeminent in defense in the world if we ignore the long-term needs of education.

Last year our American colleges graduated some 54,000 students in engineering, scientific, and mathematical disciplines. At the same time, the colleges in Japan, with only about half of our population, were graduating some 77,000, and the Soviet Union was graduating some 300,000.

We are not going to be first in defense, I do not care how sophisticated our weapons systems are, if we do not have the trained and skilled manpower and womanpower to design those systems, to operate and maintain those systems. The strongest thing we have ever had going for us is the human equation, the human resource. So we dare not ignore that.

Then I think the third thing that has to be said is that these ever-escalating costs in this newly escalating arms race emphasize once again, and they should emphasize with a clarity that none of us can fail to recognize, the need for us to negotiate verifiable mutual reductions in this balance of terror.

The world cannot afford it. The world teeters on the brink of economic crisis. There is a worldwide depression, not confined only to this country. It makes no sense at all for the people of the Soviet Union and the people of the United States together to be spending half a trillion dollars on the implements of destruction when people in both of our countries go hungry. That is insanity.

The CHAIRMAN pro tempore. The time of the gentleman from Texas (Mr. WRIGHT) has expired.

(By unanimous consent, Mr. WRIGHT was allowed to proceed for 3 additional minutes.)

Mr. WRIGHT. Mr. Chairman, in an enlightened age such as ours, it seems to me the President should be able to take what we have done here and castigate neither the Congress nor our adversaries across the world but use it instead as an inducement to sincere negotiations. He should say to the Russians, "Look, we are demonstrating two things to you. We are demonstrating first that we have the capacity for war if necessary; but second, we are demonstrating that we have the will for peace. Yes, we are continuing with the research and development on this new weapon, but, no, we are not deploying that weapon immediately because we do not want to do something today that menaces you at the moment we are asking you to reduce your arms in exchange for our reductions."

Just think what untold good could be accomplished for the whole world in the entire vast, yawning future if the President of the United States were able to say to the Soviet Union, "Look, together we are spending half a trillion dollars this year on nonproductive military power because we are afraid of what you would do to us if we did not, and presumably you are afraid of what we would do to you if you did not. Would it not make a lot more sense if each of us were to reduce our defense expenditures by, let us say, 10 percent, and put it into a common fund to be administered not by us and not by you, but by some impartial international agency to feed the hungry, clothe the naked, educate the illiterate, care for the sick of the world?"

If we were to do that and if they were to do it for a decade, no two nations in the history of mankind would ever have made the contribution to the human race that theirs and ours jointly could make.

Do you know what that amount of money contributed for a decade to the good and ennobling things that elevate the human race could create? It could pay for a potable water supply, a sanitary sewage disposal system, a first-class hospital and a first-class school in every town in the world of 10,000 people and more. How much good could be achieved if we, the United States, who believe in peace and in freedon and never believe in menacing anyone else on Earth, might use this occasion to set in motion a peace initiative! We could say to the Soviet Union, "We really do not need any more weapons. We both have enough to kill each other 3 or 4 times over. We do not want to kill your children; we do not think you want to kill our children. Why do we not sit down and reason together like rational human beings, admitting that we disagree on economic systems, but that we do agree that the future of humanity would be better served by our working together than by our continuing in beligerent confrontation and hostile rhetoric against one another."

□ 1700

AMENDMENT OFFERED BY MR. HARKIN

Mr. HARKIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HARKIN: Page 73, immediately after line 16, insert the following new section:

SEC. 793. None of the funds provided in this Act may be used by the Central Intelligence Agency or the Department of Defense to furnish military equipment, military training or advice, or other support for military activities, to any group or individual, not part of a country's armed forces, for the purpose of assisting that group or individual in carrying out military activities in or against Nicaragua.

Mr. HARKIN. Mr. Chairman, members of the Committee, news reports of late coming out of Central America and widely distributed in the U.S. press and the press abroad clearly indicate that we are becoming ever more mired into the jungles and swamps of Latin America, and in a way that behooves us here to call a halt at this time to what we have been doing in Central America. In Honduras, we are arming the old Somocista national guardsmen who have encamped along the Nicaraguan border and now, with our aid and support and with the support of the Central Intelligence Agency and our Department of Defense through the CIA, these Somocistas are armed incursions into Nicaragua and already destablizing further a very tenuous situation in that Central American region. The fact that we are involved is no longer even open to question. The New York Times today in their editorial headlined their editorial by stating it is, "The worst kept secret war."

The Newsweek magazine, in their cover story, on November 8, 1982, called it, "America's secret war target—Nicaragua."

Let me just quote both from the Newsweek article and from another source as to the linkage involved in our supporting the old Somocista guardsmen. The Newsweek article starts off by talking about several men standing at a bar in Tegucigalpa, and I quote:

> The smoky bar in Tegucigalpa was a cousin to Rick's Café in "Casablanca," a nightly gathering place for the dangerous and the desperate in Honduras. Squeezed into a corner one evening last week were four Argentine military advisers, speaking machine-gun Spanish and occasionally stealing furtive glances around the room. A half-dozen Americans stood in a loose line at the bar, drinking beer and talking too loudly about guns. In the center of the room, grouped around a table that listed far right, were seven men drinking rum. One of them wore a gold earring. He explained that the seven men were Nicaraguan exiles who belonged to various factions of la contra, a band of counterrevolutionaries trying to topple the leftist Sandinista regime. They were ready to move toward Managua, one of the men said. "We just need to hear from The Boss that it's time to go." Who was The Boss? The man with the earring was impatient with stupid questions. "He's the man you call 'Mr. Ambassador'."
>
> The envoy in question was John D. Negroponte, the American ambassador in Honduras. Official sources told Newsweek last week that Negroponte is overseeing an ambitious covert campaign to arm, train and direct Nicaraguan exiles.

Earlier this fall a camera crew, a film crew from the Canadian Broadcasting Corp., was in Honduras, tramping around the hills. They were captured by some counterrevolutionaries and taken into one of the Somocista camps. It was the first time that a group of newspeople had ever entered one of the Somocista camps in Honduras. They were held overnight and released the next day. They wanted to film, but they were not allowed to do so.

The person who filed the story with the Canadian Broadcasting Corp., Gavin Hewitt, said that he observed that "the camps were efficient, most of the men carried American-made M-16 rifles, they had radio communication with other camps, an indication of the degree of organization." Then, they stayed overnight, and the next day they met the commander of the base. "He introduced himself as Commander Lopez. He said the decision regarding the filming would be communicated through the usual channels, which, to our surprise, he identified as John Negroponte, the American Ambassador. We were later to be introduced to a German businessman called Gunther Havig who confirmed the embassy link. Mr. Havig was clearly of some seniority. He indicated over lunch that they had plenty of money which he said everyone knew was coming from the CIA. It also became apparent that we would never be allowed to film."

Time magazine, also in a separate story again talked about what was going on in Honduras in our arming the old Somocista guards. I quote again from the Time magazine article of December 6:

> But at some point, according to a U.S. intelligence source in Honduras, the U.S. started to lose its grip on the entire effort and its goals. The F.D.N., for one thing, is interested not just in intimidating the Sandinistas but in starting a real war against Nicaragua. "We will start to pick up the tempo before December," predicted an F.D.N. official. "We will be in Managua by spring."
>
> War or no war, the operation has already had unfortunate side effects on Honduras' fragile democracy. After years of military rule, the Hondurans elected Roberto Suazo Córdova last January as their first civilian President since 1971. The troubles in neighboring countries have given Chief of the Armed Forces Gustavo Alvarez Martinez an excuse to extend his authority.

The CHAIRMAN pro tempore. The time of the gentleman from Iowa has expired.

(By unanimous consent, Mr. HARKIN was allowed to proceed for 5 additional minutes.)

Mr. HARKIN. So, we find that the elected civilian government in Honduras has given way to the military once again. But, I guess the real mistake that we are making is not only in doing something that is clearly illegal, but in siding with perhaps the most hated group of Nicaraguans that could exist outside of the borders of Nicaragua, and I talk about the Somocistas. Again, I quote from Time magazine:

> In spite of all its efforts, Washington, ironically enough, may be backing the wrong contras. "They are making the biggest possible mistake," observed a leading opposition figure of the Sandinistas in Managua. "The Nicaraguan people are first anti-Somocista, and only secondly anti-Communist."

Again, I would quote from the Newsweek article in showing that the people that we are supporting are the ones that, on the one hand unify more than anything else the Sandinista directorate in Nicaragua; and second, that are those that are really antithetical to our own beliefs and what we want in Central America.

As a result, according to this article, Mr. Negroponte is supporting a group of vicious, cutthroat murderers: "There is no question that Nicaragua is ripe for a change," said one European observer in the region, "but the United States is supporting the only wrong, the only truly evil alternative."

Let me just quote then, last, from the New York Times editorial of today, "The Worst Kept Secret War."

In the Times editorial, it correctly points out that:

> These are, to begin with, illegal activities. The Neutrality Act expressly forbids the raising of secret armies to unseat a regime that the United States recognizes as lawful. Flouting that law is no way to rally the hemisphere against meddling by Cuba and Nicaragua in other nations' conflicts.
>
> Even if these secret armies were never meant to be used in a big way, they are a dangerous instrument of diplomacy.

What the Times is getting to here is quite possibly that the Contras, the Somocista Guards, were armed by the CIA in order to interdict the alleged flow of arms, from Nicaragua to El Salvador. What the Times has pointed out is, even if you do that, if you give people with a political grudge a gun and the means to fire it, if they do they are impossible to disown once they start. Even if they do not, they are extremely difficult to disband.

□ 1710

What has happened is that perhaps on one pretext of interdicting the supposed arms shipments from Nicaragua to El Salvador, we have armed the old Somocista Guards. They now have at least 10 camps. They have somewhere between 5,000 and 10,000 people. The magazine reports differ, but we are told that between 50 and 200 CIA advisers in Honduras are working with them.

What they are doing is nothing more or nothing less than provoking a conflict with Nicaragua. They have crossed the border into Nicaragua. They have committed atrocities in the small town of San Francisco del Norte. They invaded the town and took some of the town's people down to the local square and slashed their throats, and after they withdrew, they identified themselves proudly as counterrevolutionaries, members of the old Somocista Guard, and they swore that they would be back to topple the Sandinista regime.

Let me just conclude by saying that regardless how one may feel about the Sandinistas and how one may feel about the direction the Nicaraguan Government has been going, what we are doing, in arming and supporting the old Somocista Guard along the Honduras border is, No. 1, clearly illegal. No. 2, if you do not like the Nicaraguan Government, there probably would be nothing you could do to strengthen their hand better than supporting the very hated Somocista Guards along the Honduran border. And, third, if nothing else, what my amendment does is it says that we have to stop all of the arms and all of the money used to arm and support these people who are not part of the legitimate armed forces, but are truly the remnants of the evil, murderous National Guard.

In the name of all that is right and just and decent, we should end our involvement with this group.

My amendment does not speak to the Honduran military, not at all. It only speaks to arming those individuals who are not part of the country's regular armed forces and who use those arms to invade, to go into Nicaragua to seek to disrupt the Nicaraguan Government.

So, Mr. Chairman, I ask support for this amendment to prevent our becoming further intertwined in the jungles and swamps of Central America.

Mr. LEACH of Iowa. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I am pleased to join my distinguished colleague from Iowa (Mr. HARKIN) along with the distinguished gentleman from Minnesota (Mr. OBERSTAR) in offering this amendment to prohibit U.S. support for offensive military or paramilitary operations against the people and territory of Nicaragua.

The legislative record should be clear at the outset that this amendment is not intended to interfere with standard U.S. intelligence gathering operations in Central America nor is it intended to prevent U.S. support to countries in the region if confronted by a military attack from Nicaragua. It is important, as well, to point out that the amendment is not directed against U.S. support for efforts by the Honduran Government to interdict any illegal arms traffic flowing from Nicaragua to other countries through Honduras.

The amendment is, however, specifically directed against the type of activity which has been widely reported in

the U.S. press and on which the administration refuses to comment. Those activities, which allegedly include the arming, training, and advising of Nicaraguan exiles by American personnel, reach far beyond any reasonable mandate of intelligence gathering or defense. Instead, much of the publicly available evidence appears to suggest that this administration, weary of its consistently unproductive bilateral diplomatic efforts, is now flirting dangerously with an overt—and arguably illegal—interventionist policy toward Nicaragua, albeit by covert means. Great power interventionism, as international law and the lessons of history for both East and West demonstrate, is an idea whose time on the clock of history has passed.

Interventionist activities are in direct contravention of international law and the legally binding treaty obligations of the United States under both the Charter of the United Nations as well as the Charter of the Organization of American States.

For example, Article 2 of the United Nations Charter states:

All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice are not endangered. All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State * * *

Article 18 of the OAS Charter sets forth similar obligations:

No State or group of States has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State. The foregoing principle prohibits not only armed force but also any other form of interference or attempted threat against the personality of the State or against its political, economic, and cultural elements.

Legality aside, it would appear hypocritical for the United States to charge the Nicaraguan Government with the export of subversion and terrorism if, in fact, the United States is engaged in much the same type of activity against other nations, such as Nicaragua. Such actions, when undertaken by a superpower such as the United States, are no less illegal under international law than when undertaken by a much smaller and poorer nation like Nicaragua.

The arguments against interventionist policies are not only philosophical and legal; they are deeply practical. Great power interventionism as the last two decades have taught us, is simply counterproductive. This was the final lesson of the Vietnam war and the lesson the Soviets are learning for themselves in Afghanistan today. The desire of peoples to make their own mistakes, to preserve and advance their own culture and way of life is unquenchable.

The administration is erring profoundly in seeking to apply military solutions to the political and economic problems of Central America. American military intervention is exactly what the leftists in Central America want in their own efforts to more broadly popularize their own causes of violence in the name of Marxism. U.S. military interventionism—either covert or overt—offers extremist elements the opportunity to turn a largely Marxist oriented campaign into a nationalist crusade against "yankee imperialism."

U.S. military interventionism not only broadens the popular base of leftist groups but, by example, helps legitimize the use of violence and armed force to accomplish political objectives. In addition, U.S. support for insurgent activities against the Government of Nicaragua undermines the moral underpinning of U.S. policy against the use of force by armed insurgents elsewhere in Central America. Violence simply begets more violence.

The apparent decision by the administration to resolve through force what it is unable to accomplish through diplomatic channels bodes ill for the future of U.S. foreign policy. It strikes many of us that long-term American interests in Latin America are better served by an increased emphasis on economic aid instead of military assistance; by increased reliance on Peace Corps volunteers distributing food surpluses rather than the CIA training secret armies.

Ironically, just as the Cubans are providing weapons with destabilizing intent to insurgent groups in Central America, so they are sending doctors, nurses, teachers, and technicians to countries like Nicaragua. It appears as most graphically demonstrated in these latest developments involving covert action, that the United States is responding to the Cuban-Nicaraguan challenge too exclusively with the sword. The administration risks making a grave mistake if it fails to recognize the error of "staying the course" of military involvement in Central America and continues to overlook our own Peace Corps as perhaps our most potent tool for protecting and advancing U.S. interests in the region.

Sadly, U.S. support for covert military operations appears to have provided a convenient pretext for the Nicaraguan Government to impose heavy restrictions internally on the free exercise of political and civil rights by the democratic elements remaining in Nicaragua, both in the business as well as the political community. Ironically, the administration has jeopardized the prospect for achieving its ultimate objective in Nicaragua of replacing the current Marxist regime with an authentically democratic one by its choice of covert military means to that end. By engaging in confrontational action and rhetoric, the United States is actively contributing to the disappearance of the last democratic hope for that country.

Finally, U.S. covert military involvement in Central America raises again troubling questions related to the authorities of the executive branch under the War Powers Act. The War Powers Act may not precisely have been intended to apply to situations where retired U.S. military or intelligence officers are used in paramilitary or military operations. But the legislative history of the War Powers Act documents the concern that the law be

* * * to prevent secret, unauthorized military support activities and to prevent a repetition of many of the most controversial and regrettable actions in Indochina. The ever deepening ground combat involvement of the United States in South Vietnam began with the assignment of U.S. "advisers" to accompany South Vietnamese units on combat patrols; and in Laos, secretly and without Congressional authorization, U.S. "advisers" were deeply engaged in the war in northern Laos. (Senate Report 93-220)

Clearly the situation confronting the Congress today raises the question as to whether the administration is committed to a policy in Central America which may lead to a violation of the spirit if not the letter of the War Powers Act. Just as the assignment of official U.S. military personnel to places of foreign combat carries significant risks, so does the conduct of secret wars by secret armies. We can hope that the convert activities of our CIA or Defense Department do not provoke a full blown military response from the Nicaraguan Armed Forces. But hope under the circumstances is not enough.

Congress should act today to hold the administration accountable for its activities under the War Powers Act as well as under the formal treaty obligations of the United States.

Mr. OBERSTAR. Mr. Chairman, I am proud to be associated with this responsible effort to prevent the prolongation of a serious foreign policy blunder by our country.

Commonsense demands that we reject a policy of destabilization directed against the Government of Nicaragua.

That policy will result in diplomatic disaster for the United States, and worse, potential war and further suffering for the people of Central America.

A war between Honduras and Nicaragua will mean tragedy for the people, and the likely end of the developing democracy in Honduras.

A policy of destabilization offers no goal beyond the end of Sandinista Nicaragua. I can see no benefit in these operations for the people of the

United States or furthering their democratic principles.

It is absurdly inconsistent that, as the United States continues to support militarily a regime in El Salvador responsible for gross human rights violations, we would spend taxpayer dollars to fund operations directed at destabilizing a government with whom we have diplomatic relations.

The Sandinista government is far from perfect. It is not the government which I would choose, nor is it one under which I would like to live. However, the Sandinista government is totally lacking in the bloodthirstiness characteristic of the military regime in El Salvador.

A mindless insistence upon unquestioning support for rightwing politicial causes in Latin America has undercut American interests in that region. Covert operations directed against Nicaragua will destroy the remnants of pro-American elements within that country. It will strengthen hard line, anti-American elements.

An option of the Harkin amendment will place us on record as opposing the absurdity of current administration policy.

Peace is the proper objective. Covert destabilization is not the means. The key is negotiations—a dialog with the intent to terminate hostilities with a negotiated settlement.

Clearly that is what is needed between Honduras and Nicaragua today. Their border skirmishes threaten to launch a regional war. There must also be larger regional discussion involving those countries and El Salvador to agree on ending all acts of subversion by one country against another.

None of these negotiations, however, will lead to a lasting settlement in my judgment unless there are internal negotiations in each of El Salvador, Guatemala, and Nicaragua.

In El Salvador, a negotiating process must include at least elements from the present government, including the army, and the FDR-FMLN. In Guatemala, they must include the government, political parties not presently associated with the government but still in Guatemala on the one hand, and the guerillas (URNG) and allied political groups on the other. In Nicaragua, a similar process would have to include the Sandinista, led government and both exiled and in country democratic opposition groups. It is unreasonable to expect the people of Nicaragua at this time to accept the reemergence into politics of forces associated with former President Somoza.

These are the players and yet in each of the countries, one side or another will not sit down and even begin to talk. In El Salvador, the Government backed by the Reagan administration will only discuss how to allow the parties tied to the FDR-FMLN to participate in elections if their forces lay down their guns. No mention is made of the army and the security forces which would keep their guns and who over the course of 3 years have killed tens of thousands of the supporters of these groups, the precinct workers of these parties.

In Guatelama, the Government offered dialog. It is now silent. The guerrillas there and their associated political groups have always rejected the offer.

In Nicaragua, the Government has on and off dialog with political parties still inside the country, but routinely announces it will not negotiate with Eden Pastora, the leading symbol of resistance. Pastora has yet to propose negotiation.

The reason for resistance to negotiate is clear. In Latin America today, a negotiated settlement will receive widespread international support only if the solution includes elections. The holding of free and genuinely open elections and establishing an interim neutral government to preside over them would involve in every case some surrender of power or the prospect of holding total power.

The Army of El Salvador has ruled that country for 50 years. It has shared some little power with some civilians. But it does not want to risk a government coming to power with the left having real authority. The guerrillas in Guatemala apparently desire total victory and are not willing to give up that dream. The Sandinista leadership apparently has decided that although the moderates were useful in achieving victory, there is no reason to let them truly compete for power in a democratic manner.

Those are unacceptable positions. Those who hold them are the obstacles to peace in Central America. They are the ones who are opposing political solutions and democracy.

To promote negotiations leading to elections should be the policy of the United States. To encourage others to risk their power or their dreams of power in the democratic process is what our diplomats should do.

And we too should be willing to lose some of our influence by negotiating with the Cubans an agreement on both our sides to limit, if not eliminate, advisers and military aid going to the region.

That is how to achieve peace, not covert operations.

Mr. Chairman, I can think of nothing more mindless or insensitive to international relations than a policy of the United States of giving military support for a band of warriors to invade another country with which we have diplomatic relations.

How can the administration profess on the one hand to be advocating peace through this Caribbean Basin Initiative, and on the other hand, be instigating war by arming and training a group of people committed to the violent overthrow of a government? In this country we would call them revolutionaries and criminals, but when it is a matter of invading Nicaragua, the Reagan administration, provides support and says that this is in the interest of democracy. What I see is a dangerous policy leading us toward military confrontation in a region of the world that is already explosive, that is torn with internal conflict, and where we are surely perpetrating war among countries which need not war but peace, which need to feed the hungry and need to rebuild their domestic economies.

A war between Honduras and Nicaragua will surely be the result of our policy of arming and training the Somocistas and encouraging them to a violent return to their native land, and it will also mean the likely end of developing democracy in Honduras. There is no benefit to the United States in that policy. Surely there is no benefit to the people of Nicaragua or to the people of Honduras.

The gentleman from Iowa (Mr. HARKIN) and I visited El Salvador and Nicaragua earlier this year. Businessmen, some of whom were not in support of the Sandinistas, said to us: "When your government talks about arming Somocistas for an invasion of our country, we believe them. You invaded us three times. We take that threat seriously. But if that should occur, remember that we will fight for our homeland whether we agree with this government or not."

I can only recall a parallel in 1948 in Yugoslavia. When Stalin wanted to crush Tito, the Yugoslav people resisted and they said, "We may dislike Tito 100 percent, but we hate the Russians 105 percent and we will fight them to the last."

We have not endeavored ourselves to the peoples of Central America and of the Caribbean. We should have, but we have not, and we will engender greater resistance by following this madness of a policy. There is no benefit in it for us.

We should be putting this $17 million, or however other millions are to be committed to military intervention in Nicaragua, to a peaceful purpose. We could build up the developing cooperatives that we visited. We could build up the rural areas of that country that need to grow crops and provide food and income for their people. We could build up the rural health clinics. But let us not arm others for an invasion of that country. It will be a worse mark on the honor and record of America in Central America than anything we have done thus far.

Mr. Chairman, I urge support of the Harkin amendment.

Mr. DELLUMS. Mr. Chairman, I rise in support of the amendment to prohibit the use of funds to wage clandestine warfare against the Government of Nicaragua.

Following the widespread publicity of the CIA's involvement in the overthrow of democratically elected Salvador Allende in 1973, the Congress empowered committees to investigate U.S. intelligence activities. In analyzing CIA covert operations, the committees asked the following questions: Are covert operations important to the national security of the United States? Are covert activities antithetical to our principles and ideas as a nation? Has the Executive resorted to covert actions to avoid bureaucratic, congressional, and public debate? If revealed, will covert activities damage the reputation of the United States throughout the world, and limit our capacity for ethical and moral leadership?

I believe that if these questions are asked about President Reagan's covert project to destabilize or overthrow the Government of Nicaragua, the American people and the Congress would overwhelmingly reject it.

Covert operations against the Government of Nicaragua cannot be justified by strict national security criteria. The Sandanista government has never committed a hostile act against the United States or U.S. citizens. Our intelligence sources have not identified a single Nicarauguan fighting in El Salvador, and the evidence of major material support for the insurgents is not compelling. Furthermore, the Government of Nicaragua has repeatedly expressed its willingness to negotiate with the United States and the Government of Honduras to reduce regional tensions and cooperate in patrolling its borders to stop further arms which may flow through Nicaragua.

Indeed, covert operations themselves may endanger U.S. national security. The militarization of the Honduran border and the involvement of the Honduran military in cross-border raids threatens to engulf the entire region in warfare. Covert operations have undercut the position of pro-American moderates in Nicaragua, and strengthened antidemocratic elements in Honduras as well.

In addition to being unjustified in terms of national security, the techniques and methods of the present covert operation against Nicaragua are incompatible with our principles and ideals as a nation. Arming, training, and supporting the degenerate and hated remnants of Somoza's National Guard is a fundamental perversion of everything our country stands for.

Finally, it seems clear that covert operations were undertaken to avoid the democratic process in our own country. Public opinion polls, newspaper editorials, and grassroots activities indicate overwhelming opposition to President Reagan's Central American policies. The Congress is increasingly reluctant to appropriate additional funds for military aid to El Salvador's armed forces. The Congress and the American people favor a mediated settlement to Salvador's bloody struggle, and have no desire to extend that struggle to other countries in the region.

The Church committee report in the other body concluded that:

> Given the open and democratic assumptions on which our government is based, the Committee gave serious thought to proposing a total ban on all forms of covert action . . . The most basic conclusion reached by the Committee is that covert action must be seen as an exceptional act to be undertaken only when national security requires it.

I believe that there is no justification for the CIA's exceptional act against the Government of Nicaragua, and urge your support for an amendment to prohibit it.

□ 1720

Ms. MIKULSKI. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I rise in support of the amendment for several reasons. I have been to Honduras and I have been to Nicaragua and feel that I have some understanding of this issue.

However, the first reason that I want to support the amendment is that our covert activity in the Honduran-Nicaraguan area violates an international agreement; it violates the OAS Charter, article 18, that clearly states that—

> No state or group of states has the right to intervene directly or indirectly for any reason whatever in the internal or external affairs of any other state. The foregoing principle prohibits not only armed force but any other force of interference or attempted threat against the state.

So we, in my estimation, are in violation of that international agreement.

Second, because of our activity, Honduras is being destabilized. Honduras has finally had the first democratic government in over 10 years.

While Honduras has many problems and they are struggling to deal with those problems, we need to identify with the aspirations and needs of the Honduran people and follow the program suggested by the gentleman from Minnesota (Mr. OBERSTAR). We need to talk about land reform. We need to talk about health care, helping in education and the development of business. Yet, instead, the biggest business we are funding is military interventionism.

The military, strengthened by escalating American assistance, has used regional turmoil as an excuse to extend its authority.

The Chief of the Armed Services, General Alvarez, has obtained constitutional changes that would broaden his power. Honduran politics has been polarized and there has been increasing reports of human rights violations and rightwing death squad activity.

At the same time the Honduran Foreign Minister was speaking of peaceful accommodation with Nicaragua, General Alvarez, thanks to our encouragement, has declared that Honduras is locked in a war to the death with Nicaragua and called for a military alliance grouping Honduras with El Salvador, Guatemala against Nicaragua.

Now we are about to precipitate a regional war in Central America. I do not want to see that and I do not want to see us cause another Vietnam.

At the same time I would like to speak about Nicaragua. I visited Nicaragua and my concerns there are not that the Sandinistas are some type of saints, that we should overlook some of the problems that they have had and the problems that they have caused, nor is the junta some group of people on a religious mission or crusade.

However, one thing we do know about Nicaragua is that Somoza was a bully and that he was a crook and that he was a thug and that we supported him. As a result, the only way the Nicaraguan people could have an opportunity to have a chance for life in their own country was to launch a national liberation effort, and that they did.

When the war was over, what did we offer to the Sandinista government to stabilize itself and grow? I asked the Nicaraguans what we offered in the area of health care, something that I have a special expertise in. I found out that while the Cubans brought in vaccinations and immunizations and sent in nurses-midwives and physicians to help people in the barrios, there is only a small band of Maryknoll nuns doing that from the American side with any American identification.

What we were going to send in is military medical personnel from Panama to run their hospitals.

Well, would that not just be swell, our military guys running the Nicaraguan hospitals. Maybe they could have told them how to order a CAT scanner and get third-party reimbursements. But it certainly did not help the Nicaraguan people where one-third of the children under 5 die because of polio, diarrhea, and other problems.

What we should be doing again is identifying with the struggles of the people. The reason there are national liberation movements is because we support the bullies and we support the bullies because they say they are anti-Communist.

The reason you have national liberation movements that are to the left is because they are the only ones identifying with the needs of the people.

We made this mistake in China 40 years ago. We made this mistake in Vietnam and we made it throughout Asia. For God's sake, let us not make this same mistake in Central and Latin America.

I urge the adoption of the Harkin amendment and yield back the balance of my time.

Mr. JOHN L. BURTON. Mr. Chairman, I move to strike the requisite number of words and I rise to speak in support of the amendment.

This really I hope will not be read as an historic day. It will be read as an historic day if we vote down the Harkin amendment because we will be opening up ourselves to another Vietnam.

This will not happen next year and it will not happen the year after, but sooner or later, as we arm Somoza's friends—and he was a thief and he was a thug and he was a fascist and he was corrupt. He took out of that country with a lot of American taxpayers' dollars that were given in aid to the people of that country and not to him personally, but he took them unto himself personally.

We will have American advisers in there. I would remind my colleagues that the war in Vietnam started in 1954 with 36 airplane mechanics.

JOHN STENNIS stood on the floor of the U.S. Senate and said when you send these mechanics you will send the American flag. When you send the American flag you send an American commitment and you send our honor and certain things will happen.

If my colleagues read the speech by the distinguished Senator from Mississippi, it looks like a history of Vietnam except it was written in advance.

If we do not stop the CIA now from engaging in covert activities to overthrow a government of another country we will be involved not just only in Nicaragua but throughout Central America because we do not somehow understand that they are no longer banana republics owned by the United Fruit Co., but they are sovereign nations that are run by the people of that country.

They may not be run in a way that we would like but then this administration is not run in a way that people in this country like. The Carter administration, Democratic administrations are always not run in a manner that the Republicans like. But that is just the way of life.

But it is their country and it is their government and we have no business screwing around over there, causing trouble that is going to lead this country into military adventurism. It will start with a covert activity and it will progress to a paramilitary adventure. We will end up in a full-blown military adventure because you cannot defeat another people in their own country and that is something we should have learned.

I strongly urge the people of this body of this committee to support the Harkin amendment. All that it really says is that the CIA, that rogue elephant, has to obey the law. They are taking your constituents' tax dollars and my constituents' tax dollars and starting trouble down in Central America. I did not give them that authority and you did not give them that authority and the people of this country, everyone is worried about deficits in spending and balanced budgets.

Let us chop off $17 million or $20 million here and save it. It is the wrong thing for this country of ours to be doing, to be messing in the affairs of another sovereign nation.

I would strongly urge my colleagues to support the Harkin amendment.

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I am happy to yield to my friend from Iowa.

Mr. BEDELL. Mr. Chairman, I join my colleagues in support of this amendment.

When will we learn from our past mistakes of military intervention?

When will we learn that the people of the world are not stupid?

I object to Castro's effort to bring down governments through military means.

I believe it is a legitimate objection.

But will someone please tell me how we can possibly say that it is wrong for Castro to do something, which is perfectly all right if it is done by the United States of America.

I commend my colleague TOM HARKIN for this amendment.

Mr. JOHN L. BURTON. I thank the gentleman and yield back the balance of my time.

□ 1730

Mr. DORGAN of North Dakota. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this is a very important issue, and I do not pretend to be an expert in foreign affairs. But I have watched the proceedings in Congress for many, many years on foreign affairs issues and I have become rather distressed with what goes on. I want to speak on this issue because I think it is critical to the direction of our foreign affairs in the years ahead.

I spoke to a high school class a while back, and a young high school senior said to me, "The Soviets are really involved in a lot of adventures all across the globe, aren't they?"

I said, "You bet they are. And they do not just leave their fingerprints; they leave truck tracks, they leave uniforms. The fact is, they are involved in adventures all across the globe, and they do meddle all across this globe, and that is wrong. But the fact is, young man, so does America meddle far too much all around this globe. The fingerprints of this country on internal affairs of other nations are all over the history of American foreign policy, and that is wrong as well."

About a year ago we had a meeting up in the Longworth Building, for Members who wanted to attend, and the former Ambassador to El Salvador, Ambassador White, said to a number of us who attended: "You know, I cannot prove it, but you listen to the news, your read the things that are written about what is going on down in Central America, and those of us who are diplomats, those of us who have been involved in the foreign service learn to pick up hints about what is happening." He, said, "I cannot prove it, but all of the things that I see and read tell me that there is a destabilization effort going on down in Nicaragua sponsored by the U.S. Government."

Well, about 6 or 8 months later, reports started creeping up in the newspapers, in the magazines, that yes, indeed, there are destabilization efforts, there are covert actions down in that region of the country by the CIA of the United States. And I think it is wrong.

I am not suggesting that we do not have vital interests around this globe. We do. But I support the Harkin amendment. I think the Harkin amendment makes good sense. The Harkin amendment does not prohibit legitimate intelligence gathering by this country.

We do have vital interests in Central America. I do not think anybody questions that. And our interests in Central America are not always in concert with the interests of those who now govern Nicaragua. I do not think anybody questions that, either. But the fact that our interests are not in concert with those who now govern Nicaragua does not justify attempts by our Government, covert attempts or overt attempts, to overthrow the Government of Nicaragua, and I think that is what this question is all about.

I support the Harkin amendment. It makes good sense. It puts this country back on a course of foreign policy that makes sense for our future and the future of the world.

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. DORGAN of North Dakota. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. Mr. Chairman, I commend the gentleman for his comments, and I just want to say to the gentleman that I appreciate his statement. I think that the important issue is whether or not the United States should be involved in covert or overt actions toward the nation of Nicaragua, and I think the Harkin amendment addresses this in a positive way. I

thank the gentleman for his statement.

Mr. DORGAN of North Dakota. I appreciate that. And let me just say, in conclusion, that there are those who will stand up and say, "Well, my God, we do have vital interests down there and we ought to protect those vital interests."

I am not suggesting that we ought not protect our vital interests around this globe. I am saying that the fact that the other governments do not believe in the same things that our Government does, does not justify the U.S. Government to be involved in covert actions to destabilize or overthrow foreign governments. I think that the record of the 1960's and the 1970's shows us that we have got foreign policies, covert foreign policies, that we ought to be ashamed of. I think this body is starting to recognize that, and I think this body is going to steer us on a course of a better foreign policy by telling us that we should not be involved in that kind of activity, particularly now in Central America and particularly with respect to Nicaragua.

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. DORGAN of North Dakota. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Chairman, I would like to commend the gentleman for his statement, and I would like to associate myself with the remarks of those who have spoken thus far in support of the amendment.

Let me just say that the operations in question are not covert. They are on the front page of the papers of this Nation. They are politically inept. They will backfire. They will be what the State Department calls, in its unique language, counterproductive. They are, as has been pointed out, a clear violation of international law, and they will not work. They are doomed to failure. Otherwise, they are a perfectly fine idea.

If I may impose upon the gentleman's time for about 30 seconds to read a statement made by Walter Lippmann 21 years ago, immediately after the failure of the Bay of Pigs invasion, Lippmann pointed out at that time that the failure of the CIA involvement in fomenting that invasion was inevitable because it was inconsistent with the character of the American people and it was in conflict with every notion that we as a nation have about the proper method of achieving political change. Lippmann wrote:

> The ultimate reason why the Cuban affair was incompetent is that it was out of character, like a cow that tried to fly or a fish that tried to walk. It follows that in the great struggle with communism, we must find our strength by developing and applying our own principles, not in abandoning them. I am very certain that we shall have the answer to Mr. Khrushchev if, but only if, we stop being fascinated by the cloak and dagger business and, being true to ourselves, take our own principles seriously.

Mr. Chairman I rise in support of the Harkin-Oberstar amendment to prohibit U.S. support for covert operations directed against Nicaragua.

These operations are:

First, not covert; one of the burdens of a free society is that the people have both the right and, often, the ability to keep their government from carrying out foolish and destructive activities in their name, and with their money.

Second, politically inept, for they have generated a propaganda bonanza for the radical left, an excuse for a military buildup in Managua, and a growing threat of regional war. They have shifted the focus of world attention from Nicaragua's errors in policy to ours and contributed to a political atmosphere inside that country within which moderate and democratic elements cannot long survive.

Third, a clear violation of international law; they violate fundamental provisions of the U.N. Charter, the OAS Charter, and numerous other international agreements. In supporting covert military action against Nicaragua, we are guilty of precisely what we have accused the Nicaraguans of doing with respect to El Salvador; and we are demonstrating the same attitude toward international law for which we strongly—and justly—criticize the Soviet Union.

Fourth, doomed to fail; the United States is grievously in error if it believes it can place a group of thugs and murderers—for this is what the ex-National Guardsmen and their allies are—back in power in Managua. The world is not that simple any more. The question of who should hold power in Nicaragua is a question for Nicaraguans themselves to decide.

Back in 1961, following the Bay of Pigs, Walter Lippmann wrote a column in which he stated that the failure of that expedition was inevitable, because it was inconsistent with the character of the American people. He wrote that we should not attempt such things, for the simple reason that undermining foreign governments through secret military operations is not something at which we are very good. We cannot keep them secret; and, as a people, we know they are wrong. They conflict with every notion we have about the proper method of achieving political change.

There are Americans who might argue that Lippmann was wrong, and that actions such as those we are now supporting in Nicaragua are consistent with U.S. values and interests, but I suggest that those holding that cynical view—and I suspect most of them have spent far too much of their lives in Washington—have lost touch with the people in whose name this Government is supposed to act.

I commend the gentleman, and I thank him for yielding.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. DORGAN of North Dakota. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, I, too, would like to commend the gentleman for his statements and join him in his efforts.

Mr. Chairman, as one who set up the Peace Corps in South and Central America, I can tell you that this kind of effort appearing on the front page revives all of the specter of American imperialism in the Americas and will indeed redound to the great benefit of the Communists who feed off of the kind of instability that is created.

I think the Harkin amendment, of which the gentleman is one of the cosponsors, is an absolutely correct response, and I hope it will receive the support of this body.

Mr. Chairman, I want to commend the authors of this amendment, Congressmen HARKIN, LEACH and OBERSTAR, for their efforts to help forge a sound U.S. policy toward Nicaragua and Central America.

Recent press reports have confirmed that up to 200 CIA personnel are arming, advising and training Nicaraguan exiles (including members of former President Somoza's National Guard) in a concerted and costly effort to destabilize the Nicaraguan Government. The Washington Post has estimated the cost of this project to be $19 million.

These covert activities are the heart of Reagan administration policies toward Central America which are shortsighted, reckless, illegal and counter to our Nation's interests in every respect.

This policy contradicts President Reagan's stated goal of thwarting Soviet expansionism in Central America. In Nicaragua, we are driving Nicaragua into the hands of the communists. Other Latin American countries will eschew United States association for fear of interference in their internal affairs.

Far from promoting stability in Central America, this covert operation fuels the chaos that has gripped the region. It creates border skirmishes, exacerbates hostilities and further militarizes Central America. Indeed, no policy could more increase the possibility of regional conflagration.

Our present involvement against Nicaragua makes a mockery of the President's desire to weaken the hardline anti-American elements in the Sandinist government. If anything, the administration's support of covert maneuvers has strengthened these forces, undermined the efforts of the democratic opposition in Nicaragua, and diminished the prospects of any

potential political reconciliation between political groups in Nicaragua.

The Reagan administration's policies will also weaken a fragile democratic ally in Central America: Honduras. We have polarized Honduran politics and locked that nation into a war footing with Nicaragua, resulting in an increased authoritarian climate, greater poverty, and instability. The long-range effects of our covert operations may include rising dissent and anti-American sentiments in Honduras. In short, we are forcing that nation down the same path traveled by Iran, and Nicaragua itself, and may soon find ourselves opposing a new Honduran Government alined with Moscow.

The administration seeks to enhance U.S. prestige and influence in Central America, yet our covert maneuvers have discredited our Government and dismayed our allies. It has bolstered anti-American elements throughout the region and validated Soviet claims that we are willing to violate international law—specifically the Charters of the United Nations and the Organization of American States—in our efforts to topple governments.

Instead of pursuing this dangerous and illegal course, we should formulate policies which stress peace, democracy, development and conciliation among opposing forces in Central America. Nicaragua has indicated its willingness to negotiate, yet incredibly the Reagan administration has rejected those overtures, opting instead for destablizing military solutions. I urge my colleagues to support this amendment to prohibit U.S. backing for covert military and paramilitary operations in Nicaragua.

Mr. MILLER of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, for all of the reasons that my colleagues have cited, I, too, rise in support of the Harkin amendment.

I think it is most important that the Congress of the United States makes its feelings known about whether or not we are to engage in covert action in Honduras, Nicaragua, and elsewhere in Latin America.

For some months now it has been a matter of speculation whether or not the United States has been engaged directly or indirectly, whether or not we have been hiring Argentinians to train individuals in Honduras, whether or not runways were being extended or not being extended for the purposes of action in Nicaragua, whether or not we have been supplying arms, or whether or not we have been supplying third party arms so that they could then give their arms to the Somoza allies.

I think what is clear now is that no longer can you as a Member of the Congress of the United States fail to respond to the demands of the Harkin amendment because you do or do not know whether or not activity, covert activity, by the United States of America against the Government of Nicaragua is taking place.

The fact of the matter is, this Congress had better go on record in getting control of those agencies who have convinced the White House to substitute covert action for policy, to substitute covert action for diplomacy, and take an action that without the express consent of this Congress is in fact illegal, unethical and against the best interests of this country.

It is no longer speculation about the use, direct and indirect use, of American personnel and money for this effort. And for that reason, it is most important that the Harkin amendment be supported.

Very often Members get up here and they suggest that we are approaching another Vietnam, that if we do not do something, we will all look back in horror. Well, I will suggest to you that perhaps today is that day when you can vote, perhaps today—in fact, today is the day—when you can vote either to continue covert action, to continue the indirect action of this country in the affairs of Nicaragua, on the border of Honduras and Nicaragua, or you can vote to terminate that action. The fact that this action is taking place is no longer speculation. I assure you it is. And I assure you that today is the vote, if you seek not to apologize for what is already taking place at a future date, if you seek to go back to your constituents and tell them that in fact you discharged your job as a duly elected Member of this body, because unlike the congressional pay raise, where some people were able to go home and say, "I did not know what was in the legislation," we know what is in this legislation now, we know that there is money in here to disrupt the duly formed government of a sovereign country that this administration does not happen to agree with, but nevertheless it is illegal to engage in armed action against those individuals and against that government, but the money is in this legislation, the activities are taking place, the press knows about it, the world community knows about it, the American Government knows about it, the Congress of the United States knows about it.

Now, the issue is: Do you want to let it continue? Or do you want to stop it?

□ 1750

You are now on notice. This is not speculation about another Vietnam. This is a first step of our Vietnam. Some of us came here to stop Vietnam. And here is a chance to stop the new one. The action is taking place, the money is being spent, the advisers are being sent, payments to third parties are taking place, sales to one government, military sales to one government are taking place so those arms can be sent to the Sandanistas, and our hands are supposedly clean.

Our hands are not clean, they can never be clean until you recognize the Harkin amendment for what it is. It is an opportunity for those of us who time and again have expressed that concern about this country drifting into war, about this country drifting into a position a whole generation died for, that a country found untenable, that chased a President of the United States from office, I think now there is a decision.

This is not just some other amendment dealing with somebody's concerns about our intervention in the Third World. This is the last opportunity you will have of this Congress to cut off an unacceptable and illegal and an immoral action. And I would hope that the Members would all support the Harkin amendment.

Mr. DORNAN of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the debate so far is rife with repeated references to the past horrors of the Vietnam war. We just heard from a forceful speaker from California the word "immoral" applied to our efforts in Vietnam. Immoral my assets.

First, before I address myself specifically to this terribly flawed amendment, which I vigorously oppose, let me address myself to a weird and tragic phenomenon in this House, without impugning anybody's motives, but taking notice of and analyzing the deafening silence that I have noticed for 6 years coming from the more liberal Members on the other side about the gut-ripping atrocities being committed in Laos, Cambodia, and Vietnam now and for the last 7 years since we pulled out. Certainly not all the Members on the other side are silent, only the most liberal, our most highly decorated Vietnam veteran sits on the majority side, Mr. DON BAILEY, and he regularly reminds this body of the current agony of Vietnam. Yesterday he spoke passionately of the rioting this month in Saigon, now sadly called Ho Chi Minh City, and about how this rioting for freedom went almost without reference in American prestige media. DON told this House how the story was buried in the back of the Washington Post.

Now, why is it that I have never heard a speech—one may have been made but I have never heard it—from Mr. HARKIN, Mr. MILLER, Mr. DELLUMS, some of the more committed liberal speakers on the other side, about, for example, the vicious and brutal genocide of 2 million innocent men, women, and children in Cambodia. How is it that only George McGovern, a former liberal Member of the other

body was the only Member or former Member who midway throughout that awful genocide of almost 2 million people, condemned it. He was so distraught, that he urged the United States of America to invade Cambodia to stop the massive killing. He, of course, was condemned by the Tom Haydens and Jane Fondas of the world.

Only Joan Baez, of antiwar fame, seemed to be equally upset about that genocide.

How is it that we hear nothing from House liberals about inhumanity to mankind that is going on in Vietnam today. Nightmares such as Soviet poison gas, "Red Rain and" "Yellow Rain" being used on civilians in Laos and Kampuchea. This is a war crime. The red rain poison gas and the blue rain nerve gas being used against freedom fighters in Afghanistan, how is it that we hear nothing from you liberal moralists on the other side. How about you fast-speaking liberals, just once, talking about the 600,000 boat people who did not make it, who died on the South China Sea by drowning, shark attack, dehydration, and rape-murder.

The boat people survivors in those wretched refugee camps have a motto, more a prayer, "Some of us are here and free, the rest are with God and free forever." How about just once, just once, a liberal making a 1-minute speech for "the wretched refuse of those teeming shores, the tempest tossed."

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. DORNAN of California. I will yield briefly and then I will yield more extensively, if you desire.

Mr. JOHN L. BURTON. Mr. Chairman, it is not our Government that is doing it. It is not our Congress that ratifies that. It is not our taxpayers that are paying for it. That is why.

Mr. DORNAN of California. Interesting point. Except that does not preclude you or any other liberal getting up on your feet in righteous indignation to condemn the genocide or the war between Vietnam, one Communist conquerer against their former ally Communist China who invaded them. It does not prevent you from condemning the brutality to the boat people and the unnecessary deaths of hundreds of thousands of women and children.

Mr. JOHN L. BURTON. If the gentleman will yield further, I will introduce an amendment to prohibit funds from this bill going for that purpose.

Mr. DORNAN of California. What is that supposed to mean nonsensical. I do not yield.

Mr. JOHN L. BURTON. Would you accept that amendment?

Mr. DORNAN of California. No; I do not accept nonsensical amendments and I will tell you why. What in hell or heaven precludes anybody from your side ending this damnable deafening silence, your refusal to condemn the human rights violations by Communist regimes or the Soviet poison gas atrocities taking place now in four countries across the globe. All the speeches and continuing references about the illegality and immorality of U.S. involvement in Vietnam rings hollow and foul as long as you maintain your silence about Communist brutality.

I support Mr. BAILEY's and President Reagan's remarks about our Vietnam efforts, that whatever we did wrong, it was a noble cause, and at least we tried. We tried to keep freedom alive in one more remote corner of the globe. That noble effort has been vindicated by the worst predictions of a bloodbath coming true. The unbelievable brutality that exists in Southeastern Asia at this very moment screams out for condemnation, and for humble apologies to our fighting men of the Vietnam war, living and dead, who tried and tried to prevent the holocaust of the 1970's, of the 1980's.

Now, let us analyze the Harkin amendment and why I am against it.

Without trying to twist its intent or meaning, for clarity let me leave out a few key phrases such as "the Central Intelligence Agency" and just read several phrases to show the mischief that could be reaped from this amendment.

None of the funds provided in this act may be used by the Department of Defense to furnish advice to any individual for the purpose of assisting that individual to carry out military activities inside a country.

Now, since the Mujadeen freedom fighters, who are operating out of Pakistan, are not part of the military puppet forces of the phony Communist government in Kabul in the once sovereign country of Afghanistan, does the intent of the Harkin amendment mean that if someone at the Defense Department gives advice to a Mujadeen freedom fighter about how to blow up some Soviet Mil-8 "Hind" helicopters that are flying poison gas missions against the humble tribes people in the Afghanistan hills, that we can expect another Harkin amendment against those freedom fighters next week?

If we are going to write foreign policy in this Chamber for our Nation, I suggest that Mr. HARKIN, since he has traveled several times to Nicaragua, traveled to Afghanistan and Pakistan as I have done to see if there is any type of anti-Communist freedom fighter on the face of the planet that he would not try to block from receiving our advice or aid.

I cannot believe since the capital city of San Salvador is closer to southern California, than is Washington, D.C., to southern California, that only a handful of Members have ever been down to Central America, and only one of us has been down there more than twice, me. I have been there four times. Some of you have furtively tiptoed up to the Honduran border with El Salvador, sponsored in your journey by groups with an obvious bias, but refused to go to El Salvador, to be briefed first hand on Nicaraguan involvement with the terrorist killing in that country. Why? I have taken my son and later my wife down to El Salvador. It is not dangerous if you obey our Embassy's security rules.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. DORNAN) has expired.

(By unanimous consent, Mr. DORNAN of California was allowed to proceed for 3 additional minutes.)

Mr. DORNAN of California. Now, I ask you, Are there Members in either party that would like to disenfranchise here in Washington, D.C., the governments in exile of Latvia, Estonia, or Lithuania? How about a Harkin amendment denying Defense or CIA advice to them? I would hate to pull a Senator BIDEN type quiz on some of the more intelligent Members of this House to find out if they even know that we allow and recognize governments in exile for those three small captive nation Baltic States.

Suppose some Ukranian freedom fighter (the Ukraine has a vote in the U.N. as though it is a separate sovereign nation apart from the U.S.S.R.) came to the Defense Department to ask advice about running a gutty in-country operation to fight for freedom from the Soviet Union for the Ukraine. Do we tell the Ukranian fighter that TOM HARKIN wants him to get lost? Do we cut off his legs as we did the Alpha-66 people from Cuba, while Castro sends us his rapists, terrorists, and murderers, the kind of vicious criminals that even Lenin called the lumpen proletariat? Now we have a Cuban crime wave on the east coast and starting up in Los Angeles costing the U.S. taxpayers millions of dollars and costing the lives of hundreds of innocent citizens because we gave up trying to destabilize Castro. Should we have told the freedom fighters who fought with Castro to overthrow the pig dictator Batista, that when they found their revolution betrayed to communism and came to us for advice and assistance to get lost, the Harkins of the world do not mind betrayed revolutions.

One gentleman from California forcefully referred to Nicaragua as "the duly formed government of sovereign Nicaragua." What utter bull. The Sandinistas gave up rightful sovereignty and any claim to a "duly formed government" when they put off any elections for 5 years, which means to the Marxists down there for your lifetime, Mr. MILLER. There has never been an election in Cuba not in 22

years, there will never be an election in the lifetime of any of you liberals in a Communist run Vietnam, and there will never be an election in a Marxist Nicaragua because there is not a duly formed government of the people, by the people, or for any people except those who accept Marxist subjugation.

And since there are heroes who fought against the pig dictator Somoza, who are now in exile in Costa Rica and/or in exile in Honduras, who feel their revolution was betrayed into a Communist Marxist puppet state under Cuban influence, what do we tell these true revolutionaries under a Harkin amendment?

I think that if we take an objective look at Chile, the regime under Allende bankrupting that democracy was far worse than the economic mess there today. And there is hope for democracy there someday. Elections would have disappeared forever under Allende. When we look back at Castro bringing nuclear weapons into the Carribean—and he may yet do it again—and when we look at his nuclear weapon capable Mig-27's, not just Mig-23's, but Mig-27 nuclear weapon capable fighter bombers sitting down there right now, plus a brigade of Soviet combat troops that Jimmy Carter said he would not tolerate—but he did—if you look at the Cuban troops in Africa in spite of the mess in Cuba, why should not we have destabilized Castro. Look at the countries around the world where there are freedom fighters on their own with no assistance from us such as leader Son San of Cambodia, I say for shame. I just say simply this. One man's terrorist is another man's freedom fighter.

When I overheard Mr. HARKIN in Communist China as he put on a Mao hat say, and he did not realize I could hear him, "It is an honor to wear a worker's hat"; that is the hat of Mao who killed 30, 40, maybe 50 million people, I realized what is Mr. HARKIN's terrorist is my freedom fighter, and what is my freedom fighter is his terrorist.

I implore the Members to vote down this mischievous amendment.

Mr. JOHN L. BURTON. Mr. Chairman, I demand that the gentleman's words be taken down.

Mr. DORNAN of California. I hope some day he and I can debate Central America at length on an equal-time basis.

□ 1750

Mr. JOHN L. BURTON. Mr. Chairman, I demand the gentleman's words be taken down about our colleague, Mr. HARKIN supporting terrorists.

The CHAIRMAN pro tempore. Does the gentleman from California (Mr BURTON) withdraw his request?

Mr. JOHN L. BURTON. No, Mr. Chairman.

The CHAIRMAN pro tempore. Is the gentleman from California (Mr. DORNAN) willing to request that his remarks be modified in any way?

Mr. DORNAN of California. Did you ask, Would I modify my remarks, Mr. Chairman?

The CHAIRMAN pro tempore. Yes.

Mr. DORNAN of California. No; it is a matter of personal perception. I repeat, what is Mr. HARKIN's terrorist is my freedom fighter. What is my freedom fighter is obviously his terrorist. I may be wrong. He may be wrong. That is up to the judgment of the Members, but my perception about his misperceptions stands.

Mr. JOHN L. BURTON. I have seen people crawfish. That is good enough for me.

Mr. Chairman, I withdraw my request.

Mr. DORNAN of California. I repeated the same words, however, I point out to the great mystic from the bay area.

After the gentleman has traveled some in his newly found spare time maybe we will debate this issue some more. I say to the gentleman from California (Mr. BURTON), please just one little speech, before we depart, against current Communist atrocities—anywhere—pick your terror. "Red Rain" would be fine for openers.

Mr. BOLAND. Mr. Chairman, I move to strike the requisite number of words.

First of all, I appreciate the fact that the gentleman from California (Mr. JOHN L. BURTON) has withdrawn his objection and having the words taken down. It gives me my time.

Those who are supporting the Harkin amendment had a field day here and I do not blame them. I would like to direct my comments to the gentleman from Iowa.

I can say to my friend and all of those who have made these magnificent appeals that I share their concern for the news stories, the spate of news stories emanating from Central America that have been in Newsweek and Time, the Post, the New York Times, and about every newspaper in America.

Further, I can say to the gentleman that these concerns are shared by the Permanent Select Committee on Intelligence, make no mistake about it.

As chairman of that committee, I have made it a rule not to confirm or to deny reports of alleged intelligence activities that come within the purview of that committee. I think most Members here will agree that that is a sound position. It is a good one. It is a good rule and I will stick with it today.

What I have to say can be said without addressing the truth or falseness of all those reports.

What I can say is that your Intelligence Committee is as concerned about the substances of the allegations concerning paramilitary activities in Nicaragua and Central America as all of you who have spoken here this afternoon who have spoken so well.

That concern led to the language in the classified annex that accompanies Public Law 97-269, the Intelligence Authorization Act for fiscal year 1983. That language—and listen to it—that language expresses the sense of the conferees that no funds authorized by the act should be used "to overthrow the Government of Nicaragua or to provoke a military exchange between Nicaragua and Honduras."

Mr. Chairman, I believe that this restriction ought to go a long way towards allaying the concerns of the gentleman from Iowa and others who have spoken here today, and I say this for three reasons.

First, it is the agreed-upon position of the two Intelligence Committees in the House and in the Senate.

Second, it is agreeable to the executive branch. They do not like it, but it is agreeable to them.

Third, the Permanent Select Committee on Intelligence takes very seriously its duty of overseeing all covert action operations, and I must say that that is a position that I think must be agreed upon, or at least it is the consensus of the Members of this House that it agrees with what the Intelligence Committee has done and I think perhaps we have won the respect of the membership of this House and others with the way that we review these actions regularly.

I can assure the House that in the case of any activity that would involve the use of lethal force, the review process is continuous and it occurs about every month.

I make this statement and offer these assurances for a reason. I believe the gentleman's amendment is not necessary.

I further believe that it sets a bad precedent.

We ought not to legislate in an area such as this without the benefit of all the facts. That is why the Intelligence Committee was established and its effectiveness depends on its ability to keep the Nation's secrets and exercise sensible and prudent oversight. At times that can really be a tightrope act.

I can say that the committee certainly does understand its obligations to rein in activities which can get out of control or which could threaten to involve this Nation or its allies in a war.

For all these reasons, I urge the gentleman to withdraw his amendment. I believe that the Intelligence Committee's oversight is such that the assurances I have given can be relied upon.

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. BOLAND. I am delighted to yield to the gentleman from Iowa.

Let me say, I commend the gentleman for the action he has taken. As I told the gentleman in conversations we had in the last couple of days, that the gentleman is driving this Government to the point where all of us agree it ought to be and we are making some progress here. I would hope that in view of that, the gentleman would consider the request and withdraw his amendment and I will offer a substitute to it if the gentleman does not.

Mr. HARKIN. I understand and I appreciate what the gentleman has said. I have always tried to be open and aboveboard with the gentleman from Massachusetts and it goes without saying that there is no one for whom I have a higher respect than the gentleman from Massachusetts and greater faith and confidence in; but there are things that bother me. As I said in our private conversations, "Yes, I have faith in you; yes, I have faith in our Intelligence Committees to exercise their proper function."

The CHAIRMAN pro tempore. The time of the gentlemen from Massachusetts has expired.

Mr. HARKIN. Mr. Chairman, I ask unanimous consent that the gentlemen be allowed 3 additional minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Iowa?

Mr. KAZEN. Mr. Chairman, reserving the right to object, let me make an inquiry under my reservation.

If I am correct, all time will expire in 4 minutes on this amendment and on all amendments to the bill.

The CHAIRMAN pro tempore. The gentlemen is correct. All time expires on the bill and all amendments thereto.

Mr. KAZEN. Further reserving the right to object, Mr. Chairman, I want to bring this to the attention of the House.

I objected or held a reservation to object to the ending of debate at 5 o'clock for fear that the rest of the amendments would not be adequately debated and I am, therefore, under my reservation giving notice that at 6 o'clock I will object to the extention of time any further.

Mr. BOLAND. Mr. Chairman, in that event then, I have the 3 minutes. I appreciate the time the gentleman has given me.

The CHAIRMAN pro tempore. Without objection, the gentleman from Massachusetts (Mr. BOLAND) is recognized for 3 additional minutes.

There was no objection.

Mr. BOLAND. Mr. Chairman, let me ask whether the gentleman from Iowa would withdraw his amendment, and if the gentleman does not, I want the opportunity to offer the substitute.

Mr. HARKIN. Mr. Chairman, I would like the gentleman to offer the substitute to mine.

Mr. Chairman, I would like, if I could, ask unanimous consent that this committee continue on debate on this amendment and all amendments to this bill until 6:45.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Arkansas?

Mr. KAZEN. Mr. Chairman, I object.

Mr. CHAIRMAN pro tempore. Objection is heard.

Mr. HARKIN. Mr. Chairman, I ask unanimous consent that the committee be allowed to continue until 6:30.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Iowa?

Mr. McDONALD. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

Mr. HARKIN. Mr. Chairman, I ask unanimous consent that the Committee be allowed to go to at least 6:15.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Iowa?

Mr. HUNTER. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

Mr. BARNES. Mr. Chairman, will the distinguished gentleman yield?

Mr. BOLAND. I will be delighted to yield, but just give me about 30 seconds so I can get the substitute in.

I yield to the gentleman from Maryland.

Mr. BARNES. Mr. Chairman, I thank the distinguished chairman of the Intelligence Committee for yielding and I will be very, very brief.

I just want to say, as chairman of the Subcommittee on InterAmerican Affairs, that the Intelligence Committee has been very careful on this issue and has worked diligently and those of us on the Foreign Affairs Committee have great respect for the work particularly that the chairman has done.

I feel it is terribly important that this House go on record with respect to our concern on this issue. I will support the substitute that will be offered, if it is the one that I saw earlier by the chairman of the Intelligence Committee, in the hopes that our colleagues will also support it so that we can go on record, that if we do not pass the substitute offered by the chairman of the Intelligence Committee that we will not pass anything, I fear, and I will support the chairman's substitute, and I thank the chairman for yielding.

Mr. ROBINSON. Mr. Chairman, will the gentleman yield?

Mr. BOLAND. Yes, I yield to the distinguished minority member of the Committee on Intelligence, the gentleman from Virginia (Mr. ROBINSON).

Mr. ROBINSON. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the gentleman from Massachusetts and the comments that he has made and the amendment in the form of a substitute that the gentleman is about to offer.

● Mr. LELAND. Mr. Chairman, I rise in support of the Harkin-Leach amendment to delete any funds related to covert military activity directed against Nicaragua. This is not the first time we have had this debate.

Only a few months ago, we debated the merits of using military construction funds for building and expanding military landing strips in Honduras. It was clear from prior debate in the other body that these landing strips were intended for use by the United States—and more specifically, for "up to a squadron of U.S. tactical fighter aircraft." One hundred and nine Members of the House objected to the appropriation of those funds. It was our fear that this action would not strengthen but rather gravely endanger the fragile Honduran democracy, born only 1 year ago after years of military rule. It was our fear also, that this military commitment would feed the fires which are dragging Honduras into a war with its Nicaraguan neighbor.

Today, several months later, it appears that our worst fears are being borne out. On November 8, Newsweek ran as its cover story an article entitled "America's Secret War; Target: Nicaragua." Informed by U.S. intelligence sources, that article made it pointedly clear that the much-cited administration covert destabilization plan against Nicaragua is now more than a plan: It is already in place and in action. More worrisome, the article claims the covert military action is now out of control.

Mr. Chairman, it is clear to me that the President's Central American policies have gone beyond the limits of what this body and this Nation can tolerate. The House should not tolerate this Nation's being associated with common criminals who are attempting to unseat the Managua Government, but who never once attempted to improve the lot of the majority of their own impoverished countrymen. We should not tolerate a policy which will surely lead to the fatal debilitation of Honduran democracy. And we should not tolerate a covert action plan which could easily be the spark to ignite a Honduran-Nicaraguan war which could eventually engulf the entire region. Lastly, we should not tolerate actions of our administration which violate the spirit and the letter of treaties to which we are bound.

I reiterate my support for this amendment, and hope that the House will approve it.●

● Mr. MATSUI. Mr. Chairman, I would like to express my support for the amendment offered to H.R. 7355, the Department of Defense appropriations bill, by Representatives HARKIN, LEACH, and OBERSTAR. Passage of this amendment, which would prohibit U.S. assistance for military or paramilitary action against Nicaragua, is crucial if we are to maintain a positive U.S. influence in Latin America and foster peace in Central America. Congress must act decisively to cut off U.S. covert action that can only lead toward further bloodshed and instability in the region.

Current covert activities sponsored by the United States against Nicaragua have been well documented in the press. It is clear that the CIA and other U.S. operatives have armed, trained, and directed Nicaraguan exiles based in Honduras. The ostensible purpose is to stop the flow of arms from Nicaragua through Honduras to leftist forces in El Salvador. Numerous sources indicate, however, that the operation is also aimed at overthrowing the Government of Nicaragua.

This course is both ill advised and doomed to failure. Instead of assisting the moderate forces within Nicaragua to speak out against the Government, U.S. action has united the country against the external danger and enabled the Sandinista Government to adopt new, more repressive measures. Moreover, the fact that Nicaraguan insurgents are based in Honduras has created a genuine threat of war between Nicaragua and Honduras, and threatens the stability of the democratically elected government of Honduras. Thus, U.S. covert actions could spark a major regional war in Central America and lead to the downfall of a friendly, democratic government.

In addition, the covert policy is damaging U.S. relations with the nations of Latin America at a time when it is to our best interest and theirs to establish closer ties. Nations such as Mexico and Costa Rica may well question our good intentions in offering economic and security assistance when we are simultaneously setting the stage for a regional war that would damage their political and economic stability.

I believe that passage of this amendment will provide a vitally needed signal to the administration and to the Latin American community that Congress will not support this type of CIA activity in Central America. The action will also reaffirm the authority and responsibility of Congress and the American people to participate in foreign policy decisions. Only in this way can we prevent the reoccurrence of such debacles as the Bay of Pigs and Vietnam.

As we assert our responsibility, we must also emphasize our Nation's support for working closely with other countries of the hemisphere in finding a negotiated solution to the conflicts in Central America. We must affirm America's willingness to assist in developing a dialog and bona fide negotations with all parties in order to achieve peace.●

● Mr. BONIOR of Michigan. Mr. Chairman, evidence has been accumulating for nearly a year that the United States is involved in an escalating, covert campaign, a secret war aimed at Nicaragua. Earlier this year, the Washington Post reported that President Reagan authorized $19 million so the CIA could advise, train, and arm paramilitary forces along the Honduran/Nicaragua border. At a minimum, and without going beyond what the administration has conceded, the purpose of this operation was to stop the flow of arms across that border, and to engage in hit and run raids and sabotage to harass the Nicaraguan Government.

There is reason to fear that the operation has gone far beyond that. It has brought the United States into a working arrangement with former members of President Somoza's national guard, who are committed to the violent overthrow of the Nicaraguan Government. This is a sordid alliance, with people who promise "a massacre in Nicaragua" and who boast that when they return to power "there will be bodies from the border to Managua."

The uprooted, the wounded, and the dead in Nicaragua bear painful witness to the thrust of this campaign. Scores of Nicaraguans have been killed, and others have fled the region as guerilla bands sweep down on isolated villages. Although still abetted by the United States, the actions of these paramilitary forces have gained momentum beyond U.S. control.

Let us be clear. U.S. support for covert activities against Nicaragua endangers not just the security of Nicaragua, but of the United States. It poses issues with respect to the United States actual interest in Central America and with respect to the process of forming United States foreign policy.

To oppose United States support for those covert activities is not to proclaim that the Nicaraguan Government is without problems. It is merely to proclaim that United States policy in the region should not be formed through the implications of covert activities. These activities commit us to a specific foreign policy that has never been openly defended and supported, and whose outcome cannot be guided by our own democratic institutions.●

AMENDMENT OFFERED BY MR. BOLAND AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. HARKIN

Mr. BOLAND. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. BOLAND as a substitute for the amendment offered by Mr. HARKIN. Strike the matter proposed by the Harkin amendment and insert in lieu thereof the following:

"SEC. 793. None of the funds provided in this Act may be used by the Central Intelligence Agency or the Department of Defense to furnish military equipment, military training or advice, or other support for military activities, to any group or individual, not part of a country's armed forces, for the purpose of overthrowing the Government of Nicaragua or provoking a military exchange between Nicaragua and Honduras."

□ 1800

The CHAIRMAN pro tempore. The gentleman from Massachusetts (Mr. BOLAND) is recognized for 1 minute on his substitute.

Mr. BOLAND. Mr. Chairman, the amendment speaks for itself. I do not want to foreclose the gentleman from Iowa either, but the amendment speaks for itself.

None of the moneys provided in this bill will be used for the purpose of overthrowing the Government of Nicaragua or provoking a war between Nicaragua and Honduras.

It is plain, it is simple, it is a great step to take, and I would urge all the Members of this Committee to take that step.

Mr. DICKS. Mr. Chairman, I think we ought to give the gentleman from Massachusetts 5 minutes to explain his substitute amendment, and I would ask unanimous consent that he be allowed to do that.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. COURTER. I object, Mr. Chairman.

Mr. BOLAND. Mr. Chairman, I really do not want the 5 minutes. I am wondering whether or not the chairman of the subcommittee would accept this amendment.

The CHAIRMAN pro tempore. The time of the gentleman from Massachusetts (Mr. BOLAND) has expired.

All time has expired on the bill and amendments thereto.

AMENDMENT OFFERED BY MR. HARKIN TO THE AMENDMENT OFFERED BY MR. BOLAND AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. HARKIN

Mr. HARKIN. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. HARKIN to the amendment offered by Mr. BOLAND as a substitute for the amendment offered by Mr. HARKIN: Strike out all that follows the section number of the section proposed to be added to the bill by the substitute and insert in lieu thereof the following:

None of the funds provided in this Act may be used by the Central Intelligence Agency or any agency of the Department of Defense to furnish military equipment, military training or advice, or other support for

military activities, to any individual or group which is not part of a country's armed forces and which is already known by that agency to have the intent of overthrowing the Government of Nicaragua or of provoking a military conflict between Nicaragua and Hondurus.

The CHAIRMAN pro tempore. The question is on the amendment offered by Mr. HARKIN to the amendment offered by Mr. BOLAND as a substitute for the amendment offered by Mr. HARKIN.

The question was taken; and on a division (demanded by Mr. HARKIN) there were—ayes 13, noes 27.

Mr. HARKIN. Mr. Chairman, I demand a recorded vote, and pending that I make a point of order that a quorum is not present.

The CHAIRMAN pro tempore. The Chair will count.

Mr. HARKIN. Mr. Chairman, I withdraw my point of order.

So the amendment to the amendment offered as a substitute for the amendment was rejected.

The CHAIRMAN. The question is on the amendment offered by Mr. BOLAND as a substitute for the amendment offered by Mr. HARKIN.

RECORDED VOTE

Mr. BOLAND. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 411, noes 0, not voting 22, as follows:

[Roll No. 424]

AYES—411

Addabbo	Burton, Phillip	Dingell
Akaka	Butler	Dixon
Albosta	Byron	Donnelly
Anderson	Campbell	Dorgan
Andrews	Carman	Dornan
Annunzio	Carney	Dougherty
Anthony	Chappell	Dowdy
Applegate	Chappie	Downey
Archer	Cheney	Dreier
Ashbrook	Chisholm	Duncan
Aspin	Clausen	Dunn
Atkinson	Clay	Dwyer
AuCoin	Clinger	Dymally
Badham	Coats	Dyson
Bailey (MO)	Coelho	Early
Bailey (PA)	Coleman	Eckart
Barnard	Collins (IL)	Edgar
Barnes	Collins (TX)	Edwards (AL)
Bedell	Conable	Edwards (CA)
Beilenson	Conte	Edwards (OK)
Benedict	Conyers	Emerson
Bennett	Corcoran	Emery
Bereuter	Coughlin	English
Bevill	Courter	Erdahl
Biaggi	Coyne, James	Erlenborn
Bingham	Coyne, William	Ertel
Bliley	Craig	Evans (GA)
Boggs	Crane, Daniel	Evans (IA)
Boland	Crane, Philip	Evans (IN)
Boner	Crockett	Fary
Bonior	D'Amours	Fascell
Bonker	Daniel, Dan	Fazio
Bouquard	Daniel, R. W.	Fenwick
Bowen	Dannemeyer	Ferraro
Breaux	Daschle	Fiedler
Brinkley	Daub	Fields
Brodhead	Davis	Findley
Brooks	de la Garza	Fish
Broomfield	Dellums	Fithian
Brown (CA)	DeNardis	Flippo
Brown (CO)	Derrick	Florio
Broyhill	Derwinski	Foglietta
Burgener	Dickinson	Foley
Burton, John	Dicks	Ford (MI)
Ford (TN)	Lott	Rosenthal
Forsythe	Lowery (CA)	Rostenkowski
Fountain	Lowry (WA)	Roth
Fowler	Lujan	Roukema
Frank	Lundine	Rousselot
Frenzel	Lungren	Roybal
Frost	Madigan	Rudd
Fuqua	Markey	Russo
Garcia	Marlenee	Sabo
Gaydos	Marriott	Santini
Gejdenson	Martin (IL)	Savage
Gephardt	Martin (NC)	Sawyer
Gibbons	Martin (NY)	Scheuer
Gilman	Martinez	Schneider
Gingrich	Matsui	Schroeder
Ginn	Mavroules	Schulze
Glickman	Mazzoli	Schumer
Gonzalez	McClory	Seiberling
Goodling	McCloskey	Sensenbrenner
Gore	McCollum	Shamansky
Gradison	McCurdy	Shannon
Gramm	McDade	Sharp
Gray	McDonald	Shaw
Green	McEwen	Shelby
Gregg	McGrath	Shumway
Grisham	McHugh	Siljander
Guarini	McKinney	Simon
Gunderson	Mica	Skeen
Hagedorn	Michel	Smith (AL)
Hall (IN)	Mikulski	Smith (IA)
Hall (OH)	Miller (CA)	Smith (NE)
Hall, Ralph	Miller (OH)	Smith (NJ)
Hall, Sam	Mineta	Smith (OR)
Hamilton	Minish	Snowe
Hammerschmidt	Mitchell (MD)	Snyder
Hance	Mitchell (NY)	Solarz
Hansen (ID)	Moakley	Solomon
Harkin	Moffett	Spence
Hartnett	Molinari	St Germain
Hatcher	Mollohan	Stangeland
Hawkins	Montgomery	Stanton
Hefner	Moore	Stark
Heftel	Moorhead	Staton
Hendon	Morrison	Stenholm
Hertel	Mottl	Stokes
Hightower	Murtha	Stratton
Hiler	Myers	Studds
Hillis	Napier	Stump
Holland	Natcher	Swift
Hollenbeck	Neal	Synar
Holt	Nelligan	Tauke
Hopkins	Nelson	Tauzin
Horton	Nichols	Taylor
Howard	O'Brien	Thomas
Hoyer	Oakar	Traxler
Hubbard	Oberstar	Trible
Huckaby	Obey	Udall
Hughes	Ottinger	Vander Jagt
Hunter	Oxley	Vento
Hutto	Panetta	Volkmer
Hyde	Parris	Walgren
Jacobs	Pashayan	Walker
Jeffords	Patman	Wampler
Jeffries	Patterson	Washington
Jenkins	Paul	Watkins
Johnston	Pease	Waxman
Jones (NC)	Pepper	Weaver
Jones (OK)	Perkins	Weber (MN)
Jones (TN)	Petri	Weber (OH)
Kastenmeier	Peyser	Weiss
Kazen	Pickle	White
Kemp	Porter	Whitehurst
Kennelly	Price	Whitley
Kildee	Pritchard	Whittaker
Kindness	Pursell	Whitten
Kogovsek	Quillen	Williams (MT)
Kramer	Rahall	Williams (OH)
LaFalce	Railsback	Wilson
Lagomarsino	Rangel	Winn
Lantos	Ratchford	Wirth
Latta	Regula	Wolf
Leach	Reuss	Wolpe
Leath	Rhodes	Wortley
LeBoutillier	Rinaldo	Wright
Lee	Ritter	Wyden
Leland	Roberts (KS)	Wylie
Lent	Roberts (SD)	Yates
Levitas	Robinson	Yatron
Lewis	Rodino	Young (AK)
Livingston	Roe	Young (FL)
Loeffler	Roemer	Young (MO)
Long (LA)	Rogers	Zablocki
Long (MD)	Rose	Zeferetti

NOT VOTING—22

Alexander	Evans (DE)	Mattox
Bafalis	Goldwater	Murphy
Beard	Hansen (UT)	Nowak
Bethune	Heckler	Shuster
Blanchard	Ireland	Skelton
Bolling	Lehman	Smith (PA)
Brown (OH)	Luken	
Deckard	Marks	

□ 1820

So the amendment offered as a substitute for the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. HARKIN), as amended.

The amendment, as amended, was agreed to.

● Mr. STOKES. Mr. Chairman, I rise in strong support of the Addabbo amendment to delete funding for the production of the first MX missiles. The time has come for this Congress to reject once and for all this unaffordable and unwarranted weapon. President Reagan proclaims that we need the MX missile system to deter the Soviet threat. In my judgment, however, spending $40 billion on an unproven threat and an untested theory is ludicrous.

This administration has a habit of distorting statistics, and the statistics it uses to justify the MX missile and its Dense Pack basing plan are no exception. The President, in his November 22 speech, tried to paint a grim picture of overwhelming Soviet military superiority contrasted with a stagnant and outdated American nuclear deterrent. Nothing could be further from the truth. In fact, in real-year dollars this country is currently spending more on its defense than at any time since the height of World War II. Further, the United States still, as it always has, maintains an absolute superiority in the number and accuracy of nuclear warheads. To imply that this Nation's security is at imminent risk is not only seriously irresponsible but blatantly false. The President has told the American people that we are weak when in fact we are strong. The President has told us to fear when we should be unafraid. He tells us we need more arms to promote peace and more nuclear weapons to insure stability when they do neither. Mr. Chairman, where and when does this doubletalk stop? I say here and today on the floor of House.

The real danger that the American people should be aware of is that the President is jeopardizing our first real hope for lasting peace and survival in this world—a nuclear freeze. His proposals run directly counter to any hopes Americans might have for moderating or stopping the production of nuclear arms.

Mr. Chairman, rather than offering Americans an arms reduction, the President; proposes this MX missile system, a dramatic escalation. Further, the Dense Pack may easily violate the Strategic Arms Limitation Treaty. We are taking two steps backward without taking even one step forward.

The President has blindly turned from a nuclear freeze and its path to peace. In so doing the administration dangerously flaunts world peace as well as this country's economic well being. Every dollar increase in the defense budget equates to a dollar increase in the deficit. DOD estimates indicate that the Dense Pack plan and its accouterments will cost $40 billion. With 11 million Americans out of work and the economy crumbling under the weight of ever increasing deficits we simply cannot afford it.

This administration must recognize, as a majority of Americans do, that a bilateral nuclear weapons freeze is the only hope for peace throughout the United States. Citizens have again and again in the last year voted in favor of such a freeze. If we are to avoid the unthinkable consequences of a nuclear confrontation then we must take the lead and show the world that rational minds still prevail in this land.

Mr. Chairman, I beseech the House to reject the MX and its Dense Pack basing plan.

Thank you.●

● Mr. FRENZEL. Mr. Chairman, yesterday this body considered funding for the MX nuclear missile, which was the focus of much sincere, informed, and heartfelt debate, not only in this chamber but also across the United States. After careful reflection, I felt I had to support the Addabbo amendment to delete funds for procurement of the MX missile.

It has been pointed out that the appropriations bill contained funds only for purchase of five missiles, and would not have committed us to the Dense Pack basing. Moreover, funds could not have been spent until March 15, 1983, allowing additional deliberations about basing. I have great concerns, however, about the burden we would have had to undertake had the Addabbo amendment failed. The bill would have committed us to purchase of missiles, and, by necessity, the requirement to install, eventually, the missiles in some form of basing mode.

I remain unconvinced of the viability of Dense Pack, and have questions as to whether an alternative presently exists which can meet the survivability standards that any new land-based missile will have to attain.

I was not willing to make a commitment to a program when I could not know its eventual design or cost, especially when the cost will most certainly range in the tens of billions of dollars. It would have been like voting for a water project before the engineering studies had been done.

I do not, however, support the amendment to delete research and development funds for an MX missile. I am committed, as I am convinced the President is as well, to sharp reductions in the world's stock of nuclear arms. As the United States continues to press forward in the START talks with the Soviet Union, I believe it would be unwise to cease all R&D work on the MX. I believe that continued MX research and development is a signal of our resolve, and hope that continuing, diligent START negotiations will be swift and successful.

Because of the decision made yesterday to halt production on the MX, however, I find myself a reluctant opponent of the amendment to eliminate the B-1B strategic bomber program. I do not believe that we can eliminate both the MX and the B1 bomber. The obsolescence of our B-52's as a penetrating bomber, even considering the standoff potential offered by long-range air-launched cruise missiles, makes a replacement bomber inevitable. In addition, because of the radically lower radar profile of the new B1-B, I believe the B1 is functionally very similar to any aircraft we might see in the next decade embodying Stealth technology.

Although an amendment may be offerred today, Mr. Chairman, which would suspend deployment of Pershing II missiles in Europe pending resolution of technical concerns, I believe the Appropriations Committee's deletion of Pershing II funds for the same reasons makes the question moot. The committee has decided that the Pershing II is not now technically successful, and not be deployed. However, Soviet SS-20 missiles have, by all accounts, dramatically altered the balance of power in Europe. I believe deployment of U.S. tactical nuclear weapons in those European nations that want them is necessary. The Pershing II is intended to replace the Pershing I, a missile that has a shorter range, but is also less precise, less flexible, and carries a larger warhead. The Pershing II, I believe is much better suited to stopping or deterring a Warsaw Pact armored invasion, the role for which it is intended. I also believe that the Pershing II is a less dangerous weapon, since it has better accuracy and smaller warhead means than the Pershing I.

I also support the amendment that would delete funding of one of two nuclear aircraft carriers, at a savings of approximately $3.6 billion. I am unconvinced of the strategic necessity of carrier task forces, and am concerned that they would be easy targets to a potential enemy. Most of all, Mr. Chairman, I am opposed to the expenditure which an additional carrier would require, plus the funds that would be necessary for the accompanying task force, expecially when the difference is between 14 and 15 carrier task forces.

Finally, Mr. Chairman, I wanted to support the Roukema amendment which would have deleted $3.7 billion in budget authority for procurement in fiscal year 1983. This bill would have limited total defense spending to 5 percent in real growth between fiscal year 1982 and 1983. In my position on the Budget Committee, I have supported efforts in the past to reduce all spending across the board. I intend to continue to do my best to insure that defense spending is adequate but restrained.

I do not step back from our national commitment to an adequate defense, and deterrence of aggression against ourselves or our allies. Nonetheless, setting priorities is the essential business of democratic government. Our expenditures for defense, except those which are essential and urgent must compete with other priorities, and the vital need to reduce the Federal deficit. I believe the Roukema amendment represents sound fiscal policy and balancing of defense priorities, and deserved our support. Because earlier amendments had almost achieved the 5-percent cut embodied in the Roukema amendment, it was almost rendered moot, but it still represents good policy.

I did not vote for the military authorization, but because of the reduction made in this appropriation bill, I will vote for it.●

● Mr. WEISS. Mr. Chairman, I fully support Armed Forces that are adequately equipped, well trained, and thoroughly prepared. And I would support a defense budget that so provided. But H.R. 7355, the defense appropriations bill we are considering recklessly and unnecessarily exceeds what is needed to maintain such a force.

Funding for personnel and operation and maintenance is increased moderately while procurement receives a very substantial increase. These priorities are wrong, beefing up increasingly dangerous nuclear weapons programs and other costly projects while weakening our conventional forces and systems operability. Moreover, that vast sums poured into the Pentagon far exceed what is reasonable.

The defense budget contained in H.R. 7355 is $93.5 billion more than fiscal 1980, a 70-percent increase. At this rapid rate of spending close to $2 trillion will be spent on the military between the current fiscal year and fiscal 1987. Equally disturbing is the fact that the $231.1 billion in this bill deprives vital social programs of their funding. This bill is an affront to the 12 million Americans who are out of work, the 3.2 million children who

have been dropped from the school lunch program, and others who have been hurt by the Reagan budget cuts.

The sound rejection to the President's budget priorities in the recent elections is perhaps the most convincing reason for opposing passage of H.R. 7355. The elections reflected the widespread opposition to President Reagan's rate of defense spending. This was a primary issue in many House and Senate campaigns and has contributed to a significant shift in the makeup of the newly elected Congress and the disposition we can anticipate among that Congress toward out-of-control military funding. Decisions on this spending measure appropriately should be postponed until the 98th Congress convenes.

Yet the reckless devotion to a massive military buildup that was solidly rejected at the polls is continued in this appropriations measure. Members of the 98th Congress are likely to bring a heightened level of scrutiny to Pentagon funding requests. Controversial programs will be carefully examined and cost overruns will be challenged. In short, large gains seem likely in bringing the defense budget under control by holding off on further action on defense spending measures until the new Congress convenes.

The premise behind this bill is that increased military spending translates into enhanced military strength which, in turn, provides better national security. This approach is wrong and can only lead toward war. The $231.1 billion provided in this bill will go in large part to supporting fault-ridden weapons systems, saber-rattling policy proposals, and military planning that justifies our worst fears about the nuclear threat.

This bill would: continue the controversial MX missile system, which barely survived committee action, and which we know would violate existing arms accords; which has only recently been assigned a basing mode that is itself highly questionable, wholly untested, and a dangerous risk for world peace; and which is certain to cost taxpayers tens of billions of dollars above and beyond the billions already wasted.

I strongly support the Addabbo amendment to delete funding for procurement of the MX. In my opinion the bulk of research and development funds should also be deleted.

Authorize another year of waste with the M-1 tank, which cannot run in the desert, does not start in cold weather, and remains years behind schedule and billions of dollars over budget; and with the B-1 bomber which will be rendered useless soon after it is deployed by the Stealth bomber currently under development.

Push the arms race to new heights with space weapons in conflict with several international agreements on the use of space solely for peaceful purposes. These programs also should be deleted.

Economic recovery will remain an illusion until we reverse the priorities of the current administration and stop our ever-growing reliance on military expenditures for economic stability and growth. Domestic strength, maintained by full employment, independent industries, and an end to rising inflation rates, will forever elude our grasp so long as our capital, human, and natural resources are siphoned off to military-related activities.

The strangling effects of the defense build-up now underway were succinctly summarized in a study done by the Joint Economic Committee's Subcommittee on Economic Goals and Intergovernmental Policy, chaired by the distinguished gentleman from Indiana (Mr. HAMILTON). I want to briefly present those findings, which are comprehensive and reveal the major problems we face:

First, the rapid pace of the defense buildup will add slightly to inflation in the short term and could add greatly to inflation in the longer term;

Second, the buildup may worsen the problem of procurement cost overruns;

Third, the buildup is exacerbating regional imbalances in the national economy;

Fourth, limited bottlenecks now exist in the defense industries, especially among smaller prime contractors and subcontractors, due to shortages of some critical components, production equipment, materials, and skilled workers;

Fifth, inflation in the defense sector could increase the real costs of defense by as much as $80 billion by 1987 over official estimates;

Sixth, the bottleneck problem could become widespread in the next several years unless the supply of scarce resources, including skilled workers, is greatly increased;

Seventh, if the supply of scarce resources is not greatly increased, the shift of resources from the civilian to the defense sector will worsen and reduce U.S. competitiveness in the world market;

Eighth, if the bottleneck problem becomes widespread, price and wage increases could spill over to the civilian sector; and

Ninth, the lack of adequate information and statistics about defense and nondefense industries on a disaggregated basis concerning capacity utilization, skilled labor, and the availability and requirements for other resources is hampering the Government's ability to monitor and forecast the effects of the defense buildup.

Claims that the defense buildup generates jobs and thus will help alleviate record 10.8 percent unemployment are grossly exaggerated. Indeed, defense outlays are a notoriously poor source of job creation. A report prepared by the Congressional Research Service found that nonmilitary spending creates, on the average, between 150 and 200 percent the number of jobs per billion dollars spent as does military related spending. The advantages of nonmilitary spending in this category are significant, particularly with unemployment at a record level and the economy mired in a deep recession.

Our military strategy historically has been to seek to implement cooperative defense strategies with our allies. Currently the United States is involved in 29 such agreements, the NATO alliance most prominent among them. This alliance is responsible for a significant margin of international security for the democratic world both in the number of strategic weapons and in strategic planning capability.

NATO nations outspent Warsaw Pact countries in the 1970's by $207 billion on military goods and possess 3,200 more strategic nuclear weapons. A renewed commitment to NATO-provided security, backed by a clear and consistent foreign policy, would provide a more stable world situation and be much less costly than a continued arms race. For this reason the plan to put a new generation of American-provided nuclear missiles in Europe makes little sense. European opposition to being made battlefield targets has led to growing problems in Europe and increasing distance between our allies and the United States. The Euromissiles should not be deployed.

Foremost among our concerns in all aspects of military spending must be arms control and disarmament efforts. A nuclear freeze that is multilateral and immediate should be initiated. SALT II should be ratified. Neutron weapons should be stopped before they are deployed, and all nations possessing nuclear weapons should be urged to adopt a policy of "no first use" of their weapons.

We do not need further refinement and modernization of our already redundant nuclear arsenal, we need a clear cut commitment to avoid using them so long as others do. Instead of a new 5-year program for fighting nuclear war, such as that put forth by Defense Secretary Caspar Weinberger, we must channel our efforts toward methods of reducing and ultimately eliminating nuclear weapons.

This defense appropriations legislation is bloated with evidence of lack of concern for Americans and for a stable world environment. It is long past time to end our obsession with bigger and better military toys and focus instead on peace. Our great and unending stream of knowledge and talent must be concentrated on avoiding war, not generating ways in which to fight it.●

The CHAIRMAN. If there are no other amendments, the Chair recog-

nizes the gentleman from New York (Mr. ADDABBO).

Mr. ADDABBO. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker, having assumed the chair, Mr. ROSTENKOWSKI, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7355), making appropriations for the Department of Defense for the fiscal year ending September 30, 1983, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. FORSYTHE

Mr. FORSYTHE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. FORSYTHE. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. FORSYTHE moves to recommit the bill, H.R. 7355, to the Committee on Appropriations.

The SPEAKER. Without objection the previous question is offered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. EDWARDS of Alabama. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to make the following announcement:

Following the vote on this bill, the House will take up the rule on the State, Justice, Commerce, judiciary appropriation bill. Upon the completion of the rule, we will be finished for the evening.

The vote was taken by electronic device, and there were—yeas 346, nays 68, not voting 19 as follows:

[Roll No. 425]

YEAS—346

Addabbo	Dymally	Jeffords
Akaka	Dyson	Jeffries
Albosta	Eckart	Jenkins
Anderson	Edwards (AL)	Johnston
Andrews	Edwards (OK)	Jones (NC)
Annunzio	Emerson	Jones (OK)
Anthony	Emery	Jones (TN)
Applegate	English	Kazen
Archer	Erdahl	Kemp
Ashbrook	Erlenborn	Kennelly
Aspin	Ertel	Kindness
Atkinson	Evans (GA)	Kogovsek
Badham	Evans (IN)	Kramer
Bailey (MO)	Fary	LaFalce
Bailey (PA)	Fascell	Lagomarsino
Barnard	Fazio	Lantos
Barnes	Fenwick	Latta
Beard	Ferraro	Leath
Benedict	Fiedler	LeBoutillier
Bennett	Fields	Lee
Bereuter	Findley	Lent
Bevill	Fish	Levitas
Biaggi	Fithian	Lewis
Biliey	Flippo	Livingston
Boggs	Florio	Loeffler
Boland	Foglietta	Long (LA)
Boner	Foley	Long (MD)
Bonker	Ford (MI)	Lott
Bouquard	Ford (TN)	Lowery (CA)
Bowen	Fountain	Lujan
Breaux	Fowler	Lundine
Brinkley	Frenzel	Lungren
Brooks	Frost	Madigan
Broomfield	Fuqua	Marks
Brown (CA)	Gaydos	Marlenee
Broyhill	Gejdenson	Marriott
Burgener	Gephardt	Martin (IL)
Butler	Gibbons	Martin (NC)
Byron	Gilman	Martin (NY)
Campbell	Gingrich	Martinez
Carman	Ginn	Matsui
Carney	Glickman	Mavroules
Chappell	Goldwater	Mazzoli
Chappie	Gonzalez	McClory
Cheney	Goodling	McCloskey
Clausen	Gore	McCollum
Clinger	Gradison	McCurdy
Coats	Gramm	McDade
Coelho	Gregg	McDonald
Coleman	Grisham	McEwen
Collins (TX)	Guarini	McGrath
Conable	Gunderson	McHugh
Conte	Hagedorn	Mica
Corcoran	Hall (IN)	Michel
Coughlin	Hall (OH)	Mikulski
Courter	Hall, Ralph	Mineta
Coyne, James	Hall, Sam	Minish
Coyne, William	Hamilton	Mitchell (NY)
Craig	Hammerschmidt	Moakley
Crane, Daniel	Hance	Molinari
Crane, Philip	Hansen (ID)	Mollohan
D'Amours	Hansen (UT)	Montgomery
Daniel, Dan	Hartnett	Moore
Daniel, R. W.	Hatcher	Moorhead
Dannemeyer	Hawkins	Morrison
Daschle	Heckler	Mottl
Daub	Hefner	Murtha
Davis	Heftel	Myers
de la Garza	Hendon	Napier
DeNardis	Hightower	Natcher
Derrick	Hiler	Neal
Derwinski	Hillis	Nelligan
Dickinson	Holland	Nelson
Dicks	Holt	Nichols
Dingell	Hopkins	O'Brien
Dixon	Horton	Oakar
Dorgan	Howard	Oxley
Dornan	Hoyer	Panetta
Dougherty	Hubbard	Parris
Dowdy	Huckaby	Pashayan
Downey	Hughes	Patman
Dreier	Hunter	Patterson
Duncan	Hutto	Pease
Dunn	Hyde	Pepper
Dwyer	Jacobs	Perkins
Petri	Schumer	Traxler
Peyser	Sensenbrenner	Trible
Pickle	Shamansky	Udall
Porter	Sharp	Vander Jagt
Price	Shaw	Volkmer
Pritchard	Shelby	Walgren
Pursell	Shumway	Walker
Quillen	Siljander	Wampler
Railsback	Simon	Watkins
Ratchford	Skeen	Weber (MN)
Regula	Smith (AL)	Weber (OH)
Rhodes	Smith (IA)	White
Rinaldo	Smith (NE)	Whitehurst
Ritter	Smith (NJ)	Whitley
Roberts (KS)	Smith (OR)	Whittaker
Roberts (SD)	Snowe	Whitten
Robinson	Snyder	Williams (MT)
Roe	Solarz	Williams (OH)
Roemer	Solomon	Wilson
Rogers	Spence	Winn
Rose	St Germain	Wolf
Rostenkowski	Stangeland	Wortley
Roth	Stanton	Wright
Roukema	Staton	Yatron
Rousselot	Stenholm	Young (AK)
Rudd	Stump	Young (FL)
Santini	Swift	Young (MO)
Sawyer	Synar	Zablocki
Scheuer	Tauzin	Zeferetti
Schneider	Taylor	
Schulze	Thomas	

NAYS—68

AuCoin	Gray	Rodino
Bedell	Green	Rosenthal
Beilenson	Harkin	Roybal
Bingham	Hertel	Russo
Bonior	Hollenbeck	Sabo
Brodhead	Kastenmeier	Savage
Brown (CO)	Kildee	Schroeder
Burton, John	Leach	Seiberling
Burton, Phillip	Leland	Shannon
Chisholm	Lowry (WA)	Stark
Clay	Markey	Stokes
Collins (IL)	McKinney	Studds
Conyers	Miller (CA)	Tauke
Crockett	Miller (OH)	Vento
Dellums	Mitchell (MD)	Washington
Donnelly	Moffett	Waxman
Early	Oberstar	Weaver
Edgar	Obey	Weiss
Edwards (CA)	Ottinger	Wirth
Evans (IA)	Paul	Wolpe
Forsythe	Rahall	Wyden
Frank	Rangel	Yates
Garcia	Reuss	

NOT VOTING—19

Alexander	Evans (DE)	Shuster
Bafalis	Ireland	Skelton
Bethune	Lehman	Smith (PA)
Blanchard	Luken	Stratton
Bolling	Mattox	Wylie
Brown (OH)	Murphy	
Deckard	Nowak	

□ 1840

Mrs. SCHROEDER changed her vote from "yea" to "nay."

Mr. HUGHES changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. STRATTON. Mr. Speaker, in my enthusiasm and excitement over the successful completion of the defense appropriation bill, I had a slight oversight. I neglected to cast my vote.

As dean of the New York delegation, I was passing out plaques to our retiring Members.

I would have voted "yea" on passage of the bill.

AMENDING THE PUBLIC HEALTH SERVICE ACT

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be discharged from further consideration of the bill (H.R. 7338) to amend the Public Health Service Act to extend through March 31, 1983, the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. BROYHILL. Reserving the right to object, Mr. Speaker, I am sorry I was not able to hear the bill that was being brought up.

Mr. WAXMAN. Mr. Speaker, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Speaker, H.R. 7338 is not the Clean Air Act. It is a noncontroversial bill which will extend for 3 months the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research. The Commission is scheduled to expire on December 31, 1982. We have discussed this with the ranking Republican member of our subcommittee who has no objection.

Mr. BROYHILL. As I understand, this is to permit this Commission to issue their final report.

Mr. WAXMAN. That is correct.

Mr. BROYHILL. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 7338

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1804 of the Public Health Service Act (42 U.S.C. 300b-3) is amended—

(1) by striking out "for the fiscal year ending September 30, 1982" in subsection (a) and inserting in lieu thereof "for the period beginning October 1, 1981, and ending March 31, 1983"; and

(2) by striking out "December 31, 1982" in subsection (b) and inserting in lieu thereof "March 31, 1983".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

HOUR OF MEETING TOMORROW

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns tonight, it adjourn to meet at 2 p.m. tomorrow.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 6957, DEPARTMENT OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1983

Mr. LONG of Louisiana. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 617 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 617

Resolved, That upon the adoption of this resolution it shall be in order, section 311(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6957) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1983, and for other purposes. During the consideration of said bill, all points of order against the following provisions in said bill for failure to comply with the provisions of clause 2, rule XXI are hereby waived: beginning on page 3, line 5 through page 4, line 14; beginning on page 5, line 18 through page 8, line 2; beginning on page 8, lines 14 through 20; beginning on page 10, lines 1 through 6; beginning on page 11, line 2 through page 12, line 4; beginning on page 14, lines 20 through 24; beginning on page 15, lines 6 through 13; beginning on page 15, line 20 through page 16, line 6; beginning on page 17, line 13 through page 24, line 17; beginning on page 26, lines 2 through 6; beginning on page 26, line 18 through page 27, line 2; and all points of order against the following provisions in said bill for failure to comply with the provisions of clause 6, rule XXI are hereby waived: beginning on page 3, line 6 through page 4, line 14; beginning on page 7, line 1 through page 8, line 2; and beginning on page 15, line 20 through page 20 through page 16, line 6.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair would like to advise the Members that history has just been made. That is the first time that we have had a woman act in the capacity of reading clerk.

The young lady's name is Meg Goetz. She is on the Clerk's staff, in the office of the Journal clerk.

PARLIAMENTARY INQUIRY

Mr. FRENZEL. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. FRENZEL. Mr. Speaker, this is a historic occasion, of course. I was wondering how the Speaker was going to assure us that the new reading clerk would be paid at the proper rate—since I am not aware that there are any vacancies or any retirements.

Can the Speaker tell us how he has accomplished this without structuring a new job or passing it in the normal manner?

The SPEAKER. The Chair would advise the gentleman that he has not stated a parliamentary inquiry, but for the information of the House, Miss Goetz is an employee in the Clerk's Office, and as such she will be used as a reading clerk as well as a Journal clerk in the future as needed.

□ 1850

The SPEAKER. The gentleman from Louisiana (Mr. LONG) is recognized for 1 hour.

Mr. LONG of Louisiana. Mr. Speaker, I yield the usual 30 minutes for the purpose of debate only to the distinguished gentleman from Tennessee (Mr. QUILLEN), and pending that I yield myself such time as I may consume.

Mr. Speaker, House Resolution 617 provides waivers of points of order permitting the consideration of H.R. 6957, the Commerce, Justice, State appropriations bill for fiscal year 1983. This appropriations bill provides necessary new funding for a number of departments and related agencies, totaling $9,069,567,000. The bill provides new authority in the amount of $1,734,725,000 for the Department of Commerce; $2,704,352,000 for the Department of Justice; $1,867,378,000 for the Department of State; and $799,340,000 for the judiciary. Various lesser amounts are provided for related agencies.

The rule waives section 311(a) of the Budget Act against consideration of the bill. This waiver is necessary because the overall ceiling set by the budget resolution has been breached. The bill before us is in compliance with the section 302 allocations, however, and in fact is $248,000 under the instant subcommittee 302(b) allocation of $9,070,000,000.

The rule also waives clause 2 of rule XXI prohibiting unauthorized appropriations and legislation in appropriations bills against specified portions of the bill. This waiver offers protection against lack of authority for the appropriations for the Economic Development Administration, the Minority Business Development Agency, the U.S. Travel and Tourism Administration, the National Oceanic and Atmospheric Administration, and several fishing-related programs administered by the Department of Commerce.

The clause 2, rule XXI waiver also applies to the Maritime Administration in the Department of Transportation, the International Trade Commission, the Office of the U.S. Trade Representative, and the Small Business Administration. Funding for the Justice Department also required a waiver of clause 2, rule XXI, with the exception of that for the Office of Justice Assistance, Research and Statistics

and for official representation. Finally the clause 2, rule XXI waiver applies also to the Commission on Civil Rights and the Legal Services Corporation.

The third type of waiver granted by this rule protects specified portions of the bill against points of order under clause 6 of rule XXI, which prohibits reappropriations. Reappropriations were recommended for the Economic Development Administration, the National Oceanic and Atmospheric Administration, and the Small Business Administration, thus necessitating this waiver.

Mr. Speaker, the House considered a rule for H.R. 6957, the Commerce, Justice, State appropriations bill on August 13. The matter was unresolved because of controversies related to the Federal Trade Commission, whose authorization bill had not yet come to the floor. On December 1, the House passed H.R. 6995, to extend the FTC authorization and limiting the authority of the FTC according to the will of the House.

I hope that we will all keep in mind the purpose of this so-called "lame-duck" session, which has been called in order to pass appropriations bills. Let us adopt this rule which provides for the consideration of the Commerce, Justice, State appropriations bill and move toward our sine die adjournment target date.

Mr. QUILLEN. Mr. Speaker, I yield myself as much time as I may use.

Mr. Speaker, the resolution and the bill itself have been ably explained.

We all know that it is time to get down to the business of passing these appropriation bills. I have heard a lot of debate on some of them which I thought was unnecessary. I hope with the adjournment date scheduled for the 17th of this month that we can act quickly on this rule and adopt it.

Mr. Speaker, I would like to point out that the bill as reported represents an increase of $539 million in budget authority over the 302(a) allocation for discretionary programs consistent with the budget resolution.

There is some controvesy. The FTC funds are not protected in the measure and if a point of order is raised, they will be stricken. The rule does provide certain other waivers.

Mr. Speaker, we need to get down to business.

Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

If I could, I would like to inquire of the gentleman from Louisiana with respect to a couple of waivers that are permitted in this particular bill.

I notice that in a couple places where the waivers are permitted, there is a phrase within the bill under the waivers that says, "including the hire of passenger motor vehicles."

Now, that is a rather new phrase to me. I do not see any description of it in the report. Was there discussion of this in the Rules Committee of what we are authorizing and for what purpose?

Mr. LONG of Louisiana. Mr. Speaker, if the gentleman will yield, I could not hear. I would ask the gentleman which page he is referring to?

Mr. WALKER. I would be glad to tell the gentleman. On page 14 under the International Trade Commission of the bill and also on page 26 under the Commission on Civil Rights, the phraseology shows up, "including the hire of passenger motor vehicles," and that phase is something I do not remember seeing previously. It appears to me to be an authorization of some kind.

I would like to know what the purpose of this authorization is in the bill that we are waiving a point of order on.

Mr. LONG of Louisiana. May I yield to the distinguished chairman of the Appropriations Committee?

Mr. WALKER. I will be glad to yield to the gentleman from Iowa (Mr. SMITH).

Mr. SMITH of Iowa. Under our procedure, we do not permit the hire of automobiles unless it is provided in an authorization bill. It is not a new authorization. It has been carried for years for those agencies or departments that want to hire motor vehicles. Otherwise, we would not permit them to do it.

Mr. WALKER. This is included under the authorization legislation?

Mr. SMITH of Iowa. Right; it is not in violation of anything.

Mr. WALKER. Mr. Speaker, I thank the gentleman.

If I could further inquire of the gentleman from Louisiana, another waiver in the bill is for the Legal Services Corporation. Is the Legal Services Corporation properly authorized or is this a case where we are waiving points of order against a program which does not have proper authorization?

Mr. LONG of Louisiana. Mr. Speaker, if the gentleman will yield, the gentleman is correct in his assumption. It is a rule XXI waiver because of lack of authorization.

Mr. WALKER. There is no appropriate authorization then; so as I understand, the only protection we have in here is the language in the bill that would assure that all protections built in by the House in H.R. 3880 would apply; is that correct,

Mr. LONG of Louisiana. That is my understanding.

Mr. WALKER. I thank the gentleman very much.

Mr. QUILLEN. Mr. Speaker, I urge the adoption of the rule. Let us get down to business and pass it in a very speedy way.

Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. LONG of Louisiana. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. STRATTON).

□ 1900

Mr. LONG of Louisiana. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. I thank the gentleman from Louisiana for yielding.

Mr. Speaker, I asked for this time in order to make inquiry of the gentleman from Louisiana.

It is my understanding from reading the rule that has been presented that the waiver of the point of order against rule XXI with respect to the Federal Trade Commission authorization is not contained in the rule. In other words, the appropriation for the Federal Trade Commission is not protected from a point of order on the basis that it has not been authorized. Is that correct?

Mr. LONG of Louisiana. The gentleman is correct.

Mr. LEVITAS. Mr. Speaker, I thank my good friend, the gentleman from Louisiana, for this information.

I would hope and expect that during the course of consideration of the bill that the appropriate point of order will be made against that portion of the bill so that the matter can be more properly handled as we take up the continuing appropriations resolution.

Mr. LONG of Louisiana. Mr. Speaker, I have no further requests for time and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

TRIBUTE TO HON. CLAIR W. BURGENER, HON. DON H. CLAUSEN, HON. ROBERT K. DORNAN (CALIFORNIA), HON. BARRY GOLDWATER, JR., HON. WAYNE GRISHAM, HON. PAUL N. (PETE) McCLOSKEY, JR., AND HON. JOHN H. ROUSSELOT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. MOORHEAD) is recognized for 60 minutes.

Mr. MOORHEAD. Mr. Speaker, I and other members of the California Republican delegation have taken this special order to honor the seven retiring Republican members of our California delegation. These seven retiring Members are among the most outstanding Members of the House. They have had many years of distinguished service to our country and to our party.

DON CLAUSEN is now completing 20 years as a Member of the House of Representatives. He has served as dean of the California Republican delegation and has been our leader these past two Congresses. He has served on the Committee on Interior and Insular Affairs and on the Committee on Public Works and Transportation and has done outstanding legislative work for this Congress in that particular position.

I know he has acquired many friends here in the House of Representatives and they have recognized his tremendous work as the minority leader of the Committee on Public Works and Transportation.

He has been effective in meeting the needs of Californians and his constituents and has been a valuable and major contributor to our delegation. We will miss DON very much in his retirement.

One of my closest friends in the Congress has been JOHN ROUSSELOT. He is my neighbor in southern California and when I announced that I was going to be a candidate for Congress in 1972, he called me on the telephone and told me that he wanted to come to me and talk to me at my home.

Here is a capable, trained Member of the House of Representatives willing to put himself out for other candidates wherever they may be.

As our representative on the Congressional Campaign Committee, JOHN ROUSSELOT has traveled throughout the State of California and has sacrificed time that he needed for himself in his own area to work for others.

On the floor, very few people would not recognize his tremendous ability as a legislative leader in following legislation of all kinds that came before the House of Representatives. He has always been ready and available when many of the rest of his fellow Congressmen have been elsewhere.

On the Ways and Means Committee, he has given his skill to the guidance of legislation for the benefit of our State and our Nation.

JOHN ROUSSELOT has been a tremendous Congressman. He is one who we all hate to see go and who we expect to welcome back in some important position of public service in the very, very near future.

JOHN, we all love you and we hate to see you leave our numbers, but we wish you the very best in the years ahead. We know that we will be with you on many, many occasions.

BARRY GOLDWATER, JR., has been a valued Member of the House of Representatives for the past 14 years. He is, of course, the son of the patron saint of the Republican Party, BARRY GOLDWATER, SR. He has become highly respected in his own right during the years that he has been here in the House of Representatives.

He has served on the Committee on Science and Technology and on the Committee on Public Works and Transportation, and has become an expert in matters dealing with aviation, and has been of tremendous service to the entire aviation industry of this country.

We are going to miss BARRY. We know that he has put up a tremendous fight for the U.S. Senate this last year, and we hope also he will be back in some position of leadership.

We are going to miss, also, the conscience of the Republican Party of the Congress, PETE MCCLOSKEY.

PETE has not always been with us on every issue, but I have noticed in the years that I have been in the Congress that when PETE has taken a stand on a bill, when he was on our side, he has been the person who led this House and was able to get that legislation swung in the direction that he was working for.

I have seen him personally on this floor be the person who determined the outcome of legislation by his persuasive capabilities.

We will miss PETE in the House in the years to come. We will also miss his insistence on occasion to get us going perhaps in a little different direction than we might have wanted to go ourselves.

One of the men that I will miss the most is my good friend, CLAIR BURGENER, with whom I served in the State legislature, who has become respected by every Member of this House as the secretary of the Republican Conference and as a very trusted and honored member of the Appropriations Committee and as a man who we can always count on for guidance in our caucuses and wherever we were gathered.

□ 1910

CLAIR BURGENER is a person who had tragedy in his own home, and I think his attention to the needs of those who were handicapped or less fortunate than he was himself has been one of the things that has brought attention to CLAIR, and respect and honor to him, because he has believed in others. While he has been a very strong fiscal leader, many times he has been the one that stepped in and saw that those that were unable to take care of themselves were properly taken care of by the U.S. Government. In every respect I can think of, he and Marvia will be missed. His happy face, his great humor, his leadership in conversations wherever he would go—CLAIR, we are going to miss you.

I think that we have all appreciated the tremendous memory and speaking ability of ROBERT K. DORNAN. BOB DORNAN is one of those people that attracts attention wherever he goes. As a great television commentator in the early days, and as a Member of Congress, he has been controversial but he has been willing to fight for those things that he believes in. He has really been a person who brought many problems to the attention of this House that others were afraid to attack, and certainly his attention to the plight of our prisoners of war and others who were prisoners throughout the world has certainly brought honor to him and to his career. ROBERT is a true patriot, one who believes in his country, one who believes in America, who is a very, very strong believer in the Christian faith in his own Catholic Church, and one who has been willing to stand for that which he believed in regardless of where it took him or regardless of what the sacrifices might be.

We have been proud of the job that he has done in the Foreign Affairs Committee these past 2 years. ROBERT, we are going to really miss you, and we hope you are back.

One of our youngest Members is WAYNE GRISHAM. WAYNE has only been with us for 4 years, but WAYNE has brought attention to himself as a fighter for southern California, as a strong conservative who stood for fiscal responsibility, believed in his country, and was willing to give his time and effort for anyone who needed his assistance. I had a chance to get to know WAYNE pretty well through a social group that we belong to, in which we tried to educate each other on occasion. WAYNE is really a fine American. He is one who has given a great contribution to the Congress, and one whom we will miss very, very much.

Mr. Speaker, at this time I would like to yield to those who wish to join me in this special order.

Ms. FIEDLER. Mr. Speaker, will the gentleman yield?

Mr. MOORHEAD. I yield to the gentlewoman from California.

Ms. FIEDLER. Mr. Speaker, I join with my colleagues today in saying an official farewell to seven good and close friends—the retiring Members of our California Republican delegation. Some I knew for a number of years before coming to Congress. Others I met upon my arrival. But, all of them have been good and kind friends.

I know by mentioning something about each of them, I will undoubtedly forget something. But, I would like to try anyway.

CLAIR BURGENER, you were the first Member of the delegation to call me the morning after I won. Without your help, my first term in Congress would not have been nearly as happy or productive.

DON CLAUSEN, you have been a constant source of help to me and my district. Whenever I have asked, you have never said no.

BOB DORNAN, what can a person possibly say about you that would be adequate. From my early days of public life in Los Angeles, you have been there and I am glad to call you my friend.

BARRY GOLDWATER, JR., you were also there in the very beginning of our struggles in Los Angeles. You helped every step of the way. You deserve a large portion of the credit for our victory over forced busing. And, you get a lot of the credit for the friendship you have shown over the years.

WAYNE GRISHAM, your help over the past 2 years has been invaluable. I wish you well back in California.

PETE MCCLOSKEY, you have been a friend and you were especially helpful to me in the days following my first election.

And, finally, JOHN ROUSSELOT, you were a big part of my decision to run for Congress and your early support was extremely important to me and I thank you for it.

So, to all seven of you, I wish you Godspeed and good luck and I know I speak for all of my colleagues when I say, we will miss you.

Mr. LUNGREN. Mr. Speaker, will the gentleman yield?

Mr. MOORHEAD. I yield to the gentleman from California (Mr. LUNGREN).

Mr. LUNGREN. Mr. Speaker, I want to thank the gentleman in the well for bringing to the attention of our colleagues the departure of some of our colleagues from the State of California.

I just read the list: BURGENER, CLAUSEN, DORNAN, GOLDWATER, GRISHAM, MCCLOSKEY, and ROUSSELOT—the names evidencing the diversity of opinion, the diversity of ability, the diversity of specialty, the diversity of personality that I think marks the California delegation. In a very true fashion I think it can be said that our loss in California is the Nation's loss. A number of those people are leaving because they sought another office—the U.S. Senate—from California. Some are leaving for other reasons, but I think we can say confidently that all have made their mark; all have given of themselves; all have made a real contribution to the U.S. Congress in the time that they served.

It is unfortunate that we are losing so many of them. It is unfortunate that we are losing so many of them all at one time. They have done a service for our State, and they have performed a service for this Nation. The fact, I guess, that they are leaving is just an indication of how this body is a body that changes continually, that remains the same, but yet has different faces year after year.

They have helped all of us at one time or another. They have been extremely helpful to me in my first two terms here. They have always been there when we needed to ask them for support, when we needed a contribution from them, when we needed assistance on a particular bill. They have worked very hard for our State.

Our State should offer its thanks to them as those of us who remember as Representatives from the State of California offer our thanks to them today.

Mr. THOMAS. Mr. Speaker, will the gentleman yield?

Mr. MOORHEAD. I yield to the gentleman from California.

Mr. THOMAS. Mr. Speaker, I want to commend our soon-to-be dean, although that means that we have lost a dean if we are to acquire a new dean in the California delegation.

As the gentleman read down and described the seven gentleman who will no longer be with us, one of my immediate reactions was the number of years of experience represented in the seven gentleman—over 80 years' experience. And then, the fact that there are seven from California who are retiring.

When we look at Republican Members from other States, that is more Members than all but four other States in this Union, excluding California—Members leaving from one State. That kind of experience, that kind of number, cannot be replaced.

These are Members from the Oregon border to the Mexican border who are leaving us. They are Members from my own class—WAYNE GRISHAM, a classmate, is leaving us. My big brother when I was a freshman, BOB DORNAN, who can only be described as unique, is leaving us. Then, we reach those Members who have more than 10 years' experience, those Members whom I consider among the most talented in the House of Representatives—CLAIR BURGENER, BARRY GOLDWATER, JR., PETE MCCLOSKEY, JOHN ROUSSELOT, and our dean DON CLAUSEN. They were very good to me, very helpful, and I shall miss them very much.

Mr. DANNEMEYER. Mr. Speaker, will the gentleman yield?

Mr. MOORHEAD. I yield to the gentleman from California.

□ 1920

Mr. DANNEMEYER. Mr. Speaker, I would like to express my personal thanks to the seven Members of our delegation who happen to be Republicans and who are retiring at the end of this 97th Congress. They have been most helpful to this new Member from the beginning of my first year of service in the House from the great State of California.

Those Members represent a diversity of views, as we all know. In our two great parties, we do have differences of opinion on the major issues of our day. These gentleman have been able to articulate those differences very well.

On an occasion such as this, it is only appropriate to observe that, as to the seven Republicans from California who are leaving at the end of the 97th Congress, three of the seven are what I would categorize or classify as voluntary departures. The other four are leaving involuntarily, in that they sought or would have sought reelection, but for the presence of an activity that goes on once every 10 years in the country called reapportionment. Four of our brethren are not returning to the U.S. Congress, not because they did not want to but because the vagaries of reapportionment put them in a position where, as a practical matter, it was impossible for them to return, this at a time when the voters in the State of California in 1982 elected a Republican at the top of the ticket to the U.S. Senate and elected a Republican as Governor.

What I am suggesting is that the gerrymandering, as it took place in California in 1982, should be used by the publishers and editors of future textbooks on the subject of gerrymandering as exhibit A in terms of how to decimate one party or the other. In this instance, our Democratic colleagues, who engineered the reapportionment in the State of California, did a magnificent job from their standpoint of stacking districts in the State of California to assure the probability that they would increase their numbers in this body. I do not find that particularly a pleasant statement to make, but I think it is appropriate to make that statement on this occasion when we are honoring our colleagues on their retirement.

Mr. Speaker, I would like to thank each one of these gentlemen for the assistance they have given me in my 4 years in this body. I wish them well in whatever line of work they wish to pursue, and I know that they have many years of service left to the people of this Nation. I thank our dean, Congressman MOORHEAD, for his leadership in presenting this opportunity for the Members of the House to pay tribute to our colleagues this evening.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. MOORHEAD. I yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, I thank very much the new dean of our delegation for taking out this special order.

As my other colleagues from California have said, the impact of redistricting is devastating, and for me, it will be a terrible personal loss to lose all of the seven colleagues in our delegation who are going to be departing.

Let me speak first of our dean, DON CLAUSEN.

DON CLAUSEN's unflagging leadership has helped the California delegation through difficult and trying times. DON is a man of compromise who is able to lead by balancing opposing views in a fair and judicious manner. But above all, DON has led by example. His consistent and intelligent guidance of the delegation, his years of service to the Interior and Public Works Committees, and his personal dedication and expertise will not easily be forgotten.

DON's guidance and advice were indispensible in my first term in Congress and I am grateful for the attention and consideration he has shown me.

In fact, I was telling him earlier that I am one of the few Members who have been able to look to DON CLAUSEN as dean, because he has been the only dean since I have been a member of the California delegation. He will be sorely missed. I am grateful to him, and I will miss him. He has been in this Congress for 30 years. I have known him for years by reputation and have been very fortunate to have had this opportunity over the past 2 years to serve under him as a member of the California delegation.

PETE MCCLOSKEY is another colleague who will be greatly missed. I have not always agreed with PETE, but in one word he can best be described as a man of principle.

In his 15 years in office, PETE has held by his convictions, no matter how difficult that might be.

His work on the Merchant Marine and Fisheries Committee has been outstanding. And his service to the 12th District has likewise been exceptional. PETE has been an important voice in this Congress for free market principles, and we have all benefited from his experience and insight. Last, I would like to thank him for his consistent support in my first term in office. I am grateful for his friendship and wish him the best of luck.

I had the opportunity to serve with PETE on the subcommittee on which he was the ranking member. He was the ranking member of the Manpower and Housing Subcommittee of the Government Operations Committee, and PETE gave me a great opportunity on several occasions to fill in for him and I was able to grill a number of witnesses when he was not able to be there because he was out in California campaigning.

In fact, PETE surprised me when I first joined that subcommittee. I had heard a lot of things about PETE before I came to the Congress, and in one of our first meetings on the Manpower and Housing Subcommittee, he leaned over to me and said, "Dave, watch this. We are going to close down the Department of Housing and Urban Development." He has not been successful in doing that yet, but I certainly laud him for his efforts, and I was pleasantly surprised to hear that coming from PETE. He has been a tremendous supporter of me, and I will miss him greatly and I appreciate his friendship.

BARRY GOLDWATER, JR., is another member of this delegation who has played a major role in the fact that I am a member of this delegation. Over the last 13 years, BARRY GOLDWATER has compiled an impressive record of service to this Congress. He is long overdue for our thanks and appreciation.

My personal experience with BARRY—first as an intern and now as a colleague and friend—taught me that BARRY is an exceptional individual. He is open and accessible. In the years spent in Washington, he has never lost touch with his friends and constituents back in California, as he regularly has commuted back to California. That certainly has shown up well, as he received 80 percent of the vote in his district. This sensitivity is an obvious part of his relationship with his staff. Half of them have been with BARRY since he was first elected in 1969. This loyalty is only possible because BARRY treats the members of his staff with an uncommon respect and dignity.

As a legislator, BARRY has balanced his ambition and determination with a good sense of perspective. BARRY has argued persistently and eloquently for limiting the role of Government in our lives. But few men have matched BARRY's quiet determination to accomplish these goals.

For 7 years, he has fought with the Office of Management and Budget to cut the wasteful use of audiovisual equipment by Government agencies. This may seem like a trivial cause, but over $2 billion was being consumed by this practice, and it took years of excruciating work before the redtape could finally be removed. As a result of BARRY's work, audiovisual services are now contracted out at significant savings to the American taxpayers. BARRY's determination in this seemingly inconsequential issue is typical of his entire career. He championed the rights of the deaf and blind from his first term in office, long before national and media attention focused on these issues. For his long years of service to the handicapped, the National Federation of the Blind has presented BARRY with the prestigious Newel Perry Award. His work in this area will be sorely missed in this Congress.

BARRY will probably be best remembered for his efforts to protect the privacy of individuals. He is undoubtedly the House's foremost advocate on privacy issues, and in 1974, he secured passage of the landmark Privacy Protection Act. Thanks to his efforts, citizens are protected from the computerized lists that have proliferated with the growth of sophisticated communications technology.

I know that BARRY has done much more in his long tenure in office. He is a man of principle who has tackled issues no one else was willing to pursue. He is a man of determination who was willing to see his convinctions through to the end. I will miss him greatly and I hope we can all learn from his fine example. The experience I had as an intern in his office will never be forgotten, and I look forward to a continuing friendship with him in the years to come.

Another great member of our delegation, one who has been a real inspiration to me, is my colleague who has the district adjacent to mine, my senior colleague, JOHN ROUSSELOT. I doubt if there are many Members of this Congress who will not miss JOHN ROUSSELOT on both sides of the aisle. He is a man of exceptional drive, determination, and goodwill who has won the respect and admiration of the men and women with whom he has worked. JOHN has served his constituents and this Congress with exceptional skill for over 12 years. He has been the driving force behind the balanced budget amendment which at long last may become a reality. I hope it will.

□ 1930

JOHN ROUSSELOT has been, without a doubt, one of the most dynamic leaders in this body and I think the best example of that was shown when a columnist whom I often do not agree with—Jack Anderson—based on a survey he took of Members of this body, found that JOHN was one of the five most effective Members of the Congress and among the most popular Members of this body. He will be greatly missed.

CLAIR BURGENER is another Member who chose to retire after years of service.

His dedication and expertise have been a valued asset during the 5 terms of his tenure. His work on the Appropriations Committee, particularly the Energy and Water Development Subcommittee, has been especially important in the past 2 years, as we have all worked to control Government spending and bring fiscal restraint to this Congress.

He gave me a tremendous opportunity. I had been a Member of this body for a short period of time and was faced with a problem that existed in my district. I had an opportunity to testify before his subcommittee and he was very gracious and helpful to me as I prepared my testimony as we faced the extension of the Cucamonga Creek project in my district.

CLAIR's work on behalf of his constituents will also be missed. He is particularly sensitive to the problems of the illegal immigration and has

worked diligently on behalf of the mentally retarded

His leadership within the House Republican conference and his commitment to the California delegation will be sorely missed. I am grateful for the friendship he has shown in my first 2 years in Congress and wish him well in years to come.

I look forward to his continued friendship in the years to come.

That dynamo, BOB DORNAN, whom we have spoken of before, certainly has unmatched energy and enthusiasm and will be sorely missed. I have had a change already to speak to BOB today about his speeches yesterday on behalf of the Peacekeeper, the MX, and he has provided us with some tremendous arguments there which we will be able to use in the future. Unfortunately they were not successful yesterday.

BOB has been a forceful and consistent advocate of a number of issues, and he pursued each with the same drive and determination, no matter how unpopular his position.

BOB will best be remembered for his efforts on behalf of the thousands of Americans who remain unaccounted for in Southeast Asia. His unselfish devotion to these men and their families has helped focus national attention on this tragedy and has assured that these men will not be forgotten.

I know that BOB's commitment to our missing in action will not end and that he will continue to pursue this cause with the zeal and determination that has characterized his 6 years in the House.

I want to wish BOB and his wife, Sallie, all the best in the years to come.

Mr. Speaker, I would like to talk for a moment about a friend and colleague. This is a very difficult situation for me as I went through without a doubt one of the most awkward and distasteful situations that could possibly exist. This goes back to the issue of redistricting. I had to run against a very good friend and senior colleague who is of the same party. I am referring to my senior colleague, WAYNE GRISHAM.

I would like to join WAYNE's many friends in congratulating and thanking him for his outstanding service not only to his community but to our Nation and to this body.

Since he first was elected in 1978 to the Congress he has been a conscientious and high principled legislator. He is an effective and tireless worker who has become a highly respected and knowledgeable member on the Committees of Public Works and Transportation and Post Office and Civil Service. His expertise on his committee assignments will be sorely missed.

As just one example of his effectiveness on the Public Works and Transportation Committee he was instrumental in negotiating the arrangement which allows the Century Freeway in Los Angeles County, a roadway which when completed will go right through the heart of Los Angeles County, connecting the east and the west side.

His political life started in 1970 when he was elected as a La Mirada City councilman where he actively served for 8 years.

WAYNE was twice chosen by his peers in La Mirada, and in 1978 WAYNE was asked by his civic leaders to run for the U.S. Congress. He was elected handily in 1980 and defeated his opponent by gaining over 70 percent of the vote.

Perhaps even more important than his legislative accomplishments is the help and counsel WAYNE has provided to his colleagues. For those of us who have worked with him, he has provided an invaluable source of friendship and counsel.

His warm and friendly personality has been a comfort to all of us in the most awkward of situations.

During his extremely difficult political life WAYNE GRISHAM has been gracious and sincere in his efforts to serve the people of his district.

WAYNE is the most decent and honorable candidate I have ever met. In a period of transition, since the primary election, WAYNE and his entire staff, both in California and Washington, have been courageous and courteous.

No tribute to WAYNE would be complete without mentioning his wonderful wife, Millie Grisham. WAYNE has been married to Millie for the past 37 years. Throughout these many years, Millie has been an inspiration to WAYNE and a friend to us all.

Millie, who is now president of the Congressional Wives Club, will be missed greatly by the many friends she has made here in Washington. She is a woman of grace and dignity.

I extend to WAYNE GRISHAM, his wife Millie, and his three children, Cathy Brooks, Randy, and Kellie, my warmest wishes for a healthful and prosperous future.

He has been a great friend. Since we had to go through our internicine battle I cannot imagine anyone being as gracious. In fact, I have said to him on several occasions that for myself and my staff, had we come out on the other end of the stick, I am not sure we would have been as gracious as WAYNE has been, and that is the best compliment I could possibly pay him.

He will be missed and as I look at the seven senior colleagues who have been a tremendous inspiration to me as we get ready to embark on the challenges of the 98th Congress with fewer Members on our side of the aisle, I will look forward to the challenges but those challenges will be even more difficult to face without our great senior colleagues.

I thank very much my senior colleague, the gentleman from California (Mr. MOORHEAD), for taking out this special order.

Mr. MOORHEAD. I thank the gentleman for his comments.

At this time I yield to the gentlewoman from Ohio (Mrs. ASHBOOK).

Mrs. ASHBROOK. Mr. Speaker, I would like to take this opportunity to pay tribute to a true friend and dear colleague, JOHN ROUSSELOT.

I first met Mr. ROUSSELOT many years ago, when I had come to Washington with my husband, John A. When I was elected to Congress last summer, he was quick to offer any assistance he could in helping me learn my way around, and I could always turn to JOHN for advice.

His activities and interests are very diverse. From the Congressional Balanced Budget Caucus to the Coalition of Peace Through Strength, JOHN ROUSSELOT showed his dedication and devotion to the constituents he so ably served.

I admire his consistency in fighting excess Government spending and his interest in fiscal responsibility. JOHN ROUSSELOT is a hard-working, intelligent man and I would like to wish him much success in the future.

□ 1940

I also would like to say what a loss to this Congress it is to say goodby to BOB DORNAN, a very special friend of John Ashbrook's. BOB DORNAN is a great American, and BOB, I wish you love and success in the future.

Mr. MOORHEAD. I yield to the gentleman from California (Mr. LEWIS).

Mr. LEWIS. I thank my colleague for yielding me this time.

CARLOS, I cannot help but formally express my appreciation and our whole delegation's appreciation for your putting together this effort to recognize a group of the finest Members of this House that have ever served in this which is known as the finest legislative body in the land. Personally I think it is the finest legislative body in the world.

I cannot help but remember the first time I met the former dean of our delegation, DON CLAUSEN. Shortly after Congressman Jerry Pettis was elected in San Bernadino County to the Congress, DON CLAUSEN's old administrative assistant had been a roommate of mine years before, and he came down to talk about this incredible hulk of a guy from up in northern California. And so I went out of my way to seek out DON and try to get some advice and counsel, for it was my responsibility to attempt to help the then Congressman Pettis organize his district field operation.

DON in those early days, probably he will not remember it, but in discussing the Congress and the work that I was later doing in the State legislature, one of those late evening gatherings where you discuss politics among those who must live with it day in and day out, took off from his tie, and drew out a tie clip that had the seal of the Congress on it, and looked at me and said, "JERRY, I hope to see you there some day."

DON has been a friend from the day we first met, and a leader in the House who has taught me more than I could ever share this evening.

During the 97th Congress it was my privilege to serve with DON on the Public Works and Transportation Committee. He sort of twisted my arm in fact to recognize that if there was opportunity in the House, it certainly lay in that committee. And once I had the opportunity to serve there, his leadership, his counsel, his direction allowed me to get an early start, I hope, in learning this process.

DON CLAUSEN reflects very much the best of that which is leadership from California. We are going to dearly miss him.

But I have got to tell you that DON is a guy who we will not miss very long, because he is not going to be very far away. We will continue to need his counsel. I think we are going to hear an awful lot from DON CLAUSEN in the years ahead.

What can you say about the gentleman from San Diego, CLAIR BURGENER. CLAIR, in the year, CARLOS, that you and I shared with him in Sacramento, in the State legislature, immediately made it obvious that he was the cream of the crop. He was there a legislator's legislator. He became known as—maybe a surprise to him in the House—a moderate to liberal—most people described him as a liberal legislator. And that was because within the body that is a State legislative responsibility, among others education is held by our Constitution as our greatest responsibility. And CLAIR had an active interest in the problems of the handicapped, and particularly educational programs that related to those who were handicapped.

Without any doubt, he absolutely reversed the direction and pattern of opportunity for those in California and in the country who happen to be special people. Without any doubt in my mind, he demonstrated for all of us that each and every one of us has a responsibility to see that people and their concerns come first.

CLAIR BURGENER here in the House of Representatives, his success and his leadership is obvious to anybody who will but look. To me it has been an inspiration to get his advice and counsel as well. There is no doubt that each of us will miss him and Marvia as they go back to San Diego County and do a little bit of business with their sons.

But I think perhaps do that which all of us would do if we were wise enough—recognize that in those years following public service, if you can lay a pattern that will allow such a wonderful couple to share one another and spend the time together that they will spend, what better second or third, I am not sure if this is CLAIR's fifth or sixth career that is ahead of him.

PETE MCCLOSKEY—within our delegation there is little doubt that PETE perhaps is considerably more moderate in the spectrum than most of the others. At the same time, while being more moderate, there is little doubt as well that PETE is one of the finest minds in the House of Representatives. He has made an intensive contribution to the committees in which he has worked. He has been willing to develop a new path where a new path was needed.

There is no question in the minds of those who share the future of the Republican Party that PETE MCCLOSKEY has played a key role in seeing that the two-party system has a chance to continue to exist—for each of those parties needs a broad spectrum.

And whenever there was a need for a voice that essentially would raise that which nobody on the inside wanted to discuss, PETE MCCLOSKEY was the guy who was willing to make sure that those voices were heard within the Grand Old Party.

I think frankly we are going to miss that kind of voice as much as anything, not only within our delegation, but within the entire Congress.

I will miss PETE as a friend but most important I will miss him because he forces us to think.

What can you say about BOB DORNAN. Most people do not know it in the House but those from our delegation know it very well. We have in the California delegation normally approximately a weekly meeting. And during that weekly meeting we have what we call the DORNAN hour. That is when we have got our business taken care of, we say, "BOB, what are you doing this week." And he is amazing, unbelievable personality. For BOB will describe what he has been doing or what the issue is at the moment, and his parenthetical phrases can last 25 minutes.

He can remember dates and places and people and times. I did not know he could swim, and he went up to Massachusetts to swim across the channel. Unbelievable guy.

I cannot forget the many, many times it has been my questionable privilege to approach BOB on the floor and put my hand on his shoulder and say, "BOB, do you really have to talk on this one this time." And the reason for that approach is simply this. BOB is very, very emotionally involved in those issues he believes in, and he insists that his voice must be heard when principle that is close to his heart is tied with one of the issues that may be before the House that day.

BOB DORNAN time and time again has spoken to the issue, even though his district was in disagreement with it, and he has one of the toughest races of anybody in the House almost every time. He is a voice that insists that it will be heard, and he is a person who insists that principles are more important than getting elected this year. A great contributor to this House, a wonderful personality whose friendship I hope I will have forever.

BARRY GOLDWATER, JR.—I have never called him Junior—BARRY GOLDWATER is a marvelous personality. A lot of people do not realize it, but within his committee BARRY is one of the hardest workers we have that I know in our delegation.

□ 1950

I served with him on the Public Works Committee and watched him in his work on the subcommittee dealing with aviation. There, there is little doubt where BARRY's heart was. He concentrated his attention. He made a great contribution and virtually has been one of those Members who has been able to change the direction of public policy in that field.

Few people really have had a chance to see that side of BARRY GOLDWATER. Beyond that, he is a very quiet person. In many ways he keeps to himself. If you take the time and have the opportunity, as I have, to discuss in depth his concern and beliefs, his feeling about humankind, he is one of the most marvelous men you will ever get to know. It has been a privilege to serve with BARRY, and I look forward to working with him for a long, long time.

Mr. Speaker, shortly after I came out of college I decided that my mother was wrong, that I should not go to law school, and that is one of the best decisions I ever made. In that, I ended up in the sales business, finally decided on the life insurance business in Los Angeles, went to work for a company called the Penn Mutual Life Insurance Co. Lo and behold, who was associated with that life insurance company, but one JOHN ROUSSELOT—my first exposure to a guy who was destined to have a truly immeasurable impact upon the direction and the future of the Republican Party, not just in our State, but throughout the country.

JOHN received his greatest compliment, as far as I am concerned, when shortly after arriving at the House I had a chance to sit down and talk with some of the real leaders, those people who put together policy and votes on

the Democrat side of the aisle, and in that discussion JOHN ROUSSELOT's name came up and there was a good deal of give and take.

The bottom line is that, to a man, he was described in this business as a pro—a man who knew what his job was, who was willing to do what was necessary to get it done, a man whose word was good and who understands that in this business we have got to deal with one another.

It is like the professional lawyer who goes to the courtroiom and fights his battle and then he goes across the street and has an ice cream soda with his adversary.

JOHN ROUSSELOT understands that we have to work with one another issue by issue, year in and year out.

JOHN ROUSSELOT is a pro in the business of legislative government.

Let me conclude my remarks in connection with JOHN by saying that I will never forget the time that reapportionment took place and suddenly he did not have a district, and for 2 years he was not able to work it out, but reapportionment took place again and there was a new district that kind of overlapped in San Bernardino County and, lo and behold, I was amazed to see JOHN ROUSSELOT in my county asking for votes. He was pounding the pavement talking to people and JOHN ROUSSELOT was back.

Do not count him out, folks. There is reapportionment next year. I fully expect JOHN will continue to make a great contribution to legislative government and public affairs.

I left the seventh Member for last in my comments for a very special reason. Shortly after arriving here, I struck up a very close personal friendship with WAYNE and Millie Grisham. It was not too long after their arrival with me here in the U.S. Congress that we had occasion to take a trip together, leaving Washington and going through several States over several days and finally ending up in a community known as Chappaquidick. We had a lot of fun in that process. We saw lots of the East that we had not seen before. We had a lot of stories to tell when we came back; but more important than that was the friendship itself. There is nothing quite like being with people day in and day out, in this case in social circumstances as well as legislative work, to lay the seeds for a friendship that will last a lifetime.

I could not have a greater friend in terms of the future in public affairs than WAYNE.

I was going to mention another item about WAYNE that you really have to go out of your way to have him tell you sometime. WAYNE does not talk about this very much, but if you go out with him—and especially if Millie is there—after hours and maybe you have something in your meal to loosen you up a little bit, you have got to ask WAYNE about the time he had to crash land during World War II. He got shot down, an absolutely wild circumstance. I had not known before that he could even fly an airplane. As he tells me smilingly—after he found himself on the end of the tail with the plane probably sinking, and eventually waking up in a hospital—he told me that he was no ordinary dummy, that he has not flown since.

WAYNE is a special guy who has made a very important contribution to public affairs in his hometown. He has been on his city council for a number of years, Meredith community. Coming to Washington was one of the goals one has in life that rounded out his great career in public affairs.

Few people realize, but beyond that, WAYNE is one of the more successful independent businessmen in the House. He is not one in this body who was born with a silver spoon but rather, he came back from serving his country during World War II and built a real estate business that any of us would be proud of. He is a rounded leader with business experience, who served his local community, who has made a great countribution here, and for whom I have the deepest respect.

I will not be losing WAYNE and Millie, as far as I am concerned, because we are going to continue not just to be friends, but to be together often.

CARLOS, I thank you for the time.

Mr. MOORHEAD. Mr. Speaker, I yield to the gentleman from California (Mr. HUNTER).

Mr. HUNTER. Mr. Speaker and CARLOS, like you, I am saying goodbye to Members of our family. When I bid farewell to DON CLAUSEN and CLAIR BURGENER and PETE MCCLOSKEY and BARRY GOLDWATER and JOHN ROUSSELOT and BOB DORNAN and WAYNE GRISHAM, I really feel like I am losing members of my family. You are now the head of the California delegation, CARLOS, which is the largest delegation in the Nation. I know that you are going to do a tremendous job serving us and being our leader.

I would like to reflect on a few things that we have shared in the last several years. You know, I really felt like we were a family because when I came here as a freshman, we had a lot of strategizing to do as Californians and as Republicans. We strategized; we fought battles; we helped each other.

Most importantly, everybody in our delegation cared about the other Members. I can remember that practically all of the guidance that I received when I came here as a freshman came, not from any particular institutions, but from the delegation. I can recall that BARRY GOLDWATER showed me how to set up my computer mail system.

WAYNE GRISHAM turned over his mobile office to me. Incidentally, WAYNE, the block is cracked and we would like to return it—I am just kidding, WAYNE. It is a tremendous mobile office and it has helped me carry out my duties in my district that has been expanded greatly.

I appreciate also, WAYNE, the tremendous help that you gave me in my mailing system and in my townhall meeting setups. I want you to know that I will not forget that.

I can recall that PETE MCCLOSKEY pulled out of a race for the House Armed Services Committee seat when we were going for committees so that the freshmen could have a shot at it.

I can remember that CLAIR BURGENER worked to get us all good committee assignments—worked very successfully, I might add.

I can recall in those early days watching BOB DORNAN and JOHN ROUSSELOT giving us tremendous leadership on our floor battles.

I would like to look at these friends individually for a moment, if I might. DON CLAUSEN, our dean, served California for over 20 years with great distinction. In his position on the Public Works and the Interior Committees, DON helped to maintain our infrastructure and to provide our water, which is very important to California.

I hope that we can maintain the dominance that you exercised, DON, in these areas and that accrued so greatly to the benefit not only of the people in the Second District of California, but also to all Californians.

You know, I learned early that seniority on committees is very important in this House, and in DON we had the ranking member on the Public Works Committee and former ranking member on the Interior Committee. I just hope that we can build some day in the future back to the seniority that you earned, DON.

□ 2000

I can remember, DON, that you were good enough to share your expertise in transportation and in other areas with junior Members. You were always there, always willing to help us in our districts.

I have to confess that I felt that you were the father of the delegation, and you really were. You know, you have had a very magnificent career, DON. I know there are a lot of things that you could be proud of, but I know that you personally are most proud, not of any public works but, rather, of your lovely wife Ollie and your two very private works, your daughters Beverly and Dawn Marie, and your four grandchildren.

I can tell you, I know a winner and a champion when I see one. I have a feeling that you may be back in this Chamber with us shortly. Let me tell

you that anything that I can do, of course, will be done, as you have always been there for us, always ready to help.

I would like to speak for just a minute about JOHN ROUSSELOT. A lot of Members in this Congress on both sides of the aisle can represent the feelings and opinions of their constituents through taking polls and through close personal contact and townhall meetings and mail and communication. They can change their positions to reflect those opinions, those changing opinions of their constituents, but there are very few people in Congress—and there have been very few in Congress—who could change people's minds and who could change the political mood of the Nation or of a district. JOHN ROUSSELOT is one of those people.

JOHN ROUSSELOT is truly a mover and a shaker. The ability to do that, I think, is a very rare gift. It requires a great speaking ability, it requires a very keen mind, and it require dedication to ideals. JOHN ROUSSELOT had all of those assets.

I can recall when I ran for Congress in 1980, I was a guy who did not have a chance of winning. There was one gentleman who came down to my district by the name of JOHN ROUSSELOT who was assured by several political experts—namely, my mother and father—that I had a great chance of winning. Sure enough, a couple of weeks later we got some real help from the party and I managed to be successful.

Here was a guy, I learned later, who had helped out a lot of long shots, not people who were favorites, who were sure to win, but people who did not have a real great chance of winning. In fact, I called JOHN's office the other day. He was out at that time installing some members in a club quite a distance from his district. That is typical of JOHN, because he is a guy who has worked for long shots, to try to change this country, to try to bring about a consensus in conservative politics.

One thing has always impressed me about JOHN and that is his ability to literally beat the tar out of a fellow in a debate and make the guy like him at the same time. I have seen that ability in no other Members of the House. I think in future days we are going to need Members who have that ability. JOHN ROUSSELOT has that unique gift. So thanks, JOHN, for your magnificent contribution to America.

The SPEAKER pro tempore (Mr. MINISH). The time of the gentleman has expired.

GENERAL LEAVE

Mr. MOORHEAD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of this special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

TRIBUTE TO HON. CLAIR W. BURGENER, HON. DON H. CLAUSEN, HON. ROBERT K. DORNAN, HON. BARRY GOLDWATER, JR., HON. WAYNE GRISHAM, HON. PAUL N. (PETE) McCLOSKEY, JR., AND HON. JOHN H. ROUSSELOT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DREIER) is recognized for 60 minutes.

Mr. DREIER. Mr. Speaker, I yield to the gentleman from California (Mr. HUNTER).

Mr. HUNTER. Mr. Speaker, I would like to say, in finishing my comments about JOHN ROUSSELOT, that here is a man who truly changed America and who is going to continue to change America.

JOHN, thank you for your friendship. I know that we are going to see you in political circles for a very long time to come.

I would like to talk a while about BARRY GOLDWATER, JR., who was one of the first Members that I met when I came back here and who, like JOHN ROUSSELOT, is one guy who came down and worked out in my campaign when I had no chance at all of winning the election.

You know, BARRY was one of the first guys I met on the Hill. He took me over to his office. He showed me his computer system. He helped me set up my mailing system. He taught me about constituent contact. He taught me how to set up an office.

When I met BARRY GOLDWATER, JR., I immediately became aware of the fact that we had a close, tight California delegation that was going to be helpful. Here was a real family.

I can remember debating BARRY GOLDWATER, JR., on the House floor in a debate I did not think we would get into—the draft registration penalties proposed for those who resisted registering for the draft. At that time I became aware of the fact that BARRY GOLDWATER, JR., was a great champion of a right which is very prized by conservatives; that is, the right of personal privacy.

While I did not agree with BARRY in his argument that day, I realized that in BARRY GOLDWATER, JR., we have somebody that this Nation really needs more of; that is, people who feel strongly about some of our rights, so strongly that they are willing to dedicate their careers to preserving those rights. Even though perhaps the committee work and the work on the House floor necessary to develop that advocacy does not involve large political contributions, does not involve building a large political base, but nevertheless it is very important and very necessary to this Nation.

I have to tell you, BARRY, that I greatly appreciated your assistance when I arrived here, and you were one of the first people to help me. I can remember you calling in a proxy vote from Los Angeles, to help me get a committee assignment.

By gosh, when I was in the closing days of my campaign in 1980, you were there. BARRY, when you are in a campaign—and I know you are going to be in more campaigns—I am going to be there. Thank you.

I would like to talk about my colleague from San Diego, CLAIR BURGENER. You know, CLAIR took BILL and I under his wing in 1980. CLAIR is the senior member of the San Diego delegation. At that time we had a big change. Bob Wilson left us in 1980, and BILL and I came in as freshmen Congressmen. CLAIR looked after us.

One of the main things he did for us and for the whole delegation was to fight hard in the Committee on Committees to get us strong committee assignments.

What an important battle that was. It is not until today that I realize how important and how critical that initial fight is. It was great to have an advocate such as CLAIR.

The main thing that CLAIR showed us, DAVE, I think, is that you can disagree without being disagreeable. I do not think there is any Member in the House who is a stronger believer in his own principles than CLAIR. Yet you have a guy who showed us that you can be powerful without being arrogant. You can get along with your adversaries even though you fight with them on the floor.

CLAIR BURGENER brought a certain class to this House and to this delegation. We are going to remember him for that. CLAIR worked very hard in some special areas that do not involve large voting blocs or large numbers of constituents. Particularly, he worked for those who are mentally retarded and for the disabled and the disadvantaged.

You know, I have seen CLAIR put in a lot of time on things that got him very little publicity but that helped people.

Perhaps to some degree Congress is being perceived by the Amercian people as being publicity first and substance second, but CLAIR BURGENER is one of those guys who believes that the substance and the accomplishment is the more important thing. He has always dedicated more of his time to substantive issues.

I have said a lot of things about CLAIR in some of the farewell dinners he has had, and will have in the

future, but I would like to finish with what I believe are CLAIR BURGENER'S three trademarks.

I notice that CLAIR always votes for what he thinks is right, not for what is expedient. He is always forthright and honest with his constituents and his colleagues. Most importantly, again, he has devoted most of his time to accomplishments and less to publicity. I think if we in the San Diego delegation can follow CLAIR BURGENER'S legacy, San Diego and California and this delegation will be very well served.

WAYNE GRISHAM, you have been a wonderful colleague.

WAYNE, the greatest thing that you did for me when I first arrived in Washington, was to let me know how important it was to have townhall meetings, and to set up a mobile office schedule. You, in fact, turned over your mobile office to me. It would have been very difficult for me to get one, so you gave me yours.

I appreciated that. I think that the mobile office operation was a new dimension for San Diego County. I do not think that any Congressman prior to my election had utilized mobile offices or townhall meetings.

WAYNE, you emphasized to me that personal contact was one of the most important things you could do as a Congressman. I did what you advised and I set up a regular schedule and got out there at the shopping centers and factories and parked that mobile office and met constituents. Maybe I would have 30 people in a day or maybe I would have 50 people, but I got a lot of good advice and I got some advice from people and suggestions for legislation that I have put into the hopper in the House. At town hall meetings I discovered issues that were arising in the district that I otherwise would have had absolutely no knowledge of. So, I thank you for that, WAYNE. I thank you for taking me under your wing with respect to constituent service and getting me started.

But, WAYNE, I would like to talk very briefly about something that I think was perhaps your biggest impact on our delegation, and that is the primary battle that you had with our friend, DAVE DREIER. DAVE, I know you have just spoken on this, but I think it is important to bring it up because after that battle, which DAVE won, WAYNE, you were the guy who really held this delegation together. I have seen some other delegations in other bodies where the type of a political conflict that was forced by reapportionment has torn apart the good will and the cohesion of those delegations. In this case, WAYNE, you showed tremendous class. Really you, more than anybody in this delegation, and that includes all of us besides the seven who are being honored today, you held us together. For that, WAYNE, we will never forget you.

I know you are going to be continuing to provide leadership to us in California. I am just a few miles to the north, and I have got to bring that mobile office up there to get it serviced anyway, so I will be up shortly. I want you to know that I appreciate your leadership, WAYNE, and your friendship.

I would like to talk a little bit about BOB DORNAN. We had an amendment on the floor today, the Harkin amendment, and I saw something that I have observed quite often in this House. That was BOB DORNAN coming down to the floor with absolutely no notes, no preparation, no time to have anybody whip up a speech for him; come down, grasp a situation, stride down into that well and make a tremendous presentation with his facts, his figures, his places precise, and exact. Here is another guy who has the ability to change peoples' minds, and excite them, and get them moving.

I noticed, BOB, when you came down things were kind of dragging on, and it looked like the amendment might have a chance of going somewhere. Pretty soon, when you launched into your oratory, we saw people start to appear on the floor, and people were coming down and asking us, "What is DORNAN going after them for," and we got enough people down here on our side so that we were able to easily defeat by a substitute, the proposal that was put forward. I think that is a quality, BOB, that nobody else in this House has.

I have heard a lot of people talk about who the best speaker in the House is. I do not think it is JIM WRIGHT or GUY VANDER JAGT. I think the best speaker in this House is BOB DORNAN.

BOB, I know we are going to see you speaking in political forums for a long time to come.

BOB is a man who has been a friend of people and constituents who really do not have any friends, constituents without votes, without politicial clout. It cannot be argued that there is anyone in this House who has done anywhere close to as much work as BOB DORNAN has for MIA's and POW's, and for unborn children. I would say, BOB, if somewhere in Southeast Asia—and I believe there are places in Southeast Asia where there are still Americans who are remaining from the conflict we had in Vietnam—if there is someone in Southeast Asia, even one man who is hoping someday to return to this Nation whole and healthy, if he has got any friends in the United States of America, the first friend that he has is you.

So, BOB, thanks for your complete dedication, for your oratorical abilities, for your enthusiasm, and for the straightforwardness that is your trademark.

I can still remember when you got up when we were choosing committees, and you were running for one of the same committees I was running for. We were all supposed to get up and make a pitch for ourselves, and instead of making a pitch for yourself, you made a pitch for me. That is not supposed to be the way it works. I was told that everybody in Congress goes for himself and forgets the other guy. I will never forget that, and I appreciate it greatly.

I would like to talk, finally about PETE MCCLOSKEY. You know, I had a dinner in San Diego, DAVE, not too long ago at which PETE was present. And following that dinner Charley Cooper, who is a general at the Marine Corps Recruiting Depot, told me a story about PETE.

He said that he was with PETE the day he won the Navy Cross in Korea. His particular platoon was at the base of a hill that the Americans had tried to take back and had been knocked back from. They had tried to take it, and had been decimated. A lot of units with very few people in them were milling around. PETE MCCLOSKEY, ran around and rallied a couple people from this platoon and a couple people from that platoon. Pretty soon he got his people together and charged up the hill. They took that hill, and when they got to the top PETE jumped on a bunker and waved his rifle. All these guys were milling around engaging in hand-to-hand combat with the Communist Chinese and he jumped up on the bunker and says, "We got them by the throat. Now, boys, let's squeeze."

PETE, you did not quite have that Senate seat by the throat, but if there was ever a guy that had no bluff, no politics about him; if there was ever a guy who was completely honest, completely open, completely candid, with a high degree of intelligence behind it all, it was you, PETE.

We disagreed on a lot of issues, but I think in your campaign and in your last several years in Congress I saw several issues framed by you that I think will have an impact on the Nation. One of those issues was national service. You introduced the idea that every man and woman in this country, every young man and woman had a duty to their country to give some type of service, whether it was military or whether it was working in some conservation corps; that they owed something to this Nation for the freedom that they have. PETE, that is going to be your legacy. I think a bill of that type is going to be carried successfully in the near future because of your efforts.

So, DAVE, I think we owe a great debt to PETE MCCLOSKEY.

I would like to say this: I have talked a little bit about this family that is leaving us, this part of our family, these seven gentlemen we are honoring today. These were all great Congressmen; they all rendered a tremendous service to their constituents, but beyond that they were friends to all of us. I thank them for the honor of serving with them.

Mr. DREIER. I thank my friend and colleague from San Diego for his tremendous and sincere addition to this special order.

Mr. Speaker, I am very, very honored to yield to my distinguished colleague from La Mirada, Calif., Mr. GRISHAM.

Mr. GRISHAM. Mr. Speaker, I would like to take this special order to thank the people who have gone before me, to recognize the seven Members of Congress from the great State of California who are retiring, and the very kind words they have said—and they are all true—about we people.

Let me tell you my feeling about retiring with this "magnificent seven," if I can just list them by name and give a short story on their credentials.

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The first one is DON CLAUSEN, the dean of the largest delegation in the Congress, one-tenth of the Members. DON CLAUSEN is the dean of that delegation and is retiring with us.

Next, PETE MCCLOSKEY, a man who had the ability and the nerve to run for the office of President of the United States of America. That is the caliber of the Members I am leaving with.

Next, JOHN ROUSSELOT, who has not only been a leader in the Western States of the Republican Party but in the entire Nation.

Next, ROBERT K. DORNAN, who is probably the confidante of more leaders of the United States, and other nations, than we know about. While sometimes we think BOB DORNAN tells us all he knows, I think BOB DORNAN does not tell us how many people he is that close with. That is one more Member I am retiring with.

The name BARRY GOLDWATER will never be forgotten in these Halls of Congress or in the whole world. That is one more Member I am retiring with, BARRY GOLDWATER, JR.

The next, CLAIR BURGENER is probably the man with the most friends in the U.S. Congress among Members on both sides of the aisle.

So, Mr. Speaker, while I am speaking not for them but with these seven Members, as a retiring Member I am very proud and privileged to be retiring with such a tremendously American group.

Mr. DREIER. Mr. Speaker, I thank the gentleman from La Mirada, Calif., for his very thoughtful addition to this special order. The gentleman knows how greatly he will be missed in this body.

It is now my great pleasure, Mr. Speaker, to yield to the dean of the largest and greatest delegation of this body, the gentleman from California (Mr. CLAUSEN).

Mr. CLAUSEN. Mr. Speaker, I thank the gentleman in the well not only for yielding to me but for his efforts and the efforts of our distinguished new dean, CARLOS MOORHEAD, in having taken the time for this special order to give some recognition to some of us who have been described as "the magnificent seven." I guess we would have to say that really there is maybe a "magnificent six" with one also-ran, and that is the Member who is speaking now. I was genuinely moved by all the remarks that have been made about our distinguished colleagues, and I think the thing that impresses me the most is the sincerity with which these presentations were made by each and every one of the Members.

We are told that a friend is one who comes to you when all others leave. That is particularly significant for all those who have gone through a number of elections and then find themselves on the losing side of an election. That is in itself a test of the caliber and character of an individual. I would also suggest to those who are leaving, as I have tried to convey to my friends, something that I believe has relevance to those of us who are departing, and that is that a real happy person is one who can enjoy the scenery when he has to take a detour.

So I am going to be presenting my remarks concerning all the distinguished Californians with whom I have served, and I would like to offer a few comments about at least the three Members who are here on the floor.

Mr. Speaker, I am pleased to come to the well and pay this tribute to my fellow Californian, WAYNE GRISHAM, who will be leaving the Congress at the end of his present term.

We can ill afford to lose Members with the ability, dedication, and unlimited potential of my good friend, WAYNE GRISHAM. He is leaving behind an impressive record of service to our State and this Nation, and in that respect, he has only continued the pattern he set before coming to the Nation's Capitol. In fact, WAYNE GRISHAM left one highly distinguished career in the city government and business community of LA MIRADA to start another one in Washington in 1978.

He wasted no time putting to work his strong background of experience in both local government and the private sector. In the relatively short span of 4 years, WAYNE has played a very active and effective legislative role in Congress.

It has been my good fortune to have worked closely with WAYNE on the Public Works and Transportation Committee. He has been a particularly valuable member of our Aviation and Water Resources Subcommittees.

Having served as a fighter pilot in World War II, WAYNE has had a special interest in aviation. His experience and expertise in this area have enabled him to make an important contribution to the cause of a safe and efficient airport and airway system.

WAYNE brought to the Public Works and Transportation Committee and to the Post Office and Civil Service Committee, on which he has also served, a first-hand knowledge of public works, transportation, and other needs facing the cities and towns of America. That background also served him well as a member of the Suburban Caucus and the Travel and Tourism Caucus.

With his extensive knowledge of local transportation needs, it, therefore, was only natural that WAYNE should play a key congressional role in important transportation projects, such as the Century Freeway project, which provides for the construction of a roadway through the very heart of Los Angeles County, eventually to connect the east and west sides.

WAYNE GRISHAM's World War II experience, which included being shot down over Germany and becoming a prisoner of war, undoubtedly helped shape his great appreciation for and commitment to a strong national defense, and he has worked tirelessly and effectively to that end throughout his service in the House.

WAYNE has also built a strong record in support of fiscal responsibility in Government, a balanced budget, lower taxes, less Government intervention, and a reduction in both Government spending and excessive regulation. He has pursued his concern for reducing Government regulation as a very active member of the regulatory reform task force.

Those of us who have had the opportunity to serve with WAYNE GRISHAM have been most fortunate. He has been one of our most dedicated and hard-working Members, and I shall miss working closely with him in committee and in this Chamber.

Mr. Speaker, I am pleased to tribute to my good fellow California, colleague, BARRY GOLDWATER, JR., who will be ending his congressional service at the close of the 97th Congress.

Our State and the Nation is losing a highly effective public servant in BARRY GOLDWATER, JR. and certainly the 98th Congress will miss his tremendous contributions. Having worked closely for the past 14 years with him on matters affecting California and the Nation, I know very well the void his departure will leave in this Chamber.

BARRY GOLDWATER, JR., has made an enormous impact on the affairs of Government since coming to Congress in 1969. His California constituents wisely returned him to Washington for seven consecutive terms, and, as a result, we in this Chamber have had the good fortune to enjoy BARRY'S special talents and considerable legislative experience.

He has been a valuable member of the minority leadership of both the Public Works and Transportation and Science and Technology Committees. On the latter, he serves as the ranking Republican of the Transportation, Aviation and Materials Subcommittee, and he is a member of the Energy, Research and Production Subcommittee.

It has been a special pleasure for me to have served with BARRY on the Public Works and Transportation Committee, He has served on both our Aviation and Investigations and Oversight Subcommittees.

His leadership during this Congress as the ranking minority member of the Investigations and Oversight Subcommittee has enabled that subcommittee, under the able chairmanship of ELLIOTT LEVITAS, to meet its mandate to provide oversight of the important programs under our committee's jurisdiction.

Certainly in the field of aviation, an area in which he and I share a common interest, BARRY GOLDWATER, JR. has had few equals. His special insight into the problems, needs, and potential of aviation, particularly general aviation, and his vast legislative experience in this area have proven invaluable to the development of sound legislation to insure the growth of a healthy national airport and airway system.

Of course, BARRY'S record of accomplishment ranges far beyond the scope of public works and transportation. He has been one of our most outspoken Members, and particularly so in assessing the proper roles of the Federal Government. He has led the fight to limit the growth and size of Government, to end unfair Government competition with the private sector, and to protect the rights of States against encroachment from the Federal Government. He has also applied his expertise as a member of the Energy Research and Production Subcommittee to the vital search for workable solutions to our Nation's energy problems.

All Americans can be thankful for the successful efforts of BARRY GOLDWATER, JR. in guiding his landmark 1974 Right to Privacy Act into Public Law. As a result, private citizens now have access to Government files about them.

Whenever BARRY has attacked an issue, he has done so with his full energies, dedication, and tenacity, and far more often than not, he has been highly successful in his efforts. His efforts have been guided always by what he considered in the best interest of his constituents and the Nation. His presence and his leadership will be missed in our California delegation and in the Congress, and I personally will miss his good counsel as a Member of this body.

Mr. Speaker, it is with a great sense of loss that I rise with my colleagues in paying tribute to my colleague and friend, BOB DORNAN, who will be ending his distinguished tenure as Representative of the 27th Congressional District of California. For these past 6 years, BOB has represented his constituents with a zeal of legislative purpose and direction, and he can be most proud of his record of congressional actions which includes being the only Member of the minority party to have a record of 24 amendments passed and to have been appointed as Chairman of the House Task Force on American Prisoners and Missing in Southeast Asia. We have all known BOB as an individual who has worked above and beyond the call of duty on issues that are consistant with the ideals for which he stood, and I am proud to have had the opportunity to list BOB as one of the most esteemed Members of the California Delegation and a special friend.

BOB DORNAN will be remembered as the champion of such mutually shared concerns as returning our Vietnam POW/MIA's, the Pro-Life movement, restoring the production of the B-1 bomber, and stopping the sale of American high technology items to the Soviet bloc countries. Many of these causes had been a focal point of interest to BOB long before the initiation of his congressional carer. Many Americans became acquainted with BOB when he was a TV news anchorman. During the Vietnam era, as a war correspondent, BOB aired 14 air combat stories. Consequently, BOB'S interest in the POW/MIA movement had been an ongoing concern for the past 17 years. BOB had served in the U.S. Air Force for 5 years as a fighter pilot, then 18 years in the Air Force Reserve. During this time, he had personally flown over 17 high-performance United States and foreign fighters. BOB'S background represents a significant expertise factor which contributed to the solving of difficult legislative issues regarding our military and civilian aircraft systems, and the questions of selling American technological systems to foreign governments.

BOB is a leader who has successfully mastered the rare combination of technological competence and humanitarian concerns. Since the 1960's, BOB has been active in civil rights issues, and he has achieved recognition for his work in this area by being the recipient of several awards which include the Brandeis Award, the Cardinal Mindzenty Award, the Tom Dooley Award, the Hungarian Freedom Fighters Award, and numerous community awards for work against drug abuse.

It was my privilege and honor to have had the opportunity to work with BOB DORNAN these past 6 years. BOB has been a shining example of the high principles and standards which is the cornerstone tradition set forth by our Founding Fathers to which we all strive as Members of this esteemed body of Congress. Above all, BOB is a gentleman in the world of our great statesmen, and, most significantly, a loyal and devoted husband to his lovely, most patient and considerate wife, Sally, and father to their beautiful family.

May the good Lord bless and keep you and your family in the days ahead.

Mr. Speaker, I rise to pay tribute to my dear friend and able colleague, JOHN ROUSSELOT. During our many years in Congress, JOHN has become known for his consistent efforts to fight excess Government spending, cut taxes, and balance the Federal budget.

JOHN was one of the original "supply side" economic supporters. Very early, he recognized that excessive Federal taxes destroy initiative for individuals, encouraging consumption rather than savings.

He has been honored with countless awards, including the "Guardian of Small Business Award," "Watchdog of the Treasury," and even an Emmy Award for the Lomax-Rousselot Debate on KTTV television.

It is with sincere and profound sadness that I realize JOHN ROUSSELOT will not be returning for the 98th Congress. Those of us who have observed JOHN closely realize he is a real dynamo and his attention to detail on the floor helps keep the House action honest. He has extraordinary follow through—"If JOHN gave you a commitment, his word was his bond." Our colleague has a very distinguished record in the Ways and Means Committee and the members will be deprived of his talents. JOHN, has the ability to retain an inordinate amount of information, pay close attention to detail and still he always finds the time for his colleagues and his constituency. The Congress will long remember the extraordinary legislative contributions JOHN has made to the American people.

I want to take this opportunity to express my sincere and heartfelt thanks to JOHN, his lovely wife Yvonne, and his three lovely children. As a result of JOHN'S untiring and dedicated service, he has left his footprints on this legislative body, the great State of California, and the United States of America.

As a spiritual and religious man, I believe that God doesn't close one

door without opening another. I hope that the door(s) that open for JOHN and his family will have a happy and rewarding future.

Mr. Speaker, CLAIR BURGENER has left his mark on the record of Congress and most importantly in the minds of my colleagues on both sides of the aisle who, like myself, were so privileged to serve with this outstanding legislator.

CLAIR BURGENER began his public service on the San Diego City Council and the State legislature where he gained a reputation for performance and followthrough. This reputation followed him to Washington where he has become one of the most distinguished and respected Members of Congress in recent history. On many an occasion, I have heard people say that if there is a tough job to be done and you want the job done well—call on CLAIR BURGENER and he will see it through.

While I served as dean of the California Republican delegation, CLAIR BURGENER took on a very special assignment as our representative on the all-important Committee on Committees. His sense of fairness and very constructive approach afforded us with results that far exceeded our expectations. To say that he has earned our deepest admiration and respect is at best an understatement. His position as Secretary of the House Republican Conference is further testimony to this fact.

CLAIR BURGENER has a richness of character that has afforded him unique access to the personalities participating in the political process which has proved to be instrumental in his service as a key member on the House Appropriations Committee. In that capacity, CLAIR will leave a legacy of energy and water projects, such as Santa Margarita, and the special initiatives in addressing reclamation reform which will stand forever as living monuments to the service of this very distinguished and congenial gentleman from southern California.

With all of these responsibilities and commitments, CLAIR BURGENER always made time to address our shared concerns for the handicapped and retarded which gained him recognition with a national constituency. All of his qualities are based on a lifelong adherence to the Christian ethic—qualities which will leave a deep impression on me as I reflect back on our relationship.

CLAIR and his lovely wife, Marvia both radiate the kind of goodness that makes them the kind of people you are very comfortable to be around. while most of us have committed "the golden rule" to memory, CLAIR and Marvia have committed it to their lives. We, of the California delegation, and yours truly, are proud to have them as special friends.

Mr. Speaker, it gives me great pleasure, yet a shared sadness, in paying tribute today to one of my distinguished colleagues of the California delegation, the Honorable PAUL MCCLOSKEY, JR. It is a great pleasure to recall the many years we have served together in the House, his significant accomplishments, and his public-minded, forward-looking spirit. It is with some sadness that we will soon bid farewell to our colleague, who, after 15 years of service in this body, chose to seek higher office.

As ranking minority member of the Committee on Merchant Marine and Fisheries, PETE and I have had the opportunity to work closely together on a number of issues crucial to our coastal districts, particularly management of the marine environment. PETE could always be relied upon for original and creative thinking when resolution of a difficult issue was required. His strong support for the first Earth Day earned him the National Park and Recreation Association's Award of Excellence, making him the only Member of the House, before or since, to be so honored.

Outside of his own committee, PETE MCCLOSKEY led the fight for a more market-oriented, free enterprise approach in economic matters, and was a strong advocate for the small business man and woman. He was a key player in the passage of the Steiger amendment, the first rollback of capital gains taxes in history, which is credited with restoring a favorable environment for high risk capital investment in small businesses. He was instrumental in the abolishment of the Renegotiation Board, which reduced the size of the Federal bureaucracy and eliminated many unnecessary Government regulations.

A fourth-generation Californian, PETE has an outstanding record of service in his community as well as in the House of Representatives. He worked hard to achieve his goals, earning his way through college as a laborer, athletic coach, and law librarian. In 1950 he received his bachelor's degree from one of the great centers of learning of the West, Stanford University, and was graduated from Stanford Law School in 1953. He served as a deputy district attorney in Alameda County, Calif. during 1953 and 1954, as president of the Palo Alto Bar Association and as president of the Conference of Barristers of the State Bar. In 1961, PETE MCCLOSKEY was voted Young Man of the Year by the Palo Alto Junior Chamber of Commerce. Deeply concerned with the future of this Nation's youth, he founded the Stanford Area Youth Plan, a college and high school counseling program which has spread from Stanford to over 70 Universities across the country.

More than anything else, PETE will long be remembered and admired for his steadfast commitment to his principles, even when the tide of popular opinion ran against him and the opposition was strong as well-organized. This is the legacy he will leave to those who remain here; this is the bond he will share with those of us who will soon depart this House.

When all is said and done, your presence will be missed PETE. Good luck and Godspeed in all your future endeavors.

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Mr. DREIER. I am happy now to yield to the gentleman from northern California (Mr. SHUMWAY).

I deeply appreciate having this opportunity to pay tribute to seven good friends and colleagues from California as they wind up their careers in the House of Representatives, and to thank each of them for the influence, guidance, and leadership they have demonstrated to me in particular.

JOHN ROUSSELOT is a special friend, one with whom I became acquainted while still a candidate for congressional office. I will never forget visiting JOHN's office back in 1978 to explain my reasons for seeking this seat, and to request his opinion and the benefit of his experience. JOHN engaged me in some fiery exchanges, playing devil's advocate as perhaps only he can do. Finally, he said he thought perhaps I might have bitten off too big a bite in my effort to win a seat held by a 22-year incumbent, and I left his office saying he was certainly entitled to his own opinion. As I walked down the hall, I heard him call me back; the conversation then took a more positive turn, and JOHN was most helpful to me. Following my election to the House, he continued that helpful guidance. His voting record was an inspiration to me, as was his respected record as a member of the Banking Committee. I followed him on that panel, and I have always considered it a personal challenge to measure up to his distinguished record.

DON CLAUSEN was perhaps the most helpful colleague to me following my election to the House. In the member-elect days, his hospitality and assistance were invaluable. He provided me with a mailing address, a telephone, a key to his office and access to his staff. That helpfulness continued during my first term, particularly concerning the filling of New Melones dam in California. Despite the fact that it was a tough position for him to take, DON supported my efforts and was extremely instrumental in the success which was achieved. Given the prestige which he enjoyed as a senior member of the California delegation, that backing was extremely vital.

CLAIR BURGENER is universally respected as being one of the most fair, trustworthy, dependable Members of

the House. I learned very early in my congressional career that his reputation was duly earned. I have watched CLAIR perform in our delegation meetings and in the Republican Conference, and have found him to be not only a reliable, committed House Member with a sound legislative record, but also a solid citizen and an outstanding lawmaker.

To me, BOB DORNAN is a most unique individual. Throughout my many years of education, I was never privileged to have a teacher or professor who was able to speak in such convincing detail on complex issues without benefit of notes as BOB has done. I am repeatedly amazed by his wealth of historical anecdotes, and by their appropriateness to the occasions upon which he chooses to share them. He is an able, experienced, and intelligent legislator, and I have always respected his political outlook, particularly in the areas of defense and abortion.

BARRY GOLDWATER has surely carved his own niche in Congress, and has proven to be very much his own man. Unlike some of us who are readily stereotyped as conservatives with predictable voting patterns, BARRY clearly applies his own thinking and decisionmaking to every separate issue. He is strongly guided by that in which he believes.

WAYNE GRISHAM holds a place that is particularly special for me because we entered Congress together and, as fellow newcomers, we learned the ropes together. By and large, he has been a faithful carrier of the banner for free enterprise, limited government, and personal liberty. I am also most appreciative of his ability to inject a note of levity into otherwise grim proceedings.

PETE MCCLOSKEY has always been an example to me of the value to be gained from calmly reasoning things through. While I may not always agree with his position, I admire his ability to successfully reconcile divergent opinions, and to bring about compromise instead of chaos. He will be sorely missed, particularly by me, and particularly on the Merchant Marine Committee. As he prepares to depart, I find myself wishing that I had taken more time to absorb his knowledge, and to learn to emulate his impressive example in committee deliberations.

All seven of these men have made positive and memorable contributions as Members of the House. They have served their respective constituencies and their mutual State well, and have all proven to be responsible and respected legislators. I will miss them as individuals for their friendship and their guidance, and I believe we will all miss them collectively for their leadership and their impact. I wish each of them the very best in the years to come, and to each of them I say "thank you" for the privilege of knowing and working with them.

□ 2040

Mr. DREIER. I thank my colleague, a member of the Banking Committee, for his thoughtful addition and thoughts on our colleagues in the delegation.

It is great honor for me to yield to one of my friends and leaders, my colleague from California (Mr. GOLDWATER).

Mr. GOLDWATER. I thank the gentleman for yielding.

Mr. Speaker, one of the greatest privileges and certainly personal challenges is serving in the U.S. Congress.

It is a challenge and a privilege and a personal reward to have had this opportunity, to have had this experience.

It is because of gentlemen such as DAVE DREIER that I speak these words. For as we look around, we are surrounded by marble and ornate objects of lights and glass and television cameras, material symbolizing man's work. But it is the human element, the people, the men and women on Capitol Hill who you work with, who you have an experience with, who you touch in some way or another going about your job that gives this experience life and meaning.

DAVE, I guess I stand here with a certain amount of pride in seeing you in the well of the House of Representatives, for, as you well spoke, it was not long ago that you were a student and a intern here on Capitol Hill, and we had the opportunity of starting a good friendship—only to find you treading along and working hard and campaigning and being involved in politics and concern for your country that manifests itself in your election to the Congress.

I can only thank you for your kind words and thank you for your friendship.

The U.S. House of Representatives is a great institution. And I can only say I have enjoyed every minute of it, and I will miss this great body, and I will miss the people who make it function and make it work.

I guess the best part of this service that I have performed was not necessarily here on Capitol Hill or in the committees or in my office or here in the Congress, but in having the chance and making the chance to return back to my district almost every weekend for 14 years, where I have grown very fond of the people and the district that I represented.

That was the reward to me, getting to know a group of some half a million souls better, and to work with them in solving some of their problems, getting very intimate in some of those problems, whether it involves a veteran or a social security recipient. But to see the smile on their face and to hear them say thank you for something that you are paid to do was a reward that I would have to confess I have not truly felt here in Washington, D.C., some 3,000 miles distant from those individuals that I serve.

And it was getting to know my State and my district and the people that gave me a sense of being, a sense of responsibility, and I guess compelled me to try to do the best job that I could.

I enjoyed the issues of privacy, energy, aviation safety, transportation, and the handicapped, the blind and the deaf, working to limit the size and the scope and the cost of Government, the give and take and the compromise. All these were exhilarating, all of these were part of the job. Met with some success and some failure. But nevertheless enjoyed from a personal point of view. Because I learned well that you truly can disagree, that you can fight with every ounce of energy you have in opposition to another colleague and yet walk away with a friendship remaining.

It is that which symbolizes this Republic, which allows free men to talk, to speak, to debate, to discuss, and to arrive at a conclusion.

It is ironic that all Members of Congress bask in the sunlight of publicity and notoriety and to some extent they earn that as a public figure standing for election. But I would like to remind my colleagues, and I often remind myself, there are those behind Members of Congress that allow us that privilege of basking in the sunlight.

Oh, yes, we take credit for our failures of our staffs, but those are few and far between compared to the excellence of which they function on our behalf. And it is the professionalism that I admire in the men and the women who served me here in Washington and back in my district that I count as some of the most rich and gratifying experiences of dealing with such fine human beings.

Probably the worst part of leaving the Congress, I guess, is the prospects of leaving that family which you build up over the course of the years that you work with here. Some of your staff come and go. But I have almost half of my staff who have been with me for 14 years. And it becomes a very close family affair that you miss, that you regret. But the memories of that friendship will always stand me in good stead.

One of the great rewards in my life, and I think in most Americans' lives, is the idealism of a close family. And I am no exception to that. I am blessed with a very close family. And I remember growing up as a young boy, hoping and wishing for the opportunity to work side-by-side with my father, little knowing that some many years later I would find myself in the U.S. Congress, fulfilling that dream.

I am thankful for his confidence and for his advice.

All of us here in the Congress, we come here, we do our best, we make a mark, and we go. And there will be few that will remember the names of those who are departing today, or who have departed in the past. But no one who enjoys freedom and respects it will forget their work, for it continues to go on. For long after I leave, I shall hear the gavel demand order, and the many voices of elected representatives throughout this country expressing a point of view on an issue, symbolizing that foundation of freedom.

This institution will always be a wonderful memory because of the friends that I have made and the fine people I have worked with.

□ 2050

I was reminded, in closing, that you can have all the money in the world, but without friends you are very poor.

I feel very rich and fortunate for the friends that I have and will always have during this brief experience in my life.

I thank the gentleman for yielding.

Mr. DREIER. Mr. Speaker, I thank the gentleman very much for his heartfelt and sincere remarks in addition to this special order. It is very obvious that he will be greatly missed by not only the members of our delegation and the Members of this body, but the entire country.

Mr. Speaker, I am very pleased to have the opportunity to yield to my great friend, the gentleman from California (Mr. DORNAN).

Mr. DORNAN of California. Mr. Speaker, I thank the gentleman.

I am not about to draw delighted smiles from my colleagues by saying that I am unprepared for any remarks, but I had intended to sit here and bask in a tribute that has gone beyond my wildest expectations in warmth and eloquence; but since the other Members, most of them who are retiring with me, saw fit to speak so eloquently and if possible even make a sad, but warmly sad moment of departure that much better, let me try to add a contribution, leaving myself out, although I did think of a movie title that fits at least the departure of the six after hearing all this good stuff, and that was an excellent film with a classic theme song that won an academy award, "The Magnificent Seven."

Now, in that story, the Magnificent Seven rode into town and put down the forces of evil. I did not spend nearly as much time here as I planned. I knew you would get me in the end, PHIL BURTON, and I think it is a compliment that you put me on your radar screen about a week after I was here and decided that you would eliminate my seat, at least for a Republican, especially a conservative Republican, a fine young man of different ideology who is replacing me; but PHIL, it is a compliment, given some of the more bizarre things that that distinguished gentleman from California supports and has supported here. It is a compliment that you targeted me for the reapportionment effort of 1982.

I would like to point out some of the reflections I had listening to some of the fascinating backgrounds of the colleagues with whom I depart to fight other battles on other battlegrounds.

It is great to hear CLAIR BURGENER described as a class act. He is the kind of a guy that when he is in his twenties and he joins an organization, people start referring to him as "the old man" because of the stability that he represents and the deep insight beyond years that a person like that brings to any issue. In a way, he is the only one of us that sought retirement from the political battlefield, but since he represents one of the most gorgeous districts in the United States and has been so close and so helpful to one of our fine new Members coming here, the former mayor of Carlsbad, Ron Packard, I know that CLAIR's political impact will never diminish from that great double district that he represented for 4 of his 10 years. It was twice the size of any other district in the United States. I believe he won by more votes than anybody has ever won in a contested election in the House in over two centuries. That is something.

With the other six, there is something that they share. Four of us are pilots. I do not think anybody has more hours in private aviation than BARRY in this House or that dedicated more of his time and effort to making it a safe environment for private pilots in this country and to make business and general aviation a respected profession in the United States of America.

Three of the other pilots are all fighter pilots; two of them are my senior and I do not mind saying that when the Second World War ended and I was 12 years of age, I thought the very salt of the Earth were people like that Corsair pilot in the Navy, DON CLAUSEN, and that Thunderbolt pilot who was a POW in Germany when the war ended in Nazi Germany, WAYNE GRISHAM. These are the kind of guys that put stars in my eyes and kept my energies focused on one goal from the time I was literally 5 years of age, and that was to serve in the Marine Corps, the Navy, or the U.S. Air Force as a fighter pilot.

PETE MCCLOSKEY was the kind of hero that caused me to leave college and join the Air Force while the Korean war was still going on.

I know it may be nauseatingly unreal to some of my colleagues on the other side who managed to avoid military service as a student during the Vietnam war, but to the DON BAILEY's of the other side and to the BOB DORNAN's of this side, I felt a gnawing guilt every day that I walked into a classroom at Loyola University, that kids not fortunate enough to get into college, just like Vietnam, many of them brown and black beyond their population percentages in our great country, were dying on Pork Chop Hill, as they died later on Heartbreak Ridge, and I joined the Air Force because there were kids in their early twenties like PETE MCCLOSKEY who were pulling the pins out of grenades with their teeth and dropping them over a wall immediately adjacent to his shoulder to stop the Communist invasion of the Korean Peninsula and I ran into an old Marine buddy of PETE's who said the enlisted kids turned to him in one of the smoke-filled noise-wracked moments and said, "Lieutenant McCloskey, you know who you look like? You look like John Wayne."

And PETE responded, "Shut up and give me another grenade."

That is the kind of an American that I looked up to as a teenager when I joined the Air Force 30 years ago next month during the Korean war.

JOHN ROUSSELOT never had the honor of wearing his Nation's uniform, but like John Wayne who said that he had more fun and honor and felt more creative when he was defending the military and that it was always gnawing for the rest of his life that he had not had that great honor, JOHN ROUSSELOT is the kind of a guy who reminds me more of a fighter pilot than anybody who ever strapped a military aircraft to his behind.

JOHN ROUSSELOT was my inspiration when I came here.

When I got here, there were three tigers that sat on the center aisle there: two Bobs and a John—BAUMAN, ASHBROOK, and ROUSSELOT. To my dying day, I feel it was one of the greatest honors I ever had that I could try to join that distinguished group of Three Musketeers and try to make it a foursome to bring some balance during the Carter years to the dismantling of our defense structure and the disregard for the free enterprise system that makes the wheels of our economy grind around and around.

What a group of six Californians I depart this House with; BURGENER, those other fighter pilots, ROUSSELOT, BARRY, who helped me come to this House with unstinting work as he has for so many Members because of the glory of his great family name, helping around this country. I do feel good that in a way BARRY and PETE and I got to leave in a small sense the way CLAIR went out, on our own terms, but not one of us ever put up the fight of DON CLAUSEN, the Corsair pilot, the Thunderbolt pilot, as DAVE DWYER has so graciously mentioned about that awful race that none of us look for-

ward going against an ideological colleague and soul brother.

The way that ROUSSELOT and CLAUSEN went out will be remembered around here forever.

I hope that all of us have an opportunity still to peek at some further moment in our life and to build upon the careers that we have been able to establish here.

□ 2100

This is a magnificent group of six, at least, that I go out with as the seventh, and they are friendships that I will treasure all of my life.

I know that my wife, who is watching, was brought to tears by my big brother DON. I am lucky to have two big brothers, one a brother given to me by God and one appointed by himself, DON CLAUSEN. I know he brought me to tears.

References from all of the pals that I picked up here, I repeat, went beyond my wildest hopes.

I just will do what one of my colleagues mentioned, come back to this cloakroom and come out here on this House floor as many times in my future life as I can, agonizing over the fact that I can only join in debate quietly whispering in colleagues' ears, and I will not get that honored American privilege to vote.

My colleagues know I am a statistician of sorts. It knocks me out that in a nation of 226 million Americans and millions who existed over 206½ years, that only 4,000 people have ever gotten to sit in this body for 6 years or more. Maybe it is in the cards that I come back; maybe it is in the cards that I take another shot at the goal I tried to achieve and help PETE WILSON with all of the fiber of my being to attain this year. But I know one thing: This place is home to me for the rest of my life.

To the three Republican freshmen and to some of the young Democrats who will be taking our places sitting on the other side of the aisle, I wish them well, because I have said in election after election, maybe losing some redundancy, that this is the most important election of our life.

I feel George Orwell was God-inspired when he picked the year 1984 to title a book. We are going to need the 17 Republicans and the best insights and wisdoms of the 28 Democrats coming back in the 98th Congress. These are the toughest years coming up for our country and our civilization as we know it. I wish I could be here. I will be cheering from the sidelines.

Mr. DREIER. I thank the gentleman very much for his extremely eloquent, thought-provoking addition to this special order.

I think it is quite apparent that we have a tremendous delegation, the largest delegation in the country, and the title which has been dubbed this evening, "The Magnificent Seven," I think is a very appropriate title for our retiring colleagues. They should all know that they will be greatly missed not only by our delegation but by our colleagues on both sides of the aisle.

● Mr. PANETTA. Mr. Speaker, I want to join my colleagues in paying tribute to a group of men it has been a pleasure to serve with over the past 6 years, my fellow Californians PETE MCCLOSKEY, DON CLAUSEN, CLAIR BURGENER, WAYNE GRISHAM, JOHN ROUSSELOT, BARRY GOLDWATER, and BOB DORNAN. While we have served on opposite sides of the aisle, I have had a great deal of respect for each of them, and I have worked especially close with some of them on issues of particular concern to California.

I would like first to say a special word about PETE MCCLOSKEY, a man of principle who has shown tremendous courage and wisdom in his time here. He has never allowed partisan interests to stand in the way of what he believes is right. I was particularly proud to receive his endorsement for reelection in 1978, but his work on behalf of peace and justice goes far beyond the kindness he has shown to me. He fought the Vietnam war from within his own party and became a national spokesman. His kind of courage is always in short supply, and he will be dearly missed.

In addition, I would like to take special note of the departure of DON CLAUSEN, a man with whom I was proud to work on many occasions on behalf of our State. This was particularly true on issues affecting the environment. DON was a leader of our bipartisan efforts to protect the central and northern California coastline from irresponsible efforts to permit offshore oil and gas drilling. Again, I am proud to have been able to work with him, and I know my colleagues join me in wishing him the very best in the years ahead.

CLAIR BURGENER has also done an excellent job in representing our State, and particularly his home of San Diego. As a member of the Appropriations Committee, he was particularly important in this regard, and the Congress and our State will miss him.

WAYNE GRISHAM has also proven himself to be an excellent public servant during his time in the House. As a member of the Post Office and Civil Service Committee and the Public Works and Transportation Committee, he has done outstanding work, and he, too, will be missed a great deal.

Mr. Speaker, during my time in the Congress, I have not always agreed with JOHN ROUSSELOT on the issues debated in this House. He has never been boring, and he has shown great tenacity and integrity in the pursuit of his goals. In addition, he has always possessed a great sense of humor which, when one was not the butt of his jokes, helped to make the House proceedings and debates a little more interesting and a little easier to withstand.

BARRY GOLDWATER, JR., has come a long way during his time here. He became a spokesman on the issue of personal privacy, which has become ever more important in our computer society. Indeed, I think we will miss his advocacy on this issue in particular, and I hope we do not lose sight of the point of view he espoused in this regard, a point of view which placed the U.S. Constitution above the exigencies of the moment.

Finally, Mr. Speaker, I want to join my colleagues in paying tribute to BOB DORNAN, another gentleman with whom I rarely agreed but who was never less than interesting. His tremendous concern for the Nation's defense and his compassion for those who suffer the effects of war throughout the world certainly helped him to make a mark on the Congress.

These men will be greatly missed by my State and by the entire Congress. I wish them the very best both now and in the future.●

● Mr. GILMAN. Mr. Speaker, while it is with pleasure that I take the opportunity to speak highly of one of our most well-liked and industrious of colleagues, I regret the circumstances for which this special order has been brought. I am, of course, referring to our distinguished colleague from California, the Honorable DON CLAUSEN, and I thank the Congressmen from California (Mr. MOORHEAD and Mr. DREIER) for giving us this opportunity to pay just tribute to him.

DON CLAUSEN has been privileged to represent one of the most beautiful districts in California, with over 300 miles of glorious California coastline, the "Redwood Empire" as it is familiarly called. I can fully appreciate DON's great pleasure in having been able to represent the inhabitants of such a district, and while I am saddened by his departure, I am certain that when he returns to California, he will now have the time to relax and enjoy his surroundings.

DON's legacy, however, will not be forgotten, both here and in California. Since his arrival in Washington almost 20 years ago, DON has been a respected and admired member of the Interior and Insular Affairs Committee, as well as the Committee on Public Works and Transportation. Both these assignments have reflected the concerns of the people of California's Second District, and DON has never neglected any of them. He has always had time for others, too, and I well remember the instance when DON took time out of his unusually busy schedule to fly to my district in order to review the flood control needs in the black dirt

region of Orange County. He provided us with invaluable assistance in working effectively with the Army Corps of Engineers, and in so doing, earned the respect and admiration of our agricultural community.

It is this quiet willingness to work on behalf of all the people that has brought DON the many friends and admirers that he now has, so I am saddened that DON will not be part of the 98th Congress. I join my colleagues in wishing DON and his lovely wife, Ollie, all the best in the future, and express my sincere hopes that he will continue to give us the benefit of his vast experience in whatever capacity he chooses.●

● Mr. WOLF. Mr. Speaker, the adjournment of the 97th Congress will mark the end of congressional service for seven Members of the California delegation we are honoring today with this special order.

It is with regret that we acknowledge the retirement of Congressmen BURGENER, CLAUSEN, DORNAN, GOLDWATER, GRISHAM, MCCLOSKEY, and ROUSSELOT for we will sorely miss the expertise, commitment and wisdom they have brought to the work of this body.

I rise today to express to them a deep sense of appreciation for their years of dedicated service to this institution and to this Nation. They have served with honor and distinction, many in leadership positions, and have played critical roles in redirecting this Nation toward fiscal responsibility. They leave a legacy of creative thinking and courage of conviction which we should all try to emulate.

They have dedicated a large part of their working lives to meeting the needs of their constituents and this Nation and in solving the difficult problems we face. I congratulate them and thank them for their distinguished service.

It has been a privilege serving with these Members and I salute them as outstanding and effective public servants and wish them continued success and many happy and healthful years ahead.●

● Mr. ANDERSON. Mr. Speaker, I, too, would like to join with my colleagues in paying our respect for our colleague from California's 26th Congressional District, the Honorable JOHN H. ROUSSELOT.

Although JOHN and I have often had differing opinions on issues before the House, we both have shared a deep respect for each other's opinion. This is an important part of serving in this House.

For many years, JOHN was able to walk into this Chamber and in his own colorful way, brighten up the debate. It has been a pleasure for me to watch JOHN operate and I will certainly miss him when the 98th Congress convenes in January.

For my part, I am proud to call JOHN ROUSSELOT my friend. My wife, Lee, joins me in wishing JOHN his wife, Yvonne, and their three children, Craig, Robin, and Wendy, the best of everything in the years ahead.●

● Mr. CARMAN. Mr. Speaker, it is an honor for me to pay tribute today to seven Members of the California congressional delegation who have served their State and country with distinction and who will be sorely missed in the 98th Congress.

DON CLAUSEN began serving his country as a Navy pilot during World War II. He was first elected to Congress in a special election in 1963. He has been reelected nine times through 1980 and he is now ranking minority member of the Public Works and Transportation Committee as well as a member of the Interior and Insular Affairs Committee. His dedication and hard work has been reflected in his effective efforts for his California constituents. His absence in the next Congress will definitely be felt.

PETE MCCLOSKEY also began his public service in the military. He was active during the Korean war and received the Navy Cross, Silver Star, and Purple Heart in recognition of his distinguished service. When PETE was elected to the Congress December 12, 1967 he brought that same dedication and integrity to Washington. During the last 15 years he has contributed his insightful reasoning to a wide variety of issues always improving the quality of congressional debate.

BARRY GOLDWATER, JR. will be leaving the Congress after more than 12 years of dedicated service. He is a member of the Committee on Public Works and Transportation and the Committee on Science and Technology. He will be remembered for his dedication to his constituents and especially for his work in protecting the privacy of all citizens.

JOHN ROUSSELOT was first elected to Congress in 1960 and he has been elected to six other Congresses since. He has served with distinction on several committees, most recently the Ways and Means Committee; but it is his boundless enthusiasm and energy combined with the courage he had to do what he thought was right that made JOHN a leader in Congress. He worked tirelessly on behalf of causes he believed in and the 98th Congress will be a different place without him.

BOB DORNAN has served in Congress for only 6 years, but during that time he established himself as a leader in the area of POW's and the question of those missing in action. As a member of the Foreign Affairs Committee, a former fighter pilot in the U.S. Air Force, and a journalist who covered Southeast Asia, BOB was exceptionally well qualified for his tireless work on behalf of those who served our country. His personal integrity and dedication has been well used in the cause of the constituents he represents and the country.

WAYNE GRISHAM served in the U.S. Army Cadet Corps in Europe during World War II and was taken prisoner during that war. He received the Air Medal and the Purple Heart in recognition of his valor. Since being elected to Congress in 1978 WAYNE has worked hard for those he represents. As a member of the Committee on Public Works and Transportation he was instrumental in obtaining funding for the Contury Freeway. He has also shown integrity and dedication throughout his tenure in Congress.

CLAIR BURGENER also began his public service in the Armed Forces where he served during both World War II and the Korean war. He was awarded the Air Medal in 1945. He was elected to his fifth term in Congress in December 1980 and as a member of the House Appropriations Committee and of the Republican leadership he has worked hard to control big government. He has also worked to stem the tide of illegal immigration into this country. His leadership positions testify to his fine record of service and achievement.

I wish each of these men and their families all the best in their future endeavors. It has been both a pleasure and an honor for me to work with them. California has been fortunate to have such representation and both their constituents and their country will miss their services in Washington.●

● Mr. ERLENBORN. Mr. Speaker, during the time we are privileged to serve in this body, we serve with people of varying stripes and character. One real character is my special and good friend PAUL MCCLOSKEY, who most of us know better as PETE.

For 16 years, the House of Representatives has had the benefit of PETE's independent, fair-minded thinking. He has given us an outlook reached through studious research and intense conviction.

There is no point in my rehashing the many legislative actions in which PETE has been a lead player, but I do want to say that I will always look back with pleasure on the years we served together on the Government Operations Committee and the Select Committee on Population. We can be especially proud of the Freedom of Information Act, the Privacy Act, and our valiant attempt to define executive privilege. We can also be proud of the Select Committee's reports defining population issues.

I know the House will be sadly different without PETE MCCLOSKEY, but I also know that we have not heard the last of him.●

● Mr. ANDERSON. Mr. Speaker, I am pleased to join my colleagues in

paying tribute to our good friend and colleague from California's 27th Congressional District, the Honorable ROBERT K. DORNAN.

Because of his forthright manner, we were always able to know where BOB stood on a particular measure. Maybe we always did not agree with each other, but we always knew where the other stood. His energy and drive stood almost without parallel.

Although BOB will not be with us in the 98th Congress, I feel that he will continue to remain visable to the people of this Nation. Particularly, I feel that he will continue to contribute much of his time toward the important subject of missing POW's and MIA's. He has done much for this cause, and I urge him to continue his efforts in this area.

My wife, Lee, joins me in saying farewell to BOB, his wife, Sallie, and their five children, Robin Marie, Robert Kenneth II, Theresa Ann, Mark Douglas, and Kathleen Regina. And we wish them well in all their future endeavors.●

● Mr. GILMAN. Mr. Speaker, the name GOLDWATER has always stood for a conviction to lofty principles that are part of our Nation's heritage. BARRY has stood by these principles throughout his years in this body and because of it he has been able to lead the fight to protect the rights and privacy of individual citizens in a time where the size of Government and the advances of technology place pressures on the fine balance between the rights of the individual and the society.

We thank you for the courage and tenacity you have exhibited, BARRY, and for your determination to stand up for basic principles on which this country was founded. We lose a firm voice on behalf of individual liberty and a knowledgeable one on the committees on which he so ably served. Science and Technology and Public Works and Transportation have lost a staunch friend, but we are certain, BARRY, that you will continue the journey on which you have set out with the same drive you have exhibited in these halls.

The honorable gentleman from California forged his own road and left his mark in our history with his hard and innovative work to protect the privacy of American citizens in this fast-moving computer age. He knows his subject well and courageously took the lead as well as the responsibility of driving this legislation through.

We wish you the best, BARRY, and thank you for what you leave behind with us and for what you have yet to give and accomplish for the citizens of our Nation.●

● Mr. GILMAN, Mr. Speaker, we salute the honorable gentleman from California, who has served as ranking Republican on the Government Operations Committee. When he was elected, he spoke strongly for the protection of our environment, and in that fight he has persisted regardless of what administration policy may have been or is. As he has been true to that important fight, he has also stood firm by his conviction that the free market forces should be encouraged and allowed to operate. On the Merchant Marine and Fisheries Committee, he put this conviction to work.

I had the privilege of working with PETE on the committee on the missing in action, where he showed extreme dedication and determination that we search out the agonizing cases involved. He demonstrated tremendous courage in this endeavor as he did in his opposition to the Vietnam war. While I often differ with PETE on foreign policy issues, I did respect that in those many battles he waged on the floor of the House and for his constituents in the Halls of Congress, he fought like the marine that he is, with a devotion to duty and love of this country and all it stands for.

I join in wishing to PETE and his family in the months ahead, good health and happiness, knowing that you will continue to bring to the State of California and to this Nation the same leadership, courage, and conviction that earned him the Purple Heart and the Silver Star.●

● Mr. ANNUNZIO. Mr. Speaker, I rise today to pay tribute to the Honorable JOHN H. ROUSSELOT, who has ably served in the House of Representatives for 14 years. His dedication to high standards is an inspiration to his friends and fellow citizens, and his accomplishments as a Member of Congress are most commendable.

Before coming to the House of Representatives, JOHN was the president of a public relations consulting firm from 1954 to 1958, and the Director of Public Information for the Federal Housing Administration from 1958 to 1960.

Congressman ROUSSELOT was first elected to the 87th Congress in 1961, and after one term, he resumed his career as a management consultant. JOHN returned to Congress in a special election held in 1970, and has represented in Congress first the 25th, then the 24th, and later the 26th District of California. During his tenure in the Congress, JOHN ROUSSELOT has distinguished himself while serving on the House Banking, Finance and Urban Affairs Committee, where I have served with him, and have come to know and respect him. He also is a former member of the Subcommittee on Bank Supervision and Insurance of the House Banking, Finance and Urban Affairs Committee, a member of the Subcommittee on Census and Statistics of the House Post Office and Civil Service Committee, and a member of the House Budget Committee.

Presently, JOHN is providing exemplary service as a member of the Subcommittee on Social Security and the Subcommittee on Public Assistance and Unemployment Compensation of the House Ways and Means Committee, and as a member of the Joint Economic Committee. He also has a record of outstanding service to his party as the chairman of the Republican Personnel Committee, as vice chairman of the Republican Study Committee, as executive vice chairman of the National Republican Congressional Committee. His efforts have been both fruitful and beneficial to his own constituents, and to the citizens of this Nation.

JOHN ROUSSELOT is a dedicated and devoted American, and a Congressman of outstanding ability who will be missed here in the House of Representatives by those who have had the opportunity to work with him.

I extend to JOHN ROUSSELOT my best wishes for continued success in all future endeavors in devotion to highest principles.●

● Mr. McDONALD. Mr. Speaker, I would like to say a few words on behalf of the Honorable JOHN ROUSSELOT before his departure from these Halls. In my case, I was fortunate enough to make JOHN's acquaintance before coming to the Congress. Even knowing of his reputation then, I was surprised and pleased by the extraordinary diligence and energy that he put daily into the exercise of his duties. No one is more faithful to floor attendance, examining, and questioning all legislation with only the good of the country and taxpayer in mind. JOHN has never avoided the tough fights here and that became his hallmark. He does not run for cover when everyone announced that a stand for or against might be political suicide. JOHN stands and fights the good fight toe to toe. JOHN stands for basic principles and the Constitution, and not what appears on the op-ed page. These stands have made him beloved by his constituents who surely would have returned him to office, had his district not been so drastically changed. JOHN has been able to bring a little old-fashioned commonsense to the deliberations of the House Ways and Means Committee, as well as the Joint Economic Committee. In prior years, he was a tower of strength on the old House Banking Committee.

I will miss you, JOHN, and I hope someone is ready to take your place in the cockpit. You will be sorely missed. We will lack your leadership and oratory next year. Good luck in whatever you undertake. I know you will be successful.●

● Mr. SCHUSTER. Mr. Speaker, I rise today to join with my colleagues in

tribute to the Honorable BARRY M. GOLDWATER, JR., who will be leaving this House after 12 years of service to the Nation and to the people of the 20th District of California.

As a Member of this body, BARRY GOLDWATER has been an articulate spokesman for reducing Government interference in our daily lives. He has acted to maximize the ability of a free people to prosper in a free economic system. He has been a proponent of many efforts to protect the privacy of the individual, including the significant Right to Privacy Act of 1974.

I have had the opportunity to serve with BARRY on the Public Works and Transportation Committee and I have always respected his hard work and dedication.

The House of Representatives will miss BARRY GOLDWATER'S advocacy of individual initiative and personal freedom, but I am certain that he will continue to work for these ideals in or out of Government.

I wish him the best of success in the future.●

● Mr. RUSSO. Mr. Speaker, while it will be some relief to avoid confusion on mail and phone calls, I must say that I am quite sorry to have to say good-bye to Representative JOHN ROUSSELOT as a Member of Congress, even though admittedly it was occasionally fun to get messages from the White House.

There were two sides of JOHN ROUSSELOT, both of them honorable and wise. He was in public a fierce debator with strong views and he presented them with force and effectiveness. Despite the fact that we were often on opposite sides of the issues, he always had my respect.

But even when he was not speaking in the public forum, he remained gracious and witty and a gentleman. He was a delight to know as well as being a good Member of Congress. He served long and well and his amicable demeanor added to his effectiveness. He will be missed—his knowledge of House rules, his sense of humor. It simply will not be the same without him here. A tremendous advocate, energetic and aggressive, I know JOHN will continue to have great success.●

● Mr. SENSENBRENNER. Mr. Speaker, I would like to join with my fellow colleagues in honoring Congressman JOHN ROUSSELOT for over a decade of distinguished service representing the 26th District of California.

Known for his verbal jousting, he has made the somewhat dry debates on the House floor a bit more interesting. His determination to address the issues has made him a watchdog of the House floor. In particular, he has been active in the issues of welfare, foreign aid, and the budget. Since the mid-1970's, he has offered a balanced budget amendment to every budget resolution on the House floor.

Throughout his tenure in office, his leadership abilities have been called upon more than once by the Republican Party. Once chairman of the Republican Study Committee, he now serves on the executive committee. He also serves as the vice chairman for Political Action Committees of the National Republican Congressional Committee, as chairman of the Congressional Target Committee in California, and as regional whip in the House of Representatives.

I will miss working with JOHN on the House floor. I am glad I had the opportunity to do so.●

● Mr. GILMAN. Mr. Speaker, WAYNE GRISHAM has served two terms and has represented his constituents loyally, just as he promised them he would. He stood firmly by his principles that the hard-working American should not be overburdened by Government regulation, and that free enterprise is a great hope for the development of human potential.

His life from day to day on the Hill exemplified an honorable and hard-working determination of spirit. His decency lent him respect; his study of the issues in order to most fully represent those who had elected him to serve overshadowed any effort to put his own position in the forefront through legislative or committee efforts. I had the privilege of serving with him on the Post Office and Civil Service Committee and enjoyed working with him on the day-to-day issues affecting post office and civil service employees. He worked diligently in this effort and in the job of trying to maintain a healthy postal service.

We will miss WAYNE on our committee. We will miss his skill of listening to the arguments before speaking on the issue, and his conviction that one must know the subject matter well before introducing legislation or leading battles. Through this quality he was able to discern what legislation was important and needed and what would result in extra expense or burden to the people of his district and of this Nation.

WAYNE, we wish your lovely wife and three children the best in the future. We thank you for your dedicated spirit, your discipline, and your determination to do what you were elected to do in order to serve your district.●

● Mr. ROE. Mr. Speaker, I welcome the opportunity to join in this well deserved salute today to our fine colleagues from the State of California, DON CLAUSEN, WAYNE GRISHAM, BOB DORNAN, BARRY GOLDWATER, JR., PAUL MCCLOSKEY, and JOHN ROUSSELOT, who will not be returning to Congress next year.

I have worked closely with each of these fine lawmakers and party politics aside, I will miss their contributions to the debates on this House floor.

DON CLAUSEN and I have served together on the Public Works Committee for many years. I have found him to be among the most dedicated, hard working individuals I have ever known. He has devoted his years of unselfish public service to bettering the lives of all Americans. As the ranking Republican member of the Public Works Committee, DON CLAUSEN has been a leader in the battle to rebuild America's crumbling infrastructure system. His expertise in the areas of clean water, clear air, and other environmental matters will be sorely missed. I am proud to call him my friend.

BARRY GOLDWATER, JR., and WAYNE GRISHAM have also served as highly effective members of the Public Works Committee. BARRY in his role as a leader on the Aviation Subcommittee is a recognized leader in the fight to keep our space program adequately funded. BARRY has been my neighbor in the Rayburn Building for several years and I will miss the close working relationship we have developed.

WAYNE GRISHAM served for many years as an excellent legislator in his home State of California. That experience served him well during his terms in the House. As a member of my Water Resources Subcommittee, WAYNE developed into an avid spokesman for the water development needs of the western section of our Nation. I would hope he will continue to advise us on those needs as we deal with the Nation's water needs.

The voices of BOB DORNAN, PAUL MCCLOSKEY, and JOHN ROUSSELOT have been heard loud and clear on this House floor during many debates on the key issues facing our Nation. While there have been times I have not agreed with their positions, I have always respected the professional manner in which they were made. They all have made outstanding contributions to the Nation and I wish them the very best in the years ahead.●

● Mr. SAM B. HALL, JR. Mr. Speaker, regardless of party affiliation or political differences, Members of the House are going to miss the service of my good friend, JOHN ROUSSELOT. In characteristic fashion, when reapportionment forced JOHN ROUSSELOT into the congressional district of a friend and colleague, he went to an open seat and ran a tremendous campaign against overwhelming odds. By this act alone, JOHN ROUSSELOT qualifies for a chapter in the late John Kennedy's book, "Profiles in Courage."

Political courage, honesty, and integrity, are all characteristics of JOHN ROUSSELOT. He is a modern equivalent of Sir Thomas More, truly a "Man for All Seasons." He does not mind taking a stand and speaking his mind. He is intellectually honest, and if he dis-

agrees with you, his demeanor can be incisive but his nature is that of a gentleman and loyal opponent. In short, he pulls no punches.

We need more men and women in public office willing to emulate the traits of a person like JOHN ROUSSELOT. Parliamentary democracy had its genesis in America with men of his caliber, men who were not afraid of expressing what at the time was an unpopular point of view, because they realized the long-range consequences would benefit a free and open society.

On occasion I have disagreed with JOHN ROUSSELOT, but on every occasion whether in disagreement or agreement, I feel the greatest admiration for his adherence to good manners and his love of the give and take of participatory democracy. He can be sarcastic and tough as nails, but like one of his early mentors, the renowned paragon of parliamentary maneuvering, the Honorable H. R. Gross, the verbal assaults are not meant to be personal or rancorous.

It is my understanding that the California Legislature must again go back to the drawing board on redistricting. I have a feeling that once this is accomplished, our dear friend, JOHN ROUSSELOT, will once again prepare for battle. I sure hope so. We need the voice of loyal opposition. We will always need legislators who are willing to tackle the unpopular issues and take the unpopular stands. That's what democracy and freedom is all about, and that's what JOHN ROUSSELOT is all about. I wish him well.●

● Mr. GUARINI. Mr. Speaker, I rise to extend my warmest best wishes to our friend from California, JOHN ROUSSELOT, with whom I have worked these past 4 years on the Ways and Means Committee. JOHN leaves behind the legacy of his thorough knowledge of the many revenue issues which come before the committee. He is an astute and dedicated student of tax matters.

His keen, incisive mind has helped throw light onto many controversial issues, encouraging healthy dialog. He has served the institution of the U.S. Congress, and the Nation as a whole, very well.

I shall always remember JOHN ROUSSELOT's quick wit and ready response to any situation. He certainly has the much-appreciated ability to help break up tension during long meetings with one of his patented side-splitting observations. Those sessions will seem that much longer without him.

Despite some differences of opinion, I know I will miss JOHN. I join the many friends he has here in Congress in extending to the gentleman from California my sincere hopes for success and happiness in all his new endeavors.●

● Mr. DONNELLY. Mr. Speaker, I would like to take this opportunity to join my colleagues in paying tribute to one of the finest men in our midst, the Honorable DON CLAUSEN of California. It has been my privilege and pleasure to have served these last 4 years with him on the Committee on Public Works and Transportation.

If DON had been the kind of man to pick fights or to try and score political points at someone else's expense, there was plenty of cause for friction between us. We come from opposite ends of the country, two dramatically different districts, and we sit on opposite sides of the aisle. To DON's credit, he has chosen to use his position and his seniority and his vast abilities to make the legislative machinery work as smoothy as possible. The very complex and very important Surface Transportation Act we passed earlier this week is a prime example of the kind of necessary legislation that was made possible by DON's quiet, cooperative, conciliatory manner as a legislator.

I will miss DON CLAUSEN as a colleague; I will always treasure him as a friend.●

● Mr. SAM B. HALL, Jr. Mr. Speaker, DON CLAUSEN is a gentleman and friend of the first order. I am going to miss his congeniality, good advice, and above all, his friendship. DON CLAUSEN has an enjoyable personality, and we have come to rely on his charm and good manners. In short, he is well liked by his colleagues.

Despite representing an area with vastly conflicting political opinions, DON CLAUSEN has achieved an outstanding record of constituent service. He is an extremely dedicated Member of Congress and has a reputation for hard work and being informed on the myriad of issues that come before the Interior Committee and the Public Works and Transportation Committee.

As a strong proponent of air transportation, DON CLAUSEN has been a solid and effective voice in promoting civil aviation. Much of the technological leadtime that this Nation enjoys in aerospace is due to the dedication and commitment of people like DON CLAUSEN, and there is no question that the aviation community will sorely miss the leadership he has provided in strengthening their cause in the Congress.

I look forward to working with DON in the future. It has been a privilege to have served with him for the past 6½ years.●

● Mr. EDWARDS of California. Mr. Speaker, I want to thank my colleagues from California, CARLOS MOORHEAD and DAVID DREIER, for arranging for this special order. As chairman of the California Democratic delegation, I'm pleased to extend my thanks to the retiring Members of the California Republican delegation for their collective years of service in the Congress.

Even though those of us on this side of the aisle may have different views on many of the issues which come before this body than our friends on the Republican side, we take pride in the fact that we put aside those differences to work together for our State of California. There are many examples of our bipartisan efforts. For instance, when California's beautiful, but fragile, coastline was threatened by the possibility of virtually unfettered offshore oil leasing, we worked together to prevent this prospect from becoming a reality. We also work together in insuring that California receives its fair share of Federal dollars—the past year alone has seen strong bipartisan efforts in areas as diverse as obtaining adequate funding for refugee resettlement and encouraging an appropriate share of defense contracts for California.

I would like to mention especially how much I have appreciated working with the gentleman from Crescent City, DON CLAUSEN. Not only has DON been my counterpart in his position as chairman of the California Republican delegation, he has also been my next door neighbor in the Rayburn Building for the past 2 years. I will miss working together with DON and his fine staff on California issues, and wish he and Ollie all the best.

In closing, let me again express my best wishes to our retiring California Republican colleagues.●

● Mr. CONTE. Mr. Speaker, fellow colleagues, I am proud to come before you today to honor our dear friend PETE MCCLOSKEY. As we are all aware, our distinguished colleague from California will be retiring at the end of this Congress.

Looking back, there is much to be said about PETE and his career. As a World War II Navy veteran and a decorated Marine Corps veteran in Korea, PETE was first elected to represent the 12th District in 1967. Many of you may remember that election because of PETE's victory over a former movie actress that you grew up with—Shirley Temple Black. Of course, that was before my time.

Since then, PETE has proven himself one of the most diligent and hardworking Members of the House. Primarily, he has distinguished himself as a staunch environmentalist, rising to the position of ranking minority member on the Merchant Marine and Fisheries Committee. For his tireless efforts in protecting all of our natural resources we should be very thankful. Truly, PETE has served his district and his Nation with dedication, conviction, and pride.

I have been most impressed, however, by PETE's go get 'em attitude. Nowhere perhaps was that attitude best displayed than on the ballfield. Who can forget the day of our 1980 baseball

game when ol' killer PETE ran right over EARL HUTTO on first base? Poor EARL had a tough time campaigning that year with a broken jaw. What is worse, we still lost the game—21 to 9. I would have to say, though, that PETE was one of the best hitters and outfielders I have ever had on my team.

Finally, I want to extend my warm personal thanks to PETE for all that he has done for me. In 1980, for instance, PETE was kind enough to come to my hometown of Pittsfield to help me open my campaign headquarters. PETE and I have become the closest of friends over the past 15 years and one reason for that may be that we have so much in common. It is no secret that both PETE and I have reputations of taking on tough issues. Equally, we share a deep love of the beauty the world has to offer. For these and many other reasons, I am particularly saddened by PETE's departure. Do not stray too far old buddy, this country needs more leaders like you.●

● Mr. SAM B. HALL, JR. Mr. Speaker, one of the very sad results of this year's elections is the fact that BARRY GOLDWATER, JR., will not be serving with us next year. While his campaign to represent California in the Senate fell short, we all know that the GOLDWATER name is synonymous with politics and public service, and I have a strong feeling that he will once again enter the political fray. I sure hope so, because he has achieved a great deal since coming to the House in 1969.

BARRY GOLDWATER, JR., fervently shares his father's love of country and the free enterprise system which has provided the abundance we all enjoy. He has fought Government regulation and was in the forefront of the successful struggle during the 1973 oil embargo to assure that no class of energy user was denied equity in the energy distribution system.

As an eloquent and effective promoter of the Nation's space effort, BARRY has made a magnificent contribution to the House Science and Technology Committee. He was a favorite of the late Tiger Teague, my dear friend from Texas, who served so effectively as chairman of the committee.

In addition, BARRY has been a legislative pioneer in the area of alternative energy sources. During the last decade as energy research and development bills have come to the floor for debate, his influence has been positive and effective in shaping their direction.

As a strong advocate of civilian and military aviation, BARRY GOLDWATER, JR., has promoted both the technological and economic aspects of this vital segment of the economy. Aviation in every category will miss his leadership and devotion to their cause.

In the growing age of so-called Big Brother, it was BARRY GOLDWATER, JR., who launched a nationwide campaign to guarantee individual privacy in the relationship of a citizen to his government. The 1974 Privacy Act bears his name, and everyone who cherishes the first amendment to our Constitution owes him a debt of gratitude.

BARRY GOLDWATER, JR., has served his State and Nation well. He will be back in this capacity, I feel confident. It has been an honor for me to have served with him.

● Mr. SHUSTER. Mr. Speaker, I am proude to join with my colleagues in tribute to the Honorable DON H. CLAUSEN, who will be leaving the House of Representatives at the end of this Congress.

It has been a profound honor and pleasure to serve with DON in Congress and particularly in our close working relationship on the Public Works and Transportation Committee. He was one of my chief mentors in the field of transportation policy, and without his help and thoughtful assistance on the committee, my job would have been immeasurably more difficult.

As a member of the Public Works and Transportation Committee for 20 years, and as ranking member for 2 years, DON CLAUSEN was a prime moving force in transportation policy. He has been a positive force as a leader, and he continued and expanded the unique bipartisan working relationship on that committee.

DON CLAUSEN has been dedicated to the balanced protection and use of our Nation's land and water resources. His efforts were of vital importance to the passage of the Surface Transportation Act which will restore our Nation's deteriorating highways and bridges.

DON CLAUSEN has been a hard worker, a dedicated public servant, and a good friend. I will greatly miss having him as a colleague in Congress. I wish him the best of success and happiness in the future.●

● Mr. CORRADA. Mr. Speaker, I rise to pay tribute to our fine colleagues from the State of California that are leaving us at the end of this Congress.

They are: CLAIR W. BURGENER, first elected to the 93d Congress; DON H. CLAUSEN, elected to the 88th Congress; ROBERT K. DORNAN, from the 95th Congress; BARRY GOLDWATER, JR., who joined his father in the U.S. Congress in the 91st Congress; WAYNE GRISHAM, elected to the 96th Congress; PAUL N. MCCLOSKEY, elected to the 90th Congress, and JOHN H. ROUSSELOT, first elected to the 87th Congress and again to the 91st Congress.

All these Members have faithfully and conscientiously represented their districts and I want to join my colleagues in wishing them well and the best of luck. I want at this time, however, to pay particular tribute to the dean of this distinguished group, my good friend DON CLAUSEN.

I am going to particularly miss DON's good counsel and help to me in our work in the Interior Committee. DON has served in the committee for many years and has a dedication to his work and zealous performance of his duties will be sorely missed.

As a member of the Task Force on the Presidential Vote for Puerto Rico established by President Nixon and Governor Luis A. Ferré, DON spent many hours looking into the issue and became very knowledgeable about Puerto Rico. In the process he also became an advocate and friend of the people of Puerto Rico, a friendship which I hope will continue for many years. DON will always hold a special place in Puerto Rico and a warm bienvenido awaits him whenever he visits our lovely island. I am sure I speak for all our colleagues in wishing DON and all our other departing colleagues from California our best wishes for luck, health, and happiness in the future.●

● Mr. SHUSTER. Mr. Speaker, I rise today to join my colleagues in tribute to the Honorable PETE MCCLOSKEY, who is retiring from this body after 15 years of distinguished service.

PETE MCCLOSKEY has always shown courage and determination in taking positions that were not always the most popular on many difficult issues. He has fought to reduce or abolish unnecessary agencies of the Federal Government, and to limit the growth of the Federal bureaucracy.

His hard work and dedication have been an example to all of us who have served with him, and he has been personally supportive and helpful to me during my years in Congress. I would like to thank him for his assistance to me, and I am sure that the people of his district and the Nation are grateful for his efforts on their behalf.

I wish him success in all his endeavors in the future.●

● Mr. BEVILL. Mr. Speaker, a gentleman of unquestioned honesty, integrity, and dedication to this country, my good friend CLAIR BURGENER, is retiring from Congress at the end of this term.

During my 16 years in this body, I can think of no finer person than CLAIR. It has been my great honor to work closely with CLAIR on the Energy and Water Development Subcommittee of the Appropriations Committee. I have deeply appreciated his able service and his tremendous contributions to the work which that subcommittee has accomplished.

CLAIR has been an able and effective spokesman for his district and for his party, and never hesitated to let his views be known concerning this Nation's water resource and energy development and conservation policies. However, CLAIR never let regional or partisan politics hinder any action on

our committee. He is, without a doubt, among the most fairminded individuals in Congress.

He has made many lasting friends during his service in Washington, but I am sure the friendships and mutual respect most important to him are those which he has developed with his constituents in California, for whom he has worked tirelessly and skillfully.

While I am deeply saddened that CLAIR has chosen to leave the Congress, I will be eternally grateful to him for sharing his wisdom, his wit, and his contagious optimism with all of us in this body. CLAIR BURGENER truly has been one of our greatest examples of a fine public servant.●

● Mrs. HOLT. Mr. Speaker, I shall feel great personal loss at the absence of CLAIR BURGENER. He was a classmate of mine in the 93d Congress and has been a real gentleman whose quiet and sound judgment have won him the keen respect of this House. Duncan and I wish him and Marvia good health and great happiness.●

● Mr. SHUSTER. Mr. Speaker, I am pleased to join in the tribute to the Honorable WAYNE GRISHAM, who is leaving the House of Representatives after 4 years of dedicated service to the people of the Nation and of his district in California.

I have had the pleasure of serving with WAYNE GRISHAM on the Public Works and Transportation Committee, where he showed diligence and determination. He led the way in negotiations that enable the building of the Century Freeway which will be of great importance to the people of the Los Angeles metropolitan area.

WAYNE GRISHAM has shown his commitment to reducing the size of the Federal Government, reducing the tax burden, and protecting the liberties of individuals. He has ably represented the people of his district, and he will be missed in Congress.

I wish all the best for him in the future.●

● Mr. ERLENBORN. Mr. Speaker, throughout the history of the House of Representatives, a few have stood out as true watchdogs of the Nation's purse strings. One of these is JOHN ROUSSELOT, the gentleman who has served eight terms as a Representative for the people in and around San Marino, Calif. I am proud to salute him, but saddened that he will be leaving at the close of this Congress.

I dare say that JOHN ROUSSELOT has been instrumental in persuading a host of our colleagues to the need for prudence in Government. He was preaching his sermon on fiscal responsibility long before it became a household term, and he has been persistent.

JOHN'S absence in the 98th Congress will be felt for other reasons as well. He is colorful and frank, and such commodities are needed here.

My good wishes go with him for a future that is as meaningful and constructive as his stalwart service here.●

● Mrs. HOLT. Mr. Speaker, this House is losing one of its most able legislators. JOHN ROUSSELOT will be leaving the Congress following this special session, and I am sure we will all miss this articulate gentleman. John was frugal before frugality became chic, and he was always a champion of responsible Federal fiscal policy. I wish him and his wife Vyonne, good health and happiness, and hope they will rejoin us.●

● Mr. SUNIA. Mr. Speaker, American Samoa was not represented in the Congress of the United States until January of 1981. But Congress was aware of the territory and paid attention to its problems long before I got here to begin that representation. As a matter of fact, this Congress has been remarkable in its attention to our needs for the last several years. One of the men responsible for that is a Member of Congress who is about to leave his seat and return to his home in the great State of California.

This Member is not an American Samoan. He owes no obligation to the islanders. He almost did not have a reason to do what he did. I remember going to see him to seek his support, even before I came here. He was always willing. He was kind. He cared.

Mr. Speaker, I speak of the Honorable DON H. CLAUSEN. And I speak for all of the people I represent. He is an American and a Congressman who will always stand tall among the Americans of Pacific islands. He treated the Samoans, the Guamanians, the Marianas and everyone else out there as if they were his own constituents. We did not, and will never have the privilege of casting a vote in his support. And that is really not fair, for this gentle and kind person voted for us time and time again. I can never recall DON CLAUSEN ever turning us down.

Acting Governor Tufele Li'a, on behalf of Gov. Peter T. Coleman, the government and the people of American Samoa, has asked that I incorporate in these remarks the following:

Hon. DON H. CLAUSEN,
Congress of the United States, Rayburn House Office Building, Washington, D.C.

I am moved to extend to you my deep appreciation, as you prepare to vacate the hallowed seat for the great state of California which you occupied with distinction and with great benefit to American Samoa. Our people and government have seen great strides in their political, economic and social development. The invaluable assistance which you readily extended with remarkable sensitivity to the uniqueness of our culture and special situation of small island economies was, to a large extent, responsible for these accomplishments. We look forward to continuation of our relationship. May God continue to grant you wisdom and success in the future. With warmest "alofa".

Fa'afetai tele,
High Chief TUFELE LI'A,
Acting Governor, on behalf of Governor Peter T. Coleman, the government and people of American Samoa.●

● Mr. SHUSTER. Mr. Speaker, I join today in the tribute to the Honorable ROBERT K. DORNAN who will be leaving the House of Representatives after this Congress.

For the past 6 years, ROBERT K. DORNAN has very capably served the people of the Nation and his district. As chairman of the House Task Force on Americans Prisoners and Missing in Southeast Asia, he has diligently pursued the difficult task of seeking an accounting of those servicemen still listed as missing in action in Vietnam.

ROBERT DORNAN, who served as a fighter pilot for the U.S. Air Force for 5 years, is a knowledgeable and persuasive advocate for the strengthening of America's strategic Triad defense system. His efforts to bring about tax reform were influential in the passage of the individual tax rate cuts in 1981.

We will miss the valuable contributions and hard work that he always demonstrated in his efforts in Congress. I know that he will use those qualities to great success in the future.●

● Mr. SENSENBRENNER. Mr. Speaker, at the end of this Congress, after five terms serving the 43d Congressional District of California, Congressman BURGENER has chosen to retire. At this time, I would like to join with my colleagues in recognizing his commitment to his district, his Nation, and his party.

His dedication and concern for his district is reflected in his long record of service at all levels of government. In 1953, he was elected to the San Diego Council where he served as a member and deputy mayor. From 1963 to 1967, he represented California's 76th Assembly District in the California Legislature and served from 1967 to 1973 as a State senator for the 38th Senatorial District. Since 1973 until the present, we have been privileged to serve with him in the House of Representatives.

As a Member of the House, I have shared with him, on many occasion, the goals he has worked for. He has been both a solid advocate of immigration reform and strong proponent of fiscal restraint and control of big government.

During his tenure in Congress, Congressman BURGENER has been sought after to take a leadership role. As Secretary of the House Republican Conference, he has been both hardworking and effective. I join with my colleagues in honoring the distinguished service of Congressman CLAIR W. BURGENER.●

● Mr. SHUSTER. Mr. Speaker, I am proud to rise today to join with my colleagues in acknowledgement of the outstanding service of the Honorable JOHN ROUSSELOT, who will be leaving the House at the end of this Congress.

JOHN ROUSSELOT has earned my profound respect, and that of the rest of Congress and indeed the Nation for his consistent stand in support of a balanced Federal budget. He fought a courageous and often lonely fight for fiscal responsibility long before it became a popular position to take. JOHN ROUSSELOT recognized earlier than most that excessive taxation destroys the initiative of businesses and individuals, and that Government interference in the marketplace leads to economic stagnation.

The people of the 24th District of California have been well served by his able and tireless efforts. His leadership in the House and in the key Ways and Means Committee will be sorely missed, but he leaves behind a House with many more voices that have picked up his cry for more sensible fiscal policy.

I wish him all of the best in the future.●

● Mr. SHUSTER. Mr. Speaker, I rise today to join in tribute to our friend and colleague CLAIR W. BURGENER, who will be retiring from the House of Representatives after 12 years of distinguished service.

CLAIR BURGENER's leadership will be greatly missed by the Members of the House, and by the members of his party. He has earned the respect and admiration of his colleagues, and when elected to the post of secretary of the House Republican Conference, he showed through his hard work that our confidence in him is well founded.

His efforts on the behalf of our Nation's mentally retarded citizens have had a direct and positive effect on many families. His work on the appropriations committee has helped to set the direction of Federal fiscal policy, and his guidance will be missed in the trying times ahead.

I would also like to thank him for his thoughtful assistance to me, which has been invaluable in my experience in Congress. I have benefited from having him as a friend and colleague, and I wish him the best in the future.●

● Mr. GILMAN. Mr. Speaker, I would like to thank my colleagues, the gentleman from California, DAVE DREIER and CARLOS MOORHEAD, for requesting today's special order. I join them and other Members of this body in paying tribute to JOHN ROUSSELOT, an outstanding American and dedicated Congressman.

JOHN ROUSSELOT has served in this House for a long time—so long, in fact, that his absence will be extremely difficult for those of us who admire not only his legislative skills and accomplishments but his wit, as well as his integrity. JOHN has always had the concerns of his consitutents in the forefront of his thoughts and actions, as his dedicated service on the Ways and Means Committee will attest.

JOHN ROUSSELOT has been a leader in the fight for fiscal responsibility as well as moral responsibilities. Many times I found him on the floor of the House speaking extemporaneously on one matter or another, and I marveled at the breadth of his commentary. I will always remember the tireless hours JOHN put into Soviet Jewry legislation, which is of such importance to us both, and I personally appreciate the many times JOHN courageously stood up for what might have been an unpopular opinion. Certainly, the House of Representatives is a forum for differing opinions, and I for one, have always appreciated and listened to what JOHN ROUSSELOT has had to say. He is one Member who we will miss a great deal, and I certainly hope that JOHN will not be too far from us and will continue to give us the benefit of his views in the future.●

● Mr. ANDERSON. Mr. Speaker, before this 97th Congress adjourns and becomes a part of history. I would like to take just a moment to say a few words about my colleague from California, the Honorable WAYNE GRISHAM.

WAYNE and I have been good friends for some time. His election to Congress only enhanced and strengthened this bond between us. Because of his assignment on the Public Works and Transportation Committee I was able to work with WAYNE on a number of projects which benefited our constituents.

Although WAYNE has been with us only a short 4 years, he has done much for the betterment of our Nation. I have seen him, firsthand, put in many hours on our committee so that he may better understand the issues before us. Because of WAYNE's knowledge and insight into the needs of southern California, I have been able to openly discuss many subjects which affect our constituents. It has been through these conversations that I was able to formulate a more knowledgable position on a particular matter and, hopefully, get it enacted into law.

Due to reapportionment, I will be representing part of WAYNE's current district in the 98th Congress. I am looking forward to this challenge and hope that I can call on WAYNE for advice so that I may best represent this area. WAYNE has contributed much and I shall miss seeing him in this Chamber and in committee.

My wife, Lee, joins me in extending to WAYNE and his wife, Mildred, and their three children, Cathy, Randall, and Kelly, all the best in their future endeavors.●

● Mr. BEVILL. Mr. Speaker, my close friend and one of this body's most dedicated Members, DON CLAUSEN, has effectively represented his constituents for 20 years in the U.S. House of Representatives.

In addition, DON has worked hard to develop this Nation's ports, waterways, and other public works projects, in his position as ranking minority member of the Public Works and Transportation Committee. DON CLAUSEN was trying to solve the problems of our country's ailing infrastructure long before the word ever appeared in our Nation's media.

I have been privileged to work with him in these efforts and I consider DON CLAUSEN to be one of the best informed Members of Congress as to the real needs America has for rebuilding and strengthening its network of public works.

Personally, I will miss DON's bright presence in this body, but I am grateful to him for the tireless and often untold sacrifices he has made to help prepare this Nation for the future. DON CLAUSEN has been an able and respected Member of the U.S. House of Representatives.●

● Mr. GILMAN. Mr. Speaker, this Congress is going to miss Congressman BOB DORNAN who has been throughout the years one of the most effective and articulate legislators that I have known.

BOB's interest and enthusiasm on a wide range of topics has become his hallmark in the Congress. He will be perhaps best remembered for his selfless dedication and work in the issue of our servicemen listed as missing in action and prisoners of war. Under his able chairmanship of the House Task Force on MIA's, Americans again learned that their Congress had not abandoned the MIA's and POW's left behind in Southeast Asia. As long as BOB DORNAN was there, a flame was burning bright for all to see.

BOB and I traveled to Hanoi to request that the Vietnamese Government redouble their efforts in seeking information and the remains of our 2,500 Americans missing in action. Both the American delegation and the Vietnamese officials were deeply impressed by BOB's incredible memory for details, by his articulate analysis of the situation and by his compassion for the families of the missing in action. I can think of no one whose grasp of the issue equals BOB DORNAN'S.

One of the most laudable and estimable characteristics for which BOB DORNAN will be remembered is his ability to put everyone at ease, and to listen to each person's story. From the Vietnamese refugees he interviewed to the Vietnamese officials, from the generals in our own Government to the families of our servicemen, BOB's com-

passion and charisma made all people at home, and gave them the confidence that their views made a difference.

Our Nation found a patriotic and dedicated public servant in BOB DORNAN. His concerns for our national defense, for international human rights, for our older Americans, our Armed Forces, and our American form of government have restored the faith of many in our Congress.

I am certain that after BOB leaves the Congress that his burning interest and dedication will not diminish. I am certain that wherever he goes and whatever BOB does, Americans will be nobly served by his wisdom and devotion.

We will all miss BOB DORNAN and we all know that he is irreplaceable here and in our hearts. Good luck, BOB DORNAN.●

● Mr. RUSSO. Mr. Speaker, I know when Representative DON CLAUSEN leaves Congress we are not only losing a hard-working Member but the best "old man" ballplayer we ever had. It is not often you have someone who can manage the tricky maneuvers of the congressional ball play as well as the complexities of public works.

DON has been a good friend, and I know we are going to miss him here. His constituents and the country have been well-served by his commitment and his ability to see projects through, and while I have never had the privilege of working with him on committee I have certainly enjoyed our work together on the floor.

Whatever DON is doing, I know he will always apply the same tenacity and talent that we have seen so ably demonstrated in his years here in Congress. I am pleased to join with my colleagues in commending DON for a job well-done and to wish him continued success.●

● Mr. ANDERSON. Mr. Speaker, among those who will not be with us in the 98th Congress will be our good friend and colleague from California's 43d Congressional District, the Honorable, CLAIR W. BURGENER.

Long before I was elected to Congress, I became friends with CLAIR. His vast experience in the California State Legislature enabled him to enter Congress with a thorough understanding of the legislative process and thus the necessary skill for getting a job done. His contributions to this Nation—especially to the State of California and the city and county of San Diego—are many and his absence in future Congresses will certainly be felt.

CLAIR's assignment on the Appropriations Committee has enabled him to do much for his constituents. However, he always looked at our national needs and made appropriated judgments.

Often I would look to CLAIR for help on a particular project and usually we were successful in our efforts. It did not matter to CLAIR whether you were Republican or Democrat, if you needed assistance in getting a project funded, CLAIR would carefully study it on its merits and would make an appropriate decision. His service and tireless work was always performed with the utmost efficiency and competence, coupled with the keen insight and intelligence necessary to effectively deal with the many intricate pieces of legislation which come before the Appropriations Committee.

When the 98th Congress convenes, you can be sure that CLAIR's presence and friendly disposition will be greatly missed by all of us who have had the pleasure of serving with him. CLAIR has been a good friend of ours through the years and has continuously shown enormous wisdom in understanding the needs which face the people of San Diego and the State of California, as well as the other 49 States

My wife, Lee, joins me in saying farewell to CLAIR and his wife, Marvia, on this occasion. We wish them and their sons, Greg and John, the best in their future endeavors.●

● Mr. GILMAN. Mr. Speaker, I appreciate the fact that time has been allowed for us to pay special tribute to the Honorable CLAIR BURGENER of California, after 10 years of dedicated and tireless service on behalf of the people of southern California.

I know CLAIR BURGENER as an involved and caring man. Through his service on the Appropriations Committee, he has had the opportunity to review every social program, every fiscal program, and every military program. And CLAIR has considered each and every proposal with his customary equanimity and good sense.

CLAIR's congressional service has been highlighted by his distinguished membership on the President's Committee on Mental Retardation, as well as service on the National Advisory Committee on Handicapped Children. His careful consideration of the particular needs of our handicapped only serve to emphasize the important role that CLAIR has played here in the House of Representatives over the years, as well as the valuable contribution that has benefited all Americans.

As such, Mr. Speaker, I am saddened by the fact that CLAIR will not be among us for the 98th Congress; however, I understand his reasons for retiring at this time. So, I wish CLAIR, and his lovely wife Marvia and their family the best of good health and success in the coming years, secure in the knowledge that he has done more for the people of his district than most other Members.●

● Mr. RUSSO. Mr. Speaker, if I had to share the Most Valuable Player Award with someone in my first congressional baseball game, I am delighted it was PAUL MCCLOSKEY. As I was to find out in my work in Congress, PAUL fights well and hard, whether he is member of a team or taking a courageous stand alone. Congress works best when there are such courageous men who will take the lead and champion a course regardless of political consequences.

PAUL is a man of many talents. I do not know if we made any sports commentary history with Joe Garagiola on the congressional ball game but certainly PAUL demonstrated his prowess for shrewd analysis. This same thoughtful and incisive approach to issues of national and worldwide significance gave him a well-deserved stature as a man to be heeded. He knew what he was talking about and he became an important spokesman for progressive Republicanism. Because he backs up his beliefs with action, he is a man to be greatly respected.

I am sorry the Congress is losing this distinguished Member. He has served with integrity and commitment, but I know he will continue to be active in world affairs and to be a man who has an impact, who makes us think. I join my colleagues in wishing his continued success.●

● Mr. ERLENBORN. Mr. Speaker, DON CLAUSEN, our colleague from California's Second District, has made scores of contributions to the commonweal during his 20 years as a Member of this House, and I am proud to join in this tribute to him.

When I think of DON CLAUSEN, I think about the national parks and wildlife refuges, the scenic wonders and nature trails which have been preserved because of his work on the Interior and Insular Affairs Committee. When I think of DON CLAUSEN, I also think about the dams and bridges that have been built and those that have not because of his efforts to weed the worthy and necessary projects from those that are only a good idea.

DON's labors, however, did not begin and end with his committee assignments. Thus, when I think of DON CLAUSEN, I also recall his untiring work to make the guaranteed student loan program work; and I recall his dedication to one of our most sacred principles as a Nation—religious freedom.

Together we succeeded in getting the law passed which says Americans need not choose between their religion and a job, that those who hold religious beliefs against joining or financially supporting labor unions need not do so.

DON can go forth to a new chapter in his life knowing that he has been a stellar public servant. He will be missed by this colleague, but I wish him well.●

● Mr. SENSENBRENNER. Mr. Speaker, as the 97th Congress draws to a close, I am glad to have the opportunity to join with my fellow colleagues in extending my thanks and appreciation to Congressman WAYNE GRISHAM for his service in the House of Representatives.

As a strong opponent to the creation of the Department of Education, he took an uncompromising stand, as a member of the Committee on Government Operations, on its creation. In addition, he has worked consistently to bring the fundamental values back in to our American way of life. His support of a constitutional amendment to restore prayer back in the public schools exemplifies his relentless belief in these ideals.

WAYNE, I join with my colleagues in honoring your distinguished service in the House of Representatives and your dedication to the constituents of the 33d Congressional District of California.●

● Mr. ANDERSON. Mr. Speaker, I am deeply honored to join with my colleagues in paying tribute to our good friend, Hon. DON CLAUSEN.

DON, who will be leaving us this year after serving 20 years in Congress, has done a great job for his district, the State of California, and the Nation. I have had the distinct privilege of serving with DON on the Public Works and Transportation Committee my entire 14 years in the House. It is through this committee assignment that I developed my great respect for DON.

Through all these years, I have been continually impressed with his desire, intelligence, wit, and dedicated hard work for the people of this country. Time, and time again, I have seen him operate in committee hearings and markups with the greatest finesse in striking compromises with other members so that a particular measure could be reported out on to the House floor.

He has truly become an expert in all fields which the jurisdiction of the Public Works and Transportation Committee encompasses. Whether it be in aviation, water pollution, port dredging, highway financing, or the construction of public buildings, DON has been able to offer us insight which many are not able to do. Next year, when the committee meets, I will truly feel a sadness for not being able to walk over to DON in a crucial situation and ask for his advice.

Although DON always worked for the betterment and development of the entire Nation, he kept a close eye on the needs of his constituents and the needs of our State of California. Every major bill, which has been reported out by our Public Works and Transportation Committee, was thoroughly reviewed by DON and his staff so they could see how it affected our State—and this is critical in these times when funds are scarce and budgets are tight. It has always been comforting for me to know that DON would look out for the best interest of California in case something might have slipped by me. For if something did, DON was right there to point it out, get our attention, and get the situation fixed. DON was above the partisan bickering which could occur in committee. If he felt a certain way on a particular bill, he voiced his opinion and let the chips fall where they may.

His leadership has been appreciated and his guidance will be missed. Although the rest of the country will miss the services of DON, and his wife, Ollie, my wife, Lee, and I will miss their friendship and warmth. We wish DON and Ollie, and their daughters, Beverly and Dawn Marie, all the best in their future endeavors.●

● Mr. SENSENBRENNER. Mr. Speaker, I am glad to have this occasion for extending gratitude and wishing good luck to my colleague, Representative BARRY M. GOLDWATER, JR., while being the son of BARRY GOLDWATER, SR., BARRY JR. has distinguished himself as a knowledgeable and respected Member of Congreess in his own right. Not only has he brought to this body his expertise in aviation—his beloved avocation, he has also brought with him his unswerving devotion to both his own constitutents and to all the people of this Nation.

Being a fellow conservative Republican, I have been fortunate to work with BARRY on numerous occasions. Most recently, during this Congress, I served on the House Science and Technology Committee with him, and gained further respect for his knowledge of the many issues considered by that committee. And further, I have been lucky to have known BARRY for years now, having worked with him in the California Republican campaign in 1964. I am going to miss him in Congress, and know this country will miss him. I wish him the best of luck in his future years, knowing he will add an element of quality in whatever he does.●

● Mr. CAMPBELL. Mr. Speaker, I am honored today to participate in this special order for our distinguished colleague from California, WAYNE GRISHAM.

No stranger to difficulty after being held as a prisoner of war in World War II, WAYNE GRISHAM not only won election as a Republican in a district with a Democratic majority of registered voters, but served the 33d District admirably. Working on both the Post Office and Civil Service and Public Works and Transportation Committees, WAYNE GRISHAM was a marked asset to his delegation and to the Nation.

Certainly, WAYNE GRISHAM will be missed by this body. I am sure that he will continue to be successful in his future endeavors.●

● Mr. SENSENBRENNER. Mr. Speaker, I join with my fellow colleagues in expressing my thanks and appreciate for the opportunity to serve with Congressman PETE MCCLOSKEY.

He is a man of principle and conviction. He has supported the causes he believes in even though sometimes it was not popular opinion with the public or his party. Yet, at the same time, he has faithfully represented his constituency, the 12th Congressional District of California. This dedication was reflected time and again as he was reelected six out of seven times with a majority of over 70 percent.

In his 13 years in Congress, PETE has provided leadership in a wide variety of issues important to his district and the Nation. Whether it be his stand on environmental issues or his position on the Vietnam war, he was a champion of the cause. His accomplishments are numerous as legislator, author, and citizen. It is with regret that we say goodby to this fourth-generation California Republican. His persistant drive in addressing the issues along with his deep concern for them, has made the current chairman of the bipartisan Environmental Study Conference, an invaluable assest to the House of Representatives. I join with my fellow colleagues in honoring PETE and wish him only the very best in the future.●

● Mr. MONTGOMERY. Mr. Speaker, I want to join with my colleagues today in paying tribute to one of the most respected members of this Chamber, the Congressman from California, DON CLAUSEN.

After a long and successful business and State political career, DON was elected to the House of Representatives in 1963. Since that time, he has been a most effective member of this Chamber. I know his leadership and experience will indeed be missed when the 98th Congress convenes in January.

DON worked very hard for the people of his Second District. He was also very active in committee work. He was a member of the Interior and Insular Affairs Committee, and he was the ranking Republican on the Public Works and Transportation Committee. His contributions to these committees were very valuable.

DON has gained the respect and admiration of his colleagues over the years. I want to point out that he has been a most distinguished Congressman for nearly two decades. A man of his high integrity and knowledge will not easily be replaced in this Chamber. I want to commend him for a job well done.

Mr. Speaker, I am most honored to take part today in this tribute to my friend, JOHN ROUSSELOT.

Since his election to the House of Representatives in 1961, JOHN has consistently been a strong conservative voice in this Chamber. His very articulate speaking manner and his experience will definitely be missed here in Washington.

JOHN has been a hard worker for his congressional district in California, but he has also been a strong force for the National Republican Party, serving as vice chairman of the Republican Study Committee and executive vice chairman of the National Republican Congressional Committee.

JOHN has served on a number of committees during his tenure in the House. He has been a member of the Budget Committee, as well as the Post Office and Civil Service Committee and the Banking, Finance and Urban Affairs Committee.

In the 97th Congress, JOHN has been active on the Ways and Means Committee and on the Joint Economic Committee.

I have come to respect JOHN ROUSSELOT over the years. He is a very personable man who has great leadership ability. I am sure his political experience and that leadership ability will be a great asset in the years ahead. Men of his high integrity, experience, and honesty are hard to replace. We will miss him.

Mr. Speaker, I am honored to join with my colleagues today in this tribute to the Congressman from California, PAUL MCCLOSKEY.

PETE came to the House of Representatives the same year I did, 1967, and although he and I have disagreed on the issues many times, I consider him a good friend.

We served together on the Select Committee on Missing Persons in Southeast Asia, where I found him to be an intense and hard working man, determined to find the truth. He was a great help to me on that committee.

I know he has worked with equal tenacity on the Merchant Marine and Fisheries Committees, and the Government Operations Committee. He can be proud of the service and contributions he has made to this Congress.

The people of the 12th District, who reelected PETE seven times, will no doubt miss his leadership and voice here in Washington. He has always been a fighter for his district and I know service to them has been a top priority.

As you may know, PETE was active in the Armed Forces of this country and then as a successful attorney before coming to Congress. In fact, he won the Navy Cross, Silver Star, and Purple Heart while serving in Korea with the U.S. Marines. He was in the U.S. Navy in 1945-47. He retired with the rank of colonel in the Ready Reserve, where he served from 1960-67.

I want to wish the best for PETE MCCLOSKEY. I would not be surprised if he is heard from again on the political scene in California in the years to come.

Mr. Speaker, I am happy to add my name to the list of colleagues in this special order on BARRY GOLDWATER, JR.

Since his election to Congress from California's 20th District in 1969, BARRY has been a strong conservative voice in this Chamber. He will not be in the House in January as the new Congress convenes and we will miss him.

During his tenure here, BARRY has worked hard on the Science and Technology Committee and he has also made a great contribution to the Public Works and Transportation Committee.

I know his constituents in the 20th District will miss his service and hard work on their behalf. I am sure, however, that BARRY GOLDWATER, JR., will continue to speak with a forceful voice for conservative causes across this Nation for many years to come. Public service has been a tradition in his family for so many years and I can say that this Nation has benefited from that service.

I want to express my appreciation to him for his contributions to the Congress and wish the very best in the years ahead.

Mr. Speaker, I am happy to take part in this tribute to Representative CLAIR BURGENER, who is retiring from service in the House of Representatives after 10 years. He represented the people of California's 43d District with distinction since 1973. We will miss his strong leadership in this Chamber.

CLAIR BURGENER began serving his country long before coming to the House of Representatives. He flew in the U.S. Army Air Corps in World War II and earned the Air Medal in 1945. During the Korean conflict, he was recalled for active duty with the U.S. Air Force.

After this service, he went into politics and worked his way up as councilman and then vice mayor of the city of San Diego, California State assemblyman, and State senator before running for Congress.

CLAIR has served as secretary of the Republican conference and his experience and leadership have been counted on over the years. He has also been a valuable member of the Appropriations Committee.

I understand he is headed back to California to enter private business and possibly teach political science. I want to wish the best for him in these future endeavors. We will miss him here in Washington.

Mr. Speaker, it is a pleasure for me to join in this special order today on Representative ROBERT DORNAN. He will not be among us in the 98th Congress, but I do not think we have heard the last of BOB DORNAN. There is always a place in public service for a man of his experience and high integrity.

During his three terms in the Congress, BOB DORNAN has distinguished himself as a champion of conservative causes. He is credited with invention of the POW/MIA bracelet and he has worked most diligently on their behalf. He has been active in the VFW and Air Force Association. BOB served this country in the U.S. Air Force as a fighter pilot from 1953-58 before turning to broadcast journalism, where he won two Emmys in 1968 and 1969.

BOB has been a leader on the Select Committee on Drug Abuse and Control, as well as the Committee on Drug Abuse in the Military. He also has been very active on the House Foreign Relations Committee and he is a member of the Republican Task Force on Defense.

As you can see, BOB DORNAN has been a fighter for the people of the 27th District of California and for this country. I am sorry this hard-working and dedicated American will not be back in the House, but I know the future is still bright for him and I want to wish him the very best.

Mr. Speaker, I want to join in this tribute to the gentleman from the great State of California, WAYNE GRISHAM.

WAYNE is truly an outstanding American and he can be proud of his fine accomplishments as a Member of the House of Representatives. Before being elected to this Chamber, WAYNE had been a successful businessman and teacher. In addition, he served with distinction in the U.S. Army Air Corps in World War II as a fighter pilot in Europe. He was shot down and was a prisoner of war. WAYNE won the Air Medal and the Purple Heart for his service to the Nation.

After coming to Congress, he has become very active on the Post Office and Civil Service Committee, as well as the Public Works and Transportation Committee. His contributions have been most valuable to these committees.

WAYNE is a man of great integrity and I know the people of the 33d District are proud of his work on their behalf. As he returns to private life, I am sure WAYNE will continue to be an influential leader in his community and the State.●

● Mr. CAMPBELL. Mr. Speaker, I am pleased to be able to take part in this special order today for our distinguished colleague and good friend, BARRY GOLDWATER, JR. It has been a pleasure serving with him during my tenure in Congress.

During his 13 years of service in this body, BARRY has provided excellent representation for his consitituents in the 20th District of California. He has

worked tirelessly on both national and local issues, which has contributed to his expertise in various legislative areas. His knowledge and hard work will be missed on both the Public Works and Transportation and Science and Technology Committees.

BARRY's achievements reflect his sincere interest in people and his strong concern for the welfare of our Nation. His service to the people of California and the Nation as a whole are a tribute to his dedication and strong sense of duty, which are well known attributes of the Goldwater family. Although BARRY GOLDWATER will be sorely missed in the House, I am sure that he will be successful in his future endeavors.●

● Mr. SENSENBRENNER. Mr. Speaker, on this occasion, I am happy to join my colleagues in extending gratitude and thanks to Representative DON CLAUSEN for his years of service in the House of Representatives. Elected in a special election in 1963, DON has worked with unswerving devotion to his constitutents and his country. Distinguishing himself as a naval aviator, DON gave 4 years to serving in the military and then stayed involved with aviation in the capacity of Del Norte County aviation director until running for Congress.

DON's years in Congress are a reflection of the respect so justly given him by his fellow colleagues. This Congress, DON served as ranking Republican on the House Public Works and Transportation Committee and also as second ranking Republican on the Interior and Insular Affairs Committee. As an ardent advocate for protection of the environment, over the years, DON has played an important role in such big issues as Alaska lands, Energy Mobilization Board, and national parks. Paying homage to the mighty redwood trees native to his district, DON has sought to preserve the delicate balances between utilization and preservation which are so essential in formulating a national environmental policy. This sense of foresight and direction exhibited on so many occasions by DON over the years will be sorely missed in Congress. I wish DON the best of luck for the future, knowing he will add an element of quality to whatever he does.●

● Mr. CAMPBELL. Mr. Speaker, I join my colleagues today in paying tribute to our distinguished colleague, DON H. CLAUSEN.

DON's service in this body speaks for itself. His work in the Committee on Interior and Insular Affairs, and as the ranking minority member of the Committee on Public Works and Transportation has been untiring and diligent. Representing a district with diverse interests and views, DON has displayed the judicious care in decisionmaking which is vital to being an effective Representative. Coming into the House after a special election, DON quickly established himself as a knowledgeable legislator and began displaying his effective leadership skills immediately.

DON CLAUSEN, after his 19 years of dedicated service, will leave large shoes to fill in the California delegation and in this body. I certainly wish him the best in his future endeavors.●

● Mr. HOWARD. Mr. Speaker, it gives me great pleasure to join with our colleagues in a tribute to DON CLAUSEN. He has certainly rendered outstanding service to California and this Nation and deserves this tribute in full measure.

DON CLAUSEN has been a devoted public servant for most of his life. A look at his accomplishments certainly illustrates this fact. DON was first elected to the House of Representatives in 1963 from the Second District in California. Prior to that, DON served many years in the Del Norte County government as a member on the county supervisor's panel and as its aviation director. Don also was a pilot with the U.S. Navy during the years of 1943–47.

It has been my special privilege to work with DON over the years on the Committee on Public Works and Transportation. As chairman, I have been extremely fortunate to have DON CLAUSEN as my ranking minority member. He has at all times been willing to work in a spirit of cooperation to confront the issues within the committee's area of jurisdiction.

With the passage of the Surface Transportation Act of 1982, DON's career in the House is coming to a successful end. His endless work on this legislation insures a strong transit system for future generations.

We all know of his expertise in aviation; but diligence in his duty did not end there, he addressed himself to all our areas of responsibility with the needs of his constituency, State and the Nation foremost in mind.

I shall lose a great friend. The committee will lose a wise counselor, and the Nation a distinguished public servant.

I join with my colleagues in wishing him a fruitful and happy life in his future endeavors. I certainly hope we will continue to see and hear from DON CLAUSEN.●

● Mr. SENSENBRENNER. Mr. Speaker, I am glad to have this opportunity to join with my colleagues in extending thanks and appreciation to Representative BOB DORNAN for his service in the House of Representatives. Since his election in 1976, he has added much color to this body with his remarks and efforts in support of his beliefs. But more importantly, BOB has added integrity to the House as he fought for the protection of this Nation's citizens. As a strong prolife advocate, he took uncompromising stands time and again on behalf of the unborn. And in seeking to protect the American way of life, he consistently supported a strong national defense—both militarily, and in formulating a decisive foreign policy. As a fellow Republican, I was always glad to know BOB was on the side aiming for better government through less government control. As a fellow Congressman, I will miss BOB greatly, but am grateful to have had the chance to work with him in Congress. I wish BOB a happy and fruitful retirement.●

● Mr. BADHAM. Mr. Speaker, this evening, as we take time from the legislative business at hand to recognize our departing colleagues, I want to say to my colleagues on the California delegation who are retiring that it has been a special honor to serve with them. Not only has it been a fulfilling, challenging experience to work in concert with JOHN ROUSSELOT, CLAIR BURGENER, WAYNE GRISHAM, DON CLAUSEN, BARRY GOLDWATER, JR., PETE MCCLOSKEY, and BOB DORNAN; it has been a pleasure as well.

The California Republican delegation, despite its size and diversity, has over the past several years been able to work well together as a group for the good of the people of California we represent and for the country. In doing so, we have maintained a mutual respect for one another, even when our opinions differ, and a camaraderie that helps to make Washington's cold winters and humid summers more tolerable.

The accomplishments of these seven members are many and their talents and legislative victories reflect the qualities of leadership, independence of spirit and diversity for which California is known.

For example, CLAIR has been part of the House Republican leadership in his role as secretary of the conference and has been an effective member of the Appropriations Committee. He has also been a leader in protecting the interests of America's handicapped and disabled citizens.

CLAIR and I have worked closely together on issues which effect southern California, such as the problem of beach erosion in Oceanside. He has been a friend since our days together in the California legislature and his advice and help when I first came to Congress were invaluable.

The dean of our delegation, DON CLAUSEN, holds the influential positions of ranking minority member of the Public Works and Transportation Committee and second ranking minority member of the Interior Committee. As such, he has been in the center of the debate on issues ranging from clean water programs, flood control and water conservation to the state of our Federal highways, harbors and airport-airway systems. DON initiated the

push for legislation to establish a 200-mile limit to protect U.S. fishing interests, which was enacted in 1976.

Off the floor, DON took to the baseball field for the annual congressional baseball game, playing real hardball against the Democrats and bringing fun and excitement to many while raising funds for charity.

JOHN ROUSSELOT is well-known for his watchdog role on the House floor, a role which he has used to fight for a balanced Federal budget, lower taxes and less government. In addition, JOHN has worked tirelessly for other California Republicans as vice chairman of the National Republican Congressional Committee and chairman of the Congressional Target Committee in California.

PETE MCCLOSKEY is a Member who has never been afraid to follow his conscience and strike out on his own. PETE chairs the Environmental Study Conference, is a ranking minority member of two subcommittees and serves as an adviser to the U.S. delegation to the U.N. Law of the Sea Conference. Among other legislative accomplishments, he was the main force behind abolition of the Renegotiation Board and the first rollback of the capital gains tax rate. Also, like DON, PETE helped give the Democrats a real challenge on the baseball field each year.

BARRY GOLDWATER, JR., is recognized for his expertize on the subject of aviation and is considered a principal spokesman for general aviation in particular. Also, he is a proponent of legislation to protect the personal privacy of Americans and authored the landmark Right to Privacy Act of 1974, which is now law.

A number of awards have been received by WAYNE GRISHAM for his work in the Congress. These include the Republican Policy Award, the Disabled American Veterans' National Commanders' Award, the Coalition of Peace through Strength Leadership Award and one from the National Taxpayers' Union. Personally, I think WAYNE deserves an award for his skills as a host, which I experienced firsthand on Catalina. Also, an achievement of which WAYNE is rightfully proud is the enactment of legislation to prohibit housing subsidies to illegal aliens.

On numerous conservative issues, BOB DORNAN has been in the forefront of the legislative area. BOB has been influential on issues such as restricting Federal funds for abortions, restoring fiscal responsibility to the Government and providing for a strong U.S. defense posture. In fact, like me, BOB personally checks out the aircraft used by our Armed Forces.

As my colleagues can see, a broad range of interests have been successfully pursued and many important goals have been achieved by these Members. They have left their mark on the affairs of the Congress and the Nation, and they have set a fine example for those will serve in the next Congress.

DON, CLAIR, PETE, JOHN, WAYNE, BOB and BARRY will be missed, each in a different way for the different contributions they made. Beyond their political and legislative accomplishments, each of them will be missed for the close friendship which we have shared with them on the Hill and which I know we will want to continue off the Hill in the years ahead. I urge my colleagues to join me at this time in saluting them and thanking them.●

● Mr. CAMPBELL. Mr. Speaker, I am pleased to join in this salute to our distinguished colleague PETE MCCLOSKEY, for his outstanding service to the House of Representatives.

During his tenure in Congress, PETE has established himself as one of the most dedicated and honorable men. He is highly respected for his independent thinking and his hard work on the Government Operations and Merchant Marine and Fisheries Committees. Although PETE has many legislative accomplishments, he will be most remembered for his vigilence in protecting our environment.

PETE'S service to the people of California's 12th District and the Nation as a whole will be sorely missed. His compassion for people and desire to improve the lives of Americans are values that he not only held, but practiced. I wish PETE MCCLOSKEY well in his future endeavors, as I know that he will be successful.●

TRIBUTE TO FIORELLO LA GUARDIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. BIAGGI) is recognized for 30 minutes.

GENERAL LEAVE

Mr. BIAGGI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BIAGGI. Mr. Speaker, I have reserved this special order today to honor the centennial birthday of one of the truly greats of American history—Fiorello H. La Guardia.

He was born in New York City on December 11, 1882. They called him the "Little Flower," yet no man stood so tall in the hearts and minds of those who came to know him. He served this Nation as Congressman and mayor of its largest city during very difficult times, and it was his untiring spirit and deep convictions—and those of others like him—that helped pull this country through two world wars, a great depression, rampant corruption, and a host of other mighty tests.

The "Little Flower" was indeed no small man. He served 12 distinguished years in this august body from 1917 to 1919, and from 1923 to 1933. Then, in 1933, he was elected mayor of New York City and he was reelected in 1937 and again in 1941, making him the first mayor of New York ever to be elected to three consecutive terms.

When he died in 1947 at the age of 64, his record of achievements was as impressive as the man himself.

I have vivid memories from my childhood of a fiery Mayor La Guardia campaigning from atop a truck in the Upper East Side of New York City. Several years later, I was honored to be a letter carrier who delivered mail to the mayor and his wife, Marie, at 1274 5th Avenue in East Harlem.

Later on, Mayor La Guardia provided me with yet another fond remembrance when he attended my swearing in as a New York City police officer.

To this day, I still have enjoyable chats with the mayor's wife, Marie, about our memories of the man who made such a positive impression on my life and the lives of so many others.

When we speak of honesty and fairness, we speak of Fiorello La Guardia. In 1917, his first year in Congress, he voted to declare war against Germany and then enlisted for military service himself, as he promised his constituents he would do.

When we speak of morality and justice, we speak of Fiorello La Guardia. An incorruptible man, Mayor La Guardia once told his beloved constituents, "I like Coney Island. I like its hot dogs, I like its popcorn . . . but I do not like immorality, indecency, commercialized vice and gambling," His actions spoke even louder. He destroyed slot machines on Staten Island, he led a police raid on gangsters in Manhattan, and he eliminated the considerable graft and corruption that existed within the city government before he took office.

And, when we speak of commitment and fortitude, we speak of Fiorello La Guardia. During his early years as mayor, he once wrote, "I shall not rest until my native city is the first not only in population but also in wholesome housing; not only in commerce but also in public health; until it is not only out of debt but abounding in happiness."

Although skilled in rhetoric, Mayor La Guardia was even better at producing results. Among his many accomplishments as mayor were the establishment of low-cost housing and slum clearance programs; improved health and sanitary conditions within the city; construction of many new public

school buildings; and the balancing of the city budget.

He also played a major role in city beautification efforts and promoted a number of major construction projects, including the Triborough and Bronx-Whitestone Bridges, the Queens-Midtown Tunnel, and the La Guardia Airport—which, of course, bears his name.

His dedication to important national causes was just as great during his 12 years in Congress. He gained national prestige as an outspoken opponent of prohibition, and as a major advocate of old-age pensions, unemployment insurance, and strict Federal control of water power and other natural resources.

But, perhaps his greatest accomplishments at the national level came in the area of labor. He was a leading supporter of the Davis-Bacon Act, which requires Government contractors to pay the prevailing wage rate to workers. The landmark prolabor law that bears his name, however, is the Norris-La Guardia Act of 1933, which restricts Federal courts from prohibiting certain organized labor activity—including the right to strike. As a coauthor of this watershed legislation, Fiorello La Guardia was clearly responsible for many of the early and subsequent gains of our Nation's organized labor movement.

Mr. Speaker, during his life, Mayor La Guardia served as an inspiration to many people, including myself, I feel strongly that his life and work can and should continue to inspire others. That is why I authored a resolution (H.J. Res. 595) earlier this year to designate Mayor La Guardia's 100th birthday, December 11, 1982, as "Fiorello H. La Guardia Memorial Day." This resolution unanimously passed the House on September 30 and is expected to be approved by the Senate later in the week.

Hopefully, this official recognition of Fiorello La Guardia's centennial birthday will revive memories of his greatness and will allow all Americans to gain from his worthy example.

As a New Yorker, I will never forget Mayor La Guardia's Sunday afternoon radio broadcasts. Sometimes he would read from the funnies; often, he would use the opportunity to warn the corrupt elements of the city that he was coming after them.

On one of these Sunday broadcasts, Mayor La Guardia admitted to being somewhat of a dreamer—a trait common to many other noble figures. He said to his loyal audience, "I once dreamed of a city called heaven and I tried to make it my New York." Fortunately, for New Yorkers and Americans everywhere, Fiorello La Guardia's dreams often became our realities.

● Mr. MINISH. Mr. Speaker, I am proud to join my colleagues today in saluting an outstanding American who contributed greatly to the welfare of the United States—Fiorello H. La Guardia. As a Congressman and mayor of New York City, La Guardia enacted many progressive policies which greatly benefited the country.

This Saturday marks the 100th anniversary of La Guardia's birth and I am pleased that this Chamber recently passed a resolution designating December 11, 1982, as Fiorello H. La Guardia Day.

Born to immigrant parents in the Italian section of Greenwich Village, New York City, La Guardia was raised on western army posts where his father served as an enlisted bandmaster. As an ambitious and idealistic young man, he worked his own way through New York University Law School at night, while working as an interpreter at Ellis Island during the day.

In the 1920's, La Guardia denounced the hypocrisy of prohibition and opposed the immigration laws as discriminatory. Moreover, he publicly criticized the tax plans of then Secretary of the Treasury Andrew W. Mellon as favoring the rich. La Guardia was also vocal in opposition to the "food trust," whom he saw as raising the cost of food beyond the buying power of poor Americans. Through these and other issues, La Guardia gained his reputation for commitment and courage on the issues of the day.

As mayor of New York City, from 1933 to 1945, La Guardia's accomplishments were numerous. He raised the general quality of life in the city—bringing many New Deal projects to New York and he helped to put men and women back to work. During La Guardia's administration, schools, bridges, roads, parks, and other projects were realized under the New Deal.

I am proud to say that Fiorello La Guardia's life is among the best in the tradition of American success stories and as an American of Italian descent, his accomplishments are especially meaningful to me.

I would like to thank the gentleman from New York, Mr. BIAGGI, for reserving this special order today so we may honor one of our most outstanding former colleagues.●

● Mr. PANETTA. Mr. Speaker, as an American, as an American of Italian descent, and as an American who believes that government and political leaders should play a special, helpful role in the lives of people, I am particularly proud to join the gentleman from New York (Mr. BIAGGI) and the rest of my colleagues in paying tribute to one of the great political leaders in our Nation's history, Fiorello H. La Guardia.

I was pleased to cosponsor the resolution which established December 11 as Fiorello H. La Guardia Day. This will be the 100th anniversary of his birth, and it is an appropriate time to remember and recognize his contributions to the lives of the people of this country and especially to the people of New York City.

I do not think it is a coincidence that Fiorello La Guardia's 12 years as mayor of New York coincided with the years that Franklin D. Roosevelt served as President of the United States. They were both leaders who felt that government existed to serve people, and during the most difficult economic crisis this country has faced in the 20th century, both did their best to restore the faith of their constituents in this country and in themselves.

Mr. Speaker, Fiorello La Guardia is remembered with great fondness by people all around this great country. He was a special man, a special leader, and I think my colleagues will agree with me that this kind of leadership—dedicated, creative, and incorruptible—is sorely needed in our country today.●

● Mr. ADDABBO. Mr. Speaker, I am pleased to join my colleagues today in paying tribute to a great New Yorker, Fiorello Henry La Guardia, on the 100th anniversary of his birth.

This occasion offers us a wonderful opportunity to recognize the many accomplishments and the remarkable character of "the Little Flower." Fiorello La Guardia was first elected to the U.S. House of Representatives in 1916, and participated in the special session called by President Woodrow Wilson to declare war against Germany. He left Congress for a 2-year period in 1919 to serve as president of the New York Board of Alderman, but returned to serve as a Member of Congress for 10 more years. In 1933 he was elected as mayor of New York City, and then reelected twice, becoming the first New York mayor to serve three consecutive terms. La Guardia's achievements as mayor are familiar to us New Yorkers and to those who have studied that great city's history. His work in balancing the budget, establishing low-cost housing, improving health conditions, and eliminating the graft and corruption in city government alone have carved a permanent place in history for him. In addition, La Guardia was involved in the promotion and construction of many major construction projects—the Triborough Bridge, the Queens-Midtown Tunnel, and the La Guardia Airport, later named after him.

Fiorello La Guardia, as a great New Yorker, a great Italian American, and a Member of this body epitomized the qualities so important to public service: Honesty, personal integrity, loyalty, and dedication. I am proud and honored to add my name to the long list of those who admire and respect this man.●

● Mr. BINGHAM. Mr. Speaker, I am grateful to my colleague from New York (Mr. BIAGGI) for arranging for this special order so that Members may pay tribute to that great New Yorker and American, Fiorello La Guardia, who was born 100 years ago this month.

While I did not know Mayor La Guardia personally, I admired him from afar, as did millions of Americans all over the country.

For this occasion August Heckscher, distinguished authority on urban America and author of a recent biography of La Guardia as mayor, has at my request submitted a statement about the significance of La Guardia's life and work, as follows:

It seems altogether right that the Congress should be setting aside time to take note of the hundredth anniversary of Fiorello La Guardia's birth. As one who in writing a biography of the mayoral years has lived in imagination with his deeds and personality, I am glad of the opportunity offered me by Congressman Bingham to pay a brief tribute.

La Guardia's record as congressman will undoubtedly be recalled by others. By itself it was sufficient to give him a place in history. But his twelve years in the office of New York's Mayor, carrying him through the crises of depression and war, saw him making an absolutely unique contribution. He may be said to have been the first of modern mayors, and to have made New York during his time the first of modern cities. When he came to office nine months after Franklin Roosevelt's inauguration the city lay crushed by debt, riddled with corruption, and reeling under the burden of unemployment. Physically, the city was still in the last stages of the nineteenth century, its neighborhoods isolated from another, its various boroughs aggressively independent, and the whole lacking the centralizing force of social services or of advanced means of transportation. By his dynamic energy and unchallengeable rectitude LaGuardia changed all this. The New York he left behind him was largely the city of today, with its highways, its bridges, and all the subtle forces of cohesion that make it one, a throbbing and intensely alive place.

Through his association with the leaders of the New Deal—an association assiduously cultivated—La Guardia brought New York into an unprecedentedly close relations with the national government. Roosevelt needed a laboratory where his social legislation could be made highly visible to all, where his reforms could be administered honestly, efficiently, and with compassionate zeal. LaGuardia for his part needed the cold cash which Roosevelt, Ickes and Hopkins could supply. From these mutual needs a partnership was forged between New York and Washington which has left its mark upon subsequent urban history. No one today can think of national policy as being disassociated from the welfare of urban America.

La Guardia had his troubles and suffered his defeats at the hands of Washington. Roosevelt never concealed the fact that he would have preferred to have his New Deal reforms introduced by a city administration that was not only honest but also under the control of a reliably Democratic machine. La Guardia was a Republican and a Fusionist, and he had not the slightest intention of yielding to the importunities of Boss Flynn. Yet as so often happens where men of conviction but also of good will are concerned, the two sides surmounted their differences in the main. If Roosevelt never gave La Guardia the kind of post in the national administration he hungered for, he did at least treat him benignly and receive his pleas with consideration.

The figure of La Guardia survives in popular imagery: the small, doughty fighter against organized crime, the attender of countless fires, the avuncular reader of comic strips over the radio. He was spunky, stubborn, often unforgiving; yet when he made one major mistake he could disarmingly admit it to have been "a beaut". He had his shortcomings. He over-build the city with parks and hospitals that could not be adequately maintained in subsequent years; he never faced up to raising the five-cent fare, and he left a threatening budgetary situation. When all is accounted for, he can be said to have possessed the true magic of politics. He made public events seem important to a wide and diverse constuency. He somehow convinced the men and women of his time that in struggling for a better city, in fighting the battle for decency day by day, they were not foredoomed to fail.

Mr. Speaker, I would like to associate myself with Mr. Heckscher's words, as well as those of my colleague, Mr. BIAGGI.●

● Mr. ANDERSON. Mr. Speaker, it gives me great pleasure to join my good friend and colleague, MARIO BIAGGI, in honoring the 100th anniversary of the birth of Fiorello La Guardia, a former Member of the House of Representatives and mayor of New York City.

Fiorello Henry La Guardia, affectionately known to New Yorkers as the Little Flower, was unswerving in his commitment to honesty and to fairness, to the underprivileged and to the elderly, to the elimination of corruption, and to the enhancement of his city's environment.

La Guardia began his congressional career in 1916 and left Congress in 1933. Once in Congress, La Guardia showed that his campaign pledges were not idle promises. La Guardia enlisted for military service in World War I as he had promised his constituents he would do after voting for war in President Woodrow Wilson's special session of Congress. I believe that this Nation might, indeed, see better law come out of Congress if the Members who passed legislation would themselves directly face the consequences of their votes on the floor, as did Mr. La Guardia.

As mayor of New York City, La Guardia's first-ever, three-term rule was marked by his heroic leadership in eliminating graft and corruption, and balancing the city's budget, while initiating low-cost housing and slum-clearing programs. In addition, he led the city's beautification efforts and was instrumental in promoting major civic construction projects.

In short, it gives me great pleasure to join my friend and colleague, MARIO BIAGGI, in paying this eminently justifiable tribute to Fiorello La Guardia.

Yet, Mr. Speaker, as I enumerate the qualities that made Fiorello La Guardia such an outstanding public servant, I cannot help but notice that the life and career of our esteemed colleague, MARIO BIAGGI, to a large degree, parallels that of the man whose birth we honor today.

In particular, Mr. Speaker, let us take especial note of parts of the resolution we are endorsing today, and I quote:

His vast energy, fiery leadership and considerable wisdom contributed greatly to the betterment of our nation and the city of New York; his public service career serves as a benchmark from which others are judged; and his many accomplishments and the honesty and fairness which characterized his work continue to serve as an inspiration to all Americans, particularly those who share his Italian heritage.

I would suggest, and I am sure that my colleagues who have had the privilege of serving with him would agree, that our colleague, MARIO BIAGGI, is a man who honors the memory of Fiorello La Guardia through his honesty, his fairness, his energy, and his commitmemt to public service.

In conclusion, Mr. Speaker, I believe that a most appropriate tribute to "the Little Flower," and one that he himself would be proud of, would be that the legendary life of Fiorello Henry La Guardia would serve as a model for the life of future New Yorkers of Italian heritage. The accomplishments of MARIO BIAGGI indicate that MARIO is indeed living up to the high standards set by Fiorello La Guardia.●

● Ms. FERRARO. Mr. Speaker, I want to join in honoring Fiorello La Guardia as we near the 100th anniversary of his birth.

As an Italian American from New York, I know I speak for thousands when I say that no name conjures up greater ethnic pride than that of Fiorello La Guardia. This man, who did so much for so many, ranks still as perhaps the greatest mayor in the history of our greatest city.

Born in the city he would later service so well, he moved at an early age to Arizona, and became a journalist after high school. After working for newspapers in Phoenix and then St. Louis, he returned to New York to pursue a career in public service.

In 1916, at the age of only 34, he was elected to the U.S. Congress. As one of his first acts, he voted for the declaration of war against Germany. Then, with his typical energy and commitment, he left Congress to enlist for military service, in which he distinguished himself as a bombing squadron leader.

After the war, La Guardia retured to his seat in Congress. He left Congress for 4 years in 1919 to become president

of the New York of Alderman, only to be reelected to the House in 1923.

In the next 10 years, he was a strong advocate for programs that help people, including old age pensions and unemployment insurance. Much of his work later came to fruition in the New Deal.

Despite his growing stature in the House, New York City held too great an attraction for him, and in 1933 he ran for and was elected mayor. He would later be reelected to two additional 4-year terms, making him the first person ever to serve three consecutive terms as mayor.

It is entirely fitting that La Guardia's service as mayor coincided exactly with F. D. R.'s time as President. Both men provided dynamic leadership and brought to their work the enthusiasm and confidence which were so badly needed during the bleak years of the Depression.

Some of the "Little Flower's" most notable accomplishments are cornerstones in the daily lives of millions of New Yorkers today. The airport that bears his name is one of the Nation's busiest. The La Guardia Community College in my district is an outstanding institution of higher learning which has helped thousands of New Yorkers get a good start in life. It stands as a monument to his commitment to better education.

Many of the main transportation arteries that have allowed New York to grow and to function, including the Triborough and Bronx-Whitestone Bridges and the Queens-Midtown Tunnel, are the result of his efforts in building and promoting New York. In fact, the spirit, if not the actual slogan, of the "I Love New York" campaign can be traced directly to Mayor La Guardia.

Many of his other accomplishments are not as visible as airports and bridges, but they are just as important to the city, and they add just as much to his stature. In 12 years as mayor, he succeeded in balancing the city's budget and eliminating graft and corruption in city contracting. He also improved city services such as education, health, housing, and sanitation. In short, again like Roosevelt, La Guardia was a classically brilliant public administrator.

The great example of Fiorello La Guardia stands as an inspiration to Italian Americans and all Americans who value honesty, energy, and compassion in public officials. I am honored to have this opportunity to participate in paying tribute to this great man.●

● Mr. SCHUMER. Mr. Speaker, I would like o express my wholehearted support for the resolution put forth by my colleague, the Honorable MARIO BIAGGI of New York, designating December 11, 1982, as "Fiorello Henry La Guardia Memorial Day." This day, marking the 100th anniversary of the birth of the former Member of Congress and mayor of New York City, has long been neglected as an important day for all in the Nation, especially those from New York. I thank my respected colleague for initiating this long-overdue tribute to the late Mr. La Guardia.

As a Congressman, mayor, and private citizen, Fiorello La Guardia was a champion of the workingman. Coming from a poor immigrant family, he put himself through New York University Law School at night while utilizing his knowlege of five languages as an interpreter at Ellis Island. As a result of his early experiences, he developed a compassion for the poor which he carried with him to Capitol Hill and City Hall, always believing in "government with a heart."

While in the House of Representatives, his actions were in keeping with his deeply felt convictions of equality for all. In the 1930's he opposed the tax plans of Secretary of the Treasury Andrew W. Mellon which benefited the rich. In addition, he opposed the "food trust" which unfairly raised food prices beyond the reach of the poor.

La Guardia was mayor of New York City for three consecutive terms from 1933 to 1945 and became one of the best chief executives that New York City ever had. La Guardia raised the quality of life for New Yorkers by obtaining grants from Washington for the improvement of schools, playgrounds, swimming pools, bridges, roads, parks, health centers, and the arts. During a time of mass unemployment, he put men and women back to work through the development of public improvement projects, similar to the remedy proposed by this Congress almost five decades later. This is just one example of the foresight and progressivity of this dynamic and respected politician.

Mr. Speaker, I am honored to be a part of this great body which is able to pay tribute to the memory of this distinguished leader. I am in full support of the resolution calling on the people of this Nation to observe December 11, 1982, in commemoration of the life of the inspiring Fiorello H. La Guardia.●

● Mr. RODINO. Mr. Speaker, I rise to commemorate the 100th anniversary of the birth of Fiorello La Guardia, the former Member of this House and mayor of New York City who became a legend as one of the most effective, compassionate, and colorful statesmen of this century.

Fiorello La Guardia won international acclaim in 1933 when he became the first American of Italian origin to be elevated to the position of mayor of New York City. As a young man living across the Hudson River in Newark, N.J., I can remember how this fiery orator—this man of integrity who rooted out corruption in New York City Hall and who started the city on a number of long-term improvements—captured my imagination and inspired me to seek public office.

However, I was not unique. Millions of Americans loved and admired the man affectionately known as the Little Flower. As a Member of Congress, he fought for programs to help the elderly and the disadvantaged, leading efforts for legislation establishing old-age pensions, unemployment insurance, and Federal controls on water power and other natural resources.

As the first mayor of New York to be elected to three consecutive terms, he did something which many present-day mayors would envy—he balanced the municipal budget, but never at the expense of programs for the needy. In fact, he established many low-cost housing and slum clearance projects. He also improved health facilities and sanitary conditions and began construction of numerous important public facilities still in use today, such as the Triborough and Bronx-Whitestone Bridges, the Queens Midtown Tunnel, and the airport in Brooklyn which bears his name.

Fiorello La Guardia was a man who served his country in many ways. A stateman, he served in the House of Representatives from 1917 to 1919 and then from 1923 to 1933. A patriot, he took a leave of absence from Congress in 1917 to sign up for duty in the Army Air Service during World War I. He commanded U.S. air forces on the Italian-Austrian front during World War I and was awarded the Italian War Cross. A diplomat, he served as American consular agent in Hungary in 1904, U.S. delegate to the Interparliamentary Conference at Berlin in 1928, Special U.S. Ambassador to Brazil in 1946, and Director General of the U.N. Relief and Rehabilitation Administration in that same year.

Every time he was called into service by the people of his country, Fiorello La Guardia performed with the highest integrity, dedication, and professionalism. These qualities, combined with his warmth and wit, made him one of the most beloved statesmen of his time.

I join the millions of Americans of Italian descent who feel a special pride at the memory of Fiorello La Guardia. I believe he set an outstanding example for all men and women who aspire to public office.

I strongly supported the resolution which passed the House in September designating December 11, 1982, as "Fiorello Henry La Guardia Memorial Day." I urge the Senate to pass this resolution honoring an extraordinary American whose memory brings honor to all of us.●

● Mr. CARMAN. Mr. Speaker, I am pleased and gratified today to have

the honor of noting the 100th anniversary of Fiorello H. La Guardia's birthday coming up on December 11, 1982.

Mayor La Guardia was first elected to Congress in 1916. He voted for the declaration of war against Germany and promptly symbolized his character by enlisting for military service as he had promised his constituents he would. After distinguishing himself in the military, he returned to Congress; in 1933 he was elected mayor of New York City. As mayor, through his integrity and dynamic leadership he balanced the city budget and successfully fought corruption.

His honesty, decency, and accomplishments make him thoroughly deserving of the honor the Congress has done him of proclaiming December 11, 1982 "Fiorello H. La Guardia Memorial Day."●

● Mr. CONTE. Mr. Speaker, I am pleased and proud to take a few moments to reflect on the accomplishments of former Member of Congress and mayor of New York City, Fiorello H. La Guardia, on the observance of his 100th birthday.

It is the rarest public official who inspires the genuine trust and admiration of his constituents with his natural countenance; the "Little Flower" was such an official. While he served in the Congress for 12 years in the early part of this century, he is best known for his unprecedented three consecutive terms in what is possibly the most difficult job in the world—mayor of New York City.

Those were not easy years to be in government—those whose sons and brothers had been sent to defend freedom needed comfort, those whose lives and livelihoods were threatened by raging racketeers needed protection, and those whose own countries had failed them needed opportunity. Regardless of, or perhaps in spite of, his small stature, Mayor La Guardia was always able to meet the toughest challenge, but no demand was greater than those he made on himself. As he wrote:

I shall not rest until my native city is the first not only in population but also in wholesome housing; not only in commerce but also in public health; until it is not only out of debt but abounding in happiness. To maintain its position, to lead in character and reputation as well as in material possession, its course must be lean, its charitable relief must be humane, its correctional procedure must be enlightened, business must be fostered and encouraged.

Mr. Speaker, this was no small quest, but in his 12 years at the helm of our Nation's largest city, he made great progress. In so doing, he served as a model of integrity for all elected officials and inspired many of us who shared his heritage to also share his dreams.

I join with my colleagues in saluting Mayor La Guardia's achievements on this occasion.●

● Mr. ANNUNZIO. Mr. Speaker, earlier this year the House passed by voice vote the bill I was pleased to cosponsor with my colleague from New York, the Honorable MARIO BIAGGI, to designate December 11, 1982, as "Fiorello H. La Guardia Memorial Day," and today, I am glad to join in this memorial tribute to an outstanding public official and a great American.

Born 100 years ago in New York City to an Italian bandmaster serving with the U.S. Army, Fiorello La Guardia became the first mayor of New York City to be elected to three consecutive terms. He grew up at Army posts in South Dakota and Arizona, and after the death of his father in 1898, he moved to Budapest, Hungary, with his mother where he secured employment at the U.S. Consulate there and eventually became active U.S. consul in Fiume, which was formerly part of Italy.

In 1907, La Guardia returned to New York, became a lawyer, and was appointed deputy attorney general of New York State in 1915. In 1916, he was elected to Congress, and in 1917, after the United States entered World War I, he was commissioned a lieutenant in what was then called the U.S. Air Service and was sent to the Italian front where he commanded a bombing squadron and utilized his public speaking skills in various Italian cities at mass meetings on behalf of the Allied cause. By the end of the war, he had attained the rank of major, and in 1920 and 1921, served as the president of the board of aldermen of New York.

Congressman La Guardia ran for Congress again in 1922, and served in the House of Representatives for 10 years from 1923 to 1933 where he became known as the coauthor of the Norris-La Guardia Act of 1932 which banned labor contracts requiring employees to pledge not to join a labor union as a condition of employment—yellow dog labor contracts—and forbid the courts to break strikes by injunction.

In 1933, Fiorello, or Little Flower as he was affectionately called by his constituents, was elected as mayor of New York City, where he served from 1934 to 1945. During those years, he became nationally famous, loved, and widely respected for his honesty, his highly effective administrative reforms, and his programs benefiting the people. He promoted slum clearance and low-cost housing, the construction of schools, playgrounds, bridges, the Queens-Midtown Tunnel, La Guardia Airport, large building projects, balanced the city's budget, and improved health and sanitary conditions as well as government efficiency.

He was the first director of the Federal Office of Civilian Defense from 1941–42, and President Truman sent him to Brazil in 1946 as a special envoy for the inauguration of a new Brazilian President. From March to December of 1946, he served as director general of the U.N. Relief and Rehabilitation Administration, and he died on September 20, 1947.

During his brilliant career in public service, Mayor La Guardia was a champion of immigrants to the United States. Italo-Americans have made giant and lasting contributions to the strength and greatness of the United States, and in all walks of our beloved country's life, Americans of Italian heritage have carried forward the New World tradition of determination, hard work, and courage begun by Christopher Columbus.

It is a great honor for me to participate today in this memorial tribute to the Honorable Fiorello La Guardia, whose life was a splendid and inspiring example to all of our citizens.●

● Mr. CORRADA. Mr. Speaker, I am honored to be able to join my dear colleague and friend, MARIO BIAGGI, and our other colleagues in paying tribute to Fiorello H. La Guardia on the 100th anniversary of his birth.

A former Member of Congress and a three-term mayor of New York City, Fiorello La Guardia was an excellent example of a politician who delivered on what he promised. He distinguished himself in World War I and returned to a seat in Congress that had been reserved for him by a special act of Congress after he enlisted in the service.

Mayor La Guardia championed a wide range of causes, from child labor legislation to support strict Federal control over water and natural resources. He became mayor of New York City during the depths of the Depression. Despite this fact, he succeeded in the many efforts he undertook on behalf of his city, and his leadership provided inspiration to a generation of young people.

As a first-generation American, he remained loyal to his Italian heritage and proved, over again, that any person with ambition, drive, and dedication can succeed in our Nation. He became a leading figure that set an example for thousands of other minorities that came to this country during this century for a better future for themselves and their children.

It is fitting that we remember Mayor and Congressman Fiorello H. La Guardia on the 100th anniversary of his birth. His work is still with us and the memory of his achievements and efforts continue to be a source of inspiration to all of us in public service.●

SEVEN SUGGESTIONS TO THE 98TH CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. FINDLEY) is recognized for 5 minutes.

● Mr. FINDLEY. Mr. Speaker, the great gentleman from Texas, Speaker Sam Rayburn, had about 8 months to live when I first became a Member of this body in January 1961. His eyesight was not the best and his general health was failing rapidly, but his strength was adequate one day to a thoughtful, loving tribute to the House of Representatives.

Anyone who has served here even a few years must gain a feeling of affection for this institution and its Members. I have had the great honor to be a Member for 22 years. I came crewcut, and as my former colleague, Graham Purcell, once put it "with pink and unwrinkled cheeks." I have seen my seniority position rise to 11th among Republicans and just 30 for the entire body. This means that I have seen 405 of my original colleagues depart. Not one of the present members of the House Committee on Agriculture was here when I first joined.

Many have come and gone during these years, and most of them—almost all of them—remarkable men and women. High-type people to whom you would trust your last dollar. A few of course have been bad apples, but far fewer, percentagewise, in my opinion, than in the general population. I do not suggest they are all angels, and I recognize that the glass house in which we all reside tends to improve behavior.

Still, it must be said that the personal character of our membership is exceptional.

And, as I reflect on my years here, I rejoice that this experiment in self-government is among the longest lasting in human history. Tour guides say this Chamber has been used continuously as a legislature longer than any other in the world.

Sam Rayburn could not love and respect this institution more than I, and the comments I make arise from affection and high hopes. As Abe Lincoln, my most important constituent might say, the Congress is "the last best hope of earth." I want it to survive. More than that, I want it to serve mankind in the future even better than in the past.

With that in mind, a few words of advice.

My first suggestions have to do with reforms of the recent past. Some of them should be undone. They have not worked. They hurt, not help, the system.

Specifically:

First, eliminate recorded voting in the Committee of the Whole. This so-called reform—which I supported originally—has weakened seriously the prestige and influence of standing committees. It prolongs the legislative process by enabling just 25 Members to get a recorded vote on an amendment. It lets Members who stream into the Chamber during the 15-minute voting period decide amendments without the advantage of hearing any of the debate. Under the old system, proposed amendments were almost always settled by Members who were on the floor during debate and thus were informed about the subject matter. Under it, the original work of standing committees had greater impact, and expedited consideration of legislation once it reached the House floor.

Second, repeal the subcommittee bill of rights approved in 1973. This change in committee rules seriously fragmented legislative authority among 160 subcommittee chairmen. Today every third Member of the House is a chairman, and each possesses a striking degree of independent authority. This fragmentation of power is at the expense of the institution itself. It diminishes the capacity of traditional power centers—the Speaker, committee chairmen and party leaders.

This body will function far better if the chairmen of the major standing committees once again have complete control of legislation within the committee's general purview. Choose good chairmen and then let them take responsibility and control.

Third, repeal the rule which requires referral of a bill or resolution to more than one committee. This adds enormously to the total workload of the House without any appreciable gain. Go back to the former system, under which the Speaker assigned each bill to just one committee and let that committee handle its entire content. This occasionally gives a committee a little more variety of subject matter than usual. But why not? Variety is the spice of life.

Fourth, outlaw proxy voting. This would quickly lead to another needed reform: the elimination of multiple committee assignments. It makes no more sense to permit proxy voting in committees than it would on the floor of the House.

Fifth, rush through a constitutional amendment which lets Congress set limits on campaign spending. The way things are going, Congress will soon consist of nothing but millionaires and/or people beholden to special interest groups.

Sixth, fix a limit on the number of years any Member can serve on a particular committee. Rotation of committee assignments, say, every 6 years, would be healthy for Congress and for the executive branch. It would break up combines that often frustrate the public interest. For example, I have noted that the Armed Services and Defense Appropriations Committees tend to be populated by Members whose district have a lot of defense facilities or manufacture a lot of defense articles. This can lead to inbreeding or obligations that practically rule out objective consideration of legislation. Combines that threaten the public interest can never be completely eliminated, but this rule change would at least force a healthy periodic reconstruction of such combines.

Seventh, budget and appropriate 2 years at a time instead of 1, with appropriation bills handled the first year of the Congress. Reserve the second year mainly for consideration of new legislation. Congress is almost totally bogged down under present circumstances with the budget and appropriations process.

If this change is made, it may be possible for Congress to adjourn each session by August or September. If so, Members could have the character-building experience of actually living in their home district and pursuing a normal vocation part of each year.

And, who knows, in time Congress might return to its former status in which legislators continued to pursue a career in private life part time, because the work of the Congress did not require full-time attention.

The present congressional pace has produced a class of professional Congressman—I have been one of them—who are denied the precious experience of living life as their constituents must.

I almost hear Sam Rayburn muttering a few supportive comments, which probably means this impertinent retiring Member has given his colleagues enough advice for one day.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. FORSYTHE) is recognized for 5 minutes.

● Mr. FORSYTHE. Mr. Speaker, since I am recuperating from surgery and under doctor's orders, I was not able to be present for several of the votes on H.R. 6211 the Surface Transportation Act of 1982. However, I would like to take this opportunity to state for the record how I would have voted had I been present.

Rollcall vote No. 416: An amendment waiving Davis-Bacon requirements from all construction work resulting from this legislation; I would have voted "aye."

Rollcall vote No. 417: An amendment insuring that Davis-Bacon wage rates apply to initial construction only and not to resurfacing, restoration and rehabilitation activities; I would have voted "aye."

Rollcall vote No. 418: An amendment deleting the provision of the bill that would redirect interstate highway discretionary funds to the high cost interstate projects; I would have voted "nay."

Rollcall vote No. 419: An amendment providing that none of the provisons

of title I—Federal Aid to Highways, be used to limit or in the opinion of the Secretary have the effect of limiting job opportunities for any individual; I would have voted "aye."

Rollcall vote No. 420: An amendment to increase the Federal gasoline, diesel and special fuels taxes by 5 cents beginning April 1, 1983; I would have voted "aye."

Rollcall vote No. 421: Final passage of H.R. 6211, the Surface Transportation Act of 1982; I would have voted "aye."●

□ 2110

THOUGHTS ON THE HARKIN AMENDMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DORNAN) is recognized for 5 minutes.

Mr. DORNAN of California. Mr. Speaker and colleagues, because of the importance of the passing of the amendment by Mr. BOLAND as a substitute for the amendment of Mr. HARKIN on the Defense appropriations bill today, and because of the constraints of time, I was not able, in addressing my colleagues about why I was so strongly against the Harkin amendment, to use what I think would have been the most telling example of why this type writing of foreign policy in the well of the House—without running from our responsibility to prevent from maybe from ever getting into immoral situations when we are trying to help as far as fighting for freedom around the world, let me now give that one final example, briefly.

Suppose in 1937, 1938, or 1939, Klaus Von Stauffenberg, the man who gave his life by execution from Nazi thugs because he tried to assassinate Adolf Hitler in the Walkirie assassination plot of July 20, 1944, when he and hundreds of other brave Germans who had finally had enough died trying to stop an insane Fascist dictator; let us say he had come to the United States in the late 1930's when he was only a captain or major, a member of the regular force of a sovereign nation's insane army about to embark upon the killing of 55 million people.

Suppose he had come to our Pentagon, then called the Department of War, in what is now the Old Executive Office Building next to the White House, and had asked for some advice—advice only—on how to, not assassinate Hitler, that might have been hard for some so-called moralists to take, that we might encourage the assassination of a madman who was about to launch the most evil holocaust in the history of the world, excepting only by the killing of Stalin or Mao, but supposing he had just asked for advice from our then embryonic Office of Strategic Services—actually it was not even formed yet until a few years later, the precursor to our CIA—or from our Defense Department, called the Department of War, or the Department of the Navy, for advice on how to destabilize the Third Reich, Adolf Hitler's thousand-year reich.

If a Harkin amendment spread from countries beyond the illegal Sandinista Communist government of Nicaragua, and illegal, I repeat, because they refused to let their people have elections because they betrayed their revolution against their dictator Samoza, betrayed it to the Communist dictatorship—if he had asked for advice and a Harkin amendment existed, the young captain or major Klaus Von Stauffenberg, a righteous gentile, a man who received the permission of the Catholic Bishop of Berlin to kill the despot Adolf Hitler—it is called tyrannicide, the right to kill a tyrant—he would not have been in a position to get any advice from our Government or use it to destabilize the Nazi government about to drag the whole world into the greatest orgy of killing if we extend the Stalinist killings as an extension of the nightmare of World War II.

I think that in the House well Members—and I repeat, I do not impugn their warmth or sincerity or motives when they talk against human rights violations by rightwing death squads in Central America, they do not take a place ahead of me in the passionate abhorrence of this inhumanity from those who would return oligarchy to Central America, but I repeat as passionately as I can my plea to some of the more eloquent Members on the other side of the aisle to speak out with some regularity about the Communist atrocities and other crimes that are taking place across this planet at this very moment. It would have been a moral act for any righteous gentile to come to the United States representing the German people and moved against the so-called sovereign government for a minority government with less than 24 percent, in the personage of Adolf Hitler, had been elected once and once only, and there has not been such an election in Cuba, in Nicaragua, in the Soviet Union, in any of the East Bloc countries. There has never been a contested election in any Communist country, and there never will be. I can guarantee that Allende, once he had seized power in Chile, would have canceled all future elections.

Consider the Klaus Von Staffenbergs of the world when you look at the Harkin amendment.

A TRIBUTE TO THE HONORABLE WILLIAM BRODHEAD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. BONIOR) is recognized for 60 minutes.

Mr. BONIOR of Michigan. Mr. Speaker, I asked that this time be set aside today to pay tribute to our colleague WILLIAM BRODHEAD on his retirement from Congress.

In saying goodbye to BILL BRODHEAD, I bid farewell not only to a brillant colleague but also to a dear friend.

It has been my good fortune to know BILL for more than 10 years. I first met BILL when he was serving in the Michigan House of Representatives. His work there elicited such respect from his constitutents that they elected him as their Representative to this body.

In four terms as a Member of Congress, BILL BRODHEAD has proven that their confidence was well founded. His accomplishments are numerous and varied. As a Member of the House Ways and Means Committee, BILL has demonstrated a keen understanding of, and has made a remarkable effort to reform, our tax system. His work there earned him the "Taxpayers Friend" award from the organization, Taxation With Representation.

BILL's attempts to aid the ailing U.S. auto industry are also noteworthy. He is founder and cochairman of the House Auto Task Force. He was instrumental in the development of and obtaining funding for the trade adjustment assistance program which was designed to compensate workers in industries hit by foreign competition.

BILL has been no less of a driving force in the areas of health and welfare. Among other things, BILL has secured passage of an amendment to increase support for community group homes for retarded, disabled, and aged individuals as an alternative to institutional care. This body has also passed BRODHEAD's amendment which was intended to end prolonged and needless placement of children in foster care and institutions by providing benefits of a permanent home for children whose special problems would otherwise prevent their adoption.

While this list of accomplishments is some indication of the professional void BILL's retirement will leave, it is no indication of the personal loss his friends will feel.

I thank you, BILL. Thank you for your good-natured cordiality. I respect your decision to retire from Congress. Most of us will never have the courage to make and follow up on a personal decision to retire from Congress. You have done so at the height of your career.

I wish you luck in your law practice. I have no doubt that you will be as successful there as you have been here.

□ 2120

GENERAL LEAVE

Mr. BONIOR of Michigan. Mr. Speaker, I ask unanimous consent that

all Members may have 5 legislative days in which to revise and extend their remarks on the subject of this special order: the life, character, and public service of our colleague, the Honorable WILLIAM M. BRODHEAD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. WOLPE. Mr. Speaker, will the gentleman yield?

Mr. BONIOR of Michigan. I yield to my friend and colleague, the gentleman from Michigan.

Mr. WOLPE. Mr. Speaker, I thank the gentleman for yielding, and I want to thank him for taking this special order to provide this opportunity to pay tribute to BILL BRODHEAD.

Like the gentleman in the well, I had the very great privilege of serving with BILL BRODHEAD not only in the Congress during these past several years, but prior to that, during my tenure in the State legislature. So BILL BRODHEAD is far more than simply a colleague; he has become a very close personal friend, and indeed he and his wife are neighbors of ours in McLean, Va.

I remember the reputation that BILL enjoyed already at the point when I entered the State legislature, and there as here, during the 4 years I have served in the Congress, I do not ever recall an unkind thing being said of BILL BRODHEAD. It was not that BILL has ever attempted to avoid the hard issues or the controversies of the day. In fact, he has really been on the cutting edge of the entire progressive agenda in domestic as well as foreign policy, but when BILL has spoken to the issues publicly, whether in committee meetings or on the floor or before the media, he has always done so with the profound sincerity and conviction that has earned him the respect of his colleagues and the love and respect of his own constituents.

In a very real sense, BILL BRODHEAD has been the conscience of our own delegation in Michigan, and I think that his election to the Democratic Study Group chairmanship is probably one of the finest expressions of the tremendous affection in which he has been held by his colleagues in this body.

He will be missed. He will be very deeply missed by all of us who have been privileged to work with him. But I know that the commitment that he has brought to his work in the lelgislative bodies will carry beyond this body to his activites in his community in Michigan, and I feel quite certain in saying that we have not heard the last of BILL BRODHEAD when it comes to public service.

Mr. Speaker, I simply want to join this evening with the gentleman in the well in extending my very best wishes to both BILL and Kathy BRODHEAD and their entire family. We shall miss him.

Mr. BONIOR of Michigan. Mr. Speaker, I thank my colleague, the gentleman from Michigan, for his very fine and appropriate remarks.

● Mr. KILDEE. Mr. Speaker, it is with pleasure that I join my colleagues in the House of Representatives in honor of our friend, WILLIAM M. BRODHEAD, of Michigan, who is retiring from the Congress. BILL BRODHEAD has served with distinction and been highly respected by his colleagues over the entire 8 years he has been in Washington. Throughout his public service career in the Congress and in the Michigan State Legislature, his highest standards and his conscientious and caring approach to issues and problems have set an example for all elected officials to emulate.

I served in the Michigan House of Representatives with BILL and was impressed by his effectiveness there and the high respect with which he was held by his fellow State legislators and the public. He preceded me to the Congress by one term, and when I arrived here, I quickly discovered that he already had come to be appreciated by his colleagues here for his high standards of service.

BILL BRODHEAD was a valued member of the Michigan congressional delegation as a faithful, hardworking and capble U.S. Representative and as a member of the Committee on Ways and Means. His leadership also was recognized later by his elevation to the chairmanship of the Democratic Study Group, which has come to be the hallmark of informed, thorough, and objective analysis of legislation before the Congress. As a member of Ways and Means, he addressed national goals while keeping special attention on the needs of Michigan during this period of economic crisis. His fellow members of the Michigan delegation have relied on BILL BRODHEAD greatly for his expertise, strengthened by his credibility, and extend our best wishes as he pursues his next career.

BILL BRODHEAD always has been a thoughtful and articulate spokesman for the Democratic Party on a wide variety of vital and complex issues and has been a warm and personal friend of all of us. He will be missed very much.●

● Mr. BROOMFIELD. Mr. Speaker, with the close of this Congress in a few weeks, we will be losing the talents of Congressman WILLIAM BRODHEAD.

While we have often followed differing views on what the role of the Federal Government should be, I have always respected BILL's skills and dedication in pursuing what he believed to be best for our country and for Michigan. Over the years that we served together in the House of Representatives, he has always been a hard working, dynamic legislator.

For the past 8 years, BILL and I have had the privilege of representing neighboring congressional districts in Michigan. The problems facing my constituents have often been similar to those facing his constituents, and I believe the people of the 17th District have been very fortunate in having him represent them in this distinguished body.

Mr. Speaker, BILL has chosen to leave the Congress to be able to spend more time with his family and to further pursue his career in law. His reasons are certainly understandable. I wish BILL well in his new career, and I wish to say it has been an honor to work with him and to consider him a friend. He will be missed in the Michigan congressional delegation and in the House of Representatives.●

● Mr. HERTEL. Mr. Speaker, it is a pleasure and a privilege to salute my friend and colleague BILL BRODHEAD as he completes 8 years of outstanding service to the people of the 17th District of Michigan.

To say a Congressman has served his people well is, I think, the highest praise one can hope for and BILL BRODHEAD certainly deserves that recognition. He is an individual of great principle and strong moral convictions—characteristics which are reflected in his record in Congress. He has consistently manifested deep concern about legislation that impact heavily on the needs of the poor, the handicapped, and the elderly. His interest in the youth of America deserves to be mentioned as well.

A member of the Ways and Means Committee and director of the Democratic Study Group, BILL was able to demonstrate his leadership qualities of some of the major legislation enacted duing his tenure. He was influential in making the Chrysler loan guarantee a reality; introduced a measure to reduce the minimum tax on income; and more recently, authored legislation to help children under foster care by permitting Federal adoption subsidies.

I have worked with BILL on many projects and have been very impressed with his expertise and sense of fairness in resolving difficult problems.

His absense from the Halls of Congress and as a spokesman for Democratic principles and goals will indeed be missed. I want to wish him and his family well in his new endeavors. And my warmest rememberances to his wife Kathi and their two sons, Michael and Paul. He has been a hardworking successful public official and a good friend.●

● Mr. ALBOSTA. Mr. Speaker, it is certainly with mixed emotions that we bid farewell to my friend and colleague from Michigan, BILL BRODHEAD. We in the Michigan delegation have been very proud of BILL and the many

contributions he has made to the House of Representatives during his service in this House. He came to Washington with high ideals and a determination to make this Nation a better place in which to live. I believe that he has succeeded in that task, which is often difficult for a single Member. I only regret that he will no longer be serving with us.

I know that BILL looks forward to this important change in his life and my wife, Dorothy, and I want to wish him and his family the very best for the years ahead. I am pleased that he will be available for consultation and will continue to make a contribution to our State.

BILL has always been an innovative and hard-working Member of Congress. I have traveled with him many times from Washington to Detroit and back, and I know that he has given this job his full attention and effort. He has taken his responsibilities very seriously and forsaken other obligations in order to fulfill his tasks as a Congressman. He has not been satisfied to sit back and simply tend to his constituents' needs. While he has done that with great skill, he has also directed his many talents toward improving the work of the Ways and Means Committee on which he serves and toward improving the functioning of the House as an institution. Through his notable service as chairman of the Democratic Study Group, we have seen services expanded and quality improved. He has carried on in the great traditions of past chairmen in assuring that the DSG would continue to play a primary role in the operation of the House, and its Democratic Caucus in particular.

BILL can be very proud of his record in the Congress—a record of service to his people, of service to his State, and of service to the Nation. He has worked diligently for those things in which he believed. He has left an important mark on this institution and his absence will be sorely noted. I join my colleagues in wishing him Godspeed and congratulate him on a job well done.●

● Mr. PURSELL. Mr. Speaker, the State of Michigan and the Congress are going to miss the effective presence of BILL BRODHEAD. I have had the privilege of serving with BILL in both the Michigan Legislature and the Congress. In both aspects of BILL'S public service career, he has distinguished himself as one of Michigan's hardest working, inventive, and committed advocates.

On the Committee on Ways and Means, BILL served with distinction. He tackled the hardest problems of the State of Michigan and sought to soften the painful effects of our State's staggering unemployment. His work on Michigan's unemployment compensation debt problem and the implications of changes in medicare has been of great significance to Michigan's employers and medicare beneficiaries.

His contributions to the work of Congress are highlighted by his integrity and honesty. He represents the high road of politics in America today. By dealing fairly with his colleagues, he has made friendships which cross political and philosophical boundaries. Personally and professionally, BILL BRODHEAD will be missed. On this, his day of tribute, I want to wish BILL all of the best as he moves into another professional chapter of his life.

● Mr. PANETTA. Mr. Speaker, I am proud to have served with BILL BRODHEAD in this House, and I want to join my colleagues in paying tribute to a thoughtful and responsible leader of this body.

I had the pleasure to serve a term with BILL BRODHEAD on the Budget Committee, and he was an excellent legislator who did his best to balance the competing interests and concerns that face the members of that committee. In addition, as chairman of the Democratic Study Group, BILL has continued the process of strengthening that organization as a voice for responsible leadership and an indispensable source of knowledge and legislative information for its members.

Mr. Speaker, I think we can all identify with BILL'S decision to retire this year. The difficulties of life in the Congress sometimes go unrecognized by the public, and he has, during the past year, done a great deal to educate those who do not realize that along with the advantages of serving in this body go several distinct disadvantages. I hope that BILL will find that his decision was the right one for him. The Nation loses a great public servant, but perhaps a great public servant is going to find the time to think, to pursue other interests, and, most importantly, to spend time with his family. I know my colleagues join me in wishing BILL BRODHEAD the very best.●

● Mr. CONYERS. Mr. Speaker, it has been an honor and a pleasure to work with BILL BRODHEAD in the Congress over the past 8 years, and I wish to add my voice to the many which are raised in salute to him tonight. As a member of the Michigan delegation I have had first hand knowledge of the excellent service BILL has provided for his constituents and the Nation as a whole. His dedication and ability to work hard and long on legislative issues before the Congress in order to produce the best possible results for the people of this country shall not be forgotten as he departs these Halls. One particular piece of legislation that BILL and I worked on together stands out in my memory, the Humphrey-Hawkins Full Employment and Balanced Growth Act. I know that the integrity and idealism displayed during efforts such as this will continue to earmark all future endeavors of this outstanding public servant.●

● Mr. FORD of Michigan. Mr. Speaker, many will join me here today to list all of BILL BRODHEAD'S numerous legislative accomplishments during his 8 years as Michigan's Representative from the 17th Congressional District. Although I knew BILL before he began his service in Washington, it has been a real privilege to work with him in so many different capacities in the House of Representatives.

BILL founded the 100-member House Auto Task Force and has served as its cochairman. In this capacity he has worked nonstop to seek solutions to the severe problems brought about by the slump in domestic auto sales.

Congressman BRODHEAD leaves Congress near the end of his term as chairman of the Democratic Study Group. Throughout his term, the DSG has distinguished itself and published many excellent documents to assist Members of Congress.

But most important of all, BILL BRODHEAD has served the residents of the 17th District and the State of Michigan in a most distinguished way. He and his outstanding staff have responded to the needs of his constituents promptly and professionally. The 17th District has been privileged to be represented by Congressman BILL BRODHEAD and, before that, by Martha Griffiths our new lieutenant-governor-elect. Congressman BRODHEAD'S constituents, the entire Michigan delegation, and I in particular, will certainly miss having his views, advice, and dedicated hard work.●

● Mr. RODINO. Mr. Speaker, I could not let this session of Congress close without saying a few words about the distinguished chairman of the Democratic Study Group, WILLIAM BRODHEAD, who will be leaving Congress at the end of this term.

Few Members of this House work as hard or produce as much for their constituents as BILL BRODHEAD. Since he came to Congress in 1975, BILL has built a solid record of accomplishment as a member of the Ways and Means Committee and the Budget Committee. He has fought for a more equitable tax system and been a strong defender of those who are less fortunate in society. He has advocated compassionate Government policies for handicapped, elderly, and low-income Americans, and worked successfully for legislation to help provide homes to abandoned children.

BILL BRODHEAD has used his position as chairman of the Democratic Study Group to help his colleagues, and I can say that I have valued most highly the excellent research and analysis that the DSG has produced under his direction. His diligence, perception,

and integrity have won him the respect of Members from both sides of the aisle, and his leaving is certainly a loss for this institution.

I will miss serving with my friend from Michigan, but I am sure that whatever field he chooses to pursue will benefit greatly from his outstanding abilities. I wish him all good things in the future.●

● Mr. COELHO. Mr. Speaker, it is a great honor for me to add my praise and heartfelt thanks to our colleague and dear friend, BILL BRODHEAD, for the magnificent contribution he has made to this Congress and the Nation. When thinking of BILL BRODHEAD'S service, the words honor, integrity, and loyalty come to mind. These qualities are embodied in BILL BRODHEAD and in his record of service here in the Congress. His departure will be a great loss not only for those he represents in Michigan but for this country.

Throughout his tenure, BILL has accomplished much that merits praise; however, I would like to especially commend his outstanding work on the Committee and Ways and Means and as chairman of the Democratic Study Group. As a member of the Ways and Means Committee, he served on the Trade Subcommittee where he worked diligently and effectively, as he did on the Social Security Subcommittee where he also demonstrated his true concern for the unfortunate and needy of this Nation. In his role as chairman of the Democratic Study Group, he has done a superb job, and his innovation, leadership and dedication have been a true inspiration to the Democratic Party.

During his congressional career, BILL has been a steady, dedicated and thorough legislator who earned and won the respect of all who came to know him. His retirement at the end of this term will leave a vacancy among our ranks which will be hard to fill. We cannot, however, but wish him the best in the future, while simultaneously expressing our regret that he will no longer be among us.●

● Mr. REUSS. Mr. Speaker, I am delighted to join my colleagues in paying tributes to Congressman BILL BRODHEAD of Michigan, who will retire at the end of the 97th Congress after 8 years of distinguished service in the House of Representatives.

BILL will be deeply missed. His leadership on both the Ways and Means Committee and the Budget Committee in matters of tax and welfare reform has earned him the reputation of an innovative and dynamic champion of America's workers, particularly those who have been hardest hit by staggering unemployment. In addition, his many contributions as this year's chairman of the Democratic Study Group were marked by a commitment to traditional Democratic ideals and practical recommendations on how to realize them.

Most of all, BILL BRODHEAD is a humanist. His personal commitment to the quality of life of all Americans, and most particularly children, contributed to his decision to leave the Congress to spend more time with his family. While here, he has been a diligent defender of comprehensive health care programs, and his efforts brought a major legislative achievement, the adoption of Federal subsidies for adoptions.

I send BILL, and his wife Karen, my best wishes. I am confident that he will continue in his law career all the good works that have been a hallmark of his congressional service.●

● Mr. HOYER. Mr. Speaker, the House of Representatives will soon lose one of its most distinguished young members. WILLIAM BRODHEAD, after serving four terms in Congress, has decided to retire, and I am certain that all of my colleagues will agree that BILL'S decision to leave us is indeed a great misfortune.

When BILL BRODHEAD came to Congress in 1974, he brought with him some courageous goals: He was a champion of peace, an advocate of urban reform and a strong believer in the right of each citizen to have access to a quality education. Throughout his 8 years in Congress, BILL BRODHEAD has tirelessly pursued the attainment of these goals. And he has had a great deal of success.

As a member of the Ways and Means Committee, BILL BRODHEAD actively sought to instill fairness in our tax system. He attempted to block the many loopholes in the income tax in order to distribute the tax burden equitably and fairly. BILL BRODHEAD, in short, stood for fairness in taxation, and more importantly, for fairness in providing access to the opportunities available to the citizens of this country.

BILL comes from one of the most heavily industrial areas of our country—Michigan has been particularly hard hit by the downturn in the economy and unemployment figures have skyrocketed there. Yet while many in his area, like in so many other parts of this country, have fallen victim to the economic maladies of the time, BILL did not abandon his ideals and work for quick-fix, short-term solutions to our economic woes.

Rather, BILL BRODHEAD has sought to encourage employment and the modernization of manufacturing facilities through a tax policy which establishes genuine reward for investment in physical capital and, therefore, for investment in human capital.

BILL BRODHEAD is an intelligent, thoughtful man, and the paths by which he seeks to better the quality of life for all Americans are to be commended. He is a man of conscience, and he stands by his beliefs. His decision to retire has caused a great sense of loss among his colleagues, but we must respect the reasons for this decision. His announcement was courageous, and we, who remain behind, fully understand the difficult choice he had to make.

I know that my colleagues will join me when I say that BILL will be sorely missed by us all, and, most particularly, by the citizens of his district in Michigan and in the United States, who have so benefited by his leadership during the past 8 years.●

● Mr. ADDABBO. Mr. Speaker, I am honored to join my colleagues today in paying tribute to one of our good friends and distinguished colleagues, BILL BRODHEAD, who will be leaving us at the end of this Congress. BILL'S dedication, insight, and hard work will be missed by all, and I am grateful for this opportunity to show my admiration and appreciation.

BILL'S efforts on behalf of his constitutents, the residents of the 17th Congressional District of Michigan, and indeed, the voters of this country in general, have been diligent, dedicated, and most importantly, compassionate. He sponsored legislation to allow funding of medicare and disability insurance from general revenues, assuring a reduction of social security payroll tax and insuring the soundness of the social security system for years to come. He introduced legislation to provide assistance for middle-income families in obtaining loans and grants for college tuitions, and has successfully introduced amendments to increase support for retarded, disabled, and aged individuals; stressing independence and community concern rather than institutional care. As a member of the powerful Ways and Means Committee, BILL has had the opportunity to deal with many of the major issues facing the Congress, and his performance has certainly earned the respect and admiration of his constituents and colleagues.

BILL will be sorely missed by all of us who have had the privilege of working with him, and I would like to wish him the best of luck in his law career.●

● Mr. LONG of Louisiana. Mr. Speaker, WILLIAM BRODHEAD will be retiring from the House at the close of this session of the Congress. I note his departure with both a touch of sadness and a large measure of pride. In his 8 years of service in the House, BILL BRODHEAD has built up a solid reputation as a good representative of his Michigan constituents and as an effective practitioner of the legislative art.

During his years in the House, Bill has been a dedicated and conscientious member of the Ways and Means Committee. He has served with distinction as a member of the Subcommittee on

trade and the Subcommittee on Social Security. Besides his committee work, BILL BRODHEAD has been active in the areas of political reform, the problems of the handicapped, and improved adoption programs. His work in the House has served not just the interests of his district but the interests of the country as a whole.

Congressman BRODHEAD founded the 100-member House Auto Task Force and served as its cochairman. BRODHEAD formed this group to seek congressional participation in the attempt to understand and find solutions to the severe problems that have resulted from the slump in domestic auto sales. At the beginning of the 97th Congress, WILLIAM BRODHEAD was elected chairman of the Democratic Study Group. Under his leadership, the Democratic Study Group has continued to be the primary source of legislative research for House Democrats and has continued to be an active force seeking to improve congressional procedures and the legislative process.

Besides this work, BILL BRODHEAD has been active in the Democratic Party. I have found him to be a faithful and dedicated colleague of mine in the work of the caucus. There have been many Members of this Chamber who have been called leaders. BILL is a leader. He has sought to be a constructive leader who has been distinguished by his attempts to reconcile rather than to exploit differences. At the same time, BILL has shown each of us what can be accomplished by working within the system.

As WILLIAM BRODHEAD leaves the House, I am saddened somewhat by the fact that we as a legislative body are losing a dedicated and hard-working Member. Yet, in another sense we are both thankful and grateful for his presence and friendship. As he returns to private practice as an attorney, we wish him the very best in the years ahead. The House is losing a good Member. Yet, wherever he goes in the years ahead, we know in our hearts that the same qualities which have made him so vital and integral a Member of this body, will make him a source of strength and inspiration to those who are fortunate enough to come into contact with him. My friend, I wish you the very best and am proud to be able to say that I know WILLIAM M. BRODHEAD.●

● Mr. BROOKS. Mr. Speaker, in his 8 years in Congress, BILL BRODHEAD has compiled a record that would be the envy of Members with far longer service. He has served on two of our most prestigious committees, been chairman of the Democratic Study Group, and founded and led a task force to help solve the problems of the automobile industry. BILL's term as chairman of the DSG was especially noteworthy. I found invaluable the breadth and quality of the reports it turned out under his guidance.

Such hard work and ability are valuable qualities in a national legislature, and I regret that we will not be able to draw on them in the coming Congress. I am sure that BILL will continue to put them to good use, however, and I wish him all the best in the years ahead.●

● Mr. RUSSO. Mr. Speaker, these farewells to colleagues do not get any easier. In my years here I have said goodby to so many fine people and today is yet another occasion to adjust to the idea that Congress is losing one of its outstanding Members. Representative BILL BRODHEAD is someone of whom it can truly be said—he made a difference.

During his years in the House, he has distinguished himself in his committees, as chairman of the Democratic Study Group and in his efforts to help our domestic auto sales. He has been a Representative of whom his district and the State of Michigan could be justifiably proud because he served not only his own constituency but the country well.

But all of this still does not tell you about the nature of the man himself. BILL is a genuinely good and decent human being. He took his job seriously, but not himself. And it was not only his very real contributions here that won him the respect of his colleagues, but an attitude of fair play and integrity as well. Even when we disagreed in the Ways and Means Committee, for example, I still had the utmost respect for his work and opinions and admired the way he handled himself. He is, to put it succinctly, a class act.

I know we all wish the best for BILL as he pursues his career in law. Whatever he does, he will do with enthusiasm and will distinguish himself as he did here. He will be greatly missed.●

● Mr. RAHALL. Mr. Speaker, I would like to thank my colleague and good friend from Michigan (Mr. BONIOR) for taking this special order today so that we in this body can pay tribute to a man, who in 8 short years has made a record of integrity and hard work in the U.S. House of Representatives, WILLIAM BRODHEAD.

As representative of Michigan's 17th District, BILL BRODHEAD has provided his constituents with first-rate service. As a member of the Ways and Means Committee here in the House, BILL BRODHEAD has played a major role in some of the most progressive measures to come out of this body—particularly his efforts to rewrite the trade adjustment assistance program designed to compensate workers in industries hit by foreign competition, industries like the auto industry which is the mainstay in BILL's region of Michigan.

Those of us on this side of the aisle know and respect BILL for his fine work and leadership as the chairman of the Democratic Study Group. His tenure in that post, has elevated the DSG to a new level of research information on the vital.

I am sure I am joined by others who feel saddened by the fact that BILL BRODHEAD is ending his career here in the House so prematurely. However, I am confident that he has earned the utmost respect of his colleagues for doing what he believes is right, and for setting his own personal priorities in order.

I for one will miss him, but know he will carry on in the legal profession with the same enthusiasm and dedication that he showed in the House.●

● Ms. OAKAR. Mr. Chairman, it is my pleasure to join in this salute to my distinguished colleague, BILL BRODHEAD.

The cities of Cleveland and Detroit have much in common: solid, blue-collar auto and basic industry workers as well as broad expanses of active, middle-class employees. The two cities also proudly claim BILL BRODHEAD, who was born and raised in Cleveland and settled in Detroit. Both cities have a proud tradition of producing outstanding political leaders.

In Detroit, Mr. BRODHEAD's career was closely intertwined with the movement against the war in Vietnam; he has consistently supported legislation for human needs. His tax and welfare reform proposals have earned him overwhelming victories at the polls ever since 1974, when he took over Martha Griffith's seat. In Cleveland we are deeply appreciative of his fights to save the auto industry.

Maybe his most important contribution from my standpoint has been the leadership in the Democratic Study Group. Both parties must applaud the day-in and day-out work of this group in providing fundamental—and mainly impartial—information on the largest (and smallest) items to come to the floor. The DSG has become an influence on legislation which has helped smooth out a sometimes rough process.

I salute a man who will be missed here. I applaud the voters of Michigan for their wise decisions in support of BILL. I know he will help mold the future of the country in a positive way.●

● Mr. SILJANDER. Mr. Speaker, it is with great pride and deep reverence that I address my colleagues today as we bid farewell to one of our most effective and esteemed legislators: WILLIAM BRODHEAD.

Since my special election to the House in 1981, I have had the honor of working with BILL BRODHEAD on several legislative initiatives—together we share the cosponsorship of some 70 bills. As a new Member, having the fortuitous opportunity to observe a

Member who possesses the highly coveted qualities of forthrightness and legislative acumen necessary to make a statement in the House—and be listened to. Not only have the legislative efforts of BILL BRODHEAD brought much needed relief to the State of Michigan, but his tireless work on the Ways and Means Committee have produced sound answers to the problems facing this Nation.

The memory of Congressman WILLIAM BRODHEAD will be an indelible one. As we put a cap on the 97th Congress and move into the 98th, the members of the Michigan congressional delegation are enthroned with the monumental task of charting a path of economic renaissance for a financially ravaged State. However, we approach this task with spirits lifted toward that guiding light of hope and leadership that BILL BRODHEAD has left behind.

Thank you.●

● Mr. OBERSTAR. Mr. Speaker, the manner in which BILL BRODHEAD reached his decision to leave the House at the end of the 97th Congress epitomized the thoughtfulness, compassion and talent of a much-respected colleague.

For BILL BRODHEAD, whose record would have earned him certain reelection, there is life after Congress. I, like so many of his colleagues, know that tremendous rewarding personal and professional experiences await BILL. We do regret the loss of this dynamic and unshamedly liberal colleague.

During the past 2 years, it has been my pleasure to serve on the executive committee of the Democratic Study Group with BILL, who served most admirably as Chair of the DSG.

For those of us deeply concerned about humane tax legislation, welfare reform, fair trade laws, and a responsible unemployment compensation program, we have been able to count upon BILL BRODHEAD in the House Ways and Means Committee. He has been an eloquent, and often lonely, voice against senseless retrenchment and mindless capitulation to unsound and selfish economic policies.

I thank the gentleman from Michigan (Mr. BONIOR) for his thoughtfulness in scheduling this special order. I entered the House with BILL. I wish that our association here would have been longer.●

● Mr. MATSUI. Mr. Speaker, I join my colleagues today in paying personal tribute to the service of one of the most outstanding Members of this body, Hon. BILL BRODHEAD of Michigan.

As one of the new members on the Ways and Means Committee during this Congress, it was my privilege to serve with BILL and to benefit from his guidance and leadership. It was with tremendous regret that I learned of his decision not to seek reelection. However, we can all empathize with the frustrations and the pressures that led him to that decision. His departure should give us great pause for reflection; we must take some corrective actions in the next few years to see that other Members of BILL BRODHEAD's caliber are not lost to national public service.

But for now, I wish BILL and his family nothing but the best. This House and our entire Nation are richer for BILL BRODHEAD's service. We shall miss him.●

● Mr. OTTINGER. Mr. Speaker, I rise in warmest praise of our colleague from Michigan, WILLIAM BRODHEAD, and his tremendous contributions to this House and our country.

Few Representatives have been able to accomplish so much in such a short time. BILL has been an effective leader in creating a more equitable tax system while serving on the House Ways amd Means Committee. In addition, he has sought constructive alternatives to maintain social security benefits.

However, we will best remember BILL for his work on human needs. BILL has always been sensitive and representative of all especially those who tend to need Government assistance the most: the poor, handicapped, and elderly. His success in improving assistance programs to the handicapped and providing Federal support for parents who adopt foster children exemplify his commitment to goals of fairness and humanity.

His leadership on the Democratic Study Group, the center for progressive work and strategy, has led to many fresh ideas and approaches which will continue to strengthen the group in the years ahead. We can all appreciate BILL's flexibility and understanding of other points of view, which have led to effective coalitions on difficult issues. While BILL has always been a loyal Democrat, his independent views should be an inspiration to us all, as we are subject to great pressures to conform to politically safe attitudes and choices.

BILL will be sorely missed by his colleagues. We wish him well in pursuing his law career back in his home State, where he will surely represent his clients with the same energy and integrity that he showed while serving in this Chamber.●

● Mr. CROCKETT. Mr. Speaker, it is with great sorrow that I watch BILL BRODHEAD leave the House, for we are losing a man who has contributed much to the Congress, the residents of his district, and to Americans everywhere. I shall miss the leadership, compassion, and humor that he has so often displayed.

BILL and I have shared far more than simply the fact of representing the same Detroit metropolitan area. I have served on the executive committee of the Democratic Study Group under his very capable leadership. We have worked together on the House Auto Task Force, which he founded and cochairs. Both of these groups can credit much of their fine work to BILL's outstanding energy and ability.

But BILL's leadership has demonstrated itself even more in the legislation he has chosen to sponsor as a member of the Ways and Means Committee. He has consistently pressed for national health insurance. It was his amendment that encouraged the use of community group homes for retarded, disabled, and aged individuals instead of other, more restrictive institutions by increasing the supplemental security income to these homes. His unflagging interest in improving adoption programs has resulted, among other things, in continued Federal support for adoption subsidies for hard-to-place children. Time and again he has worked to raise student financial assistance, to improve the social security system, and to strengthen programs serving the handicapped. He has very ably represented the needs of all his constituents—from the low-income elderly, to the unemployed autoworker, to the average taxpayer.

The House has many liberals, but few who have so consistently taken a leading role as BILL BRODHEAD. Like his predecessor Martha Griffiths, BILL has set a standard of leadership that is hard to follow. Although I wish BILL much success with his law career, I hope this decision to move on does not mean he is completely withdrawing from the political realm. At times like these we cannot afford to completely lose from public service men and women with the vision, stamina, and ability of BILL BRODHEAD.●

● Mr. FIELDS. Mr. Speaker, I would like to take this opportunity to honor my friend and colleague, Congressman WILLIAM BRODHEAD who has a distinguished record of 8 years of service in the House of Representatives.

For the past 8 years, the Congress has benefited from BILL's innovative ideas and his efforts on the House Ways and Means Committee, and as a member of the House Budget Committee.

BILL's dedication and warm friendship will long be remembered by all of us who have had the pleasure of working with him, and "playing" with him—he is undoubtedly, the most tenacious basketball player with whom I have ever competed. Not only will he be missed by the Ways and Means Committee, but he will also be missed by the "B" Committee.

I consider BILL a good friend and a person for whom I have the utmost respect. I have only the best wishes for his continued success and all endeavors.●

● Mr. STOKES. Mr. Speaker, I would like to thank my distinguished colleague from Michigan (Mr. BONIOR) for reserving this time for Members to salute a man who is one of the most deeply committed legislators in the House of Representatives—Congressman WILLIAM BRODHEAD. Mr. Speaker, Congressman BRODHEAD will be retiring at the end of the 97th Congress after four terms in the House. At this juncture, it is only fitting that we pause to salute this dynamic and energetic legislator.

I believe that I speak for Members on both sides of the aisle when I say that we will miss BILL BRODHEAD for the unswerving dedication and commitment he brought to this Congress. More importantly, Mr. Speaker, we will miss the diligence in which he has worked to meet the needs of not only the residents of Michigan's 17th Congressional District, but also the needs of the politically powerless in this Nation.

Mr. Speaker, during his career in public service, BILL BRODHEAD has been what I can best characterize as a peoples' legislator. In many battles on the floor and in various committees, BILL BRODHEAD has been the champion of the poor and the workers of this Nation. He has held steadfastly to the idea that our Government is designed to help those who cannot help themselves and has facilitated that philosophy with innovative ideas and hard work.

Because of those qualities, Mr. Speaker, BILL BRODHEAD has enjoyed the unqualified support of his constituents. Before being elected to the House of Representatives, Congressman BRODHEAD served 4 years in the Michigan House of Representatives. He has served four consecutive terms in the House of Representatives and has had the good fortune of being reelected each time by resounding margin. This is because people in his district have confidence in his commitment and ability to meet their needs.

Just like the people in the 17th District, Members of Congress have a profound sense of respect and high regard for Congressman BRODHEAD. We quickly recognized when BILL took office in 1975, Mr. Speaker, that he was a man deeply committed to making government work and work effectively for the people of this Nation. Many of us who embraced the liberal political philosophy saw Congressman BRODHEAD as a new rising star on the horizon in the House of Representatives. My good friend, Congressman BRODHEAD, has not disappointed us.

Mr. Speaker, at the beginning of the 97th Congress, Congressman BRODHEAD was elected as the chairman of the Democratic Study Group. He has taken this valuable research and policy group to new levels of excellence and efficiency in terms of informing Democratic members of key issues in the House.

Mr. Speaker, as a member of the powerful House Ways and Means Committee, BILL BRODHEAD has gained a reputation as an expert on the impact of tax policies on our citizens. He has been at the forefront of efforts on the committee to reform welfare and tax laws. Additionally, he was the catalyst for the completion of the revised trade adjustment assistance program and passage of the Chrysler loan guarantee. His work through this committee and the national reputation he has gained earned him the "Taxpayers' Friend" award from the organization, Taxation With Representation.

In addition to the House Ways and Means Committee, Mr. Speaker, Congressman BRODHEAD serves on the House Budget Committee. I had the pleasure of serving with BILL on that committee.

I found in Congressman BRODHEAD an ally particularly when it came to funding for vital human needs programs and programs which aided the workers of this Nation. Through our association on the Budget Committee, I gained a deep respect for his ability as a responsible and compassionate legislator. We also became close friends. I would like to use this time to thank Congressman BRODHEAD for that support.

In addition to the victories he amassed through his committee assignments, Congressman BRODHEAD founded the 100-member House Auto Task Force and serves as its cochairman. He formed the group to seek congressional solutions to the severe problems resulting from the slump in domestic auto sales.

In closing, Mr. Speaker, I would like to add a personal note to my salute to our honoree, BILL BRODHEAD. I feel a special attachment and sense of pride about the achievements that BILL BRODHEAD has made in the Congress. As some of my colleagues know, BILL BRODHEAD is originally from Cleveland, Ohio. In fact, Mr. Speaker, BILL's mother currently resides in my congressional district. And so, in addition to all of the positive accomplishments of this dynamic and energetic legislator, I point with pride to the fact that this committed individual has roots in my city. In the years he has been in Congress, Congressman BRODHEAD has made not only his constituents proud of him, but also he has made those of us from his hometown extremely proud of our native son.

Again, it is a signal honor to join in this appropriate salute to Congressman WILLIAM BRODHEAD. With such a distinguished career in public service as a foundation, I know that we will be hearing even greater things about Congressman WILLIAM BRODHEAD in the future.●

● Mr. SCHUMER. Mr. Speaker, I would like to take this opportunity to bid farewell to my friend and distinguished colleague, BILL BRODHEAD; his leadership and energy will be greatly missed by us all.

Since 1974, when he became a Member of Congress, BILL has proven himself to be a tremendous force in many areas of political reform. BILL has provided the impetus for much innovative legislation in the areas of tax and welfare reform, and his efforts to aid the ailing domestic automobile industry by founding the House Auto Task Force will stand as a paramount accomplishment in his admirable congressional career.

Nowhere did BILL display his leadership ability more than in his capacity as chairman of the Democratic Study Group; this body will miss his active presence as will the entire House of Representatives.

I consider myself fortunate to have had the opportunity to work with BILL, and I know that I speak for all my colleagues when I wish BILL BRODHEAD the best of luck in all of his future endeavors.●

THE DREAM OF A UNITED IRELAND IS SHATTERED AGAIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. SHANNON) is recognized for 5 minutes.

● Mr. SHANNON. Mr. Speaker, once again, a terrorist bomb has set back the dream of a united Ireland.

The attack, 2 nights ago, on a tavern in Ballykelly, left at least 16 people dead. Dozens of others have been injured and mutilated.

The vast, vast majority of Irish Americans hang our heads in frustration. Can there be no end to the savagery, to the senseless brutality?

We know that these terrorists are dedicated not to ideals, but only to death and anarchy.

We know that the road to a united Ireland is blocked every time a corpse falls across it.

On behalf of all Irish Americans, I offer my sympathy to the families of those who were killed and injured.

We understand your pain.

We know that lives have been destroyed, and for no purpose.●

BANKRUPTCY LEGISLATION: THE NEED FOR A CONSTITUTIONAL BANKRUPTCY COURT—H.R. 6978, THE BANKRUPTCY COURT ACT OF 1982

The SPEAKER pro tempore. Under a previous order of the House, the gentelman from New Jersey (Mr. RODINO) is recognized for 10 minutes.

● Mr. RODINO. Mr. Speaker, at a time of 10.8 percent national unem-

ployment and business bankruptcies running at the highest rate since the Depression, the Nation's bankruptcy court structure is in danger of collapsing, unless Congress acts to correct the constitutional defect in the court by December 24.

This is not a partisan issue. The impending constitutional crisis in the judicial system may have serious economic ramifications. The responsibility rests clearly with the Congress as the Supreme Court has now twice afforded Congress the opportunity to solve what the Court itself recognized as a critical economic problem.

On June 28, 1982, in the case of *Northern Pipeline Construction Company* v. *Marathon Pipe Line Co.*, — U.S. — 50 U.S.L.W. 4872, the U.S. Supreme Court held that the jurisdiction conferred on the bankruptcy courts by section 241(a) of Public Law 95-598 cannot be constitutionally exercised by those courts, because bankruptcy judges are not afforded the protections set forth in article III of the Constitution to insure judicial independence—tenure during good behavior and guarantee against salary diminution while in office. However, in an unusual act, the Court stayed the entry of its order in the case until October 4, 1982, to allow Congress time to correct the constitutional problem and protect the orderly administration and adjudication of bankruptcy cases in the interim.

The Congress has considered this same issue on two prior occasions. In both the 94th and 95th Congresses, the House of Representatives examined the constitutional issues surrounding the bankruptcy court structure and concluded that the limited circumstances in which a departure from the requirements of article III have been permitted were not present in the bankruptcy context. In the 95th Congress, the House of Representatives passed a bill to establish the bankruptcy courts under article III of the Constitution. In a compromise with the Senate, a nonarticle III court was created however. It was this compromise court structure that was held unconstitutional in Northern Pipeline.

Aware of the necessity for prompt action in order for the Congress to comply with the October 4, 1982, deadline originally imposed by the Supreme Court, the House Judiciary Subcommittee on Monopolies and Commercial Law began hearings on July 21 and 22, 1982, on possible legislative solutions to the constitutional problem. As a result of these hearings, I, along with Congressmen EDWARDS, MCCLORY, and BUTLER, introduced H.R. 6978, a bill to provide for the appointment of U.S. bankruptcy judges under article III of the Constitution, on August 12. On August 17, the subcommittee favorably passed H.R. 6978, and the Judiciary Committee ordered the bill favorably reported on August 19. The committee report on H.R. 6978 was filed on September 15 (H. Rept. No. 97-807).

While the House diligently addressed the issues presented by the Northern Pipeline case and was anxious to meet the deadline imposed by the High Court in that decision, it was enormously difficult to enact such important legislation in the short period of time set forth in that case.

On October 4, 1982, the Solicitor General of the United States appeared before the Supreme Court and requested that the Court extend its stay of the Northern Pipeline decision until December 24, 1982. The Solicitor General pointed out the degree of disturbance that would occur if the Nation's bankruptcy system were placed in constitutional limbo and argued that there was "strong reason to believe" that the Congress would act to solve the problem in the lameduck session.

In his motion on behalf of the United States, the Solicitor General further emphasized before the Supreme Court that an interm rule promulgated by the Administrative Office of the U.S. Courts on September 27, 1982, to temporarily govern the operation of the bankruptcy court in the event of congressional inaction would be unworkable and subject to constitutional challenge. The Solicitor General stated:

> On September 27, 1982, the Administrative Office of the United States Court promulgated a proposed district court local rule to govern the operation of the bankruptcy courts after October 4. The proposed rule assigns to the bankruptcy courts in each district the district court's jurisdiction over "(a)ll cases under Title 11 and all civil proceedings arising in or related to cases under Title 11." Proposed Rule (b)(1). District courts are authorized to withdraw any reference to a bankruptcy judge, in whole or part, upon the court's own motion or the motion of a party., Id, (b)(2). In addition, the district courts must review de novo any proposed judgment of a bankruptcy court in any proceeding "related to" but not "arising under" a case under Title II and in any other proceeding where such de novo review is constitutionally required. Id., (c)(3), (c)(5)(A)(iii), (c)(5)(B). However, the proposed rule does not define those other cases in which district court de novo review is constitutionally required. . . .
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> . . . As an initial matter, it is uncertain whether the proposed rule would withstand a judicial challenge. The proposed rule is based on the assumption that the Court's decision has left untouched the broad bankruptcy jurisdiction conferred upon the district courts by Section 241(a) of the Act, 28 U.S.C. (Supp. IV) 1471 (a) and (b). In fact, it is unclear whether the Court's holding may be limited in that fashion. See slip op. 37 n.40 (plurality opinion); id. at 4 (Rehnquist, J., concurring). Furthermore, there are serious questions whether the proposed rule legitimately may assign to the bankruptcy courts significant portions of the district courts' broad bankruptcy jurisdiction under the Act, since this is precisely what the Court refused to do in holding that the bankruptcy courts' jurisdiction over constitutionally-recognized or state-created rights could not be severed from the remainder of the bankruptcy courts' jurisdiction under the Act. Ibid.
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> These uncertainties about the validity of the proposed local rule cast doubt upon the rule's effectiveness as an interim remedy. If district courts recognize the problems with the rule and withdraw the reference of many bankruptcy matters from the bankruptcy courts, they will severely hinder the operation of the bankruptcy system because of their own large workloads. On the other hand, if the district courts permit the bankruptcy courts to adjudicate a broad range of cases and proceedings pursuant to the local rule, there is a substantial risk that these cases and proceedings will have to be relitigated if the local rule is found invalid. Under either alternative, the bankruptcy court system will operate under a cloud. The magnitude of this problem and the potential waste of judicial resources is indicated by the fact that over 700,000 bankruptcy estates—and 100,000 adversary proceedings—currently are pending and new bankruptcy petitions are filed at the rate of more than 10,000 per week. Administrative Office of the United States Courts, 1982 Annual Report of the Director 8, 10 (preliminary ed., Sept. 22, 1982).

On the afternoon of October 4, the Supreme Court entered an order extending the stay of the Northern Pipeline decision until December 24, 1982.

It is unusual for the Supreme Court to stay the effective date of a decision and even rarer for it to grant the extension of a stay. The extension until December 24 was granted in part upon the representation that the Congress would certainly act by that date. It is almost universally believed that the Supreme Court will not grant a third postponement of the effective date of the Northern Pipeline decision since the Court has already twice afforded the Congress an opportunity to act.

The expiration of the stay of December 24 will create enormous uncertainty, potential economic loss, massive litigation and delay in bankruptcy proceedings, and great waste of judicial resources.

In the interest of maintaining the orderly administration of bankruptcy proceedings, particularly in the present state of our Nation's economy, I believe that this institution has a serious responsibility to grapple with this issue before it adjourns.

H.R. 6978, the Bankruptcy Court Act of 1982, which provides for the appointment of U.S. bankruptcy judges under article III of the Constitution, would eliminate the constitutional defect found by the Supreme Court to exist in the bankruptcy court. The bill does not authorize additional numbers of judges or personnel. The number of bankruptcy judges authorized under the bill is 227. There are currently 241 bankruptcy judges in the Nation. It does not alter in any way the jurisdiction of the bankruptcy courts, which only encompasses bankruptcy and

bankruptcy-related cases as under present law.

In order to meet the requirements of article III of the Constitution, H.R. 6978 simply provides that U.S. bankruptcy judges be appointed by the President for life, rather than for 14-year terms as is the case under existing law. As the Supreme Court expressly stated in Northern Pipeline, that is all that article III of the Constitution requires. It does not require that all article III judges be given the same staff support or hearing rooms, or, indeed, even be paid the same:

Relevant to that question of need, it seems worth noting that Article III itself permits much flexibility; so long as tenure during good behavior is granted, much room exists as regards other conditions. Thus it would certainly be possible to create a special bankruptcy court under Article III and there is no reason why the judges of that court would have to be paid the same salary as district judges or any other existing judges. . . . *(Northern Pipeline Construction Co.* v. *Marathon Pipe Line Co.* (June 28, 1982)—U.S.—Slip op., p. 24, n. 28).

The change from 14-year terms for bankruptcy judges to constitutional tenure is, in some respects, more of a conceptual change than a practical one, since tenured judges often do not serve longer than 14 years. However, in the wake of Northern Pipeline, it is a constitutionally required one.

The Congressional Budget Office estimates that the fiscal year 1983 cost of H.R. 6978 would be approximately $3 million.

As H.R. 6978 will be offered on the floor, bankruptcy judges cannot be assigned even temporarily to the district or circuit court. Article III bankruptcy judges will not be authorized to hear any non-bankruptcy-related cases.

The Judiciary Committee has spent many hours examining this problem, consulting constitutional scholars and bankruptcy experts, and reviewing possible alternatives. In light of the reasoning and holding of the Northern Pipeline decision, the importance of expedition in bankruptcy cases, and the present workload of the Federal district courts, an article III bankruptcy court is the only clearly constitutional and workable solution to the problem created by the Supreme Court's ruling.

The Justice Department has also conducted a detailed examination of the available options. In testimony before the Senate Judiciary Subcommittee on Courts on November 10, 1982, Jonathan C. Rose, Assistant Attorney General, Department of Justice, stated:

. . . I cannot overstate the need for the enactment of remedial legislation before the Supreme Court's stay expires. The plurality and concurring opinions in the *Northern Pipeline* case have left many important questions unanswered, and the extent to which the bankruptcy courts and the district courts will be able to adjudicate bankruptcy matters after December 24 is highly unclear. Some have, indeed, questioned whether *any* court will have jurisdiction over bankruptcy matters after December 24.

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. . . (W)e do not believe that the bankruptcy court system can operate effectively after December 24 in the absence of remedial legislation. The disruption of this system would ultimately result in losses of millions of dollars and thousands of jobs, as reorganizations of our Nation's productive resources are delayed by the legal uncertainties outlined above.

Nor can we rely on the prospect of a further stay from the Supreme Court. The Court's stay has been extended once, to coincide with the adjournment of this Congress, almost six months after the Court's decision. As a practical matter, the deferral of this issue until the next Congress would make final action by Congress unlikely before the late spring, a delay the Court likely will not countenance.

Thus, it is essential that remedial legislation to deal with the *Northern Pipeline* decision be enacted before the end of the current session.

. . . (T)he Department initially had attempted to develop an Article I solution that was both workable and constitutional. Unfortunately, our extensive review has led to the conclusion that we cannot recommend to the Congress any Article I solution that is either workable as a practical matter or sufficiently free of constitutional doubt.

Among the alternative approaches carefully examined by the Judiciary Committee were various proposals attempting to, in some manner, split the jurisdiction over bankruptcy cases between an article I judge and an article III judge. One example of this approach is contained in a bill drafted by the Judicial Conference and introduced by Mr. KASTENMEIER on September 17, 1982, as H.R. 7132. H.R. 7132 would create a trifurcated jurisdictional system, producing endless litigation over which forum should hear an issue, and thereby diluting the assets of the estate and reducing the present value of creditors' claims. This approach would also result in massive duplication of effort by bankruptcy and district judges and magistrates. H.R. 7132 or similar "split jurisdiction" proposals would generate wasteful litigation over jurisdiction, productive only of needless expense and delay in bankruptcy cases. Aside from judicial inefficiency, such a "remedy" would completely undermine the goals of successful rehabilitation of debtors in reorganization cases and prompt liquidation and distribution to creditors in asset liquidation cases.

The Justice Department has commented as follows on the constitutional and practical problems of H.R. 7132:

One Article I solution has been proposed by the Judicial Conference. Under this proposal, jurisdiction over all cases under title 11 and "subsidiary proceedings" would be vested in the district courts, and those matters would be referred to the bankruptcy court for the district for disposition. The district court, on its own motion or the motion of a party, would be able to recall any case referred to the bankruptcy court, either for determination or for reference to a magistrate. "Related proceedings" to the case under title 11 would not be referred to the bankruptcy court but would be decided by the district court.

It is very difficult to determine from the opinions filed in Northern Pipeline exactly what aspects of bankruptcy proceedings might or might not be constitutionally adjudicated by a non-Article III tribunal. The rationales advanced by both the plurality opinion and the concurring opinion are, however, sufficiently sweeping that it is doubtful that the proposal to reestablish an Article I bankruptcy court advanced by the Judicial Conference would provide a workable bankruptcy tribunal that would be both effective and capable of withstanding constitutional scrutiny.

The plurality opinion of four justices distinguished between "public rights" which may be adjudicated by an Article I tribunal and "private rights" which may not. That opinion did not delineate what constitutes "public rights" but noted generally that they must at a minimum arise "between the government and others." 102 S. Ct. at 2870. By contrast, private rights, which must be adjudicated by Article III courts, are those involving "the liability of one individual to another." 102 S. Ct. at 2870-71. Though some aspects of bankruptcy proceedings may involve matters of "public right," the adjudication of creditors' claims against a bankrupt, which is at issue in many bankruptcy proceedings, would seem to involve primarily the "private rights" of the parties.

The concurring opinion of Justices Rehnquist and O'Connor was expressly limited to the particular type of claim involved in the case (i.e., a bankrupt's common law claim against a third party uninvolved in the bankruptcy proceeding). Nevertheless, the rationale advanced is in some respects no less sweeping than that of the plurality opinion. Justice Rehnquist's opinion suggest that matters arising under state law, as well as "the stuff of the traditional actions at common law tried by the courts at Westminster in 1789," must be tried by Article III courts. 102 S. Ct. at 2881. This could entail a vast number of matters in and related to bankruptcy.

The Judicial conference has argued that the decision in *Northern Pipeline* should be read to require only that actions at common law arising under state law must be decided by an Article III tribunal.[1] It is apparently the view of the Judicial Conference that matters "arising under" bankruptcy law do not entail issues of state common law and, accordingly, may be constitutionally considered by an Article I tribunal.

The analysis and proposal offered by the Judicial Conference present a number of problems. First, we would not advise Congress to base its legislative solution to this problem on the speculation that the more narrow construction of Northern Pipeline advanced by the Judicial Conference will ultimately prevail in the Supreme Court. Second, even under the construction of Northern Pipeline advanced by the Judicial Conference, there may be significant constitutional problems in attempting to adjudicate a large proportion of the matters arising under bankruptcy law in an Article I tribunal. Cases arising under bankruptcy law

[1] Report of the Judicial Conference of the United States on Northern Pipeline Construction Co. v. Marathon Pipe Line Co., and Proposals for Remedial Congressional Action, 11 (1982).

frequently entail consideration of state law or traditional common law issues in many different contexts. To cite an obvious example, proofs of claim offered by a claimant against a bankrupt will generally be predicated on state law (of contract, property, domestic relations, etc.). It is arguable that, even under the construction of Northern Pipeline offered by the Judicial Conference, state law issues concerning proofs of claims could not be adjudicated by an Article I tribunal.[2]

Finally, the Judicial Conference proposal would reduce the efficiency of the bankruptcy system established in 1978 by bifurcating proceedings between an Article I and an Article III tribunal. One of the most important purposes of the 1978 reforms was the consolidation of bankruptcy proceedings before a single forum with jurisdiction over all relevant matters. This put an end to costly delays and jurisdictional litigation which had plagued bankruptcy adjudication prior to 1978. The bifurcated system proposed by the Judicial Conference would resurrect some of these same problems. Moreover, it would place an additional caseload of uncertain dimensions on already overcrowded district court calendars.

For these reasons, the Department has concluded that only an Article III approach will provide the workable and constitutional solution that is essential to assure the continued integrity of the bankruptcy system. Grave constitutional doubts would surround any further temporizing with an Article I solution and would cast a shadow on all bankruptcy cases raising the possibility of a new ruling that such a bankruptcy court structure is unconstitutional. In our judgment, a legislative proposal that simply offers an opportunity for more litigation to test its constitutional validity is no solution at all. The appointment of Article III judges will resolve any constitutional concerns, allow the consolidated disposition of all related bankruptcy matters, and attract the highest caliber of lawyers to the bench.

Another alternative considered by the committee would be to have bankruptcy cases and proceedings adjudicated by article III district courts. This approach is not feasible as a practical matter, because of the congested calendar of the U.S. district courts. Assigning all matters to the district courts would not provide the speed and expertise necessary in bankruptcy cases.

This approach would be enormously expensive since a large number of Federal district court judgeships would be needed, and additional facilities and supporting personnel would have to be authorized.

When a business reorganization case is pending, quick responses from the court are essential to matters of continued financing, litigation about the automatic stay, litigation over the ability to use property of the estate, and numerous other matters. Crowded civil calendars and the Speedy Trial Act severely limit the ability of the district courts to handle bankruptcy matters as promptly as needed.

[2] In their letter of September 20, 1982 to the Chairman, Professors Countryman, Kennedy and King present a more extensive analysis of such problems.

The district court approach is contained in H.R. 7294 and H.R. 7349 introduced by Mr. BUTLER. Under these bills, bankruptcy judges would sit as full-fledged article III judges on a division of the district court. H.R. 7294 and H.R. 7349 would also create more Federal district court judgeships in addition to article III "bankruptcy division" district judgeships, would enhance pension benefits for all judges, and make numerous other changes that would have a large cost impact on the Federal budget. Under these bills there is a real danger that bankruptcy judges will be assigned to criminal cases because of Speedy Trial Act considerations, or used to clear up the great civil case backlog in the district courts. If these other matters took precedence over bankruptcy cases, there would not be any bankruptcy law worth speaking of, since speed is so critical to these proceedings.

Mr. Speaker, the Judiciary Committee reviewed the above alternatives and others. The committee concluded that an article III court is constitutionally required by Northern Pipeline and that an article III bankruptcy court is the simplest, least expensive, and most workable solution to the constitutional problem.

The cases pending in the bankruptcy courts involve more people, more money, more jobs, and more tax revenues than the combined total of all civil cases pending before the remainder of the Federal judiciary. The crisis in the bankruptcy judicial system could become an economic problem as well. The constitutional problem in the court system must be our primary concern in the short time remaining. It is an emergency matter with a deadline already extended by the Supreme Court.

Changes in the substantive bankruptcy laws, including some radical changes in the traditional fresh-start concept of our Nation's bankruptcy law, have been sought by various interest groups. We will seriously examine all of these proposals. The wallpaper can be hung and the furnishings can be arranged, however, only if the foundation has been laid and the structure built. The Congress has first been charged with the responsibility of constructing a constitutionally sound court.●

THE NINE-DIGIT ZIP CODE: STATUS REPORT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma (Mr. ENGLISH) is recognized for 5 minutes.

● Mr. ENGLISH. Mr. Speaker, I rise today to give my colleagues a brief update on the status of the U.S. Postal Service's plan for a nine-digit ZIP code.

As you will recall from past deliberations, the plan really represents two distinct proposals: First, the introduction of automation and additional mechanization into the mail sorting process; and second, the division of the country into some 20 million nine-digited ZIP code areas—there are currently some 40,000 five-digited areas—so that mail can be sorted into smaller units by machine before being presented to the letter carrier for delivery.

After an indepth examination of this proposal by my Government Information and Individual Rights Subcommittee, the Committee on Government Operations issued two investigative reports raising numerous questions about the adequacy of the Postal Service plan and the accuracy of its financial projections. The concern of the Congress was such that a provision was included in the Omnibus Budget Reconciliation Act of 1981 delaying the project until October 1983. The General Accounting Office was ordered to study the Postal Service proposal and report its findings and recommendations to us by December 1, 1982.

Mr. Speaker, I have some pretty good news. GAO is nearly on target and will, I understand, issue its final report in mid-December. Thus, it would appear the Congress could take whatever further action might be indicated by the report in advance of the October 1983, startup date we chose.

But there is some bad news, too. Yesterday—only days before we received the GAO report—the Board of Governors of the Postal Service approved going ahead with a one-half cent discount for mailers who use the longer ZIP codes. Their decision followed a lengthy discussion of whether commonsense and common courtesy did not argue for delay of that decision until Congress had seen the GAO report. All but two of the Governors felt that the project had already encountered too many delays and that any further delay was unwarranted.

Somewhat earlier in the day yesterday, the Postmaster General reported to the Governors on the status of deployment of the linchpin—automated mail sorting equipment. He had some good news: The primary contractor, Pitney-Bowes, had delivered eight of the complex optical character readers (OCR's). Unfortunately, he also had some bad news: Problems had cropped up in the acceptance testing of all eight OCR's. The news on testing of OCR's supplied by another contractor, Burroughs, is better—none of its machines has experienced problems. There is a very obvious explanation for this: Burroughs has had a problem with technology transfer from its foreign partner, Nippon Electric, and has yet to deliver a single OCR.

89-059 O-86-44 (Pt. 21)

Although I have seen a draft of the GAO report on which the Board of Governors jumped the gun with its decision yesterday, it would be inappropriate for me to discuss details. Suffice to say that, while it will be subject to varying interpretations—as most GAO reports are, the report concurs in our long held view: If the machines do not work as well as the Postal Service has alleged they will, the entire project could be a real fiasco. It seems to me that the Postal Service Board of Governors should be more concerned with the delivery and performance of new equipment and spend less time rushing to establish discounts for nine-digited mail which can only be given if and when the equipment is in place and working.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. BONKER) is recognized for 5 minutes.

● Mr. BONKER. Mr. Speaker, because of a longstanding commitment in Washington State, I was unable to be present to vote on December 6.

I want to make it public record, though, that if present I would have supported H.R. 7368, the Highway Revenue Act. When faced with a crumbling American infrastructure and high unemployment, the responsible action was to support this measure both to repair and construct highways, bridges, and mass transit, and to create thousands of jobs.

If present, I would have voted "yes" on rollcall No. 414, "no" on rollcall No. 415, "no" on rollcall No. 416, "no" on rollcall No. 417, "no" on rollcall No. 418, "no" on rollcall No. 419, "yes" on rollcall No. 420, and "yes" on rollcall No. 421.

ROLLCALL VOTES DECEMBER 6, SURFACE TRANSPORTATION ASSISTANCE ACT

Rollcall No. 414—Rule. Passed 197-194.

Rollcall No. 415—Conte amendment to require appropriations for all funding. Rejected 96-305.

Rollcall No. 416—Waive Davis-Bacon provisions for bill. Rejected 174-223.

Rollcall No. 417—Restrict Davis-Bacon provisions to initial highway construction. Rejected 191-194.

Rollcall No. 418—Strike language in bill to permit Secretary of Transportation to prioritize allocation of interstate discretionary funds for high-cost projects. Rejected 21-329.

Rollcall No. 419—Davis-Bacon provisions should not be used to limit or, in opinion of Secretary of Transportation, have effect of limiting legitimate job opportunities. Rejected 149-217.

Rollcall No. 420—Adoption of the Rostenkowski amendment to revise the present highway user taxes, extend the highway trust fund through September 30, 1988, and increase the Federal gasoline tax by 5 cents, making an estimated $5.5 billion annually available for construction and repair of our national infrastructure. Adopted 236-169.

Rollcall No. 421—Final passage. Adopted 262-143.●

THE IMMIGRATION REFORM AND CONTROL ACT OF 1982

Mr. SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky (Mr. MAZZOLI) is recognized for 5 minutes.

● Mr. MAZZOLI. Mr. Speaker, I am very pleased that the House Rules Committee today granted a rule to H.R. 7357, the Immigration Reform and Control Act of 1982.

The committee granted an open rule, though it does require that all amendments to the bill be submitted no later than Thursday, December 9. Therefore, I would advise our colleagues to submit any amendments that they may have to the bill as soon as possible.

I would also like to remind our colleagues that H.R. 7357 is the same as H.R. 6514, the Judiciary Committee version of the immigration reform bill, with one technical correction. All amendments should be drafted to H.R. 7357.

I look forward to floor consideration of this important piece of legislation.●

LIMITS ON CAMPAIGN EXPENDITURES

(Mr. BINGHAM asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. BINGHAM. Mr. Speaker, I am introducing today a joint resolution providing for a constitutional amendment that would permit the Congress to set limits on campaign expenditures for Federal office and the States to do the same with respect to State and local offices.

I am delighted to have, as one of the cosponsors of this amendment, the distinguished and able gentleman from Wisconsin (Mr. REUSS) who like myself is retiring from the House at the end of this session. Last June Mr. REUSS introduced a similar amendment dealing with congressional elections: The amendment I am proposing is broader in two respects: First, it extends to Presidential elections, where there is a growing problem with respect to spending by allegedly "independent" committees; and second, it would authorize the several States to impose limits on spending for State and local offices.

The addition to the Constitution which I propose would read as follows:

"ARTICLE

"SECTION 1. The Congress may enact laws regulating the amounts of contributions and expenditures intended to affect elections to federal offices.

"SECTION 2. The several States may enact laws regulating the amounts of contributions and expenditures intended to affect elections to state and local offices."

We are introducing the amendment at the present time, not in the expectation that it can be dealt with in the current session, but in order to stimulate debate and discussion of the subject throughout the country. It would be my hope that the 98th Congress might then adopt an amendment along these lines and submit it to the states for ratification.

THE PROBLEM

In 1980 and 1982 the level of spending in campaigns for Senator, Representative and Governor, as well as for President, long rising astronomically, went through the roof. In two 1982 campaigns for Governor, more than $12 million was spent, one of them involving some $8 million of the candidate's own funds. Multi-million-dollar campaigns for the Senate have become commonplace, even in small states. In 1980 and 1982 several campaigns for House seats went over the million dollar mark, with one candidate reportedly spending some $2 million of his own funds. Also in 1980, spending in the Presidential race by allegedly independent groups shot out of control, even where the candidate was accepting public funding.

This situation is intolerable. The political process is distorted, and public confidence in our domestic system is undermined, as high offices are perceived to be for sale to the highest bidder. The need to raise large sums for their campaigns puts incumbents and challengers under intolerable pressures and obligations that may well influence their conduct in office. Because of this, many good people are deterred from seeking elective office.

For many years the Congress—and before it the House of Commons—have been concerned with excessive campaign spending and have sought to control it.

PRIOR LEGISLATION

As early as 1677 the House of Commons passed a standing order that if any one should spend above ten pounds before election in order to win "it shall be accounted bribery" and the seat vacated!

In 1910 and 1911 the Congress passed laws placing limits on the amount of money that could be spent by candidates for the Senate or the House. In 1921, the Supreme Court held that these restrictions were unconstitutional insofar as they applied to primary elections (Newberry v. U.S., 256 U.S. 232). Such a distinction between primary and general elections has long since been rejected by the Supreme Court, but the distinction was observed by the Congress when in 1925 it passed the Corrupt Practices Act, attempting to regulate general election campaign spending only.

The Corrupt Practices Act itself was upheld by the Supreme Court in 1934 (Burroughs vs. U.S., 290 U.S. 534). The Act, however, proved full of loopholes and ineffective. In 1971, responding to a clear need, the Congress passed a comprehensive campaign reform act, applying to primary as well as general election campaigns, the Federal Election Reform Act of 1971. In reporting out its version of that bill, the House Administration Committee (of which I was then a member) said:

"Witnesses at the hearings expressed the view that a system which sets no overall

limits on campaign spending in Federal elections may lead to a closed, insulated, self-perpetuating system, dominated by special interests, and unresponsive to the public will and which often creates the impression that only the rich can run for public office, and that a candidate can buy an election by spending large amounts of money in a campaign . . ."

"Such a situation works an inequitable hardship on the candidate who cannot compete with the resources of great wealth, but on even greater significance, it is unfair to the electorate which is entitled to have presented to it for its evaluation and judgement candidates from all walks of life and not just those persons who, because of their wealth can conduct a campaign which resorts to techniques which are more appropriate to merchandising a product than to familiarizing the public with a candidate's qualities as a potential public official and his program for the country."

It is almost incredible today that, as late as 1971, the House Administration Committee proposed an expenditure limit for House campaign of $15,000!

The final product of the legislative process that year did not contain any such limit on total campaign expenses. It did, however, seek to limit expenditures on communications media and expenditures by candidates from their personal funds ($50,000 for President or Vice-President, $35,000 for Senator, $25,000 for Representative).

Recognizing that the 1971 Act was flawed, the Congress tackled the problem of campaign financing again in 1974. The Federal Election Campaign Act Amendments of 1974 combined comprehensive disclosure requirements with restrictions upon the amounts of contributions, independent expenditures on behalf of candidates, expenditures from a candidate's personal funds, and total campaign expenditures. The Act also provided for the now familiar system of partial public funding for Presidential campaigns, both primary and general.

Again the House Administration Committee, in its report stressed the need for such legislation. The Committee said:

"The unchecked rise in campaign expenditures, coupled with the absence of limitations on contributions and expenditures, has increased the dependence of candidates on special interest groups and large contributors. Under the present law the impression persists that a candidate can buy an election by simply spending large sums in a campaign . . .

"Such a system is not only unfair to candidates, in general, but even more so to the electorate. The electorate is entitled to base its judgement on a straightforward presentation of a candidate's qualifications for public office and his programs for the Nation rather than on a sophisticated advertising program which is encouraged by the infusion of vast amounts of money . . .

"The Committee on House Administration is of the opinion that there is a definite need for effective and comprehensive legislation in this area to restore and strengthen public confidence in the integrity of the political process . . ."

BUCKLEY V. VALEO

The constitutionality of the 1974 Act was promptly challenged in the case of *Buckley vs. Valeo.* A panel of three distinguished judges in the Circuit Court for the District of Columbia sustained the Act, but in January 1976 a majority of the Supreme Court reversed the Circuit Court and held unconstitutional those portions of the Act which undertook to limit campaign expenditures, on the grounds that these provisions constituted an improper limitation on freedom of speech as protected by the First Amendment.

The Court drew a distinction between contributions and expenditures and upheld provisions limiting individual and committee contributions, including the unrealistically low figure of $1,000 for individual contributions. The Court also upheld the provisions dealing with Presidential elections on the grounds that the limitations on expenditures were made conditional on the candidate's acceptance of public funds.

These various distinctions have been widely criticized as unsound. In dissents to the decision itself, Chief Justice Burger and Justice Blackmun argued that there was no basis for the distinction between contributions and expenditures (their position was that limits on both were unconstitutional). In his dissent, Justice White argued that all the limits were constitutional, saying ". . . expenditure ceilings reinforce the contribution limits and help eradicate the hazard of corruption. . . . Without limits on total expenditures, campaign costs will inevitably and endlessly escalate." 424 U.S. at 264.

Writing in the Columbia Law Review in 1977, the late Judge Harold Leventhal, an outstanding member of the D.C. Circuit Court, vigorously criticized what he said was the Supreme Court's equating of money with speech. He referred to Justice White's comment that the majority's opinion proceeded "from the maxim that 'money talks' "and quoted Anthony Lewis in the N.Y. Times: "We know that money talks; but that is the problem, not the answer."

Judge Leventhal also pointed out that "even if 'money is speech', limitation on amount is constitutionally different from limitation of content."

Judge Leventhal quoted the House Committee report on the bill that "the impression persists that a candidate can buy an election by simply spending large sums in a campaign" and went on to say "The expenditure limits in the Act were intended to equalize spending and restore public confidence in the democratic breadth of representative government."

In his opinion differing from the majority with respect to the constitutionality of limits on candidates' personal spending, Justice Marshall said "the perception that personal wealth wins elections may not only discourage potential candidates without significant personal wealth from entering the political area, but also undermine public confidence in the electoral process."

To me that is the key point. Even if the Buckley case be viewed as technically correct, it has already done great harm and will do incalculably more if allowed to stand.

INCUMBENTS' ADVANTAGES

I am not insensitive to the argument that restrictions on campaign spending tend to help incumbents stay in office, but this consideration can be met in various ways: the Congress can, and should, set the limits at high enough levels to permit challengers a fair shot; some assured access to the media can be provided; and partial public funding is certainly a possibility.

On the first point, the level at which limits are set, I think we in the Congress made a bad mistake in the 1974 Act when we set the limit for independent expenditures on behalf of a candidate at $1,000. The Court in *Buckley* zeroed in on this particular limit, saying that it "would appear to limit all citizens and groups except candidates, political parties, and the institutional press from any significant use of the most effective modes of communication." Indeed, one may speculate whether the result in *Buckley* might not have been different if Congress had not set that particular limit so low.

I do not accept the argument that Congress, being always composed of incumbents, will never treat challengers fairly. An example of Congressional concern for challengers was its action in prohibiting the use of the frank for mass mailings during the two months before an election.

In any event, considerations of this kind are essentially political, not constitutional. As Judge Leventhal pointed out, the Supreme Court in the *Buckley* case was entering the "political thicket". In such a situation, it seems to me the Congress has the obligation to reassert its own responsibilities in the only way open to it, by initiating an appropriate constitutional amendment.

THE PROBLEM OF PACS

In addition to the more general problem of excessive campaign spending, the astronomical increase in the number of PACs and their influence in the voting patterns of many members of Congress has caused widespread concern. To some degree the activities of PACs can and should be limited by statute: for example, a limit could be set on the total of contributions from PACs that a Congressional candidate could receive.

However, how to control expenditures by PACs is another matter. In view of the broad ruling in the *Buckley* case, it is difficult to see how such expenditures can be controlled by statute, unless the Constitution is amended.

In the case of *Common Cause vs. Schmitt,* the Supreme Court this year upheld a lower court ruling that the Presidential Election Campaign Fund Act limitation of $1,000 on expenditures by an independent committee was invalid under the *Buckley* doctrine, even where the candidate had accepted public financing. This leaves a gaping hole in the structure of limitations on Presidential campaign spending. In the 1980 elections independent groups spent some $14 million (most of it for Ronald Reagan) or almost 50% of the expenditures allowable for a Presidential campaign.

This case illustrates the long-range damage that *Buckley vs. Valeo* will continue to do if the Congress and the State legislatures allow it to stand.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. ALEXANDER (at the request of Mr. WRIGHT), for today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PARRIS) to revise and extend their remarks and include extraneous material:)

Mr. FINDLEY, for 5 minutes, today.

Mr. COURTER, for 60 minutes, December 9.
Mr. FORSYTHE, for 5 minutes, today.
Mr. DORNAN of California, for 5 minutes, today.
Mr. DANNEMEYER, for 60 minutes, December 9.
(The following Members (at the request of Mr. WOLPE) to revise and extend their remarks and include extraneous material:)
Mr. BONIOR of Michigan, for 60 minutes, today.
Mr. SHANNON, for 5 minutes, today.
Mr. GONZALEZ, for 30 minutes, today.
Mr. RODINO, for 10 minutes, today.
Mr. LAFALCE, for 10 minutes, today.
Mr. ADDABBO, for 10 minutes, today.
Mr. ENGLISH, for 5 minutes, today.
Mr. BONKER, for 5 minutes, today.
Mr. MAZZOLI, for 5 minutes, today.
Mr. BONIOR of Michigan, for 60 minutes, on December 10, 1982.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:
Mr. WEISS, immediate prior to the vote on H.R. 7355 today.
(The following Members (at the request of Mr. PARRIS) and to include extraneous matter:)
Mr. BROOMFIELD.
Mr. YOUNG of Alaska.
Mr. GREEN.
Mr. GINGRICH.
Mr. DORNAN of California.
Mr. NAPIER.
Mr. ROBINSON.
Mr. RHODES.
Mr. FORSYTHE.
Mr. ARCHER.
Mr. EDWARDS of Oklahoma.
Mr. DENARDIS.
Mr. FIELDS in four instances.
(The following Members (at the request of Mr. WOLPE) and to include extraneous matter:)
Mr. MCHUGH.
Mr. MATSUI in three instances.
Mr. MONTGOMERY.
Mr. SIMON in two instances.
Mrs. BOUQUARD.
Mr. BONER of Tennessee.
Mr. D'AMOURS.
Mr. ROSE.
Mr. WON PAT.
Mr. BINGHAM.
Mr. GARCIA.
Mr. MCDONALD in five instances.
Mr. FRANK.
Mr. TRAXLER.
Mr. MOTTL in two instances.
Mr. SCHUMER.
Mr. HUBBARD.
Mr. PEYSER.
Mr. BONKER.
Mr. WIRTH.

ADJOURNMENT

Mr. BONIOR of Michigan. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 25 minutes p.m.) under its previous order, the House adjourned until tomorrow, Thursday, December 9, 1982, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5259. A letter from the National Adjutant, Disabled American Veterans, transmitting the proceedings of their national convention, held in Las Vegas, Nev., July 18-22, 1982 (H. Doc. No. 97-265); to the Committee on Veterans' Affairs and ordered to be printed.

5260. A letter from the Principal Deputy Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notice of the proposed conversion to contractor performance of the grounds maintenance function at the Naval Public Works Center, San Diego, Calif., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

5261. A letter from the Commissioner, Immigration and Naturalization Service, transmitting notice of 813 waivers granted to refugees for the second half of fiscal year 1982, pursuant to section 207(c)(3) of the Immigration and Nationality Act; to the Committee on the Judiciary.

5262. A letter from the Secretary of Health and Human Services, transmitting the executive summary of the final report of the evaluation of the administration for Native Americans training and technical assistance program, pursuant to section 810(e) of Public Law 93-644; jointly, to the Committees on Education and Labor and Interior and Insular Affairs.

REPORT OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the clerk for printing and reference to the proper calendar, as follows:

Mr. BEILENSON: Committee on Rules. House Resolution 623. A resolution providing for the consideration of H.R. 7357, a bill to revise and reform the Immigration and Nationality Act, and for other proposes (Rept. No. 97-947). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DYMALLY:

H.R. 7383. A bill to restore social, economic, and cultural well-being to the communities of American citizens, permanent resident aliens, and others whose lives, communities, employment, and social networks were disrupted and damaged when they were evacuated from their homes as a result of Executive Order Numbered 9066, issued February 19, 1942, and related actions of the Government of the United States of America during World War II; jointly, to the Committees on Agriculture, Banking, Finance and Urban Affairs, Education and Labor, Energy and Commerce, and Ways and Means.

H.R. 7384. A bill to provide individual reparations for wrongs committed against Japanese Americans and Aleut Americans, and other individuals relocated by the Government of the United States during World War II; to the Committee on the Judiciary.

By Mr. GORE:

H.R. 7385. A bill to amend the Consolidated Farm and Rural Development Act to provide that emergency loans not to exceed $5,000 may be made and insured under such act on the basis of estimated losses caused by disasters; to the Committee on Agriculture.

By Mr. GREEN (for himself, Mr. SMITH of New Jersey, Mrs. SCHNEIDER, Mr. UDALL, Mr. FISH, Mr. EDGAR, Mr. WYDEN, Mr. MARKEY, Mr. BARNES, Mr. FOGLIETTA, Mr. CROCKETT, Mr. SYNAR, Mr. FROST, Mr. SCHEUER, Mr. STARK, Mr. MITCHELL of Maryland, Mr. FRANK, Mr. WILSON, Mr. JEFFORDS, Mr. FAUNTROY, Mr. DELLUMS, Mr. HOWARD, Ms. OAKAR, Mr. YATES, Mr. OBERSTAR, Mr. RODINO, Mr. SOLARZ, Mr. LEHMAN, Mr. HOYER, Mr. RANGEL, Ms. MIKULSKI, Mr. STUDDS, Mr. PRITCHARD, Mr. MATSUI, Mrs. SCHROEDER, Mr. CONTE, Mr. CORRADA, Mrs. SNOWE, Mr. DWYER, and Mrs. KENNELLY):

H.R. 7386. A bill to amend the laws of the United States to eliminate gender-based distinctions, and for other purposes; to the Committee on the Judiciary.

By Mr. ROSE:

H.R. 7387. A bill to authorize the transfer of certain property to the town of Wrightsville Beach, N.C., to provide for the ownership by the town of a Federal desalting facility, to authorize the transfer of certain property to the city of Rosewell, N. Mex., to provide for the ownership by the city of a Federal desalting facility, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. SCHUMER (for himself and Mr. LUNDINE):

H.R. 7388. A bill to authorize the Department of Housing and Urban Development to insure and otherwise promote the use of mortgage instruments with monthly payments and loan balances that are adjusted to reflect changes in a selected index which measures the rate of inflation or the rate of change in wages or consumer disposable income; to the Committee on Banking, Finance and Urban Affairs.

By Mr. VOLKMER:

H.R. 7389. A bill to freeze natural gas prices; to the Committee on Energy and Commerce.

H.R. 7390. A bill to allow the adjudication of claims against the United States for damages arising from the activities of the Army Corps of Engineers at the Clarence Cannon Dam project on the Salt River in the State of Missouri; to the Committee on the Judiciary.

By Mr. WON PAT:

H.R. 7391. A bill to amend title 10, United States Code, to authorize the Secretary concerned to transport to the place of burial the remains of a member of the uniformed services entitled to retired or a retainer pay who dies in a military medical facility; to the Committee on Armed Services.

By Mr. YOUNG of Alaska:
H.R. 7392. A bill to eliminate Coast Guard responsibilities regarding marine sanitation devices on small vessels, and for other purposes; jointly, to the Committees on Public Works and Transportation, and Merchant Marine and Fisheries.

By Mr. CONTE (for himself, Mr. PAUL, Mr. ROE, Mr. DUNCAN, Mr. PARRIS, and Mr. WEBER of Minnesota):
H.R. 7393. A bill to amend the Internal Revenue Code of 1954 to provide a refundable credit against income tax for social security taxes paid by an individual who has attained age 62 but not age 70; to the Committee on Ways and Means.

By Mr. BINGHAM (for himself, Mr. REUSS, Mrs. FENWICK, Mr. BEVILL, Mr. DONNELLY, Mr. D'AMOURS, Mr. EDGAR, Mr. LAFALCE, Ms. MIKULSKI, Mr. RANGEL, Mr. VENTO, Mr. WEISS, and Mr. WOLPE):
H.J. Res. 628. Joint resolution proposing an amendment to the Constitution of the United States relative to contributions and expenditures intended to affect congressional, Presidential, and State elections; to the Committee on the Judiciary.

By Mr. VENTO (for himself, Mr. PEASE, Mr. YOUNG of Missouri, Mr. OBERSTAR, Mr. GLICKMAN, Mr. KINDNESS, Mr. GILMAN, Mr. WASHINGTON, Mr. LOWRY of Washington, Mr. JOHN L. BURTON, Mr. HOYER, Mr. DWYER, Mr. WEISS, Mr. CROCKETT, Mr. PATTERSON, Ms. FERRARO, Mr. FRANK, Mr. BARNES, and Mr. HUBBARD):
H. Res. 624. Resolution expressing the sense of the House of Representatives with respect to the unacceptable rise in the price of natural gas to consumers; to the Committee on Energy and Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. GORE:
H.R. 7394. A bill for the relief of John Smitherman; to the Committee on the Judiciary.
H.R. 7395. A bill for the relief of Richard S. Young, Jr.; to the Committee on the Judiciary.

By Mrs. SCHNEIDER:
H.R. 7396. A bill for the relief of Dr. Mario J. Wexu; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 4821: Mr. CRAIG and Mr. ROBERTS of Kansas.
H.R. 4931: Mr. GOODLING.
H.R. 6347: Mr. OBERSTAR.
H.R. 6789: Mr. BEREUTER.
H.R. 7043: Mr. LELAND.
H.R. 7108: Mr. VENTO and Mr. BEREUTER.
H.R. 7315: Mr. SHARP.
H.R. 7372: Mr. SABO.
H.R. 7373: Mr. NOWAK, Mr. FRANK, Mr. MINISH, Mr. D'AMOURS, Mr. APPLEGATE, Mr. LEACH of Iowa, Mr. KASTENMEIER, Mr. MOTTL, and Mr. HUBBARD.
H.J. Res. 172: Mrs. SNOWE.
H.J. Res. 590: Mr. DONNELLY.
H.J. Res. 591: Mr. RATCHFORD and Mr. ROBERTS of South Dakota.
H.J. Res. 627: Mr. HOYER.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

672. By the SPEAKER: Petition of the State Council, Republic of Nicaragua, relative to a peaceful solution in Central America; to the Committee on Foreign Affairs.
673. Also, petition of the National Association of State Auditors, Comptrollers and Treasurers, Nashville, Tenn., relative to Federal bankruptcy statutes; to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R 6957

By Mr. MITCHELL of Maryland:
—On page 3, line 13, insert before the period the following: "*Provided*, That during 1983 total commitment to guarantee loans shall not exceed $150,000,000 of contingent liability for loan principal: *Provided further*, That total obligations for new loans under the Economic Development Revolving Fund shall not exceed $30,000,000.".

H.R. 7357

By Mr. EDWARDS of California:
—Page 20, at the end of the page, insert the following new section (and insert a corresponding item in the table of contents):

RESTRICTING WARRANTLESS ENTRY IN THE CASE OF OUTDOOR OPERATIONS

SEC. 114. Section 287 (8 U.S.C. 1357) is amended by adding at the end thereof the following new subsection:
"(d) Notwithstanding any other provision of this section, other than paragraph (3) subsection (a), an officer or employee of the Service shall not enter without the consent of the owner (or agent thereof) or a properly executed warrant onto the premises of a farm or other outdoor operation for the purpose of interrogating a person believed to be an alien as to the person's right to be or to remain in the United States.".

By Mr. MILLER of California:
—Page 59, line 10, strike out "by striking out" and all that follows through "labor" on line 19, and insert in lieu thereof the following: "by inserting '(a) in agricultural labor or services included within the provisions of section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or section 3121(g) of the Internal Revenue Code of 1954, or (b) in any other labor or services' after 'temporary services or labor'.".
—Page 60, strike out lines 1 through 3 and insert in lieu thereof the following:
"(1) under section 101(a)(15)(H)(ii) for an aggregate period longer than eight months in any calendar year, except in the case of agricultural labor or services which the Secretary of Labor, before the date of the enactment of the Immigration Reform and Control Act of 1982, has recognized require a longer period; or".
—Page 60, line 18, strike out "and" and all that follows through "Agriculture" on line 20.

Page 65, line 2, strike out "and the Secretary of Agriculture".

Page 66, line 14, strike out "and the Secretary of Agriculture".
—Page 60, strike out line 21 and all that follows through page 61, line 8.

Page 61, line 9, strike out "(ii)" and insert in lieu thereof "(2)(A)(i)".

Page 61, line 10, strike out "101(a)(15)(H)(ii)(b)" and insert in lieu thereof "101(a)(15)(H)(ii)".

Page 61, line 20, strike out "(iii)" and insert in lieu thereof "(ii)".

Page 64, line 12, strike out "able, willing, and".

Page 64, beginning on line 17, strike out "able, willing, or qualified" and insert in lieu thereof "qualified or available".

Page 64, line 19, strike out "able, willing, or" and insert in lieu thereof "actually available or are not".
—Page 61, line 19, strike out the period and insert in lieu thereof a comma.

Page 61, after line 19, insert the following: "and such certification has been issued."
—Page 61, after line 23, insert the following new clause:
"(iv) After the Attorney General has approved petitions in a fiscal year for a number of nonimmigrant workers classified under section 101(a)(15)(H)(ii) equal to the number of such workers for whom petitions were approved in fiscal year 1982, the Attorney General may not approve any additional such petitions for such workers in the fiscal year unless the Secretary of Labor has certified in writing to the Attorney General and to the Congress that there are sufficient funds and personnel available to adequately enforce the provisions of this subsection.".
—Page 61, line 20, strike out "may" and insert in lieu thereof "shall".

Page 61, at the end of line 23, insert the following new sentence: "Such fees and all penalties collected pursuant to this subsection shall be applied toward reimbursement of the costs of processing applications for certifications under this subsection, of making determinations of violations of this subsection, and of assessing and collecting such penalties.".
—Page 60, after line 3, insert the following new paragraph (and redesignate the succeeding paragraph accordingly):
"(2) under section 101(a)(15)(H)(ii)(a) unless the conditions described in subsection (c)(2)(B) have been met with respect to the employment of the alien; or".

Page 61, after line 23, insert the following new subparagraph (and redesignate the succeeding subparagraph accordingly):

"(B) The Secretary of Labor shall ensure that the following conditions are met with respect to employment of a nonimmigrant worker under section 101(a)(15)(H)(ii)(a) and eligible individuals in the job opportunity for which a certification under subparagraph (A) is sought:

"(i) the employer will provide adequate and safe housing without charge to the worker.

"(ii) If the employment is not covered by State workers, compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of and in the course of the worker's employment which will provide benefits at least equal to those provided under the State workers' compensation law for comparable employment.

"(iii) The employer will provide, without cost to the worker, or reimburse the worker for the cost of all tools, supplies, and equipment required for the worker to perform the duties assigned.

"(iv) The employer will provide three meals a day or, where under prevailing practice or long-standing arrangement at the establishment workers prepare their meals,

will furnish free, convenient, and safe cooking and kitchen facilities. Where the employer provides such meals, the job offer must state the reasonable cost to the worker of such meals.

"(v)(I) The employer will provide or pay for transportation and daily subsistence (consistent with clause (iv)) from the place from which the worker, without intervening employment, will come to work for the employer, to the place of employment.

"(II) The employer will provide safe and adequate transportation between the worker's living quarter and the employer's work site without cost to the worker.

"(vi) The employer guarantees to offer the worker employment for at least three-fourths of the workdays of the total period during which the work contract and all extensions thereof are in effect.

"(vii) The employer will keep accurate and adequate records with respect to the worker's earnings.

"(viii) The employer will furnish to the worker at or before each payday written statements including information on the worker's wages and deductions taken from wages.

"(ix)(I) The employer must pay a wage rate which will not adversely affect the wages and working conditions of similarly employed eligible individuals.

"(II) The employer must not discriminate in the wage rate paid between United States and foreign workers who are engaged in the same tasks.

"(x) The employer must provide for payment of wages not less frequently than biweekly or at such more frequent intervals as may be the prevailing practice in the employment area.

"(xi) If the cost of such transportation and subsistence described in clause (v)(I) is deducted from the wages of a worker, the worker shall be reimbursed the amount so deducted upon the worker's completion of 50 percent of the worker's contract period.

"(xii) The employer must provide the worker with a copy of the work contract between the employer and the employee, which contract shall contain all of the information pertaining to the requirements set forth in regulations issued under this paragraph.".

—Page 61, before line 24, insert the following: "In addition, the Secretary of Labor shall ensure that the employer shall pay each nonimmigrant worker under section 101(a)(15)(H)(ii)(a), at the end of the contract period, an additional amount equal to the amount of taxes that the employer would have paid under the Federal Insurance Contributions Act and under the Unemployment Compensation Act with respect to the employment of that worker if such employment were included in the definition of employment for purposes of the imposition of such taxes.".

—Page 61, strike out line 24 and all that follows through "(ii)" on page 62, line 4, and insert in lieu thereof the following:

"(B)(i) The Secretary of Labor may not issue a certification under subparagraph (A) if a strike or other labor dispute involving a work stoppage or layoff of employees is in progress in the occupation and at the place the alien is to be employed. If, after such a certification is issued and during the period of the certification, such a strike or other labor dispute occurs, the certification shall be automatically suspended while such strike or labor dispute is in progress.

"(ii) The Secretary of Labor may not issue a certification under subparagraph (A)".

Page 62, line 13, strike out "clause (ii)" and insert in lieu thereof "this clause".

—Page 62, beginning on line 4, strike out "the employer" and all that follows through "and" on line 7.

Page 62, beginning on line 9, strike out "at any time" and all that follows through line 12 and insert in lieu thereof the following: "has not complied with the terms of a labor certification, or, if the Secretary has assessed a civil penalty for failure to comply with such a term, that the employer has failed to pay the penalty.".

—Page 62, line 19, strike out "may not require" and insert in lieu thereof "shall require".

Page 62, line 20, strike out "more than 50" and insert in lieu thereof "at least 80".

Page 63, line 10, strike out "the recruitment of" and insert in lieu thereof "a recruitment period of at least 60 days for".

—Page 62, line 24, strike out "within seven days of" and insert in lieu thereof "promptly after".

Page 63, line 9, strike out "the" before "criteria".

—Page 63, beginning on line 18, strike out "the date the aliens depart for work with the employer" and insert in lieu thereof "50 percent of the period of the work contract for which the certification was issued has elapsed".

—Page 63, after and below line 21, insert the following: "The failure to provide timely notice under clause (ii) does not preclude denial of an application based on a standard described in that clause.".

—Page 64, line 2, insert "or user's" after "member's".

Page 64, line 3, insert "or user" after "member".

Page 64, beginning on line 3, strike out "for representations made in such petition or application" and insert in lieu thereof "under this subsection".

—Page 64, at the end of line 21, insert the following new sentence: "In determining whether or not an individual referred is qualified, the individual's initial level of proficiency or productivity shall not be a basis for establishing that the individual is not qualified.".

—Page 66, line 2, strike out all that follows the first period.

Page 66, after line 2, insert the following new paragraph:

"(7) Any person aggrieved by a violation of this section or any regulation under this section with respect to aliens classified as nonimmigrant workers under section 101(a)(15)(H)(ii) may file suit in any district court of the United States having jurisdiction of the parties, without respect to the amount in controversy and without regard to the citizenship of the parties and without regard to exhaustion of any alternative administrative remedies.".

—Page 66, line 9, insert after "(d)" the following new sentence: "The Secretary of Labor, in consultation with the Attorney General, shall issue regulations implementing the amendments made by this section.".

By Mr. MINETA:

—At the end of title II, part A (page 59, after line 6), insert the following new section:

SEC. 205. Section 202(c) (8 U.S.C. 1152(c)) is amended by striking out "six hundred" and inserting in lieu thereof "3,000".

EXTENSIONS OF REMARKS

IFAD FUNDING SHOULD BE APPROVED

HON. MATTHEW F. McHUGH
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. McHUGH. Mr. Speaker, among the items that remain to be dealt with before the Congress adjourns, Mr. Speaker, is the question of whether the United States will keep its commitment to the International Fund for Agricultural Development (IFAD).

Created with significant OPEC support following the 1974 U.N. World Food Conference, IFAD is a promising agency whose mission is to increase international lending to small farmers in the poorest countries.

While the United States contributed generously to the initial funding for IFAD, we have yet to make any payment toward the $180 million U.S. contribution negotiated by the Reagan administration and authorized by the Congress. The United States is already 2 years behind in payments to what was to have been a 3-year replenishment.

Unless we make definite provision for IFAD in the next version of the continuing resolution, Mr. Speaker, there appears to be a serious risk that the Fund's operations will be severely damaged. Indeed, the future of the agency itself may be called into question.

For the benefit of those of our colleagues who may not be familiar with IFAD or with the likely consequences of our failure to provide adequate funds in the continuing resolution, I am inserting three recent news articles and an editorial from the Christian Science Monitor into the RECORD at this point:

[From the Christian Science Monitor, Nov. 30, 1982]

FULFILL AMERICA'S PLEDGE TO THE HUNGRY

(By George Dorsey)

In the rush of business it faces during the present lame duck session, the Congress may, by inaction, deliver a fatal blow to an international development organization that is helping the poorest people in this world pull themselves up by their bootstraps.

The organization in jeopardy is the International Fund for Agricultural Development (IFAD), the only development agency that has marshaled OPEC money on a scale that covers a really substantial portion of its budget and the only such agency governed equally by the industrial countries, OPEC, and the non-OPEC developing countries.

This three-way sharing of authority has a particularly significant element. In having a say in policy discussions, the recipient developing countries not only contribute a valuable, firsthand understanding of the needs of the third world—their participation also paves the way toward a friendly reception when projects are actually started up. An IFAD initiative is not looked upon by third-world governments as an external intervention to be regarded with suspicion. Another unique aspect of the organization is that all of its funds are directed toward helping the poorest farmers and the landless laborers.

The present danger to IFAD is procrastination or lack of interest on the part of the leading industrial nation, the United States of America. The fate of IFAD is now tied to the question whether the Congress, before this session adjourns, approves a specific appropriation for the agency, in line with the pledge given by the US at a bruising replenishment meeting in Rome last January.

At that meeting the head of the US delegation sought "to reassure the other members of the Fund that the US government will make every effort to obtain funds for our contribution of $180 million [for three years] . . . at the earliest possible date."

Some governments, however, were not reassured. Several, in fact, reacted strongly to what some called a "US attempt to delay IFAD to death."

And, in truth, during the ensuing congressional process, the administration, for the most part, did not exert itself, despite President Reagan's agreement with other heads of state at the Cancún summit meeting last year, to press for "prompt replenishment" of IFAD's resources. The calendar 1981 passed without a single dollar put up by the US. Without prompt congressional action, a second year will go by with no funds for IFAD.

"Unless the administration moves quickly to support funding," says Larry Minear, secretary of the Interreligious Taskforce on US Food Policy, "IFAD's supporters on the Hill may have difficulty prevailing, leaving President Reagan's commitment and the existing congressional authorization unfulfilled."

There has been in some US circles resentment that IFAD never attained the 50-50 financing by OPEC and the industrial countries that was envisaged when the organization was born in 1977. The present split is 57 percent funding from the industrial countries and 43 percent from the OPEC countries. Yet in the tough negotiations leading up to the January meeting, the US won important concessions, succeeded in broadening the burden-sharing, and agreed to go ahead. While persuading both OPEC and the other industrial countries to raise their contributions, the US lowered its three-year pledge from $200 million to $180 million.

The total agreed IFAD budget for 1981-83 is $1.1 billion. Thus, for every dollar put up by the US, six are contributed by the other member countries.

The trouble is that the first American dollar has yet to appear—while many other donor countries have paid in more than 50 percent of their commitments. Some have sent in 100 percent in an effort to contain damage to the organization's work program.

Abdelmuhsin Mal-Sudeary, the Saudi Arabian who has headed IFAD since its inception, said recently: "The delay by the US is having a very negative impact on IFAD. It is slowing down the pace of the Fund's operations just at the time when the poorest countries urgently need IFAD assistance to combat their deteriorating food situation, especially in Africa, and it also undermines the excellent cooperation between the OECD and OPEC countries.

"What is at stake, in my opinion, is not only the immediate future of IFAD but also the credibility of American commitment and the very role of the US in the fight against world hunger."

[From the Christian Science Monitor, Nov. 30, 1982]

AMERICA'S PROMISE TO THE POOREST

The world's fund to help the very neediest has taken steps to reassure the United States Congress that it is living up to its mandate. Now Congress ought to respond by supplying America's pledged share of support for this fund, the International Fund for Agricultural Development (IFAD).

For nearly two years the US has withheld its budgeted payments. The Senate Subcommittee on Foreign Operations wanted to be sure that IFAD's staff was not getting too big, that the early US hope for OPEC to supply half of IFAD's funds would be fulfilled, and that IFAD gear its development lending to projects designed by other agencies like the World Bank, rather than initiate projects on its own.

IFAD offers reassurances such as these: Its staff freeze of the past two years has been extended for 1983 and a new study undertaken to keep its staffing lean. OPEC's share of the funding has climbed from 40 to 43 percent, while the US share has dropped from 35 percent to 29 percent. And IFAD has indicated its commitment to seek out projects initiated by existing agencies (though this is not always possible since IFAD's mandate to reach the poorest of rural poor is not always the aim of other development agencies these days).

This year the Reagan administration, no spendthrift on foreign aid, has requested $65.4 million of its $180 million promise for 1981-1983. It needs to push its case this week, as noted in today's Opinion and Commentary article, "Fulfill America's pledge to the hungry."

If Congress follows through, the US delegation can take more than empty promises to the fund's governing council Dec. 13.

But for Congress to try to get by with mere half-loaf tokenism could lead other impatient IFAD donors to drop their own commitments and the fund to unravel altogether. Why run such risks—especially when everyone seems to agree (including Congress and the administration) that IFAD is one joint venture on the world scene that really works?

[From the New York Times, Dec. 5, 1982]

UNITED STATES IS SAID TO LAG ON PLEDGE TO FOOD AGENCY

(By Henry Kamm)

ROME, Dec. 4.—The head of a United Nations agency that seeks to increase food production in impoverished countries says his

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

organization may be in jeopardy because Washington is refusing to fulfill a financial pledge.

The agency, the International Fund for Agricultural Development, was established after a 1976 agreement to help small farmers and the landless in the world's poorest countries. It is financed both by the industrialized nations and by the Organization of Petroleum Exporting Countries. In its first three years of operation, the industrial countries contributed $569 million, the OPEC nations $435 million.

The United States, an initiator of the agency, contributed $200 million in the first three years. President Carter offered $230 million for the 1981-83 replenishment; President Reagan reduced that to $180 million but none of it has been contributed.

The three-year total was authorized in both houses of Congress and $40.5 million was appropriated by the House for the last fiscal year. The Senate struck it out, and its view prevailed.

The Senate action, led by Senator Robert W. Kasten, Jr., Republican of Wisconsin, was based on a sentiment that the OPEC nations, which hold the same number of votes as the industrial countries, were committed to match their contribution. There was also a feeling that the fund had exceeded its projected staff size. It employs 74 people in the professional category.

On Wednesday, acting on the Administration's request for $65.4 million for the 1983 fiscal year, which began Oct. 1, an appropriations subcommittee headed by Mr. Kasten reduced the amount to $10 million. This would leave the United States to contribute $170 million next year to meet its pledge, which has not been withdrawn.

This is believed to be virtually impossible, and Philip Birnbaum, the fund's vice president, who is on loan from the State Department's Agency for International Development, said that the situation was "a minor tragedy."

The fund's president, Abdelmuhsin M. al-Sudeary, an agronomist from Saudi Arabia, said that if the agency was unable to finance its activities, "no other effort like this will succeed."

Mr. Sudeary said that "the spotlight will be on the United States" Dec. 13-15 at the annual meeting of the fund's governing council.

[From the Christian Science Monitor, Dec. 8, 1982]

UNITED STATES DRAGS FEET IN CONTRIBUTING TO JOINT WEST-OPEC AGRICULTURAL FUND

(By Richard M. Harley)

BOSTON.—The only major joint effort by the West and the Organization of Petroleum Exporting Countries (OPEC) members to fight world hunger appears to be losing sustenance from the United States.

It's known as the International Fund for Agricultural Development (IFAD). It was designed in 1976 to help the world's poorest pull themselves up by their bootstraps. But without strong US support, IFAD's officers say, the global compact could now hit the skids.

Last week the Senate Appropriations Committee set aside $10 million as this year's US payment to replenish the $1 billion fund. That was more than the committee's zero allocation last year, but far short of the Reagan administration's requested $65.4 million. For two years, the US has paid none of the $180 million it promised for IFAD's 1981-83 budget. The outcome awaits talks Wednesday in the House Appropriations Committee and its meeting with the Senate.

With US payments lagging in recent years, IFAD officials fear other donors (US allies and OPEC) will withhold their payments, sending the fund into disarray—a prospect doubted by the US administration. One State Department official says the US still aims to get the full US pledge of $180 million, though probably not in the current budget cycle.

Earlier this year, delegates from Canada, France, and West Germany said they were exasperated over US foot-dragging. They are expected to express their concerns to Secretary of State George P. Schultz, who will be in Rome next week when IFAD meets. IFAD, ironically, is one of the few international agencies that gets high ratings from rich and poor countries alike—including the US.

"I think if IFAD were judged on its merits in helping to reverse poverty and to serve US interests abroad, it would be getting far better treatment by the administration and Congress," says Larry Minear of the Interreligious Task Force on US Food Policy.

The congressional impasse surfaced in recent years in the Senate subcommittee on foreign operations. It has been trying to get IFAD back to its earliest definition carved out in 1976: a $1 billion fund, leanly staffed, with OPEC and Western countries paying an "equitable share." They do not want IFAD to become a huge development bureaucracy.

IFAD officials say that they have made every effort to respond to Congress's concerns, although circumstances make it unreasonable for IFAD to be held uncompromisingly to the earliest definition.

In fact, IFAD began in 1977 only after a compromise in which the Western negotiators, including the US, agreed to pay 57 percent with OPEC paying 43 percent. The fund's staff has grown, although a General Accounting Office report last year lauded IFAD on keeping its staff lean. The fund's responsibilities also grew since it embarked on its second $1 billion lending program in 1981. Then Iran's once-generous donation unexpectedly dried up after its revolution.

Despite growing demands on the agency, IFAD officials say it has extended its staff freeze for the third straight year and committed itself to fund existing projects wherever possible (another congressional concern). Officials say OPEC countries individually have increased their shares dramatically after Iran dropped out of the fund, so that it is unreasonable for OPEC as a bloc to be expected to pay more than its current 42 percent.

The Senate Appropriations Committee report stated that IFAD has made some, but still relatively little, progress toward meeting its concerns. It said that increased US contributions next year hinge on whether OPEC gives more—a condition IFAD officials say will be very difficult given the economic difficulties faced by those donors.●

THE SOVIET UNION AFTER BREZHNEV

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. ARCHER. Mr. Speaker, the following article, which recently appeared in the Economist, presents an interesting analysis of post-Brezhnev Soviet Union policy options which might affect our own policies in regard to the Soviet bloc.

The article provides a great deal of food for thought as we approach further decisions in this country regarding foreign policy.

The article follows:

BREZHNEV, ANDROPOV: A BURIAL AND A BIRTH?

A man who joined the Soviet Communist party just after its collectivization policy had caused the death of 14 million peasants, and while it was engaged in the subsequent process now known as Stalin's Great Terror, is no shrinking violet. Yuri Andropov's climb up the ladder of Soviet power did not have to wait until his ambassadorship in Hungary during the crushing of the Hungarian 1956 rebellion, or the years he later spent polishing up the KGB, to make it clear that he is a tough servant of his party's and his country's interests. Let the word "liberal" be excised from future discussion of Russia's new leader. Nevertheless, there are three reasons for thinking that tough Andropov's inheritance of the crown which death took away from Leonid Brezhnev could, with luck and judgment, usher in a better period for Russia, and for the world which has to deal with Russia.

The first is simply the fact that there has been a change. Leonid Brezhnev was chosen in 1964 by a rattled Soviet Communist party, after its experiences with Stalin and Khrushchev, as a man of order, conservatism and consolidation; and the last eight years of the great consolidator's life were marked by an illness which he faced with courage but also with steadily growing immobility. From Brezhnev neither innovation nor a leap of the imagination was to be expected.

The second is the way the change took place. Everybody knew that Brezhnev wanted to be succeeded by Konstantin Chernenko, and yet within 30 hours of the announcement of his death the party he left behind had "unanimously" picked somebody else. Not exactly a vote of confidence in Brezhnev.

The third reason is Andropov's own record. After the Hungarian rebellion, he helped to choose as Hungary's new leader Kadar who, having ruthlessly stamped out the last embers of revolution, then began the only experiment with imaginative semi-change in the Soviet world that has ever won the Russians' blessing. At the KGB, Andropov gave that organization a new urbanity and sophistication without in the least diminishing its skill at spying and dissident-repression.

AN INTELLIGENT TOUGH

Andropov is a tough, but he is an intelligent tough, not just the iron-bottomed sort. As the west adjusts itself to live with post-Brezhnev Russia, it needs to have a clear picture in its mind of (a) what it wants from Andropov; (b) what Andropov will probably want to do with the Russia he has inherited; and (c) how these two things might be made to pull in the same direction.

What the west wants from Andropov is an understanding that "detente" will mean the same for him as it means for the west. The last attempt at detente, in the early 1970s, collapsed because Brezhnev and the west thought that a time when it was lending

huge amounts of money to communists was no time for Russia and its friends to be punching their way around the world. The Brezhnev government thought it could collect the economic benefits of detente while Russia and its allies used force, or the threat of force, to help their own interests and damage the west's interests in assorted parts of the globe. Poisoned by such a contradiction, detente was doomed to die: Angola, Ethiopia, Afghanistan, Kampuchea and Poland were the drum-beats at its funeral.

In the jargon of these things, Yuri Andropov has to decide whether his foreign policy is to be a limited one, or an unlimited one. The west has a limited foreign policy. It wishes to prevent the expansion of communist power. It would like to encourage the growth of liberalism inside the communist world by non-military means. But it does not believe that it can, or should, aim for the removal of Marxism-Leninism from the face of the earth. Such ideas exist only in the curlicues of a few far-right-wing minds, and are the policy of no western government.

Brezhnev's Russia, on the other hand, had an unlimited foreign policy. It believed it had a duty to help history remove capitalism and multi-party pluralism from the face of the earth, and not just a theoretical duty. On five occasions in the past seven years the Russians or their allies have given history a forceful shove in the desired direction. To be sure, Brezhnev was judicious in his use of force, unleashing Russian or Cuban or Vietnamese soldiers only when he thought it was safe to do so. But judiciousness in the application of a bad idea is not the same as giving the idea up.

If there is to be another go at detente, it cannot be on so lopsided a basis. There will have to be an agreement that detente rules certain things out. Of course, the ideological war of words will continue (and it should be thought no more offensive for Reagan to say that the west's ideas will eventually beat rotten old Marx's than it is for Andropov to say the opposite). The two alliances will continue to defend their borders, and to send money and arms and advisers to clients outside those borders. This relatively restrained sort of competition may occasionally lead to a non-communist country become a communist one or—Moscow papers please copy—vice versa.

What should be ruled out is the use by either superpower, or by their main allies, of their own soldiers to settle a political dispute in any country where this would change the international balance of power. The world being a compicated place, the application of this principle will sometimes be fuzzy-edged. The principle itself is perfectly plain. Real detente means, for both sides, less jostling for advantage.

REFORM NEEDS PEACE

If Andropov is willing to consider real detente, this could slot neatly into what he should be waiting to do with Brezhnev's Russia. The biggest worry for the man taking over the top desk in the Kremlin in 1982 is the creaking incompetence of most of Russia's economy. On official statistics, the country is sliding steadily down to zero growth. Its industry is failing to reach even the regularly lowered targets given to it. Its farms are so inefficient that Russia will probably have to import 20-30 million tons of grain a year throughout the 1980s. And the official statistics paint too bright a picture. They conceal the rapid decay and breakdown of many non-military products; the waste that piles up in the by-ways of the distribution system; the net work of bribery and private deals that crisscrosses the official economy. The west's economy is in a mess, but most honest Russians admit that their troubles are even deeper-rooted.

There are two ways in which Andropov might tackle the cleansing of the Brezhnevian stables. One is the classical Soviet way—to throw more investment and more planners at the problem, shoot more of the bribers and speculators (there was a rattle of firing squads earlier this year), and meanwhile tell the KGB to squash malcontents who dislike the fact that more investment means less consumption. If this is the way Andropov chooses to play it, the ewest could be in for a hard time, because he may try to divert his people's attention from the rigor at home by a headline-catching policy abroad. That might mean pulling strings in the Palestine Liberation Organization, to block an Arab-Israeli peace; sending more Cubans to help Central American guerrillas; even risking a prod at the west's sources of oil in the Gulf.

But this may not be the way Andropov chooses to play it. The alternative to a policy of throwing more investment planners at the Soviet economy is for the toughly intelligent Andropov to try real economic reform. Real reform means giving more economic freedom to managers and workers in factories and collective farms, and allowing those who use this freedom successfully to spend the extra money they make more or less as they wish. Which is where real detente could slot into real reform.

Andropov's military budget must already be making him groan, because the 3-5%-a-year real increase Russia's generals have come to expect over the past 15 years is eating up a steadily growing share of a slower-rising Soviet national income. The squeeze will get even worse in the next few years, if changes in missile technology make Russia's land-based missiles vulnerable to American attack and therefore oblige Andropov to put the missiles out to sea in a fleet of hugely expensive new submarines. All generals hate budget cuts. To get his generals to accept a cut, Andropov must have a foreign policy which even to their suspicious eyes permits a little military relaxation. He needs a believable detente if he is to be able to build a Russia his people can believe in.

LET HIM HAVE OPTIONS

How can the west encourage Andropov to plump for reconstruction at home and peace abroad rather than internal rigor and external pugnacity? By offering him two choices, one military, the other economic.

First, the countries of the western alliance should convince themselves (because that is the only way to convince Andropov) that they will not allow the Soviet Union to get a commanding military lead over them anywhere. Russia should be allowed no permanent first-strike nuclear possibility against either the United States or western Europe (both of which it temporarily has at the moment). Nor should it be allowed a big enough lead in numbers of soldiers and tanks and artillery pieces to enable it, under the umbrella of nuclear parity, to contemplate a non-nuclear war in Europe or the gulf.

Second, he should be offered an economic choice too. If his decision is for reform-plus-detente, and against repression-plus-expansion, his Russia can have a normal economic relationship with the west—"normal" meaning the sort of relationship the west has with any other country, easy credits and all, minus only the sort of western exports that could directly help Russia's military machine. If his decision goes against reform-plus-detente, however, Russia should not be able to go on enjoying the benefits of economic normality. It should face special restrictions on the flow of western credits. It should have less access to the west's technology. It should, in short, be subject to economic as well as military containment.

STRAWS TO WATCH FOR IN THE WIND

The next few months, perhaps the next few weeks, should show which way Andropov is leaning. An Andropov leaning towards reform-plus-detente could look for a deal in the Geneva missile talks which would remove the sword of a Russian first strike now hanging over western Europe. He would consider a settlement in Afghanistan which left behind in Kabul the non-communist government most Afghans obviously want, provided that government bound itself not to do things that could hurt Russia: in short, a "Finlandization" of Afghanistan. He would invite the Cuban army to leave Angola, so that the west could invite the South African army to leave Namibia. There will be no shortage of straws to show which way the Andropov wind is blowing. If not a straw moves, get ready for hard frost.

It would be dewy-eyed to assume that Andropov's decision will be the right one. There is no conservative like the revolutionary who has reached the top, and this one's metal seems unyielding. The ground for hope is that the intelligent and conscientious Andropov, looking around him at the Russia he is now responsible for, may see the need to do what most people think an intelligent and conscientious Soviet leader should want to do for his country. The thing is to be ready for him, either way.●

TRIBUTE TO CONGRESSMAN HENRY REUSS

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1982

● Mr. MITCHELL of Maryland. Mr. Speaker, I am very proud to join in this tribute to my fine colleague, Chairman HENRY REUSS. The announcement of Chairman REUSS' retirement and the realization that he will no longer serve in this Chamber gives us a chance to reflect on his illustrious career as a public servant.

I have served both on the House Banking, Finance, and Urban Affairs and the Joint Economic Committees with Representative REUSS. He has proven to be a capable leader in these areas and others.

While I believe we all admire and will remember Representative REUSS best for his economic expertise, let us not forget that his legislative and policy interests have expanded beyond this area. For example, it was HENRY REUSS who was instrumental in the formation of the Peace Corps. I believe we will all agree that the estab-

lishment of this fine group of young people stands out among the country's greatest accomplishments.

It is also Representative REUSS who has played a critical role in bringing congressional attention to vital water pollution issues and insuring both public and private sector cooperation during the seventies.

Chairman REUSS' commitment to the elderly, and lower income citizens has stood out among his many efforts. For example, some years ago he was among the first to call for enactment of a 20-percent increase in social security benefits.

I am particularly grateful that, under the chairmanship of HENRY REUSS, the Joint Economic Committee has ridden herd over a number of critical issues—to include the problems of urban economic blight and youth and minority unemployment. His foresight in these areas has led the way for the committee to include such issues as top priorities.

Chairman REUSS will be sorely missed in this House. He is a steady, positive influence who is well respected for his strength, intellect, and compassion. Needless to say, I still believe we will continue to work closely with the chairman although he will not be physically with us. I am certain that his work during his retirement will remain a vital part of the workings of the Congress. I wish him all the best.●

HENRY REUSS: A MAN OF ACCOMPLISHMENT

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1982

● Mr. DOWNEY. Mr. Speaker, I am participating in this special order today to express my personal thanks to my friend and colleague from Wisconsin, Representative HENRY REUSS. It is an honor for me to take part in this tribute to him.

Over the last 28 years Congressman REUSS has been an outstanding contributer to this Congress and our Nation's policies. He has proven himself an expert in monetary affairs while serving as chairman of both the Banking, Housing, and Urban Affairs Committee and the Joint Economic Committee. His innovative ideas, often proposed as new policy, were all formulated with the concept of economic fairness in mind. For example, he has often been in the forefront of the effort to bring about equitable tax reform. This goal has always included making sure that every American pays their fair share in taxes and bears their part of our Nation's existence. The strengthening of the U.S. economic situation, both at home and abroad, has always been one of his major concerns and through sound economic legislation he has also sought to strengthen and improve American industry and productivity. Overall, he has proven that he understands the needs of all the American people and his achievements, policies, and writings all reflect this understanding.

Congressman REUSS, although best known for his economic expertise and accomplishments, has also achieved admirable results in other areas. I would now like to take the time to mention just a few.

As Representative of Wisconsin's Fifth Congressional District, he has concentrated on revitalizing and rebuilding old neighborhoods into livable housing areas. On this local level his achievements include helping to create jobs in his local area, rebuilding the Grand Avenue and developing the desolated Park-West Freeway into a new residential, commercial community. All of this has been achieved while representing a diverse constituency including the rich, poor, and middle class, most races and religions and both a blue- and white-collar work force.

His list of achievements also includes being partly responsible for the establishment of the Peace Corps and the Ice Age Scientific Reserve and Trail and, as I have already expressed, he has been a strong advocate of equal right to housing policies. Finally, he has made admirable gains in, and contributions to, ecology by concerning himself with the pollution problems of our cities and rivers.

The overall conclusion that I draw from highlighting this man's congressional career is that he took action in many diverse areas of importance gave all of them his undivided attention and was, to his credit, successful in all of them.

I would also like to take some time out to express my sincere, personal thanks to HENRY REUSS. Like this Congress, I am going to miss his presence and I find it difficult to imagine this Congress reconvening without him. I am especially going to miss our daily lessons in vocabulary. Well, I guess I do not have to carry my pocket dictionary any more.

When I think back over the past several years beginning with when I first came to Congress, I am not only reminded of the fine career he has led. I also come to realize just how much this man has done for me personally. His guidance and advice, always unselfishly given, has always proved instrumental in my own efforts. Also, becoming his friend has been one of my finest experiences since coming to Washington. It is, in fact, both an honor and privilege to have served in the same Congress with him.

To find the right words to express my thanks is difficult. Let me just say that I will never forget all that he has done for me, this Congress, and the Nation nor will, I believe, anyone else.

Thank you and good luck in the many productive years which lie ahead of you.●

THE SOVIETS AND THE PEACE MOVEMENT

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. McDONALD. Mr. Speaker, a barrage of criticism has been leveled at those opposing the nuclear freeze proposal. Most of this criticism relies on smears and slurs and not on facts, which is what freeze opponents have relied on in their critiques. Mr. John Rees, an internationally recognized journalist, has been the target of many of these unfounded attacks because of his understanding of Soviet manipulation of the peace movement.

In the December 8, 1982, issue of the news magazine The Review Of The News, Mr. Rees answered the charges of the freeze defenders and then went on to once again show open communist and Soviet involvement in the peace movement. In the concluding excerpt from his perceptive article, Mr. Rees reviews Moscow's active measures campaign and manipulation of the American nuclear freeze campaign. I commend his article to my colleagues.

The article continues:

[From the Review of the News, Dec. 8, 1982]

MOSCOW'S ACTIVE MEASURES

The International Department of the Central Committee of the Communist Party, Soviet Union, as well as the C.P.S.U.'s International Information Department, with assistance when required from the K.G.B., are now running the most complex active-measures campaign since the end of World War II. Its purpose, as former K.G.B. major Stanislav Levchenko put it, is to make permanent the new superiority of Soviet strategic military forces over those of the United States. Hence the "nuclear freeze" adventure.

This active-measure campaign operates by working to persuade public opinion in America and the Free World that the efforts of the United States to modernize its antiquated strategic-nuclear forces and its European-theater nuclear forces are a "threat to peace." It maintains that this "provokes" the Soviet Union despite the fact that the purpose of the U.S. nuclear weapons is to *deter* a Soviet first strike and prevent the invasion of Western Europe.

In the mid-1970s, many Soviet active-measures campaigns were operated in Europe and the United States with a variety of goals. The primary strategy was to weaken European confidence in the United States and to reduce the capability of the U.S. to defend itself and the Western world. Since 1981, however, the campaigns of what the W.P.C. terms "the fighters for peace"

have been related to a "nuclear weapons freeze."

On February 23, 1981, Leonid Brezhnev delivered an address to the 26th Congress of the Communist Party of the Soviet Union in which he called for a nuclear "moratorium." Within a matter of days the propaganda specialists had equated that with a proposal for a "nuclear freeze." And within four weeks the hard-line disarmament groups in the United States assembled several hundred "peace activists" at Georgetown University over March 20-22, 1981, to endorse a national "nuclear freeze" campaign. Sponsoring groups included the American Friends Service Committee, Clergy and Laity Concerned, the Mobilization for Survival, and Physicians for Social Responsibility. A Nuclear Freeze Campaign office had (Surprise!) been operating quietly in Washington, D.C., since February of 1981.

Attending the keystone "freeze" meeting in Georgetown were two important Soviet officials. One was Oleg Bogdanov, representing the Institute of the U.S.A. and Canada. He has been identified by John Barron as "an International Department specialist in Active Measures, who flew in from Moscow." Also present was Soviet Embassy counsellor Yuri S. Kapralov, named in Barron's article as a "KGB officer." Comrade Kapralov, a virtual "ambassador" to the U.S. disarmament movement since his posting to Washington in 1978, has visited many parts of the U.S. to address "peace" groups and to participate in meetings in which he is no mere observer.

At the "freeze" campaign founding in Georgetown, "K.G.B. officer" Kapralov addressed an overflow session of the conference and discussed the "freeze" concept with a panel of "anti-war" activists.

As reported in the Communist Party newspaper Daily World by Terry Cannon, who is styled "an activist in the U.S. Peace Council," Kapralov told the panelists that the Soviet Union welcomed the "freeze" proposal. "You mean you agree with it?" a panelist asked. " 'Absolutely,' answered Kapralov, 'I think it's great.' "

The imprimatur of the Soviet Union had been openly given, and the "nuclear freeze" campaign was offically under way. Its first focus would be on the United Nations Second Special Session on Disarmament in June 1982. When the U.S. "peace" groups assembled in October 1981 to commence planning the June 1982 "Rally for a Nuclear Freeze and Disarmament" in New York, participants included the U.S. Peace Council; Women for Racial and Economic Equality, the U.S. affiliate of the Soviet-run Women's International Democratic Federation; and, the Prague-based Christian Peace Conference.

Within two weeks, the Communist Party was openly participating in the organizing meetings along with the (Castroite Communist) Puerto Rican Socialist Party, the Communist front National Lawyers Guild, the Women's International League for Peace and Freedom, and Women Strike for Peace. The activities of the Communist Party, U.S.A., were reported on during that secret Communist conference in Milwaukee by Politburo member James E. Jackson who also serves on the Presidium of the World Peace Council. He quoted U.S. Senator Gary Hart's praise of the "nuclear freeze" campaign and stated: "The place of every Communist is in this army of fighters for peace."

And, said Comrade Jackson, "Nothing must divert the peace front away from the mainstream peace actions and organizational formations, such as the Freeze and the coalition for the June 12th United Nations Plaza Rally in New York City." Jackson praised Communist Party, U.S.A., functionary Michael Myerson, and the U.S. Peace Council which Comrade Myerson directs, as being "in the first position among these most advanced sectors of the peace front." He also told the C.P.U.S.A. activists that "an imperative for us in fulfillment of our role in the broad peace movement is to recruit from our contacts peace cadre into the Communist Party clubs. This obligation must be assumed alongside that of doing our duty to further the growth of the U.S. Peace Council."

Communist Party official Jackson also spelled out the domestic political purpose of the June 12th "Rally for a Nuclear Freeze and Disarmament," declaring: "June 12th will constitute an unprecedented mobilization of potential primary and general election canvassers and crusaders to wipe out Reaganites from public office. Those hundreds of thousands . . . [can] make the difference in the election campaigns of '82." As he explained: "The campaign to put a peace (Freeze) initiative proposition on the ballot in every congressional district, city and state will engage millions in a highly politicized activity. . . . All of this political energy will have its November pay-off. . . ."

COMRADES GET THEIR ORDERS

Michael Myerson, you will remember, is executive director of the U.S. Peace Council and a member of the C.P.U.S.A. National Council (as the Central Committee is currently tagged). Myerson reported his workshop's proposals at the secret Communist meeting in Milwaukee and all were adopted unanimously. Special attention was given to providing Communist help to develop "a national trade union peace network out of the local union activity on behalf of the Freeze and in support of June 12." In language reminiscent of a Soviet commissar, Myerson gave Communist Party members their orders:

"Every club discuss concretely at its next meeting how it is going to build for June 12.

"That there be a strong Party presence on June 12th, with banners and literature in addition to the Party press.

"That where the U.S. Peace Council (USPC) exists, we work with others to aid its participation for June 12; where it doesn't exist we work with others to try to launch local Peace Council participation with buses and banners. . . ."

By this time, Myerson and other World Peace Council and U.S. Peace Council activists had been involved in preparations for the June demonstration for many months. Early in March, Comrade Myerson sent a letter to U.S. Peace Council members announcing that "the US Peace Council has made mobilization for June 12 its first priority for the next 100 days." After noting that "local metropolitan June 12 coalitions are forming in Boston, New York, Philadelphia, Chicago, San Francisco and other cities," Communist Party official Myerson provided another commissar's check-off list of instructions:

"1. Join your local June 12 coalition. If there is not one functioning in your area, help to start one.

"2. Begin now to reserve busses to New York for that weekend.

"3. Make a list of local trade unions, community organizations, churches, local affiliates of national organizations supporting June 12 and get them involved.

"4. Get local unions, city councils and other important bodies to pass resolutions in support of the SSD-2 [*U.N. Second Special Session on Disarmament*] and the June 12 demonstration.

"5. Be in touch with our national office for further information. Also be in contact with the National June 12 Rally Committee, 853 Broadway, Room 2109, New York, NY 10003 (212) 460-8980."

Communist involvement? Clearly more than that. Throughout the line of march in New York, World Peace Council activists carried placards while contingents of the U.S. Peace Council, the Communist Party, and C.P.U.S.A. fronts marched behind their banners. And the publication of the June 12 Disarmament Coalition gave U.S. Peace Council "solidarity coordinator" Sandy Pollack special credit for her role in all of this. Sandy had of course cut her political teeth as a member of the Communist Party's youth group.

Yet, on a recent NBC "Today Show" broadcast, Representative Ed Markey (D.-Massachusetts), a supporter of the congressional Nuclear Freeze Resolution, stated: "Well, I've consulted with leaders of the congressional intelligence committees and they give the 'freeze' a clean bill of health. What we're seeing right now is just part of a long-term effort by the Reagan Administration to discredit, to diffuse the 'nuclear freeze' movement. . . . What they've done now is resort . . . to calling . . . names, the Red-baiting, McCarthy-style smear of Americans. . . ."

Contrary to Representative Markey's claim, no official "clean bill of health" has been issued by the Intelligence Committee regarding the "peace" movement, and none is likely to be issued, considering the overwhelming volume of contrary evidence.

On November 11th, during a Veterans Day press conference, President Reagan was asked by journalists about foreign involvement in the "nuclear weapons freeze" campaign. The President replied: "Yes, there is plenty of evidence. It's even been published by some of your fraternity. There was no question but that the Soviet Union saw an advantage in a peace movement built around the idea of a nuclear freeze, since they are out ahead . . . in the organization of some of the big demonstrations, the one in New York, and so forth; there is no question about foreign agents that were sent to help instigate and help create and keep such a movement going."

"Liberal" Senator Mark Hatfield (R.-Oregon) countered by saying of this Communist participation, "I just haven't found one in the nuclear freeze movement." If so, he hasn't looked.

Politicians busy exploiting what they view as populist issues that might provide manpower, votes, and funds for their re-election compaigns are notoriously loathe closely to examine who is supporting those issues. They are even less prone to make public admissions of serious political errors which their opponents might exploit. The vanity and ego factor among politicians can also be involved.

So it is with mere politicians. But statesmen, on the other hand, put their country's interests first and quickly change course when they find themselves being manipulated by hostile foreign powers. As more and more evidence of Soviet involvement in the "peace" campaign is assembled, Americans are about to have an excellent opportunity to discover which of their Senators and

Representatives are statesmen and which are merely politicians.●

THE TENN-TOM SHOULD BE COMPLETED

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. RHODES. Mr. Speaker, the Tennessee-Tombigbee Waterway, a project I have long considered to be a sound investment in our Nation's transportation system, is once again being targeted for elimination by some Members of Congress. At this point, however, with the project more than 80 percent complete, it is time to put this issue behind us and finish the job.

The Tenn-Tom is a 234-mile waterway being built by the U.S. Army Corps of Engineers between the Tennessee River and the Tombigbee River in Tennessee, Mississippi, and Alabama. It will connect the many inland waterways of middle America with the gulf coast, providing an important new shipping route for the Nation's coal, grains, steel, and other products.

I believe the arguments favoring continued funding for the Tenn-Tom are stronger now than they have ever been. The Federal Government has already spent more than $1.3 billion on the project. According to the Corps of Engineers, the remaining cost to complete the waterway is some $387 million, while the cost to place the project in "mothballs" would be $431 million.

Congress currently is preparing jobs program legislation for work on the Nation's transportation system. It therefore strikes me as ironic that a concerted effort would be made to eliminate funding for a transportation project that is 80 percent complete, and in the process eliminate 5,000 jobs. Moreover, once the Tenn-Tom is open to barge traffic from States throughout the South, East, and Midwest, the Corps of Engineers estimates it will generate benefits in excess of $127 million per year for the next 50 years.

Many environmental groups nonetheless are persisting in their opposition to further funding of the Tenn-Tom, proposing instead that the project be abandoned. I realize that it is difficult for these groups to forsake a cause for which they have worked so diligently. But, surely, leaving the open ditches and concrete locks and dams in their unfinished condition poses a greater environmental problem than a completed and open waterway with all its related environmental safeguards.

Claims that the project will eventually cost $3 billion deserve attention. This figure includes estimates for improvements on a connecting waterway below the Tenn-Tom and on the Port of Mobile in Alabama. None of this extra work has been approved by Congress. In fact, the 1981 Levin amendment prohibits the authorization of such additional improvements as part of Tenn-Tom.

The Tenn-Tom has been funded by Congress every year since 1968 and supported by the past six Presidents because it is recognized as an important new lane of commerce for carrying goods to domestic and foreign markets. The Corps of Engineers estimates that for every remaining dollar spent on the project, the American people will receive $3.50 in return. Commonsense says that is a good investment.

The central issue of the Tenn-Tom debate now is this: Whether to abandon the project and create additional environmental and economic problems, and to receive no return on the $1 billion already spent; or to spend less only to complete the project so the Nation can begin to realize a return on its investment in the years to come. All factors considered, completing Tenn-Tom is the most prudent course to take.●

HON. HENRY REUSS

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1982

● Mr. VENTO. Mr. Speaker, I am pleased to participate in this special order to honor Chairman HENRY REUSS, and I wish to thank the chairman of the Foreign Affairs Committee for organizing this effort.

In many ways HENRY REUSS personifies many of the attributes and beliefs which are regrettably scarce in the political arena at this time. Chairman REUSS sincerely believes that the Federal Government has the responsibility to be an affirmative force to improve the condition and quality of our citizen's lives. He has been a leader in Congress for housing, for urban economic development, for a rational and directed use of our Nation's monetary and human resources, for a cleaner environment, and for responsible reform of the House of Representatives.

It is regrettable that this body is losing this dedicated individual. In a time when so many public officials advocate abandoning the Federal Government's responsibility, HENRY REUSS' thoughtful, yet assertive criticism of unfair economic policies is welcomed by his philosophical soulmates, such as myself, and serves as a much-needed counterpoint to those who feel that the Federal Government should do nothing except finance the military.

While HENRY REUSS' political roots are firmly planted in the progressive tradition of the upper Midwest, he has not been afraid to try new and innovative approaches to solve problems. In the 6 years I have served with Chairman REUSS on the Banking Committee, I have found him always willing to listen to new ideas. It is truly a pleasure to work with a Member who enjoys the intellectual interplay of ideas. He brought to this body a wisdom and sophistication that will be sorely missed.

Under his chairmanship, tremendous advances were made in many areas within the committee's jurisdiction. City after city across this Nation experienced a renaissance because of the expansion of the community development block grant program and the initiation of the very successful UDAG program. Millions of people's lives were improved because assisted and nonassisted housing never had a higher priority than during his chairmanship. A country's human rights record became a valid consideration by our representatives of international institutions with his support. And in the face of some of the most difficult economic circumstances since the 1930's, critical and needed changes in the structure of financial institutions were begun. These are accomplishments for which you can be proud, HENRY.

But a tribute to your career would not be complete without expressing my thanks for the job you did as chairman of the Joint Economic Committee. HENRY REUSS used his chairmanship most effectively to point out the policies of this administration's economic policy and provided a focus for a commonsense economic policy.

Mr. Speaker, we will certainly miss the wisdom, dedication, and advocacy of HENRY REUSS. While we could certainly use his economic leadership, after 28 years of public service he is entitled to a less hectic life.●

FORD SPIRIT AND COMMITMENT STRONGER THAN EVER

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. GINGRICH. Mr. Speaker, while I was home in September, I had the opportunity to attend the production launch of the 1983 Ford LTD and Mercury Marquis at the Atlanta assembly plant in Hapeville, Ga.

What I saw and heard there was stirring. It was a determination and commitment that proved to me the U.S. auto industry is alive and fighting.

I want to share with my colleagues the remarks Ford President Donald E. Petersen made on that occasion. He spoke of a renewed commitment to achieving excellence and of a totally

new spirit of cooperation in the workplace.

Mr. Petersen's words prove that Ford is girding itself to win the trade battle against foreign competition.

The folks who work at the Hapeville plant reflect this winning attitude. As Mr. Petersen said, they have established a "record of hard work and dependability that makes us very proud."

Mr. Speaker, it is precisely this kind of spirit, this kind of driving desire to achieve world-class quality and increased productivity, that the entire U.S. auto industry needs to restore health and job security.

Congress must do its part to help in the fight. Congress must send a message to our Japanese and European trading partners that we expect them to pay more than just lip service to free trade. They must know we will not continue to watch Americans lose jobs because U.S. exports continue to run into their trade barriers. They must know unless they want to see their exports collide with U.S. barriers, they better tear down the ones they have built.

Through fair play, hard work, and the kind of spirit Mr. Petersen has described, the U.S. auto industry and American auto workers can prosper once again.

Mr. Petersen's remarks follow:

FORD SPIRIT AND COMMITMENT STRONGER THAN EVER

With the launch of the remarkable LTD/Marquis line of mid-size passenger vehicles, we take another major step toward a new generation of highly competitive, American-built products.

These two cars mark the beginning of Ford's year in the North American market. We are bringing to market this year the finest competitive products in our lifetimes in this business.

And today, more than ever, competitiveness is the name of the game in this industry. This is the message I want to leave with you today.

Before going any further, however, I want to first express my deep appreciation for the fine support the Metropolitan Atlanta Community has given to our operations here—for nearly 75 years.

And that goes for our dedicated employes, as well—every one of you.

You have established a record of hard work and dependability that makes us very proud. I thank you.

But I'm not here today to talk about past records.

I want to talk about the future by introducing the first in a series of new cars that represent the form and substance of tomorrow's cars today—our highly fuel-efficient and aerodynamically styled 1983 LTD and Mercury Marquis cars.

These new contemporary, high-technology, five-passenger cars have EPA fuel-economy ratings of 26 mpg city and 40 mpg highway, with standard 2.3-liter engines and four-speed manual transmissions. Those are remarkable numbers for vehicles of this size and comfort. We have aimed for and achieved small-car economy with the convenience of size.

The smooth, quiet ride and handling properties of these dramatic, family sedans will be enhanced by nitrogen-pressurized front struts and rear shock absorbers. These are features found only on cars like the Lincoln Continental, Rolls Royce and luxury cars built by Ford in Europe.

Both the LTD and the Marquis come with a lot of exciting options. And their fuel-saving, aerodynamic design provides a low 0.38 coefficent of drag. At 50 mph they use only 6.7 aerodynamic horsepower. This is the result of some 300 design changes, most of which came out of the work we do in the Lockheed-Marietta wind-tunnel just across town.

The new LTD and Marquis that are coming off the line at this plant are part of a remarkable revolution that is taking place in our company and in our industry.

Most people haven't any idea of what's occurring in our midst today.

Too few understand the across-the-board retooling that is reaching completion in our industry. It's the most massive peacetime, private-sector reconversion ever attempted, anywhere.

But, beyond retooling and plant reconversion, what matters most is our renewed commitment to achieving excellence. I mean world-class quality, and increased productivity. And a totally new spirit of cooperation in the workplace. In the world trade battle, these are the winning ingredients.

Our aim is very simple—to achieve competitive leadership in the North American market. And this leadership is within our grasp.

What you are seeing today is only one chapter in a competitiveness story of epic dimensions.

And, our commitment is backed up by a huge investment.

The 1983 cars and trucks that will go into Ford and Lincoln-Mercury showrooms across the North American continent have cost us almost $3 billion to bring to market. That's three thousand million dollars!

As a result, the 1983-model year represents the greatest offering of new, competitive products in Ford history.

Here at the Atlanta Assembly Plant alone, we have spent $18 million just to rebuild the line. We've installed new automatic paint systems and a new and innovative communications system. They will help us keep instant track of some 300 different items of information about cars on the line.

We are also using this plant to test a new automated parts system to give us rapid and accurate information about all parts enroute in rail cars and trucks.

This is helping us improve productivity and lower our costs—and that's good news for the consumer. And good news for us, too. For that means we're going to be more competitive.

Our commitment to competitive excellence is having some great results.

A recent survey of nearly 9,000 owners—of every make car—showed that Ford's quality is better than that of our domestic competitors—12 percent better than GM and 24 percent better than Chrysler. And GM and Chrysler don't dispute that.

Escort and Lynx were shown to be essentially equal in quality already to the Datsun 210 and the VW Rabbit.

In another survey, we found that only Toyota was equal in quality to our new Ranger pickup truck. Ranger tops all the others—domestic and foreign.

And right now I'm asking you to produce LTD and Marquis models that will be best quality cars in their class. Will you do that?

As you know, Escort was the first in our generation of all-new products. Worldwide sales of Escort have made it the world's best-selling nameplate. In America, too, Escort has outsold every import since it was introduced. And, this year, it is the best selling car in this country, by a wide margin.

We believe, over the next four years, we can repeat this success, again and again.

We've put about $11 billion in the past four years into new plants and equipment and new products. And we're going to spend even more in the next four years for more new products and new plants to be the leaders in the auto industry.

But there is another winning ingredient in our drive for competitiveness. It can be summed up in one word: people.

We're a people company, a company where people count.

One of the most remarkable things that is happening in this country today—led by Ford Motor Company—is the revolution in employe relations.

It is characterized here at Ford by a new spirit of teamwork, dedication, ingenuity and achievement.

Employe Involvement is the label that we put on it. But it's much more than that. It's improved quality of work life, employe commitment, employe excitement, employe fulfillment. It means all of these things.

These ingredients, together with our new relationship with the UAW, have provided a great sense of unity and enthusiasm and participation as we tackle our common goals.

What ever name you want to give to this new movement, the fact remains that out of our Employe Involvement programs we are forging a new sense of community. Let me urge all of you here in our Atlanta Plant to embrace this concept. Try it; you'll like it!

As I said before—our aim is very simple, although it is not modest; our objective is competitive leadership in the North American market.

We already have leadership in U.S. quality, and we will not settle for less than quality leadership worldwide. We have leadership in electronics and alternative fuels technology. We have leadership in aerodynamics and designs. We have leadership in employe relations; and we have leadership in better ideas.

We can achieve product leadership across the board. We can be leaders in caring about our customers. We can bring the Ford oval back to the position of authority and power it once held in this country above all others.

You can see for yourselves, here, today, that we are in the midst of a great industrial revolution. And you can see, as well, we are keeping our commitment to excellence.●

CHICAGO SUN-TIMES CALLS FOR FRA ACTION

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. SIMON. Mr. Speaker, we are at the point where the Federal Railroad Administration soon will act or fail to act on a requirement for warning lights by railroad locomotives.

The studies of the FRA indicate that such a regulation would both save money and save lives.

With that kind of overwhelming evidence, I hope we can get action soon.

You will be hearing more from me on this question if we do not.

In the meantime, I urge my colleagues to read the editorial from the Chicago Sun-Times which I am inserting in the RECORD at this point.

SAVE LIVES WITH RAIL WARNINGS

Last year, 623 people were killed and 3,020 injured in 8,546 car-train crashes at railroad grade crossings. And that was low. The death toll in most years tops 1,000.

Study after study shows such slaughter can be prevented. Simply require flashing lights on locomotives—to be flicked on 20 seconds before a train crosses a road.

The cost: $45.6 million. The savings: $104.9 million in property damage and accident costs, according to the watchdog Federal Railroad Administration.

The arithmetic indicates the agency should quickly issue a rule to require the warning lights. But it has not.

That's why Rep. Paul Simon (D-Ill.), who has demanded this safety step for six years, is angry. He should be. The issue, Simon said this week, is not just warning lights. It's also whether the watchdog agency will do its job or simply be a mouthpiece for the rail industry.

Agency chief Robert Blanchette has indicated he's serious about railroad safety. Fine. But we've heard that before. If Blanchette means it, let's see prompt implementation of the rule on warning lights. Amtrak already has them. Others can, too.

If there's more stalling, Congress should clear the tracks and force compliance.●

INFORMING THE PUBLIC ON REAL RISKS: A PRESS RESPONSIBILITY

HON. MARILYN LLOYD BOUQUARD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mrs. BOUQUARD. Mr. Speaker, on Monday, November 1, the Washington Post ran a front page story on potential consequences of nuclear reactor accidents. Many of the numbers quoted in the article were extracted from a study conducted at Sandia National Laboratories for the Nuclear Regulatory Commission (NRC). The opening sentence states that * * * "the worst-case death toll could exceed 100,000 persons." The story later states that "The NRC staff has estimated the probability of such an accident * * * as 1 in 100,000 reactor years * * * this would mean there is approximately a 2-percent chance of such an accident occurring in the United States before the year 2000." Late that day, the NRC released a clarifying statement refuting the conclusions cited in the Post story. According to the NRC statement, the consequences described in the Post have probabilities of 1 in 1 billion to 1 in 100 million per reactor year, rather than the 1 in 100,000 cited in the article. This means that on the average, such an incident could occur at a specific plant no more than about once every 100 million years. The NRC also stated that the consequences described in the article are based on assumptions regarding release of radioactive material, which are known to be overestimated by factors of 10 to 1,000.

In giving this story front page attention, I think that the Post has done a great disservice to its readers. There is essentially no chance that such an accident could happen during the lifetime of the reactor, nor for that matter during our lifetimes, nor during the lifetimes of our children, or our grandchildren, nor indeed within the duration of Western civilization as we know it.

One might have thought that the Post article was based on a simple technical misunderstanding. Unfortunately, upon study of Sandia's report by the staff of my Subcommittee on Energy Research and Production, it appears that the Post article did not present significant qualifications clearly stated in that report.

The two-page Forward of the Sandia report contains the following qualifications:

"* * * results in this report do not represent nuclear power risk."

"These calculations treat siting factors such as weather conditions and emergency response probabilistically but postulate the siting source-term release." (The source-term of an accident is the amount of radioactivity released to the environment as a result of the accident. Accident consequences depend on source term, meteorological and site characteristics, and population distribution.)

"Currently, there is significant controversy about the realism of accident source terms, that is, the accuracy with which they describe potential releases of radioactivity for a given sequence of events in a core melt accident."

"* * * the risks posed by such accidents are very small. Therefore, the absolute numbers should only be quoted with the associated probabilities and with the stated assumptions recognizing the uncertainties in the analyses."

If the persons who released the consequences statistics to the press read the Forward and the first three pages of the report, they had the benefit of all of these highly responsible and clearly worded qualifications. They understood the great improbability of such a sequence of events including core melt, the failure of all safety systems, breach of the concrete containment building, wind to carry radioactivity over the most populated area in the region, and rain to dump it on that area. Despite this knowledge, they extracted from the report unrealistic conclusions on potential consequences and released them to the press to form the basis of an article designed to alarm the general public on November 1, the eve of election day. I find this action to be nothing short of irresponsible. Its major legacy will be to increase even further the general skepticism with which the American public views public debate on technical issues.●

A TRIBUTE TO THE LATE REPRESENTATIVE CRAIG HOSMER

HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1982

● Mr. ERLENBORN. Mr. Speaker, I am honored to join in the tribute to our former colleague, Hon. Craig Hosmer, who passed away suddenly a few weeks ago.

If my good friend had the occasion to look back on his life, he should have felt a great sense of satisfaction. He spent most of his life in public service in one way or another, beginning with a stint in the Navy during World War II and including 22 years as a Representative from California, during which time he also was a member of the Naval Reserve, rising to the rank of rear admiral.

His service to the public includes as well the years he spent after leaving this Chamber in 1974 in advancing nuclear power as the most realistic alternative in the near term to oil as a source of energy. Were it not for Craig, I believe it is fair to say that our dependence on imported oil would have a stranglehold on us.

Californians can be proud that they sent Craig Hosmer to Congress for 11 terms, and we can all be grateful that he saw the merit in and then pursued the peaceful use of the atom.

I hope his family finds consolation in knowing that Craig Hosmer was an honorable man who left his mark on the world.●

GREEN INTRODUCES BILL TO ELIMINATE SEX DISCRIMINATION IN THE UNITED STATES CODE

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. GREEN. Mr. Speaker, today I am introducing a bill which would amend the United States Code in order to eliminate its sections which are explicitly discriminatory on the basis of sex. I am pleased to join efforts with my colleague from the other body, Mr. DOLE, in this quest to cleanse our Nation's laws of those provisions which still provide for different

treatment of our citizens on the basis of sex.

In the past 6 years, three comprehensive studies on sex bias in the United States Code have been conducted. The most recent study, which was released last June by the Task Force on Legal Equity for Women, provided a list of previously discriminatory statutes which have been remedied in recent years, and of those remaining on the books which are explicitly discriminatory. This legislation is based on the findings of that task force and of two previous studies.

As stated, this bill would amend many of the identified United States Code sections which still permit discrimination on the basis of sex. Quite honestly, many of the changes are cosmetic, while others have very narrow application. However, a few have very real impact. The bill would amend several provisions of the Social Security Act and the Railroad Retirement Act which still discriminate in the determination of benefits, albeit in very technical areas. But most of the provisions of this bill would be most appropriately characterized as "housecleaning." For example, it would grant widowers of deceased military personnel commissary privileges, whereas at present only widows of deceased military personnel are allowed this privilege.

Because it is aimed at statutes which are discriminatory on their face, this bill is somewhat limited in its application. So I am not claiming that passage of this legislation would result in the dissolution of discrimination in our society. Nor am I advocating this legislation as a replacement for the substantive and very necessary Equal Rights Amendment. However, I feel quite strongly that these discriminatory statutes have no place in our Nation's laws, and that passage of this bill would be a necessary though symbolic step in our continuing effort to attain equality for women under the law.

It is important to note that this bill intentionally avoids several very controversial sex-biased statutes, including combat limitations, the Selective Service, and parts of the Social Security Act and the Criminal Code. These sensitive matters would more appropriately be debated separately from this comprehensive bill.

I believe we still have a long way to go in this endeavor to secure equal rights and treatment for women. And I intend to maintain the strong positions I have taken in support of women's rights, including my advocacy of the Equal Rights Amendment. But I also hope that my House colleagues will agree that this bill, in seeking to amend outdated laws, is a necessary step in our effort.●

NUCLEAR FREEZE EQUALS SURRENDER

HON. LARRY P. McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. McDONALD. Mr. Speaker, as President Reagan began his program of rebuilding America's strength, a well-organized campaign demanding a nuclear freeze emerged to cripple his efforts. The same groups that favored such a freeze, also showed a tendency to ignore Soviet aggression in Hungary, Czechoslovakia, Poland, and Afghanistan; they argued that the Soviet threat was a myth created by the Pentagon to justify its expensive programs. This analysis, of course, is far from reality.

After a year of profreeze rhetoric and activity, many people are beginning to take another look at the supposedly "sincere" people who are coordinating the freeze movement. Mr. William Randolph Hearst, Jr., editor in chief of the Hearst newspapers, is one person who has spoken out on the hyprocrisy of the profreeze advocates. In the Hearst newspapers for Sunday, December 5, 1982, Mr. Hearst persuasively argued that "a nuclear freeze now would mean a surrender later."

I strongly commend Mr. Hearst's remarks to my colleagues. The article follows:

[From the News American, Dec. 5, 1982]

A NUCLEAR FREEZE NOW WOULD MEAN A SURRENDER LATER

NEW YORK.—This has been a pretty slow week at home, what with President Reagan off on a five-nation swing around Latin America. But the Soviet Union hasn't let up in its campaign for a nuclear "freeze" which many honest people here and among our allies embrace because they fear the thought of a nuclear disaster being suddenly unleashed. Obviously they are not alone because the prospect is indeed a terrifying one.

But there are much better ways of settling nuclear hassles and the Russians know it. The first is on-site verification, proposed long ago by President Eisenhower and recently repeated by President Reagan.

I have just been reading a fact-filled book entitled "The War Called Peace" (sub-titled "The Soviet Peace Offensive"). It is published by "Western Goals," with headquarters in Alexandria, Va., whose advisory board lists among others such eminent Americans as Dr. Edward Teller, father of the H-bomb; author Taylor Caldwell; former chairman of the Joint Chiefs of Staff Admiral Thomas Moorer; former Marine Corps Commandant General Lewis Walt, and renowned physicist Dr. Eugene Wignar.

This book, commenting on antinuclear demonstrations here and among our Western European allies, tells how pro-Soviet organizations organized and fueled protest movements. Most staggering, I found, was the voluminous list of pro-freeze, anti-nuclear groups located in the United States. They run the gamut from the straight freeze units to anti-draft registration to groups of scientists, lawyers and even include church groups of all denominations.

It's most curious, I thought, that all this effort has been synchronized into the major objective—"freeze now"—but there's nary a mention of Soviet wanton use of chemical warfare in Laos, Cambodia and, lately, in embattled Afghanistan where freedom fighters have slowed the invasion-occupation by the U.S.S.R.

The Soviets have used toxin weapons, commonly known as "yellow rain," spraying the poison over thousands of people, killing the land in communist-held Southeast Asia and Afghanistan. The symptoms are prolonged vomiting, dehydration and bone disease.

Months ago, I wrote about "The Yellow Rain," based on articles done by a brave lady, Jane Hamilton-Merritt, who worked and lived among the Hmong people in Laos and also spoke their language. After being instrumental in helping some Hmong villagers come to the States, she returned to Thailand to help refugees.

Just before he left to accompany President Reagan on the Latin American tour, Secretary of State Shultz flatly accused the U.S.S.R. of using toxin weapons, all of which are in gross violation of international law. Secretary Shultz, usually low-key, declared that the United States had accumulated new evidence of what he termed "cynical disregard of international law" by the Soviets and their communist comrades in Southeast Asia and Afghanistan.

Secretary Shultz, despite foot-dragging by other nations who are sympathetic, has been able to make our case more timely. This charge demands verification in Russian-controlled territory but the Soviets won't even let neutrals venture one foot inside.

It brings us right back to the freeze issue, which many Americans and our overseas friends and allies see as the road to peace. President Reagan put it bluntly at a press conference when he said that it "takes two to tango," referring to arms control and genuine disarmament. The Soviets have now shown an interest in his televised proposal on reducing risks. To repeat President Reagan's comment, it "takes two to tango" and we're here to dance.

Over a year ago President Reagan authorized our top negotiators to the nuclear disarment conference in Geneva, Paul Nitze and Eugene Rostow (they had been working all along on the problem), to make the offer to the Russians that we would not arm our allies in Europe with Pershing missiles if they'd withdraw their SS-20s. This was referred to as the "Zero Option" for varying reasons. It was promptly rejected by the Soviet representative, Yuli Kvitsinksky.

Strangely enough, the entire incident was given very little publicity in the American media. In Europe the blame for the almost deliberate ignoring of so important a development is placed on the Washington press corps which the continent sees as being anti-administration. It is quite likely that not being so close to the woods they can see the trees better.

The Russians, we must never forget, always break up meetings over there calling for nuclear disarmament and generally ship off protest leaders to harsh labor camps or mental hospitals. And when negotiators ask that the Soviets agree to on-site inspection, Russian representatives pretend unbridled anger, charging that we demand interference in their internal affairs.

As the book, "The War Called Peace," clearly presents, peace doesn't come about by wishing it to happen, particularly when the other side happens to be wily, powerbent and interested in unilateral nuclear disarmament, namely, ours. That isn't the way real, enduring peace can be achieved in the 20th century. The late, great Winston Churchill, when Russia under Stalin menaced Western Europe, put it in his usual eloquent manner, "We arm to parley."

His remark is as true today as it was when Europe was virtually naked before a post-World War II tyranny.●

BO GINN

HON. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, December 6, 1982

● Mr. MONTGOMERY. Mr. Speaker, I want to join with my colleagues who have already participated in a special order honoring Representative RONALD "Bo" GINN, of Georgia.

Bo has been a fighter for his First District of Georgia. He has been reelected four times since first coming to the House of Representatives in 1973. I think that reflects the confidence his constituents had in his leadership abilities and his hard work in standing up for the First District and for the State of Georgia.

Bo has been a valuable member of the Appropriations Committee. He has had the opportunity to make a further contribution to this committee as chairman of the Military Construction Subcommittee and also as a very active member of the Defense Subcommittee. There is no doubt that his expertise and experience in these areas will indeed be missed when he leaves this Chamber.

Bo GINN is a man of obvious leadership capabilities and high integrity. At age 48, he will not doubt continue to be a leader for many years to come, both on the political scene and in service to his community.

I want to wish the very best for Bo and his family in their future endeavors. Bo will be missed by his many friends here in the House of Representatives. He can be proud, as can the people of Georgia, of his service and his accomplishments as a Member of this Chamber.●

GOO GOO CLUSTERS AN "OLE SOUTHERN TREAT"

HON. WILLIAM HILL BONER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. BONER of Tennessee. Mr. Speaker, this morning's Wall Street Journal contains a front page article which I wish to commend to the other Members of Congress. This article concerns the Standard Manufacturing Co. of Nashville, Tenn., and its popular product, the "Goo Goo Cluster."

I was pleased to be able to distribute a package of this favorite candy of the district I represent to each of the Members this morning through the generosity of Mr. Jimmy Fischer, president of Standard Candy. After sampling it, I am sure the Members will understand why people nationwide are clamoring for this gourmet treat.

While there is a host of stories as to how the candy got its name, I wish to assure the Members that a Goo Goo by any other name would still taste as sweet.

Following is the article appearing in this morning's Wall Street Journal:

[From the Wall Street Journal, Dec. 8, 1982]

TENNESSEE GOO GOOS ARE HEADING NORTH; NEW YORK IS INVADED

NASHVILLE, TENN.—Chocolate and peanuts and caramel and marshmallow all are staples of the candy counter, and prosaic enough in themselves. But put them together and an interesting synergism takes place. They become a Goo Goo Cluster—a round mound of empty calories said to be "the South's favorite candy" since 1912.

Be that as it may, if you haven't heard of Goo Goos, you haven't been listening to the Grand Ole Opry radio show or examining the catalog of the Lynchburg (Tenn.) Hardware & General Store or browsing at Bloomingdale's. Yes Bloomingdale's.

Goo Goo Clusters lately have been moving north, like so many killer bees, and the Standard Candy Co. of Nashville hopes that ultimately the Goo Goo Cluster will be as familiar and available as a Snickers bar, which is America's favorite candy, as opposed to just the South's.

"They are a big nostalgia thing with people from the South," says Carey Katsidhe, the candy buyer at Bloomingdale's, the New York department store, which started stocking Goo Goos (at $10 the box of 24) this fall. "Some people get really emotional," she says, when they come upon the little delicacies at 59th Street and Lexington Avenue.

PLAYING HARD TO GET

Whether Goo Goos go national or remain as regional as Moon Pies and grits remains to be seen, but taste-making Bloomie's isn't a bad place to launch an invasion. In New York, Goo Goos also are available, to those who have paid the price of admission, at the Princess Theater, which currently features a rustic musical called "Pump Boys and Dinettes." They can be had in Chicago at Marshall Field's (40 cents apiece), and can be bought by mail from the aforementioned Lynchburg hardware catalog (at $12, delivered, for a box of 24 clusters). Here in Nashville they go for 30 cents or 35 cents apiece.

Word has it that Goo Goos have been eaten by "prominent people in the West Wing" of the White House, don't ask who. And Senate Majority Leader Howard Baker, the Tennessee Republican, passes Goo Goos around the Capitol. Thus, it is pretty clear that, if hype counts for anything, the onslaught will be successful.

Now if, as one newcomer to Goo Goos concludes, they taste pretty much as one might expect a 35-cent hash of chocolate and the rest to taste, Goo Goos do have a couple of things going for them—their Southern aura and their incongruous name. Oh yes, they also are a big favorite with singer Dinah Shore, once of Winchester, Tenn., and Pat Boone, an erstwhile Tennessee resident and popular singer of the 1950s.

Miss Shore, who pronounces Goo Goos "the most important candy in Tennessee," says that her "cousins send me boxes and boxes of them." Since Miss Shore, at 61, remains rather svelte, one wonders whether she actually eats them, at 5,880 calories to the box of 24. Mr. Boone, now of Southern California, used to receive regular shipments of Goo Goos but had them stopped, his secretary says, because he himself never got to eat any. The secretary doesn't say who hijacked his Goo Goos.

GAGA OVER GOO GOOS

The appeal of Goo Goos, to the extent that it exists outside Opry country, doesn't mystify people here at all. "Just like our Southern accent or country music, Goo Goos are a symbol of Nashville," says Marion Irion, a local woman who has taken visitors on the Goo Goo factory tour "five or six times." The makers of Goo Goos, she says, are a fixture of Nashville. "Standard Candy has been here a thousand years."

Actually, Standard started making candy in Nashville in 1901, and to this day makes a variety of confections, ranging from hard candy to coconut haystacks. But it wasn't until 1912 that the late Howell H. Campbell, Standard's founder, made the first Goo Goo in his kitchen. Some people believe he named Goo Goos after something his infant son said to him, but Howell Campbell Jr., the son in question, who became president of Standard in 1946, says that story isn't true. He doesn't, however, proffer an alternative explanation.

However the name originated, the candy itself had modest beginnings. "Standard Candy started with the country stores that handled horseshoes, nails, suits and groceries—the mom and pop stores on street corners," Mr. Campbell says. "Whole families used to work here."

Indeed, Clara Mai Tunstall, a 67-year-old "floor lady" in Standard's "enrobing room," where candy is coated with chocolate, says that her parents met at Standard Candy and married in 1910. "My sister wants me to retire," Mrs. Tunstall says, "but I don't want to. She says I got chocolate in my veins."

The same could possibly be said of the junior Mr. Campbell, a burly 69-year-old chain smoker who sits on the boards of two Nashville concerns and calls himself a farmer. He sold Standard Candy to two other Nashville businessmen in 1974, but not without regret among his relatives.

"I hate to see it get out of the family says his son, Howell Campbell III, who heads a Nashville brokerage firm. "A time or two I looked at buying the company back, but when it could be bought cheaply, it wasn't in great shape."

For many years, word of Goo Goos spread via citizens of Nashville who introduced the candy to friends. And since the late 1960s. Standard Candy has exploited the country-music boom by advertising on the Grand Ole Opry, which is heard in some 35 states. Goo Goos have at least one outlet in each of those states. Standard reckons, but distribution is "relatively strong" only in Mississippi, Alabama and Kentucky.

The busloads of tourists to Nashville who heard about Goo Goos at the Opry began taking the stuff home with them to places

where Goo Goos are hard to come by. Today, Standard says it gets 20 to 100 letters a week, many of them accompanied by checks, begging for Goo Goos. As one might expect, the company is delighted to fill mail orders.

YOUR GOO GOOS OR MY WIFE

"My wife asked me—no she told me—to find out how to get some more Goo Goos," a Houston man writes Standard Candy. "Please send me a price list before I have to send you my wife."

Because of consumer urges fed by wayfarers to Nashville, Goo Goos reached a few Midwestern outposts. And because Standard's new management—Nashville businessmen James M. Fischer Jr. and Jimmy Miller—changed distribution to concentrate on wholesalers, sales increased and, for a while, everything went well.

But trouble started in 1979 when the company moved to a new plant on the outskirts of Nashville, commodity prices rose, and a candy price-war broke out, all at about the same time.

Standard Candy was losing money and was precariously close to bankruptcy by the time James W. Spradley Jr. and his father, a retired food-company executive, acquired a 50% interest in the company this year. They paid no cash to Mr. Fischer, who in the meantime had bought out his partner, but assumed half the company's liabilities and agreed to match whatever loans Mr. Fischer made to the company.

ESTABLISHING A BEACHHEAD

Today, the younger Mr. Spradley, a man of swashbuckling ambitions who calls Goo Goos "our world famous product," hopes to establish the candy as a strong brand in the 700-mile area encircling Nashville. Then, someday, he hopes to go national.

For the time being, he figures he can trade on Goo Goo's good name and Southern tradition with the likes of Bloomingdale's. The candy is also available, albeit informally, on Wall Street, thanks to Bert Rayle, a broker friend of Mr. Spradley's at Goldman, Sachs & Co. "I give him investment ideas from time to time, and he gives me Goo Goos," says Mr. Rayle, who, in turn, makes them available to his growing list of friends.

Goo Goos also are making the rounds of official Washington. The candy was a refreshment at an "Art From Appalachia" show last year at the Smithsonian Institution's National Museum of American Art. More recently, a State Department protocol officer brought some Goo Goos back to Foggy Bottom (and to the White House) at the request of a Nashville tourist official she met at the Knoxville World's Fair. She won't specify who is eating Goo Goos at 1600 Pennsylvania Avenue because that "would sound like a commercial for the candy bar."

Still Goo Goos are probably best acquainted with less exalted company.

"It must have been 1924 when I ate my first cluster," writes a 71-year-old Mississippi woman to Standard Candy. "In that day, there were no Coke boxes distributing drinks or any other machines with goodies. We bought apples, oranges, and the poorer children—a baked sweet potato for recess.

"There was, though, an old black man, dearly loved to us all, who sat on the edge of the schoolyard with a little cart and sold us for one nickel each a large bag of hot roasted peanuts, a pickle with six crackers, a big round pink or white coconut candy ball, or the Goo Goo Cluster."

As Bloomingdale's buyer says, Goo Goos are a big nostalgia thing.●

EVILS OF SOCIAL SECURITY DISABILITY APPEALS

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. SIMON. Mr. Speaker, every Member of the House knows about the wrongs that are being perpetrated by the Social Security Administration in the name of saving money, wrongs that take people who should be on disability off of disability or deny them the chance to get on disability.

There is a further wrong that does not hit us in most cases that have been called to my attention.

Charles Murphy of Marion, Ill., has serious heart trouble and a bad back and a bad hip situation.

He was on disability and was one of the many who was just taken off without adequate examination. He appealed, and one of the leaders of the senior citizens in our area who has taken some of these cases at no charge whatsoever—Bob Gustafson—represented him. The administrative law judge, after careful examination, after looking into the case, decided that Charles Murphy should be back on disability.

Then a review board in Baltimore made a determination that he should not be reinstated. That board says that if Mr. Murphy wants to appeal the case he can come to Baltimore with Bob Gustafson as his counsel for appearance before that review board. The problem with that is that, first of all, Mr. Murphy is not in the physical situation where he can go to Baltimore and, second, financially it is impossible for him and for most other people on disability to do that. And Bob Gustafson is doing this free for his fellow senior citizens and cannot afford to pay for a trip to Baltimore.

What kind of a monster have we created? Does this Government have a heart? Let us take a look at what we are doing and protect the citizens of our country?

We seem to be doing a good job at protecting the rich and the powerful. Let us start doing the job protecting the people that Government really ought to protect.●

INSIDER TRADING SANCTIONS ACT OF 1982

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. ROSENTHAL. Mr. Speaker, several days ago, I introduced H.R. 7352, the Insider Trading Sanctions Act of 1982 which has the full support of the Securities Exchange Commission. This bill would enable the SEC to increase the criminal penalties for trading in securities while in possession of material nonpublic information.

In the last 2 years over 20 insider trading cases have been initiated by the SEC, whereas only 40 had been brought to court prior to 1978. However, even with this vigorous action, the SEC is caught in a legal bind. The present sanctions are so weak that the benefits of insider trading far outweigh the criminal risk. The strongest civil penalty now available to the SEC is limited to seeking simple repayment or disgorgement of profits; while the maximum criminal fine is $10,000. H.R. 7352 seeks to increase this fine to $100,000.

The SEC has fought to increase the risk facing potential violators of the Securities Exchange Act for a long time and to uphold the fairness and integrity of the market by insuring equal access to information. Recently the SEC prepared a memorandum in support of the changes to insider trading sanctions embodied in H.R. 7352. I would like to include it into the RECORD at this time for my colleagues to review:

MEMORANDUM OF THE SECURITIES AND EXCHANGE COMMISSION IN SUPPORT OF THE INSIDER TRADING SANCTIONS ACT OF 1982

INTRODUCTION AND SUMMARY

Insider trading [1] in publicly traded securities undermines the expectations of fairness and honesty that underlie public confidence in our nation's securities markets. The Securities and Exchange Commission has in recent years stepped up its efforts to combat this threat to the securities markets. Prior to 1978, the Commission initiated about forty cases involving insider trading. Since then, the Commission has brought over fifty insider trading cases. Approximately twenty of these have been brought since July, 1981. In these actions the Commission has obtained injunctions requiring defendants to comply with the securities laws or face contempt citations, and has obtained disgorgement of millions of dollars in illegal profits.

Despite these vigorous enforcement efforts, insider trading continues because it presents the opportunity to reap huge profits with little risk. Economic risk is small because public disclosure of the inside information spurs significant price movements in securities or options for equity securities. And the deterrence presented by the Commission's current enforcement remedies—injunctions against further violations and disgorgement of illegal gains—too often fails to outweigh the temptation facing insiders to convert nonpublic information into enormous personal profits. In short, greater risk

[1] "Insider trading" is the term commonly used to describe the act of purchasing or selling securities while in possession of material nonpublic information about an issuer or the trading market for an issuer's securities.

must face insiders if illegal trading is to be deterred. Tougher sanctions are needed.

The Insider Trading Sanctions Act of 1982 meets this need. The Act would empower the Commission to bring an action for an order requiring the inside trader, or any person aiding and abetting the trader's violation, to pay into the Treasury of the United States an amount of money up to three times the profit gained or loss avoided through the illicit transactions. The Commission would be empowered to seek a penalty directly; it would not be required to obtain an injunction first.

The need to raise the level of risk facing potential violators of the Exchange Act also exists in other areas because inflation has diminished the deterrent effect of the criminal fines provided in the Exchange Act. To meet this need, the Act would amend the Exchange Act by increasing from $10,000 to $100,000 the fine for most criminal violations of the Exchange Act. This change, not limited to insider trading, would serve to restore and enhance the level of deterrence contemplated when the Exchange Act was enacted.

A. THE INSIDER TRADING PROBLEM

The United States has, and the Commission oversees, the best securities markets the world has ever known; they are liquid, efficient, and fair. The prices of the vast majority of actively traded securities reflect available information about companies and the economy. Capital formation and our nation's economic growth and stability depend on investor confidence in the fairness and integrity of our capital markets.

Insider trading threatens these markets. By abusing the trust and confidence reposed in them by shareholders, employers or clients, inside traders may reap huge profits in essentially risk-free transactions. Insiders—corporate officials, investment bankers, lawyers, accountants, financial printers, among others—often learn of profit or loss forecasts, imminent tender offers, mineral strikes, oil discoveries, lucrative contracts, and product failures before such information is available to the investing public. Indeed, the case law chronicles the diversity of business situations that give rise to nonpublic information.[2]

If such information is material, insiders can earn substantial profits by engaging in securities transactions before that information becomes generally known in the market place. The abuse of informational advantages that other investors cannot hope to overcome through diligences of zeal is unfair and inconsistent with the investing public's legitimate expectation of honest and fair securities markets where all participants play by the same rules. Noting that insider trading prohibitions "rest on considerations of equity," Professor Victor Brudney explains that:

"The inability of a public investor with whom an insider transacts on inside information ever lawfully to erode the insider's informational advantage generates a sense of unfairness. * * * The unfairness is not a function merely of possessing more information—outsiders may possess more information than other outsiders by reason of their diligence or zeal—but of the fact that it is an advantage which cannot be competed away since it depends upon a lawful privilege to which [other investors] cannot acquire access."[3]

By enacting the Insider Trading Sanctions Act of 1982, Congress will help insure that insider trading does not diminish public confidence in the fairness and integrity of our securities markets.

Insider trading may also inflict significant economic injury on exchange specialists or market makers. These market participants are required to provide market liquidity by standing ready to buy or sell for their own accounts in conditions of excess buying or selling demand. This liquidity creates, among other things, an orderly market which is advantageous to all investors. But exchange specialists and market makers cannot protect themselves from inside traders. Their market making obligations sometimes force them to trade securities with insiders at prices not reflecting the value of the inside information and, as a result, they may incur losses great enough to cause them to go out of business.

For the same reason, insider trading is also likely to cause market makers in options to be less willing to to bid for or to offer options. A decrease in the number of market makers would increase the cost of legitimate option transactions.

Insider trading on United States securities markets is a serious problem,[4] especially in connection with tender offers. One reason is that the prospect of enormous profits is a powerful lure. Another is the public perception that the risk of detection is relatively slight.[5] Moreover, Wall Street's current merger wave creates countless opportunities for insider trading. Because tender offerors typically offer substantial premiums over the prevailing market price of the subject company's securities, anyone knowing of an imminent tender offer can acquire substantial profits while incurring essentially no economic risk. Moreover, the purchase of options permits the violator to obtain far larger illegal profits than would be possible through purchases of the same dollar amount of common stock.[6]

B. THE NEED TO RAISE THE LEVEL OF RISK FOR INSIDER TRADING

In combating insider trading the Commission has used the full complement of enforcement tools available under current law. The principal Commission weapons against insider trading are an injunction requiring a defendant to comply with the law in the future, and ancillary equitable relief in the form of disgorgement of illegal profits.[7] Unfortunately, injunctions and disgorgement do not sufficiently deter insider trading.

An injunction orders a defendant to obey the law in the future and subjects a defendant to the threat of contempt proceedings if he violates the law again. As such, it presents no significant hardship to the defendant because "[c]ompliance is just what the law expects."[8] In view of this and the fact that they are prospective in operation, injunctions do not penalize the defendant for the illegal conduct for which the injunction was imposed.

The Commission has used its injunctive authority for many years and intends to continue to do so. However, given the enormous profit potential of insider trading and the small risk perceived to be associated with such conduct, the Commission has concluded it is necessary to raise the level of risk that potential inside traders face if insider trading is to be effectively deterred.

Disgorgement of illegal profits, the Commission's other major weapon against insider trading, is a useful equitable remedy because it strips the defendant of the fruits of his unlawful trading and returns him to the position he was in before he broke the law. But merely requiring a defendant to return "stolen goods" does not penalize the defendant for his illegal conduct. Thus, the prospect of compelled disgorgement alone cannot dissuade anyone from violating the law. According to a seminal report prepared in 1972 for the Administrative Conference of the United States, the problem with disgorgement is "that an insider who is caught

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[2] The landmark decision of *Securities and Exchange Commission* v. *Texas Gulf Sulphur Co.*, 401 F.2d 833 (2d Cir. 1968) (en banc), *cert. denied*, 394 U.S. 976 (1969) reveals how company officials who knew of an ore strike, bought Texas Gulf Sulphur stock on the New York Stock Exchange, before that information was known even to the company's full board of directors.

In another case, a brokerage firm passed confidential information about an earnings decline, gained in the course of serving as an underwriter, to certain institutional investors who dumped their vast holdings before the information became public. *Shapiro* v. *Merrill Lynch, Pierce, Fenner & Smith*, 495 F.2d 228 (2d Cir. 1974). In *Chiarella* v. *United States*, 445 U.S. 222 (1980), a financial printer, whose firm was hired to print tender offer documents, broke codes in the materials being printed, determined the subject companies' identities, and bought their shares. After the announcement of the bids increased the price of the shares, the printer sold and made substantial profits.

United States v. *Newman*, 664 F.2d 12 (2d Cir. 1981), involved the misuse by certain investment bankers of confidential information about proposed mergers and acquisitions that was entrusted to their firms by corporate clients and was passed by the bankers to confederates residing abroad. Using foreign bank and trust accounts and spreading their purchases among brokers, the defendants bought stock in merger candidates and tender offer targets. See also *O'Connor & Associates* v. *Dean Witter Reynolds, Inc.*, 529 F. Supp. 1179 (S.D.N.Y. 1981) (insiders' purchasing of options before disclosure of takeover bid violates the Exchange Act). The Commission believes that in these cases the defendents' use of material nonpublic information entrusted to them by employers, clients, or shareholders constituted a fraudulent act under liability theories advanced by the Commission and adopted by the courts. See *United States* v. *Newman*, supra; *Securities and Exchange Commission* v. *Lund*, [1981-1982 Decisions] Fed. Sec. L. Rep. (CCH) ¶98,428 (C.D. Cal. Jan. 22, 1982). Thus, these activities violate Section 10(b) of the Exchange Act. When they occur in connection with a tender offer, they also violate Section 14(e) of the Exchange Act.

[3] Brudney, "Insiders, Outsiders and Informational Advantages Under the Federal Securities Laws," 93 Harv. L. Rev. 322, 346 (1979).

[4] The broad range of persons who have been the subject of the Commission's enforcement actions illustrates the breadth of the insider trading problem. These include: officers, directors and employees of issuers; the issuer itself; attorneys; law firm paralegals; principal shareholders; business consultants and investment analysts; merger partners; finders; underwriters; brokers; accountants for corporate directors; newspaper columnists; government officials knowing of lucrative government contracts about to be granted; and friends and relatives of the above individuals.

[5] The popular press echoes the perception that insider trading is hard to detect. Pauly, Weathers, Ipsen & Bentley, "Crackdown on Insiders," Newsweek, Nov. 16, 1981, at 77-78. See also Louis, "The Unwinnable War on Insider Trading," Fortune, July 13, 1981, at 72-82.

[6] Some options have increased in price enormously in a short period as a result of a takeover bid. In one case, the Commission alleged that an individual invested $3125 in call options of a corporation which was to be the subject of a takeover proposal and, in 48 hours, realized profits of approximately $430,000.

[7] When the violator is a regulated entity, such as a broker-dealer or a registered representative, the Commission has also instituted administrative proceedings against the offenders. See 15 U.S.C. § 15(b)(4) & (6).

[8] *Walling* v. *Harnischfeger Corp.*, 242 F.2d 712, 713 (7th Cir. 1957).

improperly profiting from the use of material information is placed in no worse a position than the honest man who refuses to act." [9]

In short, disgorgement is "hardly a disincentive for those who may cynically (and realistically) hope to avoid being caught." [10]

Recognizing that current remedies do not provide sufficient deterrence, the Administrative Conference Report urged that "the SEC should seek authority to adopt [a civil penalty] sanctioning approach." [11] A civil penalty would present the threat of economic punishment necessary to convince potential traders not to violate the law in the first place. [12]

The prospect of civil money penalties equal to a multiple of the profit gained (or loss avoided) would be a powerful deterrent to insider trading and would reaffirm that fairness and honesty are the guiding principles of our Nation's securities markets. The Supreme Court has recognized and approved the use of civil money penalties to deter illegal conduct. [13] Moreover, Congress has recognized the deterrent value of civil money penalties by giving the power to seek or assess penalties to other federal agencies, [14] including the Commodity Futures Trading Commission. [15]

In advancing this legislative proposal, the Commission is not abandoning the disgorgement remedy, which has served through the years as an important source of recovery for private plaintiffs. The Commission anticipates that, when appropriate, in an insider trading case it will seek (1) a court order enjoining the violator from breaking the law again; (2) disgorgement of ill-gotten gains which may, if appropriate, be paid into an escrow fund so that traders or other private parties damaged by the insider trading can obtain compensation for their losses; and (3) the imposition of a civil money penalty. [16]

The Commission does not intend that the addition of the civil penalty provision to the Exchange Act would effect the standard of proof applicable in Commission enforcement actions. The preponderance of the evidence standard applies to a Commission action for injunctive or other equitable relief. [17] Under long standing Supreme Court precedent, this standard, rather than any higher standard, would apply to a Commission action for a civil money penalty. [18]

C. THE COMMISSION'S PROPOSAL

The Civil Money Penalty.—Section 2 of the Insider Trading Sanctions Act of 1982 would amend Section 21(d) of the Exchange Act to provide that the Commission may bring an action for a court order requiring any person engaging in a trading transaction who violates the Exchange Act by reason of insider trading to pay into the Treasury an amount of money to be determined by the court in light of the facts and circumstances, but in no event to exceed three times the profit gained or loss avoided as a result of such unlawful purchase or sale.

This amendment would create a formidable deterrent to illegal insider trading by persons who might now be tempted to seize the opportunity for large illegal profits. First, upon proof of a violation by a preponderance of the evidence, the Commission would establish a basis for relief. Second, although the precise amount of the penalty is to be determined by the court, the amendment expressly authorizes the penalty to be as much as three times the unlawful profit gained or loss avoided.

The statute does not mandate that the maximum penalty be imposed in every case. Rather, the amount of the penalty shall be based upon the facts and circumstances of each case. However, the possibility of a penalty equal to some multiple of the illegally obtained profits would constitute a formidable deterrent to insider trading. The Commission proposes that the maximum penalty be set at three times the profit gained or loss avoided, but the Congress, in order to achieve greater deterrence, may wish to increase the maximum penalty by using a higher multiple.

The civil penalty provision addresses the problem of the abuse of material nonpublic information in the trading of equity and debt securities, including option contracts, on securities exchanges or in the over-the-counter markets. It does not apply to transactions such as public offerings by issuers, market stabilization bids entered pursuant to such offerings, or purchasers or sales of securities of closely-held securities. For these reasons, the civil penalty provision applies to a "transaction (i) on or through the facilities of a national securities exchange or from or through a broker or dealer, and (ii) which is not part of a public offering by an issuer of securities other than standardized options * * *." [19]

The Act expressly empowers the Commission to adopt rules or regulations that would exempt persons or transactions from the civil penalty provisions.

The Increased Criminal Fine.—Section 3 of the Insider Trading Sanctions Act would amend Section 32(a) of the Exchange Act to increase the potential criminal fine from $10,000 to $100,000. The $10,000 fine was enacted in 1934 and has not been increased since then, although today a dollar is worth less than one-seventh of what it was worth then.

The proposed legislation would restore, and somewhat enhance, the level of deterrence that Congress contemplated when the statute was enacted nearly 50 years ago. Inflation during that time has seriously eroded the deterrent value of the existing criminal fine. The increased criminal penalty would apply to most criminal violations of the Exchange Act. It would not be limited to insider trading.

D. CONCLUSION

The Commission believes that enactment of the Insider Trading Sanctions Act of 1982 will indicate to the investing public, and to potential inside traders in particular, that the Commission and the Congress intend to preserve the expectations of fairness and honesty that form the foundation of our Nation's securities markets.

For the foregoing reasons, the Commission urges that Congress adopt the Insider Trading Sanctions Act of 1982.●

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[9] Goldschmid, "An Evaluation of the Present and Potential Use of Civil Money Penalties as a Sanction By Federal Administrative Agencies," Report Prepared for the Administrative Conference of the United States, at 36 (Nov. 17, 1972).

[10] *Id.* at 37.

[11] *Id.*

[12] For a discussion of the deterrent value of civil penalties, see Diver, "The Assessment of Civil Money Penalties by Federal Administrative Agencies," 79 Colum. L. Rev. 1435, 1455-56 (1979).

[13] See, e.g., *National Independent Coal Operators' Ass'n.* v. *Kleppe*, 423 U.S. 388, 401 (1976) (purpose of mine safety penalties is to provide a "strong incentive for compliance with the mandatory health and safety standards"); *United States* v. *ITT Continental Baking Co.*, 420 U.S. 223, 232 (1975) (Federal Trade Commission Act civil penalties are designed to "provide a meaningful deterrence against violations").

[14] See, e.g., 47 U.S.C. § 203(e) (1976) (Communications Act of 1934; Federal Communications Commission); 15 U.S.C. § 1917 (1976) (Motor Vehicle Information and Cost Savings Act; Department of Transportation); 15 U.S.C. § 2069 (Supp. IV 1980) (Consumer Product Safety Act; Consumer Product Safety Commission); 12 U.S.C. § 1425a(d) (1976) (Federal Home Loan Bank Act; Federal Home Loan Bank Board).

[15] See 7 U.S.C. § 9 (1976).

[16] In appropriate cases, the Commission might seek a penalty less than three times the amount of profit gained or loss avoided.

[17] *Securities and Exchange Commission* v. *C. M. Joiner Leasing Corp.*, 320 U.S. 344, 355 (1943). In accordance with the Supreme Court's holding in *Joiner*, every court of appeals that has addressed the question has held that the preponderance standard applies in actions to enjoin violations of Section 10(b). See, e.g., *Securities and Exchange Commission* v. *First Financial Group*, 645 F.2d 429, 434-35 (5th Cir. 1981); *Securities and Exchange Commission* v. *Savoy Industries, Inc.*, 587 F.2d 1149, 1168-69 (D.C. Cir. 1978), cert. denied, 440 U.S. 913 (1979); *Securities and Exchange Commission* v. *Commonwealth Chemical Securities, Inc.*, 574 F.2d 90, 102 (2d Cir. 1978).

[18] See *United States* v. *Regan*, 232 U.S. 37, 48 (1914).

[19] The penalty provision applies to trading in standardized options, even though technically such options involve the offering of securities by an issuer. The principal reason for the inclusion of transactions in standardized options is to ensure that those who misuse material nonpublic information by buying or selling options are subject to the civil penalty provision.

Should there be a need to clarify the scope of any term used in the civil penalty provision, the Commission would define the term pursuant to Section 3(b) of the Exchange Act.

REGULATORY REFORM BILL

HON. MICKEY EDWARDS

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. EDWARDS of Oklahoma. Mr. Speaker, I join with many of my colleagues in urging you to schedule a floor vote on H.R. 746, the regulatory reform bill, before the expiration of this Congress. This bill is an initiative of enormous importance. It fulfills the desire of our constituents for substantive regulatory reform and puts this Congress four-square on the side of responsible government.

Mr. Speaker, I have a copy of a letter you wrote to President Reagan on August 19, 1982. In your letter, you pledged to schedule floor action on this legislation as soon as the work on the bill is completed. Mr. Speaker, I am today asking that you honor that pledge. The work on H.R. 746 has been completed. Hearings have taken place; executive comments from a dozen agencies have been reviewed; business and consumer groups have had 4 years to communicate their opinions and every Member of this body has had ample opportunity to become thoroughly familiar with the content of this legislation. In addition, the Senate approved their form of this bill last March by a unanimous, bipartisan vote of 94 to 0.

Mr. Speaker, Americans overwhelmingly support changes in our regulatory process. They know first-hand the cost in time and money of thousands of useless Government rules and have repeatedly asked this Congress to come to grips with this problem and to find ways to separate needed regulations from those that are unnecessary. I urge you, once again, to schedule a floor vote on H.R. 746 before the end of this session.

THE SPEAKER'S ROOMS,
HOUSE OF REPRESENTATIVES,
Washington, D.C., August 19, 1982.

Hon. RONALD REAGAN,
The President, The White House
Washington, D.C.

DEAR MR. PRESIDENT: I am writing in response to your recent letter concerning House consideration of H.R. 746, the regulatory reform legislation.

As you know, Congressman Elliott Levitas of Georgia has been a tireless advocate of this legislation. Largely as a result of his persistence, I directed my staff to scrutinize this legislation, and work with the business community, administration representatives and other concerned parties to work out a regulatory reform package that meets the objectives of regulatory reform without unnessarily burdening federal agencies.

This legislation will make lasting changes in the way our government functions. These changes impose time consuming requirements that will involve additional burdens for federal agencies. These major changes to our basic administrative laws risk leading to expensive and time consuming litigation. Procedural changes, if not crafted with extreme care, could alter underlying substantive statutes. New opportunities to challenge agency actions in court might serve only to interfere with the ability of the government to function smoothly. Moreover, the changes in this legislation which affect independent agencies must be subjected to the most careful scrutiny, since these agencies have been set up so that neither Congress nor the President can determine their policies.

My staff reports to me that these discussions have progressed well and that a series of amendments to improve the House bill are close to completion. I am optimistic that work on these amendments can be completed quickly. I intend to schedule this matter for House consideration as soon as this work is completed, with the objective of completing House action on H.R. 746 by mid-September.

Sincerely,

THOMAS P. O'NEILL, Jr.
The Speaker.●

ISRAELIS DO HAVE A HIGHER STANDARD

HON. LAWRENCE J. DeNARDIS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. DeNARDIS. Mr. Speaker, I wish to share with my colleagues who may not have seen it a most insightful article on the Israeli investigation into the massacres in Shatila and Sabra camps in Lebanon.

Dr. Nurnberger's occasional articles in the Washington Post on Middle East issues are always helpful contributions to the continuing debate on events in that unhappy region of the world.

I commend the following Christian Science Monitor item to the reading of my colleagues and those who find the CONGRESSIONAL RECORD a constant resource of knowledge and information.

ISRAELIS DO HAVE A HIGHER STANDARD

(By Ralph D. Nurnberger)

The Israeli reaction to the massacres in Shatila and Sabra camps serves to reaffirm the ethical, moral, and democratic foundations of the state. No other state in the Middle East has ever witnessed similar anguish to the slaughter of people of other ethnic backgrounds. Certainly no Arab nation has ever responded in kind to the murder of Jews.

One of the most striking aspects of world reaction to these massacres is the lack of blame or recrimination against the murderers themselves. Part of the reticence to look for the actual culprits is the pervasive belief that Amin Gemayel's own troops participated in the murders. There is a fear that condemning these soldiers might undermine the fragile structure of the newly elected regime.

More to the point, the spectacle of Arabs killing Arabs has apparently become so commonplace that even Arabs do not protest. This is not surprising or new. There was hardly any reaction to the slaughter of over 10,000 civilians by Syrian troops in Hama earlier this year. The Arab world remained silent; the world media chose to neglect this tragedy.

Similarly, the Arab world and the world media have also failed to emphasize the bloodbaths within Lebanon that have taken place since the outbreak of the civil war in 1975. Over 100,000 people have died in this strife-torn nation during the past seven years.

Although the world will now long remember the hundreds who died at Shatila and Sabra, few can recall the thousands of innocent Plestinian Muslims who met violent deaths at the hands of Christian Lebanese in Tel Zataar, or the thousands of Christians who were butchered by the Palestinians at Damur. These killings and feuds go beyond interreligious strife. Christians murdered other Christians following the assassination of Tony Franjieh and the death of Bashir Gemayel's 18-month-old daughter. Regardless of religion, historically when Arabs kill Arabs, the world remains silent.

The difference in Shatila and Sabra is the potential culpability of the Israeli defense forces and role of the Begin government. Thus far there has not been any accusation that a single Israeli soldier actually participated in the massacres. A good case, however, can be made that these troops mishandled the situation. By moving into west Beirut Israel accepted the responsibility for preserving order. Those who failed in this mission must be held accountable.

The psychology of the Jewish people, influenced by memories of the Holocaust, has fashioned a collective burden of guilt. Jews in Israel, America, and throughout the world rightfully condemn the massacres and protest against any complicity by Jewish officials. They are correct in demanding to know whether any Israeli could have prevented or minimized the slaughter. They are correct in demanding that justice be done. Jewish outrage following the death of Arabs at the hands of other Arabs also serves to reaffirm that Jews have learned the lessons of the past, that the basic morality of the people and state remains unquestioned.

The aftermath of the events in Lebanon also underscores the vibrancy of democracy in Israel. It is Israeli not Arab or Western journalists who are most active in uncovering every piece of information about the massacres. It was the Israeli press that first told the story of the possible complicity by the Israeli officials. The Israeli press has carried these stories on a daily basis, leading to continual protests in the streets of Tel Aviv.

The democratic process within Israel has been activated—soldiers and officers have protested and resigned their commissions, cabinet ministers have left the government, calls for new elections are more frequent, opposition spokesmen have criticized the Begin administration's actions in west Beirut, a full, impartial investigation will be initiated. These reactions stand in stark contrast to other nations in the region.

Israelis often complain that their country is held to a higher standard than any other state. Norman Podhoretz charged in his Commentary article entitled "J'accuse" that anti-Semitism was the cause of this misapplication of a double standard to the behavior of Jews. However, considering the origins of the state of Israel, the democratic nature of its system, the humanism of its people, these are precisely the criteria by which Israel must be judged. Considering their response to recent events, Israelis are meeting the test.

Ralph D. Nurnberger, legislative liaison at the American Israel Public Affairs Committee, lectures on international relations at Georgetown University.●

LEGISLATION TO ELIMINATE COAST GUARD RESPONSIBILITIES REGARDING MARINE SANITATION DEVICES ON SMALL VESSELS

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. YOUNG of Alaska. Mr. Speaker, during the beginning of this Congress the Coast Guard and Navigation Subcommittee engaged in extensive oversight hearings into the functions and activities of the U.S. Coast Guard. As a result of this oversight activity the subcommittee issued a report entitled "Semi-Paratus: The United States Coast Guard, 1981," House Report No. 97-355. One area of Coast Guard regulation and law enforcement that was investigated concerned the requirement for marine sanitation devices onboard vessels.

I believe this area of the law is one which needs revision. Therefore, I have introduced today legislation to eliminate Coast Guard responsibilities regarding marine sanitation devices on small vessels. In the oversight report I noted above is a discussion of the legal

basis for these regulations and the problems associated with this law and its implementation. Further, the report sets forth certain recommendations for future action. The following is an excerpt from that report which discusses marine sanitation devices:

The responsibilities of the Coast Guard and the Environmental Protection Agency (EPA) to require marine sanitation devices (MSD) are set out in Section 312 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C. 1322). EPA issued regulations on January 29, 1976, setting forth Federal standards of performance for MSD's. The Coast Guard issued regulations which implemented the EPA standards on April 12, 1976. The standards for MSD's are designed to prevent the discharge of untreated or inadequately treated sewage into or upon the navigable waters of the United States from new and existing vessels, except vessels not equipped with permanently installed toilet facilities. These regulations affect approximately 8 percent of the recreational boats in the United States in addition to commercial and fishing vessels.

The Coast Guard regulations require that all MSD's installed on new vessels built after January 30, 1977, be certified by the Coast Guard. After January 30, 1980, older vessels with installed MSD's were required to either remove these devices, replace them with a Coast Guard certified MSD, or, in special circumstances, obtain a waiver from the Coast Guard. Waivers are granted only when the vessel's space or power constraints prevent installation of a commercially available MSD or if there is a lack of pumpout facilities where the vessel is used.

The Secretary of the Department in which the Coast Guard is operating may (a) distinguish among classes, type, and size of vessels as well as between new and existing vessels, and (b) waive standards and regulations as necessary or appropriate for (1) classes, type, and sizes of vessels, or (2) individual vessels upon application. These activities would be in consultation with EPA. In addition, EPA has set a complete prohibition upon discharge of any sewage from a vessel in U.S. waters. Section 312 permits states to ask for "no discharge" areas, but does not provide for a state to request "discharge" areas. In response to questions submitted after the Subcommittee oversight hearing on the marine environmental protection mission of the Coast Guard, the Coast Guard had the following response with regard to the affect of sewage dicharge from small vessels:

The issue of sewage from small vessels is usually localized. Discharges in open waters may be almost undetectable as opposed to high traffic areas and enclosed bodies of water, such as fresh water lakes and marinas. In the latter, a large number of discharges may occur and/or there may be a very slow flushing action in these bodies of water. We have received complaints from shoreside residents of bays and inlets that experience large concentrations of boaters.

Experience with this regulation to date has raised questions regarding the necessity and effectiveness of the requirement that vessels on navigable waters of the United States be equipped with approved MSD's. Additional concern centers on whether appropriate consideration has been given to the various classes, type, and sizes of vessels in implementing the regulations and whether the FWPCA should be amended to recognize the differences in geographical regions of the United States.

Finally, enforcement of the MSD requirements rests primarily with the Coast Guard. The Subcommittee is concerned regarding the amount of Coast Guard resources to be used in the enforcement of these requirements. During the course of the July 23 hearing, Admiral Hayes reported that the MSD regulation is by far the most unpopular regulation enforced by the Coast Guard today. Enforcement of this regulation is decentralized within the Coast Guard. Therefore, data regarding violations and penalties is incomplete. Currently the Coast Guard has no formal cooperative agreement with any of the state or local jurisdictions. Violations discovered by local enforcement personnel are being reported on an informal and voluntary basis to the Coast Guard.

RECOMMENDATIONS

1. The Congress, together with the Administration, should review Section 312 of the Federal Water Pollution Control Act to:

a. determine the necessity and effectiveness of the regulations;

b. ensure that appropriate consideration is given to various classes, types and sizes of vessels;

c. determine the needs of different geographical regions of the United States; and

d. provide a proper role for the states including designation of discharge areas.

The legislation I am introducing today addresses these problems and concerns directly. Subsection (a) provides that vessels of 65 feet or less are not required by Federal law to have marine sanitation devices (MSD). The Federal standards of performance and applicability of manufacturing provisions are not disturbed by this change.

Subsection (b) provides that a State or a political subdivision of a State may not prohibit or regulate the discharge of sewage from vessels of 65 feet or less except in two circumstances. First, if marine sanitation devices are required, they must conform to the Federal standards of performance regulations. Vessels engaged in interstate travel, however, would not be subject to the laws and regulations of another State. Thus, a vessel equipped with a MSD meeting any of the Federal standards may discharge into State waters, except for waters designated as no discharge zones. Second, a State would be allowed to prohibit the discharge from all vessels in their own waters regardless of the State of registration. Subsection (c) provides the effective date is the date of enactment.

The Environmental Protection Agency and the Coast Guard have had a study of these regulations underway for some time. However, no formal recommendations to Congress have been made to date nor am I aware of any administrative steps that have been taken to change the regulations in this area.

The legislation I am introducing today is to take a step in this area to overcome the problems and deficiencies in the current statutory scheme. It is hoped that this will remove the Coast Guard from an area of regulation which it is ill equipped to perform and frustrated in enforcing so that it can turn its energies to more important and more effective functions such as search and rescue and fisheries law enforcement. For years we have been heaping additional duties on the Coast Guard and requiring them to do more and more with less and less. Some steps must be taken to alleviate and reverse that trend so the Coast Guard can live up to its fine traditions and carry out its most important functions concerning the safety of life and property at sea.

H.R. 7392

A bill to eliminate Coast Guard responsibilities regarding marine sanitation devices on small vessels, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 312 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(n) No vessel having a length of 65 feet or less shall be required under this section to have in operation a marine sanitation device. Nothing in this subsection shall affect the Federal standards of performance promulgated under subsection (b)(1) of this section or the applicability of subsection (g) of this section to manufacturers of marine sanitation devices.".

(b) Subsection (f)(3) of section 312 of the Federal Water Pollution Control Act is amended by inserting "(A)" after "(3)", by inserting "and accessible" after "reasonably available", and by adding at the end thereof the following:

"(B) A State may prohibit the discharge from any vessel which is equipped with installed toilet facilities and which has a length of 65 feet or less into some or all of the waters of such State of sewage which has not been treated with a marine sanitation device which is designed, manufactured, installed, and operated in accordance with Federal standards of performance and regulations promulgated under this section, except that no such prohibition shall apply to a vessel which is registered in another State while such vessel is engaged in interstate travel.

"(C) Except as provided in subparagraphs (A) and (B) of this paragraph, a State or a political subdivision of a State may not prohibit or regulate the discharge of sewage in waters of such State from any vessel which has a length of 65 feet or less.".

(c) The amendments made by this Act shall take effect on the date of enactment of this Act.●

JOBS AND THE NEW CONGRESS

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. FRANK. Mr. Speaker, in November I was privileged to speak to the second annual convention of New England District Council 2 of the International Union of Electrical Workers. Under the very able chairmanship of District 2 President Peter S. diCicco, the convention dealt force-

fully with the needs of the working men and women not just of the IUE, but of America.

I was particularly impressed with the thoughtful statement on "Jobs and the New Congress" which served as the call to that convention and I ask that it be printed here so that the Members of the House and Senate can benefit from it.

JOBS AND THE NEW CONGRESS

Year 1983 will begin with the highest unemployment in our nation's history. We in the New England area have been on the trailing edge of this disaster, only because in prior periods of high unemployment we led the nation. But the current trend is now catching up. We see major layoffs taking place among our principal employers with no projection as to when they will stop.

Why? In simple terms, this depression stems from President Reagan's economic policies—policies which seek to redistribute our nation's wealth to corporate interests under the guise that "corporate" America will do what's right. President Reagan's policies have not worked and voters made that very clear by defeating those Congressional representatives who supported Reaganomics.

It now becomes the obligation of the newly elected Congress to respond to that "Voter Mandate" by taking initiatives to turn the country around and restore a more equitable distribution of American resources. It is time to exercise the Constitutional balance of power between the Congress and the President, and bring to an end the days of "rubber stamping" the President's policies.

It is time for the new Congress to take the steps to put America back to work. We need and want "Jobs".

Our responsibility in that process is to develop and present alternatives, to speak out in a loud and clear voice, and to call to task those who stray from the "1982 Mandate".

Further, and perhaps more importantly, we as the American Labor Movement must begin to recognize and accept that our traditional collective bargaining role is changing; that the protection and improvement of our conditions and benefits of work is becoming more and more a function of State and Federal legislation and that the battlefield of the future is changing from the bargaining table to our political systems. If we, as the American Labor Movement, do not respond to that change, both philosophically and structurally, then those who seek our demise will prevail. It is important to remember that our history has been such that the Union workers of this country have experienced great sacrifices to provide basic benefits for all workers, organized and unorganized. We have won that battle. Our future role of being in the vanguard is not likely to change—that role will be to forge a new course in behalf of the interests and protection of all workers. Our new course will be to place more of our resources on the political and legislative fronts. Political, to support not only candidates who support labor, but also labor candidates from our own ranks. Legislative, to develop and present realistic alternatives.

Within this format, we look to our convention to explore this new course with our priority being "Jobs and the New Congress".●

COSTLY FUN IN THE SUN—THE SIGNING OF THE LAW OF THE SEA TREATY

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. BROOMFIELD. Mr. Speaker, this is a period when the United Nations is being asked to tighten its belt. Many of its 157 members are scrutinizing that organization's activities, and searching for ways to eliminate wasteful spending. In spite of this effort, the United Nations may soon vote to provide $20 million to fund the signing of the Law of the Sea Treaty. In addition to having the official document signing ceremony in Jamaica, a permanent U.N. Law of the Sea Secretariat staff will be shifted from New York to Jamaica.

I have some serious reservations about this entire signing effort as well as the Law of the Sea Treaty itself. The U.N.'s conference on the Law of the Sea established a permanent Preparatory Commission for this Third World grab of mineral resources at the ocean bottom. This conference plans to have a posh reception at the sumptuous Montego Bay facilities on December 6 to initiate the 4-day-long treaty-signing ceremony.

Transportation, housing, and food costs for U.N. diplomats and Secretariat staff attending the function and supporting the group Preparatory Commission will come out of the U.N.'s general budget. Since U.S. taxpayers pay one-fourth of the U.N. budget, the U.S. share of the signing ceremony and associated support costs will be about $5 million. Many fear that financing the bureaucracy of the Preparatory Commission will become a bottomless pit into which annually great sums will be poured. Needless to say, the Government of Jamaica is delighted with this entire undertaking and is encouraging the U.N.'s spendthrift administrators to pursue these plans. Jamaica was named as the headquarters of the International Seabed Authority which will manage the mining of ore-bearing nodules from the ocean floor.

This expensive signing ceremony, and even costlier staff relocation, comes at a time when the United States and many nations in the world are having severe economic difficulties. Recently, delegates from the United States, the Soviet Union, and Britain met with the Secretary General of the United Nations to express their concern over the rising costs of the organization. The United States introduced amendments to a number of resolutions approving their substance only to the extent that they can be financed without exceeding the level or resources approved in the budget. Unfortunately, all three amendments were soundly defeated.

U.N. spending has risen over 80 percent in 5 years. This has meant a rise in the U.S. contribution from $99 million in 1977 to $180 million this year. At the United Nations itself, there is a crisis in morale which was recently manifested when 1,500 employees walked off the job because of "low salaries". Costly "Club Seabed" treaty-signing bashes in Jamaica play well neither in Peoria, nor in Ouagadougou.

I support the administration's position on the treaty. The Law of the Sea Accord is definitely not in our Nation's interest. The U.S. Government rightly objected to provisions in the treaty governing deep-sea mining. These seabed mining provisions are flawed. Under the present treaty, future development of resources as manganese and cobalt would be deterred, not advanced. The treaty creates a decision-making process which would not give the United States and others a role that fairly reflects and protects their interests. In addition, amendments to the treaty could take effect without U.S. approval. This provision is incompatible with the U.S. approach to such treaties. It is also against the Constitution. Finally, the treaty provides for the transfer of deep-sea mining technology to all participating nations, with the possibility that national liberation movements could share in the benefits. In its present form, the accord does not protect U.S. economic, political, and security interests. The administration is already developing a new oceans policy. It is working on a system for alternate sea-bed mining in cooperation with our allies.

During a period when many of the poor nations of the world are worrying about where their next dollar is coming from, there is no excuse for this boondoggle and relocation to Jamaica. Since one of the stated objectives of the Law of the Sea Accord is to promote development of Third World countries, I suggest that the United Nations immediately begin helping these poor countries. Why does not the United Nations arrange for a formal signing in New York and insist that the Secretariat staff responsible for administering the accord remain in New York. This is a classic opportunity for the United Nations to improve its image both here in the States, as well as overseas, with a gesture showing both good judgment and fiscal responsibility. The big festivities in Jamaica next month deserve a bit of dampening. Let us hope that this world assembly sees the writing on the wall.●

H.R. 7357 — IMMIGRATION REFORM AND CONTROL ACT OF 1982

HON. JONATHAN BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. BINGHAM. Mr. Speaker, while I tend to favor the overall thrust of H.R. 7357, the Immigration Reform and Control Act of 1982, and believe it should be acted upon before the Congress adjourns, there are some provisions of the bill which are controversial. The Immigration and Nationality Law Committee of the Association of the Bar of the City of New York has issued a report on the proposed summary exclusion procedures and proposed restrictions in Federal court jurisdiction. I believe that report is worthy of the attention of the Members as they study the matter of immigration law reform, and I insert it herewith:

REPORT ON THE SUMMARY EXCLUSION AND JUDICIAL REVIEW PROVISIONS OF PENDING LEGISLATION TO AMEND THE IMMIGRATION LAWS

INTRODUCTION

In March of 1982, Senator Alan K. Simpson and Congressman Romano L. Mazzoli introduced legislation (the Simpson-Mazzoli bill), proposing comprehensive immigration reforms, including a proposed summary exclusion procedure and proposed restrictions on federal court jurisdiction.[1] On August 17, 1982, the Senate passed its version of the bill with relatively few changes. On September 22, 1982, the Committee on the Judiciary of the House of Representatives reported out a re-numbered bill with substantial changes.[2] It is possible that the House Committee version will be considered by the full House in early December of 1982 during the "lame-duck" session of Congress.

The Committee on Immigration and Nationality Law recognizes the need for reform in our country's immigration laws. The problem of illegal immigration is a problem of national dimension. The Committee is concerned, however, with several aspects of the Simpson-Mazzoli bill. The concerns include the risks posed to arriving refugees by the proposed summary exclusion procedure, as well as the impact upon applicants for political asylum and others of the proposed restrictions on federal court jurisdiction.

THE PROPOSED SUMMARY EXCLUSION PROCEDURE

The Simpson-Mazzoli bill would introduce new procedures for inspecting certain aliens seeking to cross the border. In particular, under the Senate version, any alien who appears to lack entry documents (i.e., a passport and/or visa) or a basis for entry, or who has not "applied for asylum," is to be "excluded from entry into the United States without further inquiry or hearing." [3] A determination of the alien's inadmissibility at this juncture would be subject neither to administrative nor to junction review under the Senate version.

Under the House committee version, summary exclusion is required for aliens who have no apparent documentation, or basis for entry. Exclusion is also mandated if the alien "does not indicate an intention" to apply for asylum.[4] While the House version does not provide for judicial review of a determination of admissibility at this juncture, a form of administrative review is provided. Specifically, the bill provides that:

"Before excluding an alien without a hearing under clause (i), the examining immigration officer shall inform the alien of his right to have an administrative law judge redetermine the conditions described in clause (i). If the alien requests such a redetermination by an administrative law judge, the alien shall not be so excluded without a hearing until and unless the administrative law judge (after a nonadversarial, summary proceeding in which the alien may appear personally) redetermines that the alien meets the conditions of sub-clauses (I) through (III) of the clause (i)." [5]

Both the Senate and House Committee versions provide that:

"The Attorney General shall establish, after consultation with the Judiciary Committees of the Congress, procedures which assure that aliens are not excluded under paragraph (1)(B) without an inquiry into their reasons for seeking entry into the United States." [6]

THE RISKS OF SUMMARY EXCLUSION FOR ARRIVING REFUGEES AND THE NEED FOR NOTICE OF THE RIGHT TO COUNSEL

Initially, if should be noted that a summary exclusion procedure is a radical departure from current inspection and inquiry procedures in the Immigration and Nationality Act which afford an alien the opportunity to present his or her case for admissibility (or for asylum) through counsel, at an adversarial hearing before an immigration judge.[7] The consequence of the failure of an alien to satisfy an inspector as to admissibility would change from a full exclusion hearing before a separate fact-finder to summary exclusion with, at best, a limited hearing and restricted access to counsel.

A summary exclusion procedure may encourage the United States to violate its obligation to refrain from refoulement under Article 33(1)[8] of the 1951 Convention and 1967 Protocol Relating to the Status of Refugees.[9] This is the duty to not expel or return a refugee to the frontiers of territories where his or her life or freedom would be threatened on account of race, religion, nationality, or membership in a particular social group or political opinion.[10] A refugee who would experience persecution might be turned away from the border under the proposed procedures without any recourse simply because of an inability to articulate the reasons that persecution is feared, or to persuade the inspector (or adminstrative law judge) that the fear is well-founded, or because he or she is afraid to speak to authorities.

The international experience indicates that a refugee who arrives at the border after a stressful and surreptitious journey often lacks the documentary resources, the psychological reserve, and even perhaps the willingness then to persuade someone of the bona fides of the claim. Indeed, the "Handbook on Procedures and Criteria for Determining Refugee Status" published in 1979 by the United Nations High Commissioner for Refugees (UNHCR) graphically describes the difficulties experienced by aliens in pursuing asylum at the border:

"It should be recalled that an applicant for refugee status is normally in a particularly vulnerable situation. He finds himself in an alien environment and may experience serious difficulties, technical and psychological, in submitting his case to the authorities of a foreign country, often in a language not his own. His application should therefore be examined within the framework of specifically established procedures by qualified personnel having the necessary knowledge and experience, and an understanding of an applicant's particular difficulties and needs." (para. 190.)

". . . [A]n applicant may not be able to support his statements by documentary or other proof, and cases in which an applicant can provide evidence of all his statements will be the exception rather than the rule. In most cases a person fleeing from persecution will have arrived with the barest necessities and very frequently even without personal documents. . ." (Para. 196.)

* * * * *

"A person, who, because of his experiences, was in fear of the authorities in his own country may still feel apprehensive vis-a-vis any authority. He may therefore be afraid to speak freely and give a full and accurate account of his case." (Para. 198.)

* * * * *

In fact, in comments on the House committee version of the bill itself, the UNHCR stated specifically:

"In view of the precarious and vulnerable situation in which an asylum seeker may find himself at the frontier, it is necessary to ensure that the existence of an asylum claim is not overlooked by the examining officer." [11]

A summary exclusion procedure fails to address these concerns.

RECOMMENDATION: NOTICE OF THE RIGHT TO COUNSEL

In order to protect against refoulement, aliens should, at the very least, be informed of their right to counsel prior to being barred from entry into the United States.

The right to be represented by counsel is one of the most important elements of due process of law. Indeed, the Immigration and Nationality Act provides:

"In any exclusion or deportation proceedings before a special inquiry officer and in any appeal proceedings before the Attorney General from any such exclusion or deportation proceedings, the person concerned shall have the privilege of being represented (at no expense to the Government) by such counsel, authorized to practice in such proceedings, as he shall choose." [12]

In fact, indigent aliens who have been placed under exclusion or deportation proceedings are given lists of available free legal services by the Immigration and Naturalization Service as a matter of course in view of the critical nature of the interests implicated in the process.[13]

The Senate and House committee versions of the proposed legislation do not purport to abrogate in any respect the right to counsel in the exclusion context, irrespective of whether or not the procedure is "summary" in character. Indeed, under current law, aliens have a right to representation in numerous "nonadversarial" immigration proceedings, such as examinations in connection with permanent residence applications.[14] The important interests at stake in the immigration context generally are recognized in the entitlement to counsel. The interests of asylum applicants in this regard are even more basic—liberty or life.

Since the right to counsel exists in the exclusion context, it should be announced to arriving aliens who would be subject to summary exclusion in view of the interests at

stake for arriving aliens. The announcement, moreover, should be translated as appropriate and confirmed in writing. Giving notice of the right is crucial to its preservation in an otherwise unreviewable exclusion process.[15]

THE PROPOSED RESTRICTIONS ON FEDERAL COURT JURISDICTION

Under the Senate version of the proposed Immigration Reform and Control Act, review of denials of asylum requests would be limited to exercising the "right of habeas corpus under the Constitution."[16] The House committee version provides for exclusive review of asylum denials by petitions for review to the appropriate United States Circuit Courts of Appeals. Residual habeas corpus jurisdiction is retained in the House version and petitions may be "based upon custody effected pursuant to . . . [the Immigration and Nationality] Act," and may be brought "individually or on a multiple party basis as the interests of judicial efficiency and justice may require.[17]

THE NEED TO PRESERVE JUDICIAL AND FULL ADMINISTRATIVE REVIEW

The Senate version, to the extent that it reserves the right of habeas corpus "under the Constitution," may be misinterpreted to limit the availability of the writ to address statutory and treaty violations, including violations of the Protocol Relating to the Status of Refugees. The House committee version avoids the risk of confusion or misinterpretation by incorporating the "right of habeas corpus under chapter 153 of title 28, United States Code,[18] which confers jurisdiction to address violations of Constitution, statute, or treaty." [19] The House committee version is preferred for this reason.

Furthermore, the adjudicatory system envisaged by the Senate and House committee versions of the bill is limited in scope to the consideration of individual asylum claims that have been litigated in the agency. The House committee report counsels that "there is to be no judicial review of any aspect of the asylum process" until an order of exclusion or deportation has been finalized.[20] Such an approach, however, would be an overly rigid one.

Though the requirement that one exhaust administrative remedies before seeking judicial review is a long-standing feature of administrative law, equally long-standing are the exceptions to that requirement. Thus, for instance, one may turn directly to the courts without exhausting agency proceedings when a) the agency cannot supply an adequate remedy; b) the agency action will cause irreparable injury; c) the agency has exceeded its statutory authority; or d) pursuing an administrative remedy would be futile.[21] The point is that exhaustion is a common-sense requirement; therefor, an exception is made when the drawbacks of exhaustion outweigh the advantages in a particular case.[22] These specific exceptions to exhaustion, as well as a general one permitting evaluation of the specific circumstances, should be taken into account in the bill, lest the new statute be misinterpreted as radically changing the traditional rules on exhaustion.

Put another way, direct federal court jurisdiction should be preserved in cases that attack patterns and practices inimical to the assertion of asylum-related and other rights. Such cases are very few in number, but they are crucial to protecting rights such as an alien's right to pursue asylum. See, e.g., *Haitian Refugee Center* v. *Civiletti*, 503 F. Supp. 442 (S.D. Fla. 1980), modified on other grounds, 676 F.2d 1023 (5th Cir. 1982), in which the district court found that the asylum adjudication process had been perverted in connection with a government Haitian Program designed to expel Haitians without regard to the individual circumstances of their cases. It would make no sense, for example, to require asylum applicants to go through biased or unfair proceedings in order to be able to challenge pattern and practice violations. Jurisdiction for these purposes should be maintained.

CONCLUSION

The Committee on Immigration and Nationality Law is deeply concerned about the risks posed to arriving refugees by the summary exclusion procedure, as well as the impact upon applicants for political asylum and others of the restrictions on federal court jurisdiction proposed under the Simpson-Mazzoli bill. The House committee version is preferred to the extent that it makes clear that habeas corpus jurisdiction includes violations of Constitution, law, or treaty. Both the Senate and House committee versions, however, should be amended to provide notice of the right to representation for aliens who may be subject to summary exclusion, and to provide direct access to the federal district courts to correct violations of law which cannot be corrected in the agency.

Respectfully submitted,

Arthur C. Helton, Chair, J. Philip Anderegg,* Brenda Berkman, George Theng Chew, Michael I. Davis, Michael John Dell, Henry S. Dogin, Diane Englander, Grace Goodman, Alice H. Henkin, Frederick M. Joseph, Dung Quoc Nguyen, Jane C. Rubens, Elaine F. Shea, George Bundy Smith, Committee on Immigration and Nationality Law.

*Mr. Anderegg does not subscribe to the views in this report.

APPENDIX OF PROPOSED AMENDMENTS TO THE HOUSE COMMITTEE VERSION

Summary exclusion

Section 121. Subsection (b) of section 235 (8 U.S.C. 1225) is amended to read as follows:

"(b)(1)(B)(ii) Before excluding an alien without a hearing under clause (i), the examining immigration officer shall inform the alien of his right to have an administrative law judge redetermine the conditions described in clause (i), and of his right to representation as set forth in Section 292 of the Act. If the alien requests such a redetermination by an administrative law judge, the alien shall not be so excluded without a hearing until and unless the administrative law judge (after a nonadversarial, summary proceeding in which the alien may appear personally) redetermines that the alien meets the conditions of subclauses (I) through (III) of clause (i)."

Judicial review

Section 123. Subsection (a) of section 106 (8 U.S.C. Section 1105(a) is amended . . . by striking out (11) and inserting in lieu thereof

"The district courts shall have original jurisdiction over all causes concerning violations of this title to the extent that the exhaustion of the administrative remedies set forth in this section would not be appropriate or in the interest of justice. An action brought under this section may be brought individually or on a multiple party basis as the interests of justice may require."

FOOTNOTES

[1] S. 2222, H.R. 5649.

[2] H.R. 6514.

[3] Section 121(b)(1)(A) and (B).

[4] Section 121(b)(1)(B)(i)(III).

[5] Section 121(b)(1)(B)(ii).

[6] Section 121(b)(3).

[7] See 8 U.S.C. §§ 1158, 1225, 1226, 1362.

[8] No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers or territories where his life or freedom would be threatened on account of his race, religion, nationality, membership in a particular social group or political opinion.

[9] The United States became a party to the Protocol in 1968. 19 U.S.T. 6257, T.I.A.S. No. 2322, 606 U.N.T.S. 268.

[10] The domestic law correlative provides that "[t]he Attorney General shall not deport or return any alien . . . to a country if the Attorney General determines that such alien's life or freedom would be threatened in such country on account of race, religion, nationality, membership in a particular social group, or political opinion. 8 U.S.C. § 1253(h).

[11] Comments by the Office of the United Nations High Commissioner for Refugees on the Immigration Reform and Control Bill of 1982, H.R. 6514.

[12] 8 U.S.C. § 1362.

[13] See 8 C.F.R. §§ 236.2, 242.1(c).

[14] See 8 C.F.R. § 292.5(b).

[15] See *Orantes-Hernandez* v. *Smith*, 541 F. Supp. 351 (C.D. Calif. 1982); *Nunez* v. *Boldin*, 537 F. Supp. 578 (S.D. Tex. 1982), in which courts required the Immigration and Naturalization Service to give aliens advice of the right to apply for political asylum in order to effectuate the right.

[16] Section 123.

[17] Section 123(b).

[18] Section 123(b).

[19] 28 U.S.C. § 2241.

[20] Immigration Reform and Control Act of 1982: Report on HR 6514 by the Committee on the Judiciary, 97th Cong., 2d Sess. at 50 (1982).

[21] See, e.g., *First Jersey Securities, Inc.* v. *Bergen*, 605 F. 2d 690, 696 (3d Cir. 1979); *Barnes* v. *Chatterton*, 515 F. 2d 916, 920 (3d Cir. 1975); *Hillsboro Township, Somerset County, N.J.* v. *Cromwell*, 326 U.S. 620, 625–26 (1946). Also see, generally, Chapter 20 of Professor Davis' Administrative Law of the Seventies and 1982 Supplement to his Administrative Law Treatise, on exhaustion principles.

[22] *Jette* v. *Bergland*, 579 F. 2d 59, 62 (10th Cir. 1978).●

VIOLENCE AGAIN REARS ITS UGLY HEAD IN NORTHERN IRELAND

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. BIAGGI. Mr. Speaker, throughout my 5 years as chairman of the Ad Hoc Congressional Committee for Irish Affairs, I have been an ardent foe of all forms of violence which are such a common way of life in Northern Ireland.

Yesterday another senseless and deplorable act of violence occurred in Northern Ireland. In this latest episode, a popular nightclub in Londonderry was bombed and a total of 17 people were killed and another 66 injured seriously. As in so many previous cases—many of the casualties were innocent people in this case enjoying a night of dancing at the club.

As one might expect and has become familiar with—reactions in the form of condemnations have been heard from the British Government including from Prime Minister Thatcher and the Secretary of State for Northern Ireland, James Prior. I concur with their

call for swift apprehension and prosecution of those responsible. However mere statement of condemnation will not end violence in Northern Ireland. One must look to the causes to violence and work to eradicate them. One must identify those ingredients which incite acts of violence.

As one addresses the problem of violence in Northern Ireland one must look at all its manifestations. Clearly there are acts of violence perpetrated by civilians; but acts of official violence are also all too common in Northern Ireland.

The ad hoc committee exists to try and advance a more positive U.S. role in the effort to bring about a nonviolent political solution to the troubles in Northern Ireland. Violence impedes this worthy cause and will continue to as long as it exists.

Violence also delays the incentives for negotiations which must take place if we are to move in the necessary direction of advancing a political solution in Northern Ireland. In the past these negotiations have been far too limited in scope and as a result have ostensibly failed. If the goal is a lasting political solution—then the discussions must involve all segments of political thought especially those who participate in the political process. I hope that the British Government will pursue a political settlement with the same intensity that they will try and apprehend those involved with acts of violence.●

WOMEN IN COMBAT

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. DORNAN of California. Mr. Speaker, now that we have young women in our combat divisions, I would like to bring to the attention of my colleagues the sobering words of Gen. Robert C. Kingston, former commander of the 2d Infantry Division in Korea: "There's no such thing, if there's a war on the Korean peninsula, as separating combat from noncombat. And we're going to get young American women, women soldiers, burned, disfigured, amputee victims, killed and sent home in body bags. That will happen."●

KEEPING OUR PROMISE TO THOSE WHO HAVE SERVED

HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. WON PAT. Mr. Speaker, as a member of both the House Armed Services Committee and the Committee on Veterans Affairs, I have always been deeply committed toward a policy of fairness toward those who have served with honor in our uniformed services. Recently, however, several events in my home district of Guam have revealed a flaw in the current military codes which prevents the Department of Defense from carrying out this policy in an area of great sensitivity.

The problem is this: The Department of Defense does not have the authority under chapter 75 of title 10, United States Code, to authorize the Secretary of the Individual Services to transport to their home of record the remains of retirees who die in a military medical facility away from their home. This was brought to my attention with a shocking force several months ago when my office found that a resident of Guam who was sent for medical care to Tripler Military Hospital in Hawaii died there of his illness. The military provided transportation for him to Hawaii but told my office that it could not, under current law, bring his remains home to his family for burial. As a result, this soldier had to be transported back to Guam at considerable expense for his family.

My constitutents and I were frankly astounded to hear that this was the case. They and I do not understand how this Nation could permit the law to deny so fundamentally a benefit to those who have served this Nation with dignity in time of war and peace. I must point out that this problem exists for military retirees living in all of the various States and territories of this great Nation. The legislation I introduce today is designed to provide immediate authority for the Secretary of Defense to correct this loophole in the law and thus permit us to render to those who die under these conditions away from their family and friends a guarantee that they will be returned for proper internment to their homes.

In the near future I will ask my colleagues in the House to join me in support of this long overdue proposal. I am pleased to note that the Department of Defense has also asked the Congress to enact this legislation and for the RECORD, I introduce following my statement, a copy of a letter sent on May 11, 1982, to the Speaker of the House by Hon. James F. Goodrich, Acting Secretary of the Navy. In that letter, Mr. Goodrich outlines the rationale behind this legislation and calls for its adoption.

We in this body are duly proud of our record of support for programs which benefit the veterans, the military retired, and their families. Yet it seems that more needs to be done to assure that there will never again be a repeat of the tragic incident which left my constituents at the mercy of a heartless flaw in the law. This man, and others like him, deserve to be brought home regardless of whether they are living or deceased. My bill will see that this is done and in the process bring dignity and honor to both the individual and our Nation. Thank you.

The letter follows:

DEPARTMENT OF THE NAVY,
OFFICE OF THE SECRETARY,
Washington, D.C., May 11, 1982.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Enclosed is a draft of proposed legislation, "To amend chapter 75 of title 10, United States Code, to authorize the Secretary concerned to defray the costs of transporting the remains of members of the uniformed services entitled to retired or retainer pay who die in a military medical facility of the armed forces."

This proposal is part of the Department of Defense Legislative Program for the 97th Congress. The Office of Management and Budget advises that there is no objection to the presentation of this proposal to Congress. It is recommended that this proposal be enacted by Congress.

PURPOSE OF THE LEGISLATION

Under current law, the uniformed services are without authority to transport the remains of a retired member who, subsequent to retirement, receives medical treatment in accordance with 10 U.S.C. 1074(b) at a military facility and becomes deceased while in that state. By contrast, under the provisions of 10 U.S.C. 1482, the Secretary concerned may pay the expenses incident to the death of any retired member who becomes a patient in a United States hospital while on active duty for a period of more than thirty days, is retired while hospitalized, and who continues to be such a patient until the date of death, (10 U.S.C. 1481(a)(7)). The expenses that may be covered are enumerated at 10 U.S.C. 1482 and include the transportation of the remains. Similar costs may be paid by the Veterans' Administration when death occurs in a Veterans' Administration facility to which the deceased was properly admitted for hospital or domiciliary care as a veteran of the armed forces (38 U.S.C. 903). The Veterans' Administration also provides transportation services when death is the result of a service-connected disability and burial is in a national cemetery, (38 U.S.C. 908).

The proposed legislation would remove a current inequity in law and provide similar treatment among retired members to that accorded veterans and other members hospitalized incident to death. Uniformity of entitlement would be established among categories of members and former members when deceased in a medical facility of the Veterans' Administration or the military departments. The present inequity concerning transportation of a deceased retired member's remains would be removed by the proposed legislation.

Enactment of this legislation would provide the Secretary concerned the discretionary authority to transport the remains of a retired member who dies while admitted to a medical facility of that department to the place of burial. As an alternative to actual transportation, the Secretary concerned would be authorized to pay the costs of transporting the remains to the place of burial. However, transportation could not be

to a place farther than the deceased's last place of permanent residence and the costs could not exceed those of transporting the remains to the deceased's last place of permanent residence. Transportation, or the payment of such transportation, is not authorized to foreign areas; rather, such transportation is confined within the fifty states, the Commonwealth of Puerto Rico, or the territories and possessions of the United States. In order to avoid duplication of transportation benefits, the proposed legislation makes transportation available only in instances when such services are not available from the Veterans' Administration or from the uniformed services under other authority, and the retired member dies while hospitalized in a military medical facility.

Retired members of the uniformed services are entitled to military medical care, to include hospitalization, in a facility of the armed forces subject to the availability of space and the capabilities of the professional. Should such a member die while in that care, the services are without authority to transport the remains, unless the member was on active duty for a period of more than thirty days, retired while under care, and continues to be a patient until he/she dies. All transportation expenses must be borne by the survivors. However, should such a member die while under care in a Veterans' Administration hospital, transportation expenses would be defrayed. Such an inequity is dependent upon the medical service available—Veterans' Administration as opposed to military medical care—and the condition of death, rather than neglect on the part of the member. As such, it is recommended that the proposal be enacted to extend benefits to that segment of the retired population who are otherwise entitled.

COST AND BUDGET DATA

The enactment of this proposal is estimated to cause a minimal increase in annual cost of:

Army	$96,000
Navy	62,493
Air Force	41,250
Coast Guard	8,000
Total	207,743

Sincerely,

JAMES F. GOODRICH,
Acting Secretary of the Navy.●

TRIBUTE TO THE HONORABLE HENRY REUSS

HON. TOM BEVILL

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1982

● Mr. BEVILL. Mr. Speaker, one of this body's most able Members, my good friend HENRY REUSS, is retiring from service in the Congress of the United States.

As chairman of the Joint Economic Committee and former chairman of the House Banking, Finance and Urban Affairs Committee, HENRY REUSS provided deep insight into the economic problems of this Nation. From his rich background as an economist, HENRY evolved into a master legislative tactician whose opinions on our economic future were widely respected.

For 5 years, it was my great pleasure to serve on the Banking Committee with HENRY, and I came to have the highest regard for his abilities and his deep integrity.

The people of the Fifth District of Wisconsin have been fortunate to have a man of such high caliber representing them in the U.S. Congress. We will miss HENRY REUSS, but his service has been a tremendous contribution to this Nation.●

SOLAR ENERGY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, December 8, 1982, into the CONGRESSIONAL RECORD:

SOLAR ENERGY

The practical use of solar energy is centuries old. Numerous buildings and even entire cities in ancient Greece were designed with solar energy in mind, as were pueblos made 800 years ago by the Navajo Indians. In 1973, Americans shocked by the energy crisis quickly looked for more reliable sources of energy: solar energy seemed to fill the bill. Congress made money available for a solar energy program for the first time that year, and the federal role grew steadily. In 1979, President Carter committed the United States to a goal of meeting 20 percent of our energy needs with solar and other renewable sources of energy by the year 2000. When President Reagan took office, direct federal spending for solar energy and other such programs had grown to $630 million per year, and tax credits for the installation of solar energy devices had reached $150 million per year.

President Reagan quickly altered these priorities, shifting the emphasis of the programs away from near-term projects and into long-term, high-risk research and development. In his first year as President he cut funding for solar energy in half, and his proposed budget for 1983 would have reduced it by 90 percent. He also suggested an early end to the tax credits, and he attempted to block implementation of the Solar Energy Bank. Congress went along with the shift for the most part, but it has resisted terminating programs outright and has reaffirmed its support for the Bank and the tax credits.

The President is pushing for a phase-out of solar energy programs because of his desire to reduce federal spending and bureaucracy and because he favors petroleum and the atom as energy sources. In addition, the President believes that energy programs should depend more heavily on free-market forces and private-sector investments: commercialization and near-term technological development should be left to the private sector, with the federal government attending only to those projects that the private sector cannot adequately handle. Thus, the President has sharply reduced funding for solar energy research grants, demonstration projects, feasibility studies, public information programs, and the like. The key question is whether the solar energy industry is strong enough at this time to compete in the market without federal help.

Advocates of solar energy say that it is not. What the President considers short-term they often consider long-term. Also, the most cost-effective solar systems today ("active" ones such as water heaters and "passive" ones such as roof overhangs and extra-thick walls) often require high initial investments and typically do not begin to pay for themselves for several years. Sales of solar systems have been hurt in recent years for various reasons, and they could drop significantly if federal aid were eliminated at this time.

The solar energy advocates do not stop there. They contend that the solar energy industry is being unfairly singled out to "go it on its own". They point to the fact that solar energy is being forced to compete, for example, with hydroelectric power from the highly subsidized dams built in the 1920's and 1930's. They also question why the President is cutting back solar energy funding in order to trim the budget, while at the same time increasing spending on the development and promotion of nuclear power and providing tax breaks for oil companies. The advocates object to the President's actions more on account of their symbolism: he is sending out exactly the wrong sort of signal. His desire to end federal involvement in solar energy has led many to think—incorrectly—that the federal government finds solar energy a bad investment. This discourages the very private-sector involvement the President says he wants to see.

Finally, solar energy advocates are worried about funding for research on photovoltaics, which the President has cut in half and wants to cut to one fifth of its former level. Photovoltaic cells are specially treated silicon wafers which change the sun's rays directly into electricity. These cells represent perhaps the most promising of all solar energy technologies. Photovoltaic energy is clean, safe, reliable, and virtually inexhaustible. The principal problem is cost: electricity produced by photovoltaic cells is still ten times more costly than power generated from oil, a fact which makes present photovoltaic systems practical mainly in remote sites. However, advances in technology and engineering are continually being made, and the price of photovoltaic cells continues to fall. The advocates of photovoltaic research point out that three of the four major American photovoltaic firms are either partly or wholly owned by oil companies. This pattern of ownership has led them to wonder whether these companies will aggressively pursue a technology that will reduce the value of their investments in oil and uranium. They also point out that while the United States still holds the lead in photovoltaics, the cutbacks come at a time when the governments of other nations—notably France, West Germany, and Japan—are helping their industries capture the future of multi-billion-dollar photovoltaic market. Loss of leadership could mean fewer jobs at home as well as an unhealthy reliance on photovoltaic cells from abroad.

Some advocates of solar energy predict that despite the cutbacks, solar energy may be one of the largest growth industries of the 1980's. There are several reasons for that optimism: Polls indicate that Americans want solar energy developed more than any other source; solar energy companies have improved their customer service; traditional energy sources are becoming more expensive; solar energy is playing a larger role

in the economic planning of countries around the world; solar energy technology is advancing.

My view is that although solar energy should not be immune from scrutiny, we should not go too fast in making reductions. The key role that solar energy will play in our future is not in doubt, but reduced federal support does increase the uncertainty about when that role will become prominent and whether the United States will be in the forefront of developments. In the present situation, solar energy must not be cut too far.●

SOVIET WATCH: IS ANDROPOV "NASTIER THAN A SNAKE?"

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. FIELDS. Mr. Speaker, I wish to bring to my colleagues' attention the following article from the Washington Inquirer:

[From the Washington Inquirer, Nov. 26, 1982]

IS ANDROPOV "NASTIER THAN A SNAKE?"

(By Reed Irvine)

"A senior Air Force commander has been 'counseled' for calling the new Soviet leader, Yuri V. Andropov, 'nastier than a snake,' military officials said." So said a wire service story last week. The officer who made the statement was Lt. Gen. Charles Donnelly, commander of American forces in Japan and the United States Air Force in South Korea. The nature of the counseling Gen. Donnelly was given was not reported, but presumably he was advised not to tell his troops the truth about Yuri Andropov.

A lot has been written about the Soviet dictator since he won the only election that counts in the Soviet Union. He was elected by a group of 12 men, including himself, known as the Politburo. The rest of the 265 million citizens of the Soviet Union had absolutely no voice in deciding who their new ruler would be. You may have noticed that our media have not focused attention on the fact that Andropov is the fifth dictator to rule the Soviet Union since the Bolshevik revolution in 1917, and not one of them has dared to run the risk of a popular election. Not only have our great newspapers and television networks refrained from scornfully pointing to this sad record, but they invariably refer to the Soviet ruler by some nice sounding title such as "leader," rather than "dictator."

It has been acknowledged by some in the media that early this year the Soviets, probably the KGB, launched a disinformation campaign to portray Yuri Andropov as a nice guy. In its two-page spread on Andropov in its November 22 issue, Time magazine led off with this: "Yuri Vladimirovich Andropov, 68, is said to be a witty conversationalist, a bibliophile, a connoiseur of modern art—a kind of 'closet liberal.'" Time added: "This impression has been fostered assiduously by the Soviets in an effort to soften his image."

This effort has met with considerable success, as the "counseling" of Gen. Donnelly suggests. There have been few if any discussions of Andropov that have reminded the American people of his man's "nastier-than-a-snake" qualities. It was only two months ago that both NBC and Reader's Digest presented some pretty convincing evidence that the conspiracy to murder Pope John Paul II was hatched and nurtured by the Bulgarian secret police, who just happen to be under the control of the Soviet KGB. Those who are knowledgeable in these matters think it is inconceivable that the Bulgarians would have undertaken such a sensitive project without the knowledge and approval of their Soviet masters. Mr. Andropov can be considered one of the prime suspects in the conspiracy to murder the Pope.

The largely successful campaign to break the Soviet liberalization movement over the past decade can also be credited to Andropov. While he headed the KGB the use of psychiatric torture to break those who dared to agitate for observance of human rights in the Soviet empire was refined and its application extended. Andrei Sakharov, the great Soviet physicist who won the Nobel Peace prize for his encouragement of the liberalization movement, was exiled to the city of Gorky, where no foreigner is permitted to visit. Andropov put this brilliant and courageous scientist under virtual house arrest. He is only the most eminent of the many victims of Yuri Andropov's "liberalism."

Andropov first qualified for Gen. Donnelly's "nastier-than-a-snake" title even before he became the head of the dreaded KGB. He was the Soviet ambassador to Hungary in 1956 when the Soviets brutally crushed the Hungarian freedom fighters. He promised the Hungarian government headed by Imre Nagy that the Soviets would withdraw the troops sent to crush the revolt, and Nagy accepted the promise. Negotiations between Andropov and the Hungarian hero of the revolt, Pal Maleter, were set up. As Maleter dined with Andropov, KGB thugs crashed into the room and took Maleter prisoner. He was later shot. Freedom fighter Bela Kiraly says of Andropov, "He'd kill his mother with a grin. While thousands were dying, he continued to smile."●

CANCELLATION OF MX GIVES WORLD A FUTURE

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. PEYSER. Mr. Speaker, the President said yesterday that the House of Representatives was sleepwalking into the future. The truth is that the halting of the production of the MX missile will give the world a future.

This Congress believes that the freedom of the American people is worth fighting for and, if need be, dying for. However, we are awake enough to know that to take a course of action that will do nothing but speed up the nuclear arms race and lead the world down the road to complete destruction is a nightmare that none of us should have to face.

I am proud to have been a part of the action taken by the 97th Congress.●

SOUTH BRONX, THE STIRRING OF REGENERATION

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. GARCIA. Mr. Speaker, slowly, yet with great promise, the South Bronx that for so long has been the example of urban decay is attempting a comeback.

The road to recovery will be long and difficult especially during these times of drastically limited urban budgets. However, those individuals located within the inner city are determined to rebuild and defend their communities. As evidence of this determination, the South Bronx has found itself the site of several new single-family developments. One such project is supported by the section 235 program and is about to get off the ground just a few short blocks from the Charlotte Street area made infamous by the visits of Presidents Carter and Reagan.

I am including an article which appeared last week in the New York Times entitled, "About New York: In the South Bronx, Some Stirrings of Regeneration" for the interest of my colleagues. It records the hope and determination that is present in our inner cities which can spark the renewal of these areas when the Government offers a helping hand.

ABOUT NEW YORK: IN THE SOUTH BRONX, SOME STIRRINGS OF REGENERATION

(By Anna Quindlen)

The other night, a group of people clutching floor plans gathered in an office off East 149th Street to sign contracts on the first homes that most of them would ever own.

Some of them seemed very solemn and others were giddy with walk-in closets and tile baths. The houses are not even built yet, but they had seen the two models, and some of them were already figuring where to put the sofa and how to finish the basement.

The houses they are purchasing will be in the South Bronx and, flush with house pride, they don't want to hear any wisecracks about that fact. They have heard enough.

"If I've heard 'You're crazy' once, I've heard it a hundred times," said Celeste Bonilla, who raised four children in the area and says they've all turned out fine. "And I intend to have all the people who said that over when my house is done so they can take a look at it. I've always defended the South Bronx and I'm going to keep defending it. It can't go down anymore, it's got to go up."

What have gone up on the corner of 169th Street and Tinton Avenue in the Morrisania section are two little attached houses of the kind that are multiplying like rabbits on vacant plots of land in Nassau County and suburban New Jersey. One has three bedrooms, the other four. The former sells for $51,000, the latter $60,500.

In most other neighborhoods, this would be progress. In the South Bronx, it is monu-

mental. People stop outside the models and stare, enrapt. One woman who has lived nearby on Boston Road for nearly all of her 70 years looked up at the two houses the other day and just said "My, my, my."

Something is happening in the South Bronx. There are signs of life.

The two model homes are part of a group of 250 single-family houses on four sites in the area. Although only about half of the 74 in Morrisania have gone to contract so far, nearly all the other have been sold.

Two homeowners who live across the street from the Morrisania houses have had aluminum siding put on their buildings. So have two nearby store owners.

This does not mean, of course, that the South Bronx has become Bay Ridge. It remains, in many ways, the neighborhood that exhausted all the metaphors for devastation, disaster, decay, the end of the world in the city of New York.

Building after building on Boston Road is simply a stately shell of decades-old brickwork. There are vacant lots large enough for a regulation game of football. On some side streets, the dogs are wild and the rats are not shy. One tenants' association is called Last Hope. To someone who has never been there before, whole sections of the area remain incredible, a kind of stage set of urban destruction, except that it is real.

"My mother-in-law acts like I go to hell every day," said Gail Gremse, who is assistant director and counsel for the South Bronx Development Office, which is overseeing the construction of the single family homes.

But for someone who knows the South Bronx, it is clear that something is happening. Here is a building, just like its abandoned neighbors, which has new windows and a rehabilitated lobby. There, a vacant lot has been planted with vegetables and outfitted with park benches.

"Signs are beginning to be shown," said Gordon Camp, a bank employee who with his wife, Joyce, is buying one of the Morrisania houses. "I'd say in the next five, maybe 10 years, things will be better."

The people who have signed contracts on the Morrisania houses are relying on that. They are working people, secretaries, sanitation workers, subway maintenance men, nursing aides. Those who want the three-bedroom home are putting down $3,500; for four bedrooms, the amount is $5,500.

Their homes were built under, a program called 235, which means their mortgage payments will be based upon their income and subsidized by the Government if their gross income is around $35,000 or less. But they must also make enough money and have good enough credit to quality for a mortgage.

After they had signed contracts the other night, they met with Ira Hamilton, who is the builder of the Morrisania project.

"We wanted the track record," Mr. Hamilton says of undertaking the construction. "We feel that there will be continued activity in the area."

Mr. Hamilton has learned, however, that he still has something to learn about the South Bronx. The living room of the model home has large sliding-glass doors leading to the backyard.

"They must have been dreaming when they put in those doors," said Mrs. Bonilla, shaking her head. "It's like wearing your jewelry out on the subway."

Mr. Hamilton has agreed to substitute a standard door for the glass ones for those who want it. "I suppose it is more of a suburban than an inner-city design," Mr. Hamilton said of the model house.

So this is the story: a suburb grows in the South Bronx. On the map in the sales office for the Morrisania project, nearly all the houses on the map are studded with red pins, for those already under contract, or yellow and blue pins signifying that someone has placed a binder. But some of those who place binders will not be approved for a mortgage, and those houses will go back on the market again.

Any that are not sold by Dec. 31 will not be built at all because of the demise that day of the Government subsidies that made them possible. The Morrisania project may be smaller than envisioned. What is happening in the South Bronx is not a miracle, but it is something.

"People can only run so far, said Mrs. Bonilla, who is itching to decorate her new home. "Then they have to turn and fight for their neighborhood. I'm turning here."●

HUMANITARIAN, M.D.

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. MOTTL. Mr. Speaker, as chairman of the Veterans' Affairs Subcommittee on Hospitals and Health Care the past 2 years, it is my special pleasure to recognize a disabled veteran who has dedicated his life to the highest ideals of the medical profession.

Louis L. Keppler, M.D., served in the U.S. Army's combat infantry from 1944-45 in the European theater. Overcoming his combat injuries, he took an accelerated program and graduated from the St. Louis University Medical School in 1951. He interned at St. John Hospital of Cleveland and from 1952-54, he served as a resident at Milwaukee Children's Hospital. Since 1954, Dr. Keppler has conducted his practice in pediatrics at his same office at 5500 Ridge Road, Parma, Ohio. There he has treated thousands of children and alleviated concerns of even more parents.

In addition to his private practice, Dr. Keppler worked from 1954-70 at the East 35th Street Welfare Dispensary of Cleveland Metropolitan General Hospital. Those 17 years, he treated sick black children from indigent families.

From 1975-80, Dr. Keppler was jail physician for the Cuyahoga County Justice Center.

In his service on the executive committees of both Deaconess Hospital of Cleveland and Parma Community General Hospital, Dr. Keppler has been vocal in his calls for curbs in rising health care costs.

Dr. Keppler and his wife, Joan, have nine children including four who are following health careers.

At the age of 56, Dr. Keppler plans to continue working in pediatrics at his vigorous pace as long as his good health continues. For the welfare of children in southwest Greater Cleveland, I hope he puts in at least another 30 years at his Parma office.●

THE BENEFITS OF PRIVATE EDUCATION

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. DORNAN of California. Mr. Speaker, the role of private schools, especially church-related schools, in American education is often misunderstood. Rather than being a haven for the rich, those institutions are often of greatest service to low income families, whose personal sacrifices keep them going.

In many of our troubled cities, parochial schools are providing first-rate educations to hundreds of thousands of youngsters, at a fraction of the per pupil costs in public schools. At the same time, they are proving that a quality education depends less upon finances and more upon discipline, parental involvement, and a sense of values and commitment to true education.

A recent Associated Press article compared certain schools in the city of Bridgeport, Conn. The graphic contrast between high-cost public institutions and low-budget, but high-spirited, parochial schools can tell us much about contemporary education. More important, it should highlight those reforms—principally, tuition tax credits—which can restore both family rights and quality to American education. I would like to bring this AP story to the attention of my colleagues and of the public.

The story referred to follows:

THE BENEFITS OF PRIVATE EDUCATION

(By Lee Mitgang, Associated Press)

BRIDGEPORT, CONN.—Visitors to Kolbe-Cathedral High School are greeted by a statute of Maximillian Kolbe, a Polish Catholic priest who volunteered to die in place of a Jew in a Nazi death camp.

There are no graffiti. In fact, the walls have been freshly painted—by volunteer students on weekends.

It is a different story at Bridgeport's 1,900-student public high school, Central High. There the walls have also been painted—with years of graffiti including obscenities on the girls' lavatory door.

At Blessed Sacrament-St. Mary School, an elementary Catholic school in Bridgeport's impoverished East End, a third-grader's poem on a bulletin board compares the Resurrection to a butterfly's emergence from a cocoon. "The butterfly reminds us of Jesus coming from the dead," it says.

They display poetry of a different sort at Central High: "Nobodies gonna mess me around," a student verse says. "I'm on the highway to hell."

As the paint and the poetry indicate, there are two very different school systems in this ethnically diverse city of 142,000, most of Italian, Portuguese, Hispanic, Polish, Irish or black descent.

One school system seems unsoiled by urban influences, the other scarred. One is disciplined, the other is often chaotic. One has more money, but the other enjoys a greater investment of parental concern.

One is Catholic. The other is public.

For as long as anyone can recall, public schools have existed side-by-side with a sizable parochial system here. More than 6,000 children—about 24 percent of all school-aged youngsters—attend the 13 Catholic schools.

Even school board president Stephen Sedensky's seven children have gone to Catholic schools.

Bridgeport is not unique. There are 212,000 children in Catholic schools in New York City, 19 percent of all students. There are big parochial systems in Chicago, Los Angeles, Philadelphia, Detroit, Boston, Miami, and many smaller cities like Erie, Pa., and Omaha, Neb., and Trenton, N.J.

But in may ways, Bridgeport's Catholic schools are typical of the 9,500 Catholic elementary and secondary schools across America.

More than half of the nation's Catholic schools are located in the inner-city. There are few frills. Bridgeport Catholic Schools spend $675 per elementary school student, and about $1,100 per high school pupil.

Per pupil costs at Bridgeport public schools are $2,321. That means if all the Catholic school students suddenly enrolled, Bridgeport and the state of Connecticut would have to spend about $14 million a year more on public education.

The bill in New York City would be $600 million, according to the New York Archdiocese.

President Reagan wants to give parents who send their children to private schools tuition tax credits. His plan eventually would give private school parents tax breaks of up to $500 a year.

Reagan has sided with advocates who say private schools offer healthy competition to public education. He also points to a "double burden" for parents who pay public school taxes as well as parochial school tuition.

Not surprisingly, the president's support for tax credits intensified a long-simmering debate: Do Catholic schools, despite their virtues, sap the strength of beleaguered public schools?

As the Bridgeport experience indicates, there are many ways to look at the question. Many, parents especially, begin with discipline.

Blessed Sacrament third graders open the day with a hand-clapping prayer, "This is the day the Lord has made," followed by the Pledge of Allegiance.

A bulletin board near the principal's office lists about 30 pupils being punished with detention for infractions like chewing gum. On another wall is a dress code reminder: No sweater dresses, no shorts, no T-shirts or sweatshirts.

As school opened at Central High on a recent morning, a squad car was on the grounds and a teacher was telling two police officers how he had been jumped by a student who was in a fierce brawl with another student.

"Nothing unusual," principal Dr. Richard Mayer said with a shrug. "It's spring, I guess. Then again it doesn't have to be spring. A full moon will serve.

People in Bridgeport still talk about Central High's "gun incident." A youngster brought a gun to school last March and fired a shot in a classroom.

Beer bottles litter the unmowed grass. Graffiti are everywhere. "I suppose we could ask our kids to help clean the walls like those parochial school kids did. But a lot of our kids would probably view it as punishment," said Mayer.

Ethel Walton has two school-aged children, 6 and 14. They are Baptists. Yet she spends $600 a year to sent them to Blessed Sacrament, where more than half the 320 pupils are black or Hispanic. Like many people, Mrs. Walton views Catholic schools as a haven from public school troubles.

"Sending the kids to Catholic school means we don't go to Florida anymore," she says. "We eat rice instead of steak. But it's worth it. My kid used to throw his homework in the garbage can. At this school, he doesn't do that."

There is similar motivation for a three-year waiting list for admission to Kolbe-Cathedral. The gymnasium ceiling has holes and classrooms are cramped, but parents of the 391 children enrolled there willingly spend $1,140 for a year's tuition—in addition to their local school taxes.

"You get what you pay for. In public school you get nothing for nothing," says Kathy Filo, whose son Bobby is a freshman.

Bruno Manno, research director of the National Catholic Educational Association in Washington, D.C., says that typical parents of Catholic school youngsters are active in school affairs. Many Catholic schools, in fact, demand parent involvement, including in fund-raising.

At Blessed Sacrament, parents sign a contract saying they will be involved in school affairs and attend school meetings.

No less important to many parents and children are the religious and moral values that Catholic schools are free to stress.

"It'll make them better Christians," said Alida Acevedo, who sends three children to Blessed Sacrament at a cost of $775. "When they're young, this is the roots. This is where they get their foundations."

Says Sister Veritas, the principal, "A lot of parents will say they send their kids here for the discipline, but it's more than that they want the follow-up on what they're trying to do in the home: the good manners, the prayers."

Public school officials counter that parochial schools have lured away concerned parents and well-behaved children.

Michael Basciglia, a Republican school board member, says the presence of a large parochial school system "has definitely hurt us. You just don't get the support of the total community."

Catholic educators see it another way. "If either our schools or the public schools had a monopoly, what would be the motivation to do better?" said Bernard Helfrich, superintendent of Bridgeport's Catholic schools.

However, public school officials respond that such "competition" is inherently unfair, since public schools must accept all students, while private schools can select among the best-behaved and academically capable.

James Connelly, Bridgeport public school superintendent, says up through eighth grade, reading scores of public school children are at the national average. From high school on, though, scores fall off dramatically.

"What that tells me is that at ninth grade, the best and brightest get weeded out, and many go to parochial schools," he said.

At Central High, 60 percent of graduates go on to further education, but only 28 percent go to four-year colleges. At Kolbe-Cathedral, 89 percent are college-bound.

"Tuition tax credits concern me," said Connelly. "The fear I have is that public schools like ours would become the place for the underclass."

An Associated Press-NBC News poll last November said 26 percent of those surveyed would be more likely to enroll their children in private schools if tax credits were available.

Race is another factor in the debate.

Connelly said many white youngsters fled public school following a 1977 court-ordered busing plan to achieve racial balance. In 1976, 33 percent of public school enrollment was white. It now stands at 20 percent.

By comparison, a third of the children in Bridgeport's Catholic schools are minorities—Hispanic, Oriental or black. Nationwide, about 19 percent of Catholic school enrollment is minority.

"I'd have to be naive to say that desegregation didn't help us," said Helfrich. But he added that the Catholic schools took steps to screen out applicants whose only apparent motive was to flee integration.

Catholic and public schools compete economically in some cities.

Around the country, some of the more aggressive Catholic dioceses such as Omaha, Cleveland and Hartford, Conn., have been competing with public schools for dollars and services from local businesses.

Kolbe-Cathedral hired a full-time development officer, Dave Hennessey, to attract outside funds. He said alumni who work at local businesses, including General Electric and Allied Chemical have persuaded those firms to give matching grants to the school.

Hennessey said business donations to Kolbe average $5,000–$8,000 a year, but have been as high as $25,000 in very good years.

Much harder to assess is the impact parochial schools have on the city's willingness to tax, and spend on public schools. School board member Sedensky said that over the last decade public schools have lacked the political clout to get adequate city funding, at least partly because many of the city's most vocal parents and taxpayers were sending their children to parochial schools.

In the current school year, the city appropriated $36.7 million for education, up only 3.4 percent over the $35.5 million a year earlier.

Not that Catholic schools have had an easy time of it.

In aging cities like Bridgeport, Catholic schools have been afflicted with tight finances and declining enrollment, just like public schools. At the peak in 1965, there were 13,484 Catholic schools serving 5.5 million children. Today, there are 9,500 with 3.27 million pupils.

But unlike public school counterparts, Catholic school officials are optimistic they are on the threshold of a rebound. Manno says the private school market is growing. Private enrollments are projected to grow from 11.1 percent of all pupils in 1900 to 12.9 percent by 1989.

Catholic school enrollments are already up in several cities: Chicago, Los Angeles, Cleveland and St. Louis. And 32 Southern and Western dioceses and archdioceses are showing enrollment increases.

But many urban Catholic schools are in an ironic bind.

There are long waiting lists to attend parochial schools in Bridgeport, said Helfrich. But as affluent Catholics have joined others in leaving the cities, so urban Catholic schools find themselves serving poorer parishes. Many inner-city parishes barely have enough funds to survive, much less expand their schools to accommodate more children.

Blessed Sacrament's budget is just $190,000 a year. Eight nuns, including the principal, are paid a total of $52,500. The school's five non-clergy or lay teachers earn from $7,500 to $10,000. Three of those five hold second jobs.

At Bridgeport public schools, teachers earn from $11,500 to $24,700.

Nationwide, according to Manno, lay Catholic school teachers earn 10 to 15 percent less on average than public school teachers.

Tuition tax credits would certainly help both parents and teachers with their chronic financial problems, said Helfrich. The Reagan administration says 54 percent of families sending children to private schools earn less than $25,000 a year.

Tax credits would "be great", said Helfrich. "They'd take the pressure off so many working-class people." He adds, however, that credits would lead many parishes to raise tuitions to provide higher lay teacher salaries.

"That's just simple social justice," he said.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, December 9, 1982, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

DECEMBER 10

9:30 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the report of banking regulators regarding the Penn Square National Bank in Oklahoma.
5302 Dirksen Building

Finance
Taxation and Debt Management Subcommittee
To hold hearings on S. 2647, to allow a deduction for the expenses of business conventions conducted on cruise ships registered in the United States, S. 2987, to create a general exemption from the Federal motor vehicle excise tax for all operated bloodmobiles, and S. 3064, to extend for an additional 4 years the temporary rule of current law that no amount is includible in income by reason of the discharge of certain student loans.
2221 Dirksen Building

10:00 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold oversight hearings on the implementation of the Household Goods Transportation Act (Public Law 96-454).
235 Russell Building

Energy and Natural Resources
Energy and Mineral Resources Subcommittee
To hold hearings, on S. 2503, S. 2680, S. 2681, and S. 2824, bills providing for the reinstatement for certain oil and gas leases.
3110 Dirksen Building

Foreign Relations
East Asian and Pacific Affairs Subcommittee
To receive a briefing on Micronesian status negotiations.
4221 Dirksen Building

Judiciary
Juvenile Justice Subcommittee
To hold hearings on S. 2856, increasing the penalties for the sexual exploitation of children.
2228 Dirksen Building

2:00 p.m.
Judiciary
To hold hearings on pending nominations.
2228 Dirksen Building

DECEMBER 13

10:00 a.m.
Energy and Natural Resources
To hold hearings to review current conditions in the natural gas market, and related proposals to modify existing law.
3110 Dirksen Building

Governmental Affairs
Energy, Nuclear Proliferation and Government Processes Subcommittee
To hold hearings on Government payments and the potential for fraud.
3302 Dirksen Building

Select on Intelligence
Closed briefing on intelligence matters.
S-407, Capitol

2:00 p.m.
Foreign Relations
Closed meeting, to consult with administration officials on the intermediate nuclear forces negotiations (INF).
S-116, Capitol

3:00 p.m.
Foreign Relations
Closed meeting, to consult with administration officials on the strategic arms reduction talks (START).
S-116, Capitol

DECEMBER 14

9:00 a.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of Diane K. Morales, of Texas, to be a Member of the Civil Aeronautics Board.
235 Russell Building

9:30 a.m.
Labor and Human Resources
Business meeting, to consider the nomination of Donald L. Dotson, of Pennsylvania, to be a member of the National Labor Relations Board.
4232 Dirksen Building

10:00 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold oversight hearings on the implementation of the Motor Carrier Act (Public Law 96-296).
235 Russell Building

Foreign Relations
To hold open and closed hearings on U.S. strategic doctrine.
4221 Dirksen Building

Governmental Affairs
Civil Service, Post Office, and General Services Subcommittee
To hold oversight hearings on the Department of Defense use of polygraph for Federal employees.
3302 Dirksen Building

2:00 p.m.
Energy and Natural Resources
Public Lands and Reserved Water Subcommittee
To hold hearings on S. 2811 and S. 3060, bills providing for the preservation of certain wild and scenic rivers.
3110 Dirksen Building

Foreign Relations
Business meeting, to consider pending calendar business.
4221 Dirksen Building

DECEMBER 15

9:30 a.m.
Governmental Affairs
Energy, Nuclear Proliferation and Government Processes Subcommittee
To hold hearings on Government debt collection procedures.
5302 Dirksen Building

Governmental Affairs
Oversight of Government Management Subcommittee
To hold oversight hearings on computer matching programs to detect fraud and mismanagement in Government programs.
3302 Dirksen Building

Labor and Human Resources
Business meeting, to consider pending nominations.
4232 Dirksen Building

DECEMBER 16

9:30 a.m.
Governmental Affairs
Oversight of Government Management Subcommittee
To continue oversight hearings on computer matching programs to detect fraud and mismanagement in Government programs.
3302 Dirksen Building

Small Business
To hold oversight hearings on the small business investment companies (SBIC) program of the Small Business Administration.
424 Russell Building

10:00 a.m.
Foreign Relations
Closed meeting, to consult with an official of the Department of State on the threshold test ban and peaceful nuclear explosion treaties.
S-116, Capitol

Select on Intelligence
Budget Authorization Subcommittee
Closed meeting on budget matters relating to intelligence activities.
S-407, Capitol

JANUARY 12

9:30 a.m.
Labor and Human Resources
Employment and Productivity Subcommittee
To hold hearings to review Federal programs which create certain job opportunities.
4232 Dirksen Building

JANUARY 25

9:30 a.m.
Finance
To hold hearings on the administration's assessment of the meeting of ministers to the General Agreement on Tariffs and Trade (GATT).
2221 Dirksen Building